UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE HUNDRED SECOND CONGRESS
OF THE UNITED STATES OF AMERICA

1992

AND

TWENTY-SEVENTH AMENDMENT TO THE
CONSTITUTION AND PROCLAMATIONS

VOLUME 106

IN SIX PARTS

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102–327	To designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building".	July 23, 1992	844
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102–329	To make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.	Aug. 3, 1992	847
102–330	To authorize the Architect of the Capitol to acquire certain property.	Aug. 3, 1992	849
102–331	To designate July 28, 1992, as "Buffalo Soldiers Day"	Aug. 3, 1992	851
102–332	Designating September 10, 1992, as "National D.A.R.E. Day".	Aug. 3, 1992	853
102–333	To designate August 1, 1992, as "Helsinki Human Rights Day".	Aug. 4, 1992	855
102–334	To partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991.	Aug. 6, 1992	858
102–335	Pacific Yew Act	Aug. 7, 1992	859
102–336	To extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.	Aug. 7, 1992	864

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102–337	To amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.	Aug. 7, 1992	865
102–338	Zuni River Watershed Act of 1992	Aug. 11, 1992	866
102–339	To provide additional time to negotiate settlement of a land dispute in South Carolina.	Aug. 11, 1992	869
102–340	To designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".	Aug. 12, 1992	871
102–341	Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993.	Aug. 14, 1992	873
102–342	Child Nutrition Amendments of 1992	Aug. 14, 1992	911
102–343	Thomas Jefferson Commemoration Commission Act	Aug. 17, 1992	915
102–344	Voting Rights Language Assistance Act of 1992	Aug. 26, 1992	921
102–345	FAA Civil Penalty Administrative Assessment Act of 1992	Aug. 26, 1992	923
102–346	Animal Enterprise Protection Act of 1992	Aug. 26, 1992	928
102–347	To permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years.	Aug. 26, 1992	930
102–348	To convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.	Aug. 26, 1992	931
102–349	To amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.	Aug. 26, 1992	933
102–350	Marsh-Billings National Historical Park Establishment Act.	Aug. 26, 1992	934
102–351	To amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.	Aug. 26, 1992	937
102–352	Public Health Service Act Technical Amendments Act	Aug. 26, 1992	938
102–353	Prescription Drug Amendments of 1992	Aug. 26, 1992	941
102–354	Administrative Procedure Technical Amendments Act of 1991.	Aug. 26, 1992	944
102–355	To amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes.	Aug. 26, 1992	947
102–356	Public Telecommunications Act of 1992	Aug. 26, 1992	949
102–357	To amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California.	Aug. 26, 1992	958
102–358	To authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100–202.	Aug. 26, 1992	960
102–359	To extend for one year the National Commission on Time and Learning, and for other purposes.	Aug. 26, 1992	962
102–360	To waive the period of congressional review for certain District of Columbia Acts.	Aug. 26, 1992	964
102–361	Bankruptcy Judgeship Act of 1992	Aug. 26, 1992	965
102–362	To designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".	Aug. 26, 1992	967
102–363	To approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.	Aug. 26, 1992	969
102–364	Designating September 1992 as "Childhood Cancer Month".	Sept. 2, 1992	970

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102–367	Job Training Reform Amendments of 1992	Sept. 7, 1992	1021
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102–369	To designate September 13, 1992, as "Commodore John Barry Day".	Sept. 24, 1992	1163
102–370	To designate October 1992 as "National Breast Cancer Awareness Month".	Sept. 24, 1992	1165
102–371	Civil Liberties Act Amendments of 1992	Sept. 27, 1992	1167
102–372	Tourism Policy and Export Promotion Act of 1992	Sept. 30, 1992	1170
102–373	Designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.	Sept. 30, 1992	1184
102–374	Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992.	Sept. 30, 1992	1186
102–375	Older Americans Act Amendments of 1992	Sept. 30, 1992	1195
102–376	Making continuing appropriations for the fiscal year 1993, and for other purposes.	Oct. 1, 1992	1311
102–377	Energy and Water Development Appropriations Act, 1993	Oct. 2, 1992	1315
102–378	Technical and Miscellaneous Civil Service Amendments Act of 1992.	Oct. 2, 1992	1346
102–379	Civil War Battlefield Commemorative Coin Act of 1992	Oct. 5, 1992	1362
102–380	Military Construction Appropriations Act, 1993	Oct. 5, 1992	1366
102–381	Department of the Interior and Related Agencies Appropriations Act, 1993.	Oct. 5, 1992	1374
102–382	District of Columbia Supplemental Appropriations and Rescissions Act, 1992.	Oct. 5, 1992	1422
102–383	United States-Hong Kong Policy Act of 1992	Oct. 5, 1992	1448
102–384	National and Community Service Technical Amendment Act of 1992.	Oct. 5, 1992	1455
102–385	Cable Television Consumer Protection and Competition Act of 1992.	Oct. 5, 1992	1460
102–386	To amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.	Oct. 6, 1992	1505
102–387	Waiving certain enrollment requirements with respect to any appropriations bill for the remainder of the One Hundred Second Congress.	Oct. 6, 1992	1519
102–388	Department of Transportation and Related Agencies Appropriations Act, 1993.	Oct. 6, 1992	1520
102–389	Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993.	Oct. 6, 1992	1571
102–390	To provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes.	Oct. 6, 1992	1620
102–391	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993.	Oct. 6, 1992	1633
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102–396	Department of Defense Appropriations Act, 1993	Oct. 6, 1992	1876
102–397	To add to the area in which the Capitol Police have law enforcement authority, and for other purposes.	Oct. 6, 1992	1949
102–398	To consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.	Oct. 6, 1992	1953
102–399	To authorize appropriations for the American Folklife Center for fiscal year 1993.	Oct. 7, 1992	1954
102–400	United States Commission on Civil Rights Authorization Act of 1992.	Oct. 7, 1992	1955
102–401	Head Start Improvement Act of 1992	Oct. 7, 1992	1956
102–402	Rocky Mountain Arsenal National Wildlife Refuge Act of 1992.	Oct. 9, 1992	1961
102–403	To amend section 574 of title 5, United States Code, relating to the authorities of the Administrative Conference.	Oct. 9, 1992	1968
102–404	Chinese Student Protection Act of 1992	Oct. 9, 1992	1969
102–405	Veterans' Medical Programs Amendments of 1992	Oct. 9, 1992	1972
102–406	Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act.	Oct. 12, 1992	1986
102–407	To authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes.	Oct. 13, 1992	1991
102–408	Health Professions Education Extension Amendments of 1992.	Oct. 13, 1992	1992
102–409	DES Education and Research Amendments of 1992	Oct. 13, 1992	2092
102–410	Agency for Health Care Policy and Research Reauthorization Act of 1992.	Oct. 13, 1992	2094
102–411	EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992.	Oct. 14, 1992	2102
102–412	Authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War..	Oct. 14, 1992	2104
102–413	Designating the week beginning November 8, 1992, as "Hire a Veteran Week".	Oct. 14, 1992	2105
102–414	World War II 50th Anniversary Commemorative Coins Act.	Oct. 14, 1992	2106
102–415	Alaska Land Status Technical Corrections Act of 1992	Oct. 14, 1992	2112
102–416	Advisory Council on California Indian Policy Act of 1992	Oct. 14, 1992	2131
102–417	Incarcerated Witness Fees Act of 1991	Oct. 14, 1992	2138
102–418	To designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week".	Oct. 14, 1992	2139
102–419	Dayton Aviation Heritage Preservation Act of 1992	Oct. 16, 1992	2141
102–420	An act to provide for the withdrawal of most favored nation status from Serbia and Montenegro and to provide for restoration of such status if certain conditions are fulfilled.	Oct. 16, 1992	2149
102–421	Education of the Deaf Act Amendments of 1992	Oct. 16, 1992	2151
102–422	To amend the District of Columbia Spouse Equity Act of 1988.	Oct. 16, 1992	2167
102–423	To authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.	Oct. 16, 1992	2168
102–424	To designate October 1992 as "Polish-American Heritage Month".	Oct. 16, 1992	2170

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102–425	To designate the second Sunday in October of 1992 as "National Children's Day".	Oct. 16, 1992	2172
102–426	Community Environmental Response Facilitation Act	Oct. 19, 1992	2174
102–427	Little River Canyon National Preserve Act of 1992	Oct. 21, 1992	2179
102–428	Rural Electrification Administration Improvement Act of 1992.	Oct. 21, 1992	2183
102–429	Export Enhancement Act of 1992	Oct. 21, 1992	2186
102–430	Indiana Dunes National Lakeshore Access and Enhancement Act.	Oct. 23, 1992	2208
102–431	To permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio.	Oct. 23, 1992	2211
102–432	To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.	Oct. 23, 1992	2212
102–433	To designate the Federal Office Building Number 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building".	Oct. 23, 1992	2214
102–434	To designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the George C. Young United States Courthouse and Federal Building.	Oct. 23, 1992	2215
102–435	To designate the Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, California, as the "Ronald Reagan Federal Building and Courthouse".	Oct. 23, 1992	2216
102–436	To provide for a land exchange with the city of Tacoma, Washington.	Oct. 23, 1992	2217
102–437	To designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility" and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building".	Oct. 23, 1992	2221
102–438	To designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the "Esel D. Bell Post Office Building".	Oct. 23, 1992	2222
102–439	To authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.	Oct. 23, 1992	2223
102–440	To promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.	Oct. 23, 1992	2224
102–441	Jicarilla Apache Tribe Water Rights Settlement Act	Oct. 23, 1992	2237
102–442	To designate the Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse".	Oct. 23, 1992	2243
102–443	To provide for the temporary use of certain lands in the city of South Gate, California, for elementary school purposes.	Oct. 23, 1992	2244
102–444	To amend title 35, United States Code, with respect to the late payment of maintenance fees.	Oct. 23, 1992	2245
102–445	To designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building".	Oct. 23, 1992	2246

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102–446	To designate the Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse".	Oct. 23, 1992	2247
102–447	To designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building".	Oct. 23, 1992	2248
102–448	To designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building".	Oct. 23, 1992	2249
102–449	To designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center".	Oct. 23, 1992	2250
102–450	To designate May of each year as "Asian/Pacific American Heritage Month".	Oct. 23, 1992	2251
102–451	To authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.	Oct. 23, 1992	2253
102–452	Granting the consent of the Congress to the Interstate Rail Passenger Network Compact.	Oct. 23, 1992	2255
102–453	Cedar River Watershed Land Exchange Act of 1992	Oct. 23, 1992	2258
102–454	To provide for the distribution within the United States of certain materials prepared by the United States Information Agency.	Oct. 23, 1992	2262
102–455	To designate the Federal Building located at Main and Church Streets in Victoria, Texas, as the "Martin Luther King, Jr. Federal Building".	Oct. 23, 1992	2263
102–456	To redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area".	Oct. 23, 1992	2264
102–457	Congressional Award Act Amendments of 1992	Oct. 23, 1992	2265
102–458	To direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations.	Oct. 23, 1992	2267
102–459	To amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.	Oct. 23, 1992	2268
102–460	To amend the Wild and Scenic Rivers Act	Oct. 23, 1992	2270
102–461	To amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.	Oct. 23, 1992	2273
102–462	Designating the week beginning January 3, 1993, as "Braille Literacy Week".	Oct. 23, 1992	2274
102–463	Designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".	Oct. 23, 1992	2276
102–464	Designating January 16, 1993, as "Religious Freedom Day".	Oct. 23, 1992	2277
102–465	Designating October 24, 1992, through November 1, 1992, as "National Red Ribbon Week for a Drug-Free America".	Oct. 23, 1992	2279
102–466	Designating October 14, 1992, as "National Occupational Therapy Day".	Oct. 23, 1992	2281
102–467	Designating the week beginning February 14, 1993, as "National Visiting Nurse Associations Week".	Oct. 23, 1992	2283

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102–468	Designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week", and for other purposes.	Oct. 23, 1992	2285
102–469	Designating March 1993 as "Irish-American Heritage Month".	Oct. 23, 1992	2287
102–470	To designate the month of October 1992 as "Country Music Month".	Oct. 23, 1992	2289
102–471	Designating October 8, 1992, as "National Firefighters Day".	Oct. 23, 1992	2290
102–472	Supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain.	Oct. 23, 1992	2291
102–473	Designating November 30, 1992, through December 6, 1992, as "National Education First Week".	Oct. 23, 1992	2293
102–474	Designating May 2, 1993, through May 8, 1993, as "National Walking Week".	Oct. 23, 1992	2295
102–475	Providing for the convening of the first session of the One Hundred Third Congress.	Oct. 23, 1992	2296
102–476	Scientific and Advanced-Technology Act of 1992	Oct. 23, 1992	2297
102–477	Indian Employment, Training and Related Services Demonstration Act of 1992.	Oct. 23, 1992	2302
102–478	To designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey, as the Mitchell H. Cohen United States Courthouse.	Oct. 23, 1992	2307
102–479	To authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.	Oct. 23, 1992	2308
102–480	To designate the United States Post Office Building located at 100 Main Street, Millsboro, Delaware, as the "John J. Williams Post Office Building".	Oct. 23, 1992	2310
102–481	Designating the week of October 4 through 10, 1992, as "National Customer Service Week".	Oct. 23, 1992	2311
102–482	Designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand".	Oct. 23, 1992	2312
102–483	Designating the week of April 18 through 24, 1993, as "National Credit Education Week".	Oct. 23, 1992	2314
102–484	National Defense Authorization Act for Fiscal Year 1993	Oct. 23, 1992	2315
102–485	Depository Institutions Disaster Relief Act of 1992	Oct. 23, 1992	2771
102–486	Energy Policy Act of 1992	Oct. 24, 1992	2776
102–487	To amend chapter 45 of title 5, United States Code, to authorize awards for cost savings disclosures.	Oct. 24, 1992	3134
102–488	Minute Man National Historical Park Amendments of 1991.	Oct. 24, 1992	3135
102–489	Koniag Lands Conveyance Amendments of 1991	Oct. 24, 1992	3138
102–490	Membrane Processes Research Act of 1992	Oct. 24, 1992	3142
102–491	Federal Reserve Bank Branch Modernization Act	Oct. 24, 1992	3144
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102–495	Elwha River Ecosystem and Fisheries Restoration Act	Oct. 24, 1992	3173
102–496	Intelligence Authorization Act for Fiscal Year 1993	Oct. 24, 1992	3180
102–497	To make technical amendments to certain Federal Indian statutes.	Oct. 24, 1992	3255

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102–499	To amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities.	Oct. 24, 1992	3264
102–500	To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts.	Oct. 24, 1992	3267
102–501	Federally Supported Health Centers Assistance Act of 1992.	Oct. 24, 1992	3268
102–502	Authorizing the Go For Broke National Veterans Association Foundation to establish a memorial in the District of Columbia or its environs to honor Japanese American patriotism in World War II.	Oct. 24, 1992	3273
102–503	Designating January 16, 1993, as "National Good Teen Day".	Oct. 24, 1992	3275
102–504	Designating May 2, 1993, through May 8, 1993, as "Be Kind to Animals and National Pet Week".	Oct. 24, 1992	3276
102–505	Designating the week beginning October 25, 1992, as "World Population Awareness Week".	Oct. 24, 1992	3278
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102–513	To designate the United States Courthouse to be constructed in Fargo, North Dakota, as the "Quentin N. Burdick United States Courthouse".	Oct. 24, 1992	3370
102–514	To extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes.	Oct. 24, 1992	3371
102–515	Cancer Registries Amendment Act	Oct. 24, 1992	3372
102–516	Designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week".	Oct. 24, 1992	3378
102–517	Designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week".	Oct. 24, 1992	3380
102–518	Designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day".	Oct. 24, 1992	3382
102–519	Anti Car Theft Act of 1992	Oct. 25, 1992	3384
102–520	To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers.	Oct. 25, 1992	3402
102–521	Child Support Recovery Act of 1992	Oct. 25, 1992	3403
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102–523	International Dolphin Conservation Act of 1992	Oct. 26, 1992	3425
102–524	Native American Languages Act of 1992	Oct. 26, 1992	3434
102–525	To provide for the establishment of the Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes.	Oct. 26, 1992	3438

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102–528	To amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation.	Oct. 27, 1992	3461
102–529	To authorize appropriations for the United States Holocaust Memorial Council, and for other purposes.	Oct. 27, 1992	3463
102–530	Women in Apprenticeship and Nontraditional Occupations Act.	Oct. 27, 1992	3465
102–531	Preventive Health Amendments of 1992	Oct. 27, 1992	3469
102–532	Enterprise for the Americas Initiative Act of 1992	Oct. 27, 1992	3509
102–533	Amtrak Authorization and Development Act	Oct. 27, 1992	3515
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102–535	To provide equitable treatment to producers of sugarcane subject to proportionate shares.	Oct. 27, 1992	3526
102–536	To designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.	Oct. 27, 1992	3528
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102–539	Mammography Quality Standards Act of 1992	Oct. 27, 1992	3547
102–540	Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 23, 1992, as "National Military Families Recognition Day".	Oct. 27, 1992	3563
102–541	To expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia.	Oct. 27, 1992	3565
102–542	Trademark Remedy Clarification Act	Oct. 27, 1992	3567
102–543	To establish the Keweenaw National Historical Park, and for other purposes.	Oct. 27, 1992	3569
102–544	Granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.	Oct. 27, 1992	3576
102–545	Ready to Learn Act	Oct. 27, 1992	3586
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102–551	An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.	Oct. 28, 1992	4098
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102–554	Agricultural Credit Improvement Act of 1992	Oct. 28, 1992	4142
102–555	Land Remote Sensing Policy Act of 1992	Oct. 28, 1992	4163
102–556	Telephone Disclosure and Dispute Resolution Act	Oct. 28, 1992	4181
102–557	Designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day".	Oct. 28, 1992	4196
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102–560	Patent and Plant Variety Protection Remedy Clarification Act.	Oct. 28, 1992	4230
102–561	To amend title 18, United States Code, with respect to the criminal penalties for copyright infringement.	Oct. 28, 1992	4233
102–562	To authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes.	Oct. 28, 1992	4234
102–563	Audio Home Recording Act of 1992	Oct. 28, 1992	4237
102–564	Small Business Research and Development Enhancement Act of 1992.	Oct. 28, 1992	4249
102–565	To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.	Oct. 28, 1992	4265
102–566	To amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.	Oct. 28, 1992	4269
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PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE ONE HUNDRED SECOND CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Friday, January 3, 1992, adjourned sine die on Friday, October 9, 1992. GEORGE BUSH, *President;* DAN QUAYLE, *Vice President;* THOMAS S. FOLEY, *Speaker of the House of Representatives.*

59-194 O—93——2 : QL 3 (Pt. 1)

Public Law 102-244
102d Congress

An Act

To increase the number of weeks for which benefits are payable under the Emergency Unemployment Compensation Act of 1991, and for other purposes.

Feb. 7, 1992
[H.R. 4095]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AMOUNT OF EMERGENCY UNEMPLOYMENT BENEFITS.

(a) INCREASE IN BENEFITS.—

(1) Subparagraph (A) of section 102(b)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended to read as follows:

26 USC 3304 note.

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) IN GENERAL.—

"(I) In the case of weeks beginning during a high unemployment period, the applicable limit is 33.

"(II) In the case of weeks not beginning in a high unemployment period, the applicable limit is 26.

"(ii) REDUCTION FOR WEEKS AFTER JUNE 13, 1992.—In the case of weeks beginning after June 13, 1992—

"(I) clause (i) of this subparagraph shall be applied by substituting '20' for '33', and by substituting '13' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '100 percent' for '130 percent'.

In the case of an individual who is receiving emergency unemployment compensation for a week which includes June 13, 1992, the preceding sentence shall not apply for purposes of determining the amount of emergency unemployment compensation payable to such individual for any week thereafter beginning in a period of consecutive weeks for each of which the individual meets the eligibility requirements of this Act."

(2) Subparagraph (A) of section 102(b)(1) of such Act is amended by striking "100 percent" and inserting "130 percent".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (e) of section 101 of such Act is amended by striking "in a 20-week period or 13-week period, as defined in section 102,".

26 USC 3304 note.

(2) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "An individual's" and inserting "Except as provided in subparagraph (A)(ii), an individual's".

(3) Subsection (c) of section 102 of such Act is amended—

(A) by striking "20-week" in paragraph (1) and inserting "high unemployment", and

(B) by striking "20-WEEK" in the subsection heading and inserting "HIGH UNEMPLOYMENT".

26 USC 3304 note.

(4) Section 102 of such Act is amended by striking subsection (d).

(5) Subsection (e) of section 102 of such Act is amended to read as follows:

"(e) SPECIAL RULES.—

"(1) MINIMUM DURATION.—A high unemployment period shall last for not less than 13 weeks.

Federal Register, publication.

"(2) NOTIFICATION BY SECRETARY.—When a determination has been made that a high unemployment period is beginning or ending with respect to a State, the Secretary shall cause notice of such determination to be published in the Federal Register."

(6) Paragraph (1) of section 102(g) of such Act is amended by striking "20-week period or 13-week period" and inserting "high unemployment period".

(7) Paragraph (2) of section 102(g) of such Act is amended by striking "20-week period" and inserting "high unemployment period".

26 USC 3304 note.

(8) Section 106(b) of such Act is amended by striking "paragraph (3), (4), or (5)" and inserting "paragraph (3) or (4)".

26 USC 3304 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

SEC. 2. EXTENSION OF PROGRAM.

Sections 102(f)(1)(B), 102(f)(2), and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "June 13, 1992" and inserting "July 4, 1992".

SEC. 3. TEMPORARY INCREASE IN AMOUNT OF CORPORATE ESTIMATED TAX PAYMENTS.

26 USC 6655.

(a) GENERAL RULE.—Subparagraph (A) of section 6655(d)(3) of the Internal Revenue Code of 1986 (relating to temporary increase in amount of installment based on current year tax) is amended by striking the table contained in such subparagraph and inserting the following:

"In the case of a taxable year beginning in:	The current year percentage is:
1992	93
1993 through 1996	95."

26 USC 6655 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

26 USC 6157 note.

SEC. 4. EXTENSION OF TIME FOR PAYMENT OF ADDITIONAL FUTA TAXES.

(a) IN GENERAL.—Notwithstanding any other provision of law, if a qualified taxpayer is required to pay additional taxes for taxable years beginning in 1991 with respect to any employment in any State by reason of such State being declared a credit reduction State, such taxpayer may elect to defer the filing and payment of such additional taxes to a date no later than June 30, 1992.

(b) INTEREST.—Notwithstanding subsection (a), for purposes of section 6601(a) of the Internal Revenue Code of 1986, the last date prescribed for payment of any additional taxes for which an election is made under subsection (a) shall be January 31, 1992.

(c) DEFINITIONS.—For purposes of this section—

(1) QUALIFIED TAXPAYER.—The term "qualified taxpayer" means a taxpayer—

(A) in a State which has been declared a credit reduction State for taxable years beginning in 1991, and

(B) who did not receive notice of such credit reduction before December 1, 1991 from either the State unemployment compensation agency or the Internal Revenue Service.

(2) CREDIT REDUCTION STATE.—The term "credit reduction State" means a State with respect to which the Internal Revenue Service has determined that a reduction in credits is applicable for taxable years beginning in 1991 pursuant to the provisions of section 3302 of the Internal Revenue Code of 1986.

(d) TIME AND MANNER FOR MAKING ELECTION.—An election under this section shall be made at such time and in such manner as the Secretary of the Treasury shall prescribe.

SEC. 5. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) GENERAL RULE.—Sections 501(b) (1) and (2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) are each amended by striking "June 13, 1992" and inserting "July 4, 1992". 45 USC 352 note.

(2) CONFORMING AMENDMENT.—Subsection (a) of section 501 of such Act is amended by striking "June, 1992" and inserting "July 1992".

(b) ENLARGEMENT OF BENEFITS.—Section 501 of such Act is amended by adding at the end the following:

"(d) ENLARGEMENT OF BENEFITS.—

"(1) GENERALLY.—During the period that begins on the date of the enactment of this subsection—

"(A) subsection (c) of this section shall be applied by substituting '130' for '65';

"(B) section 2(c) of the Railroad Unemployment Insurance Act shall be applied—

"(i) by substituting '13 (but not more than 130 days)' for '7 (but not more than 65 days)' in the table; and

"(ii) by substituting 'but not by more than 130 days' for 'but not by more than sixty-five days' in the second proviso; and

"(C) section 2(h)(1) of the Railroad Unemployment Insurance Act shall be applied by substituting '13' for 'seven'.

"(2) PHASE-OUT.—Effective on and after June 14, 1992, paragraph (1) of this subsection shall not apply. Notwithstanding the preceding sentence, in the case of an individual who is receiving the extended benefits under section 2(c) of the Railroad Unemployment Insurance Act for persons with 10 or more but less than 15 years of service, or extended benefits under this section, for any day during the week ending June 13, Effective date.

1992, paragraph (1) shall apply for purposes of determining the amount of extended benefits payable to such individual for any day thereafter in a continuous period for which the individual meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act.".

Approved February 7, 1992.

LEGISLATIVE HISTORY—H.R. 4095 (S. 2173):

HOUSE REPORTS: No. 102-427 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 4, considered and passed House; considered and passed Senate in lieu of S. 2173.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Feb. 7, Presidential statement.

Public Law 102-245
102d Congress

An Act

To authorize appropriations for the National Institute of Standards and Technology and the Technology Administration of the Department of Commerce, and for other purposes.

Feb. 14, 1992
[H.R. 1989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

American Technology Preeminence Act of 1991. 15 USC 3701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Technology Preeminence Act of 1991".

15 USC 3701 note.

SEC. 2. DEFINITIONS.

As used in this Act—

(1) the term "high-resolution information systems" means equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound;

(2) the term "advanced manufacturing technology" means numerically-controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving manufacturing and industrial processes;

(3) the term "advanced materials" means a field of research including the study of composites, ceramics, metals, polymers, superconducting materials, materials produced through biotechnology, and materials production technologies, including coated systems, that provide the potential for significant advantages over existing materials;

(4) the term "Institute" means the National Institute of Standards and Technology;

(5) the term "Secretary" means the Secretary of Commerce; and

(6) the term "Under Secretary" means the Under Secretary of Commerce for Technology.

TITLE I—DEPARTMENT OF COMMERCE RESEARCH AND TECHNOLOGY

Technology Administration Authorization Act of 1991. 15 USC 3701 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Technology Administration Authorization Act of 1991".

15 USC 3701 note.

SEC. 102. STATEMENT OF POLICY.

Congress finds that in order to help United States industries to speed the development of new products and processes so as to maintain the economic competitiveness of the Nation, it is necessary to strengthen the programs and activities of the Department of Commerce's Technology Administration and National Institute of Standards and Technology.

SEC. 103. TECHNOLOGY ADMINISTRATION.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the activities of the Under Secretary and the Assistant Secretary for Technology Policy, $10,000,000 for fiscal year 1993, which shall be available for the following line items:

(A) Office of the Under Secretary, $2,000,000.

(B) Technology Policy, $4,000,000.

(C) Japanese Technical Literature, $1,500,000.

(D) Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, $1,000,000.

(E) National Technical Information Service, $1,500,000 to carry out the modernization plan described in section 212(f)(3)(D) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(f)(3)(D)).

(2) Funds may be transferred among the line items listed in paragraph (1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such paragraph and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

15 USC 3704b-1.

(c) OPERATING COSTS.—Operating costs for the National Technical Information Service associated with the acquisition, processing, storage, bibliographic control, and archiving of information and documents shall be recovered primarily through the collection of fees.

(d) REPORT AND CERTIFICATION TO CONGRESS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit to Congress a report which—

(1) describes the Department of Commerce's response to the Inspector General's Report No. ATD-024-0-001;

(2) includes a revised detailed modernization plan for the National Technical Information Service;

(3) contains a business plan for the National Technical Information Service which includes detailed profit and loss

analysis for groups of products and services and for major market segments; and

(4) certifies that the National Technical Information Service has—

(A) employed a chief financial officer who is a certified public accountant or equivalently experienced accountant with experience in the dissemination of scientific and technical information; and

(B) begun taking reasonable steps toward strengthening its accounting system in response to the Inspector General's report described in paragraph (1).

(e) TECHNICAL AMENDMENT.—Section 5422(a) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4603a(a)) and section 273(c)(4) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (15 U.S.C. 4603(c)(4)) are each amended by striking "Economic Affairs" and inserting in lieu thereof "Technology".

SEC. 104. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

(a) FISCAL YEAR 1992.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $210,000,000 for fiscal year 1992, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $33,700,000.

(B) Manufacturing Engineering, $13,500,000.

(C) Chemical Science and Technology, $22,000,000.

(D) Physics, $27,000,000.

(E) Materials Science and Engineering, $30,000,000.

(F) Building and Fire Research, $12,300,000.

(G) Computer Systems, $16,000,000.

(H) Applied Mathematics and Scientific Computing, $6,500,000.

(I) Technology Assistance, $11,000,000.

(J) Research Support Activities, $38,000,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of non-energy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $2,700,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,565,000 are authorized only for the technical competence fund.

(b) FISCAL YEAR 1993.—(1) There are authorized to be appropriated to the Secretary, to carry out the intramural scientific and technical research and services activities of the Institute, $221,200,000 for fiscal year 1993, which shall be available for the following line items:

(A) Electronics and Electrical Measurements, $36,000,000.

(B) Manufacturing Engineering, $16,000,000.

(C) Chemical Science and Technology, $22,500,000.

(D) Physics, $28,700,000.

(E) Materials Science and Engineering, $39,400,000.
(F) Building and Fire Research, $12,000,000.
(G) Computer Systems, $20,600,000.
(H) Applied Mathematics and Scientific Computing, $6,300,000.
(I) Technology Assistance, $10,800,000.
(J) Research Support Activities, $25,000,000.
(K) Pay Raise, $3,900,000.

(2)(A) Of the total of the amounts authorized under paragraph (1), $2,000,000 are authorized only for steel technology.

(B) Of the amount authorized under paragraph (1)(I)—

(i) $500,000 are authorized only for the evaluation of non-energy-related inventions and related technology extension activities;

(ii) $250,000 are authorized only for Institute participation in the pilot program established under subsection (e); and

(iii) $5,000,000 are authorized only for the Institute's management of the extramural funding programs authorized under section 105.

(C) Of the total amount authorized under paragraph (1)(J), $7,223,000 are authorized only for the technical competence fund.

(3) In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated to the Secretary for fiscal year 1993 $34,800,000 for the renovation and upgrading of the Institute's facilities.

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a)(1) and among the line items listed in subsection (b)(1), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) The Secretary may propose transfers to or from any line item listed in subsection (a)(1) or subsection (b)(1) exceeding 10 percent of the amount authorized for such line item, but such proposed transfer may not be made unless—

(A) a full and complete explanation of any such proposed transfer and the reason therefor are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing Committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

(d) RELATION TO OTHER AUTHORIZATIONS.—Except for authorizations provided in the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100–418; 102 Stat. 1448), the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.), and the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (15 U.S.C. 5101 et seq.), this Act contains the complete authorizations of appropriations for the Institute for fiscal years 1992 and 1993. This subsection shall not limit the authority of the Institute to accept funds appropriated to any other Federal agency or to perform work for others.

Foreign relations.

(e) PILOT PROGRAM.—Pursuant to the authorizations contained in subsections (a)(1)(I) and (b)(1)(I), the Secretary is authorized to pay the Federal share of the cost of establishing and carrying

out a standards assistance pilot program under section 112 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 (15 U.S.C. 272 note). The purpose of the pilot program is to assist a country or countries that have requested assistance from the United States in the development of comprehensive industrial standards by providing the continuous presence of United States personnel on-site for a period of 2 or more years to provide such assistance and by providing, as necessary, additional technical support from within the Institute. Such funds shall be made available for such purpose only to the extent that matching funds are received by the National Institute of Standards and Technology from sources outside the Federal Government.

(f) CONSTRUCTION OF FACILITIES.—Section 14 of the National Institute of Standards and Technology Act (15 U.S.C. 278d) is amended by striking "herein:" and all that follows, and inserting in lieu thereof "herein.".

(g) FIRE AND BUILDING PROGRAMS.—The fire research and building technology programs of the Institute may be combined for administrative purposes only, and separate budget accounts for fire research and building technology shall be maintained. No later than December 31, 1992, the Secretary, acting through the Director of the Institute, shall report to Congress on the results of the combination, on efforts to preserve the integrity of the fire research and building technology programs, on the long-range basic and applied research plans of the two programs, on procedures for receiving advice on fire and earthquake research priorities from constituencies concerned with public safety, and on the relation between the combined program at the Institute and the United States Fire Administration.

15 USC 278f note.

Reports.

(h) EDUCATIONAL PROGRAMS.—(1) Section 18 of the National Institute of Standards and Technology Act (15 U.S.C. 278g–1) is amended by striking the period at the end of the first sentence and inserting in lieu thereof ", and to United States citizens for research and technical activities on Institute programs.".

(2) Section 17 of the National Institute of Standards and Technology Act (15 U.S.C. 278g) is amended by adding at the end the following new subsection:

"(d) For any scientific and engineering disciplines for which there is a shortage of suitably qualified and available United States citizens and nationals, the Secretary is authorized to recruit and employ in scientific and engineering fields at the Institute foreign nationals who have been lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act and who intend to become United States citizens. Employment of a person under this paragraph shall not be subject to the provisions of title 5, United States Code, governing employment in the competitive service, or to any prohibition in any other Act against the employment of aliens, or against the payment of compensation to them.".

(i) CORE PROGRAM FUNDING.—It is the sense of the Congress that the intramural scientific and technical research and services activities of the National Institute of Standards and Technology should share fully in any funding increases provided to the Institute.

SEC. 105. EXTRAMURAL PROGRAMS OF THE INSTITUTE.

(a) FISCAL YEAR 1992.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to

the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 278l, and 278n), $127,500,000 for fiscal year 1992, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(b) FISCAL YEAR 1993.—In addition to any sums otherwise authorized under this Act, there are authorized to be appropriated to the Secretary, to carry out the extramural industrial technology services programs of the Institute created under sections 25, 26, and 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278k, 278l, and 278n), $127,500,000 for fiscal year 1993, which shall be available for the following line items:

(1) Regional Centers for the Transfer of Manufacturing Technology and Satellite Manufacturing Centers, $25,000,000.

(2) State Technology Extension Program, $2,500,000.

(3) Advanced Technology Program, $100,000,000.

(c) LIMITATION.—No funds are authorized under this section for any project under the extramural programs of the Institute which have not been competitively reviewed through the merit review processes required by the National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.).

(d) AMENDMENTS TO EXTENSION PROGRAM.—Section 5121(b) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 278l note) is amended by striking paragraph (5).

(e) AMENDMENTS TO EXTENSION ACTIVITIES.—(1) Section 25(c)(6) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(c)(6)) is amended by inserting before the period at the end the following: "except for contracts for such specific technology extension or transfer services as may be specified by statute or by the Director".

(2) Section 25(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(d)) is amended to read as follows:

"(d) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Centers program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support Centers. Any Center which is supported with funds which originally came from other Federal departments and agencies shall be selected and operated according to the provisions of this section.".

(f) ADVISORY COMMITTEE.—Section 5142(f) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4632(f)) is amended by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993".

SEC. 106. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this Act, there are authorized to be appropriated to the Secretary for fiscal years 1992 and 1993 such additional sums as may be necessary to make any adjustments in salary, pay, retirement and other employee benefits which may be provided for by law.

SEC. 107. METRIC AMENDMENT.

(a) The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a) (2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass"; 15 USC 1453, 1454.

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of the SI metric system as the primary system for measuring quantity" after "panel of that label"; and

(4) in section 4(a)(3)(A)—

(A) by striking "containing" and inserting in lieu thereof "that also displays the avoirdupois system of measure, and that contains" in clause (i);

(B) by inserting "that also displays the avoirdupois system of measure" after "random package" in clause (ii);

(C) by inserting "that also displays the avoirdupois system of measure" after "linear measure" in clause (iii); and

(D) by inserting "that also displays the avoirdupois system of measure" after "measure of area" in clause (iv).

(b) This section shall take effect 2 years after the date of enactment of this Act. Effective date. 15 USC 1453 note.

SEC. 108. TRANSFER OF FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION. 15 USC 3704b-2.

(a) TRANSFER.—The head of each Federal executive department or agency shall transfer in a timely manner to the National Technical Information Service unclassified scientific, technical, and engineering information which results from federally funded research and development activities for dissemination to the private sector, academia, State and local governments, and Federal agencies. Only information which would otherwise be available for public dissemination shall be transferred under this subsection. Such information shall include technical reports and information, computer software, application assessments generated pursuant to section 11(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(c)), and information regarding training technology and other federally owned or originated technologies. The Secretary shall issue regulations within one year after the date of enactment of this Act outlining procedures for the ongoing transfer of such information to the National Technical Information Service. Regulations.

(b) ANNUAL REPORT TO CONGRESS.—As part of the annual report required under section 212(f)(3) of the National Technical Information Act of 1988, the Secretary shall report to Congress on the status of efforts under this section to ensure access to Federal scientific and technical information by the public. Such report shall include—

(1) an evaluation of the comprehensiveness of transfers of information by each Federal executive department or agency under subsection (a);

(2) a description of the use of Federal scientific and technical information;

(3) plans for improving public access to Federal scientific and technical information; and

(4) recommendations for legislation necessary to improve public access to Federal scientific and technical information.

SEC. 109. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 110. REPORT ON FACILITIES NEEDS.

By March 1, 1992, the Director of the Institute shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on what renovations and upgrades of Institute facilities are necessary over the next decade. The report shall include a ranking of facilities needs in order of priority, an estimate of costs, and the Director's plan for meeting these needs.

Business and industry.
Commerce and trade.

SEC. 111. BUY-AMERICAN PROVISIONS.

(a) RESTRICTIONS ON CONTRACT AWARDS.—No contract or subcontract made with funds authorized under this title may be awarded for the procurement of an article, material, or supply produced or manufactured in a foreign country whose government unfairly maintains in government procurement a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harms to United States businesses, as identified by the President pursuant to subsection (g)(1)(A) of section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515(g)(1)(A)). Any such determination shall be made in accordance with such section 305.

15 USC 1536.

(b) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—If it has been finally determined by a court or a Federal agency that any person intentionally affixed a label bearing a "Made in America" inscription, or an inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, that person shall be ineligible to receive any contract or subcontract from the Department of Commerce, pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations.

Contracts.

(c) BUY-AMERICAN REQUIREMENT.—(1) The Secretary is authorized to award to a domestic firm a contract for the purchase of goods that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(A) the final product of the domestic firm will be completely assembled in the United States;

(B) when completely assembled, more than 50 percent of the final product of the domestic firm will be domestically produced; and

(C) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(2) This subsection shall not apply to the extent to which—

(A) in the opinion of the Secretary, after taking into consideration international obligations and trade relations, such applicability would not be in the public interest;

(B) in the opinion of the Secretary, after consultation with the Secretary of Defense, compelling national security considerations require otherwise; or

(C) the President determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(3) This subsection shall apply only to contracts made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(4) The Secretary, before January 1, 1993, shall report to the Congress on contracts covered under this subsection— Reports.

(A) entered into with foreign firms pursuant to a determination made under paragraph (2) of this subsection; and

(B) awarded to domestic firms pursuant to paragraph (1) of this subsection, in fiscal years 1991 and 1992.

(5) For purposes of this subsection—

(A) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(B) the term "foreign firm" means a business entity not described in subparagraph (A).

TITLE II—ADVANCED TECHNOLOGY PROGRAM AMENDMENTS

Emerging Technologies and Advanced Technology Program Amendments Act of 1991. Business and industry. 15 USC 271 note. 15 USC 278n note.

SEC. 201. EMERGING TECHNOLOGIES RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This title may be cited as the "Emerging Technologies and Advanced Technology Program Amendments Act of 1991".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds that—

(A) technological innovation and its profitable inclusion in commercial products are critical components of the ability of the United States to raise the living standards of Americans and to compete in world markets;

(B) maintaining viable United States-based high technology industries is vital to both the national security and the economic well-being of the United States;

(C) the Department of Commerce has reported that the United States is losing or losing badly, relative to Japan and Europe, in many important emerging technologies and risks losing much of the $350,000,000,000 United States market and $1,000,000,000,000 world market expected to develop by the year 2000 for products based on emerging technologies;

(D) it is in the national interest for the Federal Government to encourage and, in selected cases, provide limited financial assistance to industry-led private sector efforts to increase research and development in economically critical areas of technology;

(E) joint ventures are a particularly effective and appropriate way to pool resources to conduct research that no single company is likely to undertake but which will create new generic technologies that will benefit an entire industry and the welfare of the Nation;

(F) it is vital that industry within the United States attain a leadership role and capability in development, design, and manufacturing in fields such as high-resolution information systems, advanced manufacturing, and advanced materials; and

(G) the Advanced Technology Program, established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), is the appropriate vehicle for the United States Government to provide limited assistance to joint development within the United States of new high technology capabilities in fields such as high-resolution information systems, advanced manufacturing technology, and advanced materials, and can help encourage United States industry to work together on problems of mutual concern.

(2) The purposes of this section are—

(A) to strengthen the Advanced Technology Program created under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), and to provide improved guidelines for the allocation of Advanced Technology Program funds appropriated under the authorizations contained in section 105 of this Act;

(B) to promote and assist in the development of advanced technologies and the generic application of such technologies to civilian products, processes, and services;

(C) to improve the competitive position of United States industry by supporting industry-led research and development projects in areas of emerging technology which have substantial potential to advance the economic well-being and national security of the United States, such as high-resolution information systems, advanced manufacturing technology, and advanced materials; and

(D) to support projects that range from idea exploration to prototype development and address long-term, high-risk areas of technological research, development, and application that are not otherwise being adequately developed by the private sector, but are likely to yield important benefits to the Nation.

(c) ADVANCED TECHNOLOGY PROGRAM.—(1) Section 28(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(a)), is amended by adding at the end the following new sentence: "In operating the Program, the Secretary and Director shall, as appropriate, be guided by the findings and recommendations of the Biennial National Critical Technology Reports prepared pursuant to section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683).".

(2) Section 28(b)(1) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)), is amended by inserting "industry-led" immediately after "aid".

(3) Section 28(b)(1)(B) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(1)(B)), is amended by inserting "by means of grants, cooperative agreements, or contracts" immediately after "such joint ventures".

(4) Section 28(b)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(b)(2)), is amended to read as follows:

Grants.
Contracts.

"(2) provide grants to and enter into contracts and cooperative agreements with United States businesses (especially small businesses), provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;".

(5) Section 28(d)(2) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(2)) is amended to read as follows:

"(2) In the case of joint ventures, the Program shall not make an award unless the award will facilitate the formation

of a joint venture or the initiation of a new research and development project by an existing joint venture.".

(6) Section 28(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(d)(7)) is amended—

(A) by striking paragraph (7);

(B) by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively; and

(C) by adding at the end the following new paragraphs:

"(9) A company shall be eligible to receive financial assistance under this section only if—

"(A) the Secretary finds that the company's participation in the Program would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; and agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

"(B) either—

"(i) the company is a United States-owned company; or

"(ii) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

"(10) Grants, contracts, and cooperative assignments under this section shall be designed to support projects which are high risk and which have the potential for eventual substantial widespread commercial application. In order to receive a grant, contract, or cooperative agreement under this section, a research and development entity shall demonstrate to the Secretary the requisite ability in research and technology development and management in the project area in which the grant, contract, or cooperative agreement is being sought.

"(11)(A) Title to any intellectual property arising from assistance provided under this section shall vest in a company or companies incorporated in the United States. The United States may reserve a nonexclusive, nontransferable, irrevocable paid-up license, to have practiced for or on behalf of the United States, in connection with any such intellectual property, but shall not, in the exercise of such license, publicly disclose proprietary information related to the license. Title to any such intellectual property shall not be transferred or passed, except to a company incorporated in the United States, until the

expiration of the first patent obtained in connection with such intellectual property.

"(B) For purposes of this paragraph, the term 'intellectual property' means an invention patentable under title 35, United States Code, or any patent on such an invention.

"(C) Nothing in this paragraph shall be construed to prohibit the licensing to any company of intellectual property rights arising from assistance provided under this section.".

(7) Section 28(e) of the National Institute of Standards and Technology Act (15 U.S.C. 278n(e)) is amended to read as follows:

"(e) The Secretary may, within 30 days after notice to Congress, suspend a company or joint venture from continued assistance under this section if the Secretary determines that the company, the country of incorporation of the company or a parent company, or the joint venture has failed to satisfy any of the criteria set forth in subsection (d)(9), and that it is in the national interest of the United States to do so.".

(8) Section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n) is amended by adding at the end the following new subsections:

"(f) When reviewing private sector requests for awards under the Program, and when monitoring the progress of assisted research projects, the Secretary and the Director shall, as appropriate, coordinate with the Secretary of Defense and other senior Federal officials to ensure cooperation and coordination in Federal technology programs and to avoid unnecessary duplication of effort. The Secretary and the Director are authorized to work with the Director of the Office of Science and Technology Policy, the Secretary of Defense, and other appropriate Federal officials to form interagency working groups or special project offices to coordinate Federal technology activities.

"(g) In order to analyze the need for the value of joint ventures and other research projects in specific technical fields, to evaluate any proposal made by a joint venture or company requesting the Secretary's assistance, or to monitor the progress of any joint venture or any company research project which receives Federal funds under the Program, the Secretary, the Under Secretary of Commerce for Technology, and the Director may, notwithstanding any other provision of law, meet with such industry sources as they consider useful and appropriate.

"(h) Up to 10 percent of the funds appropriated for carrying out this section may be used for standards development and technical activities by the Institute in support of the purposes of this section.

"(i) In addition to such sums as may be authorized and appropriated to the Secretary and Director to operate the Program, the Secretary and Director also may accept funds from other Federal departments and agencies for the purpose of providing Federal funds to support awards under the Program. Any Program award which is supported with funds which originally came from other Federal departments and agencies shall be selected and carried out according to the provisions of this section.

"(j) As used in this section—

"(1) the term 'joint venture' means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

"(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts;

"(B) the development or testing of basic engineering techniques;

"(C) the extension of investigative finding or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes;

"(D) the collection, exchange, and analysis of research information;

"(E) the production of any product, process, or service; or

"(F) any combination of the purposes specified in subparagraphs (A), (B), (C), (D), and (E),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture; and

"(2) the term 'United States-owned company' means a company that has majority ownership or control by individuals who are citizens of the United States.".

(d) EFFECTIVE DATE.—The amendments in subsection (c) shall take effect immediately upon enactment; however, the amendments shall not apply to applications submitted before the date of enactment of this Act. 15 USC 278n note.

(e) MANAGEMENT COSTS.—Section 2 of the National Institute of Standards and Technology Act (15 U.S.C. 272) is amended by adding at the end thereof the following new subsection:

"(d) In carrying out the extramural funding programs of the Institute, including the programs established under sections 25, 26, and 28 of this Act, the Secretary may retain reasonable amounts of any funds appropriated pursuant to authorizations for these programs in order to pay for the Institute's management of these programs.".

(f) COMPREHENSIVE REPORT.—The Secretary shall, not later than 4 years after the date of enactment of this Act, submit to each House of the Congress and the President a comprehensive report on the results of the Advanced Technology Program established under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), including any activities in the areas of high-resolution information systems, advanced manufacturing technology, and advanced materials. 15 USC 278n note.

TITLE III—AMENDMENTS TO THE STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. FEDERAL LABORATORY CONSORTIUM.

(a) Section 11(e)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(2)) is amended by inserting "senior" after "Consortium and a".

(b) Section 11(e)(6) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(6)) is amended by adding at the end the following: "Such report shall include an annual independent audit of the financial statements of the Consortium,

conducted in accordance with generally accepted accounting principles.".

(c) Section 11(e)(7)(B)(ii) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(7)(B)(ii)) is amended by striking "or 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, or 1996".

(d) Section 11(e)(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(8)) is repealed.

SEC. 302. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

(a) Section 12(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(1)) is amended by inserting "intellectual property," after "equipment," both places it appears.

Reports.

(b) Within 6 months after the date of enactment of this Act, the Secretary shall report to the Congress on the advisability of authorizing a new form of cooperative research and development agreement which would permit Federal contributions of funds.

SEC. 303. RESEARCH EQUIPMENT.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended by adding at the end the following new subsection:

"(i) RESEARCH EQUIPMENT.—The Director of a laboratory, or the head of any Federal agency or department, may give research equipment that is excess to the needs of the laboratory, agency, or department to an educational institution or nonprofit organization for the conduct of technical and scientific education and research activities. Title of ownership shall transfer with a gift under the section.".

SEC. 304. DEFINITION OF FEDERAL AGENCY.

Section 4(8) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703(8)) is amended by inserting ", as well as any agency of the legislative branch of the Federal Government" after "of such title".

SEC. 305. QUALITY IMPROVEMENT.

Section 17(f) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3711a(f)) is amended by adding at the end the following: "The Director is authorized to use appropriated funds to carry out responsibilities under this Act.".

SEC. 306. UNDER SECRETARY.

Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) serve as a focal point for discussions among United States companies on topics of interest to industry and labor, including discussions regarding manufacturing and discussions regarding emerging technologies;".

TITLE IV—NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY

Business and industry.

SEC. 401. NATIONAL COMMISSION ON REDUCING CAPITAL COSTS FOR EMERGING TECHNOLOGY.

15 USC 3701 note.

(a) ESTABLISHMENT AND PURPOSE.—There is established a National Commission on Reducing Capital Costs for Emerging Technology (hereafter in this section referred to as the "Commission"), for the purpose of developing recommendations to increase the competitiveness of United States industry by encouraging investments in research, the development of new process and product technologies, and the production of those technologies.

(b) ISSUES.—The function of the Commission shall be to address the following issues:

(1) How has the overall cost of capital paid by United States companies differed during the past decade from that paid by companies in other industrial economies such as Germany, Japan, and the United Kingdom?

(2) To what extent has the cost of capital faced by technology companies differed from the overall cost of capital in each of these nations during the same period?

(3) To what extent do high capital costs in general inhibit investment in projects with long-term payoffs, such as the development and commercialization of new technology?

(4) To what extent does the structure of the financial services industry in the United States affect the flow of capital to advanced technology investment, and to what extent do current practices in the equity markets raise the cost of capital and inhibit the availability of capital to fund research and development, purchase advanced manufacturing equipment, and fund other investments necessary to commercialize advanced technology?

(5) In what ways do Government regulations influence the cost of capital in the United States?

(6) To what extent have national differences in capital costs facilitated the foreign acquisition of technology-based United States companies?

(7) What macroeconomic and other policies would promote greater investment in advanced manufacturing techniques, in research and development, and in other activities necessary to commercialize and produce new technologies?

(8) What specific policies should the Federal Government follow in order to reduce the cost of capital for United States companies to levels that are near parity with those faced by the Nation's principal trading partners?

(c) MEMBERSHIP.—(1) The Commission shall be composed of 9 members who are eminent in such fields as advanced technology, manufacturing, finance, and international economics and who are appointed as follows:

(A) 3 individuals appointed by the President, one of whom shall chair the Commission. President.

(B) 3 individuals appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives.

(C) 3 individuals appointed by the President pro tempore of the Senate, 2 of whom shall be appointed upon the rec-

ommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate.

(2) Each member shall be appointed for the life of the Commission. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) PROCEDURES.—(1) The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(2) Recommendations of the Commission shall require the approval of three-quarters of the members of the Commission.

(3) The Commission may use such personnel detailed from Federal agencies as may be necessary to enable it to carry out its duties.

(4) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(e) REPORTS.—The Commission shall, within 1 year after the date of enactment of this Act, submit to the President and Congress a report containing legislative and other recommendations with respect to the issues addressed under subsection (b).

(f) CONSULTATION.—The Commission shall consult, as appropriate, with the Commission on Technology and Procurement established by section 505 of this Act.

(g) TERMINATION.—The Commission shall terminate 6 months after the submission of its report under subsection (e).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

TITLE V—STUDIES AND REPORTS

Business and industry.
42 USC 6611 note.

SEC. 501. HIGH-RESOLUTION INFORMATION SYSTEMS ADVISORY BOARD.

(a) ESTABLISHMENT AND PURPOSE.—The Director of the Office of Science and Technology Policy shall establish within that office a High-Resolution Information Systems Advisory Board (hereafter in this section referred to as the "Board") to monitor and, as appropriate, foster the development of United States-based high-resolution information systems industries.

(b) DEFINITION.—As used in this title, the term "high-resolution information systems" means the equipment and techniques required to create, store, recover, and play back high-resolution images and accompanying sound.

(c) FUNCTIONS.—The Board shall—

(1) collect and analyze information on the range of factors which will determine whether United States-based high-resolution information systems industries will develop and become competitive, including such factors as technology policies, specialized financial problems, international standards and foreign trade practices, Federal regulations and procurement policies, and licensing practices;

(2) identify areas where appropriate cooperation between the Federal Government and the private sector, including Government support for industry-led joint research and development ventures, would enhance United States industrial competitive-

ness in this area, and provide advice and guidance for such cooperative efforts;

(3) provide guidance on what Federal policies and practices, particularly in such areas as procurement and the transfer of federally-funded research, are necessary to help establish United States-based high-resolution information systems industries;

(4) provide advice on the coordination of Federal defense and civilian activities to maximize and assist with the transfer of technologies in the field of high-resolution information systems into commercial products; and

(5) generally develop recommendations for guiding Federal agency activities related to the development of United States-based high-resolution information systems industries.

(d) MEMBERSHIP AND PROCEDURES.—(1)(A) The Board shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Director of the Office of Science and Technology Policy, the Secretary, the Director of the Defense Advanced Research Projects Agency, and the Administrator of the National Aeronautics and Space Administration, or their designees, shall serve as members of the Board.

(C) The President, acting through the Director of the Office of Science and Technology Policy, within 90 days after the date of enactment of this Act, shall appoint as additional members of the Board— President.

(i) 5 members from the private electronics manufacturing sector, drawn from such sectors as semiconductors, display equipment, computers, consumer electronics, and telecommunications, with 1 member also representing labor;

(ii) 3 members from the private nonmanufacturing sector, including 1 representative from the transmission delivery systems sector and 2 representatives drawn from such areas as the software industry, the entertainment industry, and the investment community; and

(iii) 1 member from academia.

At least 1 member appointed under this subparagraph shall be from small business.

(2) The Director of the Office of Science and Technology Policy or the Director's designee shall chair the Board.

(3) The chairman shall call the first meeting of the Board within 30 days after the appointment of members is completed.

(4) The Board may use such personnel detailed from Federal agencies as may be necessary to enable it to perform its functions.

(5) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of the Board or otherwise performing duties of the Board while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(6) The Board shall submit a report of its activities once every year after its establishment to the President, the Committees on Science, Space, and Technology and on Energy and Commerce of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

(e) LIMITATION ON FUNCTIONS.—Nothing in this section or any other provision of this Act shall be construed—

(1) to authorize the Board to investigate or provide advice or guidance with respect to standards or other regulations

or policies related to the transmission, delivery, or receipt of broadcast television or cable television signals subject to regulation by the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(2) to limit, modify, or affect in any manner the authorities, functions or responsibilities of the Federal Communications Commission or the National Telecommunications and Information Administration.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992 and 1993.

SEC. 502. MAJOR SCIENCE AND TECHNOLOGY PROPOSALS.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended by adding at the end of title II the following new section:

"MAJOR SCIENCE AND TECHNOLOGY PROPOSALS

42 USC 6618. "SEC. 209. The Director shall identify and provide an annual report to Congress on each major multinational science and technology project, in which the United States is not a participant, which has a total estimated cost greater than $1,000,000,000.".

SEC. 503. BIENNIAL NATIONAL CRITICAL TECHNOLOGIES REPORT AMENDMENTS.

Section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683) is amended—

(1) in subsection (a), by inserting ", but shall include the most economically important emerging civilian technologies during the 10-year period following such report, together with the estimated current and future size of domestic and international markets for products derived from these technologies" after "may not exceed 30";

(2) in subsection (b), by striking "national security and" and inserting in lieu thereof "national security or";

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following new subsection:

"(d) Each such report shall include—

"(1) an identification of the types of research and development needed to close any significant gaps or deficiencies in the technology base of the United States, as compared with the technology bases of major trading partners; and

"(2) a list of the technologies and markets targeted by major trading partners for development or capture.".

15 USC 3716. **SEC. 504. CRITICAL INDUSTRIES.**

(a) IDENTIFICATION OF INDUSTRIES AND DEVELOPMENT OF PLAN.—The Secretary shall—

(1) identify those civilian industries in the United States that are necessary to support a robust manufacturing infrastructure and critical to the economic security of the United States; and

(2) list the major research and development initiatives being undertaken, and the substantial investments being made, by the Federal Government, including its research laboratories,

in each of the critical industries identified under paragraph (1).

(b) INITIAL REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of enactment of this Act on the actions taken under subsection (a).

(c) ANNUAL UPDATES.—The Secretary shall annually submit to the Congress an update of the report submitted under subsection (b). Each such update shall—

(1) describe the status of each identified critical industry, including the advances and declines occurring since the most recent report; and

(2) identify any industries that should be added to the list of critical industries.

SEC. 505. RESEARCH, DEVELOPMENT, TECHNOLOGY UTILIZATION, AND GOVERNMENT PROCUREMENT POLICY.

15 USC 3701 note.

(a) ESTABLISHMENT OF COMMISSION.—The Secretary, in consultation with the Administrator of the Office of Federal Procurement Policy, shall establish a Commission on Technology and Procurement (hereafter in this section referred to as the "Commission"), for the purposes of analyzing the effect of Federal Government procurement laws, procedures, and policies on the development of advanced technologies within the United States and making recommendations on how Federal policy could be changed to promote further the development of advanced technologies.

(b) ISSUES.—The Commission shall address the following issues:

(1) To what extent, if any, should Federal Government technology purchase strategies be used to give domestic suppliers a competitive advantage in new generations of existing technologies and in initial market penetration for new technologies?

(2) Under what conditions can Federal Government purchases of advanced technology-based products be based on performance specifications rather than on product specifications? Should Federal Government procurement first look to the commercial markets for products that will meet performance specifications before purchasing a unique product that has to be developed?

(3) How can the Federal Government procurement laws, practices, and procedures be used as a strategic tool to foster the use of emerging technologies?

(4) How can the Federal Government ensure that its suppliers adopt the principles embodied in the Malcolm Baldrige National Quality Award?

(5) Should Federal Government procurement practices include cooperative efforts between the supplier and the Federal entity to develop products so as to be more easily marketed on a commercial basis? Should a program for the exchange of technical personnel to foster innovation in product development be part of such practices?

(6) To what extent, if any, should Federal Government documents specify standards that are beneficial to domestic suppliers, aid the compatibility of advanced technologies, and speed the commercial acceptance of those technologies, and what would be the role of the Institute in such an effort?

(7) Should Federal Government procurement be linked to the Advanced Technology Program and to technology transfer activities so that specification development can incorporate the latest technical advances available?

(8) To what extent should worldwide, state of the art technology be required in Federal Government procurement?

(c) MEMBERSHIP AND PROCEDURES.—(1) The Commission shall be composed of 15 members, 8 of whom shall constitute a quorum.

(2) The Secretary, the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, the Secretary of Defense, and the Administrator of General Services, or their designees who serve in executive level positions, shall serve as members of the Commission.

(3) The Secretary shall appoint as members of the Commission, from among individuals not employed by the Federal Government—

(A) 4 members who are eminent in advanced technology businesses representing manufacturing and services industries, including at least 1 member representing labor;

(B) 3 members who are eminent in the fields of technology and international economic development; and

(C) with the concurrence of the Administrator of the Office of Federal Procurement Policy, 3 members who are eminent in the field of Federal Government procurement.

(4) The Secretary shall appoint a Commission chairman from among the members of the Commission. The chairman shall call the first meeting of the Commission within 90 days after the date of enactment of this Act.

(5) The Secretary and the Administrator of the Office of Federal Procurement Policy shall provide such staff as may be required by the Commission to carry out its responsibilities.

(6) Members of the Commission, other than full-time employees of the Federal Government, while attending meetings of the Commission or otherwise performing duties of the Commission while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(d) REPORTS.—(1) The Commission shall, within 1 year after the date of enactment of this Act, submit to the Secretary, the Administrator of the Office of Federal Procurement Policy, the President, and Congress a report containing preliminary recommendations with respect to the issues addressed under subsection (b).

(2) The Commission shall, within 2 years after the date of enactment of this Act, submit to the Secretary and Congress a final report containing final recommendations with respect to the issues addressed under subsection (b).

(e) CONSULTATION.—The Commission shall consult, as appropriate, with the National Commission on Reducing Capital Costs for Emerging Technology.

(f) TERMINATION.—The Commission shall terminate 6 months after the submission of its final report under subsection (d)(2).

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal years 1992, 1993, and 1994.

SEC. 506. REPORT ON INFORMATION COLLECTION AND DISSEMINATION.

(a) REPORT.—Within 270 days after the date of enactment of this Act, the Secretary shall report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate

on the feasibility of establishing and operating a Federal Online Information Product Catalog (FEDLINE) at the National Technical Information Service which would serve as a comprehensive inventory and authorizative register of information products and services disseminated by the Federal Government and assist agencies and the public in locating Federal Government information. Information protected from public disclosure shall not be included. In studying the concept, the Secretary, acting through the Under Secretary and the Director of the National Technical Information Service, shall consult with officials from appropriate Government agencies, including the Office of Management and Budget, the National Archives, the Government Printing Office, and the Institute, and with representatives of the public, for their views on the optimal composition and format of FEDLINE. Such report shall contain cost estimates and possible funding sources for establishing and operating FEDLINE and shall list any changes in law and regulation that would be required if FEDLINE were to be implemented.

(b) FUNDING.—The Director of the National Technical Information Service may retain and use all monies received, including receipts, revenues, and advanced payments and deposits, to fund obligations and expenses through the end of fiscal year 1993.

(c) ELECTRONIC FORMAT.—Section 212(e)(5) of the National Technical Information Act of 1988 (15 U.S.C. 3704b(e)(5)) is amended by inserting ", including producing and disseminating information products in electronic format" after "engineering information".

SEC. 507. NATIONAL QUALITY COUNCIL. 15 USC 3717.

(a) ESTABLISHMENT AND FUNCTIONS.—There is established a National Quality Council (hereafter in this section referred to as the "Council"). The functions of the Council shall be—

(1) to establish national goals and priorities for Quality performance in business, education, government, and all other sectors of the Nation;

(2) to encourage and support the voluntary adoption of these goals and priorities by companies, unions, professional and business associations, coalition groups, and units of government, as well as private and nonprofit organizations;

(3) to arouse and maintain the interest of the people of the United States in Quality performance, and to encourage the adoption and institution of Quality performance methods by all corporations, government agencies, and other organizations; and

(4) to conduct a White House Conference on Quality Performance in the American Workplace that would bring together in a single forum national leaders in business, labor, education, professional societies, the media, government, and politics to address Quality performance as a means of improving United States competitiveness.

(b) MEMBERSHIP.—The Council shall consist of not less than 17 or more than 20 members, appointed by the Secretary. Members shall include—

(1) at least 2 but not more than 3 representatives from manufacturing industry;

(2) at least 2 but not more than 3 representatives from service industry;

(3) at least 2 but not more than 3 representatives from national Quality not-for-profit organizations;

(4) two representatives from education, one with expertise in elementary and secondary education, and one with expertise in post-secondary education;

(5) one representative from labor;

(6) one representative from professional societies;

(7) one representative each from local and State government;

(8) one representative from the Federal Quality Institute;

(9) one representative from the National Institute of Standards and Technology;

(10) one representative from the Department of Defense;

(11) one representative from a civilian Federal agency not otherwise represented on the Council, to be rotated among such agencies every 2 years; and

(12) one representative from the Foundation for the Malcolm Baldrige National Quality Award.

(c) TERMS.—The term of office of each member of the Council appointed under paragraphs (1) through (7) of subsection (b) shall be 2 years, except that when making the initial appointments under such paragraphs; the Secretary shall appoint not more than 50 percent of the members to 1 year terms. No member appointed under such paragraphs shall serve on the Council for more than 2 consecutive terms.

(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one of the members initially appointed to the Council as Chairman. Thereafter, the members of the Council shall annually elect one of their number as Chairman. The members of the Council shall also annually elect one of their members as Vice Chairman. No individual shall serve as Chairman or Vice Chairman for more than 2 consecutive years.

(e) EXECUTIVE DIRECTOR AND EMPLOYEES.—The Council shall appoint and fix the compensation of an Executive Director, who shall hire and fix the compensation of such additional employees as may be necessary to assist the Council in carrying out its functions. In hiring such additional employees, the Executive Director shall ensure that no individual hired has a conflict of interest with the responsibilities of the Council.

(f) FUNDING.—There is established in the Treasury of the United States a National Quality Performance Trust Fund, into which all funds received by the Council, through private donations or otherwise, shall be deposited. Amounts in such Trust Fund shall be available to the Council, to the extent provided in advance in appropriations Acts, for the purpose of carrying out the functions of the Council under this Act.

(g) CONTRIBUTIONS.—The Council may not accept private donations from a single source in excess of $25,000 per year. Private donations from a single source in excess of $10,000 per year may be accepted by the Council only on approval of two-thirds of the Council.

(h) ANNUAL REPORT.—The Council shall annually submit to the President and the Congress a comprehensive and detailed report on—

(1) the progress in meeting the goals and priorities established by the Council;

(2) the Council's operations, activities, and financial condition;

(3) contributions to the Council from non-Federal sources;

(4) plans for the Council's operations and activities for the future; and

(5) any other information or recommendations the Council considers appropriate.

SEC. 508. STUDY OF TESTING AND CERTIFICATION.

15 USC 3701 note.

(a) CONTRACT WITH NATIONAL RESEARCH COUNCIL.—Within 90 days after the date of enactment of this Act and within available appropriations, the Secretary shall enter into a contract with the National Research Council for a thorough review of international product testing and certification issues. The National Research Council will be asked to address the following issues and make recommendations as appropriate:

(1) The impact on United States manufacturers, testing and certification laboratories, certification organizations, and other affected bodies of the European Community's plans for testing and certification of regulated and nonregulated products of non-European origin.

(2) Ways for United States manufacturers to gain acceptance of their products in the European Community and in other foreign countries and regions.

(3) The feasibility and consequences of having mutual recognition agreements between testing and certification organizations in the United States and those of major trading partners on the accreditation of testing and certification laboratories and on quality control requirements.

(4) Information coordination regarding product acceptance and conformity assessment mechanisms between the United States and foreign governments.

(5) The appropriate Federal, State, and private roles in coordination and oversight of testing, certification, accreditation, and quality control to support national and international trade.

(b) MEMBERSHIP.—In selecting the members of the review panel, the National Research Council shall consult with and draw from, among others, laboratory accreditation organizations, Federal and State government agencies involved in testing and certification, professional societies, trade associations, small business, and labor organizations.

(c) REPORT.—A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contract with the National Research Council.

SEC. 509. REPORT ON A STRATEGY TO STIMULATE COMPETITIVE RESEARCH.

(a) IN GENERAL.—No later than 120 days after the date of enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report presenting a proposed strategy for improving the university research capabilities of those States which historically have received relatively little Federal research and development funding. The report shall particularly—

(1) analyze recent steps to use the National Science Foundation's Experimental Program to Stimulate Competitive Research as a model for similar programs in several other Federal departments and agencies which fund research and development; and

(2) examine the feasibility and advisability of using that Program as a model for Federal research and development agencies which do not currently have similar programs.

(b) ANALYSIS AND DISCUSSION.—The report shall include an analysis and discussion of—

(1) the geographic distribution of Federal research and development grants and contracts;

(2) current Federal efforts to stimulate competitive research; and

(3) the feasibility and advisability of new Federal programs to stimulate competitive research.

SEC. 510. INTERAGENCY COORDINATION.

The Secretary shall, within 180 days after the date of enactment of this Act, submit to the Committee on Science, Space, and Technology and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a plan for coordination of Commerce Department efforts with other Federal agencies for activities related to high-resolution information systems, including research and development activities.

Approved February 14, 1992.

LEGISLATIVE HISTORY—H.R. 1989 (S. 1034):

HOUSE REPORTS: No. 102-134 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 102-157 accompanying S. 1034 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): July 16, considered and passed House.
Nov. 27, considered and passed Senate, amended, in lieu of S. 1034.
Vol. 138 (1992): Jan. 28, House concurred in Senate amendment.

Public Law 102-246
102d Congress

An Act

To provide for additional membership on the Library of Congress Trust Fund Board, and for other purposes.

Feb. 18, 1992
[S. 1415]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL MEMBERSHIP ON THE LIBRARY OF CONGRESS TRUST FUND BOARD.

The first sentence of the first paragraph of the first section of the Act entitled "An Act to create a Library of Congress Trust Fund Board, and for other purposes", approved March 3, 1925 (2 U.S.C. 154) is amended—

(1) by striking "and" after "Librarian of Congress,"; and

(2) by inserting after "respectively)" the following: ", four persons appointed by the Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives) for a term of five years each (the first appointments being for two, three, four, and five years, respectively), and four persons appointed by the majority leader of the Senate (in consultation with the minority leader of the Senate) for a term of five years each (the first appointments being for two, three, four, and five years, respectively)".

SEC. 2. QUORUM PROVISION.

The second sentence of the first paragraph of the first section of the Act entitled "An Act to create a Library of Congress Trust Fund Board, and for other purposes", approved March 3, 1925 (2 U.S.C. 154) is amended by striking "Three" and inserting "Nine".

SEC. 3. TEMPORARY POSSESSION OF GIFTS.

Section 2 of the Act entitled "An Act to create a Library of Congress Trust Fund Board, and for other purposes", approved March 3, 1925 (2 U.S.C. 156, 157, and 158) is amended by adding at the end thereof the following new undesignated paragraph:

"In the case of a gift of money or securities offered to the Library of Congress, if, because of conditions attached by the donor or similar considerations, expedited action is necessary, the Librarian of Congress may take temporary possession of the gift, subject to approval under the first paragraph of this section. The gift shall be receipted for and invested, reinvested, or retained as provided in the second paragraph of this section, except that— 2 USC 158a.

"(1) a gift of securities may not be invested or reinvested; and

"(2) any investment or reinvestment of a gift of money shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States.

If the gift is not so approved within the 12-month period after the Librarian so takes possession, the principal of the gift shall be returned to the donor and any income earned during that period shall be available for use with respect to the Library of Congress as provided by law.".

Approved February 18, 1992.

LEGISLATIVE HISTORY—S. 1415:

CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 4, considered and passed Senate.
Vol. 138 (1992): Feb. 4, considered and passed House.

Public Law 102-247
102d Congress

An Act

To provide for the establishment of the St. Croix, Virgin Islands Historical Park and Ecological Preserve, and for other purposes.

Feb. 24, 1992
[H.R. 2927]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Insular Areas Act of 1992.
16 USC 410tt note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Insular Areas Act of 1992".

TITLE I—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS

Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992.
16 USC 410tt note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992".

SEC. 102. FINDINGS.

16 USC 410tt.

The Congress finds that the Salt River Bay area of the north central coast of St. Croix, United States Virgin Islands—

(1) has been inhabited, possibly as far back as 2000 B.C., and encompasses all major cultural periods in the United States Virgin Islands;

(2) contains the only ceremonial ball court ever discovered in the Lesser Antilles, village middens, and burial grounds which can provide evidence for the interpretation of Caribbean life prior to Columbus;

(3) is the only known site where members of the Columbus expeditions set foot on what is now United States territory;

(4) was a focal point of various European attempts to colonize the area during the post-Columbian period and contains sites of Spanish, French, Dutch, English, and Danish settlements, including Fort Sale, one of the few remaining earthwork fortifications in the Western Hemisphere;

(5) presents an outstanding opportunity to preserve and interpret Caribbean history and culture, including the impact of European exploration and settlement;

(6) has been a national natural landmark since February 1980 and has been nominated for acquisition as a nationally significant wildlife habitat;

(7) contains the largest remaining mangrove forest in the United States Virgin Islands and a variety of tropical marine and terrestrial ecosystems which should be preserved and kept unimpaired for the benefit of present and future generations; and

(8) is worthy of a comprehensive preservation effort that should be carried out in partnership between the Federal Government and the Government of the United States Virgin Islands.

16 USC 410tt-1.

SEC. 103. SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS.

(a) ESTABLISHMENT.—In order to preserve, protect, and interpret for the benefit of present and future generations certain nationally significant historical, cultural, and natural sites and resources in the Virgin Islands, there is established the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands (hereafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of approximately 912 acres of land, waters, submerged lands, and interests therein within the area generally depicted on the map entitled "Salt River Study Area—Alternative 'C'" in the "Alternatives Study and Environmental Assessment for the Columbus Landing Site, St. Croix, U.S. Virgin Islands", prepared by the National Park Service and dated June 1990. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and the Offices of the Lieutenant Governor of St. Thomas and St. Croix, Virgin Islands.

16 USC 410tt-2.

SEC. 104. ACQUISITION OF LAND.

(a) GENERAL AUTHORITY.—The Secretary of the Interior (hereafter in this title referred to as the "Secretary") may acquire land and interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange. Nothing in this section shall be construed to prohibit the Government of the United States Virgin Islands from acquiring land or interest in land within the boundaries of the park.

(b) LIMITATIONS ON AUTHORITY.—Lands, and interests in lands, within the boundaries of the park which are owned by the United States Virgin Islands, or any political subdivision thereof, may be acquired only by donation or exchange. No lands, or interests therein, containing dwellings lying within the park boundary as of July 1, 1991, may be acquired without the consent of the owner, unless the Secretary determines, after consultation with the Government of the United States Virgin Islands, that the land is being developed or proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park was established.

16 USC 410tt-3.

SEC. 105. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered in accordance with this title and with the provisions of law generally applicable to units of the national park system, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467). In the case of any conflict between the provisions of this Act and such generally applicable provisions of law, the provisions of this Act shall govern.

(b) COOPERATIVE AGREEMENTS.—The Secretary, after consulting with the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission (hereafter in this Act referred to as the "Commission") established by section 106 of this title, is authorized to enter into cooperative agreements with the United States Virgin Islands, or any political subdivision thereof, for the management of the park and for other purposes.

(c) GENERAL MANAGEMENT PLAN.—(1) Not later than 3 years after the date funds are made available for this subsection, the Secretary, in consultation with the Commission, and with public involvement, shall develop and submit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a general management plan for the park. The general management plan shall describe the appropriate protection, management, uses, and development of the park consistent with the purposes of this title.

(2) The general management plan shall include, but not be limited to, the following:

(A) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(B) Proposals for visitor use facilities to be developed for the park.

(C) Plans for management of the natural and cultural resources of the park, with particular emphasis on the preservation of both the cultural and natural resources and long-term scientific study of terrestrial, marine, and archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in consultation with the Virgin Islands Division of Archeology and Historic Preservation.

(D) Proposals for assessing the potential operation and supply of park concessions by qualified Virgin Islands-owned businesses.

(E) Plans for the training of personnel in accordance with subsection (e).

(d) TRAINING ASSISTANCE.—During the 10-year period beginning on the date of enactment of this title, the Secretary shall, subject to appropriations, provide the funds for the employees of the Government of the United States Virgin Islands directly engaged in the joint management of the park and shall implement, in consultation with the Government of the United States Virgin Islands, a program under which Virgin Islands citizens may be trained in all phases of park operations and management: *Provided, however,* That in no event shall the Secretary provide more than 50 percent of the funding for such purposes. A primary objective of the program shall be to train employees in the skills necessary for operating and managing a Virgin Islands Territorial Park System.

SEC. 106. SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE AT ST. CROIX, VIRGIN ISLANDS, COMMISSION. 16 USC 410tt-4.

(a) ESTABLISHMENT.—There is established a commission to be known as the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Commission.

(b) DUTIES.—The Commission shall—

(1) make recommendations on how all lands and waters within the boundaries of the park can be jointly managed

by the governments of the United States Virgin Islands and the United States in accordance with this title;

(2) consult with the Secretary on the development of the general management plan required by section 105 of this title; and

(3) provide advice and recommendations to the Government of the United States Virgin Islands, upon request of the Government of the United States Virgin Islands.

(c) MEMBERSHIP.—The Commission shall be composed of 10 members, as follows:

(1) The Governor of the United States Virgin Islands, or the designee of the Governor.

(2) The Secretary, or the designee of the Secretary.

(3) Four members appointed by the Secretary.

(4) Four members appointed by the Secretary from a list provided by the Governor of the United States Virgin Islands, at least one of whom shall be a member of the Legislature of the United States Virgin Islands.

Initial appointments made under this subsection shall be made within 120 days after the date of enactment of this title, except that the appointments made under paragraph (4) shall be made within 120 days after the date on which the Secretary receives such list.

(d) TERMS.—The members appointed under paragraphs (3) and (4) shall be appointed for terms of 4 years. A member of the Commission appointed for a definite term may serve after the expiration of the member's term until a successor is appointed. A vacancy in the Commission shall be filled in the same manner in which the original appointment was made and shall be filled within 60 days after the expiration of the term.

(e) CHAIR.—The Chair of the Commission shall alternate annually between the Secretary and the Governor of the United States Virgin Islands. All other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

Federal Register, publication.

(f) MEETINGS.—The Commission shall meet on a regular basis or at the call of the Chair. Notice of meetings and agenda shall be published in the Federal Register and local newspapers having a distribution that generally covers the United States Virgin Islands. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(g) EXPENSES.—Members of the Commission shall serve without compensation as such, but the Secretary may pay each member of the Commission travel expenses, including per diem in lieu of subsistence, in accordance with section 5703 of title 5, United States Code. Members of the Commission who are full-time officers or employees of the United States or the Virgin Islands Government may not receive additional pay, allowances, or benefits by reason of their service on the Commission. The Secretary shall provide the Commission with a budget for travel expenses and staff, and guidelines by which expenditures shall be accounted for.

(h) FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to the provisions of section 14(b) of the Federal Advisory Committee Act, and except as otherwise provided in this title, the provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Commission.

(i) TERMINATION.—The Commission shall terminate 10 years after the date of enactment of this title unless the Secretary determines that it is necessary to continue consulting with the Commission in carrying out the purposes of this title.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS. 16 USC 410tt-5.

There is authorized to be appropriated such sums as may be necessary to carry out this title.

TITLE II—INSULAR AREAS DISASTER SURVIVAL AND RECOVERY

SEC. 201. DEFINITIONS. 42 USC 5204.

As used in this title—

(1) the term "insular area" means any of the following: American Samoa, the Federated States of Micronesia, Guam, the Marshall Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands;

(2) the term "disaster" means a declaration of a major disaster by the President after September 1, 1989, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170); and

(3) the term "Secretary" means the Secretary of the Interior.

SEC. 202. AUTHORIZATION. 42 USC 5204a.

There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to—

(1) reconstruct essential public facilities damaged by disasters in the insular areas that occurred prior to the date of the enactment of this Act; and

(2) enhance the survivability of essential public facilities in the event of disasters in the insular areas,

except that with respect to the disaster declared by the President in the case of Hurricane Hugo, September 1989, amounts for any fiscal year shall not exceed 25 percent of the estimated aggregate amount of grants to be made under sections 403 and 406 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170b, 5172) for such disaster. Such sums shall remain available until expended.

SEC. 203. TECHNICAL ASSISTANCE. 42 USC 5204b.

(a) Upon the declaration by the President of a disaster in an insular area, the President, acting through the Director of the Federal Emergency Management Agency, shall assess, in cooperation with the Secretary and chief executive of such insular area, the capability of the insular government to respond to the disaster, including the capability to assess damage; coordinate activities with Federal agencies, particularly the Federal Emergency Management Agency; develop recovery plans, including recommendations for enhancing the survivability of essential infrastructure; negotiate and manage reconstruction contracts; and prevent the misuse of funds. If the President finds that the insular government lacks any of these or other capabilities essential to the recovery effort, then the President shall provide technical assistance to the insular area which the President deems necessary for the recovery effort. President.

(b) One year following the declaration by the President of a disaster in an insular area, the Secretary, in consultation with the Director of the Federal Emergency Management Agency, shall Reports.

submit to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs a report on the status of the recovery effort, including an audit of Federal funds expended in the recovery effort and recommendations on how to improve public health and safety, survivability of infrastructure, recovery efforts, and effective use of funds in the event of future disasters.

42 USC 5204c.

SEC. 204. HAZARD MITIGATION.

The total of contributions under the last sentence of section 404 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170c) for the insular areas shall not exceed 10 percent of the estimated aggregate amounts of grants to be made under sections 403, 406, 407, 408, and 411 of such Act for any disaster: *Provided,* That the President shall require a 50 percent local match for assistance in excess of 10 percent of the estimated aggregate amount of grants to be made under section 406 of such Act for any disaster.

President.

SEC. 205. TECHNICAL AMENDMENT.

Paragraphs (3) and (4) of section 102 of The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) are each amended by inserting after "American Samoa," the following: "the Northern Mariana Islands,".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AMERICAN SAMOA WATER AND POWER STUDY.

(a) The Secretary of the Interior shall undertake a comprehensive study, or as appropriate review and update existing studies, to determine the current and long-term water, power, and wastewater needs of American Samoa. Such study shall be conducted in consultation with the American Samoa government, and in consultation with those Federal agencies which have recent experience with the water, power and wastewater needs of American Samoa.

Reports.

(b) The Secretary of the Interior shall report the results of this study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, before December 31, 1992. The report shall include—

(1) an assessment of the water, power and wastewater needs of American Samoa both currently, and for the year 2000;

(2) an assessment of, and recommendations regarding, how these needs can be met;

(3) an assessment of, and recommendations regarding, any additional legal authority or funding which may be necessary to meet these needs; and

(4) an assessment of, and recommendations regarding, the respective roles of the Federal and American Samoa governments in meeting these needs.

48 USC 1469e.

SEC. 302. INSULAR GOVERNMENT PURCHASES.

The Governments of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands are authorized to make purchases through the General Services Administration.

SEC. 303. FREELY ASSOCIATED STATE CARRIER.

Transportation. 48 USC 1681 note.

(a) In furtherance of the objectives of the Compact of Free Association Act of 1985 (Public Law 99–239) and notwithstanding any other provision of law, a Freely Associated State Air Carrier shall not be precluded from providing transportation, between a place in the United States and a place in a state in free association with the United States or between two places in such a freely associated state, by air of persons (and their personal effects) and property procured, contracted for, or otherwise obtained by any executive department or other agency or instrumentality of the United States for its own account or in furtherance of the purposes or pursuant to the terms of any contract, agreement, or other special arrangement made or entered into under which payment is made by the United States or payment is made from funds appropriated, owned, controlled, granted, or conditionally granted, or utilized by or otherwise established for the account of the United States, or shall be furnished to or for the account of any foreign nation, or any international agency, or other organization of whatever nationality, without provisions for reimbursement.

(b) The term "Freely Associated State Air Carrier" shall apply exclusively to a carrier referred to in Article IX(5)(b) of the Federal Programs and Services Agreement concluded pursuant to Article II of Title Two and Section 232 of the Compact of Free Association.

SEC. 304. MARSHALL ISLANDS FOOD ASSISTANCE.

Section 103(h)(2) of the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note) is amended by striking out "five" and inserting in lieu thereof "ten".

SEC. 305. NORTHERN MARIANAS COLLEGE.

Section 9(a) of Public Law 99–396 is amended by striking out the period at the end and inserting in lieu thereof the following: "and in subsection (b), by striking out 'and Micronesia' each place it appears and inserting in lieu thereof 'Micronesia, and the Northern Mariana Islands' and by striking out 'and to Micronesia' and inserting in lieu thereof ', Micronesia, and to the Northern Mariana Islands'.".

7 USC 301 note.

Approved February 24, 1992.

LEGISLATIVE HISTORY—H.R. 2927:

HOUSE REPORTS: No. 102-285 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-243 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 5, considered and passed House.
Vol. 138 (1992): Jan. 31, considered and passed Senate, amended.
Feb. 4, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Feb. 24, Presidential statement.

Public Law 102-248
102d Congress

An Act

Mar. 3, 1992
[H.R. 543]

To establish the Manzanar National Historic Site in the State of California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Minorities.

TITLE I—MANZANAR NATIONAL HISTORIC SITE

16 USC 461 note.

SECTION 101. ESTABLISHMENT.

(a) IN GENERAL.—In order to provide for the protection and interpretation of the historical, cultural, and natural resources associated with the relocation of Japanese-Americans during World War II, there is hereby established the Manzanar National Historic Site in the State of California.

(b) AREA INCLUDED.—The site shall consist of approximately 500 acres of land as generally depicted on a map entitled "Map 3—Alternative Plans—Manzanar Internment Camp" numbered 80,002 and dated February 1989. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior. The Secretary may from time to time make minor revisions in the site boundaries.

16 USC 461 note.

SEC. 102. DEFINITIONS.

As used in the title, the term—

(1) "Advisory Commission" means the Manzanar National Historic Site Advisory Commission established pursuant to section 105 of this title;

(2) "city" means the City of Los Angeles;

(3) "Secretary" means the Secretary of the Interior; and

(4) "site" means the Manzanar National Historic Site established pursuant to section 101 of this title.

16 USC 461 note.

SEC. 103. ACQUISITION OF LAND.

(a) IN GENERAL.—(1) Subject to the limitations set forth in paragraphs (2) and (3) of this subsection, the Secretary is authorized to acquire lands or interests therein within the boundaries of the site of donation, purchase with donated or appropriated funds, or by exchange.

(2) Lands or interests therein located within the boundaries of the site which are owned by the State of California, or a political subdivision thereof, may be acquired only by donation or exchange.

(3) The Secretary shall not acquire lands or interests therein located within the boundaries of the site which are owned by the city of Los Angeles until such time as the Secretary has entered into an agreement with the city to provide water sufficient to fulfill the purposes of the site.

(b) MAINTENANCE FACILITY.—The Secretary is authorized to contribute up to $1,100,000 in cash or services for the relocation or construction of a maintenance facility for Inyo County, California.

SEC. 104. ADMINISTRATION OF SITE. 16 USC 461 note.

(a) IN GENERAL.—(1) The Secretary shall administer the site in accordance with this title and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2–4), and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–67).

(2) Nothing in this title shall create, expand, or diminish any authority of the Secretary over lands or activities of the City of Los Angeles outside the boundaries of the site.

(b) DONATIONS.—The Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing such services and facilities as the Secretary deems consistent with the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within 3 years after the date funds are made available for this subsection, the Secretary shall, in consultation with the Advisory Commission, prepare a general management plan for the site. Such plan shall be transmitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with—

(1) public and private entities for management and interpretive programs within the site; and

(2) the State of California, or a political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

(e) WATER.—Except as provided in section 103(a)(3) of this title, nothing in this title shall affect the water rights of the city of Los Angeles.

(f) TRANSPORT OF LIVESTOCK.—Any person who holds a permit from the Department of Water and Power of the City of Los Angeles to graze livestock on city-owned lands contiguous with the site may move such livestock across those Federal lands administered by the Bureau of Land Management which are located contiguous with the site, for the purpose of transporting such livestock from one city-owned parcel to the other.

SEC. 105. ADVISORY COMMISSION. 16 USC 461 note.

(a) ESTABLISHMENT.—There is hereby established an 11-member advisory commission to be known as the Manzanar National Historic Site Advisory Commission. The members of the Advisory Commission shall be appointed by the Secretary, and shall include former internees of the Manzanar relocation camp, local residents, representatives of Native American groups, and members of the general public.

(b) TERMS.—Members of the Advisory Commission shall serve for a term of 2 years. Any member of the Advisory Commission appointed for a definitive term may serve after the expiration of his or her term, until such time as a successor is appointed.

(c) CHAIRMAN.—The members of the Advisory Commission shall designate one of the members as Chairman.

(d) CONSULTATION.—The Secretary, or the Secretary's designee, shall from time to time, but at least semi-annually, meet and consult with the Advisory Commission with respect to the development, management, and interpretation of the site, including the preparation of a general management plan as required by section 104(c) of this title.

(e) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings shall be published in local newspapers. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(f) EXPENSES.—Members of the Advisory Commission shall serve without compensation, but while engaged in official business shall be entitiled to travel expenses, including per diem in lieu of subsistence in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (86 Stat. 776) are hereby waived with respect to the Advisory Commission.

(h) TERMINATION.—The Advisory Commission shall terminate 10 years after the date of enactment of this title.

16 USC 461 note.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this title.

Japanese American National Historic Landmark Theme Study Act.

TITLE II—JAPANESE AMERICAN NATIONAL HISTORIC LANDMARK THEME STUDY

SEC. 201. SHORT TITLE.

This title may be cited as the "Japanese American National Historic Landmark Theme Study Act".

SEC. 202. THEME STUDY.

(a) STUDY.—The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") is authorized and directed to prepare and transmit to the Congress no later than 2 years after the date funds are made available for this title a National Historic Landmark Theme Study on Japanese American history (hereinafter in this title referred to as the "Theme Study"). The purpose of the Theme Study shall be to identify the key sites in Japanese American history that illustrate the period in American history when personal justice was denied Japanese Americans. The Theme Study shall identify, evaluate, and nominate as national historic landmarks those sites, buildings, and structures that best illustrate or commemorate the period in American history from 1941 to 1946 when Japanese Americans were ordered to be detained, relocated, or excluded pursuant to Executive Order Number 9066, and other actions. The study shall include (but not be limited to) the following sites:

(1) Internment and temporary detention camps where Japanese Americans were relocated, detained, and excluded pursuant to Executive Order Number 9066, issued on February 19, 1942. The internment camps include: Tule Lake, California; Rohwer, Arkansas; Gila River, Arizona; Poston, Arizona; Granada, Colorado; Jerome, Arkansas; Heart Mountain, Wyoming; Minidoka, Idaho; and Topaz, Utah. The temporary detention camps include: Pomona, California; Santa Anita, California;

Fresno, California; Pinedale, California; Tanforan in San Bruno, California; Sacramento, California; Marysville, California; Mayer, Arizona; Salinas, California; Turlock, California; Merced, California; Stockton, California; Tulare, California; Puyallup, Washington; and Portland, Oregon.

(2) Angel Island, California, the port of entry for many Japanese Issei.

(3) Camp Shelby, Mississippi, the training ground for the 442nd Infantry Regimental Combat Team.

(4) Camp Savage and Fort Snelling, Minnesota, locations for the Military Intelligence Service Language School where Japanese Americans received Japanese language instruction, enabling the Japanese Americans to translate Japanese war plans into English.

(5) Camp McCoy, Wisconsin, where the 100th Infantry Battalion was trained.

(6) Terminal Island, California, the first location where Japanese Americans were forced to evacuate.

(7) Bainbridge Island, Washington, where Japanese Americans were evacuated pursuant to Exclusion Order Number 1.

(8) Immigration and Naturalization Service internment camps at Crystal City, Kennedy, and Seagoville, Texas, Missoula, Montana, and Bismarck, North Dakota.

(b) IDENTIFICATION AND LIST.—On the basis of the Theme Study, the Secretary shall identify possible new national historic landmarks appropriate to this theme and prepare a list in order of importance or merit of the most appropriate sites for national historic landmark designation.

SEC. 203. CONSULTATION.

In carrying out the study, the Secretary shall consult with Japanese American citizens groups, scholars of Japanese American history, and historic preservationists. In preparing the study, if the Secretary determines that it is necessary to have access to Indian lands, the Secretary shall request permission from the appropriate tribe.

SEC. 204. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with one or more Japanese American citizens organizations knowledgeable of Japanese American history, especially the relocation and intern-

ment period during World War II, to prepare the Theme Study and ensure that the Theme Study meets current scholarly standards.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as are necessary to carry out this title.

Approved March 3, 1992.

LEGISLATIVE HISTORY—H.R. 543:

HOUSE REPORTS: No. 102-125 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-236 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 24, considered and passed House.
Nov. 26, considered and passed Senate, amended.
Vol. 138 (1992): Feb. 18, 19, House considered and concurred in Senate amendments.

Public Law 102-249
102d Congress

An Act

To designate certain rivers in the State of Michigan as components of the National Wild and Scenic Rivers System, and for other purposes.

Mar. 3, 1992
[H.R. 476]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Michigan Scenic Rivers Act of 1991.
Conservation.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Michigan Scenic Rivers Act of 1991".

SEC. 2. FINDINGS.

The Congress finds that—

(1) the State of Michigan possesses many outstanding free-flowing rivers which with their adjacent lands have resource values of national significance, such as outstanding wildlife and fisheries, ecological and recreational values, and historic and prehistoric sites;

(2) many of these rivers have been found to be eligible for inclusion in the National Wild and Scenic Rivers System by the United States Forest Service while others possess outstanding values that make them eligible for wild and scenic river designation; and

(3) the conservation of these river areas and their outstanding natural, cultural, and recreational values is important to the heritage of Michigan and to its tourism and outdoor recreation industry and long-term economic development.

SEC. 3. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATION.

(a) Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) BEAR CREEK, MICHIGAN.—The 6.5-mile segment from Coates Highway to the Manistee River, to be administered by the Secretary of Agriculture as a scenic river.

"( ) BLACK, MICHIGAN.—The 14-mile segment from the Ottawa National Forest boundary to Lake Superior, to be administered by the Secretary of Agriculture as a scenic river.

"( ) CARP, MICHIGAN.—The 27.8-mile segment from the west section line of section 30, township 43 north, range 5 west, to Lake Huron, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 2.3-mile segment from the west section line of section 30, township 43 north, range 5 west, to Forest Development Road 3458 in section 32, township 43 north, range 5 west, as a scenic river.

"(B) The 6.5-mile segment from the Forest Development Road 3458 in section 32, township 43 north, range 5 west, to Michigan State Highway 123, as a scenic river.

"(C) The 7.5-mile segment from Michigan State Highway 123 to one quarter of a mile upstream from Forest Development Road 3119, as a wild river.

"(D) The 0.5-mile segment from one quarter of a mile upstream of Forest Development Road 3119 to one quarter mile downstream of Forest Development Road 3119, as a scenic river.

"(E) The 4.9-mile segment from one quarter of a mile downstream of Forest Development Road 3119 to McDonald Rapids, as a wild river.

"(F) The 6.1-mile segment from McDonald Rapids to Lake Huron, as a recreational river.

"( ) INDIAN, MICHIGAN.—The 51-mile segment from Hovey Lake to Indian Lake to be administered by the Secretary of Agriculture in the following classes:

"(A) The 12-mile segment from Hovey Lake to Fish Lake, as a scenic river.

"(B) The 39-mile segment from Fish Lake to Indian Lake, as a recreational river.

"( ) MANISTEE, MICHIGAN.—The 26-mile segment from the Michigan DNR boat ramp below Tippy Dam to the Michigan State Highway 55 bridge, to be administered by the Secretary of Agriculture as a recreational river.

"( ) ONTONAGON, MICHIGAN.—Segments of certain tributaries, totaling 157.4 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 46-mile segment of the East Branch Ontonagon from its origin at Spring Lake to the Ottawa National Forest boundary in the following classes:

"(i) The 20.5-mile segment from its origin at Spring Lake to its confluence with an unnamed stream in section 30, township 48 north, range 37 west, as a recreational river.

"(ii) The 25.5-mile segment from its confluence with an unnamed stream in section 30, township 48 north, range 37 west, to the Ottawa National Forest boundary, as a wild river.

"(B) The 59.4-mile segment of the Middle Branch Ontonagon, from its origin at Crooked Lake to the northern boundary of the Ottawa National Forest in the following classes:

"(i) The 20-mile segment from its origin at Crooked Lake to Burned Dam, as a recreational river.

"(ii) The 8-mile segment from Burned Dam to Bond Falls Flowage, as a scenic river.

"(iii) The 8-mile segment from Bond Falls to Agate Falls, as a recreational river.

"(iv) The 6-mile segment from Agate Falls to Trout Creek, as a scenic river.

"(v) The 17.4-mile segment from Trout Creek to the northern boundary of the Ottawa National Forest, as a wild river.

"(C) The 37-mile segment of the Cisco Branch Ontonagon from its origin at Cisco Lake Dam to its confluence with Ten-Mile Creek south of Ewen in the following classes:

"(i) The 10-mile segment from the origin of Cisco Branch Ontonagon at Cisco Lake Dam to the County Road 527 crossing, as a recreational river.

"(ii) The 27-mile segment from the Forest Development Road 527 crossing to the confluence of the Cisco Branch and Ten-Mile Creek, as a scenic river.

"(D) The 15-mile segment of the West Branch Ontonagon from its confluence with Cascade Falls to Victoria Reservoir, in the following classes:

"(i) The 10.5-mile segment from its confluence with Cascade Falls to its confluence with the South Branch Ontonagon, as a recreational river.

"(ii) The 4.5-mile segment from its confluence with the South Branch Ontonagon to Victoria Reservoir, as a recreational river.

Nothwithstanding any limitation contained in this Act, the Secretary is authorized to acquire lands and interests in lands which, as of August 1, 1990, were owned by Upper Peninsula Energy Corporation, and notwithstanding any such limitation, such lands shall be retained and managed by the Secretary as part of the Ottawa National Forest, and those lands so acquired which are within the boundaries of any segment designated under this paragraph shall be retained and managed pursuant to this Act.

"( ) PAINT, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 51 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 6-mile segment of the main stem from the confluence of the North and South Branches Paint to the Ottawa National Forest boundary, as a recreational river.

"(B) The 17-mile segment of the North Branch Paint from its origin at Mallard Lake to its confluence with the South Branch Paint, as a recreational river.

"(C) The 28-mile segment of the South Branch Paint from its origin at Paint River Springs to its confluence with the North Branch Paint, as a recreational river.

"( ) PINE, MICHIGAN.—The 25-mile segment from Lincoln Bridge to the east 1/16th line of section 16, township 21 north, range 13 west, to be administered by the Secretary of Agriculture as a scenic river.

"( ) PRESQUE ISLE, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 57 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 23-mile segment of the mainstream, from the confluence of the East and West Branches of Presque Isle to Minnewawa Falls, to be classified as follows:

"(i) The 17-mile segment from the confluence of the East and West Branches Presque Isle to Michigan State Highway 28, as a recreational river.

"(ii) The 6-mile segment from Michigan State Highway 28 to Minnewawa Falls, as a scenic river.

"(B) The 14-mile segment of the East Branch Presque Isle within the Ottawa National Forest, as a recreational river.

"(C) The 7-mile segment of the South Branch Presque Isle within the Ottawa National Forest, as a recreational river.

"(D) The 13-mile segment of the West Branch Presque Isle within the Ottawa National Forest, as a scenic river.

"( ) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 43.9-mile segment from the north line of section 26, township 43 north, range 19 west, to Lake Michigan, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 21.7-mile segment from the north line of section 26, township 43 north, range 19 west, to Forest Highway 13 as a scenic river.

"(B) The 22.2-mile segment from Forest Highway 13 to Lake Michigan as a recreational river.

"( ) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 25-mile segment from its entry into the Ottawa National Forest to the northern boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 16.5-mile segment from its entry into the Ottawa National Forest to Prickett Lake, as a wild river.

"(B) The 8.5-mile segment from the outlet of Prickett Lake Dam to the northern boundary of the Ottawa National Forest, as a scenic river.

"( ) EAST BRANCH OF THE TAHQUAMENON, MICHIGAN.—The 13.2-mile segment from its origin in section 8, township 45 north, range 5 west, to the Hiawatha National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 10-mile segment from its origin in section 8, township 45 north, range 5 west, to the center of section 20, township 46 north, range 6 west, as a recreational river.

"(B) The 3.2-mile segment from the center of section 20, township 46 north, range 6 west, to the boundary of the Hiawatha National Forest, as a wild river.

"( ) WHITEFISH, MICHIGAN.—Segments of the mainstream and certain tributaries, totaling 33.6 miles, to be administered by the Secretary of Agriculture as follows:

"(A) The 11.1-mile segment of the mainstream from its confluence with the East and West Branches of the Whitefish to Lake Michigan in the following classes:

"(i) The 9-mile segment from its confluence with the East and West Branches of the Whitefish to the center of section 16, township 41 north, range 21 west, as a scenic river.

"(ii) The 2.1-mile segment from the center of section 16, township 41 north, range 21 west, to Lake Michigan, as a recreational river.

"(B) The 15-mile segment of the East Branch Whitefish from the crossing of County Road 003 in section 6, township 44 north, range 20 west, to its confluence with the West Branch Whitefish, as a scenic river.

"(C) The 7.5-mile segment of the West Branch Whitefish from County Road 444 to its confluence with the East Branch Whitefish, as a scenic river.

"( ) YELLOW DOG, MICHIGAN.—The 4-mile segment from its origin at the outlet of Bulldog Lake Dam to the boundary of the Ottawa National Forest, to be administered by the Secretary of Agriculture as a wild river.".

SEC. 4. WILD AND SCENIC RIVER STUDIES.

(a) STUDY RIVERS.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) BRULE, MICHIGAN AND WISCONSIN.—The 33-mile segment from Brule Lake in the northeast quarter of section 15, township

41 north, range 13 east, to the National Forest boundary at the southeast quarter of section 31, township 41 north, range 17 east.

"( ) CARP, MICHIGAN.—The 7.6-mile segment from its origin at the confluence of the outlets of Frenchman Lake and Carp Lake in section 26, township 44 north, range 6 west, to the west section line of section 30, township 43 north, range 5 west.

"( ) LITTLE MANISTEE, MICHIGAN.—The 42-mile segment within the Huron-Manistee National Forest.

"( ) WHITE, MICHIGAN.—The 75.4-mile segment within the Huron-Manistee National Forest as follows:

"(A) The 30.8-mile segment of the main stem from U.S. 31 to the Huron-Manistee National Forest boundary at the north line of section 2, township 13 north, range 15 west, 1.5 miles southwest of Hesperia.

"(B) The 18.9-mile segment of the South Branch White from the Huron-Manistee National Forest boundary east of Hesperia at the west line of section 22, township 14 north, range 14 west, to Echo Drive, section 6, township 13 north, range 12 west.

"(C) The 25.7-mile segment of the North Branch White from its confluence with the South Branch White in section 25, township 13 north, range 16 west, to McLaren Lake in section 11, township 14 north, range 15 west.

"( ) ONTONAGON, MICHIGAN.—The 32-mile segment of the Ontonagon as follows:

"(A) The 12-mile segment of the West Branch from the Michigan State Highway 28 crossing to Cascade Falls.

"(B) The 20-mile segment of the South Branch from the confluence of the Cisco Branch and Tenmile Creek to the confluence with the West Branch Ontonagon.

"( ) PAINT, MICHIGAN.—The 70-mile segment as follows:

"(A) 34 miles of the mainstream beginning at the eastern boundary of the Ottawa National Forest in section 1, township 44 north, range 35 west, to the city of Crystal Falls.

"(B) 15 miles of the mainstream of the Net River from its confluence with the east and west branches to its confluence with the mainstream of the Paint River.

"(C) 15 miles of the east branch of the Net River from its source in section 8, township 47 north, range 32 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

"(D) 14 miles of the west branch of the Net River from its source in section 35, township 48 north, range 34 west, to its confluence with the mainstream of the Net River in section 24, township 46 north, range 34 west.

"( ) PRESQUE ISLE, MICHIGAN.—The 13-mile segment of the mainstream from Minnewawa Falls to Lake Superior.

"( ) STURGEON, OTTAWA NATIONAL FOREST, MICHIGAN.—The 36-mile segment of the mainstream from the source at Wagner Lake in section 13, township 49 north, range 31 west, to the eastern boundary of the Ottawa National Forest in section 12, township 48 north, range 35 west.

"( ) STURGEON, HIAWATHA NATIONAL FOREST, MICHIGAN.—The 18.1-mile segment from Sixteen Mile Lake to the north line of section 26, township 43 north, range 19 west.

"( ) TAHQUAMENON, MICHIGAN.—The 103.5-mile segment as follows—

"(A) the 90-mile segment of the mainstream beginning at the source in section 21, township 47 north, range 12 west, to the mouth at Whitefish Bay; and

"(B) the 13.5-mile segment of the east branch from the western boundary of the Hiawatha National Forest in section 19, township 46 north, range 6 west, to its confluence with the mainstream.

"( ) WHITEFISH, MICHIGAN.—The 26-mile segment of the West Branch Whitefish from its source in section 26, township 46 north, range 23 west, to County Road 444.".

(b) STUDY PROVISIONS.—Section 5(b) of such Act (16 U.S.C. 1276(b)) is amended by adding at the end thereof the following new paragraph:

Reports.

"(11) The study of segments of the Brule, Carp, Little Manistee, White, Paint, Presque Isle, Ontonagon, Sturgeon (Hiawatha), Sturgeon (Ottawa), Whitefish, and Tahquamenon Rivers in Michigan under subsection (a) shall be completed by the Secretary of Agriculture and the report submitted thereon not later than at the end of the third fiscal year beginning after the date of enactment of this paragraph. For purposes of such river studies, the Secretary shall consult with each River Study Committee authorized under section 5 of the Michigan Scenic Rivers Act of 1990, and shall encourage public participation and involvement through hearings, workshops, and such other means as are necessary to be effective.".

SEC. 5. RIVER STUDY COMMITTEES.

(a) ESTABLISHMENT AND MEMBERSHIP.—At the earliest practicable date following the date of the enactment of this Act, the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary"), in consultation with the Michigan Department of Natural Resources, shall establish for each river identified in section 4 a River Study Committee (hereinafter in this section referred to as "Committee"). Membership on each Committee shall consist of members appointed as follows:

(1) Two members appointed by the appropriate Secretary.

(2) Two members appointed by the Secretary from recommendations made by the Governor of the State of Michigan from the Department of Natural Resources.

(3) Two members appointed by the Secretary from among representatives of local or State conservation and environmental groups.

(4) One member appointed by the Secretary from among representatives of each of the towns included in the study area.

(5) Two members appointed by the Secretary from commercial timber interests in the State of Michigan.

(6) One nonvoting member who shall be an employee of the Forest Service.

(b) ADMINISTRATIVE PROVISIONS.—(1) A vacancy in a Committee shall be filled in the manner in which the original appointment was made.

(2) The Chair of a Committee shall be elected by the members of the Committee.

(3) The members of the Committee who are not full-time officers or employees of the United States shall serve without compensation.

(c) TECHNICAL ASSISTANCE FROM THE SECRETARY.—The Secretary shall provide such technical and financial assistance to each such Committee as the Secretary deems necessary.

(d) STATE AND LOCAL SERVICES.—Each such Committee may accept services and other assistance from State and local governments.

(e) STUDY PROCESS.—Each River Study Committee shall advise the Secretary in the preparation of the report to Congress required by section 4 of the Wild and Scenic Rivers Act (16 U.S.C. 1275(a)) for the rivers specified in section 4 of this Act.

(f) TERMINATION.—Each such Committee shall terminate upon submission of the report to Congress referred to in subsection (e) for the river concerned.

(g) BRULE RIVER STUDY COMMITTEE.—For the purposes of the Brule River Study Committee established pursuant to subsection (a), any reference in this section to the State of Michigan shall be deemed to be a reference to the State of Michigan and the State of Wisconsin.

SEC. 6. MISCELLANEOUS.

16 USC 1274 note.

(a) HUNTING, FISHING, AND TRAPPING.—Consistent with section 13(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287), nothing in this Act shall be construed to enlarge, diminish, or modify the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife, including hunting, fishing, and trapping on any lands administered by the Secretary of Agriculture pursuant to this Act.

(b) SEA LAMPREY CONTROL.—Notwithstanding any other provision of law, the installation and operation of facilities or other activities within or outside the boundaries of those river segments designated by this Act for the control of the lamprey eel shall be permitted subject to such restrictions and conditions as the Secretary of Agriculture may prescribe for the protection of water quality and other values of the river, including the wild and scenic characteristics of the river: *Provided,* That the Secretary shall determine in the river management plan for each such designated river that such facilities or activities are necessary for control of the lamprey eel.

(c) ACCESS.—The Secretary shall maintain traditional public access to the river segments designated by this Act, except that the Secretary, in consultation with the Director of the Michigan Department of Natural Resources, shall provide in the river management plan for each designated river segment for maintenance, closure, relocation, stabilization, improvements, or other appropriate adjustments as may be necessary for the management of such river segments.

(d) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed as enlarging, diminishing, or modifying the limitations on the acquisition of lands within a designated river segment contained in section 6(b) of the Wild and Scenic Rivers Act (16 U.S.C. 1277(b)).

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

Approved March 3, 1992.

LEGISLATIVE HISTORY—H.R. 476:

HOUSE REPORTS: No. 102-84 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-240 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 3, considered and passed House.
Vol. 138 (1992): Feb. 7, considered and passed Senate, amended.
Feb. 18, House concurred in Senate amendments.

Public Law 102-250
102d Congress

An Act

To provide emergency drought relief to the Reclamation States, and for other purposes.

Mar. 5, 1992
[H.R. 355]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Reclamation States Emergency Drought Relief Act of 1991.
Conservation.
Disaster assistance.
43 USC 2201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation States Emergency Drought Relief Act of 1991".

SEC. 2. DEFINITIONS.

43 USC 2201.

As used in this Act:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Federal Reclamation laws" means the Act of June 17, 1902 (32 Stat. 388) and Acts supplementary thereto and amendatory thereof.

(3) The term "Federal Reclamation project" means any project constructed or funded under Federal Reclamation law. Such term includes projects having approved loans under the Small Reclamation Projects Act of 1956 (70 Stat. 1044).

TITLE I—DROUGHT PROGRAM

SEC. 101. ASSISTANCE DURING DROUGHT; WATER PURCHASES.

43 USC 2211.

(a) CONSTRUCTION, MANAGEMENT, AND CONSERVATION.—Consistent with existing contractual arrangements and applicable State and applicable Federal law, and without further authorization, the Secretary is authorized to undertake construction, management, and conservation activities that will minimize, or can be expected to have an effect in minimizing, losses and damages resulting from drought conditions. Any construction activities undertaken pursuant to the authority of this subsection shall be limited to temporary facilities designed to minimize losses and damages from drought conditions, except that wells drilled to minimize losses and damages from drought conditions may be permanent facilities.

(b) ASSISTANCE TO WILLING BUYERS AND SELLERS.—In order to minimize losses and damages resulting from drought conditions, the Secretary may provide nonfinancial assistance to willing buyers in their purchase of available water supplies from willing sellers.

(c) WATER PURCHASES BY BUREAU.—In order to minimize losses and damages resulting from drought conditions, the Secretary may purchase water from willing sellers, including, but not limited to, water made available by Federal Reclamation project contractors through conservation or other means with respect to which the seller has reduced the consumption of water. Except with respect to water stored, conveyed or delivered to Federal and State wildlife habitat, the Secretary shall deliver such water pursuant to temporary contracts under section 102: *Provided,* That any such con-

tract shall require recover of any costs, including interest if applicable, incurred by the Secretary in acquiring such water.

(d) WATER BANKS.—In order to respond to a drought, the Secretary is authorized to participate in water banks established by a State.

Contracts.
43 USC 2212.

SEC. 102. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—In order to mitigate losses and damages resulting from drought conditions, the Secretary may make available, by temporary contract, project and nonproject water, and may permit the use of facilities at Federal Reclamation projects for the storage or conveyance of project or nonproject water, for use both within and outside an authorized project service area.

(b) SPECIAL PROVISIONS APPLICABLE TO TEMPORARY WATER SUPPLIES PROVIDED UNDER THIS SECTION.—

(1) TEMPORARY SUPPLIES.—Each temporary contract for the supply of water entered into pursuant to this section shall terminate no later than two years from the date of execution or upon a determination by the Secretary that water supply conditions no longer warrant that such contracts remain in effect, whichever occurs first. The costs associated with any such contract shall be repaid within the term of the contract.

(2) OWNERSHIP AND ACREAGE LIMITATIONS.—Lands not subject to Reclamation law that receive temporary irrigation water supplies under temporary contracts under this section shall not become subject to the ownership and acreage limitations or pricing provisions of Federal Reclamation law because of the delivery of such temporary water supplies. Lands that are subject to the ownership and acreage limitations of Federal Reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies.

(3) TREATMENT UNDER RECLAMATION REFORM ACT OF 1982.—No temporary contract entered into by the Secretary under this section shall be treated as a "contract" as that term is used in sections 203(a) and 220 of the Reclamation Reform Act of 1982 (Public Law 97–293).

(4) AMENDMENTS OF EXISTING CONTRACTS.—Any amendment to an existing contract to allow a contractor to carry out the provisions of this title shall not be considered a new and supplemental benefit for purposes of the Reclamation Reform Act of 1982 (Public Law 97–293).

(c) CONTRACT PRICE.—The price for project water, other than water purchased pursuant to section 101(c), delivered under a temporary contract entered into by the Secretary under this section shall be at least sufficient to recover all Federal operation and maintenance costs and administrative costs, and an appropriate share of capital costs, including interest on such capital costs allocated to municipal and industrial water, except that, for project water delivered to nonproject landholdings, the price shall include full cost (as defined in section 202(3) of the Reclamation Reform Act of 1982 (Public Law 97–293; 96 Stat. 1263; 43 U.S.C. 390bb)). For all contracts entered into by the Secretary under the authority of this title—

(1) the interest rate used for computing interest during construction and interest on the unpaid balance of the capital costs expended pursuant to this Act shall be at a rate to be determined by the Secretary of the Treasury based on aver-

age market yields on outstanding marketable obligations of the United States with remaining periods to maturity of one year occurring during the last month of the fiscal year preceding the date of execution of the temporary contract;

(2) in the case of existing facilities the rate as authorized for that Federal Reclamation project;

(3) in the absence of such authorized rate, the interest rate as determined by the Secretary of the Treasury as of the beginning of the fiscal year in which construction was initiated on the basis of the computed average interest rate payable by the Treasury upon its outstanding marketable public obligations which were neither due nor callable for redemption for fifteen years from date of issue: *Provided,* That for all deliveries of water for municipal and industrial purposes from existing facilities to nonproject contractors, the rate shall be as set forth in paragraph (1) of this subsection.

(d) FISH AND WILDLIFE.—The Secretary may make water from Federal Reclamation projects and nonproject water available on a nonreimbursable basis for the purposes of protecting or restoring fish and wildlife resources, including mitigation losses, that occur as a result of drought conditions or the operation of a Federal Reclamation project during drought conditions. The Secretary may store and convey project and nonproject water for fish and wildlife purposes, and may provide conveyance of any such water for both State and Federal wildlife habitat and for habitat held in private ownership. The Secretary may make available water for these purposes outside the authorized project service area. Use of the Federal storage and conveyance facilities for these purposes shall be on a nonreimbursable basis. Water made available by the Secretary in 1991 from the Central Valley Project, California, to the Grasslands Water District for the purpose of fish and wildlife shall be nonreimbursable.

(e) NONPROJECT WATER.—The Secretary is authorized to store and convey nonproject water utilizing Federal Reclamation project facilities for use outside and inside the authorized project service area for municipal and industrial uses, fish and wildlife, and agricultural uses. Except in the case of water supplied for fish and wildlife, which shall be nonreimbursable, the Secretary shall charge the recipients of such water for such use of Federal Reclamation project facilities at a rate established pursuant to section 102(c) of this Act.

(f) RECLAMATION FUND.—The payment of capital costs attributable to the sale of project or nonproject water or the use of Federal Reclamation project facilities shall be covered into the Reclamation Fund and be placed to the credit of the project from which such water or use of such facilities is supplied.

SEC. 103. LOANS. 43 USC 2213.

The Secretary of the Interior is authorized to make loans to water users for the purposes of undertaking construction, management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages, including those suffered by fish and wildlife, resulting from drought conditions. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate: *Provided,* That the Secretary shall not approve any loan unless the applicant can demonstrate an

ability to repay such loan within the term of the loan: *Provided further,* That for all loans approved by the Secretary under the authority of this section, the interest rate shall be the rate determined by the Secretary of the Treasury based on average market yields on outstanding marketable obligations of the United States with periods to maturity comparable to the repayment period of the loan. The repayment period for loans issued under this section shall not exceed fifteen years. The repayment period for such loans shall begin when the loan is executed. Sections 203(a) and 220 of the Reclamation Reform Act of 1982 and sections 105 and 106 of Public Law 99-546 shall not apply to any contract to repay such loan. The Secretary shall notify the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives in writing of any loan which the Secretary intends to approve not less than thirty days prior to granting final approval.

43 USC 2214.

SEC. 104. APPLICABLE PERIOD OF DROUGHT PROGRAM.

(a) IN GENERAL.—The programs and authorities established under this title shall become operative in any Reclamation State only after the Governor or Governors of the affected State or States, or on a reservation, when the governing body of the affected tribe has made a request for temporary drought assistance and the Secretary has determined that such temporary assistance is merited, or upon the approval of a drought contingency plan as provided in title II of this Act.

State listing.

(b) COORDINATION WITH BPA.—If a Governor referred to in subsection (a) is the Governor of the State of Washington, Oregon, Idaho, or Montana, the Governor shall coordinate with the Administrator of the Bonneville Power Administration before making a request under subsection (a).

(c) TERMINATION OF AUTHORITY.—The authorities established under this title shall terminate ten years after the date of enactment of this Act.

TITLE II—DROUGHT CONTINGENCY PLANNING

43 USC 2221.

SEC. 201. IDENTIFICATION OF OPPORTUNITIES FOR WATER SUPPLY CONSERVATION, AUGMENTATION AND USE.

The Secretary is authorized to conduct studies to identify opportunities to conserve, augment, and make more efficient use of water supplies available to Federal Reclamation projects and Indian water resource developments in order to be prepared for and better respond to drought conditions. The Secretary is authorized to provide technical assistance to States and to local and tribal government entities to assist in the development, construction, and operation of water desalinization projects, including technical assistance for purposes of assessing the technical and economic feasibility of such projects.

Indians.

43 USC 2222.

SEC. 202. DROUGHT CONTINGENCY PLANS.

The Secretary, acting pursuant to the Federal Reclamation laws, utilizing the resources of the Department of the Interior, and in consultation with other appropriate Federal and State officials, Indian tribes, public, private, and local entities, is authorized to prepare or participate in the preparation of cooperative drought contingency plans (hereinafter in this title referred to as "contin-

gency plans") for the prevention or mitigation of adverse effects of drought conditions.

SEC. 203. PLAN ELEMENTS. 43 USC 2223.

(a) PLAN PROVISIONS.—Elements of the contingency plans prepared pursuant to section 202 may include, but are not limited to, any or all of the following:

(1) Water banks.

(2) Appropriate water conservation actions.

(3) Water transfers to serve users inside or outside authorized Federal Reclamation project service areas in order to mitigate the effects of drought.

(4) Use of Federal Reclamation project facilities to store and convey nonproject water for agricultural, municipal and industrial, fish and wildlife, or other uses both inside and outside an authorized Federal Reclamation project service area.

(5) Use of water from dead or inactive reservoir storage or increased use of ground water resources for temporary water supplies.

(6) Water supplies for fish and wildlife resources.

(7) Minor structural actions.

(b) FEDERAL RECLAMATION PROJECTS.—Each contingency plan shall identify the following two types of plan elements related to Federal Reclamation projects:

(1) Those plan elements which pertain exclusively to the responsibilities and obligations of the Secretary pursuant to Federal Reclamation law and the responsibilities and obligations of the Secretary for a specific Federal Reclamation project.

(2) Those plan elements that pertain to projects, purposes, or activities not constructed, financed, or otherwise governed by the Federal Reclamation law.

(c) DROUGHT LEVELS.—The Secretary is authorized to work with other Federal and State agencies to improve hydrologic data collection systems and water supply forecasting techniques to provide more accurate and timely warning of potential drought conditions and drought levels that would trigger the implementation of contingency plans.

(d) COMPLIANCE WITH LAW.—The contingency plans and plan elements shall comply with all requirements of applicable Federal law, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321), section 715(a) of the Water Resource Development Act of 1986 (33 U.S.C. 2265(a), and the Fish and Wildlife Coordination Act, and shall be in accordance with applicable State law.

(e) REVIEW.—The contingency plans shall include provisions for periodic review to assure the adequacy of the contingency plan to respond to current conditions, and such plans may be modified accordingly.

SEC. 204. RECOMMENDATIONS. 43 USC 2224.

(a) APPROVAL.—The Secretary shall submit each plan prepared pursuant to section 202 of the Congress, together with the Secretary's recommendations, including recommendations for authorizing legislation, if needed.

(b) PACIFIC NORTHWEST REGION.—A contingency plan under subsection (a) for the State of Washington, Oregon, Idaho, or Montana, may be approved by the Secretary only at the request of the Governor of the affected State in coordination with the other States

in the region and the Administrator of the Bonneville Power Administration.

43 USC 2225.

SEC. 205. RECLAMATION DROUGHT RESPONSE FUND.

The Secretary shall undertake a study of the need, if any, to establish a Reclamation Drought Response Fund to be available for defraying those expenses which the Secretary determines necessary to implement plans prepared under section 202 and to make loans for nonstructural and minor structural activities for the prevention or mitigation of the adverse effects of drought.

43 USC 2226.

SEC. 206. TECHNICAL ASSISTANCE AND TRANSFER OF PRECIPITATION MANAGEMENT TECHNOLOGY.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide technical assistance for drought contingency planning in any of the States not identified in section 1 of the Reclamation Act (Act of June 17, 1902, 32 Stat. 388), and the District of Columbia, Puerto Rico, the Republic of the Marshall Islands, the Federated States of Micronesia, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship, the Republic of Palau, the United States Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

(b) TECHNOLOGY TRANSFER PROGRAM.—The Secretary is authorized to conduct a Precipitation Management Technology Transfer Program to help alleviate problems caused by precipitation variability and droughts in the West, as part of a balanced long-term water resources development and management program. In consultation with State, tribal, and local water, hydropower, water quality and instream flow interests, areas shall be selected for conducting field studies cost-shared on a 50–50 basis to validate and quantify the potential for appropriate precipitation management technology to augment stream flows. Validated technologies shall be transferred to non-Federal interests for operational implementation.

TITLE III—GENERAL AND MISCELLANEOUS PROVISIONS

43 USC 2241.

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Except as otherwise provided in section 303 of this Act (relating to temperature control devices at Shasta Dam, California), there is authorized to be appropriated not more than $90,000,000 in total for fiscal years 1992, 1993, 1994, 1995, and 1996.

43 USC 2242.

SEC. 302. AUTHORITY OF SECRETARY.

The Secretary is authorized to perform any and all acts and to promulgate such regulations as may be necessary and appropriate for the purpose of implementing this Act. In carrying out the authorities under this Act, the Secretary shall give specific consideration to the needs of fish and wildlife, together with other project purposes, and shall consider temporary operational changes which will mitigate, or can be expected to have an effect in mitigating, fish and wildlife losses and damages resulting from drought conditions, consistent with the Secretary's other obligations.

California.
43 USC 2243.

SEC. 303. TEMPERATURE CONTROL AT SHASTA DAM, CENTRAL VALLEY PROJECT.

The Secretary is authorized to complete the design and specifications for construction of a device to control the temperature of

water releases from Shasta Dam, Central Valley Project, California, and to construct facilities needed to attach such device to the dam. There is authorized to be appropriated to carry out the authority of this section not more than $12,000,000.

Appropriation authorization.

SEC. 304. EFFECT OF ACT ON OTHER LAWS.

43 USC 2244.

(a) CONFORMITY WITH STATE AND FEDERAL LAW.—All actions taken pursuant to this Act pertaining to the diversion, storage, use, or transfer of water shall be in conformity with applicable State and applicable Federal law.

(b) EFFECT ON JURISDICTION, AUTHORITY, AND WATER RIGHTS.—Nothing in this Act shall be construed as expanding or diminishing State, Federal, or tribal jurisdiction or authority over water resources development, control, or water rights.

SEC. 305. EXCESS STORAGE AND CARRYING CAPACITY.

Contracts. 43 USC 2245.

The Secretary is authorized to enter into contracts with municipalities, public water districts and agencies, other Federal agencies, State agencies, and private entities, pursuant to the Act of February 21, 1911 (43 U.S.C. 523), for the impounding, storage, and carriage of nonproject water for domestic, municipal, fish and wildlife, industrial, and other beneficial purposes using any facilities associated with the Central Valley Project, Cachuma Project, and the Ventura River Project, California, the Truckee Storage Project, and the Washoe Project, California and Nevada. The Secretary is further authorized to enter into contracts for the exchange of water for the aforementioned purposes using facilities associated with the Cachuma Project, California.

SEC. 306. REPORT.

43 USC 2246.

There shall be included as part of the President's annual budget submittal to the Congress a detailed report on past and proposed expenditures and accomplishments under this Act.

SEC. 307. FEDERAL RECLAMATION LAWS.

43 USC 2247.

This Act shall constitute a supplement to the Federal Reclamation laws.

Approved March 5, 1992.

LEGISLATIVE HISTORY—H.R. 355:

HOUSE REPORTS: No. 102-21, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-185 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Mar. 21, considered and passed House.
Oct. 31, considered and passed Senate, amended.
Nov. 27, Senate receded from its amendment with another amendment.
Vol. 138 (1992): Feb. 19, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Mar. 5, Presidential statement.

Public Law 102-251
102d Congress

An Act

Mar. 9, 1992
[H.R. 3866]

To provide for the designation of the Flower Garden Banks National Marine Sanctuary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

TITLE I—NATIONAL MARINE SANCTUARY

FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

16 USC 1433 note.

SECTION 101. Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))—

Federal Register, publication.

(1) the Secretary of Commerce shall, on January 17, 1992 (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of designation of the Flower Garden Banks National Marine Sanctuary, as described in the notice of designation submitted to the Congress on November 20, 1991; and

Effective date.

(2) that designation shall take effect on January 17, 1992.

TITLE II—MERCHANT MARINE PROVISIONS

NON-VESSEL-OPERATING COMMON CARRIERS

Non-Vessel-Operating Common Carrier Act of 1991.
46 USC app. 1701 note.

SEC. 201. (a) SHORT TITLE.—This section may be cited as the "Non-Vessel-Operating Common Carrier Act of 1991".

(b) PROHIBITED ACTS.—Section 10(b) of the Shipping Act of 1984 (46 U.S.C. App. 1709(b)) is amended—

(1) in paragraph (14), by inserting ", insurance, or other surety" after "bond"; and

(2) in paragraph (15), by inserting ", insurance, or other surety" after "bond".

(c) SURETY FOR NVOCC'S.—Section 23 of the Shipping Act of 1984 (46 U.S.C. App. 1721), is amended—

(1) in the section heading by striking "BONDING OF" and inserting in lieu thereof "SURETY FOR";

(2) by amending subsection (a) to read as follows:

"(a) SURETY.—Each non-vessel-operating common carrier shall furnish to the Commission a bond, proof of insurance, or such other surety, as the Commission may require, in a form and an amount determined by the Commission to be satisfactory to insure the financial responsibility of that carrier. Any bond submitted pursuant to this section shall be issued by a surety company found acceptable by the Secretary of the Treasury.";

(3) by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively;

(4) in subsection (b), as so redesignated—

(A) by striking "BOND" in the subsection heading and inserting in lieu thereof "SURETY";

(B) by inserting ", insurance, or other surety" after "bond"; and

(C) by inserting "under this Act" after "transportation-related activities"; and

(5) in subsection (d), as so redesignated—

(A) by inserting ", insurance, or other surety" after "bond"; and

(B) by striking "subsection (d)" and inserting in lieu thereof "subsection (c)".

(d) INTERIM RULES AND REGULATIONS.—The Federal Maritime Commission may prescribe interim rules and regulations necessary to carry out the amendments made by this section. 46 USC app. 1721 note.

(e) CONFORMING AMENDMENT.—The item relating to section 23 in the table of contents in the first section of the Shipping Act of 1984 is amended by striking "Bonding of" and inserting in lieu thereof "Surety for".

(f) EFFECTIVE DATE.—This section shall become effective 90 days after the date of its enactment. 46 USC app. 1709 note.

CLARIFICATIONS OF, AND LIMITATIONS ON, GAMBLING DEVICES PROHIBITIONS

Commerce and trade.

SEC. 202. (a) TRANSPORT TO A PLACE IN A STATE, ETC.—Section 2 of the Act of January 2, 1951 (15 U.S.C. 1172; commonly referred to as the "Johnson Act"), is amended—

(1) by inserting before the first paragraph the following: "(a) GENERAL RULE.—";

(2) in subsection (a) (as so designated) by striking ", District of Columbia,";

(3) by inserting before the second paragraph the following: "(b) AUTHORITY OF FEDERAL TRADE COMMISSION.—"; and

(4) by adding at the end the following:

"(c) EXCEPTION.—This section does not prohibit the transport of a gambling device to a place in a State or a possession of the United States on a vessel on a voyage, if—

"(1) use of the gambling device on a portion of that voyage is, by reason of subsection (b) of section 5, not a violation of that section; and

"(2) the gambling device remains on board that vessel while in that State.".

(b) REPAIR, OTHER TRANSPORT, ETC.—Section 5 of that Act (15 U.S.C. 1175) is amended—

(1) by inserting before "It shall be unlawful" the following: "(a) GENERAL RULE.—";

(2) by inserting before the period at the end the following: ", including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country"; and

(3) by adding at the end the following:

"(b) EXCEPTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

"(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

"(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

"(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

"(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of that State or possession.

"(2) APPLICATION TO CERTAIN VOYAGES.—

"(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage or segment.

"(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

"(i) that begins and ends in the same State or possession of the United States, and

"(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.".

(c) BOUNDARIES DEFINED.—The first section of that Act (15 U.S.C. 1171) is amended by adding at the end the following:

"(f) The term 'boundaries' has the same meaning given that term in section 2 of the Submerged Lands Act.".

TITLE III—IMPLEMENTATION OF MARITIME BOUNDARY AGREEMENT AMENDMENTS TO MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

SEC. 301. (a) PURPOSES.—Section 2(b)(1) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801(b)(1)) is amended by inserting ", and fishery resources in the special areas" immediately before the semicolon at the end.

(b) DEFINITIONS.—Section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802) is amended—

(1) by redesignating paragraphs (24) through (32) as paragraphs (25) through (33), respectively; and

(2) by inserting immediately after paragraph (23) the following new paragraph:

"(24) The term 'special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(c) UNITED STATES MANAGEMENT AUTHORITY.—(1) Section 101(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(a)) is amended by inserting "and special areas" immediately before the period at the end.

(2) Section 101(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1811(b)) is amended by inserting immediately after paragraph (2) the following new paragraph:

"(3) All fishery resources in the special areas.".

(d) FOREIGN FISHING.—Section 201 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) is amended—

(1) in subsection (a)—

(A) by inserting "within the special areas," immediately before "or for anadromous species"; and

(B) by striking "beyond the exclusive economic zone" and inserting in lieu thereof "beyond such zone or areas";

(2) in subsection (e)(1)(E)(IV), by inserting "or special areas" immediately after "exclusive economic zone";

(3) in subsection (i)—

(A) by inserting "or special areas" immediately before the period at the end of paragraph (1)(A);

(B) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(A); and

(C) by inserting "or special areas" immediately after "exclusive economic zone" in paragraph (2)(B); and

(4) in subsection (j)—

(A) by inserting ", special areas," immediately after "exclusive economic zone"; and

(B) by inserting ", areas," immediately after "such zone".

(e) INTERNATIONAL FISHERY AGREEMENTS.—Section 202 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1822) is amended—

(1) in subsection (b)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas";

(2) in subsection (c)—

(A) by inserting "or special areas" immediately after "February 28, 1977)"; and

(B) by striking "such zone or area" and inserting in lieu thereof "such zone or areas"; and

(3) by adding at the end the following new subsection:

"(g) FISHERY AGREEMENT WITH UNION OF SOVIET SOCIALIST REPUBLICS.—(1) The Secretary of State, in consultation with the Secretary, is authorized to negotiate and conclude a fishery agreement with Russia of a duration of no more than 3 years, pursuant to which—

"(A) Russia will give United States fishing vessels the opportunity to conduct traditional fisheries within waters claimed by the United States prior to the conclusion of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, west of the maritime boundary, including the western special area described in Article 3(2) of the Agreement;

"(B) the United States will give fishing vessels of Russia the opportunity to conduct traditional fisheries within waters claimed by the Union of Soviet Socialist Republics prior to the conclusion of the Agreement referred to in subparagraph (A), east of the maritime boundary, including the eastern special areas described in Article 3(1) of the Agreement;

"(C) catch data shall be made available to the government of the country exercising fisheries jurisdiction over the waters in which the catch occurred; and

"(D) each country shall have the right to place observers on board vessels of the other country and to board and inspect such vessels.

"(2) Vessels operating under a fishery agreement negotiated and concluded pursuant to paragraph (1) shall be subject to regulations and permit requirements of the country in whose waters the fisheries are conducted only to the extent such regulations and permit requirements are specified in that agreement.

"(3) The Secretary of Commerce may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to carry out the provisions of any fishery agreement negotiated and concluded pursuant to paragraph (1).".

(f) PERMITS FOR FOREIGN FISHING.—Section 204(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(a)) is amended—

(1) by inserting "within the special areas," immediately before "or for anadromous species"; and

(2) by inserting "or areas" immediately after "such zone".

(g) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(b)(1)(A) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1853(b)(1)(A)) is amended—

(1) by inserting "or special areas," immediately after "exclusive economic zone"; and

(2) by inserting "or areas" immediately after "such zone".

(h) PROHIBITED ACTS.—Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (1)(K), by inserting "or special areas" immediately after "exclusive economic zone";

(2) in paragraph (2)(B)—

(A) by inserting "within the special areas," immediately after "exclusive economic zone"; and

(B) by inserting "or areas" immediately after "such zone";

(3) in paragraph (3), by inserting "or special areas" immediately after "exclusive economic zone"; and

(4) in paragraph (4), by inserting "or special areas" immediately after "exclusive economic zone".

(i) ENFORCEMENT.—Section 311(b)(2) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(b)(2)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

AMENDMENTS TO NORTHERN PACIFIC HALIBUT ACT OF 1982

SEC. 302. (a) DEFINITIONS.—(1) Section 2(c) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773(c)) is amended to read as follows:

"(c) 'Exclusive economic zone' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.".

(2) Section 2 of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773) is amended by adding at the end the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) UNLAWFUL ACTS.—Section 7(b) of the Northern Pacific Halibut Act of 1982 (16 U.S.C. 773e(b)) is amended by striking "fishery conservation zone" and inserting in lieu thereof "exclusive economic zone or special areas".

AMENDMENTS TO THE FUR SEAL ACT OF 1966

SEC. 303. Section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) is amended—

(1) by redesignating subsections (f) through (m) as subsections (g) through (n), respectively; and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) 'Jurisdiction of the United States' includes jurisdiction over the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

AMENDMENTS TO MARINE MAMMAL PROTECTION ACT OF 1972

SEC. 304. Section 3(14) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(14)) is amended to read as follows:

"(14) The term 'waters under the jurisdiction of the United States' means—

"(A) the territorial sea of the United States;

"(B) the waters included within a zone, contiguous to the territorial sea of the United States, of which the inner boundary is a line coterminous with the seaward boundary of each coastal State, and the outer boundary is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured; and

"(C) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

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RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973

16 USC 1531 note.

SEC. 305. The special areas defined in section 3(24) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(24)) shall be considered places that are subject to the jurisdiction of the United States for the purposes of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

AMENDMENTS TO PACIFIC SALMON TREATY ACT OF 1985

SEC. 306. (a) DEFINITIONS.—Section 2 of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3631) is amended—

(1) by redesignating subsections (h) through (j) as subsections (i) through (k), respectively; and

(2) by inserting immediately after subsection (g) the following new subsection:

"(h) 'Special areas' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.".

(b) RULEMAKING.—Section 7(a) of the Pacific Salmon Treaty Act of 1985 (16 U.S.C. 3636(a)) is amended by inserting "and special areas" immediately after "Exclusive Economic Zone".

NATIONAL SEA GRANT COLLEGE PROGRAM

SEC. 307. (a) DEFINITIONS.—Section 203(6) of the National Sea Grant College Program Act (33 U.S.C. 1122(6)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by redesignating subparagraph (F) as subparagraph (G); and

(3) by inserting immediately after subparagraph (E) the following new subparagraph:

"(F) the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured; and".

(b) INTERNATIONAL PROGRAM.—Section 3(a)(6) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(a)(6)) is amended by inserting "and special areas" immediately after "exclusive economic zone".

EFFECTIVE DATES

16 USC 773 note.

SEC. 308. (a) IN GENERAL.—The amendment made by section 301(e)(3) takes effect on the date of enactment of this Act, and the amendments made by the other provisions of this title, except as provided in subsection (b), shall be effective on the date on

which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

(b) AUTHORITY TO PRESCRIBE REGULATIONS.—The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act, but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States. Effective date.

Approved March 9, 1992.

LEGISLATIVE HISTORY—H.R. 3866:

CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 23, considered and passed House.
Nov. 27, considered and passed Senate, amended.
Vol. 138 (1992): Jan. 28, House concurred in Senate amendment.

Public Law 102-252
102d Congress

Joint Resolution

Mar. 10, 1992
[H.J. Res. 395]

Designating February 6, 1992, as "National Women and Girls in Sports Day".

Whereas women's athletics is one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically over the last 14 years;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguish her above others and exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence long-life habits of physical fitness;

Whereas the performances of such female athletes as Jackie Joyner-Kersee, Florence Griffith Joyner, Bonnie Blair, Janet Evans, the United States Women's Basketball Team and many others in the 1988 Olympic Games were a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) February 6, 1992 is designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved March 10, 1992.

LEGISLATIVE HISTORY—H.J. Res. 395 (S.J. Res. 239):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 5, considered and passed House.
Feb. 27, considered and passed Senate.

Public Law 102-253
102d Congress

Joint Resolution

Mar. 10, 1992
[H.J. Res. 350]

Designating March 1992 as "Irish-American Heritage Month".

Whereas the President of the United States for the first time designated March 1991 as "Irish-American Heritage Month";
Whereas for the first time the Governors of 28 States also designated March 1991 as "Irish-American Heritage Month";
Whereas the Mayors of Boston, Chicago, St. Louis, San Francisco, Savannah and Washington, D.C., designated March 1991 as "Irish-American Heritage Month";
Whereas 200 years ago the Irish-born James Hoban designed the White House and later assisted in the building of the United States Capitol;
Whereas 130 years ago Irish-born troops fought valiantly on the fields now known as "Bloody Lane" at Antietam;
Whereas on March 17, 1991, St. Patrick's Day, 220 community parades honored the patron saint of Ireland;
Whereas the Irish and Irish descendants have contributed greatly to the enrichment of all aspects of life in the United States, including military and governmental service, science, education, art, agriculture, business, industry, and athletics; and
Whereas more than 40,000,000 individuals in the United States claim Irish ancestry: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1992 is designated as "Irish-American Heritage Month", and the President of the United States of America is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

Approved March 10, 1992.

LEGISLATIVE HISTORY—H.J. Res. 350 (S.J. Res. 224):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 5, considered and passed House.
Feb. 27, considered and passed Senate.

Public Law 102-254
102d Congress

Joint Resolution

To designate March 12, 1992, as "Girl Scouts of the United States of America 80th Anniversary Day".

Mar. 11, 1992
[H.J. Res. 343]

Whereas March 12, 1992, is the 80th anniversary of the establishment of the Girl Scouts of the United States of America;

Whereas, on March 16, 1950, the Girl Scouts became the 1st youth organization for girls and young women to be granted a Federal charter;

Whereas, through annual reports required by its charter to be submitted to the Congress, the Girl Scouts regularly informs the Congress of its progress;

Whereas the programs and activities of the Girl Scouts instill in the girls and young women of the Nation principles that are moral and ethical, and habits, practices, and attitudes that are conducive to good character, citizenship, health, and service to others; and

Whereas, by fostering in girls and young women the qualities upon which the strength of the Nation depends, the Girl Scouts has significantly contributed to the advancement of the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 12, 1992, is designated as "Girl Scouts of the United States of America 80th Anniversary Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved March 11, 1992.

LEGISLATIVE HISTORY—H.J. Res. 343 (S.J. Res. 210):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 5, considered and passed House.
Feb. 27, considered and passed Senate.

Public Law 102-255
102d Congress

An Act

Mar. 12, 1992
[H.R. 4113]

To permit the transfer before the expiration of the otherwise applicable 60-day congressional review period of the obsolete training aircraft carrier U.S.S. Lexington to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF WAITING PERIOD FOR TRANSFER OF U.S.S. LEXINGTON.

Clause (2) of section 7308(c) of title 10, United States Code, shall not apply with respect to the transfer by the Secretary of the Navy under section 7308(a) of such title of the obsolete training aircraft carrier U.S.S. Lexington (AVT-16) to the Corpus Christi Area Convention and Visitors Bureau, Corpus Christi, Texas, for use as a naval museum and memorial.

Approved March 12, 1992.

LEGISLATIVE HISTORY—H.R. 4113:

HOUSE REPORTS: No. 102-433 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 25, considered and passed House.
Feb. 26, considered and passed Senate.

Public Law 102-256
102d Congress

An Act

To carry out obligations of the United States under the United Nations Charter and other international agreements pertaining to the protection of human rights by establishing a civil action for recovery of damages from an individual who engages in torture or extrajudicial killing.

Mar. 12, 1992
[H.R. 2092]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Torture Victim Protection Act of 1991.
28 USC 1350 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Torture Victim Protection Act of 1991".

28 USC 1350 note.

SEC. 2. ESTABLISHMENT OF CIVIL ACTION.

(a) LIABILITY.—An individual who, under actual or apparent authority, or color of law, of any foreign nation—

(1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual; or

(2) subjects an individual to extrajudicial killing shall, in a civil action, be liable for damages to the individual's legal representative, or to any person who may be a claimant in an action for wrongful death.

(b) EXHAUSTION OF REMEDIES.—A court shall decline to hear a claim under this section if the claimant has not exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred.

(c) STATUTE OF LIMITATIONS.—No action shall be maintained under this section unless it is commenced within 10 years after the cause of action arose.

28 USC 1350 note.

SEC. 3. DEFINITIONS.

(a) EXTRAJUDICIAL KILLING.—For the purposes of this Act, the term "extrajudicial killing" means a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation.

(b) TORTURE.—For the purposes of this Act—

(1) the term "torture" means any act, directed against an individual in the offender's custody or physical control, by which severe pain or suffering (other than pain or suffering arising only from or inherent in, or incidental to, lawful sanctions), whether physical or mental, is intentionally inflicted on that individual for such purposes as obtaining from that individual or a third person information or a confession, punishing that individual for an act that individual or a third person has committed or is suspected of having committed, intimidating or coercing that individual or a third person, or for any reason based on discrimination of any kind; and

(2) mental pain or suffering refers to prolonged mental harm caused by or resulting from—

(A) the intentional infliction or threatened infliction of severe physical pain or suffering;

(B) the administration or application, or threatened administration or application, of mind altering substances or other procedures calculated to disrupt profoundly the senses or the personality;

(C) the threat of imminent death; or

(D) the threat that another individual will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind altering substances or other procedures calculated to disrupt profoundly the senses or personality.

Approved March 12, 1992.

LEGISLATIVE HISTORY—H.R. 2092 (S. 313):

HOUSE REPORTS: No. 102-367, Pt. 1 (Comm. on the Judiciary).
SENATE REPORTS: No. 102-249 accompanying S. 313 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): Mar. 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Mar. 12, Presidential statement.

Public Law 102-257
102d Congress

Joint Resolution

To designate March 19, 1992, as "National Women in Agriculture Day".

Mar. 17, 1992
[S.J. Res. 176]

Whereas women hold important leadership positions within the American agriculture system, a system with a level of efficiency that leads the world;

Whereas women are full working partners on the family farm;

Whereas the family farm offers the best means of ensuring the protection of our natural resources as well as guaranteeing future generations of Americans an abundant and safe supply of food; and

Whereas the public should be aware of the contributions made by women in the American agricultural system to the health and prosperity of all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 19, 1992, is designated as "National Women in Agriculture Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved March 17, 1992.

LEGISLATIVE HISTORY—S.J. Res. 176:

CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 1, considered and passed Senate.
Vol. 138 (1992): Mar. 11, considered and passed House.

Public Law 102-258
102d Congress

An Act

Mar. 19, 1992
[S. 996]

To authorize and direct the Secretary of the Interior to terminate a reservation of use and occupancy at the Buffalo National River; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Harold Hedges. Margaret Hedges.

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) in 1979 Harold and Margaret Hedges conveyed approximately 711 acres, including a homesite, to the National Park Service for addition to the Buffalo National River;

(2) Mr. and Mrs. Hedges retained a reservation of use and occupancy for a term of twenty-five years for use of their home and approximately forty-two acres of adjacent land;

(3) on January 1, 1991, the house was destroyed by fire, apparently caused by arson;

(4) Mr. and Mrs. Hedges are now unable to use the remaining term of their use and occupancy reservation, without incurring extraordinary costs and expenses; and

(5) the most equitable resolution is to provide for the termination of their use and occupancy reservation, with an appropriate refund of the unused portion of the value of the reservation.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "reservation" or "reservation of use and occupancy" means the reservation of use and occupancy retained by Harold and Margaret Hedges, pursuant to Buffalo National River Deed 922, including tracts 66–104, 66–111, and 66–112, executed on October 25, 1979, and valued at $19,148;

(2) "Secretary" means the Secretary of the Interior; and

(3) "unused term" means the period of time between January 1, 1991, and October 25, 2004, inclusive.

SEC. 3. TERMINATION OF RESERVATION OF USE AND OCCUPANCY.

(a) IN GENERAL.—Upon application by Harold and Margaret Hedges of Harrison, Arkansas, the Secretary is authorized and directed to terminate the reservation of use and occupancy at the Buffalo National River described in section 2.

(b) REFUND.—Upon termination of such reservation, the Secretary shall, notwithstanding any other provision of law, refund the value of the unused term of such reservation, determined on a pro rata basis.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved March 19, 1992.

LEGISLATIVE HISTORY—S. 996:

HOUSE REPORTS: No. 102-448 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-120 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): July 31, considered and passed Senate.
Vol. 138 (1992): Mar. 3, considered and passed House.

Public Law 102-259
102d Congress

An Act

Mar. 19, 1992
[S. 2184]

To establish the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992.
20 USC 5601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morris K. Udall Scholarship and Excellence in National Environmental and Native American Public Policy Act of 1992".

20 USC 5601 note.

SEC. 2. REPEAL OF PREVIOUS LEGISLATION.

The Morris K. Udall Scholarship and Excellence in National Environmental Policy Act, S. 1176, One Hundred Second Congress, is hereby repealed.

20 USC 5601.

SEC. 3. FINDINGS.

The Congress finds that—

(1) for three decades, Congressman Morris K. Udall has served his country with distinction and honor;

(2) Congressman Morris K. Udall has had a lasting impact on this Nation's environment, public lands, and natural resources, and has instilled in this Nation's youth a love of the air, land, and water;

(3) Congressman Morris K. Udall has been a champion of the rights of Native Americans and Alaska Natives and has used his leadership in the Congress to strengthen tribal self-governance; and

(4) it is a fitting tribute to the leadership, courage, and vision Congressman Morris K. Udall exemplifies to establish in his name programs to encourage the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources.

20 USC 5602.

SEC. 4. DEFINITIONS.

For the purposes of this Act—

(1) the term "Board" means the Board of Trustees of the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 5(b);

(2) the term "Center" means the Udall Center for Studies in Public Policy established at the University of Arizona in 1987;

(3) the term "eligible individual" means a citizen or national of the United States or a permanent resident alien of the United States;

(4) the term "Foundation" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation established under section 5(a);

(5) the term "fund" means the Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund established in section 8;

(6) the term "institution of higher education" has the same meaning given to such term by section 1201(a) of the Higher Education Act of 1965; and

(7) the term "State" means each of the several States, the District of Columbia, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federal States of Micronesia, and the Republic of Palau (until the Compact of Free Association is ratified).

SEC. 5. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION. 20 USC 5603.

(a) ESTABLISHMENT.—There is established as an independent entity of the executive branch of the United States Government, the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

(b) BOARD OF TRUSTEES.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be comprised of twelve trustees, eleven of whom shall be voting members of the Board, as follows: President.

(1) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the Speaker of the House of Representatives, in consultation with the Minority Leader of the House of Representatives.

(2) Two Trustees, shall be appointed by the President, with the advice and consent of the Senate, after considering the recommendation of the President pro tempore of the Senate, in consultation with the Majority and Minority Leaders of the Senate.

(3) Five Trustees, not more than three of whom shall be of the same political party, shall be appointed by the President with the advice and consent of the Senate, who have shown leadership and interest in—

(A) the continued use, enjoyment, education, and exploration of our Nation's rich and bountiful natural resources, such as presidents of major foundations involved with the environment; or

(B) in the improvement of the health status of Native Americans and Alaska Natives and in strengthening tribal self-governance, such as tribal leaders involved in health and public policy development affecting Native American and Alaska Native communities.

(4) The Secretary of the Interior, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(5) The Secretary of Education, or the Secretary's designee, who shall serve as a voting ex officio member of the Board but shall not be eligible to serve as Chairperson.

(6) The President of the University of Arizona shall serve as a nonvoting, ex officio member and shall not be eligible to serve as chairperson.

(c) TERM OF OFFICE.—

(1) IN GENERAL.—The term of office of each member of the Board shall be six years, except that—

(A) in the case of the Trustees first taking offices—

(i) as designated by the President, one Trustee appointed pursuant to section 5(b)(2) and two trustees appointed pursuant to section 5(b)(3) shall each serve two years; and

(ii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1) and two Trustees appointed pursuant to section 5(b)(3) shall each serve four years; and

(iii) as designated by the President, one Trustee appointed pursuant to section 5(b)(1), one Trustee appointed pursuant to section 5(b)(2), and one Trustee appointed pursuant to section 5(b)(3) shall each serve six years; and

(B) a Trustee appointed to fill a vacancy shall serve for the remainder of the term for which the Trustee's predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Trustees shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

Arizona.

(e) LOCATION OF FOUNDATION.—The Foundation shall be located in Tucson, Arizona.

(f) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—There shall be an Executive Director of the Foundation who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this Act as the Board shall prescribe.

(2) COMPENSATION.—The Executive Director of the Foundation shall be compensated at the rate specified for employees in level IV of the Executive Schedule under section 5315 of title 5, United States Code.

20 USC 5604.

SEC. 6. PURPOSE OF THE FOUNDATION.

It is the purpose of the Foundation to—

(1) increase awareness of the importance of and promote the benefit and enjoyment of the Nation's natural resources;

(2) foster among the American population greater recognition and understanding of the role of the environment, public lands and resources in the development of the United States;

(3) identify critical environmental issues;

(4) establish a Program for Environmental Policy Research and an Environmental Conflict Resolution at the Center;

(5) develop resources to properly train professionals in the environmental and related fields;

(6) provide educational outreach regarding environmental policy; and

(7) develop resources to properly train Native American and Alaska Native professionals in health care and public policy.

SEC. 7. AUTHORITY OF THE FOUNDATION. 20 USC 5605.

(a) AUTHORITY OF THE FOUNDATION.—

(1) IN GENERAL.—(A) The Foundation, in consultation with the Center, is authorized to identify and conduct such programs, activities, and services as the Foundation considers appropriate to carry out the purposes described in section 6. The Foundation shall have the authority to award scholarships, fellowships, internships, and grants and fund the Center to carry out and manage other programs, activities and services.

(B) The Foundation may provide, directly or by contract, for the conduct of national competition for the purpose of selecting recipients of scholarships, fellowships, internships, and grants awarded under this Act.

(C) The Foundation may award scholarships, fellowships, internships and grants to eligible individuals in accordance with the provisions of this Act for study in fields related to the environment and Native American and Alaska Native health care and tribal public policy. Such scholarships, fellowships, internships and grants shall be awarded to eligible individuals who meet the minimum criteria established by the Foundation.

(2) SCHOLARSHIPS.—(A) Scholarships shall be awarded to outstanding undergraduate students who intend to pursue careers related to the environment and to outstanding Native American and Alaska Native undergraduate students who intend to pursue careers in health care and tribal public policy.

(B) An eligible individual awarded a scholarship under this Act may receive payments under this Act only during such periods as the Foundation finds that the eligible individual is maintaining satisfactory proficiency and devoting full time to study or research and is not engaging in gainful employment other than employment approved by the Foundation pursuant to regulations of the Board.

(C) The Foundation may require reports containing such information, in such form, and to be filed at such times as the Foundation determines to be necessary from any eligible individual awarded a scholarship under this Act. Such reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, approved by the Foundation, stating that such individual is making satisfactory progress in, and is devoting essentially full time to study or research, except as otherwise provided in this subsection.

(3) FELLOWSHIPS.—Fellowships shall be awarded to—

(A) outstanding graduate students who intend to pursue advanced degrees in fields related to the environment and to outstanding Native American and Alaska Native graduate students who intend to pursue advanced degrees in health care and tribal public policy, including law and medicine; and

(B) faculty from a variety of disciplines to bring the expertise of such faculty to the Foundation.

(4) INTERNSHIPS.—Internships shall be awarded to—

(A) deserving and qualified individuals to participate in internships in Federal, State and local agencies or in offices of major environmental organizations pursuant to section 6; and

(B) deserving and qualified Native American and Alaska Native individuals to participate in internships in Federal, State and local agencies or in offices of major public health or public policy organizations pursuant to section 6.

(5) GRANTS.—The Foundation shall award grants to the Center—

(A) to provide for an annual panel of experts to discuss contemporary environmental issues;

(B) to conduct environmental policy research;

(C) to conduct research on Native American and Alaska Native health care issues and tribal public policy issues; and

(D) for visiting policymakers to share the practical experiences of such for visiting policymakers with the Foundation.

(6) REPOSITORY.—The Foundation shall provide direct or indirect assistance from the proceeds of the Fund to the Center to maintain the current site of the repository for Morris K. Udall's papers and other such public papers as may be appropriate and assure such papers' availability to the public.

(7) COORDINATION.—The Foundation shall assist in the development and implementation of a Program for Environmental Policy Research and Environmental Conflict Resolution to be located at the Center.

(b) MORRIS K. UDALL SCHOLARS.—Recipients of scholarships, fellowships, internships, and grants under this Act shall be known as "Morris K. Udall Scholars".

(c) PROGRAM PRIORITIES.—The Foundation shall determine the priority of the programs to be carried out under this Act and the amount of funds to be allocated for such programs. However, not less than 50 percent shall be utilized for the programs set forth in section 6(a)(2), section 6(a)(3), and section 6(a)(4), not more than 15 percent shall be used for salaries and other administrative purposes, and not less than 20 percent shall be appropriated to the Center for section 6(a)(5), section 6(a)(6), and section 6(a)(7) conditioned on a 25-percent match from other sources and further conditioned on adequate space at the Center being made available for the Executive Director and other appropriate staff of the Foundation by the Center.

20 USC 5606.

SEC. 8. ESTABLISHMENT OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Morris K. Udall Scholarship and Excellence in National Environmental Policy Trust Fund" to be administered by a Foundation. The fund shall consist of amounts appropriated to it pursuant to section 11 and amounts credited to it under subsection (b).

(b) INVESTMENT OF FUND ASSETS.—

(1) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest, at the direction of the Foundation Board, in full the amounts appropriated to the Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the Fund. Investments in public debt securities shall bear interest "at rates determined by the Secretary of the Treasury taking into consideration the current

average market yield on outstanding marketable obligations of the United States" of comparable maturity.

SEC. 9. EXPENDITURES AND AUDIT OF TRUST FUND. 20 USC 5607.

(a) IN GENERAL.—The Foundation shall pay from the interest and earnings of the Fund such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this Act.

(b) AUDIT BY GENERAL ACCOUNTING OFFICE.—The activities of the Foundation and the Center under this Act may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports filed and all other papers, things, or property belonging to or in use by the Foundation and the Center, pertaining to such federally assisted activities and necessary to facilitate the audit.

SEC. 10. ADMINISTRATIVE PROVISIONS. 20 USC 5608.

IN GENERAL.—In order to carry out the provisions of this Act, the Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this Act, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS–15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure or fund the Center to procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for level IV of the Executive Schedule under section 5315 of title 5, United States Code;

(3) prescribe such regulations as the Foundation considers necessary governing the manner in which its functions shall be carried out;

(4) accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Foundation;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse such personnel for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements or modifications thereof, to carry out the provisions of this Act, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board of Trustees, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

20 USC 5609.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Fund $40,000,000 to carry out the provisions of this Act.

Approved March 19, 1992.

LEGISLATIVE HISTORY—S. 2184 (See S. 1176):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 4, considered and passed Senate.
Mar. 3, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Mar. 19, Presidential statement.

Public Law 102-260
102d Congress

Joint Resolution

Waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

Mar. 20, 1992
[H.J. Res. 446]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

1 USC 106 note.

The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of H.R. 4210 of the 102d Congress.

SEC. 2. CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.

1 USC 106 note.

The enrollment of H.R. 4210 of the 102d Congress shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

Approved March 20, 1992.

LEGISLATIVE HISTORY—H.J. Res. 446:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 19, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Mar. 20, Presidential statement.

Public Law 102-261
102d Congress

An Act

Mar. 20, 1992
[S. 1467]

To designate the Federal Building and the United States Courthouse located at 15 Lee Street in Montgomery, Alabama, as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 15 Lee Street in Montgomery, Alabama, shall be known and designated as the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".

SEC. 2. REFERENCES.

Any reference in any law, map, regulation, document, paper, or other record of the United States to the Federal Building and United States Courthouse referred to in section 1 shall be deemed to be a reference to the "Frank M. Johnson, Jr. Federal Building and United States Courthouse".

Approved March 20, 1992.

LEGISLATIVE HISTORY—S. 1467:

HOUSE REPORTS: No. 102-445 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 30, considered and passed Senate.
Vol. 138 (1992): Mar. 3, considered and passed House, amended.
Mar. 5, Senate concurred in House amendments.

Public Law 102-262
102d Congress

An Act

To designate the Federal Building and the United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, as the "Ewing T. Kerr Federal Building and United States Courthouse".

Mar. 20, 1992
[S. 1889]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Ewing T. Kerr has dedicated 64 years of his life to the practice of law in the State of Wyoming;

(2) over a period of 36 years, as a Federal district judge, Ewing T. Kerr has embodied the spirit of public service and has been dedicated to upholding the law of the land; and

(3) Ewing T. Kerr deserves recognition, honor, and gratitude.

SEC. 2. DESIGNATION.

The Federal Building and United States Courthouse located at 111 South Wolcott Street in Casper, Wyoming, is designated as the "Ewing T. Kerr Federal Building and United States Courthouse".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal Building and United States Courthouse referred to in section 1 is deemed to be a reference to the Ewing T. Kerr Federal Building and United States Courthouse.

Approved March 20, 1992.

LEGISLATIVE HISTORY—S. 1889:

HOUSE REPORTS: No. 102-444 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 30, considered and passed Senate.
Vol. 138 (1992): Mar. 3, considered and passed House, amended.
Mar. 5, Senate concurred in House amendments.

Public Law 102-263
102d Congress

Joint Resolution

Mar. 20, 1992
[S.J. Res. 240]

Designating March 25, 1992 as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;
Whereas March 25, 1992 marks the one hundred seventy-first anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;
Whereas these and other ideals have forged a close bond between our two nations and their peoples; and
Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1992 is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Approved March 20, 1992.

LEGISLATIVE HISTORY—S.J. Res. 240:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 27, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 102-264
102d Congress

Joint Resolution

To designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week".

Mar. 26, 1992
[H.J. Res. 284]

Whereas over one-half million dedicated men and women are engaged in the operation of emergency response systems for Federal, State, and local governmental entities throughout the United States;

Whereas these individuals are responsible for responding to the telephone calls of the general public for police, fire, and emergency medical assistance and for dispatching said assistance to help save the lives and property of our citizens;

Whereas such calls include not only police, fire, and emergency medical service calls but those governmental communications related to forestry and conservation operations, highway safety and maintenance activities, and all of the other operations which the modern governmental agency must conduct; and

Whereas America's public safety telecommunicators daily serve the public in countless ways without due recognition by the beneficiaries of their services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 12, 1992, is designated as "National Public Safety Telecommunicators Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Approved March 26, 1992.

LEGISLATIVE HISTORY—H.J. Res. 284:

CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 9, considered and passed House.
Vol. 138 (1992): Mar. 17, considered and passed Senate.

Public Law 102-265
102d Congress

An Act

Mar. 26, 1992
[S. 2324]

To amend the Food Stamp Act of 1977 to make a technical correction relating to exclusions from income under the food stamp program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSIONS FROM FOOD STAMP INCOME.

(a) IN GENERAL.—Section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) (as amended by section 903(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237)) is further amended by striking "section 1612(b)(4)(B)(iv) of the Social Security Act (42 U.S.C. 1382a(b)(4)(B)(iv))" and inserting "subparagraph (A)(iii) or (B)(iv) of section 1612(b)(4) of the Social Security Act (42 U.S.C. 1382a(b)(4))".

7 USC 2014 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect on the earlier of—

(A) December 13, 1991;

(B) October 1, 1990, for food stamp households for which the State agency knew, or had notice, that a member of the household had a plan for achieving self-support as provided under section 1612(b)(4)(A)(iii) of the Social Security Act (42 U.S.C. 1382a(b)(4)(A)(iii)); or

(C) beginning on the date that a fair hearing was requested under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) contesting the denial of an exclusion for food stamp purposes for amounts necessary for the fulfillment of such a plan for achieving self-support.

(2) LIMITATION ON APPLICATION OF SECTION.—Notwithstanding section 11(b) of the Food Stamp Act of 1977 (7 U.S.C. 2020(b)), no State agency shall be required to search its files for cases to which the amendment made by subsection (a) applies, except where the excludability of amounts described in section 5(d)(16) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(16)) was raised with the State agency prior to December 13, 1991.

Approved March 26, 1992.

LEGISLATIVE HISTORY—S. 2324:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 5, considered and passed Senate.
Mar. 11, considered and passed House.

Public Law 102-266
102d Congress

Joint Resolution

Apr. 1, 1992
[H.J. Res. 456]

Making further continuing appropriations for the fiscal year 1992, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 102–145, as amended by Public Law 102–163, is further amended as follows:

105 Stat. 970.

SEC. 101. In section 106(c), strike "March 31, 1992" and insert in lieu thereof "September 30, 1992".

SEC. 102. Insert the following new sections:

"DEFINITION OF CURRENT RATE

"SEC. 114. Notwithstanding any other provision of this joint resolution, any rate for operations for any project or activity funded by this joint resolution for foreign operations, export financing, and related programs that is based on the current rate for operations shall be defined to be the amounts appropriated in fiscal year 1991.

"TECHNICAL ADJUSTMENTS

"SEC. 115. Notwithstanding any other provision of this joint resolution: the rate for operations for 'Payment to the Foreign Service Retirement and Disability Fund', 'Operating Expenses of the Agency for International Development', 'Operating Expenses of the Agency for International Development Office of Inspector General', 'Peace Corps' and 'Migration and Refugee Assistance' shall be the amount included for each in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621) as passed by the House of Representatives on June 19, 1991: *Provided,* That no funds are provided by this joint resolution for 'Contribution to the Enhanced Structural Adjustment Facility of the International Monetary Fund': *Provided further,* That for the cost as defined in section 13201 of the Budget Enforcement Act of 1990, of direct and guaranteed loans authorized by section 234 of the Foreign Assistance Act of 1961, the rate for operations shall be $9,080,000, and for administrative expenses of that program the rate for operations shall be $8,250,000: *Provided further,* That for the costs as defined in section 13201 of the Budget Enforcement Act of 1990, of guaranteed loans authorized by section 108 of the Foreign Assistance Act of 1961, the rate of operations shall be $2,668,000; and for administrative expenses to carry out such guaranteed loan program, the rate of operations shall be $1,367,000: *Provided further,* That the rate for operations for 'Administrative Expenses' of the Export-Import Bank of the United States, shall be $38,613,000, including administrative expenses incurred in connection with contracting for the issuance and servicing of insurance and reinsurance or in lieu of contracting for the performance of such services by the Export-Import Bank: *Provided further,* That

the rate for operations for the 'Multilateral Assistance Initiative' for the Philippines shall be $100,000,000.

"ELIMINATION OF EARMARKS

"SEC. 116. Notwithstanding any other provision of this joint resolution, the following earmarks, transfers and ceilings included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513), shall not be applicable to funds appropriated by this joint resolution for foreign operations, export financing, and related programs: the earmarks for the Caribbean Law Institute, and the Center for the Cultural and Technical Interchange Between North and South under the heading 'Education and Human Resources Development, Development Assistance'; the ceiling for disadvantaged private enterprise in South Africa under the heading 'Sub-Saharan Africa, Development Assistance'; the earmark under the heading 'Appropriate Technology'; ceiling and earmarks for El Salvador's Special Investigative Unit, Jordan, Morocco, El Salvador's University of Central America, and the Antarctic Protection Act under the heading 'Economic Support Fund'; the transfer under the heading 'Multilateral Assistance Initiative for the Philippines'; the earmark for Morocco under the heading 'Foreign Military Financing Program'; the earmarks in section 533 for neotropical migratory bird conservation in Latin America and the Caribbean, Project Noah, the National Science Foundation's International Biological Diversity Program, and the earmark in subsection (e) of that section; and the earmark in section 583: *Provided,* That of the funds appropriated by this joint resolution for foreign operations, export financing, and related programs for programs under the heading 'Agency for International Development', not less than $250,000,000 shall be made available for child survival activities: *Provided further,* That the authority and conditions applicable to 'Migration and Refugee Assistance' shall be only those contained in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621), as passed by the House on June 19, 1991.

"ELIMINATION OF SUPPLEMENTAL EARMARKS

"SEC. 117. Notwithstanding any other provision of this joint resolution, earmarks, transfers, ceilings, or any terms and conditions contained in Public Law 102–27, Public Law 102–55, or Public Law 102–229 applicable to funds appropriated for foreign operations, export financing, and related programs shall not be applicable to funds appropriated by this joint resolution for foreign operations, export financing, and related programs.

"UPDATE OF TERMS AND CONDITIONS

"SEC. 118. Notwithstanding any other provision of this joint resolution, the authority and conditions provided in sections 531 (except for subsection (f)(3)), 538, and 549 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) shall not be applicable to funds appropriated by this joint resolution for foreign operations, export financing, and related programs: *Provided,* That the authority and conditions provided in sections 545, 552, 560, 571, 572, 583, 585, and under the heading 'Foreign Military Sales Debt Reform', of the Foreign

22 USC 2375, 2764 note, 2796.

Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621) as passed by the House on June 19, 1991, shall be applicable to funds appropriated by this joint resolution (and are hereby enacted) in lieu of the authority and conditions provided in sections 546, 553, 562A, 573, 574, 596(d), 599B, and under the heading 'Foreign Military Sales Debt Reform', respectively, in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513): *Provided further,* That the authority and conditions applicable to funds appropriated by this joint resolution to the Export-Import Bank of the United States shall be those contained under the heading 'Export-Import Bank of the United States' of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621) as passed by the House on June 19, 1991, except for the program ceiling in the first proviso, and the fourth proviso, under the 'Subsidy Appropriation' subheading: *Provided further,* That assistance under the heading 'International Military Education and Training' may be made available for Malaysia: *Provided further,* That when applying section 512 and section 545 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) to funds appropriated by this joint resolution, the countries of Angola and Cambodia shall be construed to not be on the list of countries included in these sections: *Provided further,* That for purposes of satisfying the requirements of section 484 of the Foreign Assistance Act of 1961, funds appropriated by this joint resolution for the 'Foreign Military Financing Program' may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act in accordance with the provisions of section 3(g) of the International Narcotics Control Act of 1990 (Public Law 101–623): *Provided further,* That, notwithstanding any other provision of this joint resolution, section 812 of the International Security and Development Cooperation Act of 1985, is repealed: *Provided further,* That notwithstanding any other provision of this joint resolution, the period of availability of funds appropriated for foreign operations, export financing, and related programs shall be, for each appropriation item, the period of availability included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621) as passed by the House on June 19, 1991, except that for Development Assistance and for the Peace Corps funds shall remain available until September 30, 1993.

99 Stat. 264.
Termination date.

"UPDATE OF IFI PROVISIONS

"SEC. 119. Notwithstanding any other provision of this joint resolution, the authority and conditions applicable to funds appropriated by this joint resolution for foreign operations, export financing, and related programs under the headings 'Contribution to the International Development Association', 'Contribution to the International Finance Corporation', 'Contribution to the Asian Development Bank', and 'Contribution to the Asian Development Fund' shall be those included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1992 (H.R. 2621) as passed by the House on June 19, 1991.

"UPDATE OF IOP PROVISIONS

"SEC. 120. Notwithstanding any other provision of this joint resolution, the following earmarks shall be applicable to funds appropriated by this joint resolution for foreign operations, export financing, and related programs for 'International Organizations and Programs' in lieu of the earmarks for the same programs, funds or agencies included under that heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513): $85,000,000 for the United Nations Children's Fund, $27,500,000 for the International Atomic Energy Agency, $18,193,000 for the United Nations Environment Program, $2,000,000 for the United Nations Afghanistan Emergency Trust Fund, and $18,362,000 for the International Fund for Agricultural Development.

"ASSISTANCE TO FORMER SOVIET UNION

"(INCLUDING TRANSFER OF FUNDS)

"SEC. 121. In order to avoid the prospect that instability or resurgent totalitarianism in the former Soviet Union would threaten United States national security, and in view of the substantial savings in defense made possible by changes in the former Soviet Union and in view of the need to secure these changes in order to achieve continued savings, of the funds appropriated by this joint resolution for foreign operations, export financing, and related programs, funds appropriated under the heading 'Economic Support Fund' may be made available for support for the economic and democratic development of the former Soviet Republics: *Provided,* That of the funds made available by this section, $50,000,000 may be made available to provide agricultural commodities for the people of the former Soviet Republics, with special emphasis on children and pre- and post-natal women: *Provided further,* That funds made available by this section may be used for administrative costs of the Agency for International Development in carrying out this program in accordance with the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds made available by this joint resolution for foreign operations, export financing, and related programs that are provided for assistance for the former Soviet Republics shall be made available except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That, notwithstanding any other provision of this joint resolution, the Export-Import Bank Act of 1945, is amended (1) in section 7, by repealing subsection (b), and (2) in section 2, by deleting in subsection 2(b)(3) '(ii) in an amount which equals or exceeds $25,000,000 for the export of goods or services involving research, exploration, or production of fossil fuel energy resources in the Union of Soviet Socialist Republics,' and (3) in subsection 2(b)(3) by redesignating '(iii)' as '(ii)'; and section 613 of the Trade Act of 1974 is repealed: *Provided further,* That funds made available by this joint resolution for foreign operations, export financing, and related programs for assistance in furtherance of the purposes of this section may be made available notwithstanding any other provision of law.

12 USC 635e.
12 USC 635.
19 USC 2487.

"EL SALVADOR

"SEC. 122. (a) Of the funds appropriated by this joint resolution for foreign operations, export financing, and related programs for the 'Foreign Military Financing Program', not more than the amount allocated pursuant to Public Law 102–145, $21,250,000, may be made available for military assistance for El Salvador; and such assistance shall be used only for non-lethal items for maintenance, sustainment, restructuring, and reduction and only in strict accordance with the newly defined mission of the Salvadoran Armed Forces as embodied within the Salvadoran Peace Accords.

"(b) Of the funds appropriated for the 'Foreign Military Financing Program' by this joint resolution, not less than $63,750,000 shall be transferred to the Demobilization and Transition Fund established by section 531(f) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and notwithstanding any other provision of this joint resolution, shall remain available until expended.

"(c) Funds transferred to the Demobilization and Transition Fund (in addition to amounts otherwise made available for such assistance) may be used for the following:

"(1) assistance described in section 531(f)(3) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991;

"(2) assistance for law enforcement in accordance with subsection (e) of this section; and

"(3) assistance for reconstruction which directly supports the implementation of the Peace Accords, including implementation of the National Reconstruction Plan of the Government of El Salvador.

"(d) None of the funds transferred to the Demobilization and Transition Fund shall be made available for obligation from the Fund except through the regular reprogramming procedures of the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives, and the Committee on Foreign Relations of the Senate.

"(e) Funds transferred to the Demobilization and Transition Fund may be used for assistance for law enforcement in a manner consistent with the Salvadoran Peace Accords and the National Reconstruction Plan of the Government of El Salvador, and may be made available notwithstanding section 660 of the Foreign Assistance Act of 1961.

"(f) Of the funds appropriated by this joint resolution under the heading 'Economic Support Fund', not less than $1,000,000 shall be made available to support El Salvador's Truth Commission and its investigations and publicization through reports of its findings and recommendations of unsolved human rights cases, including those specifically referred to in section 538 of Public Law 101–513, with a view to making recommendations on legal, political or administrative steps by the Government of El Salvador, including to bring to trial and verdict persons found responsible for such acts and to prevent recurrence of such acts. The Secretary of State will transmit reports of the Truth Commission to the appropriate Committees of Congress in a timely manner.

Reports.

"PROGRAM LIMITATION

"SEC. 123. Commitments to guarantee loans for foreign operations, export financing, and related programs under the 'Housing Guarantee Program Account' may be entered into notwithstanding the second sentence of section 222(a) and, with regard to programs for Eastern Europe, section 223(j) of the Foreign Assistance Act of 1961.

"ANTI-NARCOTICS UPDATE

"SEC. 124. The program authorized by section 534 of the Foreign Assistance Act of 1961 may continue from funds appropriated by this joint resolution for foreign operations, export financing, and related programs, notwithstanding the last sentence of section 534(e) of that Act: *Provided,* That such programs may include the protection of participants in judicial cases, notwithstanding section 660 of that Act: *Provided further,* That, notwithstanding sections 534(c) and 660 of that Act, (1) up to $10,000,000 to provide support for a professional civilian police force for Panama, except that such assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment, and (2) up to $16,000,000 for Bolivia, Colombia, and Peru. 22 USC 2346c note.

"INTERNATIONAL FINANCIAL INSTITUTIONS

"SEC. 125. (a) INTERNATIONAL FINANCE CORPORATION.—Notwithstanding any other provision of this joint resolution, the International Finance Corporation Act is amended by adding at the end the following:

"'SEC. 14. CAPITAL STOCK INCREASE. 22 USC 282*l*.

"'(a) SUBSCRIPTION AUTHORIZED.—

"'(1) IN GENERAL.—The United States Governor of the Corporation may—

"'(A) vote for an increase of 1,000,000 shares in the authorized capital stock of the Corporation; and

"'(B) subscribe on behalf of the United States to 250,000 additional shares of the capital stock of the Corporation.

"'(2) PRIOR APPROPRIATION REQUIRED.—The subscription authority provided in paragraph (1) shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"'(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the subscription authorized in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $50,000,000 for payment by the Secretary of the Treasury.'.

"(b) ASIAN DEVELOPMENT BANK.—Notwithstanding any other provision of this joint resolution, the Asian Development Bank Act is amended by adding at the end the following:

22 USC 285aa.

"'SEC. 30. CAPITAL INCREASE.

"'(a) SUBSCRIPTION AUTHORIZED.—(1) The United States Governor of the Bank may subscribe on behalf of the United States to 35,230 additional shares of the capital stock of the Bank. (2) Any subscription by the United States to the capital stock of the Bank shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"'(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the increase in the United States subscription to the Bank provided for in subsection (a), there are authorized to be appropriated, without fiscal year limitation, $213,000,000 for payment by the Secretary of the Treasury.'.

"(c) AFRICAN DEVELOPMENT FUND.—Notwithstanding any other provision of this joint resolution, the African Development Fund Act is amended by adding at the end the following:

22 USC 290g-15.

"'SEC. 216. SIXTH REPLENISHMENT.

"'(a) CONTRIBUTION AUTHORIZED.—The United States Governor of the Fund is authorized to contribute $405,000,000 to the sixth replenishment of the resources of the Fund, except that such authority shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

"'(b) LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS.—In order to pay for the United States contribution provided for in this section, there are authorized to be appropriated, without fiscal year limitation, $135,000,000 for payment by the Secretary of the Treasury.'.

"REDUCTION IN APPROPRIATIONS

"SEC. 126. Notwithstanding any other provision of this joint resolution, each discretionary appropriation provided in this joint resolution for foreign operations, export financing, and related programs except those funds made available by section 127, is hereby reduced by 1.4781 per centum.

"SEC. 127. Notwithstanding any other provision of this joint resolution, the following appropriation is made:

"DEPARTMENT OF STATE

"INTERNATIONAL ORGANIZATIONS AND CONFERENCES

"CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

"For an additional amount for 'Contributions for International Peacekeeping Activities', in addition to amounts otherwise available for such purposes, $270,000,000, to remain available until expended, notwithstanding section 15 of the State Department Basic Authorities Act of 1956.

"SEC. 128. Notwithstanding any other provision of this joint resolution, the following appropriation is made:

"SMALL BUSINESS ADMINISTRATION

"DISASTER LOANS PROGRAM ACCOUNT

"For an additional amount for the cost of direct loans, $82,025,000, to remain available until expended: *Provided,* That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $241,748,000.

"In addition, for administrative expenses to carry out the disaster loan program, an additional $25,000,000, which may be transferred to and merged with the appropriations for 'Salaries and expenses'.

"Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Budget Enforcement Act of 1990.".

Approved April 1, 1992.

LEGISLATIVE HISTORY—H.J. Res. 456:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 31, considered and passed House.
Apr. 1, considered and passed Senate, amended. House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Apr. 1, Presidential statement.

Public Law 102-267
102d Congress

Joint Resolution

Apr. 2, 1992
[H.J. Res. 272]

To proclaim March 20, 1992, as "National Agriculture Day".

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas the United States agricultural sector serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas the Nation's heritage of family-owned and family-operated farms and ranches has been the core of the American agricultural system and continues to be the best means for assuring the protection of our natural resources and the production of an adequate and affordable supply of food and fiber for future generations of Americans;

Whereas the American agricultural system provides American consumers with a stable supply of the highest quality food and fiber for the lowest cost per capita in the world;

Whereas American agriculture continually seeks to maintain and improve the high level of product quality and safety expected by the consumer;

Whereas the public should be aware of the contributions of all people—men and women—who are a part of American agriculture and its contributions to American life, health, and prosperity;

Whereas women play a vital role in maintaining the family farm system, both as sole operators and as working partners, and are also attaining important leadership roles throughout the American agricultural system;

Whereas farmworkers are an indispensable part of the agricultural system as witnessed by their hard work and dedication;

Whereas scientists and researchers play an integral part in the agricultural system in their search for better and more efficient ways to produce and process safe and nutritious agricultural products;

Whereas farmers and food processors are responding to the desire of health-conscious American consumers by developing more health-oriented food products;

Whereas distributors play an important role in transporting agricultural products to retailers who in turn make the products available to the consumer;

Whereas our youth—the future of our Nation—have become involved through various organizations in increasing their understanding and our understanding of the importance of agriculture in today's society;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas; and

Whereas since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, other persons involved in the agricultural system, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1992, is proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 15 through March 21.

Approved April 2, 1992.

LEGISLATIVE HISTORY—H.J. Res. 272 (S.J. Res. 272):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 11, considered and passed House.
Mar. 20, considered and passed Senate.

Public Law 102-268
102d Congress

Joint Resolution

Apr. 13, 1992
[H.J. Res. 410]

Designating April 14, 1992, as "Education and Sharing Day, U.S.A.".

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation, the United States of America, was founded;

Whereas President George W. Bush, distinguished leader of our great Nation, stated "Ethical values are the foundation for civilized society. A society that fails to recognize or adhere to them cannot endure.";

Whereas these ethical values and principles have been the cornerstone of society since the dawn of civilization when they were known as the Seven Noahide Laws;

Whereas the Government of the United States and its citizens are committed to the ideals of social equality and the right of each and every person to share in the bounty the world has to offer—ideals deeply rooted in our Nation's history and boldly affirmed by the miraculous changes of the past year;

Whereas our Nation has recently witnessed the beginning triumph of these values through wonders around the world of biblical proportions;

Whereas the end of the Cold War heralds the beginning of an era where individual rights and human dignity become paramount and where the dream of a world in which material and spiritual deprivation is replaced by human kindness and compassion becomes a reality;

Whereas the absolute necessity of mutual responsibility and concern for the needy has been of particular concern to "the Rebbe", Rabbi Menachem M. Schneerson, leader of the Lubavitch movement;

Whereas the Lubavitch movement, through the establishment of over 1,000 social welfare and educational institutions throughout the world under the leadership of "the Rebbe", has long supported and promoted dedication to education and selfless concern for others;

Whereas Rabbi Menachem M. Schneerson has recently issued a worldwide call for a revitalized dedication to loving kindness, charity, and sharing between man and his fellow man;

Whereas Rabbi Menachem M. Schneerson is universally revered by all faiths, respected as spiritual leader of world Jewry, and his 90th birthday falls on April 14, 1992;

Whereas in tribute to this great spiritual leader, "the Rebbe", his birthday will be designated as "Education and Sharing Day U.S.A." and this year, his 91st, will mark a new beginning in an age-old commitment to education, accompanied by an increase in general acts of sharing with another, in order to return the world to the moral and ethical values contained in the Seven Noahide Laws; and

Whereas this will be reflected in an international scroll of honor signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 14, 1992, the birthday and the start of the 91st year of Rabbi Menachem Mendel Schneerson, leader of the worldwide Lubavitch movement, is designated as "Education and Sharing Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 13, 1992.

LEGISLATIVE HISTORY—H.J. Res. 410 (S.J. Res. 279):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 11, considered and passed House.
Apr. 1, considered and passed Senate.

Public Law 102-269
102d Congress

Joint Resolution

Apr. 15, 1992
[S.J. Res. 246]

To designate April 15, 1992 as "National Recycling Day".

Whereas the United States generates over 180 million tons of municipal solid waste each year—almost double the amount produced in 1965, and amounting to about 4 pounds per person per day—and the amount is expected to increase to 216 million tons of garbage annually by the year 2000;

Whereas the continued generation of enormous volumes of solid waste each year presents unacceptable threats to human health and the environment;

Whereas the Environmental Protection Agency expects that 27 States will run out of landfill capacity for municipal solid waste within 5 years and that a large percentage of currently operating landfills will close by the year 2000 either because they are filled or because their design and operation do not meet Federal or State standards for protection of human health and the environment, requiring that waste now disposed of in these facilities will have to be disposed through other means;

Whereas a significant amount of waste can be diverted from disposal by the utilization of source separation, mechanical separation and community-based recycling programs;

Whereas recycling can save energy, reduce our dependence on foreign oil, has substantial materials conservation benefits and can prevent the pollution created from extracting resources from their natural environment;

Whereas the revenues recovered by recycling programs offset the costs of solid waste management and some communities have established recycling programs which provide significant economic benefits to members of the community;

Whereas the current level of municipal solid waste recycling in the United States is low, although some communities have set a much higher rate;

Whereas to reach a goal of increased recycling, more materials need to be separated, collected, processed, marketed and manufactured into new products;

Whereas a well-developed system exists for recycling scrap metals, aluminum cans, glass and metal containers, paper and paperboard, and is reducing the quantity of waste entering landfills or incinerators and saving manufacturers energy costs;

Whereas recycling of plastics is in the early stages of development and considerable market potential exists to increase the recycling;

Whereas yard and food waste is an important part of municipal solid waste and a large potential exists for mulching and composting the waste which would save both landfill space and nourish soil, but only small amounts of this material is currently being recycled;

Whereas Federal, State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;

Whereas Federal, State and local governments should encourage the development of markets for recyclable goods;

Whereas Federal, State and local governments should promote the design of products that can be recycled safely and efficiently;

Whereas the success of recycling programs depends on the ability of informed consumers and businesses to make decisions regarding recycling and recycled products and to participate in recycling programs; and

Whereas the people of the United States should be encouraged to participate in educational, organizational and legislative endeavors that promote waste separation methods, community-based recycling programs and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 15, 1992, is designated as "National Recycling Day". The President of the United States is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved April 15, 1992.

LEGISLATIVE HISTORY—S.J. Res. 246:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 27, considered and passed Senate.
Apr. 8, considered and passed House.

Public Law 102-270
102d Congress

Joint Resolution

Apr. 16, 1992
[S.J. Res. 271]

Expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process.

Whereas the civil war in Liberia, begun in December 1989, has devastated that country, killing an estimated 25,000 civilians and forcing hundreds of thousands of Liberians to flee their homes;

Whereas in an effort to end the fighting, the parties to the Liberian conflict and the leaders of the West African states signed a peace accord in Yamoussoukro, Cote d'Ivoire on October 30, 1991;

Whereas this agreement sets in motion a peace process, including the encampment and disarmament of the fighters and culminating in the holding of free and fair elections;

Whereas despite several difficulties, this peace process continues to proceed largely on track, including the recent opening of roads in Liberia and the initiation of the political campaigns by several parties; and

Whereas the election process outlined in the Yamoussoukro agreement is essential for reestablishing peace, democracy and reconciliation in Liberia, and limited United States assistance could play an important role in promoting this process: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress—

22 USC 2151 note.

(1) strongly supports the peace process for Liberia initiated by the Yamoussoukro peace accord;

(2) urges all parties to abide by the terms of the Yamoussoukro agreement;

(3) commends and congratulates the governments of the Economic Community of West African States (ECOWAS) for their leadership in seeking peace in Liberia; and

(4) extends particularly praise to President Babangida of Nigeria, President Houphouet-Boigny of Cote d'Ivoire, and President Diouf of Senegal for their efforts to resolve this conflict.

President.

(b) AUTHORIZATION OF LIMITED ASSISTANCE.—Notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision, the President is authorized to provide—

(1) nonpartisan election and democracy-building assistance to support democratic institutions in Liberia, and

(2) assistance for the resettlement of refugees, the demobilization and retraining of troops, and the provision of other appropriate assistance to implement the Yamoussoukro peace accord:

Provided, That the President determines and so certifies to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives

that Liberia has made significant progress toward democratization and that the provision of such assistance will assist that country in making further progress and is otherwise in the national interest of the United States. A separate determination and certification shall be required for each fiscal year in which such assistance is to be provided.

Approved April 16, 1992.

LEGISLATIVE HISTORY—S.J. Res. 271:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 13, considered and passed Senate.
Apr. 7, considered and passed House.

Public Law 102-271
102d Congress

An Act

Apr. 20, 1992
[S. 606]

To amend the Wild and Scenic Rivers Act by designating certain segments of the Allegheny River in the Commonwealth of Pennsylvania as a component of the National Wild and Scenic Rivers System, and for other purposes.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF ALLEGHENY RIVER.

16 USC 1274 note.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Allegheny River in the Commonwealth of Pennsylvania, and to assist in the protection, preservation, and enhancement of the fisheries resources associated with such river, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) ALLEGHENY, PENNSYLVANIA.—The segment from Kinzua Dam downstream approximately 7 miles to the United States Route 6 Bridge, and the segment from Buckaloons Recreation Area at Irvine, Pennsylvania, downstream approximately 47 miles to the southern end of Alcorn Island at Oil City, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and the counties of Warren, Forest, and Venango, as provided under section 10(e) of this Act; and the segment from the sewage treatment plant at Franklin downstream approximately 31 miles to the refinery at Emlenton, Pennsylvania, to be administered by the Secretary of Agriculture as a recreational river through a cooperative agreement with the Commonwealth of Pennsylvania and Venango County, as provided under section 10(e) of this Act.".

16 USC 1274 note.

SEC. 2. ADVISORY COUNCILS FOR THE ALLEGHENY NATIONAL RECREATIONAL RIVER.

(a) ESTABLISHMENT.—The Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall establish within 120 days after the date of enactment of this Act 2 advisory councils to advise him on the establishment of final boundaries and the management of the river segments designated by section 1 of this Act (hereinafter referred to as the "Allegheny National Wild and Scenic River"), as follows:

(1) The Northern Advisory Council, to provide advice for the management of the segments of the Allegheny National Wild and Scenic River between Kinzua Dam and Alcorn Island.

(2) The Southern Advisory Council, to provide advice for the management of the segment of the Allegheny National Wild and Scenic River between Franklin and Emlenton.

(b) NORTHERN ADVISORY COUNCIL.—(1) The Northern Advisory Council shall be composed of 9 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as chair of the Council and be a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee.

(C) 6 members, 2 from each county from recommendations submitted by the County Commissioners of Warren, Forest, and Venango Counties, of which no fewer than 2 such members shall be riparian property owners along the Allegheny National Wild and Scenic River.

(D) One member from a nonprofit conservation organization concerned with the protection of natural resources from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy in the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Northern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

(4) The Northern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River. Termination date.

(c) SOUTHERN ADVISORY COUNCIL.—(1) The Southern Advisory Council shall be composed of 7 members appointed by the Secretary as follows:

(A) The Forest Supervisor of the Allegheny National Forest, or his designee, who shall serve as a nonvoting member.

(B) The Secretary of the Department of Environmental Resources of the Commonwealth of Pennsylvania, or his designee, who shall serve as chairman.

(C) 4 members from recommendations submitted by the County Commissioners of Venango County, of which at least one shall be a riparian property owner along the Allegheny National Wild and Scenic River.

(D) One member from a nonprofit conservation organization concerned with the protection of natural resources, from recommendations submitted by the Governor of the Commonwealth of Pennsylvania.

(2) Members appointed under subparagraphs (C) and (D) of paragraph (1) shall be appointed for terms of 3 years. A vacancy of the county representatives on the Council shall be filled in the manner in which the original appointment was made.

(3) Members of the Southern Advisory Council shall serve without pay as such and members who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission. Each member shall be entitled to reimbursement for expenses reasonably incurred in carrying out their responsibilities under this Act.

Termination date.

(4) The Southern Advisory Council shall cease to exist 10 years after the date on which the Secretary approves the management plan for the Allegheny National Recreation River.

16 USC 1274 note.

SEC. 3. ADMINISTRATION OF ALLEGHENY NATIONAL WILD AND SCENIC RIVER.

(a) BOUNDARIES.—After consultation with the Commonwealth of Pennsylvania, advisory councils, local governments, and the public, and within 18 months after the enactment of this Act, the Secretary shall take such action with respect to the segments of the Allegheny River designated under section 1 of this Act as is required under section 3(b) of the Wild and Scenic Rivers Act.

(b) INTERIM MEASURES.—As soon as practicable after enactment of this Act, the Secretary, shall issue guidelines specifying standards for local zoning ordinances, pursuant to section 6(c) of the Wild and Scenic Rivers Act, with the objective of protecting the outstandingly remarkable values of the Allegheny Wild and Scenic River, as defined by the Secretary. Once issued, such guidelines shall have the force and effect provided in section 6(c) of the Wild and Scenic Rivers Act.

Public lands. Minerals and mining.

(c) ADMINISTRATION OF CERTAIN SEGMENTS.—(1) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segments located between Kinzua Dam and Alcorn Island shall be added to and become part of the Allegheny National Forest.

(2) Land and mineral rights acquired by the Secretary for the purpose of managing the Allegheny National Wild and Scenic River segment located between Franklin and Emlenton may be managed under a cooperative agreement with the Commonwealth of Pennsylvania.

SEC. 5. STUDY RIVERS.

16 USC 1276.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1271–1287) is amended by adding the following new paragraphs at the end thereof:

"( ) CLARION, PENNSYLVANIA.—The segment of the main stem of the river from Ridgway to its confluence with the Allegheny River. The Secretary of Agriculture shall conduct the study of such segment.

"( ) MILL CREEK, JEFFERSON AND CLARION COUNTIES, PENNSYLVANIA.—The segment of the main stem of the creek from its headwaters near Gumbert Hill in Jefferson County, downstream to the confluence with the Clarion River.".

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1274 note.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved April 20, 1992.

LEGISLATIVE HISTORY—S. 606 (H.R. 1323):

HOUSE REPORTS: No. 102-87 accompanying H.R. 1323 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-232 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 3, H.R. 1323 considered and passed House.
Nov. 26, S. 606 considered and passed Senate.
Vol. 138 (1992): Feb. 18, 19, considered and passed House, amended.
Apr. 8, Senate concurred in House amendment.

Public Law 102-272
102d Congress

An Act

Apr. 21, 1992
[H.R. 3686]

To amend title 28, United States Code, to make changes in the places of holding court in the Eastern District of North Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 113(a) of title 28, United States Code, is amended—

(1) by striking "Clinton," and "Washington,"; and

(2) by inserting "Greenville," after "Fayetteville,".

Approved April 21, 1992.

LEGISLATIVE HISTORY—H.R. 3686:

HOUSE REPORTS: No. 102-369 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): Apr. 8, considered and passed Senate.

Public Law 102-273
102d Congress

An Act

To authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

Apr. 21, 1992
[H.R. 4449]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AVAILABILITY OF NEW CONSTRUCTION FUNDS UNDER HOME INVESTMENT PARTNERSHIPS ACT.

Section 217(b)(1)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)(A)) is amended by adding at the end the following new clause:

"(iii) Notwithstanding clauses (i) and (ii), any jurisdiction receiving amounts made available under such clause may, at the discretion of the jurisdiction, use such amounts for other eligible uses in accordance with section 212 if the jurisdiction determines that such use will better meet the housing needs within the jurisdiction. This clause shall be effective only with respect to funds provided under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102-139; 105 Stat. 744), which suspends the requirement of contributions by participating jurisdictions, and shall become ineffective if such requirement is reimposed.".

SEC. 2. USE OF FUNDS RECAPTURED FROM REFINANCING LOCAL FINANCE PROJECTS.

(a) IN GENERAL.—Section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended—

(1) by inserting "or any local government or local housing agency financed project," after "State financed project"; and

(2) by inserting "or the local government or local housing agency initiating the refinancing, as applicable," after "located".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any refinancing of a local government or local housing agency financed project approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992.

42 USC 1437f note.

(c) CONFORMING AMENDMENTS.—The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended—

(1) by striking the section heading for section 1012 (42 U.S.C. 1437f note), and inserting the following new section heading:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.";

and

(2) in the table of contents in section 1(b), by striking the item relating to section 1012 and inserting the following new item:

"Sec. 1012. Use of funds recaptured from refinancing State and local finance projects.".

Approved April 21, 1992.

LEGISLATIVE HISTORY—H.R. 4449:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 17, considered and passed House.
Apr. 8, considered and passed Senate.

Public Law 102-274
102d Congress

An Act

To assure the people of the Horn of Africa the right to food and the other basic necessities of life and to promote peace and development in the region.

Apr. 21, 1992
[S. 985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Horn of Africa Recovery and Food Security Act.
Ethiopia.
Somalia.
Sudan.
Djibouti.
Foreign relations.
22 USC 2151 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Horn of Africa Recovery and Food Security Act".

22 USC 2151 note.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Horn of Africa (the region comprised of Ethiopia, Somalia, Sudan, and Djibouti) is characterized by an extraordinary degree of food insecurity as a result of war, famine, mounting debt, recurrent drought, poverty, and agricultural disruption, as well as gross violations of human rights, political repression, environmental destruction, and the breakdown of such essential services as primary education and health care.

(2) Internal conflict and famine have killed an estimated 2,000,000 people in Ethiopia, Sudan, and Somalia since 1985, and generated another 8,000,000 displaced persons and refugees, a number so high as to make millions wards of the United Nations and the international community. Relief officials now estimate that another 15,000,000 to 20,000,000 people are threatened by starvation as civil war and drought continue to ravage the area.

(3) Governments and armed opposition groups in Ethiopia, Sudan, and Somalia have been guilty of gross violations of human rights, which further erode food security in those countries.

(4) Assistance policies have failed in large part because of political and economic insecurity, which have prevented the development of programs to achieve sustainable development and programs to achieve food security.

(5) Appropriate assistance should promote real food security, which means access by all people at all times to enough food for an active and healthy life and the availability of sufficient income and food to prevent chronic dependency upon food assistance.

(6) The end of the Cold War rivalries in the Horn of Africa affords the United States the opportunity to develop a policy which addresses the extraordinary food security problem in the region.

(7) Notwithstanding other pressing needs, the United States must accordingly fashion a new foreign policy toward the Horn of Africa and cooperate with other major donors and the United Nations—

(A) to develop an emergency relief plan which meets the immediate basic human needs that arise as long as civil strife and famine afflict the region;

(B) to promote immediately cease-fires, secure relief corridors, and an end to these conflicts; and

(C) to provide creative developmental assistance which attacks the root causes of famine and war and assists these nations on the path to long-term security, reconstruction, voluntary repatriation, economic recovery, democracy, and peace, and which targets assistance to assist the poor majority more effectively.

22 USC 2151 note.

SEC. 3. STATEMENT OF POLICY REGARDING INDIVIDUAL COUNTRIES.

(a) ETHIOPIA.—It is the sense of the Congress that the President should—

(1) call upon the authorities who now exercise control over the central government in Ethiopia to protect the basic human rights of all citizens, to release from detention all political prisoners and other detainees who were apprehended by the Mengistu regime, and to facilitate the distribution of international relief and emergency humanitarian assistance throughout the country;

(2) urge all authorities in Ethiopia to make good faith efforts to—

(A) make permanent the cease-fire now in place and to permit the restoration of tranquility in the country, and

(B) make arrangements for a transitional government that is broadly-based, that accommodates all appropriate points of view, that respects human rights, and that is committed to a process of reform leading to the writing of a constitution and the establishment of representative government; and

(3) support efforts to ensure that the people of Eritrea are able to exercise their legitimate political rights, consistent with international law, including the right to participate actively in the determination of their political future, and call upon the authorities in Eritrea to keep open the ports of Mitsiwa and Aseb and to continue to permit the use of those ports for the delivery and distribution of humanitarian assistance to Eritrea and to Ethiopia as a whole.

(b) SOMALIA.—It is the sense of the Congress that the President should—

(1) use whatever diplomatic steps he considers appropriate to encourage a peaceful and democratic solution to the problems in Somalia;

(2) commit increased diplomatic resources and energies to resolving the fundamental political conflicts which underlie the protracted humanitarian emergencies in Somalia; and

(3) ensure, to the maximum extent possible and in conjunction with other donors, that emergency humanitarian assistance is being made available to those in need, and that none of the beneficiaries belong to military or paramilitary units.

(c) SUDAN.—It is the sense of the Congress that the President should—

(1) urge the Government of Sudan and the Sudanese People's Liberation Army to adopt at least a temporary cessation of

hostilities in order to assure the delivery of emergency relief to civilians in affected areas;

(2) encourage active participation of the international community to meet the emergency relief needs of Sudan; and

(3) take steps to achieve a permanent peace.

SEC. 4. HORN OF AFRICA RELIEF AND REHABILITATION PROGRAM. 22 USC 2151 note.

(a) EQUITABLE DISTRIBUTION OF RELIEF AND REHABILITATION ASSISTANCE.—It should be the policy of the United States in promoting equitable distribution of relief and rehabilitation assistance in the Horn of Africa—

(1) to assure noncombatants (particularly refugees and displaced persons) equal and ready access to all food, emergency, and relief assistance and, if relief or relief agreements are blocked by one faction in a region, to continue supplies to the civilian population located in the territory controlled by any opposing faction;

(2) to provide relief, rehabilitation, and recovery assistance to promote self-reliance; and

(3) to assure that relief is provided on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

(b) MAXIMIZING INTERNATIONAL RELIEF EFFORTS.—It should be the policy of the United States in seeking to maximize relief efforts for the Horn of Africa—

(1) to redouble its commendable efforts to secure safe corridors of passage for emergency food and relief supplies in affected areas and to expand its support for the growing refugee population;

(2) to commit sufficient resources under title II of the Agricultural Trade Development and Assistance Act of 1954 (relating to emergency and private assistance programs), and under chapter 9 of part I of the Foreign Assistance Act of 1961 (relating to international disaster assistance), to meet urgent needs in the region and to utilize unobligated security assistance to bolster these resources;

(3) to consult with member countries of the European Community, Japan, and other major donors in order to increase overall relief and developmental assistance for the people in the Horn of Africa;

(4) to lend the full support of the United States to all aspects of relief operations in the Horn of Africa, and to work in support of United Nations and other international and voluntary agencies, in breaking the barriers currently threatening the lives of millions of refugees and others in need; and

(5) to urge the Secretary General of the United Nations to immediately appoint United Nations field coordinators for each country in the Horn of Africa who can act with the Secretary General's full authority.

(c) HORN OF AFRICA CIVIL STRIFE AND FAMINE ASSISTANCE.—

(1) AUTHORIZATION OF ASSISTANCE.—The President is authorized to provide international disaster assistance under chapter 9 of part I of the Foreign Assistance Act of 1961 for civil strife and famine relief and rehabilitation in the Horn of Africa. President.

(2) DESCRIPTION OF ASSISTANCE TO BE PROVIDED.—Assistance pursuant to this subsection shall be provided for humanitarian purposes and shall include—

(A) relief and rehabilitation projects to benefit the poorest people, including—

(i) the furnishing of seeds for planting, fertilizer, pesticides, farm implements, crop storage and preservation supplies, farm animals, and vaccine and veterinary services to protect livestock;

(ii) blankets, clothing, and shelter;

(iii) emergency health care; and

(iv) emergency water and power supplies;

(B) emergency food assistance (primarily wheat, maize, other grains, processed foods, and oils) for the affected and displaced civilian population of the Horn of Africa; and

(C) inland and ocean transportation of, and storage of, emergency food assistance, including the provision of trucks.

Assistance described in subparagraphs (B) and (C) shall be in addition to any such assistance provided under title II of the Agricultural Trade Development and Assistance Act of 1954.

(3) USE OF PVOS FOR RELIEF, REHABILITATION, AND RECOVERY PROJECTS.—Assistance under this subsection should be provided, to the maximum extent possible, through United States, international, and indigenous private and voluntary organizations.

(4) MANAGEMENT SUPPORT ACTIVITIES.—Up to two percent of the amount made available for each fiscal year under paragraph (5) for use in carrying out this subsection may be used by the agency primarily responsible for administering part I of the Foreign Assistance Act of 1961 for management support activities associated with the planning, monitoring, and supervision of emergency humanitarian and food assistance in the Horn of Africa provided under this subsection and subsection (d).

(5) TRANSFER OF SECURITY ASSISTANCE FUNDS.—The authority of section 610 of the Foreign Assistance Act of 1961 may be used to transfer for use in carrying out this subsection, without regard to the 20-percent increase limitation contained in that section, unobligated security assistance funds made available for fiscal year 1992 and 1993. As used in this paragraph, the term "security assistance funds" means funds available for economic support assistance, foreign military financing assistance, or international military education and training.

(d) EMERGENCY FOOD ASSISTANCE.—The President is urged to use the authorities of title II of the Agricultural Trade Development and Assistance Act of 1954 to provide supplemental emergency food assistance for the various civilian victims of civil strife in the Horn of Africa, in accordance with paragraphs (2)(B), (2)(C), and (3) of subsection (c), in addition to the assistance otherwise provided for such purposes.

22 USC 2151 note.

SEC. 5. HORN OF AFRICA PEACE INITIATIVE.

(a) SUPPORT FOR GRASSROOTS PARTICIPATION.—It shall be the policy of the United States in promoting peace and development in the Horn of Africa—

(1) to support expanded pluralistic and popular participation, the process by which all groups of people are empowered to involve themselves directly in creating the structures, policies,

and programs to contribute to equitable economic development, and to local, national, and regional peace initiatives;

(2) to ensure that all citizens enjoy the protection of civil, political, economic, social, religious, and cultural rights, an independent judiciary, and representative governmental institutions, regardless of gender, religion, ethnicity, occupation, or association; and

(3) to provide assistance to indigenous nongovernmental institutions that carry out activities in government-controlled or opposition-controlled territories and have the capacity or potential to promote conflict resolution, to advance development programs, or to carry out relief activities such as those described in section 4(c)(2).

(b) CONSULTATIONS.—The President is encouraged to undertake immediate consultations with appropriate countries, with armed and unarmed parties in the Horn of Africa, and with the Secretary General of the United Nations, in order to bring about negotiated settlements of the armed conflicts in the Horn of Africa.

(c) MECHANISMS.—It is the sense of the Congress that the President should—

(1) direct the United States Representative to the United Nations to—

(A) urge the Secretary General of the United Nations to make cease-fires, safe corridors for emergency relief, and negotiated settlements of the armed conflicts in the Horn of Africa a high and urgent priority;

(B) propose that the United Nations Security Council establish a United Nations arms embargo to end the supply of arms to the region, pending the resolution of civil wars and other armed conflicts; and

(C) pledge diplomatic and material resources for enhanced United Nations peacekeeping and peacemaking activities in the region, including monitoring of cease-fires;

(2) play an active and ongoing role in other fora in pressing for negotiated settlements to armed conflicts in the Horn of Africa; and

(3) support and participate in regional and international peace consultations that include broad representation from the countries and factions concerned.

SEC. 6. HORN OF AFRICA FOOD SECURITY AND RECOVERY STRATEGY. 22 USC 2151 note.

(a) TARGETING ASSISTANCE TO AID THE POOR MAJORITY; USE OF PVOS AND INTERNATIONAL ORGANIZATIONS.—

(1) TARGETING ASSISTANCE.—United States developmental assistance for the Horn of Africa should be targeted to aid the poor majority of the people of the region (particularly refugees, women, the urban poor, and small-scale farmers and pastoralists) to the maximum extent practicable. United States Government aid institutions should seek to—

(A) build upon the capabilities and experiences of United States, international, and indigenous private and voluntary organizations active in local grassroots relief, rehabilitation, and development efforts;

(B) consult closely with such organizations and significantly incorporate their views into the policymaking process; and

(C) support the expansion and strengthening of their activities without compromising their private and independent nature.

(2) PVOs AND INTERNATIONAL ORGANIZATIONS.—While support from indigenous governments is crucial, sustainable development and food security in the Horn of Africa should be enhanced through the active participation of indigenous private and voluntary organizations, as well as international private and voluntary organizations, and international organizations that have demonstrated their ability to work as partners with local nongovernmental organizations and are committed to promoting local grassroots activities on behalf of long-term development and self-reliance in the Horn of Africa.

(3) POLICY ON ASSISTANCE TO GOVERNMENTS.—United States assistance should not be provided to the Government of Ethiopia, the Government of Somalia, or the Government of Sudan until concrete steps toward peace, democracy, and human rights are taken in the respective country.

(4) SUPPORT FOR PVOS.—Meanwhile, the United States should provide developmental assistance to those countries by supporting United States, indigenous, and international private and voluntary organizations working in those countries. Such assistance should be expanded as quickly as possible.

(b) EXAMPLES OF PROGRAMS.—Assistance pursuant to this section should include programs to—

(1) reforest and restore degraded natural areas and reestablish resource management programs;

(2) reestablish veterinary services, local crop research, and agricultural development projects;

(3) provide basic education, including efforts to support the teaching of displaced children, and rebuild schools;

(4) educate young people outside of their countries if conflict within their countries continues;

(5) reconstitute and expand the delivery of primary and maternal health care; and

(6) establish credit, microenterprise, and income generation programs for the poor.

(c) VOLUNTARY RELOCATION AND REPATRIATION.—Assistance pursuant to this section should also be targeted to the voluntary relocation and voluntary repatriation of displaced persons and refugees after peace has been achieved. Assistance pursuant to this Act may not be made available for any costs associated with any program of involuntary or forced resettlement of persons.

(d) DEBT RELIEF; INTERNATIONAL FUND FOR RECONSTRUCTION.—Developmental assistance for the Horn of Africa should be carried out in coordination with long-term strategies for debt relief of countries in the region and with emerging efforts to establish an international fund for reconstruction of developing countries which settle civil wars within their territories.

(e) ASSISTANCE THROUGH PVOs AND INTERNATIONAL ORGANIZATIONS.—Unless a certification has been made with respect to that country under section 8, development assistance and assistance from the Development Fund for Africa for Ethiopia, Somalia, and Sudan shall be provided only through—

(1) United States, international, and indigenous private and voluntary organizations (as the term "private and voluntary

organization" is defined in section 496(e)(2) of the Foreign Assistance Act of 1961); or

(2) through international organizations that have demonstrated effectiveness in working in partnership with local nongovernmental organizations and are committed to the promotion of local grassroots activities on behalf of development and self-reliance in the Horn of Africa (such as the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program).

This subsection does not prohibit the organizations referred to in paragraphs (1) and (2) from working with appropriate ministries or departments of the respective governments of such countries.

(f) WAIVER OF RESTRICTIONS.—Assistance pursuant to this section may be made available to Ethiopia, Somalia, and Sudan notwithstanding any provision of law (other than the provisions of this Act) that would otherwise restrict assistance to such countries.

(g) UNITED STATES VOLUNTARY CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS FOR DEVELOPMENTAL ASSISTANCE FOR THE HORN OF AFRICA.—It should be the policy of the United States to provide increasing voluntary contributions to United Nations agencies (including the United Nations Children's Fund, the International Fund for Agricultural Development, the United Nations High Commissioner for Refugees, the United Nations Development Program, and the World Food Program) for expanded programs of assistance for the Horn of Africa and for refugees from the Horn of Africa who are in neighboring countries.

(h) DEVELOPMENTAL ASSISTANCE AUTHORITIES.—Developmental assistance to carry out this section shall be provided pursuant to the authorities of chapter 1 of part I (relating to development assistance) and chapter 10 of part I (relating to the Development Fund for Africa) of the Foreign Assistance Act of 1961.

SEC. 7. PROHIBITIONS ON SECURITY ASSISTANCE TO ETHIOPIA, SOMALIA, AND SUDAN. 22 USC 2151 note.

(a) PROHIBITION.—Economic support assistance, foreign military financing assistance, and international military education and training may not be provided for fiscal year 1992 or 1993 for the Government of Ethiopia, the Government of Somalia, or the Government of Sudan unless the President makes the certification described in section 8 with respect to that government.

(b) ASSISTANCE FOR ETHIOPIA; CONDITIONAL WAIVER OF BROOKE-ALEXANDER AMENDMENT.—If the President makes the certification described in section 8 with respect to the Government of Ethiopia, the President may provide economic support assistance, foreign military financing assistance, and international military education and training for Ethiopia for fiscal years 1992 and 1993 notwithstanding section 620(q) of the Foreign Assistance Act of 1961 or any similar provision.

SEC. 8. CERTIFICATION. President. 22 USC 2151 note.

The certification required by sections 6(e) and 7 is a certification by the President to the appropriate congressional committees that the government of the specified country—

(1) has begun to implement peace agreements, national reconciliation agreements, or both;

(2) has demonstrated a commitment to human rights within the meaning of sections 116 and 502B of the Foreign Assistance Act of 1961;

(3) has manifested a commitment to democracy, has held or established a timetable for free and fair elections, and has agreed to implement the results of those elections; and

(4) in the case of a certification for purposes of section 6(e), has agreed to distribute developmental assistance on the basis of need without regard to political affiliation, geographic location, or the ethnic, tribal, or religious identity of the recipient.

President. 22 USC 2151 note.

SEC. 9. REPORTING REQUIREMENT.

Not later than 180 days after the date of enactment of this Act and each 180 days thereafter, the President shall submit a report to the appropriate congressional committees on the efforts and progress made in carrying out this Act.

22 USC 2151 note.

SEC. 10. DEFINITIONS.

As used in this Act—

(1) the term "appropriate congressional committees" means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

(2) the term "assistance from the Development Fund for Africa" means assistance under chapter 10 of part I of the Foreign Assistance Act of 1961;

(3) the term "development assistance" means assistance under chapter 1 of part I of the Foreign Assistance Act of 1961;

(4) the term "economic support assistance" means assistance under chapter 4 of part II of the Foreign Assistance Act of 1961;

(5) the term "foreign military financing assistance" means assistance under section 23 of the Arms Export Control Act; and

(6) the term "international military education and training" means assistance under chapter 5 of part II of the Foreign Assistance Act of 1961.

Approved April 21, 1992.

LEGISLATIVE HISTORY—S. 985:

CONGRESSIONAL RECORD:
Vol. 137 (1991): July 16, considered and passed Senate.
Vol. 138 (1992): Apr. 7, considered and passed House, amended.
Apr. 8, Senate concurred in House amendment.

Public Law 102-275
102d Congress

An Act

To amend the Wild and Scenic Rivers Act by designating certain rivers in the State of Arkansas as components of the National Wild and Scenic Rivers System, and for other purposes.

Apr. 22, 1992
[S. 1743]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arkansas Wild and Scenic Rivers Act of 1992.
Conservation.
16 USC 1271 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas Wild and Scenic Rivers Act of 1992".

SEC. 2. WILD, SCENIC, AND RECREATIONAL RIVER DESIGNATIONS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraphs:

"( ) BIG PINEY CREEK, ARKANSAS.—The 45.2-mile segment from its origin in section 27, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture as a scenic river.

"( ) BUFFALO RIVER, ARKANSAS.—The 15.8-mile segment from its origin in section 22, township 14 north, range 24 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 6.4-mile segment from its origin in section 22, township 14 north, range 24 west, to the western boundary of the Upper Buffalo Wilderness, as a scenic river.

"(B) The 9.4-mile segment from the western boundary of the Upper Buffalo Wilderness to the Ozark National Forest boundary, as a wild river.

"( ) COSSATOT RIVER, ARKANSAS.—Segments of the main stem and certain tributaries, totaling 20.1 miles, to be administered as follows:

"(A) The 4.2-mile segment of the main stem from its confluence with Mine Creek to the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a recreational river.

"(B) The 6.9-mile segment of the main stem from the Caney Creek Wilderness Boundary on the north section line of section 13, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river.

"(C) The 4.4-mile segment of the Brushy Creek tributary from the north line of the south ½ of the southeast ¼ of section 7, township 4 south, range 30 west, to the south section line of section 20, township 4 south, range 30 west, to be administered by the Secretary of Agriculture as a scenic river.

"(D) The 4.6-mile segment of the main stem from the State Highway 4 bridge to Duchett's Ford, to be administered by the Secretary of the Army as a scenic river consistent with

the operation of Gillham Dam (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)). For purposes of management of such segment, the Secretary of the Army may enter into a cooperative agreement or memorandum of understanding or other appropriate arrangement with the Secretary of Agriculture or an appropriate official of the State of Arkansas.

"( ) HURRICANE CREEK, ARKANSAS.—The 15.5-mile segment from its origin in section 1, township 13 north, range 21 west, to its confluence with Big Piney Creek, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.8-mile segment from its origin in section 1, township 13 north, range 21 west, to the western boundary of the private land bordering Hurricane Creek Wilderness, as a scenic river.

"(B) The 2.4-mile segment from the western boundary of the private land bordering the Hurricane Creek Wilderness to the Hurricane Creek Wilderness boundary, as a wild river.

"(C) The 1.3-mile segment from the Hurricane Creek Wilderness boundary to its confluence with Big Piney Creek, as a scenic river.

"( ) LITTLE MISSOURI RIVER, ARKANSAS.—Segments totaling 15.7 miles, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 11.3-mile segment from its origin in the northwest ¼ of section 32, township 3 south, range 28 west, to the west section line of section 22, township 4 south, range 27 west, as a scenic river.

"(B) The 4.4-mile segment from the north line of the southeast ¼ of the southeast ¼ of section 28, township 4 south, range 27 west, to the north line of the northwest ¼ of the southwest ¼ of section 5, township 5 south, range 27 west, as a wild river.

"( ) MULBERRY RIVER, ARKANSAS.—The 56.0-mile segment from its origin in section 32, township 13 north, range 23 west, to the Ozark National Forest boundary, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 36.6-mile segment from its origin in section 32, township 13 north, range 23 west, to Big Eddy Hollow in section 3, township 11 north, range 27 west, as a recreational river.

"(B) The 19.4-mile segment from Big Eddy Hollow in section 3, township 11 north, range 27 west, to the Ozark National Forest boundary, as a scenic river.

"( ) NORTH SYLAMORE CREEK, ARKANSAS.—The 14.5-mile segment from the Clifty Canyon Botanical Area boundary to its confluence with the White River, to be administered by the Secretary of Agriculture as a scenic river.

"( ) RICHLAND CREEK, ARKANSAS.—The 16.5-mile segment from its origin in section 35, township 13 north, range 20 west, to the northern boundary of section 32, township 14 north, range 18 west, to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7.8-mile segment from its origin in section 35, township 13 north, range 20 west, to the western boundary of the Richland Creek Wilderness, as a scenic river.

"(B) The 5.3-mile segment from the western boundary of the Richland Creek Wilderness to the eastern boundary of the Richland Creek Wilderness, as a wild river.

"(C) The 3.4-mile segment from the eastern boundary of the Richland Creek Wilderness to the northern boundary of section 32, township 14 north, range 18 west, as a scenic river.".

SEC. 3. FEDERAL PROTECTION FOR STATE DESIGNATED RIVERS.

16 USC 1274 note.

(a) IN GENERAL.—The river segments described in subsection (b) are designated as components of the National Wild and Scenic Rivers System to be managed by the State of Arkansas in accordance with the requirements for rivers included in the National Wild and Scenic Rivers System pursuant to section 2(a)(ii) of the Wild and Scenic Rivers Act (16 U.S.C. 1273(a)(ii)).

(b) RIVER SEGMENTS.—The river segments referred to in subsection (a) are—

(1) the 10.4-mile segment of the Cossatot River from the Forest Proclamation Boundary to the intersection with State Highway 4; and

(2) the 0.3-mile segment of the Brushy Creek tributary from the Forest Proclamation Boundary to its confluence with the Cossatot River.

SEC. 4. SAVINGS PROVISION.

Nothing in this Act is intended to prohibit the Secretary of the Army from—

(1) operating Gillham Lake, including lake levels and releases, in a manner consistent with the Gillham project (as authorized by section 203 of the Flood Control Act of 1958 (Public Law 85–500)); or

(2) establishing a public use area for float trip termination at the confluence of the Cossatot River with Gillham Lake.

Approved April 22, 1992.

LEGISLATIVE HISTORY—S. 1743:

HOUSE REPORTS: No. 102-473 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-210 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed Senate.
Vol. 138 (1992): Mar. 30, considered and passed House, amended.
Apr. 8, Senate concurred in House amendments.

Public Law 102-276
102d Congress

An Act

Apr. 28, 1992
[H.R. 4572]

To direct the Secretary of Health and Human Services to grant a waiver of the requirement limiting the maximum number of individuals enrolled with a health maintenance organization who may be beneficiaries under the medicare or medicaid programs in order to enable the Dayton Area Health Plan, Inc., to continue to provide services through January 1994 to individuals residing in Montgomery County, Ohio, who are enrolled under a State plan for medical assistance under title XIX of the Social Security Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPLICABILITY OF ENROLLMENT MIX REQUIREMENT TO CERTAIN HEALTH MAINTENANCE ORGANIZATIONS PROVIDING SERVICES UNDER DAYTON AREA HEALTH PLAN.

(a) HEALTH PLAN NETWORK.—With respect to the unincorporated association affiliated with the Dayton Area Health Plan, Inc., that is known as the Health Plan Network, the Secretary of Health and Human Services (hereafter referred to as the "Secretary") shall waive the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act for the period described in section 2.

(b) DAYMED, INC.—

(1) IN GENERAL.—Subject to paragraph (2), for purposes of determining the compliance of the DAYMED Health Maintenance Plan, Inc., with the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act for the period described in section 2, the Secretary may not treat individuals enrolled with the Plan who are described in section 1902(l)(1)(D) of such Act as individuals enrolled with the Plan on a prepaid basis.

(2) LIMITATION ON NUMBER OF INDIVIDUALS EXEMPTED.—The number of individuals enrolled with the DAYMED Health Maintenance Plan, Inc., whom the Secretary may not treat as individuals enrolled with the Plan on a prepaid basis pursuant to paragraph (1) may not exceed 4,000.

SEC. 2. PERIOD OF APPLICABILITY.

The period referred to in subsections (a) and (b)(1) of section 1 is the period that begins on May 1, 1992, and ends on January 31, 1994.

Approved April 28, 1992.

LEGISLATIVE HISTORY—H.R. 4572:

HOUSE REPORTS: No. 102-494 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 9, considered and passed House.
Apr. 10, considered and passed Senate.

Public Law 102-277
102d Congress

Joint Resolution

Approving the location of a memorial to George Mason.

Apr. 28, 1992
[H.J. Res. 402]

Whereas Public Law 99–652 (40 U.S.C. 1003 et seq.), entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless the location is approved by law not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in Area I;

Whereas Public Law 101–358 (104 Stat. 419) authorized the Board of Regents of Gunston Hall to establish, in accordance with the provisions of Public Law 99–652, a memorial on Federal land in the District of Columbia to honor George Mason; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by Public Law 101–358 should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a memorial to honor George Mason, authorized by Public Law 101–358, within the area described as Area I in Public Law 99–652, is hereby approved.

40 USC 1003 note.

Approved April 28, 1992.

LEGISLATIVE HISTORY—H.J. Res. 402:

HOUSE REPORTS: No. 102-472 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 30, considered and passed House.
Apr. 10, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Apr. 28, Presidential statement.

Public Law 102-278
102d Congress

Joint Resolution

May 9, 1992
[S.J. Res. 174]

Designating the month of May 1992, as "National Amyotrophic Lateral Sclerosis Awareness Month".

Whereas over 300,000 people alive today will eventually die from Amyotrophic Lateral Sclerosis ("ALS"), commonly known as "Lou Gehrig's Disease", which afflicts the motor-neuron system of the human body;

Whereas at least 5,000 people will be diagnosed this year as having ALS, or an average of 13 cases per day;

Whereas there is still no known cause or cure for ALS despite the fact that the disease was discovered in 1869;

Whereas victims of this disease may lose total movement of their arms, legs, fingers, and toes, as well as the ability to speak, swallow, or breathe;

Whereas ALS patients have an average life expectancy of between 2 and 5 years after being diagnosed as having the disease;

Whereas wheelchairs, respirators, and feeding tubes are often necessary to assist those who outlive the average life expectancy;

Whereas the National Institutes of Health have found that victims of ALS are increasingly younger, with many in their 20's and 30's, and some mere teenagers;

Whereas ALS strikes people regardless of race, sex, age, or ethnicity;

Whereas the number of male victims of ALS under the age of 50 equals the number of female victims, but over the age of 50, male victims outnumber female victims by a ratio of 3 to 1;

Whereas finding the causes of, and the cure for, ALS will prevent the disease from robbing hundreds of thousands of Americans of their dignity and lives;

Whereas 1992 marks the 51st anniversary of the death of one of America's greatest baseball players, Lou Gehrig, for whom the disease was named; and

Whereas raising public awareness of this disease will facilitate the discovery of a cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1992, is designated as "National Amyotrophic Lateral Sclerosis Awareness Month". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

Approved May 9, 1992.

LEGISLATIVE HISTORY—S.J. Res. 174:

CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 1, considered and passed Senate.
Vol. 138 (1992): Apr. 30, considered and passed House.

59-194 O—93——6 : QL 3 (Pt. 1)

Public Law 102-279
102d Congress

Joint Resolution

May 9, 1992
[S.J. Res. 222]

To designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians".

Whereas 1992 will be recognized as the quincentennial anniversary of the arrival of Christopher Columbus to this continent;

Whereas this 500th anniversary offers an opportunity for the United States to honor the indigenous peoples of this continent;

Whereas strife between American Indian and non-Indian cultures is of grave concern to the people of the United States;

Whereas in the past, improvement in cultural understanding has been achieved by individuals who have striven to understand the differences between cultures and to educate others;

Whereas a national effort to develop trust and respect between American Indians and non-Indians must include participation from the private and public sectors, churches and church associations, the Federal Government, Tribal governments and State governments, individuals, communities, and community organizations;

Whereas mutual trust and respect provides a sound basis for constructive change, given a shared commitment to achieving the goals of equal opportunity, social justice and economic prosperity; and

Whereas the celebration of our cultural differences can lead to a new respect for American Indians and their culture among non-Indians: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1992 is designated as the "Year of Reconciliation Between American Indians and non-Indians". The President is authorized and requested to issue a proclamation calling upon the people of the United States, both Indian and non-Indian, to lay aside fears and mistrust of one another, to build friendships, to join together and take part in shared cultural activities, and to strive towards mutual respect and understanding.

Approved May 9, 1992.

LEGISLATIVE HISTORY—S.J. Res. 222:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 17, considered and passed Senate.
Apr. 30, considered and passed House.

Public Law 102-280
102d Congress

Joint Resolution

May 11, 1992
[H.J. Res. 430]

To designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week".

Whereas public employees at every level of government faithfully serve their fellow Americans, and there are now nine million employees in city and county government, four million employees in State government, and over four million Federal civilian and military employees;

Whereas Americans are aware of the many contributions public employees have made to the quality of their lives, in occupations that run the gamut from astronauts to zoologists, including scientists, police officers, teachers, doctors, forest rangers, engineers, food inspectors, researchers, and foreign service agents, among others;

Whereas the Nation should value a professional civil service whose highest principle is one of patriotism, whose foremost commitment is to excellence, and whose experience and expertise are a national resource to be used and respected;

Whereas the millions of workers who serve the Nation are men and women of knowledge, ability, and integrity who deserve to be recognized for their dedicated service; and

Whereas designating a week to honor these employees will provide a dual opportunity to pay tribute to our public employees and to inform the American people about the scope and importance of public service, including the range of employment opportunities available to our young people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 4 through May 10, 1992, is designated as "Public Service Recognition Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved May 11, 1992.

LEGISLATIVE HISTORY—H.J. Res. 430:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed House.
May 5, considered and passed Senate.

Public Law 102-281
102d Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the White House, and for other purposes.

May 13, 1992
[H.R. 3337]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—1992 WHITE HOUSE COMMEMORATIVE COINS

1992 White House Commemorative Coin Act. 31 USC 5112 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "1992 White House Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than five hundred thousand (500,000) one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of such dollar coins shall be emblematic of the White House. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 104. SELECTION OF DESIGN.

The design for each coin authorized by this title shall be selected by the Secretary after consultation with the Curator of the White House, the Commission of Fine Arts, and the White House Historical Association.

SEC. 105. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins.

Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(c) SURCHARGE REQUIRED.—All sales shall include a surcharge of $10 per coin.

SEC. 106. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be available for issue not later than May 1, 1992, but shall be issued only during the 1-year period beginning on such date.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities. Not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title. Nothing in this section shall relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 108. DISTRIBUTION OF SURCHARGES.

The total surcharges received by the Secretary from the sale of the coins issued under this title shall be promptly paid by the Secretary to The White House Endowment Fund (The Fund) to assist The Fund's efforts to raise an endowment to be a permanent source of support for the White House Collection of fine art and historic furnishings, and for the maintenance of the historic public rooms of the White House.

SEC. 109. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of The Fund as may be related to the expenditure of amounts paid under section 108.

SEC. 110. COINAGE PROFIT FUND.

Notwithstanding any provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to The White House Endowment Fund; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 111. FINANCIAL ASSURANCES.

(a) The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 102 shall not result in any net cost to the Federal Government.

(b) No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by

the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE II—WORLD CUP USA 1994 COMMEMORATIVE COINS

World Cup USA 1994 Commemorative Coin Act. 31 USC 5112 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "World Cup USA 1994 Commemorative Coin Act".

SEC. 202. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall issue not more than 750,000 five dollar coins which shall weigh 8.359 grams, have a diameter of 0.850 inches, and shall contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 5,000,000 one dollar coins which shall weigh 26.73 grams, have a diameter of 1.500 inches, and shall contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 5,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 203. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this title from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 204. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of each coin authorized hereunder shall include the official 1994 World Cup logo adopted by World Cup USA 1994, Inc., the organizing committee for the event (hereafter referred to as the "Organizing Committee") and shall reflect the unique appeal of soccer. On each coin authorized hereunder there shall be a designation of the value of the coin, and inscriptions of the words "United States of America", "E Pluribus Unum", "In God We Trust", "Liberty" and "World Cup USA 1994".

(b) DESIGN COMPETITION.—The Director of the United States Mint shall sponsor a nationwide open competition for the design of each coin authorized hereunder beginning not later than 3 months and concluding not later than 9 months after the date of the entitlement of this title. The Director of the United States Mint shall select 10 designs for each coin to be submitted to the Secretary, who shall select the final design for each such coin in consultation with the Organizing Committee.

SEC. 205. SALE OF COINS.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 for the half dollar coins.

(e) WORLD CUP COMMUNITIES.—The Secretary shall use best efforts to market World Cup coins in the United States with particular focus on communities in which World Cup games are held.

(f) INTERNATIONAL SALES.—The Secretary, in cooperation with the Organizing Committee, shall develop an International Marketing Program to promote and sell coins outside the United States.

(g) REPORTS TO CONGRESS.—

(1) REQUIRED.—Not later than 15 days after the last day of each month which begins before January 1, 1996, the Secretary shall submit a report describing in detail the activities carried out under this title to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(2) CONTENTS OF REPORT.—Each report submitted pursuant to paragraph (1) shall include a review of all marketing activities under this section and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

SEC. 206. ISSUANCE OF THE COINS.

(a) PERIOD FOR ISSUANCE.—The coins authorized under this title shall be minted and available for issue no later than January 3, 1994, but shall be issued only during 1994.

(b) PROOF AND UNCIRCULATED COINS.—The coins authorized under this title shall be issued in uncirculated and proof qualities.

(c) BUREAU OF THE MINT.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

SEC. 207. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 208. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to the Organizing Committee.

(b) USE OF PROCEEDS.—Amounts received under subsection (a) shall be used by the Organizing Committee for purposes of organizing and staging the 1994 World Cup, with 10 percent of such funds to be made available through the United States Soccer Federation Foundation, Inc., for distribution to institutions for scholastic scholarships to qualified students.

SEC. 209. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents and other data of the Organizing Committee as may be related to the expenditure of amounts paid under section 208.

SEC. 210. COINAGE PROFIT FUND.

Notwithstanding any other provision of law—

(1) all amounts received from the sale of coins issued under this title shall be deposited in the coinage profit fund;

(2) the Secretary shall pay the amounts authorized under this title from the coinage profit fund to the Organizing Committee; and

(3) the Secretary shall charge the coinage profit fund with all expenditures under this title.

SEC. 211. FINANCIAL ASSURANCES.

(a) NO NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 202 shall not result in any net cost to the Federal Government.

(b) PAYMENT ASSURANCES.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

TITLE III—SILVER MEDALS FOR VETERANS OF THE PERSIAN GULF CONFLICT

Armed Forces. 31 USC 5111 note.

SEC. 301. PURPOSE.

It is the purpose of this title to commemorate the sacrifices made and service rendered to the United States by members of the United States Armed Forces who serve in a combat zone in connection with the Persian Gulf conflict.

SEC. 302. SILVER CONGRESSIONAL COMMEMORATIVE MEDAL.

(a) IN GENERAL.—The Secretary of the Treasury shall design and strike a silver medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in commemoration

of the sacrifices made and service rendered to the United States by members of the United States Armed Forces referred to in section 303(a).

(b) SOURCE OF BULLION.—The Secretary of the Treasury shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.) and such silver shall be furnished to the Secretary at no cost by the custodian of the stockpile.

SEC. 303. ELIGIBILITY TO RECEIVE MEDAL.

(a) IN GENERAL.—Any member of the United States Armed Forces who serves in a combat zone in connection with the Persian Gulf conflict shall be eligible for a silver medal referred to in section 302.

(b) DETERMINATION.—Eligibility under subsection (a) shall be determined by the Secretary of Defense and such Secretary shall establish a list of the names of such eligible individuals before the end of the 120-day period beginning on the date of the entitlement of this title.

(c) NEXT OF KIN.—If any member referred to in subsection (a) is deceased, the next of kin of such member may receive the medal referred to in section 302.

(d) DELIVERY.—The medals struck pursuant to section 302(a) shall be delivered by the Secretary of the Treasury to the Secretary of Defense and the Secretary of Defense shall arrange for the distribution of the medals to the eligible individuals.

SEC. 304. NATIONAL MEDALS.

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 305. DUPLICATE MEDALS.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the silver medal described in section 302 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost of duplicates and the cost of designing and striking the medals under section 302, including labor, materials, dies, use of machinery, and overhead expenses.

(b) PROCEEDS IN EXCESS OF COST TO BE USED TO REDUCE THE NATIONAL DEBT.—Any amount received by the Secretary of the Treasury from the sale of duplicate medals under subsection (a) in excess of the costs described in such subsection shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 306. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

SEC. 307. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing medals under this title will not result in any net cost to the United States Government.

(b) NO EXPENDITURES IN ADVANCE OF RECEIPT OF FUNDS.—The Secretary of the Treasury shall not strike, mint, or distribute the medals described in section 302 until such time as the Secretary certifies that sufficient funds have been received by the Secretary under section 305 or from donations from private persons to ensure that striking, minting, and issuing medals described in section 302 will not result in any net cost to the United States Government.

TITLE IV—CHRISTOPHER COLUMBUS QUINCENTENARY COINS AND FELLOWSHIP FOUNDATION

Frank Annunzio Act.

SEC. 400. SHORT TITLE.

20 USC 5701 note.

This title may be cited as the "Frank Annunzio Act".

Subtitle A—Christopher Columbus Quincentenary Coins

Christopher Columbus Quincentenary Coin Act. 31 USC 5112 note.

SEC. 401. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Quincentenary Coin Act".

SEC. 402. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this subtitle referred to as the "Secretary") shall mint and issue not more than 500,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 404, bear a likeness of Christopher Columbus. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 4,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words

"Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 6,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 404, be emblematic of the quincentenary of the discovery of America. Each half dollar coin shall bear a designation of the value of the coin, an inscription of the year "1992", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this subtitle shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 403. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this subtitle pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this subtitle only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 404. DESIGN OF COINS.

The design for each coin authorized by this subtitle shall be selected by the Secretary after consultation with the Christopher Columbus Fellowship Foundation and the Commission of Fine Arts.

SEC. 405. ISSUANCE OF COINS.

New York.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this subtitle may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this subtitle may be issued in uncirculated and proof qualities, except that not more than one facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality.

(c) PERIOD OF ISSUANCE.—The Secretary may issue the coins minted under this subtitle during the period beginning on January 1, 1992, and ending on June 30, 1993.

SEC. 406. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this subtitle at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this subtitle at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this subtitle prior to the issuance of

such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this subtitle shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 407. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this subtitle will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this subtitle unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

SEC. 408. USE OF SURCHARGES.

(a) IN GENERAL.—The surcharges that are received by the Secretary from the sale of coins minted under this subtitle shall be deposited in the Christopher Columbus Fellowship Fund and be available to the Christopher Columbus Fellowship Foundation.

(b) AUDITS.—The Comptroller General shall have the right to examine such books, records, documents, and other data of the Christopher Columbus Fellowship Foundation as may be related to the expenditure of amounts paid under subsection (a).

SEC. 409. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this subtitle.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this subtitle from complying with any law relating to equal employment opportunity.

SEC. 410. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this subtitle shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall make the deposits of the amounts required under section 408(a) from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this subtitle.

SEC. 411. REPORTS TO CONGRESS.

(a) REQUIRED.—Not later than 15 days after the last day of each month which begins before July 1, 1993, the Secretary shall submit a report describing in detail the activities carried out under this subtitle to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(b) CONTENTS OF REPORT.—Each report submitted pursuant to subsection (a) shall include a review of all marketing activities under section 406 and a financial statement which details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.

Christopher Columbus Fellowship Act.

Subtitle B—Christopher Columbus Fellowship Foundation

20 USC 5701 note.

SEC. 421. SHORT TITLE.

This subtitle may be cited as the "Christopher Columbus Fellowship Act".

20 USC 5701.

SEC. 422. PURPOSE.

The purpose of this subtitle is to establish the Christopher Columbus Fellowship Program to encourage and support research, study, and labor designed to produce new discoveries in all fields of endeavor for the benefit of mankind.

20 USC 5702.

SEC. 423. CHRISTOPHER COLUMBUS FELLOWSHIP FOUNDATION.

(a) ESTABLISHMENT AND PURPOSES.—There is established, as an independent establishment of the executive branch, the Christopher Columbus Fellowship Foundation (hereinafter in this subtitle referred to as the "Foundation").

(b) MEMBERSHIP.—The Foundation shall be subject to the supervision and direction of the Board of Trustees. The Board shall be composed of 13 members as follows:

(1) 2 members appointed by the President in consultation with the President pro tempore of the Senate.

(2) 2 members appointed by the President in consultation with the Minority Leader of the Senate.

(3) 2 members appointed by the President in consultation with the Speaker of the House of Representatives.

(4) 2 members appointed by the President in consultation with the Minority Leader of the House of Representatives.

(5) 5 members appointed by the President.

President.

(c) CHAIRMAN AND VICE CHAIRMAN OF THE FOUNDATION.—The President shall designate a Chairman and a Vice Chairman from among the members appointed by the President.

(d) TERMS OF OFFICE; VACANCIES.—Each member of the Board of Trustees appointed under subsection (b) shall serve for a term of 6 years from the expiration of the term of such member's predecessor, except that—

(1) any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term; and

(2) of the members first appointed—

(A) 4 shall be appointed for a term of 2 years;

(B) 5 shall be appointed for a term of 4 years; and

(C) 4 shall be appointed for a term of 6 years,

as designated by the President.

(e) EXPENSES; NO ADDITIONAL COMPENSATION.—Members of the Board shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Board.

SEC. 424. FELLOWSHIP RECIPIENTS. 20 USC 5703.

(a) AWARD.—The Foundation is authorized to award fellowships to outstanding individuals to encourage new discoveries in all fields of endeavor for the benefit of mankind. Recipients shall be known as "Columbus Scholars".

(b) TERM.—Fellowships shall be granted for such periods as the Foundation may prescribe but not to exceed 2 years.

(c) SELECTION.—The Foundation may provide, directly or by contract, for the conduct of a nationwide competition for the selection of fellowship recipients.

SEC. 425. STIPENDS. 20 USC 5704.

Each person awarded a fellowship under this subtitle shall receive a stipend as determined by the Foundation.

SEC. 426. CHRISTOPHER COLUMBUS FELLOWSHIP FUND. 20 USC 5705.

(a) IN GENERAL.—There is established in the Treasury a fund to be known as the Christopher Columbus Scholarship Fund (hereafter in this subtitle referred to as the "fund"), which shall consist of—

(1) amounts deposited under subsection (d);
(2) obligations obtained under subsection (c);
(3) amounts contributed to the Foundation; and
(4) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Christopher Columbus Quincentenary Coin Act.

(b) INVESTMENTS.—

(1) DUTY OF SECRETARY TO INVEST.—The Secretary of the Treasury shall invest in full any amount appropriated or contributed to the fund.

(2) AUTHORIZED INVESTMENTS.—Investments pursuant to paragraph (1) may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired—

(A) on original issue at the issue price; or
(B) by purchase of outstanding obligations at the market price.

(3) SPECIAL OBLIGATIONS.—The purposes for which obligations of the United States may be issued under chapter 31 of title 31, United States Code, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that, if such average rate is not a multiple of ⅛ of 1 percent, the rate of interest of such special obligations shall be the multiple of ⅛ of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue at the market price, is not in the public interest.

(c) SALE OF OBLIGATIONS.—Any obligations acquired by the fund (except special obligations issued exclusively to the fund in accord-

ance with subsection (b)(3)) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) INTEREST.—The interest on, and the proceeds from, the sale or redemption of any obligations held in the fund shall be credited to and form a part of the fund.

(e) AVAILABILITY OF FUND.—

(1) STIPENDS.—The fund shall be available to the Foundation for payment of stipends awarded under section 425.

(2) EXPENSES.—The Secretary of the Treasury is authorized to pay to the Foundation from the interest and earnings of the funds such sums as the Board determines are necessary and appropriate to enable the Foundation to carry out the provisions of this subtitle.

(f) DISBURSEMENTS.—Disbursements from the fund shall be made on vouchers approved by the Foundation and signed by the Chairman.

20 USC 5706.

SEC. 427. AUDITS.

The activities of the Foundation under this subtitle may be audited by the Comptroller General of the United States. The Comptroller General shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Foundation, pertaining to such activities and necessary to facilitate the audit.

20 USC 5707.

SEC. 428. EXECUTIVE SECRETARY OF FOUNDATION.

(a) DUTIES.—There shall be an Executive Secretary of the Foundation who shall be appointed by the Board. The Executive Secretary shall be the chief executive officer of the Foundation and shall carry out the functions of the Foundation subject to the supervision and direction of the Board.

(b) COMPENSATION.—The Executive Secretary of the Foundation shall be compensated at an annual rate of basic pay not in excess of the amount payable for Executive Level V.

20 USC 5708.

SEC. 429. ADMINISTRATIVE PROVISIONS.

(a) The Foundation may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees (other than the Executive Secretary) be compensated at a rate in excess of the rate of basic pay payable for GS–15 of the General Schedule;

(2) procure temporary and intermittent services of such experts and consultants as are necessary to the extent authorized by section 3109 of title 5, but at rates not in excess of the rate of basic pay payable for Executive Level V;

(3) prescribe such regulations as the Foundation may determine to be necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Foundation; and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

(5) accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses, includ-

ing per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this chapter, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes;

(7) make advances, progress, and other payments which the Board deems necessary under this chapter without regard to the provisions of section 529 of title 31, United States Code;

(8) rent office space;

(9) conduct programs in addition to or in conjunction with the Fellowship program which shall further the Foundation's purpose of encouraging new discoveries in all fields of endeavor for the benefit of mankind; and

(10) to make other necessary expenditures.

(b) ANNUAL REPORT.—The Foundation shall submit to the President and to the Congress an annual report of its operations under this subtitle.

TITLE V—JAMES MADISON COINS

James Madison—Bill of Rights Commemorative Coin Act. 31 USC 5112 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "James Madison—Bill of Rights Commemorative Coin Act".

SEC. 502. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereafter in this title referred to as the "Secretary") shall mint and issue not more than 300,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the five dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 900,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.5 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The obverse design of the one dollar coins shall be emblematic of James Madison, the fourth President of the United States. The reverse design shall be emblematic of James Madison's home, Montpelier, between the years 1751 and 1836.

The Director of the United States Mint shall sponsor a nationwide open competition for the design of the one dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(c) HALF DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 1,000,000 half dollar coins each of which shall—

(A) weigh 12.50 grams;

(B) have a diameter of 30.61 millimeters; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the half dollar silver coins shall be emblematic of the first ten Amendments of the Constitution of the United States, known as the Bill of Rights. The Director of the United States Mint shall sponsor a nationwide open competition for the design of the half dollar coin beginning not later than 3 months after the date of the enactment of this Act. The Director of the United States Mint shall convene the Design Panel established under subsection (e) which shall select 10 designs to be submitted to the Secretary who shall select the final design.

(d) INSCRIPTIONS.—All coins minted and issued under this title shall bear a designation of the value of the coin, an inscription of the year of issue and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(e) DESIGN PANEL.—The Design Panel referred to in subsections (a), (b), and (c) shall consist of the following members:

(1) The Chairperson of the Commission of Fine Arts.

(2) The president of the James Madison Memorial Fellowship Foundation.

(3) The Executive Director, National Numismatic Collection, the Smithsonian Institution.

(4) A representative member of the American Numismatic Association.

(5) A representative member of a national sculpture society or association.

(6) Two representatives of the United States Mint selected by the Director of the United States Mint.

The Secretary shall reimburse the members of the Design Panel for per diem expenses and other official expenses from the revenues received from the sale of the coins. The Design Panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.), and shall terminate following the selection process set forth in subsections (a), (b), and (c).

(f) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 503. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this title pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this title only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 504. ISSUANCE OF COINS.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this title may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York. New York.

(b) ONE DOLLAR COINS AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this title may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The coins authorized and minted under this title may be issued beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this title after December 31, 1993.

SEC. 505. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this title at a price at least equal to the face value, plus the cost of minting and issuing the coins (including labor, materials, overhead, distribution, and promotional expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this title at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this title prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this title shall include a surcharge of $30 per coin for the five dollar coins, $6 per coin for the one dollar coins, and $3 per coin for the half dollar coins.

SEC. 506. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this title will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this title unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

(c) REPORTS TO CONGRESS.—Not later than fifteen days after the last day of each month, the Secretary shall transmit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this title during such month. The report shall include a review of all marketing activities and a financial statement which

details sources of funds, surcharges generated, and expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping. No report shall be required after January 15, 1994.

SEC. 507. DISTRIBUTION OF SURCHARGES.

The surcharges received by the Secretary shall be transmitted promptly to the James Madison Memorial Fellowship Trust Fund established in 1986 by the James Madison Memorial Fellowship Act (20 U.S.C. 4501 et seq.). Such transmitted amounts shall qualify under section 811(a)(2) of that Act as funds contributed from private sources. In accordance with the purposes of the James Madison Fellowship Program, the funds transmitted to the Trust Fund shall be used to encourage teaching and graduate study of the Constitution of the United States, its roots, its formation, its principles, and its development.

SEC. 508. AUDITS.

The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data as may be related to the expenditure of amounts transmitted under section 507 of this title. The expenditures and audit of surcharge funds deposited in the James Madison Memorial Fellowship Trust Fund under section 507 of this title shall be done in accordance with section 812 of the James Madison Memorial Fellowship Act (20 U.S.C. 4511). Annual reports shall be submitted by the Chairman of the James Madison Memorial Fellowship Foundation to both Houses of Congress on all expenditures of surcharge funds.

SEC. 509. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

Approved May 13, 1992.

LEGISLATIVE HISTORY—H.R. 3337:

HOUSE REPORTS: Nos. 102-454 and 102-485 (both from Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed House.
Nov. 27, considered and passed Senate, amended.
Vol. 138 (1992): Feb. 18, 19, House considered and rejected Senate amendment.
Apr. 1, House considered and recommitted conference report.
Apr. 8, House agreed to conference report.
Apr. 28, Senate agreed to conference report.

Public Law 102-282
102d Congress

An Act

To authorize the Secretary of Health and Human Services to impose debarments and to take other action to ensure the integrity of abbreviated drug applications under the Federal Food, Drug, and Cosmetic Act, and for other purposes.

May 13, 1992
[H.R. 2454]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Generic Drug Enforcement Act of 1992.

SECTION 1. SHORT TITLE; REFERENCE; FINDINGS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Generic Drug Enforcement Act of 1992". 21 USC 301 note.

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(c) FINDINGS.—The Congress finds that— 21 USC 335a note.

(1) there is substantial evidence that significant corruption occurred in the Food and Drug Administration's process of approving drugs under abbreviated drug applications,

(2) there is a need to establish procedures designed to restore and to ensure the integrity of the abbreviated drug application approval process and to protect the public health, and

(3) there is a need to establish procedures to bar individuals who have been convicted of crimes pertaining to the regulation of drug products from working for companies that manufacture or distribute such products.

(d) TABLE OF CONTENTS.—

Sec. 1. Short title; reference; findings; table of contents.
Sec. 2. Debarment and other restrictions.
"Sec. 306. Debarment, temporary denial of approval, and suspension.
"(a) Mandatory debarment.
"(b) Permissive debarment.
"(c) Debarment period and considerations.
"(d) Termination of debarment.
"(e) Publication and list of debarred persons.
"(f) Temporary denial of approval.
"(g) Suspension authority.
"(h) Termination of suspension.
"(i) Procedure.
"(j) Judicial review.
"(k) Certification.
"(l) Applicability.".
Sec. 3. Civil penalties.
"Sec. 307. Civil penalties.
"(a) In general.
"(b) Procedure.
"(c) Judicial review.
"(d) Recovery of penalties.
"(e) Informants.".
Sec. 4. Authority to withdraw approval of abbreviated drug applications.
"Sec. 308. Authority to withdraw approval of abbreviated drug applications.
"(a) In general.
"(b) Procedure.

"(c) Applicability.
"(d) Judicial review.".
Sec. 5. Information.
Sec. 6. Definitions.
Sec. 7. Effect on other laws.

SEC. 2. DEBARMENT AND OTHER RESTRICTIONS.

Sections 306 and 307 (21 U.S.C. 336, 337) are redesignated as sections 309 and 310, respectively, and the following is inserted after section 305:

"DEBARMENT, TEMPORARY DENIAL OF APPROVAL, AND SUSPENSION

21 USC 335a.

"SEC. 306. (a) MANDATORY DEBARMENT.—

"(1) CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—If the Secretary finds that a person other than an individual has been convicted, after the date of the enactment of this section, of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of any abbreviated drug application, the Secretary shall debar such person from submitting, or assisting in the submission of, any such application.

"(2) INDIVIDUALS.—If the Secretary finds that an individual has been convicted of a felony under Federal law for conduct—

"(A) relating to the development or approval, including the process for development or approval, of any drug product, or

"(B) otherwise relating to the regulation of any drug product under this Act,

the Secretary shall debar such individual from providing services in any capacity to a person that has an approved or pending drug product application.

"(b) PERMISSIVE DEBARMENT.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (2), debar—

"(A) a person other than an individual from submitting or assisting in the submission of any abbreviated drug application, or

"(B) an individual from providing services in any capacity to a person that has an approved or pending drug product application.

"(2) PERSONS SUBJECT TO PERMISSIVE DEBARMENT.—The following persons are subject to debarment under paragraph (1):

"(A) CORPORATIONS, PARTNERSHIPS, AND ASSOCIATIONS.—Any person other than an individual that the Secretary finds has been convicted—

"(i) for conduct that—

"(I) relates to the development or approval, including the process for the development or approval, of any abbreviated drug application; and

"(II) is a felony under Federal law (if the person was convicted before the date of the enactment of this section), a misdemeanor under Federal law, or a felony under State law, or

"(ii) of a conspiracy to commit, or aiding or abetting, a criminal offense described in clause (i) or a felony described in subsection (a)(1),

if the Secretary finds that the type of conduct which served as the basis for such conviction undermines the process for the regulation of drugs.

"(B) INDIVIDUALS.—

"(i) Any individual whom the Secretary finds has been convicted of—

"(I) a misdemeanor under Federal law or a felony under State law for conduct relating to the development or approval, including the process for development or approval, of any drug product or otherwise relating to the regulation of drug products under this Act, or

"(II) a conspiracy to commit, or aiding or abetting, such criminal offense or a felony described in subsection (a)(2),

if the Secretary finds that the type of conduct which served as the basis for such conviction undermines the process for the regulation of drugs.

"(ii) Any individual whom the Secretary finds has been convicted of—

"(I) a felony which is not described in subsection (a)(2) or clause (i) of this subparagraph and which involves bribery, payment of illegal gratuities, fraud, perjury, false statement, racketeering, blackmail, extortion, falsification or destruction of records, or interference with, obstruction of an investigation into, or prosecution of, any criminal offense, or

"(II) a conspiracy to commit, or aiding or abetting, such felony,

if the Secretary finds, on the basis of the conviction of such individual and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe that such individual may violate requirements under this Act relating to drug products.

"(iii) Any individual whom the Secretary finds materially participated in acts that were the basis for a conviction for an offense described in subsection (a) or in clause (i) or (ii) for which a conviction was obtained, if the Secretary finds, on the basis of such participation and other information, that such individual has demonstrated a pattern of conduct sufficient to find that there is reason to believe that such individual may violate requirements under this Act relating to drug products.

"(iv) Any high managerial agent whom the Secretary finds—

"(I) worked for, or worked as a consultant for, the same person as another individual during the period in which such other individual took actions for which a felony conviction was obtained and which resulted in the debarment under subsection (a)(2), or clause (i), of such other individual,

"(II) had actual knowledge of the actions described in subclause (I) of such other individual, or took action to avoid such actual knowledge,

or failed to take action for the purpose of avoiding such actual knowledge,

"(III) knew that the actions described in subclause (I) were violative of law, and

"(IV) did not report such actions, or did not cause such actions to be reported, to an officer, employee, or agent of the Department or to an appropriate law enforcement officer, or failed to take other appropriate action that would have ensured that the process for the regulation of drugs was not undermined, within a reasonable time after such agent first knew of such actions,

if the Secretary finds that the type of conduct which served as the basis for such other individual's conviction undermines the process for the regulation of drugs.

Effective date.

"(3) STAY OF CERTAIN ORDERS.—An order of the Secretary under clause (iii) or (iv) of paragraph (2)(B) shall not take effect until 30 days after the order has been issued.

"(c) DEBARMENT PERIOD AND CONSIDERATIONS.—

"(1) EFFECT OF DEBARMENT.—The Secretary—

"(A) shall not accept or review (other than in connection with an audit under this section) any abbreviated drug application submitted by or with the assistance of a person debarred under subsection (a)(1) or (b)(2)(A) during the period such person is debarred,

"(B) shall, during the period of a debarment under subsection (a)(2) or (b)(2)(B), debar an individual from providing services in any capacity to a person that has an approved or pending drug product application and shall not accept or review (other than in connection with an audit under this section) an abbreviated drug application from such individual, and

"(C) shall, if the Secretary makes the finding described in paragraph (6) or (7) of section 307(a), assess a civil penalty in accordance with section 307.

"(2) DEBARMENT PERIODS.—

"(A) IN GENERAL.—The Secretary shall debar a person under subsection (a) or (b) for the following periods:

"(i) The period of debarment of a person (other than an individual) under subsection (a)(1) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment under subsection (a) occurs within 10 years after such person has been debarred under subsection (a)(1), the period of debarment shall be permanent.

"(ii) The debarment of an individual under subsection (a)(2) shall be permanent.

"(iii) The period of debarment of any person under subsection (b)(2) shall not be more than 5 years.

The Secretary may determine whether debarment periods shall run concurrently or consecutively in the case of a person debarred for multiple offenses.

"(B) NOTIFICATION.—Upon a conviction for an offense described in subsection (a) or (b) or upon execution of an agreement with the United States to plead guilty to such an offense, the person involved may notify the Sec-

retary that the person acquiesces to debarment and such person's debarment shall commence upon such notification.

"(3) CONSIDERATIONS.—In determining the appropriateness and the period of a debarment of a person under subsection (b) and any period of debarment beyond the minimum specified in subparagraph (A)(i) of paragraph (2), the Secretary shall consider where applicable—

"(A) the nature and seriousness of any offense involved,

"(B) the nature and extent of management participation in any offense involved, whether corporate policies and practices encouraged the offense, including whether inadequate institutional controls contributed to the offense,

"(C) the nature and extent of voluntary steps to mitigate the impact on the public of any offense involved, including the recall or the discontinuation of the distribution of suspect drugs, full cooperation with any investigations (including the extent of disclosure to appropriate authorities of all wrongdoing), the relinquishing of profits on drug approvals fraudulently obtained, and any other actions taken to substantially limit potential or actual adverse effects on the public health,

"(D) whether the extent to which changes in ownership, management, or operations have corrected the causes of any offense involved and provide reasonable assurances that the offense will not occur in the future,

"(E) whether the person to be debarred is able to present adequate evidence that current production of drugs subject to abbreviated drug applications and all pending abbreviated drug applications are free of fraud or material false statements, and

"(F) prior convictions under this Act or under other Acts involving matters within the jurisdiction of the Food and Drug Administration.

"(d) TERMINATION OF DEBARMENT.—

"(1) APPLICATION.—Any person that is debarred under subsection (a) (other than a person permanently debarred) or any person that is debarred under subsection (b) may apply to the Secretary for termination of the debarment under this subsection. Any information submitted to the Secretary under this paragraph does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

"(2) DEADLINE.—The Secretary shall grant or deny any application respecting a debarment which is submitted under paragraph (1) within 180 days of the date the application is submitted.

"(3) ACTION BY THE SECRETARY.—

"(A) CORPORATIONS.—

"(i) CONVICTION REVERSAL.—If the conviction which served as the basis for the debarment of a person under subsection (a)(1) or (b)(2)(A) is reversed, the Secretary shall withdraw the order of debarment.

"(ii) APPLICATION.—Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of a person if the Secretary finds that—

"(I) changes in ownership, management, or operations have fully corrected the causes of the offense

involved and provide reasonable assurances that the offense will not occur in the future, and

"(II) sufficient audits, conducted by the Food and Drug Administration or by independent experts acceptable to the Food and Drug Administration, demonstrate that pending applications and the development of drugs being tested before the submission of an application are free of fraud or material false statements.

In the case of persons debarred under subsection (a)(1), such termination shall take effect no earlier than the expiration of one year from the date of the debarment.

"(B) INDIVIDUALS.—

"(i) CONVICTION REVERSAL.—If the conviction which served as the basis for the debarment of an individual under subsection (a)(2) or clause (i), (ii), (iii), or (iv) of subsection (b)(2)(B) is reversed, the Secretary shall withdraw the order of debarment.

"(ii) APPLICATION.—Upon application submitted under paragraph (1), the Secretary shall terminate the debarment of an individual who has been debarred under subsection (b)(2)(B) if such termination serves the interests of justice and adequately protects the integrity of the drug approval process.

"(4) SPECIAL TERMINATION.—

"(A) APPLICATION.—Any person that is debarred under subsection (a)(1) (other than a person permanently debarred under subsection (c)(2)(A)(i)) or any individual who is debarred under subsection (a)(2) may apply to the Secretary for special termination of debarment under this subsection. Any information submitted to the Secretary under this subparagraph does not constitute an amendment or supplement to pending or approved abbreviated drug applications.

"(B) CORPORATIONS.—Upon an application submitted under subparagraph (A), the Secretary may take the action described in subparagraph (D) if the Secretary, after an informal hearing, finds that—

"(i) the person making the application under subparagraph (A) has demonstrated that the felony conviction which was the basis for such person's debarment involved the commission of an offense which was not authorized, requested, commanded, performed, or recklessly tolerated by the board of directors or by a high managerial agent acting on behalf of the person within the scope of the board's or agent's office or employment,

"(ii) all individuals who were involved in the commission of the offense or who knew or should have known of the offense have been removed from employment involving the development or approval of any drug subject to sections 505 or 507,

"(iii) the person fully cooperated with all investigations and promptly disclosed all wrongdoing to the appropriate authorities, and

"(iv) the person acted to mitigate any impact on the public of any offense involved, including the recall, or the discontinuation of the distribution, of any drug

with respect to which the Secretary requested a recall or discontinuation of distribution due to concerns about the safety or efficacy of the drug.

"(C) INDIVIDUALS.—Upon an application submitted under subparagraph (A), the Secretary may take the action described in subparagraph (D) if the Secretary, after an informal hearing, finds that such individual has provided substantial assistance in the investigations or prosecutions of offenses which are described in subsection (a) or (b) or which relate to any matter under the jurisdiction of the Food and Drug Administration.

"(D) SECRETARIAL ACTION.—The action referred to in subparagraphs (B) and (C) is—

"(i) in the case of a person other than an individual—

"(I) terminating the debarment immediately, or

"(II) limiting the period of debarment to less than one year, and

"(ii) in the case of an individual, limiting the period of debarment to less than permanent but to no less than 1 year,

whichever best serves the interest of justice and protects the integrity of the drug approval process.

"(e) PUBLICATION AND LIST OF DEBARRED PERSONS.—The Secretary shall publish in the Federal Register the name of any person debarred under subsection (a) or (b), the effective date of the debarment, and the period of the debarment. The Secretary shall also maintain and make available to the public a list, updated no less often than quarterly, of such persons, of the effective dates and minimum periods of such debarments, and of the termination of debarments.

Federal Register, publication. Public information.

"(f) TEMPORARY DENIAL OF APPROVAL.—

"(1) IN GENERAL.—The Secretary, on the Secretary's own initiative or in response to a petition, may, in accordance with paragraph (3), refuse by order, for the period prescribed by paragraph (2), to approve any abbreviated drug application submitted by any person—

"(A) if such person is under an active Federal criminal investigation in connection with an action described in subparagraph (B),

"(B) if the Secretary finds that such person—

"(i) has bribed or attempted to bribe, has paid or attempted to pay an illegal gratuity, or has induced or attempted to induce another person to bribe or pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services or to any other Federal, State, or local official in connection with any abbreviated drug application, or has conspired to commit, or aided or abetted, such actions, or

"(ii) has knowingly made or caused to be made a pattern or practice of false statements or misrepresentations with respect to material facts relating to any abbreviated drug application, or the production of any drug subject to an abbreviated drug application, to any officer, employee, or agent of the Department of Health and Human Services, or has conspired to commit, or aided or abetted, such actions, and

"(C) if a significant question has been raised regarding—

"(i) the integrity of the approval process with respect to such abbreviated drug application, or

"(ii) the reliability of data in or concerning such person's abbreviated drug application.

Such an order may be modified or terminated at any time.

"(2) APPLICABLE PERIOD.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a denial of approval of an application of a person under paragraph (1) shall be in effect for a period determined by the Secretary but not to exceed 18 months beginning on the date the Secretary finds that the conditions described in subparagraphs (A), (B), and (C) of paragraph (1) exist. The Secretary shall terminate such denial—

"(i) if the investigation with respect to which the finding was made does not result in a criminal charge against such person, if criminal charges have been brought and the charges have been dismissed, or if a judgment of acquittal has been entered, or

"(ii) if the Secretary determines that such finding was in error.

"(B) EXTENSION.—If, at the end of the period described in subparagraph (A), the Secretary determines that a person has been criminally charged for an action described in subparagraph (B) of paragraph (1), the Secretary may extend the period of denial of approval of an application for a period not to exceed 18 months. The Secretary shall terminate such extension if the charges have been dismissed, if a judgment of acquittal has been entered, or if the Secretary determines that the finding described in subparagraph (A) was in error.

"(3) INFORMAL HEARING.—Within 10 days of the date an order is issued under paragraph (1), the Secretary shall provide such person with an opportunity for an informal hearing, to be held within such 10 days, on the decision of the Secretary to refuse approval of an abbreviated drug application. Within 60 days of the date on which such hearing is held, the Secretary shall notify the person given such hearing whether the Secretary's refusal of approval will be continued, terminated, or otherwise modified. Such notification shall be final agency action.

"(g) SUSPENSION AUTHORITY.—

"(1) IN GENERAL.—If—

"(A) the Secretary finds—

"(i) that a person has engaged in conduct described in subparagraph (B) of subsection (f)(1) in connection with 2 or more drugs under abbreviated drug applications, or

"(ii) that a person has engaged in flagrant and repeated, material violations of good manufacturing practice or good laboratory practice in connection with the development, manufacturing, or distribution of one or more drugs approved under an abbreviated drug application during a 2-year period, and—

"(I) such violations may undermine the safety and efficacy of such drugs, and

"(II) the causes of such violations have not been corrected within a reasonable period of time following notice of such violations by the Secretary, and

"(B) such person is under an active investigation by a Federal authority in connection with a civil or criminal action involving conduct described in subparagraph (A),

the Secretary shall issue an order suspending the distribution of all drugs the development or approval of which was related to such conduct described in subparagraph (A) or suspending the distribution of all drugs approved under abbreviated drug applications of such person if the Secretary finds that such conduct may have affected the development or approval of a significant number of drugs which the Secretary is unable to identify. The Secretary shall exclude a drug from such order if the Secretary determines that such conduct was not likely to have influenced the safety or efficacy of such drug.

"(2) PUBLIC HEALTH WAIVER.—The Secretary shall, on the Secretary's own initiative or in response to a petition, waive the suspension under paragraph (1) (involving an action described in paragraph (1)(A)(i)) with respect to any drug if the Secretary finds that such waiver is necessary to protect the public health because sufficient quantities of the drug would not otherwise be available. The Secretary shall act on any petition seeking action under this paragraph within 180 days of the date the petition is submitted to the Secretary.

"(h) TERMINATION OF SUSPENSION.—The Secretary shall withdraw an order of suspension of the distribution of a drug under subsection (g) if the person with respect to whom the order was issued demonstrates in a petition to the Secretary—

"(1)(A) on the basis of an audit by the Food and Drug Administration or by experts acceptable to the Food and Drug Administration, or on the basis of other information, that the development, approval, manufacturing, and distribution of such drug is in substantial compliance with the applicable requirements of this Act, and

"(B) changes in ownership, management, or operations—

"(i) fully remedy the patterns or practices with respect to which the order was issued, and

"(ii) provide reasonable assurances that such actions will not occur in the future, or

"(2) the initial determination was in error.

The Secretary shall act on a submission of a petition under this subsection within 180 days of the date of its submission and the Secretary may consider the petition concurrently with the suspension proceeding. Any information submitted to the Secretary under this subsection does not constitute an amendment or supplement to a pending or approved abbreviated drug application.

"(i) PROCEDURE.—The Secretary may not take any action under subsection (a), (b), (c), (d)(3), (g), or (h) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the

production of evidence that relates to the matter under investigation.

"(j) JUDICIAL REVIEW.—

"(1) IN GENERAL.—Except as provided in paragraph (2), any person that is the subject of an adverse decision under subsection (a), (b), (c), (d), (f), (g), or (h) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(2) EXCEPTION.—Any person that is the subject of an adverse decision under clause (iii) or (iv) of subsection (b)(2)(B) may obtain a review of such decision by the United States District Court for the District of Columbia or a district court of the United States for the district in which the person resides, by filing in such court (within 30 days following the date the person is notified of the Secretary's decision) a complaint requesting that the decision be modified or set aside. In such an action, the court shall determine the matter de novo.

"(k) CERTIFICATION.—Any application for approval of a drug product shall include—

"(1) a certification that the applicant did not and will not use in any capacity the services of any person debarred under subsection (a) or (b), in connection with such application, and

"(2) if such application is an abbreviated drug application, a list of all convictions, described in subsections (a) and (b) which occurred within the previous 5 years, of the applicant and affiliated persons responsible for the development or submission of such application.

"(l) APPLICABILITY.—

"(1) CONVICTION.—For purposes of this section, a person is considered to have been convicted of a criminal offense—

"(A) when a judgment of conviction has been entered against the person by a Federal or State court, regardless of whether there is an appeal pending,

"(B) when a plea of guilty or nolo contendere by the person has been accepted by a Federal or State court, or

"(C) when the person has entered into participation in a first offender, deferred adjudication, or other similar arrangement or program where judgment of conviction has been withheld.

"(2) EFFECTIVE DATES.—Subsection (a), subparagraph (A) of subsection (b)(2), and clauses (i) and (ii) of subsection (b)(2)(B) shall not apply to a conviction which occurred more than 5 years before the initiation of an agency action proposed to be taken under subsection (a) or (b). Clauses (iii) and (iv) of subsection (b)(2)(B) and subsections (f) and (g) shall not apply to an act or action which occurred more than 5 years before the initiation of an agency action proposed to be taken under subsection (b), (f), or (g). Clause (iv) of subsection (b)(2)(B) shall not apply to an action which occurred before June 1, 1992. Subsection (k) shall not apply to applications submitted to the Secretary before June 1, 1992.".

SEC. 3. CIVIL PENALTIES.

Chapter III, as amended by section 2, is amended by adding after section 306 the following:

"CIVIL PENALTIES

"SEC. 307. (a) IN GENERAL.—Any person that the Secretary finds— 21 USC 335b.

"(1) knowingly made or caused to be made, to any officer, employee, or agent of the Department of Health and Human Services, a false statement or misrepresentation of a material fact in connection with an abbreviated drug application,

"(2) bribed or attempted to bribe or paid or attempted to pay an illegal gratuity to any officer, employee, or agent of the Department of Health and Human Services in connection with an abbreviated drug application,

"(3) destroyed, altered, removed, or secreted, or procured the destruction, alteration, removal, or secretion of, any material document or other material evidence which was the property of or in the possession of the Department of Health and Human Services for the purpose of interfering with that Department's discharge of its responsibilities in connection with an abbreviated drug application,

"(4) knowingly failed to disclose, to an officer or employee of the Department of Health and Human Services, a material fact which such person had an obligation to disclose relating to any drug subject to an abbreviated drug application,

"(5) knowingly obstructed an investigation of the Department of Health and Human Services into any drug subject to an abbreviated drug application,

"(6) is a person that has an approved or pending drug product application and has knowingly—

"(A) employed or retained as a consultant or contractor, or

"(B) otherwise used in any capacity the services of,

a person who was debarred under section 306, or

"(7) is an individual debarred under section 306 and, during the period of debarment, provided services in any capacity to a person that had an approved or pending drug product application,

shall be liable to the United States for a civil penalty for each such violation in an amount not to exceed $250,000 in the case of an individual and $1,000,000 in the case of any other person.

"(b) PROCEDURE.—

"(1) IN GENERAL.—

"(A) ACTION BY THE SECRETARY.—A civil penalty under subsection (a) shall be assessed by the Secretary on a person by an order made on the record after an opportunity for an agency hearing on disputed issues of material fact and the amount of the penalty. In the course of any investigation or hearing under this subparagraph, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(B) ACTION BY THE ATTORNEY GENERAL.—In lieu of a proceeding under subparagraph (A), the Attorney General

may, upon request of the Secretary, institute a civil action to recover a civil money penalty in the amount and for any of the acts set forth in subsection (a). Such an action may be instituted separately from or in connection with any other claim, civil or criminal, initiated by the Attorney General under this Act.

"(2) AMOUNT.—In determining the amount of a civil penalty under paragraph (1), the Secretary or the court shall take into account the nature, circumstances, extent, and gravity of the act subject to penalty, the person's ability to pay, the effect on the person's ability to continue to do business, any history of prior, similar acts, and such other matters as justice may require.

"(3) LIMITATION ON ACTIONS.—No action may be initiated under this section—

"(A) with respect to any act described in subsection (a) that occurred before the date of the enactment of this Act, or

"(B) more than 6 years after the date when facts material to the act are known or reasonably should have been known by the Secretary but in no event more than 10 years after the date the act took place.

"(c) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (b)(1)(A) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.

"(d) RECOVERY OF PENALTIES.—The Attorney General may recover any civil penalty (plus interest at the currently prevailing rates from the date the penalty became final) assessed under subsection (b)(1)(A) in an action brought in the name of the United States. The amount of such penalty may be deducted, when the penalty has become final, from any sums then or later owing by the United States to the person against whom the penalty has been assessed. In an action brought under this subsection, the validity, amount, and appropriateness of the penalty shall not be subject to judicial review.

"(e) INFORMANTS.—The Secretary may award to any individual (other than an officer or employee of the Federal Government or a person who materially participated in any conduct described in subsection (a)) who provides information leading to the imposition of a civil penalty under this section an amount not to exceed—

"(1) $250,000, or

"(2) one-half of the penalty so imposed and collected,

whichever is less. The decision of the Secretary on such award shall not be reviewable.".

SEC. 4. AUTHORITY TO WITHDRAW APPROVAL OF ABBREVIATED DRUG APPLICATIONS.

Chapter III, as amended by sections 2 and 3, is amended by adding after section 307 the following:

"AUTHORITY TO WITHDRAW APPROVAL OF ABBREVIATED DRUG APPLICATIONS

21 USC 335c.

"SEC. 308. (a) IN GENERAL.—The Secretary—

"(1) shall withdraw approval of an abbreviated drug application if the Secretary finds that the approval was obtained, expedited, or otherwise facilitated through bribery, payment of an illegal gratuity, or fraud or material false statement, and

"(2) may withdraw approval of an abbreviated drug application if the Secretary finds that the applicant has repeatedly demonstrated a lack of ability to produce the drug for which the application was submitted in accordance with the formulations or manufacturing practice set forth in the abbreviated drug application and has introduced, or attempted to introduce, such adulterated or misbranded drug into commerce.

"(b) PROCEDURE.—The Secretary may not take any action under subsection (a) with respect to any person unless the Secretary has issued an order for such action made on the record after opportunity for an agency hearing on disputed issues of material fact. In the course of any investigation or hearing under this subsection, the Secretary may administer oaths and affirmations, examine witnesses, receive evidence, and issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence that relates to the matter under investigation.

"(c) APPLICABILITY.—Subsection (a) shall apply with respect to offenses or acts regardless of when such offenses or acts occurred.

"(d) JUDICIAL REVIEW.—Any person that is the subject of an adverse decision under subsection (a) may obtain a review of such decision by the United States Court of Appeals for the District of Columbia or for the circuit in which the person resides, by filing in such court (within 60 days following the date the person is notified of the Secretary's decision) a petition requesting that the decision be modified or set aside.".

SEC. 5. INFORMATION.

Section 505(j) (21 U.S.C. 355(j)) is amended by adding at the end the following:

"(8) The Secretary shall, with respect to each application submitted under this subsection, maintain a record of— Records.

"(A) the name of the applicant,

"(B) the name of the drug covered by the application,

"(C) the name of each person to whom the review of the chemistry of the application was assigned and the date of such assignment, and

"(D) the name of each person to whom the bioequivalence review for such application was assigned and the date of such assignment.

The information the Secretary is required to maintain under this paragraph with respect to an application submitted under this subsection shall be made available to the public after the approval of such application.".

SEC. 6. DEFINITIONS.

Section 201 (21 U.S.C. 321) is amended by adding at the end the following:

"(bb) The term 'abbreviated drug application' means an application submitted under section 505(j) or 507 for the approval of a drug that relies on the approved application of another drug with the same active ingredient to establish safety and efficacy, and—

"(1) in the case of section 306, includes a supplement to such an application for a different or additional use of the drug but does not include a supplement to such an application for other than a different or additional use of the drug, and

"(2) in the case of sections 307 and 308, includes any supplement to such an application.

"(cc) The term 'knowingly' or 'knew' means that a person, with respect to information—

"(1) has actual knowledge of the information, or

"(2) acts in deliberate ignorance or reckless disregard of the truth or falsity of the information.

"(dd) For purposes of section 306, the term 'high managerial agent'—

"(1) means—

"(A) an officer or director of a corporation or an association,

"(B) a partner of a partnership, or

"(C) any employee or other agent of a corporation, association, or partnership,

having duties such that the conduct of such officer, director, partner, employee, or agent may fairly be assumed to represent the policy of the corporation, association, or partnership, and

"(2) includes persons having management responsibility for—

"(A) submissions to the Food and Drug Administration regarding the development or approval of any drug product,

"(B) production, quality assurance, or quality control of any drug product, or

"(C) research and development of any drug product.

"(ee) For purposes of sections 306 and 307, the term 'drug product' means a drug subject to regulation under section 505, 507, 512, or 802 of this Act or under section 351 of the Public Health Service Act.".

21 USC 335a note.

SEC. 7. EFFECT ON OTHER LAWS.

No amendment made by this Act shall preclude any other civil, criminal, or administrative remedy provided under Federal or State law, including any private right of action against any person for the same action subject to any action or civil penalty under an amendment made by this Act.

Approved May 13, 1992.

LEGISLATIVE HISTORY—H.R. 2454:

HOUSE REPORTS: No. 102-272 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 28, 31, considered and passed House.
Vol. 138 (1992): Apr. 10, considered and passed Senate, amended.
Apr. 28, House concurred in Senate amendments.

Public Law 102-283
102d Congress

Joint Resolution

Designating May 10, 1992, as "Infant Mortality Awareness Day".

May 14, 1992
[H.J. Res. 425]

Whereas, in 1989, the infant mortality rate in the United States decreased from 10.0 to 9.8 infant deaths per 1,000 live births;
Whereas, despite such decrease, nearly 38,000 infants in the United States will die in 1992 before they reach their 1st birthday;
Whereas thousands of infants will suffer lifelong disabilities resulting from low birthweight and other complications;
Whereas thousands of pregnant women, especially low-income women, cannot receive adequate prenatal care because they lack access to providers of obstetrical care;
Whereas infant mortality is a widespread problem which afflicts both urban and rural areas in all geographic regions of the United States;
Whereas the number of births to teenage mothers, who have a greater risk of giving birth to sick infants, has increased by 20 percent in the last 3 years;
Whereas the high number of deaths, disabilities, and illnesses among infants in the United States is deplorable; and
Whereas expectant parents in the United States should work toward the birth of healthy babies: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 10, 1992, is designated as "Infant Mortality Awareness Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved May 14, 1992.

LEGISLATIVE HISTORY—H.J. Res. 425:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed House.
May 7, considered and passed Senate.

Public Law 102-284
102d Congress

Joint Resolution

May 14, 1992
[S.J. Res. 251]

To designate the month of May 1992 as "National Huntington's Disease Awareness Month".

Whereas twenty-five thousand Americans are victims of Huntington's disease, a fatal, hereditary, neurological disorder;

Whereas an additional one hundred and twenty-five thousand Americans have a 50-percent chance of inheriting the gene responsible for Huntington's disease from an affected parent and are considered to be "at-risk" for the disease;

Whereas tens of thousands of other Americans experience the destructive effects of the disease, including suffering from the social stigma associated with the disease, assuming the difficult role of caring for a loved victim of the disease, witnessing the prolonged, irreversible physical and mental deterioration of a loved one, and agonizing over the death of a loved one;

Whereas at present there is no cure for Huntington's disease and no means available to retard or reverse the effects of the disease;

Whereas a victim of the later stages of Huntington's disease invariably requires total personal care, the provision of which often results in devastating financial consequences for the victim and the victim's family;

Whereas recent advances in the field of molecular genetics have enabled scientists to locate approximately the gene-site responsible for Huntington's disease;

Whereas many of the novel techniques resulting from these advances have also been instrumental in locating the gene-sites responsible for familial Alzheimer's disease, manic depression, kidney cancer, and other disorders;

Whereas increased Federal funding of medical research could facilitate additional advances and result in the discovery of the cause and chemical processes of Huntington's disease and the development of strategies to stop and reverse the progress of the disease;

Whereas Huntington's disease typifies other late-onset, behavioral genetic disorders by presenting the victim and the victim's family with a broad range of biomedical, psychological, social, and economic problems; and

Whereas in the absence of a cure for Huntington's disease, victims of the disease deserve to live with dignity and be regarded as full and respected family members and members of society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1992 is designated as "National Huntington's Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved May 14, 1992.

LEGISLATIVE HISTORY—S.J. Res. 251:

CONGRESSIONAL RECORD, Vol. 138 (1992):
May 5, considered and passed Senate.
May 7, considered and passed House.

Public Law 102-285
102d Congress

An Act

May 18, 1992
[H.R. 2763]

To enhance geologic mapping of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Geologic Mapping Act of 1992.
Conservation.
Environmental protection.
43 USC 31a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Geologic Mapping Act of 1992".

43 USC 31a.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) during the past 2 decades, the production of geologic maps has been drastically curtailed;

(2) geologic maps are the primary data base for virtually all applied and basic earth-science investigations, including—

(A) exploration for and development of mineral, energy, and water resources;

(B) screening and characterizing sites for toxic and nuclear waste disposal;

(C) land use evaluation and planning for environmental protection;

(D) earthquake hazards reduction;

(E) predicting volcanic hazards;

(F) design and construction of infrastructure requirements such as utility lifelines, transportation corridors, and surface-water impoundments;

(G) reducing losses from landslides and other ground failures;

(H) mitigating effects of coastal and stream erosion;

(I) siting of critical facilities; and

(J) basic earth-science research;

(3) Federal agencies, State and local governments, private industry, and the general public depend on the information provided by geologic maps to determine the extent of potential environmental damage before embarking on projects that could lead to preventable, costly environmental problems or litigation;

(4) the combined capabilities of State, Federal, and academic groups to provide geologic mapping are not sufficient to meet the present and future needs of the United States for national security, environmental protection, and energy self-sufficiency of the Nation;

(5) States are willing to contribute 50 percent of the funding necessary to complete the mapping of the geology within the State;

(6) the lack of proper geologic maps has led to the poor design of such structures as dams and waste-disposal facilities;

(7) geologic maps have proven indispensable in the search for needed fossil-fuel and mineral resources; and

(8) a comprehensive nationwide program of geologic mapping is required in order to systematically build the Nation's geologic-map data base at a pace that responds to increasing demand.

(b) PURPOSE.—The purpose of this Act is to expedite the production of a geologic-map data base for the Nation, to be located within the United States Geological Survey, which can be applied to land-use management, assessment, and utilization, conservation of natural resources, groundwater management, and environmental protection.

SEC. 3. DEFINITIONS. 43 USC 31b.

As used in this Act:

(1) The term "advisory committee" means the advisory committee established under section 5.

(2) The term "Director" means the Director of the United States Geological Survey.

(3) The term "geologic mapping program" means the National Cooperative Geologic Mapping Program established by section 4(a).

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "Survey" means the United States Geological Survey.

SEC. 4. GEOLOGIC MAPPING PROGRAM. 43 USC 31c.

(a) ESTABLISHMENT.—There is established in the United States Geological Survey a National Cooperative Geologic Mapping Program. The geologic mapping program shall be developed in consultation with the advisory committee and shall be designed and administered to achieve the objectives set forth in subsection (c).

(b) RESPONSIBILITIES OF USGS.—(1) The Survey shall be the lead Federal agency responsible for planning, developing priorities, coordinating, and managing the geologic mapping program. In carrying out this paragraph, the Secretary, acting through the Director, shall—

(A) develop a geologic mapping program implementation plan in accordance with section 6, which plan shall be submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 300 days after the date of enactment of this Act;

(B) appoint, with the advice and consultation of the State geological surveys, the advisory committee within 90 days after the date of enactment of this Act in accordance with section 5; and

(C) within 210 days after the date of enactment of this Act, submit a report to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the House of Representatives identifying— Reports.

(i) how the Survey will coordinate the development and implementation of the geologic mapping program;

(ii) how the Survey will establish goals, mapping priorities, and target dates for implementation of the geologic mapping program;

(iii) how long-term staffing plans for the various components of the geologic mapping program will lead to successful implementation of the geologic mapping program; and

(iv) the degree to which geologic mapping activities traditionally funded by the Survey, including the use of commercially available aerial photography, geodesy, professional land surveying, photogrammetric mapping, cartography, photographic processing, and related services, can be contracted to professional private mapping firms.

(2) In addition to paragraph (1), the Secretary, acting through the Director, shall be responsible for developing, as soon as practicable—

(A) in cooperation with the State geological surveys, other Federal and State agencies, public and private sector organizations and academia, the geologic-map data base; and

(B) maps and mapping techniques which achieve the objectives specified in subsection (c).

(c) PROGRAM OBJECTIVES.—The objectives of the geologic mapping program shall include—

(1) determining the Nation's geologic framework through systematic development of geologic maps at scales appropriate to the geologic setting and the perceived applications, such maps to be contributed to the national geologic map data base;

(2) development of a complementary national geophysical-map data base, geochemical-map data base, and a geochronologic and paleontologic data base that provide value-added descriptive and interpretive information to the geologic-map data base;

(3) application of cost-effective mapping techniques that assemble, produce, translate and disseminate geologic-map information and that render such information of greater application and benefit to the public; and

(4) development of public awareness for the role and application of geologic-map information to the resolution of national issues of land use management.

(d) PROGRAM COMPONENTS.—The geologic mapping program shall include the following components:

(1) A Federal geologic mapping component, whose objective shall be determining the geologic framework of areas determined to be vital to the economic, social, or scientific welfare of the Nation. Mapping priorities shall be based on—

(A) national requirements for geologic-map information in areas of multiple-issue need or areas of compelling single-issue need; and

(B) national requirements for geologic-map information in areas where mapping is required to solve critical earth-science problems.

(2) A geologic mapping support component, whose objective shall be providing interdisciplinary support for the Federal Geologic Mapping Component. Representative categories of interdisciplinary support shall include—

(A) establishment of a national geologic-map data base, established pursuant to section 7;

(B) studies that lead to the implementation of cost-effective digital methods for the acquisition, compilation, analysis, cartographic production, and dissemination of geologic-map information;

(C) paleontologic investigations that provide information critical to understanding the age and depositional environment of fossil-bearing geologic-map units, which investiga-

tions shall be contributed to a national paleontologic data base;

(D) geochronologic and isotopic investigations that (i) provide radiometric age dates for geologic-map units and (ii) fingerprint the geothermometry, geobarometry, and alteration history of geologic-map units, which investigations shall be contributed to a national geochronologic data base;

(E) geophysical investigations that assist in delineating and mapping the physical characteristics and three-dimensional distribution of geologic materials and geologic structures, which investigations shall be contributed to a national geophysical-map data base; and

(F) geochemical investigations and analytical operations that characterize the major- and minor-element composition of geologic-map units, and that lead to the recognition of stable and anomalous geochemical signatures for geologic terrains, which investigations shall be contributed to a national geochemical-map data base.

(3) A State geologic mapping component, whose objective shall be determining the geologic framework of areas that the State geological surveys determine to be vital to the economic, social, or scientific welfare of individual States. Mapping priorities shall be determined by multirepresentational State panels and shall be integrated with national priorities. Federal funding for the State component shall be matched on a one-to-one basis with non-Federal funds.

(4) A geologic mapping education component, whose objective shall be—

(A) to develop the academic programs that teach earth-science students the fundamental principles of geologic mapping and field analysis; and

(B) to provide for broad education in geologic mapping and field analysis through support of field teaching institutes.

Investigations conducted under the geologic mapping education component shall be integrated with the other mapping components of the geologic mapping program, and shall respond to priorities identified for those components.

SEC. 5. ADVISORY COMMITTEE. 43 USC 31d.

(a) ESTABLISHMENT.—There shall be established a sixteen member geologic mapping advisory committee to advise the Director on planning and implementation of the geologic mapping program. The President shall appoint one representative each from the Environmental Protection Agency, the Department of Energy, the Department of Agriculture, and the Office of Science and Technology Policy. Within 90 days and with the advice and consultation of the State Geological Surveys, the Secretary shall appoint to the advisory committee 2 representatives from the Survey (including the Chief Geologist, as Chairman), 4 representatives from the State geological surveys, 3 representatives from academia, and 3 representatives from the private sector. President.

(b) DUTIES.—The advisory committee shall—

(1) review and critique the draft implementation plan prepared by the Director pursuant to section 6;

(2) review the scientific progress of the geologic mapping program; and

Reports.

(3) submit an annual report to the Secretary that evaluates the progress of the Federal and State mapping activities and evaluates the progress made toward fulfilling the purposes of this Act.

43 USC 31e.

SEC. 6. GEOLOGIC MAPPING PROGRAM IMPLEMENTATION PLAN.

The Secretary, acting through the Director, shall, with the advice and review of the advisory committee, prepare an implementation plan for the geologic mapping program. The plan shall identify the overall management structure and operation of the geologic mapping program and shall provide for—

(1) the role of the Survey in its capacity as overall management lead, including the responsibility for developing the national geologic mapping program that meets Federal needs while simultaneously fostering State needs;

(2) the responsibilities accruing to the State geological surveys, with particular emphasis on mechanisms that incorporate their needs, missions, capabilities, and requirements into the nationwide geologic mapping program;

(3) mechanisms for identifying short- and long-term priorities for each component of the geologic mapping program, including—

(A) for the Federal geologic mapping component, a priority-setting mechanism that responds both to (i) Federal mission requirements for geologic-map information, and (ii) critical scientific problems that require geologic-map control for their resolution;

(B) for the geologic mapping support component, a strong interdisciplinary research program plan in isotopic and paleontologic geochronology, geophysical mapping, and process studies to provide data to and interpret results from geologic mapping;

(C) for the State geologic mapping component, a priority-setting mechanism that responds to (i) specific intrastate needs for geologic-map information, and (ii) interstate needs shared by adjacent entities that have common requirements; and

(D) for the geologic mapping education component, a priority-setting mechanism that responds to requirements for geologic-map information that are driven by Federal and State mission requirements;

(4) a description of the degree to which the Survey can acquire, archive, and use Side-Looking Airborne Radar (SLAR) or Interferometric Synthetic Aperture Radar (IFSAR) data in a manner that is technically appropriate for geologic or related mapping studies;

(5) a mechanism for adopting scientific and technical map standards for preparing and publishing general-purpose and special-purpose geologic maps to (A) assure uniformity of cartographic and scientific conventions, and (B) provide a basis for judgment as to the comparability and quality of map products; and

(6) a mechanism for monitoring the inventory of published and current mapping investigations nationwide in order to

facilitate planning and information exchange and to avoid redundancy.

SEC. 7. NATIONAL GEOLOGIC-MAP DATA BASE.

Historic preservation. 43 USC 31f.

(a) ESTABLISHMENT.—The Survey shall establish a national geologic-map data base. Such data base shall be a national archive that includes all maps developed pursuant to this Act, the data bases developed pursuant to the investigations under sections (4)(d)(2) (C), (D), (E), and (F), and other maps and data as the Survey deems appropriate.

(b) STANDARDIZATION.—Geologic maps contributed to the national archives should have standardized format, symbols, and technical attributes so that archival information can be assimilated, manipulated, accessed, exchanged, and compared efficiently and accurately.

SEC. 8. ANNUAL REPORT.

43 USC 31g.

The Secretary shall, within 90 days after the end of each fiscal year, submit an annual report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate describing the status of the nationwide geologic mapping program, and describing and evaluating progress achieved during the preceding fiscal year in developing the national geologic-map data base. Each report shall include any recommendations for legislative or other action as the Secretary deems necessary and appropriate to fulfill the purposes of this Act.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

43 USC 31h.

There is authorized to be appropriated to carry out this Act the following:

(1) For Federal mapping activities under this Act, $12,500,000 for fiscal year 1993, $14,000,000 for fiscal year 1994, $16,000,000 for fiscal year 1995, and $18,000,000 for fiscal year 1996.

(2) For Federal support activities under this Act, $9,500,000 for fiscal year 1993, $10,000,000 for fiscal year 1994, $10,500,000 for fiscal year 1995, and $11,000,000 for fiscal year 1996.

(3) For State mapping activities under this Act, $15,000,000 for fiscal year 1993, $18,000,000 for fiscal year 1994, $21,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996.

(4) For educational support activities under this Act, $500,000 for fiscal year 1993, $750,000 for fiscal year 1994, $1,000,000 for fiscal year 1995, and $1,500,000 for fiscal year 1996.

SEC. 10. UNITED STATES GEOLOGICAL SURVEY AND UNITED STATES BUREAU OF MINES.

(a) UNITED STATES GEOLOGICAL SURVEY.—The Geological Survey established by the Act of March 3, 1879 (43 U.S.C. 31(a)), is des-

43 USC 31 note.

ignated as and shall hereafter be known as the United States Geological Survey.

30 USC 1 note.

(b) UNITED STATES BUREAU OF MINES.—The Bureau of Mines established by the Act of May 16, 1910 (30 U.S.C. 1), is designated as and shall hereafter be known as the United States Bureau of Mines.

Approved May 18, 1992.

LEGISLATIVE HISTORY—H.R. 2763 (S. 1179):

HOUSE REPORTS: No. 102-333 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-217 accompanying S. 1179 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 19, considered and passed House.
Vol. 138 (1992): Mar. 31, considered and passed Senate, amended.
Apr. 30, House concurred in Senate amendments.

Public Law 102-286
102d Congress

An Act

To designate the Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, as the "Edward P. Boland Department of Veterans Affairs Medical Center".

May 18, 1992
[H.R. 4184]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical Center located in Northampton, Massachusetts, shall be known and designated as the "Edward P. Boland Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the medical center referred to in section 1 shall be deemed to be a reference to the "Edward P. Boland Department of Veterans Affairs Medical Center".

Approved May 18, 1992.

LEGISLATIVE HISTORY—H.R. 4184:

HOUSE REPORTS: No. 102-458 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 7, considered and passed House.
Apr. 30, considered and passed Senate.

Public Law 102-287
102d Congress

Joint Resolution

May 18, 1992
[H.J. Res. 466]

Designating April 26, 1992, through May 2, 1992, as "National Crime Victims' Rights Week".

Whereas almost 35,000,000 individuals in the United States are victimized by crime each year, with 6,000,000 falling prey to violence;

Whereas the victims of violent crime need and deserve quality programs and services to help them recover from the devastating psychological, physical, and emotional hardships resulting from their victimization;

Whereas 1992 marks the 20th anniversary of the combined efforts of crime victims, victim service providers, criminal justice officials, and concerned citizens to make victims' rights and services a reality in the Nation, and the 10th anniversary of the historic passage of the Victim and Witness Protection Act of 1982 by the Congress;

Whereas over the past 2 decades the road to justice for the victims of crime has been paved with the commitment, perseverance, and spirit of millions of victims who have proudly carried the banner of justice in our Nation; and

Whereas all Americans should join together to fight the continuing threat of crime and victimization by committing their individual and collective resources to crime prevention and victim services: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 26, 1992, through May 2, 1992, is designated as "National Crime Victims' Rights Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved May 18, 1992.

LEGISLATIVE HISTORY—H.J. Res. 466:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed House.
May 5, considered and passed Senate.

Public Law 102-288
102d Congress

Joint Resolution

May 19, 1992
[H.J. Res. 388]

Designating the month of May 1992, as "National Foster Care Month".

Whereas today there are more than 250,000 licensed foster families in the United States who temporarily provide guidance, emotional support, food, shelter, and nurture to children who cannot remain in their own home;

Whereas foster parents devotedly and unselfishly open their homes and family lives to foster children in need;

Whereas foster parents are a vital part in permanency planning to protect the best interests of a foster child;

Whereas foster parents work cooperatively with human service agencies and biological parents to strengthen family life;

Whereas foster parents must have the commitment of the national, State and local communities in terms of funding, support, and training; and

Whereas the National Foster Parent Association holds its annual training conference during the month of May 1992: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May 1992, is designated as "National Foster Care Month", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such month with appropriate ceremonies and activities.

Approved May 19, 1992.

LEGISLATIVE HISTORY—H.J. Res. 388:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed House.
May 13, considered and passed Senate.

Public Law 102-289
102d Congress

An Act

May 20, 1992
[H.R. 4774]

To provide flexibility to the Secretary of Agriculture to carry out food assistance programs in certain countries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF FOREIGN CURRENCY PROCEEDS.

Section 416(b)(7)(D)(iv) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iv)) is amended—

(1) by striking "and (II)" and inserting "(II)"; and

(2) by striking the final period and inserting ", and (III) in a country other than the country of origin, if such proceeds are generated in a currency generally accepted in such other country.".

Approved May 20, 1992.

LEGISLATIVE HISTORY—H.R. 4774:

HOUSE REPORTS: No. 102-496 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 5, considered and passed House.
May 7, considered and passed Senate.

Public Law 102-290
102d Congress

Joint Resolution

Designating May 31, 1992, through June 6, 1992, as a "Week for the National Observance of the Fiftieth Anniversary of World War II".

May 20, 1992
[H.J. Res. 371]

Whereas the brave men and women of the United States of America made tremendous sacrifices during World War II to save the world from tyranny and aggression;

Whereas the winds of freedom and democracy sweeping the globe today spring from the principles for which over four hundred thousand Americans gave their lives in World War II;

Whereas World War II and the events that led up to that war must be understood in order that we may better understand our own times, and more fully appreciate the reasons why eternal vigilance against any form of tyranny is so important;

Whereas the World War II era, as reflected in its family life, industry, and entertainment, was a unique period in American history, and epitomized our Nation's philosophy of hard work, courage, and tenacity in the face of adversity;

Whereas, between 1991 and 1995, over nine million American veterans of World War II will be holding reunions and conferences and otherwise commemorating the fiftieth anniversary of various events relating to World War II; and

Whereas June 4, 1992, marks the anniversary of the Battle of Midway, and June 6, 1992, marks the anniversary of D-Day: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 31, 1992, through June 6, 1992, is designated as a "Week for the National Observance of the 50th Anniversary of World War II", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Approved May 20, 1992.

LEGISLATIVE HISTORY—H.J. Res. 371:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed House.
May 7, considered and passed Senate.

Public Law 102-291
102d Congress

An Act

May 20, 1992
[S. 2378]

To amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

(a) EXTENSION.—Section 315(b) of title 38, United States Code, is amended by striking out "September 30, 1991" and inserting in lieu thereof "March 31, 1994".

38 USC 315 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 1991.

38 USC 315 note.

(c) RATIFICATION OF MAINTENANCE OF OFFICE DURING LAPSED PERIOD.—Any action of the Secretary of Veterans Affairs in maintaining a Department of Veterans Affairs Regional Office in the Republic of the Philippines under section 315(b) of title 38, United States Code, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act is hereby ratified with respect to that period.

SEC. 2. AUTHORITIES RELATING TO CERTAIN TEMPORARY PROGRAMS.

(a) PROGRAM FOR TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION.—Section 1163(a)(2)(B) of title 38, United States Code, is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(b) PROGRAM OF VOCATIONAL TRAINING FOR NEW PENSION RECIPIENTS.—Section 1524(a)(4) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(c) PROTECTION OF HEALTH-CARE ELIGIBILITY.—Section 1525(b)(2) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

38 USC 1163 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) through (c) shall take effect as of January 31, 1992.

38 USC 1163 note.

(e) RATIFICATION OF ACTIONS DURING LAPSED PERIOD.—The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act are hereby ratified with respect to that period:

(1) A failure to reduce the disability rating of a veteran who began to engage in a substantially gainful occupation during that period.

(2) The provision of a vocational training program (including related evaluations and other related services) to a veteran under section 1524 of title 38, United States Code, and the making of related determinations under that section.

(3) The provision of health care and services to a veteran pursuant to section 1525 of title 38, United States Code.

SEC. 3. AUTHORITIES RELATING TO RESEARCH CORPORATIONS.

(a) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) of title 38, United States Code, is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) ESTABLISHMENT OF CORPORATION.—Section 7368 of such title is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1992".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1991. 38 USC 7361 note.

(d) RATIFICATION FOR LAPSED PERIOD.—The following actions of the Secretary of Veterans Affairs during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act are hereby ratified: 38 USC 7361 note.

(1) A failure to dissolve a nonprofit corporation established under section 7361(a) of title 38, United States Code, that, within the three-year period beginning on the date of the establishment of the corporation, was not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) The establishment of a nonprofit corporation for approved research under section 7361(a) of title 38, United States Code.

SEC. 4. REQUIREMENT OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".

SEC. 5. ENHANCED LOAN ASSET SALE AUTHORITY.

(a) AUTHORITY.—Section 3720 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(h)(1) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

"(2) The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after December 31, 1992.".

(b) TREATMENT OF PROCEEDS.—Section 3733(e) of such title is amended by inserting ", and the amount received from the sale of securities under section 3720(h) of this title," after "subsection (a)(1) of this section".

Approved May 20, 1992.

LEGISLATIVE HISTORY—S. 2378:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed Senate.
May 7, considered and passed House.

Public Law 102-292
102d Congress

An Act

To transfer jurisdiction of certain public lands in the State of Utah to the Forest Service, and for other purposes.

May 26, 1992
[S. 1182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fishlake National Forest Enlargement Act. Conservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fishlake National Forest Enlargement Act".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Certain public lands presently managed by the Bureau of Land Management (hereafter in this Act referred to as the "BLM") are adjacent to the Fishlake National Forest and are logical extensions of the forest.

(2) Those public lands are isolated and disconnected from other BLM lands and have been identified through the land use planning process of the BLM as suitable for transfer to the Forest Service.

(3) The Forest Service currently manages much of the livestock grazing on those public lands by cooperative agreement with the BLM.

(4) Administration of those public lands as part of the Fishlake National Forest would allow for more efficient and economical management by both the Forest Service and BLM.

SEC. 3. TRANSFER.

(a) IN GENERAL.—Effective on the date of enactment of this Act, jurisdiction over public lands designated on the map referred to in subsection (b), comprising approximately 10,172.89 acres is hereby transferred to the Secretary of Agriculture. Such lands shall be added to and administered as part of the Fishlake National Forest. Effective date.

(b) MAP AND LEGAL DESCRIPTION.—The lands subject to this Act are those lands identified on a map entitled "Fishlake National Forest Enlargement", dated March 16, 1989, and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture and the Director, Bureau of Land Management, Department of the Interior. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture in consultation with the Secretary of the Interior.

(c) BOUNDARY.—(1) The boundary of the Fishlake National Forest is hereby modified as indicated on the map referred to in subsection (b).

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundary of

the Fishlake National Forest, as modified by this Act, shall be considered to be the boundary of that national forest as of January 1, 1965.

SEC. 4. RIGHTS AND PERMITS.

(a) VALID EXISTING RIGHTS.—Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) AUTHORIZATIONS TO USE LANDS.—Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorizations shall be administered by the Secretary of Agriculture. Any renewal or extension of such authorizations shall be subject to the laws and regulations pertaining to the Forest Service, Department of Agriculture. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

Approved May 26, 1992.

LEGISLATIVE HISTORY—S. 1182:

HOUSE REPORTS: No. 102-517 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-206 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 23, considered and passed Senate.
Vol. 138 (1992): May 12, considered and passed House.

Public Law 102-293
102d Congress

An Act

To authorize a transfer of administrative jurisdiction over certain land to the Secretary of the Interior, and for other purposes.

May 27, 1992
[S. 452]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Colorado.
South Dakota.
Real property.

SECTION 1. EKBERG-COPPER SPUR LAND EXCHANGE.

(a) AUTHORIZATION OF EXCHANGE.—(1) As soon as practicable after receipt of an offer from the owner, the Secretary of Agriculture shall accept title to the approximately 427 acres of land located in Pennington County, South Dakota, described as "Tract A" and "Tract B", as generally depicted on a map entitled "Ekberg-Copper Spur Ranch Land Exchange—Proposed", dated September 1989, which lands shall thereupon become part of the Black Hills National Forest and shall be administered by the Secretary of Agriculture in accordance with the laws applicable to the National Forest System.

(2) Upon receipt of title to the land described in paragraph (1), the Secretary of Agriculture shall convey to the owner of that land all right, title, and interest of the United States in the approximately 560 acres of land located in Routt County, Colorado, described as the "Copper Spur Ranch—portion to Ekberg", as generally depicted on the map described in section 1(a).

(b) MAP AND LEGAL DESCRIPTION.—(1) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a map and a legal description of the land conveyed to the Secretary of Agriculture pursuant to subsection (a)(1), and the map and description shall have the same force and effect as if they were included in this Act.

(2) The Secretary of Agriculture may correct clerical and typographical errors in the map and legal description filed pursuant to paragraph (1).

(3) The map and legal description filed pursuant to paragraph (1) shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) RESERVATION OF EASEMENTS.—(1) The land conveyed into private ownership pursuant to subsection (a)(2) land shall be subject to the conservation easement granted to the State of Colorado (Division of Wildlife) by the United States, acting by and through the Secretary of Agriculture, dated April 27, 1988, and recorded in Routt County, Colorado (Reception Numbered 375283, Book 637, pages 1741–43), on October 6, 1988.

(2)(A) The land conveyed into private ownership pursuant to subsection (a)(2) shall be subject to easements for ingress and egress through such lands for the benefit of the United States and the public granted between agencies of the United States on May 10, 1989, and recorded in Routt County, Colorado (Reception

Numbered 380443, Book 643, pages 0051–0055) and all other easements of record.

Contracts.

(B)(i) The Bureau of Land Management and the owner of the Copper Spur Ranch shall enter into a cooperative agreement to study the feasibility of constructing access routes as alternatives to those provided by the easements described in subparagraph (A).

(ii) Upon agreement by the Bureau of Land Management on alternative access routes, the construction of such access routes at the expense of the owner of the Copper Spur Ranch, and the conveyance to the United States of easements for use of such access routes by the United States and the public, the Secretary shall execute and deliver to the owner of the Copper Spur Ranch a release or other appropriate form of instrument extinguishing the easements described in subparagraph (A).

(d) EQUALIZATION OF PAYMENT.—If the values of the lands exchanged pursuant to subsection (a) are not equal, they shall be equalized by the payment of cash as provided in section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) without regard to the 25 percent limitation contained in that section.

(e) DATE OF EXCHANGE.—The exchange of lands authorized by subsection (a) shall be completed not later than 1 year after the date of enactment of this Act.

Approved May 27, 1992.

LEGISLATIVE HISTORY—S. 452:

HOUSE REPORTS: No. 102–516 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102–220 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed Senate.
Vol. 138 (1992): May 12, considered and passed House.

Public Law 102-294
102d Congress

An Act

To rename and expand the boundaries of the Mound City Group National Monument in Ohio.

May 27, 1992
[S. 749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING.

16 USC 410uu.

The Mound City Group National Monument established by proclamation of the President (Proclamation No. 1653, 42 Stat. 2298) and expanded by section 701 of Public Law 96-607 (94 Stat. 3540), shall, on and after the date of enactment of this Act, be known as the "Hopewell Culture National Historical Park". Any reference to the Mound City Group National Monument in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Hopewell Culture National Historical Park.

SEC. 2. EXPANSION OF BOUNDARIES.

16 USC 410uu-1.

(a) IN GENERAL.—The boundaries of the Hopewell Culture National Historical Park (referred to as the "park") are revised to include the lands within the areas marked for inclusion in the monument as generally depicted on—

(1) the map entitled "Hopeton Earthworks" numbered 353-80025 and dated July 1987;

(2) the map entitled "High Banks Works" numbered 353-80027 and dated July 1987;

(3) the map entitled "Hopewell Mound Group" numbered 353-80029 and dated July 1987; and

(4) the map entitled "Seip Earthworks" numbered 353-80033 and dated July 1987.

(b) PUBLIC INSPECTION OF MAPS.—Each map described in subsection (a) shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

(c) ADJUSTMENT OF BOUNDARIES.—The Secretary of the Interior (referred to as the "Secretary") may, by notice in the Federal Register after receipt of public comment, make minor adjustments in the boundaries of areas added to the park by subsection (a) and other areas of the park: *Provided,* That any such minor boundary adjustments cumulatively shall not cause the total acreage of the park to increase more than 10 per centum above the existing acreage of Mound City Group National Monument, plus the acreage of the inclusions authorized under section 2(a).

(d) ACQUISITION OF LANDS.—(1) Subject to paragraph (2), the Secretary may acquire lands and interests in land within the areas added to the park by subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

(2)(A) Lands and interests in land owned by the State of Ohio or a political subdivision thereof may be acquired only by donation or exchange.

(B) Lands and interests in land may be acquired by purchase at a price based on the fair market value thereof as determined by independent appraisal, consistent with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

16 USC 410uu-2. **SEC. 3. COOPERATIVE AGREEMENTS.**

The Secretary may enter into a cooperative agreement with the Ohio Historical Society, the Archeological Conservancy, and other public and private entities for consultation and assistance in the interpretation and management of the park.

16 USC 410uu-3. **SEC. 4. STUDIES.**

(a) AREAS ADDED BY THIS ACT.—The Secretary shall conduct archeological studies of the areas added to the park by section 2(a) and adjacent areas to ensure that the boundaries of those areas encompass the lands that are needed to provide adequate protection of the significant archeological resources of those areas.

(b) OTHER AREAS.—The Secretary shall conduct archeological studies of the areas described as the "Spruce Hill Works", the "Harness Group", and the "Cedar Bank Works", and may conduct archeological studies of other areas significant to Hopewellian culture, to evaluate the desirability of adding them to the park, and shall report to Congress on any such areas that are recommended for addition to the park.

16 USC 410uu-4. **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as are necessary for the acquisition of lands and interests in land within the park, the conduct of archeological studies on lands within and adjacent to the park, and the development of facilities for interpretation of the park.

Approved May 27, 1992.

LEGISLATIVE HISTORY—S. 749:

HOUSE REPORTS: No. 102-483 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-108 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Sept. 23, considered and passed Senate.
Vol. 138 (1992): May 12, considered and passed House.

Public Law 102-295
102d Congress

An Act

To amend the Child Abuse Prevention and Treatment Act to revise and extend programs under such Act and for other purposes.

May 28, 1992
[S. 838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992. Grants. Intergovernmental relations. 42 USC 5101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Child Abuse, Domestic Violence, Adoption and Family Services Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Subtitle A—General Provisions

Sec. 101. Amendatory references.
Sec. 102. Findings.

Subtitle B—General Program

Sec. 111. Advisory board on child abuse and neglect.
Sec. 112. Research and assistance activities of the National Center on Child Abuse and Neglect.
Sec. 113. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
Sec. 114. Grant program for child abuse neglect prevention and treatment.
Sec. 115. Emergency grant program.
Sec. 116. Grant program for investigation and prosecution of child abuse cases.
Sec. 117. Authorization of appropriations.

Subtitle C—Community-Based Prevention Grants

Sec. 121. Title heading and purpose.
Sec. 122. Grants authorized; authorization of appropriations.
Sec. 123. State eligibility.
Sec. 124. Limitations.

Subtitle D—Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

Sec. 131. Authorization of appropriations.

Subtitle E—Miscellaneous Provisions

Sec. 141. Technical amendments.
Sec. 142. Report concerning voluntary reporting system.

TITLE II—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT

Sec. 201. Short title.
Sec. 202. Administrative provisions.
Sec. 203. Authorization of appropriations.

TITLE III—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO FAMILY VIOLENCE

Sec. 301. Amendatory references.
Sec. 302. Expansion of purpose.
Sec. 303. Expansion of State grant program.

Sec. 304. Involvement in planning.
Sec. 305. Confidentiality assurances.
Sec. 306. Procedure for evicting violent spouses.
Sec. 307. Penalties for noncompliance.
Sec. 308. Grants to Indian tribes.
Sec. 309. Maximum ceiling.
Sec. 310. Grants to entities other than States; local share.
Sec. 311. Shelter and related assistance.
Sec. 312. Allotment of funds.
Sec. 313. Secretarial responsibilities.
Sec. 314. Evaluation and report to Congress.
Sec. 315. Funding for technical assistance centers.
Sec. 316. Authorization of appropriations.
Sec. 317. Contracts and grants for State domestic violence coalitions.
Sec. 318. Regulations.
Sec. 319. Family member abuse information and documentation.
Sec. 320. Grants for public information campaigns.
Sec. 321. Model State leadership incentive grants for domestic violence intervention.
Sec. 322. Educating youth about domestic violence.

TITLE IV—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO ADOPTION

Sec. 401. Findings and purpose.
Sec. 402. Model adoption legislation and procedures.
Sec. 403. Information and service functions.
Sec. 404. Authorization of appropriations.

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

Subtitle A—General Provisions

SEC. 101. AMENDATORY REFERENCES.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

SEC. 102. FINDINGS.

(a) IN GENERAL.—The Act is amended by inserting after section 1 the following new section:

42 USC 5101 note.

"SEC. 2. FINDINGS.

"Congress finds that—

"(1) each year, hundreds of thousands of American children are victims of abuse and neglect with such numbers having increased dramatically over the past decade;

"(2) many of these children and their families fail to receive adequate protection or treatment;

"(3) the problem of child abuse and neglect requires a comprehensive approach that—

"(A) integrates the work of social service, legal, health, mental health, education, and substance abuse agencies and organizations;

"(B) strengthens coordination among all levels of government, and with private agencies, civic, religious, and professional organizations, and individual volunteers;

"(C) emphasizes the need for abuse and neglect prevention, investigation, and treatment at the neighborhood level;

"(D) ensures properly trained and support staff with specialized knowledge, to carry out their child protection duties; and

"(E) is sensitive to ethnic and cultural diversity;

"(4) the failure to coordinate and comprehensively prevent and treat child abuse and neglect threatens the futures of tens of thousands of children and results in a cost to the Nation of billions of dollars in direct expenditures for health, social, and special educational services and ultimately in the loss of work productivity;

"(5) all elements of American society have a shared responsibility in responding to this national child and family emergency;

"(6) substantial reductions in the prevalence and incidence of child abuse and neglect and the alleviation of its consequences are matters of the highest national priority;

"(7) national policy should strengthen families to remedy the causes of child abuse and neglect, provide support for intensive services to prevent the unnecessary removal of children from families, and promote the reunification of families if removal has taken place;

"(8) the child protection system should be comprehensive, child-centered, family-focused, and community-based, should incorporate all appropriate measures to prevent the occurrence or recurrence of child abuse and neglect, and should promote physical and psychological recovery and social re-integration in an environment that fosters the health, self-respect, and dignity of the child;

"(9) because of the limited resources available in low-income communities, Federal aid for the child protection system should be distributed with due regard to the relative financial need of the communities;

"(10) the Federal government should ensure that every community in the United States has the fiscal, human, and technical resources necessary to develop and implement a successful and comprehensive child protection strategy;

"(11) the Federal government should provide leadership and assist communities in their child protection efforts by—

"(A) promoting coordinated planning among all levels of government;

"(B) generating and sharing knowledge relevant to child protection, including the development of models for service delivery;

"(C) strengthening the capacity of States to assist communities;

"(D) allocating sufficient financial resources to assist States in implementing community plans;

"(E) helping communities to carry out their child protection plans by promoting the competence of professional, paraprofessional, and volunteer resources; and

"(F) providing leadership to end the abuse and neglect of the nation's children and youth.".

(b) CONFORMING AMENDMENT.—The table of contents of the Act is amended by inserting after the item relating to section 1 the following new item:

"Sec. 2. Findings.".

Subtitle B—General Program

SEC. 111. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.

(a) DUTIES.—Section 102(f) (42 U.S.C. 5102(f)) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end of subparagraph (E);

(2) in paragraph (3), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

Reports.

"(4) not later than 24 months after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, submit to the Secretary and the appropriate committees of the Congress a report containing the recommendations of the Board with respect to—

"(A) a national policy designed to reduce and ultimately to prevent child and youth maltreatment-related deaths, detailing appropriate roles and responsibilities for State and local governments and the private sector;

"(B) specific changes needed in Federal laws and programs to achieve an effective Federal role in the implementation of the policy specified in subparagraph (A); and

"(C) specific changes needed to improve national data collection with respect to child and youth maltreatment-related deaths.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 102 (42 U.S.C. 5102) is amended by adding at the end thereof the following new subsection:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $1,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 112. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

(a) RESEARCH TOPICS.—Section 105(a)(1) (42 U.S.C. 5105(a)(1)) is amended—

(1) in subparagraph (A), by striking "and treatment of" and inserting ", treatment and cultural distinctions of";

(2) in subparagraph (B), by striking "appropriate and effective" and inserting "appropriate, effective and culturally sensitive"; and

(3) in subparagraph (C)(ii), by inserting "cultural diversity," after "child support,".

(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—Section 105(b)(1) (42 U.S.C. 5105(b)(1)) is amended to read as follows:

"(1) as a part of research activities, establish a national data collection and analysis program—

"(A) which, to the extent practicable, coordinates existing State child abuse and neglect reports and which shall include—

"(i) standardized data on false, unfounded, or unsubstantiated reports; and

"(ii) information on the number of deaths due to child abuse and neglect; and

"(B) which shall collect, compile, analyze, and make available State child abuse and neglect reporting information which, to the extent practical, is universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;".

(c) PEER REVIEW FOR GRANTS.—Section 105(e) (42 U.S.C. 5105(e)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by inserting "and reviewing" after "evaluating"; and

(B) by amending subparagraph (B) to read as follows:

"(B) In establishing the process required by subparagraph (A), the Secretary shall appoint to the peer review panels only members who are experts in the field of child abuse and neglect or related disciplines, with appropriate expertise in the application to be reviewed, and who are not individuals who are officers or employees of the Office of Human Development. The panels shall meet as often as is necessary to facilitate the expeditious review of applications for grants and contracts under this section, but may not meet less than once a year.";

(2) in paragraph (2)—

(A) in subparagraph (A), by inserting "and evaluate" after "determine"; and

(B)(i) by striking "and" after the semicolon at the end of subparagraph (A);

(ii) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(iii) by adding at the end the following new subparagraph:

"(C) make recommendations to the Secretary concerning whether the application for the project shall be approved."; and

(3) in paragraph (3), by amending subparagraph (A) to read as follows: "(A) The Secretary shall provide grants and contracts under this section from among the projects which the peer review panels established under paragraph (1)(A) have determined to have merit.". Contracts.

SEC. 113. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.

(a) GENERAL AUTHORITY.—Section 106(a) (42 U.S.C. 5106(a)) is amended—

(1) by striking "(a)" and all that follows through "Secretary" and inserting the following:

"(a) GENERAL AUTHORITY.—

"(1) DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.—The Secretary"; and

(2) by adding at the end the following paragraph:

"(2) EVALUATIONS.—In making grants or entering into contracts for demonstration projects, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or contract, or as a separate grant or contract entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.". Contracts.

(b) DISCRETIONARY GRANTS.—Section 106(c)(1) (42 U.S.C. 5106(c)(1)) is amended—

(1) in subparagraph (B), by inserting "culturally specific" before "instruction"; and

(2)(A) in subparagraph (A), by striking "or" after the semicolon at the end;

(B) in subparagraph (B), by striking the period and inserting "; or"; and

(C) by adding at the end the following subparagraph:

"(C) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally.".

SEC. 114. GRANT PROGRAM FOR CHILD ABUSE NEGLECT PREVENTION AND TREATMENT.

(a) DEVELOPMENT AND OPERATION GRANTS.—Section 107(a) (42 U.S.C. 5106a(a)) is amended to read as follows:

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

"(1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;

"(2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;

"(B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

"(C) improving legal preparation and representation;

"(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

"(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

"(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).".

(b) ESTABLISHMENT OF CERTAIN REQUIREMENT.—Section 107 (42 U.S.C. 5106a) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall submit every four years a plan

to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

"(1) INTAKE AND SCREENING.—

"(A) STAFFING.—The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

"(B) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

"(C) PUBLIC EDUCATION.—An assessment of the State or local agency's public education program with respect to—

"(i) what is child abuse and neglect;

"(ii) who is obligated to report and who may choose to report; and

"(iii) how to report.

"(2) INVESTIGATION OF REPORTS.—

"(A) RESPONSE TIME.—The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

"(B) STAFFING.—The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

"(C) INTERAGENCY COORDINATION.—A description of the extent to which interagency coordination processes exist and are available Statewide, and whether protocols or formal policies governing interagency relationships exist in the following areas—

"(i) multidisciplinary investigation teams among child welfare and law enforcement agencies;

"(ii) interagency coordination for the prevention, intervention and treatment of child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and

"(iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

"(D) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

"(E) LEGAL REPRESENTATION.—A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

"(3) CASE MANAGEMENT AND DELIVERY OF ONGOING FAMILY SERVICES.—For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

"(A) RESPONSE TIME.—The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

"(B) STAFFING.—The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

"(C) TRAINING.—The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

"(D) INTERAGENCY COORDINATION.—The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

"(4) GENERAL SYSTEM ENHANCEMENT.—

"(A) AUTOMATION.—A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

"(B) ASSESSMENT TOOLS.—A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

"(C) INFORMATION AND REFERRAL.—A description and assessment of the extent to which a State has in place—

"(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

"(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

"(D) STAFF CAPACITY AND COMPETENCE.—An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

"(5) INNOVATIVE APPROACHES.—A description of—

"(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

"(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.".

(c) TECHNICAL CORRECTION.—Section 107(d), as redesignated by subsection (b) of this section, is amended in the matter preceding subparagraph (A) by striking "this subsection" and inserting "subsection (a)".

(d) DELAYED EFFECTIVE DATE FOR NEW REQUIREMENTS.—The amendments described in subsections (a) and (b) are made upon the date of the enactment of this Act. Such amendments take effect on October 1, 1993, or on October 1 of the first fiscal year for which $40,000,000 or more is made available under subsection (a)(2)(B)(ii) of section 114 of the Child Abuse Prevention and Treatment Act (as amended by section 117 of this Act), whichever occurs first. Prior to such amendments taking effect, section 107(a) of the Child Abuse Prevention and Treatment Act, as in effect on the day before the date of the enactment of this Act, continues to be in effect. 42 USC 5106a note.

SEC. 115. EMERGENCY GRANT PROGRAM.

(a) IN GENERAL.—Section 107A(e) (42 U.S.C. 5106a–1(e)) is amended by striking out "and such sums" and all that follows through the end thereof and inserting "such sums as may be necessary for fiscal year 1991, $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

(b) TECHNICAL AMENDMENT.—Section 1 is amended in the table of contents by inserting after the item relating to section 107 the following:

"Sec. 107A. Emergency child abuse prevention services grant.".

SEC. 116. GRANT PROGRAM FOR INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES.

(a) IN GENERAL.—Section 109 (42 U.S.C. 5106c) is amended—

(1) by striking out the section heading and inserting in lieu thereof the following:

"SEC. 109. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.";

(2) in subsection (a), by striking out paragraphs (1) and (2), and inserting in lieu thereof the following new paragraphs:

"(1) the handling of child abuse and neglect cases, particularly cases of child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim;

"(2) the handling of cases of suspected child abuse or neglect related fatalities; and

"(3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.";

(3) in subsection (b)—

(A) by striking out "and 107(e) or receive a waiver under section 107(c)" in paragraph (1);

(B) by striking out "and" at the end of paragraph (3);

(C) by inserting "annually" after "submit" in paragraph (4); and

(D) by striking out the period at the end thereof and inserting the following: "; and

Reports.

"(5) submit annually to the Secretary a report on the manner in which assistance received under this program was expended throughout the State, with particular attention focused on the areas described in paragraphs (1) through (3) of subsection (a).";

(4) in subsection (c)(1)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ", and maintain" after "designate"; and

(ii) by striking out "child abuse" and inserting in lieu thereof "child physical abuse, child neglect, child sexual abuse and exploitation, and child maltreatment related fatalities";

(B) by striking out "judicial and legal officers", in subparagraph (B) and inserting in lieu thereof "judges and attorneys involved in both civil and criminal court proceedings related to child abuse and neglect";

(C) by inserting before the semicolon in subparagraph (C), the following: ", including both attorneys for children and, where such programs are in operation, court appointed special advocates"; and

(D) by striking out "handicaps;" in subparagraph (F), and inserting in lieu thereof "disabilities".

(5) in subsection (d)—

(A) by striking out "the State task force shall" in the matter preceding paragraph (1), and inserting in lieu thereof "and at three year intervals thereafter, the State task force shall comprehensively";

(B) by striking out "judicial" and all that follows in paragraph (1), and inserting in lieu thereof the following: "both civil and criminal judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal;";

(C) by inserting "policy and training" before "recommendations" in paragraph (2); and

(6) in subsection (e)(1)—

(A) by striking out "child abuse" and all that follows through "child victim" in subparagraph (A), and inserting in lieu thereof the following: "child abuse and neglect,

particularly child sexual abuse and exploitation, as well as cases involving suspected child maltreatment related fatalities and cases involving a potential combination of jurisdictions, such as interstate, Federal-State, and State-Tribal, in a manner which reduces the additional trauma to the child victim and the victim's family";

(B) by striking out "improve the rate" and all that follows through "abuse cases" in subparagraph (B), and inserting in lieu thereof the following: "improve the prompt and successful resolution of civil and criminal court proceedings or enhance the effectiveness of judicial and administrative action in child abuse and neglect cases, particularly child sexual abuse and exploitation cases, including the enhancement of performance of court-appointed attorneys and guardians ad litem for children"; and

(C) in subparagraph (C)—

(i) by inserting ", protocols" after "regulations"; and

(ii) by inserting "and exploitation" after "sexual abuse".

(b) CONFORMING AMENDMENT.—Section 1 is amended in the item relating to section 109 in the table of contents by striking "Grants" and all that follows and inserting the following: "Grants to States for programs relating to the investigation and prosecution of child abuse and neglect cases.".

SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 114(a) (42 U.S.C. 5106h(a)) is amended to read as follows:

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—There are authorized to be appropriated to carry out this title, except for section 107A, $100,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

"(2) ALLOCATIONS.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, $5,000,000 shall be available for the purpose of making additional grants to the States to carry out the provisions of section 107(g).

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A)—

"(i) 33⅓ percent shall be available for activities under sections 104, 105 and 106; and

"(ii) 66⅔ percent of such amounts shall be made available in each such fiscal year for activities under sections 107 and 108.".

(b) DELAYED EFFECTIVE DATE.—Paragraph (2) of section 114(a), as amended by subsection (a), shall become effective on October 1 of the first fiscal year for which $30,000,000 or more would be available under subsection (a)(2)(B)(ii) of such section 114 (if such subsection were in effect), and until such fiscal year, the second and third sentences of section 114(a) (as in effect prior to the amendment made by such subsection (a)) shall continue in effect. 42 USC 5106h note.

Subtitle C—Community-Based Prevention Grants

SEC. 121. TITLE HEADING AND PURPOSE.

(a) TITLE HEADING.—The heading for title II (42 U.S.C. 5116 et seq.) is amended to read as follows:

"TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS".

(b) PURPOSE.—Section 201 (42 U.S.C. 5116) is amended—

(1) in the section heading to read as follows:

"SEC. 201. PURPOSES."

; and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"It is the purpose of this title, through the provision of community-based child abuse and neglect prevention grants, to assist States in supporting child abuse and neglect prevention activities.".

SEC. 122. GRANTS AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.

Section 203 (42 U.S.C. 5116b) is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (b); and

(3) in subsection (b) (as so redesignated), by striking out "such sums" and all that follows through the period and inserting in lieu thereof "$45,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 123. STATE ELIGIBILITY.

Section 204 (42 U.S.C. 5116c) is amended—

(1) by striking out "or other funding mechanism"; and

(2) by striking out "which is available only for child" and all that follows through the end thereof, and inserting "which includes (in whole or in part) legislative provisions making funding available only for the broad range of child abuse and neglect prevention activities.".

SEC. 124. LIMITATIONS.

Section 205 (42 U.S.C. 5116d) is amended—

(1) by striking out paragraph (1) of subsection (a) and inserting in lieu thereof the following new paragraph:

"(1) ALLOTMENT FORMULA.—

"(A) IN GENERAL.—Amounts appropriated to provide grants under this title shall be allotted among eligible States in each fiscal year so that—

"(i) 50 percent of the total amount appropriated is allotted among each State based on the number of children under the age of 18 in each such State, except that each State shall receive not less than $30,000; and

"(ii) the remaining 50 percent of the total amount appropriated is allotted in an amount equal to 25 percent of the total amount collected by each such State, in the fiscal year prior to the fiscal year for which the allotment is being determined, for the children's trust fund of the State for child abuse and neglect prevention activities.

"(B) USE OF AMOUNTS.—Not less than 50 percent of the amount of a grant made to a State under this title in each fiscal year shall be utilized to support community-based prevention programs as authorized in section 204(a), except that this subparagraph shall not become applicable until amounts appropriated under section 203(b) exceed $10,000,000."; and

(2) in subsection (b)(1)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (F) and (G), respectively; and

(B) by inserting after subparagraph (A), the following new subparagraphs:

"(B) demonstrate coordination with other child abuse and neglect prevention activities and agencies at the State and local levels;

"(C) demonstrate the outcome of services and activities funded under this title;

"(D) provide evidence that Federal assistance received under this title has been supplemented with non-Federal public and private assistance (including in-kind contributions) at the local level (Federal assistance expended in support of activities authorized under paragraphs (1), (2), and (3) of section 204 shall be supplemented by State assistance);

"(E) demonstrate the extent to which funds received under this title are used to support community prevention activities in underserved areas, in which case the supplemental support required under subparagraph (D) shall be waived for the first 3 years in which assistance is provided to a grantee described in this subparagraph;".

Subtitle D—Certain Preventive Services Regarding Children of Homeless Families or Families at Risk of Homelessness

SEC. 131. AUTHORIZATION OF APPROPRIATIONS.

Section 306(a) (42 U.S.C. 5118e(a)) is amended by inserting ", and such sums as may be necessary for each of the fiscal years 1993 through 1995" before the period.

Subtitle E—Miscellaneous Provisions

SEC. 141. TECHNICAL AMENDMENTS.

The Act (42 U.S.C. 5101 et seq.) is amended—

(1) by striking "handicapped child" each place such term appears and inserting "child with disabilities";

(2) by striking "child with handicaps" each place such term appears and inserting "child with disabilities";

(3) by striking "handicap" each place such term appears and inserting "disability";

(4) by striking "handicapped" each place such term appears and inserting "disabled"; and

(5) in the case of any variation of a term struck by paragraph (1), (2), (3), or (4) that results from the capitalization of any of the letters of such term, from the use of the plural or the singular, from the use of the possessive, from the use of a different tense, from the use of a different form of typeface, or from any combination thereof, by striking such variation each place the variation appears and inserting the analogous variation of the term inserted in lieu of the term struck by paragraph (1), (2), (3), or (4), respectively.

42 USC 5106f-1.

SEC. 142. REPORT CONCERNING VOLUNTARY REPORTING SYSTEM.

Not later than April 30, 1993, and annually thereafter, the Secretary of Health and Human Services, acting through the Director of the National Center on Child Abuse and Neglect, shall prepare and submit to the appropriate committees of Congress a report concerning the measures being taken to assist States in implementing a voluntary reporting system for child abuse and neglect. Such reports shall contain information concerning the extent to which the child abuse and neglect reporting systems developed by the States are coordinated with the automated foster care and adoption reporting system required under section 479 of the Social Security Act.

Temporary Child Care for Children With Disabilities and Crisis Nurseries Act Amendments of 1992.

TITLE II—TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT

SEC. 201. SHORT TITLE.

42 USC 5117 note.

This title may be cited as the "Temporary Child Care for Children With Disabilities and Crisis Nurseries Act Amendments of 1992".

SEC. 202. ADMINISTRATIVE PROVISIONS.

(a) DEFINITIONS.—Section 205(d)(2) of the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117c(d)(2)) is amended by striking "given" and all that follows and inserting the following: "given such term in section 602(a)(1) of the Individuals with Disabilities Education Act;".

(b) TECHNICAL AMENDMENT.—Section 205(a)(1)(A)(vi) of the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117c(a)(1)(A)(vi)) is amended by striking out "(vi)" and inserting in lieu thereof "(v)".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

Section 206 of the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117d) is amended in the first sentence—

(1) by striking "and" after "1989,"; and

(2) by inserting before the period the following: ", and $20,000,000 for each of the fiscal years 1992 through 1995".

TITLE III—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO FAMILY VIOLENCE

SEC. 301. AMENDATORY REFERENCES.

Except as otherwise provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.).

SEC. 302. EXPANSION OF PURPOSE.

Section 302 (42 U.S.C. 10401) is amended—

(1) in paragraph (1)—

(A) by striking out "demonstration the effectiveness of assisting" and inserting in lieu thereof "assist"; and

(B) by striking out "to prevent" and inserting in lieu thereof "to increase public awareness about and prevent"; and

(2) in paragraph (2), by inserting ", courts, legal, social service, and health care professionals" after "(including law enforcement agencies".

SEC. 303. EXPANSION OF STATE GRANT PROGRAM.

Section 303(a) (42 U.S.C. 10402(a)) is amended—

(1) in paragraph (1), by striking out "demonstration grants" and inserting in lieu thereof "grants"; and

(2) in paragraph (2)—

(A) by striking out "demonstration grant" in the matter preceding subparagraph (A), and inserting in lieu thereof "grant";

(B) by striking out "demonstration grant" in subparagraph (A), and inserting in lieu thereof "grant"; and

(C) by striking out "particularly those projects" in subparagraph (B)(ii) and all that follows through the end thereof, and inserting in lieu thereof the following: "the primary purpose of which is to operate shelters for victims of family violence and their dependents, and those which provide counseling, advocacy, and self-help services to victims and their children.".

SEC. 304. INVOLVEMENT IN PLANNING.

Section 303(a)(2)(C) (42 U.S.C. 10402(a)(2)(C)) is amended by inserting "State domestic violence coalitions" after "involve".

SEC. 305. CONFIDENTIALITY ASSURANCES.

Section 303(a)(2)(E) (42 U.S.C. 10402(a)(2)(E)) is amended by striking out "assurances that procedures will be developed" and inserting in lieu thereof "documentation that procedures have been developed, and implemented including copies of the policies and procedure,".

SEC. 306. PROCEDURE FOR EVICTING VIOLENT SPOUSES.

Section 303(a)(2)(F) (42 U.S.C. 10402(a)(2)(F)) is amended to read as follows:

"(F) provide documentation to the Secretary that the State has a law or procedure that has been implemented for the eviction of an abusing spouse from a share household;".

SEC. 307. PENALTIES FOR NONCOMPLIANCE.

Section 303(a)(3) (42 U.S.C. 10402(a)(3)) is amended—

(1) by inserting "a 6-month period providing an" before "opportunity"; and

(2) by adding at the end thereof the following new sentences: "The Secretary shall provide such notice within 45 days of the date of the application if any of the provisions of paragraph (2) have not been satisfied in such application. If the State has not corrected the deficiencies in such application within the 6-month period following the receipt of the Secretary's notice of intention to disapprove, the Secretary shall withhold payment of any grant funds to such State until the date that is 30 days prior to the end of the fiscal year for which such grant funds are appropriated or until such time as the State provides documentation that the deficiencies have been corrected, whichever occurs first. State Domestic Violence Coalitions shall be permitted to participate in determining whether a grantee is in compliance with paragraph (2), except that no funds made available to State Domestic Violence Coalitions under section 311 shall be used to challenge a determination as to whether a grantee is in compliance with, or to seek the enforcement of, the eligibility requirements of such paragraph.".

SEC. 308. GRANTS TO INDIAN TRIBES.

Section 303(b) (42 U.S.C. 10402(b)) is amended—

(1) in paragraph (1)—

(A) by striking out "is authorized to make demonstration grants" and inserting in lieu thereof ", from amounts appropriated to carry out this section, shall make available not less than 10 percent of such amounts to make grants";

(B) by striking out "and tribal" and inserting in lieu thereof ", tribal"; and

(C) by inserting "and nonprofit private organizations approved by an Indian Tribe for the operation of a family violence shelter on a Reservation", after "tribal organizations";

(2) in paragraph (2)—

(A) by striking out "demonstration grant" and inserting in lieu thereof "grant";

(B) by striking out "and (E)" and inserting in lieu thereof "(E) and (F)"; and

(C) by adding at the end thereof the following new sentence: "No entity eligible to submit an application under paragraph (1) shall be prohibited from making an application during any fiscal year for which funds are available because such entity has not previously applied or received funding under this section."; and

(3) by adding at the end the following new paragraph:

"(3) In the case of a project for which the initial application for a demonstration grant under this subsection is made on or after the date of the enactment of the Child Abuse Programs, Adoption Opportunities, and Family Violence Prevention Amendments Act of 1992, the terms 'Indian tribe' and 'tribal organization',

for purposes of this subsection, have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act.".

SEC. 309. MAXIMUM CEILING.

(a) IN GENERAL.—Section 303 (42 U.S.C. 10402) is amended—
(1) by striking out subsection (c); and
(2) by redesignating subsections (d) through (g) as subsections (c) through (f), respectively.

(b) EFFECTIVITY OF AMENDMENTS.—The amendments made by subsection (a) are effective in the case of amounts appropriated for fiscal year 1992 and subsequent fiscal years. 42 USC 10402 note.

SEC. 310. GRANTS TO ENTITIES OTHER THAN STATES; LOCAL SHARE.

Section 303(e) (as redesignated by section 309 of this Act) is amended—
(1) in the first sentence—
(A) by striking out "demonstration grant" and inserting in lieu thereof "grant";
(B) by inserting "or an Indian Tribe" after "State";
(C) by striking out "35 percent" and inserting in lieu thereof "20 percent";
(D) by striking out "55 percent" and inserting in lieu thereof "35 percent";
(E) by striking out "and 65 percent in the third such year" and inserting in lieu thereof "and 50 percent in the third such year and in any such year thereafter"; and
(2) in the second sentence, by striking out "50 percent" and inserting in lieu thereof "25 percent".

SEC. 311. SHELTER AND RELATED ASSISTANCE.

(a) SHELTER.—Section 303(f) (42 U.S.C. 10402(g)) (as so redesignated by section 309) is amended—
(1) by striking out "60 percent" and inserting in lieu thereof "70 percent"; and
(2) by inserting before the period the following "as defined in section 309(4). Not less than 25 percent of the funds distributed under subsection (a) or (b) shall be distributed for the purpose of providing related assistance as defined under section 309(5)(A)".

(b) DEFINITION.—Paragraph (5) of section 309 (42 U.S.C. 10408(5)) is amended to read as follows:

"(5) The term 'related assistance' means the provision of direct assistance to victims of family violence and their dependents for the purpose of preventing further violence, helping such victims to gain access to civil and criminal courts and other community services, facilitating the efforts of such victims to make decisions concerning their lives in the interest of safety, and assisting such victims in healing from the effects of the violence. Related assistance shall include—

"(A) prevention services such as outreach and prevention services for victims and their children, employment training, parenting and other educational services for victims and their children, preventive health services within domestic violence programs (including nutrition, disease prevention, exercise, and prevention of substance abuse), domestic violence prevention programs for school age chil-

dren, family violence public awareness campaigns, and violence prevention counseling services to abusers;

"(B) counseling with respect to family violence, counseling by peers individually or in groups, and referral to community social services;

"(C) transportation, technical assistance with respect to obtaining financial assistance under Federal and State programs, and referrals for appropriate health-care services (including alcohol and drug abuse treatment), but shall not include reimbursement for any health-care services;

"(D) legal advocacy to provide victims with information and assistance through the civil and criminal courts, and legal assistance; or

"(E) children's counseling and support services, and child care services for children who are victims of family violence or the dependents of such victims.".

SEC. 312. ALLOTMENT OF FUNDS.

Section 304(a)(1) (42 U.S.C. 10403(a)(1)) is amended—

(1) by striking out "whichever is the greater of the following amounts: one-half of"; and

(2) by striking out "$50,000" and inserting in lieu thereof "$200,000, whichever is the lessor amount".

SEC. 313. SECRETARIAL RESPONSIBILITIES.

Section 305(b)(2)(A) (42 U.S.C. 10404(b)(2)(A)) is amended—

(1) by striking out "into the causes of family violence";

(2) by inserting "most effective" before "prevention";

(3) by striking out "and (ii)" and inserting in lieu thereof "(ii)"; and

(4) by inserting before "and (B)" the following: "(iii) the effectiveness of providing safety and support to maternal and child victims of family violence as a way to eliminate the abuse experienced by children in such situations, (iv) identification of intervention approaches to child abuse prevention services which appear to be successful in preventing child abuse where both mother and child are abused, (v) effective and appropriate treatment services for children where both mother and child are abused, and (vi) the individual and situational factors leading to the end of violent and abusive behavior by persons who commit acts of family violence, including such factors as history of previous violence and the legal and service interventions received,".

SEC. 314. EVALUATION AND REPORT TO CONGRESS.

Section 306 (42 U.S.C. 10405) is amended—

(1) by inserting "and every two years thereafter," after "the first time after the date of the enactment of this title,";

(2) by striking out "assurances" and inserting in lieu thereof "documentation"; and

(3) by striking out "303(a)(2)(F)" and inserting in lieu "303(a)(2)(B) through 303(a)(2)(F)".

SEC. 315. FUNDING FOR TECHNICAL ASSISTANCE CENTERS.

Section 308 (42 U.S.C. 10407) is amended to read as follows:

Indians.

"SEC. 308. INFORMATION AND TECHNICAL ASSISTANCE CENTERS.

"(a) PURPOSE AND GRANTS.—

"(1) PURPOSE.—It is the purpose of this section to provide resource information, training, and technical assistance to Federal, State, and Indian tribal agencies, as well as to local domestic violence programs and to other professionals who provide services to victims of domestic violence.

"(2) GRANTS.—From the amounts appropriated under this title, the Secretary shall award grants to private nonprofit organizations for the establishment and maintenance of one national resource center (as provided for in subsection (b)) and not to exceed six special issue resource centers (as provided for in subsection (c)) focusing on one or more issues of concern to domestic violence victims. Nonprofit organizations.

"(b) NATIONAL RESOURCE CENTER.—The national resource center established under subsection (a)(2) shall offer resource, policy and training assistance to Federal, State, and local government agencies, to domestic violence service providers, and to other professionals and interested parties on issues pertaining to domestic violence, and shall maintain a central resource library in order to collect, prepare, analyze, and disseminate information and statistics and analyses thereof relating to the incidence and prevention of family violence (particularly the prevention of repeated incidents of violence) and the provision of immediate shelter and related assistance.

"(c) SPECIAL ISSUE RESOURCE CENTERS.—The special issue resource centers established under subsection (a)(2) shall provide information, training and technical assistance to State and local domestic violence service providers, and shall specialize in at least one of the following areas of domestic violence service, prevention, or law:

"(1) Criminal justice response to domestic violence, including court-mandated abuser treatment.

"(2) Improving the response of Child Protective Service agencies to battered mothers of abused children.

"(3) Child custody issues in domestic violence cases.

"(4) The use of the self-defense plea by domestic violence victims.

"(5) Improving interdisciplinary health care responses and access to health care resources for victims of domestic violence.

"(6) Improving access to and the quality of legal representation for victims of domestic violence in civil litigation.

"(d) ELIGIBILITY.—To be eligible to receive a grant under this section an entity shall be a private nonprofit organization that—

"(1) focuses primarily on domestic violence;

"(2) provides documentation to the Secretary demonstrating experience working directly on issues of domestic violence, particularly in the specific subject area for which it is applying;

"(3) include on its advisory boards representatives from domestic violence programs in the region who are geographically and culturally diverse; and

"(4) demonstrate the strong support of domestic violence advocates from across the country and the region for their designation as the national or a special issue resource center.

"(e) REPORTING.—Not later than 6 months after receiving a grant under this section, a grantee shall prepare and submit a report to the Secretary that evaluates the effectiveness of the use of amounts received under such grant by such grantee and containing such additional information as the Secretary may prescribe.

"(f) DEFINITION.—For purposes of this section, the term 'Indian tribal agency' means an Indian tribe or tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

"(g) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations.".

SEC. 316. AUTHORIZATION OF APPROPRIATIONS.

Section 310 (42 U.S.C. 10409) is amended to read as follows:

"SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of sections 303 through 309 and section 313, $60,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

"(b) SECTION 303 (a) AND (b).—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 80 percent shall be used for making grants under subsection 303(a), and not less than 10 percent shall be used for the purpose of carrying out section 303(b).

"(c) SECTION 308.—Of the amounts appropriated under subsection (a) for each fiscal year, 5 percent shall be used by the Secretary for making grants under section 308.".

SEC. 317. CONTRACTS AND GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

Section 311 (42 U.S.C. 10410) is amended to read as follows:

Nonprofit organizations.

"SEC. 311. GRANTS FOR STATE DOMESTIC VIOLENCE COALITIONS.

"(a) IN GENERAL.—The Secretary shall award grants for the funding of State domestic violence coalitions. Such coalitions shall further the purposes of domestic violence intervention and prevention through activities, including—

"(1) working with judicial and law enforcement agencies to encourage appropriate responses to domestic violence cases and examine issues including—

"(A) the inappropriateness of mutual protection orders;

"(B) the prohibition of mediation when domestic violence is involved;

"(C) the use of mandatory arrests of accused offenders;

"(D) the discouragement of dual arrests;

"(E) the adoption of aggressive and vertical prosecution policies and procedures;

"(F) the use of mandatory requirements for presentence investigations;

"(G) the length of time taken to prosecute cases or reach plea agreements;

"(H) the use of plea agreements;

"(I) the consistency of sentencing, including comparisons of domestic violence crimes with other violent crimes;

"(J) the restitution of victims;

"(K) the use of training and technical assistance to law enforcement and court officials and other professionals;

"(L) the reporting practices of, and significance to be accorded to, prior convictions (both felony and misdemeanor) and protection orders;

"(M) the use of interstate extradition in cases of domestic violence crimes;

"(N) the use of statewide and regional planning; and

"(O) any other matters as the Secretary and the State domestic violence coalitions believe merit investigations;

"(2) work with family law judges, Child Protective Services agencies, and children's advocates to develop appropriate responses to child custody and visitation issues in domestic violence cases as well as cases where domestic violence and child abuse are both present, including—

"(A) the inappropriateness of mutual protection orders;

"(B) the prohibition of mediation where domestic violence is involved;

"(C) the inappropriate use of marital or conjoint counseling in domestic violence cases;

"(D) the use of training and technical assistance for family law judges and court personnel;

"(E) the presumption of custody to domestic violence victims;

"(F) the use of comprehensive protection orders to grant fullest protections possible to victims of domestic violence, including temporary support and maintenance;

"(G) the development by Child Protective Service of supportive responses that enable victims to protect their children;

"(H) the implementation of supervised visitations that do not endanger victims and their children; and

"(I) the possibility of permitting domestic violence victims to remove children from the State when the safety of the children or the victim is at risk;

"(3) conduct public education campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence; and

"(4) participate in planning and monitoring of the distribution of grants and grant funds to their State under section 303(a).

"(b) ELIGIBILITY.—To be eligible for a grant under this section, an entity shall be a statewide nonprofit State domestic violence coalition meeting the following conditions:

"(1) The membership of the coalition includes representatives from a majority of the programs for victims of domestic violence in the State.

"(2) The board membership of the coalition is representative of such programs.

"(3) The purpose of the coalition is to provide services, community education, and technical assistance to such programs to establish and maintain shelter and related services for victims of domestic violence and their children.

"(4) In the application submitted by the coalition for the grant, the coalition provides assurances satisfactory to the Secretary that the coalition—

"(A) has actively sought and encouraged the participation of law enforcement agencies and other legal or judicial entities in the preparation of the application; and

"(B) will actively seek and encourage the participation of such entities in the activities carried out with the grant.

"(c) ALLOTMENT OF FUNDS.—From amounts appropriated under this section for each fiscal year, the Secretary shall allot to each State, the District of Columbia, the Commonwealth of Puerto Rico, and the combined U.S. Territories an amount equal to 1/53 of the amount appropriated for such fiscal year. For purposes of this section, the term 'combined U.S. Territories' means Guam, American Samoa, the U.S. Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands and shall not receive less than 1.5 percent of the funds appropriated for each fiscal year.

"(d) PROHIBITION ON LOBBYING.—No funds made available to entities under this section shall be used, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by Congress, or by any State or local legislative body, or State proposals by initiative petition, except that the representatives of the entity may testify or make other appropriate communication—

"(1) when formally requested to do so by a legislative body, a committee, or a member thereof; or

"(2) in connection with legislation or appropriations directly affecting the activities of the entity.

"(e) REPORTING.—Each State domestic violence coalition receiving amounts under this section shall submit a report to the Secretary describing the coordination, training and technical assistance and public education services performed with such amounts and evaluating the effectiveness of those services.

"(f) DEFINITION.—For purposes of this section, a State domestic violence coalition may include representatives of Indian tribes and tribal organizations, as defined in section 4 of the Indian Self-Determination and Education Assistance Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to be used to award grants under this section $8,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

"(h) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing this section.".

SEC. 318. REGULATIONS.

42 USC 10412.

Section 312(a) (42 U.S.C. 10409(a)) is amended by adding at the end thereof the following new sentence:

"Not later than 90 days after the date of enactment of this sentence, the Secretary shall publish proposed regulations implementing sections 303, 308, and 314. Not later than 120 days after such date of enactment, the Secretary shall publish final regulations implementing such sections.".

SEC. 319. FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION.

Section 313(1) (42 U.S.C. 10409(1)) is amended by striking out "characteristics relating to family violence" and inserting in lieu thereof "develop data on the number of victims of family violence and their dependents who are homeless or institutionalized as a result of the violence and abuse they have experienced". 42 USC 10413.

SEC. 320. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS.

Nonprofit organizations.

The Act is amended by adding at the end thereof the following new section:

"SEC. 314. GRANTS FOR PUBLIC INFORMATION CAMPAIGNS. 42 USC 10414.

"(a) IN GENERAL.—The Secretary may make grants to public or private nonprofit entities to provide public information campaigns regarding domestic violence through the use of public service announcements and informative materials that are designed for print media, billboards, public transit advertising, electronic broadcast media, and other vehicles for information that shall inform the public concerning domestic violence.

"(b) APPLICATION.—No grant, contract, or cooperative agreement shall be made or entered into under this section unless an application that meets the requirements of subsection (c) has been approved by the Secretary.

"(c) REQUIREMENTS.—An application submitted under subsection (b) shall—

"(1) provide such agreements, assurances, and information, be in such form and be submitted in such manner as the Secretary shall prescribe through notice in the Federal Register, including a description of how the proposed public information campaign will target the population at risk, including pregnant women; Federal Register, publication.

"(2) include a complete description of the plan of the application for the development of a public information campaign;

"(3) identify the specific audiences that will be educated, including communities and groups with the highest prevalence of domestic violence;

"(4) identify the media to be used in the campaign and the geographic distribution of the campaign;

"(5) describe plans to test market a development plan with a relevant population group and in a relevant geographic area and give assurance that effectiveness criteria will be implemented prior to the completion of the final plan that will include an evaluation component to measure the overall effectiveness of the campaign;

"(6) describe the kind, amount, distribution, and timing of informational messages and such other information as the Secretary may require, with assurances that media organizations and other groups with which such messages are placed will not lower the current frequency of public service announcements; and

"(7) contain such other information as the Secretary may require.

"(d) USE.—A grant, contract, or agreement made or entered into under this section shall be used for the development of a public information campaign that may include public service announcements, paid educational messages for print media, public transit Contracts.

advertising, electronic broadcast media, and any other mode of conveying information that the Secretary determines to be appropriate.

"(e) CRITERIA.—The criteria for awarding grants shall ensure that an applicant—

"(1) will conduct activities that educate communities and groups at greatest risk;

"(2) has a record of high quality campaigns of a comparable type; and

"(3) has a record of high quality campaigns that educate the population groups identified as most at risk.

"(f) For purposes of this section, the term 'public or private nonprofit entity' includes an 'Indian tribe' or 'tribal organization', as defined in section 4 of the Indian Self-Determination and Education Assistance Act.".

Law enforcement and crime.

SEC. 321. MODEL STATE LEADERSHIP INCENTIVE GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

The Act (as amended by section 320) is further amended by adding at the end thereof the following new section:

42 USC 10415.

"SEC. 315. MODEL STATE LEADERSHIP GRANTS FOR DOMESTIC VIOLENCE INTERVENTION.

"(a) IN GENERAL.—The Secretary, in cooperation with the Attorney General, shall award grants to not more than 10 States to assist such States in becoming model demonstration States and in meeting the costs of improving State leadership concerning activities that will—

"(1) increase the number of prosecutions for domestic violence crimes;

"(2) encourage the reporting of incidences of domestic violence; and

"(3) facilitate 'arrests and aggressive' prosecution policies.

"(b) DESIGNATION AS MODEL STATE.—To be designated as a model State under subsection (a), a State shall have in effect—

"(1) a law that requires mandatory arrest of a person that police have probable cause to believe has committed an act of domestic violence or probable cause to believe has violated an outstanding civil protection order;

"(2) a law or policy that discourages 'dual' arrests;

"(3) statewide prosecution policies that—

"(A) authorize and encourage prosecutors to pursue cases where a criminal case can be proved, including proceeding without the active involvement of the victim if necessary; and

"(B) implement model projects that include either—

"(i) a 'no-drop' prosecution policy; or

"(ii) a vertical prosecution policy; and

"(C) limit diversion to extraordinary cases, and then only after an admission before a judicial officer has been entered;

"(4) statewide guidelines for judges that—

"(A) reduce the automatic issuance of mutual restraining or protective orders in cases where only one spouse has sought a restraining or protective order;

"(B) discourage custody or joint custody orders by spouse abusers; and

"(C) encourage the understanding of domestic violence as a serious criminal offense and not a trivial dispute; and

"(5) develop and disseminate methods to improve the criminal justice system's response to domestic violence to make existing remedies as easily available as possible to victims of domestic violence, including reducing delay, eliminating court fees, and providing easily understandable court forms.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—In addition to the funds authorized to be appropriated under section 310, there are authorized to be appropriated to make grants under this section $25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995.

"(2) LIMITATION.—A grant may not be made under this section in an amount less than $2,000,000.

"(3) DELEGATION AND TRANSFER.—The Secretary shall delegate to the Attorney General the Secretary's responsibilities for carrying out this section and shall transfer to the Attorney General the funds appropriated under this section for the purpose of making grants under this section.".

SEC. 322. EDUCATING YOUTH ABOUT DOMESTIC VIOLENCE.

42 USC 10401 note.

(a) GENERAL PURPOSE.—For purposes of this section, the Secretary of Education, hereinafter referred to as the "Secretary" shall develop model programs for education of young people about domestic violence and violence among intimate partners.

Contracts.

(b) NATURE OF PROGRAM.—The Secretary, in consultation with the Secretary of Health and Human Services, shall through grants or contracts develop three separate programs, one each for primary and middle schools, secondary schools, and institutions of higher education. Such model programs shall be developed with the input of educational experts, law enforcement personnel, legal and psychological experts on battering, and victim advocate organizations such as battered women's shelters. The participation of each such group or individual consultants from such groups is essential to the development of a program that meets both the needs of educational institutions and the needs of the domestic violence problem.

(c) REVIEW AND DISSEMINATION.—Not later than 9 months after the date of enactment of this Act, the Secretary shall transmit the model programs, along with a plan and cost estimate for nationwide distribution, to the relevant committees of Congress for review.

(d) AUTHORIZATION.—There are authorized to be appropriated under this section for fiscal year 1992, $200,000 to carry out the purposes of this section.

TITLE IV—REAUTHORIZATION OF PROGRAMS WITH RESPECT TO ADOPTION

SEC. 401. FINDINGS AND PURPOSE.

Section 201 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111) is amended to read as follows:

"SEC. 201. CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE.

"(a) FINDINGS.—Congress finds that—

"(1) the number of children in substitute care increased by nearly 50 percent between 1985 and 1990, as our Nation's foster care population included more than 400,000 children at the end of June, 1990;

"(2) increasingly children entering foster care have complex problems which require intensive services;

"(3) an increasing number of infants are born to mothers who did not receive prenatal care, are born addicted to alcohol and other drugs, and exposed to infection with the etiologic agent for the human immunodeficiency virus, are medically fragile, and technology dependent;

"(4) the welfare of thousands of children in institutions and foster homes and disabled infants with life-threatening conditions may be in serious jeopardy and some such children are in need of placement in permanent, adoptive homes;

"(5) many thousands of children remain in institutions or foster homes solely because of local and other barriers to their placement in permanent, adoptive homes;

"(6) the majority of such children are of school age, members of sibling groups or disabled;

"(7) currently one-half of children free for adoption and awaiting placement are minorities;

"(8) adoption may be the best alternative for assuring the healthy development of such children;

"(9) there are qualified persons seeking to adopt such children who are unable to do so because of barriers to their placement; and

"(10) in order both to enhance the stability and love of the child's home environment and to avoid wasteful expenditures of public funds, such children should not have medically indicated treatment withheld from them nor be maintained in foster care or institutions when adoption is appropriate and families can be found for such children.

"(b) PURPOSE.—It is the purpose of this title to facilitate the elimination of barriers to adoption and to provide permanent and loving home environments for children who would benefit from adoption, particularly children with special needs, including disabled infants with life-threatening conditions, by—

"(1) promoting model adoption legislation and procedures in the States and territories of the United States in order to eliminate jurisdictional and legal obstacles to adoption; and

"(2) providing a mechanism for the Department of Health and Human Services to—

"(A) promote quality standards for adoption services, preplacement, post-placement, and post-legal adoption counseling, and standards to protect the rights of children in need of adoption;

"(B) maintain a national adoption information exchange system to bring together children who would benefit from adoption and qualified prospective adoptive parents who are seeking such children, and conduct national recruitment efforts in order to reach prospective parents for children awaiting adoption; and

"(C) demonstrate expeditious ways to free children for adoption for whom it has been determined that adoption is the appropriate plan.".

SEC. 402. MODEL ADOPTION LEGISLATION AND PROCEDURES.

Section 202 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5112) is repealed.

SEC. 403. INFORMATION AND SERVICE FUNCTIONS.

Section 203 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5113) is amended—

(1) in subsection (a)—

(A) by inserting ", on-site technical assistance" after "consultant services" in the second sentence;

(B) by inserting "including salaries and travel costs," after "administrative expenses," in the second sentence; and

(C) by adding at the end thereof the following new sentence: "The Secretary shall, not later than 12 months after the date of enactment of this sentence, prepare and submit to the committees of Congress having jurisdiction over such services reports, as appropriate, containing appropriate data concerning the manner in which activities were carried out under this title, and such reports shall be made available to the public."; and Reports.

(2) in subsection (b)—

(A) by striking out paragraph (1) and redesignating paragraph (2) as paragraph (1);

(B) by inserting after paragraph (1) (as so redesignated) the following new paragraph:

"(2) conduct, directly or by grant or contract with public or private nonprofit organizations, ongoing, extensive recruitment efforts on a national level, develop national public awareness efforts to unite children in need of adoption with appropriate adoptive parents, and establish a coordinated referral system of recruited families with appropriate State or regional adoption resources to ensure that families are served in a timely fashion;";

(C) in paragraph (4), by inserting before the semicolon the following: ", and to promote professional leadership training of minorities in the adoption field"; and

(D)(i) in paragraph (7), by striking "and" after the semicolon at the end;

(ii) by redesignating paragraph (8) as paragraph (9); and

(iii) by inserting after paragraph (7) the following new paragraph:

"(8) maintain (directly or by grant to or contract with public or private nonprofit agencies or organizations) a National Resource Center for Special Needs Adoption to—

"(A) promote professional leadership development of minorities in the adoption field;

"(B) provide training and technical assistance to service providers and State agencies to improve professional competency in the field of adoption and the adoption of children with special needs; and

"(C) facilitate the development of interdisciplinary approaches to meet the needs of children who are waiting for adoption and the needs of adoptive families; and".

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5115) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) There are authorized to be appropriated, $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(9) and 203(c)(1).";

and

(2) in subsection (b), by striking out "$3,000,000", the first place that such appears, and all that follows through the end thereof, and inserting in lieu thereof the following: "$10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(b)(9), and there are authorized to be appropriated $10,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995, to carry out section 203(c)(1).".

Approved May 28, 1992.

LEGISLATIVE HISTORY—S. 838 (H.R. 4712):

SENATE REPORTS: No. 102-164 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 7, considered and passed Senate.
Vol. 138 (1992): Apr. 7, H.R. 4712 considered and passed House; S. 838, amended, passed in lieu.
Apr. 9, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
May 28, Presidential statement.

Public Law 102-296
102d Congress

Joint Resolution

Commending the New York Stock Exchange on the occasion of its bicentennial.

May 28, 1992
[S.J. Res. 254]

Whereas, on May 17, 1792, the New York Stock Exchange was founded by twenty-four merchants and brokers who gathered under a buttonwood tree in lower Manhattan to establish a reliable market for the trading of securities;

Whereas the New York Stock Exchange has helped finance America's growth from its very beginning, significantly contributing to job creation and to the development of the Nation's industry and technology;

Whereas the New York Stock Exchange is both the Nation's and the world's best known symbol of America's free enterprise system;

Whereas the New York Stock Exchange has committed its energy and expertise to advance our Nation's free market philosophy to other countries around the world; and

Whereas the New York Stock Exchange is a quasi-public institution, dedicated to the promotion of individual and institutional investor protection, and to just and equitable principles of trade: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the New York Stock Exchange is hereby commended on the occasion of its bicentennial. The President is authorized and requested to issue a proclamation acknowledging and commending this occasion.

Approved May 28, 1992.

LEGISLATIVE HISTORY—S.J. Res. 254:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 27, considered and passed Senate.
May 14, considered and passed House.

Public Law 102-297
102d Congress

An Act

June 2, 1992
[S. 2569]

To provide for the temporary continuation in office of the current Deputy Security Advisor in a flag officer grade in the Navy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. GRADE OF THE CURRENT DEPUTY NATIONAL SECURITY ADVISOR WHILE PENDING RETIREMENT IN THE NAVY.

(a) TEMPORARY CONTINUATION IN GRADE.—Notwithstanding the period of limitation contained in section 601(b)(4) of title 10, United States Code, the person who began service in the position of Deputy Assistant to the President and Deputy for National Security Affairs on December 5, 1991, shall continue to hold the grade of admiral while awaiting retirement in the Navy, except that such person may not continue to hold that grade under the authority of this section after the earlier of—

(1) the date on which he terminates service in that position; or

(2) June 4, 1992.

(b) EFFECTIVE DATE.—This section shall take effect as of December 5, 1991.

Approved June 2, 1992.

LEGISLATIVE HISTORY—S. 2569:

SENATE REPORTS: No. 102-270 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 28, considered and passed Senate.
May 20, considered and passed House, amended.
May 21, Senate concurred in House amendments.

Public Law 102–298
102d Congress

An Act

Rescinding certain budget authority.

June 4, 1992
[H.R. 4990]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, $849,000 are rescinded for special research grants, as follows:

Appalachian hardwoods, $750,000;
Integrated orchard management, $49,000; and
Seedless table grapes, $50,000.

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, $500,000 for a facility road are rescinded.

FARMERS HOME ADMINISTRATION

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, $13,031,000 are rescinded; of which $10,031,000 was made available for ADP related activities and $3,000,000 was made available for travel expenses.

TITLE II

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT REVOLVING FUND

(RESCISSION)

Of the unobligated balances in the Economic Development Revolving Fund, $3,000,000 are rescinded.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–140, $3,000,000 are rescinded.

DEPARTMENT OF JUSTICE

IMMIGRATION EMERGENCY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 101–162, $4,400,000 are rescinded.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

(RESCISSION)

Of the funds available under this head for acquisition and development of a site for a United States Embassy building in Kuwait, $6,025,000 are rescinded.

RELATED AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

ISRAEL RELAY STATION

(RESCISSION)

Of the funds made available under this heading in Public Law 101–162, $5,000,000 are rescinded.

TITLE III

DEPARTMENT OF DEFENSE—MILITARY OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

General Defense Intelligence Program, $5,370,000;
Consolidated Cryptologic Program, $6,900,000;
Meals Ready to Eat (MRE), $12,052,000;
Secretary of the Army Staff, $7,700,000;
Chief of Staff, Army Staff, $5,700,000;
Travel, $10,000,000;
Printing, $9,900,000;
Supplies and Materials Purchases, $200,000,000; and
Motor Pool Activities, $6,300,000.

OPERATION AND MAINTENANCE, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

General Defense Intelligence Program, $8,361,000;
Consolidated Cryptologic Program, $8,300,000;
Meals Ready to Eat (MRE), $130,000;
Secretary of the Navy Staff, $1,800,000;
Travel, $33,000,000;
Printing, $6,200,000;
START Treaty Implementation, $5,800,000;
Supplies and Materials Purchases, $200,000,000; and
Motor Pool Activities, $4,500,000.

OPERATION AND MAINTENANCE, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following program in the specified amount:

Meals Ready to Eat (MRE), $7,166,000.

OPERATION AND MAINTENANCE, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

General Defense Intelligence Program, $20,546,000;
Consolidated Cryptologic Program, $6,400,000;
Meals Ready to Eat (MRE), $652,000;
Travel, $43,000,000;

START Treaty Implementation, $4,200,000;
Motor Pool Activities, $5,000,000.
General Reduction, Inappropriate Use of Funds, $4,200,000; and
Supplies and Materials Purchases, $200,000,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:
General Defense Intelligence Program, $14,970,000;
Consolidated Cryptologic Program, $20,000,000;
Coordinator for Drug Enforcement Policy and Support, $1,000,000;
START Treaty Implementation, $16,300,000; and
Supplies and Materials Purchases, $400,000,000.

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following program in the specified amount:
Miscellaneous unobligated balances, $11,000,000.
Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:
MPLH deployment kits, $13,100,000.

MISSILE PROCUREMENT, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following program in the specified amount:
Miscellaneous unobligated balances, $13,800,000.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:
Bradley Fighting Vehicle advance procurement, $50,000,000; and
M1 Tanks, $46,300,000.
Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:
M1 Tanks, $150,000,000.

Of the funds made available under this heading in Public Law 101–165, the following funds are hereby rescinded from the following program in the specified amount:

Host Nation Support, $10,700,000.

OTHER PROCUREMENT, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 101–165, the following funds are hereby rescinded from the following program in the specified amount:

PSYOP Equipment (SOF), $1,300,000.

AIRCRAFT PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

E–2C advance procurement, $39,000,000;

EP–3 series modifications, $15,000,000; and

SH–2 series modifications, $103,000,000.

WEAPONS PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Trident II, $100,000,000;

Personal defense weapon, $11,638,000; and

Rockeye PIP, $4,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:

Phoenix missile modifications, $60,000,000.

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

SSN–21, $1,150,000,000; and

AOE fast combat support ship, $300,000,000: *Provided,* That the $200,000,000 remaining shall be available for obligation for advance procurement of long-lead material, equipment, and engineering services for the AOE–10.

OTHER PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Ship Systems Trainer, $12,000,000;
Submarine Combat System Trainers (SSN–21), $149,400,000;
SSN–21 Trainers, $17,900,000;
Nuclear Components (SSN–21), $22,100,000;
SURTASS, $4,000,000;
AN/SLQ–32(V), $1,300,000;
Firefighting Equipment, $15,000,000;
Intelligence Support Equipment, $2,453,000; and
General Reduction, Installation of Equipment, $100,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:

General Reduction, Installation of Equipment, $130,000,000.

Of the funds made available under this heading in Public Law 101–165, the following funds are hereby rescinded from the following programs in the specified amounts:

Point Defense Support Equipment, $20,500,000;
Productivity Investment Fund, $15,000,000; and
General Reduction, Installation of Equipment, $100,000,000.

PROCUREMENT, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Tactical Intelligence Enhancements, $12,500,000; and
Night Vision Equipment, $15,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following programs in the specified amounts:

AAV7A1 product improvement, $6,500,000;
Telecommunications equipment, $5,000,000; and
Amphibious fuel system, $2,500,000.

AIRCRAFT PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

B–2, $500,000,000; and
VC–137 replacement aircraft, $7,012,000.

Of the funds made available under this heading in Public Law 101–165, the following funds are hereby rescinded from the following programs in the specified amounts:

AC–130U Gunship (SOF), $9,000,000; and
Common Support Equipment (SOF), $1,100,000.

MISSILE PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Peacekeeper (M–X), $73,000,000;

Advanced Cruise Missile, $344,000,000; and
Special programs, $35,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:

Peacekeeper (M–X), $112,200,000.

Of the funds made available under this heading in Public Law 101–165, the following funds are hereby rescinded from the following program in the specified amount:

SRAM II, $6,415,000.

OTHER PROCUREMENT, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Selected Activities, $106,900,000; and
Intelligence Production Activity, $2,124,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following program in the specified amount:

Base Support—Mobility Equipment, $10,000,000.

PROCUREMENT, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following program in the specified amount:

Classified Equipment, $10,700,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Aircraft Propulsion (LH), $11,800,000;
Advanced Tank Cannon (ATAC), $3,500,000;
Tractor Jewel, $22,000,000;
Tractor Pull, $8,200,000;
Tractor Helm, $70,000,000;
Anti-Satellite Weapon, $16,000,000;
General Reduction, Contractor Travel, $6,000,000; and
Forward Area Air Defense (FAAD), $51,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following programs in the specified amounts:

Combat Vehicle Improvement Program, $2,500,000; and
Armament Enhancement Initiative, $9,900,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Joint Direct Attack Munition, $5,000,000;
Trident II (Non-Drell Commission), $15,500,000;
EMPRESS II Testing, $1,000,000;
MK–30 Target, $10,000,000;
Target Systems Development, $4,900,000;
Aegis Combat System Engineering, $5,000,000;
General Reduction, Contractor Travel, $9,000,000;
Submarine Support Equipment, $10,000,000;
Anti-Air Warfare/Anti-Surface Warfare Technology, $1,400,000;
Ship Towed Array, $6,100,000;
Industrial Preparedness (Acquisition Workforce Training), $5,000,000;
Joint Advanced Systems, $46,000,000; and
Technical Reconnaissance and Surveillance, $3,656,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following programs in the specified amounts:

Support Equipment, $3,000,000; and
A–12, $11,350,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Small ICBM, $300,000,000;
F–16 Squadrons, $10,700,000;
F–15E Squadrons, $19,000,000;
Special Projects, $46,000,000;
Night/Precision Attack, $17,200,000;
Forest Green, $2,400,000;
National Launch System, $5,000,000;
Special Activities, $228,000,000;
General Reduction, Contractor Travel, $11,000,000; and
Advanced Technology Development, Undistributed Reduction, $50,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following programs in the specified amounts:

SRAM II–Engineering Development, $7,700,000;
SRAM–T, $2,000,000; and
Special Activities, $30,000,000.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following programs in the specified amounts:

Manufacturing Technology (DARPA), $4,000,000;
Defense Nuclear Agency, $15,000,000;
Strategic Environmental R&D, $40,000,000;
General Reduction, Contractor Travel, $11,000,000;
AIM–9 Consolidated Program, $21,400,000;
Defense Reconnaissance Support Program, $25,000,000;
Manufacturing Technology, $80,000,000;
OSD Support, $20,000,000;
NATO R&D, $10,000,000;
Cryptologic Activities, $5,700,000;
Joint Simulation, $20,000,000;
Manufacturing Managers in the Classroom, $5,000,000; and
Strategic Defense Initiative, $200,000,000.

Of the funds made available under this heading in Public Law 101–511, the following funds are hereby rescinded from the following programs in the specified amounts:

Strategic Environmental R&D, $50,000,000;
Balanced Technology Initiative, $5,000,000; and
Joint Standoff Weapons, $5,000,000.

REVOLVING AND MANAGEMENT FUNDS

PENTAGON RESERVATION MAINTENANCE REVOLVING FUND

(RESCISSION)

Of the funds available in the Pentagon Reservation Maintenance Revolving Fund, $80,100,000 are hereby rescinded.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

(RESCISSION)

Of the funds available in the National Defense Stockpile Transaction Fund, $230,000,000 are hereby rescinded.

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, the following funds are hereby rescinded from the following program in the specified amount:

Intelligence Community Staff, $500,000.

GENERAL PROVISIONS

SEC. 301. Funds available to the Department of Defense which were proposed for rescission by the President for programs, projects,

or activities listed in the justification accompanying the rescission messages dated March 10, March 20, and April 9, 1992, and which are not specifically rescinded by this Act in response to the President's request shall be made available for obligation for the same programs, projects, and activities as described in the messages of March 10, March 20, and April 9, 1992.

105 Stat. 1168.

SEC. 302. Section 401 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172) is hereby amended by inserting ", foundation" after the word "college" and inserting after "*Provided,*" the following: "That the Secretary of Defense shall review grants totalling $115,900,000 and specified previously in this title and shall award such amounts as he deems appropriate based on the potential contribution each proposed project may make to the national scientific and technical posture: *Provided further,*".

TITLE IV

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

GENERAL EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–104, $500,000 are rescinded.

DEPARTMENT OF ENERGY

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–104, $3,350,000 are rescinded: *Provided,* That the amount for project 92–G–302, Fermilab main injector, is reduced to $11,650,000.

DEPARTMENTAL ADMINISTRATION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–104, $500,000 are rescinded.

TITLE V

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

(RESCISSION)

Of the funds made available under this heading in Public Law 101–513, $32,500,000 are rescinded.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

INTER-AMERICAN INVESTMENT CORPORATION

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, for the Inter-American Investment Corporation, $4,000,000 are rescinded.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 101–513, $100,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEOBLIGATION/REOBLIGATION AUTHORITY

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, and in prior Acts providing funding for foreign operations, export financing, and related programs for fiscal years prior to fiscal year 1992, under the following headings: "Agriculture, rural development, and nutrition, Development Assistance", "Private sector, environment, and energy, Development Assistance", "Sub-Saharan Africa, Development Assistance" and "Economic Support Fund", $6,320,000 are rescinded: *Provided,* That this rescission shall be made from funds deobligated but continued available by sections 515 or 517 of any such Act (or by any other provision of such Act providing "deobligation/reobligation authority" or "availability of funds"): *Provided further,* That the same proportion of the unobligated balance of the funds continued available for each such heading pursuant to this paragraph shall be rescinded.

DEVELOPMENT ASSISTANCE; ECONOMIC SUPPORT FUND

(RESCISSION)

Of the unexpended balances of funds (including earmarked funds) made available in Public Law 98–473, Public Law 99–88 and prior Acts making appropriations for foreign assistance and related programs to carry out the provisions of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, $30,000,000 are rescinded: *Provided,* That this rescission shall be made from funds deobligated but continued available by section 515 of Public Law 101–513, and the corresponding authority provided in Public Law 102–145, as amended.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, for Operating Expenses of the Agency for International Development, $64,054 are rescinded.

ECONOMIC SUPPORT FUND

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, for the Economic Support Fund which are not earmarked, $1,100,000 are rescinded.

MULTILATERAL ASSISTANCE INITIATIVE FOR THE PHILIPPINES

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, for the Multilateral Assistance Initiative for the Philippines, $20,000,000 are rescinded.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

(RESCISSION)

Of the funds made available in Public Law 102–145, as amended, for International Military Education and Training, $1,925,000 are rescinded: *Provided,* That the amount of funds made available under this heading that may be obligated for entertainment allowances is decreased by $25,000.

FOREIGN MILITARY FINANCING PROGRAM

(RESCISSION)

Of the grant funds made available in Public Law 102–145, as amended, for the "Foreign Military Financing Program", $47,100,000 are rescinded: *Provided,* That none of the funds made available in Public Law 102–145, as amended, for the "Foreign

Military Financing Program" shall be obligated or expended for Peru: *Provided further,* That the amount of funds made available under this heading that may be obligated for the general costs of administering military assistance and sales is decreased by $15,000.

DEOBLIGATION/REOBLIGATION AUTHORITY

(RESCISSION)

Notwithstanding section 515(b) of Public Law 101–513, and the corresponding authority provided in Public Law 102–145, as amended, no Foreign Military Financing Program funds may be reobligated pursuant to such authority from the date of enactment of this Act through September 30, 1992.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Notwithstanding any provision of Public Law 102–145, as amended, Public Law 101–513 or Public Law 101–167, not to exceed $235,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act during fiscal year 1992.

MILITARY ASSISTANCE PROGRAM

(RESCISSION)

Of the unexpended balances of funds made available to carry out the provisions of chapter 2 of part II of the Foreign Assistance Act of 1961, $6,750,000 are rescinded.

Of the funds made available to carry out section 503(a)(3) of the Foreign Assistance Act of 1961 that have been disbursed into the Foreign Military Sales Trust Fund, $5,760,000 may not be disbursed for any purpose and shall be deposited into the miscellaneous receipts of the Treasury.

TITLE VI

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

NATIONAL PARK SERVICE

NATIONAL RECREATION AND PRESERVATION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, $987,000 for the Calumet Historic District, Michigan are rescinded.

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, $1,145,000 are rescinded, of which $375,000 was made available for the Calumet Historic District, Michigan; and of which

$770,000 was made available for the Lewis and Clark Trail Center, Nebraska.

BUREAU OF MINES

MINES AND MINERALS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, $987,000 for fire research at the Mathies Mine in Pennsylvania are rescinded.

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, $5,897,000 for road sealing are rescinded.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154 and Public Law 101–512, $19,000,000 for stewardship incentives/tree-planting are rescinded.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, $144,000 for the Office of the Federal Inspector for the Alaska Natural Gas Transportation System are rescinded.

TITLE VII

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

GENERAL PROVISION

(RESCISSION)

Of the funds made available in Public Law 102–170 which do not become available for obligation until September 30, 1992, one half of one percentum are hereby rescinded from each applicable appropriation account: *Provided,* That no reduction shall be made under the headings "Payments to States for Child Care Assistance", "Low Income Home Energy Assistance", "Refugee and Entrant Assistance", and "Community Services Block Grant".

DEPARTMENT OF HEALTH AND HUMAN SERVICES

PUBLIC HEALTH SERVICE

(RESCISSION)

Of the funds made available in Public Law 102–170 for personnel compensation and personnel benefits for the Public Health Service, $7,000,000 are rescinded.

Of the funds appropriated to carry out the Public Health Service Act, the Mental Health Systems Act, the Act of August 5, 1954 (Public Law 568, Eighty-third Congress), or the Act of August 16, 1957 (Public Law 85–151) and made available for evaluation pursuant to section 2711 of the Public Health Service Act but remaining unobligated on the date of enactment of this Act, $7,500,000 are rescinded.

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF DENTAL RESEARCH

(RESCISSION)

From amounts previously appropriated, $183,000 are hereby rescinded.

HEALTH CARE FINANCING ADMINISTRATION

PROGRAM MANAGEMENT

(RESCISSION)

Of the funds available under this heading in Public Law 102–170, $4,000,000 are rescinded: *Provided,* That no more than $253,000,000 of such appropriation may be expended to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII of the Social Security Act.

DEPARTMENT OF EDUCATION

VOCATIONAL AND ADULT EDUCATION

(RESCISSION)

Of the funds available under this heading in Public Law 102–170, for title IV of the Carl D. Perkins Vocational and Applied Technology Education Act, $1,000,000 for choice demonstrations are rescinded.

TITLE VIII

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

CONTINGENT EXPENSES OF THE SENATE

OFFICIAL MAIL COSTS

(RESCISSION)

Of the total funds appropriated under the heading "OFFICIAL MAIL COSTS" under the heading "CONTINGENT EXPENSES OF THE SENATE" under the heading "SENATE" in any appropriations Act or joint resolution making appropriations available to the Senate for fiscal years 1991 and 1992 and which (but for the provisions of this paragraph) would remain available until expended, of the balances remaining unobligated, $20,000,000 are rescinded.

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading, $20,000,000 are rescinded, as follows:

OFFICIAL MAIL COSTS

The funds available under this heading shall be reduced by $20,000,000.

TITLE IX

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

(RESCISSION)

Of the funds provided in Military Construction Appropriations Acts, the following funds are hereby rescinded from the following accounts in the specified amounts:

Military Construction, Navy, 1988/1992, $5,100,000;
Military Construction, Army National Guard, 1988/1992, $1,709,000;
Military Construction, Defense Agencies, 1989/1993, $500,000;
Military Construction, Air Force, 1990/1994, $10,170,000;
Military Construction, Defense Agencies, 1990/1994, $10,000,000;
Military Construction, Army National Guard, 1990/1994, $2,552,000;
Military Construction, Army Reserve, 1990/1994, $649,000;
Military Construction, Army, 1991/1995, $9,000,000;
Military Construction, Air Force, 1991/1995, $6,300,000;
Military Construction, Defense Agencies, 1991/1995, $22,100,000;

Military Construction, Army Reserve, 1991/1995, $2,100,000;
Military Construction, Army, 1992/1996, $8,850,000;
Military Construction, Air Force, 1992/1996, $5,500,000;
Military Construction, Defense Agencies, 1992/1996, $24,000,000;
Military Construction, Army National Guard, 1992/1996, $600,000;
Military Construction, Air National Guard, 1992/1996, $306,000;
Military Construction, Naval Reserve, 1992/1996, $10,900,000; and
North Atlantic Treaty Organization Infrastructure, 1992, $15,734,000.

TITLE X

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

FEDERAL HIGHWAY ADMINISTRATION

BRIDGES ON DAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 95–599, $5,000,000 are rescinded.

URBAN MASS TRANSPORTATION ADMINISTRATION

RESEARCH, TRAINING, AND HUMAN RESOURCES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–143, $5,000,000 are rescinded.

TITLE XI

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSION)

Of the funds made available under this head in Public Law 102–139 and prior years, $597,000,000 are rescinded: *Provided,* That of the foregoing amount, $350,000,000 shall be deducted from amounts earmarked under this head for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, $100,000,000 shall be deducted from amounts provided for nonincremental certificates and vouch-

ers, and $147,000,000 shall be deducted from amounts provided for preservation activities.

INDEPENDENT AGENCIES

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, for contracts, $5,800,000 are rescinded.

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, for contracts, $2,100,000 are rescinded.

HAZARDOUS SUBSTANCE SUPERFUND

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, for the alternative remedial contracting system, $16,100,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–139, $1,500,000 for space exploration studies are rescinded.

Of the funds made available under this heading in Public Law 102–139, $600,000 for the National Aerospace Plane are rescinded.

Of the funds made available under this heading in Public Law 102–139, $700,000 for Climsat earth probe are rescinded.

Of the funds made available under this heading in Public Law 102–139, $1,250,000 for the Search for Extra-Terrestrial Intelligence are rescinded.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, $2,000,000 are rescinded.

Approved June 4, 1992.

LEGISLATIVE HISTORY—H.R. 4990 (S. 2403):

HOUSE REPORTS: Nos. 102-505 (Comm. on Appropriations) and 102-530 (Comm. of Conference).
SENATE REPORTS: No. 102-274 accompanying S. 2403 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 5, 6, S. 2403 considered in Senate.
May 7, H.R. 4990 considered and passed House.
May 12, considered and passed Senate, amended, in lieu of S. 2403.
May 21, House and Senate agreed to conference report.

Public Law 102-299
102d Congress

An Act

June 9, 1992
[S. 870]

To authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Golden Gate National Recreation Area Addition Act of 1992.
Conservation.
Real property.
16 USC 460bb-1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Golden Gate National Recreation Area Addition Act of 1992".

SEC. 2. ACQUISITION AND ADDITION TO GOLDEN GATE NATIONAL RECREATION AREA.

16 USC 460bb-1 note.

(a) ACQUISITION.—The Secretary of the Interior is authorized to acquire by donation or purchase with donated or appropriated funds approximately 1,232 acres of land in San Mateo County, California, known generally as the Phleger property, as generally depicted on the map entitled "1991 Addition to Golden Gate National Recreation Area (Phleger Estate)" and numbered GGNRA641/40062. The Federal share of the acquisition of the lands acquired pursuant to this Act may not exceed 50 percent of the purchase price of such lands.

(b) BOUNDARY REVISION.—(1) Section 2(a) of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes" (16 U.S.C. 460bb-1(a)) is amended by adding at the end the following: "The recreation area shall also include those lands acquired pursuant to the Golden Gate National Recreation Area Addition Act of 1992.".

Federal Register, publication.
16 USC 460bb-1 note.

(2) Upon acquisition of the land under subsection (a) and after publication of notice in the Federal Register, the Secretary shall—

(A) revise the boundary of Golden Gate National Recreation Area to reflect the inclusion of such land; and

(B) prepare and make available a map displaying such boundary revision in accordance with section 2(b) of such Act (16 U.S.C. 460bb–1(b)).

Approved June 9, 1992.

LEGISLATIVE HISTORY—S. 870:

HOUSE REPORTS: No. 102-467 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-182 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 16, considered and passed Senate.
Vol. 138 (1992): Mar. 24, considered and passed House, amended.
May 21, Senate concurred in House amendment.

Public Law 102-300
102d Congress

An Act

June 16, 1992
[S. 2783]

To amend the Federal Food, Drug, and Cosmetic Act with respect to medical devices and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medical Device Amendments of 1992.
Safety.
21 USC 301 note.

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Medical Device Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. EFFECTIVE DATE AND REGULATIONS TO IMPLEMENT DEVICE TRACKING.

(a) AMENDMENT.—Section 3 of the Safe Medical Devices Act of 1990 (21 U.S.C. 360i note) is amended—

(1) in subsection (b)(3), by striking out "upon the effective date" and inserting in lieu thereof "upon the expiration of 9 months after the issuance";

(2) in subsection (c)(2)—

(A) by striking out "and 519(e)" the first place it occurs; and

(B) by striking out "and 519(e) of such Act are" and inserting in lieu thereof "of such Act is"; and

(3) by adding at the end of subsection (c) the following:

"(3) Not later than November 28, 1992, the Secretary shall issue final regulations to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act. If the Secretary does not promulgate such final regulations by November 28, 1992, the Congress finds that there is good cause for the proposed regulations to be considered as the final regulations without response to comment because the implementation of section 519(e) of such Act is essential to protect the health of patients who use devices. In such event, the proposed regulations issued under paragraph (1) shall become the issued final regulations on November 29, 1992. There shall be promptly published in the Federal Register notice of the new status of the proposed regulations.".

Federal Register, publication.

21 USC 360i note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of May 27, 1992 and any rule to implement section 519(e) of the Federal Food, Drug, and Cosmetic Act proposed under section 3(c)(2) of the Safe Medical Devices Act of 1990 shall revert to its proposed status as of such date.

SEC. 3. POSTMARKET SURVEILLANCE.

(a) PROHIBITED ACT.—

(1) IN GENERAL.—Section 301(q)(1) (21 U.S.C. 331(q)(1)) is amended—

(A) by striking out "or (B)" and inserting in lieu thereof "(B)"; and

(B) by inserting before the period a comma and "or (C) comply with a requirement under section 522".

(2) MISBRANDED DEVICES.—Section 502(t) (21 U.S.C. 352(t)) is amended—

(A) by striking out "or (2)" and inserting in lieu thereof "(2)"; and

(B) by inserting before the period a comma and "or (3) to comply with a requirement under section 522".

(b) APPROVAL.—Section 522(b) (21 U.S.C. 360l(b)) is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by inserting a comma after "commerce"; and

(3) by adding after the first sentence the following: "Each manufacturer required to conduct a surveillance of a device under subsection (a)(2) shall, within 30 days after receiving notice that the manufacturer is required to conduct such surveillance, submit, for the approval of the Secretary, a protocol for the required surveillance.".

SEC. 4. REPAIR, REPLACEMENT, OR REFUND.

Section 518(b)(1)(A)(ii) (21 U.S.C. 360h(b)(1)(A)(ii)) is amended by striking out "and" each place it occurs and inserting in lieu thereof "or".

SEC. 5. REPORTING.

(a) AMENDMENTS.—Section 519 (21 U.S.C. 360i) is amended—

(1) by redesignating paragraphs (1) through (6) of subsection (a) as paragraphs (4) through (9), respectively, and by inserting before paragraph (4) (as so redesignated) the following:

"(1) shall require a device manufacturer or importer to report to the Secretary whenever the manufacturer or importer receives or otherwise becomes aware of information that reasonably suggests that one of its marketed devices—

"(A) may have caused or contributed to a death or serious injury, or

"(B) has malfunctioned and that such device or a similar device marketed by the manufacturer or importer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur;

"(2) shall define the term 'serious injury' to mean an injury that—

"(A) is life threatening,

"(B) results in permanent impairment of a body function or permanent damage to a body structure, or

"(C) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure;

"(3) shall require reporting of other significant adverse device experiences as determined by the Secretary to be necessary to be reported;"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking out "there is a probability that a device has" each place it occurs and inserting in lieu thereof "a device has or may have";

(B) in paragraph (1)(B)—

(i) by striking out "aware of information" and inserting in lieu thereof "aware of—

"(i) information"; and

(ii) by striking out "facility, the facility" and inserting in lieu thereof: "facility, or

"(ii) other significant adverse device experiences as determined by the Secretary by regulation to be necessary to be reported,

the facility";

and

(C) in paragraph (5)(B)(iii), by striking out "immediate".

21 USC 360i note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect—

(1) 1 year after the date of the enactment of this Act; or

(2) on the effective date of regulations of the Secretary to implement such amendments,

whichever occurs first.

SEC. 6. TECHNICALS.

(a) SECTION 201.—Section 201 (21 U.S.C. 321) is amended—

(1) in subsection (h), by striking out "any of its principal" and inserting in lieu thereof "its primary"; and

(2) by adding at the end the following:

"(ff) The term 'Commissioner' means the Commissioner of Food and Drugs.".

(b) REFERENCE.—

(1) Subsections (c) and (d) of sections 201, subsections (a), (d), (h), (i), (l), (m), and (o) of section 408, subsections (a) and (b) of section 536, section 701(b), and subsections (a) and (b) of section 801 (21 U.S.C. 321 (c) and (d), 346a (a), (d), (h), (i), (l), (m), and (o), 360mm (a) and (b), 371(b), and 381 (a) and (b)) and section 351(c) of the Public Health Service Act (42 U.S.C. 262(c)) are each amended by striking out "Health, Education, and Welfare" each place it appears and inserting in lieu thereof "Health and Human Services".

(2) Section 201(y), section 506(a), section 507(a), section 702(c), section 702A, and section 706(b)(5)(C)(i) (21 U.S.C. 321(y), 356(a), 357(a), 372(c), 372a, and 376(b)(5)(C)(i)) are each amended by striking out "of Health, Education, and Welfare" each place it appears.

(c) SECTION 304.—Section 304(d)(1) (21 U.S.C. 334(d)(1)) is amended—

(1) by striking out "801(d)" each place it occurs and inserting in lieu thereof "801(e)"; and

(2) by striking out "clauses" and inserting in lieu thereof "paragraphs".

(d) SECTION 503.—Section 503(g)(3) (21 U.S.C. 353(g)(3)) is amended by striking out "approval" and inserting in lieu thereof "clearance".

(e) SECTION 513.—Section 513(f)(3) (21 U.S.C. 360c(f)(3)) is amended by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and by striking out "the 510(k)" and inserting in lieu thereof "the section 510(k)".

(f) SECTION 517.—Section 517(a)(10) (21 U.S.C. 360g(a)(10)) is amended by striking out "520(c)(4)(B)" and inserting in lieu thereof "520(h)(4)(B)".

(g) SAFE MEDICAL DEVICES ACT OF 1990.—Section 18(b) of the Safe Medical Devices Act of 1990 is amended— 21 USC 360d.

(1) by striking out "(b)(4)(B)" and inserting in lieu thereof "(b)";

(2) in paragraph (1), by striking out "(3)" and inserting in lieu thereof "(4)"; and

(3) in paragraph (2), by striking out "(4)" and inserting in lieu thereof "(5)".

Approved June 16, 1992.

LEGISLATIVE HISTORY—S. 2783:

CONGRESSIONAL RECORD, Vol. 138 (1992):
May 21, considered and passed Senate.
May 28, considered and passed House.

Public Law 102-301
102d Congress

An Act

June 19, 1992
[H.R. 2556]

Entitled the "Los Padres Condor Range and River Protection Act".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

California.
Conservation.
Environmental protection.

SECTION 1. FINDINGS.

The Congress finds that—

(1) areas of undeveloped National Forest System lands within Los Padres National Forest have outstanding natural characteristics which will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people; and

(2) it is in the national interest that certain of these areas be designated as components of the National Wilderness Preservation System and Wild and Scenic Rivers System or reserved from mineral entry in order to preserve such areas and their specific multiple values for watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research, educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all of the American people of present and future generations.

16 USC 1132 note.

SEC. 2. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act, the following National Forest System lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in Los Padres National Forest and the Angeles National Forest, California, which comprise approximately 219,700 acres, which are generally depicted on a map entitled "Sespe Wilderness Area—Proposed" and dated September 1991, which shall be known as the Sespe Wilderness. In recognition of the significant role that Mr. Gene Marshall played in the development of this Act, the Secretary of Agriculture is authorized and directed to name the existing trail between Reyes Creek and Lion Campgrounds as the Gene Marshall-Piedra Blanca National Recreational Trail.

(2) Certain lands in Los Padres National Forest, California, which comprise approximately 29,600 acres, which are generally depicted on a map entitled "Matilija Wilderness Area—Proposed" and dated September 1991, which shall be known as the Matilija Wilderness.

(3) Certain lands in Los Padres National Forest, California, which comprise approximately 46,400 acres, which are generally depicted on a map entitled "San Rafael Wilderness Addition—Proposed" and dated September 1991, and which lands are hereby incorporated in, and shall be managed as part of, the San Rafael Wilderness.

(4) Certain lands in Los Padres National Forest, California, which comprise approximately 14,100 acres, which are generally depicted on a map entitled "Garcia Wilderness Area—Proposed" and dated September 1991, which shall be known as the Garcia Wilderness.

(5) Certain lands in Los Padres National Forest, California, which comprise approximately 38,150 acres, which are generally depicted on a map entitled "Chumash Wilderness—Proposed" and dated September 1991, which shall be known as the Chumash Wilderness and approximately 50 acres, which are generally depicted on the same map, which shall be designated as potential wilderness. The Toad Springs road corridor delineated as potential wilderness shall remain open to off road vehicle traffic until construction of an alternate route which bypasses this area is completed. These potential wilderness lands shall be automatically incorporated in and managed as part of the Chumash Wilderness upon publication of a notice in the Federal Register.

(6) Certain lands in Los Padres National Forest, California, which comprise approximately 38,000 acres, which are generally depicted on a map entitled "Ventana Wilderness Addition—Proposed" and dated September 1991, and which lands are hereby incorporated in, and shall be managed as a part of, the Ventana Wilderness.

(7) Certain lands in Los Padres National Forest, California, which comprise approximately 14,500 acres, which are generally depicted on a map entitled "Silver Peak Wilderness Addition—Proposed" and dated September 1991, which shall be known as the Silver Peak Wilderness. In recognition of Mr. Nathaniel Owings' efforts to preserve the Big Sur coastline, the area within the Silver Peak Wilderness area depicted as "Redwood Gulch" shall hereafter be known as the "Nathaniel Owings Redwood Grove". The Secretary is directed to place this name on all appropriate maps depicting the Silver Peak Wilderness Area of the Los Padres National Forest.

SEC. 3. ADMINISTRATION OF WILDERNESS AREAS.

(a) IN GENERAL.—Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act.

(b) FIRE PREVENTION AND WATERSHED PROTECTION.—In order to guarantee the continued viability of the watersheds of the wilderness areas designated by this Act and to ensure the continued health and safety of the communities serviced by such watersheds, the Secretary of Agriculture may take such measures as are necessary for fire prevention and watershed protection including, but not limited to, acceptable fire presuppression and fire suppression measures and techniques.

(c) WILDLIFE MANAGEMENT.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations, including the California condor, and the habitats to support such populations may be carried out within wilderness areas designated by this Act where consistent with relevant wilderness management plans in accordance with appropriate policies and guidelines such as those set forth in Policies and Guidelines for Fish and Wildlife Management in National

Forests and Bureau of Land Management Wilderness, dated August 25, 1986.

(d) BUFFER ZONES.—The Congress does not intend for the designation of wilderness areas pursuant to this Act to lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) WATER RIGHTS.—

(1) With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved water rights shall be the date of enactment of this Act.

(2) The Secretary of Agriculture and all other officers of the United States shall take steps necessary to protect the rights reserved by this Act, including the filing by the Secretary of Agriculture of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with section 208 of the Act of July 10, 1952 (Ch. 651, 66 Stat. 560; 43 U.S.C. 666) (commonly referred to as the "McCarran Amendment").

(3) Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States in the State of California on or before the date of enactment of this Act.

(4) The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated by this Act. Nothing in this Act related to the reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made thereto.

SEC. 4. FILING OF MAPS AND DESCRIPTIONS.

As soon as practicable after enactment of this Act, a map and legal description of each wilderness area designated in section 2 shall be filed with the Committee on Energy and Natural Resources of the Senate and Committee on Interior and Insular Affairs of the House of Representatives, and each such map and description shall have the same force and effect as if included in this Act. Correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia and in the Office of the Forest Supervisor, Los Padres National Forest.

SEC. 5. RELEASE TO NONWILDERNESS USES.

The table contained in section 111(e) of the California Wilderness Act of 1984 (98 Stat. 1631) is amended by striking all lines pertaining to further planning areas on the Los Padres National Forest. Except for those areas designated as wilderness under section 2 of this Act, these areas shall be released to nonwilderness uses

in accordance with section 111 (except for subsection (e)) of such Act.

SEC. 6. DESIGNATION OF WILD AND SCENIC RIVERS.

In order to preserve and protect for present and future generations the outstandingly remarkable values of Sespe Creek, the Big Sur River, and the Sisquoc River, all in California, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraphs at the end:

"( ) SESPE CREEK, CALIFORNIA.—The 4-mile segment of the main stem of the creek from its confluence with Rock Creek and Howard Creek downstream to its confluence with Trout Creek, to be administered by the Secretary of Agriculture as a scenic river; and the 27.5-mile segment of the main stem of the creek extending from its confluence with Trout Creek downstream to where it leaves section 26, township 5 north, range 20 west, to be administered by the Secretary of Agriculture as a wild river.

"( ) SISQUOC RIVER, CALIFORNIA.—The 33-mile segment of the main stem of the river extending from its origin downstream to the Los Padres Forest boundary, to be administered by the Secretary of Agriculture as a wild river.

"( ) BIG SUR RIVER, CALIFORNIA.—The main stems of the South Fork and North Fork of the Big Sur River from their headwaters to their confluence and the main stem of the river from the confluence of the South and North Forks downstream to the boundary of the Ventana Wilderness in Los Padres National Forest, for a total distance of approximately 19.5 miles, to be administered by the Secretary of Agriculture as a wild river.".

SEC. 7. STUDY RIVERS.

(a) DESIGNATION.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) PIRU CREEK, CALIFORNIA.—The segment of the main stem of the creek from its source downstream to the maximum pool of Pyramid Lake and the segment of the main stem of the creek beginning 300 feet below the dam at Pyramid Lake downstream to the maximum pool at Lake Piru, for a total distance of approximately 49 miles.

"( ) LITTLE SUR RIVER, CALIFORNIA.—The segment of the main stem of the river from its headwaters downstream to the Pacific Ocean, a distance of approximately 23 miles. The Secretary of Agriculture shall consult with the Big Sur Multiagency Advisory Council during the study of the river.

"( ) MATILIJA CREEK, CALIFORNIA.—The segment from its headwaters to its junction with Murietta Canyon, a distance of approximately 16 miles.

"( ) LOPEZ CREEK, CALIFORNIA.—The segments from its headwaters to Lopez Reservoir, a distance of approximately 11 miles.

"( ) SESPE CREEK, CALIFORNIA.—The segment from Chorro Grande Canyon downstream to its confluence with Rock Creek and Howard Creek, a distance of about 10.5 miles.".

(b) CONSULTATION.—Each study shall be conducted by the Secretary of Agriculture. The studies of the rivers and creeks named in subsection (a) shall be made in consultation with local authorities and appropriate local and State agencies.

SEC. 8. MINERAL WITHDRAWAL.

(a) IN GENERAL.—Subject to valid existing rights, federally owned lands and interests therein that are depicted on a map entitled "Mineral Withdrawal Area, California Coastal Zone, Big Sur—Proposed" and dated September 1991 are withdrawn from entry, location, appropriation, leasing, sale, or disposition under the mining laws, mineral leasing and geothermal leasing laws of the United States.

(b) MINING CLAIMS.—Subject to valid existing rights, all mining claims located within the withdrawal area depicted on the map described in subsection (a) shall be subject to such regulations as the Secretary of Agriculture may prescribe to ensure that mining will, to the greatest practicable extent, be consistent with the protection of scenic, scientific, cultural, and other resources of the area. The Secretary of Agriculture shall not approve any plan of operation prior to a determination that the unpatented mining claim was valid prior to the mineral withdrawal created by this Act and remains valid. A patent for land within the withdrawal area that is issued after the date of enactment of this Act shall convey title only to the minerals together with the right to use the surface of lands for mining purposes subject to such regulations.

SEC. 9. ADDITIONAL USES OF CERTAIN LANDS IN CALIFORNIA.

(a) REMOVAL OF RESTRICTIONS.—Notwithstanding the restrictions otherwise applicable under the terms of conveyance by the United States of any of the lands described in subsection (b) to either the city of Pittsburg, California, or Merced County, California, or under any agreement concerning any part of such lands between either such city or such county and the Secretary of the Interior or any other officer or agent of the United States, the lands described in subsection (b) may be used for the purposes specified in subsection (c) of this section.

(b) LANDS AFFECTED.—The lands referred to in subsection (a) of this section are—

(1) any portion not exceeding 1.5 acres of the lands described in that certain Quitclaim Deed of the United States to the city of Pittsburg, California, bearing the date of March 25, 1960, and recorded in Record of Deeds of the County of Contra Costa, State of California, as document No. 79015, in Book 3759 at page 1 of Records; and

(2) the south 15 acres of the 40 acres located in the northwest quarter of the southwest quarter of section 20, township 7 south, range 13 east, Mount Diablo base line and Meridian in Merced County, California, conveyed to such county by deed recorded in volume 1941 at page 441 of the official records in Merced County, California.

(c) AUTHORIZED USES.—(1) The city of Pittsburg, California, may use the lands described in subsection (b)(1) of this section for a fire station or other public purpose, or may transfer such lands to another governmental entity on condition that such entity retain and use such lands for such purpose.

(2) Merced County, California, may authorize the use of the lands described in subsection (b)(2) of this section for an elementary school serving children without regard to their race, creed, color, national origin, physical or mental disability, or sex, operated by a nonsectarian organization on a nonprofit basis and in compliance with all applicable requirements of the laws of the United States

and the State of California. If Merced County permits such lands to be used for such purposes, the county shall include information concerning such use in the periodic reports to the Secretary of the Interior required under the terms of the conveyance of such lands to the county by the United States. Any violation of the provisions of this paragraph shall be deemed to be a breach of the conditions and covenants under which such lands were conveyed to Merced County by the United States, and shall have the same effect as provided in the deed whereby the United States conveyed the lands to the county. Except as specified in this subsection, nothing in this Act shall increase or diminish the authority or responsibility of the county with respect to the lands.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act and amendments made by this Act.

Approved June 19, 1992.

LEGISLATIVE HISTORY—H.R. 2556:

HOUSE REPORTS: No. 102-290, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-291 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 12, considered and passed House.
Vol. 138 (1992): June 4, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
June 19, Presidential statement.

Public Law 102-302
102d Congress

An Act

June 22, 1992
[H.R. 5132]

Making dire emergency supplemental appropriations for disaster assistance to meet urgent needs because of calamities such as those which occurred in Los Angeles and Chicago, for the fiscal year ending September 30, 1992, and for other purposes.

Dire Emergency Supplemental Appropriations Act, 1992, for Disaster Assistance To Meet Urgent Needs Because of Calamities Such as Those Which Occurred in Los Angeles and Chicago.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1992, and for other purposes, namely:

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for the cost of direct loans, $169,650,000, to remain available until expended, of which $50,895,000 shall be available only to the extent that a Presidential designation of a specific dollar amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress, to subsidize additional gross obligations for the principal amount of direct loans not to exceed $500,000,000, and in addition, for administrative expenses to carry out the disaster loan program, an additional $25,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": *Provided,* That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

BUSINESS LOANS PROGRAM ACCOUNT

For an additional amount for the cost of section 7(a) guaranteed loans (15 U.S.C. 636(a)), $70,325,000, to remain available until expended, and in addition, for administrative expenses to carry out the Business Loan Program, an additional $2,000,000, to remain available until expended, which may be transferred to and merged with appropriations for "Salaries and expenses": *Provided,* That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

In addition, for the cost of direct loans authorized under the Microloan Demonstration Program (15 U.S.C. 636(m)), $5,000,000, to remain available until expended, and in addition, for grants in conjunction with such direct loans, $4,000,000, to remain available until expended and to be merged with appropriations for "Salaries and expenses": *Provided,* That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

The language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1992 (Public Law 102–140; 105 Stat. 788–789), is amended by deleting the following: "of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism and drug investigations", and inserting in lieu thereof: "of which not to exceed $5,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism, violent crime and drug investigations".

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For emergency disaster assistance payments necessary to provide for expenses in presidentially-declared disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, an additional amount for "Disaster relief", $300,000,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The limitation on direct loans in the current fiscal year for the "Disaster assistance direct loan program account" is increased, within existing funds, by $22,000,000 to not exceed $28,000,000.

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for "Training and Employment Services," $500,000,000, to be available for obligation for the period July 1, 1991, through June 30, 1992, to carry out part B of title II of the Job Training Partnership Act: *Provided,* That notice of eligibility of funds shall be given by July 1, 1992: *Provided further,* That the Secretary, to the extent practicable consistent with the preceding proviso, shall utilize the 1990 census data in allocating the funds appropriated herein: *Provided further,* That, for the purposes of this Act, of the funds appropriated herein, the first $100,000,000 will be made available by the Secretary to the service delivery areas containing the seventy-five cities with the largest population as determined by the 1990 census data, in accordance with the formula criteria contained in section 201(b)(1) of the Job Training Partnership Act: *Provided further,* That Congress hereby

designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,500,000 for law enforcement training activities of the Center, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,500,000 for the hiring, training and equipping of additional full-time equivalent positions for violent crime task forces and for increased costs associated with the Los Angeles riot, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $3,400,000 are rescinded.

UNITED STATES MINT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $500,000 are rescinded.

BUREAU OF THE PUBLIC DEBT

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $800,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,765,000 are rescinded.

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,000,000 are rescinded.

SENSE OF THE SENATE WITH RESPECT TO FEDERAL ENTERPRISE ZONES

(a) FINDINGS.—The Senate finds that:

(1) The crisis of poverty and high unemployment in America's inner cities and rural areas demands an appropriate and timely response from Congress;

(2) Manufacturing and industry has largely disappeared from many United States inner cities which, in turn, led to the severe decline in good high-wage jobs, wholesale trade, retail businesses, and a large source of local tax revenues;

(3) Encouraging small and medium-sized businesses, which create the majority of new jobs in the United States economy, to locate and invest in poor neighborhoods is one of the keys to revitalizing urban America;

(4) Enterprise Zones will help convince businesses to build and grow in poor neighborhoods; they will give people incentives to invest in such businesses and to hire and train both unemployed and economically disadvantaged individuals; they will create jobs and stimulate entrepreneurship; and they will help restore the local tax revenue base to these communities;

(5) Enterprise Zones have been tested in 37 States since 1982 and have proven to be successful, having generated capital investments in poor neighborhoods in excess of $28,000,000,000 and having created more than 258,000 jobs; and

(6) Enterprise Zones have been endorsed by, among others, the National Governors Association, the National Council of State Legislators, the Council of Black State Legislators, the Conference of Mayors, and the Conference of Black Mayors.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) Enterprise Zones are a vital, proven tool for inner-city revitalization; and

(2) Congress should adopt Federal enterprise zone legislation and that such legislation should include the following provisions:

(A) Competitive designation which will maximize State and local participation;

(B) Tax incentives addressing both capital and labor costs;

(C) Tax incentives aimed at attracting investment in small business; and

(D) Tax incentives to encourage the hiring and training of economically disadvantaged individuals.

DEPARTMENT OF TRANSPORTATION

FEDERAL TRANSIT ADMINISTRATION

49 USC app. 1607a note.

For fiscal years 1992 and 1993, funds provided under section 9 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

GENERAL PROVISIONS

SEC. 101. EMERGENCY RELIEF.

Subsection (b) of section 125 of title 23, United States Code, is amended by striking "on the Federal-aid highway systems including the Interstate System" in two places and inserting in each place "on Federal-aid highways".

SEC. 102. RURAL AGRICULTURAL DISASTERS.

(a) FINDINGS.—Congress finds that—

(1) like the residents of Chicago and Los Angeles who have suffered severe losses due to recent disasters, agricultural producers suffered severe losses as a result of natural disasters during the 1990 through 1992 crop years;

(2) repeated operating losses due to natural disasters have placed agricultural producers in financial stress and have caused increased loan delinquencies to agricultural lenders;

(3) the economics of communities in affected areas have been depressed as a result of crop failures; and

(4) the matter under the heading "COMMODITY CREDIT CORPORATION" of chapter III of title I of Public Law 102–229 (105 Stat. 1712) grants the President the authority to declare $755,000,000 as emergency appropriations for agricultural disasters during the 1990 through 1992 crop years.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should exercise the authority referred to in subsection (a)(4) to make emergency designations for rural agricultural disasters, as well as the urban disasters in Chicago and Los Angeles.

SEC. 103. TECHNICAL CORRECTIONS.

Section 115 of title 23, United States Code, is amended—

(1) by striking the heading of subsection (a) and inserting the following new heading: "SUBSTITUTE, CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT, SURFACE TRANSPORTATION, BRIDGE, PLANNING, AND RESEARCH PROJECTS";

(2) in subsection (a)—

(A) by striking clause (i) of paragraph (1)(A) and inserting the following new clause:

"(i) has obligated all funds apportioned or allocated to it under section 103(e)(4)(H), 104(b)(2), 104(b)(3), 104(f), 144, or 307 of this title, or";

(B) by striking subparagraph (A) of paragraph (2) and inserting the following new subparagraph:

"(A) prior to commencement of the project the Secretary approves the project in the same manner as the Secretary approves other projects, and"; and

(C) by striking paragraph (3);

(3) in the heading of subsection (b), by striking "PRIMARY" and inserting "NATIONAL HIGHWAY SYSTEM";

(4) in paragraph (1) of subsection (b), by striking "Federal-aid primary system" and inserting "National Highway System";

(5) in subsection (c), by striking "152"; and

(6) by striking subsection (d) of section 115 and inserting the following new subsection:

"(d) LIMITATION ON ADVANCED FUNDING.—The Secretary may not approve an application under this section unless an authorization for section 103(e)(4), 104, 144, or 307 of this title, as the case may be, is in effect for the fiscal year for which the application is sought beyond the currently authorized funds for each State. No applications may be approved which will exceed the State's expected apportionment of such authorizations.".

SEC. 104. CONTROL OF OUTDOOR ADVERTISING.

Section 131(n) of title 23, United States Code, is amended by adding at the end the following new sentence: "Funds apportioned to a State under section 104 of this title shall not be treated for purposes of the preceding sentence as being available to the State for making such a payment except to the extent that the State, in its discretion, expends such funds for such a payment.".

SEC. 105.

(a) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who is convicted of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992.

(b) None of the funds made available in this Act may be used to provide any grant, loan, or other assistance to any person who—

(1) is under arrest for, or

(2) is subject to a pending charge of committing a riot-related crime of violence in the City or County of Los Angeles, California, during the period of unrest occurring April 29 through May 9, 1992: *Provided,* That the prohibition on the use of funds in (b) shall not apply if a period of 90 days or more has elapsed from the date of such person being arrested for or charged with such crime: *Provided further,* That should such person be convicted of a riot-related crime of violence cited in (a) and (b), such person shall provide to the agency or agencies which provided such assistance, payments equivalent to the amount of assistance provided.

(c) All appropriate Federal agencies shall take the necessary actions to carry out the provisions of this section.

(d) APPLICANT CERTIFICATION.—Any applicant for aid provided under this Act shall certify to the Federal agency providing such aid that the applicant is not a person described in subsection (a) or acting on behalf of such person.

(e) DEFINITION.—For purposes of this section, the term "riot-related crime of violence" means any State or Federal offense as defined in section 16 of title 18, United States Code.

SEC. 106. HUMANITARIAN ASSISTANCE TO BOSNIA-HERCEGOVINA.

Notwithstanding any other provision of law, up to $5,000,000 of the funds made available for foreign operations, export financing, and related programs in Public Law 102–145, as amended by Public Laws 102–163 and 102–266, and previous Acts making appropriations for foreign operations, export financing, and related programs, shall be made available for humanitarian assistance to Bosnia-

Hercegovina: *Provided,* That such assistance may only be made available through private voluntary organizations, the United Nations and other international and nongovernmental organizations: *Provided further,* That funds made available under this paragraph shall be made available only through the regular notification procedures of the Committees on Appropriations.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1992, for Disaster Assistance To Meet Urgent Needs Because of Calamities Such as Those Which Occurred in Los Angeles and Chicago".

Approved June 22, 1992.

LEGISLATIVE HISTORY—H.R. 5132:

HOUSE REPORTS: Nos. 102-518 (Comm. on Appropriations) and 102-577 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 138 (1992):

May 14, considered and passed House.

May 20, 21, considered and passed Senate, amended.

June 18, House agreed to conference report; receded and concurred in certain Senate amendment, in others with amendments. Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

June 22, Presidential remarks and statement.

Public Law 102-303
102d Congress

Joint Resolution

Designating June 1992 as "National Scleroderma Awareness Month".

June 23, 1992
[H.J. Res. 445]

Whereas scleroderma is a disease caused by the excess production of collagen, the main fibrous component of connective tissue, causing hardening of the skin or internal organs such as the esophagus, lungs, kidney, and heart;

Whereas approximately 300,000 people in the United States suffer from scleroderma with women of childbearing age outnumbering men four to one;

Whereas scleroderma is a painful, crippling, and disfiguring disease that is usually progressive and can result in premature death;

Whereas the symptoms of scleroderma are variable, and this variability can complicate and confuse diagnosis of the disease;

Whereas the cause and cure of scleroderma are unknown; and

Whereas scleroderma is an orphan disease for which intensive research is needed to improve treatment and find its cause and cure: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 1992 is designated as "National Scleroderma Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the month with appropriate activities to enhance awareness of the disease and the need for a cure.

Approved June 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 445:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 5, considered and passed House.
June 9, considered and passed Senate.

Public Law 102-304
102d Congress

An Act

June 23, 1992
[H.R. 1642]

To establish in the State of Texas the Palo Alto Battlefield National Historic Site, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Palo Alto Battlefield National Historic Site Act of 1991.
16 USC 461 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Palo Alto Battlefield National Historic Site Act of 1991".

16 USC 461 note.

SEC. 2. FINDINGS.

The Congress finds that:

(1) The study conducted by the National Park Service under section 506(b) of Public Law 95–625 has resulted in a precise identification of the location of the Battle of Palo Alto and the area requiring protection.

(2) Palo Alto is the only unit of the National Park System directed to the preservation and interpretation of resources related to the Mexican-American War.

16 USC 461 note.

SEC. 3. PALO ALTO BATTLEFIELD NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—In order to preserve for the education, benefit, and inspiration of present and future generations the nationally significant site of the first battle of the Mexican-American War, and to provide for its interpretation in such manner as to portray the battle and the Mexican-American War and its related political, diplomatic, military and social causes and consequences, there is hereby established the Palo Alto Battlefield National Historic Site in the State of Texas (hereafter in this Act referred to as the "historic site").

(b) BOUNDARY.—(1) The historic site shall consist of approximately 3,400 acres as generally depicted on the map entitled "Palo Alto Battlefield National Historic Site", numbered 469–80,002, and dated March 1991. The map shall be on file and available for public inspection in the offices of the Director of the National Park Service, Department of the Interior.

(2) Within 6 months after the date of enactment of this Act, the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall file a legal description of the historic site with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographic errors in such legal description and in the map referred to in paragraph (1). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may, from time to time, make minor revisions in the boundary of the historic site.

SEC. 4. ADMINISTRATION. 16 USC 461 note.

The Secretary, acting through the Director of the National Park Service, shall manage the historic site in accordance with this Act and the provisions of law generally applicable to the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (49 Stat. 666). The Secretary shall protect, manage, and administer the historic site for the purposes of preserving and interpreting the cultural and natural resources of the historic site and providing for the public understanding and appreciation of the historic site in such a manner as to perpetuate these qualities and values for future generations. Conservation.

SEC. 5. LAND ACQUISITION. 16 USC 461 note.

Within the historic site, the Secretary is authorized to acquire lands and interest in lands by donation, purchase with donated or appropriated funds, or exchange. Lands or interests in lands owned by the State of Texas or political subdivisions thereof may be acquired only by donation.

SEC. 6. COOPERATIVE AGREEMENTS. 16 USC 461 note.

In furtherance of the purposes of this Act, the Secretary is authorized to enter into cooperative agreements with the United States of Mexico, in accordance with existing international agreements, and with other owners of Mexican-American War properties within the United States of America for the purposes of conducting joint research and interpretive planning for the historic site and related Mexican-American War sites. Interpretive information and programs shall reflect historical data and perspectives of both countries and the series of historical events associated with the Mexican-American War.

SEC. 7. MANAGEMENT PLAN. 16 USC 461 note.

Within 3 years after the enactment of this Act, the Secretary shall develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the Senate, a general management plan for the historic site. The plan shall be consistent with section 12 of the Act of August 18, 1970 (16 U.S.C. 1a–7) and with the purposes of this Act and shall include (but not be limited to) each of the following:

(1) A resource protection program including land acquisition needs.

(2) A general visitor use and interpretive program.

(3) A general development plan including such roads, trails, markers, structures, and other improvements and facilities as may be necessary for the accommodation of visitor use in accordance with the purposes of this Act and the need to preserve the integrity of the historic site.

(4) A research plan.

(5) Identification of appropriate cooperative agreements as identified in section 6.

16 USC 461 note.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $6,000,000 for acquisition of lands and interests in lands for purposes of the Palo Alto Battlefield National Historic Site.

Approved June 23, 1992.

LEGISLATIVE HISTORY—H.R. 1642:

HOUSE REPORTS: No. 102-86 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-285 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 3, considered and passed House.
Vol. 138 (1992): June 4, considered and passed Senate.

Public Law 102-305
102d Congress

Joint Resolution

To designate July 5, 1992, through July 11, 1992, as "National Awareness Week for Life-Saving Techniques".

June 23, 1992
[H.J. Res. 442]

Whereas the National Safety Council reported that about 850,000 Americans died in 1990 as a result of accidents and heart disease;
Whereas accidents are the leading cause of death for children and youth ages 1 to 24 years;
Whereas drowning and choking are a leading cause of accidental death in children under the age of 5 years;
Whereas Rescue Breathing and Cardiopulmonary Resuscitation, commonly referred to as CPR, are life-saving techniques that significantly reduce the incidence of sudden death due to accidents and heart disease;
Whereas it is critical that more Americans learn such basic life-saving techniques in order to reduce the number of deaths related to accidents and heart disease;
Whereas the opportunity to learn basic life-saving techniques is available to all Americans through the American Red Cross, the American Heart Association, the YMCA, and other national organizations; and
Whereas the death rate due to accidents and heart disease would be greatly reduced if more Americans received training in basic life-saving techniques: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 5, 1992, through July 11, 1992, is designated as "National Awareness Week for Life-Saving Techniques". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities designed to encourage training in life-saving techniques for Americans.

Approved June 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 442:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 5, considered and passed House.
June 9, considered and passed Senate.

Public Law 102-306
102d Congress

Joint Resolution

June 26, 1992
[H.J. Res. 517]

To provide for a settlement of the railroad labor-management disputes between certain railroads and certain of their employees.

Whereas the unresolved labor disputes between certain railroads and certain of their employees represented by certain labor organizations threaten essential transportation services of the United States;

Whereas it is essential to the national interest, including the national health and defense, that essential transportation services be maintained;

Whereas the President, pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), by Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, created Presidential Emergency Boards No. 220, 221, and 222 to investigate the disputes referenced therein and report findings;

Whereas the recommendations of Presidential Emergency Boards No. 220, 221, and 222 issued on May 28, 1992, have not resulted in a settlement of all the disputes referenced therein;

Whereas all the procedures provided under the Railway Labor Act, and further procedures agreed to by the parties, have been exhausted and have not resulted in settlement of all the disputes;

Whereas it is desirable to resolve such disputes in a manner which encourages solutions reached through collective bargaining;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services;

Whereas Congress finds that emergency measures are essential to security and continuity of transportation services by such railroads; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONDITIONS DURING RESOLUTION OF DISPUTES.

The following conditions shall apply to all carriers and all employees affected by the disputes referred to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, that remain unresolved between certain railroads and the employees of such railroads represented by the labor organizations which are party to such disputes:

(1) All carriers and all employees affected by such unresolved disputes shall take all necessary steps to restore or preserve the conditions that existed before 12:01 a.m. on June 24, 1992, applicable to all such carriers and employees, except as otherwise provided in this joint resolution.

(2) The final paragraph of section 10 of the Railway Labor Act (45 U.S.C. 160) shall apply and be extended for an additional period with respect to each unresolved dispute referred

to in Executive Orders No. 12794, 12795, and 12796 of March 31, 1992, so that no change shall be made by any carrier or employee affected by such unresolved dispute, before a decision is rendered under section 3(d) or the parties have reached agreement, in the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on June 24, 1992.

SEC. 2. APPOINTMENT OF ARBITRATORS.

(a) IN GENERAL.—(1) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier parties to the unresolved disputes described in Executive Order No. 12794 (acting jointly) and the labor organization party to such unresolved disputes shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved disputes.

(2) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved dispute described in Executive Order No. 12795 and the labor organization party to such unresolved dispute shall each select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individuals selected under the preceding sentence shall jointly select an individual from such roster to serve as arbitrator for such unresolved dispute.

(3) Within three days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the carrier party to the unresolved disputes described in Executive Order No. 12796 and each of the labor organization parties to such unresolved disputes shall select an individual from the entire roster of arbitrators maintained by the National Mediation Board. Within six days (excluding Saturdays, Sundays, and Federal holidays) after the date of enactment of this joint resolution, the individual selected by each of the labor organizations under the preceding sentence shall, jointly with the individual selected by the carrier under the preceding sentence, select an individual from such roster to serve as arbitrator for the unresolved disputes involving such labor organization and the carrier.

(4) For purposes of this subsection and section 1, a dispute as to which tentative agreement has been reached but not ratified shall be considered an unresolved dispute.

(b) QUALIFICATIONS.—No individual shall be selected under subsection (a) who is pecuniarily or otherwise interested in any organization of employees or any railroad, or who has served as a member of Presidential Emergency Board No. 219, 220, 221, or 222. Nothing in this joint resolution shall preclude an individual from serving as arbitrator for more than one dispute described in subsection (a).

(c) COMPENSATION AND EXPENSES.—The compensation of individuals selected under subsection (a) shall be fixed by the National Mediation Board. The second paragraph of section 10 of the Railway

Labor Act shall apply to the expenses of such individuals as if such individuals were members of a board created under such section 10.

SEC. 3. CONDUCT OF NEGOTIATIONS.

(a) INITIAL PERIOD.—During the 20-day period beginning on the date of enactment of this joint resolution, the parties to the unresolved disputes described in section 2(a) shall conduct negotiations for the purpose of reaching agreement with respect to such disputes. Arbitrators selected under section 2 shall be available for consultation with the parties to the unresolved disputes for which they have been selected.

(b) SUBMISSION OF FINAL OFFERS.—If, within the period described in subsection (a), the parties to any dispute described in section 2(a) do not reach agreement, both the labor organization and the carrier (or carriers) shall, within five days after the end of such period, submit to the arbitrator and to the other party (or parties) a proposed written contract embodying its last best offer for agreement concerning rates of pay, rules, and working conditions. Such proposed written contract shall address only—

(1) issues that the relevant Presidential Emergency Board dealt with by a recommendation in its report issued on May 28, 1992; or

(2) other issues that the parties agree may be addressed by the written contract.

(c) FINAL NEGOTIATIONS.—Upon submission to the arbitrator of the proposed written contracts described in subsection (b) and for a period of seven days thereafter, the parties shall, with the assistance of the arbitrator, attempt to reach agreement.

(d) ARBITRATOR'S DECISION.—If the parties fail to reach agreement within the period described in subsection (c), the arbitrator, within three days thereafter, shall render a decision selecting one of the proposed written contracts submitted under subsection (b), without modification and shall immediately submit such decision and selected contract to the President. The selected contract shall be binding on the parties and have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.) unless, within three days following receipt of the decision and selected contract, the President disapproves such decision and contract. If the President disapproves such decision and contract, the parties shall have those rights under the Railway Labor Act (45 U.S.C. 151 et seq.) they had at 12:01 a.m. on June 24, 1992.

(e) SPECIAL RULES.—(1) With respect to any tentative agreement reached but not ratified prior to the date of enactment of this joint resolution, if the ratification of such tentative agreement fails, the parties to such tentative agreement shall be considered parties to an unresolved dispute for purposes of this section, and the time periods described in this section shall apply to such dispute beginning on the date of such failure.

(2) With respect to any tentative agreement reached after the date of enactment of this joint resolution, if the ratification of such tentative agreement fails, both the labor organization and the carrier (or carriers) party to such tentative agreement shall, within five days after the date of such failure, submit to the arbitrator and to the other party (or parties) a proposed written contract

under subsection (b), and shall be subject to subsections (c) and (d).

(3) Upon the agreement of the parties to an unresolved dispute, final offers may be submitted under subsection (b) at any time after the date of enactment of this joint resolution.

(f) TERMINATION.—The responsibilities of an arbitrator appointed under section 2 shall terminate upon a decision under subsection (d).

SEC. 4. PRECLUSION OF JUDICIAL REVIEW.

There shall be no judicial review of any decision of an arbitrator under this joint resolution.

SEC. 5. MUTUAL AGREEMENT PRESERVED.

Nothing in this joint resolution shall prevent a mutual written agreement to any terms and conditions different from those established by the joint resolution.

Approved June 26, 1992.

LEGISLATIVE HISTORY—H.J. Res. 517:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 25, considered and passed House and Senate.

Public Law 102-307
102d Congress

An Act

June 26, 1992
[S. 756]

To amend title 17, United States Code, the copyright renewal provisions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Copyright Amendments Act of 1992.
17 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Amendments Act of 1992".

TITLE I—RENEWAL OF COPYRIGHT

Copyright Renewal Act of 1992.
17 USC 101 note.

SEC. 101. SHORT TITLE.

This title may be referred to as the "Copyright Renewal Act of 1992".

SEC. 102. COPYRIGHT RENEWAL PROVISIONS.

(a) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—Section 304(a) of title 17, United States Code, is amended to read as follows:

"(a) COPYRIGHTS IN THEIR FIRST TERM ON JANUARY 1, 1978.—(1)(A) Any copyright, the first term of which is subsisting on January 1, 1978, shall endure for 28 years from the date it was originally secured.

"(B) In the case of—

"(i) any posthumous work or of any periodical, cyclopedic, or other composite work upon which the copyright was originally secured by the proprietor thereof, or

"(ii) any work copyrighted by a corporate body (otherwise than as assignee or licensee of the individual author) or by an employer for whom such work is made for hire,

the proprietor of such copyright shall be entitled to a renewal and extension of the copyright in such work for the further term of 47 years.

"(C) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work—

"(i) the author of such work, if the author is still living,

"(ii) the widow, widower, or children of the author, if the author is not living,

"(iii) the author's executors, if such author, widow, widower, or children are not living, or

"(iv) the author's next of kin, in the absence of a will of the author,

shall be entitled to a renewal and extension of the copyright in such work for a further term of 47 years.

"(2)(A) At the expiration of the original term of copyright in a work specified in paragraph (1)(B) of this subsection, the copyright

shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in the proprietor of the copyright who is entitled to claim the renewal of copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in the person or entity that was the proprietor of the copyright as of the last day of the original term of copyright.

"(B) At the expiration of the original term of copyright in a work specified in paragraph (1)(C) of this subsection, the copyright shall endure for a renewed and extended further term of 47 years, which—

"(i) if an application to register a claim to such further term has been made to the Copyright Office within 1 year before the expiration of the original term of copyright, and the claim is registered, shall vest, upon the beginning of such further term, in any person who is entitled under paragraph (1)(C) to the renewal and extension of the copyright at the time the application is made; or

"(ii) if no such application is made or the claim pursuant to such application is not registered, shall vest, upon the beginning of such further term, in any person entitled under paragraph (1)(C), as of the last day of the original term of copyright, to the renewal and extension of the copyright.

"(3)(A) An application to register a claim to the renewed and extended term of copyright in a work may be made to the Copyright Office—

"(i) within 1 year before the expiration of the original term of copyright by any person entitled under paragraph (1) (B) or (C) to such further term of 47 years; and

"(ii) at any time during the renewed and extended term by any person in whom such further term vested, under paragraph (2) (A) or (B), or by any successor or assign of such person, if the application is made in the name of such person.

"(B) Such an application is not a condition of the renewal and extension of the copyright in a work for a further term of 47 years.

"(4)(A) If an application to register a claim to the renewed and extended term of copyright in a work is not made within 1 year before the expiration of the original term of copyright in a work, or if the claim pursuant to such application is not registered, then a derivative work prepared under authority of a grant of a transfer or license of the copyright that is made before the expiration of the original term of copyright may continue to be used under the terms of the grant during the renewed and extended term of copyright without infringing the copyright, except that such use does not extend to the preparation during such renewed and extended term of other derivative works based upon the copyrighted work covered by such grant.

"(B) If an application to register a claim to the renewed and extended term of copyright in a work is made within 1 year before

its expiration, and the claim is registered, the certificate of such registration shall constitute prima facie evidence as to the validity of the copyright during its renewed and extended term and of the facts stated in the certificate. The evidentiary weight to be accorded the certificates of a registration of a renewed and extended term of copyright made after the end of that 1-year period shall be within the discretion of the court.".

(b) REGISTRATION.—(1) Section 409 of title 17, United States Code, is amended by adding at the end the following:

"If an application is submitted for the renewed and extended term provided for in section 304(a)(3)(A) and an original term registration has not been made, the Register may request information with respect to the existence, ownership, or duration of the copyright for the original term.".

(2) Section 101 of title 17, United States Code, is amended by inserting after the definition of "publication" the following:

"Registration", for purposes of sections 205(c)(2), 405, 406, 410(d), 411, 412, and 506(e), means a registration of a claim in the original or the renewed and extended term of copyright.".

17 USC 304 note.

(c) LEGAL EFFECT OF RENEWAL OF COPYRIGHT UNCHANGED.—The renewal and extension of a copyright for a further term of 47 years provided for under paragraphs (1) and (2) of section 304(a) of title 17, United States Code (as amended by subsection (a) of this section) shall have the same effect with respect to any grant, before the effective date of this section, of a transfer or license of the further term as did the renewal of a copyright before the effective date of this section under the law in effect at the time of such grant.

(d) CONFORMING AMENDMENT.—Section 304(c) of title 17, United States Code, is amended in the matter preceding paragraph (1) by striking "second proviso of subsection (a)" and inserting "subsection (a)(1)(C)".

(e) REGISTRATION PERMISSIVE.—Section 408(a) of title 17, United States Code, is amended by striking "At" and all that follows through "unpublished work," and inserting "At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date,".

(f) COPYRIGHT OFFICE FEES.—Section 708(a)(2) of title 17, United States Code, is amended—

(1) by striking "in its first term"; and

(2) by striking "$12" and inserting "$20".

17 USC 101 note.

(g) EFFECTIVE DATE; COPYRIGHTS AFFECTED BY AMENDMENT.—(1) Subject to paragraphs (2) and (3), this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply only to those copyrights secured between January 1, 1964, and December 31, 1977. Copyrights secured before January 1, 1964, shall be governed by the provisions of section 304(a) of title 17, United States Code, as in effect on the day before the effective date of this section.

(3) This section and the amendments made by this section shall not affect any court proceedings pending on the effective date of this section.

TITLE II—NATIONAL FILM PRESERVATION

National Film Preservation Act of 1992.
Arts and humanities.
2 USC 179 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Film Preservation Act of 1992".

SEC. 202. NATIONAL FILM REGISTRY OF THE LIBRARY OF CONGRESS.

Establishment.
2 USC 179.

The Librarian of Congress (hereinafter in this title referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this title, for the purpose of maintaining and preserving films that are culturally, historically, or aesthetically significant.

SEC. 203. DUTIES OF THE LIBRARIAN OF CONGRESS.

2 USC 179a.

(a) STUDY OF FILM PRESERVATION.—(1) The Librarian shall, after consultation with the Board established pursuant to section 204, conduct a study on the current state of film preservation and restoration activities, including the activities of the Library of Congress and the other major film archives in the United States. The Librarian shall, in conducting the study—

(A) take into account the objectives of the national film preservation program set forth in clauses (i) through (iii) of subsection (b)(1)(A); and

(B) consult with film archivists, educators and historians, copyright owners, film industry representatives, including those involved in the preservation of film, and others involved in activities related to film preservation.

The study shall include an examination of the concerns of private organizations and individuals involved in the collection and use of abandoned films such as training, educational, and other historically important films.

(2) Not later than 1 year after the date of the enactment of this Act, the Librarian shall submit to the Congress a report containing the results of the study conducted under paragraph (1).

Reports.

(b) POWERS.—(1) The Librarian shall, after consultation with the Board, do the following:

(A) After completion of the study required by subsection (a), the Librarian shall, taking into account the results of the study, establish a comprehensive national film preservation program for motion pictures, in conjunction with other film archivists and copyright owners. The objectives of such a program shall include—

(i) coordinating activities to assure that efforts of archivists and copyright owners, and others in the public and private sector, are effective and complementary;

(ii) generating public awareness of and support for those activities; and

(iii) increasing accessibility of films for educational purposes, and improving nationwide activities in the preservation of works in other media such as videotape.

(B) The Librarian shall establish guidelines and procedures under which films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first publication.

(C) The Librarian shall establish procedures under which the general public may make recommendations to the Board regarding the inclusion of films in the National Film Registry.

(D) The Librarian shall establish procedures for the examination by the Librarian of prints of films named for inclusion in the National Film Registry to determine their eligibility for the use of the seal of the National Film Registry under paragraph (3).

(E) The Librarian shall determine which films satisfy the criteria established under subparagraph (B) and qualify for inclusion in the National Film Registry, except that the Librarian shall not select more than 25 films each year for inclusion in the Registry.

Federal Register, publication.

(2) The Librarian shall publish in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

(3) The Librarian shall provide a seal to indicate that a film has been included in the National Film Registry and is the Registry version of that film.

Federal Register, publication.

(4) The Librarian shall publish in the Federal Register the criteria used to determine the Registry version of a film.

Reports.

(5) The Librarian shall submit to the Congress a report, not less than once every two years, listing films included in the National Film Registry and describing the activities of the Board.

(c) SEAL.—The seal provided under subsection (b)(3) may be used on any copy of the Registry version of a film. Such seal may be used only after the Librarian has examined and approved the print from which the copy was made. In the case of copyrighted works, only the copyright owner or an authorized licensee of the copyright may place or authorize the placement of the seal on a copy of a film selected for inclusion in the National Film Registry, and the Librarian may place the seal on any print or copy of the film that is maintained in the National Film Registry Collection of the Library of Congress. The person authorized to place the seal on a copy of a film selected for inclusion in the National Film Registry may accompany such seal with the following language: "This film is included in the National Film Registry, which is maintained by the Library of Congress, and was preserved under the National Film Preservation Act of 1992.".

(d) DEVELOPMENT OF STANDARDS.—The Librarian shall develop standards or guidelines by which to assess the preservation or restoration of films that will qualify films for use of the seal under this section.

Establishment.
2 USC 179b.

SEC. 204. NATIONAL FILM PRESERVATION BOARD.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of up to 18 members, who shall be selected by the Librarian in accordance with the provisions of this section. Subject to subparagraphs (C) and (O), the Librarian shall request each organization listed in subparagraphs (A) through (P) to submit to the Librarian a list of not less than 3 candidates qualified to serve as a member of the Board. Except for the members-at-large appointed under paragraph (2), the Librarian shall appoint 1 member from each such list submitted by such organizations, and shall designate from that list an alternate who may attend

those meetings to which the individual appointed to the Board cannot attend. The organizations are the following:

(A) The Academy of Motion Pictures Arts and Sciences.

(B) The Directors Guild of America.

(C) The Writers Guild of America. The Writers Guild of America East and the Writers Guild of America West shall each nominate not less than 3 candidates, and a representative from 1 such organization shall be selected as the member and a representative from the other such organization as the alternate.

(D) The National Society of Film Critics.

(E) The Society for Cinema Studies.

(F) The American Film Institute.

(G) The Department of Theatre, Film and Television of the College of Fine Arts at the University of California, Los Angeles.

(H) The Department of Film and Television of the Tisch School of the Arts at New York University.

(I) The University Film and Video Association.

(J) The Motion Picture Association of America.

(K) The National Association of Broadcasters.

(L) The Alliance of Motion Picture and Television Producers.

(M) The Screen Actors Guild of America.

(N) The National Association of Theater Owners.

(O) The American Society of Cinematographers and the International Photographers Guild, which shall jointly submit 1 list of candidates from which a member and alternate will be selected.

(P) The United States members of the International Federation of Film Archives.

(2) In addition to the Members appointed under paragraph (1), the Librarian shall appoint up to 2 members-at-large. The Librarian shall select the at-large members from names submitted by organizations in the film industry, creative artists, producers, film critics, film preservation organizations, academic institutions with film study programs, and others with knowledge of copyright law and of the importance, use, and dissemination of films. The Librarian shall, in selecting 1 such member-at-large, give preference to individuals who are responsible for commercial film libraries. The Librarian shall also select from the names submitted under this paragraph an alternate for each member-at-large, who may attend those meetings to which the member-at-large cannot attend.

(b) CHAIRPERSON.—The Librarian shall appoint 1 member of the Board to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years, except that there shall be no limit to the number of terms that any individual member may serve.

(2) A vacancy in the Board shall be filled in the manner in which the original appointment was made under subsection (a), except that the Librarian may fill the vacancy from a list of candidates previously submitted by the organization or organizations involved. Any member appointed to fill a vacancy before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—9 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their home or regular places of business in the

performance of functions of the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5701 of title 5, United States Code.

(f) MEETINGS.—The Board shall meet at least once each calendar year. Meetings shall be at the call of the Librarian.

(g) CONFLICT OF INTEREST.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and the responsibilities of the Board.

2 USC 179c.

SEC. 205. RESPONSIBILITIES AND POWERS OF BOARD.

(a) IN GENERAL.—The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and shall consult with the Librarian, as provided in section 203, with respect to the inclusion of such films in the Registry and the preservation of these and other films that are culturally, historically, or aesthetically significant.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by the general public as well as representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, cinematographers and other creative artists, producers, film critics, film preservation organizations, and representatives of academic institutions with film study programs. The Board shall nominate not more than 25 films each year for inclusion in the Registry.

(c) GENERAL POWERS.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Librarian and the Board considers appropriate.

2 USC 179d.

SEC. 206. NATIONAL FILM REGISTRY COLLECTION OF THE LIBRARY OF CONGRESS.

(a) ACQUISITION OF ARCHIVAL QUALITY COPIES.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of the Registry version of each film included in the National Film Registry. Whenever possible, the Librarian shall endeavor to obtain the best surviving materials, including preprint materials.

(b) ADDITIONAL MATERIALS.—The Librarian shall endeavor to obtain, for educational and research purposes, additional materials related to each film included in the National Film Registry, such as background materials, production reports, shooting scripts (including continuity scripts) and other similar materials.

(c) PROPERTY OF UNITED STATES.—All copies of films on the National Film Registry that are received by the Librarian and other materials received by the Librarian under subsection (b) shall become the property of the United States Government, subject to the provisions of title 17, United States Code.

(d) NATIONAL FILM REGISTRY COLLECTION.—All copies of films on the National Film Registry that are received by the Librarian and other materials received by the Librarian under subsection (b) shall be maintained in a special collection in the Library of Congress to be known as the "National Film Registry Collection of the Library of Congress". The Librarian shall, by regulation, and in accordance with title 17, United States Code, provide for reasonable access to films in such collection for scholarly and research purposes.

Regulations.

SEC. 207. SEAL OF THE NATIONAL FILM REGISTRY. 2 USC 179e.

(a) USE OF THE SEAL.—(1) No person shall knowingly distribute or exhibit to the public a version of a film which bears the seal described in section 203(b)(3) if such film—

(A) is not included in the National Film Registry; or

(B) is included in the National Film Registry, but such copy was not made from a print that was examined and approved for the use of the seal by the Librarian under section 203(c).

(2) No person shall knowingly use the seal described in section 203(b)(3) to promote any version of a film other than a Registry version.

(b) EFFECTIVE DATE OF THE SEAL.—The use of the seal described in section 203(b)(3) shall be effective for each film after the Librarian publishes in the Federal Register the name of that film as selected for inclusion in the National Film Registry.

SEC. 208. REMEDIES. 2 USC 179f.

(a) JURISDICTION.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of section 207(a).

(b) RELIEF.—(1) Except as provided in paragraph (2), relief for a violation of section 207(a) shall be limited to the removal of the seal of the National Film Registry from the film involved in the violation.

(2) In the case of a pattern or practice of the willful violation of section 207(a), the United States district courts may order a civil fine of not more than $10,000 and appropriate injunctive relief.

SEC. 209. LIMITATIONS OF REMEDIES. 2 USC 179g.

The remedies provided in section 208 shall be the exclusive remedies under this title, or any other Federal or State law, regarding the use of the seal described in section 203(b)(3).

SEC. 210. STAFF OF BOARD; EXPERTS AND CONSULTANTS. 2 USC 179h.

(a) STAFF.—The Librarian may appoint and fix the pay of such personnel as the Librarian considers appropriate to carry out this title.

(b) EXPERTS AND CONSULTANTS.—The Librarian may, in carrying out this title, procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS–15 of the General Schedule. In no case may a member of the Board be paid as an expert or consultant under such section.

SEC. 211. DEFINITIONS. 2 USC 179i.

As used in this title—

(1) the term "Librarian" means the Librarian of Congress;

(2) the term "Board" means the National Film Preservation Board;

(3) the term "film" means a "motion picture" as defined in section 101 of title 17, United States Code, except that such term does not include any work not originally fixed on film stock, such as a work fixed on videotape or laser disks;

(4) the term "publication" means "publication" as defined in section 101 of title 17, United States Code; and

(5) the term "Registry version" means, with respect to a film, the version of the film first published, or as complete a version as the bona fide preservation and restoration activities by the Librarian, an archivist other than the Librarian, or the copyright owner can compile in those cases where the original material has been irretrievably lost.

2 USC 179j.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Librarian such sums as are necessary to carry out the provisions of this title, but in no fiscal year shall such sum exceed $250,000.

2 USC 179k.

SEC. 213. EFFECTIVE DATE.

The provisions of this title shall be effective for four years beginning on the date of the enactment of this Act. The provisions of this title shall apply to any copy of any film, including those copies of films selected for inclusion in the National Film Registry under the National Film Preservation Act of 1988, except that any film so selected under such Act shall be deemed to have been selected for the National Film Registry under this title.

SEC. 214. REPEAL.

The National Film Preservation Act of 1988 (2 U.S.C. 178 and following) is repealed.

TITLE III—OTHER COPYRIGHT PROVISIONS

SEC. 301. REPEAL OF COPYRIGHT REPORT TO CONGRESS.

Section 108(i) of title 17, United States Code, is repealed.

Approved June 26, 1992.

LEGISLATIVE HISTORY—S. 756 (H.R. 2372):

HOUSE REPORTS: No. 102-379, Pt. 1 accompanying H.R. 2372 (Comm. on the Judiciary).
SENATE REPORTS: No. 102-194 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed Senate. H.R. 2372 considered and passed House.
Vol. 138 (1992): June 4, S. 756 considered and passed House, amended. Senate concurred in House amendment.

Public Law 102-308
102d Congress

An Act

To authorize the President to appoint General Thomas C. Richards to the Office of Administrator of the Federal Aviation Administration.

June 26, 1992
[S. 2703]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 106 of title 49, United States Code, or any other provision of law, the President, acting by and with the advice and consent of the Senate, is authorized to appoint General Thomas C. Richards, United States Air Force, Retired, to the Office of Administrator of the Federal Aviation Administration. General Richards' appointment to, acceptance of, and service in that Office shall in no way affect the status, rank, and grade which he shall hold as an officer on the retired list of the United States Air Force, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade, except to the extent that subchapter IV of chapter 55 of title 5, United States Code, affects the amount of retired pay to which he is entitled by law during his service as Administrator. So long as he serves as Administrator, General Richards shall receive the compensation of that Office at the rate which would be applicable if he were not an officer on the retired list of the United States Air Force, shall retain the status, rank, and grade which he now holds as an officer on the retired list of the United States Air Force, shall retain all emoluments, perquisites, rights, privileges, and benefits incident to or arising out of such status, office, rank, or grade, and shall in addition continue to receive the retired pay to which he is entitled by law, subject to the provisions of subchapter IV of chapter 55 of title 5, United States Code.

49 USC 106 note.

49 USC 106 note.

SEC. 2. In the performance of his duties as Administrator of the Federal Aviation Administration, General Richards shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were not an officer on the retired list of the United States Air Force.

49 USC 106 note.

SEC. 3. Nothing in this Act shall be construed as approval by the Congress of any future appointments of military persons to the Office of Administrator of the Federal Aviation Administration.

Approved June 26, 1992.

LEGISLATIVE HISTORY—S. 2703:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 9, considered and passed Senate.
June 22, considered and passed House.

Public Law 102-309
102d Congress

Joint Resolution

To designate the month of September 1992 as "National Spina Bifida Awareness Month".

June 30, 1992
[H.J. Res. 470]

Whereas spina bifida is the most frequently occurring and permanently disabling birth defect of newborns, occurring in one of every one thousand live births in the United States;

Whereas between 1980 and 1989, 18,000 children were born with spina bifida in the United States and of that number 13,500 have survived;

Whereas spina bifida occurs more often than Cystic Fibrosis, Multiple Sclerosis, Muscular Dystrophy, and polio combined;

Whereas spina bifida is a birth defect in the spinal column resulting when the spinal cord fails to close completely during prenatal development;

Whereas spina bifida may result in varying degrees of paralysis, loss of sensation in the lower limbs, and bladder and bowel complications, and often is accompanied by hydrocephalus;

Whereas the cause of spina bifida is not known but the cause appears to be the result of multiple environmental and genetic factors;

Whereas although most of the March of Dimes and Easter Seal poster children have spina bifida, many people across this Nation have not heard of the defect and its debilitating consequences for children;

Whereas only a few cities in the United States have proper care centers and specialized professionals that can provide the most effective, aggressive treatment for children and adults with spina bifida; and

Whereas an increase in the national awareness of the problem of spina bifida may stimulate the interest and concern of the American people, which may lead, in turn, to increased research into the needs of individuals with spina bifida and the prevention of spina bifida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1992 is designated "National Spina Bifida Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved June 30, 1992.

LEGISLATIVE HISTORY—H.J. Res. 470:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 5, considered and passed House.
June 11, considered and passed Senate.

Public Law 102-310
102d Congress

An Act

July 1, 1992
[S. 2905]

To provide a 4-month extension of the transition rule for separate capitalization of savings associations' subsidiaries.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(t)(5)(D)(ii) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)(ii)) is amended—

(1) by striking "June 30, 1992" and inserting "October 31, 1992"; and

(2) by striking "July 1, 1992" and inserting "November 1, 1992".

Approved July 1, 1992.

LEGISLATIVE HISTORY—S. 2905:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 29, considered and passed Senate.
June 30, considered and passed House.

Public Law 102-311
102d Congress

An Act

To authorize contributions to United Nations peacekeeping activities.

July 2, 1992
[H.R. 4548]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Peacekeeping Act of 1992.

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Peacekeeping Act of 1992".

SEC. 2. UNITED NATIONS PEACEKEEPING ACTIVITIES.

(a) FISCAL YEAR 1992.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated $350,000,000 for fiscal year 1992 for the Department of State for assessed and voluntary contributions of the United States to United Nations peacekeeping activities. Authorizations of appropriations under this subsection shall remain available until October 1, 1994.

(b) FISCAL YEAR 1993.—In addition to such amounts as are otherwise authorized to be appropriated for such purpose, there are authorized to be appropriated $366,069,000 for fiscal year 1993 for the Department of State for assessed contributions of the United States to United Nations peacekeeping activities.

(c) CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—In addition to such amounts as are authorized to be appropriated in section 102(a) of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, there are authorized to be appropriated $53,814,000 for fiscal year 1993 for "Contributions to International Organizations".

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.R. 4548:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 15, considered and passed House.
June 23, considered and passed Senate.

Public Law 102-312
102d Congress

An Act

July 2, 1992
[H.R. 3041]

To designate the Federal building located at 1520 Market Street, St. Louis, Missouri, as the "L. Douglas Abram Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal building located at 1520 Market Street, St. Louis, Missouri, shall hereafter be known and designated as the "L. Douglas Abram Federal Building". Any reference to such building in any law, map, regulation, document, record, or other paper of the United States shall be deemed to be a reference to the "L. Douglas Abram Federal Building".

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.R. 3041:

HOUSE REPORTS: No. 102-441 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, considered and passed House.
June 23, considered and passed Senate.

Public Law 102-313
102d Congress

An Act

To designate the Federal building located at 78 Center Street in Pittsfield, Massachusetts, as the "Silvio O. Conte Federal Building", and for other purposes.

July 2, 1992
[H.R. 2818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that—

(1) Silvio O. Conte, during his 32 years in Congress, embodied the true spirit of public service;

(2) Mr. Conte dedicated his entire life toward helping those individuals less fortunate than himself; and

(3) Mr. Conte's presence in Congress will be sorely missed.

SEC. 2. DESIGNATION.

The Federal building located at 78 Center Street in Pittsfield, Massachusetts, is designated as the "Silvio O. Conte Federal Building".

SEC. 3. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the Silvio O. Conte Federal Building.

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.R. 2818:

HOUSE REPORTS: No. 102-440 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, considered and passed House.
June 23, considered and passed Senate.

Public Law 102-314
102d Congress

An Act

July 2, 1992
[H.R. 3711]

To authorize grants to be made to State programs designed to provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

WIC Farmers' Market Nutrition Act of 1992.
Women.
Children and youth.
42 USC 1771 note.
42 USC 1786 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "WIC Farmers' Market Nutrition Act of 1992".

SEC. 2. PURPOSE.

The purpose of this Act is to authorize grants to be made to State programs designed to—

(1) provide resources to women, infants, and children who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at such markets.

SEC. 3. WIC FARMERS' MARKET NUTRITION PROGRAM.

Subsection (m) of section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)) is amended to read as follows:

"(m)(1) Subject to the availability of funds appropriated for the purposes of this subsection, and as specified in this subsection, the Secretary shall award grants to States that submit State plans that are approved for the establishment or maintenance of programs designed to provide recipients of assistance under subsection (c), or those who are on the waiting list to receive the assistance, with coupons that may be exchanged for fresh, nutritious, unprepared foods at farmers' markets, as defined in the State plans submitted under this subsection.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) ensure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless the State agrees to provide State, local, or private funds for the program in an amount that is equal to not less than 30 percent of the total cost of the program, which may be satisfied from State contributions that are made for similar programs.

"(4) Subject to paragraph (6), the Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which a State plan is approved under paragraph (6), according to the number of recipients

proposed to participate as specified in the State plan. In determining the amount to be awarded to new States, the Secretary shall rank order the State plans according to the criteria of operation set forth in this subsection, and award grants accordingly. The Secretary shall take into consideration the minimum amount needed to fund each approved State plan, and need not award grants to each State that submits a State plan.

"(5) Each State that receives a grant under this subsection shall ensure that the program for which the grant is received complies with the following requirements:

"(A) Individuals who are eligible to receive Federal benefits under the program shall only be individuals who are receiving assistance under subsection (c), or who are on the waiting list to receive the assistance.

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefits received by any recipient under the program may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the program shall be designed to ensure that coupons are targeted to areas with—

"(i) the highest concentration of eligible individuals;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary and that maximize the availability of benefits to eligible individuals.

"(E) The coupon redemption process under the program shall be designed to ensure that the coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the program; and

"(ii) redeemed only to purchase fresh nutritious unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may use for administration of the program in any fiscal year not more than 15 percent of the total amount of program funds.

"(ii) During the first fiscal year for which a State receives assistance under this subsection, the Secretary shall permit the State to use 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i). During any fiscal year other than the first fiscal year for which a State receives assistance under this subsection, upon the showing by the State of financial need, the Secretary may permit the State to use not more than 2 percent of the total program funds for administration of the program in addition to the amount the State is permitted to use under clause (i).

"(iii) The provisions of clauses (i) and (ii) with respect to the use of program funds for the administration of the program shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements of paragraph (3).

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the program.

"(6)(A) Each State that received assistance under the demonstration program authorized by this subsection in a fiscal year ending before October 1, 1991, shall receive assistance under this subsection if the State complies with the requirements established by this subsection, as determined by the Secretary.

"(B)(i) Subject to the availability of appropriations, if a State provides the amount of matching funds required under paragraph (3), the State shall receive assistance under this subsection in an amount that is not less than the amount of such assistance that the State received in the most recent fiscal year in which it received such assistance.

"(ii) If amounts appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which a State plan is approved under paragraph (6) the amount that the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced, except that (if sufficient funds are available) each State shall receive at least $50,000 or the amount that the State received for the prior fiscal year if that amount is less than $50,000.

"(C) In providing funds to serve additional recipients in a State that received assistance under this subsection in the previous fiscal year, the Secretary shall consider—

"(i) the availability of any such assistance not spent by the State during the program year for which the assistance was received;

"(ii) documentation that justifies the need for an increase in participation; and

"(iii) demonstrated ability to satisfactorily operate the existing program.

"(D)(i) A State that desires to receive a grant under this subsection shall submit, for each fiscal year, a State plan to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(ii) Each State plan submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by the program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(iii) The criteria developed by the State as required by clause (ii)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the program.

"(E) The Secretary shall establish objective criteria for the approval and ranking of State plans submitted under this paragraph.

"(F) In approving and ranking State plans submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with this or similar programs;

"(ii) favorably consider a State's operation of a similar program with State or local funds that can present data concerning the value of the program;

"(iii) require that if a State receiving a grant under this section applies the Federal grant to a similar program operated in the previous fiscal year with State or local funds, the State shall not reduce in any fiscal year the amount of State and local funds available to the program in the preceding fiscal year after receiving funds for the program under this subsection;

"(iv) give preference to State plans that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;

"(III) broad geographical area;

"(IV) the greatest number of recipients in the broadest geographical area within the State; and

"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons; and

"(v) take into consideration the amount of funds available and the minimum amount needed by each applicant State to successfully operate the program.

"(G)(i) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States participating in the program that wish to serve additional recipients, and whose State plan to do so is approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for additional recipients, the unallocated amount shall be applied toward satisfying any unmet need of States that have not participated in the program in the prior fiscal year, and whose State plans have been approved.

"(ii) An amount equal to 45 to 55 percent of the funds available after satisfying the requirements of subparagraph (B) shall be made available to States that have not participated in the program in the prior fiscal year, and whose State plans have been approved by the Secretary. If this amount is greater than that necessary to satisfy the approved State plans for new States, the unallocated amount shall be applied toward satisfying any unmet need of States that desire to serve additional recipients, and whose State plans have been approved.

"(iii) In any fiscal year, any funds that remain unallocated after satisfying the requirements of clauses (i) and (ii) shall be reallocated in the following fiscal year according to procedures established pursuant to paragraph (10)(B)(ii).

"(7)(A) The value of the benefit received by any recipient under any program for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under other Federal or State programs.

"(B) Any programs for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(8) For each fiscal year, the Secretary shall collect from each State that receives a grant under this subsection information relating to—

"(A) the number and type of recipients served by both Federal and non-Federal benefits under the program for which the grant is received;

"(B) the rate of redemption of coupons distributed under the program;

"(C) the average amount distributed in coupons to each recipient;

"(D) when practicable, the impact on the nutritional status of recipients by determining the change in consumption of fresh fruits and vegetables by recipients;

"(E) the effects of the program on the use of farmers' markets and the marketing of agricultural products at such markets and when practicable, the effects of the program on recipients' awareness regarding farmers' markets; and

"(F) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall submit to the Committee on Education and Labor and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a compilation of the information collected under paragraph (8).

"(B) The compilation required by subparagraph (A) shall be submitted on or before April 1, 1994.

Appropriation authorization.

"(10)(A) There are authorized to be appropriated to carry out this subsection $3,000,000 for fiscal year 1992, $6,500,000 for fiscal year 1993, and $8,000,000 for fiscal year 1994.

"(B)(i)(I) Except as provided in subclause (II), each State shall return to the Secretary any funds made available to the State that are unobligated at the end of the fiscal year for which the funds were originally allocated. The unexpended funds shall be returned to the Secretary by February 1st of the following fiscal year.

"(II) Notwithstanding any other provision of this subsection, a total of not more than 5 percent of funds made available to a State for any fiscal year may be expended by the State to reimburse expenses incurred for a program assisted under this subsection during the preceding fiscal year or may be retained by the State to reimburse expenses expected to be incurred for such a program during the succeeding fiscal year.

"(ii) The Secretary shall establish procedures to reallocate funds that are returned under clause (i). Funds that remain unexpended at the end of any demonstration project authorized by this subsection (as it existed on September 30, 1991) shall be reallocated in a similar manner.

"(11) For purposes of this subsection:

"(A) The term 'coupon' means a coupon, voucher, or other negotiable financial instrument by which benefits under this section are transferred.

"(B) The term 'program' means—

"(i) the State farmers' market coupon nutrition program authorized by this subsection (as it existed on September 30, 1991); or

"(ii) the farmers' market nutrition program authorized by this subsection.

"(C) The term 'recipient' means a person or household, as determined by the State, who is chosen by a State to receive

benefits under this subsection, or who is on a waiting list to receive such benefits.

"(D) The term 'State agency' has the meaning provided in subsection (b)(13), except that the term also includes the agriculture department of each State.".

SEC. 4. EFFECTIVE DATE.

42 USC 1786 note.

The amendment made by section 3 shall be effective as of October 1, 1991.

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.R. 3711:

HOUSE REPORTS: No. 102-540, Pt. 1 (Comm. on Education and Labor) and Pt. 2 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 22, considered and passed House.
June 23, considered and passed Senate.

Public Law 102-315
102d Congress

Joint Resolution

July 2, 1992
[H.J. Res. 499]

Designating July 2, 1992, as "National Literacy Day".

Whereas literacy is a necessary tool for survival in our society;
Whereas forty-two million Americans today read at a level which is less than necessary for full survival needs;
Whereas there are thirty million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;
Whereas illiteracy is growing rapidly, as two million three hundred thousand persons, including one million two hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;
Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;
Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;
Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;
Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;
Whereas the prison population represents the single highest concentration of adult illiteracy;
Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;
Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;
Whereas the 47 per centum illiteracy rate among black youths is expected to increase;
Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;
Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;
Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;
Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental

effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1992, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.J. Res. 499 (S.J. Res. 301):

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 25, considered and passed House.
June 26, S.J. Res. 301 considered and passed Senate.
June 30, H.J. Res. 499 considered and passed Senate.

Public Law 102-316
102d Congress

Joint Resolution

July 2, 1992
[H.J. Res. 509]

To extend through September 30, 1992, the period in which there remains available for obligation certain amounts appropriated for the Bureau of Indian Affairs for the school operations costs of Bureau-funded schools.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding Public Law 101–512, amounts appropriated in such Public Law for the Bureau of Indian Affairs for school operations costs of Bureau-funded schools shall remain available for obligation through September 30, 1992.

Approved July 2, 1992.

LEGISLATIVE HISTORY—H.J. Res. 509:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 18, considered and passed House.
June 23, considered and passed Senate.

Public Law 102-317
102d Congress

An Act

To direct the Secretary of Health and Human Services to extend the waiver granted to the Tennessee Primary Care Network of the enrollment mix requirement under the medicaid program.

July 2, 1992
[S. 2901]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MEDICAID WAIVER FOR TENNESSEE PRIMARY CARE NETWORK.

Section 6411(f) of the Omnibus Budget Reconciliation Act of 1989 is amended by striking "June 30, 1992" and inserting "January 31, 1994". 103 Stat. 2272.

Approved July 2, 1992.

LEGISLATIVE HISTORY—S. 2901:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
June 30, considered and passed House.

59-194 O—93——11 : QL 3 (Pt. 1)

Public Law 102-318
102d Congress

An Act

July 3, 1992
[H.R. 5260]

To extend the emergency unemployment compensation program, to revise the trigger provisions contained in the extended unemployment compensation program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Unemployment Compensation Amendments of 1992.
Intergovernmental relations.
26 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Unemployment Compensation Amendments of 1992".

TITLE I—EXTENSION OF EMERGENCY UNEMPLOYMENT COMPENSATION PROGRAM

SEC. 101. EXTENSION OF PROGRAM.

26 USC 3304 note.

(a) GENERAL RULE.—Sections 102(f)(1) and 106(a)(2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992" and inserting "March 6, 1993".

(b) WEEKS OF BENEFITS AVAILABLE DURING EXTENSION.—Subparagraph (A) of section 102(b)(2) of such Act is amended by striking clause (ii) and the flush paragraph at the end thereof and inserting the following:

"(ii) REDUCTION FOR WEEKS AFTER JUNE 13, 1992.—In the case of weeks beginning after June 13, 1992—

"(I) clause (i) of this subparagraph shall be applied by substituting '26' for '33', and by substituting '20' for '26', and

"(II) subparagraph (A) of paragraph (1) shall be applied by substituting '100 percent' for '130 percent'.

"(iii) REDUCTION FOR WEEKS IN 7-PERCENT PERIOD.—In the case of weeks beginning in a 7-percent period—

"(I) clause (ii) of this subparagraph shall not apply,

"(II) clause (i) of this subparagraph shall be applied by substituting '15' for '33', and by substituting '10' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '60 percent' for '130 percent'.

"(iv) REDUCTION FOR WEEKS IN 6.8-PERCENT PERIOD.—In the case of weeks beginning in a 6.8-percent period—

"(I) clauses (ii) and (iii) of this subparagraph shall not apply,

"(II) clause (i) of this subparagraph shall be applied by substituting '13' for '33', and by substituting '7' for '26', and

"(III) subparagraph (A) of paragraph (1) shall be applied by substituting '50 percent' for '130 percent'.

"(v) 7-PERCENT PERIOD; 6.8-PERCENT PERIOD.—For purposes of this subparagraph—

"(I) A 7-percent period means a period which begins with the second week after the first week for which the requirements of subclause (II) are met and a 6.8 percent period means a period which begins with the second week after the first week for which the requirements of subclause (III) are met.

"(II) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is at least 6.8 percent, but less than 7 percent.

"(III) The requirements of this subclause are met for any week if the average rate of total unemployment (seasonally adjusted) for all States for the period consisting of the most recent 2-calendar month period (for which data are published before the close of such week) is less than 6.8 percent.

In no event shall a 7-percent period occur after a 6.8-percent period occurs and a 6.8-percent period, once begun, shall continue in effect for all weeks for which benefits are provided under this Act.

"(vi) LIMITATIONS ON REDUCTIONS.—In the case of an individual who is receiving emergency unemployment compensation for a week preceding the first week for which a reduction applies under clause (ii), (iii), or (iv) of this subparagraph, such reduction shall not apply to such individual for the first week of such reduction or any week thereafter for which the individual meets the eligibility requirements of this Act."

(c) MODIFICATION TO FINAL PHASE-OUT.—Paragraph (2) of section 102(f) of such Act is amended to read as follows: 26 USC 3304 note.

"(2) TRANSITION.—In the case of an individual who is receiving emergency unemployment compensation for a week prior to or including March 6, 1993, emergency unemployment compensation shall continue to be payable to such individual for any week thereafter for which the individual meets the eligibility requirements of this Act. No compensation shall be payable by reason of the preceding sentence for any week beginning after June 19, 1993." Termination date.

(d) CONFORMING AMENDMENT.—

(1) Subparagraph (B) of section 102(b)(2) of such Act is amended by striking "subparagraph (A)(ii)" and inserting "clauses (ii), (iii), and (iv) of subparagraph (A)".

(2) Section 101(e) of such Act is amended— 26 USC 3304 note.

(A) by striking "(e) ELECTION.—Notwithstanding" and inserting:

"(e) ELECTION BY STATES; WEEKS OF BENEFITS DURING PHASE-OUT.—

"(1) ELECTION BY STATES.—Notwithstanding",

(B) by adding at the end of paragraph (1), as redesignated by subparagraph (A), the following new sentence: "The preceding sentence shall not be applicable with respect to any extended compensation period which begins after March 6, 1993, nor shall the special rule in section 203(b)(1)(B) of the Federal-State Extended Unemployment Compensation Act of 1970 (or the similar provision in any State law) operate to preclude the beginning of an extended compensation period after March 6, 1993, because of the ending of an earlier extended compensation period under the preceding sentence.", and

(C) by adding at the end thereof the following new paragraph:

"(2) WEEKS OF BENEFITS DURING PHASE-OUT.—Notwithstanding subsection (b)(1)(B) or any other provision of law, whenever an extended compensation period is beginning in a State (and is not triggered off under paragraph (1)) an individual, who is entitled to extended compensation in the new extended compensation period (whether or not the individual applies therefor) and also has remaining entitlement to emergency unemployment compensation under this Act, shall be entitled to compensation under the program in which the individual's monetary entitlement (as of the beginning of the first week of the extended compensation period) is the greater."

26 USC 3304 note.

(e) EFFECTIVE DATE.—The amendments made by this section apply to weeks of unemployment beginning after June 13, 1992.

SEC. 102. MODIFICATION TO ELIGIBILITY REQUIREMENTS.

26 USC 3304 note.

(a) INDIVIDUAL NOT INELIGIBLE BY REASON OF SUBSEQUENT ENTITLEMENT TO REGULAR BENEFITS.—Section 101 of such Act is amended by adding at the end thereof the following new subsection:

"(f) CERTAIN RIGHTS TO REGULAR COMPENSATION DISREGARDED.—If an individual exhausted his rights to regular compensation for any benefit year, such individual's eligibility to receive emergency unemployment compensation under this Act in respect of such benefit year shall be determined without regard to any rights to regular compensation for a subsequent benefit year if such individual does not file a claim for regular compensation for such subsequent benefit year."

26 USC 3304 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to weeks of unemployment beginning after the date of the enactment of this Act.

(2) TRANSITION RULES.—

(A) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 105 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) if the individual would have been entitled to receive such compensation had the amendment made

by subsection (a) applied to all weeks beginning on or before the date of the enactment of this Act.

(B) WAIVER OF RIGHTS TO CERTAIN REGULAR BENEFITS.—If—

(i) before the date of the enactment of this Act, an individual exhausted his rights to regular compensation for any benefit year, and

(ii) after such exhaustion, such individual was not eligible to receive emergency unemployment compensation by reason of being entitled to regular compensation for a subsequent benefit year,

such individual may elect to defer his rights to regular compensation for such subsequent benefit year with respect to weeks beginning after such date of enactment until such individual has exhausted his rights to emergency unemployment compensation in respect of the benefit year referred to in clause (i), and such individual shall be entitled to receive emergency unemployment compensation for such weeks in the same manner as if he had not been entitled to the regular compensation to which the election applies.

SEC. 103. TECHNICAL MODIFICATION FOR REIMBURSABLE EMPLOYERS.

(a) GENERAL RULE.—Subsection (d) of section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) is amended by striking "as may be necessary" and inserting "as the Secretary estimates to be necessary". 26 USC 3304 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 3304 note.

SEC. 104. TREATMENT OF PERSIAN GULF CRISIS RESERVISTS. Armed Forces. 26 USC 3304 note.

If—

(1) an individual who was a member of a reserve component of the Armed Forces was called for active duty after August 2, 1990, and before March 1, 1991,

(2) such individual was receiving regular compensation, extended compensation, or a trade readjustment allowance for the week in which he was so called,

(3) such individual served on such active duty for at least 90 consecutive days, and

(4) such individual was entitled to regular compensation on the basis of his services on such active duty, but the weekly benefit amount was less than the benefit amount he received for the week referred to in paragraph (2),

such individual's weekly benefit amount under the Emergency Unemployment Compensation Act of 1991 for any week beginning after the date of the enactment of this Act shall be not less than the benefit amount he received for the week referred to in paragraph (2).

SEC. 105. TREATMENT OF RAILROAD WORKERS.

(a) EXTENSION OF PROGRAM.—

(1) IN GENERAL.—Sections 501(b)(1) and (2) of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) are each amended by striking "July 4, 1992", and inserting "March 6, 1993". 45 USC 352 note.

(2) CONFORMING AMENDMENTS.—

45 USC 352.

(A) Section 501(a) of such Act is amended by striking "July 1992" and inserting "March 1993".

(B) Paragraph (2) of section 501(d) of such Act is amended to read as follows:

Effective dates.

"(2) PHASE-OUT.—

"(A) BENEFITS ON OR AFTER JUNE 14, 1992.—Effective on and after June 14, 1992, paragraph (1) of this section shall be applied by substituting '100' for '130' each place it appears, and by substituting '10' for '13' each place it appears.

"(B) REDUCTIONS UNDER EMERGENCY COMPENSATION EXTENSION PROVISIONS.—

"(i) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iii), subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '50' for '130'.

"(ii) Effective on and after the date on which a reduction in benefits is imposed under section 102(b)(2)(A)(iv), subparagraph (A) of this paragraph and subparagraphs (B) and (C) of paragraph (1) shall not apply and subparagraph (A) of paragraph (1) shall be applied by substituting '35' for '130'.

"(C) LIMITATIONS ON REDUCTIONS.—Notwithstanding subparagraphs (A) and (B), in the case of an individual who is receiving extended benefits under section 2(c) of the Railroad Unemployment Insurance Act for persons with 10 or more but less than 15 years of service, or extended benefits by reason of this section, for any day during a week which precedes a period for which a reduction under this paragraph takes effect, such reduction shall not apply for purposes of determining the amount of benefits payable to such individual for any day thereafter for which the individual meets the eligibility requirements of this section and the Railroad Unemployment Insurance Act."

(b) TERMINATION OF BENEFITS.—Section 501 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by adding at the end the following new subsection:

"(e) TERMINATION OF BENEFITS.—In the case of an individual who is receiving extended benefits by reason of this section on March 6, 1993, such benefits shall not continue to be payable to such individual after June 19, 1993."

SEC. 106. EFFECT OF CERTAIN MILITARY SERVICE ON TRADE ADJUSTMENT ASSISTANCE.

(a) TRADE ADJUSTMENT ASSISTANCE.—Paragraph (2) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B),

(2) by inserting "or" at the end of subparagraph (C),

(3) by inserting immediately after subparagraph (C) the following new subparagraph:

"(D) is on call-up for purposes of active duty in a reserve status in the Armed Forces of the United States, provided such active duty is 'Federal service' as defined in 5 U.S.C. 8521(a)(1),", and

(4) by striking "paragraph (A) or (C), or both," and inserting "subparagraph (A) or (C), or both (and not more than 26 weeks, in the case of weeks described in subparagraph (B) or (D)),".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to weeks beginning after August 1, 1990. 19 USC 2291 note.

SEC. 107. FINANCING PROVISIONS.

Section 104 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by adding at the end thereof the following new subsection: 26 USC 3304 note.

"(e) TRANSFER OF FUNDS.—Notwithstanding any other provision of law, the Secretary of the Treasury shall transfer from the general fund of the Treasury (from funds not otherwise appropriated)—

"(1) to the extended unemployment compensation account (as established by section 905 of the Social Security Act) such sums as are necessary to make payments to States under this Act by reason of the amendments made by sections 101 and 102 of the Unemployment Compensation Amendments of 1992, and

"(2) to the employment security administration account (as established by section 901 of the Social Security Act) such sums as may be necessary for purposes of assisting States in meeting administrative costs by reason of the amendments made by sections 101, 102, 201, and 202 of the Unemployment Compensation Amendments of 1992.

There is hereby appropriated from such accounts the sums referred to in the preceding sentence and such sums shall not be required to be repaid." Appropriation authorization.

TITLE II—MODIFICATIONS TO EXTENDED BENEFITS PROGRAM

SEC. 201. MODIFICATION OF TRIGGER PROVISIONS.

(a) IN GENERAL.—Section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by adding at the end thereof the following new subsection: 26 USC 3304 note.

"ALTERNATIVE TRIGGER

"(f)(1) Effective with respect to compensation for weeks of unemployment beginning after March 6, 1993, the State may by law provide that for purposes of beginning or ending any extended benefit period under this section— Effective date.

"(A) there is a State 'on' indicator for a week if—

"(i) the average rate of total unemployment in such State (seasonally adjusted) for the period consisting of the most recent 3 months for which data for all States are published before the close of such week equals or exceeds 6.5 percent, and

"(ii) the average rate of total unemployment in such State (seasonally adjusted) for the 3-month period referred to in clause (i) equals or exceeds 110 percent of such average rate for either (or both) of the corresponding 3-month periods ending in the 2 preceding calendar years; and

"(B) there is a State 'off' indicator for a week if either the requirements of clause (i) or clause (ii) of subparagraph (A) are not satisfied.

Notwithstanding the provision of any State law described in this paragraph, any week for which there would otherwise be a State 'on' indicator shall continue to be such a week and shall not be determined to be a week for which there is a State 'off' indicator.

"(2) For purposes of this subsection, determinations of the rate of total unemployment in any State for any period (and of any seasonal adjustment) shall be made by the Secretary."

(b) ADDITIONAL WEEKS OF BENEFITS AVAILABLE DURING PERIODS OF HIGH UNEMPLOYMENT.—Subsection (b) of section 202 of such Act is amended by adding at the end thereof the following new paragraph:

26 USC 3304 note.

"(3)(A) Effective with respect to weeks beginning in a high unemployment period, paragraph (1) shall be applied by substituting—

"(i) '80 per centum' for '50 per centum' in subparagraph (A),

"(ii) 'twenty' for 'thirteen' in subparagraph (B), and

"(iii) 'forty-six' for 'thirty-nine' in subparagraph (C).

"(B) For purposes of subparagraph (A), the term 'high unemployment period' means any period during which an extended benefit period would be in effect if section 203(f)(1)(A)(i) were applied by substituting '8 percent' for '6.5 percent'."

(c) CONFORMING AMENDMENT.—Paragraph (2) of section 204(c) of such Act is amended by inserting ", forty-six in any case where section 202(b)(3)(A) applies" after "thirty-nine".

26 USC 3304 note.

SEC. 202. MODIFICATION OF ELIGIBILITY REQUIREMENTS FOR UNEMPLOYMENT BENEFITS.

(a) EARNINGS TEST.—

(1) IN GENERAL.—Paragraph (5) of section 202(a) of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking "which one of the foregoing methods" and inserting "which one or more of the foregoing methods".

26 USC 3304 note.

26 USC 3304 note.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—Notwithstanding any other provision of law, the amendment made by paragraph (1) shall apply for purposes of extended unemployment compensation and emergency unemployment compensation to weeks of unemployment beginning on or after the date of the enactment of this Act.

(B) WAIVER OF RECOVERY OF CERTAIN OVERPAYMENTS.—On and after the date of the enactment of this Act, no repayment of any emergency unemployment compensation shall be required under section 105 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102-164, as amended) if the individual would have been entitled to receive such compensation had the amendment made by paragraph (1) applied to all weeks beginning before the date of the enactment of this Act.

(b) SUSPENSION OF CERTAIN ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—Section 202(a) of such Act is amended by adding at the end thereof the following new paragraph:

"(7) Paragraphs (3) and (4) shall not apply to weeks of unemployment beginning after March 6, 1993, and before January 1, 1995, and no provision of State law in conformity with such paragraphs shall apply during such period." Effective date.

(2) STUDY.—The Federal Advisory Council established under section 908 of the Social Security Act shall conduct a study of the provisions suspended by the amendment made by paragraph (1). Not later than February 1, 1994, such Council shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report of its recommendations on such suspended provisions (including whether such provisions should be repealed or revised). 26 USC 3304 note. Reports.

TITLE III—MODIFICATIONS TO FEDERAL UNEMPLOYMENT TAX

SEC. 301. INFORMATION REQUIRED WITH RESPECT TO TAXATION OF UNEMPLOYMENT BENEFITS. 26 USC 3304 note.

(a) INFORMATION ON UNEMPLOYMENT BENEFITS.—

(1) GENERAL RULE.—The State agency in each State shall provide to an individual filing a claim for compensation under the State unemployment compensation law a written explanation of the Federal and State income taxation of unemployment benefits and of the requirements to make payments of estimated Federal and State income taxes.

(2) STATE AGENCY.—For purposes of this subsection, the term "State agency" has the meaning given such term by section 3306(e) of the Internal Revenue Code of 1986.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1992.

SEC. 302. MAILING OF CERTAIN INFORMATION PERMITTED.

(a) GENERAL RULE.—Section 302 of the Social Security Act (42 U.S.C. 502) is amended by adding at the end thereof the following new subsection:

"(c) No portion of the cost of mailing a statement under section 6050B(b) of the Internal Revenue Code of 1986 (relating to unemployment compensation) shall be treated as not being a cost for the proper and efficient administration of the State unemployment compensation law by reason of including with such statement information about the earned income credit provided by section 32 of the Internal Revenue Code of 1986. The preceding sentence shall not apply if the inclusion of such information increases the postage required to mail such statement."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 42 USC 502 note.

SEC. 303. EXTENSION OF EXISTING TREATMENT OF CERTAIN AGRICULTURAL WORKERS.

(a) GENERAL RULE.—Subparagraph (B) of section 3306(c)(1) of the Internal Revenue Code of 1986 is amended by striking "January 1, 1993" and inserting "January 1, 1995". 26 USC 3306.

(b) REPORT.—Not later than February 1, 1994, the Advisory Council on Unemployment Compensation shall submit a report to the Committee on Ways and Means of the House of Representatives 42 USC 1108 note.

and the Committee on Finance of the Senate on its recommendations with respect to the treatment of agricultural labor performed by aliens.

26 USC 3302 note.

SEC. 304. EXTENSION OF PERIOD FOR REPAYMENT OF FEDERAL LOANS TO STATE UNEMPLOYMENT FUNDS.

(a) GENERAL RULE.—If the Secretary of Labor determines that a State meets the requirements of subsection (b), paragraph (2) of section 3302(c) of the Internal Revenue Code of 1986 shall be applied with respect to such State for taxable years after 1991—

(1) by substituting "third" for "second" in subparagraph (A)(i),

(2) by substituting "fourth or fifth" for "third or fourth" in subparagraph (B), and

(3) by substituting "sixth" for "fifth" in subparagraph (C).

(b) REQUIREMENTS.—A State meets the requirements of this subsection if, during calendar year 1992 or 1993, the State amended its unemployment compensation law to increase estimated contributions required under such law by at least 25 percent.

(c) SPECIAL RULE.—This section shall not apply to any taxable year after 1994 unless —

(1) such taxable year is in a series of consecutive taxable years as of the beginning of each of which there was a balance referred to in section 3302(c)(2) of such Code, and

(2) such series includes a taxable year beginning in 1992, 1993, or 1994.

TITLE IV—MODIFICATION TO REGULAR STATE UNEMPLOYMENT COMPENSATION PROGRAMS

SEC. 401. TREATMENT OF SHORT-TIME UNEMPLOYMENT COMPENSATION PROGRAMS.

(a) AUTHORIZATION OF PROGRAMS.—

26 USC 3304.

(1) Paragraph (4) of section 3304(a) of the Internal Revenue Code of 1986 is amended by striking "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D) and by adding at the end thereof the following new subparagraph:

"(E) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor;"

26 USC 3306.

(2) Subsection (f) of section 3306 of such Code is amended by striking "and" at the end of paragraph (2) by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(4) amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor."

42 USC 503.

(3) Section 303(a)(5) of the Social Security Act is amended by inserting before "; and" the following ": *Provided further,* That amounts may be withdrawn for the payment of short-time compensation under a plan approved by the Secretary of Labor".

(b) ASSISTANCE IN IMPLEMENTING PROGRAMS.—In order to assist States in establishing and implementing short-time compensation programs— 26 USC 3304 note.

(1) the Secretary of Labor (hereinafter in this section referred to as the "Secretary") shall develop model legislative language which may be used by States in developing and enacting short-time compensation programs and shall propose such revisions of such legislative language as may be appropriate, and

(2) the Secretary shall provide technical assistance and guidance in developing, enacting, and implementing such programs.

The initial model legislative language referred to in paragraph (1) shall be developed not later than January 1, 1993.

(c) REPORTS.—

(1) INITIAL REPORT.—Not later than January 1, 1995, the Secretary shall submit to the Congress a report on the implementation of this section. Such report shall include an evaluation of short-time compensation programs and shall contain such recommendations as the Secretary may deem advisable.

(2) SUBSEQUENT REPORTS.—After the submission of the report under paragraph (1), the Secretary shall submit such additional reports on the implementation of short-time compensation programs as the Secretary deems appropriate.

(d) DEFINITIONS.—For purposes of this section—

(1) SHORT-TIME COMPENSATION PROGRAM.—The term "short-time compensation program" means a program under which—

(A) individuals whose workweeks have been reduced by at least 10 percent are eligible for unemployment compensation;

(B) the amount of unemployment compensation payable to any such individual is a pro rata portion of the unemployment compensation which would be payable to the individual if the individual were totally unemployed;

(C) eligible employees are not required to meet the availability for work or work search test requirements while collecting short-time compensation benefits, but are required to be available for their normal workweek;

(D) eligible employees may participate in an employer-sponsored training program to enhance job skills if such program has been approved by the State agency; and

(E) there is a reduction in the number of hours worked by employees in lieu of imposing temporary layoffs.

(2) STATE.—The term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

TITLE V—REVENUE PROVISIONS

SEC. 501. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Extension of Phaseout of Personal Exemptions; Corporate Estimated Tax Provisions

SEC. 511. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTIONS.

26 USC 151.

Subparagraph (E) of section 151(d)(3) (relating to termination of phaseout) is amended by striking "December 31, 1995" and inserting "December 31, 1996".

SEC. 512. CORPORATE ESTIMATED TAX PROVISIONS.

26 USC 6655.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "91 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "91 PERCENT", and

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) TEMPORARY INCREASE IN AMOUNT OF INSTALLMENT BASED ON CURRENT YEAR TAX.—In the case of any taxable year beginning after June 30, 1992, and before 1997—

"(A) paragraph (1)(B)(i) and subsection (e)(3)(A)(i) shall be applied by substituting '97 percent' for '91 percent' each place it appears, and

"(B) the table contained in subsection (e)(2)(B)(ii) shall be applied by substituting '24.25', '48.50', '72.75', and '97' for '22.75', '45.50', '68.25', and '91.00', respectively."

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting the following new table:

"In the case of the following required installments:	The applicable percentage is:
1st	22.75
2nd	45.50
3rd	68.25
4th	91.00."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "91 percent".

26 USC 6655 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after June 30, 1992.

Subtitle B—Pension Distributions

Retirement.

SEC. 521. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

26 USC 402.

(a) IN GENERAL.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) TAXABILITY OF BENEFICIARY OF EXEMPT TRUST.—Except as otherwise provided in this section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be

taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1) or (2) include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraphs (1) and (2) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) resulting in any portion of a distribution being excluded from gross income under paragraph (1) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis unless the taxpayer designates otherwise. Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) NONRECOGNITION OF GAIN OR LOSS.—No gain or loss shall be recognized on any sale described in subparagraph (A) to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1).

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(10) DENIAL OF AVERAGING FOR SUBSEQUENT DISTRIBUTIONS.—If paragraph (1) applies to any distribution paid

to any employee, paragraphs (1) and (3) of subsection (d) shall not apply to any distribution (paid after such distribution) of the balance to the credit of the employee under the plan under which the preceding distribution was made (or under any other plan which, under subsection (d)(4)(C), would be aggregated with such plan).

"(d) TAX ON LUMP SUM DISTRIBUTIONS.—

"(1) IMPOSITION OF SEPARATE TAX ON LUMP SUM DISTRIBUTIONS.—

"(A) SEPARATE TAX.—There is hereby imposed a tax (in the amount determined under subparagraph (B)) on a lump sum distribution.

"(B) AMOUNT OF TAX.—The amount of tax imposed by subparagraph (A) for any taxable year is an amount equal to 5 times the tax which would be imposed by subsection (c) of section 1 if the recipient were an individual referred to in such subsection and the taxable income were an amount equal to ⅕ of the excess of—

"(i) the total taxable amount of the lump sum distribution for the taxable year, over

"(ii) the minimum distribution allowance.

"(C) MINIMUM DISTRIBUTION ALLOWANCE.—For purposes of this paragraph, the minimum distribution allowance for any taxable year is an amount equal to—

"(i) the lesser of $10,000 or one-half of the total taxable amount of the lump sum distribution for the taxable year, reduced (but not below zero) by

"(ii) 20 percent of the amount (if any) by which such total taxable amount exceeds $20,000.

"(D) LIABILITY FOR TAX.—The recipient shall be liable for the tax imposed by this paragraph.

"(2) DISTRIBUTIONS OF ANNUITY CONTRACTS.—

"(A) IN GENERAL.—In the case of any recipient of a lump sum distribution for any taxable year, if the distribution (or any part thereof) is an annuity contract, the total taxable amount of the distribution shall be aggregated for purposes of computing the tax imposed by paragraph (1)(A), except that the amount of tax so computed shall be reduced (but not below zero) by that portion of the tax on the aggregate total taxable amount which is attributable to annuity contracts.

"(B) BENEFICIARIES.—For purposes of this paragraph, a beneficiary of a trust to which a lump sum distribution is made shall be treated as the recipient of such distribution if the beneficiary is an employee (including an employee within the meaning of section 401(c)(1)) with respect to the plan under which the distribution is made or if the beneficiary is treated as the owner of such trust for purposes of subpart E of part I of subchapter J.

"(C) ANNUITY CONTRACTS.—For purposes of this paragraph, in the case of the distribution of an annuity contract, the taxable amount of such distribution shall be deemed to be the current actuarial value of the contract, determined on the date of such distribution.

"(D) TRUSTS.—In the case of a lump sum distribution with respect to any individual which is made only to 2 or more trusts, the tax imposed by paragraph (1)(A) shall

be computed as if such distribution was made to a single trust, but the liability for such tax shall be apportioned among such trusts according to the relative amounts received by each.

"(E) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

"(3) ALLOWANCE OF DEDUCTION.—The total taxable amount of a lump sum distribution for any taxable year shall be allowed as a deduction from gross income for such taxable year, but only to the extent included in the taxpayer's gross income for such taxable year.

"(4) DEFINITIONS AND SPECIAL RULES.—

"(A) LUMP SUM DISTRIBUTION.—For purposes of this section and section 403, the term 'lump sum distribution' means the distribution or payment within 1 taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(i) on account of the employee's death,

"(ii) after the employee attains age 59½,

"(iii) on account of the employee's separation from the service, or

"(iv) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Clause (iii) of this subparagraph shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and clause (iv) shall be applied only with respect to an employee within the meaning of section 401(c)(1). A distribution of an annuity contract from a trust or annuity plan referred to in the first sentence of this subparagraph shall be treated as a lump sum distribution. For purposes of this subparagraph, a distribution to 2 or more trusts shall be treated as a distribution to 1 recipient. For purposes of this subsection, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(B) AVERAGING TO APPLY TO 1 LUMP SUM DISTRIBUTION AFTER AGE 59½.—Paragraph (1) shall apply to a lump sum distribution with respect to an employee under subparagraph (A) only if—

"(i) such amount is received on or after the date on which the employee has attained age 59½, and

"(ii) the taxpayer elects for the taxable year to have all such amounts received during such taxable year so treated.

Not more than 1 election may be made under this subparagraph by any taxpayer with respect to any employee. No election may be made under this subparagraph by any taxpayer other than an individual, an estate, or a trust. In the case of a lump sum distribution made with respect to an employee to 2 or more trusts, the election under this subparagraph shall be made by the personal representative of the taxpayer.

"(C) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under subparagraph (A)—

"(i) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(ii) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(D) TOTAL TAXABLE AMOUNT.—For purposes of this section and section 403, the term 'total taxable amount' means, with respect to a lump sum distribution, the amount of such distribution which exceeds the sum of—

"(i) the amounts considered contributed by the employee (determined by applying section 72(f)), reduced by any amounts previously distributed which were not includible in gross income, and

"(ii) the net unrealized appreciation attributable to that part of the distribution which consists of the securities of the employer corporation so distributed.

"(E) COMMUNITY PROPERTY LAWS.—The provisions of this subsection, other than paragraph (3), shall be applied without regard to community property laws.

"(F) MINIMUM PERIOD OF SERVICE.—For purposes of this subsection, no amount distributed to an employee from or under a plan may be treated as a lump sum distribution under subparagraph (A) unless the employee has been a participant in the plan for 5 or more taxable years before the taxable year in which such amounts are distributed.

"(G) AMOUNTS SUBJECT TO PENALTY.—This subsection shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(H) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(I) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this subsection, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(J) LUMP SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump sum distribution, then, for purposes of this subsection, the payment under a qualified domestic relations order (within the

meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump sum distribution. For purposes of this subparagraph, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(K) TREATMENT OF PORTION NOT ROLLED OVER.—If any portion of a lump sum distribution is transferred in a transfer to which subsection (c) applies, paragraphs (1) and (3) shall not apply with respect to the distribution.

"(L) SECURITIES.—For purposes of this subsection, the terms 'securities' and 'securities of the employer corporation' have the respective meanings provided by subsection (e)(4)(E).

"(5) SPECIAL RULE WHERE PORTIONS OF LUMP SUM DISTRIBUTION ATTRIBUTABLE TO ROLLOVER OF BOND PURCHASED UNDER QUALIFIED BOND PURCHASE PLAN.—If any portion of a lump sum distribution is attributable to a transfer described in section 405(d)(3)(A)(ii) (as in effect before its repeal by the Tax Reform Act of 1984), paragraphs (1) and (3) of this subsection shall not apply to such portion.

"(6) TREATMENT OF POTENTIAL FUTURE VESTING.—

"(A) IN GENERAL.—For purposes of determining whether any distribution which becomes payable to the recipient on account of the employee's separation from service is a lump sum distribution, the balance to the credit of the employee shall be determined without regard to any increase in vesting which may occur if the employee is reemployed by the employer.

"(B) RECAPTURE IN CERTAIN CASES.—If— Regulations.

"(i) an amount is treated as a lump sum distribution by reason of subparagraph (A),

"(ii) special lump sum treatment applies to such distribution,

"(iii) the employee is subsequently reemployed by the employer, and

"(iv) as a result of services performed after being so reemployed, there is an increase in the employee's vesting for benefits accrued before the separation referred to in subparagraph (A),

under regulations prescribed by the Secretary, the tax imposed by this chapter for the taxable year (in which the increase in vesting first occurs) shall be increased by the reduction in tax which resulted from the special lump sum treatment (and any election under paragraph (4)(B) shall not be taken into account for purposes of determining whether the employee may make another election under paragraph (4)(B)).

"(C) SPECIAL LUMP SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under the subsection by reason of an election under paragraph (4)(B).

"(D) VESTING.—For purposes of this paragraph, the term 'vesting' means the portion of the accrued benefits derived from employer contributions to which the participant has a nonforfeitable right.

"(7) COORDINATION WITH FOREIGN TAX CREDIT LIMITATIONS.—Subsections (a), (b), and (c) of section 904 shall be applied separately with respect to any lump sum distribution on which tax is imposed under paragraph (1), and the amount of such distribution shall be treated as the taxable income for purposes of such separate application.

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of a distribution other than a lump sum distribution, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This

subparagraph shall not apply to a distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—For purposes of subsection (a) and section 72, in the case of any lump sum distribution which includes securities of the employer corporation, there shall be excluded from gross income the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph, the term 'lump sum distribution' has the meaning given such term by subsection (d)(4)(A) (without regard to subsection (d)(4)(F)).

"(E) DEFINITIONS RELATING TO SECURITIES.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 424) of the employer corporation.

"(5) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, within a reasonable period of time before making an eligible rollover distribution from an eligible retirement plan, provide a written explanation to the recipient—

"(A) of the provisions under which the recipient may have the distribution directly transferred to another eligible retirement plan,

"(B) of the provision which requires the withholding of tax on the distribution if it is not directly transferred to another eligible retirement plan,

"(C) of the provisions under which the distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

"(D) if applicable, of the provisions of subsections (d) and (e) of this section.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) CONFORMING AMENDMENTS.—

26 USC 55. (1) Paragraph (1) of section 55(c) is amended by striking "section 402(e)" and inserting "section 402(d)".

26 USC 62. (2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

26 USC 72. (3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

26 USC 219. (4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

26 USC 401. (5) Paragraph (20) of section 401(a) is amended—

(A) by striking "a qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "1 or more distributions within 1 taxable year to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan", and

(B) by adding at the end the following new sentence: "For purposes of this paragraph, rules similar to the rules of section 402(a)(6)(B) (as in effect before its repeal by section 211 of the Unemployment Compensation Amendments of 1992) shall apply."

(6) Clause (v) of section 401(a)(28)(B) (relating to coordination with distribution rules) is amended to read as follows:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether a subsequent distribution is a lump sum distribution under section 402(d)(4)(A) or in determining whether section 402(c)(10) applies."

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended—

(A) by striking "section 402(e)(4)" and inserting "section 402(d)(4)", and

(B) by striking "subparagraph (H)" and inserting "subparagraph (F)".

26 USC 402. (9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking "subsection (e)(4)" and inserting "subsection (d)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)". 26 USC 402.

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof. 26 USC 403.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)". 26 USC 406.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is amended by striking "section 402(e)" and inserting "section 402(d)". 26 USC 407.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)". 26 USC 408.

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)". 26 USC 414.

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)". 26 USC 415.

26 USC 415.

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

26 USC 457.

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

26 USC 691.

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking "402(e)" in the text and heading and inserting "402(d)".

26 USC 871.

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

26 USC 877.

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "402(e)(1)" and inserting "402(d)(1)".

26 USC 1441.

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

26 USC 3121.

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

26 USC 3306.

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

26 USC 3405.

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 3405(d)(13) is amended by striking "(b)(3)" and inserting "(b)(2)". 26 USC 3405.

(41) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)". 26 USC 4973.

(42) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended by striking "section 402(e)(4)(B)" and inserting "section 402(d)(4)(B)". 26 USC 4980A.

(43) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)". 26 USC 7701.

(44) Section 411(d)(3) is amended by adding at the end the following new sentence: "For purposes of this paragraph, in the case of the complete discontinuance of contributions under a profit-sharing or stock bonus plan, such plan shall be treated as having terminated on the day on which the plan administrator notifies the Secretary (in accordance with regulations) of the discontinuance." 26 USC 411.

(d) MODEL EXPLANATION.—The Secretary of the Treasury or his delegate shall develop a model explanation which a plan administrator may provide to a recipient in order to meet the requirements of section 402(f) of the Internal Revenue Code of 1986. 26 USC 402 note.

(e) EFFECTIVE DATES.— 26 USC 402 note.

(1) IN GENERAL.—The amendments made by this section shall apply to distributions after December 31, 1992.

(2) SPECIAL RULE FOR PARTIAL DISTRIBUTIONS.—For purposes of section 402(a)(5)(D)(i)(II) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section), a distribution before January 1, 1993, which is made before or at the same time as a series of periodic payments shall not be treated as one of such series if it is not substantially equal in amount to other payments in such series.

SEC. 522. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) OPTIONAL TRANSFERS.—

(1) QUALIFIED PLANS.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph: 26 USC 401.

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided

in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

26 USC 404.

(2) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

26 USC 403.

(3) ANNUITIES PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Paragraph (10) of section 403(b) (relating to distribution requirements) is amended by striking "section 401(a)(9)" and inserting "sections 401(a)(9) and 401(a)(31)".

(b) WITHHOLDING ON ELIGIBLE ROLLOVER DISTRIBUTIONS WHICH ARE NOT ROLLED OVER.—

26 USC 3405.

(1) IN GENERAL.—Section 3405 (relating to special rules for pensions, annuities, and certain other deferred income) is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f) and by inserting after subsection (b) the following new subsection:

"(c) ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(1) IN GENERAL.—In the case of any designated distribution which is an eligible rollover distribution—

"(A) subsections (a) and (b) shall not apply, and

"(B) the payor of such distribution shall withhold from such distribution an amount equal to 20 percent of such distribution.

"(2) EXCEPTION.—Paragraph (1)(B) shall not apply to any distribution if the distributee elects under section 401(a)(31)(A) to have such distribution paid directly to an eligible retirement plan.

"(3) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A) (or in the case of an annuity contract under section 403(b), a distribution from such contract described in section 402(f)(2)(A))."

(2) CONFORMING AMENDMENTS.—

(A) Section 3405(a)(1) is amended by striking "subsection (d)(2)" and inserting "subsection (e)(2)".

(B) Section 3405(b)(1) is amended by striking "subsection (d)(3)" and inserting "subsection (e)(3)".

(C) Section 3405(d)(1) (as redesignated by paragraph (1)) is amended by striking "subsection (d)(1)" and inserting "subsection (e)(1)".

26 USC 3402, 6047.

(D) Sections 3402(o)(6) and 6047(d)(1) are each amended by striking "section 3405(d)(1)" and inserting "section 3405(e)(1)".

(E) Section 6047(d)(1)(A) is amended by striking "section 3405(d)(1)" and inserting "section 3405(d)(3)".

26 USC 6652.

(F) Section 6652(h) is amended by striking "section 3405(d)(10)(B)" and inserting "section 3405(e)(10)(B)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 521, is amended by adding at the end the following new paragraph: 26 USC 402.

"(6) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph: 26 USC 403.

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(3) ANNUITY CONTRACTS PURCHASED BY CHARITIES AND PUBLIC SCHOOLS.—Section 403(b)(10) is amended by adding at the end the following new sentence: "Any amount transferred in an direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of the transfer."

(d) EFFECTIVE DATES.— 26 USC 401 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to distributions after December 31, 1992.

(2) TRANSITION RULE FOR CERTAIN ANNUITY CONTRACTS.—If, as of July 1, 1992, a State law prohibits a direct trustee-to-trustee transfer from an annuity contract described in section 403(b) of the Internal Revenue Code of 1986 which was purchased for an employee by an employer which is a State or a political subdivision thereof (or an agency or instrumentality of any 1 or more of either), the amendments made by this section shall not apply to distributions before the earlier of—

(A) 90 days after the first day after July 1, 1992, on which such transfer is allowed under State law, or

(B) January 1, 1994.

SEC. 523. DATE FOR ADOPTION OF PLAN AMENDMENTS. 26 USC 401 note.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Other Provisions

SEC. 531. MODIFICATIONS TO FEDERAL UNEMPLOYMENT ACCOUNTS.

(a) MODIFICATIONS TO EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—Paragraph (1) of section 905(b) of the Social Security Act is amended to read as follows— 42 USC 1105.

"(b)(1) Except as provided in paragraph (3), the Secretary of the Treasury shall transfer (as of the close of each month), from

the employment security administration account to the extended unemployment compensation account established by subsection (a), an amount determined by him to be equal to the sum of—

"(A) 100 percent of the transfers to the employment security administration account pursuant to section 901(b)(2) during such month on account of liabilities referred to in section 901(b)(1)(B), plus

"(B) 20 percent of the excess of the transfers to such account pursuant to section 901(b)(2) during such month on account of amounts referred to in section 901(b)(1)(A) over the payments during such month from the employment security administration account pursuant to section 901 (b)(3) and (d).

If for any such month the payments referred to in subparagraph (B) exceed the transfers referred to in subparagraph (B), proper adjustments shall be made in the amounts subsequently transferred."

(2) INCREASE IN CEILING.—Subparagraph (B) of section 905(b)(2) of such Act is amended by striking "three-eighths of 1 percent" and inserting "0.5 percent". 42 USC 1105.

(b) REDUCTION OF CEILING ON FEDERAL UNEMPLOYMENT ACCOUNT.—Paragraph (2) of section 902(a) of such Act is amended by striking "five-eighths of 1 percent" and inserting "0.25 percent". 42 USC 1102.

(c) BORROWING BETWEEN FEDERAL ACCOUNTS.—Title IX of such Act is amended by adding at the end the following new section:

"BORROWING BETWEEN FEDERAL ACCOUNTS

"SEC. 910. (a) IN GENERAL.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that— 42 USC 1110.

"(1) the amount in the employment security administration account, Federal unemployment account, or extended unemployment compensation account, is insufficient to meet the anticipated payments from the account,

"(2) such insufficiency may cause such account to borrow from the general fund of the Treasury, and

"(3) the amount in any other such account exceeds the amount necessary to meet the anticipated payments from such other account,

the Secretary shall transfer to the account referred to in paragraph (1) from the account referred to paragraph (3) an amount equal to the insufficiency determined under paragraph (1) (or, if less, the excess determined under paragraph (3)).

"(b) TREATMENT OF ADVANCE.—Any amount transferred under subsection (a)—

"(1) shall be treated as a noninterest-bearing repayable advance, and

"(2) shall not be considered in computing the amount in any account for purposes of the application of sections 901(f)(2), 902(b), and 905(b).

"(c) REPAYMENT.—Whenever the Secretary of the Treasury (after consultation with the Secretary of Labor) determines that the amount in the account to which an advance is made under subsection (a) exceeds the amount necessary to meet the anticipated payments from the account, the Secretary shall transfer from the account to the account from which the advance was made an amount equal to the lesser of the amount so advanced or such excess."

(d) REPEAL OF EXPIRED PROVISIONS.—

(1) Paragraph (2) of section 901(f) of such Act is amended— 42 USC 1101.
(A) by striking "(A) Except as provided in subparagraph (B), the" and inserting "The", and
(B) by striking subparagraph (B).
(2) Section 901 of such Act is amended by striking subsection (g).
(3) Subsection (g) of section 904 is amended by striking all of such subsection that follows the 1st sentence. 42 USC 1104.

(e) EFFECTIVE DATES.— 42 USC 1102 note.
(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.
(2) CHANGES IN CEILING AMOUNTS.—The amendments made by subsection (a)(2) and (b) shall apply to fiscal years beginning after September 30, 1993.

SEC. 532. REQUIREMENT OF DEPOSITS BY FEDERAL AGENCIES FOR UNEMPLOYMENT BENEFITS.

(a) GENERAL RULE.—Subsection (c) of section 8509 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(3) If any Federal agency does not deposit in the Federal Employees Compensation Account any amount before the date 30 days after the date on which the Secretary of Labor has notified such agency that it is required to so deposit such amount, the Secretary of Labor shall notify the Secretary of the Treasury of the failure to make such deposit and the Secretary of the Treasury shall transfer such amount to the Federal Employees Compensation Account from amounts otherwise appropriated to such Federal agency."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to failures outstanding on the date of the enactment of this Act or at any time thereafter. 5 USC 8509 note.

SEC. 533. REPORT ON ALLOCATION OF ADMINISTRATIVE FUNDS.

Subsection (a) of section 304 of the Emergency Unemployment Compensation Act of 1991 (Public Law 102–164, as amended) is amended by striking "within the 12-month period beginning on the date of the enactment of this Act" and inserting "before December 31, 1994". 42 USC 502 note.

SEC. 534. EXTENSION OF COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) IN GENERAL.—Section 126 of the Family Support Act of 1988 (42 U.S.C. 666 note; 102 Stat. 2355) is amended—
(1) in subsection (d)(2), by striking "May" and inserting "August"; and
(2) in subsection (f)(1), by striking "July 1" and inserting "September 30".

42 USC 666 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

Approved July 3, 1992.

LEGISLATIVE HISTORY—H.R. 5260:

HOUSE REPORTS: Nos. 102-543, Pt. 1 (Comm. on Ways and Means) and Pt. 2 (Comm. on Government Operations), and 102-650 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 9, considered and passed House.
June 18, 19, considered and passed Senate, amended.
July 2, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
July 3, Presidential statement.

Public Law 102-319
102d Congress

Joint Resolution

Designating the week beginning July 26, 1992 as "Lyme Disease Awareness Week".

July 8, 1992
[H.J. Res. 459]

Whereas Lyme disease (borreliosis) is spread primarily by the bite of four types of ticks infected with the bacteria Borrelia burgdorferi;

Whereas Lyme disease-carrying ticks can be found across the country—in woods, mountains, beaches, even in our yards, and no effective tick control measures currently exist;

Whereas infected ticks can be carried by animals such as cats, dogs, horses, cows, goats, birds, and transferred to humans;

Whereas our pets and livestock can be infected with Lyme disease by ticks;

Whereas Lyme disease was first discovered in Europe in 1883 and scientists have recently proven its presence on Long Island as early as the 1940's;

Whereas Lyme disease was first found in Wisconsin in 1969, and derives its name from the diagnosis of a cluster of cases in the mid-1970's in Lyme, Connecticut;

Whereas forty-nine States reported more than 40,000 cases of Lyme disease from 1982 through 1991;

Whereas Lyme disease knows no season—the peak west coast and southern season is November to June, the peak east coast and northern season is April to October, and victims suffer all year round;

Whereas Lyme disease, easily treated soon after the bite with oral antibiotics, can be difficult to treat (by painful intravenous injections) if not discovered in time, and for some may be incurable;

Whereas Lyme disease is difficult to diagnose because there is no reliable test that can directly detect when the infection is present;

Whereas the early symptoms of Lyme disease may include rashes, severe headaches, fever, fatigue, and swollen glands;

Whereas if left untreated Lyme disease can affect every body system causing severe damage to the heart, brain, eyes, joints, lungs, liver, spleen, blood vessels, and kidneys;

Whereas the bacteria can cross the placenta and affect fetal development;

Whereas our children are the most vulnerable and most widely affected group;

Whereas the best cure for Lyme disease is prevention;

Whereas prevention of Lyme disease depends upon public awareness; and

Whereas education is essential to making the general public, health care professionals, employers, and insurers more knowledgeable about Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning July 26, 1992 is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved July 8, 1992.

LEGISLATIVE HISTORY—H.J. Res. 459 (S.J. Res. 288):

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 25, considered and passed House.
June 26, H.J. Res. 459 and S.J. Res. 288 considered and passed Senate.

Public Law 102-320
102d Congress

An Act

To increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes.

July 10, 1992
[S. 1254]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN ACREAGE LIMIT FOR ASSATEAGUE ISLAND. Conservation.

The Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965 (16 U.S.C. 459f–1), is amended as follows:

(1) Amend the second sentence of subsection (a) of section 2 to read as follows: "The Secretary is authorized to include within the boundaries of the seashore, not to exceed 112 acres of land or interests therein on the mainland in Worcester County, Maryland.".

(2) Amend the last sentence of subsection (a) of section 2 to read as follows: "Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore.".

(3) Add the following at the end of subsection (b) of section 2: "Notwithstanding the acreage limitation set forth in this Act, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the 'Woodcock Property'.".

(4) Amend the first sentence of subsection (b) of section 2 to read as follows: "When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which the Secretary classifies suitable for exchange or other disposal, and which is located in Maryland or Virginia.".

(5) Amend section 6 by adding the following new subsection at the end thereof: 16 USC 459f-5.

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"(c) The Secretary is authorized to enter into cooperative agreements with local, State, and Federal agencies and with educational institutions and nonprofit entities to coordinate research designed to ensure full protection of the natural and cultural resources of the seashore, consistent with the purposes for which the seashore was established, and other applicable law. The Secretary is also authorized to provide technical assistance to local, State, and Federal agencies and to educational institutions and non-profit entities in order to further such purposes. The Secretary shall submit a report every two years to the Congress on the results of the coordinated research program authorized by this section and plans to implement the recommendations arising from such research.".

Reports.

Approved July 10, 1992.

LEGISLATIVE HISTORY—S. 1254:

HOUSE REPORTS: No. 102-468 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-184 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 16, considered and passed Senate.
Vol. 138 (1992): Mar. 24, considered and passed House, amended.
Apr. 9, Senate concurred in House amendment with an amendment.
June 29, House concurred in Senate amendment.

Public Law 102-321
102d Congress

An Act

To amend the Public Health Service Act to restructure the Alcohol, Drug Abuse, and Mental Health Administration and the authorities of such Administration, including establishing separate block grants to enhance the delivery of services regarding substance abuse and mental health, and for other purposes.

July 10, 1992
[S. 1306]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ADAMHA Reorganization Act.
42 USC 201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "ADAMHA Reorganization Act".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REORGANIZATION OF ADMINISTRATION AND INSTITUTES

Subtitle A—Administration

Sec. 101. Substance Abuse and Mental Health Services Administration.
Sec. 102. Advisory councils.
Sec. 103. Reports on alcoholism, alcohol abuse, and drug abuse.
Sec. 104. Peer review.
Sec. 105. Data collection.
Sec. 106. Grants for the benefit of homeless individuals.
Sec. 107. Center for substance abuse treatment.
Sec. 108. Programs for pregnant and postpartum women.
Sec. 109. Demonstration projects of national significance.
Sec. 110. Grants for substance abuse treatment in State and local criminal justice systems.
Sec. 111. Training in provision of treatment services.
Sec. 112. Alternative utilization of military facilities.
Sec. 113. Center for Substance Abuse Prevention.
Sec. 114. Prevention, treatment, and rehabilitation model projects for high risk youth.
Sec. 115. Center for Mental Health Services.
Sec. 116. Grant program for demonstration projects.
Sec. 117. National mental health education.
Sec. 118. Demonstration projects with respect to certain individuals.
Sec. 119. Childhood mental health.
Sec. 120. Striking of certain provisions and technical and conforming amendments.

Subtitle B—Institutes

Sec. 121. Organization of National Institutes of Health.
Sec. 122. National Institute on Alcohol Abuse and Alcoholism.
Sec. 123. National Institute on Drug Abuse.
Sec. 124. National Institute of Mental Health.
Sec. 125. Collaborative use of certain health services research funds.

Subtitle C—Miscellaneous Provisions Relating to Substance Abuse and Mental Health

Sec. 131. Miscellaneous provisions relating to substance abuse and mental health.

Subtitle D—Transfer Provisions

Sec. 141. Transfers.
Sec. 142. Transfer and allocations of appropriations and personnel.
Sec. 143. Incidental transfers.
Sec. 144. Effect on personnel.

Sec. 145. Savings provisions.
Sec. 146. Transition.
Sec. 147. Peer review.
Sec. 148. Mergers.
Sec. 149. Conduct of multi-year research projects.
Sec. 150. Separability.
Sec. 151. Budgetary authority.

Subtitle E—References and Conforming Amendments

Sec. 161. References.
Sec. 162. Transition from homelessness.
Sec. 163. Conforming amendments.

Subtitle F—Employee Assistance Programs

Sec. 171. Program of grants under Center for Substance Abuse Treatment.

TITLE II—BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

Sec. 201. Establishment of separate block grant regarding mental health.
Sec. 202. Establishment of separate block grant regarding substance abuse.
Sec. 203. General provisions regarding block grants.
Sec. 204. Related programs.
Sec. 205. Temporary provisions regarding funding.

TITLE III—MODEL COMPREHENSIVE PROGRAM FOR TREATMENT OF SUBSTANCE ABUSE

Sec. 301. Demonstration program in national capital area.

TITLE IV—CHILDREN OF SUBSTANCE ABUSERS

Sec. 401. Establishment of program of services.

TITLE V—HOME-VISITING SERVICES FOR AT-RISK FAMILIES

Sec. 501. Statement of purpose.
Sec. 502. Establishment of program of grants.

TITLE VI—TRAUMA CENTERS AND DRUG-RELATED VIOLENCE

Sec. 601. Establishment of program of grants.
Sec. 602. Conforming amendments.

TITLE VII—STUDIES

Sec. 701. Report by the institute on medicine.
Sec. 702. Sense of the Senate.
Sec. 703. Provision of mental health services to individuals in correctional facilities.
Sec. 704. Study of barriers to insurance coverage of treatment for mental illness and substance abuse.
Sec. 705. Study on fetal alcohol effect and fetal alcohol syndrome.
Sec. 706. Study by National Academy of Sciences.
Sec. 707. Report on allotment formula.
Sec. 708. Report by Substance Abuse and Mental Health Services Administration.

TITLE VIII—GENERAL PROVISIONS

Sec. 801. Effective dates.

TITLE I—REORGANIZATION OF ADMINISTRATION AND INSTITUTES

Subtitle A—Administration

SEC. 101. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

(a) IN GENERAL.—Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended to read as follows:

"SEC. 501. SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

"(a) ESTABLISHMENT.—The Substance Abuse and Mental Health Services Administration (hereafter referred to in this title as the 'Administration') is an agency of the Service.

"(b) AGENCIES.—The following entities are agencies of the Administration:

"(1) The Center for Substance Abuse Treatment.

"(2) The Center for Substance Abuse Prevention.

"(3) The Center for Mental Health Services.

"(c) ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—

"(1) ADMINISTRATOR.—The Administration shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') who shall be appointed by the President, by and with the advice and consent of the Senate. President.

"(2) DEPUTY ADMINISTRATOR.—The Administrator, with the approval of the Secretary, may appoint a Deputy Administrator and may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the activities to be carried out through the Administration.

"(d) AUTHORITIES.—The Secretary, acting through the Administrator, shall—

"(1) supervise the functions of the agencies of the Administration in order to assure that the programs carried out through each such agency receive appropriate and equitable support and that there is cooperation among the agencies in the implementation of such programs;

"(2) establish and implement, through the respective agencies, a comprehensive program to improve the provision of treatment and related services to individuals with respect to substance abuse and mental illness and to improve prevention services, promote mental health and protect the legal rights of individuals with mental illnesses and individuals who are substance abusers;

"(3) carry out the administrative and financial management, policy development and planning, evaluation, knowledge dissemination, and public information functions that are required for the implementation of this title;

"(4) assure that the Administration conduct and coordinate demonstration projects, evaluations, and service system assessments and other activities necessary to improve the availability and quality of treatment, prevention and related services;

"(5) support activities that will improve the provision of treatment, prevention and related services, including the development of national mental health and substance abuse goals and model programs;

"(6) in cooperation with the National Institutes of Health, the Centers for Disease Control and the Health Resources and Services Administration develop educational materials and intervention strategies to reduce the risks of HIV or tuberculosis among substance abusers and individuals with mental illness and to develop appropriate mental health services for individuals with such illnesses;

"(7) coordinate Federal policy with respect to the provision of treatment services for substance abuse utilizing anti-addiction medications, including methadone;

"(8) conduct programs, and assure the coordination of such programs with activities of the National Institutes of Health and the Agency for Health Care Policy Research, as appropriate, to evaluate the process, outcomes and community impact of treatment and prevention services and systems of care in order to identify the manner in which such services can most effectively be provided;

"(9) collaborate with the Director of the National Institutes of Health in the development of a system by which the relevant research findings of the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Mental Health, and, as appropriate, the Agency for Health Care Policy Research are disseminated to service providers in a manner designed to improve the delivery and effectiveness of treatment and prevention services;

"(10) encourage public and private entities that provide health insurance to provide benefits for substance abuse and mental health services;

"(11) promote the integration of substance abuse and mental health services into the mainstream of the health care delivery system of the United States;

"(12) monitor compliance by hospitals and other facilities with the requirements of sections 542 and 543;

"(13) with respect to grant programs authorized under this title, assure that—

"(A) all grants that are awarded for the provision of services are subject to performance and outcome evaluations; and

"(B) all grants that are awarded to entities other than States are awarded only after the State in which the entity intends to provide services—

"(i) is notified of the pendency of the grant application; and

"(ii) is afforded an opportunity to comment on the merits of the application;

"(14) assure that services provided with amounts appropriated under this title are provided bilingually, if appropriate;

"(15) improve coordination among prevention programs, treatment facilities and nonhealth care systems such as employers, labor unions, and schools, and encourage the adoption of employee assistance programs and student assistance programs;

"(16) maintain a clearinghouse for substance abuse and mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment providers, and the general public;

"(17) in collaboration with the National Institute on Aging, and in consultation with the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism and the National Institute of Mental Health, as appropriate, promote and evaluate substance abuse services for older Americans in need of such services, and mental health services for older Americans who are seriously mentally ill; and

"(18) promote the coordination of service programs conducted by other departments, agencies, organizations and individuals that are or may be related to the problems of individuals

suffering from mental illness or substance abuse, including liaisons with the Social Security Administration, Health Care Financing Administration, and other programs of the Department, as well as liaisons with the Department of Education, Department of Justice, and other Federal Departments and offices, as appropriate.

"(e) ASSOCIATE ADMINISTRATOR FOR ALCOHOL PREVENTION AND TREATMENT POLICY.—

"(1) IN GENERAL.—There shall be in the Administration an Associate Administrator for Alcohol Prevention and Treatment Policy to whom the Administrator shall delegate the functions of promoting, monitoring, and evaluating service programs for the prevention and treatment of alcoholism and alcohol abuse within the Center for Substance Abuse Prevention, the Center for Substance Abuse Treatment, and the Center for Mental Health Services, and coordinating such programs among the Centers, and among the Centers and other public and private entities. The Associate Administrator also shall ensure that alcohol prevention, education, and policy strategies are integrated into all programs of the Centers that address substance abuse prevention, education, and policy, and that the Center for Substance Abuse Prevention addresses the Healthy People 2000 goals and the National Dietary Guidelines of the Department of Health and Human Services and the Department of Agriculture related to alcohol consumption.

"(2) PLAN.—

"(A) The Administrator, acting through the Associate Administrator for Alcohol Prevention and Treatment Policy, shall develop, and periodically review and as appropriate revise, a plan for programs and policies to treat and prevent alcoholism and alcohol abuse. The plan shall be developed (and reviewed and revised) in collaboration with the Directors of the Centers of the Administration and in consultation with members of other Federal agencies and public and private entities.

"(B) Not later than 1 year after the date of the enactment of the ADAMHA Reorganization Act, the Administrator shall submit to the Congress the first plan developed under subparagraph (A).

"(3) REPORT.—

"(A) Not less than once during each 2 years, the Administrator, acting through the Associate Administrator for Alcohol Prevention and Treatment Policy, shall prepare a report describing the alcoholism and alcohol abuse prevention and treatment programs undertaken by the Administration and its agencies, and the report shall include a detailed statement of the expenditures made for the activities reported on and the personnel used in connection with such activities.

"(B) Each report under subparagraph (A) shall include a description of any revisions in the plan under paragraph (2) made during the preceding 2 years.

"(C) Each report under subparagraph (A) shall be submitted to the Administrator for inclusion in the biennial report under subsection (k).

"(f) ASSOCIATE ADMINISTRATOR FOR WOMEN'S SERVICES.—

"(1) APPOINTMENT.—The Administrator, with the approval of the Secretary, shall appoint an Associate Administrator for Women's Services.

"(2) DUTIES.—The Associate Administrator appointed under paragraph (1) shall—

"(A) establish a committee to be known as the Coordinating Committee for Women's Services (hereafter in this subparagraph referred to as the 'Coordinating Committee'), which shall be composed of the Directors of the agencies of the Administration (or the designees of the Directors);

"(B) acting through the Coordinating Committee, with respect to women's substance abuse and mental health services—

"(i) identify the need for such services, and make an estimate each fiscal year of the funds needed to adequately support the services;

"(ii) identify needs regarding the coordination of services;

"(iii) encourage the agencies of the Administration to support such services; and

"(iv) assure that the unique needs of minority women, including Native American, Hispanic, African-American and Asian women, are recognized and addressed within the activities of the Administration; and

"(C) establish an advisory committee to be known as the Advisory Committee for Women's Services, which shall be composed of not more than 10 individuals, a majority of whom shall be women, who are not officers or employees of the Federal Government, to be appointed by the Administrator from among physicians, practitioners, treatment providers, and other health professionals, whose clinical practice, specialization, or professional expertise includes a significant focus on women's substance abuse and mental health conditions, that shall—

"(i) advise the Associate Administrator on appropriate activities to be undertaken by the agencies of the Administration with respect to women's substance abuse and mental health services, including services which require a multidisciplinary approach;

"(ii) collect and review data, including information provided by the Secretary (including the material referred to in paragraph (3)), and report biannually to the Administrator regarding the extent to which women are represented among senior personnel, and make recommendations regarding improvement in the participation of women in the workforce of the Administration; and

"(iii) prepare, for inclusion in the biennial report required pursuant to subsection (k), a description of activities of the Committee, including findings made by the Committee regarding—

"(I) the extent of expenditures made for women's substance abuse and mental health services by the agencies of the Administration; and

"(II) the estimated level of funding needed for substance abuse and mental health services to meet the needs of women;

"(D) improve the collection of data on women's health by—

"(i) reviewing the current data at the Administration to determine its uniformity and applicability;

"(ii) developing standards for all programs funded by the Administration so that data are, to the extent practicable, collected and reported using common reporting formats, linkages and definitions; and

"(iii) reporting to the Administrator a plan for incorporating the standards developed under clause (ii) in all Administration programs and a plan to assure that the data so collected are accessible to health professionals, providers, researchers, and members of the public; and

"(E) shall establish, maintain, and operate a program to provide information on women's substance abuse and mental health services.

"(3) STUDY.—

"(A) The Secretary, acting through the Assistant Secretary for Personnel, shall conduct a study to evaluate the extent to which women are represented among senior personnel at the Administration.

"(B) Not later than 90 days after the date of the enactment of the ADAMHA Reorganization Act, the Assistant Secretary for Personnel shall provide the Advisory Committee for Women's Services with a study plan, including the methodology of the study and any sampling frames. Not later than 180 days after such date of enactment, the Assistant Secretary shall prepare and submit directly to the Advisory Committee a report concerning the results of the study conducted under subparagraph (A). Reports.

"(C) The Secretary shall prepare and provide to the Advisory Committee for Women's Services any additional data as requested.

"(4) DEFINITION.—For purposes of this subsection, the term 'women's substance abuse and mental health conditions', with respect to women of all age, ethnic, and racial groups, means all aspects of substance abuse and mental illness—

"(A) unique to or more prevalent among women; or

"(B) with respect to which there have been insufficient services involving women or insufficient data.

"(g) SERVICES OF EXPERTS.—

"(1) IN GENERAL.—The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have professional qualifications. Such experts and consultants shall be obtained for the Administration and for each of its agencies.

"(2) COMPENSATION AND EXPENSES.—

"(A) Experts and consultants whose services are obtained under paragraph (1) shall be paid or reimbursed for their expenses associated with traveling to and from their assign-

ment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(B) Expenses specified in subparagraph (A) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under paragraph (1), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in subparagraph (A) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"(h) PEER REVIEW GROUPS.—The Administrator shall, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, establish such peer review groups and program advisory committees as are needed to carry out the requirements of this title and appoint and pay members of such groups, except that officers and employees of the United States shall not receive additional compensation for services as members of such groups. The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this subsection.

"(i) VOLUNTARY SERVICES.—The Administrator may accept voluntary and uncompensated services.

"(j) ADMINISTRATION.—The Administrator shall ensure that programs and activities assigned under this title to the Administration are fully administered by the respective Centers to which such programs and activities are assigned.

"(k) REPORT CONCERNING ACTIVITIES AND PROGRESS.—Not later than February 10, 1994, and once every 2 years thereafter, the Administrator shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, the report containing—

"(1) a description of the activities carried out by the Administration;

"(2) a description of any measurable progress made in improving the availability and quality of substance abuse and mental health services;

"(3) a description of the mechanisms by which relevant research findings of the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute of Mental Health have been disseminated to service providers or otherwise utilized by the Administration to further the purposes of this title; and

"(4) any report required in this title to be submitted to the Adminstrator for inclusion in the report under this subsection.

"(l) APPLICATIONS FOR GRANTS AND CONTRACTS.—With respect to awards of grants, cooperative agreements, and contracts under

this title, the Administrator, or the Director of the Center involved, as the case may be, may not make such an award unless—

"(1) an application for the award is submitted to the official involved;

"(2) with respect to carrying out the purpose for which the award is to be provided, the application provides assurances of compliance satisfactory to such official; and

"(3) the application is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the official determines to be necessary to carry out the purpose for which the award is to be provided.

"(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing grants, cooperative agreements, and contracts under this section, there are authorized to be appropriated $25,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

(b) REPEALS.—Sections 502, 503, and 504 of the Public Health Service Act (42 U.S.C. 290aa–1, 290aa–2, and 290aa–3) are repealed.

SEC. 102. ADVISORY COUNCILS.

Section 505 of the Public Health Service Act (42 U.S.C. 290aa–3a) is amended—

(1) by redesignating such section as section 502; and 42 USC 290aa–1.

(2) to read as follows:

"ADVISORY COUNCILS

"SEC. 502. (a) APPOINTMENT.—

"(1) IN GENERAL.—The Secretary shall appoint an advisory council for—

"(A) the Substance Abuse and Mental Health Services Administration;

"(B) the Center for Substance Abuse Treatment;

"(C) the Center for Substance Abuse Prevention; and

"(D) the Center for Mental Health Services.

Each such advisory council shall advise, consult with, and make recommendations to the Secretary and the Administrator or Director of the Administration or Center for which the advisory council is established concerning matters relating to the activities carried out by and through the Administration or Center and the policies respecting such activities.

"(2) FUNCTION AND ACTIVITIES.—An advisory council—

"(A)(i) may on the basis of the materials provided by the organization respecting activities conducted at the organization, make recommendations to the Administrator or Director of the Administration or Center for which it was established respecting such activities;

"(ii) shall review applications submitted for grants and cooperative agreements for activities for which advisory council approval is required under section 504(d)(2) and recommend for approval applications for projects that show promise of making valuable contributions to the Administration's mission; and

"(iii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the organization;

"(B) may collect, by correspondence or by personal investigation, information as to studies and services that are being carried on in the United States or any other country as to the diseases, disorders, or other aspects of human health with respect to which the organization was established and with the approval of the Administrator or Director, whichever is appropriate, make such information available through appropriate publications for the benefit of public and private health entities and health professions personnel and for the information of the general public; and

"(C) may appoint subcommittees and convene workshops and conferences.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—Each advisory council shall consist of nonvoting ex officio members and not more than 12 members to be appointed by the Secretary under paragraph (3).

"(2) EX OFFICIO MEMBERS.—The ex officio members of an advisory council shall consist of—

"(A) the Secretary;

"(B) the Administrator;

"(C) the Director of the Center for which the council is established;

"(D) the Chief Medical Director of the Veterans Administration; and

"(E) the Assistant Secretary for Defense for Health Affairs (or the designates of such officers); and

"(F) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) APPOINTED MEMBERS.—Individuals shall be appointed to an advisory council under paragraph (1) as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the health disciplines (including public health and behavioral and social sciences) relevant to the activities of the Administration or Center for which the advisory council is established.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy economics, and management.

"(4) COMPENSATION.—Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on the advisory council. The remaining members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of the advisory council, compensation at rates not to exceed the daily equivalent to the annual rate in effect for grade GS–18 of the General Schedule.

"(c) TERMS OF OFFICE.—

"(1) IN GENERAL.—The term of office of a member of an advisory council appointed under subsection (b) shall be 4 years, except that any member appointed to fill a vacancy for an unexpired term shall serve for the remainder of such term. The Secretary shall make appointments to an advisory council in such a manner as to ensure that the terms of the members

not all expire in the same year. A member of an advisory council may serve after the expiration of such member's term until a successor has been appointed and taken office.

"(2) REAPPOINTMENTS.—A member who has been appointed to an advisory council for a term of 4 years may not be reappointed to an advisory council during the 2-year period beginning on the date on which such 4-year term expired.

"(3) TIME FOR APPOINTMENT.—If a vacancy occurs in an advisory council among the members under subsection (b), the Secretary shall make an appointment to fill such vacancy within 90 days from the date the vacancy occurs.

"(d) CHAIR.—The Secretary shall select a member of an advisory council to serve as the chair of the council. The Secretary may so select an individual from among the appointed members, or may select the Administrator or the Director of the Center involved. The term of office of the chair shall be 2 years.

"(e) MEETINGS.—An advisory council shall meet at the call of the chairperson or upon the request of the Administrator or Director of the Administration or Center for which the advisory council is established, but in no event less than 3 times during each fiscal year. The location of the meetings of each advisory council shall be subject to the approval of the Administrator or Director of Administration or Center for which the council was established.

"(f) EXECUTIVE SECRETARY AND STAFF.—The Administrator or Director of the Administration or Center for which the advisory council is established shall designate a member of the staff of the Administration or Center for which the advisory council is established to serve as the Executive Secretary of the advisory council. The Administrator or Director shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions. The Administrator or Director shall provide orientation and training for new members of the advisory council to provide for their effective participation in the functions of the advisory council.".

SEC. 103. REPORTS ON ALCOHOLISM, ALCOHOL ABUSE, AND DRUG ABUSE.

Section 506 of the Public Health Service Act (42 U.S.C. 290aa–4) is amended by redesignating such section as section 503. 42 USC 290aa-2.

SEC. 104. PEER REVIEW.

Section 507 of the Public Health Service Act (42 U.S.C. 290aa–5) is amended— 42 USC 290aa-3.

(1) by redesignating such section as section 504; and

(2) to read as follows:

"PEER REVIEW

"SEC. 504. (a) IN GENERAL.—The Secretary, after consultation with the Directors of the Center for Substance Abuse Treatment, the Center for Substance Abuse Prevention, and the Center for Mental Health Services, shall by regulation require appropriate peer review of grants, cooperative agreements, and contracts to be administered through such Centers. Regulations.

"(b) MEMBERS.—The members of any peer review group established under regulations under subsection (a) shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group. Not more than one-

fourth of the members of any peer review group established under such regulation shall be officers or employees of the United States.

"(c) REQUIREMENTS.—Regulations promulgated pursuant to subsection (a)—

"(1) shall require that the reviewing entity be provided a written description of the matter to be reviewed;

"(2) shall require that the reviewing entity provide the advisory council of the Center involved with such description and the results of the review by the entity; and

"(3) may specify the conditions under which limited exceptions may be granted to the limitations contained in the last sentence of subsection (b) and subsection (d).

"(d) RECOMMENDATIONS.—

"(1) IN GENERAL.—If the direct cost of a grant, cooperative agreement, or contract (described in subsection (a)) to be made does not exceed $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended after peer review required by regulations under subsection (a).

"(2) BY APPROPRIATE ADVISORY COUNCIL.—If the direct cost of a grant, cooperative agreement, or contract (described in subsection (a)) to be made exceeds $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended—

"(A) after peer review required by regulations under subsection (a), and

"(B) by the appropriate advisory council.".

SEC. 105. DATA COLLECTION.

42 USC 290aa-11.

Section 509D of the Public Health Service Act (42 U.S.C. 290cc-11)—

(1) is transferred to part A of title V of such Act;

42 USC 290aa-4.

(2) is redesignated as section 505; and

(3) is inserted after section 504 (as redesignated by section 104).

SEC. 106. GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.

(a) TRANSFER.—Section 512 of the Public Health Service Act (42 U.S.C. 290bb-1b)—

42 USC 290bb-1a.

(1) is transferred to part A of title V of such Act;

42 USC 290aa-5.

(2) is redesignated as section 506; and

(3) is inserted after section 505 (as redesignated by section 105).

(b) AMENDMENTS.—Section 506 of the Public Health Service Act (as transferred and redesignated under subsection (a)) is amended to read as follows:

"GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS

"SEC. 506. (a) GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—The Secretary, acting through the Administrator, may make grants to, and enter into contracts and cooperative agreements with, community-based public and private nonprofit entities for the purpose of developing and expanding mental health and substance abuse treatment services for homeless individuals. In carrying out this subsection, the Administrator shall consult with the Administrator of the Health Resources and Services Administration,

the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, and the Commissioner of the Administration for Children, Youth and Families.

"(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to entities that provide integrated primary health care, substance abuse and mental health services to homeless individuals.

"(c) SERVICES FOR CERTAIN INDIVIDUALS.—In making awards under subsection (a), the Secretary may not prohibit the provision of services under such subsection to homeless individuals who have a primary diagnosis of substance abuse and are not suffering from mental illness.

"(d) TERM OF GRANT.—No entity may receive grants under subsection (a) for more than 5 years although such grants may be renewed.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

SEC. 107. CENTER FOR SUBSTANCE ABUSE TREATMENT.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by striking the heading for part B and each subpart heading in such part; and

(2) by inserting after section 506 (as transferred and redesignated by section 106) the following new part:

"PART B—CENTERS AND PROGRAMS

"Subpart 1—Center for Substance Abuse Treatment

"CENTER FOR SUBSTANCE ABUSE TREATMENT

"SEC. 507. (a) ESTABLISHMENT.—There is established in the Administration a Center for Substance Abuse Treatment (hereafter in this section referred to as the 'Center'). The Center shall be headed by a Director (hereafter in this section referred to as the 'Director') appointed by the Secretary from among individuals with extensive experience or academic qualifications in the treatment of substance abuse or in the evaluation of substance abuse treatment systems. 42 USC 290bb.

"(b) DUTIES.—The Director of the Center shall—

"(1) administer the substance abuse treatment block grant program authorized in section 1921;

"(2) collaborate with the Director of the Center for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to pregnant and postpartum women and their infants and to individuals who abuse drugs intravenously;

"(3) collaborate with the Director of the National Institute on Drug Abuse, with the Director of the National Institute on Alcohol Abuse and Alcoholism, and with the States to promote the study, dissemination, and implementation of research findings that will improve the delivery and effectiveness of treatment services;

"(4) collaborate with the Administrator of the Health Resources and Services Administration and the Administrator of the Health Care Financing Administration to promote the increased integration into the mainstream of the health care system of the United States of programs for providing treatment services;

"(5) evaluate plans submitted by the States pursuant to section 1932(a)(6) in order to determine whether the plans adequately provide for the availability, allocation, and effectiveness of treatment services, and monitor the use of revolving loan funds pursuant to section 1925;

"(6) sponsor regional workshops on improving the quality and availability of treatment services;

"(7) provide technical assistance to public and nonprofit private entities that provide treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants or contracts carried out by the Director;

"(8) encourage the States to expand the availability (relative to fiscal year 1992) of programs providing treatment services through self-run, self-supported recovery based on the programs of housing operated pursuant to section 1925;

"(9) carry out activities to educate individuals on the need for establishing treatment facilities within their communities;

"(10) encourage public and private entities that provide health insurance to provide benefits for outpatient treatment services and other nonhospital-based treatment services;

"(11) evaluate treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in housing provided by programs established under section 1925, which shall be carried out through grants, contracts, or cooperative agreements provided to public or nonprofit private entities; and

"(12) in carrying out paragraph (11), assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.

"(c) GRANTS AND CONTRACTS.—In carrying out the duties established in subsection (b), the Director may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities.".

SEC. 108. PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN.

(a) IN GENERAL.—Subpart 1 of part B of title V (as added by section 107) is amended by adding at the end thereof the following new sections:

"RESIDENTIAL TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN

Contracts.
42 USC 290bb-1.

"SEC. 508. (a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall provide awards of grants, cooperative agreement, or contracts to public and nonprofit private entities for the purpose of providing to pregnant and postpartum women treatment for substance abuse through programs in which, during the course of receiving treatment—

"(1) the women reside in facilities provided by the programs;

"(2) the minor children of the women reside with the women in such facilities, if the women so request; and

"(3) the services described in subsection (d) are available to or on behalf of the women.

"(b) AVAILABILITY OF SERVICES FOR EACH PARTICIPANT.—A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

"(1) treatment services and each supplemental service will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

"(2) the services will be made available to each woman admitted to the program.

"(c) INDIVIDUALIZED PLAN OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that—

"(1) in providing authorized services for an eligible woman pursuant to such subsection, the applicant will, in consultation with the women, prepare an individualized plan for the provision to the woman of the services; and

"(2) treatment services under the plan will include—

"(A) individual, group, and family counseling, as appropriate, regarding substance abuse; and

"(B) follow-up services to assist the woman in preventing a relapse into such abuse.

"(d) REQUIRED SUPPLEMENTAL SERVICES.—In the case of an eligible woman, the services referred to in subsection (a)(3) are as follows:

"(1) Prenatal and postpartum health care.

"(2) Referrals for necessary hospital services.

"(3) For the infants and children of the woman—

"(A) pediatric health care, including treatment for any perinatal effects of maternal substance abuse and including screenings regarding the physical and mental development of the infants and children;

"(B) counseling and other mental health services, in the case of children; and

"(C) comprehensive social services.

"(4) Providing supervision of children during periods in which the woman is engaged in therapy or in other necessary health or rehabilitative activities.

"(5) Training in parenting.

"(6) Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.

"(7) Counseling on domestic violence and sexual abuse.

"(8) Counseling on obtaining employment, including the importance of graduating from a secondary school.

"(9) Reasonable efforts to preserve and support the family units of the women, including promoting the appropriate involvement of parents and others, and counseling the children of the women.

"(10) Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the women and the children of the women.

"(11) Case management services, including—

"(A) assessing the extent to which authorized services are appropriate for the women and their children;

"(B) in the case of the services that are appropriate, ensuring that the services are provided in a coordinated manner; and

"(C) assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, housing services, employment services, educational services, or social services.

"(e) MINIMUM QUALIFICATIONS FOR RECEIPT OF AWARD.—

"(1) CERTIFICATION BY RELEVANT STATE AGENCY.—With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make an award under subsection (a) to an applicant only if the agency has certified to the Director that—

"(A) the applicant has the capacity to carry out a program described in subsection (a);

"(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

"(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

"(2) STATUS AS MEDICAID PROVIDER.—

"(A) Subject to subparagraphs (B) and (C), the Director may make an award under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the award will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

"(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(ii) A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(C) With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained

65 years of age. For purposes of the preceding sentence, the term 'institution for mental diseases' has the meaning given such term in section 1905(i) of the Social Security Act.

"(f) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than $1 for each $9 of Federal funds provided in the award;

"(B) for any second such fiscal year, is not less than $1 for each $9 of Federal funds provided in the award; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $3 of Federal funds provided in the award.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) OUTREACH.—A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify women who are engaging in substance abuse and to encourage the women to undergo treatment for such abuse.

"(h) ACCESSIBILITY OF PROGRAM; CULTURAL CONTEXT OF SERVICES.—A funding agreement for an award under subsection (a) for an applicant is that—

"(1) the program operated pursuant to such subsection will be operated at a location that is accessible to low-income pregnant and postpartum women; and

"(2) authorized services will be provided in the language and the cultural context that is most appropriate.

"(i) CONTINUING EDUCATION.—A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

"(j) IMPOSITION OF CHARGES.—A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to on behalf of an eligible woman, such charge—

"(1) will be made according to a schedule of charges that is made available to the public; Public information.

"(2) will be adjusted to reflect the income of the woman involved; and

"(3) will not be imposed on any such woman with an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget

and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(k) REPORTS TO DIRECTOR.—A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report—

"(1) describing the utilization and costs of services provided under the award;

"(2) specifying the number of women served, the number of infants served, and the type and costs of services provided; and

"(3) providing such other information as the Director determines to be appropriate.

"(l) REQUIREMENT OF APPLICATION.—The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

"(m) EQUITABLE ALLOCATION OF AWARDS.—In making awards under subsection (a), the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards.

"(n) DURATION OF AWARD.—The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

"(o) EVALUATIONS; DISSEMINATION OF FINDINGS.—The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

"(p) REPORTS TO CONGRESS.—Not later than October 1, 1994, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing programs carried out pursuant to this section. Every 2 years thereafter, the Director shall prepare a report describing such programs carried out during the preceding 2 years, and shall submit the report to the Administrator for inclusion in the biennial report under section 501(k). Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

"(q) DEFINITIONS.—For purposes of this section:

"(1) The term 'authorized services' means treatment services and supplemental services.

"(2) The term 'eligible woman' means a woman who has been admitted to a program operated pursuant to subsection (a).

"(3) The term 'funding agreement under subsection (a)', with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.

"(4) The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

"(5) The term 'supplemental services' means the services described in subsection (d).

"(r) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section and section 509, there are authorized to be appropriated $100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) TRANSFER.—For the purpose described in paragraph (1), in addition to the amounts authorized in such paragraph to be appropriated for a fiscal year, there is authorized to be appropriated for the fiscal year from the special forfeiture fund of the Director of the Office of National Drug Control Policy such sums as may be necessary.

"(3) RULE OF CONSTRUCTION.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).

"OUTPATIENT TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN

"SEC. 509. (a) GRANTS.—The Secretary, acting through the Director of the Treatment Center, shall make grants to establish projects for the outpatient treatment of substance abuse among pregnant and postpartum women, and in the case of conditions arising in the infants of such women as a result of such abuse by the women, the outpatient treatment of the infants for such conditions. 42 USC 290bb-2.

"(b) PREVENTION.—Entities receiving grants under this section shall engage in activities to prevent substance abuse among pregnant and postpartum women.

"(c) EVALUATION.—The Secretary shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.".

(b) TRANSITIONAL AND SAVINGS PROVISIONS.— 42 USC 290bb-2 note.

(1) SAVINGS PROVISION FOR COMPLETION OF CURRENT PROJECTS.—

(A) Subject to paragraph (2), in the case of any project for which a grant under former section 509F was provided for fiscal year 1992, the Secretary of Health and Human Services may continue in effect the grant for fiscal year 1993 and subsequent fiscal years, subject to the duration of any such grant not exceeding the period determined by the Secretary in first approving the grant. Subject to approval by the Administrator, such grants may be administered by the Center for Substance Abuse Prevention.

(B) Subparagraph (A) shall apply with respect to a project notwithstanding that the project is not eligible to receive a grant under current section 508 or 509.

(2) LIMITATION ON FUNDING FOR CERTAIN PROJECTS.—With respect to the amounts appropriated for any fiscal year under current section 508, any such amounts appropriated in excess of the amount appropriated for fiscal year 1992 under former section 509F shall be available only for grants under current section 508.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "former section 509F" means section 509F of the Public Health Service Act, as in effect for fiscal year 1992.

(B) The term "current section 508" means section 508 of the Public Health Service Act, as in effect for fiscal year 1993 and subsequent fiscal years.

(C) The term "current section 509" means section 509 of the Public Health Service Act, as in effect for fiscal year 1993 and subsequent fiscal years.

SEC. 109. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

Subpart 1 of part B of title V (as amended by section 108) is further amended by adding at the end thereof the following new section:

"DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE

AIDS.
Children and youth.
Minorities.
Rural and urban areas.
Women.
42 USC 290bb-3.

"SEC. 510. (a) GRANTS FOR TREATMENT IMPROVEMENT.—The Director of the Center for Substance Abuse Treatment shall provide grants to public and nonprofit private entities for the purpose of establishing demonstration projects that will improve the provision of treatment services for substance abuse.

"(b) NATURE OF PROJECTS.—Grants under subsection (a) shall be awarded to—

"(1) projects that provide treatment to adolescents, female addicts and their children, racial and ethnic minorities, or individuals in rural areas, with preference given to such projects that provide treatment for substance abuse to women with dependent children, which treatment is provided in settings in which both primary health services for the women and pediatric care are available;

"(2) projects that provide treatment in exchange for public service;

"(3) projects that provide treatment services and which are operated by public and nonprofit private entities receiving grants under section 329, 330, 340, 340A, or other public or nonprofit private entities that provide primary health services;

"(4) 'treatment campus' projects that—

"(A) serve a significant number of individuals simultaneously;

"(B) provide residential, non-community based drug treatment;

"(C) provide patients with ancillary social services and referrals to community-based aftercare; and

"(D) provide services on a voluntary basis;

"(5) projects in large metropolitan areas to identify individuals in need of treatment services and to improve the availability and delivery of such services in the areas;

"(6) in the case of drug abusers who are at risk of HIV infection, projects to conduct outreach activities to the individuals regarding the prevention of exposure to and the transmission of the human immunodefiency virus, and to encourage the individuals to seek treatment for such abuse; and

"(7) projects to determine the long-term efficacy of the projects described in this section and to disseminate to appropriate public and private entities information on the projects that have been effective.

"(c) PREFERENCES IN MAKING GRANTS.—In awarding grants under subsection (a), the Director of the Treatment Center shall give preference to projects that—

"(1) demonstrate a comprehensive approach to the problems associated with substance abuse and provide evidence of broad community involvement and support; or

"(2) initiate and expand programs for the provision of treatment services (including renovation of facilities, but not construction) in localities in which, and among populations for which, there is a public health crisis as a result of the inadequate availability of such services and a substantial rate of substance abuse.

"(d) DURATION OF GRANTS.—The period during which payments are made under a grant under subsection (a) may not exceed 5 years.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $175,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. The amounts so authorized are in addition to any other amounts that are authorized to be appropriated and available for such purpose.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Treatment Center shall reserve not less than 5 percent for carrying out projects described in subsections (b)(2) and (b)(3).".

SEC. 110. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

Subpart 1 of part B of title V (as amended by section 109) is further amended by adding at the end thereof the following new section:

"GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS

"SEC. 511. (a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall provide grants to public and nonprofit private entities that provide treatment for substance abuse to individuals under criminal justice supervision. 42 USC 290bb-4.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Director shall ensure that the grants are reasonably distributed among—

"(1) projects that provide treatment services to individuals who are incarcerated in prisons, jails, or community correctional settings; and

"(2) projects that provide treatment services to individuals who are not incarcerated, but who are under criminal justice supervision because of their status as pretrial releasees, post-trial releasees, probationers, parolees, or supervised releasees.

"(c) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to programs commensurate with the extent to which such programs provide, directly or in conjunction with other public or private nonprofit entities, one or more of the following—

"(1) a continuum of offender management services as individuals enter, proceed through, and leave the criminal justice system, including identification and assessment, substance

abuse treatment, pre-release counseling and pre-release referrals with respect to housing, employment and treatment;

"(2) comprehensive treatment services for juvenile offenders;

"(3) comprehensive treatment services for female offenders, including related services such as violence counseling, parenting and child development classes, and perinatal care;

"(4) outreach services to identify individuals under criminal justice supervision who would benefit from substance abuse treatment and to encourage such individuals to seek treatment; or

"(5) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

SEC. 111. TRAINING IN PROVISION OF TREATMENT SERVICES.

Subpart 1 of part B of title V of the Public Health Service Act (as amended by section 110) is further amended by adding at the end thereof the following new section:

"TRAINING IN PROVISION OF TREATMENT SERVICES

42 USC 290bb-5.

"SEC. 512. (a) IN GENERAL.—The Director of the Center for Substance Abuse Treatment shall develop programs to increase the number of substance abuse treatment professionals and the number of health professionals providing treatment services through the awarding of grants to appropriate public and nonprofit private entities, including agencies of State and local governments, hospitals, schools of medicine, schools of osteopathic medicine, schools of nursing, schools of social work, and graduate programs in marriage and family therapy.

"(b) PRIORITY.—In awarding grants under subsection (a), the Director shall give priority to projects that train full-time substance abuse treatment professionals and projects that will receive financial support from public entities for carrying out the projects.

"(c) HEALTH PROFESSIONS EDUCATION.—In awarding grants under subsection (a), the Director may make grants—

"(1) to train individuals in the diagnosis and treatment of alcohol abuse and other drug abuse; and

"(2) to develop appropriate curricula and materials for the training described in paragraph (1).

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $30,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

SEC. 112. ALTERNATIVE UTILIZATION OF MILITARY FACILITIES.

(a) TRANSFER.—Section 561 of the Public Health Service Act (42 U.S.C. 290ff)—

(1) is transferred to subpart 1 of part B of title V of such Act;

42 USC 290bb-6.

(2) is redesignated as section 513; and

(3) is inserted after section 512 (as added by section 111).

(b) AMENDMENTS.—

(1) Section 513(a) of the Public Health Service Act (as transferred and redesignated under subsection (a)) is amended by striking out "NATIONAL INSTITUTE ON DRUG ABUSE.—The Director of the National Institute on Drug Abuse" and inserting in lieu thereof "CENTER FOR SUBSTANCE ABUSE TREATMENT.—The Director of the Center for Substance Abuse Treatment".

(2) Part E of title V of the Public Health Service Act (42 U.S.C. 290ff) is amended by striking out the part heading.

SEC. 113. CENTER FOR SUBSTANCE ABUSE PREVENTION.

(a) IN GENERAL.—Part B of title V of the Public Health Service Act (as amended by section 112) is amended by inserting after section 513 the following new subpart:

"Subpart 2—Center for Substance Abuse Prevention".

(b) TRANSFER.—Section 508 of the Public Health Service Act (42 U.S.C. 290aa–6), as such section existed 1 day prior to the date of enactment of this Act—

(1) is transferred to subpart 2 of part B of title V;

(2) is redesignated as section 515; and

(3) is inserted after the subpart heading (as added by subsection (a)).

42 USC 290bb–21.

(c) AMENDMENTS.—Section 515(b) of the Public Health Service Act (as transferred and redesignated by subsection (b)) is amended—

(1) in paragraph (5), by striking "and intervention";

(2) by striking paragraphs (10) and (11);

(3) by redesignating paragraph (12) as paragraph (10); and

(4) in paragraph (9), by adding "and" after the semicolon at the end.

(d) NATIONAL DATA BASE.—Section 515 of the Public Health Service Act (as amended by subsection (c)) is amended by amending subsection (d) to read as follows:

"(d) The Director of the Prevention Center shall establish a national data base providing information on programs for the prevention of substance abuse. The data base shall contain information appropriate for use by public entities and information appropriate for use by nonprofit private entities.".

(e) REFERENCES.—Section 515 of the Public Health Service Act (as amended by subsection (e)) is amended—

(1) in subsection (a), in the first sentence, by striking "(hereafter" and all that follows and inserting "(hereafter referred to in this part as the 'Prevention Center').", and

(2) in subsection (b), in the matter preceding paragraph (1), by striking "Office" and inserting "Prevention Center".

(f) COMMUNITY PROGRAMS.—Section 509 of the Public Health Service Act (42 U.S.C. 290aa–7) as such section existed 1 day prior to the date of enactment of this Act—

(1) is transferred to subpart 2 of part B of title V of such Act (as added by subsection (a));

(2) is redesignated as section 516;

(3) is inserted after section 515 (as transferred and redesignated by subsection (b)); and

42 USC 290bb–22.

(4) is amended to read as follows:

"COMMUNITY PROGRAMS

"SEC. 516. (a) IN GENERAL.—The Secretary, acting through the Director of the Prevention Center, shall—

"(1) provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse; and

"(2) evaluate the success of different community approaches toward the prevention of such abuse.

"(b) STRATEGIES FOR REDUCING USE.—The Director of the Prevention Center shall ensure that strategies developed under subsection (a)(1) include strategies for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $120,000,000 for fiscal year 1993, such sums as may be necessary for fiscal year 1994.".

SEC. 114. PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH.

(a) TRANSFER.—Section 509A of the Public Health Service Act (42 U.S.C. 290aa–8)—

(1) is transferred to subpart 2 of part B of title V of such Act (as added by section 113(a));

42 USC 290bb–23.

(2) is redesignated as section 517; and

(3) is inserted after section 516 (as transferred and redesignated by section 113(g)).

(b) AMENDMENTS.—Section 517 (as transferred and redesignated by subsection (a)) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The Secretary shall ensure that projects under subsection (a) include strategies for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 517 (as transferred and redesignated by subsection (a) and amended by subsection (b)) is further amended by adding at the end the following new subsection:

"(h) For the purpose of carrying out this section, there are authorized to be appropriated $70,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

(d) REFERENCES.—Section 517(a) (as transferred and redesignated by subsection (a) and amended by subsection (b)) is further amended by striking "Office" each time that such appears and inserting "Prevention Center".

SEC. 115. CENTER FOR MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Part B of title V of the Public Health Service Act (as amended by section 114) is amended by inserting after section 517 the following new subpart:

"Subpart 3—Center for Mental Health Services

"CENTER FOR MENTAL HEALTH SERVICES

"SEC. 520. (a) ESTABLISHMENT.—There is established in the Administration a Center for Mental Health Services (hereafter in this section referred to as the 'Center'). The Center shall be headed by a Director (hereafter in this section referred to as the 'Director') appointed by the Secretary from among individuals with extensive experience or academic qualifications in the provision of mental health services or in the evaluation of mental health service systems. 42 USC 290bb-31.

"(b) DUTIES.—The Director of the Center shall—

"(1) design national goals and establish national priorities for—

"(A) the prevention of mental illness; and

"(B) the promotion of mental health;

"(2) encourage and assist local entities and State agencies to achieve the goals and priorities described in paragraph (1);

"(3) develop and coordinate Federal prevention policies and programs and to assure increased focus on the prevention of mental illness and the promotion of mental health;

"(4) develop improved methods of treating individuals with mental health problems and improved methods of assisting the families of such individuals;

"(5) administer the mental health services block grant program authorized in section 1911;

"(6) promote policies and programs at Federal, State, and local levels and in the private sector that foster independence and protect the legal rights of persons with mental illness, including carrying out the provisions of the Protection and Advocacy of Mentally Ill Individuals Act;

"(7) carry out the programs authorized under sections 520A and 521, including the Community Support Program and the Child and Adolescent Service System Programs;

"(8) carry out responsibilities for the Human Resource Development program, and programs of clinical training for professional and paraprofessional personnel pursuant to section 303;

"(9) conduct services-related assessments, including evaluations of the organization and financing of care, self-help and consumer-run programs, mental health economics, mental health service systems, rural mental health, and improve the capacity of State to conduct evaluations of publicly funded mental health programs;

"(10) establish a clearinghouse for mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment and prevention service providers, and the general public, including information concerning the practical application of research supported by the National Institute of Mental Health that is applicable to improving the delivery of services;

"(11) provide technical assistance to public and private entities that are providers of mental health services;

"(12) monitor and enforce obligations incurred by community mental health centers pursuant to the Community Mental Health Centers Act (as in effect prior to the repeal of such

Act on August 13, 1981, by section 902(e)(2)(B) of Public Law 97-35 (95 Stat. 560));

"(13) conduct surveys with respect to mental health, such as the National Reporting Program; and

"(14) assist States in improving their mental health data collection.

"(c) GRANTS AND CONTRACTS.—In carrying out the duties established in subsection (b), the Director may make grants to and enter into contracts and cooperative agreements with public and nonprofit private entities.".

(b) CONFORMING AMENDMENTS.—Section 303(a) of the Public Health Service Act (42 U.S.C. 242a(a)) is amended—

(1) by striking out ", the Surgeon General is authorized" in the matter preceding paragraph (1);

(2) by inserting "the Secretary, acting through the Director of the Center for Mental Health Services, is authorized" after the paragraph designation in paragraph (1); and

(3) by inserting "the Surgeon General is authorized" after the paragraph designation in paragraph (2).

SEC. 116. GRANT PROGRAM FOR DEMONSTRATION PROJECTS.

(a) TRANSFER.—Section 520 of the Public Health Service Act (42 U.S.C. 290cc-13) as such section existed 1 day prior to the date of enactment of this Act—

(1) is transferred to subpart 3 of part B of title V of such Act;

42 USC 290bb-32.

(2) is redesignated as section 520A; and

(3) is inserted after section 520 (as added by section 115).

(b) AMENDMENTS.—Section 520A (as transferred and redesignated under subsection (a)) is amended—

(1) in subsection (a)(1), by striking out "National Institute of Mental Health" and inserting in lieu thereof "Center for Mental Health Services";

(2) in subsection (c), by striking out "three" and inserting in lieu thereof "five"; and

(3) in subsection (e)(1), to read as follows:

Appropriation authorization.

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

SEC. 117. NATIONAL MENTAL HEALTH EDUCATION.

Section 519 of the Public Health Service Act (42 U.S.C. 290cc-12) is repealed.

SEC. 118. DEMONSTRATION PROJECTS WITH RESPECT TO CERTAIN INDIVIDUALS.

(a) IN GENERAL.—Section 2441 of the Public Health Service Act (42 U.S.C. 300dd-41)—

(1) is transferred to subpart 3 of part B of title V of such Act (as added by section 115);

42 USC 290bb-33.

(2) is redesignated as section 520B; and

(3) is inserted after section 520A (as added by section 116).

(b) CONFORMING AMENDMENTS.—The Public Health Service Act (as amended by subsection (a)), is amended—

42 USC 300dd-31 *et seq.*

(1) in part C of title XXIV—

(A) by striking out the heading for subpart I;

42 USC 300dd-32.

(B) in section 2432(a), by striking out "subpart" each place such term appears and inserting "part"; and

(C) by striking out the heading for subpart II; and

(2) in section 520B (as transferred and added by subsection (a))—

(A) in subsection (a), in the matter preceding paragraph (1), by inserting after "Secretary" the following: ", acting through the Director of the Center for Mental Health Services,"; and

(B) in subsection (j), by striking out "1991" and inserting in lieu thereof "1994".

SEC. 119. CHILDHOOD MENTAL HEALTH.

Title V of the Public Health Service Act, as amended by the preceding provisions of this title, is amended by adding at the end the following new part:

"PART E—CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES

'SEC. 561. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES. 42 USC 290ff.

"(a) GRANTS TO CERTAIN PUBLIC ENTITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public entities for the purpose of providing comprehensive community mental health services to children with a serious emotional disturbance.

"(2) DEFINITION OF PUBLIC ENTITY.—For purposes of this subpart, the term 'public entity' means any State, any political subdivision of a State, and any Indian tribe or tribal organization (as defined in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act).

"(b) CONSIDERATIONS IN MAKING GRANTS.—

"(1) REQUIREMENT OF STATUS AS GRANTEE UNDER PART B OF TITLE XIX.—The Secretary may make a grant under subsection (a) to a public entity only if—

"(A) in the case of a public entity that is a State, the State is a grantee under section 1911;

"(B) in the case of a public entity that is a political subdivision of a State, the State in which the political subdivision is located is receiving such payments; and

"(C) in the case of a public entity that is an Indian tribe or tribal organization, the State in which the tribe or tribal organization is located is receiving such payments.

"(2) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(A) Subject to subparagraph (B), the Secretary may make a grant under subsection (a) only if, in the case of any service under such subsection that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the public entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the public entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has

entered into such a participation agreement and is qualified to receive such payments.

"(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under subsection (a), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(3) CERTAIN CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall—

"(A) equitably allocate such assistance among the principal geographic regions of the United States;

"(B) consider the extent to which the public entity involved has a need for the grant; and

"(C) in the case of any public entity that is a political subdivision of a State or that is an Indian tribe or tribal organization—

"(i) shall consider any comments regarding the application of the entity for such a grant that are received by the Secretary from the State in which the entity is located; and

"(ii) shall give special consideration to the entity if the State agrees to provide a portion of the non-Federal contributions required in subsection (c) regarding such a grant.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—A funding agreement for a grant under subsection (a) is that the public entity involved will, with respect to the costs to be incurred by the entity in carrying out the purpose described in such subsection, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year for which the entity receives payments from a grant under such subsection, is not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second or third such fiscal year, is not less than $1 for each $3 of Federal funds provided in the grant;

"(C) for any fourth such fiscal year, is not less than $1 for each $1 of Federal funds provided in the grant; and

"(D) for any fifth such fiscal year, is not less than $2 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including

plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the public entity involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the entity receives a grant under such section.

"SEC. 562. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS. 42 USC 290ff-1.

"(a) SYSTEMS OF COMPREHENSIVE CARE.—

"(1) IN GENERAL.—A funding agreement for a grant under section 561(a) is that, with respect to children with a serious emotional disturbance, the public entity involved will carry out the purpose described in such section only through establishing and operating 1 or more systems of care for making each of the mental health services specified in subsection (c) available to each child provided access to the system. In providing for such a system, the public entity may make grants to, and enter into contracts with, public and nonprofit private entities.

"(2) STRUCTURE OF SYSTEM.—A funding agreement for a grant under section 561(a) is that a system of care under paragraph (1) will—

"(A) be established in a community selected by the public entity involved;

"(B) consist of such public agencies and nonprofit private entities in the community as are necessary to ensure that each of the services specified in subsection (c) is available to each child provided access to the system;

"(C) be established pursuant to agreements that the public entity enters into with the agencies and entities described in subparagraph (B);

"(D) coordinate the provision of the services of the system; and

"(E) establish an office whose functions are to serve as the location through which children are provided access to the system, to coordinate the provision of services of the system, and to provide information to the public regarding the system.

"(3) COLLABORATION OF LOCAL PUBLIC ENTITIES.—A funding agreement for a grant under section 561(a) is that, for purposes of the establishment and operation of a system of care under paragraph (1), the public entity involved will seek collaboration among all public agencies that provide human services in the community in which the system is established, including but not limited to those providing mental health services, educational services, child welfare services, or juvenile justice services.

"(b) LIMITATION ON AGE OF CHILDREN PROVIDED ACCESS TO SYSTEM.—A funding agreement for a grant under section 561(a) is

that a system of care under subsection (a) will not provide an individual with access to the system if the individual is more than 21 years of age.

"(c) REQUIRED MENTAL HEALTH SERVICES OF SYSTEM.—A funding agreement for a grant under section 561(a) is that mental health services provided by a system of care under subsection (a) will include, with respect to a serious emotional disturbance in a child—

"(1) diagnostic and evaluation services;

"(2) outpatient services provided in a clinic, office, school or other appropriate location, including individual, group and family counseling services, professional consultation, and review and management of medications;

"(3) emergency services, available 24-hours a day, 7 days a week;

"(4) intensive home-based services for children and their families when the child is at imminent risk of out-of-home placement;

"(5) intensive day-treatment services;

"(6) respite care;

"(7) therapeutic foster care services, and services in therapeutic foster family homes or individual therapeutic residential homes, and groups homes caring for not more than 10 children; and

"(8) assisting the child in making the transition from the services received as a child to the services to be received as an adult.

"(d) REQUIRED ARRANGEMENTS REGARDING OTHER APPROPRIATE SERVICES.—

"(1) IN GENERAL.—A funding agreement for a grant under section 561(a) is that—

"(A) a system of care under subsection (a) will enter into a memorandum of understanding with each of the providers specified in paragraph (2) in order to facilitate the availability of the services of the provider involved to each child provided access to the system; and

"(B) the grant under such section 561(a), and the non-Federal contributions made with respect to the grant, will not be expended to pay the costs of providing such non-mental health services to any individual.

"(2) SPECIFICATION OF NON-MENTAL HEALTH SERVICES.—The providers referred to in paragraph (1) are providers of medical services other than mental health services, providers of educational services, providers of vocational counseling and vocational rehabilitation services, and providers of protection and advocacy services with respect to mental health.

"(3) FACILITATION OF SERVICES OF CERTAIN PROGRAMS.—A funding agreement for a grant under section 561(a) is that a system of care under subsection (a) will, for purposes of paragraph (1), enter into a memorandum of understanding regarding facilitation of—

"(A) services available pursuant to title XIX of the Social Security Act, including services regarding early periodic screening, diagnosis, and treatment;

"(B) services available under parts B and H of the Individuals with Disabilities Education Act; and

"(C) services available under other appropriate programs, as identified by the Secretary.

"(e) GENERAL PROVISIONS REGARDING SERVICES OF SYSTEM.—

"(1) CASE MANAGEMENT SERVICES.—A funding agreement for a grant under section 561(a) is that a system of care under subsection (a) will provide for the case management of each child provided access to the system in order to ensure that—

"(A) the services provided through the system to the child are coordinated and that the need of each such child for the services is periodically reassessed;

"(B) information is provided to the family of the child on the extent of progress being made toward the objectives established for the child under the plan of services implemented for the child pursuant to section 563; and

"(C) the system provides assistance with respect to—

"(i) establishing the eligibility of the child, and the family of the child, for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, educational services, social services, or other services; and

"(ii) seeking to ensure that the child receives appropriate services available under such programs.

"(2) OTHER PROVISIONS.—A funding agreement for a grant under section 561(a) is that a system of care under subsection (a), in providing the services of the system, will—

"(A) provide the services of the system in the cultural context that is most appropriate for the child and family involved;

"(B) ensure that individuals providing such services to the child can effectively communicate with the child and family in the most direct manner;

"(C) provide the services without discriminating against the child or the family of the child on the basis of race, religion, national origin, sex, disability, or age;

"(D) seek to ensure that each child provided access to the system of care remains in the least restrictive, most normative environment that is clinically appropriate; and

"(E) provide outreach services to inform individuals, as appropriate, of the services available from the system, including identifying children with a serious emotional disturbance who are in the early stages of such disturbance.

"(3) RULE OF CONSTRUCTION.—An agreement made under paragraph (2) may not be construed—

"(A) with respect to subparagraph (C) of such paragraph—

"(i) to prohibit a system of care under subsection (a) from requiring that, in housing provided by the grantee for purposes of residential treatment services authorized under subsection (c), males and females be segregated to the extent appropriate in the treatment of the children involved; or

"(ii) to prohibit the system of care from complying with the agreement made under subsection (b); or

"(B) with respect to subparagraph (D) of such paragraph, to authorize the system of care to expend the grant under section 561(a) (or the non-Federal contributions made with respect to the grant) to provide legal services or any service with respect to which expenditures regarding the grant are prohibited under subsection (d)(1)(B).

"(f) RESTRICTIONS ON USE OF GRANT.—A funding agreement for a grant under section 561(a) is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended—

"(1) to purchase or improve real property (including the construction or renovation of facilities);

"(2) to provide for room and board in residential programs serving 10 or fewer children;

"(3) to provide for room and board or other services or expenditures associated with care of children in residential treatment centers serving more than 10 children or in inpatient hospital settings, except intensive home-based services and other services provided on an ambulatory or outpatient basis; or

"(4) to provide for the training of any individual, except training authorized in section 564(a)(2) and training provided through any appropriate course in continuing education whose duration does not exceed 2 days.

42 USC 290ff-2.

"SEC. 563. INDIVIDUALIZED PLAN FOR SERVICES.

"(a) IN GENERAL.—A funding agreement for a grant under section 561(a) is that a system of care under section 562(a) will develop and carry out an individualized plan of services for each child provided access to the system, and that the plan will be developed and carried out with the participation of the family of the child and, unless clinically inappropriate, with the participation of the child.

"(b) MULTIDISCIPLINARY TEAM.—A funding agreement for a grant under section 561(a) is that the plan required in subsection (a) will be developed, and reviewed and as appropriate revised not less than once each year, by a multidisciplinary team of appropriately qualified individuals who provide services through the system, including as appropriate mental health services, other health services, educational services, social services, and vocational counseling and rehabilitation;

"(c) COORDINATION WITH SERVICES UNDER INDIVIDUALS WITH DISABILITIES EDUCATION ACT.—A funding agreement for a grant under section 561(a) is that, with respect to a plan under subsection (a) for a child, the multidisciplinary team required in subsection (b) will—

"(1) in developing, carrying out, reviewing, and revising the plan consider any individualized education program in effect for the child pursuant to part B of the Individuals with Disabilities Education Act;

"(2) ensure that the plan is consistent with such individualized education program and provides for coordinating services under the plan with services under such program; and

"(3) ensure that the memorandum of understanding entered into under section 562(d)(3)(B) regarding such Act includes provisions regarding compliance with this subsection.

"(d) CONTENTS OF PLAN.—A funding agreement for a grant under section 561(a) is that the plan required in subsection (a) for a child will—

"(1) identify and state the needs of the child for the services available pursuant to section 562 through the system;

"(2) provide for each of such services that is appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision

of appropriate vocational counseling and rehabilitation, and transition services (as defined in section 602(a)(19) of the Individuals with Disabilities Education Act);

"(3) establish objectives to be achieved regarding the needs of the child and the methodology for achieving the objectives; and

"(4) designate an individual to be responsible for providing the case management required in section 562(e)(1) or certify that case management services will be provided to the child as part of the individualized education program of the child under the Individuals with Disabilities Education Act.

"SEC. 564. ADDITIONAL PROVISIONS. 42 USC 290ff-3.

"(a) OPTIONAL SERVICES.—In addition to services described in subsection (c) of section 562, a system of care under subsection (a) of such section may, in expending a grant under section 561(a), provide for—

"(1) preliminary assessments to determine whether a child should be provided access to the system;

"(2) training in—

"(A) the administration of the system;

"(B) the provision of intensive home-based services under paragraph (4) of section 562(c), intensive day treatment under paragraph (5) of such section, and foster care or group homes under paragraph (7) of such section; and

"(C) the development of individualized plans for purposes of section 563;

"(3) recreational activities for children provided access to the system; and

"(4) such other services as may be appropriate in providing for the comprehensive needs with respect to mental health of children with a serious emotional disturbance.

"(b) COMPREHENSIVE PLAN.—The Secretary may make a grant under section 561(a) only if, with respect to the jurisdiction of the public entity involved, the entity has submitted to the Secretary, and has had approved by the Secretary, a plan for the development of a jurisdiction-wide system of care for community-based services for children with a serious emotional disturbance that specifies the progress the public entity has made in developing the jurisdiction-wide system, the extent of cooperation across agencies serving children in the establishment of the system, the Federal and non-Federal resources currently committed to the establishment of the system, and the current gaps in community services and the manner in which the grant under section 561(a) will be expended to address such gaps and establish local systems of care.

"(c) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—A funding agreement for a grant under section 561(a) is that, if a charge is imposed for the provision of services under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public; Public information.

"(2) will be adjusted to reflect the income of the family of the child involved; and

"(3) will not be imposed on any child whose family has income and resources of equal to or less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the

Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(d) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—A funding agreement for a grant under section 561(a) is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under section 561(a) is that not more than 2 percent of the grant will be expended for administrative expenses incurred with respect to the grant by the public entity involved.

"(f) REPORTS TO SECRETARY.—A funding agreement for a grant under section 561(a) is that the public entity involved will annually submit to the Secretary a report on the activities of the entity under the grant that includes a description of the number of children provided access to systems of care operated pursuant to the grant, the demographic characteristics of the children, the types and costs of services provided pursuant to the grant, the availability and use of third-party reimbursements, estimates of the unmet need for such services in the jurisdiction of the entity, and the manner in which the grant has been expended toward the establishment of a jurisdiction-wide system of care for children with a serious emotional disturbance, and such other information as the Secretary may require with respect to the grant.

"(g) DESCRIPTION OF INTENDED USES OF GRANT.—The Secretary may make a grant under section 561(a) only if—

"(1) the public entity involved submits to the Secretary a description of the purposes for which the entity intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the jurisdiction of the entity with a need for services under this section; and

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprofit entities.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may make a grant under section 561(a) only if an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

42 USC 290ff-4.

"SEC. 565. GENERAL PROVISIONS.

"(a) DURATION OF SUPPORT.—The period during which payments are made to a public entity from a grant under section 561(a) may not exceed 5 fiscal years.

"(b) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall, upon the request of a public entity receiving a grant under section 561(a)—

"(A) provide technical assistance to the entity regarding the process of submitting to the Secretary applications for grants under section 561(a); and

"(B) provide to the entity training and technical assistance with respect to the planning, development, and operation of systems of care pursuant to section 562.

"(2) AUTHORITY FOR GRANTS AND CONTRACTS.—The Secretary may provide technical assistance under subsection (a) directly or through grants to, or contracts with, public and nonprofit private entities.

"(c) EVALUATIONS AND REPORTS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 561(a). The evaluations shall assess the effectiveness of the systems of care operated pursuant to such section, including longitudinal studies of outcomes of services provided by such systems, other studies regarding such outcomes, the effect of activities under this subpart on the utilization of hospital and other institutional settings, the barriers to and achievements resulting from interagency collaboration in providing community-based services to children with a serious emotional disturbance, and assessments by parents of the effectiveness of the systems of care.

"(2) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under subsection (c), and annually thereafter, submit to the Congress a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this section as the Secretary determines to be appropriate.

"(d) DEFINITIONS.—For purposes of this subpart:

"(1) The term 'child' means an individual not more than 21 years of age.

"(2) The term 'family', with respect to a child provided access to a system of care under section 562(a), means—

"(A) the legal guardian of the child; and

"(B) as appropriate regarding mental health services for the child, the parents of the child (biological or adoptive, as the case may be) and any foster parents of the child.

"(3) The term 'funding agreement', with respect to a grant under section 561(a) to a public entity, means that the Secretary may make such a grant only if the public entity makes the agreement involved.

"(4) The term 'serious emotional disturbance' includes, with respect to a child, any child who has a serious emotional disorder, a serious behavioral disorder, or a serious mental disorder.

"(e) RULE OF CONSTRUCTION.—Nothing in this part shall be construed as limiting the rights of a child with a serious emotional disturbance under the Individuals with Disabilities Education Act.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appro-

priated $100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) SET-ASIDE REGARDING TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than $3,000,000 for the purpose of carrying out subsection (b).".

SEC. 120. STRIKING OF CERTAIN PROVISIONS AND TECHNICAL AND CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) as such title existed 1 day prior to the date of enactment of this Act, is amended by striking out sections 509B, 509C, 509E, 509F and 509G (42 U.S.C. 290aa–9, 290aa–10, 290aa–12, 290aa–13, and 290aa–14).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) in the heading for such title, to read as follows:

"TITLE V—SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION";

(2) in the heading for part A, to read as follows:

"PART A—ORGANIZATION AND GENERAL AUTHORITIES"; and

42 USC 290cc–11.

(3) by striking out section 518.

Subtitle B—Institutes

SEC. 121. ORGANIZATION OF NATIONAL INSTITUTES OF HEALTH.

(a) IN GENERAL.—Section 401(b)(1) of the Public Health Service Act (42 U.S.C. 281(b)(1)) is amended by adding at the end thereof the following new subparagraphs:

"(N) The National Institute on Alcohol Abuse and Alcoholism.

"(O) The National Institute on Drug Abuse.

"(P) The National Institute of Mental Health.".

(b) DEFINITION.—Part B of title IV of the Public Health Service Act (42 U.S.C. 284 et seq.) is amended by adding at the end thereof the following new section:

"DEFINITIONS

42 USC 284d.

"SEC. 409. For purposes of this title, the term 'health services research' means research endeavors that study the impact of the organization, financing and management of health services on the quality, cost, access to and outcomes of care.".

SEC. 122. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

(a) CREATION OF SUBPART.—Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 14—National Institute on Alcohol Abuse and Alcoholism

"PURPOSE OF INSTITUTE

"SEC. 464H. (a) IN GENERAL.—The general purpose of the National Institute of Alcohol Abuse and Alcoholism (hereafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the prevention of alcohol abuse and the treatment of alcoholism.". 42 USC 285n.

(b) ADDITIONAL PROVISIONS.—

(1) RESEARCH PROGRAM.—Subsection (b) of section 510 of the Public Health Service Act (42 U.S.C. 290bb and 290bb-1), as such section existed 1 day prior to the date of the enactment of this Act— 42 USC 290bb.

(A) is transferred to section 464H of the Public Health Service Act, as added by subsection (a) of this section; and

(B) is inserted after subsection (a) of such section 464H. Such section 510, as so amended, is repealed.

(2) ADDITIONAL PROVISIONS.—Section 464H of the Public Health Service Act (as amended by paragraph (1)) is amended—

(A) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "(b) In carrying out the program" and all that follows through "Institute, is authorized" and inserting the following: "(b) RESEARCH PROGRAM.—The research program established under this subpart shall encompass the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of alcohol abuse and alcoholism. In carrying out the program, the Director of the Institute is authorized"; and

(ii) in paragraph (3)(H), by striking out the period and inserting in lieu thereof a semicolon; and

(B) by adding at the end the following subsections:

"(c) COLLABORATION.—The Director of the Institute shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the Institute and in disseminating the results of such research to health professionals and the general public.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $300,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) ALLOCATION FOR HEALTH SERVICES RESEARCH.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to alcohol abuse and alcoholism.".

(c) ASSOCIATE DIRECTOR FOR PREVENTION.—Subpart 14 of part C of title IV (as added by subsection (a)) is amended by adding at the end thereof the following new section:

"ASSOCIATE DIRECTOR FOR PREVENTION

42 USC 285n-1. "SEC. 464I. (a) IN GENERAL.—There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of alcohol abuse and alcoholism. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in alcohol abuse and alcoholism or the prevention of such.

"(b) BIENNIAL REPORT.—The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 407 a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.".

(d) NATIONAL CENTER FOR RESEARCH.—

(1) IN GENERAL.—Section 511 of the Public Health Service Act (42 U.S.C. 290bb and 290bb–1) as such section existed 1 day prior to the date of enactment of this Act—

42 USC 290bb-1.

(A) is transferred to subpart 14 of part C of title IV of such Act (as added by subsection (a));

42 USC 285n-2.

(B) is redesignated as section 464J; and

(C) is inserted after section 464I (as added by subsection (c)).

(2) TECHNICAL CORRECTION.—Section 464J of the Public Health Service Act (as added by paragraph (1)) is amended in subsection (b) by striking "or rental".

(d) CONFORMING AMENDMENT.—Section 513 of the Public Health Service Act (42 U.S.C. 290bb–2), as such section existed 1 day prior to the date of enactment of this Act, is repealed.

SEC. 123. NATIONAL INSTITUTE ON DRUG ABUSE.

(a) CREATION OF SUBPART.—Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) (as amended by section 122) is further amended by adding at the end thereof the following new subpart:

"Subpart 15—National Institute on Drug Abuse

"PURPOSE OF INSTITUTE

42 USC 285o. "SEC. 464L. (a) IN GENERAL.—The general purpose of the National Institute on Drug Abuse (hereafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the prevention of drug abuse and the treatment of drug abusers.

"(b) RESEARCH PROGRAM.—The research program established under this subpart shall encompass the social, behavioral, and biomedical etiology, mental and physical health consequences, and social and economic consequences of drug abuse. In carrying out the program, the Director of the Institute shall give special consideration to projects relating to drug abuse among women (particularly with respect to pregnant women).

"(c) COLLABORATION.—The Director of the Institute shall collaborate with the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the

Institute and in disseminating the results of such research to health professionals and the general public.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $440,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) ALLOCATION FOR HEALTH SERVICES RESEARCH.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to drug abuse.".

(b) ADDITIONAL PROVISIONS.—Subpart 15 of part C of title IV of the Public Health Service Act (as added by subsection (a)) is amended by adding at the end thereof the following new sections:

"ASSOCIATE DIRECTOR FOR PREVENTION

"SEC. 464M. (a) IN GENERAL.—There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of drug abuse. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in drug abuse and the prevention of such abuse. 42 USC 285o-1.

"(b) REPORT.—The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 407 a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

"DRUG ABUSE RESEARCH CENTERS

"SEC. 464N. (a) AUTHORITY.—The Director of the Institute may designate National Drug Abuse Research Centers for the purpose of interdisciplinary research relating to drug abuse and other biomedical, behavioral, and social issues related to drug abuse. No entity may be designated as a Center unless an application therefore has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless— 42 USC 285o-2.

"(1) the application contains or is supported by reasonable assurances that—

"(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on drug abuse and to provide coordination of such research among such disciplines;

"(B) the applicant has available to it sufficient facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application;

"(C) the applicant has facilities and personnel to provide training in the prevention and treatment of drug abuse;

"(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on drug abuse;

"(E) the applicant has the capacity to conduct courses on drug abuse problems and research on drug abuse for undergraduate and graduate students, and medical and

osteopathic, nursing, social work, and other specialized graduate students; and

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.

"(2) the application contains a detailed five-year plan for research relating to drug abuse.

"(b) GRANTS.—The Director of the Institute shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No funds provided under a grant under this subsection may be used for the purchase of any land or the purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term 'construction' has the meaning given that term by section 701(2).

"OFFICE ON AIDS

Establishment.
42 USC 285o-3.

"SEC. 464O. The Director of the Institute shall establish within the Institute an Office on AIDS. The Office shall be responsible for the coordination of research and determining the direction of the Institute with respect to AIDS research related to—

"(1) primary prevention of the spread of HIV, including transmission via drug abuse;

"(2) drug abuse services research; and

"(3) other matters determined appropriate by the Director.

"MEDICATION DEVELOPMENT PROGRAM

42 USC 285o-4.

"SEC. 464P. (a) ESTABLISHMENT.—There is established in the Institute a Medication Development Program through which the Director of such Institute shall—

"(1) conduct periodic meetings with the Commissioner of Food and Drugs to discuss measures that may facilitate the approval process of drug abuse treatments;

"(2) encourage and promote (through grants, contracts, international collaboration, or otherwise) expanded research programs, investigations, experiments, community trials, and studies, into the development and use of medications to treat drug addiction;

"(3) establish or provide for the establishment of research facilities;

"(4) report on the activities of other relevant agencies relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(5) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and collect, catalog, analyze, and disseminate through international channels, the results of such research;

"(6) directly or through grants, contracts, or cooperative agreements, support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug abuse, including the use of training stipends, fellowships, and awards where appropriate; and

"(7) coordinate the activities conducted under this section with related activities conducted within the National Institute on Alcohol Abuse and Alcoholism, the National Institute of

Mental Health, and other appropriate institutes and shall consult with the Directors of such Institutes.

"(b) DUTIES.—In carrying out the activities described in subsection (a), the Director of the Institute—

"(1) shall collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) shall make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the program; Contracts.

"(3) may, in accordance with section 496, and in consultation with the National Advisory Council on Drug Abuse, acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic research centers, laboratories, and other necessary facilities and equipment, and such other real or personal property as the Director determines necessary, and may, in consultation with such Advisory Council, make grants for the construction or renovation of facilities to carry out the purposes of this section;

"(4) may accept voluntary and uncompensated services;

"(5) may accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(6) shall take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Administration and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(c) REPORT.—

"(1) IN GENERAL.—Not later than December 31, 1992, and each December 31 thereafter, the Director of the Institute shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the program assisted under this section.

"(2) NATIONAL DRUG CONTROL STRATEGY.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(d) DEFINITION.—For purposes of this section, the term 'pharmacotherapeutics' means medications used to treat the symptoms and disease of drug abuse, including medications to—

"(1) block the effects of abused drugs;

"(2) reduce the craving for abused drugs;

"(3) moderate or eliminate withdrawal symptoms;

"(4) block or reverse the toxic effect of abused drugs; or

"(5) prevent relapse in persons who have been detoxified from drugs of abuse.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $85,000,000 for fiscal year 1993, and $95,000,000 for fiscal year 1994.".

(c) CONFORMING AMENDMENTS.—Section 515, 516, and 517 of the Public Health Service Act (42 U.S.C. 290cc) as such sections existed 1 day prior to the date of enactment of this Act are repealed. 42 USC 290cc, 290cc-1, 290cc-2.

SEC. 124. NATIONAL INSTITUTE OF MENTAL HEALTH.

(a) CREATION OF SUBPART.—Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) (as amended by section 123) is further amended by adding at the end thereof the following new subpart:

"Subpart 16—National Institute of Mental Health

"PURPOSE OF INSTITUTE

42 USC 285p.

"SEC. 464R. (a) IN GENERAL.—The general purpose of the National Institute of Mental Health (hereafter in this subpart referred to as the 'Institute') is the conduct and support of biomedical and behavioral research, health services research, research training, and health information dissemination with respect to the cause, diagnosis, treatment, control and prevention of mental illness.

"(b) RESEARCH PROGRAM.—The research program established under this subpart shall include support for biomedical and behavioral neuroscience and shall be designed to further the treatment and prevention of mental illness, the promotion of mental health, and the study of the psychological, social and legal factors that influence behavior.

"(c) COLLABORATION.—The Director of the Institute shall collaborate with the Administrator of the Substance Abuse and Mental Health Services Administration in focusing the services research activities of the Institute and in disseminating the results of such research to health professionals and the general public.

"(d) INFORMATION WITH RESPECT TO SUICIDE.—

"(1) IN GENERAL.—The Director of the Institute shall—

"(A) develop and publish information with respect to the causes of suicide and the means of preventing suicide; and

Public information.

"(B) make such information generally available to the public and to health professionals.

"(2) YOUTH SUICIDE.—Information described in paragraph (1) shall especially relate to suicide among individuals under 24 years of age.

"(e) ASSOCIATE DIRECTOR FOR SPECIAL POPULATIONS.—

"(1) IN GENERAL.—The Director of the Institute shall designate an Associate Director for Special Populations.

"(2) DUTIES.—The Associate Director for Special Populations shall—

"(A) develop and coordinate research policies and programs to assure increased emphasis on the mental health needs of women and minority populations;

"(B) support programs of basic and applied social and behavioral research on the mental health problems of women and minority populations;

"(C) study the effects of discrimination on institutions and individuals, including majority institutions and individuals;

"(D) support and develop research designed to eliminate institutional discrimination; and

"(E) provide increased emphasis on the concerns of women and minority populations in training programs, service delivery programs, and research endeavors of the Institute.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart other than section 464P, there are authorized to be appropriated $675,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) ALLOCATION FOR HEALTH SERVICES RESEARCH.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director shall obligate not less than 15 percent to carry out health services research relating to mental health.".

(b) ADDITIONAL PROVISIONS.—Subpart 16 of part C of title IV (as added by subsection (a)) is further amended by adding at the end thereof the following new section:

"ASSOCIATE DIRECTOR FOR PREVENTION

"SEC. 464S. (a) IN GENERAL.—There shall be in the Institute an Associate Director for Prevention who shall be responsible for the full-time coordination and promotion of the programs in the Institute concerning the prevention of mental disorder. The Associate Director shall be appointed by the Director of the Institute from individuals who because of their professional training or expertise are experts in mental disorder and the prevention of such. 42 USC 285p-1.

"(b) REPORT.—The Associate Director for Prevention shall prepare for inclusion in the biennial report made under section 407 a description of the prevention activities of the Institute, including a description of the staff and resources allocated to those activities.

"OFFICE OF RURAL MENTAL HEALTH RESEARCH

"SEC. 464T. (a) IN GENERAL.—There is established within the Institute an office to be known as the Office of Rural Mental Health Research (hereafter in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of such Institute from among individuals experienced or knowledgeable in the provision of mental health services in rural areas. The Secretary shall carry out the authorities established in this section acting through the Director of the Office. Establishment. 42 USC 285p-2.

"(b) COORDINATION OF ACTIVITIES.—The Director of the Office, in consultation with the Director of the Institute and with the Director of the Office of Rural Health Policy, shall—

"(1) coordinate the research activities of the Department of Health and Human Services as such activities relate to the mental health of residents of rural areas; and

"(2) coordinate the activities of the Office with similar activities of public and nonprofit private entities.

"(c) RESEARCH, DEMONSTRATIONS, EVALUATIONS, AND DISSEMINATION.—The Director of the Office may, with respect to the mental health of adults and children residing in rural areas—

"(1) conduct research on conditions that are unique to the residents of rural areas, or more serious or prevalent in such residents;

"(2) conduct research on improving the delivery of services in such areas; and

"(3) disseminate information to appropriate public and nonprofit private entities.

"(d) AUTHORITY REGARDING GRANTS AND CONTRACTS.—The Director of the Office may carry out the authorities established in sub-

section (c) directly and through grants, cooperative agreements, or contracts with public or nonprofit private entities.

"(e) REPORT TO CONGRESS.—Not later than February 1, 1993, and each fiscal year thereafter, the Director shall submit to the Subcommittee on Health and the Environment of the Committee on Energy and Commerce (of the House of Representatives), and to the Committee on Labor and Human Resources (of the Senate), a report describing the activities of the Office during the preceding fiscal year, including a summary of the activities of demonstration projects and a summary of evaluations of the projects.

"OFFICE ON AIDS

Establishment.
42 USC 285p-3.

"SEC. 464U. The Director of the Institute shall establish within the Institute an Office on AIDS. The Office shall be responsible for the coordination of research and determining the direction of the Institute with respect to AIDS research related to—

"(1) primary prevention of the spread of HIV, including transmission via sexual behavior;

"(2) mental health services research; and

"(3) other matters determined appropriate by the Director.".

SEC. 125. COLLABORATIVE USE OF CERTAIN HEALTH SERVICES RESEARCH FUNDS.

Part G of title IV of the Public Health Service Act is amended by inserting after section 494 (42 U.S.C. 289c) the following new section:

"COLLABORATIVE USE OF CERTAIN HEALTH SERVICES RESEARCH FUNDS

42 USC 289c-1.

"SEC. 494A. (a) IN GENERAL.—The Secretary shall ensure that amounts made available under subparts 14, 15 and 16 of part C for health services research relating to alcohol abuse and alcoholism, drug abuse and mental health be used collaboratively, as appropriate, and in consultation with the Agency for Health Care Policy Research.

"(b) REPORT.—Not later than May 3, 1993, and annually thereafter, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the activities carried out with the amounts referred to in subsection (a).".

Subtitle C—Miscellaneous Provisions Relating to Substance Abuse and Mental Health

SEC. 131. MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH.

42 USC 290dd-3, 290ee—290ee-3.

Part D of title V of the Public Health Service Act (42 U.S.C. 290dd et seq.) is amended to read as follows:

"PART D—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

"SEC. 541. SUBSTANCE ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES.

Intergovernmental relations. Business and industry. 42 USC 290dd.

"(a) PROGRAMS AND SERVICES.—

"(1) DEVELOPMENT.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall be responsible for fostering substance abuse prevention and treatment programs and services in State and local governments and in private industry.

"(2) MODEL PROGRAMS.—

"(A) IN GENERAL.—Consistent with the responsibilities described in paragraph (1), the Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) DISSEMINATION OF INFORMATION.—The Secretary, acting through the Administrator of the Substance Abuse and Mental Health Services Administration, shall disseminate information and materials relative to such model programs to the State agencies responsible for the administration of substance abuse prevention, treatment, and rehabilitation activities and shall, to the extent feasible provide technical assistance to such agencies as requested.

"(b) DEPRIVATION OF EMPLOYMENT.—

"(1) PROHIBITION.—No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse.

"(2) APPLICATION.—This subsection shall not apply to employment in—

"(A) the Central Intelligence Agency;

"(B) the Federal Bureau of Investigation;

"(C) the National Security Agency;

"(D) any other department or agency of the Federal Government designated for purposes of national security by the President; or

"(E) in any position in any department or agency of the Federal Government, not referred to in subparagraphs (A) through (D), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position.

"(3) REHABILITATION ACT.—The inapplicability of the prohibition described in paragraph (1) to the employment described in paragraph (2) shall not be construed to reflect on the applicability of the Rehabilitation Act of 1973 or other antidiscrimination laws to such employment.

"(c) CONSTRUCTION.—This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

42 USC 290dd-1.

"SEC. 542. ADMISSION OF SUBSTANCE ABUSERS TO PRIVATE AND PUBLIC HOSPITALS AND OUTPATIENT FACILITIES.

"(a) NONDISCRIMINATION.—Substance abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their substance abuse, by any private or public general hospital, or outpatient facility (as defined in section 1624(4)) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of substance abusers in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

"(2) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this paragraph, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

42 USC 290dd-2.

"SEC. 543. CONFIDENTIALITY OF RECORDS.

"(a) REQUIREMENT.—Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

"(b) PERMITTED DISCLOSURE.—

"(1) CONSENT.—The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

"(2) METHOD FOR DISCLOSURE.—Whether or not the patient, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) USE OF RECORDS IN CRIMINAL PROCEEDINGS.—Except as authorized by a court order granted under subsection (b)(2)(C), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) APPLICATION.—The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

"(e) NONAPPLICABILITY.—The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

"(2) between such components and the Armed Forces.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

"(f) PENALTIES.—Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined in accordance with title 18, United States Code.

"(g) REGULATIONS.—Except as provided in subsection (h), the Secretary shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent

circumvention or evasion thereof, or to facilitate compliance therewith.

"(h) APPLICATION TO DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary of Health and Human Services under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.".

42 USC 290aa note.

Subtitle D—Transfer Provisions

SEC. 141. TRANSFERS.

(a) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the Administrator of the Substance Abuse and Mental Health Services Administration all service related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, or the Director of any entity within the Alcohol, Drug Abuse and Mental Health Administration, exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse and Mental Health Administration.

(b) NATIONAL INSTITUTES.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the appropriate Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, through the Director of the National Institutes of Health, all research related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse, and Mental Health Administration.

(c) ADEQUATE PERSONNEL AND RESOURCES.—The transfers required under this subtitle shall be effectuated in a manner that ensures that the Substance Abuse and Mental Health Services Administration has adequate personnel and resources to carry out its statutory responsibilities and that the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health have adequate personnel and resources to enable such institutes to carry out their respective statutory responsibilities.

SEC. 142. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.—Except as otherwise provided in the Public Health Serv-

ice Act, all personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Administrator of the Substance Abuse and Mental Health Services Administration by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the Substance Abuse and Mental Health Services Administration. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) NATIONAL INSTITUTES.—Except as otherwise provided in the Public Health Service Act, all personnel employed in connection with, and all assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(c) CUSTODY OF BALANCES.—The actual transfer of custody of obligation balances is not required in order to implement this section.

SEC. 143. INCIDENTAL TRANSFERS.

Prior to October 1, 1992, the Secretary of Health and Human Services is authorized to make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle and the Public Health Service Act. Such Secretary shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 144. EFFECT ON PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided by this subtitle and the Public Health Service Act, the transfer pursuant to this subtitle of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this subtitle.

(b) EXECUTIVE SCHEDULE POSITIONS.—Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without

a break in service, is appointed in the Substance Abuse and Mental Health Services Administration to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 145. SAVINGS PROVISIONS.

(a) EFFECT ON PREVIOUS DETERMINATIONS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this subtitle; and

(2) are in effect on the date of enactment of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the National Institutes of Health, or the Administrator of the Substance Abuse and Mental Health Services Administration, as appropriate, a court of competent jurisdiction, or by operation of law.

(b) CONTINUATION OF PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this subtitle shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the date of enactment of this Act before the Department of Health and Human Services, which relates to the Alcohol, Drug Abuse and Mental Health Administration or the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health, or any office thereof with respect to functions transferred by this subtitle. Such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

(2) REGULATIONS.—The Secretary of Health and Human Services is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) EFFECT ON LEGAL ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this subtitle do not affect actions commenced prior to the date of enactment of this Act; and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) NO ABATEMENT OF ACTIONS OR PROCEEDINGS.—No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services with respect to functions transferred by this subtitle shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Health and Human Services with respect to functions transferred by this subtitle, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this subtitle, or other proceedings may be asserted by or against the United States or the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) SUBSTITUTION.—If, before the date of enactment of this Act, the Department of Health and Human Services, or any officer thereof in the official capacity of such officer, is a party to an action, and under this subtitle any function of such Department, Office, or officer is transferred to the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, then such action shall be continued with the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as the case may be, substituted or added as a party.

(f) JUDICIAL REVIEW.—Orders and actions of the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health in the exercise of functions transferred to the Directors by this subtitle shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the Administrator of the Substance Abuse and Mental Health Services Administration or the Directors.

SEC. 146. TRANSITION.

With the consent of the Secretary of Health and Human Services, the Administrator of the Substance Abuse and Mental Health Serv-

ices Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health are authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department with respect to functions transferred to the Administrator of the Substance Abuse and Mental Health Services Administration and the Director of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subtitle.

SEC. 147. PEER REVIEW.

With respect to fiscal years 1993 through 1996, the peer review systems, advisory councils and scientific advisory committees utilized, or approved for utilization, by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health prior to the transfer of such Institutes to the National Institute of Health shall be utilized by such Institutes.

SEC. 148. MERGERS.

Notwithstanding the provisions of section 401(c)(2) of the Public Health Service Act (42 U.S.C. 281(c)(2)), the Secretary of Health and Human Services may not merge the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse or the National Institute of Mental Health with any other institute or entity (or with each other) within the national research institutes for a 5-year period beginning on the date of enactment of this Act.

SEC. 149. CONDUCT OF MULTI-YEAR RESEARCH PROJECTS.

With respect to multi-year grants awarded prior to fiscal year 1993 by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health with amounts received under section 1911(b), as such section existed one day prior to the date of enactment of this Act, such grants shall be continued for the entire period of the grant through the utilization of funds made available pursuant to sections 464I, 464O, or 464T, as appropriate, subject to satisfactory performance.

SEC. 150. SEPARABILITY.

If a provision of this subtitle or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 151. BUDGETARY AUTHORITY.

With respect to fiscal years 1994 and 1995, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health shall notwithstanding section 405(a), prepare and submit, directly to the President for review and transmittal to Congress, an annual budget estimate (including an estimate of

the number and type of personnel needs for the Institute) for their respective Institutes, after reasonable opportunity for comment (but without change) by the Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Institute's advisory council.

Subtitle E—References and Conforming Amendments

SEC. 161. REFERENCES.

42 USC 290aa note.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Alcohol, Drug Abuse and Mental Health Administration or to the Administrator of the Alcohol, Drug Abuse and Mental Health Administration shall be deemed to refer to the Substance Abuse and Mental Health Services Administration or to the Administrator of the Substance Abuse and Mental Health Services Administration.

SEC. 162. TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290cc–21), by striking out "National Institute of Mental Health" and inserting in lieu thereof "Center for Mental Health Services"; and

(2) in section 530 (42 U.S.C. 290cc–30), by striking out "through the National" and all that follows through "Abuse" and inserting in lieu thereof "through the agencies of the Administration".

SEC. 163. CONFORMING AMENDMENTS.

(a) TITLE V.—Title V of the Public Health Service Act is amended—

(1) in section 521 (42 U.S.C. 290cc–21), by striking "Director of the National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Substance Abuse and Mental Health Services Administration";

(2) in section 528 (42 U.S.C. 290cc–28)—

(A) by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "and the Administrator of the Substance Abuse and Mental Health Services Administration" in subsection (a); and

(B) by striking "National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Substance Abuse and Mental Health Services Administration" in subsection (c); and

(3) in section 530 (42 U.S.C. 290cc–30), by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "the Administrator of the Substance Abuse and Mental Health Services Administration".

(b) GENERAL PUBLIC HEALTH SERVICE ACT AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 227 (42 U.S.C. 236)—

(A) by striking out ", and the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c)(2);

(B) by striking out ", the Alcohol, Drug Abuse, and Mental Health Administration," in subsection (c)(3);

(C) by striking out "and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (e); and

(D) by striking out "and the Alcohol, Drug Abuse, and Mental Health Administration" each place such term appears in subsection (e);

(2) in section 319(a) (42 U.S.C. 247d(a))—

(A) by striking out "the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Administrator of the Substance Abuse and Mental Health Services Administration"; and

(B) by striking out "Director, Administrator" in the matter following paragraph (2) and inserting in lieu thereof "Directors, Administrator";

(3) in section 402(d)(1) (42 U.S.C. 282(d)(1)), by striking out "two hundred" and inserting in lieu thereof "220";

(4) in section 487(a)(1) (42 U.S.C. 288(a)(1))—

(A) by striking out "and the Alcohol, Drug Abuse, and Mental Health Administration" in subparagraph (A)(i); and

(B) by striking out "or the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following subparagraph (B);

(5) in section 489(a)(2) (42 U.S.C. 288b(a)(2)), by striking out "and institutes under the Alcohol, Drug Abuse, and Mental Health Administration";

(6) in section 499A(g)(9) (42 U.S.C. 290b(g)(9))—

(A) by striking out "or the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration"; and

(B) by striking out "and the Alcohol, Drug Abuse, and Mental Health Administration"; and

(7) in section 2303 (42 U.S.C. 300cc–2)—

(A) by striking out "Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (b), and inserting in lieu thereof "Administrator of the Substance Abuse and Mental Health Services Administration"; and

(B) by striking out "Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c), and inserting in lieu thereof "Administrator of the Substance Abuse and Mental Health Services Administration".

(c) OTHER LAWS.—

(1) Section 4 of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended—

(A) in subsection (b), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration,";

(B) in subsection (c)—

(i) by striking out "the Alcohol, Drug Abuse, and Mental Health Administration," in the matter preceding paragraph (1); and

(ii) by striking out "the institutes of the Alcohol, Drug Abuse, and Mental Health Administration," in paragraph (7); and

(C) in subsection (d)—

(i) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) Four nonvoting members shall be appointed for the directors of the national research institutes of the National Institutes of Health which the Secretary determines are involved with rare diseases."; and

(ii) by striking out "or an institute of the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following paragraph (3).

(2) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 202(b)(1) (42 U.S.C. 3012(b)(1)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Substance Abuse and Mental Health Services Administration";

(B) in section 301(b)(2) (42 U.S.C. 3021(b)(2)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Substance Abuse and Mental Health Services Administration"; and

(C) in section 402(b) (42 U.S.C. 3030bb(b)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Substance Abuse and Mental Health Services Administration".

(3) The Protection and Advocacy for Mentally Ill Individuals Act of 1986 is amended—

(A) in section 111(c) (42 U.S.C. 10821(c)), by striking out "3-year" each place that such appears and inserting in lieu thereof "4-year"; and

(B) in section 116 (42 U.S.C. 10826), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Substance Abuse and Mental Health Services Administration".

Subtitle F—Employee Assistance Programs

SEC. 171. PROGRAM OF GRANTS UNDER CENTER FOR SUBSTANCE ABUSE PREVENTION.

Title V of the Public Health Service Act (as amended by section 114 and 120) is amended by adding at the end of subpart 2 of part B the following new section:

"SEC. 518. EMPLOYEE ASSISTANCE PROGRAMS. 42 USC 290bb-24.

"(a) IN GENERAL.—The Director of the Prevention Center may make grants to public and nonprofit private entities for the purpose of assisting business organizations in establishing employee assistance programs to provide appropriate services for employees of the organizations regarding substance abuse, including education and prevention services and referrals for treatment.

"(b) CERTAIN REQUIREMENTS.—A business organization may not be assisted under subsection (a) if the organization has an employee assistance program in operation. The organization may receive such

assistance only if the organization lacks the financial resources for operating such a program.

"(c) SPECIAL CONSIDERATION FOR CERTAIN SMALL BUSINESSES.—In making grants under subsection (a), the Director of the Prevention Office shall give special consideration to business organizations with 50 or fewer employers.

"(d) CONSULTATION AND TECHNICAL ASSISTANCE.—In the case of small businesses being assisted under subsection (a), the Secretary shall consult with the entities and organizations involved and provide technical assistance and training with respect to establishing and operating employee assistance programs in accordance with this subtitle. Such assistance shall include technical assistance in establishing workplace substance abuse programs.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.".

TITLE II—BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

SEC. 201. ESTABLISHMENT OF SEPARATE BLOCK GRANT REGARDING MENTAL HEALTH.

Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) is amended—

(1) by amending the heading for the part to read as follows:

"PART B—BLOCK GRANTS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE"; and

(2) by striking subparts 1 and 2 and inserting the following:

"Subpart I—Block Grants for Community Mental Health Services

42 USC 300x.

"SEC. 1911. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Director of the Center for Mental Health Services, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1918. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1917.

"(b) PURPOSE OF GRANTS.—A funding agreement for a grant under subsection (a) is that, subject to section 1916, the State involved will expend the grant only for the purpose of—

"(1) carrying out the plan submitted under section 1912(a) by the State for the fiscal year involved;

"(2) evaluating programs and services carried out under the plan; and

"(3) planning, administration, and educational activities related to providing services under the plan.

"SEC. 1912. STATE PLAN FOR COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CERTAIN INDIVIDUALS. 42 USC 300x-1.

"(a) IN GENERAL.—The Secretary may make a grant under section 1911 only if—

"(1) the State involved submits to the Secretary a plan for providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance;

"(2) the plan meets the criteria specified in subsection (b); and

"(3) the plan is approved by the Secretary.

"(b) CRITERIA FOR PLAN.—With respect to the provision of comprehensive community mental health services to individuals who are either adults with a serious mental illness or children with a serious emotional disturbance, the criteria referred to in subsection (a) regarding a plan are as follows:

"(1) The plan provides for the establishment and implementation of an organized community-based system of care for such individuals.

"(2) The plan contains quantitative targets to be achieved in the implementation of such system, including the numbers of such individuals residing in the areas to be served under such system.

"(3) The plan describes available services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided such individuals.

"(4) The plan describes health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to such individuals with Federal, State and local public and private resources to enable such individuals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Individuals with Disabilities Education Act.

"(5) The plan describes the financial resources and staffing necessary to implement the requirements of such plan, including programs to train individuals as providers of mental health services, and the plan emphasizes training of providers of emergency health services regarding mental health.

"(6) The plan provides for activities to reduce the rate of hospitalization of such individuals.

"(7)(A) Subject to subparagraph (B), the plan requires the provision of case management services to each such individual in the State who receives substantial amounts of public funds or services.

"(B) The plan may provide that the requirement of subparagraph (A) will not be substantially completed until the end of fiscal year 1993.

"(8) The plan provides for the establishment and implementation of a program of outreach to, and services for, such individuals who are homeless.

"(9) In the case of children with a serious emotional disturbance, the plan—

"(A) subject to subparagraph (B), provides for a system of integrated social services, educational services, juvenile services, and substance abuse services that, together with health and mental health services, will be provided in order for such children to receive care appropriate for their multiple needs (which system includes services provided under the Individuals with Disabilities Education Act);

"(B) provides that the grant under section 1911 for the fiscal year involved will not be expended to provide any service of such system other than comprehensive community mental health services; and

"(C) provides for the establishment of a defined geographic area for the provision of the services of such system.

"(10) The plan describes the manner in which mental health services will be provided to individuals residing in rural areas.

"(11) The plan contains an estimate of the incidence and prevalence in the State of serious mental illness among adults and serious emotional disturbance among children.

"(12) The plan contains a description of the manner in which the State intends to expend the grant under section 1911 for the fiscal year involved to carry out the provisions of the plan required in paragraphs (1) through (11).

"(c) DEFINITIONS REGARDING MENTAL ILLNESS AND EMOTIONAL DISTURBANCE; METHODS FOR ESTIMATE OF INCIDENCE AND PREVALENCE.—

"(1) ESTABLISHMENT BY SECRETARY OF DEFINITIONS; DISSEMINATION.—For purposes of this subpart, the Secretary shall establish definitions for the terms 'adults with a serious mental illness' and 'children with a serious emotional disturbance'. The Secretary shall disseminate the definitions to the States.

"(2) STANDARDIZED METHODS.—The Secretary shall establish standardized methods for making the estimates required in subsection (b)(11) with respect to a State. A funding agreement for a grant under section 1911 for the State is that the State will utilize such methods in making the estimates.

"(3) DATE CERTAIN FOR COMPLIANCE BY SECRETARY.—Not later than 90 days after the date of the enactment of the ADAMHA Reorganization Act, the Secretary shall establish the definitions described in paragraph (1), shall begin dissemination of the definitions to the States, and shall establish the standardized methods described in paragraph (2).

"(d) REQUIREMENT OF IMPLEMENTATION OF PLAN.—

"(1) COMPLETE IMPLEMENTATION.—Except as provided in paragraph (2), in making a grant under section 1911 to a State for a fiscal year, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that a State has not completely implemented the plan, the Secretary shall reduce the amount of the allotment under section 1911 for the State for the fiscal year involved by an amount equal to 10 percent of the amount determined under section 1918 for the State for the fiscal year.

"(2) SUBSTANTIAL IMPLEMENTATION AND GOOD FAITH EFFORT REGARDING FISCAL YEAR 1993.—

"(A) In making a grant under section 1911 to a State for fiscal year 1993, the Secretary shall make a determina-

tion of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that the State has not substantially implemented the plan, the Secretary shall, subject to subparagraph (B), reduce the amount of the allotment under section 1911 for the State for such fiscal year by an amount equal to 10 percent of the amount determined under section 1918 for the State for the fiscal year.

"(B) In carrying out subparagraph (A), if the Secretary determines that the State is making a good faith effort to implement the plan required in subsection (a), the Secretary may make a reduction under such subparagraph in an amount that is less than the amount specified in such subparagraph, except that the reduction may not be made in an amount that is less than 5 percent of the amount determined under section 1918 for the State for fiscal year 1993.

"SEC. 1913. CERTAIN AGREEMENTS. 42 USC 300x-2.

"(a) ALLOCATION FOR SYSTEMS OF INTEGRATED SERVICES FOR CHILDREN.—

"(1) IN GENERAL.—With respect to children with a serious emotional disturbance, a funding agreement for a grant under section 1911 is that—

"(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 10 percent of the grant to increase (relative to fiscal year 1992) funding for the system of integrated services described in section 1912(b)(9);

"(B) in the case of a grant for fiscal year 1994, the State will expend not less than 10 percent of the grant to increase (relative to fiscal year 1993) funding for such system; and

"(C) in the case of a grant for any subsequent fiscal year, the State will expend for such system not less than an amount equal to the amount expended by the State for fiscal year 1994.

"(2) WAIVER.—

"(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of comprehensive community mental health services for children with a serious emotional distrubance, as indicated by a comparison of the number of such children for which such services are sought with the availability in the State of the services.

"(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

"(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

"(b) PROVIDERS OF SERVICES.—A funding agreement for a grant under section 1911 for a State is that, with respect to the plan submitted under section 1912(a) for the fiscal year involved—

"(1) services under the plan will be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs); and

"(2) services under the plan will be provided through community mental health centers only if the centers meet the criteria specified in subsection (c).

"(c) CRITERIA FOR MENTAL HEALTH CENTERS.—The criteria referred to in subsection (b)(2) regarding community mental health centers are as follows:

"(1) With respect to mental health services, the centers provide services as follows:

"(A) Services principally to individuals residing in a defined geographic area (hereafter in this subsection referred to as a 'service area').

"(B) Outpatient services, including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service areas of the centers who have been discharged from inpatient treatment at a mental health facility.

"(C) 24-hour-a-day emergency care services.

"(D) Day treatment or other partial hospitalization services, or psychosocial rehabilitation services.

"(E) Screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission.

"(2) The mental health services of the centers are provided, within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay for such services.

"(3) The mental health services of the centers are available and accessible promptly, as appropriate and in a manner which preserves human dignity and assures continuity and high quality care.

42 USC 300x-3.

"SEC. 1914. STATE MENTAL HEALTH PLANNING COUNCIL.

"(a) IN GENERAL.—A funding agreement for a grant under section 1911 is that the State involved will establish and maintain a State mental health planning council in accordance with the conditions described in this section.

"(b) DUTIES.—A condition under subsection (a) for a Council is that the duties of the Council are—

"(1) to review plans provided to the Council pursuant to section 1915(a) by the State involved and to submit to the State any recommendations of the Council for modifications to the plans;

"(2) to serve as an advocate for adults with a serious mental illness, children with a severe emotional disturbance, and other individuals with mental illnesses or emotional problems; and

"(3) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—A condition under subsection (a) for a Council is that the Council be composed of residents of the State, including representatives of—

"(A) the principal State agencies with respect to—

"(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

"(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

"(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

"(C) adults with serious mental illnesses who are receiving (or have received) mental health services; and

"(D) the families of such adults or families of children with emotional disturbance.

"(2) CERTAIN REQUIREMENTS.—A condition under subsection (a) for a Council is that—

"(A) with respect to the membership of the Council, the ratio of parents of children with a serious emotional disturbance to other members of the Council is sufficient to provide adequate representation of such children in the deliberations of the Council; and

"(B) not less than 50 percent of the members of the Council are individuals who are not State employees or providers of mental health services.

"(d) DEFINITION.—For purposes of this section, the term 'Council' means a State mental health planning council.

"SEC. 1915. ADDITIONAL PROVISIONS. 42 USC 300x-4.

"(a) REVIEW OF STATE PLAN BY MENTAL HEALTH PLANNING COUNCIL.—The Secretary may make a grant under section 1911 to a State only if—

"(1) the plan submitted under section 1912(a) with respect to the grant has been reviewed by the State mental health planning council under section 1914; and

"(2) the State submits to the Secretary any recommendations received by the State from such council for modifications to the plan (without regard to whether the State has made the recommended modifications).

"(b) MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES FOR MENTAL HEALTH.—

"(1) IN GENERAL.—A funding agreement for a grant under section 1911 is that the State involved will maintain State expenditures for community mental health services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

"(2) WAIVER.—The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"(3) NONCOMPLIANCE BY STATE.—

"(A) In making a grant under section 1911 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with the agreement made under paragraph (1). If the Secretary determines that a State

has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1911 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

"(B) The Secretary may make a grant under section 1911 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in subparagraph (A).

42 USC 300x-5.

"SEC. 1916. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—A funding agreement for a grant under section 1911 is that the State involved will not expend the grant—

"(1) to provide inpatient services;

"(2) to make cash payments to intended recipients of health services;

"(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under section 1911 is that the State involved will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

42 USC 300x-6.

"SEC. 1917. APPLICATION FOR GRANT.

"(a) IN GENERAL.—For purposes of section 1911, an application for a grant under such section for a fiscal year in accordance with this section if, subject to subsection (b)—

"(1) the State involved submits the application not later than the date specified by the Secretary as being the date after which applications for such a grant will not be considered (in any case in which the Secretary specifies such a date);

"(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

"(3) the agreements are made through certification from the chief executive officer of the State;

"(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(5) the application contains the plan required in section 1912(a), the information required in section 1915(b)(3)(B), and the report required in section 1942(a);

"(6) the application contains recommendations in compliance with section 1915(a), or if no such recommendations are received by the State, the application otherwise demonstrates compliance with such section; and

"(7) the application (including the plan under section 1912(a)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

"(b) WAIVERS REGARDING CERTAIN TERRITORIES.—In the case of any territory of the United States whose allotment under section

1911 for the fiscal year is the amount specified in section 1918(c)(2)(B), the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 1916.

"SEC. 1918. DETERMINATION OF AMOUNT OF ALLOTMENT. 42 USC 300x-7.

"(a) STATES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1911 for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) DETERMINATION OF TERM 'A'.—For purposes of paragraph (1), the term 'A' means the difference between—

"(A) the amount appropriated under section 1920(a) for allotments under section 1911 for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) DETERMINATION OF TERM 'U'.—For purposes of paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for the States under paragraph (4).

"(4) DETERMINATION OF TERM 'X'.—For purposes of paragraph (1), the term 'X' means the product of—

"(A) an amount equal to the product of—

"(i) the term 'P', as determined for the State involved under paragraph (5); and

"(ii) the factor determined under paragraph (8) for the State; and

"(B) the greater of—

"(i) 0.4; and

"(ii) an amount equal to an amount determined for the State in accordance with the following formula:

$$1-.35\left(\frac{R\%}{P\%}\right)$$

"(5) DETERMINATION OF TERM 'P'.—

"(A) For purposes of paragraph (4), the term 'P' means the sum of—

"(i) an amount equal to the product of 0.107 and the number of individuals in the State who are between 18 and 24 years of age (inclusive);

"(ii) an amount equal to the product of 0.166 and the number of individuals in the State who are between 25 and 44 years of age (inclusive);

"(iii) an amount equal to the product of 0.099 and the number of individuals in the State who are between 25 and 64 years of age (inclusive); and

"(iv) an amount equal to the product of 0.082 and the number of individuals in the State who are 65 years of age or older.

"(B) With respect to data on population that is necessary for purposes of making a determination under subparagraph (A), the Secretary shall use the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period.

"(6) DETERMINATION OF TERM 'R%'.—

"(A) For purposes of paragraph (4), the term 'R%', except as provided in subparagraph (D), means the percentage constituted by the ratio of the amount determined under subparagraph (B) for the State involved to the amount determined under subparagraph (C).

"(B) The amount determined under this subparagraph for the State involved is the quotient of—

"(i) the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) the factor determined under paragraph (8) for the State.

"(C) The amount determined under this subparagraph is the sum of the respective amounts determined for the States under subparagraph (B) (including the District of Columbia).

"(D)(i) In the case of the District of Columbia, for purposes of paragraph (4), the term 'R%' means the percentage constituted by the ratio of the amount determined under clause (ii) for such District to the amount determined under clause (iii).

"(ii) The amount determined under this clause for the District of Columbia is the quotient of—

"(I) the most recent 3-year arithmetic mean of total personal income in such District, as determined by the Secretary of Commerce; divided by

"(II) the factor determined under paragraph (8) for the District.

"(iii) The amount determined under this clause is the sum of the respective amounts determined for the States (including the District of Columbia) by making, for each State, the same determination as is described in clause (ii) for the District of Columbia.

"(7) DETERMINATION OF TERM 'P%'.—For purposes of paragraph (4), the term 'P%' means the percentage constituted by the ratio of the term 'P' determined under paragraph (5) for the State involved to the sum of the respective terms 'P' determined for the States.

"(8) DETERMINATION OF CERTAIN FACTOR.—

"(A) The factor determined under this paragraph for the State involved is a factor whose purpose is to adjust the amount determined under clause (i) of paragraph (4)(A), and the amounts determined under each of subparagraphs (B)(i) and (D)(ii)(I) of paragraph (6), to reflect the differences that exist between the State and other States in the costs of providing comprehensive community mental

health services to adults with a serious mental illness and to children with a serious emotional disturbance.

"(B) Subject to subparagraph (C), the factor determined under this paragraph and in effect for the fiscal year involved shall be determined according to the methodology described in the report entitled 'Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Populations and Cost of Service', dated March 30, 1990, and prepared by Health Economics Research, a corporation, pursuant to a contract with the National Institute on Drug Abuse.

"(C) The factor determined under this paragraph for the State involved may not for any fiscal year be greater than 1.1 or less than 0.9.

"(D)(i) Not later than October 1, 1992, the Secretary, after consultation with the Comptroller General, shall in accordance with this section make a determination for each State of the factor that is to be in effect for the State under this paragraph. The factor so determined shall remain in effect through fiscal year 1994, and shall be recalculated every third fiscal year thereafter.

"(ii) After consultation with the Comptroller General, the Secretary shall, through publication in the Federal Register, periodically make such refinements in the methodology referred to in subparagraph (B) as are consistent with the purpose described in subparagraph (A). Federal Register, publication.

"(b) MINIMUM ALLOTMENTS FOR STATES.—For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 1911 for a State for the fiscal year involved shall be the greater of—

"(1) the amount determined under subsection (a) for the State for the fiscal year; and

"(2) an amount equal to 20.6 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallotments under section 205(a) of the ADAMHA Reorganization Act).

"(c) TERRITORIES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the amount of an allotment under section 1911 for a territory of the United States for a fiscal year shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

"(B) a percentage equal to the quotient of—

"(i) the civilian population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

"(2) MINIMUM ALLOTMENT FOR TERRITORIES.—The amount of an allotment under section 1911 for a territory of the United States for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (1) for the territory for the fiscal year; and

"(B) $50,000.

"(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5

percent of the amounts appropriated under section 1920(a) for allotments under section 1911 for the fiscal year.

"(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

"(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsection (a), the term 'State' does not include the territories of the United States.

42 USC 300x-8.

"SEC. 1919. DEFINITIONS.

"For purposes of this subpart:

"(1) The terms 'adults with a serious mental illness' and 'children with a serious emotional disturbance' have the meanings given such terms under section 1912(c)(1).

"(2) The term 'funding agreement', with respect to a grant under section 1911 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

42 USC 300x-9.

"SEC. 1920. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, and subpart III and section 505 with respect to mental health, there are authorized to be appropriated $450,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, DATA COLLECTION, AND PROGRAM EVALUATION.—

"(1) IN GENERAL.—For the purpose of carrying out section 1948(a) with respect to mental health and the purposes specified in paragraphs (2) and (3), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) for a fiscal year.

"(2) DATA COLLECTION.—The purpose specified in this paragraph is carrying out section 505 with respect to mental health.

"(3) PROGRAM EVALUATION.—The purpose specified in this paragraph is the conduct of evaluations of prevention and treatment programs and services with respect to mental health to determine methods for improving the availability and quality of such programs and services.".

SEC. 202. ESTABLISHMENT OF SEPARATE BLOCK GRANT REGARDING SUBSTANCE ABUSE.

Part B of title XIX of the Public Health Service Act, as amended by section 201 of this Act, is amended by adding at the end the following:

"Subpart II—Block Grants for Prevention and Treatment of Substance Abuse

"SEC. 1921. FORMULA GRANTS TO STATES. 42 USC 300x-21.

"(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Center for Substance Abuse Treatment, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1933. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1932.

"(b) AUTHORIZED ACTIVITIES.—A funding agreement for a grant under subsection (a) is that, subject to section 1931, the State involved will expend the grant only for the purpose of planning, carrying out, and evaluating activities to prevent and treat substance abuse and for related activities authorized in section 1924.

"SEC. 1922. CERTAIN ALLOCATIONS. 42 USC 300x-22.

"(a) ALLOCATIONS REGARDING ALCOHOL AND OTHER DRUGS.—A funding agreement for a grant under section 1921 is that, in expending the grant, the State involved will expend—

"(1) not less than 35 percent for prevention and treatment activities regarding alcohol; and

"(2) not less than 35 percent for prevention and treatment activities regarding other drugs.

"(b) ALLOCATION REGARDING PRIMARY PREVENTION PROGRAMS.—A funding agreement for a grant under section 1921 is that, in expending the grant, the State involved—

"(1) will expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse, which programs—

"(A) educate and counsel the individuals on such abuse; and

"(B) provide for activities to reduce the risk of such abuse by the individuals;

"(2) will, in carrying out paragraph (1)—

"(A) give priority to programs for populations that are at risk of developing a pattern of such abuse; and

"(B) ensure that programs receiving priority under subparagraph (A) develop community-based strategies for the prevention of such abuse, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

"(c) ALLOCATIONS REGARDING WOMEN.—

"(1) IN GENERAL.—Subject to paragraph (2), a funding agreement for a grant under section 1921 for a fiscal year is that—

"(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 5 percent of the grant to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs);

"(B) in the case of a grant for fiscal year 1994, the State will expend not less than 5 percent of the grant

to so increase (relative to fiscal year 1993) the availability of such services for such women; and

"(C) in the case of a grant for any subsequent fiscal year, the State will expend for such services for such women not less than an amount equal to the amount expended by the State for fiscal year 1994.

"(2) WAIVER.—

"(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of treatments services for women described in such paragraph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the services.

"(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

"(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

"(3) CHILDCARE AND PRENATAL CARE.—A funding agreement for a grant under section 1921 for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will, directly or through arrangements with other public or nonprofit private entities, make available prenatal care to women receiving such services and, while the women are receiving the services, childcare.

42 USC 300x-23.

"SEC. 1923. INTRAVENOUS SUBSTANCE ABUSE.

"(a) CAPACITY OF TREATMENT PROGRAMS.—

"(1) NOTIFICATION OF REACHING CAPACITY.—A funding agreement for a grant under section 1921 is that the State involved will, in the case of programs of treatment for intravenous drug abuse, require that any such program receiving amounts from the grant, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact.

"(2) PROVISION OF TREATMENT.—A funding agreement for a grant under section 1921 is that the State involved will, with respect to notifications under paragraph (1), ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program of such treatment not later than—

"(A) 14 days after making the request for admission to such a program; or

"(B) 120 days after the date of such request, if no such program has the capacity to admit the individual on the date of such request and if interim services are made available to the individual not later than 48 hours after such request.

"(b) OUTREACH REGARDING INTRAVENOUS SUBSTANCE ABUSE.—A funding agreement for a grant under section 1921 is that the State involved, in providing amounts from the grant to any entity for treatment services for intravenous drug abuse, will require the entity to carry out activities to encourage individuals in need of such treatment to undergo treatment.

"SEC. 1924. REQUIREMENTS REGARDING TUBERCULOSIS AND HUMAN IMMUNODEFICIENCY VIRUS. 42 USC 300x-24.

"(a) TUBERCULOSIS.—

"(1) IN GENERAL.—A funding agreement for a grant under section 1921 is that the State involved will require that any entity receiving amounts from the grant for operating a program of treatment for substance abuse—

"(A) will, directly or through arrangements with other public or nonprofit private entities, routinely make available tuberculosis services to each individual receiving treatment for such abuse; and

"(B) in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

"(2) TUBERCULOSIS SERVICES.—For purposes of paragraph (1), the term 'tuberculosis services', with respect to an individual, means—

"(A) counseling the individual with respect to tuberculosis;

"(B) testing to determine whether the individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the individual; and

"(C) providing such treatment to the individual.

"(b) HUMAN IMMUNODEFICIENCY VIRUS.—

"(1) REQUIREMENT FOR CERTAIN STATES.—In the case of a State described in paragraph (2), a funding agreement for a grant under section 1921 is that—

"(A) with respect to individuals undergoing treatment for substance abuse, the State will, subject to paragraph (3), carry out 1 or more projects to make available to the individuals early intervention services for HIV disease at the sites at which the individuals are undergoing such treatment;

"(B) for the purpose of providing such early intervention services through such projects, the State will make available from the grant the percentage that is applicable for the State under paragraph (4); and

"(C) the State will, subject to paragraph (5), carry out such projects only in geographic areas of the State that have the greatest need for the projects.

"(2) DESIGNATED STATES.—For purposes of this subsection, a State described in this paragraph is any State whose rate of cases of acquired immune deficiency syndrome is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control for the most recent calendar year for which such data are available).

"(3) USE OF EXISTING PROGRAMS REGARDING SUBSTANCE ABUSE.—With respect to programs that provide treatment services for substance abuse, a funding agreement for a grant under section 1921 for a designated State is that each such program participating in a project under paragraph (1) will be a program that began operation prior to the fiscal year for which the State is applying to receive the grant. A program

that so began operation may participate in a project under paragraph (1) without regard to whether the program has been providing early intervention services for HIV disease.

"(4) APPLICABLE PERCENTAGE REGARDING EXPENDITURES FOR SERVICES.—

"(A)(i) For purposes of paragraph (1)(B), the percentage that is applicable under this paragraph for a designated State is, subject to subparagraph (B), the percentage by which the amount of the grant under section 1921 for the State for the fiscal year involved is an increase over the amount specified in clause (ii).

"(ii) The amount specified in this clause is the amount that was reserved by the designated State involved from the allotment of the State under section 1912A for fiscal year 1991 in compliance with section 1916(c)(6)(A)(ii) (as such sections were in effect for such fiscal year).

"(B) If the percentage determined under subparagraph (A) for a designated State for a fiscal year is less than 2 percent (including a negative percentage, in the case of a State for which there is no increase for purposes of such subparagraph), the percentage applicable under this paragraph for the State is 2 percent. If the percentage so determined is 2 percent or more, the percentage applicable under this paragraph for the State is the percentage determined under subparagraph (A), subject to not exceeding 5 percent.

"(5) REQUIREMENT REGARDING RURAL AREAS.—

"(A) A funding agreement for a grant under section 1921 for a designated State is that, if the State will carry out 2 or more projects under paragraph (1), the State will carry out 1 such project in a rural area of the State, subject to subparagraph (B).

"(B) The Secretary shall waive the requirement established in subparagraph (A) if the State involved certifies to the Secretary that—

"(i) there is insufficient demand in the State to carry out a project under paragraph (1) in any rural area of the State; or

"(ii) there are no rural areas in the State.

"(6) MANNER OF PROVIDING SERVICES.—With respect to the provision of early intervention services for HIV disease to an individual, a funding agreement for a grant under section 1921 for a designated State is that—

"(A) such services will be undertaken voluntarily by, and with the informed consent of, the individual; and

"(B) undergoing such services will not be required as a condition of receiving treatment services for substance abuse or any other services.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'designated State' means a State described in paragraph (2).

"(B) The term 'early intervention services', with respect to HIV disease, means—

"(i) appropriate pretest counseling;

"(ii) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the

immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(iii) appropriate post-test counseling; and

"(iv) providing the therapeutic measures described in clause (ii).

"(C) The term 'HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome.

"(c) EXPENDITURE OF GRANT FOR COMPLIANCE WITH AGREEMENTS.—

"(1) IN GENERAL.—A grant under section 1921 may be expended for purposes of compliance with the agreements required in this section, subject to paragraph (2).

"(2) LIMITATION.—A funding agreement for a grant under section 1921 for a State is that the grant will not be expended to make payment for any service provided for purposes of compliance with this section to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

"(A) under any State compensation program, under any insurance policy, or under any Federal or State health benefits program (including the program established in title XVIII of the Social Security Act and the program established in title XIX of such Act); or

"(B) by an entity that provides health services on a prepaid basis.

"(d) MAINTENANCE OF EFFORT.—With respect to services provided for by a State for purposes of compliance with this section, a funding agreement for a grant under section 1921 is that the State will maintain expenditures of non-Federal amounts for such services at a level that is not less than average level of such expenditures maintained by the State for 2-year period preceding the first fiscal year for which the State receives such a grant.

"(e) APPLICABILITY OF CERTAIN PROVISION.—Section 1931 applies to this section (and to each other provision of this subpart).

"SEC. 1925. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS. 42 USC 300x-25.

"(a) STATE REVOLVING FUNDS FOR ESTABLISHMENT OF HOMES.—For fiscal year 1993 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has established, and is providing for the ongoing operation of, a revolving fund as follows:

"(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

"(2) The programs are carried out in accordance with guidelines issued under subsection (b).

"(3) Not less than $100,000 is available for the fund.

"(4) Loans made from the revolving fund do not exceed $4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

"(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

"(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

"(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

"(B) any resident of the housing who violates such prohibition will be expelled from the housing;

"(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

"(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

"(b) ISSUANCE BY SECRETARY OF GUIDELINES.—The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a).

"(c) APPLICABILITY TO TERRITORIES.—The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

42 USC 300x-26.

"SEC. 1926. STATE LAW REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 18.

"(a) RELEVANT LAW.—

"(1) IN GENERAL.—Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

"(2) DELAYED APPLICABILITY FOR CERTAIN STATES.—In the case of a State whose legislature does not convene a regular session in fiscal year 1993, and in the case of a State whose legislature does not convene a regular session in fiscal year 1994, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1995 and subsequent fiscal years.

"(b) ENFORCEMENT.—

"(1) IN GENERAL.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

"(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement for a grant under section 1921 is that the State involved will—

"(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

"(B) annually submit to the Secretary a report describing—

"(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant;

"(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

"(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

"(c) NONCOMPLIANCE OF STATE.—Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

"(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year;

"(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1933 for the State for the fiscal year;

"(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year; and

"(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year.

"(d) DEFINITION.—For purposes of this section, the term 'first applicable fiscal year' means—

"(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

"(2) fiscal year 1994, in the case of any other State.

"SEC. 1927. TREATMENT SERVICES FOR PREGNANT WOMEN. 42 USC 300x-27.

"(a) IN GENERAL.—A funding agreement for a grant under section 1921 is that the State involved—

"(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

"(2) will, in carrying out paragraph (1), publicize the availability to such women of services from the facilities and the fact that the women receive such preference.

"(b) REFERRALS REGARDING STATES.—A funding agreement for a grant under section 1921 is that, in carrying out subsection (a)(1)—

"(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

"(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—

"(A) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman; or

"(B) will, if no treatment facility has the capacity to admit the woman, make available interim services available to the woman not later than 48 hours after the women seeks the treatment services.

42 USC 300x-28.

"SEC. 1928. ADDITIONAL AGREEMENTS.

"(a) IMPROVEMENT OF PROCESS FOR APPROPRIATE REFERRALS FOR TREATMENT.—With respect to individuals seeking treatment services, a funding agreement for a grant under section 1921 is that the State involved will improve (relative to fiscal year 1992) the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals.

"(b) CONTINUING EDUCATION.—With respect to any facility for treatment services or prevention actitivities that is receiving amounts from a grant under section 1921, a funding agreement for a State for a grant under such section is that continuing education in such services or activities (or both, as the case may be) will be made available to employees of the facility who provide the services or activities.

"(c) COORDINATION OF VARIOUS ACTIVITIES AND SERVICES.—A funding agreement for a grant under section 1921 is that the State involved will coordinate prevention and treatment activities with the provision of other appropriate services (including health, social, correctional and criminal justice, educational, vocational rehabilitation, and employment services).

"(d) WAIVER OF REQUIREMENT.—

"(1) IN GENERAL.—Upon the request of a State, the Secretary may provide to a State a waiver of any or all of the requirements established in this section if the Secretary determines that, with respect to services for the prevention and treatment of substance abuse, the requirement involved is unnecessary for maintaining quality in the provision of such services in the State.

"(2) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"(3) APPLICABILITY OF WAIVER.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

42 USC 300x-29.

"SEC. 1929. SUBMISSION TO SECRETARY OF STATEWIDE ASSESSMENT OF NEEDS.

"The Secretary may make a grant under section 1921 only if the State submits to the Secretary an assessment of the need in the State for authorized activities (which assessment is conducted in accordance with criteria issued by the Secretary), both by locality and by the State in general, which assessment includes a description of—

"(1) the incidence and prevalence in the State of drug abuse and the incidence and prevalence in the State of alcohol abuse and alcoholism;

"(2) current prevention and treatment activities in the State;

"(3) the need of the State for technical assistance to carry out such activities;

"(4) efforts by the State to improve such activities; and

"(5) the extent to which the availability of such activities is insufficient to meet the need for the activities, the interim services to be made available under sections 1923(a) and 1927(b), and the manner in which such services are to be so available.

"SEC. 1930. MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES. 42 USC 300x-30.

"(a) IN GENERAL.—With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 1921 for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

"(b) WAIVER.—

"(1) IN GENERAL.—Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"(2) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"(3) APPLICABILITY OF WAIVER.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

"(c) NONCOMPLIANCE BY STATE.—

"(1) IN GENERAL.—In making a grant under section 1921 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1921 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

"(2) SUBMISSION OF INFORMATION TO SECRETARY.—The Secretary may make a grant under section 1921 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

"SEC. 1931. RESTRICTIONS ON EXPENDITURE OF GRANT. 42 USC 300x-31.

"(a) IN GENERAL.—

"(1) CERTAIN RESTRICTIONS.—A funding agreement for a grant under section 1921 is that the State involved will not expend the grant—

"(A) to provide inpatient hospital services, except as provided in subsection (b);

"(B) to make cash payments to intended recipients of health services;

"(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

"(F) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U.S.C. 300ee–5).

"(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under section 1921 is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

"(3) LIMITATION REGARDING PENAL AND CORRECTIONAL INSTITUTIONS.—A funding agreement for a State for a grant under section 1921 is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 1912A to the State for fiscal year 1991 (as section 1912A was in effect for such fiscal year).

"(b) EXCEPTION REGARDING INPATIENT HOSPITAL SERVICES.—

"(1) MEDICAL NECESSITY AS PRECONDITION.—With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 1921 to provide inpatient hospital services as treatment for substance abuse only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

"(2) RATE OF PAYMENT.—In the case of an individual for whom a grant under section 1921 is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

"(c) WAIVER REGARDING CONSTRUCTION OF FACILITIES.—

"(1) IN GENERAL.—The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 1921 for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

"(2) STANDARD REGARDING NEED FOR WAIVER.—The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

"(3) AMOUNT.—In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of

funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

"(4) MATCHING FUNDS.—The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided under section 1921.

"(5) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"SEC. 1932. APPLICATION FOR GRANT; APPROVAL OF STATE PLAN. 42 USC 300x-32.

"(a) IN GENERAL.—For purposes of section 1921, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsections (c) and (d)(2)—

"(1) the State involved submits the application not later than the date specified by the Secretary;

"(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

"(3) the agreements are made through certification from the chief executive officer of the State;

"(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(5) the application contains the information required in section 1929, the information required in section 1930(c)(2), and the report required in section 1942(a);

"(6)(A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary; and

"(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 1921; and

"(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

"(b) STATE PLAN.—

"(1) IN GENERAL.—A plan submitted by a State under subsection (a)(6) is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 1921 that is applicable to the State, including a description of the manner in which the State intends to expend the grant.

"(2) AUTHORITY OF SECRETARY REGARDING MODIFICATIONS.—As a condition of making a grant under section 1921 to a State for a fiscal year, the Secretary may require that the

State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

"(3) AUTHORITY OF CENTER FOR SUBSTANCE ABUSE PREVENTION.—With respect to plans submitted by the States under subsection (a)(6), the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

"(c) WAIVERS REGARDING CERTAIN TERRITORIES.—In the case of any territory of the United States whose allotment under section 1921 for the fiscal year is the amount specified in section 1933(c)(2)(B), the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 1931.

"(d) ISSUANCE OF REGULATIONS; PRECONDITION TO MAKING GRANTS.—

"(1) REGULATIONS.—Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 1921 to be in accordance with this section.

"(2) ISSUANCE AS PRECONDITION TO MAKING GRANTS.—The Secretary may not make payments under any grant under section 1921 for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

42 USC 300x-33.

"SEC. 1933. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) STATES.—

"(1) IN GENERAL.—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1921 for a State for a fiscal year as follows:

"(A) The formula established in paragraph (1) of section 1918(a) shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 1918(a), except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

"(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

"(i) The amount specified in paragraph (2)(A) of section 1918(a) is deemed to be the amount appropriated under section 1935(a) for allotments under section 1921 for the fiscal year involved.

"(ii) The term 'P' is deemed to have the meaning given in paragraph (2) of this subsection. Section 1918(a)(5)(B) applies to the data used in determining such term for the States.

"(iii) The factor determined under paragraph (8) of section 1918(a) is deemed to have the purpose of reflecting the differences that exist between the State

involved and other States in the costs of providing authorized services.

"(2) DETERMINATION OF TERM 'P'.—For purposes of this subsection, the term 'P' means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

"(A) The percentage constituted by the ratio of—

"(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age; to

"(ii) an amount equal to the total of the respective sums determined for the States under clause (i).

"(B) The percentage constituted by the ratio of—

"(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive); to

"(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

"(b) MINIMUM ALLOTMENTS FOR STATES.—For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 1921 for a State for the fiscal year involved shall be the greater of—

"(1) the amount determined under subsection (a) for the State for the fiscal year; and

"(2) an amount equal to 79.4 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallotments under section 205(a) of the ADAMHA Reorganization Act).

"(c) TERRITORIES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

"(B) a percentage equal to the quotient of—

"(i) the civilian population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

"(2) MINIMUM ALLOTMENT FOR TERRITORIES.—The amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (1) for the territory for the fiscal year; and

"(B) $50,000.

"(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1935(a) for allotments under section 1921 for the fiscal year.

"(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the

United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

"(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsections (a) and (b), the term 'State' does not include the territories of the United States.

"(d) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

"(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this;

the Secretary shall reserve from the allotment under section 1921 for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

"(2) TRIBE OR TRIBAL ORGANIZATION AS GRANTEE.—The amount reserved by the Secretary on the basis of a determination under this paragraph shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(3) APPLICATION.—In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

"(4) DEFINITION.—The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in subsections (b) and (c) of section 4 of the Indian Self-Determination and Education Assistance Act.

42 USC 300x-34.

"SEC. 1934. DEFINITIONS.

"For purposes of this subpart:

"(1) The term 'authorized activities', subject to section 1931, means the activities described in section 1921(b).

"(2) The term 'funding agreement', with respect to a grant under section 1921 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

"(3) The term 'prevention activities', subject to section 1931, means activities to prevent substance abuse.

"(4) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(5) The term 'treatment activities' means treatment services and, subject to section 1931, authorized activities that are related to treatment services.

"(6) The term 'treatment facility' means an entity that provides treatment services.

"(7) The term 'treatment services', subject to section 1931, means treatment for substance abuse.

"SEC. 1935. FUNDING. 42 USC 300x-35.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, subpart III and section 505 with respect to substance abuse, and section 515(d), there are authorized to be appropriated $1,500,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, NATIONAL DATA BASE, DATA COLLECTION, AND PROGRAM EVALUATIONS.—

"(1) IN GENERAL.—

"(A) For the purpose of carrying out section 1948(a) with respect to substance abuse, section 515(d), and the purposes specified in subparagraphs (B) and (C), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) each fiscal year.

"(B) The purpose specified in this subparagraph is the collection of data in this paragraph is carrying out section 505 with respect to substance abuse.

"(C) The purpose specified in this subparagraph is the conduct of evaluations of authorized activities to determine methods for improving the availability and quality of such activities.

"(2) ACTIVITIES OF CENTER FOR SUBSTANCE ABUSE PREVENTION.—Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall obligate 20 percent for carrying out paragraph (1)(C), section 1949(a) with respect to prevention activities, and section 515(d).".

SEC. 203. GENERAL PROVISIONS REGARDING BLOCK GRANTS.

(a) IN GENERAL.—Part B of title XIX of the Public Health Service Act, as amended by section 202 of this Act, is amended by adding at the end the following:

"Subpart III—General Provisions

"SEC. 1941. OPPORTUNITY FOR PUBLIC COMMENT ON STATE PLANS. 42 USC 300x-51.

"A funding agreement for a grant under section 1911 or 1921 is that the State involved will make the plan required in section 1912, and the plan required in section 1932, respectively, public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the plan (including any revisions) and after the submission of the plan to the Secretary.

"SEC. 1942. REQUIREMENT OF REPORTS AND AUDITS BY STATES. 42 USC 300x-52.

"(a) REPORT.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the States and the

Comptroller General) to be necessary for securing a record and a description of—

"(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program; and

"(2) the recipients of amounts provided in the grant.

"(b) AUDITS.—A funding agreement for a grant under section 1911 or 1921 is that the State will, with respect to the grant, comply with chapter 75 of title 31, United States Code.

"(c) AVAILABILITY TO PUBLIC.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will—

"(1) make copies of the reports and audits described in this section available for public inspection within the State; and

"(2) provide copies of the report under subsection (a), upon request, to any interested person (including any public agency).

42 USC 300x-53.

"SEC. 1943. ADDITIONAL REQUIREMENTS.

"(a) IN GENERAL.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will—

"(1)(A) for the fiscal year for which the grant involved is provided, provide for independent peer review to assess the quality, appropriateness, and efficacy of treatment services provided in the State to individuals under the program involved; and

"(B) ensure that, in the conduct of such peer review, not fewer than 5 percent of the entities providing services in the State under such program are reviewed (which 5 percent is representative of the total population of such entities);

"(2) permit and cooperate with Federal investigations undertaken in accordance with section 1945; and

"(3) provide to the Secretary any data required by the Secretary pursuant to section 515 and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

"(b) PATIENT RECORDS.—The Secretary may make a grant under section 1911 or 1921 only if the State involved has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant.

42 USC 300x-54.

"SEC. 1944. DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.

"(a) IN GENERAL.—Amounts described in subsection (b) and available for a fiscal year pursuant to section 1911 or 1921, as the case may be, shall be allotted by the Secretary and paid to the States receiving a grant under the program involved, other than any State referred to in subsection (b) with respect to such program. Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined.

"(b) SPECIFICATION OF AMOUNTS.—The amounts referred to in subsection (a) are any amounts that—

"(1) are not paid to States under the program involved as a result of—

"(A) the failure of any State to submit an application in accordance with the program;

"(B) the failure of any State to prepare such application in compliance with the program; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program;

"(2) are terminated, repaid, or offset under section 1945;

"(3) in the case of the program established in section 1911, are available as a result of reductions in allotments under such section pursuant to section 1912(d) or 1915(b); or

"(4) in the case of the program established in section 1921, are available as a result of reductions in allotments under such section pursuant to section 1926 or 1930.

"SEC. 1945. FAILURE TO COMPLY WITH AGREEMENTS. 42 USC 300x-55.

"(a) SUSPENSION OR TERMINATION OF PAYMENTS.—Subject to subsection (e), if the Secretary determines that a State has materially failed to comply with the agreements or other conditions required for the receipt of a grant under the program involved, the Secretary may in whole or in part suspend payments under the grant, terminate the grant for cause, or employ such other remedies (including the remedies provided for in subsections (b) and (c)) as may be legally available and appropriate in the circumstances involved.

"(b) REPAYMENT OF PAYMENTS.—

"(1) IN GENERAL.—Subject to subsection (e), the Secretary may require a State to repay with interest any payments received by the State under section 1911 or 1921 that the Secretary determines were not expended by the State in accordance with the agreements required under the program involved.

"(2) OFFSET AGAINST PAYMENTS.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

"(c) WITHHOLDING OF PAYMENTS.—

"(1) IN GENERAL.—Subject to subsections (e) and (g)(3), the Secretary may withhold payments due under section 1911 or 1921 if the Secretary determines that the State involved is not expending amounts received under the program involved in accordance with the agreements required under the program.

"(2) TERMINATION OF WITHHOLDING.—The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the program.

"(d) APPLICABILITY OF REMEDIES TO CERTAIN VIOLATIONS.—

"(1) IN GENERAL.—With respect to agreements or other conditions for receiving a grant under the program involved, in the case of the failure of a State to maintain material compliance with a condition referred to in paragraph (2), the provisions for noncompliance with the condition that are provided in the section establishing the condition shall apply in lieu of subsections (a) through (c) of this section.

"(2) RELEVANT CONDITIONS.—For purposes of paragraph (1):

"(A) In the case of the program established in section 1911, a condition referred to in this paragraph is the condi-

tion established in section 1912(d) and the condition established in section 1915(b).

"(B) In the case of the program established in section 1921, a condition referred to in this paragraph is the condition established in section 1926 and the condition established in section 1930.

"(e) OPPORTUNITY FOR HEARING.—Before taking action against a State under any of subsections (a) through (c) (or under a section referred to in subsection (d)(2), as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

"(f) REQUIREMENT OF HEARING IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—If the Secretary receives a complaint that a State has failed to maintain material compliance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d)), and there appears to be reasonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint.

"(2) FINDING OF MATERIAL NONCOMPLIANCE.—If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2), as the case may be.

"(g) CERTAIN INVESTIGATIONS.—

"(1) REQUIREMENT REGARDING SECRETARY.—The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 1911 or 1921 in order to evaluate compliance with the agreements required under the program involved.

"(2) PROVISION OF RECORDS ETC. UPON REQUEST.—Each State receiving a grant under section 1911 or 1921, and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(3) LIMITATIONS ON AUTHORITY.—The Secretary may not institute proceedings under subsection (c) unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be conducted within the State by qualified investigators.

42 USC 300x-56.

"SEC. 1946. PROHIBITIONS REGARDING RECEIPT OF FUNDS.

"(a) ESTABLISHMENT.—

"(1) CERTAIN FALSE STATEMENTS AND REPRESENTATIONS.—A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services

for which payments may be made by a State from a grant made to the State under section 1911 or 1921.

"(2) CONCEALING OR FAILING TO DISCLOSE CERTAIN EVENTS.—A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 1911 or 1921 shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates any prohibition established in subsection (a) shall for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1947. NONDISCRIMINATION. 42 USC 300x-57.

"(a) IN GENERAL.—

"(1) RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under section 1911 or 1921 shall be considered to be programs and activities receiving Federal financial assistance.

"(2) PROHIBITION.—No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 1911 or 1921.

"(b) ENFORCEMENT.—

"(1) REFERRALS TO ATTORNEY GENERAL AFTER NOTICE.—Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 1911 or 1921, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) AUTHORITY OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

42 USC 300x-58. **"SEC. 1948. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.**

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving a grant under section 1911 or 1921, provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a State receiving a grant under section 1911 or 1921, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

42 USC 300x-59. **"SEC. 1949. REPORT BY SECRETARY.**

"Not later than January 24, 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the activities of the States carried out pursuant to the programs established in sections 1911 and 1921. Such report may include any recommendations of the Secretary for appropriate changes in legislation.

42 USC 300x-60. **"SEC. 1950. RULE OF CONSTRUCTION REGARDING DELEGATION OF AUTHORITY TO STATES.**

"With respect to States receiving grants under section 1911 or 1921, this part may not be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this part.

42 USC 300x-61. **"SEC. 1951. SOLICITATION OF VIEWS OF CERTAIN ENTITIES.**

"In carrying out this part, the Secretary, as appropriate, shall solicit the views of the States and other appropriate entities.

"SEC. 1952. AVAILABILITY TO STATES OF GRANT PAYMENTS. 42 USC 300x-62.

"(a) IN GENERAL.—Subject to subsection (b), any amounts paid to a State under the program involved shall be available for obligation until the end of the fiscal year for which the amounts were paid, and if obligated by the end of such year, shall remain available for expenditure until the end of the succeeding fiscal year.

"(b) EXCEPTION REGARDING NONCOMPLIANCE OF SUBGRANTEES.—If a State has in accordance with subsection (a) obligated amounts paid to the State under the program involved, in any case in which the Secretary determines that the obligation consists of a grant or contract awarded by the State, and that the State has terminated or reduced the amount of such financial assistance on the basis of the failure of the recipient of the assistance to comply with the terms upon which the assistance was conditioned—

"(1) the amounts involved shall be available for reobligation by the State through September 30 of the fiscal year following the fiscal year for which the amounts were paid to the State; and

"(2) any of such amounts that are obligated by the State in accordance with paragraph (1) shall be available for expenditure through such date.

"SEC. 1953. CONTINUATION OF CERTAIN PROGRAMS. Hawaii. 42 USC 300x-63.

"(a) IN GENERAL.—Of the amount allotted to the State of Hawaii under section 1911, and the amount allotted to such State under section 1921, an amount equal to the proportion of Native Hawaiians residing in the State to the total population of the State shall be available, respectively, for carrying out the program involved for Native Hawaiians.

"(b) EXPENDITURE OF AMOUNTS.—The amount made available under subsection (a) may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct, and administer comprehensive substance abuse and treatment programs for the benefit of Native Hawaiians. In entering into contracts under this section, the State of Hawaii shall give preference to Native Hawaiian organizations and Native Hawaiian health centers.

"(c) DEFINITIONS.—For the purposes of this subsection, the terms 'Native Hawaiian', 'Native Hawaiian organization', and 'Native Hawaiian health center' have the meaning given such terms in section 2308 of subtitle D of title II of the Anti-Drug Abuse Act of 1988.

"SEC. 1954. DEFINITIONS. 42 USC 300x-64.

"(a) DEFINITIONS FOR SUBPART III.—For purposes of this subpart:

"(1) The term 'program involved' means the program of grants established in section 1911 or 1921, or both, as indicated by whether the State involved is receiving or is applying to receive a grant under section 1911 or 1921, or both.

"(2)(A) The term 'funding agreement', with respect to a grant under section 1911, has the meaning given such term in section 1919.

"(B) The term 'funding agreement', with respect to a grant under section 1921, has the meaning given such term in section 1934.

"(b) DEFINITIONS FOR PART B.—For purposes of this part:

"(1) The term 'Comptroller General' means the Comptroller General of the United States.

"(2) The term 'State', except as provided in sections 1918(c)(5) and 1933(c)(5), means each of the several States, the District of Columbia, and each of the territories of the United States.

"(3) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia.

"(4) The term 'interim services', in the case of an individual in need of treatment for substance abuse who has been denied admission to a program of such treatment on the basis of the lack of the capacity of the program to admit the individual, means services for reducing the adverse health effects of such abuse, for promoting the health of the individual, and for reducing the risk of transmission of disease, which services are provided until the individual is admitted to such a program.".

42 USC 201 note. (b) FEDERAL ACCOUNTABILITY.—Any rule or regulation of the Department of Health and Human Services that is inconsistent with the amendments made by this Act shall not have any legal effect, including section 50(e) of part 96 of title 45, Code of Federal Regulations (45 CFR 96.50(e)).

SEC. 204. RELATED PROGRAMS.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new part:

"PART C—CERTAIN PROGRAMS REGARDING SUBSTANCE ABUSE

"Subpart I—Expansion of Capacity for Providing Treatment

42 USC 300y. **"SEC. 1971. CATEGORICAL GRANTS TO STATES.**

"(a) GRANTS FOR STATES WITH INSUFFICIENT CAPACITY.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Center for Substance Abuse Treatment, may make grants to States for the purpose of increasing the maximum number of individuals to whom public and nonprofit private entities in the States are capable of providing effective treatment for substance abuse.

"(2) ELIGIBLE STATES.—The Director may not make a grant under subsection (a) to a State unless the number of individuals seeking treatment services in the State significantly exceeds the maximum number described in paragraph (1) that is applicable to the State.

"(b) PRIORITY IN MAKING GRANTS.—

"(1) RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN.—In making grants under subsection (a), the Director shall give priority to States that agree to give priority in the expenditure of the grant to carrying out the purpose described in such subsection as the purpose relates to the provision of residential treatment services to pregnant women.

"(2) ADDITIONAL PRIORITY REGARDING MATCHING FUNDS.—In the case of any application for a grant under subsection (a) that is receiving priority under paragraph (1), the Director shall give further priority to the application if the State involved agrees as a condition of receiving the grant to provide non-

Federal contributions under subsection (c) in a greater amount than the amount required under such subsection for the applicable fiscal year.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Director may not make a grant under subsection (a) unless the State agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is—

"(A) for the first fiscal year for which the State receives such a grant, not less than $1 for each $9 of Federal funds provided in the grant;

"(B) for any second or third such fiscal year, not less than $1 for each $9 of Federal funds provided in the grant; and

"(C) for any subsequent such fiscal year, not less than $1 for each $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(3) WAIVER.—The Director may waive the requirement established in paragraph (1) if the Director determines that extraordinary economic conditions in the State justify the waiver.

"(d) LIMITATION REGARDING DIRECT TREATMENT SERVICES.—The Director may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for the direct provision of treatment services. The preceding sentence may not be construed to authorize the expenditure of such a grant for the planning or evaluation of treatment services.

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) DURATION OF GRANT.—The period during which payments are made to a State from a grant under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(g) MAINTENANCE OF EFFORT.—The Director may not make a grant under subsection (a) unless the State involved agrees to maintain State expenditures for treatment services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the first fiscal year for which the State receives such a grant.

"(h) RESTRICTIONS ON USE OF GRANT.—The Director may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended—

"(1) to provide inpatient hospital services;

"(2) to make cash payments to intended recipients of health services;

"(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(i) DEFINITIONS.—For purposes of this section—

"(1) The term 'Director' means the Director of the Center for Substance Abuse Treatment.

"(2) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $86,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

AIDS.

"Subpart II—Interim Maintenance Treatment of Narcotics Dependence

42 USC 300y-11.

"SEC. 1976. INTERIM MAINTENANCE TREATMENT.

"(a) REQUIREMENT REGARDING SECRETARY.—Subject to the following subsections of this section, for the purpose of reducing the incidence of the transmission of HIV disease pursuant to the intravenous abuse of heroin or other morphine-like drugs, the Secretary, in establishing conditions for the use of methadone in public or nonprofit private programs of treatment for dependence on such drugs, shall authorize such programs—

"(1) to dispense methadone for treatment purposes to individuals who—

"(A) meet the conditions for admission to such programs that dispense methadone as part of comprehensive treatment for such dependence; and

"(B) are seeking admission to such programs that so dispense methadone, but as a result of the limited capacity of the programs, will not gain such admission until 14 or more days after seeking admission to the programs; and

"(2) in dispensing methadone to such individuals, to provide only minimum ancillary services during the period in which the individuals are waiting for admission to programs of comprehensive treatment.

"(b) INAPPLICABILITY OF REQUIREMENT IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The requirement established in subsection (a) for the Secretary does not apply if any or all of the following conditions are met:

"(A) The preponderance of scientific research indicates that the risk of the transmission of HIV disease pursuant to the intravenous abuse of drugs is minimal.

"(B) The preponderance of scientific research indicates that the medically supervised dispensing of methadone is not an effective method of reducing the extent of dependence on heroin and other morphine-like drugs.

"(C) The preponderance of available data indicates that, of treatment programs that dispense methadone as part of comprehensive treatment, a substantial majority admit all individuals seeking services to the programs not later than 14 days after the individuals seek admission to the programs.

"(2) EVALUATION BY SECRETARY.—In evaluating whether any or all of the conditions described in paragraph (1) have been met, the Secretary shall consult with the National Commission on Acquired Immune Deficiency Syndrome.

"(c) CONDITIONS FOR OBTAINING AUTHORIZATION FROM SECRETARY.—

"(1) IN GENERAL.—In carrying out the requirement established in subsection (a), the Secretary shall, after consultation with the National Commission on Acquired Immune Deficiency Syndrome, by regulation issue such conditions for treatment programs to obtain authorization from the Secretary to provide interim maintenance treatment as may be necessary to carry out the purpose described in such subsection. Such conditions shall include conditions for preventing the unauthorized use of methadone.

"(2) COUNSELING ON HIV DISEASE.—The regulations issued under paragraph (1) shall provide that an authorization described in such paragraph may not be issued to a treatment program unless the program provides to recipients of the treatment counseling on preventing exposure to and the transmission of HIV disease.

"(3) PERMISSION OF RELEVANT STATE AS CONDITION OF AUTHORIZATION.—The regulations issued under paragraph (1) shall provide that the Secretary may not provide an authorization described in such paragraph to any treatment program in a State unless the chief public health officer of the State has certified to the Secretary that—

"(A) such officer does not object to the provision of such authorizations to treatment programs in the State; and

"(B) the provision of interim maintenance services in the State will not reduce the capacity of comprehensive treatment programs in the State to admit individuals to the programs (relative to the date on which such officer so certifies).

"(4) DATE CERTAIN FOR ISSUANCE OF REGULATIONS; FAILURE OF SECRETARY.—The Secretary shall issue the final rule for purposes of the regulations required in paragraph (1), and such rule shall be effective, not later than the expiration of the 180-day period beginning on the date of the enactment of the ADAMHA Reorganization Act. If the Secretary fails to meet the requirement of the preceding sentence, the proposed rule issued on March 2, 1989, with respect to part 291 of title 21, Code of Federal Regulations (docket numbered 88N–0444; 54 Fed. Reg. 8973 et seq.) is deemed to take effect as a final rule upon the expiration of such period, and the provisions of paragraph (3) of this subsection are deemed to be incorporated into such rule. Effective date.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'interim maintenance services' means the provision of methadone in a treatment program under the cir-

cumstances described in paragraphs (1) and (2) of subsection (a).

"(2) The term 'HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome.

"(3) The term 'treatment program' means a public or nonprofit private program of treatment for dependence on heroin or other morphine-like drugs.".

42 USC 300x note.

SEC. 205. TEMPORARY PROVISIONS REGARDING FUNDING.

(a) REALLOTMENT OF UNPAID PORTION OF ALLOTMENT FOR FISCAL YEAR 1992.—

(1) IN GENERAL.—With respect to allotments made for fiscal year 1992 under part B of title XIX of the Public Health Service Act (as in effect on the day before the date of the enactment of this Act), any portion of the total of such allotments that has not been paid to the States as of the first day of the fourth quarter of such fiscal year shall be reallotted with the result that, subject to paragraph (2), the total allotment made for a State for fiscal year 1992 pursuant to such part (including reallotments under this paragraph) is the amount indicated for the State in the following table:

State	Amount
Alabama	$18,751,646
Alaska	$2,734,000
Arizona	$19,352,828
Arkansas	$8,927,066
California	$186,245,891
Colorado	$17,873,097
Connecticut	$16,576,000
Delaware	$3,329,654
District of Columbia	$4,896,000
Florida	$63,093,000
Georgia	$28,383,202
Hawaii	$6,279,545
Idaho	$3,422,626
Illinois	$62,631,938
Indiana	$28,563,000
Iowa	$10,017,948
Kansas	$8,929,313
Kentucky	$14,691,461
Louisiana	$19,625,929
Maine	$5,466,524
Maryland	$24,896,906
Massachusetts	$36,009,000
Michigan	$47,968,489
Minnesota	$19,061,274
Mississippi	$10,215,502
Missouri	$22,952,468
Montana	$3,523,100
Nebraska	$6,019,775
Nevada	$6,975,991
New Hampshire	$5,290,704
New Jersey	$47,170,000
New Mexico	$7,079,374
New York	$103,643,000
North Carolina	$27,237,938
North Dakota	$2,456,891
Ohio	$56,647,000
Oklahoma	$13,801,384
Oregon	$13,824,013
Pennsylvania	$61,799,000
Rhode Island	$7,336,000
South Carolina	$15,403,164
South Dakota	$3,759,000
Tennessee	$20,490,809
Texas	$80,194,508

Utah	$10,705,633
Vermont	$3,918,000
Virginia	$27,883,059
Washington	$27,284,210
West Virginia	$7,475,330
Wisconsin	$20,222,918
Wyoming	$1,584,892

(2) GRANTS FROM ALLOTMENTS; CERTAIN CONDITIONS REGARDING ALL PAYMENTS PURSUANT TO PART B FOR FISCAL YEAR 1992.—The Secretary shall make a grant to a State of the reallotment made for the State under paragraph (1) if the State agrees that the grant is subject to all conditions upon which allotments and payments under part B of title XIX of the Public Health Service Act are made for fiscal year 1992 (as in effect on the day before the date of the enactment of this Act), except as follows:

(A) Notwithstanding section 1916(c)(6)(A) of such part—

(i) the percentage of the total allotment referred to in paragraph (1) that is expended for mental health activities will be not less than the percentage determined under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991; and

(ii) the percentage of such total allotment that is expended for alcohol and drug abuse activities will be not less than the percentage determined under clause (ii) of such section 1916(c)(6)(A) for fiscal year 1991.

(B)(i) In the case of such a grant to the State of California: With respect to any entity that received a grant under section 509E of the Public Health Service Act for fiscal year 1991 (as such section was in effect for such year) to carry out a program of services in such State—

(I) the State will expend the grant to provide financial assistance to the entity for the purpose of continuing the program in such State, subject to clause (ii); and

(II) the amount of such assistance for the fiscal year will be an amount equal to the amount the entity received under such section 509E for fiscal year 1991.

(ii) The Secretary shall waive the requirement established in clause (i) with respect to a program described in such clause if the State of California certifies to the Secretary that the level of services provided by the program is not needed, or that the program has not provided services in an effective manner (as determined under State quality standards).

(3) INAPPLICABILITY TO TERRITORIES.—For purposes of this subsection, the term "State" means each of the several States and the District of Columbia.

(b) CONTINGENT AUTHORITY FOR TRANSFERS BETWEEN ALLOTMENTS.—

(1) SUBPART II TO SUBPART I.—In the case of any State for which an allotment for fiscal year 1993 or 1994 under section 1911 is made in an amount that is less than the mental health portion of the allotment under former section 1912A for fiscal year 1991, the Secretary shall, upon the request of the chief executive officer of the State, transfer from the allotment under section 1921 for the fiscal year involved to

the allotment under section 1911 for the fiscal year such amounts as the State may direct, subject to the allotment under section 1911 not exceeding the amount of such mental health portion.

(2) SUBPART I TO SUBPART II.—In the case of any State for which an allotment for fiscal year 1993 or 1994 under section 1921 is made in an amount that is less than the substance-abuse portion of the allotment under former section 1912A for fiscal year 1991, the Secretary shall, upon the request of the chief executive officer of the State, transfer from the allotment under section 1911 for the fiscal year involved to the allotment under section 1921 for the fiscal year such amounts as the State may direct, subject to the allotment under section 1921 not exceeding the amount of such substance-abuse portion.

(3) DEFINITIONS.—For purposes of this subsection:

(A) The term "section 1911" means section 1911 of the Public Health Service Act.

(B) The term "section 1921" means section 1921 of the Public Health Service Act.

(C) The term "former section 1912A" means section 1912A of the Public Health Service Act, as such section was in effect for fiscal year 1991.

(D) The term "former section 1916(c)(6)(A)" means section 1916(c)(6)(A) of the Public Health Service Act, as such section was in effect for fiscal year 1991.

(E) The term "mental health portion", with respect to an allotment under former section 1912A for fiscal year 1991, means the amount of such allotment that was reserved by the State for such year in compliance with clause (i) of former section 1916(c)(6)(A).

(F) The term "substance-abuse portion", with respect to an allotment under former section 1912A for fiscal year 1991, means the amount of such allotment that was reserved by the State for such year in compliance with clause (ii) of former section 1916(c)(6)(A).

(c) PROGRAM FOR PREGNANT AND POSTPARTUM WOMEN.—

(1) IN GENERAL.—Subject to paragraph (2), for the purpose of carrying out section 508 of the Public Health Service Act for fiscal year 1993, the Secretary shall obligate 40 percent of the amounts made available pursuant to section 1935(b) of such Act for such fiscal year.

(2) LIMITATION.—Paragraph (1) shall apply only to the extent necessary to ensure that $80,000,000 is available for fiscal year 1993 to carry out section 508 of the Public Health Service Act.

(d) DEFINITION OF SECRETARY.—For purposes of this section, the term "Secretary" means the Secretary of Health and Human Services.

TITLE III—MODEL COMPREHENSIVE PROGRAM FOR TREATMENT OF SUBSTANCE ABUSE

SEC. 301. DEMONSTRATION PROGRAM IN NATIONAL CAPITAL AREA.

Title V of the Public Health Service Act, as amended by section 119 of this Act, is amended by adding at the end the following part:

"PART F—MODEL COMPREHENSIVE PROGRAM FOR TREATMENT OF SUBSTANCE ABUSE

"DEMONSTRATION PROGRAM IN NATIONAL CAPITAL AREA

"SEC. 571. (a) IN GENERAL.—The Secretary, in collaboration with the Director of the Treatment Center, shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for substance abuse. 42 USC 290gg.

"(b) PURPOSES.—The Secretary may not make a grant under subsection (a) unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

"(1) to ensure, to the extent practicable, that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

"(2) as appropriate, to provide education on obtaining employment and other matters with respect to assisting the individuals in preventing any relapse into substance abuse, including education on the appropriate involvement of parents and others in preventing such a relapse;

"(3) to provide services in locations accessible to substance abusers and, to the extent practicable, to provide services through mobile facilities;

"(4) to give priority to providing services to individuals who are intravenous drug abusers, to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

"(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for substance abuse;

"(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

"(7) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(8) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquiries concerning the program, including the location of available treatment services within the national capital area; and

"(9) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for substance abuse.

"(c) CERTAIN REQUIREMENTS.—

"(1) REGARDING ELIGIBILITY FOR GRANT.—

"(A) The Secretary may not make the grant under subsection (a) unless the applicant involved is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Secretary assurances satisfactory to the Secretary that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

"(B) The Secretary may not make the grant under subsection (a) unless—

"(i) an application for the grant is submitted to the Secretary;

"(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) AUTHORITY FOR COOPERATIVE AGREEMENTS.—The grantee under subsection (a) may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

"(d) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount not less than $1 for each $2 of Federal funds provided under the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) EVALUATIONS.—

"(1) BY SECRETARY.—The Secretary shall independently evaluate the effectiveness of the program carried out under subsection (a) and determine its suitability as a model for the United States, particularly regarding the provision of high quality, patient-oriented, coordinated and accessible drug treatment services across jurisdictional lines. The Secretary shall consider the extent to which the program has improved patient retention, accessibility of services, staff retention and quality, reduced patient relapse, and provided a full range of drug treatment and related health and human services. The Sec-

retary shall evaluate the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

"(2) BY GRANTEE.—The Secretary may require the grantee under subsection (a) to evaluate any aspect of the program carried out under such subsection, and such evaluation shall, to the extent appropriate, be coordinated with the independent evaluation required in paragraph (1).

"(3) LIMITATION.—Funds made available under subsection (h) may not be utilized to conduct the independent evaluation required in paragraph (1).

"(f) REPORTS.—

"(1) INITIAL CRITERIA.—The Secretary shall make a determination of the appropriate criteria for carrying out the program required in subsection (a), including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after the date of the enactment of the ADAMHA Reorganization Act, the Secretary shall submit to the Congress a report describing the findings made as a result of the determination.

"(2) ANNUAL REPORTS.—Not later than 2 years after the date on which the grant is made under subsection (a), and annually thereafter, the Secretary shall submit to the Congress a report describing the extent to which the program carried out under such subsection has been effective in carrying out the purposes of the program.

"(g) DEFINITION.—For purposes of this section, the term 'national capital area' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions located in such counties).

"(h) OBLIGATION OF FUNDS.—Of the amounts appropriated for each of the fiscal years 1993 and 1994 for the programs of the Department of Health and Human Services, the Secretary shall make available $10,000,000 for carrying out this section. Of the amounts appropriated for fiscal year 1995 for the programs of such Department, the Secretary shall make available $5,000,000 for carrying out this section.".

TITLE IV—CHILDREN OF SUBSTANCE ABUSERS

SEC. 401. ESTABLISHMENT OF PROGRAM OF SERVICES.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new part:

"PART M—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

42 USC 280d.

"SEC. 399D. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to public and nonprofit private entities for the purpose of carrying out programs—

"(A) to provide the services described in subsection (b) to children of substance abusers;

"(B) to provide the applicable services described in subsection (c) to families in which a member is a substance abuser; and

"(C) to identify such children and such families.

"(2) ADMINISTRATIVE CONSULTATIONS.—The Administrator of the Administration for Children, Youth, and Families and the Administrator of the Substance Abuse and Mental Health Services Administration shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

"(3) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(b) SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to make available (directly or through agreements with other entities) to children of substance abusers each of the following services:

"(1) Periodic evaluation of children for developmental, psychological, and medical problems.

"(2) Primary pediatric care.

"(3) Other necessary health and mental health services.

"(4) Therapeutic intervention services for children, including provision of therapeutic child care.

"(5) Preventive counseling services.

"(6) Counseling related to the witnessing of chronic violence.

"(7) Referrals for, and assistance in establishing eligibility for, services provided under—

"(A) education and special education programs;

"(B) Head Start programs established under the Head Start Act;

"(C) other early childhood programs;

"(D) employment and training programs;

"(E) public assistance programs provided by Federal, State, or local governments; and

"(F) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

"(8) Additional developmental services that are consistent with the provision of early intervention services, as such term is defined in part H of the Individuals with Disabilities Education Act.

"(c) SERVICES FOR AFFECTED FAMILIES.—The Secretary may make a grant under subsection (a) only if, in the case of families in which a member is a substance abuser, the applicant involved agrees to make available (directly or through agreements with other entities) each of the following services, as applicable to the family member involved:

"(1) Services as follows, to be provided by a public health nurse, social worker, or similar professional, or by a trained worker from the community who is supervised by a professional:

"(A) Counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers.

"(B) Assistance to substance abusers in obtaining and using substance abuse treatment services and in obtaining the services described in subsection (b) for their children.

"(C) Visiting and providing support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or whose children are receiving services under subsection (b).

"(2) In the case of substance abusers:

"(A) Encouragement and, where necessary, referrals to participate in appropriate substance abuse treatment.

"(B) Primary health care and mental health services, including prenatal and post partum care for pregnant women.

"(C) Consultation and referral regarding subsequent pregnancies and life options, including education and career planning.

"(D) Where appropriate, counseling regarding family conflict and violence.

"(E) Remedial education services.

"(F) Referrals for, and assistance in establishing eligibility for, services described in subsection (b)(7).

"(3) In the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers:

"(A) An assessment of the strengths and service needs of the family and the assignment of a case manager who will coordinate services for the family.

"(B) Therapeutic intervention services, such as parental counseling, joint counseling sessions for families and children, and family therapy.

"(C) Child care or other care for the child to enable the parent to attend treatment or other activities and respite care services.

"(D) Parenting education services and parent support groups.

"(E) Support services, including, where appropriate, transportation services.

"(F) Where appropriate, referral of other family members to related services such as job training.

"(G) Aftercare services, including continued support through parent groups and home visits.

"(d) CONSIDERATIONS IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall ensure that the grants are reasonably distributed among the following types of entities:

"(1) Alcohol and drug treatment programs, especially those providing treatment to pregnant women and mothers and their children.

"(2) Public or nonprofit private entities that provide health or social services to disadvantaged populations, and that have—

"(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

"(B) an affiliation or contractual relationship with one or more substance abuse treatment programs.

"(3) Consortia of public or nonprofit private entities that include at least one substance abuse treatment program.

"(4) Indian tribes.

"(e) FEDERAL SHARE.—The Federal share of a program carried out under subsection (a) shall be 90 percent. The Secretary shall accept the value of in-kind contributions, including facilities and personnel, made by the grant recipient as a part or all of the non-Federal share of grants.

"(f) COORDINATION WITH OTHER PROVIDERS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to coordinate its activities with those of the State lead agency, and the State Interagency Coordinating Council, under part H of the Individuals with Disabilities Education Act.

"(g) RESTRICTIONS ON USE OF GRANT.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the grant will not be expended—

"(1) to provide inpatient hospital services;

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(h) SUBMISSION TO SECRETARY OF CERTAIN INFORMATION.—The Secretary may make a grant under subsection (a) only if the applicant involved submits to the Secretary—

"(1) a description of the population that is to receive services under this section and a description of such services that are to be provided and measurable goals and objectives;

"(2) a description of the mechanism that will be used to involve the local public agencies responsible for health, mental health, child welfare, education, juvenile justice, developmental disabilities, and substance abuse treatment programs in planning and providing services under this section, as well as evidence that the proposal has been coordinated with the State agencies responsible for administering those programs and the State agency responsible for administering public maternal and child health services;

"(3) information demonstrating that the applicant has established a collaborative relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

"(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

"(B) provide services to help prevent the unnecessary placement of children in substitute care; and

"(C) promote reunification of families or permanent plans for the placement of the child; and

"(4) such other information as the Secretary determines to be appropriate.

"(i) REPORTS TO SECRETARY.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that for each fiscal year for which the applicant receives such a grant the applicant, in accordance with uniform standards developed by the Secretary, will submit to the Secretary a report containing—

"(1) a description of specific services and activities provided under the grant;

"(2) information regarding progress toward meeting the program's stated goals and objectives;

"(3) information concerning the extent of use of services provided under the grant, including the number of referrals to related services and information on other programs or services accessed by children, parents, and other caretakers;

"(4) information concerning the extent to which parents were able to access and receive treatment for alcohol and drug abuse and sustain participation in treatment over time until the provider and the individual receiving treatment agree to end such treatment, and the extent to which parents re-enter treatment after the successful or unsuccessful termination of treatment;

"(5) information concerning the costs of the services provided and the source of financing for health care services;

"(6) information concerning—

"(A) the number and characteristics of families, parents, and children served, including a description of the type and severity of childhood disabilities, and an analysis of the number of children served by age;

"(B) the number of children served who remained with their parents during the period in which entities provided services under this section;

"(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(D) the number of children described in subparagraph (C) who were reunited with their families; and

"(E) the number of children described in subparagraph (C) for whom a permanent plan has not been made or for whom the permanent plan is other than family reunification;

"(7) information on hospitalization or emergency room use by the family members participating in the program; and

"(8) such other information as the Secretary determines to be appropriate.

"(j) REQUIREMENT OF APPLICATION.—The Secretary may make any grant under subsection (a) only if—

"(1) an application for the grant is submitted to the Secretary;

"(2) the application contains the agreements required in this section and the information required in subsection (h); and

"(3) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(k) PEER REVIEW.—

"(1) REQUIREMENT.—In making determinations for awarding grants under subsection (a), the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

"(2) COMPOSITION.—The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

"(A) national experts in the fields of maternal and child health, substance abuse treatment, and child welfare; and

"(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, and the Administration for Children, Youth, and Families.

"(l) EVALUATIONS.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a)—

"(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

"(2) in preventing adverse health conditions in children of substance abusers;

"(3) in promoting better utilization of health and developmental services and improving the health, developmental, and psychological status of children receiving services under the program;

"(4) in improving parental and family functioning;

"(5) in reducing the incidence of out-of-home placement for children whose parents receive services under the program; and

"(6) in facilitating the reunification of families after children have been placed in out-of-home care.

"(m) REPORT TO CONGRESS.—Not later than 2 years after the date on which amounts are first appropriated under subjection (o), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

"(1) information concerning the number and type of programs receiving grants;

"(2) information concerning the type and use of services offered;

"(3) information concerning—

"(A) the number and characteristics of families, parents, and children served;

"(B) the number of children served who remained with their parents during or after the period in which entities provided services under this section;

"(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(D) the number of children described in subparagraph (C) who were reunited with their families; and

"(E) the number of children described in subparagraph (C) who were permanently placed in out-of-home care;

analyzed by the type of entity described in subsection (d) that provided services;

"(4) an analysis of the access provided to, and use of, related services and alcohol and drug treatment through programs carried out under this section; and

"(5) a comparison of the costs of providing services through each of the types of entities described in subsection (d).

"(n) DATA COLLECTION.—The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, gender and ethnicity of the children, the composition and income of the family, and the source of health care finances.

"(o) DEFINITIONS.—For purposes of this section:

"(1) The term 'caretaker', with respect to a child of a substance abuser, means any individual acting in a parental role regarding the child (including any birth parent, foster parent, adoptive parent, relative of such a child, or other individual acting in such a role).

"(2) The term 'children of substance abusers' means—

"(A) children who have lived or are living in a household with a substance abuser who is acting in a parental role regarding the children; and

"(B) children who have been prenatally exposed to alcohol or other dangerous drugs.

"(3) The term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), that is rec-

ognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(4) The term 'public or nonprofit private entities that provide health or social services to disadvantaged populations' includes community-based organizations, local public health departments, community action agencies, hospitals, community health centers, child welfare agencies, developmental disabilities service providers, and family resource and support programs.

"(5) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(p) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994.

"(2) CONTINGENT AUTHORITY REGARDING TRAINING OF CERTAIN INDIVIDUALS.—Of the amounts appropriated under paragraph (1) for a fiscal year in excess of $25,000,000, the Secretary may make available not more than 15 percent for the training of health care professionals and other personnel (including child welfare providers) who provide services to children and families of substance abusers.

42 USC 280d note.

(b) RULE OF CONSTRUCTION.—With respect to the program established in section 399D of the Public Health Service Act (as added by subsection (a) of this section), nothing in such section 399D may be construed as establishing for any other Federal program any requirement, authority, or prohibition, including with respect to recipients of funds under such other Federal programs.

TITLE V—HOME VISITING SERVICES FOR AT-RISK FAMILIES

42 USC 280c-6 note.

SEC. 501. STATEMENT OF PURPOSE.

The purpose of this title is—

(1) to increase the use of, and to provide information on the availability of early, continuous and comprehensive prenatal care;

(2) to reduce the incidence of infant mortality and of infants born prematurely, with low birthweight, or with other impairments including those associated with maternal substance abuse;

(3) for pregnant women and mothers of children below the age of 3 whose children have experienced or are at risk of experiencing a health or developmental complication, to provide assistance in obtaining health and related social services necessary to meet the special needs of the women and their children;

(4) to assist, when requested, women who are pregnant and at-risk for poor birth outcomes, or who have young children and are abusing alcohol or other drugs, in obtaining appropriate treatment; and

(5) to reduce the incidence of child abuse and neglect.

SEC. 502. ESTABLISHMENT OF PROGRAM OF GRANTS.

Part L of title III of the Public Health Service Act (42 U.S.C. 280c et seq.) is amended—

(1) by redesignating sections 399 and 399A as sections 398A and 398B, respectively; and 42 USC 280c–4, 280c–5.

(2) by adding at the end the following subpart:

"Subpart III—Grants for Home Visiting Services for At-Risk Families

"SEC. 399. PROJECTS TO IMPROVE MATERNAL, INFANT, AND CHILD HEALTH. 42 USC 280c–6.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible entities to pay the Federal share of the cost of providing the services specified in subsection (b) to families in which a member is—

"(A) a pregnant woman at risk of delivering an infant with a health or developmental complication; or

"(B) a child less than 3 years of age—

"(i) who is experiencing or is at risk of a health or developmental complication, or of child abuse or neglect; or

"(ii) who has been prenatally exposed to maternal substance abuse.

"(2) MINIMUM PERIOD OF AWARDS; ADMINISTRATIVE CONSULTATIONS.—

"(A) The Secretary shall award grants under paragraph (1) for periods of at least three years.

"(B) The Administrator of the Administration for Children, Youth, and Families and the Director of the National Commission to Prevent Infant Mortality shall be consulted regarding the promulgation of program guidelines and funding priorities under this section.

"(3) REQUIREMENT OF STATUS AS MEDICAID PROVIDER.—

"(A) Subject to subparagraph (B), the Secretary may make a grant under paragraph (1) only if, in the case of any service under such paragraph that is covered in the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

"(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under paragraph (1), the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from

any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(b) HOME VISITING SERVICES FOR ELIGIBLE FAMILIES.—With respect to an eligible family, each of the following services shall, directly or through arrangement with other public or nonprofit private entities, be available (as applicable to the family member involved) in each project operated with a grant under subsection (a):

"(1) Prenatal and postnatal health care.

"(2) Primary health care for the children, including developmental assessments.

"(3) Education for the parents concerning infant care and child development, including the development and utilization of parent and teacher resource networks and other family resource and support networks where such networks are available.

"(4) Upon the request of a parent, providing the education described in paragraph (3) to other individuals who have responsibility for caring for the children.

"(5) Education for the parents concerning behaviors that adversely affect health.

"(6) Assistance in obtaining necessary health, mental health, developmental, social, housing, and nutrition services and other assistance, including services and other assistance under maternal and child health programs; the special supplemental food program for women, infants, and children; section 17 of the Child Nutrition Act of 1966; title V of the Social Security Act; title XIX of such Act (including the program for early and periodic screening, diagnostic, and treatment services described in section 1905(r) of such Act); titles IV and XIX of the Social Security Act; housing programs; other food assistance programs; and appropriate alcohol and drug dependency treatment programs, according to need.

"(c) CONSIDERATIONS IN MAKING GRANTS.—In awarding grants under subsection (a), the Secretary shall take into consideration—

"(1) the ability of the entity involved to provide, either directly or through linkages, a broad range of preventive and primary health care services and related social, family support, and developmental services;

"(2) different combinations of professional and lay home visitors utilized within programs that are reflective of the identified service needs and characteristics of target populations;

"(3) the extent to which the population to be targeted has limited access to health care, and related social, family support, and developmental services; and

"(4) whether such grants are equitably distributed among urban and rural settings and whether entities serving Native American communities are represented among the grantees.

"(d) FEDERAL SHARE.—With respect to the costs of carrying out a project under subsection (a), a grant under such subsection for the project may not exceed 90 percent of such costs. To be eligible

to receive such a grant, an applicant must provide assurances that the applicant will obtain at least 10 percent of such costs from non-Federal funds (and such contributions to such costs may be in cash or in-kind, including facilities and personnel).

"(e) RULE OF CONSTRUCTION REGARDING AT-RISK BIRTHS.—For purposes of subsection (a)(1), a pregnant woman shall be considered to be at risk of delivering an infant with a health or developmental complication if during the pregnancy the woman—

"(1) lacks appropriate access to, or information concerning, early and routine prenatal care;

"(2) lacks the transportation necessary to gain access to the services described in subsection (b);

"(3) lacks appropriate child care assistance, which results in impeding the ability of such woman to utilize health and related social services;

"(4) is fearful of accessing substance abuse services or child and family support services; or

"(5) is a minor with a low income.

"(f) DELIVERY OF SERVICES AND CASE MANAGEMENT.—

"(1) CASE MANAGEMENT MODEL.—Home visiting services provided under this section shall be delivered according to a case management model, and a registered nurse, licensed social worker, or other licensed health care professional with experience and expertise in providing health and related social services in home and community settings shall be assigned as the case manager for individual cases under such model.

"(2) CASE MANAGER.—A case manager assigned under paragraph (1) shall have primary responsibility for coordinating and overseeing the development of a plan for each family that is to receive home visiting services under this section, and for coordinating the delivery of such services provided through appropriate personnel.

"(3) APPROPRIATE PERSONNEL.—In determining which personnel shall be utilized in the delivery of services, the case manager shall consider—

"(A) the stated objective of the project to be operated with the grant, as determined after considering identified gaps in the current service delivery system; and

"(B) the nature of the needs of the family to be served, as determined at the initial assessment of the family that is conducted by the case manager, and through follow-up contacts by other providers of home visiting services.

"(4) FAMILY SERVICE PLAN.—A case manager, in consultation with a team established in accordance with paragraph (5) for the family involved, shall develop a plan for the family following the initial visit to the home of the family. Such plan shall reflect—

"(A) an assessment of the health and related social service needs of the family;

"(B) a structured plan for the delivery of home visiting services to meet the identified needs of the family;

"(C) the frequency with which such services are to be provided to the family;

"(D) ongoing revisions made as the needs of family members change; and

"(E) the continuing voluntary participation of the family in the plan.

"(5) HOME VISITING SERVICES TEAM.—The team to be consulted under paragraph (4) on behalf of a family shall include, as appropriate, other nursing professionals, physician assistants, social workers, child welfare professionals, infant and early childhood specialists, nutritionists, and laypersons trained as home visitors. The case manager shall ensure that the plan is coordinated with those physician services that may be required by the mother or child.

"(g) OUTREACH.—Each grantee under subsection (a) shall provide outreach and casefinding services to inform eligible families of the availability of home visiting services from the project.

"(h) CONFIDENTIALITY.—In accordance with applicable State law, an entity receiving a grant under subsection (a) shall maintain confidentiality with respect to services provided to families under this section.

"(i) CERTAIN ASSURANCES.—The Secretary may award a grant under subsection (a) only if the entity involved provides assurances satisfactory to the Secretary that—

"(1) the entity will provide home visiting services with reasonable frequency—

"(A) to families with pregnant women, as early in the pregnancy as is practicable, and until the infant reaches at least 2 years of age; and

"(B) to other eligible families, for at least 2 years; and

"(2) the entity will coordinate with public health and related social service agencies to prevent duplication of effort and improve the delivery of comprehensive health and related social services.

"(j) SUBMISSION TO SECRETARY OF CERTAIN INFORMATION.—The Secretary may award a grant under subsection (a) only if the entity involved submits to the Secretary—

"(1) a description of the population to be targeted for home visiting services and methods of outreach and casefinding for identifying eligible families, including the use of lay home visitors where appropriate;

"(2) a description of the types and qualifications of home visitors used by the entity and the process by which the entity will provide continuing training and sufficient support to the home visitors; and

"(3) such other information as the Secretary determines to be appropriate.

"(k) LIMITATION REGARDING ADMINISTRATIVE EXPENSES.—Not more than 10 percent of a grant under subsection (a) may be expended for administrative expenses with respect to the grant. The costs of training individuals to serve in the project involved are not subject to the preceding sentence.

"(l) RESTRICTIONS ON USE OF GRANT.—To be eligible to receive a grant under this section, an entity must agree that the grant will not be expended—

"(1) to provide inpatient hospital services;

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(m) REPORTS TO SECRETARY.—To be eligible to receive a grant under this section, an entity must agree to submit an annual report on the services provided under this section to the Secretary in such manner and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information concerning eligible families, including—

"(1) the characteristics of the families and children receiving services under this section;

"(2) the usage, nature, and location of the provider, of preventive health services, including prenatal, primary infant, and child health care;

"(3) the incidence of low birthweight and premature infants;

"(4) the length of hospital stays for pre- and post-partum women and their children;

"(5) the incidence of substantiated child abuse and neglect for all children within participating families;

"(6) the number of emergency room visits for routine health care;

"(7) the source of payment for health care services and the extent to which the utilization of health care services, other than routine screening and medical care, available to the individuals under the program established under title XIX of the Social Security Act, and under other Federal, State, and local programs, is reduced;

"(8) the number and type of referrals made for health and related social services, including alcohol and drug treatment services, and the utilization of such services provided by the grantee; and

"(9) the incidence of developmental disabilities.

"(n) REQUIREMENT OF APPLICATION.—The Secretary may make a grant under subsection (a) only if—

"(1) an application for the grant is submitted to the Secretary;

"(2) the application contains the agreements and assurances required in this section, and the information required in subsection (j);

"(3) the application contains evidence that the preparation of the application has been coordinated with the State agencies responsible for maternal and child health and child welfare, and coordinated with services provided under part H of the Individuals with Disabilities Education Act; and

"(4) the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(o) PEER REVIEW.—

"(1) REQUIREMENT.—In making determinations for awarding grants under subsection (a), the Secretary shall rely on the recommendations of the peer review panel established under paragraph (2).

"(2) COMPOSITION.—The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of—

"(A) national experts in the fields of maternal and child health, child abuse and neglect, and the provision of community-based primary health services; and

"(B) representatives of relevant Federal agencies, including the Health Resources and Services Administration, the Substance Abuse and Mental Health Services Administration, the Administration for Children, Youth, and Families, the U.S. Advisory Board on Child Abuse and Neglect, and the National Commission to Prevent Infant Mortality.

"(p) EVALUATIONS.—

"(1) IN GENERAL.—The Secretary shall, directly or through contracts with public or private entities—

"(A) conduct evaluations to determine the effectiveness of projects under subsection (a) in reducing the incidence of children born with health or developmental complications, the incidence among children less than 3 years of age of such complications, and the incidence of child abuse and neglect; and

"(B) not less than once during each 3-year period, prepare and submit to the appropriate committees of Congress a report concerning the results of such evaluations.

"(2) CONTENTS.—The evaluations conducted under paragraph (1) shall—

"(A) include a summary of the data contained in the annual reports submitted under subsection (m);

"(B) assess the relative effectiveness of projects under subsection (a) in urban and rural areas, and among programs utilizing differing combinations of professionals and trained home visitors recruited from the community to meet the needs of defined target service populations; and

"(C) make further recommendations necessary or desirable to increase the effectiveness of such projects.

"(q) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible entity' includes public and nonprofit private entities that provide health or related social services, including community-based organizations, visiting nurse organizations, hospitals, local health departments, community health centers, Native Hawaiian health centers, nurse managed clinics, family service agencies, child welfare agencies, developmental service providers, family resource and support programs, and resource mothers projects.

"(2) The term 'eligible family' means a family described in subsection (a).

"(3) The term 'health or developmental complication', with respect to a child, means—

"(A) being born in an unhealthy or potentially unhealthy condition, including premature birth, low birthweight, and prenatal exposure to maternal substance abuse;

"(B) a condition arising from a condition described in subparagraph (A);

"(C) a physical disability or delay; and

"(D) a developmental disability or delay.

"(4) The term 'home visiting services' means the services specified in subsection (b), provided at the residence of the eligible family involved or provided pursuant to arrangements made for the family (including arrangements for services in community settings).

"(5) The term 'home visitors' means providers of home visiting services.

"(r) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $30,000,000 for each of the fiscal years 1993 and 1994.".

TITLE VI—TRAUMA CENTERS AND DRUG-RELATED VIOLENCE

SEC. 601. ESTABLISHMENT OF PROGRAM OF GRANTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101–590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS. 42 USC 300d-41.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising directly or indirectly from illicit trafficking in drugs. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING CERTAIN PATIENTS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for—

"(i) trauma resulting from the penetration of the skin by knives, bullets, or any other implement that can be used as a weapon; or

"(ii) trauma that the center reasonably believes results from violence arising directly or indirectly from illicit trafficking in drugs.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C)(i) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c); or

"(ii) agrees that such guidelines will be adopted by the system not later than 6 months after the date on which the trauma center submits to the Secretary the application for the grant.

"(3) SUBMISSION AND APPROVAL OF LONG-TERM PLAN.—The Secretary may not make a grant under subsection (a) unless the trauma center involved—

"(A) submits to the Secretary a plan satisfactory to the Secretary that—

"(i) is developed on the assumption that the center will continue to incur substantial uncompensated costs in providing trauma care; and

"(ii) provides for the long-term continued operation of the center with an acceptable standard of medical care, notwithstanding such uncompensated costs; and

"(B) agrees to implement the plan according to a schedule approved by the Secretary.

42 USC 300d-42.

"SEC. 1242. PREFERENCES IN MAKING GRANTS.

"(a) IN GENERAL.—In making grants under section 1241(a), the Secretary shall give preference to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 2-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"(b) FURTHER PREFERENCE FOR CERTAIN APPLICATIONS.—With respect to applications for grants under section 1241 that are receiving preference for purposes of subsection (a), the Secretary shall give further preference to any such application made by a trauma center for which a disproportionate percentage of the uncompensated costs of the center result from the provision of trauma care to individuals who neither are citizens nor aliens lawfully admitted to the United States for permanent residence.

42 USC 300d-43.

"SEC. 1243. CERTAIN AGREEMENTS.

"(a) COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.—The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the 3-year period beginning on the date that the center first receives payments under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A).

"(b) MAINTENANCE OF FINANCIAL SUPPORT.—With respect to activities for which a grant under section 1241 is authorized to be expended, the Secretary may not make such a grant unless the trauma center involved agrees that, during the period in which the center is receiving payments under the grant, the center will maintain expenditures for such activities at a level that is not less than the level maintained by the center during the fiscal year preceding the first fiscal year for which the center receives such payments.

"(c) TRAUMA CARE REGISTRY.—The Secretary may not make a grant under section 1241(a) unless the trauma center involved agrees that—

"(1) the center will operate a registry of trauma cases in accordance with the applicable guidelines described in section 1241(b)(2)(C), and will begin operation of the registry not later than 6 months after the date on which the center submits to the Secretary the application for the grant; and

"(2) in carrying out paragraph (1), the center will maintain information on the number of trauma cases treated by the center and, for each such case, the extent to which the center incurs uncompensated costs in providing trauma care.

"SEC. 1244. GENERAL PROVISIONS. 42 USC 300d-44.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) LIMITATION ON AMOUNT OF GRANT.—A grant under section 1241 may not be made in an amount exceeding $2,000,000.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300d-45.

"For the purpose of carrying out this part, there are authorized to be appropriated $100,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. Such authorization of appropriations is in addition to any other authorization of appropriations or amounts that are available for such purpose.".

SEC. 602. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.) is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

42 USC 300d-31. (2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

42 USC 300d-32. (3) in section 1232(a), by striking "this title" and inserting "parts A and B".

TITLE VII—STUDIES

42 USC 285o-4 note.

SEC. 701. REPORT BY THE INSTITUTE ON MEDICINE.

(a) STUDY.—The Secretary of Health and Human Services shall enter into a contract with a public or nonprofit private entity to conduct a study concerning—

(1) the role of the private sector in the development of anti-addiction medications, including legislative proposals designed to encourage private sector development of such medications;

(2) the process by which anti-addiction medications receive marketing approval from the Food and Drug Administration, including an assessment of the feasibility of expediting the marketing approval process in a manner consistent with maintaining the safety and effectiveness of such medications;

(3) with respect to pharmacotherapeutic treatments for drug addiction—

(A) recommendations with respect to a national strategy for developing such treatments and improvements in such strategy;

(B) the state of the scientific knowledge concerning such treatments; and

(C) an assessment of the progress toward the development of safe, effective pharmacological treatments for drug addiction; and

(4) other related information determined appropriate by the authors of the study.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary of Health and Human Services shall request the Institute of Medicine of the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) REPORT.—The Secretary of Health and Human Services shall ensure that, not later than 18 months after the date of enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

(d) AVAILABILITY.—The report prepared under subsection (c) shall be made available for use by the general public.

SEC. 702. SENSE OF THE SENATE.

It is the sense of the Senate that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of medications in addition to methadone;
(2) the development of a long-acting narcotic antagonist;
(3) the development of agents for the treatment of cocaine abuse and dependency, including those that act as a narcotic antagonist;
(4) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine;
(5) the development of additional medications to treat safely pregnant addicts and their fetuses; and
(6) the development of medications to treat the offspring of addicted mothers.

SEC. 703. PROVISION OF MENTAL HEALTH SERVICES TO INDIVIDUALS IN CORRECTIONAL FACILITIES.

Reports. 42 USC 290bb-31 note.

Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services, acting through the Director of the Center for Mental Health Services, shall prepare and submit to the appropriate committees of Congress a report concerning the most effective methods for providing mental health services to individuals who come into contact with the criminal justice system, including those individuals incarcerated in correctional facilities (including local jails and detention facilities), and the obstacles to providing such services. Such study shall be carried out in consultation with the National Institute of Mental Health, the Department of Justice, and other appropriate public and private entities.

SEC. 704. STUDY OF BARRIERS TO INSURANCE COVERAGE OF TREATMENT FOR MENTAL ILLNESS AND SUBSTANCE ABUSE.

42 USC 285p note.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Institute of Mental Health and in consultation with the Administrator of the Health Care Financing Administration, shall conduct a study of the barriers to insurance coverage for the treatment of mental illness and substance abuse. The study shall include—

(1) an assessment of the effect of managed care on the quality and financing of such treatment;
(2) an assessment of the appropriateness and cost effectiveness of treatment provided in non-profit, non-hospital settings; and
(3) an assessment of the need for equitable coverage of severe mental illnesses as part of national health care reform.

(b) ASSESSMENT REGARDING MENTAL ILLNESS.—In making an assessment under paragraph (3) of subsection (a), the study required in such subsection shall provide for the following:

(1) The clarification of what is meant by mental health coverage differentiating between the need of individuals with severe, long-term mental illnesses and individuals with mental health problems of situational nature.
(2) Identification of the particular treatments and services required by persons with severe mental illnesses to maintain optimum functioning in the community.
(3) Evaluation of various approaches to providing equitable coverage of severe mental illnesses in private insurance and public health care financing programs. These approaches should include the following:

(A) The diagnostic approach as exemplified by certain State legislation (e.g., California State Code, section 101123.15; Texas Employers Uniform Group Insurance Benefits Act, section 11.106–11.113 (Insurance for Serious Mental Illnesses); and Maine, H.P. 1064: An Act to provide equitable insurance coverage for mental illnesses).

(B) The Service-Based Approach, as exemplified in the Model Mental Health Benefit developed the auspices of NIMH Grant MH43703.

(C) The Functional (Severity of Disability) Approach.

(4) Evaluation of the cost benefit to insurers and the Federal Government of providing equal coverage for severe mental illness.

(5) Financing mechanisms for coverage of the rehabilitative and long-term care needs of persons with severe mental illnesses.

(c) REPORT TO CONGRESS.—Not later than October 1, 1993, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

42 USC 285n note.

SEC. 705. STUDY ON FETAL ALCOHOL EFFECT AND FETAL ALCOHOL SYNDROME.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into a contract with a public or nonprofit private entity to conduct a study on the prevalence of fetal alcohol effect and fetal alcohol syndrome in the general population of the United States and on the adequacy of Federal efforts to reduce the incidence of such conditions (including efforts regarding appropriate training for health care providers in identifying such effect or syndrome). The Secretary shall ensure that the study—

(1) describes diagnostic tools for identifying such conditions;

(2) compares the rate of each of such conditions with the rates of other drug-related congenital conditions;

(3) evaluates the effectiveness and availability of treatment for such conditions; and

(4) evaluates the plans of Federal agencies to conduct research on such conditions and determines the adequacy of such plans in relation to the impact on public health of the conditions.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) REPORT.—The Secretary shall ensure that, not later than 18 months after the date of the enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

SEC. 706. STUDY BY NATIONAL ACADEMY OF SCIENCES.

42 USC 285o-3 note. Contracts.

(a) IN GENERAL.—In the case of programs in the United States that provide both sterile hypodermic needles and bleach to individuals in order to provide for a reduction in the risk of the individuals contracting acquired immune deficiency syndrome or related conditions, the Secretary of Health and Human Services (in this section referred to as the "Secretary"), acting through the Director of the National Institute on Drug Abuse, shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study or studies to make determinations of the following:

(1) The extent to which the programs promote, directly or indirectly, the abuse of drugs through providing information or devices (or both) regarding the manner in which the adverse health consequences of such abuse can be minimized.

(2) In the case of individuals participating in the programs, the number of individuals who have engaged in the abuse of drugs prior to admission to the programs and the number of individuals who have not engaged in such abuse prior to such admission.

(3) The extent to which participation in the programs has altered any behaviors constituting a substantial risk of contracting acquired immune deficiency syndrome or hepatitis, or of transmitting either of the diseases.

(4) The number of programs that provide referrals for the treatment of such abuse and the number of programs that do not provide such referrals.

(5) The extent to which programs safely dispose of used hypodermic syringes and needles.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study or studies described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through other public or nonprofit private entities.

(c) LIMITATION REGARDING EXISTING PROGRAMS.—The study required in subsection (a) may not be conducted with respect to programs established after the date of the enactment of this Act.

(d) DATE FOR COMPLETION.—The Secretary shall ensure that, not later than 18 months after the date of the enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

Reports.

(e) FUNDING.—Of the aggregate amounts appropriated under the Public Health Service Act for fiscal years 1993 and 1994 for research on drug abuse, the Secretary shall make available $5,000,000 for conducting the study required in subsection (a).

SEC. 707. REPORT ON ALLOTMENT FORMULA.

42 USC 300x note. Contracts.

(a) STUDY.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study or studies concerning the statutory formulae under which funds made available under sections 1911 and 1921 of the Public Health Service Act are allo-

cated among the States and territories. Such study or studies shall include—

(1) an assessment of the degree to which the formula allocates funds according to the respective needs of the States and territories;

(2) a review of relevant epidemiological research regarding the incidence of substance abuse and mental illness among various age groups and geographic regions of the country;

(3) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness;

(4) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population and cost; and

(5) any other information that would contribute to a thorough assessment of the appropriateness of the current formula.

Contracts.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) REPORT.—The Secretary shall ensure that not later than 6 months after the date of enactment of this Act, the study required under subsection (a) is completed and a report describing the findings made as a result of such study is submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(d) CONSULTATION.—The entity preparing the report required under subsection (c), shall consult with the Comptroller General of the United States. The Comptroller General shall review the study after its transmittal to the committees described in subsection (c) and within three months make appropriate recommendations concerning such report to such committees.

42 USC 290aa note.

SEC. 708. REPORT BY SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

(a) INTERIM REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Substance Abuse and Mental Health Services Administration shall compile and directly transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an interim report that includes the following information:

(1) A compilation and summary of the scientific literature and research concerning the provision of health insurance, by both public and private entities, for substance abuse (including alcohol abuse) and mental health services.

(2) A review of the scientific literature evaluating the medical effectiveness of substance abuse (including alcohol abuse) and mental health services.

(3) An examination of past practices and emerging trends of health insurance coverage for substance abuse (including alcohol abuse) and mental health services, including an examination of trends in copayments, lifetime coverage maximums, number of visits, and inclusion or exclusion of such services.

(4) An identification of issues attendant to and analysis of barriers to health insurance coverage for substance abuse (including alcohol abuse) and mental illness services. Such analysis shall include a discussion of how substance abuse (including alcohol abuse) and mental health services would be affected by the various health care reform under consideration in Congress.

(5) An examination of the issues attendant to limitations placed on the use of Medicaid program funds for adults receiving substance abuse (including alcoholism services) and mental health services in intermediate care residential settings.

(b) FINAL REPORT.—Not later than October 1, 1993, such Administrator shall compile and transmit directly to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that identifies the relevant policy issues and research questions that need to be answered to address current barriers to the provision of substance abuse and mental health services. The Administrator shall design a research and demonstration strategy that examines such barriers and tests alternative solutions to the problems of providing health insurance and treatment services for substance abuse and mental health services. As soon as practicable but not later than January 1, 1994, the Secretary shall initiate research and demonstration projects that, consistent with the information contained in the reports required under this section, will study the issues identified with, and possible alternative mechanisms of, providing health insurance and treatment services for substance abuse (including alcohol abuse) and mental illness.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. EFFECTIVE DATES. 42 USC 236 note.

(a) IN GENERAL.—This Act takes effect on the date of the enactment of this Act, subject to subsections (b) through (d).

(b) AMENDMENTS.—The amendments described in this Act are made on the date of the enactment of this Act and take effect on such date, except as provided in subsections (c) and (d).

(c) REORGANIZATION UNDER TITLE I.—Title I takes effect on October 1, 1992. The amendments described in such title are made on such date and take effect on such date.

(d) PROGRAMS PROVIDING FINANCIAL ASSISTANCE.—

(1) FISCAL YEAR 1993 AND SUBSEQUENT YEARS.—In the case of any program making awards of grants, cooperative agreements, or contracts, the amendments made by this Act are effective for awards made on or after October 1, 1992.

(2) PRIOR FISCAL YEARS.—

(A) Except as provided in subparagraph (B), in the case of any program making awards of grants, cooperative agreements, or contracts, if the program began operation prior to the date of the enactment of this Act and the program is amended by this Act, awards made prior to October 1, 1992, shall continue to be subject to the terms and conditions upon which such awards were made, notwithstanding the amendments made by this Act.

(B) Subparagraph (A) does not apply with respect to the amendments made by this Act to part B of title XIX of the Public Health Service Act. Section 205(a) applies with respect to the program established in such part.

Approved July 10, 1992.

LEGISLATIVE HISTORY—S. 1306 (H.R. 3698):

HOUSE REPORTS: Nos. 102-464 accompanying H.R. 3698 (Comm. on Energy and Commerce) and 102-522 and 102-546 (both from Comm. of Conference).
SENATE REPORTS: No. 102-131 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Aug. 2, considered and passed Senate.
Vol. 138 (1992): Mar. 24, H.R. 3698 considered and passed House; S. 1306, amended, passed in lieu.
May 19, House failed to agree to conference report.
May 28, House recommitted conference report.
June 4, 9, Senate considered and agreed to conference report.
July 1, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
July 10, Presidential statement.

Public Law 102-322
102d Congress

An Act

To authorize the transfer of certain naval vessels to Greece and Taiwan.

July 19, 1992
[H.R. 5412]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO LEASE CERTAIN VESSELS TO GREECE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the "KNOX" class frigates VREELAND (FF–1068), TRIPPE (FF–1075), and CONNOLE (FF–1056) to the Government of Greece. A lease under this section may be renewed.

(b) APPLICABLE LAW.—Any such lease shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to the Congress) shall apply only to renewals of the lease.

(c) CONSIDERATION FOR LEASE.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a ship pursuant to this section may provide, as part of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Government of Greece.

(d) COSTS OF TRANSFERS.—Any expense of the United States in connection with a lease authorized by this section, including any liabilities of the United States based on its ownership of a vessel arising during the period of the lease, shall be charged to the Government of Greece.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section to lease a ship described in subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease is entered into during that period.

SEC. 2. AUTHORITY TO TRANSFER EXCESS VESSEL TO GREECE.

(a) IN GENERAL.—The Secretary of the Navy is authorized to transfer the excess "CHARLES F. ADAMS" class guided missile destroyer BERKELEY (DDG–15) to the Government of Greece.

(b) APPLICABLE LAW.—Such transfer shall be in accordance with section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to transfers of excess defense articles), except that subsection (c) of that section (relating to notifications to the Congress) and any similar provision shall not apply.

(c) COSTS OF TRANSFERS.—Any expense of the United States in connection with the transfer authorized by this section shall be charged to the Government of Greece.

(d) EXPIRATION OF AUTHORITY.—The authority granted by this section shall expire at the end of the 2-year period beginning on the date of the enactment of this Act.

SEC. 3. AUTHORITY TO LEASE CERTAIN VESSELS TO TAIWAN.

(a) IN GENERAL.—The Secretary of the Navy is authorized to lease the "KNOX" class frigates BREWTON (FF–1086), ROBERT

E. PEARY (FF–1073), and KIRK (FF–1087) to the Coordination Council for North American Affairs (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act). A lease under this section may be renewed.

(b) APPLICABLE LAW.—Any such lease shall be in accordance with chapter 6 of the Arms Export Control Act (22 U.S.C. 2796 and following), except that section 62 of that Act (22 U.S.C. 2796a; relating to reports to the Congress) shall apply only to renewals of the lease.

(c) CONSIDERATION FOR LEASE.—Notwithstanding section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), the lease of a ship pursuant to this section may provide, as part of the consideration for the lease, for the maintenance, protection, repair, or restoration of the ship by the Coordination Council for North American Affairs.

(d) COSTS OF TRANSFERS.—Any expense of the United States in connection with a lease authorized by this section, including any liabilities of the United States based on its ownership of a vessel arising during the period of the lease, shall be charged to the Coordination Council for North American Affairs.

(e) EXPIRATION OF AUTHORITY.—The authority granted by this section to lease a ship described in subsection (a) shall expire at the end of the 2-year period beginning on the date of the enactment of this Act unless the lease is entered into during that period.

Approved July 19, 1992.

LEGISLATIVE HISTORY—H.R. 5412:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 22, considered and passed House.
July 2, considered and passed Senate.

Public Law 102-323
102d Congress

Joint Resolution

To commend the NASA Langley Research Center on the celebration of its 75th anniversary on July 17, 1992.

July 20, 1992
[S.J. Res. 324]

Whereas, in 1917, the first civilian aeronautical research laboratory of the National Advisory Committee for Aeronautics (NACA) was established in Hampton, Virginia;

Whereas such laboratory, now called the NASA Langley Research Center (hereafter referred to in this Resolution as the "Center"), occupies 787 acres of government-owned land;

Whereas the official groundbreaking ceremonies for the Center were held on July 17, 1917;

Whereas the Center is the United States Government's oldest, most prolific and most honored aerospace laboratory;

Whereas the Center supports the Nation by studying the basic problems of flight, selecting certain of those problems for investigation, and following up with practical solutions to such problems through long-term research and test programs;

Whereas the first United States manned space program, Project Mercury, began at the Center in 1958;

Whereas the Center supports investigations and research in space technology and advanced space transportation systems, designs concepts for large space structures, and develops research hardware and conducts experiments in space;

Whereas the Center makes major contributions to national atmospheric research such as developing satellite experiments, modeling the atmosphere and analyzing climate observations;

Whereas from the beginning, people have been the most important resource of the Center with over 3,000 civil servants and over 2,200 contract personnel university researchers and United States Army helicopter research personnel currently working at NASA Langley;

Whereas the Center is comprised of many facilities unique in the world of aerospace research, five of which have been designated as National Historic Landmarks by the Department of the Interior; and

Whereas the Center is one of the leading aerospace research laboratories in the world and has consistently been a source of technology that has made aerospace a major factor in commerce and national defense: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress does commend the NASA Langley Research Center as it celebrates its 75th anniversary on July 17, 1992, and as it continues expanding the frontiers of flight.

Approved July 20, 1992.

LEGISLATIVE HISTORY—S.J. Res. 324:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
July 2, considered and passed House.

Public Law 102-324
102d Congress

An Act

To amend the Food Security Act of 1985 to remove certain easement requirements under the conservation reserve program, and for other purposes.

July 22, 1992
[S. 2780]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF CERTAIN EASEMENT REQUIREMENTS UNDER CONSERVATION RESERVE PROGRAM.

(a) CONSERVATION RESERVE.—Section 1231(b)(4)(C) of the Food Security Act of 1985 (16 U.S.C. 3831(b)(4)(C)) is amended by striking ", and made subject to an easement for the useful life of,".

(b) CONVERSION OF LAND SUBJECT TO CONTRACT TO OTHER CONSERVING USES.—Section 1235A(a)(2) of such Act (16 U.S.C. 3835a(a)(2)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) EXTENSION OF CONTRACT.—With respect to a contract that is modified under this section that provides for the planting of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, if the original term of the contract was less than 15 years, the owner or operator may extend the contract to a term of not to exceed 15 years.";

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

Approved July 22, 1992.

LEGISLATIVE HISTORY—S. 2780:

HOUSE REPORTS: No. 102-636 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 21, considered and passed Senate.
June 30, considered and passed House.

Public Law 102-325
102d Congress

An Act

July 23, 1992
[S. 1150]

To reauthorize the Higher Education Act of 1965, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Higher Education Amendments of 1992.
Grants.
Intergovernmental relations.
Loans.
20 USC 1001 note.
20 USC 1001 note.

SECTION 1. SHORT TITLE; REFERENCES; DEFINITIONS; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1992".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

(c) DEFINITIONS.—Unless otherwise provided therein, terms used in titles XIII, XIV, and XV shall have the same meaning given to such terms in section 1201 of the Higher Education Act of 1965.

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"TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

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"PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

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"TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

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"Sec. 202. Notification of State agency.
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"PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

"Sec. 221. Grants authorized.
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Sec. 302. Amendments to part A.
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Sec. 402. Federal early outreach and student services programs.

"Subpart 2—Federal Early Outreach and Student Services Programs

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"TITLE XI—COMMUNITY SERVICE PROGRAMS

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PART G—AMERICAN INDIAN TEACHER TRAINING

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TITLE XIV—STUDIES AND COMMISSIONS

PART A—STUDIES BY THE DEPARTMENT OF EDUCATION

Sec. 1401. Study of role of guaranty agencies.
Sec. 1402. Study of statutory protections.
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Sec. 1422. Findings.
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PART B—NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

Sec. 1521. National Clearinghouse for Postsecondary Education Materials.

PART C—SCHOOL-BASED DECISIONMAKERS

Sec. 1531. Training and technical assistance for school-based decisionmakers demonstration program.

PART D—GRANTS FOR SEXUAL OFFENSES EDUCATION

Sec. 1541. Grants for campus sexual offenses education.

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Sec. 1559. Special projects for 2-year schools.

PART I—BUY AMERICA

Sec. 1561. Sense of Congress.

20 USC 1001 note.

SEC. 2. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act (20 U.S.C. 1001 et seq.), the amendments made by this Act shall take effect on October 1, 1992.

TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

SEC. 101. REVISION OF TITLE I.

Title I of the Act (20 U.S.C. 1001 et seq.) is amended to read as follows:

"TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

"PART A—SCHOOL, COLLEGE, AND UNIVERSITY PARTNERSHIPS

"SEC. 101. PURPOSE. 20 USC 1001.

"It is the purpose of this part to encourage partnerships between institutions of higher education or State higher education agencies and secondary schools serving low-income and disadvantaged students, to support programs that—

"(1) improve the retention and graduation rates at such secondary schools;

"(2) improve the academic skills of public and private nonprofit secondary school students;

"(3) increase such students' opportunities to continue a program of education after secondary school; and

"(4) improve such students' prospects for employment after secondary school.

"SEC. 102. AGREEMENT. 20 USC 1002.

"(a) AGREEMENT.—To be eligible for a grant under this part, an institution of higher education, a State higher education agency, or a consortium consisting of any of the preceding entities thereof shall enter into a written partnership agreement with a local educational agency. Such partnership may include businesses, labor organizations, professional associations, community-based organizations, public television stations or other telecommunications entities, or other public or private agencies or organizations. Each entity participating in the partnership shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnership, including a designation of the official representatives of each entity participating in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant in the partnership.

"SEC. 103. GRANTS. 20 USC 1003.

"(a) DIVISION BETWEEN SCHOOL-YEAR AND SUMMER PROGRAMS.—From the funds appropriated to carry out this part pursuant to section 106, the Secretary shall reserve 65 percent of such funds to carry out programs operating during the regular school year and 35 percent of such funds to carry out programs operating during the summer.

"(b) AMOUNT AND USE OF GRANTS.—

"(1) AMOUNT.—The Secretary shall make grants under this part in amounts which are not less than $250,000 and not more than $1,000,000.

"(2) PERMITTED USES OF FUNDS.—Grants under this part may be used by the partnership for programs that—

"(A) use college students to tutor secondary school students and improve their basic academic skills or to involve secondary school students in community service-learning projects;

"(B) are designed to improve the basic academic skills of secondary school students;

"(C) are designed to increase the understanding of specific subjects of secondary school students;

"(D) are designed to improve the opportunity to continue a program of education after graduation for secondary school students; and

"(E) are designed to increase the prospects for employment after graduation of secondary school students.

Disadvantaged. Handicapped. Women. Minorities.

"(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income communities;

"(2) partnerships which will run programs during the regular school year and summer;

"(3) programs which will serve educationally disadvantaged students; students with disabilities; potential dropouts; pregnant adolescents and teenage parents; children of migratory agricultural workers or of migratory fishermen; or students whose native language is other than English; and

"(4) programs designed to encourage women and minorities who are underrepresented in the fields of science and mathematics to pursue these fields.

"(d) DURATION.—Each grant awarded under this part may be awarded for a period not to exceed 5 years.

"(e) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves an equitable geographic distribution of such grants.

20 USC 1004.

"SEC. 104. GRANT APPLICATION.

Regulations.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary, in such form and providing such information as the Secretary, by regulation, shall require.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the partnership agreement described in section 102;

"(2) a listing of the public and private nonprofit secondary school or schools to be involved in the program;

"(3) a description of the activities and services for which assistance is sought;

"(4) a description of the programs to be developed and operated by the partnership; and

"(5) assurances to the Secretary that—

"(A) the partnership will establish a governing body including one representative of each participant in the partnership;

"(B) Federal funds will provide no more than 70 percent of the cost of the project in the first year, 60 percent

of such costs in the second year, and 50 percent of such costs in the third year and any subsequent year;

"(C) a local educational agency or institution of higher education receiving funds under this subpart shall not reduce its combined fiscal effort per student or its aggregate expenditure on education;

"(D) a local educational agency or institution of higher education participating in this partnership shall utilize any Federal funds it shall receive from a grant under this part to supplement, and, to the extent practicable, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students described in this part; and

"(E) in no case shall funds under such a grant be used to supplant non-Federal funds already available.

"(c) SPECIAL RULE.—The non-Federal share of grants awarded under this part may be in cash or in kind fairly evaluated, including services, supplies or equipment.

"(d) WAIVER.—The Secretary may waive the matching requirement described in paragraph (5)(B) for any eligible partnership that demonstrates to the satisfaction of the Secretary a unique hardship that prevents compliance with such matching requirement.

"SEC. 105. PEER REVIEW. 20 USC 1005.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary shall consult with officials of the other Federal agencies and with non-Federal organizations to ensure that the panel membership shall be geographically balanced and be composed of representatives from public and private institutions of elementary, secondary, and higher education, labor, business, and State and local governments, who have expertise in community service or in education.

"SEC. 106. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1006.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

"PART B—ARTICULATION AGREEMENTS

"SEC. 121. FINDINGS AND PURPOSE. 20 USC 1011.

"(a) FINDINGS.—The Congress finds that—

"(1) because more than one-half of all first-time first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, community and junior colleges represent a substantial and an important educational resource;

"(2) declining participation rates for low-income students and minorities at institutions of higher education is of growing concern to the higher education community and Congress; and

"(3) there is growing awareness of the need to assist low-income, minority and other nontraditional students in bridging the gap between 2-year to 4-year institutions, enabling such students to reach their individual potential, as well as contribute to the larger society.

"(b) PURPOSE.—The purpose of this part is to improve the educational opportunities of this Nation's postsecondary students by creating comprehensive articulation agreements and planning between partnerships of 2-year and 4-year institutions of higher education.

20 USC 1011a.

"SEC. 122. AUTHORIZATION OF GRANTS.

"(a) ASSISTANCE FOR ARTICULATION PARTNERSHIPS.—From amounts appropriated for this part, the Secretary shall make grants to States to enable States to make awards, either on a competitive basis or on the basis of a formula determined by the State, to articulation partnerships between—

"(1) a qualified 2-year institution; and

"(2) a qualified 4-year institution.

"(b) QUALIFIED INSTITUTIONS.—For purposes of this part—

"(1) a qualified 2-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that—

"(A) is a nonprofit institution that offers a 2-year associate degree or a 2-year certificate program; or

"(B) is a proprietary institution that offers a 2-year associate degree program; and

"(2) a qualified 4-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that offers a baccalaureate degree program.

"(c) ALLOCATION AND STATE GRANTS.—

"(1) FORMULA ALLOCATION.—In any fiscal year for which the amount made available under section 129 to carry out the provisions of this part equals or exceeds $50,000,000, the Secretary shall allot an amount that bears the same ratio to the amount appropriated under section 129 for such fiscal year as the total amount received under title IV by students attending institutions of higher education in that State for such fiscal year bears to the total amount received under title IV by all students for such fiscal year, based on the most recent year for which such data are available.

"(2) COMPETITIVE GRANTS.—In any fiscal year for which the amount made available under section 129 to carry out the provisions of this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States to carry out articulation agreements under sections 124 and 125.

20 USC 1011b.

"SEC. 123. STATE APPLICATION.

"Each State that desires to receive a grant under this part shall submit an application to the Secretary in such form and containing or accompanied by such information as the Secretary may require. Such application shall—

"(1) after consultation with the State agencies responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions, designate a sole State agency as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) describe how funds will be allocated in a manner consistent with section 124;

"(3) contain assurances that the State will comply with the requirements of this part;

"(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part; and

"(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluation. Records.

"SEC. 124. LOCAL APPLICATIONS. 20 USC 1011c.

"Any articulation partnership comprised of qualified institutions that desires to receive a grant from a State under this part shall submit an application to the State in such form and containing or accompanied by such information as the State may require and shall—

"(1) include in the articulation agreement—

"(A) assurances that academic credit earned at the qualified institution described in section 122(b)(1) will be transferable to the qualified institution or institutions as described in section 122(b)(2);

"(B) development of articulation agreement programs and services appropriate to the needs of the partnership participants;

"(C) activities that facilitate the development of programs and services appropriate to the needs of the students attending courses covered by the articulation agreement;

"(D) inservice training for faculty designed to implement effective articulation agreements;

"(E) counseling services; and

"(F) information concerning programs contained in the articulation agreement;

"(2) include assurances that the articulation partnership has the qualified personnel required—

"(A) to develop, administer, and implement the program required by this part; and

"(B) to provide special training necessary to prepare staff for the program; and

"(3) include a plan of operation for the program which includes a description of—

"(A) the program goals;

"(B) the uses of funds as required by paragraph (2);

"(C) the activities and services which will be provided under the program (including training and preparation of staff); and

"(D) the subject areas to be included in the articulation agreement.

"SEC. 125. ARTICULATION AGREEMENT. 20 USC 1011d.

"(a) LENGTH OF GRANT.—Each recipient of a grant from a State shall use the amounts provided under the grant to develop and operate articulation agreements for 6 years.

"(b) USE OF FUNDS.—Funds provided to an articulation partnership under this part may be used—

"(1) to perform any activity or program required by section 124;

"(2) as part of the program's planning activities, to acquire technical assistance from Federal, State, or local entities that

have successfully designed, established, and operated articulation programs;

"(3) to provide workshops with students and teachers, counseling for students to continue their education to a bachelors degree, orientation visits at institutions participating in the partnerships;

"(4) to develop agreements with local educational agencies for vocational course equivalency approval procedures for purposes of satisfying entrance requirements to qualified institutions; and

"(5) to provide outreach to potential students.

20 USC 1011e.

"SEC. 126. STATE ADMINISTRATION.

"A State may reserve not more than 3 percent of the amounts available under this part for any fiscal year for State administrative costs including monitoring and technical assistance.

20 USC 1011f.

"SEC. 127. PRIORITY.

"The State shall give priority to grant applications for programs which—

"(1) encourage teacher education;

"(2) have, as one of the partners participating in an articulation agreement, an entity participating in an articulation agreement described in section 344(b)(1) of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(3) contribute their own institutional resources;

"(4) are not subject to a default reduction agreement under section 428F;

"(5) encourage technology education; or

"(6) encourage articulation in subject areas of national importance as determined by the Secretary.

20 USC 1011g.

"SEC. 128. REPORTS.

"(a) STATE REPORTS.—Each State shall submit to the Secretary an annual report on the operation of the program under this part in such State during the preceding year. Such report shall include such information as the Secretary may require by regulation.

"(b) EVALUATION AND DISSEMINATION.—

"(1) EVALUATION.—The Secretary shall, on the basis of the reports submitted under subsection (a), evaluate all or a sample of the programs conducted under this part for the purposes of—

"(A) determining the success or failure of such programs in increasing access and entry of students from 2-year institutions to 4-year institutions; and

"(B) identifying the most successful programs under this part and the causes for such success.

"(2) DISSEMINATION.—The Secretary shall, not later than January 31, 1996, submit a report to the Congress on the results of the evaluation described in paragraph (1). The Secretary shall disseminate the findings made pursuant to subparagraph (B) through appropriate agencies and organizations.

"(3) RESERVATION.—The Secretary may reserve up to 3 percent of the amount appropriated under section 129 to carry out this subsection.

"SEC. 129. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1011h.

"There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART C—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

"SEC. 131. PROGRAM ESTABLISHED; AUTHORIZATION OF APPROPRIATIONS; ELIGIBILITY. 20 USC 1015.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to eligible partnerships to enable such partnerships to pay the Federal share of the cost of the activities described in the application submitted pursuant to section 132.

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.

"(c) ELIGIBLE PARTNERSHIP.—For the purpose of this part the term 'eligible partnership' means a partnership which—

"(1) shall consist of—

"(A) a public broadcasting entity or a consortium thereof; and

"(B) an institution of higher education or a consortium thereof; and

"(2) may also include a State, a unit of local government, or a public or private nonprofit organization.

"(d) FEDERAL SHARE.—The Federal share shall be 50 percent.

"SEC. 132. APPLICATION. 20 USC 1015a.

"(a) IN GENERAL.—Each eligible partnership desiring to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(1) describe the education telecommunications activities or services to be assisted;

"(2) describe the administrative and management structure supporting such activities or services;

"(3) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the useful life of such equipment, software or facilities;

"(4) describe the manner in which nontraditional postsecondary education students will benefit from the activities and services supported;

"(5) describe the manner in which special services, including captioned films, television, descriptive video and education media for individuals with disabilities, shall be supported; and

"(6) provide assurances that the eligible partnership will provide the non-Federal share of assistance under this part.

"(c) APPROVAL OF APPLICATIONS.—

"(1) IN GENERAL.—The Secretary shall, in approving applications under this part, give priority to applications which describe programs that—

Handicapped.

"(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

"(B) will provide, directly or indirectly, activities or services to a significant number of postsecondary institutions;

"(C) improve access to accredited telecommunications coursework for individuals with disabilities otherwise denied such access;

"(D) will be available in a multistate area;

"(E) include evidence of significant support for the program from the business community; or

"(F) provide matching funds, in an amount which exceeds the required non-Federal share.

"(2) EQUITABLE GEOGRAPHIC DISTRIBUTION OF ASSISTANCE.—In approving applications under this part the Secretary shall ensure the equitable geographic distribution of grants awarded under this part.

20 USC 1015b.

"SEC. 133. AUTHORIZED ACTIVITIES.

"Grants awarded under this part shall be used for one or more of the following activities:

"(1) The acquisition of site equipment to provide the technical ability to receive diverse education services at schools, campuses, and work site locations.

"(2) Satellite, fiber optic and other distribution systems, and for local broadcast or other local distribution capability.

"(3) Pre-service or in-service education and training for kindergarten through 12th grade teachers through interactive television conferencing.

"(4) Preparation of telecommunications programs and software that support national, regional or statewide efforts to provide teaching and learning materials not otherwise available for local use.

"(5) A loan service of captioned films, descriptive video and educational media in order to make such materials available, in accordance with regulations issued by the Secretary, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including addressing problems of illiteracy among individuals with disabilities.

20 USC 1015c.

"SEC. 134. DEFINITION.

"For the purpose of this part, the term 'public broadcasting entity' has the same meaning given to such term by section 397(11) of the Communications Act of 1934.

20 USC 1015d.

"SEC. 135. REPORT.

"(a) IN GENERAL.—Each recipient of a grant under this part shall submit a report to the Secretary not later than 30 days after the conclusion of the grant period.

"(b) CONTENTS.—Each report described in subsection (a) shall include—

"(1) a description of activities and services assisted under this part;

"(2) a description of the population served by the program; and

"(3) an assessment of the ability of private sector entities participating in the eligible partnership to continue the support of the activities and services in the absence of Federal funding.

"(c) DISSEMINATION.—The Secretary shall select reports received under this subsection that are appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network.".

TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT

SEC. 201. REVISION OF TITLE II.

Title II of the Act (20 U.S.C. 1021 et seq.) is amended to read as follows:

"TITLE II—ACADEMIC LIBRARIES AND INFORMATION SERVICES

"SEC. 201. PURPOSE; AUTHORIZATION. 20 USC 1021.

"(a) PURPOSE.—The Secretary shall carry out a program to assist—

"(1) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part A;

"(2) in the education and training of persons in library and information science and to encourage research and development relating to improvement of libraries (including the promotion of economical and effective information delivery, cooperative efforts, and developmental projects) in accordance with part B;

"(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making information resources available to other libraries whose users have need for research materials in accordance with part C; and

"(4) historically black colleges and universities and other minority-serving institutions with programs in library and information sciences to train and educate African-Americans and other underrepresented racial, national origin, and ethnic minorities in such programs in accordance with part D. Minorities.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) PART A.—There are authorized to be appropriated to carry out part A $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) PART B.—There are authorized to be appropriated to carry out part B $10,000,000 for fiscal year 1993 and such

sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) PART C.—There are authorized to be appropriated to carry out part C $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(4) PART D.—There are authorized to be appropriated to carry out part D $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

20 USC 1022. **"SEC. 202. NOTIFICATION OF STATE AGENCY.**

"Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

20 USC 1023. **"SEC. 203. LIBRARY EXPERTS.**

"The Secretary shall make every effort to ensure that programs under this title are administered by appropriate library experts.

"PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

20 USC 1029. **"SEC. 211. COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS.**

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to make grants for technological equipment, networking, and other special purposes to—

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access or utilize material in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

"(2) combinations of institutions of higher education which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve the services provided by such organizations to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects that improve information services to meet special national or regional needs by utilizing technology to enhance library or information services such as through the National Research and Education Network.

"(b) AWARDS REQUIREMENTS.—From funds appropriated for this part, the Secretary shall make competitive awards to institutions, combinations of institutions, or organizations in each of the categories described in paragraphs (1) through (4) of subsection (a).

"(c) AMOUNT.—

"(1) IN GENERAL.—The Secretary shall award grants under this section in an amount which is not less than $25,000.

"(2) SPECIAL RULE.—The Secretary shall award grants pursuant to paragraph (1) of subsection (a) in an amount which is not more than $50,000 for each institution of higher education.

"(d) PRIORITY.—In awarding grants pursuant to paragraph (1) of subsection (a), the Secretary shall give priority to institutions of higher education seeking assistance for projects which assist developing institutions of higher education in linking one or more institutions of higher education to resource sharing networks.

"(e) DURATION.—The Secretary shall award grants under this section for a period not to exceed 3 years.

"(f) APPLICATION.—

"(1) IN GENERAL.—Each institution of higher education or combination thereof desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENT.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) contain assurances that the applicant will expend during the period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"(3) CRITERIA.—The Secretary shall prescribe by regulation criteria for the approval of applications submitted under this section. Regulations.

"PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

"SEC. 221. GRANTS AUTHORIZED. 20 USC 1031.

"(a) GRANTS.—From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223.

"(b) RESERVATION.—Of the amount appropriated for this part for any fiscal year, the Secretary shall make available two-thirds of such amount for the purpose of section 222 and one-third of such amount for the purpose of section 223.

"SEC. 222. LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT. 20 USC 1032.

"(a) PURPOSE AND GRANT CRITERIA.—The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education and library organizations or agencies to assist such institutions, library organizations, or agencies in educating and training persons in library and information science, particularly in areas of critical needs, such as recruitment and retention of minorities. Such grants or contracts may be used by such institutions, library organizations, or agencies to—

"(1) assist in covering the cost of courses of study or staff development (including short term or regular session institutes),

"(2) establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other

expenses) for fellows who demonstrate need and who are working toward a graduate degree (and their dependents), not in excess of such maximum amounts as may be determined by the Secretary, and

"(3) establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

"(b) ADDITIONAL REQUIREMENTS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

20 USC 1033.

"SEC. 223. RESEARCH AND DEMONSTRATION.

"The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education and other public and private agencies, institutions, and organizations for research and development projects related to the improvement of libraries, education in library and information science, the enhancement of library services through effective and efficient use of new technologies, and for the dissemination of information derived from such projects.

20 USC 1034.

"SEC. 224. CONSULTATION REQUIREMENTS.

"The Secretary shall consult with the appropriate library and information science professional bodies in the determination of critical needs under section 222 and in the determination of priorities under section 223.

"PART C—IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES

20 USC 1041.

"SEC. 231. RESEARCH LIBRARY RESOURCES.

"(a) GRANTS.—

"(1) GENERAL AUTHORITY.—From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"(2) MAJOR RESEARCH LIBRARY.—For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) ELIGIBILITY.—In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.

"SEC. 232. GEOGRAPHICAL DISTRIBUTION OF GRANTS. 20 USC 1042.

"In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"PART D—STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS

"SEC. 241. STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES AND OTHER MINORITY-SERVING INSTITUTIONS. 20 USC 1047.

"(a) ELIGIBLE INSTITUTIONS.—For the purposes of this section, the term 'eligible institution' means—

"(1) an historically black college or university; or

"(2) an institution of higher education which—

"(A) serves a large number or high percentage of minority students; and

"(B) enrolls and graduates minority students in library and information service programs.

"(b) GENERAL AUTHORITY.—

"(1) AUTHORITY OF SECRETARY.—The Secretary is authorized to make grants to, and enter into contracts with—

"(A) eligible institutions to assist such institutions in strengthening their library and information science programs and library resources; and

"(B) eligible institutions, and library organizations or agencies which have nationally approved programs in library and information science, to assist such institutions and organizations in the education and training of African Americans and other underrepresented racial, national origin, and ethnic minorities, particularly in areas of critical needs of library and information science.

"(2) USE OF FUNDS.—Such grants or contracts may be used by such institutions, library organizations, or agencies to—

"(A) establish, develop, or strengthen libraries and library and information science programs, including new techniques of information transfer and communication technology;

"(B) assist in covering the cost of courses of study or staff development (including short-term or regular session institutes); and

"(C) establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows who demonstrate need and who are working toward a graduate degree (and their dependents), not in excess of such maximum amounts as may be determined by the Secretary.

"(c) TRAINEESHIPS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"(d) FUNDING PROHIBITION.—Notwithstanding any other provision of law, no funds are authorized to be appropriated to carry out this part for any fiscal year unless the amount appropriated to carry out each of parts A, B, and C for such fiscal year equals or exceeds the amount appropriated for such parts, respectively, for fiscal year 1992.".

TITLE III—INSTITUTIONAL AID

SEC. 301. FINDINGS.

Section 301(a) of the Act (20 U.S.C. 1051(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;".

(2) in paragraph (2), by striking "recruitment activities,"; and

(3) by amending paragraph (5) to read as follows:

"(5) providing assistance to eligible institutions will enhance the role of such institutions in providing access and quality education to low-income and minority students;".

SEC. 302. AMENDMENTS TO PART A.

(a) ELIGIBLE INSTITUTIONS.—Section 312(b) of the Act (20 U.S.C. 1058(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "and" after the semicolon at the end of subparagraph (D);

(B) by striking subparagraph (E);

(C) by redesignating subparagraph (F) as subparagraph (E); and

(D) by inserting "and" after the semicolon at the end of subparagraph (E) (as redesignated in subparagraph (C));

(2) by striking the semicolon at the end of paragraph (2) and inserting a period; and

(3) by striking paragraphs (3), (4), and (5).

(b) ENROLLMENT OF NEEDY STUDENTS.—Section 312(c)(2) of the Act is amended by striking "second preceding fiscal year" and inserting "second fiscal year preceding the fiscal year for which the determination is made".

(c) AWARD LIMITATIONS.—Subsections (a) and (b) of section 313 of the Act (20 U.S.C. 1059 (a) and (b)) are amended to read as follows:

"(a) AWARD PERIOD.—The Secretary may award a grant to an eligible institution under this part for 5 years.

"(b) LIMITATIONS.—In awarding grants under this part the Secretary shall give priority to applicants who are not already receiving a grant under this part.".

(d) PROGRAM GOALS AND HISPANIC-SERVING INSTITUTIONS PROGRAM.—

(1) IN GENERAL.—Part A of title III of the Act (20 U.S.C. 1057 et seq.) is further amended by inserting after section 314 the following new sections:

"SEC. 315. GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAM. 20 USC 1059b.

"(a) GOALS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

"(b) CONTINUATION REQUIREMENTS.—Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a).

"SEC. 316. HISPANIC-SERVING INSTITUTIONS. Disadvantaged. 20 USC 1059c.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Hispanic-serving institution' means an institution of higher education which—

"(A) is an eligible institution under section 312(b);

"(B) at the time of application, has an enrollment of undergraduate full-time equivalent students that is at least 25 percent Hispanic students;

"(C) provides assurances that—

"(i) not less than 50 percent of its Hispanic students are low-income individuals who are first generation college students; and

"(ii) another 25 percent of its Hispanic students are either low-income individuals or first generation college students;

"(2) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs. Such programs may include—

"(A) purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes;

"(B) renovation and improvement in classroom, library, laboratory, and other instructional facilities;

"(C) support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction;

"(D) curriculum development and academic instruction;

"(E) purchase of library books, periodicals, microfilm, and other educational materials;

"(F) funds and administrative management, and acquisition of equipment for use in strengthening funds management;

"(G) joint use of facilities such as laboratories and libraries; and

"(H) academic tutoring and counseling programs and student support services.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such other information and data as the Secretary may by regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students; and

"(B) such other information and assurance as the Secretary may require.

"(3) PRIORITY.—The Secretary shall give priority to applications that contain satisfactory evidence that such institution has entered into or will enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance (from funds other than funds provided under this part) in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education.

"(e) SPECIAL RULE.—For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

SEC. 303. AMENDMENTS TO PART B.

(a) USES OF FUNDS.—Section 323(a) of the Act (20 U.S.C. 1062(a)) is amended—

(1) in paragraph (2), by inserting ", including purchase or rental of telecommunications technology equipment or services" after "facilities";

(2) in paragraph (5), by inserting ", including telecommunications program materials" after "materials"; and

(3) by inserting at the end thereof the following new paragraphs:

"(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

"(10) Establishing or enhancing a program of teacher education designed to qualify students to teach in a public

elementary or secondary school in the State that shall include, as part of such program, preparation for teacher certification.

"(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.

"(12) Other activities proposed in the application submitted pursuant to section 325 that—

"(A) contribute to carrying out the purposes of this part; and

"(B) are approved by the Secretary as part of the review and acceptance of such application.".

(b) LIMITATIONS.—Section 323(b) of the Act (20 U.S.C. 1062(b)) is amended by inserting at the end thereof the following new paragraph:

"(3) The Secretary shall not award a grant under this part for telecommunications technology equipment, facilities or services, if such equipment, facilities or services are available pursuant to section 396(k) of the Communications Act of 1934.".

(c) ALLOTMENT.—Section 324(c) of the Act (20 U.S.C. 1063(c)) is amended by inserting ", within 5 years of graduation with a baccalaureate degree," after "who are admitted to and in attendance at".

(d) MINIMUM ALLOTMENTS.—Section 324(d) of the Act is amended by striking "$350,000" and inserting "$500,000".

(e) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Section 325 of the Act (20 U.S.C. 1063a) is amended by adding at the end the following new subsection:

"(c) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs and include a plan of how the applicant intends to achieve those goals.".

(f) PROFESSIONAL OR GRADUATE INSTITUTIONS.

(1) ELIGIBLE INSTITUTIONS.—Section 326(e) of the Act (20 U.S.C. 1063b(e)) is amended to read as follows:

"(e) ELIGIBILITY.—

"(1) IN GENERAL.—Independent professional or graduate institutions and programs eligible for grants under subsection (a) include—

"(A) Morehouse School of Medicine;

"(B) Meharry Medical School;

"(C) Charles R. Drew Postgraduate Medical School;

"(D) Clark-Atlanta University;

"(E) Tuskegee University School of Veterinary Medicine;

"(F) Xavier University School of Pharmacy;

"(G) Southern University School of Law;

"(H) Texas Southern University School of Law and School of Pharmacy;

"(I) Florida A&M University School of Pharmaceutical Sciences;

"(J) North Carolina Central University School of Law;

"(K) Morgan State University qualified graduate program;

"(L) Hampton University qualified graduate program;

"(M) Alabama A&M qualified graduate program;

"(N) North Carolina A&T State University qualified graduate program;

"(O) University of Maryland Eastern Shore qualified graduate program; and

"(P) Jackson State qualified graduate program.

"(2) QUALIFIED GRADUATE PROGRAM.—For the purposes of this section, the term 'qualified graduate program' means a graduate or professional program that—

"(A) provides a program of instruction in the physical or natural sciences, engineering, mathematics, or other scientific discipline in which African Americans are underrepresented;

"(B) has been accredited by a nationally recognized accrediting agency or association or has been approved by a nationally recognized approving agency; and

"(C) has students enrolled in such program at the time of application for a grant under this section.

Termination date.

"(3) SPECIAL RULE.—Graduate institutions that were awarded grants under this section prior to October 1, 1992 shall continue to receive such grant payments, regardless of the eligibility of the graduate institutions described in subparagraphs (F) through (P), until such grant period has expired or September 30, 1993, whichever is later.

"(4) ONE GRANT PER INSTITUTION.—The Secretary shall not award more than 1 grant under this section in any fiscal year to any institution of higher education or university system.".

20 USC 1063b.

(g) FUNDING RULES FOR GRADUATE AND PROFESSIONAL INSTITUTIONS.—Section 326 of the Act is further amended by adding at the end the following new subsection:

"(f) FUNDING RULE.—Of the amount appropriated to carry out this section for any fiscal year—

"(1) the first $12,000,000 (or any lesser amount appropriated) shall be available only for the purposes of making grants to institutions or programs described in subparagraphs (A) through (E) of subsection (e)(1);

"(2) any amount appropriated in excess of $12,000,000 shall be available—

"(A) for the purposes of making grants, in equal amounts not to exceed $500,000, to institutions or programs described in subparagraphs (F) through (P) of subsection (e)(1); and

"(B) secondly for the purposes of making grants to institutions or programs described in subparagraphs (A) through (P) of subsection (e)(1).".

SEC. 304. AMENDMENTS TO PART C.

(a) PROGRAM CONSOLIDATION.—Part C of title III of the Act (20 U.S.C. 1064 et seq.) is amended—

(1) by amending the heading of such part to read as follows:

"PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B";

20 USC 1064.
20 USC 1065.

(2) by striking section 331; and

(3) by redesignating section 332 as section 331.

(b) ENDOWMENT CHALLENGE GRANTS.—Section 331 of the Act (20 U.S.C. 1065) (as redesignated in subsection (a)(3)) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "of higher education"; and

(B) in paragraph (2), by inserting at the end thereof the following new subparagraph:

"(D)(i) The term 'eligible institution' means an institution that is an—

"(I) eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(II) institution eligible for assistance under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(III) institution of higher education that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

"(ii) The Secretary may waive the requirements of subclauses (I) and (II) of clause (i) with respect to a postgraduate degree in the case of any institution otherwise eligible under clause (i) for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.";

(2) in subsection (b)(1)—

(A) by inserting "endowment" before "challenge grants"; and

(B) by striking "of higher education"; and

(3) in subsection (b)(2), by amending subparagraphs (B) and (C) to read as follows:

"(B) The Secretary may make a grant under this part to an eligible institution under the following circumstances:

"(i) In any fiscal year in which the amount appropriated to carry out this part is less than $15,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $500,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(ii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $15,000,000 but less than $25,000,000, the institution—

"(I) may apply for a grant in an amount not exceeding $1,000,000; and

"(II) shall have deposited in its endowment fund established under this section an amount which is equal to one-half of the amount of such grant.

"(iii) In any fiscal year in which the amount appropriated to carry out this part is equal to or greater than $25,000,000, the institution may apply for a grant in an amount not to exceed $1,500,000 if such institution has deposited in its endowment fund established

under this section an amount which is equal to one-half of the amount of such grant.

"(C)(i) Except as provided in clause (ii), if the appropriation for this part in a fiscal year is $20,000,000 or less, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 10 years immediately following the period that such institution received such a grant.

"(ii) If the appropriation for this part in any fiscal year is greater than $20,000,000, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 5 years immediately following the period that such institution received such a grant. This provision shall apply for the fiscal year in which the appropriation is greater than $20,000,000 and subsequent fiscal years, regardless of the appropriation in those fiscal years.";

(4) in subsection (b)(4)(A), by striking "section 331(a)(1)" and inserting "subsection (a)(2)(D) of this section";

(5) in subsection (b)(4)(B), by striking "a challenge grant under this section" and inserting "an endowment challenge grant under this section";

(6) by amending paragraph (5) of subsection (b) to read as follows:

"(5) an endowment challenge grant awarded under this section to an eligible institution shall be in an amount which is not less than $50,000 in any fiscal year.".

(7) by amending paragraph (1) of subsection (f) to read as follows:

"(1) give priority to an applicant that is receiving assistance under part A or part B or has received a grant under part A or part B of this title within the 5 fiscal years preceding the fiscal year in which the applicant is applying for a grant under this section;"; and

(8) in subsection (g), by inserting before the period at the end of the first sentence the following: ", including a description of the long- and short-term plans for raising and using the funds under this part".

SEC. 305. AMENDMENTS TO PART D.

(a) CONTENTS OF APPLICATIONS.—Section 351(b)(7) of the Act (20 U.S.C. 1066(b)(7)) is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(b) WAIVER AUTHORITY.—Section 352(a) of the Act (20 U.S.C. 1067(a)) is amended in the matter preceding paragraph (1) by striking "shall" and inserting "may".

(c) REPEALERS.—Sections 355 and 359 of the Act (20 U.S.C. 1069a and 1069e) are each repealed.

(d) ASSISTANCE TO INSTITUTIONS UNDER OTHER PROGRAMS.—Section 356(a) of the Act (20 U.S.C. 1069b(a)) is amended by striking "shall" and inserting "may".

(e) AUTHORIZATIONS.—Section 360(a) of the Act is amended to read as follows: 20 USC 1069f.

"SEC. 360. (a) AUTHORIZATIONS.—

"(1) PART A.—(A) There are authorized to be appropriated to carry out part A, $135,000,000 (other than section 316) for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(B)(i) There are authorized to be appropriated to carry out section 316, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(ii) No funds are authorized to be appropriated pursuant to clause (i) for any fiscal year unless the amount appropriated pursuant to paragraph (1)(A) for such fiscal year equals or exceeds $80,000,000.

"(2) PART B.—(A) There are authorized to be appropriated to carry out part B (other than section 326), $135,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326, $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) PART C.—There are authorized to be appropriated to carry out part C, $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(f) RESERVATIONS.—Section 360(c) of the Act is amended by striking "1986—" and paragraphs (1) and (2) and inserting the following: "1986, the Secretary shall, for such fiscal year—

"(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are African Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(2) allocate 75 percent of such excess among other eligible institutions.".

(g) ADDITIONAL RESERVATION.—Section 360 is further amended by adding at the end thereof the following new subsection:

"(e) ADDITIONAL RESERVATION.—In any fiscal year beginning after September 30, 1992, the Secretary shall award at least 25 percent of the amount appropriated pursuant to the authority of paragraph (3) of subsection (a) in each fiscal year to historically black colleges and universities that meet the requirements of part C, unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B) of section 331.".

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SEC. 401. FEDERAL PELL GRANT PROGRAM.

(a) AUTHORIZATION.—Section 411(a)(1) of the Act (20 U.S.C. 1070a(a)(1)) is amended—

(1) by striking "September 30, 1992," and inserting "September 30, 1998,"; and

(2) by striking "paragraph (2)" and inserting "subsection (b)".

20 USC 1070a.

(b) NAME OF PROGRAM.—Section 411(a)(3) of the Act is amended by striking "as 'Pell Grants'" and inserting "as 'Federal Pell Grants'".

(c) PROPORTION OF COST.—Section 411(b)(1) of the Act is amended—

(1) by striking "(A) as determined" and all that follows through "and (B)";

(2) by striking "parental or independent student" and inserting "family and student";

(3) by striking "subparts 2 and 3" and inserting "subparts 3 and 4"; and

(4) by striking "will meet 75 percent" and inserting "will meet at least 75 percent".

(d) GRANT AMOUNTS.—

(1) MAXIMUM GRANT AMOUNTS.—Section 411(b)(2)(A) of the Act is amended by striking clauses (i) through (v) and inserting the following:

"(i) $3,700 for academic year 1993–1994,

"(ii) $3,900 for academic year 1994–1995,

"(iii) $4,100 for academic year 1995–1996,

"(iv) $4,300 for academic year 1996–1997, and

"(v) $4,500 for academic year 1997–1998,".

(2) GRANT AMOUNTS FOR LESS-THAN-HALF-TIME STUDENTS.—Section 411(b)(2)(B) of the Act is amended in the first sentence therein—

(A) by inserting immediately after "full-time basis" the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end thereof the following: ", computed in accordance with this subpart".

(3) DETERMINATION OF GRANT AMOUNTS BASED ON NEED.—Section 411(b)(3) of the Act is amended to read as follows:

"(3)(A) For any academic year for which an appropriation Act provides a maximum basic grant in an amount in excess of $2,400, the amount of a student's basic grant shall equal $2,400 plus—

"(i) one-half of the amount by which such maximum basic grant exceeds $2,400; plus

"(ii) the lesser of—

"(I) the remaining one-half of such excess; or

"(II) the sum of the student's tuition and the student's allowance determined under subparagraph (B), if applicable.

"(B) For purposes of subparagraph (A)(ii)(II), a student's allowance is $750 if the student has dependent care expenses (as defined in section 472(8)) or disability related expenses (as defined in section 472(9)).".

(4) CONFORMING AMENDMENT.—Section 411(b)(4) of the Act is amended by striking "411F" and inserting "472".

(5) MINIMUM GRANT AMOUNTS.—Section 411(b)(5) of the Act is amended by striking "$200" and inserting "$400, except that a student who is eligible for a basic grant that is equal to or greater than $200 but less than $400 shall be awarded a basic grant of $400".

(6) EXCEPTION TO MAXIMUM PELL GRANT AWARD; STUDY ABROAD; INCARCERATED STUDENTS.—Section 411(b) of the Act is further amended by striking paragraphs (6) and (7) and inserting the following:

"(6) The Secretary may allow, on a case-by-case basis, a student to receive 2 Pell grants during a single 12-month period, if—

"(A) the student is enrolled full-time in a baccalaureate degree program of study that is 2 years or longer at an eligible institution that is computed in credit hours; and

"(B) the student completes course work toward completion of a bachelor's degree that exceeds the requirements for a full academic year as defined by the institution.

"(7) Notwithstanding any other provision of this subpart, the Secretary shall allow the amount of the basic grant to be exceeded for students participating in a program of study abroad approved for credit by the institution at which the student is enrolled when the reasonable costs of such program are greater than the cost of attendance at the student's home institution, except that the amount of such basic grant in any fiscal year shall not exceed the grant level specified in the appropriate Appropriation Act for this subpart for such year. If the preceding sentence applies, the financial aid administrator at the home institution may use the cost of the study abroad program, rather than the home institution's cost, to determine the cost of attendance of the student.

"(8)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.".

(e) PERIOD OF ELIGIBILITY.—

(1) REMOVAL OF ACADEMIC YEAR LIMITATIONS.—Section 411(c)(1) is amended by striking everything following "except that" and inserting "any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.".

(2) CLARIFICATION OF ELIGIBILITY FOR STUDY ABROAD.—Section 411(c)(2) of the Act is amended by adding at the end thereof the following new sentence: "Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the home institution at which the student is enrolled.".

(f) CALCULATION OF ELIGIBILITY.—Section 411(f) of the Act is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "an estimate of the eligibility index" and inserting ", as

a part of its regular output document, the expected family contribution";

(B) in subparagraph (A) by striking "eligibility index" and inserting "expected family contribution";

(C) in subparagraph (B), by striking "eligibility index" and inserting "expected family contribution"; and

(D) in subparagraph (D), by striking "eligibility index" and inserting "expected family contribution"; and

(2) in paragraph (3), by striking "eligibility index" and inserting "expected family contribution";

20 USC 1070a.

(g) INSUFFICIENT APPROPRIATIONS.—Section 411(g) of the Act is amended to read as follows:

"(g) INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).".

(h) TREATMENT OF RECIPIENTS.—Section 411(i) of the Act is amended—

(1) by striking "NONCONTRACTOR STATUS OF INSTITUTIONS" and inserting "TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS"; and

(2) by adding at the end the following new sentence: "Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100–690.".

(i) UNIFICATION OF NEEDS ANALYSIS SYSTEMS.—Subpart 1 of part A of title IV of the Act is amended by striking sections 411A through 411F (20 U.S.C. 1070a–1 through 1070a–6).

SEC. 402. FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS.

(a) AMENDMENTS.—Part A of title IV of the Act (20 U.S.C. 1070 et seq.) is amended—

20 USC 1070d–1070d–1d. 20 USC 1070b *et seq.*, 1070c *et seq.* 20 USC 1070, 1070a.

(1) by repealing subpart 4;

(2) by redesignating subparts 2 and 3 as subparts 3 and 4, respectively;

(3) by redesignating sections 401 and 411 as sections 400 and 401, respectively; and

(4) by inserting after section 401 (as redesignated by paragraph (3)) the following new subpart:

"Subpart 2—Federal Early Outreach and Student Services Programs

"CHAPTER 1—FEDERAL TRIO PROGRAMS

Disadvantaged. 20 USC 1070a–11.

"SEC. 402A. PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.

"(a) GRANTS AND CONTRACTS AUTHORIZED.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for

a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

"(b) RECIPIENTS, DURATION, AND SIZE.—

"(1) RECIPIENTS.—For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies and organizations, and in exceptional circumstances, secondary schools, for planning, developing, or carrying out one or more of the services assisted under this chapter.

"(2) DURATION.—Grants or contracts made under this chapter shall be awarded for a period of 4 years, except that the Secretary shall award such grants or contracts for 5 years to applicants whose peer review scores were in the highest 10 percent of scores of all applicants receiving grants or contracts in each program competition for the same award year.

"(3) MINIMUM GRANT LEVEL.—In any year in which the appropriations authorized under this chapter exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring each award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 402D or 402G, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 402B or 402F shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 402C or 402E shall not be less than $190,000 for fiscal year 1995.

"(c) PROCEDURES FOR AWARDING GRANTS AND CONTRACTS.—

"(1) PRIOR EXPERIENCE.—In making grants and contracts under this chapter, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

"(2) ORDER OF AWARDS; PROGRAM FRAUD.—(A) Except as provided in subparagraph (B), the Secretary shall award grants and contracts under this chapter in the order of the scores received by the application for such grant or contract in the peer review process required under section 1210 and adjusted for prior experience in accordance with paragraph (1).

"(B) The Secretary is not required to provide assistance to a program otherwise eligible for assistance under this chapter, if the Secretary has determined that such program has involved the fraudulent use of funds under this chapter.

"(3) PEER REVIEW PROCESS.—(A) The Secretary shall assure that, to the extent practicable, members of groups underrepresented in higher education, including African Americans, Hispanics, Native Americans, Alaska Natives, Asian Americans, Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submit-

ted under this chapter. The Secretary shall also assure that persons from urban and rural backgrounds are represented as readers.

"(B) The Secretary shall ensure that each application submitted under this chapter is read by at least 3 readers who are not employees of the Federal Government (other than as readers of applications).

"(4) APPLICATION STATUS.—The Secretary shall inform each entity operating programs under this chapter regarding the status of their application for continued funding at least 8 months prior to the expiration of the grant or contract. The Secretary, in the case of an entity that is continuing to operate a successful program under this chapter, shall ensure that the start-up date for a new grant or contract for such program immediately follows the termination of preceding grant or contract so that no interruption of funding occurs for such successful reapplicants. The Secretary shall inform each entity requesting assistance under this subpart for a new program regarding the status of their application at least 8 months prior to the proposed startup date of such program.

"(5) NUMBER OF APPLICATIONS FOR GRANTS AND CONTRACTS.—The Secretary shall not limit the number of applications submitted by an entity under any program authorized under this chapter if the additional applications describe programs serving different populations or campuses.

"(6) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs assisted under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of the funding source of such programs. The Secretary shall not limit an entity's eligibility to receive funds under this chapter because such entity sponsors a program similar to the program to be assisted under this chapter, regardless of the funding source of such program. The Secretary shall not require a separate Director to administer a program funded under this chapter if the imposition of such requirement will hinder coordination among programs funded under this chapter or between programs funded under this subpart and similar programs funded through other sources.

"(d) OUTREACH.—

"(1) IN GENERAL.—The Secretary shall conduct outreach activities to ensure that entities eligible for assistance under this chapter submit applications proposing programs that serve geographic areas and eligible populations which have been underserved by the programs assisted under this chapter.

"(2) NOTICE.—In carrying out the provisions of paragraph (1), the Secretary shall notify the entities described in subsection (b) of the availability of assistance under this subsection not less than 120 days prior to the deadline for submission of applications under this chapter and shall consult national, State, and regional organizations about candidates for notification.

"(3) TECHNICAL ASSISTANCE.—The Secretary shall provide technical training to applicants for projects and programs authorized under this chapter. The Secretary shall give priority to serving programs and projects that serve geographic areas

and eligible populations which have been underserved by the programs assisted under this chapter. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at not less than 10 sites throughout the United States to ensure that all areas of the United States with large concentrations of eligible participants are served.

"(4) SPECIAL RULE.—The Secretary may contract with eligible entities to conduct the outreach activities described in this subsection.

"(e) DOCUMENTATION OF STATUS AS A LOW-INCOME INDIVIDUAL.—Documentation of an individual's status pursuant to subsection (g)(2) shall be made—

"(1) in the case of an individual who is eighteen years of age or younger or a dependent student by providing the Secretary with a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, or a signed United States or Puerto Rican income tax return; and

"(2) in the case of an individual who is age 18 or older or who is an independent student, by providing the Secretary with a signed statement from the individual, verification from another governmental source, a signed financial aid form, or a signed United States or Puerto Rican income tax return.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this chapter, there are authorized to be appropriated $650,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years. Of the amount appropriated under this chapter, the Secretary may use no more than ½ of 1 percent of such amount to obtain additional qualified readers and additional staff to review applications, to increase the level of oversight monitoring, to support impact studies, program assessments and reviews, and to provide technical assistance to potential applicants and current grantees. In expending these funds, the Secretary shall give priority to the additional administrative requirements provided in the Higher Education Amendments of 1992, to outreach activities, and to obtaining additional readers. The Secretary shall report to Congress by October 1, 1994, on the use of these funds. Reports.

"(g) DEFINITIONS.—For the purpose of this chapter:

"(1) FIRST GENERATION COLLEGE STUDENT.—The term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

"(2) LOW-INCOME INDIVIDUAL.—The term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(3) VETERAN ELIGIBILITY.—No veteran shall be deemed ineligible to participate in any program under this chapter by reason of such individual's age who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

20 USC 1070a-12.

"SEC. 402B. TALENT SEARCH.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) PERMISSIBLE SERVICES.—Any talent search project assisted under this chapter may provide services such as—

"(1) academic advice and assistance in secondary school and college course selection;

"(2) assistance in completing college admission and financial aid applications;

"(3) assistance in preparing for college entrance examinations;

"(4) guidance on secondary school reentry or entry to general educational development (GED) programs or other alternative education programs for secondary school dropouts;

"(5) personal and career counseling;

"(6) tutorial services;

"(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

"(8) workshops and counseling for parents of students served;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this chapter for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age,

unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402F;

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402F; and

"(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

"SEC. 402C. UPWARD BOUND.

20 USC 1070a-13.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond secondary school.

"(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under this chapter may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

"(2) personal counseling;

"(3) academic advice and assistance in secondary school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIRED SERVICES.—Any upward bound project assisted under this chapter which has received funding for two or more years shall include, as part of the core curriculum in the next and succeeding years, instruction in mathematics through precalculus, laboratory science, and foreign language, composition, and literature.

"(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this chapter for any fiscal year, the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

"(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school; and

"(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(e) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

20 USC 1070a-14.

"SEC. 402D. STUDENT SUPPORT SERVICES.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services which shall be designed—

"(1) to increase college retention and graduation rates for eligible students;

"(2) to increase the transfer rates of eligible students from 2-year to 4-year institutions; and

"(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

"(b) PERMISSIBLE SERVICES.—A student support services project assisted under this chapter may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond secondary school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling and peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

"(9) mentoring programs involving faculty or upper class students, or a combination thereof; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for student support services projects under this chapter for any fiscal year, the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be individuals with disabilities; or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or individuals with disabilities;

"(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

"(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond secondary school;

"(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

"(6) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need.

"SEC. 402E. POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

Ronald E. McNair. 20 USC 1070a-15.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the 'Ronald E. McNair Postbaccalaureate Achievement Program' that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

"(b) SERVICES.—A postbaccalaureate achievement project assisted under this section may provide services such as—

"(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(2) summer internships;

"(3) seminars and other educational activities designed to prepare students for doctoral study;

"(4) tutoring;

"(5) academic counseling;

"(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

"(7) mentoring programs involving faculty members at institutions of higher education, students, or any combination of such persons; and

"(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

"(c) REQUIREMENTS.—In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

"(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(3) an assurance that participants be enrolled in a degree program at an eligible institution having an agreement with the Secretary in accordance with the provisions of section 487; and

"(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

"(d) AWARD CONSIDERATIONS.—In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

"(1) the quality of research and other scholarly activities in which students will be involved;

"(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

"(e) MAXIMUM STIPENDS.—Students participating in research under a postbaccalaureate achievement project may receive an award that—

"(1) shall include a stipend not to exceed $2,400 per annum; and

"(2) may include, in addition, the costs of summer tuition, summer room and board, and transportation to summer programs.

"(f) FUNDING.—From amounts appropriated pursuant to the authority of section 402A(f), the Secretary shall, to the extent practicable, allocate funds for projects authorized by this section in an amount which is not less than $11,000,000 for each of the fiscal years 1993 through 1997.

20 USC 1070a-16.

"SEC. 402F. EDUCATIONAL OPPORTUNITY CENTERS.

"(a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this section may provide services such as—

"(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

"(2) academic advice and assistance in course selection;

"(3) assistance in completing college admission and financial aid applications;

"(4) assistance in preparing for college entrance examinations;

"(5) guidance on secondary school reentry or entry to a general educational development (GED) program or other alternative education programs for secondary school dropouts;

"(6) personal counseling;

"(7) tutorial services;

"(8) career workshops and counseling;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this section for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 402B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 402B.

"SEC. 402G. STAFF DEVELOPMENT ACTIVITIES.

20 USC 1070a-17.

"(a) SECRETARY'S AUTHORITY.—For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects.

"(b) CONTENTS OF TRAINING PROGRAMS.—Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this chapter as well as annually on the following topics and other topics chosen by the Secretary:

"(1) Legislative and regulatory requirements for the operation of programs funded under this chapter.

"(2) Assisting students in receiving adequate financial aid from programs assisted under this title and other programs.

"(3) The design and operation of model programs for projects funded under this chapter.

"(c) CONSULTATION.—Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

"SEC. 402H. EVALUATION FOR PROJECT IMPROVEMENT.

20 USC 1070a-18.

"(a) IN GENERAL.—For the purpose of improving the operation of the programs and projects assisted under this chapter, the Secretary is authorized to make grants to and enter into contracts with institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the

various programs assisted under this subpart in meeting the purposes described in this chapter.

"(b) CONTENT.—The evaluations described in subsection (a) shall identify institutional, community and program practices particularly effective in increasing the access of low-income individuals and first-generation college students to postsecondary education, the preparation of such individuals and students for postsecondary education, and such individuals' and students' success in postsecondary education.

"(c) RESULTS.—In order to improve program effectiveness, the results of the ongoing evaluations described in subsection (a) shall be disseminated by the Secretary to similar programs assisted under this chapter as well as other individuals concerned with the postsecondary access and retention of low-income individuals and first-generation college students.

"CHAPTER 2—NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAM

20 USC 1070a-21.

"SEC. 404A. EARLY INTERVENTION PROGRAM AUTHORIZED.

"The Secretary is authorized, in accordance with the requirements of this chapter, to establish a program that—

"(1) encourages States to provide or maintain a guarantee to eligible low-income students who obtain a high-school diploma (or its equivalent), of the financial assistance necessary to permit them to attend an institution of higher education; and

"(2) provides incentives to States, in cooperation with local educational agencies, institutions of higher education, community organizations and business, to provide—

"(A) additional counseling, mentoring, academic support, outreach, and supportive services to elementary, middle, and secondary school students who are at risk of dropping out of school; and

"(B) information to students and their parents about the advantages of obtaining a postsecondary education and their college financing options.

20 USC 1070a-22.

"SEC. 404B. STATE ELIGIBILITY AND STATE PLAN.

"(a) PLAN REQUIRED FOR ELIGIBILITY.—(1) In order for a State to qualify for a grant under this chapter, the State shall submit to the Secretary a plan for carrying out the program under this chapter. Such plan shall provide for the conduct, under the State program, of both a scholarship component in accordance with section 403C and an early intervention component in accordance with section 403D.

"(2) Each State plan submitted pursuant to paragraph (1) be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation and shall—

"(A) describe the activities for which assistance under this section is sought; and

"(B) provide such additional assurances as the Secretary determines necessary to ensure compliance with the requirements of this section.

"(b) MATCHING REQUIREMENT.—The Secretary shall not approve a plan submitted under subsection (a) unless such plan—

"(1) provides that the State will provide, from State, local, or private funds, not less than one-half the cost of the program;

"(2) specifies the methods by which such share of the costs will be paid; and

"(3) includes provisions designed to assure that funds provided under this chapter shall supplement and not supplant funds expended for existing State and local programs.

"(c) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—A State may count toward the contribution required by subsection (b)(1)—

"(1) the amount of the grants paid to students from State, local, or private funds under this chapter;

"(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants under this chapter; and

"(3) the amount expended on documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

"(d) PAYMENT REQUIREMENTS.—Upon submission by a State of such documents as the Secretary may, by regulation, require for demonstrating the total amount expended by the State in accordance with this chapter for a fiscal year, the Secretary shall, from such State's allotment under section 404E for such fiscal year, pay to such State an amount equal to not more than one-half of the total amount so expended.

"SEC. 404C. EARLY INTERVENTION.

20 USC 1070a-23.

"(a) IN GENERAL.—In order to receive payments under section 404B(d), a State shall demonstrate to the satisfaction of the Secretary that the State will provide comprehensive mentoring, counseling, outreach, and supportive services to students participating in programs under this chapter who are enrolled in preschool through grade 12. Such counseling shall include financial aid counseling that provides information on the opportunities for financial assistance under this title. The State shall demonstrate, pursuant to regulations of the Secretary, the methods by which the State will target services on priority students.

Regulations.

"(b) USES OF FUNDS.—

Regulations.

"(1) IN GENERAL.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be used to meet the requirements of subsection (a).

"(2) ALLOWABLE PROVIDERS.—The activities required by subsection (a) may be provided by service providers such as community-based organizations, schools, institutions of higher education, public and private agencies, nonprofit and philanthropic organizations, businesses, institutions and agencies sponsoring programs authorized under subpart 4 of this part, and other organizations the Secretary deems appropriate.

"(3) PERMISSIBLE ACTIVITIES.—Examples of acceptable activities to meet the requirements of subsection (a) include the following:

"(A) Providing eligible students in preschool through grades 12 with a continuing system of mentoring and advising that—

"(i) is coordinated with the Federal and State community service initiatives; and

"(ii) may include such support services as after school and summer tutoring, assistance in obtaining summer jobs, career mentoring and academic counseling.

"(B) Requiring each student to enter into an agreement under which the student agrees to achieve certain academic milestones, such as completing a prescribed set of courses and maintaining satisfactory academic progress as described in section 484(c), in exchange for receiving tuition assistance for a period of time to be established by each State.

"(C) Activities designed to ensure high school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement and former or current scholarship recipients as mentor or peer counselors, skills assessment, personal counseling, family counseling and home visits, and staff development, and programs and activities as described in this subparagraph which are specially designed for students of limited English proficiency.

"(D) Prefreshman summer programs that—

"(i) are at institutions of higher education that also have programs of academic year supportive services for disadvantaged students through projects authorized under section 401D of this subpart or through comparable projects funded by the State or other sources;

"(ii) assure the participation of students who qualify as disadvantaged under the provisions of section 401D of this part or who are eligible for comparable programs funded by the State;

"(iii)(I) provide summer instruction in remedial, developmental or supportive courses; (II) provide such summer services as counseling, tutoring, or orientation; and (III) provide grant aid to students to cover prefreshman summer costs for books, supplies, living costs and personal expenses; and

"(iv) assure that participating students will receive financial aid during each academic year they are enrolled at the participating institution after the prefreshman summer.

"(E) Requiring eligible students to meet other standards or requirements as the State determines necessary to meet the purposes of this section.

"(c) PRIORITY STUDENTS.—In administering the early intervention component, the State shall treat as priority students any student in preschool through grade 12 who is eligible—

"(1) to be counted under section 1005(c) of the Elementary and Secondary Education Act of 1965;

"(2) for free or reduced price meals pursuant to the National School Lunch Act; or

"(3) for assistance pursuant to part A of title IV of the Social Security Act (Aid to Families with Dependent Children).

"SEC. 404D. SCHOLARSHIP COMPONENT.

20 USC 1070a-24.

"(a) IN GENERAL.—In order to receive payments under section 404B(d), a State shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this section. The Secretary shall encourage the State to ensure that the tuition assistance provided pursuant to this section is available to an eligible student for use at any eligible institution.

"(b) GRANT AMOUNTS.—The maximum amount of the grant that an eligible student in any participating State shall be eligible to receive under this section shall be established by the State. The minimum amount of the grant for each fiscal year shall not be less than the lesser of—

"(1) 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary; or

"(2) the maximum grant funded under section 401 for such fiscal year.

"(c) RELATION TO OTHER ASSISTANCE.—Tuition assistance provided under this chapter shall not be considered for the purpose of awarding Federal grant assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed such student's total cost of attendance.

"(d) ELIGIBLE STUDENTS.—A student eligible for assistance under this chapter is a student who—

"(1) is less than 22 years old at time of first grant award;

"(2) receives a high school diploma or a certificate of high school equivalence on or after January 1, 1993;

"(3) is enrolled or accepted for enrollment in a program of instruction at an institution of higher education that is located within the State's boundaries; except that, as a State option, a State may offer grant program portability for recipients who attend institutions of higher education outside such State; and

"(4) who the participated in the State early intervention component required under section 404C.

"(e) PRIORITY; WAIVER.—(1) The Secretary shall ensure that each State place a priority on awarding scholarships to students who will receive a Pell Grant for the academic year for which the award is being made under this chapter.

"(2) A State may consider students who have successfully participated in programs funded under chapter 1 of this subpart to have met the requirements of subsection (d)(4).

"SEC. 404E. DISTRIBUTION OF FUNDS.

20 USC 1070a-25.

"(a) COMPETITIVE AWARDS.—If the amount appropriated to carry out this chapter for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this chapter on a competitive basis to States to carry out a program described in section 404A.

"(b) ALLOTMENT BASED ON TITLE I ESEA ALLOCATIONS.—If the amount appropriated to carry out this chapter for a fiscal year is $50,000,000 or more, then the Secretary shall allot to each State an amount which bears the same ratio to such sums as—

"(1) the amount allocated under section 1005 of the Elementary and Secondary Education Act of 1965 to the local education agencies in the State,

bears to—

"(2) the total amount allocated under such section to all such agencies in all States.

"(c) LIMIT ON USE.—No State may use less than 25 percent or more than 50 percent of its allotment for the early intervention component of the State program, except that the Secretary may waive the 50 percent limitation if the State demonstrates that the State has another means of providing the student's tuition assistance that is described in the State plan.

"(d) REALLOTMENT.—The amount of any State's allotment under subsection (b) for any fiscal year which the Secretary determines will not be required for such fiscal year for the program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out such programs. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. A State shall match, in accordance with section 404B(b) any reallocated funds it receives under this subsection.

"(e) ALLOTMENT SUBJECT TO CONTINUING COMPLIANCE.—The Secretary shall make payments for programs only to States which continue to meet the requirements of the State plan pursuant to section 404B.

20 USC 1070a-26.

"SEC. 404F. EVALUATION AND REPORT.

"(a) EVALUATION.—Each State receiving an allotment under this section shall biannually evaluate the early intervention program assisted under this chapter in accordance with the standards described in subsection (b) and shall submit to the Secretary a copy of such evaluation. The evaluation component shall permit service providers to track eligible student progress during the period such students are participating in the program assisted under this section and must be consistent with the standards developed by the Secretary pursuant to subsection (b).

"(b) EVALUATION STANDARDS.—The Secretary shall prescribe standards for the evaluation described in subsection (a). Such standards shall—

"(1) provide for input from States and service providers; and

"(2) ensure that data protocols and procedures are consistent and uniform.

"(c) REPORT.—The Secretary shall biannually report to the Congress on the activities assisted under this chapter and the evaluations conducted pursuant to subsection (a).

20 USC 1070a-27.

"SEC. 404G. APPROPRIATIONS.

"There is authorized an appropriation to make grants under this chapter $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the four succeeding fiscal years. No amount may be expended to carry out the provisions of this chapter unless the amount appropriated for such fiscal year to carry out subpart 4 of part A of this title exceeds $60,000,000.

"CHAPTER 3—PRESIDENTIAL ACCESS SCHOLARSHIPS

20 USC 1070a-31.

"SEC. 406A. SCHOLARSHIPS AUTHORIZED.

"The Secretary is authorized in accordance with this chapter to award Presidential Access Scholarships to students who—

"(1) are eligible to receive a Pell Grant for the year in which the scholarship is awarded;

"(2) have participated in a preparatory program for postsecondary education; and

"(3) demonstrate academic achievement.

"SEC. 406B. SCHOLARSHIP PROGRAM REQUIREMENTS.

20 USC 1070a-32.

"(a) AMOUNT OF AWARD.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of a scholarship awarded under this chapter for any academic year shall be equal to 25 percent of the Pell Grant that the recipient is awarded for that year or $400, whichever is greater.

"(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 406C, funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this chapter, the amount paid to each student shall be reduced proportionately.

"(b) PERIOD OF AWARD.—Scholarships under this chapter shall be awarded for a period of not more than four academic years, or in the case of a student who is enrolled in an undergraduate course of study that requires attendance for the full-time equivalent of five academic years, five academic years.

"(c) USE AT ANY INSTITUTION PERMITTED.—An eligible student awarded a scholarship under this chapter may use such scholarship stipend to attend any institution of higher education.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Pell Grant and other student financial assistance available to such student, may not exceed the student's cost of attendance (as defined in section 472).

"(e) PRESIDENTIAL ACCESS SCHOLARS.—Students awarded scholarships under this chapter shall be known as 'Presidential Access Scholars'.

"SEC. 406C. ELIGIBILITY OF SCHOLARS.

20 USC 1070a-33.

"(a) REQUIREMENTS FOR STUDENTS IN FIRST YEAR OF POSTSECONDARY EDUCATION.—In order for a student who will be attending the student's first year of postsecondary education to be eligible to receive a scholarship under this chapter for that academic year, the student shall—

"(1) be enrolled or accepted for enrollment in a degree or certificate program of at least 2 years in length;

"(2) have demonstrated academic achievement and preparation for postsecondary education by taking college preparatory level coursework in the following areas while in secondary school or the equivalent:

"(A) 4 years of English;

"(B) 3 years of science;

"(C) 3 years of mathematics;
"(D) either—
"(i) 3 years of history; or
"(ii) 2 years of history and 1 year of social studies; and
"(E) either—
"(i) 2 years of a foreign language; or
"(ii) 1 year of computer science and 1 year of a foreign language.

"(3) earn a grade point average of 2.5 or higher, on a scale of 4.0, in the final 2 years of high school; and
"(4) either—
"(A) have participated, for a minimum period of 36 months, in an early intervention program that meets the requirements of section 406D; or
"(B) rank, or have ranked, in the top 10 percent, by grade point average, of the student's secondary school graduating class.

"(b) REQUIREMENTS FOR ALL STUDENTS.—
"(1) Each eligible student desiring a scholarship under this chapter shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.
"(2) In order for a student who will be attending a year of postsecondary education, other than the student's first year, to continue to be eligible to receive a scholarship under this chapter for that academic year the eligible student shall maintain eligibility to receive a Pell Grant, including fulfilling the requirements for satisfactory academic progress as described in section 484(c).

20 USC 1070a-34.

"SEC. 406D. ELIGIBLE EARLY INTERVENTION PROGRAMS.

"(a) PARTICIPATION IN TRIO PROGRAMS AND NATIONAL EARLY INTERVENTION SCHOLARSHIP AND PARTNERSHIP PROGRAMS.—Participation in a program authorized under section 402B, 402C, or 402F, or chapter 2 of subpart 2 of this part for a 36-month period shall meet the requirement of section 406C(a)(4)(A).

"(b) OTHER ELIGIBLE EARLY INTERVENTION PROGRAM.—Participation in another early intervention program, regardless of sponsorship, for a 36-month period, shall meet the requirements of section 406C(a)(4)(A) if the program—
"(1) meets the requirements established by the Secretary; and
"(2) is certified by the Governor as an honors scholars program.

20 USC 1070a-35.

"SEC. 406E. STUDENT ELIGIBILITY.

"(a) STUDENT ELIGIBILITY.—For the purpose of this chapter, the term 'eligible student' means an individual who—
"(1) is a graduate of a public or private secondary school or has the equivalent certificate of graduation as recognized by the State in which the eligible student resides;
"(2) not later than 3 years after such individual graduates or obtains an equivalent certificate, has been admitted for enrollment or is enrolled at an institution of higher education; and
"(3) is eligible to receive a Pell Grant for the year in which the scholarship is awarded.

"(b) LIMITATION.—For the purpose of this chapter, the term 'eligible student' does not include an individual who has been awarded a baccalaureate degree.

"(c) WAIVERS.—

"(1) EARLY INTERVENTION PROGRAM PARTICIPATION.—The Secretary may waive the requirement described in section 406C(a)(4) for any student who was unable to participate in an early intervention program assisted under this part because such program was not available in the area in which such student resides or the student was unable to participate in an early intervention program where the student resides.

"(2) LIMITED-ENGLISH PROFICIENT STUDENTS.—The Secretary may waive the requirement described in section 406C(a)(2)(E) for any limited-English proficient student who is fluent in a language other than English and is participating in a program to teach such student the English language or for any English speaking student fluent in a second language.

"SEC. 406F. EARLY INTERVENTION SCHOLARSHIP AGREEMENT.

20 USC 1070a-36.

"(a) IN GENERAL.—In order for a student to receive a scholarship under this chapter, the State educational agency serving the State in which such child resides shall have entered into an agreement with the Secretary.

"(b) CONTENTS.—Each agreement described in subsection (a) shall include provisions designed to ensure that—

"(1) all secondary school students in the State have equal and easy access to the coursework described in section 406C(a)(2);

"(2) the State educational agency has procedures in place to verify to the Secretary that students receiving scholarships under this chapter have taken such coursework and that such coursework has been of a college preparatory level, including a requirement that all secondary schools in the State issue a certificate to each eligible student certifying that such student has completed the necessary coursework to qualify for a scholarship under this chapter;

"(3) the State educational agency has procedures in place to notify institutions of higher education of the availability of scholarships under this chapter, so that such institutions may award additional scholarships in concert with the scholarships received under this chapter; and

"(4) the State educational agency has procedures in place to inform junior high school students and their families about the value of postsecondary education, the availability of student aid to meet college expenses, and the availability of scholarships under this chapter for students who take demanding courses, with particular emphasis on activities designed to ensure that students from low- and moderate-income families have access to such information.

"(c) SPECIAL RULE.—The Secretary may allow a State to receive assistance under this chapter for students whose secondary schools do not offer the necessary coursework if such students take the required courses at another local secondary school or community college.

"SEC. 406G. AUTHORIZATION OF APPROPRIATIONS.

20 USC 1070a-37.

"There are authorized to be appropriated $200,000,000 for fiscal year 1993 and such sums as may be necessary for each of the

4 succeeding fiscal years to carry out the provisions of this chapter. No amount may be expended to carry out the provisions of this chapter in any fiscal year unless the amount appropriated for such fiscal year to carry out subpart 1 of part A of this title exceeds the amount appropriated to carry out such subpart in the preceding fiscal year.

"CHAPTER 4—MODEL PROGRAM COMMUNITY PARTNERSHIP AND COUNSELING GRANTS

20 USC 1070a-41.

"SEC. 408A. MODEL PROGRAM GRANTS.

"(a) PROGRAM AUTHORITY.—From the amounts appropriated under section 408C, the Secretary shall award grants to develop model programs—

"(1) to counsel students, at an early age, about college opportunities, precollege requirements, the college admissions procedure, financial aid opportunities, and student support services that are specially designed or customized for use in specific geographic, social, and cultural environments; or

"(2) which stimulate community partnerships with schools by providing tutoring, mentoring, work experiences, and other services which support making postsecondary education a realistic goal for all students.

Rural and urban areas.

"(b) PRIORITIES IN SELECTION.—The Secretary shall give priority to those model programs which are directed at areas which have a high proportion of minority, limited English proficiency, economically disadvantaged, disabled, nontraditional, or at-risk students and those model programs which serve these students from rural or urban environments.

"(c) PROPOSAL REQUIREMENTS.—

"(1) TAILORING.—To receive a grant under subsection (a)(1), the proposal submitted to the Secretary shall demonstrate that the counseling on college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities (including early intervention counseling), is tailored to a specific geographic, social or cultural environment.

"(2) COMMUNITY PARTNERSHIPS.—To receive a grant under subsection (a)(2), the proposal submitted to the Secretary shall demonstrate the active involvement of a local educational agency and at least one of the following:

"(A) Local businesses.

"(B) Labor organizations.

"(C) Community groups.

"(3) GOALS AND OUTCOMES.—To receive a grant under this section, each proposal shall contain a statement of specific, measurable goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education.

20 USC 1070a-42.

"SEC. 408B. DIFFUSION ACTIVITIES.

"(a) COLLECTION OF INFORMATION.—The Secretary shall collect information concerning—

"(1) programs supported under section 408A and programs of demonstrated effectiveness which counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities;

"(2) early intervention programs of demonstrated effectiveness which set students on the path toward staying in school and pursuing a postsecondary education;

"(3) model programs which counsel students in specific environments, such as urban, rural, and suburban; and

"(4) model programs which develop school/community partnerships to provide mentoring, tutoring, work experiences and other services which support making postsecondary education a realistic goal for all students.

"(b) DISSEMINATION.—The Secretary shall ensure that the information collected under subsection (a) is disseminated.

"SEC. 408C. AUTHORIZATION OF APPROPRIATIONS.

20 USC 1070a-43.

"There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this chapter.

"CHAPTER 5—PUBLIC INFORMATION

"SEC. 409A. DATABASE AND INFORMATION LINE.

Contracts. 20 USC 1070a-51.

"From the funds available under section 409C, the Secretary shall award a contract to establish and maintain—

"(1) a computerized database of all public and private financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone lines; and

"(2) a toll-free information line, including access by telecommunications devices for the deaf ('TDD's'), to provide individualized financial assistance information to parents, students, and other individuals, including individuals with disabilities, and to refer students with disabilities and their families to the postsecondary clearinghouse that is authorized under section 633(c) of the Individuals with Disabilities Education Act.

"SEC. 409B. EARLY AWARENESS INFORMATION PROGRAM.

20 USC 1070a-52.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to enter into contracts with appropriate public agencies, nonprofit private organizations, and institutions of higher education to conduct an information program designed—

"(1) to broaden the early awareness of postsecondary educational opportunities by secondary school students and their parents; and

"(2) to encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries.

"(b) CONTENTS OF MESSAGES.—Announcements and messages supported under this section—

"(1) may be specially designed for students of limited English proficiency,

"(2) shall publicize—

"(A) the availability of Federal student assistance under this Act;

"(B) the importance of postsecondary education in long-term career planning; and

"(C) the need and necessity to complete a secondary education program successfully in order to meet the requirements for college.

"(c) INFORMING CONGRESS.—The Secretary shall keep the appropriate committees of the Congress informed with respect to the efforts made pursuant to this section and shall recommend any additional legislative authority that will serve the purposes of this section.

Appropriation authorization.
20 USC 1070a-53.

"SEC. 409C. DATABASE AND INFORMATION LINE.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this chapter.

"CHAPTER 6—NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM

20 USC 1070a-61.

"SEC. 410A. NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

"(2) help determine the most effective means of achieving the activities described in paragraph (1).

"(b) DEMONSTRATION PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

"(2) AMOUNT OF GRANT.—The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

"(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B), except that such Federal match shall not exceed $50 per child; multiplied by

"(B) the number of children participating in the program assisted under this part.

"(3) PRIORITY.—In awarding grants under this section the Secretary shall give priority to States proposing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

"(4) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to States—

"(A) that permit employers to use pretax income in making contributions to a child's account; and

"(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the student savings program to be established and the number of children to be served;

"(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

"(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

"(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 472) at any eligible institution (as such term is defined in section 481);

"(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

"(F) describe the age at which children in the State may establish such accounts;

"(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

"(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

"(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child is unable to attend college;

"(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

"(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

"(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits other than interest.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

"CHAPTER 7—PREELIGIBILITY FORM

"SEC. 410B. INFORMATION ON ELIGIBILITY FOR ASSISTANCE.

20 USC 1070a-71.

"To help ensure access to postsecondary education by providing early notice to students of their potential eligibility for financial aid, the Secretary, as part of the contracts developed pursuant to section 483, may—

"(1) develop and process a common preeligibility Federal financial aid form,

"(2) distribute and process such form on a year-round basis free of charge to students and parents, and

"(3) issue, on the basis of information reported by the student on such form, a preeligibility expected family contribution figure and estimate of the amount of Federal (and, if feasible, non-

Federal) funds for which the student might qualify in later completing and submitting the application form called for under section 483.

Public information.

The Secretary shall widely disseminate the preeligibility form through post offices and other appropriate Federal installations, schools, institutions of higher education, libraries, and community-based agencies, including projects assisted under subparts 2 and 5 of this part.

"CHAPTER 8—TECHNICAL ASSISTANCE FOR TEACHERS AND COUNSELORS

20 USC 1070a-81.

"SEC. 410C. TECHNICAL ASSISTANCE GRANTS.

"(a) PROGRAM AUTHORITY.—From the amounts appropriated under subsection (f), the Secretary shall award grants to local educational agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities.

"(b) SELECTION OF GRANT RECIPIENTS.—

"(1) PRIORITY.—In making grants under this section, the Secretary shall give priority to those local educational agencies serving school districts (A) from which the proportion of students who continue on to higher education is significantly below the national average, and (B) in which the proportion of students who are educationally disadvantaged is significantly above the national average.

Federal Register, publication.

"(2) SELECTION PROCEDURES.—The Secretary shall develop a formal procedure for the submission of proposals and publish in the Federal Register an announcement with respect to that procedure and the availability of funds.

"(c) LOCAL PLAN.—To receive a grant under this section, a local educational agency shall submit to the Secretary a plan that—

"(1) specifies the methods to be used for outreach, implementation, and follow-up with those students most in need and at-risk for dropping out or failing to pursue post-secondary education;

"(2) demonstrates the methods by which the agency will target funds to those schools within the district that have the lowest rate of students who continue on to higher education;

"(3) utilizes early intervention programs for counseling minority, economically disadvantaged, disabled, and at-risk students about postsecondary education;

"(4) includes a strategy for keeping the guidance counselors, teachers (including elementary, secondary, vocational, and special education teachers), and principals who have been trained up-to-date on financial aid information;

"(5) contains a statement of specific goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education; and

"(6) contains a description of the costs of the training and other activities to be undertaken.

"(d) DURATION OF GRANTS.—Grants under this section shall be available for 2 years.

"(e) EVALUATION.—

"(1) CONDUCT OF EVALUATIONS.—The Secretary shall reserve not more than 2 percent of any amount appropriated under

subsection (f) for the purpose of carrying out an independent evaluation of the effectiveness of the training programs assisted under this section in—

"(A) increasing the number of personnel in a school who regularly counsel students regarding college opportunities, precollege requirements, the college admission procedure, and financial aid opportunities; and

"(B) increasing the number of students who continue on to postsecondary education from a school which has had personnel trained using monies from this section.

"(2) REPORT.—The Secretary shall submit to the appropriate committees of the Congress a report which contains the findings of the evaluation required by paragraph (1).

"(f) TECHNICAL ASSISTANCE GRANTS.—There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.". Appropriation authorization.

(b) REFERENCE.—Reference in any provision of law (other than the Act) to subpart 2, 3, or 4 of part A of title IV of the Act shall, after the date of enactment of this Act, be deemed to refer to subpart 3, 4, or 2 of such part, respectively. 20 USC 1070a-11 note.

SEC. 403. FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS.

(a) TITLE OF PROGRAM.—The heading of subpart 3 of part A of title IV of the Act (as redesignated in section 402(a)) is amended to read as follows:

"SUBPART 3—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 413A(b) of the Act (20 U.S.C. 1076b(b)) is amended to read as follows: 20 USC 1070b.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $675,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which such sums were appropriated.".

(c) ELIGIBILITY FOR STUDY ABROAD.—Section 413B(a) of the Act (20 U.S.C. 1070b–1(a)) is amended—

(1) in paragraph (1)—

(A) by striking "From" and inserting "Except as provided in paragraph (3), from"; and

(B) in subparagraph (A), by inserting "or in a program of study abroad that is approved for credit by the institution at which the student is enrolled" after "course of study at the institution"; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) For students participating in study abroad programs, the institution shall consider all reasonable costs associated with such

study abroad when determining student eligibility. The amount of grant to be awarded in such cases may exceed the maximum amount of $4,000 by as much as $400 if reasonable study abroad costs exceed the cost of attendance at the home institution.".

20 USC 1070b-2.

(d) FEDERAL SHARE.—Section 413C(a)(2) of the Act is amended to read as follows:

"(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent of such awards, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and".

(e) USE OF FUNDS TO NONTRADITIONAL STUDENTS.—Section 413C(d) of the Act (20 U.S.C. 1070b–2(d)) is amended—

(1) by inserting "who are independent students or" after "demonstrated by students"; and

(2) by inserting before the period at the end thereof the following: ", except that if the total financial need of all such students attending the institution exceeds 5 percent of the need of all students attending such institution, then at least 5 percent of such allotment shall be made available to such students".

(f) TRANSFER OF FUNDS.—Section 413C(e) of the Act is amended by striking ", and may transfer such funds in accordance with the provisions of section 488".

(g) ALLOCATION OF FUNDS.—Section 413D(a) of the Act (20 U.S.C. 1070b–3(a)) is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate from or transfer to a 4-year institution of higher education.".

(h) CONSEQUENCES OF FAILURE TO AWARD.—Section 413D(e) of the Act (20 U.S.C. 1070b–3(e)) is amended—

(1) by inserting "(1)" after the subsection heading; and

(2) by adding at the end the following new paragraph:

"(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing this paragraph would be contrary to the interest of the program.".

SEC. 404. STATE STUDENT INCENTIVE GRANTS.

(a) PURPOSES OF SUBPART.—Section 415A of the Act (20 U.S.C. 1070c) is amended to read as follows:

"(a) PURPOSE OF SUBPART.—It is the purpose of this subpart to make incentive grants available to States to assist States in providing grants to—

"(1) eligible students attending institutions of higher education or participating in programs of study abroad that are

approved for credit by institutions of higher education at which such students are enrolled; and

"(2) eligible students for campus-based community service work-study.

"(b) AUTHORIZATION OF APPROPRIATIONS; AVAILABILITY.—

"(1) IN GENERAL.—There are authorized to be appropriated $105,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) AVAILABILITY.—Sums appropriated pursuant to the authority of paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(b) MAXIMUM GRANT.—Section 415C(b)(2) of the Act (20 U.S.C. 1070c–2(b)(2)) is amended by striking "$2,500" and inserting "$5,000".

(c) FEES FOR DETERMINATIONS OF NEED PROHIBITED.—Section 415C(b)(4) of the Act is amended by inserting before the semicolon the following: ", except that for the purpose of collecting data to make such determination of financial need, no student or parent shall be charged a fee that is payable to an entity other than such State".

(d) ALLOCATION RULE.—Section 415C(b)(7) of the Act is amended to read as follows:

"(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are independent students or attending the institution less than full time, a reasonable proportion of the State's allocation shall be made available to such students.

SEC. 405. HEP/CAMP.

(a) ELIGIBLE PERSONS.—

(1) SERVICES PROVIDED BY HIGH SCHOOL EQUIVALENCY PROGRAM.—Section 418A(b) of the Act (20 U.S.C 1070d–2(b)) is amended—

(A) by striking paragraph (1) and inserting the following:

"(1) recruitment services to reach persons—

"(A)(i) who are 16 years of age and over; or

"(ii) who are beyond the age of compulsory school attendance in the State in which such persons reside and are not enrolled in school;

"(B)(i) who themselves, or whose parents, have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork; or

"(ii) who are eligible to participate, or have participated within the preceding 2 years, in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act; and

"(C) who lack a high school diploma or its equivalent;"; and

(B) in paragraph (4)—

(i) by inserting a comma after "concerning"; and

(ii) by inserting a comma after "obtaining".

(2) SERVICES PROVIDED BY COLLEGE ASSISTANCE MIGRANT PROGRAM.—Section 418A(c)(1) of the Act is amended to read as follows:

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated or are eligible to participate, in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who meet the minimum qualifications for attendance at a college or university;".

20 USC 1070d-2.

(b) FOLLOW-UP SERVICES.—Section 418A(c) of the Act is further amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (E) as clauses (i) through (v), respectively;

(2) in paragraph (3), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(3) by redesignating paragraphs (1) through (6) (as amended) as subparagraphs (A) through (F), respectively;

(4) by inserting the paragraph designation "(1)" after the subsection heading; and

(5) by adding at the end thereof the following new paragraph:

"(2) A recipient of a grant to operate a college assistance migrant program under this subpart shall provide followup services for migrant students after such students have completed their first year of college, and shall not use more than 10 percent of such grant for such followup services. Such followup services may include—

"(A) monitoring and reporting the academic progress of students who participated in the project during such student's first year of college and during such student's subsequent years in college; and

"(B) referring such students to on- or off-campus providers of counseling services, academic assistance, or financial aid.".

(c) GRANT CYCLES.—Section 418A(e) of the Act is amended—

(1) in the subsection heading, by striking "THREE-YEAR" and inserting "FIVE-YEAR"; and

(2) by striking "3-year period" and inserting "5-year period".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 418A(g) of the Act is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 406. BYRD HONORS SCHOLARSHIP PROGRAM.

(a) DEFINITIONS.—Section 419B of the Act (20 U.S.C. 1070d–32) is repealed.

(b) PERIOD OF AWARD.—Section 419C(b) of the Act (20 U.S.C. 1070d–33(b)) is amended to read as follows:

"(b) PERIOD OF AWARD.—Scholarships under this section shall be awarded for a period of not more than 4 years for the first 4 years of study at any institution of higher education eligible to participate in any programs assisted under this title.".

(c) ALLOCATION AMONG STATES.—Section 419D of the Act (20 U.S.C. 1070d–34) is amended to read as follows:

"ALLOCATION AMONG STATES

"SEC. 419D. (a) ALLOCATION FORMULA.—From the sums appropriated pursuant to the authority of section 419K for any fiscal year, the Secretary shall allocate to each State that has an agreement under section 419E an amount equal to $1,500 multiplied by the number of scholarships determined by the Secretary to be available to such State in accordance with subsection (b).

"(b) NUMBER OF SCHOLARSHIPS AVAILABLE.—The number of scholarships to be made available in a State for any fiscal year shall bear the same ratio to the number of scholarships made available to all States as the State's population ages 5 through 17 bears to the population ages 5 through 17 in all the States, except that not less than 10 scholarships shall be made available to any State.

"(c) USE OF CENSUS DATA.—For the purpose of this section, the population ages 5 through 17 in a State and in all the States shall be determined by the most recently available data, satisfactory to the Secretary, from the Bureau of the Census.".

(d) SELECTION OF SCHOLARS.—Section 419G of the Act (20 U.S.C. 1070d–37) is amended—

(1) by amending subsection (b) to read as follows:

"(b) ADOPTION OF PROCEDURES.—The State educational agency shall adopt selection procedures designed to ensure an equitable geographic distribution of awards within the State (and in the case of the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, or Palau (until such time as the Compact of Free Association is ratified), not to exceed 10 individuals will be selected from such entities)."; and

(2) by adding at the end the following new subsection:

"(d) TIMING OF SELECTION.—The selection process shall be completed, and the awards made, prior to the end of each secondary school academic year.".

(e) STIPENDS AND SCHOLARSHIP CONDITIONS.—Section 419H(a) of the Act (20 U.S.C. 1070d–38(a)) is amended by inserting before the period the following: ", except that in no case shall the total amount of financial aid awarded to such student exceed such student's total cost-of-attendance".

(f) CONSTRUCTION OF NEEDS PROVISIONS.—Section 419J of the Act (20 U.S.C. 1070d–40) is amended by striking "Nothing" and inserting "Except as provided in section 471, nothing".

(g) AWARDS CEREMONY.—

(1) REPEAL.—Section 419I of the Act (20 U.S.C. 1070d–39) is repealed.

(2) CONFORMING AMENDMENTS.—Section 419E of the Act (20 U.S.C. 1070d–35) is amended—

(A) in paragraph (3) by inserting "and" after the semicolon;

(B) in paragraph (4) by striking "at an awards ceremony in accordance with section 419I; and" and inserting a period; and

(3) by striking paragraph (5).

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 419K of the Act is amended to read as follows: 20 USC 1070d–41.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419K. There are authorized to be appropriated for this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 407. PAYMENTS TO INSTITUTIONS OF HIGHER EDUCATION.

Section 420 of the Act (20 U.S.C. 1070e) is repealed.

20 USC 1070e-1.

SEC. 408. VETERANS OUTREACH.

Section 420A of the Act (20 U.S.C. 1070f(a)) is repealed.

20 USC 1070f.

SEC. 409. CHILD CARE.

Section 420B(c) of the Act is amended by striking "fiscal year 1987" and inserting "fiscal year 1993" and by striking "$10,000,000" and inserting "$20,000,000".

20 USC 1070a note.

SEC. 410. EFFECTIVE DATES FOR AMENDMENTS TO PART A.

(a) IN GENERAL.—The changes made in part A of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part A;

(2) that the changes made in section 411, relating to Pell Grants, shall apply to the awarding of Pell Grants for periods of enrollment beginning on or after July 1, 1993; and

(3) that the changes in section 413C(a)(2), relating to the Federal share for the supplemental educational opportunity grant program, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993.

PART B—FEDERAL FAMILY EDUCATION LOANS

SEC. 411. PROGRAM DESIGNATION AND DURATION.

(a) NAME OF PROGRAMS.—Part B of title IV of the Act (20 U.S.C. 1071 et seq.) is amended—

(1) by striking the heading of such part and inserting the following:

"PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM"; and

20 USC 1071.

(2) by striking section 421(c) (20 U.S.C. 1070f(c)), and inserting the following:

"(c) DESIGNATION.—The program established under this part shall be referred to as the 'Robert T. Stafford Federal Student Loan Program'. Loans made pursuant to sections 427 and 428 shall be known as 'Federal Stafford Loans'.".

(b) PROGRAM DURATION.—

(1) FEDERAL INSURANCE DURATION.—Section 424(a) of the Act (20 U.S.C. 1074(a)) is amended—

(A) by striking "October 1, 1992" and inserting "October 1, 1998"; and

(B) by striking "September 30, 1997" and inserting "September 30, 2002".

(2) INTEREST SUBSIDY DURATION.—Section 428(a)(5) (20 U.S.C. 1078(a)(5)) of the Act is amended—

(A) by striking "September 30, 1992" and inserting "September 30, 1998"; and

(B) by striking "September 30, 1997" and inserting "September 30, 2002".

(c) GUARANTEE AUTHORITY CONTINGENT ON TIMELY RULEMAKING.—Section 421 of the Act is amended by inserting after subsection (c) the following new subsection: 20 USC 1071.

"(d) LIMITATION ON AUTHORIZATION TO GUARANTEE NEW LOANS UNDER THIS PART.—Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations. This subsection shall not provide the basis for avoiding any requirements for notice and public hearing on such regulations.".

SEC. 412. ADVANCES FOR RESERVE FUNDS OF STATE AND NONPROFIT PRIVATE LOAN INSURANCE PROGRAMS.

Section 422 of the Act (20 U.S.C. 1072) is amended—

(1) in subsection (a)(2), by adding at the end the following new sentence:

"Except as provided in section 428(c)(10)(E) or (F), such unencumbered non-Federal portion shall not be subject to recall, repayment, or recovery by the Secretary."; and

(2) by adding at the end thereof the following new subsections:

"(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

"(1) IN GENERAL.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September 1, 1988, and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary and if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant, and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

"(2) AMOUNT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves which exceeds the amount of that which would have been withheld or canceled if the maximum excess cash reserves had been accurately calculated.

"(f) REFUND OF CASH RESERVE PAYMENTS.—The Secretary shall, within 30 days after the date of enactment of the Higher Education Amendments of 1992, pay the full amount of payments withheld or canceled under paragraph (3) of this subsection to any guaranty agency which—

"(1) was required to eliminate excess cash reserves, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986;

"(2) appealed the Secretary's demand that such agency should eliminate such excess cash reserves and received a waiver of a portion of the amount of such excess cash reserves to be eliminated;

"(3) had payments under section 428(c)(1) or section 428(f) previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as described in subsection (e) of this section as in effect on September 1, 1988) permitted at the end of 1986; and

"(4) according to a Department of Education review that was completed and forwarded to such guaranty agency prior to January 1, 1992, is expected to become insolvent during or before 1996 and the payments withheld or canceled under paragraph (3) of this subsection are a factor in such agency's impending insolvency.".

SEC. 413. LIMITATIONS ON FEDERAL LOAN INSURANCE.

Section 425 of the Act (20 U.S.C. 1075) is amended—

(1) in subsection (a)(1)(A) by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

"(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500;".

(2) in subsection (a)(2)(A), by striking clauses (i) and (ii) and inserting the following:

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary) and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student), but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.".

SEC. 414. ELIGIBILITY OF STUDENT BORROWERS AND TERMS OF FEDERALLY INSURED STUDENT LOANS.

(a) SECURITY AND ENDORSEMENT.—Section 427(a)(2)(A) of the Act (20 U.S.C. 1077(a)(2)(A)) is amended to read as follows:

"(A) is made without security and without endorsement;".

(b) INSURED LOAN DEFERMENTS.—Section 427(a)(2)(C) of the Act is amended to read as follows:

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid, during any period—

"(i) during which the borrower—

"(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

"(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for individuals with disabilities approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or a loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

"(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B);".

(c) GRADUATED REPAYMENT.—Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (G);

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with the regulations of the Secretary; and"; and

(2) in subsection (c), by striking "MINIMUM REPAYMENT RATE.—The total of the payments" and inserting "SPECIAL REPAYMENT RULES.—Except as provided in subsection (a)(2)(H), the total of the payments".

20 USC 1077.

(d) STUDY ABROAD.—Section 427(a)(3) of the Act is amended to read as follows:

"(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

"(A) that nothing in this title shall be interpreted—

"(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

"(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

"(B) in the case of any student who is studying outside the United States in a program of study abroad that is approved for credit by the home institution at which such student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney; and".

(e) MINIMUM PAYMENT FOR MARRIED COUPLES; MINIMUM PAYMENT OF INTEREST.—Section 427(c) of the Act is further amended by striking ", except that in the case of a husband and wife" and all that follows through "whichever is less" and inserting "(but in no instance less than the amount of interest due and payable)".

SEC. 415. APPLICABLE INTEREST RATES.

(a) PLUS AND SLS LOAN INTEREST RATE.—Section 427A(c)(4) of the Act (20 U.S.C. 1077a(c)(4)) is amended by adding at the end the following new subparagraph:

"(D) Notwithstanding subparagraph (A)—

"(i) for any loan made pursuant to section 428A for which the first disbursement is made on or after October 1, 1992—

"(I) subparagraph (B) shall be applied by substituting '3.1' for '3.25'; and

"(II) the interest rate shall not exceed 11 percent; and

"(ii) for any loan made pursuant to section 428B for which the first disbursement is made on or after October 1, 1992—

"(I) subparagraph (B) shall be applied by substituting '3.1' for '3.25'; and

"(II) the interest rate shall not exceed 10 percent.".

(b) EXCESS INTEREST PAYMENTS.—Section 427A(e) of the Act is amended— 20 USC 1077a.

(1) in paragraph (1)—

(A) by striking "IN GENERAL" and inserting "EXCESS INTEREST ON 10 PERCENT LOANS";

(B) by striking "paragraph (3)" and inserting "paragraph (5)";

(2) in paragraph (2), by inserting "FOR 10 PERCENT LOANS" after "(2) AMOUNT OF ADJUSTMENT";

(3) by striking paragraph (5);

(4) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively;

(5) by inserting the following new paragraphs after paragraph (2):

"(3) EXCESS INTEREST ON LOANS AFTER 1992 AMENDMENTS, TO BORROWERS WITH OUTSTANDING BALANCES.—If, with respect to a loan made on or after the date of enactment of the Higher Education Amendments of 1992 to a borrower, who on the date of entering into the note or other written evidence of the loan, has an outstanding balance of principal or interest on any other loan made, insured, or guaranteed under this part, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.1 percent is less than the applicable interest rate, then an adjustment shall be made—

"(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

"(4) AMOUNT OF ADJUSTMENT.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(A) the applicable interest rate minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.1 percent; multiplied by

"(B) the outstanding principal balance of the loan (not including unearned interest added to principal) at the end of such calendar quarter; divided by

"(C) four."; and

(6) in paragraph (5), as redesignated—

(A) by striking "or by reducing the number of payments" and inserting "by reducing the number of payments"; and

(B) by striking the period at the end and inserting ", or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 433(b).".

(c) INTEREST RATE FOR NEW BORROWERS.—Section 427A of the Act is further amended—

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g) and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) INTEREST RATES FOR NEW BORROWERS AFTER OCTOBER 1, 1992.—

"(1) IN GENERAL.—Notwithstanding subsections (a), (b), and (d) of this section, with respect to any loan (other than a loan made pursuant to sections 428A, 428B and 428C) for which the first disbursement is made on or after October 1, 1992, to any borrower who, on the date of entering into the note or other written evidence of the loan, has no outstanding balance of principal or interest on any loan made, insured, or guaranteed under this part, the applicable rate of interest shall, during any 12-month period beginning on July 1 and ending on June 30, be determined on the preceding June 1 and be equal to—

"(A) the bond equivalent rate of 91-day Treasury bills auctioned at the final auction held prior to such June 1; plus

"(B) 3.10 percent,

except that such rate shall not exceed 9 percent.

Federal Register, publication.

"(2) CONSULTATION.—The Secretary shall determine the applicable rate of interest under paragraph (1) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of determination.".

SEC. 416. AMENDMENTS TO SECTION 428.

(a) FEDERAL INTEREST SUBSIDIES.—

(1) REQUIREMENTS TO RECEIVE SUBSIDY.—Section 428(a)(2)(C) of the Act (20 U.S.C. 1078(a)(2)(C)) is amended—

(A) by amending clause (i) to read as follows:

"(i) a student's estimated financial assistance means, for the period for which the loan is sought, the amount of assistance such student will receive under subpart 1 of part A (as determined in accordance with section 484(b)), subpart 3 of part A, and parts C and E of this title, and any veterans' education benefits paid because of enrollment in a postsecondary education institution, including veterans' education benefits (as defined in section 480(c)), plus other scholarship, grant, or loan assistance."; and

(B) by amending clause (ii) to read as follows:

"(ii) the determination of need and of the amount of a loan by an eligible institution under subparagraph (B) with respect to a student shall be calculated in accordance with part F.".

(2) LIMITATION ON INTEREST PRIOR TO FIRST DISBURSEMENT.—Section 428(a)(3)(A) of the Act is amended by adding at the end the following new clause:

"(v) A lender may not receive interest on a loan for any period that precedes the date that is—

"(I) in the case of a loan disbursed by check, 10 days before the first disbursement of the loan; or

"(II) in the case of a loan disbursed by electronic funds transfer, 3 days before the first disbursement of the loan.".

(3) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Section 428(a) of the Act is amended by inserting after paragraph (6) the following new paragraph: 20 USC 1078.

"(7) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Lenders may not charge interest or receive interest subsidies or special allowance payments for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.".

(b) LOAN AMOUNTS.—

(1) ANNUAL LIMITS.—Section 428(b)(1)(A) of the Act is amended—

(A) by inserting "or in a program of study abroad approved for credit by the eligible home institution at which such student is enrolled" after "at an eligible institution"; and

(B) by striking clauses (i) through (iii) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $1,750, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year;

"(ii) in the case of a student who has successfully completed such first year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $3,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $2,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such academic year; and

"(III) $1,175, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such academic year;

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $5,500, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(II) $3,675, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(III) $1,825, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year; and

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $8,500;".

20 USC 1078.

(2) AGGREGATE LIMITS.—Section 428(b)(1)(B) of the Act is amended by striking clauses (i) and (ii) and inserting the following:

"(i) $23,000, in the case of any student who has not successfully completed a program of undergraduate education, excluding loans made under section 428A or 428B; and

"(ii) $65,500, in the case of any graduate or professional student (as defined by regulations of the Secretary), and (I) including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student, but (II) excluding loans made under section 428A or 428B,

except that the Secretary may increase the limit applicable to students who are pursuing programs which the Secretary determines are exceptionally expensive.".

(c) REPAYMENT PERIOD CALCULATIONS; INCOME SENSITIVE REPAYMENT.—

(1) AMENDMENT.—Subparagraphs (D) and (E) of section 428(b)(1) of the Act are amended to read as follows:

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the repayment period of any insured loan may not exceed 10 years, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed, and shall contain a notice that repayment may, following a default by the borrower, be subject to repayment in accordance with the regulations required by subsection (m) if the Secretary has published the finding required by paragraph (2) of such subsection;

"(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

"(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured, or guaranteed under this section or section 428A, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and in accordance with regulations of the Secretary; and

"(ii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years commencing at the beginning of the repayment period determined under paragraph (7) of this subsection;".

(2) DEFINITION OF REPAYMENT PERIOD.—Section 428(b) of the Act is amended by adding at the end the following new paragraph: 20 USC 1078.

"(7) REPAYMENT PERIOD.—(A) In the case of a loan made under section 427 or 428, the repayment period shall begin on the day immediately following the expiration of the 6-month period after the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

"(B) In the case of a loan made under section 428A or 428H, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

"(C) In the case of a loan made under section 428B or 428C, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.".

(d) MINIMUM PAYMENT FOR MARRIED COUPLES; MINIMUM PAYMENT OF INTEREST.—Section 428(b)(1)(L)(i) of the Act is amended by striking ", except that, in the case of a husband and wife" and all that follows through "whichever is less" and inserting "(but in no instance less than the amount of interest due and payable)".

(e) DEFERMENTS.—

(1) AMENDMENT.—Section 428(b)(1)(M) of the Act is amended to read as follows:

"(M) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period—

"(i) during which the borrower—

"(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

"(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part (other than a loan made under 428B or 428C), while serving in a medical internship or residency program;

"(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment; or

"(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship;".

(2) DEFINITION OF ECONOMIC HARDSHIP.—Section 435 of the Act is amended by adding at the end the following new subsection: 20 USC 1085.

"(o) ECONOMIC HARDSHIP.—

"(1) IN GENERAL.—For purposes of this part and part E, a borrower shall be considered to have an economic hardship if—

"(A) such borrower is working full-time and is earning an amount which does not exceed the greater of—

"(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(ii) an amount equal to 100 percent of the poverty line for a family of 2 as determined in accordance with section 673(2) of the Community Service Block Grant Act; or

"(B) such borrower meets such other criteria as are established by the Secretary by regulation in accordance with paragraph (2).

"(2) CONSIDERATIONS.—In establishing criteria for purposes of paragraph (1)(B), the Secretary shall consider the borrower's income and debt-to-income ratio as primary factors.".

20 USC 1078.

(f) DISBURSEMENT.—Section 428(b)(1)(N) of the Act is amended by striking "except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;" and inserting "except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the home institution at which the student is enrolled, the funds shall, at the request of the borrower, be delivered directly to the student and the checks may be endorsed, and fund transfers authorized, pursuant to an authorized power-of-attorney;".

(g) CONSEQUENCES OF LS&T ACTIONS.—Section 428(b)(1)(T) is amended to read as follows:

"(T) authorizes (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

"(I) such institution is ineligible for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

"(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

"(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a final judgment obtained by a student seeking such a refund;

"(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil, or administrative proceeding, or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding, regarding the obtaining, maintenance, or disbursement

of State or Federal grant, loan, or work assistance funds; or

"(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial assistance funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all locations of such institution, unless the Secretary finds, within 30 days of notification of the action by the guaranty agency, that the guaranty agency's action did not comply with the requirements of this section;".

(h) AUDITS OF LENDERS.—Section 428(b)(1)(U) of the Act is amended— 20 USC 1078.

(1) in clause (i), by striking "and" at the end thereof;

(2) by inserting before the semicolon at the end thereof the following: ", and (iii) for (I) a compliance audit of each lender at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit, except that the Secretary may waive the requirements of this clause (iii) if the lender submits to the Secretary the results of an audit conducted for other purposes that the Secretary determines provides the same information as the audits required by this clause;".

(i) FORBEARANCE.—Section 428(b)(1)(V) of the Act is amended—

(1) by striking out "and" at the end of clause (i);

(2) in clause (ii), by inserting "or (ii)" after "clause (i)" each place such term appears;

(3) by striking the period at the end of clause (ii) and inserting a semicolon;

(4) by redesignating clause (ii) as clause (iv); and

(5) by inserting after clause (i) the following new clauses:

"(ii) provides that, if the borrower's debt burden under this title equals or exceeds 20 percent of gross income and the borrower submits a written request, a lender shall grant the borrower forbearance of principal and interest (or principal only at the option of the borrower), and shall renew such forbearance at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations of the Secretary and set forth in writing by the parties to the loan;

"(iii) provides that the form of forbearance granted by the lender for purposes of this subparagraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and".

20 USC 1078.

(j) ADDITIONAL GUARANTY AGREEMENT REQUIREMENTS.—Section 428(b)(1) of the Act is amended by striking subparagraphs (W) and (X) and inserting the following:

"(W) provides authority for the guaranty agency to require a participation agreement between the guaranty agency and each eligible institution within the State in which it is designated, as a condition for guaranteeing loans made on behalf of students attending the institution;

"(X) provides assurances that the agency will implement all requirements of the Secretary for uniform claims and procedures pursuant to section 432(l); and

"(Y) provides information to the Secretary in accordance with section 428(c)(10) and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations.".

(k) CONTENTS OF INSURANCE PROGRAM AGREEMENTS.—Section 428(b)(2) of the Act is amended—

(1) in subparagraph (C), by striking ", as the Secretary may reasonably require to carry out the Secretary's functions under this part," and inserting ", including financial information, as the Secretary may reasonably require to carry out the Secretary's functions under this part and protect the financial interest of the United States,";

(2) in subparagraph (D)—

(A) by striking "at least once every 2 years" in clause (i) and inserting "on at least an annual basis";

(B) by striking "and" at the end of clause (ii);

(3) in subparagraph (E)—

(A) by inserting "(i)" after the subparagraph designation;

(B) by striking the period at the end thereof and inserting a semicolon and "and"; and

(C) by adding at the end the following new clause:

"(ii) provide that the lender (or the holder of the loan) shall, not later than 120 days after the borrower has left the eligible institution, notify the borrower of the date on which the repayment period begins; and"; and

(4) inserting at the end thereof the following new subparagraph:

"(F) provide that, if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments or direct any communications concerning the loans, then—

"(i) the transferor and the transferee will be required, not later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, each to provide a separate notice to the borrower of—

"(I) the sale or other transfer;

"(II) the identity of the transferee;

"(III) the name and address of the party to whom subsequent payments or communications must be sent; and

"(IV) the telephone numbers of both the transferor and the transferee; and

"(ii) the transferor will be required to notify the guaranty agency, and, upon the request of an institu-

tion of higher education, the guaranty agency shall notify the last such institution the student attended prior to the beginning of the repayment period of any loan made under this part, of—

"(I) any sale or other transfer of the loan to another holder; and

"(II) the address and telephone number by which contact may be made with such other holder concerning repayment of the loan,

except that this subparagraph (F) shall only apply if the borrower is in the grace period described in section 427(a)(2)(B) or 428(b)(7) or is in repayment status.".

(l) GUARANTY AGENCY INCENTIVE PAYMENTS.—Section 428(b)(3) of the Act is amended— 20 USC 1078.

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) offer, directly or indirectly, any premium, incentive payment, or other inducement to any lender, or any agent, employee, or independent contractor of any lender or guaranty agency, in order to administer or market loans made under this part (other than a loan made under section 428H or a loan made as part of a guaranty agency's lender-of-last-resort program) for the purpose of securing the designation of that guaranty agency as the insurer of such loans;".

(m) ELIMINATION OF TEACHER DEFERMENT.—Section 428(b) of the Act is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(n) PROCEDURES FOR DEFERMENTS.—Section 428(b)(4) of the Act (as redesignated in subsection (m)) is amended by adding at the end thereof the following new sentence: "Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States shall be approved until completion of the period of the fellowship.".

(o) INFORMATION FROM STATE LICENSING BOARDS.—Section 428(b) of the Act is further amended by inserting after paragraph (5) (as redesignated in subsection (m)) the following new paragraph:

"(6) STATE GUARANTY AGENCY INFORMATION REQUEST OF STATE LICENSING BOARDS.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.".

(p) GUARANTY AGENCY AGREEMENTS.—

(1) AUTHORITY TO ENTER INTO AGREEMENTS.—Section 428(c)(1)(A) of the Act is amended by striking the period at the end and inserting a comma and "or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.".

20 USC 1078.

(2) ADDITIONAL REVIEW OF EXCEPTIONAL PERFORMANCE PROHIBITED.—Section 428(c)(1) is amended by adding at the end the following new subparagraph:

"(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, servicer, or guaranty agency designated for exceptional performance under section 428I shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.".

(3) CONTENTS OF GUARANTY AGREEMENTS.—Section 428(c)(2) of the Act is amended—

(A) by striking "and" at the end of subparagraph (F);

(B) by redesignating subparagraph (G) as subparagraph (I); and

(C) by inserting after subparagraph (F) the following new subparagraphs:

"(G) shall prohibit the Secretary from making any reimbursement under this subsection to a guaranty agency when a default claim is based on an inability to locate the borrower, unless the guaranty agency, at the time of filing for reimbursement, demonstrates to the Secretary that diligent attempts have been made to locate the borrower through the use of reasonable skip-tracing techniques in accordance with regulations prescribed by the Secretary; and

"(H) set forth assurances that—

"(i) upon the request of an eligible institution, the guaranty agency shall, subject to clauses (ii) and (iii), furnish to the institution information with respect to students (including the names and addresses of such students) who received loans made, insured, or guaranteed under this part for attendance at the eligible institution and for whom preclaims assistance activities have been requested under subsection (l);

"(ii) the guaranty agency may require the payment by the institution of a reasonable fee (as determined in accordance with regulations prescribed by the Secretary) for such information; and

"(iii) the guaranty agency will require the institution to use such information only to assist the institution in reminding students of their obligation to repay student loans and shall prohibit the institution from disseminating the information for any other purpose.".

(4) FORBEARANCE.—Section 428(c)(3) of the Act is amended—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting "; and";

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of

an extension of time for making payments, or smaller payments than were previously scheduled."; and

(D) by striking the last sentence and inserting the following:

"Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances that do not require the agreement of the borrower, under conditions authorized by the Secretary. Such forbearances shall include (i) forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C), and (ii) if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer, forbearances for borrowers on loans which are sold or transferred.".

(5) NEW PROGRAMS' INSURANCE PERCENTAGE.—Section 428(c)(7) of the Act is amended— 20 USC 1078.

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "(1)(B)" and inserting "(1)(C)"; and

(ii) in clause (i), by inserting "and ends before October 1, 1991" before the semicolon;

(B) in subparagraph (B), by inserting "or (B)" after "(A)";

(C) by redesignating subparagraph (B) (as amended) as subparagraph (C); and

(D) by inserting after subparagraph (A) the following new subparagraph:

"(B) Notwithstanding the provisions of paragraph (1)(C), the Secretary may pay a guaranty agency 100 percent of the amount expended by such agency in discharge of such agency's insurance obligation for any fiscal year which—

"(i) begins on or after October 1, 1991; and

"(ii) is the fiscal year in which such guaranty agency begins to actively carry on a student loan insurance program which is subject to a guaranty agreement under subsection (b) or is one of the 4 succeeding fiscal years.".

(6) CONSIDERATIONS IN REQUIRING ASSIGNMENT.—Section 428(c)(8) of the Act is amended by adding at the end the following new sentences: "Prior to making such determination for any guaranty agency, the Secretary shall, in consultation with the guaranty agency, develop criteria to determine whether such agency has made adequate collections efforts. In determining whether a guaranty agency's collection efforts have met such criteria, the Secretary shall consider the agency's record of success in collecting on defaulted loans, the age of the loans, and the amount of recent payments received on the loans.".

(7) GUARANTY AGENCY RESERVE LEVEL.—Section 428(c) of the Act is amended by adding at the end the following new paragraph:

"(10) GUARANTY AGENCY RESERVE LEVEL.—(A) Each guaranty agency which has entered into an agreement with the Secretary pursuant to this subsection shall maintain a current minimum reserve level of at least .5 percent of the total attributable amount of all outstanding loans guaranteed by such agency for the fiscal year of the agency that begins in 1993. For

purposes of this paragraph, such total attributable amount does not include amounts of outstanding loans transferred to the guaranty agency from another guaranty agency pursuant to a plan of the Secretary in response to the insolvency of the latter such guaranty agency. The minimum reserve level shall increase to—

"(i) .7 percent of such total attributable amount for the fiscal year of the agency that begins in 1994;

"(ii) .9 percent of such total attributable amount for the fiscal year of the agency that begins in 1995; and

"(iii) 1.1 percent of such total attributable amount for each fiscal year of the agency that begins on or after January 1, 1996.

"(B) The Secretary shall collect, on an annual basis, information from each guaranty agency having an agreement under this subsection to enable the Secretary to evaluate the financial solvency of each such agency. The information collected shall include the level of such agency's current reserves, cash disbursements and accounts receivable.

"(C) If (i) any guaranty agency falls below the required minimum reserve level in any 2 consecutive years, (ii) any guaranty agency's Federal reimbursement payments are reduced to 80 percent pursuant to section 428(c)(1)(B)(ii), or (iii) the Secretary determines that the administrative or financial condition of a guaranty agency jeopardizes such agency's continued ability to perform its responsibilities under its guaranty agreement, then the Secretary shall require the guaranty agency to submit and implement a management plan acceptable to the Secretary within 30 working days of any such event.

"(D) Each management plan described in subparagraph (C) shall include the means by which the guaranty agency will improve its financial and administrative condition to the required level within 18 months.

"(E) The Secretary may terminate a guaranty agency's agreement in accordance with subparagraph (F) if—

"(i) a guaranty agency required to submit a management plan under this paragraph fails to submit a plan that is acceptable to the Secretary;

"(ii) the Secretary determines that a guaranty agency has failed to improve substantially its administrative and financial condition; or

"(iii) the Secretary determines that the guaranty agency is in danger of financial collapse.

"(F) Except as provided in subparagraph (G), if a guaranty agency's agreement under this subsection is terminated pursuant to subparagraph (E), then the Secretary shall assume responsibility for all functions of the guaranty agency under the loan insurance program of such agency. In performing such functions the Secretary is authorized to—

"(i) permit the transfer of guarantees to another guaranty agency;

"(ii) revoke the reinsurance agreement of the guaranty agency at a specified date, so as to require the merger, consolidation, or termination of the guaranty agency;

"(iii) transfer guarantees to the Department of Education for the purpose of payment of such claims and process such claims using the claims standards of the guaranty

agency, if such standards are determined by the Secretary to be in compliance with this Act;

"(iv) design and implement a plan to restore the guaranty agency's viability;

"(v) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7) in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds, as determined appropriate by the Secretary; or

"(vi) take any other action the Secretary determines necessary to ensure the continued availability of loans made under this part to residents of the State or States in which the guaranty agency did business, the full honoring of all guarantees issued by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and the proper servicing of loans guaranteed by the guaranty agency prior to the Secretary's assumption of the functions of such agency, and to avoid disruption of the student loan program.

"(G) The Secretary may not take any action under subparagraph (E) or (F) against any guaranty agency that is backed by the full faith and credit of the State where such guaranty agency is the primary guarantor.

"(H) The Secretary shall not take any action under subparagraph (E) or (F) without giving the guaranty agency notice and the opportunity for a hearing.

"(I) Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this paragraph shall be confidential and exempt from disclosure under section 552 of title 5, United States Code, relating to freedom of information, or any other Federal law. Confidential information.

"(J) The Secretary, within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.". Reports.

(8) CONFORMING AMENDMENTS.—Section 422(c) of the Act (20 U.S.C. 1072(c)) is amended—

(A) in paragraph (5), by striking "Advances pursuant to this subsection" in paragraph (5) and inserting "Except as provided in paragraph (7), advances pursuant to this subsection"; and

(B) by inserting, after paragraph (6), the following new paragraph:

"(7) EMERGENCY ADVANCES.—The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency in accordance with section 428(c)(10)(F)(v) in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders.".

(q) ADMINISTRATIVE COST ALLOWANCES.—Section 428(f)(1) of the Act is amended— 20 USC 1078.

(1) in subparagraph (A)(i), by striking "commercial lender" and inserting "eligible lender"; and

(2) by adding at the end the following new subparagraph:

"(C) No payment may be made under this paragraph for loans for which the disbursement checks have not been cashed or for which electronic funds transfers have not been completed.".

20 USC 1078.

(r) LENDERS-OF-LAST-RESORT.—Subsection (j) of section 428 of the Act is amended—

(1) by striking "(j) LENDERS-OF-LAST-RESORT.—" and inserting the following:

"(j) LENDERS-OF-LAST-RESORT.—

"(1) GENERAL REQUIREMENT.—";

(2) by indenting the margin of the text of such subsection by 2 em spaces; and

(3) by adding at the end the following new paragraphs:

"(2) RULES AND OPERATING PROCEDURES.—The guaranty agency shall develop rules and operating procedures for the lender of last resort program designed to ensure that—

"(A) the program establishes operating hours and methods of application designed to facilitate application by students;

"(B) information about the availability of loans under the program is made available to institutions of higher education in the State;

"(C) appropriate steps are taken to ensure that borrowers receiving loans under the program are appropriately counseled on their loan obligation; and

"(D) the guaranty agency notifies the Secretary when the guaranty agency believes or has reason to believe that the Secretary may need to exercise the Secretary's authority under section 439(q).

"(3) LIMITATION ON LENDER-OF-LAST-RESORT PROGRAM.—(A) Subject to the provisions of subparagraphs (B) and (C), a guaranty agency or eligible lender is not required to make loans described in this section for attendance at an institution which—

"(i) has a cohort default rate, as defined in section 435(m), which exceeds 25 percent for the most recent year for which a rate has been calculated by the Secretary;

"(ii) has not been eligible for, and has not participated in, the loan program under this part during the most recent 18 consecutive months; or

"(iii) is currently subject to an emergency action or limitation, suspension, or termination proceeding of any guaranty agency or the Secretary.

Termination date.

"(B) Until July 1, 1994, this paragraph shall not apply to any institution that is—

"(i) a part B institution within the meaning of section 322(2) of this Act;

"(ii) a tribally controlled community college within the meaning of section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978; or

"(iii) a Navajo Community College under the Navajo Community College Act.

"(C) Notwithstanding the provisions of subparagraph (A), the Secretary may require a guaranty agency or other eligible lender to make loans described in this section for attendance at an institution if there are, in the judgment of the Secretary,

exceptional mitigating circumstances that would make the application of this paragraph inequitable.".

(s) INFORMATION ON DEFAULTS.—Section 428(k) of the Act is amended by adding at the end the following new paragraph: 20 USC 1078.

"(3) BORROWER LOCATION INFORMATION.—Any information provided by the institution relating to borrower location shall be used by the guaranty agency in conducting required skip-tracing activities.".

(t) INCOME CONTINGENT REPAYMENT.—Section 428 of the Act is amended by adding at the end the following new subsection:

"(m) INCOME CONTINGENT REPAYMENT.—

"(1) ESTABLISHMENT OF TERMS AND CONDITIONS.—The Secretary may establish by regulation terms and conditions requiring the income contingent repayment of loans that are required to be repaid under this subsection. Such regulations shall specify the schedules under which the borrower's income will be assessed for repayment of loans, shall permit the discharge of remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans. Regulations.

"(2) COLLECTION MECHANISM.—The Secretary shall, to the extent funds are available therefor, enter into one or more contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this subsection. The regulations required by paragraph (1) shall not be effective unless the Secretary publishes a finding that— Contracts.

"(A) the Secretary has, pursuant to this paragraph, established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(3) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT IS REQUIRED.—A loan made under this part (other than under section 428B) is required to be repaid under this section if—

"(A) the note or other evidence of the loan contains a notice that it is subject to repayment under this subsection;

"(B) the note or other evidence of the loan has been assigned to the Secretary for collection pursuant to subsection (c)(8); and

"(C) the Secretary has published the finding required by paragraph (2) of this subsection.

"(4) ADDITIONAL AUTHORITY.—The Secretary is authorized to prescribe such regulations as are necessary to carry out the purposes of this subsection and to protect the Federal fiscal interest.". Regulations.

SEC. 417. SUPPLEMENTAL LOAN PROGRAM.

(a) NAME OF THE PROGRAM.—Section 428A of the Act (20 U.S.C. 1078–1) is amended by striking the heading of such section and inserting the following:

"FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS".

20 USC 1078-1.

(b) LOAN LIMITS.—Section 428A(b) of the Act is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) ANNUAL LIMIT.—Subject to paragraphs (2) and (3), the maximum amount a student may borrow in any academic year or its equivalent or in any period of 7 consecutive months, whichever is longer, is:

"(A) In the case of a student at an eligible institution who has not successfully completed the first and second year of a program of undergraduate education—

"(i) $4,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $2,500, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,500, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

"(B) In the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(i) $5,000, if such student is enrolled in a program whose length is at least one academic year in length (as determined under section 481);

"(ii) $3,325, if such student is enrolled in a program whose length is less than one academic year, but at least ⅔ of such an academic year; and

"(iii) $1,675, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of such an academic year.

"(C) In the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $10,000.

"(2) AGGREGATE LIMIT.—The aggregate insured principal amount of insured loans made to any student under this section, minus any interest capitalized under subsection (c), shall not exceed—

"(A) $23,000, in the case of any student who has not successfully completed a program of undergraduate education; and

"(B) $73,000, in the case of any graduate or professional student, as such terms are defined by regulations issued by the Secretary, including any loans which are insured by the Secretary under this section, or by a guaranty agency, made to such student before the student became a graduate or professional student.".

(c) COORDINATION OF STAFFORD AND SLS REPAYMENT.—Section 428A(c)(1) of the Act is amended by adding at the end the following new sentences: "In the case of a borrower under this section who is also a borrower under a program of student loan insurance covered by an agreement under sections 427 or 428(b), the lender shall notify the borrower of the option to defer the commencement of the repayment for six months after the student ceases to carry at an eligible institution at least one-half the normal full-time

academic workload, as determined by the institution, except that interest shall begin to accrue, and shall be paid in accordance with paragraph (2), notwithstanding such delay in the commencement of repayment. The lender shall also notify the borrower of the borrower's option to commence repayment earlier than the beginning of such repayment period and the difference in total cost to the borrower.".

(d) CAPITALIZATION OF INTEREST.—Section 428A(c)(2) of the Act is amended to read as follows: 20 USC 1078-1.

"(2) CAPITALIZATION OF INTEREST.—(A) Interest on loans made under this section—

"(i) which are disbursed in installments,

"(ii) for which payments of principal are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), or

"(iii) for which the commencement of the repayment period is delayed in accordance with paragraph (1) to coincide with the commencement of the repayment period of a loan made under section 427 or 428,

shall, if agreed upon by the borrower and the lender—

"(I) be paid monthly or quarterly, or

"(II) be added to the principal amount of the loan not more frequently than quarterly by the lender.

"(B) Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.".

(e) CONFORMING AMENDMENT.—Section 428A(c) of the Act is further amended by adding at the end the following new paragraph:

"(6) REPAYMENT PERIOD.—For purposes of calculating the 10-year repayment period under section 428(b)(1)(D), such period shall commence at the time the first payment of principal is due from the borrower.".

SEC. 418. PLUS LOANS.

(a) NAME OF THE PROGRAM.—Section 428B of the Act (20 U.S.C. 1078–2) is amended by striking the heading of such section and inserting the following:

"FEDERAL PLUS LOANS".

(b) CHECKS COPAYABLE.—Section 428B of the Act is amended—

(1) in subsection (a)—

(A) by striking "subsections (c) and (d)" and inserting "subsections (c), (d), and (e)"; and

(B) by inserting after "Parents of a dependent student" the following: ", who do not have an adverse credit history as determined pursuant to regulations of the Secretary,"; and

(2) in subsection (b)—

(A) by striking the subsection designation and heading and paragraphs (1) and (2); and

(B) by redesignating paragraph (3) as subsection (b);

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) PLUS LOAN DISBURSEMENT.—All loans made under this section shall be disbursed by—

"(1) an electronic transfer of funds from the lender to the eligible institution; or

"(2) a check copayable to the eligible institution and the parent borrower.".

(c) LIMITATION OF DEFERRAL.—Section 428B(d)(1) of the Act (as redesignated in paragraph (3)) is amended to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).".

(d) CAPITALIZATION OF INTEREST.—Section 428B(d)(2) of the Act (as redesignated in paragraph (3)) is amended to read as follows:

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the borrower.".

SEC. 419. CONSOLIDATION LOANS.

(a) NAME OF THE PROGRAM.—Section 428C of the Act (20 U.S.C. 1078–3) is amended by striking the heading of such section and inserting the following:

"FEDERAL CONSOLIDATION LOANS".

(b) USE OF CONSOLIDATION TO AVOID DEFAULT.—

(1) ELIGIBLE BORROWER.—(A) Section 428C(a)(3)(A)(i) is amended by striking "$5,000" and inserting "$7,500".

(B) Section 428C(a)(3)(A)(ii) is amended to read as follows:

"(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.".

(2) ELIGIBLE LOANS.—Section 428C(a)(4)(A) of the Act is amended to read as follows:

"(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans), except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986;".

(c) EXTENSION OF CONSOLIDATION ELIGIBILITY PERIOD.—Section 428C(a)(3)(B) of the Act is amended to read as follows:

"(B)(i) An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section, except—

"(I) with respect to eligible student loans received after the date of receipt of the consolidation loan; and

"(II) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan.

"(ii) Loans made under this section shall, to the extent used to discharge loans made under this title, be counted against

applicable limitations on aggregate indebtedness contained in sections 425(a)(2), 428(b)(1)(B), 428A(b)(2), and 464(a)(2). Nothing in this section shall be interpreted to authorize the Secretary to require lenders, holders, or guarantors of consolidated loans to receive, to maintain, or to make reports with respect to preexisting records relating to any eligible student loan (as defined under paragraph (4)) discharged by a borrower in receiving a consolidation loan.".

(d) CONSOLIDATION OF LOANS OF MARRIED BORROWERS.—Section 428C(a)(3) of the Act is amended by adding at the end the following new subparagraph: 20 USC 1078-3.

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if such couple were an individual borrowing under subparagraphs (A) and (B) if such couple agrees to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of the respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in such couple's marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subsection (b) of this section, except that each spouse shall—

"(I) individually make the initial certification that no other application is pending in accordance with subsection (b)(1)(A); and

"(II) agree to notify the holder concerning any change of address in accordance with subsection (b)(4).".

(e) INTEREST DURING DEFERRAL.—Section 428C(b)(4)(C) of the Act is amended to read as follows:

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M), and that any such period shall not be included in determining the repayment period pursuant to subsection (c)(2) of this section;".

(f) REPAYMENT SCHEDULES.—Section 428C(c)(2) of the Act is amended by—

(1) in the first sentence, by striking "may" and inserting "shall"; and

(2) by striking the second sentence and inserting the following: "Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

"(i) is equal to or greater than $7,500 but less than $10,000, then such consolidation loan shall be repaid in not more than 12 years;

"(ii) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

"(iii) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

"(iv) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

"(v) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.".

20 USC 1078-3. (g) EXTENSION OF AUTHORITY.—Section 428C(d) of the Act is amended by striking "September 30, 1992" and inserting "September 30, 1998".

SEC. 420. DEFAULT REDUCTION PROGRAMS.

Section 428F of the Act (20 U.S.C. 1078–6) is amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking "Upon" and inserting "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon"; and

(ii) by adding at the end the following new sentence: "Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances."; and

(B) in paragraph (3), by inserting "or grants" after "loans";

(3) by redesignating subsection (b) (as amended in paragraph (2)) as subsection (a); and

(4) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew eligibility for all title IV student financial assistance (regardless of whether the defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances.".

SEC. 421. DISBURSEMENT RULES.

(a) MONTHLY OR WEEKLY DISBURSEMENT.—Section 428G(c) of the Act (20 U.S.C. 1078–7) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.".

(b) OVERAWARD ADJUSTMENTS.—Section 428G(d)(2) of the Act is amended by inserting before the period at the end of the first sentence the following: ", except that overawards permitted pursuant to section 443(b)(4) of the Act shall not be construed to be overawards for purposes of this paragraph".

(c) SALES PRIOR TO DISBURSEMENT PROHIBITED.—Section 428G of the Act is amended by adding at the end thereof the following new subsection:

"(g) SALES PRIOR TO DISBURSEMENT PROHIBITED.—An eligible lender shall not sell or transfer a promissory note for any loan

made, insured, or guaranteed under this part until the final disbursement of such loan has been made, except that the prohibition of this subsection shall not apply if—

"(1) the sale of the loan does not result in a change in the identity of the party to whom payments will be made for the loan; and

"(2) the first disbursement of such loan has been made.".

SEC. 422. UNSUBSIDIZED LOANS; PERFORMANCE AGREEMENTS; LOAN FORGIVENESS.

Part B of title IV of the Act is amended by inserting after section 428G the following new sections:

"UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS

"SEC. 428H. (a) IN GENERAL.—It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 428 of this Act. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 428 shall apply to loans made pursuant to this section. 20 USC 1078-8.

"(b) ELIGIBLE BORROWERS.—Any student meeting the requirements for student eligibility under section 484 shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(1) sets forth such student's estimated cost of attendance (as determined under section 472);

"(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 428; and

"(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c).

"(c) DETERMINATION OF AMOUNT OF LOAN.—The determination of the amount of a loan by an eligible institution under subsection (b) shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the amount calculated under the preceding sentence.

"(d) LOAN LIMITS.—The annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized loan program established under section 428.

"(e) PAYMENT OF PRINCIPAL AND INTEREST.—

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or for which payments are deferred under sections 427(a)(2)(C) and

428(b)(1)(M) shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan not more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) SUBSIDIES PROHIBITED.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) APPLICABLE RATES OF INTEREST.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(e).

"(f) INSURANCE PREMIUM.—

"(1) AMOUNT OF ORIGINATION FEE/INSURANCE PREMIUM.—The lender shall charge the borrower a combined origination fee and insurance premium in the amount of 6.5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. A guaranty agency may not charge an insurance premium on any loan made under this section.

"(2) RELATION TO APPLICABLE INTEREST.—Such combined fee and premium shall not be taken into account for purposes of determining compliance with section 427A.

"(3) DISCLOSURE REQUIRED.—The lender shall disclose to the borrower the amount and method of calculating the combined origination fee and insurance premium.

"(4) USE OF INSURANCE PREMIUM TO OFFSET DEFAULT COSTS.—Each lender making loans under this section shall transmit all combined origination fee and insurance premiums authorized to be collected from borrowers to the Secretary, who shall use such fees and premiums to pay the Federal costs of default claims paid for loans under this section and to reduce the cost of special allowances paid thereon, if any, under section 438(b).

"(5) REVIEW OF INSURANCE PREMIUM.—In fiscal year 1995, the Secretary is directed to analyze the risk rates of borrowers who have participated in this program in the 2 previous fiscal years. If the Secretary finds, that as a result of this review, the projected defaults and special allowance costs of the unsubsidized program do not exceed the 6.5 percent insurance premium, the Secretary is directed to lower the insurance premium accordingly.

"(g) SINGLE APPLICATION FORM AND LOAN REPAYMENT SCHEDULE.—A guaranty agency shall use a single application form and a single repayment schedule for subsidized Federal Stafford loans made pursuant to section 428 and for unsubsidized Federal Stafford loans made pursuant to this section.

"SPECIAL INSURANCE AND REINSURANCE RULES

20 USC 1078-9.

"SEC. 428I. (a) DESIGNATION OF LENDERS, SERVICERS, AND GUARANTY AGENCIES.—

"(1) AUTHORITY.—Whenever the Secretary determines that an eligible lender, servicer, or guaranty agency has a compliance performance rating that equals or exceeds 97 percent, the Secretary shall designate the eligible lender, servicer, or guaranty agency, as the case may be, for exceptional perform-

ance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders and servicers designated under this section.

"(2) COMPLIANCE PERFORMANCE RATING.—For purposes of paragraph (1), a compliance performance rating is determined with respect to compliance with due diligence in the collection of loans under this part for each year for which the determination is made. Such rating is equal to the percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary by regulation, with respect to—

"(A) loans serviced during the period by the eligible lender or servicer; or

"(B) loans on which loan collection was attempted by the guaranty agency.

"(b) PAYMENT TO LENDERS AND SERVICERS.—

"(1) 100 PERCENT PAYMENT RULE.—Each guaranty agency shall pay each eligible lender or servicer (as agent for an eligible lender) designated under subsection (a) 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender or servicer for the one-year period following the receipt by the guaranty agency of the notification of designation under this section or until the guaranty agency receives notice from the Secretary that the designation of the lender or servicer under subsection (a) has been revoked.

"(2) REVOCATION AUTHORITY.—The Secretary shall revoke the designation of a lender or servicer under subsection (a) if any quarterly audit required under subsection (c)(5) is not received by the Secretary by the date established by the Secretary or if the audit indicates the lender or servicer failed to maintain 97 percent or higher compliance with program regulations, as reflected in the performance of not less than 97 percent of all due diligence requirements applicable to each loan, on average, as established by the Secretary for the purpose of this section, for 2 consecutive months or 90 percent for 1 month.

"(3) DOCUMENTATION.—Nothing in this section shall restrict or limit the authority of guaranty agencies to require the submission of claims documentation evidencing servicing performed on loans, except that the guaranty agency may not require greater documentation than that required for lenders and servicers not designated under subsection (a).

"(4) PAYMENTS TO GUARANTY AGENCIES.—The Secretary shall pay to each guaranty agency designated under subsection (a) the appropriate percentage under this subsection for the 1-year period following the receipt by the guaranty agency of the notification of designation under subsection (a).

"(c) SUPERVISION OF DESIGNATED LENDERS AND SERVICERS.—

"(1) AUDITS FOR LENDERS AND SERVICERS.—Each eligible lender or servicer desiring a designation under subsection (a) shall have a financial and compliance audit of the loan portfolio of such eligible lender or servicer conducted annually by a qualified independent organization from a list of qualified organizations promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall measure the lender's or servicer's

compliance with the due diligence standards and shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender or servicer for the purpose of this section. Each eligible lender or servicer shall submit the audit required by this section to the Secretary and to each appropriate guaranty agency.

"(2) ADDITIONAL INFORMATION ON LENDERS AND SERVICERS.—Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender or servicer desiring designation as may relate to the Secretary's determination under subsection (a), including but not limited to any information suggesting that the application of a lender or servicer for designation under subsection (a) should not be approved.

"(3) SECRETARY'S DETERMINATIONS.—The Secretary shall make the determination under subsection (a) based upon the audits submitted under this section, such other information as provided by any guaranty agency under paragraph (2), and any information in the possession of the Secretary or submitted by any other agency or office of the Federal Government. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender or servicer and the appropriate guaranty agency that its application for designation as an exceptional lender or servicer has been approved.

"(4) COST OF AUDIT.—Each eligible lender or servicer shall pay for all the costs of the audits required under this section.

"(5) COMPLIANCE AUDIT.—In order to maintain its status as an exceptional eligible lender or servicer, the lender or servicer shall undergo a quarterly compliance audit at the end of each quarter (other than the quarter in which status as an exceptional lender or servicer is established through a financial and compliance audit, as described in subsection (c)(1)), and submit the results of such audit to the Secretary and such appropriate guaranty agency. The compliance audit will review compliance with due diligence requirements for the period since the last audit.

"(6) LOSS OF DESIGNATION.—If the audit performed pursuant to paragraph (5) fails to meet the standards for designation as an exceptional lender or servicer under subsection (a)(1), the lender or servicer shall lose its designation as an exceptional lender or servicer. A lender or servicer receiving a compliance audit not meeting the standard for designation as an exceptional lender or servicer may reapply for designation under subsection (a) at any time.

"(7) DUE DILIGENCE STANDARDS.—Due diligence standards used for determining compliance under paragraph (5) shall be promulgated by the Secretary after consultation with lenders, guaranty agencies and servicers and shall consist of a list of specific elements for the Federal regulations selected to provide an indication of systems degradation.

"(8) ADDITIONAL REVOCATION AUTHORITY.—Notwithstanding any other provision of this section, designation under subsection (a) may be revoked at any time by the Secretary if the Secretary determines that the eligible lender or servicer has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender or servicer

under this section or if the Secretary believes the lender or servicer may have engaged in fraud in securing designation under subsection (a) or is failing to service loans in accordance with program regulations.

"(d) SUPERVISION OF DESIGNATED GUARANTY AGENCIES.—

"(1) AUDIT OF GUARANTY AGENCIES.—Each guaranty agency desiring a designation under subsection (a) shall have a financial and compliance audit of the defaulted loan portfolio of such guaranty agency conducted annually by a qualified independent organization or person from a list of qualified organizations or persons promulgated by the Secretary in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this section. Each guaranty agency shall submit the audit required by this paragraph to the Secretary.

"(2) QUARTERLY SAMPLE AUDITS.—The Secretary may require quarterly sample audits as a means of determining continued qualification of the guaranty agency for designation as an exceptional guaranty agency.

"(3) SECRETARY'S DETERMINATIONS.—The Secretary shall make the determination under subsection (a) based upon the audits submitted under this section and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

"(4) COSTS OF AUDITS.—Each guaranty agency shall pay for all of the costs of the audits regulated by this section.

"(5) REVOCATION FOR FRAUD.—The Secretary may revoke the designation of a guaranty agency under subsection (a) at any time if the Secretary has reason to believe the guaranty agency secured its designation under subsection (a) through fraud or fails to comply with applicable regulations.

"(6) REVOCATION BASED ON PERFORMANCE.—Designation as an exceptional guaranty agency may be revoked at any time by the Secretary upon 30 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an acceptable overall level of regulatory compliance.

"(e) SPECIAL RULE.—Reimbursements made by the Secretary on loans submitted for claim by an eligible lender or loan servicer designated for exceptional performance under this section shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, loan servicer, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.

"(f) LIMITATION.—Nothing in this section shall be construed to affect the processing of claims on student loans of eligible lenders not subject to this paragraph.

"(g) CLAIMS.—A lender, servicer, or guaranty agency designated under subsection (a) failing to service loans or otherwise comply with applicable program regulations shall be considered in violation of the Federal False Claims Act.

"(h) EVALUATION.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall submit to the Chairman of the Senate Labor and Human Resources Committee and the House Committee on Education and Labor, an evaluation of the provisions of this section including, but not limited to, the following:

"(1) The effectiveness of due diligence performed by lenders and servicers receiving designation as exceptional lenders or servicers from the perspective of securing maximum collections from borrowers.

"(2) A quantification of the dollar volume of claims that were paid to exceptional lenders and servicers that would not have been paid under applicable program provisions prior to the enactment of this section.

"(3) An assessment of the impact of this section on the financial condition of guaranty agencies.

"(4) An assessment of the savings to lenders, servicers, and guaranty agencies resulting from designation as exceptional performance.

"(5) An identification of specific administration steps that lenders, servicers, and guaranty agencies do not have to perform as a result of designation as exceptional lenders, servicers, or guaranty agencies.

"(6) A recommendation for program modifications applicable to all program participants based on the findings of the evaluation.

"(7) A recommendation for modifications to this section and whether the program should be continued.

"(i) TERMINATION.—After receipt of the study authorized in subsection (h), the Secretary may terminate such program if he determines such termination to be in the fiscal interest of the United States.

"(j) DEFINITIONS.—For the purpose of this section—

"(1) the term 'due diligence requirements' means the activities required to be performed by lenders on delinquent loans pursuant to regulations issued by the Secretary;

"(2) the term 'eligible loan' means a loan made, insured or guaranteed under part B of title IV;

"(3) the term 'servicer' means an entity servicing and collecting student loans which—

"(A) has substantial experience in servicing and collecting consumer loans or student loans;

"(B) has an independent financial audit annually which is furnished to the Secretary and any other parties designated by the Secretary;

"(C) has business systems which are capable of meeting the requirements of part B of title IV;

"(D) has adequate personnel who are knowledgeable about the student loan programs authorized by part B of title IV; and

"(E) does not have any owner, majority shareholder, director, or officer of the entity who has been convicted of a felony.

"LOAN FORGIVENESS FOR TEACHERS, INDIVIDUALS PERFORMING NATIONAL COMMUNITY SERVICE AND NURSES

"SEC. 428J. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to encourage individuals to— 20 USC 1078-10.

"(1) enter the teaching and nursing profession; and

"(2) perform national and community service.

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services, is authorized to carry out a demonstration program of assuming the obligation to repay a loan made, insured or guaranteed under this part (excluding loans made under sections 428A, 428B, or 428C) for any new borrower after October 1, 1992, who—

"(A) is employed as a full-time teacher—

"(i) in a school which qualifies under section 465(a)(2)(A) for loan cancellation for Perkins loan recipients who teach in such schools; and

"(ii) of mathematics, science, foreign languages, special education, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

"(B) agrees in writing to volunteer for service under the Peace Corps Act or under the Domestic Volunteer Service Act of 1973, or to perform comparable service as a full-time employee of an organization which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, if the borrower does not receive compensation which exceeds the greater of—

"(i) the minimum wage rate described in section 6 of the Fair Labor Standards Act of 1938; or

"(ii) an amount equal to 100 percent of the poverty line for a family of two (as defined in section 673(2) of the Community Services Block Grant Act); or

"(C) is employed full-time as a nurse in a public hospital, a rural health clinic, a migrant health center, an Indian Health Service, an Indian health center, a Native Hawaiian health center or in an acute care or long-term care facility.

"(2) REGULATIONS.—The Secretary is authorized to issue such regulations as may be necessary to carry out the provisions of this section.

"(c) LOAN REPAYMENT.—

"(1) IN GENERAL.—The Secretary shall assume the obligation to repay—

"(A) 15 percent of the total amount of Stafford loans incurred by the student borrower during such borrower's last 2 years of undergraduate education for the first or second academic year in which such borrower meets the requirements described in subsection (a);

"(B) 20 percent of such total amount for such third or fourth academic year; and

"(C) 30 percent of such total amount for such fifth academic year.

"(2) CONSTRUCTION.—Nothing in this subsection shall be construed to authorize the refunding of any repayment of a Stafford loan.

"(3) INTEREST.—If a portion of a loan is repaid by the Secretary under this section for any year, the proportionate amount of interest on such loan which accrues for such year shall be repaid by the Secretary.

"(4) SPECIAL RULE.—In the case where a student borrower who is not participating in loan repayment pursuant to this section returns to an institution of higher education after graduation from an institution of higher education for the purpose of obtaining a teaching certificate, the Secretary is authorized to assume the obligation to repay the total amount of Stafford loans incurred for a maximum of 2 academic years in returning to an institution of higher education for the purpose of obtaining a teaching certificate or additional certification. Such Stafford loans shall only be repaid for borrowers who qualify for loan repayment pursuant to the provisions of this section, and shall be repaid in accordance with the provisions of paragraph (1).

"(d) REPAYMENT OF ELIGIBILITY LENDERS.—The Secretary shall pay to each eligible lender or holder for each fiscal year an amount equal to the aggregate amount of Stafford loans which are subject to repayment pursuant to this section for such year.

"(e) APPLICATION FOR REPAYMENT.—Each eligible individual desiring loan repayment under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(f) DEFINITIONS.—For the purpose of this section the term 'eligible lender' has the same meaning given such term in section 435(d).

"(g) EVALUATION.—

Contracts.

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent national evaluation of the impact of the program assisted under this part on the fields of teaching, nursing, and community service.

"(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(3) CONTENTS.—The evaluation described in this section shall—

"(A) assess whether the program assisted under this section has brought into teaching, nursing, and community service a significant number of highly capable individuals who otherwise would not have entered such fields;

"(B) assess whether a significant number of students perform the service described in subsection (b) or opt to repay the loans instead of remaining in the career for which such student received loan repayment under this section;

"(C) identify the barriers to the effectiveness of the program assisted under this section;

"(D) assess the cost-effectiveness of such program in improving teacher, nursing, and community service worker quality and quantity and the ways to improve the cost-effectiveness of such program;

"(E) identify the reasons for which participants in the program have chosen to take part in such program; and

"(F) identify other areas of community service or employment which may serve as appropriate methods of loan repayment.

"(4) INTERIM EVALUATION REPORTS.—The Secretary shall prepare and submit to the President and the Congress such interim reports on the evaluation described in this section as the Secretary deems appropriate, and shall submit such a final report by January 1, 1997.

"(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 423. DEFAULT RATES.

Section 430 of the Act (20 U.S.C. 1080) is amended by adding at the end the following new subsection:

"(e) DEFAULT RATE OF LENDERS, HOLDERS, AND GUARANTY AGENCIES.—

"(1) IN GENERAL.—The Secretary shall annually publish a list indicating the cohort default rate (determined in accordance with section 435(m)) for each originating lender, subsequent holder, and guaranty agency participating in the program assisted under this part and an average cohort default rate for all institutions of higher education within each State.

"(2) REGULATIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a cohort default rate through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.

"(3) RATE ESTABLISHMENT AND CORRECTION.—The Secretary shall establish a cohort default rate for lenders, holders, and guaranty agencies (determined consistent with section 435(m)), except that the rate for lenders, holders, and guaranty agencies shall not reflect any loans issued in accordance with section 428(j). The Secretary shall allow institutions, lenders, holders, and guaranty agencies the opportunity to correct such cohort default rate information.

SEC. 424. REPORTS TO CREDIT BUREAUS AND INSTITUTIONS OF HIGHER EDUCATION.

Section 430A(f) of the Act (20 U.S.C. 1080a(f)) is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by striking paragraph (2) and inserting the following:

"(2) 7 years from the date the Secretary, guaranty agency, eligible lender, or subsequent holder first reported the account to the consumer reporting agency; or

"(3) in the case of a borrower who reenters repayment after defaulting on a loan and subsequently goes into default on such loan, 7 years from the date the loan entered default such subsequent time.".

SEC. 425. ADMINISTRATIVE PROVISIONS.

(a) AUTHORITY TO REGULATE SERVICERS.—Section 432(a)(1) of the Act (20 U.S.C. 1082) is amended by inserting before the semicolon the following: ", including regulations applicable to third party servicers (including regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to establish minimum standards with respect to sound management and accountability of programs under this part, except that in no case shall damages be assessed

against the United States for the actions or inactions of such servicers".

20 USC 1082.

(b) AGENCY PROCEDURE.—Section 432 of the Act is amended—

(1) in subsection (a)(3), by striking "on the record";

(2) in subsection (g)(1), by striking "on the record";

(3) in subsection (h)(2)(A), by striking out "shall, in accordance with sections 556 and 557 of title 5, United States Code," in the first sentence and inserting "shall"; and

(4) in subsection (h)(3)(A), by striking out "shall, in accordance with sections 556 and 557 of title 5, United States Code," in the first sentence and inserting "shall".

(c) CIVIL PENALTIES.—Section 432(g) of the Act is further amended—

(1) by amending paragraph (2) to read as follows:

"(2) LIMITATIONS.—No civil penalty may be imposed under paragraph (1) of this subsection unless the Secretary determines that—

"(A) the violation, failure, or substantial misrepresentation referred to in that paragraph resulted from a violation, failure, or misrepresentation that is material; and

"(B) the lender or guaranty agency knew or should have known that its actions violated or failed to carry out the provisions of this part or the regulations thereunder.";

(2) in paragraph (3), by striking "the institution of an action under that paragraph" and inserting "notification by the Secretary under that paragraph"; and

(3) in paragraph (4)—

(A) by inserting ", and occurring prior to notification by the Secretary under that paragraph," after "guaranty agency"; and

(B) by striking "or both, and the" and inserting "or both. The".

(d) LS&T AUTHORITY.—Section 432(h) of the Act is amended—

(1) in paragraph (2)(A), by striking "The Secretary" and all that follows through "disqualification—" in the second sentence and inserting the following: "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—";

(2) in paragraph (2)(B), by striking "disqualification" each place it appears and inserting "sanction"; and

(3) by redesignating subparagraph (B) of paragraph (2) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(U) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.";

(4) in paragraph (3)(A), by striking out "The Secretary" and all that follows through "disqualification—" in the second sentence and inserting the following: "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—";

(5) in subsection (h)(3)(B), by striking "disqualification" each place such term appears and inserting "sanction"; and

(6) by redesignating subparagraph (B) of subsection (h)(3) as subparagraph (C) of such subsection, and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements prescribed in regulations of the Secretary under this part.".

(e) ADDITIONAL LEGAL POWERS AND RESPONSIBILITIES.—Section 432 of the Act is amended by adding at the end the following new subsections: 20 USC 1082.

"(k) PROGRAM OF ASSISTANCE FOR BORROWERS.—

"(1) IN GENERAL.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and offering loan repayment matching provisions as part of employee benefit packages.

"(2) PUBLICATION.—The Secretary shall publicize models for providing the repayment assistance described in paragraph (1) and each year select entities that deserve recognition, through means devised by the Secretary, for the development of innovative plans for providing such assistance to employees.

"(3) RECOMMENDATION.—Within 1 year after the date of enactment of the Higher Education Amendments of 1992, the Secretary shall recommend to the appropriate committees in the Senate and House of Representatives changes to statutes that could be made in order to further encourage such efforts.

"(l) UNIFORM ADMINISTRATIVE AND CLAIMS PROCEDURES.—

"(1) IN GENERAL.—The Secretary shall, by regulation developed in consultation with guaranty agencies, lenders, institutions of higher education, secondary markets, students, third party servicers and other organizations involved in providing loans under this part, prescribe standardized forms and procedures regarding— Regulations.

"(A) origination of loans;

"(B) electronic funds transfer;

"(C) guaranty of loans;

"(D) deferments;

"(E) forbearance;

"(F) servicing;

"(G) claims filing;

"(H) borrower status change; and

"(I) cures.

"(2) SPECIAL RULES.—(A) The forms and procedures described in paragraph (1) shall include all aspects of the loan process as such process involves eligible lenders and guaranty agencies and shall be designed to minimize administrative costs and burdens (other than the costs and burdens involved in the transition to new forms and procedures) involved in exchanges of data to and from borrowers, schools, lenders, secondary markets, and the Department.

"(B) Nothing in this paragraph shall be construed to limit the development of electronic forms and procedures.

"(3) SIMPLIFICATION REQUIREMENTS.—Such regulations shall include—

"(A) standardization of computer formats, forms design, and guaranty agency procedures relating to the origination, servicing, and collection of loans made under this part;

"(B) authorization of alternate means of document retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

"(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection, and other regulatory requirements under this Act; and

"(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department of Education for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

"(4) ADDITIONAL RECOMMENDATIONS.—The Secretary shall review regulations prescribed pursuant to paragraph (1) and seek additional recommendations from guaranty agencies, lenders, institutions of higher education, students, secondary markets, third party servicers and other organizations involved in providing loans under this part, not less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

"(m) COMMON FORMS AND FORMATS.—

"(1) COMMON GUARANTEED STUDENT LOAN APPLICATION FORM AND PROMISSORY NOTE.—

"(A) IN GENERAL.—The Secretary, in cooperation with representatives of guaranty agencies, eligible lenders, and organizations involved in student financial assistance, shall prescribe a common application form and promissory note to be used for applying for loans under part B of this title.

"(B) REQUIREMENTS.—The form prescribed by the Secretary shall—

"(i) use clear, concise, and simple language to facilitate understanding of loan terms and conditions by applicants;

"(ii) be formatted to require the applicant to clearly indicate a choice of lender; and

"(iii) permit, to the maximum extent practicable, application for any loan under part B.

"(C) APPROVAL OF FORM.—The Secretary shall approve a form for use not later than 360 days after the date of enactment of the Higher Education Amendments of 1992.

"(D) SPECIAL RULE.—Nothing in this section shall be construed to limit the development of electronic forms and procedures.

"(2) COMMON DEFERMENT FORM.—The Secretary, in cooperation with representatives of guaranty agencies, institutions of higher education, and lenders involved in loans made under part B of this title, shall prescribe a common deferment reporting form to be used for the processing of deferments of loans made under this title.

"(3) COMMON REPORTING FORMATS.—The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms), and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers, or guaranty agencies. Regulations.

"(n) DEFAULT REDUCTION MANAGEMENT.—

"(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years, for the Secretary to expend for default reduction management activities for the purposes of establishing a performance measure that will reduce defaults by 5 percent relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

"(2) ALLOWABLE ACTIVITIES.—Allowable activities for which such funds shall be expended by the Secretary shall include the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

"(3) PLAN FOR USE REQUIRED.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5 percent reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report the Secretary's findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following: Reports.

"(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

"(B) plans and a schedule for achieving the established performance goal;

"(C) recommended legislative or regulatory changes necessary to achieve the goal; and

"(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to

the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(o) CONSEQUENCES OF GUARANTY AGENCY INSOLVENCY.—In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the insurance obligations have been transferred to another guarantor who can meet those obligations or a successor will assume the outstanding insurance obligations.

"(p) REPORTING REQUIREMENT.—All officers and directors, and those employees and paid consultants of eligible institutions, eligible lenders, guaranty agencies, loan servicing agencies, accrediting agencies or associations, State licensing agencies or boards, State postsecondary reviewing entities designated under subpart 1 of part H, and entities acting as secondary markets (including the Student Loan Marketing Association), who are engaged in making decisions as to the administration of any program or funds under this title or as to the eligibility of any entity or individual to participate under this title, shall report to the Secretary, in such manner and at such time as the Secretary shall require, on any financial interest which such individual may hold in any other entity participating in any program assisted under this title.".

SEC. 426. STUDENT LOAN INFORMATION BY ELIGIBLE LENDERS.

(a) REQUIRED DISCLOSURE BEFORE DISBURSEMENT.—Section 433(a) of the Act (20 U.S.C. 1083) is amended—

(1) by redesignating paragraphs (1) through (13) as paragraphs (2) through (14), respectively; and

(2) by inserting before paragraph (2) (as redesignated in subparagraph (A)) the following new paragraph:

"(1) a statement prominently and clearly displayed and in bold print that the borrower is receiving a loan that must be repaid;".

(b) REQUIRED DISCLOSURE BEFORE REPAYMENT.—Section 433(b) of the Act is amended—

(1) in the matter preceding paragraph (1), by striking the second sentence and inserting the following: "For any loan made, insured, or guaranteed under this part, other than a loan made under section 428B or 428C, such disclosure required by this subsection shall be made not less than 60 days nor more than 240 days before the first payment on the loan is due from the borrower."; and

(2) in paragraph (8), by inserting "except as provided in subsection (e)," before "the projected".

(c) SPECIAL RULES.—Section 433 of the Act is further amended by adding at the end the following new subsections:

"(e) SPECIAL DISCLOSURE RULES ON SLS LOANS AND PLUS LOANS AND UNSUBSIDIZED LOANS.—Loans made under section 428A, 428B, and 428H shall not be subject to the disclosure of projected monthly payment amounts required under subsection (b)(8) if the lender, in lieu of such disclosure, provides the borrower with sample projec-

tions of monthly repayment amounts assuming different levels of borrowing and interest accruals resulting from capitalization of interest while the borrower is in school. Such sample projections shall disclose the cost to the student of capitalizing—

"(1) principal and interest; and

"(2) interest only.".

SEC. 427. DEFINITIONS FOR STUDENT LOAN INSURANCE PROGRAM.

(a) ELIGIBLE INSTITUTION.—Section 435(a) of the Act (20 U.S.C. 1085) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'eligible institution' means an institution of higher education, as defined in section 481, except that, for the purposes of sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), an eligible institution includes any institution that is within this definition without regard to whether such institution is participating in any program under this title and includes any institution ineligible for participation in any program under this part pursuant to paragraph (2) of this subsection.";

(2) by redesignating paragraph (3) as paragraph (2);

(3) in paragraph (2)(B) (as redesignated)—

(A) in clause (i), by striking "and" at the end thereof;

(B) in clause (ii), by striking "any succeeding fiscal year." and inserting "fiscal year 1993; and"; and

(C) by inserting at the end the following new clause: "(iii) 25 percent for any succeeding fiscal year.".

(b) REPEAL OF SEPARATE DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—

(1) AMENDMENT.—Subsection (b) of section 435 of the Act is repealed.

(2) REFERENCE.—With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act, such provision shall be deemed to refer to section 481(a) of the Act. 20 USC 1085 note.

(c) REPEAL OF DEFINITION OF VOCATIONAL SCHOOL.—Subsection (c) of section 435 of the Act is repealed.

(d) ELIGIBLE LENDER.—Section 435(d) of the Act is amended—

(1) in paragraph (1)(A)—

(A) in the matter preceding clause (i), by striking "a trust company,"; and

(B) in clause (ii)—

(i) by inserting at the end of subclause (I) the following: "or a bank which is subject to examination and supervision by an agency of the United States, makes student loans as a trustee pursuant to an express trust, operated as a lender under this part prior to January 1, 1975, and which meets the requirements of this provision prior to the enactment of the Higher Education Amendments of 1992, or"; and

(ii) by striking ", or (III)" and all that follows through "January 1, 1981;" and inserting a semicolon; and

(2) in paragraph (2)—

(A) in subparagraph (C), by striking "institutions; and" and inserting "institution;";

(B) by inserting "and" after the semicolon at the end of subparagraph (D); and

(C) by inserting after subparagraph (D) the following new subparagraphs:

"(E) shall not have a cohort default rate (as defined in section 435(m)) greater than 15 percent; and

"(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;".

20 USC 1085.

(e) DUE DILIGENCE.—Section 435(f) of the Act is amended by inserting "servicing and" before "collection practices".

(f) REPEAL OF ADDITIONAL DEFINITIONS.—Section 435 of the Act is further amended by striking subsections (g), (h), and (n).

(g) DEFINITION OF COHORT DEFAULT RATE.—Section 435(m) of the Act is amended to read as follows:

"(m) COHORT DEFAULT RATE.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), the term 'cohort default rate' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under section 428 or 428A received for attendance at the institution, the percentage of those current and former students who enter repayment on such loans received for attendance at that institution in that fiscal year who default before the end of the following fiscal year.

"(B) In determining the number of students who default before the end of such fiscal year, the Secretary shall include only loans for which the Secretary or a guaranty agency has paid claims for insurance, and, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.

"(C) For any fiscal year in which fewer than 30 of the institution's current and former students enter repayment, the term 'cohort default rate' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.

"(2) SPECIAL RULES.—(A) In the case of a student who has attended and borrowed at more than one school, the student (and such student's subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year.

"(B) A loan on which a payment is made by the school, such school's owner, agent, contractor, employee, or any other entity or individual affiliated with such school, in order to avoid default by the borrower, is considered as in default for purposes of this subsection.

"(C) Any loan which has been rehabilitated before the end of such following fiscal year is not considered as in default for the purposes of this subsection.

"(D) For the purposes of this subsection, a loan made in accordance with section 428A shall not be considered to enter repayment until after the borrower has ceased to be enrolled in a course of study leading to a degree or certificate at an eligible institution on at least a half-time basis (as determined

by the institution) and ceased to be in a period of forbearance based on such enrollment. Each eligible lender of a loan made under section 428A shall provide the guaranty agency with the information necessary to determine when the loan entered repayment for purposes of this subsection, and the guaranty agency shall provide such information to the Secretary.

"(3) REGULATIONS TO PREVENT EVASIONS.—The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control, or any similar device.".

SEC. 428. REPAYMENTS BY SECRETARY.

Section 437 of the Act (20 U.S.C. 1087) is amended to read as follows:

"REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW

"SEC. 437. (a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT SUBJECT TO BANKRUPTCY ACTION.—If the collection of a loan described in subparagraph (A) or (B) of section 428(a)(1) or sections 428A, 428B, 428C, or 428H is stayed in any action under title 11, United States Code, the Secretary shall repay the unpaid balance of principal and interest owed on the loan.

"(c) DISCHARGE.—

"(1) IN GENERAL.—If a student borrower who received, on or after January 1, 1986, a loan made, insured, or guaranteed under this part is unable to complete the program in which the borrower is enrolled due to the closure of the institution or if such student's eligibility to borrow under this part was falsely certified by the eligible institution, then the Secretary shall discharge the borrower's liability on the loan (including interest and collection fees) by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution and its affiliates and principals or settle the loan obligation pursuant to the financial responsibility authority under subpart 3 of part H.

"(2) ASSIGNMENT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution and its affiliates and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title.

"(4) SPECIAL RULE.—A borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which the borrower would be otherwise eligible (but for the default on such discharged loan).

"(5) REPORTING.—The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

"(d) REPAYMENT OF LOANS TO PARENTS.—If a student on whose behalf a parent has received a loan described in section 428B dies, then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.".

SEC. 429. DEBT MANAGEMENT OPTIONS.

Part B of title IV of the Act is amended by inserting after section 437 the following new section:

"DEBT MANAGEMENT OPTIONS

20 USC 1087-0.

"SEC. 437A. (a) PROGRAM AUTHORITY.—For the purpose of offering additional debt management options, the Secretary is authorized, to the extent of funds appropriated under subsection (d)—

"(1) to acquire from eligible holders the notes of borrowers under this part (other than section 428B) who are considered to be at high risk of default and who submit a request to the Secretary for an alternative repayment option;

"(2) to offer such borrowers one or more alternative repayment options, which may include graduated or extended repayment and which shall, subject to subsection (b)(2), include an income contingent repayment option established in accordance with subsection (b); and

"(3) to enter into contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this section.

"(b) INCOME CONTINGENT REPAYMENT OPTION.—

"(1) REGULATIONS.—For the purposes of subsection (a)(2), the Secretary shall, by regulation, establish the terms and conditions for an income contingent repayment option. Such regulations shall specify the schedules under which income will be assessed for repayment of loans, shall permit the discharge of the remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

"(2) COLLECTION MECHANISM DETERMINATION REQUIRED.—Such regulations shall not be effective unless the Secretary publishes a finding that—

"(A) the Secretary has, pursuant to subsection (a)(3), established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(c) DETERMINATIONS OF HIGH RISK OF DEFAULT.—In making determinations under subsection (a)(1), the Secretary shall—

"(1) consider the ratio of part B debt repayment to income; or

"(2) establish, by regulation, such other indicators of high risk as the Secretary considers appropriate Regulations.

"(d) LOAN LIMITATION.—Not more than $200,000,000 may be used to acquire loans under this section in any fiscal year.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1994 and for each of the 4 succeeding fiscal years.".

SEC. 430. SPECIAL ALLOWANCES.

(a) SPECIAL ALLOWANCE.—Section 438(b)(2) of the Act is amended— 20 USC 1087-1.

(1) in subparagraph (A)(iii), by striking "3.25" and inserting "3.10";

(2) by adding at the end of subparagraph (A) the following new sentence: "If such computation produces a number less than zero, such loans shall be subject to section 427A(e).";

(3) in subparagraph (B)(i), by striking "3.25" and inserting "3.10"; and

(4) by striking division (ii) of subparagraph (B) and inserting the following:

"(ii) The quarterly rate of the special allowance set under division (i) of this subparagraph shall not be less than 9.5 percent minus the applicable interest rate on such loans, divided by 4.";

(5) in subparagraph (C)—

(A) by inserting "before October 1, 1992," after "made";

(B) by inserting "(i)" before "In"; and

(C) by adding at the end the following new clause:

"(ii) In the case of loans disbursed on or after October 1, 1992, pursuant to section 428A or 428B for which the interest rate is determined under section 427A(c)(4), a special allowance shall not be paid unless the rate determined for any 12-month period under section 427A(c)(4)(B) exceeds—

"(I) 11 percent in the case of a loan under section 428A; or

"(II) 10 percent in the case of a loan under section 428B.";

(6) in subparagraph (D)(i), by striking "3.25" and inserting "3.10".

(b) SPECIAL ALLOWANCE PERMITTED ON UNSUBSIDIZED LOANS.—Section 438(b)(5)(A)(ii) of the Act is amended by inserting "428H," after "428C,".

(c) SPECIAL RULE.—Section 438(b)(5) is amended by adding at the end thereof the following flush sentence:

"As used in this section, the term 'eligible loan' includes all loans subject to section 428I.".

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end the following new paragraphs:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment pay-

ment of the proceeds of the loan prior to payments to the borrower.

"(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected pursuant to this section on loans authorized under section 428A or 428B shall be paid to the Secretary by the lender and deposited in the fund authorized under section 431 of this part.".

20 USC 1087-1. (e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

SEC. 431. STUDENT LOAN MARKETING ASSOCIATION.

(a) BOARD OF DIRECTORS.—Subsection (c) of section 439 of the Act (20 U.S.C. 1087–2(c)) is amended to read as follows:

"(c) BOARD OF DIRECTORS.—

President. "(1) COMPOSITION OF BOARD; CHAIRMAN.—(A) The Association shall have a Board of Directors which shall consist of 21 persons, 7 of whom shall be appointed by the President and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1993—

"(i) 7 of the elected directors shall be affiliated with an eligible institution; and

"(ii) 7 of the elected directors shall be affiliated with an eligible lender.

President. "(B) The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with the eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to

fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(b) AUTHORITY OF ASSOCIATION.—Subparagraph (C) of section 439(d)(1) of the Act is amended to read as follows: 20 USC 1087-2.

"(C) to buy, sell, hold, insure, underwrite, and otherwise deal in obligations issued for the purpose of financing or refinancing the construction, reconstruction, renovation, improvement, or purchase at institutions of higher education of any of the following facilities (including the underlying property) and materials at an eligible institution of higher education:

"(i) educational and training facilities;

"(ii) housing for students and faculties;

"(iii) library facilities, including the acquisition of library materials at institutions of higher education; and

"(iv) related equipment, instrumentation, and furnishings for facilities and materials described in clause (i) or (iii);

except that not more than 15 percent of the value of transactions entered into under this subparagraph shall involve transactions of the type described in clause (ii);".

(c) RESTRICTIONS ON ACTIVITIES.—Section 439(d)(5) of the Act is amended by striking "third highest rating" and inserting "second highest rating".

(d) STOCK OF ASSOCIATION.—Subsection (f) of section 439 of the Act is amended to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by its Board of Directors from time to time. Each share of voting common stock shall be entitled to one vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board of Directors from time to time. Any voting common stock issued shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board of Directors. Such dividends as may be declared by the Board of Directors shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Higher Education Amendments of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part

of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(e) SAFETY AND SOUNDNESS OF ASSOCIATION.—Section 439 of the Act is amended by adding at the end the following new subsection:

20 USC 1087-2.

"(r) SAFETY AND SOUNDNESS OF ASSOCIATION.—

"(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary of Education and Secretary of the Treasury copies of all—

"(A) periodic financial reports publicly distributed by the Association; and

"(B) reports concerning the Association that are received by the Association and prepared by nationally recognized statistical rating organizations.

"(2) AUDIT BY SECRETARY OF THE TREASURY.—(A) The Secretary of the Treasury may—

"(i) appoint auditors to conduct audits of the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness; and

"(ii) enter into contracts to obtain the services of such technical experts as the Secretary of the Treasury determines necessary and appropriate to provide technical assistance to any auditor appointed under this paragraph.

"(B) Each auditor appointed under this paragraph shall conduct an audit of the Association to the extent requested by the Secretary of the Treasury and shall prepare and submit a report to the Secretary of the Treasury concerning the results of such audit. A copy of such report shall be furnished to the Association and the Secretary of Education on the date on which it is delivered to the Secretary of the Treasury.

"(C) The Association shall provide full and prompt access to the Secretary of the Treasury to its books and records and other information requested by the Secretary of the Treasury.

"(3) MONITORING OF SAFETY AND SOUNDNESS.—The Secretary of the Treasury shall conduct such studies as may be necessary to monitor the financial safety and soundness of the Association. In the event that the Secretary of the Treasury determines that the financial safety and soundness of the Association is at risk, the Secretary of the Treasury shall inform the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education of such determination and identify any corrective actions that should be taken to ensure the safety and soundness of the Association.

"(4) CAPITAL STANDARD.—If the capital ratio is less than 2 percent and is greater than or equal to 1.75 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary of the Treasury a capital restoration plan, in reasonable detail, that the Association believes is adequate

to cause the capital ratio to equal or exceed 2 percent within 36 months.

"(5) CAPITAL RESTORATION PLAN.—

"(A) SUBMISSION, APPROVAL, AND IMPLEMENTATION.—The Secretary of the Treasury and the Association shall consult with respect to any capital restoration plan submitted pursuant to paragraph (4) and the Secretary of the Treasury shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a capital restoration plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

"(B) DISAPPROVAL.—If the Secretary of the Treasury does not approve a capital restoration plan as provided in subparagraph (A), then not later than the earlier of the date the Secretary of the Treasury disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall submit the Association's capital restoration plan, in the form most recently proposed to the Secretary of the Treasury by the Association, together with a report on the Secretary of the Treasury's reasons for disapproval of such plan and an alternative capital restoration plan, to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury.

"(C) ASSOCIATION IMPLEMENTATION AND RESPONSE.—Upon receipt of the submission by the Association, the Association shall forthwith proceed with diligence to implement the most recently proposed capital restoration plan of the Association. The Association, within 30 days after receipt from the Secretary of the Treasury of such submission, shall submit to such Chairmen and ranking minority members a written response to such submission, setting out fully the nature and extent of the Association's agreement or the disagreement with the Secretary of the Treasury with respect to the capital restoration plan submitted to the Secretary of the Treasury and any findings of the Secretary of the Treasury.

"(6) SUBSTANTIAL CAPITAL RATIO REDUCTION.—

"(A) ADDITIONAL PLAN REQUIRED.—If the capital ratio is less than 1.75 percent and is greater than or equal to 1 percent at the end of the Association's most recent calendar quarter, the Association shall submit to the Secretary of the Treasury within 60 days after such occurrence a capital restoration plan (or an appropriate modification of any plan previously submitted or approved under para-

graph (4)) to increase promptly its capital ratio to equal or exceed 1.75 percent. The Secretary of the Treasury and the Association shall consult with respect to any plan or modified plan submitted pursuant to this paragraph. The Secretary of the Treasury shall approve such plan or modified plan (or a modification thereof accepted by the Association) or disapprove such plan or modified plan within 30 days after such plan or modified plan is first submitted to the Secretary of the Treasury by the Association, unless the Association and Secretary of the Treasury mutually agree to a longer consideration period. If the Secretary of the Treasury approves a plan or modified plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan or modified plan to the best of the Association's ability.

"(B) DISAPPROVAL.—If the Secretary of the Treasury disapproves a capital restoration plan or modified plan submitted pursuant to subparagraph (A), then, not later than the earlier of the date the Secretary of the Treasury disapproves of such plan or modified plan (by written notice to the Association) or the expiration of the 30-day consideration period described in subparagraph (A) (as such period may have been extended by mutual agreement), the Secretary of the Treasury shall prepare and submit an alternative capital restoration plan, together with a report on his reasons for disapproval of the Association's plan or modified plan, to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate and to the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary of the Treasury. The Association, within 5 days after receipt from the Secretary of the Treasury of such submission, shall submit to the Chairmen and ranking minority members of such Committees, and the Secretary of the Treasury, a written response to such submission, setting out fully the nature and extent of the Association's agreement or disagreement with the Secretary of the Treasury with respect to the disapproved plan and the alternative plan of the Secretary of the Treasury and any findings of the Secretary of the Treasury.

"(C) REVIEW BY CONGRESS; ASSOCIATION IMPLEMENTATION.—Congress shall have 60 legislative days after the date on which Congress receives the alternative plan under subparagraph (B) from the Secretary of the Treasury to review such plan. If Congress does not take statutory action with respect to any such plan within such 60-day period, the Association shall immediately proceed with diligence to implement the alternative capital restoration plan of the Secretary of the Treasury under subparagraph (B). If Congress is out of session when any such alternative plan is received, such 60-day period shall begin on the first day of the next session of Congress.

"(7) ACTIONS BY SECRETARY OF THE TREASURY.—If the capital ratio of the Association does not equal or exceed 1.75 percent at the end of the Association's most recent calendar quarter, the Secretary of the Treasury may, until the capital ratio equals or exceeds 1.75 percent, take any one or more of the following actions:

"(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

"(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

"(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

"(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.75 percent capital ratio.

"(E) LIMIT EXECUTIVE COMPENSATION.—Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

"(8) CRITICAL CAPITAL STANDARD.—(A) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has already submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

"(B) If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter and the Association has not submitted a capital restoration plan to the Secretary of the Treasury pursuant to paragraph (4) or (6)(A), the Association shall—

"(i) within 14 days of such occurrence submit a capital restoration plan to the Secretary of the Treasury which the Association believes is adequate to cause the capital ratio to equal or exceed 2 percent within 60 months; and

"(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary of the Treasury determines are necessary to cause the capital ratio to equal or exceed 2 percent within 60 months.

"(C) Immediately upon a determination under subparagraph (A) or (B) to implement a capital restoration plan, the Secretary of the Treasury shall submit the capital restoration plan to be implemented to the Chairman and ranking minority member of the Committee on Labor and Human Resources of the Senate, the Chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives, and the Secretary of Education.

"(9) ADDITIONAL REPORTS TO COMMITTEES.—The Association shall submit a copy of its capital restoration plan, modifications

proposed to the Secretary of the Treasury, and proposed modifications received from the Secretary of the Treasury to the Congressional Budget Office and General Accounting Office upon their submission to the Secretary of the Treasury or receipt from the Secretary of the Treasury. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary of the Treasury does not approve a capital restoration plan as provided in paragraph (5)(A) or (6)(A), or in the event that a capital restoration plan is modified by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary of the Treasury's submission to the Chairmen and ranking minority members as required in paragraphs (5)(B), (6)(B), and (8)(C) to such Chairmen and ranking members—

"(A) analyzing the financial condition of the Association;

"(B) analyzing the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8);

"(C) analyzing the impact of the capital restoration plan and reasons for disapproval of the plan contained in the Secretary of the Treasury's submission made pursuant to paragraph (5)(B), or the impact of the capital restoration plan proposed by the Association and the modifications made by the Secretary of the Treasury pursuant to paragraph (6)(B) or (8), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

"(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section, and

"(ii) the operation of the student loan programs; and

"(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

"(10) REVIEW BY SECRETARY OF EDUCATION.—The Secretary of Education shall review the Secretary of the Treasury's submission required pursuant to paragraph (5)(B), (6)(B), or (8) and shall submit a report within 30 days to the Chairman and ranking minority member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking minority member of the House Committee on Education and Labor—

"(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

"(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities

consistent with the capital ratio specified in paragraph (4).

"(11) SAFE HARBOR.—The Association shall be deemed in compliance with the capital ratios described in paragraphs (4) and (6)(A) if the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations, determined without regard to the Association's status as a federally chartered corporation.

"(12) TREATMENT OF CONFIDENTIAL INFORMATION.—Notwithstanding any other provision of law, the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary of the Treasury, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 522 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

"(13) DEFINITIONS.—As used in this subsection:

"(A) The term 'nationally recognized statistical rating organization' means any entity recognized as such by the Securities and Exchange Commission.

"(B) The term 'capital ratio' means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

"(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

"(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

"(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

"(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal

Reserve Board, but without regard to any risk weighting provisions in such measures.

"(C) The term 'legislative days' means only days on which either House of Congress is in session.".

20 USC 1078 note.

SEC. 432. EFFECTIVE DATES FOR AMENDMENTS TO PART B.

(a) IN GENERAL.—The changes made in part B of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except—

(1) as otherwise provided in such part B;

(2) that the changes made in sections 425(a), 428(b)(1)(A), 428(b)(1)(B), 428A(b), 428B(b), relating to annual and aggregate loan limits, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, except that—

(A) the changes made in section 425(a)(1)(A)(i) and 428(b)(1)(A)(i) shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992; and

(B) the changes made in section 425(a)(1)(A)(iv) and 428(b)(1)(A)(iv) shall apply with respect to loans to cover the costs of instruction for periods of enrollment beginning on or after October 1, 1993;

(3) that the changes made in sections 427(a)(2)(C) and 428(b)(1)(M), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(4) that the changes made in sections 428(a)(7) and 428(f)(1)(C), relating to payments for unconsummated loans, shall apply with respect to loans made on or after October 1, 1992;

(5) that the changes made in sections 427(a)(2)(H) and 428(b)(1)(E)(i), relating to offering graduated or income sensitive repayment options, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(6) that the changes made in section 428(b)(4), relating to teacher deferment, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993, to an individual who is a new borrower on the date such individual applies for a loan;

(7) that section 428(c)(2)(H)(i) as added by such amendments shall be effective on and after October 1, 1992;

(8) that the changes in section 428(c)(3) with respect to forbearance after a default shall be effective on and after October 1, 1992;

(9) that the changes made in section 428B(a) with respect to use of credit histories shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993;

(10) that section 428B(c) as added by such amendments, relating to disbursement of Federal PLUS Loans, shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(11) that the changes made in section 428C, relating to consolidation loans, shall apply with respect to loans under such section for which the application is received by an eligible lender on or after January 1, 1993;

(12) that section 428H as added by such amendments shall be effective with respect to loans made to cover the cost of instruction for periods of enrollment beginning on or after October 1, 1992;

(13) that the changes made in section 438 shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992;

(14) that the changes in section 439(d)(1), relating to facilities loans, shall apply with respect to applications received on or after July 1, 1992; and

(15) that the changes in the designation or names of loans or programs under part B is effective with respect to applications or other documents (used in making such loans) that are printed after the date of enactment of this Act.

(b) NEW BORROWERS.—For purposes of the section, the term "new borrower" means, with respect to any date, an individual who on that date has no outstanding balance of principal or interest owing on any loan made, insured, or guaranteed under part B of title IV of the Act.

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. DESIGNATION, PURPOSE, AND APPROPRIATIONS.

(a) PROGRAM TITLE.—

(1) AMENDMENT.—The heading of part C of title IV of the Act is amended to read as follows:

"PART C—FEDERAL WORK-STUDY PROGRAMS".

(2) CONFORMING AMENDMENT.—The heading of section 443 is amended by inserting "FEDERAL" before "WORK-STUDY". 42 USC 2753.

(b) PURPOSE.—Section 441(a) of the Act is amended by inserting ", and to encourage students receiving Federal student financial assistance to participate in community service activities that will benefit the Nation and engender in the students a sense of social responsibility and commitment to the community" before the period at the end thereof. 42 USC 2751.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 441(b) of the Act is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part, $800,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(d) DEFINITION OF COMMUNITY SERVICE.—Section 441 of the Act is amended by adding at the end the following new subsection:

"(c) COMMUNITY SERVICES.—For purposes of this part, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs, including—

"(1) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement;

"(2) work in service opportunities or youth corps as defined in section 101 of the National and Community Service Act of 1990, and service in the agencies, institutions and activities designated in section 124(a) of the National and Community Service Act of 1990;

"(3) support services to students with disabilities; and

"(4) activities in which a student serves as a mentor for such purposes as—

"(A) tutoring;

"(B) supporting educational and recreational activities; and

"(C) counseling, including career counseling.".

SEC. 442. ALLOCATION OF FUNDS.

(a) GRANTS TO SCHOOLS WITH HIGH CONCENTRATIONS OF PELL GRANT RECIPIENTS.—Section 442(a) of the Act (42 U.S.C. 2752(a)) is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of this section, the Secretary may allocate an amount equal to not more than 10 percent of the amount by which the amount appropriated in any fiscal year to carry out this part exceeds $700,000,000 among eligible institutions described in subparagraph (B).

"(B) In order to receive an allocation pursuant to subparagraph (A) an institution shall be an eligible institution from which 50 percent or more of the Pell Grant recipients attending such eligible institution graduate or transfer to a 4-year institution of higher education.".

(b) CONSEQUENCES OF FAILURE TO AWARD.—Section 442(e) of the Act is amended to read as follows:

"(e) REALLOCATION OF EXCESS ALLOCATIONS.—If institutions return to the Secretary any portion of the sums allocated to such institutions under this section for any fiscal year, the Secretary shall reallot such excess to eligible institutions which used at least 10 percent of the total amount of funds granted to such institution under this section to compensate students employed in community service in the preceding fiscal year. Such excess funds shall be reallotted to institutions which qualify under this subsection on the same basis as excess eligible amounts are allocated to institutions pursuant to subsection (c). Funds received by institutions pursuant to this subsection shall be used to compensate students employed in community service.".

SEC. 443. GRANTS FOR WORK-STUDY PROGRAMS.

(a) CONTENTS OF AGREEMENTS.—Section 443(b)(1) of the Act (42 U.S.C. 2753) is amended, in the matter preceding subparagraph (A), by inserting ", work in community service" after "itself".

(b) USE FOR COMMUNITY SERVICE.—Section 443(b)(2)(A) of the Act is amended to read as follows:

"(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 5 percent of the total amount of funds granted to such institution under this section in any fiscal year to compensate students employed in community service, except that the Secretary may waive

this subparagraph if the Secretary determines that enforcing it would cause hardship for students at an institution;".

(c) ALLOCATION.—Section 443(b)(3) of the Act is amended to read as follows: 42 USC 2753.

"(3) provide that in the selection of students for employment under such work-study program, only students, who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, except that—

"(A) if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (i) attending the institution less than full time, or (ii) independent students; and

"(B) if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution,

then at least 5 percent of the grant shall be made available to such less than full-time and independent students;".

(d) OVERAWARD INCOME LIMIT.—Section 443(b)(4) of the Act is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment is in excess of the determination of the amount of such student's need by more than $300, continued employment shall not be subsidized with funds appropriated under this part;".

(e) FEDERAL SHARE.—Section 443(b)(5) of the Act is amended to read as follows:

"(5) provide that the Federal share of the compensation of students employed in the work-study program in accordance with the agreement shall not exceed 75 percent for academic year 1993–1994 and succeeding academic years, except that—

"(A) the Federal share may exceed such amounts of such compensation if the Secretary determines, pursuant to regulations promulgated by the Secretary establishing objective criteria for such determinations, that a Federal share in excess of such amounts is required in furtherance of the purpose of this part; and

"(B) when a student engaged in work in community service performs such work for a private nonprofit organization other than the eligible institution, the contribution of such agency or organization shall not exceed 40 percent of the institution's share of the compensation of the student, and the eligible institution in its discretion may count such contribution toward satisfaction of the non-Federal share of the compensation of the student;".

(f) PROPRIETARY SCHOOLS.—Section 443(b)(8) of the Act is amended—

(1) in subparagraph (A), by inserting ", except as required in subparagraph (A) of paragraph (2)" before the semicolon at the end thereof; and

(2) in subparagraph (C), by inserting "that are directly related to the student's education" after "student services".

(g) INDIVIDUALS WITH DISABILITIES.—Section 443(b) of the Act is amended—

(1) by redesignating paragraph (9) as paragraph (11);

(2) by striking "and" at the end of paragraph (8); and

(3) by inserting after paragraph (8) the following new paragraphs:

"(9) provide assurances that employment made available from funds under this part may be used to support programs for supportive services to students with disabilities;

"(10) provide assurances that the institution will inform all eligible students of the opportunity to perform community service, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and".

SEC. 444. CARRY-BACK AUTHORITY.

42 USC 2755.

Section 445(b) of the Act is amended—

(1) by inserting "(1)" after the subsection heading; and

(2) by adding at the end the following new paragraph:

"(2) An eligible institution may make payments to students of wages earned after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.".

SEC. 445. JOB LOCATION AND DEVELOPMENT.

42 USC 2756.

Section 446 of the Act is amended to read as follows:

"JOB LOCATION AND DEVELOPMENT PROGRAMS

"SEC. 446. (a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $50,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs, including community service jobs, for currently enrolled students.

"(2) Jobs located and developed under this section shall be jobs that are suitable to the scheduling and other needs of such students and that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

"(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

"(3) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

"(4) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(5) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate,

the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

"(6) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.".

SEC. 446. ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS.

(a) IN GENERAL.—Section 447 of the Act (42 U.S.C. 2756a) is amended—

(1) by striking subsections (a) and (b); and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "funds made available under the last sentence of section 489(a)" and inserting "up to 10 percent of the funds made available under section 489(a) and attributable to the amount of the institution's expenditures under this part";

(B) in paragraph (3), by inserting ", and programs assisted under the National and Community Service Act of 1990" after "nonprofit agencies"; and

(C) by striking "(c) USE OF OTHER FUNDS TO CONDUCT PROGRAM.—".

(b) AMENDMENT TO HEADING.—The heading for section 447 of the Act is amended to read as follows:

"ADDITIONAL FUNDS TO CONDUCT COMMUNITY SERVICE WORK-STUDY PROGRAMS".

(c) CONFORMING AMENDMENTS.—Subsection (a) of section 489 of the Act (20 U.S.C. 1096(a)) is amended—

(1) in the second sentence, by striking "(other than section 447)"; and

(2) by striking the fourth sentence (relating to payments with respect to section 447).

SEC. 447. WORK COLLEGES.

Part C of title IV of the Act (42 U.S.C. 2751 et seq.) is amended by adding at the end thereof the following new section:

"WORK COLLEGES

"SEC. 448. (a) PURPOSE.—The purpose of this section is to recognize, encourage, and promote the use of comprehensive work-learning programs as a valuable educational approach when it is an integral part of the institution's educational program and a part of a financial plan which decreases reliance on grants and loans. 42 USC 2756b.

"(b) SOURCE AND USE FUNDS.—

"(1) SOURCE OF FUNDS.—In addition to the sums appropriated under subsection (f), funds allocated to the institution under part C and part E of this title may be transferred for use under this section to provide flexibility in strengthening the self-help-through-work element in financial aid packaging.

"(2) ACTIVITIES AUTHORIZED.—From the sums appropriated pursuant to subsection (f), and from the funds available under paragraph (1), eligible institutions may, following approval of an application under subsection (c) by the Secretary—

"(A) support the educational costs of qualified students through self-help payments or credits provided under the work-learning program of the institution within the limits of part F of this title;

"(B) promote the work-learning-service experience as a tool of postsecondary education, financial self-help and community service-learning opportunities;

"(C) carry out activities described in section 443 or 446; and

"(D) be used for the administration, development and assessment of comprehensive work-learning programs, including—

"(i) community-based work-learning alternatives that expand opportunities for community service and career-related work; and

"(ii) alternatives that develop sound citizenship, encourage student persistence, and make optimum use of assistance under this part in education and student development.

"(c) APPLICATION.—Each eligible institution may submit an application for funds authorized by subsection (f) to use funds under subsection (b)(1) at such time and in such manner as the Secretary, by regulation, may reasonably require.

"(d) MATCH REQUIRED.—Funds made available to work-colleges pursuant to this section shall be matched on a dollar-for-dollar basis from non-Federal sources.

"(e) DEFINITIONS.—For the purpose of this section—

"(1) the term 'work-college' means an eligible institution that—

"(A) has been a public or private nonprofit institution with a commitment to community service;

"(B) has operated a comprehensive work-learning program for at least 2 years;

"(C) requires all resident students who reside on campus to participate in a comprehensive work-learning program and the provision of services as an integral part of the institution's educational program and as part of the institution's educational philosophy; and

"(D) provides students participating in the comprehensive work-learning program with the opportunity to contribute to their education and to the welfare of the community as a whole; and

"(2) the term 'comprehensive student work-learning program' means a student work/service program that is an integral and stated part of the institution's educational philosophy and program; requires participation of all resident students for enrollment, participation, and graduation; includes learning objectives, evaluation and a record of work performance as part of the student's college record; provides programmatic leadership by college personnel at levels comparable to traditional academic programs; recognizes the educational role of work-learning supervisors; and includes consequences for non-performance or failure in the work-learning program similar to the consequences for failure in the regular academic program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART D—FEDERAL DIRECT LOANS

SEC. 451. ESTABLISHMENT OF FEDERAL DIRECT LOAN PROGRAM.

Part D of title IV of the Act (20 U.S.C. 1087a et seq.) is amended to read as follows:

"PART D—FEDERAL DIRECT LOAN DEMONSTRATION PROGRAM

"SEC. 451. PROGRAM AND PAYMENT AUTHORITY.

20 USC 1087a. Effective date. Termination date.

"(a) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this part, carry out a loan demonstration program for qualified students and parents at selected institutions of higher education to enable the students to pursue their courses of study at such institutions during the period beginning on July 1, 1994 and ending on June 30, 1998.

"(b) PAYMENT AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary shall make payments under this part for any fiscal year to institutions of higher education having an agreement under section 454, on the basis of the estimated needs of students at each institution and parents for student or parent loans, taking into consideration the demand and eligibility of such students and parents for loans under this part.

"(2) ENTITLEMENT PROVISION.—An institution of higher education which has an agreement with the Secretary under section 454 shall be deemed to have a contractual right against the United States to receive payments according to that agreement.

"SEC. 452. PAYMENT RULES.

20 USC 1087b.

"(a) IN GENERAL.—The Secretary shall make payments required by section 451 in such installments as the Secretary determines—

"(1) reflect accurately the disbursement of funds for student and parent loans by the institution of higher education, and

"(2) will best carry out the objectives of this part.

"(b) INITIAL PAYMENTS.—The initial payments for any academic year required by section 451 shall be made available to each institution of higher education not later than 10 days prior to the beginning of the academic year at such institution.

"SEC. 453. SELECTION BY THE SECRETARY.

Contracts. 20 USC 1087c. Effective date. Termination date.

"(a) ENTRY REQUIREMENT.—The Secretary shall enter into agreements with institutions of higher education, at which the total loan volume under the Federal Stafford Loan program, the Federal Supplemental Loans for Students program, and the Federal PLUS loan program was $500,000,000 in the most recent year for which data is available, to participate in the loan demonstration program to make loans for the period beginning with the academic year beginning on July 1, 1994, and ending with loans made before June 30, 1998. Such agreements shall be concluded not later than January 1, 1994.

"(b) SELECTION CRITERIA.—The Secretary shall enter into agreements with institutions of higher education which represent a cross-section of all institutions of higher education participating in part B of this title in terms of control of the institution, length of academic program, highest degree offered, size of student enrollment, percentage of students borrowing under part B, geographic location, annual loan volume, default experience and composition of the student body.

"(c) PREFERENCE FOR APPLYING INSTITUTIONS.—In constituting the cross-section of institutions of higher education required by the previous subsection, the Secretary shall first enter into agreements, to the maximum extent possible consistent with the requirements of constituting the cross-section, with institutions of higher education which apply to participate in the loan demonstration program. Institutions of higher education desiring to participate in the demonstration shall submit an application containing such information as the Secretary may by regulation prescribe.

"(d) DESIGNATION OF ADDITIONAL INSTITUTIONS.—If an insufficient number of institutions of higher education apply and satisfy the conditions provided in subsections (a) and (b) of this section, the Secretary shall designate additional institutions of higher education from among those eligible to participate in part B to participate in the loan demonstration program in order to satisfy the conditions provided in subsections (a) and (b) of this section. An institution of higher education designated by the Secretary pursuant to this subsection may decline to participate in the loan demonstration program for good cause pursuant to regulations established by the Secretary.

"(e) LIMITATION.—The Secretary shall ensure that the annual loan volume under the Federal Stafford Loan program, the Federal Supplemental Loans for Students program, and the Federal Plus loan program at the institutions of higher education with which the Secretary enters into agreements under this part, in the most recent fiscal year for which data are available, represents not more than 15 percent of the loan guarantees of any guaranty agency under such programs and the Secretary shall determine that such guaranty agency will remain financially sound.

"(f) SELECTION OF SUBGROUP TO TEST INCOME CONTINGENT REPAYMENT.—

"(1) SELECTION.—Within the institutions of higher education selected or designated to participate in the loan demonstration program under this part, the Secretary shall select 35 percent of such institutions to offer income contingent repayment methods in accordance with section 454(6).

"(2) FINDING REQUIRED.—The Secretary shall not select institutions to offer such repayment methods unless the Secretary publishes a finding that—

"(A) the Secretary has established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option; and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(g) CONSORTIA.—Institutions of higher education may apply to participate in the program pursuant to subsection (c) as consortia. The Secretary shall consider the members of the consortia as

individual institutions for the purposes of subsection (b). Institutions of higher education selected by the Secretary to participate in the program may also enter into consortia for the purpose of carrying out the agreement required by section 454.

"SEC. 454. AGREEMENT REQUIRED. 20 USC 1087d.

"An agreement with any institution of higher education for participation in the loan demonstration program shall—

"(1) provide for the establishment and maintenance of a loan demonstration program at the institution of higher education under which—

"(A) the institution of higher education will identify eligible students who seek student financial assistance at such institution, in accordance with section 484;

"(B) the institution of higher education will estimate the need of each such student as required by part F;

"(C) the institution of higher education will originate loans to such eligible students and eligible parents in accordance with this part, and will not charge any administrative fees to such students or parents for such origination activities;

"(D) the institution of higher education will provide timely information concerning the status of student and parent borrowers to the contractor or contractors responsible for loan collection pursuant to section 457; and

"(E) the institution of higher education will participate in the loan demonstration program for its duration, subject to procedures for withdrawal established by section 455;

"(2) provide assurances that the institution of higher education will comply with the provisions of section 463A, relating to student loan information, with respect to loans made under this part;

"(3) provide that the note or evidence of obligation on the loan shall be the property of the Secretary and that the institution of higher education will act as the agent of the Secretary for the purpose of making loans under the loan demonstration program;

"(4) provide that the institution of higher education will accept responsibility and liability stemming from its failure to perform its functions pursuant to the agreement;

"(5) provide that students at the institution of higher education and their parents (with respect to such students) will not be eligible to participate in the Federal Stafford Loan program, the Federal Supplemental Loans to Students program, or the Federal Plus loan program for the period during which such institution participates in the loan demonstration program;

"(6) in the case of the institutions selected by the Secretary pursuant to section 453(f), include such terms and conditions as the Secretary may require by regulation for testing income contingent repayment methods, which shall include—

"(A) requiring such institutions to offer the option of income contingent repayment, based on an annual review of the borrowers Federal income tax return, to any student who applies for a loan under this part;

"(B) the additional or different terms and conditions to be included in the notes or other agreements entered into

by the borrower, as required by such regulations, including provisions with respect to the disclosure by the borrower of subsequent income;

"(C) providing for the discharge of loans after not more than 25 years of income contingent repayment; and

"(D) such data and reporting requirements and such other provisions as the Secretary considers necessary to carry out the purposes of section 458(d)(2) and to the protection of the Federal fiscal interest; and

"(7) include such other provisions as may be necessary to protect the financial interest of the United States and to promote the purposes of this part.

Regulations. 20 USC 1087e.

"SEC. 455. WITHDRAWAL AND TERMINATION PROCEDURES.

"The Secretary shall establish by regulation procedures which enable institutions of higher education who have made agreements with the Secretary pursuant to section 454 to withdraw or to be terminated from the loan demonstration program.

20 USC 1087f.

"SEC. 456. TERMS AND CONDITIONS.

"Unless otherwise specified in this part, the loans made under this part shall have the same terms, conditions, and benefits as loans made under sections 428, 428A, and 428B of this title. Any loan made under this part shall be eligible for consolidation under section 428C of part B of this title.

20 USC 1087g.

"SEC. 457. LOAN COLLECTION FUNCTIONS UNDER COMPETITIVE PROCUREMENT CONTRACTS.

"(a) IN GENERAL.—The Secretary shall provide, through contracts awarded on a competitive basis, for—

"(1) the collection of principal and interest on loans made under this part by not less than 5 contracts, at least one of which shall be for servicing loans that are subject to income contingent repayment;

"(2) the collection of defaulted loans made under this part;

Records.

"(3) the establishment and operation of a central data system for the maintenance of records on all loans made under this part;

"(4) programs for default prevention; and

"(5) such other programs as the Secretary determines are necessary to ensure the success of the loan demonstration program.

"(b) SERVICING FOR INCOME CONTINGENT LOANS.—The Secretary shall, through contract, ensure the availability of servicing of loans made pursuant to section 454(6) at a cost comparable to that available for loans under part B of this title (that are not subject to income contingent repayment).

"(c) INFORMATION ON INCOME CONTINGENT LOANS.—The Secretary shall acquire such information as is necessary regarding the adjusted gross income of borrowers (under this part and under part B) of loans that are subject to income contingent repayment for the purpose of determining the annual repayment obligations of such borrowers. The Secretary, not less often than once per year, shall provide to the servicer, lender, or holder of a loan under this part the Secretary's determination of the borrower's repayment obligation on that loan for such year.

"SEC. 458. REPORTS.

20 USC 1087h.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1993, and each July 1 for the 5 succeeding years an annual report describing the progress and status of the loan demonstration program.

"(b) INTERIM FINAL REPORT.—The Comptroller General shall submit to the Congress not later than January 1, 1997, an interim final report evaluating the experience of the Department of Education, the participating institutions of higher education, students, and parents with respect to the loan demonstration program. The report shall include—

"(1) the administrative costs, including costs per loan, incurred by participating institutions of higher education in administering the loan demonstration program;

"(2) the administrative costs, including costs per loan, incurred by the Department of Education and its contractors in carrying out its responsibilities, including the costs of origination, data systems, servicing, and collection;

"(3) an evaluation of the effectiveness of the loan demonstration program in providing services to students and parents, including loan application, loan origination, student financial aid packaging, tracking of student status, responsiveness to student inquiries and processing of deferments, forbearances, and repayments;

"(4) the frequency and cost of borrower delinquency and default under the loan demonstration program and losses incurred by institutions of higher education and servicers, including losses caused by improper origination or servicing of loans;

"(5) the timeliness of capital availability to institutions of higher education and of loans to students and parents and the cost of loan capital;

"(6) an evaluation of the effectiveness of the income contingent repayment option;

"(7) a comparison of the experience of institutions of higher education, students, and parents participating in loan demonstration program with the experience of institutions, students, and parents in the control group described in subsection (d) with respect to the subjects indicated in paragraphs (1) through (6) of this subsection;

"(8) an evaluation of the administrative performance of the Department;

"(9) an analysis of the reasons institutions selected by the Secretary pursuant to section 453(d) chose not to participate and the reasons institutions withdrew or were terminated pursuant to section 455;

"(10) an analysis of the experience of borrowers with loans under both this part and part B and recommendations for the most effective repayment procedures for such borrowers;

"(11) a comparison of the cost of loan capital for loans for the loan demonstration program with the cost of loan capital for the comparable programs in part B of this title;

"(12) an analysis, where practicable, of the experience of institutions which participate as part of a consortia; and

"(13) recommendations for modifications, continuation, expansion, suspension, or termination of the loan demonstration pro-

gram or replacement of all or some of the programs authorized by part B.

"(c) FINAL REPORT.—The Comptroller General shall submit to the Congress not later than May 1, 1998, a final report evaluating the experience of the Department of Education, the participating institutions of higher education, and students with respect to the loan demonstration program. The report shall include the same matters provided for in subsection (b) of this section.

"(d) CONTROL GROUP.—

"(1) REGULAR REPAYMENT.—To assist the Comptroller General in preparing the reports required by subsections (b)(6) and (c) of this section, the Secretary shall select a control group of institutions of higher education, which represent a cross-section of all institutions of higher education participating in part B of this title and which is comparable to the cross-section of institutions of higher education selected for participation in the loan demonstration program pursuant to section 453. The Secretary shall select the control groups in the same manner, pursuant to section 453, that the institutions of higher education are selected to participate in the demonstration program.

"(2) INCOME CONTINGENT REPAYMENT.—If the Secretary makes a selection of institutions to test income contingent repayment methods in accordance with section 453(f), the Secretary shall, within the control group selected under paragraph (1), identify a group of institutions to serve as a control group for comparison with the institutions offering income contingent loans under this part pursuant to section 454(6). The institutions selected for the control group under this paragraph shall represent a reasonable cross section of the institutions selected under paragraph (1). The Secretary shall publish a list of the institutions that are so selected. Any eligible lender of a loan to a student for attendance at any such institution shall, in accordance with regulations prescribed by the Secretary, offer such students the option of repaying such loans on an income contingent basis consistent with such regulations.

Regulations.

"(3) INCOME CONTINGENT TERMS AND CONDITIONS.—The Secretary shall, by regulation, establish the terms and conditions for loans that are subject to paragraph (2) of this subsection. Such terms and conditions shall, to the extent practicable, be the same as the terms and conditions of loans made pursuant to section 454(6). The Secretary is authorized to enter into such agreements (and amendments to agreements) under part B of this title as may be necessary to carry out paragraph (2) and this paragraph.

"(e) TREATMENT OF COSTS.—In reporting with respect to costs in the reports required by subsections (b) and (c) of this section, the Comptroller General shall report separately the nonrecurrent costs such as start-up costs associated with the loan demonstration program, the administrative costs incurred by institutions of higher education in providing information to enable the Comptroller General to prepare the reports required by subsections (b) and (c) of this section and the normal costs of operating the loan demonstration program.

"SEC. 459. SCHEDULE OF REGULATORY ACTIVITIES BY THE SECRETARY.

Federal Register, publication. 20 USC 1087i.

"(a) PROPOSED REGULATIONS.—The Secretary shall publish in the Federal Register not later than April 1, 1993, all proposed regulations for carrying out the program established by this part, including regulations with respect to—

"(1) payments to institutions of higher education;

"(2) the selection of institutions of higher education to participate in the loan demonstration program;

"(3) application by institutions of higher education to participate in the loan demonstration program;

"(4) agreements between the Secretary and institutions of higher education participating in the loan demonstration program;

"(5) procedures with respect to the withdrawal and termination of institutions of higher education from the loan demonstration program; and

"(6) procedures by which institutions designated by the Secretary pursuant to section 453(d) may decline to participate in the loan demonstration program.

"(b) FINAL REGULATIONS.—The Secretary shall publish in the Federal Register not later than July 1, 1993, all final regulations for carrying out the program established by this part, including regulations with respect to the same matters provided for in subsection (a) of this section.

"(c) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the loan demonstration program pursuant to section 453(c).

"(d) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS AND CONTROL GROUP.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the loan demonstration program pursuant to section 453 and a list of the institutions of higher education in the control group required by section 458(d).

"(e) PROCUREMENT CONTRACTS.—The Secretary shall award contracts pursuant to section 457 not later than February 1, 1994.

"SEC. 459A. FUNDS FOR ADMINISTRATIVE EXPENSES.

20 USC 1087j.

"Each fiscal year, there shall be available to the Secretary of Education from funds not otherwise appropriated, funds to be obligated for administrative costs under this part, not to exceed $10,000,000 in fiscal year 1993, $17,000,000 in fiscal year 1994, $37,000,000 in fiscal year 1995, $54,000,000 in fiscal year 1996, and $65,000,000 in fiscal year 1997.".

SEC. 452. INCOME CONTINGENT LOAN DISTRIBUTION OF FUNDS.

20 USC 1087a note.

(a) IN GENERAL.—After September 30, 1992, and not later than March 31, 1992, the capital balance of the student loan fund established under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on the date of enactment of this Act) shall be distributed by allowing institutions to transfer any remaining funds, including future collections and all other funds at the institution's discretion, to such institution's part E account, part C fund, or subpart 3 of part A fund under the terms and conditions of the appropriate program.

(b) CONVERSION OF EXISTING LOANS.—Institutions may, after July 1, 1992, convert all outstanding loans made under part D of title IV of the Higher Education Act of 1965 (as such Act was in effect on such date) to part E loans, provided that such institution—

(1) notify the borrower of such conversion;

(2) obtain a signed part E promissory note from the borrower for the remaining amount outstanding; and

(3) provide the borrower in writing with a description of all terms and conditions of the new loan.

PART E—FEDERAL PERKINS LOANS

SEC. 461. PROGRAM DESIGNATION; AUTHORIZATION.

(a) PROGRAM TITLE.—

(1) HEADING.—The heading of part E of title IV is amended to read as follows:

"PART E—FEDERAL PERKINS LOANS".

20 USC 1087aa.

(2) NAME OF LOANS.—Section 461(a) of the Act is amended by striking "as 'Perkins Loans'" and inserting "as 'Federal Perkins Loans'".

(b) ELIGIBILITY FOR STUDY ABROAD.—Section 461(a) of the Act is amended by inserting "or while engaged in programs of study abroad approved for credit by such institutions" after "in such institutions".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 461(b) of the Act is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $250,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 1997 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1997, to continue or complete courses of study.".

SEC. 462. ALLOCATION OF FUNDS.

20 USC 1087bb.

(a) INSTITUTIONAL ALLOCATION.—Section 462(a)(1)(A) of the Act is amended by striking "such institution received" and inserting "allocated to such institution".

(b) APPEALS PROCESS.—Section 462(e) (20 U.S.C. 1087bb(e)) is amended—

(1) by striking "An" and inserting "(1) An"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary shall establish an appeals process by which the anticipated collections required in paragraph (1) may be waived for institutions with low default rates in the program assisted under this part.".

(c) DEFAULT REDUCTION AND DEFAULT PENALTIES.—Section 462(f) of the Act is amended to read as follows:

"(f) DEFAULT REDUCTION AND DEFAULT PENALTIES.—(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year

under subsection (g), the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

"(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h)) which—

"(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

"(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

"(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

"(D) equals or exceeds 30 percent shall have a default penalty of zero.".

(d) APPLICABLE MAXIMUM DEFAULT RATE.—Section 462(g) of the Act is amended to read as follows: 20 USC 1087bb.

"(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

"(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.".

(e) DEFINITIONS OF DEFAULT RATE AND COHORT DEFAULT RATE.—Section 462(h) of the Act is amended—

(1) by striking the title of the subsection and inserting "DEFINITIONS OF DEFAULT RATE AND COHORT DEFAULT RATE.";

(2) in paragraph (1), by striking "For the purpose of this section," and inserting "For any award year prior to award year 1994, for the purpose of this section,";

(3) by redesignating paragraph (3) as paragraph (4);

(4) by striking "120" in subparagraph (A) of such paragraph and inserting "240";

(5) by amending subparagraph (B) of such paragraph to read as follows:

"(B) 270 days (in the case of a loan repayable quarterly), after the borrower fails to make an installment payment when due or to comply with other terms of the promissory note,"; and

(6) by inserting after paragraph (2) the following new paragraph:

"(3)(A) For award year 1994 and any succeeding year, the term 'cohort default rate' means, for any award year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that award year who default before the end of the following award year.

"(B) In determining the number of students who default before the end of such award year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate.

"(C) For any award year in which less than 30 of the institution's current and former students enter repayment, the term 'cohort default rate' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent award years and who default before

the end of the award year immediately following the year in which they entered repayment.

"(D) A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection.

"(E) Any loan that is in default but on which the borrower has made satisfactory arrangements to resume payment or any loan which has been rehabilitated before the end of such following award year is not considered as in default for purposes of this subsection.

"(F) In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to the school for attendance at which the student received the loan that entered repayment in the award year.

Regulations.

"(G) The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.".

(f) REALLOCATION OF EXCESS ALLOCATIONS.—Section 462(j) of the Act (20 U.S.C. 1087bb(j)) is amended to read as follows:

"(j) REALLOCATION OF EXCESS ALLOCATIONS.—

"(1) IN GENERAL.—(A) If an institution of higher education returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallocate 80 percent of such returned portions to participating institutions in an amount not to exceed such participating institution's excess eligible amounts as determined under paragraph (2).

"(B) For the purpose of this subsection, the term 'participating institution' means an institution of higher education that—

"(i) was a participant in the program assisted under this part in fiscal year 1985; and

"(ii) did not receive an allocation under subsection (a) in the fiscal year for which the reallocation determination is made.

"(2) EXCESS ELIGIBLE AMOUNT.—For any participating institution, the excess eligible amount is the amount, if any, by which—

"(A)(i) that institution's eligible amount (as determined under paragraph (3) of subsection (c)), divided by (ii) the sum of the eligible amounts of all participating institutions (as determined under paragraph (3)), multiplied by (iii) the amount of funds available for reallocation under this subsection; exceeds

"(B) the amount required to be allocated to that institution under subsection (c) of section 462.

"(3) REMAINDER.—The Secretary shall reallocate the remainder of such returned portions in accordance with regulations of the Secretary.

"(4) ALLOCATION REDUCTIONS.—If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year

shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.".

SEC. 463. AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION.

(a) CAMPUS MATCH.—Section 463(a)(2)(B) of the Act is amended to read as follows: 20 USC 1087cc.

"(B) a capital contribution—

"(i) by an institution that—

"(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

"(II) has a default rate which does not exceed 7.5 percent,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

"(ii) by any other institution, in an amount not less than three-seventeenths of such Federal capital contribution in fiscal year 1993, and one-third of such Federal capital contribution in each of the succeeding fiscal years, of the amount of the Federal capital contributions described in subparagraph (A);".

(b) VERIFICATION.—Section 463(c) of the Act is amended—

(1) in subparagraph (B) of paragraph (3), by striking ", if that account has not been previously reported by any other holder of the note";

(2) by adding at the end the following new paragraph:

"(4) Each institution of higher education, after consultation with the Secretary and pursuant to the agreements entered into under paragraph (1), shall disclose to any credit bureau organization with which the Secretary has such an agreement—

"(A) the amount of loans made to any borrower under this part at the time of the disbursement of the loan; and

"(B) the information set forth in section 430A(a).".

(c) ADDITIONAL RULES.—

(1) DEFINITION OF DEFAULT.—Paragraph (11) of section 463A(a) of the Act (20 U.S.C. 1087cc(a)(1)) is amended by striking "including a statement that the default may be" and inserting "together with a statement that the disbursement of, and the default on, a loan under this part, shall be". 20 USC 1087cc-1.

"(2) ADDITIONAL REQUIREMENTS.—Section 463A of the Act is amended by adding at the end the following new subsections:

"(d) LIMITATION ON USE OF INTEREST BEARING ACCOUNTS.—In carrying out the provisions of subsection (a)(10), the Secretary may not require that any collection agency, collection attorney, or loan servicer collecting loans made under this part deposit amounts collected on such loans in interest bearing accounts, unless such agency, attorney, or servicer holds such amounts for more than 45 days.

"(e) SPECIAL DUE DILIGENCE RULE.—In carrying out the provisions of subsection (a)(5) relating to due diligence, the Secretary shall make every effort to ensure that institutions of higher education may use Internal Revenue Service skip-tracing collection procedures on loans made under this part.".

SEC. 464. AMOUNTS AND TERMS OF LOANS.

20 USC 1087dd.

(a) ANNUAL AND AGGREGATE LOAN LIMITS.—Section 464(a)(2) of the Act is amended to read as follows:

"(2)(A) Except as provided in paragraph (4), the total of loans made to a student in any academic year or its equivalent by an institution of higher education from a loan fund established pursuant to an agreement under this part shall not exceed—

"(i) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 463(a)(2)(B)(i)—

"(I) $4,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(II) $6,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(ii) for all other institutions—

"(I) $3,000, in the case of a student who has not successfully completed a program of undergraduate education; or

"(II) $5,000, in the case of a graduate or professional student (as defined in regulations issued by the Secretary).

"(B) Except as provided in paragraph (4), the aggregate of the loans for all years made to a student by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(i) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 463(a)(2)(B)(i)—

"(I) $40,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(II) $20,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(III) $8,000 in the case of any other student; or

"(ii) for all other institutions—

"(I) $15,000, in the case of any student who has not successfully completed a program of undergraduate education; or

"(II) $30,000, in the case of any graduate or professional student (as defined by regulations issued by the Secretary) and including any loans from such funds made to such student before the student became a graduate or professional student.".

(b) STUDY ABROAD LIMITS.—Section 464(a) of the Act is amended by inserting after paragraph (3) the following new paragraph:

"(4) In the case of a program of study abroad that is approved for credit by the home institution at which a student is enrolled and that has reasonable costs in excess of the home institution's budget, the annual and aggregate loan limits for the student may exceed the amounts described in paragraphs (2)(A) and (2)(B) by 20 percent.".

(c) ELIGIBILITY.—Section 464(b) of the Act is amended—

(1) in paragraph (1), by striking "this title and who meets the requirements of section 484" and inserting "this title, who meets the requirements of section 484, and who provides the institution with the student's drivers license number, if any, at the time of application for the loan"; and

(2) by amending paragraph (2) to read as follows:

"(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, or (B) independent students, and if the total financial need of all such less than full-time and independent students at the institution exceeds 5 percent of the total financial need of all students at such institution, then at least 5 percent of such loans shall be made available to such less than full-time and independent students.".

(d) MINIMUM MONTHLY PAYMENTS.—Section 464(c)(1)(C) of the Act is amended by striking "$30" each place it appears and inserting "$40". 20 USC 1087dd.

(e) ELIMINATION OF DEFENSE OF INFANCY.—Section 464(c)(1)(E) of the Act is amended by striking "unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,".

(f) DEFERMENTS.—Section 464(c)(2)(A) is amended to read as follows:

"(2)(A) No repayment of principal of, or interest on, any loan from a student loan fund assisted under this part shall be required during any period—

"(i) during which the borrower—

"(I) is pursuing at least a half-time course of study as determined by an eligible institution; or

"(II) is pursuing a course of study pursuant to a graduate fellowship program approved by the Secretary, or pursuant to a rehabilitation training program for disabled individuals approved by the Secretary,

except that no borrower shall be eligible for a deferment under this clause, or loan made under this part while serving in a medical internship or residency program;

"(ii) not in excess of 3 years during which the borrower is seeking and unable to find full-time employment;

"(iii) not in excess of 3 years for any reason which the lender determines, in accordance with regulations prescribed by the Secretary under section 435(o), has caused or will cause the borrower to have an economic hardship; or

"(iv) during which the borrower is engaged in service described in section 465(a)(2);

and provides that any such period shall not be included in determining the 10-year period described in subparagraph (B).".

(g) REPAYMENT PERIOD.—Section 464(c) of the Act is further amended—

(1) in paragraph (2), by striking subparagraphs (B) and (C) and inserting the following:

"(B) No repayment or principal of, or interest on, any loan for any period described in subparagraph (A) shall begin until 6 months after the completion of such period.".

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following new paragraph:

"(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation."; and

(4) by adding at the end thereof the following new paragraph:

"(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or post-graduate fellowship-supported study (such as pursuant to a Fullbright grant) outside the United States shall be approved until completion of the period of the fellowship.".

(h) FORBEARANCE; SPECIAL REPAYMENT RULE.—Section 464 of the Act is amended by adding at the end the following new subsections:

20 USC 1087dd.

"(e) FORBEARANCE.—The Secretary shall ensure that, upon written request, an institution of higher education shall grant a borrower forbearance of principal and interest or principle only, renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations issued by the Secretary and agreed upon in writing by the parties to the loan, if—

"(1) the borrower's debt burden equals or exceeds 20 percent of such borrower's gross income; or

"(2) the institution determines that the borrower should qualify for forbearance for other reasons.

"(f) SPECIAL REPAYMENT RULE AUTHORITY.—(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

"(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

"(A) 90 percent of the loan under this part;

"(B) the interest due on such loan; and

"(C) any collection fees due on such loan;

in a lump sum payment.".

SEC. 465. CANCELLATION OF LOANS FOR CERTAIN PUBLIC SERVICE.

20 USC 1087ee.

(a) CANCELLATION FOR TEACHING.—Section 465(a)(2) of the Act is amended—

(1) in subparagraph (A), by striking "and such determination shall not be made with respect to not more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1";

(2) by amending subparagraph (C) to read as follows:

"(C) as a full-time special education teacher, including teachers of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school

system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 676(b)(9) of the Individuals With Disabilities Education Act;";

(3) by striking "or" at the end of subparagraph (E);

(4) by striking the period at the end of subparagraph (F) and inserting "; or"; and

(5) by adding at the end the following new subparagraphs:

"(G) as a full-time teacher of mathematics, science, foreign languages, bilingual education, or any other field of expertise where the State educational agency determines there is a shortage of qualified teachers;

"(H) as a full-time nurse or medical technician providing health care services; or

"(I) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.".

(b) RATE OF CANCELLATION.—Section 465(a)(3)(A)(i) of such Act is amended by striking "(A), (C), or (F)" and inserting "(A), (C), (F), (G), (H), or (I)". 20 USC 1087ee.

(c) SPECIAL RULES.—Section 465 of the Act is amended by adding at the end the following new subsection:

"(c) SPECIAL RULES.—

"(1) LIST.—If the list of schools in which a teacher may perform service pursuant to subsection (a)(2)(A) is not available before May 1 of any year, the Secretary may use the list for the year preceding the year for which the determination is made to make such service determination.

"(2) CONTINUING ELIGIBILITY.—Any teacher who performs service in a school which—

"(A) meets the requirements of subsection (a)(2)(A) in any year; and

"(B) in a subsequent year fails to meet the requirements of such subsection,

may continue to teach in such school and shall be eligible for loan cancellation pursuant to subsection (a)(1) such subsequent years.".

(d) CONFORMING AMENDMENT: DEFINITIONS; LIMITATIONS.—Part E of title IV is further amended by adding at the end the following new section:

"DEFINITIONS

"SEC. 469. (a) LOW-INCOME COMMUNITIES.—For the purpose of this part, the term 'low-income communities' means communities in which there is a high concentration of children eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. 20 USC 1087ii.

"(b) HIGH-RISK CHILDREN.—For the purposes of this part, the term 'high-risk children' means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

"(c) INFANTS, TODDLERS, CHILDREN, AND YOUTH WITH DISABILITIES.—For purposes of this part, the term 'infants, toddlers, chil-

dren, and youth with disabilities' means children with disabilities and infants and toddlers with disabilities as defined in sections 602(a)(1) and 672(1), respectively, of the Individuals with Disabilities Education Act, and the term 'qualified professional provider of early intervention services' has the meaning specified in section 672(2) of such Act.".

SEC. 466. DISTRIBUTION OF ASSETS FROM STUDENT LOAN FUNDS.

Section 466 of the Act (20 U.S.C. 1087ff) is amended—

(1) in subsection (b), by striking "1997" and inserting "2005";

(2) in subsection (c)—

(A) by striking "Upon" and inserting "(1) Upon";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following new paragraph:

"(2) No finding that the liquid assets of a student loan fund established under this part exceed the amount required under paragraph (1) may be made prior to a date which is 2 years after the date on which the institution of higher education received the funds from such institution's allocation under section 462.".

SEC. 467. EXCESS CAPITAL RULE.

20 USC 1087gg.

(a) RECAPTURE OF CERTAIN LOAN FUNDS.—Section 467 of the Act is amended by adding at the end thereof the following new subsection:

"(c) PERKINS LOAN REVOLVING FUND.—(1) There is established a Perkins Loan Revolving Fund which shall be available without fiscal year limitation to the Secretary to make payments under this part, in accordance with paragraph (2) of this subsection. There shall be deposited in the Perkins Revolving Loan Fund—

"(A) all funds collected by the Secretary on any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a);

"(B) all funds collected by the Secretary on any loan referred under paragraph (5)(B)(ii) of section 463(a);

"(C) all funds paid to the Secretary under section 466(c)(1)(A);

"(D) all funds from a student loan fund under this part received by the Secretary as the result of the closure of an institution of higher education;

"(E) all funds received by the Secretary as a result of an audit of a student loan fund established under this part; and

"(F) all funds which have been appropriated and which the Secretary determines are not necessary for carrying out section 465, relating to the cancellation of certain loans under this part for qualifying service.

"(2) Notwithstanding any other provision of law, the Secretary shall, from the Perkins Loan Revolving Fund established under paragraph (1), pay allocations of additional capital contributions to eligible institutions of higher education in accordance with section 462, except that funds described in subparagraph (B) of paragraph (1) shall be repaid to the institution of higher education which referred the loan, as specified in section 463(a)(5)(B)(ii). The Secretary shall make the payments required by this paragraph in a manner designed to maximize the availability of capital loan funds under this part.".

(b) CONFORMING AMENDMENT.—The heading of section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS: PERKINS LOAN REVOLVING FUND".

SEC. 468. EFFECTIVE DATES FOR AMENDMENTS TO PART E.

20 USC 1087dd note.

The changes made in part E of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

(1) the changes in section 463(a)(2)(B), relating to the matching of Federal capital contributions, shall apply to funds provided for such program for the award years beginning on or after July 1, 1993;

(2) the changes made in section 464(c)(1)(C), relating to minimum monthly payments shall apply with respect to loans for which the first disbursement is made on or after October 1, 1992, to an individual who, on the date the loan is made, has no outstanding balance of principal or interest owing on any loan made under part E of title IV of the Act;

(3) the changes made in section 464(c)(2)(A), relating to deferments, shall apply with respect to loans for which the first disbursement is made on or after July 1, 1993; and

(4) the changes made in section 467, relating to the creation of a Perkins Loan Revolving Fund, shall take effect on September 15, 1997.

PART F—NEED ANALYSIS

SEC. 471. REVISION OF PART F.

(a) AMENDMENT.—Part F of title IV of the Act is amended to read as follows:

"PART F—NEED ANALYSIS

"SEC. 471. AMOUNT OF NEED.

20 USC 1087kk.

"Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subparts 1 or 4 of part A) is equal to—

"(1) the cost of attendance of such student, minus

"(2) the expected family contribution for such student, minus

"(3) estimated financial assistance not received under this title (as defined in section 480(j)).

"SEC. 472. COST OF ATTENDANCE.

20 USC 1087*ll*.

"For the purpose of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (8));

"(5) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training;

"(6) for incarcerated students only tuition and fees and, if required, books and supplies;

"(7) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution at which such student is enrolled);

"(8) for a student with one or more dependents, an allowance based on the estimated actual expenses incurred for such dependent care, based on the number and age of such dependents, except that—

"(A) such allowance shall not exceed the reasonable cost in the community in which such student resides for the kind of care provided; and

"(B) the period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

"(9) for a student with a disability, an allowance (as determined by the institution) for those expenses related to the student's disability, including special services, personal assistance, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

"(10) for a student receiving all or part of the student's instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment; and

"(11) for a student placed in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution).

20 USC 1087mm.

"SEC. 473. FAMILY CONTRIBUTION.

"For the purpose of this title, except subpart 4 of part A, the term 'family contribution' with respect to any student means the

amount which the student and the student's family may be reasonably expected to contribute toward the student's postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

"SEC. 474. DETERMINATION OF EXPECTED FAMILY CONTRIBUTION; DATA ELEMENTS. 20 USC 1087nn.

"(a) GENERAL RULE FOR DETERMINATION OF EXPECTED FAMILY CONTRIBUTION.—The expected family contribution—

"(1) for a dependent student shall be determined in accordance with section 475;

"(2) for a single independent student or a married independent student without dependents (other than a spouse) shall be determined in accordance with section 476; and

"(3) for an independent student with dependents other than a spouse shall be determined in accordance with section 477.

"(b) DATA ELEMENTS.—The following data elements are considered in determining the expected family contribution:

"(1) the available income of (A) the student and the student's spouse, or (B) the student and the student's parents, in the case of a dependent student;

"(2) the number of dependents in the family of the student;

"(3) the number of dependents in the family of the student who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 and for whom the family may reasonably be expected to contribute to their postsecondary education;

"(4) the net assets of (A) the student and the student's spouse, and (B) the student and the student's parents, in the case of a dependent student;

"(5) the marital status of the student;

"(6) the age of the older parent, in the case of a dependent student, and the student; and

"(7) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and the student's spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1986.

"SEC. 475. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS. 20 USC 1087*oo*.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student, the expected family contribution is equal to the sum of—

"(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

"(2) the student contribution from available income (determined in accordance with subsection (g)); and

"(3) the student contribution from assets (determined in accordance with subsection (h)).

"(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the parents' available income (determined in accordance with subsection (c)); and

"(B) the parents' contribution from assets (determined in accordance with subsection (d));

"(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

"(3) dividing the assessment resulting under paragraph (2) by the number of the family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(c) PARENTS' AVAILABLE INCOME.—

"(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) an income protection allowance, determined in accordance with paragraph (4); and

"(E) an employment expense allowance, determined in accordance with paragraph (5).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"Income Protection Allowance

Family Size	Number in College					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,520	$8,720				$1,790
3	13,100	11,310	9,510			
4	16,180	14,380	12,590	$10,790		
5	19,090	17,290	15,500	13,700	$11,910	
6	22,330	20,530	18,740	16,940	15,150	
For each additional add:	2,520	2,520	2,520	2,520	2,520	

"(2) ADJUSTMENT TO STUDENT INCOME.—The adjustment to student income is equal to the sum of—

"(A) Federal income taxes of the student;

"(B) an allowance for State and other income taxes (determined in accordance with paragraph (3));

"(C) an allowance for social security taxes determined in accordance with paragraph (4); and

"(D) an income protection allowance of $1,750.

"(3) ALLOWANCE FOR STATE AND OTHER INCOME TAXES.—The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(5) The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

"(h) STUDENT CONTRIBUTION FROM ASSETS.—The student contribution from assets is determined by calculating the net assets of the student and multiplying such amount by 35 percent, except that the result shall not be less than zero.

"(i) ADJUSTMENTS TO PARENTS' CONTRIBUTION FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS FOR PURPOSES OTHER THAN SUBPART 2 OF PART A OF THIS TITLE.—For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b)) is determined as follows for purposes other than subpart 2 of part A of this title:

"(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

"(2) For periods of enrollment greater than 9 months—

"(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

"(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

"(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

"(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

20 USC 1087pp.

"SEC. 476. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENTS OTHER THAN A SPOUSE.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependents other than a spouse, the expected family contribution is determined by—

"(1) adding—

"(A) the family's contribution from available income (determined in accordance with subsection (b)); and

"(B) the family's contribution from assets (determined in accordance with subsection (c)); and

"(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(b) FAMILY'S CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's contribution from income is determined by—

"(A) deducting from total income (as defined in section 480)—

"(i) Federal income taxes;

"(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

"(iv) an income protection allowance of—

"(I) $3,000 for single students;

"(II) $3,000 for married students where both are enrolled pursuant to subsection (a)(2); and

"(III) $6,000 for married students where one is enrolled pursuant to subsection (a)(2); and

"(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

"(d) EDUCATION SAVINGS AND ASSET PROTECTION ALLOWANCE.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of allowances for the purpose of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by determining the present value cost, rounded to the nearest $100, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the moderate family income (as most recently determined by the Bureau of Labor Statistics), and the current average social security retirement benefits. For each age cohort below 40, the allowance shall be computed by decreasing the allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

"(1) inflation shall be presumed to be 6 percent per year;

"(2) the rate of return of an annuity shall be presumed to be 8 percent; and

"(3) the sales commission on an annuity shall be presumed to be 6 percent.

"(e) ASSESSMENT SCHEDULES AND RATES.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

"(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

"(f) DEFINITION OF CONSUMER PRICE INDEX.—As used in this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

"(g) STATE AND OTHER TAX ALLOWANCE.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(g)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

"(h) EMPLOYMENT EXPENSE ALLOWANCE.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 475(c)(5), 476(b)(4), and 477(b)(5). Such revised table shall be developed by increasing the dollar amount specified in sections 475(c)(5)(A), 475(c)(5)(B), 476(b)(4)(A), 476(b)(4)(B), 477(b)(5)(A), and 477(b)(5)(B) to reflect increases in the amount and percent of the Bureau of Labor Standards budget of the marginal costs for meals away from home, apparel and

upkeep, transportation, and housekeeping services for a two-worker versus one-worker family.

20 USC 1087ss.

"SEC. 479. SIMPLIFIED NEEDS TESTS.

"(a) SIMPLIFIED APPLICATION SECTION.—

"(1) IN GENERAL.—The Secretary shall develop and use an easily identifiable simplified application section as part of the common financial reporting form prescribed under section 483(a) for families described in subsections (b) and (c) this section.

"(2) REDUCED DATA REQUIREMENTS.—The simplified application form shall—

"(A) in the case of a family meeting the requirements of subsection (b)(1), permit such family to submit only the data elements required under subsection (b)(2) for the purposes of establishing eligibility for student financial aid under this part; and

"(B) in the case of a family meeting the requirements of subsection (c), permit such family to be treated as having an expected family contribution equal to zero for purposes of establishing such eligibility and to submit only the data elements required to make a determination under subsection (c).

"(b) SIMPLIFIED NEEDS TEST.—

"(1) ELIGIBILITY.—An applicant is eligible to file a simplified form containing the elements required by paragraph (2) if—

"(A) in the case of an applicant who is a dependent student—

"(i) the student's parents file or are eligible to file a form described in paragraph (3) or certify that they are not required to file an income tax return and the student files or is eligible to file such a form or certifies that the student is not required to file an income tax return; and

"(ii) the total adjusted gross income of the parents (excluding any income of the dependent student) is less than $50,000; or

"(B) in the case of an applicant who is an independent student—

"(i) the student files or is eligible to file a form described in paragraph (3) or certifies that the student is not required to file such an income tax return; and

"(ii) the adjusted gross income of the student (and the student's spouse, if any) is less than $50,000.

"(2) SIMPLIFIED TEST ELEMENTS.—The five elements to be used for the simplified needs analysis are—

"(A) adjusted gross income,

"(B) Federal taxes paid,

"(C) untaxed income and benefits,

"(D) the number of family members,

"(E) the number of family members in postsecondary education; and

"(F) an allowance (A) for State and other taxes, as defined in section 475(c)(2) for dependent students and in section 477(b)(2) for independent students with dependents other than a spouse, or (B) for State and other income taxes,

as defined in section 476(b)(2) for independent students without dependents other than a spouse.

"(3) QUALIFYING FORMS.—A student or family files a form described in this paragraph if the student or family, respectively, files—

"(A) a form 1040A or 1040EZ required pursuant to the Internal Revenue Code of 1986; or

"(B) an income tax return required pursuant to the tax code of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau.

"(c) ZERO EXPECTED FAMILY CONTRIBUTION.—The Secretary shall consider an applicant to have an expected family contribution equal to zero if—

"(1) in the case of a dependent student—

"(A) the student's parents did not file, and were not required to file, a form 1040 required pursuant to the Internal Revenue Code of 1986; and

"(B) the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in order to claim the maximum Federal earned income credit; or

"(2) in the case of an independent student with dependents other than a spouse—

"(A) the student (and the student's spouse, if any) did not file, and was not required to file, a form 1040 required pursuant to the Internal Revenue Code of 1986; and

"(B) the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in order to claim the maximum Federal earned income credit.

An individual is not required to qualify or file for the earned income credit in order to be eligible under this subsection.

"SEC. 479A. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS. 20 USC 1087tt.

"(a) IN GENERAL.—Nothing in this part shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the values of the data items required to calculate the expected student or parent contribution (or both) to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title. No student or parent shall be charged

a fee for collecting, processing, or delivering such supplementary information.

"(b) ADJUSTMENTS TO ASSETS TAKEN INTO ACCOUNT.—A student financial aid administrator shall be considered to be making a necessary adjustment in accordance with subsection (a) if—

"(1) the administrator makes adjustments excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation; or

"(2) the administrator makes adjustments in the award level of a student with a disability so as to take into consideration the additional costs such student incurs as a result of such student's disability.

20 USC 1087uu.

"SEC. 479B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

"Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

20 USC 1087uu-1.

"SEC. 479C. NATIVE AMERICAN STUDENTS.

"In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

"(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

"(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act.

20 USC 1087vv.

"SEC. 480. DEFINITIONS.

"As used in this part:

"(a) TOTAL INCOME.—(1) Except as provided in paragraph (2), the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e)).

"(2) No portion of any student financial assistance received from any program by an individual shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.

"(b) UNTAXED INCOME AND BENEFITS.—The term 'untaxed income and benefits' means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits such as death pension, dependency, and indemnity compensation, but excluding veterans' education benefits as defined in subsection (c);

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by the student's parents;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(c) VETERAN AND VETERANS' EDUCATION BENEFITS.—(1) The term 'veteran' means any individual who—

"(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

"(B) was released under a condition other than dishonorable.

"(2) The term 'veterans' education benefits' means veterans' benefits the student will receive during the award year, including but not limited to the following:

"(A) Title 10, chapter 2: Reserve Officer Training Corps scholarship.

"(B) Title 10, chapter 106: Selective Reserve.

"(C) Title 10, chapter 107: Selective Reserve Educational Assistance Program.

"(D) Title 37, chapter 2: Reserve Officer Training Corps Program.

"(E) Title 38, chapter 30: Montgomery GI Bill—active duty.

"(F) Title 38, chapter 31: vocational rehabilitation.

"(G) Title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

"(H) Title 38, chapter 35: Dependents Educational Assistance Program.

"(I) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

"(J) Public Law 96–342, section 903: Educational Assistance Pilot Program.

"(d) INDEPENDENT STUDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(1) is 24 years of age or older by December 31 of the award year;

"(2) is an orphan or ward of the court;

"(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1));

"(4) is a graduate or professional student;

"(5) is a married individual;

"(6) has legal dependents other than a spouse; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(e) EXCLUDABLE INCOME.—The term 'excludable income' means—

"(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title;

"(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990;

"(3) child support payments made by the student or parent; and

"(4) payments made and services provided under part E of title IV of the Social Security Act.

"(f) ASSETS.—(1) The term 'assets' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(2) With respect to determinations of need under this title, other than for subpart 4 of part A, the term 'assets' shall not include the net value of—

"(A) the family's principal place of residence; or

"(B) a family farm on which the family resides.

"(g) NET ASSETS.—The term 'net assets' means the current market value at the time of application of the assets (as defined in subsection (f)), minus the outstanding liabilities or indebtedness against the assets.

"(h) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or Palau under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may provide by regulation.

"(i) CURRENT BALANCE.—The term 'current balance of checking and savings accounts' does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

"(j) OTHER FINANCIAL ASSISTANCE; TUITION PREPAYMENT PLANS.—(1) For purposes of determining a student's eligibility for funds under this title, estimated financial assistance not received under this title shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made, including veterans' education benefits as defined in subsection (c).

"(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this title, tuition prepayment plans shall reduce the cost of attendance (as determined under section 472) by the amount of the prepayment, and shall not be considered estimated financial assistance.

"(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance.".

(b) EFFECTIVE DATE FOR AMENDMENT TO PART F.—The changes made in part F of title IV of the Act by the amendment made by this section shall apply with respect to determinations of need under such part F for award years beginning on or after July 1, 1993. 20 USC 1087kk note.

PART G—GENERAL PROVISIONS

SEC. 481. DEFINITIONS.

(a) INSTITUTION OF HIGHER EDUCATION.—Section 481 of the Act (20 U.S.C. 1088(a)) is amended by striking the heading of such section and subsection (a) and inserting the following:

"SEC. 481. DEFINITIONS.

"(a) INSTITUTION OF HIGHER EDUCATION.—(1) Subject to paragraphs (2) through (4) of this subsection, the term 'institution of higher education' for purposes of this title includes, in addition to the institutions covered by the definition in section 1201(a)—

"(A) a proprietary institution of higher education;

"(B) a postsecondary vocational institution; and

"(C) only for the purposes of part B of this title, an institution outside the United States which is comparable to an institution of higher education as defined in section 1201(a) and which has been approved by the Secretary for the purpose of part B.

"(2)(A) For the purpose of qualifying as an institution under paragraph (1)(C) of this subsection, the Secretary shall establish criteria by regulation for the approval of institutions outside the United States and for the determination that such institutions are comparable to an institution of higher education as defined in section 1201(a). In the case of a graduate medical school outside the United States, such criteria shall include a requirement that a student attending a graduate medical school outside the United States is ineligible for loans made, insured, or guaranteed under part B of this title unless— Regulations.

"(i)(I) at least 60 percent of those enrolled and at least 60 percent of the graduates of the graduate medical school outside the United States were not persons described in section 484(a)(5) in the year preceding the year for which a student is seeking a loan under part B of this title; and

"(II) at least 60 percent of the individuals who were students or graduates of the graduate medical school outside the United States (both nationals of the United States and others) taking the examinations administered by the Educational Commission for Foreign Medical Graduates received a passing score in the year preceding the year for which a student is seeking a loan under part B of this title; or

"(ii) the institution's clinical training program was approved by a State as of January 1, 1992.

"(B) For the purpose of qualifying as an institution under paragraph (1)(C), the Secretary shall establish an advisory panel of medical experts which shall—

"(i) evaluate the standards of accreditation applied to applicant foreign medical schools; and

"(ii) determine the comparability of those standards to standards for accreditation applied to United States medical schools. If such accreditation standards are determined not to be comparable, the foreign medical school shall be required to meet the requirements of section 1201(a).

"(C) The failure of an institution outside the United States to provide, release, or authorize release to the Secretary of such information as may be required by subparagraph (A) of this paragraph shall render such institution ineligible for the purpose of part B of this title.

Reports.

"(D) The Secretary shall, not later than one year after the date of enactment of the Higher Education Amendments of 1992, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the implementation of the regulations required by subparagraph (A) of this paragraph.

"(E) If, pursuant to this paragraph, an institution loses eligibility to participate in the programs under this title, then a student enrolled at such institution may, notwithstanding such loss of eligibility, continue to be eligible to receive a loan under part B while attending such institution for the academic year succeeding the academic year in which such loss of eligibility occurred.

"(3) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1), if such institution—

"(A) offers more than 50 percent of such institution's courses by correspondence, unless the institution is an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act;

"(B) enrolls 50 percent or more of its students in correspondence courses, unless the institution is an institution that meets the definition in such section;

"(C) has a student enrollment in which more than 25 percent of the students are incarcerated, except that the Secretary may waive the prohibition of this subparagraph for a nonprofit institution that provides a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively; or

"(D) has a student enrollment in which more than 50 percent of the students are admitted pursuant to section 484(d) and does not provide a 4-year or a 2-year program of instruction (or both) for which it awards a bachelor's or associate's degree, respectively.

"(4) An institution shall not be considered to meet the definition of an institution of higher education in paragraph (1) if—

"(A) such institution has filed for bankruptcy; or

"(B) the institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title.

"(5) The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subpart 3 of part H.

"(6) An institution of higher education shall not be considered to meet the definition of an institution of higher education in paragraph (1) if such institution is removed from eligibility for

funds under this title as a result of an action pursuant to part H of this title.".

(b) PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.—Section 481(b) of the Act is amended by— 20 USC 1088.

(1) in clause (1), by striking "not less than a 6-month program" and inserting "an eligible program";

(2) in clause (4)—

(A) by striking "for this purpose" and inserting "pursuant to part H of this title"; and

(B) by striking "and" at the end thereof;

(3) by striking the period at the end of clause (5) and inserting the following: ", and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this title, as determined in accordance with regulations prescribed by the Secretary."; and

(4) by striking the last sentence.

(c) POSTSECONDARY VOCATIONAL INSTITUTION.—Section 481(c)(1) of the Act is amended by striking "not less than a 6-month program" and inserting "an eligible program".

(d) AWARD YEAR.—Section 481(d) of the Act is amended to read as follows:

"(d) ACADEMIC AND AWARD YEAR.—(1) For the purpose of any program under this title, the term 'award year' shall be defined as the period beginning July 1 and ending June 30 of the following year.

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours.".

(e) ELIGIBLE PROGRAM.—Section 481(e) of the Act is amended to read as follows:

"(e) ELIGIBLE PROGRAM.—(1) For purposes of this title, the term 'eligible program' means a program of at least—

"(A) 600 clock hours of instruction, 16 semester hours, or 24 quarter hours, offered during a minimum of 15 weeks, in the case of a program that—

"(i) provides a program of training to prepare students for gainful employment in a recognized profession; and

"(ii) admits students who have not completed the equivalent of an associate degree; or

"(B) 300 clock hours of instruction, 8 semester hours, or 12 hours, offered during a minimum of 10 weeks, in the case of—

"(i) an undergraduate program that requires the equivalent of an associate degree for admissions; or

"(ii) a graduate or professional program.

"(2) The Secretary shall develop regulations to determine the quality of programs of less than 600 clock hours in length. Such regulations shall require, at a minimum, that the programs have a verified rate of completion of at least 70 percent and a verified rate of placement of at least 70 percent. Pursuant to these regulations and notwithstanding paragraph (1), the Secretary shall allow programs of less than 600 clock hours, but greater than 300 clock Regulations.

hours, in length to be eligible to participate in the programs authorized under part B of this title.".

20 USC 1088.

(f) THIRD PARTY SERVICER.—Section 481 of the Act is amended by adding the following new subsection after subsection (e):

"(f) THIRD PARTY SERVICER.—For purposes of this title, the term 'third party servicer' means any State or private, profit or nonprofit organization which enters into a contract with—

"(1) any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this title; or

"(2) any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this title, including originating, guaranteeing, monitoring, processing, servicing, or collecting loans.".

SEC. 482. MASTER CALENDAR.

(a) AMENDMENT.—Section 482(c) of the Act (20 U.S.C. 1089(c)) is amended to read as follows:

"(c) DELAY OF EFFECTIVE DATE OF LATE PUBLICATIONS.—Any regulatory changes initiated by the Secretary affecting the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date.".

(b) CONFORMING AMENDMENTS.—

(1) Section 482(a)(1) of the Act is amended by striking "sections 411E and" each place it appears in subparagraphs (B) and (C) and inserting "section".

(2) Section 482(b) of the Act is amended by striking "subpart 2" and inserting "subpart 3".

SEC. 483. FORMS AND REGULATIONS.

(a) FORMS AND PROCESSING.—Section 483 of the Act (20 U.S.C. 1090) is amended by striking subsections (a) and (b) and inserting the following:

"SEC. 483. (a) COMMON FINANCIAL AID FORM AND PROCESSING.—

"(1) SINGLE FORM REQUIRED.—The Secretary, in cooperation with representatives of agencies and organizations involved in student financial assistance, shall produce, distribute, and process free of charge a common financial reporting form to be used to determine the need and eligibility of a student for financial assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) and to determine the need of a student for the purpose of part B of this title. The Secretary may include on the form developed pursuant to this paragraph not more than eight nonfinancial data items selected in consultation with the States to assist the States in awarding State student financial assistance. Such form shall satisfy the requirements of section 411(d) of this title. For the purpose of collecting eligibility and other data for the purpose of part B, the Secretary shall develop a separate, identifiable loan application document (pursuant to section 432(m)) that applicants or institutions in which the students are enrolled or accepted for enrollment shall submit directly to

eligible lenders and on which the applicant shall clearly indicate a choice of a lender.

"(2) CHARGES TO STUDENTS AND PARENTS FOR USE OF FORM PROHIBITED.—The common financial reporting form prescribed by the Secretary under paragraph (1) shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. The need and eligibility of a student for financial assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) and the need of a student for the purpose of part B of this title, may only be determined by using the form developed by the Secretary pursuant to paragraph (1) of this subsection. No student may receive assistance under parts A, C, D, and E of this title (other than under subpart 4 of part A) or have the student's need established for the purpose of part B of this title, except by use of the form developed by the Secretary pursuant to this section.

"(3) DISTRIBUTION OF DATA.—Institutions of higher education and States shall receive, without charge, the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards.

"(4) CONTRACTS FOR COLLECTION AND PROCESSING.—(A) The Secretary shall, to the extent practicable, enter into not less than 5 contracts with States, institutions of higher education, or private organizations for the purposes of the timely collection and processing of the form developed pursuant to paragraph (1) and the timely delivery of the data submitted on such form. The Secretary shall use such contracts to assist States and institutions of higher education with the collection of additional data required to award State or institutional financial assistance, except that the Secretary shall not include these additional data items on the common financial reporting form developed pursuant to this section. The Secretary shall include in each such contract a requirement that—

"(i) any charges by the contractor to the student or parent for additional data items required by a State or institution for any purpose (regardless of the method of collection) shall be reasonable and shall not exceed the marginal cost of collecting, processing, and delivering such additional data, taking into account any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary pursuant to paragraph (1); and

"(ii) the contractor will require any person or entity to whom the contractor provides such additional data to agree not to collect from any student or parent any charge that would not be permitted under this subparagraph for any such additional data.

"(B) To the extent practicable, the Secretary shall ensure that at least one contractor, or a portion of one contract, under this paragraph will serve graduate and professional students.

"(C) As part of the procurement process for the 1993–1994 award year, and for all procurements thereafter pertaining to the contracts under this paragraph, the Secretary shall

require all entities competing for such contracts to comply with all requirements of this subsection and to—

"(i) use the common financial reporting form as prescribed in paragraph (1), which shall be clearly identified as the 'Free Application for Federal Student Aid'; and

"(ii) use a common, simplified reapplication form as the Secretary shall prescribe pursuant to subsection (b), in each award year.

"(D) The Secretary shall reimburse all approved contractors at a reasonable predetermined rate for processing such applications, for issuing eligibility reports, and for carrying out other services or requirements that may be prescribed by the Secretary.

"(E) All approved contractors shall be required to adhere to all editing, processing, and reporting requirements established by the Secretary to ensure consistency.

"(F) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions of higher education for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected under a contract issued by the Secretary pursuant to this paragraph for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's express written approval.

"(b) STREAMLINED REAPPLICATION PROCESS.—(1) The Secretary shall, within 240 days after the date of enactment of the Higher Education Amendments of 1992, develop a streamlined reapplication form and process, including electronic reapplication process, consistent with the requirements of subsection (a), for those recipients who apply for financial aid funds under this title in the next succeeding academic year subsequent to the initial year in which such recipients apply.

"(2) The Secretary shall develop appropriate mechanisms to support reapplication.

"(3) The Secretary shall determine, in cooperation with States, institutions of higher education, agencies and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

"(4) Nothing in this title shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants.

"(5) Individuals determined to have a zero family contribution pursuant to section 479 shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.".

(b) ADDITIONAL AMENDMENTS.—Section 483 is further amended—

(1) by striking subsections (d) and (f);

(2) by amending subsection (e) to read as follows:

Contracts.

"(e) TOLL-FREE INFORMATION.—The Secretary shall contract for, or establish, and publicize a toll-free telephone service to provide timely and accurate information to the general public. The information provided shall include specific instructions on completing the application form for assistance under this title. Such service shall also include a service accessible by telecommunications devices for the deaf (TDD's) and shall, in addition to the services provided for in the previous sentence, refer such students to the national

clearinghouse on postsecondary education that is authorized under section 633(c) of the Individuals with Disabilities Education Act."; and

(3) by adding at the end the following new subsections:

"(f) PREPARER.—Any financial aid application required to be made under this title shall include the name, signature, address, social security number, and organizational affiliation of the preparer of such financial aid application.

"(g) SPECIAL RULE.—Nothing in section 1544 of the Higher Education Amendments of 1992 shall relieve processors or institutions of higher education of any or all obligations under this section.".

SEC. 484. STUDENT ELIGIBILITY.

(a) IN GENERAL.—Section 484 of the Act (20 U.S.C. 1091) is amended—

(1) in paragraph (1) of subsection (a), by inserting "(including a program of study abroad approved for credit by the eligible institution at which such student is enrolled)" after "or other program"; and

(2) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document, which need not be notarized, but which shall include—

"(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

"(B) such student's social security number;".

(b) EXCEPTIONS TO ELIGIBLE STUDENT DEFINITION.—

(1) AMENDMENTS.—Section 484(b) of the Act is amended—

(A) in paragraph (4) by striking "part B" and inserting "part B, D, or E or work-study assistance under part C"; and

(B) by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this title.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1)(A) of this subsection shall be effective on and after December 1, 1987. 20 USC 1091 note.

(c) ABILITY TO BENEFIT.—Section 484(d) of the Act is amended to read as follows:

"(d) STUDENTS WHO ARE NOT HIGH SCHOOL GRADUATES.—In order for a student who does not have a certificate of graduation from a school providing secondary education, or the recognized equivalent of such certificate, to be eligible for any assistance under subparts 1, 3, and 4 of part A and parts B, C, D, and E of this title, the student shall meet either one of the following standards:

"(1) The student shall take an independently administered examination and shall achieve a score, specified by the Secretary, demonstrating that such student can benefit from the education or training being offered. Such examination shall be approved by the Secretary on the basis of compliance with such standards for development, administration, and scoring as the Secretary may prescribe in regulations.

"(2) The student shall be determined as having the ability to benefit from the education or training in accordance with such process as the State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective 6 months after the date of submission to the Secretary unless the Secretary disapproves such process. In determining whether to approve or disapprove such process, the Secretary shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.".

Effective date.

20 USC 1091.

(d) VERIFICATION.—Section 484(f) of the Act is amended by adding at the end the following new sentence: "Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.".

(e) LOSS OF ELIGIBILITY.—Section 484(g) of the Act is amended—

(1) by inserting "(1)" before "No student";

(2) by inserting ", part D" after "part B" each place it appears;

(3) by inserting "fraudulently" before "borrowed" each place it appears; and

(4) by adding at the end the following new paragraph:

"(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.".

(f) VERIFICATION OF IMMIGRANT STATUS.—Section 484(h) of the Act is amended to read as follows:

"(h) VERIFICATION OF IMMIGRATION STATUS.—

"(1) IN GENERAL.—The Secretary shall implement a system under which the statements and supporting documentation, if required, of an individual declaring that such individual is in compliance with the requirements of subsection (a)(5) shall be verified prior to the individual's receipt of a grant, loan, or work assistance under this title.

"(2) SPECIAL RULE.—The documents collected and maintained by an eligible institution in the admission of a student to the institution may be used by the student in lieu of the documents used to establish both employment authorization and identity under section 274A(b)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1324a) to verify eligibility to participate in work-study programs under part C of this title.

"(3) VERIFICATION MECHANISMS.—The Secretary is authorized to verify such statements and supporting documentation through a data match, using an automated or other system, with other Federal agencies that may be in possession of information relevant to such statements and supporting documentation.

"(4) REVIEW.—In the case of such an individual who is not a citizen or national of the United States, if the statement described in paragraph (1) is submitted but the documentation required under paragraph (2) is not presented or if the docu-

mentation required under paragraph (2)(A) is presented but such documentation is not verified under paragraph (3)—

"(A) the institution—

"(i) shall provide a reasonable opportunity to submit to the institution evidence indicating a satisfactory immigration status, and

"(ii) may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status until such a reasonable opportunity has been provided; and

"(B) if there are submitted documents which the institution determines constitutes reasonable evidence indicating such status—

"(i) the institution shall transmit to the Immigration and Naturalization Service photostatic or other similar copies of such documents for official verification,

"(ii) pending such verification, the institution may not delay, deny, reduce, or terminate the individual's eligibility for the grant, loan, or work assistance on the basis of the individual's immigration status, and

"(iii) the institution shall not be liable for the consequences of any action, delay, or failure of the Service to conduct such verification.".

(g) ADDITIONAL PROVISIONS.—Section 484 of the Act is further amended by adding at the end the following new subsections:

"(l) SPECIAL RULE FOR CORRESPONDENCE COURSES.—A student shall not be eligible to receive grant, loan, or work assistance under this title for a correspondence course unless such course is part of a program leading to an associate, bachelor or graduate degree.

"(m) COURSES OFFERED THROUGH TELECOMMUNICATIONS.—

"(1) RELATION TO CORRESPONDENCE COURSES.—A student enrolled in a course of instruction at an eligible institution of higher education (other than an institution that meets the definition in section 521(4)(C) of the Carl D. Perkins Vocational and Applied Technology Education Act) that is offered in whole or in part through telecommunications and leads to a recognized associate, bachelor, or graduate degree conferred by such institution shall not be considered to be enrolled in correspondence courses unless the total amount of telecommunications and correspondence courses at such institution equals or exceeds 50 percent of such courses.

"(2) RESTRICTION OR REDUCTIONS OF FINANCIAL AID.—A student's eligibility to receive grants, loans, or work assistance under this title shall be reduced if a financial aid officer determines under the discretionary authority provided in section 479A that telecommunications instruction results in a substantially reduced cost of attendance to such student.

"(3) SPECIAL RULE.—For award years prior to the date of enactment of this subsection, the Secretary shall not take any compliance, disallowance, penalty, or other action against a student or an eligible institution when such action arises out of such institution's prior award of student assistance under this title if the institution demonstrates to the satisfaction of the Secretary that its course of instruction would have been in conformance with the requirements of this subsection.

"(4) DEFINITION.—For the purposes of this subsection, the term 'telecommunications' means the use of television, audio, or computer transmission, including open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, computer conferencing, or video cassettes or discs, except that such term does not include a course that is delivered using video cassette or disc recordings at such institution and that is not delivered in person to other students of that institution.

"(n) STUDENTS WITH A FIRST BACCALAUREATE OR PROFESSIONAL DEGREE.—A student shall not be ineligible for assistance under part B, C, D, and E of this title because such student has previously received a baccalaureate or professional degree.

"(o) DATA BASE MATCHING.—To enforce the Selective Service registration provisions of section 1113 of Public Law 97–252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. In the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration, or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed by the Secretary in regulations.

Regulations.

"(p) STUDY ABROAD.—Nothing in this Act shall be construed to limit or otherwise prohibit access to study abroad programs approved by the home institution at which a student is enrolled. An otherwise eligible student who is engaged in a program of study abroad approved for academic credit by the home institution at which the student is enrolled shall be eligible to receive grant, loan, or work assistance under this title, without regard to whether such study abroad program is required as part of the student's degree program.

"(q) VERIFICATION OF SOCIAL SECURITY NUMBER.—The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) and shall enforce the following conditions:

"(1) Except as provided in paragraphs (2) and (3), an institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

"(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this title until such time as the student provides a correct social security number.

"(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this title, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan, respectively, to cease further disbursements of the loan, but such guaranty shall

not be voided or otherwise nullified with respect to such disbursements made before the date that the lender and the guaranty agency receives such notice.

"(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against—

"(A) any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution; or

"(B) any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.".

(h) CLERICAL AMENDMENT.—Section 801(a) of the National Literacy Act of 1991 is amended by striking "the Act" and inserting "the Higher Education Act of 1965". 20 USC 1091.

SEC. 485. REFUND POLICY.

(a) REFUND POLICIES AND REQUIREMENTS.—Part G of title IV of the Act is further amended by inserting after section 484A the following new section:

"SEC. 484B. INSTITUTIONAL REFUNDS. 20 USC 1091b.

"(a) REFUND POLICY REQUIRED.—Each institution of higher education participating in a program under this title shall have in effect a fair and equitable refund policy under which the institution refunds unearned tuition, fees, room and board, and other charges to a student who received grant, loan, or work assistance under this title, or whose parent received a loan made under section 428B on behalf of the student, if the student—

"(1) does not register for the period of attendance for which the assistance was intended; or

"(2) withdraws or otherwise fails to complete the period of enrollment for which the assistance was provided.

"(b) DETERMINATIONS.—The institution's refund policy shall be considered to be fair and equitable for purposes of this section if that policy provides for a refund in an amount of at least the largest of the amounts provided under—

"(1) the requirements of applicable State law;

"(2) the specific refund requirements established by the institution's nationally recognized accrediting agency and approved by the Secretary; or

"(3) the pro rata refund calculation described in subsection (d), except that this paragraph will not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the 60 percent point (in time) in the period of enrollment for which the student has been charged.

"(c) DEFINITIONS.—(1) As used in this section, the term 'pro rata refund' means a refund by the institution to a student attending such institution for the first time of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last day of attendance by the student, rounded downward to the nearest 10 percent of that period, less any unpaid charges owed by the student for the period of enrollment for which the student has been charged, and less a reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100.

"(2) For purposes of paragraph (1), 'the portion of the period of enrollment for which the student has been charged that remains', shall be determined—

"(A) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

"(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

"(C) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.".

SEC. 486. INFORMATION DISSEMINATION.

(a) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a)(1) of the Act (20 U.S.C. 1092(a)(1)) is amended—

(1) in subparagraph (F)—

(A) by inserting ", as determined under section 484B," after "of the institution";

(B) by inserting before the semicolon at the end the following: ", which refunds shall be credited in the following order:

"(i) to outstanding balances on loans under part B of this title,

"(ii) to outstanding balances on loans under part D of this title,

"(iii) to outstanding balances on loans under part E of this title,

"(iv) to awards subpart 1 of part A of this title,

"(v) to awards under subpart 3 of part A of this title,

"(vi) to awards under part C of this title,

"(vii) to other student assistance provided under this title, and

"(viii) to the student.".

(2) by striking "and" at the end of subparagraph (K);

(3) by striking the period at the end of subparagraph (L) (as added by section 1 of Public Law 101–542) and inserting a semicolon;

(4) by redesignating subparagraph (L) (as added by section 201 of Public Law 101–610) as subparagraph (M);

(5) by striking the period at the end of subparagraph (M) (as redesignated by paragraph (3)) and inserting a semicolon and "and"; and

(6) by adding at the end thereof the following new subparagraph:

"(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance.".

(b) EXIT COUNSELING.—Section 485(b) of the Act is amended to read as follows: 20 USC 1092.

"(b) EXIT COUNSELING FOR BORROWERS.—(1)(A) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 428B) of this title or made under parts D or E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(i) the average anticipated monthly repayments, a review of the repayment options available, and such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

"(ii) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 428(b), 464(c)(2), and 465.

"(B) In the case of borrower who leaves an institution without the prior knowledge of the institution, the institution shall attempt to provide the information described in subparagraph (A) to the student in writing.

"(2)(A) Each eligible institution shall require that the borrower of a loan made under parts B, D, or E submit to the institution, during the exit interview required by this subsection—

"(i) the borrower's expected permanent address after leaving the institution (regardless of the reason for leaving);

"(ii) the name and address of the borrower's expected employer after leaving the institution;

"(iii) the address of the borrower's next of kin; and

"(iv) any corrections in the institution's records relating the borrower's name, address, social security number, references, and driver's license number.

"(B) The institution shall, within 60 days after the interview, forward any corrected or completed information received from the borrower to the guaranty agency indicated on the borrower's student aid records.".

(c) CAMPUS SECURITY POLICY.—

(1) STATISTICS.—Section 485(f)(1)(F) of the Act is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies—

"(i) murder;

"(ii) sex offenses, forcible or nonforcible;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.".

(2) POLICY DEVELOPMENT.—Section 485(f) of the Act is amended by adding at the end the following new paragraph:

"(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

"(i) such institution's campus sexual assault programs, which shall be aimed at prevention of sex offenses; and

"(ii) the procedures followed once a sex offense has occurred.

"(B) The policy described in subparagraph (A) shall address the following areas:

"(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses.

"(ii) Possible sanctions to be imposed following the final determination of an on-campus disciplinary procedure regarding rape, acquaintance rape, or other sex offenses, forcible or nonforcible.

"(iii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

"(iv) Procedures for on-campus disciplinary action in cases of alleged sexual assault, which shall include a clear statement that—

"(I) the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

"(II) both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

"(v) Informing students of their options to notify proper law enforcement authorities, including on-campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

"(vi) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

"(vii) Notification of students of options for, and available assistance in, changing academic and living situations after an alleged sexual assault incident, if so requested by the victim and if such changes are reasonably available.

"(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.".

Reports.
20 USC 1092 note.

(3) EFFECTIVE DATE PROVISION.—The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the

occurrence on campus of offenses during the three calendar years preceding the year in which the report is made.

SEC. 487. NATIONAL STUDENT LOAN DATA SYSTEM.

(a) SYSTEM DEVELOPMENT.—Section 485B(a) of the Act (20 U.S.C. 1093(a)) is amended in the matter preceding paragraph (1) by striking "and loans made under part E" and inserting "and loans made under part E, and for allowing the electronic exchange of data between program participants and the system. In establishing such data system, the Secretary shall place a priority on providing for the monitoring of enrollment, student status, information about current loan holders and servicers, and internship and residency information. Such data system shall also permit borrowers to use the system to identify the current loan holders and servicers of such borrower's loan.". 20 USC 1092b.

(b) STANDARDIZATION OF DATA REPORTING; USE OF COMMON IDENTIFIERS; INTEGRATION OF SYSTEMS.—Section 485B of the Act is amended by adding at the end the following new subsections:

"(e) STANDARDIZATION OF DATA REPORTING.—

"(1) IN GENERAL.—The Secretary shall by regulation prescribe standards and procedures (including relevant definitions) that require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats in order to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies. Regulations.

"(2) ACTIVITIES.—For the purpose of establishing standards under this section, the Secretary shall—

"(A) consult with guaranty agencies, lenders, institutions of higher education, and organizations representing the groups described in paragraph (1);

"(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software; and

"(C) publish the specifications selected to be used to encourage the automation of exchanges of information between all parties involved in loans under this part.

"(f) COMMON IDENTIFIERS.—The Secretary shall, not later than July 1, 1993—

"(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this title; and

"(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

"(g) INTEGRATION OF DATABASES.—The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this title.".

SEC. 488. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

Part G of title IV of the Act (20 U.S.C. 1088 et seq.) is amended by inserting after section 485B the following new section:

20 USC 1092c.

"SEC. 485C. SIMPLIFICATION OF THE LENDING PROCESS FOR BORROWERS.

"(a) ALL LIKE LOANS TREATED AS ONE.—To the extent practicable, and with the cooperation of the borrower, eligible lenders shall treat all loans made to a borrower under the same section of part B as one loan and shall submit one bill to the borrower for the repayment of all such loans for the monthly or other similar period of repayment. Any deferments on one such loan will be considered a deferment on the total amount of all such loans.

"(b) ONE LENDER, ONE GUARANTY AGENCY.—To the extent practicable, and with the cooperation of the borrower, the guaranty agency shall ensure that a borrower only have one lender, one holder, one guaranty agency, and one servicer with which to maintain contact.".

SEC. 489. TRAINING IN FINANCIAL AID SERVICES.

Section 486 of the Act (20 U.S.C. 1093) is amended to read as follows:

"SEC. 486. TRAINING IN FINANCIAL AID SERVICES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to provide grants to appropriate nonprofit private organizations or combinations of such organizations to provide training for student financial aid administrators and TRIO personnel, at all levels of experience, who provide or are involved in student financial aid services.

"(b) USE OF FUNDS.—Financial assistance under this section may be used for—

"(1) the operation of short-term training institutes and special training programs for student financial aid administrators or TRIO personnel designed to—

"(A) improve the professional management skills of participants in such institutes and programs;

"(B) improve the delivery of student services;

"(C) improve students' or prospective students' information on the availability and operation of student financial assistance programs; and

"(D) improve the understanding and knowledge of the participants concerning the legislative and regulatory requirements of the student financial assistance programs and changes in such requirements; and

"(2) the development of appropriate training materials.

"(c) LIMITATIONS.—Grants authorized under this section—

"(1) shall be limited to not less than $1,000,000 in the case of single-year grants;

"(2) shall be limited to not less than $1,000,000 per year in the case of multiple-year grants;

"(3) shall be limited to a maximum of 3 years in the case of multiple-year grants; and

"(4) may be renewed at the discretion of the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS AND USE OF FUNDS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.".

SEC. 490. PROGRAM PARTICIPATION AGREEMENTS.

(a) IN GENERAL.—Section 487(a) of the Act (20 U.S.C. 1094(a)) is amended—

(1) in paragraph (3), by inserting before the period a comma and the following: "together with assurances that the institution will provide, upon request and in a timely fashion, information relating to the administrative capability and financial responsibility of the institution to—

"(A) the Secretary;

"(B) the appropriate State review entity designated under subpart 1 of part H;

"(C) the appropriate guaranty agency; and

"(D) the appropriate accrediting agency or association";

(2) in paragraph (8)—

(A) by striking "at or before the time of application," and inserting "at or before the time of application (A)"; and

(B) by inserting before the period at the end the following: ", and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed to prepare such prospective students"; and

(3) by adding at the end the following new paragraphs:

"(13) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this title on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

"(14)(A) The institution, in order to participate as an eligible institution under part B, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

"(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

"(15) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and State review entities under subpart 1 of part H to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

"(16)(A) The institution will not knowingly employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

"(B) The institution will not knowingly contract with or employ any individual, agency, or organization that has been, or whose officers or employees have been—

"(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

"(ii) judicially determined to have committed fraud involving funds under this title.

"(17) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

"(18)(A) With respect to any institution that offers athletically related student aid, the institution will—

"(i) cause an annual compilation, independently audited not less often than every 3 years, to be prepared within 6 months after the end of its fiscal year, of—

"(I) the total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from its intercollegiate athletics activities;

"(II) the total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for its intercollegiate athletics activities; and

"(III) the total revenues and operating expenses of the institution; and

"(ii) make the reports on such compilations and, where allowable by State law, the audits, available for inspection by the Secretary and the public.

"(B) For the purpose of subparagraph (A)—

"(i) revenues from intercollegiate athletics activities allocable to a sport shall include without limitation gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only; and

"(ii) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

"(19) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.

"(20) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

"(21) The institution will meet the requirements established by the Secretary, State postsecondary review entities, and accrediting agencies pursuant to part H of this title.

"(22) The institution will comply with the refund policy established pursuant to section 484B.".

(b) HEARINGS.—Section 487 of the Act is amended— 20 USC 1094.

(1) in subsection (b)(2), by striking out "on the record"; and

(2) in subsection (c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "is authorized to" and inserting "shall";

(B) in paragraph (1)(D), by striking out "on the record," and inserting in lieu thereof a comma;

(C) in paragraph (1)(F), by striking out "on the record"; and

(D) in paragraph (2)—

(i) in subparagraph (A), by striking out "on the record," and inserting in lieu thereof a comma; and

(ii) in subparagraph (B)(i), by striking out "on the record," and inserting in lieu thereof a comma.

(c) AUDITS; AVAILABILITY OF AUDIT INFORMATION.—Section 487(c)(1)(A)(i) of the Act is amended—

(1) by striking "a financial and compliance audit of an eligible institution," and inserting "a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution";

(2) by striking "at least once every 2 years" and inserting "on at least an annual basis"; and

(3) by inserting "and shall be available to cognizant guaranty agencies, eligible lenders, State agencies, and the State review entities referred to in subpart 1 of part H" after "submitted to the Secretary".

(d) INFORMATION.—Section 487(c) of the Act is amended—

(1) in paragraph (1)(B), by inserting ", including any matter the Secretary deems necessary to the sound administration of the financial aid programs, such as the pertinent actions of any owner, shareholder, or person exercising control over an eligible institution" before the semicolon at the end thereof;

(2) in paragraph (1), by redesignating subparagraphs (C) through (G) as subparagraphs (E) through (I), respectively;

(3) by inserting after subparagraph (B) of such paragraph the following new subparagraphs:

"(C)(i) except as provided in clause (ii), a compliance audit Regulations. of a third party servicer (other than with respect to the servicer's functions as a lender if such functions are otherwise audited under this part and such audits meet the requirements of this clause), with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under

this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a third party servicer that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by such audit;

Regulations.

"(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;";

(4) in subparagraph (H) (as redesignated) of such paragraph, by striking out "an individual or an organization" and inserting in lieu thereof "a third party servicer";

(5) in subparagraph (I) (as redesignated) of such paragraph, by striking out "an individual or an organization" and inserting in lieu thereof "a third party servicer";

(6) in paragraph (3), by inserting ", after consultation with each State review entity designated under subpart 1 of part H," after "shall publish";

(7) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(8) by inserting immediately after paragraph (1) the following new paragraph:

"(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with the definition of substantial control in subpart 3 of part H, over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1) (H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity."; and

(9) by adding at the end the following new paragraphs:

"(5) The Secretary shall make readily available to appropriate guaranty agencies, eligible lenders, State review entities designated under subpart 1 of part H, and accrediting agencies or associations

the results of the audits of eligible institutions conducted pursuant to paragraph (1)(A).

"(6) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(15) of this section.".

"(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums).". Effective date.

(e) CONSTRUCTION.—Section 487 of the Act, as amended by subsection (a), is further amended by adding at the end the following:

"(e) CONSTRUCTION.—Nothing in the amendments made by the Higher Education Amendments of 1992 shall be construed to prohibit an institution from recording, at the cost of the institution, a hearing referred to in subsection (b)(2), subsection (c)(1)(D), or subparagraph (A) or (B)(i) of subsection (c)(2), of this section to create a record of the hearing, except the unavailability of a recording shall not serve to delay the completion of the proceeding. The Secretary shall allow the institution to use any reasonable means, including stenographers, of recording the hearing.".

(f) CONFORMING AMENDMENTS.—Section 487 of the Act is amended—

(1) by striking "subpart 3" in subsection (a) and inserting "subpart 4";

(2) by striking "provided for in section 483(e)" in subsection (a)(2); and

(3) by striking "435(a)" in subsection (d) and inserting "481".

SEC. 491. QUALITY ASSURANCE; IDENTIFICATION NUMBERS.

Part G of title IV of the Act is further amended by inserting after section 487 the following new sections:

"SEC. 487A. QUALITY ASSURANCE PROGRAM. 20 USC 1094a.

"(a) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems to verify student financial aid application data, thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

"(b) EXEMPTION FROM REQUIREMENTS.—The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any reporting or verification requirements in

this title, and may substitute such quality assurance reporting as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(c) REMOVAL FROM THE PROGRAM.—The Secretary is authorized to determine—

"(1) when an institution that is unable to administer the Quality Assurance Program must be removed from such program, and

"(2) when institutions desiring to cease participation in such program will be required to complete the current award year under the requirements of the Quality Assurance Program.

"(d) EXPERIMENTAL SITES.—(1) The Secretary is authorized to select institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

"(2) The Secretary is authorized to exempt any institution participating as an experimental site from any requirements in this title, or in regulations prescribed under this title, that would bias experimental results.

"(e) DEFINITIONS.—For purposes of this section, 'current award year' is defined as the award year during which the participating institution indicates its intention to cease participation.

20 USC 1094b.

"SEC. 487B. ASSIGNMENT OF IDENTIFICATION NUMBERS.

"The Secretary shall assign to each participant in title IV programs, including institutions, lenders, and guaranty agencies, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.".

SEC. 492. INTER-PROGRAM TRANSFERS.

Section 488 of the Act (20 U.S.C. 1095) is amended by striking the first sentence and inserting the following: "In order to offer an arrangement of types of aid, including institutional and State aid which best fits the needs of each individual student, an institution may (1) transfer a total of 25 percent of the institutions allotment under section 462 to the institution's allotment under section 413D or 442 (or both); and (2) transfer 25 percent of the institution's allotment under section 442 to the institution's allotment under section 413D. Funds transferred to an institution's allotment under another section may be used as a part of and for the same purposes as funds allotted under that section.".

SEC. 493. ADMINISTRATIVE EXPENSES.

(a) ADMINISTRATIVE EXPENSES.—Section 489(a) of the Act is amended—

20 USC 1096.

(1) in the second sentence, by striking "(other than section 447)";

(2) by striking the fourth sentence (relating to payments with respect to section 447); and

(3) by striking "subpart 2" each place it appears and inserting "subpart 3".

(b) NONTRADITIONAL STUDENTS.—Section 489(b) of the Act (20 U.S.C. 1096) is amended—

(1) by inserting "(1)" before "The sums"; and

(2) by adding at the end the following new paragraph:

"(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, or (B)

independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.".

SEC. 494. REPEAL.

Section 489A of the Act is repealed. 20 USC 1096a.

SEC. 495. CRIMINAL PENALTIES.

Section 490 of the Act (20 U.S.C. 1097) is amended to read as follows:

"(a) IN GENERAL.—Any person who knowingly and willfully embezzles, misapplies, steals, obtains by fraud, false statement, or forgery, or fails to refund any funds, assets, or property provided or insured under this title or attempts to so embezzle, misapply, steal, obtain by fraud, false statement or forgery, or fail to refund any funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both, except if the amount so embezzled, misapplied, stolen, obtained by fraud, false statement, or forgery, or failed to be refunded does not exceed $200, then the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

"(b) ASSIGNMENT OF LOANS.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(c) INDUCEMENTS TO LEND OR ASSIGN.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B or attempts to make such unlawful payment as an inducement to make, or to acquire by assignment, a loan insured under such part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned for not more than one year, or both.

"(d) OBSTRUCTION OF JUSTICE.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.".

SEC. 496. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

(a) INDEPENDENT CONTROL.—Section 491(b) of the Act (20 U.S.C. 1098) is amended by inserting after the first sentence the following: "Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures.".

(b) FUNCTIONS; MEMBERSHIP.—Section 491(d) of the Act is amended—

(1) by striking "and in assessing the impact of legislative and administrative policy proposals" in paragraph (3);

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) assess the impact of legislative and administrative policy proposals;";

(4) by striking "and" at the end of paragraph (7) (as redesignated);

(5) by striking the period at the end of paragraph (8) (as redesignated) and inserting a semicolon and "and"; and

(6) by adding at the end the following new paragraph—

"(9) make special efforts to advise Members of Congress and such Members' staff of the findings and recommendations made pursuant to this paragraph.".

20 USC 1098.

(c) EXEMPTION.—Section 491(h)(4) of the Act is amended—

(1) by striking "in accordance with" and inserting "without regard to"; and

(2) by inserting "and to set pay in accordance with such section" before the period.

(d) AVAILABILITY OF FUNDS.—Section 491(i) of the Act is amended by striking "$500,000" and inserting "$750,000".

(e) ADDITIONAL PROVISIONS.—Section 491 of the Act is amended by striking subsection (j) and inserting in lieu thereof:

"(j) SPECIAL ANALYSES AND ACTIVITIES.—The committee shall—

"(1) monitor and evaluate the program modifications resulting from the enactment of the Higher Education Amendments of 1992, especially as such amendments relate to the need analysis;

"(2) monitor and evaluate the implementation, pursuant to section 483, of a Free Application for Federal Student Aid and the process for determining eligibility and awards for programs under this title, including a simplified reapplication process;

"(3) assess the adequacy of current methods for disseminating information about programs under this title and recommend improvements, as appropriate, regarding early needs assessment and information for first-year high school students; and

"(4) assess the adequacy of methods of monitoring student debt burden.

"(k) TERM OF THE COMMITTEE.—Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) or any other statute or regulation, the Advisory Committee shall be authorized until October 1, 1998.

"(l) STUDENT LOAN PROGRAM SIMPLIFICATION STUDY.—(1) The Advisory Committee shall conduct a thorough study of means of simplifying all aspects of the loan programs under part B of this title. In carrying out the study, the Advisory Committee shall examine, at a minimum—

"(A) reduction of paperwork burdens experienced by financial aid administrators resulting from the current structure of such loan programs;

"(B) promotion of simplification and standardization of forms, procedures, and all other aspects of guaranty agency operations for the purpose of facilitating data exchanges with such agencies

(including the National Student Loan Database) and facilitating Department of Education oversight;

"(C) simplification of the repayment process to minimize borrower confusion, including encouragement of single holder ownership of all of an individual's loans;

"(D) encouragement of efficient utilization of loan programs to minimize multiple program borrowing in postsecondary education; and

"(E) other proposals which are designed to reduce the administrative burdens on, and paperwork required of, students, educational institutions, guaranty agencies, lenders, secondary markets, and the Secretary submitted in response to a general solicitation by the Advisory Committee.

"(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

"(3) The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the study required by this subsection.". Reports.

SEC. 497. REGIONAL MEETINGS; NEGOTIATED RULEMAKING; ADMINISTRATIVE EXPENSES.

Part G of title IV of the Act is further amended by adding at the end the following new sections:

"SEC. 492. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING. 20 USC 1098a.

"(a) MEETINGS.—

"(1) IN GENERAL.—The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations for parts B, G, and H of this title. Such meetings shall include individuals and representatives of the groups involved in student financial assistance programs under this title, such as students, legal assistance organizations that represent students, institutions of higher education, guaranty agencies, lenders, secondary markets, loan servicers, guaranty agency servicers, and collection agencies.

"(2) ISSUES.—During such meetings, the Secretary shall provide for a comprehensive discussion and exchange of information concerning the implementation of parts B, G, and H, as amended by the Higher Education Amendments of 1992. The Secretary shall take into account the information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations. Federal Register, publication.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing parts B, G, and H of this title as amended by the Higher Education Amendments of 1992 and shall submit such regulations to a negotiated rulemaking process. The Secretary shall follow the guidance provided in sections 305.82–4 and 305.85–5 of chapter 1, Code of Federal Regulations, and any successor recommendation, regulation, or law. Participants in the negotiations process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings described in subsection (a)(1), and shall

include both representatives of such groups from Washington, D.C., and industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as individuals serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period described in section 431(g) of the General Education Provisions Act.

"(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in any fiscal year or made available from funds appropriated to carry out this part in any fiscal year such sums as may be necessary to carry out the provisions of this section, except that if no funds are appropriated pursuant to this subsection, the Secretary shall make funds available to carry out this section from amounts appropriated for the operations and expenses of the Department of Education.

20 USC 1098b.

"SEC. 493. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES.

"There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this title, including expenses for staff personnel, program reviews, and compliance activities.".

20 USC 1088 note.

SEC. 498. EFFECTIVE DATES FOR AMENDMENTS TO PART G.

The changes made in part G of title IV of the Act by the amendments made by this part shall take effect on the date of enactment of this Act, except that—

(1) as otherwise provided in such part G;

(2) the changes in section 481(a), relating to the definition of institution of higher education, other than paragraph (4) of such section, shall be effective on and after October 1, 1992;

(3) section 481(e) as added by such amendments, relating to the definition of eligible program, shall be effective on and after July 1, 1993;

(4) section 484(m)(1), relating to proportion of courses permitted to be correspondence courses, as added by such amendments shall be effective on and after October 1, 1992;

(5) the changes in section 485, relating to disclosures, shall be effective with respect to periods of enrollment beginning on or after July 1, 1993;

(6) the changes in section 488, relating to transfers of allotments, shall apply with respect to funds provided for award years beginning on or after July 1, 1993; and

(7) the changes in section 489, relating to payments for administrative expenses, shall apply with respect to funds provided for award years beginning on or after July 1, 1993.

PART H—PROGRAM INTEGRITY

SEC. 499. ESTABLISHMENT OF NEW PART H.

Title IV of the Act is amended by adding at the end the following new part:

"PART H—PROGRAM INTEGRITY TRIAD

"Subpart 1—State Postsecondary Review Program

Contracts.

"SEC. 494. STATE POSTSECONDARY REVIEW PROGRAM.

20 USC 1099a.

"(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to enter into agreements that—

"(1) designate one State postsecondary review entity in each State to be responsible for the conduct or coordination of the review under section 494C(d) of institutions of higher education, reported to the State by the Secretary pursuant to section 494C(a), for the purposes of determining eligibility under this title; and

"(2) provide Federal funds to each State postsecondary review entity for performing the functions required by such agreements with the Secretary.

"(b) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this subpart, enter into agreements with each of the States to carry out the purposes of this subpart. If any State declines to enter into an agreement with the Secretary for the purposes of this subpart, the provisions of this subpart which refer to the State, with respect to such State, shall refer to the Secretary, who may make appropriate arrangements with agencies or organizations of demonstrated competence in reviewing institutions of higher education.

"(c) FAILURE TO COMPLY WITH AGREEMENT.—If a State fails to enter into an agreement under this section or fails to meet the requirements of its agreement with the Secretary under this subpart—

"(1) the Secretary—

"(A) may not designate as eligible for participation in any program under this title any new institution (including new branch campuses) or any institution that has changed ownership, pursuant to section 481 and subpart 3 of this part; and

"(B) may grant only provisional certification for all institutions in the State pursuant to subpart 3 of this part; and

"(2) the State shall be ineligible to receive funds under section 494B of this subpart, subpart 4 of part A of this title, and chapter 2 of subpart 2 of part A of this title.

"SEC. 494A. STATE POSTSECONDARY REVIEW ENTITY AGREEMENTS.

20 USC 1099a-1.

"(a) STATE ORGANIZATION STRUCTURES.—(1) Each agreement under this subpart shall describe a State organizational structure responsible for carrying out the review under section 494C(d) of institutions reported to the State by the Secretary pursuant to section 494C(a). Each such entity's action in reviewing such institutions shall, for purposes of this subpart, be considered to be the action of the State.

"(2) For the purposes of this subpart, the designation of a State postsecondary review entity for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(3) Except as provided in paragraph (6), nothing in this subpart shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, a specific State organizational structure.

"(4) Except as provided in paragraph (6), nothing in this subpart shall be construed—

"(A) as a limitation on the authority of any State to adopt a State organization structure for postsecondary education agencies, or programs, or institutions of higher education as appropriate to the needs, traditions, and circumstances of that State;

"(B) as a limitation on the authority of a State entering into an agreement pursuant to this subpart to modify the State organizational structure at any time subsequent to entering into such agreement;

"(C) as a limitation on the authority of any State to enter into an agreement for purposes of this subpart as a member of a consortium of States;

"(D) as an authorization for the Secretary to withhold funds from any State or postsecondary institution on the basis of compliance with a State's constitution or laws;

"(E) as an authorization for any State postsecondary review entity to exercise planning, policy, coordinating, supervisory, budgeting, or administrative powers over any postsecondary institution; or

"(F) as a limitation on the use of State audits for the purpose of compliance with applicable standards under section 494C(d).

"(5) Nothing in this subpart shall be construed to limit the authority or activities of any State loan insurance program established under section 428(b) of this title or of any relevant State licensing authority which grants approval for institutions of higher education to operate within a State or their authority to contact the Secretary directly.

"(6) Notwithstanding the provisions of paragraphs (2), (3), and (4) of this subsection, the Secretary may require each State to designate an entity responsible for the conduct or coordination of the review of institutions under this title.

"(b) CONTENTS OF AGREEMENTS.—Agreements between each State and the Secretary shall contain the following elements:

"(1) A designation of a single State postsecondary review entity, which represents all entities of that State which are responsible for—

"(A) granting State authorization to each institution of higher education in that State for the purposes of this title, and

"(B) ensuring that each institution of higher education in that State remains in compliance with the standards developed pursuant to section 494C.

"(2) Assurances that the State will review institutions of higher education for the purpose of determining eligibility under this title on a schedule to coincide with the dates set by the Secretary to certify or recertify such institutions of higher education as provided in section 481 and subpart 3 of this part.

"(3) Assurances that the appropriate State postsecondary review entity will perform the functions authorized by this subpart and will keep such records and provide such informa-

tion to the Secretary as may be requested for financial and compliance audits and program evaluation, consistent with the responsibilities of the Secretary.

"(4) A description of the relationship between the State postsecondary review entity designated for the purposes of this subpart and (A) the agency or agencies designated for the purposes of chapter 36 of title 38 of the United States Code, (B) the loan insurance program established under section 428(b) of this title for that State, and (C) the grant agency established under section 415C of this title.

"(5) A plan for performing the functions described in section 494C of this subpart.

"(c) FEDERAL RESPONSIBILITY.—Notwithstanding any other provision of law, no State shall be required to enter into an agreement with the Secretary under this subpart for performing the review functions required by such agreement unless the Congress appropriates funds for this subpart.

"SEC. 494B. FEDERAL REIMBURSEMENT OF STATE POSTSECONDARY REVIEW COSTS. 20 USC 1099a-2.

"(a) PAYMENTS.—Subject to subsection (b), the Secretary shall reimburse the States for the costs of performing the functions required by agreements with the Secretary authorized under this subpart. Such costs shall include expenses for providing initial and continuing training to State personnel and other personnel in the State, including personnel at institutions of higher education subject to review, to serve the purposes of this subpart. Reimbursement shall be provided for necessary activities which supplement, but do not supplant, existing licensing or review functions conducted by the State. The Secretary shall also reimburse such entities for work performed by their subcontractors and consultants where such work has a direct relationship to the requirements of agreements with the Secretary under this subpart.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of enabling the Secretary to make payments to States which have made agreements with the Secretary under this subpart, there is authorized to be appropriated $75,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 494C. FUNCTIONS OF STATE REVIEW ENTITIES. 20 USC 1099a-3.

"(a) INITIAL REVIEW.—The Secretary shall review all institutions of higher education in a State which are eligible or which desire to become eligible under this title to determine if such institutions meet any of the criteria provided in subsection (b). With respect to those institutions of higher education that meet one or more of the criteria provided in subsection (b), the Secretary shall inform the State in which such institutions are located that the institutions have met such criteria, and these institutions shall be reviewed by the State pursuant to the standards provided in subsection (d). The Secretary shall supply the State with a copy of the institutional audits, required pursuant to section 487(c), for the institutions which shall be reviewed by the State. In addition to those institutions identified by the Secretary, the State may, subject to approval by the Secretary, review additional institutions which meet one or more of the criteria provided in subsection (b), based on more recent data available to the State, or which the State has reason to believe are engaged in fraudulent practices. If the

Secretary fails to approve or disapprove a State request to review additional institutions within 21 days, the State may proceed to review such additional institutions as if approved by the Secretary.

"(b) REVIEW CRITERIA.—The criteria for the initial review of institutions of higher education are as follows:

"(1) A cohort default rate (as defined in section 435(m)) equal to or greater than 25 percent.

"(2) A cohort default rate (as defined in such section) equal to or greater than 20 percent and either—

"(A) more than two-thirds of the institution's total undergraduates who are enrolled on at least a half-time basis receive assistance under this title (except subparts 4 and 6 of part A); or

"(B) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established under this title (except subparts 4 and 6 of part A and section 428B).

"(3) Two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution pursuant to subpart 1 of part A of this title.

"(4) A limitation, suspension, or termination action by the Secretary against the institution pursuant to section 487 during the preceding 5 years.

"(5) An audit finding during the 2 most recent audits of an institution of higher education's conduct of the programs established by this title that resulted in the repayment by the institution of amounts greater than 5 percent of the funds such institution received from the programs assisted under this title for any one year.

"(6) A citation of an institution by the Secretary for failure to submit audits required by this title in a timely fashion.

"(7) A year-to-year fluctuation of more than 25 percent in the amounts received by students enrolled at the institution from either Federal Pell Grant, Federal Stafford Loan, or Federal Supplemental Loans to Students programs, which are not accounted for by changes in these programs.

"(8) Failure to meet financial responsibility standards pursuant to subpart 3 of this part.

"(9) A change of ownership of the institution that results in a change of control which includes (but is not limited to)—

"(A) the sale of the institution or the majority of its assets;

"(B) the division of 1 or more institutions into 2 or more institutions;

"(C) the transfer of the controlling interest in stock of the institution or its parent corporation;

"(D) the transfer of the controlling interest of stock of the institution to its parent corporation; or

"(E) the transfer of the liabilities of the institution to its parent corporation.

"(10) Except with regard to any public institution that is affiliated with a State system of higher education, participation in any of the programs established pursuant to subparts 1 and 3 of part A, part B, part C, and part E of this title for less than 5 years.

"(11) A pattern of student complaints pursuant to subsection (j) related to the management or conduct of the programs established by this title or relating to misleading or inappropriate advertising and promotion of the institution's program, which in the judgment of the Secretary are sufficient to justify review of the institution.

"(c) USE OF RECENT DATA.—The criteria provided for in subsection (b) shall be measured on the basis of the most recent data available to the Secretary. Institutions may request verification of the data used by the Secretary.

"(d) REVIEW STANDARDS.—Institutions which meet 1 or more of the criteria in subsection (b) shall be reviewed by the appropriate State entity in accordance with published State standards that are consistent with the constitution and laws of the State, developed in consultation with the institutions in the State, and subject to disapproval by the Secretary. Such review shall determine the following:

"(1) The availability to students and prospective students of catalogs, admissions requirements, course outlines, schedules of tuition and fees, policies regarding course cancellations, and the rules and regulations of the institution relating to students and the accuracy of such catalogs and course outlines in reflecting the courses and programs offered by the institution.

"(2) Assurance that the institution has a method to assess a student's ability to successfully complete the course of study for which he or she has applied.

"(3) Assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student and other records.

"(4) Compliance by the institution with relevant safety and health standards, such as fire, building, and sanitation codes.

"(5) The financial and administrative capacity of the institution as appropriate to a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution.

"(6) For institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes.

"(7) If the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs (including the appropriateness of the length of such courses) to providing the student with quality training and useful employment in recognized occupations in the State.

"(8) Availability to students of relevant information by institutions of higher education, including—

"(A) information relating to market and job availability for students in occupational, professional, and vocational programs; and

"(B) information regarding the relationship of courses to specific standards necessary for State licensure in specific occupations.

"(9) The appropriateness of the number of credit or clock hours required for the completion of programs or of the length of 600-hour courses.

"(10) Assessing the actions of any owner, shareholder, or person exercising control over the educational institution which may adversely affect eligibility for programs under this title.

"(11) The adequacy of procedures for investigation and resolution of student complaints.

"(12) The appropriateness of advertising and promotion and student recruitment practices.

"(13) That the institution has a fair and equitable refund policy to protect students.

"(14) The success of the program at the institution, including—

"(A) the rates of the institution's students' program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies;

"(B) the withdrawal rates of the institution's students;

"(C) with respect to vocational and professional programs, the rates of placement of the institution's graduates in occupations related to their course of study;

"(D) where appropriate, the rate at which the institution's graduates pass licensure examinations; and

"(E) the variety of student completion goals, including transfer to another institution of higher education, full-time employment in the field of study, and military service.

"(15) With respect to an institution which meets 1 or more of the criteria in subsection (b), the State shall contract with the appropriate approved accrediting agency or association (described in subpart 2 of this part) or another peer review system with demonstrated competence in assessing programs (pursuant to the authority contained in subsection (f)) to carry out a review or provide information regarding such agency's or association's assessment of the following: The quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment, instructional materials, staff, and student support services (including student orientation, counseling, and advisement) for providing education and training that meets such stated objectives.

"(e) SUBSTITUTIONS PROHIBITED.—The appropriate State postsecondary review entity may not substitute either (1) accreditation by a private accrediting agency or body, or (2) compliance audits performed by a State guaranty agency established under section 428(b) of this title, for State review of compliance with the standards in subsection (d).

"(f) STATE CONTRACTS.—If the appropriate State postsecondary review entity contracts with a private agency or body or an accreditation body or peer review system for assistance in performing State postsecondary review entity functions, such contract shall be provided for in the agreement with the Secretary required by section 494A.

"(g) PROHIBITION ON UNRELATED REQUIREMENTS.—Notwithstanding any of the provisions of this subpart, the Secretary shall not require a State to establish standards that are unrelated

to ensuring institutional or program integrity or that violate the provisions of a State's constitution or laws.

"(h) INSTITUTIONAL ELIGIBILITY.—A State postsecondary review entity may determine that an institution of higher education shall not be eligible to participate in programs under this title based on its own findings or the findings of a Federal entity in accordance with the following procedures:

"(1) STATE FINDINGS.—If the appropriate State postsecondary review entity finds that an institution of higher education does not meet one or more of the standards in subsection (d) of this section, such State postsecondary review entity shall notify the Secretary of its findings and the actions that such entity is taking, or has taken, in response to such findings within a time period prescribed by the Secretary by regulation. If a State postsecondary review entity determines an institution of higher education shall not be eligible for participation in programs under this title, such State postsecondary review entity shall so notify the Secretary. Upon receipt of such notification of ineligibility, the Secretary shall immediately terminate the participation of such institutions in the programs authorized by this title. Regulations.

"(2) SECRETARY'S FINDINGS.—If the Secretary or any other Federal entity takes, or plans to take, any action against any institution of higher education (including any actions taken under section 487), the Secretary shall notify the appropriate State postsecondary review entity (or entities, in the case of multi-State institutions) of such action within a time period prescribed in the Secretary's regulations.

"(3) PROCEDURAL PROTECTIONS FOR DISAPPROVAL.—The Secretary shall, by regulation, prescribe minimum procedural standards for the disapproval of institutions of higher education by the appropriate State postsecondary review entity or entities for purposes of this title. Regulations.

"(i) LIMIT ON STATE POSTSECONDARY REVIEW AGENCY FUNCTIONS.—The functions of State postsecondary review entity shall not include performing financial and compliance audits as may be required under sections 428 or 487 of this Act.

"(j) CONSUMER COMPLAINTS.—A State, in consultation with the institutions of higher education in the State, shall establish and publicize the availability of procedures for receiving and responding to complaints from students, faculty, and others about institutions of higher education and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education. Records.

"(k) ENFORCEMENT MECHANISMS.—Nothing in this subpart shall restrict the authority of the States to establish mechanisms to enforce the standards established under subsection (d) or require the States to establish specific mechanisms recommended by the Secretary.

"Subpart 2—Accrediting Agency Approval

"SEC. 496. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION. 20 USC 1099b.

"(a) STANDARDS REQUIRED.—No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for the purposes of this Act or for other Federal purposes, unless the agency or

association meets standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish standards for such determinations. Such standards shall include an appropriate measure or measures of student achievement. Such standards shall require that—

"(1) the accrediting agency or association shall be a State, regional, or national agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

"(2) such agency or association—

"(A)(i) for the purpose of participation in programs under this Act, has a voluntary membership and has as a principal purpose the accrediting of institutions of higher education; or

"(ii) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

"(B) is a State agency approved by the Secretary for the purpose described in subparagraph (A); or

"(C) is an agency or association that, for the purpose of determining eligibility for student assistance under this title, conducts accreditation through (i) a voluntary membership organization of individuals participating in a profession, or (ii) an agency or association which has as its principal purpose the accreditation of programs within institutions, which institutions are accredited by another agency or association recognized by the Secretary;

"(3) if such agency or association is an agency or association described in—

"(A) subparagraph (A) of paragraph (2), then such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization;

"(B) subparagraph (B) of paragraph (2), then such agency or association has been recognized by the Secretary on or before October 1, 1991; or

"(C) subparagraph (C) of paragraph (2) and such agency or association has been recognized by the Secretary on or before October 1, 1991, then the Secretary may waive the requirement that such agency or association is separate and independent, both administratively and financially of any related, associated, or affiliated trade association or membership organization upon a demonstration that the existing relationship has not served to compromise the independence of its accreditation process;

"(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study at the institution of higher education are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

"(5) the standards of accreditation of the agency or association assess the institution's—

"(A) curricula;

"(B) faculty;

"(C) facilities, equipment, and supplies;

"(D) fiscal and administrative capacity as appropriate to the specified scale of operations;

"(E) student support services;

"(F) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising;

"(G) program length and tuition and fees in relation to the subject matters taught and the objectives of the degrees or credentials offered;

"(H) measures of program length in clock hours or credit hours;

"(I) success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates;

"(J) default rates in the student loan programs under title IV of this Act, based on the most recent data provided by the Secretary;

"(K) record of student complaints received by, or available to, the agency or association; and

"(L) compliance with its program responsibilities under title IV of this Act, including any results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association.

"(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

"(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

"(B) notice of an opportunity for a hearing by any such institution;

"(C) the right to appeal any adverse action against any such institution; and

"(D) the right to representation by counsel for any such institution;

"(7) such agency or association shall notify the Secretary and the appropriate State postsecondary review entity within 30 days of the accreditation of an institution or any final denial, withdrawal, suspension, or termination of accreditation or placement on probation of an institution, together with any other adverse action taken with respect to an institution; and

"(8) such agency or association shall make available to the public, upon request, and to the Secretary, and the State postsecondary review entity of the State in which the institution of higher education is located a summary of any review resulting in a final accrediting decision involving denial, termination, or suspension of accreditation, together with the comments of the affected institution. Public information.

"(b) SEPARATE AND INDEPENDENT DEFINED.—For the purpose of subsection (a)(3), the term 'separate and independent' means that—

"(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related,

associated, or affiliated trade association or membership organization;

"(2) among the membership of the board of the accrediting agency or association there shall be one public member (who is not a member of any related trade or membership organization) for each six members of the board, with a minimum of one such public member, and guidelines are established for such members to avoid conflicts of interest;

"(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

"(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

"(c) OPERATING PROCEDURES REQUIRED.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association—

"(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (at least one of which inspections at each institution that provides vocational education and training shall be unannounced), with particular focus on educational quality and program effectiveness, and ensures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

"(2) requires that any institution of higher education subject to its jurisdiction which plans to establish a branch campus submit a business plan, including projected revenues and expenditures, prior to opening the branch campus;

"(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education, an on-site visit of that branch campus or of the institution after a change of ownership;

"(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

"(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures, and the accreditation status of each institution subject to its jurisdiction; and

"(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

"(d) LENGTH OF APPROVAL.—No accrediting agency or association may be approved by the Secretary for the purpose of this Act for a period of more than 5 years.

"(e) INITIAL ARBITRATION RULE.—The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

"(f) JURISDICTION.—Notwithstanding any other provision of law, any civil action brought by an institution of higher education seeking accreditation from, or accredited by, an accrediting agency or association approved by the Secretary for the purpose of this title

and involving the denial, withdrawal, or termination of accreditation of the institution of higher education, shall be brought in the appropriate United States district court.

"(g) LIMITATION ON SCOPE OF STANDARDS.—Nothing in this Act shall be construed to permit the Secretary to establish standards for accrediting agencies or associations that are not required by this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

"(h) CHANGE OF ACCREDITING AGENCY.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

"(i) DUAL ACCREDITATION RULE.—The Secretary shall not recognize the accreditation of any otherwise eligible institution of higher education if the institution of higher education is accredited, as an institution, by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited, as an institution, by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this Act.

"(j) IMPACT OF LOSS OF ACCREDITATION.—An institution may not be certified or recertified as an institution of higher education under section 481 and subpart 3 of this part or participate in any of the other programs authorized by this Act if such institution—

"(1) is not currently accredited by any agency or association recognized by the Secretary;

"(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months, unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

"(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months, unless such order has been rescinded by the same accrediting agency.

"(k) RELIGIOUS INSTITUTION RULE.—Notwithstanding subsection (j), the Secretary shall allow an institution that has had its accreditation withdrawn, revoked, or otherwise terminated, or has voluntarily withdrawn from an accreditation agency, to remain certified as an institution of higher education under section 481 and subpart 3 of this part for a period sufficient to allow such institution to obtain alternative accreditation, if the Secretary determines that the reason for the withdrawal, revocation, or termination—

"(1) is related to the religious mission or affiliation of the institution; and

"(2) is not related to the accreditation standards provided for in this section.

"(l) LIMITATION, SUSPENSION OR TERMINATION OF APPROVAL.—(1) The Secretary shall limit, suspend, or terminate the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to apply effectively the standards or operate according to the procedures provided in this section.

"(2) The Secretary may determine that an accrediting agency or association has failed to apply effectively the standards provided in this section if an institutution of higher education seeks and receives accreditation from the accrediting agency or association during any period in which the institution is the subject of any interim action by another accrediting agency or association leading to the suspension, revocation, or termination of accreditation or the institution has been notified of the threatened loss of accreditation, and the due process procedures required by such suspension, revocation, termination, or threatened loss have not been completed.

"(m) LIMITATION ON THE SECRETARY'S AUTHORITY.—The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institutions to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

"(n) INDEPENDENT EVALUATION.—(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the standards established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include—

"(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

"(B) site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate.

"(2) The Secretary shall place a priority for review of accrediting agencies or associations on those agencies or associations that accredit institutions of higher education that participate most extensively in the programs authorized by this title and on those agencies or associations which have been the subject of the most complaints or legal actions.

"(3) The Secretary shall consider all available relevant information concerning the compliance of the accrediting agency or association with the standards provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the approval process. The Secretary shall not, under any circumstances, base decisions on the approval or disapproval of accreditation agencies or associations on standards other than those contained in this section.

Records. Public information.

"(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and, upon

disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.

"(o) REGULATIONS.—The Secretary shall by regulation provide procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

"Subpart 3—Eligibility and Certification Procedures

"SEC. 498. ELIGIBILITY AND CERTIFICATION PROCEDURES. 20 USC 1099c.

"(a) GENERAL REQUIREMENT.—For purposes of qualifying institutions of higher education for participation in programs under this title, the Secretary shall determine the legal authority to operate within a State, the accreditation status, and the administrative capability and financial responsibility of an institution of higher education in accordance with the requirements of this section.

"(b) SINGLE APPLICATION FORM.—The Secretary shall prepare and prescribe a single application form which—

"(1) requires sufficient information and documentation to determine that the requirements of eligibility, accreditation, and capability of the institution of higher education are met;

"(2) requires a specific description of the relationship between a main campus of an institution of higher education and all of its branches, including a description of the student aid processing that is performed by the main campus and that which is performed at its branches;

"(3) requires a description of third party servicers of an institution of higher education, together with a copy of any contract with the institution of higher education and a financial aid service provider or loan servicer; and

"(4) requires such other information as the Secretary determines will ensure compliance with the requirements of this title with respect to eligibility, accreditation, administrative capability and financial responsibility.

"(c) FINANCIAL RESPONSIBILITY STANDARDS.—(1) The Secretary shall determine whether an institution has the financial responsibility required by this title on the basis of whether the institution is able—

"(A) to provide the services described in its official publications and statements;

"(B) to provide the administrative resources necessary to comply with the requirements of this title; and

"(C) to meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

"(2) Notwithstanding paragraph (1), if an institution fails to meet criteria prescribed by the Secretary with respect to operating losses, net worth, asset-to-liabilities ratios, or operating fund deficits then the institution shall provide the Secretary with satisfactory evidence of its financial responsibility in accordance with paragraph (3).

"(3) The Secretary may determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under paragraphs (1) and (2), if—

"(A) such institution submits to the Secretary third-party financial guarantees, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this title, including loan obligations discharged pursuant to section 437, and to students for refunds of institutional charges, including funds under this title;

"(B) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

"(C) such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or

"(D) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in paragraph (2).

"(4) The determination as to whether an institution has met the standards of financial responsibility provided for in paragraphs (2) and (3)(C) shall be based on an audited and certified financial statement of the institution. Such audit shall be conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants. Such statement shall be submitted to the Secretary at the time such institution is considered for certification or recertification under this section. If the institution is permitted to be certified (provisionally or otherwise) and such audit does not establish compliance with paragraph (2), the Secretary may require that additional audits be submitted.

"(5)(A) The Secretary shall establish requirements for the maintenance by an institution of higher education of sufficient cash reserves to ensure repayment of any required refunds.

"(B) The Secretary shall provide for a process under which the Secretary shall exempt an institution of higher education from the requirements described in subparagraph (A) if the Secretary determines that the institution—

"(i) is located in a State that has a tuition recovery fund that ensures that the institution meets the requirements of subparagraph (A);

"(ii) contributes to the fund; and

"(iii) otherwise has legal authority to operate within the State.

"(d) ADMINISTRATIVE CAPACITY STANDARD.—The Secretary is authorized—

"(1) to establish procedures and requirements relating to the administrative capacities of institutions of higher education, including—

"(A) consideration of past performance of institutions or persons in control of such institutions with respect to student aid programs; and

"(B) maintenance of records;

"(2) to establish such other reasonable procedures as the Secretary determines will contribute to ensuring that the institution of higher education will comply with administrative capability required by this title.

"(e) FINANCIAL GUARANTEES FROM OWNERS.—(1) Notwithstanding any other provision of law, the Secretary may, to the extent necessary to protect the financial interest of the United States, require—

"(A) financial guarantees from an institution participating, or seeking to participate, in a program under this title, or from one or more individuals who the Secretary determines, in accordance with paragraph (2), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipients, and other program participants for funds under this title; and

"(B) the assumption of personal liability, by one or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with paragraph (2), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this title, and civil and criminal monetary penalties authorized under this title.

"(2)(A) The Secretary may determine that an individual exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that—

"(i) the individual directly or indirectly controls a substantial ownership interest in the institution;

"(ii) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, one or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

"(iii) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

"(B) The Secretary may determine that an entity exercises substantial control over one or more institutions participating in a program under this title if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

"(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

"(A) a sole proprietorship;

"(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

"(C) a partnership; or

"(D) an interest in a trust.

"(4) The Secretary shall not impose the requirements described in subparagraphs (A) and (B) of paragraph (1) on an institution that—

"(A) has not been subjected to a limitation, suspension, or termination action by the Secretary or a guaranty agency within the preceding 5 years;

"(B) has not had, during its 2 most recent audits of the institutions conduct of programs under this title, an audit finding that resulted in the institution being required to repay an amount greater than 5 percent of the funds the institution received from programs under this title for any year;

"(C) meets and has met, for the preceding 5 years, the financial responsibility standards under subsection (c); and

"(D) has not been cited during the preceding 5 years for failure to submit audits required under this title in a timely fashion.

"(5) For purposes of section 487(c)(1)(G), this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this title.

"(f) ACTIONS ON APPLICATIONS; SITE VISITS AND FEES.—The Secretary shall ensure that prompt action is taken by the Department on any application required under subsection (b). The personnel of the Department of Education shall conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any program under this title. The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.

"(g) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—(1) The eligibility for the purposes of any program authorized under this title of any institution that is participating in any such program on the date of enactment of the Higher Education Amendments of 1992 shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraph (2), but not later than 5 years after such date of enactment.

"(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1). Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria:

"(A) institutions subject to review by a State postsecondary review entity pursuant to subpart 1 of part H; or

"(B) other categories of institutions which the Secretary deems necessary.

"(3) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 4 years.

"(h) PROVISIONAL CERTIFICATION OF INSTITUTIONAL ELIGIBILITY.—(1) Notwithstanding subsections (d) and (g), the Secretary may provisionally certify an institution's eligibility to participate in programs under this title—

"(A) for not more than one complete award year in the case of an institution of higher education seeking an initial certification; and

"(B) for not more than 3 complete award years if—

"(i) the institution's administrative capability and financial responsibility is being determined for the first time;

"(ii) there is a complete or partial change of ownership, as defined under subsection (i), of an eligible institution; or

"(iii) the Secretary determines that the institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.

"(2) Whenever the Secretary withdraws the approval of any accrediting agency, an institution of higher education which meets the requirements of accreditation, eligibility, and certification on the day prior to such withdrawal, the Secretary may, notwithstanding the withdrawal, continue the eligibility of the institution of higher education to participate in the programs authorized by this title for a period not to exceed 18 months from the date of the withdrawal of approval.

"(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title.

"(i) TREATMENT OF CHANGES OF OWNERSHIP.—(1) For the purpose of certifying the eligibility of an institution, an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution (except as provided in paragraph (3)) and shall be considered a new institution for the purpose of establishing eligibility, except that such institution shall not be required (under section 481(b)(5) or 481(c)(3)) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.

"(2) An action resulting in a change in control may include (but is not limited to)—

"(A) the sale of the institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

"(C) the merger of two or more eligible institutions;

"(D) the division of one or more institutions into two or more institutions;

"(E) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

"(F) the transfer of the liabilities of the institution to its parent corporation.

"(3) An action that may be treated as not resulting in a change in control includes (but is not limited to)—

"(A) the death of an owner of an institution, when the owner's interest is sold or transferred to either a family member or a current stockholder of the corporation; or

"(B) another action determined by the Secretary to be a routine business practice.

"(j) TREATMENT OF BRANCHES.—(1) For the purposes of this title, a branch of an eligible institution, as defined pursuant to regulations of the Secretary, is a separate institution of higher education and shall separately meet all the requirements of this title, except that such institution shall not be required (under section 481(b)(5)

or 481(c)(3)) to be in existence for 2 years prior to seeking such certification unless such institution was in existence as a branch for less than 2 years.

"(2) The Secretary may waive the requirement of section 1201(a)(2) for a branch that (A) is not located in a State, (B) is affiliated with an eligible institution, and (C) was participating in one or more programs under this title on or before January 1, 1992.

20 USC 1099c-1.

"SEC. 498A. PROGRAM REVIEW AND DATA.

"(a) GENERAL AUTHORITY.—In order to strengthen the administrative capability and financial responsibility provisions of this title, the Secretary—

"(1) shall provide for the conduct of program reviews on a systematic basis designed to include all institutions of higher education participating in programs authorized by this title;

"(2) may give priority for program review to institutions of higher education that are—

"(A) institutions with a cohort default rate for loans under part B of this title in excess of 25 percent or which places such institutions in the highest 25 percent of such institutions;

"(B) institutions with a default rate in dollar volume for loans under part B of this title which places the institutions in the highest 25 percent of such institutions;

"(C) institutions with a significant fluctuation in Federal Stafford Loan volume or Federal Pell Grant awards, or both, in the year for which the determination is made compared to the year prior to such year;

"(D) institutions reported to have deficiencies or financial aid problems by the appropriate State postsecondary review entity designated under subpart 1 of this part or by the appropriate accrediting agency or association;

"(E) institutions with high annual dropout rates;

"(F) any institution which is required to be reviewed by a State postsecondary review entity pursuant to subpart 1 of part H under section 494C(b); and

"(G) such other institutions as the Secretary deems necessary; and

"(3) shall establish and operate a central data base of information on institutional accreditation, eligibility, and certification that includes—

"(A) all information available to the Department;

"(B) all relevant information made available by the Secretary of Veterans Affairs;

"(C) all relevant information from accrediting agencies or associations;

"(D) all relevant information available from a guaranty agency; and

"(E) all relevant information available from States under subpart 1.

"(b) SPECIAL ADMINISTRATIVE RULES.—(1) In carrying out paragraphs (1) and (2) of subsection (a), the Secretary shall establish guidelines designed to ensure uniformity of practice in the conduct of program reviews of institutions of higher education.

"(2) The Secretary shall review the regulations of the Department and the application of such regulations to ensure the uniformity of interpretation and application of the regulations.

"(c) DATA COLLECTION RULES.—The Secretary shall develop and carry out a plan for the data collection responsibilities described in paragraph (3) of subsection (a). The Secretary shall make the information obtained under such paragraph (3) readily available to all institutions of higher education, guaranty agencies, States, and other organizations participating in the programs authorized by this title.

"(d) TRAINING.—The Secretary shall provide training to personnel of the Department, including criminal investigative training, designed to improve the quality of financial and compliance audits and program reviews conducted under this title.

"(e) SPECIAL RULE.—The provisions of section 103(b) of the Department of Education Organization Act, shall not apply to Secretarial determinations made regarding the appropriate length of instruction for programs measured in clock hours.".

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 501. REVISION OF TITLE V.

(a) AMENDMENT.—Title V of the Act (20 U.S.C. 1101 et seq.) is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"SEC. 500. FINDINGS AND PURPOSES. 20 USC 1101.

"(a) FINDINGS.—The Congress finds that—

"(1) teachers in the classroom are the men and women who must play an integral role in leading our Nation's schools into the 21st century;

"(2) we should encourage individuals to enter the education profession so that our teaching force is representative both of the diversity of our Nation and of the tremendous talents and skills of our citizens;

"(3) the methods used to prepare prospective teachers and the continuing education and support provided to practicing teachers have a significant influence on the effectiveness of classroom teachers;

"(4) the postsecondary education of education professionals has not been linked to local, State and national goals and standards;

"(5) the inservice and continuing professional development of educators has not promoted systematic and sustained improvement of the education system;

"(6) State educational agencies have not been funded and staffed adequately to carry out a mission of supporting a process to achieve local, State, or national goals and standards;

"(7) in order to encourage more women and underrepresented minorities to enter the fields of science and mathematics and succeed in these fields, we must provide proper training for

existing mathematics and science teachers and recruit women and underrepresented minorities as teachers in these fields;

"(8) educators must have the expertise and the support that allow them to adapt to the changing environment in our schools and to the evolving skills required of our schools' graduates; and

"(9) the Federal Government plays an essential role in providing support to educator training and professional development that will enable teachers to be classroom leaders and administrators to be school leaders at the forefront of reforming our Nation's schools.

"(b) PURPOSE.—It is the purpose of this title—

"(1) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills;

"(2) to provide assistance for professional development activities enabling teachers, school administrators, and institutions of higher education to work collaboratively to improve educational performance through school reform and restructuring;

"(3) to address the Nation's teacher shortage, particularly in areas where there are heavy concentrations of low-income students, by encouraging talented persons, including the individuals already employed as school paraprofessionals and individuals who have been employed in other areas of endeavor, to enter the teaching profession;

"(4) to encourage academically qualified students to become teachers through scholarship assistance;

"(5) to support the recruitment of underrepresented populations into teaching careers;

"(6) to provide scholarship assistance to encourage women and minorities who are underrepresented in the fields of science and mathematics to enter the teaching profession in these fields;

"(7) to encourage the establishment and maintenance of programs that provide professional teacher preparation to individuals who are moving to careers in education from other occupations;

"(8) to promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the simultaneous restructuring and renewal of elementary and secondary schools and college-based teacher education programs;

"(9) to improve the leadership and administrative skills of elementary and secondary school administrators;

"(10) to provide assistance to schools of education in institutions of higher education in order to reform teacher education programs by encouraging new developments in teacher preparation which provide for greater integration of subject matter and pedagogical training and which prepare classroom teachers to effectively meet changing noneducational challenges in the schools; and

"(11) to promote high quality child development and early childhood education specialist training programs, including preschool and early intervention services for infants and toddlers with disabilities.

"PART A—STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE

20 USC 1102.

"SEC. 501. AUTHORITY AND ALLOCATION OF FUNDS; DEFINITIONS.

"(a) PURPOSE AND AUTHORITY.—

"(1) PURPOSE.—It is the purpose of this part to provide funds to State educational agencies, local educational agencies and institutions of higher education in order to update and improve the skills of classroom teachers, including preschool and early childhood education specialists and school administrators, to establish State academies for teachers and school leaders, and to provide for a comprehensive examination of State requirements for teacher preservice and certification.

"(2) PROGRAM AUTHORIZED.—The Secretary is authorized to make allotments to State educational agencies for the purposes of enhancing and improving the quality of teaching, including early childhood education, in each of the several States.

"(b) ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—From the funds appropriated in each fiscal year pursuant to section 510A, the Secretary shall allot to each State—

"(A) 50 percent of such funds on the basis of the number of individuals in the State aged 5 through 17 compared to the number of all such individuals in all States; and

"(B) 50 percent of such funds on the basis of the amount the State receives under sections 1005 and 1006 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 compared to the total amount that all States receive under such sections.

"(2) ALLOCATIONS FROM STATE ALLOTMENTS.—

"(A)(i) Except as provided in subsection (c), from the amount allotted to each State in each fiscal year pursuant to paragraph (1) and not reserved pursuant to subparagraph (B)(i), the State education agency shall allocate 50 percent of such amount in accordance with clause (ii) to local eduational agencies to carry out the activities described in section 503.

"(ii) The State educational agency shall allocate 50 percent of the amount allotted to the State in each fiscal year under paragraph (1) so that—

"(I) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the enrollments in public schools within the State; and

"(II) one-half of such amount is allocated to local educational agencies within such State based on the local educational agency's relative share of the State's allocation of funds under sections 1005 and 1006 of the Elementary and Secondary Education Act of 1965,

except that any local educational agency that would receive an allocation of less than $10,000 shall be required to form a consortium with at least one other local educational agency in order to receive an allocation under this part. In making allocations under this part, the State educational agency shall use the most recent data available.

"(B)(i) From the amount allotted to each State in each fiscal year pursuant to paragraph (1) the State educational agency shall reserve not more than 3 percent of such funds for the purposes of administering the program under this title, including evaluation and dissemination activities.

"(ii) From the amount allotted to each State in each fiscal year under paragraph (1) and not reserved pursuant to clause (i), the State educational agency—

"(I) shall reserve not more than 25 percent of such funds to carry out sections 504, 505, and 506; and

"(II) shall reserve not more than 25 percent of such funds to award grants to institutions of higher education in accordance with sections 507 and 508.

"(c) SPECIAL RULE.—Notwithstanding the provisions of subsection (b)(2)(A), if the amount appropriated to carry out this part for any fiscal year is less than $250,000,000, then each State educational agency shall use 50 percent of the amount allotted to such State under paragraph (1) and not reserved pursuant to subsection (b)(2)(B)(i) to award grants to local educational agencies on a competitive basis.

"(d) REALLOTMENT.—If a State or local educational agency elects not to receive assistance under this part in any fiscal year or the Secretary determines in any fiscal year that a State or local educational agency will not be able to use all or any portion of the funds available to such State or local educational agency under this part, then the Secretary shall reallot such funds. The Secretary shall reallot such funds in such fiscal year in accordance with the provisions of this part among the States or local educational agencies who are eligible for assistance under this part and are not described in the preceding sentence.

"(e) DEFINITIONS.—For purposes of this part—

"(1) the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Republic of Palau (until the Compact of Free Association takes effect pursuant to section 101(a) of Public Law 99–658); and

"(2) the term 'key academic subjects' means English, mathematics, science, history, geography, foreign languages, civics and government, and economics.

20 USC 1102a.

"SEC. 502. STATE APPLICATION.

"(a) IN GENERAL.—Any State which desires to receive an allotment under this part shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

"(2) provides for a process of active discussion and consultation with a committee, convened by the chief State school officer, which is broadly representative of the following educational interests within the State, including—

"(A) a representative nominated by each of the following:

"(i) the State teacher organizations;

"(ii) the organizations representing preschool and early childhood education specialists;

"(iii) the State school administrators organization;

"(iv) the State parents organizations;
"(v) the State business organizations; and
"(vi) the State student organizations;
"(B) a representative from the State board of education;
"(C) a representative of faculty from departments, schools or colleges of educations;
"(D) other representatives of institutions of higher education, including community colleges;
"(E) the State director of vocational education; and
"(F) the State director of special education;
"(3) describes the competitive process that the State will use to distribute funds among local educational agencies pursuant to section 501(c);
"(4) describes the process the State will use to conduct the assessment required by section 504(c);
"(5) describes how the State will allocate funds among activities required under section 504;
"(6) with respect to the State academies to be established under sections 505 and 506—
"(A) describes the academies to be established under this part and the goals and objectives for each such academy;
"(B) describes how the academies assisted under this part shall relate to the overall plan for the attainment of the national education goals by the State;
"(C) describes the competitive process that shall be used to select applicants to operate the academies assisted under this part;
"(D) assures that the Academies for Teachers shall provide instruction in the key academic subjects;
"(E) assures that the State shall continue to operate the academies assisted under this part when Federal funds provided pursuant to this title are no longer available;
"(F) assures that Federal funds provided under this part shall not be used for construction of new facilities or substantial remodeling;
"(G) assures that the Academies for Teachers shall provide activities designed to enhance the ability of teachers to work with special educational populations, including—
"(i) limited-English proficient children;
"(ii) children with disabilities;
"(iii) economically and educationally disadvantaged children; and
"(iv) gifted and talented children; and
"(H) contains such other assurances and information as the Secretary may reasonably require;
"(7) describes the competitive process that the State will use to distribute funds among institutions of higher education pursuant to section 507;
"(8) describes a plan to promote learning among the State educational agency staff in order to support and facilitate systemic improvement of the State educational agency, schools or colleges of education at institutions of higher education, and local educational agencies; and
"(9) includes such other information and assurances as the Secretary may require.

"(b) FUNCTIONS OF COMMITTEE.—The application required by subsection (a) shall identify the procedures by which the committee required by paragraph (2) of such subsection will be engaged in—

"(1) ensuring that activities assisted under this part are effective, coordinated with other State, local, and Federal activities and programs, and meet the needs of the State for improving the quality of teaching and teacher education programs, including those programs concerned with preschool education and the training of early childhood education specialists, and school leadership programs;

"(2) advising the State on criteria for awarding funds under sections 501(c), 505, 506, and 507; and

"(3) advising the State on criteria for approving local educational agency applications under section 503(a).

"(c) EVALUATION AND REPORT.—

"(1) REPORT TO SECRETARY.—Each State educational agency receiving an allotment under this part shall evaluate the work of each academy that is located in the State and assisted under this part every 2 years, including the impact of each academy's programs on participants, and report the findings of such evaluation to the Secretary. The initial report shall be submitted 3 years after funds are first allotted to such State educational agency under section 501 and subsequent reports shall be submitted every 2 years thereafter. Such report shall also describe the characteristics of the participants and activities provided at each academy assisted under this part.

"(2) REPORT TO CONGRESS.—The Secretary shall submit to the Congress a summary of the reports required under subsection (a). The initial summary shall be submitted 60 days after the due date of the first report described in subsection (a) and subsequent summaries shall be submitted every 2 years thereafter.

20 USC 1102b.

"SEC. 503. LOCAL APPLICATION AND USE OF FUNDS.

"(a) LOCAL APPLICATION.—Any local educational agency which desires to receive assistance under section 501(b)(2)(A) or 501(c) shall submit to the State educational agency an application which—

"(1) describes the needs of such local educational agency with respect to inservice training programs for teachers and preschool and early childhood education specialists pursuant to the assessment conducted under subsection (b)(2)(A), and, if appropriate, describes the need of such local educational agency for teacher recruitment, business partnerships, outreach to military veterans, and the provision of other opportunities for teachers to improve their skills;

"(2) describes the process used to determine such needs, including consultation with teachers, preschool and early childhood specialists, principals, parents, representatives from departments, schools or colleges of education, and others in the community;

"(3) describes the activities such agency intends to conduct with the funds provided under section 501(b)(2)(A) or 501(c) consistent with the provisions of this section in order to improve the quality of teaching within such agency;

"(4) describes the processes and methods used to promote systematic improvement through continual learning in order

to achieve agreed upon local, State and National standards; and

"(5) any other information that the State educational agency may reasonably require.

"(b) LOCAL USES OF FUNDS.—

"(1) IN GENERAL.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) shall use such funds for the inservice training of teachers and, if appropriate, for preschool and early childhood education specialists, and may use funds for—

"(A) development of programs to recruit individuals into the teaching profession and the field of early childhood education;

"(B) business partnerships;

"(C) outreach to military veterans; and

"(D) other purposes consistent with improving the quality of teaching in the local educational agency, as approved by the State educational agency.

"(2) INSERVICE TRAINING.—

"(A) In order to receive assistance under section 501(b)(2)(A) or 501(c), a local educational agency or a consortium of local educational agencies shall first assess the needs of such agency or agencies for inservice training.

"(B) Funds expended for inservice training shall be used, in accordance with the assessment conducted under subparagraph (A), for the cost of—

"(i) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel, including vocational teachers, special education teachers, and preschool teachers, consistent with the assessment conducted under subparagraph (A);

"(ii) providing funds for grants for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms;

"(iii) activities designed to address the effects of chronic community violence on children, such as violence counseling training for teachers and early childhood specialists, and activities and training aimed at resolving conflicts;

"(iv) activities designed to enhance the ability of teachers to work with culturally diverse students;

"(v) activities designed to integrate academic and vocational education;

"(vi) as appropriate, activities designed to assist teacher participation in a Tech-Prep program under section 344 of the Carl D. Perkins Vocational and Applied Technology Act, in order to develop the skills of such teachers in activities such as organizational development leadership and interdisciplinary curricula development; and

"(vii) other activities consistent with the goals of this part as approved by the State educational agency.

"(C) Such activities may be carried out through agreements with institutions of higher education, nonprofit organizations, public agencies, and museums.

"(D) Activities related to inservice training shall be coordinated with such activities carried out under part A of title II of the Elementary and Secondary Education Act of 1965.

"(3) RECRUITMENT OF TEACHERS.—

"(A) Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance—

"(i) to establish, operate, or expand programs to encourage and recruit interested individuals to pursue a course of study that will lead to a career in education; and

"(ii) to establish, operate, or expand a program where such agency recruits students currently enrolled in a school in the local educational agency to be teachers or early childhood education specialists.

"(B) Activities under this paragraph may include—

"(i) academic and career counseling of and support services for students;

"(ii) programs in which students act as tutors while they are enrolled in schools in the local educational agency;

"(iii) programs in which students enrolled in institutions of higher education and other individuals tutor students within schools in the local educational agency;

"(iv) information and recruitment efforts to attract individuals into the teaching profession; and

"(v) programs to support early childhood education efforts at the preschool and school level.

"(C) In conducting programs under this paragraph, local educational agencies shall place a priority on recruiting students and individuals from minority groups.

"(D) Local educational agencies may conduct programs under this paragraph in consortia with institutions of higher education.

"(4) BUSINESS PARTNERSHIPS.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance to establish partnerships with representatives of the business community to sponsor—

"(A) programs which allow representatives of local business or firms to go into the classroom and work with the classroom teacher to provide instruction in subject areas where the expertise of the teacher could be supplemented, especially in the subject areas of mathematics, science, and vocational and technology education training;

"(B) internship programs which provide an opportunity for classroom teachers to work in local businesses or firms to gain practical experience or to develop new skills or expertise;

"(C) programs which bring students and teachers into business settings to see applications of course work and in specialized areas, and to learn to use advanced technical equipment;

"(D) programs which allow representatives of local businesses and firms to work with school administrators to develop instructional material; and

"(E) other activities appropriate to forming a working relationship between business leaders and classroom leaders.

"(5) OUTREACH TO MILITARY VETERANS.—Local educational agencies receiving assistance under section 501(b)(2)(A) or 501(c) may use such assistance to establish programs to inform United States military veterans of teaching opportunities and to provide assistance in the establishment of teaching opportunities for such veterans by—

"(A) planning and implementing informational and outreach programs leading to the development of programs specifically designed to inform United States military veterans about teaching opportunities and the qualifications necessary for such opportunities;

"(B) planning and implementing programs leading to the creation of teaching opportunities for such veterans;

"(C) supporting programs to assist such veterans to meet the qualifications to become teachers;

"(D) disseminating information on the program described in this paragraph and on sources of student financial assistance available under title IV of this Act and under programs administered by the Department of Veterans Affairs and other Federal agencies; and

"(E) making scholarships available to such military veterans under the same terms and conditions specified in subpart 1 of part C of this title.

"SEC. 504. STATE USES OF FUNDS. 20 USC 1102c.

"(a) IN GENERAL.—Each State educational agency receiving funds reserved pursuant to section 501(b)(2)(B)(ii)(I) shall use such funds—

"(1) first, to conduct a study of teacher education programs within such State, as required under subsection (c); and

"(2) secondly, for—

"(A) the establishment of State Academies for Teachers under section 505;

"(B) the establishment of State Academies for School Leaders under section 506; and

"(C) activities directly related to the implementation of the teacher education study required under subsection (c).

"(b) SPECIAL RULE.—If a State educational agency can demonstrate that the amount of funds reserved pursuant to section 501(b)(2)(B)(ii)(I) is insufficient to establish one State academy, then the State educational agency shall distribute such funds to local educational agencies in accordance with section 501(b)(2)(A) or 501(c) to carry out the activities described in section 503(b).

"(c) TEACHER EDUCATION STUDY.—

"(1) STUDY REQUIRED.—Each State educational agency receiving funds under this part shall, in consultation with institutions of higher education, local educational agencies, teachers, parents, the State legislature, the State board of education, and business, undertake a study of—

"(A) teacher education programs and State teacher professional development requirements, including programs and requirements intended to train preschool and early childhood education specialists; and

"(B) the State laws and regulations relating to such programs and requirements, including any standards or requirements for certification and licensure,

in order to determine if such programs and requirements are adequately preparing teachers to effectively educate students.

"(2) CONSIDERATIONS.—Such study shall consider whether such programs or requirements—

"(A) would be improved if teacher education programs were required to coordinate courses with other departments on campus in order to provide prospective teachers with a strong background in their subject matter;

"(B) integrate academic and vocational education instruction;

"(C) give enough flexibility in order to allow experimentation and innovation;

"(D) would be improved if such programs provided preparation for students desiring to become teachers, but who are pursuing a bachelor's degree in an area of study other than education;

"(E) would be improved if teacher certification required a bachelor's degree in a subject area and a master's degree in education; and

"(F) would be improved if institutions of higher education that have developed innovative materials and curricula for inservice training were required to incorporate these improvements into their preservice programs.

"(3) DEADLINES.—

"(A) Such study shall be completed by two years from the end of the first fiscal year in which funding was made available for this part. The results of such study shall be reported to the Secretary. In submitting the report to the Secretary, the State educational agency shall include in the report the most successful practices used to enhance the profession of teaching. The Secretary may disseminate such successful practices in order to assist other States in their efforts to enhance the profession of teaching.

Reports.

"(B) Except as provided in paragraph (4), beginning in the third fiscal year for which funding under this part is available, State educational agencies shall use all funds provided under section 501(b)(2)(B)(ii)(I) which are not allotted for State Academies for Teachers and State Academies for School Leaders—

"(i) to implement the program and policy changes resulting from the findings of such study; and

"(ii) to assist schools and programs of education throughout the State in meeting any new requirements that result from such study.

"(C) The State educational agency shall award grants pursuant to section 507(b)(9) to institutions of higher education to implement the programs and policy changes resulting from the findings of such study.

"(4) WAIVER.—If a State demonstrates to the Secretary that it has completed a study comparable to the study required by this subsection within the previous 5 years prior to the fiscal year for which funds are first made available under this part, then the Secretary may waive the requirements of this subsection. States receiving a waiver shall use funds pro-

vided under section 501(b)(2)(B)(ii)(I) to implement the program and policy changes resulting from the findings of such study. If the State can demonstrate to the Secretary that such program and policy changes have been implemented, then the State shall use funds provided under section 501(b)(2)(B)(ii)(I) to carry out the activities authorized under sections 505 and 506.

"SEC. 505. STATE ACADEMIES FOR TEACHERS. 20 USC 1102d.

"(a) PURPOSE; DEFINITIONS.—

"(1) PURPOSE.—It is the purpose of this section to improve elementary and secondary school teacher subject matter knowledge and teaching skills in each of the key academic subjects by establishing one or more Academies in the key academic subjects in every State.

"(2) DEFINITIONS.—For purposes of this section—

"(A) the term 'Academy' means a course of instruction and related activities to increase a teacher's knowledge of a specific subject area, a teacher's ability to impart such knowledge to students, and a teacher's ability to address any other issue described in this section, except that such term—

"(i) does not mean a physical facility; and

"(ii) does not require a separate location from another Academy or other training program; and

"(B) the term 'eligible entity' means a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more of such entities.

"(b) APPLICATION REQUIRED.—

"(1) IN GENERAL.—Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall describe—

"(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(B) the curriculum to be used or developed by the Academy;

"(C) steps to be taken to recruit teachers for the Academy's program, including outreach efforts to identify and attract—

"(i) minority group members;

"(ii) individuals with disabilities;

"(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(iv) other teachers with the potential to serve as mentor teachers;

"(D) steps to be taken to ensure that faculty members teaching at the Academy shall be of exceptional ability and experience, including outreach efforts to identify and attract as faculty members—

"(i) minority group members;

"(ii) individuals with disabilities; and

"(iii) individuals from areas with large numbers or concentrations of disadvantaged students.

"(E) efforts to be undertaken to disseminate information about the Academy;

"(F) selection criteria to be used in identifying teachers to participate in the Academy;

"(G) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge; and

"(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

"(c) USE OF ALLOTTED FUNDS.—

"(1) GRANTS.—Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) to award one or more competitive grants to eligible entities to enable such eligible entities to operate an Academy in accordance with the provisions of this section.

"(2) COORDINATION OF ACTIVITIES.—To the extent practicable, such academies shall coordinate efforts with teacher inservice activities of local educational agencies.

"(3) COMBINATION OF RESOURCES.—Each State educational agency receiving an allotment under this part may combine the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) with such funds reserved by another State educational agency to operate academies assisted under this part on a multistate or regional basis.

"(4) COSTS.—Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (d), which may include reasonable startup and initial operating costs, and costs associated with release time, stipends, travel, and living expenses for teachers who participate in the Academy's program if no other funds are available to pay such costs.

"(d) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

"(1) renewal and enhancement of participants' knowledge in key academic subjects;

"(2) skills and strategies to improve academic achievement of students, especially students who are educationally disadvantaged, are limited-English proficient, are drug- or alcohol-exposed, or have disabilities;

"(3) improved teaching and classroom management skills;

"(4) techniques for the integration of academic and vocational subject matter, including the application of such techniques in tech/prep education programs;

"(5) the use of educational technologies in teaching the key academic subjects;

"(6) training needed to participate in curriculum development in a key academic subject;

"(7) training in the development and use of assessment tools;

"(8) review of existing teacher enhancement programs to identify the most promising approaches;

"(9) development of a curriculum for use by the Academy;

"(10) follow-up activities for previous participants;

"(11) dissemination of information about the Academy, including the training curricula developed; and

"(12) any other activities proposed by the applicant and approved by the State educational agency.

"(e) COST SHARING.—Funds received for this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this section, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such fifth year. The remaining share shall be provided from non-Federal sources, and may be in cash or in-kind contributions, fairly valued.

"(f) SPECIAL RULES.—

"(1) USES OF FUNDS.—

"(A) KEY ACADEMIC SUBJECTS.—At least 70 percent of funds received for this section shall be used for enhancement of participant knowledge in key academic subjects.

"(B) OTHER SUBJECTS.—At least 20 percent of the funds received for this section shall be used for enhancement of participant knowledge in areas not related to academic subjects.

"(2) SPECIAL RULE.—In awarding grants under this section the State educational agency may provide for training in 2 or more key academic subjects at a single site.

"(3) ADDITIONAL ACADEMIES OR AWARDS.—If a State can demonstrate that the State's need for academies in key academic subjects has been met, and if the State can demonstrate that it is implementing the findings of the teacher education study described in section 504(c), then the State may use a portion of the amount reserved pursuant to section 501(b)(2)(B)(ii)(I) to establish one or more of the following academies or awards:

"(A) EARLY CHILDHOOD ACADEMIES.—A State educational agency may establish an academy aimed at early childhood education training. Such an academy shall give a priority to recruiting candidates from underrepresented groups in the early childhood education profession and shall provide intensive childhood training in violence counseling.

"(B) TECH-PREP ACADEMIES.—A State educational agency may establish an academy for—

"(i) assisting educators in secondary schools and community colleges to more effectively understand organizational structures and organizational change strategies;

"(ii) assisting educators to learn effective peer leadership strategies;

"(iii) assisting secondary school teachers and community college faculty to identify the knowledge and skills required in highly technical industries and workplaces;

"(iv) assisting secondary school teachers and community college faculty to apply creative strategies to the development of interdisciplinary curricula; and

"(v) assisting educators in integrating academic and vocational education.

"(C) TEACHER AWARDS.—(i) A State educational agency may make awards to State Academies for Teachers to provide for a program of cash awards and recognition to

outstanding teachers in the key academic subject or subjects covered by the program of the Academy.

"(ii) Any full-time public or private elementary or secondary school teacher of a key academic subject or vocational and technology education subject, including an elementary school teacher of the general curriculum, shall be eligible to receive an award under this subparagraph.

"(iii) The amount of a teacher's award under this subparagraph shall not exceed $5,000 and shall be available for any purpose the recipient chooses.

"(iv) Each Academy receiving an award under clause (i) of this subparagraph shall select teachers to receive awards from nominations received from local educational agencies, public and private elementary and secondary schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups.

"(v) The Academy shall select award recipients under this subparagraph in accordance with criteria developed by the Academy and approved by the State educational agency. The selection criteria may take into account teacher's success in—

"(I) educating disadvantaged children and children with disabilities;

"(II) educating gifted and talented children;

"(III) encouraging students to enroll, and succeed, in advanced classes in a key academic subject or vocational and technology education subject;

"(IV) teaching a key academic subject or vocational and technology education subject successfully in schools educating large numbers of educationally disadvantaged students, including schools in low-income inner-city or rural areas;

"(V) introducing a new curriculum in a key academic subject into a school or strengthening an established curriculum;

"(VI) acting as a master teacher; and

"(VII) other criteria as developed by the Academies and approved by the State educational agency.

20 USC 1102e.

"SEC. 506. STATE ACADEMIES FOR SCHOOL LEADERS.

"(a) PURPOSE; DEFINITIONS.—

"(1) PURPOSE.—It is the purpose of this section to improve the training and performance of school principals and other school leaders and to increase the number of persons who are highly trained to be principals and school leaders by establishing an Academy for current and prospective school leaders in every State.

"(2) DEFINITIONS.—For the purpose of this section—

"(A) the term 'Academy' means a course of instruction and related activities to increase a school leader's knowledge of the tools and techniques of school management and leadership, and such leader's ability to exercise such tools and techniques in the school setting, and may include a course of instruction for school district level system leaders separately or in combination with school leaders and teachers, except that such term—

"(i) does not mean a physical facility; and

"(ii) does not require a separate location from another Academy or other training program; and

"(B) the term 'eligible entity' means a technical assistance center assisted under subpart 2 of part C of title V of this Act as such Act was in effect on the day before the date of enactment of the Higher Education Amendments of 1992, a local educational agency, an institution of higher education, a museum, a private nonprofit educational organization of demonstrated effectiveness, or a consortium of any 2 or more such entities.

"(b) APPLICATION REQUIRED.—

"(1) IN GENERAL.—(A) Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner and accompanied by such information as the State may reasonably require. Such Academy may be operated in cooperation or consortium with an Academy of another State.

"(B) A priority for awards shall be given to entities who received funds under subpart 2 of part C of title V of the Higher Education Act as in effect on September 30, 1991.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall describe—

"(A) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches its goals;

"(B) the curriculum to be used or developed by the Academy;

"(C) the steps to be taken to recruit school leaders for the Academy's program, including outreach efforts to identify and attract—

"(i) minority group members;

"(ii) individuals with disabilities;

"(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(iv) other individuals with potential to become school leaders;

"(D) efforts to be taken to disseminate information about the Academy;

"(E) selection criteria to be used in identifying school leaders to participate in the Academy;

"(F) steps to be taken to assure that the programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge;

"(G) steps to be taken to assure the involvement of private sector managers and executives from businesses in the conduct of the Academy's programs; and

"(H) efforts to be undertaken to evaluate the impact of the Academy on participants.

"(c) USE OF ALLOTTED FUNDS.—

"(1) GRANTS.—Each State educational agency receiving an allotment under this part shall use the funds reserved pursuant to section 501(b)(2)(B)(ii)(I) to award a competitive grant to an eligible entity to enable such eligible entity to operate an Academy in accordance with the provisions of this subpart.

"(2) COSTS.—Each eligible entity receiving a grant under this section shall use such funds to meet the costs of carrying out the activities described in subsection (d), which may include reasonable startup and initial operating costs, and stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay such costs.

"(3) LIMITATIONS.—

"(A) PARTICIPANTS.—At least 70 percent of the participants in an Academy shall be from the school building level.

"(B) SPECIAL RULE.—In awarding grants under this section, the State educational agency may provide for the location at the same site of Academies assisted under this section and Academies assisted under section 505.

"(d) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

"(1) developing and enhancing of participants' knowledge in instructional leadership, school-based management, shared decisionmaking, school improvement strategies and school-level accountability mechanisms;

"(2) identifying candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers or concentrations of educationally disadvantaged students and individuals who are bilingual, to be trained as new school leaders;

"(3) conducting programs which provide for the involvement of private sector managers and executives from businesses;

"(4) identifying models and methods of leadership training and development that are promising or have proven to be successful;

"(5) providing intensive training and development programs for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively;

"(6) identifying local educational agencies and schools with principal and other school leader vacancies and working with such agencies and schools to match Academy participants with such vacancies;

"(7) facilitating internships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators;

"(8) providing periodic follow-up development activities for school leaders trained through the Academy's programs;

"(9) disseminating information about the Academy, including the training curricula developed;

"(10) coordinating activities with those of any State Academies for Teachers established in the State; and

"(11) any other activity proposed by the applicant in the application submitted pursuant to subsection (b) and approved by the State educational agency.

"(e) COST-SHARING.—Funds received under this section may be used to pay not more than 75 percent of the cost of operating an Academy in the first year an eligible entity receives a grant under this subpart, 65 percent of such cost in such second year, 55 percent of such cost in such third year, 45 percent of such cost in such fourth year, and 35 percent of such cost in such

fifth year. The remaining share shall be provided from non-Federal sources, and be in cash or in kind, fairly valued.

"SEC. 507. INSTITUTIONS OF HIGHER EDUCATION USES OF FUNDS. 20 USC 1102f.

"(a) APPLICATIONS.—Institutions of higher education desiring to receive a grant under section 501(b)(2)(B)(ii)(II) shall submit to the State educational agency an application which—

"(1) describes the types of activities that the institution plans to undertake with funds provided;

"(2) describes the process used by the institution to determine the State's needs for improving teacher education and training for preschool and early childhood education specialists, including consulting with current students, teachers, representatives from local educational agencies, parents, and representatives from preschool and early childhood specialists;

"(3) if such institution is applying for a grant to assist local educational agencies in providing inservice training for teachers, describes the training and services that such institution plans to provide for teachers within the local educational agency and demonstrates that such training and services are consistent with the needs of the local educational agencies to be served;

"(4) if such institution is applying for a grant to establish a professional development academy, contains the information required pursuant to section 508;

"(5) describes how the institution plans to integrate academic and vocational teacher education programs; and

"(6) contains any other information that may be required by the State educational agency.

"(b) AWARDS.—The State educational agency shall award grants on a competitive basis to institutions of higher education that have departments, schools, or colleges of education. In awarding grants, the State educational agency shall award funds for the following purposes:

"(1) For the establishment of professional development academies pursuant to section 508.

"(2) For the establishment and maintenance of programs that provide teacher training to individuals who are moving to a career in education from another occupation.

"(3) For institutions of higher education in consultation and cooperation with a local educational agency or a consortium of local educational agencies, to develop and provide technical assistance to local education agencies in providing inservice training for teachers.

"(4) For improving teacher education programs in order to further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers.

"(5) For improving training for preschool and early childhood education specialists, including preschool and early intervention services for infants and toddlers with disabilities, in order to further innovation in such programs with institutions of higher education and to better meet the needs of preschool and early childhood education programs for well-prepared personnel.

"(6) To integrate the instruction of academic and vocational teacher education programs.

"(7) For activities to encourage individuals, especially individuals from minority groups, to pursue a career in education.

"(8) For expanding cooperative educational programs between State educational agencies and offices, schools, and school systems, institutions of higher education, appropriate educational entities, and private sector establishments involved in education between the United States and the Republic of Mexico for the purpose of providing bilateral teaching initiatives and programs that provide teacher training experiences between the educational communities of the United States and those of the Republic of Mexico and to enhance mutually beneficial educational activities involving researchers, scholars, faculty members, teachers, educational administrators, and other specialists to lecture, teach, conduct research, and develop cooperative programs.

"(9) When the study of teacher education programs is completed in accordance with section 504(c), to implement the program and policy changes for teacher education programs resulting from the findings of such study.

20 USC 1102g.

"SEC. 508. PROFESSIONAL DEVELOPMENT ACADEMIES.

"(a) AUTHORITY; DEFINITIONS.—

"(1) AUTHORITY.—From amounts reserved pursuant to section 501(b)(2)(B)(ii)(II), the State educational agency is authorized to make grants to, and enter into contracts and cooperative agreements with, eligible entities to plan, establish, and operate professional development academies.

"(2) DEFINITIONS.—For purposes of this section—

"(A) the term 'Academy' means school-based teacher training operated as a partnership between one or more elementary or secondary schools and one or more institutions of higher education that provides prospective and novice teachers an opportunity to work under the guidance of master teachers and college faculty members. Such Academy shall be established for the purpose of—

"(i) the training of prospective and novice teachers (including preschool and early childhood education specialists, where appropriate) under the guidance of master teachers and teacher educators;

"(ii) the continuing development of experienced teachers;

"(iii) research and development to improve teaching and learning and the organization of schools;

"(iv) public demonstration of exemplary learning programs for diverse students; and

"(v) dissemination of knowledge produced in the research and development process;

except that such term—

"(i) does not mean a physical facility; and

"(ii) does not require a separate location from another Academy or other training program; and

"(B) the term 'eligible entity' means a partnership that includes one or more local educational agencies and one or more institutions of higher education and may include teachers and the business community.

"(b) AWARDS AND RENEWALS.—An award made under this section may be in the form of a one-year planning grant. Such award

may be renewed for implementation purposes without further competition annually for 4 additional years, upon submission of an evaluation of the project to the State educational agency and assurances that the recipient—

"(1) has achieved the goals set out in its application for the original term;

"(2) shows promise of continuing its progress;

"(3) will meet its share of the project costs; and

"(4) has developed a plan for continuing the Academy after Federal funding is no longer available.

"(c) APPLICATION REQUIRED.—

"(1) IN GENERAL.—Each eligible entity desiring to operate an Academy under this section shall submit an application to the State educational agency at such time, in such manner, and accompanied by such information as the State educational agency may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to subsection (a) shall describe—

"(A) what schools within the local educational agency and what institutions of higher education shall participate in the partnership or otherwise participate in the program;

"(B) the goals of the Academy and the steps that shall be taken to evaluate the extent to which the Academy reaches such goals;

"(C) a plan for monitoring progress and evaluating the effectiveness of the Academy in meeting the goals it has developed for teacher and student performance;

"(D) a description of the partnership's plan for systemic change in education, and a description of the activities and services for which assistance is sought;

"(E) ways in which the professional development programs shall cover course content in key academic subjects, methods of instruction, and classroom and school-based management skills;

"(F) plans to involve prospective and novice teachers in the programs offered by the Academy, including outreach efforts to identify and attract—

"(i) minority group members;

"(ii) individuals with disabilities; and

"(iii) individuals from areas with large numbers or concentrations of disadvantaged students; and

"(G) estimates of the number of prospective and beginning teachers to be trained in the Academy in each year of the project and assurances that a significant number of prospective and beginning teachers will be trained in the Academy in each year of the project.

"(3) ASSURANCES.—Each application submitted pursuant to this subsection shall contain assurances that—

"(A) professional development programs at the Academy shall be designed and conducted by faculty members from institutions of higher education and teachers from local schools of demonstrated excellence;

"(B) in establishing the Academy, the applicant has consulted with teachers, administrators, and parents who will be affected at the teaching school site;

"(C) participating faculty from institutions of higher education shall include faculty members who are experts in the key academic subjects; and

"(D) the activities, services and programs offered by the Academy shall be of sufficient length and comprehensiveness to significantly improve participants' knowledge.

"(4) PRIORITIES.—In making awards under this part, the State educational agency shall give priority to applicants that—

"(A) select Academy sites based on need, as evidenced by such measures as a high rate of teacher attrition or a high proportion of the student body at risk of educational failure;

"(B) propose projects that demonstrate the strong commitment to or previous active support for educational innovation;

"(C) propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community in the teaching school's operation;

"(D) demonstrate potential for a significant impact on the quality of the future education work force; and

"(E) demonstrate the long-term feasibility of the partnership.

"(5) SPECIAL RULES.—Each such application shall describe—

"(A) how the local educational agency will address the need to change or waive a local rule or regulation that is found by an Academy to impede the school's progress in achieving its goals; and

"(B) how partners that are institutions of higher education will involve the School of Education, the School of Arts and Sciences, and the School of Technology or Engineering and any other department of the institution.

"(d) USE OF ALLOTTED FUNDS.—

"(1) PERMITTED USES.—Each eligible entity receiving a grant under this section shall use such funds to meet the operating costs of carrying out the activities described in subsection (e), which may include reasonable startup and initial operating costs, staff development, purchase of books, materials, and equipment, including new technology, costs associated with release time, payment of personnel directly related to the operation of the Academy, and participation in the activities of a network of Academies.

"(2) LIMITATIONS.—The Secretary may limit the amounts of funds that may be used for minor remodeling and the purchase of equipment under this part.

"(e) AUTHORIZED ACTIVITIES.—Each eligible entity receiving a grant to operate an Academy under this section may use such grant funds for—

"(1) training and internship activities for prospective or novice teachers in a school setting under the guidance of master or mentor teachers and faculty from institutions of higher education, especially faculty who are experts in key academic subjects;

"(2) mentoring and induction activities for prospective and novice teachers, including such teachers seeking to enter teaching through alternative routes;

"(3) participation of experienced teachers in the internship training and assessment of prospective and beginning teachers;

"(4) teaching skills and strategies to increase the ability of prospective, novice and experienced teachers to teach disadvantaged students, students with disabilities (including students with severe and multiple disabilities and students with lesser known or newly emerging disabilities), students who are limited-English proficient, and students from diverse cultural backgrounds;

"(5) programs to enhance teaching and classroom management skills, including school-based management skills, of novice, prospective and experienced teachers;

"(6) experimentation and research to improve teaching and learning conducted in the Academy by teachers and university faculty;

"(7) activities to integrate academic and vocational education;

"(8) training and other activities to promote the continued learning of experienced teachers, especially in their subject matter knowledge and how to teach it;

"(9) participation of expert practicing teachers and administrators in the university-based education studies of prospective teachers;

"(10) activities designed to disseminate information about the teaching strategies acquired through the Academy with other teachers in the district's schools;

"(11) organizational restructuring, including the introduction of new roles and staffing patterns in the school and university;

"(12) activities intended to address the effects of chronic community violence, such as violence counseling and conflict resolution training; and

"(13) other activities proposed by the applicant and approved by the Secretary.

"(f) COST-SHARING.—Funds received under this section may be used to pay 100 percent of the cost of a planning grant and not more than 75 percent of the cost of operating an Academy in the first 2 years an eligible entity receives a grant under this subpart and not more than 50 percent of such cost in such third and fourth years. The remaining share shall be provided from non-Federal sources, and may be in-kind, fairly valued.

"SEC. 509. FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NONFEDERAL FUNDS. 20 USC 1102h.

"A State educational agency, local educational agency, or institution of higher education may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the uses of funds under this part and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"SEC. 510. COORDINATION WITH OTHER PROGRAMS. 20 USC 1102i.

"The State educational agency shall ensure that activities conducted under this part shall be consistent with the goals and objectives of any Federal or State systemic educational reform activities.

20 USC 1102j.

"SEC. 510A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $350,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART B—NATIONAL TEACHER ACADEMIES

20 USC 1103.

"SEC. 511. PROGRAM ESTABLISHED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible recipients to establish and operate National Teacher Academies.

"(b) SUBJECT AREAS AND STAFF.—

"(1) SUBJECT AREAS.—At least 1 but not more than 3 National Teacher Academies shall be established in each of the following subject areas commonly taught in elementary and secondary schools:

"(A) English.
"(B) Mathematics.
"(C) Science.
"(D) History.
"(E) Geography.
"(F) Civics and government.
"(G) Foreign languages.

"(2) STAFF.—Academy staff shall be selected from the most accomplished and prominent scholars in the relevant fields of study and in the methodologies which improve the skills of persons who teach in such fields of study.

"(c) DURATION OF GRANT.—Each grant to establish and operate a National Teacher Academy shall be for a period of 3 years, and is renewable.

"(d) COMPETITIVE GRANT AWARDS.—The Secretary shall award grants under this part on a competitive basis.

"(e) CONSISTENCY WITH SYSTEMIC REFORMS.—In awarding grants under this part, the Secretary shall ensure that activities conducted under this part are consistent with the goals and objectives of other Federal or State systemic educational reform activities.

20 USC 1103a.

"SEC. 512. ELIGIBLE RECIPIENTS.

"(a) IN GENERAL.—For the purposes of this part, the term 'eligible recipient' means—

"(1) an institution of higher education;

"(2) a private nonprofit educational organization of demonstrated effectiveness; or

"(3) a combination of the institutions or organizations set forth in paragraphs (1) and (2) of this paragraph.

"(b) EXPERTISE REQUIREMENTS.—The Secretary shall only award grants to eligible recipients that have demonstrated expertise in the—

"(1) subject area of the National Teacher Academy to be established and operated; and

"(2) in-service training of teachers at the national, State, and local levels.

20 USC 1103b.

"SEC. 513. USE OF FUNDS.

"(a) IN GENERAL.—Funds provided pursuant to this part shall be used to—

"(1) provide in-service training programs for teachers and administrators, including—

"(A) programs which emphasize improving the teachers' knowledge in the particular subject area of the National Teacher Academy;

"(B) programs which integrate knowledge of subject matter with techniques for communicating that knowledge to students, including students who are disadvantaged, limited-English proficient, drug- or alcohol-exposed, or who have disabilities;

"(C) the use of the most recent applied research findings concerning education and the classroom; and

"(D) integration of materials from different disciplines into classroom instruction, especially for elementary school teachers;

"(2) conduct each year at least one summer institute of at least 3 weeks duration for the State delegations described in section 515; and

"(3) provide support services to the State Academies for Teachers, including—

"(A) the establishment of a national network of individuals to assist in teacher education programs in State Academies for Teachers;

"(B) consultation assistance in the design and implementation of in-service teacher training programs; and

"(C) monthly newsletters or other methods of communicating useful information.

"(b) ADMINISTRATIVE COSTS.—Not more than 10 percent of the amount of funds received under this part may be used by an eligible recipient for administrative costs.

"SEC. 514. APPLICATION.

20 USC 1103c.

"(a) APPLICATION.—Each eligible recipient desiring a grant under this part shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities, services, and programs for which assistance is sought;

"(2) describe how at least 70 percent of the National Teacher Academy's time shall be devoted to basic course content relevant to the particular subject field and necessary for improving the quality of teaching in public and private elementary and secondary schools;

"(3) describe how not more than 30 percent of the National Teacher Academy's time shall be devoted to methods of instruction relevant to the particular subject field;

"(4) describe how the National Teacher Academy's activities will be coordinated with or administered cooperatively with institutes established by other Federal entities, such as the National Science Foundation and the National Endowment for the Humanities; and

"(5) provide such additional assurances or information as the Secretary may reasonably require.

20 USC 1103d.

"SEC. 515. STATE DELEGATIONS.

"(a) IN GENERAL.—Each selection panel established pursuant to section 516(b) shall select a State delegation to participate in each National Teacher Academy assisted under this part.

"(b) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each State delegation described in subsection (a) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 5 teachers, of whom at least 2 shall be elementary school teachers.

"(2) SPECIAL RULE.—The State delegations for the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa and the Republic of Palau (until the Compact of Free Association is ratified) shall, at a minimum, be composed of—

"(A) 1 school administrator with authority to design and conduct in-service teacher training and academic programs; and

"(B) at least 3 teachers, of whom at least 1 shall be an elementary school teacher.

"(3) ADDITIONAL TEACHERS.—

"(A) Each State that has obtained the approval of the appropriate National Teacher Academy may send to such National Teacher Academy the number of additional teachers determined in accordance with subparagraph (B).

"(B) The appropriate National Teacher Academy shall determine the number of additional teachers to attend such National Teacher Academy on the basis of the number of full-time equivalent teachers in the State compared to such number in all States.

"(c) DUTIES.—Each State delegation shall—

"(1) attend the appropriate subject area summer institute at the appropriate National Teacher Academy; and

"(2) after participation in the National Teacher Academy assist in the development and operation of the appropriate National Teacher Academy.

20 USC 1103e.

"SEC. 516. SELECTION.

"(a) IN GENERAL.—Individuals participating in a National Teacher Academy shall be selected by the selection panel described in subsection (b) in accordance with the provisions of section 515.

"(b) SELECTION PANEL.—

"(1) ESTABLISHMENT.—Each State educational agency receiving assistance under part A of this title shall establish a 10-member selection panel to select teachers to attend the National Teacher Academies established pursuant to this part.

"(2) COMPOSITION AND REPRESENTATION.—

"(A) COMPOSITION.—At least 50 percent of the membership of each selection panel shall be classroom teachers, selected in consultation with teacher organizations, if any, in the State.

"(B) REPRESENTATION.—The composition of each selection panel shall be broadly representative of the elementary and secondary schools and the State.

"(3) FUNCTION.—Each selection panel shall—

"(A) annually select the State delegations in accordance with section 515; and

"(B) involve the individuals selected pursuant to subparagraph (A) in the operation of the State academies, if any, or other in-service training activities in the local educational agency in which such individuals teach.

"SEC. 517. NATIONAL TEACHER ACADEMY EVALUATION. 20 USC 1103f.

"The Secretary shall evaluate the system of National Teacher Academies and the effects of such academies on teachers every 2 years. The Secretary shall make available to the Congress and the public the results of such evaluation. Public information.

"SEC. 518. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1103g.

"(a) IN GENERAL.—There are authorized to be appropriated $35,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years to carry out the provisions of this part, of which not more than $5,000,000 shall be available for each of the National Teacher Academy subject areas listed in section 511(b)(1).

"(b) SPECIAL RULES.—

"(1) APPROPRIATIONS LESS THAN $14,000,000.—If the amount appropriated pursuant to the authority of subsection (a) is less than $14,000,000, then not more than $2,000,000 shall be available for each National Teacher Academy subject area in the order in which such subject areas are listed in section 511(b)(1), until such funds are expended.

"(2) APPROPRIATIONS EQUAL TO OR IN EXCESS OF $14,000,000.—If the amount appropriated pursuant to the authority of subsection (a) is equal to or exceeds $14,000,000, then such funds as equals or exceeds $14,000,000 shall be allocated equitably among each of the National Teacher Academy subject areas listed in section 511(b)(1).

"PART C—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"Subpart 1—Paul Douglas Teacher Scholarships

"SEC. 521. PURPOSE; DESIGNATION. 20 USC 1104.

"(a) PURPOSE.—It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding secondary school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to pursue teaching careers in education at the preschool, elementary or secondary level.

"(b) DESIGNATION.—Scholarships awarded under this subpart shall be referred to as the 'Paul Douglas Teacher Scholarships'.

"SEC. 522. ALLOCATION AMONG STATES. 20 USC 1104a.

"(a) ALLOCATION.—From the sums appropriated for this subpart for any fiscal year, the Secretary shall allocate to any State an amount based on the school-age population in the State compared to the school-age population in all States.

"(b) USE OF CENSUS DATA.—For the purpose of this section, the number of persons in a State and in all States shall be deter-

mined by the most recently available data from the Bureau of the Census.

20 USC 1104b.

"SEC. 523. GRANT APPLICATIONS.

"(a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in section 521 in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarship recipients under this subpart;

"(2) designates as the State agency responsible for administering the grants received under this subpart the State agency which administers the program under subpart 4 of part A of title IV (relating to State student incentive grants), the State agency with which the Secretary has an agreement under section 428(b), or another appropriate State agency approved by the Secretary;

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Scholarships to secondary school students in the State;

"(4) describes how the State will inform recipients, upon receipt of the award, of current and projected teacher shortages and surpluses within the State;

Contracts.

"(5) provides assurances that each recipient eligible under section 525(b) of this subpart who receives a Paul Douglas Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the post-secondary education for which the Paul Douglas Teacher Corps Scholarship was awarded, teach for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary, or secondary school in any State, or, on a full-time basis, children with disabilities or children with limited English proficiency in a private nonprofit school, except that, in the case of individuals who teach in a shortage area established by the Secretary pursuant to section 530A, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 526 as required by the State agency; and

"(C) repay all or part of a Paul Douglas Scholarship received under section 524 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 527, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 528;

"(6) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required, including—

"(A) a description of the procedures required to be established under paragraph (7); and

"(B) a description of the appeals procedures required to be established under paragraph (8) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(7) provides for procedures under which a recipient of assistance received under this subpart who teaches for less than the period required under paragraph (5)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 527 and 528;

"(8) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this subpart; and

"(9) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds; ethnic and racial minority students; individuals with disabilities; other individuals from groups historically underrepresented in teaching; individuals who express a willingness or desire to teach in rural schools, urban schools, or schools having less than average academic results or serving large numbers of economically disadvantaged students; or women or minorities who show interest in pursuing teaching careers in mathematics and science and who are underrepresented in such fields.

"(c) SELECTION CRITERIA AND PROCEDURES.—The State educational agency, in cooperation with the State higher education agency, and pursuant to scholarship selection criteria included in section 525, shall establish criteria to select Paul Douglas Teacher Scholarship recipients. These criteria shall be intended to attract highly qualified individuals into teaching, to ensure that these students are enrolled or are accepted for enrollment in approved teacher education programs, and to meet the present and projected needs of States in addressing teacher shortages, including the demand for and supply of early childhood and elementary teachers in the State, the demand for and supply of secondary teachers in the State, and the demand for teachers with training in specific academic disciplines in the State.

"(d) SPECIAL CONSIDERATION.—The State educational agency, in cooperation with the State higher education agency, shall give special consideration in the selection of scholarship recipients to individuals who—

"(1) intend to teach or provide related services to students with disabilities;

"(2) intend to teach limited English proficient students;

"(3) intend to teach preschool age children;

"(4) intend to teach in schools servicing inner city or rural or geographically isolated areas (as defined by the Secretary by regulations consistent with the purposes of this section);

"(5) intend to teach in curricular areas or geographic areas where there are demonstrated shortages of qualified teachers; or

"(6) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, and are underrepresented in the teaching profession or in the curricular areas in which they are preparing to teach.

"(e) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of—

"(A) written comments; and

"(B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of—

"(A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with specific preparation); or

"(B) such other methods as the State may determine to be appropriate to gather information on such needs.

20 USC 1104c.

"SEC. 524. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

"(a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c) each Paul Douglas Teacher Scholarship recipient shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, special education, elementary, or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Paul Douglas Teacher Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. A scholarship awarded under this part shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance, but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

20 USC 1104d.

"SEC. 525. SELECTION OF PAUL DOUGLAS TEACHER SCHOLARS.

"(a) SELECTION BY STATEWIDE PANELS.—Paul Douglas Teacher Scholars shall be selected by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, including preschool and special education teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of Paul Douglas Scholars shall be made from students who have graduated or who are graduating from secondary

school and who rank in the top 10 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit secondary schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Scholars. Such criteria may include the applicant's secondary school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others.

"(c) WAIVER.—The Secretary may waive the requirements of section 523(d) for not more than 25 percent of all individuals receiving a scholarship under this subpart.

"SEC. 526. SCHOLARSHIP CONDITIONS. 20 USC 1104e.

"Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

"(1) enrolled as a full-time student in an accredited postsecondary institution;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SEC. 527. SCHOLARSHIP REPAYMENT PROVISIONS. 20 USC 1104f.

"Recipients found by the State agency to be in noncompliance with the agreement entered into under section 523(b)(5) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV of this Act) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart. Regulations.

"SEC. 528. EXCEPTIONS TO REPAYMENT PROVISIONS. 20 USC 1104g.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 523(b)(5)(C) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or education program for a single period not to exceed 27 months; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

20 USC 1104h.

"SEC. 529. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

"(a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 523, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—

"(1) IN GENERAL.—If any State is dissatisfied with the Secretary's final action under subsection (b) (1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) FINDINGS.—The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) JURISDICTION.—The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

20 USC 1104i.

"SEC. 530. EVALUATION.

Contracts.

"(a) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of recipients of scholarship assistance under this subpart, which shall summarize and evaluate the State activities assisted under this subpart and the performance of such recipients. The evaluation shall assess the impact of the

scholarship program assisted under this subpart to determine whether such program has brought into teaching a significant number of highly able individuals who otherwise would not have entered teaching.

"(b) CONTENTS.—The evaluation described in subsection (a) shall include—

"(1) a description of the characteristics, including the educational preparation and achievement, of recipients of scholarship assistance under this subpart compared to similar students participating in teacher training who do not receive such scholarships;

"(2) the rate at which such recipients successfully complete academic training and go on to teaching careers in preschool, elementary, or secondary education, compared to such rate for similar individuals who do not receive scholarship assistance under this subpart;

"(3) the extent to which it is possible to determine objectively that the receipt of scholarship assistance under this subpart was the primary reason for an individual's choice of a teaching education and career;

"(4) the extent to which such recipients comply with the provisions of this subpart;

"(5) the length of time such recipients remain in teaching careers, compared to similar teachers who do not receive scholarships;

"(6) the barriers to the effectiveness of the program assisted under this subpart; and

"(7) the cost-effectiveness of such program in improving teacher quality and quantity.

"(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

"(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 530B in fiscal years 1993 through 1997 to carry out this section.

"SEC. 530A. DESIGNATION OF SHORTAGE AREAS. 20 USC 1104j.

"For the purposes of this part, the term 'shortage areas' means (1) geographic areas of the State in which there is a shortage of elementary and secondary school teachers, and (2) an area of shortage of elementary and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. Such shortage areas shall be prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of nonprofit private schools in each State in accordance with this section. In carrying out the provisions of this section, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages and to States which have retirement laws permitting early retirement.

"SEC. 530B. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1104k.

"There are authorized to be appropriated $26,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

Establishment.

"Subpart 2—Christa McAuliffe Fellowship Program

20 USC 1105.

"SEC. 531. DECLARATION OF PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for experienced and outstanding teachers.

"(b) DESIGNATION.—A recipient of a fellowship under this subpart shall be known as a 'Christa McAuliffe fellow'.

20 USC 1105a.

"SEC. 532. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized to make grants, in accordance with the provisions of this subpart, to State educational agencies to enable such State educational agencies to—

"(1) conduct Christa McAuliffe fellowship activities; and

"(2) award fellowships to Christa McAuliffe fellows in accordance with the provisions of this subpart.

"(b) AMOUNT OF GRANTS.—The amount awarded to each State educational agency pursuant to paragraph (1) of subsection (a) shall be an amount awarded on the basis of the school-age population in the State compared to the school-age population in all States, except that the Secretary may adjust the awards to ensure that such awards are of sufficient size to carry out the purposes of this subpart.

"(c) STATE ACTIVITIES.—Each State educational agency receiving a grant pursuant to subsection (a) shall use not more than 3 percent of such grant for administrative purposes.

"(d) USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION.—Funds appropriated for any fiscal year for fellowships to teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 1 percent of such funds shall be used by the Secretary for purposes of administering this subpart, including activities authorized under section 537(b).

20 USC 1105b.

"SEC. 533. CHRISTA MCAULIFFE FELLOWSHIPS.

"(a) AWARD DISTRIBUTION AND AMOUNT.—

"(1) AWARD DISTRIBUTION.—Each State educational agency receiving a grant under this subpart shall use such funds to award Christa McAuliffe fellowships to public and private school teachers who have been employed as teachers for 8 or more years to enable such teachers to engage in the activities described in subsection (b).

"(2) AMOUNT.—Fellowships shall be in an amount equal to the annual salary the individual would earn in such individual's current place of employment for the award period.

"(3) RATABLE REDUCTION.—If an individual receives a fellowship award for less than a school year, such fellowship shall be ratably reduced to equal the salary forgone.

"(4) DURATION.—No Christa McAuliffe fellow may receive an award for 2 consecutive years.

"(5) REQUIREMENT.—Subject to the repayment provisions of section 536, each Christa McAuliffe fellow shall be required to return to a teaching position, in their place of employment prior to receiving the fellowship award, for at least 2 years following such award. The Secretary is authorized, in extraordinary circumstances, to waive or defer all or a portion of

the service requirement, or allow fellows to fulfill their service requirement by going into a teaching position in another school or school district within the State or in another State upon approval of the sending and receiving State.

"(b) USE OF FELLOWSHIPS.—Each Christa McAuliffe fellowship may be used for—

"(1) sabbaticals for study, research or academic improvement to—

"(A)(i) improve such teacher's knowledge base in an area of expertise; or

"(ii) learn a new area of expertise;

"(B) increase skills and professional ability; and

"(C) enhance the ability of teachers to work with special education populations, including—

"(i) gifted and talented children;

"(ii) limited-English proficient children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children;

"(2)(A) consultation with or assistance to other school districts or private school systems; or

"(B) development of special innovative programs;

"(3) projects or partnerships that involve the business community and the schools;

"(4) programs that incorporate the use and the sharing of technologies to help students learn; or

"(5) expanding or replicating model programs of staff development.

"SEC. 534. SELECTION OF CHRISTA MCAULIFFE FELLOWS. 20 USC 1105c.

"(a) IN GENERAL.—Christa McAuliffe fellows in each State shall be selected (in accordance with section 535) by a 7-member statewide panel appointed by the chief State school officer, or by an existing panel designated by the chief State school officer. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"(b) SPECIAL RULE.—Each State educational agency may choose to administer the program assisted under this subpart through a pre-existing panel which is experienced in administering similar programs.

"SEC. 535. EVALUATION OF APPLICATIONS. 20 USC 1105d.

"(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for a Christa McAuliffe fellowship shall submit a proposal for a project in accordance with section 533(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local educational agency for comment prior to submission to the statewide panel (appointed under section 534) for the State in which the project will be conducted. Each such application shall contain such information as such State educational agency may reasonably require.

"(b) CONSULTATION AND CONSIDERATION.—

"(1) IN GENERAL.—In evaluating proposals, the statewide panel shall consult with the local educational agency, and shall consider—

"(A) evaluations during employment as a teacher;

"(B) demonstrated commitment to teaching in the future; and

"(C) intended activities during the award period;

"(2) RECOMMENDATIONS.—The statewide panel may request recommendations from teaching peers and the applicant's principal and superintendent on the quality of the proposal, the benefit of such proposal to education, and any other criteria for awarding fellowships as are considered appropriate by such statewide panel.

Regulations.

"(3) SELECTION.—Selection of members of the statewide panel shall be made in accordance with regulations prescribed by the Secretary.

"(c) PUBLIC ANNOUNCEMENT.—Announcement of fellowship awards shall be made in a public ceremony.

20 USC 1105e.

"SEC. 536. FELLOWSHIP REPAYMENT PROVISIONS.

"Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

20 USC 1105f.

"SEC. 537. SECRETARY'S RESPONSIBILITIES.

"(a) GENERAL.—The Secretary shall—

"(1) make awards to State educational agencies having applications approved under section 538; and

"(2) in cooperation with the State educational agency, conduct activities which foster communication among and bring together Christa McAuliffe fellows including activities such as written communications, meetings, or training sessions.

"(b) INFORMATION DISSEMINATION.—The Secretary shall establish a clearinghouse or otherwise provide for the collection and dissemination of information on exemplary projects for improving education that were developed in accordance with section 533(b) of this part. The Secretary may utilize the National Diffusion Network in carrying out the requirements of this section.

20 USC 1105g.

"SEC. 538. STATE APPLICATION.

"(a) APPLICATION REQUIRED.—Each State educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall—

"(1) provide assurances that Christa McAuliffe fellows will be released from teaching responsibilities for up to one school year (if the fellow's proposal requires such release time) without jeopardizing the rights such members would have had without participating in the program assisted under this subpart;

"(2) provide assurances that the State educational agency, or its designee, in cooperation with local educational agencies, shall maintain accurate records regarding the activities of Christa McAuliffe fellows within the State to ensure that such members are meeting all conditions of the fellowships provided pursuant to this subpart, and shall notify the Secretary immediately upon a change in a Christa McAuliffe fellow's status rendering such fellow in violation of the conditions of the fellowship; and

"(3) provide assurances that the State educational agency has consulted with local educational agencies in designing and developing the Christa McAuliffe Fellowship program.

"SEC. 539. EVALUATION. 20 USC 1105h.

"(a) IN GENERAL.—

"(1) IN GENERAL.—The Secretary shall conduct, by grant or contract, an independent evaluation of— Contracts.

"(A) Christa McAuliffe fellows; and

"(B) the impact of the activities undertaken by the Christa McAuliffe fellows on teachers, teacher research, curricula, staff development, improvement of programs and improvement of student achievement.

"(2) COMPETITIVE BASIS.—The grant or contract described in paragraph (1) shall be awarded on a competitive basis.

"(b) CONTENTS.—The evaluation shall—

"(1) include information on the nature of projects developed and implemented by Christa McAuliffe fellows;

"(2) assess the measurable effects of such projects on the academic performance of the students served by such projects;

"(3) assess the effect of the fellowship program assisted under this subpart on the postfellowship experiences of Christa McAuliffe fellows;

"(4) identify the barriers to such program's effectiveness;

"(5) assess the extent to which successful projects were disseminated and adopted by other teachers and schools without further Federal assistance; and

"(6) determine and explore ways to improve the cost-effectiveness of such program.

"(c) EVALUATION REPORTS.—The Secretary shall submit such interim evaluation reports to the President and the Congress as may be appropriate, and shall submit a final report on or before January 1, 1997.

"(d) FUNDING.—The Secretary shall reserve a total of not more than $1,000,000 from the amounts appropriated pursuant to the authority of section 540 in fiscal years 1993 through 1997 to carry out this section.

"SEC. 540. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1105i.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

"Subpart 3—Teacher Corps

"SEC. 541. TEACHER CORPS PROGRAM AUTHORIZED. 20 USC 1106.

"(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants, on a competitive basis, to State educational agencies to carry out Teacher Corps activities.

"(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to State educational agencies from allocations under subsection (c) to carry out Teacher Corps activities.

"(c) ALLOCATION.—Except as provided in subsection (a), each State educational agency shall be eligible to receive a grant under this subpart in each fiscal year that bears the same ratio to the amount appropriated under section 548 in that fiscal year as the school-

age population of the State bears to the school-age population of all States.

"(d) TEACHER CORPS SCHOOL.—For the purpose of this subpart the term 'Teacher Corps school' means a public elementary or secondary school identified by the State educational agency as having the highest levels of poverty and the lowest levels of student achievement based on a ranking of such elementary schools and secondary schools in the State according to the number of children living in poverty and the levels of student achievement. In carrying out the preceding sentence, the State educational agency shall identify and inform not more than 10 percent of such elementary schools and not more than 10 percent of such secondary schools in the State which have the highest levels of poverty and the lowest levels of student achievement.

"(e) DESIGNATION.—

"(1) SCHOLARSHIP.—A scholarship awarded under this subpart shall be referred to as a 'Teacher Corps scholarship'.

"(2) RECIPIENT.—A recipient of a scholarship under this subpart shall be referred to as a 'Teacher Corps member'.

20 USC 1106a.

"SEC. 542. USE OF FUNDS.

"(a) SECRETARY.—The Secretary shall use funds provided pursuant to this subpart to—

"(1) disseminate information nationally about the availability of scholarships under this subpart;

"(2) conduct activities, with the cooperation of the State and local educational agencies, which foster communication among, and bring together, members of the Teacher Corps, including activities such as written communications, meetings, or training sessions;

"(3) establish and conduct summer preservice orientation programs for Teacher Corps members about to begin teaching;

"(4) ensure that Teacher Corps members recognize the challenges of teaching in a Teacher Corps school;

"(5) inform Teacher Corps members of Teacher Corps schools and facilitate the hiring and placement of Teacher Corps members at Teacher Corps schools;

"(6) evaluate applications from and award grants to State educational agencies to enable such agencies to award Teacher Corps scholarships in accordance with the provisions of this subpart; and

"(7) collect scholarship repayments from individual Teacher Corps members, in accordance with the provisions of section 546.

"(b) STATE EDUCATIONAL AGENCY.—Each State educational agency receiving a grant under this subpart shall use such grant funds to—

"(1) evaluate applications for Teacher Corps membership and award scholarships to Teacher Corps members;

"(2) provide technical assistance to local educational agencies establishing and operating induction programs;

"(3) ensure that Teacher Corps members understand the obligation to repay the scholarships received under this subpart upon failure to comply with the conditions of the scholarship; and

"(4) ensure that Teacher Corps members are fulfilling the obligation to repay scholarships received under this subpart,

and provide the Secretary with the names and addresses of Teacher Corps members who have not fulfilled such obligation.

"(c) SPECIAL RULE.—The Secretary may enter into contracts with or make grants to nonprofit educational organizations for—

"(1) recruiting members of the Teacher Corps;

"(2) establishing and conducting summer preservice training programs; and

"(3) conducting activities that foster communications among and bring together members of the Teacher Corps.

"(d) RESERVATIONS.—Each State receiving a grant under this subpart may reserve—

"(1) 5 percent of such grant funds to provide technical assistance to local educational agencies and to pay administrative costs; and

"(2) 5 percent of such grant funds to provide for induction and mentoring programs.

"(e) SPECIAL RULE.—Each State educational agency receiving a grant under this subpart may enter into contracts with or award grants to nonprofit educational agencies to conduct the activities described in subsection (b).

"SEC. 543. TEACHER CORPS. 20 USC 1106b.

"(a) SELECTION.—The State educational agency shall select Teacher Corps members.

"(b) CRITERIA.—

"(1) IN GENERAL.—The State educational agency shall establish criteria to select Teacher Corps members that are intended to—

"(A) attract highly qualified individuals to teaching; and

"(B) meet the needs of Teacher Corps schools in addressing teacher shortages.

"(2) CRITERIA.—The criteria described in paragraph (1) may include—

"(A) in the case of students or recent graduates, outstanding academic records, or in other cases, contributions which may be made by individuals working in other careers; and

"(B) a demonstrated commitment to teaching or professional experience in substantive fields of expertise in which the State is experiencing or expects to experience teacher shortages.

"(c) SPECIAL CONSIDERATION.—The State educational agency, in selecting Teacher Corps members, shall give special consideration to individuals who—

"(1) intend to teach or provide related services to students with disabilities;

"(2) intend to teach limited-English proficient students;

"(3) intend to teach preschool age children;

"(4) are from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities;

"(5) are members of populations that are underrepresented in the teaching profession or in the curricular areas in which such individuals are preparing to teach;

"(6) intend to teach in the areas of science or mathematics, especially women and minorities who are underrepresented in such fields; or

"(7) intend to teach on Indian reservations or in Alaska Native villages named or certified pursuant to section 3(c) of the Alaska Native Claims Settlement Act, Public Law 92-203, or in areas with high concentrations of Native Hawaiians.

"(d) APPLICATION.—Each individual desiring to participate in the program assisted under this subpart shall submit an application at such time, in such manner, and containing such information as the State educational agency may reasonably require.

20 USC 1106c.

"SEC. 544. STATE APPLICATION.

"In order to receive funds under this subpart, a State educational agency, in consultation with the Governor, shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe how the State educational agency shall select Teacher Corps members;

"(2) identify Teacher Corps schools within the State, where Teacher Corps members shall be assigned, provided that not more than 10 percent of all public schools in the State may be designated Teacher Corps schools;

"(3) provide assurances that the State educational agency, in cooperation with local educational agencies, shall assist in employment placement within such State for Teacher Corps members in Teacher Corps schools;

"(4) provide assurances that the State educational agency, in cooperation with local educational agencies, shall ensure that Teacher Corps members are paid at rates comparable to other entry level teachers in the school district where the Teacher Corps member is assigned;

"(5) provide assurances that the local educational agencies in which the Teacher Corps members shall be placed shall establish or expand induction programs that assist Teacher Corps members in adjusting to the new school and community where such members shall teach, including working with a mentor teacher in the school building where the Teacher Corps members are placed; and

"(6) describe how the State educational agency shall monitor and report to the Secretary not less than annually on the operation of programs assisted under this subpart and on the compliance of individuals who receive Teacher Corps scholarships with the provisions of this subpart.

20 USC 1106d.

"SEC. 545. SCHOLARSHIPS.

"(a) ELIGIBILITY.—

"(1) IN GENERAL.—An individual is eligible to receive Teacher Corps scholarships for a maximum of 3 years during enrollment in any of the following programs of study, or a combination thereof:

"(A) a program of study leading to a baccalaureate degree;

"(B) a 1- or 2-year postbaccalaureate program of study leading to a master's or specialist degree or a teaching certificate; or

"(C) a 2-year program of study leading to an associate's degree in early childhood education or early childhood development, or a 1-year program of study leading to a child development associate credential.

"(2) SPECIAL RULES.—(A) An individual pursuing a program of study described in subparagraph (B) of paragraph (1) is eligible to receive a Teacher Corps scholarship during any of the first 3 years that such individual is employed as a teacher to defray the costs of pursuing such postbaccalaureate instruction.

"(B) An individual in possession of a bachelor's degree, who wishes to enter teaching from another profession, is eligible to receive a Teacher Corps scholarship to enable such individual to receive the instruction necessary to enter the teaching profession, as determined by the State in which the individual wishes to teach. Such instruction may be provided while the individual is employed as a provisional teacher.

"(b) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (d), each Teacher Corps member shall receive a $5,000 scholarship for each academic year of postsecondary education, except that no individual shall receive scholarship assistance for more than 3 years of postsecondary education (including postbaccalaureate), as determined by the Secretary.

"(c) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Each Teacher Corps scholarship awarded pursuant to this subpart shall be considered as student financial assistance in determining eligibility for student assistance under title IV.

"(d) ASSISTANCE NOT TO EXCEED NEED.—Each Teacher Corps scholarship, when added to assistance received under title IV, if any, shall not exceed the cost of attendance, as defined in section 472, at the institution the individual is attending. If the amount of the Teacher Corps scholarship and assistance received under title IV exceeds the cost of attendance, loans received under parts B, D, or E of such title shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(e) CONTINUED ELIGIBILITY.—Each individual who receives a Teacher Corps scholarship shall continue to receive such scholarship payments only during such periods that the State educational agency finds that such individual is—

"(1) enrolled as a full-time student in an accredited postsecondary institution; and

"(2) maintaining satisfactory progress defined under section 484.

"SEC. 546. SCHOLARSHIP CONDITIONS. 20 USC 1106e.

"(a) SCHOLARSHIP AGREEMENT.—Each individual receiving a scholarship under this subpart shall enter into a written agreement with the State educational agency which shall provide assurances that each such individual—

"(1) shall pursue a course of study which meets State requirements for teacher preparation;

"(2) has completed at least 2 years of undergraduate education at an institution of higher education;

"(3) shall maintain satisfactory academic progress and participate in teaching-related activities while in undergraduate or post-baccalaureate programs;

"(4) shall work as a teacher upon completion of such individual's education for 3 years in a Teacher Corps school, as identified by the State educational agency pursuant to section 541(d), except that Teacher Corps members may transfer to another

such school within the State or in another State upon approval of the State educational agency;

"(5) in carrying out the obligation described in paragraph (4), shall meet the performance requirements of—

"(A) the school in which such individual teaches; and

"(B) the local educational agency exercising administrative control or direction of, or performing a service function for such school;

"(6) shall repay all or part of a Teacher Corps scholarship received under section 545(b) plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under subsection (b), in the event that the conditions of this subsection are not complied with, except as provided for in subsection (c);

"(7) at least during the first year of employment, shall participate in an induction program which includes working with a mentor teacher selected by the local educational agency in which the Teacher Corps member is employed and who, to the extent practicable, is teaching in the same subject as the Teacher Corps member; and

"(8) who is not enrolled in a program of study as set forth in section 545(a)(1)(C) shall obtain State teacher certification during the period of employment or as soon as possible as State law requires.

"(b) SCHOLARSHIP REPAYMENT.—

"(1) IN GENERAL.—Individuals found by the State educational agency to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay to the Secretary a pro rata amount of the scholarship awards received, plus interest at the highest rate applicable to loans under part B of title IV and, where applicable, reasonable collection fees, in accordance with the provisions of paragraph (3).

"(2) EXCEPTIONS TO REPAYMENT.—An individual shall not be considered to be in violation of the agreement entered into pursuant to subsection (a) during any period in which such individual meets the exceptions to repayment provisions set forth in section 528(a)(2), 528(a)(3) or 528(b), or if the individual dies.

"(3) REPAYMENT PERCENTAGES.—Each individual found by the Secretary to be in noncompliance with the agreement entered into under subsection (a) shall be required to repay—

"(A) 100 percent of the total amount of scholarships awarded under this subpart if such individual does not teach pursuant to the agreement described in subsection (a) or teaches pursuant to such agreement for less than 1 year;

"(B) 67 percent of such amount if such individual teaches pursuant to such agreement for at least 1 year but less than 2 years; and

"(C) 34 percent of such amount if such individual teaches pursuant to such agreement for at least 2 years but less than 3 years.

"(4) INTEREST.—If a portion of scholarship is repaid under this subsection in any year, the entire amount of interest on such portion of such scholarship which accrues for such year shall be repaid.

"(5) USE OF REPAYMENTS.—Any repayments of scholarships made to the Secretary pursuant to the provisions of this section shall be used by the Secretary to make additional grants in accordance with the provisions of this subpart.

"(c) WAIVER.—The Secretary may provide for the partial or total waiver or suspension of any service obligation or repayment by an individual who received a Teacher Corps scholarship whenever compliance by such individual is impossible or would involve extreme hardship to such individual.

"SEC. 547. PUBLICATION AND RECRUITMENT.

Public information. Minorities. 20 USC 1106f.

"(a) IN GENERAL.—The Secretary shall—

"(1) publicize the availability of, and procedure to apply for, Teacher Corps scholarships, particularly among students participating in teaching-related activities through summer teaching institutes, future teacher clubs, and other teaching-related activities, at institutions of higher education nationwide, particularly in institutions of higher education with large minority enrollments, historically black colleges and universities, secondary schools nationwide (especially such schools with minority enrollment in excess of the statewide average minority enrollment), and with—

"(A) individuals participating in programs assisted under subpart 4 of part A of title IV;

"(B) individuals leaving the armed services, the Peace Corps, VISTA, and programs funded under the National and Community Service Act of 1990;

"(C) community-based organizations working in minority education; and

"(D) other agencies and entities likely to attract individuals interested in entering teaching from another career;

"(2) recruit minority students to participate in the program assisted under this subpart; and

"(3) recruit students with outstanding academic records to participate in such program.

"(b) SPECIAL RULE.—The publications required under subsection (a) shall describe substantive fields of expertise and geographic areas experiencing teacher shortages within the Nation.

"SEC. 548. AUTHORIZATION OF APPROPRIATIONS.

20 USC 1106g.

"There are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

"PART D—INNOVATION AND RESEARCH

"Subpart 1—National Board for Professional Teaching Standards

"SEC. 551. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

20 USC 1107.

"(a) DEFINITIONS.—For the purpose of this subpart—

"(1) The term 'Board' means the National Board for Professional Teaching Standards.

"(2) The term 'Committee' means the Fund for Improvement and Reform of Schools and Teaching Board established in sec-

tion 3231 of the Fund for the Improvement and Reform of Schools and Teaching Act.

"(3) The term 'Director' means the Director of the National Science Foundation.

"(b) PROGRAM AUTHORIZATION.—

"(1) PROGRAM AUTHORIZED.—From sums appropriated pursuant to the authority of subsection (k) in any fiscal year, the Secretary shall, in accordance with this subpart, provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in subsection (d).

"(2) TERMS AND CONDITIONS.—(A) No financial assistance may be made available under this subpart except upon an application as required by subsection (e).

"(B) No financial assistance may be made available under this subpart unless the Secretary determines that—

"(i) the Board will comply with the provisions of this subpart;

"(ii) the Board will use the Federal funds only for research and development activities in accordance with subsection (d) and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

"(iii) the Board—

"(I) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

"(II) will send such announcements to the Secretary, the Director, the National Research Council, and the educational research community;

Federal Register, publication.

"(iv) the Secretary, pursuant to an arrangement with the Board, will publish the announcements described in clause (iii) in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

Federal Register, publication.

"(v) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in clause (iii) for a 30-day period following publication, and after reconsidering any project upon which comment is made or to which exception is taken, issue through the Secretary a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

"(vi) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select, to the extent practicable consistent with standards of excellence—

"(I) a broad range of institutions associated with educational research and development; and

"(II) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

"(vii) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with subsection (g)(4);

"(viii) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

"(ix) the Board will submit an annual report to the Congress in accordance with the provisions of subsection (g)(1); and *Reports.*

"(x) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this subpart, upon the payment of the cost of reproducing the appropriate material.

"(3) AVAILABILITY OF FUNDS.—(A) Notwithstanding any other provision of law, funds appropriated to carry out this subpart shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

"(B) No funds shall be made available to the Board after September 30, 1997, except as authorized by subparagraph (A) of this subsection.

"(c) CONSULTATION.—The Board shall consult at least twice annually with the Committee on the design and execution of its overall research and development strategy, including procedures to assure compliance with the requirements of this subpart. The procedures shall include—

"(1) an outline of specific research and development agenda and activities to be conducted with the Federal funds; and

"(2) provisions to ensure compliance with the open competition and merit review requirements of this subpart for proposals and projects assisted under this subpart.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Federal funds received under this subpart may only be used for research and development activities directly related to the development of teacher assessment and certification procedures for elementary and secondary school teachers.

"(2) PRIORITIES.—(A) The Board shall give priority to research and development activities in—

"(i) mathematics;

"(ii) the sciences;

"(iii) foreign languages; and

"(iv) literacy, including the ability to read, write and analyze.

"(B) The Board shall give priority to research and development activities for the certification of elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

"(i) limited English proficient children;

"(ii) gifted and talented children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children.

"(e) APPLICATION.—

"(1) IN GENERAL.—The Board shall submit applications to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

"(A) describe the activities for which assistance is sought; and

"(B) provide assurances that the non-Federal share of the cost of activities of the Board is paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this subparagraph.

"(2) APPROVAL.—The Secretary shall approve an application unless such application fails to comply with the provisions of this subpart.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities of the Board for the period for which the application is approved under subsection (e).

"(2) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent of the costs of the activities described in subsection (d).

"(g) REPORTS AND AUDITING PROVISION.—

"(1) NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS REPORT.—The Board shall submit an annual report to the appropriate committees of the Congress not later than June 30 of any fiscal year in which Federal funds are expended pursuant to this subpart. The Board shall disseminate the report for review and comment to the Department of Education, the National Science Foundation, the National Research Council, and the education research community. The report shall—

"(A) include a detailed financial statement and a report of the audit practices described in subsection (b)(2)(B)(vii);

"(B) include a description of the general procedures to assure compliance with the requirements of this subpart as required in subsection (d); and

"(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

"(i) the Board's overall research and development program and activities;

"(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

"(I) a description of the goals and methodology of the project;

"(II) a description and assessment of the findings (or status and preliminary findings if the project is not yet completed);

"(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

"(IV) a description of the Board's plans for dissemination of the findings described in clause (ii);

"(iii) the specific research and development projects and activities planned to be conducted with Federal

funds during the succeeding fiscal year, including the goals and methodologies to be used; and

"(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

"(2) FIRST ANNUAL REPORT.—The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

"(3) ADDITIONAL REPORTS.—The Secretary, the Director, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits its annual report pursuant to paragraph (1).

"(4) AUDITING PROVISION.—The Comptroller General of the United States, and any of the Comptroller's authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of the Board, that is pertinent to the sums received and disbursed under this subpart.

"(h) EVALUATION.—

"(1) IN GENERAL.—After September 30, 1995, the Secretary shall reserve not more than 2 percent of the amount appropriated pursuant to the authority of subsection (k) to provide for an independent, ongoing evaluation of the research program of teacher assessments carried out by the Board and the fairness and the accuracy of the data such evaluations produce. The evaluation shall include an analysis of the impact of teacher assessments on minority teachers. The findings of the evaluation shall be submitted to the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives.

"(2) SPECIAL RULE.—The Secretary shall enter into a contract for the performance of the evaluation described in paragraph (1) with a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education). Contracts.

"(i) CONSTRUCTION.—Nothing in this subpart shall be construed to—

"(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

"(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

"(3) infringe upon the practice or accreditation of home school or private school teaching;

"(4) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal;

"(5) authorize the Board to—

"(A) study, create, or promulgate separate standards applicable to home school or private school teachers;

"(B) take any action to require home school, private school, or public school teachers to participate in any program offered by the Board; or

"(C) take any action that infringes in any manner on the right of parents to direct the education of their children; or

"(6) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board.

"(j) VOLUNTARY PARTICIPATION.—Notwithstanding any other provision of this subpart, voluntary participation in certification assessments by the Board shall be open to home school, private school, and public school teachers.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $20,000,000 for the period beginning October 1, 1992, and ending September 30, 1997, to carry out the provisions of this subpart.

Alternative Routes to Teacher Certification and Licensure Act of 1992.
Minorities.
20 USC 1108.

"Subpart 2—Alternative Routes to Teacher Certification and Licensure

"SEC. 552. SHORT TITLE.

"This subpart may be cited as the 'Alternative Routes to Teacher Certification and Licensure Act of 1992'.

20 USC 1108a.

"SEC. 553. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers;

"(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be certified or licensed as teachers;

"(4) alternative routes can enable qualified individuals to fulfill State certification or licensure requirements and would allow school systems to utilize the expertise of such professionals and improve the pool of qualified individuals available to local educational agencies as teachers; and

"(5) alternative routes to certification or licensure requirements that do not exclude qualified individuals from teaching solely because such individuals do not meet traditional certification or licensure requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers.

20 USC 1108b.

"SEC. 554. PURPOSE.

"It is the purpose of this subpart to improve the supply of well-qualified elementary and secondary school teachers by encouraging and assisting States to develop and implement programs for alternative routes to teacher certification or licensure requirements. Such programs shall place special emphasis on the participation of individuals who are members of minority groups.

"SEC. 555. ALLOTMENTS. 20 USC 1108c.

"(a) ALLOTMENTS TO STATES.—

"(1) IN GENERAL.—From the amount appropriated to carry out this subpart, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 556 or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

"(2) REALLOCATION.—If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallocate the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this subpart shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

"SEC. 556. STATE APPLICATIONS. 20 USC 1108d.

"(a) IN GENERAL.—Any State desiring to receive a grant under this subpart shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary considers necessary, including assurances that—

"(A) assistance provided to the State educational agency under this subpart will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher certification or licensure requirements;

"(B) the State educational agency has, in developing and designing the application, consulted with—

"(i) representatives of local educational agencies, including superintendents and school board members (including representatives of their professional organizations where applicable);

"(ii) elementary and secondary school teachers, including representatives of their professional organizations;

"(iii) institutions of higher education with schools or departments of education;

"(iv) parents; and

"(v) other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this subpart and the results achieved. Reports.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this subpart.

20 USC 1108e.

"SEC. 557. USE OF FUNDS.

"(a) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use assistance provided under this subpart to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that enable individuals to move to a career in education from another occupation through an alternative route to teacher certification or licensure.

"(2) TYPES OF ASSISTANCE.—A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) USES.—Funds received under this subpart may be used for—

"(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State certification or licensure requirements;

"(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State requirements for certification or licensure;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers entering the school system through alternative routes to teacher certification or licensure;

"(4) the development of recruitment strategies;

"(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers; and

"(6) other appropriate programs, projects, and activities designed to meet the objectives of this subpart.

20 USC 1108f.

"SEC. 558. DEFINITION.

"For purposes of this subpart, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99–658).

20 USC 1108g.

"SEC. 559. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart $15,000,000 for fiscal year 1993.

"Subpart 3—Class Size Demonstration Grant

20 USC 1109.

"SEC. 561. PURPOSE.

"It is the purpose of this subpart to provide grants to local educational agencies to enable such agencies to determine the benefits in various school settings of reducing class size on the educational performance of students and on classroom management and organization.

20 USC 1109a.

"SEC. 562. PROGRAM AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall carry out a program of awarding grants, in accordance with the provisions of this subpart, to local educational agencies to pay the Federal share of the costs of conducting demonstration projects that demonstrate methods of reducing class size which may provide information meaningful to other State and local educational agencies.

"(2) FEDERAL SHARE.—The Federal share shall be 50 percent.

"(b) RESERVATION.—The Secretary may reserve not more than 5 percent of the amount appropriated pursuant to the authority of section 565A in each fiscal year to carry out the evaluation activities described in section 565.

"(c) SELECTION CRITERIA.—The Secretary shall make grants to local educational agencies on the basis of—

"(1) the need and the ability of a local educational agency to reduce the class size of an elementary or secondary school served by such agency;

"(2) the ability of a local educational agency to furnish the non-Federal share of the costs of the demonstration project for which assistance is sought;

"(3) the ability of a local educational agency to continue the project for which assistance is sought after the termination of Federal financial assistance under this subpart; and

"(4) the degree to which a local educational agency demonstrates in the application submitted pursuant to section 564 consultation in program implementation and design with parents, teachers, school administrators, and local teacher organizations, where applicable.

"(d) PRIORITY.—In awarding grants under this subpart, the Secretary shall give priority to demonstration projects that involve at-risk students, including educationally or economically disadvantaged students, students with disabilities, limited-English proficient students, and young students. Disadvantaged. Handicapped.

"(e) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency shall use the Federal funds received under this subpart to supplement and not supplant other Federal, State and local funds available to the local educational agency.

"SEC. 563. PROGRAM REQUIREMENTS. 20 USC 1109b.

"(a) ANNUAL COMPETITION.—In each fiscal year, the Secretary shall announce the factors to be examined in a demonstration project assisted under this subpart. Such factors may include—

"(1) the magnitude of the reduction in class size to be achieved;

"(2) the level of education and the subject areas in which the demonstration projects shall occur;

"(3) the form of the instructional strategy to be demonstrated; and

"(4) the duration of the project.

"(b) RANDOM TECHNIQUES AND APPROPRIATE COMPARISON GROUPS.—Demonstration projects assisted under this subpart shall be designed to utilize randomized techniques or appropriate comparison groups, where feasible.

"SEC. 564. APPLICATION. 20 USC 1109c.

"(a) IN GENERAL.—In order to receive a grant under this subpart a local educational agency shall submit an application to the Secretary that is responsive to the announcement described in section

563(a), at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) DURATION.—The Secretary shall encourage local educational agencies to submit applications under this subpart for a period of 3 years.

"(c) CONTENTS.—Each application submitted pursuant to subsection (a) shall include—

"(1) a description of the objectives to be attained with the financial assistance made available under this subpart and the manner in which such financial assistance shall be used to reduce class size;

"(2) a description of the steps to be taken to achieve target class sizes, including, where applicable, the acquisition of additional teaching personnel and classroom space;

"(3) a statement of the methods for the collection of data necessary for the evaluation of the impact of class size reduction programs on student achievement;

"(4) an assurance that the local educational agency shall pay from non-Federal sources the non-Federal share of the costs of the demonstration project for which assistance is sought; and

"(5) such additional assurances as the Secretary may reasonably require.

"(d) SUFFICIENT SIZE AND SCOPE REQUIRED.—The Secretary shall only award grants under this subpart to applicants having applications which describe projects of sufficient size and scope to contribute to carrying out the purposes of this subpart.

20 USC 1109d.

"SEC. 565. EVALUATION AND DISSEMINATION.

"(a) NATIONAL EVALUATION.—The Secretary shall conduct a national evaluation of the demonstration projects assisted under this subpart to determine the costs incurred in achieving the reduction in class size and the effects of the reductions on outcomes, such as student performance in the affected subjects or grades, attendance, discipline, classroom organization, management, and teacher satisfaction and retention.

"(b) COOPERATION.—Each local educational agency receiving a grant under this subpart shall cooperate in the national evaluation described in subsection (a) and shall provide such information to the Secretary as the Secretary may reasonably require.

"(c) REPORTS.—The Secretary shall report to the Congress on the results of the evaluation conducted pursuant to subsection (a).

"(d) DISSEMINATION.—The Secretary shall widely disseminate information about the results of the class size demonstration projects assisted under this subpart.

20 USC 1109e.

"SEC. 565A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

"Subpart 4—Middle School Teaching Demonstration Programs

"SEC. 566. STATEMENT OF PURPOSE. 20 USC 1110.

"It is the purpose of this subpart to provide financial assistance to institutions of higher education which offer teacher training or retraining programs to develop model programs with a specialized focus on teaching grades 6 through 9.

"SEC. 567. DEFINITIONS. 20 USC 1110a.

"As used in this subpart:

"(1) The term 'developmentally appropriate' means a program that is appropriate for a child's age and all areas of an individual child's development, including educational, physical, emotional, social, cognitive, and communication.

"(2) The term 'middle school' means a school which enrolls students in at least two of the grades 6, 7, 8, and 9.

"SEC. 568. PROGRAM AUTHORIZED. 20 USC 1110b.

"(a) IN GENERAL.—The Secretary is authorized to make grants, on a competitive basis, to institutions of higher education to develop model programs with a specialized focus on teaching grades 6 through 9.

"(b) SPECIAL RULE.—

"(1) EQUITABLE DISTRIBUTION.—The Secretary shall ensure an equitable geographic distribution of grants awarded under this subpart.

"(2) CONSIDERATION.—The Secretary shall take into consideration equitable levels of funding for urban and rural areas in awarding grants under this subpart.

"(c) GRANT PERIOD.—Grants under this subpart may be awarded for a period not to exceed 3 years.

"(d) FUNDING LIMITATION.—Grants awarded under this subpart may not exceed $250,000 in the first year of funding.

"SEC. 569. APPLICATION. 20 USC 1110c.

"(a) IN GENERAL.—Each institution of higher education desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall demonstrate that—

"(1) the applicant will establish and maintain a program of teacher training or retraining designed to offer specialized preparation for individuals teaching grades 6 through 9;

"(2) the applicant has designed a program of teacher training or retraining which includes—

"(A) a study of adolescent development (including cognitive, social, and emotional) with particular emphasis on early adolescent development;

"(B) a study of the influence of institutions such as schools, families, and peer groups in the socialization of adolescents;

"(C) information concerning the organization of schools for students in grades 6 through 9, with particular emphasis on developmentally appropriate school and classroom organization and practices;

"(D) training in at least 2 subject areas and related instructional strategies;

"(E) direct experience through internships in middle grade schools under the guidance of teachers who demonstrate exemplary classroom practices;

"(F) strategies for the prevention and detection of high risk behavior, particularly drug and alcohol abuse, and for the enhancement of self esteem among adolescents;

"(G) a study of effective methods and models of presenting substance abuse information and education to adolescent students; and

"(H) methods of encouraging parental and community involvement with middle schools; and

"(3) the program will be designed and operated with the active participation of classroom teachers and will include an in-service training component.

20 USC 1110d.

"SEC. 570. REPORTS AND INFORMATION DISSEMINATION.

"Each institution of higher education receiving a grant under this subpart shall submit to the Secretary such reports and other information regarding programs conducted under this subpart as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education, State educational agencies, and local educational agencies.

20 USC 1110e.

"SEC. 570A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this subpart.

"PART E—MINORITY TEACHER RECRUITMENT

"Subpart 1—New Teaching Careers

20 USC 1111.

"SEC. 571. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to establish and operate new career programs to attract minority candidates, who are in school support or paraprofessional positions in shortage area schools serving disadvantaged students, to careers as certified or licensed teachers.

20 USC 1111a.

"SEC. 572. STATE GRANT AUTHORITY; APPLICATIONS.

"(a) AUTHORITY.—

"(1) GRANTS BY SECRETARY.—In any fiscal year in which appropriations for this subpart do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with this subpart, to award grants, on a competitive basis, to States to enable States to pay the Federal share of supporting programs that carry out the purpose of this subpart.

"(2) STATE GRANT PROGRAM.—In any fiscal year in which appropriations for this subpart equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to States in accordance with allocations under subsection (b) to enable States to pay the Federal share of supporting programs that carry out the purposes of this subpart.

"(b) ALLOCATION AMONG STATES.—Except as provided in subsection (a)(1), each State shall be eligible to receive a grant under

this subpart in each fiscal year that bears as nearly as possible the same ratio to the amount appropriated under section 576C as the allocation of funds under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 in that State bears to the total allocation of such funds in all States, except that no State grant shall be less than $500,000 in any fiscal year.

"(c) DURATION OF GRANT.—Each grant awarded under this subpart shall be awarded for a term of 5 years, subject to the availability of appropriations.

"(d) FEDERAL SHARE.—The Federal share of each grant awarded under this subpart shall be 75 percent in the first year in which the State receives a grant, 65 percent in the second such year, 55 percent in the third such year, 45 percent in the fourth such year, and 35 percent in the fifth such year.

"(e) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this subpart may be in cash or in kind fairly evaluated, including planned equipment or services.

"(f) SUBMISSION OF STATE APPLICATIONS.—In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall—

"(1) contain assurances that the State will award grants on a competitive basis to eligible recipients submitting applications described in section 574;

"(2) set forth a program of activities for carrying out the purposes set forth in this subpart in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"SEC. 573. AGREEMENTS. 20 USC 1111b.

"Each State receiving a grant under this subpart shall enter into an agreement with the Secretary. Each such agreement shall include provisions designed to ensure that—

"(1) the State educational agency, the State higher education agency, or the State agency which administers subpart 4 of part A of title IV, relating to State student incentive grants, will administer the program authorized by this subpart in the State;

"(2) the State educational agency or higher education agency will use not more than 5 percent of the grant it receives for administrative expenses;

"(3) the State educational agency or higher education agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary; and Records.

"(4) the State will establish a system for the evaluation of the programs assisted under this subpart.

"SEC. 574. APPLICATION. 20 USC 1111c.

"(a) IN GENERAL.—A grant under this subpart may be made only to an eligible recipient which submits an application to the State containing or accompanied by such information as the State may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) set forth the number of expected participants in each program assisted under this subpart;

"(3) demonstrate steps on a career ladder leading to the position of fully credentialed teacher, ranging from nonskilled entry positions, extending through intermediate subprofessional functions, and terminating in full professional status as a certified teacher duly recognized by the appropriate State agency;

"(4) contain assurances that advancement within such career ladders would be based on merit, but that the opportunity for professional growth is available to all;

"(5) demonstrate a plan for employing permanently individuals who have participated in the program at their new level of training, including individuals who terminate the program at a level below that of fully credentialed teacher;

"(6) demonstrate a plan for bringing a sizable portion of the educational program and coursework to the place of the participant's employment;

"(7) demonstrate a plan for providing academic credit for in-service training and other relevant experience as well as formal academic coursework;

"(8) provide for participation of individuals who have attained various levels of education, including individuals who have not completed high school, with special consideration for such participation given to individuals already serving within the school system;

"(9) provide assurances that the program assisted under this subpart will be available to individuals with disabilities; and

"(10) contain such other assurances as the State may reasonably require.

20 USC 1111d.

"SEC. 575. REQUIREMENTS.

"(a) GENERAL REQUIREMENTS.—An eligible recipient of a grant under this subpart shall require that any paraprofessional who receives student financial assistance under this subpart and who becomes a fully certified or licensed teacher enter into an agreement under which the paraprofessional shall—

"(1) within the 10-year period after completing the postsecondary education for which the assistance was provided, act as an educational professional or a paraprofessional in the local educational agency that is a consortium member of the eligible recipient providing such assistance, or, if no teaching position is offered by such local educational agency, in a shortage area school approved by the State for a period of not less than one year for each full-time academic year or equivalent for which the assistance was received;

"(2) provide to the State evidence of compliance with paragraph (1); and

"(3) repay that portion of the student financial assistance received under this subpart which was provided for tuition, plus interest and reasonable collection costs (if applicable), in the event that the teacher fails to comply with the conditions of paragraph (1), in accordance with the regulations prescribed by the Secretary under section 527, except that the provisions of this paragraph shall not apply to anyone for whom no teach-

ing position was made available by the local educational agency or State, or in the circumstances provided in section 528.

"(b) AMOUNT OF FINANCIAL ASSISTANCE.—The amount of financial assistance awarded under this subpart shall be reduced by the amount that the financial assistance exceeds the student's cost of attendance, as defined in section 472. Financial assistance awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

"SEC. 576. SPECIAL CONSIDERATION. 20 USC 1111e.

"In awarding grants under this subpart, the State shall give special consideration to—

"(1) programs designed to identify, recruit, and certify—

"(A) speakers of non-English languages who have been trained as teachers in their home country; or

"(B) individuals already employed in a local educational agency; and

"(2) eligible recipients located in shortage areas as defined in section 576B.

"SEC. 576A. USE OF FUNDS. 20 USC 1111f.

"Funds provided to eligible recipients pursuant to this subpart may be used for—

"(1) tuition or part or all of the costs of attendance (as determined under section 472) for participants in programs assisted under this subpart;

"(2) the release time of such participants;

"(3) instructional and supportive services for such participants in such programs; and

"(4) stipends for child care to such participants whose academic coursework takes place outside the normal workday.

"SEC. 576B. DEFINITIONS. 20 USC 1111g.

"For the purpose of this subpart—

"(1) the term 'certified or licensed teacher' means an individual who possesses a document certifying that the individual has met the requirements of a State for employment as a teacher in the public schools of that State (including individuals who have been certified as specialists in preschool and early childhood education);

"(2) the term 'eligible recipient' means a consortium of—

"(A) an institution of higher education, and

"(B) one or more local educational agencies.

"(3) the term 'paraprofessional' means an individual with at least a high school diploma or recognized equivalent who is employed in a preschool or elementary or secondary school under the supervision of a certified or licensed teacher, including individuals employed in bilingual education, special education, and migrant education;

"(4) the term 'school support' means an individual who is employed by a local educational agency; and

"(5) the term 'shortage area' means (A) an area the Secretary has designated as an area with a shortage of elementary and secondary school teachers, or (B) a shortage in a designated subject area as described in section 530A of this Act.

20 USC 1111h.

"SEC. 576C. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this subpart.

"Subpart 2—Programs to Encourage Minority Students to Become Teachers

20 USC 1112.

"SEC. 577. STATEMENT OF PURPOSE.

"It is the purpose of the program conducted pursuant to section 578 to carry out activities designed to—

"(1) improve recruitment and training opportunities in education for minority individuals, including language minority individuals;

"(2) increase the number of minority teachers, including language minority teachers, in elementary and secondary schools; and

"(3) to identify and encourage minority students in the 7th through the 12th grades to aspire to, and to prepare for, careers in elementary and secondary school teaching.

20 USC 1112a.

"SEC. 578. PARTNERSHIP GRANTS AUTHORIZED.

"(a) AUTHORITY.—The Secretary is authorized to make grants to pay the Federal share of carrying out the purposes of this subpart to a partnership between—

"(1) one or more institutions of higher education which have a demonstrated record and special expertise in carrying out the purposes of this subpart; and

"(2)(A) one or more local educational agencies;

"(B) a State educational agency or a State higher education agency; or

"(C) community-based organizations.

"(b) FEDERAL SHARE.—The Federal share of each grant awarded under this section shall be 50 percent.

"(c) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this section may be in cash or kind fairly evaluated, including planned equipment or services.

"(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

20 USC 1112b.

"SEC. 579. PARTNERSHIP AGREEMENT.

"(a) IN GENERAL.—In order to be eligible for a grant under section 578, a partnership shall enter into a written partnership agreement. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources, if any, to be contributed to the partnership.

"(c) SELECTION CRITERIA.—In making grants under section 578, the Secretary shall approve applications which contain provision for projects designed to carry out the purposes described in section 577 and which—

"(1) identify students who indicate an interest in entering the teaching profession, and provide such individuals with support programs such as—

"(A) scholarship funds to meet expenses;

"(B) remedial and tutoring programs;

"(C) counseling and support services;

"(D) academic advice and guidance in course selection to prepare for teacher certification;

"(E) information and advice regarding eligibility for membership in the Teacher Corps established under subpart 3 of part C of this title, and other financial assistance programs;

"(F) teaching mentors;

"(G) motivational activities;

"(H) teaching skill development;

"(I) future teacher clubs; and

"(J) instruction in test-taking skills.

"(2) establish or strengthen teacher training programs;

"(3) establish or enhance early identification/articulation partnership programs with secondary schools and community colleges;

"(4) establish partnerships with graduate schools of education to foster and facilitate the movement of minority students into post-graduate studies;

"(5) establish programs and activities which foster and facilitate the movement of students interested in pursuing teaching careers from 2-year institutions to 4-year institutions, focusing particular attention on facilitating the transfer of academic credit; and

"(6) improve existing assessment practices that determine an individual's qualifications to become a teacher.

"SEC. 580. APPLICATION FOR TEACHER PARTNERSHIPS PROGRAM. 20 USC 1112c.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under section 578 shall submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement required by section 579;

"(2) set forth the individuals to be served;

"(3) a listing of the elementary, if applicable, and secondary schools of the local educational agency to be involved in the program assisted under this subpart;

"(4) a description of the services and activities to be offered under the program assisted under this subpart; and

"(5) such additional information and assurances as the Secretary may reasonably require.

"(c) STATE EDUCATIONAL AGENCY REVIEW.—Each application from a partnership for a grant under section 578 shall be forwarded to the appropriate State educational agency (unless the State educational agency is a member of the partnership) for review and comment if the State educational agency requests the opportunity for such a review. The State educational agency must complete a review of such application and comment to the Secretary within 30 calendar days of receipt. Failure of the State educational agency to submit comments to the Secretary shall not prejudice such application.

20 USC 1112d.

"SEC. 580A. TEACHER PLACEMENT PROGRAM.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education that have schools or departments of education to pay the Federal share of developing and carrying out programs and activities designed to—

"(A) prepare and train students to become elementary and secondary school teachers; and

"(B) to the extent practicable, place the students as teachers in urban and rural public or private nonprofit elementary or secondary schools where at least 50 percent of students enrolled are from minority groups.

"(2) FEDERAL SHARE.—The Federal share of each grant awarded under this section shall be 50 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of each grant awarded under this section may be in cash or in kind fairly evaluated, including planned equipment or services.

"(b) USE OF FUNDS.—Grants under this section may be used for the costs of developing and carrying out the program of teacher preparation, training, and placement described in subsection (a).

"(c) APPLICATIONS.—No grant may be made under this section unless an application to the Secretary is made by the institution of higher education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(d) SPECIAL CONSIDERATION.—The Secretary is authorized, in making grants under this section, to give special consideration to historically Black colleges and universities and to institutions which—

"(1) are eligible to receive funds under part C of title X; and

"(2) have enrollments of at least 50 percent minority students in their teacher education programs.

"(e) PERFORMANCE INCENTIVE.—In any fiscal year beginning after September 30, 1993, the Secretary may, based upon evaluation and monitoring of programs assisted under this section, increase the Federal share for a recipient of funds under this section for the succeeding fiscal year to 75 percent, if the Secretary determines that there is demonstrated success in the operation of the program assisted by such recipient.

"(f) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant awarded under this section may be used for administrative expenses.

20 USC 1112e.

"SEC. 580B. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—There are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years, of which not more than 2/3 shall be available to carry out programs under section 578 and not less than 1/3 shall be available to carry out programs under section 580A.

"PART F—PROGRAMS FOR SPECIAL POPULATIONS

"Subpart 1—National Mini Corps Program

"SEC. 581. NATIONAL MINI CORPS. 20 USC 1113.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education to enable such institutions to establish partnerships with local educational agencies to carry out the purposes of the National Mini Corps Program.

"(b) DEFINITIONS.—As used in this subpart—

"(1) the term 'children' means children who are eligible to receive services under part A or subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(2) the term 'individual' (A) has the same meaning as the terms 'first generation college student' and 'low income individual' as defined under section 402A(g)(2) of this Act, or (B) means a student enrolled in an institution of higher education who is the child of current or former migratory workers (including migratory agricultural dairy workers) or of migratory fishermen.

"(c) PURPOSE OF THE PROGRAM.—It is the purpose of the National Mini Corps Program to—

"(1) provide individuals who are enrolled or plan to enroll in an institution of higher education with advisement, training, and instructional services, and to encourage individuals to be role models for children;

"(2) provide outreach and recruitment services to encourage individuals to enroll in teacher education programs;

"(3) provide support and instructional services to individuals who are enrolled in an institution of higher education to enable such individuals to provide direct instructional services, which are coordinated with the overall educational goals of the State or local educational agency, to children eligible to receive services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 during the regular school year or summer term. Such support and services may include—

"(A) lessons and provision of materials that meet the academic needs of children in the classroom;

"(B) supplemental instruction to reinforce the basic skills and concepts provided through instruction by the teacher;

"(C) instruction in other subject areas;

"(D) academic assistance, home visits, parental involvement, parent-student advisement services, and family advocacy; and

"(E) stipends for individuals who participate in the program assisted under this subpart for at least 10 but not more than 15 hours per week;

"(4) designate college coordinators at participating institutions of higher education to train, supervise, and assign individuals to carry out the activities of this subpart in cooperation with State and local educational agencies in which children with special needs have been identified; and

"(5) support other appropriate activities related to encouraging individuals to enter the teaching profession and to provide a link to the community.

"(d) APPLICATION REQUIRED.—Institutions of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary which shall include—

"(1) a written partnership agreement with the State and local educational agency in which the children have been identified for participation in the activities under this subpart;

"(2) a description of the strategies that will be employed to engage the community generally in the activities and programs supported by the programs under this subpart;

"(3) a description of the process by which individuals will be recruited and selected to participate in the programs assisted under this subpart;

"(4) a description of the programs and activities which will be supported by the programs under this subpart; and

"(5) such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed Mini Corps Program, and the capability of the applicant to implement the proposed Mini Corps Program.

"(e) AWARDING OF GRANTS.—In awarding grants under this subpart, the Secretary shall ensure, to the extent practicable, that—

"(1) grants are equitably distributed on a geographic basis throughout the Nation and among a variety of communities;

"(2) the amount of the grant awarded is proportionate to the number of individuals and children who, on the basis of the grant application, are expected to be involved in the programs and activities supported by the National Mini Corps; and

"(3) not less than 30 percent of the grants awarded under this subpart are awarded for programs serving migrant students and children.

"(f) USES OF FUNDS.—Funds provided under this part may be used for planning, implementing and operating a National Mini Corps Program, except that not more than 5 percent of any grant received under this subpart may be used for administrative costs.

Reports. "(g) EVALUATION.—The Secretary shall, by January 1, 1996, evaluate the demonstration program assisted under this part and report the results of such evaluation to the appropriate committees of the Congress.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"Subpart 2—Foreign Language Instruction

20 USC 1114.

"SEC. 586. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

"(1) operate critical language and area studies programs;

"(2) develop and acquire educational equipment and materials; and

"(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

"(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

"(c) SPECIAL RULES.—

"(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

"(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

"(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

"(d) ELIGIBLE CONSORTIUM.—

"(1) IN GENERAL.—For the purposes of this section, the term 'eligible consortium' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

"(A) one shall be an institution of higher education;

"(B) one shall be a secondary school with experience in teaching critical languages;

"(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

"(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

"(f) APPLICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit

the application described in paragraph (1) on behalf of such eligible consortium.

"(g) DEFINITIONS.—For purposes of this section, the term 'critical language' means each of the languages contained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413).

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

20 USC 1114a.

"SEC. 587. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to provide one or more grants on a competitive basis to a State or local educational agency, an institution of higher education, a private nonprofit foreign language organization, a nonprofit education association, or a consortium thereof, to enable such entity to act as a resource center for—

"(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

"(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

"(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Program Assistance Act.

"(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

"Subpart 3—Small State Teaching Initiative

20 USC 1115.

"SEC. 591. MODEL PROGRAMS AND EDUCATIONAL EXCELLENCE.

"(a) PURPOSE.—It is the purpose of this section to provide sufficient funds to small States to enable such States to develop model programs for educational excellence, teacher training and educational reform.

"(b) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—The Secretary is authorized to make grants to small States in order to enable such States to make grants to eligible institutions for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

"(2) EQUITABLE DISTRIBUTION.—The Secretary shall award grants described in paragraph (1) in equal amounts among small States having applications approved under subsection (e).

"(c) INSTITUTIONAL USE OF FUNDS.—Eligible institutions receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms.

"(d) DEFINITIONS.—

"(1) SMALL STATE.—For the purposes of this section the term 'small State' means a State the total population of which is less than 1,108,500 as reported in the 1990 Census of Population and Housing.

"(2) ELIGIBLE INSTITUTION.—For the purposes of this section, the term 'eligible institution' means any institution of higher education (as such term is defined in section 1201(a)) that is located in a small State and that provides a course of study which prepares an individual to become a classroom teacher.

"(e) APPLICATION.—Any eligible institution which desires to receive a grant under this section shall submit to the State an application which—

"(1) if the State educational agency is not administering the program assisted under this subpart, certifies that the State educational agency has participated in the development of the application;

"(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution; and

"(3) describes how the institution will use the funding.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the 4 succeeding fiscal years.

"Subpart 4—Faculty Development Grants

"SEC. 593. TRAINING GRANTS. 20 USC 1116.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized to award grants to institutions of higher education to enable such institutions to—

"(1) develop model programs that provide training to secondary school faculty to prepare students with disabilities for postsecondary educational opportunities; and

"(2) establish programs of faculty development for faculty who teach in an institution of higher education to prepare such faculty for the enrollment of students with disabilities at such institution.

"(b) USE OF GRANTS.—The grants described in subsection (a) may be used to—

"(1) provide scholarships, including stipends and allowances, to faculty described in paragraph (1) or (2) of subsection (a);

"(2) develop materials and inservice programs to assist such faculty in making the curriculum at an institution of higher education accessible to students with disabilities; and

"(3) provide funds to support the release of such faculty from teaching assignments for the purpose of educating such faculty regarding the needs of students with disabilities.

"(c) SPECIAL RULES.—The Secretary shall ensure that grants awarded under subsection (a)(1) are used for programs that are in compliance with State and professionally recognized standards for the training of special education personnel.

"(d) APPLICATION.—Each institution of higher education desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subpart $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"Subpart 5—Early Childhood Education Training

20 USC 1117.

"SEC. 596. TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING.

"(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to institutions of higher education to enable such institutions to establish innovative programs to recruit and train students for careers in—

"(1) early childhood development and care, or preschool programs; or

"(2) providing counseling to young children from birth to 6 years of age who have been affected by violence and to adults who work with such young children.

"(b) APPLICATION.—An institution of higher education desiring a grant pursuant to subsection (a) shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require. Each such application shall—

"(1) describe the activities and services for which assistance is sought;

"(2) contain a plan in accordance with subsection (c);

"(3) demonstrate that such institution has the capacity to implement such plan; and

"(4) provide assurances that such plan was developed in consultation with agencies and organizations that will assist the institution in carrying out such plan.

"(c) PLAN.—Each application described in subsection (a) shall contain a comprehensive plan for the recruitment, retention and training of students seeking careers in early childhood development or violence counseling. Such plan shall include a description of—

"(1) specific strategies for reaching students at secondary schools, community colleges, undergraduate institutions, or other agencies and institutions from which such students are to be drawn for participation in the program, including any partnerships with such institutions;

"(2) specific strategies for retaining such students in the program, such as summer sessions, internships, mentoring, and other activities;

"(3) methods that will be used to ensure that students trained pursuant to the plan will find employment in early childhood education, development and care, or violence counseling;

"(4) the goals, objectives, and timelines to be used in assessing the success of the plan and of the activities assisted under this section;

"(5) the curriculum and training leading to the degree or credential that prepares students for the careers described in the plan;

"(6) the special plans, if any, to assure that students trained pursuant to the plan will be prepared for serving in economically disadvantaged areas; and

"(7) sources of financial aid, to ensure that the training program offered pursuant to this section is available to all qualified students.

"(d) SELECTION AND PRIORITIES.—In evaluating the applications submitted under this section, the Secretary shall prescribe criteria regarding such evaluation and shall give priority in granting funds to institutions that— Handicapped.

"(1) prepare students for work in economically disadvantaged areas;

"(2) plan to focus their recruitment, retention, and training efforts on disadvantaged students; and

"(3) have demonstrated effectiveness in providing the type of training for which the institution seeks assistance under this section.

"(e) DURATION AND AMOUNT.—

"(1) DURATION.—A grant under this section shall be awarded for a period of not less than 3 years nor more than 5 years.

"(2) AMOUNT.—The total amount of the grant awarded under this section to any institution of higher education for any 1 year shall not be less than $500,000 nor more than $1,000,000.

"SEC. 597. EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT. 20 USC 1117a.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary shall award grants, on a competitive basis, to States in accordance with the provisions of this section.

"(2) DURATION.—Grants under this section shall be awarded for a period of 5 years.

"(b) APPLICATION.—A State desiring a grant pursuant to this section shall submit an application to the Secretary at such time, in such form and containing or accompanied by such information or assurances as the Secretary may require.

"(c) LEAD AGENCY.—

"(1) DESIGNATION OF LEAD AGENCY.—The chief executive officer of a State, in consultation with the State educational agency, desiring to receive a grant shall designate an appropriate State agency to act as the lead agency to—

"(A) administer funds received under this section;

"(B) develop a State plan pursuant to subsection (e); and

"(C) coordinate the provision of services with other appropriate Federal, State, and local programs.

"(2) ADVISORY COMMITTEE.—The lead agency shall establish an advisory committee, described in subsection (d), to assist in developing the plan required under subsection (e).

"(d) ADVISORY COMMITTEE.—Each advisory committee established pursuant to subsection (c)(2) shall consist of a representative of

the following agencies, institutions, organizations, divisions, programs or departments in the State to the extent such entities exist within such State:

"(1) The lead State agency responsible for administering funds received under the Child Care Development and Block Grant Act.

"(2) Other State agencies administering or regulating childcare, early childhood development or education programs.

"(3) Institutions of higher education.

"(4) Organizations representing early childhood development staff and parents.

"(5) A local child care resource and referral agency or an organization representing local child care resource and referral.

"(6) A State Head Start association.

"(7) An organization with significant experience in training in the fields of early childhood development, early care and early education.

"(8) State agencies or departments administering or regulating employment, job training, and community development programs.

"(e) STATE PLAN.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit, through the lead agency, a plan to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. The Secretary shall consult with the Secretary of Health and Human Services regarding the contents of such plan.

"(2) CONTENTS.—Each plan submitted pursuant to subsection (a) shall—

"(A) identify the lead agency as described in subsection (c);

"(B) assess the training offerings and content of such offerings, amount of training required for an early childhood development staff license or certificate, compensation, recruitment and turnover of staff, and any coordination of training offerings and professional growth of early childhood development staff in the State;

"(C) describe the goals of the activities assisted under this part; and

"(D) describe how the State shall—

"(i) identify and maintain a career development path, based on a progression of roles for early childhood development staff, with each role articulated with training and different levels of responsibility and suggested compensation, in such manner as will permit an individual to qualify for a more responsible role;

"(ii) ensure that trainers of early childhood development staff in the State are qualified, licensed or certified in accordance with State law;

"(iii) describe the ways in which the State will encourage the coordination of training programs among institutions of higher education, including, if practicable, transfer of credits among institutions;

"(iv) set forth the ways in which the State will pay the costs of any assessment, credentialing, certification, licensing, training offering, training inventory, increase

in staff participation in training, or other services assisted by a grant under this section;

"(v) describe the ways in which the State plans to coordinate the various State and local agencies and organizations to maximize coordination of standards and requirements for certifications, licenses, and accreditations;

"(vi) describe the ways in which the State will compile and disseminate information on—

"(I) training offerings;

"(II) requirements for admission into courses and programs;

"(III) requirements for a license, certificate, credential, or degree to which such offerings may be applied;

"(IV) funding sources available for such activities; and

"(V) the cost of training offerings; and

"(vii) describe the ways in which the State will use the funds received under this section and any other funds available to the State to carry out the activities described in the State plan.

"SEC. 598. REPORT. 20 USC 1117b.

"Each institution of higher education or State receiving a grant under this subpart shall submit to the Secretary program reports and evaluations at such times and containing such information as the Secretary may require.

"SEC. 599. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1117c.

"(a) TRAINING IN EARLY CHILDHOOD EDUCATION AND VIOLENCE COUNSELING.—To carry out activities described in section 596, there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) EARLY CHILDHOOD STAFF TRAINING AND PROFESSIONAL ENHANCEMENT.—To carry out activities described in section 597, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(b) EXPIRATION DATE.—Effective July 1, 1995, the Alternative Routes to Teacher and Principal Certification and Licensure Act of 1992 (as contained in subpart 2 of part D of title V of this Act) is repealed. 20 USC 1108.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. REVISION OF TITLE VI.

Title VI of the Act (20 U.S.C. 1121 et seq.) is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

20 USC 1121.

"SEC. 601. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) PURPOSES.—It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, to develop a pool of international experts to meet national needs, and to coordinate the programs of the Federal Government in the areas of foreign language, area and other international studies, including professional international affairs education, and research.

20 USC 1122.

"SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS.

"(a) NATIONAL LANGUAGE AND AREA CENTERS AUTHORIZED.—

"(1) GENERAL AUTHORITY.—The Secretary is authorized—

"(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.

"(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including the cost of—

"(A) faculty, staff, and student travel in foreign areas, regions, or countries;

"(B) teaching and research materials;

"(C) curriculum planning and development;

"(D) bringing visiting scholars and faculty to the center to teach or to conduct research;

"(E) establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program; and

"(F) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary, for carrying out the objectives of this section.

"(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1)(A) having important library collections for the maintenance of such collections.

"(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers described in paragraph (1)(A) for any one or combination of the following purposes:

"(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

"(B) Programs of linkage or outreach with 2 and 4-year colleges and universities.

"(C) Programs of linkage or outreach with departments or agencies of Federal and State Governments.

"(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

"(E) Summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D) of this paragraph.

"(b) STIPENDS FOR FOREIGN LANGUAGE AND AREA STUDIES.—

"(1) GRADUATE STIPENDS.—(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

"(B) Students receiving stipends described in subparagraph (A) shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) DOCTORAL STIPENDS.—(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to students beginning with their third year of graduate training in any center or program approved by the Secretary under this part.

"(B) Students receiving stipends described in subparagraph (A) shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

"(C) Stipends shall be for the purpose of completing degree requirements, such as the predissertation level studies,

preparation for dissertation research including the study of less commonly taught languages, dissertation research abroad, and dissertation writing.

"(D) Students may receive stipends described in subparagraph (A) for a maximum of 4 years if such students make satisfactory progress toward completion of a degree program.

"(3) FUNDING LIMITATIONS.—The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1992 under paragraph (1).

"(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

20 USC 1123.

"SEC. 603. LANGUAGE RESOURCE CENTERS.

"(a) LANGUAGE RESOURCES CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a small number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

20 USC 1124.

"SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

"(a) INCENTIVES FOR THE CREATION OF UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—

"(1) AUTHORITY.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions to assist such institutions or combinations in planning, developing, and carrying out a program to improve undergraduate instruction in international studies and foreign languages. Such grants shall be awarded to institutions of higher education or combinations of such institutions seeking to create

new programs or curricula in area studies, foreign languages, and other international fields.

"(2) FEDERAL SHARE AND USE OF FUNDS.—Grants made under this section may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

"(A) planning for the development and expansion of undergraduate programs in international studies;

"(B) teaching, research, curriculum development, and other related activities;

"(C) training of faculty members in foreign countries;

"(D) expansion of foreign language courses;

"(E) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(F) international education programs designed to develop or enhance linkages between two- and four-year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

"(G) the development of an international dimension in preservice and inservice teacher training;

"(H) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available or which serve students for whom such opportunities are not otherwise available and which provide courses that are closely related to on-campus foreign language and international studies curricula; and

"(I) the integration of new study abroad opportunities for undergraduate students into curricula of specific degree programs.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

"(4) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to applications from institutions of higher education or combinations of such institutions that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a two-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

"(b) GRANTS TO STRENGTHEN PROGRAMS OF DEMONSTRATED EXCELLENCE IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, combinations of such institutions, or partnerships between nonprofit educational organizations and institutions of higher education to enable such institutions of higher education, combinations of such institutions or partnerships to—

"(A) strengthen programs of demonstrated excellence in area studies, foreign languages, and other international

fields in order to ensure the self-sustaining maintenance and growth of such programs; and

"(B) enhance the capacity-building and dissemination functions of such programs.

"(2) FEDERAL SHARE AND USE OF GRANT FUNDS.—Grants awarded under this subsection may be used to pay not more than 50 percent of the cost of projects and activities which are an integral part of the programs described in paragraph (1), such as—

"(A) teaching, research, curriculum development, and other related activities;

"(B) strengthening undergraduate majors and minors directly related to the generation of international expertise;

"(C) developing new foreign language courses, especially in languages previously not taught at such institution or combination of such institutions, and improving the quality of existing foreign language programs;

"(D) expanding library and teaching resources;

"(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

"(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(G) disseminating curricular materials and program designs to other educational institutions;

"(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

"(I) training faculty and staff in area studies, foreign languages, and other international fields;

"(J) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international studies, and to provide foreign area and other international knowledge or skills to government personnel or private sector professionals in international activities;

"(K) developing study and internship abroad programs—

"(i) in locations in which such opportunities are not otherwise available; or

"(ii) which serve students for whom such opportunities are not otherwise available; and

"(L) developing model programs to enrich or enhance the effectiveness of study abroad programs, including predeparture and post return orientation programs, integration of study abroad into the curriculum of the home institution, credit transfer, improved faculty involvement, cross-disciplinary programs, student selection and advising services, and academic advising.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of the programs assisted under this subsection may be provided either in cash or in kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

"(4) EVALUATION CRITERIA AND REPORT.—As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs and require

an annual report which evaluates the progress and performance of students in such programs.

"(c) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also award grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES. 20 USC 1124a.

"(a) INTENSIVE SUMMER LANGUAGE INSTITUTES AUTHORIZED.—

"(1) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

"(2) ELIGIBLE GRANT RECIPIENTS.—Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

"(B) institutes designed to provide professional development and improve language instruction through preservice and inservice training for language teachers; or

"(C) institutes that combine the purposes of subparagraphs (A) and (B).

"(3) AUTHORIZED ACTIVITIES.—Grants made under this section may be used for—

"(A) intensive training in critical languages;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) INSTRUCTIONAL PROGRAM.—Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) PEER REVIEW.—Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

"SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT. 20 USC 1125.

"(a) AUTHORIZED ACTIVITIES.—The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

"(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

"(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

"(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

"(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

"(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

"(b) ANNUAL REPORT.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this section.

20 USC 1125a.

"SEC. 607. PERIODICALS AND OTHER RESEARCH MATERIALS PUBLISHED OUTSIDE THE UNITED STATES.

"(a) PROGRAM AUTHORIZED; AUTHORIZATION OF APPROPRIATIONS.—

"(1) PROGRAM AUTHORIZED.—From the amount appropriated under paragraph (2), the Secretary is authorized to award grants to institutions of higher education, public or nonprofit private library institutions, or consortia of such institutions for the acquisition of, and provision of access to, periodicals and other research materials published outside the United States.

"(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to the amount authorized to be appropriated by section 610A, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

"(b) AUTHORIZED ACTIVITIES.—Grants under this section shall be used for the following purposes:

"(1) To acquire periodicals and other research materials published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance.

"(2) To maintain in machine-readable form current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases.

"(3) To preserve such periodicals and other research materials.

"(4) To make such periodicals and other research materials widely available to researchers and scholars.

"(c) APPLICATION AND PREFERENCE.—

"(1) APPLICATION.—Each institution or consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information and assurances as the Secretary may reasonably require.

"(2) PREFERENCE.—The Secretary shall give preference to grant applications according to the following criteria:

"(A) The total number of library research materials in an institution's or consortium's collection.

"(B) The comprehensiveness, both current and retrospective, of the institution's or consortium's collection of periodicals and other research materials published outside the United States.

"(C) Public accessibility to the institution's or consortium's collection of periodicals and other research materials published outside the United States.

"(D) The institution's or consortium's technological capability to share its collection of periodicals and other research materials published outside the United States with other institutions of higher education, with public or nonprofit institutions, and with individual scholars.

"(E) The institution's or consortium's budget and staff capability to build, maintain, and service periodicals and other research materials published outside the United States.

"(2) SUFFICIENT SIZE.—The Secretary shall award grants under this section of sufficient size to enable an institution or consortium to—

"(A) substantially improve its collection of foreign periodicals and other research materials published outside the United States; and

"(B) contribute to a comprehensive national base of foreign language materials for students and scholars.

"(d) WRITTEN AGREEMENT.—

"(1) AGREEMENT REQUIRED.—Prior to the awarding of grants authorized under subsection (c), each recipient institution or consortium shall file a formal written agreement with the Secretary which outlines their collecting responsibilities regarding periodicals and other research materials published outside the United States and ensures public access.

"(2) FUNDING LIMITATION.—No funds from grants authorized under subsection (c) may be used by a recipient institution or consortium to acquire and process periodicals and other research materials published outside the United States other than that specified in the agreement filed with the Secretary under paragraph (1).

"(e) COPYRIGHT.—Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.

"SEC. 608. SELECTION OF CERTAIN GRANT RECIPIENTS. 20 USC 1125b.

"(a) COMPETITIVE GRANTS.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluates the applications for comprehensive and undergraduate language and area centers and programs.

"(b) SELECTION CRITERIA.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) EQUITABLE DISTRIBUTION OF GRANTS.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of funds throughout the United States, based on the merit of a proposal with peer review by broadly representative professionals.

"SEC. 609. EQUITABLE DISTRIBUTION OF CERTAIN FUNDS. 20 USC 1126.

"(a) SELECTION CRITERIA.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) EQUITABLE DISTRIBUTION.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the Nation.

"(c) SUPPORT FOR UNDERGRADUATE EDUCATION.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of the funds appropriated for this part (as determined by the Secretary) are used to support undergraduate education.

20 USC 1127.

"SEC. 610. AMERICAN OVERSEAS RESEARCH CENTERS.

"(a) CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with any American overseas research center that is a consortium of institutions of higher education (hereafter in this section referred to as a 'center') to enable such center to promote postgraduate research, exchanges and area studies.

"(b) USE OF GRANTS.—Grants made and contracts entered into pursuant to this section may be used to pay all or a portion of the cost of establishing or operating a center or program, including the cost of faculty and staff stipends and salaries, faculty, staff and student travel, the operation and maintenance of overseas facilities, the cost of teaching and research materials, the cost of acquisition, maintenance and preservation of library collections, the cost of bringing visiting scholars and faculty to a center to teach or to conduct research, the cost of organizing and managing conferences and the cost of publication and dissemination of material for the scholarly and general public.

"(c) LIMITATION.—The Secretary shall only award grants to and enter into contracts with centers under this section that—

"(1) receive more than 50 percent of their funding from public or private United States sources;

"(2) have a permanent presence in the country in which the center is located; and

"(3) are organizations described in section 501(c)(3) of the Internal Revenue Code of 1986 which are exempt from taxation under section 501(a) of such Code.

20 USC 1128.

"SEC. 610A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $80,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

20 USC 1130.

"SEC. 611. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the inter-

national education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) PURPOSES.—It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"SEC. 612. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION. 20 USC 1130-1.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

"(A) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted;

"(B) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners; and

"(C) will provide research and training in the international aspects of trade, commerce, and other fields of study.

"(2) SPECIAL RULE.—In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

"(b) AUTHORIZED EXPENDITURES.—Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries;

"(2) teaching and research materials;

"(3) curriculum planning and development;

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research; and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c) AUTHORIZED ACTIVITIES.—

"(1) MANDATORY ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) PERMISSIBLE ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

"(B) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

"(C) summer institutes in international business, foreign area studies, and other international studies designed to carry out the purposes of subparagraph (A) of this paragraph;

"(D) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States;

"(E) outreach activities or consortia with business programs located at other institutions of higher education for the purpose of providing expertise regarding the internationalization of such programs, such as assistance in research, curriculum development, faculty development, or educational exchange programs; and

"(F) other eligible activities prescribed by the Secretary.

"(d) ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

"(2) MEMBERSHIP ON ADVISORY COUNCIL.—The center advisory council shall include—

"(A) one representative of an administrative department or office of the institution of higher education;

"(B) one faculty representative of the business or management school or department of such institution;

"(C) one faculty representative of the international studies or foreign language school or department of such institution;

"(D) one faculty representative of another professional school or department of such institution, as appropriate;

"(E) one or more representatives of local or regional businesses or firms;

"(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

"(G) such other individuals as the institution of higher education deems appropriate.

"(3) MEETINGS.—In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

"(e) GRANT DURATION; FEDERAL SHARE.—

"(1) DURATION OF GRANTS.—The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

"(2) FEDERAL SHARE.—The Federal share of the cost of planning, establishing and operating centers under this section shall be—

"(A) not more than 90 percent for the first year in which Federal funds are received;

"(B) not more than 70 percent for the second such year; and

"(C) not more than 50 percent for the third such year and for each such year thereafter.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind.

"(4) WAIVER OF NON-FEDERAL SHARE.—In the case of an institution of higher education receiving a grant under this part and conducting outreach or consortia activities with another institution of higher education in accordance with section 612(c)(2)(E), the Secretary may waive a portion of the requirements for the non-Federal share required in paragraph (2) equal to the amount provided by the institution of higher education receiving such grant to such other institution of higher education for carrying out such outreach or consortia

activities. Any such waiver shall be subject to such terms and conditions as the Secretary deems necessary for carrying out the purposes of this section.

"(f) GRANT CONDITIONS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

"(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

"(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

"(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

"(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).

20 USC 1130a.

"SEC. 613. EDUCATION AND TRAINING PROGRAMS.

Contracts.

"(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

"(b) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by institutions of higher education pursuant to grants or contracts awarded under this section shall include—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, midcareer, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs, and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

"(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

"(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

"(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

"(c) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an institution of higher education submits an application to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) FEDERAL SHARE.—The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

"SEC. 614. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1130b.

"(a) CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.—There are authorized to be appropriated $11,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 612.

"(b) EDUCATION AND TRAINING PROGRAMS.—There are authorized to be appropriated $7,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.

"PART C—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

20 USC 1131.

"SEC. 621. MINORITY FOREIGN SERVICE PROFESSIONAL DEVELOPMENT PROGRAM.

"(a) ESTABLISHMENT.—The Secretary is authorized to award a grant, on a competitive basis, to an eligible recipient to enable such recipient to establish an Institute for International Public Policy (hereafter in this part referred to as the 'Institute'). The Institute shall conduct a program to significantly increase the numbers of African Americans and other underrepresented minorities in the international service, including private international voluntary organizations and the foreign service of the United States. Such program shall include a program for such students to study abroad in their junior year, fellowships for graduate study, internships, intensive academic programs such as summer institutes, or intensive language training.

"(b) DEFINITION OF ELIGIBLE RECIPIENT.—

"(1) IN GENERAL.—For the purpose of this part, the term 'eligible recipient' means a consortium consisting of 1 or more of the following entities:

"(A) An institution eligible for assistance under part B of title III of this Act.

"(B) An institution of higher education which serves substantial numbers of African American or other underrepresented minority students.

"(C) An institution of higher education with programs in training foreign service professionals.

"(2) HOST INSTITUTION.—Each eligible recipient receiving a grant under this section shall designate an institution of higher education as the host institution for the Institute.

"(c) APPLICATION.—Each eligible recipient desiring a grant under this section shall submit an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(d) DURATION.—Grants made pursuant to this section shall be awarded for a period not to exceed 5 years.

"(e) MATCH REQUIRED.—The eligible recipient of a grant under this section shall contribute to the conduct of the program supported by the grant an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in kind.

20 USC 1131a.

"SEC. 622. JUNIOR YEAR ABROAD PROGRAM.

"(a) PROGRAM AUTHORITY.—The Institute shall conduct, by grant or contract, a junior year abroad program. The junior year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, and other institutions of higher education with significant minority student populations. Eligible student expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend not more than 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to

foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

"(b) DEFINITION OF ELIGIBLE STUDENT.—For the purpose of this section, the term 'eligible student' means a student that is—

"(1) enrolled full-time in a baccalaureate degree program at an institution of higher education; and

"(2) entering the third year of study at an institution of higher education which nominates such student for participation in the junior year abroad program.

"(c) SPECIAL RULE.—An institution of higher education desiring to send a student on the junior year abroad program shall enter into a Memorandum of Understanding with the Institute under which such institution of higher education agrees to—

"(1) provide the requisite academic preparation for students participating in the junior year abroad or internship programs;

"(2) pay one-half the cost of each student it nominates for participation in the junior year abroad program; and

"(3) meet such other requirements as the Secretary may from time to time, by regulation, reasonably require.

"SEC. 623. MASTERS DEGREE IN INTERNATIONAL RELATIONS. 20 USC 1131b.

"The Institute shall provide, in cooperation with the other members participating in the eligible recipient consortium, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Secretary. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service (including work with private international voluntary organizations) or foreign service of the United States.

"SEC. 624. INTERNSHIPS. Contracts. Minorities. Indians. 20 USC 1131c.

"The Institute shall enter into agreements with historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government organizations or agencies, including the Agency for International Development, the United States Information Agency, the International Monetary Fund, the National Security Council, the Organization of American States, the Export-Import Bank, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

"SEC. 625. REPORT. 20 USC 1131d.

"The Institute shall annually prepare a report on the activities of the Institute and shall submit such report to the Secretary of Education and the Secretary of State.

20 USC 1131e.

"SEC. 626. GIFTS AND DONATIONS.

"The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report described in section 625.

Appropriation authorization.
20 USC 1131f.

"SEC. 627. AUTHORIZATION.

"There is authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

"PART D—GENERAL PROVISIONS

20 USC 1132.

"SEC. 631. DEFINITIONS.

"(a) DEFINITIONS.—As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods, investments in industries, the licensing of processes, patents and trademarks, and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

"(5) the term 'comprehensive language and area center' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

"(6) the term 'undergraduate language and area center' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign lan-

guage knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

"(7) the term 'critical languages' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this title; and

"(8) the term 'institution of higher education' means, in addition to institutions which meet the definition of section 1201(a) of this Act, institutions which meet the requirements of section 1201(a) of this Act except that (1) they are not located in the United States, and (2) they apply for assistance under this title in consortia with institutions which meet the definition of 1201(a) of this Act.

"(b) SPECIAL CONDITIONS.—All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

"SEC. 632. PRESERVATION OF PRE-1992 PROGRAMS. 20 USC 1132-1.

"Notwithstanding any other provision of law, amendments to this title establishing new programs or expanding existing programs enacted pursuant to the Higher Education Amendments of 1992 shall not be funded in fiscal year 1993, or the 4 succeeding fiscal years, unless and until Congress enacts appropriations for programs under this title enacted prior to such Amendments at a level no less than the level of funding in effect for such preexisting programs for fiscal year 1992.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 701. PURPOSES.

Section 701 of the Act (20 U.S.C. 1132a) is amended—

(1) in the matter preceding paragraph (1) of subsection (a)—

(A) by inserting a period after "instructional instrumentation and equipment";

(B) by striking "if the primary purpose of such assistance is to enable such institutions—" in subsection (a) and inserting the following: "In making such grants, the Secretary shall include assistance to enable institutions—";

(2) in subsection (a)(1)—

(A) by striking subparagraphs (A) and (B) and inserting the following:

"(A) Federal, State, and local laws requiring removal of barriers to full participation by individuals with disabilities;";

(B) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(3) in subsection (a)(4), by inserting "(including renovation of libraries to promote the use of new technologies and preservation of library materials)" after "libraries".

SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

Section 702 of the Act (20 U.S.C. 1132a–1) is amended to read as follows:

"SEC. 702. PRIOR RIGHTS AND OBLIGATIONS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each of the 4 succeeding fiscal years to pay obligations incurred prior to 1987 under parts C and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992.

"(b) LEGAL RESPONSIBILITIES.—Except as provided in section 783, all entities with continuing obligations incurred under parts A, B, C, and D of this title, as such parts were in effect before the effective date of the Higher Education Act Amendments of 1992, shall be subject to the requirements of such part as in effect before the effective date of the Higher Education Act Amendments of 1992.".

SEC. 703. IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES.

Part A of title VII of the Act (20 U.S.C. 1132b et seq.) is amended to read as follows:

Higher Education Facilities Act of 1992.

"PART A—IMPROVEMENT OF ACADEMIC AND LIBRARY FACILITIES

20 USC 1132b.

"SEC. 711. SHORT TITLE.

"This part may be cited as the 'Higher Education Facilities Act of 1992'.

20 USC 1132b-1.

"SEC. 712. FINDINGS.

"The Congress finds that—

"(1) over the past 50 years institutions of higher education have expanded dramatically, while at the same time traditional sources of funding facilities maintenance and repair have declined and even disappeared in some instances;

"(2) in order to meet the rising cost of educating students, resulting mainly from inflation and the higher costs of research, many colleges and universities made the choice to defer renovations and improvements;

"(3) overall, the need for capital investment by institutions of higher education has been estimated to exceed $60,000,000,000;

"(4) the deterioration of facilities has caused valuable research experiments and programs to be postponed, delayed or canceled; and

"(5) the United States' competitive position within the world economy is vulnerable if the necessary research facilities are not available to provide advanced training in the fields of science and technology.

20 USC 1132b-2.

"SEC. 713. DISTRIBUTION OF ASSISTANCE.

"(a) COMPETITIVE OR FORMULA DISTRIBUTION.—

"(1) COMPETITIVE GRANTS.—If the amount appropriated pursuant to section 716 for a fiscal year is less than $50,000,000, then the Secretary shall award grants under this part on a competitive basis in accordance with subsection (h) to institutions of higher education to carry out the activities described in section 714.

"(2) ALLOTMENT FORMULA.—

"(A) FORMULA.—If the amount appropriated pursuant to section 716 for a fiscal year is equal to or greater than $50,000,000, then the Secretary shall allot to each State higher education agency with an approved application—

"(i) 50 percent of such funds on the basis of the population of the State compared to the population of all States; and

"(ii) 50 percent of such funds on the basis of the number of students attending institutions of higher education within the State compared to the number of students attending institutions of higher education in all States.

"(B) USE OF FORMULA GRANTS.—Each State higher education agency receiving an allotment pursuant to subparagraph (A), shall use such allotment to award grants, on a competitive basis, to institutions of higher education within the State to enable such institutions to carry out the activities described in section 714.

"(C) REALLOTMENT.—Except as provided in subsection (f), any amount that the Secretary determines will not be available to a State higher education agency because such agency elects not to participate in the program assisted under this part shall be reallotted to other States in the same manner as the original allotments were made.

"(b) MATCHING REQUIREMENTS.—

"(1) STATE MATCHING REQUIREMENT.—

"(A) IN GENERAL.—In order to receive an allotment under subsection (a)(2)(A), each State higher education agency shall provide matching funds equal to 25 percent of the amount of any allotment received pursuant to such subsection. The Secretary may waive the requirements of the preceding sentence if the State can demonstrate to the satisfaction of the Secretary that such matching requirement would present a severe financial hardship to the State.

"(B) CASH REQUIREMENT.—Each State higher education agency receiving funds under this part shall only provide matching funds pursuant to paragraph (1) in cash.

"(2) INSTITUTIONAL MATCHING REQUIREMENT.—In order to receive a grant under subsection (a)(1) or (a)(2)(B), each eligible institution shall provide matching funds equal to 50 percent of the amount of any grant received pursuant to such subsection. Such matching funds may be provided by the State higher education agency or the institution of higher education.

"(c) PRIORITY.—In awarding grants pursuant to subsection (a), the Secretary or each State higher education agency shall give priority to institutions of higher education that serve large numbers or percentages of minority or disadvantaged students.

"(d) EQUITABLE PARTICIPATION.—In awarding grants pursuant to subsection (a), the Secretary or each State higher education agency shall ensure the equitable participation of both public and private eligible institutions within the State.

"(e) SPECIAL RULE.—If the Secretary determines that any eligible institution within a State has received, within the 2 preceding fiscal years, a direct, noncompetitive award of Federal funds for facilities construction, renovation, improvement or repair, then the eligible institution shall be ineligible to receive assistance under this part.

"(f) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of funds awarded under this part which is allotted by the recipient to meet costs of—

"(1) research and instructional instrumentation and equipment; and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment;

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within 3 years of the date of initial use, if the recipient deems such upgrading essential to the continued usefulness of such research or instructional instrumentation and equipment.

"(g) SUPPLEMENTATION.—Grants awarded pursuant to subsection (a) shall be used to supplement and not supplant other Federal, State, and local funds available for improvement of academic and library facilities.

"(h) PEER REVIEW REQUIRED.—In making grants under subsection (a)(1), the Secretary shall utilize a national peer review panel. The panel shall be broadly representative of all types and classes of institutions of higher education in the United States.

20 USC 1132b-3.

"SEC. 714. USE OF FUNDS.

"(a) IN GENERAL.—Institutions of higher education shall use funds awarded under this part for any one or more of the following activities:

"(1) The improvement, renovation, and repair of academic facilities.

"(2) The improvement and renovation of library facilities.

"(3) The improvement and renovation of broadcast, cable, and satellite interconnection equipment for use in postsecondary educational television and radio programming, including interactive technology and communications.

"(4) The construction of academic and library facilities if the State determines such construction necessary.

20 USC 1132b-4.

"SEC. 715. APPLICATION.

"(a) STATE HIGHER EDUCATION AGENCY.—

"(1) APPLICATION.—Each State higher education agency desiring an allotment pursuant to section 713(a)(2)(A) shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application described in paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought;

"(B) contain assurances that the State higher education agency will comply with the matching requirement described in section 713(b)(1);

"(C) contain a description and the amount of any direct, noncompetitive appropriation of funds for facilities construction, renovation, improvement or repair which the State provides to any institution of higher education within the State; and

"(D) contain such other assurances as the Secretary determines necessary to ensure compliance with the provisions of this part.

"(b) INSTITUTIONS OF HIGHER EDUCATION.—

"(1) STATE GRANTS.—

"(A) APPLICATION.—Each institution ot nigher education desiring a grant pursuant to section 713(a)(1) or 713(a)(2)(B) shall submit an application to the Secretary or the State higher education agency, as appropriate, at such time, in such manner and accompanied by such information as the Secretary or such agency may reasonably require.

"(B) CONTENTS.—Each application described in paragraph (1) shall—

"(i) describe the activities and services for which assistance is sought;

"(ii) contain assurances that the eligible institution will comply with the matching requirement described in section 713(b)(2); and

"(iii) contain such other assurances as the Secretary or State higher education agency determines necessary to ensure compliance with the provisions of this part.

"SEC. 716. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $350,000,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out the provisions of this part.".

SEC. 704. HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING. 20 USC 1132b-5.

Part B of title VII of the Act (20 U.S.C. 1132c et seq.) is amended to read as follows:

"PART B—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"SEC. 721. FINDINGS. 20 USC 1132c.

"The Congress finds that—

"(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

"(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their

academic and technical skills, and honing their social and political skills through higher education;

"(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

"(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

"(5) despite their track record of long-standing and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

"(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

20 USC 1132c-1.

"SEC. 722. DEFINITIONS.

"For the purposes of this part:

"(1) The term 'eligible institution' means a 'part B institution' as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

"(2) The term 'loan' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

"(3) The term 'qualified bond' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 723(b).

"(4) The term 'funding' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 723.

"(5) The term 'capital project' means, subject to section 724(b) the repair, renovation, or, in exceptional circumstances, the construction or acquisition, of—

"(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

"(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) any other facility, equipment or fixture which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(6) The term 'interest' includes accredited value or any other payment constituting interest on an obligation.

"(7) The term 'outstanding', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

"(8) The term 'designated bonding authority' means the private, for-profit corporation selected by the Secretary pursuant to section 725(1) for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

"(9) The term 'Advisory Board' means the Advisory Board established by section 727 of this part.

"SEC. 723. FEDERAL INSURANCE FOR BONDS. 20 USC 1132c-2.

"(a) GENERAL RULE.—Subject to the limitations in section 724, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b), (c) and (d).

"(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) unless the Secretary designates a qualified bonding authority in accordance with sections 725(1) and 726 and the designated bonding authority agrees in such agreement to—

"(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into an escrow account for repayment of the bonds;

"(2) provide in each loan agreement with respect to a loan that not less than 95 percent of the proceeds of the loan will be used—

"(A) to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project; or

"(B) to refinance an obligation the proceeds of which were used to finance the repair, renovation, and, in exceptional cases, construction or acquisition, of a capital project;

"(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

"(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due not less than 60 days prior to the date of the payment on the bonds for which such loan payment is expected to be needed;

"(4) prior to the making of any loan, provide for a credit review of the institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

"(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the institution obligated on such loan

shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

"(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

"(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

"(8) establish an escrow account—

"(A) into which each eligible institution shall deposit 10 percent of the proceeds of any loan made under this part; and

"(B) the balance of which—

"(i) shall be available to the Secretary to pay principal and interest on the bonds in the event of delinquency in loan repayment; and

"(ii) when all bonds under this part are retired or canceled, shall be divided among the eligible institutions making deposits into such account on the basis of the amount of each such institution's deposit;

"(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the escrow account to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such escrow account;

"(10) comply with the limitations set forth in section 724 of this part; and

"(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

"(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

"(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

"(2) The Federal liability for delinquencies and default for bonds guaranteed under this part shall only become effective upon the exhaustion of all the funds held in the escrow account described in subsection (b)(8).

"(3) The Secretary shall create a letter of credit authorizing the Department of the Treasury to disburse funds to the designated bonding authority or its assignee.

"(4) The letter of credit shall be drawn upon in the amount determined by paragraph (5) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the escrow account to make a scheduled payment of principal and interest on the bonds.

"(5) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (4) of this subsection,

the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

"(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

"(B) the amount available to the designated bonding authority from loan repayments and the escrow account.

"(6) All funds provided under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (4).

"(d) FULL FAITH AND CREDIT PROVISIONS.—Subject to section 723(c)(1) the full faith and credit of the United States is pledged to the payment of all funds which may be required to be paid under the provisions of this section.

"SEC. 724. LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY. 20 USC 1132c-3.

"(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $375,000,000, of which—

"(1) not more than $250,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

"(2) not more than $125,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania is an historically Black public institution. No institution of higher education that has received assistance under section 8 of the Act of March 2, 1867 (20 U.S.C. 123) shall be eligible to receive assistance under this part. Lincoln University.

"(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

"(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this part for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

"(d) DISCRIMINATION PROHIBITION.—No loan may be made to an institution under this part if the institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or disabling condition; except that the prohibition with respect to religion shall not apply to an institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"SEC. 725. AUTHORITY OF THE SECRETARY. 20 USC 1132c-4.

"In the performance of, and with respect to, the functions vested in the Secretary by this part, the Secretary—

"(1) shall, within 120 days of enactment of the Higher Education Amendments of 1992, publish in the Federal Register a notice and request for proposals for any private for-profit Federal Register, publication.

organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

"(A) specify the time and manner for submission of proposals; and

"(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

"(2) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

"(3)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

"(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

"(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

"(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) may sell, exchange, or lease real or personal property and securities or obligations; and

"(5) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this part will be achieved.

20 USC 1132c-5.

"SEC. 726. PROHIBITION.

"No institution that receives a loan under this part shall also receive a grant under part A of this title or a loan under part D of this title.

20 USC 1132c-6.

"SEC. 727. HBCU CAPITAL FINANCING ADVISORY BOARD.

"(a) ESTABLISHMENT AND PURPOSE.—There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board (hereinafter in this part referred to as the 'Advisory Board') which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on African American college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities,

how those needs can be met through the program authorized by this part, and what additional steps might be taken to improve the operation and implementation of the construction financing program.

"(b) BOARD MEMBERSHIP.—

"(1) COMPOSITION.—The Advisory Board shall be appointed by the Secretary and shall be composed of 9 members as follows:

"(A) The Secretary or the Secretary's designee.

"(B) Three members who are presidents of private historically Black colleges or universities.

"(C) Two members who are presidents of public historically Black colleges or universities.

"(D) The president of the United Negro College Fund, Inc.

"(E) The president of the National Association for Equal Opportunity in Higher Education.

"(F) The executive director of the White House Initiative on historically Black colleges and universities.

"(2) TERMS.—The term of office of each member appointed under paragraphs (1)(B) and (1)(C) shall be 3 years, except that—

"(A) of the members first appointed pursuant to paragraphs (1)(B) and (1)(C), 2 shall be appointed for terms of 1 year, and 3 shall be appointed for terms of 2 years;

"(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

"(C) a member may continue to serve after the expiration of a term until a successor is appointed.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $50,000 for fiscal year 1993 and each of the 4 succeeding fiscal years to carry out this section.

"SEC. 728. MINORITY BUSINESS ENTERPRISE UTILIZATION. 20 USC 1132c-7.

"In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 725(1) and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.".

SEC. 705. CONSOLIDATION OF PARTS C AND F.

Part C of title VII of the Act (20 U.S.C. 1132d et seq.) is amended to read as follows:

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES

"SEC. 731. FEDERAL ASSISTANCE IN THE FORM OF LOANS. 20 USC 1132d.

"(a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist institutions of higher education and higher education building agencies in the construction, reconstruction, or renovation of housing, undergraduate and graduate academic facilities, and other educational

facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) AMOUNT AND CONDITIONS OF LOANS.—A loan to institutions of higher education or higher education building agency—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury.

"(c) USE OF LOANS FOR PREVIOUSLY MADE CONTRACTS.—Any institution of higher education or higher education building agency which, prior to October 17, 1986, had contracted for housing or other educational facilities may, in connection therewith, receive loans authorized under this part, as the Secretary may determine. No such loan shall be made for any housing or other educational facilities, the construction of which was begun prior to enactment of such date, or completed prior to the filing of an application under this part.

"(d) MATCHING REQUIREMENT.—The Secretary shall not make a loan under this part unless the institution of higher education or higher education building agency receiving such loan provides from non-Federal sources at least 20 percent of the development cost of the project for which the loan is made.

20 USC 1132d-1.

"SEC. 732. GENERAL PROVISIONS.

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

Records.

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United

States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes of this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon the Secretary by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held;

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1992, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1986, and (C) made on a loan that has been outstanding for at least 5 years; and

"(8) include in any contract or instrument made pursuant to this part such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on out-

standing marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(e) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—

"(1) GENERAL RULE.—If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1992, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) APPLICABILITY.—The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"(f) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(g) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

"(h) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors on any project assisted under this part—

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

"(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for the employee's employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which the employee is employed,

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

"(i) LIMITATION.—No loan may be made under this part for any facility on the campus of any postsecondary educational institution until 5 years after the date on which a previous loan for another facility on such campus was made under this part, unless the loan is intended to be used to construct or reconstruct a facility damaged as a result of a national disaster, as declared by the President.

20 USC 1132d-2.

"SEC. 733. APPORTIONMENT.

"(a) LIMITATION.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

"(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

"(1) to loans for renovation or reconstruction of undergraduate and graduate academic facilities; and

"(2) to loans for renovation or reconstruction of older undergraduate and graduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"SEC. 734. DEFINITIONS. 20 USC 1132d-3.

"For the purpose of this part:

"(a) HOUSING.—The term 'housing' means—

"(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(b) EDUCATIONAL INSTITUTION.—The term 'institution of higher education or higher education building agency' means—

"(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(B) any public educational institution which—

"(i) is administered by a college or university which is accredited by a nationally recognized accrediting agency or association;

"(ii) offers technical or vocational instruction; and

"(iii) provides residential facilities for some or all of the students receiving such instruction;

"(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 731 (as such section was in effect prior to the date of enactment of the Higher Education Amendments of 1992), will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

"(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

"(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 731 (as such section was in effect prior to the date of enactment of the Higher Education Amendments of 1992) to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

"(c) UNDERGRADUATE AND GRADUATE ACADEMIC FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'undergraduate and graduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing at least a 2-year program acceptable for full credit toward a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this part shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by individuals with disabilities.

"(2) EXCEPTIONS.—The term 'undergraduate and graduate academic facilities' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which

(although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(d) DEVELOPMENT COST.—The term 'development cost' means costs of the construction of the housing or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing, academic facilities, or other educational facilities, except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(e) FACULTIES.—The term 'faculties' means members of the faculty and their families.

"(f) OTHER EDUCATIONAL FACILITIES.—The term 'other educational facilities' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.

"SEC. 735. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1132d-4.

"There are authorized to be appropriated to carry out this part, $50,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 706. REPEAL OF PARTS D, F, G, AND J.

Parts D, F, G, and J of title VII of the Act (20 U.S.C. 1132e et seq., 1132g et seq., 1132h–1 et seq., 1132j et seq., respectively) are repealed. 20 USC 1132h *et seq.*

SEC. 707. REDESIGNATION OF AND AMENDMENTS TO PART E.

(a) REDESIGNATION.—Part E of title VII of the Act (20 U.S.C. 1132f et seq.) is redesignated as part D.

(b) AUTHORITY TO PROVIDE DIRECT INSURANCE TO HIGHER RATED INSTITUTIONS.—Section 752(c) of the Act (20 U.S.C. 1132f–1(c)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraph (1), the Corporation may issue primary insurance or guarantees covering the assets or obligations of institutions which are, without insurance or guarantee, listed by a nationally recognized statistical rating organization at or above the third highest rating of such organization, subject to all of the following conditions and limitations:

"(A) The proposed transaction shall have been declined for coverage by all unaffiliated monoline insurers that are authorized to write financial guarantee insurance and that, in the previous year, provided primary insurance or guarantees on educational facility obligations. The Secretary shall publish by January 31 of each year a list of all such insurers.

"(B) Within 2 business days of receiving complete documentation concerning a proposed transaction by an institution seeking insurance from the Corporation pursuant to this paragraph (5), an insurer shall offer to provide coverage or execute an affidavit of declination, or its failure to respond shall be deemed a declination. The institution seeking insurance from the Corporation shall file with the

Corporation the affidavits from all declining insurers, as well as an affidavit of the institution's financial advisor specifically identifying the pertinent terms of the proposed transaction, the requested insurance coverage, and the date on which complete documentation concerning the proposed transaction was submitted to each insurer and certifying that such information was provided to each insurer that declined coverage.

"(C) The proceeds of the assets or obligations insured or guaranteed by the Corporation pursuant to this paragraph shall be used exclusively for the renovation, repair, replacement, or construction of academic and educational facilities and shall not be used for the renovation, repair, replacement, or construction of athletic facilities.

"(D) The aggregate par value of assets and obligations insured or guaranteed by the Corporation under this paragraph (5) shall not exceed—

"(i) $100,000,000 per year during calendar years 1993, 1994, and 1995; or

"(ii) $150,000,000 per year during calendar years 1996 and 1997.

"(E) The aggregate dollar amount of transactions under this paragraph (5) shall not exceed—

"(i) in calendar year 1993, 1994, or 1995, 10 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year; or

"(ii) in calendar year 1996 or 1997, 15 percent of the aggregate dollar amount of assets and obligations directly covered by primary insurance or guarantees issued by the Corporation under this section in such year.".

SEC. 708. REDESIGNATION OF AND AMENDMENTS TO PART H.

(a) REDESIGNATION.—Part H of title VII of the Act (20 U.S.C. 1132i et seq.) is redesignated as part E.

(b) RECOVERY OF PAYMENTS.—Section 781 of the Act (20 U.S.C. 1132i) is amended by striking "part A or B of this title" each place such term appears and inserting "part A of this title, or part B of this title as such part was in effect prior to the enactment of the Higher Education Amendments of 1992,".

(c) ELIMINATION OF UNNECESSARY DEFINITIONS.—Section 782 of the Act (20 U.S.C. 1089) is amended— 20 USC 1132i-1.

(1) by striking paragraphs (5) and (7); and

(2) by redesignating paragraphs (6), (8), and (9) as paragraph (5), (6), and (7), respectively.

(d) FORGIVENESS OF CERTAIN LOANS.—Section 783 of the Act (20 U.S.C. 1132i–2) is amended to read as follows:

"FORGIVENESS OF CERTAIN LOANS

"SEC. 783. (a) FORGIVENESS AUTHORIZED.—The Secretary may forgive the entire balance due, or any portion thereof, on any loan made under part C or part F of this title (as in effect on the day before the date of enactment of the Higher Education Amendments of 1992), or under the College Housing and Academic Facilities Loan program, or any other federally subsidized, insured,

or authorized loan program designed to assist institutions of higher education to construct academic or dormitory facilities, whenever the Secretary determines that—

"(1) the institution of higher education is current in its payments to the Department or has entered into a moratorium agreement with the Secretary with respect to such payments; and

"(2) the outstanding indebtedness equals at least one-quarter of the annual budget for the most recent fiscal year of the institution of higher education seeking forgiveness of its housing loan indebtedness, exclusive of funds provided under titles III and IV of this Act, and in the judgment of the Secretary the survival of the institution of higher education is threatened.

"(b) DEFINITION.—For the purpose of this section the term 'institution of higher education' includes a postsecondary educational institution.

"(c) APPLICATION.—Each institution of higher education requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.".

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. COOPERATIVE EDUCATION.

Title VIII of the Act (20 U.S.C. 1133 et seq.) is amended to read as follows:

"TITLE VIII—COOPERATIVE EDUCATION

"SEC. 801. STATEMENT OF PURPOSE; DEFINITION. 20 USC 1133.

"(a) PURPOSE.—It is the purpose of this title to award grants to institutions of higher education or combinations of such institutions to encourage such institutions to develop and make available to as many of their students as possible work experience that will aid such students in future careers and will enable such students to support themselves financially while in school.

"(b) DEFINITION.—For the purpose of this title the term 'cooperative education' means the provision of alternating or parallel periods of academic study and public or private employment in order to give students work experiences related to their academic or occupational objectives and an opportunity to earn the funds necessary for continuing and completing their education.

"SEC. 802. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS. 20 USC 1133a.

"(a) APPROPRIATIONS AUTHORIZED.—There are authorized to be appropriated to carry out this title $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) RESERVATIONS.—Of the amounts appropriated in each fiscal year—

"(1) not less than 50 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions described in section 803(a)(1)(A) for cooperative education under section 803;

"(2) not less than 25 percent shall be available for carrying out grants to institutions of higher education described in section 803(a)(1)(B) for cooperative education under section 803;

"(3) not to exceed 11 percent shall be available for demonstration projects under paragraph (1) of section 804(a);

"(4) not to exceed 11 percent shall be available for training and resource centers under paragraph (2) of section 804(a); and

"(5) not to exceed 3 percent shall be available for research under paragraph (3) of section 804(a).

"(c) AVAILABILITY OF APPROPRIATIONS.—Appropriations under this title shall not be available for the payment of compensation of students for employment by employers under arrangements pursuant to this title.

20 USC 1133b.

"SEC. 803. GRANTS FOR COOPERATIVE EDUCATION.

"(a) GRANTS AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized—

"(A) from the amount available under section 802(b)(1) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education or combinations of such institutions that have not received a grant under this paragraph in the 10-year period preceding the date for which a grant under this section is requested to pay the Federal share of the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions or combinations of institutions; and

"(B) from the amount available under section 802(b)(2) in each fiscal year and in accordance with the provisions of this title, to make grants to institutions of higher education that are operating an existing cooperative education program as determined by the Secretary to pay the cost of planning, establishing, expanding, or carrying out programs of cooperative education by such institutions.

"(2) PROGRAM REQUIREMENT.—Cooperative education programs assisted under this section shall provide alternating or parallel periods of academic study and of public or private employment, giving students work experience related to their academic or occupational objectives and the opportunity to earn the funds necessary for continuing and completing their education.

"(3) AMOUNT OF GRANTS.—(A) The amount of each grant awarded pursuant to paragraph (1)(A) to any institution of higher education or combination of such institutions in any fiscal year shall not exceed $500,000.

"(B)(i) Except as provided in clauses (ii) and (iii), the Secretary shall award grants in each fiscal year to each institution of higher education described in paragraph (1)(B) that has an application approved under subsection (b) in an amount which bears the same ratio to the amount reserved pursuant to section 802(b)(2) for such fiscal year as the number of unduplicated students placed in cooperative education jobs during the preceding fiscal year (other than cooperative education jobs under section 804 and as determined by the Secretary) by such institution of higher education bears to the total num-

ber of all such students placed in such jobs during the preceding fiscal year by all such institutions.

"(ii) No institution of higher education shall receive a grant pursuant to paragraph (1)(B) in any fiscal year in an amount which exceeds 25 percent of such institution's cooperative education program's personnel and operating budget for the preceding fiscal year.

"(iii) The minimum annual grant amount which an institution of higher education is eligible to receive under paragraph (1)(B) is $1,000 and the maximum annual grant amount is $75,000.

"(4) LIMITATION.—The Secretary shall not award grants pursuant to paragraphs (1)(A) and (1)(B) to the same institution of higher education or combination of such institution in any one fiscal year.

"(5) USES.—Grants under paragraph (1)(B) shall be used exclusively—

"(A) to expand the quality and participation of a cooperative education program;

"(B) for outreach in new curricular areas; and

"(C) for outreach to potential participants including underrepresented and nontraditional populations.

"(b) APPLICATIONS.—Each institution of higher education or combination of such institutions desiring to receive a grant under this section shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall—

"(1) set forth the program or activities for which a grant is authorized under this section;

"(2) specify each portion of such program or activities which will be performed by a nonprofit organization or institution other than the applicant and the compensation to be paid for such performance;

"(3) provide that the applicant will expend during such fiscal year for the purpose of such program or activities not less than the amount expended for such purpose during the previous fiscal year;

"(4) describe the plans which the applicant will carry out to assure, and contain a formal statement of the institution's commitment which assures, that the applicant will continue the cooperative education program beyond the 5-year period of Federal assistance described in subsection (c)(1) at a level which is not less than the total amount expended for such program during the first year such program was assisted under this section;

"(5) provide that, in the case of an institution of higher education that provides a 2-year program which is acceptable for full credit toward a bachelor's degree, the cooperative education program will be available to students who are certificate or associate degree candidates and who carry at least one-half the normal full-time academic workload;

"(6) provide that the applicant will—

"(A) make such reports as may be essential to ensure that the applicant is complying with the provisions of this section, including the reports for the second and each succeeding fiscal year for which the applicant receives a grant data with respect to the impact of the cooperative education program in the previous fiscal year, including— Reports.

"(i) the number of unduplicated student applicants in the cooperative education program;

"(ii) the number of unduplicated students placed in cooperative education jobs;

"(iii) the number of employers who have hired cooperative education students;

"(iv) the income for students derived from working in cooperative education jobs; and

"(v) the increase or decrease in the number of unduplicated students placed in cooperative education jobs in each fiscal year compared to the previous fiscal year; and

Records.

"(B) keep such records as are essential to ensure that the applicant is complying with the provisions of this title, including the notation of cooperative education employment on the student's transcript;

"(7) describe the extent to which programs in the academic discipline for which the application is made have had a favorable reception by public and private sector employers;

"(8) describe the extent to which the institution is committed to extending cooperative education on an institution-wide basis for all students who can benefit;

"(9) describe the plans that the applicant will carry out to evaluate the applicant's cooperative education program at the end of the grant period;

"(10) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this title;

Handicapped.
Minorities.

"(11) demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican-American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Marianian students; and

"(12) include such other information as is essential to carry out the provisions of this title.

"(c) DURATION OF GRANTS; FEDERAL SHARE.—

"(1) DURATION OF GRANTS.—No individual institution of higher education may receive, individually or as a participant in a combination of such institutions—

"(A) a grant pursuant to subsection (a)(1)(A) for more than 5 fiscal years; or

"(B) a grant pursuant to subsection (a)(1)(B) for more than 5 fiscal years.

"(2) FEDERAL SHARE.—The Federal share of a grant under section 803(a)(1)(A) may not exceed—

"(A) 85 percent of the cost of carrying out the program or activities described in the application in the first year the applicant receives a grant under this section;

"(B) 70 percent of such cost in the second such year;

"(C) 55 percent of such cost in the third such year;

"(D) 40 percent of such cost in the fourth such year; and

"(E) 25 percent of such cost in the fifth such year.

"(3) SPECIAL RULE.—Any provision of law to the contrary notwithstanding, the Secretary shall not waive the provisions of this subsection.

"(d) MAINTENANCE OF EFFORT.—If the Secretary determines that a recipient of funds under this section has failed to maintain the fiscal effort described in subsection (b)(3), then the Secretary may elect not to make grant payments under this section to such recipient.

"(e) FACTORS FOR SPECIAL CONSIDERATION OF APPLICATIONS.—

"(1) IN GENERAL.—In approving applications under this section, the Secretary shall give special consideration to applications from institutions of higher education or combinations of such institutions for programs which show the greatest promise of success because of—

"(A) the extent to which programs in the academic discipline with respect to which the application is made have had a favorable reception by public and private sector employers;

"(B) the strength of the commitment of the institution of higher education or combination of such institutions to cooperative education as demonstrated by the plans and formalized institutional commitment statement which such institution or combination has made to continue the program after the termination of Federal financial assistance,

"(C) the extent to which the institution or combination is committed to extending cooperative education for all students who can benefit, and

"(D) such other factors as are consistent with the purposes of this section.

"(2) ADDITIONAL SPECIAL CONSIDERATION.—The Secretary shall also give special consideration to applications from institutions of higher education or combinations of such institutions which demonstrate a commitment to serving special populations such as women, individuals with disabilities, and African American, Mexican American, Puerto Rican, Cuban, other Hispanic, American Indian, Alaska Native, Aleut, Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), and Northern Mariana students.

Women.
Handicapped.
Minorities.

"SEC. 804. DEMONSTRATION AND INNOVATION PROJECTS; TRAINING AND RESOURCE CENTERS; AND RESEARCH.

20 USC 1133c.

"(a) AUTHORIZATION.—The Secretary is authorized, in accordance with the provisions of this section, to make grants and enter into contracts for—

"(1) the conduct of demonstration projects designed to demonstrate or determine the feasibility or value of innovative methods of cooperative education from the amounts available in each fiscal year under section 802(b)(3);

"(2) the conduct of training and resource centers designed to—

"(A) train personnel in the field of cooperative education;

"(B) improve materials used in cooperative education programs if such improvement is conducted in conjunction with other activities described in this paragraph;

"(C) furnish technical assistance to institutions of higher education to increase the potential of the institution to

continue to conduct a cooperative education program without Federal assistance;

"(D) encourage model cooperative education programs which furnish education and training in occupations in which there is a national need;

"(E) support partnerships under which an institution carrying out a comprehensive cooperative education program joins with one or more institutions of higher education in order to (i) assist the institution other than the comprehensive cooperative education institution to develop and expand an existing program of cooperative education, or (ii) establish and improve or expand comprehensive cooperative education programs; and

"(F) encourage model cooperative education programs in the fields of science and mathematics for women and minorities who are underrepresented in such fields

from the amounts available in each fiscal year under section 802(b)(4); and

"(3) the conduct of research relating to cooperative education, from the amounts available in each fiscal year under section 802(b)(5).

"(b) ADMINISTRATIVE PROVISION.—

"(1) IN GENERAL.—To carry out this section, the Secretary may—

"(A) make grants to or contracts with institutions of higher education, or combinations of such institutions; and

"(B) make grants to or contracts with other public or private nonprofit agencies or organizations, whenever such grants or contracts will make an especially significant contribution to attaining the objectives of this section.

"(2) LIMITATION.—(A) The Secretary may not use more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(A).

"(B) The Secretary may use not more than 3 percent of the amount appropriated to carry out this section in each fiscal year to enter into contracts described in paragraph (1)(B).

"(c) SUPPLEMENT NOT SUPPLANT.—A recipient of a grant or contract under this section may use the funds provided only so as to supplement and, to the extent possible, increase the level of funds that would, in the absence of such funds, be made available from non-Federal sources to carry out the activities supported by such grant or contract, and in no case to supplant such funds from non-Federal sources.".

TITLE IX—GRADUATE PROGRAMS

SEC. 901. GRADUATE PROGRAMS.

Title IX of the Act (20 U.S.C. 1134 et seq.) is amended to read as follows:

"TITLE IX—GRADUATE PROGRAMS

20 USC 1134.

"SEC. 901. PURPOSE AND ADMINISTRATIVE PROVISIONS.

"(a) PURPOSE.—It is the purpose of this title to—

"(1) foster and support graduate and professional education;

"(2) provide incentives and support for United States citizens to complete doctoral degree programs leading to academic careers, especially women and students from underrepresented groups; and

"(3) provide support for students from underrepresented groups to complete masters and professional degree programs.

"(b) ADMINISTRATIVE PROVISIONS.—

"(1) COORDINATED ADMINISTRATION.—In carrying out the purposes of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs under this title to ensure that the programs are carried out in a manner most compatible with academic practices.

"(2) HIRING AUTHORITY.—For purposes of carrying out this title, the Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such part. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(3) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this title for study at a school or department of divinity.

"PART A—GRANTS TO INSTITUTIONS AND CONSORTIA TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION

"SEC. 911. GRANTS AUTHORIZED.

20 USC 1134a.

"The Secretary shall make grants to institutions of higher education and consortia of such institutions to enable such institutions and consortia—

"(1) to identify talented undergraduate students who—

"(A) demonstrate financial need; and

"(B) are individuals from minority groups underrepresented in graduate education or are women underrepresented in fields of study in graduate education such as the fields of science and mathematics; and

"(2) to provide such students with an opportunity to participate in a program of research and scholarly activities at such institutions or consortia designed to provide such students with effective preparation for graduate study in such fields or related fields.

"SEC. 912. SUBMISSION AND CONTENTS OF APPLICATION.

20 USC 1134b.

"(a) REQUIRED INFORMATION.—Each institution of higher education or consortium desiring assistance under this part shall submit an application to the Secretary in such form and containing such information as the Secretary may by regulation prescribe. Each such application shall provide information regarding—

"(1) the program of study, to take the form of summer research internships, seminars, and other educational experiences;

"(2) the institution's or consortium's plan for identifying and recruiting talented women and minority undergraduates, especially those interested in entering fields in which such women and minority undergraduates are underrepresented;

"(3) the participation of faculty in the program and a detailed description of the research in which students will be involved;

"(4) a plan for the evaluation of the effectiveness of the program; and

"(5) such other assurances and information as the Secretary may require by regulation.

"(b) SELECTION REQUIREMENTS.—In making awards to institutions and consortia—

"(1) the Secretary shall consider the quality of the research in which students will be involved as well as the recruitment program and program of study; and

"(2) the Secretary shall ensure an equitable geographic distribution among public and private institutions of higher education and consortia.

20 USC 1134c.

"SEC. 913. USE OF FUNDS.

"Awards made to institutions or consortia under this part shall be used exclusively to provide direct fellowship aid which may include need-based stipends, room and board costs, transportation costs, and tuition for courses for which credit is given by the institution or consortium as approved by the Secretary.

20 USC 1134c-1.

"SEC. 914. INFORMATION COLLECTION.

"In order to assist institutions of higher education or consortia to identify talented women and minority undergraduates for graduate study, institutions or consortia receiving awards under this part shall provide to the Secretary such information as the Secretary determines is necessary to carry out this section. With respect to students participating in a summer internship under this part, the Secretary shall collect information submitted by such institutions or consortia, such as the students' names, addresses, and institutions attended for undergraduate study. The Secretary shall, subject to the authorization of each student, make the information available to institutions of higher education or consortia offering graduate programs seeking to identify talented women and minority undergraduates for graduate study.

20 USC 1134c-2.

"SEC. 915. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Minorities.
Women.

"PART B—PATRICIA ROBERTS HARRIS FELLOWSHIP PROGRAM

20 USC 1134d.

"SEC. 921. STATEMENT OF PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this part to provide, through institutions of higher education, a program of grants to assist in making available the benefits of master's level, professional, and doctoral education programs to individuals from minority groups and women who are underrepresented in such programs.

"(b) DESIGNATION.—Each recipient of such an award under this part shall be known as a 'Patricia Roberts Harris Graduate Fellow'.

"SEC. 922. PROGRAM AUTHORIZED. 20 USC 1134e.

"(a) GRANTS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this part.

"(2) RESERVATIONS.—The Secretary shall reserve—

"(A) 50 percent of the amount appropriated pursuant to the authority of section 924 to award grants to institutions of higher education to enable such institutions to make awards for master's level and professional study; and

"(B) 50 percent of such amount to award grants to such institutions to enable such institutions to make awards for doctoral study.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—

"(1) EQUITABLE DISTRIBUTION.—In making such grants the Secretary shall, to the maximum extent feasible, ensure an equitable geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) REALLOTMENT.—Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this part.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of postbaccalaureate study leading to a master's level, professional, or doctoral degree may apply for grants under this part. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of professional schools, academic departments, or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in academic career fields of high national priority;

"(2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in professional and academic careers requiring master's level, professional, or doctoral degrees, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area;

"(3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of women and minority groups; and

"(4) take into account the success of the applicant in providing students with access to careers in which women and minority groups are underrepresented.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this part, a priority for awards is accorded to—

"(1) individuals from minority groups and women who are pursuing master's level or professional study in fields in which they are underrepresented;

"(2) individuals from minority groups and women who are pursuing master's level study leading to careers that serve the public interest; and

"(3) women and individuals from traditionally underrepresented groups undertaking doctoral study, including those interested in entering the fields of science and mathematics.

"(f) INSTITUTIONAL PAYMENTS.—The Secretary shall (in addition to stipends paid to individuals under this part) pay to the institution of higher education, for each individual awarded a fellowship under this part at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

20 USC 1134f.

"SEC. 923. AWARD OF FELLOWSHIPS.

"(a) AWARDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary may establish shall reflect the purpose of this program to encourage students to undertake master's level, professional, and doctoral study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) REQUIREMENTS FOR AWARDS.—

"(1) MASTER'S OR PROFESSIONAL DEGREE.—No student enrolled in graduate study leading to a master's or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed the normal period for completing the program in which the student is enrolled or a total of 3 years, whichever is less, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 3-year period for study or research set forth in this section, under special

circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.

"(2) DOCTORAL DEGREE.—No student enrolled in graduate study leading to a doctoral degree shall receive an award under this part except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of 3 years, consisting of not more than 2 years of support for study or research, and not more than 1 year of support for dissertation work provided that the student has attained satisfactory progress prior to the dissertation stage. The institution shall provide 2 years of support for each student, including at least 1 year of supervised teaching, following the 2 years of predissertation support under this part.

"SEC. 924. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1134g.

"There are authorized to be appropriated $60,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

"PART C—JACOB K. JAVITS FELLOWSHIP PROGRAM

"SEC. 931. AWARD OF JACOB K. JAVITS FELLOWSHIPS. 20 USC 1134h.

"(a) AUTHORITY AND TIMING OF AWARDS.—The Secretary is authorized to award fellowships in accordance with the provisions of this part for graduate study in the arts, humanities, and social sciences by students of superior ability selected on the basis of demonstrated achievement and exceptional promise. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.

"(b) DESIGNATION OF FELLOWS.—Students receiving awards under this part shall be known as 'Jacob K. Javits Fellows'.

"(c) INTERRUPTIONS OF STUDY.—The institution of higher education may allow a fellowship recipient to interrupt periods of study for a period not to exceed 12 months for the purpose of work, travel, or independent study away from the campus, if such independent study is supportive of the fellowship recipient's academic program and shall continue payments for those 12-month periods during which the student is pursuing travel or independent study supportive of the recipient's academic program.

20 USC 1134i. Establishment.

"SEC. 932. ALLOCATION OF FELLOWSHIPS.

"(a) FELLOWSHIP BOARD.—

"(1) APPOINTMENT.—The Secretary shall appoint a Jacob K. Javits Fellows Program Fellowship Board (hereinafter in this part referred to as the 'Board') consisting of 9 individuals representative of both public and private institutions of higher education who are especially qualified to serve on the Board. In making appointments, the Secretary shall give due consideration to the appointment of individuals who are highly respected in the academic community. The Secretary shall assure that individuals appointed to the Board are broadly knowledgeable about and have experience in doctoral education in arts, humanities, and social sciences.

"(2) DUTIES.—The Board shall—

"(A) establish general policies for the program established by this part and oversee its operation;

"(B) establish general criteria for the distribution of fellowships among eligible academic fields identified by the Board;

"(C) appoint panels of academic scholars with distinguished backgrounds in the arts, humanities, and social sciences for the purpose of selecting fellows; and

Reports.

"(D) prepare and submit to the Congress at least once in every 3-year period a report on any modifications in the program that the Board determines are appropriate.

"(3) CONSULTATIONS.—In carrying out its responsibilities, the Board shall consult on a regular basis with representatives of the National Science Foundation, the National Endowment for the Humanities, the National Endowment for the Arts, and representatives of institutions of higher education and associations of such institution, learned societies, and professional organizations.

"(4) TERM.—The term of office of each member of the Board shall be 4 years, except that any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed. No member may serve for a period in excess of 6 years.

"(5) INITIAL MEETING; VACANCY.—The Secretary shall call the first meeting of the Board, at which the first order of business shall be the election of a Chairperson and a Vice Chairperson, who shall serve until 1 year after the date of their appointment. Thereafter each officer shall be elected for a term of 2 years. In case a vacancy occurs in either office, the Board shall elect an individual from among the members of the Board to fill such vacancy.

"(6) QUORUM; ADDITIONAL MEETINGS.—(A) A majority of the members of the Board shall constitute a quorum.

"(B) The Board shall meet at least once a year or more frequently, as may be necessary, to carry out its responsibilities.

"(7) COMPENSATION.—Members of the Board, while serving on the business of the Board, shall be entitled to receive compensation at rates fixed by the Secretary, but not exceeding the rate of basic pay payable for level IV of the Executive Schedule, including traveltime, and while so serving away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as

authorized by section 5703 of title 5, United States Code, for persons in Government service employed intermittently.

"(b) USE OF SELECTION PANELS.—The recipients of fellowships shall be selected in each designated field from among all applicants nationwide in each field by distinguished panels appointed by the Board to make such selections under criteria established by the Board. The number of recipients in each field in each year shall not exceed the number of fellows allocated to that field for that year by the Board.

"(c) FELLOWSHIP PORTABILITY.—Each recipient shall be entitled to use the fellowship in a doctoral program at any accredited institution of higher education in which the recipient may decide to enroll.

"SEC. 933. STIPENDS. 20 USC 1134j.

"(a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) INSTITUTIONAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall (in addition to the stipends paid to individuals under subsection (a)) pay to the institution of higher education, for each individual awarded a fellowship for pursuing a course at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year, except that such amount charged to a fellowship recipient and collected from such recipient for tuition and other expenses required by the institution as part of the recipient's instructional program shall be deducted from the payment to the institution under this subsection.

"(2) SPECIAL RULES.—(A) Beginning March 1, 1992, any applicant for a fellowship under this part who has been notified in writing by the Secretary that such applicant has been selected to receive such a fellowship and is subsequently notified that the fellowship award has been withdrawn, shall receive such fellowship unless the Secretary subsequently makes a determination that such applicant submitted fraudulent information on the application.

"(B) Subject to the availability of appropriations, amounts payable to an institution by the Secretary pursuant to this subsection shall not be reduced for any purpose other than the purposes specified under paragraph (1).

"SEC. 934. FELLOWSHIP CONDITIONS. 20 USC 1134k.

"(a) REQUIREMENTS FOR RECEIPT.—An individual awarded a fellowship under the provisions of this part shall continue to receive payments provided in section 933 only during such periods as

the Secretary finds that such individual is maintaining satisfactory proficiency in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, in an institution of higher education, and is not engaging in gainful employment other than part-time employment by such institution in teaching, research, or similar activities, approved by the Secretary.

"(b) REPORTS FROM RECIPIENTS.—The Secretary is authorized to require reports containing such information in such form and filed at such times as the Secretary determines necessary from any person awarded a fellowship under the provisions of this part. The reports shall be accompanied by a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Secretary, stating that such individual is making satisfactory progress in, and is devoting essentially full time to the program for which the fellowship was awarded.

20 USC 1134k-1.

"SEC. 935. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

"PART D—GRADUATE ASSISTANCE IN AREAS OF NATIONAL NEED

20 USC 1134*l*.

"SEC. 941. PURPOSE.

"In order to sustain and enhance the capacity for teaching and research in areas of national need, it is the purpose of the part to provide, through academic departments and programs of institutions of higher education, a fellowship program to assist graduate students of superior ability who demonstrate financial need.

20 USC 1134m.

"SEC. 942. GRANTS TO ACADEMIC DEPARTMENTS AND PROGRAMS OF INSTITUTIONS.

"(a) GRANT AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall make grants to academic departments and programs and other academic units of institutions of higher education that provide courses of study leading to a graduate degree in order to enable such institutions to provide assistance to graduate students in accordance with this part.

"(2) ADDITIONAL GRANTS.—The Secretary may also make grants to such departments and programs and to other units of institutions of higher education granting graduate degrees which submit joint proposals involving nondegree granting institutions which have formal arrangements for the support of doctoral dissertation research with degree-granting institutions. Nondegree granting institutions eligible for awards as part of such joint proposals include any organization which—

"(A) is described in section 501(c)(3) of the Internal Revenue Code of 1986, and is exempt from tax under section 501(a) of such Code;

"(B) is organized and operated substantially to conduct scientific and cultural research and graduate training programs;

"(C) is not a private foundation;

"(D) has academic personnel for instruction and counseling who meet the standards of the institution of higher education in which the students are enrolled; and

"(E) has necessary research resources not otherwise readily available in such institutions to such students.

"(b) AWARD AND DURATION OF GRANTS.—

"(1) AWARDS.—The principal criterion for the allocation of awards shall be the relative quality of the graduate programs presented in competing applications. Consistent with an allocation of awards based on quality of competing applications, the Secretary shall, in making such grants, promote an equitable geographic distribution among eligible public and private institutions of higher education.

"(2) DURATION.—The Secretary shall approve a grant recipient under this part for a 3-year period. From the sums appropriated under this part for any fiscal year, the Secretary shall not make a grant to any academic department or program of an institution of higher education of less than $100,000 or greater than $750,000 per fiscal year.

"(3) REALLOTMENT.—Whenever the Secretary determines that an academic department or program of an institution of higher education is unable to use all of the amounts available to it under this part, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot the amounts not needed to academic departments and programs of institutions which can use the grants authorized by this part.

"(c) PREFERENCE TO CONTINUING GRANT RECIPIENTS.—

"(1) IN GENERAL.—The Secretary shall make new grant awards under this part only to the extent that each previous grant recipient has received continued funding in accordance with subsection (b)(2).

"(2) RATABLE REDUCTION.—To the extent that appropriations under this part are insufficient to comply with paragraph (1), available funds shall be distributed by ratably reducing the amounts required to be awarded by subsection (b)(2).

"SEC. 943. INSTITUTIONAL ELIGIBILITY. 20 USC 1134n.

"(a) ELIGIBILITY CRITERIA.—Any academic department or program of an institution of higher education that offers a program of postbaccalaureate study leading to a graduate degree in an area of national need (as designated under subsection (b)) may apply for a grant under this part. No department or program shall be eligible for a grant unless the program of postbaccalaureate study has been in existence for at least 4 years at the time of application for assistance under this part.

"(b) DESIGNATION OF AREAS OF NATIONAL NEED.—After consultation with the National Science Foundation, the National Academy of Sciences, the National Endowments for the Arts and the Humanities, and other appropriate Federal and nonprofit agencies and organizations, the Secretary shall designate areas of national need, such as mathematics, biology, physics, chemistry, engineering, geosciences, computer science, or foreign languages or area studies. In making such designations, the Secretary shall take into account the extent to which the interest is compelling and the extent to which other Federal programs support postbaccalaureate study in the area concerned.

20 USC 1134o.

"SEC. 944. CRITERIA FOR APPLICATIONS.

"(a) SELECTION OF APPLICATIONS.—The Secretary shall make grants to academic departments and programs of institutions of higher education on the basis of applications submitted in accordance with subsection (b). Applications shall be ranked on program quality by geographically balanced review panels of nationally recognized scholars. To the extent possible (consistent with other provisions of this section), the Secretary shall make awards that are consistent with recommendations of the review panels.

"(b) CONTENTS OF APPLICATIONS.—An academic department or program of an institution of higher education, in its application for a grant, shall—

"(1) describe the current academic program of the applicant for which the grant is sought;

"(2) provide assurances that the applicant will provide, from other non-Federal funds, for the purposes of the fellowship program under this part an amount equal to at least 25 percent of the amount of the grant received under this part;

"(3) set forth policies and procedures to assure that, in making fellowship awards under this part the institution will seek talented students from traditionally underrepresented backgrounds, as determined by the Secretary;

"(4) set forth policies and procedures to assure that, in making fellowship awards under this part, the institution will make awards to individuals who—

"(A) have financial need, as determined under criteria developed by the institution;

"(B) have excellent academic records in their previous programs of study;

"(C) plan teaching or research careers; and

"(D) plan to pursue the highest possible degree available in their course of study;

"(5) set forth policies and procedures to ensure that Federal funds made available under this part for any fiscal year will be used to supplement and, to the extent practical, increase the funds that would otherwise be made available for the purpose of this part and in no case to supplant those funds;

"(6) provide assurances that, in the event that funds made available to the academic department or program under this part are insufficient to provide the assistance due a student under the commitment entered into between the academic department or program and the student, the academic department or program will endeavor, from any funds available to it, to fulfill the commitment to the student;

"(7) provide that the applicant will comply with the limitations set forth in section 945;

"(8) provide assurances that the academic department will provide at least 1 year of supervised training in instruction for students; and

"(9) include such other information as the Secretary may prescribe.

20 USC 1134p.

"SEC. 945. AWARDS TO GRADUATE STUDENTS.

"(a) COMMITMENTS TO GRADUATE STUDENTS.—

"(1) IN GENERAL.—An academic department or program of an institution of higher education shall make commitments to graduate students (including students pursuing a doctoral

degree after having completed a master's degree program at an institution of higher education) at any point in their graduate study to provide stipends for the length of time necessary for a student to complete the course of graduate study, but in no case longer than 5 years.

"(2) SPECIAL RULE.—No such commitments shall be made to students under this part unless the academic department or program has determined adequate funds are available to fulfill the commitment either from funds received or anticipated under this part, or from institutional funds.

"(b) AMOUNT OF STIPENDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this part. The stipends the Secretary establishes shall reflect the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. In the case of an individual who receives such individual's first stipend under this part in academic year 1993–1994 or any succeeding academic year, such stipend shall be set at a level of support equal to that provided by the National Science Foundation graduate fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(c) SUPPLEMENTATION RULE.—Notwithstanding the provisions of section 944(b)(6), any non-Federal funds provided to a student in accordance with section 944(b)(2) by the academic department or program of an institution of higher education for tuition and fees under subsection (a), may be used to supplement stipends awarded under this part.

"(d) ACADEMIC PROGRESS REQUIRED.—Notwithstanding the provisions of subsection (a), no student shall receive an award—

"(1) except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to, study or research in the field in which such fellowship was awarded, or

"(2) if the student is engaging in gainful employment other than part-time employment involved in teaching, research, or similar activities determined by the institution to be in support of the student's progress towards a degree.

"SEC. 946. ADDITIONAL ASSISTANCE FOR COST OF EDUCATION. 20 USC 1134q.

"(a) PAYMENTS AUTHORIZED.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $9,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.

"SEC. 947. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1134q-1.

"There are authorized to be appropriated $40,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

"PART E—FACULTY DEVELOPMENT FELLOWSHIP PROGRAM

Minorities.
20 USC 1134r.

"SEC. 951. FELLOWSHIPS AUTHORIZED.

"(a) FELLOWSHIP PROGRAM AUTHORIZATION.—The Secretary shall make grants to institutions of higher education or consortia of such institutions and nonprofit organizations associated with institutions of higher education, with a demonstrated record of enhancing the access of individuals from underrepresented groups including African Americans, Asian Americans, Hispanic Americans, Native Americans, and Native Hawaiians, to enable such institutions or consortia to—

"(1) identify talented faculty from underrepresented groups who wish to—

"(A) continue in the higher education professorate and obtain a doctoral degree; or

"(B) participate in faculty professional development programs specifically designed to advance the careers of underrepresented minorities;

"(2) identify talented baccalaureate degree recipients from underrepresented groups who have financial need and who wish to obtain a doctoral degree and enter the higher education professorate; and

"(3) provide the individuals described in paragraphs (1) and (2) with a fellowship to assist such students in obtaining a doctoral degree or to participate in a faculty development program.

"(b) GEOGRAPHIC DISTRIBUTION.—In awarding grants pursuant to subsection (a), the Secretary shall ensure—

"(1) an equitable geographic distribution of such grants; and

"(2) that both public and private institutions of higher education are fairly represented among the grant recipients.

"(c) SPECIAL RULE.—

"(1) EQUITABLE DISTRIBUTION.—Each institution of higher education or consortium receiving a grant under this part shall ensure that during the period of the grant there is an equitable distribution of fellowships under this part among underrepresented groups.

"(2) CONSTRUCTION.—Nothing in this section shall be interpreted to require any institution of higher education or consortium to grant preference or disparate treatment to the members of one group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this part, in comparison with the total number or percentage of individuals of such group in any community, State, section, or other area.

"(d) WAIVER BY THE SECRETARY.—The Secretary may waive all or any portion of the requirement under subsection (b) upon application of any institution which is eligible for funds under title III of this Act, pursuant to criteria established by the Secretary by regulation.

"(e) SELECTION REQUIREMENTS.—In awarding grants under subsection (a), the Secretary shall give priority to applications describing programs that—

"(1) provide to each fellowship recipient—

"(A) a tuition waiver; and

"(B)(i) a minimum $2,000 stipend; or

"(ii) additional financial support in conjunction with teaching or research activities that are part of such recipient's doctoral program;

"(2) provide additional financial support to each fellowship recipient from non-Federal resources, either in cash or in kind, such as contributions from the business community and civic organizations;

"(3) emphasize courses of study leading to the doctoral degrees in disciplines where minorities are underrepresented; and

"(4) describe steps to ensure that a fellowship recipient will teach at an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievement of such recipient.

"(f) DESIGNATION.—Students receiving fellowship awards under this part shall be known as 'Faculty Development Fellows'.

"SEC. 952. FELLOWSHIPS. 20 USC 1134r-1.

"Each institution of higher education or consortium receiving a grant under this part shall award fellowships in an amount equal to the amount awarded to National Science Foundation graduate fellowship recipients for that year, or an amount based on the financial need of the recipient (as determined by the institution in accordance with measurements of need approved by the Secretary) whichever is less.

"SEC. 953. APPLICATION. 20 USC 1134r-2.

"(a) APPLICATION REQUIRED.—Each institution of higher education or consortium desiring a grant under this part shall submit an application to the Secretary at such time, in such manner and containing such information as the Secretary may by regulation reasonably require.

"(b) CONTENTS.—Each application submitted pursuant to subsection (a) shall contain—

"(1) the institution of higher education's or consortium's plan for identifying and recruiting faculty and baccalaureate degree recipients who may participate in the program assisted under this part;

"(2) a description of the program or programs of doctoral study that the institution of higher education or consortium plans to offer in the institution's doctoral program;

"(3) the institution of higher education's or consortium's plan for using minority faculty and other faculty as advisors and academic resources in support of the program assisted under this part;

"(4) a description of other resources of the institution of higher education or consortium, including tuition waivers, assistantships or financial aid other than loans, that such institution or consortium shall make available to fellowship recipients;

"(5) a description of the method such institution or consortium shall use to determine a student's financial need;

"(6) the names of those undergraduate institutions which are historically or predominantly black colleges and universities or other institutions with significant enrollments of African Americans, Asian Americans, Hispanic Americans, Native

Hawaiians, Pacific Islanders, and Native Americans which have agreed to cooperate with the applicant institution to carry out the purposes of this part; and

"(7) such other assurances and information as the Secretary may reasonably require by regulation.

20 USC 1134r-3.

"SEC. 954. FELLOWSHIP AGREEMENT.

"Each recipient of a fellowship under this part shall enter into an agreement with the institution of higher education or consortium awarding such fellowship under which the fellowship recipient shall—

"(1) in the case of a fellowship recipient described in section 951(a)(1), within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education that has a significant minority enrollment;

"(2) in the case of a fellowship recipient described in section 951(a)(2), within a 5-year period after completing the doctoral degree for which the fellowship under this part was awarded, teach, for a period of not less than 1 year for each year for which financial assistance under this part was received, in a public or private nonprofit institution of higher education;

Regulations.

"(3) agree to provide the Secretary with evidence of compliance, determined pursuant to regulations issued by the Secretary, with the provisions of paragraph (1) or (2); and

"(4) repay all or part of the fellowship received, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of paragraph (1) or (2) are not complied with, except as provided in section 956.

20 USC 1134r-4.
Regulations.

"SEC. 955. FELLOWSHIP REPAYMENT PROVISIONS.

"A recipient of a fellowship under this part found by the Secretary to be in noncompliance with the agreement entered into under section 954(1) or 954(2) shall be required to repay a pro rata amount of such fellowship assistance received, plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV) and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this part.

20 USC 1134r-5.

"SEC. 956. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 954 (1) or (2) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool, education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this part.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any fellowship assistance received under this part if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"SEC. 957. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1134r-6.

"There are authorized to be appropriated to carry out this part $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART F—ASSISTANCE FOR TRAINING IN THE LEGAL PROFESSION

Minorities. Contracts.

"SEC. 961. PROGRAM REQUIREMENTS. 20 USC 1134s.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to assist minority, low-income, or educationally disadvantaged college graduates to successfully pursue a law degree and service in the legal profession through an annual grant or contract with the Council on Legal Education Opportunity (hereinafter CLEO). A grant or contract under this part shall permit CLEO to use up to 6 percent of the funds provided for administrative costs of the grant or contract.

"(b) SERVICES AUTHORIZED.—A legal training project under this part may provide the following services:

"(1) Assistance and counseling in gaining admission to accredited law schools.

"(2) A 6-week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies.

"(3) An academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which may include—

"(A) instruction in reading, legal research, legal writing skills and problem analysis;

"(B) academic advice and assistance in course selection;

"(C) advisement about financing their legal education and available student financial aid;

"(D) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and

"(E) any other activity consistent with subparagraphs (A) through (D) which furthers the objectives of this part which the Secretary may, by regulation, reasonably require.

"(c) USE OF FUNDS.—The Secretary shall by grant or contract on a biennial basis, with the Council on Legal Education Opportunity, cover all or part of the cost of—

"(1) publicizing the existence and availability of program funds to assist minority, low-income, and educationally disadvantaged individuals to pursue a legal education;

"(2) selecting minority, low-income and educationally disadvantaged individuals for training for the legal profession;

"(3) facilitating the entry of such individuals into law schools at institutions of higher education for the purpose of pursuing a legal education;

"(4) selecting from among all qualified applicants, which shall provide the services authorized by section 961(b) (2) or (3);

"(5) evaluating the quality, impact and continuing feasibility of the programs implemented under section 961(b);

"(6) providing, through the institutions, agencies, and organizations selected under paragraph (4), for not more than 6 months prior to entry of such individuals upon their course of training for the legal profession, or following entry, training designed to assist them to complete successfully such training for the legal profession;

"(7) paying such stipends (including allowances for participant travel and for their dependents) as the Secretary may determine for such individuals for any such period of preliminary training for the legal profession during which such individuals maintain satisfactory academic progress toward the J.D. or LL.B. degree, as determined by the respective institution; and

"(8) paying for administrative activities of the institutions of higher education, agencies, or organizations which receive subgrants or contracts under paragraph (6), or with which such contracts are entered into, to the extent that such activities are for the purpose of furthering the activities described in paragraphs (1) through (7).

20 USC 1134t.

"SEC. 962. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART G—LAW SCHOOL CLINICAL EXPERIENCE PROGRAMS

20 USC 1134u.

"SEC. 971. PROGRAM AUTHORIZED.

"(a) GRANT AND CONTRACT PURPOSES.—The Secretary is authorized to enter into grants or contracts with accredited law schools in the States for the purpose of paying not to exceed 90 percent of the costs of continuing, expanding, or establishing programs in such schools to provide clinical experience to students in the practice of law, which includes any form of law student work involving performance in the role of a lawyer exercising legal skills and roles such as those of an advocate, counselor, negotiator, investigator, and ethical practitioner, whether by way of the provision of representation of or services to an identifiable client in actual cases or situations (subject to existing State or local limitations upon such provision) or by way of simulation of such provision through appropriate exercises. Preference shall be given to those programs providing legal experience in the preparation and trial of actual cases, including administrative cases and the settlement of controversies outside the courtroom. The cases and situations

handled in actuality or by simulation may encompass any one or more of the following:

"(1) Judicial, administrative, executive, or legislative proceedings, including the full range of preparation therefor.

"(2) Office or house counsel problems.

"(3) Factual investigation, empirical research, or policy or legal analysis.

"(b) USE OF FUNDS.—Such costs may include necessary expenditures incurred for—

"(1) planning;

"(2) training of faculty members and salary for additional faculty members;

"(3) travel and per diem for faculty and students;

"(4) reasonable stipends for students for work in the public service performed as part of any such program at a time other than during the regular academic year;

"(5) equipment and library resources;

"(6) involving practicing lawyers in the process of training law students to perform as lawyers; and

"(7) such other items as are allowed pursuant to regulations issued by the Secretary.

"(c) LIMITATIONS ON AMOUNTS.—No law school may receive more than $250,000 in any fiscal year pursuant to this part, no part of which may be used to pay for indirect costs or charges.

"(d) DEFINITION.—For the purpose of this part, the term 'accredited law school' means any law school which is accredited by a nationally recognized accrediting agency or association approved by the Secretary for this purpose, including any combination or consortium of such schools.

"SEC. 972. APPLICATIONS. 20 USC 1134v.

"(a) REQUIREMENTS.—A grant or contract authorized by this part may be made by the Secretary upon application which—

"(1) is made at such time or times and contains such information as the Secretary may prescribe;

"(2) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this part; and

"(3) provides for making such reports, in such form and containing such information as the Secretary may require to carry out functions under this part, and for keeping such records and for affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports.

"(b) DISTRIBUTION OF GRANTS AND CONTRACTS.—The Secretary shall allocate grants or contracts under this part in such manner as will provide an equitable distribution of such grants or contracts throughout the United States among law schools which show promise of being able to use funds effectively for the purposes of this part.

"SEC. 973. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1134w.

"There are authorized to be appropriated to carry out this part $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAMS

SEC. 1001. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

Part A of title X of the Act (20 U.S.C. 1135 et seq.) is amended to read as follows:

"PART A—FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

"Subpart 1—Program Authority

20 USC 1135.

"SEC. 1001. FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"(a) AUTHORITY.—The Secretary is authorized to make grants to, or enter into contracts with, institutions of higher education or combinations of such institutions and other public and private nonprofit institutions and agencies, to enable such institutions and combinations of such institutions to improve postsecondary education opportunities by—

"(1) encouraging the reform, innovation, and improvement of postsecondary education, and providing equal educational opportunity for all;

"(2) the creation of institutions and programs involving new paths to career and professional training, and new combinations of academic and experiential learning;

"(3) the establishment of institutions and programs based on the technology of communications;

"(4) the carrying out in postsecondary educational institutions of changes in internal structure and operations designed to clarify institutional priorities and purposes;

"(5) the design and introduction of cost-effective methods of instruction and operation;

"(6) the introduction of institutional reforms designed to expand individual opportunities for entering and reentering institutions and pursuing programs of study tailored to individual needs;

"(7) the introduction of reforms in graduate education, in the structure of academic professions, and in the recruitment and retention of faculties; and

"(8) the creation of new institutions and programs for examining and awarding credentials to individuals, and the introduction of reforms in current institutional practices related thereto.

"(b) PLANNING GRANTS.—The Secretary is authorized to make planning grants to institutions of higher education for the development and testing of innovative techniques in postsecondary education. Such grants shall not exceed $20,000.

20 USC 1135a.

"SEC. 1002. NATIONAL BOARD OF THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION.

"(a) ESTABLISHMENT.—There is established a National Board of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the 'Board'). The Board shall consist of 15 members appointed by the Secretary for overlapping

3-year terms. A majority of the Board shall constitute a quorum. Any member of the Board who has served for 6 consecutive years shall thereafter be ineligible for appointment to the Board during a 2-year period following the expiration of such sixth year.

"(b) MEMBERSHIP.—

"(1) IN GENERAL.—The Secretary shall designate one of the members of the Board as Chairperson of the Board. A majority of the members of the Board shall be public interest representatives, including students, and a minority shall be educational representatives. All members selected shall be individuals able to contribute an important perspective on priorities for improvement in postsecondary education and strategies of educational and institutional change.

"(2) APPOINTMENT OF DIRECTOR.—The Secretary shall appoint the Director of the Fund for the Improvement of Postsecondary Education (hereafter in this part referred to as the 'Director').

"(c) DUTIES.—The Board shall—

"(1) advise the Secretary and the Director on priorities for the improvement of postsecondary education and make such recommendations as the Board may deem appropriate for the improvement of postsecondary education and for the evaluation, dissemination, and adaptation of demonstrated improvements in postsecondary educational practice;

"(2) advise the Secretary and the Director on the operation of the Fund for the Improvement of Postsecondary Education, including advice on planning documents, guidelines, and procedures for grant competitions prepared by the Fund; and

"(3) meet at the call of the Chairperson, except that the Board shall meet whenever one-third or more of the members request in writing that a meeting be held.

"(d) INFORMATION AND ASSISTANCE.—The Director shall make available to the Board such information and assistance as may be necessary to enable the Board to carry out its functions.

"SEC. 1003. ADMINISTRATIVE PROVISIONS. 20 USC 1135a-1.

"(a) TECHNICAL EMPLOYEES.—The Secretary may appoint, for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 5 technical employees to administer this subpart who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this subpart. Procedures for reviewing grant applications or contracts for financial assistance under this section may not be subject to any review outside of officials responsible for the administration of the Fund for the Improvement of Postsecondary Education.

"SEC. 1004. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1135a-2.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part (except for section 1001(b)) $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) PLANNING GRANTS.—There are authorized to be appropriated to carry out section 1001(b) $1,000,000 for fiscal year 1993 and

such sums as may be necessary for each of the 4 succeeding fiscal years.

"Subpart 2—Special Projects in Areas of National Need

20 USC 1135a-11.

"SEC. 1011. SPECIAL PROJECTS.

"(a) GRANT AUTHORITY.—The Director is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Director deems necessary for innovative projects concerning one or more areas of particular national need identified by the Director.

"(b) APPLICATION.—No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Secretary may require.

"(c) AREAS OF NATIONAL NEED.—Areas of national need shall initially include, but shall not be limited to, the following:

"(1) International exchanges.

"(2) Campus climate and culture.

"(3) Evaluation and dissemination.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 1002. AMENDMENTS TO PART B.

(a) MINORITY SCIENCE IMPROVEMENT PROGRAMS.—Section 1021(b) of the Act (20 U.S.C. 1135b(b)) is amended by inserting ", particularly minority women," after "ethnic minorities".

(b) MULTIAGENCY STUDY.—Section 1024 of the Act (20 U.S.C. 1135b–3) is amended to read as follows:

"MULTIAGENCY STUDY OF MINORITY SCIENCE PROGRAMS

Reports.

"SEC. 1024. The Secretary, in cooperation with the heads of other departments and agencies that operate programs similar in purposes to the Minority Science Improvement Program which seek to increase minority participation and representation in scientific fields, shall submit a report to the President and Congress summarizing and evaluating such programs by January 1, 1996.".

(c) SCIENCE AND ENGINEERING ACCESS.—Section 1033(5) of the Act (20 U.S.C. 1135c–2(5)) is amended by inserting ", particularly minority women," after "minority students".

(d) CONSULTATION.—Section 1043 of the Act (20 U.S.C. 1135d–2) is amended by inserting "and consult" after "cooperate".

(e) ADVISORY PROVISIONS.—Section 1045 of the Act (20 U.S.C. 1135d–4) is repealed.

(f) REAUTHORIZATION OF PART B.—Section 1047 of the Act (20 U.S.C. 1135d–6) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1047. (a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the purposes of this part, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) APPROPRIATION LIMITATION.—For any fiscal year, 50 percent of the funds appropriated for this part shall be allocated for the

purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.".

SEC. 1003. WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM.

Part C of title X of the Act (20 U.S.C. 1135e et seq.) is amended to read as follows:

"PART C—WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM

"SEC. 1061. PURPOSE. 20 USC 1135e.

"It is the purpose of this part to provide grants to institutions working in partnership with elementary and secondary schools to establish outreach programs for female and minority elementary and secondary school students to increase the participation of those students in science and engineering undergraduate and graduate degree programs.

"SEC. 1062. PROGRAM AUTHORIZED. 20 USC 1135e-1.

"The Secretary shall, in accordance with the provision of this part, award grants to eligible institutions to enable such eligible institutions to pay the Federal share of the costs of carrying out a program that is designed to enhance, coordinate, develop, and expand programs and initiatives which identify and encourage female and minority elementary and secondary school students to pursue higher education in preparation for careers in science and engineering.

"SEC. 1063. ELIGIBLE INSTITUTIONS. 20 USC 1135e-2.

"(a) DEFINITION.—For the purpose of this part the term 'eligible institution' means an institution of higher education which—

"(1) has science and engineering programs;

"(2) has female and minority enrollment and retention rates significantly higher than the national averages of such rates, but does not meet the definition of 'minority institution' set forth in section 1046(3);

"(3) demonstrates its ability to conduct outreach activities in science and engineering to female and minority students at the elementary and secondary school levels;

"(4) incorporates the use of advanced telecommunications equipment, including fiber optics and interactive video systems, to improve the development of intermodal programs targeted toward female and minority students;

"(5) enters into a partnership agreement with a local educational agency and at least 1 local business or industry; and

"(6) describes in the application submitted pursuant to section 1065 the duties of each partner entering into the partnership agreement described in paragraph (5).

"(b) LIMITATION.—The Secretary shall award at least 40 percent of the total funds made available under this section in any fiscal year to eligible institutions located in any of the Nation's ten largest metropolitan statistical areas.

20 USC 1135e-3.

"SEC. 1064. AMOUNT, DURATION, AND USE OF FUNDS.

"(a) AMOUNT AND DURATION OF GRANTS.—Grants under this part shall be provided in an amount which is not less than $500,000 in a single fiscal year, and shall be continued for a period not to exceed 5 fiscal years.

"(b) USE OF GRANTS.—Grants provided under this section may be used for—

"(1) the operation and administration of outreach programs to elementary and secondary school students;

"(2) faculty development programs in support of outreach programs;

"(3) curriculum development in support of the outreach programs;

"(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

"(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and other education-related groups, to expand the scope of the outreach programs; and

"(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

20 USC 1135e-4.

"SEC. 1065. APPLICATION.

"To receive a grant under this part, an eligible institution shall submit an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall contain a description of the goals of the activities to be assisted.

20 USC 1135e-5.

"SEC. 1066. EVALUATION.

"(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of activities assisted under this part to determine their effectiveness in providing—

"(1) the operation and administration of outreach programs to elementary and secondary school students;

"(2) faculty development programs in support of outreach programs;

"(3) curriculum development in support of the outreach programs;

"(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

"(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry, and other education-related groups, to expand the scope of outreach programs; and

"(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

"(b) EVALUATIONS.—

"(1) CONDUCT AND CRITERIA.—Each evaluation described in subsection (a) shall be conducted by individuals not directly involved in the administration of the activities assisted under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which

provide for appropriate analysis of the factors described in subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) PROGRAM EFFECTIVENESS.—In order to determine the effectiveness of assistance provided under this part in achieving the goals stated in the application described in section 1065, each evaluation described in subsection (a) shall contain objective measures of such goals and, where feasible, shall obtain the specific views of participants about the activities assisted under this part.

"(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of the evaluations described in subsection (a) not later than September 30, 1997.

"SEC. 1067. FEDERAL SHARE. 20 USC 1135e-6.

"The Federal share of the costs of activities assisted under this part shall be 90 percent of the costs of such activities in the first year an eligible institution receives a grant under this part, 80 percent of such cost in the second such year, 70 percent of such cost in the third such year, 60 percent of such cost in the fourth such year, and 50 percent of such costs in the fifth such year. The remaining funds shall be provided from non-Federal sources.

"SEC. 1068. SUPPLEMENT NOT SUPPLANT. 20 USC 1135e-7.

"An eligible institution may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the activities described in section 1064(b) and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"SEC. 1069. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1135e-8.

"There are authorized to be appropriated to carry out this part, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years. Not more than 3 percent of the amount appropriated for this part in any fiscal year may be used for purposes of section 1066.".

SEC. 1004. DWIGHT D. EISENHOWER LEADERSHIP PROGRAM.

Title X of the Act (20 U.S.C. 1135 et seq.) is amended by adding at the end the following new part:

"PART D—DWIGHT D. EISENHOWER LEADERSHIP PROGRAM

Dwight D. Eisenhower Leadership Development Act of 1992. 20 USC 1135f.

"SEC. 1181. SHORT TITLE; ESTABLISHMENT OF THE PROGRAM.

"(a) SHORT TITLE.—This part may be cited as the 'Dwight D. Eisenhower Leadership Development Act of 1992'.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program to be known as the 'Dwight D. Eisenhower Leadership Development Program'.

"(2) SPECIAL RULE.—The program assisted under this part shall be established in conjunction with institutions of higher education which are specially prepared to undertake the devel-

opment of new generations of leaders in the areas of national and international affairs.

"(c) FUNCTIONS OF THE PROGRAM.—The functions of the program assisted under this part shall include—

"(1) stimulating and supporting the development of leadership skills among new generations of American college students;

"(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

"(3) offering opportunities for young American leaders who meet the requirements of section 484(a) of this Act and who are broadly representative of the population of the United States to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

"(4) developing curriculum for secondary and postsecondary education;

"(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

"(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

"(d) OPERATION OF THE PROGRAM.—The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with institutions of higher education (as defined in section 1201 of this title) or with nonprofit private organizations in consortia with such institutions to operate the program assisted under this part.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.".

TITLE XI—COMMUNITY SERVICE PROGRAMS

SEC. 1101. URBAN COMMUNITY SERVICE.

Title XI of the Act (20 U.S.C. 1136 et seq.) is amended to read as follows:

"TITLE XI—COMMUNITY SERVICE PROGRAMS

"PART A—URBAN COMMUNITY SERVICE

20 USC 1136.

"SEC. 1101. FINDINGS.

"The Congress finds that—

"(1) the Nation's urban centers are facing increasingly pressing problems and needs in the areas of economic development, community infrastructure and service, social policy, public

health, housing, crime, education, environmental concerns, planning and work force preparation;

"(2) there are, in the Nation's urban institutions, people with underutilized skills, knowledge, and experience who are capable of providing a vast range of services toward the amelioration of the problems described in paragraph (1);

"(3) the skills, knowledge and experience in these urban institutions, if applied in a systematic and sustained manner, can make a significant contribution to the solution of such problems; and

"(4) the application of such skills, knowledge and experience is hindered by the limited funds available to redirect attention to solutions to such urban problems.

"SEC. 1102. PURPOSE; PROGRAM AUTHORIZED. 20 USC 1136a.

"(a) PURPOSE.—It is the purpose of this part to provide incentives to urban academic institutions to enable such institutions to work with private and civic organizations to devise and implement solutions to pressing and severe problems in their communities.

"(b) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out a program of providing assistance to eligible institutions to enable such institutions to carry out the activities described in section 1104 in accordance with the provisions of this part.

"SEC. 1103. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS. 20 USC 1136b.

"(a) APPLICATION.—

"(1) IN GENERAL.—An eligible institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the activities and services for which assistance is sought; and

"(B) include a plan that is agreed to by the members of a consortium that includes, in addition to the eligible institution, one or more of the following entities:

"(i) A community college.

"(ii) An urban school system.

"(iii) A local government.

"(iv) A business or other employer.

"(v) A nonprofit institution.

"(3) WAIVER.—The Secretary may waive the consortium requirements described in paragraph (2) for any applicant who can demonstrate to the satisfaction of the Secretary that the applicant has devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to applications that propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications under this part and shall publish in the Federal Register an announcement of that procedure and the availability of funds under this part. Regulations. Federal Register, publication.

20 USC 1136c.

"SEC. 1104. ALLOWABLE ACTIVITIES.

"Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their pressing and severe problems, such as the following:

"(1) Work force preparation.

"(2) Urban poverty and the alleviation of such poverty.

"(3) Health care, including delivery and access.

"(4) Underperforming school systems and students.

"(5) Problems faced by the elderly and individuals with disabilities in urban settings.

"(6) Problems faced by families and children.

"(7) Campus and community crime prevention, including enhanced security and safety awareness measures as well as coordinated programs addressing the root causes of crime.

"(8) Urban housing.

"(9) Urban infrastructure.

"(10) Economic development.

"(11) Urban environmental concerns.

"(12) Other problem areas which participants in the consortium described in section 1103(a)(2)(B) concur are of high priority in the urban area.

"(13)(A) Problems faced by individuals with disabilities regarding accessibility to institutions of higher education and other public and private community facilities.

"(B) Amelioration of existing attitudinal barriers that prevent full inclusion by individuals with disabilities with their community.

20 USC 1136d.

"SEC. 1105. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under this part and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, State and local government, who have expertise in urban community service or in education.

20 USC 1136e.

"SEC. 1106. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under this part may be made on a multiyear basis, except that no institution, individually or as a participant in a consortium of such institutions, may receive a grant for more than 5 years.

"(b) EQUITABLE GEOGRAPHIC DISTRIBUTION.—The Secretary shall award grants under this part in a manner that achieves equitable geographic distribution of such grants.

"(c) MATCHING REQUIREMENT.—An applicant under this part and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in kind.

"SEC. 1107. DESIGNATION OF URBAN GRANT INSTITUTIONS. 20 USC 1136f.

"The Secretary shall publish a list of eligible institutions under this part and shall designate these institutions of higher education as 'Urban Grant Institutions'. The Secretary shall establish a national network of Urban Grant Institutions so that the results of individual projects achieved in one metropolitan area can then be generalized, disseminated, replicated and applied throughout the Nation.

"SEC. 1108. DEFINITIONS. 20 USC 1136g.

"As used in this part:

"(1) URBAN AREA.—The term 'urban area' means a metropolitan statistical area having a population of not less than 350,000, or two contiguous metropolitan statistical areas having a population of not less than 350,000, or, in any State which does not have a metropolitan statistical area which has such a population, the entity of the State having an agreement or submitting an application under section 1103, or, if no such entity has an agreement, the Secretary shall designate one urban area for the purposes of this part.

"(2) ELIGIBLE INSTITUTION.—The term 'eligible institution' means—

"(A) a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of the date of enactment of the Higher Education Amendments of 1992 under that authority; or

"(B) an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

"(i) is located in an urban area;

"(ii) draws a substantial portion of its undergraduate students from the urban area in which such institution is located, or from contiguous areas;

"(iii) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas;

"(iv) has the present capacity to provide resources responsive to the needs and priorities of such urban area and contiguous areas;

"(v) offers a range of professional, technical, or graduate programs sufficient to sustain the capacity of such institution to provide such resources; and

"(vi) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and the people of such areas.

"SEC. 1109. AUTHORIZATION OF APPROPRIATIONS. 20 USC 1136h.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this part.

"PART B—INNOVATIVE PROJECTS

"Subpart 1—Innovative Projects for Community Service

20 USC 1137.

"SEC. 1121. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to support innovative projects in order to encourage student participation in community service projects, including literacy projects.

20 USC 1137a.

"SEC. 1122. INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to and enter into contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this subpart.

"(2) PROJECTS.—The projects described in paragraph (1) may—

"(A) support research regarding the effects of student community service organizations;

"(B) provide assistance to student organizations that work with community service organizations;

"(C) support linkages between youth corps as defined in section 101(30) of the National and Community Service Act of 1990 and institutions of higher education; and

"(D) support innovative student service programs.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(c) APPLICABLE PROCEDURES.—

"(1) PROCEDURES.—No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director of such Fund, approves the application.

"(2) SPECIAL RULE.—The provisions of section 1003(b) shall apply to grants made under this subpart.

"(d) DEFINITION.—For the purpose of this subpart, the term 'community service' means planned, supervised services designed to improve the quality of life for community residents, particularly community residents with low income, or to assist in the solution of particular problems related to the needs of such residents.

"Subpart 2—Student Literacy Corps and Student Mentoring Corps

20 USC 1138.

"SEC. 1141. PURPOSE.

"It is the purpose of this subpart to provide financial assistance to institutions of higher education to promote the development of literacy corps programs and mentoring corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 1142. LITERACY CORPS PROGRAM AND MENTORING CORPS PROGRAM. 20 USC 1138a.

"(a) GENERAL AUTHORITY.—From the amount appropriated for this subpart pursuant to section 1151 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education for not more than 4 years to pay the Federal share of the cost of carrying out a student literacy corps program or a student mentoring corps program.

"(b) LIMITATION.—An institution of higher education shall only receive 1 grant under this subpart in each fiscal year.

"(c) CONTINUATION OF LITERACY OR MENTORING PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 1144.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out a student literacy corps program or a student mentoring corps program under this subpart shall be—

"(A) not more than 100 percent for an initial grant to an institution of higher education; and

"(B) not more than 75 percent for a grant renewed under subsection (c).

"(2) NON-FEDERAL SHARE.—The non-Federal share of carrying out a student literacy corps or a student mentoring corps program under this subpart may be paid from any non-Federal sources.

"SEC. 1143. USES OF FUNDS. 20 USC 1138b.

"(a) IN GENERAL.—Funds made available under this subpart may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the student literacy corps program or student mentoring corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the student literacy corps program or student mentoring corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 1145.

"(b) LIMITATIONS.—No grant under this subpart to an institution of higher education may exceed $100,000. No institution of higher education may expend more than $35,000 of a grant made under this subpart in the first year in which the institution receives such a grant.

"SEC. 1144. APPLICATIONS. 20 USC 1138c.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—

"(1) LITERACY CORPS.—Each application to conduct a student literacy corps program under this subpart shall—

"(A) contain assurances that the institution will use the grant in accordance with section 1143;

"(B) contain adequate assurances that—

"(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

"(ii) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week, of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(iii) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(iv) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals, and will give priority in providing tutoring services to—

"(I) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(II) students with disabilities; and

"(III) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households; and

"(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

"(D) contain such other assurances as the Secretary may reasonably require.

"(2) MENTORING CORPS.—Each application to conduct a student mentoring corps program under this subpart shall—

"(A) contain assurances that the institution will use the grant in accordance with section 1144;

"(B) contain adequate assurances that—

"(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students of various academic departments with experience as mentors;

"(ii) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 60 hours of voluntary, uncompensated service during the academic term as a mentor to economically disadvantaged children and youth;

"(iii) such mentoring will be complimentary to the existing instructional services offered in a structured classroom setting, and will include structured and informal activities geared towards improving the academic, social and emotional development of children in the programs;

"(iv) the institution will locate public community agencies or elementary or secondary schools which serve educationally or economically disadvantaged youth and will give priority in providing mentoring services to economically disadvantaged children and youth through community-based organizations or elementary or secondary schools;

"(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subpart, in community service activities, including the conduct of a cooperative education program; and

"(D) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—

"(1) IN GENERAL.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of subsection (b)(1)(C) or (b)(2)(C), grant a waiver of the requirement under such paragraph if the institution of higher education provides assurances that—

"(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(B) its failure to engage in community service-related programs or activities prior to making application under this subpart will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this subpart.

"(2) SPECIAL RULE.—An institution of higher education may apply for a waiver as part of the application described in subsection (b).

"(d) CARRYOVER OF FUNDS.—Notwithstanding any other provision of law, in any fiscal year in which funds are appropriated under this subpart but not expended by the end of such fiscal year, at least 75 percent of such funds shall remain available in the succeeding fiscal year to carry out this subpart.

"SEC. 1145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT. 20 USC 1138d.

"To the extent that funds are available therefor pursuant to section 1151, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this subpart;

"(2) collect and disseminate information with respect to programs assisted under this subpart; and

"(3) evaluate such programs and issue reports on the results of such evaluations.

"SEC. 1146. DEFINITIONS. 20 USC 1138e.

"For the purpose of this subpart—

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education', in the case of an institution of higher education with a branch campus, means, at the election of the institution—

"(A) a branch campus of the institution; or

"(B) the institution.

"(2) PUBLIC COMMUNITY AGENCY.—The term 'public community agency' means an established community agency with an established program of instruction such as elementary and

secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving individuals with disabilities, including disabled veterans.

"Subpart 3—Authorization of Appropriations

20 USC 1139.

"SEC. 1151. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years of which, for any such fiscal year—

"(1) not more than one-third shall be available to carry out subpart 1; and

"(2) not less than two-thirds shall be available to carry out subpart 2.".

TITLE XII—GENERAL PROVISIONS AND DEMONSTRATION PROGRAMS

SEC. 1201. DEFINITIONS.

Section 1201 of the Act (20 U.S.C. 1141) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking ", or if not so accredited" through "institution so accredited"; and

(B) in the last sentence—

(i) by inserting ", pursuant to subpart 3 of part H," after "determines"; and

(ii) by inserting "the education or" after "quality of";

(2) by striking subsections (d) through (k) and inserting the following:

"(d) The term 'secondary school' has the same meaning given that term under section 1471(21) of the Elementary and Secondary Education Act of 1965.

"(e) The term 'Secretary' means the Secretary of Education.

"(f) The term 'local educational agency' has the same meaning given that term under section 1471(12) of the Elementary and Secondary Education Act of 1965.

"(g) The term 'State educational agency' has the same meaning given that term under section 1471(23) of the Elementary and Secondary Education Act of 1965.

"(h) The term 'State higher education agency' means the officer or agency primarily responsible for the State supervision of higher education.

"(i) The term 'elementary school' has the same meaning given that term under section 1471(8) of the Elementary and Secondary Education Act of 1965.

"(j) The term 'combination of institutions of higher education' means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

"(k) The term 'gifted and talented children' has the same meaning given that term under section 4103(1) of the Elementary and Secondary Education Act of 1965."; and

(3) by adding at the end the following new subsections:

"(n) The term 'disability' has the same meaning given that term under section 3(2) of the Americans With Disabilities Act of 1990 (42 U.S.C. 12102(2)).

"(o) The term 'special education teacher' means teachers who teach children with disabilities as defined in the Individuals With Disabilities Education Act.

"(p) The term 'service-learning' has the same meaning given that term under section 101(22) of the National and Community Service Act of 1990.".

SEC. 1202. ANTIDISCRIMINATION.

Section 1202 of the Act (20 U.S.C. 1142) is amended—

(1) by inserting "(a) IN GENERAL.—" after "SEC. 1202."; and

(2) by adding at the end the following:

"(b) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this Act shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, or any other law.".

SEC. 1203. NATIONAL ADVISORY COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

Section 1205 of the Act (20 U.S.C. 1145) is amended to read as follows:

"SEC. 1205. COMMITTEE ON INSTITUTIONAL QUALITY AND INTEGRITY.

"(a) ESTABLISHMENT.—There is established in the Department a Committee on Institutional Quality and Integrity (hereafter in this section referred to as the 'Committee'), which shall be composed of 15 members appointed by the Secretary from among individuals who are representatives of, or knowledgeable concerning, education and training beyond secondary education, including representatives of all sectors and types of institutions of higher education (as defined in section 481(a)), to assess the process of eligibility and certification of such institutions under title IV of this Act and the provision of financial aid under title IV of this Act. The Secretary may also appoint to the Committee representatives of the general public serving on the National Advisory Committee on Accreditation and Institutional Eligibility (as such Committee was in existence on the date of enactment of the Higher Education Amendments of 1992).

"(b) TERMS OF MEMBERS.—Terms of office of each member of the Committee shall be 3 years, except that—

"(1) of the members first appointed to the Committee the Secretary shall designate—

"(A) 5 such members to serve for a term of 1 year;

"(B) 5 such members to serve for a term of 2 years; and

"(C) 5 such members to serve for a term of 3 years; and

"(2) any member appointed to fill in a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

"(c) FUNCTIONS.—The Committee shall—

"(1) advise the Secretary with respect to establishment and enforcement of the standards of accrediting agencies or associations under subpart 2 of part H;

"(2) advise the Secretary with respect to the recognition of a specific accrediting agency or association;

"(3) advise the Secretary with respect to the preparation and publication of the list of nationally recognized accrediting agencies and associations;

"(4) develop and recommend to the Secretary standards and criteria for specific categories of vocational training institutions and institutions of higher education for which there are no recognized accrediting agencies, associations, or State agencies, in order to establish the eligibility of such institutions on an interim basis for participation in federally funded programs;

"(5) advise the Secretary with respect to the eligibility and certification process for institutions of higher education under title IV of this Act, together with recommendations for improvements in such process;

"(6) advise the Secretary with respect to the functions of the Secretary under subpart 1 of part H, relating to State institutional integrity standards;

"(7) advise the Secretary with respect to the relationship between—

"(A) accreditation of institutions of higher education and the certification and eligibility of such institutions; and

"(B) State licensing responsibilities with respect to such institutions; and

"(8) carry out such other advisory functions relating to accreditation and institutional eligibility as the Secretary may prescribe.

"(d) MEETING PROCEDURES.—The Committee shall meet not less than twice each year at the call of the Chairperson. The date of, and agenda for, each meeting of the Committee shall be submitted in advance to the Secretary for approval. A representative of the Secretary shall be present at all meetings of the Committee.

"(e) REPORT.—The Committee shall, not later than November 30 of each year, make an annual report through the Secretary to the Congress. The annual report shall contain—

"(1) a list of the members of the Committee and their addresses;

"(2) a list of the functions of the Committee;

"(3) a list of dates and places of each meeting during the preceding fiscal year; and

"(4) a summary of the activities, findings and recommendations made by the Committee during the preceding fiscal year.

"(f) TERMINATION.—Subject to section 448(b) of the General Education Provision Act, the National Advisory Committee on Accreditation and Institutional Eligibility shall continue to exist until September 30, 1998.".

SEC. 1204. DISCLOSURE OF FOREIGN GIFTS AND FOREIGN OWNERSHIP.

Title XII of the Act (20 U.S.C. 1141 et seq.) is amended by inserting after section 1208 the following section:

20 USC 1145d.

"SEC. 1209. DISCLOSURES OF FOREIGN GIFTS.

"(a) DISCLOSURE REPORT.—Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters

into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

"(b) CONTENTS OF REPORT.—Each report to the Secretary required by this Act shall contain:

"(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

"(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

"(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS.—Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

"(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

"(d) RELATION TO OTHER REPORTING REQUIREMENTS.—

"(1) STATE REQUIREMENTS.—If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the Executive Branch requires a report containing requirements substantially similar to those required under this Act, a copy

of this report may be filed with the Secretary in lieu of a report required under subsection (a).

"(e) PUBLIC INSPECTION.—All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(f) ENFORCEMENT.—

"(1) COURT ORDERS.—Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) COSTS.—For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(g) REGULATIONS.—The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

"(h) DEFINITIONS.—For the purpose of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'gift' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

"(A) is legally authorized within such State to provide a program of education beyond secondary school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

"(5) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the

employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

TITLE XIII—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 1301. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 (hereafter in this section referred to as the "Act") (25 U.S.C. 1810(a)) is amended to read as follows:

"SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, $3,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(4) Funds appropriated pursuant to the authorizations under this section for the fiscal year 1993 and for each of the succeeding 4 fiscal years shall be transferred by the Secretary of the Treasury through the most expeditious method available, with each of the Tribally Controlled Community Colleges being designated as its own certifying agency.".

(b) ENDOWMENT GRANTS.—Section 306(a) of the Act (25 U.S.C. 1836(a)) is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to carry out the provisions of this title, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(c) ECONOMIC DEVELOPMENT.—Section 403 of the Act (25 U.S.C. 1852) is amended to read as follows:

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this title, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act of 1978 (25 U.S.C. 640c–1(a)(1)) is amended to read as follows:

"SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are authorized to be appropriated $2,000,000

for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

25 USC 3301.

SEC. 1311. SHORT TITLE.

This part may be cited as the "Higher Education Tribal Grant Authorization Act".

25 USC 3302.

SEC. 1312. FINDINGS.

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary education, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indian and Alaska Natives.

25 USC 3303.

SEC. 1313. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) LIMITATION ON SECRETARY'S AUTHORITY.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) EFFECT ON FEDERAL RESPONSIBILITIES.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 1314. QUALIFICATION FOR GRANTS TO TRIBES. 25 USC 3304.

(a) CONTRACTING TRIBES.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) NONCONTRACTING TRIBES.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) TERMINATION OF GRANTS.—

(1) CONTINUING ELIGIBILITY PRESUMED.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) CAUSES FOR LOSS OF ELIGIBILITY.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) PROCEDURES FOR REVOCATION OF ELIGIBILITY.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

25 USC 3305.

SEC. 1315. ALLOCATION OF GRANT FUNDS.

(a) ALLOCATION OF FUNDS.—

(1) IN GENERAL.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) ADMINISTRATIVE COSTS.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) SINGLE GRANT; SEPARATE ACCOUNTS.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) USE OF FUNDS.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a postsecondary education program (as determined under the contracts applying to the postsecondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93–638)), to the extent that such expense is not met from other sources or

cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

SEC. 1316. LIMITATIONS ON USE OF FUNDS. 25 USC 3306.

(a) USE FOR RELIGIOUS PURPOSES.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) INTEREST ON FUNDS.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) PAYMENTS.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) NEW GRANTEES.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) INVESTMENT OF FUNDS.—

(1) TREATMENT AS TRIBAL PROPERTY.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) INVESTMENT REQUIREMENTS.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) RECOVERIES.—For the purposes of under recovery and over recovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

25 USC 3307.

SEC. 1317. ADMINISTRATIVE PROVISIONS.

(a) BIENNIAL REPORT.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part and the average amount of assistance provided; and

(7) such additional information as the Secretary considers significant.

(b) ROLE OF THE DIRECTOR.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) REGULATIONS.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau administered program.

(f) DEFINITIONS.—For the purposes of this part:

(1) The term "Secretary" means the Secretary of the Interior.

(2) The terms "Indian" and "Indian tribe" have the same meaning given those terms in sections 4 (d) and (e), respectively,

of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

Critical Needs for Tribal Development Act.

SEC. 1321. SHORT TITLE. 25 USC 3321.

This part may be cited as the "Critical Needs for Tribal Development Act".

SEC. 1322. DEFINITIONS. 25 USC 3322.

As used in this part:

(1) The term "federally funded higher education assistance" means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term "eligible Indian tribe or tribal organization" means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act or under a grant pursuant to the Higher Education Tribal Grant Authorization Act.

(3) The term "Indian" has the meaning given such term in section 4(d) of the Indian Self Determination and Education Assistance Act (Public Law 93–638, 20 U.S.C. 450b).

SEC. 1323. SERVICE CONDITIONS PERMITTED. 25 USC 3323.

(a) IN GENERAL.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) CRITICAL AREA DESIGNATION.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

SEC. 1324. CRITICAL AREA SERVICE AGREEMENTS. 25 USC 3324.

(a) TERMS OF AGREEMENTS.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined

under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

Regulations.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who

partially completes the service obligation of that student under subsection (a)(2)(A).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

SEC. 1325. GENERAL PROVISIONS. 25 USC 3325.

(a) APPLICATION OF EXISTING PROCEDURES.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) ADDITIONAL, EXCESS, AND INCREMENTAL COSTS.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 1331. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) BOARD OF DIRECTORS.—Section 1505 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4412) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking "The voting" and inserting "Subject to the provisions of subsection (i), the voting"; and

(B) by inserting before the period at the end thereof a comma and the following: "and diverse fields of expertise, including finance, law, fine arts, and higher education administration";

(2) by redesignating paragraph (3) of subsection (a) as paragraph (4);

(3) by inserting after paragraph (2) of subsection (a) the following new paragraph:

"(3) The President shall carry out the activities described in subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President for whom no nominations have been received."; and

(4) by striking subsection (i) and inserting the following:

"(i) APPOINTMENT EXCEPTION FOR CONTINUITY.—

"(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall transmit the recommendation to the President no later than 75 days prior to the expiration of the term of the member.

"(2) If the President has not transmitted to the Senate a nomination to fill the position of a member covered by such a recommendation within 60 days from the date that the member's term expires, the member shall be deemed to have been reappointed for another full term to the Board, with all the appropriate rights and responsibilities.

"(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the member covered by paragraph (2) shall be deemed to expire 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4), relating to continuation of service pending replacement, shall continue to apply.".

(b) GENERAL POWERS OF BOARD.—Section 1507 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4414) is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively;

(B) by striking paragraph (2) and inserting the following:

"(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract without regard to section 3324 of title 31, United States Code;

"(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 1519, if the ventures are related to and further the mission of the Institute;"; and

(C) by striking paragraph (13) (as redesignated in subparagraph (A)) and inserting the following:

"(13) to use any funds or property received by the Institute to carry out the purpose of this title, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 1531 for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and"; and

(2) in subsection (c), by striking "may be expended" and inserting "shall be expended".

(c) STAFF OF INSTITUTE.—Section 1509(b)(2) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4416(b)(2)) is amended to read as follows:

"(2) The President of the Institute shall fix the basic compensation for officers and employees of the Institute at rates

comparable to the rates in effect under the General Schedule for individuals with comparable qualifications and positions, to whom chapter 51 of title 5, United States Code applies. If the Board determines that such action is necessary for purposes of recruitment or retention of officers or employees necessary to the functions of the Institute, the Board is authorized, by formal action, to establish a rate of, or a range for, basic compensation that is comparable to the rate of compensation paid to officers or employees having similar duties and responsibilities in other institutions of higher education.".

(d) FUNCTIONS OF INSTITUTE.—Section 1510(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4417(b)) is amended to read as follows:

"(b) ADMINISTRATIVE ENTITIES.—

"(1) The Board shall be responsible for establishing the policies and internal organization that relate to the control and monitoring of all subdivisions, administrative entities, and departments of the Institute.

"(2) The specific responsibilities of each subdivision, entity, and department of the Institute are solely within the discretion of the Board, or its designee.

"(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.".

(e) INDIAN PREFERENCE.—Section 1511(a) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4418(a)) is amended by inserting "develop a policy or policies for the Institute to" after "is authorized to".

(f) TRANSFER OF FUNCTIONS.—Section 1514 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4421) is amended—

(1) in subsection (b)(1), by striking "All personnel" and inserting "Subject to subsection (d), all personnel"; and

(2) in subsection (d)(2), by striking "monetary damage" and inserting "monetary damages".

(g) REPORTS.—Section 1515(b) of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4422(b)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3).

(h) HEADQUARTERS.—Section 1516 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4423) is amended—

(1) by striking "The site of the Institute of American Indian Arts, at"; and

(2) by striking "the Secretary" and inserting "the Board".

(i) COMPLIANCE WITH OTHER ACTS.—Section 1517 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4424) is amended—

(1) by redesignating the text of subsection (c) as paragraph (1) of such subsection; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant, contract, cooperative agreement, or project as a condition to the application for, or receipt of, Federal assistance. This subsection shall not be construed to effect in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.".

(j) ENDOWMENT PROGRAM.—Section 1518 of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4425) is amended—

(1) in subsection (a)(3)—

(A) by striking "the date of enactment of this Act" and inserting "November 29, 1990"; and

(B) by inserting after the last sentence the following new sentence: "All funds transferred to the Institute by the Secretary of the Treasury after June 2, 1988, shall be deemed to have been properly transferred as of the date of enactment of the Higher Education Amendments of 1992.";

(2) in subsection (b)(4), by inserting ", non-Federal governmental," after "any private"; and

(3) in subsection (c)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) Any amounts deposited in a trust fund authorized under subsection (a) may be used to secure loans procured for the purposes of constructing or improving Institute facilities.".

(k) PROVISION OF FACILITIES.—Part A of the American Indian, Alaska Native, and Native Hawaiian Culture and Art Development Act (20 U.S.C. 4411 et seq.) is amended by adding at the end the following new section:

20 USC 4426.

"SEC. 1519. PROVISION OF FACILITIES.

"(a) PLAN.—The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions.

"(b) DEADLINE FOR TRANSMITTAL.—The plan required by this subsection shall be transmitted to Congress no later than 18 months

after the date of enactment of this provision. Such plan shall include a prioritization of needs, as determined by the Board.".

PART E—TRIBAL DEVELOPMENT STUDENT ASSISTANCE REVOLVING LOAN PROGRAM

Tribal Development Student Assistance Act.

SEC. 1341. SHORT TITLE. 25 USC 3331.

This part may be cited as the "Tribal Development Student Assistance Act".

SEC. 1342. FINDINGS; PURPOSES. 25 USC 3332.

(a) FINDINGS.—The Congress finds that—

(1) a substantial number of Indian students have partially completed their degrees in postsecondary education, but have been unable, for a number of reasons, to complete the degrees;

(2) in at least some measure these students have been supported by tribal funds or grants of Federal monies administered by the Bureau of Indian Affairs or tribes;

(3) the inability of the students to complete these degrees has led to a hardship for the students and a loss of a potential pool of talent to the tribes or tribal organizations which originally financed, at least in part, these efforts;

(4) this loss has crippled tribal efforts in the areas of economic and social development;

(5) this failure to complete the postsecondary schooling has led to economic loss to the tribes and the Federal Government which could be remedied by completion of the courses of study; and

(6) a program to identify students with a level of postsecondary completion short of the fulfillment of graduation requirements and to encourage them to complete these requirements, including provision of resources, will benefit the students, the tribes, and the Federal Government.

(b) PURPOSES.—The purposes of this part are—

(1) to establish a revolving loan program to be administered by a tribe or tribal organization for the purposes of increasing the number of college graduates available to work in tribal businesses, tribal government, and tribal services such as schools and hospitals;

(2) to conduct research to assess the situational and educational barriers to participation in postsecondary education; and

(3) to encourage development, through grants, of a model which provides, in addition to loans, transitional and follow-up services needed to encourage persistence in postsecondary education.

SEC. 1343. REVOLVING FUND. 25 USC 3333.

(a) RECEIPT, INVESTMENT, AND ACCOUNTING.—

(1) TRIBES AND TRIBAL ORGANIZATIONS.—Funds received under a grant under this part or recovered under the provisions of section 1346(a)(2)(B) shall be identified and accounted for separately from any other tribal or Federal funds received from the Federal Government. All funds in this account shall be used for the purposes of this part.

(2) FINANCIAL PROCEDURES.—The Secretary of the Interior is responsible for establishing, by regulations, such require- Regulations.

ments for receipt, investment and accounting of funds under subsection (b) as shall safeguard and financial interests of the Federal Government.

(b) INVESTMENT.—Funds provided under this part or recovered by the tribe or tribal organization under the provisions of section 1346(a)(2)(B) shall be—

(1) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(2) deposited only in accounts that are insured by an agency or instrumentality of the United States.

(c) TREATMENT OF INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds covered under this provision after such funds have been distributed to a tribe or tribal organization and before such funds are distributed for the purposes of making loans under this part shall be the property of the tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

25 USC 3334.

SEC. 1344. ELIGIBLE RECIPIENTS.

(a) TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary of the Interior (hereafter in this part referred to as the "Secretary") shall make grants, in accordance with the requirements of this part, to—

(1) tribes or multitribal organizations not serviced by current federally funded postsecondary institutions authorized for economic development grants; and

(2) tribes or multitribal organizations which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives.

(b) STUDENTS.—Any tribe or tribal organization that receives funds under subsection (a) shall make such funds available by loan, under terms and conditions consistent with section 1345, to Indian students who have successfully completed 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

25 USC 3335.

SEC. 1345. TERMS OF LOANS.

(a) IN GENERAL.—A loan under this part to an Indian student shall—

(1) be subject to repayment over a period of not more than 5 years;

(2) not bear interest;

(3) be subject to forgiveness for services to the tribe in accordance with section 1346; and

(4) contain such additional terms and conditions as the initial loan agreement between the tribe or tribal organization and student may prescribe in writing.

(b) COST OF ATTENDANCE.—Calculation of the cost of attendance for the student must include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(c) ADDITIONAL REQUIREMENTS.—Any student seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be consid-

ered in needs analysis under any other Federal law, and may not penalize students in determining eligibility for other funds.

SEC. 1346. SERVICE FULFILLMENT AND CONDITIONS; REPAYMENTS; WAIVERS. 25 USC 3336.

(a) SERVICE AGREEMENT REQUIRED.—

(1) IN GENERAL.—Prior to receipt of a loan under this part, the tribe or tribal organization and the eligible recipient shall enter into a written agreement, subject to the conditions of this section, which commits the recipient—

(A) to perform, for each academic year for which the student receives assistance under this part one calendar year of service to the tribe or organization in an occupation related to the course of study pursued and an economic or social development plan developed by the tribe or tribal organization, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay to the tribe or tribal organization the full amount of the loan, in monthly or quarterly installments over not more than 5 years.

(2) REPORT REQUIREMENT.—Funds recovered pursuant to paragraph (1)(B) shall be reported annually to the Secretary and invested in the account established under section 1343.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under this part—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a non-profit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of

an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

Regulations.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2)(B) in the case of any student who partially completes the service obligation of that student under subsection (a)(2)(A).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under this part—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

25 USC 3337.

SEC. 1347. ADMINISTRATION.

(a) REGULATIONS.—The Secretary shall establish, by regulation, an application process containing such requirements as the Secretary deems necessary for purposes of making grants to eligible entities under this part, providing that the Secretary shall take into account in reviewing applications under this part the number of students with partial completion identified by the applicant, relative to the total number of the members of tribe which would be benefited by provision of services under section 1346, and shall attempt to achieve geographic and demographic diversity in grants made under this part.

(b) GRANT PROCEDURES.—

(1) IN GENERAL.—Subject to the availability of funds and acceptable applications, the Secretary shall make 5 grants to tribes or tribal organizations for purposes of this part, each grant to be for a period of 4 years.

(2) ADMINISTRATIVE COSTS.—The amount of administrative costs associated with grants under this part shall be negotiated by the Secretary with the successful applicants and made a part of the grant agreement.

(c) DEFINITIONS.—For the purposes of this part, the terms "Indian", "Indian tribe", "Secretary", and "tribal organizations" have the same meanings given such terms in sections 4 (d), (e), (i), and (l), respectively, of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

25 USC 3338.

SEC. 1348. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART F—AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP

SEC. 1361. AMERICAN INDIAN POSTSECONDARY ECONOMIC DEVELOPMENT SCHOLARSHIP. 25 USC 3351.

(a) PROGRAM AUTHORIZED.—The Secretary of Education is authorized to make grants, in accordance with the provisions of this part, to federally recognized Indian tribes which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives. Priority shall be given to tribes which are not served by federally funded postsecondary institutions. The purpose of such grants is to enable such tribes to make scholarships available to tribal members to assist such members to pursue courses of study leading to an undergraduate or postbaccalaureate degree in order to provide professionally trained tribal members to support such economic development initiatives on Indian reservations.

(b) DESIGNATION.—A scholarship awarded under this part shall be referred to as an "American Indian Post-Secondary Economic Development Scholarship" (hereafter referred to in this part as "scholarship").

SEC. 1362. INDIAN SCHOLARSHIPS. 25 USC 3352.

(a) SELECTION.—Each Indian tribe receiving a grant pursuant to this part for the purpose of providing scholarships shall select tribal members eligible to receive such scholarships. In determining grant recipients the Secretary of Education shall consider—

(1) geographic distribution of grants; and

(2) a tribal economic plan which demonstrates how individual recipients shall benefit the economic conditions of the tribe.

(b) CRITERIA.—Each Indian tribe, in consultation with the Secretary of Education, shall give preference to select, as those tribal members eligible to receive such scholarships, tribal members who have successfully completed at least 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

SEC. 1363. SCHOLARSHIP CONDITIONS. 25 USC 3353.

(a) SCHOLARSHIP AGREEMENT.—Each tribal member receiving a scholarship under this part shall enter into an agreement, satisfactory to the Secretary of Education and the tribal government awarding such scholarship, under which such member agrees—

(1) to utilize the proceeds of such scholarship to pursue a course of study which meets the requirements of the educational institution in which the student is enrolled for an undergraduate or postbaccalaureate degree;

(2) upon the acquisition of such degree, to work, one year for each year of financial assistance under this part, on the Indian reservation in employment related to the course of study pursued which will support economic development initiatives on such reservation; and

(3) to maintain satisfactory academic progress, as determined in accordance with section 484(c) of the Higher Education Act of 1965, while in an undergraduate or postbaccalaureate program.

(b) REPAYMENTS.—Each tribal member found by the Secretary of Education to be in noncompliance with the agreement pursuant to subsection (a)(2) shall be required to repay—

(1) 100 percent of the total amount of scholarships awarded under this part if such tribal member does not work pursuant to such agreement; or

(2) a pro rata portion of the total amount of scholarships awarded under this part, as determined by the Secretary of Education, if such tribal member worked pursuant to such agreement but less than the time period required thereunder.

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—A federally recognized Indian tribe may, by formal action, waive the service agreement of a tribal member for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a tribal member to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the tribal member, the tribe determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the tribal member ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the tribal member's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe annually, but may be continued indefinitely.

(d) DISCLAIMER.—No scholarship awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of the Higher Education Act of 1965.

(e) LIMITATION.—Any tribal member selected by an Indian tribe to receive a scholarship under this part shall be eligible to receive a $10,000 scholarship for each academic year of postsecondary education, except that no such member shall receive scholarship assistance under this part for more than 4 years of postsecondary education (including postbaccalaureate).

(f) COST OF ATTENDANCE.—Calculation of the cost of attendance for the tribal member shall include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(g) ADDITIONAL REQUIREMENTS.—Any tribal member seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize tribal members in determining eligibility for other funds.

(h) APPLICATIONS FOR ASSISTANCE.—Any federally recognized Indian tribe desiring a grant under this part shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

(1) describe the shortages on the reservation of such Indian tribe of professionally trained tribal members necessary to support economic development initiatives on such reservation;

(2) provide assurances that the Indian tribe will assist in employment placement on the reservation of tribal members receiving scholarship assistance under this part; and

(3) provide assurances that any tribal member performing work pursuant to this part will be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work.

SEC. 1364. REPORT. 25 USC 3354.

Each federally recognized Indian tribe receiving a grant pursuant to this part shall annually report to the Secretary concerning the administration of such grant, including the identities of any individual receiving a scholarship pursuant to this part, and of any individual performing service pursuant to his or her commitment under this part.

SEC. 1365. AUTHORIZATION OF APPROPRIATIONS. 25 USC 3355.

For the purpose of carrying out the provisions of this part, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART G—AMERICAN INDIAN TEACHER TRAINING

SEC. 1371. AMERICAN INDIAN TEACHER TRAINING. 20 USC 3371.

(a) INSTITUTIONAL SUPPORT.—

(1) IN GENERAL.—The Secretary of Education is authorized to award grants to tribally controlled postsecondary, vocational and technical institutions for the purposes of—

(A) developing teacher training programs;

(B) building articulation agreements between such institutions and other institutions of higher education as defined in section 1201(a) of the Higher Education Act of 1965; and

(C) basic strengthening of tribally controlled community colleges, as defined in section 2(a)(4) of the Tribally Controlled Community Colleges Act (P.L. 95-471, 25 U.S.C. 1801).

(2) USE OF GRANTS.—Grants awarded under this subsection shall be for the purpose of providing upper division course work, transfer programs, articulation agreements (similar to those under part D of title I of the Higher Education Act of 1965) with other accredited institutions, telecommunications programs or other mechanisms which directly support the training of American Indian teachers.

(b) STUDENT SUPPORT GRANTS.—

(1) IN GENERAL.—The Secretary of Education is authorized to award grants to institutions that have developed teacher training programs under subsection (a) for the purpose of providing financial and programmatic support to American Indian students seeking to participate in such institutions' teacher training programs.

(2) USE OF GRANTS.—Institutions receiving grants under this section shall require recipients of grants under this subsection to serve as teachers in an Indian community for 1 year for each year of scholarship support received.

(3) ELIGIBILITY.—Students eligible to receive support grants shall include those who have completed at least 30 hours of postsecondary education and who intend to pursue a 4-year degree.

(4) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (2) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in such paragraph.

(c) SCHOLARSHIPS.—

(1) AUTHORITY.—The Secretary of Education is authorized to provide scholarship assistance to American Indian students who seek to become teachers and who—

(A) agree to serve as teachers in an Indian community for 1 year for each year of scholarship support received, and

(B) have completed at least 30 hours of postsecondary education.

(2) WORK REQUIREMENT.—Students who fail to satisfy the requirements of paragraph (1) shall be required to repay a pro rata portion of the total amount of scholarships awarded under this part if the student worked for less than the required time period described in paragraph (1)(B).

(d) DEFINITION.—For purposes of this part, the term "Indian" has the same meaning given such term in section 4(d) of the Indian Self Determination and Education Assistance Act (P.L. 93–638, 20 U.S.C. 450b).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

TITLE XIV—STUDIES AND COMMISSIONS

PART A—STUDIES BY THE DEPARTMENT OF EDUCATION

20 USC 1071 note.

SEC. 1401. STUDY OF ROLE OF GUARANTY AGENCIES.

(a) STUDY.—The Secretary of Education shall review the role of guaranty agencies within the Federal Family Education Loan Program by examining the administrative and financial operations of such agencies and the relationships between guaranty agencies and State governments.

(b) REPORT.—The Secretary of Education shall report to the Congress within 1 year of the date of enactment of this Act on the study described in subsection (a). Such report shall consider and make recommendations concerning—

(1) increasing the role of guaranty agencies in oversight and licensing of proprietary trade schools under the Federal Family Education Loan Program;

(2) strengthening Federal disincentives for high default rate portfolios;

(3) consolidating guaranty agencies regionally or otherwise;

(4) eliminating the role of guaranty agencies within the Federal Family Education Loan Program; and

(5) the compensation of chief executive officers and managerial staffs of guaranty agencies.

SEC. 1402. STUDY OF STATUTORY PROTECTIONS. Reports.

The Secretary of Education shall report to the Congress within 180 days of the date of enactment of the Higher Education Amendments of 1992 on the advisability of statutorily protecting officials of accrediting agencies involved in the performance of legitimate Federal Family Education Loan Program activities.

SEC. 1403. STUDY OF FRAUD-BASED DEFENSES. 20 USC 1080 note.

(a) STUDY.—The Secretary shall conduct a study of the impact of fraud-based defenses on the Federal Family Education Loan Program. Such study shall include—

(1) an analysis of statutory, regulatory, and case law regarding the use of fraud-based defenses against repayment of such loans;

(2) an estimate of the total number of borrowers filing for relief from repayment of such loans using a fraud-based defense and amount of such loan principal involved;

(3) an estimate of such loan principal relieved annually through fraud-based defenses;

(4) an evaluation of the importance of a fraud-based defense to the protection of borrowers of such loans; and

(5) an evaluation of the effects of the availability of a fraud-based defense on the accessibility of Stafford loans by geographical area and by type of postsecondary institution.

(b) DATE.—The study described in subsection (a) shall be completed not later than 18 months after the date of enactment of this Act.

(c) REPORT.—

(1) IN GENERAL.—The Secretary shall submit a report to the Congress on the study described in subsection (a) that makes specific recommendations for legislative options that may be needed to address the rights of borrowers with respect to the availability of fraud-based defenses under the Federal Family Education Loan Program without jeopardizing the participation of lenders or the solvency of guaranty agencies required to maintain the integrity of such program.

(2) DATE.—The report described in paragraph (1) shall be completed not later than 19 months after the date of enactment of this Act.

SEC. 1404. DATA ON NONTRADITIONAL STUDENTS. 20 USC 1221e note.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a 2-year study regarding the types of programs available for, and determine the success or failure of such programs in, increasing the accessibility for nontraditional students to postsecondary education. The study shall be conducted through the Office of Educational Research and Improvement.

(b) PURPOSE.—The purpose of the study shall be—

(1) to appraise the adequacies and deficiencies of current student financial aid information resources and services and

evaluate the effectiveness of these programs as they pertain to the nontraditional student;

(2) to investigate the availability of grants and loans and other financial assistance to nontraditional students (including independent students and part-time students);

(3) to assess the availability of supportive services for the nontraditional students including (but not limited to) counseling, child care services, campus health center services, and library services;

(4) to make recommendations on how the Department of Education can maintain an effective data base regarding nontraditional students that will include—

(A) a yearly count of the number of students who are nontraditional and breakdown of the institutions they are attending;

(B) the number of nontraditional students who work and go to school;

(C) the extent of participation in Federal student aid programs;

(D) the amount of unmet costs of postsecondary education for nontraditional students; and

(E) trends over the last decade regarding participation of nontraditional students in title IV programs.

(c) REPORT.—The Secretary of Education shall submit an interim report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate within 1 year after the date of enactment of this section and submit a final report 2 years after such date of enactment.

20 USC 1070 note.

SEC. 1405. STUDY OF FEDERAL BENEFIT COORDINATION.

(a) IN GENERAL.—The Secretary of Education shall conduct a study to evaluate the coordination of Federal student financial assistance programs under title IV of the Higher Education Act of 1965 with other programs funded in whole or in part with Federal funds, giving particular attention to—

(1) the effect of receipt of program assistance under title IV of the Higher Education Act of 1965 on students eligible for other programs funded in whole or in part with Federal funds, including reduction or denial of such other program funds; and

(2) the attendance cost elements funded in whole or in part by programs under title IV of the Higher Education Act of 1965 for students eligible for other Federal programs and the inclusion of room or board costs in such attendance costs.

(b) REPORT.—The Secretary of Education shall prepare and submit to the appropriate committees of the Congress a report on the study conducted pursuant to subsection (a) not later than 3 years after the date of enactment of this Act, together with such recommendations as the Secretary of Education deems appropriate.

Disadvantaged. Handicapped. Minorities. 20 USC 1221e-1 note.

SEC. 1406. NATIONAL SURVEY OF FACTORS ASSOCIATED WITH PARTICIPATION.

(a) AUTHORITY OF THE SECRETARY OF EDUCATION.—In order to assure improved and accurate data on the participation of at-risk students in postsecondary education, the Secretary of Education, acting through the National Center for Educational Statistics, shall conduct a special purpose survey on a biennial basis of factors

associated with participation of low-income, disadvantaged, non-English language background, disabled, and minority students, including (but not limited to) African American, Native Americans, Native Hawaiians, major Hispanic subgroups, and Asian students from disadvantaged backgrounds in various types of postsecondary education. The survey data shall permit comparisons with other groups that have characteristically participated at higher rates than at-risk students.

(b) DEVELOPMENT OF THE SURVEY.—The Secretary of Education shall consult with the Congress and the elementary and secondary and higher education community in developing such an annual survey. The survey shall include, but not be limited to—

(1) academic preparation of groups at key points in the elementary and secondary education process;

(2) rates of academic progress and graduation from high school;

(3) participation in postsecondary education by type and control of institution and by program of study;

(4) persistence rates in postsecondary programs, or, in the case of short-term programs, completion rates; and

(5) average student financial assistance awarded to groups, including Federal, State, and other assistance.

(c) REPORT TO CONGRESS.—The Secretary of Education shall report relevant data and conclusions from the survey to Congress on an annual basis, including comparisons of important factors for at-risk and other relevant populations.

(d) DEVELOPMENT OF PLAN.—In the event of significant findings related to underparticipation rates of at-risk and other students, the Secretary of Education shall submit a plan containing policies and program modifications for ensuring the participation of at-risk students. The plan shall indicate the modifications the Secretary will make to increase participation, including, but not limited to, increasing information and training, and recommending other relevant changes to the programs under this title.

(e) PANEL SURVEY ON INCOME DYNAMICS.—

(1) IN GENERAL.—The Secretary of Education, acting through the National Center for Education Statistics, shall make an interagency agreement with the National Science Foundation to provide for additional questions and an appropriate sample size as part of an existing panel study of income dynamics to provide information on the educational processes and other developmental behavior of Hispanic, black, and non-Hispanic white children and their short-term and long-term consequences.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 for fiscal year 1993 and such sums for each of the 4 succeeding fiscal years to carry out this subsection.

SEC. 1407. EVALUATION OF TUITION GUARANTY PROGRAMS.

20 USC 1070a-21 note.

(a) PURPOSE.—The purposes of this section are—

(1) to require the Secretary of Education to determine the effectiveness of programs for disadvantaged elementary and secondary school students that offer guarantees for postsecondary education; and

(2) to identify ways to encourage the business community to participate in such programs.

(b) CONDUCT OF STUDY.—

(1) IN GENERAL.—The Secretary of Education shall evaluate the effectiveness of programs for disadvantaged children that, in exchange for the child's commitment to achieving a satisfactory elementary and secondary education, promise the child the financial resources needed to pursue a postsecondary education.

(2) CONTENT.—The Secretary of Education shall study a sample of the types of programs available, and (A) determine the success or failure of such programs in increasing the access and entry of disadvantaged students into postsecondary education, (B) identify the most successful programs and the causes for success, and (C) determine the responsibilities of sponsors of the programs.

(3) PROGRAMS STUDIED.—The programs studied shall include a guarantee of postsecondary education for students currently in elementary or secondary grade levels. The programs may include supportive services, mentoring, study skills, and counseling to students participating in the program.

(c) DISSEMINATION.—The Secretary of Education shall disseminate the findings through appropriate agencies and organizations including associations of businesses.

(d) SUBMISSION OF REPORT.—The Secretary of Education shall submit an interim report regarding the study by June 30, 1996, and a final report regarding the study by January 1, 1997, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

20 USC 1134 note.

SEC. 1408. INFORMATION ON GRADUATE EDUCATION.

(a) ASSESSMENT REQUIRED.—The Secretary of Education shall conduct a study which will provide an assessment of the information currently collected on graduate education and will identify what additional information should be generated to guide the Department of Education in defining and executing its role in the support of graduate education.

(b) SUBJECT OF ASSESSMENT.—The assessment required by subsection (a) shall include the assessment of the total amount of Federal, State, private, foundation, and institutional fellowships, assistantships, loans, or any other forms of financial assistance to all graduate students, including both American and foreign students; and how these amounts are distributed by race, by sex, to nontraditional students, and to students with disabilities. In addition, the assessment shall determine the number of graduate students, cross-referenced by race, sex, and national origin, part-time, full-time, independent versus dependent status, and individuals with disabilities who enrolled and completed all requirements for the degrees master of arts, master of science, master in business administration, doctor of philosophy, doctor of education, juris doctor, medical doctor, doctor in veterinary medicine, and doctor of dental science.

(c) CONSULTATION.—In conducting such study, the Secretary of Education shall consult with other agencies and organizations involved in graduate education policy, including the Congressional Office of Technology Assessment, the President's Office of Science and Technology Policy, the National Science Foundation and the other Federal agencies supporting academic research and graduate

education, the National Academy of Sciences and other public and private organizations which participate in the formulation and implementation of national graduate education policies and programs.

(d) DATE FOR COMPLETION.—The study shall be completed within 2 years of the date of enactment of this Act.

SEC. 1409. STUDY OF ENVIRONMENTAL HAZARDS IN INSTITUTIONS OF HIGHER EDUCATION.

20 USC 1132a note.

(a) STUDY AUTHORIZED.—The Secretary of Education, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study of the extent to which asbestos, lead in drinking water, or radon gas pose a threat to the health and safety of students and employees of institutions of higher education.

(b) SURVEY REQUIRED.—Such study shall include a survey of a representative sample of institutions of higher education in order to assess how widespread such hazards are. A sufficient number of institutions shall be sampled and tested in order to provide reasonable estimates on—

(1) the number of institutions which contain friable asbestos (as defined in the Asbestos Hazard Emergency Response Act) and how many students and employees may be exposed to unsafe levels of asbestos fibers,

(2) the number of institutions that have rooms which contain more than 4 picocuries/liter of radon, and

(3) the number of institutions which contain water fountains or faucets or water coolers which discharge water with more than 10 parts per billion of lead.

(c) CONSULTATION.—In designing and carrying out such study, the Secretary shall consult with associations representing institutions of higher education, faculty, and other employees.

(d) REPORT ON STUDY.—The Secretary of Education shall submit a report with the results of the assessment, including the information required by subsection (b), along with recommendations by the Secretary regarding what actions, if any, Congress and the Administration should take to ensure that environmental health hazards, if any, are eliminated. The report shall be presented to Congress not later than July 1, 1995.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 in fiscal year 1994 for the purposes of carrying out this section.

SEC. 1410. STUDY OF CIVILIAN AVIATION TRAINING PROGRAMS.

20 USC 1221-1 note.

(a) FINDINGS.—The Congress finds that—

(1) the role of the military as a source of supply of trained pilots and mechanics and other personnel for commercial aviation is severely reduced;

(2) approximately 50 percent of the 52,000 commercial pilots currently flying will retire by the year 2000 and an additional 8,000 to 10,000 pilots will be needed by then;

(3) there is significant underrepresentation of minorities and women currently working in the aviation industry and African Americans constitute less than 1 percent of pilots with the Nation's scheduled air carriers;

(4) there is a substantial projected increase of minorities and women as a proportion of the workforce by the year 2000; and

(5) there is need for a comprehensive study of future human resources needs for the air transportation industry, including a thorough investigation of recruitment, aviation training outside the military context, financial and other incentives and disincentives which affect the flow of people, and especially minorities and women, into the industry.

(b) STUDY REQUIRED.—The Secretary of Education shall enter into appropriate arrangements with the National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian aviation training programs needed to satisfy the workforce requirements of the commercial aviation industry in the year 2000 and beyond. The specific concerns to be addressed by the study shall include—

(1) the avenues for civilians to enter the aviation industry,

(2) the characteristics of current training and the match with skill requirements in the workplace, and

(3) the impediments and incentives for minorities and women to enter the aviation industry (such as a lack of role models, cost of schooling and flight time, the underutilization of historically black colleges and universities in the educational training process, and institutional barriers).

(c) INTERIM REPORT.—The Secretary of Education shall request that the National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report to the Secretary and the Congress within 1 year after the date of enactment of this Act, and the study shall be completed within 2 years of the date of enactment of this Act.

SEC. 1411. REPORT ON THE USE OF PELL GRANTS BY PRISONERS.

(a) REPORT REQUIRED.—The Secretary of Education shall submit to the Congress a report on the use of Pell Grants by prisoners. Such report shall contain a statement of—

(1) the number of prisoners receiving Pell Grants;

(2) the average amount of the Pell Grants awarded to prisoners;

(3) the average length of Pell Grant subsidized study for prisoners;

(4) the graduation or success rate of prisoners receiving Pell Grants;

(5) an analysis of whether prisoners' lack of income has made them more successful in obtaining Pell Grants over other low-income citizens who are not incarcerated;

(6) an analysis of whether prisoners lack of income provides them with an advantage in receiving Pell Grants; and

(7) the Secretary's recommendations for making the program more equitable with regard to awards to prisoners in relation to other applicants.

(b) DEADLINE FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than 6 months after the date of enactment of this Act.

20 USC 1101 note.

SEC. 1412. NATIONAL JOB BANK FOR TEACHER RECRUITMENT.

(a) FEASIBILITY STUDY.—The Secretary of Education is authorized to conduct a study on the feasibility of—

(1) establishing a clearinghouse to operate a national teacher job bank; or

(2) establishing regional clearinghouses to operate regional teacher job banks.

(b) NATIONAL TEACHER JOB BANK DEMONSTRATION.—

(1) PROGRAM AUTHORIZED.—The Secretary of Education is authorized to contract with one or more State entities, nonprofit organizations, or institutions of higher education to establish a national or regional teacher job bank clearinghouse which shall—

(A) assist local educational agencies and private schools in locating qualified applicants for teaching-related positions; and

(B) help individuals in locating teaching-related jobs or the training necessary to enter the teaching profession or the field of early childhood or preschool education.

(2) APPLICATION REQUIRED.—Each entity desiring to enter into a contract with the Secretary of Education for the establishment of a teacher job bank clearinghouse shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

(A) a demonstration of the applicant's capacity to efficiently and effectively handle a large volume of inquiries from employers and potential employees;

(B) a demonstration of support from local educational agencies and private schools and institutions of higher education that are likely to use the services provided by the teacher job bank clearinghouse; and

(C) a demonstration of ability to provide prospective teachers with information, either directly or by contract with another entity, regarding the certification and licensure requirements of each State which is served by a clearinghouse and information regarding procedures for assisting out-of-State teachers to meet State certification requirements.

(3) PRIORITY.—The Secretary shall give priority to applications submitted pursuant to paragraph (2) which—

(A) demonstrate the ability to serve a region of the United States and involve the cooperation of several State educational agencies and institutions of higher education; or

(B) demonstrate an ability to address shortages of teachers, such as teachers from minority groups, special education teachers, bilingual teachers, or individuals planning to teach in subject areas, geographical areas, or types of schools with shortages.

(c) USE OF FUNDS.—Each entity, organization, or institution receiving funds under this section may use such funds to—

(1) develop, in consultation with local education agencies and other appropriate entities, standardized initial application forms for teaching jobs and related positions, and standardized forms and procedures for announcing available teaching positions;

(2) coordinate and assist State and local teacher recruitment efforts;

(3) publish and disseminate information about opportunities for teacher employment and teacher training;

(4) maintain a system for matching available teachers with job openings for which they are qualified and for tracking the supply of teachers and the demand for teachers among the States;

(5) encourage the development of programs to recruit and train minorities and individuals with disabilities to become teachers;

(6) assist employers in checking the background of applicants;

(7) publicize the availability of scholarships, loans, and other programs that assist individuals wishing to pursue a teaching career;

(8) assist employers in the development of effective teacher recruitment programs;

(9) assist in developing reciprocal agreements on teacher certification among States; and

(10) conduct such other activities and services necessary to carrying out the purposes of this section in accordance with the provisions of this section.

(d) DEFINITION.—For the purposes of this section, the term "teacher" includes elementary and secondary school classroom teachers, and preschool and early childhood education specialists.

(e) AUTHORIZATION.—There are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

PART B—NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION

National Independent Colleges and Universities Discovery Act.
20 USC 1221-1 note.

SEC. 1421. SHORT TITLE.

This part may be cited as the "National Independent Colleges and Universities Discovery Act".

SEC. 1422. FINDINGS.

The Congress finds that—

(1) the quality and scope of higher education in our Nation is without argument the finest in the world, and a distinguishing feature of our Nation's system of higher education is its strong and diverse nonprofit independent sector;

(2) independent colleges and universities are as diverse as the Nation itself and include traditional liberal arts institutions, major research universities, church- and faith-related colleges, colleges and universities primarily attended by minorities, women's colleges, junior colleges, and schools of law, medicine, engineering, business and other professions;

(3) the diversity of independent colleges and universities offers students a choice in the type of educational experience that will best serve such students' interests, needs and aspirations;

(4) independent colleges and universities enroll 21 percent of all students in the United States, award 33 percent of all bachelor's degrees in the United States, 42 percent of all such master's degrees, 36 percent of all such doctoral degrees, and 59 percent of all such professional degrees;

(5) a majority of all undergraduate students attending independent colleges and universities receive some form of financial assistance, and such independent colleges and universities provide such financial assistance from their own resources;

(6) independent colleges and universities are deeply involved in hundreds of partnerships with elementary and secondary

schools, and such partnerships are largely funded by such colleges and universities;

(7) independent colleges and universities have been an extraordinary example of private-public partnerships, with such colleges and universities operating in the public interest to provide a public good;

(8) less than 20 percent of the revenue of independent colleges and universities comes from governmental funds, most of which is in the form of Federal and State financial aid;

(9) decreases in Federal and State support for student financial aid programs has placed at risk the option of choosing an independent college or university for an increasing number of students;

(10) whereas at the turn of the twentieth century 80 percent of the students enrolled in higher education in the United States were enrolled in independent colleges and universities, such percentage has now declined to 21 percent, and further erosions place at risk the option of choosing an independent college or university for students and parents; and

(11) the entire sector of independent colleges and universities and the important contributions such sector makes to our Nation is at risk and deserves national policy attention.

SEC. 1423. PURPOSE.

It is the purpose of this part to establish a National Commission on Independent Higher Education.

SEC. 1424. NATIONAL COMMISSION ON INDEPENDENT HIGHER EDUCATION.

(a) ESTABLISHMENT.—There is established as an independent agency in the executive branch a commission to be known as the National Commission on Independent Higher Education (hereafter in this part referred to as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 9 members, 3 of whom shall be appointed by the President, 2 of whom shall be appointed by the Speaker of the House of Representatives, 1 of whom shall be appointed by the Minority Leader of the House of Representatives, 2 of whom shall be appointed by the Majority Leader of the Senate, and 1 of whom shall be appointed by the Minority Leader of the Senate.

(2) EXPERTISE REQUIREMENT.—The members of the Commission shall consist of individuals with expertise and experience in independent higher education, including expertise in national tax policy, individuals with expertise in State higher education finance, individuals with expertise in Federal financial aid programs, individuals with expertise in issues of student and faculty diversity, and individuals with expertise in graduate education and research.

(3) DATE.—The members of the Commission shall be appointed not later than 6 months after the date of enactment of this Act.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members of the Commission shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) MEETINGS.—The Commission shall meet at the call of the Chairman.

(e) QUORUM.—Six of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(f) CHAIRPERSON.—The Commission shall select a Chairperson from among its members.

SEC. 1425. DUTIES OF THE COMMISSION.

The Commission shall—

(1) develop a factual base for understanding the status of independent colleges and universities, their contributions to public priorities, and the effects of national higher education policies on the independent nonprofit sector;

(2) review the issuance of Federal regulations regarding independent colleges and universities, and suggest means by which independent colleges and universities can be held accountable for use of public resources without inappropriate intrusion into institutional autonomy; and

(3) address the relation between Federal and State policies on independent colleges and universities, particularly with respect to student access and choice, finance, institutional subsidies, and institutional accountability.

SEC. 1426. REPORT AND RECOMMENDATIONS.

(a) INTERIM REPORT.—The Commission shall submit an interim report to the President and the Congress on the Commission's activities and findings within 18 months of the date of enactment of this Act.

(b) FINAL REPORT.—

(1) IN GENERAL.—The Commission shall submit a final report to the President and the Congress on the Commission's activities and findings within 3 years of the date of enactment of this Act.

(2) RECOMMENDATION.—The report described in paragraph (1) shall contain a recommendation regarding the establishment of a national policy on independent colleges and universities appropriate to meeting the Nation's higher educational goals in the twenty-first century.

SEC. 1427. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this part.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this part. Upon request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) GIFTS.—The Commission may accept in the name of the United States grants, gifts, and bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, and bequests, after acceptance by the Commission, shall be paid by the donor or representative of the donor to the Treasurer of the United States, whose receipts shall be their acquittance. The Treasurer of the United States shall enter such grants,

gifts, and bequest in a special account to the credit of the Commission for the purposes specified.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 to carry out this part for fiscal year 1993 and each succeeding fiscal year. Amounts appropriated under this subsection are authorized to remain available until expended, or until the Commission is terminated, whichever occurs first.

SEC. 1428. COMMISSION PERSONNEL MATTERS.

(a) TRAVEL EXPENSES.—From amounts appropriated under section 1427(d), the members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(b) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and not more than 2 staff members to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairperson of the Commission may fix the compensation of the executive director and not more than 2 staff members without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and such staff may not exceed the rate payable for level 15 of the General Schedule classified under section 5107 of such title.

SEC. 1429. TERMINATION OF THE COMMISSION.

The Commission shall terminate 3 years after the date of enactment of this Act.

PART C—NATIONAL COMMISSION ON THE COST OF HIGHER EDUCATION

20 USC 1221-1 note.

SEC. 1441. ESTABLISHMENT OF COMMISSION.

There is established a Commission to be known as the "National Commission on the Cost of Higher Education" (hereafter in this part referred to as the "Commission").

SEC. 1442. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of 12 members as follows:

(1) Four citizens of the United States appointed by the President.

(2) Two Senators appointed by the Majority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(3) Two Senators appointed by the Minority Leader of the Senate, of which—

(A) one shall be a member of the Committee on Labor and Human Resources of the Senate; and

(B) one shall be a member of the Committee on Appropriations of the Senate.

(4) Two Members of the House of Representatives appointed by the Speaker of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(5) Two Members of the House of Representatives appointed by the Minority Leader of the House of Representatives, of which—

(A) one shall be a member of the Committee on Education and Labor of the House of Representatives; and

(B) one shall be a member of the Committee on Appropriations of the House of Representatives.

(b) ADDITIONAL QUALIFICATIONS.—

(1) PRESIDENTIAL APPOINTEES.—An individual appointed under subsection (a)(1) may not be an officer or an employee of the Executive Branch.

(2) CITIZENS.—Individuals who are not Members of the Congress and are appointed under subsection (a)(1) shall be individuals who—

(A) have extensive knowledge of higher education and its financing and who are leaders of the education community, distinguished academics, State or local government officials, students, parents of college students, members of the business community, or other individuals with distinctive qualifications or experience; and

(B) are not officers or employees of the United States.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The members of the Commission shall elect a Chairman and a Vice Chairperson. In the absence of the Chairperson, the Vice Chairperson will assume the duties of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) APPOINTMENTS.—All appointments under subsection (a) shall be made within 3 months after the date of enactment of this Act.

(f) VOTING.—Each member of the Commission shall be entitled to one vote, which shall be equal to the vote of every other member of the Commission.

(g) VACANCIES.—Any vacancy on the Commission shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(h) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission. Members appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as

authorized by law for persons serving intermittently in the government service to the extent funds are available for such expenses.

SEC. 1443. FUNCTIONS OF COMMISSION.

(a) SPECIFIC FINDINGS AND RECOMMENDATIONS.—The Commission shall study and make findings and specific recommendations regarding the following:

(1) The increase in tuition costs compared with other commodities and services as well as methods of reducing increased tuition costs.

(2) Trends in college and university administrative costs as well as other costs and means of reducing such increased costs.

(3) The development of a standardized annual report that colleges and universities shall distribute which details the administrative costs, instructional costs and capital costs of such colleges and universities.

(4) The extent to which Federal, State and local regulations contribute to increased tuition costs and the increase in the cost of higher education.

(5) The establishment of a mechanism for a more timely and widespread distribution of data on tuition trends and other costs of operating colleges and universities.

(6) The extent to which the lack of student financial assistance programs has contributed to increased tuition costs.

(7) Other related topics determined to be appropriate by the Commission.

(b) FINAL REPORT.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission shall submit to the President and to the Congress not later than September 1, 1994, a report which shall contain a detailed statement of the findings and conclusions of the Commission, including the Commission's recommendations for administrative and legislative action that the Commission considers advisable.

(2) MAJORITY VOTE REQUIRED FOR RECOMMENDATIONS.—Any recommendation described in paragraph (1) shall be made by the Commission to the President and to the Congress only if such recommendation is adopted by a majority vote of the members of the Commission who are present and voting.

SEC. 1444. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this part, hold such hearings and sit and act at such times and places, as the Commission may find advisable.

(b) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish the Commission's procedures and to govern the manner of the Commission's operations, organization, and personnel.

(c) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) INFORMATION.—The Commission may request from the head of any Federal agency or instrumentality such information as the Commission may require for the purpose of this part. Each such agency or instrumentality shall, to the extent permitted by law and subject to the exceptions set forth in section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), furnish such information to the Commission, upon request made by the Chairperson of the Commission.

(2) FACILITIES AND SERVICES, PERSONNEL DETAIL AUTHORIZED.—Upon request of the Chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head—

(A) make any of the facilities and services of such agency or instrumentality available to the Commission; and

(B) detail any of the personnel of such agency or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the Commission's duties under this part, except that any expenses of the Commission incurred under this subparagraph shall be subject to the limitation on total expenses set forth in section 1445(b).

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(e) CONTRACTING.—The Commission, to such extent and in such amounts as are provided in appropriation Acts, may enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the Commission's duties under this part, subject to the limitation on total expenses set forth in section 1445(b).

(f) STAFF.—Subject to such rules and regulations as may be adopted by the Commission, the Chairperson of the Commission (subject to the limitation on total expenses set forth in section 1445(b)) shall have the power to appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director, and of such additional staff as the Chairperson deems advisable to assist the Commission, at rates not to exceed a rate equal to the maximum rate for level IV of the Executive Schedule under section 5332 of such title.

(g) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.) and shall be independent from the Executive Branch.

SEC. 1445. EXPENSES OF COMMISSION.

(a) IN GENERAL.—Any expenses of the Commission shall be paid from such funds as may be available to the Secretary of the Treasury.

(b) LIMITATION.—The total expenses of the Commission shall not exceed $2,000,000.

(c) GAO AUDIT.—Prior to the termination of the Commission pursuant to section 1446, the Comptroller General of the United States shall conduct an audit of the financial books and records of the Commission to determine that the limitation on expenses has been met, and shall include the Comptroller General's determination in an opinion to be included in the report of the Commission.

SEC. 1446. TERMINATION OF COMMISSION.

The Commission shall cease to exist on the date that is 90 days after the date on which the Commission submits its final report in accordance with section 1443(b).

TITLE XV—RELATED PROGRAMS AND AMENDMENTS TO OTHER LAWS

PART A—NATIONAL CENTER FOR THE WORKPLACE

SEC. 1511. PURPOSE; DESIGNATION. 29 USC 2401.

It is the purpose of this part to address the problems created by the simultaneous convergence of broad economic, social, cultural, political, and technological changes in the workplace through a national center administered by the Department of Labor that will join together workplace experts from America's best institutions of higher education with experts from the public and private sectors to conduct research, share information, and propose remedies.

SEC. 1512. ESTABLISHMENT. 29 USC 2402.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is authorized to be established the National Center for the Workplace (hereafter in this part referred to as the "Center") through competitive grant or contract between the Secretary of Labor and an eligible recipient.

(2) MATCHING FUNDS.—In order to receive the grant described in paragraph (1) an eligible entity shall provide matching funds from non-Federal sources equal to 25 percent of the funds received pursuant to such grant.

(b) ELIGIBLE RECIPIENT.—An eligible recipient shall be a consortium of institutions of higher education in the United States. The consortium shall represent a diversity of views on and an expertise in the field of employment policy, and shall be represented and coordinated by a host institution of higher education that meets all of the following criteria:

(1) Broad collective knowledge of and demonstrable experience in the wide range of employment and workplace issues.

(2) A faculty that, collectively, demonstrates a nonpartisan research and policy perspective joining the several relevant workplace disciplines (labor economics, industrial relations, collective bargaining, human resource management, sociology, psychology, and law) in a multidisciplinary approach to workplace issues.

(3) Established credibility and working relationships with employers, unions, and government agencies on a national scale, and established means of providing education and technical assistance to each of the above groups that include publications, state-of-the-art electronic and video technology, and distinguished extension/outreach programs operating on a national and international level.

(c) REPORT.—The Center shall annually report to the Congress, the Secretary of Education, and the Secretary of Labor on the activities of the Center.

29 USC 2403.

SEC. 1513. USE OF FUNDS.

(a) CENTER ACTIVITIES.—Payments made under this part may be used to establish and operate the Center, to bring together major independent researchers from the Center's member-institutions focused on the most significant workplace problems with the aim of analysis and synthesis of policy implications and dissemination of findings, and to support the following activities:

(1) The coordination and funding of research activities of the Center's member-institutions for collaborative collection and evaluation of data on changes and trends in the workplace and in the labor force, on established and emerging public policy issues, on the economic and occupational structures, and on work organizations and employment conditions.

(2) The analysis of the public policy implications of social and demographic changes in the United States as they relate to the workplace.

(3) The conduct of seminars for Federal and State policymakers on policy implications of the Center's findings. Such seminars shall be held not more frequently than once each year. In addition, the Center shall utilize electronic technology, such as computer networks and video conferencing, to convey the cumulative value of the Center's activities from year to year and to foster continuous exchange of ideas and information.

(4) The conduct of a National Conference on employment policy not more frequently than once each year for the leaders of business and organized labor in the United States designed to convey the cumulative value of the Center's activities and to foster an exchange of ideas and information.

(5) The nonpartisan evaluation of the economic and social implications of national and international workplace and employment issues.

(6) The provision of ready access to the Center's collective expertise for policy officials in the Federal and State governments and representatives of private and public sector organizations through meetings, publications, special reports, video conferences, electronic mail and computer networks, and other means to share up-to-date information on workplace and employment issues, practices, and innovations, the most promising options, and guidance in management of the change process.

(7) The development of programs, curricula, and instructional materials for colleges, universities, and other educational institutions designed to impart the knowledge and skills required to promote innovations in the design of work and employment conditions that enhance organizational performance and meet worker needs.

(8) The development and administration of a national repository of information on key workplace issues that can be readily accessed by the public and private sector.

(b) FELLOWSHIPS.—Grant funds awarded under this title may also be used to provide graduate assistantships and fellowships at the Center to encourage graduate study of the field of employment policy and to encourage graduate research in areas that are seen as critical to national competitiveness.

SEC. 1514. GIFTS AND DONATIONS. 20 USC 2404.

The Center is authorized to receive money and other property donated, bequeathed, or devised to the Center with or without a condition of restriction, for the purpose of furthering the activities of the Center. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report submitted pursuant to section 1512(c).

SEC. 1515. AUTHORIZATION. 20 USC 2405.

(a) IN GENERAL.—There are authorized to be appropriated $2,500,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.

(b) AVAILABILITY.—Funds appropriated pursuant to the authority of subsection (a) shall remain available until expended.

PART B—NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

SEC. 1521. NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS. 20 USC 1452 note.

(a) PURPOSE.—The purpose of this section is to coordinate the production and distribution of educational materials in an accessible form, especially audio and digital text production, to college and university based print-disabled populations.

(b) PROGRAM AUTHORITY.—

(1) IN GENERAL.—The Secretary of Education is authorized to award a grant or contract to pay the Federal share of the cost of establishing a National Clearinghouse for Postsecondary Education Materials (hereafter in this part referred to as the "Clearinghouse") to coordinate the production and distribution of educational materials, in an accessible form, including audio and digital, for students with disabilities.

(2) AWARD BASIS.—The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive basis.

(3) DURATION.—The grant or contract awarded under this section shall be awarded for a period of 3 years.

(c) USE OF FUNDS.—The grant or contract awarded under this section shall be used to—

(1) catalog in computer-readable form postsecondary education materials;

(2) identify college campus-based services producing taped texts whose technical and reader quality make them eligible for inclusion in the Clearinghouse and share its quality control standards with campus-based student support services offices serving students with disabilities;

(3) promote data conversion and programming to allow the electronic exchange of bibliographic information between existing on line systems;

(4) encourage outreach efforts that will educate print-disabled individuals, as defined by section 652(d)(2) of the Individuals With Disabilities Education Act, educators, schools, and agencies about the Clearinghouse's activities;

(5) upgrade existing computer systems at the Clearinghouse;

(6) coordinate with identifiable and existing data bases containing postsecondary education materials, including the pro-

grams authorized under section 652(d) of the Individuals With Disabilities Act; and

(7) develop and share national guidelines and standards for the production of audio and digital text materials.

(d) FEDERAL SHARE LIMITATION.—The Federal share under this section may not be more than—

(1) 80 percent of the total cost of the program in the first year;

(2) 60 percent of the total cost of the program in the second year; and

(3) 50 percent of the total cost of the program in the third year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of this section, $1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995.

PART C—SCHOOL-BASED DECISIONMAKERS

20 USC 1101 note.

SEC. 1531. TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary of Education is authorized to make grants to local education agencies, in consortia with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform.

(b) APPLICATION.—To be eligible to receive a training and technical assistance demonstration grant under this section, consortia shall submit an application to the Secretary of Education in such form and containing or accompanied by such information as the Secretary may require. A copy of the application shall also be sent to the State educational agency for notification purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 and 1995.

PART D—GRANTS FOR SEXUAL OFFENSES EDUCATION

20 USC 1145h.

SEC. 1541. GRANTS FOR CAMPUS SEXUAL OFFENSES EDUCATION.

(a) GRANTS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education (hereafter in this part referred to as the "Secretary") is authorized to make grants to or enter into contracts with institutions of higher education or consortia of such institutions to enable such institution to carry out sexual offenses education and prevention programs under this section.

Contracts.

(2) AWARD BASIS.—The Secretary shall award grants and contracts under this section on a competitive basis.

(3) EQUITABLE PARTICIPATION.—The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions in the activities assisted under this part.

(4) PRIORITY.—In the award of grants and contracts under this section, the Secretary shall give priority to institutions

of higher education or consortia of such institutions that show the greatest need for the sums requested.

(b) GENERAL SEXUAL OFFENSES PREVENTION AND EDUCATION GRANTS.—Funds provided under this part may be used for the following purposes:

(1) To provide training for campus security and college personnel, including campus disciplinary or judicial boards, that address the issues of sexual offenses.

(2) To develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline sexual offense crimes.

(3) To develop, enlarge, or strengthen support services programs including medical or psychological counseling to assist victims' recovery from sexual offense crimes.

(4) To create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action.

(5) To implement, operate, or improve sexual offense education and prevention programs, including programs making use of peer-to-peer education.

(c) MODEL GRANTS.—Not less than 25 percent of the funds appropriated for this section in any fiscal year shall be available for grants or contracts for model demonstration programs which will be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student sexual offense victims.

(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible to be awarded a grant or contract under this section unless—

(1) its student code of conduct, or other written policy governing student behavior explicitly prohibits all forms of sexual offenses;

(2) it has in effect and implements a written policy requiring the disclosure to the victim of any sexual offense of the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual offense, except that nothing in this section shall be interpreted to authorize disclosure to any person other than the victim; and

(3) the Secretary shall give priority to those applicants who do not have an established campus education program regarding sexual offenses.

(e) APPLICATIONS.—

(1) IN GENERAL.—In order to be eligible to be awarded a grant or contract under this section for any fiscal year, an institution of higher education or consortium of such institutions shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

(2) CONTENTS.—Each application submitted under paragraph (1) shall—

(A) set forth the activities and programs to be carried out with funds granted under this part;

(B) contain an estimate of the cost for the establishment and operation of such programs;

(C) explain how the program intends to address the issue of sexual offenses;

(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

(f) GRANTEE REPORTING.—Upon completion of the grant or contract period under this section, the grantee institution or consortium of such institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

(g) DEFINITIONS.—For purposes of this part, the term "sexual offenses educational and prevention" includes programs that provide education seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual offenses.

(h) GENERAL TERMS AND CONDITIONS.—

(1) REGULATIONS.—Not later than 90 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. Not later than 150 days after such date, the Secretary shall publish final regulations implementing this section.

(2) REPORTS TO CONGRESS.—Not later than 180 days after the end of each fiscal year for which grants or contracts are awarded under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

(A) the amount of grants or contracts awarded under this section;

(B) a summary of the purposes for which those grants or contracts were awarded and an evaluation of their progress; and

(C) a copy of each grantee report filed pursuant to subsection (f) of this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $10,000,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

PART E—OLYMPIC SCHOLARSHIPS

20 USC 1070 note.

SEC. 1543. OLYMPIC SCHOLARSHIPS.

(a) SCHOLARSHIPS AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education is authorized to provide financial assistance to the United States Olympic Education Center or the United States Olympic Training Center to enable such centers to provide financial assistance to athletes who are training at such centers and are pursuing postsecondary education at institutions of higher education (as such term

is defined in section 481(a) of the Higher Education Act of 1965).

(2) AWARD DETERMINATION.—The amount of financial assistance provided to athletes described in paragraph (1) shall be determined in accordance with such athlete's financial need as determined in accordance with part F of title IV of the Higher Education Act of 1965.

(b) ELIGIBILITY.—The Secretary of Education shall ensure that financial assistance provided under this part is available to both full-time and part-time students who are athletes at centers described in subsection (a).

(c) APPLICATION.—Each center desiring financial assistance under this section shall submit an application to the Secretary of Education at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

PART F—NEED-BASED AID

SEC. 1544. AUTHORITY TO AWARD NEED-BASED AID.

20 USC 1088 note.

(a) EFFECT ON PENDING CASES PROHIBITED.—Nothing in this section shall in any way be construed to affect any antitrust litigation pending on the date of enactment of this Act.

(b) IN GENERAL.—Except as provided in subsections (a), (c), and (e), institutions of higher education may—

(1) voluntarily agree with any other institution of higher education to award financial aid not awarded under the Higher Education Act of 1965 to students attending those institutions only on the basis of demonstrated financial need for such aid; and

(2) discuss and voluntarily adopt defined principles of professional judgment for determining student financial need for aid not awarded under the Higher Education Act of 1965.

(c) EXCEPTION.—Institutions of higher education shall not discuss or agree with each other on the prospective financial aid award to a specific common applicant for financial aid.

(d) RELATED MATTER.—No inference of unlawful contract, combination, or conspiracy shall be drawn from the fact that institutions of higher education engage in conduct authorized by this section.

(e) SUNSET PROVISION.—This section shall expire on September 30, 1994.

PART G—ADVANCED PLACEMENT FEE PAYMENT PROGRAM

SEC. 1545. ADVANCED PLACEMENT FEE PAYMENT PROGRAM.

20 USC 1070a-11 note.

(a) PROGRAM ESTABLISHED.—The Secretary of Education is authorized to make grants to States to enable the States to reimburse individuals to cover part or all of the cost of advance placement test fees, to low-income individuals who—

(1) are enrolled in an advanced placement class; and

(2) plan to take an advanced placement test.

(b) INFORMATION DISSEMINATION.—The State educational agency shall disseminate information on the availability of test fee pay-

ments under this section to eligible individuals through secondary school teachers and guidance counselors.

(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for grants the Secretary of Education shall—

(1) require that each such application contain a description of the advance placement test fees the State will pay on behalf of individual students;

(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

(3) contain such information as the Secretary may require to demonstrate that the State will ensure that the student is eligible for payments under this section, including the documentation required by chapter 1 of subpart 2 of part A of title IV of the Higher Education Act of 1965.

(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local or private funds available to assist low-income individuals in paying for advanced placement testing.

(e) REGULATIONS.—The Secretary of Education shall prescribe such regulations as are necessary to carry out this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

(g) DEFINITION.—As used in this section:

(1) ADVANCED PLACEMENT TEST.—The term "advanced placement test" includes only an advanced placement test approved by the Secretary of Education for the purposes of this section.

(2) LOW-INCOME INDIVIDUAL.—The term "low-income individual" has the meaning given the term in section 402A(g)(2) of the Higher Education Act of 1965.

PART H—AMENDMENTS TO OTHER LAWS

SEC. 1551. HIGHER EDUCATION TECHNICAL AMENDMENTS.

20 USC 1091a note.

Subsection (c) of section 3 of the Higher Education Technical Amendments of 1991 (Public Law 102-26) is amended by striking "that are brought before November 15, 1992".

SEC. 1552. LIBRARY OF CONGRESS ACCESS TO DATA

Section 406(d)(4)(H) of the General Education Provisions Act (20 U.S.C. 1221e-1(d)(4)(H)) is amended by—

(1) inserting "and the Librarian of Congress" after "Comptroller General of the United States"; and

(2) inserting "and the Library of Congress" after "the General Accounting Office".

SEC. 1553. LIAISON FOR COMMUNITY COLLEGES.

(a) LIAISON.—Section 202 of the Department of Education Organization Act (20 U.S.C. 3412) is amended by adding at the end the following new subsection:

"(i)(1) There shall be in the Department a Liaison for Community and Junior Colleges, who shall be an officer of the Department appointed by the Secretary.

"(2) The Secretary shall appoint, not later than 6 months after the date of enactment of the Higher Education Amendments of

1992, as the Liaison for Community and Junior Colleges a person who—

"(A) has attained an associate degree from a community or junior college; or

"(B) has been employed in a community or junior college setting for not less than 5 years.

"(3) The Liaison for Community and Junior Colleges shall—

"(A) serve as principal advisor to the Secretary on matters affecting community and junior colleges;

"(B) provide guidance to programs within the Department dealing with functions affecting community and junior colleges; and

"(C) work with the Federal Interagency Committee on Education to improve coordination of—

"(i) the outreach programs in the numerous Federal departments and agencies that administer education and job training programs;

"(ii) collaborative business education partnerships; and

"(iii) education programs located in, and regarding, rural areas.".

(b) EXECUTIVE SCHEDULE.—Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

"Liaison for Community and Junior Colleges, Department of Education".

SEC. 1554. UNITED STATES INSTITUTE OF PEACE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1710 of the United States Institute of Peace Act (22 U.S.C. 4609(a)) is amended to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) AVAILABILITY.—Funds appropriated pursuant to the authority of paragraph (1) shall remain available until expended.".

(b) SPARK M. MATSUNAGA SCHOLARS PROGRAM.—Subsection (b) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(b)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon and "and"; and

(3) by adding at the end the following new paragraph:

"(10) establish the Spark M. Matsunaga Scholars Program, which shall include the provision of scholarships and educational programs in international peace and conflict management and related fields for outstanding secondary school students and the provision of scholarships to outstanding undergraduate students, with program participants and recipients of such scholarships to be known as 'Spark M. Matsunaga Scholars'.".

(c) CONTRACTS AND PRIVATE GIFTS AND CONTRIBUTIONS.—Subsection (h) of section 1705 of the United States Institute of Peace Act (22 U.S.C. 4604(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The Institute and the legal entity described in section 1704(c) may not accept any gift, contribution or grant from a foreign government, any agency or instrumentality of such government, any international organization, or any corporation or other legal entity in which natural persons who are nationals of a foreign country own, directly or indirectly, more than 50 percent of the outstanding capital stock or other beneficial interest in such legal entity."; and

(2) in paragraph (3) by striking "individual." and inserting "individual, except such Institute or legal entity may accept such a gift or contribution to—

"(A) purchase, lease for purchase, or otherwise acquire, construct, improve, furnish, or maintain a suitable permanent headquarters, any related facility, or any site or sites for such facilities for the Institute and the legal entity described in section 1704(c); or

"(B) provide program-related hospitality, including such hospitality connected with the presentation of the Spark M. Matsunaga Medal of Peace.".

SEC. 1555. LAW ENFORCEMENT UNIT RECORDS.

(a) IN GENERAL.—Clause (ii) of section 438(a)(4)(B) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement.".

20 USC 1232g note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SEC. 1556. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

(a) AUTHORIZATION OF APPROPRIATION FOR THE NATIONAL SCIENCE SCHOLARS PROGRAM.—Subsection (b) of section 601 of the Excellence in Mathematics, Science, and Engineering Act of 1990 (20 U.S.C. 5381(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years for awards to National Science Scholars.".

(b) NATIONAL ACADEMY OF SCIENCE, SPACE, AND TECHNOLOGY.—Section 621 of the Excellence in Mathematics, Science and Engineering Education Act of 1990 (20 U.S.C. 5411) is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) FUNCTION.—The Advisory Board shall develop an exam for secondary students testing knowledge in science, mathematics, and engineering, or shall select an exam from among existing national exams, and shall annually administer such exam.";

(2) by striking subsections (d), (e), and (f);

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b), the following new subsection:

"(c) RESULTS OF EXAM.—The Advisory Board shall annually certify the top 10 scorers in each congressional district on the exam developed or selected under subsection (b)(2), and award to the top scorer in each district a scholarship under this section.";

(5) in subsection (d)(1), as so redesignated by paragraph (3) of this section, by striking "subsection (n)" and inserting in lieu thereof "subsection (l)";

(6) in subsection (d)(2), as so redesignated by paragraph (3) of this section, by striking "subsection (h)" and inserting in lieu thereof "subsection (f)";

(7) in subsection (d)(3), as so redesignated by paragraph (3) of this section—

(A) by striking "subsection (h)" and inserting in lieu thereof "subsection (f)"; and

(B) by inserting "such additional" after "maximum of 3";

(8) by redesignating subsections (g) through (o) as subsections (e) through (m), respectively;

(9) in subsection (f)(2), as so redesignated by paragraph (8) of this section, by striking "subsection (f)" and inserting in lieu thereof "subsection (d)(3)"; and

(10) in subsection (m), as so redesignated by paragraph (8) of this section, by striking "$2,200,000 for fiscal year 1991" and inserting in lieu thereof "$2,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years".

SEC. 1557. NATIONAL AND COMMUNITY SERVICE ACT OF 1990.

Paragraph (1) of section 146(b) of the National and Community Service Act of 1990 (42 U.S.C. 12576(b)(1)) is amended by striking "that is equal in value to $2,500 for each year of service that such participant provides to the program" and inserting "for each year of service that such participant provides to the program, which benefit shall be equal in value to $2,500 for each such year, and which benefit shall be adjusted to match any increases in the maximum Pell Grant as provided by the annual appropriation".

SEC. 1558. OMNIBUS BUDGET RECONCILIATION ACT OF 1990.

Section 3008 of the Omnibus Reconciliation Act of 1990 is repealed. 11 USC 362 note.

SEC. 1559. SPECIAL PROJECTS FOR 2-YEAR SCHOOLS.

Subsection (f) of section 788 of the Public Health Service Act (20 U.S.C. 295g–8(f)) is amended to read as follows: 42 USC 295g-8.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $316,203 for each of the fiscal years 1993, 1994, 1995, and 1996 to carry out subsection (a).".

PART I—BUY AMERICA

SEC. 1561. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of student assistance or other Federal assistance under the Act should, in

expanding that assistance, purchase American-made equipment and products.

Approved July 23, 1992.

LEGISLATIVE HISTORY—S. 1150 (H.R. 3553):

HOUSE REPORTS: Nos. 102-147 accompanying H.R. 3553 (Comm. on Education and Labor) and 102-630 (Comm. of Conference).
SENATE REPORTS: No. 102-204 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 20, 21, considered and passed Senate.
Mar. 25, 26, H.R. 3553 considered and passed House; S. 1150, amended, passed in lieu.
June 30, Senate agreed to conference report.
July 8, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
July 23, Presidential remarks and statement.

Public Law 102-326
102d Congress

An Act

To designate the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service as the "Zora Leah S. Thomas Post Office Building".

July 23, 1992
[H.R. 158]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Hiddenite, North Carolina, which houses the primary operations of the United States Postal Service (as determined by the Postmaster General) shall be known and designated as the "Zora Leah S. Thomas Post Office Building", and any reference in a law, map, regulation, document, paper, or other record of the United States to such building shall be deemed to be a reference to the Zora Leah S. Thomas Post Office Building.

Approved July 23, 1992.

LEGISLATIVE HISTORY—H.R. 158 (S. 1298):

CONGRESSIONAL RECORD:
Vol. 137 (1991): July 15, considered and passed House.
Vol. 138 (1992): July 2, considered and passed Senate.

Public Law 102-327
102d Congress

An Act

July 23, 1992
[H.R. 4505]

To designate the facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, as the "Arthur J. Holland United States Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 20 South Montgomery Street in Trenton, New Jersey, is designated as the "Arthur J. Holland United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Arthur J. Holland United States Post Office Building".

Approved July 23, 1992.

LEGISLATIVE HISTORY—H.R. 4505 (S. 2253):

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 22, considered and passed House.
July 2, considered and passed Senate.

Public Law 102-328
102d Congress

An Act

To amend the National Trails System Act to designate the California National Historic Trail and Pony Express National Historic Trail as components of the National Trails System.

Aug. 3, 1992
[H.R. 479]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF TRAILS.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding the following new paragraphs at the end thereof:

"( ) The California National Historic Trail, a route of approximately five thousand seven hundred miles, including all routes and cutoffs, extending from Independence and Saint Joseph, Missouri, and Council Bluffs, Iowa, to various points in California and Oregon, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled 'California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment' and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the California National Historic Trail except with the consent of the owner thereof.

"( ) The Pony Express National Historic Trail, a route of approximately one thousand nine hundred miles, including the original route and subsequent route changes, extending from Saint Joseph, Missouri, to Sacramento, California, as generally described in the report of the Department of the Interior prepared pursuant to subsection (b) of this section entitled 'California and Pony Express Trails, Eligibility/Feasibility Study/Environmental Assessment', and dated September 1987. A map generally depicting the route shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The trail shall be administered by the Secretary of the Interior. No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the United States for the Pony Express National Historic Trail except with the consent of the owner thereof.".

SEC. 2. STUDY PROVISIONS.

16 USC 1244 note.

The Secretary of the Interior (hereinafter referred to as the Secretary) shall undertake a study of the land and water route used to carry mail from Sacramento to San Francisco, California, to determine the feasibility and suitability of designation of such route as a component of the Pony Express National Historic Trail designated by section 1 of this Act. Upon completion of the study,

if the Secretary determines such route is a feasible and suitable addition to the Pony Express National Historic Trail, the Secretary shall designate the route as a component of the Pony Express National Historic Trail. The Secretary shall publish notice of such designation in the Federal Register and shall submit the study along with his findings to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate.

Approved August 3, 1992.

LEGISLATIVE HISTORY—H.R. 479:

HOUSE REPORTS: No. 102-48 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-319 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): May 7, 8, considered and passed House.
Vol. 138 (1992): July 21, considered and passed Senate.

Public Law 102-329
102d Congress

An Act

To make technical amendments to the Fair Packaging and Labeling Act with respect to its treatment of the SI metric system, and for other purposes.

Aug. 3, 1992
[H.R. 5343]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENTS.

The Fair Packaging and Labeling Act (15 U.S.C. 1451 et seq.) is amended—

(1) in sections 4(a)(2), (4), and (5), 4(b), and 5(c)(1), by striking "weight" and inserting in lieu thereof "weight or mass"; 15 USC 1453, 1454.

(2) in sections 4(a)(5) and 5(d), by striking "weights" and inserting in lieu thereof "weights or masses";

(3) in section 4(a)(2), by inserting ", using the most appropriate units of both the customary inch/pound system of measure, as provided in paragraph (3) of this subsection, and, except as provided in paragraph (3)(A)(ii) or paragraph (6) of this subsection, the SI metric system" after "panel of that label";

(4) in section 4(a)(3)(A)—

(A) by striking "containing less than four pounds" and all that follows through "pounds for weight units" in clause (i) and inserting in lieu thereof "labeled in terms of weight, shall be expressed in pounds";

(B) by striking "two" in clause (ii) and inserting in lieu thereof "three";

(C) by inserting "and is not required to, but may, include a statement in terms of the SI metric system carried out to not more than three decimal places" after "decimal places" in clause (ii);

(D) by striking "both in terms of inches and" in clause (iii) and inserting in lieu thereof "in terms of"; and

(E) by striking "both in terms of square inches and" in clause (iv) and inserting in lieu thereof "in terms of"; and

(5) in section 4(a), by adding at the end the following new paragraph:

"(6) The requirement of paragraph (2) that the statement of net quantity of contents include a statement in terms of the SI metric system shall not apply to foods that are packaged at the retail store level.".

SEC. 2. EFFECTIVE DATE.

15 USC 1453 note.

The amendments made by section 1 shall take effect on February 14, 1994. The amendments made by section 1 shall have no effect on the sale or distribution of products whose labels have been printed before such effective date. Nothing in the amendments made by section 1 shall apply to unit pricing, advertising, recipe programs, nutrition labeling, or other general pricing information. Nothing in the amendments made by section 1 shall be construed

to require changes in package size or to affect in any way the size of packages.

SEC. 3. REPEAL.

15 USC 1453 and note, 1454.

Section 107 of the American Technology Preeminence Act of 1991 is repealed.

Approved August 3, 1992.

LEGISLATIVE HISTORY—H.R. 5343:

HOUSE REPORTS: No. 102-581, Pt. 1 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 29, considered and passed House.
July 21, considered and passed Senate.

Public Law 102-330
102d Congress

An Act

To authorize the Architect of the Capitol to acquire certain property.

Aug. 3, 1992
[S. 2938]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF THE ARCHITECT.

40 USC 174b-1 note.

(a) ACQUISITION OF PROPERTY.—The Architect of the Capitol, under the direction of the Senate Committee on Rules and Administration, may acquire, on behalf of the United States Government, by purchase, condemnation, transfer or otherwise, as an addition to the United States Capitol Grounds, all publicly and privately owned real property in lots 34 and 35 in square 758 in the District of Columbia as those lots appear on the records in the Office of the Surveyor of the District of Columbia as the date of the enactment of this Act, extending to the outer face of the curbs of the square in which such lots are located and including all alleys or parts of alleys and streets within the lot lines and curb lines surrounding such real property, together with all improvements thereon.

(b) UNITED STATES CAPITOL GROUNDS AND BUILDINGS.—Immediately upon the acquisition by the Architect of the Capitol, on behalf of the United States, of the real property, and the improvements thereon, as provided under subsection (a), the real property acquired shall be a part of the United States Capitol Grounds, and the improvements on such real property shall be a part of the Senate Office Buildings. Such real property and improvements shall be subject to the Act of July 31, 1946 (40 U.S.C. 193a et seq.), and the Act of June 8, 1942 (40 U.S.C. 174c).

(c) BUILDING CODES.—The real property and improvements acquired in accordance with subsection (a) shall be repaired and altered, to the maximum extent feasible as determined by the Architect of the Capitol, in accordance with a nationally recognized model building code, and other applicable nationally recognized codes (including electrical codes, fire and life safety codes, and plumbing codes, as determined by the Architect of the Capitol), using the most current edition of the nationally recognized codes referred to in this subsection.

(d) REPAIRS; EXPENDITURES.—The Architect of the Capitol is authorized, without regard to the provisions of section 3709 of the Revised Statutes of the United States, to enter into contracts and to make expenditures for necessary repairs to, and refurbishment of, the real property and the improvements on such real property acquired in accordance with subsection (a), including expenditures for personal and other services as may be necessary to carry out the purposes of this Act. In no event shall the aggregate value of contracts and expenditures under this subsection exceed an amount equal to that authorized to be appropriated pursuant to subsection (e).

(e) AUTHORIZATION.—There is authorized to be appropriated to the account under the heading "Architect of the Capitol" and the subheadings "Capitol Buildings and Grounds" and "Senate Office Buildings", $2,000,000 for carrying out the purposes of this Act. Moneys appropriated pursuant to this authorization may remain available until expended.

(f) USE OF PROPERTY.—The real property, and improvements thereon, acquired in accordance with subsection (a) shall be available to the Sergeant at Arms and Doorkeeper of the Senate for use as a residential facility for United States Senate Pages, and for such other purposes as the Senate Committee on Rules and Administration may provide.

Approved August 3, 1992.

LEGISLATIVE HISTORY—S. 2938:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 1, considered and passed Senate.
July 2, considered and passed House, amended.
July 21, Senate concurred in House amendment.

Public Law 102-331
102d Congress

Joint Resolution

To designate July 28, 1992, as "Buffalo Soldiers Day".

Aug. 3, 1992
[S.J. Res. 92]

Whereas the Congress responded to the brave Civil War service of more than 180,000 African-American troops by voting on July 28, 1866, to create 6 regular Army regiments composed of African-American enlisted soldiers;

Whereas the 9th and 10th Cavalry regiments were among those regiments, which consisted of veterans of the Civil War and free men of color;

Whereas the 9th Cavalry was stationed at Greenville, Louisiana, and the 10th Cavalry was stationed at Fort Leavenworth, Kansas, from where they played a key role in the history of the American West, guarding wagon trains, surveying roads, building forts, and protecting settlers;

Whereas after a battle in 1867 near Fort Hays, Kansas, Cheyenne warriors remarked that the African-American soldiers fought as fiercely as buffaloes, and the cavalry thereafter adopted the name "Buffalo Soldiers" as a badge of honor;

Whereas the Buffalo Soldiers were an important part of American history and served the United States in many States and Nations, including Arizona, California, Kansas, Louisiana, Montana, Nebraska, New York, Oklahoma, Texas, Utah, Vermont, Virginia, Cuba, Mexico, and the Philippines;

Whereas the Buffalo Soldiers' military heroics included serving with Theodore Roosevelt and the Rough Riders during the Spanish-American War, and helping to capture Billy the Kid and Pancho Villa;

Whereas some Buffalo Soldiers became famous African-American military officers, including Henry Flipper, Charles Young, and Benjamin Davis;

Whereas the Buffalo Soldiers served with pride and maintained high morale and the lowest desertion rate in the Army, despite receiving the worst equipment and food, living in inadequate housing, and being subjected to discrimination;

Whereas the Buffalo Soldiers were repeatedly cited for heroism and dedication to duty, including numerous campaign and unit citations, as well as 22 individual Congressional Medals of Honor;

Whereas the Buffalo Soldiers served in the highest tradition of the United States military, but still have not been given their proper place in American history;

Whereas General Colin Powell, Chairman of the Joint Chiefs of Staff, recognized this omission in 1982 while serving as Deputy Commander at Fort Leavenworth, and set in motion efforts to construct a monument to these forgotten heroes;

Whereas a monument to the Buffalo Soldiers will be dedicated at Fort Leavenworth, Kansas, in July 1992, on a site where Buffalo Soldiers camped during the late 19th and early 20th centuries; and

Whereas the Buffalo Soldier Monument will appropriately recognize the great sacrifices and outstanding performance of the Buffalo Soldiers and their contributions to our Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 28, 1992, is designated as "Buffalo Soldiers Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 3, 1992.

LEGISLATIVE HISTORY—S.J. Res. 92:

CONGRESSIONAL RECORD:
Vol. 137 (1991): June 26, considered and passed Senate.
Vol. 138 (1992): July 24, considered and passed House.

Public Law 102-332
102d Congress

Joint Resolution

Designating September 10, 1992, as "National D.A.R.E. Day".

Aug. 3, 1992
[S.J. Res. 295]

Whereas D.A.R.E. (Drug Abuse Resistance Education) is the largest and most effective drug-use prevention education program in the United States, and is now taught to twenty million youths in grades K–12;

Whereas D.A.R.E. is taught in more than two hundred thousand classrooms reaching all fifty States, Australia, New Zealand, American Samoa, Puerto Rico, Costa Rica, Mexico and Department of Defense Dependent Schools worldwide;

Whereas the D.A.R.E. core curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District, helps prevent substance abuse among school-age children by providing students with accurate information about alcohol and drugs, by teaching students decisionmaking skills and the consequences of their behavior and by building students' self-esteem while teaching them how to resist peer pressure;

Whereas D.A.R.E. provides parents with information and guidance to further their children's development and to reinforce their decisions to lead drug-free lives;

Whereas the D.A.R.E. Program is taught by veteran police officers who come straight from the streets with years of direct experience with ruined lives caused by substance abuse, giving them unmatched credibility;

Whereas each police officer who teaches the D.A.R.E. Program completes eighty hours of specialized training in areas such as child development, classroom management, teaching techniques, and communication skills; and

Whereas D.A.R.E., according to independent research, substantially impacts students' attitudes toward substance use and contributes to improved study habits, higher grades, decreased vandalism and gang activity, and generates greater respect for police officers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 10, 1992, is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved August 3, 1992.

LEGISLATIVE HISTORY—S.J. Res. 295:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
July 21, considered and passed House.

Public Law 102-333
102d Congress

Joint Resolution

To designate August 1, 1992, as "Helsinki Human Rights Day".

Aug. 4, 1992
[S.J. Res. 310]

Whereas August 1, 1992, is the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (CSCE) (hereafter in this preamble referred to as the "Helsinki accords");

Whereas the Helsinki accords were agreed to by the Governments of Albania, Armenia, Austria, Azerbaijan, Belgium, Bosnia-Herzegovina, Bulgaria, Byelarus, Canada, Croatia, Cyprus, Czech and Slovak Federal Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Kazakhstan, Kyrgyzstan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Moldova, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, Russia, San Marino, Slovenia, Spain, Sweden, Switzerland, Tajikistan, Turkey, Turkmenistan, Ukraine, the United Kingdom, the United States of America, Uzbekistan, and Yugoslavia;

Whereas the Helsinki accords express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the participating States have committed themselves to "ensure that their laws, regulations, practices and policies conform with their obligations under international law and are brought into harmony with the provisions of the Declaration of Principles and other CSCE commitments";

Whereas the participating States have committed themselves to "respect the equal rights of peoples and their right to self-determination, acting at all times in conformity with the purposes and principles of the Charter of the United Nations and with the relevant norms of international law, including those relating to territorial integrity of States";

Whereas the participating States have affirmed that the "ethnic, cultural, linguistic and religious identity of national minorities will be protected and that persons belonging to national minorities have the right to freely express, preserve and develop that identity without any discrimination and in full equality before the law";

Whereas the participating States have recognized that the free will of the individual, exercised in democracy and protected by the rule of law, forms the necessary basis for successful economic and social development;

Whereas the participating States have committed themselves to respect fully the right of everyone to leave any country, including their own, and to return to their country;

Whereas the participating States recognize that "democratic government is based on the will of the people, expressed regularly through free and fair elections; and democracy has as its foundation respect for the person and the rule of law; and democracy is the best safeguard of freedom of expression, tolerance of all groups of society, and equality of opportunity for each person";

Whereas on November 21, 1990, the heads of State or government from the signatory States signed the Charter of Paris for a New Europe, a document which has added clarity and precision to the obligations undertaken by the participating States;

Whereas the Conference on Security and Cooperation in Europe has made major contributions to the positive developments in Europe, including greater respect for the human rights and fundamental freedoms of individuals and groups;

Whereas the Conference on Security and Cooperation in Europe provides an excellent framework for the further development of genuine security and cooperation among the participating States; and

Whereas, despite significant improvements, all participating States have not yet fully implemented their obligations under the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1992, the seventeenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereinafter referred to as the "Helsinki accords") is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory States to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising the issue of noncompliance on the part of any signatory State which may be in violation;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms continues to be a vital element of further progress in the ongoing Helsinki process; and

(5) the President is further requested, in view of the considerable progress made to date, to develop new proposals to advance the human rights objectives of the Helsinki process, and in so doing to address the major problems that remain.

SEC. 2. The Secretary of State is directed to transmit copies of this joint resolution to the Ambassadors or representatives to the United States of the other fifty-one Helsinki signatory States.

Approved August 4, 1992.

LEGISLATIVE HISTORY—S.J. Res. 310:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 16, considered and passed Senate.
July 27, considered and passed House.

Public Law 102-334
102d Congress

An Act

Aug. 6, 1992
[S. 2641]

To partially restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. RESTORATION OF OBLIGATIONAL AUTHORITY.

(a) IN GENERAL.—$369,000,000 of the reduction in obligation authority for fiscal year 1992 required by section 1004 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240) as a result of the enactment of section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 is restored for programs subject to the obligation ceiling.

(b) CLARIFICATION.—Section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the first sentence by inserting ", subject to appropriations," after "is authorized". 105 Stat. 2025.

Approved August 6, 1992.

LEGISLATIVE HISTORY—S. 2641:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 30, considered and passed Senate.
July 28, considered and passed House.

Public Law 102-335
102d Congress

An Act

To provide for the management of Federal lands containing the Pacific yew to ensure a sufficient supply of taxol, a cancer-treating drug made from the Pacific yew.

Aug. 7, 1992
[H.R. 3836]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pacific Yew Act.
Forests and forest products.
16 USC 4801 note.

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Pacific Yew Act".

16 USC 4801.

SEC. 2. FINDINGS, PURPOSES, AND DEFINITIONS.

(a) FINDINGS.—Congress finds the following:

(1) Over 12,000 women die each year from ovarian cancer and 44,500 women die from breast cancer.

(2) Taxol, a drug made from the Pacific yew (Taxus brevifolia), has been successful in treating ovarian cancer in clinical trials and shows promise in the treatment of breast cancer and other types of cancer.

(3) The production of small amounts of taxol currently requires the use of large numbers of Pacific yew.

(4) The Pacific yew is a slow-growing tree species found in the Western United States.

(5) Significant numbers of Pacific yew trees are found in old-growth forests on Federal lands in the Pacific Northwest.

(6) Before the importance of taxol was discovered, the Pacific yew was considered a trash tree and was often burned in slash piles after timber operations.

(7) Remaining Pacific yew resources must be carefully managed in order to ensure a steady supply of taxol for the treatment of cancer, while also providing for the long-term conservation of the species.

(8) Appropriate management guidelines must be implemented promptly in order to prevent any wasting of the Pacific yew in current and future timber sales on Federal lands, while successful and affordable alternative methods of manufacturing taxol are being developed.

(b) PURPOSES.—The purposes of this Act are to contribute to the successful treatment of cancer by ensuring that Pacific yew trees located on lands of the National Forest System and on public lands administered by the Bureau of Land Management are managed to—

(1) provide for the efficient collection and utilization of those parts of the Pacific yew that can be used in the manufacture of taxol for the treatment of cancer;

(2) provide for the sale of Pacific yew from such lands for the commercial production and subsequent sale of taxol at a reasonable cost to cancer patients;

(3) ensure the long-term conservation of the Pacific yew; and

(4) prevent the wasting of Pacific yew resources while successful and affordable alternative methods of manufacturing taxol are being developed.

(c) SECRETARY CONCERNED DEFINED.—For purposes of this Act, the term "Secretary concerned" means—

(1) the Secretary of Agriculture, with respect to lands and interests in lands under the jurisdiction of the Forest Service; and

(2) the Secretary of the Interior, with respect to lands and interests in lands under the jurisdiction of the Bureau of Land Management.

16 USC 4802.

SEC. 3. PACIFIC YEW CONSERVATION AND MANAGEMENT.

(a) PACIFIC YEW POLICY.—The Secretary of Agriculture and the Secretary of the Interior shall pursue a conservation and management policy with respect to lands and interests in lands under the jurisdiction of the Forest Service or the Bureau of Land Management, which contain the Pacific yew in order to—

(1) provide for the sustainable harvest of Pacific yew, or Pacific yew parts, in accordance with relevant land and resource management plans for the manufacture of taxol; and

(2) provide for the long-term conservation of the Pacific yew in the wild.

(b) CONTENT OF POLICY.—The conservation and management policy required by subsection (a) shall ensure that—

(1) in planning harvests of the Pacific yew, priority be given first to areas in which timber has been cut but Pacific yew trees have not been removed, second to areas in which timber is already sold but remains uncut, third to areas scheduled for timber sale in the near future, and fourth to those other areas where commercial and salvage timber sales are allowed under existing laws;

(2) individual Pacific yew trees are utilized with little or no waste;

(3) to the extent that timber harvesters' health and safety will not be jeopardized, the bark is harvested from Pacific yew trees in timber sale areas before the harvest of other timber resources;

(4) whenever Pacific yew trees are harvested, they are—

(A) cut using methods designed to allow for resprouting from the stump; and

(B) replanted where necessary to maintain the species in the ecosystem; and

(5) timber management and harvest activities are carried out in a manner that will minimize any adverse effects on the survival and regeneration of Pacific yew trees.

(c) APPLICATION OF POLICY TO TIMBER HARVESTING.—

(1) APPLICATION.—The Secretary concerned shall ensure that timber sales awarded after the date of the enactment of this Act, and timber sales completed before that date but still unharvested on that date, are conducted in accordance with—

(A) the policy expressed in subsection (a); and

(B) the relevant land and resource management plans of the Secretary concerned.

(2) CONSULTATION UNDER ENDANGERED SPECIES ACT.—If the Secretary concerned foresees the need to harvest Pacific yew in an area for which an opinion issued under subsection (b)(3)(A) of section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) has concluded that a commercial timber sale is likely to jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify critical habitat identified for the species under that Act, the Secretary concerned shall immediately initiate consultation under that section to determine the effect on endangered and threatened species and critical habitat of harvesting only Pacific yew trees.

(d) INVENTORY OF PACIFIC YEW.—Not later than 6 months after the date of the enactment of this Act, each Secretary concerned shall complete the ongoing inventory of Pacific yew on lands under the jurisdiction of the Secretary concerned.

SEC. 4. RESEARCH. 16 USC 4803.

Each Secretary concerned shall encourage and, where appropriate, assist in research regarding—

(1) the ecology of the Pacific yew;

(2) the development of alternative methods of procuring taxol, including utilization of other yew parts in addition to bark, the sustainable harvest of yew needles, and the utilization of other yew species; and

(3) the propagation of Pacific yew and other yew species in agricultural or commercial settings.

SEC. 5. COLLECTION AND SALE OF PACIFIC YEW RESOURCES. 16 USC 4804.

(a) ENFORCEMENT AND ACCESS.—The Secretary concerned shall ensure the development, implementation, and enforcement of processes for the collection and sale of Pacific yew resources that will minimize the illegal harvest and sale of such resources. The Secretary shall also ensure that access to Pacific yew resources is allowed in a timely manner such that collection of Pacific yew parts can occur before the taxol properties of such parts are degraded.

(b) NEGOTIATED SALES.—

(1) FOREST SERVICE SALES.—Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary of Agriculture may negotiate sales of Pacific yew on lands under the jurisdiction of the Forest Service at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans.

(2) BUREAU OF LAND MANAGEMENT SALES.—Notwithstanding the Materials Act of 1947 (30 U.S.C. 601–604), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and Act of August 28, 1937 (43 U.S.C. 1181a–1181f), the Secretary of the Interior may negotiate sales of Pacific yew on lands under the jurisdiction of the Bureau of Land Management at not less than appraised value, to parties manufacturing taxol in the United States in accordance with section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans.

(3) DISPOSITION OF UNUTILIZED MATERIAL.—The Secretary concerned shall, to the extent practicable, make material unutilized by purchasers of Pacific yew available to others.

(4) LIMITS ON OTHER SALES.—Except as provided in paragraphs (1), (2), and (3), the Secretary concerned shall not sell Pacific yew for commercial use.

(5) USE OF RECEIPTS.—The Secretary concerned may use amounts received from the sale of Pacific yew under this section to pay the costs incurred by the Secretary concerned associated with the harvest and sale of Pacific yew.

(c) RECORD KEEPING.—The Secretary concerned shall keep accurate records of all sales, bark removal, or other harvest of the Pacific yew. The records shall include the following information:

(1) The date of sale (where applicable) and the date of harvest.

(2) The names of the persons performing the harvest.

(3) The record of authorization for the harvest.

(4) The location and size of the area in which the harvest occurred.

(5) The quantity of Pacific yew harvested, including, to the extent practicable, the number of trees harvested, volume of bark harvested, and weight of bark harvested.

(d) EFFECT ON PRIOR SALES.—With respect to Pacific yew harvested before the date of the enactment of this Act on lands under the jurisdiction of the Forest Service or the Bureau of Land Management, the Secretary concerned may permit taxol derived from that Pacific yew to be used for purposes other than research if the Secretary of Health and Human Services certifies to the Secretary concerned that such permission—

(1) will increase patient access to taxol treatment; and

(2) will not result in insufficient supplies of taxol for clinical research.

16 USC 4805.

SEC. 6. RELATION TO OTHER LAWS.

Nothing in this Act shall be interpreted as modifying the provisions of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), or the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), except as explicitly provided in section 3.

16 USC 4806.

SEC. 7. REPORT TO CONGRESS.

Not later than one year after the date of the enactment of this Act (and annually thereafter), each Secretary concerned shall submit to the Committee on Merchant Marine and Fisheries, the Committee on Interior and Insular Affairs, and the Committee on Agriculture of the House of Representatives, and the Committee on Environment and Public Works, the Committee on Energy and Natural Resources, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the following:

(1) A judgment as to whether sufficient amounts of Pacific yew have been harvested, and can continue to be harvested for the next year, to supply necessary amounts of taxol required for medicinal purposes, together with a summary of the information on which the judgment is based.

(2) The results of the Pacific yew inventory required by section 3(d).

16 USC 4807.

SEC. 8. EXPIRATION OF REQUIREMENTS.

The Secretary of Health and Human Services shall determine when quantities of taxol sufficient to satisfy medicinal demands are available from sources other than Pacific yew trees harvested

on Federal lands and notify each Secretary concerned upon making such determination. If the Secretaries concerned concur, they shall jointly notify the relevant congressional committees, as listed in section 7, at which time the requirements of this Act shall expire.

Approved August 7, 1992.

LEGISLATIVE HISTORY—H.R. 3836 (S. 2851):

HOUSE REPORTS: No. 102-552, Pt. 1 (Comm. on Merchant Marine and Fisheries), Pt. 2 (Comm. on Interior and Insular Affairs), and Pt. 3 (Comm. on Agriculture).
SENATE REPORTS: No. 102-323 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 7, considered and passed House.
July 23, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Aug. 7, Presidential statement.

Public Law 102-336
102d Congress

An Act

Aug. 7, 1992
[H.R. 5059]

To extend the boundaries of the grounds of the National Gallery of Art to include the National Sculpture Garden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9(2) of the Act entitled "An Act relating to the policing of the buildings and grounds of the Smithsonian Institution and its constituent bureaus", approved October 24, 1951 (40 U.S.C. 193v(2)), is amended by inserting before the period at the end the following: ", and (C) to the line of the face of the south curb of Constitution Avenue Northwest, between Ninth Street Northwest and Seventh Street Northwest; to the line of the face of the west curb of Seventh Street Northwest, between Constitution Avenue Northwest and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Seventh Street Northwest and the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest; and to the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest, between Madison Drive Northwest and Constitution Avenue Northwest".

Approved August 7, 1992.

LEGISLATIVE HISTORY—H.R. 5059:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 21, considered and passed House.
July 27, considered and passed Senate.

Public Law 102-337
102d Congress

An Act

To amend the National School Lunch Act to authorize the Secretary of Agriculture to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi, to establish and maintain a food service management institute, and for other purposes.

Aug. 7, 1992
[S. 2917]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FOOD SERVICE MANAGEMENT INSTITUTE.

Section 21(a)(2) of the National School Lunch Act (42 U.S.C. 1769b–1(a)(2)) is amended by inserting after "is authorized" the following: "to provide financial and other assistance to the University of Mississippi, in cooperation with the University of Southern Mississippi,".

Approved August 7, 1992.

LEGISLATIVE HISTORY—S. 2917:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 2, considered and passed Senate.
July 29, considered and passed House.

59-194 O—93——29 : QL 3 (Pt. 1)

Public Law 102-338
102d Congress

An Act

Aug. 11, 1992
[H.R. 4026]

To formulate a plan for the management of natural and cultural resources on the Zuni Indian Reservation, on the lands of the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation, and in other areas within the Zuni River watershed and upstream from the Zuni Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Zuni River Watershed Act of 1992.
Conservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni River Watershed Act of 1992".

SEC. 2. FINDINGS.

Congress finds that—

(1) over the past century, extensive damage has occurred in the Zuni River watershed, including—

(A) severe erosion of agricultural and grazing lands;

(B) reduced productivity of renewable resources;

(C) loss of nonrenewable resources; and

(D) loss of water;

(2) the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation includes—

(A) Federal land;

(B) State land;

(C) Zuni Indian Trust land;

(D) Navajo Indian Tribal Trust and fee land;

(E) Ramah Band of the Navajo Tribe of Indians Trust land;

(F) individual Indian allotment lands; and

(G) private land;

(3) the Department of Agriculture, the Bureau of Indian Affairs, the Zuni Indian Tribe, the Ramah Band of the Navajo Tribe of Indians, and the Navajo Nation agree that corrective measures are required to prevent continued degradation of natural and cultural resources throughout the Zuni River watershed;

(4) with the passage of the Zuni Land Conservation Act of 1990 (Public Law 101-486), the Zuni Indian Tribe has the ability to take these corrective measures within the Zuni Indian Reservation;

(5) the implementation of a watershed management plan within the Zuni Indian Reservation will be ineffective without the implementation of a corresponding plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation;

(6) most of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation is within the Cibola National Forest or Indian Trust lands;

(7) the Secretary of Agriculture, acting through the Chief of the Forest Service and the Chief of the Soil Conservation Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, have the technical expertise to formulate a plan for the management of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation on Federal, State, Indian, and private lands;

(8) an effective watershed management plan for the Zuni River watershed requires voluntary cooperation among the—

(A) Soil Conservation Service;

(B) Forest Service;

(C) Bureau of Indian Affairs;

(D) Zuni Indian Tribe;

(E) Ramah Band of the Navajo Tribe of Indians;

(F) Navajo Nation;

(G) State of New Mexico; and

(H) private landowners; and

(9) all persons living within the Zuni River watershed will benefit from a cooperative effort to rehabilitate and manage the watershed.

SEC. 3. STUDY, PLAN, AND REPORT.

(a) STUDY AND PLAN.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Chief of the Soil Conservation Service and the Chief of the Forest Service, the Secretary of the Interior, acting through the Assistant Secretary for Indian Affairs, and the Tribes, shall—

(A) conduct a study of the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation, as depicted on the map entitled "Zuni River Watershed" which shall be on file and available for public inspection in the—

(i) New Mexico State Office of the Soil Conservation Service;

(ii) Albuquerque Area Office of the Bureau of Indian Affairs; and

(iii) tribal offices; and

(B) prepare a plan for watershed protection and rehabilitation on both public and private lands.

(2) PLAN COMPONENTS.—The plan required by paragraph (1)(B) shall include—

(A) a watershed survey describing current natural and cultural resource conditions;

(B) recommendations for watershed protection and rehabilitation on both public and private lands;

(C) management guidelines for maintaining and improving the natural and cultural resource base on both public and private lands;

(D) a system for monitoring natural and cultural resource conditions that can be coordinated with the system developed by the Zuni Indian Tribe;

(E) proposals for voluntary cooperative programs, that implement and administer the plan required by paragraph (1)(B), among—

(i) the Department of Agriculture;

(ii) the Department of the Interior;
(iii) the Zuni Indian Tribe;
(iv) the Ramah Band of the Navajo Tribe of Indians;
(v) the Navajo Nation;
(vi) the State of New Mexico;
(vii) private landowners within the portion of the Zuni River watershed that is upstream from the Zuni Indian Reservation; and
(viii) other public or private agencies;

(F) a project plan that—
(i) outlines tasks necessary to implement the plan required by paragraph (1)(B);
(ii) recommends completion dates; and
(iii) estimates the costs of the tasks; and

(G) a monitoring plan that—
(i) outlines tasks for monitoring and maintaining the watershed; and
(ii) estimates the annual cost of performing the tasks.

(b) REPORT.—Not later than 4 years after the date that funds are made available for the study and the preparation of the plan as required by subsection (a)(1), the Secretary of Agriculture, the Secretary of the Interior, and the Tribes shall submit to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a written report containing—
(1) the full text of the study and the plan; and
(2) an executive summary of the study and the plan.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved August 11, 1992.

LEGISLATIVE HISTORY—H.R. 4026:

HOUSE REPORTS: No. 102-726 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
July 29, considered and passed Senate.

Public Law 102-339
102d Congress

An Act

To provide additional time to negotiate settlement of a land dispute in South Carolina.

Aug. 11, 1992
[H.R. 5566]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indians.

SECTION 1. FINDINGS.

The Congress finds the following:

(1) Suits on possessory land claims may be commenced against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, within the area claimed in the suit Catawba Indian Tribe of South Carolina against State of South Carolina, et al., Civil Action No. 80–2050 (D.S.C.).

(2) Tens of thousands of such suits would be costly to all parties, including the Federal judicial system, and would create a burden upon interstate commerce.

(3) The filing of such suits may be averted by settlement if additional time is made available for the parties to negotiate and implement the terms of settlement.

(4) The Congress has authority to enact this legislation under the Indian Commerce Clause and the Interstate Commerce Clause of the Constitution; and the Department of Justice concurs in this construction of Article I of the Constitution.

SEC. 2. PURPOSE.

The purpose of this Act is to prevent the social, economic, and judicial disruption that would result from the commencement of law suits against tens of thousands of citizens in York, Lancaster, and Chester Counties, South Carolina, and the burden on interstate commerce that such suits would impose. The parties to the above referenced suit require additional time in which to negotiate and implement the terms of settlement; and if such time is made available, it may avert the necessity of thousands of law suits. The purpose of this Act is not to revive, renew, or extend any claim barred by any period of limitation, repose, or time bar as of the effective date of this Act.

SEC. 3. STATUTE OF LIMITATION.

(a) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, bars any claim brought by or on behalf of any Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester Counties, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or any treaty, as of the date of enactment of this Act, such period of limitation or repose, or other defense based wholly or partly on passage

of time, shall bar any such claim, without regard to whether such claim has already been filed.

(b) If any period of limitation or repose, or any other defense based wholly or partly on the passage of time, has not barred any claim, filed or unfiled, by or on behalf of an Indian, Indian nation, or tribe or band of Indians claiming or asserting damages or an interest in land in York, Lancaster, or Chester County, South Carolina, under section 2116 of the Revised Statutes (25 U.S.C. 177; commonly known as the Indian Non-Intercourse Act), the Constitution of the United States, common law, or treaty, as of the date of the enactment of this Act, the running of any such period of limitation or repose, or any other defense based wholly or partly on the passage of time, shall be suspended as of the date of the enactment of this Act until October 1, 1993. On October 1, 1993, the time upon which any such defenses are based shall resume running. The period of time remaining for any time-related defense to become a bar to any such claim shall be the same on October 1, 1993, as it was immediately prior to the date of the enactment of this Act. Nothing in this subsection shall be construed to affect the application of any period of limitation, repose, or time bar to the claim of any individual Indian which is pursued under any Federal or State law generally applicable to non-Indians as well as Indians.

Approved August 11, 1992.

LEGISLATIVE HISTORY—H.R. 5566:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
July 30, considered and passed Senate.

Public Law 102-340
102d Congress

Joint Resolution

To designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day".

Aug. 12, 1992
[S.J. Res. 270]

Whereas 50 years ago, brave men and women of the United States made tremendous sacrifices to defend freedom and to save the world from tyranny and aggression during World War II;

Whereas, during World War II, the American paratrooper became a new type of fighting soldier;

Whereas, from the drop zones of Sicily and Normandy to the desert sands of Iraq, the paratroopers of the 82d Airborne Division of the United States Army have distinguished themselves as being among those who were the first to answer the call to go in harm's way;

Whereas the 82d Airborne Division is recognized as an elite fighting force that continues to be on the cutting-edge of our Armed Forces;

Whereas today, as for the past 50 years, the 82d Airborne Division's ranks are filled with some of our Nation's best soldiers; and

Whereas it is appropriate that we recognize the 82d Airborne Division on the 50th anniversary of its formation and pay tribute to the gallant paratroopers, past and present, who wear the maroon beret: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 15, 1992, is designated as "82d Airborne Division 50th Anniversary Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities acknowledging the many important contributions of the 82d Airborne Division of the United States Army over the past 50 years.

Approved August 12, 1992.

LEGISLATIVE HISTORY—S.J. Res. 270:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 2, considered and passed Senate.
Aug. 6, considered and passed House.

Public Law 102-341
102d Congress

An Act

Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes.

Aug. 14, 1992
[H.R. 5487]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies programs for the fiscal year ending September 30, 1993, and for other purposes, namely:

Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING, AND MARKETING

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the Secretary of Agriculture, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $2,282,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary: *Provided further,* That the Secretary may transfer salaries and expenses funds in this Act sufficient to finance a total of not to exceed 35 staff years between agencies of the Department of Agriculture to meet workload requirements.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $543,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF BUDGET AND PROGRAM ANALYSIS

For necessary expenses of the Office of Budget and Program Analysis, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $5,000 is for employment under 5 U.S.C. 3109, $5,756,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $596,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92–313 for programs and activities of the Department of Agriculture which are included in this Act, $50,503,000, of which $5,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided,* That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $25,700,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of advisory committees of the Department of Agriculture which are included in this Act, $952,000: *Provided,* That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of advisory committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $16,000,000, to remain available until expended: *Provided,* That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $25,014,000, for

Departmental Administration to provide for necessary expenses for management support services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551–558.

OFFICE OF THE ASSISTANT SECRETARY FOR CONGRESSIONAL RELATIONS

For necessary expenses of the Office of the Assistant Secretary for Congressional Relations to carry out the programs funded in this Act, $1,307,000.

OFFICE OF PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $8,925,000, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000 may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $468,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and the Inspector General Act of 1978, as amended, $62,786,000, including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978, as amended, and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95–452 and section 1337 of Public Law 97–98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $24,554,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $580,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analysis of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $58,720,000; of which $500,000 shall be available for investigation, determination, and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627) and other laws, $81,004,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $2,367,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $560,000.

ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION

For necessary expenses to carry out the Alternative Agricultural Research and Commercialization Act of 1990 (7 U.S.C. 5901–5908), $7,250,000 is appropriated to the Alternative Agricultural Research and Commercialization Revolving Fund.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $658,379,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $250,000, except for headhouses or greenhouses which shall each be limited to $1,000,000, and except for ten buildings to be constructed or improved at a cost not to exceed $500,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $250,000, whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall

7 USC 2254.

7 USC 2254.

not apply to modernization or replacement of existing facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations shall not apply to the purchase of land or the construction of facilities as may be necessary for the relocation of the United States Horticultural Crops Research Laboratory at Fresno to Parlier, California, and the relocation of the laboratories at Behoust, France and Rome, Italy to Montpelier, France, including the sale or exchange at fair market value of existing land and facilities at Fresno, California and Behoust, France; and the Agricultural Research Service may lease such existing land and facilities from the purchasers until completion of the replacement facilities: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives: *Provided further,* That funds may be received from any State, other political subdivision, organization, or individual for the purpose of establishing or operating any research facility or research project of the Agricultural Research Service, as authorized by law.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $2,500,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities as necessary to carry out the agricultural research programs of the Department of Agriculture, where not otherwise provided, $34,514,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That facilities to house bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94–129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further,* That funds may be received from any State, other political subdivision, organization, or individuals for the purpose of establishing any research facility of the Agricultural Research Service, as authorized by law.

20 USC 191 note.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $168,785,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended, including administration by the United States Department of Agriculture, penalty mail costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $18,533,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a–582–a7), as amended, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $27,400,000 for pay-

ments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $73,411,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $97,500,000 for competitive research grants under section 2(b) of the Act of August 4, 1965, as amended (7 U.S.C. 450i(b)), including administrative expenses; $5,551,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95–113, including administrative expenses; $1,168,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $400,000 for grants for research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178) and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $3,500,000 for higher education graduate fellowships grants under section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)), including administrative expenses; $1,500,000 for higher education challenge grants under section 1417(b)(1) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(1)), including administrative expenses; $4,000,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $6,725,000 for sustainable agriculture research and education, as authorized by section 1621 of Public Law 101–624 (7 U.S.C. 5811), including administrative expenses; $400,000 for State agricultural weather information systems pursuant to section 1640 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3318); and $20,795,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which $10,250,000 shall be for a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, of which not to exceed $100,000 shall be for employment under 5 U.S.C. 3109; in all, $430,143,000.

BUILDINGS AND FACILITIES

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension, and teaching programs of the Department of Agriculture, where not otherwise provided, $52,101,000, to remain available until expended (7 U.S.C. 2209b).

EXTENSION SERVICE

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas, and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended, to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $262,712,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $60,525,000; payments for the urban gardening program under section 3(d) of the Act, $3,557,000; payments for the pest management program under section 3(d) of the Act, $8,200,000; payments for the farm safety and rural health programs under section 3(d) of the Act, $2,720,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $3,405,000; payments to upgrade 1890 land-grant college research and extension facilities as authorized by section 1447 of Public Law 99–198, $8,000,000, to remain available until expended; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93–471, $1,010,000; payments for a groundwater quality program under section 3(d) of the Act, $11,375,000; special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100–219, $2,550,000; payments for the Agricultural Telecommunications Program, as authorized by Public Law 101–624 (7 U.S.C. 5926), $1,221,000; payments for youth-at-risk programs under section 3(d) of the Act, $10,000,000; payments for a Nutrition Education Initiative under section 3(d) of the Act, $3,530,000; payments for a food safety program under section 3(d) of the Act, $1,500,000; payments for carrying out the provisions of the Renewable Resources Extension Act of 1978, $2,765,000; payments for Indian reservation agents under section 3(d) of the Act, $1,750,000; payments to establish and operate centers of rural technology developed as authorized by section 2347 of Public Law 101–624 (7 U.S.C. 1932), $1,000,000; payments for outreach and assistance for socially disadvantaged farmers and ranchers as authorized by section 2501 of Public Law 101–624 (7 U.S.C. 2279), $1,000,000; payments for rural health and safety education as authorized by section 2390 of Public Law 101–624 (7 U.S.C. 2661 note, 2662), $2,000,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321–326, 328) and Tuskegee University, $24,730,000; in all, $414,500,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended, and the Act of September 29, 1977 (7 U.S.C. 341–349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Depart-

ment and the several States and insular possessions, $10,428,000, of which not less than $2,300,000 is for Home Economics.

NATIONAL AGRICULTURAL LIBRARY

For necessary expenses of the National Agricultural Library, $17,715,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $900,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $462,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3818), in addition to other funds available in this appropriation for grants under this section.

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service, and Packers and Stockyards Administration, $550,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $432,900,000, of which $83,362,000 shall be derived from user fees deposited in the Agricultural Quarantine Inspection User Fee Account, and of which $5,000,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $500,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be

21 USC 129.

available for the operation and maintenance of aircraft and the purchase of not to exceed four, of which two shall be for replacement only: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts: *Provided further,* That none of these funds shall be used to develop, establish, or operate any user fee program for agricultural quarantine and inspection to prevent the movement of exotic pests and diseases from Hawaii and Puerto Rico as authorized by 31 U.S.C. 9701: *Provided further,* That none of these funds shall be used to pay the salary of any Department veterinarian or Veterinary Medical Officer who, when conducting inspections at horse shows, exhibitions, sales, or auctions under the Horse Protection Act, as amended (15 U.S.C. 1821–1831), relies solely on the use of digital palpation as the only diagnostic test to determine whether or not a horse is sore under such Act.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $10,400,000, to remain available until expended (7 U.S.C. 2209b).

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $489,867,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds in this Act may be used to carry out the Streamlined Inspection System (for cattle) after April 1, 1993.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to

exceed $20,000 for employment under 5 U.S.C. 3109, $11,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94–582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $42,784,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services: *Provided,* That if grain export activities require additional supervision and oversight, or other uncontrollable factors occur, this limitation may be exceeded by up to 10 per centum with notification to the Appropriations Committees.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451–457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), and for activities with institutions or organizations throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $5,640,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That, hereafter, funds made available to the Agricultural Cooperative Service shall be available for a field office in Hawaii.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution, transportation, and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $90,000 for employment under 5 U.S.C. 3109, $56,221,000; of which not less than $2,313,000 shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements,

but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $55,953,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses: *Provided,* That if crop size is understated and/or other uncontrollable events occur, the agency may exceed this limitation by up to 10 per centum with notification to the Appropriations Committees.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $10,309,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

In fiscal years 1993 and 1994, section 32 funds shall be used to promote sunflower and cottonseed oil exports to the full extent authorized by section 1541 of Public Law 101–624 (7 U.S.C. 1464 note), and such funds shall be used to facilitate additional sales of such oils in world markets.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $1,250,000.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $11,996,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $551,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970, as amended (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); title XII of the Food Security Act of 1985, as amended (16 U.S.C. 3811 et seq.); and laws pertaining to the Commodity Credit Corporation, $714,551,000; of which $712,926,000 is hereby appropriated, and $1,036,000 is transferred from the Public Law 480 Program Account in this Act and $589,000 is transferred from the Commodity Credit Corporation Program Account in this Act: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault

of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursements.

CORPORATIONS

The following corporations and agencies are hereby authorized to make expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided:

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $309,948,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $285,794,000, to remain available until expended (7 U.S.C. 2209b); of which $58,768,000 is to reimburse the Federal Crop Insurance Corporation Fund for agents' commissions and loss adjustment obligations incurred during prior years, but not previously reimbursed, as authorized by section 516(a) of the Act, as amended.

COMMODITY CREDIT CORPORATION FUND

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1993, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained, but not previously reimbursed (estimated to be $9,200,000,000 in the President's fiscal year 1993 Budget Request (H. Doc. 102–178)), but not to exceed $9,200,000,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a–11).

Such funds are appropriated to reimburse the Corporation to restore losses incurred during prior fiscal years. Such losses for fiscal years 1991 and 1992 include $667,020,000 in connection with carrying out the Export Enhancement Program (EEP), $114,196,000 in connection with carrying out the Market Promotion Program (MPP), $150,000,000 in connection with carrying out the Federal Crop Insurance Program, $314,763,000 in connection with domestic donations, $165,316,000 in connection with export donations, and $7,788,705,000 in connection with carrying out the commodity programs.

OPERATIONS AND MAINTENANCE FOR HAZARDOUS WASTE MANAGEMENT

For fiscal year 1993, CCC shall not expend more than $3,000,000 for expenses to comply with the requirement of section 107(g) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607(g), and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961: *Provided,* That expenses shall be for operations and maintenance costs only and that other hazardous waste management costs shall be paid for by the USDA Hazardous Waste Management appropriation.

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of the General Sales Manager, $8,866,000, of which $4,668,000 may be transferred from Commodity Credit Corporation funds, $2,731,000 may be transferred from the Commodity Credit Corporation Program Account in this Act, and $1,467,000 may be transferred from the Public Law 480 Program Account in this Act. Of these funds, up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95–501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments. Reports.

TITLE II—CONSERVATION PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant Secretary for Natural Resources and Environment to administer

the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $563,000.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $576,539,000, to remain available until expended (7 U.S.C. 2209b); of which not less than $5,713,000 is for snow survey and water forecasting and not less than $8,064,000 is for operation and establishment of the plant materials centers: *Provided,* That except for $2,399,000 for improvements of the plant materials centers, the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a–590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e–2).

16 USC 590e-1.

16 USC 590e-2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigation, and surveys of watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006–1009), $13,251,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001–1008), $9,545,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001–1005, 1007–1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and in accordance with the provisions of laws relating to the activities of the Department, $228,266,000 to remain available until expended (7 U.S.C. 2209b) (of which $40,272,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $22,816,000 shall be available for emergency measures as provided by sections 403–405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203–2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $4,000,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93–205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010–1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a–f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451–3461), $32,516,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That $600,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

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GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $25,271,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q), and sections 1001–1004, 1006–1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501–1504, 1506–1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $194,435,000, to remain available until expended (16 U.S.C. 590o), for agreements, excluding administration but including technical assistance and related expenses (16 U.S.C. 590o), except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such counties, and in addition, on

the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels: *Provided further,* That not to exceed $15,000,000 of the amount appropriated shall be used for water quality payments and practices in the same manner as permitted under the program for water quality authorized in chapter 2 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3838 et seq.).

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $18,620,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $3,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out a voluntary cooperative salinity control program pursuant to section 202(c) of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592(c)), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $13,783,000, to remain available until expended (7 U.S.C. 2209b), to be used for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management sys-

tems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county ASC committees, approved by the State ASC committees and the Secretary, and for associated costs of program planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831–3845), $1,578,517,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices provided for in approved conservation reserve program contracts, for annual rental payments provided in such contracts, and for technical assistance: *Provided,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land.

TITLE III—FARMERS HOME AND RURAL DEVELOPMENT PROGRAMS

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Development Administration, Rural Electrification Administration, and Federal Crop Insurance Corporation, $572,000.

RURAL DEVELOPMENT ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Rural Development Administration, not otherwise provided for, in administering the rural development programs of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended, section 1323 of the Food Security Act of 1985 (7 U.S.C. 1932 note), and title VI of the Rural Development Act of 1972, $37,066,000; of which $14,787,000 is hereby appropriated, $21,755,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account in this Act and merged with this account, and $524,000 shall be derived by transfer from the Rural Development Loan Fund Program Account

in this Act and merged with this account: *Provided,* That not to exceed $500,000 shall be for employment under 5 U.S.C. 3109.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by title V of the Housing Act of 1949, as amended, to be available from funds in the Rural Housing Insurance Fund, as follows: $1,624,500,000 for loans to section 502 borrowers, as determined by the Secretary, of which $329,500,000 shall be for unsubsidized guaranteed loans; $11,330,000 for section 504 housing repair loans; $16,300,000 for section 514 farm labor housing; $573,900,000 for section 515 rental housing; $600,000 for site loans; and $187,000,000 for credit sales of acquired property: *Provided,* That up to $35,000,000 of these funds shall be made available for section 502(g), Deferral Mortgage Demonstration.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: low-income housing section 502 loans, $313,039,000, of which $6,096,000 shall be for unsubsidized guaranteed loans; section 504 housing repair loans, $4,548,000; section 514 farm labor housing, $8,029,000; section 515 rental housing, $305,602,000; and credit sales of acquired property, $25,039,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $427,011,000.

RENTAL ASSISTANCE PROGRAM

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, $337,699,000; and in addition such sums as may be necessary, as authorized by section 521(c) of the Act, to liquidate debt incurred prior to fiscal year 1993 to carry out the Rental Assistance Program under section 521(a)(2) of the Act: *Provided,* That of this amount not more than $11,800,000 shall be available for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act: *Provided further,* That of this amount not less than $122,532,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not more than $5,214,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $199,034,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1993 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1989, 1990, 1991, and 1992 may also be extended beyond five years to fully utilize amounts obligated.

SELF-HELP HOUSING LAND DEVELOPMENT FUND PROGRAM ACCOUNT

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000.

For an amount, for the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans, $22,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $21,000.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928–1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $555,500,000, of which $488,750,000 shall be for guaranteed loans; operating loans, $2,563,354,000, of which $1,500,000,000 shall be for unsubsidized guaranteed loans and $238,354,000 shall be for subsidized guaranteed loans; $3,752,000 for water development, use, and conservation loans, of which $1,415,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $1,000,000; for emergency insured loans, $115,000,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, $88,000,000: *Provided,* That loan funds made available herein shall be completely allocated to the States and made available for obligation in the first two quarters of fiscal year 1993.

For the cost of direct and guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, as follows: farm ownership loans, $33,599,000, of which $20,576,000 shall be for guaranteed loans; operating loans, $158,030,000, of which $18,150,000 shall be for unsubsidized guaranteed loans and $15,350,000 shall be for subsidized guaranteed loans; $499,000 for water development, use, and conservation loans, of which $43,000 shall be for guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $226,000; for emergency insured loans, $30,762,000 to meet the needs resulting from natural disasters; and for credit sales of acquired property, $22,405,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $230,179,000.

STATE MEDIATION GRANTS

For grants pursuant to section 502(b) of the Agricultural Credit Act of 1987, as amended (7 U.S.C. 5101–5106), $3,000,000.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For gross obligations for the principal amount of direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661–664, as amended, to be available from funds in the Rural Development Insurance Fund, as follows: water and sewer facility loans, $635,000,000, of which $35,000,000 shall be for guaranteed loans; community facility loans, $200,000,000, of which $100,000,000 shall be for guaranteed loans; and guaranteed industrial development loans, $100,000,000: *Provided,* That none of the funds made available in this Act may be used to make transfers between the above limitations.

For the cost of direct and guaranteed loans, including the cost of modifying loans, as defined in section 502 of the Congressional Budget Act of 1974, as follows: water and sewer facility loans, $87,360,000; community facility loans, $8,410,000; and guaranteed industrial development loans, $5,440,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $58,208,000.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For the cost of direct loans $18,616,000, as authorized by the Rural Development Loan Fund (42 U.S.C. 9812(a)): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $32,500,000.

In addition, for administrative expenses necessary to carry out the direct loan programs, $529,000.

ALCOHOL FUELS CREDIT GUARANTEE PROGRAM ACCOUNT

For the cost of guaranteed lines of credit available pursuant to an emergency declaration as provided at section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), $9,000,000, to remain available until expended, but not beyond fiscal year 2009: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to establish a guaranteed line of credit program level of $30,000,000, to remain available until expended, but not beyond fiscal year 2009, which the Department shall make available for the purpose of purchasing grains or cellulosic materials for the production of alcohol fuels at established cooperative facilities as necessary to meet deliveries under contract: *Provided further,* That a guarantee fee of one percent shall be paid at the time a guarantee is issued.

In addition, for administrative expenses necessary to carry out the credit guarantee program, $100,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $390,000,000, to remain available until expended, pursuant to section 306(d) of the above Act: *Provided,* That of this amount, $25,000,000 shall be available for water and waste disposal systems to benefit the Colonias along the U.S./Mexico border, including grants pursuant to section 306C: *Provided further,* That, with the exception of the foregoing $25,000,000, these funds shall not be used for any purpose not specified in section 306(a) of the Consolidated Farm and Rural Development Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $11,000,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $12,750,000, to remain available until expended (7 U.S.C. 2209b).

SUPERVISORY AND TECHNICAL ASSISTANCE GRANTS

For grants pursuant to sections 509(g)(6) and 525 of the Housing Act of 1949, $2,500,000, to remain available until expended.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95–313), $3,500,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98–181), $23,000,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310B(c) and 310B(j) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act to any qualified public or private nonprofit organization, $20,750,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance and training for rural communities needing improved passenger transportation systems or facilities in order to promote economic development: *Provided further,* That $2,000,000 shall be available for grants to statewide private, nonprofit public television systems in predominantly rural States to provide information and services on rural economics and agriculture: *Provided further,* That grants made to or to be made to these television systems during fiscal years 1990 through 1992 under the Consolidated Farm and Rural Development Act shall for all purposes be deemed to have been made pursuant to section 310B(j) of such Act: *Provided further,* That amounts made available under this heading in fiscal year 1992 shall be available in fiscal year 1993.

SOLID WASTE MANAGEMENT GRANTS

For grants for pollution abatement and control projects authorized under section 310B(b) (7 U.S.C. 1932) of the Consolidated Farm and Rural Development Act, $3,000,000: *Provided,* That such assistance shall include regional technical assistance for improvement of solid waste management.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For emergency community water assistance grants as authorized under section 306B (7 U.S.C. 1926b) of the Consolidated Farm and Rural Development Act, $10,000,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471–1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440–444), for administering the loan program authorized by title III–A of the Economic Opportunity Act of 1964 (Public Law 88–452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $679,920,000; of which $23,802,000 is hereby appropriated, $404,746,000 shall be derived by transfer from the Rural Housing Insurance Fund Program Account in this Act and merged with this account, $215,712,000 shall be derived by transfer from the Agriculture Credit Insurance Fund Program Account in this Act and merged with this account, $35,539,000 shall be derived by transfer from the Rural Development Insurance Fund Program Account in this Act and merged with this account, $100,000 shall be derived by transfer from the Alcohol Fuels Credit Guarantee Program Account in this Act and merged with this account, and $21,000 shall be derived by transfer from the Self-Help Housing Land Development Fund Program Account in this Act and merged with this account: *Provided,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $4,242,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home Administration, and may forego foreclosure

7 USC 1981a note.

of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower: *Provided further,* That funds appropriated to the Farmers Home Administration shall be used to establish and maintain a Farmers Home Administration State office in Nevada. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE LOANS PROGRAM ACCOUNT

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $625,035,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1993 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1993, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to implement any other criteria, ratio, or test to deny or reduce loans or loan advances.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct and guaranteed loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), as follows: cost of direct loans, $161,269,000; cost of loans guaranteed pursuant to section 306, $35,388,000.

In addition, for administrative expenses necessary to carry out the direct and guaranteed loan programs, $29,163,000.

RURAL TELEPHONE BANK PROGRAM ACCOUNT

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1993 and within the resources and authority available, gross obligations for

the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, including the cost of modifying loans, of direct loans authorized by the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), $35,000.

In addition, for administrative expenses necessary to carry out the loan programs, $8,632,000.

DISTANCE LEARNING AND MEDICAL LINK PROGRAMS

For necessary expenses to carry into effect the programs authorized in sections 2331–2335 of Public Law 101–624, $5,000,000, to remain available until expended.

RURAL ECONOMIC DEVELOPMENT LOANS PROGRAM ACCOUNT

For loans authorized under section 313 of the Rural Electrification Act, for the purpose of promoting rural economic development and job creation projects, $12,389,000.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans, $3,423,000.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $243,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921–1995), and for which commitments were made prior to fiscal year 1993, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $37,795,000; of which $29,163,000 shall be derived by transfer from the Rural Electrification and Telephone Loans Program Account in this Act and $8,632,000 shall be derived by transfer from the Rural Telephone Bank Program Account in this Act: *Provided,* That none of the funds in this Act may be used to authorize the transfer of additional funds to this account from the Rural Telephone Bank: *Provided further,* That none of the salaries and expenses provided to the Rural Electrification Administration, and none of the responsibilities assigned by law to the Administrator of the Rural Electrification Administration may be reassigned or transferred to any other agency or office.

TITLE IV—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $542,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751–1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773–1785, and 1788–1789), $6,826,553,000, to remain available through September 30, 1994; of which $2,536,098,000 is hereby appropriated and $4,290,455,000 shall be derived by transfer from funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allocated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $3,780,000 shall be available for independent verification of school food service claims: *Provided further,* That $1,661,000 shall be available to provide financial and other assistance to operate the Food Service Management Institute.

42 USC 1776a.

42 USC 1776b.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $14,898,000, to remain available through September 30, 1994. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $2,860,000,000, to remain available through September 30, 1994, of which up to $3,000,000 may be used to carry out the farmer's market coupon demonstration project.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $94,500,000, to remain available through September 30, 1994: *Provided,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011–2029), $28,115,357,000; of which $2,500,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, is transmitted to the Congress: *Provided,* That funds provided herein shall remain available through September 30, 1993, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $1,051,000,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico

as authorized by 7 U.S.C. 2028, of which $10,825,000 shall be transferred to the Animal and Plant Health Inspection Service for the Cattle Tick Eradication Project.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013(b)), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $224,513,000 to remain available through September 30, 1994.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988, $32,000,000.

THE EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Emergency Food Assistance Act of 1983, as amended, $45,000,000: *Provided,* That, in accordance with section 202 of Public Law 98–92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Emergency Food Assistance Act of 1983, as amended, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the domestic food programs funded under this Act, $103,535,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, and nutrition monitoring, $10,788,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE V—FOREIGN ASSISTANCE AND RELATED PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761–1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $125,000 for representation allowances and for expenses pursuant to section 8 of the Act approved

August 3, 1956 (7 U.S.C. 1766), $110,023,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

PUBLIC LAW 480 PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701–1715, 1721–1726, 1727–1727f, 1731–1736g), as follows: (1) $509,996,000 for Public Law 480 title I credit, including Food for Progress credit; (2) $45,280,000 is hereby appropriated for ocean freight differential costs for the shipment of agricultural commodities pursuant to title I of said Act and the Food for Progress Act of 1985, as amended; (3) $810,000,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title II of said Act; and (4) $333,594,000 is hereby appropriated for commodities supplied in connection with dispositions abroad pursuant to title III of said Act: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title of said Act may be used to carry out any other title of said Act: *Provided further,* That such sums shall remain available until expended (7 U.S.C. 2209b).

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct credit agreements as authorized by the Agricultural Trade Development and Assistance Act of 1954, as amended, and the Food for Progress Act of 1985, as amended, including the cost of modifying credit agreements under said Act, $342,003,000.

In addition, for administrative expenses to carry out the Public Law 480 title I credit program, and the Food for Progress Act of 1985, as amended, to the extent funds appropriated for Public Law 480 are utilized, $2,503,000.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct credit agreements as authorized by title VI of the Agricultural Trade Development and Assistance Act of 1954, as amended, $40,000,000.

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee

program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 211(b)(2) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641).

EMERGING DEMOCRACIES EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $200,000,000 in credit guarantees under its export guarantee program for credit expended to finance the export sales of United States agricultural commodities and the products thereof to emerging democracies, as authorized by section 1542 of Public Law 101–624 (7 U.S.C. 5622 note).

COMMODITY CREDIT CORPORATION EXPORT LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For administrative expenses to carry out CCC's Export Guarantee Program, GSM 102 and GSM 103, $3,320,000; of which not to exceed $2,731,000 may be transferred to and merged with the appropriation for the salaries and expenses of the General Sales Manager, and of which not to exceed $589,000 may be transferred to and merged with the appropriation for the salaries and expenses of the Agricultural Stabilization and Conservation Service, to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $7,247,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581–3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

LIMITATION ON EXPENSES

For payments in foreign currencies owed to or owned by the United States for research activities authorized by section 104(c)(7) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(c)(7)), not to exceed $1,062,000: *Provided,* That not to exceed $25,000 of these funds shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE VI—RELATED AGENCIES AND FOOD AND DRUG ADMINISTRATION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration, including hire of passenger motor vehicles; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $746,035,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That $1,900,000 of the funds made available to the Food and Drug Administration shall be available to fund a clinical pharmacology pilot program.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $8,350,000, to remain available until expended (7 U.S.C. 2209b): *Provided,* That the Food and Drug Administration may accept donated land in Montgomery and/or Prince George's Counties, Maryland.

RENTAL PAYMENTS (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

FINANCIAL MANAGEMENT SERVICE

PAYMENTS TO THE FARM CREDIT SYSTEM FINANCIAL ASSISTANCE CORPORATION

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the Financial Assistance Corporation on obligations issued through 1993, as authorized, $84,614,000: *Provided,* That not to exceed $809,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

12 USC 2278a-3 note.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $47,300,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $39,908,000 (from assessments collected from farm credit institutions and from the Federal Agricultural Mortgage Corporation) shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249, including not to exceed the following amounts: official reception and representation expenses, $1,500; Office of Secondary Market Oversight, $300,000; Office of the General Counsel, $2,000,000; and Office of Congressional and Public Affairs, $500,000.

TITLE VII—GENERAL PROVISIONS

SEC. 701. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1993 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 659 passenger motor vehicles, of which 654 shall be for replacement only, and for the hire of such vehicles.

SEC. 702. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

7 USC 1623a.

SEC. 703. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946, and July 28,

1954, and (7 U.S.C. 427, 1621–1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter.

SEC. 704. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 705. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 706. New obligational authority provided for the following appropriation items in this Act shall remain available until expended (7 U.S.C. 2209b): Animal and Plant Health Inspection Service, the contingency fund to meet emergency conditions, Integrated Systems Acquisition Project, and the reserve fund for the Grasshopper and Mormon Cricket Control Programs; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; Office of International Cooperation and Development, Middle-Income Country Training Program; higher education graduate fellowships grants under section 1417(b)(6) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3152(b)(6)); and capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890, including Tuskegee University. 7 USC 2209b.

New obligational authority for the Boll Weevil Program and up to 10 per centum of the Screwworm Program of the Animal and Plant Health Inspection Service shall remain available until expended.

SEC. 707. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 708. Not to exceed $50,000 of the appropriations available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94–449.

SEC. 709. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 710. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 711. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 712. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of

Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 713. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 714. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

7 USC 612c note.

SEC. 715. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture.

SEC. 716. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1992 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 717. In fiscal year 1993, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 718. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 8,924; Farmers Home Administration, 12,225; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 719. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 720. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 721. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided fur-*

ther, That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 722. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 723. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1993 shall be first offered to the borrowers for prepayment.

SEC. 724. None of the funds in this Act may be used to establish any new office, organization, or center for which funds have not been provided in advance in Appropriations Acts, except the Department may carry out planning activities.

SEC. 725. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 726. None of the funds in this Act shall be available to pay indirect costs on research grants awarded competitively by the Cooperative State Research Service that exceed 14 per centum of total Federal funds provided under each award.

SEC. 727. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a Market Promotion Program pursuant to section 203 (7 U.S.C. 5623) of the Agricultural Trade Act of 1978 with respect to tobacco subsidies or if the aggregate amount of funds and/or commodities under such program exceeds $147,734,000.

SEC. 728. None of the funds appropriated or otherwise made available by this Act shall be used to enroll additional acres in the Wetlands Reserve Program, as authorized by 16 U.S.C. 3837, beyond those acres enrolled as a result of the sign-ups conducted in 1992.

SEC. 729. None of the funds appropriated or otherwise made available by this Act shall be used to enroll additional acres in the Conservation Reserve Program, as authorized by 16 U.S.C. 3831–3845, beyond those acres enrolled as a result of the sign-ups conducted in 1992.

SEC. 730. For loan guarantees authorized under sections 1465–1469 of Public Law 101–624 for the Agricultural Resource Conservation Demonstration Program, $10,000,000. For the cost, as defined in section 502 of the Congressional Budget Act of 1974, $3,644,000: *Provided,* That, hereafter, no other funds are available in this or any other Act to carry out this program, other than those provided for in advance in Appropriations Acts, except for the cost of administering the program: *Provided further,* That such limitation shall not apply with respect to the duties and obligations of the Secretary regarding any loan or note guarantees, interest assistance agreements, or other understandings entered into during fiscal year 1992, and the personnel of the Department shall carry out the duties and obligations of the Secretary, and any other

7 USC 4201 note.

requirements imposed on the Secretary regarding such Agricultural Resource Conservation Demonstration Loan Program with respect to the loan made and guaranteed in 1992.

SEC. 731. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a program within the Agricultural Stabilization and Conservation Service for the purchase of computer hardware and software and other costs in support of long-range Information Resources Management objectives in Automated Data Processing if the aggregate amount of funds transferred by the Commodity Credit Corporation to the Agricultural Stabilization and Conservation Service for such purchases exceeds $52,400,000.

SEC. 732. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1993".

Approved August 14, 1992.

LEGISLATIVE HISTORY—H.R. 5487:

HOUSE REPORTS: Nos. 102-617 (Comm. on Appropriations) and 102-815 (Comm. of Conference).
SENATE REPORTS: No. 102-334 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 30, considered and passed House.
July 28, considered and passed Senate, amended.
Aug. 11, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

Public Law 102-342
102d Congress

An Act

To amend the National School Lunch Act and the Child Nutrition Act of 1966 to improve certain nutrition programs, to improve the nutritional health of children, and for other purposes.

Aug. 14, 1992
[S. 2759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Child Nutrition Amendments of 1992. 42 USC 1751 note.

This Act may be cited as the "Child Nutrition Amendments of 1992".

TITLE I—NUTRITION IMPROVEMENT FOR HOMELESS CHILDREN

SEC. 101. HOMELESS CHILDREN'S FEEDING PROJECTS.

(a) IN GENERAL.—Section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) is amended—

(1) by inserting before "private nonprofit" each place it appears in paragraphs (2)(A), (2)(B), and (5)(A) the following: "State, city, local, or county governments, other public entities, or";

(2) in paragraph (3)(A), by adding at the end the following new sentences: "The projects shall receive reimbursement payments for meals and supplements served on Saturdays, Sundays, and holidays, at the request of the sponsor of any such project. The meal pattern requirements of this subparagraph may be modified as necessary by the Secretary to take into account the needs of infants.";

(3) in paragraph (5)(A), by striking "and not less than $350,000 in each of the fiscal years 1991, 1992, 1993, and 1994," and inserting "not less than $350,000 in each of fiscal years 1991 and 1992, not less than $650,000 in fiscal year 1993, and not less than $800,000 in fiscal year 1994,"; and

(4) by adding at the end the following new paragraph:

"(7) The Secretary shall advise each State of the availability of the projects established under this subsection for States, cities, counties, local governments and other public entities, and shall advise each State of the procedures for applying to participate in the project.".

(b) OTHER MEANS.—(1) The Secretary of Agriculture may conduct demonstration projects other than those required under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)) to identify other effective means of providing food assistance to homeless children residing in temporary shelters. 42 USC 1769 note.

(2) None of the funds provided under section 18(c)(5)(A) of the National School Lunch Act may be used by the Secretary of Agriculture to conduct a demonstration project under paragraph (1) of this subsection.

Women.

TITLE II—BREASTFEEDING PROMOTION AND IMPROVEMENT OF OTHER CHILD NUTRITION PROGRAMS

SEC. 201. BREASTFEEDING PROMOTION PROGRAM.

The Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) is amended by adding at the end the following new section:

42 USC 1790.

"SEC. 21. BREASTFEEDING PROMOTION PROGRAM.

"(a) IN GENERAL.—The Secretary, from amounts received under subsection (d), shall establish a breastfeeding promotion program to promote breastfeeding as the best method of infant nutrition, foster wider public acceptance of breastfeeding in the United States, and assist in the distribution of breastfeeding equipment to breastfeeding women.

"(b) CONDUCT OF PROGRAM.—In carrying out the program described in subsection (a), the Secretary may—

"(1) develop or assist others to develop appropriate educational materials, including public service announcements, promotional publications, and press kits for the purpose of promoting breastfeeding;

"(2) distribute or assist others to distribute such materials to appropriate public and private individuals and entities; and

"(3) provide funds to public and private individuals and entities, including physicians, health professional organizations, hospitals, community based health organizations, and employers, for the purpose of assisting such entities in the distribution of breastpumps and similar equipment to breastfeeding women.

"(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with Federal agencies, State and local governments, and other entities to carry out the program described in subsection (a).

"(d) GIFTS, BEQUESTS, AND DEVISES.—

"(1) IN GENERAL.—The Secretary is authorized to solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of establishing and carrying out the program described in subsection (a). Gifts, bequests, or devises of money and proceeds from the sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Secretary.

"(2) CRITERIA FOR ACCEPTANCE.—The Secretary shall establish criteria for determining whether to solicit and accept gifts, bequests, or devises under paragraph (1), including criteria that ensure that the acceptance of any gifts, bequests, or devises would not—

"(A) reflect unfavorably on the ability of the Secretary to carry out the Secretary's responsibilities in a fair and objective manner; or

"(B) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in the program.".

SEC. 202. CHILD CARE CLARIFICATION.

The second sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended by striking "of the children" and all that follows through "services" and inserting the following: "of its enrolled children or 25 percent of its licensed capacity, whichever is less".

SEC. 203. EXTENSION OF DEMONSTRATION PROJECTS.

Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end the following new paragraph:

"(5) Notwithstanding paragraph (4)(B), the Secretary shall continue until September 30, 1994, the two pilot projects established under this subsection to the extent, and in such amounts, as are provided for in advance in appropriations Acts.".

SEC. 204. INCLUSION OF HOMELESSNESS AND MIGRANCY AS NUTRITIONAL RISK CONDITIONS.

Section 17(b)(8)(D) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)(8)(D)) is amended by inserting before the period the following: ", homelessness, and migrancy".

TITLE III—REAUTHORIZATION OF PILOT PROGRAM

SEC. 301. REAUTHORIZATION OF PILOT PROGRAM.

Paragraph (1) of section 18(b) of the National School Lunch Act (42 U.S.C. 1769(b)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

TITLE IV—REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES

SEC. 401. REAUTHORIZATION OF THE ADVISORY COUNCIL ON THE DISTRIBUTION OF DONATED COMMODITIES.

Section 3(a)(3)(E) of the Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by striking "1992" and inserting "1996".

Approved August 14, 1992.

LEGISLATIVE HISTORY—S. 2759:

HOUSE REPORTS: No. 102-645 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 20, considered and passed Senate.
July 28, considered and passed House, amended.
July 30, Senate concurred in House amendments.

Public Law 102-343
102d Congress

An Act

To establish a commission to commemorate the 250th anniversary of the birth of Thomas Jefferson.

Aug. 17, 1992
[S. 959]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Thomas Jefferson Commemoration Commission Act.
36 USC 149 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Thomas Jefferson Commemoration Commission Act".

36 USC 149 note.

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) April 13, 1993, marks the 250th anniversary of the birth of Thomas Jefferson;

(2) as author of the Declaration of Independence, Thomas Jefferson conceived and executed an affirmation of democratic government unequaled in both its eloquence and clarity;

(3) in an age of democratic awakening, Thomas Jefferson worked to promote government based on the consent of the people, to hold rulers continually responsible to the ruled, and to secure fundamental rights and liberties of free citizens;

(4) Thomas Jefferson was elected 3d President of the United States in 1801 and helped to establish the process by which ongoing political change is carried forward through public debate and free elections;

(5) with the Louisiana Purchase, Thomas Jefferson virtually doubled the size of the United States;

(6) the genius of Thomas Jefferson extended beyond the realm of politics and government to the adaptation of classic architecture, as exemplified by his home at Monticello and the grounds of the University of Virginia, which set an American standard of dignity, simplicity, and elegance;

(7) Thomas Jefferson encouraged American science in its infancy, and with his friend James Madison, laid the cornerstone of the American tradition of religious freedom and separation of church and state;

(8) Thomas Jefferson also championed universal public education, believing such education essential to democratic government as well as to advancement of knowledge and the pursuit of happiness;

(9) it is appropriate to remember and renew the legacy of Thomas Jefferson for the American people and, indeed for all mankind, during a time when the light of democracy is again bursting upon the world; and

(10) as the Nation approaches the 250th anniversary of the birth of Thomas Jefferson, it is appropriate to celebrate and commemorate this anniversary through local, national, and international observances and activities planned and coordinated by a national commission.

36 USC 149 note.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Thomas Jefferson Commemoration Commission (in this Act referred to as the "Commission").

36 USC 149 note.

SEC. 4. DUTIES.

The Commission shall—

(1) plan and develop programs and activities appropriate to commemorate the 250th anniversary of the birth of Thomas Jefferson, including a limited number of projects to be undertaken by the Federal Government that harmonize and balance the important goals of ceremony and celebration with the equally important goals of scholarship and education;

(2) generally coordinate activities throughout the several States;

(3) honor historical locations associated with the life of Thomas Jefferson;

(4) recognize individuals and organizations that have significantly contributed to the preservation of Jefferson's ideals, writings, architectural designs, and other professional accomplishments, by the award and presentation of medals and certificates;

(5) encourage civic, patriotic, and historical organizations, and State and local governments, to organize and participate in anniversary activities commemorating the birth of Thomas Jefferson; and

(6) develop and coordinate any other activities relating to the anniversary of the birth of Thomas Jefferson as may be appropriate.

36 USC 149 note.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) IN GENERAL.—The Commission shall be composed of 21 members, including—

(A) the Chief Justice of the United States or such individual's delegate;

(B) the Librarian of Congress or such individual's delegate;

(C) the Archivist of the United States or such individual's delegate;

(D) the President pro tempore of the Senate or such individual's delegate;

(E) the Speaker of the House of Representatives or such individual's delegate;

(F) the Secretary of the Interior or such individual's delegate;

(G) the Secretary of the Smithsonian Institution or such individual's delegate;

(H) the Secretary of Education or such individual's delegate;

(I) the Chairman of the National Endowment for the Humanities or such individual's delegate;

(J) the Executive Director of the Thomas Jefferson Memorial Foundation or such individual's delegate; and

(K) 11 citizens of the United States who are not officers or employees of any government, except to the extent they

are considered such officers or employees by virtue of their membership on the Commission.

(2) APPOINTMENTS BY PRESIDENT.—

(A) IN GENERAL.—The individuals referred to in paragraph (1)(K) shall be appointed by the President. The individuals shall be chosen based on their distinctive qualifications or experience in the fields of history, government, architecture, the applied sciences, or other professions that would enhance the work of the Commission and reflect the professional accomplishments of Thomas Jefferson.

(B) POLITICAL AFFILIATION.—Not more than 6 of the individuals appointed under subparagraph (A) may be affiliated with the same political party.

(C) RECOMMENDATIONS.—Of the individuals appointed under subparagraph (A)—

(i) 3 shall be appointed from among individuals who are recommended by the majority leader of the Senate in consultation with the minority leader of the Senate; and

(ii) 3 shall be appointed from among individuals who are recommended by the Speaker of the House of Representatives in consultation with the minority leader of the House of Representatives.

(b) TERMS.—Each member of the Commission shall be appointed not later than 90 days after the date of the enactment of this Act for the life of the Commission.

(c) VACANCIES.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(d) CHAIRPERSON.—The President shall designate the chairperson of the Commission from among the individuals appointed under subsection (a)(2). President.

(e) COMPENSATION.—

(1) RATES OF PAY.—Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) TRAVEL EXPENSES.—Each member of the Commission may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson or a majority of its members.

(g) APPROVAL OF ACTIONS.—All official actions of the Commission under this Act shall be approved by the affirmative vote of not less than a majority of the members.

SEC. 6. POWERS. 36 USC 149 note.

(a) ADVISORY COMMITTEES.—The Commission may appoint such advisory committees as it determines to be necessary to carry out this Act.

(b) DELEGATION OF AUTHORITY.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this Act.

(c) CONTRACT AUTHORITY.—

(1) IN GENERAL.—The Commission may procure supplies, services, and property, and make or enter into contracts, leases, or other legal agreements, in order to carry out this Act.

(2) RESTRICTION.—The contracts, leases, or other legal agreements made or entered into by the Commission shall not extend beyond the date of termination of the Commission.

(3) TERMINATION.—All supplies and property acquired by the Commission under this Act that remain in the possession of the Commission on the date of termination of the Commission shall become the property of the General Services Administration upon the date of the termination.

(d) INFORMATION.—

(1) IN GENERAL.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this Act. Upon request of the chairperson of the Commission, the head of the Federal agency shall furnish the information to the Commission.

(2) EXCEPTION.—Paragraph (1) shall not apply to any information that the Commission is prohibited to secure or request by another law.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

36 USC 149 note.

SEC. 7. STAFF AND SUPPORT SERVICES.

(a) EXECUTIVE DIRECTOR.—The Commission shall have an executive director appointed by the chairperson of the Commission with the advice of the Commission. The executive director may be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(b) STAFF.—The Commission may appoint and fix the pay of additional personnel as it considers appropriate, except that an individual so appointed may not receive pay in excess of the maximum rate of basic pay payable for GS–13 of the General Schedule.

(c) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The executive director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except as provided in subsections (a) and (b).

(d) STAFF OF FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any Federal agency may detail, on a nonreimbursable basis, any of the personnel of the agency to the Commission to assist it in carrying out its duties under this Act.

(e) EXPERTS AND CONSULTANTS.—The chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at a rate which does not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

(f) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

36 USC 149 note.

SEC. 8. CONTRIBUTIONS.

(a) DONATIONS.—The Commission may accept donations of money, personal services, and property, both real and personal, including

books, manuscripts, miscellaneous printed matter, memorabilia, relics and other materials related to Thomas Jefferson.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any funds donated to the Commission may be used by the Commission to carry out this Act. The source and amount of such funds shall be listed in the interim and final reports required under section 9.

(2) PROCUREMENT REQUIREMENTS.—In addition to any procurement requirement otherwise applicable to the Commission, the Commission shall conduct procurements of property or services involving donated funds pursuant to the small purchase procedures required by section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)). Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall not apply to such procurements.

(3) DEFINITION.—For purposes of paragraph (2), the term "donated funds" means any funds of which 50 percent or more derive from funds donated to the Commission.

(c) VOLUNTEER SERVICES.—Notwithstanding section 1342 of title 31, United States Code, the Commission may accept and use voluntary and uncompensated services as the Commission determines necessary.

(d) REMAINING FUNDS.—Funds remaining upon the date of termination of the Commission shall be used to ensure the proper disposition of property donated to the Commission as specified in the final report required by section 9.

SEC. 9. REPORTS.

36 USC 149 note.

(a) INTERIM REPORT.—Not later than December 31, 1992, the Commission shall prepare and submit to the President and the Congress a report detailing the activities of the Commission, including an accounting of funds received and expended by the Commission, during the period beginning on the date of the enactment of this Act and ending not earlier than 30 days prior to the submission of the interim report.

(b) FINAL REPORT.—Not later than December 31, 1993, the Commission shall submit to the President and to the Congress a final report. The final report shall contain—

(1) a summary of the activities of the Commission;

(2) a final accounting of funds received and expended by the Commission;

(3) the findings, conclusions, and recommendations of the Commission;

(4) specific recommendations concerning the final disposition of historically significant items donated to the Commission under section 8(a); and

(5) any additional views of any member of the Commission concerning the Commission's recommendations that such member requests to be included in the final report.

SEC. 10. AUDIT OF FINANCIAL TRANSACTIONS.

36 USC 149 note.

(a) IN GENERAL.—The Inspector General of the General Services Administration shall audit financial transactions of the Commission, including financial transactions involving donated funds, in accordance with generally accepted auditing standards. In conducting an audit pursuant to this section, the Inspector General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission, as

necessary to facilitate the audit, and shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(b) REPORTS.—Not later than December 31, 1992, the Inspector General of the General Services Administration shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted before such date. Not later than March 4, 1994, such Inspector General shall submit to the President and to the Congress a report detailing the results of any audit of the financial transactions of the Commission conducted during the period beginning on December 31, 1992, and ending on December 31, 1993.

36 USC 149 note.

SEC. 11. TERMINATION.

The Commission shall terminate not later than 60 days following submission of the final report required by section 9.

36 USC 149 note.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act $250,000 for fiscal year 1993 and $62,500 for fiscal year 1994.

Approved August 17, 1992.

LEGISLATIVE HISTORY—S. 959 (H.R. 5056):

HOUSE REPORTS: No. 102-690 accompanying H.R. 5056 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 15, considered and passed Senate.
Vol. 138 (1992): July 28, H.R. 5056 considered and passed House; S. 959, amended, passed in lieu.
July 30, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Aug. 17, Presidential statement.

Public Law 102-344
102d Congress

An Act

To amend the Voting Rights Act of 1965 with respect to bilingual election requirements.

Aug. 26, 1992
[H.R. 4312]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Voting Rights Language Assistance Act of 1992.
42 USC 1971 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voting Rights Language Assistance Act of 1992".

SEC. 2. EXTENSION OF LANGUAGE MINORITY PROVISIONS.

Subsection (b) of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa–1a(b)) is amended to read as follows:

"(b) BILINGUAL VOTING MATERIALS REQUIREMENT.—

"(1) GENERALLY.—Before August 6, 2007, no covered State or political subdivision shall provide voting materials only in the English language.

"(2) COVERED STATES AND POLITICAL SUBDIVISIONS.—

"(A) GENERALLY.—A State or political subdivision is a covered State or political subdivision for the purposes of this subsection if the Director of the Census determines, based on census data, that—

"(i)(I) more than 5 percent of the citizens of voting age of such State or political subdivision are members of a single language minority and are limited-English proficient;

"(II) more than 10,000 of the citizens of voting age of such political subdivision are members of a single language minority and are limited-English proficient; or

"(III) in the case of a political subdivision that contains all or any part of an Indian reservation, more than 5 percent of the American Indian or Alaska Native citizens of voting age within the Indian reservation are members of a single language minority and are limited-English proficient; and

"(ii) the illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate.

"(B) EXCEPTION.—The prohibitions of this subsection do not apply in any political subdivision that has less than 5 percent voting age limited-English proficient citizens of each language minority which comprises over 5 percent of the statewide limited-English proficient population of voting age citizens, unless the political subdivision is a covered political subdivision independently from its State.

"(3) DEFINITIONS.—As used in this section—

"(A) the term 'voting materials' means registration or voting notices, forms, instructions, assistance, or other

materials or information relating to the electoral process, including ballots;

"(B) the term 'limited-English proficient' means unable to speak or understand English adequately enough to participate in the electoral process;

"(C) the term 'Indian reservation' means any area that is an American Indian or Alaska Native area, as defined by the Census Bureau for the purposes of the 1990 decennial census;

"(D) the term 'citizens' means citizens of the United States; and

"(E) the term 'illiteracy' means the failure to complete the 5th primary grade.

Effective date. Federal Register, publication.

"(4) SPECIAL RULE.—The determinations of the Director of the Census under this subsection shall be effective upon publication in the Federal Register and shall not be subject to review in any court.".

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 4312 (S. 2236):

HOUSE REPORTS: No. 102-655 (Comm. on the Judiciary).
SENATE REPORTS: No. 102-315 accompanying S. 2236 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 23, 24, considered and passed House.
Aug. 6, 7, considered and passed Senate.

Public Law 102-345
102d Congress

An Act

To amend the Federal Aviation Act of 1958 relating to administrative assessment of civil penalties.

Aug. 26, 1992
[H.R. 5481]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

FAA Civil Penalty Administrative Assessment Act of 1992.
49 USC app. 1301 note.

This Act may be cited as the "FAA Civil Penalty Administrative Assessment Act of 1992".

SEC. 2. ADMINISTRATIVE ASSESSMENT.

(a) IN GENERAL.—Section 901(a)(3) of the Federal Aviation Act of 1958 (49 U.S.C. 1471(a)(3)) is amended to read as follows:

49 USC app. 1471.

"(3) ADMINISTRATIVE ASSESSMENT.—

"(A) GENERAL AUTHORITY.—Upon written notice and finding of a violation by the Administrator, the Administrator, or the delegate of the Administrator, may assess a civil penalty for a violation of title III, V, VI, or XII or section 1101 or 1115(e)(2)(B) or any rule, regulation, or order issued thereunder.

"(B) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) PROCEDURES WITH RESPECT TO VIOLATIONS BY PILOTS, FLIGHT ENGINEERS, MECHANICS, AND REPAIRMEN.—

"(i) NOTICE OF CHARGES.—Before issuing an order assessing a civil penalty under this paragraph against a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman, the Administrator shall advise such person of the charges or any reasons relied upon by the Administrator for the proposed action and shall provide such person an opportunity to answer

any charges and be heard as to why such order should not be issued.

"(ii) APPEAL TO NTSB.—Any person acting in the capacity of a pilot, flight engineer, mechanic, or repairman against whom an order assessing a civil penalty is issued by the Administrator under this paragraph may appeal the order to the National Transportation Safety Board, and the Board shall, after notice and a hearing on the record in accordance with section 554 of title 5, United States Code, affirm, modify, or reverse the order of the Administrator.

"(iii) WEIGHT AFFORDED TO FINDINGS AND INTERPRETATIONS OF FAA.—In the conduct of its hearings under this subparagraph, the National Transportation Safety Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify the type of sanctions to be imposed from assessment of a civil penalty to suspension or revocation of a certificate.

"(iv) EFFECT OF FILING OF APPEAL.—The filing of an appeal of an order of the Administrator with the National Transportation Safety Board under this subparagraph shall stay the effectiveness of the order.

"(v) JUDICIAL REVIEW.—A person substantially affected by an order of the National Transportation Safety Board under this subparagraph or the Administrator, in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this clause. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.

"(E) PROCEDURES WITH RESPECT TO VIOLATIONS BY OTHER PERSONS.—

"(i) GENERAL PROCEDURES.—A civil penalty may be assessed against any person (other than a person acting in the capacity of a pilot, flight engineer, mechanic, or repairman) by the Administrator under this paragraph only after notice and an opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) STANDARD OF REVIEW.—In any appeal from a decision of an administrative law judge, the Administrator shall consider only the following issues:

"(I) Whether each finding of fact is supported by a preponderance of reliable, probative, and substantial evidence.

"(II) Whether each conclusion of law is made in accordance with applicable law, precedent, and public policy.

"(III) Whether the administrative law judge committed any prejudicial errors that support the appeal.

"(iii) TIME FOR COMMENCING PROCEEDING.—Except where good cause exists, a civil penalty action shall not be initiated under this subparagraph after 2 years from the date the violation occurred.

"(F) LIMITATION ON APPLICABILITY.—This paragraph only applies to violations occurring on or after the date of the enactment of the FAA Civil Penalty Administrative Assessment Act of 1992.

"(G) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed by the Administrator or the National Transportation Safety Board under this paragraph may not exceed $50,000.

"(H) DEFINITIONS.—In this paragraph, the following definitions apply:

"(i) FLIGHT ENGINEER.—The term 'flight engineer' means a person who holds a flight engineer certificate issued under part 63 of title 14 of the Code of Federal Regulations.

"(ii) MECHANIC.—The term 'mechanic' means a person who holds a mechanic certificate issued under part 65 of title 14 of the Code of Federal Regulations.

"(iii) PILOT.—The term 'pilot' means a person who holds a pilot certificate issued under part 61 of title 14 of the Code of Federal Regulations.

"(iv) REPAIRMAN.—The term 'repairman' means a person who holds a repairman certificate issued under part 65 of title 14 of the Code of Federal Regulations.".

(b) REPEAL OF DEMONSTRATION PROGRAM.—Section 905 of such Act (49 U.S.C. App. 1475) is repealed.

(c) CONTINUATION OF FORMER PROGRAMS WITH RESPECT TO PREENACTMENT VIOLATIONS.—Notwithstanding subsections (a) and (b) of this section, sections 901(a)(3) and 905 of the Federal Aviation Act of 1958 as in effect on July 31, 1992, shall continue in effect on and after such date of enactment with respect to violations of the Federal Aviation Act of 1958 occurring before such date of enactment. 49 USC app. 1471 note.

SEC. 3. CONFORMING AMENDMENTS TO REVOCATION OF CERTIFICATES PROCEDURE.

(a) GENERAL AUTHORITY.—Section 609(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1429(a)) is amended—

(1) by striking the fifth sentence and inserting the following: "In the conduct of its hearings under this subsection, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law. The Board may, consistent with this subsection, modify

the type of sanction to be imposed from suspension or revocation of a certificate to assessment of a civil penalty."; and

(2) by striking the last sentence and inserting the following: "A person substantially affected by an order of the Board under this subsection, or the Administrator in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this subsection. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.".

(b) CONTROLLED SUBSTANCE ACTIVITIES.—Section 609(c)(3) of such Act is amended— 49 USC app. 1429.

(1) by striking the third sentence and inserting the following: "In the conduct of its hearings under this paragraph, the Board shall not be bound by any findings of fact of the Administrator but shall be bound by all validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration and of written agency policy guidance available to the public relating to sanctions to be imposed under this subsection unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law."; and

(2) by striking the last sentence and inserting the following: "A person substantially affected by an order of the Board under this paragraph, or the Administrator in any case in which the Administrator determines that such an order will have a significant adverse impact on the implementation of this Act, may obtain judicial review of such order under the provisions of section 1006 of this Act. The Administrator shall be a party to all proceedings for judicial review under this paragraph. In any such proceeding, the findings of fact of the Board shall be conclusive if supported by substantial evidence.".

SEC. 4. CONFORMING AMENDMENT TO ISSUANCE OF CERTIFICATE PROCEDURE.

Section 602(b)(1) of the Federal Aviation Act of 1958 (49 U.S.C. 1422(b)(1)) is amended by inserting "but shall be bound by all 49 USC app. 1422.

validly adopted interpretations of laws and regulations administered by the Federal Aviation Administration unless the Board finds that any such interpretation is arbitrary, capricious, or otherwise not in accordance with law" after "findings of fact of the Administrator".

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 5481:

HOUSE REPORTS: No. 102-671 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Aug. 12, considered and passed Senate.

Public Law 102-346
102d Congress

An Act

Aug. 26, 1992
[S. 544]

To protect animal enterprises.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Animal Enterprise Protection Act of 1992.
18 USC 43 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Animal Enterprise Protection Act of 1992".

SEC. 2. ANIMAL ENTERPRISE TERRORISM.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 42 the following:

"§ 43. Animal enterprise terrorism

"(a) OFFENSE.—Whoever—

"(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce, for the purpose of causing physical disruption to the functioning of an animal enterprise; and

"(2) intentionally causes physical disruption to the functioning of an animal enterprise by intentionally stealing, damaging, or causing the loss of, any property (including animals or records) used by the animal enterprise, and thereby causes economic damage exceeding $10,000 to that enterprise, or conspires to do so;

shall be fined under this title or imprisoned not more than one year, or both.

"(b) AGGRAVATED OFFENSE.—

"(1) SERIOUS BODILY INJURY.—Whoever in the course of a violation of subsection (a) causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 10 years, or both.

"(2) DEATH.—Whoever in the course of a violation of subsection (a) causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.

"(c) RESTITUTION.—An order of restitution under section 3663 of this title with respect to a violation of this section may also include restitution—

"(1) for the reasonable cost of repeating any experimentation that was interrupted or invalidated as a result of the offense; and

"(2) the loss of food production or farm income reasonably attributable to the offense.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'animal enterprise' means—

"(A) a commercial or academic enterprise that uses animals for food or fiber production, agriculture, research, or testing;

"(B) a zoo, aquarium, circus, rodeo, or lawful competitive animal event; or

"(C) any fair or similar event intended to advance agricultural arts and sciences;

"(2) the term 'physical disruption' does not include any lawful disruption that results from lawful public, governmental, or animal enterprise employee reaction to the disclosure of information about an animal enterprise;

"(3) the term 'economic damage' means the replacement costs of lost or damaged property or records, the costs of repeating an interrupted or invalidated experiment, or the loss of profits; and

"(4) the term 'serious bodily injury' has the meaning given that term in section 1365 of this title.

"(e) NON-PREEMPTION.—Nothing in this section preempts any State law.".

(b) CLERICAL AMENDMENT.—The item relating to section 43 in table of sections at the beginning of chapter 3 of title 18, United States Code, is amended to read as follows:

"43. Animal enterprise terrorism.".

SEC. 3. STUDY OF EFFECT OF TERRORISM ON CERTAIN ANIMAL ENTERPRISES. 18 USC 43 note.

(a) STUDY.—The Attorney General and the Secretary of Agriculture shall jointly conduct a study on the extent and effects of domestic and international terrorism on enterprises using animals for food or fiber production, agriculture, research, or testing.

(b) SUBMISSION OF STUDY.—Not later than 1 year after the date of enactment of this Act, the Attorney General and the Secretary of Agriculture shall submit a report that describes the results of the study conducted under subsection (a) together with any appropriate recommendations and legislation to the Congress.

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 544 (H.R. 2407):

HOUSE REPORTS: No. 102-498, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 2407.

CONGRESSIONAL RECORD:

Vol. 137 (1991): Oct. 16, considered and passed Senate.

Vol. 138 (1992): Aug. 4, H.R. 2407 considered and passed House; S. 544, amended, passed in lieu.

Aug. 7, Senate concurred in House amendments.

Public Law 102-347
102d Congress

An Act

Aug. 26, 1992
[S. 807]

To permit Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease a certain tract of land for a period of not more than 70 years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF RESTRICTION.

Notwithstanding the Act of January 23, 1909 (chapter 37, 35 Stat. 589), the Secretary of the Interior shall execute such instruments as may be necessary to allow the Mount Olivet Cemetery Association of Salt Lake City, Utah, to lease for use other than as a cemetery, for a period of not more than 70 years, any portion of the land described in the first section of that Act, excluding the tract of land granted to Salt Lake City, Utah, pursuant to the Act of April 3, 1952 (66 Stat. 36), so long as such additional use will not prevent future use for cemetery purposes.

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 807:

HOUSE REPORTS: No. 102-821 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-205 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 23, considered and passed Senate.
Vol. 138 (1992): Aug. 10, considered and passed House.

Public Law 102-348
102d Congress

An Act

To convey certain surplus real property located in the Black Hills National Forest to the Black Hills Workshop and Training Center, and for other purposes.

Aug. 26, 1992
[S. 1770]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONVEYANCE OF LAND TO BLACK HILLS WORKSHOP AND TRAINING CENTER, INC.

South Dakota.

(a) IN GENERAL.—Notwithstanding the Federal property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law which requires that property of the United States be used for a particular purpose, the Administrator of General Services (hereinafter in this section referred to as the "Administrator") shall convey to the Black Hills Workshop and Training Center, Inc., of Rapid City, South Dakota (hereinafter in this section referred to as the "Center"), all right, title, and interest of the United States in certain property under the control of the General Services Administration and described in subsection (b).

(b) PROPERTY DESCRIBED.—The property referred to in subsection (a) is real property located in section 4, T.1N., R. 7E, BHM, Rapid City, Pennington County, South Dakota, and consists of that portion of Lot 3 that has been determined to be excess property and one and one-half acres of Lot 2 from the southern boundary to a line 200 feet north of the southern boundary, as depicted on a map prepared by Fisk Engineering Inc., and approved by the Forest Service on October 2, 1990.

(c) TERMS.—A conveyance of property under this section shall be—

(1) by quitclaim deed;

(2) completed by the Administrator by as soon as practicable after receipt by the Administrator, by not later than 120 days after the date of the enactment of this Act, of payment in an amount equal to the fair market value of the property, as that value is established by an independent appraisal obtained by the Administrator under subsection (d); and

(3) subject to such other terms and conditions as the Administrator determines to be appropriate.

(d) APPRAISAL.—The Administrator shall obtain an independent appraisal of the property required to be conveyed under this section by not later than 60 days after the date of the enactment of this Act.

(e) PROCEEDS FROM DISPOSITION OF PROPERTY.—Funds received as payment for the property shall be treated as proceeds from a sale of surplus property.

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 1770 (H.R. 3453):

SENATE REPORTS: No. 102-234 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed Senate.
Vol. 138 (1992): Aug. 4, H.R. 3453 considered and passed House; S. 1770, amended, passed in lieu.
Aug. 6, Senate concurred in House amendment.

Public Law 102-349
102d Congress

An Act

To amend section 992 of title 28, United States Code, to provide a member of the United States Sentencing Commission whose term has expired may continue to serve until a successor is appointed or until the expiration of the next session of Congress.

Aug. 26, 1992
[S. 1963]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENDED SERVICE OF MEMBERS OF THE SENTENCING COMMISSION.

Section 992(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) Subject to paragraph (2)—

"(A) no voting member of the Commission may serve more than two full terms; and

"(B) a voting member appointed to fill a vacancy that occurs before the expiration of the term for which a predecessor was appointed shall be appointed only for the remainder of such term.

"(2) A voting member of the Commission whose term has expired may continue to serve until the earlier of—

"(A) the date on which a successor has taken office; or

"(B) the date on which the Congress adjourns sine die to end the session of Congress that commences after the date on which the member's term expired.".

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 1963:

HOUSE REPORTS: No. 102-827 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Jan. 31, considered and passed Senate.
Aug. 11, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Aug. 26, Presidential statement.

Public Law 102-350
102d Congress

An Act

Aug. 26, 1992
[S. 2079]

To establish the Marsh-Billings National Historical Park in the State of Vermont, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marsh-Billings National Historical Park Establishment Act.
16 USC 410vv note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Marsh-Billings National Historical Park Establishment Act".

16 USC 410vv.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to interpret the history and evolution of conservation stewardship in America;

(2) to recognize and interpret the contributions and birthplace of George Perkins Marsh, pioneering environmentalist, author of Man and Nature, statesman, lawyer, and linguist;

(3) to recognize and interpret the contributions of Frederick Billings, conservationist, pioneer in reforestation and scientific farm management, lawyer, philanthropist, and railroad builder, who extended the principles of land management introduced by Marsh;

(4) to preserve the Marsh-Billings Mansion and its surrounding lands; and

(5) to recognize the significant contributions of Julia Billings, Mary Billings French, Mary French Rockefeller, and Laurance Spelman Rockefeller in perpetuating the Marsh-Billings heritage.

16 USC 410vv-1.

SEC. 3. ESTABLISHMENT OF MARSH-BILLINGS NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—There is established as a unit of the National Park System the Marsh-Billings National Historical Park in Windsor County, Vermont (hereinafter in this Act referred to as the "park").

(b) BOUNDARIES AND MAP.—(1) The park shall consist of a historic zone, including the Marsh-Billings Mansion, surrounding buildings and a portion of the area known as "Mt. Tom", comprising approximately 555 acres, and a protection zone, including the areas presently occupied by the Billings Farm and Museum, comprising approximately 88 acres, all as generally depicted on the map entitled "Marsh-Billings National Historical Park Boundary Map" and dated November 19, 1991.

(2) The map referred to in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

16 USC 410vv-2.

SEC. 4. ADMINISTRATION OF PARK.

(a) IN GENERAL.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall administer the park

in accordance with this Act, and laws generally applicable to units of the National Park System, including, but not limited to the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2–4).

(b) ACQUISITION OF LANDS.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands or interests therein within the park only by donation.

(2) If the Secretary determines that lands within the protection zone are being used, or there is an imminent threat that such lands will be used, for a purpose that is incompatible with the purposes of this Act, the Secretary may acquire such lands or interests therein by means other than donation.

(3) The Secretary may acquire lands within the historic zone subject to terms and easements providing for the management and commercial operation of existing hiking and cross-country ski trails by the grantor, and the grantor's successors and assigns, such terms and easements shall be in a manner consistent with the purposes of the historic zone. Any changes in the operation and management of existing trails shall be subject to approval by the Secretary.

(c) HISTORIC ZONE.—The primary purposes of the historic zone shall be preservation, education, and interpretation.

(d) PROTECTION ZONE.—(1) The primary purpose of the protection zone shall be to preserve the general character of the setting across from the Marsh-Billings Mansion in such a manner and by such means as will continue to permit current and future compatible uses.

(2) The Secretary shall pursue protection and preservation alternatives for the protection zone by working with affected State and local governments and affected landowners to develop and implement land use practices consistent with this Act.

SEC. 5. MARSH-BILLINGS NATIONAL HISTORICAL PARK SCENIC ZONE. 16 USC 410vv-3.

(a) IN GENERAL.—There is established the Marsh-Billings National Historical Park Scenic Zone (hereinafter in this Act referred to as the "scenic zone"), which shall include those lands as generally depicted on the map entitled "Marsh-Billings National Historical Park Scenic Zone Map" and dated November 19, 1991. Establishment.

(b) PURPOSE.—The purpose of the scenic zone shall be to protect portions of the natural setting beyond the park boundaries that are visible from the Marsh-Billings Mansion, by such means and in such a manner as will permit current and future compatible uses.

(c) ACQUISITION OF SCENIC EASEMENTS.—Within the boundaries of the scenic zone, the Secretary is authorized only to acquire scenic easements by donation.

SEC. 6. COOPERATIVE AGREEMENTS. 16 USC 410vv-4.

(a) IN GENERAL.—The Secretary may enter into cooperative agreements with such persons or entities as the Secretary determines to be appropriate for the preservation, interpretation, management, and providing of educational and recreational uses for the properties in the park and the scenic zone.

(b) FACILITIES.—The Secretary, through cooperative agreements with owners or operators of land and facilities in the protection zone, may provide for facilities in the protection zone to support activities within the historic zone.

16 USC 410vv-5. **SEC. 7. ENDOWMENT.**

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the Woodstock Foundation, or its successors and assigns.

(b) CONDITIONS.—(1) Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Woodstock Foundation, or its successors and assigns, in consultation with the Secretary, may designate for the preservation and maintenance of the Marsh-Billings Mansion and its immediate surrounding property.

(2) No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

16 USC 410vv-6. **SEC. 8. RESERVATION OF USE AND OCCUPANCY.**

In acquiring land within the historic zone, the Secretary may permit an owner of improved residential property within the boundaries of the historic zone to retain a right of use and occupancy of such property for noncommercial residential purposes for a term not to exceed 25 years or a term ending at the death of the owner, or the owner's spouse, whichever occurs last. The owner shall elect the term to be reserved.

16 USC 410vv-7. **SEC. 9. GENERAL MANAGEMENT PLAN.**

Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary shall develop and transmit a general management plan for the park to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate.

16 USC 410vv-8. **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 2079:

HOUSE REPORTS: No. 102-678 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-290 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 4, considered and passed Senate.
July 27, considered and passed House, amended.
Aug. 6, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Aug. 26, Presidential statement.

Public Law 102-351
102d Congress

An Act

To amend the Food Stamp Act of 1977 to prevent a reduction in the adjusted cost of the thrifty food plan during fiscal year 1993, and for other purposes.

Aug. 26, 1992
[S. 3001]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADJUSTED COST OF THRIFTY FOOD PLAN.

Section 3(o)(11) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)(11)) is amended by inserting before the period at the end the following: ", except that on October 1, 1992, the Secretary may not reduce the cost of such diet".

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 3001:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed Senate.
Aug. 12, considered and passed House.

Public Law 102-352
102d Congress

An Act

Aug. 26, 1992
[S. 3112]

To amend the Public Health Service Act to make certain technical corrections, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Health Service Act Technical Amendments Act.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Health Service Act Technical Amendments Act".

SEC. 2. TECHNICAL AMENDMENTS.

(a) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

Ante, p. 359. (1) in section 464H(a), by striking out "Institute of Alcohol" and inserting in lieu thereof "Institute on Alcohol";

Ante, p. 360. (2) in section 464J(b), by striking out "702(2)" and inserting in lieu thereof "701(1)";

Ante, p. 360. (3) in section 464L(d)(1), by inserting "other than section 464P," after "this subpart,";

Ante, p. 361. (4) in section 464N(b), by striking out "701(2)" and inserting in lieu thereof "701(1)";

Ante, p. 364. (5) in section 464R(f)(1), by striking out "other than section 464P";

Ante, p. 331. (6) in section 502(b)(3)(B), by striking out "and management" and inserting in lieu thereof "or management";

Ante, p. 333. (7) in section 504(a), by striking out "by regulation";

Ante, p. 385. (8) in section 1918(a)(5)(A)(iii) by striking out "25" and inserting in lieu thereof "45";

(9) in section 1918(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

Ante, p. 395. (10) in section 1927(b)(2)(B), by striking out "available" the first time such terms occurs;

Ante, p. 400. (11) in section 1933(c)(2)—

(A) by striking out "and" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.";

(12) in section 1943(a)(3), by striking out "515" and inserting in lieu thereof "505"; and *Ante*, p. 404.

(13) in section 1971(g), by inserting "substance abuse" before "treatment services". *Ante*, p. 410.

(b) OTHER TECHNICALS.—

(1) CONDUCT OF CERTAIN RESEARCH PROJECTS.—Section 149 of the ADAMHA Reorganization Act is amended by striking out "464I, 464O, or 464T" and inserting in lieu thereof "464H, 464L, and 464R". *Ante*, p. 374.

(2) PATH PROGRAM.—Section 163(a) of the ADAMHA Reorganization Act is amended by striking out paragraphs (1) and (3), and redesignating paragraph (2) as paragraph (1). *Ante*, p. 375.

(c) REFERENCES.—Section 205 of the ADAMHA Reorganization Act is amended— *Ante*, p. 414.

(1) in subsection (a)(2)(A)—

(A) by striking out "1916(c)(6)(A)" in the matter preceding clause (i) and inserting in lieu thereof "1916(c)(6)";

(B) by striking out "under clause (i) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (i) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517"; and

(C) by striking out "under clause (ii) of such section 1916(c)(6)(A) for fiscal year 1991" in clause (ii) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517"; and

(2) in subsection (b)(3)—

(A) by striking out "in compliance with clause (i) of former section 1916(c)(6)(A)" in subparagraph (E) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517";

(B) by striking out "in compliance with clause (ii) of former section 1916(c)(6)(A)" in subparagraph (F) and inserting in lieu thereof "as a result of the matter contained in the proviso of the item relating to the Alcohol, Drug Abuse, and Mental Health Administration in title II of Public Law 101–517";

(C) by redesignating subparagraph (F) as subparagraph (G); and

(D) by inserting after subparagraph (E), the following new subparagraph:

"(F) The term 'State' includes the territories of the United States.".

42 USC 285n note.

SEC. 3. EFFECTIVE DATE.

The amendments made by—

(1) subsection (a) of section 2, shall take effect immediately upon the effectuation of the amendments made by titles I and II of the ADAMHA Reorganization Act; and

(2) subsections (b) and (c) of section 2, shall take effect on the date of enactment of this Act.

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 3112:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 30, considered and passed Senate.
Aug. 10, considered and passed House.

Public Law 102-353
102d Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to coordinate Federal and State regulation of wholesale drug distribution, and for other purposes.

Aug. 26, 1992
[S. 3163]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Prescription Drug Amendments of 1992.
21 USC 301 note.

SECTION 1. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Amendments of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. DISTRIBUTOR REGISTRATION.

(a) REQUIREMENT.—Section 503(e)(2)(A) (21 U.S.C. 353(e)(2)(A)) is amended by inserting before the period the following: "or has registered with the Secretary in accordance with paragraph (3)".

(b) REGISTRATION.—Section 503(e) (21 U.S.C. 353(e)) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following:

"(3) Any person who engages in the wholesale distribution in interstate commerce of drugs that are subject to subsection (b) in a State that does not have a program that meets the guidelines established under paragraph (2)(B) shall register with the Secretary the following:

"(A) The person's name and place of business.

"(B) The name of each establishment the person owns or operates that is engaged in the wholesale distribution of drugs in a State that does not have a program to license persons engaged in such distribution.".

(c) TECHNICAL.—Section 503(f)(1)(B) (21 U.S.C. 353(f)(1)(B)) is amended by striking out "and order" and inserting in lieu thereof "an order".

(d) SUNSET.—Effective September 14, 1994, the amendments made by subsections (a) and (b) shall no longer be in effect.

SEC. 3. PENALTY CLARIFICATION.

21 USC 353 note.

(a) SCIENTER.—Paragraph (1) of section 303(b) (21 U.S.C. 333(b)) is amended to read as follows:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) by—

"(A) knowingly importing a drug in violation of section 801(d)(1),

"(B) knowingly selling, purchasing, or trading a drug or drug sample or knowingly offering to sell, purchase, or trade a drug or drug sample, in violation of section 503(c)(1),

"(C) knowingly selling, purchasing, or trading a coupon, knowingly offering to sell, purchase, or trade such a coupon, or knowingly counterfeiting such a coupon, in violation of section 503(c)(2), or

"(D) knowingly distributing drugs in violation of section 503(e)(2)(A),

shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.".

(b) CLARIFICATION.—Section 303 (21 U.S.C. 333) is amended—

(1) in subparagraphs (A) and (B)(i) of subsection (b)(4), by striking out "the arrest and conviction of" each time it occurs and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(2) in subparagraph (B)(i) of subsection (b)(4), by striking out "the arrest of" and inserting in lieu thereof "the institution of a criminal proceeding against";

(3) in subsection (b)(5), by striking out "the arrest and conviction of" and inserting in lieu thereof "the institution of a criminal proceeding against, and conviction of,";

(4) in subsections (c) and (d), by striking out "subsection (a) of this section" and inserting in lieu thereof "subsection (a)(1) of this section"; and

(5) in subsection (d), by striking out ", and no person" and all that follows through "mislead".

SEC. 4. DRUG SAMPLES.

Section 503 (21 U.S.C. 353) is amended—

(1) in subsection (d), by amending paragraph (1) to read as follows:

"(d)(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term 'distribute' does not include the providing of a drug sample to a patient by a—

"(A) practitioner licensed to prescribe such drug,

"(B) health care professional acting at the direction and under the supervision of such a practitioner, or

"(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).".

(2) in paragraphs (2) and (3) of subsection (d), by striking out "distributor" each place it occurs and inserting in lieu thereof "authorized distributor of record" and in subsection (d)(3) by striking out "distributors" each place it occurs and inserting in lieu thereof "authorized distributors of record";

(3) in subsection (e), by amending paragraph (1) to read as follows:

"(e)(1)(A) Each person who is engaged in the wholesale distribution of a drug subject to subsection (b) and who is not the manufacturer or an authorized distributor of record of such drug shall, before each wholesale distribution of such drug (including each distribution to an authorized distributor of record or to a retail pharmacy), provide to the person who receives the drug a statement (in such form and containing such information as the Secretary may require) identifying each prior sale, purchase, or trade of such drug (including the date of the transaction and the names and addresses of all parties to the transaction).

"(B) Each manufacturer of a drug subject to subsection (b) shall maintain at its corporate offices a current list of the authorized distributors of record of such drug."; and

(4) in subsection (e)(4) (as so redesignated by section 2(c)), by inserting before the dash the following: "and subsection (d)".

SEC. 5. TECHNICAL AMENDMENT.

Section 801(d)(1) (21 U.S.C. 381(d)(1)) is amended by striking out "person who manufactured" and inserting in lieu thereof "manufacturer of".

Approved August 26, 1992.

LEGISLATIVE HISTORY—S. 3163:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 11, considered and passed Senate.
Aug. 12, considered and passed House.

Public Law 102-354
102d Congress

An Act

Aug. 26, 1992
[H.R. 2549]

To make technical corrections to chapter 5 of title 5, United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Administrative Procedure Technical Amendments Act of 1991.
Government employees.
5 USC 561 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Administrative Procedure Technical Amendments Act of 1991".

SEC. 2. REDESIGNATION OF SUBCHAPTER III.

Subchapter III of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter V;

(2) by redesignating sections 571 through 576 as sections 591 through 596, respectively; and

(3) in section 593(b)(4), as redesignated by paragraph (2), by striking "575" and inserting "595".

SEC. 3. REDESIGNATION OF SUBCHAPTER IV.

(a) NEGOTIATED RULEMAKING.—The subchapter IV entitled "NEGOTIATED RULEMAKING PROCEDURE" of chapter 5 of title 5, United States Code, is amended—

(1) by redesignating such subchapter as subchapter III and inserting such subchapter immediately after subchapter II of such chapter 5;

(2) by redesignating sections 581 through 590 as sections 561 through 570, respectively;

(3) in section 565(a)(1), as redesignated by paragraph (2) of this section, by striking "584" and inserting "564";

(4) in subsection (d) of section 568, as redesignated by paragraph (2) of this section, by striking "589" and inserting "569"; and

(5) in section 569, as redesignated by paragraph (2) of this section—

(A) in subsection (d)(2) by striking "586" and inserting "566";

(B) in subsection (f)(2) by striking "588" and inserting "568"; and

(C) in subsection (g) by striking "575" and inserting "595".

(b) ALTERNATIVE DISPUTE RESOLUTION.—The subchapter IV entitled "ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS" of chapter 5 of title 5, United States Code, is amended—

(1) by inserting such subchapter immediately after subchapter III of such chapter (as redesignated by subsection (a)(1) of this section);

(2) by redesignating sections 581 through 593 as sections 571 through 583, respectively;

(3) in subsection (b) of section 577, as redesignated by paragraph (2) of this section, by striking "583" and inserting "573"; and

(4) in subsection (b)(2) of section 581, as redesignated by paragraph (2) of this section, by striking "590" and inserting "580".

SEC. 4. CLERICAL AMENDMENTS.

The table of sections at the beginning of chapter 5 of title 5, United States Code, is amended by striking "SUBCHAPTER III" and all that follows through the end of the table and inserting the following:

"SUBCHAPTER III—NEGOTIATED RULEMAKING PROCEDURE

"Sec. 561. Purpose.
"Sec. 562. Definitions.
"Sec. 563. Determination of need for negotiated rulemaking committee.
"Sec. 564. Publication of notice; applications for membership on committees.
"Sec. 565. Establishment of committee.
"Sec. 566. Conduct of committee activity.
"Sec. 567. Termination of committee.
"Sec. 568. Services, facilities, and payment of committee member expenses.
"Sec. 569. Role of the Administrative Conference of the United States and other entities.
"Sec. 570. Judicial review.

"SUBCHAPTER IV—ALTERNATIVE MEANS OF DISPUTE RESOLUTION IN THE ADMINISTRATIVE PROCESS

"Sec. 571. Definitions.
"Sec. 572. General authority.
"Sec. 573. Neutrals.
"Sec. 574. Confidentiality.
"Sec. 575. Authorization of arbitration.
"Sec. 576. Enforcement of arbitration agreements.
"Sec. 577. Arbitrators.
"Sec. 578. Authority of the arbitrator.
"Sec. 579. Arbitration proceedings.
"Sec. 580. Arbitration awards.
"Sec. 581. Judicial review.
"Sec. 582. Compilation of information.
"Sec. 583. Support services.

"SUBCHAPTER V—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

"Sec. 591. Purpose.
"Sec. 592. Definitions.
"Sec. 593. Administrative Conference of the United States.
"Sec. 594. Powers and duties of the Conference.
"Sec. 595. Organization of the Conference.
"Sec. 596. Authorization of appropriations.".

SEC. 5. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) NEGOTIATED RULEMAKING ACT OF 1990.—(1) Section 4 of the Negotiated Rulemaking Act of 1990 (Public Law 101-648; 104 Stat. 4976) is amended by striking "576" and inserting "596". 5 USC 561 note.

(2) Section 5 of that Act is amended—

(A) by striking "Subchapter IV" and inserting "Subchapter III of chapter 5";

(B) by striking ", as added by section 3 of this Act," and inserting "(enacted as subchapter IV of chapter 5 of title 5, United States Code, by section 3 of this Act and redesignated as subchapter III of such chapter 5 by section (3)(a) of the Administrative Procedure Technical Amendments Act of 1991)"; and

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(C) by striking "subchapter IV" and inserting "subchapter III".

(b) ADMINISTRATIVE DISPUTE RESOLUTION ACT.—(1) Paragraph (3) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by inserting a comma after "including".

(2) Paragraph (8) of section 571 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended to read as follows:

"(8) 'issue in controversy' means an issue which is material to a decision concerning an administrative program of an agency, and with which there is disagreement—

"(A) between an agency and persons who would be substantially affected by the decision; or

"(B) between persons who would be substantially affected by the decision,

except that such term shall not include any matter specified under section 2302 or 7121(c) of this title;".

(3) Subsection (g) of section 580 of title 5, United States Code, as redesignated by section 3(b)(2) of this Act, is amended by striking "attorney fees and expenses" and inserting "fees and other expenses".

(4) Section 10(b) of title 9, United States Code (as added by section 5 of the Administrative Dispute Resolution Act (Public Law 101-552; 104 Stat. 2745)), is amended—

(A) by striking "590" and inserting "580"; and

(B) by striking "582" and inserting "572".

(5) Section 203(f) of the Labor Management Relations Act, 1947 (as added by section 7 of the Administrative Dispute Resolution Act (104 Stat. 2746)), is amended in the third sentence by striking "583" and inserting "573".

29 USC 173.

(6) Section 10 of the Administrative Dispute Resolution Act (104 Stat. 2747) is amended—

5 USC 571 note.

(A) by striking "581" and inserting "571"; and

(B) by striking ", as added by section 4(b) of this Act" and inserting "(enacted as section 581 of title 5, United States Code, by section 4(b) of this Act, and redesignated as section 571 of such title by section 3(b) of the Administrative Procedure Technical Amendments Act of 1991)".

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 2549:

HOUSE REPORTS: No. 102-372 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): Aug. 6, considered and passed Senate.

Public Law 102-355
102d Congress

An Act

To amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes.

Aug. 26, 1992
[H.R. 2926]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EAST SAINT LOUIS PORTION OF JEFFERSON NATIONAL EXPANSION MEMORIAL.

The Act of May 17, 1954, entitled "An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj and following) is amended as follows:

(1) The first sentence of section 4(a) is amended— 16 USC 450jj.

(A) by striking out "The Secretary of the Interior is further authorized to designate" and inserting in lieu thereof "There is hereby designated";

(B) by striking out "not more than" and inserting in lieu thereof "approximately"; and

(C) by striking out "MWR–366/80,004, and dated February 9, 1984," and inserting in lieu thereof "366–80013, dated January 1992,".

(2) Section 9 is repealed.

(3) Section 11 is amended by striking out subsection (d) and by amending subsection (b), as added by section 201(b) of Public Law 98–398, to read as follows: 16 USC 450jj–8. 16 USC 450jj note.

"(b)(1) For the purposes of the East St. Louis portion of the memorial, there are authorized to be appropriated $2,000,000 for land acquisition and, subject to the provisions of paragraphs (2) and (3), such sums as may be necessary for development: *Provided,* That such authorization shall not include any sums for the acquisition, removal, or relocation of the grain elevator and business located within the East St. Louis unit of the Memorial. Such development shall be consistent with the level of development described in phase one of the draft Development and Management Plan and Environmental Assessment, East St. Louis Addition to Jefferson National Expansion Memorial—Illinois/Missouri, dated August 1987. Appropriation authorization.

"(2) Federal funds expended under paragraph (1) for development may not exceed 75 percent of the actual cost of such development. The remaining share of such actual costs shall be provided from non-Federal funds, services, or materials, or a combination thereof, fairly valued as determined by the Secretary. Any non-Federal expenditures for the acquisition, removal, or relocation of the grain elevator and business shall be included as part of the non-Federal cost share: *Provided,* That credit shall not be given for any such expenditures which exceed the cost of acquisition, removal, or

relocation of the grain elevator and business located within the East St. Louis unit of the Memorial if such action had been accomplished by the Federal Government as determined by the Secretary under existing law: *Provided further,* That only those non-Federal funds expended at least sixty days after the transmission of the report referred to in paragraph (3) for the removal of such grain elevator shall be credited towards the non-Federal cost share. For the purposes of this paragraph, the Secretary may accept and utilize for such purposes any non-Federal funds, services, and materials so contributed.

"(3) Within one year after the date of enactment of this paragraph, the Secretary, in direct consultation with the city of East St. Louis, Gateway Arch Park Expansion, and the Southwestern Illinois Development Authority, shall develop and transmit to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives a study of alternatives to, and costs associated with, the removal of the grain elevator located within the East St. Louis unit of the Memorial. The study shall contain, but need not be limited to, at least one alternative which would incorporate and retain the existing grain elevator into the draft development and management plan and environmental assessment referred to in paragraph (1).".

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 2926:

HOUSE REPORTS: No. 102-465 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-288 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 24, considered and passed House.
July 20, considered and passed Senate, amended.
Aug. 6, House concurred in Senate amendment.

Public Law 102-356
102d Congress

An Act

To authorize appropriations for public broadcasting, and for other purposes.

Aug. 26, 1992
[H.R. 2977]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Telecommunications Act of 1992.

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1992". 47 USC 609 note.

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATION

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended by striking the first sentence and inserting in lieu thereof the following: "There are authorized to be appropriated $42,000,000 for each of the fiscal years 1992, 1993, and 1994, to be used by the Secretary of Commerce to assist in the planning and construction of public telecommunications facilities as provided in this subpart.".

SERVICES FOR UNDERSERVED AUDIENCES

SEC. 3. Section 393(b)(4) of the Communications Act of 1934 (47 U.S.C. 393(b)(4)) is amended by inserting immediately before the period at the end the following: ", including services to underserved audiences such as deaf and hearing impaired individuals and blind and visually impaired individuals".

CONGRESSIONAL DECLARATIONS OF POLICY

SEC. 4. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (10); and

(3) by inserting immediately after paragraph (7) the following new paragraphs:

"(8) public television and radio stations and public telecommunications services constitute valuable local community resources for utilizing electronic media to address national concerns and solve local problems through community programs and outreach programs;

"(9) it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies; and".

BOARD OF DIRECTORS

SEC. 5. (a) REDUCTION IN NUMBER OF MEMBERS.—(1) Section 396(c)(1) of the Communications Act of 1934 (47 U.S.C. 396(c)(1)) is amended—

(A) by striking "10" and inserting in lieu thereof "9"; and
(B) by striking "6" and inserting in lieu thereof "5".

(2) Section 396(c)(2) of the Communications Act of 1934 (47 U.S.C. 396(c)(2)) is amended by striking "10" and inserting in lieu thereof "9".

(b) TERM OF OFFICE.—Section 396(c)(5) of the Communications Act of 1934 (47 U.S.C. 396(c)(5)) is amended to read as follows:

"(5) The term of office of each member of the Board appointed by the President shall be 6 years, except as provided in section 5(c) of the Public Telecommunications Act of 1992. Any member whose term has expired may serve until such member's successor has taken office, or until the end of the calendar year in which such member's term has expired, whichever is earlier. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which such member's predecessor was appointed shall be appointed for the remainder of such term. No member of the Board shall be eligible to serve in excess of 2 consecutive full terms.".

47 USC 396 note.

(c) TRANSITION RULES.—(1) With respect to the three offices whose terms are prescribed by law to expire on March 26, 1992, the term for each such office immediately after that date shall expire on January 31, 1998.

(2) With respect to the two offices whose terms are prescribed by law to expire on March 1, 1994, the term for each of such offices immediately after that date shall expire on January 31, 2000.

(3) With respect to the five offices whose terms are prescribed by law to expire on March 26, 1996—

(A) one such office, as selected by the President, shall be abolished on January 31, 1996;

(B) the term immediately after March 26, 1996, for another such office, as designated by the President, shall expire on January 31, 2000; and

(C) the term for each of the remaining three such offices immediately after March 26, 1996, shall expire on January 31, 2002.

(4) As used in this subsection, the term "office" means an office as a member of the Board of Directors of the Corporation for Public Broadcasting.

COMPENSATION OF OFFICERS

SEC. 6. Section 396(e)(1) of the Communications Act of 1934 (47 U.S.C. 396(e)(1)) is amended by striking the fourth sentence and inserting in lieu the following: "No officer of the Corporation, other than the Chairman or a Vice Chairman, may receive any salary or other compensation (except for compensation for services on boards of directors of other organizations that do not receive funds from the Corporation, on committees of such boards, and in similar activities for such organizations) from any sources other than the Corporation for services rendered during the period of his or her employment by the Corporation. Service by any officer on boards of directors of other organizations, on committees of such boards, and in similar activities for such organizations shall be subject to annual advance approval by the Board and subject to the provisions of the Corporation's Statement of Ethical Conduct.".

CONTENTS OF ANNUAL REPORT

SEC. 7. Section 396(i)(1) of the Communications Act of 1934 (47 U.S.C. 396(i)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) a listing of each organization that receives a grant from the Corporation to produce programming, the name of the producer of any programming produced under each such grant, the title or description of any program so produced, and the amount of each such grant;".

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATION

SEC. 8. (a) EXTENSION OF AUTHORIZATION.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "180,000,000 for fiscal year 1981," and all that follows through "$245,000,000 for fiscal year 1991,";

(2) by striking "and" after "fiscal year 1992,"; and

(3) by inserting immediately after "fiscal year 1993" the following: ", $310,000,000 for fiscal year 1994, $375,000,000 for fiscal year 1995, and $425,000,000 for fiscal year 1996".

(b) ANNUAL REPORT.—Section 396(k)(1) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)) is amended by adding at the end the following new subparagraph:

"(E) In recognition of the importance of educational programs and services, and the expansion of public radio services, to unserved and underserved audiences, the Corporation, after consultation with the system of public telecommunications entities, shall prepare and submit to the Congress an annual report for each of the fiscal years 1994, 1995, and 1996 on the Corporation's activities and expenditures relating to those programs and services.".

TRAINING AND PROFESSIONAL DEVELOPMENT

SEC. 9. Section 396(k)(3)(A)(i)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)(II)) is amended by inserting immediately after "other than English" the following: "or for assistance in the provision of affordable training programs for employees at public broadcast stations".

INDEPENDENT PRODUCTION SERVICE

SEC. 10. Section 396(k)(3)(B)(iii)(V) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)(V)) is amended—

(1) by inserting immediately after "expenditures of the independent production service" the following: ", including carriage and viewing information for programs produced or acquired with funds provided pursuant to subclause (I)"; and

(2) by striking "fiscal year 1992" and inserting in lieu thereof "fiscal years 1992, 1993, 1994, and 1995".

GRANT DISTRIBUTION CRITERIA

SEC. 11. Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting "(which the Corporation shall review periodically in consultation with public radio and television licensees or permittees, or their designated representatives)" immediately after "eligibility criteria".

COMPLIANCE WITH EQUAL EMPLOYMENT OPPORTUNITY REQUIREMENTS BY FUND RECIPIENTS

SEC. 12. (a) CERTIFICATION AND EMPLOYMENT REPORTS REQUIRED.—Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end the following new paragraph:

"(11)(A) Funds may not be distributed pursuant to this subsection for any fiscal year to the licensee or permittee of any public broadcast station if such licensee or permittee—

"(i) fails to certify to the Corporation that such licensee or permittee complies with the Commission's regulations concerning equal employment opportunity as published under section 73.2080 of title 47, Code of Federal Regulations, or any successor regulations thereto; or

"(ii) fails to submit to the Corporation the report required by subparagraph (B) for the preceding calendar year.

"(B) A licensee or permittee of any public broadcast station with more than five full-time employees to file annually with the Corporation a statistical report, consistent with reports required by Commission regulation, identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

"(i) Officials and managers.
"(ii) Professionals.
"(iii) Technicians.
"(iv) Semiskilled operatives.
"(v) Skilled craft persons.
"(vi) Clerical and office personnel.
"(vii) Unskilled operatives.
"(viii) Service workers.

"(C) In addition, such report shall state the number of job openings occurring during the course of the year. Where the job openings were filled in accordance with the regulations described in subparagraph (A)(i), the report shall so certify, and where the job openings were not filled in accordance with such regulations, the report shall contain a statement providing reasons therefor. The statistical report shall be available to the public at the central office and at every location where more than five full-time employees are regularly assigned to work.".

Public information.

(b) COMPILATION OF REPORTS BY CORPORATION.—Section 396(m)(2) of the Communications Act of 1934 (47 U.S.C. 396(m)(2)) is amended by adding at the end the following new sentence: "Such report shall include a summary of the statistical reports received by the Corporation pursuant to subsection (k)(11), and a comparison of the information contained in those reports with the information submitted by the Corporation in the previous year's annual report.".

AUDIT REQUIREMENT FOR PUBLIC TELECOMMUNICATIONS ENTITIES

SEC. 13. (a) ALTERNATIVE TO AUDIT FOR CERTAIN ENTITIES.—Section 396(l)(3)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)(ii)) is amended—

(1) by designating the existing text as subclause (I);

(2) by striking "and" at the end of subclause (I), as so redesignated, and inserting in lieu thereof "or"; and

(3) by adding at the end the following new subclause:

"(II) to submit a financial statement in lieu of the audit required by subclause (I) if the Corporation determines that the cost burden of such audit on such entity is excessive in light of the financial condition of such entity; and".

(b) FREQUENCY OF AUDIT.—Section 396(l)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(l)(3)(B)) is amended—

(1) in clause (ii) by striking "biannual" and inserting in lieu thereof "biennial"; and

(2) in clause (iii) by striking "biannually" and inserting in lieu thereof "biennially".

AVAILABILITY OF INFORMATION FOR PUBLIC INSPECTION

SEC. 14. (a) CPB INFORMATION.—Section 396(l) of the Communications Act of 1934 (47 U.S.C. 396(l)) is amended by striking paragraph (4) and inserting in lieu thereof the following:

"(4)(A) The Corporation shall maintain the information described in subparagraphs (B), (C), and (D) at its offices for public inspection and copying for at least 3 years, according to such reasonable guidelines as the Corporation may issue. This public file shall be updated regularly. This paragraph shall be effective upon its enactment and shall apply to all grants awarded after January 1, 1993. Effective date.

"(B) Subsequent to any award of funds by the Corporation for the production or acquisition of national broadcasting programming pursuant to subsection (k)(3)(A) (ii)(II) or (iii)(II), the Corporation shall make available for public inspection the following:

"(i) Grant and solicitation guidelines for proposals for such programming.

"(ii) The reasons for selecting the proposal for which the award was made.

"(iii) Information on each program for which the award was made, including the names of the awardee and producer (and if the awardee or producer is a corporation or partnership, the principals of such corporation or partnership), the monetary amount of the award, and the title and description of the program (and of each program in a series of programs).

"(iv) A report based on the final audit findings resulting from any audit of the award by the Corporation or the Comptroller General.

"(v) Reports which the Corporation shall require to be provided by the awardee relating to national public broadcasting programming funded, produced, or acquired by the awardee with such funds. Such reports shall include, where applicable, the information described in clauses (i), (ii), and (iii), but shall exclude proprietary, confidential, or privileged information.

"(C) The Corporation shall make available for public inspection the final report required by the Corporation on an annual basis

from each recipient of funds under subsection (k)(3)(A)(iii)(III), excluding proprietary, confidential, or privileged information.

"(D) The Corporation shall make available for public inspection an annual list of national programs distributed by public broadcasting entities that receive funds under subsection (k)(3)(A) (ii)(III) or (iii)(II) and are engaged primarily in the national distribution of public television or radio programs. Such list shall include the names of the programs (or program series), producers, and providers of funding.".

(b) INDEPENDENT PRODUCTION SERVICE INFORMATION.—Section 396(k)(3)(B)(iii) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)(iii)) is amended by adding at the end the following new subclause:

"(VI) The Corporation shall not contract to provide funds to any such independent production service, unless that service agrees to comply with public inspection requirements established by the Corporation within 3 months after the date of enactment of this subclause. Under such requirements the service shall maintain at its offices a public file, updated regularly, containing information relating to the service's award of funds for the production of programming. The information shall be available for public inspection and copying for at least 3 years and shall be of the same kind as the information required to be maintained by the Corporation under subsection (l)(4)(B).".

CLARIFICATION OF CONGRESSIONAL INTENT

SEC. 15. Section 103(a) of the Children's Television Act of 1990 (47 U.S.C. 303b(a)) is amended by inserting "commercial or noncommerical" immediately before "television broadcast license".

BROADCASTING OF INDECENT PROGRAMMING

47 USC 303 note.

SEC. 16. (a) FCC REGULATIONS.—The Federal Communications Commission shall promulgate regulations to prohibit the broadcasting of indecent programming—

(1) between 6 a.m. and 10 p.m. on any day by any public radio station or public television station that goes off the air at or before 12 midnight; and

(2) between 6 a.m. and 12 midnight on any day for any radio or television broadcasting station not described in paragraph (1).

The regulations required under this subsection shall be promulgated in accordance with section 553 of title 5, United States Code, and shall become final not later than 180 days after the date of enactment of this Act.

(b) REPEAL.—Section 608 of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989 (Public Law 100-459; 102 Stat. 2228), is repealed.

47 USC 303 note.

READY-TO-LEARN TELEVISION CHANNEL

SEC. 17. (a) The Congress finds that—

(1) many of the Nation's children are not entering school "ready to learn";

(2) next to parents and early childhood teachers, television is probably the young child's most influential teacher;

(3) a vital component in meeting the Nation's first education goal is the development of interactive programming aimed exclusively at the developmental and educational needs and interests of preschool children;

(4) television can assist parents and preschool and child care teachers in gaining information on how young children grow and learn; and

(5) there is a need for quality interactive instructional programming based on worthwhile information on child development designed for children, parents, and preschool and child care providers and teachers.

(b) Within 90 days following the date of the enactment of this Act, the Corporation for Public Broadcasting shall report to the Congress as to the most effective way to establish and implement a ready-to-learn public television channel. Such report shall include, among other things— Reports.

(1) the costs of establishing and implementing a ready-to-learn channel;

(2) the special considerations of using television as a learning tool for very young children;

(3) the technology, and availability thereof, needed to establish and implement such a channel; and

(4) the best means of providing financing for the establishment and implementation of a ready-to-learn channel.

CORPORATION FOR PUBLIC BROADCASTING REPORT ON DISTANCE LEARNING

SEC. 18. (a) The Congress finds that—

(1) distance learning would provide schools in rural areas with advanced or specialized instruction not readily available;

(2) utilization of distance learning can end some school closings or consolidations;

(3) distance learning will play a vital role in accomplishing the goals of "America 2000" as established by the President;

(4) the Corporation for Public Broadcasting should promote distance learning projects where it is cost effective; and

(5) the Corporation for Public Broadcasting can promote distance learning by helping reduce the costs associated with telecommunications services.

(b) Within 180 days following the date of the enactment of this Act, the Corporation for Public Broadcasting, in consultation with other education program providers and users, shall report to the Congress as to the most effective use of their existing telecommunications facilities to establish and implement distance learning projects in rural areas. Such report should include, among other things, the costs and benefits of establishing national demonstration sites to study new distance learning tools and to evaluate the most effective use of current distance learning applications; any incentives necessary to provide access to Corporation for Public Broadcasting facilities for distance learning applications.

OBJECTIVITY AND BALANCE POLICY, PROCEDURES, AND REPORT

SEC. 19. Pursuant to the existing responsibility of the Corporation for Public Broadcasting under section 396(g)(1)(A) of the Communications Act of 1934 (47 U.S.C. 396(g)(1)(A)) to facilitate the full development of public telecommunications in which programs of 47 USC 396 note.

high quality, diversity, creativity, excellence, and innovation, which are obtained from diverse sources, will be made available to public telecommunications entities, with strict adherence to objectivity and balance in all programs or series of programs of a controversial nature, the Board of Directors of the Corporation shall—

(1) review the Corporation's existing efforts to meet its responsibility under section 396(g)(1)(A);

(2) after soliciting the views of the public, establish a comprehensive policy and set of procedures to—

(A) provide reasonable opportunity for members of the public to present comments to the Board regarding the quality, diversity, creativity, excellence, innovation, objectivity, and balance of public broadcasting services, including all public broadcasting programming of a controversial nature, as well as any needs not met by those services;

(B) review, on a regular basis, national public broadcasting programming for quality, diversity, creativity, excellence, innovation, objectivity, and balance, as well as for any needs not met by such programming;

(C) on the basis of information received through such comment and review, take such steps in awarding programming grants pursuant to clauses (ii)(II), (iii)(II), and (iii)(III) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) that it finds necessary to meet the Corporation's responsibility under section 396(g)(1)(A), including facilitating objectivity and balance in programming of a controversial nature; and

(D) disseminate among public broadcasting entities information about its efforts to address concerns about objectivity and balance relating to programming of a controversial nature so that such entities can utilize the Corporation's experience in addressing such concerns within their own operations; and

(3) starting in 1993, by January 31 of each year, prepare and submit to the President for transmittal to the Congress a report summarizing its efforts pursuant to paragraphs (1) and (2).

CONSUMER INFORMATION

47 USC 396 note.

SEC. 20. Prior to the expiration of the 90-day period following the date of the enactment of this Act, the Corporation for Public Broadcasting, in consultation with representatives of public broadcasting entities, shall develop guidelines to assure that program credits for public television programs that receive production funding directly from the Corporation for Public Broadcasting adequately disclose that all or a portion of the cost of producing such program was paid for by funding from the Corporation for Public Broadcasting, and that indicates in some manner that the Corporation for Public Broadcasting is partially funded from Federal tax revenues.

INDEPENDENT PRODUCTION SERVICE FUNDING

47 USC 396 note.

SEC. 21. In making available funding pursuant to authorizations under this Act, any independent production service established under section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) shall, to the maximum extent practicable and consistent

with the provisions of the Communications Act of 1934, provide such funding to eligible recipients and projects representing the widest possible geographic distribution, with the objective of providing funding to eligible recipients and projects in each State from which qualified proposals are received over the course of such authorizations.

EFFECTIVE DATE

SEC. 22. Section 5(a) shall take effect on January 31, 1996. All other provisions of this Act are effective on its date of enactment. 47 USC 396 note.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 2977 (S. 1504):

HOUSE REPORTS: No. 102-363 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 102-221 accompanying S. 1504 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): June 2, S. 1504 considered in Senate.
June 3, H.R. 2977 considered and passed Senate, amended, in lieu of S. 1504.
Aug. 4, House concurred in Senate amendment.

Public Law 102-357
102d Congress

An Act

Aug. 26, 1992
[H.R. 3795]

To amend title 28, United States Code, to establish 3 divisions in the Central Judicial District of California.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

28 USC 84 note.

SECTION 1. FINDINGS.

The Congress makes the following findings:

(1) The Federal Government has the responsibility to provide quality services which are readily accessible to the people it serves.

(2) The court facilities in the Central Judicial District of California are presently inadequate, and current and projected growth exacerbates the problem.

(3) The population demographics of southern California have changed dramatically over the last decade, as the center of population shifts inland. Between 1980 and 1990, the population of Riverside County increased 76.5 percent, and San Bernardino County's population increased 58.5 percent, to a combined population of 2,600,000.

(4) In the next 15 years, the population in Riverside and San Bernardino Counties is expected to increase again by 70 percent, and 67 percent, respectively. By the year 2005, Riverside and San Bernardino Counties will have 4,400,000 residents.

(5) As a result of the population growth, the freeways connecting the Pacific coast and the inland areas are tremendously overburdened, and Federal offices along the coast are no longer accessible to the residents of Riverside and San Bernardino Counties.

(6) The creation of 3 divisions in the Central Judicial District of California is urgently needed to provide for the delivery of judicial services to all areas and all residents of the Central Judicial District of California.

SEC. 2. CREATION OF 3 DIVISIONS IN CENTRAL DISTRICT OF CALIFORNIA.

Section 84(c) of title 28, United States Code, is amended to read as follows:

"(c) The Central District comprises 3 divisions.

"(1) The Eastern Division comprises the counties of Riverside and San Bernardino.

"Court for the Eastern Division shall be held at a suitable site in the city of Riverside, the city of San Bernardino, or not more than 5 miles from the boundary of either such city.

"(2) The Western Division comprises the counties of Los Angeles, San Luis Obispo, Santa Barbara, and Ventura.

"Court for the Western Division shall be held at Los Angeles.

"(3) The Southern Division comprises Orange County.

"Court for the Southern Division shall be held at Santa Ana.".

SEC. 3. EFFECTIVE DATE. 28 USC 84 note.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act.

(b) PENDING CASES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect any action commenced before the effective date of this Act and pending in the United States District Court for the Central District of California on such date.

(c) JURIES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Central Judicial District of California on the effective date of this Act.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 3795:

HOUSE REPORTS: No. 102-772 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Aug. 6, considered and passed Senate.

Public Law 102-358
102d Congress

An Act

Aug. 26, 1992
[H.R. 4437]

To authorize funds for the implementation of the settlement agreement reached between the Pueblo de Cochiti and the United States Army Corps of Engineers under the authority of Public Law 100–202.

Indians.
Water supply.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GENERAL AUTHORIZATION.

The Secretary of the Interior and the Secretary of the Army are authorized and directed to implement the settlement agreement negotiated under the authority of Public Law 100–202 by the Pueblo de Cochiti of New Mexico, a federally recognized Indian Tribe, and the United States Army Corps of Engineers, as set forth in the report of the Corps of Engineers entitled "Report on Investigations, Wet Field Solution", dated July 24, 1990, addressing seepage problems at the Cochiti Dam on tribal lands.

SEC. 2. DUTIES OF THE SECRETARY OF THE INTERIOR.

In accordance with the settlement agreement and pursuant to the trust relationship between the United States Government and the Pueblo de Cochiti of New Mexico, upon completion of construction of the drainage system, the Secretary of the Interior, acting through the Bureau of Indian Affairs, shall be responsible for its maintenance, repair, and replacement, as provided in the settlement agreement.

SEC. 3. DUTIES OF THE SECRETARY OF THE ARMY.

In accordance with the settlement agreement, the Secretary of the Army is authorized and directed to construct the underground drainage system necessary to correct the high ground water problem at the Pueblo de Cochiti and to carry out all other provisions of the settlement agreement, except those specifically assigned to the Secretary of the Interior under the provisions of this Act.

SEC. 4. APPROPRIATIONS AUTHORIZED.

There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act, and the settlement agreement.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 4437:

HOUSE REPORTS: No. 102-681, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
July 31, considered and passed Senate.

Public Law 102-359
102d Congress

An Act

Aug. 26, 1992
[H.R. 5560]

To extend for one year the National Commission on Time and Learning, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF COMMISSION.

20 USC 1221-1 note.

Section 102(h) of Public Law 102–62 is amended by striking "and 1993" and inserting "1993, and 1994".

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

20 USC 3156b.

(a) CIVIC EDUCATION PROGRAM.—Section 4609 of Public Law 89–10, as amended (20 U.S.C. 3156(b)), is amended—

(1) in paragraph (3) of subsection (a)—

(A) by striking the heading and inserting the following new heading: "CONTRACT OR GRANT AUTHORIZED.—"; and

(B) by inserting "or grant" after "contract";

(2) by amending paragraph (3) of subsection (b) to read as follows:

"(3) an annual national competition of simulated congressional hearings for secondary students who wish to participate in such program."; and

(3) in subsection (c) by inserting "and secondary" after "elementary".

(b) ADMINISTRATIVE PROVISIONS.—

(1) Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Education (6)" and inserting "Assistant Secretaries of Education (10)".

(2) Section 5316 of title 5, United States Code, is amended by striking "Additional Officers, Department of Education (4)".

Effective date.
5 USC 5315 note.

(3) The amendments made by paragraphs (1) and (2) shall take effect on the first day of the first pay period that begins on or after the date of the enactment of this Act.

(c) SCHOOLWIDE PROJECTS.—(1) Section 1015(b)(6)(B) of Public Law 89–10, as amended (20 U.S.C. 2725(b)(6)(B)), is amended to read as follows:

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in the previous fiscal year in such schools, except that—

"(i) the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made; and

"(ii) if the average per pupil expenditure of the local educational agency is less than such expenditure in the previous fiscal year, the average per pupil expenditure

of schools described in subsection (a) may be reduced by the local educational agency in the exact proportion to the average reduction of expenditures for all schools in such agency.".

(2) APPLICATION.—The amendment made by paragraph (1) shall be effective on or after July 1, 1992.

Effective date. 20 USC 2725 note.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 5560:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 8, considered and passed House.
Aug. 7, considered and passed Senate.

Public Law 102-360
102d Congress

An Act

Aug. 26, 1992
[H.R. 5623]

To waive the period of congressional review for certain District of Columbia Acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS.

(a) EFFECTIVE DATE OF ACTS.—Notwithstanding section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, each of the District of Columbia Acts described in subsection (b) shall take effect on the date of the enactment of this Act.

(b) ACTS DESCRIBED.—The District of Columbia Acts referred to in subsection (a) are as follows:

(1) National Public Radio Revenue Bond Act of 1992 (D.C. Act 9–240).

(2) Howard University Revenue Bond Act of 1992 (D.C. Act 9–242).

(3) National Learning Center Revenue Bond Act of 1992 (D.C. Act 9–241).

(4) Children's Hospital Bond Act of 1992 (D.C. Act 9–243).

(5) Medlantic Healthcare Group, Inc., Revenue Bond Act of 1992 (D.C. Act 9–244).

(6) The Catholic University of America Revenue Bond Act of 1992 (D.C. Act 9–245).

(7) The Temporary Panel of the Office of Employee Appeals Temporary Extension Act of 1992 (D.C. Act 9–239).

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 5623:

HOUSE REPORTS: No. 102-706 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 29, considered and passed House.
Aug. 12, considered and passed Senate.

Public Law 102-361
102d Congress

An Act

To amend title 28, United States Code, to authorize the appointment of additional bankruptcy judges, and for other purposes.

Aug. 26, 1992
[H.R. 5688]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Bankruptcy Judgeship Act of 1992.
28 USC 1 note.

This Act may be cited as the "Bankruptcy Judgeship Act of 1992".

SEC. 2. PERMANENT JUDGESHIPS.

Section 152(a)(2) of title 28, United States Code, is amended—

(1) in the item relating to the district of Arizona by striking "5" and inserting "7";

(2) in the item relating to the central district of California by striking "19" and inserting "21";

(3) in the item relating to the district of Connecticut by striking "2" and inserting "3";

(4) in the item relating to the middle district of Florida by striking "4" and inserting "8";

(5) in the item relating to the southern district of Florida by striking "3" and inserting "5";

(6) in the item relating to the northern district of Georgia by striking "6" and inserting "8";

(7) in the item relating to Georgia by adding at the end the following:

"Middle and Southern .....1";

(8) in the item relating to the district of Maryland by striking "3" and inserting "4";

(9) in the item relating to the district of Massachusetts by striking "4" and inserting "5";

(10) in the item relating to the district of New Jersey by striking "7" and inserting "8";

(11) in the item relating to the southern district of New York by striking "7" and inserting "9";

(12) in the item relating to the eastern district of Pennsylvania by striking "3" and inserting "5";

(13) in the item relating to the middle district of Tennessee by striking "2" and inserting "3";

(14) in the item relating to the western district of Tennessee by striking "3" and inserting "4";

(15) in the item relating to the northern district of Texas by striking "5" and inserting "6"; and

(16) in the item relating to the eastern district of Virginia by striking "4" and inserting "5".

SEC. 3. TEMPORARY JUDGESHIPS.

28 USC 152 note.

(a) APPOINTMENTS.—The following bankruptcy judges shall be appointed in the manner prescribed in section 152(a)(1) of title 28, United States Code:

(1) 1 additional bankruptcy judge for the northern district of Alabama.

(2) 1 additional bankruptcy judge for the district of Colorado.

(3) 1 additional bankruptcy judge for the district of Delaware.

(4) 1 additional bankruptcy judge for the southern district of Illinois.

(5) 1 additional bankruptcy judge for the district of New Hampshire.

(6) 1 additional bankruptcy judge for the middle district of North Carolina.

(7) 1 additional bankruptcy judge for the district of Puerto Rico.

(8) 1 additional bankruptcy judge for the district of South Carolina.

(9) 1 additional bankruptcy judge for the eastern district of Tennessee.

(10) 1 additional bankruptcy judge for the western district of Texas.

(b) VACANCIES.—The first vacancy in the office of bankruptcy judge in each of the judicial districts set forth in subsection (a), resulting from the death, retirement, resignation, or removal of a bankruptcy judge, and occurring 5 years or more after the date of the enactment of this Act, shall not be filled. In the case of a vacancy resulting from the expiration of the term of a bankruptcy judge not described in the preceding sentence, that judge shall be eligible for reappointment as a bankruptcy judge in that district.

SEC. 4. REPORTS TO CONGRESS ON NEED FOR BANKRUPTCY JUDGES.

Section 152(b) of title 28, United States Code, is amended by adding at the end thereof the following:

"(3) Not later than December 31, 1994, and not later than the end of each 2-year period thereafter, the Judicial Conference of the United States shall conduct a comprehensive review of all judicial districts to assess the continuing need for the bankruptcy judges authorized by this section, and shall report to the Congress its findings and any recommendations for the elimination of any authorized position which can be eliminated when a vacancy exists by reason of resignation, retirement, removal, or death.".

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.R. 5688:

HOUSE REPORTS: No. 102-825 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Aug. 12, considered and passed Senate.

Public Law 102-362
102d Congress

Joint Resolution

To designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week".

Aug. 26, 1992
[H.J. Res. 411]

Whereas the designation of a week as "National Rehabilitation Week" gives the people of this Nation an opportunity to celebrate the victories, courage, and determination of individuals with disabilities in this Nation and recognize dedicated health care professionals who work daily to help such individuals achieve independence;

Whereas there are significant areas where the needs of such individuals with disabilities have not been met, such as certain research and educational needs;

Whereas half of the people of this Nation will need some form of rehabilitation therapy;

Whereas rehabilitation agencies and facilities offer care and treatment for individuals with physical, mental, emotional, and social disabilities;

Whereas the goal of the rehabilitative services offered by such agencies and facilities is to help disabled individuals lead active lives at the greatest level of independence possible; and

Whereas the majority of the people of this Nation are not aware of the limitless possibilities of invaluable rehabilitative services in this Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the week of September 13, 1992, through September 19, 1992, is designated as "National Rehabilitation Week" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to heighten public awareness of the types of rehabilitative services available in this Nation and the manner in which such services improve the quality of life of disabled individuals; and

(2) each State governor, and each chief executive of each political subdivision of each State, is urged to issue a proclamation (or other appropriate official statement) calling upon the citizens of such State or political subdivision of a State to observe such week in the manner described in paragraph (1).

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.J. Res. 411 (S.J. Res. 242):

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 21, considered and passed House.
Aug. 11, H.J. Res. 411 and S.J. Res. 242 considered and passed Senate.

Public Law 102-363
102d Congress

Joint Resolution

To approve the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania.

Aug. 26, 1992
[H.J. Res. 507]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress approves the extension of nondiscriminatory treatment with respect to the products of the Republic of Albania transmitted by the President to the Congress on June 16, 1992.

19 USC 2434 note.

Approved August 26, 1992.

LEGISLATIVE HISTORY—H.J. Res. 507 (S.J. Res. 317):

HOUSE REPORTS: No. 102-764 (Comm. on Ways and Means).
SENATE REPORTS: No. 102-362 accompanying S.J. Res. 317 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Aug. 11, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Aug. 26, Presidential statement.

Public Law 102-364
102d Congress

Joint Resolution

Sept. 2, 1992
[H.J. Res. 492]

Designating September 1992 as "Childhood Cancer Month".

Whereas dramatic progress has been made in the early diagnosis and treatment of cancer and, as a result, young cancer victims and their families no longer need to relinquish their dreams for the future;

Whereas according to the Department of Health and Human Services, the number of child deaths from cancer in the United States declined by 36 percent between 1973 and 1987;

Whereas despite such encouraging progress, cancer deaths continue to be the leading cause of death by disease among children between the ages of 3 and 14;

Whereas families facing the specter of childhood cancer need the best possible medical care and emotional support that can be provided;

Whereas brothers and sisters of young cancer victims need special consideration both at home and at school;

Whereas young cancer victims need financial help, understanding and compassion, and the opportunity to express and pursue the fresh, unjaded dreams that are the hallmark of childhood;

Whereas many private organizations (including the National Cancer Institute) and government agencies throughout the United States are working to meet the needs of children with cancer and hundreds of private volunteer organizations at both the national and international level (including the American Cancer Society, the Leukemia Society of America, the Candlelighters Childhood Cancer Foundation, and the Ronald McDonald Foundation) are helping parents and children to cope with this tremendous problem; and

Whereas recognition should be given to the dedication and hard work of scientists, health care professionals, and volunteers who are working to overcome childhood cancer, to assist its victims, and to express admiration and support for the courageous youngsters and parents who struggle with this disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 1992 is designated as "Childhood Cancer Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved September 2, 1992.

LEGISLATIVE HISTORY—H.J. Res. 492:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 6, considered and passed House.
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Public Law 102-365
102d Congress

An Act

Sept. 3, 1992
[H.R. 2607]

To authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 through 1994, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rail Safety Enforcement and Review Act.
45 USC 421 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Enforcement and Review Act".

SEC. 2. ISSUANCE OF REGULATIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended—

(1) in subsection (i)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(2) in subsection (n)—

(A) by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards";

(B) by striking ", including" and inserting in lieu thereof "on railroad bridges. At a minimum, the Secretary shall provide";

(C) by striking "such as" and inserting in lieu thereof "including"; and

(D) by striking "relating to instances when boats shall be used" and inserting in lieu thereof "for the use of boats when work is performed on bridges located over bodies of water";

(3) in subsection (o)(1), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards"; and

(4) in subsection (q), by striking "such rules, regulations, orders, and standards as may be necessary" and inserting in lieu thereof "rules, regulations, orders, and standards".

45 USC 437 note.

SEC. 3. REMEDIAL ACTIONS.

(a) REGULATIONS.—The Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue regulations to require that any railroad notified by the Secretary that assessment of a civil penalty will be recommended for a failure to comply with a provision of the Federal railroad safety laws, as such term is defined in section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)), or any rule, regulation, order, or standard issued under such provision, shall report to the Secretary, within 30 days after the end of the month in which such notification is received, actions taken to remedy that failure.

(b) EXPLANATION OF DELAY.—Regulations issued under subsection (a) shall provide that, if appropriate remedial actions cannot be taken by a railroad within such 30-day period, such railroad shall

submit to the Secretary an explanation of the reasons for any delay.

(c) SCHEDULE FOR REGULATIONS.—The Secretary shall—

(1) within 9 months after the date of enactment of this Act, issue a notice of proposed rulemaking for regulations to implement this section; and

(2) within 2 years after the date of enactment of this Act, issue final regulations to implement this section.

SEC. 4. ENFORCEMENT.

(a) MINIMUM AND MAXIMUM PENALTIES.—(1) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(b)), section 6 of the Act of March 2, 1893, and section 4 of the Act of April 14, 1910 (45 U.S.C. 6 and 13; commonly referred to as the "Safety Appliance Acts"), section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act"), section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act"), and section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") are each amended by striking "$250" and inserting in lieu thereof "$500".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking "penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable," and inserting in lieu thereof "civil penalty, as the Secretary of Transportation deems reasonable, in an amount not less than $500 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed, and".

(3) Section 2 of the Act of May 6, 1910 (45 U.S.C. 39; commonly referred to as the "Accident Reports Act") is amended by striking "one hundred dollars" and inserting in lieu thereof "$500".

(4) Section 3711(c)(2) of title 31, United States Code, is amended by striking "$250" and inserting in lieu thereof "$500".

(b) REGIONAL ENFORCEMENT PILOT PROJECT.—(1) The Secretary shall establish a pilot project in more than one region of the Federal Railroad Administration to demonstrate the benefits that may accrue to the Federal railroad safety program from assigning an attorney, who is a Federal employee within the Department of Transportation, to regional offices of the Federal Railroad Administration to perform initial case review, assess penalties, settle cases, and provide legal advice to Federal Railroad Administration regional personnel on enforcement and other issues, as compared to performing such functions at the headquarters level. 45 USC 437 note.

(2) The pilot program shall be completed within 18 months after the date of enactment of this Act.

(3) Within 2 years after the date of enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the pilot program. Factors to be considered in the report shall include— Reports.

(A) the speed, volume, and effectiveness of civil penalty actions;

(B) the efficiency of the delivery of legal advice on safety issues;

(C) the financial and other costs of assigning attorneys in each region;

(D) the effects on uniformity of enforcement resulting from performing in the regions of the Federal Railroad Administration the functions described in paragraph (1); and

(E) the advisability of assigning attorneys to some or all of the regions of the Federal Railroad Administration.

(c) CONSIDERATIONS FOR COMPROMISE OF CIVIL PENALTIES.—(1) Section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended by inserting "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require." after "referral to the Attorney General.".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(4) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(5) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(6) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by adding at the end the following sentence: "In com-

promising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

(7) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by adding at the end the following sentence: "In compromising a civil penalty assessed under this section, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed, and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior or subsequent offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.".

SEC. 5. REVIEW OF AGENCY ACTION.

(a) IN GENERAL.—(1) Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended to read as follows:

"(f) Any final agency action taken by the Secretary under this title or under any of the other Federal railroad safety laws, as defined in section 212(e) of this title, is subject to judicial review as provided in chapter 7 of title 5, United States Code. Except as provided in section 203(e) of this title, any proceeding to review such final agency action shall be brought in the appropriate court of appeals as provided by and in the manner prescribed in chapter 158 of title 28, United States Code.".

(2) The amendment made by subsection (a) shall apply to final agency actions of the Secretary whenever taken, except that the amendment shall not apply in a case where a civil action has been brought before the date of enactment of this Act. 45 USC 431 note.

(b) FEDERAL RAILROAD SAFETY LAWS.—Section 212(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(e)) is amended by inserting "the Sanitary Food Transportation Act of 1990 (49 U.S.C. App. 2801 note)," before "and those laws transferred".

(c) TECHNICAL AMENDMENTS.—(1) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" after "Secretary of Agriculture".

(2) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(7) all final agency actions described in section 202(f) of the Federal Railroad Safety Act of 1970.".

SEC. 6. PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL.

Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

SEC. 7. POWER BRAKE SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r) POWER BRAKE SAFETY.—(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and, not later than December 31, 1993, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, where applicable, prescribe standards regarding dynamic braking equipment.

"(3)(A) The Secretary shall require 2-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of a train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such 2-way end of train devices. Such rules shall, at a minimum—

"(i) set standards for such devices based on performance;

"(ii) prohibit any railroad, on or after the date that is one year after promulgation of such rules, from acquiring any end of train device for use on trains which is not a 2-way device meeting the standards set under clause (i);

"(iii) require that such trains be equipped with 2-way end of train devices meeting such standards not later than 4 years after promulgation of such rules; and

"(iv) provide that any 2-way end of train device acquired for use on trains before such promulgation shall be deemed to meet such standards.

"(B) The Secretary may consider petitions to amend the rules promulgated under subparagraph (A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

"(C) In developing the rules required by subparagraph (A), the Secretary shall consider data presented under paragraph (1).

"(4) The Secretary may exclude from the rules required by paragraphs (1), (2), and (3) any category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reasons for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

Public information.

"(A) trains that have manned cabooses;

"(B) passenger trains with emergency brakes;

"(C) trains that operate exclusively on track that is not part of the general railroad system;

"(D) trains that do not exceed 30 miles per hour and do not operate on heavy grades, except for any categories of such trains specifically designated by the Secretary; and

"(E) trains that operate in a push mode.".

SEC. 8. TRACK SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(s) TRACK SAFETY.—(1) The Secretary shall, within 6 months after the date of enactment of this subsection, initiate a review

of the Department of Transportation's standards relating to track safety. Within 2 years after the date of enactment of this subsection, the Secretary shall issue rules, regulations, orders, or standards to revise such track safety standards, considering such safety data as may be presented during that review and the General Accounting Office report submitted under paragraph (3). Regulations.

"(2) The review required under paragraph (1) shall, at a minimum, include—

"(A) an evaluation of procedures associated with maintaining and installing continuous welded rail and its attendant structure;

"(B) an evaluation of the need for revisions to rules with respect to track subject to exception from track safety standards; and

"(C) an evaluation of employee safety.

"(3) The General Accounting Office shall conduct a study of the effectiveness of the Secretary's enforcement of track safety standards, with particular attention to recent relevant railroad accident experience and data. Within one year after the date of enactment of this subsection, the General Accounting Office shall submit to the Secretary and Congress a report on the results of such study, together with recommendations for improving such enforcement.". Reports.

SEC. 9. APPLICABILITY OF RULES, REGULATIONS, ORDERS, AND STANDARDS.

(a) AMENDMENT.—(1) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(2) Section 5(a)(1) of the Act of March 4, 1907 (45 U.S.C. 64a(a)(1); commonly referred to as the "Hours of Service Act") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(3) Section 6 of the Act of March 2, 1893 (45 U.S.C. 6; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(4) Section 3 of the Act of March 2, 1903 (45 U.S.C. 10; commonly referred to as the "Safety Appliance Acts") is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manu-

facturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(5) Section 4 of the Act of April 14, 1910 (45 U.S.C. 13; commonly referred to as the "Safety Appliance Acts") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(6) Section 7 of the Act of May 6, 1910 (45 U.S.C. 43; commonly referred to as the "Accident Reports Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(7) Section 25(h) of the Interstate Commerce Act (49 U.S.C. App. 26; commonly referred to as the "Signal Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

(8) Section 9 of the Act of February 17, 1911 (45 U.S.C. 34; commonly referred to as the "Locomotive Inspection Act") is amended by striking the first parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, official, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; any independent contractor providing goods or services to a railroad; and any employee of such owner, manufacturer, lessor, lessee, or independent contractor)".

45 USC 6 note.

(b) EFFECT ON OTHER LAW.—Nothing in the amendment made by subsection (a) shall affect the authority or responsibilities of the Secretary of Labor under the Occupational Safety and Health Act of 1970.

SEC. 10. LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(t) LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS.—(1) The Secretary shall, within 30 months after the date of enactment of this subsection, complete a rulemaking proceeding to consider prescribing regulations to improve the safety and working conditions of locomotive cabs. Such proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S–580, or any successor standard thereto,

adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental, sanitary, and other working conditions in locomotive cabs affect productivity, health, and the safe operation of locomotives.

"(2) In support of the proceeding required under paragraph (1), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider—

"(A) the costs and benefits associated with equipping locomotives with—

"(i) braced collision posts;

"(ii) rollover protection devices;

"(iii) deflection plates;

"(iv) shatterproof windows;

"(v) readily accessible crash refuges;

"(vi) uniform sill heights;

"(vii) anticlimbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(viii) equipment to deter post-collision entry of flammable liquids into locomotive cabs;

"(ix) any other devices intended to provide crash protection for occupants of locomotive cabs; and

"(x) functioning and regularly maintained sanitary facilities; and

"(B) the effects on train crews of the presence of asbestos in locomotive components.

"(3) If on the basis of the proceeding required under paragraph (1) the Secretary determines not to prescribe regulations, the Secretary shall report to Congress on the reasons for that determination.".

SEC. 11. RAILROAD RADIO COMMUNICATIONS. 45 USC 431 note.

(a) SAFETY INQUIRY.—The Secretary shall, within 18 months after the date of enactment of this Act and in consultation with the National Railroad Passenger Corporation, freight and commuter railroads, rail equipment manufacturers, and railroad employees, conduct a safety inquiry regarding the Department of Transportation's railroad radio standards and procedures. At a minimum, such inquiry shall include assessment of—

(1) the advantages and disadvantages of requiring that every locomotive (and every caboose, where applicable) be equipped with a railroad voice communications system capable of permitting a person in the locomotive (or caboose) to engage in clear two-way communications with persons on following and leading trains and with train dispatchers located at railroad stations;

(2) a requirement that replacement radios be made available at intermediate terminals;

(3) the effectiveness of radios in ensuring timely emergency response;

(4) the effect of interference and other disruptions of radio communications on safe railroad operation;

(5) how advanced communications technologies such as digital radio can be implemented to best enhance the safety of railroad operations;

(6) the status of advanced train control systems that are being developed, and the implications of such systems for effective railroad communications; and

(7) the need for minimum Federal standards to ensure that such systems provide for positive train separation and are compatible nationwide.

(b) REPORT TO CONGRESS.—The Secretary shall submit to Congress within 4 months after the completion of such inquiry a report on the results of the inquiry along with an identification of appropriate regulatory action and specific plans for taking such action.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this Act not to exceed $54,352,000 for fiscal year 1992, $68,283,000 for fiscal year 1993, and $71,690,000 for fiscal year 1994. The Secretary is authorized to request, receive, and use payments from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, other than State rail safety inspectors participating in training pursuant to section 206 of this title.".

45 USC 437 note.

SEC. 13. TOTAL QUALITY MANAGEMENT IN SAFETY ASSESSMENTS.

In all comprehensive, multidiscipline safety assessments of railroads, the conduct of which is initiated by the Secretary between the date of enactment of this Act and the end of fiscal year 1993, the Secretary shall evaluate the use and effectiveness of total quality management techniques, if any, on the safety practices of the railroad being assessed. The Secretary shall include findings and conclusions based on such evaluation in each such safety assessment report.

SEC. 14. LOCAL RAIL FREIGHT ASSISTANCE PROGRAM.

Section 5(q) of the Department of Transportation Act (49 U.S.C. App. 1654(q)) is amended—

Appropriation authorization.

(1) by inserting "There are authorized to be appropriated to the Secretary for the purposes of this section not to exceed $16,000,000 for fiscal year 1992, $25,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994." after "fiscal year 1991."; and

(2) by striking "any period after September 30, 1991" and inserting in lieu thereof "any period after September 30, 1994".

45 USC 38 note.

SEC. 15. PROCEDURE FOR DETERMINING ACCIDENT REPORTING THRESHOLD.

(a) GENERAL RULE.—In establishing or modifying a monetary damage threshold for the reporting of railroad accidents, the Secretary shall base damage cost calculations only on publicly available data—

(1) obtained from the Bureau of Labor Statistics; or

(2) otherwise obtained from an agency of the Federal Government which has been collected through objective, statistically sound survey methods or which has been previously subject to a public notice and comment process in a Federal agency proceeding.

(b) EXCEPTION.—If any data necessary for establishing or modifying a threshold described in subsection (a) is not available as

provided in subsection (a) (1) or (2), the Secretary may use any other source to obtain such data, but the use of such data shall be subject to public notice and the opportunity for written comment.

(c) EFFECTIVE DATE.—This section shall apply only to the establishment or modification of a monetary damage threshold occurring after the date of enactment of this Act.

SEC. 16. REPORT ON THE SAFETY OF HAZARDOUS MATERIALS TRANSPORTATION BY RAIL.

49 USC app. 1804 note.

Within one year after the date of enactment of this Act, the Secretary shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives regarding issues presented by the transportation by rail of hazardous materials. The report shall include the following information:

(1) For the years 1989, 1990, 1991, and, to the extent available, 1992, relevant data concerning each unintentional release of hazardous materials resulting from rail transportation accidents, including the location of each such release, the probable cause or causes of each such release, and the effects of each such release.

(2) For the years 1989, 1990, 1991, and, to the extent available, 1992, a summary of relevant data concerning unintentional releases of hazardous materials resulting from rail transportation incidents.

(3) A description of current regulations governing hazardous materials rail car placement (including buffer cars), and an evaluation of their adequacy in light of experience and emerging traffic and commodity patterns.

(4) An assessment of regulations, rules, orders, or standards that address rail operations or procedures associated with carrying hazardous materials on rights-of-way having significant grades or high degrees of curvature.

(5) An assessment of the effectiveness and associated costs of requiring deployment of wayside bearing failure detectors for trains carrying hazardous materials.

(6) An assessment of rail tank car rules, regulations, orders, or standards affecting hazardous materials transportation.

(7) The status of all planned or pending regulatory activities of the Secretary (including the status of all regulations required by statute) that seek to address the safe transportation of hazardous materials by rail, and the status of rail hazardous materials enforcement activities.

(8) Such other information as the Secretary determines relevant to the safe transportation of hazardous materials by rail.

SEC. 17. REPORT ON TRAIN DISPATCHING OFFICES.

45 USC 431 note.

Not later than 18 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary and the railroad industry to rectify any continuing problems associated with unsatisfactory workplace environments in certain train dispatching offices identified in the National Train Dispatcher Safety Assessment for 1987–1988, published by the Federal Railroad Administration in July 1990. The report shall include rec-

ommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.

SEC. 18. NORTHEAST CORRIDOR SAFETY COMMITTEE.

(a) MEETINGS.—Section 11(c) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended to read as follows:

"(c) The Northeast Corridor Safety Committee shall meet at least once every 2 years to consider matters involving safety on the main line of the Northeast Corridor.".

(b) REPORT.—Section 11(d) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended—

(1) by striking "Within one year after the date of enactment of this Act" and inserting in lieu thereof "At the beginning of the first session of the 103rd Congress, and biennially thereafter,"; and

(2) by adding at the end the following new sentence: "The report shall contain the safety recommendations of the Northeast Corridor Safety Committee and the comments of the Secretary on those recommendations.".

(c) TERMINATION DATE.—Section 11 of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended by adding at the end the following new subsection:

"(e) The Northeast Corridor Safety Committee shall cease to exist on January 1, 1999, or on such date as the Secretary determines to be appropriate. The Secretary shall notify the Congress in writing of any such determination.".

SEC. 19. AIRPORT LEASES.

11 USC 365 note.

(a) FINDINGS.—Congress finds that—

(1) there are major airports served by an air carrier that has leased a substantial majority of the airport's gates;

(2) the commerce in the region served by such a major airport can be disrupted if the air carrier that leases most of its gates enters bankruptcy and either discontinues or materially reduces service; and

(3) it is important that such airports be empowered to continue service in the event of such a disruption.

(b) BANKRUPTCY RULES REGARDING UNEXPIRED LEASES.—Section 365(d) of title 11, United States Code, is amended by adding at the end the following new paragraphs:

"(5) Notwithstanding paragraphs (1) and (4) of this subsection, in a case under any chapter of this title, if the trustee does not assume or reject an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate before the occurrence of a termination event, then (unless the court orders the trustee to assume such unexpired leases within 5 days after the termination event), at the option of the airport operator, such lease is deemed rejected 5 days after the occurrence of a termination event and the trustee shall immediately surrender possession of the premises to the airport operator; except that the lease shall not be deemed to be rejected unless the airport operator first waives the right to damages related to the rejection. In the event that the lease is deemed to be rejected under this paragraph, the airport operator shall provide the affected air carrier adequate opportunity after the surrender of the premises to remove the fixtures and equipment installed by the affected air carrier.

"(6) For the purpose of paragraph (5) of this subsection and paragraph (f)(1) of this section, the occurrence of a termination event means, with respect to a debtor which is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate—

"(A) the entry under section 301 or 302 of this title of an order for relief under chapter 7 of this title;

"(B) the conversion of a case under any chapter of this title to a case under chapter 7 of this title; or

"(C) the granting of relief from the stay provided under section 362(a) of this title with respect to aircraft, aircraft engines, propellers, appliances, or spare parts, as defined in section 101 of the Federal Aviation Act of 1958 (49 App. U.S.C. 1301), except for property of the debtor found by the court not to be necessary to an effective reorganization.

"(7) Any order entered by the court pursuant to paragraph (4) extending the period within which the trustee of an affected air carrier must assume or reject an unexpired lease of nonresidential real property shall be without prejudice to—

"(A) the right of the trustee to seek further extensions within such additional time period granted by the court pursuant to paragraph (4); and

"(B) the right of any lessor or any other party in interest to request, at any time, a shortening or termination of the period within which the trustee must assume or reject an unexpired lease of nonresidential real property.

"(8) The burden of proof for establishing cause for an extension by an affected air carrier under paragraph (4) or the maintenance of a previously granted extension under paragraph (7) (A) and (B) shall at all times remain with the trustee.

"(9) For purposes of determining cause under paragraph (7) with respect to an unexpired lease of nonresidential real property between the debtor that is an affected air carrier and an airport operator under which such debtor is the lessee of an airport terminal or an airport gate, the court shall consider, among other relevant factors, whether substantial harm will result to the airport operator or airline passengers as a result of the extension or the maintenance of a previously granted extension. In making the determination of substantial harm, the court shall consider, among other relevant factors, the level of actual use of the terminals or gates which are the subject of the lease, the public interest in actual use of such terminals or gates, the existence of competing demands for the use of such terminals or gates, the effect of the court's extension or termination of the period of time to assume or reject the lease on such debtor's ability to successfully reorganize under chapter 11 of this title, and whether the trustee of the affected air carrier is capable of continuing to comply with its obligations under section 365(d)(3) of this title.".

(c) PARTIAL ASSIGNMENTS OR ASSUMPTIONS OF LEASES.—Section 365(c) of title 11, United States Code, is amended—

(1) by striking "or" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(4) such lease is of nonresidential real property under which the debtor is the lessee of an aircraft terminal or aircraft gate at an airport at which the debtor is the lessee under one or more additional nonresidential leases of an aircraft terminal or aircraft gate and the trustee, in connection with such assumption or assignment, does not assume all such leases or does not assume and assign all of such leases to the same person, except that the trustee may assume or assign less than all of such leases with the airport operator's written consent.".

(d) PROHIBITION OF LEASE ASSIGNMENTS AFTER TERMINATION EVENT.—Section 365(f)(1) of title 11, United States Code, is amended by striking the period at the end and inserting in lieu thereof the following: "; except that the trustee may not assign an unexpired lease of nonresidential real property under which the debtor is an affected air carrier that is the lessee of an aircraft terminal or aircraft gate if there has occurred a termination event.".

(e) AFFECTED AIR CARRIER DEFINED.—Section 365 of title 11, United States Code, is amended by adding at the end the following new subsection:

"(p) In this section, 'affected air carrier' means an air carrier, as defined in section 101(3) of the Federal Aviation Act of 1958, that holds 65 percent or more in number of the aircraft gates at an airport—

"(1) which is a Large Air Traffic Hub as defined by the Federal Aviation Administration in Report FAA–AP 92–1, February 1992; and

"(2) all of whose remaining aircraft gates are leased or under contract on the date of enactment of this subsection.".

Effective date.
11 USC 365 note.

(f) APPLICABILITY.—The amendments made by this section shall be in effect for the 12-month period that begins on the date of enactment of this Act and shall apply in all proceedings involving an affected air carrier (as defined in section 365(p) of title 11, United States Code, as amended by this section) that are pending during such 12-month period. Not later than 9 months after the date of enactment, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce,

Science, and Transportation and Committee on the Judiciary of the Senate and the Committee on the Judiciary and Committee on Public Works and Transportation of the House of Representatives on whether this section shall apply to proceedings that are commenced after such 12-month period.

Approved September 3, 1992.

LEGISLATIVE HISTORY—H.R. 2607 (S. 1571):

HOUSE REPORTS: No. 102-205 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 102-219 *accompanying* S. 1571 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Sept. 23, considered and passed House.
Vol. 138 (1992): Mar. 18, considered and passed Senate, amended, in lieu of S. 1571.
July 21, House concurred in Senate amendment with amendments.
Aug. 12, Senate concurred in House amendments with an amendment. House concurred in Senate amendment.

Public Law 102-366
102d Congress

An Act

To amend the Small Business Act and related Acts to provide loan assistance to small business concerns, to extend certain demonstration programs relating to small business participation in Federal procurement, to modify certain Small Business Administration programs, to assist small firms to adjust to reductions in Defense-related business, to improve the management of certain program activities of the Small Business Administration, to provide for the undertaking of certain studies, and for other purposes.

Sept. 4, 1992
[H.R. 4111]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Credit and Business Opportunity Enhancement Act of 1992.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Credit and Business Opportunity Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act shall be as follows:

Sec. 1. Short title; table of contents.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

Sec. 101. Short title.
Sec. 102. Authorizations.
Sec. 103. Buy American preference.
Sec. 104. State limitations on interest rates.

Subtitle B—Microloan Demonstration Program Amendments

Sec. 111. Short title.
Sec. 112. Findings.
Sec. 113. Microloan demonstration program amendments.
Sec. 114. Regulations.
Sec. 115. Authorization of appropriations.

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

Sec. 201. Extension of demonstration programs.
Sec. 202. Management improvements to the small business competitiveness demonstration program.
Sec. 203. Amendments to the dredging demonstration program.

Subtitle B—Defense Economic Transition Assistance

Sec. 211. Section 7(a) loan program.
Sec. 212. Small business development center program.

Subtitle C—Small Business Administration Management

Sec. 221. Disadvantaged small business status decisions.
Sec. 222. Establishment of size standards.
Sec. 223. Management of Small Business Development Center Program.
Sec. 224. National Seminar on Small Business Exports.
Sec. 225. Co-sponsored training.
Sec. 226. Viability of secondary markets.

Subtitle D—Technical Amendments and Repealers

Sec. 231. Commission on minority business development.

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

Sec. 301. Short title.
Sec. 302. Survey.
Sec. 303. Report.
Sec. 304. Definitions.

Subtitle B—Small Business Loan Secondary Market Study

Sec. 311. Secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

Sec. 321. Contract bundling study.

Subtitle D—Resolution Regarding Small Business Access to Capital

Sec. 331. Sense of the Congress.

TITLE IV—SMALL BUSINESS INVESTMENT ACT AMENDMENTS

Sec. 401. Short title.
Sec. 402. Leverage (matching funds) formula.
Sec. 403. Participating securities.
Sec. 404. Pooling.
Sec. 405. Authorizations.
Sec. 406. Safety and soundness.
Sec. 407. Examinations.
Sec. 408. Non-financed SBICs.
Sec. 409. Minimum capital.
Sec. 410. Definitions.
Sec. 411. Interest rate ceiling.
Sec. 412. Preferred partnership interests.
Sec. 413. Indirect funds from State or local governments.
Sec. 414. SBIC approvals.
Sec. 415. Implementation.
Sec. 416. Buy America.
Sec. 417. Studies and reports.
Sec. 418. No effect on securities laws.

TITLE I—IMPROVED ACCESS TO CREDIT

Subtitle A—Section 7(a) Guaranteed Loan Program

Small Business Credit Crunch Relief Act of 1992.

SEC. 101. SHORT TITLE.

15 USC 631 note.

This subtitle may be cited as the "Small Business Credit Crunch Relief Act of 1992".

SEC. 102. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) Except as may be otherwise specifically provided by law, the amount of deferred participation loans authorized in this section—

"(A) shall mean the net amount of the loan principal guaranteed by the Small Business Administration (and does not include any amount which is not guaranteed); and

"(B) shall be available for a national program, except that the Administration may use not more than an amount equal to 10 percent of the amount authorized each year for any special or pilot program directed to identified sec-

tors of the small business community or to specific geographic regions of the United States.";

(2) by amending subsection (e)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $5,978,000,000 in deferred participation loans and other financing. Of such sum, the Administration is authorized to make—

"(A) $5,200,000,000 in general business loans, as provided in section 7(a);

"(B) $53,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $725,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.";

(3) amending subsection (g)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $7,030,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $6,200,000,000 in general business loans as provided in section 7(a);

"(B) $55,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $775,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958."; and

(4) by amending subsection (i)(2) to read as follows:

"(2) For the programs authorized by this Act, the Administration is authorized to make $8,083,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

"(A) $7,200,000,000 in general business loans, as provided in section 7(a);

"(B) $58,000,000 in loans, as provided in section 7(a)(12)(B); and

"(C) $825,000,000 in financings, as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958.".

15 USC 631 note.

SEC. 103. BUY AMERICAN PREFERENCE.

In providing financial assistance with amounts appropriated pursuant to the amendments made by this Act, the Administrator of the Small Business Administration shall, when practicable, accord preference to small business concerns which use or purchase equipment and supplies produced in the United States. The Administrator shall also encourage small business concerns receiving such assistance to purchase such equipment and supplies.

SEC. 104. STATE LIMITATIONS ON INTEREST RATES.

Section 7(a)(4) of the Small Business Act (15 U.S.C. 636(a)(4)) is amended by striking "The rate of interest on financings made on a deferred basis shall be legal and reasonable but" and inserting the following: "Notwithstanding the provisions of the constitution of any State or the laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any financing made on a deferred basis pursuant to this subsection".

Subtitle B—Microloan Demonstration Program Amendments

Microlending Expansion Act of 1992.

SEC. 111. SHORT TITLE. 15 USC 631 note.

This subtitle may be cited as the "Microlending Expansion Act of 1992".

SEC. 112. FINDINGS. 15 USC 636 note.

The Congress finds that—

(1) nationwide, there are many individuals who possess skills that, with certain short-term assistance, could enable them to become successfully self-employed;

(2) many talented and skilled individuals who are employed in low-wage occupations could, with sufficient opportunity, start their own small business concerns, which could provide them with an improved standard of living;

(3) most such individuals have little or no savings, a nonexistent or poor credit history, and no access to credit or capital with which to start a business venture;

(4) women, minorities, and individuals residing in areas of high unemployment and high levels of poverty have particular difficulty obtaining access to credit or capital;

(5) providing such individuals with small-scale, short-term financial assistance in the form of microloans, together with intensive marketing, management, and technical assistance, could enable them to start or maintain small businesses, to become self-sufficient, and to raise their standard of living;

(6) banking institutions are reluctant to provide such assistance because of the administrative costs associated with processing and servicing the loans and because they lack experience in providing the type of marketing, management, and technical assistance needed by such borrowers;

(7) many organizations that have had successful experiences in providing microloans and marketing, management, and technical assistance to such borrowers exist throughout the Nation; and

(8) loans from the Federal Government to intermediaries for the purpose of relending to start-up, newly established and growing small business concerns are an important catalyst to attract private sector participation in microlending.

SEC. 113. MICROLOAN DEMONSTRATION PROGRAM AMENDMENTS.

(a) IN GENERAL.—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (1)(A)—

(A) by amending clause (i) to read as follows:

"(i) to assist women, low-income, and minority entrepreneurs and business owners and other such individuals possessing the capability to operate successful business concerns; and

Women. Disadvantaged. Minorities.

(B) in clause (iii)(I), by inserting ", particularly loans in amounts averaging not more than $7,500," after "small-scale loans";

(2) in paragraph (3)(A)—

(A) by striking "As part of" and inserting the following:

"(i) IN GENERAL.—As part of";

(B) by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;

(C) in subclause (III), as redesignated, by striking "economic and unemployment" and inserting "economic, poverty, and unemployment";

(D) by amending subclause (VIII), as redesignated, to read as follows:

"(VIII) any plan to involve other technical assistance providers (such as counselors from the Service Corps of Retired Executives or small business development centers) or private sector lenders in assisting selected business concerns."; and

(E) by adding at the end the following:

"(ii) SELECTION OF INTERMEDIARIES.—In selecting intermediaries to participate in the program established under this subsection, the Administration shall give priority to those applicants that provide loans in amounts averaging not more than $7,500.";

(3) by amending paragraph (3)(F) to read as follows:

"(F) LOAN DURATION; INTEREST RATES.—

"(i) LOAN DURATION.—Loans made by the Administration under this subsection shall be for a term of 10 years.

"(ii) APPLICABLE INTEREST RATES.—Except as provided in clause (iii), loans made by the Administration under this subsection to an intermediary shall bear an interest rate equal to 1.25 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iii) RATES APPLICABLE TO CERTAIN SMALL LOANS.—Loans made by the Administration to an intermediary that makes loans to small business concerns and entrepreneurs averaging not more than $7,500, shall bear an interest rate that is 2 percentage points below the rate determined by the Secretary of the Treasury for obligations of the United States with a period of maturity of 5 years, adjusted to the nearest one-eighth of 1 percent.

"(iv) RATES APPLICABLE TO MULTIPLE SITES OR OFFICES.—The interest rate prescribed in clause (ii) or (iii) shall apply to each separate loan-making site or office of 1 intermediary only if such site or office meets the requirements of that clause.

"(v) RATE BASIS.—The applicable rate of interest under this paragraph shall—

"(I) be applied retroactively for the first year of an intermediary's participation in the program, based upon the actual lending practices of the intermediary as determined by the Administration prior to the end of such year; and

"(II) be based in the second and subsequent years of an intermediary's participation in the program, upon the actual lending practices of the intermediary during the term of the intermediary's participation in the program.

"(vii) COVERED INTERMEDIARIES.—The interest rates prescribed in this subparagraph shall apply to all loans made to intermediaries under this subsection on or after October 28, 1991.";

(4) in paragraph (4)—

(A) in subparagraph (A), by striking "Subject to" and inserting "Except as otherwise provided in subparagraph (C) and subject to"; and

(B) by striking subparagraph (A) and inserting in lieu thereof:

"(A) GRANT AMOUNTS.—Except as otherwise provided in subparagraph (C) and subject to subparagraph (B), each intermediary that receives a loan under subparagraph (B)(i) of paragraph (1) shall be eligible to receive a grant to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection. Except as provided in subparagraph (C), each intermediary meeting the requirements of subparagraph (B) may receive a grant of not more than 25 percent of the total outstanding balance of loans made to it under this subsection.";

(C) in subparagraph (B), by striking "an amount equal to one-half of the amount of the grant" and inserting in lieu thereof "an amount equal to 25 percent of the amount of the grant";

(D) by adding at the end the following:

"(C) ADDITIONAL TECHNICAL ASSISTANCE GRANTS FOR MAKING CERTAIN LOANS.—

"(i) IN GENERAL.—Each intermediary that has a portfolio of loans made under this subsection that averages not more than $7,500 during the period of the intermediary's participation in the program shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection, in addition to grants made under subparagraph (A).

"(ii) PURPOSES.—A grant awarded under clause (i) may be used to provide marketing, management, and technical assistance to small business concerns that are borrowers under this subsection.

"(iii) CONTRIBUTION EXCEPTION.—The contribution requirements in subparagraph (B) do not apply to grants made under this subparagraph.

"(D) ELIGIBILITY FOR MULTIPLE SITES OR OFFICES.—The eligibility for a grant described in subparagraph (A), or (C) shall be determined separately for each loan-making site or office of 1 intermediary.";

(5) in paragraph (5)(A), by striking "2 grants" and inserting "6 grants";

(6) in paragraph (6), by amending subparagraph (C) to read as follows:

"(C) INTEREST LIMIT.—Notwithstanding any provision of the laws of any State or the constitution of any State pertaining to the rate or amount of interest that may be charged, taken, received, or reserved on a loan, the maximum rate of interest to be charged on a microloan funded under this subsection shall not exceed the rate

of interest applicable to a loan made to an intermediary by the Administration—

"(i) in the case of a loan of more than $7,500 made by the intermediary to a small business concern or entrepreneur by more than 7.75 percentage points; and

"(ii) in the case of a loan of not more than $7,500 made by the intermediary to a small business concern or entrepreneur by more than 8.5 percentage points.";

(7) in paragraph (7)—

(A) in subparagraph (A), by striking "35 microloan programs" and inserting "60 microloan programs";

(B) in subparagraph (B), by striking "25 additional" and inserting "50 additional";

(C) by amending subparagraph (C)(i) to read as follows:

"(i) be awarded more than 4 microloan programs in the first 2 years of the demonstration program nor more than 2 microloan programs in any year thereafter;";

(D) in subparagraph (C)(ii), by striking "$1,000,000" and inserting "$1,500,000"; and

(E) in subparagraph (C)(iii), by striking "$1,500,000" and inserting "$2,500,000";

(8) by redesignating paragraphs (9) and (10) as paragraphs (10) and (11), respectively;

(9) by inserting after paragraph (8) the following:

"(9) TECHNICAL ASSISTANCE FOR INTERMEDIARIES.—

"(A) IN GENERAL.—The Administration may procure technical assistance for intermediaries participating in the Microloan Demonstration Program to ensure that such intermediaries have the knowledge, skills, and understanding of microlending practices necessary to operate successful microloan programs.

"(B) ASSISTANCE AMOUNT.—The Administration shall transfer 3 percent of its annual appropriation for loans under this subsection to the Administration's Salaries and Expense Account for the specific purpose of providing 1 or more technical assistance grants to experienced microlending organizations to achieve the purpose set forth in subparagraph (A).."; and

(10) in paragraph (11), as redesignated—

(A) by amending subparagraph (A) to read as follows:

"(A) the term 'intermediary' means—

"(i) a private, nonprofit entity;

"(ii) a nonprofit community development corporation;

"(iii) a consortium of private, nonprofit organizations or nonprofit community development corporations; or

"(iv) a quasi-governmental economic development entity (such as a planning and development district), other than a State, county, municipal government, or any agency thereof, if—

"(I) no application is received from an eligible nonprofit organization; or

"(II) the Administration determines that the needs of a region or geographic area are not adequately served by an existing, eligible nonprofit organization that has submitted an application,

that seeks to borrow or has borrowed funds from the Administration to make microloans to small business concerns under this subsection;".

(b) EFFECTIVE DATES.—The amendments made by paragraphs (4) and (5) of subsection (a) shall become effective on October 1, 1992. 15 USC 636 note.

SEC. 114. REGULATIONS. 15 USC 636 note.

Not later than 45 days after the date of enactment of this Act, the Small Business Administration shall promulgate interim final regulations to implement the amendments made by this subtitle.

SEC. 115. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding at the end the following new subsection:

"(k) AUTHORIZATION OF APPROPRIATIONS.—To carry out the program established under section 7(m), there are authorized to be appropriated to the Small Business Administration—

"(1) for fiscal year 1992—

"(A) $45,000,000, to be used for the provision of loans; and

"(B) $10,000,000, to be used for the provision of grants;

"(2) for fiscal year 1993—

"(A) $80,000,000, to be used for the provision of loans; and

"(B) $25,000,000, to be used for the provision of grants; and

"(3) for fiscal year 1994—

"(A) $60,000,000, to be used for the provision of loans; and

"(B) $35,000,000, to be used for the provision of grants.".

(b) REPEAL OF EXISTING PROVISION.—Section 609 of Public Law 102–140 (105 Stat. 831) is amended by striking subsection (l).

TITLE II—AMENDMENTS TO THE SMALL BUSINESS ACT AND RELATED ACTS

Subtitle A—Small Business Competitiveness Demonstration Program

SEC. 201. EXTENSION OF DEMONSTRATION PROGRAMS.

(a) SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3889) is amended to read as follows:

"(c) PROGRAM TERM.—The Program shall commence on January 1, 1989, and terminate on September 30, 1996.". Effective date. Termination date.

(b) ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.—Section 721(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended by striking "September 30, 1992" and inserting "September 30, 1996".

(c) EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.—Section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(1) by striking "During fiscal years 1989, 1990, 1991, and 1992, the" and inserting "The"; and

Effective date. Termination date.

(2) by inserting before the period at the end ", commencing on October 1, 1989 and terminating on September 30, 1996".

SEC. 202. MANAGEMENT IMPROVEMENTS TO THE SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IMPLEMENTATION ON A FISCAL YEAR BASIS.—Section 712(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3890) is amended—

(1) in paragraph (1), by striking "4 quarters" in the third sentence and inserting "4 fiscal year quarters"; and

(2) in paragraph (3), by inserting "fiscal year" before "quarter".

(b) TARGETED APPLICATION OF REMEDIAL MEASURES.—Section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) in the first sentence, by striking "to the extent necessary for such agency to attain its goal" and inserting "only at those buying activities of the participating agency that failed to attain the small business participation goal required by section 712(a)";

(2) by striking the third sentence; and

(3) by inserting after the first sentence, the following new sentence: "Upon determining that its contract awards to small business concerns again meet the goals required by section 712(a), a participating agency shall promptly resume the use of unrestricted solicitations pursuant to subsection (a).".

(c) RELATIONSHIP TO RELATED LAW.—Section 713 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892), as amended by subsection (b), is further amended by adding at the end the following new subsection:

"(d) RELATIONSHIP TO OTHER APPLICABLE LAW.—Solicitations for the award of contracts for architectural and engineering services (including surveying and mapping) issued by a Military Department or a Defense agency shall comply with the requirements of subsections (a) and (b) of section 2855 of title 10, United States Code.".

(d) SUBCONTRACTING ACTIVITY.—Section 714 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) SUBCONTRACTING ACTIVITY.—

"(1) SIMPLIFIED DATA COLLECTION SYSTEM.—The Administrator for Federal Procurement Policy shall develop and implement a simplified system to collect data on the participation of small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) as other than prime contractors.

"(2) PARTICIPATING INDUSTRIES.—The system established under paragraph (1) shall be used to collect data regarding contracts for architectural and engineering services (including

surveying and mapping). The Administrator for Federal Procurement Policy may expand such system to collect data regarding such other designated industry groups as deemed appropriate.

"(3) PARTICIPATING AGENCIES.—As part of the system established under paragraph (1) data shall be collected from—

"(A) the Environmental Protection Agency;

"(B) the National Aeronautics and Space Administration;

"(C) the United States Army Corps of Engineers (Civil Works); and

"(D) the Department of Energy.

The Administrator for Federal Procurement Policy may require the participation of additional departments or agencies from the list of participating agencies designated in section 718.

"(4) DETERMINING SMALL BUSINESS PARTICIPATION RATES.—The value of other than prime contract awards to small business concerns furnishing architectural and engineering services (including surveying and mapping) (or other services provided by small business concerns in other designated industry groups as may be designated for participation by the Administrator for Federal Procurement) shall be counted towards determining whether the small business participation goal required by section 712(a) has been attained.

"(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1992 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1993), and shall terminate on September 30, 1996.". Effective date. Termination date.

(e) STATUS OF SMALL BUSINESS CONCERNS.—Section 714(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) (as redesignated by subsection (d)) is amended—

(1) in the subsection heading, by inserting "AND STATUS" after "SIZE";

(2) by inserting "and the status of the small business concern (as a small business concern owned and controlled by socially and economically disadvantaged individuals)" after "size of the small business concern".

(f) REPORTS TO CONGRESS.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3893) is amended—

(1) in the section heading, by striking "REPORT" and inserting "REPORTS";

(2) in the first sentence of subsection (a), by striking "fiscal year 1991 data is" and inserting "data for fiscal year 1991 and 1995 are"; and

(3) in subsection (c), by striking "report" and inserting "report to be submitted during calendar year 1996".

(g) IMPROVING ACCURACY OF DATA PERTAINING TO A–E SERVICES.—Section 717(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3894) is amended by inserting before the period at the end the following: ", and such contract was awarded under the qualification-based selection procedures required by title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)".

15 USC 644 note.

(h) PROCUREMENT PROCEDURES.—Restricted competitions pursuant to section 713(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) shall not be imposed with respect to the designated industry group of architectural and engineering services if the rate of small business participation exceeds 35 percent, until the improvements to the collection of data regarding prime contract awards (as required by subsection (g)) and the system for collecting data regarding other than prime contract awards (as required by subsection (d)) have been implemented, as determined by the Administrator for Federal Procurement Policy.

15 USC 644 note.

(i) TEST PLAN AND POLICY DIRECTION.—The Administrator for Federal Procurement Policy shall issue appropriate modifications to the test plan and policy direction issued pursuant to section 715 of the Small Business Competitiveness Demonstration Program Act of 1988, to conform to the amendments made by this section and section 201(a).

SEC. 203. AMENDMENTS TO THE DREDGING DEMONSTRATION PROGRAM.

(a) MODIFICATION OF THE SMALL BUSINESS PARTICIPATION GOALS.—The first sentence of section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3895) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) not less than 20 percent during fiscal year 1993, and each subsequent year during the term of the program, including not less than 5 percent of the dollar value of suitable contracts that shall be reserved for emerging small business concerns.".

(b) EXCLUSION OF CERTAIN CONTRACTS.—Section 722(b) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) by striking "total dollar value of contracts" and inserting "aggregate value of all suitable contracts"; and

(2) by striking the last sentence and inserting the following: "The total value of contracts to be performed exclusively through the use of so-called dustpan dredges or seagoing hopper dredges is deemed to be generally unsuitable for performance by small business concerns and is to be excluded in calculating whether the rates of small business participation specified in subsection (b) have been attained.".

(c) QUALIFIED SMALL BUSINESS COMPETITORS.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) Prior to making a determination to restrict a solicitation for the performance of a dredging contract for exclusive competition among 2 or more eligible small business concerns in accordance with section 19.5 of the Governmentwide Federal Procurement Regulation (48 C.F.R. 19.5, or any successor thereto), the contracting officer shall make a determination that each anticipated offeror

is a responsible source (as defined under section 4(7) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(7)) and has (or can demonstrate the capability to obtain) the specialized dredging equipment deemed necessary to perform the work to be required in accordance with the schedule to be specified in the solicitation.".

(d) CONTRACT AWARD PROCEDURES.—Section 722(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is further amended—

(1) in the first sentence of paragraph (1), by striking "in paragraphs (2) and (3)" and inserting "in paragraphs (3) and (4)"; and

(2) in paragraph (4) (as redesignated by subsection (c)), by striking "attaining" and inserting "exceeding".

(e) REPORTS.—Section 722(f) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3896) is amended—

(1) in paragraph (1), by striking "September 30, 1992" and inserting "September 30, 1995"; and

(2) in paragraph (2), by striking "of the fiscal years 1989, 1990, and 1991" and inserting "fiscal year during the term of the program established under subsection (a)".

Subtitle B—Defense Economic Transition Assistance

SEC. 211. SECTION 7(a) LOAN PROGRAM.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

"(21)(A) The Administration may make loans under the authority of this subsection—

"(i) to a small business concern that has been (or can reasonably be expected to be) detrimentally affected by—

"(I) the closure (or substantial reduction) of a Department of Defense installation; or

"(II) the termination (or substantial reduction) of a Department of Defense program on which such small business was a prime contractor or subcontractor (or supplier) at any tier; or

"(ii) to a qualified individual seeking to establish (or acquire) and operate a small business concern.

"(B) Recognizing that greater risk may be associated with a loan to a small business concern described in subparagraph (A)(i), any reasonable doubts concerning the firm's proposed business plan for transition to nondefense-related markets shall be resolved in favor of the loan applicant when making any determination regarding the sound value of the proposed loan in accordance with paragraph (6).

"(C) Loans pursuant to this paragraph shall be authorized in such amounts as provided in advance in appropriation Acts for the purposes of loans under this paragraph.

"(D) For purposes of this paragraph a qualified individual is—

"(i) a member of the Armed Forces of the United States, honorably discharged from active duty involuntarily or pursuant to a program providing bonuses or other inducements to encourage voluntary separation or early retirement;

"(ii) a civilian employee of the Department of Defense involuntarily separated from Federal service or retired pursuant to a program offering inducements to encourage early retirement; or

"(iii) an employee of a prime contractor, subcontractor, or supplier at any tier of a Department of Defense program whose employment is involuntarily terminated (or voluntarily terminated pursuant to a program offering inducements to encourage voluntary separation or early retirement) due to the termination (or substantial reduction) of a Department of Defense program.".

SEC. 212. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) by striking subparagraph (D);

(2) by redesignating subparagraphs (E), (F), and (G) as subparagraphs (D), (E), and (F), respectively; and

(3) by inserting before subparagraph (H) the following new subparagraph:

"(G) assisting small businesses to develop and implement strategic business plans to timely and effectively respond to the planned closure (or reduction) of a Department of Defense facility within the community, or actual or projected reductions in such firms' business base due to the actual or projected termination (or reduction) of a Department of Defense program or a contract in support of such program—

"(i) by developing broad economic assessments of the adverse impacts of—

"(I) the closure (or reduction) of the Department of Defense facility on the small business concerns providing goods or services to such facility or to the military and civilian personnel currently stationed or working at such facility; and

"(II) the termination (or reduction) of a Department of Defense program (or contracts under such program) on the small business concerns participating in such program as a prime contractor, subcontractor or supplier at any tier;

"(ii) by developing, in conjunction with appropriate Federal, State, and local governmental entities and other private sector organizations, the parameters of a transition adjustment program adaptable to the needs of individual small business concerns;

"(iii) by conducting appropriate programs to inform the affected small business community regarding the anticipated adverse impacts identified under clause (i) and the economic adjustment assistance available to such firms; and

"(iv) by assisting small business concerns to develop and implement an individualized transition business plan.".

Subtitle C—Small Business Administration Management

SEC. 221. DISADVANTAGED SMALL BUSINESS STATUS DECISIONS. 15 USC 636 note.

(a) PUBLICATION OF DECISIONS.—A decision issued pursuant to section 7(j)(11)(F)(vii) of the Small Business Act (15 U.S.C. 636(j)(11)(F)(vii)) shall—

(1) be made available to the protestor, the protested party, the contracting officer (if not the protestor), and all other parties to the proceeding, and published in full text; and

(2) include findings of fact and conclusions of law, with specific reasons supporting such findings or conclusions, upon each material issue of fact and law of decisional significance regarding the disposition of the protest.

(b) PRECEDENTIAL VALUE OF PRIOR DECISIONS.—A decision issued under section 7(j)(11)(F)(vii) of the Small Business Act that is issued prior to the date of enactment of this Act shall not have value as precedent in deciding any subsequent protest until such time as the decision is published in full text.

SEC. 222. ESTABLISHMENT OF SIZE STANDARDS.

(a) IN GENERAL.—Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by striking "In addition" and all that follows through the end period and by adding at the end the following new paragraphs:

"(2) In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards (by number of employees or dollar volume of business) by which a business concern is to be recognized as a small business concern for the purposes of this Act or any other Act. Unless specifically authorized by statute, the Secretary of a department or the head of a Federal agency may not prescribe for the use of such department or agency a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

"(A) is being proposed after an opportunity for public notice and comment;

"(B) provides for determining, over a period of not less than 3 years—

"(i) the size of a manufacturing concern on the basis of the number of its employees during that period; and

"(ii) the size of a concern providing services on basis of the average gross receipts of the concern during that period; and

"(C) is approved by the Administrator.

"(3) When establishing or approving any size standard pursuant to paragraph (2), the Administrator shall ensure that the size standard varies from industry to industry to the extent necessary to reflect the differing characteristics of the various industries and consider other factors deemed to be relevant by the Administrator.".

(b) REGULATIONS.— 15 USC 632 note.

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall issue proposed regulations to implement the amendments made by subsection (a). Final regulations shall be issued not later than 270 days after such date of enactment.

(2) LISTING OF ADDITIONAL SIZE STANDARDS.—The regulations required by paragraph (1) shall include a listing of all small business size standards prescribed by statute or by individual Federal departments and agencies, identifying the programs or purposes to which such size standards apply.

SEC. 223. MANAGEMENT OF SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) Section 21(a)(3) of the Small Business Act (15 U.S.C. 648) is amended by adding the following at the end thereof:

"(A) Small business development centers are authorized to form an association to pursue matters of common concern. If more than a majority of the small business development centers which are operating pursuant to agreements with the Administration are members of such an association, the Administration is authorized and directed to recognize the existence and activities of such an association and to consult with it and develop documents (i) announcing the annual scope of activities pursuant to this section, (ii) requesting proposals to deliver assistance as provided in this section and (iii) governing the general operations and administration of the Small Business Development Center Program, specifically including the development of regulations and a uniform negotiated cooperative agreement for use on an annual basis when entering into individual negotiated agreements with small business development centers.

"(B) Provisions governing audits, cost principles and administrative requirements for Federal grants, contracts and cooperative agreements which are included in uniform requirements of Office of Management and Budget (OMB) Circulars shall be incorporated by reference and shall not be set forth in summary or other form in regulations.".

Regulations.
15 USC 648 note.

(b) Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit to the Committees on Small Business and the Committees on Appropriations of the Senate and the House of Representatives, proposed regulations for the Small Business Development Center Program authorized by section 21 of the Small Business Act (15 U.S.C. 648). Such proposed regulations shall not be published in the Federal Register.

New York.
15 USC 631 note.

SEC. 224. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) SEMINAR.—The Administration shall conduct a National Seminar on Small Business Exports in Buffalo, New York, in connection with the World University Games Buffalo '93 during July, 1993, in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences and the prior conference in the State of Washington.

(b) ASSISTANCE BY EXPERTS.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies, the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) RECOMMENDATIONS CONCERNING UTILITY OF INTERNATIONAL CONFERENCE.—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT and other international trade agreements to which the United States is a signatory.

SEC. 225. CO-SPONSORED TRAINING.

Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking "October 1, 1992" in the first sentence and inserting in lieu thereof "October 1, 1994".

SEC. 226. VIABILITY OF SECONDARY MARKETS. 15 USC 634 note.

The Administrator of the Small Business Administration is authorized and directed to take such actions in the awarding of contracts as is deemed necessary to assure the continued long-term viability of the secondary markets in loans, debentures or other securities guaranteed by the Administration.

Subtitle D—Technical Amendments

SEC. 231. COMMISSION ON MINORITY BUSINESS DEVELOPMENT.

(a) TERMINATION.—Section 505(f) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note; 102 Stat. 3887) is amended by inserting before the period at the end "or September 30, 1992, whichever is later".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if it were included in the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 636 note). 15 USC 636 note.

SEC. 232. TECHNICAL CORRECTIONS.

(a) AMENDMENTS TO SECTION 8.—Section 8 of the Small Business Act (15 U.S.C. 837) is amended— 15 USC 637.

(1) in subsection (a)(1)(B), by striking the period and inserting a semicolon;

(2) in subsection (a)(1)(C), by striking the period and inserting "; and";

(3) in subsection (a)(6)(C)(i), by striking "to (A)" and inserting "to subparagraph (A)";

(4) in subsection (a)(6)(C)(ii), by striking "7(j)(10)(H)" and inserting "7(j)(10)(G)";

(5) in subsection (a)(12)(E), by striking "to (D)" and inserting "to subparagraph (D)";

(6) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively;

(7) by inserting after subsection (b) the following:

"(c) [Reserved].";

(8) in subsection (d)(4)(F)(ii) (as redesignated by paragraph (6) of this subsection), by striking "impositon" and inserting "imposition"; and

(9) in subsection (h)(2) (as redesignated by paragraph (6) of this subsection), by striking "Administration" and inserting "Administrative".

(b) AMENDMENTS TO SECTION 15.—Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) in subsection (c)(2)(B), by striking "Blindmade" and inserting "Blind-made";

(2) in paragraphs (3) and (5) of subsection (k), by striking the semicolon and inserting a comma;

(3) in subsection (l)(6), by adding a period at the end; and

(4) in subsection (m)(2)(B), by striking "requirement" and inserting "requirements".

TITLE III—STUDIES AND RESOLUTIONS

Subtitle A—Access to Surety Bonding

Small Business Access to Surety Bonding Survey Act of 1992. 15 USC 694b note.

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Small Business Access to Surety Bonding Survey Act of 1992".

SEC. 302. SURVEY.

(a) IN GENERAL.—The Comptroller General shall conduct a comprehensive survey of business firms, including using a questionnaire described in subsection (b), to obtain data on the experiences of such firms, and especially the experiences of small business concerns, in obtaining surety bonds from corporate surety firms.

(b) CONTENT OF SURVEY QUESTIONNAIRE.—In addition to such other questions as the Comptroller General deems appropriate to ensure a comprehensive survey under subsection (a), the questionnaire used by the Comptroller General shall include questions to obtain information from a surveyed business on—

(1) the frequency with which the firm was requested to provide a corporate surety bond in fiscal year 1992;

(2) whether the frequency with which the firm was requested to provide a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(3) the frequency with which the firm provided a corporate surety bond in fiscal year 1992;

(4) whether the frequency with which the firm provided a corporate surety bond increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(5) the average size of corporate surety bonds provided by the firm in fiscal year 1992;

(6) whether the average size of the corporate surety bonds provided by the firm increased or decreased during fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(7) the dollar amount of the largest corporate surety bond provided by the firm in fiscal year 1992;

(8) whether the dollar amount of the largest corporate surety bond provided by the firm increased or decreased in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(9) the dollar amount of work performed by the firm by type of construction owner, including the Federal Government, State and local governments, other public entities, and private entities, in each of fiscal years 1990, 1991, and 1992;

(10) the dollar amount of such work bonded by a corporate surety company for the firm by type of construction owner, including construction owners referred to in paragraph (9), for each of fiscal years 1990, 1991, and 1992;

(11) whether the firm purchased its corporate surety bonds through an insurance agent or directly from a surety company;

(12) the means used by the firm to identify its source for the purchase of corporate surety bonds;

(13) the average corporate surety bond premium (expressed as a percentage of contract amount) paid by the firm in fiscal year 1992;

(14) any increase or decrease in the average corporate surety bond premium (expressed as a percentage of the contract amount) paid by the firm in fiscal years 1990, 1991, and 1992 and the reason for any increase or decrease, if known;

(15) whether or not the underwriting requirements (including state of accounts receivable, financial procedures, need for personal indemnification, and requirements for collateral) changed in fiscal year 1990, 1991, or 1992;

(16) the nature of any changes in underwriting requirements experienced by the firm in fiscal years 1990, 1991, and 1992 and the reason for any such changes, if known;

(17) whether or not the source of surety bonds (a surety agent or company) provided reasons for such changes in underwriting requirements and whether these reasons were provided orally or in writing;

(18) whether or not the bonding capacity (total dollar amount and number of bonds) for the firm changed in fiscal year 1990, 1991, or 1992;

(19) whether or not the source of surety bonds (a surety agent or company) provided reasons for any changes in bonding capacity and whether these reasons were provided orally or in writing;

(20) the services provided and advice given by the firm's source of corporate surety bonds in fiscal years 1990, 1991, and 1992;

(21) whether or not the firm obtained a corporate surety bond with the assistance of a Federal program (such as the surety bond guarantee program of the Small Business Administration and the bonding assistance program of the Department of Transportation) or a State or local program in fiscal year 1990, 1991, or 1992;

(22) whether or not the firm used any alternative to corporate surety bonds (such as individual surety bonds, letters of credit, certificates of deposit, and government securities) in fiscal year 1990, 1991, or 1992;

(23) if the firm has not provided any corporate surety bonds in fiscal year 1990, 1991, or 1992, the reasons the firm has not done so;

(24) the number of times the firm has had an application for a corporate surety bond denied in fiscal years 1990, 1991, and 1992, and the reason for any such denial, if known;

(25) whether or not the proposed source for the corporate surety bond (a surety agent or company) provided the reasons for its denial of that application and whether that explanation was provided orally or in writing;

(26) the length of time the firm has been in business;

(27) the number of years of construction experience of the firm's officers (if a corporation), partners, or owner (if a sole proprietorship), and those responsible for managing the execution of the firm's construction operations, and how many years of such experience is in the type of construction that provides the majority of the firm's annual sales volume;

(28) the approximate annual sales volume of the firm in fiscal years 1990, 1991, and 1992;

(29) the net worth (total assets less total liabilities) of the firm at the close of the firm's most recent fiscal year;

(30) the working capital (current assets less current liabilities) of the firm at the close of the firm's most recent fiscal year;

(31) the average age of the firm's accounts receivable (the average number of days required to collect payments due);

(32) whether the firm made a profit in fiscal year 1990, 1991, or 1992;

(33) the form and frequency of such firm's financial statements (statements audited and certified by an independent certified public accountant, statements reviewed by such a certified public accountant, compilation financial statements, or other forms of financial statements), and whether such statements were furnished with applications for bonding, if requested; and

(34) the 4-digit standard industrial classification code in which the firm performs the majority of its work.

(c) FIRMS TO BE SURVEYED.—The Comptroller General shall develop a statistically valid sample of business firms from the most recent list of construction firms maintained by the Dun and Bradstreet Company (identified as the "DUN Market Identifier" file) for which data regarding sales is available.

SEC. 303. REPORT.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Comptroller General, in consultation with the Small Business Administration, shall conduct an assessment of the data obtained in the survey conducted pursuant to section 302 and submit to the Committees on Small Business of the Senate and the House of Representatives a report on the results of such assessment.

(b) CONTENTS OF THE REPORT.—

(1) IN GENERAL.—The report required by subsection (a) shall contain—

(A) a summary of responses of business firms to the survey conducted pursuant to section 302; and

(B) a description of any trends found by the Comptroller General in such responses.

(2) INFORMATION ON SMALL BUSINESS CONCERNS.—In presenting summaries of responses and descriptions of trends pursuant to paragraph (1), the Comptroller General shall provide specific information on the responses and trends of small business concerns, small business concerns owned and controlled by

women, and small business concerns owned and controlled by socially and economically disadvantaged individuals.

SEC. 304. DEFINITIONS.

For purposes of this subtitle—

(1) the term "fiscal year" means the fiscal year of the business firm being surveyed;

(2) the term "small business concern" has the same meaning as in section 3 of the Small Business Act (15 U.S.C. 632);

(3) the term "small business concern owned and controlled by socially and economically disadvantaged individuals" has the same meaning as in section 8(d)(3)(C) of the Small Business Act (15 U.S.C. 637(d)(3)(C)) (as redesignated by section 232(a)(6) of this Act); and

(4) the term "small business concern owned and controlled by women" has the same meaning as in section 127(d) of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 637 note).

Subtitle B—Small Business Loan Secondary Market Study

SEC. 311. SECONDARY MARKET FOR LOANS TO SMALL BUSINESSES. 15 USC 634 note.

(a) STUDY.—The Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission, in consultation with the Administrator of the Small Business Administration, shall conduct a study of the potential benefits of, and legal, regulatory, and market-based barriers to, developing a secondary market for loans to small businesses. The study shall include consideration of—

(1) market perceptions and the reasons for the slow development of a secondary market for loans to small businesses;

(2) any means to standardize loan documents and underwriting for loans to small businesses relating to retail and office space;

(3) the probable effects of the development of a secondary market for loans to small businesses on financial institutions and intermediaries, borrowers, lenders, real estate markets, and the credit markets generally;

(4) legal and regulatory barriers that may be impeding the development of a secondary market for loans to small businesses; and

(5) the risks posed by investments in loans to small businesses.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury, the Director of the Congressional Budget Office, and the Chairman of the Securities and Exchange Commission shall transmit to the Congress a report on the results of the study under paragraph (1). The report shall include recommendations for legislation to facilitate the development of a secondary market for loans to small businesses.

Subtitle C—Contract Bundling Study

15 USC 644 note.

SEC. 321. CONTRACT BUNDLING STUDY.

(a) IN GENERAL.—The Administrator of the Small Business Administration, acting through the Associate Administrator for Procurement Assistance, shall conduct a study regarding the impact of the practice known as "contract bundling" on the participation of small business concerns in the Federal procurement process.

(b) PURPOSE.—In addition to such other matters as the Associate Administrator for Procurement Assistance deems appropriate to assure the conduct of a comprehensive study and the development of practical recommendations, the study required by subsection (a) shall—

(1) identify the benefits and adverse effects of contract bundling to the procuring agencies;

(2) identify the benefits and adverse effects of contract bundling on small business concerns;

(3) examine the adequacy of the policy direction to agency procurement officials regarding the bundling of contract requirements;

(4) examine the extent to which agencies have been combining their requirements for the procurement of goods and services (including construction) into solicitations requiring an offeror to be able to perform increasingly larger contracts covering multiple and diverse elements of performance;

(5) consider the appropriateness of the explanatory statements submitted by the procuring agencies pursuant to section 15(a) of the Small Business Act regarding bundling of contract requirements; and

(6) determine whether procurement center representatives, small business specialists, or other agency procurement officials can, under existing guidance and authority, have the necessary policy direction and effective authority to make an independent assessment regarding a proposed bundling of contract requirements.

(c) PARTICIPATION.—

(1) IN GENERAL.—In conducting the study described in subsection (b), the Associate Administrator for Procurement Assistance shall provide for participation by representatives of—

(A) the Office of the Chief Counsel for Advocacy;

(B) the Office of Federal Procurement Policy; and

(C) the 10 Federal departments or agencies having the greatest dollar value of procurement awards during fiscal year 1991.

(2) ADDITIONAL CONSULTATION.—In conducting the study, the Associate Administrator for Procurement Assistance shall consult with representatives of organizations representing small business government contractors and such other public and private entities as may be appropriate.

Federal Register, publication.

(d) SCHEDULE.—Not later than 90 days after the date of enactment of this Act, the Associate Administrator for Procurement Assistance shall publish in the Federal Register a plan for the study required by this section. The study shall be completed not later than March 31, 1993.

(e) REPORT.—Not later than May 15, 1993, the Administrator of the Small Business Administration shall submit a report to

the Committees on Small Business of the Senate and the House of Representatives. The report shall contain the results of the study required by subsection (a), together with recommendations for legislative and regulatory changes to maintain small business participation in the Federal procurement process, as the Administrator deems appropriate.

(f) DEFINITION.—For purposes of this section, the term "contracting bundling" or "bundling of contract requirements" refers to the practice of consolidating into a single large contract solicitation multiple procurement requirements that were previously solicited and awarded as separate smaller contracts, generally resulting in a contract opportunity unsuitable for award to a small business concern due to the diversity and size of the elements of performance specified and the aggregate dollar value of the anticipated award.

Subtitle D—Resolution Regarding Small Business Access to Capital

SEC. 331. SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) small business concerns remain a thriving and vital part of the economy, accounting for the majority of new jobs, new products, and new services created in the United States;

(2) adequate access to either debt or equity capital is a critical component of small business formation, expansion, and success;

(3) small business concerns, which represent higher degrees of risk in financial markets than do large businesses, are experiencing increased difficulties in obtaining credit;

(4) minority-owned business enterprises have found extraordinary difficulties in obtaining credit; and

(5) demand for credit under the loan guarantee program contained in section 7(a) of the Small Business Act is insufficient to meet current demands.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) financial institutions should expand their efforts to provide credit to small business concerns, with special emphasis on minority-owned small business concerns;

(2) legislation and regulations considered by the Congress should be carefully examined to ensure that small business concerns are not negatively impacted; and

(3) legislation and regulations that enhance the viability of small business concerns, including changes in tax and health care policy, should be given a priority for passage by the Congress.

TITLE IV—SMALL BUSINESS INVESTMENT ACT AMENDMENTS

Small Business Equity Enhancement Act of 1992. Securities. 15 USC 661 note.

SECTION 401. SHORT TITLE.

This Act may be cited as the "Small Business Equity Enhancement Act of 1992".

SEC. 402. LEVERAGE (MATCHING FUNDS) FORMULA.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) by inserting after the word "debentures" in the first and sixth sentences of subsection (b) the following: "or participating securities";

(2) by striking paragraphs (1) through (3) of subsection (b) and inserting in lieu thereof the following:

"(1) The total amount of debentures and participating securities that may be guaranteed by the Administration and outstanding from a company licensed under section 301(c) of this Act shall not exceed 300 per centum of the private capital of such company: *Provided,* That nothing in this paragraph shall require any such company that on March 31, 1993, has outstanding debentures in excess of 300 per centum of its private capital to prepay such excess: *And provided further,* That any such company may apply for an additional debenture guarantee or participating security guarantee with the proceeds to be used solely to pay the amount due on such maturing debenture, but the maturity of the new debenture or security shall be not later than September 30, 2002.

"(2) After March 31, 1993, the maximum amount of outstanding leverage made available to a company licensed under section 301(c) of this Act shall be determined by the amount of such company's private capital—

"(A) if the company has private capital of not more than $15,000,000, the total amount of leverage shall not exceed 300 per centum of private capital;

"(B) if the company has private capital of more than $15,000,000 but not more than $30,000,000, the total amount of leverage shall not exceed $45,000,000 plus 200 per centum of the amount of private capital over $15,000,000; and

"(C) if the company has private capital of more than $30,000,000, the total amount of leverage shall not exceed $75,000,000 plus 100 per centum of the amount of private capital over $30,000,000 but not to exceed an additional $15,000,000.

"(3) Subject to the foregoing dollar and percentage limits, a company licensed under section 301(c) of this Act may issue and have outstanding both guaranteed debentures and participating securities: *Provided,* That the total amount of participating securities outstanding shall not exceed 200 per centum of private capital.

"(4) In no event shall the aggregate amount of outstanding leverage of any such company or companies which are commonly controlled as determined by the Administration exceed $90,000,000, unless the Administration determines on a case by case basis to permit a higher amount for companies under common control and imposes such additional terms and conditions as it determines appropriate to minimize the risk of loss to the Administration in the event of default.";

(3) by inserting before the period at the end of subsection (c)(6) the following: ", except as provided in paragraph (7)"; and

(4) by adding the following at the end of subsection (c):

"(7) The Administration may guarantee debentures or may guarantee the payment of the redemption price and prioritized payments on participating securities under subsection (g) from a company operating under section 301(d) of this Act in amounts above $35,000,000 but not to exceed the maximum amounts specified in section 303(b) subject to the following:

"(A) The interest rate on debentures and the rate of prioritized payments on participating securities shall be that specified in subsection 303(g)(2) without any reductions.

"(B) Any outstanding assistance under paragraphs (1) to (6) of this subsection shall be subtracted from such company's eligibility under section 303(b)(2)(A).".

SEC. 403. PARTICIPATING SECURITIES.

Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is further amended by adding the following new subsections:

"(g) In order to encourage small business investment companies to provide equity capital to small businesses, the Administration is authorized to guarantee the payment of the redemption price and prioritized payments on participating securities issued by such companies which are licensed pursuant to section 301(c) of this Act, and a trust or a pool acting on behalf of the Administration is authorized to purchase such securities. Such guarantees and purchases shall be made on such terms and conditions as the Administration shall establish by regulation. For purposes of this section, (A) the term 'participating securities' includes preferred stock, a preferred limited partnership interest or a similar instrument, including debentures under the terms of which interest is payable only to the extent of earnings and (B) the term 'prioritized payments' includes dividends on stock, interest on qualifying debentures, or priority returns on preferred limited partnership interests which are paid only to the extent of earnings. Participating securities guaranteed under this subsection shall be subject to the following restrictions and limitations, in addition to such other restrictions and limitations as the Administration may determine:

Regulations.

"(1) Participating securities shall be redeemed not later than 15 years after their date of issuance for an amount equal to 100 per centum of the original issue price plus the amount of any accrued prioritized payment: *Provided,* That if, at the time the securities are redeemed, whether as scheduled or in advance, the issuing company (A) has not paid all accrued prioritized payments in full as provided in paragraph (2) below and (B) has not sold or otherwise disposed of all investments subject to profit distributions pursuant to paragraph (11), the company's obligation to pay accrued and unpaid prioritized payments shall continue and payment shall be made from the realized gain, if any, on the disposition of such investments, but if on disposition there is no realized gain, the obligation to pay accrued and unpaid prioritized payments shall be extinguished: *Provided further,* That in the interim, the company shall not make any in-kind distributions of such investments unless it pays to the Administration such sums, up to the amount of the unrealized appreciation on such investments, as may be necessary to pay in full the accrued prioritized payments.

"(2) Prioritized payments on participating securities shall be preferred and cumulative and payable out of the retained earnings available for distribution, as defined by the Administration, of the issuing company at a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities on such securities, adjusted to the nearest one-eighth of 1 per centum, plus, at the time the guarantee is issued, such additional charge, if any, toward covering other costs of the program as the Administration may determine to be consistent with its purposes, but not to exceed 2 per centum.

"(3) In the event of liquidation of the company, participating securities shall be senior in priority for all purposes to all other equity interests in the issuing company, whenever created.

"(4) Any company issuing a participating security under this subsection shall commit to invest or shall invest and maintain an amount equal to the outstanding face value of such security solely in equity capital. As used in this subsection, 'equity capital' means common or preferred stock or a similar instrument, including subordinated debt with equity features which is not amortized and which provides for interest payments contingent upon and limited to the extent of earnings.

"(5) The only debt (other than leverage obtained in accordance with this title) which any company issuing a participating security under this subsection may have outstanding shall be temporary debt in amounts limited to not more than 50 per centum of private capital.

"(6) The Administration may permit the proceeds of a participating security to be used to pay the principal amount due on outstanding debentures guaranteed by the Administration, if (A) the company has outstanding equity capital invested in an amount equal to the amount of the debentures being refinanced and (B) the Administration receives profit participation on such terms and conditions as it may determine, but not to exceed the per centums specified in paragraph (11).

"(7) For purposes of computing profit participation under paragraph (11), except as otherwise determined by the Administration, the management expenses of any company which issues participating securities shall not be greater than 2.5 per centum per annum of the combined capital of the company, plus $125,000 if the company's combined capital is less than $20,000,000. For purposes of this paragraph, (A) the term 'combined capital' means the aggregate amount of private capital and outstanding leverage and (B) the term 'management expenses' includes salaries, office expenses, travel, business development, office and equipment rental, bookkeeping and the development, investigation and monitoring of investments, but does not include the cost of services provided by specialized outside consultants, outside lawyers and outside auditors, who perform services not generally expected of a venture capital company nor does such term include the cost of services provided by any affiliate of the company which are not part of the normal process of making and monitoring venture capital investments.

"(8) Notwithstanding paragraph (9), if a company is operating as a limited partnership or as a subchapter s corporation or an equivalent pass-through entity for tax purposes and if there are no accumulated and unpaid prioritized payments, the company may make annual distributions to the partners or shareholders in amounts not greater than each partner's or shareholder's maximum tax liability. For purposes of this paragraph, the term 'maximum tax liability' means the amount of income allocated to each partner or shareholder (including an allocation to the Administration as if it were a taxpayer) for Federal income tax purposes in the income tax return filed or to be filed by the company with respect to the fiscal year of the company immediately preceding such distribution, multiplied by the highest combined marginal Federal and State income tax rates for corporations or individuals, whichever is higher, on each type of income included in such return. For purposes of this paragraph, the term 'State income tax' means the income tax of the State where the company's principal place of business is located.

"(9) After making any distributions as provided in paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors, specifically including the Administration, in the per centums specified in paragraph (11), if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full, subject to the following conditions:

"(A) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 200 per centum of the amount of private capital, any amounts distributed shall be made to private investors and to the Administration in the ratio of leverage to private capital.

"(B) As of the date of the proposed distribution, if the amount of leverage outstanding is more than 100 per centum but not more than 200 per centum of the amount of private capital, 50 per centum of any amounts distributed shall be made to the Administration and 50 per centum shall be made to the private investors.

"(C) If the amount of leverage outstanding is 100 per centum, or less, of the amount of private capital, the ratio shall be that for distribution of profits as provided in paragraph (11).

"(D) Any amounts received by the Administration under subparagraph (A) or (B) shall be applied first as profit participation as provided in paragraph (11) and any remainder shall be applied as a prepayment of the principal amount of the participating securities or debentures.

"(10) After making any distributions pursuant to paragraph (8), a company with participating securities outstanding may return capital to its investors, specifically including the Administration, if there are no accumulated and unpaid prioritized payments and if all amounts due the Administration pursuant to paragraph (11) have been paid in full. Any distributions under this paragraph shall be made to private investors and to the Administration in the ratio of private capital to leverage as of the date of the proposed distribution: *Provided,* That if the amount of leverage outstanding is less than 50

per centum of the amount of private capital or $10,000,000, whichever is less, no distribution shall be required to be made to the Administration unless the Administration determines, on a case by case basis, to require distributions to the Administration to reduce the amount of outstanding leverage to an amount less than $10,000,000.

"(11)(A) A company which issues participating securities shall agree to allocate to the Administration a share of its profits determined by the relationship of its private capital to the amount of participating securities guaranteed by the Administration in accordance with the following:

"(i) If the total amount of participating securities is 100 per centum of private capital or less, the company shall allocate to the Administration a per centum share computed as follows: the amount of participating securities divided by private capital times 9 per centum.

"(ii) If the total amount of participating securities is more than 100 per centum but not greater than 200 per centum of private capital, the company shall allocate to the Administration a per centum share computed as follows:

"(I) 9 per centum, plus

"(II) 3 per centum of the amount of participating securities minus private capital divided by private capital.

"(B) Notwithstanding any other provision of this paragraph—

"(i) in no event shall the total per centum required by this paragraph exceed 12 per centum, unless required pursuant to the provisions of (ii) below,

"(ii) if, on the date the participating securities are marketed, the interest rate on Treasury bonds with a maturity of 10 years is a rate other than 8 per centum, the Administration shall adjust the rate specified in paragraph (A) above, either higher or lower, by the same per centum by which the Treasury bond rate is higher or lower than 8 per centum, and

"(iii) this paragraph shall not be construed to create any ownership interest of the Administration in the company.

"(12) A company may elect to make an in-kind distribution of securities only if such securities are publicly traded and marketable. The company shall deposit the Administration's share of such securities for disposition with a trustee designated by the Administration or, at its option and with the agreement of the company, the Administration may direct the company to retain the Administration's share. If the company retains the Administration's share, it shall sell the Administration's share and promptly remit the proceeds to the Administration. As used in this paragraph, the term 'trustee' means a person who is knowledgeable about and proficient in the marketing of thinly traded securities.

"(h) The computation of amounts due the Administration under participating securities shall be subject to the following terms and conditions:

"(1) The formula in subsection (g)(11) shall be computed annually and the Administration shall receive distributions

of its profit participation at the same time as other investors in the company.

"(2) The formula shall not be modified due to an increase in the private capital unless the increase is provided for in a proposed business plan submitted to and approved by the Administration.

"(3) After distributions have been made, the Administration's share of such distributions shall not be recomputed or reduced.

"(4) If the company prepays or repays the participating securities, the Administration shall receive the requisite participation upon the distribution of profits due to any investments held by the company on the date of the repayment or prepayment.

"(5) If a company is licensed on or before March 31, 1993, it may elect to exclude from profit participation all investments held on that date and in such case the Administration shall determine the amount of the future expenses attributable to such prior investment: *Provided,* That if the company issues participating securities to refinance debentures as authorized in subsection (g)(6), it may not elect to exclude profits on existing investments under this paragraph.".

SEC. 404. POOLING.

Section 321 of the Small Business Investment Act of 1958 (15 U.S.C. 687l) is amended to read as follows:

"SEC. 321. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

"(a) The Administration is authorized to issue trust certificates representing ownership of all or a fractional part of debentures issued by small business investment companies, including companies operating under the authority of section 301(d), and guaranteed by the Administration under this Act, or participating securities which are issued by such companies and purchased and guaranteed pursuant to section 303(g): *Provided,* That such trust certificates shall be based on and backed by a trust or pool approved by the Administration and composed solely of guaranteed debentures or guaranteed participating securities.

"(b) The Administration is authorized, upon such terms and conditions as are deemed appropriate, to guarantee the timely payment of the principal of and interest on trust certificates issued by the Administration or its agent for purposes of this section. Such guarantee shall be limited to the extent of principal and interest on the guaranteed debentures or the redemption price of and priority payments on the participating securities, which compose the trust or pool. In the event that a debenture in such trust or pool is prepaid, or participating securities are redeemed, either voluntarily or involuntarily, or in the event of default of a debenture or voluntary or involuntary redemption of a participating security, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest such prepaid debenture or redeemed participating security and priority payments represent in the trust or pool. Interest on prepaid or defaulted debentures, or priority payments on participating securities, shall accrue and be guaranteed by the Administration only through the date of payment on the guarantee. During the term of the trust certificate, it may be called for redemption due to prepayment or default of all debentures or redemption, whether voluntary or involuntary, of all participating securities residing in the pool.

"(c) The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee of such trust certificates issued by the Administration or its agent pursuant to this section.

"(d) The Administration shall not collect a fee for any guarantee under this section: *Provided,* That nothing herein shall preclude any agent of the Administration from collecting a fee approved by the Administration for the functions described in subsection (f)(2) of this section.

"(e)(1) In the event the Administration pays a claim under a guarantee issued under this section, it shall be subrogated fully to the rights satisfied by such payment.

"(2) No State or local law, and no Federal law, shall preclude or limit the exercise by the Administration of its ownership rights in the debentures or participating securities residing in a trust or pool against which trust certificates are issued.

"(f)(1) The Administration shall provide for a central registration of all trust certificates sold pursuant to this section. Such central registration shall include with respect to each sale—

"(A) identification of each small business investment company;

"(B) the interest rate or prioritized payment rate paid by the small business investment company;

"(C) commissions, fees, or discounts paid to brokers and dealers in trust certificates;

"(D) identification of each purchaser of the trust certificate;

"(E) the price paid by the purchaser for the trust certificate;

"(F) the interest rate on the trust certificate;

"(G) the fee of any agent for carrying out the functions described in paragraph (2); and

"(H) such other information as the Administration deems appropriate.

"(2) The Administrator shall contract with an agent or agents to carry out on behalf of the Administration the pooling and the central registration functions of this section including, notwithstanding any other provision of law, maintenance on behalf of and under the direction of the Administration, such commercial bank accounts as may be necessary to facilitate trusts or pools backed by debentures or participating securities guaranteed under this Act, and the issuance of trust certificates to facilitate such poolings. Such agent or agents shall provide a fidelity bond or insurance in such amounts as the Administration determines to be necessary to fully protect the interests of the Government.

"(3) Prior to any sale, the Administrator shall require the seller to disclose to a purchaser of a trust certificate issued pursuant to this section, information on the terms, conditions, and yield of such instrument.

"(4) The Administrator is authorized to regulate brokers and dealers in trust certificates sold pursuant to this section.".

SEC. 405. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended—

(1) by striking in subsection (g)(3) "stock and $221,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $221,000,000 in guarantees of debentures, of which $40,000,000 is authorized in guarantees of debentures

from companies operating pursuant to section 301(d) of such Act, and $100,000,000 in guarantees of participating securities";

(2) by striking in subsection (i)(3) "stock and $232,000,000 in guarantees of debentures" and inserting in lieu thereof the following: "securities, $232,000,000 in guarantees of debentures, of which $42,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $250,000,000 in guarantees of participating securities"; and

(3) by adding the following new subsections at the end thereof:

"(k) The following program levels are authorized for fiscal year 1995:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $23,000,000 in purchases of preferred securities, $244,000,000 in guarantees of debentures, of which $44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $400,000,000 in guarantees of participating securities.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out subsection (k), including salaries and expenses of the Administration.

"(m) The following program levels are authorized for fiscal year 1996:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $24,000,000 in purchases of preferred securities, $256,000,000 in guarantees of debentures, of which $46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $550,000,000 in guarantees of participating securities.

"(n) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out subsection (m), including salaries and expenses of the Administration.

"(o) The following program levels are authorized for fiscal year 1997:

"(1) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $25,000,000 in purchases of preferred securities, $268,000,000 in guarantees of debentures, of which $48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act, and $700,000,000 in guarantees of participating securities.

"(p) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out subsection (o), including salaries and expenses of the Administration.".

SEC. 406. SAFETY AND SOUNDNESS.

(a) FINANCIAL VIABILITY DETERMINED.—Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by adding the following at the end of subsection (a): "The Administration shall also determine the ability of the company, both prior to licensing and prior to approving any request for financing, to

make periodic payments on any debt of the company which is interest bearing and shall take into consideration the income which the company anticipates on its contemplated investments, the experience of the company's owners and managers, the history of the company as an entity, if any, and the company's financial resources.".

(b) VALUATION GUIDELINES AND RESPONSIBILITY.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by adding at the end thereof the following new subsection:

"(d) Each small business investment company shall adopt written guidelines for determination of the value of investments made by such company. The board of directors of corporations and the general partners of partnerships shall have the sole responsibility for making a good faith determination of the fair market value of the investments made by such company. Determinations shall be made and reported to the Administration not less than semiannually or at more frequent intervals as the Administration determines appropriate: *Provided,* That any company which does not have outstanding financial assistance under the provisions of this title shall be required to make such determinations and reports to the Administration annually, unless the Administration, in its discretion, determines otherwise.".

SEC. 407. EXAMINATIONS.

(a) EXAMINATION BY INVESTMENT DIVISION.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking from subsection (b) "Administration by examiners selected or approved by" and by inserting in lieu thereof the following: "Investment Division of".

Effective date. 15 USC 687b note.

(b) TRANSFER OF RESOURCES.—Effective October 1, 1992, the personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, and other funds employed, held, used, arising from, available or to be made available, which are related to the examination function provided by section 310 of the Small Business Investment Act of 1958 shall be transferred by the Inspector General of the Small Business Administration to the Investment Division of the Small Business Administration.

SEC. 408. NON-FINANCED SBICS.

(a) INVESTMENT LIMITATION.—Section 306(a) of the Small Business Investment Act of 1958 (15 U.S.C. 686(a)) is amended to read as follows:

"(a) If any small business investment company has obtained financing from the Administration and such financing remains outstanding, the aggregate amount of obligations and securities acquired and for which commitments may be issued by such company under the provisions of this title for any single enterprise shall not exceed 20 per centum of the private capital of such company, without the approval of the Administration.".

(b) CONFORMING AMENDMENT.—Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by inserting before the semicolon at the end of subsection (c)(5) the following: ", if such restriction is applicable".

(c) TEMPORARY INVESTMENT OF FUNDS.—Section 308(b) of the Small Business Investment Act of 1958 (15 U.S.C. 687(b)) is amended by inserting after "Such companies" in the third sentence the following: "with outstanding financings".

(d) REGULATORY REVIEW.—Not later than 90 days after the effective date of this Act, the Small Business Administration shall complete a review of those regulations intended to provide for the safety and soundness of those small business investment companies which obtain financing from the Administration under the provisions of the Small Business Investment Act of 1958. The Administration is directed to exempt from such regulations, or to separately regulate, those companies which do not obtain financing from the Administration. 15 USC 681 note.

(e) REPORT TO CONGRESS.—The Administration, within 180 days after the effective date of this Act, shall report on actions taken pursuant to section 8(d) of this Act to the Committees on Small Business of the Senate and the House of Representatives, including the rationale for its actions. 15 USC 681 note.

SEC. 409. MINIMUM CAPITAL.

Section 302 of the Small Business Investment Act of 1958 (15 U.S.C. 682) is amended by striking from subsection (a) "1979 pursuant to sections 301(c) and (d) of this Act shall be not less than $500,000" and inserting in lieu thereof the following: "1992 pursuant to section 301(c) of this title shall be not less than $2,500,000 and pursuant to section 301(d) of this title shall be not less than $1,500,000".

SEC. 410. DEFINITIONS.

Section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662) is amended as follows:

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) notwithstanding any other provision of law, the term 'private capital' means the private paid-in capital and paid-in surplus of a corporate licensee, or the private partnership capital of an unincorporate licensee, inclusive of (A) any funds invested in the licensee by a public or private pension fund, (B) any funds invested in the licensee by State or local government entities, to the extent that such investment does not exceed 33 percent of a licensee's total private capital and otherwise meets criteria established by the Administration, and (C) unfunded commitments from institutional investors that meet criteria established by the Administration, but it excludes any funds which are borrowed by the licensee from any source or which are obtained or derived, directly or indirectly, from any Federal source, including the Administration: *Provided,* That no unfunded commitment from an institutional investor may be used for the purpose of meeting the minimum amount of private capital required by this Act or as the basis for the Administration to issue obligations to provide financing; and

"(10) the term 'leverage' includes debentures purchased or guaranteed by the Administration, participating securities purchased or guaranteed by the Administration, or preferred securities issued by companies licensed under section 301(d) of this Act and which have been purchased by the Administration.".

SEC. 411. INTEREST RATE CEILING.

Section 305 of the Small Business Investment Act of 1958 (15 U.S.C. 685) is amended by striking the period at the end of subsection (c) and by inserting in lieu thereof the following: ": *Provided,* That the Administration also shall permit those companies which have issued debentures pursuant to this Act to charge a maximum rate of interest based upon the coupon rate of interest on the outstanding debentures, determined on an annual basis, plus such other expenses of the company as may be approved by the Administration.".

SEC. 412. PREFERRED PARTNERSHIP INTERESTS.

Section 303(c) of the Small Business Investment Act of 1958 (15 U.S.C. 683(c)) is amended—

(1) by striking from the first sentence the word "preferred";

(2) by inserting after the second sentence the following: "As used in this subsection, the term 'securities' means shares of nonvoting stock or other corporate securities or limited partnership interests which have similar characteristics."; and

(3) by striking from paragraph (1) "shares of nonvoting stock (or other corporate securities having similar characteristics)" and inserting in lieu thereof "such securities".

SEC. 413. INDIRECT FUNDS FROM STATE OR LOCAL GOVERNMENTS.

Section 303(e) of the Small Business Investment Act of 1958 (15 U.S.C. 683(e)) is amended—

(1) by inserting after the word "company" the following: "licensed under section 301(d) and notwithstanding section 103(9)"; and

(2) by striking "prior" and all that follows through the period at the end and inserting "to November 21, 1989: *Provided,* That such companies may include in private capital for any purpose funds indirectly obtained from State or local governments. As used in this subsection, the term 'capital indirectly obtained' includes income generated by a State financing authority or similar State institution or agency or from the investment of State or local money or amounts originally provided to nonprofit institutions or corporations which such institutions or corporations, in their discretion, determine to invest in a company licensed under section 301(d).".

SEC. 414. SBIC APPROVALS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (a)(2): "Subject to approval in appropriations Acts, amounts authorized for preferred securities, debentures or participating securities under title III of the Small Business Investment Act of 1958 may be obligated in one fiscal year and disbursed or guaranteed in the following fiscal year.".

Federal Register, publication. Regulations. 15 USC 661 note.

SEC. 415. IMPLEMENTATION.

Notwithstanding any law, rule, regulation or administrative moratorium, except as otherwise expressly provided in this Act, the Small Business Administration shall—

(1) within 90 days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act and the amendments made by this Act; and

(2) within 180 days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act, and enter such contracts as are necessary to implement this Act and the amendments made by this Act.

SEC. 416. BUY AMERICA.

Section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 1661) is amended by adding at the end the following: "It is the intention of the Congress that in the award of financial assistance under this Act, when practicable, priority be accorded to small business concerns which lease or purchase equipment and supplies which are produced in the United States and that small business concerns receiving such assistance be encouraged to continue to lease or purchase such equipment and supplies.". 15 USC 661.

SEC. 417. STUDIES AND REPORTS.

(a) SBA ANNUAL REPORT.—Section 308(g) of the Small Business Investment Act of 1958 (12 U.S.C. 687(g)) is amended by adding at the end the following new paragraph: 15 USC 687.

"(3) In its annual report for the year ending on December 31, 1993, and in each succeeding annual report made pursuant to section 10(a) of the Small Business Act, the Administration shall include a full and detailed description or account relating to—

"(A) the number of small business investment companies the Administration licensed, the number of licensees that have been placed in liquidation, and the number of licensees that have surrendered their licenses in the previous year, identifying the amount of government leverage each has received and the type of leverage instruments each has used;

"(B) the amount of government leverage that each licensee received in the previous year and the types of leverage instruments each licensee used;

"(C) for each type of financing instrument, the sizes, geographic locations, and other characteristics of the small business investment companies using them, including the extent to which the investment companies have used the leverage from each instrument to make small business loans, equity investments, or both; and

"(D) the frequency with which each type of investment instrument has been used in the current year and a comparison of the current year with previous years.".

(b) REPORT OF THE COMPTROLLER GENERAL.—Not later than 4 years after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Committees on Small Business of the House of Representatives and the Senate a report that reviews the Small Business Investment Company program (established under the Small Business Investment Act of 1958) for the 3-year period following the date of enactment of this Act, with respect to each item listed in section 308(g)(3) of the Small Business Investment Act of 1958, as amended by subsection (a). 15 USC 681 note.

SEC. 418. NO EFFECT ON SECURITIES LAWS. 15 USC 661 note.

Nothing in this Act (and no amendment made by this Act) shall be construed to affect the applicability of the securities laws, as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934, or any of the rules and regulations thereunder, or

otherwise supersede or limit the jurisdiction of the Securities and Exchange Commission or the authority at any time conferred under the securities laws.

Approved September 4, 1992.

LEGISLATIVE HISTORY—H.R. 4111:

HOUSE REPORTS: No. 102-492 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 14, considered and passed House.
Aug. 6, considered and passed Senate, amended.
Aug. 11, House concurred in Senate amendments with an amendment.
Aug. 12, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 4, Presidential statement.

Public Law 102-367
102d Congress

An Act

To amend the Job Training Partnership Act to improve the delivery of services to hard-to-serve youth and adults, and for other purposes.

Sept. 7, 1992
[H.R. 3033]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Job Training Reform Amendments of 1992.
Intergovernmental relations.
29 USC 1501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Job Training Reform Amendments of 1992".

SEC. 2. TABLE OF CONTENTS.

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Sec. 1. Short title.
Sec. 2. Table of contents.

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Sec. 103. Definitions.

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Sec. 114. Review and approval of plan.
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TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

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Sec. 601. State human resource investment council.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Effective date and transition provisions.
Sec. 702. Technical and conforming amendments.

TITLE I—JOB TRAINING PARTNERSHIP REQUIREMENTS

Subtitle A—General Provisions

SEC. 101. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

29 USC 1501 note.

(a) DECLARATION OF POLICY.—In recognition of the training needs of low-income adults and youth, the Congress declares it to be the policy of the United States to—

(1) provide financial assistance to States and local service delivery areas to meet the training needs of such low-income adults and youth, and to assist such individuals in obtaining unsubsidized employment;

(2) increase the funds available for programs under title II of the Job Training Partnership Act (29 U.S.C. 1601 et seq.) by not less than 10 percent of the baseline each fiscal year to provide for growth in the percentage of eligible adults and youth served above the 5 percent of the eligible population that is currently served; and

(3) encourage the provision of longer, more comprehensive, education, training, and employment services to the eligible population, which also requires increased funding in order to maintain current service levels.

(b) STATEMENT OF PURPOSE.—Section 2 of the Job Training Partnership Act (29 U.S.C. 1501) (hereafter in this Act referred to as "the Act") is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 2. It is the purpose of this Act to establish programs to prepare youth and adults facing serious barriers to employment for participation in the labor force by providing job training and other services that will result in increased employment and earnings, increased educational and occupational skills, and decreased welfare dependency, thereby improving the quality of the work force and enhancing the productivity and competitiveness of the Nation.".

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 3 of the Act (29 U.S.C. 1502) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

"(a)(1) There are authorized to be appropriated to carry out parts A and C of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year. Of the sums appropriated to carry out parts A and C of title II for each such fiscal year, an amount not less than 40 percent of such sums shall be made available to carry out part A of such title and an amount not less than 40 percent of such sums shall be made available to carry out part C of such title.

"(2) There are authorized to be appropriated to carry out part B of title II such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year.";

(2) by redesignating subsection (c) as subsection (b);

(3) by inserting after such subsection (b) the following:

"(c)(1) There are authorized to be appropriated to carry out parts A, C, D, E, F, and G of title IV for fiscal year 1993 and each succeeding fiscal year an amount equal to not more than 7 percent of the total amount appropriated to carry out this Act for each such fiscal year.

"(2) From the amount appropriated under paragraph (1) for any fiscal year, the Secretary—

"(A) shall first reserve—

"(i) an amount of not less than 3.3 percent of the amount available for parts A and C of title II for such fiscal year to carry out section 401; and

"(ii) an amount of not less than 3.2 percent of the amount available for parts A and C of title II for such fiscal year to carry out section 402; and

"(B) after making such reservations, shall reserve—

"(i) an amount equal to 7 percent of the amount appropriated under paragraph (1) to carry out part C of title IV;

"(ii) $15,000,000 to carry out section 453, of which—

"(I) not less than 20 percent shall be used to carry out section 453(b);

"(II) not less than 20 percent shall be used to carry out section 453(c); and

"(III) $1,000,000 shall be used to carry out section 453(d);

"(iii) $6,000,000 to carry out subsections (e) and (f) of section 462; and

"(iv) $2,000,000 to carry out part F of title IV.

"(3) There are authorized to be appropriated to carry out part H of title IV $100,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(4) There are authorized to be appropriated to carry out part I of title IV $5,000,000 for each of the fiscal years 1993 through 1997.

"(5) There are authorized to be appropriated to carry out part J of title IV, $15,000,000 for fiscal year 1993 and such sums as may be necessary for each succeeding fiscal year."; and

(4) in subsection (e)—

(A) by striking "(e)(1) Subject to paragraph (2), there" and inserting "(e) There";

(B) by striking "1994" and inserting "1996"; and

(C) by striking paragraphs (2) and (3).

(b) CONFORMING AMENDMENTS.—Subsections (a) and (e) of section 302 of the Act (29 U.S.C. 1652 (a) and (e)) and section 326(h) of the Act (1662e(h)) are amended by striking "3(c)" and inserting "3(b)".

SEC. 103. DEFINITIONS.

(a) IN GENERAL.—Section 4 of the Act (29 U.S.C. 1503) is amended—

(1) in paragraph (3), by striking "a program under part A" and inserting "programs under parts A and C"; and

(2) in paragraph (5)—

(A) by inserting "the Association of Farmworker Opportunity Programs, the Center for Employment Training, literacy organizations, agencies or organizations serving older individuals, organizations that provide service opportunities, youth corps programs," after "Jobs for Youth,"; and

(B) by striking "(including the National Urban Indian Council)";

(3) in paragraph (8)—

(A) in subparagraph (B)(i), by striking "the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget" and inserting "the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))";

(B) in subparagraph (C), by inserting "(or has been determined within the 6-month period prior to the application for the program involved to be eligible to receive)" after "is receiving";

(C) in subparagraph (D), by inserting "subsections (a) and (c) of" after "under"; and

(D) in subparagraph (F), by striking "adult handicapped individual" and inserting "individual with a disability";

(4) in paragraph (10)—

(A) by striking "(10)" and inserting "(10)(A)";

(B) by striking "handicapped individual" and inserting "individual with a disability"; and

(C) by adding at the end the following:

"(B) The term 'individuals with disabilities' means more than one individual with a disability.";

(5) in paragraph (22), by striking "and the Trust Territory of the Pacific Islands" and inserting "the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau";

(6) in paragraph (24)—

(A) by inserting "financial assistance (except as a post-termination service), drug and alcohol abuse counseling and referral, individual and family counseling," after "health care,";

(B) by striking "materials for the handicapped," and inserting "materials for individuals with disabilities, job coaches,"; and

(C) by inserting "and dependent care" after "child care";

(7) by amending paragraph (29) to read as follows:

"(29) The term 'displaced homemaker' means an individual who has been providing unpaid services to family members in the home and who—

"(A) has been dependent either—

"(i) on public assistance and whose youngest child is within 2 years of losing eligibility under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) on the income of another family member but is no longer supported by that income; and

"(B) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment."; and

(8) by adding after paragraph (30) the following new paragraphs:

"(31) The term 'basic skills deficient' means, with respect to an individual, that the individual has English reading or computing skills at or below the 8th grade level on a generally accepted standardized test or a comparable score on a criterion-referenced test.

"(32) The term 'case management' means the provision of a client-centered approach in the delivery of services, designed to—

"(A) prepare and coordinate comprehensive employment plans, such as service strategies, for participants to ensure access to the necessary training and supportive services, using, where feasible, computer-based technologies; and

"(B) provide job and career counseling during program participation and after job placement.

"(33) The term 'citizenship skills' means skills and qualities, such as teamwork, problem-solving ability, self-esteem, initiative, leadership, commitment to life-long learning, and an ethic of civic responsibility, that are characteristic of productive workers and good citizens.

"(34) The term 'family' means two or more persons related by blood, marriage, or decree of court, who are living in a single residence, and are included in one or more of the following categories:

"(A) A husband, wife, and dependent children.

"(B) A parent or guardian and dependent children.

"(C) A husband and wife.

"(35) The term 'hard-to-serve individual' means an individual who is included in one or more of the categories described in section 203(b) or subsection (b) or (d) of section 263.

"(36) The term 'JOBS' means the Job Opportunities and Basic Skills Training Program authorized under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.).

"(37) The term 'participant' means an individual who has been determined to be eligible to participate in and who is receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the participant began receiving subsidized employment, training, or other services provided under this Act.

"(38) The term 'school dropout' means an individual who is no longer attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma.

"(39) The term 'termination' means the separation of a participant who is no longer receiving services (except post-termination services authorized under sections 204(c)(4) and 264(d)(5) and followup services authorized under section 253(d)) under a program authorized by this Act.

"(40) The term 'youth corps program' means a program, such as a conservation corps or youth service program, that offers productive work with visible community benefits in a natural resource or human service setting and that gives participants a mix of work experience, basic and life skills, education, training, and supportive services.".

(b) CONFORMING AMENDMENTS.—The Act (29 U.S.C. 1501 et seq.) is amended—

(1) in section 4 (29 U.S.C. 1503)—

(A) in paragraph (5), by striking "the handicapped" and inserting "individuals with disabilities";

(B) in paragraph (8)(F), by striking "adult handicapped individual" and inserting "individual with a disability"; and

(C) in paragraph (28), by striking "section 521(31)" and inserting "section 521(41)";

(2) in section 167(a)(2) (29 U.S.C. 1577(a)(2)), by striking "handicap" and inserting "disability";

(3) in the second section 172(b) (as added by Public Law 100–628) (29 U.S.C. 1583(b)), by striking "handicapped individuals" and inserting "individuals with disabilities"; and

(4) in section 423(1) (29 U.S.C. 1693(1)), by striking "handicapped individual" and inserting "individual with a disability".

Subtitle B—Service Delivery System

SEC. 111. ESTABLISHMENT OF SERVICE DELIVERY AREAS.

Section 101(c)(1) of the Act (29 U.S.C. 1511(c)(1)) is amended by inserting before the period at the end of the first sentence the following: ", except as provided for in sections 106(j)(4)(B) and 164(b)(1)(B)".

SEC. 112. ESTABLISHMENT OF PRIVATE INDUSTRY COUNCIL.

(a) COMPOSITION.—

(1) MEMBERSHIP.—Section 102(a) of the Act (29 U.S.C. 1512(a)(2)) is amended—

(A) by striking "and" at the end of paragraph (1); and

(B) by striking paragraph (2) and inserting the following:

"(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

"(3) representatives of each of the following:

"(A) Educational agencies (which agencies shall be representative of all educational agencies in the service delivery area).

"(B) Vocational rehabilitation agencies.

"(C) Public assistance agencies.

"(D) Economic development agencies.

"(E) The public employment service.".

(2) NOMINATION.—Section 102(c)(2) of the Act (29 U.S.C. 1512(c)(2)) is amended to read as follows:

"(2) The education representatives on the council shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education (including entities offering adult education) or general organizations of such institutions, within the service delivery area.".

(3) RECOMMENDATIONS.—Section 102(c)(3) of the Act (29 U.S.C. 1512(c)(3)) is amended to read as follows:

"(3) The labor representatives on the council shall be selected from individuals recommended by recognized State and local labor federations. If the State or local labor federation fails to nominate a sufficient number of individuals to meet the labor representation requirements of subsection (a)(2), individual workers may be included on the council to complete the labor representation.".

(4) ADDITIONAL REPRESENTATIVES.—Section 102(c) of the Act (20 U.S.C. 1512(c)) is amended by adding at the end the following new paragraph:

"(4) The remaining members of the council shall be selected from individuals recommended by interested organizations.".

SEC. 113. JOB TRAINING PLAN.

(a) RESTRICTION OF PLANS TO TITLE II PROGRAMS.—Section 104(a) of the Act (29 U.S.C. 1514(a)) is amended by inserting "under title II" after "appropriated".

(b) CONTENTS OF JOB TRAINING PLANS.—Section 104(b) of the Act (29 U.S.C. 1514(b)) is amended to read as follows:

"(b) Each job training plan for the programs conducted under title II shall contain—

"(1) an identification of the entity that will administer the program and be the grant recipient of funds from the State;

"(2) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of the service delivery area program with other programs and service providers in the labor market area, including provisions for—

"(A) assessing needs and problems in the labor market that form the basis for program planning;

"(B) ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market;

"(C) coordinating or jointly implementing job development, placement, and other employer outreach activities; and

"(D) entering into agreements and contracts, established pursuant to section 141(e)(2), between service delivery areas to pay or share the cost of services;

"(3) a description of methods of complying with the coordination criteria contained in the Governor's coordination and special services plan;

"(4) a description of linkages established with appropriate agencies, pursuant to sections 205 and 265, designed to enhance the provision of services and avoid duplication, including—

"(A) agreements with appropriate educational agencies;

"(B) arrangements with other education, training, and employment programs authorized by Federal law;

"(C) if appropriate, joint programs in which activities supported with assistance under this Act are coordinated with activities (such as service opportunities and youth corps programs) supported with assistance made available under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

"(D) efforts to ensure the effective delivery of services to participants in coordination with local welfare agencies and other local agencies, community-based organizations, volunteer groups, business and labor organizations, and other training, education, employment, and social service programs;

"(5) goals and objectives for the programs, including—

"(A) a description of the manner in which the program will contribute to the economic self-sufficiency of participants, and the productivity of the local area and the Nation; and

"(B) performance standards established in accordance with standards prescribed under section 106;

"(6) procedures for identifying and selecting participants, including—

"(A) goals for the training and placement of hard-to-serve individuals, and a description of efforts to be undertaken to accomplish such goals;

"(B) outreach efforts to recruit and expand awareness of training and placement opportunities for such individuals; and

"(C) types of services to be provided to address the special needs of such individuals;

"(7)(A) goals for—

"(i) the training of women in nontraditional employment; and

"(ii) the training-related placement of women in nontraditional employment and apprenticeships; and

"(B) a description of efforts to be undertaken to accomplish the goals described in subparagraph (A), including efforts to increase awareness of such training and placement opportunities;

"(8) adult and youth program budgets for 2 program years and any proposed expenditures for the succeeding 2 program years;

"(9) a description of—

"(A) the assessment process that will identify participant skill levels;

"(B) the process for providing information and referrals for applicants and participants relating to appropriate programs and service providers;

"(C) the services to be provided, including the means for involving labor organizations and community-based organizations in the provision of services, the estimated duration of service, and the estimated training cost per participant;

"(D) the competency levels to be achieved by participants as a result of program participation; and

"(E) the procedures for evaluating the progress of participants in achieving competencies;

"(10) a description of the procedures and methods of carrying out title V, where applicable, relating to incentive bonus payments for the placement of individuals eligible under such title;

"(11) procedures, consistent with sections 107 and 164, for selecting service providers, which procedures shall take into account—

"(A) past performance of the providers regarding—

"(i) job training, basic skills training, or related activities;

"(ii) fiscal accountability; and

"(iii) ability to meet performance standards; and

"(B) the ability of the providers to provide services that can lead to achievement of competency standards for participants with identified deficiencies;

"(12) fiscal control (including procurement, monitoring, and management information system requirements), accounting, audit, and debt collection procedures, consistent with section 164, to assure the proper disbursal of, and accounting for, funds received under title II; and

"(13) procedures for the preparation and submission of an annual report to the Governor, which report shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants;

"(C) information on the extent to which applicable performance standards were met;

"(D) information on the extent to which the service delivery area has met the goals of the area for the training and training-related placement of women in nontraditional employment and apprenticeships; and

"(E) a statistical breakdown of women trained and placed in nontraditional occupations, including information regarding—

"(i) the type of training received, by occupation;

"(ii) whether the participant was placed in a job or apprenticeship, and, if so, the occupation and wage at placement;

"(iii) the age of the participant;

"(iv) the race of the participant; and

"(v) retention of the participant in nontraditional employment.".

SEC. 114. REVIEW AND APPROVAL OF PLAN.

Section 105 of the Act (29 U.S.C. 1515) is amended—

(1) in subsection (a)(1)(B)(ii), by inserting "community-based organizations and" after "appropriate"; and

(2) in subsection (b)(1)(E), by striking "section 121(b)", and inserting "sections 121(b), 205, and 265".

SEC. 115. PERFORMANCE STANDARDS.

(a) IN GENERAL.—Section 106 of the Act (29 U.S.C. 1516) is amended to read as follows:

"PERFORMANCE STANDARDS

"SEC. 106. (a) FINDINGS.—The Congress recognizes that job training is an investment in human capital and not an expense. In order to determine whether that investment has been productive, the Congress finds that—

"(1) it is essential that criteria for measuring the return on this investment be developed; and

"(2) the basic return on the investment is to be measured by long-term economic self-sufficiency, increased employment and earnings, reductions in welfare dependency, and increased educational attainment and occupational skills.

"(b) TITLE II PERFORMANCE STANDARDS.—

"(1) GENERAL OBJECTIVE.—In prescribing performance standards for programs under parts A and C of title II, the Secretary shall ensure that States and service delivery areas will make efforts to increase services and positive outcomes for hard-to-serve individuals.

"(2) ACHIEVEMENT OF BASIC MEASURES.—In order to determine whether the basic measures described in subsection (a) are achieved for programs under parts A and C of title II, the Secretary, in consultation with the Secretary of Education and the Secretary of Health and Human Services, shall prescribe performance standards.

"(3) FACTORS FOR ADULT STANDARDS.—The Secretary shall base the performance standards for adult programs under part A of title II on appropriate factors, which may include—

"(A) placement in unsubsidized employment;

"(B) retention for not less than 6 months in unsubsidized employment;

"(C) an increase in earnings, including hourly wages;

"(D) a reduction in welfare dependency; and

"(E) acquisition of skills, including basic skills, required to promote continued employability in the local labor market (including attainment of the competency levels described in paragraph (5)), or acquisition of a high school diploma or the equivalent of the diploma, if the acquisition of such skills or diploma is in addition to obtaining one or more of the outcomes described in subparagraphs (A) through (D).

"(4) FACTORS FOR YOUTH STANDARDS.—

"(A) IN GENERAL.—The Secretary shall base the performance standards for youth programs under part C of title II on appropriate factors described in paragraph (3), and on factors including—

"(i) attainment of employment competencies (including attainment of the competency levels described in paragraph (5));

"(ii) dropout prevention and recovery;

"(iii) secondary and postsecondary school completion or the equivalent of such completion; and

"(iv) enrollment in other training programs, apprenticeships, or postsecondary education, or enlistment in the Armed Forces.

"(B) VARIATIONS.—The Secretary may prescribe variations in the standards described in subparagraph (A) to reflect the differences between in-school and out-of-school programs.

"(5) COMPETENCY LEVELS.—The private industry councils, in consultation with appropriate educational agencies, and, where appropriate, the private sector, labor organizations, and community-based organizations, shall establish youth and adult competency levels, based on such factors as entry level skills and other hiring requirements.

"(6) REQUIREMENTS.—The performance standards described in paragraphs (3) and (4) shall include provisions governing—

"(A) the base period prior to program participation that will be used for measurement of the factors in such paragraphs, as appropriate;

"(B) a representative period after termination from the program that is a reasonable indicator of postprogram employment, earnings, and cash welfare payment reductions; and

"(C) cost-effective methods for obtaining such data as are necessary to carry out this section and section 452(d) which, notwithstanding any other provision of law, may include access to earnings records, State employment security records, records collected under the Federal Insurance Contributions Act (chapter 21 of the Internal Revenue Code of 1986), State aid to families with dependent children records, statistical sampling techniques, and similar records or measures, with appropriate safeguards to protect the confidentiality of the information obtained.

"(7) INCENTIVE GRANTS.—From funds available under section 202(c)(1)(B), and under section 262(c)(1)(B), for providing incentive grants under this paragraph, each Governor shall award incentive grants for programs under parts A and C of title II, other than programs under section 204(d), to service delivery areas that—

"(A) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (8)) with respect to services to all participants;

"(B) exceed the performance standards established by the Secretary under this subsection (except for the standards established under paragraph (8)) with respect to services to populations of hard-to-serve individuals;

"(C) serve more than the minimum percentage of out-of-school youth required by section 263(f);

"(D) place participants in employment that—

"(i) provides post-program earnings exceeding the applicable performance criteria; and

"(ii) includes employer-assisted employment benefits, including health benefits, consistent with the requirements of section 143(a)(4) relating to subsidized employment; and

"(E) exceed the performance standards established by the Governor under subsection (e) for programs under title II, except that not more than 25 percent of the incentive grants shall be awarded on performance standards established under subsection (e).

"(8) PROGRAM EXPENDITURES.—The Secretary shall prescribe performance standards relating gross program expenditures to various performance measures under this subsection, excluding any cost per participant measure. The Governors shall not take performance standards prescribed under this paragraph into consideration in awarding incentive grants under paragraph (7).

"(c) TITLE III PERFORMANCE STANDARDS.—

"(1) IN GENERAL.—The Secretary shall prescribe performance standards for programs under title III based on placement and retention in unsubsidized employment.

"(2) NEEDS-RELATED PAYMENTS.—In prescribing performance standards under paragraph (1), the Secretary shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).

"(d) STATE VARIATION OF PERFORMANCE STANDARDS.—

"(1) AUTHORITY OF GOVERNOR.—Each Governor shall prescribe, and report in the Governor's coordination and special services plan, within parameters established by the Secretary, variations in the standards issued under subsections (b) and (c) based upon—

"(A) specific economic, geographic, and demographic factors in the State and in service delivery areas and substate areas within the State;

"(B) the characteristics of the population to be served;

"(C) the demonstrated difficulties in serving the population; and

"(D) the type of services to be provided.

"(2) RESPONSIBILITIES OF SECRETARY.—The Secretary shall—

"(A) provide information and technical assistance on performance standards adjustments;

"(B) collect data that identifies hard-to-serve individuals;

"(C) provide guidance on setting performance standards at the service provider level that encourages increased service to such individuals; and

"(D) review performance standards to ensure that such standards provide maximum incentive in serving such individuals.

"(e) ADDITIONAL STATE STANDARDS PERMITTED.—The Governor may prescribe performance standards for programs under title II and title III in addition to those standards established by the Secretary under subsections (b) and (c). Such additional standards may include criteria relating to establishment of effective linkages with other programs to avoid duplication and enhance the delivery of services, the provision of high quality services, and successful service to hard-to-serve individuals. The additional performance standards established for title II shall be reported in the Governor's coordination and special services plan.

"(f) TITLE IV STANDARDS.—The Secretary shall prescribe performance standards for programs under parts A and B of title IV.

"(g) ADJUSTMENT FOR SPECIAL POPULATIONS.—The Secretary shall prescribe a system for variations in performance standards for special populations to be served, including Native Americans, migrant and seasonal farmworkers, disabled and Vietnam era veterans, including veterans who served in the Indochina Theater between August 5, 1964 and May 7, 1975, older individuals, including those served under section 204(d), and offenders, taking into account their special circumstances.

"(h) MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary may modify the performance standards under this section not more often than once every 2 program years. Such modifications shall not be retroactive.

"(2) JOB CORPS.—Notwithstanding paragraph (1), the Secretary may modify standards relating to programs under part B of title IV each program year.

"(i) FUNCTIONS OF NCEP.—The National Commission for Employment Policy shall—

"(1) advise the Secretary in the development of performance standards under this section for measuring results of participation in job training and in the development of parameters for variations of such standards referred to in subsection (d);

"(2) evaluate the usefulness of such standards as measures of desired performance; and

"(3) evaluate the impact of such standards (intended or otherwise) on the choice of who is served, what services are provided, and the cost of such services in service delivery areas.

"(j) FAILURE TO MEET STANDARDS.—

"(1) UNIFORM CRITERIA.—The Secretary shall establish uniform criteria for determining whether—

"(A) a service delivery area fails to meet performance standards under this section; and

"(B) the circumstances under which remedial action authorized under this subsection shall be taken.

"(2) TECHNICAL ASSISTANCE.—Each Governor shall provide technical assistance to service delivery areas failing to meet performance standards under the uniform criteria established under paragraph (1)(A).

"(3) PROCESS FOR CORRECTION.—Not later than 90 days after the end of each program year, each Governor shall report to the Secretary the final performance standards and performance for each service delivery area within the State, along with the plans of the Governor for providing the technical assistance required under paragraph (2).

"(4) REORGANIZATION PLAN.—

"(A) PLAN REQUIRED FOR CONTINUED FAILURE.—If a service delivery area continues to fail to meet such performance standards for 2 consecutive program years, the Governor shall notify the Secretary and the service delivery area of the continued failure, and shall develop and impose a reorganization plan.

"(B) ELEMENTS.—Such plan may restructure the private industry council, prohibit the use of designated service providers, merge the service delivery area into one or more other existing service delivery areas, or make other changes as the Governor determines to be necessary to improve

performance, including the selection of an alternative administrative entity to administer the program for the service delivery area.

"(C) ALTERNATIVE ADMINISTRATIVE ENTITY SELECTION.—The alternative administrative entity described in subparagraph (B) may be a newly formed private industry council or any agency jointly selected by the Governor and the chief elected official of the largest unit of general local government in the service delivery area or substate area.

"(5) SECRETARIAL ACTION.—

"(A) PLAN.—If the Governor has not imposed a reorganization plan as required by paragraph (4) within 90 days of the end of the second program year in which a service delivery area has failed to meet its performance standards, the Secretary shall develop and impose such a plan.

"(B) RECAPTURE OR WITHHOLDING.—The Secretary shall recapture or withhold an amount not to exceed one-fifth of the State administration set-aside allocated under section 202(c)(1)(A) and under section 262(c)(1)(A), for the purposes of providing technical assistance under a reorganization plan imposed pursuant to subparagraph (A).

"(6) APPEAL BY SERVICE DELIVERY AREA.—

"(A) TIMING.—A service delivery area that is the subject of a reorganization plan under paragraph (4) may, within 30 days after receiving notice thereof, appeal to the Secretary to rescind or revise such plan.

"(B) RECAPTURE OR WITHHOLDING.—

"(i) DETERMINATION.—If the Secretary determines, upon appeal under subparagraph (A), that the Governor has not provided appropriate technical assistance as required under paragraph (2), the Secretary shall recapture or withhold an amount not to exceed one-fifth of the State administration set-aside allotted under section 202(c)(1)(A) and under section 262(c)(1)(A). The Secretary shall use funds recaptured or withheld under this subparagraph to provide appropriate technical assistance.

"(ii) BASIS.—If the Secretary approved the technical assistance plan provided by the Governor under paragraph (2), a determination under this subparagraph shall only be based on failure to effectively implement such plan and shall not be based on the plan itself.

"(7) APPEAL BY GOVERNOR.—A Governor of a State that is subject to recapture or withholding under paragraph (5) or (6)(B) may, within 30 days of receiving notice thereof, appeal such withholding to the Secretary.

"(k) CLARIFICATION OR REFERENCE.—For the purposes of this section, the term 'employment' means employment for 20 or more hours per week.".

(b) CONFORMING AMENDMENT.—Sections 311(a), 311(b)(8), and 322(a)(4) (29 U.S.C. 1661(a), 1661(b)(8), and 1662a(a)(4)) are each amended by striking "106(g)" and inserting "106(c)".

SEC. 116. SELECTION OF SERVICE PROVIDERS.

(a) SELECTION GUIDELINES.—Section 107(a) of the Act (29 U.S.C. 1517(a)) is amended—

(1) by inserting ", (in accordance with guidelines established by the Secretary)" in the first sentence after "demonstrated performance"; and

(2) by adding after the 1st sentence the following: "In addition, consideration shall be given to demonstrated performance in making available appropriate supportive services, including child care.".

(b) ADDITIONAL REQUIREMENTS FOR SELECTION.—Section 107 of the Act (29 U.S.C. 1517) is amended by adding at the end the following new subsection:

"(e) The selection of service providers shall be made on a competitive basis to the extent practicable, and shall include—

"(1) a determination of the ability of the service provider to meet program design specifications established by the administrative entity that take into account the purposes of the Act and the goals established in the Governor's coordination and special services plan; and

"(2) documentation of compliance with procurement standards established by the Governor under section 164, including the reasons for selection.".

SEC. 117. LIMITATION ON CERTAIN COSTS.

(a) APPLICATION OF COST LIMITATIONS.—Section 108(a) of the Act (29 U.S.C. 1518(a)) is amended to read as follows:

"(a) Except as provided in subparagraph (A) or (B) of section 141(d)(3), funds expended under this Act shall be charged to the appropriate cost categories.".

(b) COST CATEGORIES AND LIMITATIONS.—Section 108(b) of the Act (29 U.S.C. 1518(b)) is amended to read as follows:

"(b)(1) The cost limitations contained in this subsection shall apply separately to the funds allocated for programs under part A of title II, and to the funds allocated for programs under part C of such title.

"(2) Funds expended under parts A and C of title II shall be charged to one of the following categories:

"(A) Administration.

"(B) Training-related and supportive services.

"(C) Direct training services.

"(3) The Secretary shall, consistent with sections 204(b) and 264(c), define by regulation the cost categories specified in paragraph (2). Regulations.

"(4) Of the funds allocated to a service delivery area for any program year under parts A or C of title II—

"(A) not more than 20 percent shall be expended for administration; and

"(B) not less than 50 percent shall be expended for direct training services.

"(5) Each service delivery area shall ensure that for all services provided to participants through contracts, grants, or other agreements with a service provider, such contract, grant, or agreement shall include appropriate amounts necessary for administration and supportive services.

"(6) For purposes of paragraph (4), the term 'allocated' means allocated for a program year, as adjusted for reallocations and reallotments under section 109 and for transfers of funds under sections 206, 256, and 266.".

(c) REFERENCE TO LIMITATIONS.—Section 108(c) of the Act (29 U.S.C. 1518(c)) is amended to read as follows:

"(c) Funds available under title III shall be expended in accordance with the limitations specified in section 315.".

SEC. 118. RECAPTURE AND REALLOTMENT OF UNOBLIGATED FUNDS UNDER TITLE II.

Part A of title I of the Act (29 U.S.C. 1511 et seq.) is amended by adding at the end the following new section:

"RECAPTURE AND REALLOTMENT OF UNOBLIGATED FUNDS

29 USC 1519.

"SEC. 109. (a) WITHIN STATE REALLOCATIONS.—

"(1) IN GENERAL.—For program years beginning on or after July 1, 1993, the Governor shall, in accordance with the requirements of this subsection, reallocate to eligible service delivery areas within the State funds appropriated for such program year that are available for reallocation.

"(2) AMOUNT.—The amount available for reallocation is equal to the amount by which the unobligated balance of the service delivery area allocation under part A or C of title II for all service delivery areas within the State at the end of the program year prior to the program year for which the determination under this subsection is made exceeds 15 percent of such allocation for the prior program year.

"(3) REALLOCATION.—The Governor shall reallocate the amounts available pursuant to paragraph (2) to eligible service delivery areas within the State that have the highest rates of unemployment for an extended period of time and to those with the highest poverty rates.

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible service delivery area means a service delivery area that has obligated at least 85 percent of its allocation under part A or C of title II, respectively, for the program year prior to the program year for which the determination under this subsection is made.

"(b) REALLOTMENT AMONG STATES.—

"(1) IN GENERAL.—For program years beginning on or after July 1, 1993, the Secretary shall, in accordance with the requirements of this subsection, reallot to eligible States funds appropriated for such program year that are available for reallotment.

"(2) AMOUNT.—The amount available for reallotment is equal to the amount by which the unobligated balance of the State allotment under part A or C of title II, respectively, for all States at the end of the program year prior to the program year for which the determination under this subsection is made exceeds 15 percent of such allotment for that prior program year.

"(3) REALLOTMENT.—The Secretary shall reallot the amounts available pursuant to paragraph (2) to each eligible State an amount based on the relative amount allotted to such eligible State under part A or C of title II, respectively, for the program year the determination under this subsection is made compared to the total amount allotted to all eligible States under part A or C of title II, respectively, for such program year.

"(4) ELIGIBILITY.—For purposes of this subsection, an eligible State means a State that has obligated at least 85 percent

of its allocation under part A or C of title II, respectively, for the program year prior to the program year for which the determination under this subsection is made.

"(5) PROCEDURES.—The Governor of each State shall prescribe uniform procedures for the obligation of funds by service delivery areas within the State in order to avoid the requirement that funds be made available for reallotment under this subsection. The Governor shall further prescribe equitable procedures for making funds available from the State and service delivery areas in the event that a State is required to make funds available for reallotment under this subsection.

"(d) CALCULATION.—Funds obligated to carry out programs under section 204(d) shall not be counted in determining the amount available for reallocation under subsection (a)(2) or the amount available for reallotment under subsection (b)(2).".

Subtitle C—Additional State Responsibilities

SEC. 121. GOVERNOR'S COORDINATION AND SPECIAL SERVICES PLAN.

(a) REQUIREMENTS FOR PLAN.—Section 121(b) of the Act (29 U.S.C. 1531(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) The plan shall describe the measures taken by the State to ensure coordination and avoid duplication between the State agencies administering the JOBS program and programs under title II in the planning and delivery of services. The plan shall describe the procedures developed by the State to ensure that the State JOBS plan is consistent with the coordination criteria specified in this plan and identify the procedures developed to provide for the review of the JOBS plan by the State Job Training Coordinating Council.";

(2) by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (4), (5), (6), and (7), respectively; and

(3) by inserting the following new paragraph after paragraph (2):

"(3) The plan shall describe the projected use of resources, including oversight of program performance, program administration, and program financial management, capacity building, priorities and criteria for State incentive grants, and performance goals for State-supported programs. The description of capacity building shall include the Governor's plans for technical assistance to service delivery areas and service providers, interstate technical assistance and training arrangements, other coordinated technical assistance arrangements undertaken pursuant to the direction of the Secretary, and, where applicable, research and demonstration projects.

(b) CONFORMING AMENDMENTS.—Section 121(c) of the Act (29 U.S.C. 1531(c)) is amended—

(1) in paragraph (7), by inserting after the paragraph designation the following: "coordination of activities relating to part A of title II with";

(2) by striking "and" at the end of paragraph (10);

(3) by striking the period at the end of paragraph (11) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(12) making available to service delivery areas appropriate information and technical assistance to assist in developing and implementing joint programs, including youth corps programs, in which activities supported under this Act are coordinated with activities supported under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).".

SEC. 122. STATE EDUCATION COORDINATION AND GRANTS.

Section 123 of the Act (29 U.S.C. 1533) is amended to read as follows:

"STATE EDUCATION COORDINATION AND GRANTS

"SEC. 123. (a) ALLOTMENT.—

"(1) IN GENERAL.—The Secretary shall allot to the Governor for allocation to any State education agency the sums made available to carry out this section under sections 202(c)(1)(C) and 262(c)(1)(C) to pay for the Federal share of carrying out the projects described in paragraph (2). In allocating such funds to the State education agency, the Governor shall not establish requirements governing the geographic distribution of funds under this section.

"(2) PROJECTS.—Funds allocated under paragraph (1) may be used to pay for the Federal share of carrying out projects (in accordance with agreements under subsection (b)) that—

"(A) provide school-to-work transition services of demonstrated effectiveness that increase the rate of graduation from high school, or completion of the recognized equivalent thereof, including services that increase the rate at which school dropouts return to regular or alternative schooling and obtain a high school degree or its equivalent, and, which may include, services to support multiyear dropout prevention programs of demonstrated effectiveness;

"(B) provide literacy and lifelong learning opportunities and services of demonstrated effectiveness that—

"(i) enhance the knowledge and skills of educationally and economically disadvantaged individuals; and

"(ii) result in increasing the employment and earnings of such individuals;

"(C) provide statewide coordinated approaches, including model programs, to train, place, and retain women in nontraditional employment; and

"(D)(i) facilitate coordination of education and training services for eligible participants in projects described in subparagraphs (A), (B), and (C); or

"(ii)(I) support activities pertaining to a State human resources investment council that meets the requirements of title VII and includes each of the programs described in clauses (i) through (vii) of section 701(b)(2)(A); or

"(II) support activities pertaining to a State council, which carries out functions similar to the functions of the State human resource investment council described in title VII, if such State council was established prior to July 1, 1992.

"(3) FEDERAL SHARE.—The Federal share of the cost of carrying out the projects described in paragraph (2) shall be 50 percent.

"(b) AGREEMENTS REQUIRED.—

"(1) PARTIES TO AGREEMENTS.—The projects described in subsection (a)(2) shall be conducted within a State in accordance with agreements that—

"(A) reflect the goals and services described in paragraphs (1), (2), and (3) of subsection (c); and

"(B) are developed between the State education agency, administrative entities in service delivery areas in the State, and other entities, such as other State agencies, local educational agencies, and alternative service providers (such as community-based and other nonprofit or for-profit organizations).

"(2) CONTENTS OF AGREEMENTS.—

"(A) CONTRIBUTION.—The agreements described in paragraph (1) shall provide for the contribution by the State, from funds other than the funds made available under this Act, of a total amount equal to the funds allotted under this section.

"(B) DIRECT COST OF SERVICES.—Such amount may include the direct cost of employment or training services—

"(i) provided by State or local programs or agencies; or

"(ii) provided by other Federal programs or agencies in accordance with applicable Federal law.

"(c) GOVERNOR'S PLAN REQUIREMENTS.—The State education agency shall submit for inclusion in the Governor's coordination and special services plan a description developed jointly by the State education agency and the Governor of—

"(1) the goals to be achieved and services to be provided by the school-to-work transition programs specified in subsection (a)(2)(A) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will result in increasing the number of youth staying in or returning to school and graduating from high school or the equivalent;

"(B) the work-based curriculum that will link classroom learning to work site experience and address the practical and theoretical aspects of work;

"(C) the opportunities that will be made available to participants to obtain career-path employment and post-secondary education;

"(D) the integration to be achieved, in appropriate circumstances, in the delivery of services between State and local educational agencies and alternative service providers, such as community-based and nonprofit organizations; and

"(E) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) title II and part B of title IV;

"(ii) the Elementary and Secondary Education Act (20 U.S.C. 2701 et seq.);

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iv) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(v) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(vi) the JOBS program;

"(vii) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482); and

"(viii) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

"(2) the goals to be achieved and services to be provided by literacy and lifelong learning programs specified in subsection (a)(2)(B) that will receive the assistance, which description shall, at a minimum, include information regarding—

"(A) the activities and services that will increase the knowledge and skills of educationally and economically disadvantaged individuals, and result in increased employment and earnings for such individuals;

"(B) the integration to be achieved between projects assisted under this section and the 4-year State plan (and related needs assessment carried out for the plan) developed in accordance with section 342 of the Adult Education Act (20 U.S.C. 1206a);

"(C) the variety of settings, including workplace settings, in which literacy training and learning opportunities will be provided; and

"(D) the linkages that will be established, where feasible, to avoid duplication and enhance the delivery of services, with programs under—

"(i) titles II and III;

"(ii) the Adult Education Act;

"(iii) the Carl D. Perkins Vocational and Applied Technology Education Act;

"(iv) the Stewart B. McKinney Homeless Assistance Act;

"(v) the JOBS program;

"(vi) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(vii) the National Literacy Act of 1991 (Public Law 102–73);

"(viii) the Emergency Immigrant Education Act of 1984 (20 U.S.C. 3121 et seq.); and

"(ix) the National and Community Service Act of 1990;

"(3) the goals to be achieved and services to be provided by the nontraditional employment for women programs specified in subsection (a)(2)(C) that will receive the assistance; and

"(4) the proportion of funds received under this section that will be used to achieve the goals, and provide the services, described in paragraphs (1), (2), and (3).

"(d) SERVICE REQUIREMENTS.—

"(1) PERMITTED SERVICES.—Services funded under this section to carry out the projects described in subsection (a)(2) may include education and training, vocational education services, and related services, provided to participants under title II. In addition, services funded under this section may include services for offenders, veterans, and other individuals who the Governor determines require special assistance.

"(2) LIMITATIONS ON EXPENDITURES.—

"(A) COORDINATION OF SERVICES.—Not more than 20 percent of the funds allocated under this section may be

expended to pay for the Federal share of projects described in subsection (a)(2)(D) at the State and local levels.

"(B) SCHOOL-TO-WORK SERVICES; LITERACY AND LIFELONG LEARNING SERVICES.—Not less than 80 percent of the funds allocated under this section shall be expended to pay for the Federal share of projects conducted in accordance with subparagraphs (A), (B), and (C) of subsection (a)(2).

"(C) ECONOMICALLY DISADVANTAGED INDIVIDUALS.—Not less than 75 percent of the funds allocated for projects under subparagraphs (A), (B), and (C) of subsection (a)(2) shall be expended for projects for economically disadvantaged individuals who experience barriers to employment. Priority for funds not expended for the economically disadvantaged shall be given to title III participants and persons with barriers to employment.

"(e) DISTRIBUTION OF FUNDS IN ABSENCE OF AGREEMENT.—If no agreement is reached in accordance with subsection (b) on the use of funds under this section, the funds shall be available to the Governor to achieve the goals and provide the services described in paragraph (1), (2), or (3) of subsection (c).

"(f) REPORTS AND RECORDS.—

"(1) REPORTS BY GOVERNORS.—The Governor shall prepare reports on the projects funded under this section, including such information as the Secretary may require to determine the extent to which the projects supported under this section result in achieving the goals specified in paragraphs (1), (2), and (3) of subsection (c). The Governor shall submit the reports to the Secretary at such intervals as shall be determined by the Secretary.

"(2) RECORDS AND REPORTS OF RECIPIENTS.—Each direct or indirect recipient of funds under this section shall keep records that are sufficient to permit the preparation of reports. Each recipient shall submit such reports to the Secretary, at such intervals as shall be determined by the Secretary.".

SEC. 123. IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS.

Section 124 of the Act (29 U.S.C. 1534) is amended to read as follows:

"IDENTIFICATION OF ADDITIONAL IMPOSED REQUIREMENTS

"SEC. 124. If a State or service delivery area imposes a requirement, including a rule, regulation, policy, or performance standard, relating to the administration and operation of programs funded by this Act (including requirements based on State or service delivery area interpretation of any Federal law, regulation, or guideline) the State or area shall identify the requirement as a State- or service delivery area-imposed requirement.".

SEC. 124. STATE LABOR MARKET INFORMATION PROGRAMS.

Section 125(a) of the Act is amended— 29 USC 1535.

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) provide training and technical assistance to support comprehensive career guidance and participant activities for local programs assisted under this Act.".

Subtitle D—Program Requirements for Service Delivery System

SEC. 131. GENERAL PROGRAM REQUIREMENTS.

(a) RELOCATION.—Section 141(c) of the Act (29 U.S.C. 1551(c)) is amended to read as follows:

"(c)(1) No funds provided under this Act shall be used or proposed for use to encourage or induce the relocation, of an establishment or part thereof, that results in a loss of employment for any employee of such establishment at the original location.

"(2) No funds provided under this Act shall be used for customized or skill training, on-the-job training, or company specific assessments of job applicants or employees, for any establishment or part thereof, that has relocated, until 120 days after the date on which such establishment commences operations at the new location, if the relocation of such establishment or part thereof, results in a loss of employment for any employee of such establishment at the original location.

"(3) If a violation of paragraph (1) or (2) is alleged, the Secretary shall conduct an investigation to determine whether a violation has occurred.

"(4) If the Secretary determines that a violation of paragraph (1) or (2) has occurred, the Secretary shall require the State, service delivery area, or substate grantee that has violated paragraph (1) or (2) to—

"(A) repay to the United States an amount equal to the amount expended in violation of paragraph (1) or (2), in accordance with subsection (d) or (e) of section 164; and

"(B) pay an additional amount equal to the amount required to be repaid under subparagraph (A), unless the State, service delivery area, or substate grantee demonstrates to the Secretary that it neither knew nor reasonably could have known (after an inquiry undertaken with due diligence) that it provided funds in violation of paragraph (1) or (2).

"(5) Amounts received under paragraph (4)(B) shall be deposited in a special account in the Treasury for use by the Secretary for carrying out title III.".

(b) CHARGING OF COSTS.—Section 141(d)(3) of the Act (29 U.S.C. 1551(d)(3)) is amended—

(1) by inserting "(A)" after the paragraph (3) designation; and

(2) by inserting the following new subparagraphs:

"(B) Tuition charges for training or education provided by an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) or a proprietary institution of higher education (as defined in section 481(b) of such Act (20 U.S.C. 1088(b))), that are not more than the charges for such training or education made available to the general public, do not require a breakdown of cost components.

"(C) With respect to funds provided from the allocation to a service delivery area for any program year that are expended by any community-based organization or nonprofit organization for

the cost of administration under part A or C of title II, the service delivery area shall not be subject to the limitation contained in section 108(b)(4)(A) if—

"(i) such funds are expended pursuant to an agreement under which not less than 90 percent of the funds provided to the community-based organization or nonprofit organization are to be expended for the costs of direct training and training-related and supportive services;

"(ii) the expenditures of such funds are charged by the service delivery area to the appropriate cost category;

"(iii) the expenditure of such funds does not result in the service delivery area exceeding the limitation contained in section 108(b)(4)(A) by more than 25 percent of such limitation; and

"(iv) the service delivery area is in compliance with the limitation contained in section 108(b)(4)(B) for such program year, except that such limitation shall be reduced by a percentage equal to one-half of the percentage by which the expenditures of the service delivery area under this subparagraph exceed the limitation under section 108(b)(4)(A).".

(c) PLACEMENT.—Section 141(d) of the Act (29 U.S.C. 1551(d)) is amended by adding at the end the following new paragraph:

"(4) Placements made in unsubsidized employment shall be, to the extent practicable, in occupational areas related to the training provided to the participant.".

(d) SERVICE DELIVERY AREA AGREEMENTS.—Section 141(e) of the Act (29 U.S.C. 1551(e)) is amended—

(1) by inserting "(1)" after "(e)"; and

(2) by adding at the end the following new paragraph:

"(2) Any service delivery area may enter into an agreement or contract with another service delivery area (including a service delivery area that is a city or county within the same labor market) to pay or share the cost of educating, training, or placing individuals participating in programs assisted under this Act, including the provision of supportive services. Such agreement or contract shall be approved by each private industry council providing guidance to the service delivery area and shall be described in the job training plan under section 104.".

(e) ON-THE-JOB TRAINING.—Section 141(g) of the Act (29 U.S.C. 1551(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following new paragraphs:

"(2) On-the-job training authorized under the Act for a participant shall be limited in duration to a period not in excess of that generally required for acquisition of skills needed for the position within a particular occupation, but in no event shall exceed 6 months, unless the total number of hours of such training is less than 500 hours. In determining the period generally required for acquisition of the skills, consideration shall be given to recognized reference material (such as the Dictionary of Occupational Titles), the content of the training of the participant, the prior work experience of the participant, and the service strategy of the participant.

"(3)(A) Each on-the-job training contract shall—

"(i) specify the types and duration of on-the-job training and the other services to be provided in sufficient detail to allow for a fair analysis of the reasonableness of proposed costs; and

"(ii) comply with the applicable requirements of section 164.

"(B) Each on-the-job training contract that is not directly contracted by a service delivery area with an employer (but instead is contracted through an intermediary brokering contractor) shall, in addition to meeting the requirements of subparagraph (A), specify the outreach, recruitment, participant training, counseling, placement, monitoring, followup, and other services to be provided directly by the brokering contractor within its own organization, the services to be provided by the employers conducting the on-the-job training, and the services to be provided, with or without cost, by other agencies and subcontractors.

"(C) If a brokering contractor enters into a contract with a subcontractor to provide training or other services, the brokering contractor shall ensure, through on-site monitoring, compliance with subcontract terms prior to making payment to the subcontractor.

"(4) In accordance with regulations issued by the Secretary, on-the-job training contracts under this Act shall not be entered into with employers who have received payments under previous contracts and have exhibited a pattern of failing to provide on-the-job training participants with continued long-term employment as regular employees with wages and employment benefits (including health benefits) and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.".

(f) TRAINING SERVICES REQUIREMENT FOR SUBSIDIZED EMPLOYMENT.—Section 141(k) of the Act (29 U.S.C. 1551(k)) is amended by striking "section 205(d)(3)(B)" and inserting "subparagraphs (F) and (H) of section 264(c)(1)".

(g) PROGRAM INCOME.—Section 141(m) of the Act (29 U.S.C. 1551(m)) is amended to read as follows:

"(m)(1) Income under any program administered by a public or private nonprofit entity may be retained by such entity only if used to continue to carry out the program.

"(2) Income subject to the requirements of paragraph (1) shall include—

"(A) receipts from goods or services (including conferences) provided as a result of activities funded under the Act;

"(B) funds provided to a service provider under the Act that are in excess of the costs associated with the services provided; and

"(C) interest income earned on funds received under this Act.

"(3) For the purposes of this subsection, each entity receiving financial assistance under this Act shall maintain records sufficient to determine the amount of income received and the purposes for which such income is expended.".

(h) CROSS REFERENCE.—Section 141(p) of the Act (29 U.S.C. 1551(p)) is amended by striking "part A of title II" and inserting "part A or C of title II".

(i) ADDITIONAL REQUIREMENTS.—Section 141 of the Act is further amended by adding at the end the following new subsections:

"(q) No funds available under this Act shall be used for employment generating activities, economic development activities, investment in revolving loan funds, capitalization of businesses, investment in contract bidding resource centers, and similar activities. No funds under title II or III of this Act shall be used for foreign travel.

"(r) The Federal requirements governing the title, use, and disposition of real property, equipment, and supplies purchased with funds provided under this Act shall be the Federal requirements generally applicable to Federal grants to States and local governments.".

SEC. 132. BENEFITS.

Section 142 of the Act (29 U.S.C. 1552) is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(4) References in paragraphs (2) and (3) to section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1))—

"(A) shall be deemed to be references to section 6(c) of that Act for individuals in the Commonwealth of Puerto Rico;

"(B) shall be deemed to be references to section 6(a)(3) of that Act for individuals in American Samoa; and

"(C) shall not be applicable for individuals in other territorial jurisdictions in which section 6 of the Fair Labor Standards Act of 1938 does not apply."; and

(2) in subsection (b), by striking "other than programs" and inserting "other than as provided".

SEC. 133. LABOR STANDARDS.

Section 143(b)(2) of the Act (29 U.S.C. 1553(b)(2)) is amended to read as follows:

"(2) No program under this Act shall impair—

"(A) existing contracts for services; or

"(B) existing collective bargaining agreements, unless the employer and the labor organization concur in writing with respect to any elements of the proposed activities which affect such agreement, or either such party fails to respond to written notification requesting its concurrence within 30 days of receipt thereof.".

SEC. 134. GRIEVANCE PROCEDURE.

(a) IN GENERAL.—Section 144 of the Act (29 U.S.C. 1554) is amended by adding at the end the following new subsections:

"(d)(1) If a person alleges a violation of section 143 and such person exhausts the recipient's grievance procedure or the 60-day time period described in subsection (a) has elapsed without a decision, either party to such procedure may submit the grievance to the Secretary. The Secretary shall investigate the allegations contained in the grievance and make a determination as to whether a violation of section 143 has occurred.

"(2) If the results of the investigation conducted pursuant to paragraph (1) indicate that a modification or reversal of the decision issued pursuant to the recipient's grievance procedure is warranted, or the 60-day time period described in subsection (a) has elapsed without a decision, the Secretary may modify or reverse the decision, or issue a decision if no decision has been issued, as the case may be, after an opportunity for a hearing in accordance with the procedures under section 166.

"(3) If the Secretary determines that the decision issued pursuant to the recipient's grievance procedure is appropriate, the determination shall become the final decision of the Secretary.

"(e)(1) A person alleging a violation of section 143 may, as an alternative to the procedures described in this section, submit the grievance involving such violation to a binding grievance procedure

if a collective bargaining agreement covering the parties to the grievance so provides.

"(2) The remedies available under paragraph (1) shall be limited to the remedies available under subsection (f)(1)(C) and subsection (f)(2).

"(f)(1) Except as provided in paragraph (2), remedies available to grievants under this section for violations of section 143 shall be limited to—

"(A) suspension or termination of payments under this Act;

"(B) prohibition of placement of a participant, for an appropriate period of time, in a program under this Act with an employer that has violated section 143, as determined under subsection (d) or (e); and

"(C) appropriate equitable relief (other than back pay).

"(2) In addition to the remedies available under paragraph (1), remedies available under this section for violations of subsection (a)(4), paragraphs (1) and (3) of subsection (b), and subsection (d) of section 143 may include—

"(A) reinstatement of the grievant to the position held by such grievant prior to displacement;

"(B) payment of lost wages and benefits; and

"(C) reestablishment of other relevant terms, conditions, and privileges of employment.

"(g) Nothing in subsection (f) shall be construed to prohibit a grievant from pursuing a remedy authorized under another Federal, State, or local law for a violation of section 143.".

(b) CONFORMING AMENDMENT.—Section 166(a) of the Act (29 U.S.C. 1576(a)) is amended in the 3rd sentence by inserting "section 141(c), subsections (d) and (e) of section 144, or" after "Except to the extent provided for in".

Subtitle E—Federal and Fiscal Administrative Provisions

SEC. 141. PROMPT ALLOCATION OF FUNDS.

Section 162 of the Act (29 U.S.C. 1572) is amended by adding at the end the following new subsection:

"(f) When contracting with nonprofit organizations of demonstrated effectiveness, the Secretary, States, substate areas, and service delivery areas may make advance payments, provided that such payments are based on the financial need of such organization and are not in excess of 20 percent of the total contract amount.".

SEC. 142. FISCAL CONTROLS; SANCTIONS.

29 USC 1574.

(a) FISCAL CONTROLS.—Section 164(a) of the Act (29 U.S.C. 1579(a)) is amended to read as follows:

"(a)(1) Each State shall establish such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of, and accounting for, Federal funds paid to the recipient under titles II and III. Such procedures shall ensure that all financial transactions are conducted and records maintained in accordance with generally accepted accounting principles applicable in each State.

Regulations.

"(2) The Secretary shall prescribe regulations establishing uniform cost principles substantially equivalent to such principles generally applicable to recipients of Federal grants funds. At a

minimum, such standards shall provide that, to be allowable, costs must—

"(A) be necessary and reasonable for proper and efficient administration of the program under this Act;

"(B) be allocable to the program under this Act; and

"(C) not be a general expense required to carry out the overall responsibilities of State, local, or federally recognized Indian tribal governments except as specifically provided by this Act.

"(3) The Governor, in accordance with minimum requirements established by the Secretary in regulations, shall prescribe and implement procurement standards to ensure fiscal accountability and prevent fraud and abuse in programs administered under this Act. The Secretary, in establishing such minimum requirements, shall consult with the Inspector General of the Department of Labor and take into consideration relevant aspects of the circulars issued by the Director of the Office of Management and Budget. Such minimum requirements shall include provisions to ensure that for States, substate areas, and service delivery areas—

"(A) procurements shall be conducted in a manner providing full and open competition;

"(B) the use of sole source procurements shall be minimized to the extent practicable, but in every case shall be justified;

"(C) procurements shall include an appropriate analysis of the reasonableness of costs and prices;

"(D) procurements shall not provide excess program income (for nonprofit and governmental entities) or excess profit (for private for-profit entities), and that appropriate factors shall be utilized in determining whether such income or profit is excessive, such as—

"(i) the complexity of the work to be performed;

"(ii) the risk borne by the contractor; and

"(iii) market conditions in the surrounding geographical area;

"(E) procurements shall clearly specify deliverables and the basis for payment;

"(F) written procedures shall be established for procurement transactions;

"(G) no grantee, contractor, subgrantee, or subcontractor shall engage in any conflict of interest, actual or apparent, in the selection, award, or administration of a contract or grant under this Act;

"(H) all grantees and subgrantees shall conduct oversight to ensure compliance with procurement standards; and

"(I) procurement transactions between units of State or local governments, and any other entities organized principally as the administrative entity for service delivery areas, shall be conducted on a cost reimbursable basis.

"(4) The Governor shall annually conduct on-site monitoring of each service delivery area and substate area within the State to ensure compliance with the procurement standards established pursuant to paragraph (3).

"(5) If the Governor determines that a service delivery area or substate area is not in compliance with the procurement standards established pursuant to paragraph (3), the Governor shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (b) in the event of failure to take the required corrective action.

"(6) The Governor shall biennially certify to the Secretary that—

"(A) the State has implemented the procurement standards established under paragraph (3);

"(B) the State has monitored substate areas and service delivery areas to ensure compliance with the procurement standards as required under paragraph (4); and

"(C) the State has taken appropriate action to secure compliance pursuant to paragraph (5).

"(7) If the Secretary determines that the Governor has not fulfilled the requirements of this subsection, the Secretary shall—

"(A) require corrective action to secure prompt compliance; and

"(B) impose the sanctions provided under subsection (f) in the event of failure of the Governor to take the required corrective action.

Reports.

"(8) The Secretary, in consultation with the Inspector General, shall review the implementation of this subsection and submit a report to the appropriate committees of the Congress, not later than October 1, 1995, evaluating the effectiveness of this subsection in ensuring fiscal accountability and containing such recommendations as the Secretary determines to be appropriate.".

(b) CONSEQUENCES OF FAILURES.—Section 164(b) of the Act (29 U.S.C. 1574(b)) is amended to read as follows:

"(b)(1) If, as a result of financial and compliance audits or otherwise, the Governor determines that there is a substantial violation of a specific provision of this Act or the regulations under this Act, and corrective action has not been taken, the Governor shall—

"(A) issue a notice of intent to revoke approval of all or part of the plan affected; or

"(B) impose a reorganization plan, which may include—

"(i) restructuring the private industry council involved;

"(ii) prohibiting the use of designated service providers;

"(iii) selecting an alternative entity to administer the program for the service delivery area involved;

"(iv) merging the service delivery area into 1 or more other existing service delivery areas; or

"(v) other such changes as the Secretary or Governor determines necessary to secure compliance.

"(2)(A) The actions taken by the Governor pursuant to paragraph (1)(A) may be appealed to the Secretary under the same terms and conditions as the disapproval of the plan and shall not become effective until—

"(i) the time for appeal has expired; or

"(ii) the Secretary has issued a decision.

"(B) The actions taken by the Governor pursuant to paragraph (1)(B) may be appealed to the Secretary, who shall make a final decision not later than 60 days of the receipt of the appeal.

"(3) If the Governor fails to promptly take the actions required under paragraph (1), the Secretary shall take such actions.".

SEC. 143. REPORTS, RECORDKEEPING, AND INVESTIGATIONS.

(a) STANDARDIZED RECORDS.—Section 165(a) of the Act (29 U.S.C. 1575(a)) is amended by adding at the end the following new paragraphs:

"(3) In order to allow for the preparation of national estimates necessary to meet the requirements of subsection (c), recipients shall maintain standardized records for all individual participants and provide to the Secretary a sufficient number of such records to provide for an adequate analysis.

"(4)(A) Except as provided in subparagraph (B), records maintained by recipients pursuant to this subsection shall be made available to the public upon request.

"(B) Subparagraph (A) shall not apply to—

"(i) information, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

"(ii) trade secrets, or commercial or financial information, obtained from a person and privileged or confidential.

"(C) Recipients may charge fees sufficient to recover costs applicable to the processing of requests for records under subparagraph (A).".

(b) AUDIT NOTICE.—Section 165(b) is amended by adding the following new paragraph: 29 USC 1575.

"(3)(A) In carrying out any audit under this Act (other than any initial audit survey or any audit investigating possible criminal or fraudulent conduct), either directly or through grant or contract, the Secretary, the Inspector General, or the Comptroller General shall furnish to the State, administrative entity, recipient, or other entity to be audited, advance notification of the overall objectives and purposes of the audit, and any extensive recordkeeping or data requirements to be met, not fewer than 14 days (or as soon as practicable), prior to the commencement of the audit.

"(B) If the scope, objectives, or purposes of the audit change substantially during the course of the audit, the entity being audited shall be notified of the change as soon as practicable.

"(C) The reports on the results of such audits shall cite the law, regulation, policy, or other criteria applicable to any finding.

"(D) Nothing contained in this Act shall be construed so as to be inconsistent with the Inspector General Act of 1978 (5 U.S.C. App.) or government auditing standards issued by the Comptroller General.".

(c) MONITORING OF SERVICE PROVIDERS.—Section 165(c) of the Act (29 U.S.C. 1575(c)) is amended to read as follows:

"(c) Each State, each administrative entity, and each recipient (other than a subrecipient, grantee or contractor of a recipient) receiving funds under this Act shall—

"(1) make readily accessible reports concerning its operations and expenditures as shall be prescribed by the Secretary;

"(2) prescribe and maintain comparable management information systems, in accordance with guidelines that shall be prescribed by the Secretary, designed to facilitate the uniform compilation, cross tabulation, and analysis of programmatic, participant, and financial data, on statewide and service delivery area bases, necessary for reporting, monitoring, and evaluating purposes, including data necessary to comply with section 167; and

"(3) monitor the performance of service providers in complying with the terms of grants, contracts, or other agreements made pursuant to this Act.".

(d) REPORT INFORMATION; RECORD RETENTION.—Section 165 of the Act is further amended by adding the following new subsections:

"(d)(1) The reports required in subsection (c) shall include information pertaining to—

"(A) the relevant demographic characteristics (including race, ethnicity, sex, and age) and other related information regarding participants;

"(B) the activities in which participants are enrolled, and the length of time that participants are engaged in such activities;

"(C) program outcomes, including occupations, for participants;

"(D) specified program costs; and

"(E) information necessary to prepare reports to comply with section 167.

"(2) The Secretary shall ensure that all elements of the information required for the reports described in paragraph (1) are defined and reported uniformly.

"(e) The Governor shall ensure that requirements are established for retention of all records pertinent to all grants awarded, and contracts and agreements entered into, under this Act, including financial, statistical, property and participant records and supporting documentation. For funds allotted to a State for any program year, records shall be retained for 2 years following the date on which the annual expenditure report containing the final expenditures charged to such program year's allotment is submitted to the Secretary. Records for nonexpendable property shall be retained for a period of 3 years after final disposition of the property.

"(f)(1) Each substate grantee and service delivery area shall submit quarterly financial reports to the Governor with respect to programs under this Act. Such reports shall include information identifying all program costs by cost category in accordance with generally accepted accounting principles and by year of the appropriation.

"(2) Each State shall submit a summary of the reports submitted pursuant to paragraph (1) to the Secretary on a quarterly basis.

"(g) Each State, substate grantee, and service delivery area shall maintain records with respect to programs under this Act that identify—

"(1) any program income or profits earned, including such income or profits earned by subrecipients; and

"(2) any costs incurred (such as stand-in costs) that are otherwise allowable except for funding limitations.

"(h)(1) The Secretary shall conduct a biennial study on the provision of supportive services under programs conducted pursuant to title II. Such study shall identify—

"(A) the amount and proportion of funds expended for supportive services under title II;

"(B) the types of supportive services provided;

"(C) the relative share of funds expended for each type of supportive service;

"(D) the characteristics of the participants receiving supportive services; and

"(E) such other factors as the Secretary determines to be appropriate.

"(2) The Secretary shall submit a report to the Congress containing the results of each study conducted pursuant to paragraph (1).".

SEC. 144. NONDISCRIMINATION.

Section 167 of the Act (29 U.S.C. 1577) is amended by adding at the end the following new subsections:

"(e)(1) The head of the office of the Department of Labor referred to as the 'Directorate for Civil Rights' shall annually prepare a report on the administration and enforcement of this section. Reports.

"(2) The report required by paragraph (1) shall include—

"(A) an identification of the service delivery areas and States that have been determined, during the preceding program year, not to be in compliance with this section;

"(B) for each such identification, the date on which the inquiry was begun and whether the inquiry was initiated on the basis of a complaint or at the initiative of the Department;

"(C) an identification of the service delivery areas and States awaiting findings by the Directorate;

"(D) the number of service delivery areas and States that, during the preceding year, were determined not to be in compliance with this section, and the number for which insufficient data prevented the making of such a determination, identifying the type of data which is missing or inadequate;

"(E) a statistical summary, broken down by race, sex, national origin, disability, or age, of the number of inquiries undertaken and their outcomes;

"(F) an identification of any service delivery area or State that has been determined, during the preceding year, to have failed to conduct objective assessments as required by sections 204 and 264 on a nondiscriminatory basis;

"(G) the amount expended by the Directorate for the administration and enforcement of this section, and the number and percentage of full-time employees, and the full-time equivalent of the part-time employees, engaged in such administration and enforcement;

"(H) the number of onsite visits conducted each year, and whether the visits were initiated by the Department or by complaint;

"(I) the number of cases referred to the Attorney General, and for such cases—

"(i) the civil actions taken by the Attorney General thereon; and

"(ii) the use, by the Secretary, of the authority of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (29 U.S.C. 621 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); and

"(J) a description of any other actions taken by the Secretary under or related to the administration and enforcement of this section.

"(3) The report required by this subsection shall be submitted to the Congress as part of the Secretary's annual report under section 169(d).

"(f) In addition to any other sums authorized to be appropriated under Federal law, there are authorized to be appropriated for the operations and expenses of the Directorate such sums as may be necessary for the purpose of increasing the number of full-time equivalent personnel available to the Directorate in order to comply with the requirements of this section. Appropriation authorization.

Regulations.

"(g) The Secretary shall issue final regulations implementing this section not later than 90 days after the date of the enactment of the Job Training Reform Amendments of 1992.".

SEC. 145. UTILIZATION OF SERVICES AND FACILITIES.

Section 170 of the Act (29 U.S.C. 1580) is amended by striking "and to the extent" and inserting "under the same conditions applicable under section 169(c) or to the extent".

TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

SEC. 201. ADULT TRAINING PROGRAM.

The Act (29 U.S.C. 1501 et seq.) is amended by striking title II and inserting the following:

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT TRAINING PROGRAM

29 USC 1601.

"SEC. 201. STATEMENT OF PURPOSE.

"It is the purpose of this part to establish programs to prepare adults for participation in the labor force by increasing their occupational and educational skills, resulting in improved long-term employability, increased employment and earnings, and reduced welfare dependency.".

SEC. 202. ADULT TRAINING PROGRAM ALLOTMENT AND ALLOCATION.

Title II of the Act (as amended by section 201) is further amended by adding at the end the following:

29 USC 1602.

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATE RESERVATION.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot 77 percent of the remainder to the States for allocation to service delivery areas within each State. Each State shall allocate to each service delivery area within the State the amount determined by the Secretary for such service delivery area pursuant to the formula contained in subsection (b). The remaining 23 percent shall be allotted in accordance with subsection (c).

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—Subject to the provisions of paragraph (2), of the amounts allocated to service delivery areas for this part for each fiscal year—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment within each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all service delivery areas in all States;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals within each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged adults within each service delivery area as compared to the total number of economically disadvantaged adults in all service delivery areas in all States, except that for any service delivery area described in section 101(a)(4)(A)(iii), the allocation shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area shall be allocated less than 90 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) MAXIMUM PERCENTAGE.—No service delivery area shall be allocated more than 130 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) STATE MINIMUM.—Notwithstanding subparagraphs (A) and (B), the total allocation for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allocated to all service delivery areas in all States.

"(D) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 23 percent of funds available for allotment to States under this part for each fiscal year—

"(A) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance

with paragraph (2), to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (3);

"(C) 8 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2) to carry out section 123; and

"(D) 5 percent of the funds available for such allotment under this part shall be allotted to carry out section 204(d).

"(2) FORMULA FOR ALLOTMENT.—The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (b) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (b).

"(3) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED ADULT.—The term 'economically disadvantaged adult' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means, with respect to the excess number of unemployed individuals within a service delivery area, the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area, or the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged adults.".

SEC. 203. ADULT TRAINING PROGRAM ELIGIBILITY AND SERVICES.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 203. ELIGIBILITY FOR SERVICES. 29 USC 1603.

"(a) IN GENERAL.—Except as provided in subsection (c), an individual shall be eligible to participate in the program under this part only if such individual is—

"(1) 22 years of age or older; and

"(2) economically disadvantaged.

"(b) HARD-TO-SERVE INDIVIDUALS.—Not less than 65 percent of the participants in the program under this part, other than participants served under section 204(d), in each service delivery area shall be individuals who are included in 1 or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts.

"(3) Individuals who are recipients of cash welfare payments, including recipients under the JOBS program.

"(4) Individuals who are offenders.

"(5) Individuals with disabilities.

"(6) Individuals who are homeless.

"(7) Individuals who are in a category established under subsection (d).

"(c) SPECIAL RULE.—Not more than 10 percent of participants in a program assisted under this part, other than participants served under section 204(d), in each service delivery area may be individuals who are not economically disadvantaged if such individuals are age 22 or older and within 1 or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsection (b), or categories such as displaced homemakers, veterans, alcoholics, or addicts.

"(d) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of individuals who face serious barriers to employment to the categories of eligible individuals described in subsection (b) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the additional category of individuals is not solely comprised of—

"(A) individuals with a poor work history; or

"(B) individuals who are unemployed; and

"(3) the Governor approves the request submitted under paragraph (1) and transmits a description of the approved request to the Secretary, as part of the Governor's coordination and special services plan under section 121.

"SEC. 204. PROGRAM DESIGN. 29 USC 1604.

"(a) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) each of the following services, which shall be provided either directly or through arrangement with other programs to a participant where the assessment and the service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) INFORMATION AND REFERRALS.—Each service delivery area shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including those receiving funds under this Act; and

"(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of its particular program or who cannot be served shall be referred to the service delivery area for further assessment, as necessary, and referral to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i), and shall maintain appropriate

records of such referrals and the basis for such referrals.

"(b) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (c), services that may be made available to each participant under this part may include—

"(1) direct training services, including—

"(A) basic skills training, including remedial education, literacy training, and English-as-a-second-language instruction;

"(B) institutional skills training;

"(C) on-the-job training;

"(D) assessment of the skill levels and service needs of participants;

"(E) counseling, such as job counseling and career counseling;

"(F) case management services;

"(G) education-to-work transition activities;

"(H) programs that combine workplace training with related instruction;

"(I) work experience;

"(J) programs of advanced career training that provide a formal combination of on-the-job and institutional training and internship assignments that prepare individuals for career employment;

"(K) training programs operated by the private sector, including programs operated by labor organizations or by consortia of private sector employers utilizing private sector facilities, equipment, and personnel to train workers in occupations for which demand exceeds supply;

"(L) skill upgrading and retraining;

"(M) bilingual training;

"(N) entrepreneurial training;

"(O) vocational exploration;

"(P) training programs to develop work habits to help individuals obtain and retain employment;

"(Q) attainment of certificates of high school equivalency;

"(R) preapprenticeship programs;

"(S) on-site, industry-specific training programs supportive of industrial and economic development;

"(T) customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training; and

"(U) use of advanced learning technology for education, job preparation, and skills training; and

"(2) training-related and supportive services, including—

"(A) job search assistance;

"(B) outreach to make individuals aware of, and encourage the use of, employment and training services, including efforts to expand awareness of training and placement opportunities for limited-English proficient individuals and individuals with disabilities;

"(C) outreach, to develop awareness of, and encourage participation in, education, training services, and work experience programs to assist women in obtaining nontraditional employment, and to facilitate the retention of women in nontraditional employment, including services at the site of training or employment;

"(D) specialized surveys not available through other labor market information sources;

"(E) dissemination of information on program activities to employers;

"(F) development of job openings;

"(G) programs coordinated with other Federal employment-related activities;

"(H) supportive services, as defined in section 4(24), necessary to enable individuals to participate in the program;

"(I) needs-based payments and financial assistance;

"(J) followup services with participants placed in unsubsidized employment; and

"(K) services to obtain job placements for individual participants.

"(c) DESIGN OF SERVICES.—

"(1) WORKPLACE CONTEXT AND INTEGRATION.—Basic skills training provided under this part shall, in appropriate circumstances, have a workplace context and be integrated with occupational skills training.

"(2) BASIC EDUCATION OR OCCUPATIONAL SKILLS.—

"(A) ADDITIONAL SERVICES.—Except as provided in subparagraph (B), work experience, job search assistance, job search skills training, and job club activities provided under this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant.

"(B) LACK OF APPROPRIATENESS AND AVAILABILITY.—Each program assisted under this part may only provide job search assistance, job search skills training, and job club activities to a participant without the additional services described in subparagraph (A) if—

"(i) the assessment and service strategy of a participant indicate that the additional services are not appropriate; and

"(ii) the activities are not available to the participant through the employment service or other public agencies.

"(3) NEEDS-BASED PAYMENTS.—Needs-based payments and financial assistance provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(4) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period up to 1 year after the date on which the participant completes the program.

"(5) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this section shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under subsection (a)(1).

"(6) VOLUNTEERS.—The service delivery area shall make opportunities available for individuals who have successfully participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"(d) SERVICES FOR OLDER INDIVIDUALS.—

"(1) IN GENERAL.—The Governor is authorized to provide for job training programs that are developed in conjunction with service delivery areas within the State and that are consistent with the plan for the service delivery area prepared and submitted in accordance with section 104, and designed to ensure the training and placement of older individuals in employment opportunities with private business concerns. The Governor shall ensure that the program under this subsection provides services throughout the State to older individuals on an equitable basis, taking into account the relative share of the population of older individuals described in paragraph (6)(A) within the State, residing in each service delivery area.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—In carrying out this subsection, the Governor shall, after consultation with appropriate private industry councils and chief elected officials, enter into agreements with public agencies, nonprofit private organizations (including veterans organizations), private industry councils, service delivery areas, and private business concerns.

"(B) PRIORITY.—In entering into the agreements described in subparagraph (A), the Governor shall give priority to national, State, and local agencies and organizations that have a record of demonstrated effectiveness in providing training and employment services to such older individuals.

"(3) CONSIDERATIONS.—The Governor shall give consideration to assisting programs involving training for jobs in growth industries and jobs reflecting the use of new technological skills.

"(4) COORDINATION.—In providing the services required by this subsection, the Governor shall make efforts to coordinate the delivery of such services with the delivery of services under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(5) ELIGIBILITY.—

"(A) ECONOMICALLY DISADVANTAGED.—Except as provided in subparagraph (B), an individual shall be eligible to participate in a job training program under this subsection only if the individual is economically disadvantaged and is an older individual.

"(B) SPECIAL RULE.—

"(i) INDIVIDUALS FACING SERIOUS BARRIERS TO EMPLOYMENT.—An individual who is not economically disadvantaged as described in subparagraph (A) shall be eligible to participate in a job training program under this subsection if the individual faces serious barriers to employment, is an older individual, and meets income eligibility requirements under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) subject to clause (ii).

"(ii) LIMITATION.—Not more than 10 percent of all participants in a program assisted under this subsection shall be individuals who are not economically disadvantaged.

"(6) APPLICABLE REQUIREMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of this Act applicable to programs

conducted under this subsection shall be the same requirements applicable to the other programs conducted under this part.

"(B) EXCEPTIONS.—

"(i) PROVISIONS NOT APPLICABLE.—The provisions of section 104, subsections (b)(7) and (j) of section 106, section 109, section 203, and section 204(a)(2) shall not be applicable to programs conducted under this subsection.

"(ii) GOVERNOR.—With respect to the application of sections 106(b), 108(b), 141(d)(3)(C), and 205 to programs conducted under this subsection, the term 'service delivery area', as used in such provisions, means the Governor.

"(7) DEFINITION.—As used in this subsection, the term 'older individual' means an individual age 55 or older.

29 USC 1605.

"SEC. 205. LINKAGES.

"(a) IN GENERAL.—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other Federal programs. Such programs shall include, where feasible, programs assisted under—

"(1) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(3) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(4) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(5) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4));

"(6) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(7) the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.);

"(8) title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.);

"(9) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.);

"(10) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482);

"(11) the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.);

"(12) the National Literacy Act of 1991 (Public Law 102–73);

"(13) the Head Start Act (42 U.S.C. 9831 et seq.) (for purposes of child care services); and

"(14) any other provisions of this Act.

"(b) OTHER APPROPRIATE LINKAGES.—In addition to the linkages required under subsection (a), each service delivery area receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with local educational agencies, local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with disadvantaged adults, and other training, education, employment, economic development, and social service programs.

"SEC. 206. TRANSFER OF FUNDS. 29 USC 1606.

"A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 202(b) to the program under part C if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

SEC. 204. SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAM

"SEC. 251. PURPOSE. 29 USC 1630.

"It is the purpose of programs assisted under this part—

"(1) to enhance the basic educational skills of youth;

"(2) to encourage school completion or enrollment in supplementary or alternative school programs;

"(3) to provide eligible youth with exposure to the world of work; and

"(4) to enhance the citizenship skills of youth.

"SEC. 252. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT AND ALLOCATION. 29 USC 1631.

"(a) TERRITORIAL AND NATIVE AMERICAN ALLOCATION.—From the funds appropriated under section 3(a)(2), the Secretary shall first allocate to Guam, the Virgin Islands, American Samoa, the Federated States of Micronesia, the Republic of the Marshall Islands, Palau, the Commonwealth of the Northern Mariana Islands, and entities eligible under section 401 the same percentage of funds as were available to such areas and entities for the summer youth program in the fiscal year preceding the fiscal year for which the determination is made.

"(b) USE OF PART C FORMULA FOR ALLOTMENT AND ALLOCATION.—The remainder of funds appropriated under section 3(a)(2) shall, for each fiscal year, be allotted among States and allocated among service delivery areas in accordance with section 262, except that no portion of such funds shall be reserved to carry out subsection (a)(1) or (c) of such section.

"SEC. 253. USE OF FUNDS. 29 USC 1632.

"(a) IN GENERAL.—Funds available under this part may be used for—

"(1) basic and remedial education, institutional and on-the-job training, work experience programs, youth corps programs, employment counseling, occupational training, preparation for work, outreach and enrollment activities, employability assessment, job referral and placement, job search assistance and job club activities, activities under programs described in section 265(b), and any other employment or job training activity designed to give employment to eligible individuals or prepare the individuals for, and place the individuals in, employment;

"(2) supportive services necessary to enable such individuals to participate in the program; and

"(3) administrative costs, not to exceed 15 percent of the funds available under this part.

"(b) BASIC AND REMEDIAL EDUCATION.—

"(1) IN GENERAL.—A service delivery area shall expend funds (available under this Act or otherwise available to the service delivery area) for basic and remedial education and training as described in the job training plan under section 104.

"(2) EDUCATION OR TRAINING.—The education and training authorized by paragraph (1) may be provided by—

"(A) the year-round program under part C;

"(B) the Job Corps;

"(C) the JOBS program;

"(D) youth corps programs;

"(E) alternative or secondary schools; or

"(F) other education and training programs.

"(c) ASSESSMENT AND SERVICE STRATEGY.—

"(1) ASSESSMENT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include an objective assessment of the basic skills and supportive services needs of each participant, which may include a review of occupational skills, prior work experience, employability, interests, and aptitudes.

"(B) RECENT ASSESSMENT.—A new assessment, or a factor of such assessment, of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted pursuant to another education or training program (such as the JOBS program or a regular high school academic program).

"(2) SERVICE STRATEGY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the programs under this part shall include a service strategy for participants, which may identify achievement objectives, appropriate employment goals, and appropriate services for participants, taking into account the assessments conducted under paragraph (1).

"(B) RECENT SERVICE STRATEGY.—A new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program or a regular high school academic program).

"(d) FOLLOWUP SERVICES.—Service delivery areas shall make followup services available for participants if the service strategy indicates such services are appropriate.

29 USC 1633.

"SEC. 254. LIMITATIONS.

"(a) USE DURING SUMMER MONTHS OR EQUIVALENT VACATION PERIOD.—

"(1) SUMMER MONTHS.—Except as provided in paragraph (2), programs under this part shall be conducted during the summer months.

"(2) VACATION PERIOD.—A service delivery area may, within the jurisdiction of any local educational agency that operates schools on a year-round, full-time basis, offer the programs under this part to participants during a vacation period treated as the equivalent of a summer vacation.

"(b) ELIGIBILITY.—An individual shall be eligible to participate in the program assisted under this part if such individual—

"(1) is age 14 through 21; and

"(2)(A) is economically disadvantaged; or

"(B) has been determined to meet the eligibility requirements for free meals under the National School Lunch Act (42 U.S.C. 1751 et seq.) during the most recent school year.

"(c) CONCURRENT ENROLLMENT.—

"(1) IN GENERAL.—An eligible individual participating in a program assisted under this part may concurrently be enrolled in programs under part C. Appropriate adjustment to the youth performance standards (regarding attainment of competencies) under paragraphs (4)(A)(i) and (5) of section 106(b) shall be made to reflect the limited period of participation.

"(2) CONCURRENT ENROLLMENT AND TRANSFERS.—Youth being served under this part or part C youth programs are not required to be terminated from participation in one program in order to enroll in the other. The Secretary shall provide guidance to service delivery areas on simplified procedures for concurrent enrollment and transfers for youth from one program to the other.

"SEC. 255. APPLICABLE PROVISIONS. 29 USC 1634.

"(a) COMPARABLE FUNCTIONS OF AGENCIES AND OFFICIALS.—Private industry councils established under title I, chief elected officials, State job training coordinating councils, and Governors shall have the same authority, duties, and responsibilities with respect to planning and administration of funds available under this part as the private industry councils, chief elected officials, State job training coordinating councils, and Governors have with respect to funds available under parts A and C.

"(b) PROGRAM GOALS AND OBJECTIVES.—Each service delivery area shall establish written program goals and objectives that shall be used for evaluating the effectiveness of programs conducted under this part. Such goals and objectives may include—

"(1) improvement in school retention and completion;

"(2) improvement in academic performance, including mathematics and reading comprehension;

"(3) improvement in employability skills; and

"(4) demonstrated coordination with other community service organizations such as local educational agencies, law enforcement agencies, and drug and alcohol abuse prevention and treatment programs.".

SEC. 205. SUMMER YOUTH PROGRAM TRANSFER OF FUNDS.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

"SEC. 256. TRANSFER OF FUNDS. 29 USC 1635.

"A service delivery area may transfer up to 10 percent of the funds provided under this part to the program under part C if such transfer is approved by the Governor.".

SEC. 206. YOUTH TRAINING PROGRAM.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

Education.

"PART C—YOUTH TRAINING PROGRAM

29 USC 1641.

"SEC. 261. STATEMENT OF PURPOSE.

"It is the purpose of the programs assisted under this part to improve the long-term employability of youth, enhance the educational, occupational, and citizenship skills of youth, encourage school completion or enrollment in alternative school programs, increase the employment and earnings of youth, reduce welfare dependency, and assist youth in addressing problems that impair the ability of youth to make successful transitions from school to work, apprenticeship, the military, or postsecondary education and training.".

SEC. 207. YOUTH TRAINING PROGRAM ALLOTMENT AND ALLOCATION.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

29 USC 1642.

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Of the amount appropriated under section 3(a)(1) for each fiscal year and available to carry out this part, not more than one-quarter of 1 percent shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATE RESERVATION.—After determining the amounts to be allotted under paragraph (1), the Secretary shall allot 82 percent of the remainder to the States for allocation to service delivery areas within each State. Each State shall allocate to each service delivery area within the State the amount determined by the Secretary for such service delivery area pursuant to the formula contained in subsection (b). The remaining 18 percent shall be allotted in accordance with subsection (c).

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—Subject to the provisions of paragraph (2), of the amounts allocated to service delivery areas for this part for each fiscal year—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment within each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all service delivery areas in all States;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals within each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in all States; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged youth within each service delivery area as compared to the total number of economically disadvantaged youth in all service delivery areas in all States except that, for any service delivery area described in section 101(a)(4)(A)(iii), the allocation shall be based on the higher of the number

of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area shall be allocated less than 90 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(B) MAXIMUM PERCENTAGE.—No service delivery area shall be allocated more than 130 percent of its allocation percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) STATE MINIMUM.—Notwithstanding subparagraphs (A) and (B), the total allocation for all service delivery areas within any one State shall not be less than one-quarter of 1 percent of the total allocated to all service delivery areas in all States.

"(D) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraphs (A) and (B), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 18 percent of funds available for allotment to States under this part for each fiscal year—

"(A) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2), to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (3); and

"(C) 8 percent of the funds available for such allotment under this part shall be allotted to the States in accordance with paragraph (2) to carry out section 123.

"(2) FORMULA FOR ALLOCATION.—The allotments to each State described in paragraph (1) shall be based on the relative amount of funds allocated to all service delivery areas within such State under subsection (b) as compared to the amount of funds allocated to all service delivery areas in all States under subsection (b).

"(3) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the

development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—

"(1) DEFINITIONS.—As used in this section:

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The terms 'excess number' and 'State' shall have the meanings given the terms in subparagraphs (B) and (C), respectively, of section 202(d)(1).

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth.".

SEC. 208. YOUTH TRAINING PROGRAM ELIGIBILITY AND SERVICES.

Title II of the Act (as amended by the preceding sections) is further amended by adding at the end the following:

29 USC 1643.

"SEC. 263. ELIGIBILITY FOR SERVICES.

"(a) IN-SCHOOL YOUTH.—Except as provided in subsections (e) and (g), an individual who is in school shall be eligible to participate in the program under this part if such individual—

"(1)(A) is age 16 through 21; or

"(B) if provided in the job training plan, is age 14 through 21; and

"(2)(A) is economically disadvantaged;

"(B) is participating in a compensatory education program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.); or

"(C) has been determined to meet the eligibility requirements for free meals under the National School Lunch Act (42 U.S.C. 1751 et seq.) during the most recent school year.

"(b) HARD-TO-SERVE INDIVIDUALS WHO ARE IN-SCHOOL YOUTH.—Not less than 65 percent of the in-school individuals who participate in a program under this part shall be individuals who are included in one or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals with educational attainment that is 1 or more grade levels below the grade level appropriate to the age of the individuals.

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals who are homeless or run-away youth.

"(6) Individuals who are offenders.

"(7) Individuals within a category established under subsection (h).

"(c) OUT-OF-SCHOOL YOUTH.—Except as provided in subsection (e), an individual who is out of school shall be eligible to participate in the program under this part if such individual is—

"(1) age 16 through 21; and

"(2) economically disadvantaged.

"(d) HARD-TO-SERVE INDIVIDUALS WHO ARE OUT-OF-SCHOOL YOUTH.—Not less than 65 percent of the out-of-school individuals who participate in a program under this part shall be individuals who are included in 1 or more of the following categories:

"(1) Individuals who are basic skills deficient.

"(2) Individuals who are school dropouts (subject to the conditions described in section 264(d)(2)).

"(3) Individuals who are pregnant or parenting.

"(4) Individuals with disabilities, including a learning disability.

"(5) Individuals who are homeless or run-away youth.

"(6) Individuals who are offenders.

"(7) Individuals in a category established under subsection (h).

"(e) EXCEPTIONS.—Not more than 10 percent of participants in a program assisted under this part in each service delivery area may be individuals who do not meet the requirements of subsection (a)(2) or (c)(2), if such individuals are within one or more categories of individuals who face serious barriers to employment. Such categories may include the categories described in subsections (b) and (d), or categories such as individuals with limited-English language proficiency, alcoholics, or drug addicts.

"(f) RATIO OF OUT-OF-SCHOOL TO IN-SCHOOL YOUTH.—

"(1) IN GENERAL.—Except as provided in paragraph (2), not less than 50 percent of the participants in the program under this part in each service delivery area shall be out-of-school individuals who meet the requirements of subsection (c), (d), or (e).

"(2) COUNTING OF IN-SCHOOL INDIVIDUALS.—In-school individuals served as a part of a schoolwide project under subsection (g) shall not be counted as a part of the ratio of in-school individuals to out-of-school individuals.

"(g) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—

"(1) IN GENERAL.—In addition to the individuals described in subsection (e), an individual who does not meet the requirements of subsection (a)(2) may participate in the programs assisted under this part if such individual is enrolled in a public school—

"(A) that is located in a poverty area;

"(B) that is served by a local educational agency that is eligible for assistance under chapter 1 of title I of the

Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(C) in which not less than 70 percent of the students enrolled are included in the categories described in subsection (b); and

"(D) that conducts a program under a cooperative arrangement that meets the requirements of section 265(d).

"(2) DEFINITION.—For the purposes of paragraph (1), the term 'poverty area' means an urban census tract or a nonmetropolitan county with a poverty rate of 30 percent or more, as determined by the Bureau of the Census.

"(h) ADDITIONAL CATEGORY.—A service delivery area conducting a program assisted under this part may add one category of youth who face serious barriers to employment to the categories of eligible individuals specified in subsection (b) and one category to the categories of eligible individuals described in subsection (d) if—

"(1) the service delivery area submits a request to the Governor identifying the additional category of individuals and justifying the inclusion of such category;

"(2) the additional category of individuals is not solely comprised of—

"(A) individuals with a poor work history; or

"(B) individuals who are unemployed; and

"(3) the Governor approves the request submitted under paragraph (1) and transmits a description of the approved request to the Secretary, as part of the Governor's coordination and special services plan under section 121.

29 USC 1644.

"SEC. 264. PROGRAM DESIGN.

"(a) YEAR-ROUND OPERATION.—The programs under this part shall be conducted on a year-round basis. Services shall be made available on a multiyear basis as appropriate.

"(b) ESSENTIAL ELEMENTS.—

"(1) IN GENERAL.—The programs under this part shall include—

"(A) an objective assessment of the skill levels and service needs of each participant, which assessment shall include a review of basic skills, occupational skills, prior work experience, employability, interests, aptitudes (including interests and aptitudes for nontraditional jobs), and supportive service needs, except that a new assessment of a participant is not required if the program determines it is appropriate to use a recent assessment of the participant conducted under another education or training program (such as the JOBS program);

"(B) development of service strategies that shall identify the employment goal (including, in appropriate circumstances, nontraditional employment), appropriate achievement objectives, and appropriate services for participants taking into account the assessments conducted pursuant to subparagraph (A), except that a new service strategy for a participant is not required if the program determines it is appropriate to use a recent service strategy developed for the participant under another education or training program (such as the JOBS program);

"(C) a review of the progress of each participant in meeting the objectives of the service strategy; and

"(D) each of the following services, which shall be provided either directly or through arrangement with other programs to a participant where the assessment and the service strategy indicate such services are appropriate:

"(i) Basic skills training.

"(ii) Occupational skills training.

"(iii) Preemployment and work maturity skills training.

"(iv) Work experience combined with skills training.

"(v) Supportive services.

"(2) ADDITIONAL REQUIREMENTS.—

"(A) INFORMATION AND REFERRALS.—Each service delivery area shall ensure that each participant or applicant who meets the minimum income eligibility criteria shall be provided—

"(i) information on the full array of applicable or appropriate services that are available through the service delivery area or other service providers, including those receiving funds under this Act; and

"(ii) referral to appropriate training and educational programs that have the capacity to serve the participant or applicant either on a sequential or concurrent basis.

"(B) APPLICANTS NOT MEETING ENROLLMENT REQUIREMENTS.—

"(i) SERVICE PROVIDERS.—Each service provider shall ensure that an eligible applicant who does not meet the enrollment requirements of its particular program or who cannot be served shall be referred to the service delivery area for further assessment, as necessary, and referral to appropriate programs in accordance with subparagraph (A) to meet the basic skills and training needs of the applicant.

"(ii) SERVICE DELIVERY AREA.—The service delivery area shall ensure that appropriate referrals are made pursuant to clause (i), and shall maintain appropriate records of such referrals and the basis for such referrals. Records.

"(c) AUTHORIZED SERVICES.—Subject to the limitations contained in subsection (d), services which may be made available to youth with funds provided under this part may include—

"(1) direct training services, including—

"(A) the services described in section 204(b)(1);

"(B) tutoring and study skills training;

"(C) alternative high school services within programs that meet the requirements of section 141(o)(1);

"(D) instruction leading to high school completion or the equivalent;

"(E) mentoring;

"(F) limited internships in the private sector;

"(G) training or education that is combined with community and youth service opportunities in public agencies, nonprofit agencies, and other appropriate agencies, institutions, and organizations, including youth corps programs;

"(H) entry employment experience programs;

"(I) school-to-work transition services;

"(J) school-to-postsecondary education transition services;

"(K) school-to-apprenticeship transition services; and

"(L) preemployment and work maturity skills training; and

"(2) training-related and supportive services, including—

"(A) the services described in section 204(b)(2);

"(B) drug and alcohol abuse counseling and referral;

"(C) services encouraging parental, spousal, and other significant adult involvement in the program of the participant; and

"(D) cash incentives and bonuses based on attendance and performance in a program.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) STRATEGIES AND SERVICES.—In developing service strategies and designing services for the program under this part, the service delivery area and private industry council shall take into consideration exemplary program strategies and practices, including the strategies and practices of model programs selected for replication under section 453(c).

"(2) SCHOOL DROPOUTS.—

"(A) PARTICIPATION REQUIREMENTS.—In order to participate in a program assisted under this part, except for interim periods, an individual who is under the age of 18 and a school dropout shall enroll in and attend a school, course, or program described in clause (ii) or (iii) of subparagraph (B).

"(B) SERVICE DELIVERY REQUIREMENTS.—

"(i) IN GENERAL.—Each service delivery area shall make available, in accordance with this subparagraph, to each participant in the program who is under the age of 18 and is a school dropout, at least 2 options for school attendance. Such options shall be provided concurrently or sequentially with other services provided under this part to each such participant as a part of the training of such participant.

"(ii) SCHOOL ATTENDANCE.—Each service delivery area shall provide, as one of the options for school attendance, an option for each such participant to enroll in and attend a high school equivalency program.

"(iii) ADDITIONAL OPTION.—Each service delivery area shall provide, as a second option for school attendance for each such participant—

"(I) an option to reenroll in and attend school;

"(II) an option to enroll in and attend an alternative high school; or

"(III) an option to enroll in and attend an alternative course of study approved by the local educational agency.

"(3) SKILLS TRAINING.—

"(A) PREEMPLOYMENT AND WORK MATURITY SKILLS TRAINING.—Preemployment and work maturity skills training authorized by this part shall be accompanied by either work experience or other additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps and the JOBS program.

"(B) ADDITIONAL SERVICES.—Work experience, job search assistance, job search skills training, and job club activities provided under this part shall be accompanied by additional services designed to increase the basic education or occupational skills of a participant. The additional services may be provided, concurrently or sequentially, under other education and training programs, including the Job Corps and the JOBS program.

"(C) ON-THE-JOB TRAINING.—

"(i) POSITIONS.—On-the-job training authorized under this part shall only be available in positions that—

"(I) pay the participant a wage that equals or exceeds the average wage at placement in the service delivery area for participants under part A; and

"(II) have career advancement potential.

"(ii) FORMAL PROGRAM OR STRUCTURED JOB TRAINING.—On-the-job training authorized under this part shall include a formal program of structured job training that will provide participants with an orderly sequence of instruction in work maturity skills, general employment competencies, and occupationally specific skills.

"(iii) PARTICIPATION REQUIREMENT.—In order to participate in on-the-job training authorized under this part, except for interim periods, an individual who has not attained a high school diploma or its equivalent shall concurrently enroll in and attend a school, course, or program described in clause (ii) or (iii) of paragraph (2)(B).

"(4) NEEDS-BASED PAYMENTS.—Needs-based payments and financial assistance provided under this part shall be limited to payments necessary for participation in the program assisted under this part in accordance with a locally developed formula or procedure.

"(5) COUNSELING AND SUPPORTIVE SERVICES.—Counseling and supportive services provided under this part may be provided to a participant for a period of up to 1 year after the date on which the participant completes the program.

"(6) PROHIBITION ON PRIVATE ACTIONS.—Nothing in this section shall be construed to establish a right for a participant to bring an action to obtain services described in the assessment or service strategy developed under subsection (b)(1).

"(7) VOLUNTEERS.—The service delivery area shall make opportunities available for successful individuals who have previously participated in programs under this part to volunteer assistance to participants in the form of mentoring, tutoring, and other activities.

"SEC. 265. LINKAGES. 29 USC 1645.

"(a) EDUCATIONAL LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish linkages with the appropriate educational agencies responsible for service to participants. Such linkages shall include—

"(1) formal agreements with local educational agencies that will identify—

"(A) the procedures for referring and serving in-school youth;

"(B) the methods of assessment of in-school youth; and

"(C) procedures for notifying the program when a youth drops out of the school system;

"(2) arrangements to ensure that the program under this part supplements existing programs provided by local educational agencies to in-school youth;

"(3) arrangements to ensure that the program under this part utilizes, to the extent possible, existing services provided by local educational agencies to out-of-school youth; and

"(4) arrangements to ensure that for in-school participants there is a regular exchange of information between the program and the educational agency relating to participant progress, problems, and needs, including, in appropriate circumstances, interim assessment results.

"(b) EDUCATION AND TRAINING PROGRAM LINKAGES.—In conducting the program assisted under this part, service delivery areas shall establish appropriate linkages with other education and training programs authorized under Federal law. Such programs shall include, where feasible, programs assisted under—

"(1) part B of title IV (the Job Corps);

"(2) parts A through D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711 et seq.);

"(3) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(4) the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(5) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(6) part F of title IV of the Social Security Act (JOBS) (42 U.S.C. 681 et seq.);

"(7) the Food Stamp Act (7 U.S.C. 2011 et seq.);

"(8) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(9) the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77; 101 Stat. 482); and

"(10) any other provisions of this Act.

"(c) OTHER PROGRAMS.—In addition to the linkages required under subsections (a) and (b), service delivery areas receiving financial assistance under this part shall establish other appropriate linkages to enhance the provision of services under this part. Such linkages may be established with State and local service agencies, public housing agencies, community-based organizations, business and labor organizations, volunteer groups working with at-risk youth, parents and family members, juvenile justice systems, and other training, education, employment and social service programs, including programs conducted under part A.

"(d) SCHOOLWIDE PROJECTS FOR LOW-INCOME SCHOOLS.—In conducting a program serving individuals specified in section 263(g), the service delivery area shall establish a cooperative arrangement with the appropriate local educational agency that shall, in addition to the other requirements of this section, include—

"(1) a description of the ways in which the program will supplement the educational program of the school;

"(2) identification of measurable goals to be achieved by the program and provision for assessing the extent to which such goals are met;

"(3) a description of the ways in which the program will use resources provided under this part and resources provided under other education programs to achieve the goals identified in paragraph (2);

"(4) a description of the number of individuals to be served; and

"(5) assurances that the resources provided under this part shall be used to supplement and not supplant existing sources of funds.

"SEC. 266. TRANSFER OF FUNDS. 29 USC 1646.

"A service delivery area may transfer up to 10 percent of the amounts allocated to the service delivery area under section 262(b) to the program under part A if such transfer is—

"(1) described in the job training plan; and

"(2) approved by the Governor.".

TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

SEC. 301. STATE AGENCY APPROVAL.

Section 314(f) of the Act (29 U.S.C. 1661c(f)) is amended—

(1) by inserting "(1)" before "Funds"; and

(2) by adding at the end the following new paragraph:

"(2) An eligible dislocated worker participating in training (except for on-the-job training) under this title shall be deemed to be in training with the approval of the State agency for purposes of section 3304(a)(8) of the Internal Revenue Code of 1986.".

SEC. 302. LIMITATIONS ON USES OF FUNDS.

(a) RETRAINING SERVICES.—Section 315(a)(1) of the Act (29 U.S.C. 1661d(a)(1)) is amended to read as follows:

"(a) RETRAINING SERVICES.—(1) Of the funds allocated to a substate grantee under part A of this title for any program year, not less than 50 percent shall be expended for retraining services specified under section 314(d).".

(b) NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES.—Section 315(b) of the Act is amended to read as follows:

"(b) Of the funds allocated to a substate grantee or to the Governor under part A of this title for any program year, not more than 25 percent may be expended to provide needs-related payments and other supportive services.".

(c) ADMINISTRATIVE COST.—The first sentence of section 315(c) of the Act is amended to read as follows: "Of the funds allocated to a substate grantee or to the Governor under part A of this title for any program year, not more than 15 percent may be expended to cover the administrative cost of programs.".

(d) COMBINATION OF FUNDS.—Section 315 of the Act is further amended by adding at the end the following new subsection:

"(d) COMBINATION OF FUNDS.—Substate grantees within a State may combine funds under this title for the provision of services to eligible dislocated workers from 2 or more substate areas.".

(e) REALLOTMENT.—Section 315 of the Act is further amended by adding at the end the following new subsection:

"(e) DEFINITION.—As used in this section, the term 'allocated', means allocated for a program year, as adjusted for reallocations between substate areas, and for reallotments in accordance with section 303.".

SEC. 303. DEMONSTRATION PROGRAMS.

Section 324(a) of the Act (29 U.S.C. 1662c(a)) is amended by striking "1989, 1990, and 1991," and inserting "1992 through 1996,".

TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

SEC. 401. NATIVE AMERICAN AND MIGRANT PROGRAMS.

(a) PERFORMANCE STANDARDS.—Section 401(h)(1) of the Act (29 U.S.C. 1671(h)(1)) is amended by inserting "pursuant to section 106" after "performance standards".

(b) NATIVE AMERICAN PROGRAMS.—Section 401(j) of the Act (29 U.S.C. 1671(j)) is amended to read as follows:

"(j)(1) The Secretary shall designate a single organizational unit that shall have as its primary responsibility the administration of all Native American programs authorized under this Act.

"(2) Such organizational unit shall—

"(A) be responsible for administering the provisions of the Native American programs authorized under this Act, including monitoring such programs and making recommendations regarding the selection of the recipients of financial assistance;

"(B) be responsible for the development of the policies and procedures related to the implementation of such programs; and

"(C) coordinate the development of policy and procedures for the employment and training programs within the Department relating to services for Native American workers.

"(3) In the hiring and promotion of the professional staff for the organizational unit designated under paragraph (1), special consideration shall be given to individuals who have field experience in the daily operation of service and training programs for Native Americans, and individuals who are Indians or Alaskan Natives. The Secretary shall take such additional actions as may be necessary to promote the recruitment and promotion of Indians, Alaskan Natives, and Hawaiian Natives to positions in such unit.".

(c) PERMANENT ADVISORY COUNCIL.—Section 401 of the Act (29 U.S.C. 1671) is amended by adding at the end the following new subsection:

Establishment.

"(k)(1) There is hereby established a Native American Employment and Training Council (referred to in this subsection as the 'Council'), which shall consist of not fewer than 17 Indians, Alaskan Natives, and Hawaiian Natives appointed by the Secretary from among individuals nominated by Indian tribes or Indian, Alaskan Native, or Hawaiian Native organizations. The membership of the Council shall represent all geographic areas of the United States with a substantial Indian, Alaskan Native, or Hawaiian Native population and shall include representatives of tribal governments and of nonreservation Native American organizations who are service providers under this Act. A majority of the members of the Council shall have field experience in the daily operation of the program authorized under this section.

"(2) The Council shall select a chairperson from among its members by a majority vote. The Council shall meet not less often than twice each program year.

"(3) Members of the Native American Programs Advisory Committee that existed before the date of enactment of this subsection—

"(A) shall serve as members of the Council until their successors are appointed; and

"(B) may be appointed as members of the Council, if such appointment is consistent with the provisions of this subsection.

"(4) Each member of the Council shall serve for a term of 2 years, except that—

"(A) one-half of the members initially appointed (as designated by the Secretary) shall serve for terms of 1 year;

"(B) any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment, and shall not affect the power of the remaining members to execute the duties of the Council;

"(C) any member appointed to such a vacancy shall serve for the remainder of the term for which the predecessor of the member was appointed; and

"(D) members may be reappointed.

"(5) The initial membership of the Council shall be appointed not later than the beginning of program year 1993.

"(6) The Council shall—

"(A) solicit the views of a wide variety of Indian tribes and Native American groups, including groups operating employment and training programs funded under this section, on issues affecting the operation and administration of such programs;

"(B) advise the Secretary with respect to the implementation of programs under this section and other programs providing services to Native American youth and adults under this Act;

"(C) advise and make recommendations to the Secretary with respect to the design and implementation of performance standards developed under section 106(f);

"(D) advise and make recommendations to the Secretary with respect to the services obtained or to be obtained by the Department of Labor through contracts or arrangements with non-Federal agencies or entities that involve the program authorized by this section;

"(E) evaluate the effectiveness of Native American job training programs and make recommendations with respect to the improvement of such programs;

"(F) advise the Secretary with respect to individuals to be considered to fill the position of the official in charge of the organizational unit designated under subsection (j)(1) whenever a vacancy in such position occurs; and

"(G) prepare and submit directly to the Secretary and to the Congress, not later than January 1 of each even numbered year, a report containing information on the progress of Native American job training programs and recommendations for improving their administration and effectiveness. Reports.

"(7) Members of the Council shall serve without compensation. Each member of the Council shall receive travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, for each day the member is engaged in the performance

of duties away from the home or regular place of business of the member.

"(8) The Secretary shall provide the Council with such administrative support as may be necessary to perform its functions.".

(d) COMPETITION.—Section 401 of the Act (29 U.S.C. 1671), as amended by subsection (c), is further amended by adding at the end the following new subsection:

"(l) The competition for grants under this section shall be conducted every 2 years, except that if a recipient of such a grant has performed satisfactorily under the terms of the existing grant agreement, the Secretary may waive the requirement for such competition on receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

(e) MIGRANT AND SEASONAL FARMWORKER PROGRAMS.—Section 402(c)(2) of the Act (29 U.S.C. 1672(c)(2)) is amended to read as follows:

"(c)(2) The competition for grants under this section shall be conducted every 2 years, except that if a recipient of such a grant has performed satisfactorily under the terms of the existing grant agreement, the Secretary may waive the requirement for such competition upon receipt from the recipient of a satisfactory 2-year program plan for the succeeding 2-year grant period.".

(f) RESERVATION.—Section 402 of the Act (29 U.S.C. 1672) is amended by striking subsection (f).

(g) GRANT PROCEDURES.—Part A of title IV of the Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new section:

"GRANT PROCEDURES

29 USC 1673.

"SEC. 403. Grants under sections 401 and 402 shall be subject to the Single Audit Act of 1984 (31 U.S.C. 7501 et seq.) and charging of costs under such sections shall be subject to appropriate circulars issued by the Office of Management and Budget.".

SEC. 402. JOB CORPS.

(a) ELIGIBILITY.—Section 423(1) of the Act (29 U.S.C. 1693(1)) is amended by inserting after "except that", the following: "not more than 20 percent of the individuals enrolled may be age 22 through 24, and that either".

(b) CLARIFICATION OF AUTHORITY TO TRANSFER PARTICIPANTS TO AND FROM PROGRAMS UNDER TITLE II.—Section 426 of the Act (29 U.S.C. 1696) is amended by adding at the end the following new subsection:

"(d) Nothing in this Act shall be construed to prohibit an individual who has been a participant in the Job Corps from concurrently or subsequently participating in programs under title II, or to prohibit an individual who has been a participant in programs under title II from concurrently or subsequently participating in the Job Corps.".

(c) NONRESIDENTIAL PARTICIPANTS.—Section 427(a)(2) of the Act (29 U.S.C. 1697(a)(2)) is amended by—

(1) striking "10 percent" and inserting "20 percent"; and

(2) adding at the end the following new sentences: "In enrolling individuals who are to be nonresidential participants, priority shall be given to those eligible individuals who are single parents with dependent children. The Secretary shall not reduce the number of residential participants in Job Corps programs

under this part during any program year below the number of residential participants during program year 1991 in order to increase the number of individuals who are nonresidential participants in the Job Corps.".

(d) CONSERVATION CENTERS.—Section 427 of the Act (29 U.S.C. 1697) is amended by adding at the end the following new subsection:

"(c) No funds appropriated to the Department of Labor for any fiscal year may be used to carry out any contract with a nongovernmental entity to administer or manage a Civilian Conservation Center of the Job Corps.".

(e) ADDITIONAL SUPPORT SERVICES REQUIRED.—Section 428 of the Act (29 U.S.C. 1698) is amended by adding at the end the following new subsections:

"(e) The Secretary shall, to the extent practicable, provide child care at or near Job Corps centers, for individuals who require child care for their children in order to participate in the Job Corps. Day care.

"(f) Each Job Corps center shall provide to enrollees who are dependent on, or who have a history of abuse of, alcohol or drugs, with counseling and referral to related services necessary to prevent the continuance or recurrence of such dependency or abuse.". Drugs and drug abuse.

(f) MANAGEMENT FEES.—Section 437 of the Act (29 U.S.C. 1707) is amended by adding at the end the following new subsection:

"(d) The Secretary shall provide all Job Corps contractors with an equitable and negotiated management fee of not less than 1 percent of the contract amount.".

SEC. 403. NATIONAL ACTIVITIES.

(a) IN GENERAL.—Part D of title IV (29 U.S.C. 1731 et seq.) is amended—

(1) in section 451, to read as follows: 29 USC 1731.

"NATIONAL PARTNERSHIP AND SPECIAL TRAINING PROGRAMS

"SEC. 451. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) improve access to employment and training opportunities for individuals with special needs;

"(2) help alleviate skill shortages and enhance the competitiveness of the labor force;

"(3) meet special training needs that are best addressed on a multistate or industry-wide basis; and

"(4) encourage the participation and support of all segments of society to further the purposes of this Act.

"(b) PROGRAM AUTHORIZED.—The Secretary may establish a system of, and award, special grants to eligible entities to carry out programs that are most appropriately administered at the national level.

"(c) PROGRAMS.—Programs that are most appropriately administered at the national level include—

"(1) partnership programs with national organizations with special expertise in developing, organizing, and administering employment and training programs at the national, State, and local levels, such as industry and labor associations, public interest groups, community-based organizations representative of groups that encounter special difficulties in the labor market, and other organizations with special knowledge or capabilities in education and training;

"(2) programs that—

"(A) address industry-wide skill shortages;

"(B) meet training needs that are best addressed on a multistate basis; and

"(C) further the goals of increasing the competitiveness of the United States labor force; and

"(3) programs that require technical expertise available at the national level to serve specialized needs of particular client groups, including at-risk youth, offenders, individuals of limited-English language proficiency, individuals with disabilities, women, immigrants, single parents, substance abusers, displaced homemakers, youth, older individuals, veterans, school dropouts, public assistance recipients, and other individuals who the Secretary determines require special assistance.";

29 USC 1732.

(2) in section 452, to read as follows:

"RESEARCH, DEMONSTRATION, AND EVALUATION

"SEC. 452. (a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist the United States in expanding employment opportunities and ensuring access to such opportunities for all who desire such opportunities.

"(b) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall establish a comprehensive program of training and employment research, utilizing the methods, techniques, and knowledge of the behavioral and social sciences and such other methods, techniques, and knowledge as will aid in the solution of the employment and training problems of the United States.

"(2) STUDIES.—The program established under this section may include studies concerning—

"(A) the development or improvement of Federal, State, local, and privately supported employment and training programs;

"(B) labor market processes and outcomes, including improving workplace literacy;

"(C) policies and programs to reduce unemployment and the relationships of the policies and programs with price stability and other national goals;

"(D) productivity of labor;

"(E) improved means of using projections of labor supply and demand, including occupational and skill requirements and areas of labor shortages at the national and subnational levels;

"(F) methods of improving the wages and employment opportunities of low-skilled, disadvantaged, and dislocated workers, and workers with obsolete skills;

"(G) methods of addressing the needs of at-risk populations, such as youth, homeless individuals and other dependent populations, older individuals, and other groups with multiple barriers to employment;

"(H) methods of developing information on immigration, international trade and competition, technological change, and labor shortages; and

"(I) methods of easing the transition from school to work, from transfer payment receipt to self-sufficiency, from one job to another, and from work to retirement.

"(c) PILOT AND DEMONSTRATION PROGRAMS.—

"(1) PROGRAM ESTABLISHED.—

"(A) IN GENERAL.—The Secretary shall establish a program of pilot and demonstration programs for the purpose of developing and improving techniques and demonstrating the effectiveness of specialized methods in addressing employment and training needs. The Secretary may award grants and enter into contracts with entities to carry out the programs.

"(B) PROJECTS.—Such programs may include projects in such areas as—

"(i) school-to-work transition;

"(ii) new methods of imparting literacy skills and basic education;

"(iii) new training techniques (including projects undertaken with the private sector);

"(iv) methods to eliminate artificial barriers to employment;

"(v) approaches that foster participation of groups that encounter special problems in the labor market (such as displaced homemakers, teen parents, welfare recipients, and older individuals);

"(vi) processes that demonstrate effective methods for alleviating the adverse effects of dislocations and plant closings on workers and their communities; and

"(vii) cooperative ventures among business, industry, labor, trade associations, community-based organizations or nonprofit organizations to develop new and cost-effective approaches to improving work force literacy.

"(2) EVALUATION COMPONENT.—Demonstration programs assisted under this subsection shall include a formal, rigorous evaluation component. Pilot programs assisted under this subsection shall include an appropriate evaluation component.

"(3) SPECIAL RULE.—No demonstration program under this subsection shall be assisted under this section for a period of more than 7 years. No pilot program under this subsection shall be assisted under this section for a period of more than 3 years.

"(d) EVALUATION.—

"(1) PROGRAMS.—

"(A) JOB TRAINING PROGRAMS.—The Secretary shall provide for the continuing evaluation of programs conducted under this Act, including the cost effectiveness of the program in achieving the purposes of this Act.

"(B) OTHER PROGRAMS.—The Secretary may conduct evaluations of other federally funded employment-related activities including programs administered under—

"(i) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(ii) the National Apprenticeship Act (29 U.S.C. 50 et seq.);

"(iii) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.);

"(iv) chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.); and

"(v) the Federal unemployment insurance program under titles III, IX, and XII of the Social Security

Act (42 U.S.C. 501 et seq., 1101 et seq., and 1321 et seq.).

"(2) TECHNIQUES.—

"(A) METHODS.—Evaluations conducted under paragraph (1) shall utilize sound statistical methods and techniques of the behavioral and social sciences, including random assignment methodologies if feasible.

"(B) ANALYSIS.—Such evaluations may include cost-benefit analysis of programs, the impact of the programs on community and participants, the extent to which programs meet the needs of various demographic groups, and the effectiveness of the delivery systems used by various programs.

"(C) EFFECTIVENESS.—The Secretary shall evaluate the effectiveness of programs authorized under this Act with respect to—

"(i) the statutory goals;

"(ii) the performance standards established by the Secretary; and

"(iii) the extent to which such programs enhance the employment and earnings of participants, reduce income support costs, improve the employment competencies of participants in comparison to comparable persons who did not participate in such programs, and, to the extent feasible, increase the level of total employment over the level that would have existed in the absence of such programs.";

29 USC 1733. (3) in section 453, to read as follows:

"CAPACITY BUILDING, INFORMATION, DISSEMINATION, AND REPLICATION ACTIVITIES

"SEC. 453. (a) NATIONAL STRATEGY.—The Secretary shall develop a national strategy for carrying out the activities described in subsection (b)(2) and the replication of programs described in subsection (c), and shall ensure the implementation of the national strategy.

"(b) NETWORK.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—The Secretary shall establish a Capacity Building and Information and Dissemination Network (referred to in this section as the 'Network') to enhance the effectiveness of and to strengthen the caliber of services provided through programs authorized under this Act and other Federal, State, and local employment and training programs.

"(B) ADMINISTRATION.—The Secretary shall establish and maintain such Network—

"(i) directly;

"(ii) under an interagency agreement; or

"(iii) through a grant or contract awarded on a competitive basis to a single entity, or to a system of entities coordinated by the Secretary, with appropriate expertise.

"(2) ACTIVITIES.—The Network shall—

"(A) provide, coordinate, and support the development of, appropriate training, technical assistance, staff development, and other activities that will—

"(i) enhance the skills, knowledge, and expertise of the personnel who staff employment and training and other closely related human service systems, including service providers;

"(ii) improve the quality of services provided to individuals served under this Act and other Federal employment and training programs and encourage integrated service delivery under such programs using—

"(I) where cost effective, interactive communication systems and satellite technology; and

"(II) where possible, staff trained in a variety of Federal human resource programs;

"(iii) improve the planning, procurement, and contracting practices pursuant to this Act; and

"(iv) provide broad human services policy and planning training to—

"(I) private industry council volunteers; and

"(II) where appropriate, members of State human resource investment councils and other State councils;

"(B) prepare and disseminate staff training curricula and materials, primarily using computer-based technologies, for employment and training professionals and support staff, that focus on enhancing staff competencies and professionalism, including instruction on the administrative requirements of this Act, such as procurement and contracting standards and regulations; and

"(C)(i) identify, develop, disseminate, and provide training in the techniques learned from, innovative and successful program models, materials, methods, and information, by using computer-based technologies for organizing a data base and dissemination and communication system for the Network, and establishing a computer-based communications and dissemination methodology to share information among employment and training personnel and institutions; and

"(ii) in identifying such program models, ensure that consideration shall be given to—

"(I) the size and scope of the program;

"(II) the length of time that the program has been operating;

"(III) the nature and reliability of measurable outcomes for the program;

"(IV) the capacity of the sponsoring organization to provide the technical assistance necessary for States and service delivery areas to replicate the program; and

"(V) the likelihood that the program will be successful in diverse economic, geographic, and cultural environments.

"(3) CHARGES.—The Network may require cost-sharing to offset the actual costs of institute training, materials acquisition, or information dissemination. Any resulting income shall be used in accordance with section 141(m).

"(4) COORDINATION.—

"(A) IN GENERAL.—The Secretary shall consult with the Secretaries of Education and Health and Human Services, as appropriate, to coordinate the activities of the Network with other relevant institutes, centers, laboratories, clearinghouses, or dissemination networks, such as the National Diffusion Network.

"(B) COORDINATION WITH REPLICATION GRANT PROGRAM.—To the extent possible, the Network shall coordinate the activities of the Network with activities assisted under the replication grant program conducted under subsection (c).

"(c) REPLICATION.—

Grants.
Nonprofit organizations.

"(1) REPLICATION PROGRAM AUTHORIZED.—The Secretary shall make competitive grants to public or private nonprofit organizations for technical assistance, and to States and service delivery areas for planning and program development, to promote the replication of employment and training programs that are successful in improving the employment prospects of populations served under this Act and that are replicable on a large scale. In making such grants, the Secretary shall consider the recommendations described in paragraph (2)(B) of the review panel established under paragraph (2)(A) regarding such programs.

"(2) REVIEW PANEL.—

"(A) ESTABLISHMENT.—The Secretary shall establish a review panel comprised of not more than 6 individuals appointed by the Secretary who are recognized experts in the operation and evaluation of employment and training programs for economically disadvantaged youth and adults, and dislocated workers.

"(B) RECOMMENDATIONS.—The review panel shall make recommendations to the Secretary regarding model programs that the panel considers likely to be successful in improving such employment prospects of populations served under this Act and to be replicable on a large scale.

"(C) CONSIDERATIONS.—In recommending such programs the review panel shall use the considerations described in subsection (b)(2)(C)(ii).

"(D) MEETINGS.—The review panel shall meet not more than once each year to carry out the responsibilities described in this paragraph.

"(E) CONFLICT OF INTEREST.—No member of such panel shall have a direct financial interest in or affiliation with a potential recipient of funds under the program authorized by this section.

"(3) APPLICATIONS.—

"(A) NONPROFIT ORGANIZATION.—Any public or private nonprofit organization desiring to receive such a grant to provide the technical assistance necessary for program replication may submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) STATE; SERVICE DELIVERY AREA.—Any State or service delivery area desiring to receive such a grant for planning and program development associated with a rep-

lication effort shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(C) CONTENTS.—Each application described in subparagraph (A) or (B) shall contain—

"(i) a description of the program proposed for replication and available evidence of the success of the program in improving the employment prospects of economically disadvantaged youth and adults, and dislocated workers, within each such service delivery area; and

"(ii) in the case of applications described in subparagraph (A), an assurance that the organization will enter into an agreement with the service delivery areas in which the program is to be replicated, to participate in the replication program.

"(4) GRANT LIMITATIONS.—

"(A) LIMITATION.—In any 3-year period the Secretary shall not approve grants for the same replication activities in more than 10 States or communities. During such 3-year period, the results of such limited replication efforts shall be carefully evaluated and examined by the Secretary regarding the advisability of replicating the model program in more than 10 States or communities or for longer than 3 years.

"(B) WAIVER.—The Secretary may waive the limitation set forth in subparagraph (A) for a program if immediate replication efforts on a larger scale are warranted by extensive evaluation of the program prior to designation as a model program under this subsection.

"(5) COORDINATION.—To the extent possible, the Secretary shall coordinate the activities assisted under the replication grant program conducted under this subsection with the activities of the Network under subsection (b). The Secretary shall ensure that information on the programs replicated under this subsection shall be available through the Network.

"(d) MANAGEMENT CAPABILITY.—

"(1) GRANTS.—From the amounts reserved under section 3(c)(2)(B)(ii)(III) for each fiscal year to carry out this subsection, the Secretary may award grants to States for the purpose of assisting the States in carrying out the activities described in section 202(c)(1)(A).

"(2) ELIGIBILITY.—A State that receives an amount under section 202(c)(1)(A) for a fiscal year that is less than $500,000 shall be eligible to receive a grant under this subsection for the fiscal year.

"(3) AMOUNT OF GRANT.—The amount of a grant awarded to a State for a fiscal year under paragraph (1) shall not exceed the lesser of—

"(A) $100,000; or

"(B) the difference obtained by subtracting from $500,000 the amount received by the State for the fiscal year under section 202(c)(1)(A).

"(4) AWARD OF GRANTS.—In determining whether to award a grant to a State under paragraph (1), and in determining the amount of such a grant, the Secretary shall take into

account the demonstrated need of the State to receive such a grant, as indicated by—

"(A) the number of service delivery areas in the State; and

"(B) the demonstrated insufficiency of resources of the State to administer State responsibilities under sections 121 and 122.

"(5) APPLICATION.—To be eligible to receive a grant under this subsection for a fiscal year, a State shall submit an application at such time, in such manner, and containing such information as the Secretary may require, including sufficient information to enable the Secretary to make the determinations described in paragraph (4).

"(6) USE OF FUNDS.—The Secretary shall make available to carry out subsections (b) and (c) any amounts reserved under section 3(c)(2)(B)(ii)(III) for a fiscal year and not expended to make grants under paragraph (1) for such year.";

29 USC 1734–1736. 29 USC 1737.

(4) striking sections 454 through 456; and

(5)(A) redesignating section 457 as section 456; and

(B) striking the heading for section 456 (as redesignated by subparagraph (A)) and inserting "NONTRADITIONAL EMPLOYMENT DEMONSTRATION PROGRAM".

(b) TRAINING AND TECHNICAL ASSISTANCE.—Part D of title IV of the Act (29 U.S.C. 1671 et seq.) is amended by inserting after section 453 the following:

"GUIDANCE ON ELIGIBILITY VERIFICATION

29 USC 1734.

"SEC. 454. (a) ESTABLISHMENT.—The Secretary shall provide guidance and technical assistance, to States and service delivery areas, relating to the documentation required to verify the eligibility of participants under parts A, B, and C of title II of this Act, particularly the hard-to-serve individuals specified in section 203(b) and subsections (b) and (d) of section 263. Such documentation shall, to the extent practicable, be uniform and standard.

"(b) GUIDANCE.—The guidance provided pursuant to subsection (a), while maintaining program integrity, shall—

"(1) limit the documentation burden to the minimum necessary to adequately verify such eligibility; and

"(2) ensure, to the extent practicable, that the documentation requirements shall not discourage the participation of eligible individuals.

"(c) CONTENTS.—The guidance provided pursuant to subsection (a) shall specifically address income eligibility, assessment, the determination regarding whether an individual is a hard-to-serve individual, and specific uniform or standardized documentation forms or procedures (including simplified standardized forms, automated intake procedures, and self-certification documents) and other documentation proxies (such as JOBS and Job Corps eligibility forms).

"(d) DATE.—The Secretary shall provide the guidance described in subsection (a) not later than December 18, 1992.".

SEC. 404. UNIFORM REQUIREMENTS.

(a) REPORTING; TRAINING NETWORK.—Part D of title IV of the Act (29 U.S.C. 1731 et seq.), is amended by inserting after section 454 (as added by section 403) the following new section:

"UNIFORM REPORTING REQUIREMENTS

"SEC. 455. (a) FINDING.—Congress finds that closer coordination and more effective use of resources among a variety of employment and training programs can be facilitated if the programs have common data elements and definitions. 29 USC 1735.

"(b) DATA ELEMENTS.—The Secretaries of Labor, Education, and Health and Human Services, in consultation with other appropriate departments and with the National Occupational Information Coordinating Committee, shall identify a core set of consistently defined data elements for employment and training programs, including those funded under titles II, III, and IV of this Act, the Wagner-Peyser Act (29 U.S.C. 49 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), the JOBS program, and title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.).

"(c) REPORT.—The Secretary shall prepare and submit to Congress not later than January 1, 1994, a report listing recommended data elements and their definitions, and containing an analysis of the benefits of the adoption of the data elements and definitions.

"(d) CONSULTATION.—The Secretary shall consult with experts and practitioners, at the Federal, State, and local levels and in the various program areas, in fulfilling the requirements of this section. The Secretary shall also consult with the General Accounting Office in fulfilling the requirements of this section.".

SEC. 405. LABOR MARKET INFORMATION.

(a) COOPERATIVE LABOR MARKET INFORMATION.—Section 462 of the Act (29 U.S.C. 1752) is amended by adding at the end the following new subsection:

"(g)(1) Taking into consideration research previously conducted by the National Commission for Employment Policy and other entities, the Commissioner of Labor Statistics, in cooperation with the States, shall determine appropriate procedures for establishing a nationwide database containing information on the quarterly earnings, establishment and industry affiliation, and geographic location of employment, for all individuals for whom such information is collected by the States.

"(2) The Commissioner of Labor Statistics shall determine appropriate procedures for maintaining such information in a longitudinal manner and for making such information available for policy research or program evaluation purposes or both, while ensuring the confidentiality of information and the privacy of individuals. Privacy.

"(3) The Secretary shall prepare and submit to the Congress, not later than 12 months after the date of enactment of the Job Training Reform Amendments of 1992, a report that shall describe the costs and benefits, including savings on program followup surveys, of a nationwide database containing the information described in paragraph (1) and a schedule that would allow for the establishment of such a database. Reports.

(b) SPECIAL FEDERAL RESPONSIBILITIES.—Section 463(a) of the Act (29 U.S.C. 1753(a)) is amended by inserting "the Secretary of Health and Human Services," after "the Secretary of Education,".

(c) NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.—Section 464 of the Act (29 U.S.C. 1754) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "not more than $5,000,000" and inserting "$6,000,000"; and

(B) in paragraph (2) by striking "for Manpower, Reserve Affairs, and Logistics" and inserting "Force Management and Personnel"; and

(2) in subsection (b)—

(A) in paragraph (2) by inserting after "give special attention to the" the following: "career development and"; and

(B) in paragraph (5) by inserting after "any aspect of occupational and career information systems" the following: "and coordination and compatibility of human resources data systems operated by Federal agencies or the States, including systems to assist economic development activities and, where appropriate, provide support to States in the implementation of such system improvements.".

SEC. 406. ESTABLISHMENT OF THE YOUTH FAIR CHANCE PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.) is amended by adding at the end the following new part:

Education.
Disadvantaged.
Grants.
Urban and rural areas.
29 USC 1782.

"PART H—YOUTH FAIR CHANCE PROGRAM

"SEC. 491. STATEMENT OF PURPOSE.

"It is the purpose of the Youth Fair Chance program under this part to—

"(1) ensure access to education and job training assistance for youth residing in high poverty areas of urban and rural communities;

"(2) provide a comprehensive range of education, training, and employment services to disadvantaged youth who are not currently served or are underserved by Federal education and job training programs;

"(3) enable communities with high concentrations of poverty to establish and meet goals for improving the opportunities available to youth within the community; and

"(4) facilitate the coordination of comprehensive services to serve youth in such communities.

29 USC 1782a.

"SEC. 492. PROGRAM AUTHORIZED.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary is authorized to establish a national program of Youth Fair Chance grants to pay the Federal share attributable to this part of providing comprehensive services to youth living in high poverty areas in the cities and rural areas of the Nation.

"(b) ELIGIBILITY FOR GRANTS.—

"(1) RECIPIENTS.—The Secretary may only award grants under this part to—

"(A) the service delivery area (on behalf of the participating community) in which a target area is located;

"(B) in the case of a grant involving a target area located in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; or

"(C) in the case of a grant involving a target area located in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.

"(2) NUMBER OF GRANTS.—

"(A) IN GENERAL.—The Secretary may award not more than 25 grants during the first fiscal year that the program is authorized.

"(B) INDIAN RESERVATIONS AND ALASKA NATIVE VILLAGES.—In awarding grants under this part during the first 5 fiscal years that the program is assisted, the Secretary shall award—

"(i) at least 1 grant to a grantee or consortium described in paragraph (1)(B); and

"(ii) at least 1 grant to a grantee or consortium described in paragraph (1)(C).

"(c) RENEWABILITY OF GRANTS.—

"(1) IN GENERAL.—Grants awarded under this part shall be for a 1-year period. Such a grant shall be renewable for each of the 2 succeeding fiscal years if the Secretary determines the grant recipient complied with conditions of the grant during the previous fiscal year.

"(2) EXTENSION.—The Secretary may extend the renewal period set forth in paragraph (1) for an additional 2 fiscal years on reapplication.

"(d) FACTORS FOR AWARDS.—In awarding grants under this part, the Secretary shall consider the quality of the proposed project, the goals to be achieved, the likelihood of successful implementation, the extent of community support, other Federal and non-Federal funds available for similar purposes, and additional State, local, or private resources that will be provided. The Secretary shall give priority to participating communities with the highest poverty rates.

"SEC. 493. APPLICATION. 29 USC 1782b.

"(a) ELIGIBILITY TO APPLY.—Participating communities that have the highest concentrations of poverty, as determined by the Secretary based on the latest Bureau of the Census estimates, shall be eligible to apply for a Youth Fair Chance grant.

"(b) CONTENTS OF APPLICATION.—

"(1) IN GENERAL.—Each participating community desiring a grant under this part shall, through the individuals set forth in subsection (c), submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each such application shall—

"(A) include a comprehensive plan for the Youth Fair Chance initiative designed to achieve identifiable goals for youth in the target area;

"(B) set forth measurable program goals and outcomes, which may include increasing the proportion of—

"(i) youth completing high school or its equivalent;

"(ii) youth entering into postsecondary institutions, apprenticeships, or other advanced training programs;

"(iii) youth placed in jobs; or

"(iv) youth participating in education, training, and employment services;

"(C) include supporting goals for the target area such as increasing security and safety, or reducing the number of drug-related arrests;

"(D) provide assurances that the applicant will comply with the terms of the agreement described in section 494;

"(E) demonstrate how the participating community will make use of the resources, expertise, and commitment of institutions of higher education, educational agencies, and vocational and technical schools and institutes;

"(F) provide an assurance that all youth in the target areas will have access to a coordinated and comprehensive range of education and training opportunities that serve the broadest range of youth interests and needs and simultaneously mobilizes the diverse range of education and training providers in the participating community;

"(G) provide assurances that the youth in the target area will have access to supportive services necessary for successful participation, including such services as child care, transportation, and assistance in resolving personal or family crises, such as crises related to substance abuse, homelessness, migration, and family violence;

"(H) include a description of a system of common intake procedures or sites, individualized assessment, and case management to be used by the program;

"(I) demonstrate how the participating community will make use of the resources, expertise, and commitment of such programs and service providers as—

"(i) community-based organizations providing vocational skills, literacy skills, remedial education, and general equivalency preparation, including community-based organizations serving youth with limited-English proficiency;

"(ii) youth corps programs, including youth conservation and human service corps;

"(iii) Job Corps centers;

"(iv) apprenticeship programs; and

"(v) other projects and programs funded under this Act;

"(J) include an estimate of the expected number of youth in the target area to be served;

"(K) include a description of the resources available in the participating community from private, local government, State, and Federal sources that will be used to achieve the goals of the program;

"(L) include an estimate of funds required to ensure access to appropriate education, training, and support services for all youth in the target area who seek such opportunities; and

"(M) provide evidence of support for accomplishing the stated goals of the participating community from—

"(i) local elected officials;

"(ii) the local school system;

"(iii) appropriate postsecondary education and training institutions;

"(iv) the applicable private industry council;

"(v) local community leaders;

"(vi) business;

"(vii) labor organizations; and

"(viii) other appropriate organizations.

"(c) SUBMISSION OF APPLICATION.—The application for funds described in subsection (b) may only be submitted to the Secretary on behalf of a participating community by—

"(1) the mayor of a city or the chief elected official in a metropolitan statistical area, after the Governor of the State has had an opportunity to comment on the application;

"(2) the chief elected official of a nonmetropolitan county or the designated chief elected official of contiguous nonmetropolitan counties, after the Governor of the State has had an opportunity to comment on the application; or

"(3) a grantee or consortium described in subparagraph (B) or (C) of section 492(b)(1) in applications for Native American or migrant or seasonal farmworker communities, respectively.

"SEC. 494. GRANT AGREEMENT. 29 USC 1782c.

"(a) IN GENERAL.—Each grant recipient receiving a grant under this part on behalf of a participating community shall enter into an agreement with the Secretary.

"(b) CONTENTS.—Each such agreement shall—

"(1) designate a target area that—

"(A) will be the focus of the demonstration project; and

"(B) shall have a population of—

"(i) not more than 25,000; or

"(ii) in an appropriate case, not more than 50,000, except that in the event that the population of an area from which a high school draws a substantial portion of its enrollment exceeds either limit, the target area may encompass such boundary;

"(2) contain assurances that funds provided under this part will be used to support education, training, and supportive activities selected from a set of youth program models designated by the Secretary or from alternative models described in the application and approved by the Secretary, such as—

"(A) nonresidential learning centers;

"(B) alternative schools;

"(C) combined activities including summer remediation, work experience and work readiness training, and school-to-work, apprenticeship, or postsecondary education programs;

"(D) teen parent programs;

"(E) special programs administered by community colleges;

"(F) youth centers;

"(G) initiatives aimed at increased rural student enrollment in postsecondary institutions;

"(H) public-private collaborations to assure private sector employment and continued learning opportunities for youth; and

"(I) initiatives, such as youth corps programs, that combine community and youth service opportunities with education and training activities;

"(3) provide that funds received under this part will be used for services to youth ages 14 through 21 at the time of enrollment;

"(4) contain assurances that the local educational agency and any other educational agency that operates secondary schools in the target area shall provide such activities and resources as are necessary to achieve the educational goals specified in the application;

"(5) contain assurances that the participating community will provide such activities and local resources as are necessary to achieve the goals specified in the application;

"(6) contain assurances that the participating community will undertake outreach and recruitment efforts in the target area to encourage, to the maximum extent possible, participation by the disadvantaged youth who are currently unserved, or underserved, by education and training programs, including targeted measures specifically designed to enlist the participation of youth, particularly males, under the jurisdiction of the child welfare, juvenile justice, and criminal justice systems;

"(7) provide that the participating community will carry out special efforts to establish coordination with Federal, State, or local programs that serve the target population;

"(8) provide assurances that funds provided under this part for a fiscal year will be used only to pay the Federal share attributable to this part of the cost of programs and services not otherwise available in the target area and will supplement, and not supplant, funding from other local, State, and Federal sources available to youth in the target area during the previous year; and

"(9) permit funds provided under this part to be used to support paid work experience programs if such programs are combined with other education and training activities.

29 USC 1782d.

"SEC. 495. JOB GUARANTEES.

"(a) PROGRAM AUTHORITY.—The Secretary shall permit a reasonable number of the grant recipients under this part to enter into an agreement to provide, in accordance with this section, a job guarantee program to youths meeting prior school attendance and performance standards.

"(b) GUARANTEE AGREEMENTS.—A grant recipient providing such a job guarantee program shall enter into an agreement with the Secretary, which agreement shall—

"(1) provide that the program be available to youth age 16 to 19 who undertake a commitment to continue and complete their high school education;

"(2) require the grant recipient to guarantee employment to each youth undertaking the commitment if such youth meets school attendance and performance standards for the previous school semester, as established by the Secretary in consultation with the Secretary of Education;

"(3) provide that the grant recipient will make additional services available to support the undertaking of any such youth, which shall include counseling, job development and placement, and supportive services (including child care and transportation);

"(4) specify the conditions under which funds provided under this part may be used to provide wage subsidies of up to 50 percent through employers, which conditions shall—

"(A) encourage subsidies to employers who provide advanced or specialized training, or who provide a structured and integrated learning experience involving the school and employer; and

"(B) limit the duration of such subsidies to not more than 1 year;

"(5) require that the employment provided to any such youth shall not exceed 15 hours per week during the school year;

"(6) permit employment to continue through the summer following high school graduation, or until the youth reaches age 19, whichever is later; and

"(7) contain such other terms and conditions as the Secretary requires by regulation.

"(c) SELECTION OF GRANT RECIPIENTS.—In determining which grant recipients to permit to enter an agreement under this section, the Secretary shall seek to target funds to areas with the highest poverty rates.

"(d) YOUTH ELIGIBILITY.—All youth, regardless of income, residing in an eligible high poverty area shall be eligible to participate in the job guarantee program.

"(e) PRIVATE FUNDS.—Nothing in this section shall be construed to prohibit the grant recipient from raising funds to augment such grant if such funds are utilized under the conditions of the grant, except that such funds shall not be used for administration.

"SEC. 496. PAYMENTS; FEDERAL SHARE. 29 USC 1782e.

"(a) PAYMENTS REQUIRED.—In any fiscal year, the amount of a grant awarded under this part shall be based on the size of the target area and the extent of the poverty in such area, and shall be of sufficient size and scope to carry out an effective program under this part.

"(b) FEDERAL SHARE.—The Federal share attributable to this part of the cost of providing comprehensive services as provided in section 492(a) shall be not less than 70 percent for each fiscal year a grant recipient receives assistance under this Act.

"(c) OTHER FEDERAL SOURCES.—In providing for the remaining share of such cost, each grant recipient may provide not more than 20 percent of such cost from Federal sources other than funds received pursuant to this part.

"(d) NON-FEDERAL SHARE.—A grant recipient shall provide non-Federal funds in an amount not less than 10 percent of such cost, an in-kind contribution equivalent to such percent (as determined by the Secretary), or a combination thereof.

"SEC. 497. REPORTING. 29 USC 1782f.

"The Secretary is authorized to establish such reporting procedures as are necessary to carry out the purposes of this part.

"SEC. 498. FEDERAL RESPONSIBILITIES. 29 USC 1782g.

"(a) IN GENERAL.—The Secretary shall provide assistance to participating communities in implementing the projects assisted under this part.

"(b) INDEPENDENT EVALUATION.—

"(1) IN GENERAL.—The Secretary shall provide for a thorough, independent evaluation of the Youth Fair Chance program to assess the outcomes of youth participating in programs assisted under this part.

"(2) EVALUATION MEASURES.—In conducting the evaluation described in paragraph (1) the Secretary shall include an assessment of—

"(A) the impact on youth residing in target areas, including the rates of school completion, enrollment in advanced education or training, and employment of the youth;

"(B) the extent to which participating communities fulfilled the goal of guaranteed access to appropriate education, training, and supportive services to all eligible youth residing in target areas who seek to participate;

"(C) the effectiveness of guaranteed access to comprehensive services combined with outreach and recruitment efforts in enlisting the participation of previously unserved or underserved youth residing in target areas;

"(D) the effectiveness of efforts to integrate service delivery in target areas, including systems of common intake, assessment, and case management; and

"(E) the feasibility of extending guaranteed access to comprehensive education, training and support services for youth in all areas of the United States, including possible approaches to incremental extension of such access over time.

"(c) REPORT.—The Secretary shall prepare a report detailing the results of the independent evaluation described in subsection (b) and shall submit such report to the Congress not later than December 31, 1996, along with an analysis of expenditures made, results achieved, and problems in the operations and coordination of programs assisted under this part.

"(d) RESERVATION OF FUNDS.—The Secretary may reserve not more than 5 percent of the amount appropriated under this part in each fiscal year to carry out the provisions of this section.

29 USC 1782h.

"SEC. 498A. DEFINITIONS.

"For the purposes of this part—

"(1) PARTICIPATING COMMUNITY.—The term 'participating community'—

"(A) in the case of a community conducting a project in an urban area, means a city in a metropolitan statistical area;

"(B) in the case of a community conducting a project in a rural area, means a nonmetropolitan county or contiguous nonmetropolitan counties;

"(C) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; or

"(D) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.

"(2) HIGH POVERTY AREA.—The term 'high poverty area' means an urban census tract, a nonmetropolitan county, a Native American Indian reservation, or an Alaska Native village, with a poverty rate of 30 percent or more, as determined by the Bureau of the Census, or a migrant or seasonal farmworker community.

"(3) TARGET AREA.—The term 'target area' means a high poverty area or set of contiguous high poverty areas that will be the focus of the program in each participating community.".

SEC. 407. ESTABLISHMENT OF THE MICROENTERPRISE GRANTS PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.), as amended by section 406, is further amended by adding at the end the following new part:

"PART I—MICROENTERPRISE GRANTS PROGRAM Disadvantaged.

"SEC. 499. MICROENTERPRISE GRANTS. 29 USC 1783.

"(a) PROGRAM AUTHORITY.—From the amount appropriated to carry out this section for fiscal years 1993 through 1997, the Secretary of Labor shall make grants of not more than $500,000 per year to not more than 10 States per year to implement and enhance community-based microenterprise activities. Such grants shall be an amount adequate to ensure that the activities will be of sufficient size and scope to produce substantial benefits. Such activities shall be for the benefit of economically disadvantaged persons.

"(b) USE OF FUNDS.—Such funds shall be used, notwithstanding section 141(q)—

"(1) to train program staff in such entrepreneurial activities as business plan development, business management, resource inventory design, and marketing approaches, and other activities necessary to provide effective entry level training to persons developing a microenterprise;

"(2) to provide to owners or potential owners of a microenterprise such technical assistance (including technical assistance with respect to business planning, securing funding, marketing, and production of marketing materials) and other assistance as may be necessary to develop microenterprise activities; and

"(3) to provide microenterprise support (such as peer support programs and counseling).

"(c) APPLICATION AND SELECTION.—The Secretary shall award grants competitively under this section on the basis of—

"(1) the State commitment, as evidenced by existing or proposed related programs and support;

"(2) evidence of ability to conduct and monitor the microenterprise activities;

"(3) evidence of linkage to private, community-based credit and technical assistance providers; and

"(4) size of the non-Federal match.

"(d) TIMING.—Not later than April 1 of any fiscal year, a State may submit to the Secretary an application. Not later than the following June 1, the Secretary shall approve not more than 10 of the applications. Not later than the following July 1, the Secretary shall authorize the applicant to begin the programs. The Secretary may consider making multiyear grants.

"(e) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—No State shall receive a grant under this section unless the State agrees to provide, to carry out the microenterprise programs, non-Federal contributions in an amount equal to 100 percent of Federal funds provided under such grant.

"(2) DETERMINATION.—The non-Federal contribution may be in cash or in-kind, fairly evaluated, including plant, equipment, or services.

"(f) REPORTS.—Each State receiving a grant under this section shall, for each fiscal year for which funds are received, submit to the Secretary a report that describes—

"(1) the programs that have been established and developed with such funds, including a description of the persons participating and the microenterprises developed;

"(2) the quantitative and qualitative benefits of such programs; and

"(3) the contributions of such programs to economic self-sufficiency and economic development.

"(g) DEFINITIONS.—As used in this section:

"(1) MICROENTERPRISE.—The term 'microenterprise' means a commercial enterprise if—

"(A) the enterprise has 5 or fewer employees, 1 or more of whom owns the enterprise; and

"(B) each of the owners of the enterprise is economically disadvantaged.

"(2) STATE.—The term 'State' includes—

"(A) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; and

"(B) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.".

SEC. 408. ESTABLISHMENT OF THE DISASTER RELIEF PROGRAM.

Title IV of the Act (29 U.S.C. 1671 et seq.), as amended by sections 406 and 407, is further amended by adding at the end the following new part:

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

29 USC 1784.

"SEC. 499A. GENERAL AUTHORITY.

"(a) QUALIFICATION FOR FUNDS.—Funds appropriated to carry out this part shall be made available in a timely manner by the Secretary to the Governor of any State within which is located an area that has suffered an emergency or a major disaster as defined in paragraphs (1) and (2), respectively, of section 102 of the Disaster Relief Act of 1974 (42 U.S.C. 5122 (1) and (2)) (referred to in this part as the 'disaster area').

"(b) SUBSTATE ALLOCATION.—Not less than 80 percent of the funds made available to any Governor under subsection (a) shall be allocated by the Governor to units of general local government located, in whole or in part, within such disaster areas. The remainder of such funds may be reserved by the Governor for use, in concert with State agencies, in cleanup, rescue, repair, renovation, and rebuilding activities associated with such major disaster.

"(c) COORDINATION.—Funds made available under this part to Governors and units of general local government shall be expended in consultation with—

"(1) agencies administering programs for disaster relief provided under the Disaster Relief Act of 1974; and

"(2) the administrative entity and the private industry council in each service delivery area within which disaster employment programs will be conducted under this part.

"SEC. 499B. USE OF FUNDS. 29 USC 1784a.

"(a) PROJECTS RESTRICTED TO DISASTER AREAS.—Funds made available under this part to any unit of general local government in a disaster area—

"(1) shall be used exclusively to provide employment on projects to provide food, clothing, shelter, and other humanitarian assistance for disaster victims and on projects regarding demolition, cleanup, repair, renovation, and reconstruction of damaged and destroyed structures, facilities, and lands located within the disaster area; and

"(2) may be expended through public and private agencies and organizations engaged in such projects.

"(b) ELIGIBLE PARTICIPANTS.—An individual shall be eligible to be offered disaster employment under this part if such individual is—

"(1)(A) eligible to participate or enroll, or is a participant or enrolled, under title III of this Act, other than an individual who is actively engaged in a training program; or

"(B) eligible to participate in programs or activities assisted under section 401 or 402; and

"(2) unemployed as a consequence of the disaster.

"(c) LIMITATIONS ON DISASTER RELIEF EMPLOYMENT.—No individual shall be employed under this part for more than 6 months for work related to recovery from a single natural disaster.

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to promote the fiscal integrity of programs conducted with funds made available under this part.

"SEC. 499C. DEFINITIONS. 29 USC 1784b.

"As used in this part, the term 'unit of general local government' includes—

"(1) in the case of a community conducting a project in an Indian reservation or Alaska Native village, the grantee designated under subsection (c) or (d) of section 401, or a consortium of such grantees and the State; and

"(2) in the case of a community conducting a project in a migrant or seasonal farmworker community, the grantee designated under section 402(c), or a consortium of such grantees and the State.".

TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

SEC. 501. JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

Title V of the Act (29 U.S.C. 1791 et seq.) is amended to read as follows:

Disadvantaged.
Handicapped.

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

29 USC 1791.

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to provide incentives to reduce welfare dependency, promote self-sufficiency, increase child support payments, and increase employment and earnings of individuals by providing to each participating State a bonus for providing job training to—

"(1) absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), who subsequent to such training pay child support for their children; and

"(2) blind or disabled individuals receiving supplemental security income under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), who subsequent to such training are successfully placed in and retain employment.

29 USC 1791a.

"SEC. 502. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this title.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of subsection (b), such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount that exceeds the amount that the State is eligible to receive under this title.

"(d) REPROGRAMMING.—If the amount appropriated for a program year is in excess of the amount necessary to pay each State the amount each State is eligible to receive, the Secretary shall allot the excess amount to the States for allocation to the service delivery areas in accordance with section 202 to carry out part A of title II.

29 USC 1791b.

"SEC. 503. AMOUNT OF INCENTIVE BONUS.

"The amount of the incentive bonus paid to each State shall be the sum of—

"(1) an amount equal to the total of the amounts of child support paid by each individual eligible under section 506(1) within the State, for up to 2 years after the termination of the individual from activities provided under this Act; and

"(2) an amount equal to the total reduction in the Federal contribution to the amounts received under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) by each individual eligible under section 506(2) within the State, for up to 2 years after the termination of the individual from activities provided under this Act.

"SEC. 504. USE OF INCENTIVE BONUS FUNDS. 29 USC 1791c.

"(a) IN GENERAL.—

"(1) ALLOCATION.—

"(A) ADMINISTRATIVE COSTS.—During any program year, the Governor may use an amount not to exceed 5 percent of the total bonus payments of a State for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

"(B) DISTRIBUTION OF PAYMENTS.—The amount of incentive bonus payments that remains after the deduction of administrative costs under subparagraph (A) shall be distributed to service delivery areas and Job Corps centers within the State in accordance with an agreement between the Governor and representatives of such areas and centers. Such agreement shall reflect an equitable method of distribution that is based on the degree to which the efforts of such area or center contributed to the qualification of the State for an incentive bonus payment under this title.

"(2) SPECIAL RULE.—Not more than 10 percent of the amounts received under this title in any program year by each service delivery area and Job Corps center may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including the costs of providing incentive payments described in subsection (b), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used by each service delivery area for activities described in sections 204 and 264, and by each Job Corps center for activities authorized under part B of title IV.

"(b) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area or Job Corps center may make incentive payments to service providers, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 506.

"(c) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 (relating to administrative adjudication) shall apply to the distribution of incentive bonus payments under this section.

"SEC. 505. NOTICE AND APPLICATION. 29 USC 1791d.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of the intent of the State to participate not later than 30 days before the beginning of the first program year of participation.

"(b) APPLICATION.—

"(1) IN GENERAL.—Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in order to ensure compliance with this title.

"(2) CONTENTS.—Each such application shall contain, at a minimum—

"(A) a list of the eligible individuals in the State who satisfied the requirements of section 506 during the program year;

"(B) the amount of the incentive bonus attributable to each eligible individual and due the State under section 503; and

"(C) certification that documentation is available to verify the eligibility of participants and the amount of the incentive bonus claimed by the State.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall promptly inform a State after receipt of the application as to whether or not the application of the State has been approved.

29 USC 1791e.

"SEC. 506. ELIGIBILITY FOR INCENTIVE BONUSES.

"An individual shall be eligible to participate in a program established under this title if—

"(1) the individual—

"(A) was an absent parent of any child receiving aid to families with dependent children under part A of title IV of the Social Security Act at the time such individual was determined to be eligible to participate in activities provided under this Act;

"(B) has participated in education, training or other activities (including the Job Corps) provided under this Act; and

"(C) pays child support for a child specified in subparagraph (A) following termination from activities provided under this Act; or

"(2) the individual—

"(A) is blind or disabled;

"(B) was receiving benefits under title XVI of the Social Security Act (relating to supplemental security income) at the time such individual was determined to be eligible to participate in activities under this Act;

"(C) has participated in education, training, or other activities (including the Job Corps) provided under this Act; and

"(D) earns from employment a wage or income.

29 USC 1791f.

"SEC. 507. INFORMATION AND DATA COLLECTION.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection, exchange, and compilation of data and information required by this title, the Secretary is authorized to provide technical assistance to the States. Such assistance may include cost-effective methods for using State and Federal records to which the Secretary has lawful access.

"(b) JOINT REGULATIONS.—

"(1) IN GENERAL.—The Secretary and the Secretary of Health and Human Services shall jointly issue regulations regarding the sharing, among public agencies participating in the programs assisted under this title, of the data and information necessary to fulfill the requirements of this title.

"(2) SUBJECTS.—Such regulations shall ensure—

"(A) the availability of information necessary to verify the eligibility of participants and the amount of the incentive bonus payable; and

"(B) the maintenance of confidentiality of the information so shared in accordance with Federal and State privacy laws.

"SEC. 508. EVALUATION AND REPORT. 29 USC 1791g.

"(a) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program assisted under this title.

"(2) CONSIDERATIONS.—The Secretary shall consider—

"(A) whether the program results in increased service under this Act to absent parents of children receiving aid to families with dependent children under part A of title IV of the Social Security Act and to recipients of supplemental security income under title XVI of the Social Security Act;

"(B) whether the program results in increased child support payments;

"(C) whether the program is administratively feasible and cost effective;

"(D) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(E) such other factors as the Secretary determines to be appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1997, the Secretary shall submit a report to the appropriate committees of the Congress on the effectiveness of the incentive bonus program assisted under this title. Such report shall include an analysis of the costs of such program and the results of program activities.

"SEC. 509. IMPLEMENTING REGULATIONS. 29 USC 1791h.

"The Secretary shall promulgate regulations implementing this title not later than January 31, 1993.".

TITLE VI—STATE HUMAN RESOURCE INVESTMENT COUNCIL

SEC. 601. STATE HUMAN RESOURCE INVESTMENT COUNCIL.

(a) IN GENERAL.—The Act (29 U.S.C. 1501 et seq.) is amended by adding at the end the following new title:

"TITLE VII—STATE HUMAN RESOURCE INVESTMENT COUNCIL

"SEC. 701. ESTABLISHMENT AND FUNCTIONS. 29 USC 1792.

"(a) IN GENERAL.—Each State may, in accordance with the requirements of this title, establish a single State human resource investment council (in this title referred to as the 'State Council') that—

"(1) shall review the provision of services and the use of funds and resources under applicable Federal human resource programs and advise the Governor on methods of coordinating such provision of services and use of funds and resources

consistent with the laws and regulations governing such programs;

"(2) shall advise the Governor on the development and implementation of State and local standards and measures relating to applicable Federal human resource programs and coordination of such standards and measures;

"(3) shall carry out the duties and functions prescribed for existing State councils described under the laws relating to the applicable Federal human resource programs;

"(4) may identify the human investment needs in the State and recommend to the Governor goals for meeting such needs;

"(5) may recommend to the Governor goals for the development and coordination of the human resource system in the State;

"(6) may prepare and recommend to the Governor a strategic plan to accomplish the goals developed pursuant to paragraphs (4) and (5); and

"(7) may monitor the implementation of and evaluate the effectiveness of the strategic plan prepared pursuant to paragraph (6).

"(b) APPLICABLE FEDERAL HUMAN RESOURCE PROGRAM DEFINED.—

"(1) IN GENERAL.—(A) Except as provided in subparagraph (B), for purposes of this title, the term 'applicable Federal human resource program' includes any program authorized under the provisions of law described under paragraph (2)(A) that the Governor and the head of the State agency responsible for the administration of such program jointly agree to include within the jurisdiction of the State Council.

"(B) With respect to a program authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.) under paragraph (2)(A)(ii), the term 'applicable Federal human resource program' shall only apply to such program if, in addition to meeting the requirements of subparagraph (A), the State council on vocational education agrees to include such program under the jurisdiction of the State Council.

"(2) PROGRAMS.—In accordance with the requirements of paragraph (1), applicable Federal human resource programs—

"(A) may include the programs authorized under—

"(i) this Act;

"(ii) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.);

"(iii) the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.);

"(iv) the Adult Education Act (20 U.S.C. 1201 et seq.);

"(v) the Wagner-Peyser Act (29 U.S.C. 49 et seq.);

"(vi) part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.); and

"(vii) the employment program established under section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)); and

"(B) may not include programs authorized under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

"SEC. 702. COMPOSITION. 29 USC 1792a.

"(a) IN GENERAL.—Each State Council shall be composed as follows:

"(1) Each State Council shall include the head of each State agency responsible for the administration of an applicable Federal human resource program.

"(2)(A) Each State Council shall include one or more representatives, appointed by the Governor to the State Council for a minimum of 2 years, from each of the following:

"(i) Local public education.

"(ii) A postsecondary institution.

"(iii) A secondary or postsecondary vocational educational institution.

"(iv) A community-based organization.

"(B) The total number of representatives appointed under clause (i), (ii), and (iii) of subparagraph (A) shall constitute not less than 15 percent of the membership of the State Council.

"(3)(A) Each State Council shall include individuals, appointed by the Governor to the State Council for a minimum of 2 years, from among the following:

"(i) Representatives of business and industry, who shall constitute not less than 15 percent of the membership of the State Council, including individuals who are representatives of business and industry on private industry councils established within the State under section 102.

"(ii) Representatives of organized labor who—

"(I) shall be selected from among individuals nominated by recognized State labor federations; and

"(II) shall constitute not less than 15 percent of the membership of the State Council.

"(B) If the State labor federation fails to nominate a sufficient number of individuals under subclause (I) of subparagraph (A)(ii) to satisfy the requirement under subclause (II) of such subparagraph, individual workers may be included on the State Council to satisfy such requirement.

"(b) ADDITIONAL MEMBERS.—Each State Council may also include additional qualified members, who may be selected from—

"(1) representatives from local welfare agencies;

"(2) representatives from public housing agencies;

"(3) representatives from units of general local government or consortia of such units, appointed from nominations made by the chief elected officials of such units or consortia;

"(4) representatives from the State legislature;

"(5) representatives from any State or local program that receives funding under an applicable Federal human resource program that the Governor determines to have a direct interest in the utilization of human resources within the State; and

"(6) individuals who have special knowledge and qualifications with respect to special education and career development needs of hard-to-serve individuals.

"(c) ADDITIONAL REQUIREMENTS.—

"(1) PERCENTAGE LIMITATION.—None of the following categories of individuals may constitute more than 60 percent of the membership of each State Council:

"(A) Individuals selected under subsection (a)(1).

"(B) Individuals appointed under subsection (a)(2).

"(C) Individuals appointed under subsection (a)(3)(A)(i).

"(D) Individuals appointed under subsection (a)(3)(A)(ii).

"(E) Individuals selected under subsection (b).

"(2) EXPERTISE.—The Governor shall ensure that both the State Council and the staff of the State Council have sufficient expertise to effectively carry out the duties and functions of existing State councils described under the laws relating to the applicable Federal human resource programs. Such expertise shall include, where appropriate, knowledge of—

"(A) the long-term needs of individuals preparing to enter the workforce;

"(B) the needs of local, State, and regional labor markets; and

"(C) the methods for evaluating the effectiveness of vocational training programs in serving varying populations.

29 USC 1792b.

"SEC. 703. ADMINISTRATION.

"(a) FUNDING.—In order to carry out the functions of the State Council, each State establishing a State Council that meets the requirements of this title may—

"(1) use funds otherwise available for State councils under the applicable Federal human resource programs;

"(2) use funds otherwise available under the applicable Federal human resource programs, consistent with the laws and regulations governing such programs, including funds available to carry out section 123(a)(2)(D), except that, with respect to the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), such State may use funds only to the extent provided under section 112(g) of such Act; and

"(3) use funds, services, personnel, facilities and information provided by State and local public agencies, with the consent of such agencies.

"(b) PERSONNEL.—Each State Council may obtain the services of such professional, technical, and clerical personnel as may be necessary to carry out its functions.

"(c) CERTIFICATION.—Each State shall certify to the Secretary the establishment and membership of the State Council at least 90 days before the beginning of each period of 2 program years for which a job training plan is submitted under this Act.

"(d) EQUITABLE FUNDING.—Each State agency participating in a State Council under this title is encouraged to provide funds to support such Council in a manner consistent with its representation on such Council.".

(b) CONFORMING AMENDMENTS.—

(1) CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS.—Section 112 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2322) is amended—

(A) in subsection (a), by striking "Each" and inserting "Except as provided in subsection (g), each"; and

(B) by adding at the end the following new subsection:

"(g)(1) In lieu of establishing the State council required under subsection (a), each State may satisfy the requirements of this section by designating the State human resource investment council established in accordance with title VII of the Job Training Partnership Act (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (d).

"(2) Funds available under subsection (f) may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and head of the State agency responsible for administration of the programs under this Act agree to such an allotment. Only funds available under subsection (f) may be so allotted.".

(2) ADULT EDUCATION ACT AMENDMENT.—Section 332(d) of the Adult Education Act (20 U.S.C. 1205a(d)) is amended by adding at the end the following new subsection:

"(g) DESIGNATION OF STATE HUMAN RESOURCE INVESTMENT COUNCIL UNDER THE JOB TRAINING PARTNERSHIP ACT.—(1) The requirements in this section shall be satisfied if a State designates the State human resource investment council established under title VII of the Job Training Partnership Act (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (f).

"(2) Funds under this part may be allotted to the State Council to carry out such duties and the other duties of the State Council if the Governor and the head of the State agency responsible for carrying out programs under this Act agree to such an allotment.".

(3) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122 of the Act (29 U.S.C. 1532) is amended—

(A) in subsection (a) by striking "Any" and inserting "Except as provided in subsection (d), any"; and

(B) by adding at the end the following new subsection:

"(d)(1) In lieu of establishing the State council required under subsection (a), each State may satisfy the requirements of this section by designating the State human resource investment council established in accordance with title VII (in this subsection referred to as the 'State Council') to carry out the duties described in subsection (b).

"(2) Funding provided to carry out this section may be allotted to the State Council to carry out such functions and the other functions of the State Council if the Governor and the head of the State agency responsible for administration of programs under this Act agree to such an allotment.".

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. EFFECTIVE DATE AND TRANSITION PROVISIONS.

29 USC 1501 note.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect on July 1, 1993.

(b) PERFORMANCE STANDARDS.—The Secretary of Labor shall issue revised performance standards under the amendments made by section 115 as soon as the Secretary determines sufficient data are available, but not later than July 1, 1994, except that with respect to the factor of retention in unsubsidized employment specified in section 106(b)(3)(B) of the Job Training Partnership Act (as amended by section 115), the requirement that such retention be for not less than 6 months shall take effect not later than July 1, 1995.

(c) INTERIM TRAINING SERVICES FORMULA.—

29 USC 1602 and note.

(1) LEVEL OF FUNDING.—If the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for fiscal year 1993 is less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 202 of this Act shall not take effect on July 1, 1993, and section 202 of the Job Training Partnership Act shall be amended to read as follows:

"SEC. 202. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATES.—Subject to the provisions of paragraph (3), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged adults within each State compared to the total number of economically disadvantaged adults in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(3) LIMITATIONS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amounts available for allotment to the States under this subsection from the remainder described in paragraph (2) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (B), the allotment percentage of a State for a fiscal year shall be the percentage of funds allotted to the State under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (B), the allocation percentage of a State for fiscal year 1992 shall be the percentage of funds allotted to the State under section 201, as in effect on the day before the date of enactment of the Job Training Reform Amendments of 1992.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—The Governor shall, in accordance with section 162, allocate 77 percent of the allotment of the State under subsection (a) for each fiscal year among service delivery areas within the State, and shall ensure that, subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged adults within each service delivery area compared to the total number of economically disadvantaged adults in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of adults in families with an income below the low-income level in such area or the number of economically disadvantaged adults in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the 2 preceding fiscal years preceding the fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(a)(1) for a fiscal year and available to carry out this part are not sufficient to provide an amount equal to at least 90 percent of such allocation percentage to each such area, the amounts allocated to each area shall be ratably reduced.

"(B) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (A), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (A), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 23 percent of the allotment of the State under subsection (a) for each fiscal year—

"(A) 5 percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of such allotment of each State for each fiscal year shall be available to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (2);

"(C) 8 percent of the allotment of each State for each fiscal year shall be available to carry out section 123; and

"(D) 5 percent of such allotment of each State for each fiscal year shall be available to carry out section 204(d).

"(2) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—As used in this section:

"(1) DEFINITIONS.—

"(A) ECONOMICALLY DISADVANTAGED ADULT.—The term 'economically disadvantaged adult' means an individual who is age 22 through 72 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) with respect to the excess number of unemployed individuals within a State—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent

of the civilian labor force in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed individuals within a service delivery area—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged adults.".

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on July 1, 1993. 29 USC 1602 note.

(d) PERMANENT TRAINING SERVICES FORMULA.— 29 USC 1602 note.

(1) LEVEL OF FUNDING.—If section 202 of the Job Training Partnership Act is amended in accordance with subsection (c) and the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for a fiscal year is not less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 202 of this Act shall take effect.

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on October 1 of the fiscal year described in paragraph (1).

(e) SUMMER YOUTH PROGRAM TRANSFERS.—

(1) IN GENERAL.—Section 205 and the amendment made by such section 205 shall take effect on the date of enactment of this Act. Effective date.

(2) TRANSITION.—A service delivery area may transfer up to 10 percent of the amounts allocated for such area for the summer of 1992 under part B of title II of the Job Training Partnership Act for program year 1992 to provide services to youth pursuant to the program under part A of such title, to provide services to youth under such part A, if such transfer is approved by the Governor.

(f) INTERIM TRAINING SERVICES FORMULA.—

(1) LEVEL OF FUNDING.—If the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for fiscal year 1993 is less than the sum of— 29 USC 1642 and note.

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 207 of this Act shall not take effect on July 1, 1993, and title II of the Job Training Partnership Act shall be amended by inserting after section 261 of such Act the following:

"SEC. 262. ALLOTMENT AND ALLOCATION.

"(a) ALLOTMENT.—

"(1) TERRITORIES.—Not more than $5,000,000 of the amount appropriated pursuant to section 3(a)(1) for each fiscal year and available for this part shall be allotted among Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau.

"(2) STATES.—Subject to the provisions of paragraph (3), of the remainder of the amount available for this part for each fiscal year—

"(A) 33⅓ percent shall be allotted on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each State as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in all the States;

"(B) 33⅓ percent shall be allotted on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States; and

"(C) 33⅓ percent shall be allotted on the basis of the relative number of economically disadvantaged youth within each State compared to the total number of economically disadvantaged youth in all States, except that, for the allotment for any State in which there is any service delivery area described in section 101(a)(4)(A)(iii), the allotment shall be based on the higher of the number of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(3) LIMITATIONS.—

"(A) STATE MINIMUM.—No State shall receive less than one-quarter of 1 percent of the amounts available for allotment to the States under this subsection from the remainder described in paragraph (2) for each fiscal year.

"(B) MINIMUM PERCENTAGE.—No State shall be allotted less than 90 percent of its allotment percentage for the fiscal year preceding the fiscal year for which the determination is made.

"(C) ALLOTMENT PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (B), the allotment percentage of a State for a fiscal year shall be the percentage of funds allotted to the State under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (B), the allocation percentage of a State for fiscal year 1992 shall be the percentage of funds allotted to the State under section 201, as in effect on the day before the date of enactment of the Job Training Reform Amendments of 1992.

"(b) ALLOCATION TO SERVICE DELIVERY AREAS.—

"(1) FORMULA.—The Governor shall, in accordance with section 162, allocate 82 percent of the allotment of the State under subsection (a) for each fiscal year among service delivery areas within the State, and shall ensure that, subject to the provisions of paragraph (3), of the amount allocated under this subsection—

"(A) 33⅓ percent shall be allocated on the basis of the relative number of unemployed individuals residing in areas of substantial unemployment in each service delivery area as compared to the total number of such unemployed individuals in all such areas of substantial unemployment in the State;

"(B) 33⅓ percent shall be allocated on the basis of the relative excess number of unemployed individuals who reside in each service delivery area as compared to the total excess number of unemployed individuals in all service delivery areas in the State; and

"(C) 33⅓ percent shall be allocated on the basis of the relative number of economically disadvantaged youth within each service delivery area compared to the total number of economically disadvantaged youth in the State, except that the allocation for any service delivery area described in section 101(a)(4)(A)(iii) shall be based on the higher of the number of youth in families with an income below the low-income level in such area or the number of economically disadvantaged youth in such area.

"(2) LIMITATIONS.—

"(A) MINIMUM PERCENTAGE.—No service delivery area within any State shall be allocated an amount equal to less than 90 percent of the average of its allocation percentage for the 2 preceding fiscal years preceding the fiscal year for which the determination is made. If the amounts appropriated pursuant to section 3(a)(1) for a fiscal year and available to carry out this part are not sufficient to provide an amount equal to at least 90 percent of such allocation percentage to each such area, the amounts allocated to each area shall be ratably reduced.

"(B) ALLOCATION PERCENTAGE.—

"(i) IN GENERAL.—Except as provided in clause (ii), for purposes of subparagraph (A), the allocation percentage of a service delivery area for a fiscal year shall be the percentage of funds allocated to the service delivery area under this subsection.

"(ii) FISCAL YEAR 1992.—For purposes of subparagraph (A), the allocation percentage of a service delivery area for fiscal year 1992 shall be the percentage of funds allocated to the service delivery area under part A of title II.

"(c) STATE ACTIVITIES.—

"(1) DIVISION.—Of the remaining 18 percent of the allotment of the State under subsection (a) for each fiscal year—

"(A) 5 percent of such allotment of the State for each fiscal year shall be available to the Governor of the State to be used for overall administration, management, and auditing activities relating to programs under this title and for activities described in sections 121 and 122;

"(B) 5 percent of such allotment of each State for each fiscal year shall be available to provide incentive grants authorized under section 106(b)(7), in accordance with paragraph (2); and

"(C) 8 percent of the allotment of each State for each fiscal year shall be available to carry out section 123.

"(2) OTHER USES.—

"(A) CAPACITY BUILDING AND TECHNICAL ASSISTANCE.—The Governor may use up to 33 percent of the amount allotted under paragraph (1)(B) for providing capacity building and technical assistance to service delivery areas and service providers. Such use of funds may include the development and training of service delivery area and service provider staff and the development of exemplary program activities.

"(B) NONDUPLICATION AND COORDINATION.—Funds used under subparagraph (A)—

"(i) may not be used to duplicate the activities of the Capacity Building and Information and Dissemination Network established under section 453(b); and

"(ii) shall, to the extent practicable, be used to coordinate the activities under subparagraph (A) with the activities of the Network under section 453(b).

"(d) DEFINITIONS AND RULE.—As used in this section:

"(1) DEFINITIONS.—

"(A) ECONOMICALLY DISADVANTAGED YOUTH.—The term 'economically disadvantaged youth' means an individual who is age 16 through 21 and who has, or is a member of a family that has, received a total family income (exclusive of unemployment compensation, child support payments, and welfare payments) that, in relation to family size, was not in excess of the higher of—

"(i) the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)); or

"(ii) 70 percent of the lower living standard income level.

"(B) EXCESS NUMBER.—The term 'excess number' means—

"(i) with respect to the excess number of unemployed individuals within a State—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the State; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in areas of substantial unemployment in such State; and

"(ii) with respect to the excess number of unemployed individuals within a service delivery area—

"(I) the number that represents the number of unemployed individuals in excess of 4.5 percent of the civilian labor force in the service delivery area; or

"(II) the number that represents the number of unemployed individuals in excess of 4.5 percent

of the civilian labor force in areas of substantial unemployment in such service delivery area.

"(C) STATE.—The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(2) SPECIAL RULE.—For the purposes of this section, the Secretary shall, as appropriate and to the extent practicable, exclude college students and members of the Armed Forces from the determination of the number of economically disadvantaged youth.".

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on July 1, 1993. 29 USC 1642 note.

(g) PERMANENT TRAINING SERVICES FORMULA.— 29 USC 1642 note.

(1) LEVEL OF FUNDING.—If title II of the Job Training Partnership Act is amended in accordance with subsection (f) and the amount appropriated to carry out parts A and C of title II of the Job Training Partnership Act for a fiscal year is not less than the sum of—

(A) $25,000,000; and

(B) the amount appropriated to carry out part A of title II of such Act, as in effect on the day before the date of enactment of this Act, for fiscal year 1992,

the amendment made by section 207 of this Act shall take effect.

(2) EFFECTIVE DATE.—Any amendment made by paragraph (1) shall take effect on October 1 of the fiscal year described in paragraph (1).

(h) EVALUATION.—The Secretary of Labor shall evaluate the impact of programs under title II of the Job Training Partnership Act on participant employment, earnings and welfare dependency in multiple sites, using the random assignment of individuals to groups receiving services under programs authorized under the Job Training Reform Amendments of 1992 to groups not receiving such services.

(i) RULES AND PROCEDURES.—

(1) IN GENERAL.—The Secretary of Labor may establish such rules and procedures as may be necessary to provide for an orderly implementation of the amendments made by this Act.

(2) REVIEW.—The Secretary of Labor, the Governors, and the service delivery areas shall conduct a comprehensive review of the current policies, practices, procedures, and delivery systems relating to programs authorized under the Job Training Partnership Act for the purpose of ensuring the effective implementation of the amendments made by this Act. Such review shall include consideration of the appropriateness of current service delivery area designations, the representativeness of current State and local councils, the adequacy of current administrative systems, the effectiveness of current outreach, service delivery, and coordination activities, and other relevant matters.

(j) IMPLEMENTING REGULATIONS.—The Secretary of Labor shall issue final regulations relating to the implementation of the amendments made by this Act not later than December 18, 1992.

SEC. 702. TECHNICAL AND CONFORMING AMENDMENTS.

(a) JOB TRAINING PARTNERSHIP ACT.—

(1) Section 4(14) of the Act (29 U.S.C. 1503(14)) is amended by striking "section 521(19)" and inserting "section 521(22)".

(2) Section 4(23) of the Act (29 U.S.C. 1503(23)) is amended by striking "section 1201(h) of the Higher Education Act of 1965" and inserting "section 1471(23) of the Elementary and Secondary Education Act of 1965".

(3) Subparagraph (C) of section 4(27) of the Act (29 U.S.C. 1503(27)) is amended by indenting, and aligning the margin of, such subparagraph so as to align with subparagraph (B) of such section.

29 USC 1531.

(4) Section 121(b)(1) is amended by striking "and 203" and inserting "203, or 263".

(5) Section 122 of the Act (29 U.S.C. 1532) is amended—

(A) in subsection (a)(1), by striking "section 202(b)(4)" and inserting "sections 202(c)(1)(A) and 262(c)(1)(A)";

(B) in subsection (b)(2), by striking "section 202(a)" and inserting "section 202(b) or 262(b)"; and

(C) in subsection (b)(11)(B), by striking "section 113(b)(9)" and inserting "section 113(b)(14)".

(6) Section 125(a) of the Act (29 U.S.C. 1535(a)) is amended by striking "section 202(b)(4) and".

(7) Section 161(b)(2) of the Act (29 U.S.C. 1571(b)(2)) is amended by striking "sections 452 through 455" and inserting "section 452".

(8) Section 161(c) of the Act (29 U.S.C. 1571(c)) is repealed.

29 USC 1583.

(9) Section 172 of the Act is redesignated the second place it appears as section 173.

(10) Section 181 of the Act (29 U.S.C. 1591) is repealed.

(11) Section 302(b)(2) of the Act (29 U.S.C. 1652(b)(2)) is amended by striking "part B and this part" and inserting "part A".

(12) Section 311(f) of the Act (29 U.S.C. 1661(f)) is amended by striking "section" and inserting "sections".

(13) Section 433(c)(1) of the Act (29 U.S.C. 1703(c)(1)) is amended by striking "sections 452 and 455" and inserting "sections 452 and 453".

(14) Section 433A of the Act (29 U.S.C. 1703a) is amended—

(A) in subsection (c)(2), by striking "may be over the maximum age permitted by section 423(1), but"; and

(B) in subsection (e), by striking "section 454" and inserting "section 452(d)".

(15) Section 436(a)(1) of the Act (29 U.S.C. 1706(a)(1)) is amended by striking "1954" and inserting "1986".

(16) Section 462(f)(2) of the Act (29 U.S.C. 1752(f)(2)) is amended by adding at the end a period.

(17) Section 472(a) of the Act (29 U.S.C. 1772(a)) is amended by striking the 4th sentence.

(18) Section 473(7) of the Act (29 U.S.C. 1773(7)) is amended—

(A) by striking "(A)";

(B) by striking ", after consultation with the National Council on Vocational Education,";

(C) by striking "; and" and inserting a period; and

(D) by striking subparagraph (B).

(19) Section 481(a) of the Act (29 U.S.C. 1781(a)) is amended by striking "section 203(a)(1)" and inserting "section 203, 263".

(20) Title VI of the Act is amended by redesignating section 505 (29 U.S.C. 1505) as section 605.

(b) FOOD STAMP ACT OF 1977.—Section 5(l) of the Food Stamp Act of 1977 (7 U.S.C. 2014(l)) is amended by striking "section 204(5)" and inserting "section 204(b)(1)(C) or section 264(c)(1)(A)".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended to read as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Statement of purpose.
"Sec. 3. Authorization of appropriations.
"Sec. 4. Definitions.

"TITLE I—JOB TRAINING PARTNERSHIP

"PART A—SERVICE DELIVERY SYSTEM

"Sec. 101. Establishment of service delivery areas.
"Sec. 102. Establishment of private industry council.
"Sec. 103. Functions of private industry council.
"Sec. 104. Job training plan.
"Sec. 105. Review and approval of plan.
"Sec. 106. Performance standards.
"Sec. 107. Selection of service providers.
"Sec. 108. Limitation on certain costs.
"Sec. 109. Recapture and reallotment of unobligated funds.

"PART B—ADDITIONAL STATE RESPONSIBILITIES

"Sec. 121. Governor's coordination and special services plan.
"Sec. 122. State job training coordinating council.
"Sec. 123. State education coordination and grants.
"Sec. 124. Identification of additional imposed requirements.
"Sec. 125. State labor market information programs.
"Sec. 126. Authority of State legislature.
"Sec. 127. Interstate agreements.

"PART C—PROGRAM REQUIREMENTS FOR SERVICE DELIVERY SYSTEM

"Sec. 141. General program requirements.
"Sec. 142. Benefits.
"Sec. 143. Labor standards.
"Sec. 144. Grievance procedure.
"Sec. 145. Prohibition against Federal control of education.

"PART D—FEDERAL AND FISCAL ADMINISTRATIVE PROVISIONS

"Sec. 161. Program year.
"Sec. 162. Prompt allocation of funds.
"Sec. 163. Monitoring.
"Sec. 164. Fiscal controls; sanctions.
"Sec. 165. Reports, recordkeeping, and investigations.
"Sec. 166. Administrative adjudication.
"Sec. 167. Nondiscrimination.
"Sec. 168. Judicial review.
"Sec. 169. Administrative provisions.
"Sec. 170. Utilization of services and facilities.
"Sec. 171. Obligational authority.
"Sec. 172. Presidential awards for outstanding private sector involvement in job training programs.
"Sec. 173. Construction.

"PART E—MISCELLANEOUS PROVISIONS

"Sec. 182. Criminal provisions.
"Sec. 183. Reference.
"Sec. 184. Repealers.

"TITLE II—TRAINING SERVICES FOR THE DISADVANTAGED

"PART A—ADULT TRAINING PROGRAM

"Sec. 201. Statement of purpose.
"Sec. 202. Allotment and allocation.
"Sec. 203. Eligibility for services.

"Sec. 204. Program design.
"Sec. 205. Linkages.
"Sec. 206. Transfer of funds.

"PART B—SUMMER YOUTH EMPLOYMENT AND TRAINING PROGRAMS

"Sec. 251. Purpose.
"Sec. 252. Authorization of appropriations; allotment and allocation.
"Sec. 253. Use of funds.
"Sec. 254. Limitations.
"Sec. 255. Applicable provisions.
"Sec. 256. Transfer of funds.

"PART C—YOUTH TRAINING PROGRAM

"Sec. 261. Statement of purpose.
"Sec. 262. Allotment and allocation.
"Sec. 263. Eligibility for services.
"Sec. 264. Program design.
"Sec. 265. Linkages.
"Sec. 266. Transfer of funds.

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"Sec. 301. Definitions.
"Sec. 302. Allotment.
"Sec. 303. Recapture and reallotment of unexpended funds.

"PART A—STATE DELIVERY OF SERVICES

"Sec. 311. State plan.
"Sec. 312. Substate grantees.
"Sec. 313. Substate plan.
"Sec. 314. Use of funds; services to be provided.
"Sec. 315. Limitations on uses of funds.
"Sec. 316. Retraining services availability.
"Sec. 317. Functions of State job training coordinating council.

"PART B—FEDERAL RESPONSIBILITIES

"Sec. 321. Federal administration.
"Sec. 322. Federal delivery of dislocated worker services.
"Sec. 323. Allowable activities.
"Sec. 324. Demonstration programs.
"Sec. 325. Defense conversion adjustment program.
"Sec. 326. Clean Air Employment Transition Assistance.

"TITLE IV—FEDERALLY ADMINISTERED PROGRAMS

"PART A—EMPLOYMENT AND TRAINING PROGRAMS FOR NATIVE AMERICANS AND MIGRANT AND SEASONAL FARMWORKERS

"Sec. 401. Native American programs.
"Sec. 402. Migrant and seasonal farmworker programs.
"Sec. 403. Grant procedures.

"PART B—JOB CORPS

"Sec. 421. Statement of purpose.
"Sec. 422. Establishment of the Job Corps.
"Sec. 423. Individuals eligible for the Job Corps.
"Sec. 424. Screening and selection of applicants: general provisions.
"Sec. 425. Screening and selection: special limitations.
"Sec. 426. Enrollment and assignment.
"Sec. 427. Job Corps centers.
"Sec. 428. Program activities.
"Sec. 429. Allowances and support.
"Sec. 430. Standards of conduct.
"Sec. 431. Community participation.
"Sec. 432. Counseling and job placement.
"Sec. 433. Experimental and developmental projects and coordination with other programs.
"Sec. 433A. Job Corps centers for homeless families.
"Sec. 434. Advisory boards and committees.
"Sec. 435. Participation of the States.
"Sec. 436. Application of provisions of Federal law.

"Sec. 437. Special provisions.
"Sec. 438. General provisions.
"Sec. 439. Donations.

"PART C—VETERANS' EMPLOYMENT PROGRAMS

"Sec. 441. Programs authorized.

"PART D—NATIONAL ACTIVITIES

"Sec. 451. National partnership and special training programs.
"Sec. 452. Research, demonstration, and evaluation.
"Sec. 453. Capacity building, information, dissemination, and replication activities.
"Sec. 454. Guidance and technical assistance.
"Sec. 455. Uniform requirements.
"Sec. 456. Nontraditional employment demonstration program.

"PART E—LABOR MARKET INFORMATION

"Sec. 461. Labor market information; availability of funds.
"Sec. 462. Cooperative labor market information program.
"Sec. 463. Special Federal responsibilities.
"Sec. 464. National occupational information coordinating committee.
"Sec. 465. Job bank program.

"PART F—NATIONAL COMMISSION FOR EMPLOYMENT POLICY

"Sec. 471. Statement of purpose.
"Sec. 472. Commission established.
"Sec. 473. Functions of the commission.
"Sec. 474. Administrative provisions.
"Sec. 475. Reports.

"PART G—TRAINING TO FULFILL AFFIRMATIVE ACTION OBLIGATIONS

"Sec. 481. Affirmative action.

"PART H—YOUTH FAIR CHANCE PROGRAM

"Sec. 491. Statement of purpose.
"Sec. 492. Program authorized.
"Sec. 493. Application.
"Sec. 494. Grant agreement.
"Sec. 495. Job guarantees.
"Sec. 496. Payments; Federal share.
"Sec. 497. Reporting.
"Sec. 498. Federal responsibilities.
"Sec. 498A. Definitions.

"PART I—MICROENTERPRISE GRANTS PROGRAM

"Sec. 499. Microenterprise grants.

"PART J—DISASTER RELIEF EMPLOYMENT ASSISTANCE

"Sec. 499A. General authority.
"Sec. 499B. Use of funds.
"Sec. 499C. Definitions.

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"Sec. 501. Statement of purpose.
"Sec. 502. Payments.
"Sec. 503. Amount of incentive bonus.
"Sec. 504. Use of incentive bonus funds.
"Sec. 505. Notice and application.
"Sec. 506. Eligibility for incentive bonuses.
"Sec. 507. Information and data collection.
"Sec. 508. Evaluation and report.
"Sec. 509. Implementing regulations.

"TITLE VI—MISCELLANEOUS PROVISIONS

"Sec. 601. Amendments to the Wagner-Peyser Act.
"Sec. 602. Amendments to part C of title IV of the Social Security Act.
"Sec. 603. Earnings disregard.
"Sec. 604. Enforcement of Military Selective Service Act.
"Sec. 605. State job bank systems.

"TITLE VII—STATE HUMAN RESOURCE INVESTMENT COUNCIL

"Sec. 701. Establishment and functions.
"Sec. 702. Composition.
"Sec. 703. Administration.".

Approved September 7, 1992.

LEGISLATIVE HISTORY—H.R. 3033 (S. 2055):

HOUSE REPORTS: Nos. 102-240 (Comm. on Education and Labor) and 102-811 (Comm. of Conference).
SENATE REPORTS: No. 102-264 accompanying S. 2055 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 8, 9, considered and passed House.
Vol. 138 (1992): Apr. 9, S. 2055 considered and passed Senate.
Apr. 30, H.R. 3033 considered and passed Senate, amended, in lieu of S. 2055.
Aug. 7, Senate agreed to conference report.
Aug. 11, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 7, Presidential statement.

Public Law 102-368
102d Congress

An Act

Making supplemental appropriations, transfers, and rescissions for the fiscal year ending September 30, 1992, and for other purposes.

Sept. 23, 1992
[H.R. 5620]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1992, and for other purposes, namely:

Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities.

TITLE I

DEPARTMENTS OF COMMERCE, JUSTICE, AND STATE, THE JUDICIARY, AND RELATED AGENCIES

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For an additional amount for "Operations and administration", $2,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

Of the funds made available under this heading in Public Law 102-140, $2,120,000 are rescinded.

Notwithstanding section 318(d) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1464(d)), amounts provided pursuant to Public Law 101-162 for the acquisition of Buxton Woods shall remain available to the State of North Carolina through September 30, 1993.

FOREIGN FISHING OBSERVER FUND

(RESCISSION)

Of the unobligated balances in the Foreign Fishing Observer Fund, $1,309,000 are rescinded.

FISHING VESSEL OBLIGATIONS GUARANTEES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-140, $930,000 are rescinded.

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

Amounts appropriated under this title by Public Law 101–515 and available through September 30, 1992, for debt collection training, locating debtors and their property, and selling debtor property also may be used for processing and tracking debts owed to the United States Government.

DEPARTMENT OF STATE

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for "Contributions for International Peacekeeping Activities", $80,000,000: *Provided,* That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

DEFENDER SERVICES

For an additional amount for "Defender Services", $31,250,000, to remain available until expended: *Provided,* That Congress hereby designates these amounts as emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

The language under the heading "Courts of Appeals, District Courts, and Other Judicial Services, Salaries and expenses" in Public Law 102–27 is amended by deleting "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

105 Stat. 136.

Notwithstanding the requirement of section 415 of Public Law 101–650 to submit the report mandated by said section not later than one year after the date of the Commission's first meeting, the National Commission on Judicial Discipline and Removal shall submit to each House of Congress, the Chief Justice of the United States, and the President, the report mandated in said section no later than August 1, 1993.

Reports.
28 USC 372 note.

RELATED AGENCY

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $1,000,000, to remain available until September 30, 1993: *Provided,* That Congress hereby designates these amounts as emergency

requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

GENERAL PROVISIONS—TITLE I

SEC. 101. Notwithstanding the provisions of section 1402 of the Victims of Crime Act of 1984, as amended (42 U.S.C. 10601), amounts deposited into the Crime Victims Fund during fiscal year 1992, in excess of $152,200,000 shall be available to the Attorney General without fiscal year limitation for expenses associated with the activation and operation of Federal prisons.

MONTEREY BAY NATIONAL MARINE SANCTUARY

Conservation.

SEC. 102. (a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b))— 16 USC 1433 note.

(1) the Secretary of Commerce shall, on September 18, 1992, (or as soon thereafter as is practicable), publish under that Act in the Federal Register a notice of the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, and Federal Register, publication.

(2) that designation shall take effect the later of September 18, 1992, or the date of enactment of this Act. Effective date.

(b) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development or production of oil or gas shall be permitted within the Sanctuary as required by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) INTERAGENCY COOPERATION.—

(1) REVIEW OF AGENCY ACTIONS.—

(A) IN GENERAL.—Federal agency actions internal or external to the Sanctuary including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish, each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless each Federal agency and the Secretary agree to a different schedule.

(2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

Reports.

(d) VESSEL TRAFFIC.—Within 18 months of the date of enactment of this Act, the Secretary of Commerce and the Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public input, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources.

TITLE II

DEPARTMENT OF DEFENSE—MILITARY

SUPPLEMENTAL APPROPRIATIONS

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $116,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $33,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $263,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $69,700,000, to remain available for obligation until September 30, 1993: *Provided*, That $50,000,000 of this appropriation shall be used to provide educational assistance to school districts where there are significant increases in the number of military dependent students as the result of relocation or realignment of Armed Forces personnel: *Provided further*, That the $50,000,000 specified in the preceding proviso shall be allocated to school districts where at least thirty percent of the students in average daily attendance in the schools are military dependent students: *Provided further*, That the $50,000,000 shall be made available only to supplement, not supplant, the amount of any other Federal, State, or local government funds otherwise authorized or expended for education of dependents of members of the Armed Forces: *Provided further*, That a portion of the $50,000,000 may be made available for construction.

ENVIRONMENTAL RESTORATION, DEFENSE

For an additional amount for "Environmental Restoration, Defense", $447,500,000, to remain available for obligation until September 30, 1993.

PROCUREMENT

NATIONAL GUARD AND RESERVE EQUIPMENT

For an additional amount for "National Guard and Reserve Equipment", $4,372,000, to remain available for obligation until September 30, 1994.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For an additional amount for "Research, Development, Test and Evaluation, Defense Agencies", $74,800,000, to remain available for obligation until September 30, 1993: *Provided*, That $5,000,000 of the funds appropriated in this paragraph shall be made available only for a National Defense Center of Excellence for Research in Ocean Sciences to be established through cooperation between the Defense Advanced Research Projects Agency (DARPA) and the Hawaii High Technology Development Corporation (a government entity) for the purposes of conducting research and development activities of interest to the Department of Defense on such topics as ocean environment preservation technology, new ship hull design concepts, shallow water surveillance technologies, ocean measurement instrumentation, and the unique properties of the deep ocean environment.

REVOLVING AND MANAGEMENT FUNDS

PENTAGON RESERVATION MAINTENANCE REVOLVING FUND

For an additional amount for "Pentagon Reservation Maintenance Revolving Fund", $80,100,000.

OTHER DEPARTMENT OF DEFENSE PROGRAMS

OFFICE OF THE INSPECTOR GENERAL

For an additional amount for "Office of the Inspector General", $3,400,000.

TRANSFER OF FUNDS

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF ADDITIONAL FUNDS)

For additional incremental costs of the Department of Defense associated with operations in and around the Persian Gulf resulting from Operation Desert Shield/Desert Storm, and under the terms and conditions of the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28), in addition to the amounts that may be transferred to appropriations available

to the Department of Defense pursuant to that Act and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229), not to exceed $3,431,176,560 may be transferred during fiscal years 1992 and 1993 to then currently applicable appropriations from the Defense Cooperation Account, to the following accounts in not to exceed the following amounts:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

MILITARY PERSONNEL, ARMY

For an additional amount for "Military Personnel, Army", $1,007,961,000.

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $170,400,000.

MILITARY PERSONNEL, MARINE CORPS

For an additional amount for "Military Personnel, Marine Corps", $17,127,000.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $313,500,000.

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army", $1,355,274,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy", $75,000,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, MARINE CORPS

For an additional amount for "Operation and maintenance, Marine Corps", $224,600,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force", $247,200,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies", $4,900,000, to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard", $15,214,560, to remain available for obligation until September 30, 1993.

OPERATION DESERT SHIELD/DESERT STORM

(TRANSFER OF EXISTING FUNDS)

For the purpose of adjusting amounts which may be transferred to military personnel and operation and maintenance appropriations pursuant to the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102–28) and the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229) and under the terms and conditions of those Acts, the Secretary of Defense may make adjustments to the amounts provided for transfer by such Acts in amounts not to exceed $611,010,000 and provide for the transfer of such amounts to the following accounts in not to exceed the following amounts to be available to the Department of Defense during fiscal years 1992 and 1993: *Provided*, That the Secretary of Defense shall provide prior notification to the Committees on Appropriations of the House of Representatives and the Senate indicating the accounts from which the funds will be derived for such transfers:

MILITARY PERSONNEL

(TRANSFER OF FUNDS)

NATIONAL GUARD PERSONNEL, ARMY

To be derived by transfer, $12,500,000 for "National Guard Personnel, Army".

OPERATION AND MAINTENANCE

(TRANSFER OF FUNDS)

OPERATION AND MAINTENANCE, ARMY

To be derived by transfer, $341,310,000 for "Operation and maintenance, Army", to remain available for obligation until September 30, 1993.

OPERATION AND MAINTENANCE, NAVY

To be derived by transfer, $257,200,000 for "Operation and maintenance, Navy", to remain available for obligation until September 30, 1993.

RESCISSION OF FUNDS

PERSIAN GULF REGIONAL DEFENSE FUND

(RESCISSION)

Of the funds made available under this heading in the Operation Desert Shield/Desert Storm Supplemental Appropriations Act, 1991 (Public Law 102-28; 105 Stat. 161), $14,696,040,000 is hereby rescinded: *Provided,* That the Persian Gulf Regional Defense Fund is hereby terminated.

GENERAL PROVISIONS—TITLE II

(TRANSFER OF FUNDS)

SEC. 201. Section 103 of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102-229; 105 Stat. 1707) is amended by striking out "fiscal years 1991 and 1992" and inserting "fiscal years 1992 and 1993" in lieu thereof and by striking out "through February 1992".

SEC. 202. (a) The Secretary of Defense shall transfer up to $40,000,000 in additional funds from the Defense Cooperation Account to the appropriate appropriations accounts within the Department of Defense to remain available until expended for Kurdish humanitarian needs and related transportation costs to include, but not be limited to, the prepositioning of emergency food stocks, water and seed, the provision of medical assistance, the establishment of regional medical clinics in recognized Kurdish areas of Iraq and the extension of technical assistance for land mine clearing, the drilling of water wells and the construction of temporary shelters.

Reports.

(b) The Secretary of Defense shall report to the Committees on Appropriations and Armed Services of the House of Representatives and Senate at the start of each quarter in fiscal year 1993 on the steps taken to bring relief and restore the well-being and security of the people of recognized Kurdish areas of Iraq.

SEC. 203. Of the funds appropriated under the heading "Operation and Maintenance, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102-172; 105 Stat. 1152), $6,800,000 shall be available only for a grant to the Monterey Institute of International Studies and shall be obligated prior to September 30, 1992: *Provided,* That for the purposes of maintaining the industrial base, $60,000,000 of the funds available in the Defense Business Operations Fund, combined with funds otherwise available to the Department of Defense, shall be obligated forthwith for the purchase of 2.88 million cases of Meals Ready to Eat.

SEC. 204. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in title IV of the Department of Defense Appropriations Act, 1992 (Public

Law 102–172), not less than $5,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence.

SEC. 205. Funds appropriated to the Department of Defense in the Department of Defense Appropriations Act, 1991 (Public Law 101–511) and made available for transfer to the Department of Commerce and the Department of Labor to assist State and local governments significantly impacted by reductions in defense industry employment or reductions in the number of military and civilian personnel residing in such States and communities shall be available until September 30, 1997.

SEC. 206. Notwithstanding section 2391 of title 10, United States Code, the Secretary of Defense may make a grant of $1,100,000 to assist Astoria, Oregon in the planning, design and modification of facilities and support infrastructure to accommodate new Navy Minesweeper/Minehunter vessels.

SEC. 207. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1164), $8,000,000 shall be available only for neurofibromatosis research.

SEC. 208. Funds available to the Department of Defense for the payment of allowances under the provisions of section 405a of title 37, United States Code, may be used to make payments of such allowances retroactive to August 23, 1992: *Provided,* That dependents residing incident to government orders in the vicinity of Homestead Air Force Base, Florida on August 23, 1992 who actually moved to a safe haven designated by an authority ordering the departure of dependents shall be entitled to an allowance under the provisions of section 405a of title 37, United States Code, notwithstanding the fact that the member's duty station may have been at a place other than Homestead Air Force Base: *Provided further,* That for the purpose of section 5725 of title 5, United States Code, the departure of civilian employees of the Department of Defense and their dependents from the vicinity of Homestead Air Force Base on or after August 23, 1992 shall be considered to be an evacuation: *Provided further,* That funds available to the Department of Defense shall be available until September 30, 1994 for the payment of up to $40,000 per claim for personal property damage and losses to members of the uniformed services residing in the vicinity of Homestead Air Force Base as a result of Hurricane Andrew: *Provided further,* That the allowances and benefits provided under this paragraph shall be made available under equal terms and conditions to members of the uniformed services residing in the vicinity of military installations affected by Typhoon Omar and Hurricane Iniki.

Government employees.

Armed Forces.

SEC. 209. Funds appropriated for the Office of Economic Adjustment at the Department of Defense for fiscal year 1992 are reduced by $1,000,000, and funds appropriated for the Office of the Secretary of Defense for fiscal year 1992 are increased by $1,000,000 for the purpose of making an economic impact grant to Nye County, Nevada.

TITLE III

DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, EDUCATION, AND RELATED AGENCIES

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For an additional amount for "Advances to the unemployment trust fund and other funds", $237,652,000 to remain available until September 30, 1993.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES

HUMAN DEVELOPMENT SERVICES

Funds appropriated in Public Law 102–170 under the heading "Human Development Services" for the "Family Violence Prevention and Services Act", shall remain available until expended.

TITLE IV

DEPARTMENT OF DEFENSE—MILITARY CONSTRUCTION

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Base Realignment and Closure Account, Part II", $162,700,000, to be available solely for environmental restoration and to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Base Realignment and Closure Account, Part II", $69,000,000, to be derived by transfer from the "Environmental Restoration, Defense" account of Public Law 102–172, to be available solely for environmental restoration and to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE V

DEPARTMENTS OF VETERANS AFFAIRS AND HOUSING AND URBAN DEVELOPMENT, AND INDEPENDENT AGENCIES

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $500,000,000, to remain available until expended.

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

The limitation on direct loans in the current fiscal year for the "Vocational rehabilitation loans program account" is increased, within existing funds, by $350,000 to not to exceed $2,038,000.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

Notwithstanding any other provision of law, not less than $8,700,000,000 of the sums appropriated under this heading in fiscal year 1992 shall be available only for expenses in the personnel compensation and benefits object classifications.

TRANSITIONAL HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $3,000, as authorized by Public Law 102–54, section 8: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $30,000. In addition, for administrative expenses to carry out the direct loan program, $25,000, which may be transferred to and merged with the appropriation for "Medical care": *Provided further,* That the sums herein appropriated are to be derived by transfer from the "Medical care" appropriation provided in Public Law 102–139.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses", $14,100,000, to remain available until September 30, 1993.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

The unreserved balances of funding provided under this heading in Public Law 102–139 and prior years for contracts for capital

advances, including amendments to contracts for capital advances, and for project rental assistance, and amendments to contracts for project rental assistance, for housing for the elderly as authorized by section 202 of the Housing Act of 1959, as amended, and for housing for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), shall be merged.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

(TRANSFER OF FUNDS)

For an additional amount of up to $407,000,000, to remain available until expended, and to be derived by transfer from the unreserved amounts in "Annual contributions for assisted housing": *Provided,* That the amount earmarked for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, shall be reduced accordingly.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, $250,000,000 is rescinded: *Provided,* That the $294,156,000 under this heading in the aforementioned Act which is not available until September 20, 1992, shall be reduced by $250,000,000 to $44,156,000.

For an additional amount for "Payments for operation of low-income housing projects", $250,000,000, to remain available until September 30, 1993: *Provided,* That these funds shall be available for obligation without regard to section 9(d) of the United States Housing Act of 1937, as amended: *Provided further,* That these funds shall not become available for obligation until September 20, 1992.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE ACCOUNT

During fiscal year 1992, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall be increased by $25,000,000,000 and shall not exceed $99,769,293,000.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

The $140,000,000 under this heading in Public Law 102–139 for commitments to guarantee loans shall be increased by $85,000,000 to $225,000,000.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 101–507, the $500,000 earmarked for the National Commission on Manufactured Housing in Public Law 102–27, is rescinded.

For an additional amount for "Research and technology", $500,000, to remain available under September 30, 1993: *Provided,* That these funds shall be made available for the National Commission on Manufactured Housing.

INDEPENDENT AGENCIES

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

Notwithstanding any other provision of law, not more than $405,000 of the funds provided under this heading in Public Law 102–139 shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

(INCLUDING RESCISSION OF FUNDS)

Of the amount made available under this heading in Public Law 102–139, the $950,000 earmarked for financial assistance for legal representation costs in Public Law 102–229, is rescinded.

For an additional amount for "Salaries and expenses", $950,000, to remain available until September 30, 1994: *Provided,* That these funds shall be available under the same terms and conditions as authorized for the funds under this heading in Public Law 102–229.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

Notwithstanding any other provision of law, the Administrator is authorized to award a grant under section 8001 of the Solid Waste Disposal Act, as amended, for the purchase of a building and associated costs to support a program for the environmental restoration of the Lackawanna Valley as described in House Report 102–226, the conference report accompanying H.R. 2519 (Public Law 102–139).

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

SALARIES AND EXPENSES

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and expenses", $250,000, to remain available until expended, and to be derived by transfer from amounts provided to the Department of Housing and Urban

Development under the heading "Research and technology" in Public Law 102–139.

TITLE VI

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

COOPERATIVE STATE RESEARCH SERVICE

Title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1992 (Public Law 102–142) is amended, under the heading "Cooperative State Research Service" in the last item of the first paragraph of that heading, for necessary expenses of Cooperative State Research Service activities pertaining to a program of capacity building grants to colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321–326 and 328), including Tuskegee University, by striking "$8,580,000" and inserting in lieu thereof "$10,250,000".

105 Stat. 883.

COMMODITY CREDIT CORPORATION

The item relating to the "Commodity Credit Corporation" under the heading "DEPARTMENT OF AGRICULTURE" in chapter III of title I of the Dire Emergency Supplemental Appropriations and Transfers for Relief From the Effects of Natural Disasters, for Other Urgent Needs, and for Incremental Costs of "Operation Desert Shield/Desert Storm" Act of 1992 (Public Law 102–229; 105 Stat. 1712) is amended by inserting after "provided to the producer" in the third proviso the following: ", and may be available for grants to assist low-income migrant and seasonal farmworkers as provided in section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a)".

7 USC 1421 note.

TITLE VII

ENERGY AND WATER DEVELOPMENT

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

CONSTRUCTION PROGRAM

For an additional amount the "Construction program" to meet the emergency needs for areas stricken by drought, $30,000,000, to remain available until expended: *Provided,* That this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985 is transmitted to the Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $100,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended.

GENERAL PROVISION

SEC. 801. Section 11(c)(6) of the Federal Transit Act (49 U.S.C. App. 1607c(c)(6)) is amended by adding at the end the following new sentence: "For fiscal year 1992, the Secretary shall expend from administrative and research funds deducted for such fiscal year under section 104(a) of title 23, United States Code, $1,000,000 for making grants under paragraph (3) to North Carolina A. and T. State University through the Institute for Transportation Research and Education and shall use all amounts appropriated for such fiscal year pursuant to this paragraph to carry out paragraph (3) for making grants to the University of South Florida and a consortium of Florida A and M, Florida State University, and Florida International University.".

TITLE IX

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $320,000, for repairs and improvements to the Main Treasury Building and Annex, to remain available until expended: *Provided,* That language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by deleting the following: "not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex"; and inserting in lieu thereof: "not to exceed $1,690,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

INTERNATIONAL AFFAIRS

The language under this heading in the Treasury, Postal Service, and General Government Appropriations Act, 1992 (Public Law 102–141; 105 Stat. 834), is amended by inserting after "systems modernization requirements" the following: "; not to exceed $300,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex".

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,298,000, for systems modernization activities, to remain available until expended.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $2,000,000 for systems modernization activities, to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $270,000, for expansion and improvements to existing Mint facilities, to remain available until expended.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For an additional amount for "Administering the Public Debt", $5,226,000, for systems modernization activities, to remain available until expended.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $1,400,000, for the White House armored window project, to remain available until expended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,273,000 are rescinded.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $220,000 are rescinded.

PROCESSING TAX RETURNS AND ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $1,460,000 are rescinded.

TAX LAW ENFORCEMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $2,999,000 are rescinded.

INFORMATION SYSTEMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $270,000 are rescinded.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–141, $4,292,000 are rescinded.

TITLE X

LEGISLATIVE BRANCH

CONGRESSIONAL OPERATIONS

SENATE

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For a payment to Jocelyn Burdick, widow of Quentin N. Burdick, late a Senator from North Dakota, $129,500. Jocelyn Burdick.

HOUSE OF REPRESENTATIVES

PAYMENTS TO WIDOWS AND HEIRS OF DECEASED MEMBERS OF CONGRESS

For payment to M. Elizabeth Fischer Jones, widow of Walter B. Jones, late a Representative from the State of North Carolina, $129,500. M. Elizabeth Fischer Jones.

Sonya H. Weiss

For payment to Sonya H. Weiss, widow of Theodore S. Weiss, late a Representative from the State of New York, $129,500.

TITLE XI

EMERGENCY SUPPLEMENTAL APPROPRIATIONS PROVIDING ASSISTANCE FOR NEEDS RESULTING FROM NATURAL DISASTERS

CHAPTER I

DEPARTMENT OF AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

AGRICULTURAL RESEARCH SERVICE

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities" to cover the costs for the restoration of Federal research facilities destroyed or damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,000,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

COMMODITY CREDIT CORPORATION

COMMODITY CREDIT CORPORATION FUND

CROP LOSSES

For an additional amount for the "Commodity Credit Corporation Fund" to cover crop losses associated with natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $482,000,000, of which $100,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided,* That this additional amount is hereby made available as authorized by the terms and conditions specified in Public Law 101–624 and Public Law 102–229: *Provided further,* That such funds shall be available for payments to aquaculture producers and to oyster farmers who harvest oysters commercially: *Provided further,* That in establishing yields for disaster payments to producers of the 1992 crop of sugarcane and sugar beets, the Secretary of Agriculture may make adjustments to county yields for adverse weather conditions during the 1989, 1990, and 1991 crop years; *Provided further,* That, notwithstanding any other provision of law or statute, any producer of crops and livestock who has suffered at least 40 percent loss to a program crop, 25 percent loss to livestock, and damage to building structures in 1992 as a consequence of a microburst wind occurrence shall be eligible for Emer-

gency Crop Loss Assistance pursuant to Public Law 101–624 (7 U.S.C. 1421 note), for Emergency Livestock Feed Assistance pursuant to Public Law 100–387 (7 U.S.C. 1471 note), and for loan guarantees from the Rural Development Insurance Fund program (7 U.S.C. 1929a): *Provided further,* That if the total amount of funds made available under this Act and by Presidential designation in accordance with Public Law 102–229 is insufficient to result in payment to affected producers at the same proportionate rate as producers were paid by expenditure of the $995,000,000 made available by chapter III of Public Law 102–229, the Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to make payments, to the maximum extent practicable, at the same proportionate rate: *Provided further,* That Congress hereby designates the entire amount provided herein as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

TREE ASSISTANCE PROGRAM

For an additional amount for the "Commodity Credit Corporation Fund" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $48,000,000 for the tree assistance program, to remain available through September 30, 1993: *Provided,* That such funds shall be used to fund the costs of replanting, reseeding, or repairing damage to commercial trees and seedlings, including orchard and nursery inventory: *Provided further,* That payments under this program shall be determined in accordance with Public Law 101–624: *Provided further,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for "Watershed and flood prevention operations" to repair damages to the waterways and watersheds resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $62,000,000 of which $12,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993, to carry out the Emergency Watershed Protection Program of the Soil Conservation Service: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

EMERGENCY CONSERVATION PROGRAM

For an additional amount for the "Emergency conservation program" to repair damages to farmland resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $27,000,000, of which $10,500,000 shall be available only to the

extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Housing Insurance Fund program account" for the cost of section 504 housing repair loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $19,750,000, of which $14,750,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available through September 30, 1993: *Provided,* That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $39,500,000: *Provided further,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

AGRICULTURAL CREDIT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Agricultural Credit Insurance Fund program account" for the cost of emergency insured loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $43,285,000, to remain available through September 30, 1993: *Provided,* That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $162,300,000: *Provided further,* That emergency loans made with respect to damage to an annual crop planted for harvest in 1992 and 1993 under subtitle C of the Consolidated Farm and Rural Development Act shall be made available without regard to the purchase of crop insurance under the Federal Crop Insurance Act by the producer who requests such a loan: *Provided further,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT INSURANCE FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Insurance Fund program account" for the costs of direct and guaranteed loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, to remain available through September 30, 1993, $5,917,000 for the cost of water and sewer facility direct loans, to subsidize additional gross obligations for the principal amount of loans not to

exceed $35,500,000; and $18,300,000 for the cost of guaranteed industrial development loans, to subsidize total loan principal any part of which is to be guaranteed, not to exceed $305,000,000: *Provided*, That no application for a loan guarantee under this section shall be denied on the basis that an organization, tribe, or entity engages in whole or in part in production agriculture nor shall such a loan guarantee be denied under provisions of 7 U.S.C. 1926(a)(7): *Provided further*, That Congress hereby designates the entire amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL DEVELOPMENT LOAN FUND PROGRAM ACCOUNT

For an additional amount for the "Rural Development Loan Fund program account" for the cost of rural development loans to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $8,104,000, to remain available through September 30, 1993: *Provided*, That these funds are available to subsidize additional gross obligations for the principal amount of direct loans not to exceed $15,500,000: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL WATER AND WASTE DISPOSAL GRANTS

For an additional amount for "Rural water and waste disposal grants" for emergency repair to rural water and waste disposal systems damaged by natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $25,600,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For an additional amount for "Very low-income housing repair grants" for emergency repairs to rural housing of the very low-income elderly resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, pursuant to section 504 of the Housing Act of 1949, as amended (42 U.S.C. 1474), $10,000,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For an additional amount for "Rural housing for domestic farm labor" for the cost of repair and replacement of uninsured losses resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $10,500,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EMERGENCY COMMUNITY WATER ASSISTANCE GRANTS

For an additional amount for "Emergency community water assistance grants" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $15,400,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the costs arising from the consequences of natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $3,200,000, to remain available through September 30, 1993: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

Notwithstanding any other provision of law, the Secretary may waive the requirements of the National School Lunch Act and the Child Nutrition Act of 1966 as they pertain to schools and institutions only to the degree the Secretary determines necessary to ensure nutrition benefits for program participants in the areas directly affected by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar: *Provided*, That Congress hereby designates any cost associated with this waiver as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FOOD STAMP PROGRAM

For an additional amount for the "Food stamp program" for making benefit payments to individuals under the Food Stamp Act to meet the needs resulting from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, $400,000,000, to remain available through September 30, 1993.

GENERAL PROVISIONS—CHAPTER I

SEC. 101. Funds provided by this chapter shall be available only to the extent funds are not provided by the Federal Emergency Management Agency.

CHAPTER II

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For an additional amount for "Economic Development Assistance Programs" pursuant to the Public Works and Economic Development Act of 1965 as amended, to be used for grants to assist

States and local communities in recovering from the consequences of Hurricane Andrew, Hurricane Iniki, the severe storms that caused damage to electrical cooperatives in the State of Kansas on June 15, 1992, and July 7 and 8, 1992, Typhoon Omar, and other disasters, $70,000,000, to remain available until expended; and in addition, $5,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For an additional amount for "Minority business development", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $2,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, research, and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $9,891,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", for a grant to the Louisiana Department of Wildlife and Fisheries, for shellfish and fishery habitat restoration, $8,500,000, to remain available until expended: *Provided,* That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Operations, research, and facilities", to cover incremental costs arising from the consequences of Hurricane Iniki and other disasters, $300,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" for grants to States and other eligible entities to cover the costs of tourism promotion needs arising from Hurricane Andrew, Hurricane Iniki, and other disasters, $5,000,000, to remain available until expended: *Provided,* That the grants made available by this appropriation shall not be subject to the local match requirements of 22 U.S.C. 2123: *Provided further,* That the entire amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted to the Congress: *Provided further,* That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

Of the amounts available under this heading in the Department of Justice Appropriations Act, 1992, not to exceed $510,000 to be used by the Executive Office of Immigration Review may be available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,724,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States prisoners", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,139,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $451,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $16,559,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $1,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $5,890,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", to cover the incremental costs arising from the consequences of Hurricane Andrew and other disasters, $300,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for the cost of direct loans, $331,800,000, of which $75,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended; and in addition, for administrative expenses to carry out the disaster loan program, an additional $100,000,000, to remain available until expended, which may be transferred to and merged with the appropriations for "Salaries and expenses": *Provided,* That the entire amount is designated

by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That none of the funds provided in this Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the community in which the disaster has occurred.

CHAPTER III

DEPARTMENT OF DEFENSE—MILITARY

MILITARY PERSONNEL

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $10,700,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $58,200,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESERVE PERSONNEL, AIR FORCE

For an additional amount for "Reserve Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $8,800,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

NATIONAL GUARD PERSONNEL, AIR FORCE

For an additional amount for "National Guard Personnel, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,900,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and maintenance, Army" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and maintenance, Navy" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $142,900,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and maintenance, Air Force" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $228,000,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For an additional amount for "Operation and maintenance, Defense Agencies" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $31,500,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and maintenance, Army Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $3,300,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For an additional amount for "Operation and maintenance, Air Force Reserve" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $13,200,000, to remain available through September 30, 1993: *Pro-*

vided, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and maintenance, Army National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $1,400,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and maintenance, Air National Guard" to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar, $2,000,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IV

DEPARTMENT OF DEFENSE—CIVIL

DEPARMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an addition amount for "Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and maintenance, general" to cover the incremental costs arising from the consequences of Hurricane Andrew, $3,100,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood control and coastal emergencies", $40,000,000, to remain available until expended, of which $25,000,000 is to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki and $15,000,000 is for the replenishment of this account for future emergency response: *Provided*, That notwithstanding the provisions of 33 U.S.C. 701n, paragraph (a)(1), (Public Law 84-99, as amended), the Secretary of the Army, acting through the Chief of Engineers, is hereby authorized to repair and or replace the Mandeville Seawall, a vital shore protection project for Mandeville, Louisiana, damaged by Hurricane Andrew: *Provided further*, That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER V

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES

DEPARTMENT OF THE INTERIOR

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource management", $27,000,000, to remain available until expended: *Provided*, That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That $26,000,000 of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress: *Provided further*, That $24,500,000 of these funds are to be provided as a grant from the Fish and Wildlife Service to the Louisiana Department of Wildlife and Fisheries.

CONSTRUCTION AND ANADROMOUS FISH

For an additional amount for "Construction and anadromous fish", $12,765,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That expenditures for Hawaii are to be made only for repair and replacement of existing facilities to approximate conditions current at the time of damage or destruction.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for "Operation of the national park system", $23,000,000, to remain available until expended: *Provided*, That Congress hereby designates this amount as an emergency

requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

HISTORIC PRESERVATION FUND

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $300,000, to remain available until expended: *Provided,* That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for "Construction", $29,000,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, investigations, and research", $3,375,000, to remain available until September 30, 1993: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That $1,800,000 of this amount shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For an additional amount to cover incremental costs arising from the consequences of Hurricane Andrew, $1,200,000, to remain available until expended: *Provided,* That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For an additional amount for "Operation of Indian programs", $1,500,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For an additional amount for "Construction", $3,800,000, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

STATE AND PRIVATE FORESTRY

For an additional amount for "State and private forestry", $4,140,000, to remain available until expended: *Provided,* That this amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

CHAPTER VI

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

For an additional amount for Training and Employment Services, $30,000,000, to be available for obligation for the period July 1, 1992–July 30, 1993, for training in areas affected by recent natural disasters: *Provided*, That all funds available under this paragraph are hereby designated by Congress to be emergency requirements for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further*, That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For carrying out section 319(a) of the Public Health Service Act with respect to public health emergencies created by natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, not to exceed $105,600,000, to remain available until expended: *Provided*, That these amounts shall be available for any activity authorized under the Public Health Service Act, for repairs or replacement of property used in connection with a Federal or federally-assisted program but damaged or destroyed by the natural disaster, and for the provision to individuals and families directly affected by the disaster of services of the type provided under a program conducted or assisted by the Department: *Provided further*, That notwithstanding sections 214 and 513 of Public Law 102–170, and any other provision of law, amounts spent for travel associated with the performance of additional functions or duties necessitated by Hurricanes Andrew and Iniki or Typhoon Omar shall not be counted against the limits that apply by reason of any such provision: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

DEPARTMENT OF EDUCATION

IMPACT AID

For carrying out disaster assistance activities related to Presidentially-declared natural disasters such as Hurricanes Andrew and Iniki and Typhoon Omar, including those authorized under section 7 of Public Law 81–874, up to $42,500,000, of which $20,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until September 30, 1993: *Provided*, That these funds shall be available for any currently authorized activity of the Department of Education: *Provided further*, That the Secretary may waive or modify any requirement of law or regulation which he determines is necessary in order to provide disaster aid as efficiently and expeditiously as possible to individuals or entities affected directly or indirectly by a Presidentially-declared emergency except that waivers or modifications of the Rehabilitation Act of 1973 shall be limited to restrictions regarding requirements for the matching of Federal funds, maintenance of effort, and time period for the obligation of Federal funds, but only if such recipients demonstrate to the satisfaction of the Secretary in their written application that such restrictions impose a demonstrable barrier to the progress of such recipient in overcoming the effects of the natural disaster: *Provided further*, That the Secretary may not waive any laws or regulations regarding civil rights, discrimination, or safety: *Provided further*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

EDUCATIONAL EXCELLENCE

For an additional amount for "Educational excellence", $40,000,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for "Student financial assistance" for payment of awards for award year 1992–1993, made under title IV, part A, subpart 1 of the Higher Education Act of 1965, as amended prior to enactment of Public Law 102–325, $40,000,000: *Provided,* That notwithstanding any other provision of law, the Secretary of Education may waive or modify any statutory or regulatory provision applicable to the student financial aid programs under title IV of said Act that the Secretary deems necessary to assist individuals who suffered financial harm from natural disasters such as Hurricanes Andrew and Iniki or Typhoon Omar, and who, at the time the disaster struck were residing, attending an institution of higher education, or employed within these areas on the date which, the President declared the existence of a major disaster (or, in the case of an individual who is a dependent student, whose parent or stepparent suffered financial harm from such disaster, and who resided, or was employed in such an area at that time): *Provided further,* That notwithstanding section 431 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary shall, by notice in the Federal Register, exercise this authority, through publication of waivers or modifications of statutory and regulatory provisions, as he deems necessary to assist such individuals: *Provided further,* That such authority shall be in effect only for awards for award year 1992–1993: *Provided further,* That the entire amount is designated by Congress as an emergency requirement for all purposes of the Emergency Deficit Control Act of 1985, as amended.

Federal Register, publication.

CHAPTER VII

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for "Military Construction, Air Force" to cover planning costs arising from the consequences of Hurricane Andrew, $10,000,000, to remain available until September 30, 1997: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force", $66,000,000, for the limited purpose of restoring airfield operations at Homestead Air Force Base, Florida, to remain available until expended: *Provided,* That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced

Budget and Emergency Deficit Control Act of 1985: *Provided further*, That none of these funds are available for the construction of facilities to support the 31st Tactical Fighter Wing or any other active Air Force units or missions at Homestead Air Force Base, Florida, pending completion of the 1993 Base Closure process.

For an additional amount for "Military Construction, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $7,600,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, AIR FORCE

For an additional amount for "Family Housing, Air Force" to cover demolition and cleanup costs at Homestead Air Force Base, Florida, arising from the consequences of Hurricane Andrew, $16,000,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Air Force" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,200,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military Construction, Navy", $60,130,000, for projects at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Military Construction, Navy" to cover the incremental costs arising from the consequences of Typhoon Omar, $21,400,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

FAMILY HOUSING, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Navy and Marine Corps", $56,700,000, for family housing at Guam, to remain available for obligation until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

For an additional amount for "Family Housing, Navy and Marine Corps" to cover the incremental costs arising from the consequences of Typhoon Omar, $30,500,000, to remain available until September 30, 1997: *Provided*, That Congress hereby designates this amount as an emergency requirement for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

CHAPTER VIII

DEPARTMENT OF TRANSPORTATION AND RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $20,000,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for "Acquisition, construction, and improvements" to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $21,500,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL AVIATION ADMINISTRATION

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for "Facilities and equipment" to cover the incremental costs arising from the consequences of Hurricane Andrew, Typhoon Omar and Hurricane Iniki, $40,000,000, of which $25,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, to cover the incremental costs arising from the consequences of Hurricane Andrew and Hurricane Iniki, $20,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That all of these funds shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL HIGHWAY ADMINISTRATION

EMERGENCY RELIEF

(HIGHWAY TRUST FUND)

For an additional amount to the Emergency Fund authorized by 23 U.S.C. 125 to cover the costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, and Typhoon Omar, $30,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the provisions of 23 U.S.C. 125 (b)(1) and (b)(2) shall not apply to amounts available for these emergencies: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

METROPOLITAN PLANNING

(HIGHWAY TRUST FUND)

Notwithstanding any other provision of law, for "Metropolitan planning" to be made available to metropolitan planning organizations in areas affected by Hurricane Andrew, Typhoon Omar, or Hurricane Iniki for conducting comprehensive reviews of transportation infrastructure needs, $3,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HIGHWAY STUDIES

FEASIBILITY, DESIGN, ENVIRONMENTAL, ENGINEERING

For an additional amount to carry out feasibility, design, environmental, and engineering studies, $750,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section

251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL TRANSIT ADMINISTRATION

DISCRETIONARY GRANTS

(HIGHWAY TRUST FUND)

For an additional amount, notwithstanding any other provision of law, and without regard to any obligation limitation, $10,000,000, to be derived from the Mass Transit Account of the Highway Trust Fund, to remain available until expended, to assist transit operations affected by Hurricane Andrew and Hurricane Iniki: *Provided,* That the Secretary may establish a Federal share the Secretary deems appropriate in connection with any such project: *Provided further,* That approval by the Secretary of a grant under this provision shall be deemed a contractual obligation of the United States for payment of the Federal share of the cost of the project: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

EMERGENCY TRANSPORTATION

(TRANSFER OF FUNDS)

For an additional amount for "Emergency transportation" to cover the incremental costs arising from the consequences of Hurricane Andrew, $44,000, to be derived by transfer from "Research and technology", to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CHAPTER IX

DEPARTMENT OF THE TREASURY

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $590,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" to cover the incremental costs arising from the consequences of Hurricane

Andrew, $4,670,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For an additional amount for "Operation and Maintenance, Air and Marine Interdiction Programs" to cover the incremental costs arising from the consequences of Hurricane Andrew, $10,500,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CUSTOMS AIR INTERDICTION FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For an additional amount for "Customs Air Interdiction Facilities, Construction, Improvements and Related Expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, $19,250,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INTERNAL REVENUE SERVICE

TAX LAW ENFORCEMENT

For an additional amount for "Tax Law Enforcement" to cover the incremental costs arising from the consequences of Hurricane Andrew, $1,173,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

INDEPENDENT AGENCIES

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATIONS ON AVAILABILITY OF REVENUE)

For an additional amount for "Real Property Operations" to cover the incremental costs arising from the consequences of Hurricane Andrew, $2,500,000, to remain available until expended: *Provided,* That the aggregate limitation on Federal Buildings Fund obligations established in Public Law 102-141 is hereby increased by such amount: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For an additional amount for the "Federal Supply Service" to cover the incremental costs arising from the consequences of Hurricane Andrew, $700,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISION

AGENCY ACCEPTANCE OF DONATIONS FOR FEDERAL EMPLOYEES

5 USC 7301 note.

SEC. 901. (a) Notwithstanding any other provision of law, Federal agencies may accept gifts of property, money, or anything else of value from non-Federal sources for extraordinary and unanticipated expenses incurred by agency employees in their personal capacity within the areas designated as disaster areas pursuant to the President's declaration of a disaster resulting from Hurricane Andrew, Typhoon Omar, and Hurricane Iniki.

(b) Agencies shall establish written procedures to implement this program, which shall, at a minimum, include provisions to ensure that (1) all money or cash gifts shall be collected directly by the agency before distribution, (2) all property or other tangible gifts shall be recorded and approved by the agency before deliverance to any individual employee, and (3) these gifts are distributed to agency employees in a fair and equitable manner.

(c) Agencies may accept gifts designated for individual employees. Agencies shall ensure that any gift designated for an individual employee is appropriate under the circumstances, taking into account, among other things, the official relationship of the employee to the source of the gift.

Termination date.

(d) This provision shall be effective through September 30, 1993.

CHAPTER X

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For an additional amount for "Medical care" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $16,793,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $1,000,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General operating expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $156,000, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Annual contributions for assisted housing" for voucher assistance for the victims of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, not to exceed $183,000,000, to be derived by transfer prior to October 1, 1993, from the "Disaster relief" account of the Federal Emergency Management Agency: *Provided,* That such amounts shall be for rental housing voucher assistance pursuant to section 8(o) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437f(o)): *Provided further,* That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

For an additional amount for "Annual contributions for assisted housing" for use only in areas impacted by Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared disasters, $100,000,000, to remain available until expended: *Provided,* That such amounts shall be available only for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, and modernization of existing public housing pursuant to section 14 of the United States Housing Act of 1937, as amended (42 U.S.C. 14371): *Provided further,* That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except provisions requiring non-discrimination, in connection with the obligation by the Secretary or the use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That the entire amount is designated by Congress as an

emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further,* That none of the funds in this Act under the heading "HOME Investment Partnerships Program" shall be made available unless an official budget request that includes a designation that the entire amount of the request is an emergency requirement, as defined in section 251 of said Act, for at least a proportional amount of the $100,000,000 provided in this paragraph is transmitted by the President to the Congress: *Provided further,* That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

HOUSING COUNSELING ASSISTANCE

For an additional amount for "Housing counseling assistance" for contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners as authorized by section 106 of the Housing and Urban Development Act of 1968, as amended, $500,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

For an additional amount for the "FHA—General and special risk program account" for the cost of guaranteed loans authorized by the National Affordable Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)), $30,397,000, of which $10,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until the end of fiscal year 1993: *Provided,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed prior to the end of fiscal year 1993, not to exceed $2,428,000,000: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For an additional amount for the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, for use only in areas impacted by Hurricane Andrew, Hurricane

Iniki, Typhoon Omar, and other Presidentially-declared disasters, $60,000,000, to remain available until expended: *Provided,* That the Secretary shall not, as a condition of assisting a participating jurisdiction under such Act using amounts provided under this heading, required any contributions by or in behalf of a participating jurisdiction, notwithstanding section 220 of Public Law 101–625: *Provided further,* That in administering these funds, the Secretary may waive any provision of any statute or regulation that the Secretary administers, except for provisions requiring non-discrimination, in connection with the obligation by the Secretary or any use by any recipient of these funds upon finding that such waiver is required to facilitate the obligation and use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to Congress: *Provided further,* That notwithstanding any other provision of this Act, funds provided under this heading that are allocated by the Secretary to the State of Hawaii are for use by the State in meeting the responsibilities with which it has been charged under the provisions of the Act of July 9, 1921 (42 Stat. 108), and in the case of programs for individuals directly to lessees under the provisions of the Act of July 9, 1921.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for necessary administrative expenses of the Department of Housing and Urban Development, not otherwise provided for, $4,000,000, to remain available through September 30, 1993: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That $200,000 of the amounts made available under this heading shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of said Act, is transmitted by the President to the Congress.

INDEPENDENT AGENCIES

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the "Community Disaster Loan Program" account for administrative expenses in subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent

an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided,* That these funds are available to subsidize additional gross obligations for the principal amount of direct loans for the "Community Disaster Loan Program", not to exceed $200,000,000: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

The limitation on direct loans for the "Disaster assistance direct loan program account" is increased, within existing funds, by $30,000,000 to not to exceed $58,000,000: *Provided,* That any unused portion of the direct loan limitation shall be available until September 30, 1993: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Termination date.

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses" to cover the incremental costs arising from the consequences of Hurricane Andrew, Hurricane Iniki, Typhoon Omar, and other Presidentially-declared natural disasters, $15,000,000, to remain available until expended: *Provided,* That these funds may be expended only for the Office of Disaster Assistance at headquarters and the Disaster Assistance Divisions in the regions: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

TITLE XII

ADDITIONAL ASSISTANCE TO DISTRESSED COMMUNITIES

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide appropriations for the fiscal year ending September 30, 1993, to implement initiatives to improve the quality of life and expand economic opportunity, namely:

COMMUNITY INVESTMENT PROGRAM

For grants to States, units of general local government and other entities as authorized by law for implementing activities to rejuvenate neighborhoods and promote economic opportunity, $500,000,000, subject to enactment of subsequent authorizing legislation, to remain available until September 30, 1994: *Provided,* That, of the funds made available under this head, not more than $400,000,000 may be made available for an "Enterprise Community Block Grant Demonstration Program", subject to enactment of subsequent authorizing legislation: *Provided further,* That, of the funds made available under this head, not more than $200,000,000 may be made available for a "National Public/Private Partnership Pro-

gram" which shall consist only of eligible programs, projects and activities under the following programs:

Job Corps Program under part B of title IV of the Job Training Partnership Act (29 U.S.C. 1692 et seq.);

Community health centers under section 329 and section 330 of the Public Health Services Act (42 U.S.C. 254c);

Head Start Program under the Head Start Act (42 U.S.C. 9831 et seq.);

Projects with respect to high risk youth under section 517 of the Public Health Service Act (as amended by the ADAMHA Reorganization Act);

YouthBuild Program under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act;

Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107);

Salaries and Expenses, United States Attorneys, only to assist local law enforcement agencies for additional coordination of Federal law enforcement and prosecutorial activities;

Assistance to companies operating under authority of section 301(d) of the Small Business Investment Act of 1958;

Enterprise Capital Access Fund Demonstration Program, subject to the enactment of authorizing legislation;

National Community Economic Partnership Program, subject to the enactment of authorizing legislation;

Capacity Expansion Program under section 509F of the Public Health Service Act, as amended by Public Law 102–321;

Treatment Improvement Program under sections 301 and 509G of the Public Health Service Act, as amended by Public Law 102–321; and

Literacy activities authorized under the National Literacy Act of 1991:

Provided further, That none of the funds under this head shall be made available until authority is provided in subsequent authorizing legislation.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance To Meet the Present Emergencies Arising From the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities".

Approved September 23, 1992.

LEGISLATIVE HISTORY—H.R. 5620:

HOUSE REPORTS: No. 102-672 (Comm. on Appropriations).
SENATE REPORTS: No. 102-395 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Sept. 15, considered and passed Senate, amended.
Sept. 18, House concurred in certain Senate amendment with an amendment and disagreed to others. Senate receded and concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 23, Presidential statement.

Public Law 102-369
102d Congress

Joint Resolution

To designate September 13, 1992, as "Commodore John Barry Day".

Sept. 24, 1992
[H.J. Res. 413]

Whereas John Barry, an immigrant from County Wexford, Ireland, volunteered his services to the Continental Navy and was commissioned as captain on October 10, 1775;

Whereas during the War for Independence Captain John Barry achieved the first victory for the Continental Navy while in command of the ship "Lexington" by capturing the British ship "Edward", organized General George Washington's crossing of the Delaware River which led to the victory at Trenton in 1776, transported gold from France to America while in command of the ship "Alliance", and achieved the last victory of the war for the Continental Navy while in command of "Alliance" by defeating the British ship HMS Sybille;

Whereas during the War for Independence Captain John Barry rejected British General Lord Howe's offer to desert the Continental Navy and join the British Navy, stating: "Not the value and command of the whole British fleet can lure me from the cause of my country.";

Whereas after the War for Independence the United States Congress recognized John Barry as the premier American naval hero of that war;

Whereas in 1787 Captain John Barry organized the compulsory attendance of members of the Constitutional Convention in Philadelphia, thus ensuring the quorum necessary to adopt the Constitution and recommend it to the States for ratification;

Whereas on June 14, 1794, pursuant to "Commission No. 1", President Washington commissioned John Barry as commodore in the new United States Navy;

Whereas Commodore John Barry helped to build and lead the new United States Navy which included his command of the U.S.S. United States and U.S.S. Constitution ("Old Ironsides");

Whereas Commodore John Barry is recognized along with General Stephen Moylan in the Statue of Liberty Museum as 1 of 6 foreign-born great leaders of the War for Independence;

Whereas in 1991 President George Bush proclaimed September 13th, the date of John Barry's birth, as "Commodore John Barry Day"; and

Whereas designating a day to commemorate Commodore John Barry would be important to United States Navy veterans, Irish-Americans, and to all the people of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1992, is designated as "Commodore John Barry Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved September 24, 1992.

LEGISLATIVE HISTORY—H.J. Res. 413:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 10, considered and passed House and Senate.

Public Law 102-370
102d Congress

Joint Resolution

To designate October 1992 as "National Breast Cancer Awareness Month".

Sept. 24, 1992
[S.J. Res. 303]

Whereas breast cancer will strike an estimated 180,000 women and 1,000 men in the United States in 1992;

Whereas, assuming an average life expectancy of 85 years, a woman's lifetime risk of developing breast cancer is 1 in 9;

Whereas the risk of developing breast cancer increases as a woman grows older;

Whereas breast cancer is the second leading cause of cancer death in women, and will kill an estimated 46,000 women and 300 men in 1992;

Whereas the 5-year survival rate for localized breast cancer has risen from 78 percent in the 1940s to over 90 percent today;

Whereas most breast cancers are detected by the woman herself;

Whereas educating both the public and health care providers about the importance of early detection will result in reducing breast cancer mortality;

Whereas appropriate use of screening mammography, in conjunction with clinical examination and breast self-examination, can result in the detection of many breast cancers early in their development and increase the survival rate to nearly 100 percent;

Whereas data from controlled trials clearly demonstrate that deaths from breast cancer are significantly reduced in women over the age of 40 by using mammography as a screening tool;

Whereas many women are reluctant to have screening mammograms for a variety of reasons, such as the cost of testing, lack of information, or fear;

Whereas access to screening mammography is directly related to socioeconomic status;

Whereas increased awareness about the importance of screening mammography will result in the procedure being regularly requested by the patient and recommended by the health care provider; and

Whereas it is projected that more women will use this lifesaving test as it becomes increasingly available and affordable: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1992 is designated as "National Breast Cancer Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs and activities.

Approved September 24, 1992.

LEGISLATIVE HISTORY—S.J. Res. 303:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Sept. 10, considered and passed House.

Public Law 102-371
102d Congress

An Act

To amend the Civil Liberties Act of 1988 to increase the authorization for the Trust Fund under that Act, and for other purposes.

Sept. 27, 1992
[H.R. 4551]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil Liberties Act Amendments of 1992.
50 USC app. 1989b note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Liberties Act Amendments of 1992".

SEC. 2. AUTHORIZATION FOR TRUST FUND.

Section 104(e) of the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b–3(e)) is amended by striking "$1,250,000,000" and inserting "$1,650,000,000".

SEC. 3. DEFINITIONS.

Section 108(2) of the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b–7(2)) is amended in the matter preceding subparagraph (A) by inserting ", or the spouse or a parent of an individual of Japanese ancestry," after "Japanese ancestry".

SEC. 4. BENEFIT OF THE DOUBT; JUDICIAL REVIEW.

(a) BENEFIT OF THE DOUBT.—Section 105(a) of the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b–4(a)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) BENEFIT OF THE DOUBT.—When, after consideration of all evidence and relevant material for determining whether an individual is an eligible individual, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of eligibility, the benefit of the doubt in resolving each such issue shall be given to such individual.".

(b) JUDICIAL REVIEW.—Section 105 of such Act is amended by adding at the end the following:

"(h) JUDICIAL REVIEW.—

"(1) REVIEW BY THE CLAIMS COURT.—A claimant may seek judicial review of a denial of compensation under this section solely in the United States Claims Court, which shall review the denial upon the administrative record and shall hold unlawful and set aside the denial if it is found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(2) APPLICABILITY.—This subsection shall apply only to any claim filed in court on or after the date of the enactment of this subsection.".

(c) CONFORMING AMENDMENTS.—Section 105 of such Act is amended—

(1) in subsection (a)—

(A) in paragraph (1)—
(i) by striking "(6)" and inserting "(7)"; and
(ii) by striking "(4)" and inserting "(5)";
(B) in subparagraph (B) of paragraph (4) (as redesignated by subsection (a)(1) of this section)—
(i) by striking "(4)" and inserting "(5)"; and
(ii) by striking "(5)" and inserting "(6)";
(C) in paragraph (6) (as redesignated by subsection (a)(1) of this section)—
(i) by striking "(4)" and inserting "(5)"; and
(ii) by striking "(3)" and inserting "(4)"; and
(D) in paragraph (7) (as redesignated by subsection (a)(1) of this section) by striking "(6)" and inserting "(8)"; and
(2) in subsection (b) by striking "(6)" and inserting "(8)".

SEC. 5. TERMINATION OF DUTIES OF ATTORNEY GENERAL.

Section 105(e) of the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b–4(e)) is amended by striking "when the Fund terminates." and inserting "180 days after the Fund terminates.".

SEC. 6. EXCLUSION OF PAYMENTS AS INCOME FOR VETERANS BENEFITS.

(a) EXCLUSION.—Section 105(f)(2) of the Civil Liberties Act of 1988 (50 U.S.C. App. 1989b–4(f)(2)) is amended by striking out ", or the" and inserting "or available under any other law administered by the Secretary of Veterans Affairs, or for purposes of determining the".

50 USC app. 1989b–4 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as of August 10, 1988.

SEC. 7. COMPLIANCE WITH BUDGET ACT.

50 USC app. 1989b–9.

Section 110 of the Civil Liberties Act of 1988 (50 App. 1989b–9) is amended—
(1) by inserting "(a) IN GENERAL.—" before "Subject to";
(2) in subsection (a) (as so designated by paragraph (1))—
(A) in the first sentence, by inserting "and except as provided in subsection (b)" after "105(g) of this title"; and
(B) by striking the second sentence; and
(3) by adding at the end the following new subsections:
"(b) PAYMENTS FROM DISCRETIONARY APPROPRIATIONS.—
"(1) PAYMENTS.—Any such payment made to an individual who is not of Japanese ancestry and who is an eligible individual on the basis of the amendment made by section 3 of the Civil Liberties Act Amendments of 1992 shall not be an entitlement and shall be made from discretionary appropriations.
"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1993 and each subsequent fiscal year such sums as may be necessary for the payments from discretionary appropriations described in paragraph (1).

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'discretionary appropriations' has the meaning given that term in section 250(c)(7) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 900(c)(7)); and

"(2) the term 'entitlement' means 'spending authority' as defined in section 401(c)(2)(C) of the Congressional Budget Act of 1974 (2 U.S.C. 651(c)(2)(C)).".

Approved September 27, 1992.

LEGISLATIVE HISTORY—H.R. 4551:

HOUSE REPORTS: No. 102-863 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 14, considered and passed House.
Sept. 16, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 27, Presidential statement.

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Public Law 102-372
102d Congress

An Act

Sept. 30, 1992
[S. 680]

To amend the International Travel Act of 1961 to assist in the growth of international travel and tourism in the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tourism Policy and Export Promotion Act of 1992.
Commerce and trade.
Foreign relations.
22 USC 2121 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Tourism Policy and Export Promotion Act of 1992".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the International Travel Act of 1961 (22 U.S.C. 2121 et seq.).

22 USC 2121 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the travel and tourism industry is the second largest retail or service industry in the United States;

(2) travel and tourism receipts make up over 6.7 percent of the United States gross national product;

(3) in 1991, the travel and tourism industry generated about six million jobs directly and about two million five hundred thousand indirectly;

(4) travel and tourism expenditures in 1991 were approximately $352,000,000,000;

(5) forty-two million international visitors spent approximately $64,700,000,000 in the United States in 1991;

(6) travel and tourism services ranked as the largest United States business services export in 1991, providing a United States travel trade balance of $16,800,000,000;

(7) many local communities with significant tourism potential are unable to realize the economic and employment opportunities that tourism provides because they lack the necessary local resources and expertise needed to induce tourism trade;

(8) increased efforts directed at the promotion of rural tourism will contribute to the economic development of rural America and further the conservation and promotion of natural, scenic, historic, scientific, educational, inspirational, and recreational resources for future generations of Americans and foreign visitors;

(9) foreign tourists entering the United States are frequently faced with unnecessary delays at the United States border;

(10) advanced technologies, industrial targeting, the industrialization of the Third World, and the flight of some United States manufacturing capacity to overseas locations have affected the international competitiveness of the United States;

(11) exporting those goods and services which United States industry can produce at a comparative cost advantage, such as travel and tourism services, will be in the Nation's long-term strategic interest; and

(12) the emergence of democratic governments in the formerly Communist nations of Eastern Europe and in the former Soviet Union provide new opportunities for United States firms engaged in both the inbound and outbound tourism markets.

SEC. 3. SURVEY OF INTERNATIONAL AIR TRAVELERS. 22 USC 2122 note.

The Secretary of Commerce, to the extent available resources permit, shall improve the survey of international air travelers conducted to provide the data needed to estimate the Nation's balance of payments in international travel by—

(1) expanding the survey to cover travel to and from the Middle East, Africa, South America, and the Caribbean and enhancing coverage for Mexico, Oceania, the Far East, and Europe; and

(2) improving the methodology for conducting on-board surveys by (A) enhancing communications, training, and liaison activities in cooperation with participating air carriers, (B) providing for the continuation of needed data bases, and (C) utilizing improved sampling procedures.

The Secretary of Commerce shall seek to increase the reporting frequency of the data provided by Statistics Canada and the Bank of Mexico on international travel trade between the United States and both Canada and Mexico. The Secretary shall improve the quarterly statistical report on United States international travel receipts and payments published in the Bureau of Economic Analysis document known as "The Survey of Current Services" and heighten its visibility.

SEC. 4. RURAL TOURISM DEVELOPMENT FOUNDATION. 22 USC 2124c.

(a) ESTABLISHMENT OF FOUNDATION.—In order to assist in the development and promotion of rural tourism, there is established a charitable and nonprofit corporation to be known as the Rural Tourism Development Foundation (hereafter in this section referred to as the "Foundation").

(b) FUNCTIONS.—The functions of the Foundation shall be the planning, development, and implementation of projects and programs which have the potential to increase travel and tourism export revenues by attracting foreign visitors to rural America. Initially, such projects and programs shall include—

(1) participation in the development and distribution of educational and promotional materials pertaining to both private and public attractions located in rural areas of the United States, including Federal parks and recreational lands, which can be used by foreign visitors;

(2) development of educational resources to assist in private and public rural tourism development; and

(3) participation in Federal agency outreach efforts to make such resources available to private enterprises, State and local governments, and other persons and entities interested in rural tourism development.

(c) BOARD OF DIRECTORS.—

(1) COMPOSITION.—(A) The Foundation shall have a Board of Directors (hereafter in this section referred to as the "Board") that—

(i) during its first two years shall consist of nine voting members; and

(ii) thereafter shall consist of those nine members plus up to six additional voting members as determined in accordance with the bylaws of the Foundation.

(B)(i) The Under Secretary of Commerce for Travel and Tourism shall, within six months after the date of enactment of this Act, appoint the initial nine voting members of the Board and thereafter shall appoint the successors of each of three such members, as provided by such bylaws.

(ii) The voting members of the Board, other than those referred to in clause (i), shall be appointed in accordance with procedures established by such bylaws.

(C) The voting members of the Board shall be individuals who are not Federal officers or employees and who have demonstrated an interest in rural tourism development. Of such voting members, at least a majority shall have experience and expertise in tourism trade promotion, at least one shall have experience and expertise in resource conservation, at least one shall have experience and expertise in financial administration in a fiduciary capacity, at least one shall be a representative of an Indian tribe who has experience and expertise in rural tourism on an Indian reservation, at least one shall represent a regional or national organization or association with a major interest in rural tourism development or promotion, and at least one shall be a representative of a State who is responsible for tourism promotion.

(D) Voting members of the Board shall each serve a term of six years, except that—

(i) initial terms shall be staggered to assure continuity of administration;

(ii) if a person is appointed to fill a vacancy occurring prior to the expiration of the term of the person's predecessor, that person shall serve only for the remainder of the predecessor's term; and

(iii) any such appointment to fill a vacancy shall be made within sixty days after the vacancy occurs.

(2) EX-OFFICIO MEMBERS.—The Under Secretary of Commerce for Travel and Tourism and representatives of Federal agencies with responsibility for Federal recreational sites in rural areas (including the National Park Service, Bureau of Land Management, Forest Service, Corps of Engineers, Bureau of Indian Affairs, Tennessee Valley Authority, and such other Federal agencies as the Board determines appropriate) shall be nonvoting ex-officio members of the Board.

(3) CHAIR.—The Chairman and Vice Chairman of the Board shall be elected by the voting members of the Board for terms of two years.

(4) MEETINGS.—The Board shall meet at the call of the Chairman and there shall be at least two meetings each year. A majority of the voting members of the Board serving at any one time shall constitute a quorum for the transaction of business. The Foundation shall have an official seal, which shall be judicially noticed. Voting membership on the Board shall not be deemed to be an office within the meaning of the laws of the United States.

(d) COMPENSATION AND EXPENSES.—No compensation shall be paid to the members of the Board for their services as members, but they may be reimbursed for actual and necessary traveling and subsistence expenses incurred by them in the performance of their duties as such members out of Foundation funds available to the Board for such purposes.

(e) ACCEPTANCE OF GIFTS, DEVISES, AND BEQUESTS.—

(1) IN GENERAL.—The Foundation is authorized to accept, receive, solicit, hold, administer, and use any gifts, devises, or bequests, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein for the benefit of or in connection with rural tourism, except that the Foundation may not accept any such gift, devise, or bequest which entails any expenditure other than from the resources of the Foundation. A gift, devise, or bequest may be accepted by the Foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons if any current or future interest therein is for the benefit of rural tourism.

(2) INDIANS.—A gift, devise, or bequest accepted by the Foundation for the benefit of or in connection with rural tourism on Indian reservations, pursuant to the Act of February 14, 1931 (25 U.S.C. 451), shall be maintained in a separate accounting for the benefit of Indian tribes in the development of tourism on Indian reservations.

(f) INVESTMENTS.—Except as otherwise required by the instrument of transfer, the Foundation may sell, lease, invest, reinvest, retain, or otherwise dispose of or deal with any property or income thereof as the Board may from time to time determine. The Foundation shall not engage in any business, nor shall the Foundation make any investment that may not lawfully be made by a trust company in the District of Columbia, except that the Foundation may make any investment authorized by the instrument of transfer and may retain any property accepted by the Foundation.

(g) PERPETUAL SUCCESSION; LIABILITY OF BOARD MEMBERS.—The Foundation shall have perpetual succession, with all the usual powers and obligations of a corporation acting as a trustee, including the power to sue and to be sued in its own name, but the members of the Board shall not be personally liable, except for malfeasance.

(h) CONTRACTUAL POWER.—The Foundation shall have the power to enter into contracts, to execute instruments, and generally to do any and all lawful acts necessary or appropriate to its purposes.

(i) ADMINISTRATION.—

(1) IN GENERAL.—In carrying out the provisions of this section, the Board may adopt bylaws, rules, and regulations necessary for the administration of its functions and may hire officers and employees and contract for any other necessary services. Such officers and employees shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapters 51 and 53 of such title relating to classification and General Schedule pay rates.

(2) SERVICES.—The Secretary of Commerce may accept the voluntary and uncompensated services of the Foundation, the Board, and the officers and employees of the Foundation in the performance of the functions authorized under this section,

without regard to section 1342 of title 31, United States Code, or the civil service classification laws, rules, or regulations.

(3) CONSTRUCTION.—Neither an officer or employee hired under paragraph (1) nor an individual who provides services under paragraph (2) shall be considered a Federal employee for any purpose other than for purposes of chapter 81 of title 5, United States Code, relating to compensation for work injuries, and chapter 171 of title 28, United States Code, relating to tort claims.

(j) EXEMPTION FROM TAXES; CONTRIBUTIONS.—The Foundation and any income or property received or owned by it, and all transactions relating to such income or property, shall be exempt from all Federal, State, and local taxation with respect thereto. The Foundation may, however, in the discretion of the Board, contribute toward the costs of local government in amounts not in excess of those which it would be obligated to pay such government if it were not exempt from taxation by virtue of this subsection or by virtue of its being a charitable and nonprofit corporation and may agree so to contribute with respect to property transferred to it and the income derived therefrom if such agreement is a condition of the transfer. Contributions, gifts, and other transfers made to or for the use of the Foundation shall be regarded as contributions, gifts, or transfers to or for the use of the United States.

(k) LIABILITY OF UNITED STATES.—The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation.

(l) ANNUAL REPORT.—The Foundation shall, as soon as practicable after the end of each fiscal year, transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives an annual report of its proceedings and activities, including a full and complete statement of its receipts, expenditures, and investments.

(m) DEFINITIONS.—As used in this section—

(1) the term "Indian reservation" has the meaning given the term "reservation" in section 3(d) of the Indian Financing Act of 1974 (25 U.S.C. 1452(d));

(2) the term "Indian tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e));

(3) the term "local government" has the meaning given that term in section 3371(2) of title 5, United States Code; and

(4) the term "rural tourism" has the meaning given that term by the Secretary of Commerce and shall include activities related to travel and tourism that occur on Federal recreational sites, on Indian reservations, and in the territories, possessions, and commonwealths of the United States.

(n) ASSISTANCE BY SECRETARY OF COMMERCE.—Section 202(a) of the International Travel Act of 1961 (22 U.S.C. 2123(a)) is amended by striking paragraph (15) and inserting in lieu thereof the following new paragraph:

"(15) may assist the Rural Tourism Development Foundation, established under section 4 of the Tourism Policy and Export Promotion Act of 1992, in the development and promotion of rural tourism.".

SEC. 5. POLICY CLARIFICATIONS.

Section 101(b) (22 U.S.C. 2121(b)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) optimize the contributions of the tourism and recreation industries to the position of the United States with respect to international competitiveness, economic prosperity, full employment, and the balance of payments;";

(2) by redesignating paragraphs (2) through (12) as paragraphs (6) through (16), respectively; and

(3) by inserting immediately after paragraph (1) the following new paragraphs:

"(2) increase United States export earnings from United States tourism and transportation services traded internationally;

"(3) ensure the orderly growth and development of tourism;

"(4) coordinate and encourage the development of the tourism industry in rural communities which—

"(A) have been severely affected by the decline of agriculture, family farming, or the extraction or manufacturing industries, or by the closing of military bases; and

"(B) have the potential necessary to support and sustain an economy based on tourism;

"(5) promote increased and more effective investment in international tourism by the States, local governments, and cooperative tourism marketing programs;".

SEC. 6. DUTIES OF THE SECRETARY OF COMMERCE.

(a) DUTIES OF SECRETARY.—Section 201 (22 U.S.C. 2122) is amended—

(1) by redesignating paragraphs (2) through (6) as paragraphs (3) through (7), respectively;

(2) in paragraph (3) (as so redesignated) by striking "tourist facilities," and all that follows and inserting in lieu thereof the following: "receptive, linguistic, informational, currency exchange, meal, and package tour services required by the international market;";

(3) by inserting immediately after paragraph (1) the following:

"(2) provide export promotion services that will increase the number of States, local governments (as defined in section 3371(2) of title 5, United States Code), and companies in the United States that sell their tourism services in the international market, expand the number of foreign markets in which exporting States, cities, and companies are active, and inform States, cities, and companies in the United States regarding the specialized services the international market requires;";

(4) by striking the period at the end of paragraph (7) (as so redesignated) and inserting in lieu thereof the following: "and the use of other United States providers of travel products and services; and"; and

(5) by inserting immediately after such paragraph (7) the following new paragraph:

"(8) advise and provide information and technical assistance to United States firms seeking to facilitate travel to and from the emerging democracies of Eastern Europe and the

former Soviet Union and compile statistics, as available, regarding such travel.".

(b) PERFORMANCE OF DUTIES.—Section 202(a) (22 U.S.C. 2123(a)) is amended—

(1) by amending paragraph (5) to read as follows:

"(5) shall provide financial assistance under section 203 to cooperative tourism marketing programs;";

(2) in paragraph (9), by striking "United States travel and tourism interests" and inserting in lieu thereof "the United States national tourism interest"; and

(3) in paragraph (12), by inserting immediately before the semicolon at the end the following: "and the use of other United States providers of travel products and services".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 202 (22 U.S.C. 2123) is amended—

(1) in the first sentence of subsection (c), by striking "paragraph (5) of subsection (a)" and inserting in lieu thereof "section 203";

(2) in the second sentence of subsection (c), by striking "paragraph" and inserting in lieu thereof "subsection";

(3) in the third sentence of subsection (c), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203"; and

(4) in subsection (d), by striking "paragraph (5) of subsection (a) of this section" and inserting in lieu thereof "section 203".

SEC. 7. TOURISM TRADE DEVELOPMENT.

Section 202 (22 U.S.C. 2123) is amended by adding at the end the following new subsection:

"(e)(1) The Secretary's tourism trade development efforts shall focus on the markets which have the greatest potential for increasing travel and tourism revenues.

Federal Register, publication.

"(2) By October 1 of each year (commencing October 1, 1993), the Secretary shall publish a notice in the Federal Register soliciting comment, from persons interested in tourism trade, concerning markets that would be an appropriate focus of tourism trade development efforts to be carried out in the twelve-month period that begins twelve months after the notice is published.

"(3) Not later than three months after the notice is published under paragraph (2), the Secretary shall select the markets that the Secretary determines are an appropriate focus of tourism trade development efforts to be carried out in the twelve-month period described in paragraph (2). The selection shall be announced by publication in the Federal Register.

Federal Register, publication.

"(4) At the same time the Secretary announces the selection of markets under paragraph (3), the Secretary shall issue a request for proposals from cooperative tourism marketing programs to develop and implement tourism trade development programs applicable to the markets so selected. The Secretary shall provide financial assistance in accordance with section 203 to carry out proposals submitted under this subparagraph. Such financial assistance shall be provided on or before September 30 of the year in which the markets are selected under paragraph (3).

"(5) During each twelve-month period described in paragraph (2), tourism trade development efforts shall be directed at the markets selected under paragraph (3).".

SEC. 8. TOURISM MARKETING PROGRAMS.

(a) FINANCIAL ASSISTANCE.—Sections 203 and 204 (22 U.S.C. 2123a and 2123b) are repealed and the following new section is inserted immediately after section 202:

"SEC. 203. (a) The Secretary shall provide financial assistance to cooperative tourism marketing programs in accordance with this section. 22 USC 2123a.

"(b)(1) To be eligible for financial assistance under subsection (a), a cooperative tourism marketing program shall, at a minimum—

"(A) involve the participation of—

"(i) two or more States;

"(ii) one or more States and one or more political subdivisions of States; or

"(iii) one or more States and one or more nonprofit organizations;

"(B) be established for the purpose of increasing the number of foreign visitors to the region in which such States or local governments are located; and

"(C) have a written regional tourism marketing plan which includes advertising, publication of promotional materials, or other promotional or market research activities designed to increase the number of foreign visitors to such region.

"(2) Financial assistance may be provided under subsection (a) if the applicant for the assistance demonstrates to the satisfaction of the Secretary that the assistance will be used for a purpose described in subsection (c) and that—

"(A) such cooperative tourism marketing program for which the financial assistance will be provided will increase the travel of foreign visitors to the region for which the assistance is sought;

"(B) such program will contribute to the economic well-being of such region;

"(C) such region is developing or has developed a regional transportation system that will enhance travel to the facilities and attractions in such region; and

"(D) such program will focus its efforts on the countries in the markets selected by the Secretary under section 202(e)(3).

"(c) Financial assistance provided under subsection (a) may be used for the purpose of—

"(1) promoting or marketing to foreign visitors or potential foreign visitors the tourism and recreational opportunities in the region for which such financial assistance is sought;

"(2) targeting foreign visitors to develop or enhance their interest in tourism and recreational opportunities in such region;

"(3) encouraging the development by such cooperative tourism marketing program of regional strategies for international tourism promotion and marketing; or

"(4) developing and implementing tourism trade development programs applicable to markets selected under section 202(e)(3).

"(d) In connection with financial assistance provided under subsection (a), a cooperative tourism marketing program may enter into agreements with individuals and private profit and nonprofit businesses and organizations who will assist in carrying out the purposes for which such financial assistance is provided. Such an agreement shall be disclosed in any application for financial assist-

ance under subsection (a) and such an application may be approved by the Secretary only if the Secretary finds that such agreement meets all applicable legal requirements and is consistent with the purposes of this Act.

Regulations.

"(e) After notice and opportunity for public comment and within one hundred and eighty days after the date of enactment of the Tourism Policy and Export Promotion Act of 1992, the Secretary shall issue rules and guidelines to carry out this section. Proposed rules and guidelines shall be issued within ninety days after such date of enactment.

"(f)(1) The total amount of financial assistance that may be provided under subsection (a) shall, in each of the fiscal years 1994, 1995, and 1996, be not less than 25 percent of the amount appropriated to the Secretary for such fiscal year under section 304.

"(2) Not more than 50 percent of the financial assistance provided under subsection (a) for any fiscal year may be used for tourism trade development designed to promote travel and tourism in the United States generally without promotion of a particular area of the United States. Cooperative tourism marketing programs receiving financial assistance under subsection (a) shall pool 50 percent of their financial assistance for such general tourism trade development in each market selected by the Secretary under section 202(e)(3). The Secretary shall provide technical assistance to recipients of such financial assistance and coordinate such efforts.".

(b) FEDERAL SHARE OF PROJECT COSTS.—The first sentence of section 202(c) (22 U.S.C. 2123(c)) is amended by striking all after "sources" and inserting in lieu thereof a period and the following new sentence: "Any recipient of financial assistance under section 203 shall provide matching funds (consisting of actual dollar expenditures on the program for which such financial assistance is provided) equal to at least 25 percent of such financial assistance.".

SEC. 9. TOURISM TRADE BARRIERS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 8 of this Act, is further amended by adding at the end the following new section:

22 USC 2123b.

"SEC. 204. For each calendar year beginning with calendar year 1994, the Secretary shall—

"(1) identify and analyze acts, policies, or practices of each foreign country that constitute significant barriers to, or distortions of, United States travel and tourism exports;

"(2) make an estimate of the trade-distorting impact on United States commerce of any act, policy, or practice identified under paragraph (1); and

"(3) make an estimate, if feasible, of the value of additional United States travel and tourism exports that would have been exported to each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.".

SEC. 10. ACTION TO FACILITATE ENTRY OF FOREIGN TOURISTS.

Title II (22 U.S.C. 2122 et seq.), as amended by section 9, is further amended by adding at the end the following new section:

22 USC 2123c.

"SEC. 205. The Secretary shall, in coordination with appropriate Federal agencies, take appropriate action to ensure that foreign tourists are not unnecessarily delayed when entering the United

States and to ensure that the international processing standard of the International Civil Aviation Organization is met.".

SEC. 11. PERFORMANCE OF THE UNITED STATES TRAVEL AND TOURISM ADMINISTRATION.

Title II (22 U.S.C. 2122 et seq.), as amended by section 10 of this Act, is further amended by adding at the end the following:

"SEC. 206. (a) Beginning October 1, 1994, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives the goals of the United States Travel and Tourism Administration for the applicable forthcoming fiscal year, including quantifiable measures on which such Administration's performance can be evaluated. Such goals shall include— 22 USC 2123d.

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States expected to be generated by the financial assistance provided to cooperative tourism marketing programs under section 203;

"(2) the number of tour packages for foreign visitors to the United States expected to be sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) expected to visit the United States destinations being promoted in such countries in connection with such financial assistance; and

"(4) the actions recommended to eliminate acts, policies, and practices of foreign countries identified under section 204 that constitute significant barriers to or distortions of United States travel and tourism exports.

"(b) By December 31, 1995, and annually thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report outlining the degree to which the goals set forth for the prior fiscal year have been attained. Such report shall include— Reports.

"(1) the number of written and telephone inquiries regarding the possibility of foreign travel to the United States actually received by the Secretary and by persons receiving financial assistance under section 203;

"(2) the number of tour packages for foreign visitors to the United States actually sold in connection with such financial assistance;

"(3) the number of tourists from countries in markets selected under section 202(e)(3) that actually visited the United States destinations being promoted in such countries in connection with such financial assistance;

"(4) an evaluation of the effectiveness of such financial assistance; and

"(5) an evaluation of the effectiveness of any actions recommended under subsection (a)(4) which were taken to eliminate acts, policies, and practices that constitute significant barriers to, or distortions of, United States travel and tourism exports.

"(c) The Secretary shall collect from persons receiving financial assistance under section 203 such information as may be necessary to enable the Secretary to comply with subsections (a) and (b).

The Secretary may condition the receipt of such financial assistance on the agreement of the recipient to provide such information to the Secretary at such times and in such manner and form as the Secretary deems appropriate.".

SEC. 12. ADMINISTRATION.

Section 301(a) (22 U.S.C. 2124(a)) is amended—

(1) by striking the third and fourth sentences;

(2) by inserting "(1)" immediately after "(a)"; and

(3) by adding at the end the following new paragraph:

"(2) The Secretary shall designate a Deputy Under Secretary for Tourism Trade Development who shall be drawn from, and serve as a member of, the career service. The Deputy Under Secretary shall have responsibility for—

"(A) facilitating the interaction between industry and government concerning tourism trade development;

"(B) directing and managing field operations;

"(C) directing program evaluation research and industry statistical research;

"(D) developing an outreach program to those communities with underutilized tourism potential to assist them in development of strategies for expansion of tourism trade;

"(E) implementing the program to provide financial assistance under section 203 in support of non-Federal tourism trade development activities; and

"(F) performing such other functions as the Under Secretary may assign.".

SEC. 13. COORDINATION.

Section 301 (22 U.S.C. 2124) is amended by adding at the end the following new subsection:

"(c) The Under Secretary of Commerce for Travel and Tourism shall continue to seek the assistance of the United States and Foreign Commercial Service and shall continue to be available to assist the United States Travel and Tourism Administration at locations identified by the Under Secretary, in consultation with the Director General of the United States and Foreign Commercial Service, as necessary to assist the Administration's foreign offices in stimulating and encouraging travel to the United States by foreign residents and in carrying out other powers and duties of the Secretary specified in section 202.".

SEC. 14. LIMITATION ON CERTAIN EXPENDITURES.

Section 301 (22 U.S.C. 2124), as amended by section 13, is further amended by adding at the end the following new subsection:

"(d) The expenditures for personnel compensation, rental payments, communications, utilities, miscellaneous charges, and equipment shall not exceed—

"(1) in fiscal year 1993, 55 percent of the amount appropriated to the Secretary under section 304;

"(2) in fiscal year 1994, 52.5 percent of the amount appropriated to the Secretary under section 304; and

"(3) in fiscal year 1995 and in subsequent fiscal years, 50 percent of the amount appropriated to the Secretary under section 304.".

SEC. 15. TOURISM POLICY COUNCIL.

(a) MEMBERSHIP.—Section 302(b)(1) (22 U.S.C. 2124a(b)(1)) is amended—

(1) by redesignating subparagraphs (H) and (I) as subparagraphs (O) and (P); and

(2) by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) the Secretary of Agriculture;

"(I) the Chairman of the Tennessee Valley Authority;

"(J) the Commanding General of the Corps of Engineers of the Army, within the Department of Defense;

"(K) the Administrator of the Small Business Administration;

"(L) the Commissioner of the Immigration and Naturalization Service;

"(M) the Chief Executive Officer of the National Railroad Passenger Corporation;

"(N) the Commissioner of Customs;".

(b) DETAILS.—Section 302(d) (22 U.S.C. 2124a(d)) is amended by adding at the end the following new paragraph:

"(4)(A) Every year, upon designation by the Secretary in accordance with subparagraph (B), up to three Federal departments and agencies represented on the Council shall each detail to the Council for that year one staff person and associated resources.

"(B) In making the designation referred to in subparagraph (A), the Secretary shall designate a different group of agencies and departments each year and shall not redesignate any agency or department until all the other agencies and departments represented on the Council have been designated the same number of years.".

SEC. 16. ADVISORY BOARD.

(a) MEMBERSHIP.—Section 303(a)(3) (22 U.S.C. 2124b(a)(3)) is amended—

(1) in subparagraph (A), by striking "and";

(2) in subparagraph (B), by striking "one shall be a representative of the States who is" and inserting in lieu thereof "two shall be representatives of the States who are" and by striking the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) at least one shall be a representative of a city who is knowledgeable of tourism promotion.".

(b) TERMS.—The last sentence of section 303(b) (22 U.S.C. 2124b(b)) is amended by striking "two consecutive terms of three years each" and inserting in lieu thereof "six consecutive years or nine years in the aggregate".

(c) ADVICE.—The first sentence of section 303(f) (22 U.S.C. 2124b(f)) is amended by striking "and shall advise" and all that follows through "202(a)(15)".

SEC. 17. AUTHORIZATION OF APPROPRIATIONS.

Section 304 (22 U.S.C. 2126) is amended—

(1) in the first sentence, by inserting immediately before the period the following: ", not to exceed $21,000,000 for fiscal year 1993, not to exceed $22,500,000 for fiscal year 1994, not

to exceed $24,000,000 for fiscal year 1995, and not to exceed $26,000,000 for fiscal year 1996"; and

(2) by striking the last two sentences and inserting in lieu thereof the following: "Funds appropriated under this section may be expended by the Secretary without regard to sections 501 and 3702 of title 44, United States Code. Funds appropriated under this section for the printing of travel promotional materials shall remain available for 2 fiscal years.".

22 USC 2122 note.

SEC. 18. REPORT ON TOURISM AND TRAVEL ACTIVITIES.

The Secretary of Commerce shall, within 18 months after the date of the enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on—

(1) the status of the actions required by section 3 and the desirability and feasibility of publishing international travel receipts and payments on a monthly basis;

(2) the Secretary's actions under section 201(8) of the International Travel Act of 1961 (as amended by section 6 of this Act), regarding the inbound and outbound tourism trade between the United States and emerging democracies of Eastern Europe and the former Soviet Union (including statistics, as available, on the number of inbound and outbound tourists, receipts from and expenditures by such tourists, the number of tourists traveling into and out of Eastern Europe and the former Soviet Union on American carriers, and other relevant matters);

(3) the activities of the Department of Commerce and other Federal agencies to increase tourism opportunities for, and encourage travel by, disabled persons; and

(4) efforts undertaken under section 205 of the International Travel Act of 1961 (as amended by section 13 of this Act) to improve visitor facilitation and the effect on United States travel and tourism as a result of those improvements.

22 USC 2124 note.

SEC. 19. REPORT ON FOREIGN OFFICES.

(a) REPORT BY SECRETARY.—The Secretary of Commerce shall, within one year after the date of enactment of this Act, transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the offices of the United States Travel and Tourism Administration located in foreign countries.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) DESCRIPTION OF OFFICES.—A description of each foreign office of the United States Travel and Tourism Administration, including the number of United States national employees, foreign national employees, and contract personnel who perform duties for the foreign office and a statement as to how many of each category of employees or personnel are part-time and full-time.

(2) INFORMATION ON LOCAL LAWS.—Information on the laws of the country in which each foreign office is located. The information shall state the country's legal requirements concerning the termination or reassignment of employees or contract personnel, any actions altering the terms or conditions

of employment that will result in a requirement to pay additional compensation to the affected employee, and the legally mandated duties to affected employees and contract personnel where an entire foreign office is closed after appropriate notice.

(3) EXISTING LEASES.—Information on all existing leases of office space (or space sharing arrangements with the United States embassy) applicable to each foreign office, including an analysis of the Secretary's ability to terminate such leases or other arrangements and the costs associated with such termination.

(4) COST REDUCTIONS AND MARKETING EFFICIENCIES.—Analysis of and recommendations for possible cost reductions and marketing efficiencies with respect to the activities of foreign offices, including the advantages and disadvantages of consolidating foreign office functions by establishing three regional offices of the United States Travel and Tourism Administration based in and responsible for the following respective geographic areas:

(A) Europe and Africa.

(B) Asia and the Pacific region.

(C) North America, South America, and the Caribbean region.

(5) ORGANIZATIONAL FLEXIBILITY.—Analysis and recommendations concerning methods for increasing organizational flexibility (particularly with respect to the establishment, operations, closing, and relocation of foreign offices) in response to changing market conditions, fiscal constraints, and policy conditions.

(c) DELAY IN CERTAIN ADMINISTRATIVE ACTIONS.—At offices of the United States Travel and Tourism Administration located in foreign countries—

(1) no new foreign national employees nor contract personnel may be hired, except for employees or contract personnel that directly replace foreign national employees or contract personnel; and

(2) no new leases of office space, nor renewals of existing leases for longer than two years, may be executed,

until six months after the report required by subsection (a) is received.

Approved September 30, 1992.

LEGISLATIVE HISTORY—S. 680 (H.R. 3645):

HOUSE REPORTS: No. 102-355 accompanying H.R. 3645 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 102-150 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 24, considered and passed Senate.
Nov. 23, H.R. 3645 considered and passed House; S. 680, amended, passed in lieu.
Vol. 138 (1992): Aug. 12, Senate concurred in House amendments with an amendment.
Sept. 15, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 30, Presidential statement.

Public Law 102-373
102d Congress

Joint Resolution

Sept. 30, 1992
[S.J. Res. 337]

Designating September 18, 1992, as "National POW/MIA Recognition Day", and authorizing display of the National League of Families POW/MIA flag.

Whereas the United States has fought in many wars, most recently in unprecedented unity with Allied forces in the Persian Gulf;

Whereas thousands of Americans who served in those wars were captured by the enemy or listed as missing in action;

Whereas many American prisoners of war were subjected to brutal and inhumane treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;

Whereas many of these Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute and continuing hardships;

Whereas, in Public Law 101-355, the Federal Government officially recognized and designated the National League of Families POW/MIA flag as the symbol of the Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing in action, or unaccounted for in Southeast Asia; and

Whereas the sacrifices of Americans still missing and unaccounted for from all our Nation's wars and their families are deserving of national recognition and support for continued priority efforts to determine the fate of those missing Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL POW/MIA RECOGNITION DAY.

September 18, 1992, is designated as "National POW/MIA Recognition Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

SEC. 2. REQUIREMENT TO DISPLAY NATIONAL LEAGUE OF FAMILIES POW/MIA FLAG.

(a) IN GENERAL.—The POW/MIA flag shall be displayed—

(1) at all national cemeteries and the National Vietnam Veterans Memorial on May 30, 1993 (Memorial Day), September 18, 1992 (National POW/MIA Recognition Day), and November 11, 1992 (Veteran's Day); and

(2) on, or on the grounds of, the buildings specified in subsection (b) on September 18, 1992;

as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing, and unaccounted for, thus ending the uncertainty for their families and the Nation.

(b) BUILDINGS.—The buildings specified in this subsection are—
(1) the White House; and
(2) the buildings containing the primary offices of the—
(A) Secretary of State;
(B) Secretary of Defense;
(C) Secretary of Veterans Affairs; and
(D) Director of the Selective Service Commission.

(c) POW/MIA FLAG.—As used in this section, the term "POW/MIA flag" means the National League of Families POW/MIA flag recognized officially and designated by section 2 of Public Law 101–355.

Approved September 30, 1992.

LEGISLATIVE HISTORY—S.J. Res. 337:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 15, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 102-374
102d Congress

An Act

Sept. 30, 1992
[S. 1607]

To provide for the settlement of the water rights claims of the Northern Cheyenne Tribe, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992. Montana.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Northern Cheyenne Indian Reserved Water Rights Settlement Act of 1992".

SEC. 2. PURPOSES OF ACT.

(a) PURPOSES.—The purposes of this Act are:

(1) to achieve a fair, equitable, and final settlement of all claims to Federal reserved water rights in the State of Montana of—

(A) the Northern Cheyenne Tribe and its members and allottees; and

(B) the United States on behalf of the Northern Cheyenne Tribe and its members and allottees;

(2) to approve, ratify and confirm the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana on June 11, 1991;

(3) to direct the Secretary of the Interior to enter into a cooperative agreement with the State of Montana for the planning, environmental compliance, design, and construction of the Tongue River Dam Project in order to—

(A) implement the Compact's settlement of the Tribe's reserved water rights claims in the Tongue River Basin;

(B) protect existing tribal contract water rights in the Tongue River Basin;

(C) provide 20,000 acre-feet per year of additional storage water for allocation to the Tribe and to allow the State to implement its responsibilities to correct identified Tongue River Dam safety inadequacies; and

(D) provide for the conservation and development of fish and wildlife resources in the Tongue River Basin;

(4) to provide for the enhancement of fish and wildlife habitat in the Tongue River Basin;

(5) to authorize certain modifications to the purposes and operation of the Big Horn Reservoir in order to implement the Compact's settlement of the Tribe's reserved water rights claims; and

(6) to authorize the Secretary of the Interior to take such other actions as are necessary to implement the Compact.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ALLOTTEE.—The term "allottee" means any person who owns land in trust on the Northern Cheyenne Reservation.

(2) COMPACT.—The term "Compact" means the Water Rights Compact entered into on June 11, 1991, by the Northern Cheyenne Tribe and the State of Montana.

(3) NORTHERN CHEYENNE FUND.—The term "Northern Cheyenne Fund" means the Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund established by section 6.

(4) RESERVATION.—The term "Reservation" means the Northern Cheyenne Reservation as established by Executive orders of November 26, 1884 and March 19, 1900.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Montana.

(7) STATE WATER CONTRACTS.—The term "State water contracts" means contracts with the Montana Department of Natural Resources and Conservation (DNRC), or its successor State agency, to receive stored water from the National Resources and Conservation's storage rights in the Tongue River Reservoir.

(8) TONGUE RIVER DAM PROJECT.—The term "Tongue River Dam Project" means the project, conducted pursuant to the cooperative agreements between the Bureau of Reclamation and the State of Montana authorized by this Act and subject to conditions contained in the Compact and in the record of decision after completion of environmental review, to repair and enlarge the Tongue River Dam.

(9) TRIBAL WATER RIGHT.—The term "tribal water right" means the tribal water right as defined in the Compact.

(10) TRIBE.—The term "Tribe" means the Northern Cheyenne Tribe.

SEC. 4. RATIFICATION OF COMPACT.

(a) IN GENERAL.—Except as modified by this Act, the Water Rights Compact entered into by the Northern Cheyenne Tribe and the State of Montana is hereby approved, ratified, and confirmed.

(b) IMPLEMENTATION.—The Secretary shall implement the Compact as provided in this Act.

(c) ENTRY OF DECREE.—Except for the authorizations contained in subsections 7(b)(1) and 7(b)(2), the authorization of appropriations contained in this Act shall not be effective until such time as the Montana water court enters and approves a decree as provided in subsection (d) of this section. Notwithstanding the provisions of Article V. 2. of the Compact, for the purposes of the proceeding involving such a decree, the effective date of the Compact shall be the date of the enactment of this Act.

Effective date.

(d) FORM OF DECREE.—No later than 180 days after the date of the enactment of this Act, the United States, the Tribe, and the State of Montana shall jointly petition the Montana water court to enter and approve the "Proposed Decree" agreed to by the United States, the Tribe, and the State of Montana on May 5, 1992, or any amended version thereof.

SEC. 5. USE AND TRANSFER OF THE TRIBAL WATER RIGHT.

(a) ADMINISTRATION AND ENFORCEMENT.—As provided in the Compact, until the adoption and approval of a tribal water code, the Secretary shall administer and enforce the tribal water right.

(b) MEMBERS AND ALLOTTEES.—Any entitlement to reserved water of any tribal member or allottee shall be satisfied solely from the water secured to the Tribe by the Compact and shall be governed by the terms and conditions thereof. Such entitlement shall be administered by the Tribe pursuant to a tribal water code developed and adopted pursuant to Article III.A. of the Compact, or by the Secretary pending the adoption and approval of the tribal water code.

(c) TRANSFER OF THE TRIBAL WATER RIGHT.—

Contracts.

(1) IN GENERAL.—Subject to paragraph (2), the Northern Cheyenne Tribe, or persons or entities authorized by the Tribe, may enter into a service contract, lease, exchange, or other agreement providing for the delivery, use, or transfer of the tribal water right confirmed to the Tribe in the Compact.

(2) LIMITATIONS.—Any service contract, lease, exchange, or other agreement entered into under subsection (c)(1) shall be subject to approval by the Secretary, and the limitations and conditions set forth in the Compact, and may not permanently alienate any portion of the tribal water right.

SEC. 6. NORTHERN CHEYENNE INDIAN RESERVED WATER RIGHTS SETTLEMENT TRUST FUND.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "Northern Cheyenne Indian Reserved Water Rights Settlement Trust Fund".

(b) EXPENDITURES FROM NORTHERN CHEYENNE FUND.—Amounts in the Northern Cheyenne Fund shall be available, without fiscal year limitations, to the Secretary for expenditure by the Secretary or by the Tribe in accordance with the provisions of this Act.

(c) CONTENTS OF NORTHERN CHEYENNE FUND.—The Northern Cheyenne Fund shall consist of such amounts as are appropriated to it in accordance with the authorization provided by this Act, together with such amounts credited to it in accordance with section 7(e).

(d) USE OF NORTHERN CHEYENNE FUND.—The Tribe shall make $11,500,000 available from the Northern Cheyenne Fund to the State of Montana as a loan to assist financing Tongue River Dam Project costs, and such loan shall be repaid by the State to the Tribe. All other moneys appropriated to the Northern Cheyenne Fund pursuant to section 7(a), together with interest credited thereto, may be used by the Tribe for—

(1) land and natural resources administration, planning, and development within the Reservation;

(2) land acquisition by the Tribe within the Reservation; or

(3) any other purpose determined by the Tribe.

(e) PER CAPITA PAYMENTS.—Funds within the Northern Cheyenne Fund shall not be distributed on a per capita basis to members of the Tribe.

(f) CONGRESSIONAL INTENT.—Nothing in this Act is intended—

(1) to alter the trust responsibility of the United States to the Tribe; or

(2) to prohibit the Tribe from seeking additional authorization or appropriation of funds for tribal programs or purposes.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) TRIBAL FUNDS.—There are authorized to be appropriated to the Northern Cheyenne Fund for use by the Tribe $7,400,000 in fiscal year 1995, $9,000,000 in fiscal year 1996, and $5,100,000 in fiscal year 1997.

(b) TONGUE RIVER DAM PROJECT.—(1) There are authorized to be appropriated to the Northern Cheyenne Fund for use, in accordance with paragraph (2), for the Tongue River Dam Project:

(A) $700,000 in fiscal year 1993;

(B) $700,000 in fiscal year 1994;

(C) $15,300,000 in fiscal year 1995;

(D) $11,400,000 in fiscal year 1996; and

(E) $3,400,000 in fiscal year 1997.

(2) Moneys appropriated pursuant to paragraph (1) shall be available for use by the State of Montana and the Secretary for the planning, design, and construction of the Tongue River Dam Project in accordance with provisions of April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribal Federal Negotiation Team and Montana Department of Natural Resources and Conservation. The Federal contribution is provided for development of additional capacity in the Tongue River Dam for storage of water secured to the Tribe in satisfaction of the Tribe's claims to water under the Compact.

(c) INDEXING OF AUTHORIZATION FOR CONSTRUCTION COSTS.—For the purposes of this section, the total estimated costs of construction of the Tongue River Dam Project, inclusive of noncontract costs, shall be $52,200,000 at the January 1991 price level. The project's annual authorization provided in subsection (b) and the Federal and State shares shall be adjusted up or down as may be required by reason of ordinary fluctuations in construction costs, as indicated by engineering cost indices applicable to the type of construction involved in the Tongue River Dam Project.

(d) FISH AND WILDLIFE ENHANCEMENT.—

(1) IN GENERAL.—The Secretary shall identify and develop features of the Tongue River Dam Project that provide for the enhancement of fish and wildlife habitats, in accordance with the Federal Water Project Recreation Act (16 U.S.C. 4601–12 et seq.).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for expenditure by the Secretary, $1,800,000 in fiscal year 1996, and $1,700,000 in fiscal year 1997 for Fish and Wildlife Enhancement, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering costs indices after January 1991. The Tribe shall not be required to reimburse amounts expended pursuant to this section.

(e) ENVIRONMENTAL COMPLIANCE.—There are authorized to be appropriated to the Northern Cheyenne Fund for fiscal year 1993, and each fiscal year thereafter, such sums as are necessary to carry out all necessary environmental compliance associated with the Compact, including mitigation measures adopted by the Secretary.

(f) OPERATION, MAINTENANCE, AND REPLACEMENT COSTS.—There are authorized to be appropriated to the Northern Cheyenne Fund, for fiscal year 1993, and each fiscal year thereafter, on a nonreimbursable basis, such sums as are necessary to pay the annual operation, maintenance, and replacement costs provided for in section 10(f).

(g) WITHOUT FISCAL YEAR DEFINITIONS.—All moneys appropriated pursuant to authorizations under this Act shall be available without fiscal year limitation.

SEC. 8. STATE CONTRIBUTIONS TO SETTLEMENT.

The provisions of section 6(d) shall be subject to the State of Montana contributing the following amounts to the settlement:

(1) $5,000,000 for contract costs associated with repair of the Tongue River Dam Project;

(2) $11,500,000 to be contributed to the Northern Cheyenne Fund as repayment of the loan provided for in section 6(d);

(3) $4,200,000 of noncontract costs assumed by the State of Montana according to the terms of the letter of agreement on cost-sharing between the State of Montana and the United States dated April 17, 1991; and

(4) $1,100,000 for the Fish and Wildlife enhancement measures identified in section 7(d).

SEC. 9. BIG HORN RESERVOIR STORAGE.

(a) ALLOCATION FOR TRIBE.—

(1) IN GENERAL.—As provided in the Compact, the Secretary shall allocate 30,000 acre-feet per year of stored water in Big Horn Reservoir, Yellowtail Unit, Lower Bighorn Division, Pick-Sloan Missouri Basin Program, Montana, measured at the outlet works of the dam or at the diversion point from the Reservoir, for use or disposition by the Tribe for any purpose.

(2) PRIOR RESERVED RIGHTS.—This allocation shall be subject to the prior reserved water rights, if any, of any Indian tribe, or of persons claiming water through that tribe, to the water allocated in paragraph (1).

(b) PAYMENTS BY TRIBE.—

(1) IN GENERAL.—The Tribe shall not be required to make payments to the United States for the portion of the tribal water right stored in or used from the Big Horn Reservoir except for each acre-foot of stored water used or sold for municipal or industrial purposes. The Tribe shall pay annually to the United States an amount to cover the proportionate share of the—

(A) annual operation, maintenance and replacement costs for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe; and

(B) capital costs with appropriate interest for the Yellowtail Unit allocable to the amount of water for municipal and industrial purposes used or sold by the Tribe.

(2) ADJUSTMENT OF PAYMENTS.—The annual payments shall be reviewed and adjusted, as appropriate, to reflect the actual operation, maintenance, and replacement costs, and the actual capital costs, for the Yellowtail Unit.

(c) USE AND SALE OF WATER.—

(1) IN GENERAL.—Except for payments required to be made to the United States pursuant to subsection (b), the Tribe shall—

(A) set such rates as it considers proper for its use or sale of stored water; and

(B) retain all revenues from its use or sale of the stored water.

(2) HYDROPOWER GENERATION.—The United States shall retain the right to use any and all water stored in the Big Horn Reservoir for hydropower generation.

(d) AGREEMENT WITH TRIBE.—The Secretary shall enter into an agreement with the Tribe providing—

(1) for the Tribe's use or sale of water stored in the Big Horn Reservoir subject to the terms and conditions of the Compact; and

(2) for the collection and disposition of revenues in connection with water stored in the Big Horn Reservoir that is made available to the Tribe.

(e) MORATORIUM ON WATER MARKETING.—Notwithstanding any provision of this Act or the Compact, no portion of the allocation described in paragraph (1) of subsection (a) shall be sold or leased by the Tribe for a period of 10 years following the date on which the Compact becomes effective pursuant to Article V(A)(1) of the Compact or for a period of 10 years following any earlier date on which the allocation may become available to the Tribe, unless the Crow Tribe and the Northern Cheyenne Tribe agree otherwise.

(f) LIMITATION ON WATER MARKETING.—The Secretary may enter into contracts for the sale or lease of water to which the United States holds legal title and which is stored in the Big Horn Reservoir, except that with respect to any such contract—

(1) the Secretary provides notice to the Northern Cheyenne Tribe and the Crow Tribe of his intent to enter into a contract at least 120 days in advance of entering into such contract;

(2) the terms of the contract for sale or lease of water provide that the contract will not exceed a 2-year term, with a right of renewal following a 120-day notice period to the Northern Cheyenne Tribe and Crow Tribe; and

(3) the terms of the contract for sale or lease of water contain a provision that makes clear that the contract is subject to alteration or termination by the United States pending the resolution of claims to water by the Crow Tribe.

SEC. 10. TONGUE RIVER DAM PROJECT.

Contracts.

(a) IN GENERAL.—The Secretary shall enter into a cooperative agreement with the State of Montana for the planning, design, and construction of the Tongue River Dam Project in accordance with the provisions of the April 17, 1991, letter of agreement signed by the Northern Cheyenne Tribe Federal Negotiating Team and the Montana Department of Natural Resources and Conservation. The Secretary shall also enter into a cooperative agreement with the State of Montana for compliance with the National

Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) on the Tongue River Dam Project.

(b) OWNERSHIP.—Notwithstanding Federal participation in the Tongue River Dam Project, the Tongue River Dam shall remain in the ownership of the State of Montana.

(c) STATE OPERATION OF RESERVOIR.—Except as otherwise provided in the Compact, nothing in this Act shall affect the State's operation of the Tongue River Reservoir to fulfill State water contracts.

(d) CONGRESSIONAL INTENT.—Nothing in this Act is intended to subject holders of State water contracts from the Tongue River Reservoir who do not have a contract for Federal reclamation storage to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.).

(e) LAND TRANSFER.—

(1) Notwithstanding any other provisions of law, the Bureau of Land Management shall transfer to the Bureau of Indian Affairs in trust for the Northern Cheyenne Tribe the following described land:

T. 8 S., R. 40 E., P.M.M.
Sec. 26, N½SW¼
Sec. 27, N½SE¼
T. 8 S., R. 40 E., P.M.M.
Sec. 23, SW¼NE¼, N½SE¼
Sec. 24, NW¼SW¼.

(2) Nothing in this section is intended to address the jurisdiction of the Tribe or the State of Montana over the property being transferred.

(3) This transfer shall not be construed as creating a Federal reserved water right.

(f) PAYMENT OF THE TRIBE'S SHARE.—The Secretary, acting through the Bureau of Indian Affairs, shall continue to pay annually to the State of Montana on a nonreimbursable basis an amount to cover the proportionate share of the annual operation, maintenance and replacement costs for the Tongue River Dam allocable to the Tribe's stored water in the reservoir.

(g) EMPLOYMENT PREFERENCE.—Notwithstanding any other provision of law, the State shall require in all contracts and subcontracts relating to construction of the Tongue River Dam Project, a provision that the contractor and its subcontractors shall provide a hiring preference to Northern Cheyenne tribal members. The State and the Tribe shall enter into an agreement setting forth the manner in which the preference will be implemented and enforced.

Contracts.

SEC. 11. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—Notwithstanding the provisions of Article IV, Section G. of the Compact, the United States shall not be deemed to have waived its immunity from suit except to the extent provided in subsections (a), (b), and (c) of section 208 of the Act of July 10, 1952 (43 U.S.C. 666).

(b) EFFECT ON YELLOWSTONE RIVER COMPACT.—Nothing in this Act shall be construed to alter or amend any provision of the Yellowstone River Compact, as consented to in the Act entitled "An Act granting the consent of Congress to a Compact entered into by the States of Montana, North Dakota, and Wyoming relating to the waters of the Yellowstone River", approved October 30, 1951 (65 Stat. 663).

(c) EFFECT ON RIGHTS OF OTHER TRIBES.—Nothing in this Act is intended to quantify or otherwise adversely affect the land and water rights, or claims or entitlements to land or water, of an Indian Tribe other than the Northern Cheyenne Tribe.

(d) ENVIRONMENTAL COMPLIANCE.—In implementing the Compact, the Secretary shall comply with all aspects of the National Environmental Policy Act of 1969 (42 U.S.C. 433–4335), and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable environmental Acts and regulations. 42 USC 4321–4335.

(e) EXECUTION OF COMPACT.—Execution of the Compact by the Secretary as provided for in section 4 shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary is directed to carry out all necessary environmental compliance during the implementation phase of this settlement.

(f) BUREAU OF RECLAMATION DESIGNATED AS THE LEAD AGENCY.—With respect to the Tongue River Dam Project and uses of the Tribe's Big Horn Reservoir storage allocation, the Bureau of Reclamation is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

(g) BUREAU OF INDIAN AFFAIRS DESIGNATED AS THE LEAD AGENCY.—With respect to all other provisions of the Compact, the Bureau of Indian Affairs is designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable environmental laws.

SEC. 12. APPLICATION OF PROVISIONS REGARDING ALLOCATION OF WATER RESOURCES.

(a) FINDING.—Congress finds that the allocation of water resources to the Tribe under this Act is uniquely suited to the geographic, social, and economic characteristics of the area and situation involved.

(b) APPLICATION.—The provisions of this Act regarding the allocation of water resources to the Tribe shall not be construed to be applied to nor be precedent for any other Indian water right claims.

SEC. 13. EFFECTIVE DATE OF SETTLEMENT.

The settlement contained in this Act shall not become effective if a tribal referendum on the settlement is requested pursuant to the Northern Cheyenne Constitution within 60 days following the date of enactment of this Act, and the settlement fails to be approved in such referendum held within 120 days following the date of enactment of this Act. If the settlement does not become effective pursuant to this section, the United States (including the Secretary and all other officers), the State of Montana, and the Tribe are relieved of all rights, entitlements, duties, responsibilities and authorities conferred, imposed or created by this Act.

If a referendum is not requested within such 60-day period, the settlement shall take effect upon the date next following the expiration of such 60-day period. If a referendum is requested within such 60-day period, and the settlement is approved in a referendum held within 120 days following the date of enactment of this Act, the settlement shall take effect on the date next following the date of such approval.

Approved September 30, 1992.

LEGISLATIVE HISTORY—S. 1607:

HOUSE REPORTS: No. 102-894 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-347 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 7, considered and passed Senate.
Sept. 22, considered and passed House.

Public Law 102-375
102d Congress

An Act

To amend the Older Americans Act of 1965 to authorize appropriations for fiscal years 1992 through 1995; to authorize a 1993 National Conference on Aging; to amend the Native Americans Programs Act of 1974 to authorize appropriations for fiscal years 1992 through 1995; and for other purposes.

Sept. 30, 1992
[H.R. 2967]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Older Americans Act Amendments of 1992.
42 USC 3001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Older Americans Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OBJECTIVES AND DEFINITIONS

Sec. 101. Objectives.
Sec. 102. Definitions.

TITLE II—ADMINISTRATION

Sec. 201. Administration on Aging.
Sec. 202. Functions of Commissioner.
Sec. 203. Federal agency consultation.
Sec. 204. Consultation with State agencies, area agencies on aging, and Native American grant recipients.
Sec. 205. Federal Council on the Aging.
Sec. 206. Nutrition officer.
Sec. 207. Evaluation.
Sec. 208. Reports.
Sec. 209. Nutrition education.
Sec. 210. Authorization of appropriations.
Sec. 211. Study of effectiveness of State long-term care ombudsman programs.
Sec. 212. Study on board and care facility quality.
Sec. 213. Study on home care quality.

TITLE III—STATE AND COMMUNITY PROGRAMS ON AGING

Sec. 301. Purpose of grants for State and community programs on aging.
Sec. 302. Definitions.
Sec. 303. Authorization of appropriations; uses of funds.
Sec. 304. Allotment; Federal share.
Sec. 305. Organization.
Sec. 306. Area plans.
Sec. 307. State plans.
Sec. 308. Planning, coordination, evaluation, and administration of State plans.
Sec. 309. Disaster relief reimbursements.
Sec. 310. Availability of surplus commodities.
Sec. 311. Rights relating to in-home services for frail older individuals.
Sec. 312. Supportive services.
Sec. 313. Congregate nutrition services.
Sec. 314. Home delivered nutrition services.
Sec. 315. Criteria.
Sec. 316. School-based meals for volunteer older individuals and multigenerational programs.
Sec. 317. Dietary guidelines; payment requirement.
Sec. 318. In-home services.
Sec. 319. Preventive health services.
Sec. 320. Supportive activities for caretakers who provide in-home services to frail older individuals.

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

Sec. 401. Statement of purpose.

Sec. 402. Priorities for grants and discretionary projects.
Sec. 403. Purposes of education and training projects.
Sec. 404. Grants and contracts.
Sec. 405. Multidisciplinary centers of gerontology.
Sec. 406. Demonstration projects.
Sec. 407. Special projects in comprehensive long-term care.
Sec. 408. Ombudsman and advocacy demonstration projects.
Sec. 409. Demonstration projects for multigenerational activities.
Sec. 410. Supportive services in federally assisted housing demonstration program.
Sec. 411. Neighborhood senior care program.
Sec. 412. Information and assistance systems development projects.
Sec. 413. Senior transportation demonstration program grants.
Sec. 414. Resource Centers on Native American Elders.
Sec. 415. Demonstration programs for older individuals with developmental disabilities.
Sec. 416. Housing demonstration programs.
Sec. 417. Private resource enhancement projects.
Sec. 418. Career preparation for the field of aging.
Sec. 419. Pension information and counseling demonstration projects.
Sec. 420. Authorization of appropriations.
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TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

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TITLE VIII—AMENDMENTS TO OTHER LAWS; RELATED MATTERS

Subtitle A—Long-Term Health Care Workers

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Sec. 832. Conference required.
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Sec. 835. Report of the conference.
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Sec. 837. Savings provision.
Sec. 838. Sense of the Congress.
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TITLE IX—GENERAL PROVISIONS

Sec. 901. Limitation on authority to enter into contracts.
Sec. 902. Regulations.
Sec. 903. Sense of Congress.
Sec. 904. Technical amendments.
Sec. 905. Effective dates; application of amendments.

TITLE I—OBJECTIVES AND DEFINITIONS

SEC. 101. OBJECTIVES.

Section 101(4) of the Older Americans Act of 1965 (42 U.S.C. 3001(4)) is amended by inserting ", including support to family members and other persons providing voluntary care to older individuals needing long-term care services" after "homes".

SEC. 102. DEFINITIONS.

(a) IN GENERAL.—Section 102 of the Older Americans Act of 1965 (42 U.S.C. 3002) is amended by adding at the end the following:

"(13) The term 'abuse' means the willful—

"(A) infliction of injury, unreasonable confinement, intimidation, or cruel punishment with resulting physical harm, pain, or mental anguish; or

"(B) deprivation by a person, including a caregiver, of goods or services that are necessary to avoid physical harm, mental anguish, or mental illness.

"(14) The term 'Administration' means the Administration on Aging.

"(15) The term 'adult child with a disability' means a child who—

"(A) is 18 years of age or older;

"(B) is financially dependent on an older individual who is a parent of the child; and

"(C) has a disability.

"(16) The term 'aging network' means the network of—

"(A) State agencies, area agencies on aging, title VI grantees, and the Administration; and

"(B) organizations that—

"(i)(I) are providers of direct services to older individuals; or

"(II) are institutions of higher education; and

"(ii) receive funding under this Act.

"(17) The term 'area agency on aging' means an area agency on aging designated under section 305(a)(2)(A) or a State agency performing the functions of an area agency on aging under section 305(b)(5).

"(18) The term 'art therapy' means the use of art and artistic processes specifically selected and administered by an art therapist, to accomplish the restoration, maintenance, or improvement of the mental, emotional, or social functioning of an older individual.

"(19) The term 'board and care facility' means an institution regulated by a State pursuant to section 1616(e) of the Social Security Act (42 U.S.C. 1382e(e)).

"(20) The term 'caregiver' means an individual who has the responsibility for the care of an older individual, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law.

"(21) The term 'caretaker' means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) uncompensated care to an older individual who needs supportive services.

"(22) The term 'case management service'—

"(A) means a service provided to an older individual, at the direction of the older individual or a family member of the individual—

"(i) by an individual who is trained or experienced in the case management skills that are required to deliver the services and coordination described in subparagraph (B); and

"(ii) to assess the needs, and to arrange, coordinate, and monitor an optimum package of services to meet the needs, of the older individual; and

"(B) includes services and coordination such as—

"(i) comprehensive assessment of the older individual (including the physical, psychological, and social needs of the individual);

"(ii) development and implementation of a service plan with the older individual to mobilize the formal and informal resources and services identified in the assessment to meet the needs of the older individual, including coordination of the resources and services—

"(I) with any other plans that exist for various formal services, such as hospital discharge plans; and

"(II) with the information and assistance services provided under this Act;

"(iii) coordination and monitoring of formal and informal service delivery, including coordination and monitoring to ensure that services specified in the plan are being provided;

"(iv) periodic reassessment and revision of the status of the older individual with—

"(I) the older individual; or

"(II) if necessary, a primary caregiver or family member of the older individual; and

"(v) in accordance with the wishes of the older individual, advocacy on behalf of the older individual for needed services or resources.

"(23) The term 'dance-movement therapy' means the use of psychotherapeutic movement as a process facilitated by a dance-movement therapist, to further the emotional, cognitive, or physical health of an older individual.

"(24) The term 'elder abuse' means abuse of an older individual.

"(25) The term 'elder abuse, neglect, and exploitation' means abuse, neglect, and exploitation, of an older individual.

"(26) The term 'exploitation' means the illegal or improper act or process of an individual, including a caregiver, using the resources of an older individual for monetary or personal benefit, profit, or gain.

"(27) The term 'focal point' means a facility established to encourage the maximum collocation and coordination of services for older individuals.

"(28) The term 'frail' means, with respect to an older individual in a State, that the older individual is determined to be functionally impaired because the individual—

"(A)(i) is unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision; or

"(ii) at the option of the State, is unable to perform at least three such activities without such assistance; or

"(B) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

"(29) The term 'greatest economic need' means the need resulting from an income level at or below the poverty line.

"(30) The term 'greatest social need' means the need caused by noneconomic factors, which include—

"(A) physical and mental disabilities;

"(B) language barriers; and

"(C) cultural, social, or geographical isolation, including isolation caused by racial or ethnic status, that—

"(i) restricts the ability of an individual to perform normal daily tasks; or

"(ii) threatens the capacity of the individual to live independently.

"(31) The term 'information and assistance service' means a service for older individuals that—

"(A) provides the individuals with current information on opportunities and services available to the individuals within their communities, including information relating to assistive technology;

"(B) assesses the problems and capacities of the individuals;

"(C) links the individuals to the opportunities and services that are available;

"(D) to the maximum extent practicable, ensures that the individuals receive the services needed by the individuals, and are aware of the opportunities available to the individuals, by establishing adequate followup procedures; and

"(E) serves the entire community of older individuals, particularly—

"(i) older individuals with greatest social need; and

"(ii) older individuals with greatest economic need.

"(32) The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(33) The term 'legal assistance'—

"(A) means legal advice and representation provided by an attorney to older individuals with economic or social needs; and

"(B) includes—

"(i) to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the direct supervision of an attorney; and

"(ii) counseling or representation by a nonlawyer where permitted by law.

"(34) The term 'long-term care facility' means—

"(A) any skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i–3(a));

"(B) any nursing facility, as defined in section 1919(a) of the Social Security Act (42 U.S.C. 1396r(a));

"(C) for purposes of sections 307(a)(12) and 712, a board and care facility; and

"(D) any other adult care home similar to a facility or institution described in subparagraphs (A) through (C).

"(35) The term 'multipurpose senior center' means a community facility for the organization and provision of a broad spectrum of services, which shall include provision of health (including mental health), social, nutritional, and educational services and the provision of facilities for recreational activities for older individuals.

"(36) The term 'music therapy' means the use of musical or rhythmic interventions specifically selected by a music therapist to accomplish the restoration, maintenance, or improvement of social or emotional functioning, mental processing, or physical health of an older individual.

"(37) The term 'neglect' means—

"(A) the failure to provide for oneself the goods or services that are necessary to avoid physical harm, mental anguish, or mental illness; or

"(B) the failure of a caregiver to provide the goods or services.

"(38) The term 'older individual' means an individual who is 60 years of age or older.

"(39) The term 'physical harm' means bodily injury, impairment, or disease.

"(40) The term 'planning and service area' means an area designated by a State agency under section 305(a)(1)(E), including a single planning and service area described in section 305(b)(5)(A).

"(41) The term 'poverty line' means the official poverty line (as defined by the Office of Management and Budget, and adjusted by the Secretary in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(42) The term 'representative payee' means a person who is appointed by a governmental entity to receive, on behalf of an older individual who is unable to manage funds by reason of a physical or mental incapacity, any funds owed to such individual by such entity.

"(43) The term 'State agency' means the agency designated under section 305(a)(1).

"(44) The term 'supportive service' means a service described in section 321(a).".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Sections 102(2), 201(c)(1), 211, 301(b)(1), 402(a), and 411(b) of the Older Americans Act of 1965 (42 U.S.C. 3002(2), 3011(c)(1), 3020b, 3021(b)(1), 3030bb(a), and 3031(b)) are

amended by striking "Administration on Aging" and inserting "Administration".

(B) Section 503(a) of the Older American Community Service Employment Act (42 U.S.C. 3056a(a)) is amended by striking "of the Administration on Aging".

(2) Section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended in the first sentence by striking—

(A) "(hereinafter in this Act referred to as the 'Administration')"; and

(B) "(hereinafter in this Act referred to as the 'Commissioner')".

(3) Section 302 of the Older Americans Act of 1965 (42 U.S.C. 3022) is amended—

(A) by striking paragraphs (2) through (6), (9), (11), and (14) through (21); and

(B) by redesignating paragraphs (7) and (8) as paragraphs (2) and (3).

(4) Paragraphs (2)(A) and (4) of section 306(a) and sections 307(a)(9), 422(c)(3), 614(a)(6), and 624(a)(7) (42 U.S.C. 3026(a)(2)(A) and (4), 3027(a)(9), 3035a(c)(3), 3057e(a)(6), and 3057j(a)(7)) are amended by striking "information and referral" each place the term appears and inserting "information and assistance".

(5) Section 307(a)(10) of the Older Americans Act of 1965 (42 U.S.C. 3027) is amended by striking "section 342(1)" and inserting "section 342".

(6) Section 341(b) of the Older Americans Act of 1965 (42 U.S.C. 3030h) is amended by striking "caregivers" and inserting "caretakers".

(7) Section 342 of the Older Americans Act of 1965 (42 U.S.C. 3030i) is amended—

(A) by amending the heading to read as follows:

"DEFINITION OF IN-HOME SERVICES";

(B) by striking paragraph (2);

(C) in paragraph (1)—

(i) in subparagraph (E) by striking "; and" and inserting a period; and

(ii) by indenting 2 ems the left margin of subparagraphs (A) through (E) and redesignating such subparagraphs as paragraphs (1) through (5), respectively; and

(D) by striking "part—" and all that follows through "includes—", and inserting "part, the term 'in-home services' includes—".

(8) Section 507(1) of the Older American Community Service Employment Act (42 U.S.C. 3056e(1)) is amended by striking "poverty guidelines established by the Office of Management and Budget" and inserting "poverty line".

(9)(A) Section 211 of the Older Americans Act of 1965 (42 U.S.C. 3020b) is amended by striking "designated under section 305(a)(1)".

(B) Section 305(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(2)) is amended by striking "designated under clause (1)".

(C) Section 308(b)(3)(B)(iii) of the Older Americans Act of 1965 (42 U.S.C. 3028(b)(3)(B)(iii)) is amended by striking "designated under section 305".

(D) Section 426 of the Older Americans Act of 1965 (42 U.S.C. 3035e) is amended by striking "designated under section 305(a)(1)".

(E) Section 503(a) of the Older Americans Community Service Employment Act (42 U.S.C. 3056a(a)) is amended by striking "on aging designated under section 305(a)(1)".

(10)(A) Sections 202(a)(18), 307(a)(14), 308(b)(3)(B)(iii), 310(a)(1), 311(d)(1), and 411(a)(2) (42 U.S.C. 3012(a)(18), 3027(a)(14), 3028(b)(3)(B)(iii), 3030(a)(1), 3030a(d)(1), and 3031(a)(2)) are amended by striking "area agencies" and inserting "area agencies on aging".

(B) Section 305(b)(5)(A) (42 U.S.C. 3025(b)(5)(A)) is amended in the second sentence by striking "area agency" each place the term appears and inserting "area agency on aging".

(C) Sections 305(c)(2), 306(a)(5)(A)(ii), 306(a)(6)(F), 306(b)(2)(C), 307(a)(13)(B), 307(a)(13)(I), 307(a)(15)(B), and 341(b) (42 U.S.C. 3025(c)(2), 3026(a)(5)(A)(ii), 3026(a)(6)(F), 3026(b)(2)(C), 3027(a)(13)(B), 3027(a)(13)(I), 3027(a)(15)(B), and 3030h(b)) are amended by striking "area agency" and inserting "area agency on aging".

(D) Section 305(c) (42 U.S.C. 3025(c)) is amended in the first sentence, in the matter following paragraph (5), by striking "area agency" and inserting "area agency on aging".

(E) Sections 306(a)(6)(N), 307(a)(13)(H), and 307(a)(22) (42 U.S.C. 3026(a)(6)(N), 3027(a)(13)(H), and 3027(a)(22)) are amended by striking "area agency" each place the term appears and inserting "area agency on aging".

(F) Section 307(a)(1) (42 U.S.C. 3027(a)(1)) is amended by striking "agencies in" and inserting "agencies on aging in".

(G) Section 362 (42 U.S.C. 3030n) is amended in the section heading by striking "AREA AGENCIES" and inserting "AREA AGENCIES ON AGING".

(H) Section 411(b)(2) (42 U.S.C. 3031(b)(2)) is amended by striking "State and area agency" and inserting "State agency and area agency on aging".

(I) Section 412(a)(6) (42 U.S.C. 3032(a)(6)) is amended by striking "State and area agencies" and inserting "State agencies and area agencies on aging".

TITLE II—ADMINISTRATION

SEC. 201. ADMINISTRATION ON AGING.

(a) LIMITATION ON DELEGATION OF FUNCTIONS.—The last sentence of section 201(a) of the Older Americans Act of 1965 (42 U.S.C. 3011(a)) is amended by inserting "(including the functions of the Commissioner carried out through regional offices)" after "Commissioner" the first place it appears.

(b) COORDINATION.—Section 201(c)(3) of the Older Americans Act of 1965 (42 U.S.C. 3011(c)(3)) is amended—

(1) in subparagraph (B) by inserting ", with particular attention to services provided to Native Americans by the Indian Health Service" after "affecting older Native Americans";

(2) in subparagraph (F) by inserting ", including information (compiled with assistance from public or nonprofit private entities, including institutions of higher education, with experience in assessing the characteristics and health status of older individuals who are Native Americans) on elder abuse, in-home care, health problems, and other problems unique to Native Americans" after "Native Americans";

(3) in subparagraph (G) by striking "and" at the end;

(4) in subparagraph (H) by striking the period at the end and inserting a semicolon; and

(5) by adding at the end the following:

"(I) promote coordination—

"(i) between the administration of title III and the administration of title VI; and

"(ii) between programs established under title III by the Commissioner and programs established under title VI by the Commissioner;

including sharing among grantees information on programs funded, and on training and technical assistance provided, under such titles; and

"(J) serve as the effective and visible advocate on behalf of older individuals who are Indians, Alaskan Natives, and Native Hawaiians, in the States to promote the enhanced delivery of services and implementation of programs, under this Act and other Federal Acts, for the benefit of such individuals.".

(c) OFFICE OF LONG-TERM CARE OMBUDSMAN PROGRAMS.—Section 201 of the Older Americans Act of 1965 (42 U.S.C. 3011) is amended by adding at the end the following:

"(d)(1) There is established in the Administration the Office of Long-Term Care Ombudsman Programs (in this subsection referred to as the 'Office'). Establishment.

"(2)(A) The Office shall be headed by an Associate Commissioner for Ombudsman Programs (in this subsection referred to as the 'Associate Commissioner') who shall be appointed by the Commissioner from among individuals who have expertise and background in the fields of long-term care advocacy and management. The Associate Commissioner shall report directly to the Commissioner.

"(B) No individual shall be appointed Associate Commissioner if—

"(i) the individual has been employed within the previous 2 years by—

"(I) a long-term care facility;

"(II) a corporation that then owned or operated a long-term care facility; or

"(III) an association of long-term care facilities;

"(ii) the individual—

"(I) has an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or long-term care service; or

"(II) receives, or has the right to receive, directly or indirectly remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; or

"(iii) the individual, or any member of the immediate family of the individual, is subject to a conflict of interest.

"(3) The Associate Commissioner shall—

"(A) serve as an effective and visible advocate on behalf of older individuals who reside in long-term care facilities, within the Department of Health and Human Services and with other departments, agencies, and instrumentalities of the Federal Government regarding all Federal policies affecting such individuals;

"(B) review and make recommendations to the Commissioner regarding—

"(i) the approval of the provisions in State plans submitted under section 307(a) that relate to State Long-Term Care Ombudsman programs; and

"(ii) the adequacy of State budgets and policies relating to the programs;

"(C) after consultation with State Long-Term Care Ombudsmen and the State agencies, make recommendations to the Commissioner regarding—

"(i) policies designed to assist State Long-Term Care Ombudsmen; and

"(ii) methods to periodically monitor and evaluate the operation of State Long-Term Care Ombudsman programs, to ensure that the programs satisfy the requirements of section 307(a)(12) and section 712, including provision of service to residents of board and care facilities and of similar adult care facilities;

"(D) keep the Commissioner and the Secretary fully and currently informed about—

"(i) problems relating to State Long-Term Care Ombudsman programs; and

"(ii) the necessity for, and the progress toward, solving the problems;

"(E) review, and make recommendations to the Secretary and the Commissioner regarding, existing and proposed Federal legislation, regulations, and policies regarding the operation of State Long-Term Care Ombudsman programs;

"(F) make recommendations to the Commissioner and the Secretary regarding the policies of the Administration, and coordinate the activities of the Administration with the activities of other Federal entities, State and local entities, and nongovernmental entities, relating to State Long-Term Care Ombudsman programs;

"(G) supervise the activities carried out under the authority of the Administration that relate to State Long-Term Care Ombudsman programs;

"(H) administer the National Ombudsman Resource Center established under section 202(a)(21) and make recommendations to the Commissioner regarding the operation of the National Ombudsman Resource Center;

"(I) advocate, monitor, and coordinate Federal and State activities of Long-Term Care Ombudsmen under this Act;

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"(J) submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the effectiveness of services provided under section 307(a)(12) and section 712;

"(K) have authority to investigate the operation or violation of any Federal law administered by the Department of Health and Human Services that may adversely affect the health, safety, welfare, or rights of older individuals; and

"(L) not later than 180 days after the date of the enactment of the Older Americans Act Amendments of 1992, establish standards applicable to the training required by section 712(h)(4).".

SEC. 202. FUNCTIONS OF COMMISSIONER.

(a) TECHNICAL AMENDMENTS.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (3) by inserting "directly" after "(3)";

(2) in paragraph (11) by striking "provide for the coordination of" and inserting "coordinate";

(3) in paragraph (18)—

(A) by inserting ", and service providers," after "agencies"; and

(B) by striking "the greatest economic or social needs" and inserting "greatest economic need or individuals with greatest social need, with particular attention to and specific objectives for providing services to low-income minority individuals"; and

(4) in paragraph (19)—

(A) in subparagraph (A) by inserting "or activity" after "service" each place it appears; and

(B) in subparagraph (C) by striking "and" at the end.

(b) FUNCTIONS.—Section 202(a) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)) is amended—

(1) in paragraph (20) by striking the period at the end and inserting a semicolon; and

(2) by adding at the end the following:

"(21)(A) establish and operate the National Ombudsman Resource Center (in this paragraph referred to as the 'Center'), under the administration of the Associate Commissioner for Ombudsman Programs, that will— Establishment.

"(i) by grant or contract—

"(I) conduct research;

"(II) provide training, technical assistance, and information to State Long-Term Care Ombudsmen;

"(III) analyze laws, regulations, programs, and practices; and

"(IV) provide assistance in recruiting and retaining volunteers for State Long-Term Care Ombudsman programs by establishing a national program for recruitment efforts that utilizes the organizations that have established a successful record in recruiting and retaining volunteers for ombudsman or other programs;

relating to Federal, State, and local long-term care ombudsman policies; and

"(ii) assist State Long-Term Care Ombudsmen in the implementation of State Long-Term Care Ombudsman programs; and

"(B) make available to the Center not less than the amount of resources made available to the Long-Term Care Ombudsman National Resource Center for fiscal year 1990;

"(22) issue regulations, and conduct strict monitoring of State compliance with the requirements in effect, under this Act to prohibit conflicts of interest and to maintain the integrity and public purpose of services provided and service providers, under this Act in all contractual and commercial relationships, Regulations.

and include in such regulations a requirement that as a condition of being designated as an area agency on aging such agency shall—

"(A) disclose to the Commissioner and the State agency involved—

"(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

"(ii) the nature of such contract or such relationship;

"(B) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

"(C) demonstrate that the quantity or quality of the services to be provided under this Act by such agency will be enhanced as a result of such contract or such relationship; and

"(D) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds received or expended to provide services to older individuals;

"(23) encourage, and provide technical assistance to, States and area agencies on aging to carry out outreach to inform older individuals with greatest economic need who may be eligible to receive, but are not receiving, supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State plan program under such title), medical assistance under title XIX of such Act (42 U.S.C. 1396 et seq.), and benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.), of the requirements for eligibility to receive such benefits and such assistance;

"(24) establish information and assistance services as priority services for older individuals;

"(25) develop guidelines for area agencies on aging to follow in choosing and evaluating providers of legal assistance;

"(26) develop guidelines and a model job description for choosing and evaluating legal assistance developers referred to in sections 307(a)(18) and 731(b)(2);

"(27)(A) conduct a study to determine ways in which Federal funds might be more effectively targeted to low-income minority older individuals, and older individuals residing in rural areas, to better meet the needs of States with a disproportionate number of older individuals with greatest economic need and older individuals with greatest social need;

"(B) conduct a study to determine ways in which Federal funds might be more effectively targeted to better meet the needs of States with disproportionate numbers of older individuals, including methods of allotting funds under title III, using the most recent estimates of the population of older individuals; and

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"(C) not later than January 1, 1994, submit a report containing the findings resulting from the studies described

in subparagraphs (A) and (B) to the Speaker of the House of Representatives and the President pro tempore of the Senate;

"(28) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers regarding State and local data collection and analysis;

"(29) design and implement, for purposes of compliance with paragraph (19), uniform data collection procedures for use by State agencies, including—

"(A) uniform definitions and nomenclature;

"(B) standardized data collection procedures;

"(C) a participant identification and description system;

"(D) procedures for collecting information on gaps in services needed by older individuals, as identified by service providers in assisting clients through the provision of the supportive services; and

"(E) procedures for the assessment of unmet needs for services under this Act; and

"(30) require that all Federal grants and contracts made under this title and title IV be made in accordance with a competitive bidding process established by the Commissioner by regulation.". Regulations.

(c) COMMUNITY-BASED LONG-TERM CARE PROGRAM.—Section 202(b) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)) is amended—

(1) in paragraph (2) by striking "and" at the end;

(2) in paragraph (3) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) participate in all departmental and interdepartmental activities to provide a leadership role for the Administration, State agencies, and area agencies on aging in the development and implementation of a national community-based long-term care program for older individuals.".

(d) VOLUNTEER SERVICE COORDINATORS.—Section 202(c) of the Older Americans Act of 1965 (42 U.S.C. 3012(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2)(A) In executing the duties and functions of the Administration under this Act and in carrying out the programs and activities provided for by this Act, the Commissioner shall act to encourage and assist the establishment and use of—

"(i) area volunteer service coordinators, as described in section 306(a)(12), by area agencies on aging; and

"(ii) State volunteer service coordinators, as described in section 307(a)(31), by State agencies.

"(B) The Commissioner shall provide technical assistance to the area and State volunteer services coordinators.".

(e) NATIONAL CENTER ON ELDER ABUSE.—Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012) is amended by adding at the end the following:

"(d)(1) The Commissioner shall establish and operate the National Center on Elder Abuse (in this subsection referred to as the 'Center'). Establishment.

"(2) In operating the Center, the Commissioner shall—

"(A) annually compile, publish, and disseminate a summary of recently conducted research on elder abuse, neglect, and exploitation;

"(B) develop and maintain an information clearinghouse on all programs (including private programs) showing promise of success, for the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(C) compile, publish, and disseminate training materials for personnel who are engaged or intend to engage in the prevention, identification, and treatment of elder abuse, neglect, and exploitation;

"(D) provide technical assistance to State agencies and to other public and nonprofit private agencies and organizations to assist the agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the special problems of elder abuse, neglect, and exploitation; and

"(E) conduct research and demonstration projects regarding the causes, prevention, identification, and treatment of elder abuse, neglect, and exploitation.

Grants. Contracts.

"(3)(A) The Commissioner shall carry out paragraph (2) through grants or contracts.

"(B) The Commissioner shall issue criteria applicable to the recipients of funds under this subsection. To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(C) The Commissioner shall—

"(i) establish research priorities for making grants or contracts to carry out paragraph (2)(E); and

"(ii) not later than 60 days before the date on which the Commissioner establishes such priorities, publish in the Federal Register for public comment a statement of such proposed priorities.

"(4) The Commissioner shall make available to the Center such resources as are necessary for the Center to carry out effectively the functions of the Center under this Act and not less than the amount of resources made available to the Resource Center on Elder Abuse for fiscal year 1990.".

(f) NATIONAL AGING INFORMATION CENTER.—Section 202 of the Older Americans Act of 1965 (42 U.S.C. 3012), as amended by subsection (e) of this section, is amended by adding at the end the following:

Establishment. Grants. Contracts.

"(e)(1)(A) The Commissioner shall make grants or enter into contracts with eligible entities to establish the National Aging Information Center (in this subsection referred to as the 'Center') to—

"(i) provide information about education and training projects established under part A, and research and demonstration projects, and other activities, established under part B, of title IV to persons requesting such information;

"(ii) annually compile, analyze, publish, and disseminate—

"(I) statistical data collected under subsection (a)(19);

"(II) census data on aging demographics; and

"(III) data from other Federal agencies on the health, social, and economic status of older individuals and on the services provided to older individuals;

"(iii) biennially compile, analyze, publish, and disseminate statistical data collected on the functions, staffing patterns, and funding sources of State agencies and area agencies on aging;

"(iv) analyze the information collected under section 201(c)(3)(F) by the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, and the information provided by the Resource Centers on Native American Elders under section 429E;

"(v) provide technical assistance, training, and other means of assistance to State agencies, area agencies on aging, and service providers, regarding State and local data collection and analysis; and

"(vi) be a national resource on statistical data regarding aging;

"(B) To be eligible to receive a grant or enter into a contract under subparagraph (A), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(C) Entities eligible to receive a grant or enter into a contract under subparagraph (A) shall be organizations with a demonstrated record of experience in education and information dissemination.

"(2)(A) The Commissioner shall establish procedures specifying the length of time that the Center shall provide the information described in paragraph (1) with respect to a particular project or activity. The procedures shall require the Center to maintain the information beyond the term of the grant awarded, or contract entered into, to carry out the project or activity. Records.

"(B) The Commissioner shall establish the procedures described in subparagraph (A) after consultation with—

"(i) practitioners in the field of aging;

"(ii) older individuals;

"(iii) representatives of institutions of higher education;

"(iv) national aging organizations;

"(v) State agencies;

"(vi) area agencies on aging;

"(vii) legal assistance providers;

"(viii) service providers; and

"(ix) other persons with an interest in the field of aging.".

(g) OBLIGATION OF FUNDS.—Not later than March 1, 1993, the Commissioner shall obligate, from the funds appropriated under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) for fiscal year 1993—

(1) to carry out section 202(a)(21) of such Act (as added by subsection (b)(2) of this section), not less than the amount made available from appropriations for fiscal year 1990 under such Act for making grants and entering into contracts to establish and operate the National Long-Term Care Ombudsman Resource Center; and

(2) to carry out section 202(d)(4) of such Act (as added by subsection (e) of this section), not less than the amount made available from appropriations for fiscal year 1990 under such Act for making grants and entering into contracts to

establish and operate the National Aging Resource Center on Elder Abuse.

42 USC 3012 note.

(h) DEADLINE FOR DEVELOPMENT OF PROCEDURES.—Not later than 1 year after the date of the enactment of this Act, the data collection procedures required by section 202(a)(29) of the Older Americans Act of 1965 shall be developed by the Commissioner on Aging, jointly with the Assistant Secretary of Planning and Evaluation of the Department of Health and Human Services, after—

(1) requesting advisory information under such Act from State agencies, local governments, area agencies on aging, recipients of grants under title VI of such Act, and local providers of services under such Act; and

(2) considering the data collection systems carried out by State agencies in the States then identified as exemplary by the General Accounting Office.

Reports.

Not later than 1 year after developing such data collection procedures, the Commissioner on Aging shall test such procedures, submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report summarizing the results of such test, and implement such procedures (as modified, if appropriate, to reflect such results).

SEC. 203. FEDERAL AGENCY CONSULTATION.

(a) IN GENERAL.—Section 203(a) of the Older Americans Act of 1965 (42 U.S.C. 3013(a)) is amended to read as follows:

"(a)(1) The Commissioner, in carrying out the objectives and provisions of this Act, shall coordinate, advise, consult with, and cooperate with the head of each department, agency, or instrumentality of the Federal Government proposing or administering programs or services substantially related to the objectives of this Act, with respect to such programs or services. In particular, the Commissioner shall coordinate, advise, consult, and cooperate with the Secretary of Labor in carrying out title V and with the ACTION Agency in carrying out this Act.

"(2) The head of each department, agency, or instrumentality of the Federal Government proposing to establish programs and services substantially related to the objectives of this Act shall consult with the Commissioner prior to the establishment of such programs and services. To achieve appropriate coordination, the head of each department, agency, or instrumentality of the Federal Government administering any program substantially related to the objectives of this Act, particularly administering any program referred to in subsection (b), shall consult and cooperate with the Commissioner in carrying out such program. In particular, the Secretary of Labor shall consult and cooperate with the Commissioner in carrying out the Job Training Partnership Act (29 U.S.C. 1501 et seq.).

"(3) The head of each Federal department, agency, or instrumentality of the Federal Government administering programs and services substantially related to the objectives of this Act shall collaborate with the Commissioner in carrying out this Act, and shall develop a written analysis, for review and comment by the Commissioner, of the impact of such programs and services on—

"(A) older individuals (with particular attention to low-income minority older individuals) and eligible individuals (as defined in section 507); and

"(B) the functions and responsibilities of State agencies and area agencies on aging.".

(b) RELATED PROGRAMS.—Section 203(b) of the Older Americans Act of 1965 (42 U.S.C. 3013(b)) is amended—

(1) in paragraph (16) by striking "and" at the end;

(2) in paragraph (17) by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following:

"(18) the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs, established under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750–3766b)).".

SEC. 204. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by inserting after section 203 the following:

"SEC. 203A. CONSULTATION WITH STATE AGENCIES, AREA AGENCIES ON AGING, AND NATIVE AMERICAN GRANT RECIPIENTS. 42 USC 3013a.

"The Commissioner shall consult and coordinate with State agencies, area agencies on aging, and recipients of grants under title VI in the development of Federal goals, regulations, program instructions, and policies under this Act.".

SEC. 205. FEDERAL COUNCIL ON THE AGING.

(a) ESTABLISHMENT.—Section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence by striking "Members shall serve for terms of three years" and inserting "Except as provided in subsection (b)(1)(A), members shall serve for terms of 3 years, ending on March 31 regardless of the actual date of appointment,"; and

(B) in the third sentence by inserting "from among individuals who have expertise and experience in the field of aging" after "appointed"; and

(2) in paragraph (2) by striking "1984" and inserting "1992".

(b) TERMS OF APPOINTMENT.—Section 204(b)(1)(A) of the Older Americans Act of 1965 (42 U.S.C. 3015(b)(1)(A)) is amended to read as follows:

"(A)(i) The initial members of the Federal Council on the Aging shall be appointed on April 1, 1993, as follows:

"(I) 5 members, who shall be referred to as class 1 members, shall be appointed for a term of 1 year;

"(II) 5 members, who shall be referred to as class 2 members, shall be appointed for a term of 2 years; and

"(III) 5 members, who shall be referred to as class 3 members, shall be appointed for a term of 3 years.

"(ii) Members appointed in 1994 and each third year thereafter shall be referred to as class 1 members. Members appointed in 1995 and each third year thereafter shall be referred to as class 2 members. Members appointed in 1996 and each third year thereafter shall be referred to as class 3 members.".

(c) DUTIES OF COUNCIL.—Section 204(d) of the Older Americans Act of 1965 (42 U.S.C. 3015(d)) is amended—

(1) in paragraph (2) by inserting before the semicolon at the end the following: "and of identifying duplication and gaps

among the types of services provided under such programs and activities";

(2) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) directly advise the Commissioner on matters affecting the special needs of older individuals for services and assistance under this Act;".

(d) REPORTS.—Section 204(f) of the Older Americans Act of 1965 (42 U.S.C. 3015(f)) is amended by striking "such interim reports as it deems advisable" and inserting "interim reports".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 204(g) of the Older Americans Act of 1965 (42 U.S.C. 3015(g)) is amended to read as follows:

"(g) There are authorized to be appropriated to carry out this section $300,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.".

SEC. 206. NUTRITION OFFICER.

Section 205(a) of the Older Americans Act of 1965 (42 U.S.C. 3016(a)) is amended—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end the following:

"(2)(A) The Commissioner shall designate an officer or employee who shall serve on a full-time basis and who shall be responsible for the administration of the nutrition services described in subparts 1, 2, and 3 of part C of title III and shall have duties that include—

"(i) designing, implementing, and evaluating nutrition programs;

"(ii) developing guidelines for nutrition providers concerning safety, sanitary handling of food, equipment, preparation, and food storage;

"(iii) disseminating information to nutrition service providers about nutrition advancements and developments;

"(iv) promoting coordination between nutrition service providers and community-based organizations serving older individuals;

"(v) developing guidelines on cost containment;

"(vi) defining a long range role for the nutrition services in community-based care systems;

"(vii) developing model menus and other appropriate materials for serving special needs populations and meeting cultural meal preferences; and

"(viii) providing technical assistance to the regional offices of the Administration with respect to each duty described in clauses (i) through (vii).

"(B) The regional offices of the Administration shall be responsible for disseminating, and providing technical assistance regarding, the guidelines and information described in clauses (ii), (iii), and (v) of subparagraph (A) to State agencies, area agencies on aging, and persons that provide nutrition services under part C of title III.

"(C) The officer or employee designated under subparagraph (A) shall—

"(i) have expertise in nutrition and dietary services and planning; and

"(ii)(I) be a registered dietitian;

"(II) be a credentialed nutrition professional; or

"(III) have education and training that is substantially equivalent to the education and training for a registered dietitian or a credentialed nutrition professional.".

SEC. 207. EVALUATION.

Section 206 of the Older Americans Act of 1965 (42 U.S.C. 3017) is amended—

(1) in the first sentence of subsection (a) by inserting after "related programs," the following:
"their effectiveness in targeting for services under this Act unserved older individuals with greatest economic need (including low-income minority individuals) and unserved older individuals with greatest social need (including low-income minority individuals),"; and

(2) by striking subsection (g) and inserting the following:

"(g)(1) Not later than June 30, 1994, the Commissioner, in consultation with the Assistant Secretary for Planning and Evaluation of the Department of Health and Human Services, shall complete an evaluation of nutrition services provided under this Act, to evaluate for fiscal years 1992 and 1993—

"(A) their effectiveness in serving special populations of older individuals;

"(B) the quality of nutrition provided by such services;

"(C) average meal costs (including the cost of food, related administrative costs, and the cost of supportive services relating to nutrition services), taking into account regional differences and size of projects;

"(D) the characteristics of participants;

"(E) the applicability of health, safety, and dietary standards;

"(F) the appraisal of such services by recipients;

"(G) the efficiency of delivery and administration of such services;

"(H) the amount, sources, and ultimate uses of funds transferred under section 308(b)(5) to provide such services;

"(I) the amount, sources, and uses of other funds expended to provide such services, including the extent to which funds received under this Act are used to generate additional funds to provide such services;

"(J) the degree of nutritional expertise used to plan and manage coordination with other State and local services;

"(K) nonfood cost factors incidental to providing nutrition services under this Act;

"(L) the extent to which commodities provided by the Secretary of Agriculture under section 311(a) are used to provide such services;

"(M) and for the 8-year period ending September 30, 1992, the characteristics, and changes in the characteristics, of such nutrition services;

"(N) differences between older individuals who receive nutrition services under section 331 and older individuals who receive nutrition services under section 336, with specific reference to age, income, health status, receipt of food stamp benefits, and limitations on activities of daily living;

"(O) the impact of the increase in nutrition services provided under section 336, the factors that caused such increase, and the effect of such increase on nutrition services authorized under section 336;

"(P) how, and the extent to which, nutrition services provided under this Act generally, and under section 331 specifically, are integrated with long-term care programs;

"(Q) the impact of nutrition services provided under this Act on older individuals, including the impact on their dietary intake and opportunities for socialization;

"(R) the adequacy of the daily recommended dietary allowances described in section 339; and

"(S) the impact of transferring funds under section 308(b)(5) and how funds transferred under such section are expended to provide nutrition services.

Establishment.

"(2)(A)(i) The Commissioner shall establish an advisory council to develop recommendations for guidelines on efficiency and quality in furnishing nutrition services described in subparts 1, 2, and 3 of part C of title III.

"(ii) The council shall be composed of members appointed by the Commissioner from among individuals nominated by the Secretary of Agriculture, the American Dietetic Association, the Dietary Managers Association, the National Association of Nutrition and Aging Service Programs, the National Association of Meal Programs, the National Association of State Units on Aging, the National Association of Area Agencies on Aging, and other appropriate organizations.

"(B) Not later than June 30, 1993, the Commissioner, in consultation with the Secretary of Agriculture and taking into consideration the recommendations of the council, shall publish interim guidelines of the kind described in subparagraph (A)(i).

"(3) Not later than September 30, 1994, the Secretary shall—

"(A) submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate recommendations and final guidelines to improve nutrition services provided under this Act; and

"(B) require the Commissioner to implement such recommendations administratively, to the extent feasible.

"(h) The Secretary may use such sums as may be necessary, but not to exceed $3,000,000 (of which not to exceed $1,500,000 shall be available from funds appropriated to carry out title III and not to exceed $1,500,000 shall be available from funds appropriated to carry out title IV), to conduct directly evaluations under this section. No part of such sums may be reprogrammed, transferred, or used for any other purpose. Funds expended under this subsection shall be justified and accounted for by the Secretary.".

SEC. 208. REPORTS.

(a) ANNUAL REPORT.—Section 207(a) of the Older Americans Act of 1965 (42 U.S.C. 3018(a)) is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) a description of the implementation of the plan required by section 202(a)(17).".

(b) DEADLINE.—Section 207(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)(1)) is amended by striking "January 15" and inserting "March 1".

(c) REPORT ON EVALUATIONS.—Section 207(c) of the Older Americans Act of 1965 (42 U.S.C. 3018(c)) is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(5) the effectiveness of State and local efforts to target older individuals with greatest economic need (including low-income minority individuals) and older individuals with greatest social need (including low-income minority individuals) to receive services under this Act.".

SEC. 209. NUTRITION EDUCATION.

Title II of the Older Americans Act of 1965 (42 U.S.C. 3011–3020d) is amended by adding at the end the following:

"SEC. 214. NUTRITION EDUCATION. 42 USC 3020e.

"The Commissioner and the Secretary of Agriculture may provide technical assistance and appropriate material to agencies carrying out nutrition education programs in accordance with section 307(a)(13)(J).".

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

Title II of the Older Americans Act of 1965 (42 U.S.C. 3011–3020d), as amended by section 209, is amended by adding at the end the following:

"SEC. 215. AUTHORIZATION OF APPROPRIATIONS. 42 USC 3020f.

"(a) ADMINISTRATION.—For purposes of carrying out this Act, there are authorized to be appropriated for the Administration such sums as may be necessary for fiscal years 1992, 1993, 1994, and 1995.

"(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of the Administration on Aging—

"(1) $17,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, $24,000,000 for fiscal year 1994, and $29,000,000 for fiscal year 1995; and

"(2) such additional sums as may be necessary for each such fiscal year to enable the Commissioner to provide for not fewer than 300 full-time employees (or the equivalent thereof) in the Administration on Aging.".

SEC. 211. STUDY OF EFFECTIVENESS OF STATE LONG-TERM CARE OMBUDSMAN PROGRAMS. 42 USC 3001 note.

Not later than January 1, 1994, the Commissioner on Aging shall, in consultation with State agencies, State Long-Term Care Ombudsmen, the National Ombudsman Resource Center established under section 202(a)(21) of the Older Americans Act of 1965 (as added by section 202(b)(2) of this Act), and professional ombudsmen associations, directly, or by grant or contract, conduct a study, and submit a report to the committees specified in section 207(b)(2) of such Act, analyzing separately with respect to each State— Reports.

(1) the availability of services, and the unmet need for services, under the State Long-Term Care Ombudsman pro-

grams in effect under sections 307(a)(12) and 712 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to residents of long-term care facilities (as defined in section 102 of such Act);

(2) the effectiveness of the programs in providing the services to the residents, including residents of board and care facilities (as defined in section 102 of such Act) and of similar adult care facilities;

(3) the adequacy of Federal and other resources available to carry out the programs on a statewide basis in each State;

(4) compliance and barriers to such compliance of the States in carrying out the programs;

(5) any actual and potential conflicts of interest in the administration and operation of the programs; and

(6) the need for and feasibility of providing ombudsman services to older individuals (as defined in section 102 of such Act) who are not in long-term care facilities and who use long-term care services and other health care services, by analyzing and assessing current State agency practices in programs in which the State Long-Term Care Ombudsmen provide services to older individuals in settings in addition to long-term care facilities, taking into account variations in—

(A) settings where services are provided;

(B) the types of clients served;

(C) the types of complaints and problems handled;

(D) State regulation of long-term care provided in settings other than long-term care facilities; and

(E) possible conflicts of interest between the State Long-Term Care Ombudsman programs under such Act and area agencies on aging (as defined in section 102 of such Act) who provide to older individuals long-term care services both in such settings and in long-term care facilities.

42 USC 3001 note.

SEC. 212. STUDY ON BOARD AND CARE FACILITY QUALITY.

(a) ARRANGEMENT FOR STUDY COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of board and care facilities for older individuals (as defined in section 102 of the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)) and the disabled.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health, and safety requirements for board and care facilities and the enforcement of such requirements for their adequacy and effectiveness, with special attention to their effectiveness in promoting good personal care;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in assuring the health and safety of residents of board and care facilities; and

(3) specific recommendations to the Congress and the Secretary, by not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety

of residents of such facilities and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members as appointed from among the following:

(1) NATIONAL ACADEMY OF SCIENCES.—The members of the National Academy of Sciences with experience in long-term care. The members so appointed shall include—

(A) physicians;

(B) experts on the administration of drugs to older individuals, and disabled individuals receiving long-term care services; and

(C) experts on the enforcement of life-safety codes in long-term care facilities.

(2) RESIDENTS.—Residents of board and care facilities (including privately owned board and care facilities), and representatives of such residents or of organizations that advocate on behalf of such residents. Members so appointed shall include—

(A) residents of a nonprofit board and care facility; or

(B) individuals who represent—

(i) residents of nonprofit board and care facilities; or

(ii) organizations that advocate on behalf of residents of nonprofit board and care facilities.

(3) OPERATORS.—Operators of board and care facilities (including privately owned board and care facilities), and individuals who represent such operators or organizations that represent the interests of such operators. Members so appointed shall include—

(A) operators of a nonprofit board and care facility; or

(B) individuals who represent—

(i) operators of nonprofit board and care facilities; or

(ii) organizations that represent the interests of operators of nonprofit board and care facilities.

(4) OFFICERS.—

(A) STATE OFFICERS.—Elected and appointed State officers who have responsibility relating to the health and safety of residents of board and care facilities.

(B) REPRESENTATIVES.—Representatives of such officers or of organizations representing such officers.

(C) OTHER INDIVIDUALS.—Other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the study committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) GOVERNMENT OFFICIALS.—The study committee shall conduct its work in a manner that provides for the consultation

with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the study committee.

(2) EXPERTS.—The study committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the study committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the study committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a) and the recommendations made under subsection (b).

(g) BOARD AND CARE FACILITY DEFINED.—In this section, the term "board and care facility" means a facility described in section 1616(e) of the Social Security Act (42 U.S.C. 1372e(e)).

(h) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,500,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

42 USC 3001 note.

SEC. 213. STUDY ON HOME CARE QUALITY.

(a) ESTABLISHMENT STUDY OF COMMITTEE.—The Secretary of Health and Human Services shall enter into an arrangement, in accordance with subsection (d), to establish a study committee described in subsection (c) to conduct a study through the Institute of Medicine of the National Academy of Sciences on the quality of home care services for older individuals and disabled individuals.

(b) SCOPE OF STUDY.—The study shall include—

(1) an examination of existing quality, health and safety requirements for home care services and the enforcement of such requirements for their adequacy, effectiveness, and appropriateness;

(2) an examination of, and recommendations with respect to, the appropriate role of Federal, State, and local governments in ensuring the health and safety of patients and clients of home care services; and

(3) specific recommendations to the Congress and the Secretary, not later than 20 months after the date of the enactment of this Act, concerning the establishment of minimum national standards for the quality, health, and safety of patients and clients of such services and the enforcement of such standards.

(c) COMPOSITION OF STUDY COMMITTEE.—The study committee shall be composed of members appointed from among—

(1) individuals with experience in long-term care, including nonmedical home care services;

(2) patients and clients of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such patients and clients or organizations that advocate on behalf of such patients and clients;

(3) providers of home care services (including privately provided home care services and services funded under the Older Americans Act of 1965) or individuals who represent such providers or organizations that advocate on behalf of such providers;

(4) elected and appointed State officers who have responsibility relating to the health and safety of patients and clients

of home care services, or representatives of such officers or of organizations representing such officers; and

(5) other individuals with relevant expertise.

(d) USE OF INSTITUTE OF MEDICINE.—The Secretary shall request the National Academy of Sciences, through the Institute of Medicine, to establish, appoint, and provide administrative support for the committee under an arrangement under which the actual expenses incurred by the Academy in carrying out such functions will be paid by the Secretary. If the National Academy of Sciences is willing to do so, the Secretary shall enter into such arrangement with the Academy.

(e) INVOLVEMENT OF OTHERS.—

(1) MEMBERS AND OFFICIALS.—The committee shall conduct its work in a manner that provides for consultation with Members of Congress or their representatives, officials of the Department of Health and Human Services, and officials of State and local governments who are not members of the committee.

(2) INDIVIDUAL OR ORGANIZATION WITH EXPERTISE.—The committee may consult with any individual or organization with expertise relating to the issues involved in the activities of the committee.

(f) REPORT.—Not later than 20 months after an arrangement is entered into under subsection (d), the committee shall submit, to the Secretary, the Speaker of the House of Representatives, and the President pro tempore of the Senate, a report containing the results of the study referred to in subsection (a).

(g) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $1,000,000 for fiscal year 1992 and such sums as may be necessary for subsequent fiscal years.

TITLE III—STATE AND COMMUNITY PROGRAMS ON AGING

SEC. 301. PURPOSE OF GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING.

Section 301(a) of the Older Americans Act of 1965 (42 U.S.C. 3021(a)) is amended to read as follows:

"(a)(1) It is the purpose of this title to encourage and assist State agencies and area agencies on aging to concentrate resources in order to develop greater capacity and foster the development and implementation of comprehensive and coordinated systems to serve older individuals by entering into new cooperative arrangements in each State with the persons described in paragraph (2), for the planning, and for the provision of, supportive services, and multipurpose senior centers, in order to—

"(A) secure and maintain maximum independence and dignity in a home environment for older individuals capable of self care with appropriate supportive services;

"(B) remove individual and social barriers to economic and personal independence for older individuals;

"(C) provide a continuum of care for vulnerable older individuals; and

"(D) secure the opportunity for older individuals to receive managed in-home and community-based long-term care services.

"(2) The persons referred to in paragraph (1) include—

"(A) State agencies and area agencies on aging;

"(B) other State agencies, including agencies that administer home and community care programs;

"(C) Indian tribes, tribal organizations, and Native Hawaiian organizations;

"(D) the providers, including voluntary organizations or other private sector organizations, of supportive services, nutrition services, and multipurpose senior centers; and

"(E) organizations representing or employing older individuals or their families.".

SEC. 302. DEFINITIONS.

Section 302(1) of the Older Americans Act of 1965 (42 U.S.C. 3022(1)) is amended—

(1) in subparagraph (B) by striking "and" at the end;

(2) in subparagraph (C) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(D) encourage and assist public and private entities that have unrealized potential for meeting the service needs of older individuals to assist the older individuals on a voluntary basis.".

SEC. 303. AUTHORIZATION OF APPROPRIATIONS; USES OF FUNDS.

(a) AUTHORIZATION FOR PART B.—

(1) SUPPORTIVE SERVICES AND SENIOR CENTERS.—Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(1)) is amended by striking "$379,575,000" and all that follows through "1991", and inserting "$461,376,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995". 42 USC 3023.

(2) STATE LONG-TERM CARE OMBUDSMAN PROGRAMS.—Section 303(a)(2) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(2)) is amended to read as follows: 42 USC 3023.

"(2) Funds appropriated under paragraph (1) shall be available to carry out section 712.".

(3) REPEAL RELATING TO OUTREACH.—Section 303(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(3)) is repealed. 42 USC 3023.

(b) AUTHORIZATION FOR PART C.—

(1) CONGREGATE NUTRITION SERVICES.—Section 303(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(1)) is amended by striking "$414,750,000" and all that follows through "1991", and inserting "$505,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995". 42 USC 3023.

(2) HOME-DELIVERED NUTRITION SERVICES.—Section 303(b)(2) of the Older Americans Act of 1965 (42 U.S.C. 3012(b)(2)) is amended by striking "$79,380,000" and all that follows through "1991", and inserting "$120,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995". 42 USC 3023.

(3) AUTHORIZATION OF APPROPRIATIONS FOR SCHOOL-BASED MEALS FOR OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS.—Section 303(b) of the Older Americans Act of 1965 (42 U.S.C. 3023) is amended by adding at the end the following:

"(3) There are authorized to be appropriated $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal

years 1993, 1994, and 1995, to carry out subpart 3 of part C of this title (relating to school-based meals for volunteer older individuals and multigenerational programs).".

(c) AUTHORIZATION FOR PART D (RELATING TO IN-HOME SERVICES).—Section 303(d) of the Older Americans Act of 1965 (42 U.S.C. 3012(d)) is amended by striking "$25,000,000" and all that follows through "1991", and inserting "$45,388,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995,". 42 USC 3023.

(d) AUTHORIZATION FOR PART E (RELATING TO SPECIAL NEEDS).—Section 303(e) of the Older Americans Act of 1965 (42 U.S.C. 3012(e)) is amended by striking "Subject to" and all that follows through "1991", and inserting "There are authorized to be appropriated such sums as may be necessary for the fiscal years 1992, 1993, 1994, and 1995,". 42 USC 3023.

(e) AUTHORIZATION FOR PART F (RELATING TO DISEASE PREVENTION AND HEALTH PROMOTION).—Section 303(f) of the Older Americans Act of 1965 (42 U.S.C. 3012(f)) is amended— 42 USC 3023.

(1) by striking "Subject to subsection (h), there" and inserting "There"; and

(2) by striking "$5,000,000" and all that follows through "1991", and inserting "$25,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995,".

(f) AUTHORIZATION FOR PART G (RELATING TO SUPPORTIVE ACTIVITIES FOR CARETAKERS).—Section 303(g) of the Older Americans Act of 1965 (42 U.S.C. 3023(g)) is amended to read as follows:

"(g) There are authorized to be appropriated $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out part G (relating to supportive activities for caretakers).".

(g) REPEAL OF LIMITATION.—Section 303(h) of the Older Americans Act of 1965 (42 U.S.C. 3023(h)) is repealed.

SEC. 304. ALLOTMENT; FEDERAL SHARE.

(a) AMOUNT OF ALLOTMENTS.—Section 304(a) of the Older Americans Act of 1965 (42 U.S.C. 3024(a)) is amended—

(1) in paragraph (2) by striking "1984" and inserting "1987";

(2) by amending paragraph (3) to read as follows:

"(3) No State shall be allotted, from the amount appropriated under section 303(g), less than $50,000 for any fiscal year."; and

(3) in paragraph (4) by striking "satisfactory data available" and inserting "data available from the Bureau of the Census, and other reliable demographic data satisfactory".

(b) WITHHOLDING OF ALLOTMENTS.—Section 304(c) of the Older Americans Act of 1965 (42 U.S.C. 3024(c)) is amended by inserting "or the Commissioner does not approve the funding formula required under section 305(a)(2)(C)" after "requirements of section 307".

(c) OUTREACH DEMONSTRATION PROJECTS.—Section 304(d)(1)(C) of the Older Americans Act of 1965 (42 U.S.C. 3024(d)(1)(C)) is amended to read as follows:

"(C) not less than $150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B, shall be available for conducting outreach demonstration projects under section 706; and".

(d) VOLUNTEER SERVICES COORDINATORS.—Section 304 of the Older Americans Act of 1965 (42 U.S.C. 3024) is amended by adding at the end the following:

"(e) Grants made from allotments received under this title may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 306(a)(12)) or a State volunteer services coordinator (as described in section 307(a)(31)).

SEC. 305. ORGANIZATION.

(a) PLANNING; CONSULTATION; LOW-INCOME MINORITY OBJECTIVES AND FOCUS.—Section 305(a) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)) is amended—

(1) by amending paragraph (1)(C) to read as follows:

"(C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this Act;"; and

(2) in paragraph (2)—

(A) by amending subparagraph (C) to read as follows:

"(C) in consultation with area agencies, in accordance with guidelines issued by the Commissioner, and using the best available data, develop and publish for review and comment a formula for distribution within the State of funds received under this title that takes into account—

"(i) the geographical distribution of older individuals in the State; and

"(ii) the distribution among planning and service areas of older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority older individuals;";

(B) in subparagraph (D) by striking "for review and comment" and inserting "for approval";

(C) in subparagraph (E) by striking "and" at the end;

(D) by amending subparagraph (F) to read as follows:

"(F) provide assurances that the State agency will require use of outreach efforts described in section 307(a)(24); and"; and

(E) by adding at the end the following:

"(G)(i) set specific objectives, in consultation with area agencies on aging, for each planning and service area for providing services funded under this title to low-income minority older individuals;

"(ii) provide an assurance that the State agency will undertake specific program development, advocacy, and outreach efforts focused on the needs of low-income minority older individuals; and

"(iii) provide a description of the efforts described in clause (ii) that will be undertaken by the State agency.".

(b) PROCEDURES; REVIEW OF BOUNDARIES.—Section 305(b)(5) of the Older Americans Act of 1965 (42 U.S.C. 3025(b)(5)) is amended by adding at the end the following:

"(C)(i) A State agency shall establish and follow appropriate procedures to provide due process to affected parties, if the State agency initiates an action or proceeding to—

"(I) revoke the designation of the area agency on aging under subsection (a);

"(II) designate an additional planning and service area in a State;

"(III) divide the State into different planning and services areas; or

"(IV) otherwise affect the boundaries of the planning and service areas in the State.

"(ii) The procedures described in clause (i) shall include procedures for—

"(I) providing notice of an action or proceeding described in clause (i);

"(II) documenting the need for the action or proceeding;

"(III) conducting a public hearing for the action or proceeding;

"(IV) involving area agencies on aging, service providers, and older individuals in the action or proceeding; and

"(V) allowing an appeal of the decision of the State agency in the action or proceeding to the Commissioner.

"(iii) An adversely affected party involved in an action or proceeding described in clause (i) may bring an appeal described in clause (ii)(V) on the basis of—

"(I) the facts and merits of the matter that is the subject of the action or proceeding; or

"(II) procedural grounds.

"(iv) In deciding an appeal described in clause (ii)(V), the Commissioner may affirm or set aside the decision of the State agency. If the Commissioner sets aside the decision, and the State agency has taken an action described in subclauses (I) through (III) of clause (i), the State agency shall nullify the action.".

SEC. 306. AREA PLANS.

(a) CASE MANAGEMENT SERVICES.—Section 306(a)(2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(2)(A)), as amended by section 102(b)(4) of this Act, is amended by striking ", and information and assistance" and inserting ", information and assistance, and case management services".

(b) IDENTITY OF FOCAL POINT.—Section 306(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(3)) is amended—

(1) by inserting "(A)" after "(3)";

(2) by inserting "(including multipurpose senior centers operated by organizations referred to in paragraph (6)(E)(ii))" after "centers";

(3) by inserting "and" after the semicolon at the end; and

(4) by adding at the end the following:

"(B) specify, in grants, contracts, and agreements implementing the plan, the identity of each focal point so designated;".

(c) OBJECTIVES FOR LOW-INCOME MINORITY INDIVIDUALS.—

(1) INFORMATION AND ASSISTANCE SERVICES.—Section 306(a)(4) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(4)) is amended by inserting before the semicolon at the end the following: ", with particular emphasis on linking services available to isolated older individuals and older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of individuals with such disease or disorders)".

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Health and health care.

(2) OUTREACH AND INFORMATION.—Section 306(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(5)) is amended—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking "preference will be given to" and inserting "the area agency on aging will set specific objectives for"; and

(II) by striking "with particular attention" and inserting "include specific objectives for providing services";

(ii) in clause (ii)—

(I) in subclause (I) by striking "and" at the end;

(II) by amending subclause (II) to read as follows:

"(II) to the maximum extent feasible, provide services to low-income minority individuals in accordance with their need for such services; and"; and

(III) by adding at the end the following:

"(III) meet specific objectives established by the area agency on aging, for providing services to low-income minority individuals within the planning and service area; and"; and

(iii) in clause (iii)—

(I) by striking "and" at the end of subclause (I); and

(II) by adding at the end the following new subclause:

"(III) provide information on the extent to which the area agency on aging met the objectives described in clause (i);";

(B) by amending subparagraph (B) to read as follows:

"(B) provide assurances that the area agency on aging will use outreach efforts that will—

"(i) identify individuals eligible for assistance under this Act, with special emphasis on—

"(I) older individuals residing in rural areas;

"(II) older individuals with greatest economic need (with particular attention to low-income minority individuals);

"(III) older individuals with greatest social need (with particular attention to low-income minority individuals);

"(IV) older individuals with severe disabilities;

"(V) older individuals with limited English-speaking ability; and

"(VI) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

"(ii) inform the older individuals referred to in subclauses (I) through (VI) of clause (i), and the caretakers of such individuals, of the availability of such assistance; and"; and

(C) by adding at the end the following:

"(C) contain an assurance that the area agency on aging will ensure that each activity undertaken by the agency, including planning, advocacy, and systems development, will include a focus on the needs of low-income minority older individuals;".

(d) COORDINATION; HOUSING ARRANGEMENTS; TELEPHONE LISTING.—Section 306(a)(6) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)(6)) is amended—

(1) in subparagraph (B) by inserting ", and timely information in a timely manner," after "assistance";

(2) in subparagraph (D) by inserting "(in cooperation with agencies, organizations, and individuals participating in activities under the plan)" after "community by";

(3) in subparagraph (E)—

(A) by inserting "(i)" after "(E)";

(B) by inserting "and" after the semicolon at the end; and

(C) by adding at the end the following:

"(ii) if possible regarding the provision of services under this title, enter into arrangements and coordinate with organizations that have a proven record of providing services to older individuals, that—

"(I) were officially designated as community action agencies or community action programs under section 210 of the Economic Opportunity Act of 1964 (42 U.S.C. 2790) for fiscal year 1981, and did not lose the designation as a result of failure to comply with such Act; or

"(II) came into existence during fiscal year 1982 as direct successors in interest to such community action agencies or community action programs;

and that meet the requirements under section 675(c)(3) of the Community Services Block Grant Act (42 U.S.C. 9904(c)(3));";

(4) by amending subparagraph (H) to read as follows:

"(H) establish effective and efficient procedures for coordination of—

"(i) entities conducting programs that receive assistance under this Act within the planning and service area served by the agency; and

"(ii) entities conducting other Federal programs for older individuals at the local level, with particular emphasis on entities conducting programs described in section 203(b), within the area;";

(5) in subparagraph (I) by striking "emphasize the development" and all that follows through the semicolon at the end, and inserting "include the development of case management services as a component of the long-term care services;";

(6) in subparagraph (O) by striking "and" at the end;

(7) by striking subparagraph (P); and

(8) by adding at the end the following:

"(P) establish a grievance procedure for older individuals who are dissatisfied with or denied services under this title;

"(Q) enter into voluntary arrangements with nonprofit entities (including public and private housing authorities and organizations) that provide housing (such as housing

under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q)) to older individuals, to provide—

"(i) leadership and coordination in the development, provision, and expansion of adequate housing, supportive services, referrals, and living arrangements for older individuals; and

"(ii) advance notification and nonfinancial assistance to older individuals who are subject to eviction from such housing;

"(R) list the telephone number of the agency in each telephone directory that is published, by the provider of local telephone service, for residents in any geographical area that lies in whole or in part in the service and planning area served by the agency—

"(i) under the name 'Area Agency on Aging';

"(ii) in the unclassified section of the directory; and

"(iii) to the extent possible, in the classified section of the directory, under a subject heading designated by the Commissioner by regulation; and

"(S) identify the needs of older individuals and describe methods the area agency on aging will use to coordinate planning and delivery of transportation services (including the purchase of vehicles) to assist older individuals, including those with special needs, in the area;".

(e) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)) is amended—

(1) in paragraph (9) by striking "and" at the end;

(2) in paragraph (10) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

"(11) provide assurances that the area agency on aging, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount of funds appropriated under this Act and expended by the agency in fiscal year 1991 in carrying out such a program under this title;".

(f) VOLUNTEERS TO ASSIST OLDER INDIVIDUALS; PUBLIC DISCLOSURE; RELATIONSHIP WITH PRIVATE SECTOR; ASSURANCES OF COORDINATION AND ACCESS.—Section 306(a) of the Older Americans Act of 1965 (42 U.S.C. 3026(a)), as amended by subsection (e) of this section, is amended by adding at the end the following:

"(12) in the discretion of the area agency on aging, provide for an area volunteer services coordinator, who shall—

"(A) encourage, and enlist the services of, local volunteer groups to provide assistance and services appropriate to the unique needs of older individuals within the planning and service area;

"(B) encourage, organize, and promote the use of older individuals as volunteers to local communities within the area; and

"(C) promote the recognition of the contribution made by volunteers to programs administered under the area plan;

"(13)(A) describe all activities of the area agency on aging, whether funded by public or private funds; and

"(B) provide an assurance that the activities conform with—

"(i) the responsibilities of the area agency on aging, as set forth in this subsection; and

"(ii) the laws, regulations, and policies of the State served by the area agency on aging;

"(14) provide assurances that the area agency on aging will—

"(A) maintain the integrity and public purpose of services provided, and service providers, under this title in all contractual and commercial relationships;

"(B) disclose to the Commissioner and the State agency—

"(i) the identity of each nongovernmental entity with which such agency has a contract or commercial relationship relating to providing any service to older individuals; and

"(ii) the nature of such contract or such relationship;

"(C) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this title by such agency has not resulted and will not result from such contract or such relationship;

"(D) demonstrate that the quantity or quality of the services to be provided under this title by such agency will be enhanced as a result of such contract or such relationship; and

"(E) on the request of the Commissioner or the State, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds such agency receives or expends to provide services to older individuals;

"(15) provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title;

"(16) provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title;

"(17) provide assurances that projects in the planning and service area will reasonably accommodate participants as described in section 307(a)(13)(G);

"(18) provide assurances that the area agency on aging will, to the maximum extent practicable, coordinate the services it provides under this title with services provided under title VI;

"(19)(A) provide an assurance that the area agency on aging will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

"(B) specify the ways in which the area agency on aging intends to implement the activities; and

"(20) provide that case management services provided under this title through the area agency on aging will—

"(A) not duplicate case management services provided through other Federal and State programs;

"(B) be coordinated with services described in subparagraph (A); and

"(C) be provided by—

"(i) a public agency; or

"(ii) a nonprofit private agency that—

"(I) does not provide, and does not have a direct or indirect ownership or controlling interest in, or a direct or indirect affiliation or relationship with, an entity that provides, services other than case management services under this title; or

"(II) is located in a rural area and obtains a waiver of the requirement described in subclause (I).".

(g) WITHHOLDING OF AREA FUNDS.—Section 306 of the Older Americans Act of 1965 (42 U.S.C. 3026) is amended by adding at the end the following:

"(e)(1) If the head of a State agency finds that an area agency on aging has failed to comply with Federal or State laws, including the area plan requirements of this section, regulations, or policies, the State may withhold a portion of the funds to the area agency on aging available under this title.

"(2)(A) The head of a State agency shall not make a final determination withholding funds under paragraph (1) without first affording the area agency on aging due process in accordance with procedures established by the State agency.

"(B) At a minimum, such procedures shall include procedures for—

"(i) providing notice of an action to withhold funds;

"(ii) providing documentation of the need for such action; and

"(iii) at the request of the area agency on aging, conducting a public hearing concerning the action.

"(3)(A) If a State agency withholds the funds, the State agency may use the funds withheld to directly administer programs under this title in the planning and service area served by the area agency on aging for a period not to exceed 180 days, except as provided in subparagraph (B).

"(B) If the State agency determines that the area agency on aging has not taken corrective action, or if the State agency does not approve the corrective action, during the 180-day period described in subparagraph (A), the State agency may extend the period for not more than 90 days.".

SEC. 307. STATE PLANS.

(a) COMPLIANCE WITH TITLE III.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in the first sentence by inserting "the succeeding sentence and" after "provided in";

(2) by inserting after the first sentence the following: "If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this title, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner deter-

mines that the State is in compliance with such requirements."; and

(3) in paragraph (3)(A)—

(A) by inserting "and transportation services" after "assistance"; and

(B) by adding at the end the following:

"To conduct the evaluation, the State agency shall use the procedures implemented under section 202(a)(29).".

(b) PROCEDURES.—Section 307(a)(5) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(5)) is amended by adding at the end the following: "The State agency shall establish and publish procedures for requesting and conducting such hearing.".

(c) FISCAL CONTROL AND FUND ACCOUNTING.—Section 307(a)(7) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(7)) is amended—

(1) by inserting "(A)" after "(7)"; and

(2) by adding at the end the following:

"(B) The plan shall provide assurances that—

"(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this Act;

"(ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this Act; and

"(iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this Act.

"(C) The plan shall provide assurances that the State agency and each area agency on aging will—

"(i) maintain the integrity and public purpose of services provided, and service providers, under the State plan in all contractual and commercial relationships;

"(ii) disclose to the Commissioner—

"(I) the identity of each nongovernmental entity with which the State agency or area agency on aging has a contract or commercial relationship relating to providing any service to older individuals; and

"(II) the nature of such contract or such relationship;

"(iii) demonstrate that a loss or diminution in the quantity or quality of the services provided, or to be provided, under this Act by such agency has not resulted and will not result from such contract or such relationship;

"(iv) demonstrate that the quantity or quality of the services to be provided under the State plan will be enhanced as a result of such contract or such relationship; and

"(v) on the request of the Commissioner, for the purpose of monitoring compliance with this Act (including conducting an audit), disclose all sources and expenditures of funds the State agency and area agency on aging receive or expend to provide services to older individuals.".

(d) EVALUATION.—Section 307(a)(8) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(8)) is amended by adding at the end the following:

"In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgable about the needs and concerns of low-income minority older individuals.".

(e) EMPLOYMENT PREFERENCE.—Section 307(a)(11) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(11)) is amended by striking "governments," and all that follows through "older", and inserting the following:

"governments—

"(A) preference shall be given to older individuals; and

"(B) special consideration shall be given to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging;".

(f) STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 307(a)(12) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(12)) is amended to read as follows:

"(12) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 712 and this title.".

(g) USE OF FUNDS; NUTRITION EDUCATION AND SANITARY HANDLING OF MEALS.—Section 307(a)(13) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(13)) is amended—

(1) in subparagraph (B) by inserting "(other than under section 303(b)(3))" after "available under this title";

(2) in subparagraph (F)—

(A) by striking "may" and inserting "will"; and

(B) by inserting "dietitians (or individuals with comparable expertise)," after "advice of";

(3) in subparagraph (H) by striking "and" at the end;

(4) in subparagraph (I) by striking the period at the end and inserting a semicolon;

(5) by adding at the end the following:

"(J) each nutrition project shall provide nutrition education on at least a semiannual basis to participants in programs described in part C;

"(K) each project shall comply with applicable provisions of State or local laws regarding the safe and sanitary handling of food, equipment, and supplies used in the storage, preparation, service, and delivery of meals to an older individual;

"(L) the State agency will monitor, coordinate, and assist in the planning of nutritional services, with the advice of a dietitian or an individual with comparable expertise; and

"(M) the State agency will—

"(i) develop nonfinancial criteria for eligibility to receive nutrition services under section 336; and

"(ii) periodically evaluate recipients of such services to determine whether they continue to meet such criteria.".

(h) LEGAL PROBLEMS.—Section 307(a)(15) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(15)) is amended—

(1) in subparagraph (C) by striking "and" at the end;

(2) in subparagraph (D) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.".

(i) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—Section 307(a)(16) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(16)) is amended in the matter preceding subparagraph (A)—

(1) by striking "that" the first place it appears and inserting a comma; and

(2) by striking ", if funds are not appropriated under section 303(g) for a fiscal year, provide that for such" and inserting "provide for a".

(j) LEGAL ASSISTANCE DEVELOPER.—Section 307(a)(18) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(18)) is amended by inserting "(one of whom shall be known as a legal assistance developer)" after "personnel".

(k) EXPENDITURES UNDER STATE LONG-TERM CARE OMBUDSMAN PROGRAM.—Section 307(a)(21) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(21)) is amended to read as follows:

"(21) The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under section 307(a)(12), will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this title.".

(l) OUTREACH AND INFORMATION.—Section 307(a)(24) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(24)) is amended to read as follows:

"(24) The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify individuals eligible for assistance under this Act, with special emphasis on—

"(i) older individuals residing in rural areas;

"(ii) older individuals with greatest economic need (with particular attention to low-income minority individuals);

"(iii) older individuals with greatest social need (with particular attention to low-income minority individuals);

"(iv) older individuals with severe disabilities;

"(v) older individuals with limited English-speaking ability; and

"(vi) older individuals with Alzheimer's disease or related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

"(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance;".

(m) ELDER RIGHTS REQUIREMENTS.—Section 307(a)(30) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(30)) is amended to read as follows:

"(30) The plan shall include the assurances and description required by section 705(a).".

(n) REQUIREMENTS.—Section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended by striking paragraph (31) and inserting the following:

"(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 306(a)(12), the State plan shall provide for a State volunteer services coordinator, who shall—

"(i) encourage area agencies on aging to provide for area volunteer services coordinators;

"(ii) coordinate the volunteer services offered between the various area agencies on aging;

"(iii) encourage, organize, and promote the use of older individuals as volunteers to the State;

"(iv) provide technical assistance, which may include training, to area volunteer services coordinators; and

"(v) promote the recognition of the contribution made by volunteers to the programs administered under the State plan.

"(B) If fewer than 50 percent of the area plans in the State provide for an area volunteer services coordinator, the State plan may provide for the State volunteer services coordinator described in subparagraph (A).

"(32) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

"(33) The plan—

"(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 305(d); and

"(B) may not be approved unless the Commissioner approves such statement and such demonstration.

"(34) The plan shall provide an assurance that the State agency will coordinate programs under this title and title VI, if applicable.

"(35) The plan shall—

"(A) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this title, if applicable; and

"(B) specify the ways in which the State agency intends to implement the activities.

"(36) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 306(a)(20).

"(37) The plan shall identify for each fiscal year, the actual and projected additional costs of providing services under this title, including the cost of providing access to such services, to older individuals residing in rural areas in the State (in accordance with a standard definition of rural areas specified by the Commissioner).

"(38) The plan shall provide assurances that funds received under this title will not be used to pay any part of a cost (including an administrative cost) incurred by the State or

an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this title.

"(39) The plan shall provide assurances that preference in receiving services under this title will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this title.

"(40) The plan shall provide assurances that if the State receives funds appropriated under section 303(g) the State agency and area agencies on aging will expend such funds to carry out part G.

"(41) The plan shall provide assurances that demonstrable efforts will be made—

"(A) to coordinate services provided under this Act with other State services that benefit older individuals; and

"(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

"(42) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this title, to services under title VI, to comprehensive counseling services, and to legal assistance.

"(43) The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 306(a)(6)(P).

"(44) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this title.".

(o) APPROVAL OF STATE PLAN.—Section 307(b)(1) of the Older Americans Act of 1965 (42 U.S.C. 3017(b)(1)) is amended by inserting before the period at the end the following: ", except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 305(a)(2)(D) complies with the guidelines in effect under section 305(a)(2)(C)". 42 USC 3027.

(p) DETERMINATION OF DISAPPROVAL.—Section 307(c) of the Older Americans Act of 1965 (42 U.S.C. 3027(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following:

"(2) Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State timely appeals such final determination in accordance with subsection (e)(1), the Secretary shall dismiss the appeal filed under this paragraph.

"(3) If the State is dissatisfied with the decision of the Secretary after review under paragraph (2), the State may appeal such decision not later than 30 days after such decision and in the manner described in subsection (e). For purposes of appellate review under the preceding sentence, a reference in subsection (e) to the Commissioner shall be deemed to be a reference to the Secretary.".

(q) REPEAL OF EXPIRED PROVISION.—Section 307(f) of the Older Americans Act of 1965 (42 U.S.C. 3027(f)) is repealed.

(r) PROTECTION OF COMMERCIAL INFORMATION.—Section 307(g) of the Older Americans Act of 1965 (42 U.S.C. 3027(g)) is amended—

(1) by striking "(g)" and inserting "(f)(1)"; and

(2) by adding at the end the following:

"(2) Information disclosed under section 306(a)(14)(B)(i) or subsection (a)(7)(C)(ii)(I) may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5, United States Code, by an agency of the United States.".

SEC. 308. PLANNING, COORDINATION, EVALUATION, AND ADMINISTRATION OF STATE PLANS.

Section 308 of the Older Americans Act of 1965 (42 U.S.C. 3028) is amended—

(1) in subsection (a)(3) by inserting "been" after "which has"; and

(2) in subsection (b)—

(A) in paragraph (4)—

(i) by inserting "(A)" after "(4)";

(ii) in the first sentence—

(I) by inserting "and except as provided in subparagraph (B)" after "this title";

(II) by striking "received under section 303(b)(1) and (2), a" and inserting "received by a State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), the"; and

(III) by striking "a portion of the funds appropriated" and inserting "not more than 30 percent of the funds so received"; and

(iii) by adding at the end the following:

"(B) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under paragraph (1) or (2) of section 303(b), including funds transferred under subparagraph (A) without regard to this subparagraph, for fiscal year 1993, 1994, 1995, or 1996 are insufficient to satisfy the need for services under subpart 1 or subpart 2 of part C, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need—

"(i) an additional 18 percent of the funds so received for fiscal year 1993;

"(ii) an additional 15 percent of the funds so received for each of the fiscal years 1994 and 1995; and

"(iii) an additional 10 percent of the funds so received for fiscal year 1996."; and

(B) by striking paragraph (5) and inserting the following:

"(5)(A) Notwithstanding any other provision of this title and except as provided in subparagraph (B), of the funds received by a State attributable to funds appropriated under subsection (a)(1), and paragraphs (1) and (2) of subsection (b), of section 303, the State may elect to transfer not more than 30 percent for fiscal year 1993, not more than 25 percent for fiscal year 1994, not more than 25 percent for fiscal year 1995, and not more than 20 percent for fiscal year 1996, between programs under part B and part C, for use as the State considers appropriate. The State shall notify the Commissioner of any such election.

"(B)(i) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1994 or 1995 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 5 percent of the funds so received for such fiscal year.

"(ii) If a State demonstrates, to the satisfaction of the Commissioner, that funds received by the State and attributable to funds appropriated under part B or part C (including funds transferred under subparagraph (A) without regard to this subparagraph) for fiscal year 1996 are insufficient to satisfy the need for services under such part, then the Commissioner may grant a waiver that permits the State to transfer under subparagraph (A) to satisfy such need an additional 8 percent of the funds so received for such fiscal year.

"(C) At a minimum, the application described in subparagraph (A) shall include a description of the amount to be transferred, the purposes of the transfer, the need for the transfer, and the impact of the transfer on the provision of services from which the funding will be transferred. The Commissioner shall approve or deny the application in writing.

"(6) A State agency may not delegate to an area agency on aging or any other entity the authority to make a transfer under paragraph (4)(A) or (5)(A).

"(7) The Commissioner shall annually collect, and include in the report required by section 207(a), data regarding the transfers described in paragraphs (4)(A) and (5)(A), including—

"(A) the amount of funds involved in the transfers, analyzed by State;

"(B) the rationales for the transfers;

"(C) in the case of transfers described in paragraphs (4)(A) and (5)(A), the effect of the transfers of the provision of services, including the effect on the number of meals served, under—

"(i) subpart 1 of part C; and

"(ii) subpart 2 of part C; and

"(D) in the case of transfers described in paragraph (5)(A)—

"(i) in the case of transfers to part B, information on the supportive services, or services provided through senior centers, for which the transfers were used; and

"(ii) the effect of the transfers on the provision of services provided under—

"(I) part B; and

"(II) part C, including the effect on the number of meals served.".

SEC. 309. DISASTER RELIEF REIMBURSEMENTS.

Section 310 of the Older Americans Act of 1965 (42 U.S.C. 3030) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting "(and related supplies)" after "supportive services"; and

(B) by adding at the end the following:

"(3) If the Commissioner decides, in the 5-day period beginning on the date such disaster is declared by the President, to provide

an amount of reimbursement under paragraph (1) to a State, then the Commissioner shall provide not less than 75 percent of such amount to such State not later than 5 days after the date of such decision."; and

(2) in subsections (a)(2) and (b)—

(A) by striking "5 percent" each place it appears and inserting "2 percent"; and

(B) by striking "for carrying out the purposes of section 422" each place it appears and inserting "to carry out title IV".

SEC. 310. AVAILABILITY OF SURPLUS COMMODITIES.

Section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) is amended—

(1) in subsection (a)(4)—

(A) by designating the first sentence as subparagraph (A);

(B) by designating the second and third sentence as subparagraph (B), and indenting accordingly; and

(C) in subparagraph (A), as designated by subparagraph (A) of this paragraph, by striking "shall maintain" and all that follows, and inserting the following:

"shall maintain—

"(i) for fiscal year 1992, a level of assistance equal to the greater of—

"(I) a per meal rate equal to the amount appropriated under subsection (c) for fiscal year 1992, divided by the number of meals served in the preceding fiscal year; or

"(II) 61 cents per meal; and

"(ii) for fiscal year 1993 and each subsequent fiscal year, an annually programmed level of assistance equal to the greater of—

"(I) a per meal rate equal to the amount appropriated under subsection (c) for the fiscal year, divided by the number of meals served in the preceding fiscal year; or

"(II) 61 cents per meal, adjusted in accordance with changes in the series for food away from home, of the Consumer Price Index For All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor, based on the 12-month period ending on July 1 of the preceding year."; and

(2) in subsection (c)—

(A) in paragraph (1)(A) by striking "$151,000,000" and all that follows through "1991", and inserting "$250,000,000 for fiscal year 1992, $310,000,000 for fiscal year 1993, $380,000,000 for fiscal year 1994, and $460,000,000 for fiscal year 1995"; and

(B) in paragraph (2)—

(i) by striking "(2) In" and inserting "(2)(A) Except as provided in subparagraph (B), in"; and

(ii) by adding at the end the following new subparagraph:

Claims.

"(B) In each fiscal year, the final reimbursement claims shall be adjusted to use the full amount appropriated under this subsection for the fiscal year.".

SEC. 311. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS.

Part A of title III of the Older Americans Act of 1965 (42 U.S.C. 3021–3030c) is amended by adding at the end the following:

"SEC. 314. RIGHTS RELATING TO IN-HOME SERVICES FOR FRAIL OLDER INDIVIDUALS. 42 USC 3030c-1.

"(a) PROMOTION.—The Commissioner shall require entities that provide in-home services under this title to promote the rights of each older individual who receives such services. Such rights include the following:

"(1) The right—

"(A) to be fully informed in advance about each in-home service provided by such entity under this title and about any change in such service that may affect the well-being of such individual; and

"(B) to participate in planning and changing an in-home service provided under this title by such entity unless such individual is judicially adjudged incompetent.

"(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

"(3) The right to confidentiality of records relating to such individual.

"(4) The right to have the property of such individual treated with respect.

"(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this title, of such individual's rights and obligations under this title.".

SEC. 312. SUPPORTIVE SERVICES.

Section 321(a) of the Older Americans Act of 1965 (42 U.S.C. 3030d(a)) is amended—

(1) in paragraph (3) by inserting "(including information and assistance services)" after "and services";

(2) in paragraph (3) by inserting before the semicolon at the end the following: ", including language translation services to assist older individuals with limited-English speaking ability to obtain services under this title";

(3) in paragraph (4)—

(A) by striking "or (C)" and inserting "(C)"; and

(B) by inserting "; or (D) to receive applications from older individuals for housing under section 202 of the Housing Act of 1959 (12 U.S.C. 1701Q)" before the semicolon at the end;

(4) by amending paragraph (6) to read as follows:

"(6) services designed to provide to older individuals legal assistance and other counseling services and assistance, including—

"(A) tax counseling and assistance, financial counseling, and counseling regarding appropriate health and life insurance coverage;

"(B) representation—

"(i) of individuals who are wards (or are allegedly incapacitated); and

"(ii) in guardianship proceedings of older individuals who seek to become guardians, if other adequate representation is unavailable in the proceedings; and

"(C) provision, to older individuals who provide uncompensated care to their adult children with disabilities, of counseling to assist such older individuals with permanency planning for such children;";

(5) in paragraph (7) by striking "physical activity and exercise" and inserting "physical activity, exercise, music therapy, art therapy, and dance-movement therapy";

(6) in paragraph (9) by striking "preretirement" and all that follows and inserting ", for older individuals, preretirement counseling and assistance in planning for and assessing future post-retirement needs with regard to public and private insurance, public benefits, lifestyle changes, relocation, legal matters, leisure time, and other appropriate matters;";

(7) in paragraph (11) by inserting before the semicolon the following: ", and of older individuals who provide uncompensated care to their adult children with disabilities";

(8) in paragraph (12) by inserting "and second career" after "including job";

(9) in paragraph (17) by inserting ", including information concerning prevention, diagnosis, treatment, and rehabilitation of age-related diseases and chronic disabling conditions" before the semicolon at the end;

(10) in paragraph (18) by striking "or" at the end;

(11) by redesignating paragraph (19) as paragraph (22); and

(12) by inserting after paragraph (18) the following:

"(19) services designed to support family members and other persons providing voluntary care to older individuals that need long-term care services;

"(20) services designed to provide information and training for individuals who are or may become guardians or representative payees of older individuals, including information on the powers and duties of guardians and representative payees and on alternatives to guardianships;

"(21) services to encourage and facilitate regular interaction between school-age children and older individuals, including visits in long-term care facilities, multipurpose senior centers, and other settings; or".

SEC. 313. CONGREGATE NUTRITION SERVICES.

Section 331(1) of the Older Americans Act of 1965 (42 U.S.C. 3030e(1)) is amended—

(1) by inserting "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by regulation) and a lesser frequency is approved by the State agency)" after "week"; and

(2) by striking ", each of which" and all that follows through "Research Council".

SEC. 314. HOME DELIVERED NUTRITION SERVICES.

Section 336 of the Older Americans Act of 1965 (42 U.S.C. 3030f) is amended—

(1) by inserting "(except in a rural area where such frequency is not feasible (as defined by the Commissioner by

regulation) and a lesser frequency is approved by the State agency)" after "week"; and

(2) by striking ", each of which" and all that follows through "Research Council".

SEC. 315. CRITERIA.

Section 337 of the Older Americans Act of 1965 (42 U.S.C. 3030g) is amended by inserting "the Dietary Managers Association," after "Dietetic Association,".

SEC. 316. SCHOOL-BASED MEALS FOR VOLUNTEER OLDER INDIVIDUALS AND MULTIGENERATIONAL PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.) is amended by adding at the end the following:

"Subpart 3—School-Based Meals for Volunteer Older Individuals and Multigenerational Programs

"SEC. 338. ESTABLISHMENT.

42 USC 3030g-11.

"(a) IN GENERAL.—The Commissioner shall establish and carry out, under State plans approved under section 307, a program for making grants to States to pay for the Federal share of establishing and operating projects in public elementary and secondary schools (including elementary and secondary schools for Indian children operated with Federal assistance, or operated by the Department of the Interior, and referred to in section 1005(d)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2711(d)(2)) that—

"(1) provide hot meals, each of which ensures a minimum of one-third of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, to volunteer older individuals—

"(A) while such schools are in session;

"(B) during the summer; and

"(C) unless waived by the State involved, on the weekdays in the school year when such schools are not in session;

"(2) provide multigenerational activities in which volunteer older individuals and students interact;

"(3) provide social and recreational activities for volunteer older individuals;

"(4) develop skill banks that maintain and make available to school officials information on the skills and preferred activities of volunteer older individuals, for purposes of providing opportunities for such individuals to serve as tutors, teacher aides, living historians, special speakers, playground supervisors, lunchroom assistants, and in other roles; and

"(5) provide opportunities for volunteer older individuals to participate in school activities (such as classes, dramatic programs, and assemblies) and use school facilities.

"(b) FEDERAL SHARE.—The Federal share of the cost of establishing and operating nutrition and multigenerational activities projects under this subpart shall be 85 percent.

42 USC 3030g-12.

"SEC. 338A. APPLICATION AND SELECTION OF PROVIDERS.

"(a) CONTENTS OF APPLICATION.—To be eligible to carry out a project under the program established under this subpart, an entity shall submit an application to a State agency. Such application shall include—

"(1) a plan describing the project proposed by the applicant and comments on such plan from the appropriate area agency on aging and the appropriate local educational agency (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) an assurance that the entity shall pay not more than 85 percent of the cost of carrying out such project from funds awarded under this subpart;

"(3) an assurance that the entity shall pay not less than 15 percent of such cost, in cash or in kind, from non-Federal sources;

"(4) information demonstrating the need for such project, including a description of—

"(A) the nutrition services and other services currently provided under this part in the geographic area to be served by such project; and

"(B) the manner in which the project will be coordinated with such services; and

"(5) such other information and assurances as the Commissioner may require by regulation.

"(b) SELECTION AMONG APPLICANTS.—In selecting grant recipients from among entities that submit applications under subsection (a) for a fiscal year, the State agency shall—

"(1) give first priority to entities that carried out a project under this subpart in the preceding fiscal year;

"(2) give second priority to entities that carried out a nutrition project under subpart 1 or title VI in the preceding fiscal year; and

"(3) give third priority to entities whose applications include a plan that involves a school with greatest need (as measured by the dropout rate, the level of substance abuse, and the number of children who have limited-English proficiency or who participate in projects under section 1015 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2025)).

42 USC 3030g-13.

"SEC. 338B. REPORTS.

"(a) REPORTS BY STATES.—Not later than 60 days after the end of a fiscal year for which a State receives a grant under this subpart, such State shall submit to the Commissioner a report evaluating the projects carried out under this subpart by such State in such fiscal year. Such report shall include for each project—

"(1) a description of—

"(A) persons served;

"(B) multigenerational activities carried out; and

"(C) additional needs of volunteer older individuals and students; and

"(2) recommendations for any appropriate modifications to satisfy the needs described in paragraph (1)(C).

"(b) REPORTS BY COMMISSIONER.—Not later than 120 days after the end of a fiscal year for which funds are appropriated to carry out this subpart, the Commissioner shall submit to the Speaker

of the House of Representatives and the President pro tempore of the Senate a report summarizing, with respect to each State, the reports submitted under subsection (a) for such fiscal year.".

(b) LIMITATION ON ADMINISTRATIVE COSTS.—Section 303(c) of the Older Americans Act of 1965 (42 U.S.C. 3023(c)) is amended—

(1) by striking "parts B and C" and inserting "part B, and subparts 1 and 2 of part C,"; and

(2) in paragraph (2) by inserting "under subparts 1 and 2 of part C" after "nutrition services".

SEC. 317. DIETARY GUIDELINES; PAYMENT REQUIREMENT.

Part C of title III of the Older Americans Act of 1965 (42 U.S.C. 3030e et seq.), as amended by section 316, is amended by adding at the end the following:

"Subpart 4—General Provisions

"SEC. 339. COMPLIANCE WITH DIETARY GUIDELINES.

42 USC 3030g-21.

"A State that establishes and operates a nutrition project under this part shall ensure that the meals provided through the project—

"(1) comply with the Dietary Guidelines for Americans, published by the Secretary and the Secretary of Agriculture; and

"(2) provide to each participating older individual—

"(A) a minimum of 33⅓ percent of the daily recommended dietary allowances as established by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences, if the project provides 1 meal per day;

"(B) a minimum of 66⅔ percent of the allowances if the project provides 2 meals per day; and

"(C) 100 percent of the allowances if the project provides 3 meals per day.".

"SEC. 339A. PAYMENT REQUIREMENT.

42 USC 3030g-22.

"Payments made by a State agency or an area agency on aging for nutrition services (including meals) provided under part A, B, or C may not be reduced to reflect any increase in the level of assistance provided under section 311.".

SEC. 318. IN-HOME SERVICES.

Section 342 of the Older Americans Act of 1965 (42 U.S.C. 3030i), as amended by section 102(b)(7) of this Act, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(6) personal care services; and

"(7) other in-home services as defined—

"(A) by the State agency in the State plan submitted in accordance with section 307; and

"(B) by the area agency on aging in the area plan submitted in accordance with section 306.".

SEC. 319. PREVENTIVE HEALTH SERVICES.

(a) PROGRAM AUTHORIZED.—Section 361 of the Older Americans Act of 1965 (42 U.S.C. 3030m) is amended—

(1) by amending subsection (a) to read as follows:

Grants.
Health and health care.

"(a) The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to provide disease prevention and health promotion services and information at multipurpose senior centers, at congregate meal sites, through home delivered meals programs, or at other appropriate sites. In carrying out such program, the Commissioner shall consult with the Directors of the Centers for Disease Control and the National Institute on Aging.";

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(b) DEFINITION.—Section 363 of the Older Americans Act of 1965 (42 U.S.C. 3030o) is amended to read as follows:

"SEC. 363. DEFINITION.

"As used in this part, the term 'disease prevention and health promotion services' means—

"(1) health risk assessments;

"(2) routine health screening, which may include hypertension, glaucoma, cholesterol, cancer, vision, hearing, diabetes, and nutrition screening;

"(3) nutritional counseling and educational services for individuals and their primary caregivers;

"(4) health promotion programs, including programs relating to chronic disabling conditions (including osteoporosis and cardiovascular disease) prevention and reduction of effects, alcohol and substance abuse reduction, smoking cessation, weight loss and control, and stress management;

"(5) programs regarding physical fitness, group exercise, and music, art, and dance-movement therapy, including programs for multigenerational participation that are provided by—

"(A) an institution of higher education;

"(B) a local educational agency, as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891); or

"(C) a community-based organization;

"(6) home injury control services, including screening of high-risk home environments and provision of educational programs on injury prevention (including fall and fracture prevention) in the home environment;

"(7) screening for the prevention of depression, coordination of community mental health services, provision of educational activities, and referral to psychiatric and psychological services;

"(8) educational programs on the availability, benefits, and appropriate use of preventive health services covered under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(9) medication management screening and education to prevent incorrect medication and adverse drug reactions;

"(10) information concerning diagnosis, prevention, treatment, and rehabilitation of age-related diseases and chronic disabling conditions, including osteoporosis, cardiovascular diseases, and Alzheimer's disease and related disorders with neurological and organic brain dysfunction;

"(11) gerontological counseling; and

"(12) counseling regarding social services and followup health services based on any of the services described in paragraphs (1) through (11).

The term shall not include services for which payment may be made under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).".

(c) CONFORMING AMENDMENT.—Part F of title III of the Older Americans Act of 1965 (42 U.S.C. 3030m et seq.) is amended in the part heading by striking "PREVENTIVE HEALTH SERVICES" and inserting "DISEASE PREVENTION AND HEALTH PROMOTION SERVICES".

SEC. 320. SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS.

Part G of title III of the Older Americans Act of 1965 (42 U.S.C. 3021–3030p) is amended to read as follows:

"PART G—SUPPORTIVE ACTIVITIES FOR CARETAKERS WHO PROVIDE IN-HOME SERVICES TO FRAIL OLDER INDIVIDUALS

"SEC. 381. PROGRAM AUTHORIZED. 42 USC 3030p.

Grants. Health and health care.

"The Commissioner shall carry out a program for making grants to States under State plans approved under section 307 to carry out a program to provide supportive activities for caretakers who provide in-home services to frail older individuals (including older individuals who are victims of Alzheimer's disease or related disorders with neurological and organic brain dysfunction). Such supportive activities may include—

"(1) providing training and counseling for such caretakers;

"(2) technical assistance to such caretakers to assist them to form or to participate in support groups;

"(3) providing information—

"(A) to frail older individuals and their families regarding how to obtain in-home services and respite services; and

"(B) to caretakers who provide such services, regarding—

"(i) how to provide such services; and

"(ii) sources of nonfinancial support available to them as a result of their providing such services; and

"(4) maintaining lists of individuals who provide respite services for the families of frail older individuals.

"SEC. 382. DEFINITIONS. 42 USC 3030q.

"For purposes of this part, the term 'in-home services' has the meaning given such term in section 342.

"SEC. 383. MAINTENANCE OF EFFORT. 42 USC 3030r.

"Section 344 shall apply with respect to funds made available under this part, in the same manner as such section applies to funds made available under part D.".

TITLE IV—TRAINING, RESEARCH, AND DISCRETIONARY PROJECTS AND PROGRAMS

SEC. 401. STATEMENT OF PURPOSE.

Section 401 of the Older Americans Act of 1965 (42 U.S.C. 3030aa) is amended in the matter preceding paragraph (1) by

inserting "and publicly disseminate the results of the tests, to replicate such programs and services under this Act," after "individuals,".

SEC. 402. PRIORITIES FOR GRANTS AND DISCRETIONARY PROJECTS.

Section 402 of the Older Americans Act of 1965 (42 U.S.C. 3030bb) is amended by adding at the end the following:

Contracts.

"(d) The Commissioner shall, in developing priorities, consistent with the requirements of this title, for awarding grants and entering into contracts under this title, consult annually with State agencies, area agencies on aging, recipients of grants under title VI, institutions of higher education, organizations representing beneficiaries of services under this Act, and other organizations, and individuals, with expertise in aging issues.

"(e) The Commissioner shall ensure that grants and contracts awarded under this title—

"(1) are evaluated for their benefit to older individuals, and to programs under this Act; and

"(2) comply with the requirements under this Act.".

SEC. 403. PURPOSES OF EDUCATION AND TRAINING PROJECTS.

Section 410(3) of the Older Americans Act of 1965 (42 U.S.C. 3030jj(3)) is amended by inserting ", with particular emphasis on attracting minority individuals," after "qualified personnel".

SEC. 404. GRANTS AND CONTRACTS.

(a) IN GENERAL.—Section 411(a) of the Older Americans Act of 1965 (42 U.S.C. 3031(a)) is amended—

(1) in paragraph (1) by inserting "gerontology," after "(including mental health) care,";

(2) in paragraph (2)—

(A) by inserting "and counseling" after "nutrition"; and

(B) by inserting ", with special emphasis on using culturally sensitive practices" before the period; and

(3) by adding at the end the following:

"(5) To provide annually a national meeting to train directors of programs under title VI.".

(b) TRAINING OF SERVICE PROVIDERS.—Section 411 of the Older Americans Act of 1965 (42 U.S.C. 3031) is amended by adding at the end the following:

"(e) From amounts appropriated under 431(b), the Commissioner shall make grants and enter into contracts under this part to establish and carry out a program under which service providers (including family physicians, clergy, and other professionals) will receive training—

"(1) comprised of—

"(A) intensive training regarding normal aging, recognition of problems of older individuals, and communication with providers of mental health services; and

"(B) advanced clinical training regarding means of assessing and treating the problems of older individuals;

"(2) provided by—

"(A) faculty and graduate students in programs of human development and family studies at an institution of higher education;

"(B) mental health professionals; and

"(C) nationally recognized consultants with expertise regarding the mental health problems of individuals residing in rural areas; and

"(3) held in public hospitals throughout each State in which the program is carried out.".

SEC. 405. MULTIDISCIPLINARY CENTERS OF GERONTOLOGY.

Section 412(a) of the Older Americans Act of 1965 (42 U.S.C. 3032(a)) is amended—

(1) in the first sentence by inserting "counseling services," after "maintenance,"; and

(2) in paragraph (4) by inserting "social work, and psychology," after "education,".

SEC. 406. DEMONSTRATION PROJECTS.

Section 422 of the Older Americans Act of 1965 (42 U.S.C. 3035a) is amended—

(1) in subsection (a)(2) by striking "preventive health service programs" and inserting "disease prevention and health promotion programs (including coordinated multidisciplinary research projects on the aging process)";

(2) in subsection (b)—

(A) in paragraph (8) by striking "and" at the end;

(B) in paragraph (9) by striking "include" and all that follows and inserting the following: "include projects furnishing multigenerational services by older individuals addressing the needs of children, such as—

"(A) tutorial services in elementary and special schools;

"(B) after school programs for latchkey children; and

"(C) voluntary services for child care and youth day care programs;"; and

(C) by adding at the end the following:

"(10) meet the service needs of older individuals who provide uncompensated care to their adult children with disabilities, for supportive services relating to such care, including—

"(A) respite services; and

"(B) legal advice, information, and referral services to assist such older individuals with permanency planning for such children;

"(11) advance the understanding of the efficacy and benefits of providing music therapy, art therapy, or dance-movement therapy to older individuals through—

"(A) projects that—

"(i) study and demonstrate the provision of music therapy, art therapy, or dance-movement therapy to older individuals who are institutionalized or at risk of being institutionalized; and

"(ii) provide music therapy, art therapy, or dance-movement therapy—

"(I) in nursing homes, hospitals, rehabilitation centers, hospices, or senior centers;

"(II) through disease prevention and health promotion services programs established under part F of title III;

"(III) through in-home services programs established under part D of title III;

"(IV) through multigenerational activities described in section 307(a)(41)(B) or subpart 3 of part C of title III;

"(V) through supportive services described in section 321(a)(21); or

"(VI) through disease prevention and health promotion services described in section 363(5); and

"(B) education, training, and information dissemination projects, including—

"(i) projects for the provision of gerontological training to music therapists, and education and training of individuals in the aging network regarding the efficacy and benefits of music therapy for older individuals; and

"(ii) projects for disseminating to the aging network and to music therapists background materials on music therapy, best practice manuals, and other information on providing music therapy to older individuals; and

"(12)(A) establish, in accordance with subparagraph (B), nationwide, statewide, regional, metropolitan area, county, city, or community model volunteer service credit projects to demonstrate methods to improve or expand supportive services or nutrition services, or otherwise promote the wellbeing of older individuals;

"(B) for purposes of paying part or all of the cost of developing or operating the projects, in the fiscal year, make not fewer than three and not more than five grants to, or contracts with, public agencies or nonprofit private organizations in such State; and

"(C) ensure that the projects will be operated in consultation with the ACTION Agency and will permit older individuals who are volunteers to earn, for services furnished, credits that may be redeemed later for similar volunteer services."; and

(3) in subsection (d)(2)—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end the following:

Reports.

"(B) An agency or organization that receives a grant or enters into a contract to carry out a project described in subparagraph (A) or (B)(i) of subsection (b)(11) shall submit to the Commissioner a report containing—

"(i) the results, and findings based on the results, of such project; and

"(ii) the recommendations of the agency or organization, if the agency or organization provided music therapy, regarding means by which music therapy could be made available, in an efficient and effective manner, to older individuals who would benefit from the therapy.".

SEC. 407. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

(a) IN GENERAL.—Section 423 of the Older Americans Act of 1965 (42 U.S.C. 3035b) is amended to read as follows:

"SEC. 423. SPECIAL PROJECTS IN COMPREHENSIVE LONG-TERM CARE.

"(a) DEFINITIONS.—As used in this section:

"(1) PROJECT.—The term 'Project' means a Project to Improve the Delivery of Long-Term Care Services.

"(2) RESOURCE CENTER.—The term 'Resource Center' means a Resource Center for Long-Term Care.

"(b) RESOURCE CENTERS.—

"(1) GRANTS AND CONTRACTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the establishment or operation of not fewer than four and not more than seven Resource Centers in accordance with paragraph (2).

"(2) REQUIREMENTS.—

"(A) FUNCTIONS.—Each Resource Center that receives funds under this subsection shall, with respect to subjects within an area of specialty of the Resource Center—

"(i) perform research;

"(ii) provide for the dissemination of results of the research; and

"(iii) provide technical assistance and training to State agencies and area agencies on aging.

"(B) AREA OF SPECIALITY.—For purposes of subparagraph (A) the term 'area of speciality' means—

"(i) Alzheimer's disease and related dementias, and other cognitive impairments;

"(ii) client assessment and case management;

"(iii) data collection and analysis;

"(iv) home modification and supportive services to enable older individuals to remain in their homes;

"(v) consolidation and coordination of services;

"(vi) linkages between acute care, rehabilitative services, and long-term care, facilities and providers;

"(vii) decisionmaking and bioethics;

"(viii) supply, training, and quality of long-term care personnel, including those who provide rehabilitative services;

"(ix) rural issues, including barriers to access to services;

"(x) chronic mental illness;

"(xi) populations with greatest social need and populations with greatest economic need, with particular attention to low-income minorities; and

"(xii) an area of importance as determined by the Commissioner.

"(c) PROJECTS.—The Commissioner shall award grants to, or enter into contracts with, eligible entities to support the entities in establishing and carrying out not fewer than 10 Projects. Grants. Contracts.

"(d) USE OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an eligible entity may use funds received under a grant or contract—

"(A) described in subsection (b)(1) to pay for part or all of the cost (including startup cost) of establishing and operating a new Resource Center, or of operating a Resource Center in existence on the day before the date of the enactment of the Older Americans Act Amendments of 1992; or

"(B) described in subsection (c) to pay for part or all of the cost (including startup cost) of establishing and carrying out a Project.

"(2) REIMBURSABLE DIRECT SERVICES.—None of the funds may be used to pay for direct services that are eligible for reimbursement under title XVIII, XIX, or XX of the Social Security Act (42 U.S.C. 1395 et seq., 1396 et seq., or 1397 et seq.).

"(e) PREFERENCE.—In awarding grants, and entering into contracts, under this section, the Commissioner shall give preference to entities that demonstrate that—

"(1) adequate State standards have been developed to ensure the quality of services provided under the grant or contract; and

"(2) the entity has made a commitment to carry out programs under the grant or contract with each State agency responsible for the administration of title XIX or XX of the Social Security Act.

"(f) APPLICATION.—

"(1) IN GENERAL.—To be eligible to receive funds under a grant or contract described in subsection (b)(1) or (c), an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) PROJECT APPLICATION.—An entity seeking a grant or contract under subsection (c) shall submit an application to the Commissioner containing, at a minimum—

"(A) information identifying and describing gaps, weaknesses, or other problems in the delivery of long-term care services in the State or geographic area to be served by the entity, including—

"(i) duplication of functions in the delivery of such services, including duplication at the State and local level;

"(ii) fragmentation of systems, especially in coordinating services to populations of older individuals and other populations;

"(iii) barriers to access for populations with greatest social need and populations with greatest economic need, including minorities and residents of rural areas;

"(iv) lack of financing for such services;

"(v) lack of availability of adequately trained personnel to provide such services; and

"(vi) lack of a range of chronic care services (including rehabilitative strategies) that promote restoration, maintenance, or improvement of function in older individuals;

"(B) a plan to address the gaps, weaknesses, and problems described in clauses (i) through (v); and

"(C) information describing the extent to which the entity will coordinate with area agencies on aging and service providers in carrying out the proposed Project.

"(g) ELIGIBLE ENTITIES.—

"(1) RESOURCE CENTERS.—Entities eligible to receive grants, or enter into contracts, under subsection (b)(1) shall be—

"(A) institutions of higher education; and

"(B) other public agencies and nonprofit private organizations.

"(2) PROJECTS.—Entities eligible to receive grants, or enter into contracts, under subsection (c) include—

"(A) State agencies; and

"(B) in consultation with State agencies—

"(i) area agencies on aging;

"(ii) institutions of higher education; and

"(iii) other public agencies and nonprofit private organizations.

"(h) REPORT.—The Commissioner shall include in the annual report to the Congress required by section 207, a report on the grants awarded, and contracts entered into, under this section, including—

"(1) an analysis of the relative effectiveness, and recommendations for any changes, of the projects of Resource Centers funded under subsection (b)(1) in the fiscal year for which the Commissioner is preparing the annual report; and

"(2) an evaluation of the needs identified, the agencies utilized, and the effectiveness of the approaches used by projects funded under subsection (c).

"(i) AVAILABILITY OF FUNDS.—The Commissioner shall make available for carrying out subsection (b) for each fiscal year not less than the amount made available in fiscal year 1991 for making grants and entering into contracts to establish and operate Resource Centers under section 423 as in effect on the day before the date of the enactment of the Older Americans Act Amendments of 1992.".

(b) OBLIGATION.—Not later than 60 days after the date of enactment of this Act, the Commissioner shall obligate, from the funds appropriated under section 431(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3037(a)(1)) for fiscal year 1992—

(1) not less than the amount described in section 423(i) of such Act (42 U.S.C. 3035b(i)) for carrying out section 423(b)(1) of such Act; and

(2) such sums as may be necessary for carrying out section 423(c) of such Act.

SEC. 408. OMBUDSMAN AND ADVOCACY DEMONSTRATION PROJECTS.

Section 427(a) of the Older Americans Act of 1965 (42 U.S.C. 3035f(a)) is amended by inserting ", legal assistance agencies," after "ombudsman program".

SEC. 409. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES. 42 USC 3035h.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) is amended by adding at the end the following:

"SEC. 429. DEMONSTRATION PROJECTS FOR MULTIGENERATIONAL ACTIVITIES.

"(a) GRANTS AND CONTRACTS.—The Commissioner may award grants and enter into contracts with eligible organizations to establish demonstration projects that provide older individuals with multigenerational activities.

"(b) USE OF FUNDS.—An eligible organization shall use funds made available under a grant awarded, or a contract entered into, under subsection (a)—

"(1) to carry out a demonstration project that provides multigenerational activities, including any professional training appropriate to such activities for older individuals; and

"(2) to evaluate the project in accordance with subsection (f).

"(c) AWARDS.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to—

"(1) eligible organizations with a demonstrated record of carrying out multigenerational activities; and

"(2) eligible organizations proposing projects that will serve older individuals with greatest economic need (with particular attention to low-income minority individuals).

"(d) APPLICATION.—To be eligible to receive a grant or enter into a contract under subsection (a), an organization shall submit an application to the Commissioner at such time, in such manner, and accompanied by such information as the Commissioner may reasonably require.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant or enter into a contract under subsection (a) shall be organizations that employ, or provide opportunities for, older individuals in multigenerational activities.

"(f) LOCAL EVALUATION AND REPORT.—

"(1) EVALUATION.—Each organization receiving a grant or a contract under subsection (a) to carry out a demonstration project shall evaluate the activities assisted under the project to determine the effectiveness of multigenerational activities, the impact of such activities on child care and youth day care programs, and the impact on older individuals involved in such project.

"(2) REPORT.—The organization shall submit a report to the Commissioner containing the evaluation not later than 6 months after the expiration of the period for which the grant or contract is in effect.

"(g) REPORT TO CONGRESS.—Not later than 6 months after the Commissioner receives the reports described in subsection (f)(2), the Commissioner shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that assesses the evaluations and includes, at a minimum—

"(1) the names or descriptive titles of the demonstration projects funded under subsection (a);

"(2) a description of the nature and operation of the projects;

"(3) the name and address of the individual or governmental entity that conducted the projects;

"(4) a description of the methods and success of the projects in recruiting older individuals as employees and volunteers to participate in the project;

"(5) a description of the success of the projects retaining older individuals involved in the projects as employees and as volunteers; and

"(6) the rate of turnover of older individual employees and volunteers in the projects.

"(h) DEFINITION.—As used in this section, the term 'multigenerational activity' includes an opportunity to serve as a mentor or adviser in a child care program, a youth day care program, an educational assistance program, an at-risk youth interven-

tion program, a juvenile delinquency treatment program, or a family support program.".

SEC. 410. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by section 409) is amended by adding at the end the following:

"SEC. 429A. SUPPORTIVE SERVICES IN FEDERALLY ASSISTED HOUSING DEMONSTRATION PROGRAM. 42 USC 3035i.

"(a) GRANTS.—The Commissioner shall award grants to eligible agencies to establish demonstration programs to provide services described in subsection (b) to older individuals who are residents in federally assisted housing (referred to in this section as 'residents').

"(b) USE OF GRANTS.—An eligible agency shall use a grant awarded under subsection (a) to conduct outreach and to provide to residents services including—

"(1) meal services;

"(2) transportation;

"(3) personal care, dressing, bathing, and toileting;

"(4) housekeeping and chore assistance;

"(5) nonmedical counseling;

"(6) case management;

"(7) other services to prevent premature and unnecessary institutionalization; and

"(8) other services provided under this Act.

"(c) AWARD OF GRANTS.—The Commissioner shall award grants under subsection (a) to agencies in a variety of geographic settings, including urban and rural settings.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(1) information demonstrating a lack of, and need for, services described in subsection (b) in federally assisted housing projects in the geographic area proposed to be served by the applicant;

"(2) a comprehensive plan to coordinate with housing facility management to provide services to frail older individuals who are in danger of premature or unnecessary institutionalization;

"(3) information demonstrating initiative on the part of the agency to address the supportive service needs of residents;

"(4) information demonstrating financial, in-kind, or other support available to the applicant from State or local governments, or from private resources;

"(5) an assurance that the agency will participate in the development of the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) and seek funding for supportive services under the Department of Housing and Urban Development or the Farmers Home Administration;

"(6) an assurance that the agency will target services to low-income minority older individuals and conduct outreach;

"(7) an assurance that the agency will comply with the guidelines described in subsection (f); and

"(8) a plan to evaluate the eligibility of older individuals for services under the federally assisted housing demonstration program, which plan shall include a professional assessment committee to identify such individuals.

"(e) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall be State agencies and area agencies on aging.

"(f) GUIDELINES.—The Commissioner shall issue guidelines for use by agencies that receive grants under this section—

"(1) regarding the level of frailty that older individuals shall meet to be eligible for services under a demonstration program established under this section; and

"(2) for accepting voluntary contributions from residents who receive services under such a program.

"(g) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency that receives a grant under subsection (a) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards grants under subsection (a)—

"(A) evaluate the effectiveness of each demonstration program that receives a grant under subsection (a); and

"(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 411. NEIGHBORHOOD SENIOR CARE PROGRAM.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

42 USC 3035j.

"SEC. 429B. NEIGHBORHOOD SENIOR CARE PROGRAM.

"(a) DEFINITIONS.—As used in this section:

"(1) HEALTH AND SOCIAL SERVICES.—The term 'health and social services' includes skilled nursing care, personal care, social work services, homemaker services, health and nutrition education, health screening, home health aid services, and specialized therapies.

"(2) VOLUNTEER SERVICES.—The term 'volunteer services' includes peer counseling, chore services, help with mail and taxes, transportation, socialization, health and social services, and other similar services.

"(b) SERVICE GRANTS.—

"(1) IN GENERAL.—The Commissioner may award grants to eligible entities to establish neighborhood senior care programs, in order to encourage professionals to provide volunteer services to local residents who are older individuals and who might otherwise have to be admitted to nursing homes and to hospitals.

"(2) PREFERENCE.—In awarding grants under this section, the Commissioner shall give preference to applicants experienced in operating community programs and programs meeting the independent living needs of older individuals.

"(3) ADVISORY BOARD.—The Commissioner shall establish an advisory board to provide guidance to grant recipients regarding the neighborhood senior care programs. Not fewer than two-thirds of the members of the advisory board shall be residents in communities served by the grant recipients. Establishment.

"(4) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may reasonably require. Each application shall—

"(A) describe the activities in the program for which assistance is sought;

"(B) describe the neighborhood in which volunteer services are to be provided under the program, and a plan for integration of volunteer services within the neighborhood;

"(C)(i) provide assurances that nurses, social workers, and community volunteers providing volunteer services and an outreach coordinator involved with the project live in the neighborhood; or

"(ii)(I) reasons that it is not possible to provide such assurances; and

"(II) assurances that nurses, social workers, community volunteers and the outreach coordinator will be assigned repeatedly to the particular neighborhood; and

"(D) provide for an evaluation of the activities for which assistance is sought.

"(c) TECHNICAL RESOURCE CENTER.—The Commissioner shall, to the extent appropriations are available, enter into a contract with an applicant described in subsection (b)(2) to establish a technical resource center that will— Contracts.

"(1) assist the Commissioner in developing criteria for, and in awarding grants to communities to establish, neighborhood senior care organizations that will implement neighborhood senior care programs under subsection (b);

"(2) assist communities interested in establishing such a neighborhood senior care program;

"(3) coordinate the neighborhood senior care programs;

"(4) provide ongoing analysis of and collection of data on the neighborhood senior care programs and provide such data to the Commissioner;

"(5) serve as a liaison to State agencies interested in establishing neighborhood senior care programs; and

"(6) take any further actions as required by regulation by the Commissioner.".

SEC. 412. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429C. INFORMATION AND ASSISTANCE SYSTEMS DEVELOPMENT PROJECTS. 42 USC 3035k.

"(a) GRANTS.—The Commissioner may—

"(1) make grants to State agencies, and, in consultation with State agencies, to area agencies on aging to support the

improvement of information and assistance services, and systems of services, operated at the State and local levels; and

"(2) make grants to organizations to provide training and technical assistance to State agencies, area agencies on aging, and providers of supportive services—

"(A) to support a national telephone access service to inform older individuals, families, and caregivers about State and local information and assistance services funded under this Act; and

"(B) to support the improvement of information and assistance services, and systems of services, operated at the State and local levels.

"(b) APPLICATION.—To be eligible to receive a grant under subsection (a) an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may specify.

"(c) GUIDELINES.—The Commissioner shall establish guidelines for the operation of the national telephone access service described in subsection (a)(2)(A).

"(d) EVALUATION AND REPORT.—

"(1) EVALUATION.—The Commissioner shall conduct an evaluation of the effectiveness of the national telephone service described in subsection (a)(2)(A) in providing information and assistance services to older individuals, families, and caregivers about State and local information and assistance services.

"(2) REPORT.—Not later than January 1, 1995, the Commissioner shall submit the evaluation described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 413. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

42 USC 3035*l*.

"SEC. 429D. SENIOR TRANSPORTATION DEMONSTRATION PROGRAM GRANTS.

"(a) ESTABLISHMENT.—The Commissioner shall establish and carry out senior transportation demonstration programs. In carrying out the programs, the Commissioner shall award grants to not fewer than five eligible entities for the purpose of improving the mobility of older individuals and transportation services for older individuals (referred to in this section as 'senior transportation services').

"(b) USE OF FUNDS.—Grants made under subsection (a) may be used to—

"(1) develop innovative approaches for improving access by older individuals to supportive services under part B of title III, nutrition services under part C of title III, health care, and other important services;

"(2) develop comprehensive and integrated senior transportation services; and

"(3) leverage additional resources for senior transportation services by—

"(A) coordinating various transportation services; and

"(B) coordinating various funding sources for transportation services, including—

"(i) sources of assistance under—

"(I) sections 9, 16(b)(2), and 18 of the Urban Mass Transportation Act of 1964 (49 U.S.C. App.); and

"(II) titles XIX and XX of the Social Security Act (42 U.S.C. 1396 et seq. and 1397 et seq.); and

"(ii) State and local sources.

"(c) AWARD OF GRANTS.—

"(1) PREFERENCE.—In awarding grants under subsection (a), the Commissioner shall give preference to entities that—

"(A) demonstrate special needs for enhancing senior transportation services and resources for the services within the geographic area served by the entities;

"(B) establish plans to ensure that senior transportation services are coordinated with general public transportation services and other specialized transportation services;

"(C) demonstrate the ability to utilize the broadest range of available transportation and community resources to provide senior transportation services;

"(D) demonstrate the capacity and willingness to coordinate senior transportation services with services provided under title III and with general public transportation services and other specialized transportation services; and

"(E) establish plans for senior transportation demonstration programs designed to serve the special needs of low-income, rural, frail, and other at-risk, transit-dependent older individuals.

"(2) RURAL ENTITIES.—The Commissioner shall award not less than 50 percent of the grants authorized under this section to entities located in, or primarily serving, rural areas.

"(d) APPLICATION.—An entity that seeks a grant under this section shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including at a minimum—

"(1) information describing senior transportation services for which the entity seeks assistance;

"(2) a comprehensive strategy for developing a coordinated transportation system or leveraging additional funding resources, to provide senior transportation services;

"(3) information describing the extent to which the applicant intends to coordinate the services of the applicant with the services of other transportation providers;

"(4) a plan for evaluating the effectiveness of the proposed senior transportation demonstration program and preparing a report containing the evaluation to be submitted to the Commissioner; and

"(5) such other information as may be required by the Commissioner.

"(e) ELIGIBLE ENTITIES.—Entities eligible to receive grants under this section shall be—

"(1) State agencies;

"(2) area agencies on aging; and

"(3) other public agencies and nonprofit organizations.

"(f) REPORT.—

"(1) PREPARATION.—The Commissioner shall prepare, either directly or through grants or contracts, annual reports on the senior transportation demonstration programs established under this section. The reports shall contain an assessment of the effectiveness of each demonstration project and recommendations regarding legislative, administrative, and other initiatives needed to improve the access to and effectiveness of transportation services for older individuals.

"(2) SUBMISSION.—The Commissioner shall submit the report described in paragraph (1) to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 414. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

Grants.
Contracts.
42 USC 3035m.

"SEC. 429E. RESOURCE CENTERS ON NATIVE AMERICAN ELDERS.

"(a) ESTABLISHMENT.—The Commissioner shall make grants or enter into contracts with not fewer than two and not more than four eligible entities to establish and operate Resource Centers on Native American Elders (referred to in this section as 'Resource Centers'). The Commissioner shall make such grants or enter into such contracts for periods of not less than 3 years.

"(b) FUNCTIONS.—

"(1) IN GENERAL.—Each Resource Center that receives funds under this section shall—

"(A) gather information;

"(B) perform research;

"(C) provide for the dissemination of results of the research; and

"(D) provide technical assistance and training to entities that provide services to Native Americans who are older individuals.

"(2) AREAS OF CONCERN.—In conducting the functions described in paragraph (1), a Resource Center shall focus on priority areas of concern for the Resource Centers regarding Native Americans who are older individuals, which areas shall be—

"(A) health problems;

"(B) long-term care, including in-home care;

"(C) elder abuse; and

"(D) other problems and issues that the Commissioner determines are of particular importance to Native Americans who are older individuals.

"(c) PREFERENCE.—In awarding grants and entering into contracts under subsection (a), the Commissioner shall give preference to institutions of higher education that have conducted research on, and assessment of, the characteristics and needs of Native Americans who are older individuals.

"(d) CONSULTATION.—In determining the type of information to be sought from, and activities to be performed by, Resource Centers, the Commissioner shall consult with the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging and with national organizations with special expertise in serving Native Americans who are older individuals.

"(e) ELIGIBLE ENTITIES.—Entities eligible to receive a grant or enter into a contract under subsection (a) shall be institutions of higher education with experience conducting research and assessment on the needs of older individuals.

"(f) REPORT TO CONGRESS.—The Commissioner, with assistance from each Resource Center, shall prepare and submit to the Speaker of the House of Representatives and the President pro tempore of the Senate an annual report on the status and needs including the priority areas of concern of Native Americans who are older individuals.".

SEC. 415. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429F. DEMONSTRATION PROGRAMS FOR OLDER INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.

Grants.
42 USC 3035n.

"(a) DEFINITION.—As used in this section:

"(1) DEVELOPMENTAL DISABILITY.—The term 'developmental disability' has the meaning given the term in section 102(5) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

"(2) IN-HOME SERVICE.—The term 'in-home service' has the meaning given the term in section 342.

"(b) ESTABLISHMENT.—The Commissioner shall make grants to State agencies to provide services in accordance with subsection (c).

"(c) USE OF FUNDS.—A State agency may use a grant awarded under subsection (b) to provide services for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children, including—

"(1) child care and youth day care programs;

"(2) programs to integrate the individuals into existing programs for older individuals;

"(3) respite care;

"(4) transportation to multipurpose senior centers and other facilities and services;

"(5) supervision;

"(6) renovation of multipurpose senior centers;

"(7) provision of materials to facilitate activities for older individuals with developmental disabilities, and for older individuals with caretaker responsibilities for developmentally disabled children;

"(8) training of State agency, area agency on aging, volunteer, and multipurpose senior center staff, and other service providers, who work with such individuals; and

"(9) in-home services.

"(d) APPLICATION.—To be eligible to receive a grant under this section, a State agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.".

SEC. 416. HOUSING DEMONSTRATION PROGRAMS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

42 USC 3035o.

"SEC. 429G. HOUSING DEMONSTRATION PROGRAMS.

"(a) HOUSING OMBUDSMAN DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall award grants to eligible agencies to establish housing ombudsman programs.

"(2) USE OF GRANTS.—An eligible agency shall use a grant awarded under paragraph (1) to—

"(A) provide the services described in subparagraph (B) through—

"(i) professional and volunteer staff to older individuals who are—

"(I) participating in federally assisted and other publicly assisted housing programs; or

"(II) seeking Federal, State, and local housing programs; and

"(ii)(I) the State Long-Term Care Ombudsman program under section 307(a)(12) or section 712;

"(II) a legal services or assistance organization or through an organization that provides both legal and other social services;

"(III) a public or not-for-profit social services agency; or

"(IV) an agency or organization concerned with housing issues but not responsible for publicly assisted housing.

"(B) establish a housing ombudsman program that provides information, advice, and advocacy services including—

"(i) direct assistance, or referral to services, to resolve complaints or problems;

"(ii) provision of information regarding available housing programs, eligibility, requirements, and application processes;

"(iii) counseling or assistance with financial, social, familial, or other related matters that may affect or be influenced by housing problems;

"(iv) advocacy related to promoting—

"(I) the rights of the older individuals who are residents in publicly assisted housing programs; and

"(II) the quality and suitability of housing in the programs; and

"(v) assistance with problems related to housing regarding—

"(I) threats of eviction or eviction notices;

"(II) older buildings;

"(III) functional impairments as the impairments relate to housing;

"(IV) unlawful discrimination;

"(V) regulations of the Department of Housing and Urban Development and the Farmers Home Administration;

"(VI) disability issues;

"(VII) intimidation, harassment, or arbitrary management rules;

"(VIII) grievance procedures;

"(IX) certification and recertification related to programs of the Department of Housing and

Urban Development and the Farmers Home Administration; and

"(X) issues related to transfer from one project or program to another; and

"(3) AWARD OF GRANTS.—The Commissioner shall award grants under paragraph (1) to agencies in rural, urban, and other settings.

"(4) APPLICATION.—To be eligible to receive a grant under paragraph (1), an agency shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including, at a minimum—

"(A) an assurance that the agency will conduct training of professional and volunteer staff who will provide services through the housing ombudsman demonstration program;

"(B) in the case of an application submitted by an area agency on aging, an endorsement of the program by the State agency serving the State in which the program will be established, and an assurance by the State agency that the agency will work with the area agency in carrying out the program; and

"(C) a plan to involve in the demonstration program the Secretary of the Department of Housing and Urban Development, the Administrator of the Farmers Home Administration, any individual or entity described in paragraph (2)(A) through which the agency intends to provide the services, and other agencies involved in publicly assisted housing programs.

"(5) ELIGIBLE AGENCIES.—Agencies eligible to receive grants under this section shall include—

"(A) State agencies;

"(B) area agencies on aging; and

"(C) other nonprofit entities, including providers of services under the State Long-Term Care Ombudsman program and the elder rights and legal assistance development program described in chapters 2 and 4, respectively, of subtitle A of title VII.

"(b) FORECLOSURE AND EVICTION ASSISTANCE AND RELIEF SERVICES DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall make grants to States to carry out demonstration programs to develop methods or implement laws—

"(A) to prevent or delay the foreclosure on housing owned and occupied by older individuals or the eviction of older individuals from housing the individuals rent;

"(B) to obtain alternative housing as a result of such foreclosure or eviction; and

"(C) to assist older individuals to understand the rights and obligations of the individuals under laws relating to housing ownership and occupancy.

"(2) NOTIFICATION PROCESS.—A State that receives a grant under paragraph (1) shall establish methods, including a notification process—

"(A) to assist older individuals who are incapable of, or have difficulty in, understanding the circumstances and consequences of foreclosure on or eviction from housing the individuals occupy; and

"(B) to coordinate the program for which such grant is received with the activities of tenant organizations, tenant-landlord mediation organizations, public housing entities, and area agencies on aging, to provide more effectively assistance or referral to services to relocate or prevent eviction of older individuals from housing the individuals occupy.

"(c) EVALUATIONS AND REPORTS.—

"(1) AGENCIES.—Each agency or State that receives a grant under subsection (a) or (b) to establish a demonstration program shall, not later than 3 months after the end of the period for which the grant is awarded—

"(A) evaluate the effectiveness of the program; and

"(B) submit a report containing the evaluation to the Commissioner.

"(2) COMMISSIONER.—The Commissioner shall, not later than 6 months after the end of the period for which the Commissioner awards a grant under subsection (a) or (b)—

"(A) evaluate the effectiveness of each demonstration program that receives the grant; and

"(B) submit a report containing the evaluation to the Speaker of the House of Representatives and the President pro tempore of the Senate.".

SEC. 417. PRIVATE RESOURCE ENHANCEMENT PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

42 USC 3035p.

"SEC. 429H. PRIVATE RESOURCE ENHANCEMENT PROJECTS.

"(a) GRANTS.—

"(1) IN GENERAL.—The Commissioner may make grants to, and enter into contracts with, State agencies and area agencies on aging, to carry out demonstration projects that generate non-Federal resources (including cash and in-kind contributions), in order to increase resources available to provide additional services under title III.

"(2) MAINTENANCE OF RESOURCES.—Resources generated with a grant made, or contract entered into, under subsection (a) shall be in addition to, and may not be used to supplant, any resource that is or would otherwise be available under any Federal, State, or local law to a State, State agency, area agency on aging, or unit of general purpose local government (as defined in section 302(2)) to provide such services.

"(3) USE OF RESOURCES.—Resources generated with a grant made, or a contract entered into, under subsection (a) shall be used to provide supportive services in accordance with title III. The requirements under this Act that apply to funds received under title III by States to carry out title III shall apply with respect to such resources.

"(b) AWARD OF GRANTS AND CONTRACTS.—

"(1) REGIONAL DISTRIBUTION.—The Commissioner shall ensure that States and area agencies on aging in all standard Federal regions of the United States, established by the Office of Management and Budget, receive grants and contracts under subsection (a) on an equitable basis.

"(2) DISTRIBUTION BASED ON NEED.—Within such regions, the Commissioner shall give preference to applicants that pro-

vide services under title III in geographical areas that contain a large number of older individuals with greatest economic need or older individuals with greatest social need.

"(c) MONITORING.—The Commissioner shall monitor how—

"(1) grants are expended, and contracts are carried out, under subsection (a); and

"(2) resources generated under such grants and contracts are expended,

to ensure compliance with this section.".

SEC. 418. CAREER PREPARATION FOR THE FIELD OF AGING.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429I. CAREER PREPARATION FOR THE FIELD OF AGING. 42 USC 3035q.

"(a) GRANTS.—The Commissioner shall make grants to institutions of higher education, historically black colleges or universities, Hispanic Centers of Excellence in Applied Gerontology, and other educational institutions that serve the needs of minority students, to provide education and training to prepare students for careers in the field of aging.

"(b) DEFINITIONS.—For purposes of subsection (a):

"(1) HISPANIC CENTER OF EXCELLENCE IN APPLIED GERONTOLOGY.—The term 'Hispanic Center of Excellence in Applied Gerontology' means an institution of higher education with a program in applied gerontology that—

"(A) has a significant number of Hispanic individuals enrolled in the program, including individuals accepted for enrollment in the program;

"(B) has been effective in assisting Hispanic students of the program to complete the program and receive the degree involved;

"(C) has been effective in recruiting Hispanic individuals to attend the program, including providing scholarships and other financial assistance to such individuals and encouraging Hispanic students of secondary educational institutions to attend the program; and

"(D) has made significant recruitment efforts to increase the number and placement of Hispanic individuals serving in faculty or administrative positions in the program.

"(2) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term 'historically black college or university' has the meaning given the term 'part B institution' in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

SEC. 419. PENSION INFORMATION AND COUNSELING DEMONSTRATION PROJECTS.

Part B of title IV of the Older Americans Act of 1965 (42 U.S.C. 3034–3035g) (as amended by the preceding sections) is amended by adding at the end the following:

"SEC. 429J. PENSION RIGHTS DEMONSTRATION PROJECTS. 42 USC 3035r.

"(a) DEFINITIONS.—As used in this section:

"(1) PENSION RIGHTS INFORMATION PROGRAM.—The term 'pension rights information program' means a program described in subsection (c).

"(2) PENSION AND OTHER RETIREMENT BENEFITS.—The term 'pension and other retirement benefits' means private, civil service, and other public pensions and retirement benefits, including benefits provided under—

"(A) the Social Security program under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(B) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

"(C) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code, the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code, or other Federal retirement systems; or

"(D) the Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.).

"(b) ESTABLISHMENT.—The Commissioner shall establish and carry out pension rights demonstration projects.

"(c) PENSION RIGHTS INFORMATION PROGRAMS.—

Grants.

"(1) USE OF FUNDS.—In carrying out the projects specified in subsection (b), the Commissioner shall, to the extent appropriations are available, award grants to six eligible entities to establish programs to provide outreach, information, counseling, referral, and assistance regarding pension and other retirement benefits, and rights related to such benefits.

"(2) AWARD OF GRANTS.—

"(A) TYPE OF ENTITY.—The Commissioner shall award under this subsection—

"(i) four grants to State agencies or area agencies on aging; and

"(ii) two grants to nonprofit organizations with a proven record of providing—

"(I) services related to retirement of older individuals; or

"(II) specific pension rights counseling.

"(B) PANEL.—In awarding grants under this subsection, the Commissioner shall use a citizen advisory panel that shall include representatives of business, labor, national senior advocates, and national pension rights advocates.

"(C) CRITERIA.—In awarding grants under this subsection, the Commissioner, in consultation with the panel, shall use as criteria—

"(i) evidence of commitment of an agency or organization to carry out a proposed pension rights information program;

"(ii) the ability of the agency or organization to perform effective outreach to affected populations, particularly populations identified as in need of special outreach; and

"(iii) reliable information that the population to be served by the agency or organization has a demonstrable need for the services proposed to be provided under the program.

"(3) APPLICATION.—

"(A) IN GENERAL.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and

containing such information as the Commissioner may require, including, at a minimum—

"(i) a plan for the establishment of a pension rights information program to serve a specific geographic area; and

"(ii) an assurance that staff members (including volunteer staff members) have no conflict of interest in providing the services described in the plan.

"(B) PLAN.—The plan described in paragraph (1) shall provide for a program that—

"(i) establishes a State or area pension rights information center;

"(ii) provides counseling (including direct counseling and assistance to individuals needing information) and information that may assist individuals in establishing rights to, obtaining, and filing claims or complaints related to, pension and other retirement benefits;

"(iii) provides information on sources of pension and other retirement benefits, including the benefits under programs described in subsection (a)(1);

"(iv) makes referrals to legal services and other advocacy programs;

"(v) establishes a system of referral to State, local, and Federal departments or agencies related to pension and other retirement benefits;

"(vi) provides a sufficient number of staff positions (including volunteer positions) to ensure information, counseling, referral, and assistance regarding pension and other retirement benefits;

"(vii) provides training programs for staff members, including volunteer staff members of the programs described in subsection (a)(1);

"(viii) makes recommendations to the Administration, the Department of Labor and other local, State, and Federal agencies concerning issues for older individuals related to pension and other retirement benefits; and

"(ix) establishes an outreach program to provide information, counseling, referral, and assistance regarding pension and other retirement benefits, with particular emphasis on outreach to women, minorities, and low-income retirees.

"(d) TRAINING PROGRAM.—

"(1) USE OF FUNDS.—In carrying out the projects described in subsection (b), the Commissioner shall, to the extent appropriations are available, award a grant to an eligible entity to establish a training program to provide— Grants.

"(A) information to the staffs of entities operating pension rights information programs; and

"(B) assistance to the entities and assist such entities in the design of program evaluation tools.

"(2) ELIGIBLE ENTITY.—Entities eligible to receive grants under this subsection include nonprofit private organizations with records of providing national information, referral, and advocacy in matters related to pension and other retirement benefits.

"(3) APPLICATION.—To be eligible to receive a grant under this subsection, an entity shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(e) DURATION.—The Commissioner may award grants under subsection (c) or (d) for periods not to exceed 18 months.

"(f) REPORT TO CONGRESS.—

"(1) PREPARATION.—The Commissioner shall prepare a report that—

"(A) summarizes the distribution of funds authorized for grants under this section and the expenditure of such funds;

"(B) summarizes the scope and content of training and assistance provided under a program carried out under this section and the degree to which the training and assistance can be replicated;

"(C) outlines the problems that individuals participating in programs funded under this section encountered concerning rights related to pension and other retirement benefits; and

"(D) makes recommendations regarding the manner in which services provided in programs funded under this section can be incorporated into the ongoing programs of State agencies, area agencies on aging, multipurpose senior centers, and other similar entities.

"(2) SUBMISSION.—Not later than 30 months after the date of the enactment of this section, the Commissioner shall submit the report described in paragraph (1) to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(g) ADMINISTRATIVE EXPENSES.—Of the funds appropriated under section 431(a)(1) to carry out this section for a fiscal year, not more than $100,000 may be used by the Administration for administrative expenses in carrying out this section.".

SEC. 420. AUTHORIZATION OF APPROPRIATIONS.

Section 431 of the Older Americans Act of 1965 (42 U.S.C. 3037) is amended by striking subsections (a) and (b) and inserting the following:

"(a)(1) There are authorized to be appropriated to carry out the provisions of this title (other than the provision specified in subsection (b)) $72,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(2) Not less than 1 percent of the amount appropriated under paragraph (1) for each fiscal year shall be made available to carry out section 202(d).

"(b) There are authorized to be appropriated to carry out section 411(e), $450,000 for each of fiscal years 1992, 1993, 1994, and 1995.".

SEC. 421. PAYMENTS OF GRANTS FOR DEMONSTRATION PROJECTS.

Section 432(c) of the Older Americans Act of 1965 (42 U.S.C. 3037a(c)) is amended by striking "unless the Commissioner" and all that follows and inserting "unless the Commissioner—

"(1) consults with the State agency prior to issuing the grant or contract; and

"(2) informs the State agency of the purposes of the grant or contract when the grant or contract is issued.".

SEC. 422. RESPONSIBILITIES OF COMMISSIONER.

Section 433 of the Older Americans Act of 1965 (42 U.S.C. 3037b) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) Not later than January 1 following each fiscal year, the Commissioner shall submit, to the Speaker of the House of Representatives and the President pro tempore of the Senate, a report for such fiscal year that describes each project and each program— Reports.

"(A) for which funds were provided under this title; and

"(B) that was completed in the fiscal year for which such report is prepared.

"(2) Such report shall contain—

"(A) the name or descriptive title of each project or program;

"(B) the name and address of the individual or governmental entity that conducted such project or program;

"(C) a specification of the period throughout which such project or program was conducted;

"(D) the identity of each source of funds expended to carry out such project or program and the amount of funds provided by each such source;

"(E) an abstract describing the nature and operation of such project or program; and

"(F) a bibliography identifying all published information relating to such project or program."; and

(2) by adding at the end the following:

"(c)(1) The Commissioner shall establish by regulation and implement a process to evaluate the results of projects and programs carried out under this title. Regulations.

"(2) The Commissioner shall—

"(A) make available to the public each evaluation carried out under paragraph (1); and Public information.

"(B) use such evaluation to improve services delivered, or the operation of projects and programs carried out, under this Act.".

TITLE V—COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

SEC. 501. OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT PROGRAM.

Section 502 of the Older American Community Service Employment Act (42 U.S.C. 3056) is amended—

(1) in subsection (a) by inserting "and who have poor employment prospects" after "or older";

(2) in subsection (b)(1)—

(A) in subparagraph (M) by inserting ", and eligible individuals who have greatest economic need, at least" after "individuals";

(B) by redesignating subparagraphs (N) and (O) as subparagraphs (O) and (P), respectively; and

(C) by inserting after subparagraph (M) the following:

"(N)(i) will prepare an assessment of—

"(I) the participants' skills and talents;

"(II) their need for supportive services; and

"(III) their physical capabilities;

except to the extent such project has, for the particular participant involved, an assessment of such skills and talents, such need, or such capabilities prepared recently pursuant to another employment or training program (such as a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) or the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.));

"(ii) will provide to eligible individuals training and employment counseling based on strategies that identify appropriate employment objectives and the need for supportive services, developed as a result of the assessment provided for in clause (i); and

"(iii) will provide counseling to participants on their progress in meeting such objectives and satisfying their need for supportive services;";

(3) in subsection (c)(1)(B) by striking "Director of the Office of Community Services of the Department" and inserting "Secretary";

(4) in subsection (d)(1) by striking "within a State such organization or program sponsor shall submit to the State agency on aging" and inserting "within a planning and service area in a State such organization or program sponsor shall conduct such project in consultation with the area agency on aging of the planning and service area and shall submit to the State agency and the area agency on aging"; and

(5) in subsection (e)(2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking "Not" and all that follows through "1981, the" and inserting "The"; and

(ii) by inserting ", and amend from time to time," after "issue";

(B) in subparagraph (A) by striking "and" at the end;

(C) in subparagraph (B) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following:

"(C) require the coordination of projects carried out under such agreements, with the programs carried out under section 124 of the Job Training Partnership Act (29 U.S.C. 1534).".

SEC. 502. COORDINATION.

(a) INCREASING JOB OPPORTUNITIES.—Section 503(a) of the Older American Community Service Employment Act (42 U.S.C. 3056a(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following:

"(2) The Secretary of Labor and the Commissioner shall coordinate the programs under this title and the programs under titles III, IV, and VI to increase job opportunities available to older individuals.".

(b) COORDINATION OF ADMINISTRATION.—The first sentence of section 503(b)(1) of the Older American Community Service Employment Act (42 U.S.C. 3056a(b)(1)) is amended—

(1) by striking "If" and all that follows through "authorized to", and inserting "The Secretary shall";

(2) by inserting after the first sentence the following: "The Secretary shall coordinate the administration of this title with the administration of titles III, IV, and VI by the Commissioner, to increase the likelihood that eligible individuals for whom employment opportunities under this title are available and who need services under such titles receive such services."; and

(3) by adding at the end the following: "The preceding sentence shall not be construed to prohibit carrying out projects under this title jointly with programs, projects, or activities under any Act specified in such sentence.".

SEC. 503. INTERAGENCY COOPERATION.

Section 505 of the Older American Community Service Employment Act (42 U.S.C. 3056b) is amended— 42 USC 3056c.

(1) in subsection (a) by striking "of the Administration on Aging"; and

(2) by adding at the end the following:

"(d)(1) The Secretary shall promote and coordinate carrying out projects under this title jointly with programs, projects, or activities under other Acts that provide training and employment opportunities to eligible individuals.

"(2) The Secretary shall consult with the Secretary of Education to promote and coordinate carrying out projects under this title jointly with employment and training programs in which eligible individuals may participate that are carried out under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).".

SEC. 504. EQUITABLE DISTRIBUTION OF ASSISTANCE. Grants. Contracts.

(a) ALLOCATION.—Paragraphs (1) and (2) of section 506(a) of the Older American Community Service Employment Act (42 U.S.C. 3056d(a)) are amended to read as follows:

"(1)(A) Subject to subparagraph (B) and paragraph (2), from sums appropriated under this title for each fiscal year, the Secretary shall first reserve such sums as may be necessary for national grants or contracts with public agencies and public or nonprofit private organizations to maintain the level of activities carried on under such grants or contracts at least at the level of such activities supported under this title and under any other provision of Federal law relating to community service employment programs for older Americans in fiscal year 1978.

"(B)(i)(I) For each fiscal year in which the sums appropriated under this title exceed the amount appropriated under this title for fiscal year 1978, the Secretary shall reserve not more than 45 percent of such excess, except as provided in subclause (II), to carry out clauses (ii), (iii), and (v).

"(II) The Secretary shall reserve a sum sufficient to carry out clauses (iii) and (v).

"(III) The Secretary in awarding grants and contracts under this paragraph from the sum reserved under this paragraph shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts designed to achieve the allotment among the States described in paragraph (3) of this subsection.

"(ii) The Secretary shall reserve such sums as may be necessary for national grants or contracts with public or nonprofit national

Indian aging organizations with the ability to provide employment services to older Indians and with national public or nonprofit Pacific Island and Asian American aging organizations with the ability to provide employment services to older Pacific Island and Asian Americans.

"(iii) If the amount appropriated under this title for a fiscal year exceeds 102 percent of the amount appropriated under this title for fiscal year 1991, for each fiscal year described in clause (iv), the Secretary shall reserve for recipients of national grants and contracts under this paragraph such portion of the excess amount as the Secretary determines to be appropriate and is—

"(I) at least 25 percent of the excess amount; or

"(II) the portion required to increase the amount made available under this paragraph to each of the recipients so that the amount equals 1.3 percent of the amount appropriated under this title for fiscal year 1991.

"(iv) From the portion reserved under clause (iii), the Secretary shall increase the amount made available under this paragraph to each of the recipients—

"(I) for each fiscal year before the fiscal year described in subclause (II), so that such amount equals, or more closely approaches, such 1.3 percent; and

"(II) for the first fiscal year for which the portion is sufficient to make available under this paragraph to each of the recipients the amount equal to such 1.3 percent, so that such amount is not less than such 1.3 percent.

"(v) For each fiscal year after the fiscal year described in clause (iv)(II), the Secretary shall make available under this paragraph to each of the recipients an amount not less than such 1.3 percent.

"(C) Preference in awarding grants and contracts under this paragraph shall be given to national organizations, and agencies, of proven ability in providing employment services to eligible individuals under this program and similar programs. The Secretary, in awarding grants and contracts under this section, shall, to the extent feasible, assure an equitable distribution of activities under such grants and contracts, in the aggregate, among the States, taking into account the needs of underserved States, subject to subparagraph (B)(i)(III).

"(2)(A) From sums appropriated under this title for each fiscal year after September 30, 1978, the Secretary shall reserve an amount which is at least 1 percent and not more than 3 percent of the amount appropriated in excess of the amount appropriated for fiscal year 1978 for the purpose of entering into agreements under section 502(e), relating to improved transition to private employment.

"(B) After the Secretary makes the reservations required by paragraph (1)(B) and subparagraph (A), the remainder of such excess shall be allotted to the appropriate public agency of each State pursuant to paragraph (3).".

(b) APPORTIONMENT WITHIN STATES.—Section 506(c) of the Older American Community Service Employment Act (42 U.S.C. 3056d(c)) is amended—

(1) by striking "and (2)" and inserting "(2)"; and

(2) by inserting before the period at the end the following: ", and (3) the relative distribution of (A) such individuals who are individuals with greatest economic need, (B) such individ-

uals who are minority individuals, and (C) such individuals who are individuals with greatest social need".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 502(c)(1), paragraphs (3) and (4) of section 506(a), and section 507(1) of the Older American Community Service Employment Act (42 U.S.C. 3056(c)(1), 3056d(a) (3) and (4), and 3056e(1)) are amended by striking "per centum" each place the term appears and inserting "percent".

(2) Section 502(e)(1) of the Older American Community Service Employment Act (42 U.S.C. 3056(e)(1)) is amended by striking "506(a)(1)(B)" and inserting "506(a)(2)(A)".

(3) Section 506(a)(4)(B) of the Older American Community Service Employment Act (42 U.S.C. 3056d(a)(4)(B)) is amended by striking "him" and inserting "the Secretary".

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

Section 508(a) of the Older American Community Service Employment Act (42 U.S.C. 3056f(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) $470,671,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995; and";

(2) in paragraph (2) by striking "62,500" and inserting "70,000"; and

(3) by striking "clause" and inserting "paragraph".

SEC. 506. DUAL ELIGIBILITY.

The Older American Community Service Employment Act (42 U.S.C. 3056–3056g) is amended by adding at the end the following:

"SEC. 510. DUAL ELIGIBILITY. 42 USC 3056h.

"In the case of projects under this title carried out jointly with programs carried out under the Job Training Partnership Act, eligible individuals shall be deemed to satisfy the requirements of section 203 of such Act (29 U.S.C. 1603) that are applicable to adults.".

SEC. 507. TREATMENT OF ASSISTANCE PROVIDED UNDER THE OLDER AMERICAN COMMUNITY SERVICE EMPLOYMENT ACT.

The Older American Community Service Employment Act (42 U.S.C. 3056–3056g), as amended by section 506, is amended by adding at the end the following:

"SEC. 511. TREATMENT OF ASSISTANCE. 42 USC 3056i.

"Assistance furnished under this title shall not be construed to be financial assistance described in section 245A(h)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(h)(1)(A)).".

TITLE VI—GRANTS FOR NATIVE AMERICANS

SEC. 601. APPLICATIONS BY TRIBAL ORGANIZATIONS.

Section 614(a) of the Older Americans Act of 1965 (42 U.S.C. 3057e(a)) is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) in paragraph (11) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(12) contain assurances that the tribal organization will coordinate services provided under this part with services provided under title III in the same geographical area.".

SEC. 602. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) is amended by inserting after section 614 the following:

42 USC 3057e-1. **"SEC. 614A. DISTRIBUTION OF FUNDS AMONG TRIBAL ORGANIZATIONS.**

"(a) MAINTENANCE of 1991 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to a tribal organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the tribal organization for fiscal year 1991.

"(b) USE OF ADDITIONAL AMOUNTS APPROPRIATED.—If the funds appropriated to carry out this part in a fiscal year subsequent to fiscal year 1991 exceed the funds appropriated to carry out this part in fiscal year 1991, then the amount of the grant (if any) made under this part to a tribal organization for the subsequent fiscal year shall be—

"(1) increased by such amount as the Commissioner considers to be appropriate, in addition to the amount of any increase required by subsection (a), so that the grant equals or more closely approaches the amount of the grant made under this part to the tribal organization for fiscal year 1980; or

"(2) an amount the Commissioner considers to be sufficient if the tribal organization did not receive a grant under this part for either fiscal year 1980 or fiscal year 1991.".

SEC. 603. APPLICATIONS BY ORGANIZATIONS SERVING NATIVE HAWAIIANS.

Section 624(a)(3) of the Older Americans Act of 1965 (42 U.S.C. 3057j(a)(3)) is amended by inserting "and with the activities carried out under title III in the same geographical area" before the semicolon at the end.

SEC. 604. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.

Title VI of the Older Americans Act of 1965 (42 U.S.C. 3057 et seq.) is amended by inserting after section 624 the following:

42 USC 3057j-1. **"SEC. 624A. DISTRIBUTION OF FUNDS AMONG ORGANIZATIONS.**

"Subject to the availability of appropriations to carry out this part, the amount of the grant (if any) made under this part to an organization for fiscal year 1992 and for each subsequent fiscal year shall be not less than the amount of the grant made under this part to the organization for fiscal year 1991.".

SEC. 605. AUTHORIZATION OF APPROPRIATIONS.

Section 633 of the Older Americans Act of 1965 (42 U.S.C. 3057n) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 633. (a) There are authorized to be appropriated $30,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995, to carry out this title (other than section 615).

"(b) Of the amount appropriated under subsection (a) for each fiscal year—

"(1) 90 percent shall be available to carry out part A; and

"(2) 10 percent shall be available to carry out part B.".

TITLE VII—VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

SEC. 701. ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended by adding at the end the following:

"TITLE VII—ALLOTMENTS FOR VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES

"Subtitle A—State Provisions

"CHAPTER 1—GENERAL STATE PROVISIONS

"SEC. 701. ESTABLISHMENT. 42 USC 3058.

"The Commissioner, acting through the Administration, shall establish and carry out a program for making allotments to States to pay for the cost of carrying out vulnerable elder rights protection activities.

"SEC. 702. AUTHORIZATION OF APPROPRIATIONS. 42 USC 3058a.

"(a) OMBUDSMAN PROGRAM.—There are authorized to be appropriated to carry out chapter 2, $40,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(b) PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.—There are authorized to be appropriated to carry out chapter 3, $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(c) STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.—There are authorized to be appropriated to carry out chapter 4, $10,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"(d) OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out chapter 5, $15,000,000 for fiscal year 1992 and such sums as may be necessary for fiscal years 1993, 1994, and 1995.

"SEC. 703. ALLOTMENT. 42 USC 3058b.

"(a) IN GENERAL.—

"(1) POPULATION.—In carrying out the program described in section 701, the Commissioner shall initially allot to each State, from the funds appropriated under section 702 for each fiscal year, an amount that bears the same ratio to the funds as the population of older individuals in the State bears to the population of older individuals in all States.

"(2) MINIMUM ALLOTMENTS.—

"(A) IN GENERAL.—After making the initial allotments described in paragraph (1), the Commissioner shall adjust the allotments on a pro rata basis in accordance with subparagraphs (B) and (C).

"(B) GENERAL MINIMUM ALLOTMENTS.—

"(i) MINIMUM ALLOTMENT FOR STATES.—No State shall be allotted less than one-half of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made.

"(ii) MINIMUM ALLOTMENT FOR TERRITORIES.—Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the funds appropriated under section 702 for the fiscal year for which the determination is made. American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated under section 702 for the fiscal year for which the determination is made.

"(C) MINIMUM ALLOTMENTS FOR OMBUDSMAN AND ELDER ABUSE PROGRAMS.—

"(i) OMBUDSMAN PROGRAM.—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(a), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out the State Long-Term Care Ombudsman program under title III.

"(ii) ELDER ABUSE PROGRAMS.—No State shall be allotted for a fiscal year, from the funds appropriated under section 702(b), less than the amount allotted to the State under section 304 in fiscal year 1991 to carry out programs with respect to the prevention of elder abuse, neglect, and exploitation under title III.

"(D) DEFINITION.—For the purposes of this paragraph, the term 'State' does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(b) REALLOTMENT.—

"(1) IN GENERAL.—If the Commissioner determines that any amount allotted to a State for a fiscal year under this section will not be used by the State for carrying out the purpose for which the allotment was made, the Commissioner shall make the amount available to a State that the Commissioner determines will be able to use the amount for carrying out the purpose.

"(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subtitle, be regarded as part of the allotment of the State (as determined under subsection (a)) for the year, but shall remain available until the end of the succeeding fiscal year.

"(c) WITHHOLDING.—If the Commissioner finds that any State has failed to carry out this title in accordance with the assurances

made and description provided under section 705, the Commissioner shall withhold the allotment of funds to the State. The Commissioner shall disburse the funds withheld directly to any public or nonprofit private institution or organization, agency, or political subdivision of the State submitting an approved plan containing the assurances and description.

"SEC. 704. ORGANIZATION. 42 USC 3058c.

"In order for a State to be eligible to receive allotments under this subtitle—

"(1) the State shall demonstrate eligibility under section 305;

"(2) the State agency designated by the State shall demonstrate compliance with the applicable requirements of section 305; and

"(3) each area agency on aging designated by the State agency and participating in such a program shall demonstrate compliance with the applicable requirements of section 305.

"SEC. 705. ADDITIONAL STATE PLAN REQUIREMENTS. 42 USC 3058d.

"(a) ELIGIBILITY.—In order to be eligible to receive an allotment under this subtitle, a State shall include in the State plan submitted under section 307—

"(1) an assurance that the State, in carrying out any chapter of this subtitle for which the State receives funding under this subtitle, will establish programs in accordance with the requirements of the chapter and this chapter;

"(2) an assurance that the State will hold public hearings, and use other means, to obtain the views of older individuals, area agencies on aging, recipients of grants under title VI, and other interested persons and entities regarding programs carried out under this subtitle;

"(3) an assurance that the State, in consultation with area agencies on aging, will identify and prioritize statewide activities aimed at ensuring that older individuals have access to, and assistance in securing and maintaining, benefits and rights;

"(4) an assurance that the State will use funds made available under this subtitle for a chapter in addition to, and will not supplant, any funds that are expended under any Federal or State law in existence on the day before the date of the enactment of this subtitle, to carry out the vulnerable elder rights protection activities described in the chapter;

"(5) an assurance that the State will place no restrictions, other than the requirements referred to in clauses (i) through (iv) of section 712(a)(5)(C), on the eligibility of entities for designation as local Ombudsman entities under section 712(a)(5);

"(6) an assurance that, with respect to programs for the prevention of elder abuse, neglect, and exploitation under chapter 3—

"(A) in carrying out such programs the State agency will conduct a program of services consistent with relevant State law and coordinated with existing State adult protective service activities for—

"(i) public education to identify and prevent elder abuse;

"(ii) receipt of reports of elder abuse;

"(iii) active participation of older individuals participating in programs under this Act through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance if appropriate and if the individuals to be referred consent; and

"(iv) referral of complaints to law enforcement or public protective service agencies if appropriate;

"(B) the State will not permit involuntary or coerced participation in the program of services described in subparagraph (A) by alleged victims, abusers, or their households; and

Privacy.

"(C) all information gathered in the course of receiving reports and making referrals shall remain confidential except—

"(i) if all parties to such complaint consent in writing to the release of such information;

"(ii) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

"(iii) upon court order;

"(7) an assurance that the State agency—

"(A) from funds appropriated under section 702(d) for chapter 5, will make funds available to eligible area agencies on aging to carry out chapter 5 and, in distributing such funds among eligible area agencies, will give priority to area agencies on aging based on—

"(i) the number of older individuals with greatest economic need, and older individuals with greatest social need, residing in their respective planning and service areas; and

"(ii) the inadequacy in such areas of outreach activities and application assistance of the type specified in chapter 5;

"(B) will require, as a condition of eligibility to receive funds to carry out chapter 5, an area agency on aging to submit an application that—

"(i) describes the activities for which such funds are sought;

"(ii) provides for an evaluation of such activities by the area agency on aging; and

"(iii) includes assurances that the area agency on aging will prepare and submit to the State agency a report of the activities conducted with funds provided under this paragraph and the evaluation of such activities;

"(C) will distribute to area agencies on aging—

"(i) the eligibility information received under section 202(a)(20) from the Administration; and

"(ii) information, in written form, explaining the requirements for eligibility to receive medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.); and

Reports.

"(D) will submit to the Commissioner a report on the evaluations required to be submitted under subparagraph (B); and

"(8) a description of the manner in which the State agency will carry out this title in accordance with the assurances described in paragraphs (1) through (7).

"(b) PRIVILEGE.—Neither a State, nor a State agency, may require any provider of legal assistance under this subtitle to reveal any information that is protected by the attorney-client privilege.

"SEC. 706. DEMONSTRATION PROJECTS. 42 USC 3058e.

"(a) ESTABLISHMENT.—From amounts made available under section 304(d)(1)(C) after September 30, 1992, each State may provide for the establishment of at least one demonstration project, to be conducted by one or more area agencies on aging within the State, for outreach to older individuals with greatest economic need with respect to—

"(1) benefits available under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.) (or assistance under a State program established in accordance with such title);

"(2) medical assistance available under title XIX of such Act (42 U.S.C. 1396 et seq.); and

"(3) benefits available under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

"(b) BENEFITS.—Each outreach project carried out under subsection (a) shall—

"(1) provide to older individuals with greatest economic need information and assistance regarding their eligibility to receive the benefits and assistance described in paragraphs (1) through (3) of subsection (a);

"(2) be carried out in a planning and service area that has a high proportion of older individuals with greatest economic need, relative to the aggregate number of older individuals in such area; and

"(3) be coordinated with State and local entities that administer benefits under such titles.".

SEC. 702. OMBUDSMAN PROGRAMS.

Title VII of the Older Americans Act of 1965 (as added by section 701 of this Act) is amended by adding at the end the following:

"CHAPTER 2—OMBUDSMAN PROGRAMS

"SEC. 711. DEFINITIONS. 42 USC 3058f.

"As used in this chapter:

"(1) OFFICE.—The term 'Office' means the office established in section 712(a)(1)(A).

"(2) OMBUDSMAN.—The term 'Ombudsman' means the individual described in section 712(a)(2).

"(3) LOCAL OMBUDSMAN ENTITY.—The term 'local Ombudsman entity' means an entity designated under section 712(a)(5)(A) to carry out the duties described in section 712(a)(5)(B) with respect to a planning and service area or other substate area.

"(4) PROGRAM.—The term 'program' means the State Long-Term Care Ombudsman program established in section 712(a)(1)(B).

"(5) REPRESENTATIVE.—The term 'representative' includes an employee or volunteer who represents an entity designated

under section 712(a)(5)(A) and who is individually designated by the Ombudsman.

"(6) RESIDENT.—The term 'resident' means an older individual who resides in a long-term care facility.

42 USC 3058g.

"SEC. 712. STATE LONG-TERM CARE OMBUDSMAN PROGRAM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(a), a State agency shall, in accordance with this section—

"(A) establish and operate an Office of the State Long-Term Care Ombudsman; and

"(B) carry out through the Office a State Long-Term Care Ombudsman program.

"(2) OMBUDSMAN.—The Office shall be headed by an individual, to be known as the State Long-Term Care Ombudsman, who shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy.

"(3) FUNCTIONS.—The Ombudsman shall serve on a full-time basis, and shall, personally or through representatives of the Office—

"(A) identify, investigate, and resolve complaints that—

"(i) are made by, or on behalf of, residents; and

"(ii) relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents (including the welfare and rights of the residents with respect to the appointment and activities of guardians and representative payees), of—

"(I) providers, or representatives of providers, of long-term care services;

"(II) public agencies; or

"(III) health and social service agencies;

"(B) provide services to assist the residents in protecting the health, safety, welfare, and rights of the residents;

"(C) inform the residents about means of obtaining services provided by providers or agencies described in subparagraph (A)(ii) or services described in subparagraph (B);

"(D) ensure that the residents have regular and timely access to the services provided through the Office and that the residents and complainants receive timely responses from representatives of the Office to complaints;

"(E) represent the interests of the residents before governmental agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(F) provide administrative and technical assistance to entities designated under paragraph (5) to assist the entities in participating in the program;

"(G)(i) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State;

"(ii) recommend any changes in such laws, regulations, policies, and actions as the Office determines to be appropriate; and

"(iii) facilitate public comment on the laws, regulations, policies, and actions;

"(H)(i) provide for training representatives of the Office;

"(ii) promote the development of citizen organizations, to participate in the program; and

"(iii) provide technical support for the development of resident and family councils to protect the well-being and rights of residents; and

"(I) carry out such other activities as the Commissioner determines to be appropriate.

"(4) CONTRACTS AND ARRANGEMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the State agency may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization.

"(B) LICENSING AND CERTIFICATION ORGANIZATIONS; ASSOCIATIONS.—The State agency may not enter into the contract or other arrangement described in subparagraph (A) with—

"(i) an agency or organization that is responsible for licensing or certifying long-term care services in the State; or

"(ii) an association (or an affiliate of such an association) of long-term care facilities, or of any other residential facilities for older individuals.

"(5) DESIGNATION OF LOCAL OMBUDSMAN ENTITIES AND REPRESENTATIVES.—

"(A) DESIGNATION.—In carrying out the duties of the Office, the Ombudsman may designate an entity as a local Ombudsman entity, and may designate an employee or volunteer to represent the entity.

"(B) DUTIES.—An individual so designated shall, in accordance with the policies and procedures established by the Office and the State agency—

"(i) provide services to protect the health, safety, welfare and rights of residents;

"(ii) ensure that residents in the service area of the entity have regular, timely access to representatives of the program and timely responses to complaints and requests for assistance;

"(iii) identify, investigate, and resolve complaints made by or on behalf of residents that relate to action, inaction, or decisions, that may adversely affect the health, safety, welfare, or rights of the residents;

"(iv) represent the interests of residents before government agencies and seek administrative, legal, and other remedies to protect the health, safety, welfare, and rights of the residents;

"(v)(I) review, and if necessary, comment on any existing and proposed laws, regulations, and other government policies and actions, that pertain to the rights and well-being of residents; and

"(II) facilitate the ability of the public to comment on the laws, regulations, policies, and actions;

"(vi) support the development of resident and family councils; and

"(vii) carry out other activities that the Ombudsman determines to be appropriate.

"(C) ELIGIBILITY FOR DESIGNATION.—Entities eligible to be designated as local Ombudsman entities, and individuals eligible to be designated as representatives of such entities, shall—

"(i) have demonstrated capability to carry out the responsibilities of the Office;

"(ii) be free of conflicts of interest;

"(iii) in the case of the entities, be public or nonprofit private entities; and

"(iv) meet such additional requirements as the Ombudsman may specify.

"(D) POLICIES AND PROCEDURES.—

"(i) IN GENERAL.—The State agency shall establish, in accordance with the Office, policies and procedures for monitoring local Ombudsman entities designated to carry out the duties of the Office.

"(ii) POLICIES.—In a case in which the entities are grantees, or the representatives are employees, of area agencies on aging, the State agency shall develop the policies in consultation with the area agencies on aging. The policies shall provide for participation and comment by the agencies and for resolution of concerns with respect to case activity.

"(iii) CONFIDENTIALITY AND DISCLOSURE.—The State agency shall develop the policies and procedures in accordance with all provisions of this subtitle regarding confidentiality and conflict of interest.

"(b) PROCEDURES FOR ACCESS.—

"(1) IN GENERAL.—The State shall ensure that representatives of the Office shall have—

"(A) access to long-term care facilities and residents;

"(B)(i) appropriate access to review the medical and social records of a resident, if—

"(I) the representative has the permission of the resident, or the legal representative of the resident; or

"(II) the resident is unable to consent to the review and has no legal representative; or

"(ii) access to the records as is necessary to investigate a complaint if—

"(I) a legal guardian of the resident refuses to give the permission;

"(II) a representative of the Office has reasonable cause to believe that the guardian is not acting in the best interests of the resident; and

"(III) the representative obtains the approval of the Ombudsman;

"(C) access to the administrative records, policies, and documents, to which the residents have, or the general public has access, of long-term care facilities; and

"(D) access to and, on request, copies of all licensing and certification records maintained by the State with respect to long-term care facilities.

"(2) PROCEDURES.—The State agency shall establish procedures to ensure the access described in paragraph (1).

"(c) REPORTING SYSTEM.—The State agency shall establish a statewide uniform reporting system to—

"(1) collect and analyze data relating to complaints and conditions in long-term care facilities and to residents for the purpose of identifying and resolving significant problems; and

"(2) submit the data, on a regular basis, to—

"(A) the agency of the State responsible for licensing or certifying long-term care facilities in the State;

"(B) other State and Federal entities that the Ombudsman determines to be appropriate;

"(C) the Commissioner; and

"(D) the National Ombudsman Resource Center established in section 202(a)(21).

"(d) DISCLOSURE.—

"(1) IN GENERAL.—The State agency shall establish procedures for the disclosure by the Ombudsman or local Ombudsman entities of files maintained by the program, including records described in subsection (b)(1) or (c).

"(2) IDENTITY OF COMPLAINANT OR RESIDENT.—The procedures described in paragraph (1) shall—

"(A) provide that, subject to subparagraph (B), the files and records described in paragraph (1) may be disclosed only at the discretion of the Ombudsman (or the person designated by the Ombudsman to disclose the files and records); and

"(B) prohibit the disclosure of the identity of any complainant or resident with respect to whom the Office maintains such files or records unless—

"(i) the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure and the consent is given in writing;

"(ii)(I) the complainant or resident gives consent orally; and

"(II) the consent is documented contemporaneously in a writing made by a representative of the Office in accordance with such requirements as the State agency shall establish; or

"(iii) the disclosure is required by court order.

"(e) CONSULTATION.—In planning and operating the program, the State agency shall consider the views of area agencies on aging, older individuals, and providers of long-term care.

"(f) CONFLICT OF INTEREST.—The State agency shall—

"(1) ensure that no individual, or member of the immediate family of an individual, involved in the designation of the Ombudsman (whether by appointment or otherwise) or the designation of an entity designated under subsection (a)(5), is subject to a conflict of interest;

"(2) ensure that no officer or employee of the Office, representative of a local Ombudsman entity, or member of the immediate family of the officer, employee, or representative, is subject to a conflict of interest;

"(3) ensure that the Ombudsman—

"(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

"(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

"(C) is not employed by, or participating in the management of, a long-term care facility; and

"(D) does not receive, or have the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility; and

"(4) establish, and specify in writing, mechanisms to identify and remove conflicts of interest referred to in paragraphs (1) and (2), and to identify and eliminate the relationships described in subparagraphs (A) through (D) of paragraph (3), including such mechanisms as—

"(A) the methods by which the State agency will examine individuals, and immediate family members, to identify the conflicts; and

"(B) the actions that the State agency will require the individuals and such family members to take to remove such conflicts.

"(g) LEGAL COUNSEL.—The State agency shall ensure that—

"(1)(A) adequate legal counsel is available, and is able, without conflict of interest, to—

"(i) provide advice and consultation needed to protect the health, safety, welfare, and rights of residents; and

"(ii) assist the Ombudsman and representatives of the Office in the performance of the official duties of the Ombudsman and representatives; and

"(B) legal representation is provided to any representative of the Office against whom suit or other legal action is brought or threatened to be brought in connection with the performance of the official duties of the Ombudsman or such a representative; and

"(2) the Office pursues administrative, legal, and other appropriate remedies on behalf of residents.

"(h) ADMINISTRATION.—The State agency shall require the Office to—

Reports.

"(1) prepare an annual report—

"(A) describing the activities carried out by the Office in the year for which the report is prepared;

"(B) containing and analyzing the data collected under subsection (c);

"(C) evaluating the problems experienced by, and the complaints made by or on behalf of, residents;

"(D) containing recommendations for—

"(i) improving quality of the care and life of the residents; and

"(ii) protecting the health, safety, welfare, and rights of the residents;

"(E)(i) analyzing the success of the program including success in providing services to residents of board and care facilities and other similar adult care facilities; and

"(ii) identifying barriers that prevent the optimal operation of the program; and

"(F) providing policy, regulatory, and legislative recommendations to solve identified problems, to resolve the complaints, to improve the quality of care and life of residents, to protect the health, safety, welfare, and rights of residents, and to remove the barriers;

"(2) analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other government policies and actions that pertain to long-term care facilities and services, and to the health, safety, welfare, and rights of residents, in the State, and recommend any changes in such laws, regulations, and policies as the Office determines to be appropriate;

"(3)(A) provide such information as the Office determines to be necessary to public and private agencies, legislators, and other persons, regarding—

"(i) the problems and concerns of older individuals residing in long-term care facilities; and

"(ii) recommendations related to the problems and concerns; and

"(B) make available to the public, and submit to the Commissioner, the chief executive officer of the State, the State legislature, the State agency responsible for licensing or certifying long-term care facilities, and other appropriate governmental entities, each report prepared under paragraph (1); Public information.

"(4)(A) not later than 1 year after the date of the enactment of this title, establish procedures for the training of the representatives of the Office, including unpaid volunteers, based on model standards established by the Associate Commissioner for Ombudsman Programs, in consultation with representatives of citizen groups, long-term care providers, and the Office, that—

"(i) specify a minimum number of hours of initial training;

"(ii) specify the content of the training, including training relating to—

"(I) Federal, State, and local laws, regulations, and policies, with respect to long-term care facilities in the State;

"(II) investigative techniques; and

"(III) such other matters as the State determines to be appropriate; and

"(iii) specify an annual number of hours of in-service training for all designated representatives; and

"(B) require implementation of the procedures not later than 21 months after the date of the enactment of this title;

"(5) prohibit any representative of the Office (other than the Ombudsman) from carrying out any activity described in subparagraphs (A) through (G) of subsection (a)(3) unless the representative—

"(A) has received the training required under paragraph (4); and

"(B) has been approved by the Ombudsman as qualified to carry out the activity on behalf of the Office;

"(6) coordinate ombudsman services with the protection and advocacy systems for individuals with developmental disabilities and mental illnesses established under—

"(A) part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.); and

"(B) the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(7) coordinate, to the greatest extent possible, ombudsman services with legal assistance provided under section 306(a)(2)(C), through adoption of memoranda of understanding and other means; and

"(8) permit any local Ombudsman entity to carry out the responsibilities described in paragraph (1), (2), (3), (6), or (7).

"(i) LIABILITY.—The State shall ensure that no representative of the Office will be liable under State law for the good faith performance of official duties.

"(j) NONINTERFERENCE.—The State shall—

"(1) ensure that willful interference with representatives of the Office in the performance of the official duties of the representatives (as defined by the Commissioner) shall be unlawful;

"(2) prohibit retaliation and reprisals by a long-term care facility or other entity with respect to any resident, employee, or other person for filing a complaint with, providing information to, or otherwise cooperating with any representative of, the Office; and

"(3) provide for appropriate sanctions with respect to the interference, retaliation, and reprisals.

42 USC 3058h.

"SEC. 713. REGULATIONS.

"The Commissioner shall issue and periodically update regulations respecting—

"(1) conflicts of interest by persons described in paragraphs (1) and (2) of section 712(f); and

"(2) the relationships described in subparagraphs (A) through (D) of section 712(f)(3).".

SEC. 703. PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.

42 USC 3058i note.

(a) PURPOSE.—The purpose of this section is to assist States in the design, development, and coordination of comprehensive services of the State and local levels to prevent, treat, and remedy elder abuse, neglect, and exploitation.

(b) PROGRAMS.—Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by section 702) is amended by adding at the end the following:

"CHAPTER 3—PROGRAMS FOR PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION

42 USC 3058i.

"SEC. 721. PREVENTION OF ELDER ABUSE, NEGLECT, AND EXPLOITATION.

"(a) ESTABLISHMENT.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(b), a State agency shall, in accordance with this section, and in consultation with area agencies on aging, develop and enhance programs for the prevention of elder abuse, neglect, and exploitation.

"(b) USE OF ALLOTMENTS.—The State agency shall use an allotment made under subsection (a) to carry out, through the programs described in subsection (a), activities to develop, strengthen, and

carry out programs for the prevention and treatment of elder abuse, neglect, and exploitation, including—

"(1) providing for public education and outreach to identify and prevent elder abuse, neglect, and exploitation;

"(2) ensuring the coordination of services provided by area agencies on aging with services instituted under the State adult protection service program;

"(3) promoting the development of information and data systems, including elder abuse reporting systems, to quantify the extent of elder abuse, neglect, and exploitation in the State;

"(4) conducting analyses of State information concerning elder abuse, neglect, and exploitation and identifying unmet service, enforcement, or intervention needs;

"(5) conducting training for individuals, professionals, and paraprofessionals, in relevant fields on the identification, prevention, and treatment of elder abuse, neglect, and exploitation, with particular focus on prevention and enhancement of self-determination and autonomy;

"(6) providing technical assistance to programs that provide or have the potential to provide services for victims of elder abuse, neglect, and exploitation and for family members of the victims;

"(7) conducting special and on-going training, for individuals involved in serving victims of elder abuse, neglect, and exploitation, on the topics of self-determination, individual rights, State and Federal requirements concerning confidentiality, and other topics determined by a State agency to be appropriate; and

"(8) promoting the development of an elder abuse, neglect, and exploitation system—

"(A) that includes a State elder abuse, neglect, and exploitation law that includes provisions for immunity, for persons reporting instances of elder abuse, neglect, and exploitation, from prosecution arising out of such reporting, under any State or local law;

"(B) under which a State agency—

"(i) on receipt of a report of known or suspected instances of elder abuse, neglect, or exploitation, shall promptly initiate an investigation to substantiate the accuracy of the report; and

"(ii) on a finding of elder abuse, neglect, or exploitation, shall take steps, including appropriate referral, to protect the health and welfare of the abused, neglected, or exploited older individual;

"(C) that includes, throughout the State, in connection with the enforcement of elder abuse, neglect, and exploitation laws and with the reporting of suspected instances of elder abuse, neglect, and exploitation—

"(i) such administrative procedures;

"(ii) such personnel trained in the special problems of elder abuse, neglect, and exploitation prevention and treatment;

"(iii) such training procedures;

"(iv) such institutional and other facilities (public and private); and

"(v) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with elder abuse, neglect, and exploitation cases in the State;

"(D) that preserves the confidentiality of records in order to protect the rights of older individuals;

"(E) that provides for the cooperation of law enforcement officials, courts of competent jurisdiction, and State agencies providing human services with respect to special problems of elder abuse, neglect, and exploitation;

"(F) that enables an older individual to participate in decisions regarding the welfare of the older individual, and makes the least restrictive alternatives available to an older individual who is abused, neglected, or exploited; and

"(G) that includes a State clearinghouse for dissemination of information to the general public with respect to—

"(i) the problems of elder abuse, neglect, and exploitation;

"(ii) the facilities described in subparagraph (C)(iv); and

"(iii) prevention and treatment methods available to combat instances of elder abuse, neglect, and exploitation.

"(c) APPROACH.—In developing and enhancing programs under subsection (a), the State agency shall use a comprehensive approach, in consultation with area agencies on aging, to identify and assist older individuals who are subject to abuse, neglect, and exploitation, including older individuals who live in State licensed facilities, unlicensed facilities, or domestic or community-based settings.

"(d) COORDINATION.—In developing and enhancing programs under subsection (a), the State agency shall coordinate the programs with other State and local programs and services for the protection of vulnerable adults, particularly vulnerable older individuals, including programs and services such as—

"(1) area agency on aging programs;

"(2) adult protective service programs;

"(3) the State Long-Term Care Ombudsman program established in chapter 2;

"(4) protection and advocacy programs;

"(5) facility and long-term care provider licensure and certification programs;

"(6) medicaid fraud and abuse services, including services provided by a State medicaid fraud control unit, as defined in section 1903(q) of the Social Security Act (42 U.S.C. 1396b(q));

"(7) victim assistance programs; and

"(8) consumer protection and law enforcement programs, as well as other State and local programs that identify and assist vulnerable older individuals.

"(e) REQUIREMENTS.—In developing and enhancing programs under subsection (a), the State agency shall—

"(1) not permit involuntary or coerced participation in such programs by alleged victims, abusers, or members of their households;

Privacy.

"(2) require that all information gathered in the course of receiving a report described in subsection (b)(8)(B)(i), and

making a referral described in subsection (b)(8)(B)(ii), shall remain confidential except—

"(A) if all parties to such complaint or report consent in writing to the release of such information;

"(B) if the release of such information is to a law enforcement agency, public protective service agency, licensing or certification agency, ombudsman program, or protection or advocacy system; or

"(C) upon court order; and

"(3) make all reasonable efforts to resolve any conflicts with other public agencies with respect to confidentiality of the information described in paragraph (2) by entering into memoranda of understanding that narrowly limit disclosure of information, consistent with the requirement described in paragraph (2).

"(f) DESIGNATION.—The State agency may designate a State entity to carry out the programs and activities described in this chapter.".

SEC. 704. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM.

Title VII of the Older Americans Act of 1965 (as added by section 701 and amended by the preceding sections) is amended by adding at the end the following:

"CHAPTER 4—STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT PROGRAM

"SEC. 731. STATE ELDER RIGHTS AND LEGAL ASSISTANCE DEVELOPMENT. 42 USC 3058j.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—In order to be eligible to receive an allotment under section 703 from funds appropriated under section 702(c), a State agency shall, in accordance with this section and in consultation with area agencies on aging, establish a program to provide leadership for improving the quality and quantity of legal and advocacy assistance as a means for ensuring a comprehensive elder rights system.

"(2) COORDINATION AND ASSISTANCE.—In carrying out the program established under this chapter, the State agency shall coordinate, and provide assistance to, area agencies on aging and other entities in the State that assist older individuals in—

"(A) understanding the rights of the older individuals;

"(B) exercising choice;

"(C) benefiting from services and opportunities authorized by law;

"(D) maintaining the rights of the older individuals and, in particular, of the older individuals with reduced capacity; and

"(E) solving disputes.

"(b) FUNCTIONS.—In carrying out this chapter, the State agency shall—

"(1) establish a focal point for elder rights policy review, analysis, and advocacy at the State level, including such issues as guardianship, age discrimination, pension and health bene-

fits, insurance, consumer protection, surrogate decisionmaking, protective services, public benefits, and dispute resolution;

"(2) provide an individual who shall be known as a State legal assistance developer, and other personnel, sufficient to ensure—

"(A) State leadership in securing and maintaining legal rights of older individuals;

"(B) State capacity for coordinating the provision of legal assistance;

"(C) State capacity to provide technical assistance, training and other supportive functions to area agencies on aging, legal assistance providers, ombudsmen, and other persons as appropriate; and

"(D) State capacity to promote financial management services for older individuals at risk of conservatorship;

"(3)(A) develop, in conjunction with area agencies on aging and legal assistance providers, statewide standards for the delivery of legal assistance to older individuals; and

"(B) provide technical assistance to area agencies on aging and legal assistance providers to enhance and monitor the quality and quantity of legal assistance to older individuals, including technical assistance in developing plans for targeting services to reach the older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals;

"(4) provide consultation to, and ensure, the coordination of activities with the legal assistance provided under title III, services provided by the Legal Service Corporation, and services provided under chapters 2, 3, and 5, as well as other State or Federal programs administered at the State and local levels that address the legal assistance needs of older individuals;

"(5) provide for the education and training of professionals, volunteers, and older individuals concerning elder rights, the requirements and benefits of specific laws, and methods for enhancing the coordination of services;

"(6) promote, and provide as appropriate, education and training for individuals who are or might become guardians or representative payees of older individuals, including information on—

"(A) the powers and duties of guardians or representative payees; and

"(B) alternatives to guardianship;

"(7) promote the development of, and provide technical assistance concerning, pro bono legal assistance programs, State and local bar committees on aging, legal hot lines, alternative dispute resolution, programs and curricula, related to the rights and benefits of older individuals, in law schools and other institutions of higher education, and other methods to expand access by older individuals to legal assistance and advocacy and vulnerable elder rights protection activities;

"(8) provide for periodic assessments of the status of elder rights in the State, including analysis—

"(A) of the unmet need for assistance in resolving legal problems and benefits-related problems, methods for expanding advocacy services, the status of substitute decisionmaking systems and services (including systems and services regarding guardianship, representative

payeeship, and advance directives), access to courts and the justice system, and the implementation of civil rights and age discrimination laws in the State; and

"(B) of problems and unmet needs identified in programs established under title III and other programs; and

"(9) for the purpose of identifying vulnerable elder rights protection activities provided by the entities under this chapter, and coordinating the activities with programs established under title III and chapters 2, 3, and 5, develop working agreements with— Intergovernmental relations.

"(A) State entities, including the consumer protection agency, the court system, the attorney general, the State equal employment opportunity commission, and other State agencies; and

"(B) Federal entities, including the Social Security Administration, Health Care Financing Administration, and the Department of Veterans' Affairs, and other entities.".

SEC. 705. OUTREACH, COUNSELING, AND ASSISTANCE PROGRAMS.

(a) PURPOSE.—The purpose of this section is to provide outreach, counseling, and assistance in order to assist older individuals in obtaining benefits under— 42 USC 3058k note.

(1) public and private health insurance, long-term care insurance, life insurance, and pension plans; and

(2) public programs under which the individuals are entitled to benefits, including benefits under—

(A) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.);

(B) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(C) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); and

(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

(b) PROGRAM.—Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"CHAPTER 5—OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM

"SEC. 741. STATE OUTREACH, COUNSELING, AND ASSISTANCE PROGRAM FOR INSURANCE AND PUBLIC BENEFITS. 42 USC 3058k.

"(a) DEFINITIONS.—As used in this section:

"(1) INSURANCE BENEFIT.—The term 'insurance benefit' means a benefit under—

"(A) the medicare program established under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

"(B) the medicaid program established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

"(C) a public or private insurance program;

"(D) a medicare supplemental policy; or

"(E) a pension plan.

"(2) MEDICARE SUPPLEMENTAL POLICY.—The term 'medicare supplemental policy' has the meaning given the term in section 1882(g)(1) of the Social Security Act (42 U.S.C. 1395ss(g)(1)).

"(3) PENSION PLAN.—The term 'pension plan' means an employee pension benefit plan, as defined in section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)).

"(4) PUBLIC BENEFIT.—The term 'public benefit' means a benefit under—

"(A) the Federal Old-Age, Survivors, and Disability Insurance Benefits programs under title II of the Social Security Act (42 U.S.C. 401 et seq.);

"(B) the medicare program established under title XVIII of the Social Security Act, including benefits as a qualified medicare beneficiary, as defined in section 1905(p) of the Social Security Act;

"(C) the medicaid program established under title XIX of the Social Security Act;

"(D) the program established under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

"(E) the program established under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.);

"(F) the supplemental security income program established under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.); or

"(G) a program determined to be appropriate by the Commissioner.

"(5) STATE INSURANCE ASSISTANCE PROGRAM.—The term 'State insurance assistance program' means the program established under subsection (b)(1).

"(6) STATE PUBLIC BENEFIT ASSISTANCE PROGRAM.—The term 'State public benefit assistance program' means the program established under subsection (b)(2).

"(b) ESTABLISHMENT.—In order to receive an allotment under section 703 from funds appropriated under section 702(d), a State agency shall, in coordination with area agencies on aging and in accordance with this section, establish—

"(1) a program to provide to older individuals outreach, counseling, and assistance related to obtaining insurance benefits; and

"(2) a program to provide outreach, counseling, and assistance to older individuals who may be eligible for, but who are not receiving, public benefits.

"(c) INSURANCE AND PUBLIC BENEFITS.—The State agency shall—

"(1) in carrying out a State insurance assistance program—

"(A) provide information and counseling to assist older individuals—

"(i) in filing claims and obtaining benefits under title XVIII and title XIX of the Social Security Act;

"(ii) in comparing medicare supplemental policies and in filing claims and obtaining benefits under such policies;

"(iii) in comparing long-term care insurance policies and in filing claims and obtaining benefits under such policies;

"(iv) in comparing other types of health insurance policies not described in clause (iii) and in filing claims and obtaining benefits under such policies;

"(v) in comparing life insurance policies and in filing claims and obtaining benefits under such policies;

"(vi) in comparing other forms of insurance policies not described in clause (v), in comparing pension plans, and in filing claims and obtaining benefits under such policies and plans as the State agency may determine to be necessary; and

"(vii) in comparing current and future health and post-retirement needs related to pension plans, and the relationship of benefits under such plans to insurance benefits and public benefits;

"(B) establish a system of referrals to appropriate providers of legal assistance, and to appropriate agencies of the Federal or State government regarding the problems of older individuals related to health insurance benefits, other insurance benefits, and public benefits;

"(C) give priority to providing assistance to older individuals with greatest economic need;

"(D) ensure that services provided under the program will be coordinated with programs established under chapters 2, 3, and 4, and under title III;

"(E) provide for adequate and trained staff (including volunteers) necessary to carry out the program;

"(F) ensure that staff (including volunteers) of the agency and of any agency or organization described in subsection (d) will not be subject to a conflict of interest in providing services under the program;

"(G) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to insurance benefits and public benefits;

"(H) provide for the coordination of information on insurance benefits between the staff of departments and agencies of the State government and the staff (including volunteers) of the program; and

"(I) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, health or other insurance benefits; and

"(2) in carrying out a State public benefits assistance program—

"(A) carry out activities to identify older individuals with greatest economic need who may be eligible for, but who are not receiving, public benefits;

"(B) conduct outreach activities to inform older individuals of the requirements for eligibility to receive such benefits;

"(C) assist older individuals in applying for such benefits;

"(D) establish a system of referrals to appropriate providers of legal assistance, or to appropriate agencies of the Federal or State government regarding the problems of older individuals related to public benefits;

"(E) comply with the requirements specified in subparagraphs (C) through (F) of paragraph (1) with respect to the State public benefits assistance program;

"(F) provide for the collection and dissemination of timely and accurate information to staff (including volunteers) related to public benefits;

"(G) provide for the coordination of information on public benefits between the staff of State entities and the staff (including volunteers) of the State public benefits assistance program; and

"(H) make recommendations related to consumer protection that may affect individuals eligible for, or receiving, public benefits.

"(d) ADMINISTRATION.—The State agency may operate the State insurance assistance program and the State public benefits assistance program directly, in cooperation with other State agencies, or under an agreement with a statewide nonprofit organization, an area agency on aging, or another public or nonprofit agency or organization.

"(e) MAINTENANCE OF EFFORT.—Any funds appropriated for the activities under this chapter shall supplement, and shall not supplant, funds that are expended for similar purposes under any Federal, State, or local program providing insurance benefits or public benefits.

"(f) COORDINATION.—A State that receives an allotment under section 703 and receives a grant to provide services under section 4360 of the Omnibus Reconciliation Act of 1990 (42 U.S.C. 1395b–4) shall coordinate the services with activities provided by the State agency through the programs described in paragraphs (1) and (2) of subsection (b).".

SEC. 706. NATIVE AMERICAN ORGANIZATION PROVISIONS.

Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"Subtitle B—Native American Organization Provisions

42 USC 3058aa.

"SEC. 751. NATIVE AMERICAN PROGRAM.

"(a) ESTABLISHMENT.—The Commissioner, acting through the Associate Commissioner on American Indian, Alaskan Native, and Native Hawaiian Aging, shall establish and carry out a program for—

"(1) assisting eligible entities in prioritizing, on a continuing basis, the needs of the service population of the entities relating to elder rights; and

"(2) making grants to eligible entities to carry out vulnerable elder rights protection activities that the entities determine to be priorities.

"(b) APPLICATION.—In order to be eligible to receive assistance under this subtitle, an entity shall submit an application to the Commissioner, at such time, in such manner, and containing such information as the Commissioner may require.

"(c) ELIGIBLE ENTITY.—An entity eligible to receive assistance under this section shall be—

"(1) an Indian tribe; or

"(2) a public agency, or a nonprofit organization, serving older individuals who are Native Americans.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $5,000,000 for fiscal year 1992, and such sums as may be necessary for fiscal years 1993, 1994, and 1995.".

SEC. 707. GENERAL PROVISIONS.

Title VII of the Older Americans Act of 1965 (as added by section 701, and amended by the preceding sections) is amended by adding at the end the following:

"Subtitle C—General Provisions

"SEC. 761. DEFINITIONS. 42 USC 3058bb.

"As used in this title:

"(1) ELDER RIGHT.—The term 'elder right' means a right of an older individual.

"(2) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITY.—The term 'vulnerable elder rights protection activity' means an activity funded under chapter 2, 3, 4, or 5 of this title.

"SEC. 762. ADMINISTRATION. 42 USC 3058cc.

"A State agency or an entity described in section 751(c) may carry out vulnerable elder rights protection activities either directly or through contracts or agreements with public or nonprofit private agencies or organizations, such as—

"(1) other State agencies;

"(2) area agencies on aging;

"(3) county governments;

"(4) institutions of higher education;

"(5) Indian tribes; or

"(6) nonprofit service providers or volunteer organizations.

"SEC. 763. TECHNICAL ASSISTANCE. 42 USC 3058dd.

"(a) OTHER AGENCIES.—In carrying out the provisions of this title, the Commissioner may request the technical assistance and cooperation of such Federal entities as may be appropriate.

"(b) COMMISSIONER.—The Commissioner shall provide technical assistance and training (by contract, grant, or otherwise) to persons and entities that administer programs established under this title.

"SEC. 764. AUDITS. 42 USC 3058ee.

"(a) ACCESS.—The Commissioner, the Comptroller General of the United States, and any duly authorized representative of the Commissioner or the Comptroller shall have access, for the purpose of conducting an audit or examination, to any books, documents, papers, and records that are pertinent to financial assistance received under this title.

"(b) LIMITATION.—State agencies, area agencies on aging, and entities described in section 751(c) shall not request information or data from providers that is not pertinent to services furnished under this title or to a payment made for the services.".

SEC. 708. TECHNICAL AND CONFORMING AMENDMENTS.

(a) OMBUDSMAN PROGRAM.—

(1) SOCIAL SECURITY ACT.—

(A) Section 1819 of the Social Security Act (42 U.S.C. 1395i–3) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(B) Section 1919 of the Social Security Act (42 U.S.C. 1396r) is amended in subsections (c)(2)(B)(iii)(II) and (g)(5)(B) by striking "established under section 307(a)(12) of the Older Americans Act of 1965" and inserting "established under title III or VII of the Older Americans Act of 1965 in accordance with section 712 of the Act".

(2) OLDER AMERICANS ACT OF 1965.—

(A) Section 207(b) of the Older Americans Act of 1965 (42 U.S.C. 3018(b)) is amended—

(i) in paragraph (1)(A), by striking "section 307(a)(12)(C)" and inserting "titles III and VII in accordance with section 712(c)"; and

(ii) in paragraph (3)—

(I) by striking "by section 307(a)(12)(H)(i)" and inserting "under titles III and VII in accordance with section 712(h)(1)"; and

(II) by striking subparagraph (E) and inserting the following:

"(E) each public agency or private organization designated as an Office of the State Long-Term Care Ombudsman under title III or VII in accordance with section 712(a)(4)(A).".

(B) Section 301(c) of the Older Americans Act of 1965 (42 U.S.C. 3021(c)) is amended by striking "section 307(a)(12), and to individuals designated under such section" and inserting "section 307(a)(12) in accordance with section 712, and to individuals within such programs designated under section 712".

(C) Section 351(4) of the Older Americans Act of 1965 (42 U.S.C. 3030l(4)) is amended by striking "section 307(a)(12)" and inserting "titles III and VII in accordance with section 712".

(b) PROGRAMS FOR PREVENTION OF ABUSE, NEGLECT, AND EXPLOITATION.—Section 321(15) of the Older Americans Act of 1965 (42 U.S.C. 3030d(15)) is amended by striking "clause (16) of section 307(a)" and inserting "chapter 3 of subtitle A of title VII and section 307(a)(16)".

(c) OUTREACH PROGRAMS.—

(1) Section 202(a)(20) of the Older Americans Act of 1965 (42 U.S.C. 3012(a)(20)) is amended by striking "under section 307(a)(31)".

(2) Section 207(c) of the Older Americans Act of 1965 (42 U.S.C. 3018(c)) is amended—

(A) in the first sentence, by striking "on the evaluations required to be submitted under section 307(a)(31)(D)" and inserting "on the outreach activities supported under this Act"; and

(B) in paragraph (1), by striking "outreach activities supported under section 306(a)(6)(P)" and inserting "the activities".

(3) Section 303(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3023(a)(1)) is amended by striking "for purposes other than outreach activities and application assistance under section 307(a)(31)".

(4) Section 307(a)(20)(A) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)(20)(A)) is amended by striking "sections 306(a)(2)(A) and 306(a)(6)(P)" and inserting "section 306(a)(2)(A)".

TITLE VIII—AMENDMENTS TO OTHER LAWS; RELATED MATTERS

Subtitle A—Long-Term Health Care Workers

42 USC 3001 note.

SEC. 801. DEFINITIONS.

As used in this subtitle:

(1) NURSING HOME NURSE AIDE.—The term "nursing home nurse aide" means an individual employed at a nursing or convalescent home who assists in the care of patients at such home under the direction of nursing and medical staff.

(2) HOME HEALTH CARE AIDE.—The term "home health care aide" means an individual who—

(A) is employed by a government, charitable, nonprofit, or proprietary agency; and

(B) cares for elderly, convalescent, or handicapped individuals in the home of the individuals by performing routine home assistance (such as housecleaning, cooking, and laundry) and assisting in the health care of such individuals under the direction of a physician or nurse.

SEC. 802. INFORMATION REQUIREMENTS.

Reports.

(a) NATIONAL CENTER FOR HEALTH STATISTICS.—The Director of the National Center for Health Statistics of the Centers for Disease Control shall collect, and prepare a report containing—

(1) demographic information on home health care aides and nursing home nurse aides, including information on the—

(A) age, race, marital status, education, number of children and other dependents, gender, and primary language, of the aides; and

(B) location of facilities at which the aides are employed in—

(i) rural communities; or

(ii) urban or suburban communities; and

(2) information on the role of the aides in providing institution-based and home-based long-term care.

(b) DEPARTMENT OF LABOR.—The Secretary of Labor shall—

(1) collect, and prepare a report containing, information on home health care aides, including—

(A) information on conditions of employment, including—

(i) the length of employment of the aides with the current employer of the aides;

(ii) the number of aides who are—

(I) employed by a for-profit employer;

(II) employed by a nonprofit private employer;
(III) employed by a charitable employer;
(IV) employed by a government employer; or
(V) independent contractors;

(iii) the number of full-time, part-time, and temporary positions for the aides;

(iv) the ratio of the aides to professional staff;

(v) the types of tasks performed by the aides, the level of skill needed to perform the tasks, and whether the tasks are completed in a institution-based or home-based setting; and

(vi) the average number and range of hours worked each week by the aides; and

(B) information on availability of the employment benefits for home health care aides and a description of the benefits, including—

(i) information on health insurance coverage;
(ii) the type of pension plan coverage;
(iii) the amount of vacation leave;
(iv) wage rates; and
(v) the extent of work-related training provided; and

(2) collect, and prepare a report containing, information on nursing home nurse aides, including—

(A) the information described in subparagraphs (A) and (B) of paragraph (1); and

(B) information on—

(i) the type of facility of the employer of the aides, such as a skilled nursing facility, as defined in section 1819(a) of the Social Security Act (42 U.S.C. 1395i-3(a)), or an intermediate care facility within the meaning of section 1121(a) of the Social Security Act (42 U.S.C. 1320a(a));

(ii) the number of beds at the facility; and

(iii) the ratio of the aides to residents of the facility.

SEC. 803. REPORTS.

(a) REPORTS TO COMMISSIONER ON AGING.—

(1) TRANSMITTAL.—

(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—Not later than March 1, 1994, the Director of the National Center for Health Statistics of the Centers for Disease Control shall transmit to the Commissioner on Aging the report required by section 802(a).

(B) DEPARTMENT OF LABOR REPORTS.—

(i) HOME HEALTH CARE AIDES.—Not later than March 1, 1993, the Secretary of Labor shall transmit to the Commissioner on Aging a plan for the collection of the information described in section 802(b)(1). Not later than March 1, 1995, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(1).

(ii) NURSING HOME NURSE AIDES.—Not later than March 1, 1994, the Secretary of Labor shall transmit to the Commissioner on Aging the report required by section 802(b)(2).

(2) PREPARATION.—

(A) NATIONAL CENTER FOR HEALTH STATISTICS REPORT.—The report required by section 802(a) shall be prepared and organized in such a manner as the Director of the National Center for Health Statistics may determine to be appropriate.

(B) DEPARTMENT OF LABOR REPORTS.—The reports required by paragraphs (1) and (2) of section 802(b) shall be prepared and organized in such a manner as the Secretary of Labor may determine to be appropriate.

(3) PRESENTATION OF INFORMATION.—The reports required by section 802 shall not identify by name individuals supplying information for purposes of the reports. The reports shall present information collected in the aggregate.

(b) REPORT TO CONGRESS.—The Commissioner on Aging shall review the reports required by section 802 and shall submit to the appropriate committees of Congress a report containing—

(1) the reports required by section 802;

(2) the comments of the Commissioner on the reports; and

(3) additional information, regarding the roles of nursing home nurse aides and home health care aides in providing long-term care, obtained through the State Long-Term Care Ombudsman program established under sections 307(a)(12) and 712 of the Older Americans Act of 1965.

SEC. 804. OCCUPATIONAL CODE.

The Secretary of Labor shall include an occupational code covering nursing home nurse aides and an occupational code covering home health care aides in each wage survey of relevant industries conducted by the Department of Labor that begins after the date of enactment of this Act.

Subtitle B—National School Lunch Act

SEC. 811. MEALS PROVIDED THROUGH ADULT DAY CARE CENTERS.

(a) IN GENERAL.—Section 17(o)(2)(A)(i) of the National School Lunch Act (42 U.S.C. 1766(o)(2)(A)(i)) is amended by inserting ", or a group living arrangement," after "homes".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if the amendment had been included in the Older Americans Act Amendments of 1987.

42 USC 1766 note.

Subtitle C—Native American Programs

Native American Programs Act Amendments of 1992.

SEC. 821. SHORT TITLE.

This subtitle may be cited as the "Native American Programs Act Amendments of 1992".

42 USC 2991 note.

SEC. 822. AMENDMENTS.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended—

(1) in section 803 (42 U.S.C. 2991b)—

(A) by striking "Secretary" each place the term appears and inserting "Commissioner"; and

(B) in the first sentence of subsection (a)—

(i) by striking "Indian organizations" and inserting "Indian and Alaska Native organizations"; and

(ii) by striking "nonreservation area" and inserting "area that is not an Indian reservation or Alaska Native village";

(2) in section 803A (42 U.S.C. 2991b–1)—

(A) in subsection (a)(1)—

(i) by striking "one agency" and all that follows through "of Native Hawaiians" and inserting "the Office of Hawaiian Affairs of the State of Hawaii (referred to in this section as the 'Office')";

(ii) by striking "5-year"; and

(iii) in subparagraph (A) by striking "such agency or Native Hawaiian organization" and inserting "the Office";

(B) by striking "agency or organization to which a grant is awarded under subsection (a)(1) of this section" each place the term appears and inserting "Office";

(C) by striking "agency or organization" each place the term appears and inserting "Office";

(D) by striking "Secretary" each place the term appears and inserting "Commissioner";

(E) in subsection (a)(2) by inserting before the period at the end the following: "and a requirement that the grantee contribute to the revolving loan fund an amount of non-Federal funds equal to the amount of such grant";

(F) by striking subsection (b)(6);

(G) in subsection (f)(1) by striking "fiscal years 1988, 1989, and 1990 the aggregate amount of $3,000,000 for all such fiscal years" and inserting "each of the fiscal years 1992, 1993, and 1994, $1,000,000";

(H) by striking subsection (f)(3); and

(I) by striking subsection (g) and inserting the following:

Reports. "(g)(1) The Commissioner, in consultation with the Office, shall submit a report to the President pro tempore of the Senate and the Speaker of the House of Representatives not later than January 1 following each fiscal year, regarding the administration of this section in such fiscal year.

"(2) Such report shall include the views and recommendations of the Commissioner with respect to the revolving loan fund established under subsection (a)(1) and with respect to loans made from such fund, and shall—

"(A) describe the effectiveness of the operation of such fund in improving the economic and social self-sufficiency of Native Hawaiians;

"(B) specify the number of loans made in such fiscal year;

"(C) specify the number of loans outstanding as of the end of such fiscal year; and

"(D) specify the number of borrowers who fail in such fiscal year to repay loans in accordance with the agreements under which such loans are required to be repaid.";

(3) after section 803A (42 U.S.C. 2991b–1) by inserting the following:

"ESTABLISHMENT OF ADMINISTRATION FOR NATIVE AMERICANS

"SEC. 803B. (a) There is established in the Department of Health and Human Services (referred to in this title as the 'Department') the Administration for Native Americans (referred to in this title as the 'Administration'), which shall be headed by a Commissioner of the Administration for Native Americans (referred to in this title as the 'Commissioner'). The Administration shall be the agency responsible for carrying out the provisions of this title. 42 USC 2991b-2.

"(b) The Commissioner shall be appointed by the President, by and with the advice and consent of the Senate. President.

"(c) The Commissioner shall—

"(1) provide for financial assistance, loan funds, technical assistance, training, research and demonstration projects, and other activities, described in this title;

"(2) serve as the effective and visible advocate on behalf of Native Americans within the Department, and with other departments and agencies of the Federal Government regarding all Federal policies affecting Native Americans;

"(3) with the assistance of the Intra-Departmental Council on Native American Affairs established by subsection (d)(1), coordinate activities within the Department leading to the development of policies, programs, and budgets, and their administration affecting Native Americans, and provide quarterly reports and recommendations to the Secretary;

"(4) collect and disseminate information related to the social and economic conditions of Native Americans, and assist the Secretary in preparing an annual report to the Congress about such conditions;

"(5) give preference to individuals who are eligible for assistance under this title, in entering into contracts for technical assistance, training, and evaluation under this title; and

"(6) encourage agencies that carry out projects under this title, to give preference to such individuals in hiring and entering into contracts to carry out such projects.

"(d)(1) There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner shall be the chairperson of such Council and shall advise the Secretary on all matters affecting Native Americans that involve the Department. The Director of the Indian Health Service shall serve as vice chairperson of the Council. Establishment.

"(2) The membership of the Council shall be the heads of principal operating divisions within the Department, as determined by the Secretary, and such persons in the Office of the Secretary as the Secretary may designate.

"(3) In addition to the duties described in subsection (c)(3), the Council shall, within 180 days following the date of the enactment of the Native American Programs Act Amendments of 1992, prepare a plan, including legislative recommendations, to allow tribal governments and other organizations described in section 803(a) to consolidate grants administered by the Department and to designate a single office to oversee and audit the grants. Such plan shall be submitted to the committees of the Senate and the House of Representatives having jurisdiction over the Administration for Native Americans.

"(e) The Secretary shall assure that adequate staff and administrative support is provided to carry out the purpose of this title. In determining the staffing levels of the Administration, the Secretary shall consider among other factors the unmet needs of the Native American population, the need to provide adequate oversight and technical assistance to grantees, the need to carry out the activities of the Council, the additional reporting requirements established, and the staffing levels previously maintained in support of the Administration.";

(4) by striking section 804 (42 U.S.C. 2991c) and inserting the following:

"TECHNICAL ASSISTANCE AND TRAINING

"SEC. 804. The Commissioner shall provide, directly or through other arrangements—

"(1) technical assistance to the public and private agencies in planning, developing, conducting, and administering projects under this title;

"(2) short-term in-service training for specialized or other personnel that is needed in connection with projects receiving financial assistance under this title; and

"(3) upon denial of a grant application, technical assistance to a potential grantee in revising a grant proposal.";

(5) in section 805 (42 U.S.C. 2991d) by striking "Secretary" each place the term appears and inserting "Commissioner";

(6) in section 806 (42 U.S.C. 2991d–1) by striking "Secretary" each place the term appears and inserting "Commissioner";

(7) in section 807 (42 U.S.C. 2991e) by striking "Secretary" each place the term appears and inserting "Commissioner";

(8) in section 808 (42 U.S.C. 2991f) by striking "Secretary" each place the term appears and inserting "Commissioner";

(9) in section 809 (42 U.S.C. 2991g) by striking "Secretary" each place the term appears and inserting "Commissioner";

(10) in section 810 (42 U.S.C. 2991h)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by designating the text as subsection (a); and

(C) by adding at the end the following:

"(b) If an application is rejected on the grounds that the applicant is ineligible or that activities proposed by the applicant are ineligible for funding, the applicant may appeal to the Secretary, not later than 30 days after the date of receipt of notification of such rejection, for a review of the grounds for such rejection. On appeal, if the Secretary finds that an applicant is eligible or that its proposed activities are eligible, such eligibility shall not be effective until the next cycle of grant proposals are considered by the Administration.";

(11) in section 811 (42 U.S.C. 2992)—

(A) by striking "Secretary" each place the term appears and inserting "Commissioner";

(B) in subsection (a)—

(i) by inserting "(1)" after "(a)", and

(ii) by adding at the end the following:

"(2) The projects assisted under this title shall be evaluated in accordance with this section not less frequently than at 3-year intervals.";

(12) after section 811 (42 U.S.C. 2992) by inserting the following:

"ANNUAL REPORT

"SEC. 811A. The Secretary shall, not later than January 31 of each year, prepare and transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives an annual report on the social and economic conditions of American Indians, Native Hawaiians, other Native American Pacific Islanders (including American Samoan Natives), and Alaska Natives, together with such recommendations to Congress as the Secretary considers to be appropriate."; 42 USC 2992-1.

(13) after section 812 (42 U.S.C. 2992a) by inserting the following:

"STAFF

"SEC. 812A. In all personnel actions of the Administration, preference shall be given to individuals who are eligible for assistance under this title. Such preference shall be implemented in the same fashion as the preference given to veterans referred to in section 2108(3)(C) of title 5, United States Code. The Commissioner shall take such additional actions as may be necessary to promote recruitment of such individuals for employment in the Administration."; 42 USC 2992a-1.

(14) by striking section 813 (42 U.S.C. 2992b) and inserting the following:

"ADMINISTRATION

"SEC. 813. Nothing in this title shall be construed to prohibit interagency funding agreements made between the Administration and other agencies of the Federal Government for the development and implementation of specific grants or projects.";

(15) in section 816(a) (42 U.S.C. 2992d(a))—

(A) by striking "1988" and all that follows and inserting "1992, 1993, 1994, and 1995."; and

(B) by striking "and 803A" and inserting a comma and "803A, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations;

(16) in section 816(b) (42 U.S.C. 2992d(b)) by striking "and 803A" and inserting a comma and "803A, 804, subsection (e) of this section, and any other provision of this title for which there is an express authorization of appropriations";

(17) in section 816(c)(1) (42 U.S.C. 2992d(c)(1))—

(A) by striking "(1) Except as provided in paragraph (2), there are" and inserting "There are"; and

(B) by striking "1988, 1989, 1990, and 1991" and inserting "1992, 1993, 1994, and 1995";

(18) by striking section 816(c)(2) (42 U.S.C. 2992d(c)(2));

(19) in section 816(d) by striking "1991,";

(20) in section 816 (42 U.S.C. 2992d) by adding at the end the following:

"(e)(1) For fiscal years 1992 and 1993, there are authorized to be appropriated such sums as may be necessary for the purpose of—

"(A) establishing demonstration projects to conduct research related to Native American studies and Indian policy development; and

"(B) continuing the development of a detailed plan, based in part on the results of the projects, for the establishment of a National Center for Native American Studies and Indian Policy Development.

"(2) Such a plan shall be delivered to the Congress not later than 30 days after the date of enactment of this subsection."; and

(21) in sections 802, 803(a), 806(a)(2), 808, and 815(2) (42 U.S.C. 2991a, 2991b(a), 2991d–1(a)(2), 2991f, and 2992c(2)) by striking "Alaskan Native" each place the term appears and inserting "Alaska Native".

Subtitle D—White House Conference on Aging

SEC. 831. WHITE HOUSE CONFERENCE ON AGING.

(a) NAME OF CONFERENCE.—The heading of title II of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended to read as follows:

"TITLE II—WHITE HOUSE CONFERENCE ON AGING"

(b) FINDINGS.—Section 201(a) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in paragraph (1)—

(A) by striking "51,400,000 in 1986" and inserting "52,923,000 in 1990"; and

(B) by striking "101,700,000" and inserting "103,646,000";

(2) in paragraph (2) by striking "every 6" and inserting "every 8"; and

(3) by amending paragraph (3) to read as follows:

"(3) the out-of-pocket costs to older individuals for health care increased from 12.3 percent in 1977 to 18.2 percent in 1988,".

SEC. 832. CONFERENCE REQUIRED.

Section 202 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

President.

(1) in subsection (a) by striking "The President may call a White House Conference on Aging in 1991" and inserting "Not later than December 31, 1994 the President shall convene the White House Conference on Aging";

(2) in subsection (c) by striking paragraphs (1) through (6) and inserting the following:

"(1) to increase the public awareness of the interdependence of generations and the essential contributions of older individuals to society for the well-being of all generations;

"(2) to identify the problems facing older individuals and the commonalities of the problems with problems of younger generations;

"(3) to examine the well-being of older individuals, including the impact the wellness of older individuals has on our aging society;

"(4) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and improving the well-being of the aging;

"(5) to develop recommendations for the coordination of Federal policy with State and local needs and the implementation of such recommendations; and

"(6) to review the status and multigenerational value of recommendations adopted at previous White House Conferences on Aging."; and

(3) in subsection (d)(2) by adding at the end the following: "Delegates shall include individuals who are professionals, individuals who are nonprofessionals, minority individuals, and individuals from low-income families.".

SEC. 833. CONFERENCE ADMINISTRATION.

Section 203 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by inserting "(including organizations representing older Indians)" after "appropriate organizations";

(B) in paragraph (3)—

(i) by striking "prepare and"; and

(ii) by inserting ", prepared by the Policy Committee," after "agenda";

(C) by redesignating paragraphs (1) through (5) as paragraphs (2) through (6), respectively; and

(D) by inserting before paragraph (2), as so redesignated, the following:

"(1) provide written notice to all members of the Policy Committee of each meeting, hearing, or working session of the Policy Committee not later than 48 hours before the occurrence of such meeting, hearing, or working session,";

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "assure" and inserting "and as part of the White House Conference on Aging, ensure";

(B) in paragraph (1), by striking "will" and inserting "shall";

(C) by striking paragraphs (2) and (3);

(D) by inserting after paragraph (1) the following:

"(2) the agenda prepared under subsection (a)(4) for the Conference is published in the Federal Register not later than 30 days after such agenda is approved by the Policy Committee, and the Secretary may republish such agenda together with the recommendations of the Secretary regarding such agenda,"; and

Federal Register, publication.

(E) by redesignating paragraphs (4) through (6) as paragraphs (3) through (5), respectively; and

(3) by adding at the end the following:

"(c) GIFTS.—The Secretary may accept, on behalf of the United States, gifts (in cash or in kind, including voluntary and uncompensated services), which shall be available to carry out this title.

Gifts of cash shall be available in addition to amounts appropriated to carry out this title.

"(d) RECORDS.—The Secretary shall maintain records regarding—

"(1) the sources, amounts, and uses of gifts accepted under subsection (c); and

"(2) the identity of each person receiving assistance to carry out this title, and the amount of such assistance received by each such person.".

SEC. 834. POLICY COMMITTEE; RELATED COMMITTEES.

Section 204 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) by amending the heading to read as follows:

"SEC. 204. POLICY COMMITTEE; RELATED COMMITTEES.";

(2) in subsection (b) by striking "(b) OTHER COMMITTEES.—" and inserting the following:

"(2) OTHER COMMITTEES.—";

(3) in subsection (a)—

(A) by striking "(a) ADVISORY COMMITTEE.—The Secretary" and inserting "(b) ADVISORY AND OTHER COMMITTEES.—

"(1) IN GENERAL.—The President"; and

President.

(B) by adding at the end the following: "The President shall consider for appointment to the advisory committee individuals recommended by the Policy Committee.";

(4) by inserting before subsection (b), as so redesignated, the following:

"(a) POLICY COMMITTEE.—

"(1) ESTABLISHMENT.—There is established a Policy Committee comprised of 25 members to be selected, not later than 90 days after the enactment of the Older Americans Act Amendments of 1992, as follows:

"(A) PRESIDENTIAL APPOINTEES.—Thirteen members shall be selected by the President and shall include—

"(i) 3 members who are officers or employees of the United States; and

"(ii) 10 members with experience in the field of aging, who may include representatives of public aging agencies, institution-based organizations, and minority aging organizations.

"(B) HOUSE APPOINTEES.—Four members shall be selected by the Speaker of the House of Representatives, after consultation with the Minority Leader of the House of Representatives, and shall include members of the Committee on Education and Labor of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and the Select Committee on Aging of the House of Representatives. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

"(C) SENATE APPOINTEES.—Four members shall be selected by the Majority Leader of the Senate, after consultation with the Minority Leader of the Senate, and shall include members of the Committee on Labor and Human Resources of the Senate, the Committee on Finance of the Senate, and the Special Committee on Aging of

the Senate. Not more than 3 members selected under this subparagraph may be associated or affiliated with the same political party.

"(D) JOINT APPOINTEES.—Four members shall be selected jointly by the Speaker of the House of Representatives and the Majority Leader of the Senate, after consultation with the minority leaders of the House and Senate, and shall include representatives with experience in the field of aging, who may include representatives described in subsection (a)(1)(A)(ii). Not more than 2 members selected under this subparagraph may be associated or affiliated with the same political party.

"(2) DUTIES OF THE POLICY COMMITTEE.—The Policy Committee shall initially meet at the call of the Secretary, but not later than 30 days after the last member is selected under subsection (a). Subsequent meetings of the Policy Committee shall be held at the call of the chairperson of the Policy Committee. Through meetings, hearings, and working sessions, the Policy Committee shall—

"(A) make recommendations to the Secretary to facilitate the timely convening of the Conference;

"(B) formulate and approve a proposed agenda for the Conference not later than 60 days after the first meeting of the Policy Committee;

"(C) make recommendations for participants and delegates of the Conference;

"(D) establish the number of delegates to be selected under section 202(d)(2); and

"(E) formulate and approve the initial report of the Conference in accordance with section 205. Reports.

"(3) QUORUM; COMMITTEE VOTING; CHAIRPERSON.—

"(A) QUORUM.—Thirteen members shall constitute a quorum for the purpose of conducting the business of the Policy Committee, except that 17 members shall constitute a quorum for purposes of approving the agenda required by paragraph (2)(B) and the report required by paragraph (2)(E).

"(B) VOTING.—The Policy Committee shall act by the vote of the majority of the members present.

"(C) CHAIRPERSON.—The President shall select a chairperson from among the members of the Policy Committee. The chairperson may vote only to break a tie vote of the other members of the Policy Committee."; and President.

(5) in the first sentence of subsection (c)—

(A) by striking "Each such committee" and inserting "Each committee established under subsection (b)"; and

(B) by inserting ", and individuals who are Native Americans" before the period at the end.

SEC. 835. REPORT OF THE CONFERENCE.

Section 205 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in subsection (a) by striking "60" and inserting "90";

(2) in subsection (b) by striking "Secretary, not later than 180" and inserting "Policy Committee, not later than 90";

(3) in subsection (c)—

(A) by striking "(c) FINAL REPORT.—The Secretary" and inserting the following:

"(c) REPORTS.—

"(1) INITIAL REPORT.—The Policy Committee";

(B) by striking "prepare a final report" and inserting "prepare and approve an initial report"; and

(C) by adding at the end the following:

Federal Register, publication.

"(2) Not later than 60 days after such initial report is transmitted by the Policy Committee, the Secretary shall publish such initial report in the Federal Register. The Secretary may republish a final report together with such additional views and recommendations as the Secretary considers to be appropriate."; and

(4) in subsection (d)—

(A) in the heading of such subsection by striking "SECRETARY" and inserting "POLICY COMMITTEE"; and

(B) by striking "Secretary" and inserting "Policy Committee".

SEC. 836. AUTHORIZATION OF APPROPRIATIONS.

Section 207 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended to read as follows:

"SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for fiscal years 1992 through 1994 to carry out this title.

"(2) CONTRACTS.—Authority to enter into contracts under this title shall be effective only to the extent, or in such amounts as are, provided in advance in appropriations Acts.

"(b) AVAILABILITY OF FUNDS.—

"(1) IN GENERAL.—Except as provided in paragraph (3), funds appropriated to carry out this title and funds received as gifts under section 203(c) shall remain available for obligation or expenditure until June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier.

"(2) UNOBLIGATED FUNDS.—Except as provided in paragraph (3), any such funds neither expended nor obligated before June 30, 1995, or the expiration of the one-year period beginning on the date the Conference adjourns, whichever occurs earlier, shall be available to carry out the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.).

"(3) CONFERENCE NOT CONVENED.—If the Conference is not convened before June 30, 1994, such funds neither expended nor obligated before such date shall be available to carry out the Older Americans Act of 1965.".

42 USC 3001 note.

SEC. 837. SAVINGS PROVISION.

All personnel assigned or engaged under section 202(b) or section 203(a)(5) of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) as in effect immediately before the date of the enactment of this Act shall continue to be assigned or engaged under such section after such date notwithstanding the amendments made by this subtitle.

SEC. 838. SENSE OF THE CONGRESS.

It is the sense of the Congress that the White House Conference on Aging should consider the impact of the earnings test in effect under section 203 of the Social Security Act (42 U.S.C. 403) on older individuals who are employed.

SEC. 839. TECHNICAL AMENDMENTS.

(a) DEFINITIONS.—Section 206 of the Older Americans Act Amendments of 1987 (42 U.S.C. 3001 note) is amended—

(1) in paragraph (1), by striking "means" and all that follows and inserting "has the meaning given the term in section 102(17) of the Older Americans Act of 1965 (42 U.S.C. 3002(17)),"; and

(2) in paragraph (4) by striking "authorized in subsection (b)".

(b) TABLE OF CONTENTS.—The table of contents of the Older Americans Act Amendments of 1987 (42 U.S.C. note) is amended—

(1) by striking the item relating to title II and inserting the following:

"TITLE II—WHITE HOUSE CONFERENCE ON AGING";

and

(2) by striking the item relating to section 204 and inserting the following:

"Sec. 204. Policy committee; related committees.".

TITLE IX—GENERAL PROVISIONS

SEC. 901. LIMITATION ON AUTHORITY TO ENTER INTO CONTRACTS. 42 USC 3001 note.

Any authority to enter into contracts under this Act or an amendment made by this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 902. REGULATIONS. 42 USC 3001 note.

Except as otherwise specifically provided, the Secretary of Health and Human Services shall, not later than 120 days after the date of the enactment of this Act, issue proposed regulations to carry out the amendments made by titles I through VII.

SEC. 903. SENSE OF CONGRESS.

(a) IN GENERAL.—It is the sense of the Congress that a recipient of a grant or other Federal financial assistance awarded under this Act or an amendment made by this Act to assist the recipient in purchasing equipment or products should, in expending the assistance, purchase American-made equipment or products, respectively.

(b) NOTICE.—The Secretary of Health and Human Services shall provide procedures to inform such recipients of the sense of the Congress under subsection (a).

SEC. 904. TECHNICAL AMENDMENTS.

(a) The Older Americans Act of 1965 (42 U.S.C. 3001–3057n) is amended—

(1) in section 101(8) by striking "the vulnerable elderly" and inserting "vulnerable older individuals"; 42 USC 3001.

42 USC 3002. (2) in section 102(2) by striking "Virgin Islands" and inserting "United States Virgin Islands";

42 USC 3011. (3) in section 201(c)(3)—

(A) in subparagraphs (A)(i), (B), (E), and (G) by inserting "individuals who are" after "older" the first place it appears in each of such subparagraphs;

(B) in subparagraph (B) by striking "older Native Americans" the last place it appears and inserting "such individuals"; and

(C) in subparagraph (E) by striking "the Act" and inserting "this Act";

42 USC 3012. (4) in section 202—

(A) in subsection (a)—

(i) in paragraph (1) by striking "the elderly" each place it appears and inserting "older individuals";

(ii) in paragraph (15)—

(I) by striking "the elderly" and inserting "older individuals"; and

(II) by striking "older people" and inserting "such individuals"; and

(iii) in paragraphs (13), (15), (16), and (17) by striking "purposes" and inserting "objectives";

(B) in subsection (b)—

(i) in paragraph (1) by striking "with health systems agencies designated under section 1515 of the Public Health Service Act (42 U.S.C. 300l–4),"; and

(ii) in paragraph (3) by striking "the elderly" and inserting "older individuals";

42 USC 3013. (5) in section 203(b) by striking "purposes" the second place it appears and inserting "objectives";

42 USC 3015. (6) in section 204—

(A) in subsection (b)(4) by striking "the daily rate specified for grade GS–18 in section 5332" and inserting "the daily equivalent of the rate specified for level V of the Executive Schedule under section 5316"; and

(B) in paragraphs (1), (3), and (4) of subsection (d), as amended by section 205(c), by striking "Americans" and inserting "individuals";

42 USC 3016. (7) in section 205(a)(1), as so redesignated by section 206—

(A) by striking "purposes" and inserting "objectives"; and

(B) by striking "to:" and inserting "to—";

42 USC 3018. (8) in section 207(a)(4) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

42 USC 3020b. (9) the last sentence of section 211 is amended by striking "purposes" and inserting "objectives";

42 USC 3024. (10) in section 304(a)(1)—

(A) by striking "aged 60 or older" each place it appears, and inserting "of older individuals";

(B) by striking "Virgin Islands" each place it appears and inserting "United States Virgin Islands"; and

(C) in the last sentence by striking "clause" and inserting "subparagraph";

42 USC 3025. (11) in section 305—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (D) by striking "the elderly" each place it appears and inserting "older individuals";

(II) in subparagraph (E) by striking "individuals aged 60 and older" and inserting "older individuals"; and

(III) in subparagraph (E) by striking "Indians" and inserting "individuals who are Indians"; and

(ii) in paragraph (2)—

(I) in the matter preceding subparagraph (A) by striking "clause" and inserting "paragraph";

(II) in subparagraph (D) by striking "subclause" and inserting "subparagraph"; and

(III) in subparagraph (E) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

(B) in subsection (b)—

(i) in paragraphs (1) and (4) by striking "clause (1) of subsection (a)" and inserting "subsection (a)(1)"; and

(ii) in paragraph (2) by striking "designated under such clause" and inserting "designated under subsection (a)(1)"; and

(C) in subsection (d) by striking "clause" and inserting "paragraph";

(12) in section 306— 42 USC 3026.

(A) in subsection (a)—

(i) in paragraph (1) by striking "Indians" and inserting "individuals who are Indians";

(ii) in paragraph (2)(B) by striking "elderly" and inserting "older individuals who are"; and

(iii) in paragraph (5)(A)(i) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need"; and

(iv) in paragraph (6)—

(I) in subparagraph (D) by striking "the elderly" each place it appears and inserting "older individuals";

(II) in subparagraph (G) by striking "clause" and inserting "paragraph";

(III) in subparagraph (N) by striking "Indians" the first place it appears and inserting "individuals who are Indians"; and

(IV) in subparagraph (N) by striking "elder Indians in such area and shall inform such older Indians" and inserting "such individuals in such area and shall inform such individuals"; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) by inserting "on aging" after "area agency" the first place it appears; and

(II) by striking "clause" each place it appears and inserting "paragraph"; and

(ii) in paragraph (2)(D) by striking "clause" and inserting "paragraph";

42 USC 3027.

(13) in section 307—

(A) in subsection (a)—

(i) in paragraph (8) by striking "the greatest economic or social needs" and inserting "greatest economic need and older individuals with greatest social need";

(ii) in paragraph (13)—

(I) in subparagraph (A) by striking "individuals aged 60 or older" and inserting "older individuals";

(II) in subparagraph (A) by striking "the elderly" and inserting "older individuals";

(III) in subparagraph (B) by striking "subclause" and inserting "subparagraph"; and

(IV) in subparagraph (I) by striking "elderly participants" and inserting "participating older individuals";

(iii) in paragraph (14)(D) by striking "clause" and inserting "subparagraph"; and

(iv) in paragraph (16)(B) by striking "clause" and inserting "paragraph"; and

(B) in subsection (b)(2) by striking "clause" and inserting "paragraph";

42 USC 3028.

(14) in section 308(b)—

(A) in paragraphs (1)(B) and (2)(B) by striking "Virgin Islands" and inserting "United States Virgin Islands"; and

(B) in paragraphs (3)(B)(iii) and (4) by striking "purposes" each place it appears and inserting "objectives";

42 USC 3030d.

(15) in section 321(a)—

(A) in paragraph (4) by striking "elderly" and inserting "older";

(B) in paragraph (14)—

(i) by striking "older, poor individuals 60 years of age or older" and inserting "low-income older individuals"; and

(ii) by striking "the older poor" and inserting "low-income older individuals"; and

(C) in paragraph (15) by striking "clause" and inserting "paragraph";

42 USC 3030bb.

(16) in section 402(b) by striking "Alcohol" and inserting "the Alcohol";

42 USC 3032.

(17) in section 412(b) by striking "purposes" and inserting "objectives";

42 USC 3035.

(18) in section 421(a) by striking "purposes" and inserting "objectives";

42 USC 3035a.

(19) in section 422—

(A) in the second sentence of subsection (a)(1) by striking "the rural elderly" and inserting "older individuals residing in rural areas";

(B) in subsection (b)—

(i) in paragraph (1) by striking "elderly" and inserting "older individuals who are";

(ii) in paragraph (2) by striking "the elderly" and inserting "older individuals";

(iii) in paragraph (6) by striking "the rural elderly" and inserting "older individuals residing in rural areas"; and

(iv) in paragraph (8) by striking "the rural elderly" and inserting "older individuals residing in rural areas";

(20) in section 602 by striking "older Indians, older Alaskan Natives, and older Native Hawaiians" and inserting "older individuals who are Indians, older individuals who are Alaskan Natives, and older individuals who are Native Hawaiians"; 42 USC 3057a.

(21) in section 611(a)— 42 USC 3057b.

(A) in the matter preceding paragraph (1) by inserting "individuals who are" after "older"; and

(B) in paragraph (9) by striking "Indian elderly population" and inserting "population of older individuals who are Indians";

(22) in section 613 by inserting "individuals who are" after "older"; and 42 USC 3057d.

(23) in section 614(a)— 42 USC 3057e.

(A) in paragraph (7) by striking "Indians aged 60 and older" and inserting "older individuals who are Indians";

(B) in paragraph (8) by striking "clause" and inserting "paragraph"; and

(C) in paragraphs (1), (6), (8), and (10) by inserting "individuals who are" after "older" each place it appears.

(b) The Older Americans Community Service Employment Act (42 U.S.C. 3056 et seq.) is amended—

(1) in section 502(b)(1)— 42 USC 3056.

(A) in subparagraph (C) by striking "1954" and inserting "1986"; and

(B) in subparagraph (J) by striking "persons" each place it appears and inserting "individuals"; and

(2) in paragraphs (3) and (4)(A) of section 506(a) by striking "Virgin Islands" each place it appears and inserting "United States Virgin Islands". 42 USC 3056d.

SEC. 905. EFFECTIVE DATES; APPLICATION OF AMENDMENTS. 42 USC 3001 note.

(a) IN GENERAL.—Except as provided in section 811(b), any other provision of this Act (other than this section), and in subsection (b) of this section, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—

(1) FEDERAL COUNCIL ON AGING.—Incumbent members of the Federal Council on Aging may serve on the Council until their successors are appointed under section 204 of the Older Americans Act of 1965 (42 U.S.C. 3015) as amended by section 205 of this Act.

(2) STATE AND COMMUNITY PROGRAMS ON AGING.—The amendments made by sections 303(a)(2), 303(a)(3), 303(f), 304, 305, 306, 307, 316, 317, and 320 shall not apply with respect to fiscal year 1992.

(3) PROJECT REPORTS.—The amendments made by sections 410, 411, 413, 414, 415, 416, 418, and 419 shall not apply with respect to fiscal year 1992.

(4) COMMUNITY SERVICE EMPLOYMENT.—The amendments made by sections 501, 504, and 506 shall not apply with respect to fiscal year 1992.

(5) INDIAN AND NATIVE HAWAIIAN PROGRAMS.—The amendments made by sections 601 and 603 shall not apply with respect to fiscal year 1992.

(6) VULNERABLE ELDER RIGHTS PROTECTION ACTIVITIES.—The amendments made by title VII shall not apply with respect to fiscal year 1992.

Approved September 30, 1992.

LEGISLATIVE HISTORY—H.R. 2967 (S. 243) (S. 3008):

HOUSE REPORTS: No. 102-199 (Comm. on Education and Labor).
SENATE REPORTS: No. 102-151 accompanying S. 243 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Sept. 12, considered and passed House.
Nov. 12, considered and passed Senate, amended, in lieu of S. 243.
Vol. 138 (1992): Apr. 9, House agreed to Senate amendment with an amendment.
Sept. 15, Senate concurred in House amendment with an amendment.
Sept. 22, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Sept. 30, Presidential statement.

O

Public Law 102-376
102d Congress

Joint Resolution

Oct. 1, 1992
[H.J. Res. 553]

Making continuing appropriations for the fiscal year 1993, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for the fiscal year 1993, and for other purposes, namely:

SEC. 101. (a) Such amounts as may be necessary under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in the fiscal year 1992 and for which appropriations, funds, or other authority would be available in the following appropriations Acts:

The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 201 of Public Law 99–64 and section 701 of the United States Information and Educational Exchange Act of 1948;

The Department of Defense Appropriations Act, 1993, notwithstanding section 504(a)(1) of the National Security Act of 1947;

The District of Columbia Appropriations Act, 1993;

The Energy and Water Development Appropriations Act, 1993;

The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993, notwithstanding section 10 of Public Law 91–672 and section 15(a) of the State Department Basic Authorities Act of 1956;

The Department of the Interior and Related Agencies Appropriations Act, 1993;

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993;

The Legislative Branch Appropriations Act, 1993;

The Military Construction Appropriations Act, 1993;

The Department of Transportation and Related Agencies Appropriations Act, 1993;

The Treasury, Postal Service, and General Government Appropriations Act, 1993; and

The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993:

Provided, That whenever the amount which would be made available or the authority which would be granted in these Acts is greater than that which would be available or granted under current

operations, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate.

(b) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this section as passed by the House as of October 1, 1992, is different from that which would be available or granted under such Act as passed by the Senate as of October 1, 1992, the pertinent project or activity shall be continued at a rate for operations not exceeding the current rate or the rate permitted by the action of the House or the Senate, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145: *Provided,* That where an item is included in only one version of an Act as passed by both Houses as of October 1, 1992, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations not exceeding the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145.

(c) Whenever an Act listed in this section has been passed by only the House as of October 1, 1992, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the House, at a rate for operations not exceeding the current rate or the rate permitted by the action of the House, whichever is lower, and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145: *Provided,* That where an item is funded in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145 and not included in the version passed by the House as of October 1, 1992, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145, at a rate for operations not exceeding the current rate and under the authority and conditions provided in applicable appropriations Acts for the fiscal year 1992 or in Public Law 102–145.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 1992 or prior years, for the increase in production rates above those sustained with fiscal year 1992 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P–1 line item in a budget activity within an appropriation account and an R–1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during the fiscal year 1992, except projects, activities, operations, or organizations relating to "Operation Desert Shield/Desert Storm": *Provided,* That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during the fiscal year 1992.

SEC. 105. No provision which is included in an appropriations Act enumerated in section 101 but which was not included in the applicable appropriations Act for fiscal year 1992 or in Public Law 102–145, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in this joint resolution.

SEC. 106. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 5, 1992, whichever first occurs. Termination date.

SEC. 107. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. No provision in any appropriations Act for the fiscal year 1993 referred to in section 101 of this joint resolution that makes the availability of any appropriation provided therein dependent upon the enactment of additional authorizing or other legislation shall be effective before the date set forth in section 106(c) of this joint resolution.

SEC. 110. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 111. Notwithstanding any other provision of this joint resolution, except section 106, or any other law, each agency, office, and instrumentality of the District of Columbia government, except the District of Columbia Courts, shall furlough each employee of the respective agency, office, or instrumentality for one day in each month of the fiscal year ending September 30, 1993, or a proportional number of hours for part-time employees.

SEC. 112. Notwithstanding any other provision of this joint resolution, except section 106, or any other law, no employee of any agency, office, or instrumentality of the District of Columbia government shall receive within-grade salary increases during the fiscal year ending September 30, 1993, and no time during the fiscal year ending September 30, 1993, shall accrue toward the waiting period for advancement to the following rate within the grade.

SEC. 113. Notwithstanding any other provision of this joint resolution, except section 106, activities funded in the Federal Communications Commission's Salaries and Expenses account shall be maintained at the current rate of operations.

Approved October 1, 1992.

LEGISLATIVE HISTORY—H.J. Res. 553:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House and Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 1, Presidential statement.

Public Law 102-377
102d Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes.

Oct. 2, 1992
[H.R. 5373]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for energy and water development, and for other purposes, namely:

Energy and Water Development Appropriations Act, 1993.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $175,780,000, to remain available until expended: *Provided,* That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1993 in the amounts specified:

Los Angeles County Drainage Area Water Conservation and Supply, California, $200,000;

Los Angeles River Watercourse Improvement, California, $300,000;

Rancho Palos Verdes, California, $400,000;

Miami River Sediments, Florida, $50,000;

Monroe County (Smathers Beach), Florida, $500,000;

Casino Beach, Illinois, $110,000;

Chicago Shoreline, Illinois, $600,000;

McCook and Thornton Reservoirs, Illinois, $3,500,000;

Lake George, Hobart, Indiana, $260,000;

Little Calumet River Basin (Cady Marsh Ditch), Indiana, $170,000;

Mississippi River, Vicinity of St. Louis, Missouri, $500,000;

Ste. Genevieve, Missouri, $750,000;
Passaic River Mainstem, New Jersey, $10,000,000; and
Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, $2,800,000:

Provided further, That using $320,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the cost-shared feasibility study of the Calleguas Creek, California, project based on the reconnaissance phase analyses of full intensification benefits resulting from a change in cropping patterns to more intensive crops within the floodplain. The feasibility study will consider the agricultural benefits using both traditional and nontraditional methods, and will include an evaluation of the benefits associated with the environmental protection and restoration of Mugu Lagoon: *Provided further,* That using $200,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a cost-shared feasibility study for flood control at Norco Bluffs, California, based on flood related flows and channel migration which have caused bank destabilization and damaged private property and public utilities in the area: *Provided further,* That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to expand the study of long-term solutions to shoaling problems in Santa Cruz Harbor, California, by incorporating the study of erosion problems between the harbor and the easterly limit of the City of Capitola, particularly beach-fill type solutions which use sand imported from within or adjacent to the harbor: *Provided further,* That using $210,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to include the study of Alafia River as part of the Tampa Harbor, Alafia River and Big Bend, Florida, feasibility study: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a study of a greenway corridor along the Ohio River in New Albany, Clarksville, and Jeffersonville, Indiana, using $125,000 of the funds appropriated under this heading in Public Law 101–101 for Jeffersonville, Indiana, $127,000 of the funds appropriated under this heading in Public Law 101–514, and $250,000 of the funds appropriated under this heading in Public Law 102–104: *Provided further,* That using $450,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the development of a comprehensive waterfront plan for the White River in central Indianapolis, Indiana: *Provided further,* That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to conduct a feasibility study of the Muddy River, Boston, Massachusetts: *Provided further,* That using $50,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake feasibility phase studies for the Clinton River Spillway, Michigan, project: *Provided further,* That using $600,000 of the funds appropriated herein and $900,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the St. Louis Harbor, Missouri and Illinois, project: *Provided further,* That using $3,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of

Engineers, is directed to continue preconstruction engineering and design of the Raritan River Basin, Green Brook Sub-Basin, New Jersey, project in accordance with the design directives for the project contained in Public Law 100–202: *Provided further,* That using $440,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to review and evaluate the plan prepared by the City of Buffalo, New York, to relieve flooding and associated water quality problems in the north section of the city and to recommend other cost-effective alternatives to relieve the threat of flooding: *Provided further,* That using $150,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake a reconnaissance study of the existing resources of the Black Fox and Oakland Spring wetland areas in Murfreesboro, Tennessee, and examine ways to maintain and exhibit the wetlands, including an environmental education facility: *Provided further,* That using $950,000 of the funds appropriated under this heading in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the Richmond Filtration Plant, Richmond, Virginia, project: *Provided further,* That using $250,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the study of the disposition of the current Walla Walla, Washington, District headquarters including preparation of the environmental assessment and design work associated with demolition of the building: *Provided further,* That using $2,800,000 of the funds appropriated herein, the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to evaluate the results of completed research and development associated with an advanced high speed magnetic levitation transportation system and to prepare and present documents summarizing the research findings and supporting the resultant recommendations concerning the Federal role in advancing United States maglev technology: *Provided further,* That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initate the feasibility phase of the study of the Devil's Lake Basin, North Dakota, and shall address the needs of the area for water management; stabilized lake levels, to include inlet and outlet controls; water supply; water quality; recreation; and enhancement and conservation of fish and wildlife: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to utilize up to $100,000, within available funds, to initiate studies to determine the necessary remedial measures to restore the environmental integrity of the lake area and channel depths necessary for small recreational boating in the vicinity of Drakes Creek Park on Old Hictory Lake, Tennessee: *Provided further,* That using $500,000 of available funds, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate preconstruction engineering and design; and environmental studies for the Kaumalapau Harbor, Lanai, Hawaii, project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers is directed to utilize up to $500,000, within available funds, to undertake a reconnaissance level study on flooding problems associated with the sanitary landfill on the Salt River Pima-Maricopa Indian Res-

ervation in the vicinity of the Salt River, Arizona: *Provided further,* That using $500,000 appropriated herein, to remain available until expended, the Secretary of the Army acting through the Chief of Engineers, is directed to continue preconstruction, engineering and design for the Kentucky Lock addition in accordance with the Report of the Chief of Engineers, dated June 1, 1992: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers is directed to use $1,000,000 of available funds to carry out the purposes of section 411 of Public Law 101–640.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,230,503,000, to remain available until expended, of which such sums as are necessary pursuant to Public Law 99–662 shall be derived from the Inland Waterways Trust Fund, for one-half of the costs of construction and rehabilitation of inland waterways projects, including rehabilitation costs for the following projects: Mississippi River, Lock and Dam 13, Illinois and Iowa; Mississippi River, Lock and Dam 15, Illinois and Iowa; Illinois Waterway, Brandon Road, Dresden Island, Marseilles, and Lockport Locks and Dams, Illinois: *Provided,* That with funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1993 in the amounts specified:

Kissimmee River, Florida, $8,000,000;
O'Hare Reservoir, Illinois, $3,000,000;
Des Moines Recreational River and Greenbelt, Iowa, $2,500,000;
Red River Basin Chloride Control, Texas and Oklahoma, $6,000,000;
Wallisville Lake, Texas, $500,000; and
LaConner, Washington, $870,000:

Provided further, That using $7,653,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the project to correct seepage problems at Beaver Lake, Arkansas, and all costs incurred in carrying out that project shall be recovered in accordance with the provisions of section 1203 of the Water Resources Development Act of 1986: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to base all economic analyses of the Sacramento River Flood Control (Deficiency Correction), California, project on the benefits of the entire project, rather than the benefits of individual increments of the project: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall expend $500,000 of the funds appropriated herein and additional amounts as required from previously appropriated funds to continue plans and specifications, environmental documentation, and the comprehensive hydraulic modeling necessary to achieve to the maximum extent practicable in fiscal year 1993 the project to restore the riverbed gradient at Mile

206 of the Sacramento River in California, for purposes of stabilizing the level of the river and establishing the proper hydraulic head to facilitate new fish protection facilities, the planning, design and implementation of which are integrally related to the planning, design and implementation of the project to restore the flood-damaged riverbed gradient: *Provided further,* That using $660,000 in funds previously appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to develop a floodplain management planning model for the Yolo Bypass and adjacent areas as deemed appropriate, except, as provided in section 321 of Public Law 101–640, such funds shall not be subject to cost-sharing requirements. The one-time construction of operation and maintenance facilities associated with the Yolo Basin Wetlands, Sacramento River, California, project shall be included as part of project costs for the purposes of cost-sharing authorized by law: *Provided further,* That using $4,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete preconstruction engineering and design for the San Timoteo feature of the Santa Ana River Mainstem, California, project: *Provided further,* That using funds available in this Act or any previous appropriations Act, the Secretary of the Army shall undertake at Federal expense such actions as are necessary to ensure the safety and integrity of the work performed under Contract Number DACW05–86–C–0101 for the Walnut Creek, California, flood control project: *Provided further,* That using $700,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on project modifications for the improvement of the environment, as part of the Anacostia River Flood Control and Navigation project, District of Columbia and Maryland, under the authority of section 1135 of Public Law 99–662, as amended: *Provided further,* That using $3,000,000 of the funds appropriated under this heading in Public Law 101–514, the Secretary of the Army, acting through the Chief of Engineers, is directed to complete real estate appraisals and make offers to willing sellers for the purchase of land at Red Rock Lake and Dam, Iowa, no later than October 31, 1993, in accordance with Public Law 99–190: *Provided further,* That with $22,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Barbourville, Kentucky, and the Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further,* That with $20,565,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue to undertake structural and nonstructural work associated with the Matewan, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further,* That with $23,000,000 of prior year appropriations to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Lower Mingo County, West Virginia, ~~Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia,~~[1] element of the Levisa and Tug Forks of the Big Sandy River and Upper

[1] Editorial Note: When the original law was received at the National Archives and Records Administration these words were marked out in pencil.

Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further,* That with $1,500,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete construction, using continuing contracts, of the Hatfield Bottom, West Virginia, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96–367: *Provided further,* That with $1,195,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to expedite completion of specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Upper Tug Fork Tributaries, West Virginia, Tug Fork, West Virginia, and Pike County, Kentucky: *Provided further,* That no fully allocated funding policy shall apply to construction of the Matewan, West Virginia, Lower Mingo County, West Virginia, Hatfield Bottom, West Virginia, Barbourville, Kentucky, and Harlan, Kentucky, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project; and specific project reports for McDowell County, West Virginia, Upper Mingo County, West Virginia, Wayne County, West Virginia, Tug Fork Tributaries, West Virginia, Upper Tug Fork, West Virginia, and Pike County, Kentucky: *Provided further,* That using $400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue construction of the Salyersville cut-through as authorized by Public Law 99–662, section 401(e)(1), in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineers on or about July 26, 1989: *Provided further,* That using $7,700,000 of the funds appropriated herein and $4,300,000 of the funds appropriated in Public Law 102–104, the Secretary of the Army, acting through the Chief of Engineers, is directed to incorporate parallel protection along the Orleans and London Avenue Outfall Canals into the authorized Lake Pontchartrain and Vicinity, Louisiana, Hurricane Protection project and award continuing contracts for construction of this parallel protection to be cost-shared as part of the overall project, not separately, in accordance with the cost-sharing provisions outlined in Public Law 89–298 and Public Law 102–104. Therefore, agreements executed prior to June 1, 1992, between the Federal Government and local sponsors for the authorized project shall suffice for this purpose and will not require any additional local cost-sharing agreements or supplements: *Provided further,* That using $4,400,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue design and construction of the Ouachita River levees, Louisiana, project in an orderly but expeditious manner including rehabilitation or replacement at Federal expense of all deteriorated drainage structures which threaten the security of this critical protection: *Provided further,* That the project for flood control, Sowashee Creek, Meridian, Mississippi, authorized by the Water Resources Development Act of 1986 (Public Law 99–662) is modified to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to construct the project with an expanded scope recreation plan, as described in the Post Authorization Change Report of the Chief of Engineers dated August 1991, and at a total project cost of $31,994,000 with

an estimated first Federal cost of $19,706,000 and an estimated non-Federal cost of $12,288,000. The Federal share of the cost of the recreation features shall be 50 percent exclusive of lands, easements, rights-of-way and relocations: *Provided further,* That using $175,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to provide sewage disposal hookup for the Crosswinds Marina at the B. Everett Jordan Dam and Lake, North Carolina, project: *Provided further,* That using $300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the Feature Design Memorandum for the Forest Ridge Peninsula Recreation Area at the Falls Lake, North Carolina, project: *Provided further,* That using $5,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on the New York Harbor Collection and Removal of Drift, New York and New Jersey, project including the continuation of engineering and design of the remaining portions of the Brooklyn 2, Kill Van Kull, Shooters Island, Bayonne, and Passaic River Reaches, the completion of the design memoranda for the Authur Kill, New York, and Arthur Kill, New Jersey, reaches, the continuation of construction on the Weehawken-Edgewater, New Jersey and Brooklyn 2 reaches, and the completion of construction of the Jersey City North 2 reach: *Provided further,* That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the project for flood control, Molly Ann's Brook, New Jersey, in compliance with cost-sharing provided in section 1062 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240): *Provided further,* That using $2,000,000 of the funds appropriated herein to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to pay such sums or undertake such measures as are necessary to compensate for costs of repair, relocation, restoration, or protection of public and private property and facilities in Washington and Idaho damaged by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington: *Provided further,* That using not to exceed $2,000,000 of the funds appropriated herein for the Columbia River Juvenile Fish Mitigation, Washington, project, the Secretary of the Army, acting through the Chief of Engineers, is authorized to undertake advanced planning and design of modifications to public and private facilities that may be affected by operation of John Day Dam at minimum operating pool (elevation 257 feet): *Provided further,* That using $2,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed upon dissolution of the injunction by the United States District Court, to conduct the necessary engineering and design, and prepare the plans and specifications to resume construction of the Elk Creek Dam in Oregon: *Provided further,* That the Secretary of the Army is directed to permit the non-Federal sponsor of recreation facilities at Willow Creek Lake in Oregon to contribute, in lieu of cash, all or any portion of its share of the project with work in-kind, including volunteer labor and donated materials and equipment: *Provided further,* That with $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through

the Chief of Engineers, is directed to undertake further construction aspects of the Bethel, Alaska, Bank Stabilization Project as authorized by Public Law 99–662 including but not limited to the installation of steel whalers and additional rock toe protection to the pipe pile, bulkheads and other areas vulnerable to collapse: *Provided further,* That no fully allocated funding policy shall apply to construction of the Bethel, Alaska, Bank Stabilization Project and to the greatest extent possible the work described herein should be compatible with the authorized project: *Provided further,* That using funds made available in this Act or any previous appropriations Act, the Secretary of the Army shall construct a project for streambank protection along 2.2 miles of the Tennessee River adjacent to Sequoyah Hills Park in Knoxville, Tennessee, at a total cost of $600,000, with an estimated first Federal cost of $450,000 and an estimated first non-Federal cost of $150,000: *Provided further,* That with $3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to excavate the St. George Harbor, Alaska, entrance to –20 MLLW in accordance with the cost-sharing provisions in Public Law 99–662: *Provided further,* That using $250,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to demolish and remove the India Point Railroad Bridge in the Seekonk River, Providence, Rhode Island as authorized by section 1166(c) of Public Law 99–662: *Provided further,* That with $600,000 of the funds appropriated herein, to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, to correct a design deficiency at the Falls Lake, North Carolina project, is authorized and directed to implement Plan 5 as described in the Design Memo Supplement dated November 1988, concurred in by the South Atlantic Division Engineer in March 1989, or any modifications to Plan 5 that would require raising the spillway only, or that minimize or eliminate the need for land acquisition by the Corps, provided such modifications are agreeable to the North Carolina Division of Water Resources and do not compromise the projected water supply levels, with cost sharing as prescribed in the referenced report for this design deficiency; and, in addition, $130,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary of the Army is directed to continue the second phase of construction of Locks and Dams 4 and 5; to continue construction of the Curtis and Eagle Bend, Phase I, Revetments in Pool 5 which were previously directed to be initiated in fiscal year 1992; to complete construction of the Carroll and Cupples Capouts, McDade, Moss, Sunny Point, and Eagle Bend, Phase II, Revetments in Pools 4 and 5 which were previously directed to be initiated; to award continuing contracts in fiscal year 1993 for construction of the following features of the Red River Waterway which are not to be considered fully funded: recreation facilities in Pools 4 and 5, Howard Capout, Westdale Capout, Piermont Capout, Coushatta flood damage repairs, and Twelvemile Bayou Bend Revetment adjacent to Wells Island Road.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g–1), $351,182,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further,* That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use $1,000,000 of the funds appropriated herein to continue work on the Eastern Arkansas Region, Arkansas, project including the development and implementation of plans for one area to serve as a demonstration project.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,541,668,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662, may be derived from that fund, and of which $16,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That not to exceed $7,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further,* That $2,285,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Hansen Dam, California: *Provided further,* That $2,000,000 of the funds appropriated herein, to remain available until expended, shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreational facilities at Sepulveda Dam, California: *Provided further,* That using $2,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the repair and rehabilitation of the Flint River, Michigan, flood control project: *Provided further,* That $40,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the project for removal

of silt and aquatic growth at Sauk Lake, Minnesota: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to use up to $1,200,000 of available funds to undertake high priority recreational improvements at the Skiatook Lake, Oklahoma, project: *Provided further,* That using $1,500,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue work on measures needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam, Montana, as authorized by section 33 of the Water Resources Development Act of 1988: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized to operate and maintain at Federal expense the Passaic River flood warning system element of the Passaic River Mainstem Project, New Jersey, prior to construction of the project, and using $350,000 of the funds appropriated herein, the Secretary shall operate and maintain such element: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is directed to work with the United States Environmental Protection Agency to begin the immediate cleanup of the Ashtabula River, Ohio: *Provided further,* That using $600,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to update the project Master Plan for the Raystown Lake, Pennsylvania, project: *Provided further,* That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to plan, design, and dredge an access channel and berthing area for the vessel NIAGARA at Erie Harbor, Pennsylvania, in an area known as the East Canal: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to use up to $5,000,000 of available funds to undertake necessary maintenance of the Kentucky River Locks and Dams 5–14, Kentucky, prior to transfer of such facilities to the Commonwealth of Kentucky pursuant to the Memorandum of Understanding executed in 1985 concerning the Kentucky River Locks and Dams 5–14: *Provided further,* That using $1,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to construct and maintain bank stabilization measures along the west bank of the Calcasieu River Ship Channel in Louisiana from mile 11.5 through mile 15.5: *Provided further,* That the Secretary is directed during fiscal year 1993 to maintain a minimum conservation pool level of 475.6 at Wister Lake in Oklahoma.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $86,000,000, to remain available until expended.

None of the funds in this Act shall be used to identify or delineate any land as a "water of the United States" under the Federal Manual for Identifying and Delineating Jurisdictional Wetlands that was adopted in January 1989 or any subsequent manual adopted without notice and public comment.

Furthermore, the Corps of Engineers will continue to use the Corps of Engineers 1987 Manual, as it has since August 17, 1991, until a final wetlands delineation manual is adopted.

None of the funds in this Act shall be used to finalize or implement the proposed regulations to amend the fee structure for the Corps of Engineers regulatory program which were published in Federal Register, Vol. 55, No. 197, Thursday, October 11, 1990.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act approved August 18, 1941, as amended, $10,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Humphreys Engineer Center Support Activity, and the Water Resources Support Center, $142,000,000, to remain available until expended.

Funds are provided for the management and direction of the United States Army Corps of Engineers Civil Works Program, except that such funds shall not be used to close any district office of the Corps of Engineers. To further a more efficient headquarters and division office structure, the Secretary may transfer not to exceed $7,000,000 from other appropriations under this title to be merged with, and remain available for the same time period as, this appropriation: *Provided,* That this appropriation shall not be increased by more than 5 per centum by any such transfers, and the Committees on Appropriations of the House and Senate shall be promptly advised of such proposed transfers.

ADMINISTRATIVE PROVISIONS

Appropriations in this title or appropriations made in this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress. Appropriations in this title shall be available for official reception and representation expenses (not to exceed $5,000); and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 100 for replacement only) and hire of passenger motor vehicles. 33 USC 540a.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Public Law 101–302 (104 Stat. 213) is amended by striking the words "to meet the present emergency needs" under

the General Expenses appropriation title of Corps of Engineers—Civil.

SEC. 102. Any funds heretofore appropriated and made available in Public Law 99–88 for construction of facilities at the Mill Creek recreation area of the Tioga-Hammond Lakes, Pennsylvania, project; in Public Law 100–71 for initiation of land acquisition activities as described in section 1114 of Public Law 99–662; and in Public Law 101–101 for construction of the Satilla River Basin, Georgia, project, and for acquisition of an icebreaking boat and equipment for the Kankakee River, Illinois, project, may be utilized by the Secretary of the Army in carrying out projects and activities funded by this Act.

Water

SEC. 103. The Secretary of the Army, acting through the Chief of Engineers, is directed to maintain in caretaker status the navigation portion of the Fox River System in Wisconsin. The Assistant Secretary of the Army for Civil Works shall take over negotiations with the State of Wisconsin for the orderly transfer of ownership and operation of the Fox River Lock System to a non-Federal entity. These negotiations shall commence immediately, be conducted in good faith, and be completed as soon as possible. The terms of a negotiated settlement shall be presented to Congress immediately upon the completion of these negotiations. The settlement shall include provisions for both the logistics and timing of the transfer of the Lock System, as well as a negotiated recommendation for monetary compensation to the non-Federal entity for the repair and rehabilitation of damage and deterioration associated with all appropriate portions of the Fox River System which are being transferred.

Flood control.

SEC. 104. The requirements of section 103(a)(1)(A) of the Water Resources Development Act of 1986 (33 U.S.C. 2213), as pertains to the Moorefield and Petersburg, West Virginia, flood protection projects, are deemed satisfied, in consideration of the transfer of Grandview State Park by the State of West Virginia to the National Park Service for inclusion in the New River Gorge National River.

SEC. 105. None of the funds appropriated in this Act shall be used to implement the proposed rule for the Army Corps of Engineers amending regulations on "ability to pay" (33 CFR part 241), published in the Federal Register, vol. 56, No. 114, on Thursday, June 13, 1991.

Contracts.

SEC. 106. In fiscal year 1993, the Secretary shall advertise for competitive bid at least 7,500,000 cubic yards of the hopper dredge volume accomplished with government-owned dredges in fiscal year 1992.

Notwithstanding the provisions of this section, the Secretary is authorized to use the dredge fleet of the Corps of Engineers to undertake projects when industry does not perform as required by the contract specifications or when the bids are more than 25 percent in excess of what the Secretary determines to be a fair and reasonable estimated cost of a well equipped contractor doing the work or to respond to emergency requirements.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $12,540,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, $470,568,000 of which $69,333,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $154,868,000 shall be available for transfer to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided*

further, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294): *Provided further,* That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further,* That the amount authorized by section 4(a)(1) of Public Law 98–541 for the Trinity River Basin, California, Fish and Wildlife Management Program, is hereby increased by $15,000,000 to $48,000,000: *Provided further,* That pursuant to section 406(c)(2) of Public Law 101–628, the Secretary of the Interior is directed to reimburse, in an amount not to exceed $800,000, the City of Prescott, Arizona, for funding advanced by Prescott, Arizona, to the Bureau of Reclamation for hydrological studies required by section 406(c)(1) of Public Law 101–628: *Provided further,* That the prohibition against obligating funds for construction until after sixty days from the date the Secretary transmits a report to the Congress in accordance with section 5 of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 509) is waived for the Bitter Root Project, Como Dam, Montana, to allow for an earlier start of emergency repair work.

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $274,760,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 460l–6a, as amended), may be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam

43 USC 618d note.

Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98–381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further,* That of the funds appropriated herein, $3,250,000 shall be available for environmental studies associated with the renewal of Central Valley Project, California, water contracts and environmental compliance.

BUREAU OF RECLAMATION LOANS PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans and/or grants, $3,502,000, to remain available until expended, as authorized by the Small Reclamation Projects Act of August 6, 1956, as amended (43 U.S.C. 422a–422l): *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $8,000,000.

In addition, for administrative expenses necessary to carry out the program for direct loans and/or grants, $600,000: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from the fund.

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, $53,745,000, of which $1,177,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund. 43 USC 502 note.

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601–6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only.

43 USC 377b. Appropriations for the Bureau of Reclamation in this Act or in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; services as authorized by 5 U.S.C. 3109, in total not to exceed $500,000 per year; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That hereafter no part of any appropriation made in this Act or in subsequent Energy and Water Development Appropriations Acts shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

43 USC 377b. Sums appropriated in this Act or in subsequent Energy and Water Development Appropriations Acts which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

43 USC 377b. No part of any appropriation for the Bureau of Reclamation, contained in this Act, in any prior Act, or in subsequent Energy and Water Development Appropriations Acts which represents amounts earned under the terms of a contract but remaining

unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance in this Act or in subsequent Energy and Water Development Appropriations Acts, except those derived from advances by water users, shall hereafter be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation. 43 USC 377a.

None of the funds made available by this or any other Act or by any subsequent Act shall hereafter be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). 43 USC 377b

None of the funds made available in this Act may be expended to implement the transfer of title or ownership of the Central Valley Project to the State of California, unless subsequently authorized by Congress.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted. 43 USC 1471a.

SEC. 202. Hereafter, the Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior. 43 USC 1471b.

SEC. 203. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That 43 USC 1471c.

reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

43 USC 1471d.

SEC. 204. Appropriations in this title or appropriations made under this title in subsequent Energy and Water Development Appropriations Acts shall hereafter be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

43 USC 1475a.

SEC. 205. Hereafter, the Bureau of Reclamation may invite non-Federal entities involved in cost sharing arrangements for the development of water projects to participate in contract negotiation and source selection proceedings without invoking provisions of the Federal Advisory Committee Act (5 U.S.C. Appendix (1988)): *Provided,* That such non-Federal participants shall be subject to the provisions of the Federal Procurement Integrity Act (41 U.S.C. 423 (1988)) and to the conflict of interest provisions appearing at 18 U.S.C. 201 et seq. (1988).

SEC. 206. Subsection (a) of section 7 of the Federal Water Project Recreation Act (79 Stat. 216 16 U.S.C. 460l–18) is amended by deleting the Proviso from the first sentence and by changing the colon after the word "purposes" to a period.

SEC. 207. Utilizing processes required under the National Environmental Policy Act, the Secretary of the Interior is directed to conduct a formal analysis, by no later than March 31, 1994, of alternatives for the design, construction, and operation of the Sykeston Canal as a functional replacement for Lonetree Reservoir, pursuant to section 8(a)(1) of Public Law 89–108, as amended by the Garrison Diversion Reformulation Act of 1986, Public Law 99–294. The resulting Definite Plan Report/Environmental Impact Statement shall be utilized by the Secretary for the development of a Record of Decision which is to contain the Secretary's recommendation for proceeding with the final design and construction of the Sykeston Canal, consistent with the provisions of the Garrison Diversion Reformulation Act, the National Environmental Policy Act, the Endangered Species Act, the Fish and Wildlife Coordination Act, and the Boundary Waters Treaty of 1909. For purposes of this section, the Secretary shall take into account the results of studies conducted by the Secretary of the Army with respect to the stabilization of Devils Lake, North Dakota.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy

Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 15, of which 14 are for replacement only), $3,015,793,000 to remain available until expended, of which $94,800,000 shall be available only for making competitive, merit-review awards to academic research facilities, to the extent otherwise authorized by law.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 57, of which 54 are for replacement only), $1,286,320,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,462,000,000 in fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only), $1,417,784,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $275,071,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided,* That of the amount herein appropriated, within

available funds, not to exceed $5,000,000 may be provided to the State of Nevada, for the sole purpose in the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97–425, as amended: *Provided further,* That of the amount herein appropriated, not more than $6,000,000 may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That the distribution of the funds herein provided among the affected units of local government shall be determined by the Department of Energy (DOE) and made available to the State and affected units of local government by direct payment: *Provided further,* That within 90 days of the completion of each Federal fiscal year, each entity shall provide certification to the DOE, that all funds expended from such direct payment monies have been expended for activities as defined in Public Law 97–425, as amended. Failure to provide such certification shall cause such entity to be prohibited from any further funding provided for similar activities: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further,* That none of the funds herein appropriated may be used for litigation expenses: *Provided further,* That grant funds are not to be used to support multistate efforts or other coalition building activities inconsistent with the restrictions contained in this Act: *Provided further,* That of the amount appropriated herein, up to $3,700,000 shall be available for infrastructure studies and other research and development work to be carried out by the Universities in Nevada, Reno, and Las Vegas, and the Desert Research Institute, and at least $750,000 to continue funding for the Mobile Sampling Platform developed and operated by the Environmental Research Center at the University of Nevada, Las Vegas. Funding to the Universities will be administered by the DOE through a cooperative agreement.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy 870 F.2d 694 (DC Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the Fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

42 USC 2061 note.

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided,* That such revenues and all funds provided under this head in Public Law 101–101 shall remain available until expended: *Provided further,* That if at any time the amounts available to the fund are insufficient to enable the Department of Energy to discharge its responsibilities with respect to isotope production and distribution, the Secretary may borrow from amounts available in the Treasury, such sums as are necessary up to a maximum of $5,000,000, to remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

WEAPONS ACTIVITIES

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense weapons activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 93 for replacement only, the purchase of two fixed-wing and two rotary-wing aircraft, for replacement only), $4,568,749,000, to remain available until expended: *Provided,* That none of the funds appropriated or otherwise made available for the Department of Energy for fiscal year 1993 may be obligated to implement the reconfiguration of nonnuclear activities of the Department of Energy until the occurrence of the following:

Reports.

(1) The Secretary of Energy submits a report to the Committees on Appropriations that contains an analysis of the projected costs and benefits of the proposed nonnuclear reconfiguration and an analysis of the alternatives considered. The analyses shall take into account all relevant costs and benefits and shall include a discounted cash flow analysis of each alternative.

(2) The Secretary of Energy certifies to the Committees on Appropriations that the discounted cash flow analysis demonstrates that the proposed nonnuclear reconfiguration is cost-effective on a plant by plant basis.

(3) A period of 90 days has elapsed after the later of the submission of the report and the certification by the Secretary of Energy.

Nothing in this provision prohibits the obligation of funds for studies, analysis, or preparation of conceptual designs that are necessary to assess the cost-effectiveness or feasibility of nonnuclear reconfiguration.

NEW PRODUCTION REACTOR

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense new production reactor activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion, $34,028,000, to remain available until expended: *Provided,* That $100,000,000 for design of new production reactor capacity made available under the Energy and Water Development Appropriations Act, 1992, shall be available without regard to the issuance of the Record of Decision on the Environmental Impact Statement on New Production Reactor Capacity.

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense

environmental restoration and waste management activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 148 for replacement only), $4,831,547,000, to remain available until expended: *Provided,* That notwithstanding any other law, funds appropriated under this heading may be made available to pay $100,000 to the United States Environmental Protection Agency for a stipulated penalty assessed under the Comprehensive Environmental Response, Compensation and Liability Act against the Fernald Environmental Management Project.

MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS

For Department of Energy expenses, including the purchase, construction and acquisition of plant and capital equipment and other incidental expenses necessary for atomic energy defense materials production, and other defense programs activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; and the purchase of passenger motor vehicles (not to exceed 45 for replacement only), $2,584,301,000, to remain available until expended.

DEFENSE NUCLEAR WASTE DISPOSAL

For nuclear waste disposal activities to carry out the purposes of Public Law 97–425, as amended, including the acquisition of real property or facility construction or expansion, $100,000,000, to remain available until expended, all of which shall be used in accordance with the terms and conditions of the Nuclear Waste Fund appropriation of the Department of Energy contained in this title.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000), $405,656,000 to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $318,381,000 in fiscal year 1993 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal

year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $87,275,000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,362,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,577,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93–454, are approved for the Springfield Hatchery Production Facility, Dryden Dam Fish Screens, Bonneville Fish Sampling Facility, and Hungry Horse Resident Fish Hatchery, and, the purchase, maintenance and operation of two rotary-wing aircraft for replacement only; and for official reception and representation expenses in an amount not to exceed $3,000.

During fiscal year 1993, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $32,411,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed $1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $21,907,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $11,412,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (42 U.S.C. 7101, et seq.), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, $326,634,000, to remain available until expended, of which $305,390,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $6,563,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (42 U.S.C. 7101, et seq.), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $3,000); $158,639,000 to remain available until expended: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $158,639,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1993, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

42 USC 7171 note.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

(TRANSFER OF FUNDS)

42 USC 7278.

SEC. 301. Appropriations for the Department of Energy under this title in this and subsequent Energy and Water Development Appropriations Acts, hereafter shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may hereafter be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act or subsequent Energy and Water Development Appropriations Acts shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized hereafter to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute

projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for Department of Energy activities funded in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate. 42 USC 7269a.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act or subsequent Energy and Water Development Appropriations Acts may hereafter be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted. 42 USC 7269b.

MINORITY PARTICIPATION IN THE SUPERCONDUCTING SUPER COLLIDER

SEC. 304. (a) FEDERAL FUNDING.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) OTHER PARTICIPATION.—The Secretary of Energy hereafter shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian 40 USC app. 401 note.

Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $190,000,000.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100–456, section 1441, $13,000,000, to remain available until expended.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $325,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $475,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91–407), $485,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act of 1954, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $535,415,000, to remain available until expended, of which $21,100,000 shall be derived from the Nuclear Waste Fund: *Provided,* That from this

appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $514,315,000 in fiscal year 1993 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1993 appropriation estimated at not more than $21,100,000.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by section 3109 of title 5, United States Code, $4,585,000 to remain available until expended; and in addition, an amount not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided,* That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further,* That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1993 from licensing fees, inspection services, and other services and collections, so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

NUCLEAR WASTE TECHNICAL REVIEW BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Nuclear Waste Technical Review Board, as authorized by Public Law 100–203, section 5051, $2,060,000, to be transferred from the Nuclear Waste Fund and to remain available until expended.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $301,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $290,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $135,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

16 USC 831b note.

TITLE V—GENERAL PROVISIONS

31 USC 1502 note.

SEC. 501. No part of any appropriation contained in this Act or subsequent Energy and Water Development Appropriations Acts shall remain available for obligation beyond the fiscal year specified in such Acts therein unless expressly so provided therein.

5 USC 504 note.

SEC. 502. None of the funds in this Act or subsequent Energy and Water Development Appropriations Acts shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in such Acts.

2 USC 900 note.

SEC. 503. None of the programs, projects or activities as defined in the reports accompanying this Act or subsequent Energy and Water Development Appropriations Acts, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99–177 or Public Law 100–119 unless such reports expressly provide otherwise.

Contracts. Public *informaton.* 5 USC 3109 note.

SEC. 504. The expenditure of any appropriation under this Act or subsequent Energy and Water Development Appropriations

Acts for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, hereafter shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive Order issued pursuant to existing law.

42 USC 7152 note.

SEC. 505. Notwithstanding any other provision of this Act, subsequent Energy and Water Development Appropriations Acts or any other provision of law hereafter, none of the funds made available under this Act, subsequent Energy and Water Development Appropriations Acts or any other law hereafter shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

5 USC 5303 note.

SEC. 506. Such sums as may be necessary for Federal employee pay raises for programs funded by this Act or subsequent Energy and Water Development Appropriations Acts hereafter shall be absorbed within the levels appropriated in such Acts.

Nuclear weapons. 42 USC 2121 note.

SEC. 507. (a) Hereafter, funds made available by this Act or any other Act for fiscal year 1993 or for any other fiscal year may be available for conducting a test of a nuclear explosive device only if the conduct of that test is permitted in accordance with the provisions of this section.

(b) No underground test of a nuclear weapon may be conducted by the United States after September 30, 1992, and before July 1, 1993.

(c) On and after July 1, 1993, and before January 1, 1997, an underground test of a nuclear weapon may be conducted by the United States—

(1) only if—

(A) the President has submitted the annual report required under subsection (d);

(B) 90 days have elapsed after the submittal of that report in accordance with that subsection; and

(C) Congress has not agreed to a joint resolution described in subsection (d)(3) within that 90-day period; and

(2) only if the test is conducted during the period covered by the report.

President. Reports.

(d)(1) Not later than March 1, of each year beginning after 1992, the President shall submit to the Committees on Armed Services and Appropriations of the Senate and the House of Representatives, in classified and unclassified forms, a report containing the following matters:

(A) A schedule for resumption of the Nuclear Testing Talks with Russia.

(B) A plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

(C) An assessment of the number and type of nuclear warheads that will remain in the United States stockpile of active nuclear weapons on September 30, 1996.

(D) For each fiscal year after fiscal year 1992, an assessment of the number and type of nuclear warheads that will remain in the United States stockpile of nuclear weapons and that—

(i) will not be in the United States stockpile of active nuclear weapons;

(ii) will remain under the control of the Department of Defense; and

(iii) will not be transferred to the Department of Energy for dismantlement.

(E) A description of the safety features of each warhead that is covered by an assessment referred to in subparagraph (C) or (D).

(F) A plan for installing one or more modern safety features in each warhead identified in the assessment referred to in subparagraph (C), as determined after an analysis of the costs and benefits of installing such feature or features in the warhead, should have one or more of such features.

(G) An assessment of the number and type of nuclear weapons tests, not to exceed 5 tests in any period covered by an annual report under this paragraph and a total of 15 tests in the 4-fiscal year period beginning with fiscal year 1993, that are necessary in order to ensure the safety of each nuclear warhead in which one or more modern safety features are installed pursuant to the plan referred to in subparagraph (F).

(H) A schedule, in accordance with subparagraph (G), for conducting at the Nevada test site, each of the tests enumerated in the assessment pursuant to subparagraph (G).

(2) The first annual report shall cover the period beginning on the date on which a resumption of testing of nuclear weapons is permitted under subsection (c) and ending on September 30, 1994. Each annual report thereafter shall cover the fiscal year following the fiscal year in which the report is submitted.

(3) For the purposes of paragraph (1), "joint resolution" means only a joint resolution introduced after the date on which the Committees referred to in that paragraph receive the report required by that paragraph the matter after the resolving clause of which is as follows: "The Congress disapproves the report of the President on nuclear weapons testing, dated ." (the blank space being appropriately filled in).

(4) No report is required under this subsection after 1996.

(e)(1) Except as provided in paragraphs (2) and (3), during a period covered by an annual report submitted pursuant to subsection (d), nuclear weapons may be tested only as follows:

(A) Only those nuclear explosive devices in which modern safety features have been installed pursuant to the plan referred to in subsection (d)(1)(F) may be tested.

(B) Only the number and types of tests specified in the report pursuant to subsection (d)(1)(G) may be conducted.

(2)(A) One test of the reliability of a nuclear weapon other than one referred to in paragraph (1)(A) may be conducted during any period covered by an annual report, but only if—

(i) within the first 60 days after the beginning of that period, the President certifies to Congress that it is vital to the national security interests of the United States to test the reliability of such a nuclear weapon; and

(ii) within the 60-day period beginning on the date that Congress receives the certification, Congress does not agree to a joint resolution described in subparagraph (B).

(B) For the purposes of subparagraph (A), "joint resolution" means only a joint resolution introduced after the date on which the Congress receives the certification referred to in that subparagraph the matter after the resolving clause of which is as follows: "The Congress disapproves the testing of a nuclear weapon covered by the certification of the President dated ." (the blank space being appropriately filled in).

(3) The President may authorize the United Kingdom to conduct in the United States, within a period covered by an annual report, one test of a nuclear weapon if the President determines that it is in the national interests of the United States to do so. Such a test shall be considered as one of the tests within the maximum number of tests that the United States is permitted to conduct during that period under paragraph (1)(B).

(f) No underground test of nuclear weapons may be conducted by the United States after September 30, 1996, unless a foreign state conducts a nuclear test after this date, at which time the prohibition on United States nuclear testing is lifted.

(g) In the computation of the 90-day period referred to in subsection (c)(1) and the 60-day period referred to in subsection (e)(2)(A)(ii), the days on which either House is not in session because of an adjournment of more than 3 days to a day certain shall be excluded.

(h) In this section, the term "modern safety feature" means any of the following features:

(1) An insensitive high explosive (IHE).

(2) Fire resistant pits (FRP).

(3) An enhanced detonation safety (ENDS) system.

SEC. 508. Notwithstanding any other provision of this Act, $5,000,000 of the funds appropriated in title I shall be available for the Central Maine Water Supply Project, to remain available until September 30, 1993, and to become available only upon enactment into law of authorizing legislation.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1993".

Approved October 2, 1992.

LEGISLATIVE HISTORY—H.R. 5373:

HOUSE REPORTS: Nos. 102-555 (Comm. on Appropriations) and 102-866 (Comm. of Conference).

SENATE REPORTS: No. 102-344 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 17, considered and passed House.

July 31, Aug. 3, considered and passed Senate, amended.

Sept. 17, House agreed to conference report, concurred in certain amendments, in others with amendments.

Sept. 24, House receded and concurred in certain Senate amendment with an amendment. Senate agreed to conference report; concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 2, Presidential remarks and statement.

Public Law 102-378
102d Congress

An Act

Oct. 2, 1992
[H.R. 2850]

To make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical and Miscellaneous Civil Service Amendments Act of 1992.
5 USC 1101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Civil Service Amendments Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Amendments to title 5, United States Code.
Sec. 3. Amendments to the Federal Employees Pay Comparability Act of 1990.
Sec. 4. Amendments relating to the Ethics in Government Act of 1978.
Sec. 5. Amendments to other provisions of law.
Sec. 6. Restoration of coverage of certain Federal personnel provisions to certain Veterans Health Administration employees.
Sec. 7. Retroactive performance awards.
Sec. 8. Miscellaneous provisions.
Sec. 9. Effective dates.

SEC. 2. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

Title 5, United States Code, is amended—

(1) in the analysis for part II by striking, in the item relating to chapter 12, "Individual Right of Action" and inserting "Employee Right of Action";

(2) by striking the heading for former section 1209 (the text of which was redesignated as sections 1205 and 1206 by paragraphs (9) and (10), respectively, of section 3(a) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 18));

(3) by striking the heading for former section 1204 (which was redesignated as section 1211(b) by section 3(a)(6) of the Whistleblower Protection Act of 1989 (Public Law 101–12; 103 Stat. 17));

(4) in section 1305 by striking "section 3105," and inserting "sections 3105,";

(5) in section 2302(b)(8)(B) by striking "Special Counsel of the Merit Systems Protection Board," and inserting "Special Counsel,";

(6) in section 2304(b) by striking "(b) the" and inserting "(b) The";

(7) in section 3104(a)—

(A) by striking "(not to exceed 517)"; and

(B) by amending the second sentence to read as follows: "Any such position may be established by action of the Director or, under such standards and procedures as the Office prescribes (including procedures under which the prior approval of the Director may be required), by agency action.";

(8) in section 3109 by adding at the end thereof the following new subsections:

"(d) The Office of Personnel Management shall prescribe regulations necessary for the administration of this section. Such regulations shall include— Regulations.

"(1) criteria governing the circumstances in which it is appropriate to employ an expert or consultant under the provisions of this section;

"(2) criteria for setting the pay of experts and consultants under this section; and

"(3) provisions to ensure compliance with such regulations.

"(e) Each agency shall report to the Office of Personnel Management on an annual basis with respect to— Reports.

"(1) the number of days each expert or consultant employed by the agency during the period was so employed; and

"(2) the total amount paid by the agency to each expert and consultant for such work during the period.";

(9) by amending section 3152 to read as follows:

"§ 3152. Limitation on pay

"Members of the FBI–DEA Senior Executive Service shall be subject to the limitation under section 5307.";

(10) in section 3323(b)(1) by striking "annuitant as defined by section 8331 of this title" and inserting "annuitant, as defined by section 8331 or 8401,";

(11) in section 3324—

(A) by amending the heading to read as follows:

"§ 3324. Appointments to positions classified above GS–15";

and

(B) in subsection (a) by amending paragraph (1) to read as follows:

"(1) to which appointment is made by the Chief Judge of the United States Tax Court;";

(12) in section 3325(b) by striking "section 3104(a)(7) of this title" and inserting "section 3104(c)";

(13)(A) by striking section 3342; and

(B) in the table of sections for chapter 33 by striking the item relating to section 3342;

(14) by amending the heading for section 3373 to read as follows:

"§ 3373. Assignment of employees to State or local governments";

(15) in section 3401(1)(iv) by striking "Virgin Island" and inserting "Virgin Islands";

(16) in section 3594(c)(1)(A) by striking "5108,," and inserting "5108,";

(17) in section 4109 by striking subsection (d);

(18) in section 4302(a) by striking the semicolon at the end and inserting a period;

(19) in section 4505a—

(A) in subsection (b)(2) by striking "chapter 12 or under" and inserting "chapter 12, chapter 71, or";

(B) in subsection (c) by inserting "of Personnel Management" after "Office"; and

(C) by striking subsection (d) and inserting the following:

"(d) The preceding provisions of this section shall be applicable with respect to any employee to whom subchapter III of chapter 53 applies, and to any category of employees provided for under subsection (e).

"(e) At the request of the head of an Executive agency, the President may authorize the application of subsections (a) through (c) with respect to any category of employees within such agency who would not otherwise be covered by this section.";

(20) in the heading for subchapter III of chapter 45 by striking "OFFICER" and inserting "OFFICERS";

(21) by amending section 4521 to read as follows:

"§ 4521. Definition

"For the purpose of this subchapter, the term 'law enforcement officer' means—

"(1) a law enforcement officer within the meaning of section 5541(3) and to whom the provisions of chapter 51 apply;

"(2) a member of the United States Secret Service Uniformed Division;

"(3) a member of the United States Park Police;

"(4) a special agent in the Diplomatic Security Service;

"(5) a probation officer (referred to in section 3672 of title 18); and

"(6) a pretrial services officer (referred to in section 3153 of title 18).";

(22) in the table of sections for chapter 51 by striking the item relating to section 5108 and inserting the following:

"5108. Classification of positions above GS–15.";

(23) in section 5108(a)(2) by striking the semicolon at the end and inserting a period;

(24) in the table of sections for chapter 53—

(A) in the item relating to section 5379 by striking "repayment." and inserting "repayments."; and

(B) by striking "Sec." immediately before the item relating to section 5391;

(25) in section 5302—

(A) in paragraph (1) by amending subparagraph (C) to read as follows:

"(C) chapter 74 of title 38, relating to the Veterans Health Administration (other than a position subject to section 7451 of title 38);"; and

(B) in paragraph (8)—

(i) in subparagraph (A) by striking "and" at the end; and

(ii) by adding after subparagraph (B) the following:

"(C) in the case of an employee receiving a retained rate of basic pay under section 5363, the rate of basic pay payable under such section; and";

(26) in section 5304—

(A) in subsection (a)(3)—

(i) by striking "Subject to paragraphs (4) and (5)," and inserting "Subject to paragraph (4),", and by striking "a comparative payment" and inserting "a comparability payment";

(ii) in subparagraph (H) by inserting "and" after the semicolon; and

(iii) in subparagraph (I) by striking the semicolon and inserting a period;

(B) in subsection (d)(1)(A) by inserting "(disregarding any described in section 5302(8)(C))" after "General Schedule", and by striking "annual";

(C) in subsection (e)—

(i) in paragraph (1) by inserting after the second sentence the following: "However, members under subparagraph (A) may be paid expenses in accordance with section 5703."; and

(ii) in paragraph (2)(A)(ii) by striking "annual survey" and inserting "surveys of pay localities", and by striking "industries," and inserting "industries";

(D) in subsection (g) by amending paragraph (2) to read as follows:

"(2) The applicable maximum under this subsection shall be level III of the Executive Schedule for—

"(A) positions under subparagraphs (A)–(E) of subsection (h)(1); and

"(B) any positions under subsection (h)(1)(F) which the President may determine.";

(E) in subsection (h)—

(i) in paragraph (1)—

(I) by amending subparagraph (F) to read as follows:

"(F) a position within an Executive agency not covered under the General Schedule or any of the preceding subparagraphs, the rate of basic pay for which is (or, but for this section, would be) no more than the rate payable for level IV of the Executive Schedule;";

(II) in clause (i) by striking "or" at the end;

(III) in clause (ii) by striking the period at the end and inserting "; or"; and

(IV) by adding at the end the following:

"(iii) a position to which subchapter II applies (relating to the Executive Schedule).";

(ii) in paragraph (2) by adding at the end the following:

"(C) Notwithstanding subsection (c)(4) or any other provision of law, but subject to paragraph (3), in the case of a category with positions that are in more than 1 Executive agency, the President may, on his own initiative, provide that each employee who holds a position within such category, and in the locality involved, shall be entitled to receive comparability payments. No later than 30 days before an employee receives comparability payments under this subparagraph, the President or the President's designee shall submit a detailed report to the Congress justifying the reasons for the extension, including consideration of recruitment and retention rates and the expense of extending locality pay."; and

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(iii) in paragraph (3) by amending subparagraph (B) to read as follows:

"(B) shall take effect, within the locality involved, on the first day of the first applicable pay period commencing on or after such date as the President designates (except that no date may be designated which would require any retroactive

payments), and shall remain in effect through the last day of the last applicable pay period commencing during that calendar year;";

(27) in section 5306(a)(1)(B) by striking "166b–3" and inserting "166b–3a";

(28) in section 5314 by striking each of the following: "Under Secretary of Education.", "Under Secretary of Health and Human Services.", "Under Secretary of the Interior.", and "Under Secretary of Housing and Urban Development.";

(29) in section 5332 by amending subsection (a) to read as follows:

"(a)(1) The General Schedule, the symbol for which is 'GS', is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies, except an employee covered by the performance management and recognition system established under chapter 54, is entitled to basic pay in accordance with the General Schedule.

"(2) The General Schedule is a schedule of annual rates of basic pay, consisting of 15 grades, designated 'GS–1' through 'GS–15', consecutively, with 10 rates of pay for each such grade. The rates of pay of the General Schedule are adjusted in accordance with section 5303.";

(30) in section 5347(g)—

(A) by striking "(g) Members" and inserting "(g)(1) Except as provided in paragraph (2), members";

(B) by striking the second sentence; and

(C) by adding at the end the following:

"(2) The position of Chairman shall be considered to be a Senior Executive Service position within the meaning of section 3132(a), and shall be subject to all provisions of this title relating to Senior Executive Service positions, including section 5383.";

(31) in section 5371(b)—

(A) by striking "chapter 73" and inserting "chapter 74"; and

(B) by inserting "subchapter V of chapter 55," after "61," each place it appears;

(32) in section 5372(c) by striking "shall," and inserting "shall";

(33) in section 5375(2) by striking "GS–8," and inserting "GS–8";

(34) in section 5377—

(A) in subsection (a)(2)—

(i) in subparagraph (C) by striking "and" at the end;

(ii) in subparagraph (D) by striking the period at the end and inserting a semicolon; and

(iii) by adding after subparagraph (D) the following:

"(E) a position established under section 3104; and

"(F) a position in a category as to which a designation is in effect under subsection (i).."; and

(B) by adding at the end the following:

"(i)(1) For the purpose of this subsection, the term 'position' means the work, consisting of the duties and responsibilities, assignable to an employee, except that such term does not include any position under subsection (a)(2)(A)–(E).

"(2) At the request of an agency head, the President may designate 1 or more categories of positions within such agency to be treated, for purposes of this section, as positions within the meaning of subsection (a)(2).";

(35) in section 5383 by amending subsection (b) to read as follows:

"(b) Members of the Senior Executive Service shall be subject to the limitation under section 5307.";

(36) in subchapter IX of chapter 53 by striking the matter after the subchapter heading and before the heading for section 5391;

(37) in section 5401(1) by striking "(a)" and inserting "(A)", and by striking "(b)" and inserting "(B)";

(38) in section 5403(d) by striking "section 5305" and inserting "section 5303";

(39) in section 5519 by striking "section 6323(c) or (d) of this title" and inserting "section 6323 (b) or (c)";

(40) in section 5541—

(A) in paragraph (1) by striking "and" at the end;

(B) in paragraph (2) by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) 'law enforcement officer' means an employee who—

"(A) is a law enforcement officer within the meaning of section 8331(20) or 8401(17);

"(B) in the case of an employee who holds a supervisory or administrative position and is subject to subchapter III of chapter 83, but who does not qualify to be considered a law enforcement officer within the meaning of section 8331(20), would so qualify if such employee had transferred directly to such position after serving as a law enforcement officer within the meaning of such section;

"(C) in the case of an employee who holds a supervisory or administrative position and is subject to chapter 84, but who does not qualify to be considered a law enforcement officer within the meaning of section 8401(17), would so qualify if such employee had transferred directly to such position after performing duties described in section 8401(17) (A) and (B) for at least 3 years; and

"(D) in the case of an employee who is not subject to subchapter III of chapter 83 or chapter 84—

"(i) holds a position that the Office of Personnel Management determines would satisfy subparagraph (A), (B), or (C) if the employee were subject to subchapter III of chapter 83 or chapter 84; or

"(ii) is a special agent in the Diplomatic Security Service.";

(D) SENSE OF THE CONGRESS RELATING TO LAW ENFORCEMENT OFFICER PROVISIONS.—It is the sense of the Congress that— 5 USC 5541 note.

(i) the provisions of section 5541(3) of title 5, United States Code (as added by section 2(40)(C) of this Act)—

(I) are enacted only for the purposes of pay and not for the purposes of retirement;

(II) do not reflect any intent of the Congress to change retirement eligibility standards for law enforcement officers; and

(ii) law enforcement officers in primary positions have different retirement eligibility standards than employees in supervisory or administrative positions because of the different requirements in their responsibilities.

(41) in section 5542—

(A) in subsection (a)(4)—

(i) by striking "officer (within the meaning of section 8331(20) or 8401(17))," and inserting "officer,"; and

(ii) by moving the indentation for the matter following subparagraph (B) 2 ems to the right; and

(B) in subsection (c) by amending the second sentence to read as follows: "In the case of an employee who would, were it not for the preceding sentence, be subject to this section, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence.";

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(42) in section 5544—

(A) in paragraphs (2) and (3) of subsection (a) by striking "2,080" each place it appears and inserting "2,087";

(B) by amending the last two sentences of subsection (a) to read as follows: "The first and third sentences of this subsection shall not be applicable to an employee who is subject to the overtime pay provisions of section 7 of the Fair Labor Standards Act of 1938. In the case of an employee who would, were it not for the preceding sentence, be subject to the first and third sentences of this subsection, the Office of Personnel Management shall by regulation prescribe what hours shall be deemed to be hours of work and what hours of work shall be deemed to be overtime hours for the purpose of such section 7 so as to ensure that no employee receives less pay by reason of the preceding sentence."; and

(C) by adding at the end the following:

"(c) The provisions of this section, including the last two sentences of subsection (a), shall apply to a prevailing rate employee described in section 5342(a)(2)(B).";

(43) in section 5547(c) by striking paragraph (3);

(44)(A) by striking section 5550;

(B) in the table of sections for chapter 55 by striking the item relating to section 5550;

(C) in section 5548(b) by striking "sections 5545(d) and 5550 of this title." and inserting "section 5545(d).";

(D) in section 6123(a)(1) by striking "5543(a)(1), 5544(a), and 5550" and inserting "5543(a)(1) and section 5544(a)"; and

(E) in section 6128—

(i) in subsection (a) by striking "5542(a), 5544(a), and 5550(2)" and inserting "5542(a) and 5544(a)"; and

(ii) in subsection (c) by striking "5544(a), 5546(a), or 5550(1)" and inserting "5544(a) or 5546(a)";

(45)(A) in subchapter VI of chapter 55 by adding at the end the following:

"§ 5553. Regulations

"The Office of Personnel Management may prescribe regulations necessary for the administration of this subchapter."; and

(B) in the table of sections for chapter 55 by adding after the item relating to section 5552 the following:

"5553. Regulations.";

(46) in the table of sections for chapter 57—

(A) by striking the item relating to section 5723 and inserting the following:

"5723. Travel and transportation expenses of new appointees and student trainees."; and

(B) by adding after the item relating to section 5754 the following:

"5755. Supervisory differentials.";

(47) in the heading for section 5702 by striking "employee" and inserting "employees";

(48) in section 5723—

(A) by amending the heading to read as follows:

"§ 5723. Travel and transportation expenses of new appointees and student trainees";

and

(B) by striking subsection (d) and redesignating subsection (e) as subsection (d);

(49) in section 5724(a)(3)(A) by striking "Service;" and inserting "Service or as a director under section 4103(a)(8) of title 38 (as in effect on November 27, 1988);";

(50) in section 5901(a) by striking "5902)." each place it appears and inserting "5902)";

(51) in section 5948—

(A) in the first sentence of subsection (a) by striking "provisions of this section" and inserting "provisions of this section, section 5307,";

(B) in subsection (g)(1)—

(i) by amending subparagraph (D) to read as follows:

"(D) section 5371, relating to certain health care positions;";

(ii) by striking "or" at the end of subparagraph (H);

(iii) by striking "and" at the end of subparagraph (I); and

(iv) by inserting after subparagraph (I) the following:

"(J) section 5376, relating to certain senior-level positions;

"(K) section 5377, relating to critical positions; or

"(L) subchapter IX of chapter 53, relating to special occupational pay systems; and";

(52) in section 6303(a) by amending the second sentence to read as follows: "In determining years of service, an employee is entitled to credit for all service of a type that would be creditable under section 8332, regardless of whether or not the employee is covered by subchapter III of chapter 83.";

(53) in the second sentence of section 6304(e) by striking "date of" and inserting "date";

(54) in section 7112 by redesignating subsection (a)(1) as subsection (a);

(55) in section 7113 by redesignating subsection (a)(1) as subsection (a);

(56) in section 7701(c)(1) by amending subparagraph (A) to read as follows:

"(A) in the case of an action based on unacceptable performance described in section 4303 or a removal from the Senior Executive Service for failure to be recertified under section 3393a, is supported by substantial evidence; or";

(57) in section 8331—

(A) in paragraph (1)—

(i) in subparagraph (L) by striking "section 8347(p)(1)" and inserting "section 8347(q)(1)"; and

(ii) in clause (ii) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (7) by striking "Gallaudet College," and inserting "Gallaudet University,";

(58) in the last sentence of section 8332(b) by striking "paragrpah (16)" and inserting "paragraph (16)";

(59) in section 8334(i) by redesignating the second paragraph (5) as paragraph (6);

(60) in section 8335(b) by amending the first sentence to read as follows: "A firefighter who is otherwise eligible for immediate retirement under section 8336(c) shall be separated from the service on the last day of the month in which such firefighter becomes 55 years of age or completes 20 years of service if then over that age.";

(61) in the second sentence of section 8337(a) by striking "if the employee if" and inserting "if the employee is";

(62) in section 8339 by redesignating the second subsection (o) as subsection (p);

(63) in section 8341 in subsections (b)(1) and (d) by striking "(o)," and inserting "(p),";

(64) in section 8347—

(A) by redesignating the second subsection (p) as subsection (q); and

(B) in paragraphs (1) and (2) of subsection (q) (as so redesignated) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;";

(65) in section 8421(a)(2) by adding a period at the end;

(66) in section 8423(a)(1)(B)(i) by striking "multipled" and inserting "multiplied";

(67) in section 8425(b)—

(A) by amending the first sentence to read as follows: "A member of the Capitol Police or firefighter who is otherwise eligible for immediate retirement under section 8412(d) shall be separated from the service on the last day of the month in which such member or firefighter becomes 55 years of age or completes 20 years of service if then over that age."; and

(B) in the second sentence by striking "become" and inserting "becomes";

(68) in section 8438(a)(7)(B) by striking "Federal Savings and Loan Insurance Corporation," and inserting "Federal Deposit Insurance Corporation,";

(69) in section 8440(a)(3) by inserting "section 401(k)(4)(B) of such Code and" after "subject to";

(70) in section 8440a(b)(1) by striking "subchapters III and VII of chapter 84 of this title" and inserting "this subchapter and subchapter VII";

(71) in section 8461(n)—

(A) in paragraphs (1) and (2) by amending subparagraph (A) of each to read as follows:

"(A) has not previously made an election under this subsection or had an opportunity to make an election under this paragraph;"; and

(B) in paragraph (2)(D) by striking "section 8347(p)" and inserting "section 8347(q)";

(72) in section 8478(a)(2)(B)(iii) by striking "Corporation or the Federal Savings and Loan Insurance";

(73) in the analysis for chapter 85 by adding after the item relating to section 8508 the following:

"8509. Federal Employees Compensation Account.";

(74) in section 8706 by redesignating subsection (g) as subsection (f);

(75) in section 8901—

(A) in paragraph (3)(A)(iv) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)"; and

(B) in paragraph (10)(C)(ii) by inserting a comma after "section 8341(h)";

(76) in section 8904(a) by striking "this section" each place it appears and inserting "this subsection";

(77) in section 8905—

(A) in subsection (b) by striking "this subchapter." and inserting "this chapter"; and

(B) in subsection (c)(1) by inserting a comma after "8341(h)"; and

(78) in section 8906—

(A) in subsection (b)(3) by inserting a period after "Office)"; and

(B) in subsection (c) by striking "and except" and inserting "and (except".

SEC. 3. AMENDMENTS TO THE FEDERAL EMPLOYEES PAY COMPARABILITY ACT OF 1990.

The Federal Employees Pay Comparability Act of 1990, as contained in the Treasury, Postal Service and General Government Appropriations Act, 1991 (Public Law 101-509; 104 Stat. 1427), is amended—

(1) in each of paragraphs (1) and (2) of section 109(b) (104 Stat. 1451) by striking "section 5305" and inserting "section 5303"; 5 USC 5378 note.

(2) in section 203 (104 Stat. 1456) by striking "5545(D)" and inserting "5545(d)"; 5 USC 5545.

(3) in section 209(a) (104 Stat. 1460)— 5 USC 5305 note.

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by inserting at the end the following:

"(3) any combination of classes of positions described in paragraph (1) or (2) for which the President determines a recruiting difficulty exists.";

5 USC 5304 note.

(4) in section 302 (104 Stat. 1462)—

(A) by striking "(A) DEFINITIONS.—" and inserting "(a) DEFINITIONS.—";

(B) by redesignating subsection (c) as subsection (d);

(C) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(D) by amending subsection (e) (as so redesignated) by striking "Code," and all that follows through the period and inserting the following: "Code (as in effect before the date of enactment of this Act), section 5305 of title 5, United States Code (as amended by section 101 of this Act), or any similar provision of law.";

5 USC 5305 note.

(5) in section 402 (104 Stat. 1465) by striking "section 8331(20) or section 8401(17)" and inserting "section 5541(3)";

5 USC 5305 note.

(6) in section 403(d) (104 Stat. 1465) by striking "section 303" and inserting "section 209";

5 USC 5305 note.

(7) in section 404(a) (104 Stat. 1466) by striking "and any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law." and inserting "and, to the extent determined appropriate by the Office of Personnel Management, any applicable special rate of pay under section 5305 of such title, as so amended, or any similar provision of law (other than section 403).";

(8) in section 404(b) (104 Stat. 1466)—

(A) by striking "(b) Except" and inserting "(b)(1) Except";

(B) by striking "Trention" and inserting "Trenton"; and

(C) by adding at the end the following:

"(2) In the case of any area specified in paragraph (1) that includes a portion, but not all, of a county, the Office of Personnel Management may, at the request of the head of 1 or more law enforcement agencies, extend the area specified in paragraph (1) to include, for the purposes of this section, the entire county, if the Office determines that such extension would be in the interests of good personnel administration. Any such extension shall be applicable to each law enforcement officer whose post of duty is in the area of the extension."; and

5 USC 5305 note.

(9) in section 405(a) (104 Stat. 1466) by striking "403 and 404" and inserting "403, 404, and 407".

SEC. 4. AMENDMENTS RELATING TO THE ETHICS IN GOVERNMENT ACT OF 1978.

(a) AMENDMENTS TO TITLE I OF THE ACT.—Title I of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

5 USC app. 101.

(1) in section 101(f)—

(A) in paragraph (3) by striking "whose position" and all that follows through "for GS–16" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or

greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (6) by striking "whose basic rate of pay" and all that follows through "GS–16" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(2) in section 109— 5 USC app. 109.

(A) in paragraph (8) by striking "who is paid" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule";

(B) in paragraph (13)(B)(i) by striking "who is compensated" and all that follows through "Schedule" and inserting "who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule"; and

(C) in paragraph (13)(B)(ii) by striking "compensated" and all that follows through "Schedule" and inserting "who occupies a position for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule".

(b) AMENDMENTS TO TITLE V.—Title V of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in section 501(a)(1) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule under section 5332 of title 5, United States Code," and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,"; 5 USC app. 501.

(2) in section 501(a)(2) by striking "who becomes a Member or an officer or employee who is a noncareer officer or employee and whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule during a calendar year," and inserting "who during a calendar year becomes a Member or an officer or employee who is a noncareer officer or employee and who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule,"; and

(3) in section 502(a) by striking "whose rate of basic pay is equal to or greater than the annual rate of basic pay in effect for grade GS–16 of the General Schedule" and inserting "who occupies a position classified above GS–15 of the General Schedule or, in the case of positions not under the General Schedule, for which the rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS–15 of the General Schedule". 5 USC app. 502.

(c) AMENDMENTS TO GIFT PROVISIONS.—Section 314(g) of the Legislative Branch Appropriations Act, 1992 (Public Law 102–90; 105 Stat. 470) is amended to read as follows:

2 USC 31-2 note.

"(g)(1) The amendments made by subsections (b) through (f) shall take effect on January 1, 1992.

"(2) The amendment made by subsection (a) shall take effect on January 1, 1993.".

SEC. 5. AMENDMENTS TO OTHER PROVISIONS OF LAW.

(a) OMNIBUS BUDGET RECONCILIATION ACT OF 1990.—The Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508; 104 Stat. 1388) is amended—

5 USC 8348 note.

(1) in section 7101(c)(2) (104 Stat. 1388–332) by striking "took effect, subject to section 7104." and inserting "took effect."; and

5 USC 2105 note.

(2) in section 7202(n) (104 Stat. 1388–340)—

(A) in paragraph (2) by striking "section 8347(p)(1)" each place it appears and inserting "section 8347(q)(1)"; and

(B) in paragraph (4) by striking "section 8347(p)(2)" and inserting "section 8347(q)(2)".

(b) FEDERAL PAY COMPARABILITY ACT OF 1970.—Section 5(a) of the Federal Pay Comparability Act of 1970 (2 U.S.C. 60a–2(a)) is amended by inserting "of title 5, United States Code," after "Whenever an adjustment under section 5303".

(c) PUBLIC LAW 100–446.—Section 8(c)(2) of Public Law 100–446 (2 U.S.C. 178g(c)(2); 102 Stat. 1786) is amended by striking the second sentence.

(d) PUBLIC LAW 102–198.—Section 7(c)(4) of Public Law 102–198 (105 Stat. 1625) is amended—

5 USC 8440d.

(1) in subparagraph (A) by striking "2440d" and inserting "8440d"; and

(2) in subparagraph (B) by striking "subchapter III of".

(e) PUBLIC LAW 102–233.—Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)), as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233; 105 Stat. 1765), is amended by striking the last 3 sentences.

SEC. 6. RESTORATION OF COVERAGE OF CERTAIN FEDERAL PERSONNEL PROVISIONS TO CERTAIN VETERANS HEALTH ADMINISTRATION EMPLOYEES.

(a) IN GENERAL.—Section 7511(b) of title 5, United States Code, is amended—

(1) by amending paragraph (7) to read as follows:

"(7) whose position is within the Central Intelligence Agency or the General Accounting Office;";

(2) in paragraph (8) by striking "or" after the semicolon;

(3) in paragraph (9) by striking "title." and inserting "title; or"; and

(4) by adding at the end the following:

"(10) who holds a position within the Veterans Health Administration which has been excluded from the competitive service by or under a provision of title 38, unless such employee was appointed to such position under section 7401(3) of such title.".

(b) APPLICABILITY.—(1) The amendments made by subsection (a) shall apply with respect to any personnel action taking effect on or after the date of enactment of this Act. 5 USC 7511 note.

(2) In the case of an employee or former employee of the Veterans Health Administration (or predecessor agency in name)—

(A) against whom an adverse personnel action was taken before the date of enactment of this Act,

(B) who, as a result of the enactment of the Civil Service Due Process Amendments (5 U.S.C. 7501 note), became ineligible to appeal such action to the Merit Systems Protection Board,

(C) as to whom that appeal right is restored as a result of the enactment of subsection (a), or would have been restored but for the passage of time, and

(D) who is not precluded, by section 7121(e)(1) of title 5, United States Code, from appealing to the Merit Systems Protection Board,

the deadline for bringing an appeal under section 7513(d) or section 4303(e) of such title with respect to such action shall be the latter of—

(i) the 60th day after the date of enactment of this Act; or

(ii) the deadline which would otherwise apply if this paragraph had not been enacted.

SEC. 7. RETROACTIVE PERFORMANCE AWARDS.

(a) IN GENERAL.—Section 7(b) of the Thrift Savings Plan Technical Amendments Act of 1990 (5 U.S.C. 3392 note; Public Law 101–335) is amended by adding at the end thereof the following new paragraph:

"(3) RETROACTIVE PERFORMANCE AWARDS.—If an individual elects under paragraph (2) to continue to be subject to performance awards, the head of the agency in which such individual is serving shall determine whether to grant retroactive performance awards for any fiscal years prior to fiscal year 1991 to such individual, and the amount of any such awards, without regard to the provisions of subsection (b) of section 5383 of title 5, United States Code, and subsections (b) and (c) of section 5384 of such title. Before granting an award, the head of the agency shall make a written determination that the individual's performance during the fiscal year for which the award is given was at least fully successful, and shall consider the recommendation of the agency's performance review board with respect to the award. No such award for performance during any fiscal year may be less than 5 percent nor more than 15 percent of the individual's rate of basic pay as of the end of such fiscal year.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if enacted as a part of section 7 of the Thrift Savings Plan Technical Amendments Act of 1990. 5 USC 3392 note.

SEC. 8. MISCELLANEOUS PROVISIONS.

(a) ELIMINATION OF DUPLICATIVE AMENDMENTS MADE BY THE DEFENSE ACQUISITION WORKFORCE IMPROVEMENT ACT.—Subsections (i) and (j) of section 1206 of the Defense Acquisition Workforce Improvement Act, as contained in the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104

5 USC 5380 and note, 5532 and note, prec. 5301, 8344, 8468.

Stat. 1662, 1663), are repealed, and title 5, United States Code, shall read as if such subsections had not been enacted.

(b) PROVISIONS RELATING TO COMPARABILITY PAYMENTS IN 1994 AND 1995.—Notwithstanding section 5304 of title 5, United States Code, for purposes of any comparability payments scheduled to take effect under such section during calendar years 1994 and 1995, respectively—

(1) the report required by subsection (d)(1) of such section may be submitted not later than 1 month before the start of the calendar year for purposes of which it is prepared; and

(2) the surveys conducted by the Bureau of Labor Statistics for use in preparing any such report may be other than annual surveys, and shall, to the greatest extent practicable, be completed not later than 4 months before the start of the calendar year for purposes of which the surveys are conducted.

5 USC 6303 note.

SEC. 9. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, this Act and the amendments made by this Act shall take effect as of the date of enactment of this Act.

(b) EXCEPTIONS.—(1) The amendment made by section 4(c) shall be effective as of December 31, 1991.

(2) The amendments made by section 5(d) shall be effective as of December 9, 1991.

(3) The amendments made by sections 2(13) and 2(17) shall be effective as of October 1, 1991.

(4) The amendments made by sections 2(11), 2(19), 2(29), and 2(38) shall be effective as of May 4, 1991.

(5) The amendments made by section 2(25) shall be effective as of February 3, 1991.

(6) The provisions of section 8(a) and the amendments made by sections 2(57)(A), 2(60), 2(64), 2(67), 2(71), 2(75)(A), 3(1), 3(4), 3(6), and 5(a) shall be effective as of November 5, 1990.

(7) The amendment made by section 2(52) shall be effective as of January 1, 1989, except that no amount shall become payable, as a result of the enactment of such amendment, under—

(A) subchapter VI of chapter 55 of title 5, United States Code, based on a separation that takes effect or an election that is made before the date of enactment of this Act; or

(B) section 5551(b) of title 5, United States Code, which is attributable to an individual's being excepted from subchapter I of chapter 63 of such title before the date of enactment of this Act.

(8) The amendment made by section 2(69) shall be effective as of November 10, 1988.

(9) The amendments made by sections 2(40), 2(41), 2(42), 2(43), and 3(5) shall be effective as of the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(10) The amendments made by section 2(28) shall be effective as of the first day of the first applicable pay period beginning on or after November 5, 1990.

(11) The amendment made by section 2(49) shall apply with respect to a separation that takes effect on or after the date of enactment of this Act.

(12) The amendment made by section 5(e) shall apply with respect to any action (described in subclause (I) or (II) of the provisions struck by such amendment) occurring on or after the date of enactment of this Act.

Approved October 2, 1992.

LEGISLATIVE HISTORY—H.R. 2850:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 17, considered and passed House.
Aug. 6, considered and passed Senate, amended.
Sept. 22, House concurred in Senate amendment.

59-194 O—93——16 : QL 3 (Pt. 2)

Public Law 102-379
102d Congress

An Act

Oct. 5, 1992
[H.R. 5126]

To direct the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the beginning of the protection of Civil War battlefields, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil War Battlefield Commemorative Coin Act of 1992.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Battlefield Commemorative Coin Act of 1992".

31 USC 5112 note.

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall issue not more than 300,000 five dollar coins which shall—

(1) weigh 8.359 grams,

(2) have a diameter of 0.850 inches, and

(3) contain 90 percent gold and 10 percent alloy.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue not more than 1,000,000 one dollar coins which shall—

(1) weigh 26.73 grams,

(2) have a diameter of 1.500 inches, and

(3) contain 90 percent silver and 10 percent copper.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue not more than 2,000,000 half dollar coins which shall be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(d) DESIGN.—

(1) DESIGN REQUIREMENTS.—The design of the coins authorized under this Act shall be emblematic of the Civil War. On each such coin there shall be a designation of the value of the coin, an inscription of the year "1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(2) SELECTION OF DESIGN.—The Secretary shall select the design of each coin authorized under this Act after consultation with the Secretary of the Interior, the Commission of Fine Arts, and the Civil War Battlefield Foundation (hereafter in this Act referred to as the "Foundation").

(e) LEGAL TENDER.—The coins issued under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(f) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1995.

(g) PROOF AND UNCIRCULATED COINS.—The coins authorized under this section shall be issued in uncirculated and proof qualities.

(h) BUREAU OF THE MINT.—Not more than 1 facility of the Bureau of the Mint may be used to strike any particular combination of denomination and quality of coins under this Act.

SEC. 3. SOURCES OF BULLION. 31 USC 5112 note.

(a) GOLD.—The Secretary shall obtain gold for the coins minted under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for the coins minted under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. SALE OF COINS. 31 USC 5112 note.

(a) SALE PRICE.—Notwithstanding any other provision of law, the coins issued under this Act shall be sold by the Secretary at a price equal to the face value, used in minting such coins, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins issued under this Act prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) SURCHARGE REQUIRED.—All sales of coins issued under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $2 per coin for the half dollar coins.

(e) MARKETING.—The Secretary, in cooperation with the Foundation, shall develop and implement a marketing program to promote and sell the coins authorized under this Act both within the United States and internationally.

SEC. 5. COINAGE PROFIT FUND. 31 USC 5112 note.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited into the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 6 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

SEC. 6. DISTRIBUTION AND USE OF SURCHARGES. 31 USC 5112 note.

(a) DISTRIBUTION.—Notwithstanding any other provision of law, the total surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Foundation and used by the Foundation for the preservation of historically significant Civil War battlefields.

(b) APPROVAL OF EXPENDITURES REQUIRED.—The Foundation may not expend any amount attributable to amounts paid to the Foundation under this section unless the Secretary of the Interior approves that expenditure.

(c) ACCOUNTING.—The Foundation shall account for all sums received by the Foundation under this section in accordance with generally accepted accounting principles and shall utilize such sums in a prudent manner to achieve battlefield protection. The books and records of the Foundation shall be made available to the Secretary and the Secretary of the Interior upon request.

(d) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Foundation as may be related to the expenditure of amounts paid to the Foundation under this section.

31 USC 5112 note.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

31 USC 5112 note.

SEC. 8. FINANCIAL ASSURANCES.

(a) NO NET COST.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of coins under this Act will not result in any net cost to the Federal Government.

(b) FULL PAYMENT.—No coin shall be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution the deposits of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

31 USC 5112 note.

SEC. 9. REPORTS TO CONGRESS.

(a) REPORTS REQUIRED.—Not later than 15 days after the last day of each calendar quarter which ends before April 1, 1996, the Secretary shall transmit to the Committee on Banking, Finance

and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report detailing activities carried out under this Act during such quarter.

(b) CONTENTS OF REPORT.—The report shall include a review of all marketing activities under section 4 and a financial statement.

Approved October 5, 1992.

LEGISLATIVE HISTORY—H.R. 5126:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 30, considered and passed House.
Sept. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 5, Presidential statement.

Public Law 102-380
102d Congress

An Act

Oct. 5, 1992
[H.R. 5428]

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

Military Construction Appropriations Act, 1993. Armed Forces.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $425,270,000, to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed $110,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $368,887,000, to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed $70,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $717,280,000, to remain available until September 30, 1997: *Provided,* That of this amount, not to exceed $92,000,000 shall be available for study, planning, design, architect and engineer

services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $262,116,000, to remain available until September 30, 1997: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $83,168,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That the Secretary of Defense shall continue the construction of a composite medical replacement facility located at Nellis Air Force Base, Nevada, as authorized in the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101–189) and the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510) and as provided for in the Military Construction Appropriations Act, 1990 (Public Law 101–148) and the Military Construction Appropriations Act, 1991 (Public Law 101–519).

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $60,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $209,639,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $287,559,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $42,150,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $15,400,000, to remain available until September 30, 1997.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $29,900,000, to remain available until September 30, 1997.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $160,122,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $1,363,697,000; in all $1,523,819,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $378,434,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $661,246,000; in all $1,039,680,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $283,786,000, to remain available until September 30, 1997; for Operation and maintenance, and for debt payment, $927,941,000; in all $1,211,727,000.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for operation and maintenance, leasing, and minor construction, as authorized by law, $28,400,000.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89–754, as amended), $133,000,000.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART I

For deposit into the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526), $415,700,000, to remain available for obligation until September 30, 1995: *Provided,* That none of these funds may be obligated for base realignment and closure activities under Public Law 100–526 which would cause the Department's $1,800,000,000 cost estimate for military construction and family housing related to the Base Realignment and Closure Program to be exceeded: *Provided further,* That not less than $134,600,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $1,618,600,000, to remain available until expended: *Provided,* That not less than $308,900,000 of the funds appropriated herein shall be available solely for environmental restoration.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contrac-

tor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the Committees on Appropriations and the Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 114. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account, shall be transferred to the appropriations for Family Housing, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 115. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 116. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 117. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization and Japan and Korea to assume a greater share of the common defense burden of such nations and the United States. Reports.

SEC. 118. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 119. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law. 10 USC 2860 note.

SEC. 120. Of the funds appropriated in this Act for Operation and maintenance of Family Housing, no more than $14,000,000 may be obligated for contract cleaning of family housing units.

(TRANSFER OF FUNDS)

10 USC 2860 note.

SEC. 121. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 122. None of the funds appropriated in this Act, except those necessary to exercise construction management provisions under section 2807 of title 10, United States Code, may be used for study, planning, design, or architect and engineer services related to the relocation of Yongsan Garrison, Korea.

SEC. 123. Such sums as may be necessary for annual pay raises for programs funded by Military Construction Appropriations Acts shall be absorbed within the levels appropriated in each annual Military Construction Appropriations Act.

SEC. 124. Defense access roads for Camp McCain, Mississippi, shall be considered as fully meeting the certification requirements specified in section 210 of title 23 of the United States Code.

10 USC 2687 note.

SEC. 125. (a) The environmental response task force established in section 2923(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821) shall reconvene and shall, until the date (as determined by the Secretary of Defense) on which all base closure activities required under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 102 Stat. 2627) are completed—

(1) monitor the progress of relevant Federal and State agencies in implementing the recommendations of the task force contained in the report submitted under paragraph (1) of such section; and

Reports.

(2) annually submit to the Congress a report containing—

(A) recommendations concerning ways to expedite and improve environmental response actions at military installations (or portions of installations) that are being closed or subject to closure under such title;

(B) any additional recommendations that the task force considers appropriate; and

(C) a summary of the progress made by relevant Federal and State agencies in implementing the recommendations of the task force.

(b) The task force shall consist of—

(1) the individuals (or their designees) described in section 2923(c)(2) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1821); and

(2) a representative of the Urban Land Institute (or such representative's designee), appointed by the Speaker of the House of Representatives and the Majority Leader of the Senate.

SEC. 126. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 127. None of the funds appropriated in this Act may be used to support the design or construction of any project to expand or rehabilitate the Pentagon reservation.

This Act may be cited as the "Military Construction Appropriations Act, 1993".

Approved October 5, 1992.

LEGISLATIVE HISTORY—H.R. 5428:

HOUSE REPORTS: Nos. 102-580 (Comm. on Appropriations) and 102-888 (Comm. of Conference).
SENATE REPORTS: No. 102-355 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 23, considered and passed House.
Aug. 5, considered and passed Senate, amended.
Sept. 24, House agreed to conference report; concurred in certain Senate amendment, in others with amendments.
Sept. 25, Senate agreed to conference report; concurred in House amendments.

Public Law 102-381
102d Congress

An Act

Oct. 5, 1992
[H.R. 5503]

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

Department of the Interior and Related Agencies Appropriations Act, 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $544,877,000, and $2,500,000 from unobligated balances appropriated under this heading in Public Law 99–591 for insect and disease control projects, including grasshoppers, which balances may be applied to any activity provided for under this heading and of which the following amounts shall remain available until expended: not to exceed $1,450,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–6a(i)), and $33,500,000 for the Automated Land and Mineral Record System Project: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors; and in addition, $12,430,000 for Mining Law Administration program operations to remain available through September 30, 1993, to be reduced by amounts collected by the Bureau of Land Management and credited to this appropriation from annual mining claim holding fees: *Provided further,* That the sum herein appropriated shall be reduced as mining claim holding fees are received during fiscal year 1993 so as to result in a final fiscal year 1993 appropriation estimated at not more than $544,877,000: *Provided further,* That in addition to funds otherwise available, not to exceed $5,000,000 from annual mining claim holding fees shall be credited to this account for the costs of administering the mining claim holding fee program, and shall remain available until expended.

FIRE PROTECTION

For necessary expenses for fire management, emergency rehabilitation, firefighting, fire presuppression, and other related emergency actions by the Department of the Interior, $119,310,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Firefighting", Bureau of Land Management, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY DEPARTMENT OF THE INTERIOR FIREFIGHTING FUND

For emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $113,640,000, to remain available until expended: *Provided,* That such funds also are to be available for repayment of advances to other appropriation accounts from which funds were previously transferred for such purposes: *Provided further,* That notwithstanding any other provision of law, persons hired pursuant to 43 U.S.C. 1469 may be furnished subsistence and lodging without cost from funds available from this appropriation.

In addition, for emergency rehabilitation and wildfire suppression activities of the Department of the Interior, $51,200,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $15,810,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94–579 including administrative expenses and acquisition of lands or waters, or interests therein,

and for activities authorized under Public Law 102–259 to be carried out by the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, $28,034,000 to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $83,122,000, to remain available until expended: *Provided,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California landgrant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

FOREST ECOSYSTEMS HEALTH AND RECOVERY

(REVOLVING FUND, SPECIAL ACCOUNT)

43 USC 1736a.

There is hereby established in the Treasury of the United States a special fund to be derived hereafter from the Federal share of moneys received from the disposal of salvage timber prepared for sale from the lands under the jurisdiction of the Bureau of Land Management, Department of the Interior. The money in this fund shall be immediately available to the Bureau of Land Management without further appropriation, for the purposes of planning and preparing salvage timber for disposal, the administration of salvage timber sales, and subsequent site preparation and reforestation.

43 USC 1736a note.

There is hereby appropriated an amount of $1,000,000, to remain available until expended to establish this fund. Nothing in this provision shall alter the formulas currently in existence by law for the distribution of receipts for the applicable lands and timber resources.

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315 et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $10,747,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93–153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of section 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that section, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to section 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $100,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the

43 USC 1731 note

Grazing lands. 43 USC 1752 note.

Cooperatives. Printing.

Claims. Public lands. Minerals and mining

Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made, in fiscal year 1993 and thereafter, may be expended for surveys of Federal lands and on a reimbursable basis for surveys of Federal lands and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That notwithstanding 44 U.S.C. 501, the Bureau may, under cooperative cost-sharing and partnership arrangements authorized by law, procure printing services from cooperators in connection with jointly-produced publications for which the cooperators share the cost of printing either in cash or in services, and the Bureau determines the cooperator is capable of meeting accepted quality standards: *Provided further,* That notwithstanding any other provision of law and effective upon the date of enactment of this Act, for fiscal year 1993, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e), and the filing requirements contained in section 314 (a) and (c) of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1744 (a) and (c)), each claimant shall, except as provided otherwise by this Act, pay a claim rental fee of $100 to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the assessment year ending at noon on September 1, 1993: *Provided further,* That for fiscal year 1993, each claimant—(i) that is producing under a valid notice or plan of operation not less than $1,500 and not more than $800,000 in gross revenues per year as certified by the claimant from ten or fewer claims; or—(ii) that is performing exploration work to disclose, expose, or otherwise make known possible valuable mineralization on ten or fewer claims under a valid notice or plan of operation; and that has less than ten acres of unreclaimed surface disturbance from such mining activity or such exploration work, may elect to either pay the claim rental fee for such year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such ten or fewer claims and certify the performance of such assessment work to the Secretary by August 31, 1993: *Provided further,* That for fiscal year 1994, for each unpatented mining claim, mill or tunnel site on federally owned lands, in lieu of the assessment work requirements contained in the Mining Law of 1872 (30 U.S.C. 28–28e) and filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)), each claimant shall, except as provided otherwise by this Act, pay an annual claim rental fee of $100 per claim to the Secretary of the Interior or his designee on or before August 31, 1993 in order for the claimant to hold such unpatented mining claim, mill or tunnel site for the following assessment year beginning at noon on September 1: *Provided further,* That in fiscal year 1994, each claimant—(i) that is producing

under a valid notice or plan of operation not less than $1,500 and not more than $800,000 in gross revenues per year as certified by the claimant from ten or fewer claims; or—(ii) that is performing exploration work to disclose, expose, or otherwise make known possible valuable mineralization on ten or fewer claims under a valid notice or plan of operation; and that has less than ten acres of unreclaimed surface disturbance from such mining activity or such exploration work, may elect to either pay the claim rental fee for such year or in lieu thereof do assessment work required by the Mining Law of 1872 (30 U.S.C. 28–28e) and meet the filing requirements of FLPMA (43 U.S.C. 1744 (a) and (c)) on such ten or fewer claims and certify the performance of such assessment work to the Secretary by August 31, 1993: *Provided further,* That for every unpatented mining claim, mill or tunnel site located after the date of enactment of this Act through September 30, 1994, the locator shall pay $100 to the Secretary of the Interior or his designee at the time the location notice is recorded with the Bureau of Land Management to hold such claim for the year in which the location was made: *Provided further,* That the co-ownership provisions of the Mining Law of 1872 (30 U.S.C. 28–28e) will remain in effect except that the annual claim rental fee, where applicable, shall replace applicable assessment requirements and expenditures through fiscal year 1994: *Provided further,* That failure to make the annual payment of the claim rental fee as required by this Act shall conclusively constitute an abandonment of the unpatented mining claim, mill or tunnel site by the claimant: *Provided further,* That nothing in this Act shall change or modify the requirements of section 314(b) of FLPMA (43 U.S.C. 1744(b)) or the requirements of section 314(c) of FLPMA (43 U.S.C. 1744(c)) related to filings required by section 314(b), which shall remain in effect: *Provided further,* That the Secretary of the Interior shall promulgate rules and regulations to carry out the purposes of this section as soon as practicable after the effective date of this Act: *Provided further,* That for purposes of determining eligibility for the exemption from the claim rental fee required by this Act, any claims held by a husband and wife, either jointly or individually, or their children under the age of discretion, shall be counted together toward the ten claim limit.

Regulations.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, and $440,000 which shall be available only for a contract, without competition, with the National Research Council for a study of the Endangered Species Act of 1973, as amended, $535,085,000, of which $10,687,000 shall be for operation and maintenance of fishery miti-

gation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended; and of which $1,000,000 shall be for contaminant sample analysis, and shall remain available until expended.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigation, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $82,085,000, to remain available until expended.

NATURAL RESOURCE DAMAGE ASSESSMENT AND RESTORATION FUND

To conduct natural resource damage assessments and restoration activities by the Department of the Interior necessary to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (42 U.S.C. 9601, et seq.), Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, et seq.), the Oil Pollution Act of 1990 (Public Law 101–380), and the Act of July 27, 1990 (Public Law 101–337); $4,685,000, to remain available until expended.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, and for activities authorized under Public Law 98–244 to be carried out by the National Fish and Wildlife Foundation, $76,192,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

COOPERATIVE ENDANGERED SPECIES CONSERVATION FUND

For expenses necessary to carry out the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), as amended by Public Law 100–478, $6,621,000 for Grants to States, to be derived from the Cooperative Endangered Species Conservation Fund, and to remain available until expended.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $11,849,000.

REWARDS AND OPERATIONS

For expenses necessary to carry out the provisions of the African Elephant Conservation Act (16 U.S.C. 4201–4203, 4211–4213, 4221–4225, 4241–4245, and 1538), $1,201,000, to remain available until expended.

NORTH AMERICAN WETLANDS CONSERVATION FUND

For expenses necessary to carry out the provisions of the North American Wetlands Conservation Act, Public Law 101–233, $9,250,000, and in fiscal year 1992 and thereafter, amounts received during the immediately preceding fiscal year under section 6 of the Migratory Bird Treaty Act (16 U.S.C. 707) as penalties or fines or from forfeitures of property or collateral, to remain available until expended. 43 USC 1474c.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 130 passenger motor vehicles, of which 112 are for replacement only (including 43 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $600,000 for the Roosevelt Campobello International Park Commission, and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93–408, $992,431,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $60,000,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100–203: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That of the funds provided herein, $775,000 is available for the National Institute for the Conservation of Cultural Property: *Provided fur-* 16 USC 20b note.

ther, That none of the funds appropriated in this Act may be used to implement any increase in Government housing rental rates in excess of ten per centum more than the rental rates which were in effect on September 1, 1992, for such housing.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $23,765,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $36,931,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1994: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance, in fiscal year 1993 and thereafter, as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99–239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation.

16 USC 470w note.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $231,801,000, to remain available until expended, and $7,705,000 to be derived from amounts made available under this head in Public Law 99–190 for engineering and construction of the Burr Trail National Rural Scenic Road: *Provided,* That not to exceed $7,000,000 shall be paid to the Army Corps of Engineers for modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act of 1989: *Provided further,* That of the funds provided under this heading, $1,700,000 shall be available for site acquisition and site preparation for the Lincoln Center in Springfield, Illinois: *Provided further,* That of the amounts provided under this heading, $2,000,000 shall be available for the design of and to initiate construction of a pedestrian walkway and interpretative Park (A Walk on the Mountain) in cooperation with the city of Tacoma, Washington: *Provided further,* That up to $140,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), shall be available until expended to correct deficiencies at the Botto House American Labor Museum National Historic Landmark: *Provided further,* That of the funds provided under this heading, not to exceed $450,000 shall be made available to the City of Hot Springs, Arkansas, to be used as part of the non-Federal share of a cost-shared feasibility study of flood protection for the downtown area which contains a significant amount of National Park Service property and improvements: *Provided further,* That of the funds provided under this heading, $4,200,000 shall be available to the State of West Virginia for replacement construction of the Fayette Station bridge and related approaches

in the New River Gorge National River: *Provided further,* That notwithstanding any other provision of law a single procurement for the construction of the Franklin Delano Roosevelt Memorial may be issued which includes the full scope of the project: *Provided further,* That the solicitation and the contract shall contain the clause "availability of funds" found at 48 CFR 52.323.18: *Provided further,* That up to $600,000 of the funds provided under this head, to be derived from the Historic Preservation Fund, established by the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470a (d)(3)(A)(i)), shall be available until expended for the stabilization, rehabilitation and long-term protection of Lowell's Boat Shop in Amesbury, Massachusetts.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1993 by 16 U.S.C. 460l–10a is rescinded. 16 USC 460*l*–10a note.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $118,911,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, of which $28,456,000 is for the State assistance program including $3,456,000 to administer the State assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States $75,000 shall be available in 1993 for administrative expenses of the State grant program.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $20,806,000, of which $12,806,000 shall remain available until expended.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 445 passenger motor vehicles, of which 307 shall be for replacement only, including not to exceed 345 for police-type use, 15 buses, and 4 ambulances; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical

services within the jurisdiction of units of the National Park System: *Provided,* That hereafter, any funds available to the National Park Service may be used, with the approval of the Secretary, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds in this Act may be used to upgrade the Burr Trail National Rural Scenic Road in Utah except to meet health, safety and environmental concerns: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That in fiscal year 1993 and thereafter, the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover all costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project: *Provided further,* That funds previously appropriated for acquisition of a landscaped parking lot for the Martin Luther King National Historic Site may be used by the National Park Service to acquire the property on the north side of Irwin Street between Jackson and Boulevard as specified in Public Law 100–202.

16 USC 14d.

16 USC 1a-1 note.

Reports.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the United States Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; $581,692,000, of which $64,032,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the United States Geological Survey shall be available for purchase of not to exceed 22 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the United States Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95–224.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $197,014,000, of which not less than $67,115,000 shall be available for royalty management activities; and an amount not to exceed $5,000,000 for the Technical Information Management System of Outer Continental Shelf (OCS) Lands Activity, to be credited to this appropriation and to remain available until expended, from additions to current preset receipts and from additional fee collections relating to OCS administrative activities performed by the Minerals Management Service over and above what the Minerals Management Service currently collects to offset its costs for these activities: *Provided,* That $1,500,000 for computer acquisitions shall remain available until September 30, 1994: *Provided further,* That funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine cleanup activities: *Provided further,* That notwithstanding any other provision of law, $10,000 under this head shall be available for refunds of overpayments in connection with certain Indian leases in which the Director of the Minerals Management Service concurred with the claimed refund due: *Provided further,* That notwithstanding any other provision of law, $76,850,000 shall be deducted from Federal onshore mineral leasing receipts prior to the division and distribution of such receipts between the States and the Treasury and shall be credited to miscellaneous receipts of the Treasury: *Provided further,* That, notwithstanding any other provision of law, in fiscal year 1993 and thereafter, the Minerals Management Service shall have the authority to collect and expend all collections from user fees resulting

from the Minerals Management Service providing the services of its Oil and Hazardous Materials Simulated Environmental Test Tank testing facility in Leonardo, New Jersey, and these collections shall be credited to this account to remain available until expended, and used to offset operation and maintenance costs associated with providing such services: *Provided further,* That the fifth proviso under the heading "Leasing and Royalty Management" for the Minerals Management Service in Public Law 101–512 (104 Stat. 1926) is amended by striking the words "this account" after the words "shall be credited to" and inserting in lieu thereof "the leasing and royalty management account of the Minerals Management Service".

43 USC 1338a.

OIL SPILL RESEARCH

For necessary expenses to carry out the purposes of Title I, section 1016, and Title VII of the Oil Pollution Act of 1990, $5,377,000, which shall be derived from the Oil Spill Liability Trust Fund, to be available until expended.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $175,729,000, of which $110,179,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

43 USC 1473a note.

The Secretary is authorized to accept lands, buildings, equipment, other contributions, and fees from public and private sources, and to prosecute projects using such contributions and fees in cooperation with other Federal, State or private agencies: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not to exceed 15 passenger motor vehicles, of which 11 shall be for replacement

only; $112,674,000, and notwithstanding 31 U.S.C. 3302, an additional amount shall be credited to this account, to remain available until expended, from performance bond forfeitures in fiscal year 1993: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1993 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may provide for the travel and per diem expenses of State and tribal personnel attending Office of Surface Mining Reclamation and Enforcement sponsored training.

30 USC 1211 note.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95–87, as amended, including the purchase of not more than 22 passenger motor vehicles, of which 16 shall be for replacement only, $189,541,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That of the funds herein provided up to $22,000,000 may be used for the emergency program authorized by section 410 of Public Law 95–87, as amended, of which no more than 25 per centum shall be used for emergency reclamation projects in any one State and funds for federally-administered emergency reclamation projects under this proviso shall not exceed $15,000,000: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further,* That pursuant to Public Law 97–365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95–87, administrative expenses may not exceed 15 per centum: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95–87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer adequately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement.

ADMINISTRATIVE PROVISION

None of the funds available to the Office of Surface Mining Reclamation and Enforcement shall be expended to create or maintain more than one Deputy Director position.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, or institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices; maintaining of Indian reservation roads as defined in section 101 of title 23, United States Code; and construction, repair, and improvement of Indian housing, $1,353,899,000, including $270,638,000 for school operations costs of Bureau-funded schools and other education programs which shall become available for obligation on July 1, 1993, and shall remain available for obligation until September 30, 1994, and $53,954,000 for housing improvement and road maintenance, to remain available until expended, and of which, funds obligated as grants to schools pursuant to Public Law 100–297 shall be made on July 1 and December 1 in lieu of the payments authorized to be made on October 1 and January 1 of each calendar year, and of which not to exceed $71,954,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1994; and the funds made available to tribes and tribal organizations through contracts or grants obligated during fiscal year 1993 as authorized by the Indian Self-Determination Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.), or grants authorized by the Indian Education Amendments of 1988 (25 U.S.C. 2001 and 2008A) shall remain available until expended by the contractor or grantee; and of which $2,000,000 for litigation support shall remain available until expended, $4,937,000 for self-governance tribal compacts shall be made available on completion and submission of such compacts to the Congress, and shall remain available until expended; and of which $1,190,000 for expenses necessary to carry out the provisions of section 19(a) of Public Law 93–531 (25 U.S.C. 640d–18(a)), shall remain available until expended: *Provided,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $200,000 of the funds made available in this Act shall be available for cyclical

maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That for the purpose of Indian Reservation road construction, all public Indian reservation roads (as defined in 23 U.S.C. 101), identified in the 1990 Bureau of Indian Affairs Juneau Area Transportation Study (and in any subsequent update of such Transportation Study) shall be included as Bureau of Indian Affairs system adjusted miles in the Bureau of Indian Affairs highway trust fund formula for distribution for fiscal year 1993: *Provided further,* That this provision shall expire upon implementation by the Secretary of the Interior of a relative needs based highway trust fund allocation formula pursuant to 23 U.S.C. 202(d): *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for all such tribes or individuals have been audited and reconciled to the earliest possible date, the results of such reconciliation have been certified by an independent party as the most complete reconciliation of such funds possible, and the affected tribe or individual has been provided with an accounting of such funds: *Provided further,* That notwithstanding any other provision of law, the statute of limitations shall not commence to run on any claim concerning losses to or mismanagement of trust funds, until the affected tribe or individual Indian has been furnished with the accounting of such funds from which the beneficiary can determine whether there has been a loss: *Provided further,* That $300,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That the Task Force on Bureau of Indian Affairs Reorganization shall continue activities under its charter as adopted and amended on April 17, 1991: *Provided further,* That any reorganization proposal shall not be implemented until the Task Force has reviewed it and recommended its implementation to the Secretary and such proposal has been submitted to and approved by the Committees on Appropriations, except that the Bureau may submit a reorganization proposal related only to management improvements, along with Task Force comments or recommendations to the Committees on Appropriations for review and disposition by the Committees: *Provided further,* That to provide funding uniformity within a Self-Governance Compact, any funds provided in this Act with availability for more than one year may be reprogrammed to one year availability but shall remain available within the Compact until expended: *Provided further,* That notwithstanding any other provision of law, Indian tribal governments may, by appropriate changes in eligibility criteria or by other means, change eligibility for general assistance or change the amount of general assistance payments for individuals within the service area of such tribe who are otherwise deemed eligible for general assistance payments so long as such changes are applied in a consistent manner to individuals similarly situated: *Provided further,* That any savings realized by such changes shall be available for use in meeting other priorities of the tribes: *Provided further,* That any such change must be part of a comprehensive tribal plan for reducing the long-term need for general assistance payments: *Provided further,* That any such tribal plan must incorporate, to the greatest extent feasible, currently existing social service, educational training, and employment assistance resources prior to changing general assistance eligibility or payment stand-

ards which would have the effect of increasing the cost of general assistance: *Provided further,* That any net increase in costs to the Federal government which result solely from tribally-increased payment levels shall be met exclusively from funds available to the tribe from within its tribal priority allocation: *Provided further,* That the obligated and unobligated balances for construction contract support for Public Law 93–638 contractors associated with the housing improvement program and the road maintenance program shall be transferred to this account from the "Construction" account, and shall remain available until expended: *Provided further,* That any funds granted to the All Indian Pueblo Council of New Mexico pursuant to Public Law 93–638 for a study of the best use of the land and planning associated with development of the site of the former Albuquerque Indian School, at the discretion of the Secretary, may include the preparation of bid proposals in response to solicitations issued by the General Services Administration for commercial leases, with the condition that evidence of agreements with the City of Albuquerque and the State of New Mexico concerning payments of all local and State taxes equivalent to taxes applicable to similarly situated office buildings and compliance with land use requirements be provided to the General Services Administration: *Provided further,* That no funds provided for the purpose described in the previous provision shall be used for planning or development of Class I, II, or III gaming, as defined in the Indian Gaming Regulatory Act of 1988, 102 Stat. 2476: *Provided further,* That the obligated and unobligated balances associated with the housing improvement program and the road maintenance program shall be transferred to this account from "Construction", and shall remain available until expended.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; and preparation of lands for farming, $150,896,000, to remain available until expended: *Provided,* That $1,482,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided further,* That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation: *Provided further,* That not to exceed 6 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover the road program management costs of the Bureau of Indian Affairs: *Provided further,* That funds appropriated in fiscal year 1991 (Public Law 101–512) and fiscal year 1992 (Public Law 102–154) and allocated by the Bureau of Indian Affairs to the Flathead Agency Irrigation Division for irrigation construction, including funds to provide continuous monitoring and recording instrumentation of the movement, quantities, and distribution of irrigation water in the various on-reservation streams and irrigation canals, shall be made available on a non-reimbursable basis and shall not be included as funds subject to the appropriation limit established in the Act of May 25, 1948 (62 Stat. 269) as amended by the Act of October 8, 1964 (78 Stat. 1042): *Provided further,* That none of the funds available to the Bureau of Indian Affairs in this or any other Act shall be used to transfer, through

agreement, memorandum of understanding, demonstration project or other method, the Safety of Dams program of the Bureau of Indian Affairs to the Bureau of Reclamation: *Provided further,* That nothing herein shall prevent the Bureau of Indian Affairs or tribes from using, on a case-by-case basis, the technical expertise of the Bureau of Reclamation: *Provided further,* That none of the funds provided for the Safety of Dams program are available for transfer pursuant to sections 101 and 102 of this Act.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98–500, 99–264, 100–383, 100–512, 100–580, 101–618, 101–602, 101–486, 100–585, and 102–171, including funds for necessary administrative expenses, $38,609,000, of which $500,000 shall be available to the Trust of St. George pursuant to the provisions of 16 U.S.C. 1166(e), as amended, to remain available until expended: *Provided,* That of the funds provided herein $3,000,000 shall be available (1) to liquidate obligations owed tribal and individual Indian payees of any checks canceled pursuant to section 1003 of the Competitive Equality Banking Act of 1987 (Public Law 100–86 (101 Stat. 659)), 31 U.S.C. 3334(b), and (2) to restore to Individual Indian Monies trust funds amounts invested in credit unions or defaulted savings and loan associations and which were not federally insured, including any interest on these amounts that may have been earned, but was not because of the default.

NAVAJO REHABILITATION TRUST FUND

For Navajo tribal rehabilitation and improvement activities in accordance with the provisions of section 32(d) of Public Law 93–531, as amended (25 U.S.C. 640d–30), including necessary administrative expenses, $4,000,000, to remain available until expended.

TECHNICAL ASSISTANCE OF INDIAN ENTERPRISES

For payment of management and technical assistance requests associated with loans and grants approved under the Indian Financing Act of 1974, as amended, $1,987,000.

INDIAN DIRECT LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of expert assistance loans authorized by the Act of November 4, 1963, as amended, and the cost of direct loans authorized by the Indian Financing Act of 1974, as amended, $2,500,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $11,300,000.

INDIAN GUARANTEED LOAN PROGRAM ACCOUNT

For the cost of guaranteed loans $8,864,000, as authorized by the Indian Financing Act of 1974, as amended: *Provided,* That such costs including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize total

loan principal any part of which is to be guaranteed not to exceed $68,800,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan program, $906,000, which may be transferred to and merged with the appropriations for Operation of Indian Programs.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans, the Indian loan guarantee and insurance fund, the Technical Assistance of Indian Enterprises account, the Indian Direct Loan Program account, and the Indian Guaranteed Loan Program account) shall be available for expenses of exhibits, and purchase of not to exceed 258 passenger carrying motor vehicles, of which not to exceed 212 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $81,651,000, of which (1) $77,105,000 shall be available until expended for technical assistance, including maintenance assistance, disaster recovery, drug interdiction and abuse prevention, and brown tree snake control and research; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98–454; 98 Stat. 1732); grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for construction and support of governmental functions; grants to the Government of the Virgin Islands as authorized by law; grants to the Government of Guam, as authorized by law; and grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94–241; 90 Stat. 272); and (2) $4,546,000 shall be available for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99–396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99–396: *Provided further,* That $1,025,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation: *Provided further,* That the funds for the program of operations and mainte-

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

nance improvement are appropriated to institutionalize routine operations and maintenance of capital infrastructure in American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia through assessments of long-range operations and maintenance needs, improved capability of local operations and maintenance institutions and agencies (including management and vocational education training), and project-specific maintenance (with territorial participation and cost sharing to be determined by the Secretary based on the individual territory's commitment to timely maintenance of its capital assets).

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495), and grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $23,249,000, to remain available until expended, including $18,596,000 for operations of the Government of Palau: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1993 shall be credited as an offset against fiscal year 1993 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99–658), if such Compact is implemented before October 1, 1993: *Provided further,* That not less than $300,000 of the grants to the Republic of Palau, for support of governmental functions, shall be dedicated to the College of Micronesia in accordance with the agreement between the Micronesian entities.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compacts of Free Association, $20,457,000, to remain available until expended, as authorized by Public Law 99–239: *Provided,* That the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99–658, shall be the effective date of the Palau Compact as determined pursuant to section 101 of Public Law 101–219.

Effective date.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $63,633,000, of which not to exceed $7,500 may be for official reception and representation expenses.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $31,727,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General, $23,741,000.

CONSTRUCTION MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Construction Management, $2,191,000.

NATIONAL INDIAN GAMING COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the National Indian Gaming Commission, pursuant to Public Law 100–497, $2,040,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 18 aircraft, 10 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That notwithstanding any other provision of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft: *Provided further,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have

been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods, volcanoes, storms, or other unavoidable causes; for contingency planning subsequent to actual oilspills; response and natural resource damage assessment activities related to actual oilspills; for the prevention, suppression, and control of actual or potential grasshopper and Mormon cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99–198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95–87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That for emergency rehabilitation and wildfire suppression activities, no funds shall be made available under this authority until funds appropriated to the "Emergency Department of the Interior Firefighting Fund" shall have been exhausted: *Provided further,* That all funds used pursuant to this section are hereby designated by Congress to be "emergency requirements" pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985 and must be replenished by a supplemental appropriation which must be requested as promptly as possible: *Provided further,* That such replenishment funds shall be used to reimburse, on a pro rata basis, accounts from which emergency funds were transferred.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount

not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902 and D.C. Code 4–204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 108. No funds provided in this title may be expended by the Department of the Interior for the conduct of offshore leasing and related activities placed under restriction in the President's moratorium statement of June 26, 1990, in the areas of Northern, Central, and Southern California; the North Atlantic; Washington and Oregon; and the Eastern Gulf of Mexico south of 26 degrees north latitude and east of 86 degrees west longitude.

SEC. 109. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the North Aleutian Basin planning area.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Eastern Gulf of Mexico for Outer Continental Shelf Lease Sale 137 or for Sale 151 in the April 1992 proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of preleasing and leasing activities in the Atlantic for Outer Continental Shelf Lease Sale 164 in the April 1992 proposal for the Outer Continental Shelf Natural Gas and Oil Resource Management Comprehensive Program, 1992–1997.

SEC. 112. None of the funds made available by this Act may be used for the implementation or financing of agreements or arrangements with entities for the management of all lands, waters, and interests therein on Matagorda Island, Texas, which were purchased by the Department of the Interior with federally appropriated amounts from the Land and Water Conservation Fund.

SEC. 113. The provision of section 112 shall not apply if the transfer of management or control is ratified by law.

SEC. 114. (a) Notwithstanding the provisions of section 101(c) of Public Law 98–473, Act of October 12, 1984, 98 Stat. 1849 (25 U.S.C. 123c), the Secretary of the Interior is authorized in his discretion, to pay lawful debts incurred between February 1, 1991, and July 31, 1992, on behalf of the Kiowa Comanche Apache Intertribal Land Use Committee in connection with the construction

and operation of the Native Sun Water Park in Lawton, Oklahoma, from funds in the United States Treasury held jointly for the Kiowa, Comanche, and Apache Tribes: *Provided,* That such payments may not exceed an aggregate of $1,300,000.

(b) Prior to exercising the discretion described in section (a)—

(1) the Secretary or his designee shall by no later than November 1, 1992, provide written notice to the Kiowa, Comanche, and Apache Tribes, and the Kiowa Comanche Apache Intertribal Land Use Committee describing with specificity the nature and amount of the obligation(s) the Secretary has identified as lawful debts described in section (a); and

(2) the Kiowa, Comanche, and Apache Tribes shall have until February 1, 1993, to resolve any of the lawful debts described in section (a) in accordance with the terms of their respective tribal constitutions.

(c) In the event the Kiowa, Comanche, and Apache Tribes individually or through the Kiowa Comanche Apache Intertribal Land Use Committee do not provide documentation to the Secretary by March 1, 1993, confirming payment of the lawful debts described by the Secretary or justifying why any of the amounts should not be paid, the Secretary may exercise his discretion to pay the obligations.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $184,281,000, to remain available until September 30, 1994.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $157,566,000, to remain available until expended, as authorized by law.

EMERGENCY PEST SUPPRESSION FUND

For necessary expenses for emergency suppression of pests, $26,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for administrative expenses associated with the management of funds provided under the heads

"Forest Research", "State and Private Forestry", "National Forest System", "Construction", "Forest Service Fire Protection", "Emergency Forest Service Firefighting Fund", and "Land Acquisition", $1,318,481,000, to remain available for obligation until September 30, 1994, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a(i)): *Provided,* That unobligated and unexpended balances in the National Forest System account at the end of fiscal year 1992, shall be merged with and made a part of the fiscal year 1993 National Forest System appropriation, and shall remain available for obligation until September 30, 1994: *Provided further,* That timber volume authorized or scheduled for sale during fiscal year 1992, but which remains unsold at the end of fiscal year 1992, shall be offered for sale during fiscal year 1993 in addition to the fiscal year 1993 timber sale volume to the extent possible: *Provided further,* That up to $5,000,000 of the funds provided herein for road maintenance shall be available for the planned obliteration of roads which are no longer needed.

FOREST SERVICE FIRE PROTECTION

For necessary expenses for firefighting on or adjacent to National Forest System lands or other lands under fire protection agreement, and for forest fire management and presuppression on National Forest System lands, $190,785,000, to remain available until expended: *Provided,* That unexpended balances of amounts previously appropriated for this purpose under the heading "Forest Service Firefighting", Forest Service, may be transferred to and merged with this appropriation and accounted for as one appropriation for the same time period as originally enacted.

EMERGENCY FOREST SERVICE FIREFIGHTING FUND

For necessary expenses for emergency rehabilitation, presuppression due to emergencies or economic efficiency, and wildfire suppression activities of the Forest Service, $187,000,000, to remain available until expended: *Provided,* That such funds are available for repayment of advances from other appropriation accounts previously transferred for such purposes.

In addition, for necessary expenses for emergency rehabilitation, presuppression due to emergencies, and wildfire suppression activities of the Forest Service, $188,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 only (1) to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Balanced Budget and Emergency Deficit Control Act of 1985; and (2) if the amounts annually appropriated under this heading, but not designated as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985, have been at least equal to the most recent ten-year historical average, less any enacted cost saving program reforms: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $257,447,000, to remain available until expended, of which $88,190,000 is for construction and acquisition of buildings and other facilities; and $169,257,000 is for construction and repair of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1993 under the Act of March 4, 1913 (16 U.S.C. 501) shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $110,669,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $62,947,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

ACQUISITION OF LANDS FOR NATIONAL FORESTS SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, Sequoia, and Cleveland National Forests, California, as authorized by law, $1,190,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94–579, as amended, to remain available until expended, of which not to exceed 6 per centum shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

GIFTS, DONATIONS AND BEQUESTS FOR FOREST AND RANGELAND RESEARCH

For expenses authorized by 16 U.S.C. 1643(b), $105,000, to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 127 passenger motor vehicles of which 31 will be used primarily for law enforcement purposes and of which 101 shall be for replacement only, of which acquisition of 81 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 47 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold, with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (d) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (e) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (f) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be advanced to the Forest Service Firefighting appropriation and may be used for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction: *Provided*, That no funds shall be made available under this authority until funds appropriated to the "Emergency Forest Service Firefighting Fund" shall have been exhausted.

The appropriation structure for the Forest Service may not be altered without advanced approval of the House and Senate Committees on Appropriations.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries, and shall be available to support forestry and related natural resource activities outside the United States and its territories and possessions, including technical assistance, education and training, and cooperation with United States and international organizations.

All funds received for timber salvage sales may be credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for timber sales preparation to replace sales lost to fire or other causes, and sales preparation to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings,

and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales program described above: *Provided,* That notwithstanding any other provision of law, moneys received from the timber salvage sales program in fiscal year 1993 and subsequent fiscal years shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended. 16 USC 500 note.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 102–116.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to disseminate program information to private and public individuals and organizations through the use of nonmonetary items of nominal value and to provide nonmonetary awards of nominal value and to incur necessary expenses for the nonmonetary recognition of private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of law, money collected, in advance or otherwise, by the Forest Service under authority of section 101 of Public Law 93–153 (30 U.S.C. 185(1) as reimbursement of administrative and other costs incurred in processing pipeline right-of-way or permit applications and for costs incurred in monitoring the construction, operation, maintenance, and termination of any pipeline and related facilities, may be used to reimburse the applicable appropriation to which such costs were originally charged.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as authorized by the Act of August 13, 1970, as amended by Public Law 93–408.

None of the funds available in this Act shall be used for timber sale preparation using clearcutting in hardwood stands in excess of 25 percent of the fiscal year 1989 harvested volume in the Wayne National Forest, Ohio: *Provided,* That this limitation shall not apply to hardwood stands damaged by natural disaster: *Provided further,* That landscape architects shall be used to maintain a visually pleasing forest.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100–202 have been submitted to the Congress: *Provided,* That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either

House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of administering a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Rock Creek, Madera County, California, until a study has been completed and submitted to the Congress by the Forest Service in consultation with the United States Fish and Wildlife Service, the United States Army Corps of Engineers, the California State Water Resources Control Board, the California Department of Fish and Game and other interested public parties regarding the project's potential cumulative impacts on the environment, together with a finding that there will be no substantial adverse impact on the environment. Findings from the study must be presented at no less than three public meetings.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101–2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

Notwithstanding any other provision of law, the Forest Service is authorized to employ or otherwise contract with persons at regular rates of pay, as determined by the Service, to perform work occasioned by emergencies such as fires, storms, floods, earthquakes or any other unavoidable cause without regard to Sundays, Federal holidays, and the regular workweek.

To the greatest extent possible, and in accordance with the Final Amendment to the Shawnee National Forest Plan, none of the funds available in this Act shall be used for preparation of timber sales using clearcutting or other forms of even aged management in hardwood stands in the Shawnee National Forest, Illinois.

Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary of Agriculture may negotiate sales of Pacific yew at not less than appraised value, to parties manufacturing taxol in the United States in accordance with the requirements of section 505 of the Food, Drug, and Cosmetic Act (21 U.S.C. 355) for use in humans. Moneys received from the sale of Pacific yew are hereby appropriated and made available until expended by the Forest Service to fund the costs associated with the harvest of Pacific yew.

Notwithstanding any other provision of law, the Forest Service shall establish an office in Ohio for the purpose of representing and administering the Wayne National Forest on a forest-wide basis.

The Forest Service may offer for sale salvageable timber in Region 5 and Region 6 in fiscal year 1993: *Provided,* That for forests known to contain the Northern spotted owl, such salvage sales may be offered as long as the offering of such sale will not render the area unsuitable as habitat for the Northern spotted owl: *Provided further,* That timber salvage activity in spotted owl

habitat is to be done in full compliance with all existing environmental and forest management laws.

Pursuant to section 405 (a) and (b), and section 410 (a) and (b) of Public Law 101–593, funds up to $500,000 for start-up expenses and $537,000 for matching funds shall be available to establish a National Forest Foundation. Funding shall be limited to $78,000 from Forest Research, $90,000 from State and Private Forestry, $638,000 from National Forest System, $90,000 from Forest Service Fire Protection, and $141,000 from Construction.

As a pilot effort, for the purpose of achieving ecologically defensible management practices, the Kaibab, Dixie, Idaho Panhandle, and Coconino National Forests and the Lake Tahoe Basin Management Unit are authorized to apply the value or a reasonable portion of the value of timber removed under a stewardship end result contract as an offset against the cost of stewardship services received including, but not limited to, site preparation, replanting, silviculture programs, recreation, wildlife habitat enhancement, and other multiple-use enhancements on selected projects: *Provided,* That timber removed shall count toward meeting the Congressional expectations for the annual timber harvest.

Hereafter, funds appropriated to the Department of Agriculture, Forest Service may be used to pay transportation, lodging, and subsistence expenses of student interns, defined as employees who assist scientific, professional, or technical employees and who are bona fide students of accredited colleges or universities who are pursuing courses related to the field in which employed. 16 USC 556f.

Notwithstanding any other provision of law, the Forest Service is authorized to issue a contract without competition to the National Research Council to begin an assessment of the forests in the Pacific Northwest.

DEPARTMENT OF ENERGY

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95–91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $421,939,000, to remain available until expended, of which $3,100,000 is available for the fuels program and $600,000 to be derived by transfer from previously appropriated and unobligated balances in the "Fossil Energy Construction" account: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas: *Provided further,* That section 303 of Public Law 97–257 is further amended by changing the number for the Pittsburgh Energy Technology Center to "285", changing the number for the Morgantown Energy Technology Center to "270", inserting at the end of enumeration (2) "and not less than 27 employees shall be assigned to the Bartlesville Project Office;", inserting as enumeration (3) "Not less than 170 employees shall be assigned to the Office of the Strategic Petroleum Reserve;" and inserting as enumeration (4) "Not less than 91 employees shall be assigned to the Office of the Naval Petroleum and Oil Shale Reserves".

Of the funds provided herein, $1,500,000 shall be available for a grant for the National Research Center for Coal and Energy.

Of the funds herein provided, $30,675,000 is for implementation of the June 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided,* That 35 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1993: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

ALTERNATIVE FUELS PRODUCTION

(INCLUDING TRANSFER OF FUNDS)

Monies received as investment income on the principal amount in the Great Plains Project Trust at the Norwest Bank of North Dakota, in such sums as are earned as of October 1, 1992, shall be deposited in this account and immediately transferred to the General Fund of the Treasury. Monies received as revenue sharing from the operation of the Great Plains Gasification Plant shall be immediately transferred to the General Fund of the Treasury.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $238,094,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, revenues received from use and operation of the Naval Petroleum Reserves Numbered 1, 2, and 3 and the Naval Oil Shale Reserves and estimated to total $525,853,000 for fiscal year 1993 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in carrying out naval petroleum and oil shale reserve activities: *Provided further,* That the sum herein appropriated shall be reduced as such revenues are received so as to result in a final fiscal year 1993 appropriation estimated at not more than $0.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $583,866,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1993 determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided,* That $231,757,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99–509 (15 U.S.C. 4507) and shall not be available until excess amounts are determined under the provisions of section 3003(d) of Public Law 99–509 (15 U.S.C. 4502): *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99–509 such sums shall be allocated

to the eligible programs in the same proportion for each program as in fiscal year 1992: *Provided further,* That $1,500,000 of the amount under this heading shall be for metal casting research consistent with the provisions of Public Law 101–425: *Provided further,* That $3,000,000 of the amount provided under this head in this Act and $3,000,000 provided under this head in Public Law 102–154 shall be available for financial assistance to the recipient of funds appropriated under Public Law 101–512 for the development of an integrated management information system for the steel industry, for use in continuing that project, and the Government's share of the cost of this project shall not exceed 50 percent using the same criteria for acceptance of contributions as used for steel and aluminum research: *Provided further,* That $18,091,000 of the amount provided under this heading shall be available for continuing research and development efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99–190), and implementation of steel and aluminum research authorized by Public Law 100–680: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not accepted as contributions for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That the total Federal expenditure under this proviso shall be repaid up to one and one-half times from the proceeds of the commercial sale, lease, manufacture, or use of technologies developed under this proviso, at a rate of one-fourth of all net proceeds: *Provided further,* That up to $28,700,000 of the amount provided under this head is for electric and hybrid vehicle battery research to be conducted on a cooperative basis with non-Federal entities, such amounts to be available only as matched on an equal basis by such entities: *Provided further,* That the Department of Energy, for a period of up to five years after the completion of individual projects may provide appropriate protections, including exemptions from subchapter II of chapter 5 of title 5, United States Code, against the dissemination of information that results from activities conducted by the United States Advanced Battery Consortium or its contractors, or participants in the hybrid vehicle propulsion development program and their contractors and that would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from and first produced by a non-Federal party participating in the United States Advanced Battery Consortium or in the hybrid vehicle propulsion development program.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $14,565,000, to remain available until expended.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $9,247,000, to remain available until expended.

STRATEGIC PETROLEUM RESERVE

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for Strategic Petroleum Reserve facility development and operations and program management activities pursuant to the Energy Policy and Conservation Act of 1975, as amended (42 U.S.C. 6201 et seq.), $176,600,000, to remain available until expended, including $125,625,000 to be derived by transfer from funds deposited in the "SPR petroleum account" as a result of the Desert Storm sale of the Strategic Petroleum Reserve, as authorized under 42 U.S.C. 6241: *Provided,* That appropriations herein made shall not be available for leasing of facilities for the storage of crude oil for the Strategic Petroleum Reserve unless the quantity of oil stored in or deliverable to Government-owned storage facilities by virtue of contractual obligations is equal to 700,000,000 barrels.

SPR PETROLEUM ACCOUNT

Notwithstanding 42 U.S.C. 6240(d) the United States share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve: *Provided,* That outlays in fiscal year 1993 resulting from the use of funds in this account shall not exceed $137,000,000.

CLEAN COAL TECHNOLOGY

The first paragraph under this head in Public Law 101–512, as amended, is further amended by striking the phrase "and $250,000,000 on October 1, 1992" and inserting "$150,000,000 on October 1, 1993, and $100,000,000 on October 1, 1994" and by striking the phrase "$275,000,000 on October 1, 1992, and $225,000,000 on October 1, 1993" and inserting "$250,000,000 on October 1, 1993, and $250,000,000 on October 1, 1994".

ENERGY INFORMATION ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the activities of the Energy Information Administration, $82,627,000, to remain available until expended, of which $49,000,000 shall be derived from available unobligated balances in the Biomass Energy Development account.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized

price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project. Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding any other provision of law, the Secretary of Energy may enter into a contract, agreement, or arrangement, including, but not limited to, a Management and Operating Contract as defined in the Federal Acquisition Regulations (17.601), with a profit-making or non-profit entity to conduct activities at the Department of Energy's research facilities at Bartlesville, Oklahoma.

No funds provided in this Act may be expended by the Department of Energy to prepare, issue, or process procurement documents for programs or projects for which appropriations have not been made.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and section 208 of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of medical equipment; purchase of reprints; purchase, renovation, and erection of modular buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,537,851,000, together with payments received during the fiscal year pursuant to 42 U.S.C. 300aaa–2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regula-

tion, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86–121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall be deemed to be obligated at the time of the grant or contract award and thereafter shall remain available to the tribe or tribal organization without fiscal year limitation: *Provided further,* That $12,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund: *Provided further,* That $320,827,000 for contract medical care shall remain available for obligation until September 30, 1994: *Provided further,* That of the funds provided, not less than $11,077,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $35,000 per year of obligated service in return for full-time clinical service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, or construction of new facilities): *Provided further,* That of the funds provided, $5,000,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under the Indian Health Care Improvement Act (25 U.S.C. 1613) shall remain available for obligation until September 30, 1994: *Provided further,* That amounts received by tribes and tribal organizations under title IV of the Indian Health Care Improvement Act and Public Law 100–713 shall be reported and accounted for and available to the receiving tribes and tribal organizations until expended.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of modular buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, and for expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXVI and section 208 of the Public Health Service Act with respect to environmental

health and facilities support activities of the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of modular buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary, $336,500,000, to remain available until expended: *Provided,* That notwithstanding any other provision of law, funds appropriated for the planning, design, construction or renovation of health facilities for the benefit of an Indian tribe or tribes may be used to purchase land for sites to construct, improve, or enlarge health or related facilities.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That in accordance with the provisions of the Indian Health Care Improvement Act, non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, subject to charges, and the proceeds along with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651–53) shall be credited to the account of the facility providing the service and shall be available without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review and approval of the Committees on Appropriations: *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service until the Indian Health Service has submitted a budget request reflecting the increased costs associated with the proposed final rule, and such request has been included in an appropriations Act and enacted into law: *Provided further,* That funds made available in this Act are to be apportioned to the Indian Health Service as appropriated in this Act, and accounted for in the appropriation structure set forth in this Act: *Provided further,* That the appropriation structure for the Indian Health Service may not be altered

25 USC 1681.

Labor.

without the advance approval of the House and Senate Committees on Appropriations.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act of 1988, $81,274,000, of which $59,813,000 shall be for subpart 1, $16,838,000 shall be for subparts 2 and 3, and $1,200,000 shall be for collection and analyses of data on Indian education: *Provided,* That $1,750,000 available pursuant to section 5323 of the Act shall remain available for obligation until September 30, 1994.

OTHER RELATED AGENCIES

OFFICE OF NAVAJO AND HOPI INDIAN RELOCATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Navajo and Hopi Indian Relocation as authorized by Public Law 93–531, $27,935,000, to remain available until expended: *Provided,* That funds provided in this or any other appropriations Act are to be used to relocate eligible individuals and groups including evictees from District 6, Hopi-partitioned lands residents, those in significantly substandard housing, and all others certified as eligible and not included in the preceding categories: *Provided further,* That none of the funds contained in this or any other Act may be used by the Office of Navajo and Hopi Indian Relocation to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Office shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d–10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

PAYMENT TO THE INSTITUTE

For payment to the Institute of American Indian and Alaska Native Culture and Arts Development, as authorized by Public Law 99–498, as amended (20 U.S.C. 56, Part A), $9,312,000, of which not to exceed $350,000 for Federal matching contributions, to remain available until expended, shall be paid to the Institute endowment fund: *Provided,* That of the funds made available, $1,500,000 is provided as a Federal matching contribution to the capital endowment fund: *Provided further,* That notwithstanding any other provision of law, the annual budget proposal and justification for the Institute shall be submitted to the Congress concurrently with the submission of the President's Budget to the Con-

gress: *Provided further,* That the Institute shall act as its own certifying officer.

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed thirty years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $298,094,000, of which not to exceed $27,579,000 for the instrumentation program, collections acquisition, Museum Support Center equipment and move, exhibition reinstallation, the National Museum of the American Indian, and the repatriation of skeletal remains program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations: *Provided further,* That none of the funds appropriated herein shall be made available for acquisition of land at the Smithsonian Environmental Research Center before the date of the enactment of an Act authorizing the use of funds for that purpose.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $7,900,000, to remain available until expended.

REPAIR AND RESTORATION OF BUILDINGS

For necessary expenses of repair and restoration of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $24,400,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

CONSTRUCTION

For necessary expenses for construction, $16,830,000, to remain available until expended.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C. 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C. 5901–5902); purchase or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $51,627,000, of which not to exceed $3,120,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized $3,561,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles and services as authorized by 5 U.S.C. 3109, $6,252,000.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $145,555,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $30,400,000, to remain available until September 30, 1994, to the National Endowment for the Arts, of which $13,300,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $152,518,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act, of which $5,600,000 for the Office of Preservation shall remain available until September 30, 1994.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $26,416,000, to remain available until September 30, 1994, of which $14,350,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $29,000,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b).

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $791,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99–190 (99 Stat. 1261; 20 U.S.C. 956(a)), as amended, $7,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89–665, as amended, $2,757,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71–71i), including services as authorized by 5 U.S.C. 3109 and not to exceed $50,000 for expenses necessary to fund an increase in the pay level for all appointed members to a rate which is equivalent to the rate for Executive Schedule Level IV, $5,750,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92–332 (86 Stat. 401), $535,000, to remain available until September 30, 1994.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92–578, as amended, $2,686,000 for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92–578, as amended, $4,947,000, to remain available until expended.

LAND ACQUISITION AND DEVELOPMENT FUND

The Pennsylvania Avenue Development Corporation is authorized to borrow from the Treasury of the United States $6,500,000,

pursuant to the terms and conditions in paragraph 10, section 6, of Public Law 92–576, as amended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96–388, as amended, $21,450,000: *Provided,* That all employees of the memorial on April 1, 1993, including employees currently on excepted appointments covered under schedules A, B, and C, who are performing inherently governmental functions which will continue after the opening of the museum shall be brought into the competitive service in accordance with the classification and pay policy guidelines contained in title V of the United States Code. 36 USC 1405 note.

TITLE III—GENERAL PROVISIONS

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts. Public information.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 303. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 305. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

SEC. 306. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 307. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless notice of such assessments and the basis therefor are presented

to the Committees on Appropriations and are approved by such Committees.

SEC. 308. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

SEC. 309. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 310. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves will be done only to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Conservation. Forests and forest products.

SEC. 311. None of the funds appropriated by this Act may be used to ensure that hardwood saw timber harvested from Federal lands east of the 100th meridian is marked in such a manner as to make it readily identifiable at all times before its manufacture.

SEC. 312. Section 104 of the Energy and Water Development Appropriations Act for the fiscal year ending September 30, 1993, H.R. 5373 (102d Congress), is amended as follows:

Ante, p. 1326.

Before the period at the end of said section insert the following: ": *Provided,* That the balance of the appraised value of the Grandview State Park lands transferred shall be applied towards the requirements of section 103(a)(1)(B) of Public Law 99–662, for said projects".

SEC. 313. Notwithstanding any other provision of law, the Secretary of the Interior shall transfer to the Department of Health and Human Services the Pine Hill School Health Center in Pine Hill, New Mexico for Indian health purposes, and compensation for such transfer is waived.

New Mexico. Indians. Health care facilities.

SEC. 314. None of the funds provided in this Act may be expended by the Forest Service or the Bureau of Land Management to increase fees charged for communication site use of lands administered by the Forest Service or Bureau of Land Management by more than 15 per centum per user in fiscal year 1993 over the levels in effect on January 1, 1989.

SEC. 315. Notwithstanding any other provision of law, payments to States pursuant to 16 U.S.C. 500 for National Forests affected by decisions relating to the Northern Spotted Owl from fiscal year 1993 receipts shall not be less than 85 per centum of the average annual payments to States, based on receipts collected on those National Forests during the five-year baseline period of fiscal years 1986 through 1990: *Provided,* That in no event shall these payments exceed the total amount of receipts collected from the affected National Forests during fiscal year 1993.

SEC. 316. Funds appropriated to the Forest Service shall be available for interactions with and providing technical assistance to rural communities for sustainable rural development outside the boundaries of National Forest System lands.

16 USC 556g; 43 USC 1471e.

SEC. 317. Notwithstanding any other provision of law, in fiscal year 1993 and thereafter, appropriations or funds available to the Department of the Interior or the Forest Service, Department of Agriculture, may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their employment and that are necessary to comply with State or Federal laws, regulations, or requirements.

Oregon. California. Public lands.

SEC. 318. Notwithstanding any other provision of law, the payment to be made by the United States Government pursuant to the provision of subsection (a) of title II of the Act of August 28, 1937 (50 Stat. 876) to the Oregon and California land-grant counties in the State of Oregon from fiscal year 1993 receipts derived from the Oregon and California grant lands shall not be less than 85 percent of the average annual payment made to those counties of their share of the Oregon and California land-grant receipts collected during the five-year baseline period of fiscal years 1986 through 1990: *Provided,* That in no event shall this payment exceed the total amount of receipts collected from the Oregon and California grant lands during fiscal year 1993.

SEC. 319. BUY AMERICAN REQUIREMENTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated or transferred pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

(1) IN GENERAL.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

SEC. 320. CORPORATE RESPONSIBILITY.

Children and youth.

(a) FINDINGS.—The Senate finds that—

(1) the National Commission on Children report states that "The news and the entertainment media have tremendous potential to educate children and expose them to other cultures and new ideas" and recommends "that the recording industry continue and enhance its efforts to avoid the distribution of inappropriate materials to children";

(2) the National Commission on Children report states that "In a free society, there will always be tension between freedom of expression and upholding common social values. Censorship is the antithesis of what we embrace. Forging common values will never depend solely on laws, but also on persuasion and example. Success will require thoughtful action and self-restraint by individuals and major institutions with the ability or potential to influence children's moral development. This makes the task of parents, public leaders, educators,

media executives, entertainers, and advertisers more difficult, but no less important.";

(3) the Carnegie Council on Adolescent Development's executive summary of its publication Fateful Choices: Healthy Youth for the 21st Century states that, "The news and entertainment media are significant influences on the attitudes and behavior of young adolescents . . . . Great efforts, short of censorship, should be made to purge the media, particularly television and rock music programs, of their orgy of mindless violence . . . The news and entertainment media should be enlisted in efforts to promote health, to reduce substance abuse, violence, irresponsible sexual behavior, and to provide a better understanding of sound nutrition and physical exercise.";

(4) the Massmutual American Family Values Program 1991 study states "Parents are challenged by the entertainment industry. While three out of four respondents think parents should be the primary influences on children, 68 percent think television, movies, rock music and videos are the biggest influence on developing children's values. While parents understand their own responsibility in teaching family values, a significant number indicated that the entertainment media could help by providing better role models for both parents and children.";

(5) in the June 1992 Journal of the American Medical Association article "Television and Violence", the author, Dr. Brandon S. Centerwall, states, "In a recent meta-analysis of randomized, case-control, short-term studies, exposure to media violence caused, on the average, a significant increase in children's aggressiveness as measured by observation of their spontaneous, natural behavior following exposure.".

(b) DECLARATIONS.—The Senate—

(1) supports the concept that corporate America and the officials of all American institutions can and should contribute positively to individual thought and conduct as key contributors to a healthy, responsible society and individual human dignity;

(2) believes that corporate and institutional entities, their management and stockholders, as well as their advertisers and sponsors, should exercise positive and constructive oversight of their activities without the sole test of their contributions based on profits, sales, and publicity;

(3) strongly believes that corporate America and the officials of all American institutions weaken the moral fiber of the Nation by hiding behind the faceless masks of such corporations and institutions in a relentless search for profits, sales and publicity without regard to the moral content of their products and services;

(4) believes that the exercise of citizenship encompasses individual and community actions to promote responsible behavior and values; and

(5) strongly encourages the officers, employees, and shareholders of all American corporations and institutions to insist upon the acceptance of personal responsibility for the moral flavor, content and repercussions of the activities, products and services of their corporations and institutions.

Hawaii.
Real property.

SEC. 321. REMOVAL OF RESTRICTIONS.

(a) PURPOSE.—The United States hereby relinquishes any rights arising from restrictions described in subsection (c).

(b) IN GENERAL.—The Secretary of the Interior shall execute such instruments as are necessary to remove the restrictions described in subsection (c) that are applicable to the use of the real property consisting of approximately 56.805 acres located in Halawa, Ewa, Island of Oahu, State of Hawaii, being the major portion of the former Halawa-Aiea Veterans Housing Area, and currently known as Aloha Stadium.

(c) RESTRICTIONS.—The restrictions referred to in subsection (b) are those reservations, exceptions, restrictions, conditions, and covenants requiring that the real property referred to in subsection (a) be used in perpetuity for a public park and public recreation area and for these purposes only, as set forth in the quitclaim deed from the United States of America dated June 30, 1967.

(d) CONDITIONS FOR REMOVAL OF RESTRICTIONS.—Subsections (a), (b), and (c) shall not be effective until the City and County of Honolulu have identified an equal amount of additional land and have agreed that such land shall be dedicated in perpetuity for public park and public recreation uses.

SEC. 322. FOREST SERVICE DECISIONMAKING AND APPEALS REFORM.

Public information. 16 USC 1612 note.

(a) IN GENERAL.—In accordance with this section, the Secretary of Agriculture, acting through the Chief of the Forest Service, shall establish a notice and comment process for proposed actions of the Forest Service concerning projects and activities implementing land and resource management plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601 et seq.) and shall modify the procedure for appeals of decisions concerning such projects.

(b) NOTICE AND COMMENT.—

(1) NOTICE.—Prior to proposing an action referred to in subsection (a), the Secretary shall give notice of the proposed action, and the availability of the action for public comment by—

(A) promptly mailing notice about the proposed action to any person who has requested it in writing, and to persons who are known to have participated in the decisionmaking process; and,

(B)(i) in the case of an action taken by the Chief of the Forest Service, publishing notice of action in the Federal Register; or

Federal Register, publication.

(ii) in the case of any other action referred to in subsection (a), publishing notice of the action in a newspaper of general circulation that has previously been identified in the Federal Register as the newspaper in which notice under this paragraph may be published.

(2) COMMENT.—The Secretary shall accept comments on the proposed action within 30 days after publication of the notice in accordance with paragraph (1).

(c) RIGHT TO APPEAL.—Not later than 45 days after the date of issuance of a decision of the Forest Service concerning actions referred to in subsection (a), a person who was involved in the public comment process under subsection (b) through submission of written or oral comments or by otherwise notifying the Forest Service of their interest in the proposed action may file an appeal.

(d) DISPOSITION OF AN APPEAL.—

(1) INFORMAL DISPOSITION.—

(A) IN GENERAL.—Subject to subparagraph (B), a designated employee of the Forest Service shall offer to meet with each individual who files an appeal in accordance with subsection (c) and attempt to dispose of the appeal.

(B) TIME AND LOCATION OF THE MEETING.—Each meeting in accordance with subparagraph (A) shall take place—

(i) not later than 15 days after the closing date for filing an appeal; and

(ii) at a location designated by the Chief of the Forest Service that is in the vicinity of the lands affected by the decision.

(2) FORMAL REVIEW.—If the appeal is not disposed of in accordance with paragraph (1), an appeals review officer designated by the Chief of the Forest Service shall review the appeal and recommend in writing, to the official responsible for deciding the appeal, the appropriate disposition of the appeal. The official responsible for deciding the appeal shall then decide the appeal. The appeals review officer shall be a line officer at least at the level of the agency official who made the initial decision on the project or activity that is under appeal, who has not participated in the initial decision and will not be responsible for implementation of the initial decision after the appeal is decided.

(3) TIME FOR DISPOSITION.—Disposition of appeals under this subsection shall be completed not later than 30 days after the closing date for filing of an appeal, provided that the Forest Service may extend the closing date by an additional 15 days.

(4) If the Secretary fails to decide the appeal within the 45-day period, the decision on which the appeal is based shall be deemed to be a final agency action for the purpose of chapter 7 of title 5, United States Code.

(e) STAY.—Unless the Chief of the Forest Service determines that an emergency situation exists with respect to a decision of the Forest Service, implementation of the decision shall be stayed during the period beginning on the date of the decision—

(1) for 45 days, if an appeal is not filed, or

(2) for an additional 15 days after the date of the disposition of an appeal under this section, if the agency action is deemed final under subsection (d)(4).

Alaska.
Real property.

SEC. 323. Notwithstanding any other provision of law, the Secretary of the Interior is authorized to exchange a property, located at 132–140 Manor Avenue, Anchorage, Alaska, for property that meets requirements of the United States Geological Survey located in Anchorage, Alaska owned by AHPI/Municipality of Anchorage. This exchange will be based on terms and conditions determined by the Secretary to be in the best interests of the United States Government. Either party is authorized to equalize the value of the properties involved through payment or receipt of cash or other consideration. This transaction shall be accomplished pursuant to section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).

SEC. 324. With the exception of budget authority for "Miscellaneous payments to Indians", Bureau of Indian Affairs, Department of the Interior; "Salaries and expenses", National Indian Gaming Commission, Department of the Interior; "Payment to the Institute", Institute of American Indian and Alaska Native Culture

and Arts Development; "Salaries and expenses", Woodrow Wilson International Center for Scholars; "Salaries and expenses" and "National capital arts and cultural affairs", Commission on Fine Arts; "Salaries and expenses", Advisory Council on Historic Preservation; "Salaries and expenses", National Capital Planning Commission; "Salaries and expenses", Franklin Delano Roosevelt Memorial Commission; and "Salaries and expenses" and "Public development", Pennsylvania Avenue Development Corporation, each amount of budget authority for the fiscal year ending September 30, 1993, provided in this Act, for payments not required by law is hereby reduced by 0.85 per centum: *Provided,* That such reductions shall be applied ratably to each account, program, activity, and project provided for in this Act.

This Act may be cited as the "Department of the Interior and Related Agencies Appropriations Act, 1993".

Approved October 5, 1992.

LEGISLATIVE HISTORY—H.R. 5503:

HOUSE REPORTS: Nos. 102-626 (Comm. on Appropriations) and 102-901 (Comm. of Conference).
SENATE REPORTS: No. 102-345 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 22, 23, considered and passed House.
Aug. 4-6, considered and passed Senate, amended.
Sept. 30, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 5, Presidential statement.

Public Law 102-382
102d Congress

An Act

Oct. 5, 1992
[H.R. 6056]

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1993, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1993, and for other purposes, namely:

District of Columbia Appropriations Act, 1993.

TITLE I

FISCAL YEAR 1993 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1993, $624,854,400, as authorized by section 502(a) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 47–3406.1).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds, as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96–122), $52,070,000.

No funds made available pursuant to any provision of this Act shall be used to implement or enforce any system of registration of unmarried, cohabiting couples whether they are homosexual, lesbian, or heterosexual, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples; nor shall any funds made available pursuant to any provision of this Act otherwise be used to implement or enforce D.C. Act 9–188, signed by the Mayor of the District of Columbia on April 15, 1992.

PRESIDENTIAL INAUGURATION

For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $5,514,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, as amended (D.C. Code, sec. 1–1803).

TRAUMA CARE FUND

For a Federal contribution to establish the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: *Provided,* That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: *Provided further,* That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: *Provided further,* That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $115,591,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That $10,200,000 of the revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be available for the Mayor's youth and crime initiative, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated from the earnings of the applicable retirement funds $10,292,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an item accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report. Reports.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $102,888,000: *Provided,* That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec.

45–2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Finance Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further,* That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Finance Agency and shall be repaid to the District of Columbia government only from available operating revenues of the Finance Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further,* That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia.

PUBLIC SAFETY AND JUSTICE

(INCLUDING TRANSFER OF FUNDS)

Public safety and justice, including purchase of 135 passenger-carrying vehicles for replacement only, including 130 for police-type use and five for fire-type use, without regard to the general purchase price limitation for the current fiscal year, $945,551,000, together with $1,523,000 to be derived by transfer from the object classes providing personal services under the appropriation heading "Governmental Direction and Support": *Provided,* That the Metropolitan Police Department shall maintain a force of not less than 4,889 officers and members: *Provided further,* That $188,200,000 shall be allocated for the Police Officers and Fire Fighters' Retirement Fund and $4,300,000 shall be allocated for the Judges' Retirement Fund: *Provided further,* That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department of the District of Columbia is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further,* That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further,* That the Metropolitan Police Department shall provide quarterly reports to the Committees on Appropriations of the House and Senate on efforts to increase efficiency and improve the professionalism in the department: *Provided further,* That notwithstanding any other provision of law, or Mayor's Order 86–45, issued March 18, 1986, the Metropolitan Police Department's delegated small purchase authority shall be $500,000: *Provided further,* That the District of Columbia government may not require the Metropolitan Police Department to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000: *Provided further,* That none of the funds appropriated by this Act shall be used to pay any full-duty employee of the District of Columbia Fire and Emergency Medical Services Department who is detailed for more than 30 days annually from his or her assigned position in the Firefighting Division or Emergency Ambulance Division to an unfunded or unauthorized position

Reports.

with the exception of not to exceed four (4) full-duty employees who may be detailed for not to exceed 100 days annually to the Fire Department Training Academy solely for teaching purposes: *Provided further,* That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090; Public Law 93–412; D.C. Code, sec. 11–2601 et seq.), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1975: *Provided further,* That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5–129; D.C. Code, sec. 16–2304), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That funds appropriated for expenses under the District of Columbia Guardianship, Protection Proceedings, and Durable Power of Attorney Act of 1986, effective February 27, 1987 (D.C. Law 6–204; D.C. Code, sec. 21–2060), for the fiscal year ending September 30, 1993, shall be available for obligations incurred under the Act in each fiscal year since inception in fiscal year 1989: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District of Columbia government officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia government shall also take steps to publicize the availability of the 24-hour telephone information service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County, Virginia, and Prince William County, Virginia, for expenses incurred by the counties during the fiscal year ending September 30, 1993, in relation to the Lorton prison complex: *Provided further,* That such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds provided in this Act may be used to implement any staffing plan for the District of Columbia Fire Department that includes the elimination of any positions for Administrative Assistants to the Battalion Fire Chiefs of the Fire Fighting Division of the Department: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall

Communications.
Prisons.
Virginia.

be deemed as constituting payment in advance for the emergency services involved.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $713,592,000, to be allocated as follows: $513,552,000 for the public schools of the District of Columbia, of which not to exceed $1,600,000 shall be paid within fifteen (15) days of the enactment of this Act directly to the District of Columbia Public Schools Foundation for the continued implementation of the urban model demonstration initiative in mathematics, science, and technology known as the Anacostia Project ($1,000,000) and for the continued operation of the Cooperative Employment Education Project (not to exceed $600,000); $98,800,000 shall be allocated for the District of Columbia Teachers' Retirement Fund; $71,995,000 for the University of the District of Columbia, of which $2,000,000 shall be derived from revenues realized from the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992"; $20,978,000 for the Public Library, of which $200,000 shall be transferred to the Children's Museum; $3,527,000 for the Commission on the Arts and Humanities; $4,500,000 for the District of Columbia School of Law; and $240,000 for the Education Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1993, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $886,777,000: *Provided,* That $19,015,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100–77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Act, approved July 22, 1987 (101 Stat. 485; Public Law 100–77; 42 U.S.C. 11301 et seq.).

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $227,622,000: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $13,250,000.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79–648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, sec. 9–219); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86–515); sections 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93–198; D.C. Code, sec. 47–321, note; 91 Stat. 1156; Public Law 95–131; D.C. Code, sec. 9–219, note), including interest as required thereby, $291,299,000.

REPAYMENT OF GENERAL FUND RECOVERY DEBT

For the purpose of eliminating the $331,589,000 general fund accumulated deficit as of September 30, 1990, $38,342,000, as authorized by section 461(a) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973, as amended (105 Stat. 540; Public Law 102–106; D.C. Code, sec. 47–321(a)).

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $3,423,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93–198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1–1803), $5,514,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,682,000.

TRAUMA CARE FUND

For the purpose of establishing the Trauma Care Fund, $5,561,600, which shall be used to reimburse the actual cost of uncompensated care provided at Level I trauma centers in the District of Columbia: *Provided,* That no trauma center may receive an amount greater than its proportionate share of the total available in the fund, in any fiscal year, as determined by its proportionate share of total uncompensated care among Level I trauma centers in the District of Columbia for the most recent year such data is available: *Provided further,* That in no case may any trauma center receive more than 35 percent of the total amount available in any one fiscal year: *Provided further,* That these funds are available for obligation and expenditure upon enactment of this Act and shall be subject to any modifications that may be enacted in authorizing legislation.

FURLOUGH ADJUSTMENT

Each agency, office, and instrumentality of the District, except the District of Columbia Courts, shall furlough each employee of the respective agency, office, or instrumentality for one day in each month of the fiscal year ending September 30, 1993, or a proportional number of hours for part-time employees. The personal services spending authority for each agency, office, and instrumentality subject to this section is reduced in an amount equal to the savings resulting from the employee furloughs required by this section, for a total reduction of $36,000,000. The Council shall enact legislation to implement this section which may include but shall not be limited to procedures to ensure that public health and safety functions are carried out.

WITHIN-GRADE SALARY ADJUSTMENTS

Notwithstanding any other provision of law, no employee of any agency, office, or instrumentality of the District shall receive within-grade salary increases during the fiscal year ending September 30, 1993, and no time during the fiscal year ending September 30, 1993 shall accrue toward the waiting period for advancement to the following rate within the grade. The spending authority for each agency, office and instrumentality is reduced in an amount equal to the savings resulting from the adjustments required by this section, for a total reduction of $13,000,000.

PERSONAL AND NONPERSONAL SERVICES ADJUSTMENTS

The Mayor shall reduce appropriations and expenditures for personal and nonpersonal services in the amount of $30,798,600, within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $393,639,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, secs. 43–1512 through 43–1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83–364); An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85–451; D.C. Code, secs. 9–219 and 47–3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85–692; D.C. Code, sec. 40–805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91–143; D.C. Code, secs. 1–2451, 1–2452, 1–2454, 1–2456, and 1–2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $13,779,000 shall be available for project management and $12,749,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90–495; D.C. Code, sec. 7–134, note), for which funds are provided by this appropriation title, shall expire on September 30, 1994, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1994: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $251,630,000, of which $39,602,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects, and $12,200,000 collected as payment in lieu of taxes pursuant to the "Water and Sewer Utility Payment in Lieu of Taxes Act of 1992" shall be transferred to the general fund to provide $10,200,000 for the Mayor's youth and crime initiative, and $2,000,000 for the University of the District of Columbia.

For construction projects, $45,908,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58–140; D.C. Code, sec. 43–1512 et seq.): *Provided,* That the

requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That not to exceed $22,705,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for the fiscal year ending September 30, 1982, approved December 4, 1981 (95 Stat. 1174, 1175; Public Law 97-91), as amended, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,450,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $2,500,000.

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To Establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2-301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85-300; D.C. Code, sec. 2-321 et seq.), of which $1,847,000 shall be transferred to the general fund: *Provided,* That the Mayor shall submit a budget for the Armory Board for the forthcoming fiscal year as required by section 442(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 824; Public Law 93-198; D.C. Code, sec. 47-301(b)).

GENERAL PROVISIONS

Public information.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall

be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately-owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided,* That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101–7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided,* That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided,* That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84–460; D.C. Code, sec 47–1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4–101; D.C. Code, sec. 3–205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90–445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during non-school hours.

SEC. 110. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1994, shall be transmitted to the Congress no later than April 15, 1993.

District of Columbia budget.

SEC. 111. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Gen-

eral Services, Federalism, and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative: *Provided,* That none of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 112. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2–20; D.C. Code, sec. 47–421 et seq.).

SEC. 113. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion.

SEC. 114. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 115. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

Reports.

SEC. 116. The Mayor shall not borrow any funds for capital projects unless the Mayor has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 117. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 118. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96–443), which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96–93), as modified in House Report No. 98–265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3–100; D.C. Code, sec. 47–361 et seq.).

SEC. 119. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 120. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96–425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

Wages.

SEC. 121. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public

Law 93–198; D.C. Code, sec. 1–242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) of this section for any position for any period during the last quarter of calendar year 1992 shall be deemed to be the rate of pay payable for that position for September 30, 1992.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79–592; D.C. Code, sec. 5–803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 122. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2–139; D.C. Code, sec. 1–601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 123. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72–212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advantageous to the District in terms of economy, efficiency, and the District's best interest.

SEC. 124. No later than 30 days after the end of the first quarter of the fiscal year ending September 30, 1993, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1993 revenue estimates as of the end of the first quarter of fiscal year 1993. These estimates shall be used in the budget request for the fiscal year ending September 30, 1994. The officially revised estimates at midyear shall be used for the midyear report. Reports.

SEC. 125. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 806; Public Law 93–198; D.C. Code, sec. 47–326), as amended, is amended by striking "sold before October 1, 1992" and inserting "sold before October 1, 1993".

SEC. 126. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6–85; D.C. Code, sec. 1–1183.3), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determina-

tion as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 127. Nothing in this Act shall be construed to authorize any office, agency or entity to expend funds for programs or functions for which a reorganization plan is required but has not been approved by the Council pursuant to section 422(12) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973 (87 Stat. 790; Public Law 93–198; D.C. Code, sec. 1–242(12)) and the Governmental Reorganization Procedures Act of 1981, effective October 17, 1981 (D.C. Law 4–42; D.C. Code, secs. 1–299.1 to 1–299.7). Appropriations made by this Act for such programs or functions are conditioned on the approval by the Council, prior to October 1, 1992, of the required reorganization plans, including but not limited to: the Office of Tourism, the Office of Banking and Financial Institutions, and the transfer of the functions of the Unclaimed Property Unit within the Department of Finance and Revenue to the Office of the Controller.

Sequestration.

SEC. 128. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act, and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

Sequestration.

SEC. 129. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act that are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985, approved December 12, 1985 (99 Stat. 1037; Public Law 99–177), as amended.

103 Stat. 1280.

SEC. 130. Section 133(e) of the District of Columbia Appropriations Act, 1990, as amended, is amended by striking "December 31, 1992" and inserting "December 31, 1993".

Prisoners.
Housing.

SEC. 131. For the fiscal year ending September 30, 1993, the District of Columbia shall pay interest on its quarterly payments to the United States that are made more than 60 days from the date of receipt of an itemized statement from the Federal Bureau of Prisons of amounts due for housing District of Columbia convicts in Federal penitentiaries for the preceding quarter.

SEC. 132. None of the funds provided in this Act may be used by the District of Columbia to provide for the salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the

District of Columbia Statehood Constitutional Convention Initiative of 1979, effective March 10, 1981 (D.C. Law 3-171; D.C. Code, sec. 1-113 (d)).

SEC. 133. None of the funds made available in this Act may be used by the District of Columbia to operate, after June 1, 1993, the juvenile detention facility known as the Cedar Knoll Facility. The Mayor shall transmit a plan and timetable for closing the Cedar Knoll Facility to the Committees on Appropriations of the House of Representatives and the Senate by January 15, 1993.

Children and youth. Law enforcement and crime.

SEC. 134. (a) An entity of the District of Columbia government may accept and use a gift or donation during fiscal year 1993 if—

(1) the Mayor approves the acceptance and use of the gift or donation; and

(2) the entity uses the gift or donation to carry out its authorized functions or duties.

(b) Each entity of the District of Columbia government shall keep accurate and detailed records of the acceptance and use of any gift or donation under subsection (a) of this section, and shall make such records available for audit and public inspection.

Records. Public information.

(c) For the purposes of this section, the term "entity of the District of Columbia government" includes an independent agency of the District of Columbia.

(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.

SEC. 135. (a) None of the funds appropriated by this Act may be used to issue or renew a registration certificate or identification tag for any motor vehicle if unpaid fines, penalities and other costs for traffic violations in the District of Columbia are outstanding against any registered owner of such vehicle or against any authorized user of any vehicle of such registered owner.

(b) Subsection (a) shall not apply to an issuance or renewal if the Director of the Department of Public Works of the District of Columbia—

(1) determines that special circumstances require a waiver of such subsection with respect to such issuance or renewal;

(2) issues such waiver in writing, setting forth such circumstances; and

(3) submits a written notification of such waiver and circumstances to the Committees on Appropriations of the House of Representatives and the Senate and to the governmental agency having authority to approve such issuance or renewal.

SEC. 136. None of the funds made available in this Act may be used by the District of Columbia to impose, implement, collect, administer, transfer, or enforce a payment in lieu of taxes on the Water and Sewer Utility Administration that would increase payments required of suburban jurisdictions in Maryland or Virginia under the Blue Plains Intermunicipal Agreement of 1985.

SEC. 137. (a) LEGAL DOMICILE.—The first section of the Act entitled "An Act providing for the incorporation of certain persons as Group Hospitalization, Inc.", approved August 11, 1939 (referred to as "the Act"), is amended by adding at the end thereof the following: "The District of Columbia shall be the legal domicile of the corporation.".

Corporations.

53 Stat. 1412.

(b) REGULATORY AUTHORITY.—

53 Stat. 1413.

(1) IN GENERAL.—Section 5 of the Act is amended to read as follows:

"SEC. 5. The corporation shall be licensed and regulated by the District of Columbia in accordance with the laws and regulations of the District of Columbia.".

53 Stat. 1414.

(2) REPEAL.—The Act is amended by striking section 7.

(c) REIMBURSEMENT OF REGULATORY COSTS BY THE CORPORATION.—The Act (as amended by section (b) of this Act) is amended by inserting after section 6 the following new section:

"SEC. 7. The corporation shall reimburse the District of Columbia for the costs of insurance regulation (including financial and market conduct examinations) of the corporation and its affiliates and subsidiaries by the District of Columbia.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and expire on September 30, 1993, or upon the enactment of specific authorizing legislation.

Law enforcement and crime.

SEC. 138. Notwithstanding any other law, the District of Columbia Board of Elections and Ethics shall place on the ballot, without alteration, at a general, special, or primary election to be held within 90 days after the date of enactment of this Act, the following initiative:

Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

SHORT TITLE

Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia.

SUMMARY STATEMENT

This initiative measure, if passed, would increase the penalty for first degree murder in the District of Columbia.

A person convicted of this crime would be sentenced either to death or life imprisonment without the possibility of parole.

LEGISLATIVE TEXT

The legislative text of the initiative shall read as follows:

Be it enacted by the Electors of the District of Columbia, that this measure be cited as the "Mandatory Life Imprisonment or Death Penalty for Murder in the District of Columbia".

"Section 801 of the Act entitled 'An Act to establish a code of law for the District of Columbia', approved March 3, 1901 (D.C. Code 22-2404(a)), is amended—

56 Stat. 1690.

"(1) by amending subsection (a) to read as follows:

"'(a) The punishment of murder in the first degree shall be life imprisonment without the possibility of parole, or death.';

"(2) by striking subsection (b) and redesignating subsection (c) as subsection (b); and

"(3) by adding at the end the following new subsections:

"'(c) PENALTY.—A person who commits an offense under subsection (a) shall be punished by death or life imprisonment. A sentence of death under this subsection may be imposed in accordance with the procedures provided in subsections (d), (e), (f), (g), (h), (i), (j), (k), and (l).

"'(d) MITIGATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider whether any aspect of the defendant's character, background, or record or any

circumstance of the offense that the defendant may proffer as a mitigating factor exists, including the following factors:

"'(1) MENTAL CAPACITY.—The defendant's mental capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of law was significantly impaired.

"'(2) DURESS.—The defendant was under unusual and substantial duress.

"'(3) PARTICIPATION IN OFFENSE MINOR.—The defendant is punishable as a principal (pursuant to section 908 of the Act entitled "An Act to establish a code of law for the District of Columbia", approved March 3, 1901 (D.C. Code 22–105)) in the offense, which was committed by another, but the defendant's participation was relatively minor.

"'(e) AGGRAVATING FACTORS.—In determining whether to recommend a sentence of death, the jury shall consider any aggravating factor for which notice has been provided under subsection (f), including the following factors:

"'(1) KILLING IN FURTHERANCE OF DRUG TRAFFICKING.—The defendant engaged in the conduct resulting in death in the course of or in furtherance of drug trafficking activity.

"'(2) KILLING IN THE COURSE OF OTHER SERIOUS VIOLENT CRIMES.—The defendant engaged in the conduct resulting in death in the course of committing or attempting to commit an offense involving robbery, burglary, sexual abuse, kidnapping, or arson.

"'(3) MULTIPLE KILLINGS OR ENDANGERMENT OF OTHERS.—The defendant committed more than one offense under this section, or in committing the offense knowingly created a grave risk of death to one or more persons in addition to the victim of the offense.

"'(4) INVOLVEMENT OF FIREARM.—During and in relation to the commission of the offense, the defendant used or possessed a firearm (as defined in paragraph (6) of D.C. Law 1–85 (D.C. Code 6–2302(6))).

"'(5) PREVIOUS CONVICTION OF VIOLENT FELONY.—The defendant has previously been convicted of an offense punishable by a term of imprisonment of more than 1 year that involved the use or attempted or threatened use of force against a person or that involved sexual abuse.

"'(6) KILLING WHILE INCARCERATED OR UNDER SUPERVISION.—The defendant at the time of the offense was confined in or had escaped from a jail, prison, or other correctional or detention facility, was on pre-trial release, or was on probation, parole, supervised release, or other post-conviction conditional release.

"'(7) HEINOUS, CRUEL OR DEPRAVED MANNER OF COMMISSION.—The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse of the victim.

"'(8) PROCUREMENT OF THE OFFENSE BY PAYMENT.—The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"'(9) COMMISSION OF THE OFFENSE FOR PECUNIARY GAIN.—The defendant committed the offense as consideration for receiving, or in the expectation of receiving or obtaining, anything of pecuniary value.

"'(10) SUBSTANTIAL PLANNING AND PREMEDITATION.—The defendant committed the offense after substantial planning and premeditation.

"'(11) VULNERABILITY OF VICTIM.—The victim was particularly vulnerable due to old age, youth, or infirmity.

"'(12) KILLING OF PUBLIC SERVANT.—The defendant committed the offense against a public servant—

"'(A) while the public servant was engaged in the performance of his or her official duties;

"'(B) because of the performance of the public servant's official duties; or

"'(C) because of the public servant's status as a public servant.

"'(13) KILLING TO INTERFERE WITH OR RETALIATE AGAINST WITNESS.—The defendant committed the offense in order to prevent or inhibit any person from testifying or providing information concerning an offense, or to retaliate against any person for testifying or providing such information.

"'(f) NOTICE OF INTENT TO SEEK DEATH PENALTY.—If the government intends to seek the death penalty for an offense under this section, the attorney for the government shall file with the court and serve on the defendant a notice of such intent. The notice shall be provided a reasonable time before the trial or acceptance of a guilty plea, or at such later time as the court may permit for good cause. The notice shall set forth the aggravating factor or factors set forth in subsection (e) and any other aggravating factor or factors that the government will seek to prove as the basis for the death penalty. The factors for which notice is provided under this subsection may include factors concerning the effect of the offense on the victim and the victim's family. The court may permit the attorney for the government to amend the notice upon a showing of good cause.

"'(g) JUDGE AND JURY AT CAPITAL SENTENCING HEARING.—A hearing to determine whether the death penalty will be imposed for an offense under this section shall be conducted by the judge who presided at trial or accepted a guilty plea, or by another judge if that judge is not available. The hearing shall be conducted before the jury that determined the defendant's guilt if that jury is available. A new jury shall be impaneled for the purpose of the hearing if the defendant pleaded guilty, the trial of guilt was conducted without a jury, the jury that determined the defendant's guilt was discharged for good cause, or reconsideration of the sentence is necessary after the initial imposition of a sentence of death. A jury impaneled under this subsection shall have 12 members unless the parties stipulate to a lesser number at any time before the conclusion of the hearing with the approval of the court. Upon motion of the defendant, with the approval of the attorney for the government, the hearing shall be carried out before the judge without a jury. If there is no jury, references to "the jury" in this section, where applicable, shall be understood as referring to the judge.

"'(h) PROOF OF MITIGATING AND AGGRAVATING FACTORS.—No presentence report shall be prepared if a capital sentencing hearing is held under this section. Any information relevant to the existence of mitigating factors, or to the existence of aggravating factors for which notice has been provided under subsection (f), may be presented by either the government or the defendant, regardless

of its admissibility under the rules governing the admission of evidence at criminal trials, except that information may be excluded if its probative value is outweighed by the danger of creating unfair prejudice, confusing the issues, or misleading the jury. The information presented may include trial transcripts and exhibits. The attorney for the government and for the defendant shall be permitted to rebut any information received at the hearing, and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any aggravating or mitigating factor, and as to the appropriateness in that case of imposing a sentence of death. The attorney for the government shall open the argument, the defendant shall be permitted to reply, and the government shall then be permitted to reply in rebuttal.

"'(i) FINDINGS OF AGGRAVATING AND MITIGATING FACTORS.—The jury shall return special findings identifying any aggravating factor or factors for which notice has been provided under subsection (f) and which the jury unanimously determines have been established by the government beyond a reasonable doubt. A mitigating factor is established if the defendant has proven its existence by a preponderance of the evidence, and any member of the jury who finds the existence of such a factor may regard it as established for purposes of this section regardless of the number of jurors who concur that the factor has been established.

"'(j) FINDING CONCERNING A SENTENCE OF DEATH.—If the jury specially finds under subsection (i) that 1 or more aggravating factors set forth in subsection (e) exist, and the jury further finds unanimously that there are no mitigating factors or that the aggravating factor or factors specially found under subsection (i) outweigh any mitigating factors, the jury shall recommend a sentence of death. In any other case, the jury shall not recommend a sentence of death. The jury shall be instructed that it must avoid any influence of sympathy, sentiment, passion, prejudice, or other arbitrary factors in its decision, and should make such a recommendation as the information warrants.

"'(k) SPECIAL PRECAUTION TO ASSURE AGAINST DISCRIMINATION.—In a hearing held before a jury, the court, before the return of a finding under subsection (j), shall instruct the jury that, in considering whether to recommend a sentence of death, it shall not consider the race, color, religion, national origin, or sex of the defendant or any victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim. The jury, upon the return of a finding under subsection (j), shall also return to the court a certificate, signed by each juror, that the race, color, religion, national origin, or sex of the defendant or any victim did not affect the juror's individual decision and that the individual juror would have recommended the same sentence for such a crime regardless of the race, color, religion, national origin, or sex of the defendant or any victim.

"'(l) IMPOSITION OF A SENTENCE OF DEATH.—Upon a recommendation under subsection (j) that a sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence of life imprisonment without the possibility of parole. Courts.

"'(m) REVIEW OF A SENTENCE OF DEATH.—

"'(1) The defendant may appeal a sentence of death under this section by filing a notice of appeal of the sentence within the time provided for filing a notice of appeal of the judgment of conviction. An appeal of a sentence under this subsection may be consolidated within an appeal of the judgment of conviction and shall have priority over all noncapital matters in the court of appeals.

Courts.

"'(2) The court of appeals shall review the entire record in the case including the evidence submitted at trial and information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under subsection (i). The court of appeals shall uphold the sentence if it determines that the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor, that the evidence and information support the special findings under subsection (i), and that the proceedings were otherwise free of prejudicial error that was properly preserved for review.

Courts.

"'(3) In any other case, the court of appeals shall remand the case for reconsideration of the sentence or imposition of another authorized sentence as appropriate, except that the court shall not reverse a sentence of death on the ground that an aggravating factor was invalid or was not supported by the evidence and information if at least one aggravating factor described in subsection (e) remains which was found to exist and the court, on the basis of the evidence submitted at trial and the information submitted at the sentencing hearing, finds that the remaining aggravating factor or factors that were found to exist outweigh any mitigating factors. The court of appeals shall state in writing the reasons for its disposition of an appeal of a sentence of death under this section.

"'(n) IMPLEMENTATION OF SENTENCE OF DEATH.—A person sentenced to death under this section shall be committed to the custody of the Attorney General until exhaustion of the procedures for appeal of the judgment of conviction and review of the sentence. When the sentence is to be implemented, the Attorney General shall release the person sentenced to death to the custody of a United States Marshal. The Marshal shall supervise implementation of the sentence in the manner prescribed by the law of a State designated by the court. The Marshal may use State or local facilities, may use the services of an appropriate State or local official or of a person such an official employs, and shall pay the costs thereof in an amount approved by the Attorney General.

"'(o) SPECIAL BAR TO EXECUTION.—A sentence of death shall not be carried out upon a woman while she is pregnant.

"'(p) CONSCIENTIOUS OBJECTION TO PARTICIPATION IN EXECUTION.—No employee of the District of Columbia government, and no person providing services to the government under contract shall be required, as a condition of that employment or contractual obligation, to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the term "participate in any execution" includes personal preparation of the condemned individual and the apparatus used for the execution, and supervision of the activities of other personnel in carrying out such activities.

"'(q) APPOINTMENT OF COUNSEL FOR INDIGENT CAPITAL DEFENDANTS.—A defendant against whom a sentence of death is sought, or on whom a sentence of death has been imposed, under this section, shall be entitled to appointment of counsel from the commencement of trial proceedings until one of the conditions specified in subsection (v) has occurred, if the defendant is or becomes financially unable to obtain adequate representation. Counsel shall be appointed for trial representation as provided in chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11–2601 et seq.), and at least one counsel so appointed shall continue to represent the defendant until the conclusion of direct review of the judgment, unless replaced by the court with other qualified counsel. Except as otherwise provided in this section, chapter 26 of title 11 of the District of Columbia Code (D.C. Code 11–2601 et seq.) shall apply to appointments under this section.

"'(r) REPRESENTATION AFTER FINALITY OF JUDGMENT.—When a judgment imposing a sentence of death under this section has become final through affirmance by the Supreme Court on direct review, denial of certiorari by the Supreme Court on direct review, or expiration of the time for seeking direct review in the court of appeals or the Supreme Court, the government shall promptly notify the court that imposed the sentence. The court, within 10 days of receipt of such notice, shall proceed to make determination whether the defendant is eligible for appointment of counsel for subsequent proceedings. The court shall issue an order appointing one or more counsel to represent the defendant upon a finding that the defendant is financially unable to obtain adequate representation and wishes to have counsel appointed or is unable competently to decide whether to accept or reject appointment of counsel. The court shall issue an order denying appointment of counsel upon a finding that the defendant is financially able to obtain adequate representation or that the defendant rejected appointment of counsel with an understanding of the consequences of that decision. Counsel appointed pursuant to this subsection shall be different from the counsel who represented the defendant at trial and on direct review unless the defendant and counsel request a continuation or renewal of the earlier representation. Courts.

"'(s) STANDARDS FOR COMPETENCE OF COUNSEL.—In relation to a defendant who is entitled to appointment of counsel under subsection (q) or (r), at least one counsel appointed for trial representation must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the trial of felony cases in the Federal district courts. If new counsel is appointed after judgment, at least one counsel so appointed must have been admitted to the bar for at least 5 years and have at least 3 years of experience in the litigation of felony cases in the Federal courts of appeals or the Supreme Court. The court, for good cause, may appoint counsel who does not meet these standards, but whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration of the seriousness of the penalty and the nature of the litigation.

"'(t) CLAIMS OF INEFFECTIVENESS OF COUNSEL IN COLLATERAL PROCEEDINGS.—The ineffectiveness or incompetence of counsel during proceedings on a motion under section 23–110 of the District of Columbia Code in a case under this section shall not be a ground for relief from the judgment or sentence in any proceeding.

This limitation shall not preclude the appointment of different counsel at any stage of the proceedings.

"'(u) TIME FOR COLLATERAL ATTACK ON DEATH SENTENCE.—A motion under section 23–110 of the District of Columbia Code attacking a sentence of death under this section, or the conviction on which it is predicated, shall be filed within 90 days of the issuance of the order under subsection (r) appointing or denying the appointment of counsel for such proceedings. The court in which the motion is filed, for good cause shown, may extend the time for filing for a period not exceeding 60 days. Such a motion shall have priority over all non-capital matters in the district court, and in the court of appeals on review of the district court's decision.

"'(v) STAY OF EXECUTION.—The execution of a sentence of death under this section shall be stayed in the course of direct review of the judgment and during the litigation of an initial motion in the case under section 23–110 of the District of Columbia Code. The stay shall run continuously following imposition of the sentence and shall expire if—

"'(1) the defendant fails to file a motion under section 23–110 of the District of Columbia Code within the time specified in subsection (u), or fails to make a timely application for court of appeals review following the denial of such a motion by a district court;

"'(2) upon completion of district court and court of appeals review under section 23–110 of the District of Columbia Code, the Supreme Court disposes of a petition for certiorari in a manner that leaves the capital sentence undisturbed, or the defendant fails to file a timely petition for certiorari; or

"'(3) before a district court, in the presence of counsel and after having been advised of the consequences of such a decision, the defendant waives the right to file a motion under section 23–110 of the District of Columbia Code.

"'(w) FINALITY OF THE DECISION ON REVIEW.—If one of the conditions specified in subsection (v) has occurred, no court thereafter shall have the authority to enter a stay of execution or grant relief in the case unless—

"'(1) the basis for the stay and request for relief is a claim not presented in earlier proceedings;

"'(2) the failure to raise the claim is the result of governmental action in violation of the Constitution or laws of the United States, the result of the Supreme Court's recognition of a new Federal right that is retroactively applicable, or the result of the fact that the factual predicate of the claim could not have been discovered through the exercise of reasonable diligence in time to present the claim in earlier proceedings; and

"'(3) the facts underlying the claim would be sufficient, if proven, to undermine the court's confidence in the determination of guilt on the offense or offenses for which the death penalty was imposed.

"'(x) COMMUTATION OF SENTENCE OF DEATH.—The Mayor shall have power to commute a sentence of death under this section to a sentence of life imprisonment, without parole.

"'(y) DEFINITIONS.—For purposes of this section—

"'(1) "State" includes a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and any other territory or possession of the United States;

"'(2) "offense", as used in paragraphs (2), (5), and (13) of subsection (e) and in paragraph (5) of this subsection means an offense under the law of the District of Columbia, another State, or the United States;

"'(3) "drug trafficking activity" means a felony punishable under D.C. Law 4–29 (D.C. Code 33–501 et seq.) or a pattern or series of acts involving one or more such felonies;

"'(4) "robbery" means obtaining the property of another by force or threat of force;

"'(5) "burglary" means entering or remaining in a building or structure in violation of the law of the District of Columbia, another State, or the United States, with the intent to commit an offense in the building or structure;

"'(6) "sexual abuse" means any conduct proscribed by chapter 109A of title 18, United States Code, whether or not the conduct occurs in the special maritime and territorial jurisdiction of the United States;

"'(7) "arson" means damaging or destroying a building or structure through the use of fire or explosives;

"'(8) "kidnapping" means seizing, confining, or abducting a person, or transporting a person without his or her consent;

"'(9) "pre-trial release", "probation", "parole", "supervised release", and "other post-conviction conditional release", as used in subsection (e)(6), mean any such release, imposed in relation to a charge or conviction for an offense under the law of the District of Columbia, another State, or the United States; and

"'(10) "public servant" means an employee, agent, officer, or official of the District of Columbia, another State, or the United States, or an employee, agent, officer, or official of a foreign government who is within the scope of section 1116 of title 18, United States Code.'.".

This title may be cited as the "District of Columbia Appropriations Act, 1993".

TITLE II

District of Columbia Supplemental Appropriations and Rescissions Act, 1992.

FISCAL YEAR 1992 SUPPLEMENTAL

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $3,177,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 560), $5,427,000 are rescinded for a net decrease of $2,250,000: *Provided further,* That of the remaining funds, $1,724,000 shall be for the Mayor's youth and crime initiative in the City Administrator's Office, but shall not be obligated or expended until the Mayor submits to the Council a plan for the allocation and use of the funds, and $476,000 shall be for the Office of Personnel to conduct a management audit of personal and nonpersonal services: *Provided further,* That notwithstanding any other provision of law, there is hereby

appropriated from the earnings of the applicable retirement funds an additional $1,694,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $6,361,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $5,094,000 are rescinded for a net increase of $1,267,000.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $114,000: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 561), $22,356,000 are rescinded for a net decrease of $22,242,000: *Provided further,* That of the funds remaining for the personal services of the Metropolitan Police Department, $1,000,000 shall be redirected to non-personal services of the Department for equipment purchases and contractual services: *Provided further,* That not to exceed $700,000 shall be available from this appropriation, and funds under this heading in Public Law 102–111 (105 Stat. 561) for the Chief of Police for the prevention and detection of crime.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $300,000, of which $260,000 is for the public schools of the District of Columbia and $40,000 is for pay-as-you-go capital projects for the public schools: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 563), $48,000 for the Education Licensure Commission are rescinded for a net increase of $252,000.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $45,565,000: *Provided,* That $2,196,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law

102–111; 105 Stat. 564), $3,405,000 are rescinded for a net increase of $42,160,000.

PUBLIC WORKS

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $31,308,000 are rescinded.

WASHINGTON CONVENTION CENTER FUND

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $560,000 are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 564), $2,544,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $2,245,000.

RESIZING

For the purpose of funding costs associated with the Temporary Appeals Board, downsizing, and early-outs, $5,510,000, to be apportioned by the Mayor of the District of Columbia within the various appropriation headings in this Act from which costs are properly payable.

FACILITIES RENT/LEASES

For the purpose of funding costs associated with the rental and leasing of facilities for governmental purposes, $16,667,000.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $11,000,000, to remain available until expended: *Provided,* That of the amounts appropriated under this heading in prior fiscal years for the Law School Facility, $10,000,000 are rescinded for a net increase of $1,000,000: *Provided further,* That $150,000 shall be available for project management and $285,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor.

WATER AND SEWER ENTERPRISE FUND

(INCLUDING RESCISSION)

For an additional amount for "Water and sewer enterprise fund", $62,327,000, of which $28,287,000 shall be transferred to the general fund to finance general fund operating expenses: *Provided,* That of the funds appropriated under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566), $35,820,000 are rescinded for a net increase of $26,507,000: *Provided further,* That $38,834,000 of the amounts available for fiscal year 1992 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects instead of $38,006,000 as provided under this heading in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566).

The following provision under this heading for the fiscal year ending September 30, 1992 in the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (Public Law 102–111; 105 Stat. 566) is repealed ": *Provided further,* That $25,608,000 in water and sewer enterprise fund operating revenues shall be available for pay-as-you-go capital projects".

STARPLEX FUND

For the Starplex Fund, an amount necessary for the expenses incurred by the Armory Board in the exercise of its powers granted by An Act To establish a District of Columbia Armory Board, and for other purposes, approved June 4, 1948 (62 Stat. 339; D.C. Code, sec. 2–301 et seq.) and the District of Columbia Stadium Act of 1957, approved September 7, 1957 (71 Stat. 619; Public Law 85–300); D.C. Code, sec. 2–321 et seq.), of which $584,000 shall be transferred to the general fund.

GENERAL PROVISIONS

SEC. 201. Section 134 of the District of Columbia Appropriations Act, 1992, approved October 1, 1991 (105 Stat. 571) is amended by inserting after subsection (c) the following new subsection:

"(d) This section shall not apply to the District of Columbia Board of Education, which may, pursuant to the laws and regulations of the District of Columbia, accept and use gifts to the public schools without prior approval by the Mayor.".

SEC. 202. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1992.

This title may be cited as the "District of Columbia Supplemental Appropriations and Rescissions Act, 1992".

Approved October 5, 1992.

LEGISLATIVE HISTORY—H.R. 6056:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House and Senate.

Public Law 102-383
102d Congress

An Act

Oct. 5, 1992
[S. 1731]

To set forth the policy of the United States with respect to Hong Kong, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-Hong Kong Policy Act of 1992.
22 USC 5701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States-Hong Kong Policy Act of 1992".

22 USC 5701.

SEC. 2. FINDINGS AND DECLARATIONS.

The Congress makes the following findings and declarations:

(1) The Congress recognizes that under the 1984 Sino-British Joint Declaration:

(A) The People's Republic of China and the United Kingdom of Great Britain and Northern Ireland have agreed that the People's Republic of China will resume the exercise of sovereignty over Hong Kong on July 1, 1997. Until that time, the United Kingdom will be responsible for the administration of Hong Kong.

(B) The Hong Kong Special Administrative Region of the People's Republic of China, beginning on July 1, 1997, will continue to enjoy a high degree of autonomy on all matters other than defense and foreign affairs.

(C) There is provision for implementation of a "one country, two systems" policy, under which Hong Kong will retain its current lifestyle and legal, social, and economic systems until at least the year 2047.

(D) The legislature of the Hong Kong Special Administrative Region will be constituted by elections, and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, as applied to Hong Kong, shall remain in force.

(E) Provision is made for the continuation in force of agreements implemented as of June 30, 1997, and for the ability of the Hong Kong Special Administrative Region to conclude new agreements either on its own or with the assistance of the Government of the People's Republic of China.

(2) The Congress declares its wish to see full implementation of the provisions of the Joint Declaration.

(3) The President has announced his support for the policies and decisions reflected in the Joint Declaration.

(4) Hong Kong plays an important role in today's regional and world economy. This role is reflected in strong economic, cultural, and other ties with the United States that give the United States a strong interest in the continued vitality, prosperity, and stability of Hong Kong.

(5) Support for democratization is a fundamental principle of United States foreign policy. As such, it naturally applies to United States policy toward Hong Kong. This will remain equally true after June 30, 1997.

(6) The human rights of the people of Hong Kong are of great importance to the United States and are directly relevant to United States interests in Hong Kong. A fully successful transition in the exercise of sovereignty over Hong Kong must safeguard human rights in and of themselves. Human rights also serve as a basis for Hong Kong's continued economic prosperity.

SEC. 3. DEFINITIONS. 22 USC 5702.

For purposes of this Act—

(1) the term "Hong Kong" means, prior to July 1, 1997, the British Dependent Territory of Hong Kong, and on and after July 1, 1997, the Hong Kong Special Administrative Region of the People's Republic of China;

(2) the term "Joint Declaration" means the Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, done at Beijing on December 19, 1984; and

(3) the term "laws of the United States" means provisions of law enacted by the Congress.

TITLE I—POLICY

SEC. 101. BILATERAL TIES BETWEEN THE UNITED STATES AND HONG KONG. 22 USC 5711.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to its bilateral relationship with Hong Kong:

(1) The United States should play an active role, before, on, and after July 1, 1997, in maintaining Hong Kong's confidence and prosperity, Hong Kong's role as an international financial center, and the mutually beneficial ties between the people of the United States and the people of Hong Kong.

(2) The United States should actively seek to establish and expand direct bilateral ties and agreements with Hong Kong in economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, sport, and other appropriate areas.

(3) The United States should seek to maintain, after June 30, 1997, the United States consulate-general in Hong Kong, together with other official and semi-official organizations, such as the United States Information Agency American Library.

(4) The United States should invite Hong Kong to maintain, after June 30, 1997, its official and semi-official missions in the United States, such as the Hong Kong Economic & Trade Office, the Office of the Hong Kong Trade Development Council, and the Hong Kong Tourist Association. The United States should invite Hong Kong to open and maintain other official or semi-official missions to represent Hong Kong in those areas in which Hong Kong is entitled to maintain relations on its

own, including economic, trade, financial, monetary, aviation, shipping, communications, tourism, cultural, and sport areas.

(5) The United States should recognize passports and travel documents issued after June 30, 1997, by the Hong Kong Special Administrative Region.

(6) The resumption by the People's Republic of China of the exercise of sovereignty over Hong Kong after June 30, 1997, should not affect treatment of Hong Kong residents who apply for visas to visit or reside permanently in the United States, so long as such treatment is consistent with the Immigration and Nationality Act.

22 USC 5712.

SEC. 102. PARTICIPATION IN MULTILATERAL ORGANIZATIONS, RIGHTS UNDER INTERNATIONAL AGREEMENTS, AND TRADE STATUS.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States with respect to Hong Kong after June 30, 1997:

(1) The United States should support Hong Kong's participation in all appropriate multilateral conferences, agreements, and organizations in which Hong Kong is eligible to participate.

(2) The United States should continue to fulfill its obligations to Hong Kong under international agreements, so long as Hong Kong reciprocates, regardless of whether the People's Republic of China is a party to the particular international agreement, unless and until such obligations are modified or terminated in accordance with law.

(3) The United States should respect Hong Kong's status as a separate customs territory, and as a contracting party to the General Agreement on Tariffs and Trade, whether or not the People's Republic of China participates in the latter organization.

22 USC 5713.

SEC. 103. COMMERCE BETWEEN THE UNITED STATES AND HONG KONG.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to commerce between the United States and Hong Kong:

(1) The United States should seek to maintain and expand economic and trade relations with Hong Kong and should continue to treat Hong Kong as a separate territory in economic and trade matters, such as import quotas and certificates of origin.

(2) The United States should continue to negotiate directly with Hong Kong to conclude bilateral economic agreements.

(3) The United States should continue to treat Hong Kong as a territory which is fully autonomous from the United Kingdom and, after June 30, 1997, should treat Hong Kong as a territory which is fully autonomous from the People's Republic of China with respect to economic and trade matters.

(4) The United States should continue to grant the products of Hong Kong nondiscriminatory trade treatment (commonly referred to as "most-favored-nation status") by virtue of Hong Kong's membership in the General Agreement on Tariffs and Trade.

(5) The United States should recognize certificates of origin for manufactured goods issued by the Hong Kong Special Administrative Region.

(6) The United States should continue to allow the United States dollar to be freely exchanged with the Hong Kong dollar.

(7) United States businesses should be encouraged to continue to operate in Hong Kong, in accordance with applicable United States and Hong Kong law.

(8) The United States should continue to support access by Hong Kong to sensitive technologies controlled under the agreement of the Coordinating Committee for Multilateral Export Controls (commonly referred to as "COCOM") for so long as the United States is satisfied that such technologies are protected from improper use or export.

(9) The United States should encourage Hong Kong to continue its efforts to develop a framework which provides adequate protection for intellectual property rights.

(10) The United States should negotiate a bilateral investment treaty directly with Hong Kong, in consultation with the Government of the People's Republic of China.

(11) The change in the exercise of sovereignty over Hong Kong should not affect ownership in any property, tangible or intangible, held in the United States by any Hong Kong person.

SEC. 104. TRANSPORTATION. 22 USC 5714.

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, should be the policy of the United States after June 30, 1997, with respect to transportation from Hong Kong:

(1) Recognizing Hong Kong's position as an international transport center, the United States should continue to recognize ships and airplanes registered in Hong Kong and should negotiate air service agreements directly with Hong Kong.

(2) The United States should continue to recognize ships registered by Hong Kong.

(3) United States commercial ships, in accordance with applicable United States and Hong Kong law, should remain free to port in Hong Kong.

(4) The United States should continue to recognize airplanes registered by Hong Kong in accordance with applicable laws of the People's Republic of China.

(5) The United States should recognize licenses issued by the Hong Kong to Hong Kong airlines.

(6) The United States should recognize certificates issued by the Hong Kong to United States air carriers for air service involving travel to, from, or through Hong Kong which does not involve travel to, from, or through other parts of the People's Republic of China.

(7) The United States should negotiate at the appropriate time directly with the Hong Kong Special Administrative Region, acting under authorization from the Government of the People's Republic of China, to renew or amend all air service agreements existing on June 30, 1997, and to conclude new air service agreements affecting all flights to, from, or through the Hong Kong Special Administrative Region which

do not involve travel to, from, or through other parts of the People's Republic of China.

(8) The United States should make every effort to ensure that the negotiations described in paragraph (7) lead to pro-competitive air service agreements.

22 USC 5715. **SEC. 105. CULTURAL AND EDUCATIONAL EXCHANGES.**

It is the sense of the Congress that the following, which are based in part on the relevant provisions of the Joint Declaration, are and should continue after June 30, 1997, to be the policy of the United States with respect to cultural and educational exchanges with Hong Kong:

(1) The United States should seek to maintain and expand United States-Hong Kong relations and exchanges in culture, education, science, and academic research. The United States should encourage American participation in bilateral exchanges with Hong Kong, both official and unofficial.

(2) The United States should actively seek to further United States-Hong Kong cultural relations and promote bilateral exchanges, including the negotiating and concluding of appropriate agreements in these matters.

(3) Hong Kong should be accorded separate status as a full partner under the Fulbright Academic Exchange Program (apart from the United Kingdom before July 1, 1997, and apart from the People's Republic of China thereafter), with the continuation or establishment of a Fulbright Commission or functionally equivalent mechanism.

(4) The United States should actively encourage Hong Kong residents to visit the United States on nonimmigrant visas for such purposes as business, tourism, education, and scientific and academic research, in accordance with applicable United States and Hong Kong laws.

(5) Upon the request of the Legislative Council of Hong Kong, the Librarian of Congress, acting through the Congressional Research Service, should seek to expand educational and informational ties with the Council.

TITLE II—THE STATUS OF HONG KONG IN UNITED STATES LAW

22 USC 5721. **SEC. 201. CONTINUED APPLICATION OF UNITED STATES LAW.**

(a) IN GENERAL.—Notwithstanding any change in the exercise of sovereignty over Hong Kong, the laws of the United States shall continue to apply with respect to Hong Kong, on and after July 1, 1997, in the same manner as the laws of the United States were applied with respect to Hong Kong before such date unless otherwise expressly provided by law or by Executive order under section 202.

(b) INTERNATIONAL AGREEMENTS.—For all purposes, including actions in any court in the United States, the Congress approves the continuation in force on and after July 1, 1997, of all treaties and other international agreements, including multilateral conventions, entered into before such date between the United States and Hong Kong, or entered into before such date between the United States and the United Kingdom and applied to Hong Kong, unless or until terminated in accordance with law. If in carrying

Reports.

out this title, the President determines that Hong Kong is not legally competent to carry out its obligations under any such treaty or other international agreement, or that the continuation of Hong Kong's obligations or rights under any such treaty or other international agreement is not appropriate under the circumstances, such determination shall be reported to the Congress in accordance with section 301.

SEC. 202. PRESIDENTIAL ORDER. 22 USC 5722.

(a) PRESIDENTIAL DETERMINATION.—On or after July 1, 1997, whenever the President determines that Hong Kong is not sufficiently autonomous to justify treatment under a particular law of the United States, or any provision thereof, different from that accorded the People's Republic of China, the President may issue an Executive order suspending the application of section 201(a) to such law or provision of law.

(b) FACTOR FOR CONSIDERATION.—In making a determination under subsection (a) with respect to the application of a law of the United States, or any provision thereof, to Hong Kong, the President should consider the terms, obligations, and expectations expressed in the Joint Declaration with respect to Hong Kong.

(c) PUBLICATION IN FEDERAL REGISTER.—Any Executive order issued under subsection (a) shall be published in the Federal Register and shall specify the law or provision of law affected by the order.

(d) TERMINATION OF SUSPENSION.—An Executive order issued under subsection (a) may be terminated by the President with respect to a particular law or provision of law whenever the President determines that Hong Kong has regained sufficient autonomy to justify different treatment under the law or provision of law in question. Notice of any such termination shall be published in the Federal Register. Federal Register, publication.

SEC. 203. RULES AND REGULATIONS. 22 USC 5723.

The President is authorized to prescribe such rules and regulations as the President may deem appropriate to carry out this Act.

SEC. 204. CONSULTATION WITH CONGRESS. 22 USC 5724. President.

In carrying out this title, the President shall consult appropriately with the Congress.

TITLE III—REPORTING PROVISIONS

SEC. 301. REPORTING REQUIREMENT. 22 USC 5731.

Not later than March 31, 1993, March 31, 1995, March 31, 1997, March 31, 1998, March 31, 1999, and March 31, 2000, the Secretary of State shall transmit to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate a report on conditions in Hong Kong of interest to the United States. This report shall cover (in the case of the initial report) the period since the date of enactment of this Act or (in the case of subsequent reports) the period since the most recent report pursuant to this section and shall describe—

(1) significant developments in United States relations with Hong Kong, including a description of agreements that have entered into force between the United States and Hong Kong;

(2) other matters, including developments related to the change in the exercise of sovereignty over Hong Kong, affecting United States interests in Hong Kong or United States relations with Hong Kong;

(3) the nature and extent of United States-Hong Kong cultural, education, scientific, and academic exchanges, both official and unofficial;

(4) the laws of the United States with respect to which the application of section 201(a) has been suspended pursuant to section 202(a) or with respect to which such a suspension has been terminated pursuant to section 202(d), and the reasons for the suspension or termination, as the case may be;

(5) treaties and other international agreements with respect to which the President has made a determination described in the last sentence of section 201(b), and the reasons for each such determination;

(6) significant problems in cooperation between Hong Kong and the United States in the area of export controls;

(7) the development of democratic institutions in Hong Kong; and

(8) the nature and extent of Hong Kong's participation in multilateral forums.

22 USC 5732.

SEC. 302. SEPARATE PART OF COUNTRY REPORTS.

Whenever a report is transmitted to the Congress on a country-by-country basis there shall be included in such report, where applicable, a separate subreport on Hong Kong under the heading of the state that exercises sovereignty over Hong Kong. The reports to which this section applies include the reports transmitted under—

(1) sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 (relating to human rights);

(2) section 181 of the Trade Act of 1974 (relating to trade barriers); and

(3) section 2202 of the Export Enhancement Act of 1988 (relating to economic policy and trade practices).

Approved October 5, 1992.

LEGISLATIVE HISTORY—S. 1731:

CONGRESSIONAL RECORD, Vol. 138 (1992):
May 21, considered and passed Senate.
Aug. 11, considered and passed House, amended.
Sept. 17, Senate concurred in House amendments.

Public Law 102-384
102d Congress

An Act

To improve the administrative provisions and make technical corrections in the National and Community Service Act of 1990.

Oct. 5, 1992
[S. 3175]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National and Community Service Technical Amendment Act of 1992.
42 USC 12501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National and Community Service Technical Amendment Act of 1992".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

SEC. 3. DEFINITIONS.

Section 101 (42 U.S.C. 12511) is amended—

(1) by striking paragraph (29) and inserting the following new paragraph:

"(29) The term 'summer program' means a full-time or part-time youth corps program authorized under this title that is limited to a period beginning after April 30 and ending before October 1."; and

(2) by striking "stipends" in paragraph (30) and inserting "living allowances".

SEC. 4. AUTHORITY OF COMMISSION.

Paragraphs (1) and (2) of section 112(b), and sections 113(10), 115(c)(2), 116(b), 164(2), 179(d), and 190(c)(8) (42 U.S.C. 12522(b)(1) and (2), 12523(10), 12525(c)(2), 12526(b), 12615(2), 12639(d), and 12651(c)(8)) are amended by striking "Secretary" each place it appears and inserting "Commission".

SEC. 5. GENERAL AUTHORITY.

Section 121 (42 U.S.C. 12541) is amended to read as follows:

"SEC. 121. GENERAL AUTHORITY.

"The Commission may make grants under section 102 to States or local applicants and may transfer funds to the Secretary of Agriculture, to the Secretary of the Interior, or to the Director of ACTION for the creation or expansion of full-time, part-time, year-round, or summer, youth corps programs".

SEC. 6. AGE.

Section 130(a)(1) (42 U.S.C. 12550(a)(1)) is amended by striking "15" and inserting "14".

SEC. 7. PEACE CORPS.

(a) ELIGIBILITY AND SELECTION PROCEDURES.—Section 161(a)(2) (42 U.S.C. 12612(a)(2)) is amended by striking "at least 3 years".

(b) EDUCATIONAL BENEFITS.—Section 163(c)(2) (42 U.S.C. 12614(c)(2)) is amended by striking "serve 3 years" and inserting "satisfactorily complete the service of the individual".

SEC. 8. ASSISTANCE FOR HEAD START.

Section 166 (42 U.S.C. 12622) is amended by inserting ", and to projects of the type described in section 211(a) of the Domestic Volunteer Service Act operating under memoranda of agreement with the ACTION Agency," after "Domestic Volunteer Service Act)".

SEC. 9. EVALUATION.

Section 179 (42 U.S.C. 12639) is amended—

(1) in subsection (a)(2) by striking "subsection (h)" and inserting "subsection (j)";

(2) in subsection (f) by inserting "or post-service benefit" after "voucher"; and

(3) in subsection (h)—

(A) in paragraph (1) by striking "subsection (g)" and inserting "this section"; and

(B) by striking paragraph (2) and inserting the following new paragraph:

"(2) CONFIDENTIALITY.—

"(A) IN GENERAL.—The Commission shall maintain the confidentiality of information acquired under this subsection regarding individual participants.

"(B) DISCLOSURE.—

"(i) CONSENT.—The content of any information described in subparagraph (A) may be disclosed with the prior written consent of the individual participant with respect to whom the information is maintained.

"(ii) AGGREGATE INFORMATION.—The Commission may disclose information about the aggregate characteristics of such participants.

SEC. 10. COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

Section 190 (42 U.S.C. 12651) is amended—

(1) in subsection (b)—

(A) in paragraph (1)(B), by inserting "Director of the Office of National Drug Control Policy," after "Agriculture,"; and

(B) by redesignating paragraphs (5) through (8) as paragraphs (3) through (6), respectively;

(2) in subsection (d) by adding at the end the following new paragraph:

"(3) The Board may—

"(A) appoint the Director without regard to the provisions of title 5, United States Code, governing the appointments in the competitive service; and

"(B) fix the compensation of the Director without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and

General Schedule pay rates, except that the rate of compensation shall not exceed the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.";

(3) in subsection (e)— Government employees.

(A) by striking "TECHNICAL EMPLOYEES.—The Director" and inserting "EMPLOYEES.—

"(1) IN GENERAL.—The Director";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph)—

(i) by striking "10 technical" and inserting "eight";

(ii) by striking "Committee" and inserting "Commission"; and

(iii) by inserting before the period the following: ", except that the rate of compensation for two of the eight employees shall not exceed the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code, and the rate of compensation for the remaining six of the eight employees shall not exceed the maximum annual rate of basic pay payable for GS–15s under the General Schedule under section 5332 of title 5, United States Code"; and

(C) by adding at the end the following new paragraphs:

"(2) ADDITIONAL STAFF.—The Director may, at the discretion of the Board, appoint and compensate such staff as the Director determines to be necessary to carry out the duties of the Commission.

"(3) CONSULTANTS.—Subject to the rules prescribed by the Commission, the Director may procure the temporary and intermittent services of experts and consultants and compensate the experts and consultants in accordance with section 3109(b) of title 5, United States Code.

"(4) DETAILS OF PERSONNEL.—The head of any Federal department or agency may detail on a reimbursable basis, or on a nonreimbursable basis for not to exceed 180 calendar days during any fiscal year, as agreed upon by the Director and the head of the Federal agency, any of the personnel of that department or agency to the Commission to assist the Commission in carrying out the duties of the Commission under this Act. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(5) DONATIONS.—

"(A) SERVICES.—

"(i) VOLUNTEERS.—Notwithstanding any other provision of Federal law, the Commission may accept the voluntary services of individuals, and provide to such individuals the travel expenses described in subsection (b)(6).

"(ii) LIMITATION.—Such a volunteer shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment including those relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits, except as follows:

"(I) TORT CLAIMS.—For the purposes of the tort claims provisions of chapter 171 of title 28, United States Code, a volunteer under this subtitle shall be considered to be a Federal employee.

"(II) CIVIL EMPLOYEE.—For the purposes of subchapter I of chapter 81 of title 5, United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subtitle shall be considered to be employees, as defined in section 8101(1)(B) of title 5, United States Code, and the provisions of such subchapter shall apply.

"(B) PROPERTY.—The Commission may accept, use, and dispose of, in furtherance of the purposes of this Act, donations of any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

"(C) RULES.—The Commission shall establish written rules setting forth the criteria to be used in determining whether the acceptance of contributions of money or property, real, personal, or mixed, tangible or intangible, received by gift, device, bequest, or otherwise (pursuant to subparagraph (B)) would reflect unfavorably upon the ability of the Commission or any employee of the Commission to carry out the responsibilities or official duties of the Commission in a fair and objective manner, or would compromise the integrity of the programs of the Commission or any official involved in such programs.

Reports.

"(D) DISPOSITION.—Upon completion of the use by the Commission of any affected property, such completion shall be reported to the General Services Administration and such property shall be disposed in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.).

"(6) CONTRACTS.—Subject to the Federal Property and Administrative Services Act of 1949, the Commission may enter into contracts, and cooperative and interagency agreements, with Federal and State agencies, private firms, institutions, and individuals to conduct activities necessary to carry out the duties of the Commission under this Act."; and

(4) by adding at the end the following new subsections:

"(i) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(j) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from an officer, department, agency, establishment, or instrumentality of the Federal Government such information and statistics as the Commission may require to carry out the duties of the Commission under this Act. On the request of the Director of the Commission, each such officer, department, agency, establishment, or instrumentality may furnish, to the extent permitted by law, such information and statistics directly to the Commission.

"(k) SOURCES OF SUPPLIES AND SERVICES.—The Commission may use General Services Administration sources of supplies and services.".

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 501(a)(1) (42 U.S.C. 12681(a)(1)) is amended to read as follows:

"(1) TITLE I.—

"(A) IN GENERAL.—There are authorized to be appropriated to carry out subtitles B, C, D, E, and F of title I, $102,000,000 for fiscal year 1993.

"(B) SUBTITLE G.—There are authorized to be appropriated to carry out subtitle G of title I, $3,000,000 for fiscal year 1993.".

(b) EARMARKS.—Section 501(a)(2) (42 U.S.C. 12681(a)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking "paragraph (1)" and inserting "paragraph (1)(A)";

(2) by striking subparagraph (A);

(3) by striking "and" at the end of subparagraph (C);

(4) by striking the period at the end of subparagraph (D) and inserting a semicolon;

(5) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C), respectively; and

(6) by adding at the end the following new subparagraph:

"(D) any remaining funds may be expended for any activity authorized in title I.".

Approved October 5, 1992.

LEGISLATIVE HISTORY—S. 3175:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 12, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 102-385
102d Congress

An Act

Oct. 5, 1992
[S. 12]

To amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cable Television Consumer Protection and Competition Act of 1992.
Business and industry.
47 USC 609 note.
47 USC 521 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cable Television Consumer Protection and Competition Act of 1992".

SEC. 2. FINDINGS; POLICY; DEFINITIONS.

(a) FINDINGS.—The Congress finds and declares the following:

(1) Pursuant to the Cable Communications Policy Act of 1984, rates for cable television services have been deregulated in approximately 97 percent of all franchises since December 29, 1986. Since rate deregulation, monthly rates for the lowest priced basic cable service have increased by 40 percent or more for 28 percent of cable television subscribers. Although the average number of basic channels has increased from about 24 to 30, average monthly rates have increased by 29 percent during the same period. The average monthly cable rate has increased almost 3 times as much as the Consumer Price Index since rate deregulation.

(2) For a variety of reasons, including local franchising requirements and the extraordinary expense of constructing more than one cable television system to serve a particular geographic area, most cable television subscribers have no opportunity to select between competing cable systems. Without the presence of another multichannel video programming distributor, a cable system faces no local competition. The result is undue market power for the cable operator as compared to that of consumers and video programmers.

(3) There has been a substantial increase in the penetration of cable television systems over the past decade. Nearly 56,000,000 households, over 60 percent of the households with televisions, subscribe to cable television, and this percentage is almost certain to increase. As a result of this growth, the cable television industry has become a dominant nationwide video medium.

(4) The cable industry has become highly concentrated. The potential effects of such concentration are barriers to entry for new programmers and a reduction in the number of media voices available to consumers.

(5) The cable industry has become vertically integrated; cable operators and cable programmers often have common ownership. As a result, cable operators have the incentive and ability to favor their affiliated programmers. This could make it more difficult for noncable-affiliated programmers to secure

carriage on cable systems. Vertically integrated program suppliers also have the incentive and ability to favor their affiliated cable operators over nonaffiliated cable operators and programming distributors using other technologies.

(6) There is a substantial governmental and First Amendment interest in promoting a diversity of views provided through multiple technology media.

(7) There is a substantial governmental and First Amendment interest in ensuring that cable subscribers have access to local noncommercial educational stations which Congress has authorized, as expressed in section 396(a)(5) of the Communications Act of 1934. The distribution of unique noncommercial, educational programming services advances that interest.

(8) The Federal Government has a substantial interest in making all nonduplicative local public television services available on cable systems because—

(A) public television provides educational and informational programming to the Nation's citizens, thereby advancing the Government's compelling interest in educating its citizens;

(B) public television is a local community institution, supported through local tax dollars and voluntary citizen contributions in excess of $10,800,000,000 since 1972, that provides public service programming that is responsive to the needs and interests of the local community;

(C) the Federal Government, in recognition of public television's integral role in serving the educational and informational needs of local communities, has invested more than $3,000,000,000 in public broadcasting since 1969; and

(D) absent carriage requirements there is a substantial likelihood that citizens, who have supported local public television services, will be deprived of those services.

(9) The Federal Government has a substantial interest in having cable systems carry the signals of local commercial television stations because the carriage of such signals is necessary to serve the goals contained in section 307(b) of the Communications Act of 1934 of providing a fair, efficient, and equitable distribution of broadcast services.

(10) A primary objective and benefit of our Nation's system of regulation of television broadcasting is the local origination of programming. There is a substantial governmental interest in ensuring its continuation.

(11) Broadcast television stations continue to be an important source of local news and public affairs programming and other local broadcast services critical to an informed electorate.

(12) Broadcast television programming is supported by revenues generated from advertising broadcast over stations. Such programming is otherwise free to those who own television sets and do not require cable transmission to receive broadcast signals. There is a substantial governmental interest in promoting the continued availability of such free television programming, especially for viewers who are unable to afford other means of receiving programming.

(13) As a result of the growth of cable television, there has been a marked shift in market share from broadcast television to cable television services.

(14) Cable television systems and broadcast television stations increasingly compete for television advertising revenues. As the proportion of households subscribing to cable television increases, proportionately more advertising revenues will be reallocated from broadcast to cable television systems.

(15) A cable television system which carries the signal of a local television broadcaster is assisting the broadcaster to increase its viewership, and thereby attract additional advertising revenues that otherwise might be earned by the cable system operator. As a result, there is an economic incentive for cable systems to terminate the retransmission of the broadcast signal, refuse to carry new signals, or reposition a broadcast signal to a disadvantageous channel position. There is a substantial likelihood that absent the reimposition of such a requirement, additional local broadcast signals will be deleted, repositioned, or not carried.

(16) As a result of the economic incentive that cable systems have to delete, reposition, or not carry local broadcast signals, coupled with the absence of a requirement that such systems carry local broadcast signals, the economic viability of free local broadcast television and its ability to originate quality local programming will be seriously jeopardized.

(17) Consumers who subscribe to cable television often do so to obtain local broadcast signals which they otherwise would not be able to receive, or to obtain improved signals. Most subscribers to cable television systems do not or cannot maintain antennas to receive broadcast television services, do not have input selector switches to convert from a cable to antenna reception system, or cannot otherwise receive broadcast television services. The regulatory system created by the Cable Communications Policy Act of 1984 was premised upon the continued existence of mandatory carriage obligations for cable systems, ensuring that local stations would be protected from anticompetitive conduct by cable systems.

(18) Cable television systems often are the single most efficient distribution system for television programming. A Government mandate for a substantial societal investment in alternative distribution systems for cable subscribers, such as the "A/B" input selector antenna system, is not an enduring or feasible method of distribution and is not in the public interest.

(19) At the same time, broadcast programming that is carried remains the most popular programming on cable systems, and a substantial portion of the benefits for which consumers pay cable systems is derived from carriage of the signals of network affiliates, independent television stations, and public television stations. Also cable programming placed on channels adjacent to popular off-the-air signals obtains a larger audience than on other channel positions. Cable systems, therefore, obtain great benefits from local broadcast signals which, until now, they have been able to obtain without the consent of the broadcaster or any copyright liability. This has resulted in an effective subsidy of the development of cable systems by local broadcasters. While at one time, when cable systems did not attempt to compete with local broadcasters for program-

ming, audience, and advertising, this subsidy may have been appropriate, it is so no longer and results in a competitive imbalance between the 2 industries.

(20) The Cable Communications Policy Act of 1984, in its amendments to the Communications Act of 1934, limited the regulatory authority of franchising authorities over cable operators. Franchising authorities are finding it difficult under the current regulatory scheme to deny renewals to cable systems that are not adequately serving cable subscribers.

(21) Cable systems should be encouraged to carry low-power television stations licensed to the communities served by those systems where the low-power station creates and broadcasts, as a substantial part of its programming day, local programming.

(b) STATEMENT OF POLICY.—It is the policy of the Congress in this Act to—

(1) promote the availability to the public of a diversity of views and information through cable television and other video distribution media;

(2) rely on the marketplace, to the maximum extent feasible, to achieve that availability;

(3) ensure that cable operators continue to expand, where economically justified, their capacity and the programs offered over their cable systems;

(4) where cable television systems are not subject to effective competition, ensure that consumer interests are protected in receipt of cable service; and

(5) ensure that cable television operators do not have undue market power vis-a-vis video programmers and consumers.

(c) DEFINITIONS.—Section 602 of the Communications Act of 1934 (47 U.S.C. 531) is amended— 47 USC 522.

(1) by redesignating paragraph (16) as paragraph (19);

(2) by striking "and" at the end of paragraph (15);

(3) by redesignating paragraphs (11) through (15) as paragraphs (13) through (17), respectively;

(4) by redesignating paragraphs (1) through (10) as paragraphs (2) through (11), respectively;

(5) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) the term 'activated channels' means those channels engineered at the headend of a cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use;";

(6) by inserting after paragraph (11) (as so redesignated) the following new paragraph:

"(12) the term 'multichannel video programming distributor' means a person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available for purchase, by subscribers or customers, multiple channels of video programming;"; and

(7) by inserting after paragraph (17) (as so redesignated) the following new paragraph:

"(18) the term 'usable activated channels' means activated channels of a cable system, except those channels whose use for the distribution of broadcast signals would conflict with technical and safety regulations as determined by the Commission; and".

SEC. 3. REGULATION OF RATES.

(a) AMENDMENT.—Section 623 of the Communications Act of 1934 (47 U.S.C. 543) is amended to read as follows:

"SEC. 623. REGULATION OF RATES.

"(a) COMPETITION PREFERENCE; LOCAL AND FEDERAL REGULATION.—

"(1) IN GENERAL.—No Federal agency or State may regulate the rates for the provision of cable service except to the extent provided under this section and section 612. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section. No Federal agency, State, or franchising authority may regulate the rates for cable service of a cable system that is owned or operated by a local government or franchising authority within whose jurisdiction that cable system is located and that is the only cable system located within such jurisdiction.

"(2) PREFERENCE FOR COMPETITION.—If the Commission finds that a cable system is subject to effective competition, the rates for the provision of cable service by such system shall not be subject to regulation by the Commission or by a State or franchising authority under this section. If the Commission finds that a cable system is not subject to effective competition—

"(A) the rates for the provision of basic cable service shall be subject to regulation by a franchising authority, or by the Commission if the Commission exercises jurisdiction pursuant to paragraph (6), in accordance with the regulations prescribed by the Commission under subsection (b); and

"(B) the rates for cable programming services shall be subject to regulation by the Commission under subsection (c).

"(3) QUALIFICATION OF FRANCHISING AUTHORITY.—A franchising authority that seeks to exercise the regulatory jurisdiction permitted under paragraph (2)(A) shall file with the Commission a written certification that—

"(A) the franchising authority will adopt and administer regulations with respect to the rates subject to regulation under this section that are consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority has the legal authority to adopt, and the personnel to administer, such regulations; and

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority provide a reasonable opportunity for consideration of the views of interested parties.

"(4) APPROVAL BY COMMISSION.—A certification filed by a franchising authority under paragraph (3) shall be effective

30 days after the date on which it is filed unless the Commission finds, after notice to the authority and a reasonable opportunity for the authority to comment, that—

"(A) the franchising authority has adopted or is administering regulations with respect to the rates subject to regulation under this section that are not consistent with the regulations prescribed by the Commission under subsection (b);

"(B) the franchising authority does not have the legal authority to adopt, or the personnel to administer, such regulations; or

"(C) procedural laws and regulations applicable to rate regulation proceedings by such authority do not provide a reasonable opportunity for consideration of the views of interested parties.

If the Commission disapproves a franchising authority's certification, the Commission shall notify the franchising authority of any revisions or modifications necessary to obtain approval.

"(5) REVOCATION OF JURISDICTION.—Upon petition by a cable operator or other interested party, the Commission shall review the regulation of cable system rates by a franchising authority under this subsection. A copy of the petition shall be provided to the franchising authority by the person filing the petition. If the Commission finds that the franchising authority has acted inconsistently with the requirements of this subsection, the Commission shall grant appropriate relief. If the Commission, after the franchising authority has had a reasonable opportunity to comment, determines that the State and local laws and regulations are not in conformance with the regulations prescribed by the Commission under subsection (b), the Commission shall revoke the jurisdiction of such authority.

"(6) EXERCISE OF JURISDICTION BY COMMISSION.—If the Commission disapproves a franchising authority's certification under paragraph (4), or revokes such authority's jurisdiction under paragraph (5), the Commission shall exercise the franchising authority's regulatory jurisdiction under paragraph (2)(A) until the franchising authority has qualified to exercise that jurisdiction by filing a new certification that meets the requirements of paragraph (3). Such new certification shall be effective upon approval by the Commission. The Commission shall act to approve or disapprove any such new certification within 90 days after the date it is filed.

"(b) ESTABLISHMENT OF BASIC SERVICE TIER RATE REGULATIONS.—

"(1) COMMISSION OBLIGATION TO SUBSCRIBERS.—The Commission shall, by regulation, ensure that the rates for the basic service tier are reasonable. Such regulations shall be designed to achieve the goal of protecting subscribers of any cable system that is not subject to effective competition from rates for the basic service tier that exceed the rates that would be charged for the basic service tier if such cable system were subject to effective competition.

"(2) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe, and periodically thereafter revise, regulations to carry out its

obligations under paragraph (1). In prescribing such regulations, the Commission—

"(A) shall seek to reduce the administrative burdens on subscribers, cable operators, franchising authorities, and the Commission;

"(B) may adopt formulas or other mechanisms and procedures in complying with the requirements of subparagraph (A); and

"(C) shall take into account the following factors:

"(i) the rates for cable systems, if any, that are subject to effective competition;

"(ii) the direct costs (if any) of obtaining, transmitting, and otherwise providing signals carried on the basic service tier, including signals and services carried on the basic service tier pursuant to paragraph (7)(B), and changes in such costs;

"(iii) only such portion of the joint and common costs (if any) of obtaining, transmitting, and otherwise providing such signals as is determined, in accordance with regulations prescribed by the Commission, to be reasonably and properly allocable to the basic service tier, and changes in such costs;

"(iv) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the basic service tier or from other consideration obtained in connection with the basic service tier;

"(v) the reasonably and properly allocable portion of any amount assessed as a franchise fee, tax, or charge of any kind imposed by any State or local authority on the transactions between cable operators and cable subscribers or any other fee, tax, or assessment of general applicability imposed by a governmental entity applied against cable operators or cable subscribers;

"(vi) any amount required, in accordance with paragraph (4), to satisfy franchise requirements to support public, educational, or governmental channels or the use of such channels or any other services required under the franchise; and

"(vii) a reasonable profit, as defined by the Commission consistent with the Commission's obligations to subscribers under paragraph (1).

"(3) EQUIPMENT.—The regulations prescribed by the Commission under this subsection shall include standards to establish, on the basis of actual cost, the price or rate for—

"(A) installation and lease of the equipment used by subscribers to receive the basic service tier, including a converter box and a remote control unit and, if requested by the subscriber, such addressable converter box or other equipment as is required to access programming described in paragraph (8); and

"(B) installation and monthly use of connections for additional television receivers.

"(4) COSTS OF FRANCHISE REQUIREMENTS.—The regulations prescribed by the Commission under this subsection shall include standards to identify costs attributable to satisfying

franchise requirements to support public, educational, and governmental channels or the use of such channels or any other services required under the franchise.

"(5) IMPLEMENTATION AND ENFORCEMENT.—The regulations prescribed by the Commission under this subsection shall include additional standards, guidelines, and procedures concerning the implementation and enforcement of such regulations, which shall include—

"(A) procedures by which cable operators may implement and franchising authorities may enforce the regulations prescribed by the Commission under this subsection;

"(B) procedures for the expeditious resolution of disputes between cable operators and franchising authorities concerning the administration of such regulations;

"(C) standards and procedures to prevent unreasonable charges for changes in the subscriber's selection of services or equipment subject to regulation under this section, which standards shall require that charges for changing the service tier selected shall be based on the cost of such change and shall not exceed nominal amounts when the system's configuration permits changes in service tier selection to be effected solely by coded entry on a computer terminal or by other similarly simple method; and

"(D) standards and procedures to assure that subscribers receive notice of the availability of the basic service tier required under this section.

"(6) NOTICE.—The procedures prescribed by the Commission pursuant to paragraph (5)(A) shall require a cable operator to provide 30 days' advance notice to a franchising authority of any increase proposed in the price to be charged for the basic service tier.

"(7) COMPONENTS OF BASIC TIER SUBJECT TO RATE REGULATION.—

"(A) MINIMUM CONTENTS.—Each cable operator of a cable system shall provide its subscribers a separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following:

"(i) All signals carried in fulfillment of the requirements of sections 614 and 615.

"(ii) Any public, educational, and governmental access programming required by the franchise of the cable system to be provided to subscribers.

"(iii) Any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station.

"(B) PERMITTED ADDITIONS TO BASIC TIER.—A cable operator may add additional video programming signals or services to the basic service tier. Any such additional signals or services provided on the basic service tier shall be provided to subscribers at rates determined under the regulations prescribed by the Commission under this subsection.

"(8) BUY-THROUGH OF OTHER TIERS PROHIBITED.—

"(A) PROHIBITION.—A cable operator may not require the subscription to any tier other than the basic service tier required by paragraph (7) as a condition of access to video programming offered on a per channel or per program basis. A cable operator may not discriminate between subscribers to the basic service tier and other subscribers with regard to the rates charged for video programming offered on a per channel or per program basis.

"(B) EXCEPTION; LIMITATION.—The prohibition in subparagraph (A) shall not apply to a cable system that, by reason of the lack of addressable converter boxes or other technological limitations, does not permit the operator to offer programming on a per channel or per program basis in the same manner required by subparagraph (A). This subparagraph shall not be available to any cable operator after—

"(i) the technology utilized by the cable system is modified or improved in a way that eliminates such technological limitation; or

"(ii) 10 years after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, subject to subparagraph (C).

"(C) WAIVER.—If, in any proceeding initiated at the request of any cable operator, the Commission determines that compliance with the requirements of subparagraph (A) would require the cable operator to increase its rates, the Commission may, to the extent consistent with the public interest, grant such cable operator a waiver from such requirements for such specified period as the Commission determines reasonable and appropriate.

"(c) REGULATION OF UNREASONABLE RATES.—

"(1) COMMISSION REGULATIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish the following:

"(A) criteria prescribed in accordance with paragraph (2) for identifying, in individual cases, rates for cable programming services that are unreasonable;

"(B) fair and expeditious procedures for the receipt, consideration, and resolution of complaints from any subscriber, franchising authority, or other relevant State or local government entity alleging that a rate for cable programming services charged by a cable operator violates the criteria prescribed under subparagraph (A), which procedures shall include the minimum showing that shall be required for a complaint to obtain Commission consideration and resolution of whether the rate in question is unreasonable; and

"(C) the procedures to be used to reduce rates for cable programming services that are determined by the Commission to be unreasonable and to refund such portion of the rates or charges that were paid by subscribers after the filing of such complaint and that are determined to be unreasonable.

"(2) FACTORS TO BE CONSIDERED.—In establishing the criteria for determining in individual cases whether rates for

cable programming services are unreasonable under paragraph (1)(A), the Commission shall consider, among other factors—

"(A) the rates for similarly situated cable systems offering comparable cable programming services, taking into account similarities in facilities, regulatory and governmental costs, the number of subscribers, and other relevant factors;

"(B) the rates for cable systems, if any, that are subject to effective competition;

"(C) the history of the rates for cable programming services of the system, including the relationship of such rates to changes in general consumer prices;

"(D) the rates, as a whole, for all the cable programming, cable equipment, and cable services provided by the system, other than programming provided on a per channel or per program basis;

"(E) capital and operating costs of the cable system, including the quality and costs of the customer service provided by the cable system; and

"(F) the revenues (if any) received by a cable operator from advertising from programming that is carried as part of the service for which a rate is being established, and changes in such revenues, or from other consideration obtained in connection with the cable programming services concerned.

"(3) LIMITATION ON COMPLAINTS CONCERNING EXISTING RATES.—Except during the 180-day period following the effective date of the regulations prescribed by the Commission under paragraph (1), the procedures established under subparagraph (B) of such paragraph shall be available only with respect to complaints filed within a reasonable period of time following a change in rates that is initiated after that effective date, including a change in rates that results from a change in that system's service tiers.

"(d) UNIFORM RATE STRUCTURE REQUIRED.—A cable operator shall have a rate structure, for the provision of cable service, that is uniform throughout the geographic area in which cable service is provided over its cable system.

"(e) DISCRIMINATION; SERVICES FOR THE HEARING IMPAIRED.—Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority from—

"(1) prohibiting discrimination among subscribers and potential subscribers to cable service, except that no Federal agency, State, or franchising authority may prohibit a cable operator from offering reasonable discounts to senior citizens or other economically disadvantaged group discounts; or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of cable service by hearing impaired individuals.

"(f) NEGATIVE OPTION BILLING PROHIBITED.—A cable operator shall not charge a subscriber for any service or equipment that the subscriber has not affirmatively requested by name. For purposes of this subsection, a subscriber's failure to refuse a cable operator's proposal to provide such service or equipment shall not be deemed to be an affirmative request for such service or equipment.

"(g) COLLECTION OF INFORMATION.—The Commission shall, by regulation, require cable operators to file with the Commission or a franchising authority, as appropriate, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992 and annually thereafter, such financial information as may be needed for purposes of administering and enforcing this section.

"(h) PREVENTION OF EVASIONS.—Within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall, by regulation, establish standards, guidelines, and procedures to prevent evasions, including evasions that result from retiering, of the requirements of this section and shall, thereafter, periodically review and revise such standards, guidelines, and procedures.

"(i) SMALL SYSTEM BURDENS.—In developing and prescribing regulations pursuant to this section, the Commission shall design such regulations to reduce the administrative burdens and cost of compliance for cable systems that have 1,000 or fewer subscribers.

"(j) RATE REGULATION AGREEMENTS.—During the term of an agreement made before July 1, 1990, by a franchising authority and a cable operator providing for the regulation of basic cable service rates, where there was not effective competition under Commission rules in effect on that date, nothing in this section (or the regulations thereunder) shall abridge the ability of such franchising authority to regulate rates in accordance with such an agreement.

"(k) REPORTS ON AVERAGE PRICES.—The Commission shall annually publish statistical reports on the average rates for basic cable service and other cable programming, and for converter boxes, remote control units, and other equipment, of—

"(1) cable systems that the Commission has found are subject to effective competition under subsection (a)(2), compared with

"(2) cable systems that the Commission has found are not subject to such effective competition.

"(l) DEFINITIONS.—As used in this section—

"(1) The term 'effective competition' means that—

"(A) fewer than 30 percent of the households in the franchise area subscribe to the cable service of a cable system;

"(B) the franchise area is—

"(i) served by at least two unaffiliated multichannel video programming distributors each of which offers comparable video programming to at least 50 percent of the households in the franchise area; and

"(ii) the number of households subscribing to programming services offered by multichannel video programming distributors other than the largest multichannel video programming distributor exceeds 15 percent of the households in the franchise area; or

"(C) a multichannel video programming distributor operated by the franchising authority for that franchise area offers video programming to at least 50 percent of the households in that franchise area.

"(2) The term 'cable programming service' means any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for

the receipt of such video programming, other than (A) video programming carried on the basic service tier, and (B) video programming offered on a per channel or per program basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act, except that the authority of the Federal Communications Commission to prescribe regulations is effective on such date of enactment. 47 USC 543 note.

SEC. 4. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS.

Part II of title VI of the Communications Act of 1934 is amended by inserting after section 613 (47 U.S.C. 533) the following new section:

"SEC. 614. CARRIAGE OF LOCAL COMMERCIAL TELEVISION SIGNALS. 47 USC 534.

"(a) CARRIAGE OBLIGATIONS.—Each cable operator shall carry, on the cable system of that operator, the signals of local commercial television stations and qualified low power stations as provided by this section. Carriage of additional broadcast television signals on such system shall be at the discretion of such operator, subject to section 325(b).

"(b) SIGNALS REQUIRED.—

"(1) IN GENERAL.—(A) A cable operator of a cable system with 12 or fewer usable activated channels shall carry the signals of at least three local commercial television stations, except that if such a system has 300 or fewer subscribers, it shall not be subject to any requirements under this section so long as such system does not delete from carriage by that system any signal of a broadcast television station.

"(B) A cable operator of a cable system with more than 12 usable activated channels shall carry the signals of local commercial television stations, up to one-third of the aggregate number of usable activated channels of such system.

"(2) SELECTION OF SIGNALS.—Whenever the number of local commercial television stations exceeds the maximum number of signals a cable system is required to carry under paragraph (1), the cable operator shall have discretion in selecting which such stations shall be carried on its cable system, except that—

"(A) under no circumstances shall a cable operator carry a qualified low power station in lieu of a local commercial television station; and

"(B) if the cable operator elects to carry an affiliate of a broadcast network (as such term is defined by the Commission by regulation), such cable operator shall carry the affiliate of such broadcast network whose city of license reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (in effect on January 1, 1991), or any successor regulation thereto, is closest to the principal headend of the cable system.

"(3) CONTENT TO BE CARRIED.—(A) A cable operator shall carry in its entirety, on the cable system of that operator, the primary video, accompanying audio, and line 21 closed caption transmission of each of the local commercial television stations carried on the cable system and, to the extent technically feasible, program-related material carried in the vertical blanking interval or on subcarriers. Retransmission of other material in the vertical blanking internal or other nonprogram-related material (including teletext and other subscription and

advertiser-supported information services) shall be at the discretion of the cable operator. Where appropriate and feasible, operators may delete signal enhancements, such as ghost-canceling, from the broadcast signal and employ such enhancements at the system headend or headends.

"(B) The cable operator shall carry the entirety of the program schedule of any television station carried on the cable system unless carriage of specific programming is prohibited, and other programming authorized to be substituted, under section 76.67 or subpart F of part 76 of title 47, Code of Federal Regulations (as in effect on January 1, 1991), or any successor regulations thereto.

"(4) SIGNAL QUALITY.—

"(A) NONDEGRADATION; TECHNICAL SPECIFICATIONS.—The signals of local commercial television stations that a cable operator carries shall be carried without material degradation. The Commission shall adopt carriage standards to ensure that, to the extent technically feasible, the quality of signal processing and carriage provided by a cable system for the carriage of local commercial television stations will be no less than that provided by the system for carriage of any other type of signal.

"(B) ADVANCED TELEVISION.—At such time as the Commission prescribes modifications of the standards for television broadcast signals, the Commission shall initiate a proceeding to establish any changes in the signal carriage requirements of cable television systems necessary to ensure cable carriage of such broadcast signals of local commercial television stations which have been changed to conform with such modified standards.

"(5) DUPLICATION NOT REQUIRED.—Notwithstanding paragraph (1), a cable operator shall not be required to carry the signal of any local commercial television station that substantially duplicates the signal of another local commercial television station which is carried on its cable system, or to carry the signals of more than one local commercial television station affiliated with a particular broadcast network (as such term is defined by regulation). If a cable operator elects to carry on its cable system a signal which substantially duplicates the signal of another local commercial television station carried on the cable system, or to carry on its system the signals of more than one local commercial television station affiliated with a particular broadcast network, all such signals shall be counted toward the number of signals the operator is required to carry under paragraph (1).

"(6) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the local commercial television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, or on the channel on which it was carried on January 1, 1992, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a local commercial television station shall be resolved by the Commission.

"(7) SIGNAL AVAILABILITY.—Signals carried in fulfillment of the requirements of this section shall be provided to every subscriber of a cable system. Such signals shall be viewable via cable on all television receivers of a subscriber which are connected to a cable system by a cable operator or for which a cable operator provides a connection. If a cable operator authorizes subscribers to install additional receiver connections, but does not provide the subscriber with such connections, or with the equipment and materials for such connections, the operator shall notify such subscribers of all broadcast stations carried on the cable system which cannot be viewed via cable without a converter box and shall offer to sell or lease such a converter box to such subscribers at rates in accordance with section 623(b)(3).

"(8) IDENTIFICATION OF SIGNALS CARRIED.—A cable operator shall identify, upon request by any person, the signals carried on its system in fulfillment of the requirements of this section.

"(9) NOTIFICATION.—A cable operator shall provide written notice to a local commercial television station at least 30 days prior to either deleting from carriage or repositioning that station. No deletion or repositioning of a local commercial television station shall occur during a period in which major television ratings services measure the size of audiences of local television stations. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(10) COMPENSATION FOR CARRIAGE.—A cable operator shall not accept or request monetary payment or other valuable consideration in exchange either for carriage of local commercial television stations in fulfillment of the requirements of this section or for the channel positioning rights provided to such stations under this section, except that—

"(A) any such station may be required to bear the costs associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system;

"(B) a cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17, United States Code, as indemnification for any increased copyright liability resulting from carriage of such signal; and

"(C) a cable operator may continue to accept monetary payment or other valuable consideration in exchange for carriage or channel positioning of the signal of any local commercial television station carried in fulfillment of the requirements of this section, through, but not beyond, the date of expiration of an agreement thereon between a cable operator and a local commercial television station entered into prior to June 26, 1990.

"(c) LOW POWER STATION CARRIAGE OBLIGATION.—

"(1) REQUIREMENT.—If there are not sufficient signals of full power local commercial television stations to fill the channels set aside under subsection (b)—

"(A) a cable operator of a cable system with a capacity of 35 or fewer usable activated channels shall be required to carry one qualified low power station; and

"(B) a cable operator of a cable system with a capacity of more than 35 usable activated channels shall be required to carry two qualified low power stations.

"(2) USE OF PUBLIC, EDUCATIONAL, OR GOVERNMENTAL CHANNELS.—A cable operator required to carry more than one signal of a qualified low power station under this subsection may do so, subject to approval by the franchising authority pursuant to section 611, by placing such additional station on public, educational, or governmental channels not in use for their designated purposes.

"(d) REMEDIES.—

"(1) COMPLAINTS BY BROADCAST STATIONS.—Whenever a local commercial television station believes that a cable operator has failed to meet its obligations under this section, such station shall notify the operator, in writing, of the alleged failure and identify its reasons for believing that the cable operator is obligated to carry the signal of such station or has otherwise failed to comply with the channel positioning or repositioning or other requirements of this section. The cable operator shall, within 30 days of such written notification, respond in writing to such notification and either commence to carry the signal of such station in accordance with the terms requested or state its reasons for believing that it is not obligated to carry such signal or is in compliance with the channel positioning and repositioning and other requirements of this section. A local commercial television station that is denied carriage or channel positioning or repositioning in accordance with this section by a cable operator may obtain review of such denial by filing a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to meet its obligations and the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data and arguments to establish that there has been no failure to meet its obligations under this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed, the Commission shall determine whether the cable operator has met its obligations under this section. If the Commission determines that the cable operator has failed to meet such obligations, the Commission shall order the cable operator to reposition the complaining station or, in the case of an obligation to carry a station, to commence carriage of the station and to continue such carriage for at least 12 months. If the Commission determines that the cable operator has fully met the requirements of this section, it shall dismiss the complaint.

"(e) INPUT SELECTOR SWITCH RULES ABOLISHED.—No cable operator shall be required—

"(1) to provide or make available any input selector switch as defined in section 76.5(mm) of title 47, Code of Federal Regulations, or any comparable device; or

"(2) to provide information to subscribers about input selector switches or comparable devices.

"(f) REGULATIONS BY COMMISSION.—Within 180 days after the date of enactment of this section, the Commission shall, following a rulemaking proceeding, issue regulations implementing the requirements imposed by this section. Such implementing regula-

tions shall include necessary revisions to update section 76.51 of title 47 of the Code of Federal Regulations.

"(g) SALES PRESENTATIONS AND PROGRAM LENGTH COMMERCIALS.—

"(1) CARRIAGE PENDING PROCEEDING.—Pending the outcome of the proceeding under paragraph (2), nothing in this Act shall require a cable operator to carry on any tier, or prohibit a cable operator from carrying on any tier, the signal of any commercial television station or video programming service that is predominantly utilized for the transmission of sales presentations or program length commercials.

"(2) PROCEEDING CONCERNING CERTAIN STATIONS.—Within 270 days after the date of enactment of this section, the Commission, notwithstanding prior proceedings to determine whether broadcast television stations that are predominantly utilized for the transmission of sales presentations or program length commercials are serving the public interest, convenience, and necessity, shall complete a proceeding in accordance with this paragraph to determine whether broadcast television stations that are predominantly utilized for the transmission of sales presentations or program length commercials are serving the public interest, convenience, and necessity. In conducting such proceeding, the Commission shall provide appropriate notice and opportunity for public comment. The Commission shall consider the viewing of such stations, the level of competing demands for the spectrum allocated to such stations, and the role of such stations in providing competition to nonbroadcast services offering similar programming. In the event that the Commission concludes that one or more of such stations are serving the public interest, convenience, and necessity, the Commission shall qualify such stations as local commercial television stations for purposes of subsection (a). In the event that the Commission concludes that one or more of such stations are not serving the public interest, convenience, and necessity, the Commission shall allow the licensees of such stations a reasonable period within which to provide different programming, and shall not deny such stations a renewal expectancy solely because their programming consisted predominantly of sales presentations or program length commercials.

"(h) DEFINITIONS.—

"(1) LOCAL COMMERCIAL TELEVISION STATION.—

"(A) IN GENERAL.—For purposes of this section, the term 'local commercial television station' means any full power television broadcast station, other than a qualified noncommercial educational television station within the meaning of section 615(l)(1), licensed and operating on a channel regularly assigned to its community by the Commission that, with respect to a particular cable system, is within the same television market as the cable system.

"(B) EXCLUSIONS.—The term 'local commercial television station' shall not include—

"(i) low power television stations, television translator stations, and passive repeaters which operate pursuant to part 74 of title 47, Code of Federal Regulations, or any successor regulations thereto;

"(ii) a television broadcast station that would be considered a distant signal under section 111 of title 17, United States Code, if such station does not agree to indemnify the cable operator for any increased copyright liability resulting from carriage on the cable system; or

"(iii) a television broadcast station that does not deliver to the principal headend of a cable system either a signal level of −45dBm for UHF signals or −49dBm for VHF signals at the input terminals of the signal processing equipment, if such station does not agree to be responsible for the costs of delivering to the cable system a signal of good quality or a baseband video signal.

"(C) MARKET DETERMINATIONS.—(i) For purposes of this section, a broadcasting station's market shall be determined in the manner provided in section 73.3555(d)(3)(i) of title 47, Code of Federal Regulations, as in effect on May 1, 1991, except that, following a written request, the Commission may, with respect to a particular television broadcast station, include additional communities within its television market or exclude communities from such station's television market to better effectuate the purposes of this section. In considering such requests, the Commission may determine that particular communities are part of more than one television market.

"(ii) In considering requests filed pursuant to clause (i), the Commission shall afford particular attention to the value of localism by taking into account such factors as—

"(I) whether the station, or other stations located in the same area, have been historically carried on the cable system or systems within such community;

"(II) whether the television station provides coverage or other local service to such community;

"(III) whether any other television station that is eligible to be carried by a cable system in such community in fulfillment of the requirements of this section provides news coverage of issues of concern to such community or provides carriage or coverage of sporting and other events of interest to the community; and

"(IV) evidence of viewing patterns in cable and noncable households within the areas served by the cable system or systems in such community.

"(iii) A cable operator shall not delete from carriage the signal of a commercial television station during the pendency of any proceeding pursuant to this subparagraph.

"(iv) In the rulemaking proceeding required by subsection (f), the Commission shall provide for expedited consideration of requests filed under this subparagraph.

"(2) QUALIFIED LOW POWER STATION.—The term 'qualified low power station' means any television broadcast station conforming to the rules established for Low Power Television Stations contained in part 74 of title 47, Code of Federal Regulations, only if—

"(A) such station broadcasts for at least the minimum number of hours of operation required by the Commission for television broadcast stations under part 73 of title 47, Code of Federal Regulations;

"(B) such station meets all obligations and requirements applicable to television broadcast stations under part 73 of title 47, Code of Federal Regulations, with respect to the broadcast of nonentertainment programming; programming and rates involving political candidates, election issues, controversial issues of public importance, editorials, and personal attacks; programming for children; and equal employment opportunity; and the Commission determines that the provision of such programming by such station would address local news and informational needs which are not being adequately served by full power television broadcast stations because of the geographic distance of such full power stations from the low power station's community of license;

"(C) such station complies with interference regulations consistent with its secondary status pursuant to part 74 of title 47, Code of Federal Regulations;

"(D) such station is located no more than 35 miles from the cable system's headend, and delivers to the principal headend of the cable system an over-the-air signal of good quality, as determined by the Commission;

"(E) the community of license of such station and the franchise area of the cable system are both located outside of the largest 160 Metropolitan Statistical Areas, ranked by population, as determined by the Office of Management and Budget on June 30, 1990, and the population of such community of license on such date did not exceed 35,000; and

"(F) there is no full power television broadcast station licensed to any community within the county or other political subdivision (of a State) served by the cable system.

Nothing in this paragraph shall be construed to change the secondary status of any low power station as provided in part 74 of title 47, Code of Federal Regulations, as in effect on the date of enactment of this section.".

SEC. 5. CARRIAGE OF NONCOMMERCIAL STATIONS.

Part II of title VI of the Communications Act of 1934 (47 U.S.C. 531 et seq.) is further amended by inserting after section 614 (as added by section 4 of this Act) the following new section:

"SEC. 615. CARRIAGE OF NONCOMMERCIAL EDUCATIONAL TELEVISION. 47 USC 535.

"(a) CARRIAGE OBLIGATIONS.—In addition to the carriage requirements set forth in section 614, each cable operator of a cable system shall carry the signals of qualified noncommercial educational television stations in accordance with the provisions of this section.

"(b) REQUIREMENTS TO CARRY QUALIFIED STATIONS.—

"(1) GENERAL REQUIREMENT TO CARRY EACH QUALIFIED STATION.—Subject to paragraphs (2) and (3) and subsection (e), each cable operator shall carry, on the cable system of that cable operator, any qualified local noncommercial educational television station requesting carriage.

"(2)(A) SYSTEMS WITH 12 OR FEWER CHANNELS.—Notwithstanding paragraph (1), a cable operator of a cable system with 12 or fewer usable activated channels shall be required to carry the signal of one qualified local noncommercial educational television station; except that a cable operator of such a system shall comply with subsection (c) and may, in its discretion, carry the signals of other qualified noncommercial educational television stations.

"(B) In the case of a cable system described in subparagraph (A) which operates beyond the presence of any qualified local noncommercial educational television station—

"(i) the cable operator shall import and carry on that system the signal of one qualified noncommercial educational television station;

"(ii) the selection for carriage of such a signal shall be at the election of the cable operator; and

"(iii) in order to satisfy the requirements for carriage specified in this subsection, the cable operator of the system shall not be required to remove any other programming service actually provided to subscribers on March 29, 1990; except that such cable operator shall use the first channel available to satisfy the requirements of this subparagraph.

"(3) SYSTEMS WITH 13 TO 36 CHANNELS.—(A) Subject to subsection (c), a cable operator of a cable system with 13 to 36 usable activated channels—

"(i) shall carry the signal of at least one qualified local noncommercial educational television station but shall not be required to carry the signals of more than three such stations, and

"(ii) may, in its discretion, carry additional such stations.

"(B) In the case of a cable system described in this paragraph which operates beyond the presence of any qualified local noncommercial educational television station, the cable operator shall import and carry on that system the signal of at least one qualified noncommercial educational television station to comply with subparagraph (A)(i).

"(C) The cable operator of a cable system described in this paragraph which carries the signal of a qualified local noncommercial educational station affiliated with a State public television network shall not be required to carry the signal of any additional qualified local noncommercial educational television stations affiliated with the same network if the programming of such additional stations is substantially duplicated by the programming of the qualified local noncommercial educational television station receiving carriage.

"(D) A cable operator of a system described in this paragraph which increases the usable activated channel capacity of the system to more than 36 channels on or after March 29, 1990, shall, in accordance with the other provisions of this section, carry the signal of each qualified local noncommercial educational television station requesting carriage, subject to subsection (e).

"(c) CONTINUED CARRIAGE OF EXISTING STATIONS.—Notwithstanding any other provision of this section, all cable operators shall continue to provide carriage to all qualified local noncommercial educational television stations whose signals were car-

ried on their systems as of March 29, 1990. The requirements of this subsection may be waived with respect to a particular cable operator and a particular such station, upon the written consent of the cable operator and the station.

"(d) PLACEMENT OF ADDITIONAL SIGNALS.—A cable operator required to add the signals of qualified local noncommercial educational television stations to a cable system under this section may do so, subject to approval by the franchising authority pursuant to section 611, by placing such additional stations on public, educational, or governmental channels not in use for their designated purposes.

"(e) SYSTEMS WITH MORE THAN 36 CHANNELS.—A cable operator of a cable system with a capacity of more than 36 usable activated channels which is required to carry the signals of three qualified local noncommercial educational television stations shall not be required to carry the signals of additional such stations the programming of which substantially duplicates the programming broadcast by another qualified local noncommercial educational television station requesting carriage. Substantial duplication shall be defined by the Commission in a manner that promotes access to distinctive noncommercial educational television services.

"(f) WAIVER OF NONDUPLICATION RIGHTS.—A qualified local noncommercial educational television station whose signal is carried by a cable operator shall not assert any network nonduplication rights it may have pursuant to section 76.92 of title 47, Code of Federal Regulations, to require the deletion of programs aired on other qualified local noncommercial educational television stations whose signals are carried by that cable operator.

"(g) CONDITIONS OF CARRIAGE.—

"(1) CONTENT TO BE CARRIED.—A cable operator shall retransmit in its entirety the primary video, accompanying audio, and line 21 closed caption transmission of each qualified local noncommercial educational television station whose signal is carried on the cable system, and, to the extent technically feasible, program-related material carried in the vertical blanking interval, or on subcarriers, that may be necessary for receipt of programming by handicapped persons or for educational or language purposes. Retransmission of other material in the vertical blanking interval or on subcarriers shall be within the discretion of the cable operator.

"(2) BANDWIDTH AND TECHNICAL QUALITY.—A cable operator shall provide each qualified local noncommercial educational television station whose signal is carried in accordance with this section with bandwidth and technical capacity equivalent to that provided to commercial television broadcast stations carried on the cable system and shall carry the signal of each qualified local noncommercial educational television station without material degradation.

"(3) CHANGES IN CARRIAGE.—The signal of a qualified local noncommercial educational television station shall not be repositioned by a cable operator unless the cable operator, at least 30 days in advance of such repositioning, has provided written notice to the station and all subscribers of the cable system. For purposes of this paragraph, repositioning includes (A) assignment of a qualified local noncommercial educational television station to a cable system channel number different from the cable system channel number to which the station was

assigned as of March 29, 1990, and (B) deletion of the station from the cable system. The notification provisions of this paragraph shall not be used to undermine or evade the channel positioning or carriage requirements imposed upon cable operators under this section.

"(4) GOOD QUALITY SIGNAL REQUIRED.—Notwithstanding the other provisions of this section, a cable operator shall not be required to carry the signal of any qualified local noncommercial educational television station which does not deliver to the cable system's principal headend a signal of good quality or a baseband video signal, as may be defined by the Commission.

"(5) CHANNEL POSITIONING.—Each signal carried in fulfillment of the carriage obligations of a cable operator under this section shall be carried on the cable system channel number on which the qualified local noncommercial educational television station is broadcast over the air, or on the channel on which it was carried on July 19, 1985, at the election of the station, or on such other channel number as is mutually agreed upon by the station and the cable operator. Any dispute regarding the positioning of a qualified local noncommercial educational television station shall be resolved by the Commission.

"(h) AVAILABILITY OF SIGNALS.—Signals carried in fulfillment of the carriage obligations of a cable operator under this section shall be available to every subscriber as part of the cable system's lowest priced service tier that includes the retransmission of local commercial television broadcast signals.

"(i) PAYMENT FOR CARRIAGE PROHIBITED.—

"(1) IN GENERAL.—A cable operator shall not accept monetary payment or other valuable consideration in exchange for carriage of the signal of any qualified local noncommercial educational television station carried in fulfillment of the requirements of this section, except that such a station may be required to bear the cost associated with delivering a good quality signal or a baseband video signal to the principal headend of the cable system.

"(2) DISTANT SIGNAL EXCEPTION.—Notwithstanding the provisions of this section, a cable operator shall not be required to add the signal of a qualified local noncommercial educational television station not already carried under the provision of subsection (c), where such signal would be considered a distant signal for copyright purposes unless such station indemnifies the cable operator for any increased copyright costs resulting from carriage of such signal.

"(j) REMEDIES.—

"(1) COMPLAINT.—Whenever a qualified local noncommercial educational television station believes that a cable operator of a cable system has failed to comply with the signal carriage requirements of this section, the station may file a complaint with the Commission. Such complaint shall allege the manner in which such cable operator has failed to comply with such requirements and state the basis for such allegations.

"(2) OPPORTUNITY TO RESPOND.—The Commission shall afford such cable operator an opportunity to present data, views, and arguments to establish that the cable operator has complied with the signal carriage requirements of this section.

"(3) REMEDIAL ACTIONS; DISMISSAL.—Within 120 days after the date a complaint is filed under this subsection, the Commission shall determine whether the cable operator has complied with the requirements of this section. If the Commission determines that the cable operator has failed to comply with such requirements, the Commission shall state with particularity the basis for such findings and order the cable operator to take such remedial action as is necessary to meet such requirements. If the Commission determines that the cable operator has fully complied with such requirements, the Commission shall dismiss the complaint.

"(k) IDENTIFICATION OF SIGNALS.—A cable operator shall identify, upon request by any person, those signals carried in fulfillment of the requirements of this section.

"(l) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; and

"(ii) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section 396(k)(6)(B); or

"(B) is owned and operated by a municipality and transmits predominantly noncommercial programs for educational purposes.

Such term includes (I) the translator of any noncommercial educational television station with five watts or higher power serving the franchise area, (II) a full-service station or translator if such station or translator is licensed to a channel reserved for noncommercial educational use pursuant to section 73.606 of title 47, Code of Federal Regulations, or any successor regulations thereto, and (III) such stations and translators operating on channels not so reserved as the Commission determines are qualified as noncommercial educational stations.

"(2) QUALIFIED LOCAL NONCOMMERCIAL EDUCATIONAL TELEVISION STATION.—The term 'qualified local noncommercial educational television station' means a qualified noncommercial educational television station—

"(A) which is licensed to a principal community whose reference point, as defined in section 76.53 of title 47, Code of Federal Regulations (as in effect on March 29, 1990), or any successor regulations thereto, is within 50 miles of the principal headend of the cable system; or

"(B) whose Grade B service contour, as defined in section 73.683(a) of such title (as in effect on March 29, 1990), or any successor regulations thereto, encompasses the principal headend of the cable system.".

SEC. 6. RETRANSMISSION CONSENT FOR CABLE SYSTEMS.

Section 325 of the Communications Act of 1934 (47 U.S.C. 325) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting immediately after subsection (a) the following new subsection:

"(b)(1) Following the date that is one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, no cable system or other multichannel video programming distributor shall retransmit the signal of a broadcasting station, or any part thereof, except—

"(A) with the express authority of the originating station; or

"(B) pursuant to section 614, in the case of a station electing, in accordance with this subsection, to assert the right to carriage under such section.

"(2) The provisions of this subsection shall not apply to—

"(A) retransmission of the signal of a noncommercial broadcasting station;

"(B) retransmission directly to a home satellite antenna of the signal of a broadcasting station that is not owned or operated by, or affiliated with, a broadcasting network, if such signal was retransmitted by a satellite carrier on May 1, 1991;

"(C) retransmission of the signal of a broadcasting station that is owned or operated by, or affiliated with, a broadcasting network directly to a home satellite antenna, if the household receiving the signal is an unserved household; or

"(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if such signal was obtained from a satellite carrier and the originating station was a superstation on May 1, 1991.

For purposes of this paragraph, the terms 'satellite carrier', 'superstation', and 'unserved household' have the meanings given those terms, respectively, in section 119(d) of title 17, United States Code, as in effect on the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992.

Regulations.

"(3)(A) Within 45 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall commence a rulemaking proceeding to establish regulations to govern the exercise by television broadcast stations of the right to grant retransmission consent under this subsection and of the right to signal carriage under section 614, and such other regulations as are necessary to administer the limitations contained in paragraph (2). The Commission shall consider in such proceeding the impact that the grant of retransmission consent by television stations may have on the rates for the basic service tier and shall ensure that the regulations prescribed under this subsection do not conflict with the Commission's obligation under section 623(b)(1) to ensure that the rates for the basic service tier are reasonable. Such rulemaking proceeding shall be completed within 180 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992.

"(B) The regulations required by subparagraph (A) shall require that television stations, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992 and every three years thereafter, make an election between

the right to grant retransmission consent under this subsection and the right to signal carriage under section 614. If there is more than one cable system which services the same geographic area, a station's election shall apply to all such cable systems.

"(4) If an originating television station elects under paragraph (3)(B) to exercise its right to grant retransmission consent under this subsection with respect to a cable system, the provisions of section 614 shall not apply to the carriage of the signal of such station by such cable system.

"(5) The exercise by a television broadcast station of the right to grant retransmission consent under this subsection shall not interfere with or supersede the rights under section 614 or 615 of any station electing to assert the right to signal carriage under that section.

"(6) Nothing in this section shall be construed as modifying the compulsory copyright license established in section 111 of title 17, United States Code, or as affecting existing or future video programming licensing agreements between broadcasting stations and video programmers.".

SEC. 7. AWARD OF FRANCHISES; PROMOTION OF COMPETITION.

(a) ADDITIONAL COMPETITIVE FRANCHISES.—

(1) AMENDMENT.—Section 621(a)(1) of the Communications Act of 1934 (47 U.S.C. 541(a)(1)) is amended by inserting before the period at the end the following: "; except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. Any applicant whose application for a second franchise has been denied by a final decision of the franchising authority may appeal such final decision pursuant to the provisions of section 635 for failure to comply with this subsection".

(2) CONFORMING AMENDMENT.—Section 635(a) of the Communications Act of 1934 (47 U.S.C. 555(a)) is amended by inserting "621(a)(1)," after "section".

(b) FRANCHISE REQUIREMENTS.—Section 621(a) of the Communications Act of 1934 (47 U.S.C. 541(a)) is amended by adding at the end the following new paragraph:

"(4) In awarding a franchise, the franchising authority—

"(A) shall allow the applicant's cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area;

"(B) may require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channel capacity, facilities, or financial support; and

"(C) may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.".

(c) MUNICIPAL AUTHORITIES PERMITTED TO OPERATE SYSTEMS.—Section 621 of the Communications Act of 1934 (47 U.S.C. 541) is amended—

(1) by inserting "and subsection (f)" before the comma in subsection (b)(1); and

(2) by adding at the end the following new subsection:

"(f) No provision of this Act shall be construed to—

"(1) prohibit a local or municipal authority that is also, or is affiliated with, a franchising authority from operating as a multichannel video programming distributor in the fran-

chise area, notwithstanding the granting of one or more franchises by such franchising authority; or

"(2) require such local or municipal authority to secure a franchise to operate as a multichannel video programming distributor.".

SEC. 8. CONSUMER PROTECTION AND CUSTOMER SERVICE.

Section 632 of the Communications Act of 1934 (47 U.S.C. 552) is amended to read as follows:

"SEC. 632. CONSUMER PROTECTION AND CUSTOMER SERVICE.

"(a) FRANCHISING AUTHORITY ENFORCEMENT.—A franchising authority may establish and enforce—

"(1) customer service requirements of the cable operator; and

"(2) construction schedules and other construction-related requirements, including construction-related performance requirements, of the cable operator.

"(b) COMMISSION STANDARDS.—The Commission shall, within 180 days of enactment of the Cable Television Consumer Protection and Competition Act of 1992, establish standards by which cable operators may fulfill their customer service requirements. Such standards shall include, at a minimum, requirements governing—

"(1) cable system office hours and telephone availability;

"(2) installations, outages, and service calls; and

"(3) communications between the cable operator and the subscriber (including standards governing bills and refunds).

"(c) CONSUMER PROTECTION LAWS AND CUSTOMER SERVICE AGREEMENTS.—

"(1) CONSUMER PROTECTION LAWS.—Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted by this title.

"(2) CUSTOMER SERVICE REQUIREMENT AGREEMENTS.—Nothing in this section shall be construed to preclude a franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards established by the Commission under subsection (b). Nothing in this title shall be construed to prevent the establishment or enforcement of any municipal law or regulation, or any State law, concerning customer service that imposes customer service requirements that exceed the standards set by the Commission under this section, or that addresses matters not addressed by the standards set by the Commission under this section.".

SEC. 9. LEASED COMMERCIAL ACCESS.

(a) PURPOSE.—Section 612(a) of the Communications Act of 1934 (47 U.S.C. 532(a)) is amended by inserting "to promote competition in the delivery of diverse sources of video programming and" after "purpose of this section is".

(b) COMMISSION RULES ON MAXIMUM REASONABLE RATES AND OTHER TERMS AND CONDITIONS.—Section 612(c) of such Act (47 U.S.C. 532(c)) is amended—

(1) in paragraph (1) by inserting "and with rules prescribed by the Commission under paragraph (4)" after "purpose of this section"; and

(2) by adding at the end the following new paragraph:

"(4)(A) The Commission shall have the authority to—

"(i) determine the maximum reasonable rates that a cable operator may establish pursuant to paragraph (1) for commercial use of designated channel capacity, including the rate charged for the billing of rates to subscribers and for the collection of revenue from subscribers by the cable operator for such use;

"(ii) establish reasonable terms and conditions for such use, including those for billing and collection; and

"(iii) establish procedures for the expedited resolution of disputes concerning rates or carriage under this section.

"(B) Within 180 days after the date of enactment of this paragraph, the Commission shall establish rules for determining maximum reasonable rates under subparagraph (A)(i), for establishing terms and conditions under subparagraph (A)(ii), and for providing procedures under subparagraph (A)(iii).". Regulations.

(c) ACCESS FOR QUALITY MINORITY PROGRAMMING SOURCES AND QUALIFIED EDUCATIONAL PROGRAMMING SOURCES.—Section 612 of such Act (47 U.S.C. 532) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding the provisions of subsections (b) and (c), a cable operator required by this section to designate channel capacity for commercial use may use any such channel capacity for the provision of programming from a qualified minority programming source or from any qualified educational programming source, whether or not such source is affiliated with the cable operator. The channel capacity used to provide programming from a qualified minority programming source or from any qualified educational programming source pursuant to this subsection may not exceed 33 percent of the channel capacity designated pursuant to this section. No programming provided over a cable system on July 1, 1990, may qualify as minority programming or educational programming on that cable system under this subsection.

"(2) For purposes of this subsection, the term 'qualified minority programming source' means a programming source which devotes substantially all of its programming to coverage of minority viewpoints, or to programming directed at members of minority groups, and which is over 50 percent minority-owned, as the term 'minority' is defined in section 309(i)(3)(C)(ii).

"(3) For purposes of this subsection, the term 'qualified educational programming source' means a programming source which devotes substantially all of its programming to educational or instructional programming that promotes public understanding of mathematics, the sciences, the humanities, and the arts and has a documented annual expenditure on programming exceeding $15,000,000. The annual expenditure on programming means all annual costs incurred by the programming source to produce or acquire programs which are scheduled to be televised, and specifically excludes marketing, promotion, satellite transmission and operational costs, and general administrative costs.

"(4) Nothing in this subsection shall substitute for the requirements to carry qualified noncommercial educational television stations as specified under section 615.".

(d) CONFORMING AMENDMENT.—Paragraph (5) of section 612(b) of the Communications Act of 1934 (47 U.S.C. 532(b)) is amended to read as follows:

"(5) For the purposes of this section, the term 'commercial use' means the provision of video programming, whether or not for profit.".

SEC. 10. CHILDREN'S PROTECTION FROM INDECENT PROGRAMMING ON LEASED ACCESS CHANNELS.

(a) AUTHORITY TO ENFORCE.—Section 612(h) of the Communications Act of 1934 (47 U.S.C. 532(h)) is amended—

(1) by inserting "or the cable operator" after "franchising authority"; and

(2) by adding at the end thereof the following: "This subsection shall permit a cable operator to enforce prospectively a written and published policy of prohibiting programming that the cable operator reasonably believes describes or depicts sexual or excretory activities or organs in a patently offensive manner as measured by contemporary community standards.".

(b) COMMISSION REGULATIONS.—Section 612 of the Communications Act of 1934 (47 U.S.C. 532) is amended by inserting after subsection (i) (as added by section 9(c) of this Act) the following new subsection:

"(j)(1) Within 120 days following the date of the enactment of this subsection, the Commission shall promulgate regulations designed to limit the access of children to indecent programming, as defined by Commission regulations, and which cable operators have not voluntarily prohibited under subsection (h) by—

"(A) requiring cable operators to place on a single channel all indecent programs, as identified by program providers, intended for carriage on channels designated for commercial use under this section;

"(B) requiring cable operators to block such single channel unless the subscriber requests access to such channel in writing; and

"(C) requiring programmers to inform cable operators if the program would be indecent as defined by Commission regulations.

"(2) Cable operators shall comply with the regulations promulgated pursuant to paragraph (1).".

Regulations.
47 USC 531 note.

(c) PROHIBITS SYSTEM USE.—Within 180 days following the date of the enactment of this Act, the Federal Communications Commission shall promulgate such regulations as may be necessary to enable a cable operator of a cable system to prohibit the use, on such system, of any channel capacity of any public, educational, or governmental access facility for any programming which contains obscene material, sexually explicit conduct, or material soliciting or promoting unlawful conduct.

(d) CONFORMING AMENDMENT.—Section 638 of the Communications Act of 1934 (47 U.S.C. 558) is amended by striking the period at the end and inserting the following: "unless the program involves obscene material.".

SEC. 11. LIMITATIONS ON OWNERSHIP, CONTROL, AND UTILIZATION.

(a) CROSS-OWNERSHIP.—Section 613(a) of the Communications Act of 1934 (47 U.S.C. 533(a)) is amended—

(1) by inserting "(1)" immediately after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) It shall be unlawful for a cable operator to hold a license for multichannel multipoint distribution service, or to offer satellite master antenna television service separate and apart from any

franchised cable service, in any portion of the franchise area served by that cable operator's cable system. The Commission—

"(A) shall waive the requirements of this paragraph for all existing multichannel multipoint distribution services and satellite master antenna television services which are owned by a cable operator on the date of enactment of this paragraph; and

"(B) may waive the requirements of this paragraph to the extent the Commission determines is necessary to ensure that all significant portions of a franchise area are able to obtain video programming.".

(b) CLARIFICATION OF LOCAL AUTHORITY TO REGULATE OWNERSHIP.—Section 613(d) of the Communications Act of 1934 (47 U.S.C. 533(d)) is amended—

(1) by striking "any media" and inserting "any other media"; and

(2) by adding at the end thereof the following: "Nothing in this section shall be construed to prevent any State or franchising authority from prohibiting the ownership or control of a cable system in a jurisdiction by any person (1) because of such person's ownership or control of any other cable system in such jurisdiction; or (2) in circumstances in which the State or franchising authority determines that the acquisition of such a cable system may eliminate or reduce competition in the delivery of cable service in such jurisdiction.".

(c) COMMISSION REGULATIONS.—Section 613 of the Communications Act of 1934 (47 U.S.C. 533) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f)(1) In order to enhance effective competition, the Commission shall, within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, conduct a proceeding—

"(A) to prescribe rules and regulations establishing reasonable limits on the number of cable subscribers a person is authorized to reach through cable systems owned by such person, or in which such person has an attributable interest;

"(B) to prescribe rules and regulations establishing reasonable limits on the number of channels on a cable system that can be occupied by a video programmer in which a cable operator has an attributable interest; and

"(C) to consider the necessity and appropriateness of imposing limitations on the degree to which multichannel video programming distributors may engage in the creation or production of video programming.

"(2) In prescribing rules and regulations under paragraph (1), the Commission shall, among other public interest objectives—

"(A) ensure that no cable operator or group of cable operators can unfairly impede, either because of the size of any individual operator or because of joint actions by a group of operators of sufficient size, the flow of video programming from the video programmer to the consumer;

"(B) ensure that cable operators affiliated with video programmers do not favor such programmers in determining carriage on their cable systems or do not unreasonably restrict

the flow of the video programming of such programmers to other video distributors;

"(C) take particular account of the market structure, ownership patterns, and other relationships of the cable television industry, including the nature and market power of the local franchise, the joint ownership of cable systems and video programmers, and the various types of non-equity controlling interests;

"(D) account for any efficiencies and other benefits that might be gained through increased ownership or control;

"(E) make such rules and regulations reflect the dynamic nature of the communications marketplace;

"(F) not impose limitations which would bar cable operators from serving previously unserved rural areas; and

"(G) not impose limitations which would impair the development of diverse and high quality video programming.".

SEC. 12. REGULATION OF CARRIAGE AGREEMENTS.

Part II of title VI of the Communications Act of 1934 is amended by inserting after section 615 (as added by section 5 of this Act) the following new section:

47 USC 536.

"SEC. 616. REGULATION OF CARRIAGE AGREEMENTS.

"(a) REGULATIONS.—Within one year after the date of enactment of this section, the Commission shall establish regulations governing program carriage agreements and related practices between cable operators or other multichannel video programming distributors and video programming vendors. Such regulations shall—

"(1) include provisions designed to prevent a cable operator or other multichannel video programming distributor from requiring a financial interest in a program service as a condition for carriage on one or more of such operator's systems;

"(2) include provisions designed to prohibit a cable operator or other multichannel video programming distributor from coercing a video programming vendor to provide, and from retaliating against such a vendor for failing to provide, exclusive rights against other multichannel video programming distributors as a condition of carriage on a system;

"(3) contain provisions designed to prevent a multichannel video programming distributor from engaging in conduct the effect of which is to unreasonably restrain the ability of an unaffiliated video programming vendor to compete fairly by discriminating in video programming distribution on the basis of affiliation or nonaffiliation of vendors in the selection, terms, or conditions for carriage of video programming provided by such vendors;

"(4) provide for expedited review of any complaints made by a video programming vendor pursuant to this section;

"(5) provide for appropriate penalties and remedies for violations of this subsection, including carriage; and

"(6) provide penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(b) DEFINITION.—As used in this section, the term 'video programming vendor' means a person engaged in the production, creation, or wholesale distribution of video programming for sale.".

SEC. 13. SALES OF CABLE SYSTEMS.

Part II of title VI of the Communications Act of 1934 is further amended by adding at the end thereof the following new section:

"SEC. 617. SALES OF CABLE SYSTEMS. 47 USC 537.

"(a) 3-YEAR HOLDING PERIOD REQUIRED.—Except as provided in this section, no cable operator may sell or otherwise transfer ownership in a cable system within a 36-month period following either the acquisition or initial construction of such system by such operator.

"(b) TREATMENT OF MULTIPLE TRANSFERS.—In the case of a sale of multiple systems, if the terms of the sale require the buyer to subsequently transfer ownership of one or more such systems to one or more third parties, such transfers shall be considered a part of the initial transaction.

"(c) EXCEPTIONS.—Subsection (a) shall not apply to—

"(1) any transfer of ownership interest in any cable system which is not subject to Federal income tax liability;

"(2) any sale required by operation of any law or any act of any Federal agency, any State or political subdivision thereof, or any franchising authority; or

"(3) any sale, assignment, or transfer, to one or more purchasers, assignees, or transferees controlled by, controlling, or under common control with, the seller, assignor, or transferor.

"(d) WAIVER AUTHORITY.—The Commission may, consistent with the public interest, waive the requirement of subsection (a), except that, if the franchise requires franchise authority approval of a transfer, the Commission shall not waive such requirements unless the franchise authority has approved the transfer. The Commission shall use its authority under this subsection to permit appropriate transfers in the cases of default, foreclosure, or other financial distress.

"(e) LIMITATION ON DURATION OF FRANCHISING AUTHORITY POWER TO DISAPPROVE TRANSFERS.—In the case of any sale or transfer of ownership of any cable system after the 36-month period following acquisition of such system, a franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.".

SEC. 14. SUBSCRIBER BILL ITEMIZATION.

Section 622(c) of the Communications Act of 1934 (47 U.S.C. 542(c)) is amended to read as follows:

"(c) Each cable operator may identify, consistent with the regulations prescribed by the Commission pursuant to section 623, as a separate line item on each regular bill of each subscriber, each of the following:

"(1) The amount of the total bill assessed as a franchise fee and the identity of the franchising authority to which the fee is paid.

"(2) The amount of the total bill assessed to satisfy any requirements imposed on the cable operator by the franchise

agreement to support public, educational, or governmental channels or the use of such channels.

"(3) The amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental authority on the transaction between the operator and the subscriber.".

SEC. 15. NOTICE TO CABLE SUBSCRIBERS ON UNSOLICITED SEXUALLY EXPLICIT PROGRAMS.

Section 624(d) of the Communications Act of 1934 (47 U.S.C. 544(d)) is amended by adding at the end the following new paragraph:

"(3)(A) If a cable operator provides a premium channel without charge to cable subscribers who do not subscribe to such premium channel, the cable operator shall, not later than 30 days before such premium channel is provided without charge—

"(i) notify all cable subscribers that the cable operator plans to provide a premium channel without charge;

"(ii) notify all cable subscribers when the cable operator plans to offer a premium channel without charge;

"(iii) notify all cable subscribers that they have a right to request that the channel carrying the premium channel be blocked; and

"(iv) block the channel carrying the premium channel upon the request of a subscriber.

"(B) For the purpose of this section, the term 'premium channel' shall mean any pay service offered on a per channel or per program basis, which offers movies rated by the Motion Picture Association of America as X, NC–17, or R.".

SEC. 16. TECHNICAL STANDARDS; EMERGENCY ANNOUNCEMENTS; PROGRAMMING CHANGES; HOME WIRING.

(a) TECHNICAL STANDARDS.—Section 624(e) of the Communications Act of 1934 (47 U.S.C. 544(e)) is amended to read as follows:

Regulations.

"(e) Within one year after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, the Commission shall prescribe regulations which establish minimum technical standards relating to cable systems' technical operation and signal quality. The Commission shall update such standards periodically to reflect improvements in technology. A franchising authority may require as part of a franchise (including a modification, renewal, or transfer thereof) provisions for the enforcement of the standards prescribed under this subsection. A franchising authority may apply to the Commission for a waiver to impose standards that are more stringent than the standards prescribed by the Commission under this subsection.".

(b) EMERGENCY ANNOUNCEMENTS.—Section 624 of such Act (47 U.S.C. 544) is amended by adding at the end the following new subsection:

"(g) Notwithstanding any such rule, regulation, or order, each cable operator shall comply with such standards as the Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations in subpart G of part 73, title 47, Code of Federal Regulations.".

(c) PROGRAMMING CHANGES.—Section 624 of such Act (47 U.S.C. 544) is further amended—

(1) in subsection (b)(1), by inserting ", except as provided in subsection (h)," after "but may not"; and

(2) by adding at the end the following new subsection:

"(h) A franchising authority may require a cable operator to do any one or more of the following:

"(1) Provide 30 days' advance written notice of any change in channel assignment or in the video programming service provided over any such channel.

"(2) Inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority.".

(d) HOME WIRING.—Section 624 of such Act (47 U.S.C. 544) is further amended by adding at the end the following new subsection:

"(i) Within 120 days after the date of enactment of this subsection, the Commission shall prescribe rules concerning the disposition, after a subscriber to a cable system terminates service, of any cable installed by the cable operator within the premises of such subscriber.". Regulations.

SEC. 17. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY.

The Communications Act of 1934 is amended by adding after section 624 (47 U.S.C. 544) the following new section:

"SEC. 624A. CONSUMER ELECTRONICS EQUIPMENT COMPATIBILITY. 47 USC 544a.

"(a) FINDINGS.—The Congress finds that—

"(1) new and recent models of television receivers and video cassette recorders often contain premium features and functions that are disabled or inhibited because of cable scrambling, encoding, or encryption technologies and devices, including converter boxes and remote control devices required by cable operators to receive programming;

"(2) if these problems are allowed to persist, consumers will be less likely to purchase, and electronics equipment manufacturers will be less likely to develop, manufacture, or offer for sale, television receivers and video cassette recorders with new and innovative features and functions; and

"(3) cable operators should use technologies that will prevent signal thefts while permitting consumers to benefit from such features and functions in such receivers and recorders.

"(b) COMPATIBLE INTERFACES.—

"(1) REPORT; REGULATIONS.—Within 1 year after the date of enactment of this section, the Commission, in consultation with representatives of the cable industry and the consumer electronics industry, shall report to Congress on means of assuring compatibility between televisions and video cassette recorders and cable systems, consistent with the need to prevent theft of cable service, so that cable subscribers will be able to enjoy the full benefit of both the programming available on cable systems and the functions available on their televisions and video cassette recorders. Within 180 days after the date of submission of the report required by this subsection, the Commission shall issue such regulations as are necessary to assure such compatibility.

"(2) SCRAMBLING AND ENCRYPTION.—In issuing the regulations referred to in paragraph (1), the Commission shall determine whether and, if so, under what circumstances to permit cable systems to scramble or encrypt signals or to restrict

cable systems in the manner in which they encrypt or scramble signals, except that the Commission shall not limit the use of scrambling or encryption technology where the use of such technology does not interfere with the functions of subscribers' television receivers or video cassette recorders.

"(c) RULEMAKING REQUIREMENTS.—

"(1) FACTORS TO BE CONSIDERED.—In prescribing the regulations required by this section, the Commission shall consider—

"(A) the costs and benefits to consumers of imposing compatibility requirements on cable operators and television manufacturers in a manner that, while providing effective protection against theft or unauthorized reception of cable service, will minimize interference with or nullification of the special functions of subscribers' television receivers or video cassette recorders, including functions that permit the subscriber—

"(i) to watch a program on one channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(ii) to use a video cassette recorder to tape two consecutive programs that appear on different channels; and

"(iii) to use advanced television picture generation and display features; and

"(B) the need for cable operators to protect the integrity of the signals transmitted by the cable operator against theft or to protect such signals against unauthorized reception.

"(2) REGULATIONS REQUIRED.—The regulations prescribed by the Commission under this section shall include such regulations as are necessary—

"(A) to specify the technical requirements with which a television receiver or video cassette recorder must comply in order to be sold as 'cable compatible' or 'cable ready';

"(B) to require cable operators offering channels whose reception requires a converter box—

"(i) to notify subscribers that they may be unable to benefit from the special functions of their television receivers and video cassette recorders, including functions that permit subscribers—

"(I) to watch a program on one channel while simultaneously using a video cassette recorder to tape a program on another channel;

"(II) to use a video cassette recorder to tape two consecutive programs that appear on different channels; and

"(III) to use advanced television picture generation and display features; and

"(ii) to the extent technically and economically feasible, to offer subscribers the option of having all other channels delivered directly to the subscribers' television receivers or video cassette recorders without passing through the converter box;

"(C) to promote the commercial availability, from cable operators and retail vendors that are not affiliated with

cable systems, of converter boxes and of remote control devices compatible with converter boxes;

"(D) to require a cable operator who offers subscribers the option of renting a remote control unit—

"(i) to notify subscribers that they may purchase a commercially available remote control device from any source that sells such devices rather than renting it from the cable operator; and

"(ii) to specify the types of remote control units that are compatible with the converter box supplied by the cable operator; and

"(E) to prohibit a cable operator from taking any action that prevents or in any way disables the converter box supplied by the cable operator from operating compatibly with commercially available remote control units.

"(d) REVIEW OF REGULATIONS.—The Commission shall periodically review and, if necessary, modify the regulations issued pursuant to this section in light of any actions taken in response to such regulations and to reflect improvements and changes in cable systems, television receivers, video cassette recorders, and similar technology.".

SEC. 18. FRANCHISE RENEWAL.

(a) COMMENCEMENT OF PROCEEDINGS.—Section 626(a) of the Communications Act of 1934 (47 U.S.C. 546(a)) is amended to read as follows:

"SEC. 626. (a)(1) A franchising authority may, on its own initiative during the 6-month period which begins with the 36th month before the franchise expiration, commence a proceeding which affords the public in the franchise area appropriate notice and participation for the purpose of (A) identifying the future cable-related community needs and interests, and (B) reviewing the performance of the cable operator under the franchise during the then current franchise term. If the cable operator submits, during such 6-month period, a written renewal notice requesting the commencement of such a proceeding, the franchising authority shall commence such a proceeding not later than 6 months after the date such notice is submitted.

"(2) The cable operator may not invoke the renewal procedures set forth in subsections (b) through (g) unless—

"(A) such a proceeding is requested by the cable operator by timely submission of such notice; or

"(B) such a proceeding is commenced by the franchising authority on its own initiative.".

(b) PROCEEDING ON RENEWAL PROPOSAL.—Section 626(c)(1) of the Communications Act of 1934 (47 U.S.C. 546(c)(1)) is amended—

(1) by inserting "pursuant to subsection (b)" after "renewal of a franchise"; and

(2) by striking "completion of any proceedings under subsection (a)" and inserting the following: "date of the submission of the cable operator's proposal pursuant to subsection (b)".

(c) REVIEW CRITERIA.—Section 626(c)(1)(B) of the Communications Act of 1934 (47 U.S.C. 546(c)(1)(B)) is amended by striking "mix, quality, or level" and inserting "mix or quality".

(d) CORRECTION OF FAILURES.—Section 626(d) of the Communications Act of 1934 (47 U.S.C. 546(d)) is amended—

(1) by inserting "that has been submitted in compliance with subsection (b)" after "Any denial of a proposal for renewal"; and

(2) by striking "or has effectively acquiesced" and inserting "or the cable operator gives written notice of a failure or inability to cure and the franchising authority fails to object within a reasonable time after receipt of such notice".

(e) HARMLESS ERROR.— Section 626(e)(2)(A) of the Communications Act of 1934 (47 U.S.C. 546(e)(2)(A)) is amended by inserting after "franchising authority" the following: ", other than harmless error,".

(f) CONFLICT BETWEEN REVOCATION AND RENEWAL PROCEEDINGS.—Section 626 of the Communications Act of 1934 (47 U.S.C. 546) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the provisions of subsections (a) through (h), any lawful action to revoke a cable operator's franchise for cause shall not be negated by the subsequent initiation of renewal proceedings by the cable operator under this section.".

SEC. 19. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

Part III of title VI of the Communications Act of 1934 is amended by inserting after section 627 (47 U.S.C. 547) the following new section:

47 USC 548.

"SEC. 628. DEVELOPMENT OF COMPETITION AND DIVERSITY IN VIDEO PROGRAMMING DISTRIBUTION.

"(a) PURPOSE.—The purpose of this section is to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market, to increase the availability of satellite cable programming and satellite broadcast programming to persons in rural and other areas not currently able to receive such programming, and to spur the development of communications technologies.

"(b) PROHIBITION.—It shall be unlawful for a cable operator, a satellite cable programming vendor in which a cable operator has an attributable interest, or a satellite broadcast programming vendor to engage in unfair methods of competition or unfair or deceptive acts or practices, the purpose or effect of which is to hinder significantly or to prevent any multichannel video programming distributor from providing satellite cable programming or satellite broadcast programming to subscribers or consumers.

"(c) REGULATIONS REQUIRED.—

"(1) PROCEEDING REQUIRED.—Within 180 days after the date of enactment of this section, the Commission shall, in order to promote the public interest, convenience, and necessity by increasing competition and diversity in the multichannel video programming market and the continuing development of communications technologies, prescribe regulations to specify particular conduct that is prohibited by subsection (b).

"(2) MINIMUM CONTENTS OF REGULATIONS.—The regulations to be promulgated under this section shall—

"(A) establish effective safeguards to prevent a cable operator which has an attributable interest in a satellite cable programming vendor or a satellite broadcast programming vendor from unduly or improperly influencing the decision of such vendor to sell, or the prices, terms, and conditions of sale of, satellite cable programming or satellite

broadcast programming to any unaffiliated multichannel video programming distributor;

"(B) prohibit discrimination by a satellite cable programming vendor in which a cable operator has an attributable interest or by a satellite broadcast programming vendor in the prices, terms, and conditions of sale or delivery of satellite cable programming or satellite broadcast programming among or between cable systems, cable operators, or other multichannel video programming distributors, or their agents or buying groups; except that such a satellite cable programming vendor in which a cable operator has an attributable interest or such a satellite broadcast programming vendor shall not be prohibited from—

"(i) imposing reasonable requirements for creditworthiness, offering of service, and financial stability and standards regarding character and technical quality;

"(ii) establishing different prices, terms, and conditions to take into account actual and reasonable differences in the cost of creation, sale, delivery, or transmission of satellite cable programming or satellite broadcast programming;

"(iii) establishing different prices, terms, and conditions which take into account economies of scale, cost savings, or other direct and legitimate economic benefits reasonably attributable to the number of subscribers served by the distributor; or

"(iv) entering into an exclusive contract that is permitted under subparagraph (D);

"(C) prohibit practices, understandings, arrangements, and activities, including exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor or satellite broadcast programming vendor, that prevent a multichannel video programming distributor from obtaining such programming from any satellite cable programming vendor in which a cable operator has an attributable interest or any satellite broadcast programming vendor in which a cable operator has an attributable interest for distribution to persons in areas not served by a cable operator as of the date of enactment of this section; and

"(D) with respect to distribution to persons in areas served by a cable operator, prohibit exclusive contracts for satellite cable programming or satellite broadcast programming between a cable operator and a satellite cable programming vendor in which a cable operator has an attributable interest or a satellite broadcast programming vendor in which a cable operator has an attributable interest, unless the Commission determines (in accordance with paragraph (4)) that such contract is in the public interest.

"(3) LIMITATIONS.—

"(A) GEOGRAPHIC LIMITATIONS.—Nothing in this section shall require any person who is engaged in the national or regional distribution of video programming to make such programming available in any geographic area beyond

which such programming has been authorized or licensed for distribution.

"(B) APPLICABILITY TO SATELLITE RETRANSMISSIONS.—Nothing in this section shall apply (i) to the signal of any broadcast affiliate of a national television network or other television signal that is retransmitted by satellite but that is not satellite broadcast programming, or (ii) to any internal satellite communication of any broadcast network or cable network that is not satellite broadcast programming.

"(4) PUBLIC INTEREST DETERMINATIONS ON EXCLUSIVE CONTRACTS.—In determining whether an exclusive contract is in the public interest for purposes of paragraph (2)(D), the Commission shall consider each of the following factors with respect to the effect of such contract on the distribution of video programming in areas that are served by a cable operator:

"(A) the effect of such exclusive contract on the development of competition in local and national multichannel video programming distribution markets;

"(B) the effect of such exclusive contract on competition from multichannel video programming distribution technologies other than cable;

"(C) the effect of such exclusive contract on the attraction of capital investment in the production and distribution of new satellite cable programming;

"(D) the effect of such exclusive contract on diversity of programming in the multichannel video programming distribution market; and

"(E) the duration of the exclusive contract.

"(5) SUNSET PROVISION.—The prohibition required by paragraph (2)(D) shall cease to be effective 10 years after the date of enactment of this section, unless the Commission finds, in a proceeding conducted during the last year of such 10-year period, that such prohibition continues to be necessary to preserve and protect competition and diversity in the distribution of video programming.

"(d) ADJUDICATORY PROCEEDING.—Any multichannel video programming distributor aggrieved by conduct that it alleges constitutes a violation of subsection (b), or the regulations of the Commission under subsection (c), may commence an adjudicatory proceeding at the Commission.

"(e) REMEDIES FOR VIOLATIONS.—

"(1) REMEDIES AUTHORIZED.—Upon completion of such adjudicatory proceeding, the Commission shall have the power to order appropriate remedies, including, if necessary, the power to establish prices, terms, and conditions of sale of programming to the aggrieved multichannel video programming distributor.

"(2) ADDITIONAL REMEDIES.—The remedies provided in paragraph (1) are in addition to and not in lieu of the remedies available under title V or any other provision of this Act.

Regulations.

"(f) PROCEDURES.—The Commission shall prescribe regulations to implement this section. The Commission's regulations shall—

"(1) provide for an expedited review of any complaints made pursuant to this section;

"(2) establish procedures for the Commission to collect such data, including the right to obtain copies of all contracts and documents reflecting arrangements and understandings alleged

to violate this section, as the Commission requires to carry out this section; and

"(3) provide for penalties to be assessed against any person filing a frivolous complaint pursuant to this section.

"(g) REPORTS.—The Commission shall, beginning not later than 18 months after promulgation of the regulations required by subsection (c), annually report to Congress on the status of competition in the market for the delivery of video programming.

"(h) EXEMPTIONS FOR PRIOR CONTRACTS.—

"(1) IN GENERAL.—Nothing in this section shall affect any contract that grants exclusive distribution rights to any person with respect to satellite cable programming and that was entered into on or before June 1, 1990, except that the provisions of subsection (c)(2)(C) shall apply for distribution to persons in areas not served by a cable operator.

"(2) LIMITATION ON RENEWALS.—A contract that was entered into on or before June 1, 1990, but that is renewed or extended after the date of enactment of this section shall not be exempt under paragraph (1).

"(i) DEFINITIONS.—As used in this section:

"(1) The term 'satellite cable programming' has the meaning provided under section 705 of this Act, except that such term does not include satellite broadcast programming.

"(2) The term 'satellite cable programming vendor' means a person engaged in the production, creation, or wholesale distribution for sale of satellite cable programming, but does not include a satellite broadcast programming vendor.

"(3) The term 'satellite broadcast programming' means broadcast video programming when such programming is retransmitted by satellite and the entity retransmitting such programming is not the broadcaster or an entity performing such retransmission on behalf of and with the specific consent of the broadcaster.

"(4) The term 'satellite broadcast programming vendor' means a fixed service satellite carrier that provides service pursuant to section 119 of title 17, United States Code, with respect to satellite broadcast programming.".

SEC. 20. CUSTOMER PRIVACY RIGHTS.

(a) DEFINITIONS.—Section 631(a)(2) of the Communications Act of 1934 (47 U.S.C. 551(a)(2)) is amended to read as follows:

"(2) For purposes of this section, other than subsection (h)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a cable operator that are used in the provision of cable service; and

"(C) the term 'cable operator' includes, in addition to persons within the definition of cable operator in section 602, any person who (i) is owned or controlled by, or under common ownership or control with, a cable operator, and (ii) provides any wire or radio communications service.".

(b) ADDITIONAL ACTIONS REQUIRED.—Section 631(c)(1) of the Communications Act of 1934 (47 U.S.C. 551(c)(1)) is amended by inserting immediately before the period at the end the following:

"and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or cable operator".

SEC. 21. THEFT OF CABLE SERVICE.

47 USC 553.

Section 633(b) of the Communications Act of 1934 (47 U.S.C. 533(b)) is amended—

(1) in paragraph (2)—

(A) by striking "$25,000" and inserting "$50,000";

(B) by striking "1 year" and inserting "2 years";

(C) by striking "$50,000" and inserting "$100,000"; and

(D) by striking "2 years" and inserting "5 years"; and

(2) by adding at the end thereof the following new paragraph:

"(3) For purposes of all penalties and remedies established for violations of subsection (a)(1), the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

Minorities.
Women.
47 USC 554 note.

SEC. 22. EQUAL EMPLOYMENT OPPORTUNITY.

(a) FINDINGS.—The Congress finds and declares that—

(1) despite the existence of regulations governing equal employment opportunity, females and minorities are not employed in significant numbers in positions of management authority in the cable and broadcast television industries;

(2) increased numbers of females and minorities in positions of management authority in the cable and broadcast television industries advances the Nation's policy favoring diversity in the expression of views in the electronic media; and

(3) rigorous enforcement of equal employment opportunity rules and regulations is required in order to effectively deter racial and gender discrimination.

(b) STANDARDS.—Section 634(d)(1) of the Communications Act of 1934 (47 U.S.C. 554(d)(1)) is amended to read as follows:

Regulations.

"(d)(1) Not later than 270 days after the date of enactment of the Cable Television Consumer Protection and Competition Act of 1992, and after notice and opportunity for hearing, the Commission shall prescribe revisions in the rules under this section in order to implement the amendments made to this section by such Act. Such revisions shall be designed to promote equality of employment opportunities for females and minorities in each of the job categories itemized in paragraph (3).".

(c) CONTENTS OF ANNUAL STATISTICAL REPORTS.—Section 634(d)(3) of the Communications Act of 1934 (47 U.S.C. 554(d)(3)) is amended to read as follows:

"(3)(A) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race, sex, and job title the number of employees in each of the following full-time and part-time job categories:

"(i) Corporate officers.
"(ii) General Manager.
"(iii) Chief Technician.
"(iv) Comptroller.
"(v) General Sales Manager.
"(vi) Production Manager.
"(vii) Managers.
"(viii) Professionals.

"(ix) Technicians.
"(x) Sales Personnel.
"(xi) Office and Clerical Personnel.
"(xii) Skilled Craftspersons.
"(xiii) Semiskilled Operatives.
"(xiv) Unskilled Laborers.
"(xv) Service Workers.

"(B) The report required by subparagraph (A) shall be made on separate forms, provided by the Commission, for full-time and part-time employees. The Commission's rules shall sufficiently define the job categories listed in clauses (i) through (vi) of such subparagraph so as to ensure that only employees who are principal decisionmakers and who have supervisory authority are reported for such categories. The Commission shall adopt rules that define the job categories listed in clauses (vii) through (xv) in a manner that is consistent with the Commission policies in effect on June 1, 1990. The Commission shall prescribe the method by which entities shall be required to compute and report the number of minorities and women in the job categories listed in clauses (i) through (x) and the number of minorities and women in the job categories listed in clauses (i) through (xv) in proportion to the total number of qualified minorities and women in the relevant labor market. The report shall include information on hiring, promotion, and recruitment practices necessary for the Commission to evaluate the efforts of entities to comply with the provisions of paragraph (2) of this subsection. The report shall be available for public inspection at the entity's central location and at every location where 5 or more full-time employees are regularly assigned to work. Nothing in this subsection shall be construed as prohibiting the Commission from collecting or continuing to collect statistical or other employment information in a manner that it deems appropriate to carry out this section.".

(d) PENALTIES.—Section 634(f)(2) of such Act (47 U.S.C. 554(f)(2)) is amended by striking "$200" and inserting "$500".

(e) APPLICATION OF REQUIREMENTS.—Section 634(h)(1) of such Act (47 U.S.C. 554(h)(1)) is amended by inserting before the period the following: "and any multichannel video programming distributor".

(f) BROADCASTING EQUAL EMPLOYMENT OPPORTUNITY.—Part I of title III of the Communications Act of 1934 is amended by inserting after section 333 (47 U.S.C. 333) the following new section:

"SEC. 334. LIMITATION ON REVISION OF EQUAL EMPLOYMENT OPPORTUNITY REGULATIONS. 47 USC 334.

"(a) LIMITATION.—Except as specifically provided in this section, the Commission shall not revise—

"(1) the regulations concerning equal employment opportunity as in effect on September 1, 1992 (47 C.F.R. 73.2080) as such regulations apply to television broadcast station licensees and permittees; or

"(2) the forms used by such licensees and permittees to report pertinent employment data to the Commission.

"(b) MIDTERM REVIEW.—The Commission shall revise the regulations described in subsection (a) to require a midterm review of television broadcast station licensees' employment practices and to require the Commission to inform such licensees of necessary

improvements in recruitment practices identified as a consequence of such review.

"(c) AUTHORITY TO MAKE TECHNICAL REVISIONS.—The Commission may revise the regulations described in subsection (a) to make nonsubstantive technical or clerical revisions in such regulations as necessary to reflect changes in technology, terminology, or Commission organization.".

47 USC 544 note.

(g) STUDY AND REPORT REQUIRED.—Not later than 2 years after the date of enactment of this Act, the Commission shall submit to the Congress a report pursuant to a proceeding to review and obtain public comment on the effect and operation of the amendments made by this section. In conducting such review, the Commission shall consider the effectiveness of its procedures, regulations, policies, standards, and guidelines in promoting equality of employment opportunity and promotion opportunity, and particularly the effectiveness of its procedures, regulations, policies, standards, and guidelines in promoting the congressional policy favoring increased employment opportunity for women and minorities in positions of management authority. The Commission shall forward to the Congress such legislative recommendations to improve equal employment opportunity in the broadcasting and cable industries as it deems necessary.

SEC. 23. JUDICIAL REVIEW.

Section 635 of the Communications Act of 1934 (47 U.S.C. 555) is amended by adding at the end the following new subsection:

"(c)(1) Notwithstanding any other provision of law, any civil action challenging the constitutionality of section 614 or 615 of this Act or any provision thereof shall be heard by a district court of three judges convened pursuant to the provisions of section 2284 of title 28, United States Code.

"(2) Notwithstanding any other provision of law, an interlocutory or final judgment, decree, or order of the court of three judges in an action under paragraph (1) holding section 614 or 615 of this Act or any provision thereof unconstitutional shall be reviewable as a matter of right by direct appeal to the Supreme Court. Any such appeal shall be filed not more than 20 days after entry of such judgment, decree, or order.".

SEC. 24. LIMITATION ON FRANCHISING AUTHORITY LIABILITY.

(a) AMENDMENT.—Part IV of title VI of the Communications Act of 1934 is amended by inserting after section 635 (47 U.S.C. 555) the following new section:

47 USC 555a.

"SEC. 635A. LIMITATION OF FRANCHISING AUTHORITY LIABILITY.

"(a) SUITS FOR DAMAGES PROHIBITED.—In any court proceeding pending on or initiated after the date of enactment of this section involving any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, arising from the regulation of cable service or from a decision of approval or disapproval with respect to a grant, renewal, transfer, or amendment of a franchise, any relief, to the extent such relief is required by any other provision of Federal, State, or local law, shall be limited to injunctive relief and declaratory relief.

"(b) EXCEPTION FOR COMPLETED CASES.—The limitation contained in subsection (a) shall not apply to actions that, prior to such violation, have been determined by a final order of a court

of binding jurisdiction, no longer subject to appeal, to be in violation of a cable operator's rights.

"(c) DISCRIMINATION CLAIMS PERMITTED.—Nothing in this section shall be construed as limiting the relief authorized with respect to any claim against a franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity, to the extent such claim involves discrimination on the basis of race, color, sex, age, religion, national origin, or handicap.

"(d) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as creating or authorizing liability of any kind, under any law, for any action or failure to act relating to cable service or the granting of a franchise by any franchising authority or other governmental entity, or any official, member, employee, or agent of such authority or entity.".

(b) CONFORMING AMENDMENT.—Section 635(b) of the Communications Act of 1934 (47 U.S.C. 555(b)) is amended by inserting "and with the provisions of subsection (a)" after "subsection (a)".

SEC. 25. DIRECT BROADCAST SATELLITE SERVICE OBLIGATIONS.

(a) AMENDMENT.—Part I of title III of the Communications Act of 1934 is further amended by inserting after section 334 (as added by section 22(f) of this Act) the following new section:

"SEC. 335. DIRECT BROADCAST SATELLITE SERVICE OBLIGATIONS. 47 USC 335.

"(a) PROCEEDING REQUIRED TO REVIEW DBS RESPONSIBILITIES.—The Commission shall, within 180 days after the date of enactment of this section, initiate a rulemaking proceeding to impose, on providers of direct broadcast satellite service, public interest or other requirements for providing video programming. Any regulations prescribed pursuant to such rulemaking shall, at a minimum, apply the access to broadcast time requirement of section 312(a)(7) and the use of facilities requirements of section 315 to providers of direct broadcast satellite service providing video programming. Such proceeding also shall examine the opportunities that the establishment of direct broadcast satellite service provides for the principle of localism under this Act, and the methods by which such principle may be served through technological and other developments in, or regulation of, such service.

"(b) CARRIAGE OBLIGATIONS FOR NONCOMMERCIAL, EDUCATIONAL, AND INFORMATIONAL PROGRAMMING.—

"(1) CHANNEL CAPACITY REQUIRED.—The Commission shall require, as a condition of any provision, initial authorization, or authorization renewal for a provider of direct broadcast satellite service providing video programming, that the provider of such service reserve a portion of its channel capacity, equal to not less than 4 percent nor more than 7 percent, exclusively for noncommercial programming of an educational or informational nature.

"(2) USE OF UNUSED CHANNEL CAPACITY.—A provider of such service may utilize for any purpose any unused channel capacity required to be reserved under this subsection pending the actual use of such channel capacity for noncommercial programming of an educational or informational nature.

"(3) PRICES, TERMS, AND CONDITIONS; EDITORIAL CONTROL.—A provider of direct broadcast satellite service shall meet the requirements of this subsection by making channel capacity available to national educational programming suppliers, upon reasonable prices, terms, and conditions, as determined by the

Commission under paragraph (4). The provider of direct broadcast satellite service shall not exercise any editorial control over any video programming provided pursuant to this subsection.

"(4) LIMITATIONS.—In determining reasonable prices under paragraph (3)—

"(A) the Commission shall take into account the nonprofit character of the programming provider and any Federal funds used to support such programming;

"(B) the Commission shall not permit such prices to exceed, for any channel made available under this subsection, 50 percent of the total direct costs of making such channel available; and

"(C) in the calculation of total direct costs, the Commission shall exclude—

"(i) marketing costs, general administrative costs, and similar overhead costs of the provider of direct broadcast satellite service; and

"(ii) the revenue that such provider might have obtained by making such channel available to a commercial provider of video programming.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'provider of direct broadcast satellite service' means—

"(i) a licensee for a Ku-band satellite system under part 100 of title 47 of the Code of Federal Regulations; or

"(ii) any distributor who controls a minimum number of channels (as specified by Commission regulation) using a Ku-band fixed service satellite system for the provision of video programming directly to the home and licensed under part 25 of title 47 of the Code of Federal Regulations.

"(B) The term 'national educational programming supplier' includes any qualified noncommercial educational television station, other public telecommunications entities, and public or private educational institutions.".

(b) TECHNICAL AMENDMENT.—Section 331 of such Act as added by Public Law 97-259 (47 U.S.C. 332) is redesignated as section 332.

47 USC 521 note.

SEC. 26. SPORTS PROGRAMMING MIGRATION STUDY AND REPORT.

(a) STUDY REQUIRED.—The Federal Communications Commission shall conduct an ongoing study on the carriage of local, regional, and national sports programming by broadcast stations, cable programming networks, and pay-per-view services. The study shall investigate and analyze, on a sport-by-sport basis, trends in the migration of such programming from carriage by broadcast stations to carriage over cable programming networks and pay-per-view systems, including the economic causes and the economic and social consequences of such trends.

(b) REPORT ON STUDY.—The Federal Communications Commission shall, on or before July 1, 1993, and July 1, 1994, submit an interim and a final report, respectively, on the results of the study required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such

reports shall include a statement of the results, on a sport-by-sport basis, of the analysis of the trends required by subsection (a) and such legislative or regulatory recommendations as the Commission considers appropriate.

(c) ANALYSIS OF PRECLUSIVE CONTRACTS REQUIRED.—

(1) ANALYSIS REQUIRED.—In conducting the study required by subsection (a), the Commission shall analyze the extent to which preclusive contracts between college athletic conferences and video programming vendors have artificially and unfairly restricted the supply of the sporting events of local colleges for broadcast on local television stations. In conducting such analysis, the Commission shall consult with the Attorney General to determine whether and to what extent such preclusive contracts are prohibited by existing statutes. The reports required by subsection (b) shall include separate statements of the results of the analysis required by this subsection, together with such recommendations for legislation as the Commission considers necessary and appropriate.

(2) DEFINITION.—For purposes of the subsection, the term "preclusive contract" includes any contract that prohibits—

(A) the live broadcast by a local television station of a sporting event of a local college team that is not carried, on a live basis, by any cable system within the local community served by such local television station; or

(B) the delayed broadcast by a local television station of a sporting event of a local college team that is not carried, on a live or delayed basis, by any cable system within the local community served by such local television station.

SEC. 27. APPLICABILITY OF ANTITRUST LAWS. 47 USC 521 note.

Nothing in this Act or the amendments made by this Act shall be construed to alter or restrict in any manner the applicability of any Federal or State antitrust law.

SEC. 28. EFFECTIVE DATE. 47 USC 325 note.

Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the date of enactment of this Act.

THOMAS S. FOLEY
Speaker of the House of Representatives.

ROBERT C. BYRD
President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,

October 5 (legislative day, September 30), 1992.

The Senate having proceeded to reconsider the bill (S. 12) entitled "An Act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

WALTER J. STEWART
Secretary.

I certify that this Act originated in the Senate.

WALTER J. STEWART
Secretary.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

October 5, 1992.

The House of Representatives having proceeded to reconsider the bill (S. 12) entitled "An Act to amend the Communications Act of 1934 to provide increased consumer protection and to promote increased competition in the cable television and related markets, and for other purposes", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

DONNALD K. ANDERSON
Clerk.

LEGISLATIVE HISTORY—S. 12 (H.R. 4850):

HOUSE REPORTS: Nos. 102-628 accompanying H.R. 4850 (Comm. on Energy and Commerce) and 102-862 (Comm. of Conference).
SENATE REPORTS: No. 102-92 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Jan. 27, 29-31, considered and passed Senate.
July 23, H.R. 4850 considered and passed House; S. 12, amended, passed in lieu.
Sept. 17, House agreed to conference report.
Sept. 21, 22, Senate considered and agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 3, Veto message.
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, Senate and House overrode veto.

Public Law 102-386
102d Congress

An Act

To amend the Solid Waste Disposal Act to clarify provisions concerning the application of certain requirements and sanctions to Federal facilities.

Oct. 6, 1992
[H.R. 2194]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental protection.

TITLE I—FEDERAL FACILITY COMPLIANCE ACT

Federal Facility Compliance Act of 1992.

SEC. 101. SHORT TITLE.

42 USC 6901 note.

This title may be cited as the "Federal Facility Compliance Act of 1992".

SEC. 102. APPLICATION OF CERTAIN PROVISIONS TO FEDERAL FACILITIES.

(a) IN GENERAL.—Section 6001 of the Solid Waste Disposal Act (42 U.S.C. 6961) is amended—

(1) by inserting "(a) IN GENERAL.—" after "6001.";

(2) in the first sentence, by inserting "and management" before "in the same manner";

(3) by inserting after the first sentence the following: "The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines, regardless of whether such penalties or fines are punitive or coercive in nature or are imposed for isolated, intermittent, or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this subsection include, but are not limited to, fees or charges assessed in connection with the processing and issuance of permits, renewal of permits, amendments to permits, review of plans, studies, and other documents, and inspection and monitoring of facilities, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local solid waste or hazardous waste regulatory program."; and

(4) by inserting after the second sentence the following: "No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local solid or hazardous waste law with respect to any act or omission within the scope of the official duties of the agent, employee, or officer. An agent, employee, or officer of the United States shall be subject to any criminal sanction

(including, but not limited to, any fine or imprisonment) under any Federal or State solid or hazardous waste law, but no department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government shall be subject to any such sanction.".

42 USC 6961.

(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—Such section is further amended by adding at the end the following new subsections:

"(b) ADMINISTRATIVE ENFORCEMENT ACTIONS.—(1) The Administrator may commence an administrative enforcement action against any department, agency, or instrumentality of the executive, legislative, or judicial branch of the Federal Government pursuant to the enforcement authorities contained in this Act. The Administrator shall initiate an administrative enforcement action against such a department, agency, or instrumentality in the same manner and under the same circumstances as an action would be initiated against another person. Any voluntary resolution or settlement of such an action shall be set forth in a consent order.

"(2) No administrative order issued to such a department, agency, or instrumentality shall become final until such department, agency, or instrumentality has had the opportunity to confer with the Administrator.

"(c) LIMITATION ON STATE USE OF FUNDS COLLECTED FROM FEDERAL GOVERNMENT.—Unless a State law in effect on the date of the enactment of the Federal Facility Compliance Act of 1992 or a State constitution requires the funds to be used in a different manner, all funds collected by a State from the Federal Government from penalties and fines imposed for violation of any substantive or procedural requirement referred to in subsection (a) shall be used by the State only for projects designed to improve or protect the environment or to defray the costs of environmental protection or enforcement.".

42 USC 6961 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as otherwise provided in paragraphs (2) and (3), the amendments made by subsection (a) shall take effect upon the date of the enactment of this Act.

(2) DELAYED EFFECTIVE DATE FOR CERTAIN MIXED WASTE.—Until the date that is 3 years after the date of the enactment of this Act, the waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act with respect to civil, criminal, and administrative penalties and fines (as added by the amendments made by subsection (a)) shall not apply to departments, agencies, and instrumentalities of the executive branch of the Federal Government for violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste that is not subject to an existing agreement, permit, or administrative or judicial order, so long as such waste is managed in compliance with all other applicable requirements.

(3) EFFECTIVE DATE FOR CERTAIN MIXED WASTE.—(A) Except as provided in subparagraph (B), after the date that is 3 years after the date of the enactment of this Act, the waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act with respect to civil, criminal, and administrative penalties and fines (as added by the amendments made by subsection (a)) shall apply to departments, agencies, and instrumentalities of the executive branch of the Federal Govern-

ment for violations of section 3004(j) of the Solid Waste Disposal Act involving storage of mixed waste.

(B) With respect to the Department of Energy, the waiver of sovereign immunity referred to in subparagraph (A) shall not apply after the date that is 3 years after the date of the enactment of this Act for violations of section 3004(j) of such Act involving storage of mixed waste, so long as the Department of Energy is in compliance with both—

(i) a plan that has been submitted and approved pursuant to section 3021(b) of the Solid Waste Disposal Act and which is in effect; and

(ii) an order requiring compliance with such plan which has been issued pursuant to such section 3021(b) and which is in effect.

(4) APPLICATION OF WAIVER TO AGREEMENTS AND ORDERS.—The waiver of sovereign immunity contained in section 6001(a) of the Solid Waste Disposal Act (as added by the amendments made by subsection (a)) shall take effect on the date of the enactment of this Act with respect to any agreement, permit, or administrative or judicial order existing on such date of enactment (and any subsequent modifications to such an agreement, permit, or order), including, without limitation, any provision of an agreement, permit, or order that addresses compliance with section 3004(j) of such Act with respect to mixed waste.

(5) AGREEMENT OR ORDER.—Except as provided in paragraph (4), nothing in this Act shall be construed to alter, modify, or change in any manner any agreement, permit, or administrative or judicial order, including, without limitation, any provision of an agreement, permit, or order—

(i) that addresses compliance with section 3004(j) of the Solid Waste Disposal Act with respect to mixed waste;

(ii) that is in effect on the date of enactment of this Act; and

(iii) to which a department, agency, or instrumentality of the executive branch of the Federal Government is a party.

SEC. 103. DEFINITION OF PERSON.

Section 1004(15) of the Solid Waste Disposal Act (42 U.S.C. 6903(15)) is amended by adding the following before the period: "and shall include each department, agency, and instrumentality of the United States".

SEC. 104. FACILITY ENVIRONMENTAL ASSESSMENTS.

Section 3007(c) of the Solid Waste Disposal Act (42 U.S.C. 6927(c)) is amended as follows:

(1) The first sentence is amended by striking out "Beginning" and all that follows through "undertake" and inserting in lieu thereof "The Administrator shall undertake".

(2) The first sentence is further amended by striking out "Federal agency" and inserting in lieu thereof "department, agency, or instrumentality of the United States".

(3) The section is further amended by inserting after the first sentence the following new sentence: "Any State with an authorized hazardous waste program also may conduct an inspection of any such facility for purposes of enforcing the facility's compliance with the State hazardous waste program.".

(4) The section is further amended by adding at the end the following: "The department, agency, or instrumentality owning or operating each such facility shall reimburse the Environmental Protection Agency for the costs of the inspection of the facility. With respect to the first inspection of each such facility occurring after the date of the enactment of the Federal Facility Compliance Act of 1992, the Administrator shall conduct a comprehensive ground water monitoring evaluation at the facility, unless such an evaluation was conducted during the 12-month period preceding such date of enactment.".

SEC. 105. MIXED WASTE INVENTORY REPORTS AND PLAN.

(a) MIXED WASTE AMENDMENT.—(1) Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is amended by adding at the end the following new section:

42 USC 6939c.

"SEC. 3021. MIXED WASTE INVENTORY REPORTS AND PLAN.

"(a) MIXED WASTE INVENTORY REPORTS.—

"(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of the Federal Facility Compliance Act of 1992, the Secretary of Energy shall submit to the Administrator and to the Governor of each State in which the Department of Energy stores or generates mixed wastes the following reports:

"(A) A report containing a national inventory of all such mixed wastes, regardless of the time they were generated, on a State-by-State basis.

"(B) A report containing a national inventory of mixed waste treatment capacities and technologies.

"(2) INVENTORY OF WASTES.— The report required by paragraph (1)(A) shall include the following:

"(A) A description of each type of mixed waste at each Department of Energy facility in each State, including, at a minimum, the name of the waste stream.

"(B) The amount of each type of mixed waste currently stored at each Department of Energy facility in each State, set forth separately by mixed waste that is subject to the land disposal prohibition requirements of section 3004 and mixed waste that is not subject to such prohibition requirements.

"(C) An estimate of the amount of each type of mixed waste the Department expects to generate in the next 5 years at each Department of Energy facility in each State.

"(D) A description of any waste minimization actions the Department has implemented at each Department of Energy facility in each State for each mixed waste stream.

"(E) The EPA hazardous waste code for each type of mixed waste containing waste that has been characterized at each Department of Energy facility in each State.

"(F) An inventory of each type of waste that has not been characterized by sampling and analysis at each Department of Energy facility in each State.

"(G) The basis for the Department's determination of the applicable hazardous waste code for each type of mixed waste at each Department of Energy facility and a description of whether the determination is based on sampling

and analysis conducted on the waste or on the basis of process knowledge.

"(H) A description of the source of each type of mixed waste at each Department of Energy facility in each State.

"(I) The land disposal prohibition treatment technology or technologies specified for the hazardous waste component of each type of mixed waste at each Department of Energy facility in each State.

"(J) A statement of whether and how the radionuclide content of the waste alters or affects use of the technologies described in subparagraph (I).

"(3) INVENTORY OF TREATMENT CAPACITIES AND TECHNOLOGIES.—The report required by paragraph (1)(B) shall include the following:

"(A) An estimate of the available treatment capacity for each waste described in the report required by paragraph (1)(A) for which treatment technologies exist.

"(B) A description, including the capacity, number and location, of each treatment unit considered in calculating the estimate under subparagraph (A).

"(C) A description, including the capacity, number and location, of any existing treatment unit that was not considered in calculating the estimate under subparagraph (A) but that could, alone or in conjunction with other treatment units, be used to treat any of the wastes described in the report required by paragraph (1)(A) to meet the requirements of regulations promulgated pursuant to section 3004(m).

"(D) For each unit listed in subparagraph (C), a statement of the reasons why the unit was not included in calculating the estimate under subparagraph (A).

"(E) A description, including the capacity, number, location, and estimated date of availability, of each treatment unit currently proposed to increase the treatment capacities estimated under subparagraph (A).

"(F) For each waste described in the report required by paragraph (1)(A) for which the Department has determined no treatment technology exists, information sufficient to support such determination and a description of the technological approaches the Department anticipates will need to be developed to treat the waste.

"(4) COMMENTS AND REVISIONS.—Not later than 90 days after the date of the submission of the reports by the Secretary of Energy under paragraph (1), the Administrator and each State which received the reports shall submit any comments they may have concerning the reports to the Department of Energy. The Secretary of Energy shall consider and publish the comments prior to publication of the final report.

"(5) REQUESTS FOR ADDITIONAL INFORMATION.—Nothing in this subsection limits or restricts the authority of States or the Administrator to request additional information from the Secretary of Energy.

"(b) PLAN FOR DEVELOPMENT OF TREATMENT CAPACITIES AND TECHNOLOGIES.—

"(1) PLAN REQUIREMENT.—(A)(i) For each facility at which the Department of Energy generates or stores mixed wastes, except any facility subject to a permit, agreement, or order

described in clause (ii), the Secretary of Energy shall develop and submit, as provided in paragraph (2), a plan for developing treatment capacities and technologies to treat all of the facility's mixed wastes, regardless of the time they were generated, to the standards promulgated pursuant to section 3004(m).

"(ii) Clause (i) shall not apply with respect to any facility subject to any permit establishing a schedule for treatment of such wastes, or any existing agreement or administrative or judicial order governing the treatment of such wastes, to which the State is a party.

"(B) Each plan shall contain the following:

"(i) For mixed wastes for which treatment technologies exist, a schedule for submitting all applicable permit applications, entering into contracts, initiating construction, conducting systems testing, commencing operations, and processing backlogged and currently generated mixed wastes.

"(ii) For mixed wastes for which no treatment technologies exist, a schedule for identifying and developing such technologies, identifying the funding requirements for the identification and development of such technologies, submitting treatability study exemptions, and submitting research and development permit applications.

"(iii) For all cases where the Department proposes radionuclide separation of mixed wastes, or materials derived from mixed wastes, it shall provide an estimate of the volume of waste generated by each case of radionuclide separation, the volume of waste that would exist or be generated without radionuclide separation, the estimated costs of waste treatment and disposal if radionuclide separation is used compared to the estimated costs if it is not used, and the assumptions underlying such waste volume and cost estimates.

"(C) A plan required under this subsection may provide for centralized, regional, or on-site treatment of mixed wastes, or any combination thereof.

"(2) REVIEW AND APPROVAL OF PLAN.—(A) For each facility that is located in a State (i) with authority under State law to prohibit land disposal of mixed waste until the waste has been treated and (ii) with both authority under State law to regulate the hazardous components of mixed waste and authorization from the Environmental Protection Agency under section 3006 to regulate the hazardous components of mixed waste, the Secretary of Energy shall submit the plan required under paragraph (1) to the appropriate State regulatory officials for their review and approval, modification, or disapproval. In reviewing the plan, the State shall consider the need for regional treatment facilities. The State shall consult with the Administrator and any other State in which a facility affected by the plan is located and consider public comments in making its determination on the plan. The State shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

"(B) For each facility located in a State that does not have the authority described in subparagraph (A), the Secretary shall submit the plan required under paragraph (1) to the Administrator of the Environmental Protection Agency for

review and approval, modification, or disapproval. A copy of the plan also shall be provided by the Secretary to the State in which such facility is located. In reviewing the plan, the Administrator shall consider the need for regional treatment facilities. The Administrator shall consult with the State or States in which any facility affected by the plan is located and consider public comments in making a determination on the plan. The Administrator shall approve, approve with modifications, or disapprove the plan within 6 months after receipt of the plan.

"(C) Upon the approval of a plan under this paragraph by the Administrator or a State, the Administrator shall issue an order under section 3008(a), or the State shall issue an order under appropriate State authority, requiring compliance with the approved plan.

"(3) PUBLIC PARTICIPATION.—Upon submission of a plan by the Secretary of Energy to the Administrator or a State, and before approval of the plan by the Administrator or a State, the Administrator or State shall publish a notice of the availability of the submitted plan and make such submitted plan available to the public on request.

"(4) REVISIONS OF PLAN.—If any revisions of an approved plan are proposed by the Secretary of Energy or required by the Administrator or a State, the provisions of paragraphs (2) and (3) shall apply to the revisions in the same manner as they apply to the original plan.

"(5) WAIVER OF PLAN REQUIREMENT.—(A) A State may waive the requirement for the Secretary of Energy to develop and submit a plan under this subsection for a facility located in the State if the State (i) enters into an agreement with the Secretary of Energy that addresses compliance at that facility with section 3004(j) with respect to mixed waste, and (ii) issues an order requiring compliance with such agreement and which is in effect.

"(B) Any violation of an agreement or order referred to in subparagraph (A) is subject to the waiver of sovereign immunity contained in section 6001(a).

"(c) SCHEDULE AND PROGRESS REPORTS.—

"(1) SCHEDULE.—Not later than 6 months after the date of the enactment of the Federal Facility Compliance Act of 1992, the Secretary of Energy shall publish in the Federal Register a schedule for submitting the plans required under subsection (b). Federal Register, publication.

"(2) PROGRESS REPORTS.—(A) Not later than the deadlines specified in subparagraph (B), the Secretary of Energy shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Energy and Commerce of the House of Representatives a progress report containing the following:

"(i) An identification, by facility, of the plans that have been submitted to States or the Administrator of the Environmental Protection Agency pursuant to subsection (b).

"(ii) The status of State and Environmental Protection Agency review and approval of each such plan.

"(iii) The number of orders requiring compliance with such plans that are in effect.

"(iv) For the first 2 reports required under this paragraph, an identification of the plans required under such subsection (b) that the Secretary expects to submit in the 12-month period following submission of the report.

"(B) The Secretary of Energy shall submit a report under subparagraph (A) not later than 12 months after the date of the enactment of the Federal Facility Compliance Act of 1992, 24 months after such date, and 36 months after such date.".

(2) The table of contents for subtitle C of the Solid Waste Disposal Act (contained in section 1001) is amended by adding at the end the following new item:

"Sec. 3021. Mixed waste inventory reports and plan.".

(b) DEFINITION.—Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6902) is amended by adding at the end the following new paragraph:

42 USC 6903.

"(41) The term 'mixed waste' means waste that contains both hazardous waste and source, special nuclear, or by-product material subject to the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).".

(c) GAO REPORT.—

42 USC 6939c note.

(1) REQUIREMENT.—Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the Department of Energy's progress in complying with section 3021(b) of the Solid Waste Disposal Act.

(2) MATTERS TO BE INCLUDED.—The report required under paragraph (1) shall contain, at a minimum, the following:

(A) The Department of Energy's progress in submitting to the States or the Administrator of the Environmental Protection Agency a plan for each facility for which a plan is required under section 3021(b) of the Solid Waste Disposal Act and the status of State or Environmental Protection Agency review and approval of each such plan.

(B) The Department of Energy's progress in entering into orders requiring compliance with any such plans that have been approved.

(C) An evaluation of the completeness and adequacy of each such plan as of the date of submission of the report required under paragraph (1).

(D) An identification of any recurring problems among the Department of Energy's submitted plans.

(E) A description of treatment technologies and capacity that have been developed by the Department of Energy since the date of the enactment of this Act and a list of the wastes that are expected to be treated by such technologies and the facilities at which the wastes are generated or stored.

(F) The progress made by the Department of Energy in characterizing its mixed waste streams at each such facility by sampling and analysis.

(G) An identification and analysis of additional actions that the Department of Energy must take to—

(i) complete submission of all plans required under such section 3021(b) for all such facilities;

(ii) obtain the adoption of orders requiring compliance with all such plans; and

(iii) develop mixed waste treatment capacity and technologies.

SEC. 106. PUBLIC VESSELS.

(a) AMENDMENT.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is further amended by adding at the end the following new section:

"SEC. 3022. PUBLIC VESSELS. 42 USC 6939d.

"(a) WASTE GENERATED ON PUBLIC VESSELS.—Any hazardous waste generated on a public vessel shall not be subject to the storage, manifest, inspection, or recordkeeping requirements of this Act until such waste is transferred to a shore facility, unless—

"(1) the waste is stored on the public vessel for more than 90 days after the public vessel is placed in reserve or is otherwise no longer in service; or

"(2) the waste is transferred to another public vessel within the territorial waters of the United States and is stored on such vessel or another public vessel for more than 90 days after the date of transfer.

"(b) COMPUTATION OF STORAGE PERIOD.—For purposes of subsection (a), the 90-day period begins on the earlier of—

"(1) the date on which the public vessel on which the waste was generated is placed in reserve or is otherwise no longer in service; or

"(2) the date on which the waste is transferred from the public vessel on which the waste was generated to another public vessel within the territorial waters of the United States; and continues, without interruption, as long as the waste is stored on the original public vessel (if in reserve or not in service) or another public vessel.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'public vessel' means a vessel owned or bareboat chartered and operated by the United States, or by a foreign nation, except when the vessel is engaged in commerce.

"(2) The terms 'in reserve' and 'in service' have the meanings applicable to those terms under section 7293 and sections 7304 through 7308 of title 10, United States Code, and regulations prescribed under those sections.

"(d) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as altering or otherwise affecting the provisions of section 7311 of title 10, United States Code.".

(b) TECHNICAL AMENDMENT.—The table of contents for subtitle C of such Act (contained in section 1001) is further amended by adding at the end the following new item:

"Sec. 3022. Public vessels.".

SEC. 107. MUNITIONS.

Section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924) is amended by adding at the end the following new subsection:

"(y) MUNITIONS.—(1) Not later than 6 months after the date of the enactment of the Federal Facility Compliance Act of 1992, the Administrator shall propose, after consulting with the Secretary of Defense and appropriate State officials, regulations identifying Regulations.

when military munitions become hazardous waste for purposes of this subtitle and providing for the safe transportation and storage of such waste. Not later than 24 months after such date, and after notice and opportunity for comment, the Administrator shall promulgate such regulations. Any such regulations shall assure protection of human health and the environment.

"(2) For purposes of this subsection, the term 'military munitions' includes chemical and conventional munitions.".

SEC. 108. FEDERALLY OWNED TREATMENT WORKS.

(a) AMENDMENT.—Subtitle C of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.) is further amended by adding at the end the following new section:

42 USC 6939e.

"SEC. 3023. FEDERALLY OWNED TREATMENT WORKS.

"(a) IN GENERAL.—For purposes of section 1004(27), the phrase 'but does not include solid or dissolved material in domestic sewage' shall apply to any solid or dissolved material introduced by a source into a federally owned treatment works if—

"(1) such solid or dissolved material is subject to a pretreatment standard under section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317), and the source is in compliance with such standard;

"(2) for a solid or dissolved material for which a pretreatment standard has not been promulgated pursuant to section 307 of the Federal Water Pollution Control Act (33 U.S.C. 1317), the Administrator has promulgated a schedule for establishing such a pretreatment standard which would be applicable to such solid or dissolved material not later than 7 years after the date of enactment of this section, such standard is promulgated on or before the date established in the schedule, and after the effective date of such standard the source is in compliance with such standard;

"(3) such solid or dissolved material is not covered by paragraph (1) or (2) and is not prohibited from land disposal under subsections (d), (e), (f), or (g) of section 3004 because such material has been treated in accordance with section 3004(m); or

"(4) notwithstanding paragraphs (1), (2), or (3), such solid or dissolved material is generated by a household or person which generates less than 100 kilograms of hazardous waste per month unless such solid or dissolved material would otherwise be an acutely hazardous waste and subject to standards, regulations, or other requirements under this Act notwithstanding the quantity generated.

"(b) PROHIBITION.—It is unlawful to introduce into a federally owned treatment works any pollutant that is a hazardous waste.

"(c) ENFORCEMENT.—(1) Actions taken to enforce this section shall not require closure of a treatment works if the hazardous waste is removed or decontaminated and such removal or decontamination is adequate, in the discretion of the Administrator or, in the case of an authorized State, of the State, to protect human health and the environment.

"(2) Nothing in this subsection shall be construed to prevent the Administrator or an authorized State from ordering the closure of a treatment works if the Administrator or State determines such closure is necessary for protection of human health and the environment.

"(3) Nothing in this subsection shall be construed to affect any other enforcement authorities available to the Administrator or a State under this subtitle.

"(d) DEFINITION.—For purposes of this section, the term 'federally owned treatment works' means a facility that is owned and operated by a department, agency, or instrumentality of the Federal Government treating wastewater, a majority of which is domestic sewage, prior to discharge in accordance with a permit issued under section 402 of the Federal Water Pollution Control Act.

"(e) SAVINGS CLAUSE.—Nothing in this section shall be construed as affecting any agreement, permit, or administrative or judicial order, or any condition or requirement contained in such an agreement, permit, or order, that is in existence on the date of the enactment of this section and that requires corrective action or closure at a federally owned treatment works or solid waste management unit or facility related to such a treatment works.".

(b) TECHNICAL AMENDMENT.—The table of contents for subtitle C of such Act (contained in section 1001) is further amended by adding at the end the following new item:

"Sec. 3023. Federally owned treatment works.".

SEC. 109. SMALL TOWN ENVIRONMENTAL PLANNING. 42 USC 6908.

(a) ESTABLISHMENT.—The Administrator of the Environmental Protection Agency (hereafter referred to as the "Administrator") shall establish a program to assist small communities in planning and financing environmental facilities. The program shall be known as the "Small Town Environmental Planning Program".

(b) SMALL TOWN ENVIRONMENTAL PLANNING TASK FORCE.— Establishment.
(1) The Administrator shall establish a Small Town Environmental Planning Task Force which shall be composed of representatives of small towns from different areas of the United States, Federal and State governmental agencies, and public interest groups. The Administrator shall terminate the Task Force not later than 2 years after the establishment of the Task Force.

(2) The Task Force shall—

(A) identify regulations developed pursuant to Federal environmental laws which pose significant compliance problems for small towns;

(B) identify means to improve the working relationship between the Environmental Protection Agency (hereafter referred to as the Agency) and small towns;

(C) review proposed regulations for the protection of the environmental and public health and suggest revisions that could improve the ability of small towns to comply with such regulations;

(D) identify means to promote regionalization of environmental treatment systems and infrastructure serving small towns to improve the economic condition of such systems and infrastructure; and

(E) provide such other assistance to the Administrator as the Administrator deems appropriate.

(c) IDENTIFICATION OF ENVIRONMENTAL REQUIREMENTS.—(1) Not later than 6 months after the date of the enactment of this Act, the Administrator shall publish a list of requirements under Federal environmental and public health statutes (and the regulations developed pursuant to such statutes) applicable to small

towns. Not less than annually, the Administrator shall make such additions and deletions to and from the list as the Administrator deems appropriate.

(2) The Administrator shall, as part of the Small Town Environmental Planning Program under this section, implement a program to notify small communities of the regulations identified under paragraph (1) and of future regulations and requirements through methods that the Administrator determines to be effective to provide information to the greatest number of small communities, including any of the following:

(A) Newspapers and other periodicals.

(B) Other news media.

(C) Trade, municipal, and other associations that the Administrator determines to be appropriate.

(D) Direct mail.

Establishment.

(d) SMALL TOWN OMBUDSMAN.—The Administrator shall establish and staff an Office of the Small Town Ombudsman. The Office shall provide assistance to small towns in connection with the Small Town Environmental Planning Program and other business with the Agency. Each regional office shall identify a small town contact. The Small Town Ombudsman and the regional contacts also may assist larger communities, but only if first priority is given to providing assistance to small towns.

(e) MULTI-MEDIA PERMITS.—(1) The Administrator shall conduct a study of establishing a multi-media permitting program for small towns. Such evaluation shall include an analysis of—

(A) environmental benefits and liabilities of a multi-media permitting program;

(B) the potential of using such a program to coordinate a small town's environmental and public health activities; and

(C) the legal barriers, if any, to the establishment of such a program.

Reports.

(2) Within 3 years after the date of enactment of this Act, the Administrator shall report to Congress on the results of the evaluation performed in accordance with paragraph (1). Included in this report shall be a description of the activities conducted pursuant to subsections (a) through (d).

(f) DEFINITION.—For purposes of this section, the term "small town" means an incorporated or unincorporated community (as defined by the Administrator) with a population of less than 2,500 individuals.

(g) AUTHORIZATION.—There is authorized to be appropriated the sum of $500,000 to implement this section.

42 USC 6965.

SEC. 110. CHIEF FINANCIAL OFFICER REPORT.

The Chief Financial Officer of each affected agency shall submit to Congress an annual report containing, to the extent practicable, a detailed description of the compliance activities undertaken by the agency for mixed waste streams, and an accounting of the fines and penalties imposed on the agency for violations involving mixed waste.

TITLE II—METROPOLITAN WASHINGTON WASTE MANAGEMENT STUDY ACT

Metropolitan Washington Waste Management Study Act.

SEC. 201. SHORT TITLE.

This title may be cited as the "Metropolitan Washington Waste Management Study Act".

SEC. 202. FINDINGS.

The Congress finds that the I–95 Sanitary Landfill, in Lorton, Virginia, is located on Federal land, and the ultimate responsibility for maintaining environmental integrity at such landfill is on the Federal Government, as well as the signatories to the July 1981 I–95 Sanitary Landfill Memorandum of Understanding.

SEC. 203. ENVIRONMENTAL IMPACT STATEMENT

(a) ENVIRONMENTAL IMPACT STATEMENT.—Except as provided in subsection (b), in order to assure environmental integrity in and around properties owned by the Government of the United States, no expansion of the I–95 Sanitary Landfill shall be permitted or otherwise authorized unless—

(1) an environmental impact statement, pursuant to the National Environmental Policy Act, regarding any such proposed expansion has been completed and approved by the Administrator; and

(2) the costs incurred in conducting and completing such environmental impact statement are paid (A) from the landfill's so-called enterprise fund established pursuant to the July 1981 I–95 Sanitary Landfill Memorandum of Understanding, or (B) in accordance with some other payment formula based on past and projected percentage of the jurisdictional usage of the landfill.

(b) EXCEPTION.—(1) Notwithstanding subsection (a), the I–95 Sanitary Landfill may be expanded for the purpose of the ash monofill planned by the parties to the July 1981 I–95 Sanitary Landfill Memorandum of Understanding if such monofill, subject to paragraph (2), is used solely for the disposal of incinerator ash from such parties.

(2) The ash monofill referred to in paragraph (1) may be used for the disposal of solid waste for a maximum of 30 days whenever a resource recovery facility, or an incinerator and a resource recovery facility, operated for or by the parties to the July 1981 I–95 Sanitary Landfill Memorandum of Understanding is completely unavailable because of an emergency shutdown.

(c) LIMITATION.—After December 31, 1995, the I–95 Sanitary Landfill, including any expansions thereof, shall not be available to receive or dispose of municipal or industrial waste of any kind other than incinerator ash unless the conditions enumerated in subsection (a) are met.

(d) GENERAL.—Notwithstanding any other provision of this title, the parties of the July 1981 I–95 Sanitary Landfill Memorandum of Understanding, together with the Federal Government, shall continue to be responsible for maintaining environmental stability at the I–95 Sanitary Landfill, including any expansion, in accordance with applicable laws of the United States, the Commonwealth

of Virginia, and the local jurisdictions in which the I–95 Sanitary Landfill is located.

SEC. 204. DEFINITIONS.

For purposes of this title:

(1) The term "expansion" includes any development or use, after May 31, 1991, of any lands (other than those lands which were used as a landfill on or before May 31, 1991) owned by the Government of the United States in and around Lorton, Virginia, for the purpose of, or use as, a sanitary landfill in accordance with the July 1981 I–95 Sanitary Landfill Memorandum of Understanding. The term also includes variances or exemptions from any elevation requirements relating to landfill operations established by the laws of the Commonwealth of Virginia, or any subdivision thereof, in connection with any such lands used on or before May 31, 1991.

(2) The term "lands owned by the Government of the United States" includes any lands owned by the United States, and any such lands with respect to which the Government of the District of Columbia has beneficial ownership.

(3) The term "July 1981 I–95 Sanitary Landfill Memorandum of Understanding" means the document titled "Memorandum of Understanding I–95 Resource Recovery, Land Reclamation, and Recreation Complex" that was executed July 22, 1981, and subsequently amended by supplemental agreements executed before May 31, 1991.

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 2194 (S. 596):

HOUSE REPORTS: Nos. 102-111 (Comm. on Energy and Commerce) and 102-886 (Comm. of Conference).

SENATE REPORTS: No. 102-67 *accompanying* S. 596 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 137 (1991): June 24, considered and passed House.
Oct. 17, 22, S. 596 considered in Senate.
Oct. 24, H.R. 2194 considered and passed Senate, amended, in lieu of S. 596.

Vol. 138 (1992): Sept. 23, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 6, Presidential statement.

Public Law 102-387
102d Congress

Joint Resolution

Waiving certain enrollment requirements with respect to any appropriation bill for the remainder of the One Hundred Second Congress.

Oct. 6, 1992
[H.J. Res. 560]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any appropriation bill of the One Hundred Second Congress hereafter to be presented to the President. Such an enrollment shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment. As used in this resolution, the term "appropriation bill" means a bill or joint resolution making or continuing appropriations for the fiscal year ending September 30, 1993.

1 USC 106 note.

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.J. Res. 560:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 5, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-388
102d Congress

An Act

Oct. 6, 1992
[H.R. 5518]

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

Department of Transportation and Related Agencies Appropriations Act, 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

IMMEDIATE OFFICE OF THE SECRETARY

For necessary expenses of the Immediate Office of the Secretary, $1,435,000.

IMMEDIATE OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Immediate Office of the Deputy Secretary, $427,000.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $7,000,000.

OFFICE OF THE ASSISTANT SECRETARY FOR POLICY AND INTERNATIONAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Policy and International Affairs, $8,733,000.

OFFICE OF THE ASSISTANT SECRETARY FOR BUDGET AND PROGRAMS

For necessary expenses of the Office of the Assistant Secretary for Budget and Programs, $2,825,000, including not to exceed $40,000 for allocation within the Department for official reception and representation expenses as the Secretary may determine.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental Affairs, $2,320,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration, $31,268,000, of which $3,668,000 shall remain available until expended.

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Public Affairs, $1,546,000.

EXECUTIVE SECRETARIAT

For necessary expenses of the Executive Secretariat, $965,000.

CONTRACT APPEALS BOARD

For necessary expenses of the Contract Appeals Board, $590,000.

OFFICE OF CIVIL RIGHTS

For necessary expenses of the Office of Civil Rights, $1,462,000.

OFFICE OF ESSENTIAL AIR SERVICE

For necessary expenses of the Office of Essential Air Service, $1,545,000.

OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION

For necessary expenses of the Office of Small and Disadvantaged Business Utilization, $953,000: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

OFFICE OF INTELLIGENCE AND SECURITY

For necessary expenses of the Office of Intelligence and Security, $1,265,000.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, to remain available until expended, $3,025,000.

OFFICE OF COMMERCIAL SPACE TRANSPORTATION

OPERATIONS AND RESEARCH

For necessary expenses for operations and research activities related to commercial space transportation, $4,275,000, of which $1,200,000 shall remain available until expended: *Provided,* That notwithstanding any other provision of law, there may be credited to this account up to $300,000 received from user fees established for regulatory services.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $93,000,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation.

PAYMENTS TO AIR CARRIERS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $38,600,000, to remain available until expended and to be derived from the Airport and Airway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs in excess of $38,600,000 for the Payments to Air Carriers program in fiscal year 1993: *Provided further*, That none of the funds in this Act shall be available for service to communities not receiving such service during fiscal year 1991, unless such communities are otherwise eligible for new service, and provide the required local match: *Provided further,* That none of the funds in this Act shall be available to increase the service levels to communities receiving service unless the Secretary of Transportation certifies in writing that such increased service levels are estimated to result in self-sufficiency within three years of initiation of the increased level of service.

RENTAL PAYMENTS

For necessary expenses for rental of headquarters and field space and related services assessed by the General Services Administration, $130,000,000: *Provided,* That of this amount, $19,000,000 shall be derived from the Highway Trust Fund, $29,887,000 shall be derived from the Airport and Airway Trust Fund, $481,000 shall be derived from the Pipeline Safety Fund, and $160,000 shall be derived from the Harbor Maintenance Trust Fund.

MINORITY BUSINESS RESOURCE CENTER PROGRAM

For the cost of direct loans, $300,000, as authorized by 49 U.S.C. 332: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $7,500,000. In addition, for administrative expenses to carry out the direct loan program, $400,000.

COAST GUARD

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b)); and recreation and welfare; $2,558,000,000, of which $253,000,000 shall be available only to the extent transferred from the Department of Defense; of which $25,000,000 shall be derived from the Oil Spill Liability Trust Fund; and of which $32,250,000 shall be expended from the Boat Safety Account: *Provided,* That the number of aircraft on hand at any one time shall not exceed two hundred and twenty-three, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109, except to the extent fees are collected from yacht owners and credited to this appropriation.

14 USC 92 note.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $340,000,000, of which $35,640,000 shall be derived from the Oil Spill Liability Trust Fund; of which $92,450,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment, to remain available until September 30, 1997; $31,300,000 shall be available to acquire new aircraft and increase aviation capability, to remain available until September 30, 1995; $56,565,000 shall be available for other equipment, to remain available until September 30, 1995; $123,685,000 shall be available for shore facilities and aids to navigation facilities, to remain available until September 30, 1995; and $36,000,000 shall be available for personnel compensation and benefits and related costs, to remain available until September 30, 1993.

ENVIRONMENTAL COMPLIANCE AND RESTORATION

For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions under chapter 19 of title 14, United States Code, $22,000,000, to remain available until expended.

ALTERATION OF BRIDGES

For necessary expenses for alteration or removal of obstructive bridges, $12,600,000, to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C. ch. 55), $519,700,000.

RESERVE TRAINING

(INCLUDING TRANSFER OF FUNDS)

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $73,000,000, of which $50,000,000 shall be available only to the extent transferred from the Department of Defense.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $27,815,000, to remain available until expended, of which $5,595,000 shall be derived from the Oil Spill Liability Trust Fund: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

BOAT SAFETY

(AQUATIC RESOURCES TRUST FUND)

For payment of necessary expenses incurred for recreational boating safety assistance under Public Law 92–75, as amended, $32,250,000, to be derived from the Boat Safety Account and to remain available until expended.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, establishment of air navigation facilities and the operation (including leasing) and maintenance of aircraft, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, lease or purchase of four passenger motor vehicles for replacement only, $4,538,000,000, of which $2,279,321,000 shall be derived from the Airport and Airway Trust Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, foreign authorities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities and for issuance, renewal or modification of certificates, includ-

ing airman, aircraft, and repair station certificates, or for tests related thereto, or for processing major repair or alteration forms: *Provided further,* That none of these funds shall be available for new applicants for the second career training program: *Provided further,* That, of the funds available under this head, $2,000,000 shall be made available for the Mid-American Aviation Resource Consortium in Minnesota to operate an air traffic controller training program: *Provided further,* That funds may be used to enter into a grant agreement with a nonprofit standard setting organization to assist in the development of aviation safety standards: *Provided further,* That none of the funds provided shall be made available for pay raises in fiscal year 1993 for FAA employees whose responsibilities include noise abatement policy function, managing aircraft route design or changes, or responsibility for preparing, managing, or overseeing the environmental impact statement mandated by section 9119 of Public Law 101–508 until the final report on such impact statement is issued: *Provided further,* That of the funds provided, up to $50,000 shall be made available to the New Jersey Coalition Against Aircraft Noise for the provision of technical assistance, in accordance with the provisions of title 5, United States Code, in reviewing and assessing the draft environmental impact statement issued pursuant to section 9119 of Public Law 101–508: *Provided further,* That of the funds available under this heading, $500,000 shall be made available to the Cleveland Clinic Foundation to initiate a definitive study to evaluate the human factors related to and/or inherent in pilot error. This study will be carried out in conjunction with Ohio State University.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities and equipment as authorized by the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; and the purchase, lease or transfer of aircraft from funds available under this head; to be derived from the Airport and Airway Trust Fund, $2,350,000,000, of which $2,159,000,000 shall remain available until September 30, 1995, and of which $191,000,000 shall remain available until September 30, 1994: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That with appropriations made for the Airway Science program, as authorized below in this section, the Federal Aviation Administration may hereafter enter into competitive grant agreements with institutions of higher education having airway science curricula, for the Federal share of the allowable direct costs of the following categories of items, to the extent that such items are in support of airway science curricula: (a) the construction,

49 USC app. 1354a.

purchase, or lease with option to purchase, of buildings and associated facilities, and (b) instructional materials and equipment. Such funds are hereby authorized to be appropriated and may remain available until expended. The Federal Aviation Administration shall establish guidelines for determining the direct costs allowable under grants to be made pursuant to this section. The maximum Federal share of the allowable cost of any project assisted by such grants shall be 65 percent: *Provided further,* That such Federal share shall be considered as having taken effect on October 1, 1991.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1301 et seq.), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $230,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

For liquidation of obligations incurred for grants-in-aid for airport planning and development under section 14 of Public Law 91–258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $2,000,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,800,000,000 in fiscal year 1993 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended, of which not to exceed $198,173,199 shall be available for letters of intent issued prior to June 30, 1992.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Federal Aviation Act of 1958, as amended (49 U.S.C. App. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under title XIII of the Federal Aviation Act of 1958.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85–307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for activities under this head the obligations for which are in excess of $9,970,000 during fiscal year 1993. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

49 USC app. 1324 note.

Credit.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, including motor carrier safety program operations, and research of the Federal Highway Administration not to exceed $398,000,000 shall be paid in accordance with law from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $115,000,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

(INCLUDING TRANSFER OF FUNDS)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402 administered by the Federal Highway Administration, to remain available until expended, $10,000,000 to be derived from the Highway Trust Fund: *Provided,* That not to exceed $200,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the

obligations for which are in excess of $10,000,000 in fiscal year 1993 for "Highway-Related Safety Grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $3,664,000, of which $2,442,667 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $15,326,750,000 for Federal-aid highways and highway safety construction programs for fiscal year 1993.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $19,000,000,000 or so much thereof as may be available in and derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1993 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $42,500,000.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97–424, $65,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $65,000,000 for "Motor Carrier Safety Grants", of which not to exceed $3,000,000 shall be available for activities authorized by section 4008 of Public Law 102–240.

BALTIMORE-WASHINGTON PARKWAY

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 and section 1069 of Public Law 102–240 for the Baltimore-Washington Parkway, to remain available until expended, $15,000,000.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $3,200,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT

DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99–500 and Public Law 99–591, $6,400,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development, $6,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100–202, $640,000, to remain available until expended.

HIGHWAY WIDENING AND IMPROVEMENT

DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For up to 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $1,344,000, to be derived from the Highway Trust Fund and to remain available until expended.

CLIMBING LANE AND HIGHWAY SAFETY

DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to carry out a highway project on U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,840,000, to be derived from the Highway Trust Fund and to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary for the construction of a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,200,000, to be derived from the Highway Trust Fund and to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $6,400,000, to be derived from the Highway Trust Fund and to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to construct High Occupancy Vehicle lanes on Interstate Route 66 between U.S. Route 50 and U.S. Route 29, including the construction of an interchange at Interstate Route 66 and the Route 234 Manassas bypass for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $1,600,000, to be derived from the Highway Trust Fund and to remain available until expended.

URBAN HIGHWAY CORRIDOR AND BICYCLE TRANSPORTATION DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to improve and upgrade the M–59 urban highway corridor in southeast Michigan for the purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system, $3,088,000, to be derived from the Highway Trust Fund and to remain available until expended, together with $304,000, to be derived from the Highway Trust Fund and to remain available until expended, to provide for 80 percent of the expenses necessary for a bicycle transportation demonstration project in Macomb County, Michigan.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $3,840,000, to be derived from the Highway Trust Fund and to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

PENNSYLVANIA RECONSTRUCTION DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For 80 percent of the expenses necessary to upgrade, widen, and reconstruct the sections of Pennsylvania Route 56 known as Haws Pike and the Windber By-Pass, for the purpose of demonstrating methods of promoting economic development and highway safety, $6,400,000, to be derived from the Highway Trust Fund and to remain available until expended.

PENNSYLVANIA TOLL ROAD DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses for the Monongahela Valley Expressway, $3,200,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That these funds, together with funds made available from the Highway Trust Fund, for Federal participation in the toll highway project being carried out under section 129(j) of title 23, United States Code, in the State of Pennsylvania shall be subject to section 129(j) of such title, relating to Federal share limitation.

HIGHWAY PROJECTS

(HIGHWAY TRUST FUND)

For up to 80 percent of the expenses necessary for certain highway and bicycle transportation projects and parking facilities, including feasibility and environmental studies, that demonstrate methods of improving safety, reducing congestion, or promoting economic development, $273,756,000, to be derived from the Highway Trust Fund and to remain available until expended.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92–513, as amended) and the National Traffic and Motor Vehicle Safety Act, $82,080,000, to remain available until September 30, 1995: *Provided,* That the Secretary of Transportation shall not permit transfer of title of the national advanced driving simulator from the Government of the United States: *Provided further,* That no provision under this head shall be interpreted in a manner which

would affect the site selection for the national advanced driving simulator.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under 23 U.S.C. 403 and section 2006 of the Intermodal Surface Transportation Efficiency Act of 1991, to be derived from the Highway Trust Fund, $46,170,000, to remain available until September 30, 1995.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 153, 402, 406, 408, and 410, section 2007 of the Intermodal Surface Transportation Efficiency Act of 1991, and section 209 of Public Law 95–599, as amended, to remain available until expended, $150,000,000, to be derived from the Highway Trust Fund: *Provided,* That, notwithstanding subsection 2009(b) of the Intermodal Surface Transportation Efficiency Act of 1991, none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which, in fiscal year 1993, are in excess of $130,650,000 for programs authorized under 23 U.S.C. 402, of which $115,000,000 shall be for "State and community highway safety grants", $12,000,000 shall be for section 153 "Safety belt and motorcycle helmet use" grants, and $3,650,000 shall be for the "National Driver Register": *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $11,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $5,153,000 may be available for administering "State and community highway safety grants" and $150,000 may be available for administering section 410: *Provided further,* That, notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95–599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1993: *Provided further,* That the unexpended balances available for drunk driving prevention programs under 23 U.S.C. 410 shall be available for alcohol-impaired driving countermeasures programs under 23 U.S.C. 410, as amended by Public Law 102–240 and this Act, except for amounts necessary for the State of New Mexico to continue its drunk driving prevention program under 23 U.S.C. 410 as in effect before the date of enactment of Public Law 102–240.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $17,152,000, of which $2,345,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided further,* That, as part of the Washington Union Station transaction in which the Secretary assumed the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That such additional sums as may be necessary for payment on the first deed of trust may be advanced by the Administrator from unobligated balances available to the Federal Railroad Administration, to be reimbursed from payments received from the Union Station Redevelopment Corporation.

Washington Union Station, DC.
Trusts and trustees.
40 USC 817 note.

LOCAL RAIL FREIGHT ASSISTANCE

For necessary expenses for rail assistance under section 5(q) of the Department of Transportation Act, as amended, $8,000,000, to remain available until expended.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $40,648,000, of which $1,335,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities other than State rail safety inspectors participating in training pursuant to section 206 of the Federal Railroad Safety Act of 1970.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $25,205,000, to remain available until expended: *Provided,* That up to $650,000 shall be made available to support, by financial assistance agreement, railroad-highway grade crossing safety programs, including Operation Lifesaver: *Provided further,* That $100,000 is available until expended to support by financial assistance agreement railroad metallurgical and welding studies at the Oregon Graduate Institute.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $204,100,000.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 601, to remain available until expended, $496,000,000, of which $331,000,000 shall be available for operating losses incurred by the Corporation and for labor protection costs, and of which $165,000,000, not to become available until July 1, 1993, shall be available for capital improvements: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1993: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e).

MANDATORY PASSENGER RAIL SERVICE PAYMENTS

To enable the Secretary of Transportation to pay obligations and liabilities of the National Railroad Passenger Corporation, $146,000,000, to remain available until expended: *Provided,* That this amount is available only for the payment of: (1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in fiscal year 1993 in excess of amounts needed to fund benefits for individuals who retired from the National Railroad Passenger Corporation and for their beneficiaries; (2) obligations of the National Railroad Passenger Corporation under section 358(a) of title 45, United States Code, due in fiscal year 1993 in excess of its obligations calculated on an experience-rated basis; and (3) obligations of the National Railroad Passenger Corporation due under section 3321 of the Internal Revenue Code of 1986.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94–210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1993: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or

securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales: *Provided further,* That to enable the Secretary of Transportation to pay obligations and liabilities of the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976 resulting from the waiver of obligations and liabilities as authorized by section 349 of this Act, $411,578.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $7,000,000, to remain available until expended.

AMTRAK CORRIDOR IMPROVEMENT LOANS

For the cost of direct loans to the Chicago, Missouri and Western Railroad, or its successors, to replace existing jointed rail with continuous welded rail between Joliet and Granite City, Illinois, $844,200: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $3,500,000: *Provided further,* That any loan authorized under this section shall be structured with a maximum 20-year payment at an annual interest rate of 4 per centum: *Provided further,* That the Federal Government shall hold a first and prior purchase money security interest with respect to any materials to be acquired with Federal funds: *Provided further,* That any such loan shall be matched on a dollar-for-dollar basis by the State of Illinois: *Provided further,* That any such loan shall be made available no later than thirty days after enactment of this Act. Illinois.

NATIONAL MAGNETIC LEVITATION PROTOTYPE DEVELOPMENT

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the planning or execution of the National Magnetic Levitation Prototype Development program as defined in subsections 1036(b) and 1036(d)(1)(A) of the Intermodal Surface Transportation Efficiency Act of 1991.

HIGH-SPEED GROUND TRANSPORTATION

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of the High-Speed Ground Transportation program as defined in subsections 1036(c) and 1036(d)(1)(B) of the Intermodal Surface

Transportation Efficiency Act of 1991, $2,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $5,000,000 for the "High-Speed Ground Transportation" program.

FEDERAL TRANSIT ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the Federal Transit Administration's programs authorized by the Federal Transit Act and 23 U.S.C. chapter 1 in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $13,400,000: *Provided,* That no more than $38,550,000 of budget authority shall be available for these purposes.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9, 16(b)(2), and 18 of the Federal Transit Act, to remain available until expended, $650,975,000: *Provided,* That no more than $1,700,000,000 of budget authority shall be available for these purposes: *Provided further,* That, notwithstanding any other provision of law, of the funds provided under this head for formula grants no more than $802,278,000 may be used for operating assistance under section 9(k)(2) of the Federal Transit Act.

UNIVERSITY TRANSPORTATION CENTERS

For necessary expenses for university transportation centers as authorized by section 11(b) of the Federal Transit Act, to remain available until expended, $2,025,000: *Provided,* That no more than $6,000,000 of budget authority shall be available for these purposes.

TRANSIT PLANNING AND RESEARCH

For necessary expenses for transit planning and research as authorized by section 26 of the Federal Transit Act, to remain available until expended, $29,000,000: *Provided,* That no more than $85,000,000 of budget authority shall be available for these purposes: *Provided further,* That of the funds made available to carry out the national program under section 26(b) of the Federal Transit Act, not less than $900,000 shall be made available to reimburse the City of New York for funds granted for planning activities related to the proposed 42nd Street trolley.

TRUST FUND SHARE OF TRANSIT PROGRAMS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a) of the Federal Transit Act, $1,134,150,000, to remain available until expended and to be derived from the Highway Trust Fund: *Provided,* That $25,150,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Adminis-

tration's administrative expenses account: *Provided further,* That $1,049,025,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's formula grants account: *Provided further,* That $3,975,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's university transportation centers account: *Provided further,* That $56,000,000 shall be paid from the Mass Transit Account of the Highway Trust Fund to the Federal Transit Administration's transit planning and research account.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $1,725,000,000 in fiscal year 1993 for grants under the contract authority in section 21(b) of the Federal Transit Act: *Provided,* That, notwithstanding any provision of law there shall be available for fixed guideway modernization $666,255,000, there shall be available for the replacement, rehabilitation, and purchase of buses and related equipment and the construction of bus-related facilities $336,940,000, and there shall be available for new fixed guideway systems $721,805,000, of which—

not less than $30,000,000 for the Atlanta MARTA North Line Extension Project;

not less than $25,000,000 for the Baltimore LRT Extensions Project;

not less than $38,250,000 for the South Boston Piers Transitway Project;

not less than $21,250,000 for the Chicago Central Area Connector Project;

not less than $1,500,000 for the Cleveland Dual Hub Corridor Project;

not less than $42,500,000 for the Dallas South Oak Cliff LRT Project;

not less than $76,500,000 for the Honolulu Rapid Transit Starter Line of Projects;

not less than $34,000,000 for the Houston Regional Bus Plan Program of Projects;

not less than $10,000,000 for the Jacksonville ASE Extension Project;

not less than $110,000,000 for the Los Angeles Metro Rail MOS–2 and MOS–3 Projects;

not less than $10,000,000 for the Maryland Commuter Rail Project, of which $3,000,000 shall be available for the Waldorf Corridor;

not less than $5,434,000 for the Miami Metromover Stage I Completion-Omni/Brickell Project and not less than $2,171,000 to restore urban initiative funds provided to Miami in Public Law 98–473 but transferred to the Metromover Project in 1989;

not less than $65,430,000 for the New Jersey Urban Core Project;

not less than $15,895,000 for the New York Queens Connection Project;

not less than $2,000,000 for the Orlando OSCAR LRT Project;

not less than $700,000 for the Philadelphia Cross County Commuter Rail Project;

not less than $17,000,000 for the Pittsburgh Busway Projects;

not less than $68,000,000 for the Portland Westside LRT Project;

not less than $1,000,000 for the Sacramento LRT Extension Project;

not less than $1,700,000 for the San Diego Mid-Coast Extension Project;

not less than $45,000,000 for the San Francisco Airport BART Extension Project and the Tasman Corridor LRT Project;

not less than $15,300,000 for the Seattle-Tacoma Commuter Rail Project;

not less than $3,000,000 for the Salt Lake City South LRT Project;

not less than $42,500,000 for the St. Louis METRO Link Projects;

not less than $4,675,000 for the Florida Tri-County Commuter Rail Project;

not less than $4,500,000 for the Hawthorne-Warwick Commuter Rail Project;

not less than $3,000,000 for the Lakewood, Freehold, and Matawan or Jamesburg Commuter Rail Project; and

not less than $25,500,000 for the Boston, Massachusetts to Portland, Maine Commuter Rail Project.

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21 (b) of the Federal Transit Act, administered by the Federal Transit Administration, $1,500,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $75,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96–184 and Public Law 101–551, $170,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by

section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $10,825,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99–662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

HAZARDOUS MATERIALS SAFETY

For expenses necessary to discharge the functions of Hazardous Materials Safety and for expenses for conducting research and development, $12,650,000, of which $1,350,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

AVIATION INFORMATION MANAGEMENT

For expenses necessary to discharge the functions of Aviation Information Management, $2,618,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, for reports publication and dissemination, and for aviation information management: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this appropriation up to $1,000,000 in funds received from user fees established to support the electronic tariff filing system: *Provided further,* That the Department of Transportation shall prepare and publish in automatic data processing tape format the United States International Air Travel Statistics data base previously published through March 1991. The Department may partially defray costs of preparation and publication of such statistics by charging a fair and reasonable fee for obtaining such information; *Provided further,* That there may be credited to this appropriation funds received from such user fees. Printing.

EMERGENCY TRANSPORTATION

For expenses necessary to discharge the functions of Emergency Transportation and for expenses for conducting research and development, $880,000, of which $73,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

RESEARCH AND TECHNOLOGY

For expenses necessary to discharge the functions of Research and Technology and for expenses for conducting research and development, $1,470,000, of which $350,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination.

PROGRAM AND ADMINISTRATIVE SUPPORT

For expenses necessary to discharge the functions of Program and Administrative Support, $5,886,000, of which $175,000 shall be derived from the Pipeline Safety Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training, and for reports publication and dissemination: *Provided further,* That no employees other than those compensated under this appropriation shall serve in the Office of the Administrator, the Office of Policy and Programs, the Office of Civil Rights, the Office of Management and Administration, and the Office of the Chief Counsel.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979, $15,050,000, to be derived from the Pipeline Safety Fund, of which $7,700,000 shall remain available until expended.

EMERGENCY PREPAREDNESS GRANTS

(EMERGENCY PREPAREDNESS FUND)

For necessary expenses to carry out section 117A(i)(3)(B) of the Hazardous Materials Transportation Act, as amended, $700,000 to be derived from the Emergency Preparedness Fund, to remain available until expended: *Provided,* That not more than $10,300,000 shall be made available for obligation in fiscal year 1993 for amounts made available by section 117A(h)(6)(B) and (i)(1), (2) and (4) and 118 of the Hazardous Materials Transportation Act, as amended: *Provided further,* That such amounts shall only be available to the Secretary of Transportation.

ALASKA PIPELINE TASK FORCE

(OIL SPILL LIABILITY TRUST FUND)

For necessary expenses to support a Presidential Task Force audit of the Trans-Alaska Pipeline System, as required by title VIII of the Oil Pollution Act of 1990, $550,000, to be derived from the Oil Spill Liability Trust Fund and to remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General to carry out the provisions of the Inspector General Act of 1978, as amended, $38,000,000: *Provided,* That not more than $1,000,000 of the funds made available under this head shall be available for implementation of Public Law 101–576.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $3,300,000: *Provided,* That, notwithstanding any other provision of law, there may be credited to this appropriation funds received for publications and training expenses.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $36,000,000, of which not to exceed $1,000 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b), and not to exceed $1,500 for official reception and representation expenses, $43,930,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such: *Provided further,* That $7,300,000 in fees collected in fiscal year 1993 by the Interstate Commerce Commission pursuant to 31 U.S.C. 9701 shall be made available to this appropriation in fiscal year 1993.

49 USC 10344 note.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably

be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $11,000 for official reception and representation expenses of the Board; not to exceed $5,000 for official reception and representation expenses of the Secretary; and not to exceed $30,000 for official reception and representation expenses of the Administrator, $51,150,000, to be derived from the Panama Canal Revolving Fund: *Provided*, That none of these funds may be used for the planning or execution of nonadministrative and capital programs the obligations for which are in excess of $530,000,000 in fiscal year 1993: *Provided further,* That notwithstanding any other provision of law, the Secretary of State shall communicate to the Government of Panama, within three months of the enactment of this section, the dissatisfaction of the Government of the United States concerning inadequate compliance by Panama with the enforcement provisions of Annex V of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78), and the Secretary of State and the Secretary of Transportation, in consultation with the Commandant of the Coast Guard, shall further provide no later than March 15, 1993, a written report to the Congress describing and assessing (1) the actions taken by the Government of Panama since August 1, 1992, to investigate and, where appropriate, penalize Panamanian flag ships which have been reported by other nations to have violated the provisions of Annex V of MARPOL 73/78, (2) any efforts taken by the Government of Panama to ensure improved compliance with the provisions of Annex V of MARPOL 73/78 on the part of Panamanian flag ships, and (3) the actions by the Government of the United States in the implementation of its new enforcement policy for Annex V of MARPOL 73/78, including penalty actions taken against foreign flag vessels by the Coast Guard for violations by those vessels occuring within the exclusive economic zone of the United States: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed thirty-five passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama), the purchase price of which shall not exceed $18,000 per vehicle.

Reports.

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,250,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $200,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96–184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFERS OF FUNDS)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding 31 U.S.C. 1341 to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236–244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis. 20 USC 241 note.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year, nor may any be transferred to other appropriations, unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Volpe National Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center: *Provided,* That the Secretary may plan for further development of the Volpe National Transportation Systems Center and for other compatible uses of the Center's real property: *Provided,* That any such planning does not alter the Federal status of the Center's research and development operation.

Contracts. Public information.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

23 USC 104 note.

SEC. 310. (a) For fiscal year 1993 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1992, no State shall obligate more than 25 per centum of the amount distributed to such State under subsection (a), and the total of all State obligations during such period shall not exceed 15 per centum of the total amount distributed to all States under such subsection.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1993, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under sections 103(e)(4), 104 and 144 of title 23, United States Code, and under sections 1013(c) and 1015 of Public Law 102–240; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the intelligent vehicle highway systems program, and amounts made available under sections 1040, 1047, 1064, 5003, 6001, 6004, 6005, 6023, 6024, of Public Law 102–240, not more than $6,800,000 for section 6006 of Public Law 102–240, not more than $2,400,000 for section 6015 of Public Law 102–240, not more than $750,000 for section 5002 of Public Law 102–240, and $200,000 for the

Commission to Promote Investment in America's Infrastructure authorized by section 1081 of Public Law 102–240, and notwithstanding any other provision of law, not distribute $7,500,000 of the obligation limitation established by this Act for Federal-aid highways and highway safety construction: *Provided,* That such undistributed obligation limitation shall be available for administrative costs and allocation to States under section 1302(d) of the Symms National Recreational Trails Act of 1991: *Provided further,* That amounts for section 1081 of Public Law 102–240, section 5002 of Public Law 102–240, section 6015 of Public Law 102–240, and section 1302(d) of the Symms National Recreational Trails Act of 1991 shall be deemed necessary for administration under section 104(a) of title 23, United States Code.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1993 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, sections 131(b), 131(j), and 404 of Public Law 97–424, and sections 1103 through 1108 of Public Law 102–240; projects authorized by Public Law 99–500, Public Law 99–591 and Public Law 100–202; or projects covered under subsections 149 (b) and (c) of Public Law 100–17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1993 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1993, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1993, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104 and 144 of title 23, United States Code, and 1013(c) and 1015 of Public Law 102–240, and

(2) for highway assistance projects under section 103(e)(4) of title 23, United States Code,

which would not be obligated in fiscal year 1993 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1993, has the amount distributed to such State under paragraph (a) for fiscal year 1993 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred and ten political and Presidential appointees in the Department of Transportation:

Provided, That none of the personnel covered by this provision may be assigned on temporary detail outside the Department of Transportation.

SEC. 312. Not to exceed $800,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

49 USC app. 1617 note.

SEC. 313. The limitation on obligations for the programs of the Federal Transit Administration shall not apply to any authority under section 21 of the Federal Transit Act, previously made available for obligation, or to any other authority previously made available for obligation under the Discretionary Grants program.

SEC. 314. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 315. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Federal Register, publication.

SEC. 316. Every 30 days, the Federal Transit Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Federal Transit Act, including the grant number, the grant amount, and the transit property receiving each grant.

SEC. 317. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, training, salaries, or research, and related costs thereof including necessary capital expenses, including site acquisition, construction and equipment, are available for such purposes to be conducted through contracts, grants, or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

Florida.

SEC. 318. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 319. ESSENTIAL AIR SERVICE COMPENSATION.—Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claims for such compensation shall not arise except in accordance with this provision.

49 USC app. 2212 note.

SEC. 320. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and the House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives.

SEC. 321. The Secretary of Transportation is authorized to transfer funds appropriated for any office of the Office of the Secretary to any other office of the Office of the Secretary: *Provided,* That no appropriation shall be increased or decreased by more than 12 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 322. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

SEC. 323. VESSEL TRAFFIC SAFETY FAIRWAY.—None of the funds in this Act shall be available to plan, finalize, or implement regulations that would establish a vessel traffic safety fairway less than five miles wide between the Santa Barbara Traffic Separation Scheme and the San Francisco Traffic Separation Scheme.

SEC. 324. Notwithstanding any other provision of law, airports may transfer, without consideration, to the Federal Aviation Administration instrument landing systems (along with associated approach lighting equipment and runway visual range equipment) which conform to Federal Aviation Administration design and performance specifications, the purchase of which was assisted by a Federal airport aid program, airport development aid program or airport improvement program grant. The Federal Aviation Administration shall accept such equipment, which shall thereafter be operated and maintained by the Federal Aviation Administration in accordance with agency criteria. 49 USC app. 2205 note.

SEC. 325. NATIONAL WEATHER GRAPHICS SYSTEM.—None of the funds made available in this Act may be used by the Federal Aviation Administration for a new National Weather Graphics System.

SEC. 326. None of the funds in this Act shall be available to award a multiyear contract for production end items that (1) includes economic order quantity or long lead time material procurement in excess of $10,000,000 in any one year of the contract or (2) includes a cancellation charge greater than $10,000,000 which at the time of obligation has not been appropriated to the limits of the government's liability or (3) includes a requirement that permits performance under the contract during the second and subsequent years of the contract without conditioning such performance upon the appropriation of funds: *Provided,* That this limitation does not apply to a contract in which the Federal Government incurs no financial liability from not buying additional systems, subsystems, or components beyond the basic contract requirements.

SEC. 327. REVOCATION OR SUSPENSION OF DRIVERS' LICENSES OF INDIVIDUALS CONVICTED OF DRUG OFFENSES.—

(a) IN GENERAL.—Section 159 of title 23, United States Code, is amended to read as follows:

"§ 159. Revocation or suspension of drivers' licenses of individuals convicted of drug offenses

"(a) WITHHOLDING OF APPORTIONMENTS FOR NONCOMPLIANCE.—

"(1) BEGINNING IN FISCAL YEAR 1994.—For each fiscal year the Secretary shall withhold 5 percent of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) of section 104(b) on the first day of each fiscal year which begins after the second calendar year following

the effective date of this section if the State does not meet the requirements of paragraph (3) on such date.

"(2) BEGINNING IN FISCAL YEAR 1996.—The Secretary shall withhold 10 percent (including any amounts withheld under paragraph (1)) of the amount required to be apportioned to any State under each of paragraphs (1), (3), and (5) of section 104(b) on the first day of each fiscal year which begins after the fourth calendar year following the effective date of this section if the State does not meet the requirements of paragraph (3) on the first day of such fiscal year.

"(3) REQUIREMENTS.—A State meets the requirements of this paragraph if—

"(A) the State has enacted and is enforcing a law that requires in all circumstances, or requires in the absence of compelling circumstances warranting an exception—

"(i) the revocation, or suspension for at least 6 months, of the driver's license of any individual who is convicted, after the enactment of such law, of—

"(I) any violation of the Controlled Substances Act, or

"(II) any drug offense; and

"(ii) a delay in the issuance or reinstatement of a driver's license to such an individual for at least 6 months after the individual applies for the issuance or reinstatement of a driver's license if the individual does not have a driver's license, or the driver's license of the individual is suspended, at the time the individual is so convicted; or

"(B) the Governor of the State—

"(i) submits to the Secretary no earlier than the adjournment sine die of the first regularly scheduled session of the State's legislature which begins after the effective date of this section a written certification stating that the Governor is opposed to the enactment or enforcement in the State of a law described in subparagraph (A), relating to the revocation, suspension, issuance, or reinstatement of drivers' licenses to convicted drug offenders; and

"(ii) submits to the Secretary a written certification that the legislature (including both Houses where applicable) has adopted a resolution expressing its opposition to a law described in clause (i).

"(b) PERIOD OF AVAILABILITY; EFFECT OF COMPLIANCE AND NON-COMPLIANCE.—

"(1) PERIOD OF AVAILABILITY OF WITHHELD FUNDS.—

"(A) FUNDS WITHHELD ON OR BEFORE SEPTEMBER 30, 1995.—Any funds withheld under subsection (a) from apportionment to any State on or before September 30, 1995, shall remain available for apportionment to such State as follows:

"(i) If such funds would have been apportioned under section 104(b)(5)(A) but for this section, such funds shall remain available until the end of the fiscal year for which such funds are authorized to be appropriated.

"(ii) If such funds would have been apportioned under section 104(b)(5)(B) but for this section, such funds shall remain available until the end of the second fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(iii) If such funds would have been apportioned under paragraph (1), (3), or (5) of section 104(b) but for this section, such funds shall remain available until the end of the third fiscal year following the fiscal year for which such funds are authorized to be appropriated.

"(B) FUNDS WITHHELD AFTER SEPTEMBER 30, 1995.—No funds withheld under this section from apportionment to any State after September 30, 1995, shall be available for apportionment to such State.

"(2) APPORTIONMENT OF WITHHELD FUNDS AFTER COMPLIANCE.—If, before the last day of the period for which funds withheld under subsection (a) from apportionment are to remain available for apportionment to a State under paragraph (1), the State meets the requirements of subsection (a)(3), the Secretary shall, on the first day on which the State meets the requirements of subsection (a)(3), apportion to the State the funds withheld under subsection (a) that remain available for apportionment to the State.

"(3) PERIOD OF AVAILABILITY OF SUBSEQUENTLY APPORTIONED FUNDS.—Any funds apportioned pursuant to paragraph (2) shall remain available for expenditure as follows:

"(A) Funds which would have been originally apportioned under section 104(b)(5)(A) shall remain available until the end of the fiscal year succeeding the fiscal year in which such funds are apportioned under paragraph (2).

"(B) Funds which would have been originally apportioned under paragraph (1), (3), or (5)(B) of section 104(b) shall remain available until the end of the third fiscal year succeeding the fiscal year in which such funds are so apportioned.

Sums not obligated at the end of such period shall lapse or, in the case of funds apportioned under section 104(b)(5), shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(4) EFFECT OF NONCOMPLIANCE.—If, at the end of the period for which funds withheld under subsection (a) from apportionment are available for apportionment to a State under paragraph (1), the State does not meet the requirements of subsection (a)(3), such funds shall lapse or, in the case of funds withheld from apportionment under section 104(b)(5), such funds shall lapse and be made available by the Secretary for projects in accordance with section 118(b).

"(c) DEFINITIONS.—For purposes of this section—

"(1) DRIVER'S LICENSE.—The term 'driver's license' means a license issued by a State to any individual that authorizes the individual to operate a motor vehicle on highways.

"(2) DRUG OFFENSE.—The term 'drug offense' means any criminal offense which proscribes—

"(A) the possession, distribution, manufacture, cultivation, sale, transfer, or the attempt or conspiracy to possess, distribute, manufacture, cultivate, sell, or transfer any sub-

stance the possession of which is prohibited under the Controlled Substances Act; or

"(B) the operation of a motor vehicle under the influence of such a substance.

"(3) CONVICTED.—The term 'convicted' includes adjudicated under juvenile proceedings.".

23 USC 159 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall take effect November 5, 1990.

SEC. 328. None of the funds in this Act shall be available for planning or executing any rules or regulations to add Passenger Facility Charges to the cost of travel benefits commonly known as "frequent flyer award certificates" or any other bonus program offered by any airline.

SEC. 329. None of the funds provided in this Act shall be made available for planning and executing a passenger manifest program by the Department of Transportation that only applies to United States flag carriers.

SEC. 330. None of the funds in this Act shall be available for the planning or implementation of any change in the current Federal status of the Federal Aviation Administration's flight service stations at Red Bluff Airport in Red Bluff, California, Tri-City Airport in Bristol, Tennessee, and Bert Mooney Airport in Butte, Montana.

SEC. 331. Notwithstanding any other provision of law, the Federal Aviation Administration has the authority to enter into grants with the City of Kissimmee, Florida; the Douglas County Port Authority and the Chelan County Port Authority, Washington; and the Jackson-Madison County Airport Authority, Tennessee, to assist in the construction of non-Federal air traffic control towers: *Provided*, That funds for such towers shall be derived from the unobligated balances of the "Facilities and Equipment" account of the Federal Aviation Administration.

23 USC 129 note.

SEC. 332. Section 1064(e) of Public Law 102–240 is amended by adding: "For further purposes of this section, the access road from Interstate Business Route 75 to the Sugar Island Ferry Service in Chippewa County, Michigan, and the access road from United States Route 31 to the Beaver Island Ferry Service in Charlevoix County, Michigan, shall be treated as principal arterials.".

SEC. 333. Notwithstanding any other provision of law, funds provided in this or subsequent Acts for necessary expenses to carry out the provisions of section 1069 of Public Law 102–240 are to remain available until expended.

Florida.

SEC. 334. From funds appropriated to the Department of Transportation or made available by this Act or any other Act, the Secretary of Transportation shall, notwithstanding any other provision of this Act or any other Act, make available not to exceed $3,000,000 for a transportation resource center at Barry University, Miami Shores, Florida.

SEC. 335. Of the amounts available under the urban high density program for the project designated in the State of Indiana, such amounts may be used for the reconstruction of an interchange of the subject project with the Borman Expressway.

SEC. 336. Notwithstanding any other provision of law, funds made available from the withdrawal of the I–205 bus lanes under section 142 of Public Law 100–17, and previously appropriated funds from the withdrawal are available for locally designated transit projects in Portland, Oregon until expended.

Reports.

SEC. 337. None of the funds provided in this Act or prior Appropriations Acts for Coast Guard Acquisition, Construction, and Improvements shall be available after the fifteenth day of any quarter of any fiscal year beginning after December 31, 1992, unless the Commandant of the Coast Guard first submits a quarterly report to the House and Senate Appropriations Committees on all major Coast Guard acquisition projects including projects executed for the Coast Guard by the United States Navy and vessel traffic service projects: *Provided,* That such reports shall include an acquisition schedule, estimated current and future year funding requirements, and a schedule of anticipated obligations and outlays for each major acquisition project: *Provided further,* That such reports shall rate on a relative scale the cost risk, schedule risk, and technical risk associated with each acquisition project and include a table detailing unobligated balances to date and anticipated unobligated balances at the close of the fiscal year and the close of the following fiscal year should the Administration's pending budget request for the acquisition, construction, and improvements account be fully funded: *Provided further,* That such reports shall also provide abbreviated information on the status of shore facility construction and renovation projects: *Provided further,* That all information submitted in such reports shall be current as of the last day of the preceding quarter.

SEC. 338. Public Law 98–63, 97 Stat. 329, is amended as follows:

Termination date.

"(3) The provisions of subsection (1) of this section shall terminate on December 31, 1983. The provisions of subsection (2) of this section shall terminate three years from the enactment of this section unless construction of the I–287 bypass and the construction of high occupancy vehicle lanes or auxiliary lanes on I–287 from, the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative has been commenced. In the event construction has been commenced subsection (2) of this section will terminate ten years from the enactment of this section, or when construction of I–287 bypass and the construction of high occupancy vehicle lanes or auxiliary lanes on I–287 from the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative is completed, whichever occurs first.

New Jersey.

"(4) Notwithstanding any other provision of law, procedural or substantive, 100 per centum Federal highway trust funds moneys are hereby allocated as part of the State's allocation, and are immediately available for obligation to the State of New Jersey for the construction of the I–287 bypass and the construction of high occupancy lanes or auxiliary lanes on I–287 from the I–287 intersection with State Route 22 in Somerset County to the I–287 intersection with I–80 in Morris County in New Jersey or any other feasible, suitable alternative, such appropriation as may be made available by Congress from general appropriations to cover 100 per centum of the cost of the I–287 bypass or the alternative route: *Provided,* That such appropriation shall not exceed New Jersey's apportionment using the apportionment factor contained in revised table 5 of the Committee Print Numbered 102–24 of the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 339. For the purpose of carrying out a demonstration of the construction of public toll roads in Orange County, California, authorized by 23 U.S.C. 129(d), there is hereby appropriated $9,600,000 for the Secretary to enter into an agreement to make a loan or loans not to exceed $120,000,000 to the public entity or entities with the statutory duty to construct such facilities, to be available upon the completion of construction of such facilities for five years from the date capitalized interest funds are exhausted and only if and to the extent revenues from toll operations and standard reserves are less than revenue necessary for debt service established under the eligibility criteria applicable thereto and no more than 20 percent of the total loan amount would be payable in any one year of operation: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highway and highway safety construction programs: *Provided further,* That such loan or loans shall draw interest at the 30-year United States Treasury Bond rate on the date such loan or loans are made and shall be repaid in not more than 30 years. Notwithstanding any other provisions of law, such loan or loans shall not constitute a guarantee of the payment of principal or interest with respect to any indebtedness heretofore or hereafter issued by said public entity or entities.

Contracts. Virginia.

SEC. 340. The Federal Highway Administration (FHWA) shall execute an agreement with the State of Virginia (regarding Federal Aid Project–Q–RS 1046(101) re. Fairfax County, Virginia) pursuant to which loan repayment can be concluded by September 30, 1997.

23 USC 127 note.

SEC. 341. Section 1023 of the Intermodal Surface Transportation Efficiency Act (Public Law 102–240) is amended by adding a new subsection (h) as follows:

"(h) PUBLIC TRANSIT VEHICLES.—

"(1) TEMPORARY EXEMPTION.—The second sentence of section 127 of title 23, United States Code, relating to axle weight limitations for vehicles using the Dwight D. Eisenhower System of Interstate and Defense Highways, shall not apply, for the 2-year period beginning on the date of enactment of this Act, to any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus. The Secretary may extend such 2-year period for an additional year.

"(2) STUDY.—The Secretary shall conduct a study on the maximum axle weight limitations on the Dwight D. Eisenhower System of Interstate and Defense Highways established under section 127 of title 23, United States Code, or under State laws, as they apply to public transit vehicles. The study shall determine whether or not public transit vehicles should be exempted from the requirements of section 127 or State laws or if such laws should be modified with regard to public transit vehicles. In making such determination, the Secretary shall consider current transit vehicle design standards, the implications of the Americans with Disabilities Act and Clean Air Act requirements on such design standards, and the potential impact of revised design standards on transit ridership capacity, operating and replacement costs, air quality concerns, and highway wear and tear.

"(3) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the result of the study conducted under paragraph (2), together with recommendations.".

SEC. 342. None of the funds made available in this Act or in any other Act making funds available to the Federal Transit Administration, shall be used to withhold funds for any section 3 or section 9 operating or capital grants for the city of Phoenix, Arizona based on the inclusion of a "preference in hiring" provision in the employees protective arrangements developed pursuant to 49 U.S.C. 1609(c) and the Federal Transit Administration shall within 30 days of enactment of this provision award any such pending grant application: *Provided,* That the Secretary of Labor has certified that fair and equitable arrangements have been adopted for the protection of employees.

SEC. 343. For fiscal years 1992 and 1993, funds provided under section 18 of the Federal Transit Act shall be exempt from requirements for any non-Federal share, in the same manner as specified in section 1054 of Public Law 102–240.

SEC. 344. Notwithstanding any other provision of law or other requirement, the city of Indianapolis, Indiana is authorized to retain any funds not used under the authority of Facility Grant IN–03–0057 and IN–23–9001 and to use such funds in accordance with the requirements of section 9 of the Federal Transit Act of 1964 as amended.

SEC. 345. Notwithstanding any other provision of law limiting appropriations for the Westside Light Rail Project in Portland, Oregon, funds provided for the Westside Light Rail Project, may be expended, pursuant to section 3(a)(1)(C) of the Federal Transit Act of 1964, as amended, for the development and acquisition of low floor light rail vehicles, and the incremental costs associated with the introduction of the vehicles and facilities modifications on the current alignment.

SEC. 346. ADVANCE ACQUISITION OF RIGHTS-OF-WAY.—Section 108 of title 23, United States Code, is amended—

(1) in subsection (a) by striking "of the Federal-aid highway systems, including the Interstate System," and inserting "Federal-aid highway";

(2) in subsection (a) by striking "for expenditure on any of the Federal-aid highway systems, including the Interstate System," and inserting "which may be expended on such highway";

(3) in subsection (c)(2) by inserting "and passenger transit facilities" after "highways";

(4) in subsection (c)(3) by striking "highway" in the first sentence, and the first place it appears in the second sentence and inserting "project"; and

(5) in subsection (c)(3) by striking "on the federal-aid system of which such project is to be part," and inserting "of the type funded".

SEC. 347. Notwithstanding any other provision of law, any unspent balance of funds previously earmarked for the Long Island Expressway Fourth Lane project shall be applied instead to the Robert Moses Causeway rehabilitation project and to the Loop Parkway Bridge rehabilitation project.

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SEC. 348. (a) DENIAL AND REVOCATION.—Chapter 121 of title 46, United States Code, is amended by adding at the end the following new section:

"§ 12123. Denial and revocation of endorsements

"The Secretary of Transportation is authorized to deny the issuance or renewal of a trade or recreational endorsement on a certificate of documentation issued under this chapter and to revoke such endorsement if that vessel's owner has not paid an assessment of a civil penalty after final agency action for a violation of law for which an assessment has been made by the Secretary.".

(b) LIMITATIONS ON VESSEL OPERATIONS.—Section 12110(c) of title 46, United States Code, is amended by striking all of the first sentence through the first comma and inserting in lieu thereof the following: "When a vessel is operated after the Secretary has denied issuance or renewal of an endorsement or revoked the endorsement under section 12123 of this title and before the endorsement is reinstituted, or is employed in a trade for which an endorsement is required, without a certificate of documentation with an appropriate endorsement for that trade,".

(c) TECHNICAL AMENDMENTS.—(1) Section 12103(a) of title 46, United States Code, is amended by striking "On" and inserting in lieu thereof "Except as provided in section 12123 of this title, on".

(2) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following new item:

"12123. Denial and revocation of endorsements.".

33 USC 1321.

SEC. 349. Section 311(b) of the Federal Water Pollution Control Act is amended by adding a new paragraph to read as follows:

"(12) WITHHOLDING CLEARANCE.—If any owner, operator, or person in charge of a vessel is liable for a civil penalty under this subsection, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a civil penalty under this subsection, the Secretary of the Treasury, upon the request of the Secretary of the department in which the Coast Guard is operating or the Administrator, shall with respect to such vessel refuse or revoke—

"(A) the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91);

"(B) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. App. 313); and

"(C) a permit to depart required under section 443 of the Tariff Act of 1930 (19 U.S.C. 1443);

as applicable. Clearance or a permit refused or revoked under this paragraph may be granted upon the filing of a bond or other surety satisfactory to the Secretary of the department in which the Coast Guard is operating or the Administrator.".

SEC. 350. (a) WAIVER.—Notwithstanding any other provision of law, the obligations and liabilities of the Columbus and Greenville Railway under sections 505 and 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended, shall be suspended for the period beginning October 1, 1992, and ending September 30, 1994.

(b) REPAYMENT.—The obligations and liabilities of the Columbus and Greenville Railway suspended under subsection (a) shall be repaid to the United States by the Railway on or before October

1, 1997. Payments shall be deposited to the Treasury as miscellaneous receipts.

SEC. 351. HIGH PRIORITY CORRIDORS.—Paragraph (18) of section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended to read as follows: 105 Stat. 2031.

"(18) Corridor from Indianapolis, Indiana, through Evansville, Indiana, Memphis, Tennessee, Shreveport/Bossier, Louisiana, and to Houston, Texas.".

SEC. 352. Notwithstanding any other provision of law, none of the funds in this Act or previous Acts shall be used for the widening of U.S. Highway 93 between Somers and Whitefish, Montana, until the Federal Highway Administration has completed a feasibility study of design alternatives: *Provided,* That such study shall be completed by September 30, 1993, and shall be conducted in consultation with the Montana Department of Transportation and local authorities in Flathead County, Montana: *Provided further,* That such study shall address the cost, safety, aesthetics, and land use planning impacts of each design alternative: *Provided further,* That the Federal share of funding for such study shall be 100 percent of the cost of such study.

SEC. 353. Section 345 of the Department of Transportation and Related Agencies Appropriations Act, 1992, is amended by adding at the end thereof the following: 105 Stat. 948.

"(d)(1) In addition to its functions under subsection (b), the Metropolitan New York Aircraft Noise Mitigation Committee shall review aircraft noise complaints with the airspace over the States of New York and Connecticut lying within a 110-nautical-mile radius of La Guardia Airport, and advise the Administrator with regard to aircraft noise mitigation within such radius, and the locations and boundaries of noise impact areas defined by such complaints. The Committee shall obtain the participation of citizens, community associations, and other public organizations concerned with aircraft noise in carrying out the functions of the Committee under this section. New York. Connecticut. Noise control.

"(2) The Administrator, from time to time, shall consult with the Committee regarding aircraft noise mitigation and such aircraft noise complaints. The Committee shall make recommendations to the Administrator regarding such aircraft noise mitigation and complaints.

"(3) Any vacancy in a position on the Committee shall be filled in the same manner as the original appointment to that position.

"(4) The Chairman of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of such title.

"(5) Costs and other expenses not to exceed $100,000 incurred by the Committee in carrying out its functions under this section shall be paid from appropriations to the Department of Transportation for administrative expenses.

"(6) The Metropolitan New York Aircraft Noise Mitigation Committee shall be permanent.".

SEC. 354. CARRIAGE OF OIL IN PRINCE WILLIAM SOUND.—Section 5005(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2735(a), 104 Stat. 553) is amended—

(1) by striking "tank vessel operating on Prince William Sound, or" and inserting in lieu thereof "tanker loading cargo at"; and

(2) by inserting "and a response plan for such a facility," after "(43 U.S.C. 1651 et seq.).".

SEC. 355. The Motor Vehicle Information and Cost Savings Act is amended by adding at the end of title II thereof the following:

"LABELING REQUIREMENTS FOR AUTOMOBILES

American Automobile Labeling Act. 15 USC 1950.

"SEC. 210. (a) SHORT TITLE.—This section may be cited as the 'American Automobile Labeling Act'.

"(b) LABEL REQUIREMENT.—(1) Each manufacturer of a new passenger motor vehicle distributed in commerce for sale in the United States shall annually establish for each model year and cause to be affixed, and each dealer shall cause to be maintained, on each such vehicle manufactured on or after October 1, 1994, in a prominent place, one or more labels—

"(A) indicating the percentage (by value) of passenger motor vehicle equipment installed on such vehicle within a carline which originated in the United States and Canada to be identified with the words 'U.S./Canadian content';

"(B) indicating the final assembly point by city, State (where appropriate), and country of such automobile;

"(C) in the case of any country (other than the United States and Canada) in which 15 percent or more (by value) of equipment installed on passenger motor vehicles within a carline originated, indicating the names of at least the 2 countries in which the greatest amount (by value) of such equipment originated and the percentage (by value) of the equipment originating in each such country;

"(D) indicating the country of origin of the engine for each passenger motor vehicle; and

"(E) indicating the country of origin of the transmission for each passenger motor vehicle;

"(2) The percentages required to be indicated by this section may be rounded to the nearest 5 percent by the manufacturers. Such percentage shall be established at the beginning of each model year for such carline and shall be applicable to that carline for the entire model year.

"(3) The disclosure requirement of subparagraph (1)(B) of this section supersedes the disclosure requirement of section 3(b) of the Automobile Information Disclosure Act (15 U.S.C. 1232(b)). A manufacturer who indicates the final assembly point as required by this section shall be deemed to have satisfied the disclosure requirement imposed by section 3(b) of the Automobile Information Disclosure Act.

Regulations.

"(c) FORM AND CONTENT OF LABEL.—The form and content of the label required under subsection (b), and the manner and location in which such label shall be affixed, shall be prescribed by the Secretary by rule. The Secretary shall permit a manufacturer to comply with this section by allowing such manufacturer to disclose the information required under this section on the label required by section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232), on the label required by section 506 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006), or on a readily visible separate label.

"(d) REGULATIONS.—The Secretary, in consultation with the Secretary of Commerce and the Secretary of the Treasury, shall promulgate such regulations as may be necessary to carry out this section, including regulations to establish a procedure to verify the labeling information required by this section. Such regulations shall provide to the ultimate purchaser of a new passenger motor vehicle the best and most understandable information possible about the foreign and U.S./Canada origin of the equipment of such vehicles without imposing costly and unnecessary burdens on the manufacturers. The regulations shall be promulgated promptly after the enactment of this section in order to provide adequate lead time for all manufacturers to comply with this section. The regulations shall include provisions applicable to outside and allied suppliers to require such suppliers to certify whether a component provided by such suppliers is United States, U.S./Canadian, or foreign and to provide such other information as may be necessary, as determined by the Secretary, to enable the manufacturer to reasonably comply with the provisions of this section and to rely on such certification and information. The regulations applicable to all suppliers shall be enforceable as a regulation of the Secretary under the appropriate provisions of this Act.

"(e) VIOLATIONS AND PENALTIES.—Any manufacturer of automobiles distributed in commerce for sale in the United States who willfully fails to affix to any new automobile so manufactured or imported by him for sale in the United States the label required by this section, or any dealer who fails to maintain such label as required by this section, shall be fined not more than $1,000. Such failure with respect to each automobile shall constitute a separate offense.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'manufacturer' means any person engaged in the manufacturing or assembling of new automobiles, including any person importing new automobiles for resale and any person who acts for and is under the control of such manufacturer, assembler, or importer in connection with the distribution of new automobiles.

"(2) The term 'person' means an individual, partnership, corporation, business trust, or any organized group of persons.

"(3) The term 'passenger motor vehicle' has the meaning provided in section 2(1) of this Act, except that it shall include any multipurpose vehicle and light duty truck that is rated at 8,500 pounds gross vehicle weight or less.

"(4) The term 'passenger motor vehicle equipment' means any system, subassembly, or component received at the final vehicle assembly point for installation on, or attachment to, such vehicle at the time of its initial shipment by the manufacturer to a dealer for sale to an ultimate purchaser. The term 'component' shall not include minor parts, such as attachment hardware (nuts, bolts, clips, screws, pins, braces, etc.) and such other similar items as the Secretary, in consultation with manufacturers and labor, may prescribe by rule.

"(5) The terms 'originated in the United States and Canada', 'U.S./Canadian', and 'of U.S./Canadian origin', in referring to automobile equipment, means—

"(A) for outside suppliers, the purchase price of automotive equipment which contains at least 70 percent value added in the United States and Canada; and

"(B) for allied suppliers, the manufacturer shall determine the foreign content of any passenger motor vehicle equipment supplied by the allied supplier by adding up the purchase price of all foreign material purchased from outside suppliers that comprise the individual passenger motor vehicle equipment and subtracting such purchase price from the total purchase price of such equipment. Determination of foreign or U.S./Canadian origin from outside suppliers will be consistent with subparagraph (A).

"(6) The term 'new passenger motor vehicle' means a passenger motor vehicle the equitable or legal title to which has never been transferred by a manufacturer, distributor, or dealer to an ultimate purchaser.

"(7) The term 'dealer' means any person or resident located in the United States, including any territory of the United States, or the District of Columbia, engaged in the sale or the distribution of new automobiles to the ultimate purchaser.

"(8) The term 'Secretary' means the Secretary of Transportation.

"(9) The term 'State' includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

"(10)(A) The term 'value added in the United States and Canada' means a percentage derived as follows:

"'Value added' equals the total purchase price, minus total purchase price of foreign content, divided by the total purchase price.

Costs incurred or profits made at the final vehicle assembly point and beyond (i.e., advertising, assembly, labor, interest payments, profits, etc.) shall not be included in such calculation.

"(B) In determining the origin and value added of engines and transmissions, the following groupings will be used:

"(i) Engines of same displacement produced at the same plant.

"(ii) Transmissions of the same type produced at the same plant.

"(11) The term 'carline' means a name denoting a group of vehicles which has a degree of commonality in construction (e.g., body, chassis). Carline does not consider any level of decor of opulence and is not generally distinguished by such characteristics as roof line, number of doors, seats, or windows, except for light duty trucks. Light duty trucks are considered to be different carlines than passenger cars.

"(12) The term 'country of origin', in referring to the origin of an engine or transmission, means the country in which 50 percent or more of the dollar value added of an engine or transmission originated. If no country accounts for 50 percent or more of the dollar value, then the country of origin is the country from which the largest share of the value added originated. The estimate of the percentage of the dollar value shall be based upon the purchase price of direct materials as received at individual engine or transmission plants of engines of the same displacement and transmissions of the same transmission type. For the purpose of determining the country of origin for engines and transmissions, the United States and Canada shall be treated separately.

"(13) When used in reference to passenger motor vehicle equipment which is of U.S./Canadian origin, the term 'percentage (by value)' means the resulting percentage when the percentage (by value) of such equipment not of U.S./Canadian origin that will be installed or included on such vehicles produced within a carline is subtracted from 100 percent. Value shall be expressed in terms of purchase price. For both outside suppliers and allied suppliers the value used shall be the purchase price of the passenger motor vehicle equipment as paid at the final assembly point.

"(14) The term 'final assembly' point shall mean the plant, factory, or other place at which a new passenger motor vehicle is produced or assembled by a manufacturer and from which such vehicle is delivered to a dealer or importer in such a condition that all component parts necessary to the mechanical operation of such automobile are included with such vehicle whether or not such component parts are permanently installed in or on such vehicle.

"(15) The term 'allied supplier' means a supplier of passenger motor vehicle equipment that is wholly owned by the manufacturer, or in the case of a joint venture vehicle assembly arrangement, any supplier that is wholly owned by one member of the joint venture arrangement.

"(16) The terms 'foreign' or 'foreign content' mean passenger motor vehicle equipment not determined to be U.S./Canadian origin.

"(17) The term 'outside supplier' means a supplier of passenger motor vehicle equipment to a manufacturer's allied supplier or anyone other than an allied supplier who ships directly to the manufacturer's final assembly point.

"(g) EFFECT ON STATE LAW.—(1) Whenever a content labeling requirement established under this section is in effect, no State or political subdivision of a State shall have the authority to adopt or enforce any law or regulation relating to the content of vehicles covered by such Federal requirement.

"(2) Nothing in this section shall be construed to prevent any State or political subdivision thereof from establishing requirements with respect to content of automobiles procured for its own use.".

SEC. 356. Notwithstanding the provisions of any other law, rule, or regulation, the Secretary of Transportation is authorized to allow the issuer of any preferred stock heretofore sold to the Department to redeem or repurchase such stock upon the payment to the Department of an amount determined by Secretary.

SEC. 357. The Historic United States Customs building located adjacent to Interstate Route I–15 in Sweetgrass, Montana, and the border with Canada is hereby exempt from the restrictions contained in section 111 of title 23, United States Code, prohibiting use of and access to rights-of-way on the Interstate System: *Provided,* That such exemption shall be only for the purpose of permitting the use of such facility for the sale of only those articles which are for the export and for consumption outside the United States: *Provided further,* That such right-of-way access be developed in conjunction with the overall redesign planning work that is underway to relieve the congestion problems at the Sweetgrass border crossing.

SEC. 358. Notwithstanding any other provisions of law, tolls collected for motor vehicles on any bridge connecting the borough

New York. Taxes.

of Brooklyn, New York, and Staten Island, New York, shall continue to be collected for only those vehicles exiting from such bridge in Staten Island.

SEC. 359. Projects to research, develop and test technologies to control highway related emissions which contribute to the nonattainment of any ambient air quality standard or the impairment of visibility within an urbanized area shall be deemed to be eligible under the Congestion Mitigation and Air Quality Improvement Program.

SEC. 360. Not later than September 30, 1993, the Secretary of Transportation shall issue proposed rules under Docket No. HM–175A (Specifications for Tank Cars) and Docket No. HM–201 (Detection and Repair of Cracks, Pits, Corrosion, Lining Flaws, Thermal Protection Flaws, and Other Defects of Tank Cars).

Intergovernmental relations.

SEC. 361. Notwithstanding any other provision of law, the Secretary of Transportation shall waive the State matching share for the construction of any portion of an international road project located outside of the borders of any State of the United States for which funds are earmarked in the Intermodal Surface Transportation Efficiency Act of 1991 or in the Department of Transportation and Related Agencies Appropriations Act, 1992.

49 USC app. 1348a.

SEC. 362. COLLEGIATE TRAINING INITIATIVE.—(a) The Administrator of the Federal Aviation Administration may hereafter continue the Collegiate Training Initiative program, by entering into new agreements, and by maintaining existing agreements, with post-secondary educational institutions, as defined by the Administrator, whereby such institutions prepare students for the position of air traffic controller with the Department of Transportation, as defined in section 2109 of title 5, United States Code.

(b) The Administrator may establish standards for the entry of institutions into such program and for their continued participation in it.

(c) The Administrator may appoint persons who have successfully completed a course of training in such program to the position of air traffic controller noncompetitively in the excepted service, as defined in section 2103, of title 5, United States Code. Persons so appointed shall serve at the pleasure of the Administrator, subject to section 7511, of title 5, United States Code (pertaining to adverse actions). However, an appointment under this subsection may be converted from one in the excepted service to a career conditional or career appointment in the competitive civil service, as defined in section 2102, of title 5, United States Code, when the incumbent achieves full performance level air traffic controller status, as determined by the Administrator. The authority conferred by this subsection to make new appointments in the excepted service shall expire at the end of five years from the date of enactment of this Act, except that the Administrator may determine to extend such authority for one or more successive one-year periods thereafter.

Vermont.

SEC. 363. Notwithstanding any other provision of law, the State of Vermont shall be reimbursed, in an amount not to exceed $1,400,000, for its share of work performed on major and minor reconstruction of roadways and bridges on United States Interstate Routes 89 and 91, in Vermont.

SEC. 364. Notwithstanding any other provision of law, funds made available under this Act and previous Acts, for the intermodal fuel cell bus facility program under the Federal Transit Administration's Discretionary Grants account shall be transferred to that agency's Transit Planning and Research account and be administered in accordance with section 6 of the Federal Transit Act, as amended.

SEC. 365. Notwithstanding any other provision of law, the Coast Guard shall utilize $2,000,000 in funds provided for "Research, development, test, and evaluation" in this Act or in previous appropriations Acts to enter into a grant agreement with the International Oceanographic Foundation, Inc. for the purpose of establishing the South Florida oil spill research center.

SEC. 366. Notwithstanding any other provision of law, the Federal Aviation Administration is required to remedy any existing contamination problems related to asbestos and PCBs at its Sayville facility and to remove the facility prior to the transfer of associated lands to the U.S. Fish and Wildlife Service.

SEC. 367. Notwithstanding any other provision of law, the Secretary of Transportation shall make available $4,100,000 in fiscal year 1993 from section 1105(f)(16) of Public Law 102–240 to section 1108(b)(25) of Public Law 102–240.

SEC. 368. Notwithstanding any other provision of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: "A study may be conducted under this subsection to determine the feasibility of constructing a more direct limited access highway between Peoria and Chicago, Illinois.". 105 Stat. 2031.

SEC. 369. Notwithstanding any other provision of law, section 1108(b)(17) of Public Law 102–240 is amended by striking the current project description and inserting, "Conduct environmental studies, preliminary engineering, and construction for the Las Vegas beltway, including those portions linking McCarran International Airport and I–15.". 105 Stat. 2060.

SEC. 370. Notwithstanding any other provision of law, in selecting projects to be carried out with funds apportioned to it under section 104 of title 23, United States Code, the State of Illinois shall give priority consideration to reconstruction of Meridian and Glen Crossing Roads in Madison County, Illinois. Illinois.

SEC. 371. Notwithstanding any other provision of law, section 1105(g) of Public Law 102–240 is amended by adding a new paragraph (9) to read as follows:

"(9) The States of South Dakota and Nebraska may, at their discretion, utilize funds allocated to them for the project described in section 1105(f)(17) of this Act to support the Nebraska/South Dakota feasibility study described in section 1105(f)(7) and may also utilize funds allocated for that study for the project described in section 1105(f)(17).".

SEC. 372. Notwithstanding any other provision of law, the Federal Railroad Administration, in its oversight of railroad employees' duty hours, shall presume to be lawful the Long Island Railroad's current practice of considering as commuting time the travel time of an employee to any reporting point, regardless of whether the employee has more than one reporting point.

SEC. 373. Notwithstanding any other provision of law, section 1069(t) of Public Law 102–240 is amended by striking the period in the last line, inserting a comma, and adding: "and funds provided pursuant to this provision shall not be subject to any limitation 105 Stat. 2008.

on obligations for Federal-aid highways and highway safety construction programs.".

SEC. 374. Notwithstanding any other provision of law, and except for fixed guideway modernization projects, funds made available by this Act under "Federal Transit Administration, Discretionary Grants" for projects specified in this Act or identified in reports accompanying this Act not obligated by September 30, 1995, shall be made available for other projects under section 3 of the Federal Transit Act, as amended.

SEC. 375. Notwithstanding any other provision of law, the Secretary is directed to waive the non-Federal share for NASA Road 1 near Houston, Texas.

SEC. 376. Notwithstanding any other provision of law or regulation, before July 1, 1993, no lanes on any highway located on federally-owned land, whether subject to easement or otherwise, may be restricted to high occupancy vehicles if those lanes have been constructed or maintained through the use of toll receipts.

North Carolina.

SEC. 377. TREATMENT OF CERTAIN BUS REVENUE MILEAGE.—For purposes of the apportionment of funds under section 9 of the Federal Transit Act for fiscal year 1993, the total bus revenue vehicle miles provided by the Duke Power Company in the year ending June 30, 1990, shall be treated as having been provided by the City of Durham, North Carolina.

105 Stat. 2028.

SEC. 378. Notwithstanding any other provision of law, section 1104(b)(17) of Public Law 102–240 is amended by striking the project description and inserting: "Study and construction of a bicycle system to serve as an alternative form of commuter transportation, to reduce air pollution, and to enhance recreation".

105 Stat. 2037.

SEC. 379. Notwithstanding any other provision of law, section 1106(a)(2)(69) of Public Law 102–240 is amended by adding to the project description the following: "; plan, design, and construct related, adjacent, or interlocking facilities, preserve any related historical remnants, and acquire the necessary lands or interests in lands for such facilities".

SEC. 380. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—Section 149(b) of title 23, United States Code, is amended by adding at the end the following new sentence: "In areas of a State which are nonattainment for ozone or carbon monoxide, or both, and for PM–10 resulting from transportation activities, the State may obligate such funds for any project or program under paragraph (1) or (2) without regard to any limitation of the Department of Transportation relating to the type of ambient air quality standard such project or program addresses.".

105 Stat. 2129.

SEC. 381. BALTIMORE-WASHINGTON TRANSPORTATION IMPROVEMENTS PROGRAM.—Section 3035(nn)(2) of Public Law 102–240 is amended—

(1) by striking "Waldorf" and inserting "mass transportation improvements to the Waldorf area"; and

(2) by adding after the first sentence the following new sentence: "The transit improvements in the corridor from the Waldorf area to the Washington, D.C. area shall be based on the locally preferred alternatives that result from the Southern Maryland Mass Transportation Alternatives Study of the Tri-County Council for Southern Maryland and shall include any additional work needed on that study, detailed planning and engineering to be carried out by the Maryland Department of Transportation in conjunction with the Tri-County Council,

advanced land acquisition in the transit corridor, and implementation of interim and long-range transit improvements in the transit corridor.".

SEC. 382. Section 3035(ccc) of Public Law 102–240 is amended by striking "the municipality of metropolitan Seattle, Washington" and inserting "a qualified local sponsor". 105 Stat. 2129.

TITLE IV—HIGHWAY TECHNICAL CORRECTIONS

SEC. 401. Section 1107(b) of Public Law 102–240 is amended by striking— 105 Stat. 2048.

(a) in subsection (167) the project description and inserting in lieu thereof: "Grading and surfacing from U.S. Highway 2 at Michigan southerly to ND Highway 15 at McVille and on FAS 3220 from ND 1 easterly to the county line.";

(b) in subsection (168) the project description and inserting in lieu thereof: "Widening and surfacing from I–94 north and east through Spiritwood, then north to ND Highway 9, FAS 4718 from ND 20 east to FAS 4745, and FAS 4712 from ND 20 to ND 9.";

(c) in subsection (174) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 2750 from U.S. 85 west.";

(d) in subsection (178) the project description and inserting in lieu thereof: "Grading and surfacing, starting 3 miles west of ND 28 on FAS 3828, thence one mile west and four miles north and then west to FAS 3809.";

(e) in subsection (179) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 3025 and FAS 3020 from ND 49 southeasterly to FAS 3033.";

(f) in subsection (183) the project description and inserting in lieu thereof: "For a bypass around the west side of Fort Lincoln State Park from Mandan South.";

(g) in subsection (184) the project description and inserting in lieu thereof: "Grading and surfacing from U.S. 281 around the access loop roads and parking facilities in the International Peace Garden."; and

(h) in subsection (185) the project description and inserting in lieu thereof: "Grading and surfacing of FAS 3331 from ND 200A at Hensler southerly to ND 25 and FAS 3304 from FAS 3331 east to FAS 3339 and FAS 3339.".

SEC. 402. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:

"(i) The State of North Dakota may elect to utilize the total amount of funds authorized for such State under section 1107(b) in any given year for any project or projects in the State of North Dakota as authorized under section 1107.".

SEC. 403. The Intermodal Surface Transportation Efficiency Act of 1991 is amended by inserting at the end of section 1107 a new subsection to read as follows:

"(j) Any balance of funds authorized by this section that remains after construction is completed on any project authorized by subsection (b) in North Dakota may be transferred and used to pay the costs of any projects authorized by subsection (b) in North Dakota.".

23 USC 307 note.

SEC. 404. Delete the first sentence of section 6058(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) and substitute: "The Federal share payable on account of activities carried out under section 6056, as well as operational test activities carried out under this part (other than section 6056), shall not exceed 80 percent of the cost of such activities.".

105 Stat. 2037.

SEC. 405. Section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 56 by striking "I-55" and inserting "I-59".

SEC. 406. The Secretary of Transportation shall revise the Manual of Uniform Traffic Control Devices to include—

(a) a standard for a minimum level of retroreflectivity that must be maintained for pavement markings and signs, which shall apply to all roads open to public travel; and

(b) a standard to define the roads that must have a center line or edge lines or both, provided that in setting such standard the Secretary shall consider the functional classification of roads, traffic volumes, and the number and width of lanes.

105 Stat. 1941.

SEC. 407. (a) TECHNICAL CHANGE.—Section 1014(c)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended—

(1) in the heading, by striking "91" and inserting "81"; and

(2) by striking "United States Route 91 from Belleville, Kansas" and inserting "United States Route 81 from Concordia, Kansas,".

105 Stat. 2048.

(b) INNOVATIVE PROJECTS.—The table in subsection (b) of section 1107 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the item numbered 154, by striking "7-15 miles Belleville to Concordia" and inserting "from Concordia to the Nebraska border".

(c) EXPENDITURE OF FUNDS.—Section 1014(c) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by adding at the end the following new paragraphs:

"(4)(A) Except as provided in subparagraph (B), notwithstanding any other provision of law, the amounts made available for the construction of the Hutchinson Bypass between United States Route 50 and Kansas Route 96 in the vicinity of Hutchinson, Kansas, under section 1107(b) shall be expended prior to the expenditure of the amount obligated for such purpose pursuant to paragraph (1) of this subsection.

"(B) If the appropriate official of the State of Kansas determines that in order to carry out to completion the construction project described in paragraph (A), the expenditure of an amount obligated pursuant to paragraph (1) of this subsection is necessary, the State may expend such amount.

"(5) Notwithstanding any other provision of law, the amounts allocated to the State of Kansas for fiscal years 1996 through 1997 pursuant to section 160 of title 23, United States Code, and not obligated under this subsection or any other provision of this Act, shall remain available to the State of Kansas to carry out activities eligible for funding under title 23, United States Code.".

SEC. 408. HIGHWAY TIMBER BRIDGE RESEARCH AND DEMONSTRATION PROJECT.—Subsection (c)(1) of section 1039 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 144 note)

is amended by striking "on rural Federal-aid highways" and inserting "on public roads".

SEC. 409. PERIOD OF AVAILABILITY.—Section 118(b)(1) of title 23, United States Code, is amended—

(1) in the first sentence by inserting "(other than Massachusetts)" after "in a State"; and

(2) in the last sentence by striking "before" and inserting "after".

SEC. 410. CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—Section 129 of title 23, United States Code, is amended as follows—

(1) in subsection (b) by striking "approved under section 103(b) or (b) of this title as a part of one of the Federal-aid systems" and inserting in lieu thereof "classified as a public road"; and

(2) by amending subsection (c)(2) to read as follows: "(2) The operation of the ferry shall be on a route classified as a public road within the State and which has not been designated as a route on the Interstate System. Projects under this subsection may be eligible for both ferry boats carrying cars and passengers and ferry boats carrying passengers only.".

SEC. 411. Section 1069(y) of the Intermodal Surface Transportation Efficiency Act of 1991, is amended by adding at the end of the last sentence: "Funds provided to carry out the provisions of this section are to remain available until expended.". 105 Stat. 2008.

SEC. 412. NONDISCRIMINATION.—Section 140(b) of title 23, United States Code, is amended in the last sentence by striking "¼ of 1 percent" and inserting "½ of 1 percent".

SEC. 413. HELL GATE BRIDGE.—Notwithstanding any other provision of law, the Hell Gate Viaduct shall be considered a federally-owned bridge solely for the purposes of determining the Federal share under section 1021(d) of Public Law 102–240 as regards the project to upgrade, repair and paint the Hell Gate Viaduct authorized by section 1107 of Public Law 102–240.

SEC. 414. Notwithstanding any other provision of law, the funds provided for projects in Idaho by sections 1104 and 1107 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, may be obligated for any such projects.

SEC. 415. Notwithstanding any other provision of law, the State of Nevada may elect to utilize the total amount of funds authorized for such State under sections 1104(b), 1105(f), 1107(b), and 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240 within any given fiscal year for any project or projects in the State of Nevada as authorized under said sections.

SEC. 416. Notwithstanding any other provision of law, the funds provided for projects in Minnesota by sections 1103, 1105, 1106, 1107, and 1108 of Public Law 102–240 may be obligated for any such projects: *Provided,* That the total amount of any project shall not be reduced.

SEC. 417. FEDERAL SHARE.—Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 120 note) is amended—

(1) by striking "and" before "(2)";

(2) by striking the period at the end and inserting a comma; and

(3) by adding at the end the following: "and (3) the Federal share established by section 120(k) of such title, as in effect on the day before the date of enactment of this Act, with respect to section 143 of title 23.".

TITLE V—TRANSIT TECHNICAL CORRECTIONS

49 USC app. 1607.

SEC. 501. Section 3012 of Public Law 102-240 is amended by adding at the end of section 8(h)(4) the following sentence: "Any transit project that has an approved draft Environmental Impact Statement would be exempt from complying with highway National Environmental Policy Act requirements.".

49 USC app. 1607.

SEC. 502. MATCHING SHARE FOR TRANSFERRED FUNDS.—(a) Section 8(k) of the Federal Transit Act is amended by adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects.".

(b) Section 134(k) of title 23, United States Code, is amended by adding at the end: "The provisions of title 23, United States Code, regarding the non-Federal share shall apply to title 23 funds used for transit projects and the provisions of the Federal Transit Act regarding non-Federal share shall apply to Federal Transit Act funds used for highway projects.".

49 USC app. 1602.

(c) Section 3(h) of the Federal Transit Act is amended by adding a new subparagraph as follows:

"(7) Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among urbanized areas eligible under paragraphs (1), (2), and (3) in accordance with the apportionment formula contained in section 3(h) for the succeeding fiscal year.".

(d) Section 3 of the Federal Transit Act is amended by adding at the end the following new subsection:

"(n) Funds made available under this section which are deobligated may be used for any purpose under this section.".

(e) Section 8(h)(5) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead: "under title 23, United States Code".

49 USC app. 1607.

(f) Section 8(i)(4) of the Federal Transit Act is amended by striking "pursuant to this title" and inserting instead: "pursuant to title 23, United States Code".

(g) Section 8(m)(1) of the Federal Transit Act is amended by striking in the first sentence "under this title" and inserting instead "under title 23, United States Code".

(h) Section 8(p) of the Federal Transit Act is amended by adding at the end the following: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.".

(i) Section 8 of the Federal Transit Act is amended by adding the following new subsection (q):

"(q) The statewide planning and programming requirements of section 135, title 23, United States Code, shall apply to grants made under sections 3, 9, 9B, 16 and 18 of this Act.".

(j) Section 12(l)(1)(B) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines". 49 USC app. 1608.

(k) Section 16(c)(4) of the Federal Transit Act is amended by striking "regulations" and inserting instead "guidelines". 49 USC app. 1612.

(l) Section 18(c) of the Federal Transit Act is amended by adding at the end the following: "All funds made available under this section may be used for operating assistance, whether derived from the Mass Transit Account of the Highway Trust Fund under section 21(a)(1) or from general fund appropriations authorized under section 21(a)(2).". 49 USC app. 1614.

(m) Section 21(a)(1) of the Federal Transit Act is amended by inserting after "sections", "8". 49 USC app. 1617.

(n) Section 21(a)(2) of the Federal Transit Act is amended by inserting after "sections", "8".

(o) Section 21(c) of the Federal Transit Act is amended by striking "subsection 8(p)" and inserting instead "subsection (a)".

(p) Section 21(c)(1) of the Federal Transit Act is amended by striking "8(f)" and inserting instead "8(n)".

(q) Section 21(d)(3) of the Federal Transit Act is amended by striking "1996" and inserting instead "1997".

(r) Section 26(a)(2)(A) of the Federal Transit Act is amended by adding at the end: "Sums apportioned under this subsection shall be available for obligation for a period of three years following the close of the fiscal year for which such sums are apportioned. Any amounts so apportioned remaining unobligated at the end of such period shall be reapportioned among the States for the succeeding fiscal year.". 49 USC app. 1622.

SEC. 503. SPECIAL RULE FOR TRANSPORTATION MANAGEMENT AREAS THAT DO NOT CONTAIN AN URBANIZED AREA OVER 200,000 POPULATION.—(1) Funds attributed to a transportation management area, established under section 134 of title 23, United States Code, and not containing an urbanized area over 200,000, under 23 U.S.C. 133(d)(3)(A)(ii), shall be obligated in that transportation management area.

(2) Section 9(m)(1) of the Federal Transit Act (49 U.S.C. App. 1607(a)(m)(1)) is amended by striking in the first sentence "urbanized areas of 200,000 or more population" and inserting the following: "transportation management areas established under section 8(i)". 49 USC app. 1607a.

SEC. 504. LOS ANGELES METRO RAIL.— California.

(a) REPLACEMENT OF GRANTEES.—Effective on the date of enactment of this Act, the Los Angeles County Transportation Commission (hereinafter in this section referred to as the "Commission") shall replace the Southern California Rapid Transit District (hereinafter in this section referred to as the "SCRTD") as the Federal grantee for the Minimum Operable Segment One (hereinafter in this section referred to as "MOS–1") of the Los Angeles Metro Rail project. The MOS–1 Full Funding Grant Agreement dated August 27, 1986, and all other MOS–1 grant documents required under Federal law, shall be deemed to be amended, effective on the date of enactment of this Act, to designate the Commission as MOS–1 grantee; and all rights and obligations as MOS–1 grantee shall be transferred to the Commission on that date in accordance with the Memorandum of Understanding for the Transfer of MOS– Effective date.

1 Project, entered into by and between the Commission and SCRTD on June 24, 1992. No action by the Secretary of Transportation or other administrative action shall be required in order for the Commission to proceed to act in its capacity as MOS–1 grantee pursuant to this section.

(b) OBLIGATIONS OF COMMISSION.—Upon becoming the MOS–1 grantee under this section, the Commission shall be responsible for completion of the MOS–1 Project in accordance with the terms and conditions of the MOS–1 Full Funding Grant Agreement and other applicable grant agreements and in compliance with all applicable Federal laws and regulations. In addition, the Commission shall remain responsible for all MOS–1 obligations arising prior to the date of enactment of this Act, in accordance with the Commission's Guarantee of Performance to the United States dated April 3, 1990.

(c) AVAILABILITY OF FUNDS.—All funds previously obligated to SCRTD under section 3 and section 9 of the Federal Transit Act, and unexpended on the date of enactment of this Act, shall be transferred to the Commission on such date and shall be available to the Commission to pay costs associated with the completion of MOS–1. Notwithstanding any other provision of law, neither the replacement of grantees under subsection (a) nor the transfer of funds under this subsection shall be considered to be a change in project scope or otherwise result in the deobligation of prior year funds, and all funds transferred to the Commission under this subsection shall be charged to the original appropriation and shall remain available until expended.

(d) DEFINITION.—For purposes of this section:

(1) the terms "Los Angeles County Transportation Commission" and "Commission" shall include any successor to the Commission that is established by or pursuant to State law; and

(2) the terms "Southern California Rapid Transit District" and "SCRTD" shall include any successor to SCRTD that is established by or pursuant to State law.

(e) Of the funds made available for the Los Angeles Metro Rail project, 45.45 per centum shall be for Minimum Operable Segment-2 and 54.55 per centum shall be for Minimum Operable Segment-3 of Metro Rail. Of the amounts for Minimum Operable Segment-3, an equal one-third share shall be provided for each of the three lines described in section 3034(i)(3) of the Intermodal Surface Transportation Efficiency Act.

SEC. 505. SAN JOSE–GILROY–HOLLISTER COMMUTER RAIL PROJECT.—

Section 3035(h) of the Intermodal Surface Transportation Efficiency Act of 1991 is amended by striking in the second sentence all after "one-time" and inserting in lieu thereof the following: "purchase of additional trackage rights and/or purchase of right-of-way between the existing termini in San Jose and Gilroy, California. In connection with the purchase of such additional trackage rights and/or purchase of right-of-way, the Secretary shall either approve a finding of no significant impact, or approve a final environmental impact statement and issue a record of decision no later than July 1, 1994. No later than August 1, 1994, the Secretary shall negotiate and sign a grant agreement with the Santa Clara County Transit District which includes the funds made

105 Stat. 2129.

Contracts.

available under this section for the purchase of additional trackage rights and/or purchase of right-of-way.".

TITLE VI—ALCOHOL TRAFFIC SAFETY GRANTS

SEC. 601. MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—

Section 410 of title 23, United States Code, is amended—

(1) by striking subsection (g);

(2) by redesignating subsections (c) through (f) as (d) through (g), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c) MAXIMUM PERIOD OF ELIGIBILITY; FEDERAL SHARE FOR GRANTS.—No State may receive grants under this section in more than 5 fiscal years beginning after September 30, 1992. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year the State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year a program adopted by the State pursuant to subsection (a);

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third, fourth, and fifth fiscal years the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.".

SEC. 602. BASIC GRANT ELIGIBILITY.—

Section 410(d) of title 23, United States Code, as so redesignated by section 601 of this title, is amended—

(1) by striking "4 or more of the following:" and inserting in lieu thereof "5 or more of the following:"; and

(2) in subsection (1)(C), by striking "within the time period specified in subparagraph (F)"; and

(3) by adding at the end the following new paragraph:

"(6) Establishment of a mandatory sentence, which shall not be subject to suspension or probation, of (A) imprisonment for not less than 48 consecutive hours, or (B) not less than 10 days of community service, of any person convicted of driving while intoxicated more than once in any 5-year period.".

SEC. 603. AMOUNT OF BASIC GRANTS.—

Section 410(e) of title 23, United States Code, as redesignated by section 601 of this title, is amended to read as follows:

"(e) AMOUNT OF BASIC GRANT.—Subject to subsection (c), the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (d) shall equal 30 percent of the amount apportioned to such State for fiscal year 1992 under section 402 of this title.".

SEC. 604. SUPPLEMENTAL GRANTS.—

Section 410(f) of title 23, United States Code, as so redesignated by section 601 of this title, is amended by striking: "A State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of the amount apportioned to the State in the fiscal year under this section" each place it appears and inserting in lieu thereof: "Subject to subsection (c), a State shall be eligible to receive a supplemental grant in a fiscal year of 5 percent of

the amount apportioned to the State in fiscal year 1992 under section 402 of this title".

SEC. 605. ADMINISTRATIVE EXPENSES.—

Section 410(g) of title 23, United States Code, as so redesignated by section 601 of this title, is amended by striking ", and the remainder shall be apportioned among the several States".

SEC. 606. AUTHORIZATION OF APPROPRIATIONS.—

Section 410(j) of title 23, United States Code, is amended to read as follows:

"(j) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this section, there is authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) $25,000,000 for each of fiscal years 1994 through 1997. Amounts made available to carry out this section are authorized to remain available until expended.".

23 USC 1410 note.

SEC. 607. EFFECTIVE DATE OF AMENDMENTS; TRANSITION RULES.—

(a) EFFECTIVE DATE.—The amendments made by sections 601 through 606 shall take effect October 1, 1992.

(b) STATES ELIGIBLE FOR BASIC GRANTS UNDER SECTION 410 BEFORE DATE OF ENACTMENT.—A State that received a basic grant in fiscal year 1992 under section 410 of title 23, United States Code, as in effect on September 30, 1992, and that continues to meet the criteria for a basic grant, as in effect on September 30, 1992, shall be eligible for a basic grant under such section 410, as amended by this title.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5518:

HOUSE REPORTS: Nos. 102-639 (Comm. on Appropriations) and 102-924 (Comm. of Conference).
SENATE REPORTS: No. 102-351 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 9, considered and passed House.
Aug. 4, 5, considered and passed Senate, amended.
Oct. 1, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-389
102d Congress

An Act

Making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes.

Oct. 6, 1992
[H.R. 5679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1993, and for other purposes, namely:

Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993.

TITLE I

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 1312, 1977, and 2106, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540–548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $16,494,239,000, to remain available until expended: *Provided,* That not less than $8,357,000 of the foregoing amount shall be reimbursed to "General operating expenses" for necessary expenses in implementing those savings provisions authorized in the Omnibus Budget Reconciliation Act of 1990, the funding source for which is specifically provided as the "Compensation and pensions" appropriation.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 35, 36, 39, 51, 53, 55, and 61), $814,010,000, to remain available until expended: *Provided,* That funds shall be available to pay any court order, court award or any compromise settlement

arising from litigation involving the vocational training program authorized by section 18 of Public Law 98–77, as amended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, service-disabled veterans insurance, and veterans mortgage life insurance as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $22,730,000, to remain available until expended.

GUARANTY AND INDEMNITY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $40,524,000, which may be transferred to and merged with the appropriation for "General operating expenses".

LOAN GUARANTY PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct and guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $87,869,000, which may be transferred to and merged with the appropriation for "General operating expenses".

DIRECT LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, such sums as may be necessary to carry out the purpose of the program, as authorized by 38 U.S.C. chapter 37, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That during 1993, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

In addition, for administrative expenses to carry out the direct loan program, $1,393,000, which may be transferred to and merged with the appropriation for "General operating expenses".

EDUCATION LOAN FUND PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $1,000, as authorized by 38 U.S.C. 3698, as amended: *Provided,* That such costs, including the cost

of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $11,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $305,000, which may be transferred to and merged with the appropriation for "General operating expenses".

VOCATIONAL REHABILITATION LOANS PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $51,000, as authorized by 38 U.S.C. chapter 31, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $1,760,000.

In addition, for administrative expenses necessary to carry out the direct loan program, $962,000, which may be transferred to and merged with the appropriation for "General operating expenses".

NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans authorized by Native American Veterans' Home Loan Equity Act of 1992 (S. 2528, 102d Congress, as reported by the Senate Committee on Veterans' Affairs), $4,500,000, to remain available until expended: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $58,400,000.

In addition, for administrative expenses to carry out the direct loan program, $500,000, which may be transferred to and merged with the appropriation for "General operating expenses" to cover the common overhead expenses associated with implementing the Federal Credit Reform Act of 1990.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Department of Veterans Affairs, including care and treatment in facilities not under the jurisdiction of the Department of Veterans Affairs, and furnishing recreational facilities, supplies, and equipment; funeral, burial, and other expenses incidental thereto for beneficiaries receiving care in Department of Veterans Affairs facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Department of Veterans Affairs, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor,

as authorized by law (5 U.S.C. 5901–5902); aid to State homes as authorized by law (38 U.S.C. 1741); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 8110(a)(5); $14,642,723,000 (of which $405,700,000 is available as a result of the cost savings provision of the last proviso under this heading), plus reimbursements: *Provided,* That of the sum appropriated, $9,440,000,000 is available only for expenses in the personnel compensation and benefits object classifications: *Provided further,* That of the funds made available under this heading, $476,860,000 is for the equipment and land and structures object classifications only, which amount shall not become available for obligation until August 1, 1993, and shall remain available for obligation until September 30, 1994: *Provided further,* That after September 30, 1992, none of the funds appropriated to the Department of Veterans Affairs in this Act or any other Act shall be available to implement or fund Veterans Health Administration Directive 10–92–013, dated January 24, 1992 (Medical Research Service Career Development Program Funding): *Provided further,* That notwithstanding the provisions of 38 U.S.C. 3732(c)(1)(C) and (c)(11) or any other law, with respect to any loan guaranteed for any purpose specified in 38 U.S.C. 3710 which was closed before October 1, 1993, the term "net value" for purposes of paragraphs (4) through (10) of 38 U.S.C. 3732 shall mean "the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Secretary estimates the Secretary would incur (if the Secretary were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale (including losses sustained on the resale of the property), and other costs resulting from the acquisition and disposition of the property, excluding any amount attributed to the cost of the Government of borrowing funds".

38 USC 3732 note.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law (38 U.S.C. chapter 73), to remain available until September 30, 1994, $232,000,000, plus reimbursements.

HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

For payment of health professional scholarship program grants, as authorized by law, to students who agree to a service obligation with the Department of Veterans Affairs at one of its medical facilities, $10,113,000.

HEALTH PROFESSIONAL EDUCATION LOAN PAYMENT PROGRAM

38 USC 7601 note.

For payment of outstanding tuition loans to Department of Veterans Affairs health care professional employees (excluding physicians and dentists) who agree to remain in service for one year or more, $5,000,000, to remain available until September 30, 1994: *Provided,* That the Secretary, in order to recruit and retain such employees, may make such payments, not to exceed $3,000 during any calendar year, or $12,000 in total, to any such employee who has an outstanding tuition loan from an educational institution approved by the Secretary that has led to a degree in the health care occupation in which such individual is employed: *Provided*

further, That no payment shall be made in advance: *Provided further,* That regulations shall be promulgated by the Secretary to implement this program. Regulations.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $71,954,000, plus reimbursements: *Provided,* That of the funds made available under this heading, $25,000,000 may be available for transfer to the Medical and Prosthetic Research Appropriation for the Career Development Program.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 1732), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1994.

TRANSITIONAL HOUSING LOAN PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For the cost of direct loans, $7,000, as authorized by Public Law 102–54, section 8: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,000. In addition, for administrative expenses to carry out the direct loan program, $50,000, which may be transferred to and merged with the "General Post Fund", as authorized by Public Law 102–54, section 8.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Department of Veterans Affairs, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $25,000 for official reception and representation expenses; hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $811,919,000, of which $20,000,000 for the acquisition of automated data processing equipment and services to support the modernization program in the Veterans Benefits Administration shall not become available for obligation until September 1, 1993, and shall remain available for obligation until September 30, 1994.

NATIONAL CEMETERY SYSTEM

For necessary operating expenses of the National Cemetery System not otherwise provided for, including uniforms or allowances therefor, as authorized by law; cemeterial expenses as authorized

by law; purchase of ten passenger motor vehicles, for use in cemeterial operations; and hire of passenger motor vehicles, $70,668,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $31,182,000.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services of claims analysts, and site acquisition, where the estimated cost of a project is $3,000,000 or more or where funds for a project were made available in a previous major project appropriation, $492,674,000, to remain available until expended: *Provided,* That except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in this appropriation for fiscal year 1993, for each approved project shall be obligated (1) by the awarding of a construction documents contract by September 30, 1993, and (2) by the awarding of a construction contract by September 30, 1994: *Provided further,* That the Secretary shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93–344): *Provided further,* That no funds from any other account except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Department of Veterans Affairs of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Department of Veterans Affairs medical facility must certify that the design of such project is acceptable from a patient care standpoint.

Reports.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Department of Veterans Affairs, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, services

of claims analysts, and site acquisition, or for any of the purposes set forth in sections 316, 2404, 2406, 8102, 8103, 8106, 8108, 8109, 8110, and 8122 of title 38, United States Code, where the estimated cost of a project is less than $3,000,000, $149,525,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $3,000,000: *Provided,* That notwithstanding any other provision of this Act, no part of the funds appropriated under this heading shall be available to carry out the functions of the Office of Facilities: *Provided further,* That funds in this account shall be available for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Department of Veterans Affairs which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes: *Provided further,* That $1,000,000 of previously appropriated funds for the construction of a pedestrian bridge to connect the John L. McClellan Veterans Affairs Medical Center with the University of Arkansas for Medical Sciences Clinical Building shall be awarded within 90 days of enactment of this Act to a responsive and qualified construction bid offeror: *Provided further,* That the Secretary of Veterans Affairs shall transmit to the Committees on Appropriations of the House and Senate a report providing a full and detailed explanation should an award not be made within the 90-day period and which sets forth a revised schedule to proceed with this project; said report shall be transmitted not less than 30 days following the expiration of the 90-day period. Reports.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 8109), $1,317,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 8109 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 8131–8137), $40,000,000, to remain available until September 30, 1995.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veteran cemeteries as authorized by law (38 U.S.C. 2408), $5,104,000, to remain available until September 30, 1995.

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1993 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Department of Veterans Affairs for 1993 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Department of Veterans Affairs (except the appropriations for "Construction, major projects", "Construction, minor projects" and the "Parking garage revolving fund") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Secretary of Veterans Affairs.

Appropriations available to the Department of Veterans Affairs for fiscal year 1993 for "Compensation and pensions", "Readjustment benefits", and "Veterans insurance and indemnities" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1992.

Appropriations accounts available to the Department of Veterans Affairs for fiscal year 1993 shall be available to pay prior year obligations of corresponding prior year appropriations accounts resulting from title X of the Competitive Equality Banking Act, Public Law 100–86, 1987, except that if such obligations are from trust fund accounts they shall be payable from "Compensation and pensions".

Notwithstanding any other provision of this Act, funds appropriated under the following headings shall be available to carry out the functions of the Office of Facilities to support the purposes enumerated for each account: (1) "Medical administration and miscellaneous operating expenses" for administrative expenses in support of planning, design, project management, architectural, engineering, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs, including site acquisition; engineering and architectural activities not charged to project cost; and research and development in building construction technology; (2) "Medical care" for administrative expenses in support of planning, design, project management, real property acquisition and disposition, construction and renovation of any facility under the jurisdiction or for the use of the Department of Veterans Affairs; and oversight, engineering and architectural activities not charged to project cost; and (3) "General operating expenses" for construction program oversight; legal services; and in addition to the availability of other accounts, expenses in support of lease-purchase agreement and enhanced-use lease activities.

TITLE II

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

HOMEOWNERSHIP AND OPPORTUNITY FOR PEOPLE EVERYWHERE GRANTS (HOPE GRANTS)

For the HOPE for Public and Indian Housing Homeownership Program as authorized under title III of the United States Housing Act of 1937 (42 U.S.C. 1437aaa et seq.) and subtitle A of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $161,000,000; for the HOPE for Homeownership of Multifamily Units Program as authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $95,000,000; for the HOPE for Homeownership of Single Family Homes Program as authorized under subtitle C of title IV of the Cranston-Gonzalez National Affordable Housing Act, $95,000,000; and for the HOPE for Elderly Independence demonstration program as authorized under section 803(k) of the Cranston-Gonzalez National Affordable Housing Act, $10,000,000: *Provided,* That all amounts shall remain available until expended.

Of the amounts provided under this heading for the HOPE for Homeownership of Multifamily Units Program, $10,000,000 shall be available for assistance to mutual housing associations, to the extent that such associations submit approvable grant applications under such program.

Furthermore, $300,000,000 shall be for grants to carry out an urban revitalization demonstration program involving major reconstruction of severely distressed or obsolete public housing projects, to be administered by local public housing agencies: *Provided,* That such funding shall be made available to up to 15 cities selected from either the 40 most populous United States cities or, from any city whose housing authority was considered to have been on the Department's troubled housing authorities list as of March 31, 1992: *Provided further,* That no more than $50,000,000 shall be provided to each participating municipality: *Provided further,* That no more than 500 units shall be funded for each participating city and such units shall be located in up to 3 separately defined areas containing the community's most severely distressed projects, including family high-rise projects: *Provided further,* That at least 80 per centum of the funding provided to each participating public housing agency shall be used for the capital costs of major reconstruction, rehabilitation and other physical improvements, for the capital costs of replacement units and for certificates under section 8(b) used for replacement and for management improvements for the reconstructed project and for planning and technical assistance purposes and not more than 20 per centum shall be used for community service programs (as defined by the Commission on National and Community Service) and for supportive services, including, but not limited to, literacy training, job training, day care, youth activities, administrative expenses, and the permissive and mandatory services authorized under the Gateway Program established in the Family Support Centers demonstration program, provided for in 42 U.S.C. 11485e–f: *Provided further,* That each participating city shall make contributions for supportive services in an amount equal to 15

42 USC 1437*l* note.

per centum of the funding provided for supportive services pursuant to the immediately preceding proviso: *Provided further,* That all such contributions from participating jurisdictions for supportive services shall be derived from non-Federal sources: *Provided further,* That each participating community shall submit a plan for program implementation which is consistent with the local comprehensive housing affordability strategy prepared pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act and which has the approval of the local governing body: *Provided further,* That each plan shall include a community services component, but no funds are to be disbursed pursuant to this paragraph until such community services program has been approved by the Commission on National and Community Service: *Provided further,* That funds made available pursuant to this paragraph may be used in conjunction with, but not in lieu of, funding provided under the head "Modernization of Low-Income Housing Projects" for the modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); for construction or major reconstruction of obsolete public housing, other than for Indian families; for the replacement of public housing units pursuant to section 18 of the Act; and for the HOPE for Public and Indian Housing Homeownership program as authorized under title III of the Act: *Provided further,* That notwithstanding the provisions of section 18(b)(3) of the Act, units demolished, disposed of or otherwise eliminated under this demonstration may be replaced as follows: one-third by certificates under section 8(b) and the balance by any combination of conventional public housing and units acquired or otherwise provided for homeownership under section 5(h) of the Act, housing made available through housing opportunity programs of construction or substantial rehabilitation of homes meeting essentially the same eligibility requirements as those established pursuant to sections 603–607 of the Housing and Community Development Act of 1987 (Public Law 100–242), or under the HOPE II or III programs, as established under sections 421 and 441 of the Cranston-Gonzalez National Affordable Housing Act; persons displaced by the reconstruction activities provided for herein shall be eligible for these replacement units: *Provided further,* That, in order to be eligible for funding under this paragraph, applications for funding must be received within 180 days from the date the Notice of Funds Availability is published in the Federal Register: *Provided further,* That the Secretary of the Department of Housing and Urban Development shall issue a notice of funds availability within 90 days of enactment of this paragraph: *Provided further,* That the Secretary shall determine which cities have been selected to participate in the program within 90 days of the timely receipt of the last eligible application: *Provided further,* That housing authorities, in submitting their application for funds under this paragraph, shall identify all severely distressed public housing developments, using the criteria set forth by the National Commission on Severely Distressed Public Housing: *Provided further,* That nothing in this paragraph shall prohibit the Secretary from conforming the program standards and criteria set forth herein, with subsequent authorization legislation that may be enacted into law: *Provided further,* That the authority in the immediately preceding proviso shall not apply to any legislation that excludes or otherwise limits self-sufficiency or community service activities set forth in this paragraph, or authorize reallocation of amounts

Federal Register, publication.

available for obligation which are included in this paragraph: *Provided further,* That any troubled housing authority that applies for funds under this paragraph, shall not be eligible if the Secretary certifies to the Congress that they are not making substantial progress to eliminate their troubled status in accordance with section 6(j) of the Housing Act of 1937, as amended: *Provided further,* That in the event that communities applying for funding under this paragraph also request funding under any other HOPE program authorized under title III or title IV of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall process such applications concurrently and in an expeditious manner: *Provided further,* That, in the event that any application received from the cities initially selected to participate in this program is determined to be unacceptable, the Secretary shall select another city from the 40 most populous United States cities to receive funding under this paragraph: *Provided further,* That, in the event that communities selected to receive funding do not proceed in a manner consistent with the plan approved for that community, the Secretary may withdraw any unobligated balances of funding made available pursuant to this paragraph and distribute such funds to other eligible communities.

Of the amount made available under this head in Public Law 102–139 for the HOPE for Homeownership of Multifamily Units Program as authorized under subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), $3,000,000 shall be made available for a cooperative agreement between the Secretary of Housing and Urban Development and the National Center for Tenant Ownership in affiliation with the Harrison Institute at the Georgetown University Law Center, for the provision of technical assistance to potential recipients and recipients of grants under that program.

HOME INVESTMENT PARTNERSHIPS PROGRAM

For the HOME investment partnerships program, as authorized under title II of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), as amended, $1,000,000,000 to remain available until expended: *Provided,* That in order to allocate the total amount provided, the Act shall be construed as follows: in section 216(3)(A), "$750,000" both places it appears shall be "$375,000"; in section 217(b)(2)(A), "$3,000,000" both places it appears shall be "$750,000"; in section 217(b)(2)(B), "$500,000" both places it appears shall be "$250,000"; and in section 217(b)(3), "$500,000" shall be "$250,000".

Hereafter, for purposes of amounts appropriated under this heading in the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139; 105 Stat. 736, 744), the per-unit cost limits established by the Secretary of Housing and Urban Development under section 212(d) of the HOME Investment Partnerships Act (42 U.S.C. 12742(d)) shall reflect the actual development costs in each area in a manner that ensures compliance with the matching contributions waiver provided under such heading in such Appropriations Act.

Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(1) in the first sentence of paragraph (1), by inserting "and after reserving amounts for the insular areas under paragraph (3)" before the first comma; and

(2) by adding at the end the following new paragraph:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriations Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.".

Regulations.

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING TRANSFERS AND RESCISSION OF FUNDS)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $8,936,731,000, to remain available until expended: *Provided,* That to be added to and merged with the foregoing amounts, there shall be up to $287,234,000, consisting of up to $24,000,000 of budget authority previously made available under the "Flexible subsidy fund" which remains unreserved at the end of fiscal year 1992; $18,934,000 of budget authority previously made available for the Nehemiah Housing Opportunity Fund which remains unreserved at the end of fiscal year 1992; and up to $244,300,000 of amounts of budget authority (and contract authority) reserved or obligated in prior years for the development or acquisition costs of public housing (including public housing for Indian families), for modernization of existing public housing projects (including such projects for Indian families), and, except as herein provided, for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1993: *Provided further,* That, from the foregoing total of $9,223,965,000, $257,320,000 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program under section 202 of the Act (42 U.S.C. 1437bb); $400,000,000 shall be for the development or acquisition cost of public housing: *Provided further,* That of the $9,223,965,000 total under this head, $3,100,000,000 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l), including $4,750,000 for technical assistance and training under section 20 of the Act (42 U.S.C. 1437(r)) and $10,500,000 for the inspection of modernization units and provision of management and technical assistance for troubled Public Housing Authorities and Indian Housing Authorities: *Provided further,* That of the $9,223,965,000 total under this head, $25,000,000 shall be for public housing family investment centers as authorized in section 22 of the Act: *Provided further,* That of the $9,223,965,000 total under this head, $600,750,000 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f): *Provided further,* That of the $9,223,965,000 total provided under this head, $75,000,000 shall be for the foster child care program authorized under section 8(x) of the Act: *Provided further,* That of the $9,223,965,000 total pro-

vided under this head, $581,750,000 shall be for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)); $1,350,000,000 shall be for amendments to section 8 contracts other than contracts for projects developed under section 202 of the Housing Act of 1959, as amended, including $70,000,000 which shall be for rental adjustments resulting from the application of an annual adjustment factor in accordance with section 801 of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235); $600,000,000 shall be for assistance for State or local units of government, tenant and nonprofit organizations to purchase projects where owners have indicated an intent to prepay mortgages and for assistance to be used as an incentive to prevent prepayment or for vouchers to aid eligible tenants adversely affected by mortgage prepayment, as authorized in the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and of the $600,000,000 made available for such assistance, up to $25,000,000 shall be for use by nonprofit organizations, pursuant to the Emergency Low Income Housing Preservation Act of 1987, as amended by the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), and for tenant and community-based nonprofit education, training and capacity building and the development of State and local preservation strategies; $50,000,000 for assistance to families with children to move out of areas with high concentrations of persons living in poverty; $93,032,000 shall be for section 8 assistance for property disposition; and $202,000,000 shall be for loan management: *Provided further,* That any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall be obligated for a contract term that is no less than five years: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That 50 per centum of the amounts of budget authority, or in lieu thereof 50 per centum of the cash amounts associated with such budget authority, that are recaptured from projects described in section 1012(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628, 102 Stat. 3224, 3268) shall be rescinded, or in the case of cash, shall be remitted to the Treasury, and such amounts of budget authority or cash recaptured and not rescinded or remitted to the Treasury shall be used by State housing finance agencies or local governments or local housing agencies with projects approved by the Secretary of Housing and Urban Development for which settlement occurred after January 1, 1992, in accordance with such section: *Provided further,* That of the $9,223,965,000 total, $100,000,000 shall be for housing opportunities for persons with AIDS under title VIII, subtitle D of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625) and $100,000,000 shall be for grants to States and units of general local government for the abatement of significant lead-based paint and lead dust hazards in low- and moderate-income owner-occupied units and low-income privately-owned rental units, of which $2,000,000 shall be for lead-based paint abatement grants for technical assistance and evaluation studies: *Provided further,* That such grant funds shall be available only for projects conducted by contrac-

Grants.
Contracts.

tors certified and workers trained through a federally- or State-accredited program: *Provided further,* That, to be eligible for such grants, States and units of general local government must demonstrate the capability to identify significant-hazard housing units, to oversee the safe and effective conduct of the abatement, and to assure the future availability of abated units to low- and moderate-income persons: *Provided further,* That notwithstanding the language preceding the first proviso of this paragraph, $260,000,000 shall be used for special projects in accordance with the terms and conditions specified for such grants in the committee of conference report and statement of the managers (H. Rept. 102–902) accompanying H.R. 5679: *Provided further,* That of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 746), $850,000 made available to the City of Lawrence, Massachusetts to purchase, remodel and equip a vacant Jewish Community Center building for use as a Girls' Club facility shall instead be made available to the Lawrence Boys' Club to remodel any building for use as a Girls' club facility: *Provided further,* That of the $150,000,000 earmarked in Public Law 102–139 for special purpose grants (105 Stat. 736, 746), $290,000 made available to Marquette, Michigan for communications and other equipment shall instead be made available for training and equipment to the Upper Peninsula Emergency Medical Services Corporation in Marquette County, Michigan for use throughout the Upper Peninsula of Michigan.

Of the $9,223,965,000 total under this head, $1,116,099,000 shall be for capital advances, including amendments to capital advance contracts, for housing for the elderly, as authorized by section 202 of the Housing Act of 1959, as amended, and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for the elderly under section 202(c)(2) of the Housing Act of 1959, as amended: *Provided further,* That any unreserved balances provided under this head in prior years for such purposes shall be merged with amounts provided herein: *Provided further,* That $15,438,000 shall be for service coordinators pursuant to section 202(q) of the Housing Act of 1959, as amended. Of the $9,223,965,000 total under this head, $193,754,000 shall be for persons with disabilities, as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625); and for project rental assistance, and amendments to contracts for project rental assistance, for supportive housing for persons with disabilities as authorized by section 811 of the Cranston-Gonzalez National Affordable Housing Act.

ASSISTANCE FOR THE RENEWAL OF EXPIRING SECTION 8 SUBSIDY CONTRACTS

For assistance under the United States Housing Act of 1937 (42 U.S.C. 1437) not otherwise provided for, for use in connection with expiring section 8 subsidy contracts, $6,346,135,000, to remain available until expended: *Provided,* That funds provided under this paragraph may not be obligated for a contract term that is less than five years: *Provided further,* That the Secretary may maintain consolidated accounting data for funds disbursed at the Public Housing Agency or Indian Housing Authority or project level for subsidy assistance regardless of the source of the disbursement so as to minimize the administrative burden of multiple accounts.

Further, for the foregoing purposes, $450,000,000, to become available for obligation on October 1, 1993, and to remain available for obligation until expended.

For those projects in the State of Maine, the owners of which have converted their section 23 leased housing contracts (former section 23 of the Act, as amended by section 103(a), Housing and Urban Development Act of 1965, Public Law 89–117, 79 Stat. 451, 455) to section 8, the subsidy provided under the head "Assistance for the Renewal of Expiring Section 8 Subsidy Contracts" in Public Law 102–139 shall be for a five-year extension as if the projects were under the section 8 new construction program, except that section 8(c)(2)(C) shall not apply.

Notwithstanding any other provision of this Act, the amount appropriated under this heading for fiscal year 1993 shall be "$6,076,135,000" and the amount under this heading for fiscal year 1994 shall be "$720,000,000".

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z–1) is reduced in fiscal year 1993 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts: *Provided,* That up to $283,000,000 of recaptured loan management or section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z–1) shall be rescinded in fiscal year 1993: *Provided further,* That to the extent that the recaptures and rescission during fiscal year 1993 are less than $283,000,000, the total funding provided under the head "Annual contributions for assisted housing" and the budget authority provided in the seventh proviso under that head for assistance in connection with mortgage prepayments shall be reduced accordingly.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs, $21,000,000, to remain available until September 30, 1994, of which up to $10,800,000 shall be for entities operating such programs in accordance with the provisions of the Congregate Services Act of 1978, as amended, and the balance shall be for such programs under section 802 of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625).

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $2,282,436,000.

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HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), section 106(c), and section 106(d) of the Housing and Urban Development Act of 1968, as amended, $6,025,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, and under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z–1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1992, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1993, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

FHA—MUTUAL MORTGAGE INSURANCE PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

During fiscal year 1993, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act, as amended, shall not exceed a loan principal of $57,146,000,000.

For administrative expenses necessary to carry out the guaranteed loan program, $255,645,000, to be derived from the FHA-Mutual Mortgage Insurance Guaranteed Loans Receipt account, of which not to exceed $249,542,000 shall be transferred to the appropriation for salaries and expenses; and of which not to exceed $6,103,000 shall be transferred to the appropriation for the Office of Inspector General.

FHA—GENERAL AND SPECIAL RISK PROGRAM ACCOUNT

(INCLUDING TRANSFERS OF FUNDS)

For the cost of guaranteed loans, $104,652,000, as authorized by the National Housing Act, as amended (12 U.S.C. 1715z–3(b) and 1735c(f)): *Provided,* That such costs, including the cost of modifying such loans, shall be defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds

are available to subsidize total loan principal any part of which is to be guaranteed of not to exceed $8,864,230,000.

In addition, for administrative expenses necessary to carry out the guaranteed loan programs, $187,000,000, of which $182,955,000 shall be transferred to the appropriation for salaries and expenses; and of which $4,045,000 shall be transferred to the appropriation for the Office of Inspector General.

DRUG ELIMINATION GRANTS FOR LOW-INCOME HOUSING

For grants to public housing agencies for use in eliminating drug-related crime in public housing projects authorized by 42 U.S.C. 11901–11908, and for drug information clearinghouse services authorized by 42 U.S.C. 11921–11925, $175,000,000, to remain available until expended: *Provided,* That $5,225,000 of the foregoing amount shall be available for grants, contracts, or other assistance for technical assistance and training for or on behalf of public housing agencies and resident organizations (including the costs of necessary travel for participants in such training): *Provided further,* That $5,000,000 of the foregoing amount shall be made available for grants for a youth violence prevention in low-income housing program modeled on a program developed by the National Association of Neighborhoods: *Provided further,* That $10,000,000 of the foregoing amount shall be made available for grants for federally-assisted, low-income housing.

Section 520 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a) is amended—

(1) in subsection (a), by striking "in" and insert "for residents of";

(2) in subsection (b)(5), after "nonprofit organizations", by inserting "and institutions of higher learning"; and

(3) in subsection (d)(3), after "cultural activities,", by inserting "transportation costs,".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDES TRANSFER OF FUNDS)

During fiscal year 1993, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721(g)), shall not exceed $77,700,000,000. For administrative expenses necessary to carry out the guaranteed mortgage-backed securities program, $6,936,000, to be derived from the GNMA—Guarantees of mortgage-backed securities guaranteed loan receipt account, of which not to exceed $6,936,000 shall be transferred to the appropriation for salaries and expenses.

HOMELESS ASSISTANCE

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $50,000,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $150,000,000, to remain available until expended.

SECTION 8 MODERATE REHABILITATION

SINGLE ROOM OCCUPANCY

For assistance under the United States Housing Act of 1937, as amended (42 U.S.C. 1437f), for the section 8 moderate rehabilitation program, to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), $105,000,000, to remain available until expended.

SHELTER PLUS CARE

For the Shelter Plus Care program, as authorized by subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100–77), as amended, $266,550,000, to remain available until expended.

The unexpended balances of the "Shelter Plus Care: Section 8 Moderate Rehabilitation, Single Room Occupancy" and "Shelter Plus Care: Section 202 Rental Assistance" programs, available from the appropriations enacted in Public Law 102–139, shall be added to and merged with the amount available under this heading.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $4,000,000,000, to remain available until September 30, 1995: *Provided,* That $40,000,000 shall be available for grants to Indian tribes pursuant to section 106(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), and $14,500,000 shall be available for "special purpose grants" pursuant to section 107 of such Act, and $500,000 shall be available for a grant to demonstrate the feasibility of developing an integrated database system and computer mapping tool for compliance, programming, and evaluation of community development block grants pursuant to section 901 of the Cranston-Gonzalez National Affordable Housing Act of 1990: *Provided further,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds under section 107(b)(3) of such Act or funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That $5,000,000 shall be made available from the total amount provided to carry out an early childhood development program under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as amended (12 U.S.C. 1701z–6 note).

Regulations.

During fiscal year 1993, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $2,000,000,000 of contingent liability for loan principal: *Provided,* That $1,700,000,000 of said amount shall become available only upon enactment into law of authorizing legislation.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z–1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $25,000,000, to remain available until September 30, 1994: *Provided,* That of the foregoing amount (1) $1,000,000 shall be available for innovative building technologies research with the Research Center of the National Association of Home Builders, (2) $1,000,000 shall be available for the National Commission on Manufactured Housing, (3) at least $500,000 shall be for lead-based paint abatement research and studies, and (4) $1,000,000 shall be for a study by the National Academy of Public Administration on HUD staffing and human resource management and requirements.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, and section 561 of the Housing and Community Development Act of 1987, $15,000,000, to remain available until September 30, 1994: *Provided,* That not less than $10,600,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $7,000 for official reception and representation expenses, $892,000,000, of which $432,497,000 shall be provided from the various funds of the Federal Housing Administration, and $6,936,000 shall be provided from funds of the Government National Mortgage Association: *Provided,* That of the total amount, $2,000,000 shall be available for the Housing Assistance Council and $500,000 shall be available for the National American Indian Housing Council: *Provided further,* That of the total amount, $1,000,000 and 20 staff years shall be for the Office of Lead-Based Paint Abatement and Poisoning Prevention, which shall be located within the Office of the Secretary:

Provided further, That not to exceed $8,793,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters budget activity of Departmental Management, including not to exceed $673,000 for travel expenses: *Provided further,* That not to exceed $14,609,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of General Counsel, including not to exceed $259,000 for travel expenses: *Provided further,* That not to exceed $8,717,000 of the total amount provided under this heading shall be available for personnel compensation and benefits for the headquarters Office of Policy Development and Research, including not to exceed $141,000 for travel expenses.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $46,160,000, of which $10,148,000 shall be transferred from the various funds of the Federal Housing Administration.

ADMINISTRATIVE PROVISIONS

For payment to Milton Residences for the Elderly, Inc., for development costs incurred in connection with the site for HUD Project No. 023–EH273 (Milton, MA) prohibited under Public Law 100–202 (101 Stat. 1329–190), $226,000.

Massachusetts. Grants.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the City of Springfield, in the State of Massachusetts, shall not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grants awarded under section 17(d) of such Act to the city for use in connection with the Symphony Apartments housing development project (Project No. MA002HG701), if before October 1, 1993, the city (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

Pennsylvania. Grants.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 (as such section existed immediately before October 1, 1991), the City of Harrisburg, in the State of Pennsylvania, shall not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grants awarded under section 17(d) of such Act to the city for use in connection with the Washington Square Phase II housing development project (Project No. PA009HG701), if before October 1, 1993, the city (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts remain available.

Amounts made available for a housing development grant under section 17(a)(1)(B) of the United States Housing Act of 1937 for NJ 008–HG7–01 in Camden, New Jersey, shall be deemed to have been recaptured, and shall be made available during fiscal year 1993 for such project.

Contracts. Oklahoma. Loans.

The Oklahoma Department of Commerce is authorized to take all steps necessary to close out an agreement originally entered into by the Department and the City of Commerce, Oklahoma

(Contract No. 4511 CDBG ED 89) for the purpose of providing a loan through the Miami Area Economic Development Services, Inc., for Sac and Fox Industries to retain and create jobs for low- and moderate-income persons. Notwithstanding any other provision of law or other Department of Housing and Urban Development regulations and requirements, $490,700 of funds appropriated for community development block grants and allocated to the State of Oklahoma or other funds available to the Secretary of Housing and Urban Development shall be used to close out said agreement. Furthermore, the Miami Area Economic Development Services, Inc., the City of Commerce, Oklahoma, and the Oklahoma Department of Commerce are relieved of all liability to the government for the outstanding balance, any amount of accrued interest, and any other fees and charges payable in connection with this transaction.

The provisions of title I, section 104(g)(2) of the Housing and Urban Development Act of 1974, as amended, are hereby waived for the following urban development action grant projects in the City of Youngstown, Ohio:

(1) H. L. Libby parking deck—project #: B–87–AA–39–0319;

(2) The Bitonte Medical Center—project #: B–86–AA–39–0321; and

(3) The Erie Terminal Development Office Complex—project #: B–87–AA–39–0329.

Government employees. Labor.

During fiscal year 1993, notwithstanding any other provision of law, the number of individuals employed by the Department of Housing and Urban Development in other than "career appointee" positions in the Senior Executive Service shall not exceed 15.

Sunbright Utility District. Tennessee. Loans.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Sunbright Utility District in Morgan County, Tennessee, relating to loan number TENN–PFL–43, and the Administrator of the Economic Development Administration shall cancel the indebtedness of the Sunbright Utility District in Morgan County, Tennessee, relating to loans numbered 040100–342–1 and 040100–342–2. The Sunbright Utility District in Morgan County, Tennessee, is relieved of all liability to the Government for the outstanding principal balance on such loans, for the amount of accrued interest on such loans, and for any other fees and charges payable in connection with such loans.

Contracts. Texas.

Section 213(e) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 1439(e)), is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project" and inserting "Jefferson County, Texas"; and, notwithstanding the provisions of section 213(c) of such Act, of the budget authority set aside in section 213(e) of such Act, the Secretary shall enter into annual contributions contracts under section 8(b) of the United States Housing Act of 1937 with the Housing Authority of the City of Galveston, Galveston, Texas, for 18 units, with the Housing Authority for the City of Rockwall, Rockwall, Texas, for 36 units, and for the balance of such budget authority, with the Port Arthur Housing Authority, Port Arthur, Texas.

The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve

a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of the 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary); in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

The second sentence of section 2(b)(2) of the National Housing Act (12 U.S.C. 1703(b)(2)) is amended by striking "but not" and all that follows through "203(b)(2)" and inserting "but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds $67,500".

Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located".

FEDERAL DEPOSIT INSURANCE CORPORATION.—

(1) ELIGIBLE CONDOMINIUM PROPERTY.—Section 40(p)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(4)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in the first sentence of section 203(b)(2) of the National Housing Act, as such dollar amount is increased on an area-by-area basis under such section for areas with high prevailing housing sales prices, except that for purposes of this paragraph no such increase may exceed 150 percent of the dollar amount specified in section 203(b)(2).".

(2) ELIGIBLE MULTIFAMILY HOUSING PROPERTY.—Section 40(p)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(5)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in section 221(d)(3)(ii) of the National Housing Act for elevator-type structures, as such dollar amount is increased under such section for geographical areas or on a project-by-project basis (except that any such increase on a project-by-project basis shall be made pursuant to a determination by the Corporation that such increase is necessary).".

(3) ELIGIBLE SINGLE FAMILY PROJECT.—Section 40(p)(7) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)(7)) is amended by striking subparagraph (B) and inserting the following new subparagraph:

"(B) that has an appraised value that does not exceed the applicable dollar amount specified in the first sentence of section 203(b)(2) of the National Housing Act, as such dollar amount is increased on an area-by-area basis under such section for areas with high prevailing housing sales prices, except that for purposes of this paragraph no such increase may exceed 150 percent of the dollar amount specified in section 203(b)(2).".

Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) 70 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home;

"(D) 80 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) the greater of (i) 20 percent of the median 1-family house price in the area, as determined by the Secretary under section 203(b)(2), or (ii) $13,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of the owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that the owner will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan;".

Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage.".

Government organization. 42 USC 3532 note.

Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Office of Lead-Based Paint Abatement and Poisoning Prevention shall be contained within the Office of the Secretary, and said Office shall have ultimate responsibility within the Department of Housing and Urban Devel-

opment, except for the Secretary, for all matters related to the abatement of lead in housing, and research related to lead abatement, consistent with the responsibilities outlined for the Office in Senate Report 102–107.

Notwithstanding section 571(b) of the National Affordable Housing Act of 1990, the Department shall revise its fiscal year 1992 notice of fund availability for public housing development/major reconstruction of obsolete projects (Federal Register, June 18, 1992, 27330 et seq.) so that there contains no limitation on the amount of these funds available for public housing replacement activities.

Federal Register, publication.

The fair market rentals for the Salt Lake City—Ogden, Utah, metropolitan statistical area that took effect as of October 1, 1991 (56 Fed. Reg. 49024, 49072, September 26, 1991) shall remain in effect until October 1, 1993, notwithstanding the requirements of section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f) or any publication in the Federal Register in implementation of such section.

With respect to two projects of the United Cerebral Palsy of New Jersey, Inc., which are located in Newark and Teaneck, New Jersey, and are to be assisted under section 811 (project numbers 031–EH244/NJ39–T881–001 and 031–EH231), the Secretary of Housing and Urban Development shall extend the fund reservations for a reasonable period sufficient to permit final closing to take place and shall increase the reservation of project rental assistance to an amount sufficient to cover the reasonable operating expenses of these projects.

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc., in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, shall be deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

Notwithstanding any other provision of the law, the Secretary of Housing and Urban Development shall immediately forego and forbear from all efforts to recapture funding, by means of offset or reduction, against current or future subsidy, or other means, from the Housing Authority of the City of Seattle based on a finding pertaining to tenant utility allowances contained in the Office of Inspector General Report 86–SE–201–1003, dated February 21, 1986, and shall restore any funds previously recaptured.

Mississippi. Loans.

The Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MIS–22–PFL0094). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

TITLE III

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $19,318,000, to remain available until expended: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 509 of the general provisions carried in title V of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations.

36 USC 121b.

36 USC 122.

36 USC 122a.

COMMISSION ON NATIONAL AND COMMUNITY SERVICE

SALARIES AND EXPENSES

For necessary salaries and expenses of the Commission on National and Community Service under subtitle G of title I of the National and Community Service Act of 1990 (Public Law 101–610), $2,500,000.

PROGRAMS AND ACTIVITIES

For use in carrying out the programs, activities and initiatives under subtitles B through F of title I of the National and Community Service Act of 1990 (Public Law 101–610), $73,000,000.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18, purchase of nominal awards to recognize non-Federal officials' contributions to Commission activities, and not to exceed $500 for official reception and representation expenses, $48,400,000: *Provided,* That funds shall not be available for the personnel compensation and benefits of more than three Commissioners of the Consumer Product Safety Commission for fiscal year 1993 and thereafter: *Provided further,* That of the funds provided under this heading, $6,300,000 shall be for the relocation of the headquarters staff of the Commission and shall be available until expended.

15 USC 2053 note.

COURT OF VETERANS APPEALS

SALARIES AND EXPENSES

For necessary expenses for the operation of the United States Court of Veterans Appeals as authorized by 38 U.S.C. sections 7251–7292, $8,480,000: *Provided,* That such sum shall be available without regard to section 509 of this Act.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $13,033,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

RESEARCH AND DEVELOPMENT

For research and development activities, including procurement of laboratory equipment, supplies, and other operating expenses in support of research and development, $323,000,000, to remain available until September 30, 1994: *Provided,* That not more than $48,067,000 of these funds shall be available for procurement of laboratory equipment, supplies, and other operating expenses in support of research and development; and construction, alteration, repair, rehabilitation and renovation of facilities, not to exceed $75,000 per project.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; purchase of reprints; library memberships in societies

or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; and not to exceed $6,000 for official reception and representation expenses; $1,318,965,000, to remain available until September 30, 1994: *Provided,* That not more than $274,000,000 of these funds shall be available for administrative expenses: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local, and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949): *Provided further,* That from funds appropriated under this heading, the Administrator may make grants to federally recognized Indian governments for the development of multimedia environmental programs.

ABATEMENT, CONTROL, AND COMPLIANCE LOAN PROGRAM ACCOUNT

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of modifying loans, of direct loans under the Asbestos School Hazard Abatement Act, as amended, $30,225,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans not to exceed $70,500,000.

In addition, for administrative expenses necessary to carry out the implementation of the Asbestos School Hazard Abatement Act, $1,000,000.

PROGRAM AND RESEARCH OPERATIONS

For necessary expenses, not otherwise provided for, for personnel compensation and benefit costs and for travel expenses, including uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; $823,607,000: *Provided,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913): *Provided further,* That if the agency determines that it would be more cost effective and less disruptive of accomplishing the agency's mission in issuing a new research support contract, after the agency has notified the appropriate committees of the Congress, not more than $10,000,000 of the amount appropriated herein may be made available for personnel compensation and benefits and travel of additional personnel (on a temporary or permanent basis) needed to replace contract services at the agency's environmental research laboratories.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $42,799,000, of which $15,770,000 shall be derived from the Hazardous Substance Superfund trust fund and $610,000 shall be derived from the Leaking Underground Storage Tank trust fund.

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $134,300,000, to remain available until expended: *Provided,* That $10,000,000 of the foregoing amount shall be made available as a grant to Columbia University for construction of a facility to be used for environmental health science research, such facility to be constructed and owned by Columbia University: *Provided further,* That $12,500,000 shall be available as a grant to the Christopher Columbus Center Development, Inc. for planning, design and construction of the Christopher Columbus Center of Marine Research and Exploration in Baltimore, Maryland: *Provided further,* That notwithstanding any other provision of law, the Environmental Protection Agency is authorized to plan, design, and acquire land to establish a consolidated laboratory facility to replace and house the Central Regional Laboratory, Annapolis, Maryland, and the Analytical Chemistry and Microbiology Laboratory, Beltsville, Maryland, including the authority to accept, by permit or no-cost transfer from Federal entities, or by donation from State and local entities, available real property: *Provided further,* That $1,000,000 of the amount provided herein shall be for a grant to the University of Maine for the construction of the Maine Quaternary Studies Institute: *Provided further,* That $5,000,000 of the amount provided herein shall be for a grant to the University of Utah for the design, construction, and equipping of an intermountain regional network and scientific computation center.

OIL SPILL RESPONSE

For expenses necessary to carry out the Environmental Protection Agency's responsibilities under the Oil Pollution Act of 1990, $20,000,000, to be derived from the Oil Spill Liability Trust Fund, and to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project; $1,573,528,000, consisting of $1,323,528,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA), as amended by Public Law 101–508, and $250,000,000 as a payment from general revenues to the

Hazardous Substance Superfund as authorized by section 517(b) of SARA, as amended by Public Law 101–508, plus sums recovered on behalf of the Hazardous Substance Superfund in excess of $201,120,000 during fiscal year 1993, with all of such funds, to remain available until expended: *Provided,* That notwithstanding any other provision of law, such sums as may be necessary shall be available, from within available funds, for a cooperative agreement to demonstrate the use of the latest gas-phase thermo-chemical technology for the remediation of a municipal landfill located on a river island: *Provided further,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA: *Provided further,* That notwithstanding section 111(m) of CERCLA or any other provision of law, not to exceed $60,036,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA during fiscal year 1993: *Provided further,* That no more than $260,000,000 of these funds shall be available for administrative expenses of the Environmental Protection Agency.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, and for construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $75,000 per project, $75,000,000, to remain available until expended: *Provided,* That no more than $7,200,000 shall be available for administrative expenses.

STATE REVOLVING FUNDS/CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $2,550,000,000, to remain available until expended, of which $1,927,500,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; $16,500,000 shall be for making grants authorized under section 104(b)(3) of the Federal Water Pollution Control Act, as amended; $50,000,000 shall be for making grants authorized under section 319 of the Federal Water Pollution Control Act, as amended; $32,500,000 shall be for section 510 of the Water Quality Act of 1987 and none of the funds appropriated in this or any other Act to the Environmental Protection Agency may be used for making grants authorized under such section that exceed a total of $239,400,000, and the Administrator of the Environmental Protection Agency shall take no action to obligate any funds under such section if the impact on the total program cost to the Environmental Protection Agency of such action would exceed $239,400,000; $305,500,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing secondary sewage treatment facilities to serve the following local-

ities, and in the amounts indicated: Boston, Massachusetts, $100,000,000; New York, New York, $70,000,000; Los Angeles, California, $55,000,000; San Diego, California, $45,500,000; and Seattle, Washington, $35,000,000; and notwithstanding any other provision of law, $82,000,000 shall be available for Rouge River National Wet Weather Demonstration Project grants, not to exceed 85 per centum of total project costs, to be awarded by the Administrator, who is authorized to make such grants to Wayne County, Michigan, such grants to be for the construction of sanitary sewers and retention basins, for the repair and maintenance of wastewater treatment plants and collection systems, and for the investigation of commercial and industrial facilities and storm sewer connections to implement the Rouge River National Demonstration Project for Wet Weather Flows; and notwithstanding any other provision of law, $40,000,000 shall be for making grants under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for the purpose of constructing advanced sewage treatment facilities to serve Baltimore, Maryland, in furtherance of the objectives of the Chesapeake Bay Agreement; and notwithstanding any other provision of law, $19,000,000 shall be for making a grant under title II of the Federal Water Pollution Control Act, as amended, to the Ocean County Utilities Authority, in the State of New Jersey for necessary modifications and replacements to the Carver-Greenfield sewage treatment plant; and notwithstanding any other provision of law, $7,000,000 shall be for making a grant under title II of the Federal Water Pollution Control Act, as amended, to the appropriate instrumentality for necessary work to remove and reroute the existing sewer lines at the Centennial Olympic Stadium site in the City of Atlanta, Georgia; $50,000,000 shall be for grants to the State of Texas, which is to be matched by an equal amount of State funds from State sources, for the purpose of improving wastewater treatment in colonias in that State, including $2,000,000 for planning and design; $10,000,000 shall be for a grant to the State of New Mexico for the purpose of improving wastewater treatment in colonias in that State; and $10,000,000 shall be for a grant to the State of Arizona for an interceptor/collection system in the city of Avondale, Arizona; and notwithstanding any other provision of law, from sums previously appropriated under this heading for grants under title II of the Federal Water Pollution Control Act, as amended, and reserved by the South Dakota Department of Environment and Natural Resources, the Administrator shall make a grant, not to exceed 55 per centum of total project costs, to the Town of Pollock, South Dakota for necessary reconstruction of Pollock's wastewater treatment facility, consistent with the approved facility plan of October 1990; and sums heretofore, herein or hereafter appropriated under this heading for the District of Columbia, either allotted for title VI capitalization grants and pursuant to Public Law 101–144 as amended by Public Law 101–302 authorized to be used for title II construction grants, or title II construction grants, may be used for title II construction grants for any activities eligible under title VI, and the limitations contained in sections 201(g)(1) and 204(a)(5) of the Federal Water Pollution Control Act, as amended, do not apply to these grants: *Provided,* That of the funds appropriated for the State Revolving Fund under title VI of the Federal Water Pollution Control Act, as amended, up to one-half of 1 percent may be made available by the Administrator for direct grants to Indian tribes

for construction of wastewater treatment facilities for fiscal year 1993 and thereafter.

Notwithstanding any other provision of the Federal Water Pollution Control Act, as amended, or this Act, $80,000,000 of fiscal years 1992 and 1993 funds for San Diego allocation for coastal cities shall be available only for the construction of the San Diego wastewater treatment facilities included in the consent decree lodged in the *United States and California v. City of San Diego*, Civil Action #88–1101 (S.D. Cal.). The extension of the Point Loma outfall for which a certified EIR has been reviewed by EPA, and for which construction has begun, shall be eligible for funding. The Federal share for construction of these projects will be 55 per centum. Nothing in this provision shall be interpreted or is intended to modify commitments made by the City of San Diego in the above referenced consent decree. Notwithstanding any provision of the Federal Water Pollution Control Act, the City of San Diego shall be entitled to retain all funds received under EPA construction grant C–06–03014–110.

Notwithstanding section 307(b)(1) of the Federal Water Pollution Control Act, the following limitation to the Gulf Coast Waste Disposal Authority on applicability of pretreatment standards shall apply:

(a) If the conditions of subsection (b) are met, the pretreatment standards promulgated pursuant to section 307(b)(1) of the Federal Water Pollution Control Act shall not apply with respect to any treatment works operated by Gulf Coast Waste Disposal Authority and industrial users of such works.

(b) Subsection (a) shall only be in effect with respect to a treatment works if—

(1) the mass removal of pollutants by such works is equivalent to the removal which would be achieved if the industrial users of such works discharged such pollutants into waters of the United States other than through a publicly owned treatment works and such discharges complied with applicable effluent limitations; and

(2) the Gulf Coast Waste Disposal Authority has, and is in compliance with, a permit issued under section 402 of the Federal Water Pollution Control Act containing sludge quality numerical limitations for each of the pollutants for which such limitations are established and which would otherwise be required to be treated under the pretreatment standards established under section 307(b) of such Act (or where numerical limitations are not available, a design, equipment, management practice, operational standard, or combination thereof for each such pollutant) developed in accordance with the applicable requirements of section 405(d) of such Act.

Notwithstanding any other provision of law, the Administrator shall make a grant of up to $2,500,000 under title II of the Federal Water Pollution Control Act, as amended, from funds deobligated by and available to the State of Florida under section 205 of the Act to Dixie County, Florida, for a publicly-owned treatment works for the community of Suwannee, Florida: *Provided,* That the geographic scope of the advanced water treatment project specified and supported from funds appropriated under this heading may be modified as deemed necessary and appropriate after advanced notification to the Appropriations Committees.

ADMINISTRATIVE PROVISIONS

Business and industry. Women. Disadvantaged. Contracts. 42 USC 4370d.

The Administrator of the Environmental Protection Agency shall, hereafter, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including grants, loans, and contracts for wastewater treatment and leaking underground storage tanks grants, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Government employees. Labor.

During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Environmental Protection Agency shall not exceed: (1) 56 workyears for the Immediate Office of the Administrator; (2) 45 workyears for the Office of Congressional and Legislative Affairs; (3) 78 workyears for the Office of Communications, Education, and Public Affairs; (4) 192 workyears for the Office of General Counsel; and (5) 1,477 workyears for the Office of Administration and Resources Management, of which 120 workyears shall be for contract management activities.

MARINE SCIENCE CENTER

Oregon. Real property. Federal buildings and facilities.

The United States of America, acting through the Environmental Protection Agency, will donate its library facility located on the Marine Science Center, Oregon State University, Newport, Oregon to the University. Notwithstanding any other provision of law, within 60 days after the effective date of this legislation and without any further action by either party or future liability on the part of the Government, EPA will quitclaim the foresaid library together with the underlying land and related real and personal property to the University. No other portion of Government property is to be included in this donation.

POLLUTION PREVENTION ACT IMPLEMENTATION

Notwithstanding the Paperwork Reduction Act of 1980 or any requirements thereunder the Environmental Protection Agency Toxic Chemical Release Inventory Form R and instructions, revised 1991 version issued May 19, 1992, and related requirements (OMB No. 2070–0093), shall be effective for reporting under section 6607 of the Pollution Prevention Act of 1990 (Public Law 101–508) and section 313 of the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99–499) until such time as revisions are promulgated pursuant to law.

EXTENDING COMMENT PERIOD FOR REVISIONS TO CERTAIN HAZARDOUS WASTE RULES

Regulations. Effective date.

Funds appropriated or transferred to EPA may be used to develop revisions to 40 CFR 261.3, as reissued on March 3, 1992, published at 57 Fed. Reg. 7628 et seq. EPA shall promulgate revisions to paragraphs (a)(2)(iv) and (c)(2)(i) of 40 CFR 261.3, as reissued on March 3, 1992, by October 1, 1994, but any revisions to such paragraphs shall not be promulgated or become effective

prior to October 1, 1993. Notwithstanding paragraph (e) of 40 CFR 261.3, as reissued on March 3, 1992, paragraphs (a)(2)(iv) and (c)(2)(i) of such regulations shall not be terminated or withdrawn until revisions are promulgated and become effective in accordance with the preceding sentence. The deadline of October 1, 1994 shall be enforceable under section 7002 of the Solid Waste Disposal Act.

PROVIDING FOR A STUDY OF METALS RECOVERY

Funds appropriated or transferred to the Environmental Protection Agency shall be used in part to conduct a study on the effect of existing regulations on efforts to recover metals from the Nation's wastes, how such metals recovery can be best encouraged, and how the materials should be regulated in order to protect human health and the environment and to effectuate the resource conservation and recovery goals of the Resource Conservation and Recovery Act. In doing so, EPA shall consult with the Secretary of Commerce, the Secretary of the Interior, the metals recovery industry, and other interested parties.

The Administrator shall complete the study not later than April 28, 1993. Upon completion of the study, the Administrator shall prepare a summary of the findings of the study and any recommendations resulting from such study, to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives. Reports.

SOLID WASTE DISPOSAL ACT

No funds appropriated to the Environmental Protection Agency for fiscal year 1993 may be expended for the promulgation, implementation, or enforcement of any regulation under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) concerning process wastewater from phosphoric acid production and phosphogypsum from phosphoric acid production. The preceding sentence shall not apply to the regulation of those wastes under sections 3007, 3013, and 7003 of that Act (42 U.S.C. 6927, 6934, and 6973, respectively).

EXXON VALDEZ SETTLEMENT FUND

Such sums provided for the Environmental Protection Agency under the Exxon Valdez settlement shall be credited during fiscal year 1993 and thereafter to the Exxon Valdez Settlement Fund established by this heading and shall remain available until expended for environmental restoration activities by the Environmental Protection Agency to carry out the provisions of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, the Federal Water Pollution Control Act, as amended by the Oil Pollution Control Act of 1990, and other appropriate authorities of the Administrator.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their

functions under the National Environmental Policy Act of 1969 (Public Law 91–190), the Environmental Quality Improvement Act of 1970 (Public Law 91–224), and Reorganization Plan No. 1 of 1977, including not to exceed $875 for official reception and representation expenses, and hire of passenger motor vehicles, $2,560,000: *Provided,* That the Council on Environmental Quality and Office of Environmental Quality shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

NATIONAL SPACE COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Space Council, including services as authorized by 5 U.S.C. 3109; $1,591,000, of which not to exceed $1,000 may be for official reception and representation expenses: *Provided,* That the National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $2,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $6,225,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: *Provided further,* That the Office of Science and Technology Policy may award grants and enter into cooperative agreements with qualified recipients to further science, technology development, education, and other purposes.

THE POINTS OF LIGHT FOUNDATION

For necessary expenses for carrying out title III of the National and Community Service Act of 1990 (Public Law 101–610), relating to The Points of Light Foundation's promotion of social problem-solving through voluntary community service, $5,000,000.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses in carrying out the functions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $292,095,000, of which not to exceed $95,000 may be transferred to the disaster assistance direct loan program account for administrative expenses and subsidies for direct loans provided under section 319 of such Act, to remain available until expended.

Chapter X of title XI of the Dire Emergency Supplemental Appropriations Act, 1992, Including Disaster Assistance to Meet

the Present Emergencies Arising from the Consequences of Hurricane Andrew, Typhoon Omar, Hurricane Iniki, and Other Natural Disasters, and Additional Assistance to Distressed Communities (H.R. 5620) is amended by (1) striking the matter under the heading "Disaster relief" and inserting in lieu thereof: "For necessary expenses in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, $2,893,000,000, of which not to exceed $50,000,000 may be transferred to the 'Disaster Assistance Direct Loan Program' account for administrative expenses and subsidies for direct loans provided under section 417 of such Act, and of which $143,000,000 shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, is transmitted by the President to the Congress, to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended." and (2) striking the matter under the heading "Disaster assistance direct loan program account" and inserting in lieu thereof: "The limitation on direct loans for the 'Disaster assistance direct loan program account' is increased, within existing funds, by $230,000,000 to not to exceed $258,000,000: *Provided further,* That not to exceed $58,000,000 is available for direct loan obligations provided to eligible applicants or to States under section 319 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: *Provided further,* That not to exceed $200,000,000 is available for community disaster loans to local governments under section 417 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended: *Provided further,* That any unused portion of the direct loan limitation shall be available until September 30, 1993: *Provided further,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.".

DISASTER ASSISTANCE DIRECT LOAN PROGRAM ACCOUNT

Funds provided to this account are available to subsidize gross obligations for the principal amount of direct loans not to exceed $40,000,000.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS–18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government programs to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $2,500 for official reception and representation expenses, $160,409,000: *Provided,* That up to $1,000,000 of the

funds appropriated under this heading may be transferred to and merged with sums appropriated for "Office of Inspector General".

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,000,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $253,243,000.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $129,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100–77, as amended: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $13,978,000 shall be transferred as needed to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $48,092,000 shall be transferred as needed to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $4,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1994. In fiscal year 1993, no funds in excess of (1) $32,000,000 for operating expenses, (2) $221,000,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

ADMINISTRATIVE PROVISIONS

Regulations.

The Director of the Federal Emergency Management Agency shall promulgate through rulemaking a schedule of fees applicable to persons subject to the Federal Emergency Management Agency's Radiological Emergency Preparedness regulations. The aggregate charges assessed pursuant to this section during fiscal year 1993

shall approximate, but not be less than, 100 per centum of the amounts anticipated by the Federal Emergency Management Agency to be obligated for its Radiological Emergency Preparedness program. The schedule of fees shall be fair and equitable, and shall reflect the full amount of direct and indirect costs incurred through the provision of regulatory services. Such fees will be assessed in a manner that reflects the use of agency resources for classes of regulated persons and the administrative costs of collecting such fees. Fees received pursuant to this section shall be deposited in the general fund of the Treasury as offsetting receipts. Assessment and collection of such fees are only authorized during fiscal year 1993.

The Federal Emergency Management Agency may store, stockpile, or access stocks of Meals, Ready-to-Eat (MREs) declared surplus by the Department of Defense, or otherwise made available, for the purpose of providing assistance in situations of disaster or emergency. In addition, the Federal Emergency Management Agency may make available, at the discretion of the Director, MRE stocks to the Interagency Council on the Homeless for purposes of domestic, civilian assistance.

Notwithstanding any other provision of law, no funds provided in this Act or in any other Act for the Federal Emergency Management Agency may be used for the purpose of chauffeuring employees.

By the end of fiscal year 1993, notwithstanding any other provision of law, the number of individuals employed by the Federal Emergency Management Agency in other than "career appointee" positions shall not exceed 22.

Government employees. Labor.

During fiscal year 1993, notwithstanding any other provision of law, average employment in the headquarter's offices of the Federal Emergency Management Agency shall not exceed: (1) 6 workyears for the Office of the Director, (2) 22 workyears for the Office of General Counsel, (3) 192 workyears for the Office of the Executive Director, (4) 90 workyears for Financial Management, (5) 25 workyears for Information Services, (6) 5 workyears for Regional Liaison, (7) 105 workyears for Regional Executive Direction, and (8) 20 workyears for External Affairs.

Notwithstanding any other law, nonsupervisory employees of the Federal Emergency Management Agency may not be excluded from coverage under chapter 71 of title 5, and such employees shall be eligible to participate in collective bargaining under such chapter.

Notwithstanding any other provision of this or any other Act with respect to any fiscal year, the Hazardous Materials Branch of the Office of Technological Hazards, and all funds and staff years provided to it by this Act, shall be transferred from the State and Local Programs and Support Directorate to the United States Fire Administration within 90 days of the enactment of this Act.

The Director of the Federal Emergency Management Agency shall undertake a review of the agency's organizational structure and, within 180 days of enactment of this Act, submit to the appropriate committees of the Congress a reorganization plan which reflects changing mission requirements and priorities. The review shall include an assessment of the National Preparedness Directorate and examine potential alternatives to meet that directorate's principal objectives while increasing overall agency efficiency.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $2,026,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $6,500,000. Administrative expenses of the Consumer Information Center in fiscal year 1993 shall not exceed $2,367,000. Appropriations, revenues, and collections accruing to this fund during fiscal year 1993 in excess of $6,500,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $2,159,000: *Provided,* That notwithstanding any other provision of law, that Office may solicit, accept and deposit to this account, during fiscal year 1993, gifts for the purpose of defraying its costs of printing, publishing, and distributing consumer information and educational materials; may expend up to $1,100,000 of those gifts for those purposes, in addition to amounts otherwise appropriated; and the balance shall remain available for expenditure for such purposes to the extent authorized in subsequent appropriations Acts.

INTERAGENCY COUNCIL ON THE HOMELESS

SALARIES AND EXPENSES

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act, as amended (42 U.S.C. 11311–11319), $900,000, to remain available until September 30, 1994: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act.

42 USC 11313 note.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, lease, charter, maintenance, and operation of mission and administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administra-

tion; not to exceed $35,000 for official reception and representation expenses; and purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; $7,089,300,000, to remain available until September 30, 1994: *Provided,* That $2,100,000,000 shall be made available for implementing the restructured Space Station Freedom program without substantive deviation from the on-orbit assembly sequence outlined by NASA in March 1990, endorsed by the National Space Council, and confirmed by the Committees on Appropriations in House Report 102–226: *Provided further,* That $391,000,000 shall be made available for the development of the Earth Observing System (EOS) and EOS Data Information System (EOSDIS).

Of the amounts made available under this heading in Public Law 102–139, $14,300,000 for the Climsat mission are rescinded.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for, in support of space flight, spacecraft control and communications activities of the National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, lease, charter, maintenance and operation of mission and administrative aircraft; $5,086,000,000, to remain available until September 30, 1994.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $525,000,000, to remain available until September 30, 1995: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses for personnel and related costs, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902) and travel expenses, $1,615,014,000: *Provided,* That contracts may be entered into under this appropriation for training, investigations, costs associated with personnel relocation, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $15,062,000.

ADMINISTRATIVE PROVISIONS

Contracts. Business and industry. Disadvantaged. Women.

The NASA Administrator shall, to the fullest extent possible, ensure that at least 8 per centum of Federal funding for prime and subcontracts awarded in support of authorized programs, including the space station by the time operational status is obtained, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

Nomenclature.

The Mission Simulator and Training Facility, Building Number 5, of the National Aeronautics and Space Administration, located at the Johnson Space Center in Houston, Texas, is hereafter named and designated the "Jake Garn Mission Simulator and Training Facility". Any reference in a law, rule, map, regulation, document, record, or other paper of the United States to such facility shall be held to be a reference to the "Jake Garn Mission Simulator and Training Facility".

NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING

SALARIES AND EXPENSES

For necessary expenses of the National Commission on American Indian, Alaska Native, and Native Hawaiian Housing, in carrying out their functions under title VI of the Department of Housing and Urban Development Reform Act of 1989 (Public Law 101–235, 103 Stat. 1987, 2052), $500,000, to remain available until expended.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1993, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the

Central Liquidity Facility in fiscal year 1993 shall not exceed $964,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of aircraft; $1,859,000,000, to remain available until September 30, 1994: *Provided,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That notwithstanding section 104 of the National Science Foundation Authorization Act of 1988 (Public Law 100–570), no funds appropriated to the National Science Foundation under this Act may be transferred among appropriations accounts: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally: *Provided further,* That no funds in this Act or any other Act shall be used to lease or purchase an arctic research vessel built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: *Provided further,* That, in determining the cost of such a vessel, such cost shall be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further,* That the vessel contracted for pursuant to the foregoing shall be of United States registry.

Maritime affairs.
Contracts.

ACADEMIC RESEARCH FACILITIES AND INSTRUMENTATION

For necessary expenses in carrying out an academic research facilities and instrumentation program pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $50,000,000, to remain available until September 30, 1994.

UNITED STATES ANTARCTIC RESEARCH ACTIVITIES

For necessary expenses in carrying out the research and operational support and for reimbursement to other Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; improvement of environmental practices and enhancements of safety; services as authorized by 5 U.S.C. 3109; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of pas-

senger motor vehicles; not to exceed $2,500 for official reception and representation expenses; $158,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies.

UNITED STATES ANTARCTIC LOGISTICAL SUPPORT ACTIVITIES

For necessary expenses in reimbursing Federal agencies for logistical and other related activities for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); acquisition, maintenance, and operation of aircraft for research and operations support; improvement of environmental practices and enhancements of safety; $63,360,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation.

EDUCATION AND HUMAN RESOURCES ACTIVITIES

For necessary expenses in carrying out science and engineering education and human resources programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $487,500,000, to remain available until September 30, 1994: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

CRITICAL TECHNOLOGIES INSTITUTE

For necessary expenses for support of the Critical Technologies Institute as authorized by section 822 of the National Defense Authorization Act for Fiscal Year 1991, as amended (42 U.S.C. 6686), $1,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary salaries and expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875); services authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $6,000 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; reimbursement of the General Services Administration for security guard services; $111,000,000: *Provided,* That contracts may be entered into under salaries and expenses in fiscal year 1993 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $3,688,000.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101–8107), $27,976,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101–4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $28,616,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States: *Provided further,* That notwithstanding the provisions of 50 U.S.C. App. 460(g), none of the funds appropriated by this Act may be obligated in connection with the preparation of more than one report each year to the Congress covering the operation of the Selective Service System.

TITLE IV

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1993 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL DEPOSIT INSURANCE CORPORATION

FSLIC RESOLUTION FUND

For payment of expenditures, in fiscal year 1993, of the FSLIC Resolution Fund, for which other funds available to the FSLIC Resolution Fund as authorized by Public Law 101–73 are insufficient, $2,622,000,000.

FDIC AFFORDABLE HOUSING PROGRAM

For the affordable housing program of the Federal Deposit Insurance Corporation under section 40 of the Federal Deposit Insurance Act (12 U.S.C. 1831q), $5,000,000 to pay for any losses resulting from the sale of properties under the program, and for all administrative and holding costs associated with operating the program.

Notwithstanding any provisions of section 40 of the Federal Deposit Insurance Act or any other provision of law, the Federal Deposit Insurance Corporation shall be deemed in compliance with such section if, in its sole discretion, the Corporation at any time modifies, amends or waives any provisions of such section in order to maximize the efficient use of the available appropriated funds. The Corporation shall not be subject to suit for its failure to comply with the requirements of this provision or section 40 of the Federal Deposit Insurance Act.

BANK ENTERPRISE PROGRAM

For necessary expenses of issuing minimum requirements and guidelines under sections 232(a) and 233(a) of the Bank Enterprise Act of 1991, except for section 233(a)(1)(B) (12 U.S.C. 1834(a) and 1834a(a)), and in estimating the cost of allowing reduced assessment rates and assessment credits pursuant to such Act in future fiscal years, $1,000,000.

The appropriation herein provided shall not constitute authority for implementation of assessment needs or reduced assessments pursuant to the Bank Enterprise Act.

RESOLUTION TRUST CORPORATION

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $33,510,000.

ADMINISTRATIVE PROVISION

Contracts. Business and industry. Disadvantaged. Women.

The President of the Resolution Trust Corporation shall, to the fullest extent possible, ensure that at least 8 per centum of funding for prime and subcontracts awarded in support of authorized programs, be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities. For the purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

TITLE V

GENERAL PROVISIONS

SECTION 501. Where appropriations in titles I, II, and III of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided*, That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; to travel performed by the Offices of Inspector General in connection with audits and investigations; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further*, That if appropriations in titles I, II, and III exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 502. Appropriations and funds available for the administration expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 503. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Resolution Trust Corporation, Federal Reserve banks or any member thereof, Federal Home Loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 505. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 506. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of any officer or employee authorized such transportation under title 31, United States Code, section 1344.

SEC. 507. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specifically solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 508. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 509. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to any part of the appropriations contained in this Act for Offices of Inspector General personnel compensation and benefits.

SEC. 510. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts. Public information.

SEC. 511. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts. Reports.

SEC. 512. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain

information concerning (A) the contract pursuant to which the report was prepared, and (B) the contractor who prepared the report pursuant to such contract.

SEC. 513. Except as otherwise provided in section 506, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 514. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 515. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 516. None of the funds appropriated in title I of this Act shall be used to enter into any new lease of real property if the estimated annual rental is more than $300,000, unless the Secretary submits, in writing, a report to the Committees on Appropriations of the Congress and a period of 30 days has expired following the date on which the report is received by the Committees on Appropriations. Reports.

SEC. 517. (a) The Resolution Trust Corporation ("Corporation") shall report to the Congress at least once a month on the status of the review required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act and the actions taken with respect to the agreements described in such section. The report shall describe, for each such agreement, the review that has been conducted and the action that has been taken, if any, to rescind or to restructure, modify, or renegotiate the agreement. In describing the action taken, the Corporation is not required to provide detailed information regarding an ongoing investigation or negotiation. The Corporation shall exercise any and all legal rights to restructure, modify, renegotiate or rescind such agreement, notwithstanding any other provision of law, where the savings would be realized. Reports.

(b) To expend any appropriated funds for the purpose of restructuring, modifying, or renegotiating the agreements described in subsection (a), the Corporation shall certify to the Congress, for each such agreement, the following:

(1) the Corporation has completed its review of the agreement, as required by section 21A(b)(11)(B) of the Federal Home Loan Bank Act;

(2)(A) at the time of certification, in the opinion of the Corporation and based upon the information available to it, there is insufficient evidence or other indication of fraud, misrepresentation, failure to disclose a material fact, failure to perform under the terms of the agreement, improprieties in the bidding process, failure to comply with any law, rule or regulation regarding the validity of the agreement, or any other legal basis sufficient for the rescission of the agreement; or

(B) at the time of certification, the Corporation finds that there may be sufficient evidence to provide a legal basis for the rescission of the assistance agreement, but the Corporation determines that it may be in the best interest of the Government to restructure, modify or renegotiate the assistance agreement; and

(3) the Corporation has or will promptly exercise any and all legal rights to modify, renegotiate, or restructure the agreement where savings would be realized by such actions.

SEC. 518. Hereafter, for purposes of chapter 75 of title 31, United States Code (relating to requirements for single audits), the City of Walnut Creek, California, shall be permitted to conduct audits biennially.

SEC. 519. SAFE DRINKING WATER ACT IMPLEMENTATION.—

(a) SAFE DRINKING WATER ACT REPORT.—The Administrator of the Environmental Protection Agency shall report to the Congress within nine months of the date of enactment of this section recommendations concerning the reauthorization of the Safe Drinking Water Act. Such report shall address—

(1) the adverse health effects associated with contaminants in drinking water and the public health and other benefits that may be realized by removing such contaminants;

(2) the process for identifying contaminants in drinking water and selecting contaminants for control;

(3) schedules for the development of regulations and compliance with drinking water standards;

(4) the financial and technical capacity of drinking water systems to implement monitoring requirements associated with regulated and unregulated contaminants and options to facilitate implementation of such requirements, with special emphasis on small communities;

(5) the financial and technical capacity of drinking water systems to install treatment facilities needed to assure compliance with drinking water standards and options to facilitate compliance with such standards, with special emphasis on small communities;

(6) the financial and technical capacity of States to implement the drinking water program, including options for increasing funding of State programs; and

(7) innovative and alternative methods to increase the financial and technical capacity of drinking water systems and the States to assure effective implementation of such Act.

(b) MORATORIUM AND REPORT ON RADIONUCLIDES IN DRINKING WATER.—(1) The Administrator of the Environmental Protection Agency shall conduct a risk assessment of radon considering: (A) the risk of adverse human health effects associated with exposure to various pathways of radon; (B) the costs of controlling or mitigating exposure to radon; and (C) the costs for radon control or mitigation experienced by households and communities, including the costs experienced by small communities as the result of such regulation. Such an evaluation shall consider the risks posed by the treatment or disposal of any wastes produced by water treatment. The Science Advisory Board shall review the Agency's study and submit a recommendation to the Administrator on its findings. The Administrator shall report the Administrator's findings and the Science Advisory Board recommendation to the Senate Committee on Environment and Public Works and the House Committee on Energy and Commerce. Not later than July 31, 1993, the Administrator shall publish the Administrator's study and risk assessment and the Science Advisory Board recommendation.

(2) The Administrator is directed, if additional time is required to establish the radon standard, to seek an extension of the deadline

contained in the judicially-imposed consent decree for promulgation of the radon standard to a date not later than October 1, 1993.

(c) SMALL SYSTEM MONITORING COST REDUCTION.—With respect to monitoring requirements for organic chemicals, pesticides, PCBs, or unregulated contaminants promulgated in January 1991 (known as the Phase II rule), the Administrator or a primacy State may modify such requirements to provide that any drinking water system serving a population of less than 3,300 persons shall not be required to conduct additional quarterly monitoring for a specific contaminant or contaminants prior to October 1, 1993, if monitoring for any one quarter conducted after the date of enactment of this subsection and prior to October 1, 1993 for any such contaminant or contaminants fails to detect the presence of such contaminant or contaminants in the water supplied by the drinking water system.

This Act may be cited as the "Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5679:

HOUSE REPORTS: Nos. 102-710 (Comm. on Appropriations) and 102-902 (Comm. of Conference).
SENATE REPORTS: No. 102-356 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 29, considered and passed House.
Sept. 8, 9, considered and passed Senate, amended.
Sept. 25, House agreed to conference report; receded and concurred in certain Senate amendments, in others with an amendment; and insisted on its disagreement to another. Senate agreed to conference report; receded and concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-390
102d Congress

An Act

Oct. 6, 1992
[H.R. 3654]

To provide for the minting of commemorative coins to support the 1996 Atlanta Centennial Olympic Games and the programs of the United States Olympic Committee, to reauthorize and reform the United States Mint, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—1996 OLYMPIC GAMES COMMEMORATIVE COINS

Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act. 31 USC 5112 note.

SECTION 101. SHORT TITLE.

This title may be cited as the "Doug Barnard, Jr.—1996 Atlanta Centennial Olympic Games Commemorative Coin Act".

SEC. 102. COIN SPECIFICATIONS.

(a) FIVE DOLLAR GOLD COINS.—The Secretary of the Treasury (hereinafter in this title referred to as the "Secretary") shall issue five dollar coins, each of which shall weigh 8.359 grams, have a diameter of 0.850 inches, and contain 90 percent gold and 10 percent alloy, with the dates and in the amounts, as follows:

Year	Amount
1995	Not more than 175,000 each of 2 coins of different designs.
1996	Not more than 300,000 each of 2 coins of different designs.

(b) ONE DOLLAR SILVER COINS.—The Secretary shall issue one dollar coins, each of which shall weigh 26.73 grams, have a diameter of 1.500 inches, and contain 90 percent silver and 10 percent copper, with the dates and in the amounts, as follows:

Year	Amount
1995	Not more than 750,000 each of 4 coins of different designs.
1996	Not more than 1,000,000 each of 4 coins of different designs.

(c) HALF DOLLAR CLAD COINS.—The Secretary shall issue half dollar coins, each of which shall weigh 11.34 grams, have a diameter of 30.61 millimeters and be minted to the specifications for half

dollar coins contained in section 5112(b) of title 31, United States Code, with the dates and in the amounts, as follows:

Year	Amount
1995	Not more than 2,000,000 coins each of 2 coins of different designs.
1996	Not more than 3,000,000 coins each of 2 coins of different designs.

(d) LEGAL TENDER.—The coins issued under this title shall be legal tender as provided in section 5103 of title 31, United States Code.

SEC. 103. SOURCES OF BULLION.

(a) SILVER BULLION.—The Secretary shall obtain silver for the coins minted under this title only from stockpiles established under the strategic and Critical Materials Stock Piling Act.

(b) GOLD BULLION.—The Secretary shall obtain gold for the coins minted under this title pursuant to the authority of the Secretary under existing law.

SEC. 104. DESIGN.

(a) DESIGN REQUIREMENTS.—The design of the coins authorized under this title shall be emblematic of the participation of athletes from the United States of America in the Olympic Games culminating in the 1996 Centennial Olympic Games in Atlanta, Georgia. On each such coin there shall be a designation of the value of the coin, an inscription of the date of the coin as specified pursuant to section 102, and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION OF DESIGN.—The Secretary shall select the design of each coin authorized hereunder after consultation with the Commission of Fine Arts, the American Numismatic Association, and the Atlanta Centennial Olympic Properties, a joint venture formed by the Atlanta Committee for the Olympic Games, Inc. and the United States Olympic Committee, (hereinafter in this title referred to as "Atlanta Centennial Olympic Properties").

SEC. 105. ISSUANCE OF THE COINS.

(a) QUALITIES.—The coins authorized under this title shall be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(b) SUNSET PROVISION.—No coins shall be minted under this title after December 31, 1996.

SEC. 106. SALE OF THE COINS.

(a) SALE PRICE.—Notwithstanding any other provisions of law, the coins authorized under this title shall be sold by the Secretary at a price equal to the face value, plus the cost of designing and issuing such coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make bulk sales at a reasonable discount.

(c) PREPAID ORDERS AT A DISCOUNT.—The Secretary shall accept prepaid orders for the coins prior to the issuance of such coins. Sales under this subsection shall be at a reasonable discount.

(d) CONSIGNMENT.—The Secretary may sell the coins authorized under this title on a consignment basis to selective consignees to the extent such action shall reasonably be expected to increase the sale of such coins.

(e) SURCHARGE REQUIRED.—All sales shall include a surcharge of $50 per coin for the five dollar coins, $10 per coin for the one dollar coins, and $3 per coin for the clad coins.

(f) MARKETING.—The Secretary, in cooperation with Atlanta Centennial Olympic Properties, shall develop and implement a marketing program to promote and sell the coins authorized hereunder both within the United States and internationally.

SEC. 107. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this title.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity, except that no person shall be treated as a Federal contractor as a result of participating as a consignee of the United States Mint under section 106(d) for purposes of any reporting requirement with respect to any equal employment opportunity provision in any Federal procurement law.

SEC. 108. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges which are received by the Secretary from the sale of coins issued under this title shall be promptly paid by the Secretary to Atlanta Centennial Olympic Properties.

(b) USE OF PROCEEDS.—

(1) IN GENERAL.—Amounts received under subsection (a) (net of expenses incurred by Atlanta Centennial Olympic Properties in connection with the coin program) shall be distributed equally to the Atlanta Committee for the Olympic Games, Inc. and the United States Olympic Committee.

(2) ATLANTA COMMITTEE FOR THE OLYMPIC GAMES.—Amounts distributed to the Atlanta Committee for the Olympic Games, Inc. may be used by the Atlanta Committee for the Olympic Games, Inc. to stage and promote the 1996 Atlanta Olympic Games.

(3) UNITED STATES OLYMPIC COMMITTEE.—Amounts distributed to the United States Olympic Committee shall be used by the United States Olympic Committee for the objects and purposes of the Committee as established in the Amateur Sports Act of 1978.

(c) AMERICAN GOODS AND SERVICES REQUIRED.—

(1) IN GENERAL.—Notwithstanding any other provision of law—

(A) only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States;

(B) only such manufactured articles, materials, and supplies as have been manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured in, and with services provided in, the United States; and

(C) only such services as are provided in the United States,

shall be acquired, directly or indirectly, by the Atlanta Committee for the Olympic Games, Inc. or the United States Olympic Committee with amounts provided to such Committees under this section.

(2) EXCEPTION.—Paragraph (1) shall not apply with respect to the acquisition of any article, material, supply, or service, as the case may be, by the Atlanta Committee for the Olympic Games, Inc. or the United States Olympic Committee which is not described in such paragraph if such Committee determines that—

(A) the cost of acquiring the article, material, supply, or service described in paragraph (1) is unreasonably expensive;

(B) articles, materials, or supplies of the class or kind to be used or acquired, or the articles, materials, or supplies from which they are manufactured, are not mined, produced, or manufactured in, or services involved with such manufacture are not available in, the United States; or

(C) services of the class or kind to be acquired are not provided in the United States.

SEC. 109. AUDITS.

The Comptroller General shall have the right to examine such books, records, documents, and other data of Atlanta Centennial Olympic Properties, Atlanta Committee for the Olympic Games, Inc., and the United States Olympic Committee as may be related to the expenditure of amounts received by such entities under section 108.

SEC. 110. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the coins authorized by this title shall result in no net cost to the United States Government.

(b) ADEQUATE SECURITY FOR PAYMENT REQUIRED.—No coin shall be issued under this title unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment of the coin;

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board; or

(4) an agreement acceptable to the Secretary that coins held in the custody of a consignee pursuant to section 106(d) are adequately secured.

SEC. 111. RECIPROCITY OF OLYMPIC COIN SALES.

With respect to any coin issued by a foreign country in commemoration of the 1996 Atlanta Centennial Olympic Games—

(1) the Secretary shall determine whether the foreign country accords (or, by January 1, 1995, will accord) the coins issued under this Act the same competitive treatment (including effective market access) as the United States accords the coins issued by the foreign country; and

(2) if not, the Secretary may ban the importation of such coins into the United States.

SEC. 112. REPORTS TO CONGRESS.

(a) REPORTS REQUIRED.—Not later than 15 days after the last day of each calendar quarter which ends before April 1, 1997, the Secretary shall transmit to the Committee on Banking, Finance, and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a report detailing activities carried out under this title during such quarter.

(b) CONTENTS OF REPORT.—The report shall include a review of all marketing activities under section 106 and a financial statement.

United States Mint Reauthorization and Reform Act of 1992. 31 USC 5101 note.

TITLE II—UNITED STATES MINT REAUTHORIZATION

SEC. 201. SHORT TITLE.

This title may be cited as the "United States Mint Reauthorization and Reform Act of 1992".

Subtitle A—Reauthorization of Appropriations

SEC. 211. REAUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

Section 5132(a) of title 31, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking "$46,511,000" and inserting "$54,208,000"; and

(B) by striking "1988" and inserting "1993"; and

(2) by striking paragraphs (3) and (4).

Subtitle B—Reform of United States Mint Operations

SEC. 221. NUMISMATIC PUBLIC ENTERPRISE FUND ESTABLISHED.

(a) IN GENERAL.—Subchapter III of chapter 51 of subtitle IV of title 31, United States Code, is amended by adding at the end the following new section:

"§ 5134. Numismatic Public Enterprise Fund

"(a) DEFINITIONS.—For purposes of this section—

"(1) FUND.—The term 'Fund' means the Numismatic Public Enterprise Fund.

"(2) MINT.—The term 'Mint' means the United States Mint.

"(3) NUMISMATIC ITEM.—The term 'numismatic item' means any medal, proof coin, uncirculated coin, bullion coin, or other coin specifically designated by statute as a numismatic item, including products and accessories related to any such medal, coin, or item.

"(4) NUMISMATIC OPERATIONS AND PROGRAMS.—The term 'numismatic operations and programs'—

"(A) means the activities concerning, and assets utilized in, the production, administration, sale, and management of numismatic items and the Numismatic Public Enterprise Fund; and

"(B) includes capital, personnel salaries, functions relating to operations, marketing, distribution, promotion, advertising, and official reception and representation, the acquisition or replacement of equipment, and the renovation or modernization of facilities (other than the construction or acquisition of new buildings).

"(5) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.

"(b) ESTABLISHMENT OF FUND.—There is hereby established in the Treasury of the United States a revolving Numismatic Public Enterprise Fund consisting of amounts deposited in the fund under subsection (c)(2) of this section or section 221(b) of the United States Mint Reauthorization and Reform Act of 1992 which shall be available to the Secretary for numismatic operations and programs of the United States Mint without fiscal year limitation.

"(c) OPERATIONS OF THE FUND.—

"(1) PAYMENT OF EXPENSES.—Any expense incurred by the Secretary for numismatic operations and programs which the Secretary determines, in the Secretary's sole discretion, to be ordinary and reasonable incidents of the numismatic business shall be paid out of the Fund, including any expense incurred pursuant to any obligation or other commitment of Mint numismatic operations and programs which was entered into before the beginning of fiscal year 1993.

"(2) DEPOSIT OF RECEIPTS.—All receipts from numismatic operations and programs shall be deposited into the Fund.

"(3) TRANSFER OF SEIGNIORAGE.—The Secretary shall transfer monthly from the Fund to the general fund of the Treasury an amount equal to the total amount on the seigniorage of numismatic items sold since the date of any preceding transfer.

"(4) EXPENSES OF CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.—For purposes of paragraph (1), any expense incurred by the Secretary in connection with the Citizens Commemorative Coin Advisory Committee established under section 5135 shall be treated as an expense incurred for numismatic operations and programs which is an ordinary and reasonable incident of the numismatic business.

"(5) TRANSFER OF EXCESS AMOUNTS TO THE TREASURY.—

"(A) IN GENERAL.—At such times as the Secretary determines to be appropriate, the Secretary shall transfer any amount in the Fund which the Secretary determines to be in excess of the amount required by the Fund to the Treasury for deposit as miscellaneous receipts.

"(B) REPORT TO CONGRESS.—The Secretary shall submit an annual report to the Congress containing—

"(i) a statement of the total amount transferred to the Treasury pursuant to subparagraph (A) during the period covered by the report;

"(ii) a statement of the amount by which the amount on deposit in the Fund at the end of the period covered by the report exceeds the estimated operating costs of the Fund for the 1-year period beginning at the end of such period; and

"(iii) an explanation of the specific purposes for which such excess amounts are being retained in the Fund.

"(d) BUDGET TREATMENT.—

"(1) IN GENERAL.—The Secretary shall prepare budgets for the Fund, and estimates and statements of financial condition of the Fund in accordance with the requirements of section 9103 which shall be submitted to the President for inclusion in the budget submitted under section 1105.

"(2) INCLUSION IN ANNUAL REPORT.—Statements of the financial condition of the Fund shall be included in the Secretary's annual report on the operation of the Mint.

"(3) TREATMENT AS WHOLLY OWNED GOVERNMENT CORPORATION FOR CERTAIN PURPOSES.—Section 9104 shall apply to the Fund to the same extent such section applies to wholly owned Government corporations.

"(e) FINANCIAL STATEMENTS, AUDITS, AND REPORTS.—

"(1) ANNUAL FINANCIAL STATEMENT REQUIRED.—By the end of each calendar year, the Secretary shall prepare an annual financial statement of the Fund for the fiscal year which ends during such calendar year.

"(2) CONTENTS OF FINANCIAL STATEMENT.—Each statement prepared pursuant to paragraph (1) shall, at a minimum, reflect—

"(A) the overall financial position (including assets and liabilities) of the Fund as of the end of the fiscal year;

"(B) the results of the numismatic operations and programs of the Fund during the fiscal year;

"(C) the cash flows or the changes in financial position of the Fund; and

"(D) a reconciliation of the financial statement to the budget reports of the Fund.

"(3) ANNUAL AUDITS.—

"(A) IN GENERAL.—Each annual financial statement prepared under paragraph (1) shall be audited—

"(i) by—

"(I) an independent external auditor; or

"(II) the Inspector General of the Department of the Treasury,

as designated by the Secretary; and

"(ii) in accordance with the generally accepted Government auditing standards issued by the Comptroller General of the United States.

"(B) AUDITOR'S REPORT REQUIRED.—The auditor designated to audit any financial statement of the Fund pursuant to subparagraph (A) shall submit a report—

"(i) to the Secretary by March 31 of the year beginning after the end of the fiscal year covered by such financial statement; and

"(ii) containing the auditor's opinion on—

"(I) the financial statement of the Fund;

"(II) the internal accounting and administrative controls and accounting systems of the Fund; and

"(III) the Fund's compliance with applicable laws and regulations.

"(4) ANNUAL REPORT ON FUND.—

"(A) REPORT REQUIRED.—By April 30 of each year, the Secretary shall submit a report on the Fund for the most recently completed fiscal year to the President, the Congress, and the Director of the Office of Management and Budget.

"(B) CONTENTS OF ANNUAL REPORT.—The annual report required under subparagraph (A) for any fiscal year shall include—

"(i) the financial statement prepared under paragraph (1) for such fiscal year;

"(ii) the audit report submitted to the Secretary pursuant to paragraph (3)(B) for such fiscal year;

"(iii) a description of activities carried out during such fiscal year;

"(iv) a summary of information relating to numismatic operations and programs contained in the reports on systems on internal accounting and administrative controls and accounting systems submitted to the President and the Congress under section 3512(c);

"(v) a summary of the corrective actions taken with respect to material weaknesses relating to numismatic operations and programs identified in the reports prepared under section 3512(c);

"(vi) any other information the Secretary considers appropriate to fully inform the Congress concerning the financial management of the Fund; and

"(vii) a statement of the total amount of excess funds transferred to the Treasury.

"(5) MARKETING REPORT.—

"(A) REPORT REQUIRED FOR 10 YEARS.—For each fiscal year beginning before fiscal year 2003, the Secretary shall submit an annual report on all marketing activities and expenses of the Fund to the Congress before the end of the 3-month period beginning at the end of such fiscal year.

"(B) CONTENTS OF REPORT.—The report submitted pursuant to subparagraph (A) shall contain a detailed description of—

"(i) the sources of income including surcharges; and

"(ii) expenses incurred for manufacturing, materials, overhead, packaging, marketing, and shipping.".

(b) INITIAL FUNDING OF FUND FROM EXISTING NUMISMATIC OPERATIONS.— 31 USC 5134 note.

(1) IN GENERAL.—As soon as practicable after the end of fiscal year 1992, the Secretary of the Treasury shall transfer to the Fund—

(A) from the Mint's numismatic profits for such fiscal year, an amount which the Secretary determines to be necessary—

(i) to meet existing numismatic liabilities and obligations; and

(ii) to provide working capital for Mint numismatic operations and programs; and

(B) all numismatic receivables, and the numismatic operations and programs (including liabilities and other obligations) of the United States Mint, and the land and

buildings of the San Francisco Mint, the Old San Francisco Mint, and the West Point Mint, capitalized at current book value as carried in the Mint combined statement of financial condition.

(2) EXCESS AMOUNTS TO BE DEPOSITED IN THE GENERAL FUND.—That portion of the total amount of numismatic profits for fiscal year 1992 which remains after the transfer to the Fund pursuant to paragraph (1)(A) is made shall be deposited by the Secretary in the general fund of the Treasury as soon as practicable after the end of the fiscal year.

(3) DEFINITIONS.—For purposes of paragraphs (1) and (2)—

(A) NUMISMATIC PROFIT.—The term "numismatic profit" means the amount which is equal to the proceeds (including seigniorage) from the sale of numismatic items minus the costs of numismatic operations and programs.

(B) NUMISMATIC RECEIVABLE.—The term "numismatic receivable" means any account receivable from numismatic operations and programs, including chargebacks, returned checks, amounts due from special order sales, and amounts due from consignment sales.

(C) OTHER TERMS.—The terms "Fund" and "numismatic item" have the meaning given to such terms in the amendment made by subsection (a).

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 5132(a)(1) of title 31, United States Code, is amended—

(A) by striking the 2d sentence and inserting the following new sentence: "Expenditures made from appropriated funds which are subsequently determined to be properly chargeable to the Numismatic Public Enterprise Fund established by section 5134 shall be reimbursed by such Fund to the appropriation."; and

(B) by striking the last sentence and inserting the following new sentence: "Except with respect to amounts deposited in the Numismatic Public Enterprise Fund in accordance with section 5134, the Secretary may not use amounts the Secretary receives from profits on minting coins or from charges on gold or silver bullion under section 5122 to pay officers and employees.".

(2) Effective October 1, 1992, the following provisions of law are hereby repealed:

31 USC 5112 note.

(A) Section 2(f) of the Gold Bullion Coin Act of 1985.

31 USC 5112 note.

(B) Section 8 of the Dwight David Eisenhower Commemorative Coin Act of 1988.

31 USC 5112 note.

(C) Section 10 of the Mount Rushmore Commemorative Coin Act.

31 USC 5112 note.

(D) Section 12 of the United Service Organization's 50th Anniversary Commemorative Coin Act.

31 USC 5112 note.

(E) Section 10 of the 1992 Olympic Commemorative Coin Act.

31 USC 5112 note.

(F) Section 10 of the Korean War Veterans Memorial Thirty-Eighth Anniversary Commemorative Coin Act.

31 USC 5112 note.

(G) Section 110 of the 1992 White House Commemorative Coin Act.

31 USC 5112 note.

(H) Section 210 of the World Cup USA 1994 Commemorative Coin Act.

31 USC 5112 note.

(I) Section 410 of the Frank Annunzio Act.

(d) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 51 of subtitle IV of title 31, United States Code, is amended by inserting after the item relating to section 5133 the following new item:

"5134. Numismatic Public Enterprise Fund.".

(e) SCOPE OF APPLICATION.—The amendments made by this section shall apply with respect to fiscal years beginning after fiscal year 1992. 31 USC 5132 note.

SEC. 222. COST OF COIN BAGS AND PALLETS INCLUDED WITHIN MEANING OF COST OF DISTRIBUTING COINS.

The 4th sentence of section 5111(b) of title 31, United States Code, is amended by inserting ", including the cost of coin bags and pallets" before the period.

SEC. 223. PROTECTION OF THE NAME "UNITED STATES MINT".

Section 709 of title 18, United States Code, is amended by inserting immediately after the 11th undesignated paragraph the following new paragraph:

"Whoever, except with the written permission of the Director of the United States Mint, knowingly uses the words 'United States Mint' or 'U.S. Mint' or any colorable imitation of such words, in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production, is approved, endorsed, or authorized by or associated in any manner with, the United States Mint; or".

SEC. 224. REPAIR AND IMPROVEMENT OF THE UNITED STATES MINT AT PHILADELPHIA.

Section 5131 of title 31, United States Code, is amended by striking subsection (e).

SEC. 225. TECHNICAL AMENDMENTS RELATING TO THE REDESIGNATION OF THE BUREAU OF THE MINT AS THE UNITED STATES MINT.

(a) REDESIGNATION OF THE BUREAU OF THE MINT AS THE UNITED STATES MINT.—Section 304(a) of title 31, United States Code, is amended by striking "Bureau of the Mint" and inserting "United States Mint".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 304(b)(1) of title 31, United States Code, is amended by striking "Bureau" and inserting "Mint".

(2) The heading for section 304 of title 31, United States Code, is amended to read as follows:

"§ 304. United States Mint".

(3) The 1st sentence of section 5131(a) of title 31, United States Code, and the 1st and 3d sentences of section 5132(a) of such title are each amended by striking "Bureau of the Mint" each place such term appears and inserting "United States Mint".

(4) Sections 5131(b) and 5132(c) of title 31, United States Code, are each amended by striking "Bureau" and inserting "United States Mint".

(5) The heading for subchapter III of chapter 51 of title 31, United States Code, is amended to read as follows:

"SUBCHAPTER III—UNITED STATES MINT".

(6) The table of sections for chapter 51 of title 31, United States Code, is amended by striking the item relating to subchapter III of such chapter and inserting the following:

"SUBCHAPTER III—UNITED STATES MINT".

SEC. 226. CLARIFICATION OF LAW RELATING TO THE CODIFICATION OF TITLE 31, UNITED STATES CODE.

(a) INSCRIPTION REQUIREMENTS.—Section 5112(d)(1) of title 31, United States Code, is amended—

(1) in the 1st sentence, by inserting "shall" before "have"; and

(2) in the 2d and 3d sentences, by striking "has" and inserting "shall have".

(b) CURRENCY REDEMPTION REQUIREMENT.—Section 5119(b)(2) of title 31, United States Code, is amended to read as follows:

"(2) REDEMPTION, CANCELLATION, AND DESTRUCTION OF CURRENCY.—The Secretary shall—

"(A) redeem any currency described in paragraph (1) from the general fund of the Treasury upon presentment to the Secretary; and

"(B) cancel and destroy such currency upon redemption.".

SEC. 227. GENERAL WAIVER OF PROCUREMENT REGULATIONS FOR GOLD AND SILVER BULLION COINS.

Section 5112 of title 31, United States Code, is amended by adding at the end the following new subsection:

"(j) GENERAL WAIVER OF PROCUREMENT REGULATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for minting, marketing, or issuing any coin authorized under paragraph (7), (8), (9), or (10) of subsection (a) or subsection (e), including any proof version of any such coin.

"(2) EQUAL EMPLOYMENT OPPORTUNITY.—Paragraph (1) shall not relieve any person entering into a contract with respect to any coin referred to in such paragraph from complying with any law relating to equal employment opportunity.".

SEC. 228. AUTHORITY OF THE SECRETARY OF THE TREASURY TO CHANGE THE SIZE, WEIGHT, DESIGN, AND ALLOY OF GOLD BULLION COINS.

Section 5112(i) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of law and subject to subparagraph (B), the Secretary of the Treasury may change the diameter, weight, or design of any coin minted under this subsection or the fineness of the gold in the alloy of any such coin if the Secretary determines that the specific diameter, weight, design, or fineness of gold which differs from that otherwise required by law is appropriate for such coin.

"(B) The Secretary may not mint any coin with respect to which a determination has been made by the Secretary under subparagraph (A) before the end of the 30-day period beginning on the date a notice of such determination is published in the Federal Register.". Federal Register, publication.

SEC. 229. CITIZENS COMMEMORATIVE COIN ADVISORY COMMITTEE.

(a) IN GENERAL.—Subchapter III of chapter 51 of subtitle IV of title 31, United States Code, is amended by inserting after section 5134 (as added by section 221 of this subtitle) the following new section:

"§ 5135. Citizens Commemorative Coin Advisory Committee

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The Secretary of the Treasury shall establish a Citizens Commemorative Coin Advisory Committee (hereafter in this section referred to as the 'Advisory Committee') to advise the Secretary on the selection of subjects and designs for commemorative coins.

"(2) OVERSIGHT OF ADVISORY COMMITTEE.—The Advisory Committee shall be subject to the direction of the Secretary of the Treasury.

"(3) MEMBERSHIP.—

"(A) VOTING MEMBERS.—The Advisory Committee shall consist of 7 members appointed by the Secretary of the Treasury—

"(i) 3 of whom shall be appointed from among individuals specially qualified to serve on the committee by reason of their education, training, or experience in art, art history, museum or numismatic collection curation, or numismatics;

"(ii) 1 of whom shall be appointed from among officers or employees of the United States Mint who will represent the interests of the Mint; and

"(iii) 3 of whom shall be appointed from among individuals who will represent the interest of the general public.

"(B) NONVOTING MEMBER.—A member of the Commission of Fine Arts may participate in the proceedings of the Advisory Committee as a nonvoting member.

"(4) TERMS.—No individual shall be appointed to serve as a member of the Advisory Committee for a term in excess of 5 years.

"(5) COMPENSATION; TRAVEL EXPENSES.—

"(A) NO COMPENSATION.—Members of the Advisory Committee shall serve without pay.

"(B) TRAVEL EXPENSES.—Members of the Advisory Committee shall be entitled to receive travel or transportation expenses, or a per diem allowance in lieu of expenses, while away from such member's home or place of business in connection with such member's service on the Advisory Committee.

"(6) FUNDING.—The expenses of the Advisory Committee which the Secretary of the Treasury determines are reasonable and appropriate shall be paid by the Secretary in the manner provided in section 5134.

"(b) DUTIES.—

"(1) PREPARATION OF PROPOSALS FOR COMMEMORATIVE COINS FOR 5-YEAR PERIOD.—The Advisory Committee shall—

"(A) designate annually the events, persons, or places that the Advisory Committee recommends be commemorated by the issuance of commemorative coins in each of the 5 calendar years succeeding the year in which such designation is made;

"(B) make recommendations with respect to the mintage level for any commemorative coin recommended under subparagraph (A); and

Reports.

"(C) submit a report to the Congress containing a description of the events, persons, or places which the Committee recommends be commemorated by a coin, the mintage level recommended for any such commemorative coin, and the committee's reasons for such recommendations.

"(2) DESIGN SELECTION.—The Advisory Committee shall review proposed designs for commemorative coins and provide recommendations to the Secretary of the Treasury with respect to such proposals.

"(c) FEDERAL ADVISORY COMMITTEE ACT NOT APPLICABLE.—The Federal Advisory Committee Act shall not apply to the Advisory Committee.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter III of chapter 51 of subtitle IV of title 31, United States Code, is amended by inserting after the item relating to section 5134 (as added by section 211 of this subtitle) the following new item:

"5135. Numismatic Public Enterprise Fund.".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 3654:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 30, considered and passed House.
Sept. 18, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

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*Public Law 102-391
102d Congress

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes.

Oct. 6, 1992
[H.R. 5368]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1993, and for other purposes, namely:

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993.

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $62,180,100, to remain available until expended.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $30,000,000, to remain available until expended: *Provided,* That such funds shall be made available to the Facility by the Secretary of the Treasury if the Secretary determines (and so reports to the Committees on Appropriations) that the Facility has: (1) established clear procedures ensuring public availability of documentary information on all Facility projects and associated projects of the Facility implementing agencies; (2) established clear procedures ensuring that affected peoples in recipient countries are consulted on all aspects of identification, preparation, and implementation of Facility projects; and (3) the Facility governance process will provide for contributor country oversight of individual projects in the work program, and specific provisions will be established for the participation of nongovernmental organizations in all phases of the project cycle, including identification, appraisal, implementation, and evaluation: *Provided further,* That in the event the Secretary of the Treasury has not made such determinations by September 30, 1993, funds appropriated under this heading for the GEF shall be transferred to the Agency for International Development and used for activities associated with the GEF and the Global Warming Initiative.

Reports. Public information.

The Secretary of the Treasury is authorized to contribute on behalf of the United States $50,000,000 to the Global Environment

*Note: The printed text of Public Law 102-391 is a reprint of the hand enrollment, signed by the President on October 6, 1992.

Facility of the International Bank for Reconstruction and Development.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,010,512,700.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $1,024,332,000, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That, before obligating funds made available under this heading, the President shall reduce from the amount obligated, the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since October 1, 1992 if China is denied most-favored-nation trading status by the United States Government: *Provided further,* That such funds withheld from obligation may be obligated only if the President certifies that it is in the national interest of the United States to do so: *Provided further,* That fifteen days prior to the obligation of such funds for the International Development Association, the President shall report his certification to the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

President. Loans. China.

President. Reports.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $35,761,500, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided,* That of the amount appropriated under this heading not more than $5,960,000 may be expended for the purchase of such stock in fiscal year 1993: *Provided further,* That in order to pay for the subscription authorized in section 14 of the Intenational Finance Corporation Act, there are authorized to be appropriated, without fiscal year limitation, an additional $200,000,000 for payment by the Secretary of the Treasury.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury for the United States share of the paid-in share portion of the increase in capital stock, $56,466,000, and for the United States share of the increases in the resources of the Fund for Special Operations, $20,272,000, to remain available until expended: *Provided,* That the Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to use the voice and vote of the United States to oppose any assistance by the Bank to any recipient of assistance who refuses to agree in writing that in general any procurement of goods or services utilizing Bank funds shall be conducted in a manner that does not discriminate on the basis of nationality

against any member country, firm or person interested in providing such goods or services.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $2,202,040,000.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution for the establishment of the Fund to be administered by the Inter-American Development Bank, $90,000,000 to remain available until expended: *Provided,* That the Secretary of the Treasury shall use the voice and vote of the United States in the Donors Committee to seek that one-third of the total amount contributed by donors to the Fund be used for the Human Resources Facility of the Fund: *Provided further,* That the Secretary of the Treasury shall use the voice and vote of the United States in the Donors Committee to require that, to be eligible for disbursements of assistance from the Fund, a country must have a government that is democratically elected, does not harbor or sponsor international terrorists, cooperates with the United States in narcotics matters, and is not engaged in a consistent pattern of gross violations of human rights by its instrumentalities including its military and security forces: *Provided further,* That the Secretary of the Treasury shall instruct the United States Executive Director to the Inter-American Development Bank to vote against funding for any project of the Multilateral Investment Fund if such project is likely to cause a loss of jobs within the United States.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $25,514,303, to remain available until expended: *Provided,* That before obligating funds made available under this heading, the President shall reduce from the amount obligated, proportionately in paid-in capital and callable capital, the United States proportionate share of any loans approved by the Board of Directors for China for non-basic human needs since October 1, 1992, if China is denied most-favored-nation trading status by the United States Government: *Provided further,* That for payment to the Asian Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $12,500,000, to remain available until expended: *Provided further,* That in order to pay for the increase in the United States subscription to the Bank provided for in section 30 of the Asian Development Bank Act, there are authorized to be appropriated, without fiscal year limitation, an additional $212,000,000 for payment by the Secretary of the Treasury.

President.
Loans.
China.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89–369), $62,500,000, to remain available until expended: *Provided,* That prior to obligating any of the funds appropriated under this heading for the Asian Development Fund, the Secretary of the Treasury shall submit a certification to the Committees on Appropriations that none of such funds will be made available for China.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in the capital stock in an amount not to exceed $278,518,000.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $103,893,000, for the United States contribution to the sixth replenishment of the African Development Fund, to remain available until expended: *Provided,* That in order to pay for the United States contribution provided for in section 216 of the African Development Bank Act, there are authorized to be appropriated, without fiscal year limitation, an additional $270,000,000 for payment by the Secretary of the Treasury.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $60,000,000, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $140,000,000.

INTERNATIONAL MONETARY FUND

There is appropriated for an increase in the United States quota in the International Monetary Fund, the dollar equivalent of 8,608.5 million Special Drawing Rights, to remain available until expended and, among other uses, such funds may be used to promote efforts by the International Monetary Fund to support monetary stability in member countries through the instrumentality of currency boards.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973,

$310,000,000: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,* That the total amount of funds appropriated under this heading shall be made available only as follows: $125,000,000 for the United Nations Development Program of which not less than $2,500,000 shall be made available for the AIDS Program from within funds made available to the United Nations Development Program; $100,000,000 for the United Nations Children's Fund, of which amount 75 per centum (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 525 of this Act) shall be obligated and expended no later than thirty days after the date of enactment of this Act and 25 per centum of which shall be expended within thirty days from the start of the United Nations Children's Fund fourth quarter of operations for 1993; $3,000,000 for the United Nations Capital Development Fund; $1,000,000 for the United Nations Development Fund for Women; $250,000 for the United Nations International Research and Training Institute for the Advancement of Women; $300,000 for the Intergovernmental Panel on Climate Change; $2,000,000 for the International Convention and Scientific Organization Contributions; $2,250,000 for the World Meteorological Organization Voluntary Cooperation Program; $800,000 for the World Meteorological Organization Special Fund for Climate Studies; $30,000,000 for the International Atomic Energy Agency; $22,000,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $1,000,000 for the Convention on International Trade in Endangered Species; $450,000 for the World Heritage Fund; $500,000 for the United Nations Voluntary Fund for Victims of Torture; $400,000 for the United Nations Center on Human Settlements; $500,000 for the United Nations Industrial Development Organization Investment Promotion Service; $250,000 for the Intergovernmental Negotiating Committee; $11,000,000 for the Organization of American States; $2,000,000 for the United Nations Afghanistan Trust Fund; $1,000,000 for the International Tropical Timber Organization; $2,000,000 for the World Food Program; $1,000,000 for the International Union for the Conservation of Nature; $750,000 for the Ramsar Convention on Wetlands of International Importance Especially as Waterfowl Habitat; $1,000,000 for the OECD Center for Cooperation with European Economies in Transition; and $250,000 for the United Nations Fellowship Program: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

Reports.
Israel.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1993, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

DEVELOPMENT ASSISTANCE FUND

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $1,037,480,000, of which amount—

AIDS.

(a) not less than $80,000,000 shall be made available for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries of which not less than $34,000,000 shall be made available directly to the World Health Organization for its use in financing the Global Program on AIDS (including activities implemented by the Pan American Health Organization), and not less than $1,000,000 shall be made available to UNICEF for AIDS-related activities;

(b) not less than $5,000,000 shall be made available for new development projects of private entities and cooperatives for dairy development;

(c) not less than $25,000,000 shall be made available for the Vitamin A Deficiency Program and activities relating to iodine deficiency and other micro-nutrients, of which amount not less than $13,000,000 shall be made available for the Vitamin A Deficiency Program;

(d) not less than $225,000 shall be made available to support continued United States participation in the Associate Professional Officers Program of the international food agencies;

(e) not less than $1,000,000 shall be made available for private voluntary organizations to be used to finance operations for blind children;

(f) not less than $10,000,000 shall be made available for cooperative projects among the United States, Israel, and developing countries, of which not less than $5,000,000 shall be made available for the Cooperative Development Program, not less than $2,500,000 shall be made available for cooperative development research projects, and not less than $2,500,000 shall be made available for cooperative projects among the United States and Israel and the countries of Eastern Europe, the Baltic states, and the independent states of the former Soviet Union;

(g) not less than $5,000,000 shall be made available for the Central and Latin American Rural Electrification Support project;

(h) not less than $20,000,000 shall be made available for the International Student Exchange Program (for the Cooperative Association of States for Scholarships and the East Central European Scholarship Program), of which $3,000,000 shall be available, notwithstanding any other provision of law, for students from Poland, Hungary, and Czechoslovakia;

(i) not less than $20,000,000 shall be available only for donations of fuel, construction materials, portable heating units, dairy products, and wheat and other urgently needed food for the peoples of Bosnia-Hercegovina, Croatia and Kosovo, of which amount not less than $5,000,000 shall be available only for Kosovo. Such assistance shall be distributed through nongovernmental organizations and private voluntary organizations; and

(j) up to $10,000,000 shall be available for preventive services to include breast and prostate cancer screenings.

CHILD SURVIVAL AND EDUCATION

Of the funds appropriated under the headings in this title under "Agency for International Development"—

(1) not less than a total of $275,000,000 shall be made available for programs in support of child survival activities: *Provided,* That such activities may include any assistance provided to meet the special needs of displaced children; and

(2) not less than a total of $135,000,000 shall be made available for programs in support of basic education activities, including early childhood education, primary and secondary education, teacher training, and literacy training for adults.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $350,000,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act: *Provided further,* That of the funds appropriated under this heading, not less than 65 per centum shall be made available for the Office of Population of the Agency for International Development: *Provided further,* That the Agency for International Development shall submit a report to the Committees on Appropriations no later than March 1, 1993 setting forth the agency's strategy for having a global impact on the international population problem: *Provided further,* That as part of its annual Congressional Presentation Document for fiscal year 1994, the Agency for International Development shall separately include an agency-wide budget for family planning programs for which development assistance funds are requested for that fiscal year: *Provided further,* That funds appropriated under this heading for family planning purposes shall not be reduced by a proportion greater than the Development Assistance Fund in order to comply with requirements to provide assistance from funds appropriated to carry out chapter 1 of part I or to carry out part I of the Foreign Assistance Act of 1961: *Provided further,* That in addition to funds

Abortion.

Civil rights.

Reports.

otherwise available for such purposes, of the funds appropriated under this heading $800,000 only shall be used for the administration and planning of family planning assistance programs in addition to operating expense funds otherwise allocated for such office.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, $800,000,000, to remain available until September 30, 1994: *Provided,* That not less than $50,000,000 of the funds appropriated under this heading shall be made available to assist activities supported by the Southern Africa Development Coordination Conference: *Provided further,* That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Coordination Conference shall be made available notwithstanding section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961: *Provided further,* That $3,500,000 only of the funds appropriated under this heading shall be used for administrative and planning costs associated with programs under this heading in addition to operating expense funds otherwise allocated to the Agency's Bureau for Africa: *Provided further,* That up to $15,000,000 of the funds appropriated under this heading shall be transferred to "International Organizations and Programs" and shall be made available only for the International Fund for Agricultural Development's Special Programme for Sub-Saharan African Countries Affected by Drought and Desertification: *Provided further,* That such funds shall be transferred and made available pursuant to the previous proviso only if, by June 30, 1994, contributions by donors (including the proposed United States contribution) are sufficient to allow the agreement on the second replenishment of the Special Programme to come into force: *Provided further,* That up to $5,000,000 of the funds appropriated under this heading may be made available for rural electrification in sub-Saharan Africa.

SUB-SAHARAN AFRICA DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of chapters 1 and 10, $100,000,000, to remain available until expended: *Provided,* That such funds shall be made available for disaster relief, rehabilitation, and reconstruction assistance for sub-Saharan Africa, notwithstanding any other provision of law, and are in addition to funds otherwise available for such purposes: *Provided further,* That not less than $25,000,000 of the funds appropriated under this heading shall be made available for Somalia: *Provided further,* That funds appropriated under this heading may be used for other activities for sub-Saharan Africa consistent with the purposes of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 in the event that such funds are no longer needed for disaster relief, rehabilitation, and reconstruction purposes: *Provided further,* That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Somalia, such funds may be used for assistance for other sub-Saharan African countries for any of the purposes contained in this paragraph.

ZAIRE

None of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided,* That this provision shall not be construed to prohibit nongovernmental organizations from working with appropriate ministries or departments of the Government of Zaire.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $10,000,000 shall be made available for programs and activities to address the health, education, nutrition, and other special needs of displaced children who have been abandoned or orphaned as a result of poverty, or manmade or natural disaster, of which not less than $2,000,000 shall be made available for assistance for street children: *Provided,* That assistance under this heading shall be made available notwithstanding any other provision of law.

HUMANITARIAN ASSISTANCE FOR CAMBODIAN CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, to provide humanitarian assistance through international relief agencies and United States private and voluntary organizations to children within Cambodia: *Provided,* That none of the funds made available under this heading may be made available, directly or indirectly, for the Khmer Rouge.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any other provision of law, for medical and related assistance for civilians who have been injured as a result of civil strife and warfare, including the provision of prostheses and vocational rehabilitation and training, and assistance for the blind.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $10,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $6,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided,* That the Agency for International Development shall seek to ensure that country strategies, projects, and programs

are designed so that the percentage of women participants will be demonstrably increased.

ASSISTANCE FOR DISPLACED BURMESE

Of the funds appropriated under the heading "Economic Support Fund", not less than $1,000,000 shall be made available, notwithstanding any other provision of law, for assistance for Burmese, including students, who are displaced as a result of civil conflict and who are living in Burma or Thailand.

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98–473) shall be superseded by the provisions of this section.

APPROPRIATE TECHNOLOGY

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $1,000,000 shall be available for Appropriate Technology International: *Provided,* That these funds shall be in addition to $3,000,000 in funds available to Appropriate Technology International under its existing cooperative agreement with the Agency for International Development: *Provided further,* That Appropriate Technology International shall qualify, along with any cooperative development organization, for development assistance funds appropriated or otherwise made available by this Act for United States private and voluntary organizations.

HUMANITARIAN ASSISTANCE FOR ROMANIA

Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $4,500,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for humanitarian assistance for Romania. Of this amount—

AIDS.

(1) not less than $1,500,000 shall be made available for activities related to acquired immune deficiency syndrome (AIDS), and other health and child survival activities particularly for the care and treatment of abandoned children, including the provision of improved facilities, food, medicine, and training of personnel;

(2) not less than $1,000,000 shall be made available for activities related to facilitating family reunification, foster care and adoption, and training of adoption and child welfare specialists; and

(3) not less than $2,000,000 shall be made available for family planning assistance, subject to the following:

(A) The prohibitions contained in section 104(f) of the Foreign Assistance Act of 1961 and section 534 of this Act (relating to prohibitions on funding for abortion as a method of family planning, coercive abortion, and involuntary sterilization) shall be applicable to funds made available under this paragraph. Abortion.

(B) Any recipient of funds under this paragraph shall be required to maintain them in a separate account and not commingle them with any other funds.

(C) Each agreement entered into by the United States to obligate funds made available under this paragraph shall expressly state that the full amount granted by such agreement will be refunded to the United States if any United States funds are used for any family planning program in a country other than Romania, or for abortion services, involuntary sterilization, or coercive activities of any kind. International agreements. Abortion.

PRIVATE SECTOR LOANS PROGRAM ACCOUNT

For the cost of direct loans and loan guarantees, $4,057,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided,* That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the principal amount of direct loans and total loan principal, any part of which is to be guaranteed, not to exceed $81,319,000. In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $1,347,000, to remain available until expended, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $30,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $48,965,000, to remain available until expended.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $42,677,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $512,000,000: *Provided,* That in order to effectively monitor its program for the West Bank and Gaza, the Agency for International Development shall station at least one professional at the Consulate General in Jerusalem and at least one professional at the United States Embassy in Tel Aviv: *Provided further,* That

the Agency for International Development shall not designate drivers and cars or provide portal-to-portal transportation service for the Administrator and Deputy Administrator: *Provided further,* That the Agency for International Development shall use Pakistani program funds to pay the severance costs of the agency's foreign service nationals.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $39,316,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding section 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than two hundred and fifty-one at September 30, 1993: *Provided further,* That for purposes of economy and efficiency and to preclude duplication among executive Departments and agencies with program responsibilities for providing economic assistance to Eastern Europe and the new independent states of the former Soviet Union, the inspector general responsibility (as set forth in the Inspector General Act of 1978, as amended) over the field activities of such programs shall, subject to the concurrence of such Departments and agencies, be the responsibility of the Office of the Inspector General of the Agency for International Development: *Provided further,* That not less than $600,000 of the funds appropriated under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be made available for the Office of the Inspector General of the Agency for International Development to carry out audit and other responsibilities with regard to assistance programs for such new independent states: *Provided further,* That none of the funds appropriated under this heading may be used to subsidize or pay the cost of recreational or health club activities for employees of the Office of the Inspector General.

Manpower.

HOUSING GUARANTY PROGRAM ACCOUNT

For the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of guaranteed loans authorized by sections 221 and 222 of the Foreign Assistance Act of 1961, $16,407,000: *Provided,* That these funds are available to subsidize total loan principal, any part of which is to be guaranteed, not to exceed $150,000,000: *Provided further,* That these funds are available to subsidize loan principal, 100 percent of which shall be guaranteed, pursuant to the authority of such sections: *Provided further,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject to the availability of qualified applicants for such guarantees. In addition, for administrative expenses to carry out guaranteed loan programs, $8,407,000, all of which may be transferred to and merged with

President.
Loans.

the appropriation for Operating Expenses of the Agency for International Development: *Provided further,* That commitments to guarantee loans under this heading may be entered into notwithstanding the second and third sentences of section 222(a) and, with regard to programs for Eastern Europe, section 223(j) of the Foreign Assistance Act of 1961: *Provided further,* That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

DEBT RESTRUCTURING UNDER THE ENTERPRISE FOR THE AMERICAS INITIATIVE

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of modifying direct loans authorized by chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 (including predecessor legislation) and loans made pursuant to the Export-Import Bank Act of 1945, as amended, $50,000,000, to remain available until expended: *Provided,* That none of the funds appropriated under this heading shall be obligated except through the regular notification procedures of the Committees on Appropriations.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,670,000,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1992, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, and of which sum cash transfer assistance may be provided, with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and of which not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That not less than the equivalent of $15,000,000 of local currencies generated by programs under this heading for Egypt shall be made available for projects and programs which promote the preservation and restoration of Egyptian antiquities: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That not less than $25,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Near East regional program: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Cyprus to be used only for scholarships, bicommunal projects, and measures aimed at the reunification of the island and designed to reduce tensions and promote peace and cooperation

President.

between the two communities on Cyprus: *Provided further,* That not more than $50,000,000 of the funds appropriated under this heading may be made available for Peru: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be made available for Morocco and not less than $125,000,000 of the funds appropriated under this heading shall be made available for Turkey: *Provided further,* That not less than $5,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for Haiti for emergency relief and humanitarian assistance through private and voluntary organizations: *Provided further,* That in the event that the extension of the South Pacific Tuna Treaty is signed by September 30, 1993, $14,000,000 of the funds appropriated under this heading shall be made available for the South Pacific Tuna Treaty: *Provided further,* That none of the funds appropriated under this heading shall be made available for Zaire: *Provided further,* That not more than $300,000,000 of the funds appropriated under this heading may be made available to finance tied-aid credits, unless the President determines it is in the national interest to provide in excess of $300,000,000 and so notifies the Committees on Appropriations through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds made available or limited by this Act may be used for tied-aid credits or tied-aid grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 may be used for tied-aid credits: *Provided further,* That as used in this heading the term "tied-aid credits" means any credit, within the meaning of section 15(h)(1) of the Export-Import Bank Act of 1945, which is used for blended or parallel financing, as those terms are defined by sections 15(h)(4) and (5), respectively, of such Act: *Provided further,* That of the funds appropriated under this heading that are allocated for the Dominican Republic, $1,000,000 shall be withheld from expenditure until the President reports to the Committees on Appropriations on the steps taken by the Government of the Dominican Republic to improve respect for internationally recognized human rights of Haitian laborers engaged in the sugar cane harvesting industry in the Dominican Republic, including the enforcement of the provisions mandated by President Balaguer's decree of October 15, 1990: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1994.

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INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of chapter 4 of part II, $19,704,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99–415): *Provided,* That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further,* That funds made available under this heading shall remain available until expended.

PHILIPPINES ASSISTANCE

MULTILATERAL ASSISTANCE INITIATIVE

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961, $40,000,000, which shall be available for the Multilateral Assistance Initiative for the Philippines: *Provided,* That the President shall seek to channel through indigenous and United States private voluntary organizations and cooperatives not less than $25,000,000 of the funds appropriated under this paragraph and of the funds appropriated and allocated for the Philippines to carry out sections 103 through 106 of such Act: *Provided further,* That funds appropriated under this paragraph shall remain available until September 30, 1994: *Provided further,* That up to a total of $40,000,000 of the funds appropriated to carry out sections 103 through 106 and chapter 4 of part II of the Foreign Assistance Act of 1961 may be transferred to and consolidated and merged with the funds appropriated under this heading notwithstanding the limitations on transfers between accounts contained in section 514 of this Act and sections 109 and 610 of the Foreign Assistance Act of 1961: *Provided further,* That any funds transferred to carry out the purposes of the previous proviso shall be made available only for projects and activities which are consistent with the purposes of those funds as initially appropriated: *Provided further,* That transfers of any funds to carry out the purposes of this heading shall be subject to the regular notification procedures of the Committees on Appropriations. President.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

(a) For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $400,000,000, to remain available until expended, which shall be available, notwithstanding any other provision of law, for economic assistance for Eastern Europe and the Baltic States.

(b) In the allocation of funds appropriated under this heading, and in coordination with host country governments, priority shall be given to the following sectors: (1) private sector development, including support for Enterprise Funds, (2) technical assistance and training, (3) democratic pluralism and the rule of law, (4) environment and energy, (5) agriculture and agribusiness, (6) housing, with an emphasis on technical assistance and training for the development of market-oriented housing policies.

(c) Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

(d) Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

President. Reports.

(e) By January 15, 1993, the President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and sub-project funded from amounts appropriated for Eastern Europe and the Baltic States under this heading: *Provided,* That an update of this report shall be submitted by the President by August 15, 1993, to the Committees on Appropriations.

(f) In order to promote the effectiveness of assistance made available under this heading, to improve program and project planning, coordination, and implementation, and to ensure that the assistance priorities of the host countries of Eastern Europe and the Baltic States are given appropriate consideration in the formulation and implementation of assistance activities funded under this heading—

(1) under the general direction of the President's Coordinator for United States Assistance to Eastern Europe and under the guidance of the Ambassador in each respective country in Eastern Europe and the Baltic States, the principal officer of the Agency for International Development (AID) in each such country—

(A) shall have primary responsibility, to the maximum extent practicable, for the day-to-day implementation of the assistance program and for identifying and making recommendations for potential AID programs and projects in such country including, to the extent practicable, the authority to concur in planning documents, project and program proposals, significant contract documents and contractor selection;

(B) shall identify and make recommendations for potential AID programs and projects to the maximum extent practicable in consultation with host country government representatives, and shall ensure the appropriate involvement of such officials in the implementation of AID programs and projects;

(C) shall be responsible for coordinating the implementation in the field of the overall activities of all United States Government agencies in Eastern Europe and the Baltic States carrying out assistance programs and projects using funds appropriated under this heading; and

(2) not later than December 1, 1992, the Agency for International Development shall issue such delegations of authority or other internal guidance in order to give effect to the provisions contained in paragraph (1) of this subsection.

(3) Of the funds appropriated under this heading, not less than 65 percent shall be made available for country-specific activities within bilateral, regional or multilateral programs, except as provided through the regular notification procedures of the Committees on Appropriations. The Agency for International Development shall consult periodically with the Committees on Appropriations concerning the availability of funds for countries in Eastern Europe and the Baltic States. The Agency for International Development Congressional Presentation Document for fiscal year 1994 shall include projected or estimated resources planned for Eastern Europe and the Baltic States on a country-by-country and on a regional basis, to the extent known at the time such document is prepared. Amounts planned or projected for regional programs

should not exceed 50 percent of the entire program for Eastern Europe and the Baltic States.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) FUNDING.—For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for economic assistance for the new independent states of the former Soviet Union, $417,000,000 to remain available until expended.

(b) TYPES OF ASSISTANCE.—

(1) Of the funds appropriated under this heading, not less than $50,000,000 shall be made available for scholarship programs bringing people of the new independent states of the former Soviet Union to the United States for a broad spectrum of study, training, exchange, internship and similar programs.

(2) Of the funds appropriated under this heading, not less than 75 percent shall be made available for activities consistent with the purposes of sections 103 through 106 of the Foreign Assistance Act of 1961.

(3) Funds appropriated under this heading shall be used for the establishment of a comprehensive program for enhancing environmental management and sustainable economic development in the new independent states of the former Soviet Union. This program should emphasize the active participation of local scientific expertise, nongovernmental organizations, and the public and should include—

(A) environmental monitoring and protection,

(B) establishment of appropriate environmental institutions and infrastructure,

(C) programs to enhance energy conservation and efficiency, and

(D) nuclear safety and other appropriate initiatives consistent with this paragraph.

In the process of assisting the new independent states of the former Soviet Union in the transition to market economies, United States Government agencies shall promote the utilization of national income accounts, as defined in title I, chapter IV, section 401 of Public Law 101–45, which measure gross sustainable production in order to more accurately account for the deterioration of environmental resources.

(4) Of the funds appropriated under this heading, up to $12,000,000 may be made available for American Agribusiness Centers in the new independent states of the former Soviet Union.

(c) PRIOR NOTIFICATION.—None of the funds appropriated under this heading shall be obligated or expended except through the regular notification procedures of the Committees on Appropriations. None of the funds appropriated in this Act or in prior Acts making available funds for foreign operations, export financing, and related programs may be obligated or expended for planning for or for the establishment of new United States Government-sponsored foundations, centers or other entities or for any activity related to the selection or appointment of their respective Boards of Directors except through the regular notification procedures of the Committees on Appropriations.

President.

(d) REPORTS.—The President shall submit a report to the Committees on Appropriations containing the amount of funds obligated and expended for each project and subproject funded from amounts appropriated under this heading for the new independent states of the former Soviet Union. The report required by this subsection shall be submitted to the Committees on Appropriations no later than January 1, 1993, and an update of this report shall be submitted by the President to those Committees no later than July 1, 1993.

President. Reports.

(e) RESTRICTION ON ASSISTANCE.—None of the funds appropriated or otherwise made available by this Act for Russia (other than funds to carry out humanitarian assistance) under the heading "Assistance for the New Independent States of the Former Soviet Union" may be provided by the Government of the United States for the Government of Russia until the President of the United States provides to the Congress a report on the progress being made toward the withdrawal of the armed forces of Russia and the Commonwealth of Independent States from the territories of Lithuania, Latvia, and Estonia and on the status of negotiations regarding the establishment of a timetable for total withdrawal: *Provided,* That no more than fifty percent of the funds provided by this Act for Russia (other than funds to carry out humanitarian assistance) under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be made available unless the President certifies to the Congress by June 1, 1993 that the Government of Russia and the Governments of Lithuania, Latvia, and Estonia have made substantial progress towards establishing a timetable for the withdrawal of the armed forces of Russia and the Commonwealth of Independent States from Lithuania, Latvia, and Estonia or that substantial withdrawal has occurred: *Provided further,* That if the President has been unable to make the certification required by June 1, 1993, then no such assistance under this heading may be obligated until such time as the President makes the required certification, after which date any assistance remaining unobligated may be made available: *Provided further,* That notwithstanding the previous proviso, if after one year from the date of enactment of this Act, the Government of Russia has not withdrawn all of the armed forces of Russia and the Commonwealth of Independent States from Lithuania, Latvia, and Estonia, or has not completed negotiated agreements including a timetable for withdrawal with each of those governments, no further obligations of funds provided in this Act for Russia under the heading "Assistance for the New Independent States of the Former Soviet Union" shall occur.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96–533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,905,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting

interest for the purpose for which the grant was made: *Provided further,* That this provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That when determined by the President of the African Development Foundation to be necessary, and subject to such security investigations as the President of the Foundation may determine to be appropriate, the Foundation may employ persons who are not citizens of the United States without regard to statutory provisions prohibiting payment of compensation to persons who are not citizens of the United States: *Provided further,* That this provision shall pertain only to individuals under negotiated contracts with the Foundation as of the date of the enactment of this Act.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $30,960,000: *Provided,* That the Inter-American Foundation shall designate a program as the "Dante Fascell Fellows Program".

OVERSEAS PRIVATE INVESTMENT CORPORATION

PROGRAM ACCOUNT

For the subsidy cost as defined in section 13201 of the Budget Enforcement Act of 1990, of direct and guaranteed loans authorized by section 234 of the Foreign Assistance Act of 1961, as follows: cost of direct and guaranteed loans, $9,800,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans and total loan principal, any part of which is to be guaranteed, not to exceed $650,000,000: *Provided further,* That the funds provided in this paragraph shall be available for and apply to costs, direct loan obligations and loan guaranty commitments incurred or made during the period from October 1, 1992 through September 30, 1994.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $8,128,000: *Provided,* That none of the funds appropriated by this paragraph may be used to subsidize or pay the cost of recreational or health club activities for employees of the Overseas Private Investment Corporation.

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such noncredit expenditures and commitments within the limits of funds available to it and in accordance with law (including an amount for official reception and representation expenses which shall not exceed $35,000) as may be necessary.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $218,146,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to

Abortion.

pay for abortions: *Provided further,* That funds appropriated under this heading shall remain available until September 30, 1994.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $147,783,000.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $620,688,000: *Provided,* That not less than $80,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That not less than $35,000,000 shall be available for refugees in Bosnia, Croatia, and Slovenia: *Provided further,* That in the event that circumstances make unlikely the effective use of any of the funds earmarked under this heading for Bosnia, Croatia, and Slovenia, such funds may be used for assistance for any purposes of this heading: *Provided further,* That not less than $1,500,000 shall be available for Tibetan refugees: *Provided further,* That not less than $315,000,000 shall be available for overseas refugee programs (in addition to amounts available for Soviet, Eastern European, and other refugees resettling in Israel): *Provided further,* That not more than $11,500,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $49,261,000, to remain available until expended: *Provided,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $15,555,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $42,500,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students: *Provided further,* That no country whose annual per capita Gross National Product exceeds $2,349 may receive more than $300,000 of the funds appropriated under this heading except as provided through the regular notification procedures of the Committees on Appropriations: *Provided further,* That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military: *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire: *Provided further,* That of the funds appropriated under this heading, not less than $3,660,000 shall be made available for "expanded IMET" programs initiated subsequent to enactment of, and pursuant to the authority contained in, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, to undertake such programs.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,300,000,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, and not less than $1,300,000,000 shall be available for grants only for Egypt: *Provided further,* That the funds appropriated by this paragraph for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1992, whichever is later: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That not less than $40,000,000 of the funds provided under this paragraph shall be available for Morocco: *Provided further,* That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act.

For the cost, as defined in section 13201 of the Budget Enforcement Act of 1990, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $149,000,000: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans of not

to exceed $855,000,000: *Provided further,* That funds appropriated under this heading shall be made available for Greece, Portugal, and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed the following; $315,000,000 only for Greece, $90,000,000 only for Portugal, and $450,000,000 only for Turkey: *Provided further,* That direct loans subsidized under this paragraph may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on Foreign Military Financing Program loans shall be not less than 5 per centum per year. In addition, for administrative expenses necessary to carry out the direct loan program, $200,000, which may be transferred to and merged with funds deposited by foreign purchases for administrative expenses pursuant to sections 43(b) and 43(c) of the Arms Export Control Act.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided,* That all country and funding level changes in requested allocations shall be submitted through the regular notification procedures: *Provided further,* That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further,* That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Liberia, Somalia, Guatemala, Peru, and Malawi: *Provided further,* That not more than $300,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That not less than $1,000,000 of the funds appropriated under this heading should be made available for landmine clearing and related activities: *Provided further,* That not more than $26,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering

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Business and industry.
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Foreign relations.

military assistance and sales: *Provided further,* That not more than $300,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during the fiscal year 1993 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations: *Provided further,* That none of the funds appropriated under this heading, and no employee of the Defense Security Assistance Agency, may be used to facilitate the transport of aircraft to commercial arms sales shows.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $225,000,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1993, to remain available for obligation until September 30, 1995: *Provided,* That the Special Defense Acquisition Fund may be reimbursed for the value of any transfers of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961 $27,166,000.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

There is hereby appropriated $757,000,000, for the subsidy cost, as defined in section 13201 of the Budget Enforcement Act of 1990, including the cost of direct loans, loan guarantees, and tied-aid grants in accordance with section 15 of the Export-Import Bank Act of 1945, as amended: *Provided,* That these funds are available to subsidize gross obligations for the principal amount of direct loans, and tied-aid grants, and total loan principal, any part of which is to be guaranteed, including insurance, of not

to exceed $15,500,000,000: *Provided,* That up to $200,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $45,683,000: *Provided,* That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any

appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the funds made available by this Act for

Foreign currencies.

general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. (a) PROHIBITION.—Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

22 USC 2151n note.

(b) HUMAN RIGHTS REPORT.—The Secretary of State shall also transmit the report required by section 116(d) of the Foreign Assistance Act of 1961 to the Committees on Appropriations each year by the date specified in that section: *Provided,* That each such report submitted pursuant to such section shall (1) include a review of each country's commitment to children's rights and welfare as called for by the Declaration of the World Summit for Children; (2) a description of the military expenditures of each country receiving United States foreign assistance, and the efforts each country is making to reduce those expenditures; and (3) describe the extent to which indigenous people are able to participate in decisions affecting their lands, cultures, traditions and the allocation of natural resources, and assess the extent of protection of their civil and political rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, or Syria: *Provided,* That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents.

Loans. Insurance.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office. Reports.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. (a) Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1993, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

(b) Obligated balances of funds appropriated to carry out section 23 of the Arms Export Control Act as of the end of the fiscal year immediately preceding the current fiscal year are, if deobligated, hereby continued available during the current fiscal year for the same purpose under any authority applicable to such appropriations under this Act: *Provided,* That the authority of this subsection may not be used in fiscal year 1993.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of

part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further,* That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further,* That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

Reports.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided,* That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

FINANCIAL INSTITUTIONS—DOCUMENTATION

Privacy.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

Surplus commodities.

SEC. 520. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

Labor.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

(c) None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, section 1202 of title 19, United States Code, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

SURPLUS COMMODITIES

Minerals and mining.
Business and industry.
22 USC 262h note.

SEC. 521. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 522. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Development Assistance Fund", "Population, Development Assistance", "Development Fund for Africa", "International organizations and programs", "American

schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Antiterrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further,* That the requirements of this section or any similar provision of this Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further,* That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further,* That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

President. National defense. Arms and munitions.

CONSULTING SERVICES

SEC. 523. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

Contracts. Public information.

PROHIBITION ON ABORTION LOBBYING

SEC. 524. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 525. (a) Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization (or for projects whose purpose is to provide benefits to the Palestine Liberation Organization or entities associated with it), Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided,* That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1994.

(b) The United States shall not make any voluntary or assessed contribution—

(1) to any affiliated organization of the United Nations which grants full membership as a state to any organization or group that does not have the internationally recognized attributes of statehood, or

(2) to the United Nations, if the United Nations grants full membership as a state in the United Nations to any organization or group that does not have the internationally recognized attributes of statehood,

during any period in which such membership is effective.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 526. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 527. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 528. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic

of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 529. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

ASSISTANCE FOR EL SALVADOR

SEC. 530. (a) STATEMENT OF POLICY.—United States assistance for El Salvador shall have the following objectives:

(1) To support national reconciliation and reconstruction in accordance with the requirements of the Peace Accords signed in Mexico on January 16, 1992, and subsequent agreements related to the implementation of those accords (the "Peace Accords").

(2) To support democratic practices, processes, and procedures, including efforts to achieve increased social justice, respect for human rights, and a firm commitment to political pluralism.

(3) To support economic growth, development and stability, working in close consultation and coordination with multilateral development organizations, especially the United Nations, and with non-governmental organizations and associations with expertise in these areas.

(b) NON-LETHAL MILITARY ASSISTANCE.—Of the funds appropriated by this Act for the "Foreign Military Financing Program", not more than $11,000,000 may be made available for military assistance (which shall be available only on a grant basis) for El Salvador, and such assistance shall be used only for non-lethal items for maintenance, sustainment, restructuring, and reduction and only in strict accordance with the newly defined mission of the Salvadoran Armed Forces as embodied within the Salvadoran Peace Accords.

(c) DEMOBILIZATION AND TRANSITION FUND.—Not less than $29,000,000 of the funds appropriated by this Act for Foreign Military Financing assistance, shall be transferred to the "Demobilization and Transition Fund" (the "Fund") established by section 531(f) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991, and used only to carry out the purposes of the Fund as specified in section 531(f)(3) of that Act. Amounts transferred to the Fund shall remain available until expended.

(d) LIMITATIONS ON THE PROVISION OF MILITARY ASSISTANCE.—

(1) PROHIBITION.—Except as provided in this section, funds appropriated by this Act may not be made available for Foreign Military Financing assistance for El Salvador.

(2) IMET ASSISTANCE.—Of the funds appropriated by this Act under the heading "International Military Education and Training", not more than $1,400,000 may be made available for El Salvador. Of the amount allocated for El Salvador, not less than 75 percent shall be made available for training military and civilian personnel in administration and management, and in creating and maintaining an effective military judicial system and military code of conduct, including observance of internationally recognized human rights.

(e) ECONOMIC ASSISTANCE.—

(1) IN GENERAL.—Development Assistance and Economic Support Fund assistance provided for El Salvador from funds appropriated by this Act—

(A) shall be implemented in coordination with United Nations reconstruction and reconciliation programs;

(B) may be made available for voluntary contributions to United Nations reconstruction and reconciliation programs for El Salvador.

(2) ECONOMIC SUPPORT FUNDS.—

(A) Of the funds appropriated by this Act under the heading "Economic Support Fund", not more than $150,000,000 may be made available for El Salvador.

(B) Of the Economic Support Funds allocated for El Salvador for fiscal year 1993, $20,000,000 shall be withheld from expenditure until 15 days after receipt by the Committees on Appropriations of a report from the Secretary of State which describes and assesses the efforts being made by the Government of El Salvador to collect on loans made by the Banco Agricola Comercial which were the subject of indictments issued during 1991. Reports.

(C) Funds provided for El Salvador under the heading "Economic Support Fund" may be used for law enforcement assistance in a manner consistent with the Salvadoran Peace Accords, notwithstanding section 660 of the Foreign Assistance Act of 1961.

(f) CONDITION FOR TERMINATION OF ALL UNITED STATES ASSISTANCE.—

(1) PROHIBITION.—Subject to paragraph (2), no United States assistance under this Act may be furnished to El Salvador if the duly-elected head of Government of El Salvador is deposed by military coup or decree, or in the event of an unconstitutional interruption of the legitimate exercise of power by the democratically elected government.

(2) REQUIREMENT FOR RESUMPTION OF ASSISTANCE.—Assistance prohibited under paragraph (1) may only be resumed pursuant to a law subsequently enacted by the Congress.

(g) PRIOR NOTIFICATION.—None of the funds appropriated by this Act shall be obligated or expended for El Salvador except as provided through the regular notification procedures of the Committees on Appropriations, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives: *Provided,* That this subsection shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 531. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least fifteen days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

ENVIRONMENT

22 USC 262*l*.

SEC. 532. (a) It is the policy of the United States that sustainable economic growth must be predicated on the sustainable management of natural resources. The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank (MDB) to continue to promote vigorously the environmental and energy initiatives established in section 533(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513). The Secretary of the Treasury, in cooperation with the Secretary of State, shall also undertake direct, bilateral discussions with appropriate officials of the governments of the member nations of the Organization for Economic Cooperation and Development with a goal of building greater international support for the environmental goals established in subsection (d) of this section. The Secretary of the Treasury shall submit a report to the Committees on Appropriations by March 1, 1993, which describes the progress of these bilateral discussions.

Reports.

Reports.

(b) The Secretary of the Treasury shall, not later than March 1, 1993, submit a report to the Congress containing the same information as requested in section 533(b) of Public Law 101–513.

(c)(1) In furtherance of the policies contained in section 533(a) of Public Law 101–513 and section 1308 of the International Development and Finance Act of 1989 (Public Law 101–240), and as a basis for measuring more effectively progress by the MDBs toward improved environmental performance, the Secretary of the Treasury shall instruct the United States Executive Directors of the MDBs to encourage each MDB, at a minimum, to meet the benchmarks established in paragraph (2) in the areas of sustainable energy development, forest conservation, forced displacement of populations, and environmental impact assessment. On March 1, 1993 and March 1, 1994, the Secretary of the Treasury shall submit a report to the Congress describing in detail the progress being made by the MDBs in meeting these benchmarks.

Reports.

(2) For the purposes of paragraph (1), benchmarks are as follows:

(A) In the area of sustainable energy development—

(i) all loans in the energy sector should be based on, or support development of, "least-cost" integrated resource

plans. Such plans shall include analyses of possible end-use energy efficiency measures and nonconventional renewable energy options, and such plans shall reflect the quantifiable environmental costs of proposed energy developments;

(ii) a substantial portion of loans and grants in the energy, industry, and transportation sectors shall be devoted to end-use energy efficiency improvements and nonconventional renewable energy development; and

(iii) all organizational units within the MDBs should create staff positions in a management role in end-use efficiency and renewable energy, which positions shall be staffed by individuals with professional experience in program design and management and educational degrees in relevant technical disciplines.

(B) In the area of forest conservation— Forests and forest products.

(i) forestry loans should not support commercial logging in relatively undisturbed primary forests, nor should loans result in any significant loss of tropical forests;

(ii) forestry loans should not be disbursed until legal, economic, land tenure, and other policy conditions needed to ensure sustainability are in place;

(iii) loans should not support mineral, petroleum, or other industrial development in, or construction or upgrading of roads through, relatively undisturbed primary forests unless adequate safeguards and monitoring systems, developed in consultation with local populations, are already in place to prevent degradation of the surrounding forests;

(iv) loans should be consistent with and support the needs and rights of indigenous peoples and other long-term forest inhabitants and should not be made to countries which have shown an unwillingness to resolve fairly the territorial claims of such people; and

(v) support for protection of biological diversity, in close consultation with local communities, should be increased to account for a larger proportion of MDB lending.

(C) In the area of forced displacement of populations—

(i) the World Bank, Inter-American Development Bank, and Asian Development Bank should maintain a listing, available to the Secretary of the Treasury, of all ongoing projects involving forced displacement of populations, including the number of people displaced and a report on the status of the implementation of their resettlement policy guidelines for each such project, and obtain agreements with borrowers to ensure that all ongoing projects involving forced displacement will be in full compliance with their resettlement policy guidelines by mid-1993; and

(ii) the African Development Bank should adopt and implement policy guidelines on forced displacement similar to such guidelines of the other MDBs.

(D) In the area of procedures for environmental impact assessment (EIA)—

(i) each MDB should require that draft and final EIA reports be made available to the public in borrowing and donor countries and that the public be offered timely opportunities for comment on the EIA process, including initial scoping sessions, review of EIA categories assigned Reports. Public information.

to individual projects, and opportunities to comment on draft and final EIA reports;

(ii) each MDB should apply EIA requirements to all sector loans and develop and apply the methodology for environmental assessment of structural adjustment loans;

(iii) each MDB should require that the EIA process include analyses of the potential impacts of proposed projects on the global environment; and

(iv) each MDB should require the head of the appropriate environmental unit, rather than project officers, determine the appropriate type of environmental analysis required under the bank's EIA procedures.

(d) The Administrator of the Agency for International Development shall instruct all Agency missions and bureaus to continue to implement all elements of the "Global Warming Initiative" as defined in, and which may continue under, the authorities of sections 533(c) (1) through (4) of Public Law 101–513. The Initiative shall continue to emphasize the need to reduce emissions of greenhouse gases through strategies consistent with continued economic development, such as forest conservation, end-use energy efficiency, least-cost energy planning, and renewable energy development. The Administrator shall direct Agency mission directors to incorporate these strategies in their country programs.

(e) Of the funds appropriated by this Act under the headings in title II of this Act under "Agency for International Development", not less than $650,000,000 shall be made available for environment and energy activities, including funds earmarked under section 533 of this Act, including the following—

(1) Not less than $20,000,000 of the aggregate of the funds appropriated to carry out the provisions of sections 103 through 106 and chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for biological diversity activities, of which $5,000,000 shall be made available for the Parks in Peril project pursuant to the authority of section 119(b) of that Act; $1,500,000 shall be for the National Science Foundation's international biological diversity program; $750,000 shall be for the Neotropical Bird Conservation Initiative of the National Fish and Wildlife Foundation; and up to $2,000,000 shall be for Project Noah;

(2) Not less than $15,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available to support replicable renewable energy projects, and the Agency for International Development shall initiate at least five significant new activities in renewable energy during fiscal year 1993;

(3) Not less than $7,000,000 of the funds appropriated for the Development Assistance Fund and to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961 shall be made available for assistance in support of elephant conservation and preservation;

(4) Not less than $25,000,000 of the funds appropriated for the Development Assistance Fund shall be made available for the Office of Energy of the Agency for International Development; and

(5) Up to $50,000,000 of the funds appropriated to carry out the provisions of chapter 4 of part II of the Foreign Assist-

ance Act of 1961 may be made available to carry out the "Forests for the Future Initiative" and to achieve a Global Forest Agreement.

(f) Of the funds appropriated by this Act to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, the Agency for International Development should, to the extent feasible and inclusive of funds earmarked under subsection (e) of this section, target assistance for the following activities:

(1) $50,000,000 for projects associated with the Global Environment Facility;

(2) a total of $10,000,000 for CORECT, the Environmental Technology Export Council, and the International Fund for Renewable Energy Efficiency; and

(3) $55,000,000 for activities consistent with the Global Warming Initiative.

(g) Funds appropriated by this Act or any subsequent Act for the Development Assistance Fund and the Development Fund for Africa may be used for expenses (including related support costs) relating to the environment and energy sectors, of individuals detailed to or employed by the Agency for International Development, particularly those involved with the "Global Warning Initiative" described in this subsection.

(h) Of the funds appropriated by this Act to carry out the provisions of section 23 of the Arms Export Control Act, not less than $15,000,000 shall be made available to countries in Africa for programs which support conservation and biological diversity.

MONTREAL PROTOCOL FACILITATION FUND

(INCLUDING TRANSFER OF FUNDS)

SEC. 533. Not less than $15,000,000 of the funds appropriated by this Act for the Development Assistance Fund shall be used to support the Interim Multilateral Fund for the Implementation of the Montreal Protocol on Substances that Deplete the Ozone Layer: *Provided,* That these funds shall be made available, after consultations with the Bureau of Oceans, International Environment and Scientific Affairs of the Department of State and the Environmental Protection Agency, to the United Nations Environment Program in its role as Treasurer of the Interim Multilateral Fund: *Provided further,* That the United States representative to the Executive Committee that oversees the implementation of the Interim Multilateral Fund shall seek assurances that none of these funds shall be contributed to any developing country that is not a Party to the Protocol and operating under Article 5 of the Protocol.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 534. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person

to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 535. Of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, up to $50,000,000 may be made available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law. In carrying out this section, the Administrator of the Agency for International Development shall ensure that an equitable portion of the funds is made available to benefit Afghan women and girls, particularly in programs in refugee camps in Pakistan and in reconstruction projects in Afghanistan.

Pakistan.
Refugees.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 536. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

PRIOR CONSULTATIONS ON IFI REPLENISHMENTS

SEC. 537. Prior to entering into formal negotiations on any replenishment for any international financial institution or multilateral development bank, the Secretary of the Treasury shall consult with the Committees on Appropriations and appropriate authorizing committees on the United States position entering those negotiations.

REFUGEE RESETTLEMENT

SEC. 538. It is the sense of the Congress that all countries receiving United States foreign assistance under this Act, the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited

in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

REPORTING REQUIREMENT

SEC. 539. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act. President.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 540. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Liberia, Lebanon, Zaire, Yemen, Haiti, Ivory Coast, Guatemala, Malawi, Peru, Uganda, Cambodia, Indonesia, or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 541. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961. Reports.

FAMILY PLANNING, CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 542. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That such individuals shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment: *Provided further,* That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further,* That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section

518 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 543. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, the Socialist Republic of Vietnam, Iran, Syria, North Korea, People's Republic of China, Laos, Jordan, or Yemen unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

22 USC 2796.

SEC. 544. Section 61(a) of the Arms Export Control Act is amended by striking out "1992" and inserting in lieu thereof "1993".

DEFENSE EQUIPMENT DRAWDOWN

SEC. 545. (a) Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

(b) Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 546. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 547. Funds appropriated by this Act may be obligated and expended notwithstanding to section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a note.

SEC. 548. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements: *Provided further,* That the Secretary of State and the Secretary of the Treasury should in every feasible instance notify the Appropriations Committees of the Congress and such other Committees as appropriate not less than 15 days prior to any formal multilateral or bilateral negotiation for official debt restructuring, rescheduling, or relief: *Provided further,* That the Secretary of State or the Secretary of the Treasury, as appropriate, shall report not later than February 1 of each year a consolidated statement of the budgetary implications of all debt-related agreements entered into force during the preceding fiscal year.

Reports.

MIDDLE EAST REGIONAL COOPERATION AND ISRAELI-ARAB SCHOLARSHIPS

SEC. 549. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $7,000,000 from funds appropriated under the heading "Economic Support Fund".

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

Taiwan.

SEC. 550. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 551. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M–833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) Taiwan: *Provided,* That funds may be made available to facilitate the sale of such shells notwithstanding the limitations of this section if the President determines that to do so is in the national security interest of the United States.

EARMARKS

SEC. 552. (a) Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991; however, before exercising the authority of this subsection with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this subsection shall be made available under the same terms and conditions as originally provided.

(b) In addition to the authority contained in subsection (a), the original period of availability of funds appropriated by this Act and administered by the Agency for International Development that are earmarked for particular programs or activities by this or any other Act shall be extended for an additional fiscal year if the Administrator of such agency determines and reports promptly to the Committees on Appropriations that the termination of assistance to a country or a significant change in circumstances makes it unlikely that such earmarked funds can be obligated during the original period of availability: *Provided,* That such earmarked funds that are continued available for an additional fiscal year shall be obligated only for the purpose of such earmark.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 553. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 554. (a) Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to enactment of this Act, shall not be made available to any country which the President determines—

(1) grants sanctuary from prosecution to any individual or group which has committed an act of international terrorism, or

(2) otherwise supports international terrorism.

(b) The President may waive the application of subsection (a) to a country if the President determines that national security or humanitarian reasons justify such waiver. The President shall publish each waiver in the Federal Register and, at least fifteen days before the waiver takes effect, shall notify the Committees on Appropriations of the waiver (including the justification for the waiver) in accordance with the regular notification procedures of the Committees on Appropriations.

President. Federal Register, publication.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 555. Of the funds made available by this Act under the heading "Economic Support Fund", $10,000,000 may be made available for scholarships for disadvantaged South Africans.

NARCOTICS CONTROL PROGRAM

SEC. 556. (a)(1) Funds made available under this Act shall be available for obligation consistent with requirements to apply the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control).

(2) Funds made available by this Act to carry out the provisions of the Arms Export Control Act and sections 534 and 541 of the Foreign Assistance Act of 1961 may be provided for training and equipment for law enforcement agencies or other units in Colombia, Bolivia, Ecuador, and Peru that are organized for the specific purpose of narcotics enforcement: *Provided,* That assistance under this paragraph may be provided notwithstanding section 660 of the Foreign Assistance Act of 1961 and the second sentence of section 534(e) of that Act: *Provided further,* That the waiver contained in this paragraph does not apply to Peru's Sinchi police: *Provided further,* That assistance provided pursuant to this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs) of the Agency for International Development, and $40,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(c) Section 515(d) of the Foreign Assistance Act of 1961 is amended by striking out "(excluding salaries of the United States military personnel)" and inserting in lieu thereof "(excluding salaries of the United States military personnel other than the Coast Guard)".

22 USC 2321*i*.

(d) For purposes of satisfying the requirement of section 484 of the Foreign Assistance Act of 1961, funds made available by this Act for the purposes of section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of the Arms Export Control Act.

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

22 USC 2373 note.

SEC. 557. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

President. Reports.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note.

SEC. 558. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

ASSISTANCE FOR CAMBODIA

SEC. 559. (a) ACTS OF GENOCIDE IN CAMBODIA.—As a party to the Genocide Convention, the United States reaffirms that genocide is a crime under international law which it undertakes to prevent and punish, and calls upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they consider appropriate for the prevention and suppression of acts of genocide in Cambodia.

(b) HUMANITARIAN AND DEVELOPMENT ASSISTANCE FOR CAMBODIA.—

(1) ASSISTANCE.—Except as provided in paragraph (2), not less than $20,000,000 of the funds appropriated for fiscal year 1993 for development assistance and economic support fund assistance shall be made available, only through international relief agencies, United States private and voluntary organizations, and United Nations agencies, for humanitarian and development assistance exclusively for Cambodian civilians and in accordance with the priority needs identified by the Agency for International Development's Report to Congress on Cambodia's Humanitarian and Development Assistance Priorities (transmitted pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991), notwithstanding any other provision of law.

(2) DEFINITION.—For purposes of this section, the term "humanitarian assistance" includes food, potable water, clothing, medicine, and other humanitarian assistance, including training and equipment for the surveying and removal of explosive mines, but such term does not include (A) the provision of any weapons, weapon systems, or ammunition, or (B) the provision to Cambodian military units of any other equipment, vehicles, or material.

(c) TERMINATION OF ASSISTANCE.—The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations. President.

(d) ONSITE ASSESSMENT OF NEEDS FOR ASSISTANCE.—Not later than 120 days after the date of enactment of this Act, the President shall conduct an onsite assessment on a multilateral basis in cooperation with the United Nations, or on an independent basis, within Cambodia (including Phnom Penh) to determine the requirements for the development of social economic and social infrastructure and for the eradication of explosive mines. President.

(e) REPORT REGARDING THE KHMER ROUGE.—Not later than May 1, 1993, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate a report describing all violations of the United Nations peace agreement by the Khmer Rouge since July 1, 1992, and United States responses to those violations. Such report shall be submitted in both classified and unclassified form. President.

(f) APPLICABILITY OF EXISTING LAW.—

(1) TRADE RESTRICTIONS.—Funds shall be made available under this section notwithstanding any law or regulation prohibiting trade with Cambodia or any national of Cambodia.

(2) REPROGRAMMING NOTIFICATIONS.—Funds shall be made available under this section subject to the provisions of section 522 of this Act.

(3) PROHIBITIONS.—Any funds made available under this section shall be subject to the prohibitions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985.

(g) TERMINATION OF ASSISTANCE.—The President shall terminate assistance under this section to any Cambodian organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations. President.

COMPETITIVE INSURANCE

SEC. 560. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate. Contracts.

IRELAND

SEC. 561. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have

suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

ELIGIBILITY FOR ASSISTANCE

SEC. 562. (a) ASSISTANCE THROUGH NON-GOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided,* That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further,* That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

President.

Abortion.

(b) PUBLIC LAW 480.—During fiscal year 1993, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under titles I and II of the Agricultural Trade Development and Assistance Act of 1954: *Provided,* That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 554 of this Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

DISADVANTAGED ENTERPRISES

SEC. 563. (a) Except to the extent that the Administrator of the Agency for International Development of the Foreign Assistance Act of 1961 determines otherwise, not less than 10 percent of the aggregate amount made available for the current fiscal year for the "Development Assistance Fund", "Population, Development Assistance", and the "Development Fund for Africa" shall be made available only for activities of United States organizations and individuals that are—

(1) business concerns owned and controlled by socially and economically disadvantaged individuals,

(2) historically black colleges and universities,

(3) colleges and universities having a student body in which more than 40 per centum of the students are Hispanic American, and

(4) private voluntary organizations which are controlled by individuals who are socially and economically disadvantaged.

(b)(1) In addition to other actions taken to carry out this section, the actions described in paragraphs (2) through (5) shall be taken with respect to development assistance and assistance for sub-Saharan Africa for the current fiscal year. Africa.

(2) Notwithstanding any other provision of law, in order to achieve the goals of this section, the Administrator—

(A) to the maximum extent practicable, shall utilize the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) to the maximum extent practicable, shall enter into contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals, and organizations contained in paragraphs (2) through (4) of subsection (a)—

(i) using less than full and open competitive procedures under such terms and conditions as the Administrator deems appropriate, and

(ii) using an administrative system for justifications and approvals that, in the Administrator's discretion, may best achieve the purpose of this section; and

(C) shall issue regulations to require that any contract in excess of $500,000 contain a provision requiring that no less than 10 per centum of the dollar value of the contract be subcontracted to entities described in subsection (a), except— Regulations.

(i) to the extent the Administrator determines otherwise on a case-by-case or category-of-contract basis; and

(ii) this subparagraph does not apply to any prime contractor that is an entity described in subsection (a).

(3) Each person with contracting authority who is attached to the Agency's headquarters in Washington, as well as all Agency missions and regional offices, shall notify the Agency's Office of Small and Disadvantaged Business Utilization at least seven business days before advertising a contract in excess of $100,000, except to the extent that the Administrator determines otherwise on a case-by-case or category-of-contract basis. Contracts.

(4) The Administrator shall include, as part of the performance evaluation of any mission director of the agency, the mission director's efforts to carry out this section.

(5) The Administrator shall submit to the Congress annual reports on the implementation of this section. Each such report shall specify the number and dollar value or amount (as the case may be) of prime contracts, subcontracts, grants, and cooperative agreements awarded to entities described in subsection (a) during the preceding fiscal year. Reports.

(c) As used in this section, the term "socially and economically disadvantaged individuals" has the same meaning that term is given for purposes of section 8(d) of the Small Business Act, except that the term includes women.

STINGERS IN THE PERSIAN GULF REGION

SEC. 564. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropria-

tions Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

PROHIBITION ON LEVERAGING AND DIVERSION OF UNITED STATES ASSISTANCE

SEC. 565. (a) None of the funds appropriated by this Act may be provided to any foreign government (including any instrumentality or agency thereof), foreign person, or United States person in exchange for that foreign government or person undertaking any action which is, if carried out by the United States Government, a United States official or employee, expressly prohibited by a provision of United States law.

(b) For the purposes of this section the term "funds appropriated by this Act" includes only (1) assistance of any kind under the Foreign Assistance Act of 1961; and (2) credits, and guaranties under the Arms Export Control Act.

(c) Nothing in this section shall be construed to limit—

(1) the ability of the President, the Vice President, or any official or employee of the United States to make statements or otherwise express their views to any party on any subject;

(2) the ability of an official or employee of the United States to express the policies of the President; or

(3) the ability of an official or employee of the United States to communicate with any foreign country government, group or individual, either directly or through a third party, with respect to the prohibitions of this section including the reasons for such prohibitions, and the actions, terms, or conditions which might lead to the removal of the prohibitions of this section.

APPROPRIATIONS OF UNITED STATES-OWNED CURRENCIES

31 USC 1306 note.

SEC. 566. The provisions of section 1306 of title 31, United States Code, shall not be waived to carry out the provisions of the Foreign Assistance Act of 1961 by any provision of law enacted after the date of enactment of this Act unless such provision makes specific reference to this section.

DEBT-FOR-DEVELOPMENT

SEC. 567. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under the heading "Agency for International Development" and any interest earned on such investment may be for the purpose for which the assistance was provided to that organization.

LEBANON

SEC. 568. (a) Of the funds appropriated by this Act to carry out chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 not less than $10,000,000 shall be made available for Lebanon and may be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961, of which not less than $6,000,000 shall be derived from funds appropriated to carry out chapter 1 of part I and not less than $4,000,000 shall be derived from funds appropriated to carry out chapter 4 of part II.

(b) All deliveries to Lebanon of equipment purchased with Foreign Military Financing credits or grants shall be subject to the regular notification procedures of the Committees on Appropriations.

LOCATION OF STOCKPILES

SEC. 569. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "$378,000,000 for fiscal year 1991, of which amount not less than $300,000,000 shall be available for stockpiles in Israel" and inserting in lieu thereof "$389,000,000 for fiscal year 1993, of which amount not less than $200,000,000 shall be available for stockpiles in Israel, and up to $189,000,000 may be available for stockpiles in the Republic of Korea". 22 USC 2321h.

ASSISTANCE FOR PAKISTAN

SEC. 570. (a) The date specified in section 620E(d) of the Foreign Assistance Act of 1961 is amended to read as follows: "September 30, 1993". 22 USC 2375.

(b) None of the funds appropriated in this Act shall be obligated or expended for Pakistan except as provided through the regular notification procedures of the Committees on Appropriations.

SEPARATE ACCOUNTS

SEC. 571. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall— 22 USC 2359 note.

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth— International agreements.

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate

account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as:

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I (including the Philippines Multilateral Assistance Initiative) or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159).

President.

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 572. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 573. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq unless the President determines and so certifies to the Congress that— 50 USC 1701 note.

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq into its customs territory, and

(2) the export of its products to Iraq.

REPEAL OF FISCAL YEAR 1991 PROVISION

SEC. 574. The amendment to section 516(a) of the Foreign Assistance Act of 1961 made by section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101-513) is hereby repealed. 22 USC 2321j.

POW/MIA MILITARY DRAWDOWN

SEC. 575A. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1993, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

President. Reports.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles, defense services, and military education and training provided under this section.

CHEMICAL WEAPONS PROLIFERATION

SEC. 576. None of the funds appropriated by this Act may be used to finance the procurement of chemicals, dual use chemicals, or chemical agents that may be used for chemical weapons production: *Provided,* That the provisions of this section shall not apply to any such procurement if the President determines that such chemicals, dual use chemicals, or chemical agents are not intended to be used by the recipient for chemical weapons production.

KENYA

President.

SEC. 577. (a) RESTRICTIONS.—None of the funds appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program" may be made available for Kenya unless the President determines, and so certifies to the Congress, that the Government of Kenya—

(1) has released all political detainees and has ended the prosecution of individuals for the peaceful expression of their political beliefs;

(2) has ceased the physical abuse or mistreatment of prisoners;

(3) has restored judicial independence;

(4) has taken significant steps toward respecting human rights and fundamental freedoms, including the freedom of thought, conscience, belief, expression, and the freedom to advocate the establishment of political parties and organizations; and

(5) has set and published an elections schedule or timetable for the holding of multi-party elections.

(b) CONGRESSIONAL NOTIFICATION.—During fiscal year 1993, none of the funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be obligated for Kenya unless the Committees on Appropriations are notified at least 15 days in advance in accordance with the regular notification procedures of those Committees.

(c) DATE OF AVAILABILITY OF FUNDS.—None of the funds appropriated by this Act under the heading "Economic Support Fund" or "Foreign Military Financing Program" may be obligated or expended for Kenya until 30 days after the certification described in subsection (a) is made to the Congress.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 578. (a) Section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, is amended by striking out "three year period beginning on October 1, 1989" and inserting in lieu thereof "four-year period beginning on October 1, 1992". 22 USC 2321j note.

(b) During fiscal year 1993, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, (as amended by subsection (a) of this section) shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

PRIORITY DELIVERY OF EQUIPMENT

SEC. 579. Notwithstanding any other provision of law, the delivery of excess defense articles that are to be transferred on a grant basis under section 516 of the Foreign Assistance Act to NATO allies and to major non-NATO allies on the southern and southeastern flank of NATO shall be given priority to the maximum extent feasible over the delivery of such excess defense articles to other countries.

ISRAEL DRAWDOWN

SEC. 580. Section 599B(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (as amended by Public Law 102–145, as amended), is further amended— 104 Stat. 2064.

(a) by striking out "fiscal year 1992" and inserting in lieu thereof "fiscal year 1993"; and

(b) by striking out "Appropriations Act, 1992" and inserting in lieu thereof "Appropriations Act, 1993".

HUMAN RIGHTS PERFORMANCE

SEC. 581. Prior to the provision of assistance from funds appropriated by this Act for Eastern Europe, the Baltic States, and the independent states of the former Soviet Union, the President should take into consideration the extent to which such countries are taking significant steps, as appropriate, toward—

(1) implementation of internationally recognized human rights, including provisions of the Helsinki Final Act and other documents of the Conference on Security and Cooperation in Europe;

(2) political pluralism based on democratic principles, and the rule of law; and

(3) economic reform, based on market principles and private property.

ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS; ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES

SEC. 582. (a) EXTENSION OF PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101–167), is amended—

(1) in section 599D (8 U.S.C. 1157 note)—

(A) in subsection (b)(3), by inserting "and within the number of such admissions allocated for each of fiscal years 1993 and 1994 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section" after "Act"; and

(B) in subsection (e), by striking out "October 1, 1992" each place it appears and inserting in lieu thereof "October 1, 1994"; and

(2) in section 599E (8 U.S.C. 1255 note) in subsection (b)(2), by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

(b) CORRECTION OF REFERENCES TO SOVIET UNION.—That Act is amended—

(1) in section 599D(b)—

(A) in paragraphs (1)(A), (2)(A), and (2)(B), by striking out "of the Soviet Union" each place it appears and inserting in lieu thereof "of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania"; and

(B) in paragraph (1)(A), by striking out "in the Soviet Union," and inserting in lieu thereof "in that state"; and

(2) in section 599E(b)(1), by striking out "of the Soviet Union," and inserting in lieu thereof "of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,".

(c) REPEAL OF EXECUTED REPORTING REQUIREMENTS.—Section 599D of that Act is amended by repealing subsection (f).

ASSISTANCE FOR GUATEMALA

SEC. 583. (a) USE OF ASSISTANCE.—For fiscal year 1993, assistance that is provided for Guatemala under chapter 1 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961—

(1) may be provided to and used only by civilian government agencies and nongovernmental organizations;

(2) shall be targeted for assistance for programs that directly address poverty, basic human needs, and environmental concerns; to improve the performance of democratic institutions or otherwise to promote pluralism; for the National Reconciliation Commission; for fiscal reform and fiscal administration; or for programs that promote foreign and domestic trade and investment;

(3) may not be used for partisan political purposes or as an instrument of counterinsurgency;

(4) may be used for costs of retraining, relocation, and reemployment in civilian pursuits of former combatants and noncombatants affected by the conflict in Guatemala; and

(5) may be used for costs of monitoring activities associated with provisions set forth in an agreement for lasting peace pursuant to the Accord of Mexico and in fulfillment of the Accord of Oslo or other subsequent accords reached by the parties to the conflict.

(b) SPECIAL NOTIFICATION REQUIREMENT.—(1) Funds made available pursuant to subsections (a)(4) and (a)(5) may be made available only upon notification by the President to the appropriate congressional committees that the Government of Guatemala and representatives of the Guatemalan National Revolutionary Unity (URNG) have signed an agreement providing for a "lasting peace agreement" pursuant to the Accord of Mexico and in fulfillment of the Accord of Oslo or any other subsequent accords reached by the parties to the conflict. President.

(2) The President shall, prior to submitting any notifications for assistance for Guatemala in fiscal year 1993, take into consideration the progress the Government of Guatemala has made toward eliminating human rights violations and in investigating and bringing to trial those responsible for major human rights cases, such as those relating to Sister Dianna Ortiz, Michael Devine, and Myrna Mack. President. Sister Dianna Ortiz. Michael Devine. Myrna Mack.

(c) DEFINITIONS.—As used in this section—

(1) the term "Accord of Mexico" means the Accord on the Procedure to Attain Peace Through Peaceful Means agreed to by the parties in Mexico City on April 26, 1991;

(2) the term "Accord of Oslo" means the Accord of Oslo of March 30, 1990; and

(3) the term "appropriate congressional committees" means the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate.

ASSISTANCE FOR JORDAN

SEC. 584. None of the funds appropriated or otherwise made available by this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to Jordan unless the President determines and so certifies to the Congress that (1) Jordan has taken steps to advance the peace process in the Middle East, (2) Jordan is in compliance with United Nations Security Council sanctions against Iraq, and (3) that such assistance is in the national interest of the United States. President.

NUCLEAR NON-PROLIFERATION POLICY IN SOUTH ASIA

SEC. 585. (a) The Foreign Assistance Act of 1961 is amended by inserting the following new section:

22 USC 2376.

"SEC. 620F. NUCLEAR NON-PROLIFERATION POLICY IN SOUTH ASIA.

"(a) FINDINGS.—The Congress finds that—

"(1) the proliferation of weapons of mass destruction remains one of the most serious threats to international peace and stability;

"(2) South Asia, in particular, is an area where the threat of a regional nuclear exchange remains high due to continued Indo-Pakistani tensions over issues such as Kashmir;

"(3) to date, United States efforts to halt proliferation in South Asia have failed;

"(4) although global disarmament is a desirable goal which should be vigorously pursued, both regional and sub-regional security arrangements can serve to decrease tensions and promote non-proliferation in certain areas;

"(5) thus far, there has been some success on a regional basis, such as the South Pacific Nuclear Weapons Free Zone and the Treaty of Tlatelolco in Latin America;

"(6) in particular, in Latin America, the Treaty of Tlatelolco has been signed by all the nuclear powers;

"(7) a critical part of this treaty is Protocol II which prohibits nuclear attacks by nuclear weapons states on signatories to the treaty;

"(8) in 1991, a proposal was made for a regional conference on non-proliferation in South Asia which would include Pakistan, India, the People's Republic of China, the Soviet Union, and the United States; and

"(9) thus far, Pakistan, China, Russia, and the United States have expressed interest in attending such a conference, whereas India has refused to attend.

"(b) POLICY.—It is the sense of the Congress that the President should pursue a policy which seeks a regional negotiated solution to the issue of nuclear non-proliferation in South Asia at the earliest possible time, including a protocol to be signed by all nuclear weapons states, prohibiting nuclear attacks by nuclear weapons states on countries in the region. Such a policy should have as its ultimate goal concurrent accession by Pakistan and India to the Nuclear Non-Proliferation Treaty, and should also include as needed a phased approach to that goal through a series of agreements among the parties on nuclear issues, such as the agreement reached by Pakistan and India not to attack one another's nuclear facilities.

President.

"(c) REPORT ON PROGRESS TOWARD REGIONAL NON-PROLIFERATION.—Not later than April 1, 1993, and every six months thereafter, the President shall submit a report to the Committees on Appropriations, the Speaker of the House of Representatives, and the chairman of the Committee on Foreign Relations of the Senate, on nuclear proliferation in South Asia, including efforts taken by the United States to achieve a regional agreement on nuclear non-proliferation, and including a comprehensive list of the obstacles to concluding such a regional agreement.".

President.

(b) REPORT ON SOUTH ASIAN NUCLEAR PROGRAMS.—Not later than six months after the enactment of this Act, the President shall submit a report with respect to the People's Republic of

China, Pakistan, and India in writing to the Committees on Appropriations, the Speaker of the House of Representatives, the chairman of the Committee on Foreign Relations of the Senate, on those country's nuclear and ballistic missile programs, including, but not limited to—

(1) a determination as to whether that country possesses a nuclear explosive device or whether it possesses all the components necessary for the assembly of such a device;

(2) a complete report on the status of that country's missile development program, foreign assistance to that program, and foreign sales of missiles or missile components to that country and steps which the United States has taken in response to such sales; and

(3) a report on whether that country has agreed to fully adhere, and is adhering, to all peaceful nuclear cooperation agreements with the United States and has formally agreed to place all United States-supplied nuclear materials under international safeguards in perpetuity.

CASH FLOW FINANCING

SEC. 586. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

RESCISSION

SEC. 587. (a) Of the unexpended balances of funds (including earmarked funds) made available in Public Law 101–513 and prior Acts making appropriations for foreign operations, export financing, and related programs to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961, $37,500,000 are rescinded.

(b) Of the unexpended balances of funds (including earmarked funds) made available in Public Law 101–513 and prior Acts making appropriations for foreign operations, export financing, and related programs to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961, $37,500,000 are rescinded.

(c) Of the funds made available (including earmarked funds) in Public Law 101–513 and prior Acts making appropriations for foreign operations, export financing, and related programs to carry out the provisions of section 23 of the Arms Export Control Act and section 503 of the Foreign Assistance Act of 1961, $45,750,000 are rescinded.

ANTI-NARCOTICS UPDATE

SEC. 588. (a) Of the funds appropriated by this Act under the heading "Economic Support Fund", assistance may be provided as follows:

(1) To strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the

provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(2) Notwithstanding section 660 of the Foreign Assistance Act of 1961, up to $10,000,000 may be made available for technical assistance, training, and commodities with the objective of creating a professional civilian police force for Panama, and for programs to improve penal institutions and the rehabilitation of offenders in Panama (which programs may be conducted other than through multilateral or regional institutions), except that such technical assistance shall not include more than $5,000,000 for the procurement of equipment for law enforcement purposes, and shall not include lethal equipment.

(b) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a)(1) for Bolivia, Colombia and Peru and subsection (a)(2) may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 589. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

Reports.

REPORT ON CREDIT PROGRAMS

SEC. 590. The Comptroller General of the United States shall conduct a study of each credit program within the international affairs (Budget Function 150) account, calculating for loans, guarantees and insurance commitments for each such credit program: (1) the probability of repayment by each country of existing United States international loans and the probability of default by each country on existing United States international guarantees, (2) subsidy estimates for each country and each such credit program, and (3) risk assessments for each country within each such credit program for fiscal year 1994. The Secretaries of Treasury, State, Defense, and Agriculture, and the Administrator of the Agency for International Development, the Chairman of the Export-Import Bank, and the President of the Overseas Private Investment Corporation shall provide the necessary information to support these analyses. This study shall be transmitted to the Committees on Appropriations and the Committees on the Budget not later than March 15, 1993.

OTHER ASSISTANCE FOR EASTERN EUROPE

SEC. 591. Notwithstanding any other provision of law, a total of $500,000 of the Polish currencies which are held by the United States as of the date of the enactment of this Act which are derived from programs administered by the Commodity Credit Corporation, or pursuant to the Agricultural Trade Development and Assistance Act of 1954, section 416(b) of the Agricultural Act of 1949, or the Food for Progress Act of 1985, shall be made available for the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland: *Provided,* That such currencies shall be made available notwithstanding 31 U.S.C. 1306 and section 567 of this Act: *Provided further,* That local currencies made available for the Jagiellonian University by this section shall be made available only to the extent that they do not diminish planned funding for the American Children's Hospital, Krakow, Poland.

AGRICULTURAL AID TO THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

SEC. 592. Of the funds appropriated by this Act under the heading "Assistance for the New Independent States of the Former Soviet Union", $50,000,000 shall be made available only for provision of United States agricultural commodities to address the food and nutrition needs of the people of the new independent states of the former Soviet Union: *Provided,* That in providing assistance under this section, primary emphasis shall be given to meeting the food and nutrition needs of children and pregnant and postpartum women: *Provided further,* That funds made available for the purposes of this section through other United States Government programs involving the purchase of agricultural commodities may be used in lieu of an equal amount of funds earmarked under this section, except that such funds shall not exceed $20,000,000 of the funds made available under this section, such purchases shall not include any commodities which are acquired through price-support operations by the Commodity Credit Corporation, and such funds may be provided under the authorities of this section: *Provided further,* That the President may enter into agreements with the governments of the new independent states and nongovernmental organizations to provide for the sale of any part of the United States agricultural commodities in the new independent states for local currencies: *Provided further,* That any such local currencies shall be used in the new independent states to process, transport, store, distribute or otherwise enhance the effectiveness of the use of United States agricultural commodities provided under this section, and to support agricultural and rural development activities.

STATE DEPARTMENT RESEARCH AND TRAINING PROGRAM

SEC. 593. Of the funds appropriated by this Act under the headings "Assistance for Eastern Europe and the Baltic States" and "Assistance for Russia and Emerging Eurasian Democracies", not less than a total of $5,000,000 shall be made available for Russian, Eurasian, and Eastern European research and training under the Department of State's title VIII program on Russian,

Eurasian, and Eastern European research and training, notwithstanding any other provision of law.

DEBT RESTRUCTURING

SEC. 594. (a) DEBT REDUCTION.—Part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 12—ENTERPRISE FOR THE AMERICAS INITIATIVE

22 USC 2296.

"SEC. 499. REDUCTION OF CERTAIN DEBT.

"(a) AUTHORITY TO REDUCE DEBT.—(1) The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I or chapter 4 of part II of the Foreign Assistance Act of 1961 (or predecessor foreign economic assistance legislation).

"(2) The authorities of this section may be exercised only in such amounts or to such extent as is specifically provided in advance by appropriations Acts.

"(3) Any debt reduction pursuant to this section shall be accomplished at the direction of the Facility established pursuant to section 601 of the Agricultural Trade Development and Assistance Act of 1954, as amended, in a manner consistent with sections 604 (b) and (c) of that Act.

"(b) ELIGIBILITY FOR DEBT REDUCTION.—(1) In addition to meeting the requirements of section 603(a) of that Act, to be eligible for debt reduction under this section a country must have a government that is democratically elected, not repeatedly providing support for acts of international terrorism, not failing to cooperate on international narcotics control matters, and not engaging in a consistent pattern of gross violations of internationally recognized human rights.

President.

"(2) The President shall determine whether a country is eligible for debt reduction under this section.

"(c) REPAYMENT OF PRINCIPAL.—The principal amount of each new obligation issue pursuant to subsection (a) shall be repaid in United States dollars and deposited in the appropriate United States Government account.

"(d) INTEREST ON NEW OBLIGATIONS.—Interest on each new obligation issued pursuant to subsection (a) shall be paid consistent with section 606 of that Act: *Provided,* That—

"(1) in addition to those set forth in section 612(a) of that Act, activities eligible to receive assistance from a fund established consistent with section 608 of that Act shall include child survival and other child development activities;

"(2) in addition to those set forth in section 612(d) of that Act, entities eligible for grants from such a fund shall include nongovernmental child survival or child development organizations;

"(3) the administering body established consistent with section 607(c) of that Act shall include at least one representative from a nongovernmental organization with experience and expertise in child survival or child development; and

"(4) the Board established under section 610 of that Act shall include at least one representative from a nongovernmental organization with experience and expertise in child survival or child development.

"(e) ANNUAL REPORT.—The President shall prepare an annual report to Congress on the implementation of this section in conjunction with the report required under section 614 of that Act.". President.

(b) MULTILATERAL INVESTMENT FUND.—The Inter-American Development Bank Act (22 U.S.C. 283–283z–8) is amended by adding at the end the following:

"SEC. 37. (a) The Secretary of the Treasury is authorized to contribute, and to make payment of, $500,000,000 to the Multilateral Investment Fund established pursuant to the agreements of February 11, 1992: *Provided,* That such funds shall only be disbursed from the Fund to countries that have governments that are democratically elected, that do not harbor or sponsor international terrorists; that do not fail to cooperate in narcotics matters; and that do not engage in a consistent pattern of gross violations of internationally recognized human rights. 22 USC 283z-9. Human rights.

"(b) There is hereby authorized to be appropriated without fiscal year limitation $500,000,000 for the contribution authorized in subsection (a).".

"(c) If an Enterprise for the Americas Multilateral Investment Fund is established pursuant to this section, the Secretary of the Treasury shall instruct the United States representative to the Fund not to vote in favor of any action proposed to be taken by the Fund which may have a significant adverse effect on the environment unless an assessment of the impact of the action on the environment has been available for at least 120 days before the vote.". Environmental protection.

CAPITAL PROJECT AND CASH PAYMENT ASSISTANCE

SEC. 595. (a) ALLOCATION OF FUNDS.—(1) Of the funds appropriated by this Act under the headings "Economic Support Fund" (excluding funds earmarked for Israel), "Philippines Assistance", "Assistance for Eastern Europe and the Baltic States", and "Assistance for the New Independent States of the Former Soviet Union", an amount substantially equal to 10 percent of the aggregate amount appropriated under such headings shall be made available for developmentally-sound and sustainable capital projects and investment activities as defined in subsection (d).

(2) Funds made available under subsection (a)(1) for capital projects in excess of $15,000,000 shall be subject to the regular notification procedures of the Committees on Appropriations.

(b) STUDY OF CASH PAYMENT ASSISTANCE.—

(1) SCOPE.—The Comptroller General of the United States shall conduct a study of cash payment assistance. Such study shall include the amounts of assistance provided under this Act as cash payment assistance, the purpose and recipients of cash payment assistance, the extent to which commodity or capital financing were explored in lieu of such cash assistance to achieve the purpose, an analysis of the purposes of cash payment assistance, accountability for and monitoring of how such assistance is used by recipients, the feasibility of separate accounting procedures for countries that use cash payments for the purchase of United States goods and services or the repayment of debt owed to the United States Government,

and the degree to which recipients of cash payment assistance are required to and in fact use such assistance to purchase United States goods and services.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Congress a report setting forth the findings of the study conducted under paragraph (1).

Reports.

(c) EXPORT-IMPORT BANK "WAR CHEST" AUTHORITY.—If the amounts appropriated or otherwise provided by this Act for purposes of section 15(e)(1) of the Export-Import Bank Act of 1945 are not totally used by the end of fiscal year 1993, then, at the close of such fiscal year the Chairman of the Export-Import Bank of the United States shall submit to the Congress a report stating—

(1) the reasons for the Bank's decision not to use these funds for those purposes; and

(2) the amount of sales or bids lost because of the Bank's decision not to use these funds.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "capital projects and investment activities" may include projects and activities involving (1) the construction, expansion, operation, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related technical assistance, training, engineering, and other services, (2) procurement of equipment, including related technical assistance, training, and other assistance to support sustained use of such equipment, (3) feasibility studies or similar engineering and economic services, and (4) facilitation of United States private investment in developmentally-sound and sustainable activities;

(2) the term "cash payment assistance" means foreign assistance made through cash payments;

(3) the term "developmentally-sound and sustainable" means a project or activity that is—

(A) environmentally sustainable;

(B) within the financial capacity of the government or recipient of the assistance to maintain from its own financial resources; and

(C) responsive to a significant development priority initiated by the country to which assistance is being provided.

MIDDLE EAST ENVIRONMENTAL DEFENSE NETWORK

(PROJECT EDEN)

SEC. 596. The Agency for International Development, in cooperation with other Federal agencies, shall study the feasibility of Project EDEN and make recommendations on how it might be implemented.

BUY AMERICA PROCUREMENT REQUIREMENTS

22 USC 2354.

SEC. 597. Section 604(a) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(a)(1) LIMITATIONS ON PROCUREMENT OUTSIDE THE UNITED STATES.—Funds made available for assistance under this Act may be used by the President for procurement—

"(A) only in the United States, the recipient country, or developing countries; or

"(B) in any other country but only if—

"(i) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in subparagraph (A); or

"(ii) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

"(I) to meet unforeseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in subparagraph (A); or

"(II) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

"(2) For purposes of this subsection, the term 'developing countries' shall not include advanced developing countries.".

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 598. (a) FINDINGS.—The Congress finds that—

(1) since 1948 the Arab countries have maintained a primary boycott against Israel, refusing to do business with Israel;

(2) since the early 1950s the Arab League has maintained a secondary and tertiary boycott against American and other companies that have commercial ties with Israel;

(3) the boycott seeks to coerce American firms by blacklisting those that do business with Israel and harm America's competitiveness;

(4) the United States has a longstanding policy opposing the Arab League boycott and United States law prohibits American firms from providing information to Arab countries to demonstrate compliance with the boycott;

(5) with real progress being made in the Middle East peace process and the serious confidence-building measures taken by the State of Israel, an end to the Arab boycott of Israel and of American companies that have commercial ties with Israel is long overdue and would represent a significant confidence-building measure;

(6) the President has proposed the sale of 72 advanced F–15 aircraft to Saudi Arabia despite its refusal to renounce publicly the Arab boycott of American firms that do business with or invest in Israel; and

(7) in the interest of Middle East peace and free commerce, the President must take more concrete steps to press the Arab states to end their practice of blacklisting and boycotting American companies that have trade ties with Israel.

(b) POLICY.—It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts

of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commerical relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 599. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country.

HUMANITARIAN ASSISTANCE FOR ARMENIA

SEC. 599A. (a) Of the aggregate of the funds appropriated by this Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961, not less than $5,000,000 shall be made available, notwithstanding any provision of law which restricts assistance to foreign countries, for refugee assistance to Armenia.

(b) It is the sense of Congress that the Administration should—

(1) encourage Japan or any oil exporting nation to provide fuel to Armenia for urgently needed humanitarian purposes, to include harvesting the autumn crop;

(2) renew its existing commitment to deliver this fuel by United States transport;

(3) ensure that safeguards are in place to guarantee that the fuel is used solely for the humanitarian purposes intended.

(c) The Congress finds that Armenia has entered into an aggressive program of economic reforms and land privatization that serves as a model for the former republics of the Soviet Union.

(d) It is further the sense of Congress that the President instruct United States representatives to the International Monetary Fund and the World Bank to support these important reforms by providing Armenia financial and technical assistance.

REPORT ON RUSSIAN MILITARY EXPORTS

SEC. 599B. (a) REPORT.—Beginning 120 days after the date of enactment of this Act and 180 days thereafter, the President shall report to the appropriate congressional committees that the United States has entered into serious and substantive discussions with Russia to reduce exports of sophisticated conventional weapons to Iran and to prevent sales to Iran of any destabilizing numbers and types of such weapons. President.

(b) PROHIBITION.—Beginning 120 days after the date of enactment of this Act none of the funds made available under this Act may be made available for United States assistance (other than humanitarian assistance) for Russia unless the report required under subsection (a) has been made, or the provision of assistance is determined to be in the national interest.

(c) DEFINITIONS.—As used in this section—

(1) the term "appropriate congressional committees" means the Committees on Appropriations, the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives; and

(2) the term "humanitarian assistance" includes food, clothing and medicine.

PROHIBITION ON AIRCRAFT TRANSFER TO GUATEMALA

SEC. 599C. None of the funds appropriated by this Act or any other Act may be used to support the transfer of aircraft from the Department of Defense to the Drug Enforcement Administration to carry out counter-narcotics activities in Guatemala, unless the President determines that to do so is important to the national interest and so notifies the Committees on Foreign Relations and Appropriations of the Senate. President.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 599D. (a) Congress finds as follows:

(1) the United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia;

(2) the federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces; and

(3) because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo against Bosnia-Hercegovina, the President is authorized to transfer

President.

to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1993: *Provided,* That the President certifies in a timely fashion to the Congress that—

(1) the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region; and

(2) United States allies are prepared to join in such a military assistance effort.

President. Reports.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

AID BUDGET SUBMISSION

President. 22 USC 2381 note.

SEC. 599E. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Agency for International Development.

KURDISH HUMANITARIAN ASSISTANCE

SEC. 599F. (a) Of the funds appropriated by this Act, up to $5,000,000 may be made available for an urgent program of humanitarian assistance for the people of Kurdistan in northern Iraq.

(b) Funds allocated by subsection (a) shall be provided to United States based nonprofit private voluntary organizations on an expedited basis notwithstanding any existing contracting laws or regulations.

(c) The program funded under this section should focus on rehabilitation of the agricultural sector.

RESTRICTIONS ON ASSISTANCE TO MOROCCO

President. Reports.

SEC. 599G. Notwithstanding any other provision of law, no more than $52,000,000 appropriated by this Act under the headings "Economic Support Fund" and "Foreign Military Financing Program", may be made available to Morocco unless the President certifies, and so reports to Congress, that the Government of Morocco is fully cooperating with the United Nations in the implementation of the Settlement Plan for self-determination of the people of Western Sahara.

PROHIBITION OF IMET FOR INDONESIA

SEC. 599H. Funds appropriated by this Act may not be used for assistance under the heading "International Military Education and Training" for Indonesia.

TITLE VI—LOAN GUARANTEES TO ISRAEL

LOAN GUARANTEES TO ISRAEL PROGRAM

SEC. 601. Title III of Chapter 2 of Part I of the Foreign Assistance Act of 1961 is amended by adding at the end thereof the following new section:

"SEC. 226. LOAN GUARANTEES TO ISRAEL PROGRAM.

Immigration.
22 USC 2186.

"(a) IN GENERAL.—Subject to the terms and conditions of this section, during the period beginning October 1, 1992, and ending September 30, 1997, the President is authorized to issue guarantees against losses incurred in connection with loans to Israel made as a result of Israel's extraordinary humanitarian effort to resettle and absorb immigrants into Israel from the republics of the former Soviet Union, Ethiopia and other countries. In the event that less than the full amount authorized to be issued under subsection (b) of this section is issued in such period, the authority to issue the balance of such guarantees shall be available in the fiscal year ending on September 30, 1998.

"(b) FISCAL YEAR LEVELS.—The President is authorized to issue guarantees in furtherance of the purposes of this section. Subject to subsection (d), the total principal amount of guarantees which may be issued by the President under this section shall be up to $10,000,000,000 which may be issued as follows:

"(1) in fiscal year 1993, up to $2,000,000,000 may be issued on October 1, 1992 or thereafter;

"(2) subject to subsection (d), in fiscal years 1994 through 1997, up to $2,000,000,000 in each fiscal year may be issued on October 1 or thereafter.

"(3) If less than the full amount of guarantees authorized to be made available in a fiscal year pursuant to paragraphs (1) and (2) of this subsection is issued to Israel during that fiscal year, the authority to issue the balance of such guarantees shall extend to any subsequent fiscal year ending on or before September 30, 1998.

President.

"(4)(A) Not later than September 1 of each year during the period in which the President is authorized to issue loan guarantees under subsection (a), beginning in fiscal year 1993, the President shall notify the appropriate congressional committees in writing of his intentions regarding the exercise of that authority for the fiscal year beginning on October 1 of that year, including a statement of the total principal amount of guarantees, if any, that the President proposes to issue for that fiscal year.

"(B) For purposes of this paragraph, the term 'appropriate congressional committees' means the Committee on Appropriations and the Committee on Foreign Relations of the Senate and the Committee on Appropriations and the Committee on Foreign Affairs of the House of Representatives.

"(c) USE OF GUARANTEES.—Guarantees may be issued under this section only to support activities in the geographic areas which were subject to the administration of the Government of Israel before June 5, 1967.

"(d) LIMITATION ON GUARANTEE AMOUNT.—The amount of authorized but unissued guarantees that the President is authorized to issue as specified in subsection (b) shall be reduced by an amount equal to the amount extended or estimated to have been extended

by the Government of Israel during the previous year for activities which the President determines are inconsistent with the objectives of this section or understandings reached between the United States Government and the Government of Israel regarding the implementation of the loan program. The President shall submit a report to Congress no later than September 30 of each fiscal year during the pendency of the program specifying the amount calculated under this subsection and that will be deducted from the amount of guarantees authorized to be issued in the next fiscal year.

President. Reports.

"(e) FEES.—

"(1) Fees charged for the loan guarantee program under this section each year shall be an aggregate annual origination fee equal to the estimated subsidy cost of the guarantees issued under this section for that year, calculated by the Office of Management and Budget for the Federal Credit Reform Act of 1990. This shall also include an amount for the administrative expenses of the Agency for International Development in administering the program under this section. All such fees shall be paid by the Government of Israel to the Government of the United States. Funds made available for Israel under chapter 4 of Part II of the Foreign Assistance Act of 1961, as amended, may be utilized by the Government of Israel to pay such fees to the United States Government. No further appropriations of subsidy cost are needed for the loan guarantee authorized hereunder for fiscal year 1993 and the four succeeding fiscal years.

"(2) The origination fee shall be payable to the United States Government on a pro rata basis as each guarantee for each loan or increment is issued.

President.

"(f) AUTHORITY TO SUSPEND.—Except as provided in subsections (l) and (m) of this section, the President shall determine the terms and conditions for issuing guarantees. If the President determines that these terms and conditions have been breached, the President may suspend or terminate the provision of all or part of the additional loan guarantees not yet issued under this section. Upon making such a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

"(g) PROCEDURES FOR SUSPENSION OR TERMINATION.—Any suspension or termination pursuant to subsection (f) shall be in accordance with the following procedures:

President.

"(1) Upon making a determination to suspend or terminate the provision of loan guarantees, the President shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such suspension or termination.

"(2) Such a suspension or termination shall cease to be effective if Congress enacts, within 30 days of submission, a joint resolution authorizing the assistance notwithstanding the suspension.

"(3) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(4) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(5) In the event that the President suspends the provision of additional loan guarantees under subsection (f) and Congress does not enact a joint resolution pursuant to this subsection, the provision of additional loan guarantees under the program established by this section may be resumed only if the President determines and so reports to Congress that the reasons for the suspension have been resolved or that the resumption is otherwise in the national interest. President. Reports.

"(h) ECONOMIC CONTEXT.—The effective absorption of immigrants into Israel from the republics of the former Soviet Union and Ethiopia within the private sector requires large investment and economic restructuring to promote market efficiency and thereby contribute to productive employment and sustainable growth. Congress recognizes that the Government of Israel is developing an economic strategy designed to achieve these goals, and that the Government of Israel intends to adopt a comprehensive, multi-year economic strategy based on prudent macroeconomic policies and structural reforms. Congress also recognizes that these policies are being designed to reduce direct involvement of the government in the economic system and to promote private enterprise, important prerequisites for economic stability and sustainable growth. Union of Soviet Socialist Republics. Ethiopia.

"(i) CONSULTATIONS.—It is the sense of the Congress that, as agreed between the two Governments and in order to further the policies specified in subsection (h), Israel and the United States should continue to engage in consultations concerning economic and financial measures, including structural and other reforms, that Israel should undertake during the pendency of this program to enable its economy to absorb and resettle immigrants and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. It is the sense of the Congress that these consultations on economic measures should address progress and plans in the areas of budget policies, privatization, trade liberalization, financial and capital markets, labor markets, competition policy, and deregulation. International agreements.

"(j) GOODS AND SERVICES.—During the pendency of the loan program authorized under this section, it is anticipated that, in the context of the economic reforms undertaken pursuant to subsections (h) and (i) of this section, Israel's increased population due to its absorption of immigrants, and the liberalization by the Government of Israel of its trade policy with the United States, the amount of United States investment goods and services purchased for use in or with respect to the country of Israel will substantially increase.

"(k) REPORTS.—The President shall report to Congress by December 31 of each fiscal year until December 31, 1999, regarding the implementation of this section.

"(l) APPLICABILITY OF FOREIGN ASSISTANCE ACT AUTHORITIES.—Section 223 of the Foreign Assistance Act shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 222, except that subsections (a), (e)(1), (g), and (j) of section 223 shall not apply to President.

such guarantees and except that, to the extent section 223 is inconsistent with the Federal Credit Reform Act of 1990, that Act shall apply. Loans shall be guaranteed under this section without regard to sections 221, 222, and 238(c). Notwithstanding section 223(f), the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with this program or financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees once issued hereunder shall be unconditional and fully and freely transferable.

"(m) TERMS AND CONDITIONS.—

"(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

"(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payments of principal and interest on a level payment basis, over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

"(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

"(B) in the case of any loan issue on an interest-bearing basis, the stated principal amount thereof.".

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5368:

HOUSE REPORTS: Nos. 102-585 (Comm. on Appropriations) and 102-1011 (Comm. of Conference).
SENATE REPORTS: No. 102-419 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 25, considered and passed House.
Sept. 30, Oct. 1, considered and passed Senate, amended.
Oct. 5, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-392
102d Congress

An Act

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes.

Oct. 6, 1992
[H.R. 5427]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1993, and for other purposes, namely:

Legislative Branch Appropriations Act, 1993.

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriations Act, 1993.
2 USC 60a note.

SENATE

MILEAGE AND EXPENSE ALLOWANCES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $15,000 for each such Leader; in all, $30,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $69,895,000, which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,431,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $432,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $2,076,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $644,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $942,000 for each such committee; in all, $1,884,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $362,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $172,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $11,715,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $33,739,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $1,133,000.

AGENCY CONTRIBUTIONS AND RELATED EXPENSES

For agency contributions for employee benefits, as authorized by law, and related expenses, $16,307,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $3,080,000.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $833,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,199,100 for each such committee; in all, $2,398,200.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96–304 and Senate Resolution 281, agreed to March 11, 1980, $77,000,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $336,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $1,452,500.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $82,944,000.

MISCELLANEOUS ITEMS

For miscellaneous items, $6,748,000: *Provided,* That funds appropriated under this heading for fiscal years 1991 and 1992 pursuant to S. Res. 239 (102d Congress, agreed to November 27, 1991), shall remain available until September 30, 1993.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $185,768,000.

OFFICE OF SENATE FAIR EMPLOYMENT PRACTICES

For salaries and expenses of the Office of Senate Fair Employment Practices, $825,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the Senate, $20,000,000, to remain available until September 30, 1994.

ADMINISTRATIVE PROVISIONS

Effective date.

SECTION 1. Effective October 1, 1992, section 111(a) of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 61–1 note) is amended by striking "$149,286" and inserting "an amount equal to 3 times the maximum annual gross rate of compensation that may be paid to an employee of the office of a Senator".

2 USC 121d.

SEC. 2. (a) The Secretary of the Senate is authorized to establish a Senate Gift Shop for the purpose of providing for the sale of gift items to Members of the Senate, staff, and the general public.

(b) All moneys received from sales and other services by the Senate Gift Shop shall be deposited in the revolving fund established by subsection (c) and shall be available for purposes of this section.

(c) There is established in the Treasury of the United States a revolving fund within the contingent fund of the Senate to be known as the Senate Gift Shop Revolving Fund (hereafter referred to in this section as the "fund"). The fund shall consist of all amounts collected or received by the Secretary of the Senate from sales and services by the Senate Gift Shop. All moneys in the fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate in connection with the operation of the Senate Gift Shop, including supplies, equipment, and other expenses. In addition, such moneys may be used by the Secretary of the Senate to reimburse the Senate appropriations account, appropriated under the heading "SALARIES, OFFICERS AND EMPLOYEES" and "OFFICE OF THE SECRETARY", for amounts used from such account to pay the salaries of employees of the Senate Gift Shop.

(d) The provisions of section 4 of the Act of July 31, 1946 (40 U.S.C. 193d), shall not be applicable to any activity carried out pursuant to this section.

(e) To provide capital for the fund, the Secretary of the Senate is authorized to transfer, from moneys in the Stationery Revolving Fund in the contingent fund of the Senate, to the fund such sum as he may determine necessary, not to exceed $300,000.

(f) For the purpose of acquiring supplies, equipment, and meeting other initial expenses in implementing subsection (a), the Secretary of the Senate is authorized, upon the date of the enactment of this Act, to expend, from moneys appropriated to the appropriations account, within the contingent fund of the Senate, for expenses of the Secretary of the Senate, by the Legislative Branch Appropriations Act, 1991, such amounts as may be necessary to carry out this section.

(g) Disbursements from the fund shall be made upon vouchers approved by the Secretary of the Senate, or his designee.

(h) The Secretary of the Senate is authorized to prescribe such regulations as may be necessary to carry out the provisions of this section.

SEC. 3. Section 69a of title 2 of the United States Code is amended by striking "$4,000" and inserting "$10,000".

SEC. 4. Section 7 under the heading "Senate" and "Administrative Provisions" of Public Law 101–163 (103 Stat. 1046) is amended—

(1) by striking "enter into an agreement with the Secretary of Education to" in the first sentence thereof;

(2) by striking the second sentence thereof; and

(3) by striking in the last sentence "Miscellaneous Items" and inserting in lieu thereof "Secretary of the Senate".

SEC. 5. Section 10 of Senate Resolution 144, agreed to June 13, 1989 (101st Congress, 1st Session) as amended by Senate Resolution 352, agreed to October 27, 1990 (101st Congress, 2d Session), is amended by striking "One Hundred and Second Congress" and inserting "One Hundred and Third Congress".

Effective with this reauthorization, the Commission shall support objectives of Public Law 100–696 and be renamed accordingly. Effective date.

SEC. 6. Section 105(a) of the Legislative Branch Appropriations Act 1965 (2 U.S.C. 104a) is amended by adding at the end the following new paragraph:

"(3) The report requirement relating to quantity, as contained in subparagraph (2) of paragraph (1), does not apply with respect to the Senate.".

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES (PRIOR YEARS)

(RESCISSION)

Of the funds appropriated in the Legislative Branch Appropriations Act, 1991, for the House of Representatives under the heading "SALARIES AND EXPENSES", there is rescinded a total of $6,775,642.83, in the amounts specified for the following headings and accounts:

(1) "HOUSE LEADERSHIP OFFICES", $308,988.51, as follows: (A) "Office of the Speaker", $17,647.07; (B) "Office of the Majority Floor Leader", $36,233.46; (C) "Office of the Minority Floor Leader", $183,097.26; (D) "Office of the Majority Whip", $61,579.53; and (E) "Office of the Minority Whip", $10,431.19.

(2) "COMMITTEE ON THE BUDGET (STUDIES)", $8,261.37.

(3) "STANDING COMMITTEES, SPECIAL AND SELECT", $2,171,051.63.

(4) "ALLOWANCES AND EXPENSES", $2,592,737.63, as follows: (A) "Official Expenses of Members", $2,196,821.48; (B) "supplies, materials, administrative costs and Federal tort claims", $3,108.30; (C) "net expenses of purchase, lease and maintenance of office equipment", $292,766.95; and (D) "stenographic reporting of committee hearings", $100,040.90.

(5) COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)", $955,144.83.

(6) "OFFICIAL MAIL COSTS", $41,210.33.

(7) "SALARIES, OFFICERS AND EMPLOYEES", $698,248.53, as follows: (A) "Office of the Postmaster", $1,000.53; (B) "Office of the Parliamentarian", $119,087.71; (C) "for salaries and expenses of the Office of the Historian", $54,324.08; (D) "for salaries and expenses of the Office of the Legislative Counsel of the House", $198,559.05; (E) "six minority employees, $85,315.44; (F) "the House Democratic Steering Committee and Caucus", $123,537.90; (G) "the House Republican Conference", $94,273.55; and (H) "other authorized employees", $22,150.27.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $699,109,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $5,561,000, including: Office of the Speaker, $1,383,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $994,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,348,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $1,095,000, including $5,000 for official expenses of the Majority Whip and not to exceed $405,830, for the Chief Deputy Majority Whip; and Office of the Minority Whip, $741,000, including $5,000 for official expenses of the Minority Whip and not to exceed $97,330, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of official and representative duties, $228,313,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $70,950,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $389,000.

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $57,900,000.

COMMITTEE ON HOUSE ADMINISTRATION

HOUSE INFORMATION SYSTEMS

For salaries, expenses and temporary personal services of House Information Systems, under the direction of the Committee on House Administration, $22,885,000, of which $8,139,000 is provided herein: *Provided,* That House Information Systems is authorized to receive reimbursement for services provided from Members and Officers of the House of Representatives and other Governmental entities and such reimbursement shall be deposited in the Treasury for credit to this account: *Provided further,* That amounts so credited for fiscal year 1992 and not obligated shall be available for obligation in fiscal year 1993.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $222,737,000, including: Official Expenses of Members, $78,545,000; supplies, materials, administrative costs and Federal tort claims, $19,116,000; net expenses of purchase, lease and

maintenance of office equipment, $4,427,000; furniture and furnishings, $1,720,000; stenographic reporting of committee hearings, $1,055,000; reemployed annuitants reimbursements, $1,039,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $116,203,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $632,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $6,631,000.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs of the House of Representatives, as authorized by law, $47,711,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $50,778,000, including: Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $22,354,000; Office of the Sergeant at Arms, including not to exceed $500 for official representation and reception expenses, $1,369,000; Office of the Doorkeeper, including overtime, as authorized by law, $10,750,000; Office of the Postmaster, $4,079,000; Office of the Chaplain, $123,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $854,000; for salaries and expenses of the Office of the Historian, $310,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,403,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,155,000; six minority employees, $735,000; the House Democratic Steering and Policy Committee and the Democratic Caucus, $1,461,000; the House Republican Conference, $1,461,000; and other authorized employees, $1,724,000.

ADMINISTRATIVE PROVISIONS

SEC. 101. (a) Amounts appropriated for any fiscal year for the House of Representatives under the heading "ALLOWANCES AND EXPENSES" may be transferred among the various categories of 2 USC 95b.

allowances and expenses under such heading, upon approval of the Committee on Appropriations of the House of Representatives.

(b) Amounts appropriated for any fiscal year for the House of Representatives under the heading "SALARIES, OFFICERS AND EMPLOYEES" may be transferred among the various offices and activities under such heading, upon approval of the Committee on Appropriations of the House of Representatives.

(c)(1) Amounts appropriated for any fiscal year for the House of Representatives under the headings specified in paragraph (2) may be transferred among such headings, upon approval of the Committee on Appropriations of the House of Representatives.

(2) The headings referred to in paragraph (1) are "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "STANDING COMMITTEES, SPECIAL AND SELECT", "HOUSE INFORMATION SYSTEMS", "ALLOWANCES AND EXPENSES", "OFFICIAL MAIL COSTS", and "SALARIES, OFFICERS AND EMPLOYEES".

40 USC 206 note.

SEC. 102. The provisions of H. Res. 199, approved April 1, 1991, establishing 114 civilian support positions for the Capitol Police with respect to the House of Representatives, shall be the permanent law with respect thereto.

SEC. 103. (a) Upon the transfer of any function to the Director of Non-legislative and Financial Services or the Office of General Counsel by reason of the House Administrative Reform Resolution of 1992, and upon the commencement of operation of the Office of Inspector General, the applicable amounts appropriated by the Legislative Branch Appropriations Act, 1992, or by this Act for the purposes specified in subsection (b) shall be available to the Director, the Office of General Counsel, and the Office of Inspector General for the carrying out of such function or operation, upon the approval of the Committee on Appropriations of the House of Representatives. In no case shall the transfer of any function referred to in the preceding sentence include the transfer of any function of the Capitol Guide Service.

(b) The purposes referred to in subsection (a) are salaries and expenses of the House of Representatives under the headings "ALLOWANCES AND EXPENSES" and "SALARIES, OFFICERS AND EMPLOYEES".

2 USC 117h.

SEC. 104. (a) There is established a subaccount in the appropriation account for salaries and expenses of the House of Representatives for the deposit of fees received from Members and officers of the House of Representatives for services provided to such Members and officers by the Office of the Attending Physician. The amounts so deposited shall be available, subject to appropriation, for the operations of the Office of the Attending Physician.

Effective date.

(b) This section shall take effect at the beginning of the first month after the month in which this Act is enacted.

JOINT ITEMS

For joint committees, as follows:

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1993

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1993, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 102, One

Hundred Second Congress, agreed to March 25, 1992, $906,000, to remain available until September 30, 1993. Such funds shall be available for payment, on a direct or reimbursable basis, for such construction, salaries, and expenses, whether incurred on, before, or after, October 1, 1992.

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $4,020,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,391,000.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $5,759,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month each to two assistants and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $973,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,509,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $62,852,000, of which $31,000,500 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $31,851,500 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided,* That of the amounts appropriated for fiscal year 1993 for salaries, including overtime, and Government contributions to employees' benefits funds under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police vehicles, including two-way police radio equipment; and contingent expenses, including advance payment for travel for training, protective details, and tuition and registration, expenses associated with the implementation of the Capitol Police Employee Assistance Program, including but not limited to professional referrals, and expenses associated with the awards program not to exceed $2,000, expenses associated with the relocation of instructor/liaison personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $2,029,000, to be disbursed by the Clerk of the House: *Provided,* That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further,* That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further,* That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1993 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

ADMINISTRATIVE PROVISION

SEC. 105. Of the amounts appropriated for fiscal year 1993 for "Capitol Police Board", "Capitol Police", such amounts as may be necessary may be transferred between the headings "Salaries", and "General expenses", upon approval of the Committees on Appropriations of the Senate and House of Representatives.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,644,000, to be disbursed by the Secretary of the Senate: *Provided,* That none of these funds shall be used to employ more than thirty-three individuals: *Provided further,* That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

SPECIAL SERVICES OFFICE

For salaries and expenses of the Special Services Office, $366,000, to be disbursed by the Secretary of the Senate.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92–484), including official reception and representation expenses (not to exceed $3,500 from the Trust Fund), and expenses incurred in administering an employee incentive awards program (not to exceed $1,800), rental of space in the District of Columbia, and those expenses necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww, and 42 U.S.C. 1395w–1, $21,025,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92–484, except that funds shall be available for the assessment required by Public Law 96–151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or shall be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93–344), including not to exceed $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $22,542,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98–63. 2 USC 605.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; and other personal services; at rates of pay provided by law, $8,144,000.

TRAVEL

40 USC 166a.

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $50,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; purchase and installation of security systems which are approved by the Capitol Police Board, as authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $340,000; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $23,955,000, of which $4,645,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $1,328,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,600,000, of which $200,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $47,339,000, of which $11,339,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $2,000,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, including the position of Superintendent of Garages as authorized by law, $32,387,000, of which $2,940,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office; and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $32,088,000, of which $665,000 shall remain available until expended: *Provided,* That not to exceed $3,200,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1993.

ADMINISTRATIVE PROVISION

SEC. 106. There is established in the Treasury a revolving fund for the House of Representatives gymnasium. The Architect of the Capitol shall deposit in the fund such amounts as the Architect may receive as gymnasium dues or assessments from Members of the House of Representatives and other authorized users of the gymnasium. The amounts so deposited shall be available for obligation by the Architect for expenses of the gymnasium. 2 USC 117i.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $57,291,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; printing and binding for the Architect of the Capitol; expenses necessary

for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $89,591,000: *Provided,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1993".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $4,906,000, of which $2,000,000 shall remain available until expended.

ADMINISTRATIVE PROVISION

40 USC 216c note.

SEC. 201. Pursuant to section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), not more than $6,000,000 shall be accepted and not more than $6,000,000 of the amounts accepted shall be available for obligation by the Architect of the Capitol for constructing, equipping, and maintaining the National Garden.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $203,163,000, of which not more than $7,500,000 shall be derived from collections credited to this appropriation during fiscal year 1993 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,500,000: *Provided further,* That of the total amount

appropriated, $7,669,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That, notwithstanding the provisions of 2 U.S.C. 150, as amended, $303,000 is to be available to support the catalog cards service: *Provided further,* That, of the total amount appropriated, $3,186,000 is to remain available until expended for the rental or purchase and outfitting for a warehouse and book storage facility away from Capitol Hill.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $26,228,000, of which not more than $14,500,000 shall be derived from collections credited to this appropriation during fiscal year 1993 under 17 U.S.C. 708(c), and not more than $2,217,000 shall be derived from collections during fiscal year 1993 under 17 U.S.C. 111(d)(2), 116(c)(1), 119(b)(2), and 1013: *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than $16,717,000: *Provided further,* That $200,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $43,144,000, of which $10,377,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,490,000.

ADMINISTRATIVE PROVISIONS

SEC. 202. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $175,690, of which $54,800 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 203. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 204. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 205. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 206. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $9,733,000, of which $860,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $911,000, of which $781,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $29,082,000: *Provided,* That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $120,000: *Provided further,* That funds, not to exceed $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional Serial Sets and other related Congressional/non-Congressional publications for 1989 and 1990 to depository and other designated libraries.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That the revolving fund shall be available for the hire or purchase of passenger motor vehicles not to exceed a fleet of twelve: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 4,950 workyears: *Provided further,* That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further,* That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15, nor to any employee involved in the in-house production of printing and binding: *Provided further,* That expenses for attendance at meetings shall not exceed $75,000.

SEC. 207. (a)(1) None of the funds appropriated for any fiscal year may be obligated or expended by any entity of the executive branch for the procurement of any printing related to the production of Government publications (including printed forms), unless such procurement is by or through the Government Printing Office. 44 USC 501 note.

(2) Paragraph (1) does not apply to (A) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, and, as certified by the Public Printer, cannot be provided more economically through the Government Printing Office, (B) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (C) printing from other sources that is specifically authorized by law.

(3) As used in this subsection, the term "printing" means the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the end items of such processes.

(b) Section 206 of the Legislative Branch Appropriations Act, 1991 (44 U.S.C. 501 note) is repealed.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to AID projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $435,167,000: *Provided,* That not more than $1,200,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1993: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the

building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That, notwithstanding any other provision of law, $2,191,000 of this appropriation shall be available for the planning, administering, receiving, sponsoring and such other expenses as the Comptroller General deems necessary to represent the United States as host of the 1992 triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI): *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions to be held in trust, which shall be available without fiscal year limitation, not to exceed $20,000, for any purpose related to the 1992 triennial Congress.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Contracts.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Communications.
40 USC 166 note.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee

on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

Effective date.

(c) This section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 306. Notwithstanding any other provision of law, and subject to approval by the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate, amounts may be transferred from the appropriation "Library of Congress, Salaries and expenses" to the appropriation "Architect of the Capitol, Library buildings and grounds, Structural and mechanical care" for the purpose of purchase, rental, lease, or other agreement, of storage and warehouse space for use by the Library of Congress during fiscal year 1993, and to incur incidental expenses in connection with such use.

40 USC 184g note.

SEC. 307. The amounts deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)) shall be available for salaries and expenses of the House of Representatives Child Care Center without fiscal year limitation, subject to the approval of the Committee on Appropriations of the House of Representatives.

SEC. 308. (a) Section 316(a) of the Legislative Branch Appropriations Act, 1990 as so redesignated by section 311(h)(3) of the Legislative Branch Appropriations Act, 1991 (39 U.S.C. 3210 note) is amended—

(1) in the matter before paragraph (1), by striking out "or a Member of the House of Representatives"; and

(2) in paragraphs (1) and (2), by striking out "or Member" each place it appears.

Effective date. 39 USC 3210 note.

(b) The amendments made by subsection (a) shall take effect on October 1, 1992.

SEC. 309. (a) Section 3210 of title 39, United States Code, is amended—

(1) in subsection (a)(7), by striking out "of the Member, except" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "from which the Member was elected."; and

(2) in subsection (d)(1), by striking out "delivery—" and all that follows through the end of subparagraph (B) and inserting in lieu thereof "delivery within that area constituting the congressional district or State from which the Member was elected.".

(b) The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. Effective date. 39 USC 3210 note.

SEC. 310. Effective November 5, 1990, section 106(a) of Public Law 101–520 is amended by striking out "(a) The" and inserting in lieu thereof "Section 9 of the". Effective date. 40 USC 212a.

SEC. 311. (a) Paragraphs (1) and (3) of subsection (b) of section 5 of the Judiciary Office Building Development Act (40 U.S.C. 1204(b)) are amended by deleting "and interior" and by adding the following new subsection:

"(c) The United States Capitol Police are authorized to police the building and other improvements constructed pursuant to the Judiciary Office Building Development Act, including the interior and exterior thereof, and to make arrests within the interior and exterior of such building and other improvements for any violation of any law of the United States, of the District of Columbia, or of any State, or any regulation promulgated pursuant thereto.". Law enforcement and crime.

(b) Subsection (a) of section 9 of the Judiciary Office Building Development Act (40 U.S.C. 1207(a)) is amended by deleting "and interior".

SEC. 312. Section 316 of Public Law 101–302 is amended in the first sentence of subsection (a) by striking "1992" and inserting "1993". 40 USC 188b–6.

SEC. 313. Section 12 of the Act of November 5, 1990 (2 U.S.C. 58c–1) is amended by deleting "the lesser of $100,000 or 50 percent of the amount allocated to such Member for mass mail" and inserting in lieu thereof "$100,000 of the amount allocated to such Member".

SEC. 314. (a) The Senate Committee on Rules and Administration shall promulgate regulations— Regulations. 2 USC 121e.

(1) pertaining to the services provided by the Attending Physician and the operation and use of the Senate health and fitness facilities; and

(2) requiring the payment of fees for services received from the Attending Physician and for the use of the Senate health and fitness facilities pursuant to such regulations.

(b) The Secretary of the Senate is authorized to withhold fees from the salary of an individual authorized by such regulations to receive such services from the Attending Physician and to use the Senate health and fitness facilities.

(c) The Secretary of the Senate shall remit all fees required by subsection (a)(2) that are collected pursuant to subsection (b) or by direct payment to the General Fund of the Treasury as miscellaneous receipts unless otherwise provided by law.

(d) The provision of this section shall take effect on April 9, 1992. Effective date.

SEC. 315. (a) There is established in the Senate a Bipartisan Task Force on Senate Coverage (referred to in this section as the "Task Force") which shall consist of—

(1) the Majority Leader and the Minority Leader, as ex officio members;

(2) 3 Senators appointed by the Majority Leader;

(3) 3 Senators appointed by the Minority Leader;

(4) 4 representatives appointed jointly by the Majority Leader and the Minority Leader, who are drawn from the administrative offices of the Senate, including—

(A) the Office of the Secretary of the Senate;

(B) the Office of the Sergeant at Arms; and

(C) the Office of the Architect of the Capitol.

(b) The Task Force is authorized to consult with the Senate committees with jurisdiction over the statutes referred to in subsection (c)(2).

(c)(1) The Task Force shall—

(A) review all existing statutes under which the Senate is covered;

(B) review Senate rules to determine whether the Senate is effectively complying with other statutes that could be applied to the Senate such as those listed in paragraph (2); and

(C) recommend the extent to which, and the way in which, these statutes should be applied to the Senate.

(2) The statutes referred to in paragraph (1) are—

(A) conflict statutes;

(B) the Freedom of Information Act;

(C) the Privacy Act; and

(D) labor laws such as the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act.

(d) The Task Force shall use existing Senate staff to carry out its responsibilities under this section.

Reports.

(e) The Task Force shall report its findings and recommendations to the Majority Leader and the Minority Leader not later than September 1, 1993.

SEC. 316. (a) Section 309(a) of Public Law 102-166 (2 U.S.C. 1209) is amended by striking "or any Member of the Senate" through "a Member of the Senate' and" and inserting "and".

2 USC 1222.

(b) Section 323 of such Act is repealed.

SEC. 317. The provisions of House Concurrent Resolution 192 (102d Congress), agreed to August 6, 1992 (relating to the Joint Committee on the Organization of Congress), shall continue in effect until December 31, 1993.

SEC. 318. Section 6(a) of the Judiciary Office Building Development Act (40 U.S.C. 1205(a)) is amended by adding at the end the following new paragraphs:

"(7) LEASE AUTHORITY.—The Architect of the Capitol is authorized to lease and occupy not more than 75,000 square feet of space in the Federal Judiciary Building. Payments under any such lease shall be made upon vouchers approved by the Architect of the Capitol. There are authorized to be appropriated—

"(A) to the Architect of the Capitol such sums as may be necessary to carry out this paragraph, including sums for the acquisition and installation of furniture and furnishings for space leased under this paragraph; and

"(B) to the Sergeant at Arms of the Senate such sums as may be necessary for the planning, acquisition, and installation of telecommunications equipment and services for the Architect of the Capitol with respect to space leased under this paragraph.

"(8) LEASE APPROVAL.—Any lease under paragraph (7) shall be subject to approval by the Committee on Appropriations of the House of Representatives, the Committee on Appropriations of the Senate, the House Office Building Commission, and the Committee on Rules and Administration of the Senate.".

SEC. 319. (a) Section 312(d)(2) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(2)) is amended to read as follows:

"(2) with respect to employees of the center, the House of Representatives shall make Government contributions and payments for health insurance, retirement, employment taxes, and similar benefits and programs in the same manner as such contributions and payments are made for other employees of the House of Representatives.".

(b) The amendment made by subsection (a) shall apply to fiscal years beginning after September 30, 1992.

Effective date. 40 USC 184g note.

SEC. 320. (a) The provisions of this section shall apply to any individual who—

Government employees. 40 USC 214d.

(1)(A) on the date of the enactment of this act is employed by the Senate day care center (known as the "Senate Employee Child Care Center") established pursuant to Senate Resolution 269, Ninety-eighth Congress, and section 3 of the Act entitled "An Act to authorize appropriations for the American Folklife Center for fiscal years 1985 and 1986, and for other purposes", approved August 21, 1984 (40 U.S.C. 214b; Public Law 98–392; 98 Stat. 1362); and

(B) makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after the date of the enactment of this Act; or

(2) is hired by the Center after the date of the enactment of this Act and makes an election to be covered by this section with the Secretary of the Senate, no later than 60 days after the date such individual begins employment.

(b)(1) Any individual described under subsection (a) may be credited, under section 8411 of title 5, United States Code, for service as an employee of the Senate day care center before the date of the enactment of this Act, if such employee makes a payment of the deposit under section 8411(f)(2) of such title without application of the provisions of section 8411(b)(3) of such title.

(2) An individual described under subsection (a) shall be credited under section 8411 of title 5, United States Code, for any service as an employee of the Senate day care center on or after the date of the enactment of this section, if such employee has such amounts deducted and withheld from his pay as determined by the Office of Personnel Management (in accordance with regulations prescribed by such Office subject to subsection (h) of this section) which would be deducted and withheld from the basic pay of an employee under section 8422 of title 5, United States Code.

(c) Notwithstanding any other provision of this section, any service performed by an individual described under subsection (a) as an employee of the Senate day care center is deemed to be civilian service creditable under section 8411 of title 5, United States Code, for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of such title, if such individual makes payment of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such individual if such individual had been an employee subject to section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(d) An individual described under subsection (a) shall be deemed a congressional employee for purposes of chapter 84 of title 5, United States Code, including subchapter III thereof and may make contributions under section 8432 of such title effective for the first applicable pay period beginning on or after the date of the enactment of this section.

(e) An individual described under subsection (a) shall be deemed an employee under section 8701(a)(3) of title 5, United States Code, for purposes of life insurance coverage under chapter 87 of such title.

(f) Government contributions for individuals receiving benefits under this section, as computed under sections 8423, 8432, and 8708, shall be made by the Secretary of the Senate from the appropriations account, within the contingent fund of the Senate, "Miscellaneous Items".

(g) The Office of Personnel Management shall accept the certification of the Secretary of the Senate concerning creditable service for the purpose of this section.

(h) The Center shall—

(1) consult with the Secretary of the Senate on the administration of this section;

Records.

(2) maintain records on all employees covered under this section in such manner as the Secretary of the Senate may require for administrative purposes;

(3) make deductions and withholdings from the pay of employees in the amounts determined under sections 8422, 8432, and 8707 of title 5, United States Code; and

(4) transmit such deductions and withholdings to the Secretary of the Senate for deposit and remittance to the Office of Personnel Management.

(i) The Office of Personnel Management may prescribe regulations to carry out the provisions of this section.

Effective date.
40 USC 207a note.

SEC. 321. Effective as of the enactment of the Act entitled "An Act to add to the area in which the Capitol Police have law enforcement authority, and for other purposes" (S. 1766, One Hundred Second Congress), section 104 of such Act is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 322. Of the funds appropriated in the Legislative Branch Appropriations Act, 1992, for the House of Representatives under the headings "SALARIES AND EXPENSES" and "OFFICIAL MAIL COSTS" there is rescinded the sum of $21,000,000.

22 USC 2291 note.

SEC. 323. Section 814(i) of Public Law 99-93 (99 Stat. 405) is amended by striking "September 30, 1988" and inserting in lieu thereof "September 30, 1997".

Establishment.
40 USC 193a note.

SEC. 324. (a) There is established in the Congress the Commission on the Bicentennial of the United States Capitol (hereafter in this section referred to as the "Commission") for the purposes of—

(1) overseeing the development of appropriate projects and activities to observe in 1993 the 200th anniversary of the laying of the cornerstone of the United States Capitol;

(2) taking actions to appropriately bring this anniversary date to the attention of the public; and

(3) conducting other activities that facilitate, encourage, or otherwise support any purposes specified in paragraph (1)

or (2), including the coordination of such activities as necessary with appropriate organizations outside the Congress.

(b) The Commission shall be composed of the following Members of Congress:

(1) The Majority Leader of the Senate and the Minority Leader of the Senate shall be the Senate Co-chairmen. The Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall be the House Co-chairmen.

(2) The President pro tempore of the Senate.

(3) The Majority Leader of the House of Representatives.

(4) The Chairman and the Ranking Minority Member of the Committee on Rules and Administration of the Senate, and the Chairman and the Ranking Minority Member of the Committee on House Administration of the House of Representatives.

(5) One Senator appointed by the Majority Leader of the Senate and one Senator appointed by the Minority Leader of the Senate.

(6) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one member of the House of Representatives appointed by the Minority Leader of the House of Representatives.

(c) Each member of the Commission specified under subsection (b) (other than a member under paragraph (5) or (6) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) In addition to the members under subsection (b), the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) The Co-chairmen may designate staff to work on Commission projects; however, no additional staff shall be employed by the Commission under the authority of this section.

(f) The Commission may utilize such voluntary and uncompensated staff and services as it deems necessary and may utilize the services, information, facilities, and personnel of the Secretary of the Senate and the Clerk of the House of Representatives. The Commission shall also receive such support and assistance as it deems necessary from the United States Capitol Preservation Commission, the United States Senate Commission on Art, the House of Representatives Fine Arts Board, the Library of Congress and other agencies of the legislative branch. The Co-chairmen shall each designate an Executive Secretary of the Commission for the Senate and the House of Representatives, respectively, to keep records and perform all necessary administrative tasks. Records.

(g) As used in this section, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

(h) The expenses of the Commission, including official reception and representation expenses, shall be paid out of the contingent funds of the Senate and the House of Representatives, and shall be authorized on vouchers approved by the Co-chairmen of the Commission or their designees. The Secretary of the Senate and Clerk of the House of Representatives are authorized to advance such sums as may be necessary to defray the expenses incurred in carrying out the provisions of this section.

Inter-governmental relations.

SEC. 325. WORKERS' COMPENSATION.

(a) AMENDMENT.—Section 504 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1854) is amended by adding at the end thereof the following new subsection:

"(d)(1) Notwithstanding any other provision of this Act, where a State workers' compensation law is applicable and coverage is provided for a migrant or seasonal agricultural worker, the workers' compensation benefits shall be the exclusive remedy for loss of such worker under this Act in the case of bodily injury or death.

"(2) The exclusive remedy prescribed by paragraph (1) precludes the recovery under subsection (c) of actual damages for loss from an injury or death but does not preclude recovery under subsection (c) for statutory damages or an injunction.".

29 USC 1854 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to all actions commenced after the date of the enactment of this Act but shall not apply after the expiration of 9 months after such date.

(2) REVIVAL.—Notwithstanding any applicable statute of limitations, an action for actual damages brought by a migrant or seasonal worker for loss from bodily injury or death under section 504 of the Migrant and Seasonal Agricultural Worker Protection Act which may not be brought during the 9-month period referred to in paragraph (1) may be commenced, either as part of an earlier action or as an action by itself, after the expiration of such period. A statute of limitations which is waived by the preceding sentence shall be extended for only 9 months from the date of expiration of such statute of limitations.

This Act may be cited as the "Legislative Branch Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5427:

HOUSE REPORTS: Nos. 102-579 (Comm. on Appropriations) and 102-1007 (Comm. of Conference).
SENATE REPORTS: No. 102-418 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 24, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 4, House agreed to conference report.
Oct. 5, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-393
102d Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes.

Oct. 6, 1992
[H.R. 5488]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1993, and for other purposes, namely:

Treasury, Postal Service, and General Government Appropriations Act, 1993.

TITLE I

Treasury Department Appropriations Act, 1993.

DEPARTMENT OF THE TREASURY

DEPARTMENTAL OFFICES

SALARIES AND EXPENSES

For necessary expenses of the Departmental Offices including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $25,000 for official reception and representation expenses; not to exceed $235,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not less than $3,064,000 and 48 full-time equivalent positions for the Office of Foreign Assets Control; not to exceed $1,925,000 to remain available until expended, for systems modernization requirements; not to exceed $490,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $71,202,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Departmental Offices, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; not to exceed $73,000 for official reception and representation expenses; not to exceed $727,000, to remain available until expended, for systems modernization requirements; $33,408,000.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, hire of passenger motor vehicles; not to exceed $2,000,000 for official travel expenses; not to exceed $100,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Inspector General of the Treasury; $29,147,000, of which not to exceed $1,300,000 shall remain available until expended for the Inspectors General Auditor Training Institute.

FINANCIAL CRIMES ENFORCEMENT NETWORK

SALARIES AND EXPENSES

For necessary expenses of the Financial Crimes Enforcement Network, including hire of passenger motor vehicles; not to exceed $4,000 for official reception and representation expenses; $18,342,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifty-two for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $7,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized to accept gifts: *Provided further,* That notwithstanding any other provision of law, students attending training at any Federal Law Enforcement Training Center site shall reside in on-Center or Center-provided housing, insofar as available and in accordance with Center policy: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Director of the Federal Law Enforcement Training Center shall annually present an award to be accompanied by a gift of intrinsic value to the outstanding student who graduated from a basic training program at the Center during the previous fiscal year, to be funded by donations received through the Center's gift authority: *Provided further,* That the Federal Law Enforcement Training Center is authorized to provide short term medical services for students undergoing training at the Center; $47,158,000.

42 USC 3771 note.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For expansion of the Federal Law Enforcement Training Center, for acquisition of necessary additional real property and facilities, and for ongoing maintenance, facility improvements, and related expenses, $12,301,000, to remain available until expended.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $214,069,000, of which not to exceed $9,748,000, shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed six hundred and fifty vehicles for police-type use for replacement only and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such rates as may be determined by the Director; for payment of per diem and/or subsistence allowances to employees where an assignment to the National Response Team during the investigation of a bombing or arson incident requires an employee to work 16 hours or more per day or to remain overnight at his or her post of duty; not to exceed $10,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $366,372,000, of which $22,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1993 and, of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2); and of which $1,000,000 shall be available for the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco and Firearms and for the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco and Firearms: *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Federal Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an

explosive identification and detection device: *Provided further,* That this provision shall not preclude ATF from assisting the International Civil Aviation Organization in the development of a detection agent for explosives or from enforcing any legislation implementing the Convention on the Marking of Plastic and Sheet Explosives for the Purpose of Detection: *Provided further,* That funds made available under this Act shall be used to achieve a minimum level of 4,304 full-time equivalent positions for fiscal year 1993, of which no fewer than 1,440 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program: *Provided further,* That none of the funds appropriated herein shall be available to investigate or act upon applications for relief from Federal firearms disabilities under 18 U.S.C. 925(c).

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to 1,000 motor vehicles of which 960 are for replacement only, including 990 for police-type use and commercial operations; hire of motor vehicles; not to exceed $20,000 for official reception and representation expenses; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,315,917,000, of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $30,000: *Provided further,* That the Commissioner or the Commissioner's designee may waive this limitation in individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 17,871 full-time equivalent positions in fiscal year 1993, of which a minimum level of 960 full-time equivalent positions shall be allocated to air interdiction activities of the United States Customs Service, and of which a minimum level of 11,018 full-time equivalent positions shall be allocated to commercial operations activities: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight-hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1993: *Provided further,* That not less than $750,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR AND MARINE INTERDICTION PROGRAMS

For expenses, not otherwise provided for, necessary for the operation and maintenance of marine vessels, aircraft, and other

related equipment of the Air and Marine Programs, including operational training and mission-related travel, and rental payments for facilities occupied by the air or marine interdiction programs, $83,242,000: *Provided,* That no aircraft or other related equipment shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1993.

OPERATIONS AND MAINTENANCE, CUSTOMS P–3 DRUG INTERDICTION PROGRAM

For necessary expenses of operations, maintenance, modifications to, spare parts and related equipment for Customs P–3 surveillance aircraft for carrying out defense-related drug interdiction purposes; $28,000,000.

AIR AND MARINE INTERDICTION PROGRAMS, PROCUREMENT

For the procurement, construction, and modification of aircraft and marine vessels, equipment, radar, spare parts, and accessories therefor of the air and marine interdiction programs; $21,174,000, to remain available until expended.

CUSTOMS FACILITIES, CONSTRUCTION, IMPROVEMENTS AND RELATED EXPENSES

For acquisition of necessary additional real property, facilities construction, improvements, and related expenses of the United States Customs Service, $4,600,000, to remain available until expended.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $15,000,000, as authorized by Public Law 100–690, as amended by Public Laws 101–382 and 101–508; to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,500,000, for expenses for the provision of Customs services at certain small airports or other facilities when authorized by law and designated by the Secretary of the Treasury, including expenditures for the salary and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98–573 for each of these airports or other facilities when authorized by law and designated by the Secretary of the Treasury, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $53,001,000, including amounts for purchase and maintenance of uniforms not

to exceed $285 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties; and of which $1,860,000 shall remain available until expended for expansion and improvements.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $194,643,000.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For necessary expenses for "Payment of Government Losses in Shipment", $500,000, to remain available until expended.

INTERNAL REVENUE SERVICE

ADMINISTRATION AND MANAGEMENT

For necessary expenses of the Internal Revenue Service, not otherwise provided for; executive direction, management services, and internal audit and security; including purchase (not to exceed 125 for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $157,368,000, of which not to exceed $25,000 for official reception and representation expenses; and of which not to exceed $500,000 shall remain available until expended for research.

PROCESSING TAX RETURNS AND ASSISTANCE

For necessary expenses of the Internal Revenue Service, not otherwise provided for; including processing tax returns; revenue accounting; statistics of income; providing assistance to taxpayers; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,634,298,000, of which $3,500,000 shall be for the Tax Counseling for the Elderly Program, no amount of which shall be available for IRS administrative costs.

TAX LAW ENFORCEMENT

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; tax and enforcement litigation; technical rulings; examining employee plans and exempt organizations; investigation and enforcement activities; securing unfiled tax returns; collecting unpaid accounts; the purchase (not to exceed 451, for replacement only, for police-type use), and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That additional amounts above fiscal year 1992 levels for international tax enforcement shall be used for the establishment and operation of a task force comprised of senior Internal Revenue Service attorneys, accountants, and economists dedicated to enforcement activities related to United States subsidiaries of foreign-controlled corporations that are in

non-compliance with the Internal Revenue Code: *Provided further,* That additional amounts above fiscal year 1992 levels for the information reporting program shall be used instead for the examination of the tax returns of high-income and high-asset taxpayers; $3,835,347,000, of which no less than $334,989,000 and 4,756 full-time equivalent positions shall be available for tax fraud investigations.

INFORMATION SYSTEMS

For necessary expenses for data processing and telecommunications support for Internal Revenue Service activities, including: returns processing and services; compliance and enforcement; program support; and tax systems modernization; and for the hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,480,341,000, of which not less than $565,026,000 is for tax systems modernization, and of which not to exceed $60,000,000 shall remain available until expended for other systems development projects: *Provided,* That of the amounts provided for tax systems modernization not to exceed $110,000,000 shall remain available until expended, of which up to $15,000,000 is for the establishment of a federally funded research and development center and may be utilized to conduct and evaluate market surveys, develop and evaluate requests for proposals, and assist with systems engineering, technical evaluations, and independent technical reviews in conjunction with tax systems modernization.

ADMINISTRATIVE PROVISION—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation upon the advance approval of the House and Senate Committees on Appropriations.

SEC. 2. The Internal Revenue Service shall institute and maintain a training program to insure that Internal Revenue Service employees are trained in taxpayers' rights, in dealing courteously with the taxpayers, and in cross-cultural relations. 26 USC 7803 note.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only and an additional seventy-five police-type vehicles) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; for payment of per diem and/or subsistence allowances to employees where a protective assignment during the actual day or days of the visit of a protectee require an employee to work 16 hours per day

or to remain overnight at his or her post of duty; the conducting of and participating in firearms matches; presentation of awards; and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; not to exceed $50,000 to provide technical assistance and equipment to foreign law enforcement organizations in counterfeit investigations; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $469,155,000, of which not to exceed $300,000 shall be made available for the protection at the one nongovernmental property designated by the President of the United States and $70,000 at the airport facility used for travel en route to or from such property under provisions of section 12 of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note): *Provided further,* That fiscal year 1993 funds shall be available for Presidential protection assistance reimbursements claimed in fiscal year 1992.

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Of the funds appropriated by this or any other Act to the Internal Revenue Service, amounts attributable to efficiency savings for fiscal year 1993 shall be identified as such by the Commissioner during that fiscal year: *Provided,* That in the fiscal year when the savings are realized, the amount of efficiency savings shall be non-recurred from the Internal Revenue Service budget base: *Provided further,* That in fiscal year 1993, the Internal Revenue Service shall identify persons found deserving of cash awards and reward such employees as authorized by sections 4501–4505 of title 5, United States Code: *Provided further,* That on an annual basis, the Internal Revenue Service shall report to the House and Senate Appropriations Committees on the status of the program.

Reports.

SEC. 102. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; purchase of motor vehicles without regard to the general purchase price limitation for vehicles purchased and used overseas for the current fiscal year; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services authorized by 5 U.S.C. 3109.

SEC. 103. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with

debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 104. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. Notwithstanding any authority to transfer funds between appropriations contained in this or any other Act, no transfer may increase or decrease any appropriation in this Act by more than 2 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 105. Notwithstanding any other provision of law, beginning October 1, 1992, and thereafter, the Financial Management Service (FMS) shall be reimbursed by the Internal Revenue Service (IRS) and the Department of Agriculture, National Finance Center (NFC), for the postage costs the FMS incurs to make check payments on behalf of the IRS and the NFC. 31 USC 306 note.

SEC. 106. Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be used by the Secretary of the Treasury to direct bill a Treasury bureau for penalty mail costs incurred by another Treasury bureau without the advance approval of the House and Senate Committees on Appropriations.

SEC. 107. The Secretary of the Treasury is authorized to transfer all obligated and unobligated balances in the construction of Mint facilities and Mint expansion and improvements accounts in prior appropriations Acts to the account for the salaries and expenses appropriation in this Act: *Provided,* That such transferred balances shall be used for expansion and improvements and shall be available until expended.

SEC. 108. Notwithstanding any other provision of this title, the amount available for administrative expenses to pay overtime to any employee of the United States Customs Service is limited to $25,000 per year.

This title may be cited as the "Treasury Department Appropriations Act, 1993".

TITLE II

Postal Service Appropriations Act, 1993.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $121,912,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and 39 USC 403 note.

other small post offices in the fiscal year ending on September 30, 1993.

PAYMENT TO THE POSTAL SERVICE FUND FOR NONFUNDED LIABILITIES

For payment to the Postal Service Fund for meeting the liabilities of the former Post Office Department to the Employees' Compensation Fund pursuant to 39 U.S.C. 2004, $38,614,000.

POSTAL SERVICE—GENERAL PROVISION

SECTION 201. (a) Except as provided in subsection (b), no change in the rate of postage for any class of mail may take effect, pursuant to section 3627 of title 39, United States Code, during fiscal year 1993.

(b) The rates for reduced rate third-class pieces other than letter shape may be increased pursuant to section 3627 of title 39, United States Code, so as to recover as nearly as possible, in fiscal year 1993, the difference between the sum requested for fiscal year 1993 in respect of mail under former sections 4452(b) and 4452(c) of such title as calculated under section 2401(c)(ii) of such title, and the sum that would have been requested for fiscal year 1993 in respect of such mail if clause (ii) of such section 2401(c) had not been enacted.

This title may be cited as the "Postal Service Appropriations Act, 1993".

Executive Office Appropriations Act, 1993.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $24,438,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and

accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $35,385,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $7,598,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109–110, 112–114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, operation, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $90,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $324,000: *Provided*, That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $3,150,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $3,428,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,772,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98–373; $235,000: *Provided,* That the Council shall carry out only those activities and authorities which are consistent with the National Materials and Minerals Policy, Research and Development Act of 1980, Public Law 96–479: *Provided further,* That staff and resources of Federal departments and agencies with responsibilities or jurisdiction related to minerals or materials policy shall be made available to the Council on a nonreimbursable basis.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $6,118,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $52,981,000, of which not to exceed $5,000,000, shall be available to carry out the provisions of 44 U.S.C. chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further*, That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further*, That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with section 105, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $3,058,000.

OFFICE OF NATIONAL DRUG CONTROL POLICY

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of National Drug Control Policy; for research activities pursuant to title I of Public Law 100–690; not to exceed $8,000 for official reception and representation expenses; for participation in joint projects or in the provision of services on matters of mutual interest with nonprofit, research, or public organizations or agencies, with or without reimbursement; $103,348,000, of which no less than $900,000 and five full-time equivalent positions shall be available for the Counter-Drug Technology Assessment Center; and, of which $86,000,000 shall be available for drug control activities which are consistent with the approved strategy for each of the designated High Intensity Drug Trafficking Areas which shall be transferred to Federal agencies and departments within 90 days of enactment of this Act and shall be obligated by the end of fiscal year 1993: *Provided,* That of the $86,000,000 made available, and not withstanding any other provision of law, the Office of National Drug Control Policy is authorized to transfer not less than $36,000,000 to State and local drug control entities for drug control activities which are consistent with the approved strategy for each High Intensity Drug Trafficking Area: *Provided further,* That in the case of the Southwest Border High Intensity Drug Trafficking Area, such funds shall be available for drug control activities which are consistent with the approved strategy and only for those activities approved by the Joint Command Group of Operation Alliance and the Assistant Secretary for Enforcement of the Department of the Treasury: *Provided further,* That the Office of National Drug Control Policy shall reduce by no less than 20 per centum, the number of non-career Senior Executive Service positions and Schedule "C" positions from the number of such positions on board as of September 30, 1992 by no later than September 30, 1993: *Provided further,* That none of the positions eliminated by the previous proviso shall be converted to career civil service or career Senior Executive Service positions: *Provided further,* That after January 1, 1993, none of the funds appropriated or made available under this Act may be used for the payment of salaries or expenses for any Federal officer in the Office of National Drug Control Policy who is appointed by the President, by and with the advice and consent of the Senate, to make public appearances for political campaigns as defined under section 7324(a) of title 5, United States Code: *Provided further,* That the Office is authorized to accept, hold, administer, and utilize gifts, both real and personal, for the purpose of aiding or facilitating the work of the Office.

SPECIAL FORFEITURE FUND

(INCLUDING TRANSFER OF FUNDS)

For activities authorized by Public Law 100–690, $75,742,000, to be derived from deposits in the Special Forfeiture Fund; of which $2,000,000, to remain available until expended, shall be transferred to the Drug Enforcement Administration for an expansion study of the El Paso Intelligence Center; of which $2,000,000 shall be transferred to the Bureau of Justice Assistance for the activities of the District of Columbia Metropolitan Area Task Force; of which $7,000,000, to remain available until expended, shall be transferred to the United States Border Patrol for helicopters and replacement vehicles; of which $2,800,000, to remain available until expended, shall be transferred to the Financial Crimes Enforcement Network for software development; of which $5,741,000, to remain available until expended, shall be transferred to the United States Customs Service for the procurement of marine assets; of which $5,000,000, to remain available until expended, shall be transferred to the Federal Law Enforcement Training Center for design and construction of training facilities; of which $2,500,000 shall be transferred to the United States Marshals Service for expenses and equipment related to the apprehension of fugitives; of which $15,000,000, to remain available until expended, shall be transferred to the Counter-Drug Technology Assessment Center for counternarcotics research and development projects and shall be available for transfer to other Federal agencies and departments; and of which $33,701,000 shall be transferred to the Alcohol, Drug Abuse and Mental Health Administration, of which $8,701,000 shall be made available for Community Partnership grants, of which $15,300,000 shall be made available to the Office of Treatment Improvement for the drug treatment Capacity Expansion Program, of which $4,700,000 shall be transferred to the San Francisco Department of Health, and of which $5,000,000 shall be made available to the Office of Substance Abuse Prevention for the residential treatment program for mothers and children.

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

This title may be cited as the "Executive Office Appropriations Act, 1993".

Independent Agencies Appropriations Act, 1993.

TITLE IV

INDEPENDENT AGENCIES

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $2,314,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271–79); $1,820,000, and additional amounts, not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

CITIZENS' COMMISSION ON PUBLIC SERVICE AND COMPENSATION

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of section 225 of the Federal Salary Act of 1967, as amended by the Ethics Reform Act of 1989 (2 U.S.C. 351); $250,000, which shall remain available until September 30, 1994.

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From People Who Are Blind or Severely Disabled established by the Act of June 23, 1971, Public Law 92–28; $1,653,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $21,031,000, of which not to exceed $5,000 shall be available for reception and representation expenses.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

(LIMITATIONS ON AVAILABILITY OF REVENUE)

For additional expenses necessary to carry out the purpose of the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), $330,501,000 to be deposited into said Fund. The revenues and collections deposited into the Fund shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving governmental agencies (including space adjustments and telecommunications relocation expenses) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings, and moving; repair and alteration of federally owned buildings including grounds, approaches and appurtenances; care and safeguarding of

sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by installment purchase and purchase contract, in the aggregate amount of $4,717,251,000 of which (1) not to exceed $626,312,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Arizona:

Nogales, U.S. Border Patrol Sector, headquarters, $3,000,000

Sun City West, Post Office, $5,000,000

Tucson, National Weather Service, U.S. Geological Survey, $5,500,000

California:

San Francisco, U.S. Court of Appeals Annex, $4,400,000

San Francisco, Federal Office Building, $10,000,000

Santa Ana, Federal Building and U.S. Courthouse, $2,500,000

District of Columbia:

U.S. Army Corps of Engineers, headquarters, $50,000,000

Federal Bureau of Investigation, field office, $53,790,000

U.S. Secret Service, headquarters, $150,569,000

White House Remote Delivery and Vehicle Maintenance Facilities, $25,531,000

Florida:

Fort Meyers, Federal Building and U.S. Courthouse, $27,600,000

Hollywood, Federal Building, $1,000,000

Tampa, U.S. Courthouse, $8,948,000

Georgia:

Albany, U.S. Courthouse, $6,000,000

Atlanta, Centers for Disease Control, site, acquisition and improvements, $26,000,000

Atlanta, Centers for Disease Control, laboratory, $30,000,000

Atlanta, Centers for Disease Control, $15,000,000

Hawaii:

Hilo, Federal Building, $1,500,000

Illinois:

Chicago, Social Security Administration, District Office, $4,000,000

Massachusetts:

Boston, U.S. Courthouse, $20,000,000

Missouri:

Kansas City, Federal Building—U.S. Courthouse, $5,721,000

Nevada:

Reno, Federal Building—U.S. Courthouse, $35,000,000

New Hampshire:
Concord, Federal Building—U.S. Courthouse, $36,576,000
New Jersey:
Newark, parking facility, $9,000,000
New Mexico:
Albuquerque, Federal Building—U.S. Courthouse, $3,118,000
New York:
Brooklyn, U.S. Courthouse, $15,000,000
Long Island, Federal Building—U.S. Courthouse, $5,200,000
North Dakota:
Fargo, Federal Building and U.S. Courthouse, $23,000,000
Oregon:
Portland, Bonneville Power Building, claim, $3,590,000
Pennsylvania:
Scranton, General Mail Facility, $3,000,000
South Carolina:
Columbia, U.S. Courthouse annex, site acquisition, $4,019,000
Texas:
Laredo, Federal Building—U.S. Courthouse, $3,000,000
Vermont:
Highgate Springs, Border Station, $250,000
Washington:
Seattle, U.S. Courthouse, $12,000,000
West Virginia:
Beckley, Federal Building and U.S. Courthouse, $10,000,000
Nonprospectus construction projects, $7,500,000

Provided, That of the funds provided for nonprospectus construction projects, $5,000,000 shall remain available until expended for the acquisition, lease, construction and equipping of a flexiplace work telecommuting center in southern Maryland, the Eastern Shore of Maryland, and northwestern Virginia: *Provided further,* That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1994, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That the Secretary of Commerce shall execute such permanent easements as may be necessary to fulfill an agreement between the Department of Commerce and the City of Boulder, Colorado, on the scope of development of the Department of Commerce property at 325 Broadway, Boulder, Colorado: *Provided further,* That the amount made available under this heading for the Department of Transportation, Headquarters, site, in Public Law 101–509, is hereby rescinded: *Provided further,* That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92–313, be liquidated with prior notification to the Committees on Appropriations of the House

and Senate to the extent savings are effected in other such projects; (2) not to exceed $594,066,000 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate of a greater amount:

Repairs and Alterations:

California:

San Francisco, U.S. Court of Appeals Annex, $91,563,000

Colorado:

Lakewood, Denver Federal Center, Building 56, $4,378,000

Lakewood, Denver Federal Center, Building 67, $3,498,000

Lakewood, Denver Federal Center, Building 810, $9,975,000

Connecticut:

Hartford, A.A. Ribicoff Federal Building and Courthouse, $8,008,000

District of Columbia:

Agriculture Administration Building, $7,195,000

Frances Perkins Department of Labor Building, $8,500,000

Idaho:

Boise, Federal Building and Courthouse, $9,352,000

Louisiana:

New Orleans, Custom House, $5,716,000

Maryland:

Avondale, De LaSalle Building, $9,170,000

Baltimore, Custom House, $11,878,000

Baltimore, George H. Fallon Federal Building, $21,301,000

Michigan:

Battle Creek, Federal Center, $26,197,000

Detroit, Federal Building and Courthouse, $6,976,000

New York:

New York, Jacob K. Javits Federal Building, (phase 1), $23,438,000

Oklahoma:

Oklahoma City, Federal Building and U.S. Courthouse, $10,366,000

Tulsa, Federal Building, $8,458,000

Rhode Island:

Providence, J. O. Pastore Federal Building and Post Office, $5,233,000

Texas:

Austin, Homer Thornberry Judicial Center, $3,186,000

Houston, Custom House, $4,665,000

Utah:

Ogden, IRS Center, $4,884,000

Virginia:

Richmond, Federal Office Building, $24,000,000

Washington:

Seattle, Henry M. Jackson Federal Building, $5,329,000

Capital Improvements of United States-Mexico Border Facilities, $7,500,000 as follows:

Texas:

Ysleta, site acquisition and construction, $7,500,000: *Provided,* That the Administrator of General Services shall make available not to exceed $1,500,000 for hazardous waste facilities at the El Paso, Texas, Bridge of the Americas border facility; and not to exceed $1,500,000 for hazardous waste facilities at the Ysleta, Texas, Zaragosa Bridge border facility from funds made available for these two line-item projects under the United States-Mexico Capital Improvements Program in Public Laws 101–136 and 101–509.

Minor Repairs and Alterations, $273,300,000: *Provided,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1994, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That the amount provided above for Minor Repairs and Alterations may be used to pay claims against the Government arising from any projects under the heading "Repairs and Alterations"; (3) not to exceed $145,381,000 for installment acquisition payments including payments on purchase contracts; (4) not to exceed $1,898,691,000 for rental of space; (5) not to exceed $1,130,871,000 for real property operations; (6) not to exceed $142,000,000 for program direction and centralized services; and (7) not to exceed $179,930,000 for design and construction services which shall remain available until expended: *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the purchase contract authority of the Public Buildings Amendments of 1972 (40 U.S.C. 602a), buildings occupied pursuant to installment purchase contracts, and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration, except for the line-item construction and repairs and alterations projects in this Act shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, light-

ing, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided further,* That revenues and collections and any other sums accruing to this Fund during fiscal year 1993 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $4,717,251,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriations Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $56,144,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property, including services as authorized by 5 U.S.C. 3109; $13,933,000, to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l–5).

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided, for Policy Direction, Board of Contract Appeals, and accounting, records management, and other support services incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109, $34,000,000, of which not to exceed $1,658,000 shall remain available until expended: *Provided,* That this appropriation shall be available for general administrative and staff support services, subject to reimbursement by the applicable organization or agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code: *Provided further,* That not less than $825,000 shall be available for personnel and associated costs in support of Congressional District and Senate State offices without reimbursement from these offices: *Provided*

further, That not to exceed $5,000 shall be available for official reception and representation expenses.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Governmentwide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $46,419,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General and services authorized by 5 U.S.C. 3109, $34,748,000: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property: *Provided further,* That not to exceed $2,500 shall be available for awards to employees of other Federal agencies and private citizens in recognition of efforts and initiatives resulting in enhanced Office of Inspector General effectiveness.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95–138; $2,192,000: *Provided,* That the Administrator of General Services shall transfer to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), $5,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Act.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS Real property.

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 2 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1993 for Federal Buildings Fund activities may

be transferred between such activities only to the extent necessary to meet program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

40 USC 490f.

SEC. 5. (a) Notwithstanding any other provision of law, agencies are hereafter authorized to make rent payments to the General Services Administration for lease space relating to expansion needs of the agency and the General Services Administration is authorized to use such funds, in addition to the amount received as New Obligational Authority in the Rental of Space activity of the Federal Buildings Fund. Such payments are to be at the commercial equivalent rates specified by section 201(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j)) and are to be deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)).

(b) There are hereby appropriated, out of the Federal Buildings Fund, such sums as may be necessary to carry out the purpose of subsection (a).

SEC. 6. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 7. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 8. Notwithstanding any other provision of law, the Administrator of General Services is authorized, for purposes of acquiring the building in Chamblee, Georgia, approved under this heading in Public Law 101–136 (103 Stat. 798), to accept custody, control, accountability, and all other incidents of ownership over the approximately 8.65 acres of land and improvements comprising the 81st Army Reserve Training Center, located adjacent to the existing IRS Atlanta Service Center in Chamblee, Georgia, at no cost. In exchange for the above referenced property, the Administrator is authorized to acquire and furnish a replacement facility for the 81st Army Reserve Training Center which meets the mission requirements of that activity, and to relocate such activity to the replacement facility. Upon completion of the replacement facility, the Administrator shall transfer custody, control, accountability, and all other incidents of ownership of the replacement facility to the Department of the Army. Funds available for the purpose of acquiring the building in Chamblee, Georgia, approved under this heading in Public Law 101–136 (103 Stat. 798), shall be available for the acquisition and furnishing of the replacement facility for the 81st Army Reserve Training Center, and for the relocation of that activity to the replacement facility.

SEC. 9. The language providing authority to enter into an agreement for the lease-purchase of a building in San Francisco, California under the heading "Federal Buildings Fund Limitations on Availability of Revenue" in Public Law 100–202 (101 Stat. 1329–405) is amended as follows: delete "of approximately 430,000 office occupiable square feet" and insert "not to exceed 475,000 occupiable

square feet": *Provided,* That the $10,000,000 made available in this Act in the Federal Buildings Fund for the San Francisco Federal Office Building may be used to fund this increase in square footage.

California.

SEC. 10. (a) Notwithstanding any other provision of law, the Administrator of the General Services Administration, shall quitclaim without monetary compensation the property described in subsection (b) to the Deganawidah-Quetzalcoatl University. In the event the Deganawidah-Quetzalcoatl University should lose its exemption from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 or a comparable successor provision of Federal law, the property described in subsection (b) shall automatically revert in ownership to the Federal Government.

(b) The real property situated in the County of Yolo, State of California, conveyed from Deganawidah-Quetzalcoatl University to the United States of America by certain Return Quitclaim Deed dated March 10, 1988, and recorded June 20, 1989, as Instrument No. 13383, in the official Records of Yolo County, California.

SEC. 11. (a) Notwithstanding any other provision of law, the General Services Administration is authorized to accept funds from the Detroit International Bridge Company pursuant to a memorandum of agreement dated March 28, 1991, and to deposit such funds into the Fund established under section 210(f) of the Federal Property and Administrative Services Act and, further, is authorized to use such funds, in addition to all amounts received pursuant to Public Law 100–202 and Public Law 100–440 as new obligational authority in said Fund, in furtherance of the Ambassador Bridge Cargo Inspection Facility project in Detroit, Michigan.

(b) There are hereby appropriated out of said Fund without limitation as to fiscal year such sums as are received pursuant to subsection (a).

North Dakota

SEC. 12. (a) The Administrator of General Services is authorized to construct a new courthouse in Fargo, North Dakota, which shall accommodate 125,000 square feet and necessary parking on a suitable site selected in consultation with the Federal Judiciary.

(b) The Administrator of General Services, in consultation with the Federal Judiciary, is authorized to exchange the present Federal Building and Courthouse located in Fargo, North Dakota with the city of Fargo, North Dakota for the site selected pursuant to subsection (a) which shall be of equal or comparable value.

40 USC 490g.

SEC. 13. Notwithstanding any other provision of law, the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), is hereafter authorized to receive any revenues, collections, or other income received during a fiscal year in the form of rebates, cash incentives or otherwise, related to energy savings or materials recycling efforts, all of which shall remain in the Fund until expended, and remain available for Federal energy management improvement programs, recycling programs, or employee programs as may be authorized by law or as may be deemed appropriate by the Administrator of General Services. The General Services Administration is authorized to use such funds, in addition to amounts received as New Obligational Authority, in such activity or activities of the Fund as may be necessary.

California.

SEC. 14. The Administrator of General Services is authorized to proceed with alterations of space in the Jacob Weinberger Federal Building, San Diego, California, subject to the availability of funds.

Georgia.

SEC. 15. Notwithstanding any other provision of law, the Administrator of General Services is authorized to lease, under section 210(h) of the Federal Property and Administrative Services Act of 1949: *Provided,* That the lease described herein is determined to be an "operating lease" in accordance with the Budget Enforcement Act of 1990, Public Law 101–508, and the accompanying Conference Report, Report No. 101–964 (and the Administrator is not authorized to enter into any lease for the property described herein that is not an "operating lease" as so determined), for a term not to exceed 27 years a building in Atlanta, Georgia, not to exceed 1,400,000 net occupiable square feet plus deck parking for a minimum of 2,200 vehicles, to be constructed by any commercial or private entity, and leased directly from the Downtown Development Authority of the City of Atlanta, a political subdivision of the State of Georgia, and located in the City of Atlanta, Georgia, on a site bounded by Martin Luther King, Jr. Drive and Spring, Alabama, and Broad Streets, including adjacent properties as needed to accommodate the building, under such terms and conditions as the Administrator deems appropriate. These terms and conditions may include, if the Administrator deems that such provisions are in the best interest of the United States, an option allowing the United States to purchase the property and improvements at fair market value at any time or at the end of the lease term, and/or lease extension options, as negotiated in the lease agreement. The Administrator is authorized to extend the present leases of prospective project tenants, as necessary, prior to occupancy of the subject new facility: *Provided,* That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

New York.

SEC. 16. The Administrator of General Services shall immediately cease construction and archeological excavation on the pavilion portion of the Foley Square Federal Building until such time as a plan is submitted to the House and Senate Committees on Appropriations for prior approval. Such plan shall not result in the continued exhumation of skeletal remains from the "Negro Burial Ground" and shall be accompanied by a reprogramming of sufficient funds but not more than $3,000,000 to modify the pavilion foundation of the Foley Square Federal Building in New York, New York, prevent further deterioration of the "Negro Burial Ground", and contain appropriate measures to memorialize the burial site. The Administrator of General Services shall submit the plan to the House and Senate Committees on Appropriations within 60 days of the enactment of this Act. Nothing in this section shall prohibit the continued construction on the tower portion of the Foley Square Federal Building project.

Massachusetts.

SEC. 17. Notwithstanding any other provision of law, the Administrator of General Services is authorized to proceed with the design and construction of a 500,000 occupiable square foot Courthouse in Boston, Massachusetts, to accommodate the long-term space requirements of the U.S. Courts, subject to the availability of funds.

Pennsylvania.

SEC. 18. Notwithstanding any other provision of law, the Administrator of General Services is authorized to enter into an interagency agreement with the United States Postal Service for the occupancy of a Federal office building of up to 1,000,000 occupiable square feet of space, to be constructed on a site owned by

the United States Postal Service at 30th and Walnut Streets in the City of Philadelphia, Pennsylvania; the building shall be deemed United States Postal Service property and the cost of constructing such building is to be financed by the United States Postal Service using Postal Service funds or using funds borrowed by the Postal Service through the Federal Financing Bank; the term of the interagency agreement shall not exceed twenty years. The interagency agreement between the General Services Administration and the United States Postal Service shall not be sold or assigned to private parties or constitute a guarantee by the General Services Administration of any third party financing: *Provided,* That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

Federal buildings and facilities.

SEC. 19. The Laboratory to be located at the Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia, is hereby designated as the "Edward R. Roybal Laboratory". Any reference to such building in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Edward R. Roybal Laboratory".

Federal buildings and facilities.

SEC. 20. The Campus to be located at the Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia, is hereby designated as the "Edward R. Roybal Campus". Any reference to such Campus in a law, map, regulation, document, record, or other paper of the United States shall be considered to be a reference to the "Edward R. Roybal Campus".

Federal buildings and facilities.

SEC. 21. (a) The Federal building located at 501 West Ocean Boulevard in Long Beach, California, shall be known and designated as the "Glenn M. Anderson Federal Building".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the "Glenn M. Anderson Federal Building".

Federal buildings and facilities.

SEC. 22. (a) The United States Court of Appeals Building located at 125 South Grand Avenue in Pasadena, California, shall be known and designated as the "Richard H. Chambers United States Court of Appeals Building".

(b) Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in subsection (a) shall be deemed to be a reference to the "Richard H. Chambers United States Court of Appeals Building".

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $165,045,000, of which $5,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended.

OFFICE OF GOVERNMENT ETHICS

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Government Ethics pursuant to the Ethics in Government Act of 1978, as amended by Public Law 100–598, and the Ethics Reform Act of 1989, Public Law 101–194, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and not to exceed $1,500 for official reception and representation expenses; $8,265,000: *Provided,* That notwithstanding 31 U.S.C. 3302, funds received from fees charged to non-Federal participants to attend an International Conference on Ethics shall be credited to and merged with this account, to be available for carrying out the Conference without further appropriation.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended: *Provided,* That notwithstanding 31 U.S.C. 3302, the Director is hereby authorized to accept gifts of goods and services, which shall be available only for hosting National Civil Service Appreciation Conferences, to be held in several locations throughout the United States in 1993. Goods and services provided in connection with the conference may include, but are not limited to, food and refreshments; rental of seminar rooms, banquet rooms, and facilities; and use of communications, printing and other equipment. Awards of minimal intrinsic value will be allowed. Gifts provided by an individual donor shall not exceed 50 percent of the total value of the gifts provided at each location; $119,000,000, of which not to exceed $1,000,000 shall be made available for the establishment of health promotion and disease prevention programs for Federal employees; and in addition $86,032,000 for administrative expenses, to be transferred from the appropriate trust funds of the Office of Personnel Management without regard to other statutes, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $3,500,000 shall be transferred at such times as the Office of Personnel Management deems appropriate, and shall remain available until expended for the costs of automating the retirement recordkeeping systems, together with remaining amounts authorized in previous Acts for the recordkeeping systems: *Provided further,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds

as provided by section 8348(a)(1)(B) of title 5, United States Code: *Provided further,* That, except as may be consistent with regulations of the Office of Personnel Management prescribed pursuant to 5 U.S.C. 8902a(f)(1) and (i), no payment may be made from the Employees Health Benefits Fund to any physician, hospital, or other provider of health care services or supplies who is, at the time such services or supplies are provided to an individual covered under chapter 89 of title 5, United States Code, excluded, pursuant to section 1128 or 1128A of the Social Security Act (42 U.S.C. 1320a–7–1320a–7a), from participation in any program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.): *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1993, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission: *Provided further,* That the Director of the Office of Personnel Management may transfer from this appropriation an amount to be determined, but not to exceed $616,000, to the National Advisory Council on the Public Service as established by Public Law 101–363.

OFFICE OF INSPECTOR GENERAL

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act, as amended, including services as authorized by 5 U.S.C. 3109, hire of passenger motor vehicles: $4,227,000; and in addition, not to exceed $6,500,000 for administrative expenses to audit the Office of Personnel Management's retirement and insurance programs, to be transferred from the appropriate trust funds of the Office of Personnel Management, as determined by the Inspector General: *Provided,* That the Inspector General is authorized to rent conference rooms in the District of Columbia and elsewhere.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $4,149,245,000, to remain available until expended.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEE LIFE INSURANCE

For payment of Government contributions with respect to employees retiring after December 31, 1989, as required by chapter 87 of title 5, United States Code, $12,433,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, not to exceed $6,900,000,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended and the Act of August 19, 1950, as amended (33 U.S.C. 771–75), may hereafter be paid out of the Civil Service Retirement and Disability Fund.

33 USC 776.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, and direct procurement of survey printing, $24,450,000, together with not to exceed $1,950,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978, the Civil Service Reform Act of 1978 (Public Law 95–454), and the Whistleblower Protection Act of 1989 (Public Law 101–12), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $7,952,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere;

$21,647,000: *Provided,* That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $32,435,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge. 26 USC 7443 note.

This title may be cited as the "Independent Agencies Appropriations Act, 1993".

TITLE V

GENERAL PROVISIONS

THIS ACT

SECTION 501. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts.

SEC. 504. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6–104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 505. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated 40 USC 490c.

or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92–28.

SEC. 506. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF–66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits and malt beverages, except if the expenditure of such funds is necessary to comply with a final order of the Federal court system.

SEC. 507. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 508. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 509. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 510. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal Law Enforcement Training Center located at Glynco, Georgia, Marana, Arizona, and Artesia, New Mexico, out of the Treasury Department.

SEC. 511. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 512. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States

Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

Abortion.

SEC. 513. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

Abortion.

SEC. 514. The provision of section 513 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

SEC. 515. Funds under this Act shall be available as authorized by sections 4501–4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1993.

SEC. 516. None of the funds appropriated or otherwise made available to the Department of the Treasury by this or any other Act shall be obligated or expended to contract out positions in, or downgrade the position classifications of, members of the United States Mint Police Force and the Bureau of Engraving and Printing Police Force, or for studying the feasibility of contracting out such positions.

SEC. 517. The Office of Personnel Management may, during the fiscal year ending September 30, 1993, accept donations of supplies, services, and equipment for the Federal Executive Institute, the Federal Quality Institute, and Executive Seminar Centers for the enhancement of the morale and educational experience of attendees.

SEC. 518. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6–104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 519. The United States Secret Service may, during the fiscal year ending September 30, 1993, accept donations of money to off-set costs incurred while protecting former Presidents and spouses of former Presidents when the former President or spouse travels for the purpose of making an appearance or speech for a payment of money or any thing of value.

Virginia.

SEC. 520. None of the funds made available by this Act may be used to withdraw the designation of the Virginia Inland Port at Front Royal, Virginia, as a United States Customs Service port of entry.

New Mexico.

SEC. 521. None of the funds made available to the Postal Service by this Act shall be used to transfer mail processing capabilities from the Las Cruces, New Mexico postal facility, and that

every effort will be made by the Postal Service to recognize the rapid rate of population growth in Las Cruces and to automate the Las Cruces, New Mexico postal facility in order that mail processing can be expedited and handled in Las Cruces.

SEC. 522. None of the funds in this Act may be used to reduce the rank or rate of pay of a career appointee in the SES upon reassignment or transfer.

Nebraska. Iowa.

SEC. 523. No funds in this Act may be used to award a Federal agency lease in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, which does not meet the following criteria:

Any Federal agency which leases commercial space in the Omaha, Nebraska—Council Bluffs, Iowa, geographical area, when entering into new leases, shall give preference to space available meeting standard Government lease criteria, provided the space also meets the occupying agency's mission requirement. The agency shall give priority consideration to space offered at the lowest cost per square foot within the geographical area, provided that the space under consideration also affords accessibility to the greatest number of members of the public served by the Federal agency, and to other factors set out in the applicable statutes and regulations.

SEC. 524. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated by this Act.

SEC. 525. No part of any appropriation contained in this Act shall be available to pay the salary for any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 526. None of the funds made available to the United States Customs Service may be used to collect or impose any land border processing fee at ports of entry along the United States-Mexico border.

SEC. 527. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations without the advance approval of the House and Senate Committees on Appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Department of Veterans Affairs; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

Day care.

SEC. 528. Section 616 of the Act of December 22, 1987 (40 U.S.C. 490b) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) such officer or agency determines that such space will be used to provide child care services to children of whom at least 50 percent have one parent or guardian who is employed by the Federal Government; and";

(2) by amending subsection (b)(3) to read as follows:

"(3) For the purpose of this subsection, the term 'services' includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, classroom furnishings and equipment, kitchen appliances, playground equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone services), and security systems (including installation and other expenses associated with security systems), including replacement equipment, as needed.";

(3) by redesignating subsection (b)(3), as amended by paragraph (2), as subsection (b)(4), and inserting after subsection (b)(2) the following:

"(3) If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may pay accreditation fees, including renewal fees, for that center to be accredited by a nationally recognized early-childhood professional organization, and travel and per diem expenses for attendance by representatives of the center at the annual General Services Administration child care conference."; and

(4) by adding at the end the following:

"(c) Through the General Services Administration's licensing agreements, the Administrator of General Services shall provide guidance, assistance, and oversight to Federal agencies for the development of child care centers to promote the provision of economical and effective child care for Federal workers.

"(d) If a Federal agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other Federal or leased space, the agency or the General Services Administration may enter into a consortium with one or more private entities under which such private entities would assist in defraying the costs associated with the salaries and benefits provided for any personnel providing services at such facility.".

SEC. 529. Section 532 of the Act of November 5, 1991 (104 Stat. 1470; Public Law 100-509), is amended— 41 USC 261.

(1) by inserting "(a)" immediately before the first sentence inside the quotation marks; and

(2) by adding before the close quotation marks at the end the following new subsection:

"(b) The Internal Revenue Service may use competitive procedures or procedures other than competitive procedures to procure the services of attorneys for use in litigating actions under the Internal Revenue Code to which a foreign-controlled corporation is a party. The Internal Revenue Service need not provide any written justification for the use of procedures other than competitive procedures when procuring attorney services for such cases and need not furnish for publication in the Commerce Business Daily or otherwise any notice of solicitation or synopsis with respect to such procurement.".

SEC. 530. (a) None of the funds made available by this Act may be used to implement, administer, enforce, or otherwise carry out any change in the terms or conditions governing benefits under

chapter 89 of title 5, United States Code, if, or to the extent that, such change would—

(1) affect only enrollees (including covered dependents) in health benefits plans who are (or, on proper application, would be) eligible for benefits under title XVIII of the Social Security Act, or are within any subset of that class of individuals; and

(2) with respect to any enrollees described in paragraph (1)—

(A) eliminate, in whole or in part, the responsibility of any carriers to provide payment or reimbursement for that portion of nonparticipating Medicare providers' allowable charges which exceeds the Medicare payment for participating Medicare providers; or

(B) eliminate, in whole or in part, the waiver of deductibles, coinsurance, or copayments with respect to prescription drugs.

(b) The changes with respect to which subsection (a) applies include both of the changes which the Office of Personnel Management proposes, in its Carrier Letter 92–04, to effect administratively.

CONVEYANCE OF LAND TO ANNE ARUNDEL COUNTY, MARYLAND

SEC. 531. (a) CONVEYANCE OF LAND.—Notwithstanding any other provision of law, upon the release of possessory interests in the property described in subsection (c) that are held by any person other than the United States on the date of the enactment of this Act, the Administrator of General Services shall convey the property to Anne Arundel County, Maryland, by quitclaim deed and without monetary consideration.

(b) TERMS AND CONDITIONS.—The deed of any conveyance under subsection (a)—

(1) shall provide that the property shall be used and maintained for public park or public recreation purposes in perpetuity, and that in the event the property ceases to be used or maintained for such purpose, all or any portion of the property shall in its then existing condition, at the option of the United States, revert to the United States; and

(2) may contain such additional terms, reservations, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

(c) DESCRIPTION.—The real property referred to in subsection (a) is property located in the County of Anne Arundel, Maryland, which—

(1) contains 35 acres, more or less, according to a description prepared by McCrone, Inc., in May 1985 without benefit of a field survey;

(2) is all that lot of ground which, by quitclaim deed dated July 3, 1985, and recorded among the land records of Anne Arundel County, Maryland, at Liber 3947, folio 191, was granted and conveyed by the Board of Education of Anne Arundel County, Annapolis, Maryland, to the United States of America; and

(3) is more particularly described as follows:

Beginning for the same at a point located on the south side of Boundary Road, said beginning point being the same as that in a Quitclaim Deed from the United States of America to the

Board of Education of Anne Arundel County, Annapolis, Maryland, dated March 19, 1969, and recorded among the Land Records of Anne Arundel County in Liber 2252 page 200, and running from said beginning point so fixed and with the west and south lines of a 50-foot right-of-way south 39 degrees 41 minutes 01 seconds west 383.42 feet to a point and south 50 degrees 18 minutes 59 seconds east 50.0 feet to a point located in the right-of-way line of the Baltimore-Washington Parkway, thence with said right-of-way lines of said Parkway south 39 degrees 41 minutes 01 seconds west 27.0 feet to a point and south 43 degrees 29 minutes 51 seconds west 350.18 feet to a point, thence leaving said Parkway and running with part of the south outline of the whole tract south 89 degrees 46 minutes 32 seconds west 1,610.22 feet to a point, thence leaving said outline and running for a new line of division through the whole tract north 00 degrees 13 minutes 28 seconds west 786.38 feet to a point located in the south right-of-way line of Boundary Road, thence with the same north 89 degrees 46 minutes 32 seconds east 2,233.11 feet to the place of beginning.

5 USC 1101 note.

SEC. 532. Notwithstanding any other provision of law, beginning October 1, 1992, and thereafter, no funds made available to the Office of Personnel Management may be used to prepare, promulgate, or implement any rules or regulations relating to the Combined Federal Campaign unless such rules or regulations include a Combined Federal Campaign brochure list and general designation option solely for international agencies, which list (listed by Federation in the case of affiliated agencies) and option shall include only those international agencies that elect in their annual application to be included under such list and option rather than under the national agencies list and option: *Provided,* That such limitation on the use of funds shall not apply to any activities related to the 1992 Combined Federal Campaign.

16 USC 403 note.

SEC. 533. (a) IN GENERAL.—Subject to subsection (b), the Secretary of the Interior may transfer certain land located in the Shenandoah National Park and described in subsection (c) to the Secretary of the Treasury for use by the Secretary of the Treasury as a United States Customs Service Canine Enforcement Training Center.

(b) CONDITIONS OF TRANSFER.—

(1) PROTECTION OF THE PARK.—An agreement to transfer pursuant to subsection (a) shall include such provisions for the protection of Shenandoah National Park as the Secretary of the Interior considers necessary.

(2) CONSIDERATION.—A transfer made pursuant to subsection (a) shall be made without consideration or reimbursement.

(3) ABANDONMENT.—If the land referred to in subsection (a) is abandoned by the Secretary of the Treasury at any time, administrative jurisdiction of the land shall revert to the Department of the Interior.

(c) DESCRIPTION OF THE LAND.—The land referred to in subsection (a) is a plot of fenced land equaling 9.888 acres containing buildings, structures, fixtures, equipment, and other improvements affixed to or resting upon the land, and has the following legal description:

The tract of land located just west of Road No. 604 about one mile south of Front Royal, Warren County, Virginia, and bounded as follows:

Beginning at (1) a monument in the line of the land of Lawson just west of Road No. 604; thence with the land of Lawson, and then with a new division line through the land of Shenandoah National Park north 59 degrees 45 minutes 38 seconds west 506.05 feet to (2) a Concrete Monument set, said point being north 59 degrees 45 minutes 38 seconds west 9.26 feet from a monument to a corner to the land of Lawson; thence with another new division line through the land of Shenandoah National Park north 31 degrees 31 minutes 00 seconds east 1206.07 feet to (3) a Concrete Monument set in the line of the land of the United States Government; thence with the land of the United States Government for the following two courses: south 07 degrees 49 minutes 31 seconds east 203.98 feet to (4); thence south 09 degrees 10 minutes 06 seconds east 27.79 feet to (5) a corner between the land of the United States Government and the land of United States Customs Service Detector Dog Training Center; thence with 282.896 acre tract of land of United States Customs Service Detector Dog Training Center for the following six courses: south 10 degrees 38 minutes 32 seconds east 152.47 feet to (6); thence south 00 degrees 48 minutes 32 seconds west 127.52 feet to (7); thence south 08 degrees 25 minutes 46 seconds west 422.15 feet to (8); thence south 14 degrees 37 minutes 16 seconds west 106.47 feet to (9); thence south 27 degrees 13 minutes 28 seconds west 158.11 feet to (10); thence south 38 degrees 17 minutes 36 seconds west 146.44 feet to the point of beginning, containing 9.888 acres, more or less.

26 USC 9003.

SEC. 534. (a) CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF CANDIDATES WHO ARE ELIGIBLE TO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.—Section 9003 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(e) CLOSED CAPTIONING REQUIREMENT.—No candidate for the office of President or Vice President may receive amounts from the Presidential Election Campaign Fund under this chapter or chapter 96 unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner which ensures that the commercial contains or is accompanied by closed captioning of the oral content of the commercial to be broadcast in line 21 of the vertical blanking interval, or is capable of being viewed by deaf and hearing impaired individuals via any comparable successor technology to line 21 of the vertical blanking interval.".

26 USC 9003 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts made available under chapter 95 or 96 of the Internal Revenue Code of 1986 more than thirty days after the date of the enactment of this Act.

SEC. 535. (a) Section 1761(a) of title 18, United States Code, is amended—

(1) by striking "$1,000" and inserting "$50,000"; and

(2) by striking "one year" and inserting "two years".

(b) Section 1762(b) of title 18, United States Code, is amended by striking "$1,000" and inserting "$50,000".

SEC. 536. By no later than April 15, 1993, the Director of the Secret Service shall contact each former President and the spouses of deceased former Presidents to advise such individual

of the costs incurred by the Secret Service for their protection, and identify and discuss potential threats and cost-effective protection alternatives: *Provided,* That by no later than June 1, 1993, the Director of the Secret Service shall provide a confidential briefing to the members of the House and Senate Committees on Appropriations on the results of such meetings.

SEC. 537. (a) Section 8902(k)(1) of 5 United States Code is amended to read as follows:

Health and health care.

"(k)(1) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist, optometrist, nurse midwife, nursing school administered clinic, or nurse practitioner/clinical specialist, licensed or certified as such under Federal or State law, as applicable, or by a qualified clinical social worker as defined in section 8901(11), an employee, annuitant, family member, former spouse, or person having continued coverage under section 8905a of this title covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist, qualified clinical social worker, optometrist, nurse midwife, nursing school administered clinic, or nurse practitioner/nurse clinical specialist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed.".

(b) Section 8902(k)(2) of 5 United States Code is amended to read as follows:

"(2) The provisions of this subsection shall not apply to comprehensive medical plans as described in section 8903(4) of this title.".

Effective date. 5 USC 8902 note.

(c) The amendments made by this section shall be effective with respect to contract years beginning after the date of enactment of this Act.

New York.

SEC. 538. None of the funds made available by this Act shall be used to plan, administer, or otherwise carry out a move of the Internal Revenue Service's Automated Collection Unit from the borough of Manhattan, New York City, New York, without prior approval of the House and Senate Appropriations Committees.

TITLE VI

GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

Drugs and drug abuse.

SEC. 602. No department, agency, or instrumentality of the United States receiving appropriated funds under this or any other Act for fiscal year 1993 shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

SEC. 603. Notwithstanding any other provision of law, a Federal employing agency shall make the deposit from existing appropriations into the Federal Employees Compensation Account of the Unemployment Trust Fund, as required by section 8509 of title 5, United States Code, not later than thirty days after the Department of Labor has billed the agency for the amount to be deposited.

SEC. 604. Notwithstanding the provisions of the Act of September 13, 1982 (Public Law 97–258, 31 U.S.C. 1345), any agency, department or instrumentality of the United States which provides or proposes to provide child care services for Federal employees may reimburse any Federal employee or any person employed to provide such services for travel, transportation, and subsistence expenses incurred for training classes, conferences or other meetings in connection with the provision of such services: *Provided,* That any per diem allowance made pursuant to this section shall not exceed the rate specified in regulations prescribed pursuant to section 5707 of title 5, United States Code.

31 USC 1343 note.

SEC. 605. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $7,100 except station wagons for which the maximum shall be $8,100: *Provided,* That these limits may be exceeded by not to exceed $3,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section may not be exceeded by more than five percent for electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976: *Provided further,* That the limits set forth in this section may be exceeded by the incremental cost of clean alternative fuels vehicles acquired pursuant to Public Law 101–549 over the cost of comparable conventionally fueled vehicles.

SEC. 606. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travels or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922–24.

5 USC 3101 note.

SEC. 607. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975, or (6) nationals of the People's Republic of China protected by Executive Order Number 12711 of April 11, 1990: *Provided,* That for the purpose of this section, an affidavit signed by any such person

shall be considered prima facie evidence that the requirements of this section with respect to his or her status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies.

SEC. 608. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (87 Stat. 216), or other applicable law.

SEC. 609. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 610. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 611. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

SEC. 612. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and

specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 613. Funds made available by this or any other Act to the "Postal Service Fund" (39 U.S.C. 2003) shall be available for employment of guards for all buildings and areas owned or occupied by the Postal Service and under the charge and control of the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318), and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948, as amended (62 Stat. 281; 40 U.S.C. 318c).

SEC. 614. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. No part of any appropriation contained in, or funds made available by, this or any other Act, shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

Government employees.
Labor.
5 USC 5343 note.

SEC. 616. (a) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1993, or September 30, 1994, by this or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title—

(1) during the period from the date of expiration of the limitation imposed by section 616 of the Treasury, Postal Service, and General Government Appropriations Act, 1992, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 616; and

(2) during the period consisting of the remainder, if any, of fiscal year 1993, and that portion of fiscal year 1994, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1994, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1993, under section 5303 of title 5, United States Code.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section

5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1992, shall be determined under regulations prescribed by the Office of Personnel Management. Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1992, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1992. Effective date.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 617. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 618. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to furnish or redecorate the office of such department head, agency head, officer or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such furnishing or redecoration is expressly approved by the Committees on Appropriations of the House and Senate. For the purposes of this section the word "office" shall include the entire suite of offices assigned to the individual, as well as any other space used primarily by the individual or the use of which is directly controlled by the individual.

SEC. 619. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services Reports. 5 USC note prec. 3341.

detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code, shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 620. No funds appropriated in this or any other Act for fiscal year 1993 may be used to implement or enforce the agreements in Standard Forms 312 and 4355 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement does not contain the following provisions:

"These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations, rights or liabilities created by Executive Order 12356; section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b)(8) of title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive order and listed statutes are incorporated into this Agreement and are controlling.".

SEC. 621. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any addi-

tional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

Communications.

SEC. 622. (a) None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89–306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and service procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

(b) After March 1, 1993, subsection (a) shall apply only if the Administrator of General Services has reported that the FTS-2000 procurement is producing prices that allow the Government to satisfy its requirements for such procurement in the most cost-effective manner and the President should issue an Executive order mandating the procurement and use of FTS2000.

SEC. 623. (a) No amount of any grant made by a Federal agency shall be used to finance the acquisition of goods or services (including construction services) unless the recipient of the grant agrees, as a condition for the receipt of such grant, to—

(1) specify in any announcement of the awarding of the contract for the procurement of the goods and services involved (including construction services) the amount of Federal funds that will be used to finance the acquisition; and

(2) express the amount announced pursuant to paragraph (1) as a percentage of the total costs of the planned acquisition.

(b) The requirements of subsection (a) shall not apply to a procurement for goods or services (including construction services) that has an aggregate value of less than $500,000.

SEC. 624. Notwithstanding section 1346 of title 31, United States Code, or section 612 of this Act, funds made available for fiscal year 1993 by this or any other Act shall be available for the interagency funding of national security and emergency preparedness telecommunications initiatives which benefit multiple Federal departments, agencies, or entities, as provided by Executive Order Numbered 12472 (April 3, 1984).

SEC. 625. Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 1993, any department, division, bureau, or office participating in the Federal Flexiplace Project may use funds appropriated by this or any other Act to install telephone lines, necessary equipment, and to pay monthly charges, in any private residence or private apartment: *Provided,* That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse

exist, and that the service is necessary for direct support of the agency's mission.

SEC. 626. (a) None of the funds appropriated by this or any other Act may be obligated or expended by any Federal department, agency, or other instrumentality for the salaries or expenses of any employee appointed to a position of a confidential or policy-determining character excepted from the competitive service pursuant to section 3302 of title 5, United States Code, without a certification to the Office of Personnel Management from the head of the Federal department, agency, or other instrumentality employing the Schedule C appointee that the Schedule C position was not created solely or primarily in order to detail the employee to the White House.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

Edward R. Roybal.

SEC. 627. SENSE OF THE CONGRESS.—It is the sense of the Congress that—

Whereas Congressman Edward R. Roybal has shown leadership, dedication, and diligence as Chairman of the House Subcommittee on Treasury, Postal Service, and General Government;

Whereas Congressman Edward R. Roybal has inspired a spirit of cooperation and consensus among the members of his Appropriation's Subcommittee during difficult deliberations; and

Whereas Congressman Edward R. Roybal has demonstrated patience, good humor, and professional courtesy as a Member of the House of Representatives, as Chairman of the Select Committee on Aging, and as Chairman of the House Treasury, Postal Service, and General Government Subcommittee on Appropriations,

the House of Representatives and the United States Senate commend Representative Edward R. Roybal for his record of distinguished service.

SEC. 628. Section 16 of the Trading with the Enemy Act, 40 Stat. 425 (50 U.S.C. App. 16), as amended, is amended to read as follows:

"(a) Whoever shall willfully violate any of the provisions of this Act or of any license, rule, or regulation issued thereunder, and whoever shall willfully violate, neglect, or refuse to comply with any order of the President issued in compliance with the provisions of the Act shall, upon conviction, be fined not more than $1,000,000, or if a natural person, be fined not more than

$100,000, or imprisoned for not more than ten years or both; and the officer, director, or agent of any corporation who knowingly participants in such violation shall, upon conviction, be fined not more than $100,000 or imprisoned for not more than ten years or both.

"(b)(1) A civil penalty of not to exceed $50,000 may be imposed by the Secretary of the Treasury on any person who violates any license, order, rule, or regulation issued in compliance with the provisions of this Act.

"(2) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(c) Upon conviction, any property, funds, securities, papers, or other articles or documents, or any vessel, together with tackle, apparel, furniture, and equipment, concerned in any violation of subsection (a) may be forfeited to the United States.".

SEC. 629. Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)) is amended by striking out "$10,000" and inserting in lieu therof, "$50,000".

SEC. 630. Title 42 U.S.C. is amended by adding a new section as follows: 42 USC 6962.

"§ 6962j. Preference for recycled toner cartridges

"(a) Notwithstanding any other provision of law, a Federal agency in conducting a procurement for toner cartridges for use in laser printers, photocopiers or microphotographic printers shall purchase recycled cartridges, unless the contracting or purchasing officer determines in writing that—

"(1) adequate market research establishes that recycled cartridges for the type of equipment used by the agency do not exist,

"(2) the price or life cycle cost offered for the recycled cartridge is higher than the original equipment manufacturer's new cartridge, or

"(3) recycled cartridges are not available in quantities needed within the timeframes required.

"(b) Nothing in this section shall prohibit the purchase of one newly manufactured cartridge (or a number equal to those normally supplied at the time of initial purchase) as part of an initial printer or copier acquisition.

"(c) For purposes of this section, 'recycled cartridge' means a laser printer, photocopier, or microphotographic toner cartridge which has been remanufactured in the United States by a small-business concern which has been certified by an independent laboratory to meet generally accepted industry standards. In the absence of an independent laboratory certification, a contracting officer may in his discretion rely on the agency's past experience with the offered recycled cartridge as evidence that the offered product meets generally accepted industry standards.

"(d) For purposes of this section, 'small-business concern' has the meaning given such term in the Small Business Act (15 U.S.C. 632(a)).

"(e) For purposes of this section, 'independent laboratory' means an independently owned engineering and product testing firm, whose primary business activity is not limited to the testing and certification of recycled cartridges.".

Alien Species Prevention and Enforcement Act of 1992. Hawaii. 39 USC 3015 note.

SEC. 631. ALIEN SPECIES PREVENTION AND ENFORCEMENT.—(a) PESTS IN THE MAILS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary of Agriculture shall hereafter operate a program, under terms and conditions acceptable to the Postal Service, to protect Hawaii from the introduction of prohibited plants, plant pests, and injurious animals that may be contained in mail received in Hawaii, except that this subsection shall not apply to mail that originates and is intended for delivery outside the United States.

(2) MEMORANDUM OF UNDERSTANDING.—For the purpose of carrying out the program operated under paragraph (1), the Secretary of Agriculture shall enter into a memorandum of understanding or other agreement with the Secretary of the Interior relating to prohibited plants, plant pests, or injurious animals under the jurisdiction of the Department of the Interior.

(3) REMEDIAL ACTION.—If, pursuant to the program, mail is found to contain a prohibited plant, plant pest, or injurious animal, the Secretary shall—

Records.

(A) make a record of the prohibited plant, plant pest, or injurious animal found in the mail;

(B) take appropriate action to prevent the introduction of the prohibited material into Hawaii; and

(C) determine whether the facts and circumstances warrant seeking prosecution under a law prohibiting the conveyance of a plant, plant pest, or injurious animal.

(4) DEFINITIONS.—As used in this subsection:

(A) INJURIOUS ANIMAL.—The term "injurious animal" means an animal the importation or interstate shipment of which is prohibited by section 42 of title 18, United States Code.

(B) PLANT.—The term "plant" means a plant from any class of plants, or any other article or matter, the importation or interstate shipment of which is prohibited under the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act").

(C) PLANT PEST.—The term "plant pest" means any organism or substance the importation or interstate shipment of which is prohibited under the Federal Plant Pest Act (7 U.S.C. 150aa et seq.).

39 USC 3015 note.

(b) COOPERATIVE AGREEMENTS WITH HAWAII TO ENFORCE CERTAIN AGRICULTURAL QUARANTINE LAWS.—

(1) AGREEMENT BETWEEN SECRETARY OF AGRICULTURE AND HAWAII.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State—

(i) the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the "Plant Quarantine Act");

(ii) the Federal Plant Pest Act (7 U.S.C. 150aa et seq.); and

(iii) the matter under the heading "ENFORCEMENT OF THE PLANT-QUARANTINE ACT:" of the Act of March 4, 1915 (38 Stat. 1113; 7 U.S.C. 166) (commonly known as the "Terminal Inspection Act").

(B) INSPECTION OF PLANTS AND PLANT PRODUCTS.—The cooperative agreement shall establish a specific procedure for the submission and approval of the names of plants and plant products that the State of Hawaii elects to inspect under the provision of law referred to in subparagraph (A)(iii).

(C) AUTHORITY.—The Secretary shall carry out this paragraph under the authority provided by—

(i) section 102 of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a);

(ii) section 3 of the Act of May 29, 1884 (23 Stat. 32, chapter 60; 21 U.S.C. 114); and

(iii) section 11 of the Department of Agriculture Organic Act of 1956 (7 U.S.C. 114a).

(2) AGREEMENT BETWEEN SECRETARY OF THE INTERIOR AND HAWAII.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the Interior shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(B) AUTHORITY.—The Secretary shall use to carry out this paragraph the authority provided under section 3 of the Fish and Wildlife Improvement Act of 1978 (16 U.S.C. 742l).

(3) AGREEMENT BETWEEN POSTAL SERVICE AND HAWAII.—

(A) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Postal Service shall offer to enter into a cooperative agreement with the State of Hawaii for a 2-year period to enforce in the State, under terms and conditions acceptable to the Postal Service and in compliance with postal regulations, Public Law 100–574 and the amendments made by such Public Law.

(B) AUTHORITY.—The Postal Service shall use to carry out this paragraph the authority provided under section 3014 of title 39, United States Code.

(4) COOPERATIVE PROGRAMS.—Any program conducted jointly by the State of Hawaii and any Federal agency under this subsection that in any way affects the mail or the postal system of the United States shall comply with postal regulations and shall be conducted under terms and conditions acceptable to the Postal Service.

(5) EXTENSION OF AGREEMENTS.—A cooperative agreement entered into under this subsection may be extended by mutual consent of the parties to the agreement.

39 USC 3015 note.

(c) PUBLIC INFORMATION PROGRAM ON PROHIBITIONS AGAINST SHIPMENT OR TRANSPORTATION OF PLANT PESTS AND INJURIOUS ANIMALS.—

(1) IN GENERAL.—The Postal Service, the Secretary of the Interior, and the Secretary of Agriculture shall jointly establish a public information program to inform the public on—

(A) the prohibitions against the shipment or transportation of plants, plants pests, and injurious animals; and

(B) the consequences of violating Federal laws designed to prevent the introduction of alien species into the State of Hawaii and other areas of the United States.

(2) METHODS.—In carrying out paragraph (1), the Postal Service and Secretaries may—

(A) use public service announcements, mail, and other forms of distributing information, dial-up information services, and such other methods as will effectively communicate the information described in paragraph (1); and

(B) cooperate with State and private organizations to carry out the program established under this subsection.

(3) STUDY.—Not later than 1 year after the program established under subsection (a) commences, the Secretary of Agriculture, in cooperation with the Secretary of the Interior, the Postal Service, and the State of Hawaii, shall—

(A) conduct a study to determine the proportion of plant pests and injurious animals that are introduced into Hawaii by various modes of commerce; and

(B) report the results of the study to Congress.

(d) NONMAILABLE PLANT PESTS AND INJURIOUS ANIMALS.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following new section:

"§ 3015. Nonmailable plant pests and injurious animals

"(a) INJURIOUS ANIMALS.—Any injurious animal, the importation or interstate shipment of which is prohibited pursuant to section 42 of title 18, constitutes nonmailable matter.

"(b) PLANT PESTS.—Any plant pest, the movement of which is prohibited pursuant to section 103 or 104 of the Federal Plant Pest Act (7 U.S.C. 150bb or 150cc), constitutes nonmailable matter.

"(c) PLANTS.—Any plant, article, or matter, the importation or interstate shipment of which is prohibited pursuant to the Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 151 et seq.) (commonly known as the 'Plant Quarantine Act'), constitutes nonmailable matter.

"(d) ILLEGALLY TAKEN FISH, WILDLIFE, OR PLANTS.—Any fish, wildlife, or plant, the conveyance of which is prohibited pursuant to section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372), constitutes nonmailable matter.".

(2) CONFORMING AMENDMENT.—The table of sections for chapter 30 of title 39 is amended by adding at the end the following new item:

"3015. Nonmailable plant pests and injurious animals.".

39 USC 3015 note.

(e) SHORT TITLE.—This section may be cited as the "Alien Species Prevention and Enforcement Act of 1992".

Arizona.

SEC. 632. None of the funds appropriated by this or any other Act may be used to relocate the Department of Justice Immigration Judges from offices located in Phoenix, Arizona to new quarters

in Florence, Arizona without the prior approval of the House and Senate Committees on Appropriations.

Alcohol and alcohol abuse. Labeling.

SEC. 633. Upon the date of enactment of this Act, the Bureau of Alcohol, Tobacco and Firearms (ATF) shall deny any application for a certificate of label approval, including a certificate of label approval already issued, which authorizes the use of the name Crazy Horse on any distilled spirit, wine, or malt beverage product: *Provided,* That no funds appropriated under this Act or any other Act shall be expended by ATF for enforcement of this section and regulations thereunder, as it relates to malt beverage glass bottles to which labels have been permanently affixed by means of painting and heat treatment, which were ordered on or before September 15, 1992, or which are owned for resale by wholesalers or retailers.

Contracts. Florida.

SEC. 634. Notwithstanding the provisions of this or any other Act, the Administrator of General Services is authorized to enter into a contract with the Greater Orlando Aviation Authority, a subdivision of the State of Florida, for an operating lease under section 210(h) of the Federal Property and Administrative Services Act of 1949: *Provided,* That the lease described herein is determined to be an "operating lease" in accordance with the Budget Enforcement Act of 1990, Public Law 101–508, and the accompanying Conference Report 101–964, for a term not to exceed 27 years: *Provided further,* That the Administrator is not authorized to enter into any lease for the property described herein that is not an "operating lease" as so determined. Such lease should look to consolidating Federal agencies in the Orlando, Florida area, with any general government purpose excluding specialized research. Specifically, said lease should accommodate those agencies presently located at the Orlando Airport: *Provided further,* That this section shall not take effect without the advance approval of the House Committee on Public Works and Transportation and the Senate Committee on Environment and Public Works.

42 USC 415 note.

SEC. 635. COMMISSION ON THE SOCIAL SECURITY "NOTCH" ISSUE.—(a) ESTABLISHMENT.—There is established a Commission on the Social Security "Notch" Issue (in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall be composed of 12 members as follows:

President.

(1) 4 members appointed by the President from among officers or employees of the executive branch, private citizens of the United States, or both. Not more than 2 of the members appointed by the President shall be members of the same political party.

(2) 2 members appointed by the Majority Leader of the United States Senate, in consultation with the Chairman of the Committee on Finance of the United States Senate, from among members of the Senate, private citizens of the United States, or both.

(3) 2 members appointed by the Minority Leader of the United States Senate, in consultation with the Ranking Member of the Committee on Finance of the United States Senate, from among members of the Senate, private citizens of the United States, or both.

(4) 2 members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Committee on Ways and Means of the House of Representa-

tives, from among members of the House of Representatives, private citizens of the United States, or both.

(5) 2 members appointed by the Minority Leader of the House of Representatives, in consultation with the Ranking Member of the Committee on Ways and Means of the House of Representatives, from among members of the House of Representatives, private citizens of the United States, or both.

(c) FUNCTIONS OF THE COMMISSION.—

(1) STUDY.—The Commission shall conduct a comprehensive study of what has come to be known as the "notch" issue. The study shall examine the causes of the controversy, whether there are inequities in the treatment of social security beneficiaries born in different years, whether legislative action should be taken, and the effect on social security trust funds of such legislative action.

Reports.

(2) FINDINGS AND CONCLUSIONS.—The Commission shall transmit a report to the Congress not later than December 31, 1993. The report shall contain a detailed statement of the findings and conclusions of the Commission, together with any recommendations the Commission considers appropriate. Any recommendations which would increase social security expenditures would have to be accompanied by cost estimates and options for financing such recommendations.

President.

(d) CHAIRPERSON; MEETINGS.—The President shall designate a Chairperson from among the membership. The Commission shall meet at the call of the Chairperson or a majority of its members.

(e) PAY.—Members of the Commission shall serve without compensation, except that members of the Commission who are private citizens of the United States shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Commission.

(f) STAFF.—

(1) STAFF.—Subject to rules prescribed by the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(2) STAFF OF DEPARTMENT OF HEALTH AND HUMAN SERVICES.—Upon request of the Commission, the Secretary of Health and Human Services may detail, on a reimbursable basis, any of the personnel of the Department of Health and Human Services to the Commission to assist it in carrying out its duties under this section.

(g) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States such information as is necessary and appropriate to enable it to carry out this section. Upon request of the Chairperson of the Commission, the head of that department or agency shall, to the extent permitted by law, furnish that information to the Commission.

(h) TERMINATION.—The Commission shall terminate 30 days after transmittal of its report to the Congress.

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 for purposes of this section, to remain available until expended, but in no event beyond the date of termination provided in subsection (h).

Maryland.

SEC. 636. Notwithstanding any other provision of law, the Secretary of Agriculture may enter into an agreement with the Washington Metropolitan Area Transit Authority to provide a total of 30 acres of land on which the Beltsville Agricultural Research

Center is located at Beltsville, Maryland, and permit the Washington Metropolitan Area Transit Authority to utilize said land to design and construct wetland mitigation projects to replace wetlands eliminated by authorized construction by the Washington Metropolitan Area Transit Authority as required by the terms and conditions of any permit issued to the Washington Metropolitan Area Transit Authority by the United States Army, Corps of Engineers, pursuant to section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1344: *Provided,* That title to such land shall remain vested in the United States of America: *Provided further,* That the Secretary shall dedicate a perpetual conservation easement with respect to such land prohibiting any filling, flooding, excavation, clear cutting, construction, removal of vegetation, or alteration of trees in areas delineated as created wetlands, except when authorized under Federal and State law: *Provided further,* That such land may be used in a manner not inconsistent with the perpetual conservation easement to further research, extension, or teaching programs in the food and agricultural sciences of the Department of Agriculture.

SEC. 637. Notwithstanding any other provision of law, the United States Customs Service pilot pre-clearance program authorized to be established in Aruba shall be extended through 1994.

19 USC 2071 note.

SEC. 638. (a) This section may be cited as the "Treasury Forfeiture Fund Act of 1992".

Treasury Forfeiture Fund Act of 1992. 31 USC 9701 note.

(b)(1) Chapter 97 of title 31, United States Code, is amended by inserting after section 9702 the following new section:

"§ 9703. Department of the Treasury Forfeiture Fund

"(a) IN GENERAL.—There is established in the Treasury of the United States a fund to be known as the 'Department of the Treasury Forfeiture Fund' (referred to in this section as the 'Fund'). The Fund shall be available to the Secretary, without fiscal year limitation, with respect to seizures and forfeitures made pursuant to any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard for the following law enforcement purposes:

"(1)(A) Payment of all proper expenses of seizure (including investigative costs incurred by a Department of the Treasury law enforcement organization leading to seizure) or the proceedings of forfeiture and sale, including the expenses of detention, inventory, security, maintenance, advertisement, or disposal of the property, and if condemned by a court and a bond for such costs was not given, the costs as taxed by the court.

"(B) Payment for—

"(i) contract services;

"(ii) the employment of outside contractors to operate and manage properties or to provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

"(iii) reimbursing any Federal, State, or local agency for any expenditures made to perform the functions described in this subparagraph.

"(C) Awards of compensation to informers under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619).

"(D) Satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate Customs officer according to law; and

"(ii) subject to the discretion of the Secretary, other valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by a Department of the Treasury law enforcement organization. To determine the validity of any such lien or mortgage, the amount of payment to be made, and to carry out the functions described in this subparagraph, the Secretary may employ and compensate attorneys and other personnel skilled in State real estate law.

"(E) Payment of amounts authorized by law with respect to remission and mitigation.

"(F) Payment of claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), in the amounts applicable to such claims at the time of seizure.

"(G) Equitable sharing payments made to other Federal agencies, State and local law enforcement agencies, and foreign countries pursuant to section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)), section 981 of title 18, or subsection (h) of this section, and all costs related thereto.

"(H) Payment for services of experts and consultants needed by a Department of the Treasury law enforcement organization to carry out the organization's duties relating to seizure and forfeiture.

"(2) At the discretion of the Secretary—

"(A) payment of awards for information or assistance leading to a civil or criminal forfeiture involving any Department of the Treasury law enforcement organization participating in the Fund;

"(B) purchases of evidence or information by—

"(i) a Department of the Treasury law enforcement organization with respect to—

"(I) a violation of section 1956 or 1957 of title 18 (relating to money laundering); or

"(II) a law, the violation of which may subject property to forfeiture under section 981 or 982 of title 18;

"(ii) the United States Customs Service with respect to drug smuggling or a violation of section 542 or 545 of title 18 (relating to fraudulent customs invoices or smuggling);

"(iii) the United States Secret Service with respect to a violation of—

"(I) section 1028, 1029, or 1030 or title 18;

"(II) any law of the United States relating to coins, obligations, or securities of the United States or of a foreign government; or

"(III) any law of the United States which the United States Secret Service is authorized to enforce relating to fraud or other criminal or unlawful activity in or against any federally insured financial institution, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation;

"(iv) the United States Customs Service or the Internal Revenue Service with respect to a violation of chapter 53 of this title (relating to the Bank Secrecy Act); and

"(v) the Bureau of Alcohol, Tobacco and Firearms with respect to a violation of—

"(I) section 842(h) of title 18;

"(II) section 844 (d), (e), (f), (g), (h), or (i) of title 18; or

"(III) section 924(c) of title 18;

"(C) payment of costs for publicizing awards available under section 619 of the Tariff Act of 1930 (19 U.S.C. 1619);

"(D) payment for equipment for any vessel, vehicle, or aircraft available for official use by a Department of the Treasury law enforcement organization to enable the vessel, vehicle, or aircraft to assist in law enforcement functions, and for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;

"(E) payment for equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in joint law enforcement operations with a Department of the Treasury law enforcement organization;

"(G) reimbursement of private persons for expenses incurred by such persons in cooperating with a Department of the Treasury law enforcement organization in investigations and undercover law enforcement operations;

"(H) payment for training foreign law enforcement personnel with respect to seizure or forfeiture activities of the Department of the Treasury; and

"(I) payment made pursuant to guidelines promulgated by the Secretary, if such payment is necessary and directly related to seizure and forfeiture program expenses for—

"(i) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

"(ii) training;

"(iii) printing; and

"(iv) contracting for services directly related to—

"(I) the identification of forfeitable assets;

"(II) the processing of and accounting for forfeitures; and

"(III) the storage, maintenance, protection, and destruction of controlled substances.

"(b) LIMITATIONS.—

"(1) Any payment made under subparagraph (D) or (E) of subsection (a)(1) with respect to a seizure or a forfeiture

of property shall not exceed the value of the property at the time of the seizure.

"(2) Any payment made under subsection (a)(1)(G) with respect to a seizure or forfeiture of property shall not exceed the value of the property at the time of disposition.

"(3) The Secretary may exempt the procurement of contract services under the Fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(4) The Secretary shall assure that any equitable sharing payment made to a State or local law enforcement agency pursuant to subsection (a)(1)(G) and any property transferred to a State or local law enforcement agency pursuant to subsection (h)—

"(A) has a value that bears a reasonable relationship to the degree of participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) will serve to encourage further cooperation between the recipient State or local agency and Federal law enforcement agencies.

"(5) Amounts transferred by the Attorney General pursuant to section 524(c)(1) of title 28, or by the Postmaster General pursuant to section 2003 of title 39, and deposited into the Fund pursuant to subsection (d), shall be available for Federal law enforcement related purposes of the Department of the Treasury law enforcement organizations.

"(c) FUNDS AVAILABLE TO UNITED STATES COAST GUARD.—

"(1) The Secretary shall make available to the United States Coast Guard, from funds appropriated under subsection (g)(2) in excess of $10,000,000 for a fiscal year, an amount equal to the net proceeds in the Fund derived from seizures by the Coast Guard.

"(2) Funds made available under this subsection may be used to—

"(A) pay for equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(B) pay for equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the vessel, vehicle, or aircraft will be used in joint law enforcement operations with the United States Coast Guard;

"(C) pay for overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard;

"(D) pay for expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(d) DEPOSITS AND CREDITS.—

"(1) With respect to fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited during fiscal year 1993, and all proceeds from forfeitures during fiscal year 1993, under any law enforced or administered by the United States Customs Service or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of the United States Customs Service or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(2) With respect to fiscal years beginning after fiscal year 1993, there shall be deposited into or credited to the Fund—

"(A) all currency forfeited after fiscal year 1993, and all proceeds from forfeitures after fiscal year 1993, under any law (other than sections 7301 and 7302 of the Internal Revenue Code of 1986) enforced or administered by a Department of the Treasury law enforcement organization or the United States Coast Guard;

"(B) all income from investments made under subsection (e); and

"(C) all amounts representing the equitable share of a Department of the Treasury law enforcement organization or the United States Coast Guard from the forfeiture of property under any Federal, State, local, or foreign law.

"(e) INVESTMENTS.—Amounts in the Fund, and in any holding accounts associated with the Fund, which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

"(f) REPORTS TO CONGRESS.—The Secretary shall transmit to the Congress, not later than February 1 of each year—

"(1) a report on—

"(A) the estimated total value of property forfeited with respect to which funds were not deposited in the Fund during the preceding fiscal year—

"(i) under any law enforced or administered by the United States Customs Service or the United States Coast Guard, in the case of fiscal year 1993; and

"(ii) under any law enforced or administered by the Department of the Treasury law enforcement organizations or the United States Coast Guard, in the case of fiscal years beginning after 1993; and

"(B) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(2) a report on—

"(A) the balance of the Fund at the beginning of the preceding fiscal year;

"(B) liens and mortgages paid and the amount of money shared with Federal, State, local, and foreign law enforcement agencies during the preceding fiscal year;

"(C) the net amount realized from the operations of the Fund during the preceding fiscal year, the amount

of seized cash being held as evidence, and the amount of money that has been carried over into the current fiscal year;

"(D) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more;

"(E) the total dollar value of uncontested seizures of monetary instruments having a value of over $100,000 which, or the proceeds of which, have not been deposited into the Fund pursuant to subsection (d) within 120 days after seizure, as of the end of the preceding fiscal year;

"(F) the balance of the Fund at the end of the preceding fiscal year;

"(G) the net amount, if any, of the excess unobligated amounts remaining in the Fund at the end of the preceding fiscal year and available to the Secretary for Federal law enforcement related purposes;

"(H) a complete set of audited financial statements (including a balance sheet, income statement, and cash flow analysis) prepared in a manner consistent with the requirements of the Chief Financial Officers Act of 1990 (Public Law 101–576); and

"(I) an analysis of income and expenses showing the revenue received or lost—

"(i) by property category (such as general property, vehicles, vessels, aircraft, cash, and real property); and

"(ii) by type of disposition (such as sale, remission, cancellation, placement into official use, sharing with State and local agencies, and destruction).

The Fund shall be subject to annual financial audits as authorized in the Chief Financial Officers Act of 1990 (Public Law 101–576).

"(g) APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes described in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund to carry out the purposes set forth in subsections (a)(2) and (c) not to exceed—

"(A) $25,000,000 for fiscal year 1993; and

"(B) $50,000,000 for each fiscal year after fiscal year 1993.

"(3)(A) Subject to subparagraphs (B) and (C), in each of fiscal years 1994 and 1995, the Secretary shall transfer from the Fund not more than $10,000,000 to the Special Forfeiture Fund, established by section 6073 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509), for activities authorized under the Drug-Free Schools and Communities Act of 1986 (20 U.S.C. 3171 et seq.).

"(B) Transfers pursuant to subparagraph (A) shall be made only from excess unobligated amounts and only to the extent that, as determined by the Secretary, such transfers will not impair the future availability of amounts for the purposes described in subsection (a).

"(C) The Secretary of the Treasury shall reserve an amount not to exceed $30,000,000 from the unobligated balances remaining in the Customs Forfeiture Fund on September 30, 1992, and such amount shall be transferred to the Fund on

October 1, 1992, or, if later, the date that is 15 days after the date of the enactment of this section. Such amount shall be available for any expenses or activities authorized under this section. At the end of fiscal year 1993, and at the end of each fiscal year thereafter, the Secretary shall reserve in the Fund an amount not to exceed $50,000,000 of the unobligated balances in the Fund, or, if the Secretary determines that a greater amount is necessary for asset specific expenses, an amount equal to not more than 10 percent of the total obligations from the Fund in the preceding fiscal year.

"(4)(A)(i) After reserving any amount authorized by paragraph (3)(C), any unobligated balances remaining in the Fund on September 30, 1993, shall be deposited into the general fund of the Treasury of the United States.

"(ii) Beginning in fiscal year 1994, and each fiscal year thereafter, the Secretary shall transfer to the Attorney General an amount agreed upon by the Secretary and the Attorney General (taking into account any amount transferred by the Secretary pursuant to paragraph (3)(A)). The amount transferred under this clause shall reflect the Department of the Treasury's pro rata share of the amount required to be transferred by the Attorney General pursuant to section 524(c)(9)(B) of title 28.

"(B) After reserving any amount authorized by paragraph (3)(C) and after transferring any amount authorized by paragraph (3)(A), any unobligated balances remaining in the Fund on September 30, 1994, and on September 30 of each fiscal year thereafter, shall, subject to subparagraph (C), be available to the Secretary, without fiscal year limitation, for transfers pursuant to subparagraph (A)(ii) and for obligation or expenditure in connection with the law enforcement activities of any Federal agency or of a Department of the Treasury law enforcement organization.

"(C) Any obligation or expenditure in excess of $500,000 with respect to an unobligated balance described in subparagraph (B) may not be made by the Secretary unless the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of such obligation or expenditure.

"(h) RETENTION OR TRANSFER OF PROPERTY.—

"(1) The Secretary may, with respect to any property forfeited under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury—

"(A) retain any of the property for official use; or

"(B) transfer any of the property to—

"(i) any other Federal agency; or

"(ii) any State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure of forfeiture of the property, if such a transfer—

"(A) is one with which the Secretary of State has agreed;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(h)).

"(3) Nothing in this section shall affect the authority of the Secretary under section 981 of title 18 or section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a).

"(i) REGULATIONS.—The Secretary may prescribe such rules and regulations as may be necessary to carry out this section.

"(j) CUSTOMS FORFEITURE FUND.—Notwithstanding any other provision of law—

"(1) during any period when forfeited currency and proceeds from forfeitures under any law (other than section 7301 or 7302 of the Internal Revenue Code of 1986) enforced or administered by the Department of the Treasury or the United States Coast Guard, are required to be deposited in the Fund pursuant to this section—

"(A) all moneys required to be deposited in the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) shall instead be deposited in the Fund; and

"(B) no deposits or withdrawals may be made to or from the Customs Forfeiture Fund pursuant to section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b); and

"(2) any funds in the Customs Forfeiture Fund and any obligations of the Customs Forfeiture Fund on the effective date of the Treasury Forfeiture Act of 1992, shall be transferred to the Fund and all administrative costs of such transfer shall be paid for out of the Fund.

"(k) LIMITATION OF LIABILITY.—The United States shall not be liable in any action relating to property transferred under this section or under section 616 of the Tariff Act of 1930 (19 U.S.C. 1616a) if such action is based on an act or omission occurring after the transfer.

"(l) AUTHORITY TO WARRANT TITLE.—Following the completion of procedures for the forfeiture of property pursuant to any law enforced or administered by the Department of the Treasury, the Secretary is authorized, at the Secretary's discretion, to warrant clear title to any subsequent purchaser or transferee of such forfeited property.

"(m) FORFEITED PROPERTY.—For purposes of this section and notwithstanding section 524(c)(11) of title 28 or any other law—

"(1) during fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by the United States Customs Service if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of the United States Customs Service or the property was maintained by the United States Customs Service; or

"(B) a civil administrative forfeiture proceeding conducted by the United States Customs Service; and

"(2) after fiscal year 1993, property and currency shall be deemed to be forfeited pursuant to a law enforced or administered by a Department of the Treasury law enforcement organization if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Department of the Treasury law enforcement organization or the property was maintained by a Department of the Treasury law enforcement organization; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of the Treasury law enforcement organization.

"(n) TRANSFERS TO ATTORNEY GENERAL AND POSTMASTER GENERAL.—

"(1) The Secretary shall transfer from the Fund to the Attorney General for deposit in the Department of Justice Assets Forfeiture Fund amounts appropriate to reflect the degree of participation of participating Federal agencies in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization. For purposes of the preceding sentence, a 'participating Federal agency' is an agency that participates in the Department of Justice Assets Forfeiture Fund.

"(2) The Secretary shall transfer from the Fund to the Postmaster General for deposit in the Postal Service Fund amounts appropriate to reflect the degree of participation of the United States Postal Service in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by a Department of the Treasury law enforcement organization.

"(o) BUREAU OF ALCOHOL, TOBACCO AND FIREARMS.—

"(1) Except as provided in paragraph (2) and section 5872(b) of the Internal Revenue Code of 1986, the provisions of law relating to—

"(A) the seizure, summary and judicial forfeiture, and condemnation of property for violation of Customs laws,

"(B) the remission or mitigation of such forfeiture, and

"(C) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable law enforced or administered by the Bureau of Alcohol, Tobacco and Firearms.

"(2) For purposes of paragraph (1), duties that are imposed upon a Customs officer or any other person with respect to the seizure and forfeiture of property under the Customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Secretary.

"(p) DEFINITIONS.—For purposes of this section—

"(1) DEPARTMENT OF THE TREASURY LAW ENFORCEMENT ORGANIZATION.—The term 'Department of the Treasury law enforcement organization' means the United States Customs Service, the United States Secret Service, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service, the Federal Law Enforcement Training Center, the Financial Crimes Enforcement Network, and any other law enforcement component of the Department of the Treasury so designated by the Secretary.

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

(2) The table of sections for chapter 97 of title 31, United States Code, is amended by inserting after the item relating to section 9702 the following new item:

"9703. Department of the Treasury Forfeiture Fund.".

(c) Section 6073(b) of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1509(b)) is amended to read as follows:

"(b) DEPOSITS.—There may be transferred to and deposited into the Special Forfeiture Fund, amounts from—

"(1) the Department of Justice Assets Forfeiture Fund pursuant to section 524(c)(9) of title 28, United States Code; and

"(2) the Department of the Treasury Forfeiture Fund pursuant to section 9703(g)(3)(A) of title 31, United States Code.".

(d) Section 981(a)(1)(C) of title 18, United States Code, is amended—

(1) by inserting "471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545," after "section 215,";

(2) by inserting "842, 844," after "656, 657,"; and

(3) by inserting "1028, 1029, 1030," after "1007, 1014,".

(e) Section 982(a)(2) of title 18, United States Code, is amended to read as follows:

"(2) The court, in imposing sentence on a person convicted of a violation of, or a conspiracy to violate—

"(A) section 215, 656, 657, 1005, 1006, 1007, 1014, 1341, 1343, or 1344 of this title, affecting a financial institution, or

"(B) section 471, 472, 473, 474, 476, 477, 478, 479, 480, 481, 485, 486, 487, 488, 501, 502, 510, 542, 545, 842, 844, 1028, 1029, or 1030 of this title,

shall order that the person forfeit to the United States any property constituting, or derived from, proceeds the person obtained directly or indirectly, as the result of such violation.".

(f) Section 524(c) of title 28, United States Code, is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, sell, or dispose of property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expense incident to the seizure, detention, forfeiture, or disposal of such property including—

"(i) payments for—

"(I) contract services;

"(II) the employment of outside contractors to operate and manage properties or provide other specialized services necessary to dispose of such properties in an effort to maximize the return from such properties; and

"(III) reimbursement of any Federal, State, or local agency for any expenditures made to perform the functions described in this clause;

"(ii) payments to reimburse any Federal agency participating in the Fund for investigative costs leading to seizures;

"(iii) payments for contracting for the services of experts and consultants needed by the Department of Justice to assist in carrying out duties related to asset seizure and forfeiture; and

"(iv) payments made pursuant to guidelines promulgated by the Attorney General if such payments are necessary and directly related to seizure and forfeiture program expenses for—

"(I) the purchase or lease of automatic data processing systems (not less than a majority of which use will be related to such program);

"(II) training;

"(III) printing;

"(IV) the storage, protection, and destruction of controlled substances; and

"(V) contracting for services directly related to the identification of forfeitable assets, and the processing of and accounting for forfeitures;";

(B) by amending subparagraph (F) to read as follows:

"(F)(i) for equipping for law enforcement functions of any Government-owned or leased vessel, vehicle, or aircraft available for official use by any Federal agency participating in the Fund;

"(ii) for equipping any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist law enforcement functions if the vessel, vehicle, or aircraft will be used in a joint law enforcement operation with a Federal agency participating in the Fund; and

"(iii) payments for other equipment directly related to seizure or forfeiture, including laboratory equipment, protective equipment, communications equipment, and the operation and maintenance costs of such equipment;";

(C) by striking "and" at the end of subparagraph (G);

(D) by redesignating subparagraph (H) as subparagraph (I);

(E) by inserting after subparagraph (G) the following new subparagraph:

"(H) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State or local law enforcement officers that are incurred in a joint law enforcement operation with a Federal law enforcement agency participating in the Fund;"; and

(F) in the first sentence of the flush paragraph following subparagraph (I) (as redesignated by subparagraph (D))—

(i) by striking "(A)(ii)" and inserting "(A)(iv)"; and

(ii) by striking "and (G)" and inserting "(G), and (H)";

(2) in paragraph (4)—

(A) by inserting "Federal," in subparagraph (B) before "State";

(B) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) all amounts transferred by the Secretary of the Treasury pursuant to section 9703(g)(4)(A)(ii) of title 31.";

(3) by amending paragraph (6)(B)(v) to read as follows:

"(v) any defendant's property, not forfeited at the end of the preceding fiscal year, if the equity in such property is valued at $1,000,000 or more; and";

(4) in paragraph (9)(A)—

(A) by striking "(A)(ii)" and inserting "(A)(iv)"; and

(B) by striking "and (G)" and inserting "(G), and (H)";

(5) in paragraph (9)(E), by striking "to procure vehicles, equipment, and other capital investment items"; and

(6) by striking paragraph (11) and inserting the following new paragraphs:

"(11) The Attorney General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of the Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Department of Justice.

"(12) For purposes of this subsection and notwithstanding section 9703 of title 31 or any other law, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) a judicial forfeiture proceeding when the underlying seizure was made by an officer of a Federal law enforcement agency participating in the Department of Justice Assets Forfeiture Fund or the property was maintained by the United States Marshals Service; or

"(B) a civil administrative forfeiture proceeding conducted by a Department of Justice law enforcement component.".

(g) Section 2003 of title 39, United States Code, is amended—

(1) in subsection (b)—

(A) by striking "and" at the end of paragraph (6);

(B) by striking the period at the end of paragraph (7) and inserting "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(8) any transfers from the Secretary of the Treasury from the Department of the Treasury Forfeiture Fund which shall be available to the Postmaster General only for Federal law enforcement related purposes."; and

(2) in subsection (e)(1), by inserting after the first sentence the following new sentence: "The Postmaster General shall transfer from the Fund to the Secretary of the Treasury for deposit in the Department of the Treasury Forfeiture Fund amounts appropriate to reflect the degree of participation of Department of the Treasury law enforcement organizations (described in section 9703(p) of title 31) in the law enforcement effort resulting in the forfeiture pursuant to laws enforced or administered by the Postal Service.".

This Act may be cited as the "Treasury, Postal Service, and General Government Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5488:

HOUSE REPORTS: Nos. 102-618 (Comm. on Appropriations) and 102-919 (Comm. of Conference).
SENATE REPORTS: No. 102-353 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 1, considered and passed House.
Sept. 9, 10, considered and passed Senate, amended.
Oct. 1, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-394
102d Congress

An Act

Oct. 6, 1992
[H.R. 5677]

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1993, and for other purposes.

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993.
Department of Labor Appropriations Act, 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs and for carrying out section 908 of the Social Security Act, $76,227,000, together with not to exceed $55,803,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, as amended, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Job Training Partnership Act, $4,066,584,000, plus reimbursements, to be available for obligation for the period July 1, 1993, through June 30, 1994, of which $62,370,000 shall be for carrying out section 401, $78,934,000 shall be for carrying out section 402, $9,029,000 shall be for carrying out section 441, $1,485,000 shall be for the National Commission for Employment Policy, $5,400,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $3,861,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 252(b) of the Act; and, in addition, $55,144,000 is appropriated for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, as authorized by the Job Training Partnership Act, in addition to amounts otherwise provided herein for the Job Corps, to be available for obligation for the period July 1, 1993 through June 30, 1996; and, in addition, $50,000,000 is appropriated for Clean Air Employment Transition Assistance under part B of title III of the Job Training Partnership Act, to be available for obligation

for the period July 1, 1993 through June 30, 1994; and, in addition, $750,000 is appropriated for the Glass Ceiling Commission authorized by title II of the Civil Rights Act of 1991; and, in addition, $750,000 is appropriated for the National Center for the Workplace authorized by title XV, part A, of Public Law 102–325; and, in addition, $12,638,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For expenses necessary for the acquisition, construction, rehabilitation and equipping of facilities at four new Job Corps centers, $20,000,000, as authorized by the Job Training Partnership Act, to be available for obligation for the period July 1, 1993 through June 30, 1998.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $306,700,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $86,506,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95–250, as amended, and of trade adjustment benefit payments and allowances under part I, and for training, for allowances for job search and relocation, and for related State administrative expenses under part II, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended, $211,250,000 together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95–250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49–49l–1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502–504); necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, and sections 225, 231–235 and 243–244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H), 212(a)(5)(A), (m) (2) and (3), (n)(1), and 218(g) (1), (2), and (3), and 258(c) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); necessary administrative expenses to carry out the Targeted Jobs Tax Credit Program under section 51 of the Internal Revenue Code of 1986, and section 221(a) of the Immigration Act of 1990, $23,747,000 together with not to exceed $3,162,127,000 (including not to exceed $2,080,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service

agencies prior to 1980, and including not to exceed $500,000 which may be obligated in contracts with non-State entities for occupational and test research activities which benefit the Federal-State Employment Service System), which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 1993, except that funds used for automation acquisitions shall be available for obligation by States through September 30, 1994; and of which $21,729,000 together with not to exceed $795,771,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1993, through June 30, 1994, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose, and of which $302,331,000 shall be available only to the extent necessary for additional State allocations to administer unemployment compensation laws to finance increases in the number of unemployment insurance claims filed and claims paid or changes in a State law: *Provided,* That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 1993 is projected by the Department of Labor to exceed 3.54 million, an additional $30,000,000 shall be available for obligation for every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and section 104(d) of Public Law 102–164, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1994, $665,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 1993, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

LABOR-MANAGEMENT STANDARDS

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Standards, $27,570,000.

PENSION AND WELFARE BENEFITS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for Pension and Welfare Benefits Administration, $64,356,000: *Provided,* That $600,000 shall be available for the National Commission on Private Pension Plans if an Act authorizing such Commission is enacted into law.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1993, for such Corporation: *Provided,* That not to exceed $33,857,000 shall be available for administrative expenses of the Corporation: *Provided further,* That expenses of such Corporation in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $234,332,000, together with $999,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $290,000,000 together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period

subsequent to August 15 of the current year: *Provided,* That such sums as are necessary may be used for a demonstration project under section 8104 of title 5, United States Code, in which the Secretary may reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: *Provided further,* That balances of reimbursements from Federal Government agencies unobligated on September 30, 1992, shall remain available until expended for the payment of compensation, benefits, and expenses: *Provided further,* That in addition there shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1993: *Provided further,* That the Secretary may require that any person filing a notice of injury or a claim for benefits under Subchapter 5, U.S.C., Chapter 81, or under Subchapter 33, U.S.C., 901, et seq. (the Longshore and Harbor Workers' Compensation Act, as amended), provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $944,027,000, of which $888,251,000, shall be available until September 30, 1994, for payment of all benefits as authorized by section 9501(d) (1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended, and interest on advances as authorized by section 9501(c)(2) of that Act, and of which $29,726,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $25,698,000 for transfer to Departmental Management, Salaries and Expenses, and $352,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation, interest, or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $290,895,000, including not to exceed $68,927,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That

none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost workday case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $193,044,000, of which $5,634,000 shall be for the State Grants Program, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety

30 USC 962.

associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $277,210,000, together with not to exceed $49,301,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of five sedans, and including up to $4,438,000 for the President's Committee on Employment of People With Disabilities, $143,976,000, together with not to exceed $329,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

Funds received for services rendered to any entity or person for use of Departmental facilities, including associated utilities and security services, shall be credited to and merged with this fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $183,742,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–10 and 2021–26.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $47,780,000, together with not to exceed $4,438,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

29 USC 567.

SEC. 101. Appropriations in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts available for salaries and expenses

shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers' health or safety. 29 USC 655 note.

SEC. 103. Notwithstanding any other provision of this Act no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps.

SEC. 104. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

SEC. 105. The Secretary of Labor is authorized to accept, in the name of the Department of Labor, and employ or dispose of in furtherance of authorized activities of the Department of Labor, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise.

This title may be cited as the "Department of Labor Appropriations Act, 1993".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Department of Health and Human Services Appropriations Act, 1993.

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

For carrying out titles III, VII, VIII, X, XII, XIX, XXVI, and XXVII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, Public Law 101–527, Public Law 100–579, and the Native Hawaiian Health Care Act of 1988, $2,601,625,000, of which $418,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act: *Provided,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advance to this appropriation: *Provided further,* That user fees authorized by 31 U.S.C. 9701 may be credited to appropriations under this heading, notwithstanding 31 U.S.C. 3302: *Provided further,* That of the funds made available under this heading, $990,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: *Provided further,* That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the Health Care Quality

Improvement Databank, and shall remain available until expended to carry out that Act.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $10,900,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM

For the cost of guaranteed loans, such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That these funds are available to subsidize gross obligations for the total loan principal any part of which is to be guaranteed at not to exceed $340,000,000. In addition, for administrative expenses to carry out the guaranteed loan program, $2,970,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: *Provided,* That for necessary administrative expenses, not to exceed $2,500,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

VACCINE INJURY COMPENSATION

For payment of claims resolved by the United States Claims Court related to the administration of vaccines before October 1, 1988, $80,000,000, to remain available until expended.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, VII, XI, XV, XVII, XIX, and XXVII of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $1,684,610,000, of which $17,000,000 shall remain available until expended for equipment and construction and renovation of facilities, and in addition, such sums as may be derived from authorized user fees, which shall be credited to this account: *Provided,* That training of private persons shall be made subject to reimbursement

or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $29,106,000 shall be available from amounts available under section 2711 of the Public Health Service Act, to carry out the National Center for Health Statistics surveys: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality, and employees of the National Center for Health Statistics, who are assisting other Federal organizations on data collection and analysis and whose salaries are fully reimbursed by the organizations requesting the services, shall be treated as non-Federal employees for reporting purposes only.

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $2,007,483,000.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,228,455,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $163,269,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $688,633,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse, and alcoholism, $178,711,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $408,982,000: *Provided*, That of such amount, $2,000,000 shall be made available to carry out section 706 of the ADAMHA Reorganization Act, Public Law 102–321, in lieu of amounts that would otherwise be provided for such purpose under section 706(e) of such Act.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $590,436,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $606,600,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $991,805,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $839,804,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $534,094,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $279,102,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311, and title IV of the Public Health Service Act with respect to environmental health sciences, $255,115,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $404,468,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $214,619,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $156,342,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $315,251,000: *Provided,* That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $48,591,000.

NATIONAL CENTER FOR HUMAN GENOME RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $107,217,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $20,002,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $105,024,000.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $192,763,000: *Provided,* That funding shall be available for the purchase of not to exceed five passenger motor vehicles for replacement only: *Provided further,* That the Director may direct up to 1 percent of the total amount made available in this Act to all National Institutes of Health appropriations to emergency activities the Director may so designate: *Provided further,* That no such appropriation shall be increased or decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: *Provided further,* That $5,000,000 of this amount shall be available for extramural facilities construction grants if awarded competitively.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $109,608,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to substance abuse and mental health services, section 612 of Public Law 100–77, as amended, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $2,023,524,000, of which $960,000 for renovation of government owned or leased intramural research facilities shall remain available until expended: *Provided,* That no portion of amounts appropriated for the programs of the Department of Health and Human Services shall be available for obligation pursuant to section 571 of the Public Health Service Act, other than an amount of $3,000,000 from amounts appropriated to carry out section 510 of that Act.

ASSISTANT SECRETARY FOR HEALTH

OFFICE OF THE ASSISTANT SECRETARY FOR HEALTH

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, $57,444,000, and, in addition, amounts received by the Public Health Service from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

AGENCY FOR HEALTH CARE POLICY RESEARCH

HEALTH CARE POLICY RESEARCH

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, $110,578,000 together with not to exceed $4,831,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 1142 of the Social Security Act and not to exceed $1,002,000 to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g)

of the Social Security Act; and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That the amount made available pursuant to section 926(b) of the Public Health Service Act shall not exceed $13,310,000.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act and section 4360 of Public Law 101–508, $65,495,650,000, to remain available until expended.

For making, after May 31, 1993, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1993 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1994, $24,600,000,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $45,962,862,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, and title XIII of the Public Health Service Act, the Clinical Laboratory Improvement Amendments of 1988, section 4360 of Public Law 101–508, and section 4005(e) of Public Law 100–203, not to exceed $2,179,900,000, together with all funds collected in accordance with section 353 of the Public Health Service Act, the latter funds to remain available until expended; the $2,179,900,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds: *Provided,* That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act are to be credited to this appropriation: *Provided further,* That funds in the Federal Supplementary Medical Insurance catastrophic coverage reserve fund are transferred to the Federal Hospital Insurance Trust Fund: *Provided further,* That none of the funds available under this heading shall be used to issue, mail, or otherwise transmit payments under title XVIII of the Social Security Act, other than Periodic Interim Payments, in less than fourteen days after

the receipt of an electronic claim, or in less than twenty-seven days after receipt of a paper claim.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, $13,800,000 together with any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 1993, no commitments for direct loans or loan guarantees shall be made.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $35,242,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

30 USC 901 note.

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including for fiscal year 1993 and thereafter the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $601,313,000, to remain available until expended: *Provided,* That monthly benefit payments for fiscal year 1993 and thereafter shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1994, $196,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93–66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $16,009,657,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security

Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out title XVI of the Social Security Act for the first quarter of fiscal year 1994, $7,150,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $4,899,142,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That for fiscal year 1993 and thereafter, travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $200,000,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved.

42 USC 1383 note

ADMINISTRATION FOR CHILDREN AND FAMILIES

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C. ch. 9), $11,695,072,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–A and D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV–A (other than section 402(g)(6)) and D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9) for the first quarter of fiscal year 1994, $4,000,000,000 to remain available until expended.

PAYMENTS TO STATES FOR AFDC WORK PROGRAMS

For carrying out aid to families with dependent children work programs, as authorized by part F of title IV of the Social Security Act, $1,000,000,000.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,356,905,000, of which $687,720,000 shall become available for making payments on September 30, 1993.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,449,000,000, to be available for obliga-

tion in the period October 1, 1993 through June 30, 1994, of which $143,095,000 shall be available for reimbursing States for costs incurred during the period October 1, 1992 through September 30, 1993.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, an additional $600,000,000: *Provided,* That all funds available under this paragraph are hereby designated by Congress to be emergency requirements pursuant to section 251(b)(2)(D) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That these funds shall be made available only after submission to Congress of a formal budget request by the President that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), $384,576,000.

INTERIM ASSISTANCE TO STATES FOR LEGALIZATION

8 USC 1255a note.

Section 204(a)(1)(C) of the Immigration Reform and Control Act of 1986 is amended by inserting after "1993": "and 1994 combined", and by adding before the period: ": *Provided,* That $812,000,000 shall be available in fiscal year 1994 and the remainder of these funds shall be available in fiscal year 1993".

Section 204(b)(4) of the Immigration Reform and Control Act of 1986 is amended by adding the following at the end thereof: "Any funds not expended by States by December 30, 1994 shall be reallocated by the Secretary to States which had expended their entire allotments, based on each State's percentage share of total unreimbursed legalized alien costs in all States. Funds made available to a State pursuant to the preceding sentence of this paragraph shall not remain available after June 30, 1995.".

Section 204(b)(5) of the Immigration Reform and Control Act of 1986 is amended by striking the period at the end thereof and adding the following: ", *Provided,* That with respect to States in which total allowable unreimbursed State and local costs incurred prior to October 1, 1992 exceed $100,000,000, within each such State's allocation, the State shall first reimburse all allowable costs incurred between October 1, 1990 and October 1, 1992, before reimbursing costs incurred on or after October 1, 1992, except for State and local administrative costs and for costs of services required to enable aliens granted temporary residence under section 245A(a) of the Immigration and Nationality Act to attain citizenship skills described in section 245A(b)(1)(D)(i) of the Immigration and Nationality Act: *Provided further,* That in reimbursing costs incurred prior to October 1, 1992, each State shall reimburse each provider at the same pro rata rate.".

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and the Stewart B. McKinney Homeless Assistance Act, $444,451,000, of which $38,601,000 shall be for carrying out section

681(a) of the Community Services Block Grant Act, $3,850,000 shall be for carrying out section 408 of Public Law 99–425, and of which $7,000,000 shall be for carrying out section 681A of said Act with respect to the community food and nutrition program.

PAYMENTS TO STATES FOR CHILD CARE ASSISTANCE

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981, $900,000,000, which shall be available for obligation under the same statutory terms and conditions applicable in the prior fiscal year.

SOCIAL SERVICES BLOCK GRANT

For monthly payments to States for carrying out the Social Services Block Grant Act, $2,800,000,000.

CHILDREN AND FAMILIES SERVICES PROGRAMS

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the State Dependent Care Development Grants Act, the Head Start Act, the Child Development Associate Scholarship Assistance Act of 1985, the Child Abuse Prevention and Treatment Act, chapters 1 and 2 of subtitle B of title III of the Anti-Drug Abuse Act of 1988, the Family Violence Prevention and Services Act, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986, the Comprehensive Child Development Act, the Abandoned Infants Assistance Act of 1988, sections 933 and 934(d) of Public Law 101–501, subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act, section 10404 of Public Law 101–239 (volunteer senior aides demonstration) and part B of title IV and section 1110 of the Social Security Act, and for necessary administrative expenses to carry out said Acts and titles I, IV, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, section 204 of the Immigration Reform and Control Act of 1986, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, Public Law 100–77, and section 126 and titles IV and V of Public Law 100–485, $3,693,483,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $2,924,014,000.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, $845,964,000.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $92,093,000, together with $30,305,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $64,973,000, together with not to exceed $37,027,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $18,635,000, together with not to exceed $3,917,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $8,263,000: *Provided,* That not less than $3,350,000 shall be obligated to continue research on poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director", may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

42 USC 300aaa-6 note.

SEC. 202. Appropriations in this or any other Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,800 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary

that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

Abortion.

SEC. 203. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

42 USC 254a note.

SEC. 204. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 205. Funds appropriated in this title shall be available for not to exceed $37,000 for official reception and representation expenses when specifically approved by the Secretary.

42 USC 300aaa-6 note.

SEC. 206. Hereafter amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the activities of the Public Health Service.

37 USC 302 note.

SEC. 207. None of the funds made available by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to the clinical, research, or staff associate program administered by the National Institutes of Health or the Substance Abuse and Mental Health Services Administration.

42 USC 3515.

SEC. 208. Funds provided in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Government employees. Labor. Children and youth. AIDS.

SEC. 209. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International

Development, the United Nations International Children's Emergency Fund or the World Health Organization.

42 USC 3515a.

SEC. 210. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, and the computer centers to which such employees are assigned.

42 USC 3515b.

SEC. 211. None of the funds appropriated by this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

SEC. 212. None of the funds appropriated in this title for the National Institutes of Health and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of $125,000 per year.

42 USC 289d note.

SEC. 213. No funds appropriated under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be used by the National Institutes of Health, or any other Federal agency, or recipient of Federal funds on any project that entails the capture or procurement of chimpanzees obtained from the wild. For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

42 USC 3515c.

SEC. 214. For any program funded in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, the Secretary of Health and Human Services is authorized, when providing services or conducting activities for a State with respect to such program for which the Secretary is entitled to reimbursement by the State, to obtain such reimbursement as an offset against Federal payments to which the State would otherwise be entitled under such program from funds appropriated for the same or any subsequent fiscal year. Such offsets shall be credited to the appropriation account which bore the expense of providing the service or conducting the activity, and shall remain available until expended.

SEC. 215. Not to exceed $489,000,000 may be obligated in fiscal year 1993 for contracts with Utilization and Quality Control Peer Review Organizations pursuant to part B of title XI of the Social Security Act.

SEC. 216. Notwithstanding any other provision of this Act, funds appropriated under this Act for salaries and expenses of

the Department of Health and Human Services are hereby reduced by $110,000,000: *Provided,* That the fiscal year 1994 budget justification material shall specify amounts budgeted for administrative costs within object classes 11 through 32 by appropriation account and by organizational entity, with comparisons to fiscal year 1993 comparable amounts.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1993".

TITLE III—DEPARTMENT OF EDUCATION

Department of Education Appropriations Act, 1993.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, and by section 418A of the Higher Education Act, $6,763,950,000, of which $6,733,631,000 shall become available on July 1, 1993 and shall remain available through September 30, 1994: *Provided,* That $5,493,875,000 shall be available for basic grants under section 1005 excluding subsection (a)(3), $681,450,000 shall be available for concentration grants under section 1006, $40,054,000 shall be available for capital expenses under section 1017, $90,000,000 shall be available for the Even Start program under part B, $305,215,000 shall be available for migrant education activities under subpart 1 of part D, $35,693,000 shall be available for delinquent and neglected education activities under subpart 3 of part D, $61,202,000 shall be for State administration under section 1404, $26,142,000 shall be for program improvement activities under section 1405, $14,850,000 shall be for evaluation and technical assistance under sections 1437 and 1463, and $5,000,000 shall be for rural technical assistance under section 1459: *Provided further,* That no State shall receive less than $340,000 from the amounts made available under this appropriation for concentration grants under section 1006: *Provided further,* That no State shall receive less than $375,000 from the amounts made available under this appropriation for State administration grants under section 1404: *Provided further,* That the number of children counted for section 1006(a) shall be the same as counted for 1993 section 1005 basic grants.

Children and youth. Grants.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools as authorized by Public Laws 81–815 and 81–874, as amended, $756,204,000, of which $500,000,000 is designated for defense purposes related to the impact of significant troop relocations to the United States: *Provided,* That $571,654,000 shall be for payments under section 3(a), $124,626,000 shall be for payments under section 3(b), $29,700,000, to remain available until expended, shall be for payments under section 3(d)(2)(B), $16,424,000 shall be for payments under section 2, $1,800,000, to remain available until expended, which shall be for payments under section 3(e) to local educational agencies funded under such section for fiscal year 1992, and $12,000,000, to remain available until expended, shall be for construction and renovation of school facilities, including $4,600,000 for awards under section 10, $3,800,000 for awards under sections 14(a) and 14(b), and $3,600,000 for awards under sections 5 and 14(c): *Provided further,* That funds provided in

this Act shall be available for assistance in defraying the costs of the education of military dependents as a result of temporary dislocations caused by transfers, return of military families from overseas, and closures of foreign and domestic bases, and $500,000,000 shall be made available to the Department of Defense, provided, that this entire amount may be transferred to the Secretary of Education and merged with and made available under the Impact Aid program except that nothing in this proviso shall modify any provision of Public Law 81–815 or Public Law 81–874 including those provisions related to eligibility or payment levels for any student or school district: *Provided further,* That all payments under section 3 shall be based on the number of children who, during the prior fiscal year, were in average daily attendance at the schools of a local educational agency and for whom such agency provided free public education, except that (1) any local educational agency that did not exist in the prior fiscal year and that would be eligible under this proviso for payments under section 3 for the current fiscal year had it been an operating local educational agency in the prior fiscal year, shall be paid on the basis of the number of children who, during the current fiscal year, are in average daily attendance at the schools of such agency and for whom such agency provides free public education; and (2) any local educational agency with an increase of 5 percent or more from the prior fiscal year to the current fiscal year in the number of children described in section 3(a) or 3(b) of the Act, as a direct result of activities of the United States, and that submits a written request to the Secretary, shall be paid on the basis of the number of children who, during the current fiscal year, are in average daily attendance at the schools of such agency and for whom such agency provides free public education: *Provided further,* That notwithstanding the provisions of section 3(d)(3)(A), aggregate current expenditure and average daily attendance data for the third preceding fiscal year shall be used to compute local contribution rates: *Provided further,* That notwithstanding the provisions of section 3(d)(2)(B), 3(d)(3)(B)(ii), and 3(h)(2), eligibility and entitlement determinations for those sections shall be computed on the basis of data from the fiscal year preceding each fiscal year described in those respective sections for fiscal year 1991.

Children and youth.
Schools.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I and titles II, III, IV, V, without regard to sections 5112(a) and 5112(c)(2)(A), and VI of the Elementary and Secondary Education Act of 1965; the Stewart B. McKinney Homeless Assistance Act, the Civil Rights Act of 1964; title V of the Higher Education Act; title IV of Public Law 100–297; and the Follow Through Act; $1,543,750,000, of which $1,229,843,000 shall become available on July 1, 1993, and remain available through September 30, 1994: *Provided,* That of the amount appropriated, $23,110,000 shall be for national programs under part B of chapter 2 of title I, $24,750,000 shall be for emergency grants under section 5136, $248,000,000 shall be for State grants for mathematics and science education under part A of title II of the Elementary and Secondary Education Act of 1965, and $500,000 shall be for an evaluation study of the magnet schools assistance program.

BILINGUAL AND IMMIGRANT EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act, $227,750,000 of which $35,996,000 shall be for training activities under part C of title VII.

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act and title I, chapter 1, part D, subpart 2 of the Elementary and Secondary Education Act of 1965, $2,989,807,000, of which $2,069,284,000 for section 611, $328,400,000 for section 619, $215,000,000 for section 685 and $127,413,000 for title I, chapter 1, part D, subpart 2 shall become available for obligation on July 1, 1993, and shall remain available through September 30, 1994: *Provided,* That any State agency eligible to receive funds under such subpart shall, at a State's discretion, be deemed to be a local educational agency for the purposes of part B of the Individuals with Disabilities Education Act: *Provided further,* That no State shall receive more per child under such subpart than it received for fiscal year 1992: *Provided further,* That any funds for such subpart that are not allocated because of the preceding proviso shall be available for carrying out section 611 of the Individuals with Disabilities Education Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, Public Law 100–407, and the Helen Keller National Center Act, as amended, $2,185,968,000, of which $20,103,000 shall be for special demonstration programs under section 311 (a), (b), and (c).

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $6,349,000, of which $200,000 is available for a national comprehensive listing system only to the extent that the Printing House matches these funds with an equal amount from non-Federal sources.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $41,041,000, of which $339,000 shall be for the endowment program as authorized under section 408 and shall be available until expended and $354,000 shall be for construction and shall be available until expended.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $78,215,000, of which $990,000 shall be for the endowment program as authorized under section

407 and shall be available until expended, and $2,475,000 shall be for construction and shall be available until expended.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Applied Technology Education Act, the Adult Education Act, and the Stewart B. McKinney Homeless Assistance Act, $1,486,431,000 of which $2,970,000 for the national assessment of vocational education and $2,970,000 for tribally controlled postsecondary vocational institutions shall become available on October 1, 1992 and the remainder shall become available on July 1, 1993 and shall remain available through September 30, 1994: *Provided*, That of the amounts made available under the Carl D. Perkins Vocational and Applied Technology Education Act, $430,000 of the amount available for Tech-Prep shall be for evaluation of the program and $31,840,000 shall be for national programs under title IV, including $10,000,000 for research, of which $5,940,000 shall be for the National Center for Research on Vocational Education; $16,840,000 for demonstrations, notwithstanding section 411(b); and $5,000,000 for data systems: *Provided further*, That of the amounts made available under the Adult Education Act, $3,960,000 shall be for national programs under section 383, $4,950,000 shall be for the National Institute for Literacy under section 384, $7,920,000 shall be for State Literacy Resource Centers under the National Literacy Act of 1991, and $4,950,000 shall be for prison literacy activities as authorized under section 601 of the National Literacy Act of 1991, as amended by Public Law 102–103.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, and parts C and E of title IV of the Higher Education Act, as amended, and part H of said title, $7,516,123,000, which shall remain available through September 30, 1994, and of which $242,058,000 shall be available only for unfinanced costs in the 1992–93 and prior award year Pell grant programs: *Provided*, That the maximum Pell grant for which a student shall be eligible during award year 1993–1994 shall be $2,300: *Provided further*, That notwithstanding section 480(a)(1) of the Higher Education Act of 1965, as amended, the term "total income" shall, under special circumstances prescribed by the Secretary, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further*, That notwithstanding section 484(f) of the Higher Education Act of 1965, the Secretary may, without limitation, require an institution of higher education to verify the accuracy of data used to determine student eligibility for assistance under title IV of that Act for award year 1993–1994: *Provided further*, That the Secretary may implement as expeditiously as possible those provisions of the Higher Education Amendments of 1992 which are intended to reduce cost or enhance integrity so that any resulting savings may be applied to the accumulated shortfall in Pell grant funding for fiscal year 1992.

20 USC 1070a note.

GUARANTEED STUDENT LOANS PROGRAM ACCOUNT

For the cost of guaranteed loans, including administrative costs other than Federal administrative costs, as authorized by title

IV, part B, of the Higher Education Act, as amended, such sums as may be necessary to carry out the purposes of the program: *Provided,* That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974, as amended. In addition, for Federal administrative expenses to carry out the guaranteed student loans program, authorized by title IV, part B, of the Higher Education Act, as amended, $63,000,000, of which $1,000,000, which shall remain available until expended, shall be for the Commission on the Cost of Higher Education as authorized by part C of title XIV of the Higher Education Act and $1,000,000, which shall remain available until expended, shall be for the National Commission on Independent Higher Education authorized by part B of title XIV of said Act.

HIGHER EDUCATION.

For carrying out, to the extent not otherwise provided, titles I, III, IV, V, VI, VII, VIII, IX, X, including subpart 2 of part A and part D, XI, and XII of the Higher Education Act of 1965, as amended, the Mutual Educational and Cultural Exchange Act of 1961, the Excellence in Mathematics, Science and Engineering Education Act of 1990, including activities under title VI parts A and C, and title XIII, part H, subpart 1 of the Education Amendments of 1980, $844,690,000 of which $7,425,000 for endowment activities under section 331 of part C of title III and $18,840,000 for interest subsidies under title VII of the Higher Education Act, as amended, shall remain available until expended, and $400,000 shall be available for section 1204(c): *Provided,* That $1,435,000 of the amount provided herein for subpart 2 of part A of title IV of the Higher Education Act shall be for an evaluation of Federal TRIO programs.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $195,570,000, of which $3,378,000, to remain available until expended, shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98–480), and $6,435,000, to remain available until expended, shall be for emergency construction needs.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program for the current fiscal year.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For the costs of direct loans, as authorized by title VII, part C, of the Higher Education Act, as amended, $2,997,000: *Provided,* That such costs, including costs of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974 and that these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed

$29,700,000: *Provided further,* That obligated balances of these appropriations will remain available until expended, notwithstanding the provisions of 31 U.S.C. 1552(a), as amended by Public Law 101–510. In addition, for administrative expenses to carry out the direct loan program of college housing and academic facilities loans entered into pursuant to title VII, part C, of the Higher Education Act, as amended, $733,000.

COLLEGE HOUSING LOANS

Pursuant to title VII, part C of the Higher Education Act, as amended, for necessary expenses of the college housing loans program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures and enter into contracts without regard to fiscal year limitation using loan repayments and other resources available to this account. Any unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

Contracts.

EDUCATION RESEARCH, STATISTICS, AND IMPROVEMENT

For carrying out the activities authorized by section 405 and section 406 of the General Education Provisions Act, as amended; section 1562, section 1566, section 2012, section 2016, and parts B, E, and F of title IV of the Elementary and Secondary Education Act of 1965, as amended; part B of title III of Public Law 100–297; title IX of the Education for Economic Security Act; section 6041 of Public Law 100–418; and title II of Public Law 102–62, $278,184,000, of which $27,700,000 shall be for research centers; $36,451,000 shall be for regional laboratories including $10,400,000 for rural initiatives; $7,103,000 shall be for the Educational Resources Information Center; $966,000 shall be for field-initiated studies; $49,300,000 shall be for education statistics; $29,601,000 shall be for national assessment activities; $28,281,000 shall be for activities under the Fund for Innovation in Education, including $4,381,000 for civic education activities under section 4609; $5,440,000 shall be for Grants for Schools and Teachers under subpart 1 and $3,717,000 shall be for Family School Partnerships under subpart 2 of part B of title III of Public Law 100–297; $14,700,000 shall be for national diffusion activities under section 1562; $886,000 shall be for Blue Ribbon Schools under section 1566; $16,000,000 shall be for national programs under section 2012, including $3,500,000 for the National Clearinghouse for Science and Mathematics under section 2012(d); $13,700,000 shall be for regional consortia under section 2016; $9,684,000 shall be for Javits gifted and talented students education; $23,000,000 shall be for star schools; $4,191,000 shall be for educational partnerships; $1,751,000 shall be for territorial teacher training; and $3,238,000 shall be for the National Writing Project.

In addition to these amounts, $4,831,000 shall be available for teaching standards activities as authorized by the Higher Education Amendments of 1992.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, V, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II of the Higher Education Act, $147,247,000, of which $16,718,000 shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended, and $5,000,000 shall be for section 222 and $2,825,000 shall be for section 223 of the Higher Education Act, of which $2,500,000 shall be for demonstration of online and dial-in access to a statewide, multitype library bibliographic database through a statewide fiber optic network housing a point of presence in every county, connecting library services in every municipality, to be awarded competitively.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $305,799,000 together with an additional $2,000,000 which shall be available for the expenses of non-Federal experts to review applications and proposals for competitive awards made by the Department.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $56,857,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $29,500,000.

GENERAL PROVISIONS

SEC. 301. Funds appropriated in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to financial and program audit by the Secretary of Education and the Secretary may withhold all or any portion of these appropriations if he determines that an institution has not cooperated fully in the conduct of such audits. 20 USC 106a, 130a, 4363.

SEC. 302. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent. Desegregation.

Desegregation.

SEC. 303. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88–352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

Desegregation.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 304. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

School prayer.

SEC. 305. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

SEC. 306. Funds currently available in Public Law 101–517 for a National Council on Educational Goals, or any similar entity, shall be available, if authorized in law, through fiscal year 1993 for operation of the currently existing National Education Goals Panel: *Provided,* That the restrictions in Public Law 101–517 concerning its composition, the procedures used in appointment of its members, and the voting procedures it follows in carrying out its functions shall not apply.

SEC. 307. ANNUAL LOAN LIMITS.—

20 USC 1087dd note.

(a) AMENDMENT.—Section 468 of the Higher Education Amendments of 1992 is amended—

(1) in paragraph (3), by striking "and" after the semicolon;

(2) in paragraph (4), by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the changes in section 464(a)(2)(A), (B) and (C) shall not apply to any loan made for the award year beginning July 1, 1992 provided that the loan does not result in a violation of section 464(a)(2)(A), (B) and (C) as in effect prior to such date of enactment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on July 23, 1992.

SEC. 308. (a) DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—Section 1201(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)(5)) is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "or

if not so accredited, is an institution that has been granted preaccreditation status by such an agency or association that has been recognized by the Secretary for the granting of preaccreditation status, and the Secretary has determined that there is satisfactory assurance that the institution will meet the accreditation standards of such an agency or association within a reasonable time.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on October 1, 1992. 20 USC 1141 note.

This title may be cited as the "Department of Education Appropriations Act, 1993".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $203,152,000: *Provided,* That $34,947,000 shall be available for title I, section 102, and $990,000 shall be available for title I, part C.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 1995, $295,000,000: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. chapter 71), $30,195,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $5,772,000.

NATIONAL COMMISSION ON ACQUIRED IMMUNE DEFICIENCY SYNDROME

For expenses necessary for the National Commission on Acquired Immune Deficiency Syndrome as authorized by subtitle D of title II of Public Law 100–607, $1,750,000.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended by Public Law 102–95), $896,000.

WHITE HOUSE CONFERENCE ON LIBRARY AND INFORMATION SERVICES

For liquidating obligations incurred by the White House Conference on Library and Information Services, $400,000.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education, as authorized by section 1321 of the Higher Education Amendments of 1986 (Public Law 99–498), $208,000, to remain available until April 30, 1993.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99–660, $450,000, which shall remain available until expended.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $1,553,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $171,176,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of

the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $7,870,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $7,169,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $4,451,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1886(e) of the Social Security Act, $4,418,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $294,030,000, which shall include amounts becoming available in fiscal year 1993 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $294,030,000: *Provided,* That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $100,000, to remain available through September 30, 1993, which shall be the maximum

amount available for payment pursuant to section 417 of Public Law 98–76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $75,240,000, to be derived from the railroad retirement accounts: *Provided,* That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 231–231u).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $17,325,000 shall be apportioned for fiscal year 1993 from moneys credited to the railroad unemployment insurance administration fund.

SPECIAL MANAGEMENT IMPROVEMENT FUND

To effect management improvements, including the reduction of backlogs, accuracy of taxation accounting, and debt collection, $3,720,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: *Provided,* That these funds shall supplement, not supplant, existing resources devoted to such operations and improvements.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $6,900,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Armed Forces Retirement Home Trust Fund, $42,457,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Armed Forces Retirement Home Trust Fund, $6,000,000, to remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $11,000,000.

UNITED STATES NAVAL HOME

OPERATION AND MAINTENANCE

For operation and maintenance of the United States Naval Home, to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $10,862,000.

CAPITAL PROGRAM

For construction and renovation of the physical plant to be paid from funds available to the Naval Home in the Armed Forces Retirement Home Trust Fund, $477,000, to remain available until expended.

TITLE V—GENERAL PROVISIONS

Contracts. Public information. 5 USC 3109 note.

SEC. 501. The expenditure of any appropriation under this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

41 USC 401 note.

SEC. 502. No part of any appropriation contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

5 USC 3109 note.

SEC. 503. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the maximum rate payable for senior-level positions under 5 U.S.C. 5376.

5 USC 5901 note.

SEC. 504. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901–5902).

31 USC 1345 note.

SEC. 505. Appropriations contained in this Act or subsequent Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Acts, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to

improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by .8 per centum.

31 USC 1105 note.

SEC. 512. (a) Beginning in fiscal year 1994, and in each fiscal year thereafter, the Office of Management and Budget shall establish the funding for consulting services for each department and agency as a separate object class in each budget annually submitted to the Congress under section 1105 of title 31, United States Code.

(b) For purposes of this section, consulting services include—

(1) management and professional support services;
(2) studies, analyses, and evaluations;
(3) engineering and technical services (excluding routine engineering services such as automated data processing and architect and engineering contracts); and
(4) research and development.

SEC. 513. Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1993 shall, during fiscal year 1993, obligate and expend funds for consulting services in excess of an amount equal to 92 percent of the amount estimated to be obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1993: *Provided,* That notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department, agency, or instrumentality for fiscal year 1993 is reduced by an amount equal to 8 percent of the amount expected to be expended by such department, agency or instrumentality during fiscal year 1993 for consulting services. As used in this section, the term "consulting services" includes any services within the definition of "Advisory and Assistance Services" in the Office of Management and Budget Circular A–120, dated January 4, 1988.

SEC. 514. Notwithstanding any other provision of Act, no funds appropriated under this Act shall be used to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug unless the Surgeon General of the United States determines that such programs are effective in preventing the spread of HIV and do not encourage the use of illegal drugs, except that such funds may be used for such purposes in furtherance of demonstrations or studies authorized in the ADAMHA Reorganization Act (Public Law 102–321).

SEC. 515. Funds appropriated in Public Law 102–170 for the National Commission on Children shall remain available until expended.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5677:

HOUSE REPORTS: Nos. 102-708 (Comm. on Appropriations) and 102-974 (Comm. of Conference).
SENATE REPORTS: No. 102-397 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Sept. 16-18, considered and passed Senate, amended.
Oct. 3, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

Public Law 102-395
102d Congress

An Act

Oct. 6, 1992
[H.R. 5678]

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1993, and for other purposes, namely:

TITLE I—DEPARTMENT OF JUSTICE AND RELATED AGENCIES

Department of Justice and Related Agencies Appropriations Act, 1993.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and the Missing Children's Assistance Act, as amended, including salaries and expenses in connection therewith, $88,999,000, to remain available until expended, of which $500,000 of the funds provided under the Missing Children's Program shall be made available as a grant to a national voluntary organization representing Alzheimer patients and families to plan, design, and operate a Missing Alzheimer Patient Alert program.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by parts D and E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, for State and Local Narcotics Control and Justice Assistance Improvements, including salaries and expenses in connection therewith, $496,000,000, to remain available until expended, of which: (a) $475,000,000 shall be available to carry out subpart 1 and chapter A of subpart 2 of part E of title I of said Act, for the Edward Byrne Memorial State and Local Law Enforcement Assistance Programs; (b) $1,000,000 to be derived from unobligated balances appropriated for this purpose in Public Law 102-140 shall be available to carry out part N of title I of said Act, for Grants for Televised Testimony of Child Abuse Victims, as authorized by section 241(c) of Public Law 101-647 (104 Stat. 4814); and (c) $21,000,000 shall be available to the Director of the Federal Bureau of Investigation for the National Crime Information Center 2000 project, as authorized by section 613 of Public Law 101-647 (104 Stat. 4824): *Provided,* That $16,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be available to reimburse any appropriation account, as designated by the Attorney General, for selected costs incurred

by State and local law enforcement agencies which enter into cooperative agreements to conduct joint law enforcement operations with Federal agencies: *Provided further,* that, notwithstanding the provisions of section 516(a) of chapter B of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, $3,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of said Act, shall be available as follows: (a) $1,500,000 for grants to private nonprofit organizations to carry out the provisions of section 515(a)(2) of chapter B of subpart 2 of part E of title I of said Act, and (b) $1,500,000 for grants to public agencies to carry out the provisions of section 515(a)(3) of chapter B of subpart 2 of part E of title I of said Act: *Provided further,* That $6,000,000 of the funds made available under chapter A of subpart 2 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, shall be available to carry out the provisions of chapter B of subpart 2 of part E of title I of said Act for Correctional Options Grants: *Provided further,* That funds made available in fiscal year 1993 under subpart 1 of part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, may be obligated for programs to assist States in the litigation processing of death penalty Federal habeas corpus petitions.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $77,000,000, to remain available until expended, as authorized by section 261(a) of part D of title II, of said Act (42 U.S.C. 5671(a)), of which $1,200,000 shall be derived from deobligated funds previously awarded under part B and subparts I and II of part C of title II of said Act, and of which $4,000,000 is for expenses authorized by section 281 of part D of title II of said Act.

In addition, and notwithstanding section 214(b) of title II of Public Law 101–647 (104 Stat. 4794), $1,500,000, to remain available until expended, for a grant to the American Prosecutor Research Institute's National Center for Prosecution of Child Abuse for technical assistance and training instrumental to the criminal prosecution of child abuse cases, as authorized in section 213 of Public Law 101–647 (104 Stat. 4793).

In addition, and notwithstanding section 224(b) of title II of Public Law 101–647 (104 Stat. 4798), $500,000, to remain available until expended, for a grant to the National Council of Juvenile and Family Court Judges to develop model technical assistance and training programs to improve the handling of child abuse and neglect cases, as authorized in section 223(a) of Public Law 101–647 (104 Stat. 4797).

In addition, $2,500,000, as authorized in section 501 of Public Law 99–603, for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1992, through September 30, 1993, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1993, a listing of names of such Mariel Cubans incarcer-

Federal Register, publication. Prisoners. Cuba. Intergovernmental relations.

Prisoners. Intergovernmental relations. Cuba. Grants.

ated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1993, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

PUBLIC SAFETY OFFICERS BENEFITS

For payments authorized by part L of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796), as amended, such sums as are necessary, to remain available until expended, as authorized by section 6093 of Public Law 100–690 (102 Stat. 4339–4340).

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $115,929,000; of which not to exceed $1,650,000 is for the Facilities Program 2000, to remain available until expended.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $30,622,000; including not to exceed $10,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; and for the acquisition, lease, maintenance and operation of motor vehicles without regard to the general purchase price limitation.

QUANTICO TRAINING CENTER

For necessary expenses for planning, construction, and purchase of equipment for an expanded law enforcement training center at the FBI Training Academy at Quantico, Virginia, $7,700,000 to remain available until expended, to be expended at the direction of the Attorney General.

WEED AND SEED PROGRAM FUND

For necessary expenses, including salaries and related expenses of the Executive Office for Weed and Seed, to implement "Weed and Seed" program activities, $13,150,000, to remain available until expended for intergovernmental agreements, including grants, cooperative agreements, and contracts, with State and local law enforcement agencies engaged in the investigation and prosecution of violent crimes and drug offenses in "Weed and Seed" designated communities, and for either reimbursements or transfers to appropriation accounts of the Department of Justice and other Federal agencies which shall be specified by the Attorney General to execute the "Weed and Seed" program strategy: *Provided,* That for fiscal year 1993 and thereafter the Attorney General shall (1) promote

28 USC 509 note.

neighborhood revitalization by developing a plan for the use of Federal funds appropriated for selected activities in the Departments of Labor, Education, Health and Human Services, Transportation, Agriculture, and Housing and Urban Development; (2) the Attorney General shall solicit from State and local governments plans to revitalize neighborhoods using programs administered by such agencies; and (3) the Attorney General shall review and approve such plans in consultation with the Federal agency to which funds are appropriated: *Provided further,* That funds designated by Congress through language or through policy guidance in reports for other Department of Justice appropriation accounts for "Weed and Seed" program activities shall be managed and executed by the Attorney General through the Executive Office for Weed and Seed: *Provided further,* That the Attorney General may direct the use of other Department of Justice funds and personnel in support of "Weed and Seed" program activities only after the Attorney General notifies the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission as authorized by law, $9,309,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $395,500,000; and of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1994: *Provided,* That of the funds available in this appropriation, not to exceed $35,213,000 shall remain available until expended for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through "Salaries and Expenses", General Administration: *Provided further,* That of the total amount appropriated, not to exceed $1,000 shall be available to the United States National Central Bureau, INTERPOL, for official reception and representation expenses: *Provided further,* That notwithstanding 31 U.S.C. 1342, the Attorney General may accept on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States during fiscal year 1993.

In addition, notwithstanding 31 U.S.C. 3302, for fiscal year 1993 and thereafter, the Attorney General shall establish and collect fees to recover necessary expenses of the Registration Unit (to include salaries, supplies, equipment and training) pursuant to the Foreign Agents Registration Act, and shall credit such fees to this appropriation, to remain available until expended. 22 USC 612 note.

In addition, for expenses of the Department of Justice associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,000,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $61,526,000: *Provided,* That notwithstanding any other provision of law, not to exceed $16,900,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $44,626,000: *Provided further,* That any fees received in excess of $16,900,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Office of the United States Attorneys; and for intergovernmental agreements including the relocation of the Legal Education program, as provided for in Public Law 102–140 (105 Stat. 786), where legal education training shall be provided to Federal and non-Federal personnel; $768,300,000, of which not to exceed $2,500,000 shall be available until September 30, 1994 for the purposes of (1) providing training of personnel of the Department of Justice in debt collection, (2) providing services to the Department of Justice related to locating debtors and their property, such as title searches, debtor skiptracing, asset searches, credit reports and other investigations, (3) paying the costs of the Department of Justice for the sale of property not covered by the sale proceeds, such as auctioneers' fees and expenses, maintenance and protection of property and businesses, advertising and title search and surveying costs, and (4) paying the costs of processing and tracking debts owed to the United States Government: *Provided,* That of the total amount appropriated, not to exceed $8,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $10,000,000 of those funds available for automated litigation support contracts shall remain available until September 30, 1994: *Provided further,* That (1) not to exceed $22,400,000 of funds made available to this appropriation to carry out the relocation of the Legal Education program provided for in Public Law 102–140 shall remain available until expended, and (2) funds previously appropriated for this purpose shall be available under authorities provided by this Act: *Provided further,* That the Pilot Debt Collection Project authorized in Public Law 99–578 is hereby extended through September 30, 1993.

31 USC 3718 note.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $57,221,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115

of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99–554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors.

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109, $898,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including the acquisition, lease, maintenance, and operation of vehicles and aircraft, and the purchase of passenger motor vehicles for police-type use without regard to the general purchase price limitation for the current fiscal year; $333,300,000, of which not to exceed $6,000 shall be available for official reception and representation expenses.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in the custody of the United States Marshals Service as authorized in 18 U.S.C. 4013, but not including expenses otherwise provided for in appropriations available to the Attorney General; $234,125,000, to remain available until expended; of which not to exceed $7,417,000 shall be available under the Cooperative Agreement Program: *Provided,* That, unless a notification as required under section 606 of this Act is submitted to the Committees on Appropriations of the House and Senate, none of the funds in this Act for the Cooperative Agreement Program shall be available for a cooperative agreement with a State or local government for the housing of Federal prisoners and detainees when the cost per bed space for such cooperative agreement exceeds $50,000, and in addition, any cooperative agreement with a cost per bed space that exceeds $25,000 must remain in effect for no less than 15 years.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for expenses of contracts for the procurement and supervision of expert witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances, $81,010,000, to remain available until expended; of which not to exceed $4,750,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites; and of which not to exceed $1,000,000 may be made available for the purchase and maintenance of armored vehicles for transportation of protected witnesses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $26,106,000, of which not to exceed $18,198,000 shall remain available until expended to make payments in advance for grants, contracts and

reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96–422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act: *Provided further,* That to expedite the outplacement of eligible Mariel Cubans or other aliens from Bureau of Prisons or Immigration and Naturalization Service operated or contracted facilities into Community Relations Service contracted hospital and halfway house facilities, the Attorney General may direct reimbursements to the Cuban Haitian Entrant Program from "Federal Prison System, Salaries and Expenses" or "Immigration and Naturalization Service, Salaries and Expenses": *Provided further,* That if such reimbursements described above exceed $500,000, they shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524(c)(1) (A)(ii), (B), (C), (F), and (G), as amended, $93,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

RADIATION EXPOSURE COMPENSATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses in accordance with the Radiation Exposure Compensation Act, $2,722,000.

PAYMENT TO THE RADIATION EXPOSURE COMPENSATION TRUST FUND

For payments to the Radiation Exposure Compensation Trust Fund, $170,750,000 as authorized by section 3(e) of the Radiation Exposure Compensation Act (Public Law 101–426), as amended.

INTERAGENCY LAW ENFORCEMENT

ORGANIZED CRIME DRUG ENFORCEMENT

For necessary expenses for the detection, investigation, and prosecution of individuals involved in organized crime drug trafficking not otherwise provided for, to include intergovernmental agreements with State and local law enforcement agencies engaged in the investigation and prosecution of individuals involved in organized crime drug trafficking, $385,248,000, of which $50,000,000 shall remain available until expended: *Provided,* That any amounts obligated from appropriations under this heading may be used under authorities available to the organizations reimbursed from this appropriation: *Provided further,* That any unobligated balances remaining available at the end of the fiscal year shall revert to the Attorney General for reallocation among participating organizations in the succeeding fiscal year, subject to the reprogramming procedures described in section 606 of this Act.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,670 passenger motor vehicles of which 2,075 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,975,423,000, of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1994; of which $130,000,000 is for necessary expenses of the Federal Bureau of Investigation for special programs in support of the Nation's security; of which not to exceed $8,000,000 for research and development related to investigative activities shall remain available until expended; of which not to exceed $10,000,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to violent crime, terrorism and drug investigations; of which $75,400,000, to remain available until expended, shall only be available to defray expenses for the automation of fingerprint identification services and related costs; and of which $1,500,000 shall be available to maintain an independent program office dedicated solely to the relocation of the Identification Division and the automation of fingerprint identification services: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses, to include expenses related to hosting the 1992 conference of Women in Federal Law Enforcement.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; expenses for conducting drug education and training programs, including travel and related expenses for participants in such programs and the distribution of items of token value that promote the goals of such programs; purchase of not to exceed 1,366 passenger motor vehicles of which 1,196 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $718,684,000 of which not to exceed $1,800,000 for research shall remain available until expended; and of which not to exceed $4,000,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical and laboratory equipment, and not to exceed $2,500,000 for purchase of aircraft and equipment,

shall remain available until September 30, 1994: *Provided,* That not to exceed $45,000 shall be available for official reception and representation expenses.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 788 of which 652 are for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $965,000,000, of which not to exceed $400,000 for research and $11,800,000 for construction shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $5,000 shall be available for official reception and representation expenses.

COMMISSION ON IMMIGRATION REFORM

SALARIES AND EXPENSES

For necessary expenses of the Commission on Immigration Reform pursuant to section 141(f) of the Immigration Act of 1990, $300,000, to remain available until expended.

THOMAS JEFFERSON COMMEMORATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Thomas Jefferson Commemoration Commission as authorized by Public Law 102–343, $200,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 531 of which 344 are for replacement only) and hire of law enforcement and passenger motor vehicles; and for the provision of technical assistance and advice on corrections related issues to foreign governments; $1,681,822,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal

42 USC 250a.

penal and correctional institutions: *Provided further,* That the Director of the Federal Prison System (FPS), where necessary, may enter into contracts with a fiscal agent/fiscal intermediary claims processor to determine the amounts payable to persons who, on behalf of the FPS, furnish health services to individuals committed to the custody of the FPS: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That not to exceed $6,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $50,000,000 for the activation of new facilities shall remain available until September 30, 1994.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351–4353 of title 18, United States Code, which established a National Institute of Corrections, and for the provision of technical assistance and advice on corrections related issues to foreign governments, $10,250,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; leasing the Oklahoma City Airport Trust Facility; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account; $339,225,000, to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act: *Provided further,* That not to exceed $14,000,000 shall be available to construct areas for inmate work programs.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $3,181,000 of the funds of the corporation shall be available for its administrative expenses, and for services as authorized by 5 U.S.C. 3109, to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 101. A total of not to exceed $45,000 from funds appropriated to the Department of Justice in this title shall be available only for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 102. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) During fiscal years 1993, 1994, and 1995, with respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading of "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration for fiscal years 1993, 1994, and 1995, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) Notwithstanding paragraph (1), it shall not be necessary to obtain such certification for an undercover operation in order that proceeds or other money—

(A) received by an undercover agent from or at the direction of a subject of an investigation, or

(B) provided to an agent by an individual cooperating with the Government in an investigation, who received the proceeds or money from or at the direction of a subject of the investigation,

may be used as a subject of the investigation directs without regard to section 3302 of title 31 of the United States Code: *Provided,* That the Director of the Federal Bureau of Investigation or the Administrator of the Drug Enforcement Administration, or their designees, in advance or as soon as practicable thereafter, make a written determination that such a use would further the investigation: *And provided further,* That the financial audit requirements of paragraphs (5) and (6) shall apply in each investigation where such a determination has been made.

(3) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of paragraph (1), or under paragraph (2) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining

at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports.

(4) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

Reports.
5 USC 533 note.

(5)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal years 1993, 1994, and 1995—

(i) submit the results of such audit in writing to the Attorney General, and

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(6) For purposes of paragraph (5)—

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are concluded, or

(ii) covert activities are concluded, whichever occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" mean any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 103. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided,* That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void. Abortion.

SEC. 104. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion. Abortion.

SEC. 105. Nothing in the preceding section shall remove the obligation of the Director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 104 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

SEC. 106. Pursuant to the provisions of law set forth in 18 U.S.C. 3071–3077, not to exceed $1,000,000 of the funds appropriated to the Department of Justice in this title shall be available for rewards to individuals who furnish information regarding acts of terrorism against a United States person or property.

SEC. 107. Deposits transferred from the Assets Forfeiture Fund to the Buildings and Facilities account of the Federal Prison System may be used for the construction of correctional institutions, and the construction and renovation of Immigration and Naturalization Service and United States Marshals Service detention facilities, and for the authorized purposes of the Support of United States Prisoners' Cooperative Agreement Program.

SEC. 108. Notwithstanding 28 U.S.C. 1821, no funds appropriated to the Department of Justice in fiscal year 1993 or any prior fiscal year, or any other funds available from the Treasury of the United States, shall be obligated or expended to pay a fact witness fee to a person who is incarcerated testifying as a fact witness in a court of the United States, as defined in 28 U.S.C. 1821(a)(2). 28 USC 1821 note.

SEC. 109. (a) Notwithstanding any other provision of law, the Attorney General, in consultation with the Secretary of the Treasury, the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Financial Right to Privacy Act (12 U.S.C. 3415) to allow nondepository licensed transmitters of duns to be reimbursed to the same extent as financial institutions Reports.

under that Act, and report the results of such study to the Congress by April 1, 1993.

42 USC 3722 note.

(b) The Attorney General, acting through the Director of the National Institute of Justice, shall: (1) evaluate existing and proposed anti-stalking legislation in the States, (2) develop model anti-stalking legislation that is constitutional and enforceable, (3) prepare and disseminate to State authorities the findings made as a result of such evaluation, and (4) report to the Congress the findings and the need or appropriateness of further action by the Federal Government by September 30, 1993.

SEC. 110. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Justice in title I of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That this section shall not apply to any appropriation made available in title I of this Act under the heading, "Office of Justice Programs, Justice Assistance": *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

18 USC 4001 note.

SEC. 111. Notwithstanding Any Other Provision of Law—

(a) FEE TO RECOVER THE COST OF INCARCERATION.—

(1) For fiscal year 1993 and thereafter the Attorney General shall establish and collect a fee to cover the costs of confinement from any person convicted in a United States District Court and committed to the Attorney General's custody.

(2) Such fee shall be equivalent to the average cost of one year of incarceration, and the Attorney General shall credit or rebate a prorated portion of the fee with respect to any such person incarcerated for 334 days or fewer in a given fiscal year.

(3) The calculation of the number of days of incarceration in a given fiscal year for the purpose of such fee shall include time served prior to conviction.

(4) The Attorney General shall not collect such fee from any person with respect to whom a fine was imposed or waived by a judge of a United States District Court pursuant to section 5E1.2 (f) and (i) of the United States Sentencing Guidelines, or any successor provisions.

(5) In cases in which the Attorney General has authority to collect the fee, the Attorney General shall have discretion to waive the fee or impose a lesser fee if the person under confinement establishes that (1) he or she is not able and, even with the use of a reasonable installment schedule, is not likely to become able to pay all or part of the fee, or (2) imposition of a fine would unduly burden the defendant's dependents.

(6) For fiscal year 1993 only, fees collected in accordance with this section shall be deposited as offsetting receipts to the Treasury.

(7) For fiscal year 1994 and thereafter, fees collected in accordance with this section shall be deposited as offsetting collections to the appropriation Federal Prison System, "Salaries and expenses", and shall be available, inter alia, to enhance alcohol and drug abuse prevention programs.

(b) DIVERSION CONTROL FEE ACCOUNT.—There is established in the general fund of the Treasury a separate account which shall be known as the Diversion Control Fee Account. For fiscal year 1993 and thereafter: 21 USC 886a.

(1) There shall be deposited as offsetting receipts into that account all fees collected by the Drug Enforcement Administration, in excess of $15,000,000, for the operation of its diversion control program.

(2) Such amounts as are deposited into the Diversion Control Fee Account shall remain available until expended and shall be refunded out of that account by the Secretary of the Treasury, at least on a quarterly basis, to reimburse the Drug Enforcement Administration for expenses incurred in the operation of the diversion control program.

(3) Fees charged by the Drug Enforcement Administration under its diversion control program shall be set at a level that ensures the recovery of the full costs of operating the various aspects of that program.

(4) The amount required to be refunded from the Diversion Control Fee Account for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years. Any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate fifteen days in advance.

(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

SEC. 112. Section 286 of the Immigration and Nationality Act of 1952, as amended, is further amended by adding at the end the following new paragraph: 8 USC 1356.

"(r) Breached Bond/Detention Account.—

"(1) Notwithstanding any other provision of law, there is established in the general fund of the Treasury a separate account which shall be known as the Breached Bond/Detention Fund (hereafter referred to as the Fund).

"(2) There shall be deposited as offsetting receipts into the Fund all breached cash and surety bonds, in excess of $8,000,000, posted under the Immigration and Nationality Act of 1952, as amended, which are recovered by the Department of Justice.

"(3) Such amounts as are deposited into the Fund shall remain available until expended and shall be refunded out of the Fund by the Secretary of the Treasury, at least on a quarterly basis, to the Immigration and Naturalization Service for the following purposes—

"(i) for expenses incurred in the collection of breached bonds, and

"(ii) for expenses associated with the detention of illegal aliens.

"(4) The amount required to be refunded from the Breached Bond/Detention Fund for fiscal year 1994 and thereafter shall be refunded in accordance with estimates made in the budget request of the Attorney General for those fiscal years: *Provided,*

That any proposed changes in the amounts designated in said budget requests shall only be made after notification to the Committees on Appropriations of the House of Representatives and the Senate in accordance with section 606 of this Act.

"(5) The Attorney General shall prepare and submit annually to the Congress, statements of financial condition of the account, including the beginning balance, receipts, refunds to appropriations, transfers to the general fund, and the ending balance.

"(6) For fiscal year 1993 only, the Attorney General may transfer up to $1,000,000 from the Immigration User Fee Account to the Breached Bond/Detention Fund for initial expenses necessary to enhance collection efforts: *Provided,* That any such transfers shall be refunded from the Breached Bond/Detention Fund back to the Immigration User Fee Account by December 31, 1993.".

8 USC 1440 note.

SEC. 113. (a) WAIVER.—(1) For purposes of the naturalization of natives of the Philippines under section 405 of the Immigration Act of 1990, notwithstanding any other provision of law—

(A) the processing of applications for naturalization, including necessary interviews, shall be conducted in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended; and

(B) oaths of allegiance shall be taken in the Philippines by employees of the Immigration and Naturalization Service designated pursuant to section 335(b) of the Immigration and Nationality Act of 1952, as amended.

(2) Notwithstanding subsection (a)(1), applications for naturalization including necessary interviews may continue to be processed, and oaths of allegiance may continue to be taken in the United States.

Regulations.

(3) The Attorney General shall prescribe such regulations as may be necessary to carry out this subsection.

Records.

(b) TREATMENT OF OATHS OF ALLEGIANCE.—Records of oaths of allegiance taken in accordance with subsection (a)(1)(B) shall be entered in the permanent records of the Attorney General.

(c) EFFECTIVE DATE.—The provisions of this section shall become effective 120 days from the date of enactment of this Act.

(d) EXTENSION OF APPLICATION PERIOD.—The provisions of this section shall apply to natives of the Philippines who applied for naturalization under section 405 of the Immigration Act of 1990 and who apply for naturalization within 2 years after the effective date of this section.

(e) TERMINATION DATE.—This section shall cease to be effective 3 years after its effective date.

SEC. 114. (a) Notwithstanding any other provision of law, including subsection (b) below, the first $50,000,000 of the amounts made available in fiscal year 1993 in accordance with section 524(c)(9)(E) of title 28, United States Code, as amended, shall be transferred as follows: (1) the first $22,400,000 shall be transferred to Legal Activities, "Salaries and expenses, United States Attorneys" for cooperative agreements to carry out the relocation of the Legal Education program as provided for in Public Law 102–140 (105 Stat. 786), and (2) the next $27,600,000 shall be transferred to Legal Activities, "Support of United States Prisoners".

(b) Subsection 524(c)(9)(E) of title 28, United States Code, as amended, is further amended as follows: (1) by deleting "to be transferred to any Federal agency", and (2) by striking the period after "related training requirements" and inserting "of Federal agencies. Any amounts provided pursuant to this section may be used under authorities available to the organization receiving the funds.".

(c) Subsection 524(c) of title 28, United States Code, as amended, is further amended in paragraph (1) by amending the first sentence following subsection (1)(H) to read: "Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations Acts and may be used under authorities available to the organization receiving the funds.".

Reports.

SEC. 115. The General Accounting Office is hereby directed to report to Congress its explanation for failing to comply with Public Law 100–202, and to complete by the adjournment of Congress sine die of the One Hundred Second Congress, the reports required to be submitted pursuant to Public Law 100–202.

RELATED AGENCIES

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $7,776,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities authorized by section 5 of Public Law 98–183: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That none of the funds appropriated in this paragraph shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service exclusive of one special assistant for each Commissioner: *Provided further,* That none of the funds appropriated in this paragraph shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621–634), the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); nonmonetary awards to private citizens; not to exceed $25,000,000, for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act of 1964, as amended, sections 6 and 14 of the Age Discrimination in Employment Act, the Americans with Disabilities Act of 1990, and the Civil Rights Act of 1991, $222,000,000: *Provided,* That the Commission is authorized to make available for official reception and representation expenses not to exceed $2,500 from available funds.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901–02); not to exceed $450,000 for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed sixteen) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $128,500,000, of which not to exceed $300,000 shall remain available until September 30, 1994, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority ownership of broadcasting licenses, including those established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 69 F.C.C. 2d 607 (Rev. Bd. 1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86–484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–02; $18,300,000: *Provided,* That not to exceed $2,000 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901–5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $86,550,000: *Provided,* That notwithstanding any other provision of law, not to exceed $16,900,000 of offsetting collections derived from fees collected for premerger notification filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18(a)) shall be retained and used for necessary expenses in this appropriation, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as such offsetting collections are received during fiscal year 1993, so as to result in a final fiscal year 1993 appropriation estimated at not more than $69,650,000: *Provided further,* That any fees received in excess of $16,900,000 in fiscal year 1993 shall remain available until expended, but shall not be available for obligation until fiscal year 1994: *Provided further,* That section 605 of title VI of Public Law 101–162 (103 Stat. 1031), as amended, is further amended by striking "$20,000" and inserting in lieu thereof "$25,000": *Provided further,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96–252; 94 Stat. 374): *Provided further,* That none of the funds made available to the Federal Trade Commission shall be available for obligation for expenses authorized by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2282–2285), unless legislation amending section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is enacted into law during fiscal year 1993, and only upon notification to the Committees on Appropriations of the House and Senate in accordance with section 606 of this Act.

15 USC 18a note.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses for the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, the rental of space (to include multiple year leases) in the District of Columbia and elsewhere, and not to exceed $3,000 for official reception and representation expenses, $127,235,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Organization of Securities Commissions and of which not to exceed $100,000 shall be available for expenses for consultations and meetings hosted by the Commission with foreign governmental and other regulatory officials, members of their delegations, appropriate representatives and staff to exchange views concerning developments relating to securities matters, development and implementation of cooperation agreements concerning securities matters and provision of technical assistance for the development of foreign securities markets, such expenses to include necessary logistic and administrative expenses and the

15 USC 77f note.

expenses of Commission staff and foreign invitees in attendance at such consultations and meetings including: (i) such incidental expenses as meals taken in the course of such attendance, (ii) any travel or transportation to or from such meetings, and (iii) any other related lodging or subsistence: *Provided,* That immediately upon enactment of this Act, the rate of fees under section 6(b) of the Securities Act of 1933 (15 U.S.C. 77f(b)) shall increase from one-fiftieth of 1 per centum to one thirty-second of 1 per centum and such increase shall be deposited as an offsetting collection to this appropriation to recover costs of services of the securities registration process: *Provided further,* That such fees shall remain available until expended.

In addition, upon enactment of legislation amending the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.), and subject to the schedule of fees contained in such legislation, the Commission may collect not to exceed $16,000,000 in fees, and such fees shall be deposited as an offsetting collection to this appropriation to recover the costs of registration, supervision, and regulation of investment advisers and their activities: *Provided,* That such fees shall remain available until expended.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by The State Justice Institute Authorization Act of 1988 (Public Law 100–690 (102 Stat. 4466–4467)), $13,550,000 to remain available until expended: *Provided,* That not to exceed $2,500 shall be available for official reception and representation expenses.

This title may be cited as the "Department of Justice and Related Agencies Appropriations Act, 1993".

Department of Commerce Appropriations Act, 1993.

TITLE II—DEPARTMENT OF COMMERCE

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $192,940,000, to remain available until expended, of which not to exceed $2,618,000 may be transferred to the "Working Capital Fund"; and of which not to exceed $5,000,000 may be available for architectural and engineering studies for construction and for repair of research facilities.

INDUSTRIAL TECHNOLOGY SERVICES

For necessary expenses of the Regional Centers for the Transfer of Manufacturing Technology and the Advanced Technology Program and, notwithstanding any other provision of law, the State Extension Services Program of the National Institute of Standards and Technology, $86,067,000, to remain available until expended.

CONSTRUCTION OF RESEARCH FACILITIES

For construction of new research facilities, not otherwise provided for the National Institute of Standards and Technology, as

authorized by 15 U.S.C. 278c–278e, $105,000,000, to remain available until expended.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; as authorized by 31 U.S.C. 1343 and 1344; construction of facilities, including initial equipment as authorized by 33 U.S.C. 883i; grants, contracts, or other payments to nonprofit organizations for the purposes of conducting activities pursuant to cooperative agreements; and alteration, modernization, and relocation of facilities as authorized by 33 U.S.C. 883i; $1,521,416,000, to remain available until expended, of which $37,000,000 is available to initiate the procurement of two additional NOAA Advanced Tiros-N polar-orbiting weather satellites from the current contractor, and of which $288,000 shall be available only for a contract with the National Research Council to conduct an assessment of the status of Columbia River endangered salmon stocks, and of which $576,000 shall be available for operational expenses and cooperative agreements at the Fish Farming Experimental Laboratory at Stuttgart, Arkansas; and in addition, $55,000,000 shall be derived by transfer from the fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries": *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $500,000: *Provided further,* That in applying the provisions of section 606 of this Act to the programs, projects, and activities of the National Oceanic and Atmospheric Administration, the notification requirements of section 606 shall apply to the proposed reprogramming of funds in excess of $250,000 or 5 per centum, whichever is less, for each program, project, or activity.

33 USC 851.

COASTAL ZONE MANAGEMENT FUND

Of amounts collected pursuant to section 6209 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101–508), $7,800,000 for projects and grants authorized by 16 U.S.C. 1455, 1455a, and 1455b, notwithstanding the provisions of 16 U.S.C. 1456a(b)(2).

CONSTRUCTION

For repair and modification of, and additions to, existing facilities and construction of new facilities, and for facility planning and design and land acquisition not otherwise provided for the National Oceanic and Atmospheric Administration, $94,500,000, to remain available until expended, of which $50,484,000 shall be available for facilities necessary for deployment of the NEXRAD weather radar program, including $1,000,000 for the Greer, South Carolina, NEXRAD site, and of which $15,000,000 shall be available only for a grant to the University of New Hampshire for construction and related expenses for a biological sciences facility, and of which $1,800,000 shall be available only for a grant to the Newport

Marine Science Center, Newport, Oregon, for construction and related expenses for an Oregon Coastal Refuges Complex, and of which $1,000,000 shall be available only for a grant to the Economic Development Industrial Corporation of Boston, Massachusetts, for construction and related expenses for a biotechnology innovation center, and of which $1,000,000 shall be available only for a grant to the Mystic Seaport, Mystic, Connecticut, for construction and related expenses for a maritime education and research center, and of which $400,000 shall be available for construction and related expenses for a Multi-Species Aquaculture Facility to be located in the State of New Jersey.

FLEET MODERNIZATION, SHIPBUILDING AND CONVERSION

For expenses necessary for the construction, acquisition, leasing, or conversion of vessels, including related equipment to maintain the existing fleet and to continue planning the modernization of the fleet, for the National Oceanic and Atmospheric Administration, $30,000,000, to remain available until expended.

FISHING VESSEL OBLIGATIONS GUARANTEES

For the cost, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, as amended, $470,000.

FISHING VESSEL AND GEAR DAMAGE FUND

For carrying out the provisions of section 3 of Public Law 95–376, not to exceed $1,306,000, to be derived from receipts collected pursuant to 22 U.S.C. 1980 (b) and (f), to remain available until expended.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95–372, not to exceed $1,025,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96–339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 100–627) and the American Fisheries Promotion Act (Public Law 96–561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $565,000, to remain available until expended.

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $3,000 for official entertainment, $31,712,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $15,805,000.

BUREAU OF THE CENSUS

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $123,955,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $173,300,000, to remain available until expended.

ECONOMIC AND STATISTICAL ANALYSIS

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $39,353,000, to remain available until September 30, 1994.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce provided for by law, and engaging in trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas and employees temporarily posted overseas; travel and transportation of employees of the United States and Foreign Commercial Service between two points abroad, without regard to 49 U.S.C. 1517; employment of Americans and aliens by contract for services; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $327,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad not to exceed $30,000 per vehicle; obtain insurance on official motor vehicles, rent tie lines and teletype equipment; $213,851,000, to remain available until expended, of which $3,149,000 shall be available for a grant to the Tailored Clothing Technology Corporation, and of which $7,448,000 shall be available for a grant to the National Textile Center University Research Consortium, and of which $2,850,000 shall be available for support costs of a new materials center in Ames, Iowa, and of which $2,500,000 shall be available to carry out the Market Development Cooperator Program, as authorized by 15 U.S.C. 4723, to promote the exportation of goods and services from the United

States: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities without regard to 15 U.S.C. 4912; and that for the purpose of this Act, contributions under the provisions of the Mutual Educational and Cultural Exchange Act shall include payment for assessments for services provided as part of these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed twelve: *Provided further*, That funds shall be available to carry out export promotion programs notwithstanding the provisions of section 201 of Public Law 99–64.

19 USC 2171 note.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $25,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $41,015,000, to remain available until expended, of which $1,880,000 shall be available for the Office of Antiboycott Compliance: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $37,889,000 of which $24,000,000 shall remain available until expended: *Provided,* That not to exceed $13,889,000 shall be available for program management for fiscal year 1993.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to 44 U.S.C. 501, 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $15,000 for official representation expenses abroad; $15,608,000, to remain available until expended: *Provided,* That in addition to fees currently being assessed and collected, the Administration shall charge users of its services, products, and information, fees sufficient to result in an additional $3,000,000, to be deposited in the General Fund of the Treasury.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office provided for by law, including defense of suits instituted against the Commissioner of Patents and Trademarks; $86,672,000, to be derived from deposits in the Patent and Trademark Office Fee Surcharge Fund as authorized by law: *Provided,* That the amounts made available under the Fund shall not exceed amounts deposited; and such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

TECHNOLOGY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Technology Administration, $4,450,000.

NATIONAL TECHNICAL INFORMATION SERVICE

NTIS REVOLVING FUND

For establishment of a National Technical Information Service Revolving Fund, $8,000,000 without fiscal year limitation: *Provided,* That unexpended balances in Information Products and Services shall be transferred to and merged with this account, to remain available until expended. Notwithstanding 15 U.S.C. 1525 and 1526, all payments collected by the National Technical Information Service in performing its activities authorized by chapters 23 and 63 of title 15 of the United States Code shall be credited to this Revolving Fund. Without further appropriations action, all expenses incurred in performing the activities of the National Technical Information Service, including modernization, capital equipment and inventory, shall be paid from the fund. A business-type budget

15 USC 3704b note.

for the fund shall be prepared in the manner prescribed by 31 U.S.C. 9103.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $17,900,000, to remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communications Act of 1934, as amended, $21,320,000, to remain available until expended as authorized by section 391 of said Act, as amended: *Provided,* That not to exceed $1,500,000 shall be available for program administration as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding the provisions of sections 391 and 392 of the Communications Act, as amended, not to exceed $400,000 appropriated in this paragraph shall be available for the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT): *Provided further,* That $250,000 shall be available for the American Indian Higher Education Consortium for utilization of telecommunications technologies.

ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION

For expenses necessary to carry out the provisions of the National Endowment for Children's Educational Television Act of 1990, title II of Public Law 101–437, including costs for contracts, grants and administrative expenses, $1,000,000, to remain available until expended.

ECONOMIC DEVELOPMENT ADMINISTRATION

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For grants under the Trade Adjustment Assistance Program, as authorized by 19 U.S.C. 2024, and for economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, the Public Law 91–304, and such laws that were in effect immediately before September 30, 1982, $217,000,000: *Provided,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $26,243,000: *Provided,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1993, of which no more than two positions shall be designated as National Economic Development Representatives: *Provided further,* That such positions shall be maintained within an organizational structure that provides at least one full-time EDR in each State to which a full-time EDR was assigned as of December 31, 1987.

In addition, for administrative expenses of the guaranteed loan program authorized by the Public Works and Economic Development Act of 1965, as amended, $875,000.

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 201. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 202. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

SEC. 203. None of the funds made available by this Act may be used to support the hurricane reconnaissance aircraft and activities that are under the control of the United States Air Force or the United States Air Force Reserve.

SEC. 204. None of the funds provided in this or any previous Act, or hereinafter made available to the Department of Commerce shall be available to reimburse the Unemployment Trust Fund or any other fund or account of the Treasury to pay for any expenses paid before October 1, 1992, as authorized by section 8501 of title 5, United States Code, for services performed after April 20, 1990, by individuals appointed to temporary positions within the Bureau of the Census for purposes relating to the 1990 decennial census of population. 13 USC 23 note.

SEC. 205. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of Commerce in title II of this Act may be transferred between such appropriations, but no such appropriation, except "Economic and Statistical Analysis, Salaries and expenses", shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer

pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

This title may be cited as the "Department of Commerce Appropriations Act, 1993".

The Judiciary Appropriations Act, 1993.

TITLE III—THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $22,286,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a–13b), $3,320,000, of which $925,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $11,554,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges, salaries of the officers and employees of the court, services as authorized by 5 U.S.C. 3109, and necessary expenses of the court, as authorized by law, $10,345,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrate judges, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts,

as authorized by law, $1,979,000,000 (including the purchase of firearms and ammunition); of which not to exceed $68,245,000 shall remain available until expended for space alteration projects; and of which $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions.

In addition, for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986, not to exceed $2,075,000 to be appropriated from the Vaccine Injury Compensation Trust Fund.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, the compensation and reimbursement of travel expenses of guardians ad litem acting on behalf of financially eligible minor or incompetent offenders in connection with transfers from the United States to foreign countries with which the United States has a treaty for the execution of penal sentences, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d), $215,121,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $68,820,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities as authorized by section 1010 of the Judicial Improvement and Access to Justice Act (Public Law 100–702); $81,253,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guide-

lines agreed to by the Director of the Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel as authorized by 31 U.S.C. 1345, hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $45,100,000, of which not to exceed $7,500 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90–219, $17,500,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

JUDICIAL RETIREMENT FUNDS

PAYMENT TO JUDICIARY TRUST FUNDS

For payment to the Judicial Officers' Retirement Fund as authorized by 28 U.S.C. 377(o), $8,000,000, to the Judicial Survivors' Annuities Fund, as authorized by 28 U.S.C. 376(c), and in addition to the Claims Court Judges' Retirement Fund, as authorized by 28 U.S.C. 178(1), $520,000.

NATIONAL COMMISSION ON JUDICIAL DISCIPLINE AND REMOVAL

SALARIES AND EXPENSES

For necessary expenses of the National Commission on Judicial Discipline and Removal, $443,000, as authorized by title IV, subtitle II of Public Law 101–650 (104 Stat. 5124).

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $9,000,000, of which not to exceed $1,000 is authorized for official reception and representation expenses.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 301. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 302. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92–210 and the Special Court

established under the Regional Rail Reorganization Act of 1973, Public Law 93–236.

SEC. 303. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Judiciary in title III of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 304. Pursuant to section 140 of Public Law 97–92, Justices and judges of the United States are authorized during fiscal year 1993, to receive a salary adjustment in accordance with 28 U.S.C. 461. 28 USC 461 note.

This title may be cited as "The Judiciary Appropriations Act, 1993".

TITLE IV—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

OPERATING-DIFFERENTIAL SUBSIDIES

(LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $225,000,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $71,736,000, to remain available until expended, of which $27,845,000 shall be available for the United States Merchant Marine Academy and $10,072,000 shall be available for State maritime academy programs: *Provided,* That notwithstanding any other provision of law, the Secretary of Transportation may use proceeds derived from the sale or disposal of National Defense Reserve Fleet vessels that are currently collected and retained by the Maritime Administration, to be used for facility and ship maintenance, modernization and repair, conversion, acquisition of equipment, and fuel costs necessary to maintain training at the United States Merchant Marine Academy and State maritime academies: *Provided further,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and for related programs, $440,500,000, to remain available until expended, of which $16,000,000 shall be available for the conversion of the U.S.N.S. Harkness, and of which $4,000,000 shall be made available for the conversion of

the U.S.N.S. Chauvenet: *Provided,* That any funds made available under this heading in this or any other Act for the acquisition of vessels, including tankers, for which the Secretary of Transportation determines that adequate numbers are available from United States sources, shall only be obligated for the acquisition of such vessels from United States sources: *Provided further,* That the foregoing proviso shall not apply to funds made available under this heading in this or any other Act for the acquisition of roll-on/roll-off vessels: *Provided further,* That any vessels acquired with funds made available under this heading in this or any other Act shall be repaired and converted in United States shipyards only: *Provided further,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

MILITARY USEFUL VESSEL OBLIGATION GUARANTEES

For the costs, as defined in section 502 of the Federal Credit Reform Act of 1990, of guaranteed loans authorized by the Merchant Marine Act of 1936, $48,000,000: *Provided,* That the guaranteed loans made by the Secretary of Transportation, at the request of the Secretary of Defense, are only for types and classes of vessels determined by the Secretary of Defense, in consultation with the Secretary of Transportation, to be capable of serving as a naval and military auxiliary in time of war or national emergency.

In addition, for administrative expenses to carry out the guaranteed loan program, $4,000,000, which may be transferred to and merged with the Operations and Training appropriations for the Maritime Administration.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Federal buildings and facilities.

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration, and payments received therefor shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy for items other than such utilities, services, or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations contained in this Act or in any prior appropriation Act, and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98–375, $200,000, to remain available until December 31, 1993, as authorized by section 11(b) of said Act, as amended by section 8 of Public Law 100–94.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99–603 (100 Stat. 3431–3434), $578,000, to remain available until expended.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94–304, $1,102,000, to remain available until expended as authorized by section 3 of Public Law 99–7.

COMPETITIVENESS POLICY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the Competitiveness Policy Council as authorized by section 5209 of the Omnibus Trade and Competitiveness Act of 1988, $1,223,000, to remain available until expended.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92–522, as amended, $1,260,000.

MARTIN LUTHER KING, JR. FEDERAL HOLIDAY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Martin Luther King, Jr. Federal Holiday Commission, as authorized by Public Law 98–399, as amended, $300,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $19,992,000 of which $2,500,000 shall remain available until expended: *Provided,* That not to exceed $98,000 shall be available for official reception and representation expenses.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $357,000,000; of which $305,305,000 is for basic field programs; $8,005,000 is for Native American programs; $11,056,000

is for migrant programs; $1,254,000 is for law school clinics; $1,139,000 is for supplemental field programs; $711,000 is for regional training centers; $8,241,000 is for national support; $9,448,000 is for State support; $985,000 is for the Clearinghouse; $582,000 is for computer assisted legal research regional centers; $9,774,000 is for Corporation management and administration; $50,000 is for board initiatives; and of which $450,000 shall remain available until expended for a grant to supplement the grant for a National Resource and Training Center suitable to accommodate National Trial Advocacy Institutes for Legal Services Corporation personnel under the provisions set forth under the heading "Legal Services Corporation" in Public Law 102–140 and in section 120(c) of Public Law 102–154.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the Small Business Administration as authorized by Public Law 101–574, including hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344, and not to exceed $3,500 for official reception and representation expenses, $248,800,000 of which $67,000,000 is for grants for performance in fiscal year 1993 or fiscal year 1994 for Small Business Development Centers as authorized by section 21 of the Small Business Act, as amended: *Provided,* That not more than $500,000 of this amount shall be available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act. Of the remaining $181,800,000 provided in this paragraph: $3,090,000 shall be available for the Service Corps of Retired Executives (SCORE); $3,015,000 shall be available to the Small Business Institute (SBI) program; $16,000,000 shall be available to implement section 24 of the Small Business Act, as amended; $500,000 shall be available for a grant to the Washington State University Research Foundation for construction of a business incubator facility; $400,000 shall be available for a grant to the City of St. Louis, Missouri, for the development of a Biomedical Technopolis; $1,500,000 shall be available for a grant to the City of Worcester, Massachusetts, for infrastructure, architectural and engineering, and associated costs for the expansion of the Worcester Centrum and Exhibition Hall; $465,000 shall be available for a grant to the Center for Manufacturing Productivity at the University of Massachusetts at Amherst; $150,000 shall be available for a grant to the Canisius College Center for Entrepreneurship; $200,000 shall be available for a grant to the University of Central Arkansas for the Small Business Institute Program's National Data Center; $450,000 shall be available for a grant to the University of Arkansas at Little Rock for a program to provide basic and high technology technical assistance to small and medium sized manufacturers located in rural areas; $750,000 shall be available for a grant to Hazard Community College in Hazard, Kentucky, to assist in the design and construction of a business and industry technical assistance facility; $1,000,000 shall be available for a grant to Morgan County, Kentucky, to assist in the restoration and improvement of the Old Morgan County High School building; $500,000

shall be available for a grant to the State of Ohio Department of Development's International Trade Division for a model export program; $1,000,000 shall be available for a grant to the Van Emmons Population, Marketing Analysis Center for small business network and data base projects; $800,000 shall be available for a grant to Saint Francis College in Loretto, Pennsylvania, to establish a joint Center for Global Competitiveness; $1,000,000 shall be available for a grant to the State of Vermont for the creation of a small business economic development fund; and $500,000 shall be available for a grant to the University of Kansas for a small business incubator program; and in addition, the following continuing activities shall be funded at 93 percent of the amounts designated for these activities under this heading in Public Law 102–140: New York City Public Library, Science, Industry and Business Library; University of Kentucky, Lexington, Kentucky, Advanced Science and Technology Commercialization Center; Seton Hill College in Greensburg, Pennsylvania, Center for Entrepreneurial Opportunity; Massachusetts Biotechnology Research Institute; Indiana State University Center for Interdisciplinary Science Research and Education; Michigan Biotechnology Institute; and a demonstration program to assist small businesses in complying with the Clean Air Act. None of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee, or any new or increased user fee or management assistance fee, except as otherwise provided in this Act.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $8,300,000.

BUSINESS LOANS PROGRAM ACCOUNT

For the cost of direct loans, $20,479,000, and for the cost of guaranteed loans, $213,920,000, as authorized by 15 U.S.C. 631 note: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974.

In addition, for administrative expenses to carry out the direct and guaranteed loan programs, $97,101,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

SBIC BANKRUPTCY PROVISION

None of the funds provided by this Act for the Small Business Administration may be used to guarantee any participating securities authorized by Public Law 102–366 until legislation has been enacted which directly or indirectly prohibits the filing of a petition under the Bankruptcy Code by a small business investment company licensed under subsections (c) or (d) of section 301 of the Small Business Investment Act of 1958.

DISASTER LOANS PROGRAM ACCOUNT

For the cost of direct loans, authorized by 15 U.S.C. 631 note, $80,657,000, to remain available until expended: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That none of the funds provided in this or any other Act may be used for the cost of direct loans to any borrower under section 7(b) of the Small Business Act to relocate voluntarily outside the business area in which the disaster has occurred.

In addition, for administrative expenses to carry out the direct loan program, $78,000,000, which may be transferred to and merged with the appropriations for Salaries and Expenses.

In addition, for the cost of emergency disaster loans and associated administrative expenses, $75,000,000, to remain available until expended: *Provided,* That these funds, or any portion thereof, shall be available beginning in fiscal year 1993 to the extent that the President notifies the Congress of his designation of any or all of these amounts as emergency requirements under the Budget Enforcement Act of 1990: *Provided further,* That Congress hereby designates these amounts as emergency requirements pursuant to section 251(b)(2)(D).

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $13,020,000, to remain available without fiscal year limitation as authorized by 15 U.S.C. 631 note.

Department of State and Related Agencies Appropriations Act, 1993.

TITLE V—DEPARTMENT OF STATE AND RELATED AGENCIES

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and the State Department Basic Authorities Act of 1956, as amended; representation to certain international organizations in which the United States participates pursuant to treaties, ratified pursuant to the advice and consent of the Senate, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, $2,134,000,000, of which $31,500,000 shall be available only for the Bureau of Oceans and International Environmental and Scientific Affairs for grants, contracts, and other activities to conduct research and promote international cooperation, and in addition not to exceed $700,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 45 of the State Department Basic Authorities Act of 1956, 22 U.S.C. 2717, and in addition not to exceed $1,148,000 shall be derived from fees from other executive agencies for lease or use of facilities located at the International Center in accordance with section 4 of the International Center Act (Public Law 90–553,

as amended by section 120 of Public Law 101–246), and in addition not to exceed $15,000 shall be derived from reimbursements, surcharges, and fees for use of Blair House facilities in accordance with section 46 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2718(a)), and of which $300,000 shall be available for the Bureau of Oceans and Environmental and Scientific Affairs, for staff for follow-up activities to the United Nations Conference on Environment and Development, including necessary travel: *Provided,* That of the funds appropriated by this paragraph, $350,000 shall be available for payments to the Government of Mexico for the purpose of repatriating third country nationals directly from Mexican custody to their home nations.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 1–11 as amended by Public Law 100–504), $24,055,000.

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,900,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314) and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $10,814,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292–300), and the Diplomatic Security Construction Program as authorized by title IV of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4851), $570,500,000, of which not to exceed $140,000,000 is available for construction of chancery facilities in Moscow, Russian Federation, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

NEW DIPLOMATIC POSTS

For personnel, support and other expenses, not otherwise provided for, for the Department of State and United States Information Agency to establish and operate new diplomatic posts in the republics of the former Soviet Union, $25,000,000, to remain available until September 30, 1994: *Provided,* That of this amount not less than $5,000,000 shall be available for the United States Information Agency.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $8,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That not more than $1,000,000 shall be available for representation expenses.

In addition, notwithstanding any other provision of law, funds appropriated to the Emergencies in the Diplomatic and Consular Service appropriation in Public Law 102–27, Emergency Supplemental Appropriations Act, Fiscal Year 1991, are available for any and all unforeseen emergencies that may arise in fiscal year 1992 and thereafter, pursuant to the requirements of 31 U.S.C. 3526(e).

REPATRIATION LOANS PROGRAM ACCOUNT

For the cost of direct loans, $624,000, as authorized by 22 U.S.C. 2671: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses necessary to carry out the direct loan program, $193,000 which may be transferred to and merged with the Salaries and Expenses account under Administration of Foreign Affairs.

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96–8 (93 Stat. 14), $15,543,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $119,082,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

22 USC 269a note.

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified pursuant to the advice and consent of the Senate, conventions or specific Acts of Congress, $913,214,000, of which not to exceed $92,719,000 is available to pay arrearages, the payment of which shall be directed toward special activities that are mutually agreed upon by the United States and the respective international organization: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces, as authorized by law, $460,315,000 of which not to exceed $21,992,000 is

available to pay arrearages: *Provided,* That funds shall be available for the United Nations Transitional Authority in Cambodia (UNTAC) only upon a certification by the Secretary of State to the appropriate committees of the Congress that American manufacturers and suppliers are being given opportunities to provide equipment, services and material for UNTAC equal to those being given to foreign manufacturers and suppliers, and that the United States Mission to the United Nations has established procedures to provide information on all United Nations procurement regulations and solicitations to American manufacturers and suppliers.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, in addition to funds otherwise available for these purposes, contributions for the United States share of general expenses of international organizations and conferences and representation to such organizations and conferences as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $5,600,000, to remain available until expended as authorized by 22 U.S.C. 2696(c), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 4085.

INTERNATIONAL COMMISSIONS

22 USC 269a note.

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties, or specific Acts of Congress, as follows:

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, including not to exceed $6,000 for representation; as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, $11,330,000.

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, $14,790,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, including not to exceed $9,000 for representation expenses incurred by the International Joint Commission, $4,403,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $14,200,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 3324.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, $4,500,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation, as authorized by section 501 of Public Law 101–246, $16,693,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

RUSSIAN, EURASIAN, AND EAST EUROPEAN RESEARCH AND TRAINING PROGRAM

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98–164, $4,961,000.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 501. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 502. Not to exceed 5 percent of any appropriation made available for the current fiscal year for the Department of State in title V of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided,* That not to exceed 5 percent of any appropriation made available for the current fiscal year for the United States Information Agency in title V of this Act may be transferred between such appropriations, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 10 percent by any such transfers: *Provided further,* That any transfer pursuant to this section shall be treated as a reprogramming of funds under section 606 of this Act and shall not be available for obligation or expenditure except in compliance with the procedures set forth in that section.

SEC. 503. None of the funds made available by this Act may be obligated or expended by the Department of State for contracts with any foreign or United States firm that complies with the Arab League Boycott of the State of Israel or with any foreign or United States firm that discriminates in the award of subcontracts on the basis of religion: *Provided,* That the Secretary of State may waive this provision on a country-by-country basis upon certification to the Congress by the Secretary that such waiver

is in the national interest and is necessary to carry on the diplomatic functions of the United States.

SEC. 504. Subsections 132(f) and 132(g) of Public Law 102-138 are hereby repealed. 105 Stat. 662.

SEC. 505. The authorities of section 24 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2696), allowing for the transfer of certain funds to the Buying Power Maintenance Account, including from any unobligated balance of any account under "Administration of Foreign Affairs", may be exercised up to $14,000,000, and such funds shall be available until expended.

RELATED AGENCIES

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided, for arms control and disarmament activities, including not to exceed $100,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $46,500,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871–2883), $220,000,000 of which not to exceed $52,000 may be made available for official reception and representation expenses.

COMMISSION FOR THE PRESERVATION OF AMERICA'S HERITAGE ABROAD

SALARIES AND EXPENSES

For expenses for the Commission for the Preservation of America's Heritage Abroad, $200,000 as authorized by Public Law 99–83, section 1303.

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $44,852,000, to remain available until expended.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94–118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund,

$1,250,000; and an amount of Japanese currency not to exceed the equivalent of $1,420,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94–118.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.) and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $700,000 of this appropriation), as authorized by 22 U.S.C. 1471, and entertainment, including official receptions, within the United States, not to exceed $25,000 as authorized by 22 U.S.C. 1474(3); $736,693,000: *Provided,* That not to exceed $1,285,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $1,700,000 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477b(a), for expenses and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535–1536: *Provided further,* That not to exceed $7,615,000 to remain available until expended, may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion pictures, television, and publication programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That up to $1,250,000 shall be available for the operation of International Book Exchange Fund, Inc., to distribute books to libraries, educational institutions, and individuals in Eastern Europe and the Commonwealth of Independent States.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended (5 U.S.C. App. 3), and in accordance with the provisions of 31 U.S.C. 1105(a)(25), $4,390,000.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Citizen Exchange, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and Reorganization Plan No. 2 of 1977 (91 Stat. 1636), $223,447,000, to remain available until expended as authorized by 22 U.S.C. 2455, of which $200,000 shall be available for the Claude and

Mildred Pepper Scholarship Program of the Washington Workshops Foundation and $600,000 shall be available for the Institute for Representative Government.

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM

EISENHOWER EXCHANGE FELLOWSHIP PROGRAM TRUST FUND

For necessary expenses of Eisenhower Exchange Fellowships, Incorporated to be derived from interest and earnings from the Eisenhower Exchange Fellowship Program Trust Fund as authorized by section 5 of the Eisenhower Exchange Fellowship Act of 1990 (Public Law 101–454), $300,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary or other compensation, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS–18 of the Classification Act of 1949, as amended; or for purposes which are not in accordance with OMB Circulars A–110 (Uniform Administrative Requirements) and A–122 (Cost Principles for Nonprofit Organizations), including the restrictions on compensation for personal services.

ISRAELI ARAB SCHOLARSHIP PROGRAM

For necessary expenses of the Israeli Arab Scholarship Program as authorized by section 214 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, all interest and earnings accruing to the Israeli Arab Scholarship Fund on or before September 30, 1993, to remain available until expended.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $103,647,000 notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended, to remain available until expended as authorized by 22 U.S.C. 1477b(a).

BROADCASTING TO CUBA

For expenses necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act, as amended (22 U.S.C. 1465 et seq.) (providing for the Radio Marti Program or Cuba Service of the Voice of America), and the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.) including the purchase, rent, construction, and improvement of facilities for radio and television transmission and reception, and purchase and installation of necessary equipment for radio and television transmission and reception as authorized by 22 U.S.C. 1471, $28,531,000, to remain available until expended as authorized by 22 U.S.C. 1477b(a): *Provided,* That such funds for television broadcasting to Cuba may be used to purchase or lease, maintain, and operate such aircraft (including aerostats) as may be required to house and operate necessary television broadcasting equipment.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960 (22 U.S.C. 2054–2057), by grant to the Center for Cultural and Technical Interchange Between East and West in the State of Hawaii, $26,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS–18 of the Classification Act of 1949, as amended.

RUSSIAN FAR EAST TECHNICAL ASSISTANCE CENTER

For necessary expenses to provide technical assistance, through an American university in a region which receives nonstop air service to and from the Russian Far East as of the date of enactment of this Act, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East, $2,000,000, to remain available until expended: *Provided,* That these funds shall be available only upon enactment into law of authorizing legislation.

NORTH/SOUTH CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the North/South Center Act of 1991, (22 U.S.C. 2075), by grant to an educational institution in Florida known as the North/South Center, $8,700,000 to remain available until expended.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $30,000,000, to remain available until expended.

This title may be cited as the "Department of State and Related Agencies Appropriations Act, 1993".

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts. Public information.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of each provision

to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SEC. 605. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 606. (a) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $500,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

SEC. 607. It is the sense of the Congress that entities purchasing goods or services with funds available under this Act should, to the maximum extent feasible where available, purchase only American-made equipment, products, and services.

SEC. 608. None of the funds made available in this Act may be used for the construction, repair (other than emergency repair), overhaul, conversion, or modernization of vessels for the National Oceanic and Atmospheric Administration in shipyards located outside of the United States.

SEC. 609. (a) Section 207(f) of title 18, United States Code, as amended by section 101 of the Ethics Reform Act of 1989 (103 Stat. 1722), is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR TRADE REPRESENTATIVE.—With respect to a person who is the United States Trade Representative, the restrictions described in paragraph (1) shall apply to representing, aiding, or advising foreign entities within 3 years after the termination of that person's service as the United States Trade Representative.".

(b) This section shall not apply to the person serving as the United States Trade Representative at the date of enactment of this Act. 18 USC 207 note.

8 USC 1153 note.

SEC. 610. PILOT IMMIGRATION PROGRAM.—(a) Of the visas otherwise available under section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)), the Secretary of State, together with the Attorney General, shall set aside visas for a pilot program to implement the provisions of such section. Such pilot program shall involve a regional center in the United States for the promotion of economic growth, including increased export sales, improved regional productivity, job creation, and increased domestic capital investment.

(b) For purposes of the pilot program established in subsection (a), beginning on October 1, 1992, but no later than October 1, 1993, the Secretary of State, together with the Attorney General, shall set aside 300 visas annually for five years to include such aliens as are eligible for admission under section 203(b)(5) of the Immigration and Nationality Act and this section, as well as spouses or children which are eligible, under the terms of the Immigration and Nationality Act, to accompany or follow to join such aliens.

Exports and imports.

(c) In determining compliance with section 203(b)(5)(A)(iii) of the Immigration and Nationality Act, and notwithstanding the requirements of 8 CFR 204.6, the Attorney General shall permit aliens admitted under the pilot program described in this section to establish reasonable methodologies for determining the number of jobs created by the pilot program, including such jobs which are estimated to have been created indirectly through revenues generated from increased exports resulting from the pilot program.

Disadvantaged.

SEC. 611. (a) Funds appropriated under this Act to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1993 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) of the Legal Services Corporation Act, as amended, shall be maintained in fiscal year 1993 at not less than the annual level at which each grantee and contractor was funded in fiscal year 1992 pursuant to Public Law 102–140; and

(2) any increase in funding above the fiscal year 1992 level for grants and contracts under section 1006(a)(1) shall be awarded to grantees and contractors funded at the lowest levels per-poor-person (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1992 annual grant level by the number of poor persons within its geographical area under the 1990 census) so as to fund the largest number of programs possible at an equal per-poor-person amount; or

(3) any increase above the fiscal year 1992 level for grants and contracts to migrant programs under section 1006(a)(1) shall be awarded on a per migrant (including dependents) basis (calculated for each grantee or contractor by dividing each such grantee's or contractor's fiscal year 1992 grant level by the number of migrants, including dependents, within that grantee's or contractor's State as determined by the 1992 Report of the Tomas Rivera Center migrant enumeration project) and distributed in the following order:

(A) forty percent to migrant grantees and contractors funded at the lowest levels per migrant (including depend-

ents) so as to fund the largest number of programs possible at an equal per migrant and dependent amount;

(B) forty percent to migrant grantees and contractors such that each grantee or contractor funded at a level less than $19.09 per migrant and dependent shall be increased by an equal percentage of the amount by which such grantee's funding, including the increases under subparagraph (A) above, falls below $19.09 per migrant and dependent, within its State; and

(C) twenty percent on an equal migrant and dependent basis to all migrant grantees and contractors funded below $19.09 per migrant and dependent within its State.

(b) None of the funds appropriated under this Act to the Legal Services Corporation shall be expended for any purpose prohibited or limited by or contrary to any of the provisions of—

(1) section 607 of Public Law 101–515, and that, except for the funding formula, all funds appropriated for the Legal Services Corporation shall be subject to the same terms and conditions set forth in section 607 of Public Law 101–515 and all references to "1991" in section 607 of Public Law 101–515 shall be deemed to be "1993" unless paragraph (2) applies;

(2) authorizing legislation for fiscal year 1993 for the Legal Services Corporation as enacted into law.

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5678 (S. 3026):

HOUSE REPORTS: Nos. 102-709 (Comm. on Appropriations) and 102-918 (Comm. of Conference).
SENATE REPORTS: No. 102-331 accompanying S. 3026 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, 28, S. 3026 considered in Senate.
July 30, H.R. 5678 considered and passed House.
Aug. 3, considered and passed Senate, amended.
Oct. 1, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-396
102d Congress

An Act

Oct. 6, 1992
[H.R. 5504]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1993, and for other purposes.

Department of Defense Appropriations Act, 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1993, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $23,238,457,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $19,228,564,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)),

and to the Department of Defense Military Retirement Fund; $5,980,998,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for oganizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97–377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $18,522,963,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,170,496,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,653,200,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $345,526,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $729,019,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,239,702,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,166,100,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $14,437,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $13,442,418,000 and, in addition, $2,229,000,000, to be derived by

transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: *Provided,* That $450,000 shall be made available only for the 1993 Memorial Day Celebration and $450,000 shall be made available only for the 1993 Capitol Fourth Project: *Provided further,* That of the amounts appropriated under this heading, $120,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: *Provided further,* That of the funds appropriated under this heading, $36,000,000 shall be made available only for the procurement of the Extended Cold Weather Clothing System (ECWCS): *Provided further,* That not less than $1,715,000 shall be made available only for the environmental assessment and environmental cleanup of the Badger Army Ammunition plant: *Provided further,* That not less than $7,000,000 shall be made available only for the environmental cleanup of the National Presto Industries Eau Claire facility: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be available for providing military police training for Marine Corps personnel at Fort McClellan, Alabama: *Provided further,* That of the funds appropriated under this paragraph, $14,000,000 shall be available for Presidio of San Francisco, to be expended for ongoing operations and maintenance costs associated with the transition to the National Park Service, to be jointly determined with the National Park Service: *Provided further,* That of the funds appropriated under this paragraph, $100,000 shall be available only to connect Lowry Grove Mobile Home Park to the St. Anthony, Minnesota, municipal water supply system.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $5,005,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $19,108,558,000 and, in addition $94,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: *Provided,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That of the amounts appropriated under this heading, $25,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that

the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: *Provided further,* That of the funds appropriated under this heading, $1,000,000 shall be made available only for the conduct of an Environmental Impact Study at Bellows Air Force Base: *Provided further,* That of the funds appropriated under this heading $900,000 shall be made available only for the development of a military land use plan in Hawaii, under the direction of the Commander-in-Chief, United States Pacific Command.

OPERATION AND MAINTENANCE, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,383,138,000 and, in addition, $58,500,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: *Provided,* That none of the funds appropriated in this paragraph may be used for the conversion of facilities maintenance, utilities, and motor transport functions at Cherry Point Marine Corps Air Station, North Carolina, to performance by private contractor under the procedures and requirements of OMB Circular A–76 until the General Accounting Office completes their audit and validates the decision: *Provided further,* That from within funds provided in this paragraph, $3,000,000 shall be available only for Marine Corps child abuse prevention program.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $8,912,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $16,009,040,000 and, in addition, $672,000,000, to be derived by transfer from the Defense Business Operations Fund upon completion of the identification of residual inventories and the initiation of the transfer of such inventories to the wholesale supply system of the Defense Business Operations Fund: *Provided,* That of the amounts appropriated under this heading, $30,000,000 shall not be obligated or expended until such time as the Secretary of Defense certifies to the Committees on Appropriations of the House of Representatives and the Senate that the percentage of United States military base operations and foreign national employee pay costs offset by financial or assistance-in-kind contributions made by European governments will increase during the fiscal year ending September 30, 1993: *Provided further,* That, of the funds appropriated under this heading, $7,000,000 shall be made available only for the operation of the Theater Air Command Control and

Simulation Facility at Kirtland Air Force Base: *Provided further,* That of the funds appropriated under this heading, $15,500,000 shall be made available only to operate, maintain and enhance the Tactical Interim CAMS and REMIS Reporting System (TICARRS) and the Smart Data System (SDS): *Provided further,* That SDS be maintained, with direct maintenance data input, as the supporting system for the F–117A aircraft: *Provided further,* That TICARRS be maintained, with direct maintenance data input, as the supporting system for the F–15 and F–16 aircraft supported by TICARRS as of October 1, 1992: *Provided further,* That of the funds appropriated under this heading, $4,000,000 shall be made available only to immediately complete the necessary comprehensive testing and continued environmental restoration of the former Olmsted Air Force Base, Pennsylvania.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $8,778,004,000, of which not to exceed $25,000,000 may be available for the CINC initiative fund account; and of which not to exceed $16,560,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided,* That of the funds appropriated by this paragraph, $815,110,000 shall be made available only for the Special Operations Command: *Provided further,* That, of the funds appropriated under this heading, not less than $50,000,000 shall be made available only for the global disaster relief activities of the Department of Defense: *Provided further,* That, of the funds appropriated under this heading, not less than $10,000,000 shall be made available only for the disaster relief planning and studies of the Department of Defense as they relate to Department of Defense installations worldwide: *Provided further,* That, of the funds appropriated under this heading, not less than $50,000,000 shall be made available only for the Legacy Resource Management Program: *Provided further,* That of the funds appropriated under this heading, $500,000 may be made available only for the Hawaiian Volcano Observatory for monitoring volcanic activity affecting the United States Army Pohakuloa Training Area: *Provided further,* That of the funds appropriated under this heading, $50,000,000 may be made available to the Office of Economic Adjustment for economic conversion projects at the Philadelphia Naval Shipyard: *Provided further,* That of the funds appropriated under this heading, $40,000,000 may be made available for the Civilian Community Corps program: *Provided further,* That not less than $2,000,000 shall be made available only for a feasibility study on the use of a rotary reactor thermal destruction technology in the treatment and disposal of waste regulated under the Resource Conservation and Recovery Act of 1976.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equip-

ment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,038,525,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $850,745,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,870,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,195,024,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); and to establish the STARBASE youth education program; $2,255,623,000: *Provided,* That of the funds appropriated in this paragraph, $10,000,000 shall be available for a National Guard Outreach Program in the Los Angeles School District.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, mainte-

nance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $2,493,689,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel-related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for operation and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the sale of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances under section 4313 of title 10, United States Code; not to exceed $2,700,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $5,900,000, of which not to exceed $2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $1,199,700,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further,* That if an entity to which property is transferred (or leased) is a State or political subdivision of a State, the United

States shall hold harmless, defend and indemnify such entity from and against all claims, demands, losses, damages, liens, liabilities, injuries, deaths, penalties, fines, lawsuits and other proceedings, judgments, awards and costs and expenses arising out of, or in any manner predicated upon, the presence, release or threatened release of any hazardous substance, pollutant or contaminant resulting from the activities of the Department of Defense, (including the activities of any lessee, licensee or other person on the property during any time that the property was under the control of the Department of Defense): *Provided further,* That the terms "hazardous substance" ("pollutant or contaminant" and "release" shall mean any hazardous waste, substance or toxic material, or their discharge or release, that is regulated under any environmental law or regulation applicable to the property, and) shall include petroleum, including crude oil; natural gas, liquified natural gas; and asbestos: *Provided further,* That the term "State or political subdivision of a State" shall include the State's or the political subdivision's successors, assigns, transferees and lessees, and any person who, without participating in the management of the property, holds indicia of ownership primarily to protect its security interest in the property or improvements on the property: *Provided further,* That, of the funds provided under this heading, not less than $200,000,000 shall be available only for the expedited cleanup of environmentally contaminated sites and only in accordance with a comprehensive plan submitted to Congress by the Secretary of Defense.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for the people of Afghanistan and Cambodia, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian relief supplies, and excess non-lethal property for worldwide humanitarian relief, as authorized by law; $28,000,000, to remain available for obligation until September 30, 1994: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 15 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress: *Provided further,* That where required and notwithstanding any other provision of law, funds made available under this heading for fiscal year 1993 or thereafter, shall be available for emergency transportation of United States or foreign nationals or the emergency transportation of humanitarian relief personnel in conjunction with humanitarian relief operations.

10 USC 401 note.

WORLD UNIVERSITY GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the World University Games) provided by any component of the Department of Defense to the World University Games; $6,000,000.

SUMMER OLYMPICS

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the 1996 Games of the XXVI Olympiad to be held in Atlanta, Georgia) provided by any component of the Department of Defense to the 1996 Games of the XXVI Olympiad; $2,000,000.

WORLD CUP USA 1994

For logistical support and personnel services (other than pay and nontravel related allowances of members of the Armed Forces of the United States, except for members of the reserve components thereof called or ordered to active duty to provide support for the World Cup USA 1994 Organizing Committee) provided by any component of the Department of Defense to the World Cup USA 1994 Organizing Committee; $9,000,000.

REAL PROPERTY MAINTENANCE, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the maintenance of real property of the Department of Defense under this title of this Act, as follows:

Army, $507,962,000,
Navy, $354,246,000,
Marine Corps, $96,679,000,
Air Force, $356,929,000,
Defense Agencies, $67,261,000,
Army Reserve, $20,502,000,
Navy Reserve, $24,631,000,
Air Force Reserve, $25,186,000,
Army National Guard, $30,400,000,
Air National Guard, $36,233,000,

In all: $1,520,029,000, to remain available for obligation until September 30, 1994, and in addition, during the current fiscal year, the Secretary of Defense shall transfer such funds as are available up to $400,000,000 from the National Defense Stockpile Transaction Fund, to remain available for obligation until September 30, 1994: *Provided further,* That $200,000,000 of the funds transferred from the National Defense Stockpile Transaction Fund shall be available for the minor construction and major repair of real property for the military services and Defense Agencies, and the remainder shall be available only for repairing property which has been identified by the Department of Defense as part of a backlog of maintenance and repair projects in the justification material accompanying the President's budget request for fiscal year 1993: *Provided further,* That the funds transferred from the National Defense Stockpile Transaction Fund for repairing property identified as part of a backlog of maintenance and repair projects shall be allocated by the Comptroller, Department of Defense, for the projects determined by the Department of Defense as the highest priority for repair: *Provided further,* That of the funds available under this heading, $27,000,000 shall be available only for the repair of property identified as part of a backlog of maintenance and repair projects at the Presidio of San Francisco.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,441,842,000, to remain available for obligation until September 30, 1995.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,051,667,000, to remain available for obligation until September 30, 1995.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $921,389,000, to remain available for obligation until September 30, 1995: *Provided*, That notwithstanding any other provision of law, funds received from the sale of M48- and M60-series tanks from the Army inventory by the United States under the Arms Export Control Act in the amount of $196,625,000 in fiscal year 1991 and $771,000 in fiscal year 1992 shall be available only for the M1-series tank upgrade program.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $1,094,260,000, of which $200,000,000 shall be available only for the Armament Retooling and Manufacturing Support Initiative, to remain available for obligation until September 30, 1995.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle; the purchase of not to exceed 38 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $3,047,053,000, to remain available for obligation until September 30, 1995.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $6,026,213,000, to remain available for obligation until September 30, 1995.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, other ordnance and ammunition, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted

thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $3,760,697,000, to remain available for obligation until September 30, 1995.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

Carrier replacement program, $832,200,000;

Refueling overhauls, $37,239,000;

DDG–51 destroyer program, $3,265,770,000;

LHD–1 amphibious assault ship program, $305,000,000: *Provided,* That the Secretary of the Navy is hereby granted the authority to enter into a contract for an LHD–1 amphibious assault ship which shall be funded on an incremental basis;

LSD–41 cargo variant ship program, $300,000,000;

MHC coastal mine hunter program, $236,205,000;

AOE combat support ship program, $300,000,000;

Oceanographic ship program, $19,500,000;

For craft, outfitting, post delivery, and first destination transportation, and inflation adjustments, $682,373,000;

In all: $5,978,287,000, to remain available for obligation until September 30, 1997: *Provided,* That additional obligations may be incurred after September 30, 1997, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 602 passenger motor vehicles of which 574 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway;

$5,615,325,000, to remain available for obligation until September 30, 1995.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of not to exceed 46 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $824,607,000, to remain available for obligation until September 30, 1995.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $10,029,285,000, to remain available for obligation until September 30, 1995.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $4,369,524,000, to remain available for obligation until September 30, 1995.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle; the purchase of not to exceed 611 passenger motor vehicles of which 425 shall be for

replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $7,686,524,000, to remain available for obligation until September 30, 1995.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,567,200,000, to remain available for obligation until September 30, 1995.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 1 vehicle required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed $180,000 per vehicle; the purchase of not to exceed 565 passenger motor vehicles, of which 554 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,962,058,000, to remain available for obligation until September 30, 1995.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $6,032,860,000, to remain available for obligation until September 30, 1994: *Provided,* That the general reduction of $180,583,000 taken against the appropriation level provided herein, shall be applied, except for the $210,000,000 for breast cancer research, on a pro rata basis by subproject within each R–1 program element as modified by this Act: *Provided further,* That $210,000,000 of the funds appropriated in this paragraph shall be available for a peer reviewed breast cancer research program with the Department of the Army as executive agent: *Provided further,* That the Army shall coordinate with the Armed Services Biomedical Research and Evaluation Management (ASBREM) Committee to involve facilities and medical and research personnel of the Department of the Navy and the Department of the Air Force, or other entities, in addition to facilities, medical and

research personnel, and resources of the Department of the Army in the breast cancer research program: *Provided further,* That the Department of the Army, as executive agent, shall provide a report to the congressional defense committees not later than June 1, 1993, setting forth the details of the breast cancer research program, noting inter alia the benefits which may be achieved through such research in the reduction of future costs of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS): *Provided further,* That $7,500,000 of the funds in this paragraph shall be made available only for establishment of a flexible manufacturing center at the Scranton Army Ammunition Plant and may be transferred to another appropriation in title III of this Act: *Provided further,* That $2,000,000 shall be made available only for the Center for Prostate Disease Research at the Walter Reed Army Institute of Research: *Provided further,* That $3,000,000 shall be made available only for synaptic transmission research: *Provided further,* That $20,000,000 of the funds appropriated in this paragraph may be made available in the Acquired Immune Deficiency Syndrome program element only for a large-scale Phase III clinical investigation of the GP–160 vaccine: *Provided further,* That the funds referred to in the preceding proviso may be obligated unless, within six months after the date of the enactment of this Act, the Secretary of Defense, the Director of the National Institutes of Health, and the Commissioner of Food and Drugs submit to the Committees on Appropriations of the Senate and House of Representatives a written certification containing a determination of such officials that the large-scale Phase III clinical investigation should not proceed, the reasons for that determination, and an assessment of the GP–160 vaccine: *Provided further,* That if such certification is presented, the Secretary of Defense may use these funds only for other AIDS research needs of the Department of Defense: *Provided further,* That of the funds appropriated in this paragraph for medical technology, $4,000,000 may be used for Assistive Technology Center at the National Rehabilitation Hospital.

Reports.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,930,381,000, to remain available for obligation until September 30, 1994: *Provided,* That for continued research and development programs at the National Center for Physical Acoustics, centering on ocean acoustics as it applies to advanced antisubmarine warfare acoustics issues with focus on ocean bottom acoustics, seismic coupling, sea-surface and bottom scattering, oceanic ambient noise, underwater sound propagation, bubble related ambient noise, acoustically active surfaces, machinery noise, propagation physics, solid state acoustics, electrorheological fluids, transducer development, ultrasonic sensors, and other such projects as may be agreed upon, $1,000,000 shall be made available, as a grant, to the Mississippi Resource Development Corporation, of which not to exceed $250,000 of such sum may be used to provide such special equipment as may be required for particular projects: *Provided further,* That none of the funds appropriated in this paragraph or in Title IV of Public Law 102–172 may be obligated or expended to develop or purchase equipment for an Aegis

destroyer variant (commonly known as "DDV") whose initial operating capability is budgeted to be achieved prior to the initial operating capability of the Ship Self-Defense program, nor to develop sensor or processor capabilities which duplicate in any way those being developed in the Ship Self-Defense program: *Provided further,* That the general reduction of $277,682,000 taken against this appropriation account, as reflected in the total appropriation level provided herein, shall be applied on a pro rata basis by subproject within each R–1 program element as modified by this Act: *Provided further,* That not less than $1,500,000 of the funds appropriated in this paragraph shall be made available only as a grant to the West Virginia High Technology Corporation for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $13,199,006,000, to remain available for obligation until September 30, 1994: *Provided,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available only for continuing the research program on development of coal-based, high thermal stability and endothermic jet fuels, including exploratory studies on direct conversion of coal to thermally stable jet fuels: *Provided further,* That not less than $6,500,000 of the funds appropriated in this paragraph shall be made available only for the Joint Seismic Program administered by the Incorporated Research Institutions for Seismology: *Provided further,* That not less than $45,000,000 of the funds appropriated in this paragraph shall be made available only for the National Center for Manufacturing Sciences (NCMS), of which not less than $5,000,000 is available only for the National Center for Tooling and Precision Components (NCTPC): *Provided further,* That not less than $55,500,000 of the funds appropriated in this paragraph shall be made available only for the Space Nuclear Thermal Propulsion Program: *Provided further,* That the general reduction of $410,515,000 taken against this appropriation account, as reflected in the total appropriation level provided herein, shall be applied on a pro rata basis by subproject within each R–1 program element as modified by this Act: *Provided further,* That of the funds appropriated in this paragraph, not less than $39,500,000 shall be made available in the SPACETRACK program element only to continue the Advanced Electro-Optical System project at the Air Force Maui Optical Station: *Provided further,* That of the funds appropriated in this paragraph, not less than $11,600,000 shall be made available in the Advanced Weapons Technology program element only for a Laser Imaging Detection and Ranging (LIDAR) project: *Provided further,* That of the funds appropriated in this paragraph not less than $5,000,000 may available in the Advanced Weapons program element only to continue the establishment and operation of an image information processing center supporting the Air Force Maui Optical Station and the Maui Optical Tracking Facility: *Provided further,* That of the funds appropriated under the previous proviso, $500,000 may be made available as a grant to the Maui Economic Development Board to assist in refining the defense and industrial

requirements and user base for the aforementioned image information processing center: *Provided further,* That of the funds appropriated in this paragraph, $10,000,000 shall be available only for grants to be made for the development of dual use space launch facilities to support Department of Defense and commercial space launch requirements, consistent with the terms of the National Space Policy Directive: *Provided further,* That the Secretary of the Air Force shall provide the Committees on Appropriations of the House of Representatives and the Senate a plan to implement this grant program not later than March 15, 1993.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,799,911,000, to remain available for obligation until September 30, 1994: *Provided,* That the general reduction of $189,065,000 taken against this appropriation account, as reflected in the appropriation level provided herein, shall be applied, except for the $3,724,800,000 for the Strategic Defense Initiative, on a pro rata basis by subproject within each R–1 program element as modified by this Act: *Provided further,* That not less than $135,000,000 of the funds appropriated in this paragraph are available only for the Extended Range Interceptor (ERINT) missile: *Provided further,* That not less than $57,776,000 of the funds appropriated in this paragraph are available only for the Arrow Continuation Experiments: *Provided further,* That not less than $111,140,000 of the funds appropriated in this paragraph are available only for the Patriot missile program: *Provided further,* That not less than $12,000,000 of the funds appropriated in this paragraph shall be available only for an Experimental Program to Stimulate Competitive Research (EPSCOR) in the Department of Defense which shall include all States eligible as of the date of enactment of this Act for the National Science Foundation Experimental Program to Stimulate Competitive Research: *Provided further,* That none of the funds in this paragraph may be obligated for the development of the Superconductive Magnetic Energy Storage system unless its processes, materials, and components are substantially manufactured in the United States: *Provided further,* That not less than $25,000,000 of the funds appropriated in this paragraph shall be made available only to explore the potential for electric vehicles to enable the armed services to achieve energy cost savings, comply with environmental requirements, and meet mission objectives: *Provided further,* That not less than $5,000,000 of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in the State of Hawaii and not less than $2,500,000 of the funds provided under the previous proviso shall be made available only to establish one of the demonstration sites for the aforementioned electric vehicle technology program in Sacramento, California: *Provided further,* That not less than $5,000,000 of the funds appropriated

in this paragraph shall be made available as a grant only to the Texas Regional Institute for Environmental Studies for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Maryland for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $3,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Scranton for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $15,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Spokane Intercollegiate Research and Technology Institute for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $9,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Northeastern University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Colorado State University for laboratory and other efforts associated with research, development, and other programs of major importance to the Department of Defense: *Provided further,* That not less than $4,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Louisiana State University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Illinois Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $5,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Loma Linda University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Minnesota for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Miami (Florida) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of Michigan for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $7,500,000 of

the funds appropriated in this paragraph shall be made available as a grant only to the University of Pennsylvania for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $3,000,000 of the funds appropriated in this paragraph shall be made available as a grant only for the Science Center of Connecticut for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Villanova University for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $1,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Medical College of Ohio for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $3,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Rochester Institute of Technology for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to Bryant College of Rhode Island for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to Bradley University (Illinois) for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That not less than $2,000,000 of the funds appropriated in this paragraph shall be made available as a grant only to the University of South Florida for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: *Provided further,* That of the funds provided in this paragraph, $10,000,000 shall be made available as a grant to the National Biomedical Research Foundation for laboratory efforts associated with major research programs in neurology, oncology, virology, cardiology, pediatrics and associated specialty areas of critical importance to the Department of Defense.

GENERAL PROVISION

SEC. 401. Funds appropriated in this title that are directed to be made available for a grant to, or contract with, a college or university for the performance of research and development or for construction of a research or other facility shall be made available for that purpose without regard to, and (to the extent necessary) in contravention of, section 2361 of title 10, United States Code, which is hereby modified and superceded to the extent necessary to make each such grant or award each such contract, and any such grant or contract shall be made without regard to any of the conditions specified in subsection (b) of that section or section 2304 of title 10, United States Code.

Grants.
Contracts.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Director of Defense Research and Engineering (Test and Evaluation) in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $259,707,000, to remain available for obligation until September 30, 1994.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $12,983,000, to remain available for obligation until September 30, 1994.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE BUSINESS OPERATIONS FUND

For the Defense Business Operations Fund; $1,123,800,000: *Provided,* That, in addition to any other transfer authority contained in this Act, $1,054,800,000 shall be transferred from the Defense Business Operations Fund to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $480,000,000 to Operation and Maintenance, Navy; $150,800,000 to Operation and Maintenance, Marine Corps; $312,700,000 to Operation and Maintenance, Air Force; and $111,300,000 to Operation and Maintenance, Defense Agencies: *Provided further,* That, of funds available in the Defense Business Operations Fund, not less than $90,000,000 shall be available for the purchase of 1.8 million cases of Meals Ready to Eat in the current fiscal year.

NATIONAL DEFENSE SEALIFT FUND

(INCLUDING TRANSFER OF FUNDS)

For the National Defense Sealift Fund, $613,400,000 to remain available until expended, and in addition, to be derived by transfer, $1,875,100,000 of funds previously appropriated for sealift under the heading "Shipbuilding and Convention, Navy" in fiscal years 1990, 1991 and 1992: *Provided,* That section 1024 of the National Defense Authorization Act for Fiscal Year 1993, as it passed the Senate on October 3, 1992, shall be amended in subsection 2218(c)(2) proposed for inclusion in Chapter 131 of title 10 by deleting all after "expended only" down to and including "appropriations Act" and inserting in lieu thereof, "in amounts authorized by law": *Provided further,* That for purposes of this paragraph, this Act shall be treated as having been enacted after the National

10 USC 2218.

10 USC 2218 note.

Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law; $9,242,572,000, of which $8,948,800,000 shall be for Operation and maintenance, of which $92,251,000 shall be for real property maintenance to remain available for obligation until September 30, 1994; and $293,772,000, to remain available for obligation until September 30, 1995, shall be for Procurement: *Provided,* That not to exceed $40,000,000 of available funds shall be provided to the Uniformed Services Treatment Facilities program to be used only to fulfill any recoupment action of the Health Care Financing Administration for health care provided to eligible retired Department of Defense beneficiaries over age 65 between October 1, 1986, and December 31, 1989: *Provided further,* That funds made available in this section shall be obligated thirty days after the Inspector General of the Department of Defense and the Inspector General of the Department of Health and Human Services have jointly reported solely on the amounts claimed by the Health Care Financing Administration under this provision, and addressed possible procedures to avoid any future billing inaccuracies: *Provided further,* That the Inspectors General shall submit this report to the Secretaries of the Departments of Defense and Health and Human Services and to the Committees on Appropriations of the Senate and the House of Representatives not later than March 31, 1993: *Provided further,* That the Health Care Financing Administration shall refrain from pursuit of recoupment actions until such funds are obligated: *Provided further,* That the Department shall competitively contract for and begin to test implementation of a mail service pharmacy benefit in fiscal year 1993 in Hawaii and in at least two regions of the United States: *Provided further,* That of the funds appropriated in this Act, $150,000 shall be used only for the implementation of a cooperative program model at Madigan Medical Center for severely behavior disordered students: *Provided further,* That notwithstanding any other provision of law or regulation, there will be no requirement for the Secretary of Defense or any other Government official to perform any Congressionally-directed certification before the CHAMPUS Reform Initiative managed care program is expanded: *Provided further,* That this provision shall only apply to sites listed in section 9032 of this Act and the Northern CHAMPUS Region: *Provided further,* That not less than $7,500,000 of the funds appropriated in this paragraph shall be made available as a grant only to the Northeast Regional Cancer Institute for programs of major importance to the Department of Defense.

Reports.

Contracts. Hawaii.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412

of the Department of Defense Authorization Act, 1986; $518,600,000, of which $267,400,000 shall be for Operation and maintenance, $244,700,000, to remain available until September 30, 1995, shall be for Procurement, and $6,500,000, to remain available until September 30, 1994, shall be for Research, development, test and evaluation.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation; $1,140,651,000: *Provided,* That the funds appropriated by this paragraph shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further,* That the transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act: *Provided further,* That $25,500,000 shall be available only for operation and maintenance expenses for five sea-based aerostat systems to provide detection and monitoring support for the United States Coast Guard anti-narcotics operations: *Provided further,* That of the funds appropriated in this paragraph, not less than $7,500,000 shall be available only for the Gulf States Counter-Narcotics Initiative: *Provided further,* That from within the funds appropriated in this paragraph, the Secretary shall either lease or procure, and evaluate, an existing airship as an integrated sensor platform for detection and monitoring missions in the Department's Drug Interdiction and Counternarcotics program.

Contracts.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended; $126,000,000, of which $125,200,000 shall be for Operation and maintenance, of which not to exceed $300,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on his certificate of necessity for confidential military purposes; and of which $800,000, to remain available until September 30, 1995, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $168,900,000.

COMMUNITY MANAGEMENT STAFF

For necessary expenses of the Community Management Staff; $77,700,000.

TITLE VIII

DEFENSE REINVESTMENT FOR ECONOMIC GROWTH

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for transition benefits for military and civilian employees of the Department of Defense, assistance to communities and industries affected by the military drawdown, and for other expenses associated with reinvestment for economic growth as authorized in the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, in addition to amounts appropriated elsewhere in this Act for such purposes; $472,000,000, to remain available for obligation until September 30, 1994: *Provided,* That, of the funds appropriated under this heading, $80,000,000 may be transferred by the Secretary of Defense under established procedures to the Department of Commerce, Economic Development Administration only for programs which assist workers and communities affected by the military drawdown: *Provided further,* That, of the funds appropriated under this heading, $76,000,000 may be made available to the Secretary of Defense for the provision of temporary health transition assistance for military and civilian employees of the Department of Defense: *Provided further,* That, of the funds appropriated under this heading, $72,000,000 may be made available to the Secretary of Defense for Department of Defense civilian personnel transition initiatives: *Provided further,* That, of the funds appropriated under this heading, $65,000,000 may be made available to the Secretary of Defense for his efforts to provide training in the field of education for military and civilian employees of the Department of Defense to relieve shortages of elementary and secondary school teachers and teacher's aides: *Provided further,* That, of the funds appropriated under this heading, $20,000,000 may be made available to the Secretary of Defense for Defense environmental research, education, and retraining programs: *Provided further,* That, of the funds appropriated under this heading, $84,000,000 may be made available to the Secretary of Defense to support job training and employment and educational opportunities for members of the armed forces who are discharged or released from active duty: *Provided further,* That, of the funds appropriated under this heading, $75,000,000 may be made available to the Secretary of Defense for military service members occupational conversion and training: *Provided further,* That amounts made available under this heading, which the Director of the Office of Management and Budget would, upon review, classify as domestic discretionary spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be withheld from obligation until provision is made for alternative use of such funds in a subsequent appropriations Act: *Provided further,* That for the purposes of this paragraph, this Act shall be treated as having been enacted after the National Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

TITLE IX

GENERAL PROVISIONS

SEC. 9001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584 note.

SEC. 9002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided,* That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further,* That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further,* That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of the Philippines or foreign national employees of the Department of Defense in the Republic of Turkey.

Government employees. Wages.

Philippines. Turkey.

SEC. 9003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 9004. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided,* That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

10 USC 2241 note.

SEC. 9005. During the current fiscal year and hereafter, no part of any appropriation contained in this Act, except for small purchases covered by section 2304(g) of title 10, United States Code, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United

States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided,* That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of agreements with foreign governments in which both governments agree to remove barriers to purchases of supplies produced in the other country or services performed by sources of the other country, so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further,* That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions.

Commerce and trade.

(TRANSFER OF FUNDS)

SEC. 9006. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $1,500,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act.

(TRANSFER OF FUNDS)

SEC. 9007. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds and the "Foreign Currency Fluctuations, Defense" and "Operation and Maintenance" appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations

may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 9008. (a) None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

Germany.

(b) Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided,* That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further,* That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 9009. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 9010. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 9011. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services shall be available for payments to physicians and other authorized individual health care providers in excess of the amounts allowed in fiscal year 1992 for similar services, except that: (a) for services for which the Secretary of Defense determines an increase is justified by economic circumstances, the allowable amounts may be increased in accordance with appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act; and (b) for services the Secretary determines are overpriced based on allowable payments under title XVIII of the Social Security Act, the allowable amounts shall be reduced by not more than 15 percent (except that the reduction may be waived if the Secretary determines that it would impair adequate access to health care services for beneficiaries). The Secretary shall solicit public comment prior to promulgating regulations to implement this section. Such regulations shall include a limitation, similar to that used under title XVIII of the Social Security Act, on the extent to which a provider may bill a beneficiary an actual charge in excess of the allowable amount.

Regulations.

SEC. 9012. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1995.

SEC. 9013. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

Defense Support Satellites 23, 24 and 25 and the Enhanced Modular Signal Processor.

(TRANSFER OF FUNDS)

SEC. 9014. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 9015. (a) None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active duty status or active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 70,363: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 46,449 positions in support of the Army Reserve, Army National Guard, or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard, or Air National Guard.

(b) None of the funds appropriated by this Act shall be used to include (civilian) military technicians in any administratively imposed freeze on civilian positions.

Indians.
Real property.

SEC. 9016. Notwithstanding any other provision of law, governments of Indian tribes shall be treated as State and local governments for the purposes of disposition of real property recommended for closure in the report of the Defense Secretary's Commission on Base Realignments and Closures, December 1988, the report to the President from the Defense Base Closure and Realignment Commission, July 1991, and Public Law 100–526.

SEC. 9017. (a) The provisions of section 115(a)(4) of title 10, United States Code, shall not apply with respect to fiscal year 1993 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1993, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1994 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1994 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1994.

SEC. 9017A. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States, its territories, and the District of Columbia, 131,250 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further,* That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

SEC. 9018. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 9019. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 9020. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

10 USC 401 note.

SEC. 9021. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized

Reports.

operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99–239: *Provided further,* That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

Pacific Islands. Micronesia.

Territories.

SEC. 9022. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

Armed Forces reserves.

SEC. 9023. Notwithstanding any other provision of law, the Army Central Hospital Fund, a Non Appropriated Fund Instrumentality, shall be terminated upon enactment of this Act. All residual funds will, on that date, be transferred to an appropriated trust fund established by the Secretary of the Army for the operation and maintenance of "Fisher Houses" located in proximity to Army Medical Treatment Facilities. The Secretary shall promulgate regulations governing the expenditure and accountability of these funds.

Termination date.

Regulations.

SEC. 9024. (a) None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act—

(1) enlists in the armed services for a period of active duty of less than three years; or

(2) receives an enlistment bonus under section 308a or 308f of title 37, United States Code,

nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Secretary of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Secretary of Veterans Affairs pay such benefits to any such member: *Provided,* That, in the case of a member covered by clause (1), these limitations shall not apply to members in combat arms skills or to members who enlist in the armed services on or after July 1, 1989, under a program continued or established by the Secretary of Defense in fiscal year 1991 to test the cost-effective use of special recruiting incentives involving not more than nineteen noncombat arms skills approved in advance by the Secretary of Defense: *Provided further,* That this subsection applies only to active components of the Army.

(b) None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this subsection applies only to active components of the Army.

SEC. 9025. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 9026. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That this section shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent Native American ownership.

SEC. 9027. None of the funds available to the Department of Defense shall be available to award a competitive procurement contract for any round of 120mm mortar ammunition unless such round has successfully passed first article acceptance testing and has a validated level III technical data package which supports such competitive procurement: *Provided,* That none of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States.

SEC. 9027A. Notwithstanding any other provision of law, none of the funds appropriated in this Act may be used to purchase, install, replace, or otherwise repair any lock on a safe or security container which protects information critical to national security or any other classified materials and which has not been certified as passing the security lock specifications contained in regulation FF–L–2740 dated October 12, 1989, and has not passed all testing criteria and procedures established through February 28, 1992.

SEC. 9028. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Pro-*

vided, That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,600,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 9029. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 9030. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

SEC. 9031. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces: *Provided,* That none of the funds appropriated or made available in this Act may be used to inactivate, disestablish, or discontinue the Navy's Craft of Opportunity Program. State listing.

SEC. 9032. Notwithstanding any other provision of law, the Department shall competitively award contracts for the geographical expansion of the CHAMPUS Reform Initiative in Florida (which may include Department of Veterans Affairs medical facilities with the concurrence of the Secretary of Veterans Affairs), Washington, Oregon, and the Alexandria, Louisiana (England Air Force Base) Forth Worth, Texas (Carswell Air Force Base) and Austin, Texas (Bergstrom Air Force Base) regions: *Provided further,* That none of the funds appropriated, or otherwise made available to the Department of Defense, by this or any other Act of Congress, shall be used to implement or administer a health care delivery management program for Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) eligible beneficiaries in California, Florida, Hawaii, Oregon, Washington, New Orleans, and the Alexandria, Louisiana (England Air Force Base) Forth Worth, Texas (Carswell Air Force Base) and Austin, Texas (Bergstrom Air Force Base) regions, unless the scope of benefits and program management structure preserve the basic design in operation that provided on October 1, 1991, under the California and Hawaii CHAMPUS Reform Initiative Demonstration Program: *Provided further,* That no funds may be used to implement or otherwise administer a health care delivery management program that restricts access to military treatment facilities or otherwise reduces the health care benefits of eligible beneficiaries who choose not to enroll in that program: *Provided further,* That no provision of this or any other Act shall be interpreted as granting authority under title 10, United States Code, section 2304(c)(5) to contract with CHAMPUS fiscal intermediaries (FI), without soliciting competitive, at-risk proposals for health care services, for the purpose of giving them more responsibility for implementing or otherwise administering a health care delivery management program: *Provided further,* That this restriction shall not apply to the current FI contracts for the Tidewater area of Virginia and the Southeastern CHAMPUS Region: *Provided further,* That this restriction shall not apply to FI contracts at base closure and realignment sites,

Contracts.

except in the Northern CHAMPUS Region, if the contracts are expiring within 18 months: *Provided further,* That within thirty days following enactment of this Act, the Department shall take action to amend the contract award under solicitation number MDA 903–90–R–0027 or release a competitive solicitation for a new contract to begin providing services in Alexandria, Louisiana, and the regions of Fort Worth and Austin, Texas, by May 1, 1993: *Provided further,* That Solicitation Number MDA 906–91–R–0002 be amended to conform with this provision of law and shall provide for no less than a six-month transition period: *Provided further,* That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision and Solicitation Number MDA 906–92–R–0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans: *Provided further,* That the Department of Defense shall enter into participation agreements with the Uniformed Services Treatment facilities implementing the managed care program mandated under section 718(c) of the National Defense Authorization Act for fiscal year 1991 (Public Law 101–510; 104 Stat. 1587) which provides for such service delivery under such program beginning no later than October 1, 1993.

Contracts.

SEC. 9033. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 9034. None of the funds provided in this Act shall be available for use by a Military Department to modify an aircraft, weapon, ship or other item of equipment, that the Military Department concerned plans to retire or otherwise dispose of within five years after completion of the modification: *Provided,* That this prohibition shall not apply to safety modifications: *Provided further,* That this prohibition may be waived by the Secretary of a Military Department if the Secretary determines it is in the best national security interest of the country to provide such waiver and so notifies the congressional defense committees in writing: *Provided further,* That during the current fiscal year and the following fiscal year, additional obligations may be incurred under fiscal year 1990 procurement appropriations for the installation of equipment when obligations were incurred during the period of availability of such appropriations for the procurement of such equipment but obligations for the installation of such equipment were not able to be incurred before the expiration of the period of availability of such appropriations.

SEC. 9035. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508), the term program, project,

and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1993, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P–1 and R–1 budget justification documents as subsequently modified by Congressional action: *Provided,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act: *Provided further,* That at the time the President submits his budget for fiscal year 1994, the Department of Defense shall transmit to the Committees on Appropriations and the Committees on Armed Services of the Senate and the House of Representatives a budget justification document to be known as the "O–1" which shall identify, at the budget activity, activity group, and subactivity group level, the amounts requested by the President to be appropriated to the Department of Defense for operation and maintenance in any budget request, or amended budget request, for fiscal year 1994.

SEC. 9036. Of the funds appropriated to the Army, $230,700,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended—

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(4) unless the Program Manager (PM) charter makes the PM accountable to the Chief of the National Guard Bureau and fully defines his authority, responsibility, reporting channels and organizational structure;

(5) to pay the salaries of individuals assigned to the RCAS program management office unless such organization is comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(6) to pay contracted costs for the acquisition of RCAS unless RCAS is an integrated system consisting of software, hardware, and communications equipment and unless such contract continues to preclude the use of Government furnished equipment, operating systems, and executive and applications software; and

(7) unless RCAS performs its own classified information processing.

SEC. 9036A. None of the funds appropriated or otherwise made available by this Act may be obligated or expended for development or procurement of any automated Computer Aided Logistics system unless specific approval for such system is provided in writing to the Committees on Appropriations and Armed Services of the House and Senate by the Assistant Secretary of Defense for Production and Logistics at least 30 days prior to any contract solicitation.

SEC. 9037. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 9038. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 9039. Not to exceed $20,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 9040. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided,* That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further,* That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further,* That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 9040A. The Secretary of Defense shall take such action as necessary to assure that a minimum of 75 percent of the coal and petroleum pitch carbon fiber requirement be procured from domestic sources by 1994.

(TRANSFER OF FUNDS)

SEC. 9041. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations for the purpose of providing military

technician and Department of Defense medical personnel pay and medical programs (including CHAMPUS) the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99–177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100–119) and by the Budget Enforcement Act of 1990 (Public Law 101–508): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty calendar days in session before any such transfer of funds under this provision.

SEC. 9041A. (a) Of the amounts available to the Department of Defense for fiscal year 1993, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiatives Program in "Research, Development, Test and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

SEC. 9042. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel homeported on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 9043. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided,* That this limitation does not apply in the case of inpatient mental health services provided under the program for the handicapped under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health profes-

sional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

SEC. 9044. The designs of the Army Comanche Helicopter, the Navy A–X Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications and must fully comply with all DOD regulations requiring the use of the Ada computer programming language no later than 1998: *Provided,* That all new Department of Defense procurements shall separately identify software costs in the work breakdown structure defined by MIL–STD–881 in those instances where software is considered to be a major category of cost.

Computer technology.

SEC. 9045. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union or its successor entities in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987, may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty-first day following submission of an appropriate request for payment: *Provided further,* That funds appropriated in this Act may be used to reimburse United States military personnel for reasonable costs of subsistence, at rates to be determined by the Secretary of Defense, incurred while accompanying Soviet Inspection Team members or inspection team members of the successor entities of the Soviet Union engaged in activities related to the INF Treaty: *Provided further,* That this provision includes only the in-country period (referred to in the INF Treaty) and is effective whether such duty is performed at, near, or away from an individual's permanent duty station.

Prisoners of war. Missing in action.

SEC. 9046. Funds available in this Act may be used to provide transportation for the next-of-kin of individuals who have been prisoners of war or missing in action from the Vietnam era to an annual meeting in the United States, under such regulations as the Secretary of Defense may prescribe.

Reports.

SEC. 9047. None of the funds available to the Department of Defense or Navy shall be obligated or expended to (1) implement Automatic Data Processing, Data Processing Installation, Central Design Activity, or Information Technology Facility consolidation plans, or (2) to make reductions in force or transfers in personnel, end strengths, billets, functions, or missions that affect the Naval Computer and Telecommunications Stations, the Enlisted Personnel Management Center, and the Naval Reserve Personnel Center and related missions, functions and commands, except in the National Capital Region, until sixty legislative days after the Secretary of Defense submits a report, including complete review comments

and a certification, by the General Accounting Office, to the Committees on Appropriations of the House and Senate justifying any consolidations or reductions in force or transfers in personnel, end strengths, billets, and functions in terms of: (1) addressing the overall mission, functions, and operations staffing of all active and reserve Naval and Department of Defense Automatic Data Processing, Information Technology Facilities, Central Design Activities, all active and reserve Naval personnel functions, commands and field activities, and the establishment, as part of DMRD 918, of a Data Processing Installation and Central Design Activity megacenter, including reserve functions, at the Naval Computer and Telecommunications Station, New Orleans; and (2) certifying that any consolidation plans, new operations or reductions in force or transfers in personnel, end strengths, billets, functions, or missions: (a) do not duplicate functions presently conducted, do not adversely impact, in terms of reductions in force or transfers in personnel, end strength, billets, functions, or missions, the Naval Computer and Telecommunications Station, New Orleans, the Enlisted Personnel Management Center, or the Naval Reserve Personnel Center, do not consolidate or transfer Department of Defense or Service Data Processing Installations, Central Design Activities, or Information Technology Facilities, or claim savings, that are in more than one defense management report plan; (b) are the most cost effective from a budgetary standpoint; (c) will not adversely affect the mission, readiness and strategic considerations of the Navy and the Naval Reserve, and will not adversely impact on the quality of life and economic benefits of the individual serviceman, dependents, and civilian personnel or have an adverse economic impact on a metropolitan region.

10 USC 2687 note.

SEC. 9047A. Notwithstanding any other provision of law, the Secretary of Defense may, by Executive Agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided,* That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further,* That the Department of Defense's budget submission for each fiscal year shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base operating costs that shall be funded by the host nation through such credits: *Provided further,* That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further,* That each such Executive Agreement with a NATO member host nation shall be reported to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate thirty days prior to the conclusion and endorsement of any such agreement established under this provision.

Reports.

SEC. 9048. No funds appropriated by this Act may be obligated or expended to prepare, or to assist any contractor of the Department of Defense in preparing, any material, report, list, or analysis with respect to the actual or projected economic or employment

impact in a particular State or congressional district of an acquisition program for which all research, development, testing and evaluation has not been completed.

SEC. 9049. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 9050. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 9051. None of the funds available to the Department of Defense in this Act shall be used to demilitarize or dispose of more than 310,784 unserviceable M1 Garand rifles and M1 Carbines.

SEC. 9052. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 9053. None of the funds appropriated by this Act may be used by the Department of Defense to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 9054. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS II) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS II program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS II program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS II program elsewhere.

SEC. 9055. Of the funds appropriated by this Act, no more than $18,500,000 shall be available for the mental health care demonstration project at Fort Bragg, North Carolina: *Provided,* That adjustments may be made for normal and reasonable price and program growth.

SEC. 9056. None of the funds appropriated by this Act may be used to pay health care providers under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) for services determined under the CHAMPUS Peer Review Organization (PRO) Program to be not medically or psychologically necessary. The Secretary of Defense may by regulation adopt any quality and utilization review requirements and procedures in effect for the Peer Review Organization Program under title XVIII of the Social Security Act (Medicare) that the Secretary determines necessary, and may adapt the Medicare requirements and procedures to the circumstances of the CHAMPUS PRO Program as the Secretary determines appropriate.

Wages.

SEC. 9057. Such sums as may be necessary for fiscal year 1993 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Animals.
Reports.
Medical research.

SEC. 9058. None of the funds appropriated by this Act shall be available for payments under the Department of Defense contract with the Louisiana State University Medical Center involving the use of cats for Brain Missile Wound Research, and the Department of Defense shall not make payments under such contract from funds obligated prior to the date of the enactment of this Act, except as necessary for costs incurred by the contractor prior to the enactment of this Act, and until thirty legislative days after the final General Accounting Office report on the aforesaid contract is submitted for review to the Committees on Appropriations of the House of Representatives and the Senate: *Provided,* That funds necessary for the care of animals covered by this contract are allowed.

SEC. 9059. None of the funds provided in this Act or any other Act shall be available to conduct bone trauma research at the Letterman Army Institute of Research until the Secretary of the Army certifies that the synthetic compound to be used in the experiments is of such a type that its use will result in a significant medical finding, the research has military application, the research will be conducted in accordance with the standards set by an animal care and use committee, and the research does not duplicate research already conducted by a manufacturer or any other research organization.

10 USC 2687 note.

SEC. 9060. The Secretary of Defense shall include in any base closure and realignment plan submitted to Congress after the date of enactment of this Act, a complete review for the five-year period beginning on October 1, 1992, which shall include expected force structure and levels for such period, expected installation requirements for such period, a budget plan for such period, the cost savings expected to be realized through realignments and closures of military installations during such period, an economics model to identify the critical local economic sectors affected by proposed closures and realignments of military installations and an assessment of the economic impact in each area in which a military installation is to be realigned or closed.

SEC. 9061. No more than $50,000 of the funds appropriated or made available in this Act shall be used for any single relocation

of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided,* That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and Senate that such a relocation is required in the best interest of the Government: *Provided further,* That no funds appropriated or made available in this Act shall be used for the relocation into the National Capital Region of the Air Force Office of Medical Support located at Brooks Air Force Base.

Contracts. Labor.

SEC. 9061A. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1993 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 9062. The Secretary of Defense shall ensure that at least 50 percent of the Joint Service Missile Mission is in place at Letterkenny Army Depot by the time Systems Integration Management Activity and Depot Systems Command are scheduled to relocate to Rock Island Arsenal, Illinois. This provision is in no way intended to affect the move of the 2.5- and 5-ton truck maintenance mission from Letterkenny Army Depot to Tooele Army Depot.

SEC. 9062A. Notwithstanding any other provision of law, of the funds made available by this Act to the Department of the Navy, $500,000, to remain available until September 30, 1993, shall be available only for the expenses of the Kahoolawe Island Commission which is hereby authorized to delay until March 31, 1993, the submission of its final report: *Provided,* That the Secretary of the Navy shall provide the Commission such assistance and facilities as may be necessary to carry out its proceedings.

SEC. 9063. None of the funds appropriated in this Act shall be used to produce more than two-thirds of the liquid gas requirements in-house at Andersen Air Force Base on Guam. At least one-third of Andersen Air Force Base's liquid gas requirements shall be met by acquiring liquid gas from commercial sources on Guam.

SEC. 9064. During the current fiscal year, funds appropriated or otherwise available for any Federal agency, the Congress, the judicial branch, or the District of Columbia may be used for the pay, allowances, and benefits of an employee as defined by section 2105 of title 5 or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the armed forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32;

(2) performs, for the purpose of providing military aid to enforce the law or providing assistance to civil authorities in the protection or saving of life or property or prevention of injury—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States; and

(3) requests and is granted—

(A) leave under the authority of this section; or

(B) annual leave, which may be granted without regard to the provisions of sections 5519 and 6323(b) of title 5, if such employee is otherwise entitled to such annual leave:

Provided, That any employee who requests leave under subsection (3)(A) for service described in subsection (2) of this section is entitled to such leave, subject to the provisions of this section and of the last sentence of section 6323(b) of title 5, and such leave shall be considered leave under section 6323(b) of title 5. Government employees.

SEC. 9065. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A–76 if the study being performed exceeds a period of twenty-four months after initiation of such study with respect to a single function activity or forty-eight months after initiation of such study for a multi-function activity.

SEC. 9066. None of the funds appropriated by this Act shall be used to begin closing a military treatment facility unless the Secretary of Defense notifies the Committees on Appropriations of the House of Representatives and the Senate ninety days prior to such action.

SEC. 9067. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 9068. None of the unobligated balances available in the National Defense Stockpile Transaction Fund during the current fiscal year may be obligated or expended to finance any grant or contract to conduct research, development, test and evaluation activities for the development or production of advanced materials, unless amounts for such purposes are specifically appropriated in a subsequent appropriations Act.

SEC. 9069. (a) As stated in section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

(b)(1) Consistent with the policy referred to in subsection (a), no Department of Defense prime contract in excess of the small purchase threshold, as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)), may be awarded to a foreign person, company, or entity unless that person, company, or entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

(2) The Secretary of Defense may waive the prohibition in paragraph (1) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each calendar quarter, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this paragraph during such quarter. Reports.

(3) This provision does not apply to contracts for consumable supplies, provisions or services intended to be executed for the support of the United States or of allied forces in a foreign country, nor does it apply to contracts pertaining to any equipment, technology, data, or services for intelligence or classified purposes, or the acquisition or lease thereof by the United States Government in the interests of national security.

Computer technology.
10 USC 113 note.

SEC. 9070. Notwithstanding any other provision of law, where cost effective, all Department of Defense software shall be written in the programming language Ada, in the absence of special exemption by an official designated by the Secretary of Defense.

SEC. 9071. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 4107(g) of title 38, United States Code as in existence on October 1, 1990.

SEC. 9072. None of the funds available to the Department of Defense shall be used for the training or utilization of psychologists in the prescription of drugs, except pursuant to the findings and recommendations of the Army Surgeon General's Blue Ribbon Panel as specified in its February and August 1990 meeting minutes.

SEC. 9073. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the military or civilian medical and medical support personnel end strength at a base undergoing a partial closure or realignment, where more than one joint command is located, below the September 30, 1991 level.

SEC. 9074. Of the funds made available in this Act, not less than $10,596,000 shall be available for the Civil Air Patrol, of which $4,471,000 shall be available for Operation and Maintenance.

SEC. 9075. None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the 815th Tactical Airlift Squadron of the Air Force Reserve, if such action would reduce the WC–130 Weather Reconnaissance mission below the levels funded in this Act.

SEC. 9076. During the current fiscal year, withdrawal credits may be made by the Defense Business Operations Fund to the credit of current applicable appropriations of an activity of the Department of Defense in connection with the acquisition by that activity of supplies that are repairable components which are repairable at a repair depot and that are capitalized into the Defense Business Operations Fund as the result of management changes concerning depot level repairable assets charged to an activity of the Department of Defense which is a customer of the Defense Business Operations Fund that became effective on April 1, 1992.

SEC. 9077. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

Small businesses.
Contracts.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting

goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase "qualified nonprofit agency for the blind or other severely handicapped" means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48).

Establishment.
21 USC 873 note.

SEC. 9078. There is established, under the direction and control of the Attorney General, the National Drug Intelligence Center, whose mission it shall be to coordinate and consolidate drug intelligence from all national security and law enforcement agencies, and produce information regarding the structure, membership, finances, communications, and activities of drug trafficking organizations: *Provided,* That funding for the operation of the National Drug Intelligence Center, including personnel costs associated therewith, shall be provided from the funds appropriated to the Department of Defense for drug interdiction and counter-drug activities: *Provided further,* That of the funds so appropriated for the fiscal year beginning October 1, 1991, $20,000,000 available for the National Drug Intelligence Center may be available to the Secretary of Defense to reimburse the Department of Justice for support provided to the National Drug Intelligence Center: *Provided further,* That section 8083 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172) is amended by striking out "available only for" and inserting "available until expended only for" in lieu thereof.

105 Stat. 1191.

SEC. 9078A. None of the funds made available by this Act shall be available for any Military Department of the United States to conduct bombing training, gunnery training, or similar munitions delivery training on the parcel of land known as Kahoolawe Island, Hawaii.

SEC. 9079. During the current fiscal year, the Navy may provide notice to exercise options under the LEASAT program for the next fiscal year, in accordance with the terms of the Aide Memoire, dated January 5, 1981, as amended by the Aide Memoire dated April 30, 1986, and as implemented in the LEASAT contract.

SEC. 9080. Section 8090 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172) is amended by deleting subsections (c), (d), and (e).

105 Stat. 1193.

SEC. 9080A. None of the funds available to the Department of Defense during the current fiscal year may be obligated or expended to develop for aircraft or helicopter weapons systems an airborne instrumentation system for flight test data acquisition other than the Common Airborne Instrumentation System under development in the Central Test and Evaluation Investment Development program element funded in the "Developmental Test and Evaluation, Defense" appropriations account.

SEC. 9081. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility's direct budget amount.

SEC. 9082. None of the funds in this Act shall be obligated for the procurement of Multibeam Sonar Mapping Systems not manufactured in the United States: *Provided,* That the Secretary of the military department responsible for such procurement may

waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 9082A. Notwithstanding any other provision of law, the Department of Defense is hereby authorized to develop and procure the LANDSAT 7 vehicle.

SEC. 9083. None of the funds appropriated in this Act may be used to fill the commander's position at any military medical facility with a health care professional unless the prospective candidate can demonstrate professional administrative skills.

SEC. 9084. Of the funds appropriated by this Act for the Defense Health Program, notwithstanding any other provision of law, the amount payable for services provided under this section shall not be less than the amount calculated under the coordination of benefits reimbursement formula utilized when CHAMPUS is a secondary payor to medical insurance programs other than Medicare, and $20,000,000 shall be available (notwithstanding the last sentence of section 1086(c) of title 10, United States Code) to continue Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) benefits, until age 65, under such section for a former member of a uniformed service who is entitled to retired or retainer pay or equivalent pay, or a dependent of such a member, who becomes eligible for hospital insurance benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) solely on the grounds of physical disability: *Provided,* That expenses under this section shall only be covered to the extent that such expenses are not covered under parts A and B of title XVIII of the Social Security Act and are otherwise covered under CHAMPUS: *Provided further,* That no reimbursement shall be made for services provided prior to October 1, 1991.

SEC. 9085. During the current fiscal year, the Secretary of Defense may accept burdensharing contributions in the form of money from Japan, the Republic of Korea, and the State of Kuwait for the costs of local national employees, supplies, and services of the Department of Defense to be credited to applicable Department of Defense operation and maintenance appropriations available for the salaries and benefits of national employees of Japan, the Republic of Korea, and the State of Kuwait, supplies, and services to be merged with and to be available for the same purposes and time period as those appropriations to which credited: *Provided,* That not later than 30 days after the end of each quarter of the fiscal year, the Secretary of Defense shall submit to the Congress a report of contributions accepted by the Secretary under this provision during the preceding quarter.

Reports.

Securities.

SEC. 9086. During the current fiscal year, obligations against the stock funds of the Department of Defense may not be incurred in excess of 70 percent of sales from such stock funds during the current fiscal year: *Provided,* That in determining the amount of obligations against, and sales from the stock funds, obligations and sales for fuel, subsistence, commissary items, retail operations, the cost of operations, and repair of spare parts shall be excluded: *Provided further,* That upon a determination by the Secretary of Defense that such action is critical to the national security of the United States, the Secretary may waive the provisions of this

section: *Provided further,* That if the provisions of this section are waived, the Secretary shall immediately notify the Congress of the waiver and the reasons for such a waiver.

SEC. 9087. (a) None of the funds appropriated or made available in this Act shall be used to reduce or disestablish the operation of the P–3 squadrons of the Navy, and Navy Reserve below the levels funded in this Act.

(b) The Secretary of the Navy shall obligate funds appropriated for fiscal years 1991, 1992, and 1993 for modernization of P–3B aircraft of the Navy Reserve on those P–3B aircraft which the Secretary of the Navy intends to keep in the fleet for more than five years: *Provided,* That the provision of section 1437 of the National Defense Authorization Act, 1991 (Public Law 101–510) shall not be considered in, or have any effect on, making any determination whether such aircraft shall be kept in the fleet for more than five years.

SEC. 9088. Notwithstanding section 9003 of this Act, of the $100,000,000 appropriated in section 8105A of the Department of Defense Appropriations Act, 1992 (Public Law 102–172), for payment of claims to United States military and civilian personnel for damages incurred as a result of the volcanic eruption of Mount Pinatubo in the Philippines, $35,000,000 shall remain available for obligation until September 30, 1993: *Provided,* That in addition to amounts appropriated elsewhere in this Act, $15,000,000 shall be available for obligation for the same purposes stated above in this section until September 30, 1993: *Provided further,* That an additional $20,000,000 is appropriated to be available only for the relocation of Air Force units from Clark Air Force Base and Navy units from the Subic Bay Navy Base and Cubi Point Naval Air Station.

SEC. 9089. None of the funds appropriated in this Act may be obligated or expended for any contract or grant with a university or other institution of higher learning unless such contract or grant is audited in accordance with the Federal Acquisition Regulation and the Department of Defense Federal Acquisition Regulation Supplement or any other applicable auditing standards and requirements and the institution receiving the contract or grant fully responds to all formal requests for financial information made by responsible Department of Defense officials: *Provided,* That if an institution does not provide an adequate financial response within 12 months, the Secretary of Defense shall terminate that and all other Department of Defense contracts or grants with the institution.

SEC. 9089A. Not less than $74,950,000 of the funds appropriated under the heading "Research, Development, Test and Evaluation, Defense Agencies" in title IV of this Act shall be made available as grants to the following institutions in the following amounts for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense: University of Arizona, $5,000,000; St. Norbert College, $3,900,000; Johns Hopkins University, $15,000,000; University of Wisconsin Center for Advanced Propulsion, $15,000,000; John Carroll University, $5,300,000; University of Northern Iowa, $750,000; Medical College of Wisconsin, $15,000,000; University of St. Thomas, St. Paul, Minnesota, $15,000,000: *Provided,* That the funds made available by this section shall be distributed under the terms and conditions established

Grants. Science and technology.

in section 401, as amended, of title IV of Public Law 102–172: *Provided further,* That the Secretary of Defense shall review the grants made available and specified by this section and shall award such amounts as he deems appropriate based on the potential contribution each proposed project may make to the national scientific and technical posture: *Provided further,* That the funds made available by this section may be obligated only in accordance with a merit based selection process, utilizing recommendtions of a peer review process, consistent with the provisions of section 2361 (a) of title 10, United States Code: *Provided further,* That the Secretary of Defense shall select persons to participate in such peer review process only from the faculty or staff of institutions that are members of the National Association of State Universities and Land Grant Colleges or the American Association of State College and Universities.

SEC. 9090. (a) Funds appropriated in this Act to finance activities of Department of Defense (DOD) Federally Funded Research and Development Centers (FFRDCs) may not be obligated or expended for an FFRDC if a member of its Board of Directors or Trustees simultaneously serves on the Board of Directors or Trustees of a profit-making company under contract to the Department of Defense unless the FFRDC has a DOD approved conflict of interest policy for its members.

(b) None of the funds appropriated in this Act are available to establish a new FFRDC, either as a new entity, or as a separate entity administered by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other nonprofit entities.

(c) The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $300,000,000 to reflect savings from the decreased use of non-FFRDC consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1993, report to the Senate and the House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies: *Provided,* That this subsection does not apply to the reserve components.

Reports.

SEC. 9091. None of the funds appropriated in this Act shall be available to comply with, or to implement any provision issued in compliance with, the August 27, 1984 memorandum of the Deputy Secretary of Defense entitled "Debarment from Defense Contracts for Felony Criminal Convictions".

SEC. 9091A. Of the funds made available by this Act in title III, Procurement, $8,000,000, drawn pro rata from each appropriations account in title III, shall be available for incentive payments authorized by section 504 of the Indian Financing Act of 1974, 25 U.S.C. 1544. These payments shall be available only to contractors which have submitted subcontracting plans pursuant to 15 U.S.C. 637(d)(4)(B), and according to regulations which shall be promulgated by the Secretary of Defense within 90 days of the passage of this Act.

Regulations.

SEC. 9092. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided,* That these procurement restrictions shall apply to any and all Federal Supply

Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further,* That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further,* That these restrictions shall not apply to contracts which are in being as of the date of enactment of this Act.

SEC. 9092A. None of the funds in this or any other Act shall be available for the preparation of studies on—

(a) the feasibility of removal and transportation of unitary chemical weapons from the eight chemical storage sites within the continental United States: *Provided,* That this prohibition shall not apply to non-stockpile material in the United States or to studies needed for environmental analysis required by the National Environmental Policy Act;

(b) the potential future uses of the nine chemical disposal facilities other than for the destruction of stockpile chemical munitions and as limited by section 1412(c)(2), Public Law 99–145: *Provided,* That this prohibition does not apply to future use studies for the CAMDS facility at Tooele, Utah.

SEC. 9093. Notwithstanding any other provision of law, no more than fifteen percent of the funds available to the Department of Defense for sealift may be used to acquire, through charter or purchase, ships constructed in foreign shipyards: *Provided,* That ships acquired as provided above shall be necessary to satisfy the shortfalls identified in the Mobility Requirements Study: *Provided further,* That any work required to convert foreign built ships acquired as provided above to United States Coast Guard and American Bureau of Shipping standards, or conversion to a more useful military configuration, must be accomplished in United States domestic shipyards: *Provided further,* That none of the funds shall be used to purchase bridge or machinery control systems, or interior communications equipment, and auxiliary equipment, including pumps for all shipboard services, for sealift ships unless the system or equipment is manufactured in the United States or more than half the value in terms of cost has been added in the United States: *Provided further,* That the Secretary of the military department responsible for such procurement of bridge or machinery control systems, or interior communications equipment, and auxiliary equipment, including pumps for all shipboard services, may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

Maritime affairs.

SEC. 9094. For the purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services, the Committees on Appropriations, the Committee on Appropriations, subcommittees on Defense of the Senate and the House of Representatives.

SEC. 9095. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided,* That the Defense Contract Audit Agency shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further,* That Office of Management and Budget Circular A–76 shall not apply to competitions conducted under this section.

International agreements. Commerce and trade. 41 USC 10b–2.

SEC. 9096. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

Reports.

(b) The Secretary of Defense shall submit to Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 1993. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 9097. None of the funds appropriated or made available in this Act or any Act making appropriations for the Department of Defense during the current fiscal year may be obligated for procurement of ball bearings or roller bearings other than in accordance with the provisions of subpart 208.79 of the Defense Federal Acquisition Regulation Supplement (DFARS) as promulgated effective on July 11, 1989.

(TRANSFER OF FUNDS)

SEC. 9098. Notwithstanding any other provision of law, $82,000,000 made available in the fiscal year 1991 Department of Defense Appropriations Act (Public Law 101–511) for "Aircraft Carrier Service Life Extension Program" under the heading "Shipbuilding and Conversion, Navy, 1991/1995" shall be transferred to "Operation and Maintenance, Navy" for a large scale industrial availability, presumed to be 24 months, of the USS JOHN F. KENNEDY at the Philadelphia Naval Shipyard.

SEC. 9099. (a) Of the funds made available by this Act in title II, Operation and Maintenance, Army, $23,270,000 shall be available only to execute the cleanup of uncontrolled hazardous

waste contamination affecting the Sale Parcel at Hamilton Air Force Base, in Novato, in the State of California.

(b) In the event that the purchaser of the Sale Parcel exercises its option to withdraw from the sale as provided in the Agreement and Modification, dated September 25, 1990, between the Department of Defense, the General Services Administration, and the purchaser, the purchaser's deposit of $4,500,000 shall be returned by the General Services Administration and funds eligible for reimbursement under the Agreement and Modification shall come from the funds made available to the Department of Defense by this Act.

(c) The purchase rights under the purchase contract for the Sale Parcel may be assigned to any financially qualified entity, as determined in accordance with existing GSA procedures. The purchaser's withdrawal and reimbursement rights under the Agreement and Modification shall be assigned to any assignee of the purchase rights under the purchase contract for the Sale Parcel (including the purchaser's lenders). The purchaser shall be permitted to purchase the Sale Parcel in stages, and the purchaser's withdrawal and reimbursement rights shall survive pro rata with respect to any portion of the Sale Parcel not purchased.

(d) Notwithstanding any other provision of law, the Air Force shall be reimbursed for expenditures in excess of $15,000,000 in connection with the total clean-up of uncontrolled hazardous waste contamination on the aforementioned Sale Parcel from the proceeds collected upon the closing of the Sale Parcel.

Real property.
Flood control.

(e) Notwithstanding any other provision of law, the Department of Defense shall convey the Building 442 parcel, the Building 467 parcel, the former P.O.L. storage parcel and the two parcels carved out of the easternmost portion of the Sale Parcel (all of which parcels are contiguous to and surrounded by the Sale Parcel), as well as easements for the location of a temporary flood control levee around portions of the Sale Parcel and such other easements as the Secretary of the Army shall deem appropriate, to the purchaser of the Sale Parcel, without restrictions. The conveyances contemplated by this section shall be for cash and/or interests in real property at least equal in value (as determined by the Secretary of the Army) to the land and interests in real property conveyed by the United States.

(f) The exact acreage and legal description of the property to be conveyed or exchanged under this section shall be determined by surveys that are satisfactory to the Secretary of the Army. The costs of such surveys shall be borne by the purchaser.

(g) Notwithstanding any other provision of law, the Agreement and Modification may be amended to authorize the purchaser or its affiliates, in lieu of the Government, to manage and let contracts or subcontracts for the cleanup of landfill No. 26 in accordance with the Record of Decision, as modified, as a means of demonstrating the economic efficiencies that would accrue as a result of non-Federal management of environmental restoration projects. In providing for such cleanup management, the Department of Defense may impose such terms and conditions, and grant such indemnifications, as are appropriate to provide for an effective and efficient cleanup consistent with the public interest: *Provided*, That (1) the purchaser agrees (i) to manage the cleanup in accordance with plans and specifications approved by the Department of Defense, and (ii) to continue to perform its management obligations in the

event it terminates and withdraws from the sale under the Agreement and Modification; and, (2) payments made pursuant to this section shall be within the funds made available for the cleanup under this, any prior, and any future appropriations Act, but shall not exceed the Department of Defense's estimate of the cost it would have incurred in accomplishing the same work (as such estimates may be adjusted to reflect changed circumstances).

(h) The Department of Defense shall not make any payment to the purchaser for the costs of the cleanup under any such amendment unless and until the Department of Defense has certified that the cleanup, or any portion of the work associated with the cleanup, for which the purchaser requests payment is in accordance with the approved plans.

(i) Nothing in this section shall be deemed to diminish the United States Government's liability with respect to the landfill contamination.

SEC. 9099A. Section 112(e)(1) of title 32, United States Code, is amended by inserting "(or during fiscal year 1993 otherwise implementing)" immediately after "administering".

10 USC 2774 note.

SEC. 9100. Notwithstanding any other provision of law, the Secretary of Defense may, when he considers it in the best interest of the United States, cancel any part of an indebtedness, up to $2,500, that is or was owed to the United States by a member or former member of a uniformed service if such indebtedness, as determined by the Secretary, was incurred in connection with Operation Desert Shield/Storm: *Provided,* That the amount of an indebtedness previously paid by a member or former member and cancelled under this section shall be refunded to the member.

(TRANSFER OF FUNDS)

SEC. 9101. During the current fiscal year, not to exceed $60,500,000 of cash balances in the Defense Business Operations Fund shall be transferred to appropriations of the Department of Defense which are available for energy conservation improvement projects under the Department of Defense Energy Conservation Improvement Program: *Provided,* That the authority to make transfers pursuant to this section is in addition to any other transfer authority provided by this Act.

(TRANSFER OF FUNDS)

SEC. 9101A. In addition to any other transfer authority contained in this Act, $1,371,800,000 from the Defense Business Operations Fund shall be transferred to appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred, as follows: $456,687,000 to Operation and Maintenance, Army; $299,167,000 to Operation and Maintenance, Navy; $20,448,000 to Operation and Maintenance, Marine Corps; $402,479,000 to Operation and Maintenance, Air Force; $30,038,000 to Operation and Maintenance, Defense Agencies; $9,442,000 to Operation and Maintenance, Army Reserve; $14,924,000 to Operation and Maintenance, Navy Reserve; $754,000 to Operation and Maintenance, Marine Corps Reserve; $15,844,000 to Operation and Maintenance, Air Force Reserve; $31,307,000 to Operation and Maintenance, Army National Guard; $39,830,000 to Operation and

Maintenance, Air National Guard; and $50,880,000 to the Defense Health Program.

SEC. 9102. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

SEC. 9103. The Secretary of Defense is authorized to provide optional summer school programs in addition to the programs otherwise authorized by the Defense Dependents Education Act of 1978 (Public Law 95-561), and to charge a fee for participation in such optional education programs. Optional summer school program fees shall be made available for use by the Secretary to defray the costs of summer school operations. Education.

SEC. 9104. Unobligated balances of the funds appropriated in the Department of Defense Appropriations Act, 1992 (Public Law 102-172) under the headings "World University Games" and "Summer Olympics" in title II of that Act shall, notwithstanding section 8003 of that Act, remain available for obligation until September 30, 1993.

SEC. 9105. (a) None of the funds appropriated by this Act may be obligated or expended for any program, project, sub-project, or activity which is accomplished under a "Limited Dissemination (LIMDIS)" security control method until the Secretary of Defense submits, to the Congressional defense committees, a report containing: Reports.

(1) annual costs in the fiscal years 1994-1999 Future Years Defense Program, and total costs;

(2) appropriation account and program element or line item;

(3) content and military justification; and

(4) acquisition milestones and schedule through completion.

(b) The information in the report required by subsection (a) above shall be provided for each program, project, sub-project, or activity accomplished under the LIMDIS security control method during fiscal years 1990-1993, and for each such effort to be undertaken in fiscal year 1994.

(c) The report required by subsection (a) above shall be submitted no later than the date upon which the fiscal year 1994 Department of Defense budget request is provided to Congress.

(d) The requirements contained in subsections (a) through (c), above, shall not apply to LIMDIS programs, projects, subprojects, or activities within the National Foreign Intelligence Program.

SEC. 9106. After December 31, 1992, voluntary separation incentives payable under 10 U.S.C. 1175 may be paid in such amounts as are necessary from the assets of the Voluntary Separation Incentive Fund established by section 1175(h)(1). 10 USC 1175 note.

(INCLUDING TRANSFER OF FUNDS)

SEC. 9107. Amounts deposited during fiscal years 1992 and 1993 to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2) (A) and (B) and 10 U.S.C.

2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

SEC. 9108. None of the funds available to the Department of Defense in this Act may be used to award a contract for the procurement of four-ton dolly jacks if such equipment is or would be manufactured outside the United States of America and would be procured under any contract, agreement, arrangement, compact or other such instrument for which provisions including price differential provisions of the Buy American Act of 1933, as amended, or any other Federal buy national law was waived: *Provided,* That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 9109. Notwithstanding any other provision of law, reimbursements received from the North Atlantic Treaty Organization for the E–3 Airborne Warning and Control System (AWACS) Radar System Improvement Program (RSIP) attributable to development work for fiscal years 1987 through 1992 shall be available to the Air Force until September 30, 1994, for meeting that service's financial commitments for the AWACS RSIP.

(TRANSFER OF FUNDS)

SEC. 9110. (a) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds appropriated to the Department of Defense for fiscal year 1993, up to $400,000,000 to be available for the purposes authorized in the Former Soviet Union Demilitarization Act of 1992: *Provided,* That amounts so transferred shall be in addition to amounts transferred pursuant to the authority provided in section 108 of Public Law 102–229 (105 Stat. 1708).

(b) Of the funds transferred pursuant to subsection (a):

(1) not less than $10,000,000 shall be available only for the study, assessment, and identification of nuclear waste disposal by the former Soviet Union in the Arctic region;

(2) not less than $25,000,000 shall be available only for Project PEACE;

(3) not more than $50,000,000 may be made available for the Multilateral Nuclear Safety Initiative announced in Lisbon, Portugal on May 23, 1992;

(4) not more than $40,000,000 may be made available for demilitarization of defense industries;

(5) not more than $15,000,000 may be made available for military-to-military contacts;

(6) not more than $25,000,000 may be made available for joint research and development programs; and

(7) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program.

(c) The Secretary of Defense may transfer from amounts appropriated to the Department of Defense for fiscal year 1993 or from balances in working capital funds not to exceed $15,000,000 to

the appropriate accounts within the Department of Defense for the purposes authorized in section 109 of Public Law 102–229.

(d) The authority provided in sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) to transfer amounts appropriated for fiscal year 1992 shall continue to be in effect during fiscal year 1993.

(e) The Secretary of Defense may transfer to appropriate appropriation accounts for the Department of Defense, out of funds available to the Department of Defense for fiscal year 1993, up to $40,000,000 to be available for international nonproliferation activities authorized in the Weapons of Mass Destruction Control Act of 1992: *Provided,* That such transfer authority shall not be available for payments either to the "Contributions to International Organizations" account of the Department of State or to activities carried out by the International Atomic Energy Agency which have traditionally been the responsibilities of the Departments of State or Energy: *Provided further,* That up to $20,000,000 of the transfer authority provided in this section may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(f) The transfer authority provided in this section shall be in addition to any other transfer authority contained in this Act.

SEC. 9111. In order to maintain an electric furnace capacity in the United States, preference for the purchase of chromite ore and manganese ore authorized for disposal from the National Defense Stockpile shall be given to domestic producers of high carbon ferrochromium and high carbon ferromanganese—

(A) whose primary output during the three preceding years has been ferrochromium or ferromanganese; and

(B) who guarantee to use the chromite and manganese ore for domestic purposes.

SEC. 9112. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 9113. (a) None of the funds available to the Department of Defense may be used to implement Defense Management Report Decision No. 944, dated December 9, 1991, concerning Conventional Ammunition, or any revision or successor document, or to carry out any implementing instruction for said directive, revision, or successor document, or to implement any other document of any kind pertaining to conventional ammunition which has the objective of financing conventional ammunition out of any funds other than funds appropriated or available for procurement of ammunition.

(b) The fiscal year 1994/1995 budget request for the Department of Defense, as well as all justification material and other documentation supporting the fiscal year 1994/1995 Department of Defense request shall be prepared and submitted to the Congress as if subsection (a) of this provision were effective with regard to fiscal year 1994/1995. Such budget request, budget material, and budget documentation shall be prepared using the practices and policies followed in preparation of the fiscal year 1992/1993 budget.

SEC. 9114. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located

10 USC 2488 note.

in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in the case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Alcohol and alcohol abuse.

SEC. 9115. During the current fiscal year, none of the funds available to the Department of Defense may be used to procure or acquire (1) defensive handguns or defensive handgun ammunition unless such handguns or handgun ammunition are the M9 9mm Department of Defense standard handgun or ammunition for such handguns, or (2) offensive handguns and ammunition except for the Special Operations Forces.

SEC. 9116. Of the funds appropriated to the Department of Defense for Operation and Maintenance, Defense Agencies, not less than $8,000,000 shall be made available only for the mitigation of environmental impacts on Indian lands resulting from Department of Defense activities: *Provided,* That the Secretary of Defense shall first enter into an agreement with the Administration for Native Americans on the obligation of these funds.

Contracts. Native Americans.

Contracts. Fraud.

SEC. 9117. If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall debar the person from contracting with the Federal Government for a period of not less than three years and not more than five years. For purposes of this section, the term "debar" has the meaning given that term by section 2393(c) of title 10, United States Code.

SEC. 9118. During the current fiscal year, appropriations available to the Department of Defense may be used to reimburse a member of a reserve component of the Armed Forces who is not otherwise entitled to travel and transportation allowances and who occupies transient government housing while performing active duty for training or inactive duty training: *Provided,* That such members may be provided lodging in kind if transient government quarters are unavailable as if the member was entitled to such allowances under subsection (a) of section 404 of title 37, United States Code: *Provided further,* That if lodging in kind is provided, any authorized service charge or cost of such lodging may be paid directly from funds appropriated for operation and maintenance of the reserve component of the member concerned.

Health care facilities. California.

SEC. 9119. Funds appropriated by this Act for the Defense Health Program shall be used to maintain at minimum a 50-bed medical care facility at Silas B. Hays Army Community Hospital at Fort Ord, California during fiscal year 1993.

SEC. 9120. For fiscal year 1993, the total amount appropriated to fund the Uniformed Services Treatment Facilities program, operated pursuant to section 911 of Public Law 97-99 (42 U.S.C. 248c),

is limited to $230,000,000, of which not more than $207,130,000 may be provided by the funds appropriated by this Act.

SEC. 9121. None of the funds available in this Act may be used to support in any manner, including travel or other related expenses, the "Tailhook Association": *Provided,* That investigations by the Secretary of the Navy or consultation with the Tailhook Association are not prohibited by this provision.

Government employees.

SEC. 9122. The Department of Defense shall reduce the authorized number of Senior Executive Service (SES) positions by a percentage equivalent to the percentage reduction in its civilian employment during fiscal year 1993, which percentage shall be applied against the total number of SES positions authorized the Department of Defense by the Office of Personnel Management for fiscal year 1993: *Provided,* That such percentage reductions shall be applied so that the ratio of career SES positions to noncareer SES positions in the Department shall remain the same.

SEC. 9123. During the current fiscal year, from funds available in this Act, the Director of the Air National Guard shall establish a Command, Control, Communications and Intelligence planning office manned by three full-time Air Guard officers in the rank of O–6, O–5, and O–4: *Provided,* That these officers shall be in addition to the strengths authorized in section 524 of title 10, United States Code.

Government employees. Manpower.

SEC. 9124. As of September 1, 1993, none of the funds appropriated by this Act shall be available for payment of the compensation of personnel assigned to or serving in the National Foreign Intelligence Program in excess of 98 percent of such personnel actually assigned to or serving in the National Foreign Intelligence Program on September 30, 1992: *Provided,* That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to Senior Intelligence Service positions shall be equal to or exceed the percentage of reductions to non-Senior Intelligence Service positions: *Provided further,* That in making any reduction in the number of such personnel that may be required pursuant to this section, the percentage of reductions to positions in the National Capital Region shall be equal to or exceed the percentage of reductions to positions outside of the National Capital Region.

SEC. 9125. None of the funds appropriated in this Act or made available to the Department of Defense and deposited into the Pentagon Reservation Maintenance Revolving Fund may be used for the purpose of renovation or construction which would result in an expansion of the net usable space of the Pentagon. Funds deposited into the Pentagon Reservation Maintenance Revolving Fund may be used for other purposes including necessary day-to-day operations and real property maintenance to meet health and safety requirements of the Pentagon Reservation. Not later than March 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services and Appropriations of the House and Senate a report setting forth (1) a revised renovation program for the Pentagon Reservation limited to concerns of health and safety; and (2) a construction schedule with an associated cost estimated based upon normal construction procedures which eliminates additional costs for expediting construction.

Reports.

10 USC 114 note.

SEC. 9126. The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 5504 of the One Hundred Second Congress and transmitted to

the President is hereby incorporated into this Act: *Provided,* That the amounts specified in the Classified Annex are not in addition to amounts appropriated by other provisions of this Act: *Provided further,* That the President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the Classified Annex, within the executive branch of the Government.

President.

(TRANSFER OF FUNDS)

SEC. 9127. (a) Upon enactment of this Act, the Secretary of Defense shall make the following transfers of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further,* That the amounts shall be transferred between the following appropriations in the amounts specified:

From:

Under the heading, "Weapons Procurement, Navy, 1992/1994":

Torpedoes and Related Equipment, $9,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1986/1990":

LHD–1 amphibious assault ship program, $9,300,000;

From:

Under the heading, "Weapons Procurement, Navy, 1992/1994":

Torpedoes and Related Equipment, $16,300,000;

Under the heading, "Other Procurement, Navy, 1992/1994", $13,000,000;

Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":

T–AGOS surveillance ship program, $13,300,000;

To:

Under the heading, "Shipbuilding and Conversion, Navy, 1987/1991":

AOE fast combat support ship program, $16,300,000;

T–AO fleet oiler program, $13,000,000;

Contracts.

T–ACS auxiliary crane ship program, $13,300,000: *Provided,* That notwithstanding any other provision of law or regulation, the Secretary of the Navy and the Secretary of Transportation are authorized and directed to increase the current contract price (the contract price, including all modifications as of the date of enactment of this Act) for the T–ACS 7 and T–ACS 8 conversion and reactivation contract by $13,300,000 based upon the Defense Contract Audit Agency's estimated incurred costs sustained by the contractor and shall pay to the contractor which built and delivered T–ACS 7 and T–ACS 8 the amount of $13,300,000, no later than November 1, 1992: *Provided further,* That the contractor shall execute a release discharging the Government, its officers, agents and employees from any additional liability arising under or relating to the contract for T–ACS 7 and 8: *Provided further,* That the contractor shall agree to dismiss with prejudice its pending action in the United States District Court;

From:

Under the heading, "Aircraft Procurement, Navy, 1991/1993", $131,800,000;
Under the heading, "Aircraft Procurement, Navy, 1992/1994", $17,700,000;
Under the heading, "Weapons Procurement, Navy, 1992/1994":
Torpedoes and Related Equipment, $63,700,000;
Under the heading, "Other Procurement, Navy, 1992/1994", $30,900,000;
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
T–AGOS 39/40 program, $15,000,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1988/1992":
CVN nuclear aircraft carrier program, $229,500,000;
LHD–1 amphibious assault ship program, $3,600,000;
T–AO fleet oiler program, $10,500,000;
LSD–41 cargo variant ship program, $15,500,000;
From:
Under the heading, "Aircraft Procurement, Navy, 1992/1994", $112,300,000;
Under the heading, "Weapons Procurement, Navy, 1992/1994":
Other Missile Programs, $31,500,000;
Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":
T–AGOS surveillance ship program, $45,000,000;
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
LCAC landing craft air cushion program, $74,000,000;
DDG–51 destroyer program, $89,400,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1989/1993":
TRIDENT ballistic missile submarine program, $2,100,000;
SSN–688 attack submarine program, $8,800,000;
SSN–21 attack submarine program, $284,800,000;
DDG–51 destroyer program, $41,300,000;
MHC coastal mine hunter program, $11,900,000;
AOE combat support ship program, $3,300,000;
From:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
T–AGOS surveillance ship program, $62,400,000;
MHC coastal mine hunter program, $25,500,000;
Under the heading, "Weapons Procurement, Navy, 1992/1994":
Other Missile Programs, $53,200,000;
To:
Under the heading, "Shipbuilding and Conversion, Navy, 1990/1994":
TRIDENT ballistic missile submarine program, $5,900,000;
SSN–688 attack submarine program, $6,800,000;
DDG–51 destroyer program, $5,400,000;

ENTERPRISE refueling/modernization program, $93,200,000;
Oceanographic ship program, $9,900,000;
AOE combat support ship program, $3,900,000;
LSD–41 dock landing ship cargo variant program, $16,000,000;

From:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":
DDG–51 destroyer program, $19,800,000;

To:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":
TRIDENT ballistic missile submarine program, $19,800,000;

From:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
T–AGOS surveillance ship program, $77,200,000;

To:
Under the heading, "Shipbuilding and Conversion, Navy, 1991/1995":
TRIDENT ballistic missile submarine program, $22,100,000;
SSN–21 attack submarine program, $40,100,000;
LSD–41 dock landing ship cargo variant program, $15,000,000;

From:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
T–AGOS surveillance ship program, $8,900,000;

To:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
Oceanographic ship program, $8,900,000;

From:
Under the heading, "Shipbuilding and Conversion, Navy, 1992/1996":
LCAC landing craft air cushion program, $45,000,000;

To:
Under the heading, "Shipbuilding and Conversion, Navy, 1985/1989":
T–AO fleet oiler program, $45,000,000.

Contracts.

(b) (1) Notwithstanding any other provision of law or regulation, the Secretary of the Navy is authorized and directed to increase the ceiling price of the T–AO 191 and 192 completion contract in the amount of $45,000,000 and maintain the same ceiling price to target cost ratio as in the existing contract (115 percent). Such increase shall be made upon the Contractor's execution of a full and final release discharging the Government, its officers, agents and employees from any liability for activities under, or associated with, the T–AO 191 and 192 completion contract occurring prior to the effective date of the Contract Modification resulting from this Act.

(2) The Secretary of the Navy shall pay the contractor, within ten days of enactment of this Act, an amount equal to the difference between the total of the Contractor's incurred costs, properly cer-

tified, less retentions and the total of payments made to that date by the Navy.

SEC. 9128. (a) Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or to the Director of the Joint Staff with respect to an area or areas not within the area of responsibility of a commander of a combatant command.".

(b) Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) Subsection (c) of such section is amended by inserting before the period at the end the following:

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund or the provision of funds to the Director of the Joint Staff under subsection (a), should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

(d) Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $5,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 9129. Notwithstanding any other provision of law, any statutorily-required analysis of the impact on the defense technology and industrial base of terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense shall address only those actions recommended by the Defense Department in its annual budget request and amendments thereto, supplemental requests, or proposed rescissions.

Contracts.
10 USC 2341 note.

SEC. 9130. (a) Notwithstanding any other provision of law, funds appropriated under this Act for the Department of Defense shall be made available for the Overseas Workload Program: *Provided,* That a firm of any member nation of the North Atlantic Treaty Organization (NATO) or of any major non-NATO ally or countries in the European Theater, shall be eligible to bid on any contract for the maintenance, repair, or overhaul of equipment of the Department of Defense to be awarded under competitive procedures as part of the program of the Department of Defense known as the Overseas Workload Program.

(b) A contract awarded during fiscal year 1993, or thereafter, to a firm described in subsection (a) may be performed in the theater in which the equipment is normally located or in the country in which the firm is located.

Israel.

(c) For purposes only of this section, Israel shall be considered in the European Theater in every respect, with its firms fully eligible for nonrestrictive, nondiscriminatory contract competition under the Overseas Workload Program.

(d) No funds appropriated for the Overseas Workload Program for fiscal year 1993 or thereafter shall be used for contracts awarded in fiscal year 1993 or thereafter which have not been opened for competition in a manner consistent with this provision.

SEC. 9131. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions to the Johnston Atoll for the purpose of storing or demilitarizing such munitions.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

President.
Federal budget.
10 USC 221 note.

SEC. 9132. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the Defense Agencies.

SEC. 9133. None of the funds provided in this Act may be obligated to implement any test of changes in the Department's domestic interstate household goods program as proposed in the Federal Register on June 29, 1992.

SEC. 9134. The Secretary of Defense shall provide for the conduct of an independent study, with participation by one or more federally funded research and development centers, of the Trident missile system. A report containing the results of such study, together with the Secretary's comments and recommendations concerning the report shall be submitted to the Congressional defense committees, in classified and unclassified versions, on or before July 1, 1993. This report shall address, inter alia, the following issues:

Reports.

(1) The relative merits and costs of continuing the Trident II missile production versus the refurbishment of existing Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A–94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

(2) The relative merits and costs of continuing with current plans to backfit the first eight Trident submarines with Trident II missiles versus their continuation with Trident I missiles, taking into account such factors as inflation, appropriate regulations such as OMB Circular A–94 and DOD Instruction 7041.3, refurbishment costs for the Trident I that would be incurred anyway, the impact of the new START agreements, refurbishment requirements of the Trident II, and other related factors.

(3) The relative merits and costs of taking anticipated SLBM warhead reductions under START in the following ways:

(A) by offloading individual warheads from missiles;

(B) by offloading missiles from submarines;

(C) by dismantling submarines;
(D) some combination of the above.

(4) Options for the United Kingdom to meet its strategic requirements in a situation where the United States procurement of Trident II missiles is terminated earlier than originally planned.

(5) The reasons why the costs stated for Trident I refurbishment are substantially greater than Minutemen III refurbishment.

(6) The reasons why strategic missile flight testing rates are substantially different for the Navy and Air Force, along with recommendations for uniform testing rates.

DEPARTMENT OF COMMERCE

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

SEC. 9135. For an additional amount for "Operations, research, and facilities" to cover the cost of grants to persons engaged in commercial fisheries, as provided in section 308 of the Interjurisdictional Fisheries Act of 1986, as amended by this Act, $65,000,000 to remain available until expended: *Provided,* That the entire amount is designated by Congress as an emergency requirement pursuant to section 251(b)(2)(D)(i) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That such sums shall be available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement, as defined in section 251 of such Act is transmitted by the President to Congress: *Provided further,* That section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended by adding at the end the following new subsection:

"(d) GRANTS TO COMMERCIAL FISHERMEN.—(1) In addition to the amounts authorized under subsections (a), (b), and (c), there are authorized to be appropriated to the Department of Commerce $65,000,000 for fiscal year 1992 to enable the Secretary to award grants to persons engaged in commercial fisheries, for uninsured losses determined by the Secretary to have been suffered as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

"(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

"(3) Eligibility for a grant under this subsection shall be limited to any person that has less than $2,000,000 in gross revenues annually, as determined by the Secretary.

"(4) A person may receive a grant under this subsection for up to 75 percent of any uninsured commercial fishery loss resulting from such a fishery resource disaster (to the extent that such losses have not been compensated by other Federal and State programs), but shall receive no more than $100,000 in the aggregate for all such losses suffered as a result of any particular fishery resource disaster.

"(5) The Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for awarding grants under this subsection, including provisions specifying the means by which applicants must demonstrate claimed losses and limiting the aggregate amounts that may be paid to persons that are affiliated with each other or under common ownership.

"(6) As used in this subsection, the term 'person' means any individual or any corporation, partnership, trust, association, or other nongovernmental entity.".

SEC. 9136. Of the funds appropriated for drug interdiction and counter narcotics, $35,000,000 shall be appropriated for the purposes of modifying with improved radars and FLIRs and leasing up to 15 T–47 aircraft.

SEC. 9137. It is the sense of the Congress that—

(1) the Corps of Engineers of the Army should evaluate new concrete construction technologies in order to identify technologies that, if used in the construction of Department of Defense facilities in regions susceptible to hurricanes, would prevent future hurricanes striking those regions from causing the extensive level of damage to those facilities that Hurricane Andrew and Hurricane Iniki caused at installations and facilities of the Department of Defense in Florida and Hawaii, respectively; and

(2) the Secretary of Defense should ensure that, to the extent that it is cost effective to do so, concrete construction technologies identified in accordance with paragraph (1) be used in the construction of facilities of the Department of Defense in those regions in the future.

Reports.

SEC. 9138. (a) The Secretary of Defense shall transmit to Congress a report on whether the United States should participate with other countries of the Western Hemisphere in an international rapid deployment force for use in international crises in the Western Hemisphere.

(b) The report shall include a discussion of, and the Secretary's recommendations regarding, the following matters:

(1) Whether a rapid deployment force should be established.

(2) The circumstances under which the rapid deployment force should be used for intervention in international crises in the Western Hemisphere.

(3) Whether the establishment of a rapid deployment force with the mission to engage in military operations in the Western Hemisphere in such an intervention is prohibited by, or inconsistent with, the Charter of the Organization of American States.

(4) How to ensure that the elements of the Armed Forces of the United States in the rapid deployment force are not introduced into situations involving life-threatening dangers without the specific approval of the United States under the laws of the United States, including the War Powers Resolution (50 U.S.C. 1541 et seq.).

(c) The Secretary shall submit the report required by subsection (a) at the same time as the President submits to Congress the budget for fiscal year 1994 pursuant to section 1105 of title 31, United States Code.

Intergovernmental relations.

SEC. 9139. (a) During the current fiscal year, whenever a State or local development authority or other State or local installation

reuse entity submits to the Secretary of a military department for approval a proposed interim lease of a facility at a closing installation under the jurisdiction of that Secretary, the Secretary shall approve or disapprove the proposed interim lease within 60 days after the proposed interim lease is submitted to the Secretary.

(b) For purposes of this section, the term "closing", with respect to an installation, means an installation that is being closed pursuant to—

(1) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 102–510; 104 Stat. 1808; 10 U.S.C. 2687 note);

(2) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note); or

(3) section 2687 of title 10, United States Code.

SEC. 9140. SENSE OF CONGRESS REGARDING UNRESOLVED COMMERCIAL DISPUTES IN SAUDI ARABIA.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Commerce has identified "18 major unsettled cases, involving 14 American firms with claims of approximately $500 million", in Saudi Arabia in a letter dated May 27, 1992, to the House Subcommittee on Europe and the Middle East;

(2) the Department has testified that many of these disputes "go back 8 to 10 years";

(3) the Department of Commerce has testified that "Saudi Arabia's commercial law has not kept pace with its great economic strides. The Kingdom's system of commercial regulation lacks an effective internationally accepted mechanism to resolve disputes with foreign firms.";

(4) the Department of Commerce has testified that "The United States has trading relationships with virtually all the nations in the Near East region. The only country in which we encounter a continual problem with unresolved commercial disputes is Saudi Arabia."; and

(5) failure to resolve these contractual disputes results in great hardship for the American businesses involved and their employees.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Government of the United States and the Government of Saudi Arabia should work diligently and without delay to resolve satisfactorily the outstanding commercial disputes identified in the Department of Commerce letter.

(c) REPORT.—Not later than February 1, 1993, the Secretary of Defense, after consultation with the Secretary of State and the Secretary of Commerce, shall submit a report to the Congress on the status of the process for the resolution of commercial disputes in Saudi Arabia and the prognosis for any of the 18 such disputes which remain unresolved.

SEC. 9141. (a) Of the funds appropriated in this Act under the heading "Research, Development, Test and Evaluation, Army" 35 percent of the funds made available for each of the Comanche Light Armed Scout Helicopter, Apache-Longbow, and Apache–C programs may not be obligated and expended until the Secretary of Defense submits a report addressing the military and fiscal validity of the programs.

(b) Of the funds appropriated in this Act under the headings "Research, Development, Test and Evaluation, Navy" and "Research, Development, Test and Evaluation, Air Force" 35 percent of the funds made available for each of the AX Advanced Attack Aircraft, F–18 E/F upgrade variant, and F–22 Advanced Tactical Fighter programs may not be obligated and expended until the Secretary of Defense submits a report addressing the military and fiscal validity of the programs.

Classified information. Public information.

(c) The reports required in subsections (a) and (b) above shall be submitted, in both classified and unclassified versions, to the congressional defense committees no later than May 15, 1993.

SEC. 9142. Of the funds appropriated in this Act, not more than nor less than $3,800,000,000 shall be available only for the Strategic Defense Initiative.

Ante, p. 1120.

SEC. 9143. Title II of Public Law 102–368 is amended in the paragraph "Operation and maintenance, Defense Agencies", under the heading "SUPPLEMENTAL APPROPRIATIONS" by inserting ", including those" after "school districts" in the first proviso (relating to educational assistance to school districts).

Regulations. Colleges and universities. Schools. Civil rights.

SEC. 9144. None of the funds provided in this Act shall be available for use by a Military Department for the operation of any Officers Candidate School, War College, Command and General Staff College, or Military Academy unless, within 60 days of the enactment of this Act, the Chief of Staff of the United States Army, the Chief of Staff of the United States Air Force, the Chief of Naval Operations, and the Commandant of the Marine Corps each provides written certification to the Armed Services and Appropriations Committees of the House of Representatives and of the Senate that appropriate measures have been taken to publish and enforce regulations which expressly prohibit discrimination on the basis of race, color, religion, sex, or national origin.

SEC. 9145. Of the funds appropriated under the heading "Research, Development, Test and Evaluation, Army" in this Act, not less than $20,000,000 shall be made available only for the National Defense Environmental Corporation, or its successor in interest, for the continued establishment and operation of the National Defense Center for Environmental Excellence (NDCEE): *Provided,* That nothing in the contract for this effort shall prohibit use of the NDCEE by industry, associations, other Department of Defense services and agencies, and other government agencies for efforts to be separately negotiated and funded.

SEC. 9146. During the current fiscal year, the amount of individual loans, guarantees, purchase agreements and other actions under sections 301, 302, and 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2091, 2092, and 2093) may not exceed $50,000,000.

Washington. Federal buildings and facilities. Public lands.

SEC. 9147. (a) The project for Bonneville Lock and Dam, Columbia River, Oregon and Washington, authorized by the Act of August 20, 1937 (50 Stat. 731), and modified by the Water Resources Development Act of 1974 (93 Stat. 35), is further modified to direct the Secretary of the Army to complete the relocation of the city of North Bonneville, Washington, by undertaking and completing the following actions:

(1) On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all constructed municipal facilities, utilities, fixtures, and equip-

ment for the relocated town, together with associated easements and rights of entry.

(2) On or before the 30th day following the date of the enactment of this Act, convey to the city, at no cost to the city, all right, title, and interest of the United States to all public lands, as designated in the plats of the initial town. Such lands are identified as open spaces, municipal lots, street rights-of-way, and city park and community center lot (lot 2, block 5), as shown on the plat of relocated North Bonneville.

(3) In accordance with subsection (b), convey to the city all right, title, and interest of the United States to the following parcels of optimum town land, as described and identified in Committee Print 102–67 of the Committee on Public Works and Transportation.

(A) Parcels 2 B, C, and H on or before the 30th day following the date of the enactment of this Act.

(B) Parcel 1 (other than those lands, not to exceed 10 acres, which are necessary and appropriate for fish and wildlife mitigation as determined by the Secretary of the Army, in consultation with the Secretary of the Interior) on or before the 30th day following receipt by the Secretary of the Army of certification by the State of Washington Department of Ecology that remedial actions required by such department to address contamination on parcel 1 have been completed to the satisfaction of such department.

(4) Execute and transmit to the city a release of a claim of the United States in the amount of $365,181.12 (plus interest) for operation and maintenance costs incurred by the Secretary of the Army during the period in which the city relocation was not completed.

(5) At the time of conveyance of the parcels under paragraph (3), grant easements—

(A) for reasonable public pedestrian and vehicular access to the Columbia River; and

(B) for storm drain outfalls reasonably required to serve the city of North Bonneville.

(b) Conveyance of the parcels under subsection (a)(3) shall be in consideration of $597,804 to be paid by the city of North Bonneville to the United States. The Secretary of the Army shall determine the portion of such sum represented by each parcel and upon the conveyance of a parcel shall require payment for such parcel, without interest, not later than 10 years after the date of such conveyance.

(c) Completion of the actions required under subsection (a) shall constitute completion of the relocation of the city of North Bonneville and shall fully satisfy any claim of the city for just compensation relating to the taking by the United States of the municipal facilities and utilities of the city. Upon completion of actions required under subsection (a) and request by the Secretary of the Army, the city shall transmit to the Secretary of the Army written certification of such completion and a release of any future claim of the city for just compensation relating to such taking.

Pennsylvania.
Real property.

SEC. 9148. Notwithstanding any other provision of law, the Secretary of Defense shall participate in an infrastructure demonstration program conducted by the Regional Equipment Center, Cambria County, Pennsylvania: *Provided,* That within ninety days

following enactment of this Act, the Secretary shall provide directly such property within the control of the Department of Defense or any component thereof as mutually agreed to by the Regional Equipment Center and the Secretary and as necessary to carry out the provisions of this section: *Provided further,* That of the funds available to the Defense Logistics Agency, $1,000,000 shall be available only to establish the Regional Equipment Center in Cambria Country Pennsylvania.

SEC. 9149. For expenses necessary for the purpose of acquiring, transporting and drawing down crude oil to be stored in the Strategic Petroleum Reserve for national defense purposes, $125,625,000 is appropriated to the Secretary of Defense, which shall be transferred to the Secretary of Energy by November 1, 1992, to remain available until expended: *Provided,* That the Secretary of Energy may transfer up to $700,000 to the Strategic Petroleum Reserve Account for purposes of operating, maintaining and managing the Strategic Petroleum Reserve: *Provided further,* That the acquisition and storage of crude oil authorized under this heading shall be in addition to any acquisition or storage of crude oil for the Strategic Petroleum Reserve authorized or required by any other law, except that the crude oil acquired under this heading may be comingled with other petroleum products in the Strategic Petroleum Reserve: *Provided further,* That upon the Presidential findings under section 161(d) of the Energy Policy and Conservation Act (42 U.S.C. 6241(d)), and upon the recommendation of the Secretary of Defense, the Secretary of Energy shall draw down and distribute for the Department of Defense, for its use, sale, or exchange, the amount of crude oil acquired under this heading: *Provided further,* That crude oil acquired under this heading may be stored, drawn down and distributed, used, sold, or exchanged, without regard to: (a) the Strategic Petroleum Reserve Plan; (b) otherwise applicable Federal contracting statutes and regulations; and (c) requirements of section 154 (b)–(e), 159 (a)–(f) and 161(e) of the Energy Policy and Conservation Act (42 U.S.C. 6234 (b)–(e), 6239(a)–(f) and 6241(e)): *Provided further,* That the costs of the draw down shall be reimbursed to the Strategic Petroleum Reserve Account, Department of Energy, from funds available to the Secretary of Defense at the time of the draw down: *Provided further,* That upon draw down and sale of the oil acquired under the authority hereunder, the receipts of sale shall be deposited in this account and shall remain available until expended for the acquisition of oil and related expenses for the purposes herein stated: *Provided further,* That no amendment to the Strategic Petroleum Reserve Plan is required for the implementation under this heading: *Provided further,* That outlays under this heading shall not be counted against any outlay ceiling established in the SPR Petroleum Account: *Provided further,* That any appropriation under this heading shall not be counted as an appropriation for the purposes of section 160(g)(4) of the Energy Policy and Conservation Act (42 U.S.C. 6240(g)(4)).

SEC. 9150. Notwithstanding any other provision of law, the Secretary of Defense is authorized to expend up to $5,000,000 of funds available to the Department of Defense during the current fiscal year or hereafter for the purpose of acquiring approximately one thousand five hundred and two acres of tidelands in the State of Washington from the Coast Oyster Company: *Provided,* That as soon as practicable following such acquisition, such tidelands shall be conveyed without a requirement for compensation to the

State of Washington: *Provided further,* That such acquisition and transfer shall be for mitigating responsibilities related to tideland access guaranteed under treaties between American Indian tribes in the Puget Sound region and the Federal Government: *Provided further,* That the Government of the United States shall be held harmless or indemnified for any and all risks and claims resulting from activities carried out on such land prior to its conveyance to the State of Washington.

Claims.
Real property.
Washington.

SEC. 9151. During the current fiscal year, funds available to the Department of Defense used for a system or item procured by, or provided to, the Department of Defense containing manufactured carbonyl iron powders shall be available only for a system or item containing domestically manufactured carbonyl iron powders: *Provided,* That the Secretary of Defense may waive the provision of this section upon a determination that it is in the national interest: *Provided further,* That for the purpose of this section "domestically manufactured" means manufactured in a facility located in the United States or Canada.

SEC. 9152. Notwithstanding the provisions of section 351 (a) of the National Defense Authorization Act for Fiscal Year 1993 or any other provision of law, no funds appropriated or available to the Department of Defense shall be made available to prevent or delay the transfer and execution of the tactical missile maintenance consolidation to Letterkenny Army Depot and, in addition, no funds shall be made available for a depot selection competition to assess depot level tactical missile maintenance. For purposes of this section, this Act shall be treated as having been enacted after the National Defense Authorization Act for Fiscal Year 1993 (regardless of the actual dates of enactment).

SEC. 9153. Funds available for disaster relief activities of the Department of Defense may be used to provide bridge financing for the National Guard, for pay and allowances of members of the National Guard assisting in times of emergencies and natural disasters, until such time as Federal emergency has been declared.

SEC. 9154. Funds appropriated in this Act under the heading "Operation and Maintenance, Navy" shall be available for payments arising out of the deaths and injuries that resulted from the accidental striking of the Turkish ship Muavenet by a missile fired from the aircraft carrier Saratoga on October 1, 1992.

SEC. 9155. Section 206(a) of the International Emergency Economic Powers Act (50 U.S.C. 1705(a)) is amended by striking out "$50,000" and inserting in lieu thereof "$10,000".

SEC. 9156. The energy, educational, and medical facilities listed in amendment number 37 of the conference agreement on H.R. 5373, an Act making appropriations for energy and water development for the fiscal year ending September 30, 1993, and for other purposes, as reported and filed by the Committee of Conference on September 15, 1992, in the House of Representatives (House Report 102–866) for which the sum of $94,800,000 was included therein for such facilities, are hereby authorized and that sum as named in the appropriation shall be available only for these facilities in lieu of competitive merit-review awards or any other provision contained in that appropriations as enacted into law.

SEC. 9157. In addition to amounts appropriated elsewhere in this Act to the Department of Defense, $4,500,000 is appropriated only for the construction of a visitors center at the United States Naval Academy, Annapolis, Maryland; $5,500,000 is appropriated

only for the construction of a library at Fort Bragg, North Carolina; $9,700,000 is appropriated only for the construction of the 154th Composite Group Consolidated Support Facility, Hickam Air Force Base, Oahu, Hawaii; $1,050,000 is appropriated only for the construction of an armory at Kaunakakai, Molokai, Hawaii; $8,500,000 is appropriated only for the construction of FACP facilities at Barking Sands Naval Air Station, Kauai, Hawaii; and $4,300,000 is appropriated only for the construction of an armory at Wahiawa, Oahu, Hawaii.

SEC. 9158. From within funds provided in title II of this Act, the Secretary of Defense, in consultation with the Secretary of State, may obligate up to $100,000,000 to provide goods, services, and other support for international peacekeeping and humanitarian relief efforts under the authorities of the United Nations Participation Act of 1945, as amended (Public Law 79-264).

SEC. 9159. SACRAMENTO AND AMERICAN RIVERS FLOOD CONTROL PROJECT, CALIFORNIA: PRECONSTRUCTION ENGINEERING AND DESIGN; NATOMAS LEVEE CONSTRUCTION.

(a) CONTINUATION OF ENGINEERING AND DESIGN.—The Secretary of the Army is directed to reevaluate the project for flood control and recreation, Sacramento and American Rivers, California, as described in the feasibility report of the Chief of Engineers, entitled the "American River Watershed Investigation", dated July 1, 1992, subject to the provisions of this section.

(b) NATOMAS LEVEE FEATURES.—

(1) CONSTRUCTION.—The Secretary of the Army is authorized and directed to construct the Natomas levee features of the project as described in the feasibility report referred to in subsection (a), subject to entering into appropriate local cost-sharing agreements from the non-Federal sponsors of the project, provided that such construction does not encourage the development of deep floodplains.

(2) CREDIT FOR CERTAIN NON-FEDERAL WORK.—The Secretary of the Army shall credit against the non-Federal share of the cost of construction under paragraph (1), or reimburse the non-Federal sponsors, for any planning and construction work performed by the non-Federal sponsors to protect the Natomas area which is commenced prior to the Army Corps of Engineers' receiving appropriations to initiate such construction and which is consistent with the feasibility report referred to in subsection (a).

(c) GATING AND EXPANDABILITY REPORT.—In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army is directed, within one year after the date of the enactment of this Act, to submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report which:

(1) analyzes the outlet design of the flood control dam proposed as a feature of the project referred to in subsection (a), including an analysis of various configurations and capacities of gates (including a completely ungated configuration, a partly ungated configuration, emergency gates, operational gates, or a combination thereof) to ensure the safety of the flood control dam itself, to provide for system safety, to mini-

mize small event flooding of the Auburn Canyon, and to minimize damages to the vegetation, soils, and habitat in the canyon; and

(2) includes further analysis as to whether any feature or characteristic of the flood control dam would preclude its efficient expansion for water, power, or other purposes, and whether the design would create any greater difficulty for an expanded dam to meet seismic requirements than a multipurpose dam would otherwise encounter, and further assessment of the extra costs attributable to installation into an expanded dam such penstocks, operational gates and other features of a multipurpose dam which would not be included in an expandable dam lacking advanced features.

(d) REPAYMENT OF DESIGN WORK.—The non-Federal share of the costs of the design and reevaluations described in subsection (a) shall not be required to be repaid until after the execution of the agreement required by section 103(j) of the Water Resources Development Act of 1986 and immediately prior to the initiation of construction of the project or the appropriate separable element.

(e) SPECIAL EVALUATION REPORTS.—

(1) In carrying out the reevaluation described in subsection (a) and in consultation with the State of California, the local non-Federal sponsors, and other interested groups, the Secretary of the Army shall perform further evaluation of, and, within twelve months after the date of the enactment of this Act, submit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on, other features and operational procedures that should be implemented in a coordinated plan to provide flood protection sufficiently high for a major urban area subject to risk of frequent floods causing great economic, environmental, and social damage. The report shall specifically address, at a minimum, the following:

(i) The reliability, costs, environmental impacts, and public safety risks associated with increasing objective flows in the Lower American River above the 115,000 cubic feet per second design capacity, as well as the costs and impacts of permanent reoperation of Folsom Reservoir at different levels of increased flood storage, including the appropriate alternatives for sharing costs associated with Folsom Dam.

(ii) The costs and benefits of lowering the spillway at Folsom Dam in order to improve the dam's ability to pass a maximum probable flood and improve its operational flexibility for flood control.

(iii) The costs and benefits of transferring flood control obligations from the Folsom Reservoir to a new flood control facility at Auburn, increasing the Folsom Reservoir's capability for water supply.

(iv) The costs and benefits of utilizing existing and increased flood space in the upstream reservoirs to enhance the flood control capability at Folsom Dam and of establishing offstream storage in Deer Creek, alone or in combination with the alternatives referenced in paragraphs (i) and (ii) of this subsection.

(2) The Secretary of the Army shall further consult with, and solicit the views of, the National Academy of Engineering on the contingency assumptions, hydrological methodologies used in the preparation of the American River Project, and other engineering assumptions and methodologies influencing the scope and formulation of the American River flood control alternatives. Such consultation shall also solicit the views of the National Academy of Engineering on the merits of normalized use of reservoir surcharge space in a flood control regime for Sacramento. Any opinions with respect to these and other issues rendered by the National Academy of Engineering shall be made available to the public and included in the reports transmitted to Congress pursuant to this section.

Public information.

(f) FOLSOM DAM.—

(1) IN GENERAL.—Congress recognizes the urgency of ensuring that Folsom Dam is operated correctly, safely, efficiently and prudently for flood control purposes. The Secretary of the Interior (in consultation with the Sacramento Flood Control Agency and the Secretary of the Army) shall operate Folsom Dam to provide the maximum level of flood protection.

(2) FLOOD MANAGEMENT PLAN.—(A) Not later than one year after the date of enactment of this Act, and consistent with existing law, the Secretaries of the Army and Interior shall jointly develop and implement a flood management plan for the American River and Folsom Dam that ensures prompt, reliable, and full utilization of the flood control capability at Folsom Dam and other existing water resources development projects located in the American River watershed, California. Consistent with existing law, the plan should maximize the flood control capability within Folsom Dam's flood space reservation. The plan shall also identify opportunities and make recommendations to improve the stream gauge network and flood forecast system for the upper American River watershed. The Plan should also recognize that reservoir releases need to be made as quickly as possible in anticipation of incoming flow and in accordance with existing documents: "1959 Reservoir Regulations, Appendix II, the Corps Master Manual, Sacramento River Basin Reservoir Regulation Manual, Folsom Dam/Reservoir, American River: October 1, 1956," revised March 1959.

(B) The components of the inflow forecasting system and revised flood release rules and practices, and hydrographic and flood frequency models shall give due deference to the National Academy of Engineering findings developed pursuant to subsection (e)(2) of this section.

SEC. 9160. In addition to amounts appropriated elsewhere in this Act, $500,000 shall be available only for the settlement of subcontractor claims associated with the Army Corps of Engineers contract DACA85–88–0025, for the construction of an Aircraft Maintenance Management Facility at Eielson Air Force Base: *Provided,* That the Secretary of the Air Force shall evaluate such claims as may be submitted by subcontractors engaged under this contract, and, notwithstanding any other provision of law, may pay such amounts from the funds provided in this paragraph as the Secretary deems appropriate to settle completely any claims the Secretary determines to have merit: *Provided further,* That the Secretary shall report to the House and Senate Committees

Reports.

on Appropriations the resolution of such claims as are presented for consideration not later than March 15, 1993.

SEC. 9161. Section 118(a) of title 28, United States Code, is amended by inserting "Lancaster," before "Reading".

SEC. 9162. Notwithstanding any other provision of law, from the funds made available in title II of this Act, the Secretary of Defense may make a grant of $34,000,000 to the American Red Cross for reimbursement for disaster relief expenditures for Guam, American Samoa and Puerto Rico.

Contracts. Claims.

SEC. 9163. Notwithstanding any other provision of law or regulation, the Secretary of the Navy is authorized and directed to increase the current contract price (the contract price including all modifications as of the date of enactment of this Act) for the T–AGS 39 and 40 design and construction contract by $40,000,000 using funds provided in Public Law 102–172 for this program, and shall pay to the contractor which built and delivered T–AGS 39 and 40 the amount of $40,000,000, no later than December 31, 1992: *Provided,* That the contractor shall execute a release discharging the Government, its officers, agents and employees from any additional liability arising under or relating to the contract for T–AGS 39 and 40: *Provided further,* That the contractor shall agree to dismiss with prejudice its pending action in the United States Claims Court.

Contracts.

SEC. 9164. Notwithstanding any other provision of law, prior to March 1, 1993, the Secretary of the Air Force is directed to enter into a Supplemental Agreement to Air Force Prime Contract F04701–85–C–0019 for a Heavy Lift Expendable Launch Vehicle: *Provided,* That such a Supplemental Agreement shall address the Solid Rocket Motor Upgrade (SRMU) program and shall provide up to $350,000,000 in payment to the prime contractor and the agreed upon payments to the subcontractor for costs associated with: (a) conversion of the existing SRMU subcontract to a Fixed Price Incentive subcontract with equitable changes to the Titan IV Prime contract as necessary to encompass this conversion and subsections (b), (c), and (d) of this paragraph; (b) removal of concurrency in the SRMU development and production programs; (c) working capital contributions related to SRMU development, tooling and production; and (d) amortization of deferred non-recurring development, qualification and tooling: *Provided further,* That as a condition of the Supplemental Agreement, the Air Force shall require the prime contractor to certify that all legal disputes have been completely and finally resolved between the parties to the SRMU subcontract: *Provided further,* That the Air Force shall restructure the SRMU program to align production with mission model launch requirements: *Provided further,* That within funds appropriated to the Department of the Air Force either in this Act or in Public Law 102–172 not less than $200,000,000 nor more than $300,000,000 shall be available for the Supplemental Agreement and that such sums shall be in addition to any amounts appropriated specifically for the Titan IV program in this Act or in Public Law 102–172: *Provided further,* That the Secretary of the Air Force may use incremental funding for the restructured Titan IV program under the existing contract for 41 vehicles: *Provided further,* That the prime contractor shall certify all costs for which reimbursement is received and all such costs shall be subject to the normal allowability standards of the United States Government: *Provided further,* That the Air Force shall notify the

Committees on Appropriations of the House and Senate of the results of the negotiations and how funds will be made available to pay the negotiated settlement.

SEC. 9165. Within funds appropriated in this Act for the National Foreign Intelligence Program, the Director of Central Intelligence may transfer up to $32,000,000 to the Federal Bureau of Investigation for special programs: *Provided,* That the Director of Central Intelligence shall notify the House and Senate Committees on Appropriations prior to transferring any funds pursuant to this section.

SEC. 9166. In addition to amounts appropriated or otherwise made available by this Act, $303,000,000 is hereby appropriated to the Department of Defense and shall be available only for transfer to the United States Coast Guard, of which $253,000,000 shall be merged with and be available for the same purposes and same time period as "Operating Expenses" for fiscal year 1993 and $50,000,000 shall be merged with and be available for the same purposes and same time period as "Reserve Training" for fiscal year 1993: *Provided,* That the foregoing transfers shall be made immediately upon enactment of this Act.

SEC. 9167. None of the funds available to the Department of Defense may be obligated or expended for construction of a Ground Wave Emergency Network (GWEN) site in the Commonwealth of Massachusetts in Fiscal Year 1993.

42 USC 11701 *et seq.*; 25 USC 1621d.

SEC. 9168. S. 2681, as passed by the Senate on September 12, 1992, is hereby enacted into law.

This Act may be cited as the "Department of Defense Appropriations Act, 1993".

Approved October 6, 1992.

LEGISLATIVE HISTORY—H.R. 5504:

HOUSE REPORTS: Nos. 102-627 (Comm. on Appropriations) and 102-1015 (Comm. of Conference).
SENATE REPORTS: No. 102-408 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 2, considered and passed House.
Sept. 21-23, considered and passed Senate, amended.
Oct. 5, House and Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-397
102d Congress

An Act

To add to the area in which the Capitol Police have law enforcement authority, and for other purposes.

Oct. 6, 1992
[S. 1766]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LAW ENFORCEMENT AUTHORITY AND SUNDRY ADMINISTRATIVE PROVISIONS

SEC. 101. LAW ENFORCEMENT AUTHORITY OF THE CAPITOL POLICE.

The Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 212a) is amended by inserting after section 9A the following new section:

"SEC. 9B. (a) Subject to such regulations as may be prescribed by the Capitol Police Board and approved by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, a member of the Capitol Police shall have authority to make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia— 40 USC 212a-3.

"(1) within the District of Columbia, with respect to any crime of violence committed within the United States Capitol Grounds;

"(2) within the District of Columbia, with respect to any crime of violence committed in the presence of the member, if the member is in the performance of official duties when the crime is committed;

"(3) within the District of Columbia, to prevent imminent loss of life or injury to person or property, if the officer is in the performance of official duties when the authority is exercised; and

"(4) within the area described in subsection (b).

"(b) The area referred to in subsection (a)(4) is that area bounded by the north curb of H Street from 3rd Street, N.W. to 7th Street, N.E., the east curb of 7th Street from H Street, N.E., to M Street, S.E., the south curb of M Street from 7th Street, S.E. to 1st Street, S.E., the east curb of 1st Street from M Street, S.E. to Potomac Avenue S.E., the southeast curb of

Potomac Avenue from 1st Street, S.E. to South Capitol Street, S.W., the west curb of South Capitol Street from Potomac Avenue, S.W. to P Street, S.W., the north curb of P Street from South Capitol Street, S.W. to 3rd Street, S.W., and the west curb of 3rd Street from P Street, S.W. to H Street, N.W.

"(c) This section does not affect the authority of the Metropolitan Police force of the District of Columbia with respect to the area described in subsection (b).

"(d) As used in this section, the term 'crime of violence' has the meaning given that term in section 16 of title 18, United States Code.".

SEC. 102. UNIFIED PAYROLL ADMINISTRATION FOR THE CAPITOL POLICE.

The Act entitled "An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes", approved July 31, 1946 (40 U.S.C. 212a), as amended by section 101, is further amended by inserting after section 9B the following new section:

40 USC 207a.

"SEC. 9C. Payroll administration for the Capitol Police and civilian support personnel of the Capitol Police shall be carried out on a unified basis by a single disbursing authority. The Capitol Police Board, with the approval of the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, acting jointly, shall, by contract or otherwise, provide for such unified payroll administration.".

Contracts.

SEC. 103. TECHNICAL AMENDMENT.

Effective date.
40 USC 212a.

Effective November 5, 1990, section 106(a) of Public Law 101–520 is amended by striking out "(a) The" and inserting in lieu thereof "Section 9 of the".

40 USC 207a note.

SEC. 104. EFFECTIVE DATE.

The unified payroll administration under the amendment made by section 102 shall apply with respect to pay periods beginning after September 30, 1992.

40 USC 207a note.

TITLE II—LUMP-SUM PAYMENT PROVISIONS

SEC. 201. DEFINITIONS.

For the purpose of this title—

(1) the term "officer" includes all personnel of the rank of lieutenant or higher, including inspector;

(2) the term "member" includes all personnel below the rank of lieutenant, including detectives; and

(3) the term "Clerk of the House of Representatives" or "Clerk" includes a successor in function to the Clerk.

SEC. 202. LUMP-SUM PAYMENT FOR ACCUMULATED AND CURRENT ACCRUED ANNUAL LEAVE.

An officer or member of the United States Capitol Police who separates from service within the 2-year period beginning on the date of the enactment of this title and who, at the time of separation, satisfies the age and service requirements for title to an immediate annuity under subchapter III of chapter 83 or chapter 84 of title 5, United States Code, shall be entitled to receive a lump-sum payment for the accumulated and current accrued annual leave to which that individual is entitled, but only to the extent that such leave is attributable to service performed by such individual as an officer or member of the Capitol Police.

SEC. 203. PROCEDURES.

(a) IN GENERAL.—A payment under this title shall be paid—

(1) in the case of an officer or member whose pay (for service last performed before separation) is disbursed by the Clerk of the House of Representatives—

(A) by the Clerk;

(B) after appropriate certification is made to the Clerk by the Sergeant at Arms of the House of Representatives; and

(C) out of funds available to pay the salaries of officers and members of the Capitol Police whose pay is disbursed by the Clerk; and

(2) in the case of an officer or member whose pay (for service last performed before separation) is disbursed by the Secretary of the Senate—

(A) by the Secretary of the Senate;

(B) after appropriate certification is made to the Secretary of the Senate by the Sergeant at Arms and Doorkeeper of the Senate; and

(C) out of funds available to pay the salaries of officers and members of the Capitol Police whose pay is disbursed by the Secretary of the Senate.

(b) CERTIFICATION.—Any certification under subsection (a)(1)(B) or (a)(2)(B) shall state the total of the accumulated and current accrued annual leave, to the credit of the officer or member involved, which may be taken into account for purposes of a computation under subsection (c).

(c) COMPUTATION.—(1) The amount of a lump-sum payment under this title shall be determined by multiplying the hourly rate of basic pay of the officer or member involved by the number of hours certified with respect to such officer or member in accordance with the preceding provisions of this section.

(2) The hourly rate of basic pay of an officer or member shall, for purposes of this title, be determined by dividing 2,080 into the annual rate of basic pay last payable to such officer or member before separating.

(d) TREATMENT AS PAY.—A lump-sum payment under this title shall be considered to be pay for taxation purposes only.

(e) CLARIFICATION.—For purposes of this title, the terms "officer" and "member" may not be construed to include any civilian employee.

Approved October 6, 1992.

LEGISLATIVE HISTORY—S. 1766 (H.R. 5269):

HOUSE REPORTS: No. 102-648 accompanying H.R. 5269 (*Comm. on House Administration*).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Sept. 26, considered and passed Senate.

Vol. 138 (1992): July 7, H.R. 5269 considered and passed House; S. 1766, amended, passed in lieu.

July 21, Senate concurred in House amendments with an amendment.

Sept. 17, Senate receded and concurred in House amendments with amendments.

Sept. 22, House concurred in Senate amendments.

Public Law 102-398
102d Congress

Joint Resolution

To consent to certain amendments enacted by the legislature of the State of Hawaii to the Hawaiian Homes Commission Act, 1920.

Oct. 6, 1992
[S.J. Res. 23]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, as required by section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 4), the United States hereby consents to the following amendments to the Hawaiian Homes Commission Act, 1920, as amended, adopted by the State of Hawaii in the manner required for State legislation:

48 USC note prec. 491.

Act 16 of Session Laws of Hawaii, 1986;
Act 85 of Session Laws of Hawaii, 1986;
Act 249 of Session Laws of Hawaii, 1986;
Act 36 of Session Laws of Hawaii, 1987;
Act 28 of Session Laws of Hawaii, 1989;
Act 265 of Session Laws of Hawaii, 1989;
Act 14 of Session Laws of Hawaii, 1990;
Act 24 of Session Laws of Hawaii, 1990;
Act 150 of Session Laws of Hawaii, 1990; and
Act 305 of Session Laws of Hawaii, 1990.

Approved October 6, 1992.

LEGISLATIVE HISTORY—S.J. Res. 23:

SENATE REPORTS: No. 102-235 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed Senate.
Vol. 138 (1992): Sept. 22, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 6, Presidential statement.

Public Law 102-399
102d Congress

An Act

Oct. 7, 1992
[H.R. 5058]

To authorize appropriations for the American Folklife Center for fiscal year 1993.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8 of the American Folklife Preservation Act (20 U.S.C. 2107) is amended—

(1) by striking out "1991, and" and inserting in lieu thereof "1991,"; and

(2) by inserting after "1992" the following: ", and $1,120,000 for the fiscal year ending September 30, 1993".

Approved October 7, 1992.

LEGISLATIVE HISTORY—H.R. 5058:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 9, considered and rejected in House.
Sept. 24, considered and passed House.
Sept. 29, considered and passed Senate.

Public Law 102-400
102d Congress

An Act

To amend the United States Commission on Civil Rights Act of 1983 to provide an authorization of appropriations.

Oct. 7, 1992
[H.R. 5399]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States Commission on Civil Rights Authorization Act of 1992.
42 USC 1975 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Commission on Civil Rights Authorization Act of 1992".

SEC. 2. REAUTHORIZATION.

Section 7 of the United States Commission on Civil Rights Act of 1983 (42 U.S.C. 1975e) is amended by adding at the end the following: "There are authorized to be appropriated to carry out this Act $7,422,014 for fiscal year 1993, and an additional $850,000 for fiscal year 1993 to relocate the headquarters office. None of the sums authorized to be appropriated for fiscal year 1993 may be used to create additional regional offices.".

Approved October 7, 1992.

LEGISLATIVE HISTORY—H.R. 5399:

HOUSE REPORTS: No. 102-770 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Sept. 29, considered and passed Senate.

59-194 O—93——6 : QL 3 (Pt. 3)

Public Law 102-401
102d Congress

An Act

To amend the Head Start Act to expand services provided by Head Start programs; to expand the authority of the Secretary of Health and Human Services to reduce the amount of matching funds required to be provided by particular Head Start agencies; to authorize the purchase of Head Start facilities; and for other purposes.

Oct. 7, 1992
[H.R. 5630]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Head Start Improvement Act of 1992.
Children and youth.
42 USC 9801 note.

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Head Start Improvement Act of 1992".

SEC. 2. AMENDMENTS.

(a) ALLOTMENT OF QUALITY IMPROVEMENT FUNDS.—Section 640(a)(3)(B) of the Head Start Act (42 U.S.C. 9835(a)(3)(B)) is amended—

(1) in clauses (i) and (iii) by striking "and second" and inserting ", second, and third", and

(2) in clause (ii) by striking "second" and inserting "third".

(b) PARENTAL SKILLS.—Section 640(a)(4)(B)(i)(II) of the Head Start Act (42 U.S.C. 9835(a)(4)(B)(i)(II)) is amended by inserting ", literacy," after "skills".

(c) REDUCTION OF REQUIRED AMOUNT OF MATCHING FUNDS.—Section 640(b) of the Head Start Act (42 U.S.C. 9835(b)) is amended—

(1) in the first sentence by striking ", in accordance with regulations establishing objective criteria,", and

(2) by inserting after the first sentence the following:

"For the purpose of making such determination, the Secretary shall take into consideration with respect to the Head Start program involved—

"(1) the lack of resources available in the community that may prevent the Head Start agency from providing all or a portion of the non-Federal contribution that may be required under this subsection;

"(2) the impact of the cost the Head Start agency may incur in initial years it carries out such program;

"(3) the impact of an unanticipated increase in the cost the Head Start agency may incur to carry out such program;

"(4) whether the Head Start agency is located in a community adversely affected by a major disaster; and

"(5) the impact on the community that would result if the Head Start agency ceased to carry out such program.".

(d) ISSUANCE OF TRANSPORTATION SAFETY REGULATIONS.—Section 640 of the Head Start Act (42 U.S.C. 9835) is amended by adding at the end the following:

"(i) The Secretary shall issue regulations establishing requirements for the safety features, and the safe operation, of vehicles

used by Head Start agencies to transport children participating in Head Start programs.".

(e) LOSS OF PRIORITY.—(1) Section 641(c)(1) of the Head Start Act (42 U.S.C. 9836(c)(1)) is amended by adding at the end the following:

"Notwithstanding any other provision of this paragraph, the Secretary shall not give such priority to any agency with respect to which financial assistance has been terminated, or an application for refunding has been denied, under this subchapter by the Secretary after affording such agency reasonable notice and opportunity for a full and fair hearing in accordance with section 646(a)(3).".

(2) The amendment made by paragraph (1) shall apply only with respect to terminations of financial assistance, and denials of refunding, occurring after July 29, 1992. 42 USC 9836 note.

(f) REVIEW OF HEAD START AGENCIES.—Section 641(c)(2) of the Head Start Act (42 U.S.C. 9836(c)(2)) is amended—

(1) by inserting "(A)" after "(2)", and

(2) by adding at the end the following:

"(B) The Secretary shall conduct a review of each newly designated Head Start agency immediately after the completion of the first year such agency carries out a Head Start program.

"(C) The Secretary shall conduct followup reviews of Head Start agencies when appropriate.".

(g) DESIGNATION OF HEAD START AGENCIES.—Section 641(d) of the Head Start Act (42 U.S.C. 9836(d)) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(8) the plan of such applicant to provide (directly or through referral to educational services available in the community) parents of children who will participate in the proposed Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and

"(9) the plan of such applicant who chooses to assist younger siblings of children who will participate in the proposed Head Start program to obtain health services from other sources.".

(h) INTERIM GRANTEE.—Section 641 of the Head Start Act (42 U.S.C. 9836) is amended—

(1) in subsection (e) by striking "(c) and (d)" and inserting "(c), (d), and (e)",

(2) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and

(3) by inserting after subsection (d) the following:

"(e) If, in a community served by a Head Start program, there is no applicant qualified for designation as a Head Start agency to carry out such program, the Secretary may appoint an interim grantee to carry out such program until a qualified applicant is so designated.".

(i) POWERS AND FUNCTIONS OF HEAD START AGENCIES.—Section 642(b) of the Head Start Act (42 U.S.C. 9836(b)) is amended— 42 USC 9837.

(1) by striking "and (5)" and inserting "(5)", and

(2) by inserting before the period at the end the following: "; (6) provide (directly or through referral to educational services available in the community) parents of children participating in

its Head Start program with child development and literacy skills training in order to aid their children to attain their full potential; and (7) consider providing services to assist younger siblings of children participating in its Head Start program to obtain health services from other sources.".

(j) ADMINISTRATIVE REQUIREMENTS AND STANDARDS.—Section 644 of the Head Start Act (42 U.S.C. 9839) is amended—

(1) in subsection (b) by striking "No" and inserting "Except as provided in subsection (f), no",

(2) in the first sentence of subsection (c) by striking "subsection (a)" and inserting "subsections (a) and (f)", and

(3) by adding at the end the following:

"(f)(1) The Secretary shall establish uniform procedures for Head Start agencies to request approval to purchase facilities to be used to carry out Head Start programs.

"(2) Except as provided in section 640(a)(3)(A)(v), financial assistance provided under this subchapter may not be used by a Head Start agency to purchase a facility (including paying the cost of amortizing the principal, and paying interest on, loans) to be used to carry out a Head Start program unless the Secretary approves a request that is submitted by such agency and contains—

"(A) a description of the site of the facility proposed to be purchased;

"(B) the plans and specifications of such facility;

"(C) information demonstrating that—

"(i) the proposed purchase will result in savings when compared to the costs that would be incurred to acquire the use of an alternative facility to carry out such program; or

"(ii) the lack of alternative facilities will prevent the operation of such program; and

"(D) such other information and assurances as the Secretary may require.".

(k) TECHNICAL AMENDMENTS.—(1) Section 640 of the Head Start Act (42 U.S.C. 9835) is amended—

(A) in subsection (a)—

(i) in paragraph (2)—

(I) in subparagraph (A) by inserting "children" after "handicapped",

(II) in subparagraph (B) by striking "Commonwealth of," and inserting "Commonwealth of", and

(III) in subparagraph (C) by striking "any",

(ii) in paragraph (3)(A)(vi) by striking "section 640(a)(2)(C)" and inserting "paragraph (2)(C)", and

(iii) in paragraph (5)(B)(i) by striking "clause (A)" and inserting "subparagraph (A)", and

(B) in subsection (g) by striking "for all" and inserting "For All".

(2) Section 640A(b) of the Head Start Act (42 U.S.C. 9835a) is amended—

(A) in paragraph (1) by striking "solution" and inserting "solutions", and

(B) in paragraph (7)—

(i) in clause (iii) by striking "the", and

(ii) in clause (iv) by striking "the" the first place it appears.

(3) Section 642(c) of the Head Start Act (42 U.S.C. 9837(c)) is amended by striking "subtitle" and inserting "subchapter".

(4) Section 643 of the Head Start Act (42 U.S.C. 9838) is amended by striking "the such" each place it appears and inserting "such".

(5) Section 651(g) of the Head Start Act (42 U.S.C. 9846(g)) is amended—

(A) by striking "physicial" and inserting "physical", and

(B) by striking "(g)(1)" and inserting "(g)".

(6) Section 651A of the Head Start Act (42 U.S.C. 9846a) is amended—

(A) in subsection (f) by striking "COMPARISION" and inserting "COMPARISON", and

(B) in subsection (g) by inserting "of title I of the Elementary and Secondary Education Act of 1965" after "chapter 1".

SEC. 3. TECHNICAL AMENDMENTS RELATING TO THE CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

(a) PLACEMENT OF ACT.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508; 104 Stat. 1388-236) is amended in the matter preceding paragraph (1) by striking "title IV" and inserting "title VI". 42 USC 9858 *et seq.*

(b) REFERENCES IN DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n) is amended—

(1) in paragraph (7)—

(A) by striking "section 4(b)" and inserting "section 4(e)", and

(B) by striking "(25 U.S.C. 450b(b))" and inserting "(25 U.S.C. 450b(e))", and

(2) in paragraph (14)—

(A) by striking "section 4(c)" and inserting "section 4(l)", and

(B) by striking "(25 U.S.C. 450b(c))" and inserting "(25 U.S.C. 450b(l))".

SEC. 4. EFFECTIVE DATES; APPLICATION OF AMENDMENTS. 42 USC 9835 note.

(a) EFFECTIVE DATES.—(1) Except as provided in paragraph (2) and subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) The amendment made by section 2(e)(1) shall take effect on July 30, 1992.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act, other than the amendment made by section 2(e)(1), shall

not apply with respect to fiscal years beginning before October 1, 1992.

Approved October 7, 1992.

LEGISLATIVE HISTORY—H.R. 5630:

HOUSE REPORTS: No. 102-763 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Sept. 24, considered and passed Senate.

Public Law 102-402
102d Congress

An Act

To direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, Colorado, to the Secretary of the Interior.

Oct. 9, 1992
[H.R. 1435]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rocky Mountain Arsenal National Wildlife Refuge Act of 1992.
Real property.
16 USC 668dd note.

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Rocky Mountain Arsenal National Wildlife Refuge Act of 1992".

(b) DEFINITIONS.—For purposes of this Act:

(1) The term "Arsenal" means the Rocky Mountain Arsenal in the State of Colorado.

(2) The term "refuge" means the Rocky Mountain Arsenal National Wildlife Refuge established pursuant to section 4(a).

(3) The term "hazardous substance" has the meaning given such term by section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(4) The term "pollutant or contaminant" has the meaning given such term by section 101(33) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

(5) The term "response action" has the meaning given the term "response" by section 101(25) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

(6) The term "person" has the meaning given that term by section 101(21) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(21)).

SEC. 2. TRANSFER OF MANAGEMENT RESPONSIBILITIES AND JURISDICTION OVER THE ROCKY MOUNTAIN ARSENAL.

(a) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—(1) Not later than October 1, 1992, the Secretary of the Army and the Secretary of the Interior shall enter into a memorandum of understanding under which—

(A) the Secretary of the Army shall transfer to the Secretary of the Interior, without reimbursement, all responsibility to manage for wildlife and public use purposes the real property comprising the Rocky Mountain Arsenal in the State of Colorado, except the property and facilities required to be retained under subsection (c) or designated for disposal under section 5; and

(B) the Secretary of the Interior shall manage that real property as if it were a unit of the National Wildlife Refuge System established for the purposes provided in section 4.

(2) The management of the property by the Secretary of the Interior shall be subject to (A) any response action at the Arsenal

carried out by or under the authority of the Secretary of the Army under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable provisions of law, and (B) any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out by or under the authority of the Secretary of the Army. In the case of any conflict between management of the property by the Secretary of the Interior and any such response action or other action, the response action or other action shall take priority.

(b) TRANSFER OF JURISDICTION.—(1) Upon receipt of the certification described in paragraph (2), the Secretary of the Army shall transfer to the Secretary of the Interior jurisdiction over the real property comprising the Arsenal, except the property and facilities required to be retained under subsection (c) or designated for disposal under section 5. The transfer shall be made without cost to the Secretary of the Interior and shall include such improvements on the property as the Secretary of the Interior may request in writing for refuge management purposes.

(2) The transfer of real property under paragraph (1) may occur only after the Administrator of the Environmental Protection Agency certifies to the Secretary of the Army that response action required at the Arsenal and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) at the Arsenal have been completed, except operation and maintenance associated with those actions.

(3) The exact acreage and legal description of the real property subject to transfer under paragraph (1) shall be determined by a survey mutually satisfactory to the Secretary of the Army and the Secretary of the Interior. The Secretary of the Army shall bear any costs related to the survey.

(c) PROPERTY AND FACILITIES EXCLUDED FROM TRANSFERS.—

(1) PROPERTY USED FOR ENVIRONMENTAL CLEANUP PURPOSES.—The Secretary of the Army shall retain jurisdiction, authority, and control over all real property at the Arsenal to be used for water treatment; the treatment, storage, or disposal of hazardous substances, pollutants, or contaminants; or other purposes related to response action at the Arsenal and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) at the Arsenal. The Secretary of the Army shall consult with the Secretary of the Interior regarding the identification and management of all real property retained under this paragraph and ensure that activities carried out on that property are—

(A) consistent with the purposes for which the refuge is to be established under section 4(c), to the extent practicable; and

(B) consistent with the provisions of sections 2(a)(2) and 4(e).

(2) PROPERTY USED FOR LEASE OF PUBLIC FACILITIES.—(A) The Secretary of the Army shall retain jurisdiction, authority, and control over the following real property at the Arsenal:

(i) Approximately 12.08 acres containing the South Adams County Water Treatment Plant and described in Department of the Army lease No. DACA 45–1–87–6121.

(ii) Approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45–4–71–6185.

(B) Nothing in this Act shall affect the validity or continued operation of leases of the Department of the Army in existence on the date of the enactment of this Act and involving the property described in subparagraph (A).

SEC. 3. CONTINUATION OF RESPONSIBILITY AND LIABILITY OF THE SECRETARY OF THE ARMY FOR ENVIRONMENTAL CLEANUP.

(a) RESPONSIBILITY.—Notwithstanding the memorandum of understanding required under section 2(a), the Secretary of the Army shall, with respect to the real property at the Arsenal that is subject to the memorandum, continue to carry out (1) response action at that property under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable provisions of law, and (2) any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel). The management by the Secretary of the Interior of such real property shall be subject to any such response action or other action at the property being carried out by or under the authority of the Secretary of the Army under such provisions of law.

(b) LIABILITY.—(1) Nothing in this Act shall relieve, and no action may be taken under this Act to relieve, the Secretary of the Army or any other person from any obligation or other liability at the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable provisions of law.

(2) After the transfer of jurisdiction under section 2(b), the Secretary of the Army shall retain any obligation or other liability at the Arsenal under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and other applicable provisions of law and shall be accorded all easements and access as may be reasonably required to carry out such obligation or other liability.

(c) DEGREE OF CLEANUP.—Nothing in this Act shall be construed to restrict or lessen the degree of cleanup at the Arsenal required to be carried out under applicable provisions of law.

(d) PAYMENT OF RESPONSE ACTION COSTS.—Any Federal department or agency that had or has operations at the Arsenal resulting in the release or threatened release of hazardous substances, pollutants, or contaminants shall pay the cost of related response actions or related actions under other statutes to remediate petroleum products or their derivatives, including motor oil and aviation fuel.

(e) CONSULTATION.—In carrying out response actions at the Arsenal, the Secretary of the Army shall consult with the Secretary of the Interior to ensure that such actions are carried out in a manner—

(1) to the extent practicable, consistent with the purposes set forth in section 4(c) for which the refuge will be established after the certification required under section 2(b)(2); and

(2) consistent with the provisions of sections 2(a)(2) and 4(e).

(f) EXISTING LAW.—The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.), the Migratory Bird Treaty Act

(16 U.S.C. 703 et seq.), and the Bald Eagle Protection Act (16 U.S.C. 668 et seq.) shall apply to all actions at the Arsenal.

(g) RESPONSE ACTIONS.—(1) The future establishment of the refuge shall not restrict or lessen in any way any response action or degree of cleanup under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or other applicable provisions of law, or any response action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel), required to be carried out by or under the authority of the Secretary of the Army at the Arsenal and surrounding areas, including (but not limited to)—

(A) the substance or performance of the remedial investigation and feasibility study or endangerment assessments;

(B) the contents and conclusions of the remedial investigation and feasibility study or the endangerment assessment reports; or

(C) the selection and implementation of response action and any action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) for the Arsenal and surrounding areas.

(2) All response action and action required under any other statute to remediate petroleum products or their derivatives (including motor oil and aviation fuel) carried out at the Arsenal shall attain a degree of cleanup of hazardous substances, pollutants, and contaminants that, at a minimum, is sufficient to fully meet the purposes set forth in section 4(c) for which the refuge will be established and to permit access to all real property comprising the refuge by refuge personnel, wildlife researchers, and visitors.

SEC. 4. ESTABLISHMENT OF THE ROCKY MOUNTAIN ARSENAL NATIONAL WILDLIFE REFUGE.

(a) ESTABLISHMENT.—Not later than 30 days after the transfer of jurisdiction under section 2(b), the Secretary of the Interior shall establish a national wildlife refuge that shall be known as the Rocky Mountain Arsenal National Wildlife Refuge and consist of the real property required to be transferred under such section. The Secretary of the Interior shall publish a notice of the establishment of the refuge in the Federal Register.

Federal Register, publication.

(b) ADMINISTRATION.—

(1) IN GENERAL.—The Secretary of the Interior shall manage the refuge in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and other applicable law.

(2) CONSULTATION.—In developing plans for the management of fish and wildlife at and public use of the refuge, the Secretary of the Interior shall—

(A) consult with the Colorado Department of Natural Resources and local governments adjacent to the refuge; and

(B) provide an opportunity for public comment on such plans.

(3) The Secretary of the Interior and the Administrator of the Federal Aviation Administration shall confer from time to time as necessary to coordinate the management of the refuge with the operations of the Denver International Airport.

(c) PURPOSES OF THE REFUGE.—The refuge is established for the following purposes:

(1) To conserve and enhance populations of fish, wildlife, and plants within the refuge, including populations of waterfowl, raptors, passerines, and marsh and water birds.

(2) To conserve species listed as threatened or endangered under the Endangered Species Act and species that are candidates for such listing.

(3) To provide maximum fish and wildlife oriented public uses at levels compatible with the conservation and enhancement of wildlife and wildlife habitat.

(4) To provide opportunities for compatible scientific research.

(5) To provide opportunities for compatible environmental and land use education.

(6) To conserve and enhance the land and water of the refuge in a manner that will conserve and enhance the natural diversity of fish, wildlife, plants, and their habitats.

(7) To protect and enhance the quality of aquatic habitat within the refuge.

(8) To fulfill international treaty obligations of the United States with respect to fish and wildlife and their habitats.

(d) LIMITATIONS.—

(1) PROHIBITION AGAINST ANNEXATION.—Notwithstanding section 4(a)(2) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(a)(2)), the Secretary of the Interior shall not allow the annexation of lands within the refuge by any unit of general local government.

(2) PROHIBITION AGAINST THROUGH ROADS.—Public roads may not be constructed through the refuge.

SEC. 5. DISPOSAL OF CERTAIN REAL PROPERTY AT THE ARSENAL FOR COMMERCIAL, HIGHWAY, OR OTHER PUBLIC USE.

(a) PROPERTY DESIGNATED FOR DISPOSAL UNDER THIS SECTION.—The following areas of real property at the Arsenal are designated for disposal under this section for commercial, highway, or other public use purposes:

(1) An area of real property consisting of approximately 815 acres located at the Arsenal, the approximate legal description of which is section 9, T3S–R67W, the W2W2 of section 4 and the W4E2W2 of section 4, T3S–R67W, and the SW4SW4 of section 33, the W4E2W2 of section 33, and the W2NW4 of section 33, T2S–R67W; except that the area designated shall not include the approximately 63.04 acres containing a United States Postal Service facility and described in Department of the Army lease No. DACA 45–4–71–6185 and the water wells located in buildings 385, 386, and 387 at the Arsenal and associated facilities and easements necessary to operate and maintain the water wells, which shall be treated in the manner provided in section 2.

(2) To permit the widening of existing roads, an area of real property of not more than 100 feet inside the boundary of the Arsenal on—

(A) the Northwest side of the Arsenal adjacent to Colorado Highway #2;

(B) the Northern side of the Arsenal adjacent to 96th Avenue; and

(C) the Southern side of the Arsenal adjacent to 56th Avenue.

(b) TRANSFER FOR HIGHWAY PURPOSES.—The Secretary of the Army shall convey those parcels of real property described in subsection (a)(2) to the State or the appropriate unit of general local government at no cost to allow for the improvement of public roads in existence on the date of the enactment of this Act or for the provision of alternative means of transportation.

(c) TRANSFER FOR SALE.—(1) The Secretary of the Army shall transfer to the Administrator of the General Services Administration those parcels of the area of real property described in subsection (a)(1). The transferred property shall be sold in advertised sales as surplus property under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), except that the provisions of such Act relating to reduced- or no-cost transfers to other governmental entities shall not apply to this property.

(2) Any amounts realized by the United States upon the sale of property as described in paragraph (1) shall be transferred to the Director of the United States Fish and Wildlife Service to be used, to the extent provided for in appropriation Acts, to supplement the funds otherwise available for construction of a visitor and education center at the refuge.

(d) LIMITATIONS.—

(1) PERPETUAL RESTRICTIONS.—(A) The disposal of real property under this section shall be subject to perpetual restrictions that are attached to any deed to such property and that prohibit—

(i) the use of the property for residential or industrial purposes;

(ii) the use of ground water located under, or surface water located on, the property as a source of potable water;

(iii) hunting and fishing on the property, excluding hunting and fishing for nonconsumptive use subject to appropriate restrictions; and

(iv) agricultural use of the property, including all farming activities such as the raising of livestock, crops, or vegetables, but excluding agricultural practices used in response action or used for erosion control.

(B) Nothing in subparagraph (A) shall be construed to restrict or lessen the degree of cleanup required to be carried out under applicable provisions of law at the property designated for disposal under this section.

(2) DISPOSAL IN ACCORDANCE WITH CERCLA.—The disposal of real property under this section shall be carried out in compliance with section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) and other applicable provisions of law.

Approved October 9, 1992.

LEGISLATIVE HISTORY—H.R. 1435:

HOUSE REPORTS: No. 102-463, Pt. 1 (Comm. on Armed Services) and Pt. 2 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 7, considered and passed House.
Sept. 18, considered and passed Senate, amended.
Sept. 25, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 9, Presidential statement.

Public Law 102-403
102d Congress

An Act

Oct. 9, 1992
[H.R. 3379]

To amend section 594 of title 5, United States Code, relating to the authorities of the Administrative Conference.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 594 of title 5, United States Code, is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) by amending paragraph (4) to read as follows:

"(4) enter into arrangements with any administrative agency or major organizational unit within an administrative agency pursuant to which the Conference performs any of the functions described in this section; and"; and

(3) by adding at the end the following:

"(5) provide assistance in response to requests relating to the improvement of administrative procedure in foreign countries, subject to the concurrence of the Secretary of State, the Administrator of the Agency for International Development, or the Director of the United States Information Agency, as appropriate, except that—

"(A) such assistance shall be limited to the analysis of issues relating to administrative procedure, the provision of training of foreign officials in administrative procedure, and the design or improvement of administrative procedure, where the expertise of members of the Conference is indicated; and

"(B) such assistance may only be undertaken on a fully reimbursable basis, including all direct and indirect administrative costs.".

Approved October 9, 1992.

LEGISLATIVE HISTORY—H.R. 3379:

HOUSE REPORTS: No. 102-371 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): Sept. 17, considered and passed Senate.

Public Law 102-404
102d Congress

An Act

To provide for the adjustment of status under the Immigration and Nationality Act of certain nationals of the People's Republic of China unless conditions permit their return in safety to that foreign state.

Oct. 9, 1992
[S. 1216]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Chinese Student Protection Act of 1992.
8 USC 1255 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chinese Student Protection Act of 1992".

8 USC 1255 note.

SEC. 2. ADJUSTMENT TO LAWFUL PERMANENT RESIDENT STATUS OF CERTAIN NATIONALS OF THE PEOPLE'S REPUBLIC OF CHINA.

(a) IN GENERAL.—Subject to subsection (c)(1), whenever an alien described in subsection (b) applies for adjustment of status under section 245 of the Immigration and Nationality Act during the application period (as defined in subsection (e)) the following rules shall apply with respect to such adjustment:

(1) The alien shall be deemed to have had a petition approved under section 204(a) of such Act for classification under section 203(b)(3)(A)(i) of such Act.

(2) The application shall be considered without regard to whether an immigrant visa number is immediately available at the time the application is filed.

(3) In determining the alien's admissibility as an immigrant, and the alien's eligibility for an immigrant visa—

(A) paragraphs (5) and (7)(A) of section 212(a) and section 212(e) of such Act shall not apply; and

(B) the Attorney General may waive any other provision of section 212(a) (other than paragraph (2)(C) and subparagraph (A), (B), (C), or (E) of paragraph (3)) of such Act with respect to such adjustment for humanitarian purposes, for purposes of assuring family unity, or if otherwise in the public interest.

(4) The numerical level of section 202(a)(2) of such Act shall not apply.

(5) Section 245(c) of such Act shall not apply.

(b) ALIENS COVERED.—For purposes of this section, an alien described in this subsection is an alien who—

(1) is a national of the People's Republic of China described in section 1 of Executive Order No. 12711 as in effect on April 11, 1990;

(2) has resided continuously in the United States since April 11, 1990 (other than brief, casual, and innocent absences); and

(3) was not physically present in the People's Republic of China for longer than 90 days after such date and before the date of the enactment of this Act.

(c) CONDITION; DISSEMINATION OF INFORMATION.—

(1) NOT APPLICABLE IF SAFE RETURN PERMITTED.—Subsection (a) shall not apply to any alien if the President has determined and certified to Congress, before the first day of the application period, that conditions in the People's Republic of China permit aliens described in subsection (b)(1) to return to that foreign state in safety.

(2) DISSEMINATION OF INFORMATION.—If the President has not made the certification described in paragraph (1) by the first day of the application period, the Attorney General shall, subject to the availability of appropriations, immediately broadly disseminate to aliens described in subsection (b)(1) information respecting the benefits available under this section. To the extent practicable, the Attorney General shall provide notice of these benefits to the last known mailing address of each such alien.

(d) OFFSET IN PER COUNTRY NUMERICAL LEVEL.—

(1) IN GENERAL.—The numerical level under section 202(a)(2) of the Immigration and Nationality Act applicable to natives of the People's Republic of China in each applicable fiscal year (as defined in paragraph (3)) shall be reduced by 1,000.

(2) ALLOTMENT IF SECTION 202(e) APPLIES.—If section 202(e) of the Immigration and Nationality Act is applied to the People's Republic of China in an applicable fiscal year, in applying such section—

(A) 300 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(3)(A)(i) of such Act in that year, and

(B) 700 immigrant visa numbers shall be deemed to have been previously issued to natives of that foreign state under section 203(b)(5) of such Act in that year.

(3) APPLICABLE FISCAL YEAR.—

(A) IN GENERAL.—In this subsection, the term "applicable fiscal year" means each fiscal year during the period—

(i) beginning with the fiscal year in which the application period begins; and

(ii) ending with the first fiscal year by the end of which the cumulative number of aliens counted for all fiscal years under subparagraph (B) equals or exceeds the total number of aliens whose status has been adjusted under section 245 of the Immigration and Nationality Act pursuant to subsection (a).

(B) NUMBER COUNTED EACH YEAR.—The number counted under this subparagraph for a fiscal year (beginning during or after the application period) is 1,000, plus the number (if any) by which (i) the immigration level

under section 202(a)(2) of the Immigration and Nationality Act for the People's Republic of China in the fiscal year (as reduced under this subsection), exceeds (ii) the number of aliens who were chargeable to such level in the year.

(e) APPLICATION PERIOD DEFINED.—In this section, the term "application period" means the 12-month period beginning July 1, 1993.

Approved October 9, 1992.

LEGISLATIVE HISTORY—S. 1216:

HOUSE REPORTS: No. 102-826 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 21, considered and passed Senate.
Aug. 10, considered and passed House, amended.
Sept. 23, Senate concurred in House amendment.

Public Law 102-405
102d Congress

An Act

Oct. 9, 1992
[S. 2344]

To improve the provision of health care and other services to veterans by the Department of Veterans Affairs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Medical Programs Amendments of 1992.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Medical Programs Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code, and to Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

Sec. 101. Increase in limit on certain grants for home structural alterations for disabled veterans.
Sec. 102. Submission of reports of Geriatrics and Gerontology Advisory Committee.
Sec. 103. Authority to hold joint title to medical equipment.
Sec. 104. Quality assurance activities.
Sec. 105. Advisory Committee on Prosthetics and Special-Disabilities Programs.
Sec. 106. Prosthetic services report.
Sec. 107. Services for homeless veterans.

PART B—MENTAL HEALTH PROVISIONS

Sec. 121. Marriage and family counseling for Persian Gulf War veterans.
Sec. 122. Post-traumatic stress disorder research and reports.
Sec. 123. Post-traumatic stress disorder program planning.

TITLE II—HEALTH-CARE PERSONNEL

Sec. 201. Cap on certain rates of pay.
Sec. 202. Minimum period of service for scholarship recipients.
Sec. 203. Authority to purchase items of nominal value for recruitment purposes.
Sec. 204. Special pay for certain physicians and dentists based on board certification.
Sec. 205. Authority to appoint non-physician directors to the Office of the Under Secretary for Health.
Sec. 206. Expansion of director grade of the physician and dentist pay schedule.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Authorization requirement for construction of new medical facilities.
Sec. 302. Redesignation of certain positions within the Department of Veterans Affairs.
Sec. 303. Attorney fees in connection with certain Department of Veterans Affairs proceedings.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE, AND TO SECRETARY OF VETERANS AFFAIRS.

(a) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(b) REFERENCES TO SECRETARY.—Except as otherwise expressly provided, any reference in this Act to "the Secretary" is a reference to the Secretary of Veterans Affairs.

TITLE I—HEALTH CARE

PART A—GENERAL HEALTH CARE

SEC. 101. INCREASE IN LIMIT ON CERTAIN GRANTS FOR HOME STRUCTURAL ALTERATIONS FOR DISABLED VETERANS.

(a) INCREASE.—Section 1717(a)(2) is amended by striking out "$2,500" and "$600" and inserting in lieu thereof "$4,100" and "$1,200", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989. 38 USC 1717 note.

(c) APPLICABILITY.—A veteran who exhausts such veteran's eligibility for benefits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a). 38 USC 1717 note.

SEC. 102. SUBMISSION OF REPORTS OF GERIATRICS AND GERONTOLOGY ADVISORY COMMITTEE.

Paragraph (2) of section 7315(c) is amended to read as follows:

"(2) Whenever the Committee submits a report to the Secretary under paragraph (1), the Committee shall at the same time transmit a copy of the report in the same form to the appropriate committees of Congress. Not later than 90 days after receipt of a report under that paragraph, the Secretary shall submit to the appropriate committees of Congress a report containing any comments and recommendations of the Secretary with respect to the report of the Committee.".

SEC. 103. AUTHORITY TO HOLD JOINT TITLE TO MEDICAL EQUIPMENT.

(a) IN GENERAL.—(1) Chapter 81 is amended by adding at the end of subchapter IV the following new sections:

"§ 8157. Joint title to medical equipment

"(a) Subject to subsection (b), the Secretary may enter into agreements with institutions described in section 8153(a) of this title for the joint acquisition of medical equipment.

"(b)(1) The Secretary may not pay more than one-half of the purchase price of equipment acquired through an agreement under subsection (a).

"(2) Any equipment to be procured under such an agreement shall be procured by the Secretary. Title to such equipment shall be held jointly by the United States and the institution.

"(3) Before equipment acquired under such an agreement may be used, the parties to the agreement shall arrange by contract under section 8153 of this title for the exchange or use of the equipment. Contracts.

"(4) The Secretary may not contract for the acquisition of medical equipment to be purchased jointly under an agreement under subsection (a) until the institution which enters into the agreement

provides to the Secretary its share of the purchase price of the medical equipment.

"(c)(1) Notwithstanding any other provision of law, the Secretary may transfer the interest of the Department in equipment acquired through an agreement under subsection (a) to the institution which holds joint title to the equipment if the Secretary determines that the transfer would be justified by compelling clinical considerations or the economic interest of the Department. Any such transfer may only be made upon agreement by the institution to pay to the Department the amount equal to one-half of the depreciated purchase price of the equipment. Any such payment when received shall be credited to the applicable Department medical appropriation.

"(2) Notwithstanding any other provision of law, the Secretary may acquire the interest of an institution in equipment acquired under subsection (a) if the Secretary determines that the acquisition would be justified by compelling clinical considerations or the economic interests of the Department. The Secretary may not pay more than one-half the depreciated purchase price of that equipment.

"§ 8158. Deposit in escrow

"(a) To facilitate the procurement of medical equipment pursuant to section 8157 of this title, the Secretary may enter into escrow agreements with institutions described in section 8153(a) of this title. Any such agreement shall provide that—

"(1) the institutions shall pay to the Secretary the funds necessary to make a payment under section 8157(b)(4) of this title;

"(2) the Secretary, as escrow agent, shall administer those funds in an escrow account; and

"(3) the Secretary shall disburse the escrowed funds to pay for such equipment upon its delivery or in accordance with the contract to procure the equipment and shall disburse all accrued interest or other earnings on the escrowed funds to the institution.

"(b) As escrow agent for funds placed in escrow pursuant to an agreement under subsection (a), the Secretary may—

"(1) invest the escrowed funds in obligations of the Federal Government or obligations which are insured or guaranteed by the Federal Government;

"(2) retain in the escrow account interest or other earnings on such investments;

"(3) disburse the funds pursuant to the escrow agreement; and

"(4) return undisbursed funds to the institution.

"(c)(1) If the Secretary enters into an escrow agreement under this section, the Secretary may enter into an agreement to procure medical equipment if one-half the purchase price of the equipment is available in an appropriation or fund for the expenditure or obligation.

"(2) Funds held in an escrow account under this section shall not be considered to be public funds.".

(2) The table of sections at the beginning of chapter 81 is amended by inserting after the item relating to section 8156 the following new items:

"8157. Joint title to medical equipment.
"8158. Deposit in escrow.".

(b) REPORT.—Not later than 45 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's plans for implementation of this section. The report shall include an identification and discussion of—

(1) the instructions the Secretary proposes to issue to medical facilities to guide the development of proposals for procurement of medical equipment under this section, including instructions for ensuring equitable arrangements for use of the equipment by the Department and the co-purchasers of the equipment;

(2) the criteria by which the Secretary plans to evaluate proposals to procure medical equipment under this section;

(3) the means by which the Secretary will integrate the process of procuring equipment under this section with the policies and procedures governing health care planning by the Veterans Health Administration; and

(4) the criteria by which determinations to transfer title to equipment under section 8157(c) of title 38, United States Code, as added by subsection (a), would be made.

SEC. 104. QUALITY ASSURANCE ACTIVITIES.

38 USC 7311 note. Effective date.

Effective on October 1, 1992, programs and activities which (1) the Secretary carries out pursuant to section 7311(a) of title 38, United States Code, or (2) are described in sections 201(a)(1) and 201(a)(3) of Public Law 100–322 (102 Stat. 508) shall be deemed to be part of the operation of hospitals, nursing homes, and domiciliary facilities of the Department of Veterans Affairs, without regard to the location of the duty stations of employees carrying out those programs and activities.

SEC. 105. ADVISORY COMMITTEE ON PROSTHETICS AND SPECIAL-DISABILITIES PROGRAMS.

38 USC 543 note.

(a) STATUS AND NAME OF COMMITTEE.—The Federal advisory committee established by the Secretary and known as the Prosthetics Service Advisory Committee shall after the date of the enactment of this Act be known as the Advisory Committee on Prosthetics and Special-Disabilities Programs and shall operate as though such committee had been established by law. Notwithstanding any other provision of law, the Committee may, upon the enactment of this Act, meet and act on any matter covered by subsection (b) of section 543 of title 38, United States Code, as added by subsection (b) of this section.

(b) STATUTORY ESTABLISHMENT.—(1) Chapter 5 is amended by adding at the end of subchapter III the following new section:

"§ 543. Advisory Committee on Prosthetics and Special-Disabilities Programs

"(a) There is in the Department an advisory committee known as the Advisory Committee on Prosthetics and Special-Disabilities Programs (hereinafter in this section referred to as the 'Committee').

"(b) The objectives and scope of activities of the Committee shall relate to—

"(1) prosthetics and special-disabilities programs administered by the Secretary;

"(2) the coordination of programs of the Department for the development and testing of, and for information exchange regarding, prosthetic devices;

"(3) the coordination of Department and non-Department programs that involve the development and testing of prosthetic devices; and

"(4) the adequacy of funding for the prosthetics and special-disabilities programs of the Department.

"(c) The Secretary shall, on a regular basis, consult with and seek the advice of the Committee on the matters described in subsection (b).

Reports.

"(d) Not later than January 15 of 1993, 1994, and 1995, the Committee shall submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the effectiveness of the prosthetics and special-disabilities programs administered by the Secretary during the preceding fiscal year. Not more than 60 days after the date on which any such report is received by the Secretary, the Secretary shall submit a report to such committees commenting on the report of the Committee.

"(e) As used in this section, the term 'special-disabilities programs' includes all programs administered by the Secretary for—

"(1) spinal-cord-injured veterans;

"(2) blind veterans;

"(3) veterans who have lost or lost the use of extremities;

"(4) hearing-impaired veterans; and

"(5) other veterans with serious incapacities in terms of daily life functions.".

(2) The table of sections at the beginning of chapter 5 is amended by adding at the end the following new item:

"543. Advisory Committee on Prosthetics and Special-Disabilities Programs.".

SEC. 106. PROSTHETIC SERVICES REPORT.

Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing—

(1) the Secretary's evaluation of the reasons for the backlog that occurred in the procurement of prosthetic appliances in fiscal year 1989, and for the failure to furnish prosthetic appliances in accordance with the priority established in section 1712(i) of title 38, United States Code; and

(2) a description of the actions that the Secretary has taken and plans to take to prevent a recurrence of—

(A) the accumulation of a significant backlog in the procurement of prosthetic appliances; and

(B) the failure to furnish prosthetic appliances in accordance with such priority, including a schedule for any such planned actions.

SEC. 107. SERVICES FOR HOMELESS VETERANS.

38 USC 527 note.

(a) PROGRAM DEVELOPMENT.—The Secretary shall assess all programs developed by facilities of the Department of Veterans

Affairs which have been designed to assist homeless veterans. To the maximum extent practicable, the Secretary shall seek to replicate at other facilities of the Department those programs that have as a goal the rehabilitation of homeless veterans and which the Secretary has determined to be successful in achieving that goal by fostering reintegration of homeless veterans into the community and employment of such veterans.

(b) ASSESSMENT AND COORDINATION.—(1) In carrying out subsection (a), the Secretary shall require the director of each medical center or the director of each regional benefits office to make an assessment of the needs of homeless veterans living within the area served by the medical center or regional office, as the case may be. 38 USC 527 note.

(2) Each such assessment shall be made in coordination with representatives of State and local governments, other appropriate departments and agencies of the Federal Government, and nongovernmental organizations that have experience working with homeless persons in that area.

(3) Each such assessment shall identify the needs of homeless veterans with respect to the following:

(A) Health care.
(B) Education and training.
(C) Employment.
(D) Shelter.
(E) Counseling.
(F) Outreach services.

(4) Each assessment shall also indicate the extent to which the needs referred to in paragraph (3) are being met adequately by the programs of the Department, of other departments and agencies of the Federal Government, of State and local governments, and of nongovernmental organizations.

(5) Each assessment shall be carried out in accordance with uniform procedures and guidelines prescribed by the Secretary.

(c) PLANNING.—In furtherance of subsection (a), the Secretary shall require the director of each medical center and the director of each regional benefits office, in coordination with representatives of State and local governments, other Federal officials, and nongovernmental organizations that have experience working with homeless persons in the areas served by such facility, to— 38 USC 527 note.

(1) develop a list of all public and private programs that provide assistance to homeless persons or homeless veterans in the area concerned, together with a description of the services offered by those programs; and

(2) seek to encourage the development by the representatives of such entities, in coordination with the director, of a plan to coordinate among such public and private programs the provision of services to homeless veterans.

(d) SERVICES.—In furtherance of subsection (a), the Secretary shall require the director of each medical center or regional benefits office, in carrying out such director's responsibilities under title 38, United States Code, to take appropriate action to— 38 USC 527 note.

(1) meet, to the maximum extent practicable through existing programs and available resources, the needs of homeless veterans that are identified in the assessment conducted under subsection (b); and

(2) attempt to inform homeless veterans whose needs the director cannot meet under paragraph (1) of the services avail-

able to such veterans within the area served by such center or office.

38 USC 527 note.

(e) AUTHORITY TO ACCEPT DONATIONS FOR CERTAIN PROGRAMS.—The Secretary may accept donations of funds and services for the purposes of providing one-stop, non-residential services and mobile support teams and for expanding the medical services to homeless veterans eligible for such services from the Department of Veterans Affairs.

38 USC 527 note.

(f) DEFINITIONS.—As used in subsections (a) through (e):

(1) The term "medical center" means a medical center of the Department of Veterans Affairs.

(2) The term "regional benefits office" means a regional benefits office of the Department of Veterans Affairs.

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

(4) The term "homeless" has the meaning given such term in section 103(a), as limited by section 103(c), of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302(a)).

(g) EXTENSION OF CERTAIN PROGRAMS FOR HOMELESS VETERANS.—Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100–628; 102 Stat. 3257) is amended—

(1) in subsection (a), by striking out "to the Veterans' Administration" and all that follows through the period and inserting in lieu thereof the following: "to the Department of Veterans Affairs $50,000,000 for fiscal year 1993 for medical care of veterans. Funds appropriated pursuant to this section shall be in addition to any funds appropriated pursuant to any other authorizations (whether definite or indefinite) for medical care of veterans."; and

(2) in subsections (b) and (c), by striking out "Of the amount appropriated pursuant to subsection (a), 50 percent" and inserting in lieu thereof "The amounts appropriated pursuant to subsection (a)".

(h) EXTENSION OF PROGRAM FOR MENTALLY ILL HOMELESS VETERANS.—Section 115(d) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 1712 note) is amended by striking out "1992" and inserting in lieu thereof "1994".

(i) REPORT.—Not later than February 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing an evaluation of the programs referred to in subsections (a) and (e).

PART B—MENTAL HEALTH PROVISIONS

38 USC 1712A note.

SEC. 121. MARRIAGE AND FAMILY COUNSELING FOR PERSIAN GULF WAR VETERANS.

(a) REQUIREMENT.—Subject to the availability of funds appropriated pursuant to the authorization in subsection (g), the Secretary shall conduct a program to furnish to the persons referred to in subsection (b) the marriage and family counseling services referred to in subsection (c). The authority to conduct the program shall expire on September 30, 1994.

Termination date.

(b) PERSONS ELIGIBLE FOR COUNSELING.—The persons eligible to receive marriage and family counseling services under the program are—

(1) veterans who were awarded a campaign medal for active-duty service during the Persian Gulf War and the spouses and children of such veterans; and

(2) veterans who are or were members of the reserve components who were called or ordered to active duty during the Persian Gulf War and the spouses and children of such members.

(c) COUNSELING SERVICES.—Under the program, the Secretary may provide marriage and family counseling that the Secretary determines, based on an assessment by a mental-health professional employed by the Department and designated by the Secretary (or, in an area where no such professional is available, a mental-health professional designated by the Secretary and performing services under a contract or fee arrangement with the Secretary), is necessary for the amelioration of psychological, marital, or familial difficulties that result from the active duty service referred to in subsection (b) (1) or (2).

(d) MANNER OF FURNISHING SERVICES.—(1) Marriage and family counseling services shall be furnished under the program—

(A) by personnel of the Department of Veterans Affairs who are qualified to provide such counseling services;

(B) by appropriately certified marriage and family counselors employed by the Department; and

(C) by qualified mental health professionals pursuant to contracts with the Department, when Department facilities are not capable of furnishing economical medical services because of geographical inaccessibility or are not capable of furnishing the services required.

(2) The Secretary shall establish the qualifications required of personnel under subparagraphs (A) and (C) of paragraph (1) and shall prescribe the training, experience, and certification required of appropriately certified marriage and family counselors under subparagraph (B) of such paragraph.

(3) The Secretary may employ licensed or certified marriage and family counselors to provide counseling under paragraph (1)(B) and may classify the positions in which they are employed at levels determined appropriate by the Secretary, taking into consideration the training, experience, and licensure or certification required of such counselors.

(e) CONTRACT COUNSELING SERVICES.—(1) Subject to paragraphs (2) and (4), a mental health professional referred to in subsection (d)(1)(C) may furnish marriage and family counseling services to a person under the program as follows:

(A) For a period of not more than 15 days beginning on the date of the commencement of the furnishing of such services to the person.

(B) For a 90-day period beginning on such date if—

(i) the mental health professional submits to the Secretary a treatment plan with respect to the person not later than 15 days after such date; and

(ii) the treatment plan and the assessment made under subsection (c) are approved by an appropriate mental health professional of the Department designated for that purpose by the Under Secretary for Health.

(C) For an additional 90-day period beginning on the date of the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period) if—

(i) not more than 30 days before the expiration of the 90-day period referred to in subparagraph (B) (or any subsequent 90-day period), the mental health professional submits to the Secretary a revised treatment plan containing a justification of the need of the person for additional counseling services; and

(ii) the plan is approved in accordance with the provisions of subparagraph (B)(ii).

(2)(A) A mental health professional referred to in paragraph (1) who assesses the need of any person for services for the purposes of subsection (c) may not furnish counseling services to that person.

(B) The Secretary may waive the prohibition referred to in subparagraph (A) for locations (as determined by the Secretary) in which the Secretary is unable to obtain the assessment referred to in that subparagraph from a mental health professional other than the mental health professional with whom the Secretary enters into contracts under subsection (d)(1)(C) for the furnishing of counseling services.

(3) The Secretary shall reimburse mental health professionals for the reasonable cost (as determined by the Secretary) of furnishing counseling services under paragraph (1). In the event of the disapproval of a treatment plan of a person submitted by a mental health professional under paragraph (1)(B)(i), the Secretary shall reimburse the mental health professional for the reasonable cost (as so determined) of furnishing counseling services to the person for the period beginning on the date of the commencement of such services and ending on the date of the disapproval.

(4) The Secretary may authorize the furnishing of counseling in an individual case for a period shorter than the 90-day period specified in subparagraph (B) or (C) of paragraph (1) and, upon further consideration, extend the shorter period to the full 90 days.

(5)(A) For the purposes of this subsection, the term "treatment plan", with respect to a person entitled to counseling services under the program, must include—

(i) an assessment by the mental health professional submitting the plan of the counseling needs of the person described in the plan on the date of the submittal of the plan; and

(ii) a description of the counseling services to be furnished to the person by the mental health professional during the 90-day period covered by the plan, including the number of counseling sessions proposed as part of such services.

(B) The Secretary shall prescribe an appropriate form for the treatment plan.

(f) COST RECOVERY.—For the purposes of section 1729 of title 38, United States Code, marriage and family counseling services furnished under the program shall be deemed to be care and services furnished by the Department under chapter 17 of such title, and the United States shall be entitled to recover or collect the reasonable cost of such services in accordance with that section.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 for each of fiscal years 1993 and 1994 to carry out this section.

(h) REPORT.—Not later than July 1, 1994, the Secretary shall submit to Congress a report on the program conducted pursuant to this section. The report shall contain information regarding the persons furnished counseling services under the program, including—

(1) the number of such persons, stated as a total number and separately for each eligibility status referred to in subsection (b);

(2) the age and gender of such persons;

(3) the manner in which such persons were furnished such services under the program; and

(4) the number of counseling sessions furnished to such persons.

(i) DEFINITIONS.—For the purposes of this section, the terms "veteran", "child", "active duty", "reserve component", "spouse", and "Persian Gulf War" have the meanings given such terms in paragraphs 101 (2), (4), (21), (27), (31), and (33) of section 101 of title 38, United States Code, respectively.

SEC. 122. POST-TRAUMATIC STRESS DISORDER RESEARCH AND REPORTS.

(a) RESEARCH PRIORITY.—In carrying out research and awarding grants under chapter 73 of title 38, United States Code, the Secretary shall assign a high priority to the conduct of research on mental illness, including research regarding (1) post-traumatic stress disorder, (2) post-traumatic stress disorder in association with substance abuse, and (3) the treatment of those disorders. 38 USC 7303 note.

(b) UPDATES OF REPORTS UNDER SECTION 110(c) OF PUBLIC LAW 98-528.—(1) Not later than October 1, 1992, and October 1, 1993, the Special Committee on Post-Traumatic-Stress Disorder established pursuant to section 110(b)(1) of the Veterans' Health Care Act of 1984 (38 U.S.C. 1712A note) shall concurrently submit to the Secretary and the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing information updating the reports submitted to the Secretary under section 110(e) of the Veterans' Health Care Act of 1984, together with any additional information the Special Committee considers appropriate regarding the overall efforts of the Department of Veterans Affairs to meet the needs of veterans with post-traumatic stress disorder and other psychological problems in readjusting to civilian life. 38 USC 1712A note.

(2) Not later than 90 days after receiving each of the reports under paragraph (1), the Secretary shall submit to the committees any comments concerning the report that the Secretary considers appropriate.

SEC. 123. POST-TRAUMATIC STRESS DISORDER PROGRAM PLANNING. 38 USC 1712A note.

(a) PLAN.—The Secretary shall develop a plan—

(1) to ensure, to the maximum extent practicable, that veterans suffering from post-traumatic stress disorder related to active duty are provided appropriate treatment and rehabilitative services for that condition in a timely manner;

(2) to expand and improve the services available for veterans suffering from post-traumatic stress disorder related to active duty;

(3) to eliminate waiting lists for inpatient treatment and other modes of treatment for post-traumatic stress disorder;

(4) to enhance outreach activities carried out to inform combat-area veterans of the availability of treatment for post-traumatic stress disorder; and

(5) to ensure, to the extent practicable, that there are Department post-traumatic stress disorder treatment units in

locations that are readily accessible to veterans residing in rural areas of the United States.

(b) CONSIDERATIONS.—In developing the plan referred to in subsection (a), the Secretary shall consider—

(1) the numbers of veterans suffering from post-traumatic stress disorder related to active duty, as indicated by relevant studies, scientific and clinical reports, and other pertinent information;

(2) the numbers of veterans who would likely seek post-traumatic stress disorder treatment from the Department if waiting times for treatment were eliminated and outreach activities to combat-area veterans with post-traumatic stress disorder were enhanced;

(3) the current and projected capacity of the Department to provide appropriate treatment and rehabilitative services for post-traumatic stress disorder;

(4) the level and geographic accessibility of inpatient and outpatient care available through the Department for veterans suffering from post-traumatic stress disorder across the United States;

(5) the desirability of providing that inpatient and outpatient post-traumatic stress disorder care be furnished in facilities of the Department that are physically independent of general psychiatric wards of the medical facilities of the Department;

(6) the treatment needs of veterans suffering from post-traumatic stress disorder who are women, of such veterans who are ethnic minorities (including Native Americans, Native Hawaiians, Asian-Pacific Islanders, and Native Alaskans), and of such veterans who suffer from substance abuse problems in addition to post-traumatic stress disorder; and

(7) the recommendations of the Special Committee on Post-Traumatic-Stress Disorder with respect to (A) specialized inpatient and outpatient programs of the Department for the treatment of post-traumatic stress disorder, and (B) with respect to the establishment of educational programs that are designed for each of the various levels of education, training, and experience of the various mental health professionals involved in the treatment of veterans suffering from post-traumatic stress disorder.

(c) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the plan developed pursuant to subsection (a). The report shall include specific information relating to the consideration given to the matters described in subsection (b).

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "active duty" has the meaning given that term in section 101(21) of title 38, United States Code.

(2) The term "veteran" has the meaning given that term in section 101(2) of such title.

(3) The term "combat-area veteran" means a veteran who served on active duty in an area at a time during which hostilities (as defined in section 1712A(a)(2)(B) of such title) occurred in such area.

TITLE II—HEALTH-CARE PERSONNEL

SEC. 201. CAP ON CERTAIN RATES OF PAY.

Section 7455(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting "by two times" after "exceed" the first place it appears; and

(3) by adding at the end the following:

"(2) Whenever the amount of an increase under subsection (a) results in a rate of basic pay for a position being equal to or greater than the amount that is 94 percent of the maximum amount permitted under paragraph (1), the Secretary shall promptly notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the increase and the amount thereof.".

SEC. 202. MINIMUM PERIOD OF SERVICE FOR SCHOLARSHIP RECIPIENTS.

(a) MINIMUM SERVICE REQUIREMENT.—Section 7612(c)(1) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", but for not less than two years.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to scholarship agreements entered into after the date of the enactment of this Act. 38 USC 7612 note.

SEC. 203. AUTHORITY TO PURCHASE ITEMS OF NOMINAL VALUE FOR RECRUITMENT PURPOSES.

Section 7423 is amended by adding at the end the following new subsection:

"(f) The Secretary may purchase promotional items of nominal value for use in the recruitment of individuals for employment under this chapter. The Secretary shall prescribe guidelines for the administration of the preceding sentence.".

SEC. 204. SPECIAL PAY FOR CERTAIN PHYSICIANS AND DENTISTS BASED ON BOARD CERTIFICATION.

(a) IN GENERAL.—Section 7437(e) is amended by striking out "only for the special-pay" and all that follows through the period in paragraphs (1)(C) and (2)(C) and inserting in lieu thereof "for no special-pay factors other than primary, full-time, length of service, and specialty or board certification.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply as if enacted with the amendment made by section 102 of the Department of Veterans Affairs Health-Care Personnel Act of 1991 (Public Law 102-40; 105 Stat. 187). 38 USC 7437 note.

(c) AVAILABILITY OF FUNDS.—Expenses incurred for periods before October 1, 1991, by reason of the amendments made by subsection (a) may be charged to fiscal year 1992 appropriations available for the same purpose. 38 USC 7437 note.

SEC. 205. AUTHORITY TO APPOINT NON-PHYSICIAN DIRECTORS TO THE OFFICE OF THE UNDER SECRETARY FOR HEALTH.

Section 7306(a) is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) Such directors of such other professional or auxiliary services as may be appointed to suit the needs of the Department, who shall be responsible to the Under Secretary for Health for the operation of their respective services.".

SEC. 206. EXPANSION OF DIRECTOR GRADE OF THE PHYSICIAN AND DENTIST PAY SCHEDULE.

Section 7404(b)(2) is amended in the first sentence by inserting ", or comparable position" before the period.

TITLE III—MISCELLANEOUS

SEC. 301. AUTHORIZATION REQUIREMENT FOR CONSTRUCTION OF NEW MEDICAL FACILITIES.

(a) AUTHORIZATION REQUIREMENT.—(1) Paragraph (2) of section 8104(a) is amended to read as follows:

"(2) No funds may be appropriated for any fiscal year, and the Secretary may not obligate or expend funds (other than for advance planning and design), for any major medical facility project or any major medical facility lease unless funds for that project or lease have been specifically authorized by law.".

(2) Paragraph (3)(B) of that section is amended—

(A) by inserting "new" before "medical facility" the second place it appears; and

(B) by striking out "$500,000" and inserting in lieu thereof "$300,000".

(3) Subsection (c) of section 8104 is amended by striking out "resolution" both places it appears and inserting in lieu thereof "law".

38 USC 8104 note.

(b) APPLICABILITY.—The amendments made by subsection (a) shall not apply with respect to any project for which funds were appropriated before the date of the enactment of this Act.

SEC. 302. REDESIGNATION OF CERTAIN POSITIONS WITHIN THE DEPARTMENT OF VETERANS AFFAIRS.

38 USC 305 note.

(a) REDESIGNATION OF POSITION OF CHIEF MEDICAL DIRECTOR.—The position of Chief Medical Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Health of the Department of Veterans Affairs.

38 USC 306 note.

(b) REDESIGNATION OF POSITION OF CHIEF BENEFITS DIRECTOR.—The position of Chief Benefits Director of the Department of Veterans Affairs is hereby redesignated as Under Secretary for Benefits of the Department of Veterans Affairs.

(c) TITLE 38 CONFORMING AMENDMENTS.—(1) Title 38, United States Code, is amended by striking out "Chief Medical Director" and "Chief Benefits Director" each place they appear (including in headings and tables but not including the sentences added by paragraphs (2) and (3)) and inserting in lieu thereof "Under Secretary for Health" and "Under Secretary for Benefits", respectively.

(2) Section 7301(a) is amended by adding after the last sentence the following: "The Under Secretary for Health may be referred to as the Chief Medical Director.".

(3) Section 7701(b) is amended by adding after the last sentence the following: "The Under Secretary for Benefits may be referred to as the Chief Benefits Director.".

(d) EXECUTIVE SCHEDULE CONFORMING AMENDMENT.—Section 5314 of title 5, United States Code, is amended by striking out the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.";

and inserting in lieu thereof the following:

"Under Secretary for Health, Department of Veterans Affairs.

"Under Secretary for Benefits, Department of Veterans Affairs.".

(e) REFERENCES IN OTHER LAWS.—Any reference in any Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Department of Veterans Affairs— 38 USC 305 note.

(1) to the Chief Medical Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Health of the Department of Veterans Affairs; and

(2) to the Chief Benefits Director of the Department of Veterans Affairs shall be deemed to refer to the Under Secretary for Benefits of the Department of Veterans Affairs.

SEC. 303. ATTORNEY FEES IN CONNECTION WITH CERTAIN DEPARTMENT OF VETERANS AFFAIRS PROCEEDINGS.

(a) IN GENERAL.—Section 5904(c) is amended—

(1) By striking out "In" at the beginning of paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), in"; and

(2) by adding at the end the following new paragraph:

"(3) A reasonable fee may be charged or paid in connection with any proceeding before the Department in a case arising out of a loan made, guaranteed, or insured under chapter 37 of this title. A person who charges a fee under this paragraph shall enter into a written agreement with the person represented and shall file a copy of the fee agreement with the Secretary at such time, and in such manner, as may be specified by the Secretary.". Contracts.

(b) EFFECTIVE DATE.—Paragraph (3) of section 5904(c) of title 38, United States Code, as added by subsection (a), shall apply with respect to services of agents and attorneys provided after the date of the enactment of this Act. 38 USC 5904 note.

Approved October 9, 1992.

LEGISLATIVE HISTORY—S. 2344 (H.R. 2280) (S. 869):

HOUSE REPORTS: Nos. 102-130 accompanying H.R. 2280 (Comm. on Veterans' Affairs) and 102-871 (Comm. of Conference).
SENATE REPORTS: No. 102-118 accompanying S. 869 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 25, H.R. 2280 considered and passed House.
Nov. 20, considered and passed Senate, amended, in lieu of S. 869.
Nov. 25, House concurred in Senate amendments with amendments.
Vol. 138 (1992): Mar. 11, S. 2344 considered and passed Senate.
May 12, considered and passed House, amended.
Sept. 24, House agreed to conference report.
Sept. 25, Senate agreed to conference report.

Public Law 102-406
102d Congress

An Act

Oct. 12, 1992
[H.R. 2448]

To provide for the minting of medals in commemoration of Benjamin Franklin and to enact a fire service bill of rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act.
31 USC 5111 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Benjamin Franklin National Memorial Commemorative Medal and Fire Service Bill of Rights Act".

31 USC 5111 note.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) America's fire services should be acknowledged as our first responder to domestic emergencies.

(2) Members of America's fire services deserve every protection from the dangers associated with emergency response.

(3) Family members of those in the fire services should be provided for in the event of the service-connected loss or disability of any member of a fire service.

(4) Members of fire services should be educated in the latest fire and life safety sciences, and should have access to ongoing training programs to be able to take full advantage of the latest information.

(5) Fire services should be provided with state-of-the-art equipment and apparatus to handle all emergency situations.

(6) America's fire services deserve to have access to up-to-date fire and life safety programs to enable them to protect the public with minimal risk to the safety of their members.

(7) Responding fire services have a right to know the kind of danger presented by hazardous materials they face in all emergency responses.

(8) Fire services should be fully informed of the threat of infectious diseases their members face during the course of life safety activities.

(9) America's fire services have the right to expect that the American people will be full partners in the struggle to preserve life and property from the ravages of fire and other disasters.

(10) The history of American fire services and the sacrifices their members have made to protect lives and property in communities across the Nation deserve to be commemorated and honored.

(11) A commemorative medal would help recognize the achievements and needs of America's fire services.

31 USC 5111 note.

SEC. 3. AUTHORIZATION.

(a) ISSUANCE.—The Secretary of the Treasury (in this title referred to as the "Secretary") shall issue not more than 1,500,000 medals each of which shall contain 1 ounce of silver.

(b) DESIGN.—The design of the medals shall contain suitable emblems, devices, and inscriptions in commemoration of Benjamin Franklin's contributions to the American Fire Service. Such design shall be selected by the Secretary after consultation with the Chairman of the Benjamin Franklin National Memorial at the Franklin Institute, the Chairman of the Congressional Fire Services Institute, and the Chairman of the Commission of Fine Arts.

(c) NATIONAL MEDALS.—The medals issued under subsection (a) are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 4. SOURCES OF BULLION. 31 USC 5111 note.

The Secretary shall obtain silver for the medals authorized under section 3 from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. SALE OF MEDALS. 31 USC 5111 note.

(a) IN GENERAL.—The medals authorized under section 3 shall be sold by the Secretary at a price equal to the cost of production, plus the cost of designing and issuing such medals (including labor, materials, dies, use of machinery, and overhead expenses), and the surcharge provided for in subsection (d).

(b) BULK SALES.—The Secretary shall make bulk sales of the medals authorized under section 3 at a reasonable discount.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the medals authorized under section 3 prior to the issuance of such medals. Sales under this subsection shall be at a reasonable discount to reflect the benefit of prepayment.

(d) SURCHARGES.—All sales of the medals authorized under section 3 shall include a surcharge of $15 per medal.

SEC. 6. MARKETING. 31 USC 5111 note.

The Secretary shall develop a domestic marketing program to promote and sell the medals authorized under section 3 in the United States.

SEC. 7. ISSUANCE OF MEDALS. 31 USC 5111 note.

(a) IN GENERAL.—The medals authorized under section 3 may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular quality.

(b) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the medals authorized under section 3 beginning on July 1, 1993.

(c) TERMINATION OF AUTHORITY.—No medals authorized under section 3 may be minted after June 30, 1994.

SEC. 8. GENERAL WAIVER OF PROCUREMENT REGULATIONS. 31 USC 5111 note.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for issuing the medals authorized under section 3.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this title from complying with any law relating to equal employment opportunity.

31 USC 5111 note.

SEC. 9. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—Except as provided in section 11, all surcharges described in section 5(d) which are received by the Secretary shall be promptly paid by the Secretary as follows:

(1) AMOUNTS PAID FOR THE BENJAMIN FRANKLIN NATIONAL MEMORIAL.—Subject to section 10, the Secretary shall pay to the Franklin Institute (custodian of the Benjamin Franklin National Memorial) 12.5 percent of the amount of such surcharges received. Such amounts shall be used—

(A) to restore and renovate the Benjamin Franklin National Memorial (in this section referred to as the "Memorial");

(B) for exhibits and programs in the Memorial or in the adjoining areas of the Franklin Institute relating to the Memorial, Benjamin Franklin, or to science and education;

(C) for funds for the acquisition and preservation of artifacts relating to Benjamin Franklin; and

(D) to establish, in consultation with the Secretary of the Interior, an endowment in an amount determined sufficient for the Memorial, to ensure the continued upkeep and maintenance of the Memorial.

(2) AMOUNTS PAID FOR OTHER PURPOSES.—Subject to section 10, the Secretary shall pay, of the amount of the surcharges received—

(A) 12.5 percent to the Institute of Life Safety Technology and Emergency Management Education to provide grants to colleges and universities for fire training courses at no cost to participants (such Institute shall not require the use of specific course materials as a condition for the receipt of a grant by a college or university);

(B) 12.5 percent to the International Association of Fire Chiefs Foundation to award scholarships for college level courses in fire science, engineering, and related fields;

(C) 12.5 percent to the International Association of Fire Fighters Burn Foundation for burn injury research at hospital burn centers and other qualified medical research organizations;

(D) 12.5 percent to the National Fire Protection Associations' Learn Not To Burn Foundation to deliver public education programs and resources to low income residents in rural and urban communities which have high fire injury and death rates;

(E) 12.5 percent to the National Volunteer Fire Council Foundation to establish and maintain programs to promote the health and safety of all firefighters;

(F) 12.5 percent to the National Association of State Fire Marshals to establish and maintain the "John Heinz Memorial Scholarship Fund" to provide educational scholarships to the surviving children and spouses of fallen firefighters and emergency medical personnel as qualified under the Public Safety Officers Benefit Program; and

(G) 12.5 percent to the International Association of Arson Investigators Educational Foundation to design and maintain arson prevention programs.

(b) AVAILABILITY OF LIST OF SURVIVING CHILDREN AND SPOUSES TO NATIONAL ASSOCIATION OF STATE FIRE MARSHALS.—For purposes

of providing educational scholarships described in subsection (a)(2)(F), the Attorney General shall make a list of surviving children and spouses referred to in such subsection available to the National Association of State Fire Marshals on a timely basis.

SEC. 10. AUDITS.

31 USC 5111 note.

(a) FRANKLIN INSTITUTE.—As a condition for receiving the proceeds of the surcharges pursuant to section 9(a)(1), the Franklin Institute shall allow the Comptroller General to examine such books, records, documents, and other data of the Institute as may be related to the expenditure of amounts paid, and the management and expenditures of the endowment established under subparagraph (F) of such section.

(b) INSTITUTE OF LIFE SAFETY TECHNOLOGY AND EMERGENCY MANAGEMENT EDUCATION, NATIONAL ASSOCIATION OF STATE FIRE MARSHALS, AND THE FIVE FIRE SERVICE FOUNDATIONS.—As a condition for receiving the proceeds of the surcharges pursuant to section 9(a)(2), the Institute of Life Safety Technology and Emergency Management Education, the National Association of State Fire Marshals, and the 5 fire service foundations described in subparagraphs (B), (C), (D), (E), and (G) of section 9(a)(2), shall allow the Comptroller General to examine such books, records, documents, and other data as may be related to the expenditure of amounts paid.

(c) ADMINISTRATIVE, OVERHEAD, OR OTHER EXPENSES PROHIBITED.—No funds received under section 9, and no interest accruing on any such funds, may be used for administrative purposes, overhead expenses, or for any other purpose not described in such section.

SEC. 11. FINANCIAL ASSURANCES.

31 USC 5111 note.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take all actions necessary to ensure that the issuance of the medals authorized under section 3 shall result in no net cost to the Federal Government.

(b) RECOVERY OF COSTS TO FEDERAL GOVERNMENT.—

(1) RELEASE OF SURCHARGES UPON RECEIPT OF FUNDS.—The Secretary shall not distribute the amount of any surcharge under section 9 until the Secretary has received funds, either from the sale of medals authorized under this Act or from private donations, sufficient to ensure that the issuance of medals under this Act shall result in no net cost to the Federal Government.

(2) RECOVERY OF EXPENSES FROM SURCHARGES.—If all costs to the Federal Government in connection with the issuance of medals under this Act are not recovered from the sale of such medals or from private donations as of the termination of the program in accordance with section 7, the Secretary shall reduce the amount of the surcharges retained pursuant to paragraph (1) by the amount of such shortfall and apply such amount to the cost of issuing such medals.

(3) DISTRIBUTION OF BALANCE OF SURCHARGES.—Any surcharges remaining after any reduction in the amount of such surcharges pursuant to paragraph (2) shall be distributed in accordance with section 9.

(c) PAYMENT FOR MEDALS.—No medal authorized under section 3 shall be issued unless the Secretary has received—

(1) full payment, as determined under section 5;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Approved October 12, 1992.

LEGISLATIVE HISTORY—H.R. 2448:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 12, Presidential remarks.

Public Law 102-407
102d Congress

An Act

To authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes.

Oct. 13, 1992
[H.R. 1628]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF MEMORIAL.

40 USC 1003 note.

(a) AUTHORIZATION.—The Thomas Paine National Historical Association U.S.A. Memorial Foundation is authorized to construct in the District of Columbia or its environs an appropriate monument to honor the United States patriot, Thomas Paine.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The design, location, and construction of the monument authorized by subsection (a) shall be subject to the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

40 USC 1003 note.

The United States shall not pay any expense of the establishment of the memorial.

SEC. 3. EXPIRATION OF AUTHORITY.

40 USC 1003 note.

If the authority to establish the memorial under this resolution shall expire, in accordance with 40 U.S.C. 1001, section 10(b), all unexpended funds collected by the Thomas Paine National Historical Association U.S.A. Memorial Foundation through charitable solicitation shall be transferred to the National Park Service for the express purpose of maintaining existing national memorials or returned to the donors.

Approved October 13, 1992.

LEGISLATIVE HISTORY—H.R. 1628:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 21, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 102-408
102d Congress

An Act

Oct. 13, 1992
[H.R. 3508]

To amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Professions Education Extension Amendments of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Education Extension Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HEALTH PROFESSIONS EDUCATION

Sec. 101. Table of contents regarding revised title VII of Public Health Service Act.
Sec. 102. Revision of title VII of Public Health Service Act.
Sec. 103. Effective date.

TITLE II—NURSE EDUCATION

Sec. 201. Short title.
Sec. 202. Special project grants and contracts.
Sec. 203. Advanced nurse education.
Sec. 204. Nurse practitioner and nurse midwife programs.
Sec. 205. Special projects regarding disadvantaged individuals.
Sec. 206. Traineeships for advanced education of professional nurses.
Sec. 207. Nurse anesthetists.
Sec. 208. Student loans.
Sec. 209. Certain generally applicable provisions.
Sec. 210. Demonstration program regarding service in certain health care facilities.
Sec. 211. Transfer of loan repayment program.
Sec. 212. Advisory council on nurses education; review committee.
Sec. 213. Evaluations.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Advisory Council on Graduate Medical Education.
Sec. 302. Commission on allied health.
Sec. 303. Study regarding clinical laboratory technologists for medically underserved and rural communities.
Sec. 304. Residency training programs in emergency medicine.
Sec. 305. Certain clinical traineeships.
Sec. 306. Special consolidated loan program.
Sec. 307. National Advisory Council on Medical Licensure.
Sec. 308. Required assurances regarding bloodborne diseases.
Sec. 309. Study on effectiveness of health professions programs.
Sec. 310. Delayed applicability of certain provisions.
Sec. 311. Certain application procedures.
Sec. 312. Certain projects.

TITLE I—HEALTH PROFESSIONS EDUCATION

SEC. 101. TABLE OF CONTENTS REGARDING REVISED TITLE VII OF PUBLIC HEALTH SERVICE ACT.

A table describing the contents of title VII of the Public Health Service Act, as amended by section 102 of this Act, is as follows:

TITLE VII—HEALTH PROFESSIONS EDUCATION

PART A—STUDENT LOANS

Subpart I—Insured Health Education Assistance Loans to Graduate Students

Sec. 701. Statement of purpose.
Sec. 702. Scope and duration of loan insurance program.
Sec. 703. Limitations on individual insured loans and on loan insurance.
Sec. 704. Sources of funds.
Sec. 705. Eligibility of borrowers and terms of insured loans.
Sec. 706. Certificate of loan insurance; effective date of insurance.
Sec. 707. Default of borrower.
Sec. 708. Risk-based premiums.
Sec. 709. Office for Health Education Assistance Loan Default Reduction.
Sec. 710. Insurance account.
Sec. 711. Powers and responsibilities of Secretary.
Sec. 712. Participation by Federal credit unions in Federal, State, and private student loan insurance programs.
Sec. 713. Determination of eligible students.
Sec. 714. Repayment by Secretary of loans of deceased or disabled borrowers.
Sec. 715. Additional requirements for institutions and lenders.
Sec. 719. Definitions.
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Subpart II—Federally-Supported Student Loan Funds

Sec. 721. Agreements for operation of school loan funds.
Sec. 722. Loan provisions.
Sec. 723. Medical schools and primary health care.
Sec. 724. Individuals from disadvantaged backgrounds.
Sec. 725. Administrative provisions.
Sec. 726. Provision by schools of information to students.
Sec. 727. Procedures for appeal of termination of agreements.
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PART D—TRAINING IN CERTAIN HEALTH PROFESSIONS

Subpart I—Public Health and Preventive Medicine

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PART E—SPECIAL TRAINING PROJECTS

Sec. 776. Acquired immune deficiency syndrome.
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PART G—GENERAL PROVISIONS

Sec. 791. Preferences and required information in certain programs.
Sec. 792. Health professions data.
Sec. 793. Statistics; annual report.
Sec. 794. Prohibition against discrimination on basis of sex.
Sec. 795. Obligated service regarding certain programs.
Sec. 798. Certain general provisions.
Sec. 799. Definitions.

SEC. 102. REVISION OF TITLE VII OF PUBLIC HEALTH SERVICE ACT.

Title VII of the Public Health Service Act (42 U.S.C. 292a et seq.) is amended to read as follows:

"TITLE VII—HEALTH PROFESSIONS EDUCATION

"PART A—STUDENT LOANS

"Subpart I—Insured Health Education Assistance Loans to Graduate Students

42 USC 292.

"SEC. 701. STATEMENT OF PURPOSE.

"The purpose of this subpart is to enable the Secretary to provide a Federal program of student loan insurance for students in (and certain former students of) eligible institutions (as defined in section 719).

42 USC 292a.

"SEC. 702. SCOPE AND DURATION OF LOAN INSURANCE PROGRAM.

"(a) IN GENERAL.—The total principal amount of new loans made and installments paid pursuant to lines of credit (as defined in section 719) to borrowers covered by Federal loan insurance under this subpart shall not exceed $350,000,000 for fiscal year 1993, $375,000,000 for fiscal year 1994, and $425,000,000 for fiscal year 1995. If the total amount of new loans made and installments paid pursuant to lines of credit in any fiscal year is less than the ceiling established for such year, the difference between the loans made and installments paid and the ceiling shall be carried over to the next fiscal year and added to the ceiling applicable to that fiscal year, and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year. Thereafter, Federal loan insurance pursuant to this subpart may be granted only for loans made (or for loan installments paid pursuant to lines of credit) to enable students, who have obtained prior loans insured under this subpart, to continue or complete their educational program or to obtain a loan under section 705(a)(1)(B) to pay interest on such prior loans; but no insurance may be granted for any loan made or installment paid after September 30, 1998. The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31, United States Code, and without regard to any similar limitation.

"(b) CERTAIN LIMITATIONS AND PRIORITIES.—

"(1) LIMITATIONS REGARDING LENDERS, STATES, OR AREAS.—The Secretary may, if necessary to assure an equitable distribution of the benefits of this subpart, assign, within the maximum amounts specified in subsection (a), Federal loan insurance quotas applicable to eligible lenders, or to States or areas, and may from time to time reassign unused portions of these quotas.

"(2) PRIORITY FOR CERTAIN LENDERS.—In providing certificates of insurance under section 706 through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

"(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

"(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which eligible lenders are generally making such loans during such period.

"(c) AUTHORITY OF STUDENT LOAN MARKETING ASSOCIATION.—

"(1) IN GENERAL.—Subject to paragraph (2), the Student Loan Marketing Association, established under part B of title IV of the Higher Education Act of 1965, is authorized to make advances on the security of, purchase, service, sell, consolidate, or otherwise deal in loans which are insured by the Secretary under this subpart, except that if any loan made under this subpart is included in a consolidated loan pursuant to the authority of the Association under part B of title IV of the Higher Education Act of 1965, the interest rate on such consolidated loan shall be set at the weighted average interest rate of all such loans offered for consolidation and the resultant per centum shall be rounded downward to the nearest one-eighth of 1 per centum, except that the interest rate shall be no less than the applicable interest rate of the guaranteed student loan program established under part B of title IV of the Higher Education Act of 1965. In the case of such a consolidated loan, the borrower shall be responsible for any interest which accrues prior to the beginning of the repayment period of the loan, or which accrues during a period in which principal need not be paid (whether or not such principal is in fact paid) by reason of any provision of the Higher Education Act of 1965.

"(2) APPLICABILITY OF CERTAIN FEDERAL REGULATIONS.—With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.

"SEC. 703. LIMITATIONS ON INDIVIDUAL INSURED LOANS AND ON LOAN INSURANCE. 42 USC 292b.

"(a) IN GENERAL.—The total of the loans made to a student in any academic year or its equivalent (as determined by the Secretary) which may be covered by Federal loan insurance under this subpart may not exceed $20,000 in the case of a student

enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $12,500 in the case of a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology. The aggregate insured unpaid principal amount for all such insured loans made to any borrower shall not at any time exceed $80,000 in the case of a borrower who is or was a student enrolled in a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, or podiatric medicine, and $50,000 in the case of a borrower who is or was a student enrolled in a school of pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology. The annual insurable limit per student shall not be exceeded by a line of credit under which actual payments by the lender to the borrower will not be made in any year in excess of the annual limit.

"(b) EXTENT OF INSURANCE LIABILITY.—The insurance liability on any loan insured by the Secretary under this subpart shall be 100 percent of the unpaid balance of the principal amount of the loan plus interest. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under the provisions of section 707 or 714.

42 USC 292c.

"SEC. 704. SOURCES OF FUNDS.

"Loans made by eligible lenders in accordance with this subpart shall be insurable by the Secretary whether made from funds fully owned by the lender or from funds held by the lender in a trust or similar capacity and available for such loans.

42 USC 292d.

"SEC. 705. ELIGIBILITY OF BORROWERS AND TERMS OF INSURED LOANS.

"(a) IN GENERAL.—A loan by an eligible lender shall be insurable by the Secretary under the provisions of this subpart only if—

"(1) made to—

"(A) a student who—

"(i)(I) has been accepted for enrollment at an eligible institution, or (II) in the case of a student attending an eligible institution, is in good standing at that institution, as determined by the institution;

"(ii) is or will be a full-time student at the eligible institution;

"(iii) has agreed that all funds received under such loan shall be used solely for tuition, other reasonable educational expenses, including fees, books, and laboratory expenses, and reasonable living expenses, incurred by such students;

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section; and

"(v) in the case of a pharmacy student, has satisfactorily completed three years of training; or

"(B) an individual who—

"(i) has previously had a loan insured under this subpart when the individual was a full-time student at an eligible institution;

"(ii) is in a period during which, pursuant to paragraph (2), the principal amount of such previous loan need not be paid;

"(iii) has agreed that all funds received under the proposed loan shall be used solely for repayment of interest due on previous loans made under this subpart; and

"(iv) if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section;

"(2) evidenced by a note or other written agreement which—

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, an endorsement may be required;

"(B) provides for repayment of the principal amount of the loan in installments over a period of not less than 10 years (unless sooner repaid) nor more than 25 years beginning not earlier than 9 months nor later than 12 months after the date of—

"(i) the date on which—

"(I) the borrower ceases to be a participant in an accredited internship or residency program of not more than four years in duration;

"(II) the borrower completes the fourth year of an accredited internship or residency program of more than four years in duration; or

"(III) the borrower, if not a participant in a program described in subclause (I) or (II), ceases to carry, at an eligible institution, the normal full-time academic workload as determined by the institution; or

"(ii) the date on which a borrower who is a graduate of an eligible institution ceases to be a participant in a fellowship training program not in excess of two years or a participant in a full-time educational activity not in excess of two years, which—

"(I) is directly related to the health profession for which the borrower prepared at an eligible institution, as determined by the Secretary; and

"(II) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in a program described in subclause (I) or (II) of clause (i) or prior to the completion of the borrower's participation in such program,

except as provided in subparagraph (C), except that the period of the loan may not exceed 33 years from the date of execution of the note or written agreement evidencing it, and except that the note or other written instrument may contain such provisions relating to repayment in the event of default in the payment of interest or in the payment of the costs of insurance premiums, or other default by the borrower, as may be authorized by regulations of the Secretary in effect at the time the loan is made;

"(C) provides that periodic installments of principal and interest need not be paid, but interest shall accrue, during any period (i) during which the borrower is pursuing a full-time course of study at an eligible institution (or at an institution defined by section 481(a) of the Higher Education Act of 1965); (ii) not in excess of four years during which the borrower is a participant in an accredited internship or residency program (including any period in such a program described in subclause (I) or subclause (II) of subparagraph (B)(i)); (iii) not in excess of three years, during which the borrower is a member of the Armed Forces of the United States; (iv) not in excess of three years during which the borrower is in service as a volunteer under the Peace Corps Act; (v) not in excess of three years during which the borrower is a member of the National Health Service Corps; (vi) not in excess of three years during which the borrower is in service as a full-time volunteer under title I of the Domestic Volunteer Service Act of 1973; (vii) not in excess of 3 years, for a borrower who has completed an accredited internship or residency training program in osteopathic general practice, family medicine, general internal medicine, preventive medicine, or general pediatrics and who is practicing primary care; (viii) not in excess of 1 year, for borrowers who are graduates of schools of chiropractic; (ix) any period not in excess of two years which is described in subparagraph (B)(ii); and (x) in addition to all other deferments for which the borrower is eligible under clauses (i) through (ix), any period during which the borrower is a member of the Armed Forces on active duty during the Persian Gulf conflict, and any period described in clauses (i) through (x) shall not be included in determining the 25-year period described in subparagraph (B);

"(D) provides for interest on the unpaid principal balance of the loan at a yearly rate, not exceeding the applicable maximum rate prescribed and defined by the Secretary (within the limits set forth in subsection (b)) on a national, regional, or other appropriate basis, which interest shall be compounded not more frequently than annually and payable in installments over the period of the loan except as provided in subparagraph (C), except that the note or other written agreement may provide that payment of any interest may be deferred until not later than the date upon which repayment of the first installment of principal falls due or the date repayment of principal is required to resume (whichever is applicable) and may further provide that, on such date, the amount of the interest which has so accrued may be added to the principal for the purposes of calculating a repayment schedule;

Regulations.

"(E) offers, in accordance with criteria prescribed by regulation by the Secretary, a schedule for repayment of principal and interest under which payment of a portion of the principal and interest otherwise payable at the beginning of the repayment period (as defined in such regulations) is deferred until a later time in the period;

"(F) entitles the borrower to accelerate without penalty repayment of the whole or any part of the loan;

"(G) provides that the check for the proceeds of the loan shall be made payable jointly to the borrower and the eligible institution in which the borrower is enrolled;

"(H) notwithstanding the provisions of the Fair Debt Collection Practices Act, authorizes an institution or post-graduate training program attended by the borrower to assist in the collection of any loan that becomes delinquent, including providing information concerning the borrower to the Secretary and to past and present lenders and holders of the borrower's loans; and

"(I) contains such other terms and conditions consistent with the provisions of this subpart and with the regulations issued by the Secretary pursuant to this subpart, as may be agreed upon by the parties to such loan, including, if agreed upon, a provision requiring the borrower to pay to the lender, in addition to principal and interest, amounts equal to the insurance premiums payable by the lender to the Secretary with respect to such loan; and

"(3) subject to the consent of the student and subject to applicable law, the eligible lender has obtained from the student appropriate demographic information regarding the student, including racial or ethnic background.

"(b) LIMITATION ON RATE OF INTEREST.—The rate of interest prescribed and defined by the Secretary for the purpose of subsection (a)(2)(D) may not exceed the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the previous quarter plus 3 percentage points, rounded to the next higher one-eighth of 1 percent.

"(c) MINIMUM ANNUAL PAYMENT BY BORROWER.—The total of the payments by a borrower during any year or any repayment period with respect to the aggregate amount of all loans to that borrower which are insured under this subpart shall not be less than the annual interest on the outstanding principal, except as provided in subsection (a)(2)(C), unless the borrower, in the written agreement described in subsection (a)(2), agrees to make payments during any year or any repayment period in a lesser amount.

"(d) APPLICABILITY OF CERTAIN LAWS ON RATE OR AMOUNT OF INTEREST.—No provision of any law of the United States (other than subsections (a)(2)(D) and (b)) or of any State that limits the rate or amount of interest payable on loans shall apply to a loan insured under this subpart.

"(e) DETERMINATION REGARDING FORBEARANCE.—Any period of time granted to a borrower under this subpart in the form of forbearance on the loan shall not be included in the 25-year total loan repayment period under subsection (a)(2)(C).

"(f) LOAN REPAYMENT SCHEDULE.—Lenders and holders under this subpart shall offer borrowers graduated loan repayment schedules that, during the first 5 years of loan repayment, are based on the borrower's debt-to-income ratio.

"(g) RULE OF CONSTRUCTION REGARDING DETERMINATION OF NEED OF STUDENTS.—With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for

students with special circumstances as the school determines appropriate.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'active duty' has the meaning given such term in section 101(18) of title 37, United States Code, except that such term does not include active duty for training.

"(2) The term 'Persian Gulf conflict' means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

42 USC 292e.

"SEC. 706. CERTIFICATE OF LOAN INSURANCE; EFFECTIVE DATE OF INSURANCE.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR ISSUANCE OF CERTIFICATE.—If, upon application by an eligible lender, made upon such form, containing such information, and supported by such evidence as the Secretary may require, and otherwise in conformity with this section, the Secretary finds that the applicant has made a loan to an eligible borrower which is insurable under the provisions of this subpart, he may issue to the applicant a certificate of insurance covering the loan and setting forth the amount and terms of the insurance.

"(2) EFFECTIVE DATE OF INSURANCE.—Insurance evidenced by a certificate of insurance pursuant to subsection (a)(1) shall become effective upon the date of issuance of the certificate, except that the Secretary is authorized, in accordance with regulations, to issue commitments with respect to proposed loans, or with respect to lines (or proposed lines) of credit, submitted by eligible lenders, and in that event, upon compliance with subsection (a)(1) by the lender, the certificate of insurance may be issued effective as of the date when any loan, or any payment by the lender pursuant to a line of credit, to be covered by such insurance is made to a student described in section 705(a)(1). Such insurance shall cease to be effective upon 60 days' default by the lender in the payment of any installment of the premiums payable pursuant to section 708.

"(3) CERTAIN AGREEMENTS FOR LENDERS.—An application submitted pursuant to subsection (a)(1) shall contain—

"(A) an agreement by the applicant to pay, in accordance with regulations, the premiums fixed by the Secretary pursuant to section 708; and

Reports.

"(B) an agreement by the applicant that if the loan is covered by insurance the applicant will submit such supplementary reports and statements during the effective period of the loan agreement, upon such forms, at such times, and containing such information as the Secretary may prescribe by or pursuant to regulation.

"(b) AUTHORITY REGARDING COMPREHENSIVE INSURANCE COVERAGE.—

"(1) IN GENERAL.—In lieu of requiring a separate insurance application and issuing a separate certificate of insurance for each loan made by an eligible lender as provided in subsection (a), the Secretary may, in accordance with regulations consistent with section 702, issue to any eligible lender applying therefor a certificate of comprehensive insurance coverage which shall, without further action by the Secretary, insure

all insurable loans made by that lender, on or after the date of the certificate and before a specified cutoff date, within the limits of an aggregate maximum amount stated in the certificate. Such regulations may provide for conditioning such insurance, with respect to any loan, upon compliance by the lender with such requirements (to be stated or incorporated by reference in the certificate) as in the Secretary's judgment will best achieve the purpose of this subsection while protecting the financial interest of the United States and promoting the objectives of this subpart, including (but not limited to) provisions as to the reporting of such loans and information relevant thereto to the Secretary and as to the payment of initial and other premiums and the effect of default therein, and including provision for confirmation by the Secretary from time to time (through endorsement of the certificate) of the coverage of specific new loans by such certificate, which confirmation shall be incontestable by the Secretary in the absence of fraud or misrepresentation of fact or patent error.

"(2) LINES OF CREDIT BEYOND CUTOFF DATE.—If the holder of a certificate of comprehensive insurance coverage issued under this subsection grants to a borrower a line of credit extending beyond the cutoff date specified in that certificate, loans or payments thereon made by the holder after that date pursuant to the line of credit shall not be deemed to be included in the coverage of that certificate except as may be specifically provided therein; but, subject to the limitations of section 702, the Secretary may, in accordance with regulations, make commitments to insure such future loans or payments, and such commitments may be honored either as provided in subsection (a) or by inclusion of such insurance in comprehensive coverage under this subsection for the period or periods in which such future loans or payments are made.

"(c) ASSIGNMENT OF INSURANCE RIGHTS.—The rights of an eligible lender arising under insurance evidenced by a certificate of insurance issued to it under this section may be assigned by such lender, subject to regulation by the Secretary, only to—

"(1) another eligible lender (including a public entity in the business of purchasing student loans); or

"(2) the Student Loan Marketing Association.

"(d) EFFECT OF CONSOLIDATION OF OBLIGATIONS.—The consolidation of the obligations of two or more federally insured loans obtained by a borrower in any fiscal year into a single obligation evidenced by a single instrument of indebtedness shall not affect the insurance by the United States. If the loans thus consolidated are covered by separate certificates of insurance issued under subsection (a), the Secretary may upon surrender of the original certificates issue a new certificate of insurance in accordance with that subsection upon the consolidated obligation. If the loans thus consolidated are covered by a single comprehensive certificate issued under subsection (b), the Secretary may amend that certificate accordingly.

"(e) RULE OF CONSTRUCTION REGARDING CONSOLIDATION OF DEBTS.—Nothing in this section shall be construed to preclude the lender and the borrower, by mutual agreement, from consolidating all of the borrower's debts into a single instrument under the terms applicable to an insured loan made at the same time as the consolidation. The lender or loan holder should provide

full information to the borrower concerning the advantages and disadvantages of loan consolidation. Nothing in this section shall be construed to preclude the consolidation of the borrower's loans insured under this subpart under section 428C of the Higher Education Act of 1965. Any loans insured pursuant to this subpart that are consolidated under section 428C of such Act shall not be eligible for special allowance payments under section 438 of such Act.

42 USC 292f.

"SEC. 707. DEFAULT OF BORROWER.

"(a) CONDITIONS FOR PAYMENT TO BENEFICIARY.—Upon default by the borrower on any loan covered by Federal loan insurance pursuant to this subpart, and after a substantial collection effort (including, subject to subsection (h), commencement and prosecution of an action) as determined under regulations of the Secretary, the insurance beneficiary shall promptly notify the Secretary and the Secretary shall, if requested (at that time or after further collection efforts) by the beneficiary, or may on his own motion, if the insurance is still in effect, pay to the beneficiary the amount of the loss sustained by the insured upon that loan as soon as that amount has been determined. Not later than one year after the date of the enactment of the Health Professions Education Extension Amendments of 1992, the Secretary shall establish performance standards for lenders and holders of loans under this subpart, including fees to be imposed for failing to meet such standards.

"(b) SUBROGATION.—Upon payment by the Secretary of the amount of the loss pursuant to subsection (a), the United States shall be subrogated for all of the rights of the holder of the obligation upon the insured loan and shall be entitled to an assignment of the note or other evidence of the insured loan by the insurance beneficiary. If the net recovery made by the Secretary on a loan after deduction of the cost of that recovery (including reasonable administrative costs) exceeds the amount of the loss, the excess shall be paid over to the insured. The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence.

"(c) FORBEARANCE.—Nothing in this section or in this subpart shall be construed to preclude any forbearance for the benefit of the borrower which may be agreed upon by the parties to the insured loan and approved by the Secretary or to preclude forbearance by the Secretary in the enforcement of the insured obligation after payment on that insurance.

"(d) REASONABLE CARE AND DILIGENCE REGARDING LOANS.—Nothing in this section or in this subpart shall be construed to excuse the eligible lender or holder of a federally insured loan from exercising reasonable care and diligence in the making of loans under the provisions of this subpart and from exercising a substantial effort in the collection of loans under the provisions of this subpart. If the Secretary, after reasonable notice and opportunity for hearing to an eligible lender, finds that the lender has failed to exercise such care and diligence, to exercise such substantial efforts, to make the reports and statements required under section 706(a)(3), or to pay the required Federal loan insurance premiums, he shall disqualify that lender from obtaining further

Federal insurance on loans granted pursuant to this subpart until he is satisfied that its failure has ceased and finds that there is reasonable assurance that the lender will in the future exercise necessary care and diligence, exercise substantial effort, or comply with such requirements, as the case may be.

"(e) DEFINITIONS.—For purposes of this section:

"(1) The term 'insurance beneficiary' means the insured or its authorized assignee in accordance with section 706(c).

"(2) The term 'amount of the loss' means, with respect to a loan, unpaid balance of the principal amount and interest on such loan, less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved.

"(3) The term 'default' includes only such defaults as have existed for 120 days.

"(f) REDUCTIONS IN FEDERAL REIMBURSEMENTS OR PAYMENTS FOR DEFAULTING BORROWERS.—The Secretary shall, after notice and opportunity for a hearing, cause to be reduced Federal reimbursements or payments for health services under any Federal law to borrowers who are practicing their professions and have defaulted on their loans insured under this subpart in amounts up to the remaining balance of such loans. Procedures for reduction of payments under the medicare program are provided under section 1892 of the Social Security Act. Notwithstanding such section 1892, any funds recovered under this subsection shall be deposited in the insurance fund established under section 710.

"(g) CONDITIONS FOR DISCHARGE OF DEBT IN BANKRUPTCY.—A debt which is a loan insured under the authority of this subpart may be released by a discharge in bankruptcy under any chapter of title 11, United States Code, only if such discharge is granted—

"(1) after the expiration of the five-year period beginning on the first date, as specified in subparagraphs (B) and (C) of section 705(a)(2), when repayment of such loan is required;

"(2) upon a finding by the Bankruptcy Court that the nondischarge of such debt would be unconscionable; and

"(3) upon the condition that the Secretary shall not have waived the Secretary's rights to apply subsection (f) to the borrower and the discharged debt.

"(h) REQUIREMENT REGARDING ACTIONS FOR DEFAULT.—

"(1) IN GENERAL.—With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a), require an eligible lender or holder to commence and prosecute an action for such default unless—

"(A) in the determination of the Secretary—

"(i) the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts, or

"(ii) prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

"(B) for such loans made before the date of the enactment of the Health Professions Reauthorization Act of 1988, the loan involved was made in an amount of less than $5,000; or

"(C) for such loans made after such date, the loan involved was made in an amount of less than $2,500.

"(2) RELATIONSHIP TO CLAIM FOR PAYMENT.—With respect to an eligible lender or holder that has commenced an action pursuant to subsection (a), the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the Secretary determines that the lender or holder has made reasonable efforts to secure a judgment and collect on the judgment entered into pursuant to this subsection.

"(3) STATE COURT JUDGMENTS.—With respect to any State court judgment that is obtained by a lender or holder against a borrower for default on a loan insured under this subpart and that is subrogated to the United States under subsection (b), any United States attorney may register such judgment with the Federal courts for enforcement.

"(i) INAPPLICABILITY OF FEDERAL AND STATE STATUTE OF LIMITATIONS ON ACTIONS FOR LOAN COLLECTION.—Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an offset, garnishment, or other action may be initiated or taken by the Secretary, the Attorney General, or other administrative head of another Federal agency, as the case may be, for the repayment of the amount due from a borrower on a loan made under this subpart that has been assigned to the Secretary under subsection (b).

42 USC 292g.

"SEC. 708. RISK-BASED PREMIUMS.

"(a) AUTHORITY.—With respect to a loan made under this subpart on or after January 1, 1993, the Secretary, in accordance with subsection (b), shall assess a risk-based premium on an eligible borrower and, if required under this section, an eligible institution that is based on the default rate of the eligible institution involved (as defined in section 719).

"(b) ASSESSMENT OF PREMIUM.—Except as provided in subsection (d)(2), the risk-based premium to be assessed under subsection (a) shall be as follows:

"(1) LOW-RISK RATE.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of not to exceed five percent, such borrower shall be assessed a risk-based premium in an amount equal to 6 percent of the principal amount of the loan.

"(2) MEDIUM-RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of five percent but not to exceed 10 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 5 percent of the principal amount of the loan.

"(B) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval, an annual default management plan, that shall specify the detailed short-

term and long-term procedures that such institution will have in place to minimize defaults on loans to borrowers under this subpart. Under such plan the institution shall, among other measures, provide an exit interview to all borrowers that includes information concerning repayment schedules, loan deferments, forbearance, and the consequences of default.

"(3) HIGH-RISK RATE.—

"(A) IN GENERAL.—With respect to an eligible borrower seeking to obtain a loan for attendance at an eligible institution that has a default rate of in excess of 10 percent but not to exceed 20 percent—

"(i) such borrower shall be assessed a risk-based premium in an amount equal to 8 percent of the principal amount of the loan; and

"(ii) such institution shall be assessed a risk-based premium in an amount equal to 10 percent of the principal amount of the loan.

"(B) DEFAULT MANAGEMENT PLAN.—An institution of the type described in subparagraph (A) shall prepare and submit to the Secretary for approval a plan that meets the requirements of paragraph (2)(B).

"(4) INELIGIBILITY.—An individual shall not be eligible to obtain a loan under this subpart for attendance at an institution that has a default rate in excess of 20 percent.

"(c) REDUCTION OF RISK-BASED PREMIUM.—Lenders shall reduce by 50 percent the risk-based premium to eligible borrowers if a credit worthy parent or other responsible party co-signs the loan note.

"(d) ADMINISTRATIVE WAIVERS.—

"(1) HEARING.—The Secretary shall afford an institution not less than one hearing, and may consider mitigating circumstances, prior to making such institution ineligible for participation in the program under this subpart.

"(2) EXCEPTIONS.—In carrying out this section with respect to an institution, the Secretary may grant an institution a waiver of requirements of paragraphs (2) through (4) of subsection (b) if the Secretary determines that the default rate for such institution is not an accurate indicator because the volume of the loans under this subpart made by such institution has been insufficient.

"(3) TRANSITION FOR CERTAIN INSTITUTIONS.—During the 3-year period beginning on the effective date of the Health Professions Education Extension Amendments of 1992—

"(A) subsection (b)(4) shall not apply with respect to any eligible institution that is a Historically Black College or University; and

"(B) any such institution that has a default rate in excess of 20 percent, and any eligible borrower seeking a loan for attendance at the institution, shall be subject to subsection (b)(3) to the same extent and in the same manner as eligible institutions and borrowers described in such subsection.

"(e) PAYOFF TO REDUCE RISK CATEGORY.—An institution may pay off the outstanding principal and interest owed by the borrowers of such institution who have defaulted on loans made under this subpart in order to reduce the risk category of the institution.

42 USC 292h.

"SEC. 709. OFFICE FOR HEALTH EDUCATION ASSISTANCE LOAN DEFAULT REDUCTION.

"(a) ESTABLISHMENT.—The Secretary shall establish, within the Division of Student Assistance of the Bureau of Health Professions, an office to be known as the Office for Health Education Assistance Loan Default Reduction (in this section referred to as the 'Office').

"(b) PURPOSE AND FUNCTIONS.—It shall be the purpose of the Office to achieve a reduction in the number and amounts of defaults on loans guaranteed under this subpart. In carrying out such purpose the Office shall—

"(1) conduct analytical and evaluative studies concerning loans and loan defaults;

"(2) carry out activities designed to reduce loan defaults;

"(3) respond to special circumstances that may exist in the financial lending environment that may lead to loan defaults;

"(4) coordinate with other Federal entities that are involved with student loan programs, including—

"(A) with respect to the Department of Education, in the development of a single student loan application form, a single student loan deferment form, a single disability form, and a central student loan database; and

"(B) with respect to the Department of Justice, in the recovery of payments from health professionals who have defaulted on loans guaranteed under this subpart;

"(5) provide technical assistance to borrowers, lenders, holders, and institutions concerning deferments and collection activities; and

Reports.

"(6) prepare and submit a report not later than March 31, 1993, and annually, thereafter, to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives concerning—

"(A) the default rates for each—

"(i) institution described in section 719(1) that is participating in the loan programs under this subpart;

"(ii) lender participating in the loan program under this subpart; and

"(iii) loan holder under this subpart;

"(B) the total amounts recovered pursuant to section 707(b) during the preceding fiscal year; and

"(C) a plan for improving the extent of such recoveries during the current fiscal year.

"(c) ADDITIONAL DUTIES.—In conjunction with the report submitted under subsection (b), the Office shall—

Federal Register, publication.

"(1) compile, and publish in the Federal Register, a list of the borrowers who are in default under this subpart; and

"(2) send the report and notices of default with respect to these borrowers to relevant Federal agencies and to schools, school associations, professional and specialty associations, State licensing boards, hospitals with which such borrowers may be associated, and any other relevant organizations.

"(d) ALLOCATION OF FUNDS FOR OFFICE.—In the case of amounts reserved under section 710(a)(2)(B) for obligation under this subsection, the Secretary may obligate the amounts for the purpose of administering the Office, including 7 full-time equivalent employment positions for such Office. With respect to such purpose,

amounts made available under the preceding sentence are in addition to amounts made available to the Health Resources and Services Administration for program management for the fiscal year involved. With respect to such employment positions, the positions are in addition to the number of full-time equivalent employment positions that otherwise is authorized for the Department of Health and Human Services for the fiscal year involved.

"SEC. 710. INSURANCE ACCOUNT. 42 USC 292i.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—There is hereby established a student loan insurance account (in this section referred to as the 'Account') which shall be available without fiscal year limitation to the Secretary for making payments in connection with the collection and default of loans insured under this subpart by the Secretary.

"(2) FUNDING.—

"(A) Except as provided in subparagraph (B), all amounts received by the Secretary as premium charges for insurance and as receipts, earnings, or proceeds derived from any claim or other assets acquired by the Secretary in connection with his operations under this subpart, and any other moneys, property, or assets derived by the Secretary from the operations of the Secretary in connection with this section, shall be deposited in the Account.

"(B) With respect to amounts described in subparagraph (A) that are received by the Secretary for any of the fiscal years 1993 through 1996, the Secretary may, before depositing such amounts in the Account, reserve from the amounts each such fiscal year not more than $1,000,000 for obligation under section 709(d).

"(3) EXPENDITURES.—All payments in connection with the default of loans insured by the Secretary under this subpart shall be paid from the Account.

"(b) CONTINGENT AUTHORITY FOR ISSUANCE OF NOTES OR OTHER OBLIGATIONS.—If at any time the moneys in the Account are insufficient to make payments in connection with the collection or default of any loan insured by the Secretary under this subpart, the Secretary of the Treasury may lend the Account such amounts as may be necessary to make the payments involved, subject to the Federal Credit Reform Act of 1990.

"SEC. 711. POWERS AND RESPONSIBILITIES OF SECRETARY. 42 USC 292j.

"(a) IN GENERAL.—In the performance of, and with respect to, the functions, powers, and duties vested in the Secretary by this subpart, the Secretary is authorized as follows: Regulations.

"(1) To prescribe such regulations as may be necessary to carry out the purposes of this subpart.

"(2) To sue and be sued in any district court of the United States. Such district courts shall have jurisdiction of civil actions arising under this subpart without regard to the amount in controversy, and any action instituted under this subsection by or against the Secretary shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in that office. No attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Secretary or property under the control of the Secretary. Nothing herein shall be constructed to except litigation arising

out of activities under this subpart from the application of sections 517 and 547 of title 28 of the United States Code.

"(3) To include in any contract for Federal loan insurance such terms, conditions, and covenants relating to repayment of principal and payments of interest, relating to his obligations and rights and to those of eligible lenders, and borrowers in case of default, and relating to such other matters as the Secretary determines to be necessary to assure that the purposes of this subpart will be achieved. Any term, condition, and covenant made pursuant to this paragraph or any other provisions of this subpart may be modified by the Secretary if the Secretary determines that modification is necessary to protect the financial interest of the United States.

"(4) Subject to the specific limitations in the subpart, to consent to the modification of any note or other instrument evidencing a loan which has been insured by him under this subpart (including modifications with respect to the rate of interest, time of payment of any installment of principal and interest or any portion thereof, or any other provision).

"(5) To enforce, pay, compromise, waive, or release any right, title, claim, lien, or demand, however acquired, including any equity or any right or redemption.

"(b) ANNUAL BUDGET; ACCOUNTS.—The Secretary shall, with respect to the financial operations arising by reason of this subpart—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by the Government Corporation Control Act; and

"(2) maintain with respect to insurance under this subpart an integral set of accounts.

42 USC 292k.

"SEC. 712. PARTICIPATION BY FEDERAL CREDIT UNIONS IN FEDERAL, STATE, AND PRIVATE STUDENT LOAN INSURANCE PROGRAMS.

"Notwithstanding any other provision of law, Federal credit unions shall, pursuant to regulations of the Administrator of the National Credit Union Administration, have power to make insured loans to eligible students in accordance with the provisions of this subpart relating to Federal insured loans.

42 USC 292*l*.

"SEC. 713. DETERMINATION OF ELIGIBLE STUDENTS.

"For purposes of determining eligible students under this part, in the case of a public school in a State that offers an accelerated, integrated program of study combining undergraduate premedical education and medical education leading to advanced entry, by contractual agreement, into an accredited four-year school of medicine which provides the remaining training leading to a degree of doctor of medicine, whenever in this part a provision refers to a student at a school of medicine, such reference shall include only a student enrolled in any of the last four years of such accelerated, integrated program of study.

42 USC 292m.

"SEC. 714. REPAYMENT BY SECRETARY OF LOANS OF DECEASED OR DISABLED BORROWERS.

"If a borrower who has received a loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), the Secretary shall discharge the

borrower's liability on the loan by repaying the amount owed on the loan from the account established under section 710.

"SEC. 715. ADDITIONAL REQUIREMENTS FOR INSTITUTIONS AND LENDERS. 42 USC 292n.

"(a) IN GENERAL.—Notwithstanding any other provision of this subpart, the Secretary is authorized to prescribe such regulations as may be necessary to provide for— Regulations.

"(1) a fiscal audit of an eligible institution with regard to any funds obtained from a borrower who has received a loan insured under this subpart;

"(2) the establishment of reasonable standards of financial responsibility and appropriate institutional capability for the administration by an eligible institution of a program of student financial aid with respect to funds obtained from a student who has received a loan insured under this subpart;

"(3) the limitation, suspension, or termination of the eligibility under this subpart of any otherwise eligible institution, whenever the Secretary has determined, after notice and affording an opportunity for hearing, that such institution has violated or failed to carry out any regulation prescribed under this subpart;

"(4) the collection of information from the borrower, lender, or eligible institution to assure compliance with the provisions of section 705;

"(5) the assessing of tuition or fees to borrowers in amounts that are the same or less than the amount of tuition and fees assessed to nonborrowers;

"(6) the submission, by the institution or the lender to the Office of Health Education Assistance Loan Default Reduction, of information concerning each loan made under this subpart, including the date when each such loan was originated, the date when each such loan is sold, the identity of the loan holder and information concerning a change in the borrower's status;

"(7) the withholding of services, including academic transcripts, financial aid transcripts, and alumni services, by an institution from a borrower upon the default of such borrower of a loan under this subpart, except in case of a borrower who has filed for bankruptcy; and

"(8) the offering, by the lender to the borrower, of a variety of repayment options, including fixed-rate, graduated repayment with negative amortization permitted, and income dependent payments for a limited period followed by level monthly payments.

"(b) RECORDING BY INSTITUTION OF INFORMATION ON STUDENTS.—The Secretary shall require an eligible institution to record, and make available to the lender and to the Secretary upon request, the name, address, postgraduate destination, and other reasonable identifying information for each student of such institution who has a loan insured under this subpart.

"(c) WORKSHOP FOR STUDENT BORROWERS.—Each participating eligible institution must have, at the beginning of each academic year, a workshop concerning the provisions of this subpart that all student borrowers shall be required to attend.

"SEC. 719. DEFINITIONS. 42 USC 292o.

"For purposes of this subpart:

"(1) The term 'eligible institution' means, with respect to a fiscal year, a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, allied health, or chiropractic, or a graduate program in health administration or clinical psychology.

"(2) The term 'eligible lender' means an eligible institution that became a lender under this subpart prior to September 15, 1992, an agency or instrumentality of a State, a financial or credit institution (including an insurance company) which is subject to examination and supervision by an agency of the United States or of any State, a pension fund approved by the Secretary for this purpose, or a nonprofit private entity designated by the State, regulated by the State, and approved by the Secretary.

"(3) The term 'line of credit' means an arrangement or agreement between the lender and the borrower whereby a loan is paid out by the lender to the borrower in annual installments, or whereby the lender agrees to make, in addition to the initial loan, additional loans in subsequent years.

"(4) The term 'school of allied health' means a program in a school of allied health (as defined in section 799) which leads to a masters' degree or a doctoral degree.

"(5)(A) The term 'default rate', in the case of an eligible entity, means the percentage constituted by the ratio of—

"(i) the principal amount of loans insured under this subpart—

"(I) that are made with respect to the entity and that enter repayment status after April 7, 1987; and

"(II) for which amounts have been paid under section 707(a) to insurance beneficiaries, exclusive of any loan for which amounts have been so paid as a result of the death or total and permanent disability of the borrower; exclusive of any loan for which the borrower begins payments to the Secretary on the loan pursuant to section 707(b) and maintains payments for 12 consecutive months in accordance with the agreement involved (with the loan subsequently being included or excluded, as the case may be, as amounts paid under section 707(a) according to whether further defaults occur and whether with respect to the default involved compliance with such requirement regarding 12 consecutive months occurs); and exclusive of any loan on which payments may not be recovered by reason of the obligation under the loan being discharged in bankruptcy under title 11, United States Code; to

"(ii) the total principal amount of loans insured under this subpart that are made with respect to the entity and that enter repayment status after April 7, 1987.

"(B) For purposes of subparagraph (A), a loan insured under this subpart shall be considered to have entered repayment status if the applicable period described in subparagraph (B) of section 705(a)(2) regarding the loan has expired (without regard to whether any period described in subparagraph (C) of such section is applicable regarding the loan).

"(C) For purposes of subparagraph (A), the term 'eligible entity' means an eligible institution, an eligible lender, or a holder, as the case may be.

"(D) For purposes of subparagraph (A), a loan is made with respect to an eligible entity if—

"(i) in the case of an eligible institution, the loan was made to students of the institution;

"(ii) in the case of an eligible lender, the loan was made by the lender; and

"(iii) in the case of a holder, the loan was purchased by the holder.

"SEC. 720. AUTHORIZATION OF APPROPRIATIONS. 42 USC 292p.

"(a) IN GENERAL.—For fiscal year 1993 and subsequent fiscal years, there are authorized to be appropriated such sums as may be necessary for the adequacy of the student loan insurance account under this subpart and for the purpose of administering this subpart.

"(b) AVAILABILITY OF SUMS.—Sums appropriated under subsection (a) shall remain available until expended.

"Subpart II—Federally-Supported Student Loan Funds

"SEC. 721. AGREEMENTS FOR OPERATION OF SCHOOL LOAN FUNDS. 42 USC 292q.

"(a) FUND AGREEMENTS.—The Secretary is authorized to enter into an agreement for the establishment and operation of a student loan fund in accordance with this subpart with any public or other nonprofit school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine.

"(b) REQUIREMENTS.—Each agreement entered into under this section shall—

"(1) provide for establishment of a student loan fund by the school;

"(2) provide for deposit in the fund of—

"(A) the Federal capital contributions to the fund;

"(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such institution;

"(C) collections of principal and interest on loans made from the fund;

"(D) collections pursuant to section 722(j); and

"(E) any other earnings of the fund;

"(3) provide that the fund shall be used only for loans to students of the school in accordance with the agreement and for costs of collection of such loans and interest thereon;

"(4) provide that loans may be made from such funds only to students pursuing a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

"(5) provide that the school shall advise, in writing, each applicant for a loan from the student loan fund of the provisions of section 722 under which outstanding loans from the student loan fund may be paid (in whole or in part) by the Secretary; and

"(6) contain such other provisions as are necessary to protect the financial interests of the United States.

"(c) FAILURE OF SCHOOL TO COLLECT LOANS.—

"(1) IN GENERAL.—Any standard established by the Secretary by regulation for the collection by schools of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine of loans made pursuant to loan agreements under this subpart shall provide that the failure of any such school to collect such loans shall be measured in accordance with this subsection. This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to August 1985 or to penalize such schools with respect to such loans.

"(2) EXTENT OF FAILURE.—The measurement of a school's failure to collect loans made under this subpart shall be the ratio (stated as a percentage) that the defaulted principal amount outstanding of such school bears to the matured loans of such school.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'default' means the failure of a borrower of a loan made under this subpart to—

"(i) make an installment payment when due; or

"(ii) comply with any other term of the promissory note for such loan,

except that a loan made under this subpart shall not be considered to be in default if the loan is discharged in bankruptcy or if the school reasonably concludes from written contracts with the borrower that the borrower intends to repay the loan.

"(B) The term 'defaulted principal amount outstanding' means the total amount borrowed from the loan fund of a school that has reached the repayment stage (minus any principal amount repaid or canceled) on loans—

"(i) repayable monthly and in default for at least 120 days; and

"(ii) repayable less frequently than monthly and in default for at least 180 days;

"(C) The term 'grace period' means the period of one year beginning on the date on which the borrower ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, or veterinary medicine; and

"(D) The term 'matured loans' means the total principal amount of all loans made by a school under this subpart minus the total principal amount of loans made by such school to students who are—

"(i) enrolled in a full-time course of study at such school; or

"(ii) in their grace period.

42 USC 292r.

"SEC. 722. LOAN PROVISIONS.

"(a) LIMITATION ON AMOUNT.—Loans from a student loan fund (established under an agreement with a school under section 721) may not exceed for any student for each school year (or its equivalent) the sum of—

"(1) the cost of tuition for such year at such school, and

"(2) $2,500.

"(b) TERMS AND CONDITIONS.—Subject to section 723, any such loans shall be made on such terms and conditions as the school may determine, but may be made only to a student—

"(1) who is in need of the amount thereof to pursue a full-time course of study at the school leading to a degree of doctor of medicine, doctor of dentistry or an equivalent degree, doctor of osteopathy, bachelor of science in pharmacy or an equivalent degree, doctor of pharmacy or an equivalent degree, doctor of podiatric medicine or an equivalent degree, doctor of optometry or an equivalent degree, or doctor of veterinary medicine or an equivalent degree;

"(2) who, if pursuing a full-time course of study at the school leading to a degree of doctor of medicine or doctor of osteopathy, is of exceptional financial need (as defined by regulations of the Secretary); and

"(3) who, if required under section 3 of the Military Selective Service Act to present himself for and submit to registration under such section, has presented himself and submitted to registration under such section.

"(c) REPAYMENT; EXCLUSIONS FROM TEN-YEAR PERIOD.—Such loans shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the ten-year period which begins one year after the student ceases to pursue a full-time course of study at a school of medicine, osteopathic medicine, dentistry, pharmacy, podiatry, optometry, or veterinary medicine, excluding from such ten-year period—

"(1) all periods—

"(A) not in excess of three years of active duty performed by the borrower as a member of a uniformed service;

"(B) not in excess of three years during which the borrower serves as a volunteer under the Peace Corps Act;

"(C) during which the borrower participates in advanced professional training, including internships and residencies; and

"(D) during which the borrower is pursuing a full-time course of study at such a school; and

"(2) a period—

"(A) not in excess of two years during which a borrower who is a full-time student in such a school leaves the school, with the intent to return to such school as a full-time student, in order to engage in a full-time educational activity which is directly related to the health profession for which the borrower is preparing, as determined by the Secretary; or

"(B) not in excess of two years during which a borrower who is a graduate of such a school is a participant in a fellowship training program or a full-time educational activity which—

"(i) is directly related to the health profession for which such borrower prepared at such school, as determined by the Secretary; and

"(ii) may be engaged in by the borrower during such a two-year period which begins within twelve months after the completion of the borrower's participation in advanced professional training described in

paragraph (1)(C) or prior to the completion of such borrower's participation in such training.

"(d) CANCELLATION OF LIABILITY.—The liability to repay the unpaid balance of such a loan and accrued interest thereon shall be canceled upon the death of the borrower, or if the Secretary determines that he has become permanently, and totally disabled.

"(e) RATE OF INTEREST.—Such loans shall bear interest, on the unpaid balance of the loan, computed only for periods for which the loan is repayable, at the rate of 5 percent per year.

"(f) SECURITY OR ENDORSEMENT.—Loans shall be made under this subpart without security or endorsement, except that if the borrower is a minor and the note or other evidence of obligation executed by him would not, under the applicable law, create a binding obligation, either security or endorsement may be required.

"(g) TRANSFERRING AND ASSIGNING LOANS.—No note or other evidence of a loan made under this subpart may be transferred or assigned by the school making the loan except that, if the borrowers transfer to another school participating in the program under this subpart, such note or other evidence of a loan may be transferred to such other school.

"(h) CHARGE WITH RESPECT TO INSURANCE FOR CERTAIN CANCELLATIONS.—Subject to regulations of the Secretary, a school may assess a charge with respect to loans made this subpart to cover the costs of insuring against cancellation of liability under subsection (d).

"(i) CHARGE WITH RESPECT TO LATE PAYMENTS.—Subject to regulations of the Secretary, and in accordance with this section, a school shall assess a charge with respect to a loan made under this subpart for failure of the borrower to pay all or any part of an installment when it is due and, in the case of a borrower who is entitled to deferment of the loan under subsection (c), for any failure to file timely and satisfactory evidence of such entitlement. No such charge may be made if the payment of such installment or the filing of such evidence is made within 60 days after the date on which such installment or filing is due. The amount of any such charge may not exceed an amount equal to 6 percent of the amount of such installment. The school may elect to add the amount of any such charge to the principal amount of the loan as of the first day after the day on which such installment or evidence was due, or to make the amount of the charge payable to the school not later than the due date of the next installment after receipt by the borrower of notice of the assessment of the charge.

"(j) AUTHORITY OF SCHOOLS REGARDING RATE OF PAYMENT.—A school may provide, in accordance with regulations of the Secretary, that during the repayment period of a loan from a loan fund established pursuant to an agreement under this subpart payments of principal and interest by the borrower with respect to all the outstanding loans made to him from loan funds so established shall be at a rate equal to not less than $15 per month.

"(k) AUTHORITY REGARDING REPAYMENTS BY SECRETARY.—Upon application by a person who received, and is under an obligation to repay, any loan made to such person as a health professions student to enable him to study medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatry, the Secretary may undertake to repay (without liability to the applicant) all or any part of such loan, and any interest or portion thereof

outstanding thereon, upon his determination, pursuant to regulations establishing criteria therefor, that the applicant—

"(1) failed to complete such studies leading to his first professional degree;

"(2) is in exceptionally needy circumstances;

"(3) is from a low-income or disadvantaged family as those terms may be defined by such regulations; and

"(4) has not resumed, or cannot reasonably be expected to resume, the study of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, or podiatric medicine, within two years following the date upon which he terminated such studies.

"(l) COLLECTION EFFORTS BY SECRETARY.—The Secretary is authorized to attempt to collect any loan which was made under this subpart, which is in default, and which was referred to the Secretary by a school with which the Secretary has an agreement under this subpart, on behalf of that school under such terms and conditions as the Secretary may prescribe (including reimbursement from the school's student loan fund for expenses the Secretary may reasonably incur in attempting collection), but only if the school has complied with such requirements as the Secretary may specify by regulation with respect to the collection of loans under this subpart. A loan so referred shall be treated as a debt subject to section 5514 of title 5, United States Code. Amounts collected shall be deposited in the school's student loan fund. Whenever the Secretary desires the institution of a civil action regarding any such loan, the Secretary shall refer the matter to the Attorney General for appropriate action.

"SEC. 723. MEDICAL SCHOOLS AND PRIMARY HEALTH CARE. 42 USC 292s.

"(a) REQUIREMENTS FOR STUDENTS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, in the case of student loan funds established under section 721 by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that the school will make a loan from such fund to a student only if the student agrees—

"(A) to enter and complete a residency training program in primary health care not later than 4 years after the date on which the student graduates from such school; and

"(B) to practice in such care through the date on which the loan is repaid in full.

"(2) INAPPLICABILITY TO CERTAIN STUDENTS.—

"(A) The requirement established in paragraph (1) regarding the student loan fund of a school does not apply to a student if—

"(i) the first loan to the student from such fund is made before July 1, 1993; or

"(ii) the loan is made from—

"(I) a Federal capital contribution under section 721 that is made from amounts appropriated under section 724(f) (in this section referred to as an 'exempt Federal capital contribution'); or

"(II) a school contribution made under section 721 pursuant to such a Federal capital contribu-

tion (in this section referred to as an 'exempt school contribution').

"(B) A Federal capital contribution under section 721 may not be construed as being an exempt Federal capital contribution if the contribution was made from amounts appropriated before October 1, 1990. A school contribution under section 721 may not be construed as being an exempt school contribution if the contribution was made pursuant to a Federal capital contribution under such section that was made from amounts appropriated before such date.

"(3) NONCOMPLIANCE BY STUDENT.—Each agreement entered into with a student pursuant to paragraph (1) shall provide that, if the student fails to comply with the agreement—

"(A) the balance due on the loan involved will be immediately recomputed from the date of issuance at an interest rate of 12 percent per year, compounded annually; and

"(B) the recomputed balance will be paid not later than the expiration of the 3-year period beginning on the date on which the student fails to comply with the agreement.

"(b) REQUIREMENTS FOR SCHOOLS.—

"(1) IN GENERAL.—Subject to the provisions of this subsection, in the case of student loan funds established under section 721 by schools of medicine or osteopathic medicine, each agreement entered into under such section with such a school shall provide (in addition to the provisions required in subsection (b) of such section) that, for the 1-year period ending on June 30, 1994, and for the 1-year period ending on June 30 of each subsequent fiscal year, the school will meet not less than 1 of the conditions described in paragraph (2) with respect to graduates of the school whose date of graduation from the school occurred approximately 4 years before the end of the 1-year period involved.

"(2) DESCRIPTION OF CONDITIONS.—With respect to graduates described in paragraph (1) (in this paragraph referred to as 'designated graduates'), the conditions referred to in such paragraph for a school for a 1-year period are as follows:

"(A) Not less than 50 percent of designated graduates of the school meet the criterion of either being in a residency training program in primary health care, or being engaged in a practice in such care (having completed such a program).

"(B) Not less than 15 percent of the designated graduates of the school meet such criterion, and such percentage is not less than 5 percentage points above the percentage of such graduates meeting such criterion for the preceding 1-year period.

"(C) In the case of schools of medicine or osteopathic medicine with student loans funds under section 721, the school involved is at or above the 75th percentile of such schools whose designated graduates meet such criterion.

"(3) DETERMINATIONS BY SECRETARY.—Not later than 90 days after the close of each 1-year period described in paragraph (1), the Secretary shall make a determination of whether the school involved has for such period complied with such paragraph and shall in writing inform the school of the determination. Such determination shall be made only after consideration

of the report submitted to the Secretary by the school under paragraph (6).

"(4) NONCOMPLIANCE BY SCHOOL.—

"(A)(i) Subject to subparagraph (C), each agreement under section 721 with a school of medicine or osteopathic medicine shall provide that, if the school fails to comply with paragraph (1) for a 1-year period under such paragraph, the school—

"(I) will pay to the Secretary the amount applicable under subparagraph (B) for the period; and

"(II) will pay such amount not later than 90 days after the school is informed under paragraph (3) of the determination of the Secretary regarding such period.

"(ii) Any amount that a school is required to pay under clause (i) may be paid from the student loan fund of the school under section 721.

"(B) For purposes of subparagraph (A), the amount applicable for a school, subject to subparagraph (C), is—

"(i) for the 1-year period ending June 30, 1994, an amount equal to 10 percent of the income received during such period by the student loan fund of the school under section 721;

"(ii) for the 1-year period ending June 30, 1995, an amount equal to 20 percent of the income received during such period by the student loan fund; and

"(iii) for any subsequent 1-year period under paragraph (1), an amount equal to 30 percent of the income received during such period by the student loan fund.

"(C) In determining the amount of income that a student loan fund has received for purposes of subparagraph (B), the Secretary shall exclude any income derived from exempt contributions. Payments made to the Secretary under subparagraph (A) may not be made with such contributions or with income derived from such contributions.

"(5) EXPENDITURE OF PAYMENTS.—

"(A) Amounts paid to the Secretary under paragraph (4) shall be expended to make Federal capital contributions to student loan funds under section 721 of schools that are in compliance with paragraph (1).

"(B) A Federal capital contribution under section 721 may not be construed as being an exempt Federal capital contribution if the contribution is made from payments under subparagraph (A). A school contribution under such section may not be construed as being an exempt school contribution if the contribution is made pursuant to a Federal capital contribution from such payments.

"(6) REPORTS BY SCHOOLS.—Each agreement under section 721 with a school of medicine or osteopathic medicine shall provide that the school will submit to the Secretary a report for each 1-year period under paragraph (1) that provides such information as the Secretary determines to be necessary for carrying out this subsection. Each such report shall include statistics concerning the current training or practice status of all graduates of such school whose date of graduation from

the school occurred approximately 4 years before the end of the 1-year period involved.

"(c) REPORTS BY SECRETARY.—The Secretary shall each fiscal year submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report regarding the administration of this section, including the extent of compliance with the requirements of this section, during the preceding fiscal year.

"(d) DEFINITIONS.—For purposes of this section:

"(1) The term 'exempt contributions' means exempt Federal capital contributions and exempt school contributions.

"(2) The term 'exempt Federal capital contribution' means a Federal capital contribution described in subclause (I) of subsection (a)(2)(A)(ii).

"(3) The term 'exempt school contribution' means a school contribution described in subclause (II) of subsection (a)(2)(A)(ii).

"(4) The term 'income', with respect to a student fund under section 721, means payments of principal and interest on any loan made from the fund, and any other earnings of the fund.

"(5) The term 'primary health care' means family medicine, general internal medicine, general pediatrics, preventive medicine, or osteopathic general practice.

42 USC 292t.

"SEC. 724. INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

"(a) FUND AGREEMENTS REGARDING CERTAIN AMOUNTS.—With respect to amounts appropriated under subsection (f), each agreement entered into under section 721 with a school shall provide (in addition to the provisions required in subsection (b) of such section) that—

"(1) any Federal capital contribution made to the student loan fund of the school from such amounts, together with the school contribution appropriate under subsection (b)(2)(B) of such section to the amount of the Federal capital contribution, will be utilized only for the purpose of—

"(A) making loans to individuals from disadvantaged backgrounds; and

"(B) the costs of the collection of the loans and interest on the loans; and

"(2) collections of principal and interest on loans made pursuant to paragraph (1), and any other earnings of the student loan fund attributable to amounts that are in the fund pursuant to such paragraph, will be utilized only for the purpose described in such paragraph.

"(b) MINIMUM QUALIFICATIONS FOR SCHOOLS.—The Secretary may not make a Federal capital contribution for purposes of subsection (a) for a fiscal year unless the health professions school involved—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(2) is carrying out a program for recruiting and retaining minority faculty.

"(c) CERTAIN AGREEMENTS REGARDING EDUCATION OF STUDENTS; DATE CERTAIN FOR COMPLIANCE.—The Secretary may not make a Federal capital contribution for purposes of subsection

(a) for a fiscal year unless the health professions school involved agrees—

"(1) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(2) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(3) with respect to public or nonprofit private secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such individuals into the health professions;

"(4) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(5) to be carrying out each of the activities specified in any of paragraphs (1) through (4) by not later than 1 year after the date on which the first Federal capital contribution is made to the school for purposes of subsection (a); and

"(6) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the student loan fund established pursuant to section 721(b) is in operation.

"(d) AVAILABILITY OF OTHER AMOUNTS.—With respect to Federal capital contributions to student loan funds under agreements under section 721(b), any such contributions made before October 1, 1990, together with the school contributions appropriate under paragraph (2)(B) of such section to the amount of the Federal capital contributions, may be utilized for the purpose of making loans to individuals from disadvantaged backgrounds, subject to section 723(a)(2)(B).

"(e) DEFINITION.—For purposes of this section, the term 'disadvantaged', with respect to an individual, shall be defined by the Secretary.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—With respect to making Federal capital contributions to student loan funds for purposes of subsection (a), there is authorized to be appropriated for such contributions $15,000,000 for fiscal year 1993.

"(2) SPECIAL CONSIDERATION FOR CERTAIN SCHOOLS.—In making Federal capital contributions to student loan funds for purposes of subsection (a), the Secretary shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 725. ADMINISTRATIVE PROVISIONS. 42 USC 292u.

"The Secretary may agree to modifications of agreements or loans made under this subpart, and may compromise, waive, or release any right, title, claim, or demand of the United States arising or acquired under this subpart.

42 USC 292v.

"SEC. 726. PROVISION BY SCHOOLS OF INFORMATION TO STUDENTS.

"(a) IN GENERAL.—With respect to loans made by a school under this subpart after June 30, 1986, each school, in order to carry out the provisions of sections 721 and 722, shall, at any time such school makes such a loan to a student under this subpart, provide thorough and adequate loan information on loans made under this subpart to the student. The loan information required to be provided to the student by this subsection shall include—

"(1) the yearly and cumulative maximum amounts that may be borrowed by the student;

"(2) the terms under which repayment of the loan will begin;

"(3) the maximum number of years in which the loan must be repaid;

"(4) the interest rate that will be paid by the borrower and the minimum amount of the required monthly payment;

"(5) the amount of any other fees charged to the borrower by the lender;

"(6) any options the borrower may have for deferral, cancellation, prepayment, consolidation, or other refinancing of the loan;

"(7) a definition of default on the loan and a specification of the consequences which will result to the borrower if the borrower defaults, including a description of any arrangements which may be made with credit bureau organizations;

"(8) to the extent practicable, the effect of accepting the loan on the eligibility of the borrower for other forms of student assistance; and

"(9) a description of the actions that may be taken by the Federal Government to collect the loan, including a description of the type of information concerning the borrower that the Federal Government may disclose to (A) officers, employees, or agents of the Department of Health and Human Services, (B) officers, employees, or agents of schools with which the Secretary has an agreement under this subpart, or (C) any other person involved in the collection of a loan under this subpart.

"(b) STATEMENT REGARDING LOAN.—Each school shall, immediately prior to the graduation from such school of a student who receives a loan under this subpart after June 30, 1986, provide such student with a statement specifying—

"(1) each amount borrowed by the student under this subpart;

"(2) the total amount borrowed by the student under this subpart; and

"(3) a schedule for the repayment of the amounts borrowed under this subpart, including the number, amount, and frequency of payments to be made.

42 USC 292w.

"SEC. 727. PROCEDURES FOR APPEAL OF TERMINATION OF AGREEMENTS.

"In any case in which the Secretary intends to terminate an agreement with a school under this subpart, the Secretary shall provide the school with a written notice specifying such intention and stating that the school may request a formal hearing with respect to such termination. If the school requests such a hearing within 30 days after the receipt of such notice, the Secretary shall

provide such school with a hearing conducted by an administrative law judge.

"SEC. 728. DISTRIBUTION OF ASSETS FROM LOAN FUNDS. 42 USC 292x.

"(a) DISTRIBUTION AFTER TERMINATION OF FUND.—If a school terminates a loan fund established under an agreement pursuant to section 721(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:

"(1) The Secretary shall first be paid an amount which bears the same ratio to such balance in such fund on the date of termination of the fund as the total amount of the Federal capital contributions to such fund by the Secretary pursuant to section 721(b)(2)(A) bears to the total amount in such fund derived from such Federal capital contributions and from funds deposited therein pursuant to section 721(b)(2)(B).

"(2) The remainder of such balance shall be paid to the school.

"(b) PAYMENT OF PROPORTIONATE SHARE TO SECRETARY.—If a capital distribution is made under subsection (a), the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 721(b) as was determined by the Secretary under subsection (a).

"SEC. 735. GENERAL PROVISIONS. 42 USC 292y.

"(a) DATE CERTAIN FOR APPLICATIONS.—The Secretary shall from time to time set dates by which schools must file applications for Federal capital contributions.

"(b) CONTINGENT REDUCTION IN ALLOTMENTS.—If the total of the amounts requested for any fiscal year in such applications exceeds the amounts appropriated under this section for that fiscal year, the allotment to the loan fund of each such school shall be reduced to whichever of the following is the smaller: the amount requested in its application; or an amount which bears the same ratio to the amounts appropriated as the number of students estimated by the Secretary to be enrolled in such school during such fiscal year bears to the estimated total number of students in all such schools during such year. Amounts remaining after allotment under the preceding sentence shall be reallotted in accordance with clause (B) of such sentence among schools whose applications requested more than the amounts so allotted to their loan funds, but with such adjustments as may be necessary to prevent the total allotted to any such school's loan fund from exceeding the total so requested by it.

"(c) ALLOTMENT OF EXCESS FUNDS.—Funds available in any fiscal year for payment to schools under this subpart which are in excess of the amount appropriated pursuant to this section for that year shall be allotted among schools in such manner as the Secretary determines will best carry out the purposes of this subpart.

"(d) PAYMENT OF INSTALLMENTS TO SCHOOLS.—Allotments to a loan fund of a school shall be paid to it from time to time in such installments as the Secretary determines will not result in unnecessary accumulations in the loan fund at such school.

"(e) DISPOSITION OF FUNDS RETURNED TO SECRETARY.—

"(1) EXPENDITURE FOR FEDERAL CAPITAL CONTRIBUTIONS.—Subject to section 723(b)(5), any amounts from student loan funds under section 721 that are returned to the Secretary by health professions schools shall be expended to make Federal capital contributions to such funds.

"(2) DATE CERTAIN FOR CONTRIBUTIONS.—Amounts described in paragraph (1) that are returned to the Secretary before the fourth quarter of a fiscal year shall be obligated before the end of such fiscal year, and may not be obligated before the fourth quarter. For purposes of the preceding sentence, amounts returned to the Secretary during the last quarter of a fiscal year are deemed to have been returned during the first three quarters of the succeeding fiscal year.

"(3) PREFERENCE IN MAKING CONTRIBUTIONS.—In making Federal capital contributions to student loans funds under section 721 for a fiscal year from amounts described in paragraph (1), the Secretary shall give preference to health professions schools of the same disciplines as the health professions schools returning such amounts for the period during which the amounts expended for such contributions were received by the Secretary. Any such amounts that, prior to being so returned, were available only for the purpose of loans under this subpart to individuals from disadvantaged backgrounds shall be available only for such purpose.

"PART B—STUDENTS FROM DISADVANTAGED BACKGROUNDS

Grants.
42 USC 293.

"SEC. 736. SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

"(a) IN GENERAL.—The Secretary shall make grants to public and nonprofit private schools of medicine, osteopathic medicine, and dentistry for scholarships to be awarded by the schools to full-time students thereof who are of exceptional financial need, subject to section 795 (relating to residency training and practice in primary health care).

"(b) REQUIREMENTS REGARDING SCHOLARSHIPS.—

"(1) ACCEPTANCE FOR FULL-TIME ENROLLMENT.—Scholarships may be awarded by a school from a grant under subsection (a) only to individuals who have been accepted by it for enrollment as full-time students.

"(2) AUTHORIZED EXPENDITURES.—A scholarship provided to a student for a school year under a grant under subsection (a) shall consist of payment to, or (in accordance with paragraph (4)) on behalf of, the student of an amount (except as provided in section 798(c)) equivalent to the amount of—

"(A) the tuition of the student in such school year; and

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such year.

"(3) AUTHORITY REGARDING PAYMENTS TO EDUCATIONAL INSTITUTION.—The Secretary may contract with an educational institution in which is enrolled a student who has received a scholarship with a grant under subsection (a) for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph

(2). Payment to such an educational institution may be made without regard to section 3324 of title 31, United States Code.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under this section, there is authorized to be appropriated $11,000,000 for fiscal year 1993.

"SEC. 737. SCHOLARSHIPS GENERALLY; CERTAIN OTHER PURPOSES. 42 USC 293a.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) IN GENERAL.—Subject to subsection (e), the Secretary may make grants to health professions schools for the purpose of assisting such schools in providing scholarships to individuals described in paragraph (2).

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who—

"(A) are from disadvantaged backgrounds; and

"(B) are enrolled (or accepted for enrollment) as full-time students in such schools.

"(3) HEALTH PROFESSIONS SCHOOLS.—For purposes of this section, the term 'health professions schools' means schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or allied health, or schools offering graduate programs in clinical psychology.

"(b) MINIMUM QUALIFICATIONS OF GRANTEES.—The Secretary may not make a grant under subsection (a) unless the health professions school—

"(1) is carrying out a program for recruiting and retaining students from disadvantaged backgrounds, including racial and ethnic minorities; and

"(2) is carrying out a program for recruiting and retaining minority faculty.

"(c) PREFERENCES IN PROVIDING SCHOLARSHIPS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees that, in providing scholarships pursuant to the grant, the school will give preference to students—

"(1) who are from disadvantaged backgrounds; and

"(2) for whom the costs of attending the school would constitute a severe financial hardship.

"(d) USE OF SCHOLARSHIP.—A scholarship provided pursuant to subsection (a) for attendance at a health professions school—

"(1) may be expended only for tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in such attendance; and

"(2) may not, for any year of such attendance for which the scholarship is provided, provide an amount exceeding the total amount required for the year for the expenses specified in paragraph (1).

"(e) PROVISIONS REGARDING PURPOSES OTHER THAN SCHOLARSHIPS.—

"(1) AUTHORITY REGARDING ASSISTANCE FOR UNDERGRADUATES.—With respect to undergraduates who have demonstrated a commitment to pursuing a career in the health professions, a health professions school may expend not more than 25 percent of a grant under subsection (a) for the purpose of providing financial assistance to such undergraduates in order

to facilitate the completion of the educational requirements for such careers.

"(2) REQUIRED ACTIVITIES OF SCHOOL.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees—

"(A) to ensure that adequate instruction regarding minority health issues is provided for in the curricula of the school;

"(B) with respect to health clinics providing services to a significant number of individuals who are from disadvantaged backgrounds, including members of minority groups, to enter into arrangements with 1 or more such clinics for the purpose of providing students of the school with experience in providing clinical services to such individuals;

"(C) with respect to public or nonprofit secondary educational institutions and undergraduate institutions of higher education, to enter into arrangements with 1 or more such institutions for the purpose of carrying out programs regarding the educational preparation of disadvantaged students, including minority students, to enter the health professions and regarding the recruitment of such students into the health professions;

"(D) to establish a mentor program for assisting disadvantaged students, including minority students, regarding the completion of the educational requirements for degrees from the school;

"(E) to be carrying out the activities specified in subparagraphs (A) through (D) by not later than 1 year after the date on which a grant under subsection (a) is first made to the school; and

"(F) to continue carrying out such activities, and the activities specified in paragraphs (1) and (2) of subsection (b), throughout the period during which the school is receiving a grant under subsection (a).

"(3) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) for a fiscal year unless the health professions school involved agrees that the grant will not be expended to carry out the activities specified in paragraph (1) or (2) of subsection (b), or in any of subparagraphs (A) through (D) of paragraph (2) of this subsection.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) DEFINITION.—For purposes of this section, the term 'school of nursing' has the meaning given such term in section 853.

"(h) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for fiscal year 1993.

"(2) ALLOCATIONS BY SECRETARY.—In making grants under subsection (a), the Secretary—

"(A) shall, of the amounts appropriated under paragraph (1), make available 30 percent for such grants to schools of nursing; and

"(B) shall give special consideration to health professions schools that have enrollments of underrepresented minorities above the national average for health professions schools.

"SEC. 738. LOAN REPAYMENTS AND FELLOWSHIPS REGARDING FACULTY POSITIONS. 42 USC 293b.

"(a) LOAN REPAYMENTS.—

"(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program of entering into contracts with individuals described in subsection (b) under which the individuals agree to serve as members of the faculties of schools described in paragraph (3) in consideration of the Federal Government agreeing to pay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such individuals. Contracts.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals from disadvantaged backgrounds who—

"(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession;

"(B) are enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

"(C) are enrolled as a full-time student—

"(i) in an accredited (as determined by the Secretary) school described in paragraph (3); and

"(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree from such a school.

"(3) ELIGIBLE HEALTH PROFESSIONS SCHOOLS.—The schools described in this paragraph are schools of medicine, nursing (as schools of nursing are defined in section 853), osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, or public health, or schools offering graduate programs in clinical psychology.

"(4) ADDITIONAL LIMITATION ON AMOUNT OF REPAYMENTS.—Payments made under this subsection regarding the educational loans of an individual may not, for any year for which the payments are made, exceed an amount equal to 20 percent of the outstanding principal and interest on the loans.

"(5) REQUIREMENTS REGARDING FACULTY POSITIONS.—The Secretary may not enter into a contract under paragraph (1) unless—

"(A) the individual involved has entered into a contract with a school described in paragraph (3) to serve as a member of the faculty of the school for not less than 2 years, and the individual has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for a contract under paragraph (1); and

"(B) the contract referred to in subparagraph (A) provides that—

"(i) the school will, for each year for which the individual will serve as a member of the faculty under the contract with the school, make payments of the principal and interest due on the educational loans of the individual for such year in an amount equal to the amount of such payments made by the Secretary for the year; and

"(ii) the payments made by the school pursuant to clause (i) on behalf of the individual will be in addition to the pay that the individual would otherwise receive for serving as a member of such faculty.

"(6) WAIVER REGARDING SCHOOL CONTRIBUTIONS.—The Secretary may waive the requirement established in paragraph (5)(B) if the Secretary determines that the requirement will impose an undue financial hardship on the school involved. If the Secretary grants such a waiver, paragraph (4) shall not apply with respect to the individual involved.

"(7) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 338B, 338C, and 338E shall apply to the program established in paragraph (1) to the same extent and in the same manner as such provisions apply to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, including the applicability of provisions regarding reimbursements for increased tax liability and regarding bankruptcy.

"(b) FELLOWSHIPS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private nonprofit health or educational entities of the type described in section 799, to assist such schools in increasing the number of underrepresented minority faculty members at such schools.

"(2) APPLICATIONS.—To be eligible to receive a grant or contract under this subsection, a school shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, including an assurance that—

"(A) amounts received under such a grant or contract will be used to award a fellowship to an individual only if—

"(i) the individual has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the individual submits a request for the fellowship; and

"(ii) the individual meets the requirements of paragraphs (3) and (4); and

"(B) each fellowship awarded pursuant to the grant or contract will include a stipend in an amount not exceeding 50 percent of the regular salary of a similar faculty member, or $30,000, whichever is less.

"(3) ELIGIBILITY.—To be eligible to receive a grant or contract under paragraph (1), an applicant shall demonstrate to the Secretary that such applicant has or will have the ability to—

"(A) identify, recruit and select individuals from underrepresented minorities in health professions who have the potential for teaching, administration, or conducting research at a health professions institution;

"(B) provide such individuals with the skills necessary to enable them to secure a tenured faculty position at such institution, which may include training with respect to pedagogical skills, program administration, the design and conduct of research, grants writing, and the preparation of articles suitable for publication in peer reviewed journals;

"(C) provide services designed to assist such individuals in their preparation for an academic career, including the provision of mentors; and

"(D) provide health services to rural or medically underserved populations.

"(4) REQUIREMENTS.—To be eligible to receive a grant or contract under paragraph (1) an applicant shall—

"(A) provide an assurance that such applicant will make available (directly through cash donations) $1 for every $1 of Federal funds received under this section for the fellowship;

"(B) provide an assurance that institutional support will be provided for the individual for a second year at a level that is not less than the total amount of Federal and institutional funds provided in the year in which the grant or contract was awarded;

"(C) provide an assurance that the individual that will receive the fellowship will be a member of the faculty of the applicant school; and

"(D) provide an assurance that the individual that will receive the fellowship will have, at a minimum, appropriate advanced preparation (such as a master's or doctoral degree) and special skills necessary to enable such individual to teach and practice.

"(5) DEFINITION.—For purposes of this subsection, the term 'minority' means an individual from a racial or ethnic group that is underrepresented in the health professions.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for fiscal year 1993.

"SEC. 739. CENTERS OF EXCELLENCE.

Grants.
Minorities.
42 USC 293c.

"(a) IN GENERAL.—The Secretary shall make grants to health professions schools described in subsection (c) for the purpose of assisting the schools in supporting programs of excellence in health professions education for minority individuals.

"(b) REQUIRED USE OF FUNDS.—The Secretary may not make a grant under subsection (a) unless the health professions school involved agrees to expend the grant—

"(1) to establish, strengthen, or expand programs to enhance the academic performance of minority students attending the school;

"(2) to establish, strengthen, or expand programs to increase the number and quality of minority applicants to the school;

"(3) to improve the capacity of such school to train, recruit, and retain minority faculty;

"(4) with respect to minority health issues, to carry out activities to improve the information resources and curricula of the school and clinical education at the school; and

"(5) to facilitate faculty and student research on health issues particularly affecting minority groups.

"(c) CENTERS OF EXCELLENCE.—

"(1) IN GENERAL.—

"(A) The health professions schools referred to in subsection (a) are such schools that meet each of the conditions specified in subparagraph (B), and that—

"(i) meet each of the conditions specified in paragraph (2)(A);

"(ii) meet each of the conditions specified in paragraph (3);

"(iii) meet each of the conditions specified in paragraph (4); or

"(iv) meet each of the conditions specified in paragraph (5).

"(B) The conditions specified in this subparagraph are that a health professions school—

"(i) has a significant number of minority individuals enrolled in the school, including individuals accepted for enrollment in the school;

"(ii) has been effective in assisting minority students of the school to complete the program of education and receive the degree involved;

"(iii) has been effective in recruiting minority individuals to attend the school, including providing scholarships and other financial assistance to such individuals and encouraging minority students of secondary educational institutions to attend the health professions school; and

"(iv) has made significant recruitment efforts to increase the number of minority individuals serving in faculty or administrative positions at the school.

"(C) In the case of any criteria established by the Secretary for purposes of determining whether schools meet the conditions described in subparagraph (B), this section may not, with respect to racial and ethnic minorities, be construed to authorize, require, or prohibit the use of such criteria in any program other than the program established in this section.

"(2) CENTERS OF EXCELLENCE AT CERTAIN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—

"(A) The conditions specified in this subparagraph are that a health professions school—

"(i) is a school described in section 799(1); and

"(ii) received a contract under section 788B for fiscal year 1987, as such section was in effect for such fiscal year.

"(B) In addition to the purposes described in subsection (b), a grant under subsection (a) to a health professions school meeting the conditions described in subparagraph (A) may be expended—

"(i) to develop a plan to achieve institutional improvements, including financial independence, to enable the school to support programs of excellence in health professions education for minority individuals; and

"(ii) to provide improved access to the library and informational resources of the school.

"(3) HISPANIC CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that—

"(A) with respect to Hispanic individuals, each of clauses (i) through (iv) of paragraph (1)(B) applies to the health professions school involved; and

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Hispanic individuals.

"(4) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Subject to subsection (e), the conditions specified in this paragraph are that—

"(A) with respect to Native Americans, each of clauses (i) through (iv) of paragraph (1)(B) applies to the health professions school involved;

"(B) the health professions school agree, as a condition of receiving a grant under subsection (a), that the school will, in carrying out the duties described in subsection (b), give priority to carrying out the duties with respect to Native Americans; and

"(C) the health professions school agree, as a condition of receiving a grant under subsection (a), that—

"(i) the school will establish an arrangement with 1 or more public or nonprofit private institutions of higher education whose enrollment of students has traditionally included a significant number of Native Americans, the purpose of which arrangement will be to carry out a program—

"(I) to identify Native American students of the institution who are interested in a career in the health profession or professions involved; and

"(II) to facilitate the educational preparation of such students to enter the health professions school; and

"(ii) the health professions school will make efforts to recruit Native American students, including students who have participated in the undergraduate program carried out under arrangements established by the school pursuant to clause (i) and will assist Native American students regarding the completion of the educational requirements for a degree from the health professions school.

"(5) OTHER CENTERS OF EXCELLENCE.—The conditions specified in this paragraph are that a health professions school has an enrollment of underrepresented minorities above the national average for such enrollments of health professions schools.

"(d) DESIGNATION AS CENTER OF EXCELLENCE.—

"(1) IN GENERAL.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in paragraph (2) or (5) of subsection (c) shall, for purposes of this section, be designated by the Secretary as a Center of Excellence in Minority Health Professions Education.

"(2) HISPANIC CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(3) shall, for purposes of this section, be designated by the Secretary as a Hispanic Center of Excellence in Health Professions Education.

"(3) NATIVE AMERICAN CENTERS OF EXCELLENCE.—Any health professions school receiving a grant under subsection (a) and meeting the conditions described in subsection (c)(4) shall, for purposes of this section, be designated by the Secretary as a Native American Center of Excellence in Health Professions Education. Any consortium receiving such a grant pursuant to subsection (e) shall, for purposes of this section, be so designated.

"(e) AUTHORITY REGARDING NATIVE AMERICAN CENTERS OF EXCELLENCE.—

"(1) AUTHORITY FOR COLLECTIVELY MEETING RELEVANT REQUIREMENTS.—With respect to meeting the conditions specified in subsection (c)(4), the Secretary may make a grant under subsection (a) to any school of medicine, osteopathic medicine, dentistry, or pharmacy that has in accordance with paragraph (2) formed a consortium of schools that meets such conditions (without regard to whether the schools of the consortium individually meet such conditions).

"(2) REQUIREMENTS REGARDING CONSORTIUM.—A consortium of schools has been formed in accordance with this paragraph if—

"(A) the consortium consists of a school seeking a grant pursuant to paragraph (1) and 1 or more schools of medicine, osteopathic medicine, dentistry, pharmacy, nursing, allied health, or public health;

"(B) the schools of the consortium have entered into an agreement for the allocation of such grant among the schools;

"(C) each of the schools agrees to expend the grant in accordance with this section; and

"(D) each of the schools of the consortium—

"(i) is part of the same institution of higher education as the school seeking the grant; or

"(ii) is located not farther than 50 miles from the school seeking the grant.

"(f) DURATION AND AMOUNT OF GRANT.—

"(1) DURATION.—The period during which payments are made under a grant under subsection (a) may not exceed 3 years. Such payments shall be subject to annual approval by the Secretary and to the availability of appropriations for the fiscal year involved to make the payments.

"(2) AMOUNT.—A grant under subsection (a) for a fiscal year may not be made in an amount that is less than $500,000.

"(g) MAINTENANCE OF EFFORT.—

"(1) IN GENERAL.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the

Secretary may not make such a grant to a health professions school for any fiscal year unless the school agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the fiscal year for which the school receives such a grant.

"(2) USE OF FEDERAL FUNDS.—With respect to any Federal amounts received by a health professions school and available for carrying out activities for which a grant under subsection (a) is authorized to be expended, the Secretary may not make such a grant to the school for any fiscal year unless the school agrees that the school will, before expending the grant, expend the Federal amounts obtained from sources other than the grant.

"(h) DEFINITIONS.—For purposes of this section:

"(1)(A) The term 'health professions school' means, except as provided in subparagraph (B), a school of medicine, a school of osteopathic medicine, a school of dentistry, or a school of pharmacy.

"(B) The definition established in subparagraph (A) shall not apply to the use of the term 'health professions school' for purposes of subsection (c)(2).

"(2) The term 'program of excellence' means any program carried out by a health professions school with a grant made under subsection (a), if the program is for purposes for which the school involved is authorized in subsection (b) or (c) to expend the grant.

"(3) The term 'Native Americans' means American Indians, Alaskan Natives, Aleuts, and Native Hawaiians.

"(i) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated such sums as may be necessary for fiscal year 1993.

"(2) ALLOCATIONS BY SECRETARY.—

"(A) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available $12,000,000 for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (2)(A) of subsection (c).

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 60 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (3) or (4) of subsection (c) (including meeting conditions pursuant to subsection (e)).

"(C) Of the amounts appropriated under paragraph (1) for a fiscal year and available after compliance with subparagraph (A), the Secretary shall make available 40 percent for grants under subsection (a) to health professions schools that are eligible for such grants pursuant to meeting the conditions described in paragraph (5) of subsection (c).

42 USC 293d. Minorities.

"SEC. 740. EDUCATIONAL ASSISTANCE REGARDING UNDERGRADUATES.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—For the purpose of assisting individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary, to undertake education to enter a health profession, the Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, and podiatric medicine, public and nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to assist in meeting the costs described in paragraph (2).

"(2) AUTHORIZED EXPENDITURES.—A grant or contract under paragraph (1) may be used by the health or educational entity to meet the cost of—

"(A) identifying, recruiting, and selecting individuals from disadvantaged backgrounds, as so determined, for education and training in a health profession,

"(B) facilitating the entry of such individuals into such a school,

"(C) providing counseling or other services designed to assist such individuals to complete successfully their education at such a school,

"(D) providing, for a period prior to the entry of such individuals into the regular course of education of such a school, preliminary education designed to assist them to complete successfully such regular course of education at such a school, or referring such individuals to institutions providing such preliminary education,

"(E) publicizing existing sources of financial aid available to students in the education program of such a school or who are undertaking training necessary to qualify them to enroll in such a program,

"(F) paying such scholarships as the Secretary may determine for such individuals for any period of health professions education at a school of medicine, osteopathic medicine, or dentistry,

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education in student-enhancement programs (other than regular courses) at any school described in subsection (a)(1), except that such a stipend may not be provided to an individual for more than 12 months, and such a stipend shall be in an amount of $40 per day (notwithstanding any other provision of law regarding the amount of stipends).

The term 'regular course of education of such a school' as used in subparagraph (D) includes a graduate program in clinical psychology.

"(b) REQUIREMENTS REGARDING ENROLLMENT; PRIORITY IN MAKING GRANTS.—

"(1) INCREASED ENROLLMENT OF INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatric medicine

and public and nonprofit schools that offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years commencing on the date of the award of the grant, increase their first year enrollments of individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year 1987.

"(2) CONDITIONS FOR SCHOOLS TO RECEIVE PRIORITY.—The Secretary shall give priority for funding, in years subsequent to the expiration of the 3-year period described in paragraph (1)—

"(A) to schools that attain such increase in their first year enrollment by the end of such 3-year period, and

"(B) to schools that attain a 20 percent increase over such base year enrollment.

"(3) APPLICABILITY OF CERTAIN CONDITION FOR PRIORITY.—The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a proportionate enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average percentage of such individuals in all schools of each health professions discipline.

"(4) DETERMINATION OF ENROLLMENT.—Determination of both first year and total enrollment of such individuals shall be made by the Secretary in accordance with section 792.

"(c) EQUITABLE ALLOCATION OF FINANCIAL ASSISTANCE.—The Secretary shall ensure that services and activities under subsection (a) are equitably allocated among the various racial and ethnic populations.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of grants and contracts under subsection (a)(1), there is authorized to be appropriated $31,500,000 for fiscal year 1993.

"(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary shall obligate amounts in accordance with the following:

"(A) 70 percent shall be obligated for grants or contracts to institutions of higher education.

"(B) 20 percent shall be obligated for scholarships under subsection (a)(2)(F) to individuals of exceptional financial need (as defined by the Secretary under section 736) who are students at schools of medicine, osteopathic medicine, or dentistry. The provision of such scholarships to such individuals shall be subject to section 795 (relating to residency training and practice in primary health care). Such scholarships shall be administered and awarded in the same manner and subject to the same requirements as scholarships under section 736.

"(C) 10 percent shall be obligated for community-based programs.

"(D) Not more than 5 percent may be obligated for grants and contracts having the primary purpose of informing individuals about the existence and general nature of health careers.

"PART C—TRAINING IN PRIMARY HEALTH CARE

42 USC 293j.

"SEC. 746. AREA HEALTH EDUCATION CENTER PROGRAMS.

"(a) AUTHORITY FOR PROVISION OF FINANCIAL ASSISTANCE.—

"(1) ASSISTANCE FOR PLANNING, DEVELOPMENT, AND OPERATION OF PROGRAMS.—

"(A) The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine for the planning, development, and operation of area health education center programs.

"(B)(i) Subject to clause (ii), the period during which payments are made from an award under subparagraph (A) may not exceed 12 years. The provision of the payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed as establishing a limitation on the number of awards under such subparagraph that may be made to the school involved.

"(ii) In the case of an area health education center planned, developed, or operated with an award under subparagraph (A), the period during which the award is expended for the center may not exceed 6 years.

"(2) ASSISTANCE FOR CERTAIN PROJECTS OF EXISTING PROGRAMS.—

"(A) The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine—

"(i) which have previously received Federal financial assistance for an area health education center program under section 802 of the Health Professionals Educational Assistance Act of 1976 in fiscal year 1979 or under paragraph (1), or

"(ii) which are receiving assistance under paragraph (1),

to carry out projects described in subparagraph (B) through area health education centers for which Federal financial assistance was provided under paragraph (1) and which are no longer eligible to receive such assistance.

"(B) Projects for which assistance may be provided under subparagraph (A) are—

"(i) projects to improve the distribution, supply, quality, utilization, and efficiency of health personnel in the health services delivery system;

"(ii) projects to encourage the regionalization of educational responsibilities of the health professions schools; and

"(iii) projects designed to prepare, through preceptorships and other programs, individuals subject to a service obligation under the National Health Service Corps Scholarship Program to effectively provide health services in health professional shortage areas.

"(C) In the case of the requirement established in section 3804(e)(1) of part 57 of title 42, Code of Federal Regulations (42 CFR 57.3804(e)(1)) (relating to the location of area health education centers), the Secretary shall waive

such requirement with respect to an area health education center having, at the time of initial application for financial assistance under this section or under a previous authorizing law, an operating program supported by both appropriations of a State legislature and local resources.

"(3) ASSISTANCE FOR OPERATION OF MODEL PROGRAMS.—

"(A) In the case of any school of medicine or osteopathic medicine that is operating an area health education center program and that is not receiving financial assistance under paragraph (1), the Secretary may provide financial assistance to the school for the costs of operating the program, and for carrying out activities described in subparagraph (E), if the school makes the agreements described in subparagraphs (B) through (D).

"(B)(i) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, with respect to the costs of operating the area health education center program of the school, the school will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount that is not less than 50 percent of such costs.

"(ii) Amounts provided by the Federal Government may not be included in determining the amount of non-Federal contributions in cash made for purposes of the requirement established in clause (i).

"(C) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, in operating the area health education program of the school, the school will—

"(i) coordinate the activities of the program with the activities of any office of rural health established by the State or States in which the program is operating;

"(ii) conduct health professions education and training activities consistent with national and State priorities in the area served by the program in coordination with the National Health Service Corps, entities receiving funds under section 329 or 330, and public health departments; and

"(iii) cooperate with any entities that are in operation in the area served by the program and that receive Federal or State funds to carry out activities regarding the recruitment and retention of health care providers.

"(D) For purposes of subparagraph (A), the agreement described in this subparagraph for a school is that, with respect to the costs of operating the area health education center program of the school, the school will maintain expenditures of non-Federal amounts for such costs at a level that is not less than the level of such expenditures maintained by the school for the fiscal year preceding the first fiscal year for which the school receives an award under subparagraph (A).

"(E) A school may expend not more than 10 percent of an award under subparagraph (A) for demonstration projects for any or all of the following purposes:

"(i) The establishment of computer-based information programs or telecommunication networks that will link health science centers and service delivery sites.

"(ii) The provision of disease specific educational programs for health providers and students in areas of concern to the United States.

"(iii) The development of information dissemination models to make available new information and technologies emerging from biological research centers to the practicing medical community.

"(iv) The institution of new minority recruitment and retention programs, targeted to improved service delivery in areas the program determines to be medically underserved.

"(v) The establishment of programs to place physicians from health manpower shortage areas into similar areas to encourage retention of physicians and to provide flexibility to States in filling positions in health professional shortage areas.

"(vi) The establishment or improvement of education and training programs for State emergency medical systems.

"(vii) The establishment of programs to train health care providers in the identification and referral of cases of domestic violence.

"(F) The aggregate amount of awards provided under subparagraph (A) to schools in a State for a fiscal year may not exceed the lesser of—

"(i) $2,000,000; and

"(ii) an amount equal to the product of $250,000 and the aggregate number of area health education centers operated in the State by the schools.

"(b) STRUCTURE OF PROGRAMS.—

"(1) IN GENERAL.—An area health education center program shall be a cooperative program of one or more medical (M.D. and D.O.) schools and one or more nonprofit private or public area health education centers.

"(2) CERTAIN REQUIREMENTS.—With respect to an area health education center program, a school may not receive an award under paragraph (1) of subsection (a) for operational expenses, or an award under paragraph (2) or (3) of such subsection, unless the program—

"(A) maintains preceptorship educational experiences for health science students;

"(B) maintains community-based primary care residency programs or is affiliated with such programs;

"(C) maintains continuing education programs for health professionals or coordinates with such programs;

"(D) maintains learning resource and dissemination systems for information identification and retrieval;

"(E) has agreements with community-based organizations for the delivery of education and training in the health professions;

"(F) is involved in the training of health professionals (including nurses and allied health professionals), except to the extent inconsistent with the law of the State in which the training is conducted; and

"(G) carries out recruitment programs for the health science professions, or programs for health-career awareness, among minority and other elementary or secondary students from areas the program has determined to be medically underserved.

"(c) REQUIREMENTS FOR SCHOOLS.—Each medical (M.D. and D.O.) school participating in an area health education center program shall—

"(1) provide for the active participation in such program by individuals who are associated with the administration of the school and each of the departments (or specialties if the school has no such departments) of internal medicine, pediatrics, obstetrics and gynecology, surgery, psychiatry, and family medicine;

"(2) provide that no less than 10 percent of all undergraduate medical (M.D. and D.O.) clinical education of the school will be conducted in an area health education center and at locations under the sponsorship of such center;

"(3) be responsible for, or conduct, a program for the training of physician assistants (as defined in section 799) or nurse practitioners (as defined under section 822) which gives special consideration to the enrollment of individuals from, or intending to practice in, the area served by the area health education center of the program; and

"(4) provide for the active participation of at least 2 schools or programs of other health professions (including a school of dentistry and a graduate program of mental health practice if there are ones affiliated with the university with which the school of medicine or osteopathic medicine is affiliated) in the educational program conducted in the area served by the area health education center.

The requirement of paragraph (3) shall not apply to a medical (M.D. and D.O.) school participating in an area health education center program if another such school participating in the same program meets the requirement of that paragraph.

"(d) REQUIREMENTS FOR CENTERS.—

"(1) SERVICE AREA.—Each area health education center shall specifically designate a geographic area in which it will serve, or shall specifically designate a medically underserved population it will serve (such area or population with respect to such center in this section referred to as 'the area served by the center'), which area or population is in a location remote from the main site of the teaching facilities of the school or schools which participate in the program with such center.

"(2) OTHER REQUIREMENTS.—Each area health education center shall—

"(A) provide for or conduct training in health education services, including education in nutrition evaluation and counseling, in the area served by the center;

"(B) assess the health manpower needs of the area served by the center and assist in the planning and development of training programs to meet such needs;

"(C) provide for or conduct a rotating osteopathic internship or a medical residency training program in family medicine, general internal medicine, or general pediatrics in which no fewer than four individuals are enrolled in first-year positions in such program;

"(D) provide opportunities for continuing medical education (including education in disease prevention) to all physicians and other health professionals (including allied health personnel) practicing within the area served by the center;

"(E) provide continuing medical education and other educational support services to the National Health Service Corps members serving within the area served by the center;

"(F) conduct interdisciplinary training and practice involving physicians and other health personnel including, where practicable, physician assistants, nurse practitioners, and nurse midwives;

"(G) arrange and support educational opportunities for medical and other students at health facilities, ambulatory care centers, and health agencies throughout the area served by the center; and

"(H) have an advisory board of which at least 75 percent of the members shall be individuals, including both health service providers and consumers, from the area served by the center.

Any area health education center which is participating in an area health education center program in which another center has a medical residency training program described in subparagraph (C) need not provide for or conduct such a medical residency training program.

"(e) CERTAIN PROVISIONS REGARDING FUNDING.—

"(1) PROGRAMS.—Subject to paragraph (2), in providing financial assistance under this section to a school, the Secretary shall assure that—

Contracts.

"(A) at least 75 percent of the total funds provided to the school are expended by an area health education center program in the area health education centers, and that the school enters into an agreement with each of such centers for purposes of specifying the allocation of such 75 percent;

"(B) with respect to the operating costs of the area health education program of the school, non-Federal contributions for such costs are made in an amount that is not less than 25 percent of such costs; and

"(C) no award provides funds solely for the planning or development of such a program for a period exceeding two years.

The Secretary may vest in entities which have received financial assistance under section 802 of the Health Professions Educational Assistance Act of 1976, section 774 as in effect before October 1, 1977, or under subsection (a) of this section for area health education centers programs title to any property acquired on behalf of the United States by that entity (or furnished to that entity by the United States) under that award.

"(2) CENTERS.—With respect to the period during which an area health education center is planned, developed or operated pursuant to an award under subsection (a)(1), not more than 55 percent of the total amounts expended for the center in any fifth or sixth year of such period may be provided by the Secretary, subject to paragraph (3).

"(3) APPLICABILITY OF PROVISION REGARDING CENTERS.—Paragraph (2) shall apply only in the case of an area health education center program for which the initial award under subsection (a)(1) is provided on or after the date of the enactment of the Health Professions Education Extension Amendments of 1992.

"(f) HEALTH EDUCATION AND TRAINING CENTERS.—

"(1) IN GENERAL.—The Secretary shall provide financial assistance to schools of medicine and osteopathic medicine for the purpose of planning, developing, establishing, maintaining, and operating health education and training centers—

"(A) to improve the supply, distribution, quality, and efficiency of personnel providing health services in the State of Florida or (in the United States) along the border between the United States and Mexico;

"(B) to improve the supply, distribution, quality, and efficiency of personnel providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals, that has demonstrated serious unmet health care needs; and

"(C) to encourage health promotion and disease prevention through public education in the areas described.

"(2) ARRANGEMENTS WITH OTHER ENTITIES.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees, in carrying out the purpose described in such paragraph, to enter into arrangements with one or more public or nonprofit private entities in the State that have expertise in providing health education to the public.

"(3) SERVICE AREA.—The Secretary shall, after consultation with health education and training centers, designate the geographic area in which each such center will carry out the purpose described in paragraph (1). The service area of such a center shall be located entirely within the State in which the center is located. Each border health education and training center shall be located in a county (or other political subdivision) of the State in close proximity to the border between the United States and Mexico.

"(4) ADVISORY GROUP; OPERATIONAL PLAN.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees—

"(A) to establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

"(B) after consultation with such advisory group, to develop a plan for carrying out the purpose described in paragraph (1) in the service area;

"(C) to enter into contracts, as needed, with other institutions or entities to carry out such plan; and

"(D) to be responsible for the evaluation of the program.

"(5) CERTAIN ACTIVITIES.—The Secretary may not provide financial assistance under paragraph (1) unless the applicant for such assistance agrees—

"(A) to evaluate the specific service needs for health care personnel in the service area;

"(B) to assist in the planning, development, and conduct of training programs to meet the needs identified pursuant to subparagraph (A);

"(C) to conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

"(D) to conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

"(E) to conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

"(F) to support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

"(G) with respect to border health education and training centers, to assist in coordinating its activities and programs carried out pursuant to paragraph (1)(A) with any similar programs and activities carried out in Mexico along the border between the United States and Mexico;

"(H) to make available technical assistance in the service area in the aspects of health care organization, financing and delivery; and

"(I) in the case of any school of public health located in the service area of the health education and training center operated with the assistance, to permit any such school to participate in the program of the center if the school makes a request to so participate.

"(6) ALLOCATION OF FUNDS BY CENTERS.—In carrying out this subsection, the Secretary shall ensure that—

"(A) not less than 75 percent of the total funds provided to a school or schools of medicine or osteopathic medicine will be expended in the development and operation of the health education and training center in the service area of such program;

"(B) to the maximum extent feasible, the school of medicine or osteopathic medicine will obtain from nongovernmental sources the amount of the total operating funds for such program which are not provided by the Secretary;

"(C) no award shall provide funds solely for the planning or development of a health education and training center program for a period in excess of two years;

"(D) not more than 10 percent of the annual budget of each program may be utilized for the renovation and equipping of clinical teaching sites; and

"(E) no award shall provide funds to be used outside the United States except as the Secretary may prescribe for travel and communications purposes related to the conduct of a border health education and training center.

"(7) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'border health education and training center' means an entity that is a recipient of an award under paragraph (1) and that is carrying out (or will carry out) the purpose described in subparagraph (A) of such paragraph.

"(B) The term 'health education and training center' means an entity that is a recipient of an award under paragraph (1).

"(C) The term 'service area' means, with respect to a health education and training center, the geographic area designated for the center under paragraph (3).

"(8) ALLOCATION OF FUNDS BY SECRETARY.—

"(A) Of the amounts appropriated pursuant to subsection (i)(2) for a fiscal year, the Secretary shall make available 50 percent for allocations each fiscal year for applications approved by the Secretary for border health education and training centers. The amount of the allocation for each such center shall be determined in accordance with subparagraph (B).

"(B) The amount of an allocation under subparagraph (A) for a fiscal year shall be determined in accordance with a formula prescribed by the Secretary, which formula shall be based—

"(i) with respect to the service area of the border health education and training center involved, on the low-income population, including Hispanic individuals, in the State of Florida and along the border between the United States and Mexico, and the growth rate of such population;

"(ii) on the need of such population for additional personnel to provide health care services along such border; and

"(iii) on the most current information concerning mortality and morbidity and other indicators of health status for such population.

"(g) DEFINITIONS.—For purposes of this section:

"(1) The term 'area health education center program' means a program which is organized as provided in subsection (b) and under which the participating medical (M.D. and D.O.) schools and the area health education centers meet the requirements of subsections (c) and (d).

"(2) The term 'award' means an award of financial assistance.

"(3) The term 'financial assistance' means a grant, cooperative agreement, or contract.

"(h) CRITERIA AND STANDARDS.—The Secretary shall establish standards and criteria for the requirements of this section.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) AREA HEALTH EDUCATION CENTER PROGRAMS.—

"(A) For the purpose of carrying out this section other than subsection (f), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1993 through 1995.

"(B) Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 20 percent for awards under subsection (a)(2).

"(C) Of the amounts appropriated under paragraph (1) for fiscal year 1993, the Secretary shall obligate for

awards under subsection (a)(3) such amounts as are appropriated in excess of $19,200,000. Of the amounts appropriated under paragraph (1) for each of the fiscal years 1994 and 1995, the Secretary shall obligate for such awards such amounts as are appropriated in excess of $18,700,000.

Appropriation authorization.

"(2) HEALTH EDUCATION AND TRAINING CENTERS.—For the purpose of carrying out subsection (f), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

42 USC 293k.

"SEC. 747. FAMILY MEDICINE.

"(a) TRAINING GENERALLY.—The Secretary may make grants to, or enter into contracts with, any public or nonprofit private hospital, school of medicine or osteopathic medicine, or to or with a public or private nonprofit entity (which the Secretary has determined is capable of carrying out such grant or contract)—

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of family medicine for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of family medicine;

"(3) to plan, develop, and operate a program for the training of physicians who plan to teach in family medicine training programs; and

"(4) to provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a family medicine training program.

"(b) ACADEMIC ADMINISTRATIVE UNITS.—

"(1) IN GENERAL.—The Secretary may make grants to or enter into contracts with schools of medicine or osteopathic medicine to meet the costs of projects to establish, maintain, or improve academic administrative units (which may be departments, divisions, or other units) to provide clinical instruction in family medicine.

"(2) PREFERENCE IN MAKING AWARDS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant for such an award that agrees to expend the award for the purpose of—

"(A) establishing an academic administrative unit for programs in family medicine; or

"(B) substantially expanding the programs of such a unit.

"(c) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $54,000,000 for each of the fiscal years 1993 through 1995.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than 20 percent for awards of grants and contracts under subsection (b).

"SEC. 748. GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS. 42 USC 293*l*.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine and osteopathic medicine, public or private nonprofit hospital, or any other public or private nonprofit entity to meet the costs of projects—

"(1) to plan, develop, and operate, or participate in, an approved professional training program (including an approved residency or internship program) in the field of internal medicine or pediatrics for medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, or practicing physicians, which training program emphasizes training for the practice of general internal medicine or general pediatrics (as defined by the Secretary in regulations);

"(2) to provide financial assistance (in the form of traineeships and fellowships) to medical (M.D. and D.O.) students, interns (including interns in internships in osteopathic medicine), residents, practicing physicians, or other medical personnel, who are in need thereof, who are participants in any such training program, and who plan to specialize in or work in the practice of general internal medicine or general pediatrics;

"(3) to plan, develop, and operate a program for the training of physicians who will teach in a general internal medicine or general pediatrics training program; and

"(4) which provide financial assistance (in the form of traineeships and fellowships) to physicians who are participants in any such program and who plan to teach in a general internal medicine or general pediatrics training program.

"(b) DURATION OF AWARD.—The period during which payments are made to an entity from an award of a grant or contract under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $25,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 749. GENERAL PRACTICE OF DENTISTRY. 42 USC 293m.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, any public or nonprofit private school of dentistry or accredited postgraduate dental training institution—

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry;

"(2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry; and

"(3) to fund innovative, nontraditional models for the provision of postdoctoral General Dentistry training.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $6,000,000 for each of the fiscal years 1993 through 1995.

42 USC 293n.

"SEC. 750. PHYSICIAN ASSISTANTS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathic medicine and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs—

"(1) for the training of physician assistants (as defined in section 799); and

"(2) for the training of individuals who will teach programs of such training.

"(b) REGULATIONS.—After consultation with appropriate organizations, the Secretary shall prescribe regulations for programs receiving assistance under subsection (a) for the training of physician assistants. Such regulations shall, as a minimum, require that such a program—

"(1) extend for at least one academic year and consist of—

"(A) supervised clinical practice; and

"(B) at least four months (in the aggregate) of classroom instruction, directed toward preparing students to deliver health care;

"(2) have an enrollment of not less than eight students; and

"(3) train students in primary care, disease prevention, health promotion, geriatric medicine, and home health care.

"(c) PLACEMENT OF GRADUATES.—No grant or contract may be made under subsection (a) unless the school or other entity involved provides assurances satisfactory to the Secretary that the school or entity has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted in positions for which they have been trained.

"(d) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $9,000,000 for each of the fiscal years 1993 through 1995.

"(2) LIMITATION.—Not more than 10 percent of the amounts appropriated under paragraph (1) may be expended for carrying out subsection (a)(2).

42 USC 293o.

"SEC. 751. PODIATRIC MEDICINE.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private hospitals and schools of podiatric medicine for the purpose of planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships

to residents who participate in such projects and who plan to specialize in primary care.

"(b) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that provide clinical training in podiatric medicine in a variety of medically underserved communities.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 752. GENERAL PROVISIONS. 42 USC 293p.

"(a) TRAINEESHIPS AND FELLOWSHIPS.—

"(1) TRAINEESHIPS.—Payments by recipients of grants or contracts under this part for traineeships shall be limited to such amounts as the Secretary finds necessary to cover the cost of tuition and fees of, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees.

"(2) FELLOWSHIPS.—Payments by recipients of grants or contracts under this part for fellowships shall be limited to such amounts as the Secretary finds necessary to cover the cost of advanced study by, and stipends and allowances (including travel and subsistence expenses and dependency allowances) for, the fellows.

"(b) AMOUNT OF GRANT.—The amount of any grant or contract under this part shall be determined by the Secretary.

"PART D—TRAINING IN CERTAIN HEALTH PROFESSIONS

"Subpart I—Public Health and Preventive Medicine

"SEC. 761. PUBLIC HEALTH TRAINEESHIPS. 42 USC 294.

"(a) IN GENERAL.—The Secretary may make grants to accredited schools of public health, and to other public or nonprofit private institutions accredited for the provision of graduate or specialized training in public health, for the purpose of assisting such schools and institutions in providing traineeships to individuals described in subsection (b)(3).

"(b) CERTAIN REQUIREMENTS.—

"(1) APPLICATION FOR GRANT.—No grant for traineeships may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary by regulation may prescribe. Traineeships under such a grant shall be awarded in accordance with such regulations as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary. Grants. Regulations.

"(2) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(3) ELIGIBLE INDIVIDUALS.—The individuals referred to in subsection (a) are individuals who are pursuing a course of

study in a health professions field in which there is a severe shortage of health professionals (which fields include the fields of epidemiology, environmental health, biostatistics, toxicology, and nutrition).

42 USC 294a.

"SEC. 762. PUBLIC HEALTH SPECIAL PROJECTS.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects that are in furtherance of the goals established by the Secretary for the year 2000 in the area of—

"(1) preventive medicine;

"(2) health promotion and disease prevention;

"(3) improving access to and quality of health services in medically underserved communities; or

"(4) reducing the incidence of domestic violence.

"(b) PREFERENCES IN MAKING AWARDS.—In making awards of grants and contracts under subsection (a), the Secretary shall give preference to qualified schools agreeing that the project for which the award is made—

"(1) will establish or strengthen field placements for students in public or nonprofit private health agencies or organizations; and

"(2) will involve faculty members and students in collaborative projects to enhance public health services to medically underserved communities.

"(c) PARTICIPATION AND TRAINING OF STUDENTS.—The Secretary may make an award of a grant or contract under subsection (a) only if the school involved agrees that the students of the school will, through participation in the project for which the award is made, receive training in the activities carried out by the project.

"(d) APPLICATION FOR AWARD.—The Secretary may make an award of a grant or contract under subsection (a) only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(e) ESTABLISHMENT OF GOALS; RELATED REPORTS.—

"(1) GOALS.—

"(A) The Secretary shall establish goals for projects under subsection (a) (including goals regarding the training of students), and shall require that, as a condition of the receipt of grants and contracts under such subsection, schools carry out activities in furtherance of meeting the goals.

"(B) The Secretary shall establish and implement a methodology for measuring the extent of progress that has been made toward the goals established under subparagraph (A) by schools receiving grants or contracts under subsection (a).

"(2) REPORTS.—Not later than February 1, 1994, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing the progress made by projects under subsection (a) during the preceding fiscal years toward the goals established under paragraph (1). For purposes of the report, the extent of such progress

shall be measured through the methodology established under subparagraph (B) of such paragraph.

"SEC. 763. PREVENTIVE MEDICINE; DENTAL PUBLIC HEALTH. 42 USC 294b.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathic medicine, public health, and dentistry to meet the costs of projects—

"(1) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine and dental public health; and

"(2) to provide financial assistance to residency trainees enrolled in such programs.

"(b) ADMINISTRATION.—

"(1) AMOUNT.—The amount of any grant under subsection (a) shall be determined by the Secretary.

"(2) APPLICATION.—No grant may be made under subsection (a) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. Regulations.

"(3) ELIGIBILTY.—To be eligible for a grant under subsection (a), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine or dental public health and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(4) OTHER FUNDS.—Schools of medicine, osteopathic medicine, dentistry, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

"SEC. 765. AUTHORIZATION OF APPROPRIATIONS. 42 USC 294c.

"(a) IN GENERAL.—For the purpose of carrying out this subpart, there is authorized to be appropriated $15,500,000 for each of the fiscal years 1993 through 1995.

"(b) LIMITATION REGARDING CERTAIN PROGRAM.—In obligating amounts appropriated under subsection (a), the Secretary may not obligate more than 40 percent for carrying out section 762.

"Subpart II—Allied Health Professions

"SEC. 766. ADVANCED TRAINING. 42 USC 294d.

"(a) IN GENERAL.—The Secretary may award grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with projects designed to—

"(1) plan, develop, establish or expand postbaccalaureate programs for the advanced training of allied health professionals; and

"(2) provide financial assistance, in the form of traineeships or fellowships, to postbaccalaureate students who are participants in any such program and who commit to teaching in the allied health profession involved.

"(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to qualified projects demonstrating that not less than 50 percent of the graduates of such schools

or programs during the preceding 2-year period are engaged as full-time teaching faculty in an allied health shortage specialty.

"(c) LIMITATION.—The Secretary shall limit grants and contracts awarded or entered into under subsection (a) to those allied health fields or specialties as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; or

"(3) a significant role in the care and rehabilitation of patients who are elderly or disabled including physical therapists and occupational therapists.

"(d) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' means entities that are—

"(1) public or private nonprofit schools, universities, or other educational entities that provide for education and training in the allied health professions and that meet such standards as the Secretary may by regulation prescribe; or

"(2) public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a).

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

42 USC 294e.

"SEC. 767. PROJECT GRANTS AND CONTRACTS.

"(a) PROJECTS RELATED TO STRENGTHENING TRAINING AND INCREASING ENROLLMENT IN THE ALLIED HEALTH PROFESSIONS.—The Secretary may make grants to and enter into contracts with eligible entities to assist such entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in allied health professions. Programs and activities funded under this section may include—

"(1) those that expand enrollments in allied health professions with the greatest shortages or whose services are most needed by the elderly;

"(2) those that provide rapid transition training programs in allied health fields to individuals who have baccalaureate degrees in health-related sciences;

"(3) those that establish community-based allied health training programs that link academic centers to rural clinical settings;

"(4) those that provide career advancement training for practicing allied health professionals;

"(5) those that expand or establish clinical training sites for allied health professionals in medically underserved or rural communities in order to increase the number of individuals trained;

"(6) those that develop curriculum that will emphasize knowledge and practice in the areas of prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics;

"(7) those that expand or establish interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly;

"(8) those that expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research; and

"(9) those that provide financial assistance (in the form of traineeships) to students who are participants in any such program; and

"(A) who plan to pursue a career in an allied health field that has a demonstrated personnel shortage; and

"(B) who agree upon completion of the training program to practice in a medically underserved community;

that shall be utilized to assist in the payment of all or part of the costs associated with tuition, fees and such other stipends as the Secretary may consider necessary.

"(b) APPLICATION.—

"(1) REQUIREMENT.—No grant may be awarded or contract entered into under this section unless an application therefore has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. Regulations.

"(2) PREFERENCE.—In considering an application submitted for a grant under this section, the Secretary shall give preference to qualified applicants that—

"(A) expand and maintain first-year enrollment by not less than 10 percent over enrollments in base year 1992; or

"(B) demonstrate that not less than 20 percent of the graduates of such training programs during the preceding 2-year period are working in medically underserved communities.

"(c) ELIGIBLE ENTITIES.—For purposes of this section, the term 'eligible entities' has the meaning given such term in section 766.

"(d) AUTHORIZATION OF APPROPRIATION.—For the purpose of carrying out this section, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1993 through 1995.

"Subpart III—Health Administration

"SEC. 771. TRAINEESHIPS AND SPECIAL PROJECTS. 42 USC 294i.

"(a) IN GENERAL.—The Secretary may make grants to public or nonprofit private educational entities (including graduate schools of social work but excluding accredited schools of public health) that offer a program described in subsection (b)—

"(1) to provide traineeships for students enrolled in such a program; and

"(2) to assist programs of health administration in the development or improvement of programs to prepare students for employment with public or nonprofit private entities.

"(b) RELEVANT PROGRAMS.—The program referred to in subsection (a) is a program in health administration, hospital administration, or health policy analysis and planning, which program is accredited by a body or bodies approved for such purpose by the Secretary of Education and which meets such other quality standards as the Secretary of Health and Human Services by regulation may prescribe.

"(c) PREFERENCE IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to qualified applicants that meet the following conditions:

"(1) Not less than 25 percent of the graduates of the applicant are engaged in full-time practice settings in medically underserved communities.

"(2) The applicant recruits and admits students from medically underserved communities.

"(3) For the purpose of training students, the applicant has established relationships with public and nonprofit providers of health care in the community involved.

"(4) In training students, the applicant emphasizes employment with public or nonprofit private entities.

"(d) CERTAIN PROVISIONS REGARDING TRAINEESHIPS.—

"(1) USE OF GRANT.—Traineeships awarded under grants made under subsection (a) shall provide for tuition and fees and such stipends and allowances (including travel and subsistence expenses and dependency allowances) for the trainees as the Secretary may deem necessary.

"(2) PREFERENCE FOR CERTAIN STUDENTS.—Each entity applying for a grant under subsection (a) for traineeships shall assure to the satisfaction of the Secretary that the entity will give priority to awarding the traineeships to students who demonstrate a commitment to employment with public or nonprofit private entities in the fields with respect to which the traineeships are awarded.

"(e) APPLICATION FOR GRANT.—No grant may be made under subsection (a) unless an application therefor has been submitted to, and approved by, the Secretary. Such application shall be in such form, be submitted in such manner, and contain such information, as the Secretary may prescribe. Traineeships under such a grant shall be awarded in accordance with such requirements as the Secretary shall prescribe. The amount of any such grant shall be determined by the Secretary.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For payments under grants under subsection (a), there is authorized to be appropriated $2,500,000 for each of the fiscal years 1993 through 1995.

"(2) LIMITATION.—In obligating amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 30 percent for grants under subsection (a)(2).

"PART E—SPECIAL TRAINING PROJECTS

42 USC 294n.

"SEC. 776. ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) SCHOOLS; CENTERS.—

"(1) IN GENERAL.—The Secretary may make grants and enter into contracts to assist public and nonprofit private entities and schools and academic health science centers in meeting the costs of projects—

"(A) to train the faculty of schools of, and graduate departments or programs of, medicine, nursing, osteopathic medicine, dentistry, public health, allied health, and mental health practice to teach health professions students to pro-

vide for the health care needs of individuals with HIV disease;

"(B) to train practitioners to provide for the health care needs of such individuals;

"(C) with respect to improving clinical skills in the diagnosis, treatment, and prevention of such disease, to educate and train the health professionals and clinical staff of schools of medicine, osteopathic medicine, and dentistry; and

"(D) to develop and disseminate curricula and resource materials relating to the care and treatment of individuals with such disease and the prevention of the disease among individuals who are at risk of contracting the disease.

"(2) PREFERENCE IN MAKING GRANTS.—In making grants under paragraph (1), the Secretary shall give preference to qualified projects which will—

"(A) train, or result in the training of, health professionals who will provide treatment for minority individuals with HIV disease and other individuals who are at high risk of contracting such disease; and

"(B) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with such disease.

"(3) APPLICATION.—No grant or contract may be made under paragraph (1) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

"(b) DENTAL SCHOOLS.—

"(1) IN GENERAL.—The Secretary may make grants to assist dental schools and programs described in section 777(b)(4)(B) with respect to oral health care to patients with HIV disease.

"(2) APPLICATION.—Each dental school or program described in section 777(b)(4)(B) may annually submit an application documenting the unreimbursed costs of oral health care provided to patients with HIV disease by that school or hospital during the prior year.

"(3) DISTRIBUTION.—The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of patients with HIV disease served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

"(4) MAINTENANCE OF EFFORT.—The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allotted for such purposes.

"(c) DEFINITION.—For purposes of this section:

"(1) The term 'HIV disease' means infection with the human immunodeficiency virus, and includes any condition arising from such infection.

"(2) The term 'human immunodeficiency virus' means the etiologic agent for acquired immune deficiency syndrome.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) SCHOOLS; CENTERS.—For the purpose of grants under subsection (a), there is authorized to be appropriated $23,000,000 for each of the fiscal years 1993 through 1995.

"(2) DENTAL SCHOOLS.—For the purpose of grants under subsection (b), there is authorized to be appropriated $7,000,000 for each of the fiscal years 1993 through 1995.

42 USC 294o.

"SEC. 777. GERIATRICS.

"(a) GERIATRIC EDUCATION CENTERS.—The Secretary may make grants to and enter into contracts with accredited health professions schools or programs described in paragraph (1), (3), or (4) of section 799 or in section 853(2) to assist in meeting the costs of such schools or programs of projects to—

"(1) improve the training of health professionals in geriatrics;

"(2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(3) expand and strengthen instruction in methods of such treatment;

"(4) support the training and retraining of faculty to provide such instruction;

"(5) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(6) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(b) GERIATRIC TRAINING REGARDING PHYSICIANS AND DENTISTS.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathic medicine, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians and dentists who plan to teach geriatric medicine, geriatric psychiatry, or geriatric dentistry.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine or geriatric psychiatry;

"(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine or in a department of geriatrics or psychiatry;

"(D) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(E) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathic medicine; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have demonstrated a commitment to an academic career and who have completed postdoctoral dental training, including postdoctoral dental education programs or who have relevant advanced training or experience.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'graduate medical education program' means a program sponsored by a school of medicine, a school of osteopathic medicine, a hospital, or a public or private institution that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) The term 'post-doctoral dental education program' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) GERIATRIC TRAINING REGARDING OPTOMETRISTS.—The Secretary may make grants to, and enter into contracts with, schools and colleges of optometry for the purpose of providing support for projects—

"(1) to plan, develop, and operate projects in postgraduate geriatric care training for optometrists who will teach geriatric optometry;

"(2) to provide financial assistance (in the form of residencies, traineeships, and fellowships) to participants in such projects; and

"(3) to establish new affiliations with nursing homes, ambulatory care centers, senior centers, and other public or nonprofit private entities.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) EDUCATION CENTERS; TRAINING.—For grants and contracts under subsections (a) and (b), there is authorized to

be appropriated $17,000,000 for each of the fiscal years 1993 through 1995.

"(2) OPTOMETRY.—For grants and contracts under subsection (c), there is authorized to be appropriated $400,000 for each of the fiscal years 1993 through 1995.

42 USC 294p.

"SEC. 778. RURAL AREAS.

"(a) GRANTS.—The Secretary may make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application approved under subsection (d).

"(b) USE OF AMOUNTS.—

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

"(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(C) deliver health care services to individuals residing in rural areas;

"(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(E) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

"(C) LIMITATION.—An institution that receives a grant under this section shall use amounts received under such grant to supplement, not supplant, amounts made available by such institution for activities of the type described in subsection (b)(1) in the fiscal year preceding the year for which the grant is received.

"(c) ELIGIBLE APPLICANTS.—Applicants eligible to obtain funds under subsection (a) shall include local health departments, non-

profit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, mental health practice, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—In order to receive a grant under subsection (a) an entity shall submit an application to the Secretary.

"(2) FORMS.—An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) APPLICATIONS.—Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, Native Hawaiian health centers, or facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act; and

"(C) provide any additional information required by the Secretary.

"(e) DEFINITIONS.—For the purposes of this section, the term 'rural' means geographic areas that are located outside of standard metropolitan statistical areas.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $7,000,000 for each of the fiscal years 1993 through 1995.

"PART F—MISCELLANEOUS PROGRAMS

"SEC. 781. RESEARCH ON CERTAIN HEALTH PROFESSIONS ISSUES. 42 USC 295.

"(a) EDUCATIONAL INDEBTEDNESS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the extent to which the debt incurred by medical students for attendance at educational institutions has had a detrimental effect on the decisions made by the students on entering primary care specialities.

"(2) EVALUATION OF RATE OF INCREASE.—In carrying out paragraph (1), the Secretary shall provide for a determination of the reasons underlying the rate of increase occurring since January 1, 1981, in tuition and fees for attending health professions schools. The Secretary shall ensure that the determination includes the justifications of such schools for such rate.

"(b) EFFECT OF PROGRAMS FOR MINORITY AND DISADVANTAGED INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the effects that federally-funded educational programs or policies for minority or disadvantaged individuals have on—

"(A) the number of such individuals attending health professions school;

"(B) the number of such individuals completing the programs of education involved; and

"(C) the decisions made by such individuals on which of the health professions specialities to enter.

"(2) SEPARATE SPECIFICATIONS FOR CERTAIN CATEGORIES OF SCHOOLS.—The Secretary may provide a grant or contract under paragraph (1) only if the applicant involved agrees that in conducting research under such paragraph the applicant will make findings specific to the following categories of health professions schools:

"(A) Health professions schools of historically black colleges and universities.

"(B) Other health professions schools attended by a substantial number of minority individuals.

"(C) Health professions schools generally.

"(c) EXTENT OF INVESTIGATIONS AND DISCIPLINARY ACTIONS BY STATE LICENSING AUTHORITIES.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research on the effectiveness of the States in protecting the public health through—

"(1) identifying health care providers with respect to whom investigations of professional qualifications are warranted;

"(2) conducting such investigations; and

"(3) taking disciplinary actions against health care providers determined through such investigations to have engaged in conduct inconsistent with protecting the public health.

"(d) PRIMARY HEALTH CARE.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of conducting research—

"(A) to determine the extent to which Federal programs and related financial incentives influence the percentage of medical school graduates selecting a primary care career;

"(B) to determine the extent to which Federal programs and related financial incentives adequately support the training of mid-level primary care providers relative to other health professions education receiving Federal assistance;

"(C) to assess the impact that direct and indirect payments for graduate medical education (including the appropriateness of payments for independent, ambulatory training sites) have on increasing the percentage of physicians graduating from medical school who enter primary care careers;

"(D) to assess the impact of medical school admission policies on specialty selection and recommend ways admission policies can better facilitate and promote the selection of primary care as a medical career;

"(E) to assess the impact that Federal funding for biomedical research influences the design of medical school curriculum and the availability of primary care educational opportunities;

"(F) to assess the impact of medical school curriculum, including the availability of clinical training in ambulatory care settings, influences the percentage of physicians selecting primary care residencies and selecting primary care as a medical career; and

"(G) to assess the extent to which current physician payment policies under resource based relative value scale are sufficient to encourage physicians graduating from medical school to enter and remain in primary care careers.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'primary care careers', with respect to medicine, means family practice, general internal medicine and general pediatrics.

"(B) The term 'mid-level primary care health professions' means physician assistants, nurse practitioners, and nurse midwives.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $4,000,000 for each of the fiscal years 1993 through 1995.

"SEC. 782. CHIROPRACTIC DEMONSTRATION PROJECTS. 42 USC 295a.

"(a) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools, colleges, and universities of chiropractic for the purpose of carrying out demonstration projects in which chiropractors and physicians collaborate to identify and provide effective treatment for spinal and lower-back conditions.

"(b) PARTICIPATION OF MEDICAL SCHOOLS.—The Secretary may make an award of a grant or contract under subsection (a) only if the applicant involved has entered into such agreements as may be necessary to ensure that in the project under such subsection a school of medicine or osteopathic medicine will participate in the project.

"(c) PEER REVIEW.—Each peer review group under section 798(a) reviewing proposals for grants or contracts under subsection (a) shall include no fewer than two, and no more than three, chiropractors.

"(d) REPORT TO CONGRESS.—

"(1) IN GENERAL.—The Secretary shall prepare a report that—

"(A) summarizes the applications submitted to the Secretary for grants or contracts under subsection (a);

"(B) specifies the identity of entities receiving the grants or contracts; and

"(C) evaluates the effectiveness of the programs operated with the grants and contracts.

"(2) DATE CERTAIN FOR SUBMISSION.—Not later than February 10, 1995, the Secretary shall complete the report required in paragraph (1) and submit the report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $1,000,000 for each of the fiscal years 1993 through 1995.

"PART G—GENERAL PROVISIONS

42 USC 295j.

"SEC. 791. PREFERENCES AND REQUIRED INFORMATION IN CERTAIN PROGRAMS.

"(a) PREFERENCES IN MAKING AWARDS.—

"(1) IN GENERAL.—Subject to paragraph (2), in making awards of grants or contracts under any of sections 747 through 751, under section 763, or under section 766 or 767, the Secretary shall give preference to any qualified applicant that—

"(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

"(B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

"(2) LIMITATION REGARDING PEER REVIEW.—For purposes of paragraph (1), the Secretary may not give an applicant preference if the proposal of the applicant is ranked at or below the 20th percentile of proposals that have been recommended for approval by peer review groups under section 798(a).

"(b) REQUIRED SUBMISSION OF INFORMATION.—The Secretary may make an award of a grant or contract under any of sections 747 through 751 or under section 763 only if the applicant for the award submits to the Secretary (through the application required in section 752(a)) the following information regarding the programs of the applicant:

"(1) A description of rotations or preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.

"(2) The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

"(3) With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

"(4) If applicable, the number of recent graduates who have chosen careers in primary health care.

"(5) The number of recent graduates whose practices are serving medically underserved communities.

"(6) A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

"(c) DEFINITION.—For purposes of this section, the term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training and residency requirements necessary for full certification in the health profession selected by the individual.

42 USC 295k.

"SEC. 792. HEALTH PROFESSIONS DATA.

"(a) IN GENERAL.—The Secretary shall establish a program, including a uniform health professions data reporting system, to

collect, compile, and analyze data on health professions personnel which program shall initially include data respecting all physicians and dentists in the States. The Secretary is authorized to expand the program to include, whenever he determines it necessary, the collection, compilation, and analysis of data respecting pharmacists, optometrists, podiatrists, veterinarians, public health personnel, audiologists, speech pathologists, health care administration personnel, nurses, allied health personnel, medical technologists, chiropractors, clinical psychologists, and any other health personnel in States designated by the Secretary to be included in the program. Such data shall include data respecting the training, licensure status (including permanent, temporary, partial, limited, or institutional), place or places of practice, professional specialty, practice characteristics, place and date of birth, sex, and socioeconomic background of health professions personnel and such other demographic information regarding health professions personnel as the Secretary may require.

"(b) CERTAIN AUTHORITIES AND REQUIREMENTS.—

"(1) SOURCES OF INFORMATION.—In carrying out subsection (a), the Secretary shall collect available information from appropriate local, State, and Federal agencies and other appropriate sources.

"(2) CONTRACTS FOR STUDIES OF HEALTH PROFESSIONS.—The Secretary shall conduct or enter into contracts for the conduct of analytic and descriptive studies of the health professions, including evaluations and projections of the supply of, and requirements for, the health professions by specialty and geographic location. Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.

"(3) GRANTS AND CONTRACTS REGARDING STATES.—The Secretary is authorized to make grants and to enter into contracts with States (or an appropriate nonprofit private entity in any State) for the purpose of participating in the program established under subsection (a). The Secretary shall determine the amount and scope of any such grant or contract. To be eligible for a grant or contract under this paragraph a State or entity shall submit an application in such form and manner and containing such information as the Secretary shall require. Such application shall include reasonable assurance, satisfactory to the Secretary, that—

"(A) such State (or nonprofit entity within a State) will establish a program of mandatory annual registration of the health professions personnel described in subsection (a) who reside or practice in such State and of health institutions licensed by such State, which registration shall include such information as the Secretary shall determine to be appropriate;

Reports.

"(B) such State or entity shall collect such information and report it to the Secretary in such form and manner as the Secretary shall prescribe; and

"(C) such State or entity shall comply with the requirements of subsection (e).

"(d) REPORTS TO CONGRESS.—The Secretary shall submit to the Congress on October 1, 1993, and biennially thereafter, the following reports:

"(1) A comprehensive report regarding the status of health personnel according to profession, including a report regarding the analytic and descriptive studies conducted under this section.

"(2) A comprehensive report regarding applicants to, and students enrolled in, programs and institutions for the training of health personnel, including descriptions and analyses of student indebtedness, student need for financial assistance, financial resources to meet the needs of students, student career choices such as practice specialty and geographic location and the relationship, if any, between student indebtedness and career choices.

"(e) REQUIREMENTS REGARDING PERSONAL DATA.—

"(1) IN GENERAL.—The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (hereinafter in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse, to supply such data and inform him of any specific consequences, known to the Secretary or program entity, as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which use is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the programs under this section.

"(2) CONSENT AS PRECONDITION TO DISCLOSURE.—Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity for such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) DISCLOSURE BY SECRETARY.—

"(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity under this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data

unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) DEFINITION.—For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under a grant, contract, or other arrangement with the Secretary under this section.

"(g) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the States and political subdivisions thereof in the development of systems (including model laws) concerning confidentiality and comparability of data collected pursuant to this section.

"(h) GRANTS AND CONTRACTS REGARDING NONPROFIT ENTITIES.—

"(1) IN GENERAL.—In carrying out subsection (a), the Secretary may make grants, or enter into contracts and cooperative agreements with, and provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(2) REPORTS.—With respect to reports required in subsection (d), each such report made on or after October 1, 1991, shall include a description and analysis of data collected pursuant to paragraph (1).

"SEC. 793. STATISTICS; ANNUAL REPORT. 42 USC 295*l*.

"(a) STATISTICS AND OTHER INFORMATION.—The Secretary shall, in coordination with the National Center for Health Statistics (established under section 306), continuously develop, publish, and disseminate on a nationwide basis statistics and other information respecting public and community health personnel, including—

"(1) detailed descriptions of the various types of activities in which public and community health personnel are engaged,

"(2) the current and anticipated needs for the various types of public and community health personnel, and

"(3) the number, employment, geographic locations, salaries, and surpluses and shortages of public and community health personnel, the educational and licensure requirements for the various types of such personnel, and the cost of training such personnel.

"(b) REQUIREMENTS REGARDING PERSONAL DATA.—

"(1) IN GENERAL.—The Secretary and each program entity shall in securing and maintaining any record of individually identifiable personal data (in this subsection referred to as 'personal data') for purposes of this section—

"(A) inform any individual who is asked to supply personal data whether he is legally required, or may refuse,

to supply such data and inform him of any specific consequences, known to the Secretary or program entity as the case may be, of providing or not providing such data;

"(B) upon request, inform any individual if he is the subject of personal data secured or maintained by the Secretary or program entity, as the case may be, and make the data available to him in a form comprehensible to him;

"(C) assure that no use is made of personal data which is not within the purposes of this section unless an informed consent has been obtained from the individual who is the subject of such data; and

"(D) upon request, inform any individual of the use being made of personal data respecting such individual and of the identity of the individuals and entities which will use the data and their relationship to the activities conducted under this section.

"(2) CONSENT AS PRECONDITION TO TRANSFER OF INFORMATION.—Any entity which maintains a record of personal data and which receives a request from the Secretary or a program entity to use such data for purposes of this section shall not transfer any such data to the Secretary or to a program entity unless the individual whose personal data is to be so transferred gives an informed consent for such transfer.

"(3) DISCLOSURE BY SECRETARY.—

"(A) Notwithstanding any other provision of law, personal data collected by the Secretary or any program entity for purposes of this section may not be made available or disclosed by the Secretary or any program entity to any person other than the individual who is the subject of such data unless (i) such person requires such data for purposes of this section, or (ii) in response to a demand for such data made by means of compulsory legal process. Any individual who is the subject of personal data made available or disclosed under clause (ii) shall be notified of the demand for such data.

"(B) Subject to all applicable laws regarding confidentiality, only the data collected by the Secretary under this section which is not personal data shall be made available to bona fide researchers and policy analysts (including the Congress) for the purposes of assisting in the conduct of studies respecting health professions personnel.

"(4) DEFINITIONS.—For purposes of this subsection, the term 'program entity' means any public or private entity which collects, compiles, or analyzes health professions data under an arrangement with the Secretary for purposes of this section.

"(c) REPORT.—The Secretary shall submit biennially to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate a report on—

"(1) the statistics and other information developed pursuant to subsection (a); and

"(2) the activities conducted under subparts I and II of part D, including an evaluation of such activities.

Such report shall contain such recommendations for legislation as the Secretary determines are needed to improve the programs authorized under such subparts. The Office of Management and

Budget may review such report before its submission to such Committees, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission and may submit to such Committees its comments respecting such report.

"(d) DEFINITIONS.—For purposes of this section, the term 'public and community health personnel' means individuals who are engaged in—

"(1) the planning, development, monitoring, or management of health care or health care institutions, organizations, or systems,

"(2) research on health care development and the collection and analysis of health statistics, data on the health of population groups, and any other health data,

"(3) the development and improvement of individual and community knowledge of health (including environmental health and preventive medicine) and the health care system, or

"(4) the planning and development of a healthful environment and control of environmental health hazards.

"SEC. 794. PROHIBITION AGAINST DISCRIMINATION ON BASIS OF SEX. 42 USC 295m.

"The Secretary may not make a grant, loan guarantee, or interest subsidy payment under this title to, or for the benefit of, any school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, or public health or any training center for allied health personnel, or graduate program in clinical psychology, unless the application for the grant, loan guarantee, or interest subsidy payment contains assurances satisfactory to the Secretary that the school or training center will not discriminate on the basis of sex in the admission of individuals to its training programs. The Secretary may not enter into a contract under this title with any such school or training center unless the school, training center, or graduate program furnishes assurances satisfactory to the Secretary that it will not discriminate on the basis of sex in the admission of individuals to its training programs. In the case of a school of medicine which—

"(1) on the date of the enactment of this sentence is in the process of changing its status as an institution which admits only female students to that of an institution which admits students without regard to their sex, and

"(2) is carrying out such change in accordance with a plan approved by the Secretary,

the provisions of the preceding sentences of this section shall apply only with respect to a grant, contract, loan guarantee, or interest subsidy to, or for the benefit of such a school for a fiscal year beginning after June 30, 1979.

"SEC. 795. OBLIGATED SERVICE REGARDING CERTAIN PROGRAMS. 42 USC 295n.

"(a) IN GENERAL.—In the case of any program under this title under which a scholarship, stipend, or other financial assistance is provided to an individual with respect to education as a health professional (including a program that provides for the repayment of loans), if the program provides that the provision of the financial assistance involved is subject to this section, then the assistance may be provided only if the individual makes agreements as follows:

"(1) The individual will complete the program of education with respect to which such assistance is provided (in the case

of assistance provided for purposes other than the repayment of loans).

"(2) In the case of an individual who receives such assistance with respect to attendance at a school of medicine or osteopathic medicine, the individual will—

"(A) enter and complete a residency training program in a specialty in primary health care not later than 4 years after completing the program of education described in paragraph (1); and

"(B) practice in the specialty for 5 years after completing the residency training program.

"(3) in the case of an individual who receives such assistance with respect to attendance at a school of dentistry, the individual will practice in general dentistry for 5 years (exclusive of any period during which the individual is attending a residency training program in general dentistry).

"(4) Subsection (b) applies with respect to the breach of agreements made under any of paragraphs (1) through (3).

"(b) BREACH OF AGREEMENTS.—

"(1) IN GENERAL.—For purposes of subsection (a)(4), the following applies:

"(A) In the case of a program under this title that provides financial assistance for attendance at a program of education in a health profession, the individual is liable to the Federal Government for the amount of the award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the program of education (as indicated by such program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the program for disciplinary reasons; or

"(iii) voluntarily terminates the program.

"(B) The individual is liable to the Federal Government for the amount of the award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to comply with the agreement made under subsection (a)(2).

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual making agreements under subsection (a), the Secretary shall provide for the waiver or suspension of liability under paragraph (1) if compliance by the individual with the agreements involved is impossible, or would involve extreme hardship to the individual, and if enforcement of the agreements with respect to the individual would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the three-year period beginning on the date the United States becomes so entitled.

42 USC 295o.

"SEC. 798. CERTAIN GENERAL PROVISIONS.

"(a) PEER REVIEW.—Each application for a grant or contract under this title shall be submitted to a peer review group for

an evaluation of the merits of the proposals made in the application. The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(b) DELEGATION OF AUTHORITY OF SECRETARY.—The Secretary may delegate the authority to administer any program authorized by this title to the administrator of a central or regional office or offices of the Department, except that the authority to make such a grant, enter into such a contract, continue such a grant or contract, or modify such a contract, shall not be delegated to any administrator of, or officer in, a regional office or offices of the Department.

"(c) DIFFERENTIAL TUITION AND FEES.—The Secretary may not enter into a contract with, or make a grant, loan guarantee, or interest subsidy payment under this title or title VIII, to or for the benefit of, any school, program, or training center if the tuition levels or educational fees at such school, program, or training center are higher for certain students solely on the basis that such students are the recipients of traineeships, loans, loan guarantees, service scholarships, or interest subsidies from the Federal Government.

"(d) APPLICABILITY OF CERTAIN PROVISIONS ON CONTRACTS.—Contracts authorized by this title may be entered into without regard to section 3324 of title 31, United States Code, or section 3709 of the Revised Statutes (41 U.S.C. 5).

"(e) RECORDS AND AUDITS.—

"(1) MAINTENANCE OF RECORDS.—

"(A) Each entity which receives a grant, loan, loan guarantee, or interest subsidy or which enters into a contract with the Secretary under this title, shall establish and maintain such records as the Secretary shall by regulation or order require. Regulations.

"(B) The Secretary may specify, by regulation, the form and manner in which such records, required by subparagraph (A), shall be established and maintained.

"(2) BIENNIAL AUDITS.—Each entity which received a grant or entered into a contract under this title shall provide for a biennial financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant or contract and such other funds received by or allocated to the project or undertaking for which such grant or contract was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with such requirements concerning the individual or agency which conducts the audit, and such standards applicable to the performance of the audit, as the Secretary may by regulation provide. A report of each such audit shall be filed with the Secretary at such time and in such manner as he may require. Reports.

"(3) APPLICABILITY TO STUDENTS.—A student recipient of a scholarship, traineeship, loan, or loan guarantee under this

title shall not be required to establish or maintain the records required in paragraph (1) or provide for an audit required in paragraph (2).

"(4) AVAILABILITY OF DOCUMENTS, ETC.—

"(A) Each entity which is required to establish and maintain records or to provide for an audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of such entity upon a reasonable request therefor.

"(B) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to carry out the purposes of this paragraph.

"(f) MISCELLANEOUS PROVISIONS.—

"(1) PAYMENTS UNDER GRANTS.—Grants made under this title may be paid (A) in advance or by way of reimbursement, (B) at such intervals and on such conditions as the Secretary may find necessary, and (C) with appropriate adjustments on account of overpayments or underpayments previously made.

"(2) APPLICATIONS FOR GRANTS AND CONTRACTS.—No grant may be made or contract entered into under this title unless an application therefor has been submitted to and approved by the Secretary. Such application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

Regulations.

"(3) ASSURANCES.—Whenever in this title an applicant is required to provide assurances to the Secretary, or an application is required to contain assurances or be supported by assurances, the Secretary shall determine before approving the application that the assurances provided are made in good faith.

"(4) TECHNICAL ASSISTANCE.—Funds appropriated under this title may be used by the Secretary to provide technical assistance in relation to any of the authorities under this title.

"(5) GRADUATES OF FOREIGN MEDICAL SCHOOLS.—The Secretary may make an award of a grant, cooperative agreement, or contract under this title to an entity (including a school) that provides graduate training in the health professions only if the entity agrees that, in considering applications for admissions to a program of such training, the entity will not refuse to consider an application solely on the basis that the application is submitted by a graduate of a foreign medical school. This paragraph may not be construed as establishing any private right of action.

42 USC 295p.

"SEC. 799. DEFINITIONS.

"For purposes of this title:

"(1)(A) The terms 'school of medicine', 'school of dentistry', 'school of osteopathic medicine', 'school of pharmacy', 'school of optometry', 'school of podiatric medicine', 'school of veterinary medicine', 'school of public health', and 'school of chiropractic' mean an accredited public or nonprofit private school in a State that provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an

equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or an equivalent degree or a degree of doctor of pharmacy or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a graduate degree in public health or an equivalent degree, and a degree of doctor of chiropractic or an equivalent degree, and including advanced training related to such training provided by any such school.

"(B) The terms 'graduate program in health administration' and 'graduate program in clinical psychology' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training leading, respectively, to a graduate degree in health administration or an equivalent degree and a doctoral degree in clinical psychology or an equivalent degree.

"(C) The terms 'graduate program in clinical social work' and 'graduate program in marriage and family therapy' mean an accredited graduate program in a public or nonprofit private institution in a State that provides training, respectively, in a concentration in health or mental health care leading to a graduate degree in social work and a concentration leading to a graduate degree in marriage and family therapy.

"(D) The term 'graduate program in mental health practice' means a graduate program in clinical psychology, clinical social work, or marriage and family therapy.

"(E) The term 'accredited', when applied to a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, or chiropractic, or a graduate program in health administration, clinical psychology, clinical social work, or marriage and family therapy, means a school or program that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education, except that a new school or program that, by reason of an insufficient period of operation, is not, at the time of application for a grant or contract under this title, eligible for accreditation by such a recognized body or bodies, shall be deemed accredited for purposes of this title, if the Secretary of Education finds, after consultation with the appropriate accreditation body or bodies, that there is reasonable assurance that the school or program will meet the accreditation standards of such body or bodies prior to the beginning of the academic year following the normal graduation date of the first entering class in such school or program.

"(2) The term 'teaching facilities' means areas dedicated for use by students, faculty, or administrative or maintenance personnel for clinical purposes, research activities, libraries, classrooms, offices, auditoriums, dining areas, student activities, or other related purposes necessary for, and appropriate to, the conduct of comprehensive programs of education. Such term includes interim facilities but does not include off-site improvements or living quarters.

"(3) The term 'program for the training of physician assistants' means an educational program that—

"(A) has as its objective the education of individuals who will, upon completion of their studies in the program,

be qualified to provide primary health care under the supervision of a physician; and

"(B) meets regulations prescribed by the Secretary in accordance with section 750(b).

"(4) The term 'school of allied health' means a public or nonprofit private college, junior college, or university or hospital-based educational entity that—

"(A) provides, or can provide, programs of education to enable individuals to become allied health professionals or to provide additional training for allied health professionals;

"(B) provides training for not less than a total of twenty persons in the allied health curricula (except that this subparagraph shall not apply to any hospital-based educational entity);

"(C) includes or is affiliated with a teaching hospital; and

"(D) is accredited by a recognized body or bodies approved for such purposes by the Secretary of Education, or which provides to the Secretary satisfactory assurance by such accrediting body or bodies that reasonable progress is being made toward accreditation.

"(5) The term 'allied health professionals' means a health professional (other than a registered nurse or physician assistant)—

"(A) who has received a certificate, an associate's degree, a bachelor's degree, a master's degree, a doctoral degree, or postbaccalaureate training, in a science relating to health care;

"(B) who shares in the responsibility for the delivery of health care services or related services, including—

"(i) services relating to the identification, evaluation, and prevention of disease and disorders;

"(ii) dietary and nutrition services;

"(iii) health promotion services;

"(iv) rehabilitation services; or

"(v) health systems management services; and

"(C) who has not received a degree of doctor of medicine, a degree of doctor of osteopathy, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of veterinary medicine or an equivalent degree, a degree of doctor of optometry or an equivalent degree, a degree of doctor of podiatric medicine or an equivalent degree, a degree of bachelor of science in pharmacy or an equivalent degree, a degree of doctor of pharmacy or an equivalent degree, a graduate degree in public health or an equivalent degree, a degree of doctor of chiropractic or an equivalent degree, a graduate degree in health administration or an equivalent degree, a doctoral degree in clinical psychology or an equivalent degree, or a degree in social work or an equivalent degree.

"(6) The term 'medically underserved community' means an urban or rural area or population that—

"(A) is eligible for designation under section 332 as a health professional shortage area;

"(B) is eligible to be served by a migrant health center under section 329, a community health center under section

330, a grantee under section 340 (relating to homeless individuals), or a grantee under section 340A (relating to residents of public housing); or

"(C) has a shortage of personal health services, as determined under criteria issued by the Secretary under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics).

"(7) The term 'Department' means the Department of Health and Human Services.

"(8) The term 'nonprofit' refers to the status of an entity owned and operated by one or more corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'State' includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"(10)(A) Subject to subparagraph (B), the term 'underrepresented minorities' means, with respect to a health profession, racial and ethnic populations that are underrepresented in the health profession relative to the number of individuals who are members of the population involved.

"(B) For purposes of subparagraph (A), Asian individuals shall be considered by the various subpopulations of such individuals.".

SEC. 103. EFFECTIVE DATE. 42 USC 292 note.

The amendment made by section 102 takes effect on the date of the enactment of this Act, except that section 708 of the Public Health Service Act, as added by section 102 of this Act, takes effect January 1, 1993. Until such date, section 732(c) of the Public Health Service Act, as in effect on the day before the date of the enactment of this Act, continues in effect in lieu of such section 708.

TITLE II—NURSE EDUCATION

Nurse Education and Practice Improvement Amendments of 1992. 42 USC 201 note.

SEC. 201. SHORT TITLE.

This title may be referred to as the Nurse Education and Practice Improvement Amendments of 1992.

SEC. 202. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) IN GENERAL.—Section 820 of the Public Health Service Act (42 U.S.C. 296k) is amended to read as follows:

"SPECIAL PROJECT GRANTS AND CONTRACTS

"SEC. 820. (a) EXPANSION OF ENROLLMENT IN PROFESSIONAL NURSING PROGRAMS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing with programs of education in professional nursing for the purpose of assisting the schools in increasing the number of students enrolled in such programs. Such a grant or contract may be made only with respect to such programs that are

in operation on the date of the enactment of the Health Professions Education Extension Amendments of 1992.

"(2) PREFERENCE.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified school that provides students of the school with clinical training in the provision of primary health care in publicly-funded—

"(A) urban or rural outpatient facilities, home health agencies, or public health agencies; or

"(B) rural hospitals.

"(3) MATCHING FUNDS.—

"(A) With respect to the costs of the program to be carried out by a school pursuant to paragraph (1), the Secretary may provide an award of a grant or contract under such paragraph only if the school agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(i) for the first fiscal year for which the school receives such an award, is not less than $1 for each $9 of Federal funds provided through the award (10 percent of such costs);

"(ii) for any second such fiscal year, is not less than $1 for each $3 of Federal funds provided through the award (25 percent of such costs);

"(iii) for any third such fiscal year, is not less than $1 for each $1 of Federal funds provided through the award (50 percent of such costs); and

"(iv) for any fourth or fifth such fiscal year, is not less than $3 for each $1 of Federal funds provided through the award (75 percent of such costs).

"(B) Non-Federal contributions required in subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(b) PRIMARY HEALTH CARE IN NONINSTITUTIONAL SETTINGS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing for the establishment or expansion of nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities.

"(2) OPERATION AND STAFFING OF PROGRAMS.—The Secretary may make an award of a grant or contract under paragraph (1) only if the school involved agrees that the program carried out with the award will be operated and staffed by the faculty and students of the school.

"(3) DESIGN.—The Secretary may make an award of a grant or contract under paragraph (1) only if the program to be carried out under such paragraph by the school involved is designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

"(c) CONTINUING EDUCATION FOR NURSES IN MEDICALLY UNDERSERVED COMMUNITIES.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities for the purpose of providing continuing education for nurses serving in medically underserved communities.

"(d) LONG-TERM CARE FELLOWSHIPS FOR CERTAIN PARAPROFESSIONALS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing, for the purpose of providing fellowships to individuals described in paragraph (2) for attendance in such programs.

"(2) ELIGIBLE INDIVIDUALS.—The individuals referred to in paragraph (1) are individuals who are employed by nursing facilities or home health agencies as nursing paraprofessionals.

"(3) PREFERENCE FOR SCHOOLS WITH RAPID TRANSITION PROGRAMS.—In making awards of grants and contracts under paragraph (1), the Secretary shall give preference to any qualified applicant operating an accredited program of education in professional nursing that provides for the rapid transition to status as a professional nurse from status as a nursing paraprofessional.

"(4) PREFERENCE IN AWARD OF FELLOWSHIPS.—The Secretary may make an award of a grant or contract under paragraph (1) only if the applicant involved agrees that, in providing fellowships under the award, the applicant will give preference to individuals described in paragraph (2) who—

"(A) are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is underrepresented among registered nurses; or

"(B) are employed by a nursing facility that will assist in paying the costs or expenses described in paragraph (5)(A) with respect to the individuals.

"(5) USE OF AWARD.—The Secretary may make an award of a grant or contract under paragraph (1) only if the applicant involved agrees that fellowships provided with the award will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing with respect to which the fellowship is provided; and

"(B) reasonable living expenses of the individual during the period for which the fellowship is provided.

"(6) DEFINITION.—For purposes of this section:

"(A) The term 'home health agency' has the meaning given such term in section 1861 of the Social Security Act.

"(B) The term 'nursing facility' has the meaning given such term in section 1919 of the Social Security Act.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $10,500,000 for each of the fiscal years 1993 and 1994.".

(b) DEFINITION OF MEDICALLY UNDERSERVED COMMUNITIES.—Section 853 of the Public Health Service Act (42 U.S.C. 298b) is amended by adding at the end the following new paragraph:

"(11) The term 'medically underserved community' has the meaning given such term in section 799.".

42 USC 296k note.

(c) SAVINGS PROVISION FOR CURRENT PROJECTS.—In the case of any authority for making awards of grants or contracts that is terminated by the amendment made by subsection (a), the Secretary of Health and Human Services may, notwithstanding the termination of the authority, continue in effect any grant or contract made under the authority that is in effect on the day before the date of the enactment of this Act, subject to the duration of any such grant or contract not exceeding the period determined by the Secretary in first approving such financial assistance, or in approving the most recent request made (before the date of such enactment) for continuation of such assistance, as the case may be.

SEC. 203. ADVANCED NURSE EDUCATION.

Section 821 of the Public Health Service Act (42 U.S.C. 296l) is amended to read as follows:

"ADVANCED NURSE EDUCATION

"SEC. 821. (a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private collegiate schools of nursing to meet the costs of projects that, in the case of programs described in susbsection (b)—

"(1) plan, develop, and operate new such programs; or

"(2) significantly expand existing such programs.

"(b) AUTHORIZED PROGRAMS.—The programs referred to in subsection (a) are programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

"(c) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $12,000,000 for each of the fiscal years 1993 and 1994.

"(2) LIMITATION.—Of the amounts appropriated under paragraph (1), the Secretary may not obligate more than 10 percent for providing grants or contracts under subsection (a) for programs leading to doctoral degrees.".

SEC. 204. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

Section 822 of the Public Health Service Act (42 U.S.C. 296m) is amended to read as follows:

"NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS

"SEC. 822. (a) IN GENERAL.—The Secretary may make grants to and enter into contracts with public and nonprofit private schools of nursing or other public and nonprofit private entities to meet the costs of projects that, with respect to programs described in subsection (b)—

"(1) plan, develop, and operate new such programs; or

"(2) maintain or significantly expand existing such programs.

"(b) AUTHORIZED PROGRAMS.—

"(1) IN GENERAL.—The programs referred to in subsection (a) are educational programs for registered nurses (irrespective

of the type of school of nursing in which the nurses received their training) that—

"(A) meet guidelines prescribed by the Secretary in accordance with paragraph (2); and

"(B) have as their objective the education of nurses who will, upon completion of their studies in such programs, be qualified to effectively provide primary health care, including primary health care in homes and in ambulatory care facilities, long-term care facilities and other health care institutions.

"(2) GUIDELINES.—After consultation with appropriate educational organizations and professional nursing and medical organizations, the Secretary shall prescribe guidelines for programs described in paragraph (1). Such guidelines shall, as a minimum, require that such a program—

"(A) extend for at least one academic year and consist of—

"(i) supervised clinical practice directed toward preparing nurses to deliver primary health care; and

"(ii) at least four months (in the aggregate) of classroom instruction that is so directed; and

"(B) have an enrollment of not less than six full-time equivalent students.

"(c) CERTAIN CONSIDERATIONS IN MAKING AWARDS.—

"(1) PREFERENCE.—In making awards of grants and contracts under subsection (a), the Secretary shall give preference to any qualified applicant that, with respect to programs described in subsection (b), agrees to expend the award to plan, develop, and operate new such programs or to significantly expand existing such programs.

"(2) SPECIAL CONSIDERATION.—In making awards of grants and contracts under subsection (a), the Secretary shall give special consideration to qualified applicants that agree to expend the award to train individuals as nurse practitioners and nurse midwives who will practice in health professional shortage areas designated under section 332.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1993 and 1994.".

SEC. 205. SPECIAL PROJECTS REGARDING DISADVANTAGED INDIVIDUALS.

Section 827(c) of the Public Health Service Act (42 U.S.C. 296r(c)) is amended—

(1) by striking "and" after "1990,"; and

(2) by inserting before the period the following: ", $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994".

SEC. 206. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

Section 830 of the Public Health Service Act (42 U.S.C. 297) is amended to read as follows:

"TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES

"SEC. 830. (a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities to meet the cost of

traineeships for individuals in advanced-degree programs in order to educate the individuals to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education.

"(b) SPECIAL CONSIDERATION IN MAKING GRANTS.—In making grants for traineeships under subsection (a), the Secretary shall give special consideration to applications for traineeship programs that conform to guidelines established by the Secretary under section 822(b)(2).

"(c) PREFERENCE IN PROVISION OF TRAINEESHIPS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in providing traineeships under such subsection, the applicant will give preference to individuals who are residents of health professional shortage areas designated under section 332.

"(d) ELIGIBILITY OF INDIVIDUALS IN MASTER'S DEGREE PROGRAMS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that the applicant will not provide a traineeship under such subsection to an individual enrolled in a masters of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant.

"(e) USE OF GRANT.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided; and

"(B) reasonable living expenses of the individual during the period for which the traineeship is provided.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $20,000,000 for each of the fiscal years 1993 and 1994.

"(2) LIMITATION REGARDING CERTAIN TRAINEESHIPS.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary may not obligate more than 10 percent for providing traineeships under subsection (a) for individuals in doctoral degree programs.".

SEC. 207. NURSE ANESTHETISTS.

(a) PREFERENCES REGARDING GRANTS AND TRAINEESHIPS; USE OF GRANT.—Section 831(a) of the Public Health Service Act (42 U.S.C. 297–1(a)) is amended—

(1) by striking paragraph (2); and

(2) by inserting after paragraph (1) the following paragraphs:

"(2)(A) In making grants under paragraph (1), the Secretary shall give preference to qualified applicants carrying out traineeship programs whose participants gain significant experience in providing health services at rural health facilities.

"(B) The Secretary may make a grant under paragraph (1) only if the institution involved agrees that, in providing traineeships under such paragraph, the institution will give preference to individuals who are residents of health professional shortage areas designated under section 332.

"(3) The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that traineeships provided with the grant will pay all or part of the costs of—

"(A) the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided; and

"(B) reasonable living expenses of the individual during the period for which the traineeship is provided.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 831(c) of the Public Health Service Act (42 U.S.C. 297–1(c)) is amended in the first sentence by inserting before the period the following: ", $3,000,000 for fiscal year 1993, and $4,000,000 for fiscal year 1994".

SEC. 208. STUDENT LOANS.

(a) ALLOTMENTS AND PAYMENTS OF FEDERAL CAPITAL CONTRIBUTIONS.—Section 838(a)(3) of the Public Health Service Act (42 U.S.C. 297d(a)(3)) is amended—

(1) by striking subparagraph (B); and

(2) in subparagraph (A)—

(A) in the first sentence, by striking "available for allotment" and all that follows and inserting the following: "available for allotment until expended.";

(B) in the second sentence, by striking "this subpart, except" and all that follows and inserting "this subpart."; and

(C) by striking the subparagraph designation.

(b) DISTRIBUTION OF ASSETS FROM LOAN FUNDS.—Section 839 of the Public Health Service Act (42 U.S.C. 297e) is amended—

(1) in subsection (a), by striking out "1991" and inserting in lieu thereof "1996"; and

(2) in subsections (a) and (b), by striking "1994" each place such term appears and inserting "1999".

SEC. 209. CERTAIN GENERALLY APPLICABLE PROVISIONS.

Title VIII of the Public Health Service Act (42 U.S.C. 296k et seq.) is amended by adding at the end the following section:

"CERTAIN GENERALLY APPLICABLE PROVISIONS

"SEC. 860. (a) APPLICATION FOR GRANTS, COOPERATIVE AGREEMENTS, OR CONTRACTS.—The Secretary may make an award of a grant, cooperative agreement, or contract under this title only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the program authorizing the award. 42 USC 298b–7.

"(b) DURATION OF ASSISTANCE.—

"(1) IN GENERAL.—Subject to paragraph (2), in the case of an award to an entity of a grant, cooperative agreement, or contract under this title, the period during which payments are made to the entity under the award may not exceed 5 years. The provision of payments under the award shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This paragraph may not be construed as limiting the number of awards under the program involved that may be made to the entity.

"(2) LIMITATION.—In the case of an award to an entity of a grant, cooperative agreement, or contract under this title, paragraph (1) shall apply only to the extent not inconsistent with any other provision of this title that relates to the period during which payments may be made under the award.

"(c) BREACH OF AGREEMENTS FOR OBLIGATED SERVICE.—

"(1) IN GENERAL.—In the case of any program under this title under which an individual makes an agreement to provide health services for a period of time in accordance with such program in consideration of receiving an award of Federal funds regarding education as a nurse (including an award for the repayment of loans), the following applies if the agreement provides that this subsection is applicable:

"(A) In the case of a program under this title that makes an award of Federal funds for attending an accredited program of nursing (in this subsection referred to as 'nursing program'), the individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual—

"(i) fails to maintain an acceptable level of academic standing in the nursing program (as indicated by the program in accordance with requirements established by the Secretary);

"(ii) is dismissed from the nursing program for disciplinary reasons; or

"(iii) voluntarily terminates the nursing program.

"(B) The individual is liable to the Federal Government for the amount of such award (including amounts provided for expenses related to such attendance), and for interest on such amount at the maximum legal prevailing rate, if the individual fails to provide health services in accordance with the program under this title for the period of time applicable under the program.

"(2) WAIVER OR SUSPENSION OF LIABILITY.—In the case of an individual or health facility making an agreement for purposes of paragraph (1), the Secretary shall provide for the waiver or suspension of liability under such paragraph if compliance by the individual or the health facility, as the case may be, with the agreements involved is impossible, or would involve extreme hardship to the individual or facility, and if enforcement of the agreements with respect to the individual or facility would be unconscionable.

"(3) DATE CERTAIN FOR RECOVERY.—Subject to paragraph (2), any amount that the Federal Government is entitled to recover under paragraph (1) shall be paid to the United States not later than the expiration of the three-year period beginning on the date the United States becomes so entitled.

"(4) AVAILABILITY.—Amounts recovered under paragraph (1) with respect to a program under this title shall be available for the purposes of such program, and shall remain available for such purposes until expended.

"(d) PEER REVIEW REGARDING CERTAIN PROGRAMS.—Each application for a grant or contract under any of sections 821, 822, 830, and 831 shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

The Secretary may not approve such an application unless a peer review group has recommended the application for approval. Each peer review group under this subsection shall be composed principally of individuals who are not officers or employees of the Federal Government. This subsection shall be carried out by the Secretary acting through the Administrator of the Health Resources and Services Administration.

"(e) PREFERENCES AND REQUIRED INFORMATION IN CERTAIN PROGRAMS.—

"(1) PREFERENCES IN MAKING AWARDS.—

"(A) Subject to subparagraph (B), in awarding grants or contracts under any of sections 821, 822, 830, and 831, the Secretary shall give preference to any qualified applicant that—

"(i) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

"(ii) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

"(B) For purposes of subparagraph (A), the Secretary may not give an applicant preference if the proposal of the applicant is ranked at or below the 20th percentile of proposals that have been recommended for approval by peer review groups under subsection (d).

"(2) REQUIRED SUBMISSION OF INFORMATION.—The Secretary may make an award of a grant or contract under any of sections 821, 822, 830, and 831 only if the applicant for the award submits to the Secretary (through the application for the award) the following information regarding the programs of the applicant:

"(A) A description of rotations or preceptorships for students that have the principal focus of providing health care to medically underserved communities.

"(B) The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved or rural communities.

"(C) With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

"(D) If applicable to the applicant, the number of recent graduates who have chosen careers in primary health care.

"(E) The number of recent graduates whose practices are serving medically underserved communities.

"(F) A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

"(3) DEFINITION.—For purposes of this subsection, the term 'graduate' means, unless otherwise specified, an individual who has successfully completed all training requirements necessary

for full certification in the health profession selected by the individual.".

42 USC 297n.

SEC. 210. DEMONSTRATION PROGRAM REGARDING SERVICE IN CERTAIN HEALTH CARE FACILITIES.

Part B of title VIII of the Public Health Service Act (42 U.S.C. 297 et seq.) is amended by striking subpart IV.

SEC. 211. TRANSFER OF LOAN REPAYMENT PROGRAM.

(a) IN GENERAL.—Part B of title VIII of the Public Health Service Act, as amended by section 210 of this Act, is amended—

42 USC 297b.

(1) in section 836—

(A) by striking subsection (h); and

(B) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively;

42 USC 297c-1.

(2) by striking section 837A; and

(3) by adding at the end the following subpart:

"Subpart IV—Loan Repayment Program

"LOAN REPAYMENT PROGRAM

42 USC 297n.

"SEC. 846. (a) IN GENERAL.—In the case of any individual—

"(1) who has received a baccalaureate or associate degree in nursing (or an equivalent degree), a diploma in nursing, or a graduate degree in nursing;

"(2) who obtained (A) one or more loans from a loan fund established under subpart II, or (B) any other educational loan for nurse training costs; and

"(3) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a rural health clinic, or in a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses;

the Secretary shall make payments in accordance with subsection (b), for and on behalf of that individual, on the principal of and interest on any loan of that individual described in paragraph (2) of this subsection which is outstanding on the date the individual begins the service specified in the agreement described in paragraph (3) of this subsection.

"(b) MANNER OF PAYMENTS.—The payments described in subsection (a) shall be made by the Secretary as follows:

"(1) Upon completion by the individual for whom the payments are to be made of the first year of the service specified in the agreement entered into with the Secretary under subsection (a), the Secretary shall pay 30 percent of the principal of, and the interest on each loan of such individual described in subsection (a)(2) which is outstanding on the date he began such practice.

"(2) Upon completion by that individual of the second year of such service, the Secretary shall pay another 30 percent of the principal of, and the interest on each such loan.

"(3) Upon completion by that individual of a third year of such service, the Secretary shall pay another 25 percent of the principal of, and the interest on each such loan.

"(c) PAYMENT BY DUE DATE.—Notwithstanding the requirement of completion of practice specified in subsection (b), the Secretary shall, on or before the due date thereof, pay any loan or loan installment which may fall due within the period of service for which the borrower may receive payments under this subsection, upon the declaration of such borrower, at such times and in such manner as the Secretary may prescribe (and supported by such other evidence as the Secretary may reasonably require), that the borrower is then serving as described by subsection (a)(3), and that the borrower will continue to so serve for the period required (in the absence of this subsection) to entitle the borrower to have made the payments provided by this subsection for such period; except that not more than 85 percent of the principal of any such loan shall be paid pursuant to this subsection.

"(d) BREACH OF AGREEMENT.—The Secretary may make payments under subsection (a) on behalf of an individual only if the agreement under such subsection provides that section 860(c) is applicable to the individual.

"(e) PREFERENCES REGARDING PARTICIPANTS.—In entering into agreements under subsection (a), the Secretary shall give preference—

"(1) to qualified applicants with the greatest financial need; and

"(2) to qualified applicants that, with respect to health facilities described in such subsection, agree to serve in such health facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term "community health center" has the meaning given such term in section 330(a).

"(2) The term "migrant health center" has the meaning given such term in section 329(a)(1).

"(3) The term "rural health clinic" has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994.".

(b) RULE OF CONSTRUCTION.—With respect to section 836(h) of the Public Health Service Act, as in effect prior to the date of the enactment of this Act, any agreement entered into under such section that is in effect on the day before such date remains in effect in accordance with the terms of the agreement, notwithstanding the amendment made by subsection (a) of this section. 42 USC 297b note.

SEC. 212. ADVISORY COUNCIL ON NURSES EDUCATION; REVIEW COMMITTEE.

Section 851 of the Public Health Service Act (42 U.S.C. 298) is amended—

(1) in subsection (a), in the first sentence, by striking "Advisory" and all that follows through "consisting" and inserting the following: "National Advisory Council on Nurse Education and Practice (in this section referred to as the 'Council'), consisting"; and

(2) in the heading for the section, by striking "NURSES EDUCATION;" and inserting "NURSE EDUCATION AND PRACTICE;".

SEC. 213. EVALUATIONS.

Section 859(b) of the Public Health Service Act (42 U.S.C. 298b–6(b)) is amended—

(1) by striking paragraph (1); and

(2) in paragraph (2)—

(A) by striking "(2)"; and

(B) by striking "not later than" and all that follows through "submit" and inserting the following: "not later than January 10, 1994, and every 2 years thereafter, submit".

TITLE III—MISCELLANEOUS PROVISIONS

42 USC 295k note.

SEC. 301. ADVISORY COUNCIL ON GRADUATE MEDICAL EDUCATION.

(a) ESTABLISHMENT; DUTIES.—There is established the Council on Graduate Medical Education (in this section referred to as the "Council"). The Council shall—

(1) make recommendations to the Secretary of Health and Human Services (in this section referred to as the "Secretary"), and to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with respect to—

(A) the supply and distribution of physicians in the United States;

(B) current and future shortages or excesses of physicians in medical and surgical specialties and subspecialties;

(C) issues relating to foreign medical school graduates;

(D) appropriate Federal policies with respect to the matters specified in subparagraphs (A), (B), and (C), including policies concerning changes in the financing of undergraduate and graduate medical education programs and changes in the types of medical education training in graduate medical education programs;

(E) appropriate efforts to be carried out by hospitals, schools of medicine, schools of osteopathic medicine, and accrediting bodies with respect to the matters specified in subparagraphs (A), (B), and (C), including efforts for changes in undergraduate and graduate medical education programs; and

(F) deficiencies in, and needs for improvements in, existing data bases concerning the supply and distribution of, and postgraduate training programs for, physicians in the United States and steps that should be taken to eliminate those deficiencies; and

(2) encourage entities providing graduate medical education to conduct activities to voluntarily achieve the recommendations of the Council under paragraph (1)(E).

(b) COMPOSITION.—The Council shall be composed of—

(1) the Assistant Secretary for Health or the designee of the Assistant Secretary;

(2) the Administrator of the Health Care Financing Administration;

(3) the Chief Medical Director of the Department of Veterans Affairs;

(4) 6 members appointed by the Secretary to include representatives of practicing primary care physicians, national and specialty physician organizations, foreign medical graduates, and medical student and house staff associations;

(5) 4 members appointed by the Secretary to include representatives of schools of medicine and osteopathic medicine and public and private teaching hospitals; and

(6) 4 members appointed by the Secretary to include representatives of health insurers, business, and labor.

(c) TERMS OF APPOINTED MEMBERS.—

(1) IN GENERAL; STAGGERED ROTATION.—Members of the Council appointed under paragraphs (4), (5), and (6) of subsection (b) shall be appointed for a term of 4 years, except that the term of office of the members first appointed shall expire, as designated by the Secretary at the time of appointment, 4 at the end of 1 year, 4 at the end of 2 years, 3 at the end of 3 years, and 3 at the end of 4 years.

(2) DATE CERTAIN FOR APPOINTMENT.—The Secretary shall appoint the first members to the Council under paragraphs (4), (5), and (6) of subsection (b) within 60 days after the date of enactment of this section.

(d) CHAIR.—The Council shall elect one of its members as Chairman of the Council.

(e) QUORUM.—Nine members of the Council shall constitute a quorum, but a lesser number may hold hearings.

(f) VACANCIES.—Any vacancy in the Council shall not affect its power to function.

(g) COMPENSATION.—Each member of the Council who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Council. A member of the Council who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Council shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(h) CERTAIN AUTHORITIES AND DUTIES.—

(1) AUTHORITIES.—In order to carry out the provisions of this section, the Council is authorized to—

(A) collect such information, hold such hearings, and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Council or such subcommittee may consider available; and

(B) request the cooperation and assistance of Federal departments, agencies, and instrumentalities, and such departments, agencies, and instrumentalities are authorized to provide such cooperation and assistance.

(2) COORDINATION OF ACTIVITIES.—The Council shall coordinate its activities with the activities of the Secretary under section 792 of the Public Health Service Act. The Secretary shall, in cooperation with the Council and pursuant to the recommendations of the Council, take such steps as are prac-

ticable to eliminate deficiencies in the data base established under such section 792 and shall make available in its reports such comprehensive data sets as are developed pursuant to this section.

(i) REQUIREMENT REGARDING REPORTS.—In the reports required under subsection (a), the Council shall specify its activities during the period for which the report is made.

(j) FINAL REPORT.—Not later than April 1, 1995, the Council shall submit a final report under subsection (a).

(k) TERMINATION.—The Council shall terminate September 30, 1995.

42 USC 295k note.

SEC. 302. COMMISSION ON ALLIED HEALTH.

(a) ESTABLISHMENT.—There is established an advisory council to be known as the National Commission on Allied Health (in this section referred to as the "Commission"), which shall meet at least twice annually until such time as the final report is submitted under subsection (e).

(b) DUTIES.—The Commission shall—

(1) make recommendations to the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, with respect to—

(A) the supply and distribution of allied health personnel throughout the United States;

(B) current and future shortages or excesses of allied health personnel, particularly in medically underserved and rural communities;

(C) priority research needs within the allied health professions;

(D) appropriate Federal policies relating to the matters described in subparagraphs (A) through (C), including policies concerning changes in the financing of undergraduate and graduate allied health programs, changes in the types of allied health education, and the appropriate Federal role in the development of a research base in the allied health professions;

(E) appropriate efforts to be carried out by health care facilities, schools and programs of allied health, and professional associations with respect to the matter referred to in subparagraph (A), including efforts for changes in undergraduate and graduate allied health education programs, and private support for research initiatives;

(F) deficiencies and needs for improvements in existing data bases concerning the supply and distribution of training programs for allied health in the United States and steps that should be taken to eliminate such deficiencies; and

(G) problems, and recommendations for the resolution of such problems, relating to the roles and functions of professionals within the allied health fields and other fields such as medicine and dentistry; and

(2) encourage entities providing allied health education to conduct activities to voluntarily achieve the recommendations of the Commission.

(c) COMPOSITION.—The Commission shall be composed of—

(1) the Assistant Secretary for Health;

(2) the Administrator of the Health Care Financing Administration;

(3) the Assistant Secretary for Defense for Health Affairs;

(4) the Chief Medical Director of the Department of Veterans Affairs;

(5) the Commissioner of the Bureau of Labor Statistics of the Department of Labor;

(6) a representative of the National Center for Education Statistics of the Department of Education;

(7) a representative of the Bureau of Health Professions, Health Resources and Services Administration to be appointed by the Secretary;

(8) five individuals appointed by the Secretary to represent allied health professionals, of which—

(A) two such individuals shall be representatives of allied health professionals who provide occupational, speech, respiratory or physical therapy services;

(B) two such individuals shall be health professionals who provide services in underserved areas or to underserved populations; and

(C) one such individual shall be a health professional who provides services to the elderly;

(9) five individuals appointed by the Secretary, including representatives of schools and programs of allied health, health care facility employers of allied health personnel, health insurers, and professional organizations representing the allied health professions;

(10) a professional knowledgeable about health occupations and professions and data policy to be appointed by the Secretary; and

(11) a representative of the general public to be appointed by the Secretary.

(d) DATE CERTAIN FOR APPOINTMENTS.—Not later than 90 days after the date of the enactment of the Health Professions Education Extension Amendments of 1992, the Secretary shall appoint the members of the Commission in accordance with subsection (c).

(e) REPORTS.—Not later than October 1, 1993, the Commission shall prepare and submit to the individual and entities described in subsection (b)(1) a progress report concerning the activities of the Commission. Not later than April 1, 1994, the Commission shall prepare and submit to such individuals and entities a final report.

(f) RESOURCES FOR COUNCIL.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.

(g) TERMINATION.—The Commission shall terminate 60 days after the submission of the final report required under subsection (e).

SEC. 303. STUDY REGARDING CLINICAL LABORATORY TECHNOLOGISTS FOR MEDICALLY UNDERSERVED AND RURAL COMMUNITIES.

42 USC 295k note.

(a) IN GENERAL.—With respect to the shortage of clinical laboratory technologists, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct a study for the purpose of—

(1) determining whether there are special or unique factors affecting the supply of clinical laboratory technologists in medically underserved and rural communities; and

(2) assessing alternative routes for certification of the competence of individuals to serve as such technologists, with consideration of the role of entities providing such certifications.

(b) DATE CERTAIN FOR REPORT.—Not later than October 1, 1993, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as result of the study.

SEC. 304. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as amended by title VI of Public Law 102–321, is amended by adding at the end the following part:

"Part E—Miscellaneous Programs

42 USC 300d-51.

"SEC. 1251. RESIDENCY TRAINING PROGRAMS IN EMERGENCY MEDICINE.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of planning and developing approved residency training programs in emergency medicine.

"(b) IDENTIFICATION AND REFERRAL OF DOMESTIC VIOLENCE.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that training programs under subsection (a) will provide education and training in identifying and referring cases of domestic violence.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $400,000 for each of the fiscal years 1993 through 1995.".

SEC. 305. CERTAIN CLINICAL TRAINEESHIPS.

Section 303(d)(2) of the Public Health Service Act (42 U.S.C. 242a(d)(2)) is amended—

(1) by striking "or" at the end of subparagraph (B);

(2) by inserting "or" after the comma at the end of subparagraph (C); and

(3) by inserting after subparagraph (C) the following subparagraph:

"(D) in a Federal or State correctional facility,".

SEC. 306. SPECIAL CONSOLIDATED LOAN PROGRAM.

(a) IN GENERAL.—Section 428C of the Higher Education Act of 1965 (20 U.S.C. 1078–3) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

Contracts.

"(d) SPECIAL PROGRAM AUTHORIZED.—

"(1) GENERAL RULE AND DEFINITION OF ELIGIBLE STUDENT LOAN.—

"(A) IN GENERAL.—Subject to the provisions of this subsection, the Secretary or a guaranty agency shall enter into agreements with eligible lenders described in subpara-

graphs (A), (B), and (C) of subsection (a)(1) for the consolidation of eligible student loans.

"(B) APPLICABILITY RULE.—Unless otherwise provided in this subsection, the agreements entered into under subparagraph (A) and the loans made under such agreements for the consolidation of eligible student loans under this subsection shall have the same terms, conditions, and benefits as all other agreements and loans made under this section.

"(C) DEFINITION.—For the purpose of this subsection, the term 'eligible student loans' means loans—

"(i) of the type described in subparagraphs (A), (B), and (C) of subsection (a)(4); and

"(ii) made under subpart I of part A of title VII of the Public Health Service Act.

"(2) INTEREST RATE RULE.—

"(A) IN GENERAL.—The portion of each consolidated loan that is attributable to an eligible student loan described in paragraph (1)(C)(ii) shall bear interest at a rate not to exceed the rate determined under subparagraph (B).

"(B) DETERMINATION OF THE MAXIMUM INTEREST RATE.—For the 12-month period beginning after July 1, 1992, and for each 12-month period thereafter, beginning on July 1 and ending on June 30, the interest rate applicable under subparagraph (A) shall be equal to the average of the bond equivalent rates of the 91-day Treasury bills auctioned for the quarter prior to July 1, for each 12-month period for which the determination is made, plus 3 percent.

"(C) PUBLICATION OF MAXIMUM INTEREST RATE.—The Secretary shall determine the applicable rate of interest under subparagraph (B) after consultation with the Secretary of the Treasury and shall publish such rate in the Federal Register as soon as practicable after the date of such determination. Federal Register, publication.

"(3) SPECIAL RULES.—

"(A) NO SPECIAL ALLOWANCE RULE.—No special allowance under section 438 shall be paid with respect to the portion of any consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

"(B) NO INTEREST SUBSIDY RULE.—No interest subsidy under section 428(a) shall be paid on behalf of any eligible borrower for any portion of a consolidated loan under this subsection that is attributable to any loan described in paragraph (1)(C)(ii).

"(C) ADDITIONAL RESERVE RULE.—Notwithstanding any other provision of this Act, additional reserves shall not be required for any guaranty agency with respect to a loan made under this subsection.

"(D) INSURANCE RULE.—Any insurance premium paid by the borrower under subpart I of part A of title VII of the Public Health Service Act with respect to a loan made under that subpart and consolidated under this subsection shall be retained by the student loan insurance fund established under section 710 of the Public Health Service Act.

"(4) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to facilitate carrying out the provisions of this subsection.".

20 USC 1078-3.

(b) TECHNICAL AMENDMENT.—Section 428(e) of the Higher Education Act of 1965 (as redesignated by subsection (a)) is amended by striking "1992" and inserting "1997".

20 USC 1078-3 note.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 60 days after the date of enactment of this Act.

42 USC 295k note.

SEC. 307. NATIONAL ADVISORY COUNCIL ON MEDICAL LICENSURE.

Establishment.

(a) ADVISORY COUNCIL.—

(1) IN GENERAL.—The Secretary of Health and Human Services shall establish an advisory council to be known as the "National Advisory Council on Medical Licensure".

(2) DUTIES.—

(A) ADVICE.—The Council shall provide advice to the Secretary regarding the operation of the system established by the American Medical Association for the purpose of verifying and maintaining information regarding the qualifications of individuals to practice medicine, and advice regarding the establishment and operation of any similar system.

(B) ACTIVITIES.—In carrying out subparagraph (A), the Council shall—

(i) monitor and review the operation of the private credentials verification system and develop recommendations regarding methods by which the system can be improved, and make recommendations for the establishment of nondiscriminatory policies and practices for the operation of the system;

(ii) determine to what extent the system has expedited and otherwise improved the efficiency and equitable operation of the process in the States for licensing individuals to practice medicine who previously have been licensed by another State (commonly known as licensure by endorsement); and

(iii) review the policies and practices of the States (including any relevant laws) in licensing international medical graduates and in licensing domestic medical graduates, and determine the effects of the policies.

(3) COMPOSITION.—

(A) IN GENERAL.—The Council shall be composed of 15 voting members selected in accordance with subparagraphs (B) and (C).

(B) HEALTH RESOURCES AND SERVICES ADMINISTRATION.—The Secretary shall designate one official or employee of the Health Resources and Services Administration to serve as a member of the Council. The official or employee so designated shall be a graduate of a medical school located in the United States.

(C) APPOINTMENTS.—From among individuals who are not officers or employees of the Federal Government, the Secretary shall, subject to subparagraph (D), make appointments to the Council as follows:

(i) One individual from an organization representing State authorities that license individuals to practice medicine.

(ii) One individual representing a national organization that represents practicing physicians in the United States.

(iii) One individual representing an organization in the United States that tests international medical graduates regarding medical knowledge.

(iv) One individual representing an organization in the United States that tests individuals who are graduates of medical schools located in the United States regarding medical knowledge.

(v) One physician representing one or more medical schools located in the United States.

(vi) One individual who is a representative of the private credentials verification system.

(vii) One individual who is a graduate of a medical school located in the United States, who has been licensed to practice medicine by a State and has been so licensed by such State for a continuous period of at least 20 years, and who has applied for and received licensure by endorsement during the 5-year period ending on the date of the enactment of this Act.

(viii) One individual who is a graduate of a medical school located in the United States and who represents a State authority that licenses individuals to practice medicine, which State either has a significant number of practicing physicians who are international medical graduates or has a significant shortage of physicians.

(ix) One individual who is an international medical graduate and who represents a coalition representing such graduates.

(x) One individual who is an international medical graduate and who is a native of the United States.

(xi) One individual who is a native of a country located in southern or eastern Asia (including southern or eastern Asian islands) and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xii) One individual who is a native of a European country or of Australia or New Zealand and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xiii) One individual who is a native of a Latin American or Caribbean country and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

(xiv) One individual who is a native of a country located in sub-Saharan Africa and who is an international medical graduate by virtue of being a graduate of a medical school located in such a country.

At least one member appointed by the Secretary under this subparagraph shall be a physician who is practicing in a medically underserved community, as defined in section 799 of the Public Health Service Act. A physician may serve on the Council only if the physician is licensed by one or more States to practice medicine.

(D) CONSULTATION.—The Secretary shall make the appointments described in subparagraph (C) only after consultation with relevant organizations and coalitions.

(4) CHAIR.—From among the members appointed under paragraph (3)(C), the Council shall designate an individual to serve as the chair of the Council.

(5) DURATION.—The Council shall continue in existence until the submission of the report required under paragraph (7), or not later than September 30, 1995, whichever is earlier.

(6) INTERIM REPORT.—Not later than September 30, 1993, the Council shall submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, an interim report describing the findings and recommendations of the Council pursuant to the duties established in paragraph (2). The Secretary shall provide a copy of the report to the private credentials verification system.

(7) FINAL REPORT.—

(A) IN GENERAL.—Not later than September 30, 1995, the Council shall prepare and submit to the Secretary, the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives, a final report that shall include recommendations regarding activities conducted pursuant to paragraph (2), that shall include a determination as to whether the private credentials verification system is operating with a reasonable degree of efficiency and whether the policies and practices of the system are nondiscriminatory.

(B) RECOMMENDATIONS.—If the Secretary determines that the private credentials verification system fails to meet either of the criteria with respect to the determination described in subparagraph (A), the Secretary, in consultation with the Council and relevant organizations, shall make a recommendation concerning the establishment of an alternative private system and concerning the specifications for such a system as described in paragraph (2)(B).

(b) STUDY OF STATE LICENSURE PROCESS.—

(1) IN GENERAL.—With respect to the licensure by the States of individuals to practice medicine, the Secretary, in consultation with the Council, shall conduct a study of not less than 10 States for the purpose of determining—

(A) the average length of time required for the States involved to process the licensure applications of domestic medical graduates and the average length of time required for the States to process the licensure applications of international medical graduates, and the reasons underlying any significant differences in such times; and

(B) the percentage of licensure applications from domestic medical graduates that are approved and the percentage of licensure applications from graduates of international medical schools that are approved, and the reasons underlying any significant differences in such percentages.

(2) REPORT.—Not later than September 30, 1994, the Secretary shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and

Commerce of the House of Representatives a report describing the findings made as a result of the study required in paragraph (1) for the fiscal year.

(c) DEFINITIONS.—For purposes of this section:

(1) COUNCIL.—The term "Council" means the National Advisory Council on Medical Licensure established in subsection (a)(1).

(2) DOMESTIC MEDICAL GRADUATE.—The term "domestic medical graduate" means an individual who is a graduate of a medical school located in the United States or Canada.

(3) INTERNATIONAL MEDICAL GRADUATE.—The term "international medical graduate" means an individual who is a graduate of a medical school located in a country other than the United States or Canada.

(4) MEDICAL SCHOOL.—The term "medical school" means a school of medicine or a school of osteopathic medicine, as such terms are defined in section 799 of the Public Health Service Act.

(5) NONDISCRIMINATORY.—The term "nondiscriminatory", with respect to policies and practices, means that such policies and practices do not discriminate on the basis of race, color, religion, gender, national origin, age, disability, marital status, or educational affiliation.

(6) PRIVATE CREDENTIALS VERIFICATION SYSTEM.—The term "private credentials verification system" means the system described in subsection (a)(2)(A) and established by the American Medical Association.

(7) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(8) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) NECESSARY RESOURCES.—The Secretary shall ensure that necessary resources are made available to implement the provisions of this section.

SEC. 308. REQUIRED ASSURANCES REGARDING BLOODBORNE DISEASES.

42 USC 295j note.

With respect to awards of grants or contracts under title VII or VIII of the Public Health Service Act, the Secretary of Health and Human Services may make such an award for the provision of traineeships only if the applicant for the award provides assurances satisfactory to the Secretary that all trainees will, as appropriate, receive instruction in the utilization of universal precautions and infection control procedures for the prevention of the transmission of bloodborne diseases.

SEC. 309. STUDY ON EFFECTIVENESS OF HEALTH PROFESSIONS PROGRAMS.

42 USC 292 note.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the programs carried out under titles VII and VIII of the Public Health Service Act (as amended by this Act) for the purpose of determining the effectiveness of such programs in—

(1) increasing the number of primary care providers (physicians, physician assistants, nurse midwives, nurse practitioners and general dentists), nurses and allied health personnel;

(2) improving the geographic distribution of health professionals in medically underserved and rural areas; and

(3) recruiting and retaining as students in health professions schools individuals who are members of a minority group.

(b) CERTAIN REQUIREMENTS.—The study conducted under subsection (a) shall determine—

(1) whether funding under title VII of the Public Health Service Act has increased the number of primary care practitioners (family medicine, general internal medicine, general pediatrics, general dentistry, and physician assistants) in medically underserved communities (as defined in section 799 of such Act);

(2) whether or not funding under such title VII has increased the number of allied health professionals in medically underserved or rural communities;

(3) whether or not funding under title VIII of such Act has increased the number of nurses in medically underserved or rural communities;

(4) whether or not the various mechanisms under such titles VII and VIII (such as scholarships, fellowships, traineeships, loan repayment programs, project grants, and education centers) have been effective in producing health care professionals who work or practice in medically underserved and rural communities and the relative impact or effectiveness of each mechanism;

(5) the duration of service in medically underserved communities (as defined in section 799 of such Act) of health professionals whose training was funded by such titles or who received financial incentives under such titles to practice in such communities;

(6) the geographic distribution of former trainees under such titles who are practicing in medically underserved communities (as so defined);

(7) with respect to the programs of such titles whose purpose is improving the health of individuals who are members of minority groups, whether such programs have had a significant impact on the number of such individuals entering the health professions; and

(8) such other factors as may be relevant to the reauthorization of such title VII or VIII.

(c) REPORT.—Not later than January 1, 1994, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Labor and Human Resources of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report describing the findings made as a result of the study and making such recommendations regarding the programs carried out under titles VII and VIII of the Public Health Service Act as the Comptroller General determines to be appropriate.

21 USC 343-1 note.

SEC. 310. DELAYED APPLICABILITY OF CERTAIN PROVISIONS.

Notwithstanding any other provision of law, section 403A(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343–1(a)(1)) shall not apply with respect to any requirement of any

State or political subdivision regarding maple syrup until September 1, 1994.

SEC. 311. CERTAIN APPLICATION PROCEDURES.

Section 633 of Public Law 100–607 (42 U.S.C. 295g–10a) is repealed.

SEC. 312. CERTAIN PROJECTS.

42 USC 300x note.

(a) IN GENERAL.—Section 205(a)(2)(B) of Public Law 102–321 is amended by adding at the end the following clause:

"(iii) In the case of amounts reserved under this subparagraph for programs of services in the city of San Francisco, California, the Secretary shall ensure that such amounts are administered by such city and shall authorize the city to select providers for such programs and determine the allocation of such payments among the providers.".

(b) CONFORMING AMENDMENT.—Section 205(a)(2)(B)(i) of Public Law 102–321 is amended—

(1) in subclause (I), by striking "clause (ii)" and inserting "clauses (ii) and (iii)"; and

(2) in subclause (II), by inserting ", subject to clause (iii)" before the period.

Approved October 13, 1992.

LEGISLATIVE HISTORY—H.R. 3508:

HOUSE REPORTS: Nos. 102-275 (Comm. on Energy and Commerce) and 102-925 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 12, considered and passed House.
Nov. 26, considered and passed Senate, amended.

Vol. 138 (1992): Sept. 25, Senate agreed to conference report.
Sept. 29, House agreed to conference report.

Public Law 102-409
102d Congress

An Act

Oct. 13, 1992
[H.R. 4178]

To amend the Public Health Service Act to provide for a program to carry out research on the drug known as diethylstilbestrol, to educate health professionals and the public on the drug, and to provide for certain longitudinal studies regarding individuals who have been exposed to the drug.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DES Education and Research Amendments of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "DES Education and Research Amendments of 1992".

SEC. 2. ESTABLISHMENT OF PROGRAM REGARDING DES.

Part A of title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended by adding at the end the following new section:

"DES

42 USC 283a.

"SEC. 403A. (a) The Director of NIH shall establish a program for the conduct and support of research and training, the dissemination of health information, and other programs with respect to the diagnosis and treatment of conditions associated with exposure to the drug diethylstilbestrol (in this section referred to as 'DES').

"(b) In carrying out subsection (a), the Director of NIH, after consultation with nonprofit private entities representing individuals who have been exposed to DES, shall conduct or support programs to educate health professionals and the public on the drug, including the importance of identifying and treating individuals who have been exposed to the drug.

"(c) After consultation with the Office of Research on Women's Health, the Director of NIH, acting through the appropriate national research institutes, shall in carrying out subsection (a) conduct or support one or more longitudinal studies to determine the incidence of the following diseases or disorders in the indicated populations and the relationship of DES to the diseases or disorders:

"(1) In the case of women to whom (on or after January 1, 1938) DES was administered while the women were pregnant, the incidence of all diseases and disorders (including breast cancer, gynecological cancers, and impairments of the immune system, including autoimmune disease).

"(2) In the case of women exposed to DES in utero, the incidence of clear cell cancer (including recurrences), the long-term health effects of such cancer, and the effects of treatments for such cancer.

"(3) In the case of men and women exposed to DES in utero, the incidence of all diseases and disorders (including impairments of the reproductive and autoimmune systems).

"(4) In the case of children of men or women exposed to DES in utero, the incidence of all diseases and disorders.

"(d) For purposes of this section, an individual shall be considered to have been exposed to DES in utero if, during the pregnancy that resulted in the birth of such individual, DES was (on or after January 1, 1938) administered to the biological mother of the individual.

"(e) In addition to any other authorization of appropriations available for the purpose of carrying out this section, there are authorized to be appropriated for such purpose such sums as may be necessary for each of the fiscal years 1993 through 1996.". Appropriation authorization.

Approved October 13, 1992.

LEGISLATIVE HISTORY—H.R. 4178 (S. 2837):

HOUSE REPORTS: No. 102-817 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 102-413 accompanying S. 2837 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 102-410
102d Congress

An Act

Oct. 13, 1992
[H.R. 5673]

To amend the Public Health Service Act to revise and extend the programs of the Agency for Health Care Policy and Research.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agency for Health Care Policy and Research Reauthorization Act of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE; AMENDATORY REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the "Agency for Health Care Policy and Research Reauthorization Act of 1992".

(b) AMENDATORY REFERENCES.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2. ESTABLISHMENT AND GENERAL AUTHORITIES.

(a) ESTABLISHMENT.—Section 901(b) (42 U.S.C. 299(b)) is amended by inserting after "improvements in clinical practice" the following: "(including the prevention of diseases and other health conditions)".

(b) GENERAL AUTHORITIES.—Section 902 (42 U.S.C. 299a) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b), the following subsection:

"(c) HEALTH SERVICES TRAINING GRANTS.—The Administrator may provide training grants in the field of health services research related to activities authorized under subsection (a), to include pre- and post-doctoral fellowships and training programs, young investigator awards, and other programs and activities as appropriate.".

SEC. 3. DISSEMINATION.

Section 903 (42 U.S.C. 299a–1) is amended by adding at the end the following subsection:

Establishment.

"(e) INFORMATION CENTER.—

"(1) IN GENERAL.—There shall be established at the National Library of Medicine an information center on health services research, and on selected technology assessments and clinical practice guidelines produced by the Agency and other public and private sources.

"(2) IDENTIFICATION SYSTEM.—The Administrator shall ensure that information under paragraph (1) concerning clinical practice guidelines is collected and maintained electronically and in a convenient format. The Administrator, in consultation with the Director of the National Library of Medicine, shall develop and publish criteria for the inclusion of practice guide-

lines and technology assessments in the information center database.

"(3) INTERAGENCY AGREEMENT.—The Administrator shall enter into an agreement providing for the implementation of paragraph (1) with the Director of the National Library of Medicine.".

SEC. 4. HEALTH CARE TECHNOLOGY ASSESSMENT.

(a) IN GENERAL.—Section 904 (42 U.S.C. 299a–2) is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following paragraph:

"(6) by conducting assessments and reassessments of existing and new health care technologies.";

(2) in subsection (b)(2)—

(A) by striking "cost-effectiveness,"; and

(B) by adding at the end the following sentence: "In carrying out such paragraph, the Administrator shall also consider the cost effectiveness of such technologies where cost information is available and reliable."; and

(3) in subsection (c) to read as follows:

"(c) AGENDA AND PRIORITIES.—

"(1) ESTABLISHMENT OF PRIORITIES.—In accordance with paragraph (2), the Administrator, in consultation with the Advisory Council established under section 921, shall establish an annual list of technology assessments under consideration by the Agency, including those assessments performed at the request of the Health Care Financing Administration and the Department of Defense and those assessments performed under subsections (d) and (f).

"(2) PUBLIC NOTICE.—The Administrator, in consultation with the Advisory Council, shall publish the list established in paragraph (1) annually in the Federal Register."; Federal Register, publication.

(4) in subsection (d), to read as follows:

"(d) CONDUCT OF ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator may conduct technology assessments in addition to those assessments performed at the request of the Administrator of the Health Care Financing Administration or of the Secretary of Defense.

"(2) CRITERIA.—The Administrator shall develop criteria for determining the priority of assessments performed under this subsection. Such criteria shall include—

"(A) the prevalence of the health condition for which the technology aims to prevent, diagnose, treat and clinically manage;

"(B) variations in current practice;

"(C) the economic burden posed by the prevention, diagnosis, treatment, and clinical management of the health condition, including the impact on publicly-funded programs;

"(D) aggregate cost of the use of technology;

"(E) the morbidity and mortality associated with the health condition; and

"(F) the potential of an assessment to improve health outcomes or affect costs associated with the prevention, diagnosis, or treatment of the condition."; and

(5) by adding at the end the following subsections:

"(e) DESCRIPTION OF PROCESS.—Not later than January 1, 1994, the Administrator shall develop and publish a description of the methodology used to establish priorities for technology assessment and the process used to conduct its technology assessments under this section.

"(f) PROGRAM OF INNOVATIVE ASSESSMENTS.—

"(1) IN GENERAL.—The Administrator may make grants to, or enter cooperative agreements or contracts with, entities described in paragraph (2) for the establishment of collaborative arrangements for the purpose of conducting assessments of experimental, emerging, existing, or potentially outmoded health care technologies, and for related activities. Such assessments may include controlled clinical trials, large simple trials, and other methodologies that can be conducted in partnership between the public and private sectors or among multiple government agencies.

"(2) ELIGIBLE ENTITIES.—The entities referred to in paragraph (1) are entities determined to be appropriate by the Administrator, which entities may include academic medical centers, research institutions, nonprofit professional organizations, public or private third party payers, other governmental agencies, and consortia of appropriate research entities established for the purpose of conducting technology assessments.

"(3) USE OF AWARD.—A grant, cooperative agreement, or contract under paragraph (1) may be expended for data collection, data analysis, protocol development, report development, dissemination and evaluation, and other activities determined to be appropriate by the Administrator. Such funds shall not be used for direct services.

"(4) APPLICATION FOR AWARD.—To be eligible to receive a grant, cooperative agreement, or contract under paragraph (1), an entity shall prepare and submit to the Administrator an application, at such time, in such form, and containing such information as the Administrator may require.

"(5) INTERAGENCY MEMORANDA OF UNDERSTANDING.—In carrying out paragraph (1), the Administrator may enter into memoranda of understanding with the heads of other Federal agencies.".

42 USC 299a-2 note.

(b) REPORT REGARDING INNOVATIVE ASSESSMENTS.—Not later than January 1, 1994, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report concerning the program established in section 904(f) of the Public Health Service Act (as added by subsection (a) of this section), including the plan of such Administrator for implementing the program.

SEC. 5. FORUM FOR QUALITY AND EFFECTIVENESS IN HEALTH CARE.

(a) REQUIREMENTS FOR GUIDELINES, STANDARDS, PERFORMANCE MEASURES, AND REVIEW CRITERIA.—

(1) ADDITIONAL REQUIREMENTS.—Section 912(b) (42 U.S.C. 299b–1) is amended—

(A) in paragraph (2), by striking "and" after the semicolon at the end;

(B) in paragraph (3), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following paragraphs:

"(4) include information on risks and benefits of alternative strategies for prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition; and

"(5) include information on the costs of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or other health condition, where cost information is available and reliable.".

(2) STUDY.— 42 USC 299b-1 note.

(A) To assist in carrying out the requirements of section 912(b)(4) of the Public Health Service Act, as added by paragraph (1) of this subsection, the Administrator for Health Care Policy and Research shall conduct or support a study to develop methods for collecting and analyzing primary and secondary data to be used in generating cost estimates of alternative strategies for the prevention, diagnosis, treatment, and management of a given disease, disorder, or the health condition to be included in guideline documents.

(B) Not later than June 1, 1994, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the study conducted under subparagraph (A). Reports.

(b) ADMINISTRATION OF OFFICE.—Section 911 (42 U.S.C. 299b) is amended by adding at the end the following sentence: "The Administrator shall carry out this part acting through the Director.".

(c) CONFORMING AMENDMENTS.—Part B of title IX (42 U.S.C. 299b et seq.) is amended—

(1) in section 912— 42 USC 299b-1.

(A) in subsection (a)—

(i) in the first sentence, by striking "The" and all that follows through "shall" and inserting "The Administrator shall"; and

(ii) in the second sentence, by striking "Director" and inserting "Administrator"; and

(B) in subsection (c), by striking "Director" and inserting "Administrator";

(2) in section 913— 42 USC 299b-2.

(A) in subsection (a), in the matter preceding paragraph (1), by striking "Director" and inserting "Administrator";

(B) in subsection (b), in the matter preceding paragraph (1), by striking "Director" and inserting "Administrator"; and

(C) in subsection (c), by striking "Director" each place such term appears and inserting "Administrator"; and

(3) in section 914— 42 USC 299b-3.

(A) in subsection (b)—

(i) in paragraph (1), by striking "Director" and inserting "Administrator";

(ii) in paragraph (2), by striking "Director" and inserting "Administrator";

(iii) in paragraph (3), in the matter preceding subparagraph (A), by striking "Director" and inserting "Administrator"; and

(iv) in paragraph (4), by striking "Director" and inserting "Administrator";

(B) in subsection (c), in the first sentence, by striking "Director" and inserting "Administrator";

(C) in subsection (d), in the first sentence, by striking "Director" and inserting "Administrator"; and

(D) in subsection (e), by striking "Director" and inserting "Administrator".

(d) PEER REVIEW WITH RESPECT TO GRANTS AND CONTRACTS.—

(1) ESTABLISHMENT OF PEER REVIEW GROUPS.—Section 922(c)(2) (42 U.S.C. 299c–1(c)(2)) is amended—

(A) by striking "from among individuals" and all that follows through "virtue" and inserting "from among individuals who by virtue"; and

(B) by adding at the end the following sentences: "Officers and employees of the United States may not constitute more than 25 percent of the membership of any such group. Such officers and employees may not receive compensation for service on such groups in addition to the compensation otherwise received for duties carried out as such officers and employees.".

(2) CATEGORIES OF REVIEW.—Section 922(d)(1) (42 U.S.C. 299c–1(d)(1)) is amended to read as follows:

"(1) IN GENERAL.—With respect to technical and scientific peer review under this section, there shall be two categories of peer review groups as follows:

"(A) One category of such groups shall, subject to subparagraph (B), review applications with respect to research, demonstration projects, or evaluations.

"(B) The other category of such groups shall review applications with respect to dissemination activities or the development of research agendas (including conferences, workshops, and meetings). If the purpose of a proposal presented in an application is a matter described in the preceding sentence, the application shall be reviewed by the groups referred to in such sentence, notwithstanding that the proposal involves research, demonstration projects, or evaluations.".

(e) CERTAIN PROVISIONS WITH RESPECT TO DEVELOPMENT, COLLECTION, AND DISSEMINATION OF DATA.—Section 923 (42 U.S.C. 299c–2) is amended by adding at the end the following subsection:

"(c) AUTHORITY REGARDING CERTAIN REQUESTS.—Upon the request of a public or nonprofit private entity, the Administrator may tabulate and analyze statistics under arrangements under which such entity will pay the cost of the service provided. Amounts appropriated to the Administrator from payments made under such arrangements shall be available to the Administrator for obligation until expended.".

(f) PROCESS FOR DEVELOPMENT OF GUIDELINES AND STANDARDS.—

(1) MEMBERSHIP OF PANELS.—

(A) Section 913(c) (42 U.S.C. 299b–2(c)) is amended—

(i) by inserting after the subsection designation the following sentence: "The Administrator shall select the chairpersons and the members of the panels convened as well as other participants in the guideline process under this section."; and

(ii) by adding at the end the following sentences: "In making such selections, the Administrator shall ensure that a balance is maintained between individuals selected from academic settings and individuals selected without full-time academic appointments. At least two other members of such panels shall be individuals who do not derive their primary source of revenue directly from the performance of procedures discussed in the guideline. The Administrator shall ensure that at least one participant in the guideline process shall have expertise in epidemiology as well as familiarity with the clinical condition or treatment in question. The Administrator shall also ensure that at least one participant in the guideline process shall have expertise in health services research or health economics as well as familiarity with the clinical condition or treatment in question.".

(B) The amendments made by subparagraph (A) shall apply only with respect to panels convened under section 913 of the Public Health Service Act on or after the date of enactment of this Act. 42 USC 299b-2 note.

(2) STUDY OF PROCESS.— 42 USC 299b-2 note.

(A) The Administrator for Health Care Policy and Research shall conduct or support a study to evaluate the process described in section 913 of the Public Health Service Act for the development of guidelines, standards, and review criteria. The evaluation shall address—

(i) the optimal methods for setting priorities for guideline topics;

(ii) the different methods for generating guidelines, comparing the cost of producing the guidelines and the validity and utility of the guidelines produced; and

(iii) the methods for assessing the quality of practice guidelines, including an evaluation of the validity, reliability, and impact of the guidelines.

(B) Not later than June 1, 1995, the Administrator for Health Care Policy and Research shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report concerning the study conducted under subparagraph (A). Reports.

SEC. 6. PREVENTION.

(a) PROGRAM AGENDA.—Section 914(a)(2)(A) (42 U.S.C. 299b-3(a)(2)(A)) is amended—

(1) by striking clause (i);

(2) by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively; and

(3) by inserting before clause (iii) (as so redesignated) the following clauses:

"(i) to improve methods for disease prevention;

"(ii) to improve methods of diagnosis, treatment, and clinical management for the benefit of a significant number of individuals;"; and

(b) DUTIES.—Section 912 (42 U.S.C. 299b–1) is amended by adding at the end the following subsection:

"(f) DEVELOPMENT OF CERTAIN GUIDELINES AND STANDARDS.—Not later than January 1, 1996, the Administrator shall ensure that a set of guidelines, standards, performance measures, and review criteria, are developed under subsection (a)(1) that address the prevention of not fewer than three conditions that account for significant national health expenditures. In carrying out this subsection the Administrator shall consult with the United States Preventive Services Task Force and other recognized experts in the field of disease prevention.".

SEC. 7. ADDITIONAL REQUIREMENTS.

Section 914 (42 U.S.C. 299b–3) is amended—

(1) in subsection (a)(2), by adding at the end the following subparagraph:

"(C) The Administrator shall develop and publish a methodology for establishing priorities for guideline topics. Such methodology may include the considerations described in section 904(c)(2) or 914(a)(2), and other considerations determined by the Administrator to be appropriate. Using such methodology, the Administrator shall establish and publish annually in the Federal Register a list of guideline topics under consideration."; and

Federal Register, publication.

(2) in subsection (e), by adding at the end the following sentence: "Evaluations shall be developed prior to the completion and release of the guideline, so that baseline data concerning practice patterns and health care costs may be obtained as part of the evaluation.".

SEC. 8. ADVISORY COUNCIL.

Section 921 (42 U.S.C. 299c) is amended—

(1) by striking subsection (d);

(2) by redesignating subsections (e) through (k) as subsections (d) through (j), respectively; and

(3) in subsection (e) (as so redesignated), by striking "subsection (e)" and inserting "subsection (d)".

SEC. 9. FINANCIAL CONFLICTS OF INTEREST.

Section 924 (42 U.S.C. 299c–3) is amended—

(1) by redesignating subsections (a) through (c) as subsections (b) through (d), respectively; and

(2) by inserting before subsection (b) (as so redesignated) the following subsection:

"(a) FINANCIAL CONFLICTS OF INTEREST.—With respect to projects for which awards of grants, cooperative agreements, or contracts are authorized to be made under this title, the Administrator shall by regulation define—

"(1) the specific circumstances that constitute financial interests in such projects that will, or may be reasonably expected to, create a bias in favor of obtaining results in the projects that are consistent with such interests; and

"(2) the actions that will be taken by the Administrator in response to any such interests identified by the Administrator.".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 926 (42 U.S.C. 299c–5) is amended—

(1) in subsection (a), to read as follows:

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this title, there are authorized to be appropriated $115,000,000 for fiscal year 1993, $145,000,000 for fiscal year 1994, and $175,000,000 for fiscal year 1995."; and

(2) by adding at the end the following subsections:

"(c) INFORMATION CENTER.—For purposes of carrying out the activities under section 903(e), there are authorized to be appropriated $3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(d) HEALTH CARE TECHNOLOGY ASSESSMENT.—For the purpose of carrying out technology assessment activities under section 904(d), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(e) PROGRAM OF INNOVATIVE ASSESSMENTS.—For purposes of establishing the program of innovative assessments under section 904(f), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary in each of the fiscal years 1994 and 1995.".

SEC. 11. EMERGENCY MEDICAL SERVICE FOR CHILDREN.

Section 1910 (42 U.S.C. 300w–9) is amended—

(1) in subsection (a), by striking "not more than four grants in any fiscal year" and inserting "grants"; and

(2) in subsection (d)—

(A) by striking "and $5,000,000" and inserting "$5,000,000"; and

(B) by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1993 through 1997".

Approved October 13, 1992.

LEGISLATIVE HISTORY—H.R. 5673:

HOUSE REPORTS: No. 102-892 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 22, 24, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 102-411
102d Congress

An Act

Oct. 14, 1992
[H.R. 5925]

To amend title VII of the Civil Rights Act of 1964 to establish a revolving fund for use by the Equal Employment Opportunity Commission to provide education, technical assistance, and training relating to the laws administered by the Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992.
42 USC 200a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "EEOC Education, Technical Assistance, and Training Revolving Fund Act of 1992".

SEC. 2. REVOLVING FUND.

Section 705 of the Civil Rights Act of 1964 (42 U.S.C. 2000e–4) is amended by adding at the end the following:

"(k)(1) There is hereby established in the Treasury of the United States a revolving fund to be known as the 'EEOC Education, Technical Assistance, and Training Revolving Fund' (hereinafter in this subsection referred to as the 'Fund') and to pay the cost (including administrative and personnel expenses) of providing education, technical assistance, and training relating to laws administered by the Commission. Monies in the Fund shall be available without fiscal year limitation to the Commission for such purposes.

"(2)(A) The Commission shall charge fees in accordance with the provisions of this paragraph to offset the costs of education, technical assistance, and training provided with monies in the Fund. Such fees for any education, technical assistance, or training—

"(i) shall be imposed on a uniform basis on persons and entities receiving such education, assistance, or training,

"(ii) shall not exceed the cost of providing such education, assistance, and training, and

"(iii) with respect to each person or entity receiving such education, assistance, or training, shall bear a reasonable relationship to the cost of providing such education, assistance, or training to such person or entity.

"(B) Fees received under subparagraph (A) shall be deposited in the Fund by the Commission.

"(C) The Commission shall include in each report made under subsection (e) information with respect to the operation of the Fund, including—

"(i) the identity of each person or entity to which the Commission provided education, technical assistance, or training with monies in the Fund, in the fiscal year for which such report is prepared,

"(ii) the cost to the Commission to provide such education, technical assistance, or training to such person or entity, and

"(iii) the amount of any fee received by the Commission from such person or entity for such education, technical assistance, or training.

"(3) The Secretary of the Treasury shall invest the portion of the Fund not required to satisfy current expenditures from the Fund, as determined by the Commission, in obligations of the United States or obligations guaranteed as to principal by the United States. Investment proceeds shall be deposited in the Fund. Securities.

"(4) There is hereby transferred to the Fund $1,000,000 from the Salaries and Expenses appropriation of the Commission.".

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.R. 5925:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 16, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 102-412
102d Congress

Joint Resolution

Oct. 14, 1992
[H.J. Res. 320]

Authorizing the government of the District of Columbia to establish, in the District of Columbia or its environs, a memorial to African-Americans who served with Union forces during the Civil War.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

40 USC 1003 note.

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—Tne government of the District of Columbia is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor African-Americans who served with Union forces during the Civil War.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001 et seq.).

40 USC 1003 note.

SEC. 2. PAYMENT OF EXPENSES.

The government of the District of Columbia shall be solely responsible for payment, from official funds and charitable donations, of the expenses of the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.J. Res. 320:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 9, considered and passed House.
Oct. 1, considered and passed Senate.

Public Law 102-413
102d Congress

Joint Resolution

Designating the week beginning November 8, 1992, as "Hire a Veteran Week".

Oct. 14, 1992
[H.J. Res. 542]

Whereas the people of the United States have a deep appreciation and respect for the men and women who serve our Nation in the Armed Forces;

Whereas, although veterans possess special qualities and skills which make them ideal candidates for employment, many veterans encounter difficulties in securing employment;

Whereas military spending cuts and reductions-in-force in the Armed Forces will send tens of thousands of veterans looking for employment in the job market;

Whereas it would be inconsiderate and contrary to the economic competitiveness of our Nation to neglect the post-military needs of the men and women who served our Nation in the Armed Forces; and

Whereas the Department of Veterans Affairs, the Department of Labor, the Office of Personnel Management, and many State and local governments administer veterans programs and have veterans employment representatives both to ensure that veterans receive the services to which they are entitled and to promote employer interest in hiring veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8, 1992, is hereby designated as "Hire a Veteran Week", and the President is authorized and requested to issue a proclamation calling upon employers, labor organizations, veterans organizations, and Federal, State, and local governmental agencies to lend their support to the campaign to increase employment of the men and women who have served our Nation in the Armed Forces.

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.J. Res. 542:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 3, considered and passed Senate.

Public Law 102-414
102d Congress

An Act

Oct. 14, 1992
[S. 3195]

To require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the United States' involvement in World War II.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

World War II 50th Anniversary Commemorative Coins Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "World War II 50th Anniversary Commemorative Coins Act".

31 USC 5112 note.

SEC. 2. FINDINGS AND SENSE OF THE CONGRESS.

(a) FINDINGS.—The Congress finds that—

(1) the period of December 7, 1991, through September 2, 1995, will mark the 50th anniversary of the involvement of the United States in World War II;

(2) over 16,000,000 people served in the Armed Forces of the United States during that conflict;

(3) over 400,000 American men and women gave their lives in defense of freedom around the world during World War II;

(4) World War II fundamentally reshaped the international geopolitical landscape, as well as the economic, political, and cultural institutions of our Nation;

(5) the War involved a clear choice between democracy and tyranny and involved our Nation as a whole in a worldwide battle against the forces of fascism and oppression;

(6) the June 6, 1944, invasion of northern France, when in one day 176,000 Allied military personnel were landed on the beaches of Normandy, was one of World War II's most celebrated achievements;

(7) the "D-Day" invasion was the largest seaborne invasion in history, and the ensuing 76-day Battle of Normandy was one of the largest land battles in history;

(8) the Battle of Normandy was a key to the Allied forces' eventual liberation of Europe; and

(9) numerous organizations and individuals across the United States have expressed interest in or are engaged in efforts to draw attention to the 50th anniversary of World War II.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress—

(1) that the 50th anniversary of the involvement of the United States in World War II, the Battle of Normandy, and its other important battles should not go unrecognized at the national level;

(2) that the United States should recognize these anniversaries by minting and issuing coins to commemorate these anniversaries; and

(3) the minting of a United States coin to commemorate the Battle of Normandy and "D-Day" would be an appropriate

concomitance to the commitment by the Republic of France that it will mint a French commemorative coin in recognition of the anniversary.

SEC. 3. WORLD WAR II COMMEMORATIVE COINS. 31 USC 5112 note.

The Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue coins in accordance with this Act to commemorate the 50th anniversary of the involvement of the United States in World War II.

SEC. 4. SPECIFICATIONS OF COINS. 31 USC 5112 note.

(a) DENOMINATIONS.—The Secretary shall mint and issue the following coins:

(1) FIVE DOLLAR GOLD COINS.—Not more than 300,000 five dollar gold coins, each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) ONE DOLLAR SILVER COINS.—Not more than 1,000,000 one dollar silver coins, each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(3) HALF DOLLAR CLAD COINS.—Not more than 2,000,000 half dollar coins, each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

SEC. 5. SOURCES OF BULLION. 31 USC 5112 note.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act.

SEC. 6. DESIGN OF COINS. 31 USC 5112 note.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins authorized under this Act shall, in accordance with subsection (b), be symbolic of the participation of the United States in World War II. In addition, the design of the gold coin authorized under section 4(a)(1) shall be emblematic of the Allied victory in World War II, and the silver coin authorized under section 4(a)(2) shall be emblematic of the Battle of Normandy.

(2) DESIGNATIONS AND INSCRIPTIONS.—Each coin authorized under this Act shall bear a designation of the value of the coin, an inscription of the years "1991–1995", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum". In addition, the silver coin authorized under section 4(a)(2) may bear a designation

of the date "June 6, 1944" and an inscription of the words "Battle of Normandy" or "D-Day Invasion".

(b) DESIGN COMPETITION.—The Secretary shall sponsor a nationwide open competition for the design of each coin authorized by this Act.

(c) SELECTION.—The design for each coin authorized by this Act shall be selected by the Secretary from the results of the design competition under subsection (b), after consultation with—

(1) representatives of veterans organizations of the United States whose membership includes veterans of World War II, including—

(A) the American Legion;

(B) the Veterans of Foreign Wars of the United States;

(C) AMVETS (American Veterans of World War II, Korea, and Vietnam); and

(D) the Disabled American Veterans; and

(2) in the case of the one dollar silver coin authorized under section 4(a)(2), the Battle of Normandy Foundation and individuals designated by the Foundation from among individuals who are particularly knowledgeable, by reason of their education, training, or experience, about the history of World War II.

31 USC 5112 note.

SEC. 7. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act may be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality for the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning on January 1, 1993.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after December 31, 1993.

(e) PROMOTION CONSULTATION FOR WORLD WAR II MEMORIAL.—The Secretary shall determine the role that the American Battle Monuments Commission (hereafter referred to as the "Commission") and any entity established by the Congress to assist the Commission in erecting a World War II memorial will have in the promotion, advertising, or marketing of coins authorized under this Act. This determination shall be made in consultation with the Commission and any other such entity. The Secretary may enter into a contract involving the promotion, advertising, or marketing of such coins with the Commission and such other entity if the Secretary determines that such a contract would be beneficial in the sale of the coins.

(f) PROMOTION CONSULTATION FOR NORMANDY MEMORIAL.—In consultation with the Battle of Normandy Foundation, the Secretary shall determine the role such entity shall have in the promotion, advertising, or marketing of the coins authorized under this Act. The Secretary shall enter into a contract involving the promotion, advertising, or marketing of such coins with the Foundation if the Secretary determines that such a contract would be beneficial in the sale of the coins.

Contracts.

31 USC 5112 note.

SEC. 8. SALE OF COINS.

(a) IN GENERAL.—The Secretary shall sell coins minted under this Act at a price equal to the sum of the face value of the coins, the surcharge provided in subsection (d) with respect to

such coins, and the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $8 per coin for the one dollar coins, and $2 per coin for the half dollar coins.

SEC. 9. FINANCIAL ASSURANCES.

31 USC 5112 note.

(a) NO NET COST TO GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the Federal Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Government.

SEC. 10. USE OF SURCHARGES.

31 USC 5112 note.

(a) SPLIT OF SURCHARGES BETWEEN BATTLE OF NORMANDY MEMORIAL AND WORLD WAR II MEMORIAL.—Surcharges received from the sale of coins minted under this Act shall be distributed by the Secretary as follows:

(1) BATTLE OF NORMANDY FOUNDATION.—The first $3,000,000 received from the sale of coins shall be transferred to the Battle of Normandy Foundation and used to create, to endow, and to dedicate, on the 50th Anniversary of D-Day, a United States D-Day and Battle of Normandy Memorial in Normandy, France, adjacent to the largest World War II Museum in the world in Caen, France, and to encourage and support visits to the memorial by United States citizens, and especially students.

(2) AMERICAN BATTLE MONUMENTS COMMISSION.—The first $7,000,000 received from the sale of coins after the $3,000,000 referred to in paragraph (1) shall be deposited by the Secretary, subject to subsection (b)(2), in the fund established in the Treasury which is available to the American Battle Monuments Commission for the expenses incurred in establishing a memorial on Federal land in the District of Columbia or its environs to honor members of the Armed Forces of the United States who served in World War II and to commemorate the participation of the United States in that war.

(3) DISTRIBUTION OF EXCESS.—Of the amounts received from the sale of coins in excess of $10,000,000—

(A) 30 percent shall be transferred to the Battle of Normandy Foundation and used in the manner provided in paragraph (1); and

(B) 70 percent shall be deposited by the Secretary, subject to subsection (b)(2), in the fund described in paragraph (2).

(b) USE OF FUNDS IF NOT USED FOR MEMORIAL.—

(1) BATTLE OF NORMANDY MEMORIAL.—Of the amounts received by the Battle of Normandy Foundation under this section, any amount in excess of the amount spent by the Foundation for the uses described in subsection (a)(1) shall be transferred to the Secretary for deposit in the account provided for in section 8(b)(1) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" and approved November 14, 1986, in the same manner as provided by law for the World War II memorial described in subsection (a)(2).

(2) WORLD WAR II MEMORIAL.—If the World War II memorial described in subsection (a)(2) is not authorized by Congress by December 31, 1995, the amounts described in paragraphs (2) and (3)(B) of subsection (a) shall be deposited by the Secretary in the account described in paragraph (1) of this subsection.

(c) AUDITS.—The Comptroller General of the United States shall conduct an annual audit of any books, records, documents, and other data—

(1) belonging to the Battle of Normandy Foundation, the American Battle Monuments Commission, and any agency or organization which receives any amount from the fund described in subsection (a); and

(2) relating to the expenditure of any amount received under subsection (a) or from the fund,

until all amounts received by the foundation, commission, agency, or organization under subsection (a) or from the fund have been spent and the expenditure of such amounts has been audited.

31 USC 5112 note.

SEC. 11. REPORT TO CONGRESS.

Not later than March 31, 1994, the Secretary shall submit to the Congress a report regarding the activities carried out under this Act.

31 USC 5112 note.

SEC. 12. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act relating to the minting or selling of the coins authorized by this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

31 USC 5112 note.

SEC. 13. COINAGE PROFIT FUND.

(a) DEPOSITS.—All amounts received from the sale of coins issued under this Act shall be deposited in the coinage profit fund.

(b) PAYMENTS.—The Secretary shall pay the amounts authorized under section 10 from the coinage profit fund.

(c) EXPENDITURES.—The Secretary shall charge the coinage profit fund with all expenditures under this Act.

Approved October 14, 1992.

LEGISLATIVE HISTORY—S. 3195:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 18, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 102-415
102d Congress

An Act

Oct. 14, 1992
[H.R. 3157]

To provide for the settlement of certain claims under the Alaska Native Claims Settlement Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alaska Land Status Technical Corrections Act of 1992. 43 USC 1601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Land Status Technical Corrections Act of 1992".

SEC. 2. FORT DAVIS NATIVE ALLOTMENT.

Section 905(a)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634(a)(1)) is amended—

(1) by inserting "(A)" after "(1)";

(2) by inserting "or within Fort Davis (except as provided in subparagraph (B))" after "Naval Petroleum Reserve No. 4)"; and

(3) by adding at the end the following new subparagraph:

"(B) The land referred to in subparagraph (A) with respect to Fort Davis—

"(i) shall be restricted to—

"(I) the allotment applications named in the decision published at 96 IBLA 42 (1987) and to the acreage involved in those applications; or

"(II) the heirs of an applicant who made an application described in subclause (I); and

"(ii) shall be subject to valid existing rights and an easement for the Iditarod National Historic Trail established by section 5(a)(7) of the National Trails System Act (16 U.S.C. 1244(a)(7)), but pending final determination of the trail's location, the easement shall be located on an interim basis by the Secretary, in consultation with the Iditarod Historic Trail Advisory Council.".

SEC. 3. NATIVE ALLOTMENT RELOCATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following new subsection:

"(c)(1)(A) Notwithstanding any other provision of law, an allotment applicant, who had a valid application pending before the Department of the Interior on December 18, 1971, and whose application remains pending as of the date of enactment of this subsection, may amend the land description in the application of the applicant (with the advice and approval of the responsible officer of the Bureau of Indian Affairs) to describe land other than the land that the applicant originally intended to claim if—

"(i) the application pending before the Department, either describes land selected by, tentatively approved to, or patented to the State of Alaska or otherwise conflicts with an interest

in land granted to the State of Alaska by the United States prior to the filing of the allotment application;

"(ii) the amended land description describes land selected by, tentatively approved to, or patented to the State of Alaska of approximately equal acreage in substitution for the land described in the original application; and

"(iii) the Commissioner of the Department of Natural Resources for the State of Alaska, acting under the authority of State law, has agreed to reconvey or relinquish to the United States the land, or interest in land, described in the amended application.

"(B) If an application pending before the Department of the Interior as described in subparagraph (A) describes land selected by, but not tentatively approved to or patented to, the State of Alaska, the concurrence of the Secretary of the Interior shall be required in order for an application to proceed under this section.

"(2)(A) The Secretary shall accept reconveyance or relinquishment from the State of Alaska of the land described in an amended application pursuant to paragraph (1)(A), except where the land described in the amended application is State-owned land within the boundaries of a conservation system unit as defined in the Alaska National Interest Lands Conservation Act. Upon acceptance, the Secretary shall issue a Native Allotment certificate to the applicant for the land reconveyed or relinquished by the State of Alaska to the United States.

"(B) The Secretary shall adjust the computation of the acreage charged against the land entitlement of the State of Alaska to ensure that this subsection will not cause the State to receive either more or less than its full land entitlement under section 6 of the Act entitled 'An Act to provide for the admission of the State of Alaska into the Union', approved July 7, 1958 (commonly referred to as the 'Alaska Statehood Act'), and section 906 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635). If the State retains any part of the fee estate, the State shall remain charged with the acreage.".

SEC. 4. GIFT OF STOCK TO SIBLINGS.

Section 7(h)(1)(C)(iii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(h)(1)(C)(iii)) is amended by striking "or nephew" and inserting "nephew, or (if the holder has reached the age of majority as defined by the laws of the State of Alaska) brother or sister".

SEC. 5. SHAREHOLDER HOMESITE.

Section 21(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(j)) is amended—

(1) by striking "prior to December 18, 1991,"; and

(2) by striking "*Provided*, That" and inserting "*Provided*, That alienability of the Settlement Common Stock of the Corporation has not been terminated pursuant to section 37: *Provided further*, That".

SEC. 6. CHUGACH NATIONAL FOREST BOUNDARY CHANGE.

16 USC 539 note.

(a) BOUNDARY ADJUSTMENT.—The boundary of the Chugach National Forest, Alaska, is modified to include the approximately 9,300 acres as generally depicted on the map entitled "Official Map, Boundary Modification, Chugach National Forest" and dated September 1988. The map shall be on file and available for public

inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(b) ADMINISTRATION.—Subject to valid existing rights, all Federal lands brought within the boundary of the Chugach National Forest by subsection (a) are added to and shall be administered as part of the Chugach National Forest.

(c) TERMS AND CONDITIONS.—(1) Nothing in this Act shall be construed to affect the validity of, or the terms and conditions of, any right-of-way, easement, lease, license, or permit on lands transferred by this section that is in existence on the date of enactment of this Act.

(2) Notwithstanding any other provision of law, the Secretary of the Interior shall delegate, as necessary, to the Secretary of Agriculture the authority to renew or reissue the authorizations described in paragraph (1). The change of administrative jurisdiction over these lands resulting from subsection (a) shall not constitute a ground for the denial of renewal or reissuance of the authorizations described in paragraph (1).

(d) LAND AND WATER CONSERVATION FUND ACT.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–9), the boundary of the Chugach National Forest, as modified by this section, shall be treated as if it were the boundary of the Chugach National Forest as of January 1, 1965.

SEC. 7. RABBIT CREEK LIONS CLUB.

(a) CONVEYANCE.—Pursuant to the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes", approved June 14, 1926 (43 U.S.C. 869 et seq.) (commonly referred to as the "Recreation and Public Purposes Act"), and other laws of the United States, the Secretary of the Interior shall, upon payment to the Secretary of an amount equal to the fair market value of the lot, convey lot 253, Township 12 North, Range 3 West, Seward Meridian, Alaska, containing .93 acres, to the Rabbit Creek Lions Club. The conveyance shall—

(1) preserve valid existing rights-of-way and easements; and

Minerals and mining.

(2) reserve all minerals to the United States.

(b) APPRAISAL.—The appraisal to determine the fair market value of the lot shall be conducted in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and shall not include any improvements currently on the lot.

SEC. 8. ISSUANCE OF NEW STOCK.

Section 7(g)(1)(B)(i)(I) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(B)(i)(I)) is amended by adding at the end the following: "and, at the further option of the Corporation, descendants of Natives born after December 18, 1971,".

43 USC 1852 note.

SEC. 9. UNIVERSITY OF ALASKA.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey to the University of Alaska, by quitclaim deed and without consideration, all the right, title, and interest of the United States in and to—

(1) the lands of the University of Alaska Agricultural Experiment Station, consisting of approximately 16 acres,

including improvements on the lands, located at Palmer and Matanuska, Alaska; and

(2) the lands of the University of Alaska Fur Farm Experiment Station, consisting of approximately 37 acres, including improvements on the lands, located at Petersburg, Alaska, subject to the terms of—

(A) the lease between the Forest Service and the University of Alaska dated March 29, 1978; and

(B) the agreement between the parties listed in subparagraph (A) dated March 2, 1983.

SEC. 10. MINORITY BUSINESS.

Section 29(e) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(e)) is amended by inserting "and economically disadvantaged" after "minority" each place it appears in paragraphs (1) and (2).

SEC. 11. SHAREHOLDER HIRE.

Section 29(g) of the Alaska Native Claims Settlement Act (43 U.S.C. 1626(g)) is amended—

(1) by striking "defined in" and inserting "of entities excluded from the definition of 'employer' by"; and

(2) by striking "section 701(b)" and inserting "section 701(b)(1)".

SEC. 12. ALASKA NATIVE ALLOTMENTS.

Section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) is amended by adding at the end the following new subsection:

"(f)(1)(A) Notwithstanding paragraphs (1) and (6) of subsection (a), and subject to subparagraph (B), each Alaska Native allotment application made pursuant to the Act entitled 'An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska', approved May 17, 1906 (34 Stat. 197), that—

"(i) was pending before the Department of the Interior on or before December 18, 1971; and

"(ii) describes lands within the National Petroleum Reserve-Alaska that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation,

is reinstated only for the purpose of this section, subject to this section.

"(B) The reinstatement under subparagraph (A) shall be carried out regardless of whether the application was—

"(i) relinquished by the applicant; or

"(ii) denied by the Department of the Interior, if the denial was based solely on the grounds that land within the National Petroleum Reserve-Alaska was unavailable.

"(2)(A) To the extent that the application describes lands (or any interest in the lands) that have been selected, interim conveyed, or patented to a Village Corporation or Regional Corporation, the Secretary is authorized to accept from the Village Corporation or Regional Corporation the reconveyance or relinquishment of the lands (or any interest in the lands).

"(B)(i) To the extent that the application describes lands (or any interest in the lands) that a Village Corporation is not willing to reconvey or relinquish pursuant to subparagraph (A), the applicant may relinquish any claim to any portion of the lands (or any interest in the lands) or may, with the consent of the

affected Village Corporation, amend the application to exclude the lands and include in lieu thereof a description of lands selected by, interim conveyed to, or patented to the Village Corporation of an acreage that is not to exceed the amount of land relinquished.

"(ii) The Secretary is authorized to accept the reconveyance or relinquishment of the lands (or any interest in the lands) described in the amended application from the Village Corporation or Regional Corporation in lieu of the lands (or any interest in the lands) described in the initial application.

"(C) If a Village Corporation or Regional Corporation reconveys lands (or any interest in the lands) to the United States under subparagraph (A) or (B), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation or Regional Corporation.

"(D) The authority of the Secretary to accept the reconveyance or relinquishment of lands (or any interest in the lands) under this paragraph shall terminate on the date that is 6 years after the date of enactment of this subsection.

"(3)(A) Subject to any valid existing rights, to the extent that the application describes lands that are authorized to be reconveyed or relinquished to the United States under paragraph (2), the Village Corporation shall file with the Secretary, not later than 3 years after the date of enactment of this subsection, the name of the applicant and the land description of each allotment proposed to be reconveyed or relinquished.

"(B) Upon receipt of the land description, the Secretary shall immediately notify the State of Alaska and all interested parties of the land description proposed to be reconveyed or relinquished, and any such party shall have 60 days following notification in which to file with the Department of the Interior a protest as provided in subsection (a)(5).

"(C) The Secretary shall then either—

"(i) if no protest is filed, approve the application; or

"(ii) if a protest is filed, adjudicate the legal sufficiency of any protest timely filed; and—

"(I) if the protest is legally insufficient, approve the application; or

"(II) if the protest is valid, issue a decision that closes the application and that is final for the Department.

"(D) The Secretary shall, with respect to each allotment approved pursuant to this subsection—

"(i) survey the allotment; and

"(ii) following reconveyance or relinquishment, issue a Native allotment certificate to the applicant or heirs of the applicant.

"(4)(A) To the extent a Village Corporation or a Regional Corporation reconveys lands (or any interest in the lands) to the United States pursuant to paragraph (2) and the conveyance results in a reduction in the acreage charged against the entitlement of the Village Corporation or Regional Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), the Village Corporation or Regional Corporation shall be entitled to make selections in lieu of the reconveyed lands (or any interest in the lands).

"(B)(i) The quantity of acreage of the surface estate reconveyed pursuant to paragraph (2) shall be added to the quantity of acreage of underselection, if any, for the Village Corporation. The Secretary shall provide for the selection of lands for replacement in accordance

with the procedures for withdrawals and selections under section 22(j)(2) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)(2)).

"(ii)(I) A Village Corporation described in clause (i) shall be entitled to select lands for replacement from the lands that have been withdrawn for selection by the Village Corporation pursuant to section 11(a)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1610(a)(1)).

"(II) In any case in which the lands described in subclause (I) are no longer in Federal ownership and the Village Corporation is entitled to make a selection pursuant to this subparagraph, the Secretary shall withdraw, and the Village Corporation shall select, Federal lands that are compact and contiguous with lands previously conveyed to the Village Corporation.

"(C) Lands (or any interests in the lands) in the replacement of lands (or interests in the lands) reconveyed by the Regional Corporation to the United States under this subsection shall be selected by the Regional Corporation from lands that are—

"(i) compact and contiguous with other lands previously conveyed to the Regional Corporation within the National Petroleum Reserve-Alaska; and

"(ii) beneath the surface estate of lands selected and conveyed to a Village Corporation.

"(D) The Secretary shall convey the lands selected pursuant to this paragraph in accordance with this subsection.

"(5)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (3) shall be subject to any existing easement or other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

"(B) Each conveyance by the Secretary to any applicant or to the heirs of the applicant under this subsection shall reserve to the United States—

"(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the conveyed lands, and the right of the United States, or a lessee or assignee of the United States, to enter on lands conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

"(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

"(C)(i) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in a reconveyance to the United States, the Secretary shall reserve from the reconveyance to the applicant or to the heirs of the applicant for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

"(ii) With respect to a reconveyance of lands (or any interest in the lands) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled—

"(I) to a reduction of the acreage charged against the entitlement under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

"(II) to select mineral interests to replace the acreage.

"(6) The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this subsection.".

SEC. 13. POINT HOPE TOWNSITE.

(a) DEFINITIONS.—As used in this section:

(1) The term "Act" means the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(2) The terms "Native" and "descendant of a Native" have the meanings provided the terms in subsections (b) and (r), respectively, of section 3 of the Act (43 U.S.C. 1602).

(3) The term "North Slope Borough surveys" means those lands within sections 11 and 14 of Township 34 North, Range 35 West, Kateel River Meridian, Alaska, that have been surveyed by the North Slope Borough, Alaska, in surveys identified as—

(A) "North Slope Borough Survey Plat of New Point Hope," dated December 1975, covering 137.49 acres;

(B) "Addition Number One" to the survey described in subparagraph (A), dated April 1978, covering 12.50 acres;

(C) "Addition Number Two" to the survey described in subparagraph (A), dated September 1980, covering 12.50 acres; and

(D) "Addition Number 3" to the survey described in subparagraph (A), dated March 1983, covering 30.374 acres.

(4) The term "Regional Corporation" means Arctic Slope Regional Corporation, the Native Regional Corporation established pursuant to section 7(d) of the Act (43 U.S.C. 1606(d)) by the Native residents of the North Slope of Alaska.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The term "Village Corporation" means Tigara Corporation, the Native Village Corporation established pursuant to section 8(a) of the Act (43 U.S.C. 1607(a)) by the Native residents of the Village of Point Hope, Alaska.

(b) RECONVEYANCE.—(1) Subject to paragraph (2), the Secretary is authorized to accept reconveyance from the Village Corporation and the Regional Corporation of interests in specific, individual lots identified in the North Slope Borough surveys in any case in which the land (or any interest in the land) of the lots had been previously interim conveyed or patented to the Village Corporation and the Regional Corporation.

(2)(A) In making any reconveyance to the United States pursuant to paragraph (1), the Village Corporation shall—

(i) designate the individual to receive title to the specific lot; and

(ii) certify to the Secretary that the individual is a resident of Point Hope and an Alaska Native or descendant of a Native.

(B) Each reconveyance to the United States under this section shall be completed not later than 5 years after the date of enactment of this section.

(c) ISSUANCE OF DEEDS.—(1)(A) Subject to paragraphs (2) and (3), upon receipt of the reconveyance, identification, and certification

described in subsection (b), the Secretary shall transfer each lot to the individual identified by the Village Corporation, by issuing—

(i) a restricted deed pursuant to subparagraph (B); or

(ii) an unrestricted deed pursuant to subparagraph (C).

(B) A restricted deed may be issued under this paragraph subject to the following conditions:

(i) The deed shall provide that the title conveyed is inalienable (except upon approval of the Secretary).

(ii) After the issuance of the restricted deed, the lot shall not be subject to taxation, to levy and sale in satisfaction of debts, contracts, or liabilities of the patentee, or to any claims of adverse occupancy or law of prescription.

(iii) The approval by the Secretary of the sale by an individual of a lot deeded under this section shall vest in the purchaser a complete and unrestricted title beginning on the date of approval, except that if the purchaser is an Alaska Native or a descendent of a Native, the purchaser shall receive a deed subject to the same restrictions as applied to the initial grantee.

(C)(i) Upon a finding by the Secretary that the individual identified by the Village Corporation is competent to manage the property and has petitioned the Secretary for an unrestricted deed, the Secretary shall issue the unrestricted deed in accordance with clauses (ii) and (iii).

(ii) Except as provided in clause (iii), if the Secretary issues an unrestricted deed, all restrictions as to sale, encumbrance, or taxation of the land subject to the deed shall be removed.

(iii) Except with respect to any obligation owed to the United States, the land subject to the deed shall not be liable to the satisfaction of any debt as a result of a contract in effect prior to issuance of the deed.

(2) Any interest in any lot conveyed by the Secretary pursuant to this subsection shall be subject to all valid existing rights.

(3) The aggregate amount of acreage of all lots conveyed under this subsection shall not exceed 195 acres.

(d) ALLOTMENTS.—(1)(A) If any lot identified pursuant to this section in the North Slope Borough surveys encompasses land (or any interest in the land) that—

(i) is the subject of a valid Alaska Native allotment application made pursuant to the Act entitled "An Act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska", approved May 17, 1906 (34 Stat. 197); and

(ii) includes land that has been interim conveyed or patented to the Village Corporation and the Regional Corporation, the applicant for the allotment may, with the consent of the Village Corporation, submit an amended application that describes land that had been interim conveyed or patented to the Village Corporation and Regional Corporation (in lieu of the land described in the initial application) in an acreage that is equal to the acreage of the land described in the initial application.

(B) The Secretary shall accept the reconveyance of the land (or any interest in the land) described in subparagraph (A) from the Village Corporation or the Regional Corporation, in lieu of the land (or any interest in the land) described in the original application.

(2)(A) To the extent the Secretary accepts a reconveyance of land (or any interest in the land) pursuant to paragraph (1), the

Secretary shall approve the amended application for the land reconveyed, and adjudicate the remainder of the allotment application. The approval of an amended application under this paragraph shall be a final and conclusive determination of the validity of the allotment.

(B) The Secretary shall—

(i) survey each allotment approved pursuant to this paragraph; and

(ii) issue a Native allotment certificate to the applicant or to the heirs of the applicant.

(3)(A) Each Native allotment certificate issued to an applicant or the heirs of the applicant pursuant to paragraph (2)(B) shall be subject to any existing easements or any other right that had been reserved, conveyed, transferred, or recognized by the United States prior to the issuance of the certificate.

(B) Each conveyance by the Secretary to any applicant, or to the heirs of the applicant under this subsection shall reserve to the United States—

(i) except as provided in subparagraph (C), all interests in oil, gas, and coal in the land, and the right of the United States, or a lessee or assignee of the United States, to enter upon land conveyed to the applicant or to the heirs of the applicant, to drill, explore, mine, produce, and remove the oil, gas, or coal; and

(ii) all other rights reasonably incident to the mineral reservations described in clause (i).

(C) If the oil, gas, or coal described in subparagraph (B)(i) was previously conveyed to the Regional Corporation and the Regional Corporation reserves those interests in any conveyance to the United States, the reconveyance by the Secretary to the applicant or to the heirs of the applicant shall reserve from the conveyance for the benefit of the Regional Corporation the same rights and privileges that would have been reserved for the United States.

(4) With respect to any reconveyance of land (or any interest in the land) by the Regional Corporation to the United States that does not convey the entire mineral estate, the Regional Corporation shall not be entitled either—

(A) to a reduction of the acreage charged against the entitlement under the Act; or

(B) to select mineral interests to replace the acreage.

(e) REDUCTION IN CHARGED ACREAGE.—(1) Except as provided in subsection (d)(4), if the Village Corporation and the Regional Corporation reconvey land (or any interest in the land) to the United States under the authority of subsection (b) or (d)(1), the Secretary shall reduce the acreage charged against the entitlement of the Village Corporation and the Regional Corporation pursuant to the Act.

(2)(A) To the extent that the reconveyance to the United States of land, or interests in land, by the Village Corporation and the Regional Corporation under this section results in a reduction in the acreage charged against the entitlement of the Village Corporation and Regional Corporation under paragraph (1), the Village Corporation shall be entitled to make selections in lieu of the reconveyed land (or any interest in the land).

(B) The amount of any acreage reconveyed by the Village Corporation under this section shall be added to the amount of other

acreage computed as underselection, if any, for the Village Corporation.

(C) The Secretary shall withdraw and the Village Corporation shall select replacement acreage under this paragraph pursuant to the authority in section 22(j)(2) of the Act (43 U.S.C. 1621(j)(2)).

(D) Except as provided in subsection (d)(4), in any case in which a Village Corporation receives an interim conveyance or patent to the surface estate selected pursuant to section 12(a) of the Act (43 U.S.C. 1611(a)), the Regional Corporation shall receive an interim conveyance or patent to the subsurface estate.

(f) CONGRESSIONAL INTENT.—Nothing in this section shall be construed as satisfying, relieving, or otherwise affecting the requirements of section 14(c) of the Act (43 U.S.C. 1613(c)).

(g) LIABILITY FOR HAZARDOUS SUBSTANCES.—The United States shall not be subject to liability for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to and transfer by the United States of the land or interest pursuant to this section.

SEC. 14. LAPSED MINING CLAIMS.

Section 22(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2)(A)(i) Subject to valid existing rights, an unpatented mining claim or location, or portion thereof, under the general mining laws that is situated outside the boundaries of a conservation system unit (as such term is defined in the Alaska National Interest Lands Conservation Act) and within the exterior boundaries of lands validly selected by a Village or Regional Corporation pursuant to section 12 or section 14(h) and that lapses, is abandoned, relinquished, or terminated, declared null and void, or otherwise expires, after August 31, 1971, because of failure to comply with requirements of the general mining laws (including the mining laws of the State of Alaska), is deemed to be null and void for the purposes of this paragraph. The Secretary shall promptly determine the validity of such claims or locations within conservation system units.

"(ii) Subject to valid existing rights and to subparagraph (B), the lands outside a conservation system unit included in a mining claim or location described in clause (i) shall—

"(I) be considered part of the lands selected pursuant to sections 12 and 14(h) by the Village or Regional Corporation described in clause (i); and

"(II) be eligible for conveyance pursuant to this Act unless specifically identified and excluded from an initial selection application.

"(iii) Subject to valid existing rights and to subparagraph (B), any portion outside a conservation system unit of a mining claim or location described in clause (i) that is situated within the exterior boundaries of lands conveyed prior to the date of enactment of this paragraph from selections under section 12 or section 14(h) shall be conveyed pursuant to this Act.

"(B) No lands shall be conveyed pursuant to this subsection if the conveyance would result in the receipt of title to lands in excess of an acreage entitlement under this Act.".

SEC. 15. HAIDA CORPORATION ACCOUNT.

The Haida Land Exchange Act of 1986 (Public Law 99–664) is amended—

16 USC 3195 note.

(1) in section 2(a)—

(A) in paragraph (9)—

(i) by striking "as of January 1, 1995"; and

(ii) by striking "on January 1, 1995"; and

(B) by adding at the end the following new paragraph:

"(13) The term 'agency' includes—

"(A) any instrumentality of the United States;

"(B) any element of an agency; and

"(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code."; and

(2) by adding at the end the following new section:

"SEC. 13. HAIDA CORPORATION ACCOUNT.

"(a) DEFINITION.—As used in this section, the term 'property' has the same meaning as is provided the term in section 12(b)(7) of Public Law 94–204 (43 U.S.C. 1611 note), as amended.

"(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Haida Corporation Account.

"(2) Beginning on October 1, 1996, the balance of the account shall—

"(A) be available to the Haida Corporation for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

"(B) remain available until expended.

"(3)(A) The Haida Corporation may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale. Notwithstanding any other provision of law, the Haida Corporation may assign without restriction any or all of the accounts upon written notification to the Secretary of the Treasury and the Secretary of the Interior.

"(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

"(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

"(i) receive deposits;

"(ii) make deposits into escrow when an escrow is required for the sale of any property; and

"(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

"(c) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

"(A) the average value per acre of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the number of acres of selection rights that the Haida Corporation possesses as of October 1, 1996.

"(2) The average value per acre of the lands referred to in paragraph (1) shall be determined by dividing—

"(A) the fair market value of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3); by

"(B) the quantity of acres of the lands referred to in subparagraph (A).

"(3) The fair market value of the surface estate of lands shall be determined as of March 1, 1993, pursuant to subsection (d).

"(d) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of Agriculture shall commence an appraisal of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3). In conducting the appraisal, the Secretary shall include, among other uses of the lands, the value of the timber on the land (on a conversion return basis applicable for southeast Alaska within region 10 of the National Forest System) utilizing the markets then available to the Haida Corporation. The appraisal shall be based on the Uniform Appraisal Standards for Federal Land Acquisitions.

"(B) The Haida Corporation shall have the opportunity to present evidence of value to the Secretary of Agriculture. The Secretary shall provide the Haida Corporation with a preliminary draft of the appraisal. The Haida Corporation shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary shall give consideration to the comments and evidence of value submitted by the Haida Corporation under this subparagraph.

"(2) The Secretary of Agriculture shall complete the valuation of the surface estate of the lands exchanged to the Haida Corporation pursuant to section 12(b)(3) not later than January 1, 1996. On completion of the valuation, the Secretary of Agriculture shall submit the valuation to the Secretary of the Interior for certification. The Secretary of the Interior shall forward a certified copy of the valuation to the Haida Corporation.

"(3) If the Haida Corporation disputes the final valuation, the Secretary of Agriculture and the Haida Corporation may mutually agree to employ a process of bargaining or some other process of dispute resolution to determine the value of the lands in question.

"(4) The Secretary of Agriculture and the Haida Corporation may mutually agree to suspend or modify any of the deadlines under this subsection.

"(e) ELECTION.—(1) Not later than 120 days after receipt of a certified copy of the final valuation from the Secretary of the Interior pursuant to subsection (d)(2), the Haida Corporation shall make an irrevocable election between the remaining selection rights of the Haida Corporation under section 10 and the account described in subsection (b), and shall notify the Secretary of the Interior of the election.

"(2) If the Haida Corporation—

"(A) elects to utilize the remaining selection rights described in paragraph (1); or

"(B) fails to notify the Secretary of the Interior of any such election in a timely manner,

the account described in subsection (b) shall not be established, the Haida Corporation shall permanently waive any right to the establishment of the account, and the selection rights of the Haida Corporation under section 10 shall remain unimpaired.

"(3) If the Haida Corporation elects to utilize the account described in subsection (b), the Haida Corporation shall waive any selection rights under section 10 as of the date the Haida Corporation notifies the Secretary of the Interior of the election.

"(f) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

"(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

"(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.".

SEC. 16. LOCAL HIRE.

16 USC 3198.

Section 1308(a) of the Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended—

(1) by striking "a conservation system unit" and inserting in lieu thereof "public lands"; and

(2) by striking "such unit" each place it occurs and inserting in lieu thereof "public lands".

SEC. 17. SEALASKA CORPORATION AGREEMENT.

(a) IN GENERAL.—(1) Subject to paragraph (2), the November 26, 1991, agreement entered into between the Sealaska Corporation and the Forest Service of the Department of Agriculture, entitled "Sealaska Corporation/United States Forest Service Split Estate Land Exchange Agreement", is hereby ratified as a matter of Federal law.

(2) The agreement described in paragraph (1) may be modified or amended, without further action by Congress, upon—

(A) the written agreement of all parties to the agreement described in paragraph (1); and

(B) notification in writing to the appropriate committees of Congress.

Any such modification may not take effect until 60 days after such notification.

(b) CONDITIONS.—Any conveyance of subsurface acreage to Sealaska Corporation pursuant to this section shall—

(1) be deemed a conveyance of land pursuant to section 14 of the Alaska Native Claims Settlement Act (43 U.S.C. 1613);

(2) extinguish the entitlements of Sealaska Corporation under the Haida Land Exchange Act of 1986 (16 U.S.C. 3195 note);

(3) be subject to valid existing rights; and

(4) be in partial fulfillment of the entitlement of the Sealaska Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 18. HAIDA SUBSURFACE EXCHANGE AMENDMENT.

The Haida Land Exchange Act of 1986 (Public Law 99–664) is amended by adding at the end the following new section:

"SEC. 14. OFFER.

"(a)(1) For and in consideration of the relinquishment and conveyance to the United States of all Haida Corporation's right, title, and interest in Lots 2, 3, 4, 5, and 6 of section 18, T. 77S. R. 84 E., C.R.M., and, in addition, all Haida Corporation's right, title, and interest in a road easement to be specified by the Secretary 100 feet in total width across Lot 1 of section 18, T. 77S. R. 84 E., C.R.M., from section 7 of T. 77 S. R. 84 E. C.R.M. to the cooperative information and education branch site, there are hereby offered to Haida Corporation the following lands and interests in lands: All right, title, and interest in the subsurface estate of the Haida Traditional Use Sites.

"(2) Any conveyance of the offered lands and interests described in paragraph (1) shall be subject to valid existing rights, and shall except and reserve to the United States the perpetual easements identified in paragraph 18 of the agreement executed September 8, 1988, entitled 'Agreement between United States of America and Haida Corporation Regarding Implementation of the Haida Traditional Use Sites Exchange Pursuant to §3(a) the Haida Land Exchange Act of 1986, Pub. L. No. 99–664'. Without limitation to any other rights reserved under the terms of said easements, any such conveyance shall also except and reserve the rock, sand, and gravel occurring within said easement boundaries.

"(b) Haida Corporation shall have 90 days from the date of enactment of this section within which to accept the offer provided in this section by providing to the Secretary a properly executed and certified corporate resolution binding upon the corporation with respect to the relinquishment and conveyance of all the corporation's right, title, and interest in the lands specified in subsection (a).

"(c) This section shall be ineffective, and no conveyances shall be made under this section, if the Secretary of Agriculture, on or before the date 60 days after the date of enactment of this section, determines implementation of this section would result in receipt by the United States of lands less in value than the value of the lands offered for conveyance to the Haida Corporation.".

SEC. 19. AHTNA GROUP SETTLEMENT.

(a) WITHDRAWAL OPPORTUNITY.—As an offer of settlement, within one year after enactment of this section, any or all of the Ahtna Group Corporations of Lower Tonsina, Twin Lakes, Little Lake Louise, Slana, and Nebesna may withdraw by resolution transmitted to the Secretary of the Interior (hereafter in this Act referred to as the "Secretary") a pending application for group eligibility under section 14 of the Alaska Native Claim Settlement Act (43 U.S.C. 1613) (as amended and supplemented). Such resolution shall preclude the corporation concerned from any administrative or judicial review of its entitlement to land and money under such Act, and such withdrawal of application shall be construed as a dismissal with prejudice of such corporation's action before

the United States District Court for Alaska, Civ. No. A86-035 and shall be binding upon the corporation and its members.

Regulations.

(b) OFFER.—In addition to those rights granted in section 1 of Public Law 94-204, for each Ahtna Group Corporation specified in subsection (a) which adopts a timely resolution to withdraw its section 14 application or group eligibility, there shall be a period of 180 days following transmittal of such resolution to the Secretary, during which each member of such Ahtna Group Corporation shall have the right to file with the Secretary an application for conveyance of up to 160 acres of land from the United States to such individual member as if it were an application for a primary place of residence under section 14(h)(5) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(5)), regulations for such application, and subject to the following provisions:

(1) the availability of land subject to selection by the applicant shall be determined as of the date of the individual application: *Provided, however,* That if the application is for lands selected by Ahtna Regional Corporation or the State of Alaska after the date of selection by the Group Corporation, then the subsequent selections shall not attach to the lands selected by the Group Corporation until after the deadline for filing an application for primary place of residence: *And provided further,* That if the lands relinquished by the Group Corporation or the Ahtna Regional Corporation lie within the boundaries of a conservation system unit, as defined in the Alaska National Interest Land Conservation Act, and such selections are relinquished in order to permit the filing of an application for primary place of residence, the withdrawal of the conservation system unit shall not prevent the filing, adjudication, and conveyance of those lands subject to the application for primary place of residence: *And provided further,* That any acreage granted to an applicant for primary place of residence shall be charged to the share of the Ahtna Regional Corporation under 45 CFR 2653;

(2) the eligibility of the applicant shall be determined as if the application is an application for a primary place of residence filed with the Secretary of the Interior on or before December 18, 1973; and

(3) any State selection filed after the date on which the relevant Ahtna Group Corporation filed its application for section 14 eligibility shall not attach to lands segregated for the benefit of such Ahtna Group Corporations until the applications of individual Ahtna Group members herein authorized have been identified, adjudicated, and conveyed.

(c) EXPEDITING.—In order to secure the rapid and certain resolution of Native lands claims, the United States shall endeavor to reach a final decision regarding each Ahtna Group member's application for primary place of residence within one year of its filing and shall otherwise complete the redetermination process for each Ahtna Group member as required by Public Law 94-204, as amended, provided that revenues distributed or subject to distribution under section 7(i) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(i)), shall not be retroactively affected by any change in enrollment occasioned by said redetermination.

SEC. 20. GOLD CREEK SUSITNA ASSOCIATION, INCORPORATED ACCOUNT.

(a) DEFINITIONS.—As used in this section, the following terms have the following meanings:

(1) The term "agency" includes—

(A) any instrumentality of the United States;

(B) any element of an agency; and

(C) any wholly owned or mixed-owned corporation of the United States Government identified in chapter 91 of title 31, United States Code.

(2) The term "conservation system unit" has the same meaning as in the Alaska National Interest Lands Conservation Act.

(3) The term "Gold Creek" means the Gold Creek Susitna Association, Incorporated, an Alaska Native Group corporation, organized pursuant to section 1613(h) of the Settlement Act.

(4) The term "property" has the same meaning given such term by section 12(b)(7) of Public Law 94–204 (43 U.S.C. 1611), as amended.

(5) The term "Region" means Cook Inlet Region Incorporated, an Alaska Native Regional Corporation which is the appropriate Regional Corporation for Gold Creek under section 1613(h) of the Settlement Act.

(6) The term "Settlement Act" means the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 et seq.).

(b) ESTABLISHMENT.—(1) Notwithstanding any other provision of law, except as provided in subsection (e), on October 1, 1996, the Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish a Gold Creek account.

(2) Beginning on October 1, 1996, the balance of the account shall—

(A) be available to the Gold Creek for bidding on and purchasing property sold at public sale, subject to the conditions described in paragraph (3); and

(B) remain available until expended.

(3)(A) The Gold Creek may use the account established under paragraph (1) to bid as any other bidder for property (wherever located) at any public sale by an agency and may purchase the property in accordance with applicable laws and regulations of the agency offering the property for sale.

(B) In conducting a transaction described in subparagraph (A), an agency shall accept, in the same manner as cash, any amount tendered from the account established by the Secretary of the Treasury under paragraph (1). The Secretary of the Treasury shall adjust the balance of the account to reflect the transaction.

(C) The Secretary of the Treasury, in consultation with the Secretary of the Interior, shall establish procedures to permit the account established under paragraph (1) to—

(i) receive deposits;

(ii) make deposits into escrow when an escrow is required for the sale of any property; and

(iii) reinstate to the account any unused escrow deposits in the event sales are not consummated.

(c) LAND EXCHANGE.—No later than one year after the date of enactment of this section, the Secretary of the Interior shall enter into negotiations to attempt to conclude, under the authority of section 22(f) of the Settlement Act, a land exchange to acquire

surface estate in lands not within any conservation system unit from the State of Alaska to enable Gold Creek to select public lands at Gold Creek, Alaska, as identified by Gold Creek but in no case to exceed 480 acres.

(d) AMOUNT.—(1) The initial balance of the account established in subsection (b) shall be determined by multiplying—

(A) the average value per acre, by

(B) the 3,520 acre Gold Creek entitlement.

(2) If a conveyance is made to Gold Creek pursuant to subsection (c), paragraph (1), the account shall be reduced by the amount of the actual acres conveyed by the average value per acre. In order to make such adjustment, the conveyance must be made by the Secretary of the Interior by October 1, 1996.

(3) The average value per acre of the lands referred to in paragraphs (1) and (2) of this subsection shall be determined by dividing—

(A) the fair market value as found by the Secretary of the Interior in subsection (e), paragraph (1), by

(B) the 3,520 acre Gold Creek entitlement.

(4) The fair market value of the surface estate of lands shall be determined as of the date of enactment of this section pursuant to subsection (e).

(e) APPRAISAL.—(1)(A) As soon as possible after the date of enactment of this section, but not later than January 1, 1994, the Secretary of the Interior shall find the amount to be credited to the Gold Creek account by appraising the 3,520 acre Gold Creek entitlement by only considering parcels 320 acres or less in size, the access to which is secure and the subsurface to which is in separate ownership, which lie within 50 miles of Gold Creek and which have been sold since January 1, 1989, and by taking into consideration other land ownership conditions under the Settlement Act.

(B) Gold Creek shall have the opportunity to present evidence of value to the Secretary of the Interior. The Secretary of the Interior shall provide Gold Creek with a preliminary draft of the appraisal. Gold Creek shall have a reasonable and sufficient opportunity to comment on the appraisal. The Secretary of the Interior shall give consideration to the comments and evidence of value submitted by Gold Creek under this subparagraph.

(2) The Secretary of the Interior shall complete the valuation not later than 9 months after the passage of this Act. The Secretary of the Interior shall forward a certified copy of the valuation to Gold Creek.

(3) Gold Creek shall have the right to appeal the certified valuation by the Secretary of the Interior so long as any such appeal is filed no later than 60 days after the date of such finding to the Office of Hearings and Appeals. In the event Gold Creek files such a timely appeal, the Gold Creek account shall be immediately established for the amount set by the Secretary subject to subsequent upward adjustment pursuant to the outcome of the appeal process. If Gold Creek is not satisfied with the decision of the Office of Hearings and Appeals, it may appeal that decision within one year to the United States District Court.

(4) The Secretary of the Interior and Gold Creek may mutually agree to suspend or modify any of the deadlines under this subsection.

(f) IMPLEMENTATION.—(1) Notwithstanding any other provision of law, Gold Creek may assign without restriction any or all of the account upon written notification to the Secretary of the Treasury and the Secretary of the Interior. Notwithstanding the provisions of subsection (g)(1)(B) of this section, in the event such assignment is to the Region on notice from Gold Creek to the Secretary of the Treasury and the Secretary of the Interior, the amount of such assignment shall be added to or made a part of the Region's Property Account in the Treasury established pursuant to section 12(b) of Public Law 94–204 as amended, and may be used in the same manner as that account.

(2) Upon certification by the Secretary of the Interior of the value of the account, or following the completion of Gold Creek's appeal of valuation pursuant to subsection (e), paragraph (3), Gold Creek shall be deemed to have accepted the terms of this section in lieu of any other land entitlement it would have received pursuant to the Settlement Act and such acceptance shall satisfy any and all claims Gold Creek had against the United States on the date of this enactment.

(3) Any land Gold Creek shall receive from the United States pursuant to subsection (c), paragraph (1) shall be deemed to have been conveyed pursuant to the Settlement Act.

(g) TREATMENT OF AMOUNTS FROM ACCOUNT.—(1) The Secretary of the Treasury shall deem as cash receipts any amount tendered from the account established pursuant to subsection (b) and received by agencies as proceeds from a public sale of property, and shall make any transfers necessary to allow an agency to use the proceeds in the event an agency is authorized by law to use the proceeds for a specific purpose.

(2)(A) Subject to subparagraph (B), the Secretary of the Treasury and the heads of agencies shall administer sales pursuant to this section in the same manner as is provided for any other Alaska Native corporation authorized by law as of the date of enactment of this section (including the use of similar accounts for bidding on and purchasing property sold for public sale).

(B) Amounts in an account created for the benefit of a specific Alaska Native corporation may not be used to satisfy the property purchase obligations of any other Alaska Native corporation.

SEC. 21. IGIUGIG AIRPORT.

The Administrator of the Federal Aviation Administration shall execute such instruments as may be necessary to release the condition on lands conveyed pursuant to Quitclaim Deed dated November 1, 1961, recorded on January 2, 1962, in the Iliamna Recording District, Book 1, Pages 54 through 60, that such lands revert to the United States in the event that such lands are not developed, or cease to be used, for airport purposes: *Provided*, That the State of Alaska shall first notify the Administrator what lands are sought to be diverted from airport use and the Administrator shall then determine which lands may be diverted without adversely affecting the safety, efficiency, or utility of the airport, and shall confine

the release of the reverter authorized by this section to those lands that may be so diverted.

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.R. 3157 (S. 1625):

HOUSE REPORTS: No. 102-673 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-349 accompanying S. 1625 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
Sept. 9, considered and passed Senate.
Sept. 10, Senate vitiated passage.
Oct. 1, considered and passed Senate.

Public Law 102-416
102d Congress

An Act

To restore the Federal trust relationship of the United Auburn Indian Community, to establish the Advisory Council on California Indian Policy, and for other purposes.

Oct. 14, 1992
[H.R. 2144]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Advisory Council on California Indian Policy Act of 1992.
25 USC 651 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Advisory Council on California Indian Policy Act of 1992".

SEC. 2. FINDINGS.

25 USC 651 note.

The Congress has reviewed the social, economic, and political circumstances of California Indians and of governmental policies and programs affecting California Indians and finds that—

(1) the Congress has recognized a special government-to-government relationship with Indian tribes in the United States;

(2) due to the unique historical circumstances of the Indians of California, Federal law and policies have often dealt specifically with California Indians;

(3) there is an urgent need to clarify the eligibility of unrecognized and terminated California Indian tribal groups to be federally acknowledged as Indian tribes with all the rights and powers attendant to that status;

(4) there is among California Indians a continuing social and economic crisis, characterized by, among other things, alcohol and substance abuse, critical health problems, family violence and child abuse, lack of educational and employment opportunities, and significant barriers to tribal economic development;

(5) these conditions exist even though public policies and programs adopted by the Federal Government have been intended to improve the conditions of California Indians; and

(6) California Indian tribes and tribal organizations have expressed a need for a review of the public policies and programs affecting California Indians and to make such policies and programs more effective in accomplishing Federal policy objectives.

SEC. 3. DEFINITIONS.

25 USC 651 note.

For purposes of this Act—

(1) The term "California Indian tribe" means any federally recognized or unacknowledged Indian tribe located in the State of California.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

(4) The term "federally recognized Indian tribe" means any Indian tribe, band, group, or community that—

(A) has been federally recognized or acknowledged by the United States Government through an Act of Congress, a Federal judicial decision, or an administrative decision by the Secretary pursuant to part 83 of title 25, Code of Federal Regulations;

(B) was terminated by an Act of Congress and has been restored through an Act of Congress, a Federal judicial decision, an administrative determination or action by the Secretary; or

(C) is included, as of the date of the enactment of this Act, on the list of federally recognized tribes maintained by the Secretary.

(5) The term "unacknowledged Indian tribe" means any Indian tribe, band, group, or community that is not now federally acknowledged by the United States Government and has not been terminated by an Act of Congress.

(6) The term "terminated Indian tribe" means any Indian tribe, band, or community that has been terminated by an Act of Congress and has not been restored through an Act of Congress, a Federal judicial decision, or an administrative determination or action by the Secretary.

(7) The term "Council" means the Advisory Council on California Indian Policy established pursuant to section 4.

25 USC 651 note.

SEC. 4. ESTABLISHMENT OF ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is hereby established the Advisory Council on California Indian Policy.

(b) MEMBERS.—The Council shall be composed of 18 members who, other than the members provided for by paragraph (8), shall be appointed by the Secretary not later than 90 days after the date of the enactment of this Act as follows:

(1) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(2) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the northern California Agency area of the Bureau, including all field and subagencies.

(3) Three tribal government representatives (or their designees) from the federally recognized Indian tribes located within the central California Agency area of the Bureau, including all field and subagencies.

(4) Three tribal government representatives (or their designees) from the unacknowledged Indian tribes located in the central California Agency area of the Bureau, including all field and subagencies.

(5) Two tribal government representatives (or their designees) from the federally recognized Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(6) Two tribal government representatives (or their designees) from the unacknowledged Indian tribes located within the southern California Agency area of the Bureau, including all field and subagencies.

(7) Two tribal government representatives (or their designees) from the terminated Indian tribes located within the northern, central, or southern California Agency areas of the Bureau, including all field and subagencies.

(8) The Area Director of the California Area Office of the Bureau and the Area Director of the California Area Office of the Indian Health Service who shall serve ex officio and as nonvoting members of the Council.

(c) RECOMMENDATIONS FROM CALIFORNIA INDIAN TRIBES.—In making appointments to the Council under subsection (b), the Secretary shall ensure that the California Indian tribes have been afforded a full and fair opportunity to select by consensus, in accordance with procedures developed by the California Indian tribes, representatives they will recommend to the Secretary for appointment to the Council, consult with the California Indian tribes; and make appointments to the Council from among those recommended or nominated by California Indian tribes.

(d) INITIAL MEETING.—The Council shall hold its first meeting by no later than the date that is 30 days after the date on which all members of the Council have been appointed.

(e) VACANCY.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner in which the original appointments were made.

(f) QUORUM.—Ten voting members shall constitute a quorum for the transaction of business, but a smaller number, as determined by the Council, may conduct hearings.

(g) CHAIRPERSON; VICE CHAIRPERSON.—The Council shall select a Chairperson, a Vice Chairperson, and such other officers as it deems necessary.

(h) COMPENSATION.—No compensation shall be paid to a member of the Council solely for his services on the Council. All members of the Council shall be reimbursed for travel expenses, including per diem in lieu of subsistence, during the performance of duties of the Council while away from home or their regular place of business in accordance with subchapter 1 of chapter 57 of title 5, United States Code.

SEC. 5. DUTIES OF THE COUNCIL. 25 USC 651 note.

The Council shall—

(1) develop a comprehensive list of California Indian tribes and the descendency list for each tribe based upon documents held by the Bureau including, but not limited to those specified in section 6;

(2) identify the special problems confronting unacknowledged and terminated Indian tribes and propose reasonable mechanisms to provide for the orderly and fair consideration of requests by such tribes for Federal acknowledgement;

(3) conduct a comprehensive study of—

(A) the social, economic, and political status of California Indians;

(B) the effectiveness of those policies and programs of the United States that affect California Indians; and

(C) the services and facilities being provided to California Indian tribes, compared to those being provided to Indian tribes nationwide;

(4) conduct public hearings on the subjects of such study;

(5) develop recommendations for specific actions that—

(A) will help to ensure that California Indians have life opportunities comparable to other American Indians of federally recognized tribes, while respecting their unique traditions, cultures, and special status as California Indians;

(B) will address, among other things, the needs of California Indians for economic self-sufficiency, improved levels of educational achievement, improved health status, and reduced incidence of social problems; and

(C) will respect the important cultural differences which characterize California Indians and California Indian tribes and tribal groups;

Reports.

(6) submit, by no later than the date that is 18 months after the date of the first meeting of the Council, a report on the study conducted under paragraph (3) together with the proposals and recommendations developed under paragraphs (2) and (5) and such other information obtained pursuant to this section as the Council deems relevant, to the 3Congress, the Secretary, and the Secretary of Health and Human Services; and

Public information.

(7) make such report available to California Indian tribes, tribal organizations, and the public.

25 USC 651 note.

SEC. 6. ACCESS TO DESCENDENCY LISTS.

The Secretary shall provide to the Council, not later than 30 days after the first meeting of the Council, the following documents:

(1) The rolls of California Indians developed in 1972 pursuant to the distribution of the Indian Claims Commission award of July 20, 1964, including but not limited to dockets Nos. 31, 37, 80, 80–D, and 347, and authorized by the Act of September 21, 1968 (82 Stat. 860).

(2) The rolls of California Indians developed in 1955 pursuant to the distribution of the 1944 United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602), as amended by the Act of June 30, 1948 (62 Stat. 1166), the Act of May 24, 1950 (64 Stat. 189), and the Act of June 8, 1954 (68 Stat. 240).

(3) The rolls of California Indians developed in 1933 pursuant to the distribution of the United States Court of Claims judgment award and authorized by the Act of May 18, 1928 (45 Stat. 602).

(4) The lists and rolls of California Indians registered as Indian by the Bureau of Indian Affairs developed pursuant to section 19 of the Act of June 18, 1934 (48 Stat. 984).

(5) The lists and rolls of California Indians developed pursuant to the Acts of Congress terminating reservations and rancherias, including distributee rolls developed for the distribution of assets under the Act of August 18, 1958 (72 Stat. 619), the Act of July 10, 1957 (71 Stat. 283), and the Act of March 29, 1956 (70 Stat. 58).

(6) Any other rolls developed for Indian Claims Commission judgment awards covering any California land areas.

(7) Upon the consent of each tribe, the current tribal membership rolls of California Indian tribes, except that, nothing in this paragraph or any other provision of this Act shall

be construed as prohibiting any Indian tribal government from imposing any condition, limitation, or other restriction on the use or dissemination of any information or other data made available by consent of such tribal government to the Council under this Act.

SEC. 7. POWERS OF THE COUNCIL. 25 USC 651 note.

(a) STAFF.—(1) Subject to such rules and regulations as may be adopted by the Council, the Chairperson of the Council shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law relating to the number, classification, and General Schedule rates) of an Executive Director of the Council and of such other personnel as the Council deems advisable to assist in the performance of the duties of the Council, at rates not to exceed a rate equal to the maximum rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized for agencies in the executive branch, but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay payable under section 5376 of such title for a position classified above GS–15 pursuant to section 5108 of such title.

(2) Service of an individual as a member of the Council shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Council, or as an employee of the Council, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(b) ACTIONS.—The Council may hold such hearings and sit and act at such times, take such testimony, have such printing and binding done, enter into such contracts and other arrangements, make such expenditures, and take such other actions, as the Council may deem advisable provided, however, that no such action, contracting arrangement or expenditure be committed beyond the duration of the life of the Council pursuant to section 8. Any member of the Council may administer oaths or affirmations to witnesses appearing before the Council.

(c) TASK FORCES.—The Council is authorized to establish task forces which include individuals who are not members of the Council only for the purpose of gathering information on specific subjects identified by the Council as requiring the knowledge and expertise of such individuals. Any task force established by the Council shall be chaired by a voting member of the Council who shall preside at any task force hearing authorized by the Council. No compensation (other than compensation and expenses authorized

under section 4(h) to a member of the Council) may be paid to a member of a task force solely for his service on the task force, but the Council may authorize the reimbursement of members of a task force for travel expenses, including per diem in lieu of subsistence, during the performance of duties while away from the home, or regular place of business, of the member, in accordance with subchapter I of chapter 57 of title 5, United States Code. The Council shall not authorize the appointment of personnel to act as staff for the task force, but may permit the use of Council staff and resources by a task force for the purpose of compiling data and information. Such data and information shall be for the exclusive use of the Council.

(d) FUNDING.—The Council is authorized to accept gifts of property, services, or funds and to expend funds derived from sources other than the Federal Government, including the State of California, private nonprofit organizations, corporations, or foundations which are determined appropriate and necessary to carry out the provisions of this title.

(e) FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act shall not apply to the Council.

(f) COOPERATION OF FEDERAL AGENCIES.—(1) The Council is authorized to secure directly from any office, department, agency, establishment, or instrumentality of the Federal Government such information as the Council may require to carry out the purposes of this title, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics, directly to the Council, upon request made by the Chairperson of the Council.

(2) Upon the request of the Council, the head of any Federal department, agency, or instrumentality is authorized to make any of the facilities and services of such department, agency, or instrumentality available to the Council and detail any of the personnel of such department, agency, or instrumentality to the Council, on a nonreimbursable basis, to assist the Council in carrying out its duties under this title.

(3) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(g) NO INFRINGEMENT ON TRIBAL AUTHORITY.—The creation of the Council is not intended to, nor shall it, restrict, preempt or infringe the right of any California Indian tribe to interact or communicate with Congress or other branches of the Federal Government on a government-to-government basis.

25 USC 651 note.

SEC. 8. TERMINATION.

The Council shall cease to exist on the date that is 180 days after the date on which the Council submits the report required under section 5(6). All records, documents, and materials of the Council shall be transferred to the National Archives and Records Administration on the date on which the Council ceases to exist.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS. 25 USC 651 note.

There are authorized to be appropriated $700,000 to carry out the provisions of this Act. Such sums shall remain available, without fiscal year limitation, until expended.

Amend the title so as to read: "An Act to establish the Advisory Council on California Indian Policy, and for other purposes.".

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.R. 2144:

SENATE REPORTS: No. 102-441 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 11, 12, considered and passed House.
Oct. 2, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 14, Presidential statement.

Public Law 102-417
102d Congress

An Act

Oct. 14, 1992
[H.R. 2324]

To amend title 28, United States Code, with respect to witness fees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Incarcerated Witness Fees Act of 1991.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Incarcerated Witness Fees Act of 1991".

SEC. 2. ELIMINATION OF WITNESS FEES FOR INCARCERATED PERSONS.

(a) IN GENERAL.—Section 1821 of title 28, United States Code, is amended by adding at the end the following:

"(f) Any witness who is incarcerated at the time that his or her testimony is given (except for a witness to whom the provisions of section 3144 of title 18 apply) may not receive fees or allowances under this section, regardless of whether such a witness is incarcerated at the time he or she makes a claim for fees or allowances under this section.".

(b) CONFORMING AMENDMENT.—Section 1821(d)(1) of title 28, United States Code, is amended by striking "(other than a witness who is incarcerated)".

(c) TECHNICAL AMENDMENT.—Section 1821(d)(4) of title 28, United States Code, is amended by striking "3149" and inserting "3144".

28 USC 1821 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective on and after the date of the enactment of this act and shall apply to any witness who testified before such date and has not received any fee or allowance under section 1821 of title 28, United States Code, relating to such testimony.

Approved October 14, 1992.

LEGISLATIVE HISTORY—H.R. 2324:

HOUSE REPORTS: No. 102-194 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 18, considered and passed House.
Vol. 138 (1992): Aug. 6, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendments.

Public Law 102-418
102d Congress

Joint Resolution

To designate the week of October 4, 1992, through October 10, 1992, as "Mental Illness Awareness Week". Oct. 14, 1992 [S.J. Res. 287]

Whereas mental illness is a problem of grave concern and consequence in the United States and it is widely, but unnecessarily, feared and misunderstood;

Whereas on an annual basis 40,000,000 adults in the United States suffer from clearly diagnosable mental disorders, including mental illness, alcohol abuse, and drug abuse, which create significant disabilities with respect to employment, school attendance, and independent living;

Whereas more than 17,000,000 United States citizens are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas 33 percent of homeless persons suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 22 percent of adults in the United States in any 1-year period;

Whereas mental illness interferes with the development and maturation of at least 12,000,000 of our children;

Whereas a majority of the 29,000 American citizens who commit suicide each year suffer from a mental or an addictive disorder;

Whereas our growing population of elderly persons faces many obstacles to care for mental disorders;

Whereas 20 to 25 percent of AIDS patients will develop AIDS-related cognitive dysfunction and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental illnesses, alcohol abuse, and drug abuse result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas the Federal research budget committed to the Alcohol, Drug Abuse, and Mental Health Administration represents only about 1 percent of the direct treatment and support costs of caring for persons with alcohol, drug, and mental disorders;

Whereas mental illnesses are increasingly treatable disorders with excellent prospects for amelioration when properly recognized;

Whereas mentally ill persons and their families have begun to join self-help groups seeking to combat the unfair stigma of mental illness, to support greater national investment in research, and to advocate an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (somatic, psychosocial, and service delivery) for some of the most incapaci-

tating forms of mental illness, including schizophrenia, major affective disorders, phobias, and phobic disorders;

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced use of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 4, 1992, through October 10, 1992, is designated as "Mental Illness Awareness Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 14, 1992.

LEGISLATIVE HISTORY—S.J. Res. 287:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-419
102d Congress

An Act

To establish the Dayton Aviation Heritage National Historical Park in the State of Ohio, and for other purposes.

Oct. 16, 1992
[H.R. 2321]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dayton Aviation Heritage Preservation Act of 1992.
Conservation.
16 USC 410ww note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dayton Aviation Heritage Preservation Act of 1992".

16 USC 410ww note.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to establish a unit of the National Park System in Dayton, Ohio, consisting of certain lands and structures associated with Wilbur and Orville Wright and the early development of aviation; and

(2) to create partnerships among Federal, State, and local governments and the private sector to preserve, enhance, and interpret for present and future generations the historic and cultural structures, districts, and artifacts in Dayton and the Miami Valley in the State of Ohio, which are associated with the Wright brothers, the invention and development of aviation, or the life and works of Paul Laurence Dunbar, and which, as a whole, represent a nationally significant resource.

TITLE I—DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK

16 USC 410ww.

SEC. 101. ESTABLISHMENT OF THE DAYTON AVIATION HERITAGE NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—There is established, as a unit of the National Park System in the State of Ohio, the Dayton Aviation Heritage National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the following sites, as generally depicted on a map entitled "Proposed Dayton Aviation Heritage National Historical Park", numbered NHP–DAH 80,000, and dated February 1992:

(1) A core parcel in Dayton, Ohio, which shall consist of the Wright Cycle Company Building, Hoover Block, and lands between.

(2) Huffman Prairie Flying Field, Wright-Patterson Air Force Base, Ohio.

(3) The Wright 1905 Flyer and Wright Hall, Dayton, Ohio.

(4) The Paul Laurence Dunbar home, Dayton, Ohio.

16 USC 410ww-1.

SEC. 102. PROTECTION OF HISTORIC PROPERTIES.

(a) ACQUISITION OF PROPERTIES WITHIN THE PARK.—Within the boundaries of the park the Secretary shall, subject to the availability of appropriated funds, acquire the Wright Cycle Company Building and Hoover Block, and may acquire other properties, or interests therein, referred to in section 101(b), by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with other Federal agencies, State and local public bodies, and private interests and organizations relating to the preservation, development, use, and interpretation of properties within the boundaries of the park in order to contribute to the appropriate use and management of such properties consistent with the purposes of this Act. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to any such property at specified reasonable times for purposes of viewing such property or the exhibits or attending programs established by the Secretary under this subsection; and

(2) the Secretary may make such improvements to any such property as the Secretary deems necessary after consultation with the Commission to enhance the public use and enjoyment of such property and programs.

16 USC 410ww-2.

SEC. 103. PARK GENERAL MANAGEMENT PLAN.

(a) IN GENERAL.—Not later than 3 complete fiscal years after the date of enactment of this Act, the Secretary, with the advice of the Commission, shall prepare and submit to the Congress a general management plan for the park which includes but is not limited to the information described in section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)), and which takes into account the preservation and development plan developed under section 202.

(b) PARK PARTNERSHIPS.—The management plan shall identify partnership opportunities between the Secretary and other Federal, State, and local governments and the private sector for the development, use, and interpretation of properties within the park.

16 USC 410ww-3.

SEC. 104. STUDIES.

The Secretary shall study the following properties to determine the feasibility and suitability of including them within the park:

(1) Properties within the Wright-Dunbar Historic District.

Reports.

(2) Wright Company Factory, Dayton, Ohio. A report of the study of such properties shall be submitted as part of the general management plan required by section 103.

16 USC 410ww-4.

SEC. 105. GENERAL ADMINISTRATIVE FUNCTIONS.

(a) IN GENERAL.—The park shall be administered in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including, but not limited to, the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1–4).

(b) DONATIONS.—The Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purposes of managing the park.

(c) PROGRAMS.—The Secretary may sponsor, coordinate, or enter into cooperative agreements for educational or cultural programs related to the park as the Secretary considers appropriate to carry out the purposes of this Act.

(d) IDENTIFICATION AND MARKING OF SIGNIFICANT HISTORICAL SITES.—The Secretary may identify other significant sites related to the Wright brothers, the history of aviation, or Paul Laurence Dunbar in the Miami Valley which are related to the park, and, with the consent of the owner or owners thereof, may mark the sites appropriately and make reference to them in any interpretive literature. The Secretary may provide interpretive markers along transportation routes leading to units of the park.

(e) INTERPRETATION OF HUFFMAN PRAIRIE FLYING FIELD.—The Secretary may provide interpretation of Huffman Prairie Flying Field on Wright Brothers Hill, Wright-Patterson Air Force Base, Ohio.

SEC. 106. COOPERATION OF FEDERAL AGENCIES.

16 USC 410ww-5.

Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult with, cooperate with, and to the maximum extent practicable, coordinate its activities with the Secretary; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to section 202(b)(9); and

(B) to the maximum extent practicable will not have an adverse effect on the historic resources of the park.

SEC. 107. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE.

16 USC 410ww-6.

The decisions concerning the execution of this Act as it applies to properties under control of the Secretary of Defense shall be made by such Secretary, in consultation with the Secretary of Interior.

SEC. 108. ASSISTANCE.

16 USC 410ww-7.

(a) TECHNICAL AND PRESERVATION ASSISTANCE.—The Secretary may provide to any owner of property within the park, and to any organization having an agreement with the Secretary under section 102(b), such technical assistance as the Secretary considers appropriate to carry out the purposes of this Act.

(b) INTERPRETATIVE MATERIALS.—The Secretary is authorized to publish interpretative materials for historic aviation resources in the Miami Valley.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

16 USC 410ww-8.

There is authorized to be appropriated such sums as may be necessary to carry out this title: *Provided,* That the amount to be appropriated for the operation, development or restoration of non-federally owned properties within the boundaries of the park shall not exceed $200,000.

TITLE II—DAYTON AVIATION HERITAGE COMMISSION

16 USC 410ww-21.

SEC. 201. DAYTON AVIATION HERITAGE COMMISSION.

(a) ESTABLISHMENT.—There is established the Dayton Aviation Heritage Commission to assist Federal, State, and local authorities and the private sector in preserving and managing the historic resources in the Miami Valley, Ohio, associated with the Wright brothers, aviation, or Paul Laurence Dunbar.

(b) MEMBERSHIP.—The Commission shall consist of 13 members as follows:

(1) 3 members appointed by the Secretary, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the National Park Service.

(2) 3 members appointed by the Secretary from recommendations submitted by the Governor of the State of Ohio, who shall have demonstrated expertise in aviation history, black history and literature, aviation technology, or historic preservation, at least one of whom shall represent the Ohio Historical Society.

(3) 1 member appointed by the Secretary of Defense, who shall represent Wright-Patterson Air Force Base.

(4) 3 members appointed by the Secretary from recommendations submitted by the City Commission of Dayton, Ohio, at least one of whom shall reside near the core parcel of the park (as described in section 101(b)(1)).

(5) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Montgomery County, Ohio.

(6) 1 member appointed by the Secretary from recommendations submitted by the Board of Commissioners of Greene County, Ohio.

(7) 1 member appointed by the Secretary from recommendations submitted by the City Council of Fairborn, Ohio.

(c) TERMS.—(1) Members shall be appointed for terms of 3 years. A member may be reappointed only 3 times unless such member was originally appointed to fill a vacancy pursuant to subsection (e)(1), in which case such member may be reappointed 4 times. A member may serve after the expiration of his term until a successor is appointed.

(2) The Secretary shall appoint the first members of the Commission within 30 days after the date on which the Secretary has received all of the recommendations for appointment pursuant to subsections (b) (2), (4), (5), (6), and (7).

(d) CHAIR AND VICE CHAIR.—The chair and vice chair of the Commission shall be elected by the members of the Commission. The terms of the chair and vice chair shall be 2 years. The vice chair shall serve as chair in the absence of the chair.

(e) VACANCY.—(1) Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made, except that the Secretary responsible for such appointment shall fill any such vacancy within 30 days after receiving a recommendation for the position.

(2) A member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

A member may serve after the expiration of his term until his successor has taken office.

(f) QUORUM.—A majority of the members of the Commission then serving shall constitute a quorum, but a lesser number may hold hearings.

(g) MEETINGS.—The Commission shall meet not less than 3 times a year at the call of the chair or a majority of its members.

(h) PAY.—(1) Except as provided in paragraph (2), members of the Commission shall serve without pay.

(2) Members of the Commission who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Commission.

(3) While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(i) FACA.—Section 14(b) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(j) TERMINATION.—The Commission shall cease to exist on January 1, 2004.

SEC. 202. DAYTON HISTORIC RESOURCES PRESERVATION AND DEVELOPMENT PLAN.

16 USC 410ww-22.

(a) IN GENERAL.—Within 2 years after the date on which the Commission conducts its first meeting, the Commission shall submit to the Secretary a preservation and development plan which may include the Wright-Dunbar Historic District, the Dunbar Historic District, the Ed Sines House and the Daniel Fitch House, and the 45 sites identified in Appendix A of the document entitled "Study of Alternatives Dayton's Aviation Heritage, Ohio" published by the National Park Service. Within 90 days after the receipt of such plan, the Secretary shall approve such plan or return it with comments to the Commission. If the Secretary has taken no action after 90 days upon receipt, the plan shall be considered approved. If the Secretary disapproves a plan, the Commission shall submit a revised plan to the Secretary. The plan shall include specific preservation and interpretation goals and a priority timetable for their achievement. The Secretary shall forward copies of the approved plan to the Congress.

(b) CONTENTS OF PLAN.—The plan referred to in subsection (a) shall—

(1) set detailed goals for the preservation, protection, enhancement, and utilization of the resources of sites referred to in subsection (a);

(2) identify properties which should be preserved, restored, developed, maintained, or acquired;

(3) include a tentative budget for the subsequent five fiscal years;

(4) propose a management strategy for a permanent organizational structure to enhance and coordinate such resources, and aviation-related properties, and institutions;

(5) recommend methods for establishing partnerships with Federal, State, and local governments and the private sector to foster development and to preserve and enhance such resources;

(6) propose transportation links, including pedestrian facilities and bicycle trails among historic aviation sites including an interurban between the Wright-Dunbar Historic District and the historic resources at Wright-Patterson Air Force Base;

(7) address the use of private vehicles, traffic patterns, parking, and public transportation;

(8) propose educational and cultural programs to encourage appreciation of such resources;

(9) establish standards and criteria applicable to the construction, preservation, restoration, alteration, and use of the properties among such resources;

(10) establish an index which shall contain documentary evidence of historical and cultural significance and which includes property in the Miami Valley associated with the Wright brothers, the history of aviation, or Paul Laurence Dunbar.

(c) CONSULTATION.—In developing the plan, the Commission shall consult with appropriate officials of any local government or Federal or State agency which has jurisdiction over historic aviation resources in the Miami Valley area. The Commission shall also consult with property owners and business, historic, professional, neighborhood, and citizen organizations affected by the actions proposed in the plan.

16 USC 410ww-23.

SEC. 203. GENERAL POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or service from individuals, foundations, corporations, and other private entities and public entities for the purpose of carrying out its duties.

(c) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(d) MAIL.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) USES OF ACQUIRED ASSETS.—Any revenues or other assets acquired by the Commission by donations, the lease or sale of property, or fees for services shall be available to the Commission, without fiscal year limitations, to be used for any function of the Commission.

(f) HISTORICAL AND CULTURAL PROGRAMS.—The Commission is authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the Miami Valley associated with the Wright brothers, aviation, or the life and works of Paul Laurence Dunbar.

(g) TECHNICAL AND PRESERVATION ASSISTANCE.—The Commission may provide technical and preservation assistance to owners of property within the districts, sites, and properties referred to in section 202(a) consistent with the purposes of this Act.

(h) OBTAINING PROPERTY.—(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that

the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the districts, sites, and properties referred to in section 202(a)—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in such district and sites.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

SEC. 204. STAFF OF COMMISSION.

16 USC 410ww-24.

(a) DIRECTOR.—The Commission shall have a Director who shall be appointed by the Commission.

(b) ADDITIONAL PERSONNEL.—The Commission may appoint and fix the pay of such additional personnel as the Commission deems necessary. Such staff may include specialists in areas such as interpretation, historic preservation, black history and literature, aviation history and technology, and urban revitalization.

(c) TEMPORARY SERVICES.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(d) DETAIL.—Upon request of the Commission, the head of any Federal agency represented by a member on the Commission may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist it in carrying out its duties under this Act.

(e) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(f) STATE AND LOCAL SERVICES.—The Commission may accept the services of personnel detailed from the State or any political subdivision of the State and may reimburse the State or such political subdivision for such services.

(g) INAPPLICABILITY OF CERTAIN PROVISIONS OF TITLE 5, UNITED STATES CODE.—The director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for grade GS–15 of the General Schedule.

16 USC 410ww-25.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated annually to the Commission to carry out its duties under this Act $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

Approved October 16, 1992.

LEGISLATIVE HISTORY—H.R. 2321:

HOUSE REPORTS: No. 102-449 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, 4, considered and passed House.
Sept. 9, considered and passed Senate, amended.
Sept. 10, Senate vitiated passage.
Oct. 1, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 16, Presidential statement.

Public Law 102-420
102d Congress

An Act

An Act to provide for the withdrawal of most favored nation status from Serbia and Montenegro and to provide for the restoration of such status if certain conditions are fulfilled.

Oct. 16, 1992
[H.R. 5258]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WITHDRAWAL OF MOST FAVORED NATION STATUS FROM SERBIA AND MONTENEGRO.

19 USC 2432 note.

(a) FINDINGS.—The Congress finds that Serbia or Montenegro are not complying with the provisions of the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act"), particularly the provisions regarding human rights and humanitarian affairs and are not respecting minority rights in Kosovo and Vojvodina.

(b) WITHDRAWAL OF MFN STATUS.—Except as provided in subsection (c), nondiscriminatory treatment shall not apply with respect to any goods that—

(1) are the product of Serbia or Montenegro; and

(2) are entered into the customs territory of the United States on or after the 15th day after the date of the enactment of this Act.

(c) RESTORATION OF NONDISCRIMINATORY TREATMENT.—Notwithstanding subsection (b), the President may restore nondiscriminatory treatment to goods that are the product of Serbia or Montenegro, as the case may be, 30 days after he certifies to the Congress that Serbia or Montenegro, as the case may be—

(1) has ceased its armed conflict with the other ethnic peoples of the region formerly comprising the Socialist Federal Republic of Yugoslavia;

(2) has agreed to respect the borders of the 6 republics that comprised the Socialist Federal Republic of Yugoslavia under the 1974 Yugoslav Constitution; and

(3) has ceased all support of Serbian forces inside Bosnia-Hercegovina.

Approved October 16, 1992.

LEGISLATIVE HISTORY—H.R. 5258:

HOUSE REPORTS: No. 102-880 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 22, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 5, House concurred in Senate amendments.

Public Law 102-421
102d Congress

An Act

To modify the provisions of the Education of the Deaf Act of 1986, and for other purposes.

Oct. 16, 1992
[H.R. 5483]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Education of the Deaf Act Amendments of 1992.
20 USC 4301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Education of the Deaf Act Amendments of 1992".

TITLE I—AMENDMENTS TO EDUCATION OF THE DEAF ACT OF 1986

Subtitle A—Reorganization of Act

SEC. 101. REORGANIZATION.

(a) REPEALS.—The following provisions of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) are repealed:

(1) Part B and part C of title I. 20 USC 4311, 4321, 4322.

(2) Title III. 20 USC 4341-4344.

(b) REDESIGNATIONS.—The Education of the Deaf Act of 1986, as amended by subsection (a) of this section, is amended—

(1) in the heading for title I, by amending the heading to read as follows: 20 USC prec. 4301.

"TITLE I—GALLAUDET UNIVERSITY; NATIONAL TECHNICAL INSTITUTE FOR THE DEAF";

(2) in the heading for part A of title I, by amending the heading to read as follows: 20 USC prec. 4301.

"PART A—GALLAUDET UNIVERSITY";

(3) by striking the heading for title II and inserting the following: 20 USC prec. 4331.

"PART B—NATIONAL TECHNICAL INSTITUTE FOR THE DEAF";

(4) by redesignating sections 201 and 202 as sections 111 and 112, respectively; 20 USC 4331, 4332.

(5) by striking the heading for title IV and inserting the following: 20 USC prec. 4351.

"TITLE II—GENERAL PROVISIONS"; and

(6) by redesignating sections 401 through 411 as sections 201 through 211, respectively. 20 USC 4351-4360.

(c) CROSS-REFERENCE.—The Education of the Deaf Act of 1986, as amended by subsection (b) of this section, is amended in section 103(b)(8) by striking "section 403" and inserting "section 203".

20 USC 4303.

Subtitle B—Gallaudet University

SEC. 111. BOARD OF TRUSTEES.

Section 103 of the Education of the Deaf Act of 1986 (20 U.S.C. 4303) is amended—

(1) in subsection (a)(1)(B), by striking ", who on the effective date" and all that follows through "such date,"; and

(2) in subsection (b)—

(A) in paragraph (1), by inserting after "corporation" the following: "(including the construction of buildings and other facilities)";

(B) in paragraph (4) by amending the paragraph to read as follows:

"(4) appoint a president and establish policies, guidelines, and procedures related to the appointments, the salaries, and the dismissals of professors, instructors, and other employees of Gallaudet University, including the adoption of a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing."; and

(C) in paragraph (6), by amending the paragraph to read as follows:

"(6) establish such schools, departments, and other units as the Board of Trustees deems necessary to carry out the purpose of Gallaudet University;".

SEC. 112. ESTABLISHMENT OF AUTHORITY FOR CERTAIN PROGRAMS.

Part A of title I of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended by adding at the end the following section:

20 USC 4304.

"SEC. 104. ELEMENTARY AND SECONDARY EDUCATIONAL PROGRAMS.

"(a) GENERAL AUTHORITY.—(1)(A) The Board of Trustees of Gallaudet University is authorized, in accordance with the agreement under section 105, to maintain and operate exemplary elementary and secondary education programs, projects, and activities for the primary purpose of developing, evaluating, and disseminating innovative curricula, instructional techniques and strategies, and materials that can be used in various educational environments serving individuals who are deaf and individuals who are hard of hearing throughout the Nation.

Minorities.
Rural and urban areas.
Handicapped.

"(B) The elementary and secondary programs described in subparagraph (A) shall serve students with a broad spectrum of needs, including students who are lower achieving academically, who come from non-English speaking homes, who have secondary disabilities, who are members of minority groups, or who are from rural areas.

"(C) The elementary and secondary programs described in subparagraph (A) shall include—

"(i) the Kendall Demonstration Elementary School, to provide day facilities for elementary education for individuals who are deaf, to provide such individuals with the vocational, transi-

tional, independent living, and related services they need to function independently, and to prepare such individuals for high school and other secondary study; and

"(ii) the Model Secondary School for the Deaf, to provide day and residential facilities for secondary education for individuals who are deaf, to provide such individuals with the vocational, transitional, independent living, and related services they need to function independently, and to prepare such individuals for college, other postsecondary opportunities, or the workplace.

"(2) The Model Secondary School for the Deaf may provide residential facilities for students enrolled in the school—

"(A) who live beyond a reasonable commuting distance from the school; or

"(B) for whom such residency is necessary for them to receive a free appropriate public education within the meaning of part B of the Individuals with Disabilities Education Act.

"(b) ADMINISTRATIVE REQUIREMENTS.—(1) The elementary and secondary education programs shall—

"(A) provide technical assistance and outreach throughout the Nation to meet the training and information needs of parents of infants and children who are deaf or hard of hearing;

"(B) provide technical assistance and training to personnel for use in teaching (i) students who are deaf or hard of hearing, in various educational environments, and (ii) students who are deaf or hard of hearing with a broad spectrum of needs as described in subsection (a); and

"(C) establish and publish priorities for research, development, and demonstration through a process that allows for public input;

"(2) To the extent possible, the elementary and secondary education programs shall provide the services required under paragraph (1) in an equitable manner, based on the national distribution of students who are deaf or hard of hearing in educational environments as determined by the Secretary for purposes of section 618(b) of the Individuals with Disabilities Education Act. Such educational environments shall include—

"(A) regular classes;

"(B) resource rooms;

"(C) separate classes;

"(D) separate, public or private, nonresidential schools; and

"(E) separate, public or private, residential schools and homebound or hospital environments.

"(3) If a local educational agency, intermediate educational unit, or State educational agency refers a child to, or places a child in, one of the elementary or secondary education programs to meet its obligation to make available a free appropriate public education under part B of the Individuals with Disabilities Education Act, the agency or unit shall be responsible for ensuring that the special education and related services provided to the child by the education program are in accordance with part B of that Act and that the child is provided the rights and procedural safeguards under section 615 of that Act.

"(4) If the parents or guardian places a child in one of the elementary or secondary education programs, the University shall—

"(A) notify the appropriate local educational agency, intermediate educational unit, or State educational agency of that child's attendance in the programs;

"(B) work with local educational agencies, intermediate educational units, and State educational agencies, where appropriate, to ensure a smooth transfer of students to and from those programs; and

"(C) provide the child a free appropriate public education in accordance with part B of the Individuals with Disabilities Education Act and procedural safeguards in accordance with the following provisions of section 615 of such Act:

"(i) Subparagraphs (A), (C), (D), and (E) of paragraph (1) of subsection (b), and paragraph (2) of such subsection.

"(ii) Subsection (d), except the portion of paragraph (4) requiring that findings and decisions be transmitted to a State advisory panel.

"(iii) Paragraphs (1) through (3) of subsection (e). Paragraph (3) of such subsection is not applicable to decisions by the University to refuse to admit or to dismiss a child, except that, before dismissing any child, the University shall give at least 60 days notice to the child's parents and to the local educational agency in which the child resides.

"(iv) Subsection (f).".

20 USC 4305.

SEC. 113. ESTABLISHMENT OF CERTAIN REQUIREMENTS.

Part A of title I of the Education of the Deaf Act of 1986, as amended by section 112 of this Act, is amended by adding at the end the following section:

"SEC. 105. AGREEMENT WITH GALLAUDET UNIVERSITY.

"(a) GENERAL AUTHORITY.—The Secretary and Gallaudet University shall establish, within 1 year after enactment of the Education of the Deaf Act Amendments of 1992, a new agreement governing the operation and national mission activities, including construction and provision of equipment, of the elementary and secondary education programs at the University. The Secretary and the University shall periodically update the agreement as determined to be necessary by the Secretary or the University.

"(b) PROVISIONS OF AGREEMENT.—The agreement shall—

"(1) provide that Federal funds appropriated for the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be used only for the purposes for which appropriated and in accordance with the applicable provisions of this Act and such agreement;

Reports.

"(2) provide that the University shall make an annual report, to be part of the report required under section 204, to the Secretary on the operations and national mission activities of the elementary and secondary education programs, including such other information as the Secretary may consider necessary;

"(3) provide that in the design and construction of any facilities, maximum attention will be given to innovative auditory and visual devices and installations appropriate for the educational functions of such facilities;

"(4) provide that any laborer or mechanic employed by any contractor or subcontractor in the performance of work on any construction aided by Federal funds appropriated for

the benefit of the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf will be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) commonly referred to as the Davis-Bacon Act; and the Secretary of Labor shall have, with respect to the labor standards specified in this paragraph, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (5 U.S.C. App.) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c); and

"(5) include such other conditions as the Secretary or the University considers necessary to carry out the purposes of this part.".

Subtitle C—National Technical Institute for the Deaf

SEC. 121. AGREEMENT FOR NTID.

Section 112 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(4) of this Act, is amended— 20 USC 4332.

(1) in subsection (a)—

(A) by striking ".—The Secretary" and inserting ".—(1) The Secretary"; and

(B) by adding at the end the following paragraph:

"(2) The Secretary, and the institution of higher education with which the Secretary has an agreement under this section, shall, within 1 year after the enactment of the Education of the Deaf Act Amendments of 1992, assess the need for modification of the agreement. The Secretary and the institution of higher education with which the Secretary has an agreement under this section shall also periodically update the agreement as determined to be necessary by the Secretary or the institution.";

(2) in subsection (b)(3), by striking "will make" and all that follows through "the Congress" and inserting the following: "will prepare and submit to the Secretary an annual report, including an accounting of all indirect costs paid to the institution of higher education under the agreement with the Secretary, which report the Secretary shall transmit to the Committee on Education and Labor of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate,"; and

(3) in subsection (b) by adding, at the end the following new paragraph:

"(6) establish a policy of outreach and recruitment to employ and advance in employment qualified individuals with disabilities, particularly individuals who are deaf or individuals who are hard of hearing.".

Subtitle D—General Provisions

SEC. 131. DEFINITIONS.

Section 201 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended— 20 USC 4351.

(1) by striking paragraph (1) and inserting the following paragraph:

"(1) The term 'international student' means an individual who—

"(A) is not a citizen or national of, or lawfully admitted for permanent residence in, the United States;

"(B) does not provide evidence from the Immigration and Naturalization Service that he or she is in the United States for other than temporary purposes with the intention of becoming a citizen of, or lawfully admitted for permanent residence in, the United States; or

"(C) is not lawfully admitted for permanent residence in American Samoa, Guam, Palau (but only until the Compact of Free Association with Palau takes effect), the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, or the Virgin Islands.";

(2)(A) by striking paragraph (4); and

(B) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively;

(3) in paragraph (7) (as redesignated by paragraph (2) of this section), by striking "the Northern" and all that follows and inserting the following: "the Commonwealth of the Northern Mariana Islands, and Palau (but only until the Compact of Free Association with Palau takes effect)."; and

(4) by adding at the end the following paragraphs:

"(8) The term 'NTID' means the National Technical Institute for the Deaf.

"(9) The term 'University' means Gallaudet University.".

SEC. 132. GIFTS.

20 USC 4352.

Section 202 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended to read as follows:

"SEC. 202. GIFTS.

"The University and NTID are authorized to receive by gift, devise, bequest, purchase, or otherwise, property, both real and personal, for the use of the University or NTID, or for the use, as appropriate, for any programs, departments, or other units as may be designated in the conveyance or will, and to hold, invest, use, or dispose of such property for the purpose stated in the conveyance or will.".

SEC. 133. AUDIT.

20 USC 4353.

Section 203 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended by adding at the end the following subsection:

"(c) LIMITATIONS REGARDING EXPENDITURE OF FUNDS.—

"(1) IN GENERAL.—No funds appropriated under this Act for Gallaudet University, including the Kendall Demonstration Elementary School and the Model Secondary School for the Deaf, or for the National Technical Institute for the Deaf may be expended on the following:

"(A) Alcoholic beverages.

"(B) Goods or services for personal use.

"(C) Housing and personal living expenses (but only to the extent such expenses are not required by written employment agreement).

"(D) Lobbying, except that nothing in this subparagraph shall be construed to prohibit the University and NTID from educating the Congress, the Secretary, and others regarding programs, projects, and activities conducted at those institutions.

"(E) Membership in country clubs and social or dining clubs and organizations.

"(2) POLICIES.—

"(A) Not later than 180 days after the date of the enactment of the Education of the Deaf Act Amendments of 1992, the University and NTID shall develop policies, to be applied uniformly, for the allowability of expenditures for each institution. These policies should reflect the unique nature of these institutions. The principles established by the Office of Management and Budget for costs of educational institutions may be used as guidance in developing these policies. General principles relating to allowability and reasonableness of all costs associated with the operations of the institutions shall be addressed. These policies shall be submitted to the Secretary for review and comments, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(B) Policies under subparagraph (A) shall include the following:

"(i) Noninstitutional professional activities.

"(ii) Fringe benefits.

"(iii) Interest on loans.

"(iv) Rental cost of buildings and equipment.

"(v) Sabbatical leave.

"(vi) Severance pay.

"(vii) Travel.

"(viii) Royalties and other costs for uses of patents.

"(C) The Secretary is not authorized to add items to those specified in subparagraph (B).".

SEC. 134. REPORTS.

Section 204 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended to read as follows: 20 USC 4354.

"SEC. 204. REPORTS.

"The Board of Trustees of Gallaudet University and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 shall prepare and submit an annual report to the Secretary, and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, not later than 100 days after the end of each fiscal year, which shall include the following:

"(1) The number of students during the preceding academic year who enrolled and whether these were first time enrollments, who graduated, who found employment, or who left without completing a program of study, reported under each of the programs of the University (elementary, secondary, preparatory, undergraduate, and graduate) and of NTID.

"(2) For the preceding academic year, and to the extent possible, the following data on individuals who are deaf and

from minority backgrounds and who are students (at all educational levels) or employees:

"(A) The number of students enrolled full- and part-time.

"(B) The number of these students who completed or graduated from each of the educational programs.

"(C) The disposition of these students upon graduation/completion of programs at NTID and at the University and its elementary and secondary schools in comparison to students from non-minority backgrounds.

"(D) The number of students needing and receiving support services (such as tutoring and counseling) at all educational levels.

"(E) The number of recruitment activities by type and location for all educational levels.

"(F) Employment openings/vacancies and grade level/type of job and number of these individuals that applied and that were hired.

"(G) Strategies (such as parent groups and training classes in the development of Individualized Education Programs) used by the elementary and secondary programs and the extension centers to reach and actively involve minority parents in the educational programs of their children who are deaf and the number of parents who have been served as a result of these activities.

"(3) The annual audited financial statements of the University and NTID, respectively, together with the auditor's report.

"(4) For the preceding fiscal year, a statement showing the receipts of the University and NTID and from what Federal sources, and a statement showing the expenditures of each institution by function, activity, and administrative and academic unit.

"(5) A statement showing the use of funds (both corpus and income) provided by the Federal Endowment Program under section 207.

"(6) A statement showing how such Endowment Program is invested, what the gains or losses (both realized and unrealized) on such investments were for the most recent fiscal year, and what changes were made in investments during that year.

"(7) Such additional information as the Secretary may consider necessary.".

SEC. 135. MONITORING AND EVALUATION.

(a) EDUCATION OF THE DEAF ACT.—Section 205 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended to read as follows:

20 USC 4355.

"SEC. 205. MONITORING, EVALUATION, AND REPORTING.

"(a) ACTIVITIES.—The Secretary shall conduct monitoring and evaluation activities of the education programs and activities and the administrative operations of the University (including the elementary, secondary, preparatory, undergraduate, and graduate programs) and of NTID. The Secretary may also conduct studies related to the provision of preschool, elementary, secondary, and postsecondary education and other related services to individuals who are deaf. In carrying out the responsibilities described in this section, the Secretary is authorized to employ such consultants

as may be necessary pursuant to the provisions of section 3109 of title 5, United States Code.

"(b) REPORT.—The Secretary, as part of the annual report required under section 426 of the Department of Education Organization Act, shall include a description of the monitoring and evaluation activities pursuant to subsection (a), together with such recommendations, including recommendations for legislation, as the Secretary may consider necessary.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out the monitoring and evaluation activities authorized under this section.".

(b) REPORT.—Not later than 180 days after the date of enactment of the Education of the Deaf Act Amendments of 1992, the Secretary of Education shall submit a report to Congress regarding progress made by the Department of Education in implementing the recommendations of the Commission on Education of the Deaf pertaining to the provision of a free and appropriate public education to children who are deaf, and children who are hard of hearing, and with respect to the establishment of standards for programs and personnel to meet the educational, communicative, and psychological needs of children who are deaf, and children who are hard of hearing. In preparing this report, the Secretary of Education shall solicit input from the community of individuals who are deaf, and individuals who are hard of hearing.

SEC. 136. LIAISON FOR EDUCATIONAL PROGRAMS.

Section 206 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended— 20 USC 4356.

(1) in subsection (a), by striking "and the Rehabilitation Act of 1973." and inserting the following: ", the Rehabilitation Act of 1973, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing."; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (1);

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following paragraph:

"(2) review research and other activities carried out by the University, NTID, and other Federal or non-Federal agencies, institutions, or organizations involved with the education or rehabilitation of individuals who are deaf or hard of hearing for the purpose of determining overlap and opportunities for coordination among such entities; and".

SEC. 137. FEDERAL ENDOWMENT PROGRAMS.

The Education of the Deaf Act of 1986, as amended by section 101(b)(6) of this Act, is amended—

(1) by striking sections 207 and 208; and 20 USC 4357, 4358.

(2) by inserting after section 206 the following section:

"SEC. 207. FEDERAL ENDOWMENT PROGRAMS FOR GALLAUDET UNIVERSITY AND THE NATIONAL TECHNICAL INSTITUTE FOR THE DEAF. 20 USC 4357.

"(a) ESTABLISHMENT OF PROGRAMS.—

"(1) The Secretary and the Board of Trustees of Gallaudet University are authorized to establish the Gallaudet University Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of the University. The Secretary and the Board of Trustees may enter into such agreements as may be necessary to carry out the purposes of this section with respect to the University.

"(2) The Secretary and the Board of Trustees or other governing body of the institution of higher education with which the Secretary has an agreement under section 112 are authorized to establish the National Technical Institute for the Deaf Federal Endowment Fund as a permanent endowment fund, in accordance with this section, for the purpose of promoting the financial independence of NTID. The Secretary and the Board or other governing body may enter into such agreements as may be necessary to carry out the purposes of this section with respect to NTID.

"(b) FEDERAL PAYMENTS.—

"(1) The Secretary shall, consistent with this section, make payments to the Federal endowment funds established under subsection (a) from amounts appropriated under subsection (h) for the fund involved.

"(2) Subject to the availability of appropriations and the non-Federal matching requirements of paragraph (3), the Secretary shall make payments to each Federal endowment fund in amounts equal to sums contributed to the fund from non-Federal sources (excluding transfers from other endowment funds of the institution involved).

"(3) Effective for fiscal year 1993 and each succeeding fiscal year, for any fiscal year in which the sums contributed to the Federal endowment fund of the institution involved from non-Federal sources exceed $1,000,000, the non-Federal contribution to the Federal endowment fund shall be $2 for each Federal dollar provided in excess of $1,000,000 (excluding transfers from other endowment funds of the institution involved).

"(c) INVESTMENTS.—

"(1) Except as provided in subsection (e), the University and NTID, respectively, shall invest its Federal endowment fund corpus and income in instruments and securities offered through one or more cooperative service organizations of operating educational organizations under section 501(f) of the Internal Revenue Code of 1986, or in low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State in which the institution involved is located.

"(2) In managing the investment of its Federal endowment fund, the University or NTID shall exercise the judgment and care, under the prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of that person's own business affairs.

"(3) Neither the University nor NTID may invest its Federal endowment fund corpus or income in real estate, or in instruments or securities issued by an organization in which an executive officer, a member of the Board of Trustees of the University or of the host institution, or a member of the Advisory Board of NTID is a controlling shareholder, director,

or owner within the meaning of Federal securities laws and other applicable laws. Neither the University nor NTID may assign, hypothocate, encumber, or create a lien on the Federal endowment fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) Except as provided in paragraph (3)(B), neither the University nor NTID may withdraw or expend any of the corpus of its Federal endowment fund.

"(2)(A) The University and NTID, respectively, may withdraw or expend the income of its Federal endowment fund only for expenses necessary to the operation of that institution, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and student services programs, technical assistance, and research.

"(B) Neither the University nor NTID may withdraw or expend the income of its Federal endowment fund for any commercial purpose.

"(C) Beginning on October 1, 1992, the University and NTID shall maintain records of the income generated from its respective Federal endowment fund for the prior fiscal year. Records.

"(3)(A) Except as provided in subparagraph (B), the University and NTID, respectively, may, on an annual basis, withdraw or expend not more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year.

"(B) The Secretary may permit the University or NTID to withdraw or expend a portion of its Federal endowment fund corpus or more than 50 percent of the income generated from its Federal endowment fund from the prior fiscal year if the institution involved demonstrates, to the Secretary's satisfaction, that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) INVESTMENT AND EXPENDITURE FLEXIBILITY.—The corpus associated with a Federal payment (and its non-Federal match) made to the Federal endowment fund of the University or NTID shall not be subject to the investment limitations of subsection (c)(1) after 10 fiscal years following the fiscal year in which the funds are matched, and the income generated from such corpus after the tenth fiscal year described in this subsection shall not be subject to such investment limitations and to the withdrawal and expenditure limitations of subsection (d)(3).

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments under this section if the University or NTID—

"(1) makes a withdrawal or expenditure of the corpus or income of its Federal endowment fund that is not consistent with this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Federal endowment fund corpus or income.

"(g) DEFINITIONS.—As used in this section:

"(1) The term 'corpus', with respect to a Federal endowment fund under this section, means an amount equal to the Federal payments to such fund, amounts contributed to the fund from non-Federal sources, and appreciation from capital gains and reinvestment of income.

"(2) The term 'Federal endowment fund' means a fund, or a tax-exempt foundation, established and maintained pursuant to this section by the University or NTID, as the case may be, for the purpose of generating income for the support of the institution involved.

"(3) The term 'income', with respect to a Federal endowment fund under this section, means an amount equal to the dividends and interest accruing from investments of the corpus of such fund.

"(4) The term 'institution involved' means the University or NTID, as the case may be.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) In the case of the University, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(2) In the case of NTID, there are authorized to be appropriated for the purposes of this section such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(3) Amounts appropriated under paragraph (1) or (2) shall remain available until expended.

"(i) EFFECTIVE DATE.—The provisions of this section shall take effect as if included in the provisions of the Education of the Deaf Act of 1986.".

SEC. 138. SCHOLARSHIP PROGRAM.

The Education of the Deaf Act of 1986, as amended by section 137 of this Act, is amended by inserting after section 207 the following section:

20 USC 4358.

"SEC. 208. SCHOLARSHIP PROGRAM.

"(a) IN GENERAL.—The Secretary may make grants to institutions of higher education that have teacher training programs in deaf education or special education for the purpose of providing scholarships to individuals who are deaf for careers in deaf education or special education. Such institutions shall give priority consideration in the selection of qualified recipients of the scholarships to individuals from underrepresented backgrounds, particularly minority individuals who are deaf and who are underrepresented in the teaching profession. Grants may be used by institutions to assist in covering the cost of courses of training or study for such individuals and for establishing and maintaining fellowships or traineeships with stipends and allowances as may be determined by the Secretary.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under subsection (a), there are authorized to be appropriated $2,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

SEC. 139. INTERNATIONAL STUDENTS.

The Education of the Deaf Act of 1986, as amended by section 101(b)(6) of this Act, is amended by striking section 210 and inserting the following section:

"SEC. 210. INTERNATIONAL STUDENTS. 20 USC 4359a.

"(a) ENROLLMENT.—Effective with new admissions for academic year 1993–1994 and each succeeding academic year, the University (including preparatory, undergraduate, and graduate students) and NTID shall limit the enrollment of international students to approximately 10 percent of the total postsecondary student population enrolled respectively at the University or NTID.

"(b) TUITION SURCHARGE.—Effective with new admissions, the tuition for postsecondary international students enrolled in the University (including preparatory, undergraduate, and graduate students) or NTID shall include a surcharge of 75 percent beginning the academic year 1993–1994, and 90 percent beginning the academic year 1994–1995.

"(c) REDUCTION OF SURCHARGE.—Beginning the academic year 1993–1994 and thereafter, the University or NTID may reduce the surcharge under subsection (b) to 50 percent if—

"(A) a student described under subsection (b) is from a developing country;

"(B) such student is unable to pay the tuition surcharge under subsection (b); and

"(C) such student has made a good faith effort to secure aid through such student's government or other sources.

"(d) DEFINITION.—For purposes of subsection (c), the term 'developing country' means a country that has a 1990 per capita income not in excess of $4,000 in 1990 United States dollars.".

SEC. 140. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act, is amended— 20 USC 4360.

(1) in subsection (a)—

(A) in the matter preceding subparagraph (A), by striking "fiscal years" and all that follows through "1991" and inserting "fiscal years 1993 through 1997";

(B) in subparagraph (B), by striking "part B of title I, relating to"; and

(C) in subparagraph (C), by striking "part C of title I, relating to";

(2) in subsection (b), by striking "fiscal years" and all that follows through "relating to" and inserting the following: "fiscal years 1993 through 1997 to carry out the provisions of this Act relating to"; and

(3) by striking subsection (c).

Subtitle E—Technical Amendments

SEC. 151. TECHNICAL AMENDMENTS.

(a) TERMINOLOGY.—The Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.) is amended—

(1) by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(2) by striking "deaf people" each place such term appears and inserting "individuals who are deaf";

(3) by striking "deaf children" each place such term appears and inserting "children who are deaf";

(4) by striking "the deaf" each place such term appears and inserting "individuals who are deaf"; and

(5) in section 206 (as redesignated by section 101(b)(6) of this Act), in the heading for the section, by striking "FOR THE DEAF".

(b) OTHER AMENDMENTS.—Section 201 of the Education of the Deaf Act of 1986, as redesignated by section 101(b)(6) of this Act and amended by subsection (a) of this section, is amended— 20 USC 4351.

(1) in paragraph (2), by striking "thereof" and inserting "therein";

(2) in paragraph (3), by inserting "or hard-of-hearing" after "children who are deaf"; and

(3) in paragraph (4) (as redesignated by section 131(2)(B) of this Act)—

(A) in the first sentence, in each of subparagraphs (A) through (E), by striking the last comma and inserting a semicolon; and

(B) in the second sentence, by striking "clause" and inserting "subparagraph".

Subtitle F—Effective Dates

20 USC 4301 note.

SEC. 161. EFFECTIVE DATES.

The amendments described in this title are made upon October 1, 1992, and take effect upon such date.

TITLE II—PROVISIONS REGARDING OTHER ACTS

Subtitle A—Individuals with Disabilities Education Act

SEC. 201. POSTSECONDARY EDUCATION.

(a) REGIONAL CENTERS.—Section 625(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1424a(a)) is amended by inserting after the first sentence in paragraph (6) the following new sentences: "The Secretary shall continue to provide assistance through September 30, 1994, to the current grantees operating the four regional centers for the deaf under subsection (a) of this section. The Secretary shall continue to provide such assistance through September 30, 1995, unless the authorization of appropriations for parts C–G of the Act is extended by September 30, 1994.".

20 USC 1424a note.

(b) STUDY.—There shall be conducted a General Accounting Office study of the four regional centers for the deaf under section 625(a)(2) of the Individuals with Disabilities Education Act (20 U.S.C. 1424(a)(2)). The scope of such study shall be determined by the Chairpersons and Ranking Minority members of the Subcommittee on Disability Policy of the Committee on Labor and Human Resources in the Senate, and of the Subcommittee on Select Education of the Committee on Education and Labor in the House of Representatives.

SEC. 202. TRAINING PERSONNEL; EDUCATIONAL INTERPRETERS.

(a) TRAINING PERSONNEL.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end the following paragraph:

"(8)(A) In making grants under paragraph (1), the Secretary may make grants through a separate competition to institutions of higher education, in partnership with local educational agencies and center schools for students who are deaf, to carry out not less than 4 regional model demonstration training programs on deafness and secondary disabilities.

"(B) Such programs shall provide preservice and inservice training to teachers and school administrators, and leadership personnel, in the education of students who are deaf and to related services personnel.".

(b) EDUCATIONAL INTERPRETERS.—Section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively; and

(2) by inserting after subsection (a) the following subsection:

"(b)(1) The Secretary may make grants to institutions of higher education, and other appropriate nonprofit agencies or organizations for the establishment or continuation of educational interpreter training programs to train personnel to effectively meet the various communication needs of elementary and secondary students who are deaf or deaf-blind. To the extent feasible, grants shall be geographically dispersed throughout the Nation in urban and rural areas.

Rural and urban areas.

"(2) The Secretary may make a grant under paragraph (1) only if the applicant for the grant provides an assurance that all interpreters receiving training under the grant will be provided training designed to develop skills necessary for facilitating effective communication for students who are deaf or deaf-blind.

"(3) In making grants under paragraph (1), the Secretary may provide for the training or retraining (including short-term and in-service training) of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, and other personnel who work with such individuals, on the role of educational interpreters.".

SEC. 203. RESEARCH AND RELATED ACTIVITIES.

Section 641 of the Individuals with Disabilities Education Act (20 U.S.C. 1441) is amended by adding at the end the following subsection:

"(h)(1) The Secretary may make grants to institutions of higher education, in partnership with other appropriate agencies and organizations such as local educational agencies and center schools for students who are deaf, to—

"(A) conduct research in the unique needs of children and youth, including minority children and youth, with disabilities;

"(B) develop and evaluate specialized instructional methods, materials, curricula, and technologies for use with such children and youth; and

"(C) develop and evaluate assessment techniques, instruments, and strategies used to identify, evaluate, and measure the progress of such children and youth.

"(2) Each grantee under this subsection shall provide for the meaningful involvement in its project of parents and family members and adult role models.".

Subtitle B—Effective Dates

20 USC 1424a note.

SEC. 221. EFFECTIVE DATES.

The amendments described in this title shall take effect on October 1, 1992.

Approved October 16, 1992.

LEGISLATIVE HISTORY—H.R. 5483:

HOUSE REPORTS: No. 102-818 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Oct. 5, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 102-422
102d Congress

An Act

To amend the District of Columbia Spouse Equity Act of 1988.

Oct. 16, 1992
[S. 1880]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the District of Columbia Spouse Equity Act of 1988, effective March 16, 1988 (D. C. Law 7–214; D. C. Code, section 1–3001 et seq.) is amended—

(1) in section 2 (section 1–3001) by striking the period at the end thereof and inserting ", or an officer, member, or retiree of the United States Park Police Force, or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4–607 et seq. of the D. C. Code) applies.";

(2) in section 3(1) (section 1–3002(a)) by striking "a District" and inserting "an"; and

(3) in section 3(2) (section 1–3002(b)) by striking the period at the end thereof and inserting "or an officer, member, or retiree of the United States Park Police Force or an officer, member, or retiree of the United States Secret Service to whom the District of Columbia Policemen and Firemen's Retirement and Disability Act (sections 4–607 et seq. of the D. C. Code) applies.".

Approved October 16, 1992.

LEGISLATIVE HISTORY—S. 1880:

SENATE REPORTS: No. 102-366 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 25, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 102-423
102d Congress

An Act

Oct. 16, 1992
[S. 3007]

To authorize financial assistance for the construction and maintenance of the Mary McLeod Bethune Memorial Fine Arts Center.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MARY MCLEOD BETHUNE MEMORIAL FINE ARTS CENTER.

In recognition of the remarkable career of Mary McLeod Bethune, founder and president of Bethune-Cookman College, founder and first president of the National Council of Negro Women, and confidant and advisor to Presidents of the United States, and in order to enhance the ability of Bethune-Cookman College to carry on the unique quality of service to the community and to the Nation that characterizes the life of Mary McLeod Bethune, the Secretary of Education shall, in accordance with the provisions of this section, provide financial assistance to the Bethune-Cookman College in Volusia County, Florida, to enable the Bethune-Cookman College to establish the Mary McLeod Bethune Memorial Fine Arts Center.

SEC. 2. APPLICATION.

No financial assistance may be made under this Act except upon an application at such time, in such manner, and containing or accompanied by such information as the Secretary of Education may reasonably require.

SEC. 3. USE OF FUNDS.

The financial assistance made available pursuant to this Act shall be used for the construction, maintenance, and endowment of the Mary McLeod Bethune Memorial Fine Arts Center; the acquisition of necessary equipment; and the acquisition of necessary real property for the establishment of the Center.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums, not to exceed $15,700,000, as may be necessary to carry out the provisions of this Act. Funds appropriated pursuant to this Act shall remain available until expended.

Approved October 16, 1992.

LEGISLATIVE HISTORY—S. 3007:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 22, considered and passed Senate.
Sept. 29, considered and passed House.

Public Law 102-424
102d Congress

Joint Resolution

Oct. 16, 1992
[S.J. Res. 305]

To designate October 1992 as "Polish-American Heritage Month".

Whereas the first Polish immigrants to North America were among the first settlers of Jamestown, Virginia, in the seventeenth century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contribution to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was modeled directly on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Poles and Americans of Polish descent take great pride and honor in the greatest son of Poland, his Holiness Pope John Paul the Second;

Whereas Poles and Americans of Polish descent and people everywhere applauded the efforts of Solidarity's leader and now President in fighting for freedom, human rights, and economic reform in Poland;

Whereas the Polish-American Congress is observing its forty-eighth anniversary this year and is celebrating October 1992 as "Polish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1992 is designated "Polish-American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a month with appropriate ceremonies and activities.

Approved October 16, 1992.

LEGISLATIVE HISTORY—S.J. Res. 305:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-425
102d Congress
Joint Resolution

Oct. 16, 1992
[S.J. Res 319]

To designate the second Sunday in October of 1992 as "National Children's Day".

Whereas the people of the United States should celebrate children as the most valuable asset of the Nation;

Whereas children represent the future, hope, and inspiration of the United States;

Whereas the children of the United States should not be allowed to feel that their ideas and dreams will be stifled because adults in the United States do not take time to listen;

Whereas many children face crises of grave proportions, especially as they enter adolescent years;

Whereas it is important for parents to spend time listening to their children on a daily basis;

Whereas modern societal and economic demands often pull the family apart;

Whereas encouragement should be given to families to set aside a special time for all family members to remain at home;

Whereas adults in the United States should have an opportunity to reminisce on their youth to recapture some of the fresh insight, innocence, and dreams that they may have lost through the years;

Whereas the designation of a day to commemorate the children of the United States will provide an opportunity to emphasize to children the importance of developing an ability to make the choices necessary to distance themselves from impropriety;

Whereas the designation of a day to commemorate the children of the Nation will emphasize to the people of the United States the importance of the role of the child within the family;

Whereas the people of the United States should emphasize to children the importance of family life, education, and spiritual qualities; and

Whereas parents, teachers, and community and religious leaders should celebrate the children of the United States, whose questions, laughter, and tears are important to the existence of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the second Sunday in October of 1992 is designated as "National Children's Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 16, 1992.

LEGISLATIVE HISTORY—S.J. Res. 319:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-426
102d Congress

An Act

Oct. 19, 1992
[H.R. 4016]

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to require the Federal Government, before termination of Federal activities on any real property owned by the Government, to identify real property where no hazardous substance was stored, released, or disposed of.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community Environmental Response Facilitation Act.
42 USC 9601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Environmental Response Facilitation Act".

42 USC 9620 note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) The closure of certain Federal facilities is having adverse effects on the economies of local communities by eliminating jobs associated with such facilities, and delay in remediation of environmental contamination of real property at such facilities is preventing transfer and private development of such property.

(2) Each department, agency, or instrumentality of the United States, in cooperation with local communities, should expeditiously identify real property that offers the greatest opportunity for reuse and redevelopment on each facility under the jurisdiction of the department, agency, or instrumentality where operations are terminating.

(3) Remedial actions, including remedial investigations and feasibility studies, and corrective actions at such Federal facilities should be expedited in a manner to facilitate environmental protection and the sale or transfer of such excess real property for the purpose of mitigating adverse economic effects on the surrounding community.

(4) Each department, agency, or instrumentality of the United States, in accordance with applicable law, should make available without delay such excess real property.

(5) In the case of any real property owned by the United States and transferred to another person, the United States Government should remain responsible for conducting any remedial action or corrective action necessary to protect human health and the environment with respect to any hazardous substance or petroleum product or its derivatives, including aviation fuel and motor oil, that was present on such real property at the time of transfer.

SEC. 3. REQUIREMENT FOR IDENTIFICATION OF LAND ON WHICH NO HAZARDOUS SUBSTANCES OR PETROLEUM PRODUCTS OR THEIR DERIVATIVES WERE STORED, RELEASED, OR DISPOSED OF.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) is amended by adding at the end the following new paragraph:

"(4) IDENTIFICATION OF UNCONTAMINATED PROPERTY.—(A) In the case of real property to which this paragraph applies (as set forth in subparagraph (E)), the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall identify the real property on which no hazardous substances and no petroleum products or their derivatives were stored for one year or more, known to have been released, or disposed of. Such identification shall be based on an investigation of the real property to determine or discover the obviousness of the presence or likely presence of a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property. The identification shall consist, at a minimum, of a review of each of the following sources of information concerning the current and previous uses of the real property:

"(i) A detailed search of Federal Government records pertaining to the property.

"(ii) Recorded chain of title documents regarding the real property.

"(iii) Aerial photographs that may reflect prior uses of the real property and that are reasonably obtainable through State or local government agencies.

"(iv) A visual inspection of the real property and any buildings, structures, equipment, pipe, pipeline, or other improvements on the real property, and a visual inspection of properties immediately adjacent to the real property.

"(v) A physical inspection of property adjacent to the real property, to the extent permitted by owners or operators of such property.

"(vi) Reasonably obtainable Federal, State, and local government records of each adjacent facility where there has been a release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, and which is likely to cause or contribute to a release or threatened release of any hazardous substance or any petroleum product or its derivatives, including aviation fuel and motor oil, on the real property.

"(vii) Interviews with current or former employees involved in operations on the real property.

Such identification shall also be based on sampling, if appropriate under the circumstances. The results of the identification shall be provided immediately to the Administrator and State and local government officials and made available to the public. Public information.

"(B) The identification required under subparagraph (A) is not complete until concurrence in the results of the identification is obtained, in the case of real property that is part of a facility on the National Priorities List, from the Administrator, or, in the case of real property that is not part of a facility on the National Priorities List, from the appropriate

State official. In the case of a concurrence which is required from a State official, the concurrence is deemed to be obtained if, within 90 days after receiving a request for the concurrence, the State official has not acted (by either concurring or declining to concur) on the request for concurrence.

"(C)(i) Except as provided in clauses (ii), (iii), and (iv), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made at least 6 months before the termination of operations on the real property.

"(ii) In the case of real property described in subparagraph (E)(i)(II) on which operations have been closed or realigned or scheduled for closure or realignment pursuant to a base closure law described in subparagraph (E)(ii)(I) or (E)(ii)(II) by the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after such date of enactment.

"(iii) In the case of real property described in subparagraph (E)(i)(II) on which operations are closed or realigned or become scheduled for closure or realignment pursuant to the base closure law described in subparagraph (E)(ii)(II) after the date of the enactment of the Community Environmental Response Facilitation Act, the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date by which a joint resolution disapproving the closure or realignment of the real property under section 2904(b) of such base closure law must be enacted, and such a joint resolution has not been enacted.

"(iv) In the case of real property described in subparagraphs (E)(i)(II) on which operations are closed or realigned pursuant to a base closure law described in subparagraph (E)(ii)(III) or (E)(ii)(IV), the identification and concurrence required under subparagraphs (A) and (B), respectively, shall be made not later than 18 months after the date on which the real property is selected for closure or realignment pursuant to such a base closure law.

"(D) In the case of the sale or other transfer of any parcel of real property identified under subparagraph (A), the deed entered into for the sale or transfer of such property by the United States to any other person or entity shall contain—

"(i) a covenant warranting that any response action or corrective action found to be necessary after the date of such sale or transfer shall be conducted by the United States; and

"(ii) a clause granting the United States access to the property in any case in which a response action or corrective action is found to be necessary after such date at such property, or such access is necessary to carry out a response action or corrective action on adjoining property.

"(E)(i) This paragraph applies to—

"(I) real property owned by the United States and on which the United States plans to terminate Federal Government operations, other than real property described in subclause (II); and

"(II) real property that is or has been used as a military installation and on which the United States plans to close or realign military operations pursuant to a base closure law.

"(ii) For purposes of this paragraph, the term 'base closure law' includes the following:

"(I) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(II) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

"(III) Section 2687 of title 10, United States Code.

"(IV) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of enactment of the Community Environmental Response Facilitation Act.

"(F) Nothing in this paragraph shall affect, preclude, or otherwise impair the termination of Federal Government operations on real property owned by the United States.".

SEC. 4. CLARIFICATION OF COVENANT WARRANTING THAT REMEDIAL ACTION HAS BEEN TAKEN.

(a) CLARIFICATION.—Paragraph (3) of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(3)) is amended by adding after the last sentence of such paragraph the following: "For purposes of subparagraph (B)(i), all remedial action described in such subparagraph has been taken if the construction and installation of an approved remedial design has been completed, and the remedy has been demonstrated to the Administrator to be operating properly and successfully. The carrying out of long-term pumping and treating, or operation and maintenance, after the remedy has been demonstrated to the Administrator to be operating properly and successfully does not preclude the transfer of the property.".

(b) ACCESS TO PROPERTY.—Paragraph (3) of such section is further amended—

(1) by striking out ", and" at the end of subparagraph (A)(iii) and inserting in lieu thereof a semicolon;

(2) by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof"; and"; and

(3) by adding after subparagraph (B) the following new subparagraph:

"(C) a clause granting the United States access to the property in any case in which remedial action or corrective action is found to be necessary after the date of such transfer.".

SEC. 5. REQUIREMENT TO NOTIFY STATES OF CERTAIN LEASES.

Section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)), as amended by section 3, is further amended by adding at the end the following new paragraph:

"(5) NOTIFICATION OF STATES REGARDING CERTAIN LEASES.—In the case of real property owned by the United States, on which any hazardous substance or any petroleum product or its derivatives (including aviation fuel and motor oil) was stored for one year or more, known to have been released, or disposed

of, and on which the United States plans to terminate Federal Government operations, the head of the department, agency, or instrumentality of the United States with jurisdiction over the property shall notify the State in which the property is located of any lease entered into by the United States that will encumber the property beyond the date of termination of operations on the property. Such notification shall be made before entering into the lease and shall include the length of the lease, the name of person to whom the property is leased, and a description of the uses that will be allowed under the lease of the property and buildings and other structures on the property.".

Approved October 19, 1992.

LEGISLATIVE HISTORY—H.R. 4016:

HOUSE REPORTS: Nos. 102-814 (Comm. on Energy and Commerce) and 102-986 (Comm. of Conference).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Sept. 18, considered and passed Senate, amended.
Oct. 5, Senate and House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 19, Presidential statement.

Public Law 102-427
102d Congress

An Act

To establish the Little River Canyon National Preserve in the State of Alabama.

Oct. 21, 1992
[H.R. 3665]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Little River Canyon National Preserve Act of 1992.
Conservation.
16 USC 698q note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Little River Canyon National Preserve Act of 1992".

16 USC 698q.

SEC. 2. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the natural, scenic, recreational, and cultural resources of the Little River Canyon area in DeKalb and Cherokee Counties, Alabama, and to provide for the protection and public enjoyment of the resources, there is established the Little River Canyon National Preserve (referred to in this Act as the "Preserve").

(b) AREA INCLUDED.—The Preserve shall consist of the lands, waters, and interests in lands and waters generally depicted on the boundary map entitled "Little River Canyon National Preserve", numbered NA–LRNP–80,001C, and dated March 1992.

(c) MAP.—The map referred to in subsection (b) shall—

(1) be on file and available for public inspection in the offices of the National Park Service of the Department of the Interior in Washington, District of Columbia; and

(2) be filed with the appropriate offices of DeKalb and Cherokee Counties in the State of Alabama.

(d) PUBLICATION OF DESCRIPTION.—Not later than 6 months after the date of enactment of this Act, the Secretary of the Interior (referred to in this Act as the "Secretary") shall publish in the Federal Register a detailed description of the boundaries of the Preserve.

16 USC 698r.

SEC. 3. ADMINISTRATION.

(a) IN GENERAL.—The Preserve shall be administered by the Secretary in accordance with this Act and in accordance with the laws generally applicable to units of the National Park System, including—

(1) the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) HUNTING AND FISHING.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary shall permit hunting, trapping, and fishing on lands and waters under the jurisdiction of the Secretary within the Preserve in accordance with applicable Federal and State laws.

(2) TIME AND PLACE RESTRICTIONS.—Subject to such terms and conditions as the Secretary considers necessary in furtherance of this Act, and after consultation with the Department of Conservation and Natural Resources of the State of Alabama and owners of lands adjacent to the Preserve, the Secretary may designate zones where, and establish periods when, the activities described in paragraph (1) will not be permitted within the Preserve for reasons of public safety, administration, fish and wildlife habitat, or public use and enjoyment.

(3) RESTRICTIONS IN BOUNDARY AREAS.—After consultation with the Department of Conservation and Natural Resources of the State of Alabama and with the owners of lands adjacent to the Preserve, the Secretary may restrict hunting in areas within the Preserve that are adjacent to the boundaries of the Preserve where the restriction is necessary or appropriate to protect public safety.

(4) CONGRESSIONAL INTENT.—Nothing in this Act is intended to affect the jurisdiction or responsibilities of the State of Alabama with respect to fish and wildlife.

(c) WATER RESOURCES PROJECTS.—Subsection (a) of section 7 of the Wild and Scenic Rivers Act (16 U.S.C. 1278(a)) shall apply to that portion of the Little River that flows through the Preserve in the same manner and to the same extent as such subsection applies to the rivers referred to in such subsection. The application of such subsection to the Preserve shall not affect any determination of the value of the lands, waters, or interests in lands and waters within the boundaries of the Preserve.

(d) COOPERATIVE AGREEMENTS WITH STATE.—

(1) LAW ENFORCEMENT AND FIRE PREVENTION.—In administering the Preserve, the Secretary may enter into cooperative agreements with the State of Alabama, or any political subdivision of the State, for the rendering of—

(A) rescue, fire fighting, and law enforcement services; and

(B) cooperative assistance by law enforcement and fire preventive agencies located in the vicinity of the Preserve.

(2) PREPARATION OF MANAGEMENT PLAN.—To facilitate the purposes of this section, the Secretary may enter into cooperative agreements with the State of Alabama and directly affected political subdivisions of the State to provide professional assistance in the preparation of the management plan for the Preserve.

Contracts.

(e) DESOTO STATE PARK.—If lands within DeSoto State Park are acquired by the Secretary, at the request of the Department of Conservation and Natural Resources of the State of Alabama, the Secretary shall enter into a cooperative agreement with the Department for the continued management by the Department of the lodge and other facilities that, as of the date of enactment of this Act, are part of DeSoto State Park. The cooperative agreement shall provide for the management and operation of the lodge and facilities in a manner that, to the maximum extent practicable, is consistent with similar operations elsewhere in the National Park System.

(f) PUBLIC INVOLVEMENT.—

(1) PUBLIC AWARENESS AND PARTICIPATION PROGRAM.—The Secretary shall develop and conduct a program to promote and encourage awareness of and participation in the develop-

ment of the general management plan for the Preserve by persons owning property in the vicinity of the Preserve, other interested groups and individuals, State, county, and municipal agencies, and the general public. Prior to final approval of the plan, the Secretary shall hold public meetings in DeKalb and Cherokee Counties.

(2) CONSIDERATION OF PUBLIC COMMENT.—In preparing and implementing the plan described in paragraph (1), the Secretary shall give full consideration to the views and comments of the individuals, groups, and agencies described in paragraph (1).

(g) GREEN PITCHER PLANT.—Upon the transfer by Alabama Power Company to the United States of any lands within the boundaries of the Preserve that contain the Green Pitcher Plant (Sarracenia oreophila), all rights and obligations of Alabama Power Company under the agreement entered into between the company and the Department of the Interior (including the United States Fish and Wildlife Service) on May 12, 1983, in settlement of the action brought on September 24, 1980, against the Secretary and the Director of the Fish and Wildlife Service in the United States District Court for the Northern District of Alabama (Civil Action No. CV 80–C–1242–M), shall be extinguished.

SEC. 4. ACQUISITION. 16 USC 698s.

(a) AUTHORIZATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary is authorized to acquire lands, waters, and interests in lands and waters within the boundaries of the Preserve by donation, purchase with donated or appropriated funds, or exchange.

(2) CONSENT OF THE OWNER.—The Secretary may not acquire lands, waters, or interests in lands and waters for the Preserve without the consent of the owner.

(3) STATE LANDS.—Lands, waters, and interests in lands and waters within the boundaries of the Preserve that are owned by the State of Alabama, or any political subdivision of the State, may be acquired only by donation or exchange.

(b) NEGOTIATIONS FOR ACQUISITION.—

(1) COMMENCEMENT OF NEGOTIATIONS.—Immediately after publication of a description of the boundaries of the Preserve in accordance with section 2(d), the Secretary shall commence negotiations for the acquisition of the lands, waters, and interests in lands and waters within the boundaries of the Preserve.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit, in writing, a detailed schedule of actions and a progress report regarding the acquisition to—

(A) the Committee on Energy and Natural Resources of the Senate;

(B) the Committee on Interior and Insular Affairs of the House of Representatives; and

(C) the Committees on Appropriations of Congress.

(3) ACQUISITION DEADLINE.—The Secretary shall substantially complete the acquisition of the lands, waters, and interests in lands and waters within the Preserve, in accordance with the purposes of this Act, not later than 2 years after

the date of enactment of this Act, subject to the availability of funds.

(c) ENVIRONMENTAL AUDITS.—

(1) AVAILABILITY TO OWNER.—Promptly following completion of any environmental audit performed by or on behalf of the Secretary with respect to any property proposed to be acquired for the purposes of this Act, the Secretary shall make available to the owner of the property a copy of the audit.

(2) INCLUSION IN DOCUMENTS TRANSFERRING TITLE.—Any audit described in paragraph (1), and any environmental audit performed by the owner of the property and submitted to the Secretary prior to the date of the acquisition, shall be included as part of the documents transferring title to the property to the United States.

(d) FUTURE ADDITIONS.—No lands or interest in lands may be added to the Preserve after the date of enactment of this Act without specific authorization by Congress and the consent of the owner of the lands or interest.

16 USC 698t.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 21, 1992.

LEGISLATIVE HISTORY—H.R. 3665:

HOUSE REPORTS: No. 102-482 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-472 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 7, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.

Public Law 102-428
102d Congress

An Act

To amend the Rural Electrification Act of 1936 to improve the provision of electric and telephone service in rural areas, and for other purposes.

Oct. 21, 1992
[H.R. 5237]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rural Electrification Administration Improvement Act of 1992.
7 USC 901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Electrification Administration Improvement Act of 1992".

SEC. 2. DISCOUNTED LOAN PREPAYMENT.

(a) IN GENERAL.—Subsection (a) of section 306B of the Rural Electrification Act of 1936 (7 U.S.C. 936b(a)) is amended to read as follows:

"(a) DISCOUNTED PREPAYMENT BY BORROWERS OF ELECTRIC LOANS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a direct or insured loan made under this Act shall not be sold or prepaid at a value that is less than the outstanding principal balance on the loan.

"(2) EXCEPTION.—On request of the borrower, an electric loan made under this Act, or a portion of such a loan, that was advanced before May 1, 1992, or has been advanced for not less than 2 years, shall be sold to or prepaid by the borrower at the lesser of—

"(A) the outstanding principal balance on the loan; or

"(B) the present value of the loan discounted from the face value at maturity at the rate established by the Administrator.

"(3) DISCOUNT RATE.—The discount rate applicable to the prepayment under this subsection of a loan or loan advance shall be the then current cost of funds to the Department of the Treasury for obligations of comparable maturity to the remaining term of the loan.

"(4) TAX EXEMPT FINANCING.—If a borrower prepays a loan under this subsection using tax exempt financing, the discount shall be adjusted to ensure that the borrower receives a benefit that is equal to the benefit the borrower would receive if the borrower used fully taxable financing. The borrower shall certify in writing whether the financing will be tax exempt and shall comply with such other terms and conditions as the Administrator may establish that are reasonable and necessary to carry out this subsection.

"(5) ELIGIBILITY.—

"(A) IN GENERAL.—A borrower that has prepaid an insured or direct loan shall remain eligible for assistance

under this Act in the same manner as other borrowers, except that—

"(i) a borrower that has prepaid a loan, either before or after the date of enactment of this subsection, at a discount rate as provided by paragraph (3), shall not be eligible, except at the discretion of the Administrator, to apply for or receive direct or insured loans under this Act during the 120-month period beginning on the date of the prepayment; and

"(ii) a borrower that prepaid a loan before the date of enactment of this subsection at a discount rate greater than that provided by paragraph (3), shall not be eligible—

"(I) except at the discretion of the Administrator, to apply for or receive direct or insured loans described in clause (i) during the 180-month period beginning on the date of the prepayment; or

"(II) to apply for or receive direct or insured loans described in clause (i) until the borrower has repaid to the Federal Government the sum of—

"(aa) the amount (if any) by which the discount the borrower received by reason of the prepayment exceeds the discount the borrower would have received had the discount been based on the cost of funds to the Department of the Treasury at the time of the prepayment; and

"(bb) interest on the amount described in item (aa), for the period beginning on the date of the prepayment and ending on the date of the repayment, at a rate equal to the average annual cost of borrowing by the Department of the Treasury.

"(B) EFFECT ON EXISTING AGREEMENTS.—If a borrower and the Administrator have entered into an agreement with respect to a prepayment occurring before the date of enactment of this subsection, this paragraph shall supersede any provision in the agreement relating to the restoration of eligibility for loans under this Act.

"(C) DISTRIBUTION BORROWERS.—A distribution borrower not in default on the repayment of loans made or insured under this Act shall be eligible for discounted prepayment as provided in this subsection. For the purpose of determining eligibility for discounted prepayment under this subsection or eligibility for assistance under this Act, a default by a borrower from which a distribution borrower purchases wholesale power shall not be considered a default by the distribution borrower.

"(6) DEFINITIONS.—As used in this subsection:

"(A) DIRECT LOAN.—The term 'direct loan' means a loan made under section 4.

"(B) INSURED LOAN.—The term 'insured loan' means a loan made under section 305.".

(b) CONFORMING AMENDMENT.—Section 306B(b) of such Act (7 U.S.C. 936b(b)) is amended by striking "(b) Notwithstanding" and inserting the following:

"(b) MERGERS OF ELECTRIC BORROWERS.—Notwithstanding".

Approved October 21, 1992.

LEGISLATIVE HISTORY—H.R. 5237 (See S. 1709):

HOUSE REPORTS: No. 102-782 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, 5, considered and passed House.
Oct. 5, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 102-429
102d Congress

An Act

Oct. 21, 1992
[H.R. 5739]

To reauthorize the Export-Import Bank of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Export Enhancement Act of 1992.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

12 USC 635 note.

(a) SHORT TITLE.—This Act may be cited as the "Export Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

Sec. 101. Declaration of policy.
Sec. 102. Extension of authority.
Sec. 103. Tied aid credit fund extension.
Sec. 104. Use of loan guarantees.
Sec. 105. Expanded use of loan guarantees.
Sec. 106. Environmental policy.
Sec. 107. Insurance-related business stemming from Bank activities.
Sec. 108. Debt reduction; enterprise for the Americas initiative.
Sec. 109. Increase in aggregate loan, guarantee, and insurance authority.
Sec. 110. Limitation on financing for certain countries.
Sec. 111. Conditional allowance of assistance for exports to Angola.
Sec. 112. Financing of sales of defense articles or services.
Sec. 113. Increase in advisory committee membership.
Sec. 114. Financing of high technology exports to emerging democracies.
Sec. 115. Cooperation on export financing programs.
Sec. 116. Assistance for exports by small businesses.
Sec. 117. Compensation of employees.
Sec. 118. Report on regional offices.
Sec. 119. Report on financing of services.
Sec. 120. Report on demand for trade finance for the Baltic States, the independent states of the former Soviet Union, and Central and Eastern Europe.
Sec. 121. Elimination of outdated provisions.

TITLE II—EXPORT PROMOTION

Sec. 201. Trade Promotion Coordinating Committee.
Sec. 202. One-stop shops.
Sec. 203. Commercial Service cooperation in Federal financing and insurance programs.
Sec. 204. Environmental trade promotion.
Sec. 205. Rank of Commercial Service officers.
Sec. 206. Report on export policy.
Sec. 207. Provisional repeal of amendments.
Sec. 208. Export promotion authorization.

TITLE III—MISCELLANEOUS

Sec. 301. John Heinz Competitive Excellence Award.

TITLE I—REAUTHORIZATION OF EXPORT-IMPORT BANK

12 USC 635 note.

SEC. 101. DECLARATION OF POLICY.

The Congress finds that—

(1) as the world's largest economy, the United States has an enormous stake in the future of the global trading system;

(2) exports are a crucial force driving the United States economy;

(3) during 1991, the value of United States exports increased by 7.1 percent from the 1990 level to $421,600,000,000, supporting more than 7,000,000 full-time United States jobs, and affecting the lives of all of the people of the United States;

(4) exports also support the global strategic position of the United States;

(5) a significant part of a country's influence is drawn from the reputation of its goods, its industrial connections with other countries, and the capital it has available for investment, and trade finance is a critical component of this equation;

(6) the growth in United States exports has increased the demand for financing from the Export-Import Bank of the United States;

(7) during 1991, the value of exports assisted by the Export-Import Bank rose 28.7 percent, from $9,700,000,000 to $12,100,000,000, the highest level since 1981;

(8) the Export-Import Bank used its entire budget authority provided for 1991, and still could not meet all of the demand for its financing assistance; and

(9) accordingly, the charter of the Export-Import Bank, which is scheduled to expire on September 30, 1992, must be renewed in order that the Bank continue to arrange competitive and innovative financing for the foreign sales of United States exporters.

SEC. 102. EXTENSION OF AUTHORITY.

Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking "1992" and inserting "1997".

SEC. 103. TIED AID CREDIT FUND EXTENSION.

(a) IN GENERAL.—Section 15(c)(2) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(c)(2)) is amended by striking "fiscal year 1992" and inserting "September 30, 1995".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 15(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3(e)) is amended to read as follows:

"(e) AUTHORIZATION.—There are authorized to be appropriated to the Fund $500,000,000 for each of fiscal years 1993, 1994, and 1995. Such sums are authorized to remain available until expended.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i–3) is amended—

(1) by striking "predacious" each place such term appears and inserting "predatory";

(2) in subsection (a)(5)—

(A) by striking "temporary"; and

(B) by striking "existing arrangement" and inserting "existing Arrangement";

(3) in subsection (b)(1)—

(A) by striking "To carry out the purposes of subsection (a)(5), the" and inserting "The";

(B) in subparagraph (A), by inserting before the semicolon the following: "and with special attention to matching

tied aid and partially untied aid credits extended by other governments—

"(i) in violation of the Arrangement; or

"(ii) in cases in which the Bank determines that United States trade or economic interests justify the matching of tied aid credits extended in compliance with the Arrangement, including grandfathered cases"; and

(C) in subparagraph (B), by striking "partially untied aid credits; and" and all that follows through the end of clause (ii), and inserting the following: "partially untied aid credits, and impedes negotiations or violates agreements on tied aid to eliminate the use of such credits for commercial purposes; or

"(ii) engages in predatory financing practices that seek to circumvent international agreements on tied aid; or";

(4) in subsection (b)(2)(A), by striking "of the Treasury";

(5) in subsection (b)(2)(B), by striking "private financial institutions or entities" and inserting "United States exporters and private financial institutions or entities, and in consultation with other Federal agencies";

(6) in subsection (b)(4), by adding at the end the following: "The Bank shall also request and take into consideration the views of the private sector on principal sectors and key markets of countries described in paragraph (1)(B).";

(7) by amending paragraphs (1) and (2) of subsection (g) to read as follows:

Reports.

"(1) IN GENERAL.—On or before October 15, 1992, and every 6 months thereafter, the Bank, in consultation with the Secretary, shall submit a report on tied aid credits to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(2) CONTENTS OF REPORTS.—Each report required under paragraph (1) shall contain a description of—

"(A) the implementation of the Arrangement restricting tied aid and partially untied aid credits for commercial purposes, including the operation of notification and consultation procedures;

"(B) all principal offers of tied aid credit financing by foreign countries during the previous 6-month period, including all offers notified by countries participating in the Arrangement, and in particular—

"(i) offers grandfathered under the Arrangement; and

"(ii) notifications of exceptions under the Arrangement;

"(C) any use by the Bank of the Tied Aid Credit Fund to match specific offers, including those that are grandfathered or exceptions under the Arrangement; and

"(D) other actions by the United States Government to combat predatory financing practices by foreign governments, including additional negotiations among participating governments in the Arrangement."; and

(8) in subsection (h)—

(A) by striking "For the purpose of this section—" and inserting "For purposes of this section, the following definitions shall apply:"; and

(B) by adding at the end the following new paragraph:

"(6) OFFERS GRANDFATHERED UNDER THE ARRANGEMENT.—The term 'offers grandfathered under the Arrangement' means—

"(A) financing offers made or lines of credit extended on or before February 15, 1992; or

"(B) financing offers extended for subloans under lines of credit referred to in subparagraph (A) made on or before August 15, 1992, or, in the case of Mexico, on or before December 31, 1992.".

SEC. 104. USE OF LOAN GUARANTEES.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the fifth sentence by inserting after the first semicolon the following: "that the Bank, in determining whether to provide support for a transaction under the loan, guarantee, or insurance program, or any combination thereof, shall consider the need to involve private capital in support of United States exports as well as the cost of the transaction as calculated in accordance with the requirements of the Federal Credit Reform Act of 1990;".

SEC. 105. EXPANDED USE OF LOAN GUARANTEES.

Section 2(c)(3) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(3)) is amended—

(1) by striking "With" and inserting the following:

"(A) IN GENERAL.—With"; and

(2) by adding at the end the following new subparagraph:

"(B) GUARANTEE COVERAGE.—For the guarantee program provided for in this subsection, the Bank may provide up to 100 percent coverage of the interest and principal if the Board of Directors determines such coverage to be necessary to ensure acceptance of Bank guarantees by financial institutions for any transaction in any export market in which the Bank is open for business.".

SEC. 106. ENVIRONMENTAL POLICY.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 17. ENVIRONMENTAL POLICY AND PROCEDURES. 12 USC 635i-5.

"(a) ENVIRONMENTAL EFFECTS CONSIDERATION.—

"(1) IN GENERAL.—Consistent with the objectives of section 2(b)(1)(A), the Bank shall establish procedures to take into account the potential beneficial and adverse environmental effects of goods and services for which support is requested under its direct lending and guarantee programs. Such procedures shall apply to any transaction involving a project—

"(A) for which long-term support of $10,000,000 or more is requested from the Bank;

"(B) for which the Bank's support would be critical to its implementation; and

"(C) which may have significant environmental effects upon the global commons or any country not participating in the project, or may produce an emission, an effluent,

or a principal product that is prohibited or strictly regulated pursuant to Federal environmental law.

"(2) AUTHORITY TO WITHHOLD FINANCING.—The procedures established under paragraph (1) shall permit the Board of Directors, in its judgment, to withhold financing from a project for environmental reasons or to approve financing after considering the potential environmental effects of a project.

"(b) USE OF BANK PROGRAMS TO ENCOURAGE CERTAIN EXPORTS.—The Bank shall encourage the use of its programs to support the export of goods and services that have beneficial effects on the environment or mitigate potential adverse environmental effects. The Board of Directors shall name an officer of the Bank to advise the Board on ways that the Bank's programs can be used to support the export of such goods and services. The officer shall act as liaison between the Bank and other Federal Government agencies, including the agencies whose representatives are members of the Environmental Trade Promotion Working Group of the Trade Promotion Coordinating Committee, with respect to overall United States Government policy on the environment.

"(c) INCLUSION IN REPORT TO CONGRESS.—The Bank shall provide in its annual report to the Congress a summary of its activities under subsections (a) and (b).

"(d) INTERPRETATION.—Nothing in this section shall be construed to create any cause of action.".

SEC. 107. INSURANCE-RELATED BUSINESS STEMMING FROM BANK ACTIVITIES.

Section 2(d) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(d)) is amended by striking paragraphs (2) and (3) and inserting after paragraph (1) the following:

"(2) COMPETITIVE OPPORTUNITY FOR INSURANCE COMPANIES.—In the case of any long-term loan or guarantee of not less than $10,000,000, the Bank shall seek to ensure that United States insurance companies are accorded a fair and open competitive opportunity to provide insurance against risk of loss in connection with any transaction with respect to which such loan or guarantee is provided.

"(3) RESPONSIVE ACTIONS.—If the Bank becomes aware that a fair and open competitive opportunity is not accorded to any United States insurance company in a foreign country with respect to which the Bank is considering a loan or guarantee, the Bank—

"(A) may approve or deny the loan or guarantee after considering whether such action would be likely to achieve competitive access for United States insurance companies; and

"(B) shall forward information regarding any foreign country that denies United States insurance companies a fair and open competitive opportunity to the Secretary of Commerce and to the United States Trade Representative for consideration of a recommendation to the President that access by such country to export credit of the United States should be restricted.

"(4) NOTICE OF APPROVAL.—If the Bank approves a loan or guarantee with respect to a foreign country notwithstanding information regarding denial by that foreign country of competitive opportunities for United States insurance companies, the Bank shall include notice of such approval and the reason for such

approval in the report on competition in officially supported export credit required under subsection (b)(1)(A).

"(5) DEFINITIONS.—For purposes of this section—

"(A) the term 'United States insurance company'—

"(i) includes an individual, partnership, corporation, holding company, or other legal entity which is authorized (or in the case of a holding company, subsidiaries of which are authorized) by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(ii) includes foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in clause (i); and

"(B) the term 'fair and open competitive opportunity' means, with respect to the provision of insurance by a United States insurance company, that the company—

"(i) has received notice of the opportunity to provide such insurance; and

"(ii) has been evaluated for such opportunity on a nondiscriminatory basis.".

SEC. 108. DEBT REDUCTION; ENTERPRISE FOR THE AMERICAS INITIATIVE.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

"SEC. 18. DEBT REDUCTION; ENTERPRISE FOR THE AMERICAS INITIATIVE. 12 USC 635i-6.

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'eligible country' means a country designated by the President in accordance with section (b);

"(2) the term 'Facility' means the entity established in the Department of the Treasury by section 601 of the Agricultural Trade Development and Assistance Act of 1954; and

"(3) the term 'IMF' means the International Monetary Fund.

"(b) ELIGIBILITY FOR BENEFITS UNDER THE FACILITY.—

"(1) REQUIREMENTS.—To be eligible for benefits from the Facility under this section, a country must—

"(A) be a Latin American or Caribbean country;

"(B) have in effect, have received approval for, or, as appropriate in exceptional circumstances, be making significant progress toward—

"(i) an IMF standby arrangement, extended IMF arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility or, in exceptional circumstances, an IMF monitored program or its equivalent; and

"(ii) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association;

"(C) have put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise be implementing, or making significant progress toward, an open investment regime; and

"(D) if appropriate, have agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

President. "(2) ELIGIBILITY DETERMINATIONS.—The President shall determine whether a country is an eligible country for purposes of paragraph (1).

"(c) LOANS ELIGIBLE FOR SALE, REDUCTION, OR CANCELLATION.—

"(1) AUTHORITY TO SELL, REDUCE, OR CANCEL CERTAIN LOANS.—Notwithstanding any other provision of law, the President may, in accordance with this section, sell to any eligible purchaser any loan or portion thereof made before January 1, 1992, to any eligible country or any agency thereof pursuant to this Act, or, on receipt of payment from an eligible purchaser, reduce or cancel such loan or portion thereof, only for the purpose of facilitating—

"(A) debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps; or

"(B) a debt buy-back by an eligible country of its own qualified debt, only if the eligible country uses an additional amount of the local currency of the eligible country, equal to not less than 40 percent of the price paid for such debt by such eligible country, or the difference between the price paid for such debt and the face value of such debt, to support activities that link conservation and sustainable use of natural resources with local community development, and child survival and other child development activities, in a manner consistent with sections 607 through 612 of the Agricultural Trade Development and Assistance Act of 1954,

if the sale, reduction, or cancellation would not contravene any term or condition of any prior agreement relating to such loan.

President. "(2) TERMS AND CONDITIONS.—Notwithstanding any other provision of law, the President shall, in accordance with this section, establish the terms and conditions under which loans may be sold, reduced, or canceled pursuant to this section.

"(3) TREATMENT UNDER SECURITIES LAWS.—The filing of a registration statement under the Securities Act of 1933 shall not be required with respect to the sale or offer for sale by the Bank of a loan or any interest therein pursuant to this section. For purposes of the Securities Act of 1933, the Bank shall not be deemed to be an issuer or underwriter with respect to any subsequent sale or other disposition of such loan (or any interest therein) or any security received by an eligible purchaser pursuant to any debt-for-equity swap, debt-for-development swap, or debt-for-nature swap.

"(4) ADMINISTRATION.—The Facility shall notify the Bank of purchasers that the President has determined to be eligible, and shall direct the Bank to carry out the sale, reduction, or cancellation of a loan pursuant to this section. The Bank shall make an adjustment in its accounts to reflect the sale, reduction, or cancellation.

"(5) LIMITATIONS.—The authorities of this subsection may be exercised only to such extent as provided for in advance in appropriations Acts, as necessary to implement the Federal Credit Reform Act of 1990.

"(d) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of any loan sold, reduced, or canceled pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such loan.

"(e) ELIGIBLE PURCHASERS.—A loan may be sold pursuant to subsection (c)(1)(A) only to a purchaser who presents plans satisfactory to the President for using the loan for the purpose of engaging in debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps.

"(f) DEBTOR CONSULTATION.—Before the sale to any eligible purchaser, or any reduction or cancellation pursuant to this section, of any loan made to an eligible country, the President shall consult with the country concerning the amount of loans to be sold, reduced, or canceled and their uses for debt-for-equity swaps, debt-for-development swaps, or debt-for-nature swaps. President.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the sale, reduction, and cancellation of loans or portions thereof pursuant to this section, there are authorized to be appropriated to the President such sums as may be necessary, which are authorized to remain available until expended.".

SEC. 109. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

(a) FEES AND PREMIUMS.—Section 2(c)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(c)(1)) is amended to read as follows:

"(1) The Bank shall charge fees and premiums commensurate, in the judgment of the Bank, with risks covered in connection with the contractual liability that the Bank incurs for guarantees, insurance, coinsurance, and reinsurance against political and credit risks of loss.".

(b) AGGREGATE AUTHORITY.—Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635e) is amended—

(1) by striking "SEC. 7. (a)(1)" and inserting the following:

"SEC. 7. AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

"(a) LIMITATION ON OUTSTANDING AMOUNTS.—";

(2) in subsection (a)—

(A) by striking paragraph (3); and

(B) by striking "$40,000,000,000" and inserting "$75,000,000,000"; and

(3) in subsection (a)(2)—

(A) by striking "(2)(A)(i)" and inserting the following:

"(b) PRESIDENTIAL DETERMINATION.—

"(1) IN GENERAL.—";

(B) by striking "(I)" and inserting "(A)";

(C) by striking "(II)" and inserting "(B)";

(D) by striking "(III)" and inserting "(C)";

(E) by striking "(ii) Not later than" and inserting the following:

"(2) REPORT.—Not later than";

(F) by striking "(B)(i)" and inserting the following:

"(3) REQUEST FOR LEGISLATION.—

"(A) IN GENERAL.—"; and

(G) by striking "(ii)" and inserting the following:

"(B) CONTINUED AVAILABILITY OF AUTHORITY.—".

SEC. 110. LIMITATION ON FINANCING FOR CERTAIN COUNTRIES.

Section 2(b)(2)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(2)(B)) is amended to read as follows:

"(B) MARXIST-LENINIST COUNTRY DEFINED.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'Marxist-Leninist country' means any country that maintains a centrally planned economy based on the principles of Marxism-Leninism, or is economically and militarily dependent on any other such country.

"(ii) SPECIFIC COUNTRIES DEEMED TO BE MARXIST-LENINIST.—Unless otherwise determined by the President in accordance with subparagraph (C), the following countries are deemed to be Marxist-Leninist countries for purposes of this paragraph:

"(I) Cambodian People's Republic.
"(II) Democratic People's Republic of Korea.
"(III) Democratic Republic of Afghanistan.
"(IV) Lao People's Democratic Republic.
"(V) People's Republic of China.
"(VI) Republic of Cuba.
"(VII) Socialist Federal Republic of Yugoslavia.
"(VIII) Socialist Republic of Vietnam.
"(IX) Tibet.".

SEC. 111. CONDITIONAL ALLOWANCE OF ASSISTANCE FOR EXPORTS TO ANGOLA.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended—

(1) by striking paragraph (11) and redesignating paragraph (12) as paragraph (11); and

(2) in paragraph (11), as redesignated, by striking "Notwithstanding any determination by the President under paragraph (2) or (11), the" and inserting "The".

SEC. 112. FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(B)) is amended—

(1) in clause (iv), by inserting "and" at the end;

(2) in clause (v), by striking "; and" and inserting a period; and

(3) by striking clause (vi).

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)(D)(i)) is amended—

(1) by striking "and" at the end of subclause (I);

(2) by redesignating subclause (II) as subclause (III); and

(3) by inserting after subclause (I) the following:

President.

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) REPORT.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6) is amended by adding at the end the following new subparagraph:

"(H) Once in each calendar quarter, the Bank shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Banking, Finance and Urban Affairs of the House of Representatives on all instances in which the Bank, during the reporting quarter, guaranteed, insured, or extended credit or participated in an extension of credit in connection with any credit sale of an article, service, or related technical data described in subparagraph (G) that the Bank determined would not be put to a military use. Such report shall include a description of each of the transactions and the justification for the Bank's actions.".

(d) CONFORMING AMENDMENTS.—Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended—

(1) in subparagraph (A), by striking "designated under" and all that follows through the end of the subparagraph and inserting a period;

(2) in subparagraph (B)—

(A) by striking ", and section 32 of the Arms Export Control Act,"; and

(B) in clause (v), by striking "and services" and inserting "or services";

(3) in subparagraph (D)(i)(III), as redesignated by subsection (b) of this section, by striking "determination has" and inserting "determinations have";

(4) in subparagraph (D)(ii), by striking "sentence" and inserting "clause"; and

(5) in subparagraph (G), by striking "and services" and inserting "or services".

(e) REPEAL.—Section 32 of the Arms Export Control Act (22 U.S.C. 2772) is repealed.

SEC. 113. INCREASE IN ADVISORY COMMITTEE MEMBERSHIP.

Section 3(d)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635a(d)(1)(A)) is amended by striking "twelve" and inserting "15".

SEC. 114. FINANCING OF HIGH TECHNOLOGY EXPORTS TO EMERGING DEMOCRACIES.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

"(H)(i) It is further the policy of the United States to foster the development of democratic institutions and market economies in countries seeking such development, and to assist the export of high technology items to such countries.

"(ii) In exercising its authority, the Bank shall develop a program for providing guarantees and insurance with respect to the export of high technology items to countries making the transition to market based economies, including eligible East European countries (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

"(iii) As part of the ongoing marketing and outreach efforts of the Bank, the Bank shall, to the maximum extent practicable, inform high technology companies, particularly small business concerns (as such term is defined in section 3 of the Small Business Act), about the programs of the Bank for United States companies

interested in exporting high technology goods to countries making the transition to market based economies, including any eligible East European country (within the meaning of section 4 of the Support For East European Democracy (SEED) Act of 1989).

"(iv) In carrying out clause (iii), the Bank shall—

"(I) work with other agencies involved in export promotion and finance; and

"(II) invite State and local governments, trade centers, commercial banks, and other appropriate public and private organizations to serve as intermediaries for the outreach efforts.".

SEC. 115. COOPERATION ON EXPORT FINANCING PROGRAMS.

The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

12 USC 635i-7.

"SEC. 19. COOPERATION ON EXPORT FINANCING PROGRAMS.

"The Bank shall, subject to appropriate memoranda of understanding—

"(1) provide complete and current information on all of its programs and financing practices to—

"(A) the Small Business Administration and other Federal agencies involved in promoting exports and marketing export financing programs; and

"(B) State and local export financing organizations that indicate a desire to participate in export promotion; and

"(2) consistent with the provisions of section 2301(f)(2) of the Export Enhancement Act of 1988, undertake a program to provide training for personnel designated in such memoranda with respect to such financing programs.".

SEC. 116. ASSISTANCE FOR EXPORTS BY SMALL BUSINESSES.

Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by inserting "directly" after "exports".

12 USC 635a note.

SEC. 117. COMPENSATION OF EMPLOYEES.

(a) IN GENERAL.—The Board of Directors of the Export-Import Bank of the United States may compensate not more than 35 employees of the Bank without regard to the provisions of chapter 51 or subchapter III or VIII of chapter 53 of title 5, United States Code.

(b) SUNSET.—Effective 2 years after the date of enactment of this Act, subsection (a) is hereby repealed.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Congress on—

(1) the recruitment and employee retention problems of the Bank;

(2) any relief from such problems afforded by the Office of Personnel Management;

(3) any use of the authority provided in subsection (a); and

(4) the conclusions and recommendations of the Bank with respect to—

(A) whether such problems have been satisfactorily addressed; and

(B) whether or not the authority of subsection (a) should be extended.

SEC. 118. REPORT ON REGIONAL OFFICES.

12 USC 635a note.

Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the Bank's plan to establish and operate regional offices. In addition, the report shall consider the appropriateness of cooperating with other Federal agencies and State and local organizations in co-locating personnel of such agencies and organizations with personnel of the Bank in such regional offices.

SEC. 119. REPORT ON FINANCING OF SERVICES.

12 USC 635 note.

(a) REPORT.—Not later than 1 year after the date of enactment of this Act, the Export-Import Bank of the United States (in this section referred to as the "Bank") shall submit a report to the Committee on Banking, Finance and Urban Affairs and the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of facilitating the export financing of high technology services.

(b) CONTENTS.—The report required by subsection (a) shall include—

(1) an analysis of the current export financing needs of firms dealing in high technology services;

(2) an identification of the export financing support provided by commercial lenders to finance the sale of high technology services;

(3) an identification of the official export credit programs in support of such exports of countries that are major participants in the Organization for Economic Cooperation and Development; and

(4) a review of the programs of the Bank to determine how it can meet identified market needs of firms dealing in high technology services.

(c) DEFINITION.—For purposes of this section, the term "high technology services" means industries in which above average percentages of scientists and engineers are employed, and which have the highest direct research and development expenditures per dollar of sales, including—

(1) computer programming and software services;

(2) data processing services; and

(3) computer related services.

SEC. 120. REPORT ON DEMAND FOR TRADE FINANCE FOR THE BALTIC STATES, THE INDEPENDENT STATES OF THE FORMER SOVIET UNION, AND CENTRAL AND EASTERN EUROPE.

12 USC 635 note.

(a) FINDINGS.—The Congress finds that—

(1) United States export participation in the emerging markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States holds definite potential for preserving and creating jobs in the United States and strengthening the competitiveness of United States exports;

(2) export assistance for United States goods destined for emerging republics is an investment in the development and establishment of their market economies, a critical element in maintaining existing United States businesses which export to the regions in which such republics are located, and a significant factor in the economic future of the United States and such republics;

(3) the Export-Import Bank of the United States (in this section referred to as the "Bank") has a unique opportunity to play a leading role in assisting United States exporters to participate in the rapidly changing and highly competitive markets in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States; and

(4) it is in the interest of the United States for the Bank to—

(A) monitor carefully the export assistance programs and terms offered by foreign governments for competitive exports; and

(B) make every effort to offer United States business export assistance for transactions in the independent States of the former Soviet Union, Central and Eastern Europe, and the Baltic States, that is comparable to the assistance being provided by other governments.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Bank shall transmit to the Congress a report analyzing the present and future demand for loans, guarantees, and insurance for trade between the United States and the Baltic States, between the United States and the independent States of the former Soviet Union, and between the United States and Central and Eastern Europe, and shall make recommendations regarding the adequacy of financing for trade between the United States and such countries. As used in this section, the term "independent States of the former Soviet Union" includes all successor states (other than the Baltic States) to the Soviet Union.

SEC. 121. ELIMINATION OF OUTDATED PROVISIONS.

(a) AMENDMENTS TO SECTION 2.—Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended—

(1) in subsection (a)(3)—

(A) by striking "(A) IN GENERAL.—";

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) through (iv) as subparagraphs (A) through (D), respectively;

(2) in subsection (b)(1)(A), by striking "The Bank shall also" and all that follows through the final period and inserting the following: "The Bank shall include in the annual report a description of its role in the implementation of the strategic plan prepared by the Trade Promotion Coordinating Committee in accordance with section 2312 of the Export Enhancement Act of 1988.";

(3) in subsection (b)(1)(E)(v), by striking "not less than—" and all that follows through the end of clause (v) and inserting "not less than 10 percent of such authority for each fiscal year."; and

(4) by striking subsection (f).

(b) AMENDMENT TO SECTION 4.—Section 4 of the Export-Import Bank Act of 1945 (12 U.S.C. 635b) is amended by striking all

after the first sentence and inserting the following: "Certificates evidencing stock ownership of the United States shall be issued by the Bank to the President of the United States, or to such other person or persons as the President may designate from time to time, to the extent of payments made for the capital stock of the Bank.".

(c) REPEAL OF CERTAIN OUTDATED SECTIONS.—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended—

(1) by striking sections 5, 10, 12, 13, 14, and 16;

(2) by redesignating sections 6 through 9 as sections 5 through 8, respectively;

(3) by redesignating section 11 as section 9;

(4) by redesignating section 15 as section 10;

(5) by redesignating section 17, as added by section 106 of this Act, as section 11;

(6) by redesignating section 18, as added by section 108 of this Act, as section 12; and

(7) by redesignating section 19, as added by section 115 of this Act, as section 13.

12 USC 635c; 59 Stat. 529; 12 USC 635i, 635i-1, 635i-2, 635i-4. 12 USC 635d-635g. 12 USC 635h. 12 USC 635i-3. *Ante*, p. 2189. *Ante*, p. 2191. *Ante*, p. 2196.

TITLE II—EXPORT PROMOTION

SEC. 201. TRADE PROMOTION COORDINATING COMMITTEE.

Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

"SEC. 2312. TRADE PROMOTION COORDINATING COMMITTEE.

15 USC 4727.

"(a) ESTABLISHMENT AND PURPOSE.—The President shall establish the Trade Promotion Coordinating Committee (hereafter in this section referred to as the 'TPCC'). The purpose of the TPCC shall be— President.

"(1) to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government; and

"(2) to develop a governmentwide strategic plan for carrying out Federal export promotion and export financing programs.

"(b) DUTIES.—The TPCC shall—

"(1) coordinate the development of the trade promotion policies and programs of the United States Government;

"(2) provide a central source of information for the business community on Federal export promotion and export financing programs;

"(3) coordinate official trade promotion efforts to ensure better delivery of services to United States businesses, including—

"(A) information and counseling on United States export promotion and export financing programs and opportunities in foreign markets;

"(B) representation of United States business interests abroad; and

"(C) assistance with foreign business contacts and projects;

"(4) prevent unnecessary duplication in Federal export promotion and export financing activities;

"(5) assess the appropriate levels and allocation of resources among agencies in support of export promotion and export financing and provide recommendations to the President based on its assessment; and

"(6) carry out such other duties as are deemed to be appropriate, consistent with the purpose of the TPCC.

"(c) STRATEGIC PLAN.—To carry out subsection (b), the TPCC shall develop and implement a governmentwide strategic plan for Federal trade promotion efforts. Such plan shall—

"(1) establish a set of priorities for Federal activities in support of United States exports and explain the rationale for the priorities;

"(2) review current Federal programs designed to promote the sale of United States exports in light of the priorities established under paragraph (1) and develop a plan to bring such activities into line with the priorities and to improve coordination of such activities;

"(3) identify areas of overlap and duplication among Federal export promotion activities and propose means of eliminating them;

"(4) propose to the President an annual unified Federal trade promotion budget that supports the plan for priority activities and improved coordination established under paragraph (2) and eliminates funding for the areas of overlap and duplication identified under paragraph (3); and

"(5) review efforts by the States (as defined in section 2301(i)) to promote United States exports and propose means of developing cooperation between State and Federal efforts, including co-location, cost-sharing between Federal and State export promotion programs, and sharing of market research data.

"(d) MEMBERSHIP.—

"(1) IN GENERAL.—Members of the TPCC shall include representatives from—

"(A) the Department of Commerce;

"(B) the Department of State;

"(C) the Department of the Treasury;

"(D) the Department of Agriculture;

"(E) the Department of Energy;

"(F) the Department of Transportation;

"(G) the Office of the United States Trade Representative;

"(H) the Small Business Administration;

"(I) the Agency for International Development;

"(J) the Trade and Development Program;

"(K) the Overseas Private Investment Corporation;

"(L) the Export-Import Bank of the United States; and

"(M) at the discretion of the President, such other departments or agencies as may be necessary.

"(2) CHAIRPERSON.—The Secretary of Commerce shall serve as the chairperson of the TPCC.

"(e) MEMBER QUALIFICATIONS.—Members of the TPCC shall be appointed by the heads of their respective departments or agencies. Such members, as well as alternates designated by any members unable to attend a meeting of the TPCC, shall be individuals who exercise significant decisionmaking authority in their respective departments or agencies.

"(f) REPORT TO THE CONGRESS.—The chairperson of the TPCC shall prepare and submit to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Foreign Affairs of the House of Representatives, not later than September 30, 1993, and annually thereafter, a report describing the strategic plan developed by the TPCC pursuant to subsection (c), the implementation of such plan, and any revisions thereto.".

SEC. 202. ONE-STOP SHOPS.

Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking "and" at the end;

(2) in paragraph (7), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(8) utilizing district and foreign offices as one-stop shops for United States exporters by providing exporters with information on all export promotion and export finance activities of the Federal Government, assisting exporters in identifying which Federal programs may be of greatest assistance, and assisting exporters in making contact with the Federal programs identified; and".

SEC. 203. COMMERCIAL SERVICE COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.

(a) IN GENERAL.—Section 2301(b) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(b)) is amended by adding at the end the following new paragraph:

"(9) providing United States exporters and export finance institutions with information on all financing and insurance programs of the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration, including providing assistance in completing applications for such programs and working with exporters and export finance institutions to address any deficiencies in such applications that have been submitted.".

(b) TRAINING AND INFORMATION ASSISTANCE.—Section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721) is amended—

(1) by redesignating subsections (f) through (i) as subsections (g) through (j), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) COOPERATION IN FEDERAL FINANCING AND INSURANCE PROGRAMS.—To assist the Commercial Service in carrying out subsection (b)(9), and consistent with the provisions of section 13 of the Export-Import Bank Act of 1945, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, the Trade and Development Program, and the Small Business Administration shall each—

"(1) provide to the Commercial Service complete and current information on all of its programs and financing practices; and

"(2) undertake a training program regarding such programs and practices for Commercial Service Officers who are designated by the Assistant Secretary of Commerce and Director General of the Commercial Service.".

SEC. 204. ENVIRONMENTAL TRADE PROMOTION.

(a) TPCC ACTIVITIES.—Subtitle C of the Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

15 USC 4728.

"SEC. 2313. ENVIRONMENTAL TRADE PROMOTION.

"(a) STATEMENT OF POLICY.—It is the policy of the United States to foster the export of United States environmental technologies, goods, and services. In exercising their powers and functions, all appropriate departments and agencies of the United States Government shall encourage and support sales of such technologies, goods, and services.

"(b) ENVIRONMENTAL TRADE WORKING GROUP OF THE TRADE PROMOTION COORDINATION COMMITTEE.—

President.

"(1) ESTABLISHMENT AND PURPOSE.—The President shall establish the Environmental Trade Promotion Working Group (hereafter in this section referred to as the 'Working Group') as a subcommittee of the Trade Promotion Coordination Committee (hereafter in this section referred to as the 'TPCC'), established under section 2312. The purpose of the Working Group shall be—

"(A) to address all issues with respect to the export promotion and export financing of United States environmental technologies, goods, and services; and

"(B) to develop a strategy for expanding United States exports of environmental technologies, goods, and services.

"(2) MEMBERSHIP.—The members of the Working Group shall be—

"(A) representatives of the departments and agencies that are represented on the TPCC, who are designated by the head of their respective departments or agencies to advise the head of such department or agency on ways of promoting the export of United States environmental technologies, goods, and services; and

"(B) a representative of the Environmental Protection Agency.

"(3) CHAIRPERSON.—The Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall designate the chairperson of the Working Group from among senior employees of the Department of Commerce. The chairperson shall—

"(A) assess the effectiveness of United States Government programs for the promotion of exports of environmental technologies, goods, and services;

"(B) recommend improvements to such programs, including regulatory changes or additional authority that may be necessary to improve the promotion of exports of environmental technologies, goods, and services;

"(C) ensure that the members of the Working Group coordinate their environmental trade promotion programs, including feasibility studies, technical assistance, training programs, business information services, and export financing; and

"(D) assess, jointly with the Working Group representative of the Environmental Protection Agency, the extent to which the environmental trade promotion programs of the Working Group advance the environmental goals estab-

lished in 'Agenda 21' by the United Nations Conference on Environment and Development held at Rio de Janeiro, and in other international environmental agreements.

"(4) REPORT TO CONGRESS.—The chairperson of the TPCC shall include a report on the activities of the Working Group as a part of the annual report submitted to the Congress by the TPCC.

"(c) TRADE INFORMATION.—In support of the work of the Working Group, the Secretary shall, as part of the regular market survey and information services activities of the Department of Commerce, make available—

"(1) information on existing and emerging markets and market trends for environmental technologies, goods, and services; and

"(2) a description of the export promotion programs for environmental technologies, goods, and services of the agencies that are represented on the Working Group.

"(d) OVERSEAS SERVICES FOR EXPORTERS.—

"(1) AUTHORIZATION.—The Secretary is authorized to designate a Foreign Commercial Service officer to serve as the Environmental Export Assistance Officer in any country—

"(A) whose companies are important competitors for United States exports of environmental technologies, goods, and services; or

"(B) that offers promising markets for such exports.

"(2) DUTIES.—The officer designated under paragraph (1) shall provide export promotion assistance to United States companies, including—

"(A) assessments of government assistance provided to producers of environmental technologies, goods, and services in such countries, the effectiveness of such assistance on the competitiveness of United States products, and whether comparable United States assistance exists;

"(B) assistance in identifying potential customers and market opportunities in such countries;

"(C) assistance in obtaining necessary business services in such countries;

"(D) information on environmental standards and regulations in such countries; and

"(E) information on all United States Government programs that could assist the promotion, financing, and sale of exports of United States environmental technologies, goods, and services in such countries.".

(b) REPORT ON INSURANCE FEASIBILITY.—Not later than 1 year after the date of enactment of this Act, the chairperson of the Trade Promotion Coordinating Committee, after consultation with the appropriate departments and agencies of the United States Government, shall submit a report to the Congress that analyzes— 15 USC 4728 note.

(1) the extent to which Federal investment insurance and export financing programs sufficiently protect against business failures or default on obligations arising from changes by a foreign government in its environmental laws or regulations; and

(2) the advisability and feasibility of expanding the coverage of such programs, or creating new programs, to address such risks.

SEC. 205. RANK OF COMMERCIAL SERVICE OFFICERS.

Section 2301(d)(1) of the Export Enhancement Act of 1988 (15 U.S.C. 4721(d)(1)) is amended in the first sentence by striking "8" and inserting "16".

SEC. 206. REPORT ON EXPORT POLICY.

The Export Enhancement Act of 1988 (15 U.S.C. 4721 et seq.) is amended by adding at the end the following new section:

15 USC 4729.

"SEC. 2314. REPORT ON EXPORT POLICY.

"(a) IN GENERAL.—Not later than May 31 of each year, the Secretary of Commerce shall submit to the Congress a report on the international economic position of the United States and, not later than June 30 of each year, shall appear before the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives to testify on issues addressed in that report.

"(b) CONTENTS.—

"(1) IN GENERAL.—Each report required under subsection (a) shall address—

"(A) the state of United States international economic competitiveness, focusing, in particular, on the efforts of the Department of Commerce—

"(i) to encourage research and development of technologies and products deemed critical for industrial leadership;

"(ii) to promote investment in and improved manufacturing processes for such technologies and products; and

"(iii) to increase United States industrial exports of products using the technologies described in clause (i) to those markets where the United States Government has sought to reduce barriers to exports;

"(B) the report on the Trade Promotion Coordinating Committee strategic plan submitted to the Congress in accordance with section 2312(f);

"(C) other specific recommendations of the Department of Commerce to improve the United States balance of trade;

"(D) the effects on the international economic competitiveness of the United States of—

"(i) formal and informal trade barriers; and

"(ii) subsidies by foreign countries to their domestic industries;

"(E) the efforts of the Department of Commerce to reduce trade barriers; and

"(F) the adequacy of export financing programs of the United States Government and recommendations for improving such programs.

"(2) POLICY BASIS FOR REPORTS.—Portions of each report under this section may incorporate or be based upon relevant reports and testimony produced by the Department of Commerce or other agencies, but the policy views shall be those of the Secretary of Commerce.".

SEC. 207. PROVISIONAL REPEAL OF AMENDMENTS.

In the event of the enactment of title II of H.R. 3489, "An Act to reauthorize the Export Administration Act of 1979, and for other purposes", this title and the amendments made by this

title are repealed, effective on the date of enactment of title II of H.R. 3489, "An Act to reauthorize the Export Administration Act of 1979, and for other purposes".

SEC. 208. EXPORT PROMOTION AUTHORIZATION.

Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Department of Commerce—

"(1) to carry out export promotion programs—

"(A) $190,000,000 for fiscal year 1993; and

"(B) $200,000,000 for fiscal year 1994; and

"(2) to carry out section 2303 of the Export Enhancement Act of 1988, $5,500,000 for each of fiscal years 1993 and 1994.".

TITLE III—MISCELLANEOUS

SEC. 301. JOHN HEINZ COMPETITIVE EXCELLENCE AWARD. 2 USC 831.

(a) ESTABLISHMENT.—There is hereby established the John Heinz Competitive Excellence Award, which shall be evidenced by a national medal bearing the inscription "John Heinz Competitive Excellence Award". The medal, to be minted by the United States Mint and provided to the Congress, shall be of such design and bear such additional inscriptions as the Secretary of the Treasury may prescribe, in consultation with the Majority and Minority Leaders of the Senate, the Speaker and the Minority Leader of the House of Representatives, and the family of Senator John Heinz. The medal shall be— Medals.

(1) three inches in diameter; and

(2) made of bronze obtained from recycled sources.

(b) AWARD CATEGORIES.—

(1) IN GENERAL.—Two separate awards may be given under this section in each year. One such award may be given to a qualifying individual (including employees of any State or local government, or the Federal Government), and 1 such award may be given to a qualifying organization, institution, or business.

(2) LIMITATION.—No award shall be made under this section to an entity in either category described in paragraph (1) in any year if there is no qualified individual, organization, institution, or business recommended under subsection (c) for an award in such category in that year.

(c) QUALIFICATION CRITERIA FOR AWARD.—

(1) SELECTION PANEL.—A selection panel shall be established, comprised of a total of 8 persons, including—

(A) 2 persons appointed by the Majority Leader of the Senate;

(B) 2 persons appointed by the Minority Leader of the Senate;

(C) 2 persons appointed by the Speaker of the House of Representatives; and

(D) 2 persons appointed by the Minority Leader of the House of Representatives.

(2) QUALIFICATION.—An individual, organization, institution, or business may qualify for an award under this section only if such individual, organization, institution, or business—

(A) is nominated to the Majority or Minority Leader of the Senate or to the Speaker or the Minority Leader of the House of Representatives by a member of the Senate or the House of Representatives;

(B) permits a rigorous evaluation by the Office of Technology Assessment of the way in which such individual, organization, institution, or business has demonstrated excellence in promoting United States industrial competitiveness; and

(C) meets such other requirements as the selection panel determines to be appropriate to achieve the objectives of this section.

(3) EVALUATION.—An evaluation of each nominee shall be conducted by the Office of Technology Assessment. The Office of Technology Assessment shall work with the selection panel to establish appropriate procedures for evaluating nominees.

(4) PANEL REVIEW.—The selection panel shall review the Office of Technology Assessment's evaluation of each nominee and may, based on those evaluations, recommend 1 award winner for each year for each category described in subsection (b)(1) to the Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives.

(d) PRESENTATION OF AWARD.—

(1) IN GENERAL.—The Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives shall make the award to an individual and an organization, institution, or business that has demonstrated excellence in promoting United States industrial competitiveness in the international marketplace through technological innovation, productivity improvement, or improved competitive strategies.

(2) CEREMONIES.—The presentation of an award under this section shall be made by the Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader of the House of Representatives, with such ceremonies as they may deem proper.

(3) PUBLICITY.—An individual, organization, institution, or business to which an award is made under this section may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another award in the same category for a period of 5 years.

(e) PUBLICATION OF EVALUATIONS.—

(1) SUMMARY OF EVALUATIONS.—The Office of Technology Assessment shall ensure that all nominees receive a detailed summary of any evaluation conducted of such nominee under subsection (c).

Public information.

(2) SUMMARY OF COMPETITIVENESS STRATEGY.—The Office of Technology Assessment shall also make available to all nominees and the public a summary of each award winner's competitiveness strategy. Proprietary information shall not be included in any such summary without the consent of the award winner.

(f) REIMBURSEMENT OF COSTS.—The Majority and Minority Leaders of the Senate and the Speaker and the Minority Leader

of the House of Representatives are authorized to seek and accept gifts from public and private sources to defray the cost of implementing this section.

Approved October 21, 1992.

LEGISLATIVE HISTORY—H.R. 5739 (S. 2864):

HOUSE REPORTS: No. 102-1010 (Comm. of Conference).
SENATE REPORTS: No. 102-320 accompanying S. 2864 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Aug. 12, considered and passed Senate, amended, in lieu of S. 2864.
Oct. 5, House agreed to conference report.
Oct. 8, Senate agreed to conference report.

Public Law 102-430
102d Congress

An Act

Oct. 23, 1992
[H.R. 1216]

To modify the boundaries of the Indiana Dunes National Lakeshore, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indiana Dunes National Lakeshore Access and Enhancement Act.
Conservation.
16 USC 460u note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indiana Dunes National Lakeshore Access and Enhancement Act".

SEC. 2. DEFINITION.

For the purposes of this Act, the term "the Act" means the Act entitled "An Act to provide for the establishment of the Indiana Dunes National Lakeshore, and for other purposes", approved November 5, 1966, as amended (16 U.S.C. 460u et seq.).

SEC. 3. BOUNDARIES.

(a) IN GENERAL.—The first section of the Act (16 U.S.C. 460u) is amended by striking "October 1986, and numbered 62680033–B" and inserting "October 1992, and numbered 626–80,039–C".

(b) CRESCENT DUNE.—Section 12 of the Act (16 U.S.C. 460u–12) is repealed.

SEC. 4. IMPROVED PROPERTY; RETENTION OF RIGHTS.

(a) ADDITIONAL AREAS.—The table in section 4 of the Act (16 U.S.C. 460u–3) is amended to read as follows:

"Property within boundaries of map	Construction began before
Dated October 1992, No. 626–80,039–C	October 1, 1991
Dated October 1986, No. 626–80,033–B	February 1, 1986
Dated December 1980, No. 626–91014	January 1, 1981
Dated September 1976, No. 626–91007	February 1, 1973
Dated September 1966, No. LNPNE–1008–ID	January 4, 1965".

(b) RETENTION OF RIGHTS.—Section 5(a) of the Act (16 U.S.C. 460u–5(a)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) In the case of improved property included within the boundaries of the lakeshore after October 1, 1991, that was not included within such boundaries on or before that date, an individual who is an owner of record of such property as of that date may retain a right of use and occupancy of such improved property for noncommercial residential purposes for a term ending at either of the following:

"(i) A fixed term not to extend beyond October 1, 2020, or such lesser fixed term as the owner may elect at the time of acquisition.

"(ii) A term ending at the death of the owner or the owner's spouse, whichever occurs later. The owner or owners shall elect the term to be reserved.

"(B) Subparagraph (A) shall apply only to improved property owned by an individual who—

"(i) was an owner of record of the property as of October 1, 1991;

"(ii) had attained the age of majority as of that date; and

"(iii) made a bona fide written offer not later than October 1, 1997, to sell the property to the Secretary.".

(c) TECHNICAL AMENDMENT.—Section 5(a)(1) of the Act (16 U.S.C. 460u–5(a)(1)) is amended by striking the period after "626–91014" the first place it appears and inserting a comma.

SEC. 5. GREENBELT.

Section 18 of the Act (16 U.S.C. 460–18) is amended— 16 USC 460u-18.

(1) by inserting "(a)" after "SEC. 18."; and

(2) by adding at the end the following new subsection:

"(b)(1) The Secretary shall enter into a memorandum of agreement with the Northern Indiana Public Service Company (referred to as 'NIPSCO') that shall provide for the following with respect to the area referred to as Unit II–A on the map described in the first section of this Act (referred to as the 'Greenbelt'): Contracts. Northern Indiana Public Service Company.

"(A) NIPSCO shall provide the National Park Service with access for resource management and interpretation through the Greenbelt and across the dike for purposes of a public hiking trail.

"(B) The National Park Service shall have rights of access for resource management and interpretation of the Greenbelt area.

"(C) NIPSCO shall preserve the Greenbelt in its natural state. If NIPSCO utilizes the Greenbelt temporarily for a project involving pollution mitigation or construction on its adjacent facilities, it shall restore the project area to its natural state.

"(D) If NIPSCO proposes a different use for the Greenbelt, NIPSCO shall notify the National Park Service, the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives and make no change in the use of the property until three years after the date notice is given.

"(2) If a memorandum of agreement is entered into pursuant to paragraph (1), so long as the memorandum of agreement is in effect and is being performed, the Secretary may not acquire lands or interests in land in the Greenbelt belonging to NIPSCO.".

SEC. 6. COOPERATIVE AGREEMENT.

The Act is amended by adding at the end the following new section:

"SEC. 25. In furtherance of the purposes of this Act, the Secretary may enter into a cooperative agreement with the city of Gary, Indiana, pursuant to which the Secretary may provide technical assistance in interpretation, planning, and resource management for programs and developments in the city of Gary's Marquette Park and Lake Street Beach.". 16 USC 460u-25.

SEC. 7. UNIT VII–D AND I–M.

The Act, as amended by section 5, is further amended by adding at the end the following new section:

"SEC. 26(a). Before acquiring lands or interests in lands in Unit VII–D (as designated on the map described in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what 16 USC 460u-26.

lands or interests in lands are required by the State of Indiana for improvements to 15th Avenue (including the extension known as Old Hobart Road) and reconstruction and relocation of the intersection of 15th Avenue and State Road 51 so that the acquisition by the Secretary of lands or interests in lands in Unit VII–D will not interfere with planned improvements to the interchange and 15th Avenue in the area.

"(b) Before acquiring lands or interests in lands in Unit I–M (as designated on the map referred to in the first section of this Act) the Secretary shall consult with the Commissioner of the Indiana Department of Transportation to determine what lands or interests in lands are required by the State of Indiana for improvements to State Road 49 and reconstruction and relocation of the interchange with State Road 49 and U.S. 20 so that the acquisition by the Secretary of lands or interests in lands in Unit I–M will not interfere with planned improvements to such interchange and State Road 49 in the area.".

SEC. 8. VISITOR CENTER.

Dorothy Buell.

In order to commemorate the vision, dedication, and work of Dorothy Buell in saving the Indiana Dunes, the National Park Service visitor center at the Indiana Dunes National Lakeshore is designated as the "Dorothy Buell Memorial Visitor Center".

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

Section 9 of the Act (16 U.S.C. 460u–9) is amended—

(1) in the first sentence by striking the words "The Secretary may not expend more than $60,812,100 from the Land and Water Conservation Fund for the acquisition of lands and interests in lands nor more than $20,000,000 for development:" and inserting in lieu thereof: "The Secretary may expend such sums as may be necessary from the Land and Water Conservation Fund for acquisition of lands and interests in lands, and not to exceed $27,500,000 for development:";

(2) by striking the second paragraph in its entirety; and

(3) by striking the first sentence of the third paragraph.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 1216:

HOUSE REPORTS: No. 102-151 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-340 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): July 15, considered and passed House.
Vol. 138 (1992): July 29, considered and passed Senate, amended.
Oct. 5, House concurred in Senate amendment with amendments.
Oct. 8, Senate concurred in House amendments.

Public Law 102-431
102d Congress

An Act

To permit the Secretary of the Interior to acquire by exchange lands in the Cuyahoga National Recreation Area that are owned by the State of Ohio.

Oct. 23, 1992
[H.R. 2181]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACQUISITION OF STATE OR LOCAL LANDS BY EXCHANGE.

Section 2(b) of the Act entitled "An Act to provide for the establishment of the Cuyahoga Valley National Recreation Area", approved December 27, 1974 (16 U.S.C. 460ff-1(b)), is amended by striking "may be acquired only by donation." and inserting "within the boundaries of the recreation area may be acquired only by donation or exchange for equal value. In determining the exchange value of lands of the State or any political subdivision thereof under this subsection, the Secretary shall not include in the value of those lands amounts paid from the land and water conservation fund, if any, for the original acquisition of those lands by the State or political subdivision.".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 2181:

HOUSE REPORTS: No. 102-211 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Sept. 24, considered and passed House.
Vol. 138 (1992): Oct. 7, considered and passed Senate.

59-194 O—93——14 : QL 3 (Pt. 3)

Public Law 102-432
102d Congress

An Act

Oct. 23, 1992
[H.R. 2431]

To amend the Wild and Scenic Rivers Act by designating a segment of the Lower Merced River in California as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

16 USC 1274.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)(62)) is hereby amended—

(1) by striking "The main stem" and inserting in lieu thereof, "(A) The main stem";

(2) by striking "paragraph" whenever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following new subparagraph at the end thereof:

"(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the normal maximum operating pool water surface level of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

"(ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the 'Saxon Creek Project', to assure an adequate supply of water from the Merced River to Mariposa County.

"(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to Federal lands which constitute the bed or bank or are situated within

one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.".

SEC. 3. NEW EXCHEQUER PROJECT.

The designation of the river segments referred to in section 1 of this Act as components of the Wild and Scenic Rivers System shall not affect the continued operation and maintenance (including flood control operations) of the New Exchequer Project (Project No. 2179) as licensed by the Federal Energy Regulatory Commission on the date of enactment of this Act or the Commission's authority to issue a new license to the existing licensee for such project within the project boundaries set forth in the license on the date of enactment of this Act: *Provided,* That if the Commission issues a new license to the existing licensee for such a project, the normal maximum operating pool water surface level authorized in the project's license shall not exceed elevation 867.0 mean sea level.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 2431 (S. 549):

HOUSE REPORTS: No. 102-349 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-231 accompanying S. 549 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 23, considered and passed House.
Vol. 138 (1992): Mar. 26, S. 549 considered and passed Senate.
Apr. 9, H.R. 2431 considered and passed Senate, amended.
Sept. 29, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 102-433
102d Congress

An Act

Oct. 23, 1992
[H.R. 3118]

To designate Federal Office Building Number 9 located at 1900 E Street, Northwest, in the District of Columbia, as the "Theodore Roosevelt Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Federal Office Building Number 9, which is occupied by the Office of Personnel Management and is located at 1900 E Street, Northwest, in Washington, D.C., is hereby designated as the "Theodore Roosevelt Federal Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Theodore Roosevelt Federal Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 3118:

HOUSE REPORTS: No. 102-438 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-434
102d Congress

An Act

To designate the building located at 80 North Hughey Avenue in Orlando, Florida, as the "George C. Young United States Courthouse and Federal Building".

Oct. 23, 1992
[H.R. 3818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building located at 80 North Hughey Avenue in Orlando, Florida, is designated as the "George C. Young United States Courthouse and Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "George C. Young United States Courthouse and Federal Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 3818:

HOUSE REPORTS: No. 102-443 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-435
102d Congress

An Act

Oct. 23, 1992
[H.R. 4281]

To designate the Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, California, as the "Ronald Reagan Federal Building and Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and courthouse to be constructed at 5th and Ross Streets in Santa Ana, California, shall be known and designated as the "Ronald Reagan Federal Building and Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and courthouse referred to in section 1 shall be deemed to be a reference to the "Ronald Reagan Federal Building and Courthouse".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 4281:

HOUSE REPORTS: No. 102-917 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-436
102d Congress

An Act

To provide for a land exchange with the city of Tacoma, Washington.

Oct. 23, 1992
[H.R. 4489]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
16 USC 251 note.

TITLE I—LAND EXCHANGE WITH CITY OF TACOMA, WASHINGTON

SEC. 101. LAND EXCHANGE.

(a) IN GENERAL.—(1) If the city of Tacoma, Washington, in a manner consistent with this title, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands described in paragraph (3), the Secretary of the Interior (hereafter in this title referred to as the "Secretary") shall carry out such exchange as soon as is reasonably possible.

(2) The lands to be conveyed to the United States by the city of Tacoma are approximately 45 acres owned by the State of Washington Department of Natural Resources located in the Soleduck and Quileute areas within the authorized boundary of Olympic National Park.

(3) The lands to be conveyed to the city of Tacoma are approximately 30 acres of land adjacent to Lake Cushman identified as lands to be transferred to the city of Tacoma as depicted on the map entitled "Proposed Boundary Revision Olympic National Park" and dated July 29, 1991. Such map, and a legal description of the lands to be conveyed to the city of Tacoma, shall be on file and available for public inspection with the Director of the National Park Service, Department of the Interior.

(b) CONDITIONS.—(1) Any exchange of lands pursuant to this title shall occur only if—

(A) the city of Tacoma demonstrates to the satisfaction of the Secretary that the city of Tacoma is able to deliver to the United States clear and unencumbered title to the lands identified in subsection (a)(2), and that after such exchange there will be no legal impediment to the management of such lands as part of Olympic National Park under all provisions of law applicable to Olympic National Park;

(B) the Secretary is reasonably satisfied that an environmental review of the Cushman Project (No. 460) sufficient to meet the requirements of law has been initiated;

(C) the city of Tacoma has entered into an enforceable agreement with the Secretary which provides that lands acquired by the city of Tacoma through an exchange under this title will be managed in a manner consistent with the management of those same lands during the time such lands were managed by the National Park Service; and

(D) the city of Tacoma offers, in good faith, to negotiate with the Skokomish Tribe regarding the impact of the Cushman Project on fish, wildlife, estuary, and cultural resources, and

to fund appropriate studies concerning such impacts (to be jointly administered by the city and the Tribe), to the extent that further information is needed to facilitate such negotiations and such information is reasonably obtainable.

(2) The land exchange authorized by this section shall be subject to the laws and regulations applicable to exchanges involving lands managed by the Secretary as part of the National Park System.

SEC. 102. BOUNDARY ADJUSTMENT.

At the same time that the Secretary exchanges lands pursuant to this title, the Secretary shall adjust the boundaries of Olympic National Park in the manner depicted on the map referenced in section 101(a)(3) so as to exclude from such unit of the National Park System the lands transferred to the city of Tacoma by the Secretary pursuant to such exchange.

SEC. 103. ADDITIONAL PROVISIONS.

Nothing in this title shall be construed—

(1) as approval or disapproval of any reservoir operating level for the Cushman Reservoir which, after a boundary adjustment under section 102, would not inundate any lands within any unit of the National Park System;

(2) to limit the right or ability of any party, including any Indian tribe and Federal Agency, to fully participate as intervenors or otherwise in any process relating to the Cushman Project (No. 460); or

(3) as limiting or otherwise affecting any rights by treaty, executive order, or Federal law of the Skokomish Tribe or any other Indian tribe, including (but not limited to) rights related to fishing or the use of water.

TITLE II—OLYMPIC EXPERIMENTAL STATE FOREST

SEC. 201. PURPOSE.

The purpose of this title is to assist the experimental management and research program being conducted by the State of Washington on State-owned trust lands on the western Olympic Peninsula in order to contribute to the conservation of the northern spotted owl, old growth ecosystems and fishery resources and to provide for a sustainable supply of timber and trust income in a manner that is consistent with these conservation objectives.

SEC. 202. DEFINITIONS.

For purposes of this title:

(1) The term "conservation" means the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided by the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) are no longer necessary. Such measures and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

(2) The term "Secretary" means the Secretary of the Interior acting through the Director of the United States Fish and Wildlife Service.

SEC. 203. MANAGEMENT AND RESEARCH PLAN FOR THE OLYMPIC STATE EXPERIMENTAL FOREST.

(a) PLAN DEVELOPMENT.—The State of Washington may develop and submit to the Secretary of the Interior a management and research plan for the Olympic Experimental State Forest that—

(1) is based upon the recommendations of the Commission on Old Growth Alternatives for Washington's Forest Trust Lands contained in the June 1989 final report of the Commission;

(2) is developed by the State land management agency in consultation with the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution: *Provided, however,* That the research components of the plan shall be developed jointly by the State land management agency and the Olympic Natural Resources Center or a comparable research institution and in consultation with the State wildlife agency;

(3) provides for the close integration of research and management in the plan, and

(4) shall be accompanied by a draft of the detailed statement on the proposed actions under the plan required by section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) PLAN CONTENTS.—(1) The plan shall provide for the conservation of the northern spotted owl on the Olympic Experimental State Forest and reflect scientifically sound ecosystem management principles designed to contribute to the conservation of fisheries, other sensitive species and the ecology of the forest generally. Wildlife.

(2) The plan shall contain the following elements:

(A) A framework for coordinated decisionmaking for implementing the plan among the State land management agency, the State wildlife agency and the Olympic Natural Resources Center or a comparable research institution.

(B) A detailed description of the individual elements of the management and research plan; the process for implementing and funding the plan and an allocation of responsibilities for plan implementation and enforcement.

(C) Findings of the State wildlife agency about the extent to which the plan will achieve the objectives in paragraph (1).

SEC. 204. PLAN REVIEW AND APPROVAL. Wildlife.

(a) PLAN REVIEW.—Upon submission of the management and research plan for the Olympic Experimental State Forest under section 203(a), the Secretary shall determine whether the plan—

(1) provides for the conservation of the northern spotted owl in the experimental forest; and

(2) is consistent with the final northern spotted owl recovery plan as it applies to the Olympic Peninsula or, in the absence of a final recovery plan, the draft northern spotted owl recovery plan dated April 1992 as it applies to the Olympic Peninsula.

(b) REVIEW AND PUBLIC COMMENT.—The Secretary shall after notice and public comment complete the review of the management

and research plans within 90 days after the submission of the plan and supporting documentation by the State of Washington under section 203(a) or within such other period of time as is mutually agreeable to the Secretary and the State of Washington.

(c) APPROVAL.—If the Secretary determines that the management and research plan for the Olympic Experimental State Forest meets the standards of subsection (a), the Secretary shall approve the plan and so notify the State.

(d) RELATIONSHIP TO OTHER LAW.—If the State authorities identified by the plan as responsible for implementing it comply with their obligations under the approved plan, any activity conducted pursuant to it in the Olympic Experimental State Forest shall not be considered a prohibited taking of the northern spotted owl under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 4489 (S. 2353):

HOUSE REPORTS: No. 102-946 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-465 accompanying S. 2353 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-437
102d Congress

An Act

To designate the general mail facility of the United States Postal Service in Gulfport, Mississippi, as the "Larkin I. Smith General Mail Facility" and the building of the United States Postal Service in Poplarville, Mississippi, as the "Larkin I. Smith Post Office Building".

Oct. 23, 1992
[H.R. 4539]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATIONS.

(a) GULFPORT FACILITY.—The general mail facility of the United States Postal Service located at 1110 Highway 49 in Gulfport, Mississippi, shall be known and designated as the "Larkin I. Smith General Mail Facility".

(b) POPLARVILLE FACILITY.—The building of the United States Postal Service located at 301 South Main Street in Poplarville, Mississippi, shall be known and designated as the "Larkin I. Smith Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to—

(1) the facility referred to in section 1(a) shall be deemed to be a reference to the Larkin I. Smith General Mail Facility; and

(2) the building referred to in section 1(b) shall be deemed to be a reference to the Larkin I. Smith Post Office Building.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 4539:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 102-438
102d Congress

An Act

Oct. 23, 1992
[H.R. 4771]

To designate the facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, as the "Esel D. Bell Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility under construction for use by the United States Postal Service at FM 1098 Loop in Prairie View, Texas, is designated as the "Esel D. Bell Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Esel D. Bell Post Office Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 4771:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 22, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-439
102d Congress

An Act

To authorize additional appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House.

Oct. 23, 1992
[H.R. 4999]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION.

Section 17(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 885(a)) is amended by adding at the end the following new sentence: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation $2,686,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 4999:

HOUSE REPORTS: No. 102-562 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 15, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-440
102d Congress

An Act

Oct. 23, 1992
[H.R. 5013]

To promote the conservation of wild exotic birds, to provide for the Great Lakes Fish and Wildlife Tissue Bank, to reauthorize the Fish and Wildlife Conservation Act of 1980, to reauthorize the African Elephant Conservation Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Wild Bird Conservation Act of 1992.

TITLE I—WILD EXOTIC BIRD CONSERVATION

16 USC 4901 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Wild Bird Conservation Act of 1992".

16 USC 4901.

SEC. 102. FINDINGS.

The Congress finds the following:

(1) In addition to habitat loss and local use, the international pet trade in wild-caught exotic birds is contributing to the decline of species in the wild, and the mortality associated with the trade remains unacceptably high.

(2) The United States, as the world's largest importer of exotic birds and as a Party to the Convention, should play a substantial role in finding effective solutions to these problems, including assisting countries of origin in implementing programs of wild bird conservation, and ensuring that the market in the United States for exotic birds does not operate to the detriment of the survival of species in the wild.

(3) Sustainable utilization of exotic birds has the potential to create economic value in them and their habitats, which will contribute to their conservation and promote the maintenance of biological diversity generally.

(4) Utilization of exotic birds that is not sustainable should not be allowed.

(5) Broad international attention has focused on the serious conservation and welfare problems which currently exist in the trade in wild-caught animals, including exotic birds.

(6) Many countries have chosen not to export their wild birds for the pet trade. Their decisions should be respected and their efforts should be supported.

(7) Several countries that allow for the export of their wild birds often lack the means to develop or effectively implement scientifically based management plans, and these countries should be assisted in developing and implementing management plans to enable them to ensure that their wild bird trade is conducted humanely and at sustainable levels.

(8) The major exotic bird exporting countries are Parties to the Convention.

(9) The Convention recognizes that trade in species that are threatened with extinction, or that may become so, should be subject to strict regulation.

(10) The necessary population assessments, monitoring programs, and appropriate remedial measures for species listed in Appendix II of the Convention are not always being undertaken in order to maintain species at levels above which they might become eligible for inclusion in Appendix I of the Convention.

(11) Resolutions adopted pursuant to the Convention recommend that the Parties to the Convention take appropriate measures regarding trade in species of exotic birds that have significantly high mortality rates in transport, including suspension of trade for commercial purposes between Parties when appropriate.

(12) Article XIV provides that the Convention in no way affects the right of any Party to the Convention to adopt stricter domestic measures for the regulation of trade in all species, whether or not listed in an Appendix to the Convention.

(13) The United States prohibits the export of all birds native to the United States that are caught in the wild.

(14) This title provides a series of nondiscriminatory measures that are necessary for the conservation of exotic birds, and furthers the obligations of the United States under the Convention.

SEC. 103. STATEMENT OF PURPOSE. 16 USC 4902.

The purpose of this title is to promote the conservation of exotic birds by—

(1) assisting wild bird conservation and management programs in the countries of origin of wild birds;

(2) ensuring that all trade in species of exotic birds involving the United States is biologically sustainable and is not detrimental to the species;

(3) limiting or prohibiting imports of exotic birds when necessary to ensure that—

(A) wild exotic bird populations are not harmed by removal of exotic birds from the wild for the trade; or

(B) exotic birds in trade are not subject to inhumane treatment; and

(4) encouraging and supporting effective implementation of the Convention.

SEC. 104. DEFINITIONS. 16 USC 4903.

In this title—

(1) The term "Convention" means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, as amended, signed in Washington on March 3, 1973, and the Appendices thereto.

(2) The term "exotic bird"—

(A) means any live or dead member of the class Aves that is not indigenous to the 50 States or the District of Columbia, including any egg or offspring thereof; and

(B) does not include—

(i) domestic poultry, dead sport-hunted birds, dead museum specimens, dead scientific specimens, or products manufactured from such birds; or

(ii) birds in the following families: Phasianidae, Numididae, Cracidae, Meleagrididae, Megapodiidae, Anatidae, Struthionidae, Rheidae, Dromaiinae, and Gruidae.

(3) Each of the terms "import" and "importation" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States.

(4) The term "person" means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.

(5) The term "qualifying facility" means an exotic bird breeding facility that is included in a list published by the Secretary under section 107.

(6) The term "Secretary" means the Secretary of the Interior or a designee of the Secretary of the Interior.

(7) The term "species"—

(A) means any species, any subspecies, or any distinct population segment of a species or subspecies; and

(B) includes hybrids of any species or subspecies.

(8) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

16 USC 4904.

SEC. 105. MORATORIA ON IMPORTS OF EXOTIC BIRDS COVERED BY CONVENTION.

(a) IMMEDIATE MORATORIUM.—

(1) ESTABLISHMENT OF MORATORIUM.—The importation of any exotic bird of a species identified as a category B species in the report entitled "Report of the Animals Committee", adopted by the 8th meeting of the Conference of the Parties to the Convention, is prohibited.

(2) TERMINATION OF MORATORIUM.—A species of exotic birds shall be subject to the prohibition on importation established by paragraph (1) until the Secretary, after notice and an opportunity for public comment—

(A) determines that appropriate remedial measures have been taken in the countries of origin for that species, so as to eliminate the threat of trade to the conservation of the species; and

(B) makes the findings described in section 106(c) for the species and includes the species in the list published under section 106(a).

(b) EMERGENCY AUTHORITY TO SUSPEND IMPORTS OF LISTED SPECIES.—

(1) AUTHORITY TO SUSPEND IMPORTS.—The Secretary is authorized to suspend the importation of exotic birds of any species that is listed in any Appendix to the Convention, and if applicable remove the species from the list under section 106(a), if the Secretary determines that—

(A)(i) trade in that species is detrimental to the species,

(ii) there is not sufficient information available on which to base a judgment that the species is not detrimentally affected by trade in that species, or

(iii) remedial measures have been recommended by the Standing Committee of the Convention that have not been implemented; and

(B) the suspension might be necessary for the conservation of the species.

(2) TERMINATION OF SUSPENSION.—A species of exotic birds shall be subject to a suspension of importation under paragraph (1) until the Secretary, after notice and an opportunity for public comment, makes the findings described in section 106(c) and includes the species in the list published under section 106(a).

(c) MORATORIUM AFTER ONE YEAR FOR OTHER SPECIES LISTED IN APPENDICES.—Effective on the date that is one year after the date of the enactment of this Act, the importation of any exotic bird of a species that is listed in any Appendix to the Convention is prohibited unless the Secretary makes the findings described in section 106(c) and includes the species in the list published under section 106(a).

(d) LIMITATION ON NUMBER IMPORTED DURING FIRST YEAR.—Notwithstanding any other provision of this Act, the Secretary shall prohibit the importation, during the 1-year period beginning on the date of the enactment of this Act, of exotic birds of each species that is listed under any Appendix to the Convention in excess of the number of that species that were imported during the most recent year for which the Secretary has complete import data.

SEC. 106. LIST OF APPROVED SPECIES.

16 USC 4905.

(a) LISTING.—

(1) IN GENERAL.—One year after the date of enactment of this Act and periodically thereafter, the Secretary shall, after notice and an opportunity for public comment, publish in the Federal Register a list of species of exotic birds that are listed in an Appendix to the Convention and that are not subject to a prohibition or suspension of importation otherwise applicable under section 105 (a), (b), or (c).

Federal Register, publication.

(2) MANNER OF LISTING.—The Secretary shall list a species under paragraph (1) with respect to—

(A) the countries of origin from which the species may be imported; and

(B) if appropriate, the qualifying facilities in those countries from which the species may be imported.

(3) BASES FOR DETERMINATIONS.—In making a determination required under this subsection, the Secretary shall—

(A) use the best scientific information available; and

(B) consider the adequacy of regulatory and enforcement mechanisms in all countries of origin for the species, including such mechanisms for control of illegal trade.

(b) CAPTIVE BRED SPECIES.—The Secretary shall include a species of exotic birds in the list under subsection (a) if the Secretary determines that—

(1) the species is regularly bred in captivity and no wild-caught birds of the species are in trade; or

(2) the species is bred in a qualifying facility.

(c) NON-CAPTIVE BRED SPECIES.—The Secretary shall include in the list under subsection (a) a species of exotic birds that is listed in an Appendix to the Convention if the Secretary finds the Convention is being effectively implemented with respect to that species because of each of the following:

(1) Each country of origin for which the species is listed is effectively implementing the Convention, particularly with respect to—

(A) the establishment of a scientific authority or other equivalent authority;

(B) the requirements of Article IV of the Convention with respect to that species; and

(C) remedial measures recommended by the Parties to the Convention with respect to that species.

(2) A scientifically-based management plan for the species has been developed which—

(A) provides for the conservation of the species and its habitat and includes incentives for conservation;

(B) ensures that the use of the species is biologically sustainable and maintained throughout the range of the species in the country to which the plan applies at a level that is consistent with the role of the species in the ecosystem and is well above the level at which the species might become threatened with extinction; and

(C) addresses factors relevant to the conservation of the species, including illegal trade, domestic trade, subsistence use, disease, and habitat loss.

(3) The management plan is implemented and enforced.

(4) The methods of capture, transport, and maintenance of the species minimizes the risk of injury or damage to health, including inhumane treatment.

16 USC 4906.

SEC. 107. QUALIFYING FACILITIES.

(a) DETERMINATION.—Upon submission of a petition under section 110 by any person, the Secretary shall determine whether an exotic bird breeding facility is a qualifying facility. Such determination shall be effective for a period specified by the Secretary, which may not exceed 3 years. The Secretary shall, from time to time, publish a list of qualifying facilities in the Federal Register.

Federal Register, publication.

(b) CRITERIA.—The Secretary shall determine under subsection (a) that a facility is a qualifying facility for a species of exotic birds if the Secretary finds each of the following:

(1) The facility has demonstrated the capability of producing captive bred birds of the species in the numbers to be imported into the United States from that facility.

(2) The facility is operated in a manner that is not detrimental to the survival of the species in the wild.

(3) The facility is operated in a humane manner.

(4) The appropriate governmental authority of the country in which the facility is located has certified in writing, and the Secretary is satisfied, that the facility has the capability of breeding the species in captivity.

(5) The country in which the facility is located is a Party to the Convention.

(6) All birds exported from the facility are bred at the facility.

SEC. 108. MORATORIA FOR SPECIES NOT COVERED BY CONVENTION. 16 USC 4907.

(a) IN GENERAL.—The Secretary shall—

(1) review periodically the trade in species of exotic birds that are not listed in any Appendix to the Convention; and

(2) after notice and an opportunity for public comment, establish a moratorium or quota on—

(A) importation of any species of exotic birds from one or more countries of origin for the species, if the Secretary determines that—

(i) the findings described in section 106(c) (2), (3), and (4) cannot be made with respect to the species; and

(ii) the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this title; or

(B) the importation of all species of exotic birds from a particular country, if—

(i) the country has not developed and implemented a management program for exotic birds in trade generally, that ensures both the conservation and the humane treatment of exotic birds during capture, transport, and maintenance; and

(ii) the Secretary finds that the moratorium or quota is necessary for the conservation of the species or is otherwise consistent with the purpose of this title.

(b) TERMINATION OF QUOTA OR MORATORIUM.—The Secretary shall terminate a quota or moratorium established under subsection (a) if the Secretary finds that the reasons for establishing the quota or moratorium no longer exist.

SEC. 109. CALL FOR INFORMATION. 16 USC 4908.

Within one month after the date of the enactment of this Act, the Secretary shall issue a call for information on the wild bird conservation program of each country that exports exotic birds, by—

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested persons; and Federal Register, publication.

(2) submitting a written request for such information through the Secretary of State to each country that exports exotic birds.

SEC. 110. PETITIONS. 16 USC 4909.

(a) IN GENERAL.—Any person may at any time submit to the Secretary a petition in writing requesting that the Secretary exercise authority of the Secretary under this title to—

(1) establish, modify, or terminate any prohibition, suspension, or quota under this title on importation of any species of exotic bird;

(2) add a species of exotic bird to, or remove such a species from, a list under section 106; or

(3) determine under section 107 whether an exotic bird breeding facility is a qualifying facility.

(b) CONSIDERATION AND RULING.—For each petition submitted to the Secretary in accordance with subsection (a), the Secretary shall— Federal Register, publication.

(1) within 90 days after receiving the petition, issue and publish in the Federal Register a preliminary ruling regarding whether the petition presents sufficient information indicating that the action requested in the petition might be warranted; and

(2) for each petition determined to present such sufficient information—

(A) provide an opportunity for the submission of public comment on the petition; and

(B) issue and publish in the Federal Register a final ruling on the petition, by not later than 90 days after the end of the period for public comment.

16 USC 4910.

SEC. 111. PROHIBITED ACTS.

(a) PROHIBITIONS.—

(1) IN GENERAL.—Subject to paragraph (2), it is unlawful for any person to—

(A) import any exotic bird in violation of any prohibition, suspension, or quota on importation under section 105 or 108;

(B) import an exotic bird of a species that pursuant to section 106(a)(2)(B) is included in a list under section 106, if the bird was not captive bred at a qualifying facility; or

(C) violate any regulation promulgated by the Secretary pursuant to authority provided by this title.

(2) LIMITATION.—Paragraph (1) (A) and (B) does not apply to importations made incident to the transit of exotic birds through the United States to foreign countries if the applicable requirements of the Convention have been satisfied with respect to the trade in those exotic birds.

(b) BURDEN OF PROOF FOR EXEMPTIONS.—Any person claiming the benefit of any exemption or permit under this title shall have the burden of proving that the exemption or permit is applicable or has been granted, and was valid and in force at the time of the alleged violation.

16 USC 4911.

SEC. 112. EXEMPTIONS.

Notwithstanding any prohibition, suspension, or quota under this title on the importation of a species of exotic bird, the Secretary may, through the issuance of import permits, authorize the importation of a bird of the species if the Secretary determines that such importation is not detrimental to the survival of the species and the bird is being imported exclusively for any of the following purposes:

(1) Scientific research.

(2) As a personally owned pet of an individual who is returning to the United States after being continuously out of the country for a minimum of one year, except that an individual may not import more than 2 exotic birds under this paragraph in any year.

(3) Zoological breeding or display programs.

(4) Cooperative breeding programs that are—

(A) designed to promote the conservation of the species and maintain the species in the wild by enhancing the propagation and survival of the species; and

(B) developed and administered by, or in conjunction with, an avicultural, conservation, or zoological organization that meets standards developed by the Secretary.

SEC. 113. PENALTIES AND REGULATIONS. 16 USC 4912.

(a) PENALTIES.—

(1) CIVIL PENALTIES.—

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a) (1) or (2) or any permit issued under section 112 may be assessed a civil penalty by the Secretary of not more than $25,000 for each violation.

(B) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a)(3) may be assessed a civil penalty by the Secretary of not more than $12,000 for each such violation.

(C) Any person who otherwise violates section 111(a) or any permit issued under section 112 may be assessed a civil penalty by the Secretary of not more than $500 for each such violation.

(D) A civil penalty under this section shall be assessed, and may be collected, in the manner in which a civil penalty under the Act of December 28, 1973 (Public Law 93–205), may be assessed and collected under section 111(a) of that Act.

(2) CRIMINAL PENALTIES.—

(A) Any person who knowingly violates, and any person engaged in business as an importer of exotic birds who violates, section 111(a) (1) or (2) or any permit issued under section 112 shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(B) Any person who knowingly violates section 111(a)(3) shall be fined under title 18, United States Code, imprisoned not more than 6 months, or both.

(b) DISTRICT COURT JURISDICTION.—The several district courts of the United States, including the courts enumerated in section 460 of title 28, United States Code, shall have jurisdiction over any action arising under this title. For the purposes of this title, American Samoa shall be included in the Judicial District of the District Court of the United States for the District of Hawaii, and the Trust Territory of Palau and the Northern Marianas shall be included in the Judicial District of the District Court of the United States for the District of Guam.

(c) OTHER ENFORCEMENT.—The importation of an exotic bird is deemed to be transportation of wildlife for purposes of section 3(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3372(a)).

(d) REGULATIONS.—The Secretary shall prescribe regulations that are necessary and appropriate to carry out the purposes of this title.

(e) SAVINGS PROVISIONS.—The authority of the Secretary under this title is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the authority of the Secretary under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.). Nothing

in this title shall be construed as repealing, superseding, or modifying any provision of Federal law.

16 USC 4913.

SEC. 114. EXOTIC BIRD CONSERVATION ASSISTANCE.

(a) ASSISTANCE.—The Secretary, subject to the availability of appropriations, shall use amounts in the Exotic Bird Conservation Fund established by subsection (b) to provide financial and technical assistance for projects to conserve exotic birds in their native countries. In selecting projects for assistance, the Secretary shall give particular attention to species that are subject to an import moratorium or quota under this title, in order to assist those countries in the development and implementation of conservation management programs, or law enforcement, or both.

(b) FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account, which shall be known as the "Exotic Bird Conservation Fund".

(2) CONTENTS.—The Fund shall consist of—

(A) all amounts received by the United States in the form of penalties, fines, or forfeiture of property collected under this title in excess of the cost of paying rewards under section 113(c);

(B) donations received by the Secretary for exotic bird conservation; and

(C) such amounts as are appropriated to the Secretary for conserving exotic birds.

(c) REVIEW AND REPORT ON OTHER CONSERVATION OPPORTUNITIES.—The Secretary, in consultation with appropriate representatives of industry, the conservation community, the Secretariat of the Convention, and other national and international bodies, shall—

(1) review opportunities for a voluntary program of labeling exotic birds, certification of exotic bird breeding facilities and retail outlets, and provision of privately organized or funded technical assistance to other nations; and

(2) report to the Congress the results of this review within 2 years after the date of enactment of this Act.

Regulations.
16 USC 4914.

SEC. 115. MARKING AND RECORDKEEPING.

(a) IN GENERAL.—The Secretary is authorized to promulgate regulations to require marking or recordkeeping that the Secretary determines will contribute significantly to the ability of the Secretary to ensure compliance with the prohibitions of section 111, for—

(1) any exotic bird that is imported after the date of enactment of this Act; or

(2) any other exotic bird that is—

(A) hatched after the date of the enactment of this Act;

(B) offered for sale; and

(C) of a species—

(i) the export of which from any country of origin is prohibited; and

(ii) that is subject to a high level of illegal trade.

(b) AVOIDING DETERRENCE OF BREEDING.—The Secretary shall seek to ensure that regulations promulgated under this section will not have the effect of deterring captive breeding of exotic birds.

SEC. 116. AUTHORIZATION OF APPROPRIATIONS. 16 USC 4915.

There are authorized to be appropriated to the Secretary $5,000,000 for each of the fiscal years 1993, 1994, and 1995 to carry out this title, to remain available until expended.

SEC. 117. RELATIONSHIP TO STATE LAW. 16 USC 4916.

Nothing in this title may be construed as precluding the regulation under State law of the sale, transfer, or possession of exotic birds if such regulation—

(1) does not authorize any sale, transfer, or possession of exotic birds that is prohibited under this title; and

(2) is consistent with the international obligations of the United States.

TITLE II—GREAT LAKES FISH AND WILDLIFE TISSUE BANK

The Great Lakes Fish and Wildlife Tissue Bank Act.

SEC. 201. SHORT TITLE. 16 USC 943 note.

This title may be cited as "The Great Lakes Fish and Wildlife Tissue Bank Act".

SEC. 202. TISSUE BANK. 16 USC 943.

(a) IN GENERAL.—The Secretary shall coordinate existing facilities for the storage, preparation, examination, and archiving of tissues from selected Great Lakes fish and wildlife, which shall be known as the "Great Lakes Fish and Wildlife Tissue Bank".

(b) GUIDANCE.—The Secretary shall, in consultation with appropriate Federal and State agencies and the Council of Great Lakes Research Managers, issue guidance, after an opportunity for public review and comment, for Great Lakes fish and wildlife tissue collection, preparation, archiving, quality control procedures, and access that will ensure—

(1) appropriate uniform methods and standards for those activities to provide confidence in Great Lakes fish and wildlife tissue samples used for research;

(2) documentation of procedures used for collecting, preparing, and archiving those samples; and

(3) appropriate scientific use of the tissues in the Great Lakes Fish and Wildlife Tissue Bank.

SEC. 203. DATA BASE. 16 USC 943a.

(a) MAINTENANCE.—The Secretary shall maintain a central data base which provides an effective means for tracking and assessing relevant reference data on Great Lakes fish and wildlife, including data on tissues collected for and maintained in the Great Lakes Fish and Wildlife Tissue Bank.

(b) ACCESS.—The Secretary shall establish criteria, after an opportunity for public review and comment, for access to the data base which provides for appropriate use of the information by the public.

SEC. 204. DEFINITIONS. 16 USC 943b.

In this title—

(1) "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(2) "Great Lakes fish and wildlife" means fauna, fish, and invertebrates dependent on Great Lakes resources, and located within the Great Lakes Basin.

16 USC 943c.

SEC. 205. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary, $250,000 for each of fiscal years 1993 and 1994 to carry out this title.

TITLE III—MISCELLANEOUS

SEC. 301. REAUTHORIZATION OF FISH AND WILDLIFE CONSERVATION ACT OF 1980.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "fiscal years" and all that follows through the end of the sentence and inserting "fiscal years 1992, 1993, 1994, 1995, 1996, and 1997.".

SEC. 302. REAUTHORIZATION OF AFRICAN ELEPHANT CONSERVATION ACT.

Section 2306 of the African Elephant Conservation Act (16 U.S.C. 4245) is amended by striking "fiscal years" and all that follows through "1993" and inserting "fiscal years 1992, 1993, 1994, 1995, 1996, 1997, and 1998".

16 USC 3503 note.

SEC. 303. TECHNICAL REVISIONS TO MAPS.

(a) IN GENERAL.—The Secretary of the Interior shall, before the end of the 30-day period beginning on the date of the enactment of this Act, make such technical revisions to the maps described in subsection (b) as are necessary to ensure that—

(1) on the maps referred to in subsection (b)(2) (A) and (B), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note);

(2) on the map referred to in subsection (b)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA–60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (c), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note);

(3) on the map referred to in subsection (b)(2)(A), the area: consisting of approximately 5,221 acres and owned by the National Audubon Society as of September 28, 1992 (known as the "Audubon Sanctuary"), along with the associated aquatic habitat of Pine Island Bay and Goat Island Bay, shall be designated and depicted as NC–01, a unit of the Coastal Barrier Resources System by the Secretary in accordance with paragraph (5) of this subsection; and

(4) on the map referred to in subsection (b)(2)(C) areas designated as "otherwise protected areas" identified as "VA–60P" that are:

(A) north of the north bank of Salt Ponds Inlet in Hampton, Virginia; and

(B) south of the line described in subsection (c) of this section shall be designated and depicted on the map as VA–60, a unit of the Coastal Barrier Resources System by the Secretary in accordance with paragraph (5) of this subsection.

In designating the units in accordance with paragraphs (3) and (4) above, the Secretary is authorized to make any minor and technical modifications to the boundaries of such unit as may be necessary to correct existing clerical and typographical errors in the map: *Provided,* That the local government in which is located such unit may recommend any such corrections be considered by the Secretary.

(b) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC–01P",

(B) "Roosevelt Natural Area Unit, NC–05P", and

(C) "Plum Island Unit VA–59P Long Creek Unit VA–60P".

(c) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

SEC. 304. NATIONAL FISH AND WILDLIFE FOUNDATION.

16 USC 3703 note.

Beginning in fiscal year 1993 and hereafter, the National Fish and Wildlife Foundation may continue to draw down Federal funds when matching requirements have been met: *Provided,* That interest earned by the Foundation and its subgrantees on funds drawn down to date, but not immediately disbursed, shall be used to fund all activities as approved by the Board of Directors: *Provided further,* That the Foundation's subgrantees shall be exempt from the audit reporting and compliance requirements of OMB Circular A–133, for all grants of $100,000 or less. The Foundation shall amend its grant contracts to ensure that its subgrantees are advised and certify that they will comply with all applicable Federal laws and regulations imposed on individuals or organizations receiving Federal funds.

Grants. Contracts.

SEC. 305. WETLANDS MAPPING.

Section 401(a) of Public Law 99–645, the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3931(a)), as amended by Public Law 101–233 is further amended—

(1) in paragraph (3), by striking "as soon as practicable" and inserting in lieu thereof "by September 30, 2000";

(2) in paragraph (4), by striking ". And" at the end of the paragraph and inserting in lieu thereof a semicolon;

(3) in paragraph (5)(B), by striking the period and inserting in lieu thereof a semicolon;

(4) by adding the following new paragraphs at the end thereof:

"(6) produce, by September 30, 2004, a digital wetlands data base for the United States based on the final wetlands maps produced under this section; and

"(7) archive and make available for dissemination wetlands data and maps digitized under this section as such data and maps become available.".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5013:

HOUSE REPORTS: No. 102-749, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 11, considered and passed House.

Sept. 30, considered and passed Senate, amended.

Oct. 5, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 23, Presidential statement.

Public Law 102-441
102d Congress

An Act

Relating to the settlement of the water rights claims of the Jicarilla Apache Tribe.

Oct. 23, 1992
[H.R. 5122]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jicarilla Apache Tribe Water Rights Settlement Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Jicarilla Apache Tribe Water Rights Settlement Act".

SEC. 2. FINDINGS.

Congress hereby finds and declares that—

(1) the Jicarilla Apache Tribe has multiple claims against the State of New Mexico, the United States, and other parties, related to water rights for its reservation in northern New Mexico and based on the alleged infringement of those rights;

(2) Federal water resource projects have diverted water upstream from the Jicarilla Apache Indian Reservation and have impounded water downstream from the reservation, but no provision has been made for substantial water resource development to benefit the reservation;

(3) a full and final settlement of the water rights claims of the Jicarilla Apache Tribe will inure to the benefit of the Tribe, the State of New Mexico, and the United States;

(4) this Act, together with a Settlement Contract between the Jicarilla Apache Tribe and the United States, is intended to provide for the full, fair and final resolution of the water right claims of the Tribe, and to secure to the Tribe a perpetual water supply for use on its reservation;

(5) the Jicarilla Apache Tribe may use this water supply outside the boundaries of its reservation consistent with the terms of a Settlement Contract between the Tribe and the United States; and

(6) the Secretary, in accordance with the requirements of section 11(a) of the Act of June 13, 1962 (76 Stat. 96, 99; Public Law 87-483), has determined by hydrologic investigations that sufficient water to fulfill the Settlement Contract is reasonably likely to be available for use in the State of New Mexico under the allocations made in articles III and XIV of the Upper Colorado River Basin Compact and has transmitted such determination to Congress by letter dated February 2, 1989.

SEC. 3. PURPOSE.

It is the purpose of this Act to—

(1) approve, ratify and incorporate by reference the Settlement Contract; and

(2) to authorize the actions and appropriations necessary and appropriate for the United States to fulfill its obligations under such contract and this Act.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "Settlement Contract" means a contract between the United States and the Jicarilla Apache Tribe setting forth the commitments, rights, and obligations of the United States and the Tribe in providing for the resolution of all water right claims of the Tribe.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Tribe" means the Jicarilla Apache Tribe of Indians organized under a revised constitution adopted December 15, 1968, pursuant to the Indian Reorganization Act (25 U.S.C. 476 et seq.) and duly recognized by the United States of America.

(4) The term "Navajo Reservoir" means the reservoir created by the impoundment of the San Juan River at the Navajo Dam as authorized by the Act of April 11, 1956 (70 Stat. 105).

(5) The term "San Juan-Chama Project" means the Project authorized by section 8 of the Act of June 13, 1962 (76 Stat. 96, 97), and the Act of April 11, 1956 (70 Stat. 105).

SEC. 5. SETTLEMENT CONTRACT APPROVAL.

(a) SETTLEMENT CONTRACT.—The Secretary, acting on behalf of the United States, and the President of the Tribe, acting pursuant to an authorization from the Jicarilla Apache Tribal Council, are authorized to enter into the Settlement Contract, but in no event shall such contract be limited by any term of years, or be canceled, terminated or rescinded by the action of any party, except by an Act of Congress hereafter enacted.

(b) APPROVAL OF SETTLEMENT CONTRACT.—The Congress approves, ratifies, and hereby incorporates by reference the Settlement Contract.

(c) AUTHORITY OF SECRETARY.—The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the intent of the Settlement Contract and this Act.

SEC. 6. WATER AVAILABLE UNDER THE CONTRACT.

(a) WATER AVAILABLE.—Water made available annually under the Settlement Contract approved by section 5 of this Act is in the following amounts under water rights held by the Secretary for the following projects or sources:

	Total diversion (acre-feet/year)	Total depletion (acre-feet/year)
Navajo Reservoir or Navajo River	33,500	25,500
San Juan-Chama Project	6,500	6,500
Total	40,000	32,000

(b) AMENDMENTS TO CONTRACT.—The Secretary may enter into amendments to the Settlement Contract which would in his judgment be in the interest of water conservation and in the spirit of this settlement of the claims of the Tribe, but the water depletions shall not exceed the amounts set forth in this section.

(c) RIGHTS OF THE TRIBE.—The Tribe will be entitled under the Settlement Contract to use any and all return flows attributable to uses of the water by the Tribe or its contractors, as long as the water depletions do not exceed the amounts set forth in this section.

SEC. 7. SUBCONTRACTS.

(a) AUTHORITY OF TRIBE.—When water made available under the Settlement Contract approved by section 5 of this Act is not being used by the Tribe, the Tribe may subcontract with third parties, subject to the approval of the Secretary in accordance with this section, to supply water for beneficial use outside of the reservation, subject to and not inconsistent with the same requirements and conditions of State law, any applicable Federal law, interstate compact, and international law as apply to the exercise of water rights held by non-Federal, non-Indian entities. Nothing in this Act shall be construed to establish, address, prejudice, or prevent any party from litigating, whether or to what extent any of the aforementioned laws do or do not permit, govern, or apply to the use of the Tribe's water outside the State.

(b) MAXIMUM TERM.—The Tribe shall not permanently alienate any rights it has under the Settlement Contract. The maximum term of any water use subcontract, including all renewals, shall not exceed 99 years in duration.

(c) APPROVAL OF SECRETARY.—(1) The Secretary shall approve or disapprove any subcontracts submitted to him for approval within—

(A) 180 days after submission; or

(B) 60 days after compliance, if required, with section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or any other requirement of Federal law, whichever is later.

(2) Any party to a subcontract may enforce the provision of this subsection pursuant to section 1361 of title 28, United States Code.

(d) PREEMPTION.—The authorization provided for in subsection (a) and the approval authority of the Secretary provided for in subsection (c) shall not amend, construe, supersede, or preempt any Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters. The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water made available under the Settlement Contract.

(e) FORFEITURE.—The nonuse of the water supply secured herein by a subcontractor of the Tribe shall in no event result in a forfeiture, abandonment, relinquishment, or other loss of all or any part of the rights exercised by the Tribe under the Settlement Contract.

SEC. 8. TRUST FUND; AUTHORIZATION OF APPROPRIATIONS.

(a) ESTABLISHMENT OF TRUST FUND.—There is hereby established in the Treasury a fund to be known as the Jicarilla Apache Water Resources Development Trust Fund (hereafter in this section referred to as the "Fund").

(b) AUTHORIZATION.—There are authorized to be appropriated:

(1) $6,000,000 for deposit, in accordance with the following schedule, in the Fund, to be expended by the Tribe for any

water resource development costs, including costs associated with this settlement:

(A) $2,000,000 shall be deposited in the first fiscal year which commences following the date of the enactment of this Act;

(B) $2,000,000 during the fiscal year next following the first fiscal year referred to in subparagraph (A); and

(C) $2,000,000 during the fiscal year next following the second fiscal year referred to in subparagraph (B); and

(2) such amounts as are necessary, for expenditures by the Secretary, to pay the Tribe's share of the operation, maintenance, and replacement costs for the San Juan-Chama Project, when the Secretary has waived the Tribe's obligation to pay such costs pursuant to subsection (c)(1) and section 10(f) of the Settlement Contract.

(c) NO PER CAPITA PAYMENTS.—No part of the principal of the fund, or of the income accruing to such fund, or the revenue from any water use subcontract, shall be distributed to any member of the Tribe on a per capita basis.

(d) WAIVERS.—Notwithstanding the provisions of the Act of August 4, 1939 (53 Stat. 1187), or any other provision of law:

(1) When the conditions specified in section 10(f) of the Settlement Contract are satisfied, the Secretary may waive all or part of the Tribe's share of the construction costs, and the operation, maintenance, and replacement costs for the Navajo Reservoir and the San Juan-Chama Project.

(2) When all or part of the Tribe's share of the construction costs for the San Juan-Chama Project are waived by the Secretary, that portion of those costs waived shall be nonreimbursable.

(3) The Tribe's share of the construction cost obligation for the San Juan-Chama Project, both principal and interest, due from 1972 to the execution of the Settlement Contract shall be nonreimbursable.

(e) DISMISSAL OF CLAIMS.—(1) Amounts authorized to be appropriated to the Fund under subsection (b)(1) may not be expended until the following conditions are met:

(A) The following actions brought by the Tribe against the United States have been dismissed:

(i) Jicarilla Apache Tribe against United States, et al., Civil No. 82–1327 JP (D.N.M.).

(ii) Claims 3 and 4 in Jicarilla Apache Tribe against United States, No. 112–77 (U.S. Claims Ct.).

(B) Partial final decrees which would quantify the Tribe's reserved water right claims have been entered in the following general stream adjudications:

(i) New Mexico against United States, et al., No. 75–184 (11th Jud. Dist., San Juan County, New Mexico), involving claims to the waters of the San Juan River and its tributaries.

(ii) New Mexico against Aragon, et al., Civil No. 79–41 SC (D.N.M.), involving claims to the Rio Chama and its tributaries.

(2) Within a reasonable time after the date of the enactment of this Act and the execution of the Settlement Contract pursuant to section 5(a), the United States, the Tribe, and the State of New Mexico shall file joint motions in the general stream adjudications specified in paragraph (1)(B) for the entry of partial final decrees, agreed to by the United States, the Tribe, and the State of New Mexico on July 9, 1992, to quantify the Tribe's reserved water right claims consistent with the Settlement Contract, subject to amendments.

(3) If the two partial final decrees specified in paragraph (1)(B) are not entered by December 31, 1996, the Fund shall be terminated, and amounts contributed to the Fund by the United States, shall be deposited in the general fund of the Treasury.

SEC. 9. ENVIRONMENTAL COMPLIANCE.

Execution of the Settlement Contract shall not constitute a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The Secretary shall comply with all aspects of the National Environmental Policy Act of 1969, the Endangered Species Act, and other applicable environmental laws and regulations in fulfilling the terms of the Settlement Contract.

SEC. 10. PROTECTION OF RIGHTS.

The tribal rights under the Settlement Contract approved by section 5 of this Act, and the water rights adjudicated by final decrees in general stream adjudications consistent with such contract, shall inure to the benefit of the Tribe, and the Tribe shall not be denied all or any part of such rights absent its consent unless such rights are explicitly abrogated by an Act of Congress hereafter enacted.

SEC. 11. DISCLAIMER.

(a) IN GENERAL.—Nothing in this Act shall be construed to alter, amend, repeal, construe, interpret, modify, or be in conflict with the provisions of the Boulder Canyon Project Act (45 Stat. 1057); the Boulder Canyon Project Adjustment Act (54 Stat. 774); the Colorado River Storage Project Act (70 Stat. 105); the Colorado River Basin Project Act (82 Stat. 885); the Act of June 13, 1962 (76 Stat. 96); the Colorado River Compact of 1922 made effective by Public Proclamation of the President of the United States on June 25, 1929 (46 Stat. 3000); the Upper Colorado River Basin Compact (63 Stat. 31); the Rio Grande Compact (53 Stat. 785); or the Treaty between the United States of America and the United Mexican States (59 Stat. 1219).

(b) RELATIVE TO OTHER TRIBES.—Nothing in the Settlement Contract or this Act shall be construed in any way to quantify or otherwise adversely affect the land and water rights, claims, or entitlements to water of the Navajo Nation, or any Indian tribe, pueblo, or community, other than the Jicarilla Apache Tribe.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5122:

HOUSE REPORTS: No. 102-955 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-442
102d Congress

An Act

To designate the Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, as the "Robert A. Grant Federal Building and United States Courthouse".

Oct. 23, 1992
[H.R. 5222]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 204 South Main Street in South Bend, Indiana, is designated as the "Robert A. Grant Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal building and courthouse referred to in section 1 is deemed to be a reference to the "Robert A. Grant Federal Building and United States Courthouse".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5222:

HOUSE REPORTS: No. 102-612 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Oct. 7, considered and passed Senate.

59-194 O—93——15 . QL 3 (Pt. 3)

Public Law 102-443
102d Congress

An Act

Oct. 23, 1992
[H.R. 5291]

To provide for the temporary use of certain lands in the city of South Gate, California, for elementary school purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY USE OF CERTAIN LANDS FOR ELEMENTARY SCHOOL PURPOSES.

Notwithstanding section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)), the city of South Gate, California, is hereby authorized to extend the existing lease (dated June 8, 1988) between the city of South Gate and the Los Angeles Unified School District on approximately three acres of South Gate Park for temporary elementary school purposes for a period not to exceed 8 years from the date of enactment of this Act in order to allow the School District sufficient time to permanently relocate Tweedy Elementary School.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5291:

HOUSE REPORTS: No. 102-689 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-444
102d Congress

An Act

To amend title 35, United States Code, with respect to the late payment of maintenance fees.

Oct. 23, 1992
[H.R. 5328]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCEPTANCE OF LATE PAYMENT OF MAINTENANCE FEES.

Section 41(c)(1) of title 35, United States Code, is amended in the first sentence by inserting after "section" the following: "which is made within twenty-four months after the six-month grace period if the delay is shown to the satisfaction of the Commissioner to have been unintentional, or at any time".

SEC. 2. EFFECTIVE DATE.

35 USC 41 note.

The amendment made by section 1 shall take effect on the date of the enactment of this Act.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5328:

HOUSE REPORTS: No. 102-993 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-445
102d Congress

An Act

Oct. 23, 1992
[H.R. 5431]

To designate the Federal building located at 200 Federal Plaza in Paterson, New Jersey, as the "Robert A. Roe Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 200 Federal Plaza in Paterson, New Jersey, shall be known and designated as the "Robert A. Roe Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Robert A. Roe Federal Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5431:

HOUSE REPORTS: No. 102-660 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-446
102d Congress

An Act

To designate the Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, as the "John Paul Hammerschmidt Federal Building and United States Courthouse".

Oct. 23, 1992
[H.R. 5432]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at the corner of College Avenue and Mountain Street in Fayetteville, Arkansas, is designated as the "John Paul Hammerschmidt Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the Federal building and courthouse referred to in section 1 is deemed to be a reference to the "John Paul Hammerschmidt Federal Building and United States Courthouse".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5432:

HOUSE REPORTS: No. 102-661 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-447
102d Congress

An Act

Oct. 23, 1992
[H.R. 5453]

To designate the Central Square facility of the United States Postal Service in Cambridge, Massachusetts, as the "Clifton Merriman Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Central Square facility of the United States Postal Service located at 770 Massachusetts Avenue in Cambridge, Massachusetts, shall be known and designated as the "Clifton Merriman Post Office Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "Clifton Merriman Post Office Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5453:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 102-448
102d Congress

An Act

To designate the facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, as the "Helen Day United States Post Office Building".

Oct. 23, 1992
[H.R. 5479]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1100 Wythe Street in Alexandria, Virginia, is designated as the "Helen Day United States Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the facility referred to in section 1 is deemed to be a reference to the "Helen Day United States Post Office Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5479:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-449
102d Congress

An Act

Oct. 23, 1992
[H.R. 5491]

To designate the Department of Veterans Affairs medical center in Marlin, Texas, as the "Thomas T. Connally Department of Veterans Affairs Medical Center".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs medical center in Marlin, Texas, is designated as the "Thomas T. Connally Department of Veterans Affairs Medical Center".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the medical center referred to in section 1 is deemed to be a reference to the "Thomas T. Connally Department of Veterans Affairs Medical Center".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5491:

HOUSE REPORTS: No. 102-715 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-450
102d Congress

An Act

To designate May of each year as "Asian/Pacific American Heritage Month".

Oct. 23, 1992
[H.R. 5572]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

36 USC 169k note.

The Congress finds that—

(1) on May 7, 1843, the first Japanese immigrants came to the United States;

(2) on May 10, 1869, Golden Spike Day, the first transcontinental railroad in the United States was completed with significant contributions from Chinese pioneers;

(3) in 1979, at Congress' direction, the President proclaimed the week beginning on May 4, 1979, as Asian/Pacific American Heritage Week, providing an opportunity for the people of the United States to recognize the history, concerns, contributions, and achievements of Asian and Pacific Americans;

(4) in 1990, 1991 and 1992, Congress designated and the President proclaimed the month of May as Asian/Pacific American Heritage Month;

(5) nearly 8,000,000 people in the United States can trace their roots to Asia and the islands of the Pacific; and

(6) Asian and Pacific Americans have contributed significantly to the development of the arts, sciences, government, military, commerce, and education in the United States.

SEC. 2. ANNUAL COMMEMORATION.

36 USC 169k.

(a) DESIGNATION.—May of each year is designated as "Asian/Pacific American Heritage Month".

(b) FEDERAL PROCLAMATION.—The President is authorized and requested to issue annually a proclamation calling on the people of the United States to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(c) STATE PROCLAMATIONS.—The chief executive officer of each State is requested to issue annually a proclamation calling on the people of the State to observe the month designated in subsection (a) with appropriate programs, ceremonies and activities.

(d) DEFINITION.—For purposes of subsection (c), the term "State" means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the

Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and Palau.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5572:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 23, Presidential statement.

Public Law 102-451
102d Congress

An Act

To authorize certain additional uses of the Library of Congress Special Facilities Center, and for other purposes.

Oct. 23, 1992
[H.R. 5575]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIBRARY OF CONGRESS SPECIAL FACILITIES CENTER.

Section 205(a) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new sentence: "The property acquired under this section shall be known as the 'Library of Congress Special Facilities Center' (hereinafter in this section referred to as the 'Center').".

SEC. 2. ADDITIONAL USES OF THE CENTER.

Section 205(g) of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (2) the following new paragraphs:

"(3) for external training;

"(4) for general assembly and education programs of the Library;

"(5) for temporary living quarters and common areas for visiting scholars using the collections of the Library or participating in the programs of the Library; and".

SEC. 3. FEES FOR USE OF THE CENTER.

Section 205 of the Legislative Branch Appropriations Act, 1991 (2 U.S.C. 141 note) is amended by adding at the end the following new subsection:

"(h)(1) The Librarian of Congress—

"(A) may charge fees for use of the Center under paragraphs (3), (4), and (5) of subsection (g); and

"(B) shall deposit the fees in the fund under paragraph (2).

"(2) There is established in the Treasury a fund which shall consist of amounts deposited under paragraph (1) and such other amounts as may be appropriated to the fund. The fund shall be—

"(A) available to the Librarian of Congress, in amounts specified in appropriations Acts, for the expenses of the Center; and

"(B) subject to audit by the Comptroller General at the discretion of the Comptroller General.".

SEC. 4. TEMPORARY RESTRICTION ON EVENING USE OF THE CENTER. 2 USC 141 note.

No evening meetings may be held at the Library of Congress Special Facilities Center until an on-site parking plan for the property is approved by the Joint Committee on the Library.

SEC. 5. REPEAL OF DUPLICATE PROVISIONS OF LAW.

Effective date.

Effective November 15, 1990, sections 1, 2, and 4 of the Act entitled "An Act to authorize acquisition of certain real property for the Library of Congress, and for other purposes", approved November 15, 1990 (2 U.S.C. 141 note) are repealed.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5575:

HOUSE REPORTS: No. 102-979 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-452
102d Congress

An Act

Granting the consent of the Congress to the Interstate Rail Passenger Network Compact.

Oct. 23, 1992
[H.R. 5602]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to the Interstate Rail Passenger Network Compact, which was enacted by the State of Indiana on February 28, 1992, and by the State of Tennessee on April 14, 1992. The compact is substantially as follows:

Indiana.
Tennessee.

"INTERSTATE RAIL PASSENGER NETWORK COMPACT

"SEC. 1. The interstate rail passenger network compact is ratified, enacted, and entered into by the State of Indiana with all other States joining the compact in the form substantially as this chapter.

"SEC. 2. It is the policy of the States party to this compact to cooperate and share the administration and financial responsibilities concerning the operation of an interstate rail passenger network system connecting major cities in Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida. The participating States agree that a rail passenger system would provide a beneficial service and would be enhanced if operated across State lines.

State listing.

"SEC. 3. (a) The States of Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida (referred to in this chapter as 'participating States') agree, upon adoption of this compact by the respective States, to jointly conduct and participate in a rail passenger network financial and economic impact study. The study must do the following:

"(1) Carry forward research previously performed by the national railroad passenger corporation (Amtrak) (report issued December 1990) and the Evansville Amtrak task force (report issued November 1990) that evaluated the 'western route' (Chicago-Evansville-Nashville-Chattanooga-Macon-Waycross-Jacksonville) for purposes of evaluating a representative service schedule, train running times, and associated costs.

"(2) Include consideration of the following:

"(A) The purchase of railroad equipment by a participating State and the lease of the railroad equipment to Amtrak.

"(B) The recommendation that a member of the council serve on the Amtrak board of directors.

"(C) The periodic review of projected passenger traffic estimates on the western route.

"(D) Any other matter related to the financial and economic impact of a rail passenger network along the western route.

"(b) Information and data collected during the study under subsection (a) that is requested by a participating State or a consult-

ing firm representing a participating State or the compact may be made available to the State or firm. However, the information may not include matters not of public record or of a nature considered to be privileged and confidential unless the State providing the information agrees to waive the confidentiality.

"SEC. 4. The participating States agree to do the following:

"(1) Make available to each other and to a consulting firm representing a participating State or the compact assistance that is available, including personnel, equipment, office space, machinery, computers, engineering, and technical advice and services.

"(2) Provide financial assistance for the implementation of the feasibility study that is available.

"SEC. 5. The interstate rail passenger advisory council (referred to in this compact as the 'council') is created. The membership of the council consists of three individuals from each participating State. The Governor, president of the Senate, and Speaker of the House of Representatives shall each appoint one member of the council.

"SEC. 6. The council shall do the following:

"(1) Meet within 30 days after ratification of this agreement by at least two participating States.

"(2) Establish rules for the conduct of the council's business, including the payment of the reasonable and necessary travel expenses of council members.

"(3) Coordinate all aspects of the rail passenger financial and economic impact study under section 3 of this chapter.

"(4) Contract with persons, including institutions of higher education, for performance of any part of the study under section 3 of this chapter.

"(5) Upon approval of the study, determine the proportionate share that each State will contribute toward the implementation and management of the proposed restoration of the interstate rail passenger system along the western route.

"(6) Make recommendations to each participating State legislature concerning the results of the study required by this chapter.

Effective date.

"SEC. 7. This compact becomes effective upon the adoption of the compact into law by at least two of the participating States. Thereafter, the compact becomes effective for another participating State upon the enactment of the compact by the State.

"SEC. 8. This compact continues in force with respect to a participating State and remains binding upon the State until 6 months after the State has given notice to each other participating State of the repeal of this chapter. The withdrawal may not be construed to relieve a participating State from an obligation incurred before the end of the State's participation in the compact.

"SEC. 9. (a) This compact shall be liberally construed to effectuate the compact's purposes.

"(b) The provisions of this compact are severable. If—

"(1) a phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating State or of the United States; or

"(2) the applicability of this compact to a government, an agency, a person, or a circumstance is held invalid;

the validity of the remainder of this compact and the compact's applicability to any government, agency, person, or circumstance is not affected.

"(c) If this compact is held contrary to the constitution of a participating State, the compact remains in effect for the remaining participating States and in effect for the State affected for all severable matters.

"SECTION 2. (a) There is appropriated from the State general fund to the interstate rail passenger advisory council created by IC 8–3–21, as added by this Act, four thousand dollars ($4,000) for the State fiscal year ending June 30, 1992, for its use in carrying out the purposes of IC 8–3–21. Appropriation authorization.

"(b) There is appropriated from the State general fund to the interstate rail passenger advisory council created by IC 8–3–21, as added by this Act, ten thousand dollars ($10,000) for each of the State fiscal years ending June 30, 1993, and June 30, 1994, for its use in carrying out the purposes of IC 8–3–21.

"(c) This section expires July 1, 1994.". Termination date.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5602:

HOUSE REPORTS: No. 102-983 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-453
102d Congress

An Act

Oct. 23, 1992
[H.R. 5605]

To authorize and direct land ownership consolidation in the Cedar River Watershed, Mt. Baker-Snoqualmie National Forest, Washington.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cedar River Watershed Land Exchange Act of 1992.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cedar River Watershed Land Exchange Act of 1992".

SEC. 2. CEDAR RIVER WATERSHED, WASHINGTON.

(a) IN GENERAL.—If the city of Seattle, Washington, agrees to convey lands to the United States in accordance with this section, the Secretary of Agriculture, in exchange for such lands, shall agree to convey to the City the Federal exchange lands.

(b) EXCHANGE FOR CITY LANDS.—

(1) APPRAISAL OF FEDERAL LANDS.—Not later than nine months after the date of enactment of this Act, the Federal exchange lands shall be appraised and the results of the appraisal transmitted to the Secretary and the City.

(2) OFFER OF CITY LANDS AND APPRAISAL.—

(A) CANDIDATE CITY LANDS.—Within 60 days after the receipt of the appraisal under paragraph (1), the City shall submit to the Secretary a list of candidate lands for conveyance to the United States under this section. Such candidate lands shall be selected by the City from the City lands.

(B) ACCEPTABLE CITY LANDS.—Not later than three months after receipt of the list of candidate lands under subparagraph (A), the Secretary shall determine, in the discretion of the Secretary, which of the candidate City lands to accept. Such lands acceptable to the Secretary shall be appraised within 90 days after such determination and the results of the appraisal transmitted to both the Secretary and the City. The Secretary shall accept lands included on such list unless the lands are not valuable for purposes of the National Forest System, including management as contiguous units with other National Forest System lands.

(3) CONSUMMATION OF EXCHANGE OF INITIAL PARCELS.—Not later than two years after the date of enactment of this Act, the Secretary shall transfer to the City parcels of the Federal exchange lands with a total value approximately equal to the value of the City lands the Secretary determines acceptable under paragraph (2). The Secretary may also accept money to equalize the value of the lands involved in the exchange, subject to subsection (f)(2).

(c) EQUALIZATION FOR REMAINING FEDERAL EXCHANGE LANDS.—If the value of the City lands conveyed and money accepted under

subsection (b) is not equal to the value of all of the Federal exchange lands, the following provisions shall apply:

(1) WAIVER BY THE CITY.—In the event the value of the City lands conveyed under subsection (b) is greater than the value of all of the Federal exchange lands, any cash equalization which might otherwise be owed to the City by the United States shall be waived.

(2) IDENTIFICATION OF EQUALIZATION LANDS AND MONEY BY THE CITY.—

(A) IN GENERAL.—In the event the value of the City lands conveyed and money accepted under subsection (b) is less than the value of all of the Federal exchange lands, the City shall, within five years after the date of initial consummation of the exchange under subsection (b), submit to the Secretary a list of lands, an amount of money, or a combination thereof which has in the aggregate a value equal to the difference in value between the City lands exchanged under subsection (b) and the value of all of the Federal exchange lands.

(B) FOREST LANDS.—Any lands included on the list pursuant to subparagraph (A) shall consist only of a tract or tracts of land within or adjacent to national forests in the State of Washington which have been—

(i) mutually identified by the Secretary and the City in advance of their inclusion on the list as acceptable to the Secretary for transfer to the United States;

(ii) appraised in accordance with this section within 90 days after their identification under clause (i); and

(iii) acquired by the City from a willing seller or sellers.

(3) COMPLETION OF EXCHANGE.—Not later than the end of the five-year period specified in paragraph (2)(A), the Secretary shall convey to the City the remaining Federal exchange lands in exchange for the conveyance by the City to the Secretary of lands and money acceptable to the Secretary for transfer to the United States pursuant to paragraph (2).

(d) APPRAISALS.—

(1) FINDING.—The Congress finds that use restrictions on the Cedar River Watershed imposed by Public Law 97-350 (96 Stat. 1661) coupled with the uncertainties surrounding the status of the lands as habitat for the northern spotted owl currently make appraisal of such lands difficult or unfeasible absent specific guidance from Congress.

(2) APPRAISAL ASSUMPTIONS.—(A) Except as otherwise provided by this subsection, lands to be exchanged pursuant to this section shall be appraised by an appraiser mutually acceptable to the City and the United States in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and section 206(d) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(d)).

(B) Federal exchange lands shall be appraised for the purposes of this section in a manner that reflects the deed restrictions imposed on the lands by subsection (e) and other applicable laws, rules, and regulations. Both Federal exchange lands and City lands located within Critical Habitat Units for the northern spotted owl (as identified by the United States

Fish and Wildlife Service, January 1992) shall be appraised as if subject to the deed restrictions under subsection (e).

(3) COSTS.—All costs of the appraisals shall be borne by the City.

(4) REQUIREMENT LIMITATION.—After an appraisal of lands for the purposes of this Act is accepted by both the Secretary and the City, such lands may not be appraised again for the purposes of this Act during the seven year period beginning on the date of enactment of this Act.

(e) DEED RESTRICTIONS.—The patent or other instrument of conveyance issued to the City for the Federal exchange lands conveyed under this section shall be restricted to provide the following prohibitions:

(1) The disposal of the lands or harvest of late-successional or old-growth timber, except for any timber sale or salvage sale approved before October 1, 1992, shall be prohibited.

(2) The disposal of land or harvest of timber and the construction of roads, structures, or other developed facilities on any such lands within the area identified as Critical Habitat Unit WA–33 (as identified by the United States Fish and Wildlife Service, January 1992), shall be prohibited except for routine maintenance of existings roads, trails, and drainage structures, and except as necessary to meet minimum requirements for the administration of the area to protect water quality or public health and safety, to maintain existing roads and trails, to help protect biological diversity or threatened or endangered species, or to regenerate old-growth forest ecosystems in second growth areas.

(f) OTHER GENERAL PROVISIONS CONCERNING EXCHANGE.—

(1) LANDS WITH SENSITIVE ENVIRONMENTAL VALUES.—The Secretary may not reject lands suggested for conveyance by the City under this section solely on the basis that such lands contain sensitive environmental values (including but not limited to old-growth forest or threatened or endangered species habitat).

(2) LIMITATION ON AMOUNT OF MONETARY PAYMENT.—In carrying out the exchange of lands under this section, the amount of money paid to the United States under this section may not exceed 25 percent of the total value of the Federal exchange lands.

(3) SISK ACT.—Any money received by the United States pursuant to this section shall be considered money received and deposited pursuant to the Act of December 4, 1967, as amended (Public Law 90–171, 16 U.S.C. 484a, commonly known as the "Sisk Act").

(4) SPECIAL RULE.—Determinations made by the Secretary in carrying out this section shall not be considered as decision-making.

(g) INCLUSION OF LANDS IN APPROPRIATE SYSTEM OR UNIT.—Lands acquired by the United States pursuant to this section shall be added to and become a part of the National Forest System or, as appropriate, such other system or area within which such lands are located and shall be administered as part of such System, unit, or area as provided by section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)). If any such lands lie outside the exterior boundaries of a national forest,

the Secretary is hereby authorized and directed to modify the exterior boundaries of such forest to include such lands.

(h) INTERIM MANAGEMENT.—In order to protect the quality of drinking water and other values in the Cedar River Watershed during the period before the land exchange authorized and required by this section is completed, the Secretary of Agriculture shall manage the National Forest System lands within the hydrographic boundaries of the watershed to—

(1) prohibit public access to the watershed, except to—

(A) allow access only for the discharge of official duties related to the management of the Mt. Baker-Snoqualmie National Forest by Federal employees, holders of Forest Service contracts, and agents of the Forest Service; and

(B) allow access by officials of the City of Seattle and others authorized by the City; and

(2) maintain or improve existing characteristics of the watershed, including prohibiting the harvest of late-successional or old-growth timber, except for any timber sale or salvage sale approved before October 1, 1992.

(i) DEFINITIONS.—For the purposes of this section:

(1) CITY.—The term "City" means the city of Seattle, Washington.

(2) CITY LANDS.—The term "City lands" means approximately 17,587 acres of lands eligible to be conveyed by the City under this section, as generally described in "Cedar River Land Exchange: City of Seattle Water Department Offered Lands", dated September 1, 1992.

(3) EQUALIZATION LANDS.—The term "equalization lands" means any lands conveyed to the United States under subsection (c)(2) for the purpose of equalizing the difference in value between the City lands accepted by the Secretary under subsection (b) and the Federal exchange lands.

(4) FEDERAL EXCHANGE LANDS.—The term "Federal exchange lands" means the approximately 16,963 acres of lands owned by the United States located in the Cedar River Watershed in King County, Washington, as generally depicted on a map entitled "Cedar River Exchange-Forest Service Selected Lands" September 1, 1992.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5605:

HOUSE REPORTS: No. 102-937, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-454
102d Congress

An Act

Oct. 23, 1992
[H.R. 5751]

To provide for the distribution within the United States of certain materials prepared by the United States Information Agency.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISTRIBUTION WITHIN THE UNITED STATES OF CERTAIN MATERIALS PREPARED BY THE UNITED STATES INFORMATION AGENCY FOR DISTRIBUTION ABROAD.

(a) AUTHORITY FOR DISSEMINATION IN UNITED STATES.—Notwithstanding section 208 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (22 U.S.C. 1461–1(a)) and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

(1) the Director of the United States Information Agency shall make available to the Archivist of the United States a master copy of the documentary film entitled "The Voice" and the radio documentary entitled "All of Our Yesterdays"; and

(2) upon evidence that necessary rights and licenses have been secured and paid for by the person seeking domestic release of such materials, the Archivist shall—

(A) reimburse the Director for any expenses of the Agency in making such master copies available;

(B) deposit such master copies in the National Archives of the United States; and

(C) make copies of such master copies available for purchase and public viewing and broadcast.

(b) REIMBURSEMENT.—Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information Agency.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5751:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 102-455
102d Congress

An Act

To designate the Federal Building located at Main and Church Streets in Victoria, Texas, as the "Martin Luther King, Jr. Federal Building".

Oct. 23, 1992
[H.R. 5831]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at Main and Church Streets in Victoria, Texas, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Martin Luther King, Jr. Federal Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5831:

HOUSE REPORTS: No. 102-914 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-456
102d Congress

An Act

Oct. 23, 1992
[H.R. 6000]

To redesignate Springer Mountain National Recreation Area as "Ed Jenkins National Recreation Area".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 460ggg note.

SECTION 1. REDESIGNATION.

Springer Mountain National Recreation Area in the Chattahoochee National Forest, in the State of Georgia, is hereby redesignated as "Ed Jenkins National Recreation Area".

16 USC 460ggg note.

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to Springer Mountain National Recreation Area is deemed to be a reference to Ed Jenkins National Recreation Area.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6000:

HOUSE REPORTS: No. 102-935 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-457
102d Congress

An Act

To amend the Congressional Award Act to revise and extend authorities for the Congressional Award Board.

Oct. 23, 1992
[H.R. 6049]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Congressional Award Act Amendments of 1992.
2 USC 801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1992".

SEC. 2. REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.

Section 5 of the Congressional Award Act (2 U.S.C. 804) is amended by adding at the end the following subsection:

"(c)(1) The Director shall, in consultation with the Board, ensure that appropriate procedures for fiscal control and fund accounting are established for the financial operations of the Congressional Award Program, and that such operations are administered by personnel with expertise in accounting and financial management. Such personnel may be retained under contract. In carrying out this paragraph, the Director shall ensure that the liabilities of the Board do not, for any calendar year, exceed the assets of the Board.

"(2)(A) The Comptroller General of the United States shall determine, for calendar years 1993 and 1994, whether the Director has substantially complied with paragraph (1). The findings made by the Comptroller General under the preceding sentence shall be included in the first report submitted under section 8(b) after December 31, 1994.

Reports.

"(B) If the Director fails to substantially comply with paragraph (1), the Board shall take such actions as may be necessary to prepare, pursuant to section 9, for the orderly cessation of the activities of the Board.".

SEC. 3. TERMINATION.

Section 9 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 1992" and inserting "October 1, 1995".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6049:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-458
102d Congress

An Act

To direct expedited negotiated settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by directing land acquisition and exchange negotiations by the Secretary of the Interior and certain Alaska Native corporations involving lands and interests in lands held by the United States and such corporations.

Oct. 23, 1992
[H.R. 6072]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That during the 6-month period beginning on the date of enactment of this Act, the Secretary of the Interior shall engage in expedited negotiation with the Kenai Natives Association, Inc., and Cook Inlet Region, Inc., for independent voluntary exchange agreements or land acquisition agreements through which the United States would acquire all of the surface estate in parcels of high public interest held by such private parties, including lands along the Kenai River and Moose River. Any negotiation (and agreements) shall consider the value of recreational resources and wildlife habitat of such lands being exchanged or acquired and their importance to the purposes and management of public lands, shall consider independent third party appraisals which include such values, and shall not include values for lands retained by such corporations to which they already have title. The Secretary should, within 60 days of the end of the negotiation period, submit to Congress legislation approving the exchanges or acquisitions, or in the event that the parties do not agree, submit a report to Congress describing the reasons why agreement was not reached including the values relied upon by the Kenai Natives Association, Inc., the Cook Inlet Region, Inc., and the Secretary, and the Secretary's justification of any differential between the values arrived at by the Kenai Natives Association, Inc., the Cook Inlet Region, Inc., and the Secretary.

Reports.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6072:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-459
102d Congress

An Act

Oct. 23, 1992
[H.R. 6165]

To amend certain provisions of law relating to establishment, in the District of Columbia or its environs, of a memorial to honor Thomas Paine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That effective as of the enactment of the Act entitled "An Act to authorize the construction of a monument in the District of Columbia or its environs to honor Thomas Paine, and for other purposes" (H.R. 1628, One Hundred Second Congress), such Act is amended to read as follows:

Ante, p. 1991.

40 USC 1003 note.

"SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

"(a) IN GENERAL.—The Thomas Paine National Historical Association is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Thomas Paine.

"(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled 'An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes' approved November 14, 1986 (40 U.S.C. 1001, et seq.).

40 USC 1003 note.

"SEC. 2. PAYMENT OF EXPENSES.

"The Thomas Paine National Historical Association shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

40 USC 1003 note.

"SEC. 3. DEPOSIT OF EXCESS FUNDS.

"If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section

10(b) of that Act, there remains a balance of funds received for the establishment of the memorial, the Thomas Paine National Historical Association shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6165:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-460
102d Congress

An Act

Oct. 23, 1992
[H.R. 6179]

To amend the Wild and Scenic Rivers Act.

Conservation.
New Jersey.
Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WILD AND SCENIC RIVER STUDY.

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding at the end thereof the following new paragraph:

"( ) DELAWARE RIVER, PENNSYLVANIA AND NEW JERSEY.—(A) The approximately 3.6-mile segment from the Erie Lackawanna Railroad Bridge to the southern tip of Dildine Island.

"(B) The approximately 2-mile segment from the southern tip of Mack Island to the northern border of the town of Belvidere, New Jersey.

"(C) The approximately 12.5-mile segment from the southern border of the town of Belvidere, New Jersey, to the northern border of the city of Easton, Pennsylvania, excluding river mile 196.0 to 193.8.

"(D) The approximately 9.5-mile segment from the southern border of the town of Phillipsburg, New Jersey, to a point just north of the Gilbert Generating Station.

"(E) The approximately 14.2-mile segment from a point just south of the Gilbert Generating Station to a point just north of the Point Pleasant Pumping Station.

"(F) The approximately 6.5-mile segment from a point just south of the Point Pleasant Pumping Station to the north side of the Route 202 bridge.

"(G) The approximately 6-mile segment from the southern boundary of the town of New Hope, Pennsylvania, to the town of Washington Crossing, Pennsylvania.

"(H) The Cook's Creek tributary.

"(I) The Tinicum Creek tributary.

"(J) The Tohickon Creek tributary.".

(b) ELIGIBILITY STUDY AND REPORT.—Section 5(b) of the Wild and Scenic Rivers Act, as amended, (16 U.S.C. 1276(b)) is amended by adding at the end the following new paragraph:

"(11)(A) The study of the Delaware River segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System pursuant to section 5(a)( ) of this Act shall be completed and the report submitted to Congress not later than one year after the date of enactment of this paragraph.

"(B) The Secretary shall—

"(i) prepare the study in cooperation and consultation with appropriate Federal, State, regional, and local agencies, including but not limited to, the Pennsylvania Department of Environmental Resources, the New Jersey Department of Environmental Protection and Energy, the Delaware and

Lehigh Navigation Canal National Heritage Corridor Commission, and the Delaware and Raritan Canal Commission; and

"(ii) consider previous plans for the protection of affected cultural, recreational, and natural resources (including water supply and water quality) and existing State and local regulations, so as to avoid unnecessary duplication.

"(C) Pursuant to section 11(b)(1) of this Act, the Secretary shall undertake a river conservation plan for the segment of the Delaware River from the northern city limits of Trenton, New Jersey, to the Southern boundary of Bucks County, Pennsylvania.".

(c) EXISTING FACILITIES AND POSSIBLE ADDITIONS THERETO.—The study of the river segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System under subsection (a) shall not be used in any proceeding or otherwise to preclude, prevent, restrict, or interfere with the completion, continued or changed operation, maintenance, repair, construction, reconstruction, replacement, or modification of the Gilbert Generating Station and associated facilities, the Point Pleasant Pumping Station and associated facilities, the Portland Generating Station and associated facilities, the Martins Creek Steam Electric Station and associated facilities, or the Merrill Creek Reservoir Project and associated facilities, or with the licensing, permitting, relicensing, or repermitting of such projects, stations, and associated facilities. Such study designation shall not preclude or interfere with the licensing, permitting, construction, operation, maintenance, repair, relicensing, or repermitting of any additions to any such facilities, so long as such additions are outside the segments of the Delaware River designated for study by subsection (a) and impounded backwater from any such addition does not intrude on any such segment, and so long as the values present in such segments on the date of enactment of this Act are not unreasonably diminished thereby.

(d) TRANSMISSION AND DISTRIBUTION FACILITIES.—The study of the river segments and tributaries designated for potential addition to the National Wild and Scenic Rivers System under subsection (a) of this Act shall not be used in any proceeding or otherwise to preclude, prevent, restrict, or interfere with the present or future access to or operation, maintenance, repair, construction, reconstruction, replacement, or modification of electric or gas transmission or distribution lines across or adjacent to such segments, or with the licensing, permitting, relicensing, or repermitting of such lines across such segments: *Provided, however,* That during the study of such segments, each new electric or gas transmission

Energy.

or distribution line across any such segment shall be located no further than ½ mile from the center line of any transmission or distribution line across any such segment in existence on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6179:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-461
102d Congress

An Act

To amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

Oct. 23, 1992
[H.R. 6184]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

SECTION 1. DESIGNATION OF AMERICAN DISCOVERY TRAIL AS A STUDY TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(34) American Discovery Trail, extending from Pt. Reyes, California, across the United States through Nevada, Utah, Colorado, Kansas, Nebraska, Missouri, Iowa, Illinois, Indiana, Ohio, West Virginia, Maryland, and the District of Columbia, to Cape Henlopen State Park, Delaware; to include in the central United States a northern route through Colorado, Nebraska, Iowa, Illinois, and Indiana and a southern route through Colorado, Kansas, Missouri, Illinois, and Indiana.".

SEC. 2. DESIGNATION OF ALA KAHAKAI TRAIL AS A STUDY TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is further amended by adding at the end the following new paragraph:

"(35) Ala Kahakai Trail in the State of Hawaii, an ancient Hawaiian trail on the Island of Hawaii extending from the northern tip of the Island of Hawaii approximately 175 miles along the western and southern coasts to the northern boundary of Hawaii Volcanoes National Park.".

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6184:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-462
102d Congress

Joint Resolution

Oct. 23, 1992
[H.J. Res. 353]

Designating the week beginning January 3, 1993, as "Braille Literacy Week".

Whereas Braille, the system of dots used by the blind to read and write, is a truly elegant and effective medium of literacy;
Whereas blind and visually impaired individuals must be afforded the opportunity to achieve literacy so that they can compete in employment, succeed in education, and live independent, fruitful lives;
Whereas recording devices, reading machines such as the optacon, and computer-screen access programs have enabled blind individuals to gain access to a wide variety of printed material but cannot replace a medium such as Braille which allows a blind individual to read and write independently;
Whereas the teaching of Braille has been woefully neglected over the past several decades; and
Whereas many States have acted or are acting to ensure that blind and visually impaired school age students are taught Braille if it is judged the appropriate medium to provide such students with the opportunity to achieve literacy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION AND PRESIDENTIAL PROCLAMATION.

Louis Braille.

That the week beginning January 3, 1993, is designated as "Braille Literacy Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, including educational activities to celebrate the contributions of the inventor of Braille, Louis Braille, who was born on January 4, 1809, and to heighten public awareness of both the importance of Braille literacy among children and adults who are blind and the great need for the production of the wide variety of commonly available print documents in Braille.

SEC. 2. STATE AND LOCAL PROCLAMATIONS.

The Governor of each State, the chief executive of the District of Columbia and each territory of the United States, and the chief executive of each political subdivision of each State or territory

is urged to issue a proclamation (or other appropriate official statement) calling upon the people of such State, the District of Columbia, or such territory or political subdivision to observe the week beginning January 3, 1993, in the manner described in section 1.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 353:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 16, considered and passed House.
Oct. 8, considered and passed Senate.

59-194 O—93——16 : QL 3 (Pt. 3)

Public Law 102-463
102d Congress

Joint Resolution

Oct. 23, 1992
[H.J. Res. 399]

Designating the week beginning November 1, 1992, as "National Medical Staff Services Awareness Week".

Whereas there are more than 2,600 certified medical staff coordinators across the United States whose purpose is to enhance the professionalism and efficiency of health care in the United States;

Whereas the health care industry, especially hospital and medical staff personnel, has experienced tremendous change and challenges in recent years;

Whereas the role of medical staff services personnel has become essential to effective health care management;

Whereas complex legal, financial, and regulatory requirements have greatly increased the need for expanded administration of medical staff functions;

Whereas encouraging professional development for medical staff services personnel is essential for effective, productive, and competent hospital and medical staffs;

Whereas, in 1978, dedicated individuals organized to recognize and support the vitally important work of the medical staff services profession; and

Whereas a need exists to increase recognition of the valuable and important role of the medical staff services profession across the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 1, 1992, is designated as "National Medical Staff Services Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 399:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-464
102d Congress

Joint Resolution

Designating January 16, 1993, as "Religious Freedom Day".

Oct. 23, 1992
[H.J. Res. 457]

Whereas December 15, 1991, is the 200th anniversary of the completion of the ratification of the Bill of Rights;

Whereas the first amendment to the Constitution of the United States guarantees religious liberty to the people of the United States;

Whereas millions of people from all parts of the world have come to the United States fleeing religious persecution and seeking freedom to worship;

Whereas in 1777 Thomas Jefferson wrote the bill entitled "A Bill for Establishing Religious Freedom in Virginia" to guarantee freedom of conscience and separation of church and state;

Whereas in 1786, through the devotion of Virginians such as George Mason and James Madison, the General Assembly of Virginia passed such bill;

Whereas the Statute of Virginia for Religious Freedom inspired and shaped the guarantees of religious freedom in the first amendment;

Whereas the Supreme Court of the United States has recognized repeatedly that the Statute of Virginia for Religious Freedom was an important influence in the development of the Bill of Rights;

Whereas scholars across the United States have proclaimed the vital importance of such statute and leaders in fields such as law and religion have devoted time, energy, and resources to celebrating its contribution to international freedom; and

Whereas America's First Freedom Center, located in Richmond, Virginia, plans a permanent monument to the Statute of Virginia for Religious Freedom, accompanied by educational programs and commemorative activities for visitors from around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January

16, 1993, is designated as "Religious Freedom Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to join together to celebrate their religious freedom and to observe the day with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 457 (S.J. Res. 283):

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 25, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-465
102d Congress

Joint Resolution

Designating October 24, 1992, through November 1, 1992, as "National Red Ribbon Week for a Drug-Free America".

Oct. 23, 1992
[H.J. Res. 467]

Whereas substance abuse has reached epidemic proportions and is of major concern to all Americans;
Whereas substance abuse is a major public health threat and is one of the major causes of preventable disease, disability, and death in the United States today;
Whereas illegal drug use is not limited to persons of a particular age, gender, or socioeconomic status;
Whereas the drug problem appears to be insurmountable, but the United States has begun to lay the foundation to combat the use of illegal drugs;
Whereas the United States must continue the important strides made to combat substance abuse;
Whereas it has been demonstrated through public opinion polls that the American people consider drug abuse one of the most serious domestic problems facing the United States and have begun to take steps against it;
Whereas the National Federation of Parents for Drug Free Youth has declared October 24, 1992, through November 1, 1992, as "National Red Ribbon Week", has organized the National Red Ribbon Campaign to coordinate the week's activities, has established the theme, "Neighbors—Drug Free and Proud" for the week, and has called for a comprehensive public awareness, prevention, and education program involving thousands of parent and community groups across the country;
Whereas the National Red Ribbon Campaign is headed by President and Mrs. George Bush and national honorary chairmen;
Whereas any use of an illegal drug is unacceptable and the illegal use of a legal drug cannot be tolerated; and
Whereas substance abuse destroys lives, spawns crime, undermines our economy, and threatens our security as a Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) October 24, 1992, through November 1, 1992, is designated as "National Red Ribbon Week for a Drug Free America";

(2) the President is authorized and directed to issue a proclamation calling on the people of the United States—

(A) to observe the week by holding conferences, meetings and other activities to support community education, and with other appropriate activities, events and educational campaigns; and

(B) both during the week and thereafter, to wear and display red ribbons to present and symbolize commitment

to a healthy, drug-free life style, and to develop an attitude of intolerance concerning the use of drugs; and

(3) Congress recognizes and commends the hard work and dedication of concerned parents, youth, law enforcement officials, educators, business leaders, religious leaders, private sector organizations, and Government leaders in combating substance abuse.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 467:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 16, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-466
102d Congress

Joint Resolution

Designating October 14, 1992, as "National Occupational Therapy Day".

Oct. 23, 1992
[H.J. Res. 471]

Whereas occupational therapy is a health and rehabilitation profession whose practitioners help to restore the highest quality of productive life to individuals recovering from illnesses or injuries;

Whereas practitioners of occupational therapy help individuals cope with developmental disabilities, psychosocial difficulties, or changes resulting from the aging process;

Whereas practitioners of occupational therapy in the United States treat more than 7,500,000 children and adults annually in a variety of settings, including hospitals, nursing facilities, outpatient rehabilitation facilities, psychiatric facilities, community mental health centers, private and public schools, and through independent practices and home health agencies;

Whereas practitioners of occupational therapy served the United States with great distinction from World War I to Operation Desert Storm by providing a wide variety of rehabilitation services to wounded members of the armed forces of the United States and by developing programs with the armed services to train additional occupational therapists;

Whereas the American Occupational Therapy Association, which was founded in 1917, is the oldest allied health professional society in the United States;

Whereas the membership of the American Occupational Therapy Association includes more than 45,000 occupational therapists, occupational therapy assistants, and students of occupational therapy from all of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and 65 foreign countries; and

Whereas 1992 marks the 75th anniversary of the founding of the American Occupational Therapy Association: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 14, 1992, is designated as "National Occupational Therapy Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 471 (S.J. Res. 315):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-467
102d Congress

Joint Resolution

Designating the week beginning February 14, 1993, as "National Visiting Nurse Associations Week".

Oct. 23, 1992
[H.J. Res. 484]

Whereas visiting nurse associations have served homebound Americans since 1885;

Whereas such associations annually provide home care and support services to more than 1,500,000, men, women, children, and infants;

Whereas such associations serve 422 urban and rural communities in 45 States;

Whereas such associations adhere to high standards of quality and provide personalized and cost-effective home health care and support, regardless of an individual's ability to pay;

Whereas such associations are voluntary in nature, independently owned, and community based;

Whereas such associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such associations ensure that individuals who are chronically ill or who have physical or mental handicaps receive the therapeutic benefits of care and support services in the home;

Whereas, in the absence of such associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, friendly visiting services, social services, nutritional counseling, specialized nursing care by registered nurses, and meals on wheels;

Whereas, in each community serviced by such an association, local volunteers support the association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the association's office, and providing tender loving care; and

Whereas the need for home health care for young and old alike continues to grow annually: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week

beginning February 14, 1993, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 484:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-468
102d Congress

Joint Resolution

Designating February 21, 1993, through February 27, 1993, as "American Wine Appreciation Week", and for other purposes.

Oct. 23, 1992
[H.J. Res. 489]

Whereas wine was produced by our Founding Fathers, including Thomas Jefferson, and winegrape growing and wine production in the United States continue today as a significant agricultural industry in 43 of the States;

Whereas the history of winegrape growing in the world dates back over 7,000 years and it continues as a proud tradition nurtured by the small farmer in all regions of the United States;

Whereas this agricultural industry is comprised of thousands of family-owned farms, many of which are passed on from generation to generation, sustaining responsible preservation of our agricultural resources;

Whereas more than 1,300 wineries and over 8,000 grape and fruit growers around the country work cooperatively to create wine;

Whereas over 85 percent of all wine consumed in the United States is produced by United States winemakers;

Whereas the direct economic impact of the United States wine industry is estimated to account for over $8,000,000,000 in sales annually, including the support of over 200,000 jobs as well as $1,000,000,000 in governmental taxes and fees;

Whereas the United States wine industry contributes to our quality of life by its ongoing contributions to organizations and associations in the health, civic, and educational sectors of the country;

Whereas acclaim for wine produced in the United States has grown internationally for many years and these products account for an increasing percentage of United States exports, helping to reduce the United States trade deficit;

Whereas wine, consumed in moderation, enhances the appetite and provides delicious accompaniment to all types of regional cuisine in the United States, enriching the quality of life for the citizenry of the United States; and

Whereas wine has fulfilled a valued role in a wide variety of the cultural, religious, and familial traditions of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress commends the winegrape and fruit growers and vintners of the United States for the production of such high quality agricultural products; and

(2) February 21, 1993, through February 27, 1993, is designated as "American Wine Appreciation Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 489:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-469
102d Congress

Joint Resolution

Oct. 23, 1992
[H.J. Res. 500]

Designating March 1993 as "Irish-American Heritage Month".

Whereas by 1776 nearly 300,000 natives of Ireland had emigrated to the colonies that would become the United States;

Whereas following the victory at Yorktown over the English, a French Major General reported that the Congress owed its existence, and America possibly owed its preservation, to the fidelity of the Irish;

Whereas at least 8 signers of the Declaration of Independence were of Irish origin;

Whereas 18 Presidents have proudly proclaimed their Irish-American heritage;

Whereas 200 years ago, Irish-born James Hoban and Irish immigrants assisted in the construction of the United States Capitol;

Whereas 190 years ago, Irish-born John Barry was the first naval hero of the American Revolution and became known as the "Father of the United States Navy";

Whereas 180 years ago, Commodore Oliver Perry, an Irish-American, achieved his major naval victory in the Battle of Lake Erie;

Whereas 50 years ago, the USS Sullivans was commissioned as a naval memorial to the famed Irish-American Sullivan brothers who made the ultimate sacrifice for democracy and freedom in the world; and

Whereas the Governors and mayors of 37 States and cities have designated March 1993 as "Irish-American Heritage Month": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 1993 is designated as "Irish-American Heritage Month", and the President is authorized and requested to issue a proclamation calling

upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 500 (S.J. Res. 330):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-470
102d Congress

Joint Resolution

To designate the month of October 1992 as "Country Music Month".

Oct. 23, 1992
[H.J. Res. 520]

Whereas country music derives its roots from the folk songs of our Nation's workers, captures the spirit of our religious hymns, reflects the sorrow and joy of our traditional ballads, and echoes the drive and soulfulness of rhythm and blues;

Whereas country music has played an integral part in our Nation's history, accompanying the growth of the United States and reflecting the ethnic and cultural diversity of our people;

Whereas country music embodies the spirit of America and the deep and genuine feelings individuals experience throughout their lives;

Whereas the distinctively American refrains of country music have been performed for audiences throughout the world, striking a chord deep within the hearts and souls of its fans; and

Whereas the month of October 1992 marks the twenty-eighth annual observance of Country Music Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1992 be designated as "Country Music Month" and that the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 520 (S.J. Res. 332):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 16, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-471
102d Congress

Joint Resolution

Oct. 23, 1992
[H.J. Res. 523]

Designating October 8, 1992, as "National Firefighters Day".

Whereas there are over 2,000,000 professional firefighters in the United States;

Whereas firefighters respond to more than 2,300,000 fires and 8,700,000 emergencies other than fires each year;

Whereas fires annually cause nearly 6,000 deaths and $10,000,000,000 in property damage;

Whereas firefighters have given their lives and risked injury to preserve the lives and protect the property of others;

Whereas the contributions and sacrifices of valiant firefighters often go unreported and are inadequately recognized by the public; and

Whereas the work of firefighters deserves the attention and gratitude of all individuals in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 8, 1992, is designated as "National Firefighters Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 523 (S.J. Res. 327):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-472
102d Congress

Joint Resolution

Supporting the planting of 500 redwood trees from California in Spain in commemoration of the quincentenary of the voyage of Christopher Columbus and designating the trees as a gift to the people of Spain.

Oct. 23, 1992
[H.J. Res. 529]

Whereas the voyage of Christopher Columbus across the Atlantic Ocean in 1492 established permanent communications between the Eastern and the Western Hemispheres and launched the greatest migration of human beings in the history of the world;

Whereas such voyage stimulated the first circumnavigation of the globe and other explorations that gave humankind its first genuine understanding of the Earth's geography;

Whereas such voyage inaugurated a new world that led to the formation of the United States; and

Whereas the quincentenary of such voyage is an appropriate time for its commemoration by the planting of a grove of redwood trees from California on the northwest coast of Spain, facing the Atlantic Ocean, so that during the next 5 centuries, as the trees grow from seedlings to their full noble grandeur in the soil of the Eastern Hemisphere, they will give to each individual who visits them an experience of the awesome potentials and wondrous beauty of Creation and represent the hope for a future of growing friendship among the peoples of the Eastern and the Western Hemispheres: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress supports the planting of 500 redwood trees from California on the northwest coast of Spain that is being organized by persons in the United States in cooperation with agencies of the Government of Spain in commemoration of the quincentenary of the voyage of Christopher Columbus to the New World; and

(2) such trees, which will be planted in December 1992 on land set aside for that purpose by authority of the Council of Galicia and the community of Montes de San Xoan in the Province of Pontevedra and supervised by the forestry service

of such Province, are designated as a gift to the people of Spain made in the name of the people of the United States.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 529:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-473
102d Congress

Joint Resolution

Designating November 30, 1992, through December 6, 1992, as "National Education First Week".

Oct. 23, 1992
[H.J. Res. 543]

Whereas the future economic success and democratic vitality of the United States depend primarily on the Nation's ability to provide a world class education from kindergarten through 12th grade;

Whereas all people of the United States have the right to a fulfilling, free, and safe elementary and secondary education that will enable them to be productive, skilled, and literate citizens;

Whereas the United States faces an unprecedented education crisis in which students fail to graduate from high school at a rate of 3,000 students a day (or more than 1,000,000 students a year) for the general population, and 46 percent for Black and Hispanic students;

Whereas 26,000,000 people in the United States are functionally illiterate, and only 40 percent of the Nation's students are able to solve math problems requiring 2 or more steps;

Whereas international competitors are outpacing the United States in preparing their students for the 21st century, as evidenced by data indicating that a Japanese student spends 30 percent more time in school than a student in the United States and that Japan has a literacy rate of almost 98 percent;

Whereas the education crisis of the United States places great strains on the Nation's economic, social, and political fabric, as evidenced by data indicating that 80 percent of prisoners are high school dropouts, 77 percent of college graduates (but only 37 percent of individuals with not more than an 8th grade education) voted in the 1988 presidential election, and only 3 percent of the Nation's high school graduates can understand distinctions among employee benefits plans;

Whereas the Nation's education crisis has reached such damaging proportions that only a coordinated, long-term effort by all sectors of the United States, including business, government, media, labor, and educators, can adequately address the challenge;

Whereas the media, including the television networks, the motion picture studios, and the cable television networks, are powerful tools to influence and arouse the public to a better understanding of the scope and severity of the education crisis, as well as to potential grassroots and legislative solutions to the crisis;

Whereas the commitment of the television networks to promote "Education First Week" represents the single greatest commitment of broadcast resources in the history of the television medium to address a national problem; and

Whereas "Education First Week" presents a unique opportunity to mobilize national and local political and public awareness through the media and is a significant step in confronting the Nation's education crisis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 30, 1992, through December 6, 1992, is designated as "National Education First Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 543 (S.J. Res. 316):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-474
102d Congress

Joint Resolution

Designating May 2, 1993, through May 8, 1993, as "National Walking Week".

Oct. 23, 1992
[H.J. Res. 547]

Whereas medical authorities have established that walking—

(1) powerfully protects against high blood pressure, cholesterol problems, and other factors that can contribute to heart disease;

(2) protects against adult onset (Type II) diabetes;

(3) builds strong bones and protects against osteoporosis, the weak-bone disease that afflicts millions of older women;

(4) probably offers protection against several forms of cancer that are believed to be preventable through regular and moderate exercise; and

(5) is a safe and dependable way for millions of overweight people to lose weight without stringent dieting;

Whereas the failure to regular exercise such as walking has been identified as the single greatest risk factor for heart disease;

Whereas the designation of "National Walking Week" will help promote the issue of pedestrian access and safety;

Whereas areas of America are becoming inaccessible or unsafe for walkers, so the benefits of this activity are being blocked;

Whereas people should be able to walk anywhere in their community, within reason; and

Whereas walking encourages community spirit and safety: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 2, 1993, through May 8, 1993, is designated as "National Walking Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 547 (S.J. Res. 342):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-475
102d Congress

Joint Resolution

Oct. 23, 1992
[H.J. Res. 563]

Providing for the convening of the first session of the One Hundred Third Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Third Congress shall begin at noon on Tuesday, January 5, 1993.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.J. Res. 563:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-476
102d Congress

An Act

To establish a national advanced technician training program, utilizing the resources of the Nation's two-year associate-degree-granting colleges to expand the pool of skilled technicians in strategic advanced-technology fields, to increase the productivity of the Nation's industries, and to improve the competitiveness of the United States in international trade, and for other purposes.

Oct. 23, 1992
[S. 1146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Scientific and Advanced-Technology Act of 1992.
42 USC 1861 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Scientific and Advanced-Technology Act of 1992".

42 USC 1862h.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the position of the United States in the world economy faces great challenges from highly trained foreign competition;

(2) the workforce of the United States must be better prepared for the technologically advanced, competitive, global economy;

(3) the improvement of our work force's productivity and our international economic position depend upon the strengthening of our educational efforts in science, mathematics, and technology, especially at the associate-degree level;

(4) shortages of scientifically and technically trained workers in a wide variety of fields will best be addressed by collaboration among the Nation's associate-degree-granting colleges and private industry to produce skilled, advanced technicians; and

(5) the National Science Foundation's traditional role in developing model curricula, disseminating instructional materials, enhancing faculty development, and stimulating partnerships between educational institutions and industry, makes an enlarged role for the Foundation in scientific and technical education and training particularly appropriate.

(b) PURPOSES.—It is the purpose of this Act to—

(1) improve science and technical education at associate-degree-granting colleges;

(2) improve secondary school and postsecondary curricula in mathematics and science;

(3) improve the educational opportunities of postsecondary students by creating comprehensive articulation agreements and planning between 2-year and 4-year institutions; and

(4) promote outreach to secondary schools to improve mathematics and science instruction.

Grants.
42 USC 1862i.

SEC. 3. SCIENTIFIC AND TECHNICAL EDUCATION.

(a) NATIONAL ADVANCED SCIENTIFIC AND TECHNICAL EDUCATION PROGRAM.—The Director of the National Science Foundation (hereafter in this Act referred to as the "Director") shall award grants

to associate-degree-granting colleges, and consortia thereof, to assist them in providing education in advanced-technology fields. The grant program shall place emphasis on the needs of students who have been in the workforce (including work in the home), and shall be designed to strengthen and expand the scientific and technical education and training capabilities of associate-degree-granting colleges through such methods as—

(1) the development of model instructional programs in advanced-technology fields;

(2) the professional development of faculty and instructors, both full- and part-time, in advanced-technology fields;

(3) the establishment of innovative partnership arrangements that—

(A) involve associate-degree-granting colleges and other appropriate public and private sector entities, and

(B) provide for private sector donations, faculty opportunities to have short-term assignments with industry, sharing of program costs, equipment loans, and the cooperative use of laboratories, plants, and other facilities, and provision for state-of-the-art work experience opportunities for students enrolled in such programs;

(4) the acquisition of state-of-the-art instrumentation essential to programs designed to prepare and upgrade students in scientific and advanced-technology fields; and

(5) the development and dissemination of instructional materials in support of improving the advanced scientific and technical education and training capabilities of associate-degree-granting colleges, including programs for students who are not pursuing a science degree.

(b) NATIONAL CENTERS OF SCIENTIFIC AND TECHNICAL EDUCATION.—The Director shall award grants for the establishment of centers of excellence, not to exceed 10 in number, among associate-degree-granting colleges. Centers shall meet one or both of the following criteria:

(1) Exceptional instructional programs in advanced-technology fields.

(2) Excellence in undergraduate education in mathematics and science.

The centers shall serve as national and regional clearinghouses and models for the benefit of both colleges and secondary schools, and shall provide seminars and programs to disseminate model curricula and model teaching methods and instructional materials to other associate-degree-granting colleges in the geographic region served by the center.

(c) ARTICULATION PARTNERSHIPS.—

(1) PARTNERSHIP GRANTS.—(A) The Director shall make grants to eligible partnerships to encourage students to pursue bachelor degrees in mathematics, science, engineering, or technology, and to assist students pursuing bachelor degrees in mathematics, science, engineering, or technology to make the transition from associate-degree-granting colleges to bachelor-degree-granting institutions, through such means as—

(i) examining curricula to ensure that academic credit earned at the associate-degree-granting college is transferable to bachelor-degree-granting institutions;

(ii) informing teachers from the associate-degree-granting college on the specific requirements of courses at the bachelor-degree-granting institution; and

(iii) providing summer educational programs for students from the associate-degree-granting college to encourage such students' subsequent matriculation at bachelor-degree-granting institutions.

(B) Each eligible partnership receiving a grant under this paragraph shall, at a minimum—

(i) counsel students, including students who have been in the workforce (including work in the home), about the requirements and course offerings of the bachelor-degree-granting institution; and

(ii) conduct workshops and orientation sessions to ensure that students are familiar with programs, including laboratories and financial aid programs, at the bachelor-degree-granting institution.

Funds used by eligible partnerships to carry out clauses (i) and (ii) shall be from non-Federal sources. In-cash and in-kind resources used by eligible partnerships to carry out clauses (i) and (ii) shall not be considered to be contributions for purposes of applying subsection (f)(3).

(C) Any institution participating in a partnership that receives a grant under this paragraph shall be ineligible to receive assistance under part B of title I of the Higher Education Act of 1965 for the duration of the grant received under this paragraph.

(2) OUTREACH GRANTS.—The Director shall make grants to associate-degree-granting colleges with outstanding mathematics and science programs to strengthen relationships with secondary schools in the community served by the college by improving mathematics and science education and encouraging the interest and aptitude of secondary school students for careers in science and advanced-technology fields through such means as developing agreements with local educational agencies to enable students to satisfy entrance and course requirements at the associate-degree-granting college.

(d) COORDINATION WITH OTHER FEDERAL DEPARTMENTS.—In carrying out this section, the Director shall consult, cooperate, and coordinate, to enhance program effectiveness and to avoid duplication, with the programs and policies of other relevant Federal agencies. In carrying out subsection (c), the Director shall coordinate activities with programs receiving assistance under part B of title I of the Higher Education Act of 1965.

(e) LIMITATION ON FUNDING.—To qualify for a grant under this section, an associate-degree-granting college, or consortium thereof, shall provide assurances adequate to the Director that it will not decrease its level of spending of funds from non-Federal sources on advanced scientific and technical education and training programs.

(f) FUNCTIONS OF THE DIRECTOR.—In carrying out this Act, the Director shall—

(1) award grants on a competitive, merit basis;

(2) ensure an equitable geographic distribution of grant awards;

(3) ensure that an applicant for a grant awarded under subsection (a), (b), or (c)(1) will make an in-cash or in-kind

contribution in an amount equal to at least 25 percent of the cost of the program, and for a grant awarded under subsection (c)(2) will make an in-cash or in-kind contribution in an amount at least equal to the amount of the grant award;

(4) establish and maintain a readily accessible inventory of the programs assisted under this Act; and

(5) designate an officer of the National Science Foundation to serve as a liaison with associate-degree-granting institutions for the purpose of enhancing the role of such institutions in the activities of the Foundation.

(g) DEFINITIONS.—As used in this section—

(1) the term "advanced-technology" includes advanced technical activities such as the modernization, miniaturization, integration, and computerization of electronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, fiber optic, robotic, and other technological applications to enhance productivity improvements in manufacturing, communication, transportation, commercial, and similar economic and national security activities;

(2) the term "associate-degree-granting college" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that—

(A) is a nonprofit institution that offers a 2-year associate-degree program or a 2-year certificate program; or

(B) is a proprietary institution that offers a 2-year associate-degree program;

(3) the term "bachelor-degree-granting institution" means an institution of higher education (as determined under section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) that offers a baccalaureate degree program;

(4) the term "eligible partnership" means one or more associate-degree-granting colleges in partnership with one or more separate bachelor-degree-granting institutions; and

(5) the term "local educational agency" has the meaning given such term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

SEC. 4. ADMINISTRATIVE AMENDMENT.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 5. AUTHORIZATION OF APPROPRIATIONS. 42 USC 1862j.

There are authorized to be appropriated, from sums otherwise authorized to be appropriated, to the Director for carrying out this Act—

(1) $35,000,000 for fiscal year 1992; and
(2) $35,000,000 for fiscal year 1993.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 1146:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 102-477
102d Congress

An Act

Oct. 23, 1992
[S. 1530]

To authorize the integration of employment, training, and related services provided by Indian tribal governments.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Employment, Training and Related Services Demonstration Act of 1992.
25 USC 3401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Employment, Training and Related Services Demonstration Act of 1992".

25 USC 3401.

SEC. 2. STATEMENT OF PURPOSE.

The purposes of this Act are to demonstrate how Indian tribal governments can integrate the employment, training and related services they provide in order to improve the effectiveness of those services, reduce joblessness in Indian communities and serve tribally-determined goals consistent with the policy of self-determination.

25 USC 3402.

SEC. 3. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) INDIAN TRIBE.—The terms "Indian tribe" and "tribe" shall have the meaning given the term "Indian tribe" in section 4(e) of the Indian Self-Determination and Education Assistance Act.

(2) INDIAN.—The term "Indian" shall have the meaning given such term in section 4(d) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—Except where otherwise provided, the term "Secretary" means the Secretary of the Interior.

25 USC 3403.

SEC. 4. INTEGRATION OF SERVICES AUTHORIZED.

The Secretary of the Interior, in cooperation with the appropriate Secretary of Labor, Secretary of Health and Human Services, or Secretary of Education, shall, upon the receipt of a plan acceptable to the Secretary of the Interior submitted by an Indian tribal government, authorize the tribal government to coordinate, in accordance with such plan, its federally funded employment, training, and related services programs in a manner that integrates the program services involved into a single, coordinated, comprehensive program and reduces administrative costs by consolidating administrative functions.

25 USC 3404.

SEC. 5. PROGRAMS AFFECTED.

The programs that may be integrated in a demonstration project under any such plan referred to in section 4 shall include any program under which an Indian tribe is eligible for receipt of funds under a statutory or administrative formula for the purposes of job training, tribal work experience, employment opportunities, or skill development, or any program designed for the enhancement of job opportunities or employment training.

SEC. 6. PLAN REQUIREMENTS. 25 USC 3405.

For a plan to be acceptable pursuant to section 4, it shall—

(1) identify the programs to be integrated;

(2) be consistent with the purposes of this Act authorizing the services to be integrated in a demonstration project;

(3) describe a comprehensive strategy which identifies the full range of potential employment opportunities on and near the tribal government's service area, and the education, training and related services to be provided to assist Indian workers to access those employment opportunities;

(4) describe the way in which services are to be integrated and delivered and the results expected from the plan;

(5) identify the projected expenditures under the plan in a single budget;

(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and

(8) be approved by the governing body of the affected tribe.

SEC. 7. PLAN REVIEW. 25 USC 3406.

Upon receipt of the plan from a tribal government, the Secretary of the Interior shall consult with the Secretary of each Federal department providing funds to be used to implement the plan, and with the tribal government submitting the plan. The parties so consulting shall identify any waivers of statutory requirements or of Federal departmental regulations, policies, or procedures necessary to enable the tribal government to implement its plan. Notwithstanding any other provision of law, the Secretary of the affected department shall have the authority to waive any regulation, policy, or procedure promulgated by that department that has been so identified by such tribal government or department, unless the Secretary of the affected department determines that such a waiver is inconsistent with the purposes of this Act or those provisions of the statute from which the program involved derives its authority which are specifically applicable to Indian programs.

SEC. 8. PLAN APPROVAL. 25 USC 3407.

Within 90 days after the receipt of a tribal government's plan by the Secretary, the Secretary shall inform the tribal government, in writing, of the Secretary's approval or disapproval of the plan. If the plan is disapproved, the tribal government shall be informed, in writing, of the reasons for the disapproval and shall be given an opportunity to amend its plan or to petition the Secretary to reconsider such disapproval.

SEC. 9. JOB CREATION ACTIVITIES AUTHORIZED. 25 USC 3408.

The plan submitted by a tribal government may involve the expenditure of funds for the creation of employment opportunities and for the development of the economic resources of the tribal government or of individual Indian people if such expenditures are consistent with an overall regional economic activity which has a reasonable likelihood of success and consistent with the purposes specifically applicable to Indian programs in the statute under which the funds are authorized.

25 USC 3409.

SEC. 10. PRIVATE SECTOR TRAINING PLACEMENTS.

A tribal government participating in a demonstration program under this Act is authorized to utilize funds available under such plan to place participants in training positions with private employers and pay such participants a training allowance or wage for a period not to exceed 12 months, if the tribal government obtains a written agreement from the private employer to provide on-the-job training to such participants and, upon satisfactory completion of the training period, to guarantee permanent employment to such participants for a minimum of 12 months.

25 USC 3410.

SEC. 11. FEDERAL RESPONSIBILITIES.

Contracts.

(a) RESPONSIBILITIES OF THE DEPARTMENT OF THE INTERIOR.—Within 180 days following the date of enactment of this Act, the Secretary of the Interior, the Secretary of Labor, the Secretary of Health and Human Services and the Secretary of Education shall enter into an interdepartmental memorandum of agreement providing for the implementation of the demonstration projects authorized under this Act. The lead agency for a demonstration program under this Act shall be the Bureau of Indian Affairs, Department of the Interior. The responsibilities of the lead agency shall include—

(1) the use of a single report format related to the plan for the individual project which shall be used by a tribal government to report on the activities undertaken under the project;

(2) the use of a single report format related to the projected expenditures for the individual project which shall be used by a tribal government to report on all project expenditures;

(3) the development of a single system of Federal oversight for the project, which shall be implemented by the lead agency; and

(4) the provision of technical assistance to a tribal government appropriate to the project, except that a tribal government shall have the authority to accept or reject the plan for providing such technical assistance and the technical assistance provider.

(b) REPORT REQUIREMENTS.—The single report format shall be developed by the Secretary, consistent with the requirements of this Act. Such report format, together with records maintained on the consolidated program at the tribal level shall contain such information as will allow a determination that the tribe has complied with the requirements incorporated in its approved plan and will provide assurances to each Secretary that the tribe has complied with all directly applicable statutory requirements and with those directly applicable regulatory requirements which have not been waived.

25 USC 3411.

SEC. 12. NO REDUCTION IN AMOUNTS.

In no case shall the amount of Federal funds available to a tribal government involved in any demonstration project be reduced as a result of the enactment of this Act.

25 USC 3412.

SEC. 13. INTERAGENCY FUND TRANSFERS AUTHORIZED.

The Secretary of the Interior, Secretary of Labor, Secretary of Health and Human Services, or the Secretary of Education, as appropriate, is authorized to take such action as may be necessary to provide for an interagency transfer of funds otherwise

available to a tribal government in order to further the purposes of this Act.

SEC. 14. ADMINISTRATION OF FUNDS AND OVERAGE. 25 USC 3413.

(a) ADMINISTRATION OF FUNDS.—

(1) IN GENERAL.—Program funds shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under such program.

(2) SEPARATE RECORDS NOT REQUIRED.—Nothing in this section shall be construed as requiring the tribe to maintain separate records tracing any services or activities conducted under its approved plan to the individual programs under which funds were authorized, nor shall the tribe be required to allocate expenditures among such individual programs.

(b) OVERAGE.—All administrative costs may be commingled and participating Indian tribes shall be entitled to the full amount of such costs (under each program or department's regulations), and no overage shall be counted for Federal audit purposes, provided that the overage is used for the purposes provided for under this Act.

SEC. 15. FISCAL ACCOUNTABILITY. 25 USC 3414.

Nothing in this Act shall be construed so as to interfere with the ability of the Secretary or the lead agency to fulfill the responsibilities for the safeguarding of Federal funds pursuant to the Single Audit Act of 1984.

SEC. 16. REPORT ON STATUTORY OBSTACLES TO PROGRAM INTEGRATION. 25 USC 3415.

(a) PRELIMINARY REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary shall submit a preliminary report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives on the status of the implementation of the demonstration program authorized under this Act.

(b) FINAL REPORT.—Not later than five years after the date of the enactment of this Act, the Secretary shall submit a report to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives on the results of the implementation of the demonstration program authorized under this Act. Such report shall identify statutory barriers to the ability of tribal governments to integrate more effectively their employment, training, and related services in a manner consistent with the purposes of this Act.

SEC. 17. LABOR MARKET INFORMATION ON THE INDIAN WORK FORCE. 25 USC 3416.

(a) REPORT.—The Secretary, in consultation with the Secretary of Labor, shall, in a consistent and reliable manner, develop, maintain and publish, not less than biennially, a report on the population, by gender, eligible for the services which the Secretary provides to Indian people. The report shall include, but is not limited to, information at the national level by State, Bureau of Indian Affairs Service area, and tribal level for the—

(1) total service population;

(2) the service population under age 16 and over 64;

(3) the population available for work, including those not considered to be actively seeking work;

(4) the employed population, including those employed with annual earnings below the poverty line; and

(5) the numbers employed in private sector positions and in public sector positions.

Reports.

(b) INDIAN DEMOGRAPHIC INFORMATION.—The Secretary, in consultation with the Bureau of the Census of the Department of Commerce, and the National Center for Native American Studies and Policy Development authorized by Public Law 101–301, shall prepare a report on the need for comprehensive, accurate and periodically updated information on the size and characteristics of the Indian and Alaska Native population throughout the entire United States. This report shall include the need for information, together with the cost of acquiring such information, on the characteristics and need for education, health, housing, job training, and other basic needs of such population, and shall take into consideration the need for this information by Indian tribes and organizations serving Indians in nonreservation areas. The report shall be submitted to the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Education and Labor of the House of Representatives not later than 12 months after the date of enactment of this Act.

25 USC 3417.

SEC. 18. ASSIGNMENT OF FEDERAL PERSONNEL TO STATE INDIAN ECONOMIC DEVELOPMENT PROGRAMS.

Any State with an economic development program targeted to Indian tribes shall be eligible to receive, at no cost to the State, such Federal personnel assignments as the Secretary, in accordance with the applicable provisions of the Intergovernmental Personnel Act of 1970, may deem appropriate to help ensure the success of such program.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 1530:

HOUSE REPORTS: No. 102-905 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-188 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 30, considered and passed Senate.
Vol. 138 (1992): Sept. 29, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 102-478
102d Congress

An Act

To designate the United States courthouse being constructed at 400 Cooper Street in Camden, New Jersey, as the "Mitchell H. Cohen United States Courthouse".

Oct. 23, 1992
[S. 2625]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse under construction at 400 Cooper Street in Camden, New Jersey, shall be known and designated as the "Mitchell H. Cohen United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "Mitchell H. Cohen United States Courthouse".

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 2625:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 21, considered and passed Senate.
Oct. 5, considered and passed House.

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Public Law 102-479
102d Congress

An Act

Oct. 23, 1992
[S. 2661]

To authorize the striking of a medal commemorating the 250th anniversary of the founding of the American Philosophical Society and the birth of Thomas Jefferson.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

31 USC 5111 note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) the American Philosophical Society was founded in 1743 as the American Philosophical Society held at Philadelphia for Promoting Useful Knowledge;

(2) the American Philosophical Society was founded by Benjamin Franklin and today it is the oldest learned society in the United States and one of the principal scholarly and scientific bodies in the world;

(3) the American Philosophical Society plans to celebrate its 250th anniversary and the 250th anniversary of the birth of Thomas Jefferson with programs and activities to be held in Philadelphia, Pennsylvania, in April 1993;

(4) Thomas Jefferson served as the third president of the American Philosophical Society at the same time as he served as President of the United States; and

(5) it is proper and desirable to pay tribute to the American Philosophical Society and to Thomas Jefferson's devotion to learning as exemplified in the principles and programs of the American Philosophical Society.

31 USC 5111 note.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—In commemoration of the 250th anniversary of the founding of the American Philosophical Society and the 250th anniversary of the birth of Thomas Jefferson, the President is authorized to present, on behalf of the Congress, to a duly authorized representative of the American Philosophical Society, a gold medal of appropriate design which shall be known as the "Thomas Jefferson Medal".

(b) DESIGN AND STRIKING.—The Secretary of the Treasury (hereafter referred to in this Act as the "Secretary") is authorized and directed to strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary in consultation with representatives of the American Philosophical Society.

31 USC 5111 note.

SEC. 3. DUPLICATE MEDALS.

(a) AUTHORIZATION AND DIRECTION TO THE SECRETARY OF THE TREASURY.—The Secretary is authorized and directed to strike 50 bronze duplicates of the gold medal struck pursuant to section 2 and deliver the bronze duplicates to the American Philosophical Society.

(b) PRESENTATION OF DUPLICATE MEDALS.—The American Philosophical Society shall present the bronze duplicates to persons of scholarly achievement in connection with annual ceremonies.

SEC. 4. PAYMENT FOR MEDALS. 31 USC 5111 note.

The Secretary shall take such actions as may be necessary to ensure that striking the gold medal and the bronze medals under this Act will not result in any net cost to the United States Government. Medals shall not be struck pursuant to this Act unless the Secretary has received full payment for the medals from the American Philosophical Society.

SEC. 5. NATIONAL MEDALS. 31 USC 5111 note.

Medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 6. GENERAL WAIVER OF PROCUREMENT REGULATIONS. 31 USC 5111 note.

(a) IN GENERAL.—No provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EXCEPTION.—Nothing in this section shall relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 2661:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 23, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 102-480
102d Congress

An Act

Oct. 23, 1992
[S. 2834]

To designate the United States Post Office Building located at 100 Main Street, Millsboro, Delaware, as the "John J. Williams Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 100 Main Street, Millsboro, Delaware is designated as the "John J. Williams Post Office Building". Any reference to such building in any law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "John J. Williams Post Office Building".

Approved October 23, 1992.

LEGISLATIVE HISTORY—S. 2834:

CONGRESSIONAL RECORD, Vol. 138 (1992):
July 2, considered and passed Senate.
Oct. 4, considered and passed House.

Public Law 102-481
102d Congress

Joint Resolution

Designating the week of October 4 through 10, 1992, as "National Customer Service Week".

Oct. 23, 1992
[S.J. Res. 166]

Whereas recognizing the value and importance of the customer drives the quality of customer service;
Whereas the high cost of attracting new customers today further emphasizes the need to keep existing customers through effective service;
Whereas when customer service is recognized as contributing to the profit of a company, the professional status of customer service continues to increase;
Whereas excellent customer service distinguishes successful companies that understand the importance and influence a customer has on success; and
Whereas excellent customer service contributes to the growth and success of every company: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 4 through 10, 1992, is designated as "National Customer Service Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S.J. Res. 166:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Apr. 29, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-482
102d Congress

Joint Resolution

Oct. 23, 1992
[S.J. Res. 218]

Designating the calendar year, 1993, as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

Whereas the twentieth century has witnessed an outpouring of creative craftsmanship and it is appropriate that we now pay tribute to excellence in craftsmanship;

Whereas the value of creative work of the hand through craft remains clear even as the most industrialized century of our history draws to a close;

Whereas peerless craftsmanship, once commonly associated with American industry, is now a theme of renewed importance and interest;

Whereas the traditional values of craftspeople such as dedication to the qualities of excellence, perseverance, self-discipline, and integrity, affirm the work of the hand invested with energy of mind and spirit and will serve as a continuing force in the improvement of life and culture;

Whereas craft is the hand print of all cultures and through craft we commemorate the multicultural heritage of our Nation and pay tribute to the artistic diversity that exists among all people;

Whereas craft forms the root of our cultural richness, variety, and vitality and serves as a material record that functions as a bridge between past and present;

Whereas craft is an art form that is easily accessible to many individuals;

Whereas Americans of all ages should be provided with opportunities to experience the pleasures of the creative work of the hand through craft;

Whereas the dedicated craftsperson is a role model worthy of emulation by our young;

Whereas craft, inspired by tradition, may be lost unless it is nurtured and unless the economic and social well-being of its practitioners is advanced; and

Whereas the Congress of the United States recognizes the artistry of today's American craftspeople: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The calendar year, 1993, is designated as the "Year of American Craft: A Celebration of the Creative Work of the Hand".

SEC. 2. PROCLAMATION BY THE PRESIDENT.

The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 3. PROCLAMATIONS BY STATE OFFICIALS.

Each State Governor and each chief executive of each political subdivision of each State is urged to issue a proclamation or other appropriate official statement calling upon the citizens of such State or political subdivision to observe the Year of American Craft with appropriate ceremonies and activities.

SEC. 4. CEREMONIES AND ACTIVITIES.

The ceremonies and activities referred to in sections 2 and 3 should—

(1) bring attention to craft throughout America;

(2) recognize the breadth of the contributions made by the craft community in America; and

(3) demonstrate that craft, as an expression of values, is a link that joins humankind.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S.J. Res. 218:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 27, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-483
102d Congress

Joint Resolution

Oct. 23, 1992
[S.J. Res. 252]

Designating the week of April 18 through 24, 1993, as "National Credit Education Week".

Whereas consumer credit is an integral part of the free enterprise economy of the United States;

Whereas the vast array of credit products has increasingly complicated the problems and opportunities for consumers;

Whereas the benefits consumers receive from using credit depend upon the prudent use of credit and the prompt discharge of credit obligations;

Whereas educated consumers who know their choices, rights, and responsibilities are better able to use credit wisely, thus increasing economic stability and marketplace competition;

Whereas the increasing sophistication and complexity of the financial marketplace necessitates that consumers be given simple and understandable information about financial products in order to make informed decisions; and

Whereas businesses, schools, community organizations, and individuals should educate the people of the United States concerning consumer credit: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 18, 1993, is designated as "National Credit Education Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved October 23, 1992.

LEGISLATIVE HISTORY—S.J. Res. 252:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-484
102d Congress

An Act

To authorize appropriations for fiscal year 1993 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, to provide for defense conversion, and for other purposes.

Oct. 23, 1992
[H.R. 5006]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act for Fiscal Year 1993.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Defense Authorization Act for Fiscal Year 1993".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into four divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(4) Division D—Defense Conversion, Reinvestment, and Transition Assistance

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.
Sec. 3. Congressional defense committees defined.
Sec. 4. General limitation.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

Sec. 101. Army.
Sec. 102. Navy and Marine Corps.
Sec. 103. Air Force.
Sec. 104. Defense Agencies.
Sec. 105. Defense Inspector General.
Sec. 106. Reserve components.
Sec. 107. Chemical Demilitarization Program.
Sec. 108. Multiyear procurement authorization.

Subtitle B—Army Programs

Sec. 111. M–1 Abrams tank program.
Sec. 112. Procurement of AHIP scout helicopters.
Sec. 113. AH–64 Apache helicopter modifications.
Sec. 114. Armored vehicle upgrades.
Sec. 115. Chemical agent monitoring program.

Subtitle C—Navy Programs

Sec. 121. Shipbuilding and conversion programs.
Sec. 122. Airborne self protection jammer.
Sec. 123. AV–8B Harrier radar upgrade program.

Subtitle D—Air Force Programs (Nonstrategic)

Sec. 131. C–135 aircraft program.

Sec. 132. Live-fire survivability testing of C–17 aircraft.
Sec. 133. Correction of fuel leaks on C–17 production aircraft.
Sec. 134. C–17 aircraft program.
Sec. 135. Tactical electronic warfare aircraft upgrade program.
Sec. 136. F–16 aircraft program.

Subtitle E—Defense-Wide Programs

Sec. 141. Funding for certain tactical intelligence programs.
Sec. 142. MH–47E/MH–60K helicopter modification programs.

Subtitle F—Strategic Programs

Sec. 151. B–2 bomber aircraft program.
Sec. 152. Modernization of heavy bomber force.

Subtitle G—Chemical Demilitarization Program

Sec. 171. Change in chemical weapons stockpile elimination deadline.
Sec. 172. Chemical demilitarization citizens advisory commissions.
Sec. 173. Evaluation of alternative technologies.
Sec. 174. Alternative disposal process for low-volume sites.
Sec. 175. Revised chemical weapons disposal concept plan.
Sec. 176. Report on destruction of nonstockpile chemical material.
Sec. 177. Physical and chemical integrity of the chemical weapons stockpile.
Sec. 178. Sense of Congress concerning international consultation and exchange program.
Sec. 179. Technical amendments to section 1412.
Sec. 180. Definition of low-volume site.

Subtitle H—Armament Retooling and Manufacturing Support Initiative

Sec. 191. Short title.
Sec. 192. Policy.
Sec. 193. Armament Retooling and Manufacturing Support Initiative.
Sec. 194. Facilities contracts.
Sec. 195. Reporting requirement.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

Sec. 201. Authorization of appropriations.
Sec. 202. Amount for basic research and exploratory development.
Sec. 203. Manufacturing technology development.
Sec. 204. Strategic Environmental Research and Development Program.
Sec. 205. Endowment for Defense Industrial Cooperation.

Subtitle B—Program Requirements, Restrictions, and Limitations

Sec. 211. V–22 Osprey aircraft program.
Sec. 212. Special operations variant of the V–22 Osprey aircraft.
Sec. 213. Extension of prohibition on testing Mid-Infrared Advanced Chemical Laser against an object in space.
Sec. 214. Navy tactical aviation programs.
Sec. 215. One-year delay in transfer of management responsibility for Navy mine countermeasures program.
Sec. 216. Light Armored Vehicle 105–millimeter gun (LAV–105) program.
Sec. 217. Advanced research projects.
Sec. 218. Revision to Superconducting Magnetic Energy Storage Project.

Subtitle C—Missile Defense Programs

Sec. 231. Theater Missile Defense Initiative.
Sec. 232. Strategic Defense Initiative funding.
Sec. 233. Reporting requirements and transfer authorities for TMDI and SDI.
Sec. 234. Revision of the Missile Defense Act of 1991.
Sec. 235. Development and testing of anti-ballistic missile systems or components.
Sec. 236. Limitation regarding support services contracts of the Strategic Defense Initiative Organization.

Subtitle D—Other Matters

Sec. 241. Medical countermeasures against biowarfare threats.
Sec. 242. National Aero-Space Plane.
Sec. 243. LANDSAT remote-sensing satellite program.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

Sec. 301. Operation and maintenance funding.

Sec. 302. Working capital funds.
Sec. 303. Armed Forces Retirement Home.
Sec. 304. Humanitarian assistance.
Sec. 305. Support for the 1994 World Cup Games.
Sec. 306. Transfer authority.

Subtitle B—Limitations

Sec. 311. Prohibition on the use of certain funds for Pentagon Reservation.
Sec. 312. Prohibition on the use of funds for certain service contracts.

Subtitle C—Environmental Provisions

Sec. 321. Extension of reimbursement requirement for contractors handling hazardous wastes from defense facilities.
Sec. 322. Extension of prohibition on use of environmental restoration funds for payment of fines and penalties.
Sec. 323. Pilot program for expedited environmental response actions.
Sec. 324. Overseas environmental restoration.
Sec. 325. Evaluation of use of ozone-depleting substances by the Department of Defense.
Sec. 326. Elimination of use of class I ozone-depleting substances in certain military procurement contracts.
Sec. 327. Prohibition on the purchase of surety bonds and other guaranties for the Department of Defense.
Sec. 328. Legacy Resource Management Fellowship Program.
Sec. 329. Supplemental authorization of appropriations for fiscal year 1992.
Sec. 330. Indemnification of transferees of closing defense property.
Sec. 331. Extension of authority to issue surety bonds for certain environmental programs.
Sec. 332. Report on indemnification of contractors performing environmental restoration.

Subtitle D—Defense Business Operations Fund

Sec. 341. Limitations on the use of Defense Business Operations Fund.
Sec. 342. Capital asset subaccount.
Sec. 343. Limitation on obligations against Defense Business Operations Fund.

Subtitle E—Depot-Level Activities

Sec. 351. Depot-level tactical missile maintenance.
Sec. 352. Limitations on the performance of depot-level maintenance of materiel.
Sec. 353. Requirement of competition for the performance of workloads previously performed by depot-level activities of the Department of Defense.
Sec. 354. Repeal of requirement for competition pilot program for depot-level maintenance of materials.

Subtitle F—Commissaries and Military Exchanges

Sec. 361. Standardization of certain programs and activities of military exchanges.
Sec. 362. Accountability regarding the financial management and use of nonappropriated funds.
Sec. 363. Demonstration program for the operation of certain commissary stores by nonappropriated fund instrumentalities.
Sec. 364. Release of information regarding sales at commissary stores.
Sec. 365. Use of commissary stores by members of the Ready Reserve.

Subtitle G—Other Matters

Sec. 371. Extension of certain guidelines for reductions in the number of civilian positions in the Department of Defense.
Sec. 372. Annual report on security and control of supplies.
Sec. 373. Transportation of donated military artifacts.
Sec. 374. Subcontracting authority for Air Force and Navy depots.
Sec. 375. Consideration of vessel location for the award of layberth contracts for sealift vessels.
Sec. 376. Pilot program to use National Guard personnel in medically underserved communities.
Sec. 377. Authority for the issue of uniforms without charge to members of the Armed Forces.
Sec. 378. Program to commemorate World War II.
Sec. 379. Extension of demonstration project for the use of proceeds from the sale of certain lost, abandoned, or unclaimed personal property.
Sec. 380. Promotion of civilian marksmanship.
Sec. 381. Extension of authority for aviation depots and naval shipyards to engage in defense-related production and services.

Sec. 382. Optional defense dependents' summer school programs.
Sec. 383. Review of military flight training activities at civilian airfields.
Sec. 384. Preference for procurement of energy efficient electric equipment.
Sec. 385. Payment of residents of Armed Forces Retirement Home for services.
Sec. 386. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
Sec. 387. Treatment of State equalization programs in determinining eligibility for, and amount of, impact aid.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

Sec. 401. End strengths for active forces.
Sec. 402. Waiver and transfer authority.
Sec. 403. Limited exclusion of joint service requirements from a limitation on the strengths for general and flag officers on active duty.
Sec. 404. Study of distribution of general and flag officer positions in joint duty assignments.

Subtitle B—Reserve Forces

Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserve components.
Sec. 413. Reserve component force structure.

Subtitle C—Military Training Student Loads

Sec. 421. Authorization of training student loads.

Subtitle D—Limitations

Sec. 431. Reduction in number of personnel carrying out recruiting activities.
Sec. 432. Navy Craft of Opportunity (COOP) program.
Sec. 433. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Sec. 500. Reference to personnel policy provisions in title XLIV.

Subtitle A—Officer Personnel Policy

Sec. 501. Reports on plans for officer accessions and assignment of junior officers.
Sec. 502. Evaluation of effects of officer strength reductions on officer personnel management systems.
Sec. 503. Selective early retirement.
Sec. 504. Retirement of certain limited duty officers of the Navy.
Sec. 505. Appointment of chiropractors as commissioned officers.
Sec. 506. Clarification of minimum service requirements for certain flight crew positions.
Sec. 507. One-year extension of authority for temporary promotions of certain Navy lieutenants.

Subtitle B—Reserve Component Matters

Sec. 511. Pilot program for active component support of Reserves.
Sec. 512. Repeal of requirement for removal of full-time Reserve personnel from ROTC duty.
Sec. 513. Report concerning certain active Army combat support and combat service support positions.
Sec. 514. Preference in Guard and Reserve affiliation for voluntarily separated members.
Sec. 515. Technical correction and codification of requirement of baccalaureate degree for appointment or promotion of Reserve officers to grades above first lieutenant or lieutenant (junior grade).
Sec. 516. Disability retired or severance pay for Reserve members disabled while traveling to or from training.
Sec. 517. Service credit for concurrent enlisted active duty service performed by ROTC members while in the Selected Reserve.
Sec. 518. Limitation on reduction in number of reserve component medical personnel.
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Sec. 4411. Force reduction transition period defined.
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Sec. 4431. Government-wide list of vacant positions.
Sec. 4432. Temporary measures to facilitate reemployment of certain displaced Federal employees.
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Sec. 4441. Teacher and teacher's aide placement program for separated members of the Armed Forces.
Sec. 4442. Teacher and teacher's aide placement program for terminated defense employees.
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Sec. 4444. Funding for fiscal year 1993.

Subtitle E—Environmental Education and Retraining Provisions

Sec. 4451. Environmental scholarship and fellowship programs for the Department of Defense.
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Subtitle F—Job Training and Employment and Educational Opportunities

Sec. 4461. Improved coordination of job training and placement programs for members of the Armed Forces.
Sec. 4462. Encouragement for continuing public and community service.
Sec. 4463. Program of educational leave relating to continuing public and community service.
Sec. 4464. Increased early retirement retired pay for public or community service.
Sec. 4465. Training, adjustment assistance, and employment services for discharged military personnel, terminated defense employees, and displaced employees of defense contractors.
Sec. 4466. Participation of discharged military personnel in upward bound projects to prepare for college.
Sec. 4467. Improvements to employment and training assistance for dislocated workers under the Job Training Partnership Act.
Sec. 4468. Job Bank program for discharged military personnel, terminated defense employees, and displaced employees of defense contractors.
Sec. 4469. Authorization of appropriations for certain employment, job training, and other assistance.
Sec. 4470. Defense contractor requirement to list suitable employment openings with local employment service office.
Sec. 4471. Notice requirements upon proposed and actual termination or substantial reduction in defense programs.
Sec. 4472. Study to determine the dislocation effects of current and future reductions in spending for the national defense.
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Sec. 4481. Short title.
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Sec. 4487. Payments to employers; overpayment.
Sec. 4488. Entry into program of job training.
Sec. 4489. Provision of training through educational institutions.
Sec. 4490. Discontinuance of approval of participation in certain employer programs.
Sec. 4491. Inspection of records; investigations.
Sec. 4492. Coordination with other programs.
Sec. 4493. Counseling.
Sec. 4494. Information and outreach; use of agency resources.
Sec. 4495. Authorization of appropriations.
Sec. 4496. Time periods for application and initiation of training.
Sec. 4497. Treatment of certain provisions of law upon transfer of amounts provided under this Act.

TITLE XLV—BUDGET

Sec. 4501. Budget determination by the Director of OMB.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term "congressional defense committees" means the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives.

SEC. 4. GENERAL LIMITATION.

Notwithstanding any other provision of this Act, the total amount authorized to be appropriated for fiscal year 1993 under the provisions of this Act is $274,121,787,000, of which the total amount authorized to be appropriated for fiscal year 1993 under the provisions of—

(1) division A is $253,654,264,000;
(2) division B is $8,389,833,000; and
(3) division C is $12,077,690,000.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Funding Authorizations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Army as follows:

(1) For aircraft, $1,553,909,000.
(2) For missiles, $1,118,652,000.
(3) For weapons and tracked combat vehicles, $877,754,000.
(4) For ammunition, $829,444,000.
(5) For other procurement, $3,129,452,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Navy as follows:

(1) For aircraft, $5,899,395,000.
(2) For weapons, $3,700,098,000.
(3) For shipbuilding and conversion, $5,958,663,000.
(4) For other procurement, $5,660,684,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Marine Corps in the amount of $729,727,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Air Force as follows:

(1) For aircraft, $10,034,314,000.
(2) For missiles, $4,399,390,000.
(3) For other procurement, $7,894,396,000.

SEC. 104. DEFENSE AGENCIES.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Defense Agencies in the amount of $1,950,704,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement for the Inspector General of the Department of Defense in the amount of $800,000.

SEC. 106. RESERVE COMPONENTS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for procurement of aircraft, vehicles, communications equipment, and other equipment for the reserve components of the Armed Forces as follows:

(1) For the Army National Guard, $134,000,000.
(2) For the Air National Guard, $290,100,000.
(3) For the Army Reserve, $27,500,000.
(4) For the Naval Reserve, $85,000,000.
(5) For the Air Force Reserve, $60,000,000.
(6) For the Marine Corps Reserve, $9,000,000.
(7) For operational support aircraft, $90,000,000.

SEC. 107. CHEMICAL DEMILITARIZATION PROGRAM.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), in the amount of $515,300,000.

SEC. 108. MULTIYEAR PROCUREMENT AUTHORIZATION.

The Secretary of the Air Force may use funds appropriated to the Air Force for fiscal year 1993 to enter into multiyear procurement contracts in accordance with section 2306(h) of title 10, United States Code, for the procurement of satellites number 23 through 25 under the Defense Support Program.

Subtitle B—Army Programs

SEC. 111. M-1 ABRAMS TANK PROGRAM.

(a) TANK INDUSTRIAL BASE.—None of the funds appropriated for the Army pursuant to this Act or for fiscal year 1991 or 1992 may be used to initiate or implement closure of any portion of the tank industrial base.

(b) REVISION IN FISCAL YEAR 1992 PROVISIONS.—The text of section 111 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1303) is amended to read as follows:

"Of the amount authorized to be appropriated for fiscal year 1992 pursuant to section 101(3), $225,000,000 shall be available

for the remanufacture of M1 tanks and may be used only to remanufacture M1 tanks to the M1A2 configuration.".

SEC. 112. PROCUREMENT OF AHIP SCOUT HELICOPTERS.

The prohibition in section 133(a)(2) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1383) does not apply to the obligation of funds in amounts not to exceed $225,000,000 for the procurement of not more than 36 OH–58D AHIP Scout aircraft from funds appropriated for fiscal year 1993 pursuant to section 101.

SEC. 113. AH–64 APACHE HELICOPTER MODIFICATIONS.

Section 113 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1304) is repealed.

SEC. 114. ARMORED VEHICLE UPGRADES.

Section 21 of the Arms Export Control Act (22 U.S.C. 2761) is amended by adding at the end the following:

"(j) TANK AND INFANTRY VEHICLE UPGRADES.—(1) Funds received from the sale of tanks under this section shall be available for the upgrading of tanks for fielding to the Army.

"(2) Funds received from the sale of infantry fighting vehicles or armored personnel carriers under this section shall be available for the upgrading of infantry fighting vehicles or armored personnel carriers for fielding to the Army.

"(3) Paragraphs (1) and (2) apply only to the extent provided in advance in appropriations Acts.

"(4) This subsection applies with respect to funds received from sales occurring after September 30, 1989.".

SEC. 115. CHEMICAL AGENT MONITORING PROGRAM.

The Improved Chemical Agent Monitor (ICAM) may not be procured for the Armed Forces until the Secretary of the Army—

(1) completes an analysis of the initial production test results of the Chemical Agent Monitor (CAM);

(2) submits to Congress a report containing a discussion of the reliability and consistency of the laboratory-tested and field-tested Chemical Agent Monitor; and

(3) determines, and notifies Congress in writing, that all design and production deficiencies of the Chemical Agent Monitor have been identified and corrected before the resumption of obligation of funds for procurements under the Chemical Agent Monitoring Program.

Subtitle C—Navy Programs

SEC. 121. SHIPBUILDING AND CONVERSION PROGRAMS.

(a) SCN PROGRAMS.—Amounts authorized to be appropriated under section 102(a)(3) are available for shipbuilding and conversion programs as follows:

For the aircraft carrier replacement program, $832,200,000.

For the CVN aircraft carrier refueling overhaul advance procurement program, $6,800,000.

For the CGN cruiser refueling overhaul advance procurement program, $30,439,000.

For the Arleigh Burke guided missile destroyer program, $3,319,643,000.

For the LHD–1 amphibious assault ship program, $1,205,000,000.

For the MHC–1 coastal minehunter program, $246,205,000.

For the oceanographic ship conversion program, $19,500,000.

For the service craft program, $126,028,000.

For outfitting, $385,321,000.

For post-delivery, $223,105,000.

For first destination transportation, $6,031,000.

(b) UNDISTRIBUTED REDUCTION.—The sum of the amounts provided under subsection (a) for fiscal year 1993 for the programs referred to in that subsection is reduced by $441,609,000 in order to be within the total amount authorized to be appropriated for that fiscal year under section 102(a)(3).

SEC. 122. AIRBORNE SELF PROTECTION JAMMER.

(a) LIMITATION.—None of the funds available to the Department of Defense for fiscal year 1993 or any fiscal year before fiscal year 1993 may be used for the procurement of the Airborne Self Protection Jammer system except for the payment of the costs of terminating existing contracts for the procurement of the Airborne Self Protection Jammer system.

(b) EFFECTIVENESS OF LIMITATION.—This section shall take effect upon submittal by the Secretary of Defense to the congressional defense committees of notice that the Airborne Self Protection Jammer system has been determined by the Secretary to be either not operationally effective or not operationally suitable in operational testing.

SEC. 123. AV–8B HARRIER RADAR UPGRADE PROGRAM.

None of the funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated for the AV–8B radar upgrade program or for the remanufacture of AV–8B aircraft requiring installation of a new fuselage.

Subtitle D—Air Force Programs (Nonstrategic)

SEC. 131. C–135 AIRCRAFT PROGRAM.

Of the funds authorized to be appropriated in section 103 for procurement of aircraft for the Air Force, $439,500,000 shall be available for the modification of C–135 aircraft as follows:

(1) $87,600,000 shall be available to reengine four KC–135Q aircraft.

(2) $219,000,000 shall be available to reengine 10 KC–135E aircraft for the Air National Guard.

(3) $65,700,000 shall be available, if the RC–135 aircraft is selected under section 141, to reengine three RC–135 aircraft or, if the RC–135 aircraft is not selected under section 141, to reengine three KC–135 aircraft (in addition to those referred to in paragraphs (1) and (2)).

(4) $51,600,000 shall be available for the open skies sensor system.

(5) $15,600,000 shall be available for miscellaneous C–135 aircraft modifications.

SEC. 132. LIVE-FIRE SURVIVABILITY TESTING OF C–17 AIRCRAFT.

(a) APPLICABILITY OF EXISTING LAW.—The C–17 transport aircraft shall be considered to be a covered system for purposes of

survivability testing under section 2366 of title 10, United States Code.

(b) AUTHORITY FOR RETROACTIVE WAIVER.—The Secretary of Defense may exercise the waiver authority in subsection (c) of such section with respect to the application of the survivability tests of that section to the C–17 transport aircraft notwithstanding that such program has entered full-scale engineering development.

(c) REPORT REQUIREMENT.—If the Secretary of Defense submits a certification under subsection (c) of such section that live-fire testing of the C–17 system under such section would be unreasonably expensive or impractical, the Secretary of Defense shall require that sufficiently large and realistic components and subsystems that could affect the survivability of the C–17 system be made available for any alternative live-fire test program.

(d) FUNDING.—The funds required to carry out any alternative live-fire testing program for the C–17 aircraft system shall be made available from amounts appropriated for the C–17 program for fiscal year 1993.

SEC. 133. CORRECTION OF FUEL LEAKS ON C–17 PRODUCTION AIRCRAFT.

(a) CERTIFICATION OF CONTRACTOR CORRECTION UNDER WARRANTY.—The Secretary of the Air Force shall (except as otherwise provided under subsection (b)) certify to the congressional defense committees that the repair of the fuel leaks on production C–17 aircraft will be carried out by the contractor (under the warranty provisions of the production contract for such aircraft) at no additional cost to the Government and with no additional consideration to the contractor for production aircraft under the C–17 program by reason of the repair of the C–17 fuel leaks.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of the Air Force is unable to make the certification referred to in subsection (a), the Secretary—

(1) shall carry out the repair of the fuel leaks at an Air Logistics Center in the continental United States; and

(2) shall submit to the congressional defense committees a report notifying the committees that the Secretary is unable to make such a certification and setting forth a schedule for conducting the repair of the fuel leaks pursuant to paragraph (1). Reports.

SEC. 134. C–17 AIRCRAFT PROGRAM.

(a) FUNDING FOR PROGRAM.—Of the amount appropriated pursuant to section 103(1)—

(1) not more than $1,810,635,000 shall be available for procurement for the C–17 aircraft program other than advance procurement and procurement of spare parts; and

(2) not more than $250,905,000 shall be available for advance procurement for the C–17 aircraft program.

(b) FISCAL YEAR 1993 LIMITATION.—In addition to the limitation contained in section 133(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1311), none of the funds appropriated for the Department of Defense for fiscal year 1993 that are made available for the C–17 aircraft program (other than funds for advance procurement) may be obligated before the Secretary of Defense submits to the congressional defense committees the report referred to in section 133(b) of that Act.

(c) FISCAL YEAR 1994 LIMITATION.—None of the funds appropriated for the Department of Defense for fiscal year 1994 that are made available for the C–17 aircraft program (other than funds for advance procurement) may be obligated before—

(1) the Secretary of the Air Force—

(A) convenes the Scientific Advisory Board to determine the technical feasibility of carrying out a service life extension program for the C–141 aircraft fleet and to review programmed depot maintenance policies and practices for the C–141 aircraft fleet; and

(B) acts to limit the retirement of any operationally capable C–141 aircraft until a decision is made concerning a service life extension for the C–141 fleet;

(2) the Secretary of Defense convenes a special Defense Acquisition Board to review the C–17 aircraft program;

Reports.

(3) the special Defense Acquisition Board submits to the Secretary of Defense a report on the C–17 aircraft program, including the matters described in subsection (d); and

Reports.

(4) the Secretary of Defense submits the report of that board, including the material referred to in subsection (d), to the congressional defense committees.

(d) MATTERS TO BE INCLUDED IN REVIEW.—The review (referred to in subsection (c)(2)) that is conducted by the special Defense Acquisition Board shall include—

(1) an assessment by the Joint Requirements Oversight Council (JROC) of the adequacy of the requirements for the C–17 aircraft;

(2) an analysis by a federally funded research and development center of the cost and operational effectiveness of the C–17 aircraft program taking into consideration complementary mixes of other aircraft; and

(3) an affordability assessment of the program, performed by the Cost Analysis Improvement Group in the Office of the Assistant Secretary of Defense for Program Analysis and Evaluation.

(e) PROHIBITION RELATING TO PRODUCTION CAPABILITY.—None of the funds provided under subsection (a) for the C–17 aircraft program may be used to increase the current rate at which the contractor could produce C–17 aircraft.

(f) INITIATIVE ON COST, PERFORMANCE, AND MANAGEMENT.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish an initiative to maintain control over costs, contractor performance, and management performance within the C–17 aircraft program.

(2) The initiative shall include the following elements:

(A) The establishment of a management plan which provides for the decisions to commit to specified levels of production to be linked to progress in meeting specified program milestones, including testing milestones of such critical performance elements as—

(i) maximum range and maximum payload performance;

(ii) short airfield performance;

(iii) ground mobility in restricted airfield conditions;

(iv) low altitude parachute extraction capability;

(v) air drop capability; and

(vi) sustainable utilization rate performance.

(B) The establishment of a program for promoting increased interaction between the prime contractor and major program subcontractors on management and performance issues.

(C) The establishment of a senior management review group to report directly to the Under Secretary of Defense for Acquisition on the status of aircraft capability, program management, schedule, and cost.

(D) The establishment of a system maturity matrix.

(3) Not later than April 1, 1993, the Secretary of Defense shall submit to the congressional defense committees a report on the initiative. The report shall include a description of the measures taken to implement the initiative, including actions taken with respect to each of the elements specified in paragraph (2), and a description of the criteria and milestones to be used in evaluating actual program performance against specified program performance. Reports.

(g) FUNDING LIMITATION ON FISCAL YEAR 1993 ADVANCE PROCUREMENT FUNDS.—(1) None of the funds made available pursuant to subsection (a)(2) may be obligated until the Secretary of Defense certifies to the congressional defense committees that—

(A) the aircraft designated as the P–9 aircraft has moved to the "major join" stage of production with no less than 90 percent of its assembly completed in position; and

(B) the assembly of the aircraft designated as the P–14 aircraft has begun at the final assembly facility.

(2) A certification of the Secretary under paragraph (1) shall be based on findings transmitted to the Secretary by the Defense Plant Representative Office.

SEC. 135. TACTICAL ELECTRONIC WARFARE AIRCRAFT UPGRADE PROGRAM.

Not more than 65 percent of the funds authorized to be appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1993 may be obligated for the Air Force EF–111 aircraft System Improvement Program (SIP) upgrade program until the Secretary of Defense—

(1) transmits to Congress the report referred to in section 901;

(2) determines, in light of such report and other factors, whether the EF–111 aircraft fleet is to be retained in the inventory; and

(3) transmits to the congressional defense committees—

(A) a notification of that determination; and

(B) if that determination is that such fleet is to be retained in the inventory, a certification that the System Improvement Program upgrade program for the EF–111 aircraft, and the operating and support costs for the fleet of EF–111 aircraft, are fully budgeted in the future-years defense program.

SEC. 136. F–16 AIRCRAFT PROGRAM.

None of the funds authorized to be appropriated for the F–16 program for fiscal year 1993 or otherwise made available for the F–16 program may be obligated for advance procurement or any purposes other than the production of 24 F–16 aircraft and associated spare parts and support equipment until the Secretary of Defense has complied with the provisions of sections 901 and 902.

Subtitle E—Defense-Wide Programs

SEC. 141. FUNDING FOR CERTAIN TACTICAL INTELLIGENCE PROGRAMS.

(a) AUTHORIZATION.—Of the funds authorized to be appropriated under section 104, $56,962,000 shall be available for modernizing either EP–3 Aries aircraft or RC–135 Rivet Joint aircraft.

(b) LIMITATION.—None of the funds provided under subsection (a) or funds appropriated or otherwise made available to the Department of Defense for procurement for fiscal year 1993 may be obligated for Navy EP–3 aircraft or Air Force RC–135 aircraft until the Secretary of Defense—

(1) transmits to Congress the report referred to in section 901;

(2) determines, in light of such report and other factors, which of those two aircraft best meets the intelligence requirements of the Department and, therefore, is to be retained in the inventory; and

(3) transmits to the congressional defense committees—

(A) a notification of the determination under paragraph (2); and

(B) a determination of the total requirements for the selected aircraft, taking into consideration the contribution of related systems such as the Navy ES–3 aircraft and the Air Force U–2 and C–130 Senior Scout aircraft.

(c) TRANSFER AUTHORITY.—(1) Upon determination of which aircraft referred to in subsection (a) best meets the intelligence requirements of the Department, and subject to the limitations in subsection (b), the Secretary of Defense may transfer the amount referred to in subsection (a) to either the Navy for procurement of EP–3 modifications or to the Air Force for procurement of RC–135 modifications, depending upon which aircraft was selected.

(2) The transfer authority in paragraph (1) is in addition to any other transfer authority provided in this or any other Act.

SEC. 142. MH–47E/MH–60K HELICOPTER MODIFICATION PROGRAMS.

(a) REQUIRED TESTING.—Notwithstanding the requirements of subsections (a) (2) and (b) of section 2366 of title 10, United States Code, and the requirements of subsection (a) of section 2399 of such title—

(1) operational test and evaluation and survivability testing of the MH–60K helicopter under the MH–60K helicopter modification program shall be completed prior to full materiel release of the MH–60K helicopters for operational use; and

(2) operational test and evaluation and survivability testing of the MH–47E helicopter under the MH–47E helicopter modification program shall be completed prior to full materiel release of the MH–47E helicopters for operational use.

(b) REPEAL OF SUPERSEDED LAW.—Section 143 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1313) is repealed.

Subtitle F—Strategic Programs

SEC. 151. B–2 BOMBER AIRCRAFT PROGRAM.

(a) AMOUNT FOR PROGRAM.—Of the amount authorized to be appropriated pursuant to section 103 for the Air Force for fiscal

year 1993 for procurement of aircraft, not more than $2,686,572,000 may be obligated for procurement for the B–2 bomber aircraft program.

(b) B–2 BUYOUT AND TERMINATION.—The funds referred to in subsection (a) may be obligated only for the purpose of completing procurement of aircraft for the B–2 bomber program, procurement of spares and parts, and payment of all termination costs under the B–2 program.

(c) LIMITATION ON NUMBER OF B–2 AIRCRAFT.—A total of not more than 20 deployable B–2 bomber aircraft plus one test aircraft may be procured.

(d) LIMITATION ON OBLIGATION OF FUNDS.—Of the funds referred to in subsection (a), not more than $900,000,000 may be obligated until—

(1) the Secretary of Defense submits to the congressional defense committees—

(A) the reports and certifications referred to in section 131(b)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1306);

(B) the report under subsection (e); and

(C) the report under subsection (f);

(2) the Secretary provides to the Comptroller General of the United States for his review and evaluation the reports required under subsection (e) and (f) and 30 calendar days thereafter have elapsed; and

(3) after (A) the submission of the reports and certifications required by section 131 of Public Law 102–190, and the reports required under paragraph (1), and (B) either the review period specified in paragraph (2) has elapsed or the Comptroller General has delivered to the congressional defense committees his review of the reports required under subsections (e) and (f), whichever occurs first, there is enacted an Act which permits the obligation of such funds for the procurement of B–2 bomber aircraft.

(e) REPORT ON LOW OBSERVABILITY AND SURVIVABILITY.—A report of the Secretary of Defense referred to in subsection (d)(1)(B) is a report submitted to the congressional defense committees that includes the following:

(1) The assessment by the Secretary of Defense of the extent to which the B–2 aircraft will meet its original low observability (including radar cross section) operational performance objectives, including objectives which were not fulfilled in a B–2 flight test in July 1991.

(2) A full description of the information upon which the assessment required by paragraph (1) is based, including all relevant flight test data.

(3) A full description of any actions planned to improve the B–2 aircraft's low observability capabilities beyond the capabilities that have been demonstrated in flight testing by the date of the submission of the report required by this subsection, and the associated costs and benefits.

(4) A quantitative assessment by the Secretary of Defense of the likelihood that a B–2 aircraft having the low observable characteristics projected for the aircraft can survive in the execution in the future of its primary mission as a penetrating nonnuclear bomber, as compared to the likelihood that a B–

2 aircraft meeting all of its original radar cross section operational performance objectives contained in the current development contract can survive in the execution of such a mission.

(f) REPORT ON COST OF PROGRAM FOR 20 B–2 AIRCRAFT.—A report of the Secretary of Defense referred to in subsection (d)(1)(C) is a report submitted to the congressional defense committees that describes the total acquisition costs associated with a B–2 program resulting in 20 deployable aircraft, including all costs associated with research, development, test, and evaluation and procurement (including all planned modifications and retrofits, tooling, preplanned product improvements, support equipment, interim contractor support, initial spares, any Government liability associated with termination, and other Government costs).

SEC. 152. MODERNIZATION OF HEAVY BOMBER FORCE.

(a) PLAN FOR TESTING.—(1) The Secretary of Defense shall prepare a plan to evaluate heavy bombers (other than the B–2 bomber) in operational test ranges and facilities to demonstrate the effectiveness in conventional scenarios of both missions involving combined force package and missions involving only heavy bombers (other than the B–2 bomber).

(2) The aircraft to be tested under the plan include—

(A) B–52H bombers; and

(B) B–1 bombers.

(3) The plan shall be designed—

(A) to provide an assessment of the contribution afforded air operational commanders through the use of heavy bombers (other than the B–2 bomber);

(B) to evaluate advanced conventional munitions capabilities;

(C) to evaluate the effectiveness of heavy bombers (other than the B–2 bomber) in both missions involving combined force package and missions involving only heavy bombers (other than the B–2 bomber); and

(D) to provide a baseline of current capabilities of heavy bombers (other than the B–2 bomber).

(b) EVALUATION OF SURVIVABILITY AND EFFECTIVENESS TESTING CAPABILITY.—(1) The Secretary of Defense shall conduct an assessment of the current capability of the Department of Defense to carry out survivability flight testing and operational effectiveness flight testing of heavy bombers (other than the B–2 bomber) against a set of defenses and defended target arrays that are representative of a broad range of potential defenses that those bombers might encounter during conventional conflicts during the next 20 years.

(2) The Secretary shall carry out paragraph (1) with the assistance of—

(A) the Secretary of the Air Force;

(B) the Vice Chairman of the Joint Chiefs of Staff (in the Vice Chairman's capacity as chairman of the Joint Requirements Oversight Council);

(C) the Director of Operational Test and Evaluation of the Department of Defense; and

(D) an independent panel to be established by the Secretary in accordance with the provisions of section 121(e) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1379).

(c) MATTERS TO BE COVERED BY ASSESSMENT.—As part of the assessment under subsection (b), the Secretary of Defense shall determine the following:

(1) The capability of the Department of Defense to design an operationally representative test that would use threat assets that are currently fielded by the Department and that would include—

(A) cued defenses and uncued defenses;

(B) individual air defense systems as well as multiple air defenses; and

(C) survivability and operational effectiveness with and without external assets for suppression or disruption of simulated enemy air defenses.

(2) The required quantitative measurements that are adequate to permit extrapolation of test data developed through the operationally representative test to untested scenarios with reasonable confidence levels.

(3) The capability of the Department to design tests to permit the evaluation of the effect that use of advanced conventional munitions currently under development would have on the survivability and effectiveness of the aircraft.

(d) REPORTING REQUIREMENTS.—(1) The Secretary of Defense shall submit to the congressional defense committees the plan for evaluating heavy bombers required by subsection (a)(1). The plan shall include an evaluation of the usefulness of such testing in determining the contribution of heavy bombers (other than the B–2 bomber) in conventional scenarios.

(2) The Secretary of Defense shall submit to the congressional defense committees a report, in unclassified and classified forms, on the results of the assessment conducted pursuant to subsection (b). The report shall—

(A) identify deficiencies in the numbers, performance, capability, and fidelity of air defense threats and threat simulators available for operational testing; and

(B) include an analysis of the cost and lead-times necessary for obtaining, for testing purposes, a representation of current and likely future air defenses that is adequate for evaluating proposed modifications to B–1B and B–52H bomber aircraft.

(3) Within 60 days after the date of the submission of the plan under paragraph (1) and the report under paragraph (2), the Comptroller General of the United States shall review the report (including the recommendations in the report) and the plan and shall provide the congressional defense committees his views on the report and the plan.

Subtitle G—Chemical Demilitarization Program

SEC. 171. CHANGE IN CHEMICAL WEAPONS STOCKPILE ELIMINATION DEADLINE.

Section 1412(b)(5) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(b)(5)), is amended by striking out "July 31, 1999" and inserting in lieu thereof "December 31, 2004".

SEC. 172. CHEMICAL DEMILITARIZATION CITIZENS ADVISORY COMMISSIONS.

50 USC 1521 note.

(a) ESTABLISHMENT.—(1) The Secretary of the Army shall establish a citizens' commission for each State in which there is a

low-volume site (as defined in section 180). Each such commission shall be known as the "Chemical Demilitarization Citizens' Advisory Commission" for that State.

(2) The Secretary shall also establish a Chemical Demilitarization Citizens' Advisory Commission for any State in which there is located a chemical weapons storage site other than a low-volume site, if the establishment of such a commission for such State is requested by the Governor of that State.

(b) FUNCTIONS.—The Secretary of the Army shall provide for a representative from the Office of the Assistant Secretary of the Army (Installations, Logistics, and Environment) to meet with each commission under this section to receive citizen and State concerns regarding the ongoing program of the Army for the disposal of the lethal chemical agents and munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)) at each of the sites with respect to which a commission is established pursuant to subsection (a).

(c) MEMBERSHIP.—(1) Each commission established for a State pursuant to subsection (a) shall be composed of nine members appointed by the Governor of the State. Seven of such members shall be citizens from the local affected areas in the State; the other two shall be representatives of State government who have direct responsibilities related to the chemical demilitarization program.

(2) For purposes of paragraph (1), affected areas are those areas located within a 50-mile radius of a chemical weapons storage site.

(d) CONFLICTS OF INTEREST.—For a period of five years after the termination of any commission, no corporation, partnership, or other organization in which a member of that commission, a spouse of a member of that commission, or a natural or adopted child of a member of that commission has an ownership interest may be awarded—

(1) a contract related to the disposal of lethal chemical agents or munitions in the stockpile referred to in section 1412(a)(1) of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521(a)(1)); or

(2) a subcontract under such a contract.

(e) CHAIRMAN.—The members of each commission shall designate the chairman of the commission from among the members of the commission.

(f) MEETINGS.—Each commission shall meet with a representative from the Office of the Assistant Secretary of the Army (Installations, Logistics, and Environment) upon joint agreement between the chairman of the commission and that representative. The two parties shall meet not less often than twice a year and may meet more often at their discretion.

(g) PAY AND EXPENSES.—Members of each commission shall receive no pay or compensation for their involvement in their activities of the commission.

(h) TERMINATION OF COMMISSIONS.—Each commission shall be terminated after the stockpile located in that commission's State has been destroyed.

SEC. 173. EVALUATION OF ALTERNATIVE TECHNOLOGIES.

(a) REPORT.—Not later than December 31, 1993, the Secretary of the Army shall submit to Congress a report on the potential

alternatives to the use of the Army's baseline disassembly and incineration process for the disposal of lethal chemical agents and munitions. The report shall include the following:

(1) An analysis of the report of the Committee on Alternative Chemical Demilitarization Technologies of the National Research Council of the National Academy of Sciences.

(2) Any recommendations that the National Academy of Sciences makes to the Army regarding the report of that committee, together with the Secretary's evaluation of those recommendations.

(3) A comparison of the baseline disassembly and incineration process with each alternative technology evaluated in the report of such committee that the National Academy of Sciences recommends for use in the Army Chemical Stockpile Disposal Program, taking into consideration each of the following factors:

(A) Safety.

(B) Environmental protection.

(C) Cost effectiveness.

(4) For each alternative technology recommended by the National Academy of Sciences, the date by which the Army could reasonably be expected to systematize, construct, and test the technology, obtain all necessary environmental and other permits necessary for using that technology for the disposal of lethal chemical agents and munitions, and have the technology available for full-scale chemical weapons destruction and demilitarization operations.

(5) A description of alternatives to incineration that are being developed by Russia for use in its chemical demilitarization program and an assessment of the extent to which such alternatives could be used to destroy lethal chemical weapons in the United States inventory of such weapons.

(6) Consideration of appropriate concerns arising from meetings of the Chemical Demilitarization Citizens' Advisory Commissions established pursuant to section 172.

(7) In any case in which the criteria specified in section 174 are met, notification that the Secretary intends to implement an alternative technology disposal process at a low-volume site.

(b) LIMITATION.—(1) Except as provided in paragraphs (2) and (3), the Secretary of the Army may not commence site preparation for, or construction of, a facility for disassembly and incineration of chemical agents until the report required under subsection (a) is submitted to Congress.

(2) The limitation in paragraph (1) does not apply to any facility for disassembly and incineration of chemical agents (of the eight such facilities identified in the Army Chemical Stockpile Disposal Program) at which site preparation or construction has commenced before the date of the enactment of this Act.

(3) Except as provided in section 175, the limitation in paragraph (1) does not apply to the following:

(A) Facility design activities.

(B) The obtaining of environmental permits.

(C) Project planning.

(D) Procurement of equipment for installation in a facility.

(E) Dual purpose depot support construction projects which are needed to ensure the continuing safe storage of chemical

weapons stocks and their ultimate disposal regardless of the technology employed.

50 USC 1521 note.

SEC. 174. ALTERNATIVE DISPOSAL PROCESS FOR LOW-VOLUME SITES.

(a) REQUIREMENT FOR ALTERNATIVE PROCESS.—If the date by which chemical weapons destruction and demilitarization operations can be completed at a low-volume site using an alternative technology process evaluated by the Secretary of the Army falls within the deadline established by the amendment made by section 171 and the Secretary determines that the use of that alternative technology process for the destruction of chemical weapons at that site is significantly safer and equally or more cost-effective than the use of the baseline disassembly and incineration process, then the Secretary of the Army, as part of the requirement of section 1412(a) of Public Law 99–145, shall carry out the disposal of chemical weapons at that site using such alternative technology process. In addition, the Secretary may carry out the disposal of chemical weapons at sites other than low-volume sites using an alternative technology process (rather than the baseline process) after notifying Congress of the Secretary's intent to do so.

(b) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsections (c), (e), (f), and (g) of section 1412 of Public Law 99–145 (50 U.S.C. 1521) shall apply to this section and to activities under this section in the same manner as if this section were part of that section 1412.

50 USC 1521 note.

SEC. 175. REVISED CHEMICAL WEAPONS DISPOSAL CONCEPT PLAN.

(a) REVISED PLAN.—If, pursuant to section 174, the Secretary of the Army is required to implement an alternative technology process for destruction of chemical weapons at any low-volume site, the Secretary shall submit to Congress a revised chemical weapons disposal concept plan incorporating the alternative technology process and reflecting the revised stockpile disposal schedule developed under section 1412(b) of Public Law 99–145 (50 U.S.C. 1521(b)), as amended by section 171. In developing the revised concept plan, the Secretary should consider, to the maximum extent practicable, revisions to the program and program schedule that capitalize on the changes to the chemical demilitarization schedule resulting from the revised stockpile elimination deadline by reducing cost and decreasing program risk.

(b) MATTERS TO BE INCLUDED.—The revised concept plan should include—

(1) life-cycle cost estimates and schedules; and

(2) a description of the facilities and operating procedures to be employed using the alternative technology process.

(c) APPLICABILITY OF CERTAIN PROVISIONS OF SECTION 1412.—Subsection (c) of section 1412 of Public Law 99–145 (50 U.S.C. 1521) shall apply to the revised concept plan in the same manner as if this section were part of that section 1412.

(d) SUBMISSION OF REVISED PLAN.—If the Secretary is required to submit a revised concept plan under this section, the Secretary shall submit the revised concept plan not later than 180 days after the date on which the Secretary submits the report required under section 173.

(e) LIMITATION.—If the Secretary is required to submit a revised concept plan under this section, no funds may be obligated for procurement of equipment or for facilities planning and design activities (other than for those preliminary planning and design

activities required to comply with subsection(b)(2)) for a chemical weapons disposal facility at any low-volume site at which the Secretary intends to implement an alternative technology process until the Secretary submits the revised concept plan.

SEC. 176. REPORT ON DESTRUCTION OF NONSTOCKPILE CHEMICAL MATERIAL.

(a) REPORT REQUIRED.—(1) Not later than February 1, 1993, the Secretary of the Army shall submit to Congress a report setting forth the Army's plans for destroying all chemical warfare material of the United States not covered by section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), that would be required to be destroyed if the United States became a party to a chemical weapons convention described in paragraph (2).

(2) The chemical weapons convention referred to in paragraph (1) is a chemical weapons convention that is substantially the same as the final draft of the proposed international Chemical Weapons Convention (CWC) tabled by the Chairman of the United Nations Conference on Disarmament Ad Hoc Committee on Chemical Weapons on June 22, 1992 (CD/CW/WP.400/Rev.1).

(b) MATERIALS TO BE COVERED BY REPORT.—The chemical warfare material covered by the report shall include the following:

(1) Binary chemical munitions.

(2) Buried chemical munitions.

(3) Chemical munitions recovered from ranges.

(4) Chemical weapons production facilities.

(5) All other chemical warfare material referred to in subsection (a).

(c) MATTERS TO BE INCLUDED IN REPORT.—The report shall include the following:

(1) A list of all suspected locations (including ranges) of buried or unexpended chemical munitions.

(2) An estimate of the number of such munitions and, of that number, how many of such munitions are planned to be destroyed.

(3) An inventory of the former chemical weapons production facilities and previously contaminated storage containers and the plans for destroying those facilities and containers.

(4) An inventory of the binary chemical munitions and the plans for destroying those munitions.

(5) The locations at which the chemical warfare materials and facilities referred to in subparagraphs (A) through (D) will be destroyed.

(6) A description of the use, if any, that will be made of the Chemical Agent and Munitions Disposal System (CAMDS) facility, Tooele, Utah, in the destruction of those chemical warfare materials, as well as possible future uses of that facility for the destruction of conventional munitions or for research and development of possible alternative technologies for the destruction of chemical munitions.

(7) For the chemical warfare materials that cannot be destroyed in place or on site, a description of the means to be used for transporting the materials to disposal facilities.

(8) An estimate of the cost of destroying such chemical warfare materials and facilities.

(9) An estimate of the time that will be necessary to destroy such chemical warfare materials and facilities and the Sec-

retary's determination of the likelihood that such materials and facilities can be destroyed by December 31, 2004.

(10) A determination as to whether it is a realistic option to transport chemical agents and munitions currently stored at low-volume disposal sites to other locations for destruction instead of destroying those munitions at those sites, taking into consideration safety, cost effectiveness, and the potential obligations of the United States under a chemical weapons convention to transport substantial quantities of chemical warfare munitions and materials not in the United States stockpile of lethal chemical agents and munitions to various locations for destruction.

SEC. 177. PHYSICAL AND CHEMICAL INTEGRITY OF THE CHEMICAL WEAPONS STOCKPILE.

(a) REPORT REQUIRED.—Not later than May 1, 1993, the Secretary of the Army shall submit to Congress a report on the physical and chemical integrity of the existing chemical weapons that are contained in the chemical weapons stockpile of the United States and are stored within the eight chemical weapons storage sites within the continental United States.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A critical analysis of the near-term, mid-term, and long-term storage life of all chemical materials and chemical munitions contained within the storage sites referred to in subsection (a).

(2) For each class of chemical munitions and chemical agents, an analysis of the overall frequency of leaks of the munitions and agents and the frequency of leaks of the munitions and agents at each storage site.

(3) For each class of munitions and agents and for each storage site, a description of the finite risks and potential harm to human health and environmental quality that are associated with such catastrophic events as container breach, spontaneous munition ignition, and leak.

(4) A critical analysis of the risks associated with the storage of the chemical munitions and chemical agents in each class of chemical munitions and chemical agents that are stored at each storage site through December 31, 2004.

(5) A discussion of actions that could be taken to minimize or eliminate the risks identified pursuant to paragraphs (1) through (4).

50 USC 1521 note.

SEC. 178. SENSE OF CONGRESS CONCERNING INTERNATIONAL CONSULTATION AND EXCHANGE PROGRAM.

It is the sense of Congress that the Secretary of Defense, in consultation with the Secretary of State, should establish, with other nations that are anticipated to be signatories to an international agreement or treaty banning chemical weapons, a program under which consultation and exchange concerning chemical weapons disposal technology could be enhanced. Such a program shall be used to facilitate the exchange of technical information and advice concerning the disposal of chemical weapons among signatory nations and to further the development of safer, more cost-effective methods for the disposal of chemical weapons.

SEC. 179. TECHNICAL AMENDMENTS TO SECTION 1412.

Section 1412 of Public Law 99–145 (50 U.S.C. 1521) is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "(1)" before "Notwithstanding any other provision of law,"; and

(B) by striking out paragraph (2).

(2) Subsection (c) is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(3) Subsection (g) is amended—

(A) in paragraph (1), by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (3)";

(B) by striking out paragraph (2);

(C) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "report other than the first one" and inserting in lieu thereof "such report"; and

(D) by redesignating paragraph (4) as paragraph (3).

SEC. 180. DEFINITION OF LOW-VOLUME SITE.

50 USC 1521 note.

For purposes of this subtitle, the term "low-volume site" means one of the three chemical weapons storage sites in the United States at which there is stored 5 percent or less of the total United States stockpile of unitary chemical weapons.

Subtitle H—Armament Retooling and Manufacturing Support Initiative

Armament Retooling and Manufacturing Support Act of 1992.

SEC. 191. SHORT TITLE.

10 USC 2501 note.

This subtitle may be cited as the "Armament Retooling and Manufacturing Support Act of 1992".

SEC. 192. POLICY.

It is the policy of the United States—

(1) to encourage, to the maximum extent practicable, nondefense commercial firms to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army;

(2) to use such facilities for supporting programs, projects, policies, and initiatives that promote competition in the private sector of the United States economy and that advance United States interests in the global marketplace;

(3) to increase the manufacture of products inside the United States that, to a significant extent, are manufactured outside the United States;

(4) to support policies and programs that provide manufacturers with incentives to assist the United States in making more efficient and economical use of Government-owned industrial plants and equipment for commercial purposes;

(5) to provide, as appropriate, small businesses (including socially and economically disadvantaged small business concerns and new small businesses) with incentives that encourage those businesses to undertake manufacturing and other industrial processing activities that contribute to the prosperity of the United States;

(6) to encourage the creation of jobs through increased investment in the private sector of the United States economy;

(7) to foster a more efficient, cost-effective, and adaptable armaments industry in the United States;

(8) to achieve, with respect to armaments manufacturing capacity, an optimum level of readiness of the defense industrial base of the United States that is consistent with the projected threats to the national security of the United States and the projected emergency requirements of the Armed Forces of the United States; and

(9) to encourage facility contracting where feasible.

SEC. 193. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE.

(a) AUTHORITY FOR INITIATIVE.—During fiscal years 1993 and 1994, the Secretary of the Army may carry out a program to be known as the "Armament Retooling and Manufacturing Support Initiative" (hereinafter in this subtitle referred to as the "ARMS Initiative").

(b) PURPOSES.—The purposes of the ARMS Initiative are as follows:

(1) To encourage commercial firms, to the maximum extent practicable, to use Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army for commercial purposes.

(2) To increase the opportunities for small businesses (including socially and economically disadvantaged small business concerns and new small businesses) to use such facilities for those purposes.

(3) To reduce the adverse effects of reduced Department of the Army spending that are experienced by States and communities by providing for such facilities to be used for commercial purposes that create jobs and promote prosperity.

(4) To provide for the reemployment and retraining of skilled workers who, as a result of the closing of such facilities, are idled or underemployed.

(5) To contribute to the attainment of economic stability in economically depressed regions of the United States where there are Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army.

(6) To maintain in the United States a work force having the skills in manufacturing processes that are necessary to meet industrial emergency planned requirements for national security purposes.

(7) To be a model for future defense conversion initiatives.

(8) To the maximum extent practicable, to allow the operation of Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army to be rapidly responsive to the forces of free market competition.

(9) Through the use of Government-owned, contractor-operated ammunition manufacturing facilities for commercial purposes, to encourage relocation of industrial production to the United States from outside the United States.

(c) AVAILABILITY OF FACILITIES.—The Secretary of the Army may make the Government-owned, contractor-operated ammunition manufacturing facilities of the Department of the Army available for the purposes of the ARMS Initiative.

SEC. 194. FACILITIES CONTRACTS.

(a) IN GENERAL.—In the case of each Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army that is made available for the ARMS Initiative, the Secretary of the Army may, by contract, authorize the facility contractor—

(1) to use the facility for one or more years consistent with the purposes of the ARMS Initiative; and

(2) to enter into multiyear subcontracts for the commercial use of the facility consistent with such purposes.

(b) FACILITY CONTRACTOR DEFINED.—For purposes of subsection (a), the term "facility contractor", with respect to a Government-owned, contractor-operated ammunition manufacturing facility of the Department of the Army, means a contractor that, under a contract with the Secretary of the Army—

(1) is authorized to manufacture ammunition or any component of ammunition at the facility; and

(2) is responsible for the overall operation and maintenance of the facility for meeting planned requirements in the event of an industrial emergency.

SEC. 195. REPORTING REQUIREMENT.

Not later than July 1, 1993, the Secretary of the Army shall submit to the congressional defense committees a report on the ARMS initiative. The report shall contain—

(1) a comprehensive review of contracting of Government-owned, contractor-operated ammunition manufacturing facilities, under the ARMS Initiative; and

(2) any recommendations the Secretary may have for changes to the ARMS Initiative.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorizations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces for research, development, test, and evaluation as follows:

(1) For the Army, $5,919,048,000.

(2) For the Navy, $8,984,717,000.

(3) For the Air Force, $14,231,700,000.

(4) For the Defense Agencies, $10,478,115,000, of which—

(A) $261,707,000 is authorized for the activities of the Deputy Director, Defense Research and Engineering (Test and Evaluation); and

(B) $12,983,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR BASIC RESEARCH AND EXPLORATORY DEVELOPMENT.

(a) FISCAL YEAR 1993.—Of the amounts authorized to be appropriated by section 201, $4,374,912,000 shall be available for basic research and exploratory development projects.

(b) BASIC RESEARCH AND EXPLORATORY DEVELOPMENT DEFINED.—For purposes of this section, the term "basic research

and exploratory development" means work funded in program elements for defense research and development under Department of Defense category 6.1 or 6.2.

SEC. 203. MANUFACTURING TECHNOLOGY DEVELOPMENT.

(a) FISCAL YEAR 1993.—Of the amounts authorized to be appropriated by section 201, $374,620,000 shall be available for, and may be obligated only for, manufacturing technology development as follows:

(1) For the Army, $51,000,000.
(2) For the Navy, $119,250,000.
(3) For the Air Force, $138,370,000.
(4) For the Defense Logistics Agency, $29,000,000.
(5) For the Office of the Secretary of Defense, $37,000,000.

(b) WORKER SKILLS.—Manufacturing technology development programs conducted by or for the Department of Defense, including those programs for which funds are made available pursuant to section 203, shall include a focus on production technologies designed to build on and expand existing worker skills and experience in manufacturing production.

SEC. 204. STRATEGIC ENVIRONMENTAL RESEARCH AND DEVELOPMENT PROGRAM.

Of the amounts authorized to be appropriated by section 201, $200,000,000 shall be available for the Strategic Environmental Research and Development Program.

SEC. 205. ENDOWMENT FOR DEFENSE INDUSTRIAL COOPERATION.

(a) REPORT.—The Secretary of Defense shall prepare a report on the benefits and limitations of establishing a United States-Israel Endowment for Defense Industrial Cooperation with the following objectives:

(1) To promote and support joint defense industrial activities of mutual benefit to the United States and Israel.
(2) To promote and support joint commercialization of defense technologies of mutual benefit to the United States and Israel.
(3) To strengthen a mutually beneficial defense trade program between the United States and Israel.

(b) DEADLINE.—The Secretary shall submit to Congress the report required by subsection (a) no later than August 1, 1993.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. V-22 OSPREY AIRCRAFT PROGRAM.

(a) FUNDING.—Of the funds authorized to be appropriated pursuant to section 201 or otherwise made available for research, development, test, and evaluation for the Navy for fiscal year 1993, the sum of $755,000,000 shall be used only for the V–22 Osprey aircraft program.

(b) USE OF FUNDS FOR CURRENT AND PRIOR FISCAL YEARS.—The amount made available for fiscal year 1993 for the V–22 Osprey aircraft program pursuant to subsection (a) and the amounts that were authorized and appropriated for preceding fiscal years for that program may be used only for—

(1) the development and manufacture of V–22 Osprey or derivative tiltrotor aircraft for operational testing; and

(2) the operational testing of such aircraft.

(c) REPORT.—(1) The Commandant of the Marine Corps shall submit to the congressional defense committees a report on the crash of the V–22 Osprey prototype aircraft that occurred on July 20, 1992. The report shall include a discussion of the following matters:

(A) The cause or causes of the crash.

(B) The extent to which a redesign of a system might be required to correct the condition or conditions that caused the crash.

(C) The effects of the crash on the cost, schedule, and technical risk of the V–22 Osprey development and testing program.

(2) Not more than 50 percent of the amount appropriated for the Navy for fiscal year 1993 and made available for the V–22 Osprey aircraft program may be obligated for such program until the Commandant has submitted the report required by paragraph (1).

SEC. 212. SPECIAL OPERATIONS VARIANT OF THE V–22 OSPREY AIRCRAFT.

Of the amounts authorized to be appropriated pursuant to section 201(4), $15,000,000 shall be available for research, development, test, and evaluation in connection with the special operations variant of the V–22 Osprey aircraft.

SEC. 213. EXTENSION OF PROHIBITION ON TESTING MID-INFRARED ADVANCED CHEMICAL LASER AGAINST AN OBJECT IN SPACE.

The Secretary of Defense may not carry out a test of the Mid-Infrared Advanced Chemical Laser (MIRACL) transmitter and associated optics against an object in space during 1993 unless such testing is specifically authorized by law.

SEC. 214. NAVY TACTICAL AVIATION PROGRAMS.

(a) A–X AIRCRAFT PROGRAM.—The Secretary of Defense shall restructure the acquisition plan for the A–X aircraft program to provide for development, demonstration, and validation of at least two prototypes for each of the two most promising proposals received from concept exploration. In restructuring such acquisition strategy, the Secretary shall require the following:

(1) That the prototype designs for such aircraft, to the maximum extent feasible, use technologies for engines, radar, and avionics that are derived from the F–117, A–12, B–2, or F–22 aircraft programs or that are currently available in existing aircraft.

(2) That the aircraft design to be used for the program be selected through the use of competitive procedures.

(b) FA–18E/F AIRCRAFT PROGRAM.—The Secretary of the Navy may not obligate any funds for procurement for the F–18E/F multirole aircraft program until—

(1) the Secretary has completed an early operational assessment of the aircraft design based in part on flight performance of not less than two research and development prototype aircraft; and

(2) the Director of Operational Test and Evaluation of the Department of Defense has approved the operational assessment plan for the program.

SEC. 215. ONE-YEAR DELAY IN TRANSFER OF MANAGEMENT RESPONSIBILITY FOR NAVY MINE COUNTERMEASURES PROGRAM.

Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1317) is amended—

(1) in subsection (a), by striking out "during fiscal years 1993 through 1997" and inserting in lieu thereof "during fiscal years 1994 through 1997"; and

(2) in subsection (b), by striking out "not later than June 1 of the calender year in which that fiscal year begins" and inserting in lieu thereof "coincident with the submission of the budget for that fiscal year".

SEC. 216. LIGHT ARMORED VEHICLE 105-MILLIMETER GUN (LAV-105) PROGRAM.

(a) REINSTATEMENT OF LAV–105 PROGRAM.—Unless the development program for the Light Armored Vehicle 105–millimeter (LAV–105) gun has been reinstated and the funds appropriated for that program for fiscal year 1992 have been obligated by the date of the enactment of this Act, the Secretary of the Navy, not later than 60 days after the date of the enactment of this Act shall—

(1) reinstate the program for engineering and manufacturing systems development of the LAV–105 vehicle; and

(2) obligate the funds provided for fiscal year 1992 for development and evaluation of the LAV–105 vehicle prototype.

(b) FUNDING.—Of the funds authorized to be appropriated pursuant to section 201, or otherwise made available, for research, development, test, and evaluation for the Navy for fiscal year 1993, the sum of $14,700,000 shall be available for completion of the development and operational testing of the LAV–105 vehicle.

SEC. 217. ADVANCED RESEARCH PROJECTS.

Section 2371 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(g) The Secretary of Defense, in carrying out research projects through the Defense Advanced Research Projects Agency, and the Secretary of each military department, in carrying out research projects, may permit the director of any federally funded research and development center to enter into cooperative research and development agreements with any person, any agency or instrumentality of the United States, any unit of State or local government, and any other entity under the authority granted by section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 10 and 11 of such Act (15 U.S.C. 3710, 3710a).".

SEC. 218. REVISION TO SUPERCONDUCTING MAGNETIC ENERGY STORAGE PROJECT.

(a) PROGRAM PLAN.—The Secretary of Defense, acting through the Director of the Defense Nuclear Agency, shall revise and proceed with the program plan submitted pursuant to section 220(b) of Public Law 102–190 (105 Stat. 1320) to revise and build an engineering test model for the Superconducting Magnetic Energy Storage Project.

(b) REVISIONS REQUIRED.—The Secretary shall revise the program plan for the Superconducting Magnetic Energy Storage Project to include the following:

(1) Background information on prior plans, on completed work, and on the specific history of Phases 1 and 2 of the Department of Defense's project.

(2) An improved and expanded management plan which establishes a distinct Project Office in the Department of Defense or in the Department of Energy.

(3) A project organizational structure which includes two oversight elements, as follows:

(A) An executive management steering committee composed of representatives of the Department of Defense, the Department of Energy, and the Electric Power Research Institute and representatives of any host utility and contributing sponsors.

(B) A technical review committee to provide a forum of United States experts to review the program progress and technical results and efforts to investigate the utility of superconducting magnetic energy storage, with a requirement that the reviews be conducted at least quarterly and findings be reported to the Director, Defense Research and Engineering.

(4) Details of planned technical tasks that include—

(A) superconductor experiments that significantly increase the electric current capacity of superconducting magnetic energy storage experiments conducted in previous phases;

(B) new system sizing and costing studies of the engineering test model for extrapolation to both smaller and larger systems;

(C) materials and construction experiments and studies that lead to total system cost reduction; and

(D) system studies to determine potential applications of superconducting magnetic energy storage, including military, commercial, and scientific utility of the engineering test model.

(5) Plans to secure cost sharing for the project.

(c) SCHEDULE.—The Secretary shall submit the revised plan to Congress not later than 30 days after the date of the enactment of this Act.

(d) FUNDING.—The Secretary shall use unobligated funds appropriated for fiscal year 1992 for research, development, test, and evaluation to conduct the scientific investigations pertaining to this section, including contracting with the Department of Energy for appropriate participation in the studies.

(e) REVISION TO FISCAL YEAR 1992 PROVISIONS.—(1) Section 220(b) of Public Law 102–190 (105 Stat. 1320) is amended—

(A) by striking out the period at the end of paragraph (1) and inserting in lieu thereof "and by participating private sector firms."; and

(B) by striking out paragraph (3).

(2) Title IV of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1166), is amended in the paragraph under the heading "RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES" by striking out "*Provided further*, That the Secretary of Defense shall complete the Phase One contrac-

tor down-selection process for the Superconductive Magnetic Energy Storage system within 60 days after enactment of this Act:".

Subtitle C—Missile Defense Programs

10 USC 2431 note.

SEC. 231. THEATER MISSILE DEFENSE INITIATIVE.

(a) ESTABLISHMENT OF THEATER MISSILE DEFENSE INITIATIVE.—The Secretary of Defense shall establish a Theater Missile Defense Initiative office within the Department of Defense. All theater and tactical missile defense activities of the Department of Defense (including all programs, projects, and activities formerly associated with the Theater Missile Defense program element of the Strategic Defense Initiative) shall be carried out under the Theater Missile Defense Initiative.

(b) FUNDING FOR FISCAL YEAR 1993.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $935,000,000 may be obligated for activities of the Theater Missile Defense Initiative, of which not less than $90,000,000 shall be made available for exploration of promising concepts for naval theater missile defense.

(c) REPORT.—When the President's budget for fiscal year 1994 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the congressional defense committees a report—

(1) setting forth the proposed allocation by the Secretary of funds for the Theater Missile Defense Initiative for fiscal year 1994, shown for each program, project, and activity;

(2) describing an updated master plan for the Theater Missile Defense Initiative that includes (A) a detailed consideration of plans for theater and tactical missile defense doctrine, training, tactics, and force structure, and (B) a detailed acquisition strategy which includes a consideration of acquisition and life-cycle costs through the year 2005 for the programs, projects, and activities associated with the Theater Missile Defense Initiative;

(3) assessing the possible near-term contribution and cost-effectiveness for theater missile defense of exoatmospheric capabilities, to include at a minimum a consideration of—

(A) the use of the Navy's Standard missile combined with a kick stage rocket motor and lightweight exoatmospheric projectile (LEAP); and

(B) the use of the Patriot missile combined with a kick stage rocket motor and LEAP.

(d) EFFECTIVE DATE.—The provisions of subsections (a), (b), and (c) shall be implemented not later than 90 days after the date of the enactment of this Act.

SEC. 232. STRATEGIC DEFENSE INITIATIVE FUNDING.

(a) TOTAL AMOUNT.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test, and evaluation for fiscal year 1993, not more than $3,039,800,000 may be obligated for the Strategic Defense Initiative.

(b) SPECIFIC AMOUNTS FOR THE PROGRAM ELEMENTS.—Of the amount described in subsection (a)—

(1) not more than $2,039,800,000 shall be available for programs, projects, and activities within the Limited Defense System program element;

(2) not more than $300,000,000 shall be available for programs, projects, and activities within the Space-Based Interceptors program element;

(3) not more than $300,000,000 shall be available for programs, projects, and activities within the Other Follow-On Systems program element; and

(4) not more than $400,000,000 shall be available for programs, projects, and activities within the Research and Support Activities program element.

(d) CONSTRUCTION OF AUTHORITY IN RELATION TO USER OPERATIONAL EVALUATION SYSTEM.—Nothing in this Act shall be construed to authorize the exercise of any option to fabricate or field elements of a User Operational Evaluation System at the initial anti-ballistic missile defense site.

SEC. 233. REPORTING REQUIREMENTS AND TRANSFER AUTHORITIES FOR TMDI AND SDI.

(a) REPORTING REQUIREMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the allocation of funds appropriated for the Theater Missile Defense Initiative and the Strategic Defense Initiative for fiscal year 1993. The report shall specify the amount of such funds allocated for each program, project, and activity of the Theater Missile Defense Initiative and the Strategic Defense Initiative and shall list each Strategic Defense Initiative program, project, and activity under the appropriate program element and list each Theater Missile Defense Initiative program, project, and activity.

(b) TRANSFER AUTHORITIES.—

(1) IN GENERAL.—Before the submission of the report required under subsection (a) and notwithstanding the limitations set forth in sections 231(b) and 232(b) of this Act, the Secretary of Defense may transfer funds among the Strategic Defense Initiative program elements named in section 232(b) of this Act and from such elements to the Theater Missile Defense Initiative.

(2) LIMITATION.—The total amount that may be transferred to or from any program element named in section 232(b)—

(A) may not exceed 10 percent of the amount provided in such subsection for the program element from which the transfer is made; and

(B) may not result in an increase of more than 10 percent of the amount provided in section 232(b) for the Strategic Defense Initiative program element to which the transfer is made and may not result in an increase of more than 10 percent of the amount provided in section 231(b) for the Theater Missile Defense Initiative.

(3) RESTRICTION.—Transfer authority under paragraph (1) may not be used for a decrease in funds identified in section 231(b) for the Theater Missile Defense Initiative.

(4) MERGER AND AVAILABILITY.—Amounts transferred pursuant to paragraph (1) shall be merged with and be available for the same purposes as the amounts to which transferred.

SEC. 234. REVISION OF THE MISSILE DEFENSE ACT OF 1991.

(a) MISSILE DEFENSE GOALS OF THE UNITED STATES.—Section 232(a) of the Missile Defense Act of 1991 (part C of title II of Public Law 102–190; 105 Stat. 1321) is amended by striking out "(a)" and all that follows through the end of the paragraph (1) and inserting in lieu thereof the following:

10 USC 2431 note.

"(a) MISSILE DEFENSE GOALS OF THE UNITED STATES.—It is a goal of the United States to—

"(1) comply with the ABM Treaty, including any protocol or amendment thereto, and not develop, test, or deploy any ballistic missile defense system, or component thereof, in violation of the treaty, as modified by any protocol or amendment thereto, while deploying an anti-ballistic missile system that is capable of providing a highly effective defense of the United States against limited attacks of ballistic missiles;".

(b) ELIMINATION OF THEATER MISSILE DEFENSE PROGRAM ELEMENT FROM SDI.—(1) Section 235(a) of such Act (105 Stat. 1323) is amended—

10 USC 2431 note.

(A) by striking out paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(2) Section 236 of such Act (105 Stat. 1323) is amended—

(A) by striking out subsection (b); and

(B) by redesignating subsections (c), (d), and (e) as subsections, (b), (c), and (d), respectively.

(c) IMPLEMENTATION OF GOAL.—Subsection (b) of section 233 of such Act (105 Stat. 1322) is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

10 USC 2431 note.

"(1) THEATER MISSILE DEFENSE SYSTEMS.—The Secretary of Defense shall develop advanced theater missile defense systems for deployment.

"(2) INITIAL ABM DEPLOYMENT.—The Secretary shall develop for deployment a cost-effective, operationally effective, and ABM Treaty-compliant antiballistic missile system at a single site as the initial step toward deployment of an antiballistic missile system described in section 232(a)(1) designed to protect the United States against limited ballistic missile threats, including accidental or unauthorized launches or Third World attacks. The system components to be developed shall include—

"(A) 100 ground-based interceptors, the design of which is to be determined by competition and downselection for the most capable interceptor or interceptors;

"(B) fixed, ground-based, antiballistic missile battle management radars; and

"(C) optimum utilization of space-based sensors, including sensors capable of cueing ground-based antiballistic missile interceptors and providing initial targeting vectors, and other sensor systems that are not prohibited by the ABM Treaty, including specifically the Ground Surveillance and Tracking System.".

(d) FOLLOW-ON TECHNOLOGY RESEARCH.—(1) Subsection (c) of section 234 of such Act (105 Stat. 1323) is amended to read as follows:

10 USC 2431 note.

"(c) TRANSFER OF MANAGEMENT RESPONSIBILITY FOR RESEARCH AND DEVELOPMENT OF FAR-TERM FOLLOW-ON TECHNOLOGIES.—

"(1) TRANSFER REQUIRED.—As the Strategic Defense Initiative Organization (SDIO) transitions from a broadly based

research organization to a focused acquisition agency, maintaining responsibility for research and development of far-term follow-on technologies in that organization could distract management and result in funding shortfalls as the Strategic Defense Initiative Organization's priorities increasingly center on near-term deployment architectures. Accordingly, the Secretary of Defense shall transfer management and budget responsibility for research and development of all far-term follow-on technologies currently under the Strategic Defense Initiative Organization to the Defense Advanced Research Projects Agency (DARPA) or the appropriate military department, unless the Secretary determines, and certifies to the congressional defense committees, that transfer of a particular far-term follow-on technology currently under the Strategic Defense Initiative Organization would not be in the national security interests of the United States.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'far-term follow-on technology' means a technology that is not likely to be incorporated into a weapon system within 10 to 15 years after the date of the enactment of this Act.".

Reports.

(2)(A) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report identifying—

(i) those programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993 which the Secretary is transferring to a military department or the Defense Advanced Research Projects Agency; and

(ii) those programs, projects, and activities under the Other Follow-On Technologies program element which the Secretary certifies are necessary in the national security interests of the United States to maintain under the Strategic Defense Initiative Organization.

(B) For purposes of subparagraph (A), the term "programs, projects, and activities under the Other Follow-On Technologies program element for fiscal year 1993" means the programs, projects, and activities listed under the Other Follow-On Technologies program element for fiscal year 1993 in the report submitted to the congressional defense committees on July 2, 1992 pursuant to section 233(b)(3) of the Missile Defense Act of 1991.

(e) RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OBJECTIVES FOR SDI PROGRAM ELEMENTS.—Section 236 of such Act (105 Stat. 1323) is amended—

10 USC 2431 note.

(1) in subsection (a), by striking out "by fiscal year 1996" in the second sentence; and

(2) in subsection (d), by inserting "and which the Secretary has determined are necessary in the national security interests of the United States to be maintained under the Strategic Defense Initiative Organization" before the period at the end.

(f) REVIEW OF FOLLOW-ON DEPLOYMENT OPTIONS.—Section 238 of such Act (105 Stat. 1326) is amended by striking out "of fiscal year 1996" in the first sentence.

10 USC 2431 note.

SEC. 235. DEVELOPMENT AND TESTING OF ANTI-BALLISTIC MISSILE SYSTEMS OR COMPONENTS.

(a) USE OF FUNDS.—

(1) LIMITATION.—Funds appropriated to the Department of Defense for fiscal year 1993, or otherwise made available

to the Department of Defense from any funds appropriated for fiscal year 1993 or for any fiscal year before 1993, may not be obligated or expended—

(A) for any development or testing of anti-ballistic missile systems or components except for development and testing consistent with the development and testing described in the July 1992 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of anti-ballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the July 1992 SDIO Report.

(2) EXCEPTION.—The limitation under paragraph (1) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1993 if the transfer is made in accordance with section 1001 of this Act.

(b) DEFINITION.—In this section, the term "July 1992 SDIO Report" means the report entitled, "1992 Report to Congress on the Strategic Defense Initiative," prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives by the Secretary of Defense pursuant to section 224 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1398; 10 U.S.C. 2431).

SEC. 236. LIMITATION REGARDING SUPPORT SERVICES CONTRACTS OF THE STRATEGIC DEFENSE INITIATIVE ORGANIZATION.

(a) LIMITATION.—Of the amounts that are appropriated to the Department of Defense for fiscal year 1993 pursuant to the authorizations of appropriations contained in this Act and are made available for the Strategic Defense Initiative Organization, not more than $135,000,000 may be expended for the procurement of support services.

(b) DEFINITION.—For purposes of subsection (a), the term "support services" means any of the following:

(1) Professional, administrative, and management support services.

(2) Special studies and analyses.

(3) Services contracted for under section 3109 of title 5, United States Code.

Subtitle D—Other Matters

SEC. 241. MEDICAL COUNTERMEASURES AGAINST BIOWARFARE THREATS.

(a) FUNDING.—Of the amounts appropriated pursuant to section 201 for fiscal year 1993, not more than $59,670,000 shall be available for the medical component of the Biological Defense Research Program (BDRP) of the Department of Defense.

(b) LIMITATIONS.—(1) Funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 may be obligated and expended for product development, and for research, development, testing, and evaluation, of medical counter-

measures against biowarfare threat agents only in accordance with this section.

(2) Of the funds made available pursuant to subsection (a), not more than $10,000,000 may be obligated or expended for research, development, test, or evaluation of medical countermeasures against far-term validated biowarfare threat agents.

(3) Of the funds made available pursuant to subsection (a) other than funds made available pursuant to paragraph (2) for the purpose set out in that paragraph—

(A) not more than 80 percent may be obligated and expended for product development, or for research, development, test, or evaluation, of medical countermeasures against near-term validated biowarfare threat agents; and

(B) not more than 20 percent may be obligated or expended for product development, or for research, development, test, or evaluation, of medical countermeasures against mid-term validated biowarfare threat agents.

(c) DEFINITIONS.—In this section:

(1) The term "validated biowarfare threat agent" means a biological agent that—

(A) is named in the biological warfare threat list published by the Defense Intelligence Agency; and

(B) is identified as a biowarfare threat by the Deputy Chief of Staff of the Army for Intelligence in accordance with Army regulations applicable to intelligence support for the medical component of the Biological Defense Research Program.

(2) The term "near-term validated biowarfare threat agent" means a validated biowarfare threat agent that has been, or is being, developed or produced for weaponization within 5 years, as assessed and determined by the Defense Intelligence Agency.

(3) The term "mid-term validated biowarfare threat agent" means a validated biowarfare threat agent that is an emerging biowarfare threat, is the object of research by a foreign threat country, and will be ready for weaponization in more than 5 years and less than 10 years, as assessed and determined by the Defense Intelligence Agency.

(4) The term "far-term validated biowarfare threat agent" means a validated biowarfare threat agent that is a future biowarfare threat, is the object of research by a foreign threat country, and could be ready for weaponization in more than 10 years and less than 20 years, as assessed and determined by the Defense Intelligence Agency.

(5) The term "weaponization" means incorporation into usable ordnance or other militarily useful means of delivery.

SEC. 242. NATIONAL AERO-SPACE PLANE.

(a) FUNDING LIMITATION.—Notwithstanding any other provision of law, funds made available to the Department of Defense may not be obligated for the National Aero-Space Plane program for any fiscal year in an amount greater than twice the amount provided for that program in the appropriations Act making appropriations for that fiscal year for the Department of Housing and Urban Development and for independent agencies.

(b) EFFECTIVE DATE.—Subsection (a) applies with respect to fiscal years after fiscal year 1993.

15 USC 4211 note.

SEC. 243. LANDSAT REMOTE-SENSING SATELLITE PROGRAM.

Notwithstanding the provisions of the Land-Remote Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.), the Secretary of Defense is authorized to contract for the development and procurement of, and support for operations of, the Landsat vehicle designated as Landsat 7.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorizations of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

(1) For the Army, $13,901,912,000.
(2) For the Navy, $19,532,996,000.
(3) For the Marine Corps, $1,558,515,000.
(4) For the Air Force, $16,592,857,000.
(5) For the Defense Agencies, $9,266,879,000.
(6) For the Army Reserve, $1,014,773,000.
(7) For the Naval Reserve, $865,492,000.
(8) For the Marine Corps Reserve, $75,171,000.
(9) For the Air Force Reserve, $1,214,287,000.
(10) For the Army National Guard, $2,238,013,000.
(11) For the Air National Guard, $2,513,175,000.
(12) For the National Board for the Promotion of Rifle Practice, $2,700,000.
(13) For the Defense Inspector General, $125,200,000.
(14) For Drug Interdiction and Counter-Drug Activities, Defense, $1,263,400,000.
(15) For the Court of Military Appeals, $5,893,000.
(16) For Environmental Restoration, Defense, $1,513,200,000.
(17) For Humanitarian Assistance, $25,000,000.
(18) For the Defense Health Program, $9,159,039,000.
(19) For support for the 1996 Summer Olympics, $2,000,000.
(20) For support for the 1993 World University Games, $6,000,000.
(21) For support for the 1994 World Cup Games, $9,000,000.

SEC. 302. WORKING CAPITAL FUNDS.

There is hereby authorized to be appropriated for fiscal year 1993 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for the Defense Business Operations Fund, $1,145,000,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 1993 from the Armed Forces Retirement Home Trust Fund the sum of $62,728,000 for the operation of the Armed Forces Retirement Home, including the United States Soldiers' and Airmen's Home and the Naval Home.

SEC. 304. HUMANITARIAN ASSISTANCE.

(a) PURPOSE.—(1) Funds appropriated pursuant to the authorization in section 301(17) shall be available for the purposes of section 2551 of title 10, United States Code, as added by subsection (c), including the transportation of humanitarian relief for the people of Afghanistan and Cambodia.

(2) Of the funds authorized to be appropriated for fiscal year 1993 pursuant to section 301(17) for such purpose, not more than $3,000,000 shall be available for distribution of humanitarian relief supplies to displaced persons or refugees who are noncombatants, including those affiliated with the Cambodian non-Communist resistance, at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer, pursuant to section 2551(b) of such title, not more than $3,000,000 of the funds referred to in subsection (a)(1).

(c) CODIFICATION OF AUTHORITY AND ADMINISTRATIVE PROVISIONS.—(1) Subchapter II of chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2551. Humanitarian assistance

"(a) AUTHORIZED ASSISTANCE.—To the extent provided in defense authorization Acts, funds authorized to be appropriated to the Department of Defense for a fiscal year for humanitarian assistance shall be used for the purpose of providing transportation of humanitarian relief and for other humanitarian purposes worldwide.

"(b) AUTHORITY TO TRANSFER FUNDS.—To the extent provided in defense authorization Acts for a fiscal year, the Secretary of Defense may transfer to the Secretary of State funds appropriated for the purposes of this section to provide for—

"(1) the payment of administrative costs incurred in providing the transportation described in subsection (a); and

"(2) the purchase or other acquisition of transportation assets for the distribution of humanitarian relief supplies in the country of destination.

"(c) TRANSPORTATION OF HUMANITARIAN RELIEF.—(1) Transportation of humanitarian relief provided with funds appropriated for the purposes of this section shall be provided under the direction of the Secretary of State.

"(2) Such transportation shall be provided by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to provide such transportation other than by the most economical means available. The means used to provide such transportation may include the use of aircraft and personnel of the reserve components of the Armed Forces.

"(3) Nothing in this subsection shall be construed as waiving the requirements of section 2631 of this title and sections 901(b) and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b) and 1241f).

"(d) AVAILABILITY OF FUNDS.—To the extent provided in appropriation Acts, funds appropriated for humanitarian assistance for the purposes of this section shall remain available until expended.

"(e) STATUS REPORTS.—(1) The Secretary of Defense shall submit (at the times specified in paragraph (2)) to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House

of Representatives a report on the provision of humanitarian assistance pursuant to this section.

"(2)(A) Whenever there is enacted a defense authorization Act that contains an authorization of appropriations for humanitarian assistance, a report referred to in paragraph (1) shall be submitted as provided in that paragraph not later than 60 days after the date of the enactment of that Act.

"(B) In addition to reports submitted as provided in subparagraph (A), a report shall be submitted under paragraph (1) not later than June 1 of each year.

"(3) Each report required by paragraph (1) shall cover all provisions of law, contained in defense authorization Acts, that authorize appropriations for humanitarian assistance to be available for the purposes of this section. A report submitted after the obligation of all amounts appropriated pursuant to such a provision of law shall not cover that provision of law.

"(4) Subject to paragraph (3), a report required by paragraph (1) shall contain (as of the date on which the report is submitted) the following information:

"(A) The total amount of funds obligated for humanitarian relief under this section.

"(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under this section.

"(C) A description of any transfer of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of this title. The description shall include the date of the transfer, to whom the transfer is made, the quantity of items transferred, the acquisition value of the items transferred, and the value of the items at the time of the transfer.

"(f) REPORT REGARDING RELIEF FOR UNAUTHORIZED COUNTRIES.—In any case in which the Secretary of Defense provides for the transportation of humanitarian relief to a country to which the transportation of humanitarian relief has not been specifically authorized by law, the Secretary shall notify the Committees on Appropriations and on Armed Services of the Senate and House of Representatives, the Committee on Foreign Relations of the Senate, and the Committee on Foreign Affairs of the House of Representatives of the Secretary's intention to provide such transportation. The notification shall be submitted not less than 15 days before the commencement of such transportation.

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including authorizations of appropriations for the activities described in paragraph (7) of section 114(a) of this title.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2551. Humanitarian assistance.".

10 USC 2551 note.

(d) LAWS COVERED BY INITIAL REPORTS.—For purposes of subsection (e) of section 2551 of title 10, United States Code, as added by subsection (c), section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333), and the humanitarian relief laws referred to in subsection (f)(4) of section 304 of that Act (as in effect on the day before the date of the enactment of this Act) shall be considered as provisions of law that authorized appropriations for humani-

tarian assistance to be available for the purposes of section 2551 of title 10, United States Code.

(e) REPEAL OF SUPERSEDED REPORTING REQUIREMENT.—Section 304 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1333) is amended by striking out subsection (f).

SEC. 305. SUPPORT FOR THE 1994 WORLD CUP GAMES.

(a) AUTHORITY TO PROVIDE SUPPORT.—The Secretary of Defense may provide logistical support and personnel services in connection with the 1994 World Cup Games to be held in the United States.

(b) PAY AND NONTRAVEL-RELATED ALLOWANCES.—(1) Except as provided in paragraph (2), the costs for pay and nontravel-related allowances of members of the Armed Forces for the support and services referred to in subsection (a) may not be charged to appropriations made pursuant to the authorization in section 301(21).

(2) Paragraph (1) does not apply in the case of members of a reserve component called or ordered to active duty to provide logistical support and personnel services for the 1994 World Cup Games.

SEC. 306. TRANSFER AUTHORITY.

(a) AUTHORITY.—The Secretary of Defense, to the extent provided in appropriations Acts, may transfer funds as provided in this section during fiscal year 1993.

(b) FROM THE DEFENSE BUSINESS OPERATIONS FUND.—(1) Not more than $3,054,000,000 may be transferred from the Defense Business Operations Fund to appropriations for operations and maintenance for fiscal year 1993 in amounts as follows:

(A) For the Army, $2,229,000,000.
(B) For the Navy, $94,500,000.
(C) For the Marine Corps, $58,500,000.
(D) For the Air Force, $672,000,000.

(2)(A) A transfer under this subsection may be made only to the extent that the military department concerned has received credit on the books of the Defense Business Operations Fund for unneeded secondary items returned to the Fund by that military department.

(B) If the Secretary of Defense certifies to the congressional defense committees that a military department has, to the greatest extent practicable, returned for credit on the books of the Defense Business Operations Fund all secondary items not needed by such military department that were under the control of such military department on October 1, 1992, then on and after the date of the certification the limitation in subparagraph (A) shall not apply to transfers to that military department.

(c) FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.—Not more than $400,000,000 may be transferred from the National Defense Stockpile Transaction Fund to appropriations for operation and maintenance for fiscal year 1993 in amounts as follows:

(1) For the Army, $100,000,000.
(2) For the Navy, $100,000,000.
(3) For the Air Force, $100,000,000.
(4) For the Defense Agencies, $100,000,000.

(d) TREATMENT OF TRANSFERS.—Amounts transferred under this section—

(1) shall be merged with and be available for the same purposes and the same period as the amounts in the accounts to which transferred;

(2) shall be deemed to increase the amount authorized to be appropriated for the account to which the amount is transferred by an amount equal to the amount transferred; and

(3) may not be expended for an item that has been denied authorization of appropriations by Congress.

(e) RELATIONSHIP TO OTHER TRANSFER AUTHORITY.—An increase under subsection (d)(2) in an amount authorized to be appropriated is in addition to an increase in that amount that results from a transfer of an authorization of appropriations pursuant to section 1001.

Subtitle B—Limitations

SEC. 311. PROHIBITION ON THE USE OF CERTAIN FUNDS FOR PENTAGON RESERVATION.

(a) PROHIBITION.—(1) Except as provided in paragraph (3), none of the funds appropriated to the Department of Defense for fiscal year 1993 may be used to contribute to the Pentagon Reservation Maintenance Revolving Fund for any purpose other than for the actual and necessary day-to-day operation of the Pentagon Reservation, including complying with health and safety requirements.

(2) None of the funds appropriated pursuant to authorizations provided in this Act or any other Act may be transferred to the Pentagon Reservation Maintenance Revolving Fund for the purpose of renovation.

(3) Funds appropriated to the Department of Defense for fiscal year 1993 may be used for replacement of the central heating and cooling plant located on the Pentagon Reservation.

(b) REPORT.—Not later than April 15, 1993, the Secretary of Defense shall submit to the congressional defense committees a report setting forth a revised renovation program for the Pentagon Reservation. Such program shall—

(1) provide justification for the scope and timing of any renovation of the Pentagon Reservation based upon—

(A) the long-term administrative space requirements of the Department of Defense in the National Capital Region;

(B) requirements directly concerned with health and safety; and

(C) the most cost-effective options to meet the requirements described in subparagraphs (A) and (B);

(2) specifically address the need and economic justification for any expansion of the Pentagon;

(3) address the practicality and cost of any renovation of the Pentagon Reservation without relocating significant numbers of employees; and

(4) update the 1988 National Capital Region Master Development Plan of the Department of Defense, providing justification for the current and future need for defense activities in the National Capital Region and outlining options to meet the facility needs of the Department of Defense based upon the force structure and personnel strengths planned for fiscal years 1994 through 1998.

(c) DEFINITIONS.—In this section, the terms "National Capital Region" and "Pentagon Reservation" have the meaning given those terms, respectively, in section 2674(f) of title 10, United States Code.

SEC. 312. PROHIBITION ON THE USE OF FUNDS FOR CERTAIN SERVICE CONTRACTS.

(a) PROHIBITION.—Except as provided in subsection (b), the Secretary of Defense may not, during the period beginning on the date of the enactment of this Act and ending on September 30, 1993, enter into any contract for the performance of a commercial activity in any case in which the contract results from a cost comparison study conducted by the Department of Defense under Office of Management and Budget Circular A–76 or any successor administrative regulation or policy.

(b) EXCEPTIONS FOR CERTAIN CONTRACTS.—Subsection (a) shall not apply to—

(1) a contract to be carried out at a location outside the United States at which members of the Armed Forces would have to be used for the performance of an activity described in subsection (a) at the expense of unit readiness; or

(2) a contract (or the renewal of a contract) for the performance of an activity under contract on September 30, 1992.

Subtitle C—Environmental Provisions

SEC. 321. EXTENSION OF REIMBURSEMENT REQUIREMENT FOR CONTRACTORS HANDLING HAZARDOUS WASTES FROM DEFENSE FACILITIES.

Section 2708(b)(1) of title 10, United States Code, is amended by striking out "fiscal year 1992" and inserting in lieu thereof "fiscal years 1992 and 1993".

SEC. 322. EXTENSION OF PROHIBITION ON USE OF ENVIRONMENTAL RESTORATION FUNDS FOR PAYMENT OF FINES AND PENALTIES.

None of the funds appropriated for fiscal year 1993 for the Environmental Restoration, Defense, account pursuant to the authorization of appropriations provided in section 301(16) may be used for the payment of a fine or penalty imposed against the Department of Defense unless the act or omission for which the fine or penalty is imposed arises out of activities funded by the account.

SEC. 323. PILOT PROGRAM FOR EXPEDITED ENVIRONMENTAL RESPONSE ACTIONS.

10 USC 2701 note.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a pilot program to expedite the performance of on-site environmental restoration at—

(1) military installations scheduled for closure under title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note);

(2) military installations scheduled for closure under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

(3) facilities for which the Secretary is responsible under the Defense Environmental Restoration Program established under section 2701 of title 10, United States Code.

(b) SELECTION OF INSTALLATIONS AND FACILITIES.—(1) For participation in the pilot program, the Secretary shall select—

(A) 2 military installations referred to in subsection (a)(1);

(B) 4 military installations referred to in subsection (a)(2), consisting of—

(i) 2 military installations scheduled for closure as of the date of the enactment of this Act; and

(ii) 2 military installations included in the list transmitted by the Secretary no later than April 15, 1993, pursuant to section 2903(c)(1) of the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note) and recommended in a report transmitted by the President in that year pursuant to section 2903(e) of such Act and for which a joint resolution disapproving such recommendations is not enacted by the deadline set forth in section 2904(b) of such Act; and

(C) not less than 4 facilities referred to in subsection (a)(3) with respect to each military department.

(2)(A) Except as provided in subparagraph (B), the selections under paragraph (1) shall be made not later than 60 days after the date of the enactment of this Act.

(B) The selections under paragraph (1) of military installations described in subparagraph (B)(ii) of such paragraph shall be made not later than 60 days after the date on which the deadline (set forth in section 2904(b) of such Act) for enacting a joint resolution of disapproval with respect to the report transmitted by the President has passed.

(3) The installations and facilities selected under paragraph (1) shall be representative of—

(A) a variety of the environmental restoration activities required for facilities under the Defense Environmental Restoration Program and for military installations scheduled for closure under the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note) and the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note); and

(B) the different sizes of such environmental restoration activities to provide, to the maximum extent practicable, opportunities for the full range of business sizes to enter into environmental restoration contracts with the Department of Defense and with prime contractors to perform activities under the pilot program.

(c) EXECUTION OF PROGRAM.—Subject to subsection (d), and to the maximum extent possible, the Secretary shall, in order to eliminate redundant tasks and to accelerate environmental restoration at military installations, use the authorities granted in existing law to carry out the pilot program, including—

(1) the development and use of innovative contracting techniques;

(2) the use of all reasonable and appropriate methods to expedite necessary Federal and State administrative decisions, agreements, and concurrences; and

(3) the use (including any necessary request for the use) of existing authorities to ensure that environmental restoration

activities under the pilot program are conducted expeditiously, with particular emphasis on activities that may be conducted in advance of any final plan for environmental restoration.

(d) PROGRAM PRINCIPLES.—The Secretary shall carry out the pilot program consistent with the following principles:

(1) Activities of the pilot program shall be carried out subject to and in accordance with all applicable Federal and State laws and regulations.

(2) Competitive procedures shall be used to select the contractors.

(3) The experience and ability of the contractors shall be considered, in addition to cost, as a factor to be evaluated in the selection of the contractors.

(e) PROGRAM RESTRICTIONS.—The pilot program established in this section shall not result in the delay of environmental restoration activities at other military installations and former sites of the Department of Defense.

SEC. 324. OVERSEAS ENVIRONMENTAL RESTORATION.

10 USC 2701 note.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that in carrying out environmental restoration activities at military installations outside the United States, the President should seek to obtain an equitable division of the costs of environmental restoration with the nation in which the installation is located.

(b) REPORT.—The Secretary of Defense shall include in each Report on Allied Contributions to the Common Defense prepared under section 1003 of Public Law 98–525 (22 U.S.C. 1928) information, in classified and unclassified form, describing the efforts undertaken and the progress made by the President in carrying out subsection (a) during the period covered by the report.

SEC. 325. EVALUATION OF USE OF OZONE-DEPLETING SUBSTANCES BY THE DEPARTMENT OF DEFENSE.

10 USC 2701 note.

(a) EVALUATION OF USE OF CLASS I SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class I substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class I substance that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995;

(2) determine the quantity of each class I substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies;

(3) determine the type and quantity of class I substances whose use will be critical to the missions of the military departments and Defense Agencies after 1995;

(4) determine the type and quantity of class I substances that must be stockpiled after 1995 in order to ensure the availability of such substances, including the availability of used, reclaimed, or recycled class I substances for the missions referred to in paragraph (3);

(5) review the plans, if any, to reclaim, recycle, reuse, and maintain the stockpile referred to in paragraph (4); and

(6) identify each specific site, facility, or vessel in connection with which the Secretary of Defense will seek an exemption pursuant to section 604(f) of the Clean Air Act (42 U.S.C. 7671c(f)) to permit the continued production or use of class I substances, and the type and quantity of each class I substance that will be produced or used in connection with the site, facility, or vessel.

(b) EVALUATION OF USE OF CLASS II SUBSTANCES.—The Director of the Defense Logistics Agency shall evaluate the use of class II substances by the military departments and Defense Agencies. In carrying out the evaluation, the Director shall—

(1) determine the quantity of each class II substance that—

(A) is held in the inventory of each military department and Defense Agency on December 31, 1992;

(B) will be used by each military department and Defense Agency during 1992; and

(C) will be used by each military department and Defense Agency in each of 1993, 1994, and 1995; and

(2) determine the quantity of each class II substance in the inventory of the military departments and Defense Agencies in each of 1993, 1994, and 1995 that can be reclaimed or recycled and reused by the military departments and Defense Agencies.

(c) REPORT.—(1) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (a) not later than April 1, 1993.

(2) The Director of the Defense Logistics Agency shall submit to the congressional defense committees a report on the status of the evaluation required under subsection (b) not later than October 1, 1993.

(d) DEFINITIONS.—In this section:

(1) The term "class I substance" means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

(2) The term "class II substance" means any substance listed under section 602(b) of the Clean Air Act (42 U.S.C. 7671a(b)).

10 USC 2301 note.

SEC. 326. ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES IN CERTAIN MILITARY PROCUREMENT CONTRACTS.

(a) ELIMINATION OF USE OF CLASS I OZONE-DEPLETING SUBSTANCES.—(1) No Department of Defense contract awarded after June 1, 1993, may include a specification or standard that requires the use of a class I ozone-depleting substance or that can be met only through the use of such a substance unless the inclusion of the specification or standard in the contract is approved by the senior acquisition official for the procurement covered by the contract. The senior acquisition official may grant the approval only if the senior acquisition official determines (based upon the certification of an appropriate technical representative of the official) that a suitable substitute for the class I ozone-depleting substance is not currently available.

(2)(A)(i) Not later than 60 days after the completion of the first modification, amendment, or extension after June 1, 1993, of a contract referred to in clause (ii), the senior acquisition official (or the designee of that official) shall carry out an evaluation of the contract in order to determine—

(I) whether the contract includes a specification or standard that requires the use of a class I ozone-depleting substance or can be met only through the use of such a substance; and

(II) in the event of a determination that the contract includes such a specification or standard, whether the contract can be carried out through the use of an economically feasible substitute for the ozone-depleting substance or through the use of an economically feasible alternative technology for a technology involving the use of the ozone-depleting substance.

(ii) A contract referred to in clause (i) is any contract in an amount in excess of $10,000,000 that—

(I) was awarded before June 1, 1993; and

(II) as a result of the modification, amendment, or extension described in clause (i), will expire more than 1 year after the effective date of the modification, amendment, or extension.

(iii) A contract under evaluation under clause (i) may not be further modified, amended, or extended until the evaluation described in that clause is complete.

(B) If the acquisition official (or designee) determines that an economically feasible substitute substance or alternative technology is available for use in a contract under evaluation, the appropriate contracting officer shall enter into negotiations to modify the contract to require the use of the substitute substance or alternative technology.

(C) A determination that a substitute substance or technology is not available for use in a contract under evaluation shall be made in writing by the senior acquisition official (or designee).

(D) The Secretary of Defense may, consistent with the Federal Acquisition Regulation, adjust the price of a contract modified under subparagraph (B) to take into account the use by the contractor of a substitute substance or alternative technology in the modified contract.

(3) The senior acquisition official authorized to grant an approval under paragraph (1) and the senior acquisition official and designees authorized to carry out an evaluation and make a determination under paragraph (2) shall be determined under regulations prescribed by the Secretary of Defense. A senior acquisition official may not delegate the authority provided in paragraph (1). Regulations.

(4) Each official who grants an approval authorized under paragraph (1) or makes a determination under paragraph (2)(B) shall submit to the Secretary of Defense a report on that approval or determination, as the case may be, as follows: Reports.

(A) Beginning on October 1, 1993, and continuing for 8 calendar quarters thereafter, by submitting a report on the approvals granted or determinations made under such authority during the preceding quarter not later than 30 days after the end of such quarter.

(B) Beginning on January 1, 1997, and continuing for 4 years thereafter, by submitting a report on the approvals granted or determinations made under such authority during

the preceding year not later than 30 days after the end of such year.

(5) The Secretary shall promptly transmit to the Committees on Armed Services of the Senate and House of Representatives each submitted to the Secretary under paragraph (4). The Secretary shall transmit the report in classified and unclassified forms.

(b) COST RECOVERY.—In any case in which a Department of Defense contract is modified or a specification or standard for such a contract is waived at the request of a contractor in order to permit the contractor to use in the performance of the contract a substitute for a class I ozone-depleting substance or an alternative technology for a technology involving the use of a class I ozone-depleting substance, the Secretary of Defense may adjust the price of the contract in a manner consistent with the Federal Acquisition Regulation.

(c) DEFINITIONS.—In this section:

(1) The term "class I ozone-depleting substance" means any substance listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a)).

(2) The term "Federal Acquisition Regulation" means the single Government-wide procurement regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)).

SEC. 327. PROHIBITION ON THE PURCHASE OF SURETY BONDS AND OTHER GUARANTIES FOR THE DEPARTMENT OF DEFENSE.

(a) PROHIBITION.—No funds appropriated or otherwise made available to the Department of Defense for fiscal year 1993 may be obligated or expended for the purchase of surety bonds or other guaranties of financial responsibility in order to guarantee the performance of any direct function of the Department of Defense.

(b) TECHNICAL AMENDMENT.—Section 335 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1342) is amended by striking out "or fiscal year 1993".

SEC. 328. LEGACY RESOURCE MANAGEMENT FELLOWSHIP PROGRAM.

(a) ESTABLISHMENT.—There is established the Legacy Fellowship Program in Natural and Cultural Resource Management (in this section referred to as the "Legacy Fellowship Program"). The Legacy Fellowship Program is a part of the Legacy Resource Management Program established pursuant to section 8120 of the Department of Defense Appropriations Act, 1991 (Public Law 101–511; 104 Stat. 1905).

(b) PURPOSES.—The purposes of the Legacy Fellowship Program are as follows:

(1) To support the purposes of the Legacy Resource Management Program set forth in section 8120(b) of such Act.

(2) To provide training to civilian personnel and military personnel in the management of natural and cultural resources.

(c) FELLOWS.—(1) The Legacy Fellowship Program shall be composed of not less than 3 fellows who shall be appointed by the Deputy Assistant Secretary of Defense for Environment. Such fellows shall be appointed from among qualified persons in the military and civilian sectors.

(2)(A) Each fellow who is an officer or employee of the United States shall serve without compensation in addition to that received for the services as an officer or employee of the United States.

Any such service shall be without interruption or loss of civil service status or privilege.

(B) The Deputy Assistant Secretary of Defense shall fix (in an amount the Deputy Assistant Secretary determines appropriate) the compensation of the fellows, if any, who are not officers or employees of the United States. Such fellows shall not be considered employees of the Federal Government other than for purposes of chapter 81 of title 5, United States Code.

(3) Fellows shall serve for a term of one year and may be reappointed for an additional term of one year.

(4) The Deputy Assistant Secretary of Defense shall assign the fellows to an agency, office, or other entity (other than the Office of the Deputy Assistant Secretary of Defense for Environment) that is responsible for the implementation of the Legacy Resource Management Program in the Department of Defense. Upon assignment, the fellow shall assist the agency, office, or entity in carrying out the purposes of the Legacy Resource Management Program.

(d) FUNDING.—Of the funds authorized to be appropriated in fiscal year 1993 for the Department of Defense and made available for the Legacy Resource Management Program, $100,000 may be used for the Legacy Fellowship Program. Such funds shall be available for obligation without fiscal year limitation.

SEC. 329. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

In addition to the amounts otherwise authorized to be appropriated for fiscal years 1992 and 1993 in this Act there is authorized to be appropriated for such fiscal years—

(1) for Environmental Restoration, Defense, the total amount of $447,500,000; and

(2) for the Department of Defense Base Closure Account 1990 the total amount of $35,000,000.

SEC. 330. INDEMNIFICATION OF TRANSFEREES OF CLOSING DEFENSE PROPERTY.

10 USC 2687 note.

(a) IN GENERAL.—(1) Except as provided in paragraph (3) and subject to subsection (b), the Secretary of Defense shall hold harmless, defend, and indemnify in full the persons and entities described in paragraph (2) from and against any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage (including death, illness, or loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) that is closed pursuant to a base closure law.

(2) The persons and entities described in this paragraph are the following:

(A) Any State (including any officer, agent, or employee of the State) that acquires ownership or control of any facility at a military installation (or any portion thereof) described in paragraph (1).

(B) Any political subdivision of a State (including any officer, agent, or employee of the State) that acquires such ownership or control.

(C) Any other person or entity that acquires such ownership or control.

(D) Any successor, assignee, transferee, lender, or lessee of a person or entity described in subparagraphs (A) through (C).

(3) To the extent the persons and entities described in paragraph (2) contributed to any such release or threatened release, paragraph (1) shall not apply.

(b) CONDITIONS.—No indemnification may be afforded under this section unless the person or entity making a claim for indemnification—

(1) notifies the Department of Defense in writing within two years after such claim accrues or begins action within six months after the date of mailing, by certified or registered mail, of notice of final denial of the claim by the Department of Defense;

(2) furnishes to the Department of Defense copies of pertinent papers the entity receives;

(3) furnishes evidence or proof of any claim, loss, or damage covered by this section; and

(4) provides, upon request by the Department of Defense, access to the records and personnel of the entity for purposes of defending or settling the claim or action.

(c) AUTHORITY OF SECRETARY OF DEFENSE.—(1) In any case in which the Secretary of Defense determines that the Department of Defense may be required to make indemnification payments to a person under this section for any suit, claim, demand or action, liability, judgment, cost or other fee arising out of any claim for personal injury or property damage referred to in subsection (a)(1), the Secretary may settle or defend, on behalf of that person, the claim for personal injury or property damage.

(2) In any case described in paragraph (1), if the person to whom the Department of Defense may be required to make indemnification payments does not allow the Secretary to settle or defend the claim, the person may not be afforded indemnification with respect to that claim under this section.

(d) ACCRUAL OF ACTION.—For purposes of subsection (b)(1), the date on which a claim accrues is the date on which the plaintiff knew (or reasonably should have known) that the personal injury or property damage referred to in subsection (a) was caused or contributed to by the release or threatened release of a hazardous substance or pollutant or contaminant as a result of Department of Defense activities at any military installation (or portion thereof) described in subsection (a)(1).

(e) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall be construed as affecting or modifying in any way section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(f) DEFINITIONS.—In this section:

(1) The terms "facility", "hazardous substance", "release", and "pollutant or contaminant" have the meanings given such terms under paragraphs (9), (14), (22), and (33) of section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, respectively (42 U.S.C. 9601 (9), (14), (22), and (33)).

(2) The term "military installation" has the meaning given such term under section 2687(e)(1) of title 10, United States Code.

(3) The term "base closure law" means the following:

(A) The Defense Base Closure and Realignment Act of 1990 (10 U.S.C. 2687 note).

(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

(C) Section 2687 of title 10, United States Code.

(D) Any provision of law authorizing the closure or realignment of a military installation enacted on or after the date of the enactment of this Act.

SEC. 331. EXTENSION OF AUTHORITY TO ISSUE SURETY BONDS FOR CERTAIN ENVIRONMENTAL PROGRAMS.

(a) CERCLA.—(1) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9619) is amended—

(A) in subsection (e)(2)(C), by striking out "January 1, 1993" and inserting in lieu thereof "January 1, 1996,"; and

(B) in subsection (g)(5), by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(2) Subsection (g)(1) of such section is amended—

(A) by striking out "the Miller Act, 40 U.S.C. sections 270a–270f," and inserting in lieu thereof "the Act of August 24, 1935 (40 U.S.C. 270a–270d), commonly referred to as the 'Miller Act',";

(B) by inserting after "response action contract" the following: "and are not waived pursuant to the Act of April 29, 1941 (40 U.S.C. 270e–270f)"; and

(C) by striking out "in accordance with 40 U.S.C. sections 270a–270d." and inserting in lieu thereof "in accordance with such Act of August 24, 1935.".

(b) TITLE 10.—(1) Section 2701(j) of title 10, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(2) Such section is further amended—

(A) by inserting "(1)" after "APPLICABILITY.—"; and

(B) by adding at the end the following new paragraph:

"(2) Subsections (h) and (i) shall not apply to bonds to which section 119(g) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 applies (42 U.S.C. 9619(g)).".

SEC. 332. REPORT ON INDEMNIFICATION OF CONTRACTORS PERFORMING ENVIRONMENTAL RESTORATION.

(a) REPORT.—The Secretary of Defense, in consultation with the Attorney General, the Administrator of the Environmental Protection Agency, and the Director of the Office of Management and Budget, shall conduct a review and report on the following:

(1) All existing statutory authorities and regulations thereunder available to the Department of Defense that allow the Secretary of Defense or the Secretaries of the military departments to indemnify and hold harmless contractors performing environmental restoration at current military installations, former military installations, and formerly used defense sites pursuant to the Defense Environmental Restoration Program under chapter 160 of title 10, United States Code.

(2) The extent to which the authorities referred to in paragraph (1) are available to ensure adequate competition and qualified contractors for actions not governed by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), and the extent to which additional authority to ensure adequate competition and qualified contractors is necessary for such actions.

(3) The extent to which the indemnification authority provided in section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 is necessary to ensure adequate competition and qualified contractors to perform remedial actions at military installations listed on the National Priorities List or removal actions pursuant to such Act.

(4) The extent to which contractors performing environmental restoration work at installations and sites referred to in paragraph (1), other Federal sites, and private sites have been exposed to, or involved in, litigation, claims, and liability related to such environmental restoration work since 1980.

(5) The type of indemnification, if any, currently provided to environmental restoration contractors by Federal agencies, by State agencies, and by private entities at sites other than installations and sites referred to in paragraph (1).

(6) The availability, the coverage, the cost, and the type of insurance commercially available to environmental restoration contractors at current and former military installations and formerly used defense sites.

(7) The extent to which the Secretary of Defense and the Secretaries of the military departments have used existing indemnification authority for environmental restoration work.

(8) The potential costs of any additional indemnification authority, if any, recommended by the Secretary of Defense in the report required under this section.

(b) DEADLINE.—Not later than May 15, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives the report required by subsection (a).

Subtitle D—Defense Business Operations Fund

SEC. 341. LIMITATIONS ON THE USE OF DEFENSE BUSINESS OPERATIONS FUND.

(a) EXTENSION OF LIMITATION ON PERIOD OF MANAGEMENT.—Section 316(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1338; 10 U.S.C. 2208 note) is amended—

(1) by striking out "April 15, 1993" and inserting in lieu thereof "April 15, 1994"; and

(2) by inserting "(in this section referred to as the 'Fund')" before the period at the end of the first sentence.

10 USC 2208 note.

(b) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—Section 316 of such Act is amended by adding at the end the following new subsection:

"(c) SEPARATE ACCOUNTING, REPORTING, AND AUDITING OF FUNDS AND ACTIVITIES.—For purposes of accounting, financial reporting, and auditing, the Secretary of Defense shall maintain—

"(1) the separate identity of each fund and activity managed through the Fund that (before the establishment of the Fund) was managed as a separate fund or activity; and

"(2) separate records for each function for which payment is made through the Fund and which (before the establishment of the Fund) was paid directly through appropriations, including the separate identity of the appropriation account used to pay for the performance of the function.".

(c) IMPLEMENTATION OF DBOF.—Such section is further amended by adding after subsection (c), as added by subsection (b), the following new subsections: 10 USC 2208 note.

"(d) IMPLEMENTATION OF THE FUND.—The Secretary of Defense shall implement the Fund in three phases (referred to in this section as 'milestones') as follows:

"(1) MILESTONE I.—Not later than thirty days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993, the Secretary of Defense shall—

"(A) substantially complete the development of the policies of the Department of Defense governing the operations of the Fund;

"(B) identify the interim systems requirements of the Fund; and

"(C) prepare an evaluation report on the adequacy of the skills and resources devoted to the Fund and its related systems. Reports.

"(2) MILESTONE II.—Not later than March 1, 1993, the Secretary of Defense shall—

"(A) develop performance measures, and corresponding performance goals, for each business area of the Fund; and

"(B) prepare a report that— Reports.

"(i) specifies the status of interim systems efforts, including efforts to improve the accuracy of information in the Fund systems;

"(ii) specifies whether the Department of Defense has selected a standard cost accounting system, and prepared an implementation plan (with milestone dates) for installing the system at the Fund's activities; and

"(iii) identifies specific tangible benefits resulting from the operation of the Fund, including, if applicable, the reduced costs of providing goods and services and the improvement of the efficiency of Fund operations.

"(3) MILESTONE III.—Not later than September 30, 1993, the Secretary of Defense shall conduct a field test of the standard cost accounting system selected by the Secretary for the Fund.

"(e) USE OF CERTAIN ACCOUNTING STANDARDS.—The Secretary of Defense shall take actions to achieve the milestones prescribed in subsection (d) and otherwise to implement the Fund consistent with—

"(1) generally accepted accounting principles;

"(2) accounting principles, standards, and requirements generally applicable to Federal agencies;

"(3) internal accounting and administrative control standards prescribed by the Comptroller General of the United States; and

"(4) the provisions of chapter 9 of title 31, United States Code, and sections 3515, 3521 (e) through (h), 9105, and 9106 of such title, and related requirements prescribed by the Office of Management and Budget.".

10 USC 2208 note.

(d) MONITORING AND EVALUATION BY THE COMPTROLLER GENERAL; REPORTS.—Such section is further amended by adding after subsection (e), as added by subsection (c), the following new subsection:

"(f) MONITORING AND EVALUATION BY THE COMPTROLLER GENERAL; REPORTS.—

"(1) MONITORING AND EVALUATION.—The Comptroller General of the United States shall monitor and evaluate the progress of the Department of Defense in achieving the milestones prescribed in subsection (d) and in implementing the Fund, including the development of policies, performance measures, and actions to improve the Fund's systems.

"(2) REPORTS.—

"(A) REPORT ON THE NONACHIEVEMENT OF MILESTONES.—If the Comptroller General determines, pursuant to the monitoring and evaluation conducted under paragraph (1), that the Department of Defense has not achieved any of the milestones prescribed in subsection (d), the Comptroller General shall submit to the Congress, as soon as practicable, a report containing the findings, conclusions, and recommendations of the Comptroller General with respect to the nonachievement of the milestone.

"(B) FINAL REPORT.—Not later than February 15, 1994, the Comptroller General shall submit to the Congress a report containing the findings and conclusions of the Comptroller General pursuant to the monitoring and evaluation conducted under paragraph (1) and any recommendations for legislation or administrative action that the Comptroller General considers to be appropriate.".

10 USC 2208 note.

SEC. 342. CAPITAL ASSET SUBACCOUNT.

(a) USE OF SUBACCOUNT FOR CAPITAL ASSETS DEPRECIATION CHARGES.—Charges for goods and services provided through the Defense Business Operations Fund shall include amounts for depreciation of capital assets, set in accordance with generally accepted accounting principles. Amounts charged for depreciation shall be credited to a separate capital asset subaccount established within the Fund. The subaccount shall be available only for the payment of outlays for capital assets for the Fund.

(b) AWARD OF CONTRACTS.—The Secretary of Defense may award contracts for capital assets of the Fund in advance of the availability of funds in the subaccount, to the extent provided for in appropriations Acts.

(c) ANNUAL REPORT.—The Secretary of Defense shall submit to the congressional defense committees each year, at the same time that the President submits the budget to the Congress under section 1105 of title 31, United States Code, a report that specifies—

(1) the opening balance of the subaccount as of the beginning of the fiscal year in which the report is submitted;

(2) the estimated amounts to be credited to the subaccount in the fiscal year in which the report is submitted;

(3) the estimated amounts of outlays to be paid out of the subaccount in the fiscal year in which the report is submitted;

(4) the estimated balance of the subaccount at the end of the fiscal year in which the report is submitted; and

(5) a statement of how much of the estimated balance at the end of the fiscal year in which the report is submitted will be needed to pay outlays in the immediately following fiscal year that are in excess of the amount to be credited to the subaccount in the immediately following fiscal year.

(d) AUTHORIZATION.—There is hereby authorized to be appropriated to the Fund subaccount for fiscal years 1993 and 1994 such sums as may be necessary to pay, during fiscal year 1993 and until April 15, 1994, outlays for capital assets in excess of the amount otherwise available in the subaccount.

(e) DEFINITIONS.—For purposes of this section:

(1) The term "capital assets" means the following capital assets that have a development or acquisition cost of not less than $15,000:

(A) Minor construction projects financed by the Fund pursuant to section 2805(c)(1) of title 10, United States Code.

(B) Automatic data processing equipment, software, other equipment, and other capital improvements.

(2) The term "Fund" means the Defense Business Operations Fund.

SEC. 343. LIMITATION ON OBLIGATIONS AGAINST DEFENSE BUSINESS OPERATIONS FUND.

(a) LIMITATION.—(1) The Secretary of Defense may not incur obligations against the supply management divisions of the Defense Business Operations Fund of the Department of Defense during fiscal year 1993 in a total amount in excess of 65 percent of the total amount derived from sales from such divisions during that fiscal year.

(2) For purposes of determining the amount of obligations incurred against, and sales from, such divisions during fiscal year 1993, the Secretary shall exclude obligations and sales for fuel, commissary and subsistence items, retail operations, repair of equipment, and the cost of operations.

(b) EXCEPTION.—The Secretary of Defense may waive the limitation described in subsection (a) if the Secretary determines that such waiver is critical to the national security of the United States. The Secretary shall immediately notify Congress of any such waiver and the reasons for such waiver.

Subtitle E—Depot-Level Activities

SEC. 351. DEPOT-LEVEL TACTICAL MISSILE MAINTENANCE.

(a) COMPETITIVE BIDDING.—If the Secretary of Defense takes action to consolidate at a single location the performance of depot-level tactical missile maintenance by employees of the Department of Defense, the Secretary shall select the depot to perform the tactical missile maintenance through the use of competitive procedures. Any depot-level activity of the Department of Defense that is engaged in tactical missile maintenance on the date of the enactment of this Act shall be eligible to compete for such selection.

(b) RELOCATION OF CERTAIN ACTIVITIES TO ROCK ISLAND ARSENAL.—The Secretary of Defense shall ensure that the Systems Integration Management Activity and the Depot Systems Command are relocated to Rock Island Arsenal, Illinois, in accordance with the recommendations dated July 1, 1991, of the Defense Base Closure and Realignment Commission established under section 2902 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note). This provision shall apply notwithstanding any other provision of law which directly or indirectly affects such relocation.

SEC. 352. LIMITATIONS ON THE PERFORMANCE OF DEPOT-LEVEL MAINTENANCE OF MATERIEL.

(a) LIMITATION.—Section 2466(a) of title 10, United States Code, is amended to read as follows:

"(a) PERCENTAGE LIMITATION.—(1) Except as provided in paragraph (2), the Secretary of a military department and, with respect to a Defense Agency, the Secretary of Defense, may not contract for the performance by non-Federal Government personnel of more than 40 percent of the depot-level maintenance workload for the military department or the Defense Agency.

"(2) The Secretary of the Army shall provide for the performance by employees of the Department of Defense of not less than the following percentages of Army aviation depot-level maintenance workload:

"(A) For fiscal year 1993, 50 percent.

"(B) For fiscal year 1994, 55 percent.

"(C) For fiscal year 1995, 60 percent.".

(b) CONFORMING AMENDMENT.—Section 2466(c) of such title is amended by striking out "The Secretary of the Army, with respect to the Department of the Army, and the Secretary of the Air Force, with respect to the Department of the Air Force," and inserting in lieu thereof "The Secretary of the military department concerned and, with respect to a Defense Agency, the Secretary of Defense".

(c) REPORT.—Section 2466(e) of such title is amended—

(1) by inserting "(1)" after "REPORTS.—"; and

(2) by adding at the end the following:

"(2) Not later than January 15, 1994, the Secretary of each military department and the Secretary of Defense, with respect to the Defense Agencies, shall jointly submit to Congress a report described in paragraph (1).".

10 USC 2466 note.

(d) EFFECT OF AMENDMENTS ON EXISTING CONTRACTS.—The Secretary of a military department and the Secretary of Defense, with respect to the Defense Agencies, may not cancel a depot-level maintenance contract in effect on the date of the enactment of this Act in order to comply with the requirements of section 2466(a) of title 10, United States Code, as amended by subsection (a).

SEC. 353. REQUIREMENT OF COMPETITION FOR THE PERFORMANCE OF WORKLOADS PREVIOUSLY PERFORMED BY DEPOT-LEVEL ACTIVITIES OF THE DEPARTMENT OF DEFENSE.

(a) COMPETITION REQUIREMENT.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition

"The Secretary of Defense or the Secretary of a military department may not change the performance of a depot-level maintenance workload that has a threshold value of not less than $3,000,000 and is being performed by a depot-level activity of the Department of Defense unless, prior to any such change, the Secretary uses competitive procedures to make the change.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2469. Contracts to perform workloads previously performed by depot-level activities of the Department of Defense: requirement of competition.".

SEC. 354. REPEAL OF REQUIREMENT FOR COMPETITION PILOT PROGRAM FOR DEPOT-LEVEL MAINTENANCE OF MATERIALS.

Subsection (b) of section 314 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1337; 10 U.S.C. 2466 note) is repealed.

Subtitle F—Commissaries and Military Exchanges

SEC. 361. STANDARDIZATION OF CERTAIN PROGRAMS AND ACTIVITIES OF MILITARY EXCHANGES.

10 USC 2490a note.

(a) STANDARDIZATION OF EXCHANGES.—The Secretary of Defense shall standardize among the military departments the following programs and activities of the military exchanges of the military departments:

(1) Accounting (including account titles and item descriptions).

(2) Financial reporting formats.

(3) Automatic data processing and telecommunications data in order to facilitate the transfer of information among military exchanges.

(b) TIME AND MANNER.—The standardization of programs and activities required by subsection (a) shall be completed not later than March 31, 1994, and shall be carried out in the most efficient manner practicable.

(c) REPORT.—Not later than March 31, 1993, the Secretary of Defense shall submit to the Congress a report on other programs and activities of the military exchanges, if any, that the Secretary determines can be economically and efficiently managed through standardization or consolidation under a single nonappropriated fund instrumentality.

SEC. 362. ACCOUNTABILITY REGARDING THE FINANCIAL MANAGEMENT AND USE OF NONAPPROPRIATED FUNDS.

(a) REGULATION OF EXPENDITURE OF NAFI FUNDS.—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2490a. Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds

"(a) REGULATION OF MANAGEMENT AND USE OF NONAPPROPRIATED FUNDS.—The Secretary of Defense shall prescribe regulations governing—

"(1) the purposes for which nonappropriated funds of a nonappropriated fund instrumentality of the United States within the Department of Defense may be expended; and

"(2) the financial management of such funds to prevent waste, loss, or unauthorized use.

"(b) PENALTIES FOR VIOLATIONS.—(1) A civilian employee of the Department of Defense who is paid from nonappropriated funds and who commits a substantial violation of the regulations prescribed under subsection (a) shall be subject to the same penalties as are provided by law for misuse of appropriations by a civilian employee of the Department of Defense paid from appropriated funds. The Secretary of Defense shall prescribe regulations to carry out this paragraph.

"(2) The Secretary shall provide in regulations that a violation of the regulations prescribed under subsection (a) by a person subject to chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is punishable as a violation of section 892 of such title (article 92 of the Uniform Code of Military Justice).

"(c) NOTIFICATION OF VIOLATIONS.—(1) A civilian employee of the Department of Defense (whether paid from nonappropriated funds or from appropriated funds), and a member of the Armed Forces, whose duties include the obligation of nonappropriated funds, shall notify the Secretary of Defense of information which the person reasonably believes evidences—

"(A) a violation by another person of any law, rule, or regulation regarding the management of such funds; or

"(B) other mismanagement or gross waste of such funds.

"(2) The Secretary of Defense shall designate civilian employees of the Department of Defense or members of the armed forces to receive a notification described in paragraph (1) and ensure the prompt investigation of the validity of information provided in the notification.

"(3) The Secretary shall prescribe regulations to protect the confidentiality of a person making a notification under paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490a. Nonappropriated fund instrumentalities: financial management and use of nonappropriated funds.".

10 USC 2482 note.

SEC. 363. DEMONSTRATION PROGRAM FOR THE OPERATION OF CERTAIN COMMISSARY STORES BY NONAPPROPRIATED FUND INSTRUMENTALITIES.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall establish a demonstration program to determine the feasibility of having nonappropriated fund instrumentalities operate commissary stores at military installations.

(2) Under the program referred to in paragraph (1), the Secretary of Defense shall select nonappropriated fund instrumentalities to operate commissary stores located at military installations selected by the Secretary under subsection (b).

(b) SELECTION OF MILITARY INSTALLATIONS.—For participation in such program, the Secretary shall select not less than one nor more than three military installations in the United States, including at least one installation where National Guard personnel, other reserve component personnel, and their dependents comprise the

predominant number of the users of the facilities and services of the installation.

(c) PROGRAM REQUIREMENT AND LIMITATION.—(1) Except as provided in paragraph (3), commissary stores operated under such program shall be operated in accordance with section 2484 of title 10, United States Code, relating to the payment of costs by the Department of Defense in connection with the operation of commissary stores.

(2) Except as provided in paragraph (3), the Secretary of Defense may, subject to such section, authorize a transfer of goods, supplies, and facilities of, and funds appropriated for, the Defense Commissary Agency to the nonappropriated fund instrumentalities selected under subsection (a)(2) for the purpose of operating combined exchange and commissary stores under such program.

(3) Appropriated funds may not be used pursuant to such section to pay costs associated with the direct support and operation of combined exchange and commissary stores under such program.

(d) PERIOD OF DEMONSTRATION PROGRAM.—A nonappropriated fund instrumentality selected under subsection (a)(2) shall operate commissary store facilities under such program for the period beginning on the date of the selection of the nonappropriated fund instrumentality and ending on the date of the expiration of the period referred to in subsection (e).

(e) REPORT.—Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress a report on the implementation of such program. The report shall include the findings, conclusions, and recommendations of the Secretary, including a recommendation with respect to whether similar programs should be carried out at other military installations.

(f) DEFINITION.—In this section, the term "nonappropriated fund instrumentality" means an instrumentality of the United States under the jurisdiction of the Department of the Army or the Department of the Air Force (including the Army and Air Force Exchange Service) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.

SEC. 364. RELEASE OF INFORMATION REGARDING SALES AT COMMISSARY STORES.

(a) AUTHORITY TO RELEASE.—Section 2487 of title 10, United States Code, is amended by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) AUTHORITY TO LIMIT RELEASE.—(1) The Secretary of Defense may limit the release to the public of any information described in paragraph (2) if the Secretary determines that it is in the best interest of the Department of Defense to limit the release of such information. If the Secretary determines to limit the release of any such information, the Secretary may provide for limited release of such information in accordance with subsection (b).

"(2) Paragraph (1) applies to those portions of computer data generated by electronic scanners used in military commissaries, and those portions of reports generated by such scanners, that contain the following information:

"(A) The unit price of items sold.

"(B) The number of units of items sold.

"(b) RELEASE UNDER COMPETITIVELY AWARDED AGREEMENTS.—The Secretary of Defense may enter into one or more agreements that provide for limited release of information described in subsection (a)(2). The Secretary shall use competitive procedures to enter into each such agreement. Each agreement shall require payment for such information and shall specify the amount of such payment.".

(b) TECHNICAL AMENDMENTS.—(1) The item relating to such section in the table of sections at the beginning of chapter 147 of title 10, United States Code, is amended by striking out "limitation" and inserting in lieu thereof "limitations".

(2) Subsection (c) of such section is amended by inserting after "(c)" the following: "DEPOSIT OF RECEIPTS.—".

SEC. 365. USE OF COMMISSARY STORES BY MEMBERS OF THE READY RESERVE.

(a) IN GENERAL.—Section 1063(a) of title 10, United States Code, is amended to read as follows:

"(a) ELIGIBILITY OF MEMBERS OF READY RESERVE.—(1) A member of the Ready Reserve who satisfactorily completes 50 or more points creditable under section 1332(a)(2) of this title in a calendar year shall be eligible to use commissary stores of the Department of Defense. The Secretary concerned shall authorize the member to have 12 days of eligibility for any calendar year that the member qualifies for eligibility under this subsection.

"(2) Paragraph (1) shall apply without regard to whether, during the calendar year, the member receives compensation for the duty or training performed by the member or performs active duty for training.".

10 USC 1063 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to the completion of reserve points beginning in calendar year 1992.

(c) CONFORMING AMENDMENTS.—(1) The heading of section 1063 of such title is amended to read as follows:

"§ 1063. Period for use of commissary stores: eligibility for members of the Ready Reserve"

(2) The item relating to such section in the table of sections at the beginning of such chapter is amended to read as follows:

"1063. Period for use of commissary stores: eligibility for members of the Ready Reserve.".

Subtitle G—Other Matters

SEC. 371. EXTENSION OF CERTAIN GUIDELINES FOR REDUCTIONS IN THE NUMBER OF CIVILIAN POSITIONS IN THE DEPARTMENT OF DEFENSE.

(a) EXTENSION OF GUIDELINES.—Section 1597 of title 10, United States Code, is amended to read as follows:

"§ 1597. Civilian positions: guidelines for reductions

"(a) REQUIREMENT OF GUIDELINES FOR REDUCTIONS IN CIVILIAN POSITIONS.—Reductions in the number of civilian positions of the Department of Defense during fiscal year 1993, if any, shall be carried out in accordance with the guidelines established pursuant to subsection (b).

"(b) GUIDELINES.—The Secretary of Defense shall establish guidelines for fiscal year 1993 for the manner in which reductions

in the number of civilian positions of the Department of Defense are made. The guidelines shall include procedures for reviewing civilian positions for reductions according to the following order:

"(1) Positions filled by foreign national employees overseas.

"(2) All other positions filled by civilian employees overseas.

"(3) Overhead, indirect, and administrative positions in headquarters or field operating agencies in the United States.

"(4) Direct operating or production positions in the United States.

"(c) MASTER PLAN.—(1) The Secretary of Defense shall include in the materials submitted to Congress in support of the budget request for the Department of Defense for fiscal year 1994 a civilian positions master plan described in paragraph (2) for the Department of Defense as a whole and for each military department, Defense Agency, and other principal component of the Department of Defense.

"(2) The master plan referred to in paragraph (1) shall include the information described in paragraph (3). Such information shall include information for each of the two fiscal years immediately preceding such fiscal year and projected information for such fiscal year and each of the two fiscal years immediately following such fiscal year.

"(3) The information referred to in paragraph (2) is the following:

"(A) A profile of the levels of civilian positions sufficient to establish and maintain a baseline for tracking annual accessions and losses of civilian positions and to provide for the analysis of trends in the levels of civilian positions within the Department of Defense as a whole and for each military department, major subordinate command of each military department, Defense Agency, and other principal component of the Department of Defense. The profile shall include information on the following:

"(i) The total number of civilian employees.

"(ii) Of the total number of civilian employees, the number of civilian employees in the United States, the number of civilian employees overseas, and the number of foreign national employees overseas.

"(iii) Of the total number of civilian employees at the end of each fiscal year covered by the master plan, the number of full-time employees, the number of part-time employees, and the number of temporary and on-call employees.

"(iv) Accessions and losses of civilian positions, shown in the aggregate and by the number of full-time employees, the number of part-time employees, and the number of temporary and on-call employees.

"(v) The number of losses of civilian positions, by appropriation account, due to reductions in force, furloughs, or functional transfers or other significant transfers of work away from the military department, defense agency, or other component.

"(vi) The extent to which accessions and losses of civilian positions are due to functional transfers or competitive actions that are related to the Department of Defense management review initiatives of the Secretary of Defense.

"(B) For industrial-type and commercial-type activities funded through the Defense Business Operations Fund, the following information:

"(i) Annual trends in the amount of funded workload for each activity, based upon the average number of months of accumulated, funded workload to be performed, or projected to be performed, by the activity.

"(ii) The extent to which such workload is funded by funds that are appropriated from appropriation accounts and managed through the Defense Business Operations Fund.

"(C) Information that indicates trends in the extent to which the military department, defense agency, or other component enters into contracts with persons outside of the Department of Defense, rather than uses civilian positions, to perform work for the military department, defense agency or other component.

"(D) Information that indicates the extent to which the Department of Defense management review initiatives of the Secretary of Defense and other productivity enhancement programs of the Department of Defense significantly affect the number of losses of civilian positions, particularly administrative and management positions.

"(d) EXCEPTIONS.—The Secretary of Defense may permit a variation from the guidelines established under subsection (b) or a master plan prepared under subsection (c) if the Secretary determines that such variation is critical to the national security. The Secretary shall immediately notify the Congress of any such variation and the reasons for such variation.

"(e) INVOLUNTARY REDUCTIONS OF CIVILIAN POSITIONS.—The Secretary of Defense may not implement any involuntary reduction or furlough of civilian positions in a military department, Defense Agency, or other component of the Department of Defense until the expiration of the 45-day period beginning of the date on which the Secretary submits to Congress a report setting forth the reasons why such reductions or furloughs are required and a description of any change in workload or positions requirements that will result from such reductions or furloughs.".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1597. Civilian positions: guidelines for reductions.".

SEC. 372. ANNUAL REPORT ON SECURITY AND CONTROL OF SUPPLIES.

(a) ANNUAL REPORT.—Subsection (a) of section 2891 of title 10, United States Code, is amended by striking out "for each of fiscal years 1989, 1990, and 1991" and inserting in lieu thereof "for each of fiscal years 1992, 1993, and 1994".

(b) CONTENT OF REPORT.—Subsection (b) of such section is amended by adding at the end the following new paragraphs:

"(9) A summary description of the cases determined by the Secretary of Defense to be cases of major thefts of Department of Defense supplies during the fiscal year preceding the fiscal year in which the report is submitted, including any case involving a loss in an amount greater than $1,000,000 or a loss of sensitive or classified items.

"(10) The value, and an analysis, of in-transit losses that occurred during the fiscal year preceding the fiscal year in which the report is submitted.".

SEC. 373. TRANSPORTATION OF DONATED MILITARY ARTIFACTS.

Section 2572(d)(2) of title 10, United States Code, is amended—

(1) by striking out "(2) The" and inserting in lieu thereof "(2)(A) Except as provided in subparagraph (B), the"; and

(2) by adding at the end the following new subparagraph:

"(B) The Secretary concerned may, without cost to the recipient, demilitarize, prepare, and transport in the continental United States for donation to a recognized war veterans' association an item authorized to be donated under this section if the Secretary determines the demilitarization, preparation, and transportation can be accomplished as a training mission without additional budgetary requirements for the unit involved.".

SEC. 374. SUBCONTRACTING AUTHORITY FOR AIR FORCE AND NAVY DEPOTS.

Section 2208(j) of title 10, United States Code, is amended by striking out "The Secretary" and all that follows through "facility" and inserting in lieu thereof "The Secretary of a military department may authorize a working capital funded industrial facility of that department".

SEC. 375. CONSIDERATION OF VESSEL LOCATION FOR THE AWARD OF LAYBERTH CONTRACTS FOR SEALIFT VESSELS.

10 USC 7291 note.

(a) CONSIDERATION OF VESSEL LOCATION IN THE AWARD OF LAYBERTH CONTRACTS.—As a factor in the evaluation of bids and proposals for the award of contracts to layberth sealift vessels of the Department of the Navy, the Secretary of the Navy shall include the location of the vessels, including whether the vessels should be layberthed at locations where—

(1) members of the Armed Forces are likely to be loaded onto the vessels; and

(2) layberthing the vessels maximizes the ability of the vessels to meet mobility and training needs of the Department of Defense.

(b) ESTABLISHMENT OF LOCATION AS A MAJOR CRITERION.—In the evaluation of bids and proposals referred to in subsection (a), the Secretary of the Navy shall give the same level of consideration to the location of the vessels as the Secretary gives to other major factors established by the Secretary.

(c) APPLICABILITY.—Subsection (a) shall apply to any solicitation for bids or proposals issued after the end of the 120-day period beginning on the date of the enactment of this Act.

SEC. 376. PILOT PROGRAM TO USE NATIONAL GUARD PERSONNEL IN MEDICALLY UNDERSERVED COMMUNITIES.

32 USC 501 note.

(a) PILOT PROGRAM.—Under regulations prescribed by the Secretary of Defense, the Chief of the National Guard Bureau shall enter into an agreement with each of the Governors of one or more States to carry out a pilot program during fiscal years 1993 and 1994 to provide training and professional development opportunities for members of the National Guard through the provision of health care to residents of medically underserved communities in those States with the use of personnel and equipment of the National Guard.

Regulations.

(b) FUNDING ASSISTANCE.—Under the agreement, the Chief of the National Guard Bureau shall provide funds for the pay, allowances, clothing, subsistence, travel, and related expenses of personnel of the National Guard participating in the pilot program and for medical supplies and equipment to be used to provide health care to medically underserved populations. Of the funds authorized to be appropriated for fiscal year 1993 for operation and maintenance under this title for the Army National Guard, not more than $5,000,000 may be used by the Chief of the National Guard Bureau to provide funding under the agreements.

(c) MAINTENANCE OF EFFORT.—The Chief of the National Guard Bureau shall ensure that each agreement under subsection (a) provides that the provision of services under the pilot program will supplement and increase the level of services that would be provided with non-Federal funds in the absence of such services, and will in no event supplant services provided with non-Federal funds.

(d) COORDINATION AMONG PROGRAMS.—In carrying out the pilot program under subsection (a), the Chief of the National Guard Bureau shall consult with the Secretary of Health and Human Services for the purpose of ensuring that the provision of services under the pilot program are not redundant with the services of programs of such Secretary.

(e) SERVICE OF PARTICIPANTS.—Service by National Guard personnel in the pilot program shall be counted toward the annual training required under section 270 of title 10, United States Code, and section 502 of title 32, United States Code.

(f) REPORT.—The Secretary of Defense shall, not later than January 1, 1994, submit to the Congress a report on the effectiveness of the pilot program and any recommendations with respect to the pilot program.

SEC. 377. AUTHORITY FOR THE ISSUE OF UNIFORMS WITHOUT CHARGE TO MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—Chapter 45 of title 10, United States Code, is amended—

(1) by redesignating section 775 as section 776; and

(2) by inserting after section 774 the following new section:

"§ 775. Issue of uniform without charge

"(a) ISSUE OF UNIFORM.—The Secretary concerned may issue a uniform, without charge, to any of the following members:

"(1) A member who is being repatriated after being held as a prisoner of war.

"(2) A member who is being treated at or released from a medical treatment facility as a consequence of being wounded or injured during military hostilities.

"(3) A member who, as a result of the member's duties, has unique uniform requirements.

"(4) Any other member, if the Secretary concerned determines, under exceptional circumstances, that the issue of the uniform to that member would significantly benefit the morale and welfare of the member and be advantageous to the armed force concerned.

"(b) RETENTION OF UNIFORM AS A PERSONAL ITEM.—Notwithstanding section 771a of this title, a uniform issued to a member

under this section may be retained by the member as a personal item.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 775 and inserting in lieu thereof the following:

"775. Issue of uniform without charge.
"776. Applicability of chapter.".

SEC. 378. PROGRAM TO COMMEMORATE WORLD WAR II. 10 USC 113 note.

(a) IN GENERAL.—The Secretary of Defense may, during fiscal years 1993 through 1995, conduct a program to commemorate the 50th anniversary of World War II and to coordinate, support, and facilitate other such commemoration programs and activities of the Federal Government, State and local governments, and other persons.

(b) USE OF FUNDS.—During fiscal years 1993 through 1995, funds appropriated to the Department of Defense for operation and maintenance of Defense Agencies shall be available to conduct the program referred to in subsection (a).

(c) PROGRAM ACTIVITIES.—The program referred to in subsection (a) may include activities and ceremonies—

(1) to provide the people of the United States with a clear understanding and appreciation of the lessons and history of World War II;

(2) to thank and honor veterans of World War II and their families;

(3) to pay tribute to the sacrifices and contributions made on the home front by the people of the United States;

(4) to foster an awareness in the people of the United States that World War II was the central event of the 20th century that defined the postwar world;

(5) to highlight advances in technology, science, and medicine related to military research conducted during World War II;

(6) to inform wartime and postwar generations of the contributions of the Armed Forces of the United States to the United States;

(7) to recognize the contributions and sacrifices made by World War II allies of the United States; and

(8) to highlight the role of the Armed Forces of the United States, then and now, in maintaining world peace through strength.

(d) AUTHORITY OF THE SECRETARY.—(1) In connection with the program referred to in subsection (a), the Secretary of Defense may adopt, use, and register as trademarks and service marks, emblems, signs, insignia, or words. The Secretary shall have the exclusive right to use such emblems, signs, insignia or words, subject to the preexisting rights described in paragraph (3), and may grant exclusive or nonexclusive licenses in connection therewith.

(2) Without the consent of the Secretary of Defense, any person who uses any emblem, sign, insignia, or word adopted, used, or registered as a trademark or service mark by the Secretary in accordance with paragraph (1), or any combination or simulation thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the program referred to in subsection (a), shall be subject to suit in a civil action by the

Attorney General, upon complaint by the Secretary of Defense, for the remedies provided in the Act of July 5, 1946, as amended (60 Stat. 427; popularly known as the Trademark Act of 1945) (15 U.S.C. 1051 et seq.).

(3) Any person who actually used an emblem, sign, insignia, or word adopted, used, or registered as a trademark or service mark by the Secretary in accordance with paragraph (1), or any combination or simulation thereof, for any lawful purpose before such adoption, use, or registration as a trademark or service mark by the Secretary shall not be prohibited by this section from continuing such lawful use for the same purpose and for the same goods or services.

(e) ESTABLISHMENT OF ACCOUNT.—(1) There is established in the Treasury of the United States an account to be known as the "Department of Defense 50th Anniversary of World War II Commemoration Account" which shall be administered by the Secretary of Defense as a single account. There shall be deposited into the account all proceeds derived from activities described in subsection (d).

(2) The Secretary may use the funds in the account established in paragraph (1) only for the purpose of conducting the program referred to in subsection (a).

(3) Not later than 60 days after the termination of the authority of the Secretary to conduct the commemoration program referred to in subsection (a), the Secretary shall transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing an accounting of all the funds deposited into and expended from the account or otherwise expended under this section, and of any amount remaining in the account. Unobligated funds which remain in the account after termination of the authority of the Secretary under this section shall be held in the account until transferred by law after the Committees receive the report.

(f) PROVISION OF VOLUNTARY SERVICES.—(1) Notwithstanding section 1342 of title 31, United States Code, the Secretary of Defense may accept from any person voluntary services to be provided in furtherance of the program referred to in subsection (a).

(2) A person providing voluntary services under this subsection shall be considered to be an employee for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purposes by reason of the provision of such service.

(3) The Secretary of Defense may provide for reimbursement of incidental expenses which are incurred by a person providing voluntary services under this subsection. The Secretary of Defense shall determine which expenses are eligible for reimbursement under this paragraph.

SEC. 379. EXTENSION OF DEMONSTRATION PROJECT FOR THE USE OF PROCEEDS FROM THE SALE OF CERTAIN LOST, ABANDONED, OR UNCLAIMED PERSONAL PROPERTY.

(a) EXTENSION OF PROGRAM.—Section 343(d)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1344) is amended by striking out "terminate at the end of the one-year period" and inserting in lieu thereof "terminate at the end of the two-year period".

(b) REPORT.—Section 343(e) of such Act is amended by striking out "one-year period" and inserting in lieu thereof "two-year period".

SEC. 380. PROMOTION OF CIVILIAN MARKSMANSHIP.

(a) AUTHORITY OF THE SECRETARY OF THE ARMY.—(1) Section 4308 of title 10, United States Code, is amended to read as follows:

"§ 4308. Promotion of civilian marksmanship: authority of the Secretary of the Army

"(a) PROGRAM REQUIRED.—The Secretary of the Army, under regulations approved by him upon the recommendation of the National Board for the Promotion of Rifle Practice, shall provide for—

"(1) the operation and maintenance of indoor and outdoor rifle ranges and their accessories and appliances;

"(2) the instruction of citizens of the United States in marksmanship, and the employment of necessary instructors for that purpose;

"(3) the promotion of practice in the use of rifled arms, the maintenance and management of matches or competitions in the use of those arms, and the issue, without cost, of the arms, ammunition (including caliber .22 and caliber .30 ammunition), targets, and other supplies and appliances necessary for those purposes, to gun clubs under the direction of the National Board for the Promotion of Rifle Practice that provide training in the use of rifled arms to youth, the Boy Scouts of America, 4–H Clubs, Future Farmers of America, and other youth-oriented organizations for training and competition;

"(4) the award to competitors of trophies, prizes, badges, and other insignia;

"(5) the loan or sale at fair market value of caliber .30 rifles, caliber .22 rifles, and air rifles, and the sale of ammunition at fair market value, to gun clubs that—

"(A) are under the direction of the National Board for the Promotion of Rifle Practice; and

"(B) provide training in the use of rifled arms;

"(6) the sale at fair market value of arms (including surplus M–1 Garand rifles), ammunition, targets, and other supplies and appliances necessary for target practice to citizens of the United States over 18 years of age who are members of a gun club under the direction of the National Board for the Promotion of Rifle Practice;

"(7) the maintenance of the National Board for the Promotion of Rifle Practice, including provision for its necessary expenses and those of its members and for the Board's expenses incidental to the conduct of the Board's annual meetings;

"(8) the procurement of necessary supplies, appliances, trophies, prizes, badges, and other insignia, clerical and other services, and labor; and

"(9) the transportation of employees, instructors, and civilians to give or to receive instruction or to assist or engage in practice in the use of rifled arms, and the transportation and subsistence, or an allowance instead of subsistence, of members of teams authorized by the Secretary to participate in matches or competitions in the use of rifled arms.

"(b) ADDITIONAL AUTHORITY.—The Secretary may—

"(1) provide personnel services (in addition to pay and nontravel-related allowances for members of the armed forces) in carrying out the Civilian Marksmanship Program; and

"(2) impose reasonable fees for persons and gun clubs participating in any program conducted by the Secretary for the promotion of marksmanship among civilians.

"(c) AMOUNTS COLLECTED.—Amounts collected by the Secretary under the Civilian Marksmanship Program, including the proceeds from the sale of arms, ammunition, targets, and other supplies and appliances under subsection (a), shall be credited to the appropriation available for the support of the Civilian Marksmanship Program and shall be available to carry out such program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each fiscal year such sums as may be necessary to pay the personnel costs and other expenses of the Civilian Marksmanship Program in such fiscal year to the extent that the amounts available out of the revenues collected under the program are insufficient to defray such costs and expenses.

"(e) DEFINITION.—In this section, the term 'Civilian Marksmanship Program' means the program carried out by the Secretary of the Army under this section and sections 4310 through 4312 of this title and includes the National Matches and small-arms firing schools referred to in section 4312 of this title.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4308 and inserting in lieu thereof the following:

"4308. Promotion of civilian marksmanship: authority of the Secretary of the Army.".

(b) AVAILABILITY OF RIFLE RANGES FOR ARMED FORCES AND CIVILIANS.—(1) Section 4309 of title 10, United States Code, is amended to read as follows:

"§ 4309. Rifle ranges: availability for use by members and civilians

"(a) RANGES AVAILABLE.—All rifle ranges constructed in whole or in part with funds provided by the United States may be used by members of the armed forces and by persons capable of bearing arms.

"(b) MILITARY RANGES.—(1) In the case of a rifle range referred to in subsection (a) that is located on a military installation, the Secretary concerned may establish reasonable fees for the use by civilians of that rifle range to cover the material and supply costs incurred by the armed forces to make that rifle range available to civilians.

"(2) Fees collected pursuant to paragraph (1) in connection with the use of a rifle range shall be credited to the appropriation available for the operation and maintenance of that rifle range and shall be available for the operation and maintenance of that rifle range.

"(3) Use of a rifle range referred to in paragraph (1) by civilians may not interfere with the use of the range by members of the armed forces.

"(c) REGULATIONS.—Regulations to carry out this section with respect to a rifle range shall be prescribed, subject to the approval of the Secretary concerned, by the authorities controlling the rifle range.".

(2) The table of sections at the beginning of chapter 401 of such title is amended by striking out the item relating to section 4309 and inserting in lieu thereof the following:

"4309. Rifle ranges: availability for use by members and civilians.".

(c) PAYMENT OF EXPENSES FOR NATIONAL MATCH COMPETITORS.—(1) Section 4313 of title 10, United States Code, is amended to read as follows:

"§ 4313. National matches and small-arms school: expenses

"(a) JUNIOR COMPETITORS.—(1) Junior competitors at National Matches, small-arms firing schools, and competitions in connection with National Matches and special clinics under section 4312 of this title may be paid a subsistence allowance in such amount as the Secretary of the Army shall prescribe.

"(2) A junior competitor referred to in paragraph (1) may be paid a travel allowance, in such amount as the Secretary of the Army shall prescribe, instead of travel expenses and subsistence while traveling. The travel allowance for the return trip may be paid in advance.

"(3) For the purposes of this subsection, a junior competitor is a competitor who is under 18 years of age or is a member of a gun club organized for the students of a college or university.

"(b) RESERVE COMPONENT PERSONNEL.—Appropriated funds available for the Civilian Marksmanship Program (as defined in section 4308(e) of this title) may be used to pay the personnel costs and travel and per diem expenses of a member of a reserve component for any active duty performed by the member in a fiscal year in support of the program after the end of that member's scheduled period of annual training for that fiscal year.".

(2) The item relating to section 4313 in the table of sections at the beginning of chapter 401 of such title is amended by striking out "rifle".

(d) REPORT.—(1) Chapter 401 of such title is amended by adding at the end the following new section:

"§ 4316. Reporting requirements

"The Secretary of the Army shall biennially submit to the Congress a report that specifies the overall expenditures for programs and activities under this chapter, including fees charged and amounts collected pursuant to subsections (b) and (c) of section 4308, and any progress made with respect to achieving financial self-sufficiency of the programs and activities.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4316. Reporting requirements.".

(e) EFFECTIVE DATE.—(1) This section and the amendments made by this section shall take effect on the earlier of— 10 USC 4308 note.

(A) the date of the enactment of this Act; or

(B) October 1, 1992.

(2) If under paragraph (1) the amendments made by this section take effect before October 1, 1992, the amendments made by section 328 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 104 Stat. 1533) shall not take effect.

(3) If under paragraph (1) the amendments made by this section take effect on October 1, 1992, the amendments made by this section shall be considered executed immediately following the amendments made by section 328 of the National Defense

Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1533).

SEC. 381. EXTENSION OF AUTHORITY FOR AVIATION DEPOTS AND NAVAL SHIPYARDS TO ENGAGE IN DEFENSE-RELATED PRODUCTION AND SERVICES.

Section 1425(e) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1684) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

SEC. 382. OPTIONAL DEFENSE DEPENDENTS' SUMMER SCHOOL PROGRAMS.

Section 1402 of the Defense Dependents' Education Act of 1978 (title XIV of Public Law 95–561; 20 U.S.C. 921) is amended by adding at the end the following new subsection:

"(d)(1) The Secretary of Defense may provide optional summer school programs in the defense dependents' education system.

"(2) The Secretary shall provide in regulations for fees to be charged for the students enrolling in a summer school program under this subsection in amounts determined on the basis of family income.

"(3) The amounts received by the Secretary in payment of the fees shall be available to the Department of Defense for defraying the costs of conducting summer school programs under this subsection.".

10 USC 113 note.

SEC. 383. REVIEW OF MILITARY FLIGHT TRAINING ACTIVITIES AT CIVILIAN AIRFIELDS.

(a) REVIEW REQUIRED.—The Secretary of Defense shall provide for a review of the practices and procedures of the military departments regarding the use of civilian airfields in flight training activities of the Armed Forces.

(b) PURPOSE.—The purpose of the review is to determine whether the practices and procedures referred to in subsection (a) should be modified to better protect the public safety while meeting training requirements of the Armed Forces.

(c) SPECIAL REQUIREMENT.—In the conduct of the review, particular consideration shall be given to the practices and procedures regarding the use of civilian airfields in heavily populated areas.

SEC. 384. PREFERENCE FOR PROCUREMENT OF ENERGY EFFICIENT ELECTRIC EQUIPMENT.

(a) REQUIREMENT FOR PREFERENCE.—(1)(A) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410c. Preference for energy efficient electric equipment

"(a) When cost effective, in establishing a new requirement for electric equipment referred to in subsection (b) and in procuring electric equipment referred to in that subsection, the Secretary of a military department or the head of a Defense Agency, as the case may be, shall provide a preference for the procurement of the most energy efficient electric equipment available that meets the requirement or the need for the procurement, as the case may be.

"(b) Subsection (a) applies to the following electric equipment:

"(1) Electric lamps.
"(2) Electric ballasts.
"(3) Electric motors.
"(4) Electric refrigeration equipment.".

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410c. Preference for energy efficient electric equipment.".

(2) The amendments made by paragraph (1) shall apply to procurements for which solicitations are issued on or after the date that is 120 days after the date of the enactment of this Act. 10 USC 2410c note.

(b) ELECTRIC LIGHTING DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient electric lighting equipment. 10 USC 2410c note.

(2) The Secretary shall designate 50 facilities owned or leased by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the electric lighting equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of electric lighting at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of electric lighting equipment at the facility that is more energy efficient than the existing electric lighting equipment to the extent that the conversion is cost effective.

(5) Energy efficient electric lighting equipment used under the demonstration program may include compact fluorescent lamps, energy efficient electric ballasts and fixtures, and other energy efficient electric lighting equipment.

(c) REFRIGERATION EQUIPMENT DEMONSTRATION PROGRAM.—(1) The Secretary of Defense shall conduct a demonstration program for using energy efficient refrigeration equipment. 10 USC 2410c note.

(2) The Secretary shall designate 50 facilities owned or operated by the Department of Defense for participation in the demonstration program under this subsection.

(3) The head of each facility designated pursuant to paragraph (2) and the Director of the Defense Logistics Agency shall jointly audit the refrigeration equipment at the facility in order—

(A) to identify any potential improvements that would increase the energy efficiency of the refrigeration equipment at that facility; and

(B) to determine the costs of, and the savings that would result from, such improvements.

(4) Except as provided in subsection (d)(4), on the basis of the results of the audit the head of the facility shall promptly convert to the use of refrigeration equipment at the facility that is more energy efficient than the existing refrigeration equipment to the extent that the conversion is cost effective.

(d) GENERAL PROVISIONS FOR DEMONSTRATION PROGRAMS.—(1) The Secretary of Defense shall make the designations under subsections (b)(2) and (c)(2) not later than 180 days after the date of the enactment of this Act. 10 USC 2410c note.

(2) The Secretary of Defense may designate a facility described in subsections (b)(2) and (c)(2) for participation in the demonstration program under subsection (b) and the demonstration program under subsection (c).

(3) The audits required by subsections (b)(3) and (c)(3) shall be completed not later than January 1, 1994.

(4) The head of a facility may not carry out a conversion described in subsection (b)(4) or (c)(4) if the conversion prevents the head of the facility from carrying out other improvements relating to energy efficiency that are more cost effective than that conversion.

SEC. 385. PAYMENT OF RESIDENTS OF THE ARMED FORCES RETIREMENT HOME FOR SERVICES.

(a) AUTHORITY.—Part A of the Armed Forces Retirement Home Act of 1991 (title XV of Public Law 101–510; 24 U.S.C. 401 et seq.) is amended by adding at the end the following:

24 USC 421.

"SEC. 1521. PAYMENT OF RESIDENTS FOR SERVICES.

"(a) AUTHORITY.—The Chairman of the Armed Forces Retirement Board is authorized to accept for the Armed Forces Retirement Home the part-time or intermittent services of a resident of the Retirement Home, to pay the resident for such services, and to fix the rate of such pay.

"(b) EMPLOYMENT STATUS.—A resident receiving pay for services authorized under subsection (a) shall not, by reason of performing such services and receiving pay for such services, be considered as—

"(1) receiving the pay of a position or being employed in a position for the purposes of section 5532 of title 5, United States Code; or

"(2) being an employee of the United States for any other purpose.

"(c) DEFINITION.—In subsection (b)(1), the term 'position' has the meaning given that term in section 5531 of title 5, United States Code.".

24 USC 421 note.

(b) FORGIVENESS OF INDEBTEDNESS.—The Chairman of the Armed Forces Retirement Board is authorized to cancel the indebtedness of any resident of the Armed Forces Retirement Home for repayment to the United States of amounts paid the resident for services provided to the Retirement Home before the date of the enactment of this Act if the Chairman determines that it would be in the interest of the United States to do so and against equity and good conscience to require the repayment.

24 USC 238 note.

SEC. 386. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Defense, in consultation with the Secretary of Education, shall provide financial assistance to local educational agencies in States as provided in this section.

(b) SCHOOLS WITH SIGNIFICANT NUMBERS OF MILITARY DEPENDENT STUDENTS.—The Secretary of Defense shall provide financial assistance to an eligible local educational agency described in subsection (c) if, without such assistance, that agency will be unable (as determined by the Secretary of Defense in consultation with

the Secretary of Education) to provide the students in the schools of the agency with a level of education that is equivalent to the minimum level of education available in the schools of the other local educational agencies in the same State.

(c) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency is eligible for assistance under subsection (b) for a fiscal year if—

(1) at least 30 percent (as rounded to the nearest whole percent) of the students in average daily attendance in the schools of that agency in that fiscal year are military dependent students counted under subsection (a) or (b) of section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238); or

(2) by reason of a consolidation or reorganization of local educational agencies, the local educational agency is a successor of a local educational agency that, for fiscal year 1992—

(A) was eligible to receive payments in accordance with Department of Defense Instruction 1342.18, dated June 3, 1991; and

(B) satisfied the requirement in paragraph (1).

(d) ADJUSTMENT PAYMENTS RELATED TO BASE CLOSURES AND REALIGNMENTS.—Subject to subsection (g), to assist communities in making adjustments resulting from reductions in the size of the Armed Forces, the Secretary of Defense shall transfer to the Secretary of Education funds to make payments to local educational agencies that are entitled to receive under section 3 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238), payments adjusted in accordance with subsection (e) of such section by reason of conditions described in subparagraphs (A) through (C) of paragraph (1) of such subsection that result from closures and realignments of military installations.

(e) REPORT ON IMPACT OF BASE CLOSURES ON EDUCATIONAL AGENCIES.—(1) Not later than February 15 of each of 1993, 1994, and 1995, the Secretary of Defense, in consultation with the Secretary of Education, shall submit to Congress a report on the local educational agencies affected by the closures and realignment of military installations and by redeployments of members of the Armed Forces.

(2) Each report shall contain the following:

(A) The number of dependent children of members of the Armed Forces or civilian employees of the Department of Defense who entered the schools of the local educational agencies during the preceding school year as a result of closures, realignments, or redeployments.

(B) The number of dependent children of such members or employees who withdrew from the schools of the local educational agencies during that school year as a result of closures, realignments, or redeployments.

(C) The amounts paid to the local educational agencies during that year under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 236 et seq.), or any other provision of law authorizing the payment of financial assistance to local communities or local educational agencies on the basis of the presence of dependent children of such members or employees in such communities and in the schools of such agencies.

(D) The projected transfers of such members and employees in connection with closures, realignments, and redeployments during the 12-month period beginning on the date of the report, including—

(i) the installations to be closed or realigned;

(ii) the installations to which personnel will be transferred as a result of closures, realignments, and redeployments; and

(iii) the effects of such transfers on the number of dependent children who will be included in determinations with respect to the payment of funds to each affected local educational agency under subsections (a) and (b) of section 3 of such Act (20 U.S.C. 238).

(e) DEFINITIONS.—In this section:

(1) The term "local educational agency" has the meaning given that term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

(2) The term "military dependent student" means a student that is—

(A) a dependent child of a member of the Armed Forces; or

(B) a dependent child of a civilian employee of the Department of Defense.

(3) The term "State" has the meaning given that term in section 3(d)(3)(D)(i) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 238(d)(3)(D)(i)).

(f) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301—

(1) $50,000,000 shall be available for providing assistance to local educational agencies under subsection (b); and

(2) $8,000,000 shall be available for making payments to local educational agencies under subsection (d).

(g) LIMITATION ON TRANSFER AND OBLIGATION OF FUNDS.—(1) The amount made available pursuant to subsection (f)(2) for adjustment assistance related to base closures and realignments under subsection (d) may be obligated for such adjustment assistance only if expenditures for that adjustment assistance for fiscal year 1993 have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(2) Not later than the third day after the date of the enactment of this Act, the Director of the Office of Management and Budget shall make a determination as to the classification by discretionary spending limit category for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 of the amount appropriated for adjustment assistance related to base closures and realignments under subsection (d). If the Director determines that the amount shall not classify against the defense category (as described in paragraph (1)), then the President shall submit to Congress a report stating that the Director has made such a determination and the amount that will not classify against the defense category and containing an explanation for the determination.

(3) The amount listed in the report under paragraph (2) may be transferred only to the programs under title III other than the program under subsection (d) pursuant to amounts specified in appropriation Acts. Any such transfer shall be taken into account for purposes of calculating all reports under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 387. TREATMENT OF STATE EQUALIZATION PROGRAMS IN DETERMINING ELIGIBILITY FOR, AND AMOUNT OF, IMPACT AID.

Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress; 20 U.S.C. 240(d)(2)) is amended—

(1) by striking the first subparagraph (C) (as added by section 330(a) of Public Law 94–482 (90 Stat. 2221)); and

(2) by adding at the end the following new subparagraph:

"(D) Any State whose program of State aid was certified by the Secretary under subparagraph (C) for fiscal year 1988, but whose program was determined by the Secretary under subparagraph (C)(i) not to meet the requirements of subparagraph (A) for one or more of the fiscal years 1989 through 1992—

"(i) shall be deemed to have met the requirements of subparagraph (A) for each of the fiscal years 1989 through 1992; and

"(ii) shall not, beginning with fiscal year 1993, and notwithstanding any other provision of this paragraph, take payments under this title into consideration as provided under subparagraph (A) for any fiscal year unless the Secretary has previously certified such State's program for such fiscal year.".

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

SEC. 401. END STRENGTHS FOR ACTIVE FORCES. 10 USC 115 note.

The Armed Forces are authorized strengths for active duty personnel as of September 30, 1993, as follows:

(1) The Army, 598,900, of whom not more than 88,855 shall be commissioned officers.

(2) The Navy, 535,800, of whom not more than 67,455 shall be commissioned officers.

(3) The Marine Corps, 181,900, of whom not more than 18,440 shall be commissioned officers.

(4) The Air Force, 449,900, of whom not more than 84,970 shall be commissioned officers.

SEC. 402. WAIVER AND TRANSFER AUTHORITY. 10 USC 115 note.

(a) WAIVER AUTHORITY.—The Secretary of Defense may waive an end strength prescribed in section 401 for any of the Armed Forces to the extent that the Secretary considers the waiver necessary to prevent personnel imbalances that would impair the long term combat readiness of that armed force.

(b) TRANSFER AUTHORITY.—(1) Upon determination by the Secretary of Defense that such action is necessary in order to prevent involuntary separations from the Armed Forces that would otherwise be necessary solely for the purpose of reducing the size of the Armed Forces below the authorized end strengths prescribed in section 401, the Secretary may transfer amounts appropriated to the Department of Defense pursuant to authorizations of appro-

priations in this division for fiscal year 1993. Amounts so transferred shall be merged with and be available for the same purposes as the appropriations to which transferred.

(2) A transfer made from one appropriation account to another under the authority of this section shall be deemed to increase the amount authorized for the appropriation account to which transferred by the amount transferred.

(3) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this subsection.

SEC. 403. LIMITED EXCLUSION OF JOINT SERVICE REQUIREMENTS FROM A LIMITATION ON THE STRENGTHS FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.

(a) EXCLUSION.—Section 526 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) LIMITED EXCLUSION FOR JOINT DUTY REQUIREMENTS.—(1) The Chairman of the Joint Chiefs of Staff may designate up to 12 general officer and flag officer positions that are joint duty assignments for purposes of chapter 38 of this title for exclusion from the limitations in subsection (a) that are applicable on and after October 1, 1995. Officers in positions so designated shall not be counted for the purposes of those limitations.

"(2) This subsection shall cease to be effective on October 1, 1998.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended by striking out "(b)" and inserting in lieu thereof "(b) TRANSFERS BETWEEN SERVICES.—".

10 USC 661 note.

SEC. 404. STUDY OF DISTRIBUTION OF GENERAL AND FLAG OFFICER POSITIONS IN JOINT DUTY ASSIGNMENTS.

(a) STUDY.—The Secretary of Defense shall conduct a study of whether joint organizations of the Department of Defense are fully staffed with the appropriate number of general and flag officers. For such purpose, the Secretary, as part of the study, shall—

(1) identify and validate requirements for general and flag officer joint positions;

(2) evaluate the process of reallocating general and flag officer positions when either new joint duty position requirements are identified or requirements for existing joint duty positions are terminated; and

(3) evaluate the process of identifying and assigning general and flag officers to joint positions.

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the study. The report shall include—

(1) the findings, conclusions, and recommendations of the study;

(2) a description of any actions taken by the Secretary based on the results of the study; and

(3) any recommendations for legislation that the Secretary considers appropriate based on the results of the study.

Subtitle B—Reserve Forces

SEC. 411. END STRENGTHS FOR SELECTED RESERVE. 10 USC 261 note.

(a) IN GENERAL.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1993, as follows:

(1) The Army National Guard of the United States, 422,725.
(2) The Army Reserve, 279,615.
(3) The Naval Reserve, 133,675.
(4) The Marine Corps Reserve, 42,315.
(5) The Air National Guard of the United States, 119,300.
(6) The Air Force Reserve, 82,300.
(7) The Coast Guard Reserve, 15,150.

(b) INCREASES IN END STRENGTHS.—The Secretary of Defense may increase an end strength authorized by subsection (a) by not more than 2 percent.

(c) LIMITATION ON REDUCTIONS IN END STRENGTHS.—(1) Except as provided in paragraph (2), the number of Selected Reserve personnel of any of the reserve components as of September 30, 1993, may not be below the number authorized in subsection (a) for that reserve component.

(2) The Secretary of Defense may authorize a reduction in the number applicable to any of the reserve components under paragraph (1) by not more than 0.5 percent if the Secretary of the military department concerned determines that such a reduction is necessary in order to permit the early and timely release of members who seek such release before the end of the fiscal year.

(d) ADJUSTMENTS.—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year, and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS. 10 USC 261 note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 1993, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 24,736.

(2) The Army Reserve, 12,637.
(3) The Naval Reserve, 21,490.
(4) The Marine Corps Reserve, 2,285.
(5) The Air National Guard of the United States, 9,106.
(6) The Air Force Reserve, 636.

10 USC 261 note.

SEC. 413. RESERVE COMPONENT FORCE STRUCTURE.

(a) REQUIREMENT TO PRESCRIBE RESERVE COMPONENT FORCE STRUCTURE.—The Secretary of each military department shall prescribe a force structure allowance for each reserve component under the jurisdiction of the Secretary. Each such force structure allowance for a reserve component—

(1) shall be consistent with, but in no case include a number of personnel spaces that is less than, the authorized end strength for that component; and

(2) shall be prescribed in accordance with historic service policies.

(b) DEFINITION.—For purposes of this section, the term "force structure allowance" means the number and types of units and organizations, and the number of authorized personnel spaces allocated to those units and organizations, in a military force.

Subtitle C—Military Training Student Loads

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS.

(a) IN GENERAL.—For fiscal year 1993, the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 85,475.
(2) The Navy, 51,371.
(3) The Marine Corps, 18,831.
(4) The Air Force, 33,164.
(5) The Defense Agencies, 4,740.

(b) ADJUSTMENTS.—The average military training student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in subtitles A and B. The Secretary of Defense shall prescribe the manner in which such adjustments shall be apportioned.

Subtitle D—Limitations

SEC. 431. REDUCTION IN NUMBER OF PERSONNEL CARRYING OUT RECRUITING ACTIVITIES.

(a) FISCAL YEAR 1994 LIMITATION.—The number of members of the Armed Forces on September 30, 1994, who are serving on full-time active duty or full-time National Guard duty and who, as a primary duty, carry out personnel recruiting activities may not exceed the number equal to 90 percent of the number of members of the Armed Forces who, as a primary duty, carried out personnel recruiting activities while serving on full-time active duty or full-time National Guard duty on September 30, 1992.

(b) FISCAL YEAR 1993 IMPLEMENTATION.—The Secretary of Defense shall ensure that the number of such personnel who, as a primary duty, carry out such activities is reduced appropriately during fiscal year 1993 to achieve the reduction required as of the end of fiscal year 1994.

SEC. 432. NAVY CRAFT OF OPPORTUNITY (COOP) PROGRAM.

The Secretary of the Navy shall ensure that none of the end strength reduction projected for the Naval Reserve in this Act shall be derived from personnel authorizations assigned to the Craft of Opportunity mission. The number of personnel authorizations assigned to that mission shall be maintained at not less than the level in effect on September 30, 1991.

SEC. 433. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 1993 a total of $76,511,000,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1993.

TITLE V—MILITARY PERSONNEL POLICY

SEC. 500. REFERENCE TO PERSONNEL POLICY PROVISIONS IN TITLE XLIV.

For provisions of this Act providing transition enhancements and other personnel benefits for the active forces relating to the defense drawdown, see subtitle A of title XLIV (sections 4401–4408). For provisions of this Act providing transition enhancements and other personnel benefits for the Guard and Reserve forces relating to the defense drawdown, see subtitle B of title XLIV (sections 4411–4422).

Subtitle A—Officer Personnel Policy

SEC. 501. REPORTS ON PLANS FOR OFFICER ACCESSIONS AND ASSIGNMENT OF JUNIOR OFFICERS.

(a) REPORT ON PLANNED OFFICER ACCESSIONS.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans of the military departments for the procurement of officer personnel during each of fiscal years 1993 through 1997.

(2) The report shall contain for each fiscal year for each military department the following:

(A) For each program of officer training resulting in a commission, the number of persons to be commissioned.

(B) Of the persons to be commissioned under the Reserve Officer Training Corps program, the number of persons receiving scholarships under that program and the number of persons not receiving scholarships under the program.

(C) Of the number of persons to be commissioned—

(i) the number necessary to meet immediate needs for active component personnel;

(ii) the number necessary to meet immediate needs for personnel for the Selected Reserve of the Ready Reserve of the reserve components; and

(iii) the number that will be assigned directly into the Individual Ready Reserve of the reserve components.

(b) REPORT ON PLANNED OFFICER ASSIGNMENTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the types of assignments that the military departments plan for the commis-

sioned officers who commence active duty for their initial period of obligated active duty service during each of fiscal years 1993 through 1997 after being commissioned upon completion of an officer training program, stated by officer training program. The report shall contain an analysis of the number of officers that are to be assigned for skills training and the number of officers that are to be assigned directly to occupational positions.

(c) SUBMISSION OF REPORTS.—The reports required by subsections (a) and (b) shall be submitted together not later than April 1, 1993.

10 USC 521 note.

SEC. 502. EVALUATION OF EFFECTS OF OFFICER STRENGTH REDUCTIONS ON OFFICER PERSONNEL MANAGEMENT SYSTEMS.

(a) REQUIREMENT FOR REVIEW.—The Secretary of Defense shall provide for a federally funded research and development center that is independent of the military departments to review the officer personnel management system of each of the military departments and to determine and evaluate the effects of the post-Cold War officer strength reductions on that officer personnel management system.

(b) MATTERS TO BE CONSIDERED.—The review and evaluation shall include, for the officer personnel management system of each military department, the effects of the officer strength reductions on the following:

(1) The timing and opportunities for officer promotions.

(2) The expected lengths of officer careers.

(3) Other features of the officer personnel management system under the Defense Officer Personnel Management Act (Public Law 96–513), including the provisions of law added and amended by that Act.

(4) Any other aspect of the officer personnel management system that the federally funded research and development center personnel conducting the review and evaluation consider appropriate or as directed by the Secretary of Defense.

(c) REPORT.—Not later than December 31, 1993, the federally funded research and development center shall submit to the Secretary of Defense a report on the results of the review and evaluation. Within 60 days after receiving the report, the Secretary shall transmit the report to the Committees on Armed Services of the Senate and House of Representatives. The Secretary may submit to such committees any comments that the Secretary considers appropriate regarding the matters contained in the report.

(d) FUNDING.—Funds appropriated for fiscal year 1993 pursuant to title II and made available for federally funded research and development centers shall be available for the conduct of the review and evaluation under this section.

SEC. 503. SUBMISSION OF ELIGIBILITY LISTS TO SELECTIVE EARLY RETIREMENT BOARDS.

Section 638a(c) of title 10, United States Code, is amended by adding at the end the following:

"(3) In the case of an action under subsection (b)(2), the Secretary of the military department concerned may submit to a selection board convened pursuant to that subsection—

"(A) the names of all eligible officers described in that subsection in a particular grade and competitive category; or

"(B) the names of all eligible officers described in that subsection in a particular grade and competitive category who

are also in particular year groups, specialties, or retirement categories, or any combination thereof, within that competitive category.".

SEC. 504. RETIREMENT OF CERTAIN LIMITED DUTY OFFICERS OF THE NAVY.

(a) REGULAR NAVY COMMANDERS.—Section 633 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Navy designated for limited duty to whom section 6383 of this title applies.".

(b) REGULAR NAVY CAPTAINS.—Section 634 of title 10, United States Code, is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, the preceding sentence shall not apply to an officer of the Regular Navy designated for limited duty to whom section 6383(a)(4) of this title applies.".

(c) MAXIMUM TENURE.—Subsection (a) of section 6383 of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraphs:

"(2) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of commander, has failed of selection for promotion to the grade of captain for the second time, and is not on a list of officers recommended for promotion to the grade of captain shall—

"(A) if eligible for retirement as a commissioned officer under any provision of law, be retired under that provision of law on the date requested by the officer and approved by the Secretary of the Navy, except that the date of retirement may not be later than the first day of the seventh month beginning after the month in which the President approves the report of the selection board in which the officer is considered as having failed for promotion to the grade of captain for a second time; or

"(B) if not eligible for retirement as a commissioned officer, be retired on the date requested by the officer and approved by the Secretary of the Navy after the officer becomes eligible for retirement as a commissioned officer, except that the date of retirement may not be later than the first day of the seventh calendar month beginning after the month in which the officer becomes eligible for retirement as a commissioned officer.

"(3) Except as provided in subsection (i), if not retired earlier, a regular officer of the Navy designated for limited duty who is serving in the grade of commander and is not on a list of officers recommended for promotion to the grade of captain shall be retired on the last day of the month following the month in which the officer completes 35 years of active naval service, exclusive of active duty for training in a reserve component.

"(4) Except as provided in subsection (i), each regular officer of the Navy designated for limited duty who is serving in the grade of captain shall, if not retired sooner, be retired on the last day of the month following the month in which the officer completes 38 years of active naval service, exclusive of active duty for training in a reserve component.

"(5) Paragraphs (2) through (4) shall be effective only during the period beginning on July 1, 1993, and ending on October 1, 1995.".

(d) LIMITATION ON DEFERRED RETIREMENT.—Subsection (i) of section 6383 of such title is amended by adding at the end the following: "During the period beginning on July 1, 1993, and ending on October 1, 1995, an officer of the Navy in the grade of commander or captain whose retirement is deferred under this subsection and who is not subsequently promoted may not be continued on active duty beyond age 62 or, if earlier, 28 years of active commissioned service if in the grade of commander or 30 years of active commissioned service if in the grade of captain.".

SEC. 505. APPOINTMENT OF CHIROPRACTORS AS COMMISSIONED OFFICERS.

(a) ARMY.—Section 3070 of title 10, United States Code, is amended—

(1) in subsection (a), by adding at the end the following new paragraph:

"(5) The Chiropractic Section.";

(2) in subsection (c), by striking out "four assistant chiefs" and inserting in lieu thereof "up to five assistant chiefs"; and

(3) by adding at the end the following new subsection:

"(d) Chiropractors who are qualified under regulations prescribed by the Secretary of the Army may be appointed as commissioned officers in the Chiropractic Section of the Army Medical Specialist Corps.".

(b) NAVY.—(1) Chapter 513 of such title is amended by inserting after section 5138 the following new section:

"§ 5139. Appointment of chiropractors in the Medical Service Corps

"Chiropractors who are qualified under regulations prescribed by the Secretary of the Navy may be appointed as commissioned officers in the Medical Service Corps of the Navy.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5138 the following new item:

"5139. Appointment of chiropractors in the Medical Service Corps.".

(c) AIR FORCE.—Section 8067(f) of such title is amended by inserting "and chiropractic functions" after "physician assistant functions".

10 USC 3070 note.

(d) DEADLINE FOR REGULATIONS.—The regulations required to be prescribed by the amendments made by this section shall be prescribed not later than 180 days after the date of the enactment of this Act.

SEC. 506. CLARIFICATION OF MINIMUM SERVICE REQUIREMENTS FOR CERTAIN FLIGHT CREW POSITIONS.

(a) MINIMUM REQUIREMENTS.—Section 653 of title 10, United States Code, is amended—

(1) in subsections (a) and (b), by striking out "active duty obligation" and inserting in lieu thereof "service obligation"; and

(2) in subsection (c), by striking out "the term 'active duty obligation' means the period of active duty" and inserting in lieu thereof "the term 'service obligation' means the period

of active duty or, in the case of a member of a reserve component who completed flight training in an active duty for training status as a member of a reserve component, the period of service in an active status in the Selected Reserve".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as of November 29, 1989. 10 USC 653 note.

SEC. 507. ONE-YEAR EXTENSION OF AUTHORITY FOR TEMPORARY PROMOTIONS OF CERTAIN NAVY LIEUTENANTS.

Effective as of September 29, 1992, section 5721 of title 10, United States Code, is amended by striking out "September 30, 1992" in subsection (f) and inserting in lieu thereof "September 30, 1993".

Subtitle B—Reserve Component Matters

SEC. 511. PILOT PROGRAM FOR ACTIVE COMPONENT SUPPORT OF RESERVES.

(a) REPEAL OF FISCAL YEAR 1992 DEADLINE.—Section 521 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1361) is repealed.

(b) PERSONNEL TO BE ASSIGNED.—Section 414 of such Act (105 Stat. 1352) is amended— 10 USC 261 note.

(1) in subsection (a), by striking out "fiscal year 1993" and inserting in lieu thereof "fiscal years 1992 and 1993";

(2) in subsection (c)(2), by striking out "1,300 officers as advisers to combat units and 700 officers as advisers to combat support units and combat service support units" and inserting in lieu thereof "2,000 members as advisers to combat units, combat support units, and combat service support units";

(3) in subsection (c)(3)—

(A) by striking out "officers" and inserting in lieu thereof "members";

(B) by striking out "in fiscal year 1993" and inserting in lieu thereof "during fiscal years 1992 and 1993"; and

(C) by striking out "section 401(b)(1)" and inserting in lieu thereof "section 401"; and

(4) in subsection (d), by striking out "may expand" and all that follows and inserting in lieu thereof "shall by April 1, 1993, submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's evaluation of the program to that date. As part of the budget submission for fiscal year 1995, the Secretary shall submit any recommendations for expansion or modification of the program. In no case may the number of active duty personnel assigned to the program decrease below the number specified for the pilot program.".

SEC. 512. LIMITATION ON NUMBER OF FULL-TIME RESERVE PERSONNEL WHO MAY BE ASSIGNED TO ROTC DUTY.

Section 690 of title 10, United States Code, is amended—

(1) by striking out "A member of a reserve component" and inserting in lieu thereof "The number of members of the reserve components";

(2) by striking out "may not be assigned" and inserting in lieu thereof "who are assigned"; and

(3) by striking out the period at the end and inserting in lieu thereof "may not exceed 200.".

SEC. 513. REPORT CONCERNING CERTAIN ACTIVE ARMY COMBAT SUPPORT AND COMBAT SERVICE SUPPORT POSITIONS.

(a) FINDING.—The Congress finds that the force structure of the active component of the Army contains approximately 13,700 positions for personnel having missions to provide combat support and combat service support to inactivated Army units formerly stationed in Europe and the continental United States.

(b) REPORT REQUIRED.—Section 402(c)(1) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1350) is amended by adding at the end the following:

10 USC 115a note.

"(E) An assessment of the effect on combat readiness of realigning the missions referred to in subsection (a) to the reserve components of the Army, including an assessment on the capability of the early deploying contingency corps of a range of different mixes of active and reserve component combat support and combat service support units.".

SEC. 514. PREFERENCE IN GUARD AND RESERVE AFFILIATION FOR VOLUNTARILY SEPARATED MEMBERS.

Section 1150(a) of title 10, United States Code, is amended by striking out "involuntarily".

SEC. 515. TECHNICAL CORRECTION AND CODIFICATION OF REQUIREMENT OF BACCALAUREATE DEGREE FOR APPOINTMENT OR PROMOTION OF RESERVE OFFICERS TO GRADES ABOVE FIRST LIEUTENANT OR LIEUTENANT (JUNIOR GRADE).

(a) IN GENERAL.—Chapter 34 of title 10, United States Code, is amended by inserting after section 595 the following new section:

"§ 596. Commissioned officers: appointment; educational requirement

"(a) IN GENERAL.—After September 30, 1995, no person may be appointed to a grade above the grade of first lieutenant in the Army Reserve, Air Force Reserve, or Marine Corps Reserve or to a grade above the grade of lieutenant (junior grade) in the Naval Reserve, or be federally recognized in a grade above the grade of first lieutenant as a member of the Army National Guard or Air National Guard, unless that person has been awarded a baccalaureate degree by an accredited educational institution.

"(b) EXCEPTIONS.—Subsection (a) does not apply to the following:

"(1) The appointment to or recognition in a higher grade of a person who is appointed in or assigned for service in a health profession for which a baccalaureate degree is not a condition of original appointment or assignment.

"(2) The appointment in the Naval Reserve or Marine Corps Reserve of an individual appointed for service as an officer designated as a limited duty officer.

"(3) The appointment in the Naval Reserve of an individual appointed for service under the Naval Aviation Cadet (NAVCAD) program.

"(4) The appointment to or recognition in a higher grade of any person who was appointed to, or federally recognized in, the grade of captain or, in the case of the Navy, lieutenant before October 1, 1995.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 595 the following new item:

"596. Commissioned officers: appointment; educational requirement.".

SEC. 516. DISABILITY RETIRED OR SEVERANCE PAY FOR RESERVE MEMBERS DISABLED WHILE TRAVELING TO OR FROM TRAINING.

(a) CONFORMANCE WITH OTHER PROVISIONS OF LAW.—Sections 1204(2) and 1206(4) of title 10, United States Code, are amended by inserting after "inactive-duty training" the following: "or of traveling directly to or from the place at which such duty is performed".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to disabilities incurred on or after November 14, 1986, but any benefits or services payable by reason of the applicability of those amendments during the period beginning on November 14, 1986, and ending on the date of the enactment of this Act shall be subject to the availability of appropriations. 10 USC 1204 note.

SEC. 517. SERVICE CREDIT FOR CONCURRENT ENLISTED ACTIVE DUTY SERVICE PERFORMED BY ROTC MEMBERS WHILE IN THE SELECTED RESERVE.

(a) AMENDMENTS TO TITLE 10.—(1) Section 2106(c) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof ", other than any period of enlisted service while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve.".

(2) Section 2107(g) of such title is amended by striking out the period at the end and inserting in lieu thereof ", other than concurrent enlisted service while serving on active duty other than for training after July 31, 1990, while a member of the Selected Reserve.".

(b) AMENDMENT TO TITLE 37.—Subsection (d) of section 205 of title 37, United States Code, is amended to read as follows:

"(d) Notwithstanding subsection (a), a commissioned officer may not count in computing basic pay a period of service after October 13, 1964, that the officer performed concurrently as a member of the Senior Reserve Officers' Training Corps, except that service after July 31, 1990, that the officer performed while serving on active duty other than for training as an enlisted member of the Selected Reserve may be so counted.".

SEC. 518. LIMITATION ON REDUCTION IN NUMBER OF RESERVE COMPONENT MEDICAL PERSONNEL. 10 USC 261 note.

(a) LIMITATION.—The Secretary of Defense may not reduce the number of medical personnel in any reserve component below the number of such personnel in that reserve component on September 30, 1992.

(b) DEFINITION.—In subsection (a), the term "medical personnel" has the meaning given that term in section 115a(g)(2) of title 10, United States Code.

SEC. 519. ONE-YEAR EXTENSION OF CERTAIN RESERVE OFFICER MANAGEMENT PROGRAMS.

(a) GRADE DETERMINATION AUTHORITY FOR CERTAIN RESERVE MEDICAL OFFICERS.—Sections 3359(b) and 8359(b) of title 10, United States Code, are each amended by striking "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) PROMOTION AUTHORITY FOR CERTAIN RESERVE OFFICERS SERVING ON ACTIVE DUTY.—Sections 3380(d) and 8380(d) of such title are each amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) YEARS OF SERVICE FOR MANDATORY TRANSFER TO THE RETIRED RESERVE.—Section 1016(d) of the Department of Defense Authorization Act, 1984 (10 U.S.C. 3360 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

10 USC 3359 note.

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect as of September 30, 1992.

10 USC 3380 note.

(2) If the date of the enactment of this Act is after September 30, 1992, the Secretary of the Army or the Secretary of the Air Force, as appropriate, shall provide, in the case of a Reserve officer appointed to a higher grade on or after the date of the enactment of this Act under an appointment described in paragraph (3), that the date of rank of such officer under that appointment shall be the date of rank that would have applied to the appointment had the authority referred to in that paragraph not lapsed.

10 USC 3380 note.

(3) An appointment referred to in paragraph (2) is an appointment under section 3380 or 8380 of title 10, United States Code, that (as determined by the Secretary concerned) would have been made during the period beginning on October 1, 1992, and ending on the date of the enactment of this Act had the authority to make appointments under that section not lapsed during such period.

SEC. 520. LIMITATION ON REENLISTMENT ELIGIBILITY FOR CERTAIN FORMER RESERVE OFFICERS OF ARMY AND AIR FORCE.

(a) LIMITATION FOR THE ARMY.—Section 3258 of title 10, United States Code, is amended—

(1) by inserting "(a)" before "Any";

(2) by striking out the last sentence; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under this section if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(b) LIMITATION FOR THE AIR FORCE.—Section 8258 of such title is amended—

(1) by inserting "(a)" before "Any";

(2) by striking out the last sentence; and

(3) by adding at the end the following new subsection (b):

"(b) A person is not entitled to be reenlisted under this section if—

"(1) the person was discharged or released from active duty as a Reserve officer on the basis of a determination of—

"(A) misconduct;

"(B) moral or professional dereliction;

"(C) duty performance below prescribed standards for the grade held; or

"(D) retention being inconsistent with the interests of national security; or

"(2) the person's former enlisted status and grade was based solely on the participation by that person in a precommissioning program that resulted in the Reserve commission held by that person during the active duty from which the person was released or discharged.".

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to persons discharged or released from active duty as commissioned officers in the Army Reserve or the Air Force Reserve, respectively, after the date of the enactment of this Act. 10 USC 3258 note.

Subtitle C—Service Academies

SEC. 521. REPEAL OF REQUIREMENT THAT DEANS AT UNITED STATES MILITARY ACADEMY AND AIR FORCE ACADEMY BE GENERAL OFFICERS.

(a) DEAN OF ACADEMIC BOARD AT THE MILITARY ACADEMY.—Section 4335 of title 10, United States Code, is amended by striking out subsection (c).

(b) DEAN OF THE FACULTY AT THE AIR FORCE ACADEMY.—Section 9335 of such title is amended—

(1) in subsection (a), by striking out "(a)"; and

(2) by striking out subsection (b).

SEC. 522. ACADEMY PREPARATORY SCHOOLS.

Not later than April 1, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a plan to make the operation of the preparatory schools of the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy more efficient and cost effective. In preparing the plan, the Secretary shall consider the recommendations contained in the report of the Comptroller General, dated March 13, 1992, regarding such preparatory schools.

SEC. 523. COMPOSITION OF FACULTIES AT UNITED STATES MILITARY ACADEMY AND AIR FORCE ACADEMY.

(a) CIVILIAN FACULTY AT MILITARY ACADEMY.—Section 4331 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of the Army may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) The Secretary may delegate the authority conferred by this subsection to any person in the Department of the Army to the extent the Secretary considers proper. Such delegation may be made with or without the authority to make successive redelegations.".

(b) CIVILIAN FACULTY AT AIR FORCE ACADEMY.—Section 9331 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) The Secretary of the Air Force may employ as many civilians as professors, instructors, and lecturers at the Academy as the Secretary considers necessary.

"(2) The compensation of persons employed under this subsection shall be as prescribed by the Secretary.

"(3) The Secretary may delegate the authority conferred by this subsection to any person in the Department of the Air Force to the extent the Secretary considers proper. Such delegation may be made with or without the authority to make successive redelegations.".

(c) PROPOSED LEGISLATION TO INCREASE CIVILIAN FACULTY MEMBERS.—Not later than April 1, 1993, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives recommended legislation for—

(1) increasing the number of civilians on the faculty at the United States Military Academy and the United States Air Force Academy; and

(2) reducing the number of officers of the Armed Forces assigned or appointed as permanent faculty at the United States Military Academy and the United States Air Force Academy.

SEC. 524. NONINSTRUCTIONAL STAFF AT SERVICE ACADEMIES.

(a) REVIEW OF NONINSTRUCTIONAL STAFF POSITIONS.—The Inspector General of the Department of Defense shall conduct a management audit of the noninstructional staff positions at the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy to determine which positions are absolutely essential for the accomplishment of the mission of these service academies and the maintenance of the quality of life at these service academies.

(b) REPORT ON RESULTS OF REVIEW.—Not later than June 1, 1993, the Secretary of Defense shall submit to Congress a report specifying those actions taken or proposed to be taken as a result of the management audit required by subsection (a).

SEC. 525. AUTHORITY OF UNITED STATES MILITARY ACADEMY TO CONFER THE DEGREE OF MASTER OF ARTS IN LEADERSHIP DEVELOPMENT.

Upon the recommendation of the faculty of the United States Military Academy, the Superintendent of the Academy may confer the degree of master of arts in leadership development upon persons who—

(1) before the date of the enactment of this Act, graduated from the program in leadership development offered at the Academy and fulfilled the requirements for the degree; or

(2) as of that date, are enrolled in the program in leadership development offered at the Academy and subsequently graduate from the program and fulfill the requirements for the degree.

Subtitle D—Education and Training

SEC. 531. REPORT ON PARTICIPATION OF RESERVE PERSONNEL IN AIR FORCE UNDERGRADUATE PILOT TRAINING PROGRAM.

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the undergraduate pilot training program of the Air Force. In the report the Secretary shall set forth the Secretary's determination as to whether pilot candidate participation from the reserve components is necessary in order for the Air Force to meet pilot requirements after fiscal year 1995. A report shall be submitted not later than February 1, 1993.

(b) LIMITATION.—The Secretary of the Air Force may not schedule any member of a reserve component for undergraduate pilot training until the report required by subsection (a) is submitted.

SEC. 532. ROTC SCHOLARSHIPS FOR NATIONAL GUARD.

(a) DESIGNATION OF SCHOLARSHIPS FOR ARMY NATIONAL GUARD.—Section 2107(h) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following:

"(2) Of the total number of cadets appointed in the financial assistance programs under this section in any year, not less than 100 shall be designated for placement in the program of the Army for service upon commissioning in the Army National Guard, of which one-half shall be for financial assistance awarded for a period of two years and the remainder shall be for financial assistance awarded for a period of four years. A cadet who receives financial assistance under this paragraph and is commissioned in the Army National Guard shall perform service as provided in subsection (b)(5)(B) and may not be accepted for service on active duty pursuant to the member's voluntary application until the completion of the period of service prescribed in that subsection. The Secretary of the Army shall prescribe regulations to ensure a geographical distribution of the cadets who receive financial assistance under this paragraph.". Regulations.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 1993. 10 USC 2107 note.

SEC. 533. JUNIOR RESERVE OFFICERS' TRAINING CORPS PROGRAM.

(a) INCREASE IN AUTHORIZED NUMBER OF UNITS.—Subsection (a) of section 2031 of title 10, United States Code, is amended in the second sentence by striking out "1,600" and inserting in lieu thereof "3,500".

(b) PURPOSE OF PROGRAM.—Such subsection is further amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) It is a purpose of the Junior Reserve Officers' Training Corps to instill in students in United States secondary educational

institutions the values of citizenship, service to the United States, and personal responsibility and a sense of accomplishment.".

(c) REQUIREMENTS FOR ENROLLMENT.—Subsection (b)(1) of such section is amended—

(1) by striking out "at least 14 years of age" both places it appears and inserting in lieu thereof "in a grade above the 8th grade"; and

(2) by inserting ", or aliens lawfully admitted to the United States for permanent residence," after "of the United States".

(d) RESOURCES PROVIDED BY DEPARTMENT OF DEFENSE.—Subsection (c)(2) of such section is amended by inserting before the semicolon the following: "and, to the extent considered appropriate by the Secretary concerned, such additional resources (including transportation and billeting) as may be available to support activities of the program".

(e) INSTRUCTOR PAY FORMULA.—(1) Paragraph (1) of subsection (d) of such section is amended to read as follows:

"(1) A retired member so employed is entitled to receive the member's retired or retainer pay without reduction by reason of any additional amount paid to the member by the institution concerned. In the case of payment of any such additional amount by the institution concerned, the Secretary of the military department concerned shall pay to that institution the amount equal to one-half of the amount paid to the retired member by the institution for any period, up to a maximum of one-half of the difference between the member's retired or retainer pay for that period and the active duty pay and allowances which the member would have received for that period if on active duty. Notwithstanding the limitation in the preceding sentence, the Secretary concerned may pay to the institution more than one-half of the additional amount paid to the retired member by the institution if (as determined by the Secretary) the institution is in an educationally and economically deprived area and the Secretary determines that such action is in the national interest. Payments by the Secretary concerned under this paragraph shall be made from funds appropriated for that purpose.".

10 USC 2031 note.

(2) The amendment made by paragraph (1) shall apply with respect to payments for periods of instructor service performed after September 30, 1992.

Subtitle E—Other Matters

SEC. 541. RETENTION ON ACTIVE DUTY OF ENLISTED MEMBERS WITHIN TWO YEARS OF ELIGIBILITY FOR RETIREMENT.

(a) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service

"(a) REGULAR MEMBERS.—A regular enlisted member who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged is within two years of qualifying for retirement under section 3914 or 8914 of this title, or of qualifying for transfer to the Fleet Reserve or Fleet Marine Corps Reserve under section 6330 of this title, shall be

retained on active duty until the member is qualified for retirement or transfer to the Fleet Reserve or Fleet Marine Corps Reserve, as the case may be, unless the member is sooner retired or discharged under any other provision of law.

"(b) RESERVE MEMBERS.—A reserve enlisted member serving on active duty who is selected to be involuntarily separated, or whose term of enlistment expires and who is denied reenlistment, and who on the date on which the member is to be discharged or released from active duty is entitled to be credited with at least 18 but less than 20 years of service computed under section 1332 of this title, may not be discharged or released from active duty without the member's consent before the earlier of the following:

"(1) If as of the date on which the member is to be discharged or released from active duty the member has at least 18, but less than 19, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the third anniversary of the date on which the member would otherwise be discharged or released from active duty.

"(2) If as of the date on which the member is to be discharged or released from active duty the member has at least 19, but less than 20, years of service computed under section 1332 of this title—

"(A) the date on which the member is entitled to be credited with 20 years of service computed under section 1332 of this title; or

"(B) the second anniversary of the date on which the member would otherwise be discharged or released from active duty.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1176. Enlisted members: retention after completion of 18 or more, but less than 20, years of service.".

SEC. 542. AUTHORITY FOR MILITARY SCHOOL FACULTY MEMBERS AND STUDENTS TO ACCEPT HONORARIA FOR CERTAIN SCHOLARLY AND ACADEMIC ACTIVITIES.

10 USC prec. 2161 note.

(a) AUTHORITY TO ACCEPT HONORARIA.—Notwithstanding the prohibition on the acceptance of honoraria contained in section 501(b) of the Ethics in Government Act of 1978, a faculty member or a student at a Department of Defense school specified under subsection (d) may accept an honorarium for an appearance, a speech, or an article published in a bona fide publication if such an appearance, speech, or article is customary for scholarly or academic activities normally associated with institutions of higher learning and if—

(1) the purpose of the appearance, or the subject of the speech or article, does not relate primarily to the responsibilities, policies, or programs of the school at which the individual is a faculty member or student;

(2) the appearance, speech, or article (including the individual's time in specific preparation for the appearance, speech,

or article) does not involve the use of Government time, Government property, or other resources of the Government or the use of nonpublic Government information;

(3) the reason for which the honorarium is paid is unrelated to the individual's duties or status as a member of the Armed Forces or employee of the Government or as a faculty member or student at a school specified in subsection (d); and

(4) the person offering the honorarium has no interests that may be substantially affected by the performance or nonperformance of the individual's duties as a member of the Armed Forces or an employee of the Government or as a faculty member or student at a school specified in subsection (d).

(b) SPECIAL RULE CONCERNING SUBJECT MATTER.—For purposes of subsection (a)(1), an appearance, speech, or article on a subject matter that is within an individual's academic or military specialty, in the case of a faculty member, or an individual's course of academic study, in the case of a student, shall not be considered to relate primarily to the responsibilities, policies, or programs of the school at which the individual is a faculty member or student if the preparation and presentation of the particular appearance, speech, or article is clearly outside of the individual's duties.

(c) NONCOVERAGE OF HIGHLY PAID FACULTY MEMBERS.—Subsection (a) shall not apply to acceptance of an honorarium by a faculty member who is employed in a position for which the rate of basic pay, exclusive of any locality-based pay adjustment under section 5302 of title 5, United States Code (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of basic pay payable for Level V of the Executive Schedule.

(d) COVERED SCHOOLS.—(1) This section applies with respect to faculty members and students at any of the service academies and at any professional military school operated by the Department of Defense that is designated by the Chairman of the Joint Chiefs of Staff to be covered by this section.

(2) For purposes of paragraph (1), the term "service academies" means—

(A) the United States Military Academy;

(B) the United States Naval Academy; and

(C) the United States Air Force Academy.

(e) HONORARIUM DEFINED.—For purposes of this section, the term "honorarium" means a payment of money or anything of value for an appearance, a speech, or an article (including a series of appearances, speeches, or articles).

(f) MAXIMUM AMOUNT OF HONORARIUM.—The amount of any honorarium accepted under this section shall not exceed the usual and customary fee for the appearance, speech, or article for which the honorarium is paid, up to a maximum of $2,000.

(g) EFFECTIVE DATE.—This section shall apply with respect to any honorarium for an appearance or speech made, or an article published, on or after the date of the enactment of this Act.

SEC. 543. PAYMENT FOR LEAVE ACCRUED AND LOST BY KOREAN CONFLICT PRISONERS OF WAR.

Section 554 of Public Law 102–190 (105 Stat. 1371) is amended—

(1) in the second sentence of subsection (a)—

(A) by striking out "for any fiscal year"; and

(B) by striking out "provided" and all that follows and inserting in lieu thereof "available in appropriations for military personnel for fiscal year 1993."; and

(2) in subsection (d), by striking out "not later than" and all that follows and inserting in lieu thereof "not later than September 30, 1993.".

SEC. 544. MILITARY RESERVE TECHNICIANS.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Appointments of military reserve technicians to positions in the competitive service

"(a) For the purpose of this section, the term 'military reserve technician' has the meaning given such term by section 8401(30).

"(b) The Secretary of Defense shall take such steps as may be necessary to ensure that, except as provided in subsection (d), any military reserve technician who is involuntarily separated from technician service, after completing at least 15 years of such service and 20 years of service creditable under section 1332 of title 10, by reason of ceasing to satisfy the condition described in section 8401(30)(B) shall, if appropriate written application is submitted within 1 year after the date of separation, be offered a position described in subsection (c) not later than 6 months after the date of the application.

"(c) The position to be offered shall be a position—

"(1) in the competitive service;

"(2) within the Department of Defense;

"(3) for which the individual is qualified; and

"(4) the rate of basic pay for which is not less than the rate last received for technician service before separation.

"(d) This section shall not apply in the case of—

"(1) an involuntary separation for cause on charges of misconduct or delinquency; or

"(2) a technician who, as of the date of application under this section, is eligible for immediate (including for disability) or early retirement under subchapter III of chapter 83 or under chapter 84.

"(e) The Secretary of Defense shall, in consultation with the Director of the Office of Personnel Management, prescribe such regulations as may be necessary to carry out this section.". Regulations.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3328 the following:

"3329. Appointments of military reserve technicians to positions in the competitive service.".

SEC. 545. AIR RESERVE TECHNICIANS.

The Secretary of the Air Force shall carry out the High-Year Tenure (HYT) program of the Air Force Reserve so as not to require the removal of an Air Reserve technician from active status as a Reservist before attaining age 60 if the technician has a total of not less than 33 years of active duty and reserve military service before January 1, 1992, and who is otherwise qualified for retention as an Air Reserve technician.

10 USC 1074 note.

SEC. 546. MENTAL HEALTH EVALUATIONS OF MEMBERS OF ARMED FORCES.

(a) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall revise applicable regulations to incorporate the requirements set forth in subsections (b), (c), and (d). In revising such regulations, the Secretary shall take into account any guidelines regarding psychiatric hospitalization of adults prepared by professional civilian health organizations.

(b) PROCEDURES FOR OUTPATIENT AND INPATIENT EVALUATIONS.—(1) The revisions required by subsection (a) shall provide that, except as provided in paragraph (4), a commanding officer shall consult with a mental health professional prior to referring a member of the Armed Forces for a mental health evaluation to be conducted on an outpatient basis.

(2) The revisions required by subsection (a) shall provide that, except as provided in paragraph (4)—

(A) a mental health evaluation of a member of the Armed Forces conducted on an inpatient basis shall be used only if and when such an evaluation cannot appropriately or reasonably be conducted on an outpatient basis, in accordance with the least restrictive alternative principle; and

(B) only a psychiatrist, or, in cases in which a psychiatrist is not available, another mental health professional or a physician, may admit a member of the Armed Forces for a mental health evaluation to be conducted on an inpatient basis.

(3) The revisions required by subsection (a) shall provide that, when a commanding officer determines it is necessary to refer a member of the Armed Forces for a mental health evaluation, the commanding officer shall ensure that, except as provided in paragraph (4), the member is provided with a written notice of the referral. The notice shall, at a minimum, include the following:

(A) The date and time the mental health evaluation is scheduled.

(B) A brief explanation of why the referral is considered necessary.

(C) The name or names of the mental health professionals with whom the commanding officer has consulted prior to making the referral. If such consultation is not possible, the notice shall include the reasons why.

(D) The positions and telephone numbers of authorities, including attorneys and inspectors general, who can assist a member who wishes to question the referral.

(E) The rights of the member under the revisions required by subsection (a).

(F) The member's signature attesting to having received the information described in subparagraphs (A) through (E). If the member refuses to sign the attestation, the commanding officer shall so indicate in the notice.

(4) The revisions required by subsection (a) shall provide that, during emergencies, the procedures described in subsection (d) shall be followed in lieu of the procedures required by this subsection.

(c) RIGHTS OF MEMBERS.—The revisions required by subsection (a) shall provide that, in any case in which a member of the Armed Forces is referred for a mental health evaluation other than in an emergency, the following provisions apply:

(1) Upon the request of the member, an attorney who is a member of the Armed Forces or employed by the Department of Defense and who is designated to provide advice under this section shall advise the member of the ways in which the member may seek redress under this section.

(2) If a member of the Armed Forces submits to an Inspector General an allegation that the member was referred for a mental health evaluation in violation of the revised regulations, the Inspector General of the Department of Defense shall conduct or oversee an investigation of the allegation.

(3) The member shall have the right to also be evaluated by a mental health professional of the member's own choosing, if reasonably available. Any such evaluation, including an evaluation by a mental health professional who is not an employee of the Department of Defense, shall be conducted within a reasonable period of time after the member is referred for an evaluation and shall be at the member's own expense.

(4)(A) No person may restrict the member in communicating with an Inspector General, attorney, member of Congress, or others about the member's referral for a mental health evaluation.

(B) Subparagraph (A) does not apply to a communication that is unlawful.

(4) In situations other than emergencies, the member shall have at least two business days before a scheduled mental health evaluation to meet with an attorney, Inspector General, chaplain, or other appropriate party. If a commanding officer believes the condition of the member requires that such evaluation occur sooner, the commanding officer shall state the reasons in writing as part of the personnel record of the member. Records.

(5) In the event the member is aboard a naval vessel or in a circumstance related to the member's military duties which makes compliance with any of the procedures in subsection (b) impractical, the commanding officer seeking the referral shall prepare a memorandum setting forth the reasons for the inability to comply with such procedures.

(d) ADDITIONAL RIGHTS OF MEMBERS AND PROCEDURES FOR EMERGENCY OR INVOLUNTARY INPATIENT EVALUATIONS.—(1) The revisions required by subsection (a) shall provide that a member of the Armed Forces may be admitted, under criteria for admission set forth in such regulations, to a treatment facility for an emergency or involuntary mental health evaluation when there is reasonable cause to believe that the member may be suffering from a mental disorder. The revised regulations shall include definitions of the terms "emergency" and "mental disorder". Regulations.

(2) The revised regulations shall provide that, in any case in which a member of the Armed Forces is admitted to a treatment facility for an emergency or involuntary mental health evaluation, the following provisions apply:

(A) Reasonable efforts shall be made, as soon after admission as the member's condition permits, to inform the member of the reasons for the evaluation, the nature and consequences of the evaluation and any treatment, and the member's rights under this section.

(B) The member shall have the right to contact, as soon after admission as the member's condition permits, a friend, relative, attorney, or Inspector General.

(C) The member shall be evaluated by a psychiatrist or a physician within two business days after admittance, to determine if continued hospitalization and treatment is justified or if the member should be released from the facility.

(D) If a determination is made that continued hospitalization and treatment is justified, the member must be notified orally and in writing of the reasons for such determination.

(E) A review of the admission of the member and the appropriateness of continued hospitalization and treatment shall be conducted in accordance with procedures set forth in the regulations as required under paragraph (3).

(3) The revised regulations shall include procedures for the review referred to in paragraph (2)(E). Such procedures shall—

(A) specify the appropriate party (or parties) who is outside the individual's immediate chain of command and who is neutral and disinterested to conduct the review;

(B) specify the appropriate procedure for conducting the review;

(C) require that the member have the right to representation in such review by an attorney of the member's choosing at the member's expense, or by a judge advocate;

(D) specify the periods of time within which the review and any subsequent reviews should be conducted;

(E) specify the criteria to be used to determine whether continued treatment or discharge from the facility is appropriate;

(F) require the party or parties conducting the review to assess whether or not the mental health evaluation was used in an inappropriate, punitive, or retributive manner in violation of this section; and

(G) require that an assessment made pursuant to subparagraph (F) that the mental health evaluation was used in a manner in violation of this section shall be reported to the Inspector General of the Department of Defense and included by the Inspector General as part of the Inspector General's annual report.

(e) CONSTRUCTION.—Nothing in the regulations prescribed under this section shall be construed to discourage referrals for appropriate mental health evaluations when circumstances suggest the need for such action.

(f) PROHIBITION AGAINST THE USE OF REFERRALS FOR MENTAL HEALTH EVALUATIONS TO RETALIATE AGAINST WHISTLEBLOWERS.—(1) The revised regulations required by subsection (a) shall provide that no person may refer a member of the Armed Forces for a mental health evaluation as a reprisal for making or preparing a lawful communication of the type described in section 1034(c)(2) of title 10, United States Code, and applicable regulations. For purposes of this subsection, such communication also shall include a communication to any appropriate authority in the chain of command of the member.

(2) Such revisions shall provide that an inappropriate referral for a mental health evaluation, when taken as a reprisal for a communication referred to in paragraph (1), may be the basis for a proceeding under section 892 of title 10, United States Code. Persons not subject to the Uniform Code of Military Justice who fail to comply with the provisions of this section are subject to adverse administrative action.

(g) DEFINITIONS.—In this section:

(1) The term "member" means any member of the Army, Navy, Air Force, or Marine Corps.

(2) The term "Inspector General" means—

(A) an Inspector General appointed under the Inspector General Act of 1978; and

(B) an officer of the Armed Forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the Armed Forces.

(3) The term "mental health professional" means a psychiatrist or clinical psychologist, a person with a doctorate in clinical social work or a psychiatric clinical nurse specialist.

(4) The term "mental health evaluation" means a psychiatric examination or evaluation, a psychological examination or evaluation, an examination for psychiatric or psychological fitness for duty, or any other means of assessing a member's state of mental health.

(5) The term "least restrictive alternative principle" means a principle under which a member of the Armed Forces committed for hospitalization and treatment shall be placed in the most appropriate and therapeutic available setting (A) that is no more restrictive than is conducive to the most effective form of treatment, and (B) in which treatment is available and the risks of physical injury or property damage posed by such placement are warranted by the proposed plan of treatment.

(h) REPORT.—At the same time as the regulations required by this section are revised, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the process of preparing the regulations, including—

(1) an explanation of the degree to which any guidelines regarding psychiatric hospitalization of adults prepared by professional civilian mental health organizations were considered;

(2) the manner in which the regulations differ from any such civilian guidelines; and

(3) the reasons for such differences.

(j) CONFORMING REPEAL.—Subsection (g) of section 554 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510) is hereby repealed.

10 USC 1074 note.

SEC. 547. REPORT ON THE SELECTIVE SERVICE SYSTEM.

(a) REPORT REQUIRED.—The Secretary of Defense, in consultation with the Director of the Selective Service System, shall prepare a report regarding the continued requirement for registration under the selective service system. The report shall contain, at a minimum, analyses on the effect of suspension of the requirement for registration on—

(1) projected mobilization requirements, including the effect on the time it would take to increase the size of the Armed Forces in a national emergency;

(2) recruiting in the Armed Forces; and

(3) the organization and staffing of the selective service system.

President.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted to the President not later than April 30, 1993, together with such recommendations as the Secretary considers to be appropriate in light of the analyses. The President shall transmit the report to Congress not later than May 31, 1993, together with a description of what actions, if any, the President proposes to take with respect to the report.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

SEC. 600. REFERENCE TO COMPENSATION AND OTHER PERSONNEL BENEFITS IN TITLE XLIV.

For provisions of this Act providing compensation and other personnel benefits for members of the Armed Forces relating to the defense drawdown, see subtitle A of title XLIV (sections 4401–4408) and section 4464.

Subtitle A—Pay and Allowances

37 USC 1009 note.

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1993.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1993 shall not be made.

(b) INCREASE IN BASIC PAY, BAS, AND BAQ.—Effective on January 1, 1993, the rates of basic pay, basic allowance for subsistence, and basic allowance for quarters of members of the uniformed services are increased by 3.7 percent.

SEC. 602. ADVANCE PAYMENTS IN CONNECTION WITH EVACUATIONS OF MEMBERS AND DEPENDENTS OF MEMBERS.

(a) EXPANDED AUTHORITY.—Section 1006(c) of title 37, United States Code, is amended by striking out the first and second sentences and inserting in lieu thereof the following new sentences: "Under regulations prescribed by the Secretary concerned, an advance of pay to a member of a uniformed service who is on duty outside the United States, or other place designated by the President, of not more than two months' basic pay may be made to a member if the member or the dependents of the member are ordered evacuated by competent authority. An advance of pay under this subsection is not subject to the conditions under which advances of pay may be made under subsection (a) or (b). An advance may be made on the basis of the evacuation of a member's dependents only if all dependents of members of the uniformed services are ordered evacuated from the place where the member's dependents are located. In the case of a member with dependents, the payment may be made directly to dependents previously designated by the member.".

37 USC 1006 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to evacuations on or after June 1, 1991.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. CLARIFICATION OF AUTHORITY TO PROVIDE SPECIAL PAY FOR NONPHYSICIAN HEALTH CARE PROVIDERS.

Section 302c(d)(1) of title 37, United States Code, is amended—

(1) by striking out "Navy or" and inserting in lieu thereof "Navy,"; and

(2) by inserting before the semicolon the following: ", or an officer in the Army Medical Specialist Corps".

SEC. 612. EXTENSIONS OF AUTHORITIES RELATING TO PAYMENT OF CERTAIN BONUSES AND OTHER SPECIAL PAY.

(a) REENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 308(g) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(b) ENLISTMENT BONUS FOR CRITICAL SKILLS.—Section 308a(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(c) AVIATOR RETENTION BONUS.—Section 301b(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(d) EXTENSION OF ENLISTMENT AND REENLISTMENT BONUS AUTHORITIES FOR RESERVE FORCES.—Sections 308b(f), 308c(e), 308e(e), 308h(g), and 308i(i) of title 37, United States Code, are each amended by striking out "September 30, 1992" and inserting in lieu thereof in each instance "September 30, 1993".

(e) EXTENSION OF SPECIAL PAY FOR ENLISTED MEMBERS OF THE SELECTED RESERVE ASSIGNED TO HIGH PRIORITY UNITS.—Section 308d(c) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(f) EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 2172(d) of title 10, United States Code, is amended by striking out "October 1, 1992" and inserting in lieu thereof "October 1, 1993".

(g) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(h) NURSE CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(i) SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a) of title 37, United States Code, is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993".

(j) COVERAGE OF PERIOD OF LAPSED AUTHORITY.—(1) The amendment made by subsection (e) shall take effect as of September 30, 1992, and shall apply with respect to inactive duty for training performed after that date for which special pay is authorized under section 308d of title 37, United States Code. 37 USC 308d note.

(2)(A) In the case of a person described in subparagraph (B) who executes an agreement described in subparagraph (C) during the 90-day period beginning on the date of the enactment of this Act, the Secretary concerned may treat such agreement for purposes of the bonus or special pay authorized under such agreement as having been executed and accepted on the first date on which the person would have qualified for such an agreement had the amendments made by this section taken effect on October 1, 1992. 37 USC 301b note.

(B) A person referred to in subparagraph (A) is a person who, during the period beginning on October 1, 1992, and ending on

the date of the enactment of this Act, would have qualified for an agreement described in subparagraph (C) with the Secretary concerned had the amendments made by this section taken effect on October 1, 1992.

(C) An agreement referred to in this paragraph is an agreement with the Secretary concerned for the payment of a bonus or special pay under section 301b, 302d, 302e, 308, 308a, 308b, 308c, 308e, 308h, or 308i of title 37, United States Code, or section 2130a of title 10, United States Code.

(D) For purposes of this paragraph, the term "Secretary concerned" has the meaning given that term in section 101(5) of title 37, United States Code.

Subtitle C—Travel and Transportation Allowances

SEC. 621. TEMPORARY INCREASE IN THE NUMBER OF DAYS A MEMBER MAY BE REIMBURSED FOR TEMPORARY LODGING EXPENSES.

Section 404a of title 37, United States Code, is amended by adding at the end the following new subsection:

"(d) In the case of a member who is ordered to make a change of permanent station described in subsection (a)(1) during fiscal years 1993 through 1997, the Secretary concerned may extend the period for which subsistence expenses incurred incident to that change are paid or reimbursed to not more than 10 days if the new duty station is in a geographical area where there is a shortage of safe and affordable housing because of the arrival of members of the armed forces in the area as part of the withdrawal of members of the armed forces from duty stations outside the United States, the closure or realignment of military installations, or the restructuring or deactivation of military units. The existence of such a shortage of safe and affordable housing in an area shall be determined by the Secretary concerned.".

SEC. 622. PROHIBITION ON THE ASSERTION OF LIENS ON PERSONAL PROPERTY BEING TRANSPORTED AT GOVERNMENT EXPENSE.

(a) TITLE 37.—Section 406 of title 37, United States Code, is amended by adding at the end the following new subsection:

"(n) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of baggage and household goods being transported under this section.".

(b) TITLE 10.—Section 2634 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) No carrier, port agent, warehouseman, freight forwarder, or other person involved in the transportation of property may have any lien on, or hold, impound, or otherwise interfere with, the movement of a motor vehicle being transported under this section.".

SEC. 623. SUBSISTENCE REIMBURSEMENT RELATING TO ESCORTS OF FOREIGN ARMS CONTROL INSPECTION TEAMS.

(a) TRAVEL ALLOWANCE.—(1) Chapter 7 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams

"(a) REIMBURSEMENT OF REASONABLE SUBSISTENCE COSTS.—Under uniform regulations prescribed by the Secretaries concerned, a member of the armed forces may be reimbursed for the reasonable cost of subsistence incurred by the member while performing duties as an escort of an arms control inspection team of a foreign country, or any member of such a team, while the team or the team member, as the case may be, is engaged in activities related to the implementation of an arms control treaty or agreement. Regulations.

"(b) PERIOD OF AUTHORITY.—The authority under subsection (a) applies to the period during which the inspection team, pursuant to authority specifically provided in the applicable arms control treaty or agreement, is in the country where inspections and related activities are being conducted by the team pursuant to that treaty or agreement.

"(c) EFFECT OF LOCATION OF MEMBER'S PERMANENT DUTY STATION.—The authority under subsection (a) applies to a member of the armed forces whether the duties referred to in that subsection are performed at, near, or away from the member's permanent duty station.".

(2) The table of sections at the beginning of chapter 7 of such title is amended by adding at the end the following new item:

"434. Subsistence reimbursement relating to escorts of foreign arms control inspection teams.".

(b) APPLICABILITY.—Section 434 of title 37, United States Code, as added by subsection (a), shall apply with respect to escort duty described in that section which is performed on or after the date of the enactment of this Act. 37 USC 434 note.

SEC. 624. REFERENCES FOR TRAVEL AND TRANSPORTATION BENEFITS.

Section 404(e) of title 37, United States Code, is amended—

(1) by striking out "Military Airlift Command" and inserting in lieu thereof "Air Mobility Command"; and

(2) by striking out "or the Naval Aircraft Ferrying Squadrons," and inserting in lieu thereof "the Naval Aircraft Ferrying Squadrons, or any other unit determined by the Secretary concerned to be performing duties similar to the duties performed by such command or squadrons,".

SEC. 625. EVACUATION ALLOWANCES IN CONNECTION WITH HURRICANE ANDREW.

(a) COVERAGE OF EXPENSES INCURRED BEFORE REGULATORY CHANGE.—The changes made in the Joint Federal Travel Regulations on August 28 and August 29, 1992, to authorize the payment of allowances to members of the Armed Forces, federal civilian employees, and dependents of such members and employees who were ordered to depart from the vicinity of Homestead Air Force Base in the State of Florida as a consequence of Hurricane Andrew shall apply with respect to expenses in connection with such departure incurred on or after August 23, 1992 (the date of the ordered departure), to the extent the expenses would be covered by the regulations if the changes were effective on August 23, 1992.

(b) COVERAGE OF DEPENDENTS WHO DO NOT RESIDE WITH MEMBER.—(1) Section 405a(a) of title 37, United States Code, is amended—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) a dependent who resides at or in the vicinity of a former duty station of the member following the assignment of the member elsewhere or who resides at or in the vicinity of a duty station (other than the duty station of the member) incident to orders in connection with an unaccompanied tour of duty of the member, if a departure of dependents is ordered by competent authority from the duty station at which or in the vicinity of which the dependent resides and the dependent actually moves to an authorized safe haven designated by that authority;".

Effective date. 37 USC 405a note.

(2) The amendments made by paragraph (1) shall take effect as of August 23, 1992, and shall apply with respect to any evacuation ordered by competent military authority on or after that date.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 641. REQUIREMENT FOR SUBMISSION OF ALTERNATIVE APPROACHES ON CONCURRENT PAYMENT OF RETIRED OR RETAINER PAY AND VETERANS' DISABILITY COMPENSATION.

Reports.

(a) REQUIREMENT FOR SUBMISSION OF ALTERNATIVES.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on alternative approaches to permit the concurrent payment to members and former members of the Armed Forces of unreduced retired or retainer pay and unreduced compensation for service-connected disabilities payable under laws administered by the Secretary of Veterans Affairs. The report shall include alternative formulas to integrate those two benefits.

(b) DEADLINE FOR REPORT.—The report shall be submitted not later than April 1, 1993.

(c) RECOMMENDATIONS FOR LEGISLATION.—The Secretary may include with the report such recommendations for legislation as the Secretary considers to be appropriate.

SEC. 642. INCREASE IN RECOMPUTED RETIRED PAY FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.

(a) MEMBERS INITIALLY ENTERING SERVICE BEFORE SEPTEMBER 8, 1980.—Section 1402 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the monthly rate of basic pay upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(b) MEMBERS INITIALLY ENTERING SERVICE AFTER SEPTEMBER 7, 1980.—Section 1402a of such title is amended by adding at the end the following new subsection: 10 USC 1402a.

"(f) ADDITIONAL 10 PERCENT FOR CERTAIN ENLISTED MEMBERS CREDITED WITH EXTRAORDINARY HEROISM.—(1) In the case of a member who is entitled to recompute retired pay under this section upon release from active duty served after retiring under section 3914 or 8914 of this title, the member's retired pay as recomputed under another provision of this section shall be increased by 10 percent of the amount so recomputed if the member has been credited by the Secretary concerned with extraordinary heroism in the line of duty during any period of active duty service in the armed forces.

"(2) The amount of the retired pay as recomputed under another provision of this section and as increased under paragraph (1) may not exceed the amount equal to 75 percent of the retired pay base upon which the recomputation of such retired pay is based.

"(3) The determination of the Secretary concerned as to extraordinary heroism is conclusive for all purposes.".

(c) PROSPECTIVE APPLICABILITY.—No benefits shall accrue for months beginning before the date of the enactment of this Act by reason of the amendments made by this section. 10 USC 1402 note.

SEC. 643. MODIFICATION TO SURVIVOR BENEFIT PLAN OPEN ENROLLMENT PERIOD.

Section 1405(g) of the Military Survivor Benefits Improvement Act of 1989 (10 U.S.C. 1448 note) is amended—

(1) by inserting "(1)" before "If a person"; and

(2) by adding at the end the following:

"(2) Paragraph (1) does not apply in the case of the death of a person making an election under subsection (a) if the beneficiary of that person under the election is the person's spouse and that spouse was entitled, before November 1, 1990, to receive dependency and indemnity compensation benefits from the Department of Veterans Affairs based on a previous marriage to another member or former member of the uniformed services.".

Subtitle E—Other Matters

SEC. 651. PROVISION OF TEMPORARY FOSTER CARE SERVICES OUTSIDE THE UNITED STATES FOR CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) OVERSEAS FOSTER CARE.—Chapter 53 of title 10, United States Code, is amended by inserting after section 1045 the following new section:

"§ 1046. Overseas temporary foster care program

"(a) PROGRAM AUTHORIZED.—The Secretary concerned may establish a program to provide temporary foster care services out-

side the United States for children accompanying members of the armed forces on duty at stations outside the United States. The foster care services provided under such a program shall be similar to those services provided by State and local governments in the United States.

Regulations.

"(b) EXPENSES.—Under regulations prescribed by the Secretary concerned, the expenses related to providing foster care services under subsection (a) may be paid from appropriated funds available to the Secretary.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 1045, the following new item:

"1046. Overseas temporary foster care program.".

10 USC 1052 note.

SEC. 652. REIMBURSEMENT FOR ADOPTIONS COMPLETED DURING INTERIM BETWEEN TEST AND PERMANENT PROGRAM.

(a) REIMBURSEMENT OF ADOPTION EXPENSES.—Section 1052 of title 10, United States Code, and section 514 of title 14, United States Code, shall apply with respect to the reimbursement of adoption expenses incurred for an adoption proceeding completed during the period beginning on October 1, 1990, and ending on December 4, 1991, to the extent the adoption expenses would be covered by one of these sections if the adoption proceeding had been completed after December 4, 1991.

(b) TIME PERIOD FOR APPLICATION.—Subsection (a) shall apply to a person covered by such subsection only if the person applies to the Secretary of Defense or the Secretary of Transportation for the reimbursement of adoption expenses under section 1052 of title 10, United States Code, or section 514 of title 14, United States Code, whichever applies, within one year after the date of the enactment of this Act.

SEC. 653. PROTECTIONS FOR DEPENDENT VICTIMS OF ABUSE BY MEMBERS OF THE ARMED FORCES.

(a) PAYMENTS UNDER COURT ORDERS.—Section 1408 of title 10, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection (h):

"(h) BENEFITS FOR DEPENDENTS WHO ARE VICTIMS OF ABUSE BY MEMBERS LOSING RIGHT TO RETIRED PAY.—(1) If, in the case of a member or former member of the armed forces referred to in paragraph (2)(A), a court order provides (in the manner applicable to a division of property) for the payment of an amount from the disposable retired pay of that member or former member (as certified under paragraph (4)) to an eligible spouse or former spouse of that member or former member, the Secretary concerned, beginning upon effective service of such court order, shall pay that amount in accordance with this subsection to such spouse or former spouse.

"(2) A spouse or former spouse of a member or former member of the armed forces is eligible to receive payment under this subsection if—

"(A) the member or former member, while a member of the armed forces and after becoming eligible to be retired from the armed forces on the basis of years of service, has eligibility to receive retired pay terminated as a result of mis-

conduct while a member involving abuse of a spouse or dependent child (as defined in regulations prescribed by the Secretary of Defense); and

"(B) the spouse or former spouse—

"(i) was the victim of the abuse and was married to the member or former member at the time of that abuse; or

"(ii) is a natural or adopted parent of a dependent child of the member or former member who was the victim of the abuse.

"(3) The amount certified by the Secretary concerned under paragraph (4) with respect to a member or former member of the armed forces referred to in paragraph (2)(A) shall be deemed to be the disposable retired pay of that member or former member for the purposes of this subsection.

"(4) Upon the request of a court or an eligible spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A) in connection with a civil action for the issuance of a court order in the case of that member or former member, the Secretary concerned shall determine and certify the amount of the monthly retired pay that the member or former member would have been entitled to receive as of the date of the certification—

"(A) if the member or former member's eligibility for retired pay had not been terminated as described in paragraph (2)(A); and

"(B) if, in the case of a member or former member not in receipt of retired pay immediately before that termination of eligibility for retired pay, the member or former member had retired on the effective date of that termination eligibility.

"(5) A court order under this subsection may provide that whenever retired pay is increased under section 1401a of this title (or any other provision of law), the amount payable under the court order to the spouse or former spouse of a member or former member described in paragraph (2)(A) shall be increased at the same time by the percent by which the retired pay of the member or former member would have been increased if the member or former member were receiving retired pay.

"(6) Notwithstanding any other provision of law, a member or former member of the armed forces referred to in paragraph (2)(A) shall have no ownership interest in, or claim against, any amount payable under this section to a spouse or former spouse of the member or former member.

"(7)(A) If a former spouse receiving payments under this subsection with respect to a member or former member referred to in paragraph (2)(A) marries again after such payments begin, the eligibility of the former spouse to receive further payments under this subsection shall terminate on the date of such marriage.

"(B) A person's eligibility to receive payments under this subsection that is terminated under subparagraph (A) by reason of remarriage shall be resumed in the event of the termination of that marriage by the death of that person's spouse or by annulment or divorce. The resumption of payments shall begin as of the first day of the month in which that marriage is so terminated. The monthly amount of the payments shall be the amount that would have been paid if the continuity of the payments had not been interrupted by the marriage.

"(8) Payments in accordance with this subsection shall be made out of funds in the Department of Defense Military Retirement Fund established by section 1461 of this title.

"(9)(A) A spouse or former spouse of a member or former member of the armed forces referred to in paragraph (2)(A), while receiving payments in accordance with this subsection, shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to receive any other benefit that a spouse or a former spouse of a retired member of the armed forces is entitled to receive on the basis of being a spouse or former spouse, as the case may be, of a retired member of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(B) A dependent child of a member or former member referred to in paragraph (2)(A) who was a member of the household of the member or former member at the time of the misconduct described in paragraph (2)(A) shall be entitled to receive medical and dental care, to use commissary and exchange stores, and to have other benefits provided to dependents of retired members of the armed forces in the same manner as if the member or former member referred to in paragraph (2)(A) was entitled to retired pay.

"(C) If a spouse or former spouse or a dependent child eligible or entitled to receive a particular benefit under this paragraph is eligible or entitled to receive that benefit under another provision of law, the eligibility or entitlement of that spouse or former spouse or dependent child to such benefit shall be determined under such other provision of law instead of this paragraph.

"(10) In this subsection, the term 'dependent child', with respect to a member or former member of the armed forces referred to in paragraph (2)(A), means an unmarried legitimate child, including an adopted child or a stepchild of the member or former member, who—

"(A) is under 18 years of age;

"(B) is incapable of self-support because of a mental or physical incapacity that existed before becoming 18 years of age and is dependent on the member or former member for over one-half of the child's support; or

"(C) if enrolled in a full-time course of study in an institution of higher education recognized by the Secretary of Defense for the purposes of this subparagraph, is under 23 years of age and is dependent on the member or former member for over one-half of the child's support.".

(b) CONFORMING AMENDMENTS.—Chapter 74 of such title is amended—

10 USC 1461.

(1) in section 1461(b)—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(3) the authority provided in section 1408(h) of this title."; and

(2) in section 1463—

(A) by striking out "and" at the end of paragraph (3);

(B) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following:

"(5) amounts payable under section 1408(h) of this title.".

(c) PROSPECTIVE APPLICABILITY.—No payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), shall accrue for periods before the date of the enactment of this Act. 10 USC 1408 note.

(d) REPORT ON OTHER ACTIONS.—(1) Not later than December 15, 1993, the Secretary of Defense shall transmit to the Congress a report on the actions taken and planned to be taken in the Department of Defense to reduce or eliminate disincentives for a dependent of a member of the Armed Forces abused by the member to report the abuse to appropriate authorities. 10 USC 113 note.

(2) The actions considered by the Secretary should include the provision of treatment, child care services, health care services, job training, job placement services, and transitional financial assistance for dependents of members of the Armed Forces referred to in paragraph (1).

(e) STUDY REQUIRED.—(1) The Secretary of Defense shall conduct a study in order to estimate— 10 USC 1408 note.

(A) the number of persons who will become eligible to receive payments under subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a)), during each of fiscal years 1993 through 2000; and

(B) for each of fiscal years 1993 through 2000, the number of members of the Armed Forces who, after having completed at least one, and less than 20, years of service in that fiscal year, will be approved in that fiscal year for separation from the Armed Forces as a result of having abused a spouse or dependent child.

(2) The study shall include a thorough analysis of—

(A) the effects, if any, of appeals and requests for clemency in the case of court-martial convictions on the entitlement to payments in accordance with subsection (h) of section 1408 of title 10, United States Code (as added by subsection (a));

(B) the socio-economic effects on the dependents of members of the Armed Forces described in subsection (h)(2) of such section that result from terminations of the eligibility of such members to receive retired or retainer pay; and

(C) the effects of separations of such members from the Armed Forces on the mission readiness of the units of assignment of such members when separated and on the Armed Forces in general.

(3) Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study. Reports.

TITLE VII—HEALTH CARE PROVISIONS

SEC. 700. REFERENCE TO HEALTH CARE SERVICES IN TITLE XLIV.

For provisions of this Act regarding health care services as a consequence of the defense drawdown, see section 4408 relating to improved conversion health policies as part of transitional medical care and section 4409 relating to continued health coverage for members and dependents.

Subtitle A—Health Care Services

SEC. 701. REVISIONS TO DEPENDENTS' DENTAL PROGRAM UNDER CHAMPUS.

(a) REPEAL OF AUTHORITY TO ESTABLISH SUPPLEMENTAL PLANS.—Section 1076a of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "and supplemental" in the first sentence; and

(B) by striking out the last sentence;

(2) in subsection (b), by striking out paragraph (3); and

(3) in subsection (d)—

(A) by striking out paragraph (2);

(B) by striking out "(1)" before "A basic"; and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

(b) PREMIUM INCREASE AND SUBSIDY FOR JUNIOR ENLISTED PERSONNEL.—Subsection (b) of such section, as amended by subsection (a)(2), is further amended—

(1) in paragraph (2), by striking out "$10" and inserting in lieu thereof "$20"; and

(2) by adding at the end the following new paragraph:

"(3) The Secretary of Defense may reduce the monthly premium required to be paid under paragraph (2) in the case of enlisted members in pay grade E–1, E–2, E–3, or E–4 if the Secretary determines that such a reduction is appropriate to assist such members to participate in a dental benefits plan established under subsection (a). The reduction in the amount of the premium may not exceed $10 per month.".

(c) IMPROVEMENT IN BENEFITS.—Subsection (d) of such section, as amended by subsection (a)(3), is further amended—

(1) by striking out "only" in the matter above paragraph (1); and

(2) by adding at the end the following new paragraph:

"(3) Orthodontic services, crowns, gold fillings, bridges, complete or partial dentures, and such other services as the Secretary of Defense considers to be appropriate.".

(d) COPAYMENT FOR ADDITIONAL BENEFITS.—Subsection (e) of such section is amended to read as follows:

"(e) COPAYMENTS.—A member whose spouse or child receives care under a basic dental benefits plan shall—

"(1) pay no charge for care described in subsection (d)(1);

"(2) pay 20 percent of the charges for care described in subsection (d)(2); and

"(3) pay a percentage of the charges for care described in subsection (d)(3) that is determined appropriate by the Secretary of Defense, after consultation with the other administering Secretaries.".

(e) REPEAL OF ANNUAL LIMIT ON EXPENDITURES UNDER PROGRAM.—Such section is further amended by striking out subsection (h).

10 USC 1076a note.

(f) PROGRAM OF IMPROVED DEPENDENTS' DENTAL BENEFITS.—(1) The Secretary of Defense, after consulting with the other administering Secretaries, shall devise and implement a program for the improvement of the provision of dental benefits to dependents of members of the Armed Forces under section 1076a of title 10, United States Code.

(2) For purposes of this subsection, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

(3) Of the funds appropriated pursuant to the authorization of appropriations in section 301, $50,000,000 shall be available to the Secretary of Defense for carrying out paragraph (1).

(g) EFFECTIVE DATE AND APPLICATION OF AMENDMENTS.—The amendments made by this section shall take effect on the date of the enactment of this Act, except that— 10 USC 1076a note.

(1) the $10 per month premium in effect under subsection (b)(2) of section 1076a of title 10, United States Code, on the day before the date of the enactment of this Act shall continue to apply until April 1, 1993, to members enrolled in a basic dental benefits plan under such section; and

(2) the Secretary of Defense may not include the benefits authorized under subsection (d)(3) of such section, as added by subsection (c), in a basic dental benefits plan under such section until April 1, 1993.

SEC. 702. PROGRAMS RELATING TO THE SALE OF PHARMACEUTICALS. 10 USC 1079 note.

(a) DEMONSTRATION PROJECT FOR PHARMACEUTICALS BY MAIL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the administering Secretaries, shall—

(1) establish a demonstration project that permits eligible persons described in subsection (c) to obtain prescription pharmaceuticals by mail in connection with medical care furnished to such persons under chapter 55 of title 10, United States Code; and

(2) conduct the demonstration project in two or more regions selected by the Secretary, each of which consists of two or more States.

(b) RETAIL PHARMACY NETWORK.—To the maximum extent practicable, the Secretary of Defense shall include in each managed health care program initiated, awarded, or renewed by the Secretary after January 1, 1993, a program to supply prescription pharmaceuticals to eligible persons described in subsection (c) through a managed care network of community retail pharmacies in the area covered by the managed health care program.

(c) ELIGIBLE PERSONS.—A person eligible to obtain pharmaceuticals under the demonstration project established under subsection (a) or the retail pharmacy network included in a managed health care program under subsection (b) is any person living in the area covered by the demonstration project or managed health care program—

(1) who is eligible for medical care under a contract for medical care entered into by the Secretary of Defense under section 1079 or 1086 of title 10, United States Code; or

(2) who—

(A) would be eligible for medical care under a contract for medical care entered into under section 1086 of such title except for operation of subsection (d)(1) of such section; and

(B) resides in an area that is adversely affected (as determined by the Secretary) by the closure of a health care facility of the uniformed services as a result of the

closure or realignment of the military installation at which such facility is located.

(d) PHARMACEUTICALS OFFERED; PURCHASE FEES.—The Secretary of Defense, in consultation with the administering Secretaries, shall—

(A) determine the pharmaceuticals that may be obtained by eligible persons under the demonstration project established under subsection (a) or the retail pharmacy network included in a managed health care program under subsection (b); and

(B) establish an appropriate fee, charge, or copayment to be paid by such persons for pharmaceuticals obtained under the demonstration project or managed health care program.

(e) REPORT REGARDING DEMONSTRATION PROJECT.—Not later than two years after the establishment of the demonstration project under subsection (a), the Secretary of Defense shall submit to Congress a report—

(1) describing the results of the demonstration project required by subsection (a);

(2) containing such recommendations for revision of the demonstration project as the Secretary considers to be necessary; and

(3) containing a plan (including a schedule) for implementing the demonstration project throughout the United States.

(f) DEFINITIONS.—In this section, the terms "uniformed services" and "administering Secretaries" have the meanings given those terms in section 1072 of title 10, United States Code.

SEC. 703. MAXIMUM ANNUAL AMOUNT FOR DEDUCTIBLES AND COPAYMENTS.

(a) REDUCED MAXIMUM ANNUAL AMOUNT.—Section 1086(b)(4) of title 10, United States Code, is amended by striking out "$10,000" and inserting in lieu thereof "$7,500".

10 USC 1086 note.

(b) APPLICABILITY AFTER FISCAL YEAR 1992.—The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 704. COMPREHENSIVE INDIVIDUAL CASE MANAGEMENT PROGRAM UNDER CHAMPUS.

Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (15)(D);

(2) by striking out the period at the end of paragraph (16) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(17) the Secretary of Defense may establish a program for the individual case management of a person covered by this section or section 1086 of this title who has extraordinary medical or psychological disorders and, under such a program, may waive benefit limitations contained in paragraphs (5) and (13) of this subsection or section 1077(b)(1) of this title and authorize the payment for comprehensive home health care services, supplies, and equipment if the Secretary determines that such a waiver is cost-effective and appropriate.".

SEC. 705. CONTINUATION OF CHAMPUS COVERAGE FOR CERTAIN MEDICARE PARTICIPANTS.

(a) INCLUSION OF END STAGE RENAL DISEASE PATIENTS.—Section 1086(d)(2)(A) of title 10, United States Code, is amended by

inserting before the semicolon the following: "or section 226A(a) of such Act (42 U.S.C. 426–1(a))".

(b) COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991.— Subsection (d) of section 1086 of title 10, United States Code, as added by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) and amended by subsection (a) of this section, shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of such section 1086 if such benefits or services would have been covered under a plan contracted for under such section 1086. 10 USC 1086 note.

(c) CONFORMING AMENDMENTS.—(1) Section 704 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1401) is amended by striking out subsection (c). 10 USC 1086 note.

(2) Section 8097 of the Department of Defense Appropriations Act, 1992 (Public Law 102–172; 105 Stat. 1197) is repealed.

SEC. 706. HEALTH CARE FOR CHILDREN OF MEMBERS AND FORMER MEMBERS WHEN SUCH CHILDREN SUFFER MENTAL OR PHYSICAL INCAPACITY WHILE IN COLLEGE.

Section 1072(2) of title 10, United States Code, is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraph:

"(D) an unmarried legitimate child, including an adopted child or stepchild, who—

"(i) has not attained the age of 21;

"(ii) has not attained the age of 23, is enrolled in a full-time course of study at an institution of higher learning approved by the administering Secretary and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support; or

"(iii) is incapable of self-support because of a mental or physical incapacity that occurs while a dependent of a member or former member under clause (i) or (ii) and is, or was at the time of the member's or former member's death, in fact dependent on the member or former member for over one-half of the child's support;".

Subtitle B—Health Care Management

SEC. 711. NATIONAL CLAIMS PROCESSING SYSTEM FOR CHAMPUS. 10 USC 1106 note. Contracts.

(a) CLAIMS PROCESSING SYSTEM REQUIRED.—(1) The Secretary of Defense, in consultation with the other administering Secretaries, shall provide by contract for the operation of a claims processing system to be known as the "National Claims Processing System for CHAMPUS". The Secretary may procure the system in installments, including the use of incremental modules. The system, including completion and integration of all modules, shall be in full operation not later than seven years after the date of the enactment of this Act.

(2) The Secretary shall use competitive procedures for entering into any contract or contracts under paragraph (1).

(b) SYSTEM FUNCTIONS.—The claims processing system shall include at least the following functions:

(1) The maintenance in electronic or written form, or both, of appropriate information on health care services provided to covered beneficiaries by or through third parties under CHAMPUS or any alternative CHAMPUS program or demonstration project. Such information shall include—

(A) the services to which such beneficiaries are entitled or eligible under an insurance plan, medical service plan, or health plan under CHAMPUS;

(B) the insurers, medical services, or health plans that provide such services; and

(C) the services available to beneficiaries under each insurance plan, medical service plan, or health plan, and the payment required of the beneficiaries and the insurer, medical service, or health plan for such services under the plan.

(2) The ability to receive in electronic or written form claims submitted by insurers, medical services, and health plans for services provided to covered beneficiaries.

(3) The ability to process, adjudicate, and pay (by electronic or other means) such claims.

(4) The provision of the information described in paragraphs (1) and (2) and information on the matters referred to in paragraph (3) by telephone, electronic, or other means to covered beneficiaries, insurers, medical services, and health plans.

(c) CONSISTENCY WITH MEDICARE CLAIMS REQUIREMENTS.—The Secretary of Defense shall ensure, to the maximum extent practicable, that claims submitted to the claims processing system conform to the requirements applicable to claims submitted to the Secretary of Health and Human Services with respect to medical care provided under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(d) IDENTIFICATION CARD.—The Secretary of Defense shall take appropriate actions to determine whether the use by covered beneficiaries of a standard identification card containing electronically readable information will enhance the capability of the claims processing center to carry out the activities set forth in subsection (b).

(e) TRANSITION TO SYSTEM.—After January 1, 1996, any modification or acquisition related to claims processing systems operations in the Office of the Civilian Health and Medical Program of the Uniformed Services shall contain provisions to transfer such operations to the claims processing system required by subsection (a). After January 1, 1999, any renewal or acquisition for fiscal intermediary services (including coordinated care implementations in military hospitals and clinics) shall contain provisions to transfer claims processing systems operations related to such fiscal intermediary services to the claims processing system required by subsection (a).

(f) DEFINITIONS.—For purposes of this section:

(1) The term "administering Secretaries" has the meaning given that term in paragraph (3) of section 1072 of title 10, United States Code.

(2) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of such section.

(3) The term "covered beneficiary" has the meaning given that term in paragraph (5) of such section.

SEC. 712. CONDITION ON EXPANSION OF CHAMPUS REFORM INITIATIVE TO OTHER LOCATIONS. 10 USC 1073 note.

(a) CONDITION.—Except as provided in subsection (b), the Secretary of Defense may not expand the CHAMPUS reform initiative underway in the States of California and Hawaii to another location until not less than 90 days after the date on which the Secretary certifies to Congress that expansion of the initiative to that location is the most efficient method of providing health care to covered beneficiaries in that location. In determining whether the expansion of the CHAMPUS reform initiative to a location is the most efficient method of providing health care to covered beneficiaries in that location, the Secretary shall consider the cost-effectiveness of the initiative and the effect of the expansion of the initiative on the access of covered beneficiaries to health care and on the quality of health care received by covered beneficiaries.

(b) EXCEPTION.—The Secretary of Defense may waive the operation of the condition on the expansion of the CHAMPUS reform initiative specified in subsection (a) in order to expand the initiative to a location adversely affected by the closure or realignment of a military installation in that location, as determined by the Secretary.

(c) REPORT ON CERTIFICATION.—Not later than 30 days after a certification by the Secretary of Defense under subsection (a), the Comptroller General and the Director of the Congressional Budget Office shall jointly submit to Congress a report evaluating the certification.

(d) DEFINITIONS.—For purposes of this section:

(1) The terms "CHAMPUS reform initiative" and "initiative" mean the health care delivery project required by section 702 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 10 U.S.C. 1073 note).

(2) The term "covered beneficiary" has the meaning given that term in section 1072(5) of title 10, United States Code.

SEC. 713. ALTERNATIVE HEALTH CARE DELIVERY METHODOLOGIES. 10 USC 1073 note.

(a) CONTINUATION OF HEALTH CARE REFORM INITIATIVES.—(1) During fiscal years 1993 through 1996, the Secretary of Defense shall continue to conduct a broad array of reform initiatives for furnishing health care to persons who are eligible to receive health care under chapter 55 of title 10, United States Code.

(2) The health care reform initiatives conducted in accordance with paragraph (1) shall include CHAMPUS alternatives, the CHAMPUS reform initiative, catchment area management, coordinated care, and such other reform initiatives as the Secretary of Defense considers to be appropriate.

(3) Not later than September 30, 1994, the Secretary shall submit to Congress a report regarding the health care reform initiatives conducted during fiscal years 1993 and 1994. The report shall include a discussion of the cost effectiveness of the initiatives and the extent to which the persons who received health care under such initiatives are satisfied with that health care. Reports.

(b) CONTINUATION OF CHAMPUS REFORM INITIATIVE IN HAWAII AND CALIFORNIA.—(1) The Secretary of Defense shall ensure that a replacement or successor contract for the CHAMPUS reform initiative contract applicable to the States of California and Hawaii Contracts.

is awarded in sufficient time for the contractor to begin to provide health care in those States under the replacement or successor contract not later than August 1, 1993.

(2) The Secretary shall use competitive procedures for awarding a replacement or successor contract under paragraph (1).

Contracts. California. Hawaii.

(c) EVALUATION OF CHAMPUS REFORM INITIATIVE.—(1) Not later than June 1, 1994, the Secretary of Defense shall enter into a contract with a non-Federal entity under which the entity will perform an evaluation of the performance of the CHAMPUS reform initiative in the States of California and Hawaii. The evaluation shall cover each of the fiscal years during which the initiative is carried out in those States under the replacement or successor contract referred to in subsection (b) and under the predecessor contracts. The evaluation shall include a comparison of the cost savings and claims experience resulting in each such fiscal year from carrying out the CHAMPUS reform initiative in those States.

Reports.

(2) Not later than one year after the date on which the contract for evaluation is entered into under paragraph (1), the non-Federal entity making the evaluation shall submit to the Secretary and to Congress a report on the results of the evaluation.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of section 1072 of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in paragraph (5) of such section.

(3) The term "CHAMPUS reform initiative" means the health care delivery project required by section 702 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 10 U.S.C. 1073 note).

(4) The term "catchment area management" means the methodology provided for demonstration in accordance with section 731 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 10 U.S.C. 1092 note).

SEC. 714. MANAGED HEALTH CARE NETWORK FOR TIDEWATER REGION OF VIRGINIA.

(a) REAFFIRMATION OF COMMITMENT.—The delivery of health care services by the Department of Defense to members of the Armed Forces serving on active duty in the Tidewater region of Virginia and to covered beneficiaries under chapter 55 of title 10, United States Code, residing in that region shall be made in the manner specified in section 712(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1402). That section shall not be construed as being limited, modified, or superseded by any provision of law contained in an appropriation Act, whether enacted before, on, or after the date of the enactment of this Act, unless that provision of law—

(1) specifically refers to that section and this section; and

(2) states that the provision of law limits, modifies, or supersedes that section.

(b) CONTENT OF NETWORK.—Section 712(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1402) is amended by adding at the end the following new paragraphs:

"(3) The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide for the operation of the program required by this subsection in a manner consistent with the military health care demonstration project underway in Charleston, South Carolina, including the following features— South Carolina.

"(A) a reduction of copayment and deductibles for covered beneficiaries who enroll in the program;

"(B) an opportunity for covered beneficiaries who do not enroll in the program to use the network of preferred providers established under the program and a reduction of copayment or deductibles for such covered beneficiaries; and

"(C) continued access for all covered beneficiaries to health care in military treatment facilities regardless of enrollment status, subject to the availability of space and facilities, the capabilities of the medical or dental staff, and reasonable preferences for covered beneficiaries who enroll in the program.

"(4) For purposes of this subsection, the term 'Policy Guidelines on the Department of Defense Coordinated Care Program' means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.".

SEC. 715. POSITIVE INCENTIVES UNDER THE COORDINATED CARE PROGRAM.

(a) INCLUSION OF POSITIVE INCENTIVES FOR ENROLLMENT.—The Secretary of Defense shall modify the Policy Guidelines on the Department of Defense Coordinated Care Program to provide covered beneficiaries with additional positive incentives to enroll in the Coordinated Care Program of the Department of Defense.

(b) TYPES OF POSITIVE INCENTIVES.—The positive incentives provided under subsection (a) may include—

(1) a reduction of the copayment and deductibles prescribed under sections 1079 and 1086 of title 10, United States Code, for covered beneficiaries who enroll in the Coordinated Care Program;

(2) alternative cost-sharing requirements for certain types of care; and

(3) an expansion of the benefits provided under the Coordinated Care Program beyond the benefits authorized under CHAMPUS.

(c) EFFECT ON CERTAIN EXISTING PROGRAMS.—The modification required under subsection (a) shall permit health care demonstration projects in existence on the date of the enactment of this Act (including the CHAMPUS reform initiative, the catchment area management projects, the CHAMPUS select fiscal intermediary program in the Southeast Region, and the managed health care program established in the Tidewater region of Virginia) and future managed health care initiatives undertaken by the Department of Defense to offer covered beneficiaries who do not enroll in the Coordinated Care Program the opportunity to use a preferred provider network of health care providers.

(d) DETERMINATION OF INCENTIVES.—In determining what level and types of positive incentives are likely to induce covered beneficiaries to enroll in the Coordinated Care Program, the Secretary of Defense shall take into consideration the extent to which covered

beneficiaries not enrolled in the program are permitted to choose health care providers without prior referral or approval.

(e) PROHIBITION ON EXCLUSIONS.—Subject to the availability of space and facilities and the capabilities of the medical or dental staff, the Secretary of Defense may not deny access to military treatment facilities to covered beneficiaries who do not enroll in the Coordinated Care Program. However, the Secretary may establish reasonable admission preferences for covered beneficiaries enrolled in the program as an incentive to encourage enrollment.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "CHAMPUS" means the Civilian Health and Medical Program of the Uniformed Services, as defined in paragraph (4) of section 1072 of title 10, United States Code.

(2) The term "covered beneficiary" has the meaning given that term in paragraph (5) of such section.

(3) The term "Policy Guidelines on the Department of Defense Coordinated Care Program" means the Policy Guidelines on the Department of Defense Coordinated Care Program that were issued by the Assistant Secretary of Defense for Health Affairs on January 8, 1992.

SEC. 716. EXCEPTION FROM FEDERAL ACQUISITION REGULATION FOR MANAGED-CARE DELIVERY AND REIMBURSEMENT MODEL.

Section 718(c) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1587) is amended by adding at the end the following new sentence: "A participation agreement negotiated between a Uniformed Services Treatment Facility and the Secretary of Defense under this subsection shall not be subject to the Federal Acquisition Regulation issued pursuant to section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c))."

Subtitle C—Other Matters

10 USC 1079 note.

SEC. 721. CORRECTION OF OMISSION IN DELAY OF INCREASE OF CHAMPUS DEDUCTIBLES RELATED TO OPERATION DESERT STORM.

(a) LOWER CHAMPUS ANNUAL DEDUCTIBLE.—In the case of health care provided under section 1079 or 1086 of title 10, United States Code, during the period beginning on April 1, 1991, and ending on September 30, 1991, to a CHAMPUS beneficiary described in subsection (b), the annual deductibles specified in such sections applicable to that care may not exceed the annual deductibles in effect under such sections on November 4, 1990.

(b) ELIGIBLE CHAMPUS BENEFICIARIES.—A CHAMPUS beneficiary referred to in subsection (a) is a covered beneficiary of the Civilian Health and Medical Program of the Uniformed Services who, during any portion of the period specified in that subsection—

(1) was a member or former member of a uniformed service entitled to retired or retainer pay and served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm; or

(2) was a dependent of a member of a uniformed service who served on active duty in the Persian Gulf theater of operations in connection with Operation Desert Storm.

(c) CREDIT OR REIMBURSEMENT OF EXCESS.—Subject to the availability of appropriated funds to the Secretary of Defense, the Secretary shall provide—

(1) for the reimbursement of the amount of any deductible paid under section 1079 or 1086 of title 10, United States Code, during the period specified in subsection (a) in excess of the amount required to be paid by operation of that subsection; or

(2) for a credit against the annual deductible required under such sections for a fiscal year equal to the amount of the excess deductible paid.

(d) DEFINITIONS.—For purposes of this section, the term "Operation Desert Storm" has the meaning given that term in section 3(1) of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25; 10 U.S.C. 101 note).

SEC. 722. MILITARY HEALTH CARE FOR PERSONS RELIANT ON HEALTH CARE FACILITIES AT BASES BEING CLOSED OR REALIGNED.

10 USC 1073 note.

(a) ESTABLISHMENT.—The Secretary of Defense shall establish a joint services working group on the provision of military health care to persons who rely for health care on health care facilities at military installations being closed or realigned.

(b) MEMBERSHIP.—The members of the working group shall include the Assistant Secretary of Defense for Health Affairs, the Surgeon General of the Army, the Surgeon General of the Navy, the Surgeon General of the Air Force, or a designee of each such person, and one independent member appointed by the Secretary of Defense from among private citizens whose interest in matters within the responsibility of the working group qualify that person to represent all personnel entitled to health care under chapter 55 of title 10, United States Code.

(c) DUTIES.—(1) In the case of each closure or realignment of a military installation that will adversely affect the accessibility of health care in a facility of the uniformed services for persons entitled to such health care under chapter 55 of title 10, United States Code, the working group shall solicit the views of such persons regarding suitable substitutes for the furnishing of health care to those persons under that chapter.

(2) In carrying out paragraph (1), the working group—

(A) shall conduct meetings with persons referred to in that paragraph, or representatives of such persons;

(B) may use reliable sampling techniques;

(C) shall visit the areas where closures or realignments of military installations will adversely affect the accessibility of health care in a facility of the uniformed services for persons referred to in paragraph (1) and shall conduct public meetings; and

(D) shall ensure that members of the uniformed services on active duty, members and former members of the uniformed services entitled to retired or retainer pay, and dependents and survivors of such members and retired personnel are afforded the opportunity to express views.

(d) RECOMMENDATIONS.—With respect to each closure and realignment of a military installation referred to in subsection (c), the working group shall submit to the Congress and the Sec-

retary of Defense the working group's recommendations regarding the alternative means for continuing to provide accessible health care under chapter 55 of title 10, United States Code, to persons referred to in that subsection.

(e) APPLICATION OF ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the joint services working group established pursuant to this section.

SEC. 723. EXPANSION OF COMPREHENSIVE STUDY OF THE MILITARY MEDICAL CARE SYSTEM.

Section 733 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 10 U.S.C. 1071 note) is amended—

(1) in subsection (b), by inserting after paragraph (2) the following new paragraph:

"(3) A comprehensive review of the Federal employees health benefits program under chapter 89 of title 5, United States Code, in order to determine whether furnishing health care under a similar program to persons entitled to health care under chapter 55 of title 10, United States Code, would result in the efficient and cost-effective provision of health care to such persons."; and

(2) in subsection (e)—

(A) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6); and

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The results of the review under subsection (b)(3) and the Secretary's recommendations on the basis of those results.".

10 USC 1071 note.

SEC. 724. ANNUAL BENEFICIARY SURVEY.

(a) SURVEY REQUIRED.—The administering Secretaries shall conduct annually a formal survey of persons receiving health care under chapter 55 of title 10, United States Code, in order to determine the following:

(1) The availability of health care services to such persons through the health care system provided for under that chapter, the types of services received, and the facilities in which the services were provided.

(2) The familiarity of such persons with the services available under that system and with the facilities in which such services are provided.

(3) The health of such persons.

(4) The level of satisfaction of such persons with that system and the quality of the health care provided through that system.

(5) Such other matters as the administering Secretaries determine appropriate.

(b) DEFINITION.—For purposes of this section, the term "administering Secretaries" has the meaning given such term in section 1072(3) of title 10, United States Code.

10 USC 1074 note.

SEC. 725. STUDY ON RISK-SHARING CONTRACTS FOR HEALTH CARE.

(a) STUDY.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Secretary of Health and Human Services, shall carry out a study of the feasibility and advisability of entering into

risk-sharing contracts with eligible organizations described in section 1876(b) of the Social Security Act (42 U.S.C. 1395mm(b)) to furnish health care services to persons entitled to health care in a facility of a uniformed service under section 1074(b) or 1076(b) of title 10, United States Code.

(b) PLAN.—If the Secretary of Defense determines as a result of the study required by subsection (a) that entry into risk-sharing contracts is feasible and advisable, the Secretary shall develop a plan for the entry into such contracts in accordance with the Secretary's determinations under the study.

(c) REPORT.—The Secretary of Defense shall submit to Congress a report describing the results of the study and containing any plan developed under subsection (b) to enter into risk-sharing contracts.

SEC. 726. SENSE OF CONGRESS REGARDING HEALTH CARE POLICY FOR THE UNIFORMED SERVICES.

It is the sense of Congress that—

(1) members and former members of the uniformed services, and their dependents and survivors, should have access to health care under the health care delivery system of the uniformed services regardless of the age or health care status of the person seeking the health care;

(2) such health care delivery system should include a comprehensive managed care plan;

(3) the comprehensive managed care plan should involve medical personnel of the uniformed services (including reserve component personnel), civilian health care professionals of the executive agency of such uniformed services, medical treatment facilities of the uniformed services, contract health care personnel, and the medicare system;

(4) the Secretary of Defense, the Secretary of Health and Human Services, and the Secretary of Transportation should continue to provide active duty personnel of the uniformed services with free care in medical treatment facilities of the uniformed services and to provide the other personnel referred to in paragraph (1) with health care at reasonable cost to the recipients of the care; and

(5) the Secretaries referred to in paragraph (4) should examine additional health care options for the personnel referred to in paragraph (1) including, in the case of persons eligible for medicare under title XVIII of the Social Security Act, options providing for—

(A) the reimbursement of the Department of Defense by the Secretary of Health and Human Services for health care services provided such personnel at medical treatment facilities of the Department of Defense; and

(B) the sharing of the payment of the costs of contract health care by the Department of Defense and the Department of Health and Human Services, with one such department being the primary payer of such costs and the other such department being the secondary payer of such costs.

Contracts.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Assistance Programs

SEC. 801. CODIFICATION AND AMENDMENT OF SECTION 1207.

(a) CODIFICATION.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2322 a new section 2323 consisting of—

(A) a heading as follows:

"§ 2323. Contract goal for small disadvantaged businesses and certain institutions of higher education";

and

(B) a text consisting of the text of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661), revised—

(i) by replacing "each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, and 1993" in subsection (a)(1) with "each of fiscal years 1987 through 2000";

(ii) by replacing "each of fiscal years 1987, 1988, 1989, 1990, 1991, 1992, and 1993." in subsection (h) with "each of fiscal years 1987 through 2000."; and

(iii) by replacing "of title 10, United States Code," in subsection (e)(2) with "of this title".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2322 the following new item:

"2323. Contract goal for small disadvantaged businesses and certain institutions of higher education.".

(b) GOALS.—Subsection (a) of section 2323 of title 10, United States Code, as added by subsection (a), is amended by adding at the end the following new paragraph:

Regulations.

"(3) The Secretary of Defense shall prescribe regulations that provide procedures or guidelines for contracting officers to set goals which Department of Defense prime contractors that are required to submit subcontracting plans under section 8(d)(4)(B) of the Small Business Act (15 U.S.C. 637(d)(4)(B)) in furtherance of the Department's program to meet the 5 percent goal specified in paragraph (1) should meet in awarding subcontracts, including subcontracts to minority-owned media, to entities described in that paragraph.".

(c) ACTIONS TO ATTAIN GOAL.—Subsection (e) of section 2323 of title 10, United States Code, as added by subsection (a), is amended—

(1) in the matter preceding paragraph (1), by striking out "subsection (a)—" and inserting in lieu thereof "subsection (a):";

(2) by striking out paragraph (1), and inserting in lieu thereof the following:

"(1)(A) The Secretary of Defense shall—

"(i) ensure that substantial progress is made in increasing awards of Department of Defense contracts to entities described in subsection (a)(1);

"(ii) exercise his utmost authority, resourcefulness, and diligence; and

"(iii) actively monitor and assess the progress of the military departments, Defense Agencies, and prime con-

tractors of the Department of Defense in attaining such goal.

"(B) In making the assessment under subparagraph (A)(iii), the Secretary shall evaluate the extent to which use of the authority provided in paragraphs (2) and (3) and compliance with the requirement in paragraph (4) is effective for facilitating the attainment of the goal.";

(3) by adding at the end of paragraph (2) the following: "The Secretary shall prescribe regulations that provide guidance to contracting officers for making advance payments to entities described in subsection (a)(1) under such section."; Regulations.

(4) in paragraph (3), by inserting "and partial set asides for entities described in subsection (a)(1)" after "(including awards under section 8(a) of the Small Business Act"; and

(5) by adding at the end the following new paragraph:

"(5) The Secretary shall prescribe regulations which provide for the following: Regulations.

"(A) Procedures or guidance for contracting officers to provide incentives for prime contractors referred to in subsection (a)(3) to increase subcontractor awards to entities described in subsection (a)(1).

"(B) A requirement that contracting officers emphasize the award of contracts to entities described in subsection (a)(1) in all industry categories, including those categories in which such entities have not traditionally dominated.

"(C) Guidance to Department of Defense personnel on the relationship among the following programs:

"(i) The program implementing this section.

"(ii) The program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(iii) The small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)).

"(D) With respect to a Department of Defense procurement which is reasonably likely to be set aside for entities described in subsection (a)(1), a requirement that (to the maximum extent practicable) the procurement be designated as such a set-aside before the solicitation for the procurement is issued.

"(E) Policies and procedures which, to the maximum extent practicable, will ensure that current levels in the number or dollar value of contracts awarded under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and under the small business set-aside program established under section 15(a) of the Small Business Act (15 U.S.C. 644(a)) are maintained and that every effort is made to provide new opportunities for contract awards to eligible entities, in order to meet the goal of subsection (a).

"(F) Implementation of this section in a manner which will not alter the procurement process under the program established under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

"(G) A requirement that one factor used in evaluating the performance of a contracting officer be the ability of the officer to increase contract awards to entities described in subsection (a)(1).

"(H) Increased technical assistance to entities described in subsection (a)(1).".

(d) REQUIREMENTS RELATING TO STATUS.—Subsection (f) of section 2323 of title 10, United States Code, as added by subsection (a), is amended—

(1) by striking out "PENALTIES FOR MISREPRESENTATION.—Whoever" and inserting in lieu thereof "PENALTIES AND REGULATIONS RELATING TO STATUS.—(1) Whoever"; and

Regulations.

(2) by adding at the end the following new paragraph:

"(2) The Secretary of Defense shall prescribe regulations which provide for the following:

"(A) A requirement that a business which represents itself as an entity described in subsection (a)(1) and is seeking a Department of Defense contract maintain its status as an entity at the time of contract award.

"(B) A prohibition on the award of a contract under this section to an entity described in subsection (a)(1) unless the entity agrees to comply with the requirements of section 15(o)(1) of the Small Business Act (15 U.S.C. 644(o)(1)).".

(e) DETERMINATION BY SECRETARY OF DEFENSE.—Section 2323 of title 10, United States Code, as added by subsection (a), is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by adding after subsection (f) the following new subsection (g):

"(g) DETERMINATION BY SECRETARY OF DEFENSE.—Under procedures prescribed by the Secretary of Defense, a person may request the Secretary to determine whether the use of small disadvantaged business set asides by a contracting activity of the Department of Defense has caused a particular industry category to bear a disproportionate share of the contracts awarded to attain the goal established for that contracting activity for the purposes of this section. Upon making a determination that a particular industry category is bearing a disproportionate share, the Secretary shall take appropriate actions to limit the contracting activity's use of set asides in awarding contracts in that particular industry category.".

(f) REPEAL OF REPORT ON PROGRESS IN MEETING CONTRACTING GOALS.—Effective on October 1, 1993, subsection (h) (as redesignated by subsection (e)) of section 2323 of title 10, United States Code, as added by subsection (a), is amended—

(1) by striking out "REPORTS" in the subsection heading and inserting in lieu thereof "REPORT";

(2) by striking out "final" in paragraph (2);

(3) by striking out "July 15" in paragraph (1) and all that follows through "Not later than" in paragraph (2);

(4) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "reports described in paragraphs (1) and (2) shall each" and inserting in lieu thereof "report required under paragraph (1) shall";

(5) by redesignating paragraph (4) as paragraph (3) and in that paragraph striking out "reports required under paragraph (2)" and inserting in lieu thereof "report required under paragraph (1)"; and

(6) by striking out paragraph (5).

(g) CODIFICATION OF RELATED PROVISION.—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2323 (as added by subsection (a)) a new section consisting of—

(A) a heading as follows:

"§ 2323a. Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses and certain institutions of higher education";

and

(B) a text consisting of the text of section 832 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2301 note), revised in subsection (a) by replacing "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" with "section 2323 of this title".

(2) The table of sections at the beginning of such chapter, as amended by subsection (a), is further amended by inserting after the item relating to section 2323 the following:

"2323a. Credit for Indian contracting in meeting certain subcontracting goals for small disadvantaged businesses and certain institutions of higher education.".

(h) CONFORMING REPEALS AND REDESIGNATIONS.—(1) Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661; 100 Stat. 3973) is repealed. 10 USC 2301 note.

(2) Section 2304(b)(2) of title 10, United States Code, is amended by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" and inserting in lieu thereof "section 2323 of this title".

(3) Section 812(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1424) is amended by striking out "section 1207(c)(3) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)." and inserting in lieu thereof "section 2323(c)(3) of title 10, United States Code.".

(4) Section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2301 note) is amended—

(A) in subsection (m)(4), by striking out "section 1207(a)(2) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)." and inserting in lieu thereof "section 2323 of title 10, United States Code."; and

(B) in subsection (m)(6), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" and inserting in lieu thereof "section 2323 of title 10, United States Code,".

(5) Section 832 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 10 U.S.C. 2301 note) is repealed.

(6) Section 843 of the National Defense Authorization Act, Fiscal Year 1989 (44 U.S.C. 502 note), is amended—

(A) in subsection (b), by striking out "section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661: 100 Stat. 3973)." and inserting in lieu thereof "section 2323(a) of title 10, United States Code.";

(B) in subsection (c), by striking out "section 1207(f) of the National Defense Authorization Act for Fiscal Year 1987

(Public Law 99–661: 100 Stat. 3974)." and inserting in lieu thereof "section 2323(f) of title 10, United States Code."; and

(C) in subsection (d)—

(i) by striking out "SECTION 1207 GOALS.—" and inserting in lieu thereof "DEPARTMENT OF DEFENSE GOALS.—"; and

(ii) by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99–661: 100 Stat. 3973)," and inserting in lieu thereof "section 2323 of title 10, United States Code,".

(7) Section 806 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 10 U.S.C. 2301 note) is repealed.

(8) Section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(A) in subsection (k)(9), by striking out "section 1207 of Public Law 99–661." and inserting in lieu thereof "section 2323 of title 10, United States Code.";

(B) in subsection (m)(1), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)" and inserting in lieu thereof "section 2323 of title 10, United States Code,"; and

(C) in subsection (m)(2)(C), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note)." and inserting in lieu thereof "section 2323 of title 10, United States Code.".

(9) The Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended—

(A) in section 713(a), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987)" and inserting in lieu thereof "section 2323 of title 10, United States Code)";

(B) in section 721(a)(2)(B), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note);" and inserting in lieu thereof "section 2323 of title 10, United States Code;"; and

(C) in section 722(c)(1), by striking out "section 1207 of the National Defense Authorization Act for Fiscal Year 1987." and inserting in lieu thereof "section 2323 of title 10, United States Code.".

SEC. 802. PROVISIONS RELATING TO SMALL DISADVANTAGED BUSINESSES AND SMALL BUSINESSES.

Section 2323 of title 10, United States Code, as added and amended by section 801, is further amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the following new subsection:

Regulations.

"(h) COMPLIANCE WITH SUBCONTRACTING PLAN REQUIREMENTS.—(1) The Secretary of Defense shall prescribe regulations to ensure that potential contractors submitting sealed bids or competitive proposals to the Department of Defense for procurement contracts to be awarded under the program provided for by this section are complying with applicable subcontracting plan requirements of section 8(d) of the Small Business Act (15 U.S.C. 637(d)).

"(2) The regulations required by paragraph (1) shall ensure that, with respect to a sealed bid or competitive proposal for which the bidder or offeror is required to negotiate or submit a subcontracting plan under section 8(d) of the Small Business Act (15 U.S.C. 637(d)), the subcontracting plan shall be a factor in evaluating the bid or proposal.".

SEC. 803. HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title II of this Act, $15,000,000 shall be available for such fiscal year for infrastructure assistance to historically Black colleges and universities and minority institutions under section 2323(c)(3) of title 10, United States Code.

SEC. 804. CERTIFICATE OF COMPETENCY REQUIREMENTS.

10 USC 2305 note.

(a) REQUIREMENT TO PROVIDE NOTICE IN SOLICITATION.—In the case of a contract to be entered into pursuant to the provisions of chapter 137 of title 10, United States Code, other than pursuant to simplified procedures referred to in section 2304(g) of such title, the solicitation for the contract shall contain a notice of the right of any small business concern bidding on the contract, in the case of a determination by the contracting officer that the concern is nonresponsible, to request the Small Business Administration to make a determination of the concern's responsibility under section 8(b)(7) of the Small Business Act (15 U.S.C. 637(b)(7)).

(b) REQUIREMENT TO PROVIDE NOTICE OF DETERMINATION OF NONRESPONSIBILITY.—If the contracting officer determines that the small business concern bidding on the contract is nonresponsible, the contracting officer shall notify the small business concern in writing that the contracting officer has determined the concern to be nonresponsible, that the concern has the right to request the Small Business Administration to make a determination of the concern's responsibility, and that, if the small business concern desires to request such a determination by the Administration, the small business concern shall inform the contracting officer in writing, within 14 days after receipt of the notice from the contracting officer, of the concern's desire to request such a determination. After being so informed, the Government procurement officer shall transmit the request, together with pertinent documents, to the Administration. If the Government procurement officer is not so informed within such 14 days, the procurement officer may proceed with award of the contract.

(c) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on October 1, 1992, and shall apply to solicitations for contracts issued after the expiration of the 120-day period beginning on the date of the enactment of this Act.

(d) REPORT.—Not later than October 1, 1994, the Secretary of Defense shall submit to Congress a report on the effectiveness and results of implementing the requirements of subsections (a) and (b), including such recommendations as the Secretary considers appropriate.

(e) TERMINATION.—Subsections (a) and (b) shall cease to be in effect on September 30, 1995.

SEC. 805. TEST PROGRAM FOR NEGOTIATION OF COMPREHENSIVE SMALL BUSINESS SUBCONTRACTING PLANS.

(a) EXTENSION OF PROGRAM.—Subsection (e) of section 834 of the National Defense Authorization Act for Fiscal Years 1990 and

1991 (Public Law 101-189; 15 U.S.C. 637 note) is amended by striking out "September 30, 1993" in the second sentence and inserting in lieu thereof "September 30, 1994".

(b) FISCAL YEAR 1994 PARTICIPANTS.—Such section is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

"(g) FISCAL YEAR 1994 PARTICIPANTS.—Only those contracting activities and contractors who negotiated subcontracting plans under demonstration projects conducted under the test program before October 1, 1993, may participate in demonstration projects conducted under the test program in fiscal year 1994.".

SEC. 806. EXTENSION OF TEST PROGRAM OF CONTRACTING FOR PRINTING-RELATED SERVICES FOR THE DEPARTMENT OF DEFENSE.

(a) EXTENSION OF AUTHORITY.—Section 843(e) of the National Defense Authorization Act, Fiscal Year 1989 (44 U.S.C. 502 note) is amended by striking out "October 1, 1993" and inserting in lieu thereof "October 1, 2000".

(b) SECTION HEADING.—The heading of section 843 of such Act is amended to read as follows:

"SEC. 843. CONTRACT GOAL FOR DISADVANTAGED SMALL BUSINESSES IN PRINTING-RELATED SERVICES.".

10 USC 2301 note. Regulations.

SEC. 807. PILOT MENTOR-PROTEGE PROGRAM.

(a) REQUIREMENT.—Within 15 days after the date of the enactment of this Act, the Secretary of Defense shall publish in the Department of Defense Supplement to the Federal Acquisition Regulation the Department of Defense policy for the pilot Mentor-Protege Program and the regulations, directives, and administrative guidance pertaining to such program as such policy, regulations, directives, and administrative guidance existed on December 6, 1991. Proposed modifications to that policy and any amendments of the matters published pursuant to the preceding sentence that are proposed in order to implement any of the amendments made by this section shall be published for public comment within 60 days after the date of the enactment of this Act and shall be published in final form within 120 days after such date.

(b) RELATIONSHIP TO SMALL BUSINESS ACT.—(1) Subsection (h) of section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended to read as follows:

"(h) RELATIONSHIP TO SMALL BUSINESS ACT.—(1) For purposes of the Small Business Act, no determination of affiliation or control (either direct or indirect) may be found between a protege firm and its mentor firm on the basis that the mentor firm has agreed to furnish (or has furnished) to its protege firm pursuant to a mentor-protege agreement any form of developmental assistance described in subsection (f).

"(2) Notwithstanding section 8 of the Small Business Act (15 U.S.C. 637), the Small Business Administration may not determine a disadvantaged small business concern to be ineligible to receive any assistance authorized under the Small Business Act on the basis that such business concern has participated in the Mentor-Protege Program or has received assistance pursuant to any developmental assistance agreement authorized under such program.

"(3) The Small Business Administration may not require a firm that is entering into, or has entered into, an agreement under subsection (e) as a protege firm to submit the agreement, or any other document required by the Secretary of Defense in the administration of the Mentor-Protege Program, to the Small Business Administration for review, approval, or any other purpose.".

(2) The amendment made by this subsection shall take effect as of November 5, 1990.

Effective date. 10 USC 2301 note.

(c) FUNDING.—Of the amounts authorized to be appropriated for fiscal year 1993 pursuant to title I of this Act, $55,000,000 shall be available for the pilot Mentor-Protege Program established pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note).

SEC. 808. CODIFICATION OF RECURRING PROVISION RELATING TO SUBCONTRACTING WITH CERTAIN NONPROFIT AGENCIES.

(a) POLICY.—Section 2301 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) It is also the policy of Congress that qualified nonprofit agencies for the blind or other severely handicapped (as defined in section 2410d(b) of this title) shall be afforded the maximum practicable opportunity to provide approved commodities and services (as defined in such section) as subcontractors and suppliers under contracts awarded by the Department of Defense.".

(b) CREDIT UNDER SMALL BUSINESS SUBCONTRACTING PLAN.—(1) Chapter 141 of title 10, United States Code, as amended by section 384, is further amended by adding at the end the following new section:

"§ 2410d. Subcontracting plans: credit for certain purchases

"(a) PURCHASES BENEFITING SEVERELY HANDICAPPED PERSONS.—In the case of a business concern that has negotiated a small business subcontracting plan with a military department or a Defense Agency, purchases made by that business concern from qualified nonprofit agencies for the blind or other severely handicapped shall count toward meeting the subcontracting goal provided in that plan.

"(b) DEFINITIONS.—In this section:

"(1) The term 'small business subcontracting plan' means a plan negotiated pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) that establishes a goal for the participation of small business concerns as subcontractors under a contract.

"(2) The term 'qualified nonprofit agency for the blind or other severely handicapped' means—

"(A) a qualified nonprofit agency for the blind, as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3)); and

"(B) a qualified nonprofit agency for other severely handicapped, as defined in section 5(4) of such Act (41 U.S.C. 48b(4)).

"(3) The terms 'approved commodity' and 'approved service' mean a commodity and a service, respectively, that has been determined by the Committee for Purchase from the Blind and Other Severely Handicapped under section 2 of such Act (41 U.S.C. 47) to be suitable for procurement by the Federal Government.

"(4) The term 'Javits-Wagner-O'Day Act' means the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46–48c), commonly referred to as the Wagner-O'Day Act, that was revised and reenacted in the Act of June 23, 1971 (85 Stat. 77), commonly referred to as the Javits-Wagner-O'Day Act.

"(c) TERMINATION.—Subsection (a) shall cease to be effective at the end of September 30, 1994.".

(2) The table of sections at the beginning of such chapter, as amended by section 384, is further amended by adding at the end the following new item:

"2410d. Subcontracting plans: credit for certain purchases.".

10 USC 2301 note.

(c) EFFECTIVE DATE.—Sections 2301(d) and 2410d of title 10, United States Code (as added by subsections (a) and (b), respectively), shall take effect on October 1, 1993.

Subtitle B—Acquisition Management Improvement

SEC. 811. EXPANSION AND EXTENSION OF AUTHORITY UNDER MAJOR DEFENSE ACQUISITION PILOT PROGRAM.

(a) EXPANSION OF COVERAGE OF PROGRAM.—(1) Section 809 of the Department of Defense Authorization Act for Fiscal Year 1991 (P.L. 101–510; 104 Stat. 1593; 10 U.S.C. 2430 note) is amended—

(A) by striking out "major defense acquisition program" each place it appears and inserting in lieu thereof "defense acquisition program";

(B) by striking out "major defense acquisition programs" each place it appears and inserting in lieu thereof "defense acquisition programs"; and

(C) by striking out subsection (i).

(2) The heading for such section is amended by striking out "MAJOR".

(b) EXTENSION.—Subsection (h) of section 809 of the Department of Defense Authorization Act for Fiscal Year 1991 (P.L. 101–510; 104 Stat. 1595; 10 U.S.C. 2430 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1995".

SEC. 812. ACQUISITION WORKFORCE IMPROVEMENT.

(a) 5-YEAR REVIEW OF ASSIGNMENTS.—Section 1734(e)(2) of title 10, United States Code, is amended by adding at the end the following new sentence: "Reviews under this subsection shall be carried out after October 1, 1995, but may be carried out before that date."

(b) WAIVER OF ASSIGNMENT PERIODS FOR DEPUTY PROGRAM MANAGERS.—(1) Section 1734(a) of such title is amended—

(A) in paragraph (1), by inserting "and paragraph (3)" after "Except as provided under subsection (b)"; and

(B) by adding at the end the following new paragraph:

"(3) The assignment period requirement of the first sentence of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.".

(2) Section 1734(b) of such title is amended—

(A) in paragraph (1)(A), by inserting "(except as provided in paragraph (3))" after "deputy program manager"; and

(B) by adding at the end the following new paragraph:

"(3) The assignment period requirement under subparagraph (A) of paragraph (1) is waived for any individual serving as a deputy program manager if the individual is assigned to a critical acquisition position upon completion of the individual's assignment as a deputy program manager.".

(c) FULFILLMENT STANDARDS FOR MANDATORY TRAINING.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall develop fulfillment standards, and implement a program, for purposes of the training requirements of sections 1723, 1724, and 1735 of title 10, United States Code. Such fulfillment standards shall consist of criteria for determining whether an individual has demonstrated competence in the areas that would be taught in the training courses required under those sections. If an individual meets the appropriate fulfillment standard, the applicable training requirement is fulfilled. 10 USC 1723 note.

(2) The fulfillment standards developed under paragraph (1) shall take effect as of November 5, 1990, and shall cease to be in effect on October 1, 1997. Effective date. Termination date.

(3) The fulfillment standards required under paragraph (1) shall be developed not later than 90 days after the date of the enactment of this Act.

(d) EXPERIENCE REQUIREMENTS FOR DEPUTY PROGRAM MANAGERS.—Section 1735(b)(3) of such title is amended—

(1) in subparagraph (A)—

(A) by striking out "or deputy program manager"; and

(B) by striking out "and" at the end;

(2) in subparagraph (B)—

(A) by striking out "or deputy program manager"; and

(B) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(C) a deputy program manager of a major defense acquisition program, must have at least six years of experience in acquisition, at least two years of which were performed in a systems program office or similar organization; and

"(D) a deputy program manager of a significant nonmajor defense acquisition program, must have at least four years of experience in acquisition.".

(e) BUSINESS MANAGEMENT TRAINING AND EDUCATION.—(1) Clause (ii) of section 1732(b)(2)(B) of such title is amended by inserting before the period the following: "or equivalent training as prescribed by the Secretary to ensure proficiency in the disciplines listed in clause (i)".

(2) The Secretary of Defense shall prescribe equivalent training for purposes of clause (ii) of section 1732(b)(2)(B) of title 10, United States Code (as amended by paragraph (1)), not later than 120 days after the date of the enactment of this Act. 10 USC 1732 note.

(f) SCHOLARSHIP PROGRAM.—Section 1744 of such title is amended—

(1) in subsection (c)(2)—

(A) by striking "Secretary), and (D)" and all that follows through the period and inserting "Secretary)."; and

(B) by inserting "and" before "(C)";

(2) by adding at the end of subsection (c) the following:

"(3) The participant's agreement that, after successfully completing the course of education, the participant—

"(A) shall accept, if offered within such time as shall be specified in the agreement, an appointment to a full-time acquisition position in the Department of Defense that is commensurate with the participant's academic degree and experience, and that is—

"(i) in the excepted service, if the participant has not previously acquired competitive status, with the right, after successful completion of 2 years of service and such other requirements as the Office of Personnel Management may prescribe, to be appointed to a position in the competitive service, notwithstanding subchapter I of chapter 33 of title 5; or

"(ii) in the competitive service, if the participant has previously acquired competitive status; and

"(B) if appointed under subparagraph (A), shall serve for 1 calendar year for each school year or part thereof for which the participant was provided a scholarship under the scholarship program."; and

(3) by adding at the end the following:

"(e) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to require that a position be offered to a person after such person successfully completes the course of education agreed to. However, if no position described in subsection (c)(3)(A) is offered within the time specified in the agreement, the agreement shall be considered terminated.

"(f) DEFINITIONS.—In this section, the terms 'competitive service' and 'excepted service' have the meanings provided those terms by sections 2102 and 2103, respectively, of title 5.".

(g) REVISED DEADLINE FOR CONTROLLER GENERAL REPORT.—Section 1208(a) of Public Law 101–510 (10 U.S.C. 1701 note; 104 Stat. 1665) is amended in the second sentence by striking out "Not later than two years after the date of the enactment of this Act," and inserting in lieu thereof "Not later than February 1, 1993,".

SEC. 813. CERTIFICATION OF CONTRACT CLAIMS.

(a) REGULATIONS ON CERTIFICATION OF CONTRACT CLAIMS.—(1) Chapter 141 of title 10, United States Code, as amended by sections 384 and 808, is further amended by adding at the end the following new section:

"§ 2410e. Contract claims: certification regulations

"(a) REGULATIONS.—The Secretary of Defense may propose, for inclusion in the Federal Acquisition Regulation, regulations relating to certification of contract claims, requests for equitable adjustment to contract terms, and requests for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) that exceed $100,000. Such regulations, at a minimum, shall—

"(1) provide that a contract claim, request for equitable adjustment to contract terms, or request for relief under Public Law 85–804 (50 U.S.C. 1431 et seq.) may not be paid unless the contractor provides, at the time the claim or request is submitted, the certification required by section 6(c)(1) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)(1)); and

"(2) require that the person who certifies such a claim or request be an individual who is authorized to bind the contractor and who has knowledge of the basis of the claim or request, knowledge of the accuracy and completeness of the supporting data, and knowledge of the claim or request.

"(b) PUBLICATION.—The Secretary of Defense shall ensure that, upon promulgation of the regulations, the regulations are published in the Federal Register. Federal Register, publication.

"(c) REPORT.—If at any time the Secretary of Defense proposes revisions to the regulations promulgated pursuant to this section, the Secretary shall ensure that the proposed revisions are published in the Federal Register and, at the time of publication of such revisions, shall submit to Congress a report describing the proposed revisions and explaining why the regulations should be revised. The Secretary of Defense may not promulgate regulations containing such proposed revisions until the expiration of the 90-day period beginning on the date of receipt by Congress of such report." Federal Register, publication.

(2) The table of sections at the beginning of such chapter, as amended by sections 384 and 808, is further amended by adding at the end the following new item:

"2410e. Contract claims: certification regulations.".

(b) REPEAL.—Section 2410 of title 10, United States Code, is repealed, effective upon the promulgation of regulations pursuant to section 2410e of title 10, United States Code, as added by subsection (a).

(c) ADJUSTMENT OF SHIPBUILDING CONTRACTS.—Section 2405 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) If a certification referred to in subsection (b) with respect to a shipbuilding contract is determined to be deficient because of the position, status, or scope of authority of the person executing the certification, the contractor may resubmit the certification. The resubmitted certification shall be based on the knowledge of the contractor and the supporting data that existed when the original certification was submitted. The appropriateness of the person executing the resubmitted certification shall be determined on the basis of applicable law in effect at the time of the resubmission.

"(2) If a certification is resubmitted pursuant to paragraph (1) by the date described in paragraph (3), the resubmitted certification shall be deemed to have been submitted for purposes of this section at the time the original certification was submitted.

"(3) The date by which a certification may be resubmitted for purposes of paragraph (2) is the date which is the later of—

"(A) 90 days after the promulgation of regulations under section 2410e(a) of this title; or

"(B) 30 days after the date which is the earlier of the date on which—

"(i) the contractor is notified in writing, by an individual designated to make such notification by the Secretary of Defense, of the deficiency in the previously submitted claim, request, or demand;

"(ii) a board of contract appeals issues a decision determining the previously submitted claim, request, or demand to be deficient; or

"(iii) a Federal court renders a judgment determining the previously submitted claim, request, or demand to be deficient."

SEC. 814. DEADLINE FOR REPORT ON RIGHTS IN TECHNICAL DATA REGULATIONS.

(a) REQUIREMENT TO SUBMIT REPORT WHEN CONGRESS IS IN SESSION.—Section 807(a)(3)(A) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1422) is amended by striking out "transmit" and inserting in lieu thereof the following: "transmit, on a day on which both Houses of Congress are in session,".

10 USC 2320 note.

(b) COMPUTATION OF PERIOD OF RESTRICTION.—Section 807(c) of such Act is amended—

(1) in paragraph (1), by striking out "date described" and inserting in lieu thereof "expiration of the period described"; and

(2) in paragraph (2)—

(A) by striking out "The date referred to in paragraph (1) is the date 30 days following" and inserting in lieu thereof the following: "The period referred to in paragraph (1) is the period of 30 days of continuous session of Congress beginning on"; and

(B) by adding at the end the following new sentence: "For purposes of this paragraph, the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.".

SEC. 815. REQUIREMENT TO ESTABLISH SINGLE POINT OF CONTACT FOR INFORMATION CONCERNING PERSONS CONVICTED OF DEFENSE-CONTRACT RELATED FELONIES.

(a) REQUIREMENT.—Section 2408 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) SINGLE POINT OF CONTACT FOR INFORMATION.—(1) The Attorney General shall ensure that a single point of contact is established to enable a defense contractor or subcontractor to promptly obtain information regarding whether a person that the contractor or subcontractor proposes to use for an activity covered by paragraph (1) of subsection (a) is under a prohibition under that subsection.

Regulations.

"(2) The procedure for obtaining such information shall be specified in regulations prescribed by the Secretary of Defense under subsection (a).".

10 USC 2408 note.

(b) DEADLINE.—The single point of contact required by section 2408(c) of title 10, United States Code, as added by subsection (a), shall be established not later than 120 days after the date of the enactment of this Act.

SEC. 816. EXTENSION OF PROGRAM FOR USE OF MASTER AGREEMENTS FOR PROCUREMENT OF ADVISORY AND ASSISTANCE SERVICES.

Section 2304(j) of title 10, United States Code, is amended in paragraph (5) by striking out "at the end of" and all that follows and inserting in lieu thereof "on September 30, 1994.".

SEC. 817. MAJOR DEFENSE ACQUISITION PROGRAM REPORTS.

(a) SELECTED ACQUISITION REPORTS FOR CERTAIN PROGRAMS.—Section 127(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (101 Stat. 1044; 10 U.S.C. 2432 note) is

amended by striking out "at the end of each fiscal year quarter" and inserting in lieu thereof ", in accordance with the provisions of subsection (b) of section 2432 of title 10, United States Code,".

(b) MINIMUM AMOUNT CRITERIA FOR MAJOR DEFENSE ACQUISITION PROGRAMS.—Section 2430 of title 10, United States Code, is amended—

(1) by designating the existing test as subsection (a);

(2) in paragraph (2) of that subsection, as so designated—

(A) by striking out "$200,000,000" and inserting in lieu thereof "$300,000,000";

(B) by striking out "1980" both places it appears and inserting in lieu thereof "1990"; and

(C) by striking out "$1,000,000,000" and inserting in lieu thereof "$1,800,000,000"; and

(3) by adding at the end the following new subsection:

"(b) The Secretary of Defense may adjust the amounts (and the base fiscal year) provided in subsection (a)(2) on the basis of Department of Defense escalation rates. An adjustment under this subsection shall be effective after the Secretary transmits a written notification of the adjustment to the Committees on Armed Services of the Senate and House of Representatives.".

(c) SELECTED ACQUISITION REPORTS.—(1) Subsection (a) of section 2432 of title 10, United States Code, is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) The term 'major contract', with respect to a major defense acquisition program, means each of the six largest prime, associate, or Government-furnished equipment contracts under the program that is in excess of $40,000,000.".

(2) Subsection (b) of such section is amended by striking out paragraph (3) and inserting in lieu thereof the following:

"(3)(A) The Secretary of Defense may waive the requirement for submission of Selected Acquisition Reports for a program for a fiscal year if—

"(i) the program has not entered full scale development or engineering and manufacturing development;

"(ii) a reasonable cost estimate has not been established for such program; and

"(iii) the system configuration for such program is not well defined.

"(B) The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a written notification of each waiver under subparagraph (A) for a program for a fiscal year not later than 60 days before the President submits the budget to Congress pursuant to section 1105 of title 31 in that fiscal year.".

(3) Subsection (c)(2) of such section is amended by striking out the last sentence and inserting in lieu thereof the following: "The Secretary of Defense may approve changes in the content of the Selected Acquisition Report if the Secretary provides such Committees with written notification of such changes at least 60 days before the date of the report that incorporates the changes.".

(4) Subsection (c)(3)(C) of such section is amended by striking out clauses (i) through (vii) and inserting in lieu thereof the following:

"(i) Specification of the baseline production rate, defined as the rate or rates to be achieved at full rate production as assumed in the decision to proceed with

production (commonly referred to as the 'Milestone III' decision).

"(ii) Specification, for each of the two budget years of production under the program, of the minimum sustaining production rate, defined as the production rate for each budget year that is necessary to keep production lines open while maintaining a base of responsive vendors and suppliers.

"(iii) Specification, for each of the two budget years of production under the program, of the maximum production rate, defined as the production rate for each budget year that is attainable with the facilities and tooling programmed to be available for procurement under the program or otherwise to be provided with Government funds.

"(iv) Specification, for each of the two budget years of production, of the current production rate, defined as the production rate for each budget year for which the report is submitted, based on the budget submitted to Congress pursuant to section 1105 of title 31.

"(v) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the minimum sustaining production rate specified pursuant to clause (ii); and

"(II) between the total remaining procurement cost at the production rate specified pursuant to clause (iv) and the total remaining procurement cost at the minimum sustaining production rate specified pursuant to clause (ii).

"(vi) Estimation of any cost variance—

"(I) between the budget year procurement unit costs at the current production rate specified pursuant to clause (iv) and the budget year procurement unit costs at the maximum production rate specified pursuant to clause (iii); and

"(II) between the total remaining procurement cost at the current production rate specified pursuant to clause (iv) and the total remaining procurement cost at the maximum production rate specified pursuant to clause (iii).

"(vii) Estimation of quantity variance—

"(I) between the budget year quantities assumed in the minimum sustaining production rate specified pursuant to clause (ii) and the current production rate specified pursuant to clause (iv); and

"(II) between the budget year quantities assumed in the maximum production rate specified pursuant to clause (iii) and the current production rate specified pursuant to clause (iv).".

(d) UNIT COST REPORTS.—(1) Subsection (a)(4)(C) of section 2433 of title 10, United States Code, is amended by striking out "(e)(2)(B)(ii)" and inserting in lieu thereof "(e)(2)(B)".

(2) Subsection (b) of such section is amended by striking out "7 days (excluding Saturdays, Sundays, and legal public holidays)" in the second sentence and inserting in lieu thereof "30 calendar days".

(3) Paragraphs (1)(A), (1)(B), (2)(A), and (2)(B) of subsection (c) of such section are amended by striking out "more than" each place it appears and inserting in lieu thereof "at least".

(4) Subsection (d) of such section is amended—

(A) by striking out "more than" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "at least"; and

(B) in paragraph (3) of such subsection—

(i) by striking out "more than" each place it appears and inserting in lieu thereof "at least"; and

(ii) by striking out "program within 30 days" and all that follows and inserting in lieu thereof "program. In the case of a determination based on a quarterly report submitted in accordance with subsection (b), the Secretary shall submit the notification to Congress within 45 days after the end of the quarter. In the case of a determination based on a report submitted in accordance with subsection (c), the Secretary shall submit the notification to Congress within 45 days after the date of that report. The Secretary shall include in the notification the date on which the determination was made.".

(5) Subsection (e) of such section is amended—

(A) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) Except as provided in subparagraph (B), whenever the Secretary concerned determines under subsection (d) that the program acquisition unit cost or the current procurement unit cost of a major defense acquisition program has increased by at least 15 percent, a Selected Acquisition Report shall be submitted to Congress for the first fiscal-year quarter ending on or after the date of the determination or for the fiscal-year quarter which immediately precedes the first fiscal-year quarter ending on or after that date. The report shall include the information described in section 2432(e) of this title and shall be submitted in accordance with section 2432(f) of this title.";

(B) in paragraph (2), by striking out "current program acquisition cost" and inserting in lieu thereof "program acquisition unit cost or current procurement unit cost"; and

(C) in paragraph (3), by striking out "more than" each place it appears and inserting in lieu thereof "at least".

SEC. 818. ALLOWABLE COSTS.

(a) PENALTIES.—Section 2324 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "(1)";

(B) in paragraph (2)—

(i) by striking out "(2)" and inserting in lieu thereof "(b)(1)";

(ii) by striking out "by clear and convincing evidence";

(iii) by inserting "expressly" before "unallowable";

(iv) by striking out "under paragraph (1)" and inserting in lieu thereof "under a cost principle referred to in subsection (a) that defines the allowability of specific selected costs"; and

(v) in subparagraph (A), by striking out "costs" and inserting in lieu thereof the following: "cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted";

(2) in subsection (b)—

(A) by striking out "(b) If the Secretary" and inserting in lieu thereof "(2) If the Secretary";

(B) by striking out ", in addition to the penalty assessed under subsection (a),"; and

(C) by striking out "the amount of such cost" and inserting in lieu thereof "the amount of the disallowed cost allocated to covered contracts for which a proposal for settlement of indirect costs has been submitted";

(3) by striking out subsection (d);

(4) by redesignating subsection (c) as subsection (d); and

(5) by inserting before subsection (d) (as so redesignated) the following:

Regulations.

"(c) The Secretary shall prescribe regulations providing for a penalty under subsection (b) to be waived in the case of a contractor's proposal for settlement of indirect costs when—

"(1) the contractor withdraws the proposal before the formal initiation of an audit of the proposal by the Federal Government and resubmits a revised proposal;

"(2) the amount of unallowable costs subject to the penalty is insignificant; or

"(3) the contractor demonstrates, to the contracting officer's satisfaction, that—

"(A) it has established appropriate policies and personnel training and an internal control and review system that provide assurances that unallowable costs subject to penalties are precluded from being included in the contractor's proposal for settlement of indirect costs; and

"(B) the unallowable costs subject to the penalty were inadvertently incorporated into the proposal.".

10 USC 2324 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply, as provided in regulations prescribed by the Secretary of Defense, with respect to proposals for settlement of indirect costs for which the Federal Government has not formally initiated an audit before that date.

SEC. 819. ADVISORY AND ASSISTANCE SERVICES FOR OPERATIONAL TEST AND EVALUATION.

Paragraph (3) of section 2399(e) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(3)"; and

(2) by adding at the end the following new subparagraph:

"(B) The limitation in subparagraph (A) does not apply to a contractor that has participated in such development, production, or testing solely as a representative of the Federal Government.".

SEC. 820. REGULATIONS RELATING TO SUBSTANTIAL CHANGES IN THE PARTICIPATION OF A MILITARY DEPARTMENT IN A JOINT ACQUISITION PROGRAM.

(a) REGULATIONS REQUIRED.—Section 2308 of title 10, United States Code, is amended—

(1) by designating the existing text as subsection (a); and

(2) by adding at the end the following new subsection:

"(b) REGULATIONS REQUIRED.—(1) The Secretary of Defense shall prescribe regulations that prohibit each military department participating in a joint acquisition program approved by the Under Secretary of Defense for Acquisition from terminating or substantially reducing its participation in such program without the approval of the Under Secretary.

"(2) The regulations shall include the following provisions:

"(A) A requirement that, before any such termination or substantial reduction in participation is approved, the proposed termination or reduction be reviewed by the Joint Requirements Oversight Council of the Department of Defense.

"(B) A provision that authorizes the Under Secretary of Defense for Acquisition to require a military department approved for termination or substantial reduction in participation in a joint acquisition program to continue to provide some or all of the funding necessary for the acquisition program to be continued in an efficient manner.".

(b) DEADLINE FOR REGULATIONS.—The Secretary of Defense shall prescribe the regulations required by subsection (b) of section 2308 of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993. 10 USC 2308 note.

SEC. 821. COMPETITIVE PROTOTYPING REQUIREMENT FOR DEVELOPMENT OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT FOR COMPETITIVE PROTOTYPING.—(1) Chapter 144 of title 10, United States Code, is amended—

(A) by redesignating section 2438 as section 2439; and

(B) by adding after section 2437 the following new section:

"§ 2438. Major programs: competitive prototyping

"(a) ACQUISITION STRATEGY.—Except as provided in subsection (c), before development under a major defense acquisition program begins, the Secretary of Defense shall prepare an acquisition strategy for the program which provides for the competitive prototyping of the major weapon system under the program and any major subsystems of the system in accordance with subsection (b).

"(b) COMPETITIVE PROTOTYPING REQUIREMENTS.—An acquisition strategy meets the requirement of subsection (a) if it—

"(1) requires that contracts be entered into with not less than two contractors, using the same combat performance requirements, for the competitive design and manufacture of a prototype system or subsystem for developmental test and evaluation;

"(2) requires that all systems or subsystems developed under contracts described in paragraph (1) be tested in a comparative side-by-side test that is designed to—

"(A) reproduce combat conditions to the extent practicable; and

"(B) determine which system or subsystem is most effective under such conditions; and

"(3) requires that each contractor that develops a prototype system or subsystem, before the testing described in paragraph (2) is begun, submit—

"(A) cost estimates for full-scale engineering development and the basis for such estimates; and

"(B) production estimates, whenever practicable.

"(c) EXCEPTION.—Subsection (a) shall not apply to the development of a major weapon system (or subsystem of such system) after—

"(1) a written justification is submitted to the Under Secretary of Defense for Acquisition explaining why use of competitive prototyping is not practicable, including cost estimates (and the bases for such estimates) comparing the total program cost of an acquisition strategy that provides for competitive prototyping with the total program cost of an acquisition strategy that does not provide for such prototyping; and

"(2) 30 days elapse after the submission of such justification to the Under Secretary of Defense for Acquisition.

"(d) DEFINITIONS.—In this section:

"(1) The term 'major defense acquisition program' means a Department of Defense acquisition program that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $300,000,000 (based on fiscal year 1990 constant dollars).

"(2) The term 'major weapon system' means a major weapon system that is acquired under a program that is a major defense acquisition program.

"(3) The term 'subsystem of such system' means a collection of components (such as the propulsion system, avionics, or weapon controls) for which the prime contractors, major subcontractors, or government entities have responsibility for system integration.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2438 and inserting in lieu thereof the following new items:

"2438. Major programs: competitive prototyping.
"2439. Major programs: competitive alternative sources.".

10 USC 2438 note.

(b) EFFECTIVE DATE.—Section 2438 of title 10, United States Code, as added by subsection (a), shall apply with respect to major programs entering development after the expiration of the 90-day period beginning on the date of the enactment of this Act.

(c) CONFORMING REPEAL.—(1) Section 2365 of title 10, United States Code, is repealed.

(2) The table of sections for chapter 139 of such title is amended by striking out the item relating to section 2365.

Subtitle C—Other Matters

SEC. 831. REPEAL OF PROCUREMENT LIMITATION ON TYPEWRITERS.

(a) REPEAL.—Subsection (c) of section 2534 of title 10, United States Code, as redesignated by section 4202(a), is hereby repealed.

(b) CONFORMING AMENDMENT.—Subsections (d), (e), and (f) of such section are redesignated as subsections (c), (d), and (e), respectively.

SEC. 832. PROCUREMENT LIMITATION ON BALL BEARINGS AND ROLLER BEARINGS.

During fiscal years 1993, 1994, and 1995, the Secretary of Defense may not procure ball bearings or roller bearings other than in accordance with subpart 225.71 of part 225 of the Defense Federal Acquisition Regulation Supplement, as in effect on the date of the enactment of this Act.

SEC. 833. RESTRICTION ON PURCHASE OF SONOBUOYS.

(a) IN GENERAL.—Section 2534 of title 10, United States Code, as redesignated by section 4202(a) and as amended by section 831, is further amended by adding at the end the following new subsection:

"(f) SONOBUOYS.—(1) The Secretary of Defense may not procure a sonobuoy manufactured in a foreign country if United States firms that manufacture sonobuoys are not permitted to compete on an equal basis with foreign manufacturing firms for the sale of sonobuoys in that foreign country.

"(2) The Secretary may waive the limitation in paragraph (1) with respect to a particular procurement of sonobuoys if the Secretary determines that such procurement is in the national security interests of the United States.

"(3) In this subsection, the term 'United States firm' has the meaning given such term in section 2532(d)(1) of this title.".

(b) EFFECTIVE DATE.—Subsection (f) of section 2534 of title 10, United States Code, as added by subsection (a), shall apply with respect to solicitations for contracts issued after the expiration of the 120-day period beginning on the date of the enactment of this Act. 10 USC 2534 note.

SEC. 834. DEBARMENT OF PERSONS CONVICTED OF FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, as amended by sections 384, 808, and 813, is further amended by adding at the end the following new section:

"§ 2410f. Debarment of persons convicted of fraudulent use of 'Made in America' labels

"(a) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a 'Made in America' inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, not later than 90 days after determining that the person has been so convicted, whether the person should be debarred from contracting with the Department of Defense. If the Secretary determines that the person should not be debarred, the Secretary shall submit to Congress a report on such determination not later than 30 days after the determination is made. Reports.

"(b) For purposes of this section, the term 'debar' has the meaning given that term by section 2393(c) of this title.".

(2) The table of sections at the beginning of such chapter, as amended by sections 384, 808, and 813, is further amended by adding at the end the following new item:

"2410f. Debarment of persons convicted of fraudulent use of 'Made in America' labels.".

(b) EFFECTIVE DATE.—Section 2410f of title 10, United States Code, as added by subsection (a), shall take effect 90 days after the date of the enactment of this Act. 10 USC 2410f note.

SEC. 835. PROHIBITION ON PURCHASE OF UNITED STATES DEFENSE CONTRACTORS BY ENTITIES CONTROLLED BY FOREIGN GOVERNMENTS. 50 USC app. 2170a.

(a) IN GENERAL.—No entity controlled by a foreign government may merge with, acquire, or take over a company engaged in interstate commerce in the United States that—

(1) is performing a Department of Defense contract, or a Department of Energy contract under a national security program, that cannot be performed satisfactorily unless that company is given access to information in a proscribed category of information; or

(2) during the previous fiscal year, was awarded—

(A) Department of Defense prime contracts in an aggregate amount in excess of $500,000,000; or

(B) Department of Energy prime contracts under national security programs in an aggregate amount in excess of $500,000,000.

(b) INAPPLICABILITY TO CERTAIN CASES.—The limitation in subsection (a) shall not apply if a merger, acquisition, or takeover is not suspended or prohibited pursuant to section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170).

(c) DEFINITIONS.—In this section:

(1) The term "entity controlled by a foreign government" includes—

(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

(B) any individual acting on behalf of a foreign government,

as determined by the President.

(2) The term "proscribed category of information" means a category of information that—

(A) with respect to Department of Defense contracts—

(i) includes special access information;

(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

(B) with respect to Department of Energy contracts—

(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

SEC. 836. PROHIBITION ON AWARD OF CERTAIN DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY CONTRACTS TO COMPANIES OWNED BY AN ENTITY CONTROLLED BY A FOREIGN GOVERNMENT.

(a) IN GENERAL.—(1) Subchapter V of chapter 148 of title 10, United States Code, as added by section 4202(b), is further amended by adding at the end the following new section:

"§ 2536. Prohibition on award of certain Department of Defense and Department of Energy contracts to companies owned by an entity controlled by a foreign government.

"(a) IN GENERAL.—A Department of Defense contract or Department of Energy contract under a national security program may not be awarded to a company owned by an entity controlled by

a foreign government if it is necessary for that company to be given access to information in a proscribed category of information in order to perform the contract.

"(b) WAIVER AUTHORITY.—The Secretary concerned may waive the application of subsection (a) to a contract award if the Secretary concerned determines that the waiver is essential to the national security interests of the United States.

"(c) DEFINITIONS.—In this section:

"(1) The term 'entity controlled by a foreign government' includes—

"(A) any domestic or foreign organization or corporation that is effectively owned or controlled by a foreign government; and

"(B) any individual acting on behalf of a foreign government,

as determined by the Secretary concerned.

"(2) The term 'proscribed category of information' means a category of information that—

"(A) with respect to Department of Defense contracts—

"(i) includes special access information;

"(ii) is determined by the Secretary of Defense to include information the disclosure of which to an entity controlled by a foreign government is not in the national security interests of the United States; and

"(iii) is defined in regulations prescribed by the Secretary of Defense for the purposes of this section; and

"(B) with respect to Department of Energy contracts—

"(i) is determined by the Secretary of Energy to include information described in subparagraph (A)(ii); and

"(ii) is defined in regulations prescribed by the Secretary of Energy for the purposes of this section.

"(3) The term 'Secretary concerned' means—

"(A) the Secretary of Defense, with respect to Department of Defense contracts; and

"(B) the Secretary of Energy, with respect to Department of Energy contracts.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2536. Prohibition on award of certain Department of Defense and Department of Energy contracts to companies owned by an entity controlled by a foreign government.".

(b) EFFECTIVE DATE.—Section 2536 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the expiration of the 90-day period beginning on the date of the enactment of this Act. 10 USC 2536 note.

SEC. 837. DEFENSE PRODUCTION ACT AMENDMENTS.

(a) INVESTIGATIONS OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended—

(1) by redesignating subsections (b) through (h) as subsections (c) through (i), respectively; and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY INVESTIGATIONS.—The President or the President's designee shall make an investigation, as described in subsection (a), in any instance in which an entity controlled by or acting on behalf of a foreign government seeks to engage in any merger, acquisition, or takeover which could result in control of a person engaged in interstate commerce in the United States that could affect the national security of the United States. Such investigation shall—

"(1) commence not later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover, as prescribed by regulations promulgated pursuant to this section; and

"(2) shall be completed not later than 45 days after its commencement.".

(b) CONSIDERATIONS OF THE PRESIDENT.—Section 721(f) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period and inserting a comma; and

(3) by adding at the end the following new paragraphs:

"(4) the potential effects of the proposed or pending transaction on sales of military goods, equipment, or technology to any country—

"(A) identified by the Secretary of State—

"(i) under section 6(j) of the Export Administration Act of 1979, as a country that supports terrorism;

"(ii) under section 6(l) of the Export Administration Act of 1979, as a country of concern regarding missile proliferation; or

"(iii) under section 6(m) of the Export Administration Act of 1979, as a country of concern regarding the proliferation of chemical and biological weapons; or

"(B) listed under section 309(c) of the Nuclear Non-Proliferation Act of 1978 on the 'Nuclear Non-Proliferation-Special Country List' (15 C.F.R. Part 778, Supplement No. 4) or any successor list; and

"(5) the potential effects of the proposed or pending transaction on United States international technological leadership in areas affecting United States national security.".

(c) REPORT.—Section 721(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(f)) (as redesignated by subsection (a)) is amended to read as follows:

"(g) REPORT TO THE CONGRESS.—The President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the President's determination of whether or not to take action under subsection (d), including a detailed explanation of the findings made under subsection (e) and the factors considered under subsection (f). Such report shall be consistent with the requirements of subsection (c) of this Act.".

(d) SENSE OF THE CONGRESS REGARDING THE COMMITTEE ON FOREIGN INVESTMENT IN THE UNITED STATES.—It is the sense of the Congress that the President should include in the membership

of the Committee on Foreign Investment in the United States (established by Executive Order No. 11858)—

(1) the Director of the Office of Science and Technology Policy; and

(2) the Assistant to the President for National Security.

(e) TECHNOLOGY RISK ASSESSMENTS.—Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is further amended by adding at the end the following new subsection:

"(j) TECHNOLOGY RISK ASSESSMENTS.—In any case in which an assessment of the risk of diversion of defense critical technology is performed by a designee of the President, a copy of such assessment shall be provided to any other designee of the President responsible for reviewing or investigating a merger, acquisition, or takeover under this section.".

SEC. 838. IMPROVED NATIONAL DEFENSE CONTROL OF TECHNOLOGY DIVERSIONS OVERSEAS.

(a) IN GENERAL.—Subchapter V of chapter 148 of title 10, United States Code, as added by section 4202(b) and amended by section 837, is further amended by adding at the end the following new section:

"§ 2537. Improved national defense control of technology diversions overseas

"(a) COLLECTION OF INFORMATION ON FOREIGN-CONTROLLED CONTRACTORS.—The Secretary of Defense and the Secretary of Energy shall each collect and maintain a data base containing a list of, and other pertinent information on, all contractors with the Department of Defense and the Department of Energy, respectively, which are controlled by foreign persons. The data base shall contain information on such contractors for 1988 and thereafter in all cases where they are awarded contracts exceeding $100,000 in any single year by the Department of Defense or the Department of Energy.

"(b) ANNUAL REPORT TO CONGRESS.—The Secretary of Defense, the Secretary of Energy, and the Secretary of Commerce shall submit to the Congress, by March 31 of each year, beginning in 1994, a report containing a summary and analysis of the information collected under subsection (a) for the year covered by the report. The report shall include an analysis of accumulated foreign ownership of United States firms engaged in the development of defense critical technologies.

"(c) TECHNOLOGY RISK ASSESSMENT REQUIREMENT.—(1) If the Secretary of Defense is acting as a designee of the President under section 721(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2170(a)) and if the Secretary determines that a proposed or pending merger, acquisition, or takeover may involve a firm engaged in the development of a defense critical technology or is otherwise important to the defense industrial and technology base, then the Secretary shall require the appropriate entity or entities from the list set forth in paragraph (2) to conduct an assessment of the risk of diversion of defense critical technology posed by such proposed or pending action.

"(2) The entities referred to in paragraph (1) are the following:

"(A) The Defense Intelligence Agency.

"(B) The Army Foreign Technology Science Center.

"(C) The Naval Maritime Intelligence Center.

"(D) The Air Force Foreign Aerospace Science and Technology Center.

"(d) DEFINITION.—In this section, the term 'defense critical technology' has the meaning provided that term by section 2491(8) of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2537. Improved national defense control of technology diversions overseas.".

SEC. 839. LIMITATION ON SALE OF ASSETS OF CERTAIN DEFENSE CONTRACTOR.

(a) REQUIREMENT.—(1) The Secretary of Defense shall require that, in any contract entered into by the Department of Defense with the LTV Aerospace and Defense Company (hereinafter referred to as the 'contractor'), the terms of the contract shall include the requirements set forth in paragraph (2).

(2) A contract referred to in paragraph (1) shall prohibit the contractor (including any subsidiaries of the contractor) from selling, after April 1, 1992, all or any part of its operating assets to any other person or entity unless the person or entity agrees to assume, to the extent required under any collective bargaining agreement entered into by the contractor, all the liabilities of the contractor to all of the employees of the contractor who have retired. For purposes of this paragraph, such liabilities include all retirement health and life insurance and pension benefits payable (at the time of sale or any time after the sale) to, or for the benefit of, such retired employees, their spouses, and their dependents.

(b) APPLICABILITY.—The requirements of subsection (a) shall apply with respect to any contract entered into after April 1, 1992, and any contract in existence as of April 1, 1992, with the LTV Aerospace and Defense Company. Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall modify contracts in existence as of April 1, 1992, and contracts entered into between April 1, 1992, and the date of the enactment of this Act, to reflect the requirements of this section.

(c) TRANSITION.—(1) If a person or entity (in this subsection referred to as the 'purchaser') purchases the LTV Aerospace and Defense Company during the period beginning on April 1, 1992, and ending 60 days after the date of the enactment of this Act, the Secretary of Defense shall modify any transferred contracts to require the purchaser to assume all the liabilities of the LTV Aerospace and Defense Company to all of the employees of such company who have retired (including all the liabilities described in subsection (a)(2)).

(2) For purposes of paragraph (1), a transferred contract is a contract entered into by the purchaser and the Department of Defense which contains terms and obligations (A) which are similar to the terms and obligations of a previous contract between the LTV Aerospace and Defense Company and the Department of Defense, and (B) which the purchaser agreed to assume as part of the terms of the purchase of such company.

SEC. 840. ADVANCE NOTIFICATION OF CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES.

(a) NOTIFICATION REQUIRED.—(1) Chapter 141 of title 10, United States Code, as amended by sections 384, 808, 813, and

834, is further amended by adding at the end the following new section:

"§ 2410g. Advance notification of contract performance outside the United States

"(a) NOTIFICATION.—(1) A firm that is performing a Department of Defense contract for an amount exceeding $10,000,000, or is submitting a bid or proposal for such a contract, shall notify the Department of Defense in advance of any intention of the firm or any first-tier subcontractor of the firm to perform outside the United States and Canada any part of the contract that exceeds $500,000 in value and could be performed inside the United States or Canada.

"(2) If a firm submitting a bid or proposal for a Department of Defense contract is required to submit a notification under this subsection, and the firm is aware, at the time it submits its bid or proposal, that the firm intends to perform outside the United States and Canada any part of the contract that exceeds $500,000 in value and could be performed inside the United States or Canada, the firm shall include the notification in its bid or proposal.

"(3) The notification by a firm under paragraph (1) with respect to a first-tier subcontractor shall be made, to the maximum extent practicable, at least 30 days before award of the subcontract.

"(b) RECIPIENT OF NOTIFICATION.—The firm shall transmit the notification—

"(1) in the case of a contract of a military department, to such officer or employee of that military department as the Secretary of the military department may direct; and

"(2) in the case of any other Department of Defense contract, to such officer or employee of the Department of Defense as the Secretary of Defense may direct.

"(c) AVAILABILITY OF NOTIFICATIONS.—The Secretary of Defense shall ensure that the notifications (or copies) are maintained in compiled form for a period of 5 years after the date of submission and are available for use in the preparation of the national defense technology and industrial base assessment carried out under section 2505 of this title.

"(d) INAPPLICABILITY TO CERTAIN CONTRACTS.—This section shall not apply to contracts for any of the following:

"(1) Commercial items.
"(2) Military construction.
"(3) Ores.
"(4) Natural gas.
"(5) Utilities.
"(6) Petroleum products and crudes.
"(7) Timber.
"(8) Subsistence.".

(2) The table of sections at the beginning of such chapter, as amended by sections 384, 808, 813, and 834, is further amended by adding at the end the following new item:

"2410g. Advance notification of contract performance outside the United States.".

(b) EFFECTIVE DATE.—Section 2410g of title 10, United States Code (as added by subsection (a)), shall take effect 90 days after the date of the enactment of this Act. 10 USC 2410g note.

SEC. 841. ACQUISITION FELLOWSHIP PROGRAM.

(a) FELLOWSHIP PROGRAM.—Chapter 141 of title 10, United States Code, as amended by sections 384, 808, 813, 834, and 840, is further amended by adding at the end the following new section:

"§ 2410h. Acquisition fellowship program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish and carry out an acquisition fellowship program in accordance with this section in order to enhance the ability of the Department of Defense to recruit employees who are highly qualified in fields of acquisition.

"(b) NUMBER OF FELLOWSHIPS.—The Secretary of Defense may designate up to 25 prospective employees of the Department of Defense as acquisition fellows.

"(c) ELIGIBILITY.—In order to be eligible for designation as an acquisition fellow, an employee—

"(1) must complete at least 2 years of Federal Government service as an employee in an acquisition position in the Department of Defense; and

"(2) must be serving in an acquisition position in the Department of Defense that involves the performance of duties likely to result in significant restrictions under law on the employment activities of that employee after leaving Government service.

"(d) TWO-YEAR PERIOD OF RESEARCH AND TEACHING.—Under the fellowship program, the Secretary of Defense shall pay designated acquisition fellows to engage in research or teaching for a 2-year period in a field related to Federal Government acquisition policy. Such research or teaching may be conducted in the defense acquisition university structure of the Department of Defense, any other institution of professional education of the Federal Government, or a nonprofit institution of higher education. Each fellow shall be paid at a rate equal to the rate of pay payable for the level of the position in which the fellow served in the Department of Defense before undertaking such research or teaching.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by sections 384, 808, 813, 834, and 840, is further amended by adding at the end the following new item:

"2410h. Acquisition fellowship program.".

Termination date.
10 USC 2304 note.

SEC. 842. PURCHASE OF ANGOLAN PETROLEUM PRODUCTS.

The prohibition in section 316 of the National Defense Authorization Act for Fiscal Year 1987 (100 Stat. 3855; 10 U.S.C. 2304 note) shall cease to be effective on the date on which the President certifies to Congress that free, fair, and democratic elections have taken place in Angola.

SEC. 843. AUTHORITY FOR THE DEPARTMENT OF DEFENSE TO SHARE EQUITABLY THE COSTS OF CLAIMS UNDER INTERNATIONAL ARMAMENTS COOPERATION PROGRAMS.

(a) AMENDMENT TO THE ARMS EXPORT CONTROL ACT.—Section 27(c) of the Arms Export Control Act (22 U.S.C. 2767(c)) is amended in the second sentence by striking out "and administrative costs" and inserting in lieu thereof "costs, administrative costs, and costs of claims".

(b) AMENDMENTS TO TITLE 10.—(1) Section 2350a(c) of title 10, United States Code, is amended by inserting "(including the costs of claims)" after "project" the second place it appears.

(2) Section 2350d(c) of such title is amended by inserting "and costs of claims" after "administrative costs".

(c) TERMINATION.—On the date which is two years after the date of the enactment of this Act, subsections (a) and (b) shall cease to be in effect, and section 27(c) of the Arms Export Control Act and section 2350a of title 10, United States Code, shall read as if such subsections had not been enacted. 10 USC 2350a note.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Roles and Missions

SEC. 901. REPORT OF THE CHAIRMAN OF THE JOINT CHIEFS OF STAFF ON ROLES AND MISSIONS OF THE ARMED FORCES. 10 USC 153 note.

(a) REPORT.—(1) The Secretary of Defense shall transmit to Congress a copy of the first report relating to the roles and missions of the Armed Forces that is submitted to the Secretary by the Chairman of the Joint Chiefs of Staff under section 153(b) of title 10, United States Code, after January 1, 1992.

(2) The Secretary shall transmit the report, together with his views on the report, within 30 days after receiving the report.

(b) ADDITIONAL MATTERS.—In addition to the matters required under such section 153(b), the Chairman shall include in the report referred to in subsection (a) the Chairman's comments and recommendations regarding the following matters:

(1) Reassessing the roles and missions assigned to each of the Armed Forces (under the Key West agreement of 1947 and subsequent actions by the various Secretaries of Defense and the Congress) in light of the new national security environment resulting from the end of the Cold War.

(2) The extent to which the efficiency of the Armed Forces in carrying out their roles and missions can be enhanced by—

(A) the elimination or reduction of duplication in the capabilities of the military departments and Defense Agencies without an undue diminution in their effectiveness; and

(B) the consolidation or streamlining of organizations and activities within the military departments and Defense Agencies.

(3) Changes in the operational tempo of forces stationed in the continental United States and changes in deployment patterns and operational tempo of forces deployed outside the United States.

(4) Changes in the readiness status of units based upon time-phased force deployment plans.

(5) Transfers of functions from the active components of the Armed Forces to the reserve components of the Armed Forces.

SEC. 902. TACTICAL AIRCRAFT MODERNIZATION PROGRAMS.

(a) FUNDING LIMITATION PENDING CERTAIN ACTIONS.—Of the total amount appropriated pursuant to an authorization of appropriations in section 201 that is made available for tactical aircraft

programs specified in subsection (b), not more than 65 percent may be obligated for those programs (allocated among those programs in such manner as the Secretary of Defense determines) until 60 days after the date as of which each of the following has occurred:

(1) The Secretary of Defense has transmitted to Congress the report referred to in section 901 in accordance with that section.

(2) The Secretary of Defense has submitted to the congressional defense committees the report described in subsection (c) setting forth a comprehensive affordability assessment of Department of Defense tactical aircraft programs.

(3) The Secretary of Defense has submitted to the congressional defense committees the technical assessments of the Defense Science Board that are specified in subsection (d).

(4) The Secretary of Defense has established a revised acquisition plan for the A–X medium attack aircraft program of the Navy as described in section 214.

(b) APPLICABILITY.—Subsection (a) applies to the following tactical aircraft programs:

(1) The F–22 Advanced Tactical Fighter (ATF) program of the Air Force.

(2) The FA–18E/F fighter program of the Navy.

(3) The A–X medium attack aircraft program of the Navy.

(c) COMPREHENSIVE AFFORDABILITY ASSESSMENT.—(1) The report under subsection (a)(2) shall contain a comprehensive affordability assessment of the long-range modernization plans of the Department of Defense for tactical aircraft programs. The assessment shall be prepared in light of the roles and missions report referred to in subsection (a)(1) and any other analysis of Department of Defense tactical aircraft requirements that the Secretary considers relevant.

(2) The tactical aircraft modernization plans to be considered in the assessment shall include—

(A) continued procurement of current aircraft;

(B) upgrades to current aircraft; and

(C) procurement of new design aircraft such as the FA–18E/F, the A–X, the EA–X, and the F–22 aircraft.

(3) The assessment shall include an examination of the shares of their respective annual budgets that the Air Force and the Navy have historically devoted to tactical aviation modernization programs and the effect of currently planned tactical aircraft modernization programs on those historical budget shares.

(4) As part of the assessment, the Secretary shall postulate the force structure for tactical aviation over the next 20 years and shall indicate the most cost effective modernization plans for that force structure.

(5) As part of the assessment, the Secretary shall evaluate for each of the aircraft programs specified in subsection (b) alternative manufacturing methods that would produce the aircraft efficiently in a reduced quantity and at a significantly lower annual rate than the quantity and rate currently projected by the Department for the aircraft. Such analysis shall show the effect of lower production rates on unit costs at 25 percent, 50 percent, and 100 percent of the currently projected maximum annual rates of production.

(6) In preparing the assessment, the Secretary shall receive and consider the views of the Cost Analysis Improvement Group in the Office of the Secretary of Defense on the tactical aviation programs covered by the assessment.

(d) DSB TECHNICAL ASSESSMENT.—The technical assessments to be undertaken by the Defense Science Board for purposes of subsection (a)(3) are the following:

(1) An assessment of the ways that current aircraft, upgrades to current aircraft, and new design aircraft can be modified or otherwise adapted so that a single aircraft type can be used by both the Air Force and the Navy in parallel missions.

(2) An assessment of the technical risks associated with the three tactical aircraft specified in subsection (b).

SEC. 903. SENSE OF CONGRESS ON COOPERATION BETWEEN THE ARMY AND THE MARINE CORPS.

(a) FINDINGS.—With respect to the roles and missions of the Army and Marine Corps, the Congress makes the following findings:

(1) The Army and the Marine Corps both provide military capabilities that are necessary for carrying out the national military strategy of the United States.

(2) Operation Desert Shield and Operation Desert Storm demonstrated the complementary nature of those capabilities and the substantial degree to which the Army and the Marine Corps can effectively coordinate their activities and cooperate with each other.

(3) The availability of future Federal budget resources for the Army and the Marine Corps is likely to be significantly more limited than the Federal budget resources currently available for the Army and the Marine Corps.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Army and the Marine Corps should intensify efforts—

(1) to eliminate unnecessary duplication; and

(2) to improve interservice coordination and to specialize in specific functional areas.

(c) EXAMINATION BY CJCS.—(1) The Congress encourages the Chairman of the Joint Chiefs of Staff to examine whether—

(A) the Army should provide the Marine Corps with armor and heavy fire support needed for mid-intensity and high-intensity combat; or

(B) the Marine Corps should be equipped with the armor, heavy artillery, and other weapons and sustainability needed to engage in mid-intensity and high-intensity combat independent of the other military services.

(2) In conducting the examination, the Chairman should consider the following actions:

(A) Designating Army artillery battalions equipped with the Multiple Launch Rocket System to support Marine amphibious forces afloat.

(B) Designating Army tank battalions to support Marine amphibious forces afloat.

(C) Equipping maritime prepositioning ships with Multiple Launch Rocket System (MLRS) launchers and M1 tanks to be manned by Army units in support of Marine forces.

(D) Transferring management of all prepositioning shipping on behalf of all of the Armed Forces to the Marine Corps.

(E) Transferring Army shipping and lighterage to the Navy.

(3) In the consideration of the actions referred to in paragraph (2), the Chairman should evaluate the logistics, training, and operational implications of each action.

(4) If the Chairman recommends that the Marine Corps be equipped with the armor, heavy artillery, other weapons, and sustainability necessary for engaging in mid-intensity and high-intensity combat independent of the other services, the Chairman should determine, as part of the examination under this paragraph, the following:

(A) What additional procurement requirements and costs are necessary to equip the Marine Corps to meet the demands of mid-intensity and high-intensity combat.

(B) The adequacy of current prepositioning programs, mine warfare capability, naval fire support, and night fighting capability to meet the demands of mid-intensity and high-intensity combat.

(d) ROLES AND MISSIONS AUTHORITY OF CHAIRMAN.—The Chairman should consider the findings and sense of Congress set forth in subsections (a) and (b), and the matters set forth in subsection (c), including the options for streamlining the roles and missions of the Army and the Marine Corps, in the performance of the Chairman's responsibilities under section 153(b) of title 10, United States Code.

SEC. 904. NATIONAL GUARD AND RESERVE COMPONENT OPERATIONAL SUPPORT AIRLIFT STUDY.

(a) LIMITATION.—Of the funds authorized to be appropriated by section 106, not more than $90,000,000 may be obligated to procure operational support airlift aircraft. None of those funds may be obligated until 60 days after the date on which the study required by subsection (b) is transmitted to the congressional defense committees.

(b) STUDY REQUIRED.—The Secretary of Defense shall undertake a study of operational support airlift aircraft and administrative transport airlift aircraft operated by the National Guard and the reserve components.

(c) STUDY REQUIREMENTS.—The study required by subsection (b) shall include the following:

(1) An inventory of all operational support airlift aircraft and administrative transport airlift aircraft that are operated by the reserve components.

(2) The peacetime utilization rate of such aircraft.

(3) The wartime mission of such aircraft.

(4) The need for such aircraft for the future base force.

(5) The current age, projected service life, and programmed retirement date for such aircraft.

(6) A list of aircraft programmed in the fiscal year 1994 future-years defense program to be purchased for the reserve components or to be transferred from the active components to the reserve components.

(7) The funds programmed in the fiscal year 1994 future-years defense program for procurement of replacement operational support and administrative transport airlift aircraft, and the acquisition strategy proposed for each type of replacement aircraft so programmed.

(d) DEFINITION.—For purposes of this section, the term "future-years defense program" means the future-years defense program submitted to Congress pursuant to section 221 of title 10, United States Code.

Subtitle B—Joint Chiefs of Staff

SEC. 911. VICE CHAIRMAN OF THE JOINT CHIEFS OF STAFF.

(a) DESIGNATION AS A MEMBER OF THE JOINT CHIEFS OF STAFF.—Section 151(a) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (2) through (5) as paragraphs (3) through (6), respectively; and

(2) by inserting after paragraph (1) the following new paragraph (2):

"(2) The Vice Chairman.".

(b) CONFORMING AMENDMENTS.—(1) Section 154 of such title is amended—

(A) in subsection (c), by striking out "such" and inserting in lieu thereof "the duties prescribed for him as a member of the Joint Chiefs of Staff and such other";

(B) by striking out subsection (f); and

(C) by redesignating subsection (g) as subsection (f).

(2) Section 155(a)(1) of such title is amended by striking out "and the Vice Chairman."

Subtitle C—Professional Military Education

SEC. 921. APPLICATION OF DEFINITION OF PRINCIPAL COURSE OF INSTRUCTION AT THE ARMED FORCES STAFF COLLEGE.

Section 912(b) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1452) is amended by striking out "October 1, 1993" and inserting in lieu thereof "January 1, 1994". 10 USC 663 note.

SEC. 922. PLAN REGARDING PROFESSIONAL MILITARY EDUCATION TEST PROGRAM FOR RESERVE COMPONENT OFFICERS OF THE ARMY.

(a) PLAN FOR TEST PROGRAM REQUIRED.—The Secretary of the Army shall prepare a plan for carrying out a test program to improve the provision of professional military education to reserve component officers of the Army by assigning or attaching such officers to an Army Reserve Forces school in an inactive duty status for the purpose of attending professional military education courses offered by the school.

(b) NATURE OF EDUCATION.—The professional military education courses offered as part of such a test program should correspond to the courses offered at the Army Combined Arms and Services Staff School and the United States Army Command and General Staff College.

(c) REPORT ON PLAN.—Not later than March 31, 1993, the Secretary of the Army shall submit to Congress a report that—

(1) describes the most effective approach, as determined by the Secretary, for carrying out the test program outlined in the plan required under subsection (a);

(2) describes the method by which reserve component officers of the Army would be selected to participate in the test program;

(3) identifies any legislation that would be required to implement the test program, such as the authorization of funds for the test program or the compensation of reserve component officers of the Army under section 206 of title 37, United States Code, who are selected to participate in the test program; and

(4) indicates how the test program would be evaluated to determine the effect of the program on units of the Selected Reserve, the management of duty assignments in the Selected Reserve, and the capabilities of the Army Reserve Forces schools.

(d) RESERVE COMPONENT OFFICER OF THE ARMY DEFINED.—For purposes of this section, the term "reserve component officer of the Army" means an officer of the Army National Guard of the United States or the Army Reserve who is assigned to a unit of the Selected Reserve and is unable to attend professional military education courses while in the active service.

SEC. 923. FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

(a) EMPLOYMENT OF CIVILIAN FACULTY MEMBERS AUTHORIZED.—(1) Section 1595 of title 10, United States Code, is amended—

(A) in subsection (a), by inserting "and the Foreign Language Center of the Defense Language Institute" after "National Defense University"; and

(B) in subsection (c), by striking out "This section" and inserting in lieu thereof "In the case of the National Defense University, this section".

(2)(A) The heading of such section is amended to read as follows:

"§ 1595. National Defense University; Foreign Language Center of the Defense Language Institute: civilian faculty members".

(B) The item relating to such section in the table of sections at the beginning of chapter 81 of such title is amended to read as follows:

"1595. National Defense University; Foreign Language Center of the Defense Language Institute: civilian faculty members.".

10 USC 1595 note.

(b) EFFECT ON CURRENT EMPLOYEES.—In the case of a person who, on the day before the date of the enactment of this Act, is employed as a professor, instructor, or lecturer at the Foreign Language Center of the Defense Language Institute, the Secretary of Defense shall afford the person an opportunity to elect to be paid under the compensation plan authorized by section 1595(b) of title 10, United States Code, or to continue to be paid under the General Schedule (with no reduction in pay) under section 5332 of title 5, United States Code.

Subtitle D—Other Matters

SEC. 931. CERTIFICATIONS RELATING TO THE ASSISTANT SECRETARY OF DEFENSE FOR SPECIAL OPERATIONS AND LOW INTENSITY CONFLICT AND THE SPECIAL OPERATIONS COMMAND.

(a) CERTIFICATIONS.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall (except

as otherwise provided under subsection (b)) certify to Congress the following:

(1) That the Assistant Secretary of Defense for Special Operations and Low Intensity Conflict and the commander of the special operations command established pursuant to section 167 of title 10, United States Code, have been assigned the duties and functions specified for the Assistant Secretary and that commander, respectively, under law, the Unified Command Plan, and Department of Defense Directive No. 5138.3 (dated January 4, 1988).

(2) That the Assistant Secretary and the special operations command have been authorized the number of personnel necessary for the Assistant Secretary and the commander of the special operations command to perform such respective duties and functions.

(b) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subsection (a) within the 120-day period provided in that subsection, the Secretary shall submit to Congress a report notifying the committees that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the expiration of that period. Reports.

SEC. 932. STUDY OF JOINT DUTY ASSIGNMENTS.

(a) STUDY.—The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall conduct a study of military officer positions that are designated as joint duty assignments pursuant to section 661 of title 10, United States Code, and other provisions of law. In carrying out the study, the Secretary shall—

(1) assess the appropriateness of the current allocation of joint assignments and critical joint duty assignments, with such assessment—

(A) to place particular emphasis on the allocations of joint duty positions to each Defense Agency; and

(B) to determine any changes in regulations that are necessary to ensure that the joint duty assignment process provides appropriate crediting as service in joint duty assignments in the case of officers assigned to Defense Agencies in positions that provide them with significant experience in joint matters;

(2) assess whether officers who have the joint specialty under chapter 38 of title 10, United States Code, are being assigned to appropriate joint duty positions; and

(3) survey positions that provide military officers with significant experience in joint matters but are now excluded from the joint duty designation under section 661 of such title or other provisions of law.

(b) ADJUSTMENTS IN LIGHT OF STUDY.—Following completion of the study required by subsection (a), the Secretary shall direct the heads of the military departments, Defense Agencies, and other components of the Department of Defense to make adjustments in joint duty assignments as necessary to comport with the conclusions of the assessments required by paragraphs (1) and (2) of such subsection.

(c) REPORT.—Not later than April 15, 1993, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) the results of the study required by subsection (a) and a plan to implement its findings; and

(2) any recommendations for legislative changes that the Secretary proposes in order to provide the Secretary with authority to grant a waiver, in the case of an assignment that is determined to provide an officer with significant experience in joint matters, to the exclusion by law of consideration as a joint duty assignment of any assignment within an officer's own military department.

10 USC 664 note.

SEC. 933. JOINT DUTY CREDIT FOR CERTAIN DUTY PERFORMED DURING OPERATIONS DESERT SHIELD AND DESERT STORM.

(a) AUTHORITY TO GIVE JOINT DUTY CREDIT.—(1) The Secretary of Defense, in consultation with the Chairman of the Joint Chiefs of Staff, may give an officer who has completed service described in paragraph (2) credit for having completed a full tour of duty in a joint duty assignment, or credit countable for determining cumulative service in joint duty assignments, for the purposes of chapter 38 of title 10, United States Code, notwithstanding the length of such service or whether that service is within the definition of "joint duty assignment" in section 668 of title 10, United States Code.

(2) Service referred to in paragraph (1) is service performed by an officer, any portion of which took place during the period beginning on August 2, 1990, and ending on February 28, 1991, in an assignment in the Persian Gulf combat zone that (as determined by the Secretary of Defense) provided significant experience in joint matters.

(3) The Secretary, after consultation with the Chairman of the Joint Chiefs of Staff, may give credit for service in a joint duty assignment under paragraph (1) in the case of an officer recommended for such credit by the Chief of Staff of the Army (for officers in the Army), the Chief of Naval Operations (for officers in the Navy), the Chief of Staff of the Air Force (for officers in the Air Force), and the Commandant of the Marine Corps (for officers in the Marine Corps). Any such credit shall be granted by the Secretary on a case-by-case basis.

(4) The Secretary of Defense shall establish uniform criteria for defining the standards to be used in determining whether to give an officer credit for service in a joint duty assignment under paragraph (1). Such criteria shall be consistent with the congressional declarations of policy in section 2 of the National Security Act of 1947 (50 U.S.C. 401) and section 3 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (10 U.S.C. 111 note). The criteria shall include standards to be used in determining whether to give an officer credit for completion of a full tour of duty, or credit countable for determining cumulative service, in a joint duty assignment. Such criteria may not result in the extension of eligibility for joint duty credit under this section to all officers in a specified category of officers that exists other than for reasons of this section.

(b) INAPPLICABILITY OF CERTAIN REPORTING AND POLICY REQUIREMENTS.—(1) Officers for whom joint duty credit is granted pursuant to subsection (a) shall not be counted for the purposes

of paragraphs (7), (8), (9), (11), or (12) of section 667 of title 10, United States Code, and subsections (a)(3) and (b) of section 662 of such title.

(2) In the case of an officer for whom credit for completion of a full tour of duty in a joint duty assignment is granted pursuant to subsection (a), the Secretary of Defense may waive the requirement in paragraph (1)(B) of section 661(c) of title 10, United States Code, that, for purposes of nomination to the joint specialty under chapter 38 of such title, a full tour of duty in a joint duty assignment be performed after the officer completes a program of education referred to in paragraph (1)(A) of that section.

(c) INFORMATION TO BE INCLUDED IN NEXT ANNUAL REPORT.—The joint specialty report of the Secretary of Defense under section 667 of title 10, United States Code for fiscal year 1993 shall include the following information (which shall be shown for the Department of Defense as a whole and separately for the Army, Navy, Air Force, and Marine Corps):

(1) The number of officers granted credit for a joint duty assignment pursuant to subsection (a).

(2) Of such officers, the number granted credit for a full tour of duty in a joint duty assignment pursuant to subsection (a) and the number granted credit for a joint duty assignment that is not treated as a full tour of duty.

(3) Of the officers granted credit for a joint duty assignment pursuant to subsection (a), the number in each grade and each occupational specialty.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "joint matters" has the meaning given such term in section 668(a) of title 10, United States Code.

(2) The term "Persian Gulf combat zone" means the area designated by the President as the combat zone for Operation Desert Shield, Operation Desert Storm, and related operations for purposes of section 112 of the Internal Revenue Code of 1986.

(3) The term "joint specialty report" means that part of the annual report of the Secretary of Defense submitted to Congress under section 113(c) of title 10, United States Code, that is included in such report pursuant to section 667 of title 10, United States Code.

(e) DURATION OF AUTHORITY.—The authority of the Secretary of Defense under this section expires at the end of the six-month period beginnning on the date of the enactment of this Act.

SEC. 934. CINC INITIATIVE FUND.

(a) AUTHORIZED RECIPIENTS OF FUNDS.—Subsection (a) of section 166a of title 10, United States Code, is amended in the first sentence by striking out "funds, upon request," and all that follows through the period and inserting in lieu thereof "funds to the commander of a combatant command, upon the request of the commander, or, with respect to a geographic area or areas not within the area of responsibility of a commander of a combatant command, to an officer designated by the Chairman of the Joint Chiefs of Staff for such purpose.".

(b) AUTHORIZED ACTIVITIES.—Subsection (b)(7) of such section is amended by inserting "(including transportation, translation, and administrative expenses)" before the period at the end.

(c) PRIORITY.—Subsection (c) of such section is amended to read as follows:

"(c) PRIORITY.—The Chairman of the Joint Chiefs of Staff, in considering requests for funds in the CINC Initiative Fund, should give priority consideration to—

"(1) requests for funds to be used for activities that would enhance the war fighting capability, readiness, and sustainability of the forces assigned to the commander requesting the funds; and

"(2) the provision of funds to be used for activities with respect to an area or areas not within the area of responsibility of a commander of a combatant command that would reduce the threat to, or otherwise increase, the national security of the United States.".

10 USC 166a.

(d) LIMITATIONS.—Subsection (e)(1)(C) of such section is amended to read as follows:

"(C) not more than $2,000,000 may be used to provide military education and training (including transportation, translation, and administrative expenses) to military and related civilian personnel of foreign countries as authorized by subsection (b)(7).".

SEC. 935. ORGANIZATION OF THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS.

(a) CONSOLIDATION OF NAVY HEADQUARTERS MANAGEMENT STRUCTURE.—The Secretary of the Navy shall consolidate and streamline the Navy headquarters establishments within the Office of the Chief of Naval Operations to reflect changes in the roles and missions of the Department of the Navy.

(b) DIRECTORATE FOR EXPEDITIONARY WARFARE WITHIN THE OFFICE OF THE CHIEF OF NAVAL OPERATIONS.—(1) Chapter 505 of title 10, United States Code, is amended by inserting after section 5037 the following new section:

"§ 5038. Director for Expeditionary Warfare

"(a) One of the Directors within the Office of the Deputy Chief of Naval Operations for Resources, Warfare Requirements, and Assessments shall be the Director for Expeditionary Warfare who shall be detailed from officers on the active-duty list of the Marine Corps.

"(b) An officer assigned to the position of Director for Expeditionary Warfare, while so serving, has the grade of major general.

"(c) The principal duty of the Director for Expeditionary Warfare shall be to supervise the performance of all staff responsibilities of the Chief of Naval Operations regarding expeditionary warfare, including responsibilities regarding amphibious lift, mine warfare, naval fire support, and other missions essential to supporting expeditionary warfare.

"(d) The Chief of Naval Operations shall transfer duties, responsibilities, and staff from other personnel within the Office of the Chief of Naval Operations as necessary to fully support the Director for Expeditionary Warfare.

"(e) This subsection shall cease to apply on November 1, 1997.".

Termination date.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"5038. Director for Expeditionary Warfare.".

SEC. 936. GRADE OF CERTAIN COMMANDERS OF SPECIAL OPERATIONS FORCES. 10 USC 167 note.

(a) GRADE FOR CERTAIN REGIONAL SOF COMMANDERS.—During the period beginning on February 1, 1993, and ending on February 1, 1995, the provisions of section 1311(e) of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 167 note) shall apply as if the Secretary of Defense had designated the United States Southern Command and the United States Central Command for the purposes of that section.

(b) REPORT.—Not later than March 1, 1994, the Secretary of Defense shall submit to Congress a report setting forth the Secretary's recommendations for the grade structure for the special operations forces component commander for each unified command, particularly as to whether each such commander should be of general or flag officer grade.

(c) REPEAL OF DUPLICATIVE PROVISIONS.—Subsections (c), (d), and (e) of section 9115 of the Department of Defense Appropriations Act, 1987 (as enacted in identical form in sections 101(c) of Public Law 99–500 and Public Law 99–591), are repealed. 10 USC 167 note.

SEC. 937. REPORT ON ASSIGNMENT OF SPECIAL OPERATIONS FORCES.

(a) REPORT REQUIRED.—Not later than February 1, 1993, the Secretary of Defense shall submit to Congress a report describing the implementation of the requirement contained in section 167(b) of title 10, United States Code, that all active and reserve special operations forces of the Armed Forces stationed in the United States be assigned to the Special Operations Command unless otherwise directed by the Secretary.

(b) COMMAND AND CONTROL RESPONSIBILITIES.—The report required by subsection (a) shall delineate the respective responsibilities of the commander of the Special Operations Command and the chiefs of the reserve components regarding the peacetime command and control of reserve component special operations forces.

(c) OTHER MATTERS TO BE INCLUDED.—The report shall also specifically address the following matters:

(1) Establishment of training and readiness standards.
(2) Military and civilian personnel management.
(3) Programming and budget execution functions.
(4) Conduct of operational training.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 1993 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) EFFECT ON AUTHORIZATION AMOUNTS.—A transfer made from one account to another under the authority of this section shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1002. DEFENSE BUDGETING.

(a) MISSION-ORIENTED BUDGETING.—Chapter 9 of title 10, United States Code, is amended—

(1) by redesignating section 221 as section 226; and

(2) by inserting after the table of sections the following new section:

"§ 222. Future-years mission budget

"(a) FUTURE-YEARS MISSION BUDGET.—The Secretary of Defense shall submit to Congress for each fiscal year a future-years mission budget for the military programs of the Department of Defense. That budget shall be submitted for any fiscal year at the same time that the President's budget for that fiscal year is submitted to Congress pursuant to section 1105 of title 31.

"(b) CONSISTENCY WITH FUTURE-YEARS DEFENSE PROGRAM.—The future-years mission budget shall be consistent with the future-years defense program required under section 221 of this title. In the future-years mission budget, the military programs of the Department of Defense shall be organized on the basis of major roles, missions, or forces of the Department of Defense.

"(c) RELATIONSHIP TO OTHER DEFENSE BUDGET FORMATS.—The requirement in subsection (a) is in addition to the requirements in any other provision of law regarding the format for the presentation regarding military programs of the Department of Defense in the budget submitted pursuant to section 1105 of title 31 for any fiscal year.".

(b) CONFORMING REPEAL.—Section 1404 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1675; 10 U.S.C. 114a note) is repealed.

10 USC 114a note.

(c) TRANSFER.—(1) Section 114a of title 10, United States Code, is transferred to chapter 9 of title 10, United States Code, redesignated as section 221, inserted after the table of sections, and amended by striking out "multiyear" each place it appears in the text and inserting in lieu thereof "future-years".

(2) The heading of such section is amended to read as follows:

"§ 221. Future-years defense program: submission to Congress; consistency in budgeting".

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 2 of title 10, United States Code, is amended by striking out the item relating to section 114a.

(2) The table of sections at the beginning of chapter 9 of such title is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"221. Future-years defense program: submission to Congress; consistency in budgeting.
"222. Future-years mission budget.
"226. Scoring of outlays.".

SEC. 1003. TREATMENT OF CERTAIN "M" ACCOUNT OBLIGATIONS.

(a) LIMITATION.—The Secretary of Defense may not reobligate any sum in a merged (or so-called "M") account of the Department of Defense until the Secretary has identified an equal sum under section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) that can be canceled.

(b) REQUIREMENT FOR RECIPROCAL CANCELLATION.—Whenever the Secretary of Defense reobligates funds from a merged (or so-called "M") account of the Department of Defense, the Secretary shall at the same time cancel with the Treasury of the United States a sum in the same amount as the reobligation from a merged account of the Department of Defense.

(c) MONTHLY REPORTS.—The Secretary of Defense shall submit to the congressional defense committees a monthly report, for each month beginning after the date of the enactment of this Act through September 1993, on the amount of funds reobligated during the month from merged accounts of the Department of Defense and the amount of funds canceled during the month from such accounts. Each report shall be submitted not later than the 21st day of the month after the month covered by the report.

(d) NOTICE-AND-WAIT.—(1) Whenever the Secretary of Defense proposes to reobligate from a merged (or so-called "M") account of the Department of Defense any sum in an amount greater than $10,000,000, the reobligation may not be made until—

(A) the Secretary notifies Congress of the amount to be reobligated, the source of the funds to be reobligated, and the purpose the funds will be reobligated for; and

(B) a period of 30 days passes after the notice is received.

(2) The limitation in paragraph (1) applies to reobligations for a single purpose in a sum greater than the amount specified in that paragraph. Such a reobligation may not be divided into several smaller sums to avoid such limitation.

(e) DURATION OF LIMITATIONS.—Subsections (a) and (b) shall cease to apply when all audits and cancellations of balances required by section 1406 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1680) have been completed.

SEC. 1004. ADDITIONAL TRANSITION AUTHORITY REGARDING CLOSING APPROPRIATION ACCOUNTS.

Section 1405(b) of the National Defense Authorization Act for Fiscal Year 1991 (31 U.S.C. 1551 note) is amended by adding at the end the following new paragraph:

"(8) OBLIGATIONS AND ADJUSTMENTS OF OBLIGATIONS FOR EXPIRED BUT NOT CLOSED ACCOUNTS.—(A) Subject to subparagraphs (B), (C), and (D), in the case of an appropriation account for a fiscal year before fiscal year 1992 for which the period of availability for obligation has expired but which has not been closed under the provisions of section 1552(a) of title

31, United States Code, or paragraph (4) of this section, an obligation and an adjustment of an obligation may be charged to any current appropriation account of the Department of Defense that is available for the same purpose as the expired account if—

"(i) the obligation would have been properly chargeable (except as to amount) to the expired account before the end of the period of availability of that account; and

"(ii) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense.

"(B) The total amount charged to a current appropriation account under subparagraph (A) may not exceed an amount equal to the lesser of—

"(i) one percent of the total amount of the appropriations for that account; or

"(ii) one percent of the total amount of the appropriations for the expired account.

"(C) No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives are notified of the intent to make such a charge and a period of 30 days elapses after the notification is submitted.

"(D) CERTIFICATIONS.—No obligation or adjustment of an obligation may be charged pursuant to the provisions of this paragraph until the Secretary of Defense (except as otherwise provided in subparagraph (E)) certifies to Congress the following:

"(i) That the limitations on expending and obligating amounts established pursuant to section 1341 of title 31, United States Code, are being observed within the Department of Defense.

Reports.

"(ii) That reports on any violations of such section 1341, whether intentional or inadvertent, are being submitted to the President and Congress immediately and with all relevant facts and a statement of actions taken as required by section 1351 of title 31, United States Code.

Reports.

"(E) ALTERNATIVE TO CERTIFICATION.—If the Secretary of Defense is unable to make the certifications referred to in subparagraph (D) within 60 days after the date of the enactment of this subparagraph, the Secretary shall submit to the Congress a report stating that the Secretary is unable to make such certifications and setting forth the actions that the Secretary will take in order to enable the Secretary to make such certifications after the end of that period.".

SEC. 1005. CLARIFICATION OF SCOPE OF AUTHORIZATIONS.

No funds are authorized to be appropriated under this Act for the Federal Bureau of Investigation.

10 USC 114 note.

SEC. 1006. INCORPORATION OF CLASSIFIED ANNEX.

(a) STATUS OF CLASSIFIED ANNEX.—The Classified Annex prepared by the Committee of Conference to accompany the conference report on the bill H.R. 5006 of the One Hundred Second Congress and transmitted to the President is hereby incorporated into this Act.

(b) CONSTRUCTION WITH OTHER PROVISIONS OF ACT.—The amounts specified in the Classified Annex are not in addition to amounts authorized to be appropriated by other provisions of this Act.

(c) LIMITATION ON USE OF FUNDS.—Funds appropriated pursuant to an authorization contained in this Act that are made available for a program, project, or activity referred to in the Classified Annex may only be expended for such program, project, or activity in accordance with such terms, conditions, limitations, restrictions, and requirements as are set out for that program, project, or activity in the Classified Annex.

(d) DISTRIBUTION OF CLASSIFIED ANNEX.—The President shall provide for appropriate distribution of the Classified Annex, or of appropriate portions of the annex, within the executive branch of the Government. President.

Subtitle B—Naval Vessels and Related Matters

SEC. 1011. EAST COAST HOMEPORT FOR NUCLEAR-POWERED AIRCRAFT CARRIERS.

(a) FINDINGS.—Congress finds that—

(1) Mayport, Florida, has served well as a homeport for aircraft carriers;

(2) under existing carrier force structure plans, as conventionally fueled aircraft carriers are replaced by nuclear-powered aircraft carriers, there will be a requirement for a second East Coast homeport for nuclear-powered aircraft carriers (in addition to the existing homeport of Norfolk, Virginia); and

(3) Mayport ought to be the second East Coast homeport for nuclear-powered aircraft carriers, when such additional homeport becomes needed.

(b) DEVELOPMENT OF SECOND HOMEPORT.—Not later than April 1, 1993, the Secretary of the Navy shall submit to the congressional defense committees a report on the Navy's plan for developing a second East Coast homeport for nuclear-powered aircraft carriers. The report shall include a schedule, by fiscal year, for funding the development of a second homeport for nuclear-powered aircraft carriers on the East Coast of the United States. The schedule shall be consistent with the Navy's plan to retire conventionally fueled aircraft carriers and to deploy nuclear-powered aircraft carriers. Reports.

SEC. 1012. LIMITATION ON OVERSEAS SHIP REPAIRS.

Section 7309 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) In the case of a naval vessel the homeport of which is not in the United States (or a territory of the United States), the Secretary of the Navy may not during the 15-month period preceding the planned reassignment of the vessel to a homeport in the United States (or a territory of the United States) begin any work for the overhaul, repair, or maintenance of the vessel that is scheduled to be for a period of more than six months.".

SEC. 1013. NAVY MINE COUNTERMEASURE PROGRAM.

(a) EVALUATION.—(1) Not later than December 15, 1992, the Secretary of the Navy shall submit to the congressional defense committees and the Comptroller General of the United States a detailed report on actions and plans of the Navy for consolidation Reports.

and centralization of control over forces assigned to the mine countermeasure mission. The report shall evaluate all facets of the mine countermeasure mission, including—

(A) proposed location of vessels, helicopters, and explosive ordnance detachment units;

(B) proposed command structure;

(C) proposed training policies; and

(D) proposed vessel procurement policies.

(2) The Comptroller General shall evaluate the report submitted under paragraph (1) and, not later than 30 days after the date of the submittal of the report, submit to the congressional defense committees an evaluation of the report.

(b) EVALUATION OF HOMEPORTS FOR MINE COUNTERMEASURE PROGRAM.—The report under subsection (a)(1) shall include a detailed evaluation and analysis of the use of Ingleside, Texas, as the planned homeport for all mine warfare ships, and a comparison of various alternative homeports for mine warfare ships (including an evaluation of the use of bases on the Atlantic Coast and the Pacific Coast as homeports for such ships).

(c) SUSPENSION OF CERTAIN ACTIVITIES PENDING RECEIPT OF REPORT.—The Secretary of the Navy may not take any action to relocate the functions and personnel of the Mine Warfare Command, the Fleet Mine Warfare School, the Mine Warfare Training Center, or any mine countermeasure helicopter squadron until 60 days after the later of—

(1) the date of the submittal of the report required under subsection (a)(1); or

(2) February 15, 1993.

SEC. 1014. TRANSFER OF CERTAIN VESSELS.

(a) TRANSFERS OF VESSELS TO BE USED AS TRAINING VESSELS.—The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, when those vessels are no longer required for use by the Navy:

(1) The U.S.N.S. Chauvenet (T–AG–29).

(2) The U.S.N.S. Harkness (T–AG–32).

(b) TRANSFER OF VESSEL FOR EDUCATION AND ENVIRONMENTAL PURPOSES.—(1) Notwithstanding subsection (c) of section 7308 of title 10, United States Code, but subject to subsections (a) and (b) of that section, the Secretary of the Navy or the Secretary of Transportation (depending on which Secretary has jurisdiction over the vessel) may transfer the obsolete vessel Wahkiakum County (LST 1162) to the organization known as Ships for Youth and the Environment, a nonprofit corporation operating under the laws of the State of California, to be used for education and environmental purposes.

(2) The Secretary making the transfer under paragraph (1) may require such terms and conditions in connection with the transfer as the Secretary considers appropriate.

SEC. 1015. REPORT ON COMPLIANCE WITH DOMESTIC SHIP REPAIR LAW.

(a) REPORT REQUIRED.—The Secretary of the Navy shall submit to Congress a report describing the practice of the Department of the Navy in complying with section 7309 of title 10, United States Code, relating to restrictions on construction or repair of

vessels in foreign shipyards. The Secretary shall include in such report sufficient data to demonstrate the degree of compliance or noncompliance of the Department of the Navy with that section.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 1016. REPEAL OF REQUIREMENT FOR CONSTRUCTION OF COMBATANT AND ESCORT VESSELS IN NAVY YARDS.

(a) REPEAL.—Subsection (a) of section 7299a of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENTS.—(1) Subsections (b), (c), and (d) of section 7299a of title 10, United States Code, are redesignated as subsections (a), (b), and (c), respectively.

(2) Paragraph (2) of subsection (c) of such section, as so redesignated, is amended by striking out "subsection (b)" and inserting in lieu thereof "subsection (a)".

Subtitle C—Fast Sealift Program

SEC. 1021. PROCUREMENT OF SHIPS FOR THE FAST SEALIFT PROGRAM. 10 USC 7291 note.

(a) ACQUISITION AND CONVERSION OF U.S. BUILT VESSELS.—Notwithstanding any other provision of law, the Secretary of the Navy may use funds available for the Fast Sealift Program—

(1) to acquire vessels for the program from among available vessels built in United States shipyards; and

(2) to convert in United States shipyards vessels built in United States shipyards.

(b) ACQUISITION OF FIVE FOREIGN-BUILT VESSELS.—Notwithstanding any other provision of law, funds available for the Fast Sealift Program may be used for the acquisition of five vessels built in foreign shipyards and for conversion of those vessels in United States shipyards if the Secretary of the Navy determines that acquisition of those vessels is necessary to expedite the availability of vessels for sealift.

SEC. 1022. MODIFICATION OF FAST SEALIFT PROGRAM. 10 USC 7291 note.

Section 1424(b) of Public Law 101-510 (104 Stat. 1683), as amended by section 1015 of Public Law 102-190 (105 Stat. 1458), is amended by striking out paragraph (4) and inserting in lieu thereof the following new paragraphs:

"(4) The vessels constructed under the program shall incorporate propulsion systems whose main components (that is, the engines, reduction gears, and propellers) are manufactured in the United States.

"(5) The vessels constructed under the program shall incorporate bridge and machinery control systems and interior communications equipment which—

"(A) are manufactured in the United States; and

"(B) have more than half of their value, in terms of cost, added in the United States.

"(6) The Secretary of Defense may waive the requirement of paragraph (5) with respect to a system or equipment described in that paragraph if—

"(A) the system or equipment is not available; or

"(B) the costs of compliance would be unreasonable compared to the costs of purchase from a foreign manufacturer.".

SEC. 1023. REPORT ON OBLIGATIONS FOR STRATEGIC SEALIFT.

(a) REPORT.—The Secretary of Defense shall submit to the Congress a report on the specific purposes for which the Secretary intends to obligate during fiscal year 1993 the funds available for the procurement of strategic sealift. The information in the report shall be presented by program, project, and activity.

(b) LIMITATION.—Funds appropriated to the Navy for procurement for shipbuilding and conversion and available for strategic sealift may not be obligated during fiscal year 1993 until 30 days after the date on which the Secretary of Defense submits the report required by subsection (a).

SEC. 1024. NATIONAL DEFENSE SEALIFT FUND.

(a) ESTABLISHMENT AND USE OF FUND.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2218. National Defense Sealift Fund

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the 'National Defense Sealift Fund'.

"(b) ADMINISTRATION OF FUND.—The Secretary of Defense shall administer the Fund consistent with the provisions of this section.

"(c) FUND PURPOSES.—(1) Funds in the National Defense Sealift Fund shall be available for obligation and expenditure only for—

"(A) construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels;

"(B) operation, maintenance, and lease or charter of Department of Defense vessels for national defense purposes;

"(C) installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States; and

"(D) research and development relating to national defense sealift.

"(2) Funds in the National Defense Sealift Fund may be obligated or expended only for programs, projects, and activities and only in amounts authorized in, or otherwise permitted under, an Act other than an appropriations Act.

"(3) Funds obligated and expended for a purpose set forth in subparagraph (B) or (D) of paragraph (1) may be derived only from funds deposited in the National Defense Sealift Fund pursuant to subsection (d)(1).

"(d) DEPOSITS.—There shall be deposited in the Fund the following:

"(1) All funds appropriated to the Department of Defense for fiscal years after fiscal year 1993 for—

"(A) construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

"(B) operations, maintenance, and lease or charter of national defense sealift vessels;

"(C) installation and maintenance of defense features for national defense purposes on privately owned and operated vessels; and

"(D) research and development relating to national defense sealift.

"(2) All receipts from the disposition of national defense sealift vessels, excluding receipts from the sale, exchange, or scrapping of National Defense Reserve Fleet vessels under sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund.

"(3) All receipts from the charter of vessels under section 1424(c) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 7291 note).

"(e) ACCEPTANCE OF SUPPORT.—(1) The Secretary of Defense may accept from any person, foreign government, or international organization any contribution of money, personal property (excluding vessels), or assistance in kind for support of the sealift functions of the Department of Defense.

"(2) Any contribution of property accepted under paragraph (1) may be retained and used by the Department of Defense or disposed of in accordance with procedures prescribed by the Secretary of Defense.

"(3) The Secretary of Defense shall deposit in the Fund money and receipts from the disposition of any property accepted under paragraph (1).

"(f) LIMITATIONS.—(1) Not more than a total of five vessels built in foreign ship yards may be purchased with funds in the National Defense Sealift Fund pursuant to subsection (c)(1).

"(2) Construction, alteration, or conversion of vessels with funds in the National Defense Sealift Fund pursuant to subsection (c)(1) shall be conducted in United States ship yards and shall be subject to section 1424(b) of Public Law 101–510 (104 Stat. 1683).

"(g) EXPIRATION OF FUNDS AFTER 5 YEARS.—No part of an appropriation that is deposited in the National Defense Sealift Fund pursuant to subsection (d)(1) shall remain available for obligation more than five years after the end of fiscal year for which appropriated except to the extent specifically provided by law.

"(h) BUDGET REQUESTS.—Budget requests submitted to Congress for the National Defense Sealift Fund shall separately identify—

"(1) the amount requested for programs, projects, and activities for construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels;

"(2) the amount requested for programs, projects, and activities for operation, maintenance, and lease or charter of national defense sealift vessels;

"(3) the amount requested for programs, projects, and activities for installation and maintenance of defense features for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States; and

"(4) the amount requested for programs, projects, and activities for research and development relating to national defense sealift.

"(i) TITLE OR MANAGEMENT OF VESSELS.—Nothing in this section shall be construed to affect or modify title to, management

of, or funding responsibilities for, any vessel of the National Defense Reserve Fleet, or assigned to the Ready Reserve Force component of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).

"(j) AUTHORITY FOR CERTAIN USE OF FUNDS.—Upon a determination by the Secretary of Defense that such action serves the national defense interest and after consultation with the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives, the Secretary may use funds available for obligation or expenditure for a purpose specified under subsection (c)(1) (A), (B), (C), and (D) for any purpose under subsection (c)(1).

"(k) DEFINITIONS.—In this section:

"(1) The term 'Fund' means the National Defense Sealift Fund established by subsection (a).

"(2) The term 'Department of Defense sealift vessel' means any ship owned, operated, controlled, or chartered by the Department of Defense that is—

"(A) a fast sealift ship, including any vessel in the Fast Sealift Program established under section 1424 of Public Law 101–510 (104 Stat. 1683);

"(B) a maritime prepositioning ship;

"(C) an afloat prepositioning ship;

"(D) an aviation maintenance support ship; or

"(E) a hospital ship.

"(3) The term 'national defense sealift vessel' means—

"(A) a Department of Defense sealift vessel; and

"(B) a national defense reserve fleet vessel, including a vessel in the Ready Reserve Force maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744).".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2218. National Defense Sealift Fund.".

(b) TRANSFER AUTHORITY.—(1) Subject to paragraph (2), and to the extent provided in appropriations Acts, the Secretary of Defense may transfer to the National Defense Sealift Fund for construction (including design of vessels), purchase, alteration, and conversion of Department of Defense sealift vessels not to exceed $1,875,100,000 from unobligated balances of appropriations made to the Navy for fiscal years 1990, 1991, and 1992 for shipbuilding and conversion, Navy, for sealift.

(2) Funds transferred to the National Defense Sealift Fund pursuant to paragraph (1) shall remain available for the same period for which the transferred funds were originally appropriated.

(c) AUTHORIZATION FOR FISCAL YEAR 1993.—There is authorized to be appropriated to the National Defense Sealift Fund for fiscal year 1993 $613,200,000 for construction (including design of vessels), purchase, alteration, and conversion of national defense sealift vessels or for installation and maintenance of defense features necessary for the national defense for national defense purposes on privately owned and operated vessels that are constructed in the United States and documented under the laws of the United States.

(d) FISCAL YEAR 1993 LIMITATION.—Not more than $10,000,000 in the National Defense Sealift Fund may be obligated during fiscal year 1993 until 30 days after the date on which the Secretary

of Defense submits to Congress a report on the specific purposes for which funds made available from such Fund during fiscal year 1993 are to be used. The information in the report shall be stated by program, project, and activity.

Subtitle D—Defense Maritime Logistical Readiness

SEC. 1031. REVITALIZATION OF UNITED STATES SHIPBUILDING INDUSTRY.

10 USC 7291 note.

(a) IN GENERAL.—The Secretary of Defense shall require that all sealift ships built under the fast sealift program established in section 1424 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1683) shall be constructed and designed to commercial specifications.

President. Establishment.

(b) INTERAGENCY WORKING GROUP TO FORMULATE A PROGRAM TO PRESERVE SHIPYARD INDUSTRIAL BASE.—(1) Not later than March 1, 1993, the President shall establish an interagency working group for the sole purpose of developing and implementing a comprehensive plan to enable and ensure that domestic shipyards can compete effectively in the international shipbuilding market.

(2) The working group shall include representatives from all appropriate agencies, including the Department of Defense, the Department of State, the Department of Commerce, the Department of Transportation, the Department of Labor, the Office of the United States Trade Representative, and the Maritime Administration.

(3) The President shall submit to Congress the comprehensive plan developed by the working group not later than October 1, 1993.

(c) REPORT ON SHIP DUMPING PRACTICES.—The Secretary of Transportation shall prepare a report on the countries that provide subsidies for the construction or repair of vessels in foreign shipyards or that engage in ship dumping practices.

(d) REPORT ON DEFENSE CONTRACTS.—The Secretary of Defense shall prepare a report on—

(1) the amount of Department of Defense contracts that were awarded to companies physically located or headquartered in the countries identified in the Secretary of Transportation's report under subsection (d) for the most recent year for which data is available; and

(2) the effect on defense programs of a prohibition of awarding contracts to companies physically located or headquartered in the countries identified in the Secretary of Transportation's report under subsection (d).

(e) REPORT ON ADEQUACY OF UNITED STATES SHIPBUILDING INDUSTRY.—The Secretary of Defense shall prepare a report on—

(1) the adequacy of United States shipbuilding industry to meet military requirements, including sealift, during the period of 1994 through 1999; and

(2) the causes of any inadequacy identified and actions that could be taken to correct such inadequacies.

(f) SUBMISSION OF REPORTS.—The reports under subsections (c), (d), and (e) shall be submitted to Congress with the President's budget for fiscal year 1994.

(g) PENALTY FOR FAILURE TO COMPLY.—(1) Except as provided in paragraph (2), if the President fails to submit to Congress a comprehensive plan as required by subsection (b) by October 1, 1993, no funds appropriated to the Department of Defense for

fiscal year 1994 may be used to enter into a contract for the construction, repair, or purchase of any product or service with any company that has headquarters in any country that continues to provide a subsidy to a foreign shipyard for the construction or repair of vessels or that engages in ship dumping practices.

(2) Paragraph (1) shall not apply if the President—

(A) notifies Congress that he is unable to submit the plan by the time required under subsection (c); and

(B) includes with the notice a brief explanation of the reasons for the delay and a statement that the plan will be submitted by April 15, 1994.

(h) DEFINITIONS.—For purposes of subsection (c):

(1) The term "foreign shipyard" includes a ship construction or repair facility located in a foreign country that is directly or indirectly owned, controlled, managed, or financed by a foreign shipyard that receives or benefits from a subsidy.

(2) The term "subsidy" includes any of the following:

(A) Officially supported export credits and development assistance.

(B) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including—

(i) grants;

(ii) loans and loan guarantees other than those available on the commercial market;

(iii) forgiveness of debt;

(iv) equity infusions on terms inconsistent with commercially reasonable investment practices;

(v) preferential provision of goods and services; and

(vi) public sector ownership of commercial shipyards on terms inconsistent with commercially reasonable investment practices.

(C) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including the kinds of support listed in clauses (i) through (v) of subparagraph (B), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(D) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(E) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions and preferences, including accelerated depreciation, if the benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(F) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(G) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, includ-

ing any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(H) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

(3) The term "vessel" means any self-propelled, sea-going vessel—

(A) of not less than 100 gross tons, as measured under the International Convention of Tonnage Measurement of Ships, 1969; and

(B) not exempt from entry under section 441 of the Tariff Act of 1930 (19 U.S.C. 1431).

Subtitle E—Counter-Drug Activities

SEC. 1041. ADDITIONAL SUPPORT FOR COUNTER-DRUG ACTIVITIES.

(a) SUPPORT AUTHORIZED.—Subsection (a) of section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 374 note) is amended by striking out "and 1993," and inserting in lieu thereof "1993, and 1994,".

(b) TYPES OF SUPPORT.—Subsection (b) of such section is amended—

(1) by striking out paragraph (6) and inserting in lieu thereof the following new paragraph:

"(6) The detection, monitoring, and communication of the movement of—

"(A) air and sea traffic within 25 miles of and outside the geographic boundaries of the United States; and

"(B) surface traffic outside the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary."; and

(2) by adding at the end the following new paragraph:

"(9) The provision of linguist and intelligence analysis services.".

(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—(1) Such section is further amended—

(A) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively; and

(B) by inserting after subsection (b) the following new subsection:

"(c) LIMITATION ON COUNTER-DRUG REQUIREMENTS.—The Secretary of Defense may not limit the requirements for which support may be provided under subsection (a) only to critical, emergent, or unanticipated requirements.".

(2) Subsection (g)(2) of such section, as redesignated by paragraph (1), is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (e)".

(d) FUNDING OF SUPPORT ACTIVITIES.—(1) Such section is further amended by striking out subsection (h), as redesignated by subsection (c)(1).

(2) Of the amount authorized to be appropriated for fiscal year 1993 under section 301(14) for operation and maintenance with respect to drug interdiction and counter-drug activities, $40,000,000 shall be available to the Secretary of Defense for the purposes of carrying out section 1004 of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 374 note).

SEC. 1042. MAINTENANCE AND OPERATION OF EQUIPMENT.

Section 374(b) of title 10, United States Code, is amended—

(1) in paragraph (2)—

(A) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (C), (D), (E), and (F), respectively; and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B) Detection, monitoring, and communication of the movement of surface traffic outside of the geographic boundary of the United States and within the United States not to exceed 25 miles of the boundary if the initial detection occurred outside of the boundary."; and

(2) in paragraph (3), by striking out "paragraph (2)(C)" and inserting in lieu thereof "paragraph (2)(D)".

10 USC 124 note.

SEC. 1043. COUNTER-DRUG DETECTION AND MONITORING SYSTEMS PLAN.

(a) REQUIREMENTS OF DETECTION AND MONITORING SYSTEMS.—The Secretary of Defense shall establish requirements for counter-drug detection and monitoring systems to be used by the Department of Defense in the performance of its mission under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the transit of illegal drugs into the United States. Such requirements shall be designed—

(1) to minimize unnecessary redundancy between counter-drug detection and monitoring systems;

(2) to grant priority to assets and technologies of the Department of Defense that are already in existence or that would require little additional development to be available for use in the performance of such mission;

(3) to promote commonality and interoperability between counter-drug detection and monitoring systems in a cost-effective manner; and

(4) to maximize the potential of using counter-drug detection and monitoring systems for other defense missions whenever practicable.

(b) EVALUATION OF SYSTEMS.—The Secretary of Defense shall identify and evaluate existing and proposed counter-drug detection and monitoring systems in light of the requirements established under subsection (a). In carrying out such evaluation, the Secretary shall—

(1) assess the capabilities, strengths, and weaknesses of counter-drug detection and monitoring systems; and

(2) determine the optimal and most cost-effective combination of use of counter-drug detection and monitoring systems to carry out activities relating to the reconnaissance, detection, and monitoring of drug traffic.

(c) SYSTEMS PLAN.—Based on the results of the evaluation under subsection (b), the Secretary of Defense shall prepare a

plan for the development, acquisition, and use of improved counter-drug detection and monitoring systems by the Armed Forces. In developing the plan, the Secretary shall also make every effort to determine which counter-drug detection and monitoring systems should be eliminated from the counter-drug program based on the results of such evaluation. The plan shall include an estimate by the Secretary of the full cost to implement the plan, including the cost to develop, procure, operate, and maintain equipment used in counter-drug detection and monitoring activities performed under the plan and training and personnel costs associated with such activities.

(d) REPORT.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the requirements established under subsection (a) and the results of the evaluation conducted under subsection (b). The report shall include the plan prepared under subsection (c).

(e) LIMITATION ON OBLIGATION OF FUNDS.—(1) Except as provided in paragraph (2), none of the funds appropriated or otherwise made available for the Department of Defense for fiscal year 1993 pursuant to an authorization of appropriations in this Act may be obligated or expended for the procurement or upgrading of a counter-drug detection and monitoring system, for research and development with respect to such a system, or for the lease or rental of such a system until after the date on which the Secretary of Defense submits to Congress the report required under subsection (d).

(2) Paragraph (1) shall not prohibit obligations or expenditures of funds for—

(A) any procurement, upgrading, research and development, or lease of a counter-drug detection and monitoring system that is necessary to carry out the evaluation required under subsection (b); or

(B) the operation and maintenance of counter-drug detection and monitoring systems used by the Department of Defense as of the date of the enactment of this Act.

(f) DEFINITION.—For purposes of this section, the term "counter-drug detection and monitoring systems" means land-, air-, and sea-based detection and monitoring systems suitable for use by the Department of Defense in the performance of its mission—

(1) under section 124(a) of title 10, United States Code, as lead agency of the Federal Government for the detection and monitoring of the aerial and maritime transit of illegal drugs into the United States; and

(2) to provide support to law enforcement agencies in the detection, monitoring, and communication of the movement of traffic at, near, and outside the geographic boundaries of the United States.

SEC. 1044. EXTENSION OF AUTHORITY TO TRANSFER EXCESS PERSONAL PROPERTY.

Section 1208(c) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 10 U.S.C. 372 note) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

10 USC 410 note.

SEC. 1045. PILOT OUTREACH PROGRAM TO REDUCE DEMAND FOR ILLEGAL DRUGS.

(a) PILOT PROGRAM.—The Secretary of Defense shall conduct a pilot outreach program to reduce the demand for illegal drugs. The program shall include outreach activities by the active and reserve components of the Armed Forces and shall focus primarily on youths in general and inner-city youths in particular.

(b) PAYMENT OF TRAVEL AND LIVING EXPENSES.—The Secretary of Defense may provide travel and living allowances to members of the Armed Forces who participate in the pilot outreach program to permit such members to carry out demand reduction activities in areas beyond the vicinity of military installations and National Guard facilities.

(c) FUNDING.—Funds available to the Department of Defense for drug interdiction and counter-drug activities may be used for carrying out the pilot outreach program described in subsection (a).

(d) DURATION OF PROGRAM.—The pilot outreach program described in subsection (a) shall be conducted for a test period ending three years after the date of the enactment of this Act.

(e) REPORT.—Not later than two years after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress a report that assesses the effectiveness of the pilot outreach program and includes the recommendations of the Secretary regarding the continuation of the program.

Subtitle F—Technical and Clerical Amendments

SEC. 1051. REORGANIZATION OF SECTION 101 DEFINITIONS.

(a) "IN GENERAL.—Section 101 of title 10, United States Code, is amended to read as follows:

"§ 101. Definitions

"(a) IN GENERAL.—The following definitions apply in this title:

"(1) The term 'United States', in a geographic sense, means the States and the District of Columbia.

"(2) The term 'Territory' (except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States) means any Territory organized after August 10, 1956, so long as it remains a Territory.

"(3) The term 'possessions' includes the Virgin Islands, Guam, American Samoa, and the Guano Islands, so long as they remain possessions, but does not include any Territory or Commonwealth.

"(4) The term 'armed forces' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

"(5) The term 'uniformed services' means—

"(A) the armed forces;

"(B) the commissioned corps of the National Oceanic and Atmospheric Administration; and

"(C) the commissioned corps of the Public Health Service.

"(6) The term 'department', when used with respect to a military department, means the executive part of the department and all field headquarters, forces, reserve components,

installations, activities, and functions under the control or supervision of the Secretary of the department. When used with respect to the Department of Defense, such term means the executive part of the department, including the executive parts of the military departments, and all field headquarters, forces, reserve components, installations, activities, and functions under the control or supervision of the Secretary of Defense, including those of the military departments.

"(7) The term 'executive part of the department' means the executive part of the Department of Defense, Department of the Army, Department of the Navy, or Department of the Air Force, as the case may be, at the seat of government.

"(8) The term 'military departments' means the Department of the Army, the Department of the Navy, and the Department of the Air Force.

"(9) The term 'Secretary concerned' means—

"(A) the Secretary of the Army, with respect to matters concerning the Army;

"(B) the Secretary of the Navy, with respect to matters concerning the Navy, the Marine Corps, and the Coast Guard when it is operating as a service in the Department of the Navy;

"(C) the Secretary of the Air Force, with respect to matters concerning the Air Force; and

"(D) the Secretary of Transportation, with respect to matters concerning the Coast Guard when it is not operating as a service in the Department of the Navy.

"(10) The term 'service acquisition executive' means the civilian official within a military department who is designated as the service acquisition executive for purposes of regulations and procedures providing for a service acquisition executive for that military department.

"(11) The term 'Defense Agency' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department (other than such an entity that is designated by the Secretary as a Department of Defense Field Activity); or

"(B) that is designated by the Secretary of Defense as a Defense Agency.

"(12) The term 'Department of Defense Field Activity' means an organizational entity of the Department of Defense—

"(A) that is established by the Secretary of Defense under section 191 of this title (or under the second sentence of section 125(d) of this title (as in effect before October 1, 1986)) to perform a supply or service activity common to more than one military department; and

"(B) that is designated by the Secretary of Defense as a Department of Defense Field Activity.

"(13) The term 'contingency operation' means a military operation that—

"(A) is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or

hostilities against an enemy of the United States or against an opposing military force; or

"(B) results in the call or order to, or retention on, active duty of members of the uniformed services under section 672(a), 673, 673b, 673c, 688, 3500, or 8500 of this title, chapter 15 of this title, or any other provision of law during a war or during a national emergency declared by the President or Congress.

"(14) The term 'supplies' includes material, equipment, and stores of all kinds.

"(15) The term 'pay' includes basic pay, special pay, retainer pay, incentive pay, retired pay, and equivalent pay, but does not include allowances.

"(b) PERSONNEL GENERALLY.—The following definitions relating to military personnel apply in this title:

"(1) The term 'officer' means a commissioned or warrant officer.

"(2) The term 'commissioned officer' includes a commissioned warrant officer.

"(3) The term 'warrant officer' means a person who holds a commission or warrant in a warrant officer grade.

"(4) The term 'general officer' means an officer of the Army, Air Force, or Marine Corps serving in or having the grade of general, lieutenant general, major general, or brigadier general.

"(5) The term 'flag officer' means an officer of the Navy or Coast Guard serving in or having the grade of admiral, vice admiral, rear admiral, or rear admiral (lower half).

"(6) The term 'enlisted member' means a person in an enlisted grade.

"(7) The term 'grade' means a step or degree, in a graduated scale of office or military rank, that is established and designated as a grade by law or regulation.

"(8) The term 'rank' means the order of precedence among members of the armed forces.

"(9) The term 'rating' means the name (such as 'boatswain's mate') prescribed for members of an armed force in an occupational field. The term 'rate' means the name (such as 'chief boatswain's mate') prescribed for members in the same rating or other category who are in the same grade (such as chief petty officer or seaman apprentice).

"(10) The term 'original', with respect to the appointment of a member of the armed forces in a regular or reserve component, refers to that member's most recent appointment in that component that is neither a promotion nor a demotion.

"(11) The term 'authorized strength' means the largest number of members authorized to be in an armed force, a component, a branch, a grade, or any other category of the armed forces.

"(12) The term 'regular', with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office in a regular component of an armed force.

"(13) The term 'active-duty list' means a single list for the Army, Navy, Air Force, or Marine Corps (required to be maintained under section 620 of this title) which contains the names of all officers of that armed force, other than officers

described in section 641 of this title, who are serving on active duty.

"(14) The term 'medical officer' means an officer of the Medical Corps of the Army, an officer of the Medical Corps of the Navy, or an officer in the Air Force designated as a medical officer.

"(15) The term 'dental officer' means an officer of the Dental Corps of the Army, an officer of the Dental Corps of the Navy, or an officer of the Air Force designated as a dental officer.

"(c) RESERVE COMPONENTS.—The following definitions relating to the reserve components apply in this title:

"(1) The term 'National Guard' means the Army National Guard and the Air National Guard.

"(2) The term 'Army National Guard' means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

"(A) is a land force;

"(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

"(C) is organized, armed, and equipped wholly or partly at Federal expense; and

"(D) is federally recognized.

"(3) The term 'Army National Guard of the United States' means the reserve component of the Army all of whose members are members of the Army National Guard.

"(4) The term 'Air National Guard' means that part of the organized militia of the several States and Territories, Puerto Rico, and the District of Columbia, active and inactive, that—

"(A) is an air force;

"(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

"(C) is organized, armed, and equipped wholly or partly at Federal expense; and

"(D) is federally recognized.

"(5) The term 'Air National Guard of the United States' means the reserve component of the Air Force all of whose members are members of the Air National Guard.

"(6) The term 'reserve', with respect to an enlistment, appointment, grade, or office, means enlistment, appointment, grade, or office held as a Reserve of one of the armed forces.

"(d) DUTY STATUS.—The following definitions relating to duty status apply in this title:

"(1) The term 'active duty' means full-time duty in the active military service of the United States. Such term includes full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.

"(2) The term 'active duty for a period of more than 30 days' means active duty under a call or order that does not specify a period of 30 days or less.

"(3) The term 'active service' means service on active duty or full-time National Guard duty.

"(4) The term 'active status' means the status of a reserve commissioned officer, other than a commissioned warrant officer, who is not in the inactive Army National Guard or inactive Air National Guard, on an inactive status list, or in the Retired Reserve.

"(5) The term 'full-time National Guard duty' means training or other duty, other than inactive duty, performed by a member of the Army National Guard of the United States or the Air National Guard of the United States in the member's status as a member of the National Guard of a State or territory, the Commonwealth of Puerto Rico, or the District of Columbia under section 316, 502, 503, 504, or 505 of title 32 for which the member is entitled to pay from the United States or for which the member has waived pay from the United States.

"(6) The term 'inactive-duty training' means—

"(A) duty prescribed for Reserves by the Secretary concerned under section 206 of title 37 or any other provision of law; and

"(B) special additional duties authorized for Reserves by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned.

Such term includes those duties when performed by Reserves in their status as members of the National Guard.

"(e) RULES OF CONSTRUCTION.—In this title—

"(1) 'shall' is used in an imperative sense;

"(2) 'may' is used in a permissive sense;

"(3) 'no person may * * *' means that no person is required, authorized, or permitted to do the act prescribed;

"(4) 'includes' means 'includes but is not limited to'; and

"(5) 'spouse' means husband or wife, as the case may be.

"(f) REFERENCE TO TITLE 1 DEFINITIONS.—For other definitions applicable to this title, see sections 1 through 5 of title 1.".

(b) CROSS REFERENCE CORRECTIONS.—

(1) Section 232(7) of title 18, United States Code, is amended—

(A) by striking out ", but shall not be limited to, members of the National Guard, as defined in section 101(9) of title 10, United States Code," and inserting in lieu thereof "members of the National Guard (as defined in section 101 of title 10),"; and

(B) by striking out ", not included within the definition of National Guard as defined by such section 101(9)," and inserting in lieu thereof "not included within the National Guard (as defined in section 101 of title 10),".

(2) Section 101(26) of title 37, United States Code, is amended by striking out "section 101(47) of title 10," and inserting in lieu thereof "section 101 of title 10,".

(3) Section 3401(a)(1) of title 39, United States Code, is amended by striking out "section 101(4) and (22) of title 10," and inserting in lieu thereof "section 101 of title 10,".

SEC. 1052. MISCELLANEOUS AMENDMENTS TO TITLE 10, UNITED STATES CODE.

Title 10, United States Code, is amended as follows:

(1) The table of sections at the beginning of subchapter II of chapter 21 is amended by inserting "Sec." above "431.".

(2) Section 571(a) is amended by inserting a period at the end of each item in the table.

(3) Section 574(d)(3) is amended by striking out "active duty list" and inserting in lieu thereof "active-duty list".

(4) The heading of section 578 is amended by striking out the first semicolon and inserting in lieu thereof a colon.

(5) Section 581(d)(2) is amended by striking out "Board" both places it appears and inserting in lieu thereof "board".

(6) The table of sections at the beginning of chapter 33A is amended—

(A) by inserting "to be" in the item relating to section 576 after "Information"; and

(B) by striking out the first semicolon in the item relating to section 578 and inserting in lieu thereof a colon.

(7) Section 615 is amended—

(A) in subsection (b)(5), by striking out "subsection (b)" and inserting in lieu thereof "subsection (c)"; and

(B) in subsection (d), by striking out "subsection (a)" and inserting in lieu thereof "subsection (b)".

(8) Sections 616(a), 617(a), 618(a)(1), and 618(a)(2) are each amended by striking out "section 615(a)" and inserting in lieu thereof "section 615(b)".

(9) Section 618(b) is amended by striking out "section 615(b)" in paragraphs (2)(A) and (4) and inserting in lieu thereof "section 615(c)".

(10) Section 628(b)(1) is amended by striking out "section 558" and inserting in lieu thereof "section 573".

(11) Section 945(a)(1) is amended by striking out "section 943(e)(1)(B) of this title (art. 143(e)(1)(B))" and inserting in lieu thereof "section 942(e)(1)(B) of this title (article 142(e)(1)(B))".

(12) Section 1052(b) is amended by inserting a close parenthesis before the period at the end.

(13) Section 1079(j)(2)(B) is amended by inserting a close parenthesis after "1395x(dd)(2)".

(14) Section 1104 is amended—

(A) by striking out "section 5011 of title 38" in subsections (a), (b), and (c) and inserting in lieu thereof "section 8011 of title 38"; and

(B) by striking out "section 5011A of title 38" in subsection (d) and inserting in lieu thereof "section 8011A of title 38".

(15) Section 1174a(c)(2) is amended by striking out "the date of the enactment of this section" and inserting in lieu thereof "December 5, 1991".

(16) Section 1175 is amended—

(A) in subsection (a), by striking out "Reserve component" and inserting in lieu thereof "reserve component"; and

(B) in subsection(d)(1), by striking out "prior to the time this provision is enacted" and inserting in lieu thereof "before December 5, 1991".

(17) Section 1263(a) is amended by striking out "564 note" and inserting in lieu thereof "580 note".

(18) Section 1401(a) is amended by striking out "564" in the column in the table under the heading "For sections" and inserting in lieu thereof "580".

(19) Section 1552(a)(2) is amended by striking out "announcing a decision not to promote an enlisted member to a higher grade" and inserting in lieu thereof "announcing the promotion and appointment of an enlisted member to an initial or higher grade or the decision not to promote an enlisted member to a higher grade".

(20) Section 1581(b) is amended by striking out "the date of the enactment of this section" in paragraphs (1) and (2) and inserting in lieu thereof "December 5, 1991,".

(21) Section 1592 is amended by inserting "section" after "established under".

(22) Section 1733(b)(1)(B)(ii) is amended by striking out "1736(a)(3)" and inserting in lieu thereof "1737(a)(3)".

(23) Section 2304(j)(3)(A) is amended by striking out "section 8(e) of the Small Business Act (15 U.S.C. 637(e))" and inserting in lieu thereof "section 8(d) of the Small Business Act (15 U.S.C. 637(d))".

(24) Section 2307(e) is amended by striking out "(l)" after "(e)" and inserting in lieu thereof "(1)".

(25)(A) Section 2322 is repealed.

(B) The table of sections at the beginning of chapter 137 is amended by striking out the item relating to section 2322.

(26) Section 2324 is amended—

(A) by striking out subsection (f)(5); and

(B) in subsection (l)—

(i) by striking out "subsection (e)(2)(C)" in paragraph (2) and inserting in lieu thereof "paragraph (3)"; and

(ii) by adding at the end the following new paragraph:

"(3) The committees named in this paragraph are—

"(A) the Committees on Armed Services and on Government Operations of the House of Representatives; and

"(B) the Committees on Armed Services and on Governmental Affairs of the Senate.".

(27) Section 2372(e)(1) is amended by striking out "on the day before" and all that follows through the semicolon and inserting in lieu thereof "on December 4, 1991;".

(28) Section 2391(b)(1)(C) is amended by striking out "publicly-announced" and inserting in lieu thereof "publicly announced".

(29) Section 2397(a)(1) is amended by striking out "that contract" and inserting in lieu thereof "that the contract".

(30)(A) Section 2409(d) is amended to read as follows:

"(d) COORDINATION WITH SECTION 2409a.—This section does not apply in the case of an employee who files a timely complaint under section 2409a of this title that meets the requirements of regulations promulgated under subsection (c) of that section.".

(B) The amendment made by subparagraph (A) shall take effect as if enacted immediately following the enactment of Public Law 102–25 (105 Stat. 75). 10 USC 2409 note.

(31) Section 2411(1)(D) is amended by striking out "organized for" and all that follows through the period and inserting in lieu thereof "organized for profit purposes or nonprofit purposes.".

(32) Section 2503(6) is amended by striking out "section 2508" and inserting in lieu thereof "section 2522".

(33) Section 2507(d)(3)(A) is amended by striking out "government-owned" and inserting in lieu thereof "Government-owned".

(34) Section 2509(b) is amended—

(A) in paragraph (1), by striking out "section 2508" and inserting in lieu thereof "section 2522"; and

(B) in paragraph (5)(B)(ii), by striking out "five-year defense program" and inserting in lieu thereof "multiyear defense program".

(35) Section 2701(j) is amended by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Years 1992 and 1993" and inserting in lieu thereof "December 5, 1991,".

(36) Section 2708 is amended—

(A) in subsection (b)(1)—

(i) by striking out "all contracts" and inserting in lieu thereof "each contract"; and

(ii) by striking out "all subcontracts under such contracts" and inserting in lieu thereof "any subcontract under any such contract"; and

(B) in subsection (d), by striking out "For purposes of" and inserting in lieu thereof "In".

(37) Section 2801(d) is amended by striking out "sections 2828(g) and 2830" and inserting in lieu thereof "sections 2830 and 2835".

(38) Section 2902(b)(9) is amended by striking out "non–voting" and inserting in lieu thereof "nonvoting".

(39) Section 6325(b) is amended by striking out "section 602 or 5721" and inserting in lieu thereof "section 602 (as in effect before February 1, 1992) or section 5721".

(40) Section 8252 is amended—

(A) by striking out "(a) Except as provided in subsection (b), in" and inserting in lieu thereof "In"; and

(B) by striking out subsection (b).

SEC. 1053. AMENDMENTS TO PUBLIC LAW 102–190.

Effective as of December 5, 1991, the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190) is amended as follows:

(1) Section 232(b)(2) (105 Stat. 1321) is amended by inserting "the" after "United States and". 10 USC 2431 note.

(2) Section 234(a) (105 Stat. 1323) is amended by striking out "FOLLOW-ON" and inserting in lieu thereof "FOLLOW-ON".

(3) Section 702(b)(1)(C) (105 Stat. 1401) is amended by striking out "(15)(D)" and inserting in lieu thereof "(15)". 10 USC 1079.

(4) Section 803(a)(1) (105 Stat. 1414) is amended by inserting open quotation marks at the beginning of the unquoted 10 USC 2352.

paragraphs (1), (2), and (3) (within the quoted material in such section).

10 USC 2301 note.

(5) Section 806(c) (105 Stat. 1419) is amended by inserting a close parenthesis before the period at the end.

(6) Section 822(d)(1) (105 Stat. 1435) is amended by striking out "To the extent provided" and inserting in lieu thereof "Subject to such limitations as may be provided".

22 USC 2321j note.

(7) Section 1049(b) (105 Stat. 1469) is repealed.

10 USC 113 note.

(8) Section 1063(d)(1) (105 Stat. 1476) is amended by striking out "of Public Law 101-25" and inserting in lieu thereof "of Public Law 102-25".

10 USC 2803.

(9) Section 2870(2) (105 Stat. 1562) is amended by inserting "through" after "and all that follows".

SEC. 1054. AMENDMENTS TO OTHER LAWS.

(a) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 301b is amended—

(A) by striking out subsection (j); and

(B) by redesignating subsection (k) as subsection (j).

(2) Section 301d(c) is amended—

(A) in paragraph (2), by striking out "owned" and inserting in lieu thereof "owed"; and

(B) in paragraph (3), by striking out "the date of the enactment of the National Defense Authorization Act for Fiscal Year 1991" and inserting in lieu thereof "November 5, 1990".

(3) Section 303a(b) is amended by striking out "301d," after "such sections".

(4) Section 406(g)(1)(A) is amended by inserting a semicolon after "title 10".

(5) Section 406b(d) by striking out "Section 420" and inserting in lieu thereof "Section 421".

(6) Section 559(c)(3)(A)(i) is amended by striking out "of this subparagraph".

(7) Section 1007(i)(3) is amended by striking out "and warrant officers" and inserting in lieu thereof ", warrant officers, and limited duty officers".

(b) 1990 BASE CLOSURE ACT.—The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended—

(1) in section 2903(c)(4)—

(A) by striking out the first sentence; and

(B) by striking out "(4)" before "In addition to"; and

(2) in section 2906, by redesignating the second subsection (d) (added by section 2827(a)(1) of Public Law 102-190) as subsection (e).

(c) PUBLIC LAW 102-25.—Public Law 102-25 is amended as follows:

5 USC 6361 note.

(1) Section 361(d) (105 Stat. 93) is amended by striking out "section 4108(e) of title 38," and inserting in lieu thereof "section 7423(e) of title 38,".

37 USC 559.

(2) Section 702(b)(4) (105 Stat. 117) is amended by striking out "section 558(c)(3)(A)(i)" and inserting in lieu thereof "section 559(c)(3)(A)(i)".

(d) MENTOR-PROTEGE PILOT PROGRAM.—Section 831(m) of the National Defense Authorization Act for Fiscal Year 1991 (10 U.S.C. 2301 note) is amended—

(1) in paragraph (2)(C), by striking out "637(a)(13)" and inserting in lieu thereof "637(a)(15)";

(2) by redesignating the second paragraph (6) and paragraph (7) as paragraphs (7) and (8), respectively; and

(3) in paragraph (8), as so redesignated, by striking out "section 46 of title 41, United States Code," and inserting in lieu thereof "the first section of the Act of June 25, 1938 (41 U.S.C. 46; popularly known as the 'Wagner-O'Day Act'),".

(e) TITLE 31, UNITED STATES CODE.—

(1) The items relating to sections 1551 and 1552 in the table of sections at the beginning of chapter 15 of title 31, United States Code, are amended to read as follows:

"1551. Definitions; applicability of subchapter.
"1552. Procedure for appropriation accounts available for definite periods.".

(2) The heading of section 1551 of such title is amended to read as follows:

"§ 1551. Definitions; applicability of subchapter".

(f) PUBLIC LAW 101-533.—Section 3(c)(2) of Public Law 101-533 (22 U.S.C. 3142) is amended by striking out "section 2368 of title 10" and inserting in lieu thereof "section 2522 of title 10".

(g) TITLE 14, UNITED STATES CODE.—Section 514(b) of title 14, United States Code, is amended by inserting a close parenthesis before the period at the end.

(h) PUBLIC LAW 99-661.—Section 1408(c) of the Barry Goldwater Scholarship and Excellence in Education Act (title XIV of Public Law 99-661; 20 U.S.C. 4707(c)) is amended by striking out "(except special obligations issued exclusively to the fund)".

(i) HOMEOWNERS ASSISTANCE PROGRAM.—Section 1013(a)(1) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(a)(1)) is amended by striking out "serviceman" and inserting in lieu thereof "member of the Armed Forces of the United States".

SEC. 1055. COORDINATION WITH OTHER PROVISIONS OF ACT. 10 USC 101 note.

For purposes of applying the amendments made by provisions of this Act other than sections 1052, 1053, and 1054, those sections shall be treated as having been enacted immediately before the other provisions of this Act.

Subtitle G—Amendments to the Uniform Code of Military Justice

SEC. 1061. CHIEF JUDGE OF THE COURT OF MILITARY APPEALS.

(a) DESIGNATION AND TERM OF SERVICE.—(1) Section 943(a) (article 143(a)) of title 10, United States Code, is amended to read as follows:

"(a) CHIEF JUDGE.—(1) The chief judge of the United States Court of Military Appeals shall be the judge of the court in regular active service who is senior in commission among the judges of the court who—

"(A) have served for one or more years as judges of the court; and

"(B) have not previously served as chief judge.

"(2) In any case in which there is no judge of the court in regular active service who has served as a judge of the court for at least one year, the judge of the court in regular active service who is senior in commission and has not served previously as chief judge shall act as the chief judge.

"(3) Except as provided in paragraph (4), a judge of the court shall serve as the chief judge under paragraph (1) for a term of five years. If no other judge is eligible under paragraph (1) to serve as chief judge upon the expiration of that term, the chief judge shall continue to serve as chief judge until another judge becomes eligible under that paragraph to serve as chief judge.

"(4)(A) The term of a chief judge shall be terminated before the end of five years if—

"(i) the chief judge leaves regular active service as a judge of the court; or

"(ii) the chief judge notifies the other judges of the court in writing that such judge desires to be relieved of his duties as chief judge.

"(B) The effective date of a termination of the term under subparagraph (A) shall be the date on which the chief judge leaves regular active service or the date of the notification under subparagraph (A)(ii), as the case may be.

"(5) If a chief judge is temporarily unable to perform his duties as a chief judge, the duties shall be performed by the judge of the court in active service who is present, able and qualified to act, and is next in precedence.".

10 USC 943 note.

(b) TRANSITION PROVISIONS.—For purposes of section 943(a) (article 943(a)) of title 10, United States Code, as amended by subsection (a)—

(1) the person serving as the chief judge of the United States Court of Military Appeals on the date of the enactment of this Act shall be deemed to have been designated as the chief judge under such section; and

(2) the five-year term provided in paragraph (3) of such section shall be deemed to have begun on the date on which such judge was originally designated as the chief judge under section 867(a) or 943 of title 10, United States Code, as the case may be, as that provision of law was in effect on the date of the designation.

SEC. 1062. RETIREMENT OF JUDGES OF THE COURT OF MILITARY APPEALS.

(a) IN GENERAL.—(1) Section 945 (article 145) of title 10, United States Code, is amended by adding at the end the following:

"(i) ELIGIBILITY TO ELECT BETWEEN RETIREMENT SYSTEMS.—(1) This subsection applies with respect to any person who—

"(A) prior to being appointed as a judge of the United States Court of Military Appeals, performed civilian service of a type making such person subject to the Civil Service Retirement System; and

"(B) would be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986, by virtue of being appointed as such a judge, but for the fact that such person has not had a break in service of sufficient duration to be considered someone who is being reemployed by the Federal Government.

"(2) Any person with respect to whom this subsection applies shall be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986 to the same extent and in the same manner (including subject to the condition set forth in section 301(d) of such Act) as if such person's appointment constituted reemployment with the Federal Government.".

(2) The amendment made by paragraph (1) shall apply with respect to any appointment which takes effect on or after the date of the enactment of this Act. 10 USC 945 note.

(b) ADDITIONAL ELECTIONS.—(1) Any individual who is a judge in active service on the United States Court of Military Appeals shall be eligible to make an election under section 301(a)(2) of the Federal Employees' Retirement System Act of 1986 if— 10 USC 945 note.

(A) such individual is such a judge on the date of the enactment of this Act; and

(B) as of the date of the election, such individual is—

(i) subject to the Civil Service Retirement System; or

(ii) covered by Social Security but not subject to the Federal Employees' Retirement System.

(2) An election under this subsection—

(A) shall not be effective unless it is—

(i) made within 30 days after the date of the enactment of this Act; and

(ii) in compliance with the condition set forth in section 301(d) of the Federal Employees' Retirement System Act of 1986; and

(B) may not be revoked.

(3) For the purpose of this subsection, a judge of the United States Court of Military Appeals shall be considered to be "covered by Social Security" if such judge's service is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1986.

SEC. 1063. JURISDICTION REGARDING OFFENSES COMMITTED DURING PERIODS OF PRIOR SERVICE.

Section 803(a) (article 3(a)) of title 10, United States Code, is amended to read as follows:

"(a) Subject to section 843 of this title (article 43), a person who is in a status in which the person is subject to this chapter and who committed an offense against this chapter while formerly in a status in which the person was subject to this chapter is not relieved from amenability to the jurisdiction of this chapter for that offense by reason of a termination of that person's former status.".

SEC. 1064. POSTPONEMENT OF CONFINEMENT.

Section 857 (article 57) of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) In any case in which a court-martial sentences a person referred to in paragraph (2) to confinement, the convening authority may postpone the service of the sentence to confinement, without the consent of that person, until after the person has been permanently released to the armed forces by a State or foreign country referred to in that paragraph.

"(2) Paragraph (1) applies to a person subject to this chapter who—

"(A) while in the custody of a State or foreign country is temporarily returned by that State or foreign country to the armed forces for trial by court-martial; and

"(B) after the court-martial, is returned to that State or foreign country under the authority of a mutual agreement or treaty, as the case may be.

"(3) In this subsection, the term 'State' includes the District of Columbia and any commonwealth, territory, or possession of the United States.".

SEC. 1065. SENTENCING AT REHEARINGS.

Section 863 (article 63) of title 10, United States Code, is amended—

(1) by striking out "imposed" in the second sentence and inserting in lieu thereof "approved"; and

(2) by inserting "approved" in the third sentence after "the pretrial agreement, the".

SEC. 1066. AMENDMENTS TO PUNITIVE ARTICLES.

(a) STANDARD FOR DRUNKENNESS.—(1) Section 911 (article 111) of title 10, United States Code, is amended to read as follows:

"§ 911. Art. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel

"Any person subject to this chapter who—

"(1) operates or physically controls any vehicle, aircraft, or vessel in a reckless or wanton manner or while impaired by a substance described in section 912a(b) of this title (article 112a(b)), or

"(2) operates or is in actual physical control of any vehicle, aircraft, or vessel while drunk or when the alcohol concentration in the person's blood or breath is 0.10 grams of alcohol per 100 milliliters of blood or 0.10 grams of alcohol per 210 liters of breath, as shown by chemical analysis,

shall be punished as a court-martial may direct.".

(2) The item relating to section 911 (article 111) in the table of sections at the beginning of subchapter X of chapter 47 of such title is amended to read as follows:

"911. 111. Drunken or reckless operation of a vehicle, aircraft, or vessel.".

(b) CLARIFICATION.—Section 918(3) (article 118(3)) of such title is amended by striking out "others" and inserting in lieu thereof "another".

(c) REMOVAL OF LIMITATIONS RELATING TO GENDER AND MARITAL RELATIONSHIP.—Section 920(a) (article 120(a)) of such title is amended—

(A) by striking out "with a female not his wife"; and

(B) by striking out "her".

10 USC 803 note.

SEC. 1067. EFFECTIVE DATE.

The amendments made by sections 1063, 1064, 1065, and 1066 shall take effect on the date of the enactment of this Act and shall apply with respect to offenses committed on or after that date.

Subtitle H—Other Matters

SEC. 1071. USE OF AIRCRAFT ACCIDENT INVESTIGATION REPORTS.

(a) TREATMENT OF REPORTS OF AIRCRAFT ACCIDENT INVESTIGATIONS.—(1) Subchapter II of chapter 134 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2254. Treatment of reports of aircraft accident investigations

"(a) IN GENERAL.—(1) Whenever the Secretary of a military department conducts an accident investigation of an accident involving an aircraft under the jurisdiction of the Secretary, the records and report of the investigations shall be treated in accordance with this section.

"(2) For purposes of this section, an accident investigation is any form of investigation of an aircraft accident other than an investigation (known as a 'safety investigation') that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.

"(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION.—(1) The Secretary concerned, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft accident investigation, before the release of the final accident investigation report relating to the accident, if the Secretary concerned determines—

"(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

"(B) that release of such tapes, reports, or other information—

"(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

"(ii) would not compromise national security.

"(2) A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

"(c) OPINIONS REGARDING CAUSATION OF ACCIDENT.—Following a military aircraft accident—

"(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion (or opinions) as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion (or opinions) of the investigators as to the cause or causes of the accident; and

"(2) if the evidence surrounding the accident is not sufficient for those investigators to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

"(d) USE OF INFORMATION IN CIVIL PROCEEDINGS.—For purposes of any civil or criminal proceeding arising from an aircraft accident, any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation report may not be considered as evidence in such proceeding, nor may such information be considered an admission

of liability by the United States or by any person referred to in those conclusions or statements.

"(e) REGULATIONS.—The Secretary of each military department shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

"2254. Treatment of reports of aircraft accident investigations.".

10 USC 2254 note.

(b) DEADLINE FOR REGULATIONS.—Regulations under section 2254 of title 10, United States Code, as added by subsection (a), shall be prescribed not later than 180 days after the date of the enactment of this Act.

10 USC 2254 note.

(c) EFFECTIVE DATE.—Section 2254 of title 10, United States Code, as added by subsection (a), shall apply with respect to accidents occurring on or after the date on which regulations are first prescribed under that section.

10 USC 113 note.

SEC. 1072. SURVIVOR NOTIFICATION AND ACCESS TO REPORTS RELATING TO SERVICE MEMBERS WHO DIE.

(a) AVAILABILITY OF FATALITY REPORTS AND RECORDS.—

(1) REQUIREMENT.—The Secretary of each military department shall ensure that fatality reports and records pertaining to any member of the Armed Forces who dies in the line of duty shall be made available to family members of the service member in accordance with this subsection.

(2) INFORMATION TO BE PROVIDED AFTER NOTIFICATION OF DEATH.—Within a reasonable period of time after family members of a service member are notified of the member's death, but not more than 30 days after the date of notification, the Secretary concerned shall ensure that the family members—

(A) in any case in which the cause or circumstances surrounding the death are under investigation, are informed of that fact, of the names of the agencies within the Department of Defense conducting the investigations, and of the existence of any reports by such agencies that have been or will be issued as a result of the investigations; and

(B) are furnished, if the family members so desire, a copy of any completed investigative report and any other completed fatality reports that are available at the time family members are provided the information described in subparagraph (A) to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

(3) ASSISTANCE IN OBTAINING REPORTS.—(A) In any case in which an investigative report or other fatality reports are not available at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death, the Secretary concerned shall ensure that a copy of such investigative report and any other fatality reports are furnished to the family members, if they so desire, when the reports are completed and become available, to the extent such reports may be furnished consistent with sections 552 and 552a of title 5, United States Code.

(B) In any case in which an investigative report or other fatality reports cannot be released at the time family members of a service member are provided the information described in paragraph (2)(A) about the member's death because of section

552 or 552a of title 5, United States Code, the Secretary concerned shall ensure that the family members—

(i) are informed about the requirements and procedures necessary to request a copy of such reports; and

(ii) are assisted, if the family members so desire, in submitting a request in accordance with such requirements and procedures.

(C) The requirement of subparagraph (B) to inform and assist family members in obtaining copies of fatality reports shall continue until a copy of each report is obtained, or access to any such report is denied by competent authority within the Department of Defense.

(4) WAIVER.—The requirements of paragraph (2) or (3) may be waived on a case-by-case basis, but only if the Secretary of the military department concerned determines that compliance with such requirements is not in the interests of national security.

(b) REVIEW OF COMBAT FATALITY NOTIFICATION PROCEDURES.—

(1) REVIEW.—The Secretary of Defense shall conduct a review of the fatality notification procedures used by the military departments. Such review shall examine the following matters:

(A) Whether uniformity in combat fatality notification procedures among the military departments is desirable, particularly with respect to—

(i) the use of one or two casualty notification and assistance officers;

(ii) the use of standardized fatality report forms and witness statements;

(iii) the use of a single center for all military departments through which combat fatality information may be processed; and

(iv) the use of uniform procedures and the provision of a dispute resolution process for instances in which members of one of the Armed Forces inflict casualties on members of another of the Armed Forces.

(B) Whether existing combat fatality report forms should be modified to include a block or blocks with which to identify the cause of death as "friendly fire", "U.S. ordnance", or "unknown".

(C) Whether the existing "Emergency Data" form prepared by members of the Armed Forces should be revised to allow members to specify provision for notification of additional family members in cases such as the case of a divorced service member who leaves children with both a current and a former spouse.

(D) Whether the military departments should, in all cases, provide family members of a service member who died as a result of injuries sustained in combat with full and complete details of the death of the service member, regardless of whether such details may be graphic, embarrassing to the family members, or reflect negatively on the military department concerned.

(E) Whether, and when, the military departments should inform family members of a service member who died as a result of injuries sustained in combat about

the possibility that the death may have been the result of friendly fire.

(F) The criteria and standards which the military departments should use in deciding when disclosure is appropriate to family members of a member of the military forces of an allied nation who died as a result of injuries sustained in combat when the death may have been the result of fire from United States armed forces and an investigation into the cause or circumstances of the death has been conducted.

(2) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the review conducted under paragraph (1). Such report shall be submitted not later than March 31, 1993, and shall include recommendations on the matters examined in the review and on any other matters the Secretary determines to be appropriate based upon the review or on any other reviews undertaken by the Department of Defense.

(c) DEFINITIONS.—In this section:

(1) The term "fatality reports" includes investigative reports and any other reports pertaining to the cause or circumstances of death of a member of the Armed Forces in the line of duty (such as autopsy reports, battlefield reports, and medical reports).

(2) The term "family members" means parents, spouses, adult children, and such other relatives as the Secretary concerned considers appropriate.

(d) APPLICABILITY.—(1) Except as provided in paragraph (2), this section applies with respect to deaths of members of the Armed Forces occurring after the date of the enactment of this Act.

(2) With respect to deaths of members of the Armed Forces occurring before the date of the enactment of this Act, the Secretary concerned shall provide fatality reports to family members upon request as promptly as practicable.

SEC. 1073. ADMISSION OF CIVILIANS AS STUDENTS AT THE UNITED STATES NAVAL POSTGRADUATE SCHOOL.

(a) CIVILIAN ATTENDANCE.—Chapter 605 of title 10, United States Code, is amended—

(1) by redesignating section 7047 as section 7048; and

(2) by inserting after section 7046 the following new section:

"§ 7047. Students at institutions of higher education: admission

"(a) ADMISSION PURSUANT TO RECIPROCAL AGREEMENT.—The Secretary of the Navy may enter into an agreement with an accredited institution of higher education to permit a student described in subsection (b) enrolled at that institution to receive instruction at the Naval Postgraduate School on a tuition-free basis. In exchange for the admission of the student, the institution of higher education shall be required to permit an officer of the armed forces to attend on a tuition-free basis courses offered by that institution corresponding in length to the instruction provided to the student at the Naval Postgraduate School.

"(b) ELIGIBLE STUDENTS.—A student enrolled at an institution of higher education that is party to an agreement under subsection

(a) may be admitted to the Naval Postgraduate School pursuant to that agreement if—

"(1) the student is a citizen of the United States or lawfully admitted for permanent residence in the United States; and

"(2) the Secretary of the Navy determines that the student has a demonstrated ability in a field of study designated by the Secretary as related to naval warfare and national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by striking out the item relating to section 7047 and inserting in lieu thereof the following new items:

"7047. Students at institutions of higher education: admission.
"7048. Conferring of degrees on graduates.".

SEC. 1074. REPEAL OF CERTAIN REPORTING REQUIREMENT.

Section 1309 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 10 U.S.C. 113 note) is repealed.

SEC. 1075. RESTRICTION ON OBLIGATION OF FUNDS FOR NEW MUSEUMS.

(a) PROHIBITION ON OBLIGATION OF FUNDS FOR CERTAIN NEW MUSEUMS.—Except as provided in subsection (b), funds appropriated or otherwise made available to the Department of Defense for fiscal year 1992 may not be obligated for the purposes of—

(1) the construction or capitalization of—

(A) the National D-Day Museum;

(B) the Airborne and Special Operations Museum; or

(C) the Naval Undersea Museum; or

(2) the renovation of the submarine U.S.S. Blueback for the Oregon Museum of Science and Industry.

(b) EXCEPTION.—The funds referred to in subsection (a) may be obligated for the purpose specified for a museum referred to in that subsection if, with respect to that museum, the Secretary of Defense certifies to Congress that—

(1) the use of Department of Defense funds for that museum is of a higher priority than the use of such funds for the expansion of any existing Department of Defense museum;

(2) in authorizing construction of a new Department of Defense museum, the Secretary would select that museum as one of the Secretary's first four choices for the construction of such a new museum; and

(3) the use of Department of Defense funds for that purpose would make a unique contribution to the mission of the military departments.

SEC. 1076. ARMY MILITARY HISTORY FELLOWSHIP PROGRAM.

(a) IN GENERAL.—Chapter 401 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 4316. Military history fellowships

"(a) FELLOWSHIPS.—The Secretary of the Army shall prescribe regulations under which the Secretary may award fellowships in military history of the Army to the persons described in subsection (b). Regulations.

"(b) ELIGIBLE PERSONS.—The persons eligible for awards of fellowships under this section are citizens and nationals of the United States who—

"(1) are graduate students in United States military history;

"(2) have completed all requirements for a doctoral degree other than preparation of a dissertation; and

"(3) agree to prepare a dissertation in a subject area of military history determined by the Secretary.

"(c) REGULATIONS.—The regulations prescribed under this section shall include—

"(1) the criteria for award of fellowships;

"(2) the procedures for selecting recipients;

"(3) the basis for determining the amount of a fellowship; and

"(4) the total amount that may be awarded as fellowships during an academic year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the item relating to section 4315 the following:

"4316. Military history fellowships.".

5 USC 6308 note.

SEC. 1077. ELECTION OF LEAVE OR LUMP-SUM PAYMENT FOR CERTAIN EMPLOYEES WHO MOVED BETWEEN NONAPPROPRIATED FUND EMPLOYMENT AND DEPARTMENT OF DEFENSE OR COAST GUARD EMPLOYMENT BEFORE APRIL 16, 1991.

(a) ELECTION OF LEAVE OR PAYMENT.—An employee referred to in subsection (b) of section 6308 of title 5, United States Code, who made an employment move described in such subsection after December 31, 1986, and before April 16, 1991, shall be permitted to elect—

(1) to repay the lump-sum payment received based on such employment move in lieu of annual leave and have the annual leave recredited to the employee's leave account; or

(2) to keep the lump-sum payment in lieu of that annual leave.

(b) NOTIFICATION; DEADLINE FOR ELECTION.—(1) The head of the agency employing an employee described in subsection (a) shall notify the employee in writing of the provisions of this section. Such written notification shall occur not later than the later of—

(A) 180 days after the date of the enactment of this Act; or

(B) 60 days after the date of the commencement of the employee's employment with the agency.

(2) An employee shall make an election authorized by subsection (a) within 90 days after receiving the written notification required under paragraph (1). An employee who does not make the election within that 90-day period shall be considered to have elected to keep the lump-sum payment.

(c) REPAYMENT OF LUMP-SUM PAYMENT.—An employee who elects to repay the lump-sum payment shall make the repayment not later than two years after the date of the election. The repayment by an employee shall be made in one payment of the entire amount of the lump-sum payment received by that employee in lieu of annual leave.

(d) LEAVE CREDITS.—Upon repayment of the lump-sum payment received by an employee, the employee shall, in accordance with section 6308 of such title, be recredited with the annual

leave associated with the lump-sum payment. Annual leave recredited under this subsection shall be credited to a separate leave account for the employee and shall be available for use by the employee until the last day of the second leave year following the leave year in which the leave is recredited. If the employee is separated from service, the annual leave recredited under this section that is unused and still available shall be available for a lump-sum payment.

SEC. 1078. STUDY AND REPORT REGARDING EQUITY IN BENEFITS FOR TEMPORARY FEDERAL EMPLOYEES.

(a) IN GENERAL.—The Office of Personnel Management shall conduct a study and, not later than April 1, 1993, report to Congress, in writing, on the feasibility of providing to temporary employees of the Government the same health-insurance, life-insurance, and retirement benefits, and other rights or benefits, as are generally available to those employed by the Government on a permanent basis.

(b) MATTERS TO BE SPECIFICALLY ADDRESSED.—The report under subsection (a) shall specifically address—

(1) the various types of temporary appointments currently allowable under civil-service law and regulations, and the terms and conditions pertinent to each;

(2) the circumstances in which, or the purposes for which, each of the various types of temporary appointments is appropriate;

(3) the rights and benefits generally available to individuals employed by the Government on a permanent basis—

(A) which are currently unavailable to some or all temporary employees; and

(B) of those identified under subparagraph (A), which might appropriately be made available to one or more classes of temporary employees;

(4) alternative means by which some or all of the temporary employees referred to in paragraph (3)(A) could be afforded one or more of the rights or benefits identified under paragraph (3)(B); and

(5) whether any of the alternatives identified under paragraph (4) could be implemented by the Office under existing law, and, if so—

(A) when the Office intends to implement those measures; or

(B) the reasons why the Office either does not intend to implement those measures or cannot provide a timetable for their implementation.

(c) RECOMMENDATIONS.—(1) In addition to the results of the study, the Office's report shall include recommendations for any legislation or administrative action which the Office considers necessary to carry out the purposes of this section.

(2) Any recommendation which involves the amending of existing statutes shall include draft legislation.

8 USC 1224 note.

SEC. 1079. DESIGNATION OF UNITED STATES MILITARY PHYSICIANS AS CIVIL SURGEONS UNDER THE IMMIGRATION AND NATIONALITY ACT IN CONNECTION WITH THE ARMED FORCES IMMIGRATION ADJUSTMENT ACT OF 1991.

Notwithstanding any other provision of law, United States military physicians with not less than four years professional experience shall be considered to be civil surgeons for the purpose of the performance of physical examinations required under section 234 of the Immigration and Nationality Act (8 U.S.C. 1224) of special immigrants described in section 101(a)(27)(K) of such Act (8 U.S.C. 1101(a)(27)(K)).

SEC. 1080. USE OF ARMED FORCES INSIGNIA ON STATE LICENSE PLATES.

(a) IN GENERAL.—Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1057. Use of armed forces insignia on State license plates

"(a) The Secretary concerned may approve an application by a State to use or imitate the seal or other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on motor vehicle license plates issued by the State to an individual who is a member or former member of the armed forces.

"(b) The Secretary concerned may prescribe any regulations necessary regarding the display of the seal or other insignia of the department (under the jurisdiction of such Secretary) or of armed forces (under the jurisdiction of such Secretary) on the license plates described in subsection (a).

"(c) In this section, the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1057. Use of armed forces insignia on State license plates.".

10 USC 410 note.

SEC. 1081. CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.

(a) FINDINGS.—Congress makes the following findings:

(1) Many of the skills, capabilities, and resources that the Armed Forces have developed to meet military requirements can assist in meeting the civilian domestic needs of the United States.

(2) Members of the Armed Forces have the training, education, and experience to serve as role models for United States youth.

(3) As a result of the reductions in the Armed Forces resulting from the ending of the Cold War, the Armed Forces will have fewer overseas deployments and lower operating tempos, and there will be a much greater opportunity than in the past for the Armed Forces to assist civilian efforts to address critical domestic problems.

(4) The United States has significant domestic needs in areas such as health care, nutrition, education, housing, and infrastructure that cannot be met by current and anticipated governmental and private sector programs.

(5) There are significant opportunities for the resources of the Armed Forces, which are maintained for national security purposes, to be applied in cooperative efforts with civilian officials to address these vital domestic needs.

(6) Civil-military cooperative efforts can be undertaken in a manner that is consistent with the military mission and does not compete with the private sector.

(b) ESTABLISHMENT OF CIVIL-MILITARY COOPERATIVE ACTION PROGRAM.—Chapter 20 of title 10, United States Code, is amended—

(1) by adding at the end the following new subchapter:

"SUBCHAPTER II—CIVIL-MILITARY COOPERATION

"Sec.

"410. Civil-Military Cooperative Action Program.

"§ 410. Civil-Military Cooperative Action Program

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish a program to be known as the 'Civil-Military Cooperative Action Program'. Under the program, the Secretary may, in accordance with other applicable law, use the skills, capabilities, and resources of the armed forces to assist civilian efforts to meet the domestic needs of the United States.

"(b) PROGRAM OBJECTIVES.—The program shall have the following objectives:

"(1) To enhance individual and unit training and morale in the armed forces through meaningful community involvement of the armed forces.

"(2) To encourage cooperation between civilian and military sectors of society in addressing domestic needs.

"(3) To advance equal opportunity.

"(4) To enrich the civilian economy of the United States through education, training, and transfer of technological advances.

"(5) To improve the environment and economic and social conditions.

"(6) To provide opportunities for disadvantaged citizens of the United States.

"(c) ADVISORY COUNCILS.—(1) The Secretary of Defense shall encourage the establishment of advisory councils on civil-military cooperation at the regional, State, and local levels, as appropriate, in order to obtain recommendations for projects and activities under the program and guidance for the program from persons who are knowledgeable about regional, State, and local conditions and needs.

"(2) The advisory councils should include officials from relevant military organizations, representatives of appropriate local, State, and Federal agencies, representatives of civic and social service organizations, business representatives, and labor representatives.

"(3) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to such councils.

"(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations governing the provision of assistance under the program. The regulations shall include the following:

"(1) Rules governing the types of assistance that may be provided.

"(2) Procedures governing the delivery of assistance that ensure, to the maximum extent practicable, that such assistance is provided in conjunction with, rather than separate from, civilian efforts.

"(3) Procedures for appropriate coordination with civilian officials to ensure that the assistance—

"(A) meets a valid need; and

"(B) does not duplicate other available public services.

"(4) Procedures for the provision of assistance in a manner that does not compete with the private sector.

"(5) Procedures to minimize the extent to which Department of Defense resources are applied exclusively to the program.

"(6) Standards to ensure that assistance is provided under this section in a manner that is consistent with the military mission of the units of the armed forces involved in providing the assistance.

"(e) CONSTRUCTION OF PROVISION.—Nothing in this section shall be construed as authorizing—

"(1) the use of the armed forces for civilian law enforcement purposes; or

"(2) the use of Department of Defense personnel or resources for any program, project, or activity that is prohibited by law."; and

(2) by inserting below the chapter heading the following:

"Subchapter Sec.
"I. Humanitarian Assistance 401
"II. Civil-Military Cooperation 410

"SUBCHAPTER I—HUMANITARIAN ASSISTANCE".

10 USC 113 note.

SEC. 1082. LIMITATION ON SUPPORT FOR UNITED STATES CONTRACTORS SELLING ARMS OVERSEAS.

(a) SUPPORT FOR CONTRACTORS.—In the event that a United States defense contractor or industrial association requests the Department of Defense or a military department to provide support in the form of military equipment for any airshow or trade exhibition to be held outside the United States, such equipment may not be supplied unless the contractor or association agrees to reimburse the Treasury of the United States for—

(1) all incremental costs of military personnel accompanying the equipment, including food, lodging, and local transportation;

(2) all incremental transportation costs incurred in moving such equipment from its normally assigned location to the airshow or trade exhibition and return; and

(3) any other miscellaneous incremental costs not included under paragraphs (1) and (2) that are incurred by the Federal Government but would not have been incurred had military support not been provided to the contractor or industrial association.

(b) DEPARTMENT OF DEFENSE EXHIBITIONS.—(1) A military department may not participate directly in any airshow or trade exhibition held outside the United States unless the Secretary of Defense—

(A) determines that it is in the national security interests of the United States for the military department to do so; and

(B) provides to the congressional defense committees at least 45 days before the opening of the airshow or trade exhibition a report detailing— Reports.

(i) why the show or exhibition is in the national security interest;

(ii) a description of the implications that promoting the sale of the weapons in question will have on arms control; and

(iii) an estimate of any costs to be incurred.

(2) The Secretary of Defense may not delegate the authority to make the determination referred to in paragraph (1)(A) below the level of the Under Secretary of Defense for Policy.

(c) DEFINITION.—In this section, the term "incremental transportation cost" includes the cost of transporting equipment to an airshow or trade exhibition only to the extent that the provision of transportation by the Department of Defense described in subsection (a)(2) does not fulfill legitimate training requirements that would otherwise have to be met.

SEC. 1083. SENSE OF CONGRESS REGARDING THE TIME LIMITATIONS FOR CONSIDERATION OF MILITARY DECORATIONS AND AWARDS.

(a) FINDINGS.—Congress finds the following:

(1) Former members of the Armed Forces, military units, and veteran organizations throughout the United States will be celebrating the 50th anniversary of World War II at reunions and other events through 1995.

(2) A number of individuals who served in the Armed Forces during World War II, and groups of former members of the Armed Forces who served together in units during World War II have expressed interest in individual and unit decorations and awards involving their World War II service that were never presented.

(3) In some cases, the Secretaries of the military departments have declined to consider individual and unit decorations and awards involving World War II service that were established by administrative action solely because of time limitations established administratively on the submission of recommendations for the decorations and awards.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretaries of the military departments should consider a recommendation for a decoration or award for World War II service without regard to time limitations on the consideration of the recommendation if the recommendation—

(1) is submitted before December 31, 1995;

(2) involves a decoration or award that is not established by Act of Congress; and

(3) presents new information or evidence that the original recommendation was not submitted or was mishandled due to administrative error.

SEC. 1084. SENSE OF CONGRESS RELATING TO AWARD OF THE NAVY EXPEDITIONARY MEDAL TO DOOLITTLE RAIDERS.

It is the sense of Congress that the President should award the Navy Expeditionary Medal to members of the Navy who served in Navy Task Force 16, culminating in the air-raid commonly known as the "Doolittle Raid on Tokyo", during April 1942, regardless of the time limitations on the consideration of such awards.

SEC. 1085. SENSE OF CONGRESS REGARDING THE AWARD OF THE PURPLE HEART TO MEMBERS KILLED OR WOUNDED IN ACTION BY FRIENDLY FIRE.

(a) FINDINGS.—Congress makes the following findings:

(1) The Purple Heart should be awarded to members of the Armed Forces killed or wounded by friendly fire while actively engaged with the enemy.

(2) Historically, the military services have responded with tentativeness and reluctance when considering the award of the Purple Heart to members of the Armed Forces killed or wounded by friendly fire while actively engaged with the enemy, including engagements during the Persian Gulf War.

(3) The Congress recognizes that the Secretaries of the military departments contend that, as a matter of policy, the Purple Heart has been awarded as described in paragraph (1), including during the Persian Gulf War.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Secretaries of the military departments should ensure that in the future the Purple Heart is awarded without hesitation to members of the Armed Forces killed or wounded by friendly fire while actively engaged with the enemy; and

(2) that the Secretaries of the military departments should award the Purple Heart in each case of a member of the Armed Forces killed or wounded on or after December 7, 1941, by friendly fire while actively engaged with the enemy which is known to the Secretary or for which an application is made to the Secretary in such a manner as the Secretary requires.

SEC. 1086. STUDY OF EFFECTS OF OPERATIONS DESERT SHIELD AND DESERT STORM MOBILIZATIONS OF RESERVES AND MEMBERS OF THE NATIONAL GUARD WHO WERE SELF-EMPLOYED OR OWNERS OF SMALL BUSINESSES.

(a) FINDINGS.—Congress makes the following findings:

(1) The service of the members of the Armed Forces of the United States in Operations Desert Shield and Desert Storm was commendable.

(2) The Reserves and the members of the National Guard contributed to the readiness, preparedness, and combat capability of the coalition forces that participated in the liberation of Kuwait.

(3) The Reserves and the members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses possibly suffered unique financial difficulties resulting from their absence from their businesses for such active duty service.

(b) STUDY AND REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) conduct a study examining the economic and other effects on the Reserves and members of the National Guard referred to in subsection (a)(3) resulting from their absence from their businesses for active duty service in connection with Operations Desert Shield and Desert Storm; and

(2) submit a report on the results of the study to the Committees on Armed Services of the Senate and the House of Representatives.

(c) CONTENT OF REPORT.—The report shall include the following matters:

(1) The number of Reserves and members of the National Guard ordered to active duty in connection with Operations Desert Shield and Desert Storm who were self-employed or were owners of small businesses.

(2) A description of the businesses owned by those Reserves and members of the National Guard when such personnel were ordered to active duty.

(3) A detailed analysis of the economic effects on the businesses of such personnel resulting from the absence of such personnel for active duty service.

(4) A discussion of the factors that contributed to any financial hardship or gain for such businesses during the period of the absence of such personnel.

(5) The extent to which such personnel voluntarily separated from the Armed Forces, assumed an inactive status, or retired after being released from active duty.

(6) An analysis of the rates of such separations, change of status, and retirements.

Subtitle I—Youth Service Opportunities

SEC. 1091. NATIONAL GUARD CIVILIAN YOUTH OPPORTUNITIES PILOT PROGRAM. 32 USC 501 note.

(a) PROGRAM AUTHORITY.—During fiscal years 1993 through 1995, the Secretary of Defense, acting through the Chief of the National Guard Bureau, may conduct a pilot program to be known as the "National Guard Civilian Youth Opportunities Program".

(b) PURPOSE.—The purpose of the pilot program is to provide a basis for determining—

(1) whether the life skills and employment potential of civilian youth who cease to attend secondary school before graduating can be significantly improved through military-based training, including supervised work experience in community service and conservation projects, provided by the National Guard; and

(2) whether it is feasible and cost effective for the National Guard to provide military-based training to such youth for the purpose of achieving such improvements.

(c) CONDUCT OF PROGRAM IN 10 NATIONAL GUARD JURISDICTIONS.—The Secretary of Defense may provide for the conduct of the pilot program in any 10 of the States.

(d) PROGRAM AGREEMENTS.—(1) To carry out the pilot program in a State, the Secretary of Defense shall enter into an agreement with the Governor of the State or, in the case of the District of Columbia, with the commanding general of the District of Columbia National Guard. Intergovernmental relations.

(2) Each agreement under the pilot program shall provide for the Governor or, in the case of the District of Columbia, the commanding general to establish, organize, and administer a National Guard civilian youth opportunities program in the State.

(3) The agreement may provide for the Secretary to reimburse the State for civilian personnel costs attributable to the use of civilian employees of the National Guard in the conduct of the National Guard civilian youth opportunities program.

(e) PERSONS ELIGIBLE TO PARTICIPATE IN PROGRAM.—(1) A school dropout from secondary school shall be eligible to participate in a National Guard civilian youth opportunities program conducted under the pilot program.

(2) The Secretary shall prescribe the standards and procedures for selecting participants for a National Guard civilian youth opportunities program from among school dropouts eligible to participate in the program.

(f) AUTHORIZED BENEFITS FOR PARTICIPANTS.—(1) To the extent provided in an agreement entered into in accordance with subsection (d) and subject to the approval of the Secretary, a person selected for training in a National Guard civilian youth opportunities program conducted under the pilot program may receive the following benefits in connection with that training:

(A) Allowances for travel expenses, personal expenses, and other expenses.

(B) Quarters.

(C) Subsistence.

(D) Transportation.

(E) Equipment.

(F) Clothing.

(G) Recreational services and supplies.

(H) Other services.

(I) Subject to paragraph (2), a temporary stipend upon the successful completion of the training, as characterized in accordance with procedures provided in the agreement.

(2) In the case of a person selected for training in a National Guard civilian youth opportunities program conducted under the pilot program who afterwards becomes a member of the Civilian Community Corps under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1092(a)), the person may not receive a temporary stipend under paragraph (1)(I) while the person is a member of that Corps. The person may receive the temporary stipend after completing service in the Corps unless the person elects to receive benefits provided under subsection (f) or (g) of section 195G of such Act.

(g) PROGRAM PERSONNEL.—(1) Personnel of the National Guard of a State in which a National Guard civilian youth opportunities program is conducted under the pilot program may serve on full-time National Guard duty for the purpose of providing command, administrative, training, or supporting services for that program. For the performance of those services, any such personnel may be ordered to duty under section 502(f) of title 32, United States Code, for not longer than the period of the program.

(2) For fiscal year 1993, personnel so serving may not be counted for the purposes of—

(A) any provision of law limiting the number of personnel that may be serving on full-time active duty or full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components; or

(B) section 524 of title 10, United States Code, relating to the number of reserve component officers who may be on active duty or full-time National Guard duty in certain grades.

(3) A Governor participating in the pilot program and the commanding general of the District of Columbia National Guard (if the District of Columbia National Guard is participating in

the pilot program) may procure by contract the temporary full time services of such civilian personnel as may be necessary to augment National Guard personnel in carrying out a National Guard civilian youth opportunities program under the pilot program.

(4) Civilian employees of the National Guard performing services for such a program and contractor personnel performing such services may be required, when appropriate to achieve a program objective, to be members of the National Guard and to wear the military uniform.

(h) EQUIPMENT AND FACILITIES.—(1) Equipment and facilities of the National Guard, including military property of the United States issued to the National Guard, may be used in carrying out the pilot program.

(2) Activities under the pilot program shall be considered noncombat activities of the National Guard for purposes of section 710 of title 32, United States Code.

(i) STATUS OF PARTICIPANTS.—(1) A person receiving training under the pilot program shall be considered an employee of the United States for the purposes of the following provisions of law:

(A) Subchapter I of chapter 81 of title 5, United States Code (relating to compensation of Federal employees for work injuries).

(B) Section 1346(b) and chapter 171 of title 28, United States Code, and any other provision of law relating to the liability of the United States for tortious conduct of employees of the United States.

(2) In the application of the provisions of law referred to in paragraph (1)(A) to a person referred to in paragraph (1)—

(A) the person shall not be considered to be in the performance of duty while the person is not at the assigned location of training or other activity or duty authorized in accordance with a program agreement referred to in subsection (d), except when the person is traveling to or from that location or is on pass from that training or other activity or duty;

(B) the person's monthly rate of pay shall be deemed to be the minimum rate of pay provided for grade GS–2 of the General Schedule under section 5332 of title 5, United States Code; and

(C) the entitlement of a person to receive compensation for a disability shall begin on the day following the date on which the person's participation in the pilot program is terminated.

(3) A person referred to in paragraph (1) may not be considered an employee of the United States for any purpose other than a purpose set forth in that paragraph.

(j) SUPPLEMENTAL RESOURCES.—(1) To carry out a National Guard civilian youth opportunities program conducted under the pilot program, the Governor of a State or, in the case of the District of Columbia, the commanding general of the District of Columbia National Guard may supplement any funding made available pursuant to subsection (m) out of other resources (including gifts) available to the Governor or the commanding general.

(2) The provision of funds authorized to be appropriated for the pilot program shall not preclude a Governor participating in the pilot program, or the commanding general of the District of Columbia National Guard (if the District of Columbia National

Guard is participating in the pilot program), from accepting, using, and disposing of gifts or donations of money, other property, or services for the pilot program.

(k) REPORT.—(1) Within 90 days after the end of the one-year period beginning on the first day of the pilot program, the Secretary shall submit to the congressional defense committees a report on the design, conduct, and effectiveness of the pilot program during that one-year period. The report shall include an assessment of the matters set forth in paragraphs (1) and (2) of subsection (b).

(2) In preparing the report required by paragraph (1), the Secretary shall coordinate with the Governor of each State in which a National Guard civilian youth opportunities program is carried out under the pilot program and, if such a program is carried out in the District of Columbia, with the commanding general of the District of Columbia National Guard.

(l) DEFINITIONS.—In this section:

(1) The term "pilot program" means the National Guard Civilian Youth Opportunities Program authorized to be conducted under subsection (a).

(2) The term "State" includes the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

(3) The term "school dropout" has the meaning established for the term by the Secretary of Education pursuant to section 6201(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3271(a)).

(4) The term "full-time National Guard duty" has the meaning given that term in section 101 of title 32, United States Code.

(m) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301, $50,000,000 shall be available to carry out the pilot program for fiscal year 1993.

SEC. 1092. CIVILIAN COMMUNITY CORPS.

(a) CIVILIAN COMMUNITY CORPS.—(1) Title I of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle H—Civilian Community Corps

42 USC 12653.

"SEC. 195. PURPOSE.

"It is the purpose of this subtitle to authorize the establishment of a Civilian Community Corps to provide a basis for determining—

"(1) whether residential service programs administered by the Federal Government can significantly increase the support for national service and community service by the people of the United States;

"(2) whether such programs can expand the opportunities for willing young men and women to perform meaningful, direct, and consequential acts of community service in a manner that will enhance their own skills while contributing to their understanding of civic responsibility in the United States;

"(3) whether retired members and former members of the Armed Forces of the United States, members and former mem-

bers of the Armed Forces discharged or released from active duty in connection with reduced Department of Defense spending, members and former members of the Armed Forces discharged or transferred from the Selected Reserve of the Ready Reserve in connection with reduced Department of Defense spending, and other members of the Armed Forces not on active duty and not actively participating in a reserve component of the Armed Forces can provide guidance and training under such programs that contribute meaningfully to the encouragement of national and community service; and

"(4) whether domestic national service programs can serve as a substitute for the traditional option of military service in the Armed Forces of the United States which, in times of reductions in the size of the Armed Forces, is a diminishing national service opportunity for young Americans.

"SEC. 195A. ESTABLISHMENT OF CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM. 42 USC 12653a.

"(a) IN GENERAL.—The Commission on National and Community Service may establish the Civilian Community Corps Demonstration Program to carry out the purpose of this subtitle.

"(b) PROGRAM COMPONENTS.—Under the Civilian Community Corps Demonstration Program authorized by subsection (a), the members of a Civilian Community Corps shall receive training and perform service in at least one of the following two program components:

"(1) A national service program.

"(2) A summer national service program.

"(c) RESIDENTIAL PROGRAMS.—Both program components are residential programs. The members of the Corps in each program shall reside with other members of the Corps in Corps housing during the periods of the members' agreed service.

"SEC. 195B. NATIONAL SERVICE PROGRAM. 42 USC 12653b.

"(a) IN GENERAL.—Under the national service program component of the Civilian Community Corps Demonstration Program authorized by section 195A(a), eligible young people shall work in teams on Civilian Community Corps projects.

"(b) ELIGIBLE PARTICIPANTS.—A person shall be eligible for selection for the national service program if the person—

"(1) is at least 16 and not more than 24 years of age; and

"(2) is a high school graduate or has not received a high school diploma or its equivalent.

"(c) DIVERSE BACKROUNDS OF PARTICIPANTS.—In selecting persons for the national service program, the Director shall endeavor to ensure that participants are from economically, geographically, and ethnically diverse backgrounds.

"(d) NECESSARY PARTICIPANTS.—To the extent practicable, at least 50 percent of the participants in the national service program shall be economically disadvantaged youths.

"(e) PERIOD OF PARTICIPATION.—Persons desiring to participate in the national service program shall enter into an agreement with the Director to participate in the Corps for a period of not less than nine months and not more than one year, as specified by the Director, and may renew the agreement for not more than one additional such period.

42 USC 12653c.

"SEC. 195C. SUMMER NATIONAL SERVICE PROGRAM.

"(a) IN GENERAL.—Under the summer national service program of the Civilian Community Corps Demonstration Program authorized by section 195A(a), a diverse group of youth aged 14 through 18 years who are from urban or rural areas shall work in teams on Civilian Community Corps projects.

"(b) NECESSARY PARTICIPANTS.—To the extent practicable, at least 50 percent of the participants in the summer national service program shall be economically disadvantaged youths.

"(c) SEASONAL PROGRAM.—The training and service of Corps members under the summer national service program in each year shall be conducted after April 30 and before October 1 of that year.

42 USC 12653d.

"SEC. 195D. CIVILIAN COMMUNITY CORPS.

"(a) DIRECTOR.—Upon the establishment of the Civilian Community Corps Demonstration Program, the Civilian Community Corps shall be under the direction of the Director of the Civilian Community Corps appointed pursuant to section 195H(c)(1).

"(b) MEMBERSHIP IN CIVILIAN COMMUNITY CORPS.—

"(1) PARTICIPANTS TO BE MEMBERS.—Persons selected to participate in the national service program or the summer national service program components of the Program shall become members of the Civilian Community Corps.

"(2) SELECTION OF MEMBERS.—The Director or the Director's designee shall select individuals for membership in the Corps.

"(3) APPLICATION FOR MEMBERSHIP.—To be selected to become a Corps member an individual shall submit an application to the Director or to any other office as the Director may designate, at such time, in such manner, and containing such information as the Director shall require. At a minimum, the application shall contain information about the work experience of the applicant and sufficient information to enable the Director, or the superintendent of the appropriate camp, to determine whether selection of the applicant for membership in the Corps is appropriate.

"(c) ORGANIZATION OF CORPS INTO UNITS.—

"(1) UNITS.—The Corps shall be divided into permanent units. Each Corps member shall be assigned to a unit.

"(2) UNIT LEADERS.—The leader of each unit shall be selected from among persons in the permanent cadre established pursuant to section 195H(c)(2). The designated leader shall accompany the unit throughout the period of agreed service of the members of the unit.

"(d) CAMPS.—

"(1) UNITS TO BE ASSIGNED TO CAMPS.—The units of the Corps shall be grouped together as appropriate in camps for operational, support, and boarding purposes. The Corps camp for a unit shall be in a facility or central location established as the operational headquarters and boarding place for the unit. Corps members may be housed in the camps.

"(2) CAMP SUPERINTENDENT.—There shall be a superintendent for each camp. The superintendent is the head of the camp.

"(3) ELIGIBLE SITE FOR CAMP.—A camp may be located in a facility referred to in section 195K(a)(3).

"(e) DISTRIBUTION OF UNITS AND CORPS.—The Director shall ensure that the Corps units and camps are distributed in urban areas and rural areas in various regions throughout the United States.

"(f) STANDARDS OF CONDUCT.—

"(1) IN GENERAL.—The superintendent of each camp shall establish and enforce standards of conduct to promote proper moral and disciplinary conditions in the camp.

"(2) SANCTIONS.—Under procedures prescribed by the Director, the superintendent of a camp may—

"(A) transfer a member of the Corps in that camp to another unit or camp if the superintendent determines that the retention of the member in the member's unit or in the superintendent's camp will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members in that unit or camp, as the case may be; or

"(B) dismiss a member of the Corps from the Corps if the superintendent determines that retention of the member in the Corps will jeopardize the enforcement of the standards or diminish the opportunities of other Corps members.

"(3) APPEALS.—Under procedures prescribed by the Director, a member of the Corps may appeal to the Director a determination of a camp superintendent to transfer or dismiss the member. The Director shall provide for expeditious disposition of appeals under this paragraph.

"SEC. 195E. TRAINING. 42 USC 12653e.

"(a) COMMON CURRICULUM.—Each member of the Civilian Community Corps shall be provided with between three and six weeks of training that includes a comprehensive service-learning curriculum designed to promote team building, discipline, leadership, work, training, citizenship, and physical conditioning.

"(b) ADVANCED SERVICE TRAINING.—

"(1) NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the national service program shall receive advanced training in basic, project-specific skills that the members will use in performing their community service projects.

"(2) SUMMER NATIONAL SERVICE PROGRAM.—Members of the Corps participating in the summer national service program shall not receive advanced training referred to in paragraph (1) but, to the extent practicable, may receive other training.

"(c) TRAINING PERSONNEL.—

"(1) IN GENERAL.—Members of the cadre appointed under section 195H(c)(2) shall provide the training for the members of the Corps, including, as appropriate, advanced service training and ongoing training throughout the members' periods of agreed service.

"(2) COORDINATION WITH OTHER ENTITIES.—Members of the cadre may provide the advanced service training referred to in subsection (b)(1) in coordination with vocational or technical schools, other employment and training providers, existing youth service programs, or other qualified individuals.

"(d) FACILITIES.—The training may be provided at installations and other facilities of the Department of Defense, and at National Guard facilities, identified under section 195K(a)(3).

42 USC 12653f.

"SEC. 195F. SERVICE PROJECTS.

"(a) PROJECT REQUIREMENTS.—The service projects carried out by the Civilian Community Corps shall—

"(1) meet an identifiable public need;

"(2) emphasize the performance of community service activities that provide meaningful community benefits and opportunities for service learning and skills development;

"(3) to the maximum extent practicable, encourage work to be accomplished in teams of diverse individuals working together; and

"(4) include continued education and training in various technical fields.

"(b) PROJECT PROPOSALS.—

"(1) DEVELOPMENT OF PROPOSALS.—

"(A) SPECIFIC EXECUTIVE DEPARTMENTS.—Upon the establishment of the Program, the Secretary of Agriculture, the Secretary of the Interior, and the Secretary of Housing and Urban Development shall develop proposals for Corps projects pursuant to guidance which the Director of the Civilian Community Corps shall prescribe.

"(B) OTHER SOURCES.—Other public and private organizations and agencies, including representatives of local communities in the vicinity of a Corps camp, may develop proposals for projects for a Corps camp. Corps members shall also be encouraged to identify projects for the Corps.

"(2) CONSULTATION REQUIREMENTS.—The process for developing project proposals under paragraph (1) shall include consultation with the Commission on National and Community Service, representatives of local communities, and persons involved in other youth service programs.

"(c) PROJECT SELECTION, ORGANIZATION, AND PERFORMANCE.—

"(1) SELECTION.—The superintendent of a Corps camp shall select the projects to be performed by the members of the Corps assigned to the units in that camp. The superintendent shall select projects from among the projects proposed or identified pursuant to subsection (b).

"(2) INNOVATIVE LOCAL ARRANGEMENTS FOR PROJECT PERFORMANCE.—The Director shall encourage camp superintendents to negotiate with representatives of local communities, to the extent practicable, innovative arrangements for the performance of projects. The arrangements may provide for cost-sharing and the provision by the communities of in-kind support and other support.

42 USC 12653g.

"SEC. 195G. AUTHORIZED BENEFITS FOR CORPS MEMBERS.

"(a) IN GENERAL.—The Director of the Civilian Community Corps shall provide for members of the Civilian Community Corps to receive benefits authorized by this section.

"(b) LIVING ALLOWANCE.—The Director shall provide a living allowance to members of the Corps for the period during which such members are engaged in training or any activity on a Corps project. The Director shall establish the amount of the allowance at any amount not in excess of the amount equal to 100 percent of the poverty line that is applicable to a family of two (as defined by the Office of Management and Budget and revised annually

in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(c) OTHER AUTHORIZED BENEFITS.—While receiving training or engaging in service projects as members of the Civilian Community Corps, members may be provided the following benefits:

"(1) Allowances for travel expenses, personal expenses, and other expenses.

"(2) Quarters.

"(3) Subsistence.

"(4) Transportation.

"(5) Equipment.

"(6) Clothing.

"(7) Recreational services and supplies.

"(8) Other services determined by the Director to be consistent with the purposes of the Program.

"(d) SUPPORTIVE SERVICES.—As the Director determines appropriate, the Director may provide each member of the Corps with health care services, child care services, counseling services, and other supportive services.

"(e) POST SERVICE BENEFITS.—Upon completion of the agreed period of service with the Corps, a member shall elect to receive the educational assistance under subsection (f) or the cash benefit under subsection (g).

"(f) EDUCATIONAL ASSISTANCE.—

"(1) AUTHORITY.—

"(A) CORPS MEMBERS COMPLETING AGREED SERVICE.—The Director shall provide educational assistance to each Corps member who—

"(i) completes a period of agreed service in the Corps; and

"(ii) elects to receive the assistance.

"(B) CORPS MEMBERS NOT COMPLETING AGREED SERVICE.—The Director may provide educational assistance to a Corps member who—

"(i) through no fault on the part of the Corps member, does not complete the period of agreed service; and

"(ii) requests the assistance.

"(2) AMOUNT.—

"(A) AMOUNT FOR COMPLETE SERVICE.—The amount of the educational assistance provided to a Corps member under paragraph (1)(A) shall be—

"(i) in the case of a Corps member in the national service program, $5,000 for each period of agreed service in the Corps; and

"(ii) in the case of a Corps member in the summer national service program, $1,000 for each period of agreed service in the Corps.

"(B) PRORATED AMOUNT FOR INCOMPLETE SERVICE.—The amount of the educational assistance provided to a Corps member under paragraph (1)(B) shall be determined by multiplying—

"(i) the amount that would be applicable to the member under subparagraph (A) if the member had completed the agreed period of service, by

"(ii) the percentage determined by dividing the period of the Corps member's service by the period of the Corps member's agreed period of service.

"An amount that is not an even multiple of $1 shall be rounded down to the next lower even multiple of $1.

"(C) ADJUSTMENT OF AMOUNT.—To the extent provided in appropriations Acts, whenever the maximum permissible grant amount for a year under subpart 1 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a et seq.) is increased, the amount of the educational assistance payment under subparagraph (A)(i) shall be increased to the amount equal to the sum of that maximum permissible grant amount (as increased) plus $2,500.

"(3) USES OF ASSISTANCE.—Educational assistance provided for a person under this subsection may be used only for—

"(A) payment of any student loan, whether from a Federal source or a non-Federal source; or

"(B) tuition, room and board, books and fees, and other costs of attendance (determined in accordance with section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll)) that are associated with attendance at an institution of higher education on a full-time basis.

"(4) APPLICATION.—To receive educational assistance under this section, a person shall submit to the Director such information and documentation as the Director may require. In the case of use of the educational assistance for expenses referred to in paragraph (3)(B), the information submitted to the Director shall include, as a minimum, the academic program of, and a letter of acceptance from, the institution of higher education at which the educational assistance is to be used.

"(g) CASH BENEFIT.—

"(1) IN GENERAL.—The Director shall provide a cash benefit to each Corps member electing to receive the cash benefit.

"(2) AMOUNT.—The amount of the cash benefit payable to a member of the Corps shall be equal to 50 percent of the amount of the educational assistance that the member would have been entitled to receive under subsection (f) if the member had elected to receive the educational assistance.

"(h) OTHER POST-SERVICE BENEFITS.—To the extent the Director considers appropriate, upon a Corps member's completion of the agreed period of service with the Corps, the Director shall provide information and counseling to the member to assist the member—

"(1) to pursue a high school diploma or the equivalent;

"(2) to pursue a degree at an institution of higher education; or

"(3) to obtain employment and support services as necessary and appropriate.

42 USC 12653h.

"SEC. 195H. ADMINISTRATIVE PROVISIONS.

"(a) BOARD.—The Board shall monitor and supervise the administration of the Civilian Community Corps Demonstration Program authorized to be established under section 195A. In carrying out this section, the Board shall—

"(1) approve such guidelines, recommended by the Director, for the design, selection of members, and operation of the Civilian Community Corps as the Board considers appropriate;

"(2) evaluate the progress of the Corps in providing a basis for determining the matters set forth in section 195; and

"(3) carry out any other activities determined appropriate by the Board.

"(b) EXECUTIVE DIRECTOR.—The Executive Director of the Commission on National and Community Service shall—

"(1) monitor the overall operation of the Civilian Community Corps;

"(2) coordinate the activities of the Corps with other youth service programs administered by the Commission; and

"(3) carry out any other activities determined appropriate by the Board.

"(c) STAFF.—

"(1) DIRECTOR.—

"(A) APPOINTMENT.—Upon the establishment of the Program, the Board, in consultation with the Executive Director, shall appoint a Director of the Civilian Community Corps. The Director may be selected from among retired commissioned officers of the Armed Forces of the United States.

"(B) DUTIES.—The Director shall—

"(i) design, develop, and administer the Civilian Community Corps programs;

"(ii) be responsible for managing the daily operations of the Corps; and

"(iii) report to the Board through the Executive Director.

"(C) AUTHORITY TO EMPLOY STAFF.—The Director may employ such staff as is necessary to carry out this subtitle. The Director shall, to the maximum extent practicable, utilize in staff positions personnel who are detailed from departments and agencies of the Federal Government and, to the extent the Director considers appropriate, shall request and accept detail of personnel from such departments and agencies in order to do so.

"(2) PERMANENT CADRE.—

"(A) ESTABLISHMENT.—The Director shall establish a permanent cadre of supervisors and training instructors for Civilian Community Corps programs.

"(B) APPOINTMENT.—The Director shall appoint the members of the permanent cadre.

"(C) EMPLOYMENT CONSIDERATIONS.—In appointing individuals to cadre positions, the Director shall—

"(i) give consideration to retired, discharged, and other inactive members and former members of the Armed Forces recommended under section 195K(a)(2);

"(ii) give consideration to former VISTA, Peace Corps, and youth service program personnel;

"(iii) ensure that the cadre is comprised of males and females of diverse ethnic, economic, professional, and geographic backgrounds; and

"(iv) consider applicants' experience in other youth service programs.

"(D) COMMUNITY SERVICE CREDIT.—Service as a member of the cadre shall be considered as a community service opportunity for purposes of section 4403 of the National

Defense Authorization Act for Fiscal Year 1993 and as employment with a public service or community service organization for purposes of section 4464 of that Act.

"(E) TRAINING.—The Director shall provide to members of the permanent cadre appropriate training in youth development techniques and the principles of service learning. All members of the permanent cadre shall be required to participate in the training.

"(3) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director, the members of the permanent cadre, and the other staff personnel shall be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. The rates of pay of such persons may be established without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(4) VOLUNTARY SERVICES.—Notwithstanding any other provision of law, the Director may accept the voluntary services of individuals. While away from their homes or regular places of business on the business of the Corps, such individuals may be allowed travel expenses, including per diem in lieu of subsistence, in the same amounts and to the same extent, as authorized under section 5703 of title 5, United States Code, for persons employed intermittently in Federal Government service.

42 USC 12653i.

"SEC. 195I. STATUS OF CORPS MEMBERS AND CORPS PERSONNEL UNDER FEDERAL LAW.

"(a) IN GENERAL.—Except as otherwise provided in this section, members of the Civilian Community Corps shall not, by reason of their status as such members, be considered Federal employees or be subject to the provisions of law relating to Federal employment.

"(b) WORK-RELATED INJURIES.—

"(1) IN GENERAL.—For purposes of subchapter I of chapter 81 of title 5, United States Code, relating to the compensation of Federal employees for work injuries, members of the Corps shall be considered as employees of the United States within the meaning of the term 'employee', as defined in section 8101 of such title.

"(2) SPECIAL RULE.—In the application of the provisions of subchapter I of chapter 81 of title 5, United States Code, to a person referred to in paragraph (1), the person shall not be considered to be in the performance of duty while absent from the person's assigned post of duty unless the absence is authorized in accordance with procedures prescribed by the Director.

"(c) TORT CLAIMS PROCEDURE.—A member of the Corps shall be considered an employee of the United States for purposes of chapter 171 of title 28, United States Code, relating to tort claims liability and procedure.

42 USC 12653j.

"SEC. 195J. CONTRACT AND GRANT AUTHORITY.

"(a) PROGRAMS.—The Director may, by contract or grant, provide for any public or private organization to perform any program function under this subtitle.

"(b) EQUIPMENT AND FACILITIES.—

"(1) FEDERAL AND NATIONAL GUARD PROPERTY.—The Director shall enter into agreements, as necessary, with the Sec-

retary of Defense, the Governor of a State, territory or commonwealth, or the commanding general of the District of Columbia National Guard, as the case may be, to utilize—

"(A) equipment of the Department of Defense and equipment of the National Guard; and

"(B) Department of Defense facilities and National Guard facilities identified pursuant to section 195K(a)(3).

"(2) OTHER PROPERTY.—The Director may enter into contracts or agreements for the use of other equipment or facilities to the extent practicable to train and house members of the Civilian Community Corps and leaders of Corps units.

"SEC. 195K. RESPONSIBILITIES OF OTHER DEPARTMENTS. 42 USC 12653k.

"(a) SECRETARY OF DEFENSE.—

"(1) LIAISON OFFICE.—

"(A) ESTABLISHMENT.—Upon the establishment of the Program, the Secretary of Defense shall establish an office to provide for liaison between the Secretary and the Civilian Community Corps.

"(B) DUTIES.—The office shall—

"(i) in order to assist in the recruitment of personnel for appointment in the permanent cadre, make available to the Director information in the registry established by section 4462 of the National Defense Authorization Act for Fiscal Year 1993; and

"(ii) provide other assistance in the coordination of Department of Defense activities with the Corps.

"(2) CORPS CADRE.—

"(A) LIST OF RECOMMENDED PERSONNEL.—Upon the establishment of the Program, the Secretary of Defense, in consultation with the liaison office established under paragraph (1) shall develop a list of individuals to be recommended for appointment in the permanent cadre of Corps personnel. Such personnel shall be selected from among members and former members of the Armed Forces referred to in section 195(3) who are commissioned officers, noncommissioned officers, former commissioned officers, or former noncommissioned officers.

"(B) RECOMMENDATIONS REGARDING GRADE AND PAY.—The Secretary of Defense shall recommend to the Director an appropriate rate of pay for each person recommended for the cadre pursuant to this paragraph.

"(C) CONTRIBUTION FOR RETIRED MEMBER'S PAY.—If a listed individual receiving retired or retainer pay is appointed to a position in the cadre and the rate of pay for that individual is established at the amount equal to the difference between the active duty pay and allowances which that individual would receive if ordered to active duty and the amount of the individual's retired or retainer pay, the Secretary of Defense shall pay, by transfer to the Commission on National and Community Service from amounts available for pay of active duty members of the Armed Forces, the amount equal to 50 percent of that individual's rate of pay for service in the cadre.

"(3) FACILITIES.—Upon the establishment of the Program, the Secretary of Defense shall identify military installations and other facilities of the Department of Defense and, in con-

sultation with the adjutant generals of the State National Guards, National Guard facilities that may be used, in whole or in part, by the Civilian Community Corps for training or housing Corps members. The Secretary of Defense shall carry out this paragraph in consultation with the liaison office established under paragraph (1).

"(4) INFORMATION REGARDING CORPS.—The Secretary of Defense may permit Armed Forces recruiters to inform potential applicants for the Corps regarding service in the Corps as an alternative to service in the Armed Forces.

"(b) SECRETARY OF LABOR.—Upon the establishment of the Program, the Secretary of Labor shall identify and assist in establishing a system for the recruitment of persons to serve as members of the Civilian Community Corps. In carrying out this subsection, the Secretary of Labor may utilize the Employment Service Agency or the Office of Job Training.

42 USC 12653*l*. **"SEC. 195L. ADVISORY BOARD.**

"(a) ESTABLISHMENT AND PURPOSE.—Upon the establishment of the Program, there shall also be established a Civilian Community Corps Advisory Board to advise the Director of the Civilian Community Corps concerning the administration of this subtitle and to assist in the development and administration of the Corps.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of the following members:

"(1) The Secretary of Labor.
"(2) The Secretary of Defense.
"(3) The Secretary of the Interior.
"(4) The Secretary of Agriculture.
"(5) The Secretary of Education.
"(6) The Secretary of Housing and Urban Development.
"(7) The Chief of the National Guard Bureau.
"(8) Individuals appointed by the Director from among persons who are broadly representative of educational institutions, voluntary organizations, industry, youth, and labor unions.
"(9) The Chair of the Commission on National and Community Service.

"(c) INAPPLICABILITY OF TERMINATION REQUIREMENT.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Board.

42 USC 12653m. **"SEC. 195M. ANNUAL EVALUATION.**

"Pursuant to the provisions for evaluations conducted under section 179, and in particular subsection (g) of such section, the Commission on National and Community Service shall conduct an annual evaluation of the Civilian Community Corps programs authorized under this subtitle.

42 USC 12653n. **"SEC. 195N. FUNDING LIMITATION.**

"The Commission, in consultation with the Director, shall ensure that no amounts appropriated under section 501 are utilized to carry out this subtitle.

42 USC 12653*o*. **"SEC. 195O. DEFINITIONS.**

"In this subtitle:

"(1) BOARD.—The term 'Board' means the Board of Directors of the Commission on National and Community Service.

"(2) CORPS.—The terms 'Civilian Community Corps' and 'Corps' mean the Civilian Community Corps required under section 195D as part of the Civilian Community Corps Demonstration Program.

"(3) CORPS CAMP.—The term 'Corps camp' means the facility or central location established as the operational headquarters and boarding place for particular Corps units.

"(4) CORPS MEMBERS.—The term 'Corps members' means persons receiving training and participating in projects under the Civilian Community Corps Demonstration Program.

"(5) DIRECTOR.—The term 'Director' means the Director of the Civilian Community Corps.

"(6) EXECUTIVE DIRECTOR.—The term 'Executive Director' means the Executive Director of the Commission on National and Community Service.

"(7) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(8) PROGRAM.—The terms 'Civilian Community Corps Demonstration Program' and 'Program' mean the Civilian Community Corps Demonstration Program established pursuant to section 195A.

"(9) SERVICE LEARNING.—The term 'service learning', with respect to Corps members, means a method—

"(A) under which Corps members learn and develop through active participation in thoughtfully organized service experiences that meet actual community needs;

"(B) that provides structured time for a Corps member to think, talk, or write about what the Corps member did and saw during an actual service activity;

"(C) that provides Corps members with opportunities to use newly acquired skills and knowledge in real life situations in their own communities; and

"(D) that helps to foster the development of a sense of caring for others, good citizenship, and civic responsibility.

"(10) SUPERINTENDENT.—The term 'superintendent', with respect to a Corps camp, means the head of the camp under section 195D(d).

"(11) UNIT.—The term 'unit' means a unit of the Corps referred to in section 195D(c).".

(2) TABLE OF CONTENTS.—The table of contents in section 1(b) of the National and Community Service Act of 1990 is amended by inserting after the item relating to section 190 the following:

"SUBTITLE H—CIVILIAN COMMUNITY CORPS

"Sec. 195. Purpose.
"Sec. 195A. Establishment of Civilian Community Corps Demonstration Program.
"Sec. 195B. National service program.
"Sec. 195C. Summer national service program.
"Sec. 195D. Civilian Community Corps.
"Sec. 195E. Training.
"Sec. 195F. Service projects.
"Sec. 195G. Authorized benefits for Corps members.
"Sec. 195H. Administrative provisions.
"Sec. 195I. Status of Corps members and Corps personnel under Federal law.
"Sec. 195J. Contract and grant authority.
"Sec. 195K. Responsibilities of other departments.
"Sec. 195L. Advisory board.

"Sec. 195M. Annual evaluation.
"Sec. 195N. Funding limitation.
"Sec. 195O. Definitions.".

42 USC 12653a note.

(b) REPORT AND STUDY REQUIREMENTS.—(1) Not later than 180 days after the date on which the Commission on National Community Service establishes the Civilian Community Corps Demonstration Program authorized by section 195A of the National and Community Service Act of 1990 (as added by subsection (a)), the Commission shall prepare and submit to the appropriate committees of Congress a progress report on the implementation of the provisions of subtitle H of title I of such Act. The progress report shall include an assessment of the activities undertaken in establishing and administering Civilian Community Corps camps and an analysis of the level of coordination of Corps activities with activities of other departments or agencies of the Federal Government.

(2) Not later than 90 days after the end of the one-year period beginning on the first day of the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)), the Board of Directors of the Commission on National and Community Service and the Director of the Civilian Community Corps shall prepare and submit to the appropriate committees of Congress a report concerning the desirability and feasibility of establishing the Civilian Community Corps as an independent agency of the Federal Government.

(c) FUNDING.—Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301, $30,000,000 shall be available for the Civilian Community Corps Demonstration Program established pursuant to section 195A of the National and Community Service Act of 1990 (as added by subsection (a)).

42 USC 12653a note.

SEC. 1093. COORDINATION OF PROGRAMS.

(a) COORDINATED ADMINISTRATION.—To the maximum extent practicable, the Chief of the National Guard Bureau, the Board of Directors and Executive Director of the Commission on National and Community Service, and the Director of the Civilian Community Corps shall coordinate the National Guard Youth Opportunities Program established pursuant to section 1091 and the Civilian Community Corps Demonstration Program established pursuant to the authorization contained in section 195A of the National and Community Service Act of 1990 (as added by section 1092(a)).

(b) OBJECTIVES.—The officials referred to in subsection (a) shall ensure that—

(1) the programs referred to in subsection (a) are conducted in such a manner in relationship to each other that the public benefit of those programs is maximized;

(2) to the maximum extent appropriate to meet the needs of program participants, persons who complete participation in the National Guard Youth Opportunities Program and are eligible and apply to participate in the Civilian Community Corps under the Civilian Community Corps Demonstration Program are accepted for participation in that Program; and

(3) the programs referred to in subsection (a) are conducted simultaneously in competition with each other in the same immediate area of the United States only when the population

of eligible participants in that area is sufficient to justify the simultaneous conduct of such programs in that area.

SEC. 1094. OTHER PROGRAMS OF THE COMMISSION ON NATIONAL AND COMMUNITY SERVICE.

(a) INCREASED COMMISSION ACTIVITIES.—It is the purpose of this section to increase the ability of the Commission on National and Community Service to expand non-residential programs that perform worthwhile urban and rural community projects that assist in the economic transition of localities affected by Department of Defense conversion. The Commission may also explore the potential for developing a program that would permit members of the Civilian Community Corps established under subtitle H of title I of the National and Community Service Act of 1990, as added by section 1092, to provide training to such participants at residential facilities and return them to their local communities for the service portion of their period of agreed service. To the extent practicable, such effort shall be coordinated with the National Guard Civilian Youth Opportunities Program authorized by section 1091 and with the Civilian Community Corps Demonstration Program established pursuant to the authorization contained in section 195A the National and Community Service Act of 1990, as added by section 1092.

(b) FUNDING AND USE OF FUNDS.—(1) Of the amounts appropriated for the Department of Defense for operation and maintenance in fiscal year 1993 pursuant to the authorization of appropriations in section 301, $30,000,000 shall be available to the Board of Directors of the Commission on National and Community Service for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.). Such amount shall be in addition to, and not a substitute for, amounts authorized to be appropriated under section 501 of such Act (42 U.S.C. 12681).

(2) In the use of the funds made available under paragraph (1), the Commission shall give special consideration to—

(A) programs located in communities where facilities of military installation (as defined in section 2687(e)(1) of title 10, United States Code) have been closed;

(B) programs that employ retired, inactive, or discharged military personnel;

(C) programs that involve military personnel participating in volunteer services;

(D) programs that test whether a non-residential, community based youth service corps can engender in young men and women a commitment to civic responsibility and involvement in their communities;

(E) programs that test whether such non-residential corps permit young people who have received military-based training to use their skills and knowledge to improve their communities; and

(F) programs that test whether retired, discharged, or inactive members and former members of the Armed Forces can play a meaningful role in service-learning by acting as mentors, teachers, counselors and role models.

SEC. 1095. LIMITATION ON OBLIGATION OF FUNDS.

(a) CIVILIAN COMMUNITY CORPS DEMONSTRATION PROGRAM.—The amount made available pursuant to section 1092(c) for the

Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1092(a)), may be obligated for that program only if expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) OTHER COMMISSION ON NATIONAL AND COMMUNITY SERVICE PROGRAMS.—The amount made available pursuant to section 1094(b) for activities under subtitles B, C, D, E, F, and G of the National and Community Service Act of 1990 (42 U.S.C. 12510 et seq.) may be obligated for such activities only if expenditures for such activities have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) EFFECT ON APPROPRIATIONS FOR PROGRAMS NOT COUNTED AGAINST DEFENSE CATEGORY.—(1) Not later than the third day after the date of the enactment of this Act, the Director of the Office of Management and Budget shall make a determination as to the classification by discretionary spending limit category for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 of amounts appropriated for fiscal year 1993 under section 301 and made available for the Civilian Community Corps Demonstration Program under subtitle H of title I of the National and Community Service Act of 1990 (as added by section 1092(a)) or for activities under subtitles B, C, D, E, F, and G of such Act. If the Director determines that any such amount shall not classify against the defense category (as described in subsections (a) and (b)), then the President shall submit to Congress a report stating that the Director has made such a determination and containing the amounts that will not classify against the defense category and an explanation for the determination.

President. Reports.

(2) The amounts listed in the report under paragraph (1) may be transferred only to the programs under title III that are classified against the defense category pursuant to amounts specified in appropriation Acts. Any such transfer shall be taken into account for purposes of calculating all reports under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

TITLE XI—ARMY GUARD COMBAT REFORM INITIATIVE

Army National Guard Combat Readiness Reform Act of 1992.

SEC. 1101. SHORT TITLE.

This title may be cited as the "Army National Guard Combat Readiness Reform Act of 1992".

Subtitle A—Deployability Enhancements

10 USC 3077 note.

SEC. 1111. MINIMUM PERCENTAGE OF PRIOR ACTIVE-DUTY PERSONNEL.

(a) ESTABLISHMENT OF MINIMUM PERCENTAGE.—The Secretary of the Army shall have an objective of increasing the percentage of qualified prior active-duty personnel in the Army National Guard

to 65 percent, in the case of officers, and to 50 percent, in the case of enlisted members, by September 30, 1997.

(b) INTERIM ACCESSION PERCENTAGES.—The Secretary shall prescribe regulations establishing for each of fiscal years 1993 through 1997 an accession percentage for officers, and a separate accession percentage for enlisted members, for prior active-duty personnel so as to facilitate compliance with the objectives stated in subsection (a). Regulations.

(c) QUALIFIED PRIOR ACTIVE-DUTY PERSONNEL.—For purposes of this section, qualified prior active-duty personnel are members of the Army National Guard with not less than two years of active duty.

(d) DEADLINE FOR REGULATIONS.—The regulations required by subsection (a) shall be prescribed not later than March 15, 1993. The Secretary shall submit those regulations to the Committees on Armed Services of the Senate and House of Representatives not later than April 1, 1993.

SEC. 1112. SERVICE IN SELECTED RESERVE IN LIEU OF ACTIVE-DUTY SERVICE.

(a) ACADEMY GRADUATES AND DISTINGUISHED ROTC GRADUATES TO SERVE IN SELECTED RESERVE FOR PERIOD OF ACTIVE-DUTY SERVICE OBLIGATION NOT SERVED ON ACTIVE DUTY.—(1) An officer who is a graduate of one of the service academies or who was commissioned as a distinguished Reserve Officers' Training Corps graduate and who is permitted to be released from active duty before the completion of the active-duty service obligation applicable to that officer shall serve the remaining period of such active-duty service obligation as a member of the Selected Reserve.

(2) The Secretary concerned may waive paragraph (1) in a case in which the Secretary determines that there is no unit position available for the officer.

(b) ROTC GRADUATES.—The Secretary of the Army shall provide a program under which graduates of the Reserve Officers' Training Corps program may perform their minimum period of obligated service by a combination of (A) two years of active duty, and (B) such additional period of service as is necessary to complete the remainder of such obligation, to be served in the National Guard.

SEC. 1113. REVIEW OF OFFICER PROMOTIONS BY COMMANDER OF ASSOCIATED ACTIVE DUTY UNIT.

(a) REVIEW.—Whenever an officer in an Army National Guard unit as defined in subsection (b) is recommended for a unit vacancy promotion to a grade above first lieutenant, the recommended promotion shall be reviewed by the commander of the active duty unit associated with the National Guard unit of that officer or another active-duty officer designated by the Secretary of the Army. The commander or other active-duty officer designated by the Secretary of the Army shall provide to the promoting authority, through the promotion board convened by the promotion authority to consider unit vacancy promotion candidates, before the promotion is made, a recommendation of concurrence or nonconcurrence in the promotion. The recommendation shall be provided to the promoting authority within 60 days after receipt of notice of the recommended promotion.

(b) IMPLEMENTATION.—Subsection (a) shall take effect—

(1) on April 1, 1993, for officers in Army National Guard units that on that date are designated as round-out/round-up units;

(2) on October 1, 1993, for officers in other units of the Army National Guard in the Selected Reserve of the Ready Reserve that are designated as early deploying units; and

(3) on April 1, 1994, for officers in all other Army National Guard combat units.

(c) REPORT ON FEASIBILITY.—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report, not later than March 1, 1993, containing a plan for implementation of subsection (a). The Secretary may include with the report such proposals for legislation to clarify, improve, or modify the provisions of subsection (a) in order to better carry out the purposes of those provisions as the Secretary considers appropriate.

SEC. 1114. NONCOMMISSIONED OFFICER EDUCATION REQUIREMENTS.

(a) NONWAIVABILITY.—Any standard prescribed by the Secretary of the Army establishing a military education requirement for noncommissioned officers that must be met as a requirement for promotion to a higher noncommissioned officer grade may be waived only if the Secretary determines that the waiver is necessary in order to preserve unit leadership continuity under combat conditions.

(b) AVAILABILITY OF TRAINING POSITIONS.—The Secretary of the Army shall ensure that there are sufficient training positions available to enable compliance with subsection (a).

SEC. 1115. INITIAL ENTRY TRAINING AND NONDEPLOYABLE PERSONNEL ACCOUNT.

(a) ESTABLISHMENT OF PERSONNEL ACCOUNT.—The Secretary of the Army shall establish a personnel accounting category for members of the Army National Guard to be used for categorizing members of the National Guard who have not completed the minimum training required for deployment or who are otherwise not available for deployment. The account shall be designed so that it is compatible with the decentralized personnel systems of the Army Guard and Reserve. The account shall be used for the reporting of personnel readiness and may not be used as a factor in establishing the level of Army Guard and Reserve force structure.

(b) USE OF ACCOUNT.—Until a member of the Army National Guard has completed the minimum training necessary for deployment, the member may not be assigned to fill a position in a National Guard unit but shall be carried in the account established under subsection (a).

(c) TIME FOR QUALIFICATION FOR DEPLOYMENT.—(1) If at the end of 24 months after a member of the Army National Guard enters the National Guard, the member has not completed the minimum training required for deployment, the member shall be discharged from the Army National Guard.

(2) The Secretary of the Army may waive the requirement in paragraph (1) in the case of health care providers and in other cases determined necessary. The authority to make such a waiver may not be delegated.

SEC. 1116. MINIMUM PHYSICAL DEPLOYABILITY STANDARDS.

The Secretary of the Army shall transfer the personnel classification of a member of the Army National Guard from the National Guard unit of the member to the personnel account established pursuant to section 1115 if the member does not meet minimum physical profile standards required for deployment. Any such transfer shall be made not later than 90 days after the date on which the determination that the member does not meet such standards is made.

SEC. 1117. MEDICAL ASSESSMENTS.

The Secretary of the Army shall require that—

(1) each member of the Army National Guard undergo a medical and dental screening on an annual basis; and

(2) each member of the Army National Guard over the age of 40 undergo a full physical examination not less often than every two years.

SEC. 1118. DENTAL READINESS OF MEMBERS OF EARLY DEPLOYING UNITS.

(a) DEVELOPMENT OF PLAN.—The Secretary of the Army shall develop a plan to ensure that units of the Army National Guard scheduled for early deployment in the event of a mobilization (as determined by the Secretary) are dentally ready (as defined in regulations of the Secretary) for deployment.

(b) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on such plan not later than February 15, 1993. The Secretary shall include in the report any legislative proposals that the Secretary considers necessary in order to implement the plan.

SEC. 1119. COMBAT UNIT TRAINING.

The Secretary of the Army shall establish a program to minimize the post-mobilization training time required for combat units of the Army National Guard. The program shall require—

(1) that unit premobilization training emphasize—

(A) individual soldier qualification and training;

(B) collective training and qualification at the crew, section, team, and squad level; and

(C) maneuver training at the platoon level as required of all Army units; and

(2) that combat training for command and staff leadership include annual multi-echelon training to develop battalion, brigade, and division level skills, as appropriate.

SEC. 1120. USE OF COMBAT SIMULATORS.

The Secretary of the Army shall expand the use of simulations, simulators, and advanced training devices and technologies in order to increase training opportunities for members and units of the Army National Guard.

Subtitle B—Assessment of National Guard Capability

SEC. 1121. DEPLOYABILITY RATING SYSTEM.

The Secretary of the Army shall modify the readiness rating system for units of the Army Reserve and Army National Guard to ensure that the rating system provides an accurate assessment of the deployability of a unit and those shortfalls of a unit that

require the provision of additional resources. In making such modifications, the Secretary shall ensure that the unit readiness rating system is designed so—

(1) that the personnel readiness rating of a unit reflects—

(A) both the percentage of the overall personnel requirement of the unit that is manned and deployable and the fill and deployability rate for critical occupational specialties necessary for the unit to carry out its basic mission requirements; and

(B) the number of personnel in the unit who are qualified in their primary military occupational specialty; and

(2) that the equipment readiness assessment of a unit—

(A) documents all equipment required for deployment;

(B) reflects only that equipment that is directly possessed by the unit;

(C) specifies the effect of substitute items; and

(D) assesses the effect of missing components and sets on the readiness of major equipments items.

SEC. 1122. INSPECTIONS.

Section 105 of title 32, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "may" in the matter preceding paragraph (1) and inserting in lieu thereof "shall";

(B) by striking out "and" at the end of paragraph (5);

(C) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(D) by inserting after paragraph (6) the following:

"(7) the units of the Army National Guard meet requirements for deployment."; and

(2) in subsection (b), by inserting "; and for determining which units of the National Guard meet deployability standards" before the period.

Subtitle C—Compatibility of Guard Units With Active Component Units

SEC. 1131. ACTIVE DUTY ASSOCIATE UNIT RESPONSIBILITY.

(a) ASSOCIATE UNITS.—The Secretary of the Army shall require that each National Guard combat unit of the Army National Guard be associated with an active-duty combat unit.

(b) RESPONSIBILITIES.—The commander (at a brigade or higher level) of the associated active duty unit for any National Guard combat unit shall be responsible for—

(1) approving the training program of the National Guard unit;

(2) reviewing the readiness report of the National Guard unit;

(3) assessing the manpower, equipment, and training resources requirements of the National Guard unit; and

(4) validating, not less often than annually, the compatibility of the National Guard unit with the active duty forces.

(c) IMPLEMENTATION.—The Secretary of the Army shall begin to implement subsection (a) during fiscal year 1993 and shall achieve full implementation of the plan not later than October 1, 1995.

SEC. 1132. TRAINING COMPATIBILITY.

Section 414(c) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (105 Stat. 1353) is amended by adding at the end the following new paragraph: 10 USC 261 note.

"(4) After September 30, 1994, not less than 3,000 warrant officers and enlisted members in addition to those assigned under paragraph (2) shall be assigned to serve as advisers under the program.".

SEC. 1133. SYSTEMS COMPATIBILITY.

(a) COMPATIBILITY PROGRAM.—The Secretary of the Army shall develop and implement a program to ensure that Army personnel systems, Army supply systems, Army maintenance management systems, and Army finance systems are compatible across all Army components.

(b) REPORT.—Not later than September 30, 1993, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report describing the program under subsection (a) and setting forth a plan for implementation of the program by the end of fiscal year 1997.

SEC. 1134. EQUIPMENT COMPATIBILITY.

Section 115b(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(8) A statement of the current status of the compatibility of equipment between the Army reserve components and active forces of the Army, the effect of that level of incompatibility on combat effectiveness, and a plan to achieve full equipment compatibility.".

SEC. 1135. DEPLOYMENT PLANNING REFORM.

(a) REQUIREMENT FOR PRIORITY SYSTEM.—The Secretary of the Army shall develop a system for identifying the priority for mobilization of Army reserve component units. The priority system shall be based on regional contingency planning requirements and doctrine to be integrated into the Army war planning process.

(b) UNIT DEPLOYMENT DESIGNATORS.—The system shall include the use of Unit Deployment Designators to specify the post-mobilization training days allocated to a unit before deployment. The Secretary shall specify standard designator categories in order to group units according to the timing of deployment after mobilization.

(c) USE OF DESIGNATORS.—(1) The Secretary shall establish procedures to link the Unit Deployment Designator system to the process by which resources are provided for National Guard units.

(2) The Secretary shall develop a plan that allocates greater funding for training, full-time support, equipment, and manpower in excess of 100 percent of authorized strength to units assigned unit deployment designators that allow fewer post-mobilization training days.

(3) The Secretary shall establish procedures to identify the command level at which combat units would, upon deployment, be integrated with active component forces consistent with the Unit Deployment Designator system.

SEC. 1136. QUALIFICATION FOR PRIOR-SERVICE ENLISTMENT BONUS.

Section 308i(c) of title 37, United States Code, is amended by striking out the period at the end and inserting in lieu thereof "and may not be paid a bonus under this section unless the specialty

associated with the position the member is projected to occupy is a specialty in which the member successfully served while on active duty and attained a level of qualification commensurate with the member's grade and years of service.".

SEC. 1137. STUDY OF IMPLEMENTATION FOR ALL RESERVE COMPONENTS.

Reports.

The Secretary of Defense shall conduct an assessment of the feasibility of implementing the provisions of this title for all reserve components. Not later than December 31, 1993, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing a plan for such implementation.

TITLE XII—SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS

Subtitle A—Operation Desert Storm

SEC. 1201. EXTENSION OF SUPPLEMENTAL AUTHORIZATIONS FOR OPERATION DESERT STORM.

Sections 101, 102(c), and 106 of Public Law 102–25 (105 Stat. 78) are each amended by striking out "fiscal years 1991 and 1992" each place it appears and inserting in lieu thereof "fiscal years 1991, 1992, and 1993".

SEC. 1202. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1992 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b)(1) of such section, the sum of $429,000,000 for military personnel as follows:

(1) ARMY.—For the Army, $399,000,000.
(2) NAVY.—For the Navy, $30,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1992 AUTHORIZATIONS.—The total amount of the transfer authority provided for the Secretary of Defense for fiscal year 1992 in Public Law 102–190 or any other Act is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1992 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102–25, as amended by section 1201.

SEC. 1203. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1993.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Defense for fiscal year 1993 in accordance with subsection (a) of section 101 of Public Law 102–25 (105 Stat. 78), to be available under subsection (b) of such section, the sum of $87,700,000 for military personnel as follows:

(1) ARMY.—For the Army, $29,300,000.
(2) NAVY.—For the Navy, $35,300,000.
(3) MARINE CORPS.—For the Marine Corps, $3,100,000.
(4) AIR FORCE.—For the Air Force, $20,000,000.

(b) INCREASED LIMITATION ON AUTHORITY FOR TRANSFER OF FISCAL YEAR 1993 AUTHORIZATIONS.—The amount of the transfer authority provided in section 1001 is increased by the amounts of the funds appropriated pursuant to subsection (a) that are transferred to fiscal year 1993 appropriations accounts pursuant to sections 101 and 102(c) of Public Law 102-25, as amended by section 1201.

SEC. 1204. RELATIONSHIP TO OTHER AUTHORIZATIONS.

The authorizations of appropriations in sections 1202 and 1203 are in addition to the amounts otherwise authorized to be appropriated to the Department of Defense for fiscal year 1992 and for fiscal year 1993 by any other provision of this Act or by any other Act enacted before the date of the enactment of this Act.

Subtitle B—Hurricane Andrew and Typhoon Omar

SEC. 1211. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 1992.

(a) AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $529,300,000 as follows:

(1) For Military Personnel:
  (A) For the Navy, $10,700,000.
  (B) For the Air Force, $58,200,000.
  (C) For the Air Force Reserve, $8,800,000.
  (D) For the Air National Guard, $1,900,000.

(2) For Operation and Maintenance:
  (A) For the Army, $1,400,000.
  (B) For the Navy, $142,900,000.
  (C) For the Air Force, $228,000,000.
  (D) For the Defense Agencies, $31,500,000.
  (E) For the Army Reserve, $3,300,000.
  (F) For the Air Force Reserve, $13,200,000.
  (G) For the Army National Guard, $1,400,000.
  (H) For the Air National Guard, $2,000,000.

(3) For Military Construction:
  (A) For the Air Force inside the United States, $10,000,000.
  (B) For the Air Force for family housing inside the United States, $16,000,000.

(b) AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1992 to cover the incremental costs arising from the consequences of Hurricane Andrew and Typhoon Omar $263,530,000 as follows:

(1) For military construction for the Navy outside the United States, $81,530,000.

(2) For military construction for the Air Force inside the United States, $66,000,000.

(3) For military construction for the Air Force outside the United States, $7,600,000.

(4) For family housing for the Navy outside the United States, $87,200,000.

(5) For family housing for the Air Force outside the United States, $21,200,000.

(c) EMERGENCY DESIGNATION.—The authorization of appropriations in subsection (b) are effective only to the extent that the appropriations are designated by the Congress as emergency appropriations for all purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 in an appropriations Act.

TITLE XIII—MATTERS RELATING TO ALLIES AND OTHER NATIONS

Subtitle A—Burdensharing

SEC. 1301. OVERSEAS BASING ACTIVITIES.

(a) FUNDING REDUCTIONS.—(1)(A) The total amount appropriated to the Department of Defense for operation and maintenance and for military construction (including NATO Infrastructure) that is obligated to conduct overseas basing activities during fiscal year 1993 may not exceed the amount equal to the baseline for fiscal year 1993 reduced by $500,000,000.

(B) For purposes of subparagraph (A), the baseline for fiscal year 1993 is the sum of the amounts of the overseas funding estimates specified for such year for Operation and Maintenance; Family Housing, Operations; Family Housing, Construction; and Military Construction (including NATO Infrastructure) set forth on page 8 of the report of the Department of Defense dated January 1992, and entitled "Amended FY 1992/FY 1993 Biennial Budget Estimates for Defense Overseas Funding and Dependent Overseas Funding".

(2) It is the sense of Congress that the amounts obligated to conduct overseas basing activities should decline significantly in fiscal years 1994, 1995, and 1996 as—

(A) the number of United States military personnel stationed overseas is reduced in conformance with the provisions of section 1302 and the amendment made by section 1303; and

(B) the countries to which subsection (e)(1) and (e)(2) apply assume an increased share of the costs of United States military installations in those countries.

(b) DEFINITION.—In this section, the term "overseas basing activities" means the activities of the Department of Defense for which funds are provided through appropriations for operation and maintenance, including appropriations for family housing operations, and for military construction (including family housing construction and NATO Infrastructure) for the payment of costs for Department of Defense overseas military units and the costs for all dependents who accompany Department of Defense personnel outside the United States.

(c) OFFSETS.—Reductions for purposes of subsection (a) in obligations of appropriated funds for overseas basing activities may be offset by either or a combination of the following:

(1) Increase in the level of host-nation support due to agreements reached under subsection (e) or otherwise.

(2) Accelerated withdrawal of United States forces or equipment under the provisions of section 1302 and the amendment made by section 1303.

(d) ALLOCATIONS OF SAVINGS.—The savings realized as a result of the reductions for purposes of subsection (a) will be allocated for operation and maintenance and military construction activities

of the Department of Defense at military installations and facilities located inside the United States.

(e) DEFENSE BURDENSHARING AGREEMENTS FOR INCREASED HOST NATION SUPPORT.—(1) In order to achieve additional savings in fiscal year 1994 and in future fiscal years, the President should enter into a revised host-nation agreement with each foreign country described in paragraph (3)(A).

(2) For purposes of paragraph (1), a revised host-nation agreement is an agreement under which such foreign country, on or before September 30, 1994—

(A) assumes an increased share of the costs of United States military installations in that country, including the costs of—

(i) labor, utilities, and services;

(ii) military construction projects and real property maintenance;

(iii) leasing requirements associated with United States military presence; and

(iv) actions necessary to meet local environmental standards;

(B) relieves the Armed Forces of the United States of all tax liability that, with respect to forces located in such country, is incurred by the Armed Forces under the laws of that country and the laws of the community where those forces are located; and

(C) ensures that goods and services furnished in that country to the Armed Forces of the United States are provided at minimum cost and without imposition of user fees.

(3)(A) Except as provided in subparagraph (B), paragraph (1) applies with respect to—

(i) each country of the North Atlantic Treaty Organization (other than the United States); and

(ii) each other foreign country with which the United States has a bilateral or multilateral defense agreement that provides for the assignment of combat units of the Armed Forces of the United States to permanent duty in that country or the placement of combat equipment of the United States in that country.

(B) Paragraph (1) does not apply with respect to—

(i) a foreign country that receives assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2673) (relating to the foreign military financing program) or under the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.); or

(ii) a foreign country that has agreed to assume, not later than September 30, 1996, at least 75 percent of the non-personnel costs of United States military installations in that country.

SEC. 1302. OVERSEAS MILITARY END STRENGTH. 10 USC 113 note.

(a) REDUCTION IN UNITED STATES FORCE LEVELS ABROAD.—On and after September 30, 1996, no appropriated funds may be used to support an end strength level of members of the Armed Forces of the United States assigned to permanent duty ashore in nations outside the United States at any level in excess of 60 percent of the end strength level of such members on September 30, 1992.

(b) EXCEPTIONS.—(1) Subsection (a) shall not apply in the event of a declaration of war or an armed attack on any member nation of the North Atlantic Treaty Organization, Japan, the Republic of Korea, or any other ally of the United States.

(2) The President may waive the operation of subsection (a) if the President declares an emergency and immediately notifies Congress.

SEC. 1303. REDUCTION IN THE AUTHORIZED END STRENGTH FOR MILITARY PERSONNEL IN EUROPE.

(a) REDUCED END STRENGTH.—Subsection (c)(1) of section 1002 of the National Defense Authorization Act, 1985 (22 U.S.C. 1928 note), is amended by striking out "235,700" in the first sentence and all that follows and inserting in lieu thereof "100,000.".

22 USC 1928 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1995.

10 USC 113 note.

SEC. 1304. REPORTS ON OVERSEAS BASING.

(a) ANNUAL REPORT.—The Secretary of Defense shall, not later than March 31 of each year through 1997, submit to the Committees on Armed Services of the Senate and House of Representatives, either separately or as part of another relevant report, a report that specifies—

(1) the stationing and basing plan for United States military forces outside the United States;

(2) the status of closures of United States military installations located outside the United States;

(3) the schedule for the negotiation of such closures;

(4) the potential savings to the United States resulting from such closures;

(5) the potential amount of receipts from residual value negotiations; and

(6) efforts and progress toward achieving host nation offsets under section 1301(e) and reduced end strength levels under section 1302.

(b) REPORT ON BUDGET IMPLICATIONS OF OVERSEAS BASING AGREEMENTS.—Whenever the Secretary of Defense enters into a basing agreement between the United States and a foreign country with respect to United States military forces outside the United States, the Secretary of Defense shall, in advance of the signing of the agreement, submit to the congressional defense committees a report on the Federal budget implications of the agreement.

SEC. 1305. BURDENSHARING CONTRIBUTIONS BY KUWAIT.

(a) AUTHORITY TO ACCEPT CONTRIBUTIONS.—Section 1045 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1465) is amended in subsections (a) and (f) by inserting ", Kuwait," after "Japan".

(b) AVAILABILITY OF CONTRIBUTIONS.—Subsection (c) of such section is amended by striking out "in the country making the contributions".

(c) CLERICAL AMENDMENT.—The heading of such section is amended to read as follows:

"SEC. 1045. BURDENSHARING CONTRIBUTIONS BY JAPAN, KUWAIT, AND THE REPUBLIC OF KOREA.".

Subtitle B—Cooperative Agreements and Other Matters Concerning Allies

SEC. 1311. COOPERATIVE MILITARY AIRLIFT AGREEMENTS.

(a) LIQUIDATION OF CREDITS AND LIABILITIES.—Section 2350c(a)(2) of title 10, United States Code, is amended by striking out all after "liquidated" and inserting in lieu thereof "as agreed upon by the parties. Liquidation shall be either by direct payment to the country that has provided the greater amount of transportation or by the providing of in-kind transportation services to that country. The liquidation shall occur on a regular basis, but not less often than once every 12 months.".

(b) COUNTRIES ELIGIBLE FOR COOPERATIVE AGREEMENTS.—Section 2350c(e)(1) of such title is amended by striking out "or New Zealand" and inserting in lieu thereof ", New Zealand, Japan, and the Republic of Korea".

SEC. 1312. COOPERATIVE AGREEMENTS WITH ALLIES.

(a) ACQUISITION OF LOGISTICS SUPPORT, SUPPLIES, AND SERVICES FROM ALLIES.—Section 2341 of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "in Europe and adjacent waters" and inserting in lieu thereof "outside the United States"; and

(2) in paragraph (2)—

(A) by striking out "in which elements of the armed forces are deployed (or are to be deployed)"; and

(B) by striking out "in such country or in the military region in which such country is located" and inserting in lieu thereof "outside the United States".

(b) LIMITATIONS ON AMOUNTS THAT MAY BE OBLIGATED OR ACCRUED BY THE UNITED STATES.—Section 2347 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)";

(2) in subsection (a)(2)—

(A) by striking out "in the military region affecting" and inserting in lieu thereof "involving the armed forces, the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with"; and

(B) by striking out "the total amount of reimbursable liabilities that the United States may accrue under this subchapter (before the computation of offsetting balances) with such country";

(3) in subsection (b)(1)—

(A) by striking out "North Atlantic Treaty Organization" and inserting in lieu thereof "armed forces"; and

(B) by inserting "with other member countries of the North Atlantic Treaty Organization and subsidiary bodies of the North Atlantic Treaty Organization" after "(before the computation of offsetting balances)"; and

(4) in subsection (b)(2)—

(A) by striking out "in the military region affecting a country referred to in paragraph (1)" and inserting in lieu thereof "involving the armed forces"; and

(B) by striking out "from such country (before the computation of offsetting balances)" and inserting in lieu thereof "(before the computation of offsetting balances) with a country which is not a member of the North Atlantic Treaty Organization, but with which the United States has one or more acquisition or cross-servicing agreements".

10 USC 2341 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act and shall apply to acquisitions of logistics support, supplies, and services under chapter 138 of title 10, United States Code, that are initiated on or after the date of enactment of this Act.

SEC. 1313. AUTHORITY FOR GOVERNMENT OF OMAN TO RECEIVE EXCESS DEFENSE ARTICLES.

Section 516(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(a)) is amended—

(1) by inserting "(1)" after "may transfer";

(2) by striking "structure and" and inserting "structure, (2)";

(3) by inserting "and (3) to those countries which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf, and which either received Foreign Military Financing (FMF) assistance in fiscal year 1990 or are in the Near East Region and received Foreign Military Financing (FMF) assistance in fiscal year 1991," after "southeastern flank of NATO which are eligible for United States security assistance,"; and

(4) by striking "and those countries which received Foreign Military Financing (FMF) assistance in fiscal year 1990 and which, as of October 1, 1990, contributed armed forces to deter Iraqi aggression in the Arabian Gulf,".

SEC. 1314. REPORT ON POSSIBLE REVISIONS TO THE NORTH ATLANTIC TREATY.

(a) FINDINGS.—The Congress finds that—

(1) when the North Atlantic Treaty was signed in 1949, the clear military threat to the security of Western Europe was the Soviet Union and its allies in Eastern Europe;

(2) since 1949 it has been clearly understood by the people of the Western World that the primary mission of NATO was to deter an attack from the Soviet Bloc;

(3) the dramatic changes in Europe since the fall of the Berlin Wall in 1989, and the subsequent dissolution of the Warsaw Pact and the Soviet Union have fundamentally changed the security situation in Europe;

(4) one of the consequences of the breakdown of 40 years of Communist rule in Eastern Europe and the former Soviet Union has been ethnic conflict throughout the region, particularly in the Balkans and the Republics of the former Soviet Union;

(5) those fundamental changes in the security threats facing NATO member nations have caused confusion concerning the mission of NATO in the post-cold war world and the role of NATO military forces outside of the NATO Theater, particularly in the former Soviet Union;

(6) if NATO is to continue to be relevant to the security interests of Western Europe and North America through the 1990's and beyond, the alliance's mission must be recrafted in order to enable it to address common transatlantic security concerns, including those beyond NATO's geographic boundaries; and

(7) a fundamental review of the North Atlantic Treaty is necessary, in light of the new security situation in Europe.

(b) REPORT.—Not later than April 1, 1993, the President shall submit to Congress a report on the North Atlantic Treaty of 1949. The report shall include— President.

(1) a detailed analysis of the forseeable threats to the security of NATO member nations;

(2) a determination whether the North Atlantic Treaty of 1949 should be revised to meet the future challenges to peace and security; and

(3) the extent to which the NATO charter permits the use of NATO forces for peacekeeping purposes, given the steadily increased use of military forces for such purposes, and the range of missions that should be considered for such peacekeeping to protect the interests of member nations

Subtitle C—Matters Relating to the Former Soviet Union and Eastern Europe

SEC. 1321. NUCLEAR WEAPONS REDUCTION. 22 USC 5901 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) On February 1, 1992, the President of the United States and the President of the Russian Federation agreed in a Joint Statement that "Russia and the United States do not regard each other as potential adversaries" and stated further that, "We will work to remove any remnants of cold war hostility, including taking steps to reduce our strategic arsenals".

(2) In the Treaty on the Non-Proliferation of Nuclear Weapons, in exchange for the non-nuclear-weapon states agreeing not to seek a nuclear weapons capability nor to assist other non-nuclear-weapon states in doing so, the United States agreed to seek the complete elimination of all nuclear weapons worldwide, as declared in the preamble to the Treaty, which states that it is a goal of the parties to the Treaty to "facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery" as well as in Article VI of the Treaty, which states that "each of the parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament".

(3) Carrying out a policy of seeking further significant and continuous reductions in the nuclear arsenals of all countries, besides reducing the likelihood of the proliferation of nuclear weapons and increasing the likelihood of a successful

extension and possible strengthening of the Treaty on the Non-Proliferation of Nuclear Weapons in 1995, when the Treaty is scheduled for review and possible extension, has additional benefits to the national security of the United States, including—

(A) a reduced risk of accidental enablement and launch of a nuclear weapon, and

(B) a defense cost savings which could be reallocated for deficit reduction or other important national needs.

(4) The Strategic Arms Reduction Talks (START) Treaty and the agreement by the President of the United States and the President of the Russian Federation on June 17, 1992, to reduce the strategic nuclear arsenals of each country to a level between 3,000 and 3,500 weapons are commendable intermediate stages in the process of achieving the policy goals described in paragraphs (1) and (2).

(5) The current international era of cooperation provides greater opportunities for achieving worldwide reduction and control of nuclear weapons and material than any time since the emergence of nuclear weapons 50 years ago.

(6) It is in the security interests of both the United States and the world community for the President and the Congress to begin the process of reducing the number of nuclear weapons in every country through multilateral agreements and other appropriate means.

(7) In a 1991 study, a committee of the National Academy of Sciences concluded that: "The appropriate new levels of nuclear weapons cannot be specified at this time, but it seems reasonable to the committee that U.S. strategic forces could in time be reduced to 1,000–2,000 nuclear warheads, provided that such a multilateral agreement included appropriate levels and verification measures for the other nations that possess nuclear weapons. This step would require successful implementation of our proposed post-START U.S.-Soviet reductions, related confidence-building measures in all the countries involved, and multilateral security cooperation in areas such as conventional force deployments and planning.".

(b) UNITED STATES POLICY.—It shall be the goal of the United States—

(1) to encourage and facilitate the denuclearization of Ukraine, Byelarus, and Kazakhstan, as agreed upon in the Lisbon ministerial meeting of May 23, 1992;

Treaties.

(2) to rapidly complete and submit for ratification by the United States the treaty incorporating the agreement of June 17, 1992, between the United States and the Russian Federation to reduce the number of strategic nuclear weapons in each country's arsenal to a level between 3,000 and 3,500;

(3) to facilitate the ability of the Russian Federation, Ukraine, Byelarus, and Kazakhstan to implement agreed mutual reductions under the START Treaty, and under the Joint Understanding of June 16–17, 1992 between the United States and the Russian Federation, on an accelerated timetable, so that all such reductions can be completed by the year 2000;

(4) to build on the agreement reached in the Joint Understanding of June 16–17, 1992, by entering into multilateral negotiations with the Russian Federation, the United Kingdom, France, and the People's Republic of China, and, at an appro-

priate point in that process, enter into negotiations with other nuclear armed states in order to reach subsequent stage-by-stage agreements to achieve further reductions in the number of nuclear weapons in all countries;

(5) to continue and extend cooperative discussions with the appropriate authorities of the former Soviet military on means to maintain and improve secure command and control over nuclear forces;

(6) in consultation with other member countries of the North Atlantic Treaty Organization and other allies, to initiate discussions to bring tactical nuclear weapons into the arms control process; and

(7) to ensure that the United States assistance to securely transport and store, and ultimately dismantle, former Soviet nuclear weapons and missiles for such weapons is being properly and effectively utilized.

(c) ANNUAL REPORT.—By February 1 of each year, the President shall submit to the Congress a report on— President.

(1) the actions that the United States has taken, and the actions the United States plans to take during the next 12 months, to achieve each of the goals set forth in paragraphs (1) through (6) of subsection (b); and

(2) the actions that have been taken by the Russian Federation, by other former Soviet republics, and by other countries to achieve those goals.

Each such report shall be submitted in unclassified form, with a classified appendix if necessary.

SEC. 1322. VOLUNTEERS INVESTING IN PEACE AND SECURITY (VIPS) PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—(1) Part II of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 89—VOLUNTEERS INVESTING IN PEACE AND SECURITY

"Sec.
"1801. Volunteer program to assist independent states of the former Soviet Union.
"1802. Participants in program.
"1803. Determining needs for volunteers; role of the Secretary of State.
"1804. Compensation and benefits.
"1805. Termination of program.

"§ 1801. Volunteer program to assist independent states of the former Soviet Union

"The Secretary of Defense may, in coordination with the Secretary of State, carry out a program in accordance with this chapter to provide technical assistance to address the infrastructure needs of the independent states of the former Soviet Union. Assistance under the program shall be provided by volunteers who are retired members of the armed forces, or who are former members of the armed forces, who have been recently released from active duty.

"§ 1802. Participants in program

"(a) If the Secretary of Defense carrys out a program under section 1801 of this title, the Secretary shall select the volunteers to participate in the program. Volunteers shall be selected from among individuals—

"(1) who have retired from active duty or been released from active duty under a voluntary separation program; and

"(2) who possess technical skills relevant to the infrastructure needs of the independent states of the former Soviet Union (as identified by the Secretary of State pursuant to section 1803(a) of this title), including skills in areas such as civil engineering, electrical engineering, nuclear plant safety, environmental cleanup, logistics, communications, and health care.

"(b) Volunteers may be selected from among individuals who were separated from active duty not more than two years before the date of the enactment of this chapter.

"(c)(1) The Secretary of Defense may employ volunteers, by contract, to provide services that use their technical skills for the benefit of governmental or nonprofit nongovernmental entities in any of the independent states of the former Soviet Union.

"(2) A person who is employed as a volunteer under paragraph (1) shall be considered to be an employee for the purposes of chapter 81 of title 5, relating to compensation for work-related injuries. Such a person who is not otherwise employed by the Federal Government shall not be considered to be a Federal employee for any other purpose by reason of such employment as a volunteer.

"(d) Volunteers may be required to agree to serve in an independent state of the former Soviet Union for a period of two years (in addition to such period of education and training provided under section 1803(c) of this title) except to the extent the Secretary of State determines otherwise.

"(e) The Secretary of Defense shall prescribe procedures for the selection of volunteers, including procedures for the submission of applications.

"(f) The Secretary of Defense may maintain a registry of applicants who are qualified to be volunteers, including the skills of such applicants.

"§ 1803. Determining needs for volunteers; role of the Secretary of State

"(a) The Secretary of Defense, in consultation with the Secretary of State, may identify the technical skills that could be provided by volunteers pursuant to this chapter and identify opportunities for the placement of volunteers with governmental or nongovernmental entities in each participating country.

"(b) The Secretary of State shall approve the functions to be performed by each volunteer assigned pursuant to this chapter and the assignment of each volunteer to an independent state of the former Soviet Union.

"(c) The Secretary of State may provide volunteers with language training, cultural orientation, and such other education and training as the Secretary determines appropriate. Any expenses incurred by the Secretary of State in carrying out this subsection shall be reimbursed by the Secretary of Defense from amounts currently available to the Secretary of Defense.

"(d) Each volunteer shall serve under the authority of the United States chief of mission to the participating country and shall be considered to be a member of the United States mission to that country.

"§ 1804. Compensation and benefits

"(a) Each volunteer may be paid a stipend at the annual rate of $25,000, subject to the availability of appropriations.

"(b) If the Secretary of Defense determines that it is necessary to do so in order to recruit qualified volunteers, the Secretary may provide volunteers with the allowances and other benefits considered appropriate by the Secretary, including the following:

"(1) Round-trip transportation for the volunteer and his or her dependents.

"(2) Medical care for the volunteer and dependents, if the volunteer is not otherwise eligible for medical care from the Department of Defense or such medical care is otherwise not reasonably available.

"(3) A housing allowance.

"(4) An overseas cost-of-living allowance.

"(5) Expenses of education of dependents.

"§ 1805. Termination of program

"The selection of volunteers to participate in the program under this chapter shall terminate on September 30, 1995.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of title 10, United States Code, are amended by inserting after the item relating to chapter 87 the following new item:

"89. Volunteers Investing in Peace and Security ..... 1801".

(b) REIMBURSEMENT OF OTHER AGENCIES.—The Secretary of Defense shall reimburse other departments and agencies for all costs, direct or indirect, of participation in the program established under chapter 89 of title 10, United States Code, as added by subsection (a). 10 USC 1801 note.

(c) STUDY TO DETERMINE PROGRAM NEED AND AVAILABILITY OF VOLUNTEERS.—The Secretary of Defense shall conduct a study to assess the need for the program under chapter 89 of title 10, United States Code, as added by subsection (a), and the availability of volunteers to participate in that program. The Secretary shall— 10 USC 1801 note.

(1) in consultation with the Secretary of State, conduct a survey, of a scope considered necessary by the Secretary, to determine what technical skills may be required within the independent states of the former Soviet Union and the degree of need for these skills;

(2) determine the potential availability of former service members who are qualified in the required technical skills in a manner and of a duration considered necessary by the Secretary; and

(3) maintain a registry of the skills and former service members who volunteer to participate during the study required in paragraphs (1) and (2).

(d) EFFECTIVE DATE.—Chapter 89 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1992. 10 USC 1801 note.

Subtitle D—Matters Relating to the Middle East and Persian Gulf Region

SEC. 1331. REPORT ON THE UNITED STATES STRATEGIC POSTURE IN THE MIDDLE EAST AND PERSIAN GULF REGION.

(a) REQUIREMENT FOR REPORT.—Not later than February 1, 1993, the Secretary of Defense, together with the Secretary of State and the Director for Central Intelligence, shall submit to Congress a report on the United States strategic posture in the Middle East and Persian Gulf region.

(b) CONTENT OF REPORT.—The report shall include an assessment of the following matters:

(1) The adequacy of United States power projection forces, strategic lift, forward deployed forces, prepositioned materiel, and force sustainability capabilities for protecting United States strategic interests in the Middle East and the Persian Gulf region in order to ensure the security needs of Israel, Egypt, and Persian Gulf states friendly to the United States.

(2) United States policy, plans, and programs for ensuring Israel's military and technological superiority over potential threats.

(3) United States capabilities for assisting Israel in a military emergency and the adequacy of United States military assistance and technology transfer for ensuring that Israel has the capability to deter war and to defend its territory with minimal risk and loss of life.

(4) The state of strategic cooperation between the United States and Israel, including—

(A) a thorough assessment of options for prepositioning in Israel appropriate defense articles for use by the United States in the region; and

(B) an assessment of United States policies, plans, and programs for ensuring that maximum advantage is taken of Israel's strategic location and Israel's ability to provide unique options regarding military technologies and production.

(5) The adequacy of United States power projection forces, military assistance, arms transfers, and cooperation arrangements for addressing Egypt's security arrangements to deter outside threats and to participate in regional security efforts with the United States and other nations.

(6) The adequacy of United States power projection forces, military assistance, and arms transfers for addressing the security requirements of the Gulf Cooperation Council States.

(7) The adequacy of the capabilities of the United States and countries friendly to the United States for deterring and defending against long-range missile threats and the use of weapons of mass destruction in the Middle East and the Persian Gulf region.

(c) INTELLIGENCE ASSESSMENT.—As part of the report submitted pursuant to subsection (a), the Secretary of Defense shall provide a military threat assessment for the Middle East and Persian Gulf region. The intelligence assessment shall include a description of—

(1) the overall military threat to United States strategic interests in the Persian Gulf region;

(2) the overall military threat to Israel and the military threats to Israel from individual countries, including an assessment of the Arab-Israeli military balance and a discussion of the changes taking place in that balance;

(3) the military threats to Egypt;

(4) the military threats to the Gulf Cooperation Council States; and

(5) the threats to United States interests and to regional States friendly to the United States that result from the proliferation of long-range missiles and weapons of mass destruction.

(d) FORM OF REPORT.—The report may be submitted in classified and unclassified forms.

SEC. 1332. PROHIBITION ON CONTRACTING WITH ENTITIES THAT COMPLY WITH THE SECONDARY ARAB BOYCOTT OF ISRAEL.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, as amended by sections 384, 808, 813, 834, 840, and 841, is further amended by adding at the end the following new section:

"§ 2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel

"(a) POLICY.—Under section 3(5)(A) of the Export Administration Act of 1979 (50 U.S.C. App. 2402(5)(A)), it is the policy of the United States to oppose restrictive trade practices or boycotts fostered or imposed by foreign countries against other countries friendly to the United States or against any other United States person.

"(b) PROHIBITION.—(1) Consistent with the policy referred to in subsection (a), the Department of Defense may not award a contract for an amount in excess of the small purchase threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))) to a foreign entity unless that entity certifies to the Secretary of Defense that it does not comply with the secondary Arab boycott of Israel.

"(2) In paragraph (1), the term "foreign entity" means a foreign person, a foreign company, or any other foreign entity.

"(c) WAIVER AUTHORITY.—The Secretary of Defense may waive the prohibition in subsection (b) in specific instances when the Secretary determines that the waiver is necessary in the national security interests of the United States. Within 15 days after the end of each fiscal year, the Secretary shall submit to Congress a report identifying each contract for which a waiver was granted under this subsection during that fiscal year.

"(d) EXCEPTIONS.—Subsection (b) does not apply—

"(1) to contracts for consumable supplies, provisions, or services that are intended to be used for the support of United States forces or of allied forces in a foreign country; or

"(2) to contracts pertaining to the use of any equipment, technology, data, or services for intelligence or classified purposes by the United States Government in the interests of national security or to the acquisition or lease of any such equipment, technology, data, or services by the United States Government in the interests of national security.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by sections 384, 808, 813, 834,

840, and 841, is further amended by adding at the end the following new item:

"2410i. Prohibition on contracting with entities that comply with the secondary Arab boycott of Israel.".

Subtitle E—International Peacekeeping Activities

SEC. 1341. UNITED NATIONS PEACEKEEPING AND ENFORCEMENT REPORT.

(a) REPORT REQUESTED.—Not later than the date on which the President submits to Congress the budget for fiscal year 1994 under section 1105 of title 31, United States Code, the President shall transmit to Congress a report on the proposals of the Secretary General of the United Nations contained in his report to the Security Council entitled "Preventive Diplomacy, Peacemaking and Peacekeeping", dated June 19, 1992.

(b) CONTENT OF PRESIDENT'S REPORT.—The President's report shall contain a comprehensive analysis and discussion of the proposals of the Secretary General, including, in particular, the following:

(1) The proposal that contributions for peacekeeping and related enforcement activities be funded out of the National Defense function of the budget rather than the "Contributions to International Peacekeeping Activities" account of the Department of State.

(2) The assignment of responsibilities within the Executive branch if such contributions are funded, in whole or in part, out of the National Defense function.

(3) The proposal that the United States and other member states of the United Nations negotiate special agreements under Article 43 of the United Nations Charter to provide for those states to make armed forces, assistance, and facilities available to the Security Council of the United Nations for the purposes stated in Article 42 of that Charter, not only on an ad hoc basis but on a permanent on-call basis for rapid deployment under Security Council authorization.

(4) The proposal that member states of the United Nations commit to keep equipment specified by the Secretary General available for immediate sale, loan, or donation to the United Nations when required.

(5) The proposal that member states of the United Nations make airlift and sealift capacity available to the United Nations free of cost or at lower than commercial rates.

(6) Such other information as may be necessary to inform Congress on matters relating to the Secretary General's proposals.

10 USC 403 note.

SEC. 1342. SUPPORT FOR PEACEKEEPING ACTIVITIES.

(a) FINDINGS.—The Congress makes the following findings:

(1) International peacekeeping activities contribute to the national interests of the United States in maintaining global stability and order.

(2) International peacekeeping activities take many forms and include observer missions, ceasefire monitoring, human rights monitoring, refugee and humanitarian assistance, monitoring and conducting elections, monitoring of police in the demobilization of former combatants, and reforming judicial and other civil and administrative systems of government.

(3) International peacekeeping activities traditionally involve the presence of military troops, police forces, and, in recent years, civilian experts in transportation, logistics, medicine, electoral systems, human rights, land tenure, other economic and social issues, and other areas of expertise.

(4) International peacekeeping activities serve both the foreign policy interests and defense policy interests of the United States.

(5) The normal budget process of authorizing and appropriating funds a year in advance and reprogramming such funds is insufficient to satisfy the need for funds for peacekeeping efforts arising from an unanticipated crisis.

(6) Greater flexibility is needed to ensure the timely availability of funding to provide for peacekeeping activities.

(b) AUTHORIZED SUPPORT FOR FISCAL YEAR 1993.—(1) Subject to paragraph (2), the Secretary may provide assistance for international peacekeeping activities during fiscal year 1993 in an amount not to exceed $300,000,000 in accordance with section 403 of title 10, United States Code, as added by subsection (c). Notwithstanding subsection (b) of that section, the assistance so provided may be derived from funds appropriated to the Department of Defense for fiscal year 1993 for operation and maintenance or from balances in working capital accounts.

(2) No amount may be obligated pursuant to paragraph (1) unless the expenditure of such amount has been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(c) AUTHORIZATION.—(1) Chapter 20 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 403. International peacekeeping activities

"(a) AUTHORITY.—To the extent provided in defense authorization Acts and appropriations Acts, the Secretary of Defense may furnish assistance in support of international peacekeeping activities of the United Nations or any regional organization of which the United States is a member.

"(b) FORMS OF ASSISTANCE.—Assistance provided under subsection (a) may include funds, supplies, services, and equipment. Any funds so provided shall be derived from amounts available to the Department of Defense for the fiscal year for which the assistance is provided.

"(c) LIMITATIONS RELATED TO AVAILABILITY OF STATE DEPARTMENT FUNDS.—Funds may be provided as assistance pursuant to subsection (a) for a fiscal year—

"(1) only if funds available to the Department of State for that fiscal year for contributions for international peacekeeping activities are insufficient or otherwise unavailable to meet the United States' fair share of costs for international peacekeeping activities, as determined by the President; and

"(2) only to the extent that such funds are required to meet unexpected and urgent requirements; and

"(3) only to the extent that the United States' fair share of such costs exceeds the amount that the President requests

Congress to appropriate for the Department of State for such fiscal year for international peacekeeping activities.

"(d) CONSULTATION.—The Secretary of Defense shall consult with the Secretary of State before furnishing any assistance pursuant to subsection (a).

"(e) DETERMINATIONS REQUIRED.—No assistance may be furnished pursuant to subsection (a) unless the Secretary of Defense certifies to Congress that the provision of such assistance will not adversely affect the military preparedness of the United States.

Reports.

"(f) ADVANCE NOTICE TO CONGRESS.—Not less than 30 days before obligating any funds for purposes of subsection (a), the Secretary of Defense shall transmit to Congress a report on the proposed obligation. The report shall—

"(1) specify the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation;

"(2) specify the activities and forms of assistance for which the Secretary of Defense plans to obligate such funds; and

"(3) include the certification required by subsection (e).

"(g) DEFINITION.—In this section, the term 'defense authorization Act' means an Act that authorizes appropriations for one or more fiscal years for military activities of the Department of Defense, including the activities described in paragraph (7) of section 114(a) of this title.

"(h) TERMINATION.—The authority of the Secretary of Defense to furnish assistance under subsection (a) shall expire on September 30, 1993.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"403. International peacekeeping activities.".

Subtitle F—Overseas Operation and Maintenance Activities

10 USC 1592 note.

SEC. 1351. PROHIBITION ON PAYMENT OF SEVERANCE PAY TO CERTAIN FOREIGN NATIONALS IN THE PHILIPPINES.

(a) PROHIBITION.—Funds available to the Department of Defense may not be used to pay severance pay to a foreign national employed by the Department of Defense in the Republic of the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Republic of the Philippines.

(b) PROHIBITION ON ALLOWANCE OF CERTAIN SEVERANCE PAY AS CONTRACT COSTS.—Funds available to the Department of Defense may not be used to pay the costs of severance pay paid by a contractor to a foreign national employed by the contractor under a defense service contract in the Philippines if the discontinuation of the employment of the foreign national is the result of the termination of basing rights of the United States military in the Philippines.

SEC. 1352. FOREIGN SEVERANCE COSTS.

(a) REPEAL OF LIMITATION ON PROHIBITION OF PAYMENT OF CERTAIN FOREIGN SEVERANCE COSTS.—Section 311(b)(3)(B) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1412) is repealed.

10 USC 1592 note.

(b) REVISION OF RULES CONCERNING SEVERANCE PAY FOR FOREIGN NATIONALS.—Section 2324(e) of title 10, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3)(A) Pursuant to regulations prescribed by the Secretary and subject to the availability of appropriations, the head of an agency awarding a covered contract (other than a contract to which paragraph (2) applies) may waive the application of the provisions of paragraphs (1)(M) and (1)(N) to that contract if the head of the agency determines that—

"(i) the application of such provisions to the contract would adversely affect the continuation of a program, project, or activity that provides significant support services for members of the armed forces stationed or deployed outside the United States;

"(ii) the contractor has taken (or has established plans to take) appropriate actions within the contractor's control to minimize the amount and number of incidents of the payment of severance pay by the contractor to employees under the contract who are foreign nationals; and

"(iii) the payment of severance pay is necessary in order to comply with a law that is generally applicable to a significant number of businesses in the country in which the foreign national receiving the payment performed services under the contract or is necessary to comply with a collective bargaining agreement.

"(B) The head of an agency shall include in the solicitation for a covered contract a statement indicating—

"(i) that a waiver has been granted under subparagraph (A) for the contract; or

"(ii) whether the head of the agency will consider granting such a waiver, and, if the agency head will consider granting a waiver, the criteria to be used in granting the waiver.

"(C) The head of an agency shall make the final determination regarding whether to grant a waiver under subparagraph (A) with respect to a covered contract before award of the contract.".

(c) APPLICABILITY.—The amendments made by subsection (b) apply to covered contracts (as defined in section 2324 of title 10, United States Code) that are in effect or are entered into on or after October 1, 1991, for costs incurred on or after October 1, 1991. 10 USC 2324 note.

SEC. 1353. EXTENSION OF OVERSEAS WORKLOAD PROGRAM.

Section 1465(b) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1700; 10 U.S.C. 2341 note) is amended by striking out "fiscal year 1991 or 1992" and inserting in lieu thereof "fiscal year 1991, 1992, or 1993".

Subtitle G—Other Matters

SEC. 1361. STUDY OF PROVIDING FORWARD PRESENCE OF NAVAL FORCES DURING PEACETIME.

(a) ANALYSIS REQUIRED.—The Secretary of Defense shall conduct an analysis of options for providing forward presence of naval

forces during peacetime. The analysis shall include an evaluation of the following considerations:

(1) The requirements of the commanders of the combatant commands for providing naval forces for forward peacetime presence.

(2) The capacity of alternative groups of naval forces, including aircraft carriers, large amphibious ships, and large surface combatants, to fulfill the forward presence mission.

(3) Potential locations and associated costs for homeporting additional aircraft carriers or other naval forces overseas.

(4) Estimated operations cost differentials for supporting forward naval operations.

(5) Estimated investment cost differentials for supporting forward naval operations.

(6) Potential availability of facilities for supporting forward naval operations.

(7) Potential host nation support or other offset contributions.

(b) REPORT.—The Secretary of Defense shall submit to the congressional defense committees a report on the analysis required by subsection (a).

SEC. 1362. PERMANENT AUTHORITY TO PAY CERTAIN EXPENSES OF PERSONNEL OF DEVELOPING COUNTRIES FOR ATTENDANCE AT BILATERAL OR REGIONAL COOPERATION CONFERENCES.

Subsection (e) of section 1051 of title 10, United States Code, is repealed.

SEC. 1363. REPORT ON PROLIFERATION OF MILITARY-BASED SATELLITES.

(a) REPORT.—The Secretary of Defense shall submit to Congress a report on the foreign development of, acquisition of, or access to satellites with capabilities for military applications and the implications of such development, acquisition, or access for the United States. The report shall include the following:

(1) A description of the current military satellite capability of Third World countries and other countries, including the projected threat posed by such capabilities to the United States in the future.

(2) A description of the current and planned efforts by the United States to develop an antisatellite capability to counter the global proliferation of satellites with capability for military applications.

(3) A review of other measures that the United States might use to counter the proliferation of such satellites.

(4) An assessment of the likelihood of any Third World country capable of ownership or control of satellites with capabilities for military applications of being able to obtain or develop an effective antisatellite capability.

(5) An assessment of the military requirement of the United States for antisatellite capabilities and a description of the existing management structure in the Government for the coordination of United States antisatellite programs.

(b) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act. The report shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1364. REPORT ON INTERNATIONAL MINE CLEARING EFFORTS IN REFUGEE SITUATIONS.

(a) FINDINGS.—The Congress finds that—

(1) an estimated 10–20 million mines are scattered across Cambodia, Afghanistan, Somalia, Angola, and other countries which have experienced conflict; and

(2) refugee repatriation and other humanitarian programs are being seriously hampered by the widespread use of anti-personnel mines in regional conflicts and civil wars.

(b) REPORT.—(1) The President shall provide a report on international mine clearing efforts in situations involving the repatriation and resettlement of refugees and displaced persons.

(2) The report shall include the following:

(A) An assessment of mine clearing needs in countries to which refugees and displaced persons are now returning, or are likely to return within the near future, including Cambodia, Angola, Afghanistan, Somalia and Mozambique, and an assessment of current international efforts to meet the mine clearing needs in the countries covered by the report.

(B) An analysis of the specific types of mines in the individual countries assessed and the availability of technology and assets within the international community for their removal.

(C) An assessment of what additional technologies and assets would be required to complete, expedite or reduce the costs of mine clearing efforts.

(D) An evaluation of the availability of technologies and assets within the United States Government which, if called upon, could be employed to augment or complete mine clearing efforts in the countries covered by the report.

(E) An evaluation of the desirability, feasibility and potential cost of United States assistance on either a unilateral or multilateral basis in such mine clearing operations.

(3) The report shall be submitted to the Congress not later than 180 days after the date of the enactment of this Act.

SEC. 1365. LANDMINE EXPORT MORATORIUM.

22 USC 2778 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) Anti-personnel landmines, which are specifically designed to maim and kill people, have been used indiscriminately in dramatically increasing numbers, primarily in insurgencies in poor developing countries. Noncombatant civilians, including tens of thousands of children, have been the primary victims.

(2) Unlike other military weapons, landmines often remain implanted and undiscovered after conflict has ended, causing untold suffering to civilian populations. In Afghanistan, Cambodia, Laos, Vietnam, and Angola, tens of millions of unexploded landmines have rendered whole areas uninhabitable. In Afghanistan, an estimated hundreds of thousands of people have been maimed and killed by landmines during the 14-year civil war. In Cambodia, more than 20,000 civilians have lost limbs and another 60 are being maimed each month from landmines.

(3) Over 35 countries are known to manufacture landmines, including the United States. However, the United States is not a major exporter of landmines. During the past ten years the Department of State has approved ten licenses for the

commercial export of anti-personnel landmines valued at $980,000, and during the past five years the Department of Defense has approved the sale of 13,156 anti-personnel landmines valued at $841,145.

(4) The United States signed, but has not ratified, the 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed To Be Excessively Injurious or To Have Indiscriminate Effects. The Convention prohibits the indiscriminate use of landmines.

(5) When it signed the Convention, the United States stated: "We believe that the Convention represents a positive step forward in efforts to minimize injury or damage to the civilian population in time of armed conflict. Our signature of the Convention reflects the general willingness of the United States to adopt practical and reasonable provisions concerning the conduct of military operations, for the purpose of protecting noncombatants.".

(6) The President should submit the Convention to the Senate for its advice and consent to ratification, and the President should actively negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer or export of anti-personnel landmines. Such an agreement or modification would be an appropriate response to the end of the Cold War and the promotion of arms control agreements to reduce the indiscriminate killing and maiming of civilians.

(7) The United States should set an example for other countries in such negotiations, by implementing a one-year moratorium on the sale, transfer or export of anti-personnel landmines.

(b) STATEMENT OF POLICY.—(1) It shall be the policy of the United States to seek verifiable international agreements prohibiting the sale, transfer, or export, and further limiting the use, production, possession, and deployment of anti-personnel landmines.

(2) It is the sense of the Congress that the President should actively seek to negotiate under United Nations auspices or other auspices an international agreement, or a modification of the Convention, to prohibit the sale, transfer, or export of anti-personnel landmines.

(c) MORATORIUM ON TRANSFERS OF ANTI-PERSONNEL LANDMINES ABROAD.—For a period of one year beginning on the date of the enactment of this Act—

(1) no sale may be made or financed, no transfer may be made, and no license for export may be issued, under the Arms Export Control Act, with respect to any anti-personnel landmine; and

(2) no assistance may be provided under the Foreign Assistance Act of 1961, with respect to the provision of any anti-personnel landmine.

(e) DEFINITION.—For purposes of this section, the term "anti-personnel landmine" means—

(1) any munition placed under, on, or near the ground or other surface area, or delivered by artillery, rocket, mortar, or similar means or dropped from an aircraft and which is designed to be detonated or exploded by the presence, proximity, or contact of a person;

(2) any device or material which is designed, constructed, or adapted to kill or injure and which functions unexpectedly when a person disturbs or approaches an apparently harmless object or performs an apparently safe act;

(3) any manually-emplaced munition or device designed to kill, injure, or damage and which is actuated by remote control or automatically after a lapse of time.

TITLE XIV—DEMILITARIZATION OF THE FORMER SOVIET UNION

Former Soviet Union Demilitarization Act of 1992.

Subtitle A—Short Title

SEC. 1401. SHORT TITLE.

22 USC 5901 note.

This title may be cited as the "Former Soviet Union Demilitarization Act of 1992".

Subtitle B—Findings and Program Authority

SEC. 1411. DEMILITARIZATION OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

22 USC 5901.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of the independent states of the former Soviet Union, including the safe and secure storage of fissile materials, dismantlement of missiles and launchers, and the elimination of chemical and biological weapons capabilities;

(B) the prevention of proliferation of weapons of mass destruction and their components and destabilizing conventional weapons of the independent states of the former Soviet Union, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the demilitarization of the massive defense-related industry and equipment of the independent states of the former Soviet Union and conversion of such industry and equipment to civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states of the former Soviet Union.

SEC. 1412. AUTHORITY FOR PROGRAMS TO FACILITATE DEMILITARIZATION.

22 USC 5902.

(a) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized, in accordance with this title, to establish and conduct programs described in subsection (b) to assist the demilitarization of the independent states of the former Soviet Union.

Establishment.

(b) TYPES OF PROGRAMS.—The programs referred to in subsection (a) are limited to—

(1) transporting, storing, safeguarding, and destroying nuclear, chemical, and other weapons of the independent states of the former Soviet Union, as described in section 212(b) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(2) establishing verifiable safeguards against the proliferation of such weapons and their components;

(3) preventing diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries;

(4) facilitating the demilitarization of the defense industries of the former Soviet Union and the conversion of military technologies and capabilities into civilian activities;

(5) establishing science and technology centers in the independent states of the former Soviet Union for the purpose of engaging weapons scientists, engineers, and other experts previously involved with nuclear, chemical, and other weapons in productive, nonmilitary undertakings; and

(6) expanding military-to-military contacts between the United States and the independent states of the former Soviet Union.

(c) UNITED STATES PARTICIPATION.—The programs described in subsection (b) should, to the extent feasible, draw upon United States technology and expertise, especially from the United States private sector.

(d) RESTRICTIONS.—United States assistance authorized by subsection (a) may not be provided unless the President certifies to the Congress, on an annual basis, that the proposed recipient country is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if such recipient has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons;

(4) facilitating United States verification of any weapons destruction carried out under this title or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228);

(5) complying with all relevant arms control agreements; and

(6) observing internationally recognized human rights, including the protection of minorities.

Subtitle C—Administrative and Funding Authorities

22 USC 5911.

SEC. 1421. ADMINISTRATION OF DEMILITARIZATION PROGRAMS.

(a) FUNDING.—(1) In recognition of the direct contributions to the national security interests of the United States of the activities specified in section 1412, funds transferred under sections 108 and 109 of Public Law 102–229 (105 Stat. 1708) are authorized to be made available to carry out this title. Of the amount available to carry out this title—

(A) not more than $40,000,000 may be made available for programs referred to in section 1412(b)(4) relating to demilitarization of defense industries;

(B) not more than $15,000,000 may be made available for programs referred to in section 1412(b)(6) relating to military-to-military contacts;

(C) not more than $25,000,000 may be made available for joint research development programs pursuant to section 1441;

(D) not more than $10,000,000 may be made available for the study, assessment, and identification of nuclear waste disposal activities by the former Soviet Union in the Arctic region;

(E) not more than $25,000,000 may be made available for Project PEACE; and

(F) not more than $10,000,000 may be made available for the Volunteers Investing in Peace and Security (VIPS) program under chapter 89 of title 10, United States Code, as added by section 1322.

(2) Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 105 Stat. 1695) is amended— 22 USC 2551 note.

(A) by striking out "fiscal year 1992" and inserting "fiscal years 1992 and 1993"; and

(B) by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(3) Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking "of H.R. 3807".

Subtitle D—Reporting Requirements

SEC. 1431. PRIOR NOTICE TO CONGRESS OF OBLIGATION OF FUNDS. 22 USC 5921.

(a) IN GENERAL.—Not less than 15 days before obligating any funds made available for a program under this title, the President shall transmit to the Congress a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(2) the activities and forms of assistance under this title for which the President plans to obligate such funds, including

the projected involvement of United States Government departments and agencies and the United States private sector.

(b) INDUSTRIAL DEMILITARIZATION.—Any report under subsection (a) that covers proposed industrial demilitarization projects shall contain additional information to assist the Congress in determining the merits of the proposed projects. Such information shall include descriptions of—

(1) the facilities to be demilitarized;

(2) the types of activities conducted at those facilities and of the types of nonmilitary activities planned for those facilities;

(3) the forms of assistance to be provided by the United States Government and by the United States private sector;

(4) the extent to which military production capability will consequently be eliminated at those facilities; and

(5) the mechanisms to be established for monitoring progress on those projects.

22 USC 5922.

SEC. 1432. QUARTERLY REPORTS ON PROGRAMS.

Not later than 30 days after the end of the last fiscal year quarter of fiscal year 1992 and not later than 30 days after the end of each fiscal year quarter of fiscal year 1993, the President shall transmit to the Congress a report on the activities carried out under this title. Each such report shall set forth, for the preceding fiscal year quarter and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies and the United States private sector in such activities.

(4) A description of the activities carried out under this title and the forms of assistance provided under this title, including, with respect to proposed industrial demilitarization projects, additional information on the progress toward demilitarization of facilities and the conversion of the demilitarized facilities to civilian activities.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs authorized under this title.

Subtitle E—Joint Research and Development Programs

22 USC 5931.

SEC. 1441. PROGRAMS WITH STATES OF FORMER SOVIET UNION.

The Congress encourages the Secretary of Defense to participate actively in joint research and development programs with the independent states of the former Soviet Union through the nongovernmental foundation established for this purpose by section 511 of the FREEDOM Support Act of 1992. To that end, the Secretary of Defense may spend those funds authorized in section 1421(a)(1)(C) for support, technical cooperation, in-kind assistance, and other activities with the following purposes:

(1) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(2) To assist the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(3) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(4) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(5) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent proliferation of weapons technologies and the dissolution of the technological infrastructure of those states.

TITLE XV—NONPROLIFERATION

Weapons of Mass Destruction Control Act of 1992.

SEC. 1501. SHORT TITLE.

This title may be cited as the "Weapons of Mass Destruction Control Act of 1992".

SEC. 1502. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) the proliferation (A) of nuclear, biological, and chemical weapons (hereinafter in this title referred to as "weapons of mass destruction") and related technology and knowledge and (B) of missile delivery systems remains one of the most serious threats to international peace and the national security of the United States in the post-cold war era;

(2) the proliferation of nuclear weapons, given the extraordinary lethality of those weapons, is of particularly serious concern;

(3) the nonproliferation policy of the United States should continue to seek to limit both the supply of and demand for weapons of mass destruction and to reduce the existing threat from proliferation of such weapons;

(4) substantial funding of nonproliferation activities by the United States is essential to controlling the proliferation of all weapons of mass destruction, especially nuclear weapons and missile delivery systems;

(5) the President's nonproliferation policy statement of June 1992, and his September 10, 1992, initiative to increase funding for nonproliferation activities in the Department of Energy are praiseworthy;

(6) the Congress is committed to cooperating with the President in carrying out an effective policy designed to control the proliferation of weapons of mass destruction;

(7) the President should identify a full range of appropriate, high priority nonproliferation activities that can be undertaken by the United States and should include requests for full fund-

ing for those activities in the budget submission for fiscal year 1994;

(8) the Department of Defense and the Department of Energy have unique expertise that can further enhance the effectiveness of international nonproliferation activities;

(9) under the guidance of the President, the Secretary of Defense and the Secretary of Energy should continue to actively assist in United States nonproliferation activities and in formulating and executing United States nonproliferation policy, emphasizing activities such as improved capabilities (A) to detect and monitor proliferation, (B) to respond to terrorism, theft, and accidents involving weapons of mass destruction, and (C) to assist with interdiction and destruction of weapons of mass destruction and related weapons material; and

(10) in a manner consistent with United States nonproliferation policy, the Department of Defense and the Department of Energy should continue to maintain and to improve their capabilities to identify, monitor, and respond to proliferation of weapons of mass destruction and missile delivery systems.

SEC. 1503. REPORT ON DEPARTMENT OF DEFENSE AND DEPARTMENT OF ENERGY NONPROLIFERATION ACTIVITIES.

(a) REPORT REQUIRED.—The Secretary of Defense and the Secretary of Energy shall jointly submit to the committees of Congress named in subsection (d)(1) a report describing the role of the Department of Defense and the Department of Energy with respect to the nonproliferation policy of the United States.

(b) MATTERS TO BE COVERED IN REPORT.—The report shall—

(1) address how the Secretary of Defense integrates and coordinates existing intelligence and military capabilities of the Department of Defense and how the Secretary of Energy integrates and coordinates the intelligence and emergency response capabilities of the Department of Energy in support of the nonproliferation policy of the United States;

(2) identify existing and planned capabilities within the Department of Defense, including particular capabilities of the military services, and the Department of Energy to (A) detect and monitor clandestine weapons of mass destruction programs, (B) respond to terrorism or accidents involving such weapons and to theft of related weapons materials, and (C) assist with interdiction and destruction of weapons of mass destruction and related weapons materials;

(3) describe, for the Department of Defense, the degree to which the Secretary of Defense has incorporated a nonproliferation mission into the overall mission of the unified combatant commands and how the Special Operations Command might support the commanders of the unified and specified commands in that mission;

(4) consider the appropriate roles of the Defense Advance Research Projects Agency (DARPA), the Defense Nuclear Agency (DNA), the On-Site-Inspection Agency (OSIA), and other Department of Defense agencies, as well as the national laboratories of the Department of Energy, in providing technical assistance and support for the efforts of the Department of Defense and the Department of Energy with respect to nonproliferation; and

(5) identify existing and planned mechanisms for improving the integration of Department of Defense and Department of Energy nonproliferation activities with those of other Federal departments and agencies.

(c) COORDINATION WITH OTHER AGENCIES.—The report required by subsection (a) shall, for purposes of subsection (b)(5), be coordinated with the heads of other appropriate departments and agencies.

(d) SUBMISSION OF REPORT.—(1) The report required by subsection (a) shall be submitted—

(A) to the Committee on Armed Services and the Committee on Foreign Relations of the Senate; and

(B) to the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.

(2) The report shall be submitted not later than 180 days after the date of enactment of this Act and shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1504. NONPROLIFERATION TECHNOLOGY INITIATIVE.

(a) FUNDS FOR DEPARTMENT OF DEFENSE ACTIVITIES.—

(1) Of the amount appropriated pursuant to section 103(3) for Other Procurement, Air Force, $5,000,000 shall be available for the AFTAC Chem/Biological Collection/Processing program.

(2) Of the amount appropriated pursuant to section 201(3) for Research, Development, Test, and Evaluation, Air Force, $6,500,000 shall be available for the Joint Seismic Program.

(3) Of the amount appropriated pursuant to section 201(4) for Research, Development, Test, and Evaluation, Defense Agencies—

(A) $11,600,000 shall be available for LIDAR,

(B) $5,000,000 shall be available for Seismic programs of the Defense Advanced Research Projects Agency, and

(C) $15,000,000 shall be available for Nuclear Proliferation Detection Technology programs of the Defense Advanced Research Projects Agency.

(b) FUNDS FOR DEPARTMENT OF ENERGY ACTIVITIES.—Of the amount appropriated pursuant to section 3104(a)(2) for Verification and Control Technologies, $86,000,000 shall be available for nuclear nonproliferation detection technologies and activities. Of such amount, not more than $30,000,000 may be obligated until the report required by section 1503 is submitted.

SEC. 1505. INTERNATIONAL NONPROLIFERATION INITIATIVE. 22 USC 5859a.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear proliferation through joint technical projects and improved intelligence sharing.

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section may not exceed $40,000,000. Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

Reports.

(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of fiscal year 1993, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1) and under subsection (d)(2) are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.

TITLE XVI—IRAN-IRAQ ARMS NON-PROLIFERATION ACT OF 1992

Iran-Iraq Arms Non-Proliferation Act of 1992. 50 USC 1701 note.

SEC. 1601. SHORT TITLE.

This title may be cited as the "Iran-Iraq Arms Non-Proliferation Act of 1992".

SEC. 1602. UNITED STATES POLICY.

(a) IN GENERAL.—It shall be the policy of the United States to oppose, and urgently to seek the agreement of other nations also to oppose, any transfer to Iran or Iraq of any goods or technology, including dual-use goods or technology, wherever that transfer could materially contribute to either country's acquiring chemical, biological, nuclear, or destabilizing numbers and types of advanced conventional weapons.

(b) SANCTIONS.—(1) In the furtherance of this policy, the President shall apply sanctions and controls with respect to Iran, Iraq, and those nations and persons who assist them in acquiring weapons of mass destruction in accordance with the Foreign Assistance Act of 1961, the Nuclear Non-Proliferation Act of 1978, the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991, chapter 7 of the Arms Export Control Act, and other relevant statutes, regarding the non-proliferation of weapons of mass destruction and the means of their delivery. President.

(2) The President should also urgently seek the agreement of other nations to adopt and institute, at the earliest practicable date, sanctions and controls comparable to those the United States is obligated to apply under this subsection.

(c) PUBLIC IDENTIFICATION.—The Congress calls on the President to identify publicly (in the report required by section 1607) any country or person that transfers goods or technology to Iran or Iraq contrary to the policy set forth in subsection (a).

SEC. 1603. APPLICATION TO IRAN OF CERTAIN IRAQ SANCTIONS.

The sanctions against Iraq specified in paragraphs (1) through (4) of section 586G(a) of the Iraq Sanctions Act of 1990 (as contained in Public Law 101–513), including denial of export licenses for United States persons and prohibitions on United States Government sales, shall be applied to the same extent and in the same manner with respect to Iran.

SEC. 1604. SANCTIONS AGAINST CERTAIN PERSONS.

(a) PROHIBITION.—If any person transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then the sanctions described in subsection (b) shall be imposed.

(b) MANDATORY SANCTIONS.—The sanctions to be imposed pursuant to subsection (a) are as follows:

(1) PROCUREMENT SANCTION.—For a period of two years, the United States Government shall not procure, or enter into any contract for the procurement of, any goods or services from the sanctioned person.

(2) EXPORT SANCTION.—For a period of two years, the United States Government shall not issue any license for any export by or to the sanctioned person.

SEC. 1605. SANCTIONS AGAINST CERTAIN FOREIGN COUNTRIES.

President.

(a) PROHIBITION.—If the President determines that the government of any foreign country transfers or retransfers goods or technology so as to contribute knowingly and materially to the efforts by Iran or Iraq (or any agency or instrumentality of either such country) to acquire destabilizing numbers and types of advanced conventional weapons, then—

(1) the sanctions described in subsection (b) shall be imposed on such country; and

(2) in addition, the President may apply, in the discretion of the President, the sanction described in subsection (c).

(b) MANDATORY SANCTIONS.—Except as provided in paragraph (2), the sanctions to be imposed pursuant to subsection (a)(1) are as follows:

(1) SUSPENSION OF UNITED STATES ASSISTANCE.—The United States Government shall suspend, for a period of one year, United States assistance to the sanctioned country.

(2) MULTILATERAL DEVELOPMENT BANK ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against, for a period of one year, the extension by such institution of any loan or financial or technical assistance to the sanctioned country.

(3) SUSPENSION OF CODEVELOPMENT OR COPRODUCTION AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any memorandum of understanding with the sanctioned country for the codevelopment or coproduction of any item on the United States Munitions List (established under section 38 of the Arms Export Control Act), including any obligation for implementation of the memorandum of understanding through the sale to the sanctioned country of technical data or assistance or the licens-

ing for export to the sanctioned country of any component part.

(4) SUSPENSION OF MILITARY AND DUAL-USE TECHNICAL EXCHANGE AGREEMENTS.—The United States shall suspend, for a period of one year, compliance with its obligations under any technical exchange agreement involving military and dual-use technology between the United States and the sanctioned country that does not directly contribute to the security of the United States, and no military or dual-use technology may be exported from the United States to the sanctioned country pursuant to that agreement during that period.

(5) UNITED STATES MUNITIONS LIST.—No item on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) may be exported to the sanctioned country for a period of one year.

(c) DISCRETIONARY SANCTION.—The sanction referred to in subsection (a)(2) is as follows:

(1) USE OF AUTHORITIES OF INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—Except as provided in paragraph (2), the President may exercise, in accordance with the provisions of that Act, the authorities of the International Emergency Economic Powers Act with respect to the sanctioned country.

(2) EXCEPTION.—Paragraph (1) does not apply with respect to urgent humanitarian assistance.

SEC. 1606. WAIVER.

President. The President may waive the requirement to impose a sanction described in section 1603, in the case of Iran, or a sanction described in section 1604(b) or 1605(b), in the case of Iraq and Iran, 15 days after the President determines and so reports to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives that it is essential to the national interest of the United States to exercise such waiver authority. Any such report shall provide a specific and detailed rationale for such determination.

SEC. 1607. REPORTING REQUIREMENT.

President. (a) ANNUAL REPORT.—Beginning one year after the date of the enactment of this Act, and every 12 months thereafter, the President shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report detailing—

(1) all transfers or retransfers made by any person or foreign government during the preceding 12-month period which are subject to any sanction under this title; and

(2) the actions the President intends to undertake or has undertaken pursuant to this title with respect to each such transfer.

(b) REPORT ON INDIVIDUAL TRANSFERS.—Whenever the President determines that a person or foreign government has made a transfer which is subject to any sanction under this title, the President shall, within 30 days after such transfer, submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report—

(1) identifying the person or government and providing the details of the transfer; and

(2) describing the actions the President intends to undertake or has undertaken under the provisions of this title with respect to each such transfer.

(c) FORM OF TRANSMITTAL.—Reports required by this section may be submitted in classified as well as in unclassified form.

SEC. 1608. DEFINITIONS.

For purposes of this title:

(1) The term "advanced conventional weapons" includes—

(A) such long-range precision-guided munitions, fuel air explosives, cruise missiles, low observability aircraft, other radar evading aircraft, advanced military aircraft, military satellites, electromagnetic weapons, and laser weapons as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways;

(B) such advanced command, control, and communications systems, electronic warfare systems, or intelligence collection systems as the President determines destabilize the military balance or enhance offensive capabilities in destabilizing ways; and

(C) such other items or systems as the President may, by regulation, determine necessary for purposes of this title.

(2) The term "cruise missile" means guided missiles that use aerodynamic lift to offset gravity and propulsion to counteract drag.

(3) The term "goods or technology" means—

(A) any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment; and

(B) any information and know-how (whether in tangible form, such as models, prototypes, drawings, sketches, diagrams, blueprints, or manuals, or in intangible form, such as training or technical services) that can be used to design, produce, manufacture, utilize, or reconstruct goods, including computer software and technical data.

(4) The term "person" means any United States or foreign individual, partnership, corporation, or other form of association, or any of their successor entities, parents, or subsidiaries.

(5) The term "sanctioned country" means a country against which sanctions are required to be imposed pursuant to section 1605.

(6) The term "sanctioned person" means a person that makes a transfer described in section 1604(a).

(7) The term "United States assistance" means—

(A) any assistance under the Foreign Assistance Act of 1961, other than—

(i) urgent humanitarian assistance or medicine, and

(ii) assistance under chapter 11 of part I (as enacted by the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992);

(B) sales and assistance under the Arms Export Control Act;

(C) financing by the Commodity Credit Corporation for export sales of agricultural commodities; and

(D) financing under the Export-Import Bank Act.

TITLE XVII—CUBAN DEMOCRACY ACT OF 1992

Cuban Democracy Act of 1992.
22 USC 6001 note.

SEC. 1701. SHORT TITLE.

This title may be cited as the "Cuban Democracy Act of 1992".

SEC. 1702. FINDINGS.

22 USC 6001.

The Congress makes the following findings:

(1) The government of Fidel Castro has demonstrated consistent disregard for internationally accepted standards of human rights and for democratic values. It restricts the Cuban people's exercise of freedom of speech, press, assembly, and other rights recognized by the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on December 10, 1948. It has refused to admit into Cuba the representative of the United Nations Human Rights Commission appointed to investigate human rights violations on the island.

(2) The Cuban people have demonstrated their yearning for freedom and their increasing opposition to the Castro government by risking their lives in organizing independent, democratic activities on the island and by undertaking hazardous flights for freedom to the United States and other countries.

(3) The Castro government maintains a military-dominated economy that has decreased the well-being of the Cuban people in order to enable the government to engage in military interventions and subversive activities throughout the world and, especially, in the Western Hemisphere. These have included involvement in narcotics trafficking and support for the FMLN guerrillas in El Salvador.

(4) There is no sign that the Castro regime is prepared to make any significant concessions to democracy or to undertake any form of democratic opening. Efforts to suppress dissent through intimidation, imprisonment, and exile have accelerated since the political changes that have occurred in the former Soviet Union and Eastern Europe.

(5) Events in the former Soviet Union and Eastern Europe have dramatically reduced Cuba's external support and threaten Cuba's food and oil supplies.

(6) The fall of communism in the former Soviet Union and Eastern Europe, the now universal recognition in Latin America and the Caribbean that Cuba provides a failed model of government and development, and the evident inability of Cuba's economy to survive current trends, provide the United States and the international democratic community with an unprecedented opportunity to promote a peaceful transition to democracy in Cuba.

(7) However, Castro's intransigence increases the likelihood that there could be a collapse of the Cuban economy, social upheaval, or widespread suffering. The recently concluded Cuban Communist Party Congress has underscored Castro's

unwillingness to respond positively to increasing pressures for reform either from within the party or without.

(8) The United States cooperated with its European and other allies to assist the difficult transitions from Communist regimes in Eastern Europe. Therefore, it is appropriate for those allies to cooperate with United States policy to promote a peaceful transition in Cuba.

22 USC 6002.

SEC. 1703. STATEMENT OF POLICY.

It should be the policy of the United States—

(1) to seek a peaceful transition to democracy and a resumption of economic growth in Cuba through the careful application of sanctions directed at the Castro government and support for the Cuban people;

(2) to seek the cooperation of other democratic countries in this policy;

(3) to make clear to other countries that, in determining its relations with them, the United States will take into account their willingness to cooperate in such a policy;

(4) to seek the speedy termination of any remaining military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from any of the independent states of the former Soviet Union;

(5) to continue vigorously to oppose the human rights violations of the Castro regime;

(6) to maintain sanctions on the Castro regime so long as it continues to refuse to move toward democratization and greater respect for human rights;

(7) to be prepared to reduce the sanctions in carefully calibrated ways in response to positive developments in Cuba;

(8) to encourage free and fair elections to determine Cuba's political future;

(9) to request the speedy termination of any military or technical assistance, subsidies, or other forms of assistance to the Government of Cuba from the government of any other country; and

(10) to initiate immediately the development of a comprehensive United States policy toward Cuba in a post-Castro era.

22 USC 6003.

SEC. 1704. INTERNATIONAL COOPERATION.

(a) CUBAN TRADING PARTNERS.—The President should encourage the governments of countries that conduct trade with Cuba to restrict their trade and credit relations with Cuba in a manner consistent with the purposes of this title.

(b) SANCTIONS AGAINST COUNTRIES ASSISTING CUBA.—

President.

(1) SANCTIONS.—The President may apply the following sanctions to any country that provides assistance to Cuba:

(A) The government of such country shall not be eligible for assistance under the Foreign Assistance Act of 1961 or assistance or sales under the Arms Export Control Act.

(B) Such country shall not be eligible, under any program, for forgiveness or reduction of debt owed to the United States Government.

(2) DEFINITION OF ASSISTANCE.—For purposes of paragraph (1), the term "assistance to Cuba"—

(A) means assistance to or for the benefit of the Government of Cuba that is provided by grant, concessional sale, guaranty, or insurance, or by any other means on terms more favorable than that generally available in the applicable market, whether in the form of a loan, lease, credit, or otherwise, and such term includes subsidies for exports to Cuba and favorable tariff treatment of articles that are the growth, product, or manufacture of Cuba; and

(B) does not include—

(i) donations of food to nongovernmental organizations or individuals in Cuba, or

(ii) exports of medicines or medical supplies, instruments, or equipment that would be permitted under section 1705(c).

(3) APPLICABILITY OF SECTION.—This section, and any sanctions imposed pursuant to this section, shall cease to apply at such time as the President makes and reports to the Congress a determination under section 1708(a).

SEC. 1705. SUPPORT FOR THE CUBAN PEOPLE. 22 USC 6004.

(a) PROVISIONS OF LAW AFFECTED.—The provisions of this section apply notwithstanding any other provision of law, including section 620(a) of the Foreign Assistance Act of 1961, and notwithstanding the exercise of authorities, before the enactment of this Act, under section 5(b) of the Trading With the Enemy Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979.

(b) DONATIONS OF FOOD.—Nothing in this or any other Act shall prohibit donations of food to nongovernmental organizations or individuals in Cuba.

(c) EXPORTS OF MEDICINES AND MEDICAL SUPPLIES.—Exports of medicines or medical supplies, instruments, or equipment to Cuba shall not be restricted—

(1) except to the extent such restrictions would be permitted under section 5(m) of the Export Administration Act of 1979 or section 203(b)(2) of the International Emergency Economic Powers Act;

(2) except in a case in which there is a reasonable likelihood that the item to be exported will be used for purposes of torture or other human rights abuses;

(3) except in a case in which there is a reasonable likelihood that the item to be exported will be reexported; and

(4) except in a case in which the item to be exported could be used in the production of any biotechnological product.

(d) REQUIREMENTS FOR CERTAIN EXPORTS.—

(1) ONSITE VERIFICATIONS.—(A) Subject to subparagraph (B), an export may be made under subsection (c) only if the President determines that the United States Government is able to verify, by onsite inspections and other appropriate means, that the exported item is to be used for the purposes for which it was intended and only for the use and benefit of the Cuban people.

(B) Subparagraph (A) does not apply to donations to nongovernmental organizations in Cuba of medicines for humanitarian purposes.

(2) LICENSES.—Exports permitted under subsection (c) shall be made pursuant to specific licenses issued by the United States Government.

(e) TELECOMMUNICATIONS SERVICES AND FACILITIES.—

(1) TELECOMMUNICATIONS SERVICES.—Telecommunications services between the United States and Cuba shall be permitted.

(2) TELECOMMUNICATIONS FACILITIES.—Telecommunications facilities are authorized in such quantity and of such quality as may be necessary to provide efficient and adequate telecommunications services between the United States and Cuba.

President.

(3) LICENSING OF PAYMENTS TO CUBA.—(A) The President may provide for the issuance of licenses for the full or partial payment to Cuba of amounts due Cuba as a result of the provision of telecommunications services authorized by this subsection, in a manner that is consistent with the public interest and the purposes of this title, except that this paragraph shall not require any withdrawal from any account blocked pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(B) If only partial payments are made to Cuba under subparagraph (A), the amounts withheld from Cuba shall be deposited in an account in a banking institution in the United States. Such account shall be blocked in the same manner as any other account containing funds in which Cuba has any interest, pursuant to regulations issued under section 5(b) of the Trading With the Enemy Act.

(4) AUTHORITY OF FEDERAL COMMUNICATIONS COMMISSION.—Nothing in this subsection shall be construed to supersede the authority of the Federal Communications Commission.

(f) DIRECT MAIL DELIVERY TO CUBA.—The United States Postal Service shall take such actions as are necessary to provide direct mail service to and from Cuba, including, in the absence of common carrier service between the 2 countries, the use of charter service providers.

(g) ASSISTANCE TO SUPPORT DEMOCRACY IN CUBA.—The United States Government may provide assistance, through appropriate nongovernmental organizations, for the support of individuals and organizations to promote nonviolent democratic change in Cuba.

22 USC 6005.

SEC. 1706. SANCTIONS.

(a) PROHIBITION ON CERTAIN TRANSACTIONS BETWEEN CERTAIN UNITED STATES FIRMS AND CUBA.—

(1) PROHIBITION.—Notwithstanding any other provision of law, no license may be issued for any transaction described in section 515.559 of title 31, Code of Federal Regulations, as in effect on July 1, 1989.

(2) APPLICABILITY TO EXISTING CONTRACTS.—Paragraph (1) shall not affect any contract entered into before the date of the enactment of this Act.

(b) PROHIBITIONS ON VESSELS.—

(1) VESSELS ENGAGING IN TRADE.—Beginning on the 61st day after the date of the enactment of this Act, a vessel which enters a port or place in Cuba to engage in the trade of goods or services may not, within 180 days after departure from such port or place in Cuba, load or unload any freight

at any place in the United States, except pursuant to a license issued by the Secretary of the Treasury.

(2) VESSELS CARRYING GOODS OR PASSENGERS TO OR FROM CUBA.—Except as specifically authorized by the Secretary of the Treasury, a vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has any interest may not enter a United States port.

(3) INAPPLICABILITY OF SHIP STORES GENERAL LICENSE.—No commodities which may be exported under a general license described in section 771.9 of title 15, Code of Federal Regulations, as in effect on May 1, 1992, may be exported under a general license to any vessel carrying goods or passengers to or from Cuba or carrying goods in which Cuba or a Cuban national has an interest.

(4) DEFINITIONS.—As used in this subsection—

(A) the term "vessel" includes every description of water craft or other contrivance used, or capable of being used, as a means of transportation in water, but does not include aircraft;

(B) the term "United States" includes the territories and possessions of the United States and the customs waters of the United States (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401)); and

(C) the term "Cuban national" means a national of Cuba, as the term "national" is defined in section 515.302 of title 31, Code of Federal Regulations, as of August 1, 1992.

(c) RESTRICTIONS ON REMITTANCES TO CUBA.—The President shall establish strict limits on remittances to Cuba by United States persons for the purpose of financing the travel of Cubans to the United States, in order to ensure that such remittances reflect only the reasonable costs associated with such travel, and are not used by the Government of Cuba as a means of gaining access to United States currency. President.

(d) CLARIFICATION OF APPLICABILITY OF SANCTIONS.—The prohibitions contained in subsections (a), (b), and (c) shall not apply with respect to any activity otherwise permitted by section 1705 or section 1707 of this Act or any activity which may not be regulated or prohibited under section 5(b)(4) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)(4)).

SEC. 1707. POLICY TOWARD A TRANSITIONAL CUBAN GOVERNMENT. 22 USC 6006.

Food, medicine, and medical supplies for humanitarian purposes should be made available for Cuba under the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 if the President determines and certifies to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate that the government in power in Cuba—

(1) has made a public commitment to hold free and fair elections for a new government within 6 months and is proceeding to implement that decision;

(2) has made a public commitment to respect, and is respecting, internationally recognized human rights and basic democratic freedoms; and

(3) is not providing weapons or funds to any group, in any other country, that seeks the violent overthrow of the government of that country.

22 USC 6007.

SEC. 1708. POLICY TOWARD A DEMOCRATIC CUBAN GOVERNMENT.

(a) WAIVER OF RESTRICTIONS.—The President may waive the requirements of section 1706 if the President determines and reports to the Congress that the Government of Cuba—

(1) has held free and fair elections conducted under internationally recognized observers;

(2) has permitted opposition parties ample time to organize and campaign for such elections, and has permitted full access to the media to all candidates in the elections;

(3) is showing respect for the basic civil liberties and human rights of the citizens of Cuba;

(4) is moving toward establishing a free market economic system; and

(5) has committed itself to constitutional change that would ensure regular free and fair elections that meet the requirements of paragraph (2).

(b) POLICIES.—If the President makes a determination under subsection (a), the President shall take the following actions with respect to a Cuban Government elected pursuant to elections described in subsection (a):

(1) To encourage the admission or reentry of such government to international organizations and international financial institutions.

(2) To provide emergency relief during Cuba's transition to a viable economic system.

(3) To take steps to end the United States trade embargo of Cuba.

22 USC 6008.

SEC. 1709. EXISTING CLAIMS NOT AFFECTED.

Except as provided in section 1705(a), nothing in this title affects the provisions of section 620(a)(2) of the Foreign Assistance Act of 1961.

22 USC 6009.

SEC. 1710. ENFORCEMENT.

(a) ENFORCEMENT AUTHORITY.—The authority to enforce this title shall be carried out by the Secretary of the Treasury. The Secretary of the Treasury shall exercise the authorities of the Trading With the Enemy Act in enforcing this title. In carrying out this subsection, the Secretary of the Treasury shall take the necessary steps to ensure that activities permitted under section 1705 are carried out for the purposes set forth in this title and not for purposes of the accumulation by the Cuban Government of excessive amounts of United States currency or the accumulation of excessive profits by any person or entity.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of the Treasury such sums as may be necessary to carry out this title.

(c) PENALTIES UNDER THE TRADING WITH THE ENEMY ACT.—Section 16 of the Trading With the Enemy Act (50 U.S.C. App. 16) is amended—

(1) by striking "That whoever" and inserting "(a) Whoever"; and

(2) by adding at the end the following:

"(b)(1) The Secretary of the Treasury may impose a civil penalty of not more than $50,000 on any person who violates any license, order, rule, or regulation issued under this Act.

"(2) Any property, funds, securities, papers, or other articles or documents, or any vessel, together with its tackle, apparel, furniture, and equipment, that is the subject of a violation under paragraph (1) shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States Government.

"(3) The penalties provided under this subsection may not be imposed for—

"(A) news gathering, research, or the export or import of, or transmission of, information or informational materials; or

"(B) clearly defined educational or religious activities, or activities of recognized human rights organizations, that are reasonably limited in frequency, duration, and number of participants.

"(4) The penalties provided under this subsection may be imposed only on the record after opportunity for an agency hearing in accordance with sections 554 through 557 of title 5, United States Code, with the right to prehearing discovery.

"(5) Judicial review of any penalty imposed under this subsection may be had to the extent provided in section 702 of title 5, United States Code.".

(d) APPLICABILITY OF PENALTIES.—The penalties set forth in section 16 of the Trading With the Enemy Act shall apply to violations of this title to the same extent as such penalties apply to violations under that Act.

(e) OFFICE OF FOREIGN ASSETS CONTROL.—The Department of the Treasury shall establish and maintain a branch of the Office of Foreign Assets Control in Miami, Florida, in order to strengthen the enforcement of this title.

SEC. 1711. DEFINITION. 22 USC 6010.

As used in this title, the term "United States person" means any United States citizen or alien admitted for permanent residence in the United States, and any corporation, partnership, or other organization organized under the laws of the United States.

SEC. 1712. EFFECTIVE DATE. 22 USC 6001 note.

This title shall take effect on the date of the enactment of this Act.

TITLE XVIII—FEDERAL CHARTERS FOR PATRIOTIC ORGANIZATIONS

Subtitle A—Military Order of the World Wars

SEC. 1801. RECOGNITION AS CORPORATION AND GRANT OF FEDERAL CHARTER. 36 USC 5001.

The Military Order of the World Wars, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

SEC. 1802. POWERS. 36 USC 5002.

The Military Order of the World Wars (in this subtitle referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the

State in which it is incorporated and subject to the laws of such State.

36 USC 5003. **SEC. 1803. OBJECTS AND PURPOSES.**

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Promoting military service associations.

(2) Promoting patriotic education and military, naval, and air science.

(3) Defending the honor and integrity of the Federal Government and the Constitution.

(4) Fostering fraternal relations among all branches of the Armed Forces.

(5) Encouraging the adoption of a suitable policy of national security.

(6) Encouraging the commemoration of military service and the establishment of war memorials.

36 USC 5004. **SEC. 1804. SERVICE OF PROCESS.**

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 5005. **SEC. 1805. MEMBERSHIP.**

Except as provided in section 1808, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the articles of incorporation and bylaws of the corporation.

36 USC 5006. **SEC. 1806. BOARD OF DIRECTORS.**

Except as provided in section 1808, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

36 USC 5007. **SEC. 1807. OFFICERS OF CORPORATION.**

Except as provided in section 1808, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

36 USC 5008. **SEC. 1808. PROHIBITION AGAINST DISCRIMINATION.**

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

36 USC 5009. **SEC. 1809. RESTRICTIONS.**

(a) INCOME AND COMPENSATION.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensa-

tion to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) STOCK.—The corporation shall have no power to issue any shares of stock or to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this subtitle.

SEC. 1810. LIABILITY. 36 USC 5010.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 1811. BOOKS AND RECORDS. 36 USC 5011.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1812. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end the following:

"(75) The Military Order of the World Wars.".

SEC. 1813. ANNUAL REPORT. 36 USC 5012.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 1812. The report shall not be printed as a public document.

SEC. 1814. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER. 36 USC 5013.

The right to alter, amend, or repeal this section is expressly reserved to the Congress.

SEC. 1815. TAX-EXEMPT STATUS. 36 USC 5014.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this subtitle shall expire.

SEC. 1816. TERMINATION. 36 USC 5015.

The charter granted by this subtitle shall expire if the corporation fails to comply with—

(1) any restriction or other provision of this subtitle;

(2) any provision of its bylaws or articles of incorporation; or

(3) any provision of the laws of the District of Columbia that apply to corporations such as the corporation recognized under this subtitle.

36 USC 5016. **SEC. 1817. DEFINITION.**

For purposes of this subtitle, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

Subtitle B—Retired Enlisted Association, Incorporated

36 USC 5101. **SEC. 1821. RECOGNITION AS CORPORATION AND GRANT OF FEDERAL CHARTER.**

The Retired Enlisted Association, Incorporated, a nonprofit corporation organized under the laws of the State of Colorado, is recognized as such and is granted a Federal charter.

36 USC 5102. **SEC. 1822. POWERS.**

The Retired Enlisted Association, Incorporated (in this subtitle referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

36 USC 5103. **SEC. 1823. OBJECTS AND PURPOSES.**

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include the following:

(1) Upholding and defending the Constitution of the United States.

(2) Promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs.

(3) Assisting veterans and their dependents and survivors through a service program established for that purpose.

(4) Improving conditions for retired enlisted service members, veterans, and their dependents and survivors.

(5) Fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

36 USC 5104. **SEC. 1824. SERVICE OF PROCESS.**

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 5105. **SEC. 1825. MEMBERSHIP.**

Except as provided in section 1828, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the articles of incorporation and bylaws of the corporation.

36 USC 5106. **SEC. 1826. BOARD OF DIRECTORS.**

Except as provided in section 1828, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation

of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 1827. OFFICERS OF CORPORATION. 36 USC 5107.

Except as provided in section 1828, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 1828. PROHIBITION AGAINST DISCRIMINATION. 36 USC 5108.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 1829. RESTRICTIONS. 36 USC 5109.

(a) INCOME AND COMPENSATION.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this subtitle.

SEC. 1830. LIABILITY. 36 USC 5110.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 1831. BOOKS AND RECORDS. 36 USC 5111.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 1832. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), as amended by section 1812 of this Act, is further amended by adding at the end the following:

"(76) The Retired Enlisted Association, Incorporated.".

36 USC 5112.

SEC. 1833. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 1832. The report shall not be printed as a public document.

36 USC 5113.

SEC. 1834. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this section is expressly reserved to the Congress.

36 USC 5114.

SEC. 1835. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this subtitle shall expire.

36 USC 5115.

SEC. 1836. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Retired Enlisted Association, Incorporated", "The Retired Enlisted Association", "Retired Enlisted Association", and "TREA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with rights that are established or vested before the date of the enactment of this Act.

36 USC 5116.

SEC. 1837. TERMINATION.

If the corporation fails to comply with any of the restrictions or provisions of this subtitle, the charter granted by this subtitle shall expire.

36 USC 5117.

SEC. 1838. DEFINITION.

For purposes of this subtitle, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States.

Military Construction Authorization Act for Fiscal Year 1993.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act for Fiscal Year 1993".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2105(a)(1), and, in the case of the project described in section 2105(b)(2), other amounts appropriated pursuant to authorizations enacted after this Act for such project, the Secretary of the Army may acquire real property and carry out military construction

respect to the construction or improvement of military family housing units in an amount not to exceed $14,200,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in the amount of $130,844,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $1,450,529,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $312,557,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $10,600,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, $5,000,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $75,692,000.

(5) For military family housing functions:

(A) For construction and acquisition of military family housing and facilities, $385,434,000; and

(B) For support of military housing (including functions described in section 2833 of title 10, United States Code), $661,246,000, of which not more than $104,470,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $50,990,000 (the balance of the amount authorized under section 2201(a) for the construction of the Large Anachoic Chamber Facility at the Patuxent River Naval Warfare Center, Aircraft Division, Maryland).

SEC. 2205. POWER PLANT RELOCATION, NAVY PUBLIC WORKS CENTER, GUAM.

Section 2201(b) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2097) is amended—

(1) in the matter under the heading "GUAM" by striking out the item relating to the Navy Public Works Center and inserting in lieu thereof the following:
"Navy Public Works Center, $34,490,000."; and

(2) in the matter under the heading "PHILIPPINES" by striking out the item relating to the Navy Public Works Center, Subic Bay, and inserting in lieu thereof the following:
"Navy Public Works Center, Subic Bay, $570,000.".

be obligated or expended for leasing of military family housing units worldwide.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $59,000,000 (the balance of the amount authorized under section 2301(a) for the construction of the climate test chamber at Eglin Air Force Base, Florida);

(3) $11,000,000 (the balance of the amount authorized under section 2301(a) for the construction of apron and hydrant system at Barksdale Air Force Base, Louisiana); and

(4) $40,000,000 (the balance of the amount authorized under section 2301(a) for the construction of family housing at Scott Air Force Base, Illinois).

SEC. 2305. CHILD DEVELOPMENT CENTER RELOCATION, BUCKLEY AIR NATIONAL GUARD BASE, COLORADO.

Section 2301(a) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1770) is amended in the matter under the heading "COLORADO" by striking out the item relating to Lowry Air Force Base and inserting in lieu thereof the following:

"Buckley Air National Guard Base, $4,550,000.".

SEC. 2306. AUTHORIZED FAMILY HOUSING LEASE PROJECTS.

Subject to section 2835 of title 10, United States Code, the Secretary of the Air Force may enter into contracts for the lease of family housing units in the number of units shown, and at the net present value shown, for the following installations:

(1) Bolling Air Force Base, District of Columbia, 550 units, $54,200,000.

(2) Andrews Air Force Base, Maryland, 550 units, $54,200,000.

SEC. 2307. AUTHORIZED MILITARY HOUSING RENTAL GUARANTEE PROJECTS.

Subject to section 2836 of title 10, United States Code, the Secretary of the Air Force may enter into rental guarantee agreements for military housing in the number of units shown for the following installations:

(1) Elmendorf Air Force Base, Alaska, 302 units.

(2) Patrick Air Force Base, Florida, 409 units.

(3) Offutt Air Force Base, Nebraska, 400 units.

SEC. 2308. TERMINATION OF AUTHORITY TO CARRY OUT CERTAIN PROJECTS.

(a) FISCAL YEAR 1992 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1992 (division B of Public Law 102–190; 105 Stat. 1521) is amended—

(A) under the heading "ALASKA", by striking out the item relating to Shemya Air Force Base and inserting in lieu thereof the following:

"Shemya Air Force Base, $10,300,000.";

(B) under the heading "ARIZONA", by striking out the item relating to Luke Air Force Base and inserting in lieu thereof the following:

"Luke Air Force Base, $6,000,000.";

(C) by striking out the following:

"MONTANA

"Conrad Strategic Training Range Site, $700,000.

"Havre Strategic Training Range Site, $700,000.";

(D) under the heading "NEW YORK", by striking out the item relating to Griffiss Air Force Base and inserting in lieu thereof the following:

"Griffiss Air Force Base, $1,500,000.";

(E) under the heading "SOUTH DAKOTA", by striking out the item relating to Ellsworth Air Force Base and inserting in lieu thereof the following:

"Ellsworth Air Force Base, $2,040,000."; and

(F) under the heading "TEXAS", by striking out the item relating to Sheppard Air Force Base and inserting in lieu thereof the following:

"Sheppard Air Force Base, $16,250,000.".

(2) Section 2305(a) of such Act (105 Stat. 1525) is amended—

(A) by striking out "$2,089,303,000" and inserting in lieu thereof "$2,054,713,000"; and

(B) in paragraph (1), by striking out "$778,970,000" and inserting in lieu thereof "$744,380,000".

(b) FISCAL YEAR 1991 PROJECTS.—(1) Section 2301 of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101–510; 104 Stat. 1769) is amended—

(A) under the heading "GEORGIA", by striking out the item relating to Robins Air Force Base and inserting in lieu thereof the following:

"Robins Air Force Base, $8,700,000.";

(B) under the heading "MICHIGAN", by striking out the item relating to K.I. Sawyer Air Force Base and inserting in lieu thereof the following:

"K.I. Sawyer Air Force Base, $1,400,000."; and

(C) under the heading "OKLAHOMA", by striking out the item relating to Tinker Air Force Base and inserting in lieu thereof the following:

"Tinker Air Force Base, $53,350,000.".

(2) Section 2302(a) of such Act (104 Stat. 1773) is amended by striking out the item relating to Myrtle Beach Air Force Base, South Carolina.

(3) Section 2304(a) of such Act (104 Stat. 1773) is amended—

(A) by striking out "$1,922,733,000" and inserting in lieu thereof "$1,905,075,000";

(B) in paragraph (1), by striking out "$742,255,000" and inserting in lieu thereof "$724,855,000"; and

(C) in paragraph (7)(A), by striking out "$182,965,000" and inserting in lieu thereof "$182,707,000".

$28,400,000, of which not more than $23,559,000 may be obligated or expended for the leasing of military family housing units worldwide.

(b) AUTHORIZATION OF UNOBLIGATED FUNDS.—Funds in the amount of $5,230,000 appropriated to the Department of Defense for fiscal years before fiscal year 1993 for military construction functions of the Defense Agencies that remain available for obligation on the date of enactment of this Act are hereby authorized to be made available, to the extent provided in appropriation Acts, for military construction projects authorized in section 2401(a) for the Defense Logistics Agency.

(c) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a) and subsection (b);

(2) $134,000,000 (the balance of the amount authorized for construction of the Walter Reed Institute of Research, District of Columbia);

(3) $145,000,000 (the balance of the amount authorized for construction of the Hospital at Elmendorf Air Force Base, Alaska);

(4) $5,000,000 (the balance of the amount authorized for the life-safety upgrade of the Naval Hospital at Millington Naval Air Station, Tennessee);

(5) $240,000,000 (the balance of the amount authorized for construction of the Army Medical Center at Fort Bragg, North Carolina); and

(6) $388,000,000 (the balance of the amount authorized for Fitzsimons Army Medical Center, Colorado).

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1992, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 2501, in the amount of $60,000,000.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

There are authorized to be appropriated for fiscal years beginning after September 30, 1992, for the costs of acquisition, architec-

tural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $208,672,000; and

(B) for the Army Reserve, $34,850,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, $17,200,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $305,759,000; and

(B) for the Air Force Reserve, $36,580,000.

SEC. 2602. REDUCTIONS IN CERTAIN PRIOR YEAR AUTHORIZATIONS OF APPROPRIATIONS FOR AIR FORCE RESERVE MILITARY CONSTRUCTION PROJECTS.

(a) FISCAL YEAR 1989.—Section 2601(3)(B) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100–456; 102 Stat. 2114) is amended by striking out "$63,600,000" and inserting in lieu thereof "$62,440,000".

(b) FISCAL YEAR 1990.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1645) is amended by striking out "$35,600,000" and inserting in lieu thereof "$29,050,000".

(c) FISCAL YEAR 1991.—Section 2601(3)(B) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1781) is amended by striking out "$37,700,000" and inserting in lieu thereof "$33,930,000".

TITLE XXVII— EXPIRATION AND EXTENSION OF AUTHORIZATIONS

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 1996.

(b) EXCEPTION.—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Infrastructure program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before the later of—

(1) October 1, 1995; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 1996 for military construction projects, land acquisition, family housing projects and facilities, or contribu-

United States, the cost of such advance may be recovered by the utility under terms no less favorable than those applicable to its most favored customer.

"(B) Subject to the availability of appropriations, repayment of costs advanced under subparagraph (A) shall be made from funds available to a military department for the purchase of utility services.

"(C) An agreement under paragraph (3) shall provide that title to any energy-saving device or technology installed at a military installation pursuant to the agreement vest in the United States. Such title may vest at such time during the term of the agreement, or upon expiration of the agreement, as determined to be in the best interests of the United States.".

(b) ENERGY CONSERVATION CONSTRUCTION PROJECTS.—Such section is further amended by inserting after subsection (d), as added by subsection (a)(3), the following new subsection:

"(e) ENERGY CONSERVATION CONSTRUCTION PROJECTS.—(1) The Secretary of Defense may carry out a military construction project for energy conservation, not previously authorized, using funds appropriated or otherwise made available for that purpose.

"(2) When a decision is made to carry out a project under paragraph (1), the Secretary of Defense shall notify in writing the Committees on Armed Services and Appropriations of the Senate and House of Representatives of that decision. The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.".

(c) CONFORMING AMENDMENT.—Subsection (b)(1) of such section is amended by striking out "paragraph (3)(B)" and inserting in lieu thereof "subsection (d)(2)".

(d) TECHNICAL AMENDMENT.—Subsection (f) of such section, as redesignated by subsection (a)(2), is amended by striking out "Beginning with fiscal year 1991 and by no later than December 31, 1991, and of each year thereafter," and inserting in lieu thereof "Not later than December 31 of each year,".

(e) CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a), by inserting "ENERGY PERFORMANCE GOAL AND PLAN.—" after "(a)";

(2) in subsection (b), by inserting "USE OF ENERGY COST SAVINGS.—" after "(b)";

(3) in subsection (c), by inserting "SHARED ENERGY SAVINGS CONTRACTS.—" after "(c)"; and

(4) in subsection (f), as redesignated by subsection (a)(2), by inserting "ANNUAL REPORT.—" after "(f)".

SEC. 2802. AUTHORITY TO CONSTRUCT REPLACEMENT FAMILY HOUSING UNITS.

(a) AUTHORITY TO CONSTRUCT REPLACEMENT UNITS.—Section 2825 of title 10, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary concerned may construct replacement military family housing units in lieu of improving existing military family housing units if—

"(A) the improvement of the existing housing units has been authorized by law;

"(B) the Secretary determines that the improvement project is no longer cost-effective after a review of post-design or bid cost estimates;

"(C) the Secretary submits to the committees referred to in subsection (b)(1) a notice containing—

"(i) an economic analysis demonstrating that the improvement project would exceed 70 percent of the cost of constructing replacement housing units intended for members of the armed forces in the same pay grade or grades as those members who occupy the existing housing units; and

"(ii) if the replacement housing units are intended for members of the armed forces in a different pay grade or grades, a justification of the need for the replacement housing units based upon the long-term requirements of the armed forces in the location concerned; and

"(D) a period of 21 days elapses after the date on which the Secretary submits the notice required by subparagraph (C).

"(2) The amount that may be expended to construct replacement military family housing units under this subsection may not exceed the amount that is otherwise available to carry out the previously authorized improvement project.".

(b) CONFORMING AMENDMENT.—Section 2822(b) of such title is amended by adding at the end the following new paragraph:

"(5) Replacement housing units constructed under section 2825(c) of this title.".

Subtitle B—Defense Base Closure and Realignment

SEC. 2821. USE OF PROCEEDS OF THE TRANSFER OR DISPOSAL OF COMMISSARY STORE AND OTHER FACILITIES AND PROPERTY.

(a) BASE CLOSURES UNDER 1988 ACT.—(1) Section 204(b)(4) of the Defense Authorization Amendments and Base Closure and Realignment Act (title II of Public Law 100–526; 10 U.S.C. 2687 note) is amended by striking out subparagraphs (C) and (D) and inserting in lieu thereof the following new subparagraph:

"(C)(i) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this title, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in a reserve account established in the Treasury to be administered by the Secretary. The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving—

"(I) commissary stores; and

"(II) real property and facilities for nonappropriated fund instrumentalities.

"(ii) The amount deposited under clause (i) shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense.

Regulations.

"(iii) As used in this subparagraph:

"(I) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(II) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(III) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(2) Section 209 of such Act is amended by striking out paragraph (10). 10 USC 2687 note.

(b) BASE CLOSURES UNDER 1990 ACT.—Section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out subsection (d), as added by section 344(b)(1)(B) of Public Law 102–190, and inserting in lieu thereof the following new subsection:

"(d) DISPOSAL OR TRANSFER OF COMMISSARY STORES AND PROPERTY PURCHASED WITH NONAPPROPRIATED FUNDS.—(1) If any real property or facility acquired, constructed, or improved (in whole or in part) with commissary store funds or nonappropriated funds is transferred or disposed of in connection with the closure or realignment of a military installation under this part, a portion of the proceeds of the transfer or other disposal of property on that installation shall be deposited in the reserve account established under section 204(b)(4)(C) of the Defense Authorization Amendments and Base Closure and Realignment Act (10 U.S.C. 2687 note).

"(2) The amount so deposited shall be equal to the depreciated value of the investment made with such funds in the acquisition, construction, or improvement of that particular real property or facility. The depreciated value of the investment shall be computed in accordance with regulations prescribed by the Secretary of Defense. Regulations.

"(3) The Secretary may use amounts in the account (in such an aggregate amount as is provided in advance in appropriation Acts) for the purpose of acquiring, constructing, and improving—

"(A) commissary stores; and

"(B) real property and facilities for nonappropriated fund instrumentalities.

"(4) As used in this subsection:

"(A) The term 'commissary store funds' means funds received from the adjustment of, or surcharge on, selling prices at commissary stores fixed under section 2685 of title 10, United States Code.

"(B) The term 'nonappropriated funds' means funds received from a nonappropriated fund instrumentality.

"(C) The term 'nonappropriated fund instrumentality' means an instrumentality of the United States under the jurisdiction of the Armed Forces (including the Army and Air Force Exchange Service, the Navy Resale and Services Support Office, and the Marine Corps exchanges) which is conducted for the

comfort, pleasure, contentment, or physical or mental improvement of members of the Armed Forces.".

(c) CLOSURE OF FOREIGN MILITARY INSTALLATIONS.—Section 2921(d)(1) of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended in the first sentence by striking out "the value of the improvements carried out" and inserting in lieu thereof "the depreciated value of the investment made".

10 USC 2687 note.

SEC. 2822. DEMONSTRATION PROJECT FOR THE USE OF A NATIONAL RELOCATION CONTRACTOR TO ASSIST THE DEPARTMENT OF DEFENSE.

(a) USE OF NATIONAL RELOCATION CONTRACTOR.—Subject to the availability of appropriations therefor, the Secretary of Defense shall enter into a one-year contract with a private relocation contractor operating on a nationwide basis to test the cost-effectiveness of using national relocation contractors to administer the Homeowners Assistance Program. The contract shall be competitively awarded not later than 30 days after the date of the enactment of this Act.

(b) REPORT ON CONTRACT.—Not later than one year after the date on which the Secretary of Defense enters into the contract under subsection (a), the Comptroller General shall submit to Congress a report containing the Comptroller General's evaluation of the effectiveness of using the national contractor for administering the program referred to in subsection (a). The report shall compare the cost and efficiency of such administration with the cost and efficiency of—

(1) the program carried out by the Corps of Engineers using its own employees; and

(2) the use of contracts with local relocation companies at military installations being closed or realigned.

SEC. 2823. CHANGE IN DATE OF REPORT OF COMPTROLLER GENERAL TO CONGRESS AND DEFENSE BASE CLOSURE AND REALIGNMENT COMMISSION.

Section 2903(d)(5)(B) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by striking out "May 15 of each year" and inserting in lieu thereof "April 15 of each year".

SEC. 2824. AVAILABILITY OF CERTAIN FEDERAL PROPERTY FOR APPLICATION FOR USE TO ASSIST THE HOMELESS.

(a) AVAILABILITY OF PROPERTY AFTER HOLDING PERIOD.—Section 501(c)(4)(C) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(c)(4)(C)) is amended to read as follows:

"(C) For purposes of subparagraph (A), property shall not be considered to remain available for application for use to assist the homeless after the 60-day holding period provided under subsection (d) if—

"(i) an application for or written expression of interest in the property is made under any law for use of the property for any purpose; or

"(ii) the Administrator receives a bona fide offer to purchase the property or advertises for the sale of the property by public auction.".

(b) TECHNICAL CORRECTION.—Section 501(f)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(f)(2)) is amended by inserting "or" after "Unutilized".

SEC. 2825. REVISION OF REQUIREMENTS RELATING TO BUDGET DATA ON BASE CLOSURES.

(a) COVERED FUNDING REQUESTS.—(1) Subsection (a) of section 2822 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1546; 10 U.S.C. 2687 note) is amended—

(A) by striking out "each military construction project" and inserting in lieu thereof "military construction relating to the closure or realignment of the installation"; and

(B) by striking out "the cost of such project" and inserting in lieu thereof "the cost of such construction".

(2) Subsection (b) of such section is amended—

(A) by striking out "of a military construction project" and inserting in lieu thereof "of military construction"; and

(B) by striking out "the project" and inserting in lieu thereof "the construction".

(b) INVESTIGATION BY INSPECTOR GENERAL.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by striking out "each military construction project" and inserting in lieu thereof "the military construction"; and

(B) by striking out "the project" and inserting in lieu thereof "such construction"; and

(2) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph (2):

"(2) The Inspector General shall submit to the congressional defense committees a report describing the results of each investigation conducted under paragraph (1).". Reports.

SEC. 2826. CONSIDERATION OF COMMUNITY ABILITY TO COMPETE FOR THE RELOCATION OF FINANCE AND ACCOUNTING ACTIVITIES.

(a) CONSIDERATION OF FACTORS.—In evaluating and selecting communities as sites for the relocation of financial and accounting activities under the management of the Defense Finance Accounting Service, the Secretary of Defense shall ensure that consideration is provided to the ability of States and communities to compete for the relocation based upon their relative size and potential to make offers of incentives for the relocation.

(b) REPORT.—The Secretary of Defense shall, with respect to the relocation described in subsection (a) and not later than February 28, 1993, submit to the Committees on Armed Services of the Senate and House of Representatives a report on the advisability of using competitive procedures among communities to acquire property (through lease or otherwise) and other incentives without providing reimbursement to the community for such property or incentives.

SEC. 2827. OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.

(a) USE OF ACCOUNT AT OVERSEAS FACILITIES.—Subsection (c) of section 2921 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 10 U.S.C. 2687 note) is amended—

(1) in the first sentence of paragraph (2), by striking out "in connection with facility maintenance and repair and environmental restoration at military installations in the United States." and inserting in lieu thereof the following: "in connection with—

"(A) facility maintenance and repair and environmental restoration at military installations in the United States; and

"(B) facility maintenance and repair and compliance with applicable environmental laws at military installations outside the United States that the Secretary anticipates will be occupied by the Armed Forces for a long period.";

(2) by striking out the second sentence of paragraph (2); and

(3) by adding at the end the following new paragraphs:

"(3) Funds in the Department of Defense Overseas Facility Investment Recovery Account shall remain available until expended.".

(b) PAYMENTS-IN-KIND.—Such section is further amended by adding at the end the following new subsection:

"(e) NEGOTIATIONS FOR PAYMENTS-IN-KIND.—Before the Secretary of Defense enters into negotiations with a host country regarding the acceptance by the United States of any payment-in-kind in connection with the release to the host country of improvements made by the United States at military installations in the host country, the Secretary shall submit a written notice to the congressional defense committees containing a justification for entering into negotiations for payments-in-kind with the host country and the types of benefit options to be pursued by the Secretary in the negotiations."

(c) ANNUAL REPORT ON OVERSEAS MILITARY FACILITY INVESTMENT RECOVERY ACCOUNT.—Such section is further amended by adding after subsection (e), as added by subsection (b), the following new subsection:

"(f) REPORT ON STATUS AND USE OF SPECIAL ACCOUNT.—Not later than January 15 of each year, the Secretary of Defense shall submit to the congressional defense committees a report on the operations of the Department of Defense Overseas Military Facility Investment Recovery Account during the preceding fiscal year and proposed uses of funds in the special account during the next fiscal year. The report shall include the following:

"(1) The amount of each deposit in the account during the preceding fiscal year, and the source of the amount.

"(2) The balance in the account at the end of that fiscal year.

"(3) The amounts expended from the account by each military department during that fiscal year.

"(4) With respect to each military installation for which money was deposited in the account as a result of the release of real property or improvements of the installation to a host country during that fiscal year—

"(A) the total amount of the investment of the United States in the installation, expressed in terms of constant dollars of that fiscal year;

"(B) the depreciated value (as determined by the Secretary of a military department under regulations to be prescribed by the Secretary of Defense) of the real property and improvements that were released; and

"(C) the explanation of the Secretary for any difference between the benefits received by the United States for the real property and improvements and the depreciated value (as so determined) of that real property and improvements.

"(5) A list identifying all military installations outside the United States for which the Secretary proposes to make expenditures from the Department of Defense Overseas Facility Investment Recovery Account under subsection (c)(2)(B) during the next fiscal year and specifying the amount of the proposed expenditures for each identified military installation.

"(6) A description of the purposes for which the expenditures proposed under paragraph (5) will be made and the need for such expenditures.".

Subtitle C—Land Transactions

SEC. 2831. MODIFICATION OF LAND EXCHANGE, SAN DIEGO, CALIFORNIA.

Section 837 of the Military Construction Authorization Act, 1985 (Public Law 98–407; 98 Stat. 1529) is amended—

(1) in subsection (a) by striking out "or the San Diego Energy Recovery Project, a joint powers agency of the city and county of San Diego (hereinafter in this section referred to as 'SANDER'),";

(2) by striking out subsection (c);

(3) by redesignating subsections (d) and (e) as subsections (e) and (f);

(4) by inserting after subsection (b) the following new subsections:

"(c) ALTERNATIVE CONSIDERATION.—(1) In lieu of the 120 acres of land referred to in subsection (b) as consideration for the conveyance under subsection (a), the Secretary of the Navy may permit the City to convey to the Secretary—

"(A) other real property suitable for use, as determined by the Secretary, for military family housing;

"(B) an amount equal to the fair market value of the parcel conveyed under subsection (a), as determined by the Secretary; or

"(C) a combination of real property and cash.

"(2) The Secretary may permit the alternative conveyance under paragraph (1) only if the Secretary determines that the City will use the 120 acres of land for purposes associated with the clean water program of the City that are compatible with the mission and operations of the adjacent Naval Air Station, Miramar.

"(d) FAIR MARKET VALUE; USE OF PROCEEDS.—The total value of the consideration to be provided to the United States under subsections (b) and (c) shall be at least equal to the fair market value of the lands conveyed under subsection (a), as determined by the Secretary of the Navy. The City shall pay any difference to the United States. Subject to the availability of appropriations for this purpose, the Secretary may use any amounts paid under this section solely for the purpose of acquiring in the San Diego area a suitable site for, or constructing or acquiring by direct purchase, military family housing. Any funds received by the Secretary under this section and not used within 30 months after receipt shall be deposited into the special account established pursu-

ant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h))."; and

(5) in subsection (e), as redesignated by paragraph (3), by striking out "or SANDER or by the City and SANDER".

SEC. 2832. LAND ACQUISITION AND EXCHANGE, MYRTLE BEACH AIR FORCE BASE AND POINSETT WEAPONS RANGE, SOUTH CAROLINA.

(a) LAND CONVEYANCE.—The Secretary of the Air Force may convey to the State of South Carolina all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 3,744 acres and comprising the Myrtle Beach Air Force Base, South Carolina, or any portion of that parcel, together with any improvements thereon.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the State of South Carolina shall—

(A) convey to the United States all right, title, and interest of the State of South Carolina in and to the parcels of land (together with any improvements thereon) described in paragraph (2); and

(B) pay to the United States an amount equal to the amount, if any, by which the fair market value of the land conveyed under subsection (a) exceeds the fair market value of the land conveyed under subparagraph (A).

(2) The parcels of land referred to in paragraph (1) are the following:

(A) The Poinsett Weapons Range, a parcel consisting of approximately 8,358 acres that is located in Sumter County, South Carolina, and is currently leased by the Air Force from the State of South Carolina.

(B) Other parcels contiguous to the Poinsett Weapons Range that—

(i) are owned by the State of South Carolina, including parcels acquired by the State of South Carolina for the purposes of satisfying the requirements of this subsection; and

(ii) the Secretary determines are necessary for the Air Force to improve or enlarge the configuration of the Poinsett Weapons Range to suit the needs of the Air Force as a bombing range.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A). Such determinations shall be final.

(d) USE OF FUNDS.—Any funds paid to the Secretary under subsection (b)(1)(B) shall be deposited in the Department of Defense Base Closure Account 1990 established under section 2906 of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) and shall be available for use in accordance with subsection (b) of such section 2906.

(e) RESERVATION FOR HARVESTING FOREST PRODUCTS.—The Secretary may accept the conveyance of the parcel of real property referred to in subsection (b)(1)(A) subject to a reservation permitting the harvesting of forest products on the parcel by the South Carolina State Forestry Commission. A reservation granted under this sub-

section shall be subject to such conditions as the Secretary may prescribe.

(f) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be conveyed pursuant to subsections (a) and (b)(1)(A) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the State of South Carolina.

(g) REVERSIONARY INTEREST.—The major portion of the land to be conveyed by the State of South Carolina under subsection (b)(2) was originally conveyed to the South Carolina State Forestry Commission by the United States under the Bankhead-Jones Farm Tenant Act (50 Stat. 522; 7 U.S.C. 1000 et seq.), subject to reservation of mineral rights and subject also to a reversion of title if the State ceased to use such properties for public purposes. The conveyance of such land to the United States under subsection (b)(2) shall be deemed to be in compliance with the public purpose covenants imposed upon conveyance to the South Carolina State Forestry Commission.

(h) AUTHORITY TO ACQUIRE ADDITIONAL LAND.—Subject to section 2662(a) of title 10, United States Code, and the availability of appropriations for this purpose, the Secretary may acquire such additional parcels of land in the vicinity of Poinsett Weapons Range, South Carolina, as the Secretary determines are necessary to enhance the usefulness of the Poinsett Weapons Range as a bombing range.

(i) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyances under this section that the Secretary considers to be appropriate to protect the interests of the United States.

SEC. 2833. LAND CONVEYANCE, PITTSBURGH, PENNSYLVANIA.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Army may convey, without reimbursement, to the Urban Redevelopment Authority of Pittsburgh, Pennsylvania, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) known as the Hays Army Ammunition Plant and consisting of approximately 11.9983 acres in the Borough of West Homestead and the City of Pittsburgh, Pennsylvania.

(b) CONDITION OF TRANSFER.—The Secretary may not make the conveyance authorized by subsection (a) unless the Secretary is able to issue a statement of condition certifying that the Hays Army Ammunition Plant is environmentally clean and safe for nonmilitary use.

(c) LEGAL DESCRIPTION AND SURVEY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of such survey shall be borne by the Urban Redevelopment Authority of Pittsburgh.

(d) OTHER TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions with respect to the conveyance as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. LEASES OF PROPERTY, NAVAL SUPPLY CENTER, OAKLAND, CALIFORNIA.

(a) LEASE AUTHORIZED WITH UNION PACIFIC RAILROAD COMPANY.—(1) The Secretary of the Navy may lease to the Union

Pacific Railroad Company (in this subsection referred to as the "Company") not more than 15 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(2) The lease authorized in paragraph (1) shall—

(A) be for an initial period of not more than 25 years;

(B) contain an option for the Company to extend the lease for an additional period of not more than 25 years; and

(C) contain the restriction that the Company use the leased property only for freight transportation purposes.

(3)(A) As consideration for the lease of the real property under paragraph (1), the Company—

(i) shall pay to the Navy the long-term fair market rental value of the leased property; and

(ii) may be required to furnish additional consideration as provided in subparagraph (B).

(B) The Secretary may require that the lease include a provision for the Company—

(i) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(ii) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(4)(A) Section 2667(d) of title 10, United States Code, shall apply to amounts paid under paragraph (3)(A)(i).

(B) The Secretary may use amounts received under paragraph (3)(B) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(5) The Secretary may authorize the Company to demolish existing facilities on the leased property and, consistent with the restriction required by paragraph (2)(C), construct new facilities on the property for the use of the Company.

(b) LEASE AUTHORIZED WITH CITY OR PORT OF OAKLAND.—(1) The Secretary of the Navy may lease to the City of Oakland, California, or the Port of Oakland, California (in this subsection referred to as the "City" and the "Port", respectively), not more than 195 acres of real property, together with improvements thereon, located at the Naval Supply Center, Oakland, California.

(2) The lease authorized under paragraph (1) shall—

(A) be for a term of not more than 50 years; and

(B) shall contain the restriction that the City or the Port (as the case may be) use the leased property in a manner consistent with Navy operations conducted at the Naval Supply Center.

(3)(A) As consideration for the lease of the real property under paragraph (1), the City or the Port (as the case may be)—

(i) shall pay to the Navy the long-term fair market rental value of the leased property; and

(ii) may be required to furnish additional consideration as provided in subparagraph (B).

(B) The Secretary may require that the lease include a provision for the City or the Port (as the case may be)—

(i) to pay the Navy an amount (as determined by the Secretary) for the costs of replacing at the Naval Supply Center, Oakland, California, the facilities vacated by the Navy on the leased property or to construct the replacement facilities for the Navy; and

(ii) to pay the Navy an amount (as so determined) for the costs of relocating Navy operations from the vacated facilities to the replacement facilities.

(4) The Secretary may not enter into the lease authorized by paragraph (1) until 21 days after the date on which the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives a report containing an explanation of the terms of the proposed lease and a description of the consideration that the Secretary expects to receive under the lease.

(5)(A) The Secretary may use amounts paid under paragraph (3)(A)(i) to pay for improvement, maintenance, repair, construction, or restoration activities at the Naval Supply Center, Oakland, California.

(B) The Secretary may use amounts received under paragraph (3)(B) to pay for constructing new facilities, or making modifications to existing facilities, that are necessary to replace facilities vacated by the Navy on the leased property and for relocating operations of the Navy from the vacated facilities to the replacement facilities.

(6) The Secretary may authorize the City or the Port (as the case may be) to demolish existing facilities on the leased property and, consistent with the restriction required by paragraph (2)(B), construct new facilities on the property for the use of the City or the Port.

(c) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with the leases authorized under this section as the Secretary considers appropriate to protect the interests of the United States.

(d) REPEAL OF SUPERSEDED AUTHORITY.—Section 2338 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100–180; 101 Stat. 1225) is repealed.

SEC. 2835. GRANT OF EASEMENT AT NAVAL AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) AUTHORITY TO GRANT EASEMENT.—The Secretary of the Navy may grant to San Diego Gas and Electric Company (in this section referred to as "SDG&E") an easement on a parcel of real property consisting of approximately 120 acres that is located in the northeast portion of Naval Air Station, Miramar, California (in this section referred to as the "Air Station"). The purpose of the easement is to enable SDG&E to construct, operate, and maintain an electric transmission substation and associated electric transmission lines.

(b) CONSIDERATION.—(1) As consideration for the grant of an easement to SDG&E under subsection (a), SDG&E shall pay to the United States an amount that is not less than the fair market value of that easement, as determined by the Secretary.

(2) The Secretary may accept from SDG&E, in lieu of payment of up to 50 percent of the agreed consideration, the following:

(A) The establishment of an alternative source of 12 kilovolts of electric power for the Air Station.

(B) Such improvements to the electrical distribution system of the Air Station as the Secretary designates for the purposes of this paragraph.

(c) USE OF PROCEEDS.—(1) The amounts of consideration paid under subsection (b) shall be deposited in the special account established for the Department of the Navy under section 2667(d)(1)(A) of title 10, United States Code.

(2) Subject to the availability of appropriations for this purpose, of the sums in such account—

(A) there shall be available for facility maintenance and repair and for environmental restoration by the Department of the Navy the amount equal to 50 percent of the total agreed consideration for the grant of the easement under subsection (a); and

(B) there shall be available for facility maintenance and repair or environmental restoration of the Air Station, the amount equal to the excess (if any) of 50 percent of such total consideration over the amount equal to the sum of—

(i) the total cost incurred by SDG&E for the establishment of the alternative power source pursuant to subsection (b)(2)(A); and

(ii) the total cost of the improvements made by SDG&E pursuant to subsection (b)(2)(B).

(d) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property subject to the easement granted under this section shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by SDG&E.

(e) ADDITIONAL TERMS.—The Secretary may require any additional terms and conditions in connection with the grant of an easement under this section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2836. LAND CONVEYANCE, NAVAL RESERVE CENTER, SANTA BARBARA, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of the Navy may convey to the City of Santa Barbara, California (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property consisting of approximately one acre, including improvements thereon, which is the location of the Santa Barbara Naval Reserve Center.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City shall pay to the United States an amount equal to the lesser of—

(1) $2,400,000; or

(2) the cost incurred by the Secretary in constructing a naval reserve center to replace the naval reserve center conveyed under subsection (a).

Contracts.

(c) CONDITIONS OF CONVEYANCE.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the City enter into an agreement with the Secretary of Transportation for the City—

(A) to permit, at no cost to the Federal Government, the Coast Guard to remain in the space currently occupied by the Coast Guard in the facility referred to in subsection (a); or

(B) to provide the Coast Guard, at no cost to the Federal Government, with space in a facility acceptable

to the Secretary of Transportation that is sufficient to replace the space referred to in subparagraph (A) from which the Coast Guard is displaced by the City.

(2) That the City enter into an agreement with the Administrator of the National Oceanic and Atmospheric Administration for the City—

(A) to permit, at no cost to the Federal Government, the National Oceanic and Atmospheric Administration (in this section referred to as "NOAA") to remain until May 1, 1993 (or a later date agreed to by the City and the Administrator), in the space currently occupied by NOAA in the facility referred to in subsection (a); or

(B) to provide NOAA until May 1, 1993 (or a later date agreed to by the City and the Administrator), at no cost to the Federal Government, with space in a facility acceptable to the Administrator that is sufficient to replace the space referred to in subparagraph (A) from which NOAA is displaced by the City.

(3) That the City enter into an agreement with the Secretary of the Navy for the City to permit the Navy to use, at no cost to the Federal Government, the naval reserve center referred to in subsection (a) until the replacement facility to be constructed in accordance with subsection (d) is suitable for occupancy by the Navy, as determined by the Secretary.

(d) REPLACEMENT CENTER.—The Secretary of the Navy shall use the amount paid by the City under subsection (b) to construct a naval reserve center to replace the naval reserve center conveyed pursuant to subsection (a). Such replacement center shall be constructed at the Naval Construction Battalion Center, Port Hueneme, California, or at another location determined by the Secretary to be suitable for such a center.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under this section shall be determined by a survey satisfactory to the Secretary of the Navy. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Navy may require such additional terms and conditions in connection with the conveyance and agreements under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2837. LAND CONVEYANCE, FOREST GLEN ANNEX, WALTER REED ARMY MEDICAL CENTER, MARYLAND.

(a) IN GENERAL.—Subject to subsection (b), the Secretary of the Army shall convey, without consideration, to the Maryland-National Capital Park and Planning Commission (in this section referred to as the "Commission") all right, title, and interest of the United States in and to approximately 10 acres of real property at the Forest Glen Annex of the Walter Reed Army Medical Center, consisting of woodlands located north and west of Ireland Drive.

(b) CONDITION ON USE OF CONVEYED PROPERTY.—The conveyance required by subsection (a) shall be subject to the condition that the Commission use the property conveyed only as a public park and maintain the property in its entirety as woodlands for the public benefit.

(c) REVERSION.—If the Secretary determines at any time that the Commission is not complying with the condition specified in

subsection (b), all right, title, and interest in and to the property conveyed pursuant to subsection (a) shall revert to the United States.

(d) LEGAL DESCRIPTION AND SURVEY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The Commission shall bear the expense of the survey.

SEC. 2838. LAND CONVEYANCE, WILLIAMS AIR FORCE BASE, ARIZONA.

(a) IN GENERAL.—(1) The United States may acquire by condemnation or otherwise—

(A) all right, title, and interest of the State of Arizona (including any mineral rights) in and to the trust lands of the State of Arizona described in paragraph (2); and

(B) any trust mineral estate of the State of Arizona located beneath the surface estates of the United States in the lands described in paragraph (3).

(2) The trust lands referred to in paragraph (1)(A) are as follows:

(A) A parcel or parcels consisting of approximately 81,121 acres located in the Goldwater Aerial Gunnery Range, Yuma County and Maricopa County, Arizona, and used by the Air Force for activities relating to aerial gunnery and bombing practice.

(B) A parcel or parcels consisting of approximately 7,563 acres located in the Yuma Test Station, Yuma County, Arizona, and used by the Army for activities relating to field artillery testing.

(C) A parcel or parcels consisting of approximately 1,537 acres located in the Fort Huachuca East Range, Cochise County, Arizona, and used by the Army for activities relating to field training exercises.

(D) A parcel or parcels consisting of approximately 133 acres located in Davis-Monthan Air Force Base, Tucson, Arizona.

(E) A parcel consisting of approximately five acres located in section 14, T4N, R3E of the State of Arizona, Phoenix, Arizona, and used as part of the Arizona National Memorial Cemetery.

(3) The lands referred to in paragraph (1)(B) are as follows:

(A) A parcel or parcels consisting of approximately 50,355 acres located in the Goldwater Aerial Gunnery Range, Arizona.

(B) A parcel or parcels consisting of approximately 12,781 acres located in the Yuma Test Station, Arizona.

(C) A parcel or parcels consisting of approximately 12,943 acres located in the Fort Huachuca East Range, Arizona.

(b) CONSIDERATION.—As consideration for the acquisition by the United States of Arizona trust lands under paragraph (1)(A) of subsection (a) and any mineral rights under paragraph (1)(B) of that subsection, the Secretary of the Air Force shall convey to the State of Arizona all right, title, and interest of the United States in and to a parcel of real property located at Williams Air Force Base, Arizona, together with any improvements thereon, that is approximately equal in fair market value to the fair market value of the property and mineral rights acquired under that subsection.

(c) CONDITIONS.—The Secretary may make the conveyance described in subsection (b) only if—

(1) the fair market value of the real property and mineral rights acquired by the United States under subsection (a) is at least equal to the fair market value of the property conveyed by the Secretary under subsection (b);

(2) the conveyance of the Secretary to the State of Arizona under subsection (b) is accepted as full consideration for the conveyance of property and mineral rights to the United States under subsection (a) and terminates all right, title, and interest of all parties other than the United States in and to the property and mineral rights conveyed to the United States under subsection (a); and

(3) the Secretary has complied with all environmental protection, remediation, and restoration laws that are applicable to the disposal of the real property at Williams Air Force Base, Arizona, that is conveyed to the State of Arizona under subsection (b).

(d) RESTRICTION ON USE OF CERTAIN PROPERTY.—The Secretary of Veterans Affairs shall use as a cemetery any property referred to in paragraph (2)(E) of subsection (a) that is acquired by the United States under that subsection. Such use shall be subject to the provisions of chapter 24 of title 38, United States Code.

(e) LIMITATION ON CONVEYANCE AUTHORITY.—The conveyance of real property described in subsection (b) may not be made until adequate prior opportunity has been provided for the disposition of such property as provided in section 2905(b) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note), except the requirement for disposition by public advertising.

(f) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary of the Air Force shall determine the fair market value of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the mineral rights to be acquired pursuant to subsection (a)(1)(B), and the parcel of real property to be conveyed pursuant to subsection (b). Such determinations shall be final.

(g) DESCRIPTIONS OF PROPERTY.—The exact acreages and legal descriptions of the parcels of real property to be acquired pursuant to subsection (a)(1)(A), the parcels of real property referred to in subsection (a)(1)(B), and the parcels of real property conveyed pursuant to subsection (b) shall be determined by surveys that are satisfactory to the Secretary of the Air Force and the State of Arizona. The cost of such surveys shall be borne by the State of Arizona.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force may require any additional terms and conditions in connection with the conveyance and acquisitions under this section that the Secretary considers to be appropriate to protect the interests of the United States.

SEC. 2839. MODIFICATION OF LAND EXCHANGE, BURLINGTON, VERMONT.

Section 2387 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101–510; 104 Stat. 1800) is amended—

(1) in subsection (b), by striking out "the Burlington, Vermont, area" and inserting in lieu thereof "the State of Vermont";

(2) in subsection (c)(1)(A), by striking out "$800,000" and inserting in lieu thereof "$600,000, with such payment to be made (before the date of the conveyance authorized by subsection (a)) in a lump sum, in yearly installments, or under such other terms and conditions as the Secretary considers to be in the interest of the United States";

(3) in subsection (c)(2), by striking out "January 1, 1993," and inserting in lieu thereof "June 1, 1995,"; and

(4) by adding at the end of subsection (c) the following new paragraph:

"(3) The Secretary may permit the City of Burlington, Vermont, to make alterations or improvements to the property referred to in subsection (a) before the Secretary conveys the property to the City. The making of such alterations and improvements pursuant to this paragraph shall be subject to terms and conditions that the Secretary considers to be appropriate and shall be subject to the prior approval of the Secretary.".

SEC. 2840. CONVEYANCE OF WASTE WATER TREATMENT PLANT, FORT RITCHIE, MARYLAND.

(a) IN GENERAL.—The Secretary of the Army may convey to the Washington County, Maryland, Sanitary District (in this section referred to as the "Sanitary District") all right, title, and interest of the United States in and to a parcel of real property consisting of approximately 4.5 acres, including a waste water treatment facility and other improvements located thereon, located at Fort Ritchie, Maryland.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a) the Sanitary District shall provide the Army with disposal services, waste water treatment services, and other related services at the facility. The value of the services provided the Army shall be equal to the fair market value of the property conveyed pursuant to subsection (a), as determined jointly by the Secretary and the Sanitary District.

(c) CONDITIONS.—The conveyance authorized under subsection (a) shall be subject to the following conditions:

(1) That the Sanitary District reserve 70 percent of the operating capacity of the waste water treatment facility referred to in subsection (a) for use by the Army in the event that such use is necessitated by a realignment or change in the operations of the Army at Fort Ritchie, Maryland.

(2) That the Sanitary District ensure the compliance of the waste water treatment facility with applicable environmental laws, including the construction of any improvement and the satisfaction of any permit or license requirements that may be necessary to ensure such compliance.

(3) That the cost of the construction of the improvements referred to in paragraph (2) be borne by the Sanitary District and the Army according to the pro rata share of the operating capacity of the waste water treatment facility reserved to the Army and the Sanitary District, respectively.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the Sanitary District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with

the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2841. ACQUISITION OF INTERESTS IN LAND, NAVAL RADIO STATION, JIM CREEK, WASHINGTON.

(a) AUTHORITY TO ACQUIRE.—The Secretary of the Navy may acquire all right, title, and interest (including timber rights) of any party in and to a parcel of land consisting of approximately 225 acres, or any portion of the parcel, located in Snohomish County, Washington, and comprising a portion of Naval Radio Station, Jim Creek, Washington.

(b) CONSIDERATION.—(1) As consideration for an interest acquired by the Secretary pursuant to the authority in subsection (a), the Secretary—

(A) shall pay the person conveying that interest, out of funds available to the Secretary for the acquisition of interests in real property (including unobligated prior year funds available for the Legacy Resource Management Program), the amount determined under paragraph (2);

(B) shall, with the consent of that person, convey to such person all right, title, and interest of the United States in and to a quantity of merchantable timber at the Naval Radio Station, Jim Creek, determined under paragraph (2); or

(C) shall, with the consent of such person, make such a payment and such a conveyance to that person.

(2) The total of the amount paid a person pursuant to paragraph (1)(A), if any, and the fair market value of the quantity (to the extent of the interest) of merchantable timber conveyed to that person pursuant to paragraph (1)(B), if any, shall be equal to the fair market value of the property interest acquired from that person under subsection (a).

(c) OPTION TO PURCHASE.—The Secretary may purchase an option to purchase a property interest authorized to be acquired under subsection (a). The Secretary may use funds referred to in subsection (b)(1)(A) for the purchase of such an option.

(d) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the property interests acquired under subsection (a) and the merchantable timber, if any, conveyed under subsection (b). Such determinations shall be final.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of each parcel of real property an interest in which is acquired under subsection (a) or conveyed under subsection (b) shall be determined by a survey that is satisfactory to the Secretary and is conducted at no cost to the United States (except that the Secretary shall bear such cost in the case of a gift to the United States).

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the acquisitions authorized under subsection (a) and the conveyances, if any, authorized under subsection (b) that the Secretary considers to be necessary to protect the interests of the United States.

SEC. 2842. REAL PROPERTY CONVEYANCE, NAVAL STATION PUGET SOUND, EVERETT, WASHINGTON.

(a) IN GENERAL.—(1) The Secretary of the Navy may convey to any person all right, title, and interest of the United States in and to the parcel of land described in paragraph (2).

(2) The parcel of land referred to in paragraph (1) is a parcel of land located in the State of Washington consisting of approximately 68 acres and comprising the naval family housing area at Paine Field, Snohomish County, Washington, together with improvements thereon.

(b) CONSIDERATION.—(1) In consideration for the conveyance of the parcel of land authorized in subsection (a), the person accepting the conveyance shall—

(A) pay the Secretary an amount equal to the fair market value of the parcel and any improvements located thereon; or

(B) convey to the United States all right, title, and interest of the person in and to the parcel of land, together with any improvements thereon, located in the area of the Naval Station Puget Sound, Everett, Washington, that the Secretary determines to be suitable for family housing for Naval Station Puget Sound and, if the fair market value of the parcel conveyed by the United States exceeds the fair market value of the parcel conveyed to the United States, pay to the Secretary the amount equal to such excess.

(2) The Secretary shall determine the fair market value of the parcel of land conveyed pursuant to subsection (a)(1) and the parcels of land, if any, conveyed pursuant to paragraph (1)(B).

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into a conveyance or sale of real property, as the case may be, under this section until the Secretary has notified the congressional defense committees of the details of the proposed conveyance or sale, as the case may be, and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) USE OF FUNDS.—(1) Subject to the availability of appropriations for this purpose, the Secretary shall use any amounts paid to the Secretary under subsection (b)(1) for the following purposes:

(A) Acquiring in the vicinity of Naval Station Puget Sound land that is suitable (as determined by the Secretary) for family housing for Naval Station Puget Sound.

(B) Acquiring or constructing not more than 350 units of family housing for Naval Station Puget Sound.

(2) If amounts referred to in paragraph (1) remain unexpended after the acquisition or construction of the family housing referred to in that paragraph, the Secretary shall deposit such unexpended amounts in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal descriptions of the parcel of land conveyed pursuant to this section shall be determined by surveys satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. CONVEYANCE OF HASTINGS RADAR BOMB SCORING SITE, NEBRASKA.

(a) CONVEYANCE.—The Secretary of the Air Force may convey to Central Community College, Hastings, Nebraska (in this section referred to as the "College"), all right, title, and interest of the United States in and to three parcels of property located in Hast-

ings, Nebraska, which have served as a support complex for the Hastings Radar Bomb Scoring Site.

(b) CONSIDERATION.—In consideration for the conveyance under subsection (a), the College shall pay to the United States an amount equal to the fair market value of the land conveyed under subsection (a), as determined by the Secretary.

(c) USE OF PROCEEDS.—The Secretary shall deposit the proceeds of the sale of property authorized by this section in the special account established pursuant to section 204(h) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(h)).

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property conveyed under this section shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the College.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2844. LAND CONVEYANCE, ABBEVILLE, ALABAMA.

(a) IN GENERAL.—The Secretary of the Army may convey, without consideration, to the City of Abbeville, Alabama, all right, title, and interest of the United States in and to a parcel of land consisting of approximately four acres, together with improvements thereon, the site of a proposed Army Reserve Center, Abbeville, Alabama.

(b) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the City of Abbeville, Alabama.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under this section that the Secretary considers to be appropriate to protect the interests of the United States.

SEC. 2845. EXTENSION OF TIME IN WHICH TO ENTER INTO LEASE AT HUNTERS POINT NAVAL SHIPYARD, SAN FRANCISCO, CALIFORNIA.

The time period within which the Secretary of the Navy shall enter into the lease of real property at the Hunters Point Naval Shipyard, San Francisco, California, required under section 2824(a) of the Military Construction Authorization Act for Fiscal Year 1991 (division B of Public Law 101-510; 104 Stat. 1790) is extended to May 30, 1993.

SEC. 2846. TERMINATION OF LEASE AND SALE OF FACILITIES, NAVAL RESERVE CENTER, ATLANTA, GEORGIA.

(a) IN GENERAL.—The Secretary of the Navy may—

(1) negotiate the termination of the remaining lease of the Navy of 2.27 acres of land located at the Georgia Institute of Technology, Atlanta, Georgia (in this section referred to as the "Institute"); and

(2) sell to the Institute the Naval Reserve Center facilities located on such land.

(b) CONSIDERATION.—As consideration for the termination of the lease interest referred to in subsection (a)(1) and the sale of the facilities referred to in subsection (a)(2), the Institute shall

pay the Secretary an amount equal to the aggregate of the fair market value of the remaining lease referred to in such subsection (a)(1) and the facilities referred to in such subsection (a)(2).

(c) USE OF FUNDS.—(1)(A) Subject to the availability of appropriations for this purpose and subparagraph (B), the Secretary shall use the amount paid by the Institute under subsection (b) to expand the Marine Corps Reserve Center to be constructed at Dobbins Air Force Base, Georgia, in a manner which permits the use of a portion of that Center as replacement facilities for the naval reserve facilities referred to in subsection (a)(1).

(B) The expanded portion of the Marine Corps Reserve Center described under subparagraph (A) shall be under the jurisdiction of the Marine Corps Reserve.

(2) If any portion of the amount referred to in paragraph (1) remains unexpended after the construction of the naval reserve facilities referred to in that paragraph, the Secretary shall deposit that portion in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance section that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2847. LAND CONVEYANCE, FORT CHAFFEE, ARKANSAS.

(a) CONVEYANCE.—The Secretary of the Army shall convey to the City of Fort Smith, Arkansas (in this section referred to as the "City"), all right, title, and interest (other than any oil, gas, or mineral interest) of the United States in and to a parcel of real property consisting of approximately 400 acres, together with improvements thereon, located at Fort Chaffee, Arkansas.

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the City—

(1) shall provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine, the fair market value of which services shall be equal to the fair market value of the property conveyed pursuant to subsection (a); or

(2) shall—

(A) provide the Army with such services at Fort Chaffee as the Secretary and the City shall jointly determine; and

(B) in the event that the fair market value of the property conveyed pursuant to subsection (a) exceeds the fair market value of the services provided under subparagraph (A), pay to the Secretary the amount equal to such excess.

(c) DETERMINATIONS OF FAIR MARKET VALUE.—The Secretary shall determine the fair market value of the parcel of real property to be conveyed under subsection (a) and the value of the services, if any, to be provided under paragraph (1) or (2) of subsection (b). Such determinations shall be final.

(d) USE OF PROCEEDS.—The Secretary shall deposit the amount of the consideration, if any, paid under subsection (b)(2)(B) in the account established under section 204(h) of the Federal Property and Administrative Services Act (40 U.S.C. 485(h)).

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcel of land conveyed pursuant to this section

shall be determined by a survey satisfactory to the Secretary. The cost of such survey shall be borne by the City.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require any additional terms and conditions in connection with the conveyance under subsection (a) that the Secretary considers appropriate to protect the interests of the United States.

SEC. 2848. MODIFICATION OF LAND CONVEYANCE, FORT A.P. HILL MILITARY RESERVATION, VIRGINIA.

(a) ADJUSTMENT OF BOUNDARIES.—Subsection (b) of section 603 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102–25, 105 Stat. 107) is amended by adding at the end the following new paragraph:

"(3) Subsequent to the identification of the parcel of land pursuant to paragraph (1), the Secretary may, with the concurrence of appropriate representatives of Caroline County, Virginia, and the Commonwealth, make minor adjustments to the boundaries of the parcel of land identified so that the parcel of land conveyed pursuant to this section better serves the purposes intended by this section.".

(b) ACTIONS AFTER CONVEYANCE.—Subsection (c)(2) of such section is amended—

(1) in subparagraph (A), by striking out "construct and operate on such parcel of land a regional correctional facility" and inserting in lieu thereof "provide for the construction and operation of a regional correctional facility on such parcel of land"; and

(2) in subparagraph (B), by striking out "constructs and operates such facility" and inserting in lieu thereof "provides for the construction and operation of such facility".

(c) EXTENSION OF DATE FOR START OF CONSTRUCTION.—Subsection (d)(1)(A)(i) of such section is amended by striking out "24 months after the date of enactment of this Act" and inserting in lieu thereof "April 1, 1995".

Subtitle D—Other Matters

SEC. 2851. CLARIFICATION OF AUTHORITY TO LEASE NON-EXCESS PROPERTY.

Section 2667(b)(4) of title 10, United States Code, is amended by inserting ", in the case of the lease of real property," after "shall provide".

SEC. 2852. STORAGE OF HAZARDOUS MATERIALS ON ARSENAL PROPERTY IN CONJUNCTION WITH THIRD-PARTY CONTRACTS.

Section 2692(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) the storage of any material that is not owned by the Department of Defense if the Secretary of the military department concerned determines that the material is required or generated by a private person in connection with the authorized and compatible use by that person of an industrial-type facility of the Department of Defense.".

SEC. 2853. REPORT ON CONTINUED MILITARY NEED FOR BELLOWS AIR FORCE STATION, HAWAII.

(a) REPORT REQUIRED.—The Secretary of Defense, the Secretary of the Air Force, and the Secretary of the Navy shall jointly prepare a report evaluating the military necessity of maintaining Bellows Air Force Station on the Island of Oahu, Hawaii, as a military installation of the Department of Defense.

(b) COMMUNICATION FACILITY.—As part of the report, the Secretary of the Air Force shall describe one or more alternative locations under the jurisdiction of the Department of Defense in the State of Hawaii that would be suitable for the communication operations currently conducted at Bellows Air Force Station and the cost of relocating such operations.

(c) MARINE CORPS TRAINING.—As part of the report, the Secretary of the Navy shall describe one or more alternative locations under the jurisdiction of the Department of Defense in the State of Hawaii that would be suitable for the training activities of the Marine Corps periodically conducted at Bellows Air Force Station.

(d) SUBMISSION OF REPORTS.—The report required by this section shall be submitted to Congress not later than March 1, 1993.

SEC. 2854. PROHIBITION ON COMMERCIAL DEVELOPMENT OF CALVERTON PINE BARRENS, CALVERTON, NEW YORK.

(a) PROHIBITION.—Notwithstanding any other provision of law, in the event that any parcel of the Calverton Pine Barrens is conveyed by a department or agency of the Federal Government, the instrument of conveyance shall provide for the reversion to the United States of the parcel, or any portion thereof, that is used or developed after such conveyance for commercial purposes (as determined by the head of the appropriate department or agency of the Federal Government).

(b) DEFINITION.—(1) For the purpose of this section, the term "Calverton Pine Barrens" means the parcel of real property consisting of approximately 3,243 acres of real property located at the Naval Weapons Industrial Reserve Plant, Calverton, New York.

(2) The exact acreage and legal description of the Calverton Pine Barrens shall be determined by a survey satisfactory to the Secretary of the Navy.

SEC. 2855. TECHNICAL REVISIONS TO CERTAIN MAPS INVOLVING COASTAL BARRIER RESOURCES SYSTEM.

(a) TECHNICAL REVISIONS REQUIRED.—Not later than the end of the 30-day period beginning on the date of the enactment of this Act, the Secretary of the Interior shall make such technical revisions to the maps described in subsection (c) as are necessary to ensure that—

(1) on the maps referred to in subparagraphs (A) and (B) of subsection (c)(2), depictions of areas as "otherwise protected areas" do not include any area that is not an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note);

(2) on the map referred to in subsection (c)(2)(C), depictions of areas as "otherwise protected areas" identified as "VA–60P" do not include—

(A) any area that is located south of the north bank of the Salt Ponds Inlet in Hampton, Virginia; and

(B) the area that is located north of the line described in subsection (d), other than any part of that area which is an otherwise protected area within the meaning of that term under section 12 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503 note);

(3) on the map referred to in subsection (c)(2)(A), the area consisting of approximately 5,221 acres and owned by the National Audubon Society as of September 28, 1992 (known as the "Audubon Sanctuary"), along with the associated aquatic habitat of Pine Island Bay and Goat Island Bay shall be designated and depicted as NC–01, a unit of the Coastal Barrier Resources System by the Secretary in accordance with subsection (b); and

(4) on the map referred to in subsection (c)(2)(C), areas designated as "otherwise protected areas" identified as "VA–60P" that are—

(A) north of the north bank of Salt Ponds Inlet in Hampton, Virginia; and

(B) south of the line described in subsection (d),

shall be designated and depicted on the map as VA–60, a unit of the Coastal Barrier Resources System by the Secretary in accordance with paragraph (5) of this subsection.

(b) SPECIAL RULE FOR CERTAIN REVISIONS.—In designating the units in accordance with paragraphs (3) and (4) of subsection (a), the Secretary of the Interior may make any minor and technical modifications to the boundaries of such unit as may be necessary to correct existing clerical and typographical errors in the map. The local government in which the unit is located may recommend any corrections to be considered by the Secretary.

(c) MAPS DESCRIBED.—The maps referred to in subsection (a) are—

(1) included in a set of maps entitled "Coastal Barrier Resources System", dated October 24, 1990; and

(2) entitled, respectively—

(A) "Pine Island Bay Unit, NC–01P",

(B) "Roosevelt Natural Area Unit, NC–05P", and

(C) "Plum Island Unit VA–59P Long Creek Unit VA–60P".

(d) LINE DESCRIBED.—The line referred to in subsection (a)(2)(B) is a line described as follows:

Beginning at an iron pipe in the low water line of Chesapeake Bay; said iron pipe being located 265.00 feet in a southerly direction from the south eastern corner of Fox Hill Shores Subdivision (as shown in Plat Book 9, page 161 as recorded in the Circuit Court for the City of Hampton, Virginia) and from this TRUE POINT OF BEGINNING running thence North 66 degrees 47 minutes 46 seconds West 995.79 feet to a found iron pipe; thence South 15 degrees 47 minutes 20 seconds East 270.65 feet to a found iron pipe; thence South 73 degrees 59 minutes 57 seconds West 836.68 feet to a point marking the low water line of Long Creek; being known as the southerly property line of Riley's Way.

Florida.

SEC. 2856. HOMEOWNERS ASSISTANCE FOR CERTAIN INDIVIDUALS AFFECTED BY HURRICANE ANDREW.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Defense may reimburse the persons described in subsection (b) for losses of real property owned by such persons that result from damage caused by Hurricane Andrew.

(b) ELIGIBLE PERSONS.—A person eligible for reimbursement under this section is any civilian employee of the Federal Government or member of the uniformed services who—

(1) was assigned to, or employed at or in connection with, Homestead Air Force Base, Florida, on or before August 24, 1992;

(2) incident to such assignment or employment, owned and occupied a one- or two-family dwelling, manufactured home, or condominium unit in the vicinity of Homestead Air Force Base; and

(3) as a result of the effects of Hurricane Andrew, incurred damage to the dwelling, manufactured home, or condominium unit such that—

(A) the dwelling, manufactured home, or condominium unit is unsalable (as determined by the Secretary); and

(B) the proceeds, if any, of insurance for such damage are less than an amount equal to the greater of—

(i) the fair market value of the dwelling, manufactured home, or condominium unit on August 23, 1992 (as determined by the Secretary); or

(ii) the outstanding mortgage, if any, on the dwelling, manufactured home, or condominium unit on that date.

(c) REIMBURSEMENT AMOUNT.—The amount of the reimbursement which an eligible person may be paid for a loss of real property under this section shall be determined as follows:

(1) In the case of an eligible owner of a dwelling or condominium unit, the amount shall be—

(A) the amount equal to the greater of—

(i) 85 percent of the fair market value of the dwelling or condominium unit on August 23, 1992 (as determined by the Secretary), or

(ii) the outstanding mortgage, if any, on the dwelling or condominium unit on that date; minus

(B) the proceeds, if any, of insurance referred to in subsection (b)(3)(B).

(2) In the case of an eligible owner of a manufactured home, the amount shall be—

(A) if the owner also owns the real property underlying such home, the amount determined under paragraph (1); or

(B) if the owner leases such underlying property—

(i) the amount determined under paragraph (1); plus

(ii) the amount of rent payable under the lease of such property for the period beginning on August 24, 1992, and ending on the date of the reimbursement under this section.

(d) TRANSFER AND DISPOSAL OF PROPERTY.—An owner receiving reimbursement under this section shall transfer to the Secretary all right, title, and interest of the owner in the real property

for which the owner receives such reimbursement. The Secretary shall hold, manage, and dispose of such property in the same manner that the Secretary holds, manages, and disposes of real property under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

(e) FUNDING.—(1) Notwithstanding subsection (d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374(d)), the Secretary shall make reimbursements under this section from the fund established by such subsection (d).

(2) Notwithstanding subsection (i) of such Act, there is hereby authorized to be appropriated for the fund referred to in paragraph (1) such amounts as may be necessary to carry out the purposes of this section.

DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Subtitle A—National Security Programs Authorizations

SEC. 3101. WEAPONS ACTIVITIES.

(a) OPERATING EXPENSES.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out weapons activities necessary for national security programs in the amount of $4,058,409,000, to be allocated as follows:

(1) For research and development, $1,214,900,000.

(2) For weapons testing, $375,000,000.

(3) For production and surveillance, $2,142,600,000.

(4) For program direction, $325,909,000.

(b) PLANT PROJECTS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) in carrying out weapons activities necessary for national security programs as follows:

Project GPD–101, general plant projects, various locations, $28,650,000.

Project GPD–121, general plant projects, various locations, $27,350,000.

Project 93–D–122, life safety upgrades, Y–12 Plant, Oak Ridge, Tennessee, $2,700,000.

Project 93–D–123, complex–21, various locations, $26,000,000.

Project 92–D–102, nuclear weapons research, development, and testing facilities revitalization, Phase IV, various locations, $35,000,000.

Project 92–D–122, health physics/environmental projects, Rocky Flats Plant, Golden, Colorado, $5,300,000.

Project 92–D–123, plant fire/security alarm systems replacement, Rocky Flats Plant, Golden, Colorado, $8,700,000.

Project 92–D–126, replace emergency notification systems, various locations, $10,900,000.

Project 91-D-127, criticality alarm and production annunciation utility replacement, Rocky Flats Plant, Golden, Colorado, $6,300,000.

Project 90-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase III, various locations, $50,120,000.

Project 90-D-126, environmental, safety, and health enhancements, various locations, $9,200,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $1,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $34,400,000.

Project 88-D-122, facilities capability assurance program, various locations, $87,100,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, South Carolina, $4,865,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $3,610,000.

(c) CAPITAL EQUIPMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction in carrying out weapons activities necessary for national security programs in the amount of $230,845,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $128,200,000.

SEC. 3102. NEW PRODUCTION REACTORS.

(a) OPERATING EXPENSES.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out new production reactor activities necessary for national security programs in the amount of $184,028,000.

(b) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the amount specified in subsection (a) reduced by $150,000,000.

SEC. 3103. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT.

(a) OPERATING EXPENSES.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $4,098,452,000, to be allocated as follows:

(1) For corrective activities—environment, $2,431,000.
(2) For corrective activities—defense programs, $7,386,000.
(3) For environmental restoration, $1,448,427,000.
(4) For waste management, $2,252,037,000.
(5) For technology development, $320,700,000.
(6) For transportation management, $19,335,000.
(7) For program direction, $48,136,000.

(b) PLANT PROJECTS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction,

acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) to carry out environmental restoration and waste management activities necessary for national security programs as follows:

Project GPD–171, general plant projects, various locations, $83,285,000.

Project 93–D–172, electrical upgrade, Idaho National Engineering Laboratory, Idaho, $1,000,000.

Project 93–D–174, plant drain waste water treatment upgrades, Y–12 Plant, Oak Ridge, Tennessee, $1,800,000.

Project 93–D–175, industrial waste compaction facility, Y–12 Plant, Oak Ridge, Tennessee, $2,200,000.

Project 93–D–176, Oak Ridge reservation storage facility, K–25 Plant, Oak Ridge, Tennessee, $4,000,000.

Project 93–D–177, disposal of K–1515 sanitary water treatment plant waste, K–125 Plant, Oak Ridge, Tennessee, $1,500,000.

Project 93–D–178, building 374 liquid waste treatment facility, Rocky Flats Plant, Golden, Colorado, $2,700,000.

Project 93–D–180, environmental monitoring–RCRA groundwater monitoring installation, Richland, Washington, $8,700,000.

Project 93–D–181, radioactive liquid waste line replacement, Richland, Washington, $350,000.

Project 93–D–182, replacement of cross-site transfer system, Richland, Washington, $4,495,000.

Project 93–D–183, multi-tank waste storage facility, Richland, Washington, $10,300,000.

Project 93–D–184, 325 facility compliance/renovation, Richland, Washington, $1,500,000.

Project 93–D–185, landlord program safety compliance, Phase II, Richland, Washington, $849,000.

Project 93–D–186, 200 area unsecured core area fabrication shop, Richland, Washington, $1,000,000.

Project 93–D–187, high-level waste removal from filled waste tanks, Savannah River, South Carolina, $2,000,000.

Project 93–D–188, new sanitary landfill, Savannah River, South Carolina, $2,000,000.

Project 92–D–171, mixed waste receiving and storage facility, Los Alamos National Laboratory, Los Alamos, New Mexico, $3,000,000.

Project 92–D–172, hazardous waste treatment and processing facility, Pantex Plant, Amarillo, Texas, $1,900,000.

Project 92–D–173, nitrogen oxide abatement facility, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $7,000,000.

Project 92–D–177, tank 101–AZ waste retrieval system, Richland, Washington, $3,000,000.

Project 92–D–180, inter-area line upgrade, Savannah River, South Carolina, $3,170,000.

Project 92–D–181, fire and life safety improvements, Idaho National Engineering Laboratory, Idaho, $8,000,000.

Project 92–D–182, sewer system upgrade, Idaho National Engineering Laboratory, Idaho, $3,700,000.

Project 92–D–183, transportation complex, Idaho National Engineering Laboratory, Idaho, $5,860,000.

Project 92–D–184, Hanford infrastructure underground storage tanks, Richland, Washington, $3,700,000.

Project 92–D–185, road, ground, and lighting safety improvements, 300/1100 areas, Richland, Washington, $6,500,000.

Project 92–D–187, 300 area electrical distribution, conversion, and safety improvements, Phase II, Richland, Washington, $1,724,000.

Project 92–D–188, waste management ES&H, and compliance activities, various locations, $1,000,000.

Project 92–D–402, sanitary sewer system rehabilitation, Lawrence Livermore National Laboratory, California, $5,500,000.

Project 92–D–403, tank upgrade project, Lawrence Livermore National Laboratory, California, $10,100,000.

Project 91–EM–100, environmental and molecular sciences laboratory, Richland, Washington, $28,500,000.

Project 91–D–171, waste receiving and processing facility, module 1, Richland, Washington, $21,800,000.

Project 91–D–172, high-level waste tank farm replacement, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, $57,530,000.

Project 91–D–173, hazardous low-level waste processing tanks, Savannah River, South Carolina, $15,300,000.

Project 91–D–175, 300 area electrical distribution, conversion, and safety improvements, Phase I, Richland, Washington, $981,000.

Project 90–D–103, environment, safety, and health improvements, various locations, Los Alamos National Laboratory, Los Alamos, New Mexico, $6,315,000.

Project 90–D–174, decontamination laundry facility, Richland, Washington, $7,442,000.

Project 90–D–175, landlord program safety compliance-I, Richland, Washington, $4,753,000.

Project 90–D–176, transuranic (TRU) waste facility, Savannah River, South Carolina, $5,000,000.

Project 90–D–177, RWMC transuranic (TRU) waste characterization and storage facility, Idaho National Engineering Laboratory, Idaho, $41,700,000.

Project 89–D–122, production waste storage facilities, Y–12 Plant, Oak Ridge, Tennessee, $4,200,000.

Project 89–D–172, Hanford environmental compliance, Richland, Washington, $49,950,000.

Project 89–D–173, tank farm ventilation upgrade, Richland, Washington, $7,000,000.

Project 89–D–174, replacement high-level waste evaporator, Savannah River, South Carolina, $15,795,000.

Project 89–D–175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $7,900,000.

Project 88–D–173, Hanford waste vitrification plant, Richland, Washington, $81,471,000.

Project 87–D–181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $1,904,000.

Project 87–D–180, burial ground expansion, Savannah River, South Carolina, $8,800,000.

Project 86–D–103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, California, $2,755,000.

Project 83–D–148, nonradioactive hazardous waste management, Savannah River, South Carolina, $10,330,000.

Project 81–T–105, defense waste processing facility, Savannah River, South Carolina, $32,600,000.

(c) CAPITAL EQUIPMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction in carrying out environmental restoration and waste management activities necessary for national security programs in the amount of $153,198,000, to be allocated as follows:

(1) For corrective activities—defense programs, $1,120,000.
(2) For waste management, $132,749,000.
(3) For technology development, $16,200,000.
(4) For transportation management, $465,000.
(5) For program direction, $2,664,000.

(d) ADJUSTMENTS FOR SAVINGS.—The total amount authorized to be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c) reduced by $23,962,000 for program savings and facility transition expenses.

(e) USE OF FUNDS.—From funds authorized to be appropriated pursuant to subsection (a) to the Department of Energy for environmental restoration and waste management activities, the Secretary of Energy may reimburse the cities of Westminster, Broomfield, Thornton, and Northglenn, in the State of Colorado, $40,000,000 for the cost of implementing water management programs. Reimbursements for the water management programs shall not be considered a major Federal action for purposes of 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)).

SEC. 3104. NUCLEAR MATERIALS PRODUCTION AND OTHER DEFENSE PROGRAMS.

(a) OPERATING EXPENSES.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses incurred in carrying out nuclear materials production and other defense programs necessary for national security programs in the amount of $2,617,256,000, to be allocated as follows:

(1) For nuclear materials production, $1,418,875,000.
(2) For verification and control technology, $301,215,000.
(3) For nuclear safeguards and security, $86,837,000.
(4) For security investigations, $58,289,000.
(5) For security evaluations, $15,150,000.
(6) For nuclear safety, $25,490,000.
(7) For naval reactors, $711,400,000.

(b) PLANT PROJECTS.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for plant projects (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto) in carrying out nuclear materials production and other defense programs necessary for national security programs as follows:

(1) For materials production:

Project GPD–146, general plant projects, various locations, $32,260,000.

Project 93–D–147, domestic water system upgrade, Phase I, Savannah River, South Carolina, $1,000,000.

Project 93–D–148, replace high-level drain lines, Savannah River, South Carolina, $800,000.

Project 93–D–152, environmental modification for production facilities, Savannah River, South Carolina, $2,000,000.

Project 93–D–153, uranium recovery hydrogen fluoride system upgrade, Y–12 Plant, Oak Ridge, Tennessee, $2,400,000.

Project 92–D–140, F&H canyon exhaust upgrades, Savannah River, South Carolina, $12,500,000.

Project 92–D–141, reactor seismic improvement, Savannah River, South Carolina, $5,000,000.

Project 92–D–142, nuclear material processing training center, Savannah River, South Carolina, $11,700,000.

Project 92–D–143, health protection instrument calibration facility, Savannah River, South Carolina, $8,000,000.

Project 92–D–150, operations support facilities, Savannah River, South Carolina, $4,100,000.

Project 92–D–153, engineering support facility, Savannah River, South Carolina, $3,500,000.

Project 90–D–141, Idaho Chemical Processing Plant fire protection, Idaho National Engineering Laboratory, Idaho, $1,553,000.

Project 90–D–149, plantwide fire protection, Phases I and II, Savannah River, South Carolina, $39,685,000.

Project 90–D–150, reactor safety assurance, Phases I, II, and III, Savannah River, South Carolina, $4,210,000.

Project 89–D–140, additional separations safeguards, Savannah River, South Carolina, $13,104,000.

Project 89–D–148, improved reactor confinement system, Savannah River, South Carolina, $4,240,000.

Project 86–D–149, productivity retention program, Phases I, II, III, IV, V, and VI, various locations, $11,651,000.

Project 86–D–152, reactor electrical distribution system, Savannah River, South Carolina, $5,647,000.

Project 85–D–145, fuel production facility, Savannah River Site, South Carolina, $17,000,000.

(2) For verification and control technology:

Project 90–D–186, center for national security and arms control, Sandia National Laboratories, Albuquerque, New Mexico, $10,000,000.

(3) For nuclear safeguards and security:

Project GPD–186, general plant projects, Central Training Academy, Albuquerque, New Mexico, $2,000,000.

(4) For naval reactors development:

Project GPN–101, general plant projects, various locations, $8,500,000.

Project 93–D–200, engineering services facilities, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,200,000.

Project 92–D–200, laboratories facilities upgrades, various locations, $7,500,000.

Project 90–N–102, expended core facility dry cell project, Naval Reactors Facility, Idaho, $13,600,000.

Project 90–N–103, advanced test reactor off-gas treatment system, Idaho National Engineering Laboratory, Idaho, $500,000.

Project 90–N–104, facilities renovation, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,900,000.

(c) CAPITAL EQUIPMENT.—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1993 for capital equipment not related to construction in carrying out nuclear materials production and other defense programs necessary for national security programs as follows:

(1) For nuclear materials production, $80,900,000.

(2) For verification and control technology, $16,500,000.

(3) For nuclear safeguards and security, $5,327,000.

(4) For nuclear safety, $50,000.

(5) For naval reactors development, $60,400,000.

(d) ADJUSTMENTS.—The total amount that may be appropriated pursuant to this section is the sum of the amounts specified in subsections (a) through (c)—

(1) reduced by—

(A) $400,000,000 for recovery of overpayment to the Savannah River Pension Fund;

(B) $45,000,000 for anticipated savings; and

(C) $31,082,000 for use of prior-year balances; and

(2) increased by $22,400,000 for education programs.

SEC. 3105. FUNDING USES AND LIMITATIONS.

(a) INERTIAL CONFINEMENT FUSION.—Of the funds authorized to be appropriated to the Department of Energy for fiscal year 1993 for operating expenses and capital equipment, $212,300,000 shall be available for the defense inertial confinement fusion program.

(b) FIRE PROTECTION AND COOLING OR REFRIGERATION SYSTEMS.—None of the funds appropriated or otherwise made available to the Department of Energy for fiscal year 1993 may be obligated for the design, purchase, or installation of any fire protection system or cooling or refrigeration system that utilizes class I chlorofluorocarbons (as listed under section 602(a) of the Clean Air Act (42 U.S.C. 7671a(a))) unless the Secretary of Energy determines that an alternative system meeting the operational requirements of the Department of Energy is not commercially available or is not cost-effective when analyzed under a life-cycle cost analysis.

(c) RECONFIGURATION OF NONNUCLEAR ACTIVITIES.—(1) None of the funds appropriated or otherwise made available to the Department of Energy may be obligated for the implementation of the reconfiguration of any nonnuclear activities of the Department of Energy until—

(A) the Secretary of Energy submits a report to the congressional defense committees that contains an analysis of the projected life-cycle costs and benefits of the proposed nonnuclear reconfiguration and an analysis—

(i) of the alternatives to the current configuration of nonnuclear activities of the Department of Energy identified in any environmental documentation prepared pursu-

ant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321); and

(ii) that takes into account all relevant costs and benefits and includes a discounted cash flow analysis of each alternative;

(B) the Secretary certifies to the congressional defense committees that the discounted cash flow analysis demonstrates that the closure of each Department of Energy nonnuclear defense facility or activity identified for closure and each transfer of a nonnuclear activity pursuant to the proposed nonnuclear reconfiguration is cost effective;

(C) in the case of components for which the production is proposed to be moved to a government-owned, contractor-operated facility from a contractor-owned, contractor-operated facility because of nonnuclear reconfiguration and that have been produced in a contractor-owned, contractor-operated facility after January 1, 1989, the Secretary certifies to the congressional defense committees that such production is cost-effective on a component-by-component basis;

(D) the Secretary certifies to the congressional defense committees that the reconfiguration of nonnuclear activities of the Department of Energy will not increase technological, environmental, safety, or health risks relating to the operation of the facilities of the Department; and

(E) 90 days have elapsed after the later of—

(i) the date of the submittal of the report under subparagraph (A); and

(ii) the date of the certification under subparagraph (B).

(2) This subsection may not be construed to prohibit the obligation of funds for the purpose of conducting any study or analysis that the Secretary determines necessary for assessing the cost-effectiveness, practicability, or feasibility of reconfiguring the activities of the Department of Energy to nonnuclear purposes.

(d) NUCLEAR PRODUCTION REACTORS.—Funds authorized to be appropriated under section 3102 for fiscal year 1993 and otherwise made available to the Secretary of Energy for such fiscal year for the new production reactors program shall be available only for the following purposes and in the following amounts:

(1) For close-out of the new production reactors program (including completion of documentation and test programs underway as of October 1, 1992), $136,028,000.

(2) For evaluation of an advanced light water reactor and a modular high temperature gas reactor to determine the feasibility and effectiveness of disposing of plutonium, production of tritium (if needed), and production of electricity, $30,000,000.

(3) For research on accelerator production of tritium, $18,000,000.

Subtitle B—Recurring General Provisions

SEC. 3121. REPROGRAMMING.

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this title—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may not be taken until—

(A) the Secretary of Energy has submitted to the congressional defense committees a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 3122. LIMITS ON GENERAL PLANT PROJECTS.

(a) IN GENERAL.—The Secretary of Energy may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If, at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the congressional defense committees explaining the reasons for the cost variation.

SEC. 3123. LIMITS ON CONSTRUCTION PROJECTS.

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by sections 3101, 3102, 3103, and 3104, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken if—

(A) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such actions necessary; and

(B) a period of 30 days has elapsed after the date on which the report is received by the committees.

(3) In the computation of the 30-day period under paragraph (2), there shall be excluded any day on which either

House of Congress is not in session because of an adjournment of more than 3 calendar days to a day certain.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 3124. FUND TRANSFER AUTHORITY.

Funds appropriated pursuant to this title may be transferred to other agencies of Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

SEC. 3125. AUTHORITY FOR CONSTRUCTION DESIGN.

(a) IN GENERAL.—

(1) Within the amounts authorized by this title for plant engineering and design, the Secretary of Energy may carry out advance planning and construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In the case of any project in which the total estimated cost for advance planning and design exceeds $300,000, the Secretary shall notify the congressional defense committees in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such planning and design must be specifically authorized by law.

SEC. 3126. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

(a) AUTHORITY.—The Secretary of Energy may use any funds available to the Department of Energy, including those funds authorized to be appropriated for advance planning and construction design under sections 3101, 3102, 3103, 3104, to perform planning, design, and construction activities for any Department of Energy defense activity construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, meet the needs of national defense, or protect property.

(b) LIMITATION.—The Secretary may not exercise the authority under subsection (a) in the case of any construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making such activities necessary.

(c) SPECIFIC AUTHORITY.—The requirement of section 3125(b) does not apply to emergency planning, design, and construction activities conducted under this section.

(d) REPORT.—The Secretary of Energy shall promptly report to the congressional defense committees any exercise of authority under this section.

SEC. 3127. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3121, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 3128. AVAILABILITY OF FUNDS.

When so specified in an appropriation Act, amounts appropriated for operating expenses, plant projects, and capital equipment may remain available until expended.

Subtitle C—Other Matters

SEC. 3131. USE OF FUNDS FOR PAYMENT OF PENALTY ASSESSED AGAINST FERNALD ENVIRONMENTAL MANAGEMENT PROJECT.

The Secretary of Energy may pay to the Environmental Protection Agency, from funds appropriated to the Department of Energy for environmental restoration and waste management activities pursuant to section 3103, a stipulated civil penalty in the amount of $100,000 assessed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) against the Fernald Environmental Management Project.

SEC. 3132. REPORT ON DEPARTMENT OF ENERGY CITIZEN ADVISORY GROUPS.

(a) REPORT.—Not later than May 15, 1993, the Secretary of Energy shall submit to the Congress a report on the role and effectiveness of citizen advisory groups for the Department of Energy. The report shall include an assessment of—

(1) the effectiveness of existing advisory groups that advise the Department of Energy;

(2) the desirability of establishing new or replacement advisory groups with respect to the Department of Energy; and

(3) methods of improving public participation in environmental and waste management activities of the Department of Energy.

(b) COMMENTS AND RECOMMENDATIONS.—In preparing the report required under subsection (a), the Secretary of Energy shall solicit comments and recommendations from existing advisory groups that advise the Department of Energy, the general public, environmental organizations, and appropriate officials of States in which Department of Energy facilities are located. The Secretary shall include such comments and recommendations in the report.

SEC. 3133. NUCLEAR WEAPONS COUNCIL MEMBERSHIP.

Section 179(a)(1) of title 10, United States Code, is amended to read as follows:

"(1) The Under Secretary of Defense for Acquisition.".

SEC. 3134. REPORTS ON THE DEVELOPMENT OF NEW TRITIUM PRODUCTION CAPACITY.

(a) REPORT BY THE SECRETARY OF ENERGY.—(1) The Secretary of Energy shall annually submit to the congressional defense

committees a report on the new tritium production capacity of the Department of Energy.

(2) The annual report shall include the following:

(A) An estimate of the date by which new production reactor capacity will be necessary in order to maintain the active and any reserve stockpile of nuclear weapons of the United States.

(B) An estimate of the date on which construction of such capacity should begin in order to maintain the active and any reserve stockpile.

(C) An assessment of the technical adequacy of the methods available for the production of tritium, including an assessment of the risk that each method may fail to produce tritium on a reliable basis within the period necessary for meeting the requirements of the United States.

(D) An assessment of the capability of the potential industrial suppliers of new tritium production capacity, including reactors, to design and construct such capacity by the date estimated pursuant to subparagraph (A).

(3) The Secretary shall submit the annual report in 1993 and each year thereafter until the construction of the new tritium production capacity is completed. The Secretary shall submit the report not later than 60 days after the date on which the President submits the budget to Congress under section 1105 of title 31, United States Code. The report shall be submitted in unclassified form with a classified appendix if necessary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the technology chosen for new tritium production capacity shall be the technology that has the highest probability of successfully sustaining operation, the lowest risk of operational failure, and the lowest cost of construction and operation (including any revenues accruing to the United States from such operation).

SEC. 3135. TECHNOLOGY TRANSFER.

(a) EXPEDITED REVIEW OF AGREEMENTS WITH SMALL BUSINESSES.—Section 12(c)(5) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(c)(5)) is amended—

(1) in subparagraph (C)(i), by striking out "Any agency" and inserting in lieu thereof "Except as provided in subparagraph (D), any agency"; and

(2) by adding at the end the following new subparagraph:

"(D)(i) Any non-Federal entity that operates a laboratory pursuant to a contract with a Federal agency shall submit to the agency any cooperative research and development agreement that the entity proposes to enter into with a small business firm and the joint work statement required with respect to that agreement.

"(ii) A Federal agency that receives a proposed agreement and joint work statement under clause (i) shall review and approve, request specific modifications to, or disapprove the proposed agreement and joint work statement within 30 days after such submission. No agreement may be entered into by a Government-owned, contractor-operated laboratory under this section before both approval of the agreement and approval of a joint work statement under this clause.

"(iii) In any case in which an agency which has contracted with an entity referred to in clause (i) disapproves or requests the modification of a cooperative research and development agree-

ment or joint work statement submitted under that clause, the agency shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.".

(b) TECHNOLOGY TRANSFER TO SMALL BUSINESSES.—(1) The Secretary of Energy shall establish a program to facilitate and encourage the transfer of technology to small businesses and shall issue guidelines relating to the program not later than May 1, 1993. 42 USC 7261b.

(2) For the purposes of this subsection, the term "small business" means a business concern that meets the applicable size standards prescribed pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(c) FUNDING.—Funds authorized to be appropriated to the Department of Energy and made available for laboratory directed research and development shall be available for cooperative research and development agreements or other arrangements for technology transfer.

SEC. 3136. EXPANSION OF AUTHORITY TO LOAN PERSONNEL AND FACILITIES.

(a) AUTHORITY TO LOAN PERSONNEL.—Subsection (a)(1) of section 1434 of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456; 102 Stat. 2074) is amended—

(1) by inserting "(A)" after "(1)";

(2) in the first sentence, by striking out "or construction management at the Hanford Reservation, Washington," and all that follows through the period, and inserting in lieu thereof the following: "or construction management—

"(i) at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri-City Industrial Development Council serving Benton and Franklin Counties, Washington; and

"(ii) at the Idaho National Engineering Laboratory, Idaho, to loan personnel in accordance with this section to any community-based organization."; and

(3) by striking out the second sentence and inserting in lieu thereof the following:

"(B) Any loan under subparagraph (A) shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at the Hanford Reservation and the Idaho National Engineering Laboratory.".

(b) FUNDING.—Subsection (a)(3) of such section is amended by inserting after the first sentence the following: "In fiscal year 1993, the Secretary of Energy may not obligate or expend for loans of personnel under this section more than $125,000 with respect to the Hanford Reservation. In each of fiscal years 1993 and 1994, the Secretary of Energy may not obligate or expend for loans of personnel under this section more than $250,000 with respect to the Idaho National Engineering Laboratory.".

(c) AUTHORITY TO LOAN FACILITIES.—Subsection (b) of such section is amended by inserting "or the Idaho National Engineering Laboratory, Idaho," after "Hanford Reservation, Washington,".

(d) DURATION OF PROGRAM.—Subsection (c) of such section is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1993, with respect to the Hanford

Reservation, and September 30, 1994, with respect to the Idaho National Engineering Laboratory".

SEC. 3137. STUDY OF CONVERSION OF NEVADA TEST SITE FOR USE FOR SOLAR ENERGY PRODUCTION PURPOSES.

(a) REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Energy, in consultation with the Secretary of Defense and the Administrator of the Environmental Protection Agency, shall carry out and submit to Congress a study on the utilization of the Nevada Test Site, Nevada, or portions thereof, for the development of—

(1) solar energy research and production technologies;

(2) environmental technologies research and testing; and

(3) emergency management and response technology.

(b) STUDY ELEMENTS.—In carrying out the study under subsection (a), the Secretary of Energy shall consider the following:

(1) The potential of the Nevada Test Site for solar energy production from a variety of solar energy production technologies, including technologies for the production of thermal energy and photovoltaic energy.

(2) The costs and benefits of the use of the site for development of the technologies.

(3) The effect of the development of the Nevada Test Site on the economy and employment rates in the region in which the Nevada Test Site is located.

(4) The effectiveness of plans for retraining current employees at the Nevada Test Site for employment in technologies addressed by the study.

(5) The effect of the development of the various technologies at the Nevada Test Site on the manufacturing and export economy of the United States.

(6) The extent to which the development of technologies at the Nevada Test Site is compatible with current and proposed alternative uses of the Site, including the compatibility of such development with environmental restoration and other clean-up activities at the Site and with continuing use of the Site for limited nuclear testing.

(7) The extent to which the conduct of such activities at the Nevada Test Site would duplicate the conduct of activities undertaken at other Federal facilities.

(8) The extent to which alternative uses of the Site would be consistent with projected and potential national security uses, including nuclear explosives testing of the Site.

(9) The extent to which conversion and development of the Site as a commercial facility is practicable and feasible.

Subtitle D—International Fissile Material and Warhead Control

SEC. 3151. NEGOTIATIONS.

(a) IN GENERAL.—The Congress urges the President to enter into negotiations with member states of the Commonwealth of Independent States, to complement ongoing and future arms reduction negotiations and agreements, with the goal of achieving verifiable agreements in the following areas:

(1) Dismantlement of nuclear weapons.

(2) The safeguard and permanent disposal of nuclear materials.

(3) An end by the United States and member states of the Commonwealth of Independent States to the production of plutonium and highly enriched uranium for nuclear weapons.

(4) The extension of negotiations on these issues to all nations capable of producing nuclear weapons materials.

(b) EXCHANGES OF INFORMATION.—The Congress urges the President, in order to establish a data base on production capabilities of member states of the Commonwealth of Independent States and their stockpiles of fissile materials and nuclear weapons, to seek to achieve agreements with such states to reciprocally release information on—

(1) United States and the member states nuclear weapons stockpiles, including the number of warheads and bombs by type, and schedules for weapons production and dismantlement;

(2) the location, mission, and maximum annual production capacity of United States and member states facilities that are essential to the production of tritium for replenishment of that nation's tritium stockpile;

(3) the inventory of United States and member states facilities dedicated to the production of plutonium and highly enriched uranium for weapons purposes; and

(4) United States and members states stockpiles of plutonium and highly enriched uranium used for nuclear weapons.

(c) TECHNICAL WORKING GROUPS.—The Congress urges the President, in order to facilitate the achievement of agreements referred to in subsection (a), to establish with member states of the Commonwealth of Independent States and with other nations capable of producing nuclear weapons material bilateral or multilateral technical working groups to examine and demonstrate cooperative technical monitoring and inspection arrangements that could be applied to the verification of—

(1) information on mission, location, and maximum annual production capacity of nuclear material production facilities and the size of stockpiles of plutonium and highly enriched uranium;

(2) nuclear arms reduction agreements that would include provisions requiring the verifiable dismantlement of nuclear warheads; and

(3) bilateral or multilateral agreements to halt the production of plutonium and highly enriched uranium for nuclear weapons.

(d) REPORT.—The President shall submit to the Congress, not later than March 31, 1993, a report on the progress made by the President in implementing the actions called for in subsections (a) through (c). President.

(e) PRODUCTION BY COMMONWEALTH OF INDEPENDENT STATES.—The Congress urges the Presidents of the member states of the Commonwealth of Independent States—

(1) to institute a moratorium on production of plutonium and highly enriched uranium for nuclear weapons; and

(2) to pledge to continue such moratorium for so long as the United States does not produce such materials.

SEC. 3152. AUTHORITY TO RELEASE CERTAIN RESTRICTED DATA.

Section 142 of the Atomic Energy Act of 1954 (42 U.S.C. 2162) is amended by adding at the end the following new subsection:

"f. Notwithstanding any other law, the President may publicly release Restricted Data regarding the nuclear weapons stockpile of the United States if the United States and member states of the Commonwealth of Independent States reach reciprocal agreement on the release of such data.".

SEC. 3153. DEVELOPMENT AND DEMONSTRATION PROGRAM.

(a) PROGRAM.—Of funds authorized to be appropriated in section 3104 for fiscal year 1993 for verification and control activities, $10,000,000 shall be available only to carry out a program—

(1) to develop and demonstrate a means for verifiable dismantlement of nuclear warheads;

(2) to safeguard and dispose of nuclear materials; and

(3) to develop reliable techniques and procedures for verifying a global ban on the production of fissile materials for weapons purposes.

(b) REPORT.—The Secretary shall include a report on such program in budget justification documents submitted to Congress in support of the budget of the Department of Energy for fiscal year 1994. The report shall be submitted in both classified and unclassified form.

SEC. 3154. PRODUCTION OF TRITIUM.

Nothing in this part may be construed as intending to affect the production of tritium.

Subtitle E—Defense Nuclear Workers

42 USC 7274h.

SEC. 3161. DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES WORK FORCE RESTRUCTURING PLAN.

(a) IN GENERAL.—Upon determination that a change in the workforce at a defense nuclear facility is necessary, the Secretary of Energy (hereinafter in this subtitle referred to as the "Secretary") shall develop a plan for restructuring the work force for the defense nuclear facility that takes into account—

(1) the reconfiguration of the defense nuclear facility; and

(2) the plan for the nuclear weapons stockpile that is the most recently prepared plan at the time of the development of the plan referred to in this subsection.

(b) CONSULTATION.—(1) In developing a plan referred to in subsection (a) and any updates of the plan under subsection (e), the Secretary shall consult with the Secretary of Labor, appropriate representatives of local and national collective-bargaining units of individuals employed at Department of Energy defense nuclear facilities, appropriate representatives of departments and agencies of State and local governments, appropriate representatives of State and local institutions of higher education, and appropriate representatives of community groups in communities affected by the restructuring plan.

(2) The Secretary shall determine appropriate representatives of the units, governments, institutions, and groups referred to in paragraph (1).

(c) OBJECTIVES.—In preparing the plan required under subsection (a), the Secretary shall be guided by the following objectives:

(1) Changes in the work force at a Department of Energy defense nuclear facility—

(A) should be accomplished so as to minimize social and economic impacts;

(B) should be made only after the provision of notice of such changes not later than 120 days before the commencement of such changes to such employees and the communities in which such facilities are located; and

(C) should be accomplished, when possible, through the use of retraining, early retirement, attrition, and other options that minimize layoffs.

(2) Employees whose employment in positions at such facilities is terminated shall, to the extent practicable, receive preference in any hiring of the Department of Energy (consistent with applicable employment seniority plans or practices of the Department of Energy and with section 3152 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101–189; 103 Stat. 1682)).

(3) Employees shall, to the extent practicable, be retrained for work in environmental restoration and waste management activities at such facilities or other facilities of the Department of Energy.

(4) The Department of Energy should provide relocation assistance to employees who are transferred to other Department of Energy facilities as a result of the plan.

(5) The Department of Energy should assist terminated employees in obtaining appropriate retraining, education, and reemployment assistance (including employment placement assistance).

(6) The Department of Energy should provide local impact assistance to communities that are affected by the restructuring plan and coordinate the provision of such assistance with—

(A) programs carried out by the Department of Labor pursuant to the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

(B) programs carried out pursuant to the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Part D of Public Law 101–510; 10 U.S.C. 2391 note); and

(C) programs carried out by the Department of Commerce pursuant to title IX of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3241 et seq.).

(d) IMPLEMENTATION.—The Secretary shall, subject to the availability of appropriations for such purpose, work on an ongoing basis with representatives of the Department of Labor, work force bargaining units, and States and local communities in carrying out a plan required under subsection (a).

(e) PLAN UPDATES.—Not later than one year after issuing a plan referred to in subsection (a) and on an annual basis thereafter, the Secretary shall issue an update of the plan. Each updated plan under this subsection shall—

(1) be guided by the objectives referred to in subsection (c), taking into account any changes in the function or mission of the Department of Energy defense nuclear facilities and any other changes in circumstances that the Secretary determines to be relevant;

(2) contain an evaluation by the Secretary of the implementation of the plan during the year preceding the report; and

(3) contain such other information and provide for such other matters as the Secretary determines to be relevant.

(f) SUBMITTAL TO CONGRESS.—(1) The Secretary shall submit to Congress a plan referred to in subsection (a) with respect to a defense nuclear facility within 90 days after the date on which a notice of changes described in subsection (c)(1)(B) is provided to employees of the facility, or 90 days after the date of the enactment of this Act, whichever is later.

(2) The Secretary shall submit to Congress any updates of the plan under subsection (e) immediately upon completion of any such update.

42 USC 7274i.

SEC. 3162. PROGRAM TO MONITOR DEPARTMENT OF ENERGY WORKERS EXPOSED TO HAZARDOUS AND RADIOACTIVE SUBSTANCES.

(a) IN GENERAL.—The Secretary shall establish and carry out a program for the identification and on-going medical evaluation of current and former Department of Energy employees who are subject to significant health risks as a result of the exposure of such employees to hazardous or radioactive substances during such employment.

Regulations.

(b) IMPLEMENTATION OF PROGRAM.—(1) The Secretary shall, with the concurrence of the Secretary of Health and Human Services, issue regulations under which the Secretary shall implement the program. Such regulations shall, to the extent practicable, provide for a process to—

(A) identify the hazardous substances and radioactive substances to which current and former Department of Energy employees may have been exposed as a result of such employment;

(B) identify employees referred to in subparagraph (A) who received a level of exposure identified under paragraph (2)(B);

(C) determine the appropriate number, scope, and frequency of medical evaluations and laboratory tests to be provided to employees who have received a level of exposure identified under paragraph (2)(B) to permit the Secretary to evaluate fully the extent, nature, and medical consequences of such exposure;

(D) make available the evaluations and tests referred to in subparagraph (C) to the employees referred to in such subparagraph;

(E) ensure that privacy is maintained with respect to medical information that personally identifies any such employee; and

(F) ensure that employee participation in the program is voluntary.

(2)(A) In determining the most appropriate means of carrying out the activities referred to in subparagraphs (A) through (D) of paragraph (1), the Secretary shall consult with the Secretary of Health and Human Services under the agreement referred to in subsection (c).

(B) The Secretary of Health and Human Services, with the assistance of the Director of the Centers for Disease Control and the Director of the National Institute for Occupational Safety and

Health, and the Secretary of Labor shall identify the levels of exposure to the substances referred to in subparagraph (A) of paragraph (1) that present employees referred to in such subparagraph with significant health risks under Federal and State occupational, health, and safety standards;

(3) In prescribing the guidelines referred to in paragraph (1), the Secretary shall consult with representatives of the following entities:

(A) The American College of Occupational and Environmental Medicine.

(B) The National Academy of Sciences.

(C) The National Council on Radiation Protection.

(D) Any labor organization or other collective bargaining agent authorized to act on the behalf of employees of a Department of Energy defense nuclear facility.

(4) The Secretary shall provide for each employee identified under paragraph (1)(D) and provided with any medical examination or test under paragraph (1)(E) to be notified by the appropriate medical personnel of the identification and the results of any such examination or test. Each notification under this paragraph shall be provided in a form that is readily understandable by the employee.

(5) The Secretary shall collect and assemble information relating to the examinations and tests carried out under paragraph (1)(E).

(6) The Secretary shall commence carrying out the program described in this subsection not later than 1 year after the date of the enactment of this Act.

(c) AGREEMENT WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Secretary of Health and Human Services relating to the establishment and conduct of the program required and regulations issued under this section.

SEC. 3163. DEFINITIONS. 42 USC 7274j.

For purposes of this subtitle:

(1) The term "Department of Energy defense nuclear facility" means—

(A) a production facility or utilization facility (as those terms are defined in section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014)) that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the tritium loading facility at Savannah River, South Carolina, the 236 H facility at Savannah River, South Carolina; and the Mound Laboratory, Ohio), but the term does not include any facility that does not conduct atomic energy defense activities and does not include any facility or activity covered by Executive Order Number 12344, dated February 1, 1982, pertaining to the naval nuclear propulsion program;

(B) a nuclear waste storage or disposal facility that is under the control or jurisdiction of the Secretary;

(C) a testing and assembly facility that is under the control or jurisdiction of the Secretary and that is operated for national security purposes (including the Nevada Test

Site, Nevada; the Pinnellas Plant, Florida; and the Pantex facility, Texas);

(D) an atomic weapons research facility that is under the control or jurisdiction of the Secretary (including the Lawrence Livermore, Los Alamos, and Sandia National Laboratories); or

(E) any facility described in paragraphs (1) through (4) that—

(i) is no longer in operation;

(ii) was under the control or jurisdiction of the Department of Defense, the Atomic Energy Commission, or the Energy Research and Development Administration; and

(iii) was operated for national security purposes.

(2) The term "Department of Energy employee" means any employee of the Department of Energy employed at a Department of Energy defense nuclear facility, including any employee of a contractor or subcontractor of the Department of Energy employed at such a facility.

TITLE XXXII—NUCLEAR SAFETY

SEC. 3201. AUTHORIZATION FOR DEFENSE NUCLEAR SAFETY BOARD.

There are authorized to be appropriated for fiscal year 1993, $13,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

SEC. 3202. NUCLEAR SAFETY IN EASTERN EUROPE AND THE FORMER SOVIET UNION.

(a) FINDINGS.—The Congress finds that—

(1) the Chernobyl nuclear reactor accident on April 26, 1986, has resulted in $283 to $352 billion worth of damage, with more than 4,000,000 people still living on land contaminated with radiation;

(2) there are 16 Chernobyl-type RBMK reactors now operating in Russia, Ukraine, and Lithuania, all of which have faulty designs, poor construction, and dangerously lax and outdated operating procedures;

(3) there are dozens of Soviet-designed reactors now operating in Eastern Europe and the former Soviet Union with poor construction and lax and outdated operating procedures;

(4) a serious nuclear reactor accident in one of the newly freed states of Eastern Europe and the former Soviet Union would seriously exacerbate these states' difficult progress towards economic recovery and could lead to political instability;

(5) retrofitting the RBMK reactors with modern Western safety equipment will result in only marginal safety improvements at great expense; and

(6) alternative power sources, such as natural gas turbines, and modern energy efficiency measures and technologies could displace the need for much of the power which these reactors provide.

(b) UNITED STATES POLICY.—It is the sense of Congress that the President should undertake bilateral and multilateral initiatives, including trade initiatives, to—

(1) assist in bringing on line enough replacement power and modern energy efficiency measures and technologies in the states of Eastern Europe and the former Soviet Union so that the RBMK reactors may be shut down as soon as possible and placed in stable condition to prevent radiological contamination;

(2) assist the states of Eastern Europe and the former Soviet Union in upgrading their other nuclear reactors to Western standards of safety and in ensuring that all of their nuclear reactors receive routine maintenance and repairs;

(3) encourage and provide technical assistance to Russia and Ukraine to enact domestic legislation governing nuclear reactor safety;

(4) negotiate formal agreements for nuclear cooperation with Russia and Ukraine;

(5) identify nuclear safety research as a principal focus of the soon-to-be created nuclear science centers in Ukraine and Russia; and

(6) make greater resources available to the International Atomic Energy Agency to promote programs of nuclear safety in Eastern Europe and the former Soviet Union.

(c) REPORTING REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the President shall submit to Congress a report with a systematic assessment of the nuclear reactor safety situation in Eastern Europe and the former Soviet Union, with a description of specific bilateral and multilateral initiatives the Administration is taking and plans to take to address these nuclear safety issues. President.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Subtitle A—Modernization Program

SEC. 3301. DEFINITIONS. 50 USC 98d note.

For purposes of this subtitle:

(1) The terms "National Defense Stockpile" and "stockpile" mean the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

(2) The term "National Defense Stockpile Transaction Fund" means the fund in the Treasury of the United States established under section 9(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(a)).

SEC. 3302. DISPOSAL OF OBSOLETE AND EXCESS MATERIALS CONTAINED IN THE NATIONAL DEFENSE STOCKPILE. 50 USC 98d note.

(a) DISPOSAL AUTHORIZED.—Subject to the conditions specified in subsection (b), the President may dispose of obsolete and excess materials currently contained in the National Defense Stockpile in order to modernize the stockpile. The materials subject to disposal under this subsection and the quantity of each material authorized to be disposed of by the President are set forth in the following table:

Authorized Stockpile Disposals

Material for disposal	Quantity
Aluminum Oxide, Abrasive Grain	51,022 short tons

(1) complies with the requirements of section 10(c) of such Act (50 U.S.C. 98h–1), as added by section 3314; and

(2) contains the certification of the Secretary of Defense that the disposal of such materials will not adversely affect the capability of the National Defense Stockpile to supply the strategic and critical materials necessary to meet the needs of the United States during a period of national emergency that requires a significant level of mobilization of the economy of the United States, including any reconstitution of the military and industrial capabilities necessary to meet the planning assumptions used by the Secretary of Defense under section 14(b) of such Act (50 U.S.C. 98h–5(b)).

(c) REQUIRED USE OF PREVIOUS DISPOSAL AUTHORITIES.—(1) The President shall complete the disposal of all quantities of materials in the National Defense Stockpile that— President.

(A) have been previously authorized for disposal by law; and

(B) have not been disposed of before the date of the enactment of this Act.

(2) The disposal of materials required by this subsection shall be completed before the end of the five-year period beginning on October 1, 1992, unless the President notifies Congress that the Market Impact Committee established under section 10(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(c)), as added by section 3314, determines that completion of the disposal of such materials during such period would result in the undue disruption of the usual markets of such materials. The notification shall also indicate the date on which the disposal of such materials will be completed.

(d) SPECIAL LIMITATION REGARDING SILVER.—(1) The disposal of silver under this section may only occur in the form of coins or, subject to paragraph (2), as material furnished by the Federal Government to a contractor for the use of the contractor in the performance of a Federal Government contract.

(2) A contractor receiving silver as Government furnished material shall pay the Federal Government the amount equal to the fair market value of the silver, as determined by the National Defense Stockpile Manager. The amount paid by the contractor for the silver shall be deposited in the National Defense Stockpile Transaction Fund.

(e) SPECIAL LIMITATION REGARDING CHROMITE AND MANGANESE ORES.—During fiscal year 1993, the disposal of chromite and manganese ores of metallurgical grade under subsection (a) may be made only for processing within the United States and the territories and possessions of the United States.

(f) SPECIAL LIMITATION REGARDING CHROMIUM AND MANGANESE FERRO.—The disposal of chromium ferro and manganese ferro under subsection (a) may not commence before October 1, 1993.

(g) RELATIONSHIP TO OTHER DISPOSAL AUTHORITY.—The disposal authority provided in subsection (a) is in addition to any other disposal authority provided by law.

SEC. 3303. USE OF BARTER ARRANGEMENTS IN MODERNIZATION PROGRAM. 50 USC 98d note.

The President may enter into barter arrangements to dispose of materials under section 3302 in order to acquire strategic and

critical materials for, or upgrade strategic and critical materials in, the National Defense Stockpile.

SEC. 3304. DEPOSIT OF PROCEEDS FROM DISPOSALS IN THE NATIONAL DEFENSE STOCKPILE FUND.

All moneys received from the sale of materials under section 3302 shall be deposited in the National Defense Stockpile Transaction Fund.

SEC. 3305. AUTHORIZED USES OF STOCKPILE FUNDS.

(a) USE FOR ACQUISITIONS AND OTHER PURPOSES.—During fiscal year 1993, the National Defense Stockpile Manager may obligate up to $66,000,000 of the funds in the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the authorized uses of such funds under section 9(b)(2) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)(2)).

(b) RESEARCH AND DEVELOPMENT PROGRAMS.—Of the amount specified in subsection (a), $25,000,000 may be obligated for materials development and research under subparagraph (G) of such section.

50 USC 98h-1 note.

SEC. 3306. ADVISORY COMMITTEE REGARDING OPERATION AND MODERNIZATION OF THE STOCKPILE.

President.

(a) APPOINTMENT.—Not later than March 15, 1993, the President shall appoint an advisory committee under section 10(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1(a)) to make recommendations to the President concerning the operation and modernization of the National Defense Stockpile.

(b) MEMBERSHIP.—The committee shall consist of members who have expertise regarding strategic and critical materials, including—

(1) employees of Federal agencies (including the Department of Defense, the Department of State, the Department of Commerce, the Department of Energy, the Department of the Treasury, the Department of the Interior, and the Federal Emergency Management Agency);

(2) representatives of mining, processing, and fabricating industries and consumers that would be affected by the acquisition of materials for the stockpile or the disposal of materials from the stockpile; and

(3) other interested persons or representatives of interested organizations.

SEC. 3307. SPECIAL RULE FOR 1993 REPORT ON STOCKPILE REQUIREMENTS.

In the report on stockpile requirements required to be submitted to Congress by January 15, 1993, pursuant to section 14 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5), the Secretary of Defense shall include, in addition to the Secretary's recommendations with respect to stockpile requirements based upon the planning assumptions developed under subsection (b) of such section, the following information:

(1) A list of recommendations with respect to stockpile requirements that is based upon and consistent with the planning assumptions and scenarios that support—

(A) the defense capabilities and programs of the Armed Forces specified in the budget submitted to Congress under

section 1105 of title 31, United States Code, for fiscal year 1994; and

(B) the future-years defense program submitted under section 221 of title 10, United States Code, with respect to that budget.

(2) An explanation of the reasons for any deviation between the Secretary's recommendations with respect to stockpile requirements prepared under section 14(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–5(a)) and the list of recommendations with respect to stockpile requirements required by paragraph (1).

SEC. 3308. CONFORMING AMENDMENTS. 50 USC 98d note.

Part A of title XXXIII of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1583) is amended—

(1) in sections 3301(a), 3301(d), and 3302(a), by striking out "fiscal years 1992 and 1993" and inserting in lieu thereof "fiscal year 1992"; and

(2) in sections 3301(a), 3301(d), and 3302(b), by striking out "each of such fiscal years" and inserting in lieu thereof "such fiscal year".

Subtitle B—Programmatic Changes

SEC. 3311. PROCEDURES FOR CHANGING OBJECTIVES FOR STOCKPILE QUANTITIES ESTABLISHED AS OF THE END OF FISCAL YEAR 1987.

Section 3(c) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)) is amended by striking out paragraphs (2) through (5) and inserting in lieu thereof the following new paragraph:

"(2) The President shall notify Congress in writing of any change proposed to be made in the quantity of any material to be stockpiled. The President may make the change effective on or after the 30th legislative day following the date of the notification. The President shall include a full explanation and justification for the proposed change with the notification. For purposes of this paragraph, a legislative day is a day on which both Houses of Congress are in session.". President.

SEC. 3312. REPEAL OF LIMITATION ON EXCESS BALANCE IN FUND.

Section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)) is amended—

(1) by striking out "(1)"; and

(2) by striking out ", or (2)" and all that follows through "$100,000,000." and inserting in lieu thereof a period.

SEC. 3313. AUTHORIZED PURPOSES FOR EXPENDITURES FROM THE NATIONAL DEFENSE STOCKPILE TRANSACTION FUND.

(a) MAINTENANCE AND DISPOSAL OF MATERIALS.—Section 9(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h(b)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting ", maintenance, and disposal" after "acquisition"; and

(B) by striking out "section 6(a)(1)" and inserting in lieu thereof "section 6(a)"; and

(2) in paragraph (2)(B), by striking out "such acquisition" and inserting in lieu thereof "such acquisition, maintenance, and disposal".

(b) REHABILITATION OF FACILITIES AND DISPOSAL OF HAZARDOUS MATERIALS.—Paragraph (2) of such section is further amended by adding at the end the following new subparagraphs:

"(H) Improvement or rehabilitation of facilities, structures, and infrastructure needed to maintain the integrity of stockpile materials.

"(I) Disposal of hazardous materials that are stored in the stockpile and authorized for disposal by law.".

(c) PROHIBITION ON USE OF FUNDS FOR EMPLOYEE SALARIES AND EXPENSES.—Such section is further amended by adding at the end the following new paragraph:

"(4) Notwithstanding paragraph (2), moneys in the fund may not be used to pay salaries and expenses of stockpile employees.".

SEC. 3314. MARKET IMPACT COMMITTEE.

Section 10 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h–1) is amended by adding at the end the following new subsection:

President. "(c)(1) The President shall appoint a Market Impact Committee composed of representatives from the Department of Agriculture, the Department of Commerce, the Department of Defense, the Department of Energy, the Department of the Interior, the Department of State, the Department of the Treasury, and the Federal Emergency Management Agency, and such other persons as the President considers appropriate. The representatives from the Department of Commerce and the Department of State shall be Cochairmen of the Committee.

"(2) The Committee shall advise the National Defense Stockpile Manager on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile that are proposed to be included in the annual materials plan submitted to Congress under section 11(b), or in any revision of such plan, and shall submit to the manager the Committee's recommendations regarding those acquisitions and disposals.

"(3) The annual materials plan or the revision of such plan, as the case may be, shall contain—

"(A) the views of the Committee on the projected domestic and foreign economic effects of all acquisitions and disposals of materials from the stockpile;

"(B) the recommendations submitted by the Committee under paragraph (2); and

"(C) for each acquisition or disposal provided for in the plan or revision that is inconsistent with a recommendation of the Committee, a justification for the acquisition or disposal.

"(4) In developing recommendations for the National Defense Stockpile Manager under paragraph (2), the Committee shall consult from time to time with representatives of producers, processors, and consumers of the types of materials stored in the stockpile.".

50 USC 98c note.

SEC. 3315. CLARIFICATION OF THE STOCKPILE STATUS OF CERTAIN MATERIALS.

All materials purchased under section 303 of the Defense Production Act (50 U.S.C. App. 2093) and held in the Defense Production Act inventory as of June 30, 1992, are hereby transferred to the National Defense Stockpile and shall be managed, controlled,

and subject to disposal by the National Defense Stockpile Manager as provided in the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98a et seq.).

TITLE XXXIV—CIVIL DEFENSE

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $142,565,000 for fiscal year 1993 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

TITLE XXXV—PANAMA CANAL COMMISSION

Panama Canal Commission Authorization Act for Fiscal Year 1993.

SEC. 3501. SHORT TITLE.

This title may be cited as the "Panama Canal Commission Authorization Act for Fiscal Year 1993".

Subtitle A—Annual Authorization

SEC. 3511. AUTHORIZATION OF EXPENDITURES.

(a) IN GENERAL.—For fiscal year 1993, the Panama Canal Commission (subject to subsection (b)) may make such expenditures and, without regard to fiscal year limitations, may enter into such contracts and commitments, within the limits of funds and borrowing authority available to it in accordance with law, as may be necessary under the Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) for the operation, maintenance, and improvement of the Panama Canal for fiscal year 1993.

(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—For fiscal year 1993, the Panama Canal Commission may expend from funds in the Panama Canal Revolving Fund not more than $51,156,000 for administrative expenses, of which not more than—

(1) $12,000 may be used for official reception and representation expenses of the Supervisory Board of the Commission;

(2) $6,000 may be used for official reception and representation expenses of the Secretary of the Commission; and

(3) $34,000 may be used for official reception and representation expenses of the Administrator of the Commission.

(c) PURCHASE OF PASSENGER VEHICLES.—Funds available to the Panama Canal Commission may be used for the purchase of passenger motor vehicles (including large heavy-duty vehicles) to be used to transport Commission personnel across the Isthmus of Panama. A passenger motor vehicle may be purchased with such funds only as necessary to replace another passenger motor vehicle of the Commission. No passenger motor vehicle may be purchased with such funds for a price in excess of $18,000.

SEC. 3512. HEALTH CARE.

Section 1321(e)(1) of the Panama Canal Act of 1979 (22 U.S.C. 3731) is amended by inserting after "health care services" the following: "provided by medical facilities licensed and approved by the Republic of Panama (and not operated by the United States)".

SEC. 3513. VESSEL TONNAGE MEASUREMENT.

Section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792) is amended in the first sentence by inserting ", or its equiva-

lent," after "net vessel tons of one hundred cubic feet each of actual earning capacity".

SEC. 3514. CONSISTENCY WITH PANAMA CANAL TREATIES OF 1977 AND IMPLEMENTING LAWS.

Expenditures authorized under this subtitle may be made only in accordance with the Panama Canal Treaties of 1977 and laws of the United States implementing those treaties.

Subtitle B—Composition and Dissolution of Commission

SEC. 3521. COSTS OF DISSOLUTION.

(a) IN GENERAL.—The Panama Canal Act of 1979 (22 U.S.C. 3601 et seq.) is amended by inserting after section 1304 the following:

"DISSOLUTION OF COMMISSION

22 USC 3714a.

"SEC. 1305. (a)(1) The Commission shall conduct a study of—

"(A) the costs associated with the dissolution of the Commission, including the composition, location, and costs of the office authorized to be established under subsection (b); and

"(B) costs and liabilities incurred or administered by the Commission that will not be paid before the date of that dissolution.

Reports.

"(2) The Commission shall submit to the Congress, by not later than September 30, 1996, a report on the findings and conclusions of the study under this subsection. The report shall include an estimate of the period of time which may be required to close out the affairs of the Commission after the termination of the Panama Canal Treaty of 1977.

"(b) The Commission shall during fiscal year 1998 establish an office to close out the affairs of the Commission that are still pending after the termination of the Panama Canal Treaty of 1977.

Establishment.

"(c)(1) There is established in the Treasury of the United States a fund to be known as the 'Panama Canal Commission Dissolution Fund' (hereinafter in this section referred to as the 'Fund'). The Fund shall be managed by the Commission until the termination of the Panama Canal Treaty of 1977 and by the office established under subsection (b) thereafter.

"(2)(A) Subject to paragraph (5), the Fund shall be available after September 30, 1998, to pay—

"(i) the costs of operating the office established under subsection (b); and

"(ii) the costs and liabilities associated with dissolution of the Commission, including such costs incurred or identified after the termination of the Panama Canal Treaty of 1977.

"(B) Payments from the Fund made during the period beginning on October 1, 1998, and ending with the termination of the Panama Canal Treaty of 1977 shall be subject to the approval of the Board provided for in section 1102.

"(3) The Fund shall consist of—

"(A) such amounts as may be deposited into the Fund by the Commission, from amounts collected as toll receipts, to pay the costs described in paragraph (2); and

"(B) amounts credited to the Fund under paragraph (4).

"(4)(A) The Secretary of the Treasury shall invest excess amounts in the Fund in public debt securities with maturities suitable to the needs of the Fund, as determined by the manager of the Fund.

"(B) Securities invested under subparagraph (A) shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturity.

"(C) Interest earned on securities invested under subparagraph (A) shall be credited to and form part of the Fund.

"(5) Amounts in the Fund may not be obligated or expended in any fiscal year unless the obligation or expenditure is specifically authorized by law.

"(6) The Fund shall terminate on October 1, 2004. Amounts in the Fund on that date shall be deposited in the general fund of the Treasury of the United States.". Termination date.

(b) CONFORMING AMENDMENTS.—

(1) AVAILABILITY OF TOLL RECEIPTS.—Section 1302(c) of the Panama Canal Act of 1979 (22 U.S.C. 3712(c)) is amended—

(A) in paragraph (1), by inserting after "toll receipts" in the first sentence the following: "(other than amounts of toll receipts deposited into the Panama Canal Commission Dissolution Fund under section 1305)"; and

(B) in paragraph (3)(A), by inserting "and the Panama Canal Dissolution Fund" after "Panama Canal Revolving Fund".

(2) BASES OF TOLLS.—Section 1602(b) of the Panama Canal Act of 1979 (22 U.S.C. 3792(b)) is amended by striking "Panama Canal," and inserting "Panama Canal (including costs authorized to be paid from the Panama Canal Dissolution Fund under section 1305(c)),".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of the Panama Canal Act of 1979 is amended by inserting after the item relating to section 1304 the following new item:

"1305. Dissolution of Commission.".

SEC. 3522. RECOMMENDATIONS BY PRESIDENT ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE. 22 USC 3611 note.

(a) REPORT.—The President shall conduct a study and, if warranted, develop a plan setting forth recommendations for such changes, if any, to the Panama Canal Commission for the operation of the Panama Canal during the period before the termination of the Panama Canal Treaty of 1977 as the President determines would facilitate and encourage the operation of the canal through an autonomous entity under the Government of Panama after the transfer of the canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The President shall submit the study and, if warranted, plan to Congress, together with a legislative proposal containing any changes to existing law required to implement the plan, not later than one year after the date of the enactment of this Act. President.

(b) PREPARATION OF PLAN.—Recommendations to the President for purposes of the study and plan required by subsection (a) shall be prepared with the participation of a representative of each of the following:

(1) The Secretary of State.

(2) The Secretary of Defense.

(3) The Secretary of the Treasury.
(4) The Secretary of Commerce.
(5) The Secretary of Transportation.
(6) The Panama Canal Commission.

(c) PLAN TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The study and, if warranted, plan submitted by the President pursuant to subsection (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements.

22 USC 3611 note.

SEC. 3523. REPORT BY COMPTROLLER GENERAL ON CHANGES TO PANAMA CANAL COMMISSION STRUCTURE.

(a) REPORT.—The Comptroller General shall submit to Congress a report analyzing the effectiveness of the fiscal, operational, and management structure of the Panama Canal Commission and setting forth recommendations for such changes to that structure as the Comptroller General determines would, if implemented, enable the Commission to operate more efficiently and, thereby, serve as a model for the Government of Panama for the operation of the Panama Canal after the transfer of the Panama Canal on December 31, 1999, pursuant to the Panama Canal Treaty of 1977 and related agreements. The Comptroller General shall submit the report to Congress not later than one year after the date of the enactment of this Act.

(b) PREPARATION OF REPORT.—In developing the report required by subsection (a), the Comptroller General shall seek the views of each of the following:

(1) The Secretary of State.
(2) The Secretary of Defense.
(3) The Secretary of the Treasury.
(4) The Secretary of Commerce.
(5) The Secretary of Transportation.
(6) The Panama Canal Commission.

(c) REPORT TO BE CONSISTENT WITH PANAMA CANAL TREATY.—The recommendations in the report submitted by the Comptroller General pursuant to subsection (a) shall be consistent with the Panama Canal Treaty of 1977 and related agreements.

Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.

DIVISION D—DEFENSE CONVERSION, REINVESTMENT, AND TRANSITION ASSISTANCE

10 USC 2491 note.

SEC. 4001. SHORT TITLE.

This division may be cited as the "Defense Conversion, Reinvestment, and Transition Assistance Act of 1992".

TITLE XLI—FINDINGS

10 USC 2491 note.

SEC. 4101. FINDINGS.

Congress makes the following findings:

(1) The collapse of communism in Eastern Europe and the dissolution of the Soviet Union have fundamentally changed the military threat that formed the basis for the national security policy of the United States since the end of World War II.

(2) The change in the military threat presents a unique opportunity to restructure and reduce the military requirements of the United States.

(3) As the United States proceeds with the post-Cold War defense build down, the Nation must recognize and address the impact of reduced defense spending on the military personnel, civilian employees, and defense industry workers who have been the foundation of the national defense policies of the United States.

(4) The defense build down will have a significant impact on communities as procurements are reduced and military installations are closed and realigned.

(5) Despite the changes in the military threat, the United States must maintain the capability to respond to regional conflicts that threaten the national interests of the United States, and to reconstitute forces in the event of an extended conflict.

(6) The skills and capabilities of military personnel, civilian employees of the Department of Defense, defense industry workers, and defense industries represent an invaluable national resource that can contribute to the economic growth of the United States and to the long-term vitality of the national technology and industrial base.

(7) Prompt and vigorous implementation of defense conversion, reinvestment, and transition assistance programs is essential to ensure that the defense build down is structured in a manner that—

(A) enhances the long-term ability of the United States to maintain a strong and vibrant national technology and industrial base; and

(B) promotes economic growth.

TITLE XLII—DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, REINVESTMENT, AND CONVERSION

Subtitle A—Purposes and Establishment of New Chapter in Title 10

SEC. 4201. PURPOSES.

10 USC 2491 note.

The purposes of this title are to consolidate, revise, clarify, and reenact policies and requirements, and to enact additional policies and requirements, relating to the national technology and industrial base, defense reinvestment, and defense conversion programs that further national security objectives.

SEC. 4202. ESTABLISHMENT OF NEW CHAPTER IN TITLE 10.

(a) REPEAL AND REDESIGNATION OF EXISTING PROVISIONS.—Chapter 148 (other than sections 2504 through 2507), chapter 149 (other than sections 2517 and 2518), and chapter 150 (other than sections 2524, 2525, and 2526) of title 10, United States Code, are repealed. Sections 2504, 2505, 2506, and 2507 of such title are redesignated as sections 2531, 2532, 2533, and 2534, respectively.

(b) NEW CHAPTER 148.—Part IV of subtitle A of title 10, United States Code, is amended by inserting before section 2531, as so redesignated, the following new chapter 148:

"CHAPTER 148—NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE, DEFENSE REINVESTMENT, AND DEFENSE CONVERSION

"Subchapter	Sec.
"I. Definitions	2491
"II. Policies and Planning	2501
"III. Programs for Development, Application, and Support of Dual-Use Technologies	2511
"IV. Manufacturing Technology and Dual-Use Assistance Extension Programs	2521
"V. Miscellaneous Technology Base Policies and Programs	2531

"SUBCHAPTER I—DEFINITIONS

"Sec.

"2491. Definitions.

"SUBCHAPTER II—POLICIES AND PLANNING

"Sec.

"2501. Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion.
"2502. National Defense Technology and Industrial Base Council.
"2503. National defense program for analysis of the technology and industrial base.
"2504. Center for the Study of Defense Economic Adjustment.
"2505. National technology and industrial base: periodic defense capability assessments.
"2506. National technology and industrial base: periodic defense capability plan.
"2507. Data collection authority of President.

"SUBCHAPTER III—PROGRAMS FOR DEVELOPMENT, APPLICATION, AND SUPPORT OF DUAL-USE TECHNOLOGIES

"Sec.

"2511. Defense dual-use critical technology partnerships.
"2512. Commercial-military integration partnerships.
"2513. Regional technology alliances assistance program.
"2514. Encouragement of technology transfer.
"2515. Office of Technology Transition.
"2516. Military-Civilian Integration and Technology Transfer Advisory Board.
"2517. Office for Foreign Defense Critical Technology Monitoring and Assessment.
"2518. Overseas foreign critical technology monitoring and assessment financial assistance program.

"SUBCHAPTER IV—MANUFACTURING TECHNOLOGY AND DUAL-USE ASSISTANCE EXTENSION PROGRAMS

"Sec.

"2521. National Defense Manufacturing Technology Program.
"2522. Defense Advanced Manufacturing Technology Partnerships.
"2523. Manufacturing extension programs.
"2524. Defense dual-use assistance extension program.

"SUBCHAPTER V—MISCELLANEOUS TECHNOLOGY BASE POLICIES AND PROGRAMS

"Sec.

"2531. Defense memoranda of understanding and related agreements.
"2532. Offset policy; notification.
"2533. Limitation on use of funds: procurement of goods which are other than American goods.
"2534. Miscellaneous limitations on the procurement of goods other than United States goods.

"2535. Defense Industrial Reserve.".

(c) REFERENCE.—A reference in this title to chapter 148 shall be considered to be a reference to chapter 148 of title 10, United States Code, as added by subsection (b).

SEC. 4203. DEFINITIONS.

(a) IN GENERAL.—Subchapter I of chapter 148, as established by section 4202, is amended by inserting after the table of sections the following:

"§ 2491. Definitions

"In this chapter:

"(1) The term 'national technology and industrial base' means the persons and organizations that are engaged in research, development, production, or maintenance activities conducted within the United States and Canada.

"(2) The term 'dual-use' with respect to products, services, standards, processes, or acquisition practices, means products, services, standards, processes, or acquisition practices, respectively, that are capable of meeting requirements for military and nonmilitary application.

"(3) The term 'dual-use critical technology' means a critical technology that has military applications and nonmilitary applications.

"(4) The term 'technology and industrial base sector' means a group of public or private persons and organizations that engage in, or are capable of engaging in, similar research, development, or production activities.

"(5) The terms 'Federal laboratory' and 'laboratory' have the meaning given the term 'laboratory' in section 12(d)(2) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a(d)(2)).

"(6) The term 'critical technology' means a technology that is—

"(A) a national critical technology; or

"(B) a defense critical technology.

"(7) The term 'national critical technology' means a technology that appears on the list of national critical technologies contained in the most recent biennial report on national critical technologies submitted to Congress by the President pursuant to section 603(d) of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6683(d)).

"(8) The term 'defense critical technology' means a technology that appears on the list of critical technologies contained, pursuant to subsection (f) of section 2505 of this title, in the most recent national technology and industrial base assessment submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of this title.

"(9) The term 'eligible firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) conducts a significant level of its research, development, engineering, and manufacturing activities in the United States; and

"(B) is a company or other business entity the majority ownership or control of which is by United States citizens

or is a company or other business of a parent company that is incorporated in a country the government of which—

"(i) encourages the participation of firms so owned or controlled in research and development consortia to which the government of that country provides funding directly or provides funding indirectly through international organizations or agreements; and

"(ii) affords adequate and effective protection for the intellectual property rights of companies incorporated in the United States.

Such term includes a consortium of such companies or other business entities, as determined by the Secretary of Commerce.

"(10) The term 'manufacturing technology' means techniques and processes designed to improve manufacturing quality, productivity, and practices, including quality control, shop floor management, inventory management, and worker training, as well as manufacturing equipment and software.

"(11) The term 'manufacturing extension program' means a public or private, nonprofit program for the improvement of the quality, productivity, and performance of United States-based small manufacturing firms in the United States.

"(12) The term 'United States-based small manufacturing firm' means a company or other business entity that, as determined by the Secretary of Commerce—

"(A) engages in manufacturing;

"(B) has less than 500 employees; and

"(C) is an eligible firm.".

10 USC 2491 note.

(b) TRANSITION PROVISION.—Until the first national technology and industrial base assessment is submitted to Congress by the Secretary of Defense pursuant to section 2506(e) of title 10, United States Code, as added by section 4216, the term "defense critical technology" for the purposes of chapter 148 of such title, as added by section 4202, shall have the meaning given such term in section 2521 of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

Subtitle B—Defense Policies and Planning Concerning National Technology and Industrial Base, Reinvestment, and Conversion

SEC. 4211. CONGRESSIONAL DEFENSE POLICY CONCERNING NATIONAL TECHNOLOGY AND INDUSTRIAL BASE, REINVESTMENT, AND CONVERSION.

Subchapter II of chapter 148, as established by section 4202, is amended by inserting after the table of sections the following:

"§ 2501. Congressional defense policy concerning national technology and industrial base, reinvestment, and conversion

"(a) DEFENSE POLICY OBJECTIVES FOR NATIONAL TECHNOLOGY AND INDUSTRIAL BASE.—It is the policy of Congress that the national technology and industrial base be capable of meeting the following national security objectives:

"(1) Supplying and equipping the force structure of the armed forces that is necessary to achieve—

"(A) the objectives set forth in the national security strategy report submitted to Congress by the President

pursuant to section 104 of the National Security Act of 1947 (50 U.S.C. 404a);

"(B) the policy guidance of the Secretary of Defense provided pursuant to section 113(g) of this title; and

"(C) the future-years defense program submitted to Congress by the Secretary of Defense pursuant to section 221 of this title.

"(2) Sustaining production, maintenance, repair, and logistics for military operations of various durations and intensity.

"(3) Maintaining advanced research and development activities to provide the armed forces with systems capable of ensuring technological superiority over potential adversaries.

"(4) Reconstituting within a reasonable period the capability to develop and produce supplies and equipment, including technologically advanced systems, in sufficient quantities to prepare fully for a war, national emergency, or mobilization of the armed forces before the commencement of that war, national emergency, or mobilization.

"(b) POLICY OBJECTIVES RELATING TO DEFENSE REINVESTMENT, DIVERSIFICATION, AND CONVERSION.—It is the policy of Congress that, during a period of reduction in defense expenditures, the United States further the national security objectives set forth in subsection (a) through programs of reinvestment, diversification, and conversion of defense resources that—

"(1) promote economic growth in high-wage, high-technology industries and preserve the industrial and technical skill base;

"(2) promote economic growth through further reduction of the Federal budget deficit and thereby free up capital for private investment and job creation in the civilian sector;

"(3) bolster the national technology base, including support and exploitation of critical technologies with both military and civilian application;

"(4) support retraining of separated military, defense civilian, and defense industrial personnel for jobs in activities important to national economic growth and security;

"(5) assist those activities being undertaken at the State and local levels to support defense economic reinvestment, conversion, adjustment, and diversification activities; and

"(6) assist small businesses adversely affected by reductions in defense expenditures.

"(c) CIVIL-MILITARY INTEGRATION POLICY.—It is the policy of Congress that the United States attain the national technology and industrial base objectives set forth in subsection (a) through acquisition policy reforms that have the following objectives:

"(1) Relying, to the maximum extent practicable, upon the commercial national technology and industrial base that is required to meet the national security needs of the United States.

"(2) Reducing the reliance of the Department of Defense on technology and industrial base sectors that are economically dependent on Department of Defense business.

"(3) Reducing Federal Government barriers to the use of commercial products, processes, and standards.".

SEC. 4212. NATIONAL DEFENSE TECHNOLOGY AND INDUSTRIAL BASE COUNCIL.

(a) ESTABLISHMENT OF COUNCIL.—Subchapter II of chapter 148, as amended by section 4211, is further amended by inserting after section 2501 the following:

"§ 2502. National Defense Technology and Industrial Base Council

"(a) ESTABLISHMENT.—There is a National Defense Technology and Industrial Base Council.

"(b) COMPOSITION.—The Council is composed of the following members:

"(1) The Secretary of Defense, who shall serve as chairman.

"(2) The Secretary of Energy.

"(3) The Secretary of Commerce.

"(4) The Secretary of Labor.

"(5) Such other officials as may be determined by the President.

"(c) RESPONSIBILITIES.—The Council shall have the following responsibilities:

"(1) To ensure effective cooperation among departments and agencies of the Federal Government, and to provide advice and recommendations to the President, the Secretary of Defense, the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor, concerning—

"(A) the capabilities of the national technology and industrial base to meet the national security objectives set forth in section 2501(a) of this title;

"(B) programs for achieving, during a period of reduction in defense expenditures, the defense reinvestment, diversification, and conversion objectives set forth in section 2501(b) of this title; and

"(C) changes in acquisition policy that strengthen the national technology and industrial base.

"(2) To provide overall policy guidance to ensure effective implementation by agencies of the Federal Government of defense reinvestment and conversion activities during a period of reduction in defense expenditures.

"(3) To prepare the periodic assessment and the periodic plan required by sections 2505 and 2506 of this title, respectively.".

(b) ECONOMIC ADJUSTMENT COMMITTEE.—Section 4004 of the Defense Economic Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) CHAIRMAN.—Until October 1, 1997, the Secretary of Defense shall be the chairman of the Committee. After that, the chairmanship shall rotate annually among the Secretary of Defense, Secretary of Labor, and the Secretary of Commerce.

"(c) EXECUTIVE COUNCIL.—Until October 1, 1997, the National Defense Technology and Industrial Base Council shall function as an Executive Council of the Committee. Under the direction of the chairman of the Committee, the Executive Council shall develop policies and procedures to ensure that communities, businesses,

and workers substantially and seriously affected by reductions in defense expenditures are advised of the assistance available to such communities, businesses, and workers under programs administered by the departments and agency comprising the Council.".

SEC. 4213. NATIONAL DEFENSE PROGRAM FOR ANALYSIS OF THE TECHNOLOGY AND INDUSTRIAL BASE.

(a) ESTABLISHMENT OF PROGRAM.—Subchapter II of chapter 148, as amended by section 4212, is further amended by inserting after section 2502 the following:

"§ 2503. National defense program for analysis of the technology and industrial base

"(a) ESTABLISHMENT.—(1) The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council, shall establish a program for analysis of the national technology and industrial base.

"(2) As determined by the Secretary of Defense, the program shall be administered by one of the following:

"(A) An existing federally funded research and development center.

"(B) A consortium of existing federally funded research and development centers and other nonprofit entities.

"(C) A private sector entity (other than a federally funded research and development center).

"(D) The National Defense University.

"(3) A contract may be awarded under subparagraph (A), (B), or (C) of paragraph (2) only through the use of competitive procedures.

"(4) The Secretary of Defense shall ensure that there is appropriate coordination between the program and the Critical Technologies Institute.

"(b) SUPERVISION OF PROGRAM.—The Secretary of Defense shall carry out the program through the Under Secretary of Defense for Acquisition. In carrying out the program, the Under Secretary shall consult with the Secretary of Energy, the Secretary of Commerce, and the Secretary of Labor.

"(c) FUNCTIONS.—The functions of the program shall include, with respect to the national technology and industrial base, the following:

"(1) The assembly of timely and authoritative information.

"(2) Initiation of studies and analyses.

"(3) Provision of technical support and assistance to—

"(A) the National Defense Technology and Industrial Base Council in the preparation of the periodic assessments required by section 2505 of this title and the periodic plans required by section 2506 of this title;

"(B) the defense acquisition university structure and its elements; and

"(C) other departments and agencies of the Federal Government in accordance with guidance established by the Council.

"(4) Dissemination, through the National Technical Information Service of the Department of Commerce, of unclassified information and assessments for further dissemination within the Federal Government and to the private sector.".

10 USC 2503 note.

Contracts.

(b) DEADLINE FOR ESTABLISHMENT.—The Secretary of Defense shall establish the program required by section 2503 of title 10, United States Code, as added by subsection (a), not later than six months after the date of the enactment of this Act. The Secretary of Defense shall ensure that a contract solicitation is issued and a contract is awarded in a timely manner to facilitate the establishment of that program within the period set forth in the preceding sentence. The preceding sentence shall not apply if the Secretary determines that the program shall be administered by the National Defense University.

(c) FISCAL YEAR 1993 FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $5,000,000 shall be available for the program for analysis of the national technology and industrial base established pursuant to section 2503 of title 10, United States Code, as added by subsection (a).

SEC. 4214. CENTER FOR THE STUDY OF DEFENSE ECONOMIC ADJUSTMENT.

(a) CENTER FOR THE STUDY OF DEFENSE ECONOMIC ADJUSTMENT.—Subchapter II of chapter 148, as amended by section 4213, is further amended by inserting after section 2503 the following:

"§ 2504. Center for the Study of Defense Economic Adjustment

"(a) ESTABLISHMENT.—The Secretary of Defense, in consultation with the National Defense Technology and Industrial Base Council, shall establish within the National Defense University a Defense Economic Adjustment Center for the study of issues related to the conversion and reutilization of defense personnel, resources, and facilities. The Center shall be affiliated with the Industrial College of the Armed Forces and the Institute for National Strategic Studies of the National Defense University. The activities of the Center shall be integrated with existing activities and studies regarding acquisition, mobilization, the defense industrial base, and reconstitution.

"(b) PRIMARY RESPONSIBILITIES.—In conducting studies of economic conversion, the Center shall focus on the development of defense economic adjustment methods and the technical assistance necessary to implement these methods. In accordance with procedures established by the Secretary of Defense, the Center shall coordinate its activities with other education and training elements of the Department of Defense that the Secretary may establish or assign to assist in accomplishing the defense reinvestment, diversification, and conversion objectives set forth in section 2501(b) of this title.

"(c) STAFF AND FACILITIES.—Upon the request of the Secretary of Defense, the head of a Federal agency may detail, on a reimbursable basis, personnel of the agency to serve on the staff of the Center.

"(d) OTHER SERVICES.—The Center may make office space available to personnel of universities and defense contractors invited to participate in defense economic adjustment activities of the Center.

"(e) ADDITIONAL CENTERS AND CONVERSION ACTIVITIES.—The Secretary of Defense may establish additional defense economic adjustment centers or similar entities within the educational and training structure of the Department of Defense or may assign

additional economic conversion functions to existing organizations within such structure as may be necessary to assist the Center established pursuant to subsection (a). These additional functions may include the provision of training and technical assistance to implement economic adjustment methods developed by the Center."

(b) TIME FOR ESTABLISHMENT.—The Secretary of Defense shall establish the Defense Economic Adjustment Center under section 2504 of title 10, United States Code, as added by subsection (a), not later than 120 days after the date of the enactment of this Act. 10 USC 2504 note.

(c) FISCAL YEAR 1993 FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $2,000,000 shall be available for the Center for the Study of Defense Economic Adjustment.

SEC. 4215. NATIONAL TECHNOLOGY AND INDUSTRIAL BASE DEFENSE CAPABILITY ASSESSMENTS.

Subchapter II of chapter 148, as amended by section 4214, is further amended by inserting after section 2504 the following:

"§ 2505. National technology and industrial base: periodic defense capabilty assessments

"(a) COMPREHENSIVE ASSESSMENT.—The National Defense Technology and Industrial Base Council shall, on a regular and periodic basis and not less often than annually through fiscal year 1997 and biennially thereafter, prepare a comprehensive assessment of the capability of the national technology and industrial base to attain each of the national security objectives set forth in section 2501(a) of this title.

"(b) TECHNOLOGY AND INDUSTRIAL BASE SECTOR CAPABILITY ANALYSIS.—Each assessment under subsection (a) shall include the following:

"(1) An analysis of the role, capability, and continued economic viability of those technology and industrial base sectors that are critical to attaining each of the objectives set forth in section 2501(a) of this title.

"(2) An analysis of the present and projected financial condition of each technology and industrial base sector.

"(3) An analysis of the impact of the terminations and significant reductions of major research and development programs and procurement programs of the Department of Defense on the capability of those technology and industrial base sectors that are critical to attaining each of the national security objectives set forth in section 2501(a) of this title during a period of reduction in defense expenditures.

"(4) A critical technology analysis that identifies the product and process technologies that are most critical for attaining the national security objectives set forth in section 2501(a) of this title.

"(c) FOREIGN DEPENDENCY CONSIDERATIONS.—In the preparation of the periodic assessment, the Council shall include considerations of foreign dependency.

"(d) ISSUANCE.—The Secretary of Defense shall prescribe by regulation a schedule for the completion of the periodic assessment that ensures sufficient time for the consideration of the assessment in the preparation of the periodic national technology and industrial base plan required by section 2506 of this title.". Regulations.

SEC. 4216. NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PLAN AND MAJOR DEFENSE PROGRAM PLANNING.

(a) MULTIYEAR PLAN.—Subchapter II of chapter 148, as amended by section 4215, is further amended by inserting after section 2505 the following:

"§ 2506. National technology and industrial base: periodic defense capability plan

"(a) IN GENERAL.—The National Defense Technology and Industrial Base Council shall prepare annually through fiscal year 1997 and biennially thereafter a multiyear plan for ensuring, to the maximum extent practicable, that the policies and programs of the Department of Defense, the Department of Energy, and other departments and agencies of the Federal Government are planned, coordinated, funded, and implemented in a manner designed to attain each of the national security objectives set forth in section 2501(a) of this title. In preparing each plan, the Council shall take into account the most recent national technology and industrial base assessment prepared pursuant to section 2505 of this title.

"(b) PROGRAM GUIDANCE TO BE INCLUDED IN PLAN.—Each plan under subsection (a) shall also provide specific guidance (including goals, milestones, and priorities) for the following:

"(1) National defense programs and policies of the Department of Defense and Department of Energy that are necessary to ensure the continued viability of each technology and industrial base sector that is necessary to support the objectives stated in section 2501(a) of this title.

"(2) National defense programs and policies of the Department of Defense and Department of Energy that are necessary in each such sector—

"(A) to reduce dependence on foreign sources that could create a military vulnerability; and

"(B) to provide for alternative sources in the event that the foreign sources become unavailable.

"(3) The composition and management of the Defense Industrial Reserve under section 2535 of this title.

"(4) National defense programs and policies of the Department of Defense and Department of Energy relating to manufacturing technology.

"(5) Development of each defense critical technology.

"(6) Ensuring that financial policies of the Department of Defense and Department of Energy (for national security programs) are designed to meet the policies set forth in section 2501 of this title.

"(7) Encouragement of the effective use of commercial products and processes by the Department of Defense and the Department of Energy for national security programs.

"(8) For each plan through fiscal year 1997, national defense programs and policies of the Department of Defense and Department of Energy relating to the transition from economic dependence on defense expenditures of those technology and industrial base sectors and businesses that are at least partially dependent economically on defense expenditures.

"(9) Enhancement of the skills and capabilities of the work force in the national technology and industrial base in support of the national security objectives set forth in section 2501(a) of this title.

"(10) Enhancement of the effectiveness of the major defense acquisition program regulations prescribed pursuant to section 2430(b) of this title.

"(c) LONG-RANGE PLANS.—Each plan through fiscal year 1997 shall include the following:

"(1) A long-range plan for technology development and use of model demonstration defense facilities for environmental restoration and waste management.

"(2) A long-range plan to develop advanced technology to carry out transportation projects that further the national security objectives set forth in section 2501(a) of this title.

"(3) A long-range national security energy technology plan to further the national security objectives of section 2501(a) of this title.

"(4) A long-range national defense communications networking plan to further the national security objectives of section 2501(a) of this title.

"(d) ACQUISITION REFORM GUIDANCE.—Each plan shall include—

"(1) recommendations for legislation that the Council considers appropriate for eliminating any adverse effect of Federal law on the capability of the national technology and industrial base to further the national security objectives set forth in section 2501(a) of this title; and

"(2) specific guidance to ensure that maximum use is made of authority to waive regulations or conduct test programs in pursuit of such objectives.

"(e) ISSUANCE.—(1) The Secretary of Defense shall provide the plan to the Secretaries of the military departments and the heads of the other elements of the Department of Defense not later than the date on which the Secretary provides those officials with the guidance required by section 113(g)(1) of this title.

"(2) The Secretary of Defense shall transmit to Congress, not later than March 31 of each year through 1997 and every odd-numbered year thereafter—

"(A) the plan prepared under this section, including any changes necessary to reflect the budget submitted by the President during that year under section 1105 of title 31; and

"(B) the national technology and industrial base periodic assessment prepared pursuant to section 2505 of this title that pertains to such plan and budget.

"(3) The plan and assessment shall be submitted to Congress in classified and unclassified forms. Proprietary information that may be withheld from disclosure under section 552 of title 5 shall be provided only in the classified version.".

(b) NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PLANNING FOR MAJOR PROGRAMS.—(1) Chapter 144 of title 10, United States Code, as amended by section 821, is further amended by adding at the end the following new section:

"§ 2440. Technology and Industrial Base Plans

"The Secretary of Defense shall prescribe regulations requiring consideration of the national technology and industrial base in the development and implementation of acquisition plans for each major defense acquisition program.". Regulations.

(2) The table of sections at the beginning of such chapter, as amended by section 821, is further amended by adding at the end the following:

"2440. Technology and industrial base plans.".

SEC. 4217. DATA COLLECTION AUTHORITY.

Subchapter II of chapter 148, as amended by section 4216, is further amended by inserting after section 2506 the following new section:

"§ 2507. Data collection authority of President

"(a) The President shall be entitled, by regulation, subpoena, or otherwise, to obtain such information from, require such reports and the keeping of such records by, make such inspection of the books, records, and other writings, premises or property of, and take the sworn testimony of, and administer oaths and affirmations to, any person as may be necessary or appropriate, in the President's discretion, to the enforcement or the administration of this chapter and the regulations issued under this chapter.

Regulations.

"(b) The President shall issue regulations insuring that the authority of this section will be used only after the scope and purpose of the investigation, inspection, or inquiry to be made have been defined by competent authority and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency.

"(c) Any person who willfully performs any act prohibited or willfully fails to perform any act required by the provisions of subsection (a), or any rule, regulation, or order thereunder, shall be fined under title 18 or imprisoned not more than one year, or both.

"(d) Information obtained under section (a) which the President deems confidential or with reference to which a request for confidential treatment is made by the person furnishing such information shall not be published or disclosed unless the President determines that the withholding thereof is contrary to the interest of the national defense. Any person who willfully violates this subsection shall be fined under title 18 or imprisoned not more than one year, or both.

"(e) The President may make such rules, regulations, and orders as he considers necessary or appropriate to carry out the provisions of this section. Any regulation or order under this section may be established in such form and manner, may contain such classification and differentiations, and may provide for such adjustments and reasonable exceptions as in the judgment of the President are necessary or proper to effectuate the purposes of this section, or to prevent circumvention or evasion, or to facilitate enforcement of this section, or any rule, regulation, or order issued under this section.

"(f) In this section:

"(1) The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative of the foregoing, and includes the United States or any agency thereof, or any other government, or any of its political subdivisions, or any agency of any of the foregoing, except that no punishment provided by this section shall apply to the United States, or to any such government, political subdivision, or government agency.

"(2) The term 'national defense' means programs for military and atomic energy production or construction, military assistance to any foreign nation, stockpiling, space, and directly related activity.".

SEC. 4218. IMPLEMENTATION OF REQUIREMENTS FOR ASSESSMENT, PLANNING, AND ANALYSIS.

10 USC 2501 note.

(a) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe regulations, including milestones for actions, to ensure the timely and thorough collection of information, completion of assessments, and issuance of plans to be accomplished by the Secretary of Defense that are required by the provisions of subchapter II of chapter 148. Such regulations shall be prescribed in consultation with the other heads of departments comprising the National Defense Technology and Industrial Base Council.

(b) FIRST ASSESSMENT AND PLAN.—(1) The first assessment required by section 2505 of title 10, United States Code, as added by section 4215, shall be completed not later than September 30, 1993.

(2) The first plan required by section 2506 of such title, as added by section 4216, shall be completed not later than December 1, 1993.

(3) The Secretary may prescribe regulations authorizing the presentation of information in a preliminary form in the first periodic assessment and the first periodic plan to the extent that the necessary information cannot reasonably be collected, analyzed, or presented in accordance with section 2505 or 2506, respectively, of title 10, United States Code, by the dates specified in paragraphs (1) and (2).

(c) TEXTILES.—The periodic national technology and industrial base assessment submitted to Congress pursuant to section 2506(e) of title 10, United States Code, shall include, through 1995, a specific assessment of the capability of the domestic textile and apparel industrial base of the United States to support national defense mobilization requirements. Each such assessment shall include the following:

(1) An identification of textile and apparel mobilization requirements of the Department of Defense that cannot be satisfied on a timely basis by domestic industries.

(2) An assessment of the effect that any inadequacy in the textile and apparel industrial base would have on a mobilization.

(3) Recommendations for ways to alleviate any such inadequacy that the Secretary considers critical to national defense mobilization requirements.

SEC. 4219. IMPLEMENTING REGULATIONS CONCERNING THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC ASSESSMENT.

10 USC 2505 note.

(a) RULE OF CONSTRUCTION.—Except as otherwise expressly provided, in this section each reference to a section is a reference to a section of title 10, United States Code.

(b) INITIAL REGULATIONS.—The Secretary of Defense shall ensure that the initial regulations prescribed to implement section 2505 provide that the periodic assessment required by such section address the matters set forth in this section.

(c) SECTOR ROLE ANALYSIS.—The initial regulations shall provide that the analysis required by section 2505(b)(1), concerning the role and capability of each technology and industrial base sector in furthering each of the national security objectives of section 2501(a), include the following:

(1) An analysis of the current and projected capability of each sector to attain each such objective for each of the following periods:

(A) The fiscal year during which the assessment is submitted to Congress pursuant to section 2506(e).

(B) The following fiscal year.

(C) The multiyear period covered by the future-years defense program submitted under section 221 during the fiscal year referred to in subparagraph (A).

(2) For each period described in paragraph (1), an analysis of the present and projected capabilities of prime contractors, subcontractors, the Defense Industrial Reserve, and departments and agencies of the Federal Government with respect to each of the following:

(A) Research and development, including research and development regarding the critical technologies identified in the analysis pursuant to section 2505(b)(4).

(B) Application of critical technologies to the production of goods and the furnishing of services.

(C) Test and evaluation.

(D) Low rate production.

(E) High volume production.

(F) Repair and maintenance.

(G) Design and prototyping.

(H) Work force skills and capabilities, including improvements that build on the skill and experience of the work force.

(d) FINANCIAL CAPABILITY ANALYSIS.—The initial regulations shall provide that the analysis required by section 2505(b)(2), concerning the present and projected financial capability of each technology and industrial base sector, specifically consider the following matters:

(1) Trends in the following:

(A) Profitability.

(B) Levels of capital investment.

(C) Expenditures on research and development.

(D) Levels of debt.

(2) The effects of actual and potential commercial sales.

(3) The consequences of mergers, acquisitions, and takeovers.

(4) The effects of Department of Defense financial policies, including the following:

(A) Policies relating to progress payments or other financing by the Department of Defense.

(B) Policies relating to the return on contractor investment.

(C) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

(5) The effects of expenditures in the technology and industrial base sector by departments and agencies of the Federal Government other than the Department of Defense and the Department of Energy (for national security programs).

(6) The analysis required by section 2505(b)(3).

(e) ANALYSIS OF IMPACT OF DEPARTMENT OF DEFENSE REDUCTIONS.—The initial regulations shall provide that, in the periodic assessment, the analysis required by section 2505(b)(3), concerning the impact of terminations and significant reductions of programs referred to in such section on the capability of each technology and industrial base sector to further each of the national security objectives set forth in section 2501(a), specifically consider the impact of the terminations and significant reductions that—

(1) have taken place in the fiscal year before the fiscal year in which such periodic assessment is submitted to Congress pursuant to section 2506(e); or

(2) are provided for—

(A) in the budget submitted to Congress by the President in that fiscal year; and

(B) in the future-years defense program submitted with such budget.

(f) CRITICAL TECHNOLOGY ANALYSIS.—The initial regulations shall provide, with respect to the critical technology analysis required by section 2505(b)(4), the following:

(1) That the number of technologies so identified not exceed 20.

(2) That the analysis be prepared in consultation with the Critical Technologies Institute.

(3) That, for each technology, the analysis include the following:

(A) The reasons for selection of that technology as a technology critical to the Department of Defense.

(B) The potential dual-use applications of that technology.

(C) The relationship between the activities of the Department of Defense and other Federal agencies in the development of that technology.

(D) The potential contributions that the private sector can be expected to make from its own resources in connection with the development of civilian applications for such technology.

(E) A comparison of the position of the United States to the positions of other nations in the development of that technology, including the potential contributions that other nations can make to meeting the needs of the United States for that technology.

(g) ECONOMIC VIABILITY ANALYSIS.—(1) The initial regulations shall provide that the economic viability analysis required by section 2505(b)(5) include, for each of the periods described in subsection (c)(1) of this section, an analysis of the following matters:

(A) The extent to which each technology and industrial base sector is—

(i) dependent on defense expenditures to ensure continued viability;

(ii) dependent on a mix of defense and nondefense Federal Government expenditures to ensure continued viability;

(iii) dependent on a mix of Federal Government expenditures and other Federal Government programs to ensure continued viability; and

(iv) sufficiently integrated with the commercial marketplace to ensure continued viability regardless of the level of Federal Government expenditures in the technology and industrial base sector.

(B) The extent to which each technology and industrial base sector is capable of—

(i) ongoing production with a present capability for high volume production;

(ii) maintenance of a production base that can be converted to high volume production within a reasonable period of time; or

(iii) reconstitution of a production base that can reinstate high volume production within a reasonable period of time.

(2) The analysis shall specifically identify any technology and industrial base sectors and any entities within technology and industrial base sectors that should be considered for inclusion in the Defense Industrial Reserve.

(h) FOREIGN DEPENDENCY CONSIDERATIONS.—The initial regulations shall provide that the foreign dependency considerations taken into account in the preparation of the periodic assessment pursuant to section 2505(c) include, for each technology and industrial base sector, the following factors:

(1) The availability of essential raw materials, special alloys, composite materials, components, subsystems, production equipment, facilities, special tooling, and production test equipment for—

(A) the sustained production of systems fully capable of meeting the performance objectives established for those systems;

(B) the uninterrupted maintenance and repair of such systems; and

(C) the sustained operation of such systems.

(2) The identification of items specified in paragraph (1) that are available only from sources outside the national technology and industrial base.

(3)(A) The availability of alternatives for obtaining such items from within the national technology and industrial base if such items become unavailable from sources outside the national technology and industrial base.

(B) An analysis of any military vulnerability that could result from the lack of reasonable alternatives.

(4) The effects on the national technology and industrial base that result from foreign acquisition of firms in the United States.

(i) DEFINITIONS.—In this section:

(1) The term "continued viability" means the capability to attain the national security objectives set forth in section 2501(a).

(2) The term "defense expenditure" means an expenditure—

(A) by the Department of Defense; or

(B) by the Department of Energy for a national security program.

(3) The term "Defense Industrial Reserve" is the Defense Industrial Reserve established by section 2535.

(4) The term "future-years defense program" means the future-years defense program required by section 221.

(5) The term "national technology and industrial base" has the meaning given that term in section 2491.

(6) The term "periodic assessment" means the periodic assessment required by section 2505.

(7) The term "section 2501 objectives" means the objectives set forth in section 2501.

(8) The term "significant reduction", with respect to expenditures for a program for a fiscal year, means that the amount provided for that program for that fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the future years defense program for that fiscal year is less than the amount provided for that program for the preceding fiscal year in the budget, Acts authorizing appropriations, appropriations Acts, or the future years defense program, respectively, for that preceding fiscal year by at least—

(A) the greater of—

(i) the amount equal to 10 percent of the amount provided for that preceding fiscal year; or

(ii) $5,000,000; or

(B) a lesser amount determined significant by the Secretary of Defense or the National Defense Technology and Industrial Base Council.

(9) The term "technology and industrial base sector" has the meaning given such term in section 2491.

SEC. 4220. IMPLEMENTING REGULATIONS CONCERNING THE NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PERIODIC PLAN. 10 USC 2506.

(a) RULE OF CONSTRUCTION.—Except as otherwise expressly provided, in this section each reference to a section is a reference to a section of title 10, United States Code.

(b) INITIAL REGULATIONS.—The Secretary of Defense shall ensure that the initial regulations prescribed to implement section 2506 provide that the national technology and industrial base plan required by such section include the matters set forth in subsections (c) through (f).

(c) MANUFACTURING TECHNOLOGY GUIDANCE.—The initial regulations shall require that the guidance provided for manufacturing technology pursuant to section 2506(b)(4) include guidance with respect to the following:

(1) The National Defense Manufacturing Technology Program established under section 2521.

(2) The support of manufacturing extension programs under section 2523.

(3) Programs to enhance basic research in scientific disciplines relating to manufacturing technology through—

(A) encouraging research in colleges and universities in the United States and in associated centers of excellence; and

(B) establishing technology transfer mechanisms, and technology education and training mechanisms, that ensure that the results of such research are readily available to United States industry.

(4) Programs for encouraging the use of computer-integrated manufacturing to improve manufacturing quality, reduce manufacturing costs, reduce production lead times, and improve maintenance.

(5) Programs for enhancing Department of Defense use of concurrent engineering practices in the design and development of weapon systems.

(6) Programs providing incentives for firms in the national technology and industrial base to use advanced manufacturing technology and processes and to invest in improved productivity.

(7) Programs for encouraging research in colleges and universities and in other technology development and extension programs in the United States for development of systems that build on the skill and experience of workers.

(8) Programs for assisting in the transition to high performance work systems, including ongoing worker involvement in the evaluation, selection, and installation and operation of production technologies and associated organization or work.

(d) CRITICAL TECHNOLOGIES GUIDANCE.—The initial regulations shall require that the guidance provided pursuant to section 2506(b)(5) for the development of each critical technology include the following:

(1) The specific funding requirements of the Department of Defense, the Department of Energy and other departments and agencies of the Federal Government for the development of the technology for the 5 fiscal years following the fiscal year in which the plan is submitted to Congress pursuant to section 2506(e).

(2) A designation of the lead organization within the Department of Defense or the Department of Energy to be responsible for the development of the technology.

(3) A summary description of the lead organization's plan for the development of the technology, including the milestone goals.

(e) FINANCIAL POLICY GUIDANCE.—The initial regulations shall require that the guidance provided pursuant to section 2506(b)(6) with regard to financial policies of the Department of Defense and the Department of Energy (for national security programs) include guidance with respect to the following:

(1) Policies relating to progress payments or other financing by the Department of Defense.

(2) Policies relating to the return on contractor investment.

(3) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

(f) COMMERCIAL-MILITARY INTEGRATION GUIDANCE.—The initial regulations shall require that the guidance provided pursuant to section 2501(c) regarding integration of commercial products and processes into Federal acquisition practices include guidance with respect to the following:

(1) Expanding the use of commercial specifications in place of Federal Government specifications.

(2) Increasing the use of commercial manufacturing processes instead of processes specified by the Federal Government.

(3) Reducing the extent of unique government regulatory requirements relating to accounting and acquisition.

(4) Identifying and ensuring the effective application by the Department of Defense and the Department of Energy (for national security programs) of research, technologies, products, information, and practices developed by other departments and agencies of the Federal Government, State and local

governments, colleges and universities, nonprofit organizations, and commercial enterprises.

(5) Identifying effective mechanisms for transferring technology and related information, to the maximum extent practicable, from the Department of Defense and Department of Energy to other departments and agencies of the Federal Government, State and local governments, colleges and universities, nonprofit organizations, and commercial enterprises.

(6) Ensuring, to the maximum extent practicable, that technology and related information are so transferred.

(g) MAJOR PROGRAM GUIDANCE.—The initial regulations implementing section 2430(b), shall provide that the acquisition plan for each major defense acquisition program include provisions for the following:

(1) An analysis of the capabilities of the national technology and industrial base to develop, produce, maintain, and support such program, including consideration of the factors set forth in section 4219(h).

(2) Consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the program.

(3) The use of advanced manufacturing technology, processes, and systems during the research and development phase and the production phase of the program.

(4) To the maximum extent practicable, the use of contract solicitations that encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs.

(5) Encouragement of investment by United States domestic sources in advanced manufacturing technology production equipment and processes through—

(A) recognition of the contractor's investment in advanced manufacturing technology production equipment, processes, and organization of work systems that build on workers' skill and experience, and work force skill development in the development of the contract objective; and

(B) increased emphasis in source selections on the efficiency of production.

(6) Expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense.

(7) Elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under Department of Defense contracts.

(8) Expanded use of commercial products as set forth in section 2325.

Subtitle C—Programs for Development, Application, and Support of Dual-Use Technologies

SEC. 4221. DEFENSE DUAL-USE CRITICAL TECHNOLOGY PARTNERSHIPS.

(a) RECODIFICATION OF PROVISION.—Subchapter III of chapter 148, as established by section 4202, is amended by inserting after the table of sections the following:

"§ 2511. Defense dual-use critical technology partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title, by providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and entities referred to in subsection (b) in order to encourage and provide for research, development, and application of dual-use critical technologies. The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(b) NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—In the case of each partnership, the entities with which the Secretary enters into the partnership shall include two or more eligible firms or a nonprofit research corporation established by two or more eligible firms and, may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, Government-owned and operated industrial facilities, institutions of higher education, agencies of State governments, and other entities that participate in the partnership by supporting the activities conducted by such firms or corporations under this section.

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—The Secretary of Defense shall ensure that, to the maximum extent he determines to be practicable, the amount of the funds provided by the Federal Government under a partnership does not exceed the total amount provided by non-Federal Government participants in that partnership.

"(d) ASSISTANCE AUTHORIZED.—The Secretary of Defense may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section. In providing such assistance, the Secretary shall make available, as appropriate for the work to be performed by each partnership, equipment and facilities of Department of Defense laboratories (including the scientists and engineers at those laboratories) to a partnership recognized under this section for purposes of any project that is approved by the Secretary.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships, except that procedures other than competitive procedures may be used in any case in which an exception set out in section 2304(c) of this title applies.

"(f) SELECTION CRITERIA.—The criteria for the selection of proposed partnerships for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national security objectives set forth in section 2501(a) of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) An assessment of timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology pro-

posed to be developed by the partnership for the national technology and industrial base.

"(6) The extent of the financial commitment of eligible firms to the proposed partnership.

"(7) The extent to which the partnership does not unnecessarily duplicate projects undertaken by other agencies.

"(8) Such other criteria that the Secretary prescribes.

"(g) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the purposes of this section.".

(b) FISCAL YEAR 1993 PROJECTS.—During fiscal year 1993, projects carried out in cooperation with partnerships under section 2511 of title 10, United States Code, shall include projects in the following areas or involving technologies that otherwise further the objectives set forth in section 2501(a) of such title:

(1) Digital communications and processing methods.

(2) Optical electronics.

(3) Lightweight, low-clearance multipassenger ground vehicles.

(4) Advanced materials, including precision forging technologies to meet high-strength, low-weight design criteria.

(5) Interferrometric synthetic aperture radar technology.

(6) Electrical propulsion of ground vehicles for reduced signature emission.

(7) Marine biotechnology.

(8) Environmentally compliant manufacturing technologies for production of computers for military and nonmilitary use as may be identified by a partnership.

(9) Fuel cell and high-density energy storage.

(10) Unexploded ordnance disposal technology.

(11) Microchip Module integration.

(12) Robotics application to defense environmental restoration activities.

(13) Integrated telecommunications technologies for advanced manufacturing.

(14) Advanced automatic control systems technology.

(c) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $100,000,000 shall be available for defense dual-use critical technology partnerships under section 2511 of title 10, United States Code, as added by subsection (a).

SEC. 4222. COMMERCIAL-MILITARY INTEGRATION PARTNERSHIPS.

(a) PROGRAM REQUIRED.—Subchapter III of chapter 148, as amended by section 4221, is further amended by inserting after section 2511 the following:

"§ 2512. Commercial-military integration partnerships

"(a) ESTABLISHMENT OF PARTNERSHIPS.—The Secretary of Defense shall conduct a program to further the national security objectives set forth in section 2501(a) of this title by providing for the establishment of cooperative arrangements (hereinafter in this section referred to as 'partnerships') between the Department of Defense and one or more eligible firms and nonprofit research corporations referred to in section 2511(b) of this title. A partnership may also include, as determined appropriate by the Secretary of Defense, a Federal laboratory or laboratories, institutions of higher education, agencies of State governments, and other entities that

participate in the partnership by supporting the activities conducted by such firms or corporations under this section.

"(b) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, and enter into cooperative agreements and other transactions pursuant to section 2371 of this title in order to establish the partnerships.

"(2) The Secretary may not enter into a partnership under this section for a period longer than 5 years.

"(3) The Secretary may provide a partnership with technical and other assistance to facilitate the achievement of the purposes of this section, subject to the limitations in subsection (c).

"(c) FINANCIAL COMMITMENT OF NON-FEDERAL GOVERNMENT PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Secretary under a partnership does not exceed the maximum authorized percentage of the total cost of partnership activities.

"(2) The maximum authorized percentage of funding referred to in paragraph (1) for each year of a partnership is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the each of the third, fourth, and fifth years.

Regulations.

"(3)(A) The Secretary shall prescribe regulations to provide for consideration of in-kind contributions by non-Federal Government participants in a partnership for the purpose of determining the share of the partnership costs that has been or is being undertaken by such participants.

"(B) The regulations shall also ensure that the in-kind contributions of nonprofit institutions and small businesses are considered included, to the maximum extent practicable, in the non-Federal Government share of the cost of the partnership.

"(d) SELECTION PROCESS.—Competitive procedures shall be used in the establishment of partnerships.

"(e) SELECTION CRITERIA.—The criteria for the selection of a proposed partnership for establishment under this section shall include the following:

"(1) The extent to which the program proposed to be conducted by the partnership advances and enhances the national security objectives set forth in section 2501(a) of this title.

"(2) The technical excellence of the program proposed to be conducted by the partnership.

"(3) The qualifications of the personnel proposed to participate in the partnership's research activities.

"(4) An assessment that timely private sector investment in activities to achieve the goals and objectives of the proposed partnership other than through the partnership.

"(5) The potential effectiveness of the partnership in the further development and application of each technology proposed to be developed by the partnership for the industrial and technology base.

"(6) The extent of the financial commitment of the eligible firms to the proposed partnership.

"(7) The likelihood that the partnership will develop technologies that are sufficiently viable in the commercial sector so that such technologies will be available to meet the future reconstitution requirements and other needs of the Department of Defense described in the most recent national technology

and industrial base plan prepared under section 2506 of this title.

"(8) The likelihood that, within five years after the establishment of the partnership (or a lesser period established by the Secretary), Federal Government funding of the partnership will not be necessary.

"(9) The extent to which the partnership does not unnecessarily duplicate programs undertaken by other Federal agencies.

"(10) Such other criteria as the Secretary prescribes.".

(b) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $50,000,000 shall be available for commercial-military integration partnerships under section 2512 of title 10, United States Code, as added by subsection (a).

SEC. 4223. REGIONAL TECHNOLOGY ALLIANCES ASSISTANCE PROGRAM.

(a) TRANSFER AND REDESIGNATION OF SECTION.—Section 2524 of title 10, United States Code (relating to critical technology application centers) is transferred to subchapter III of chapter 148, inserted after section 2512 (as added by section 4222), and redesignated as section 2513.

(b) TERMINOLOGY CHANGE.—(1) Such section (as so transferred and redesignated) is amended—

(A) by striking out "regional critical technology application centers" in subsection (a) and inserting in lieu thereof "regional technology alliances";

(B) by striking out "regional critical technology application center" in subsection (b) and inserting in lieu thereof "regional technology alliance"; and

(C) by striking out "critical technology application center" and "center" each time such terms appear and inserting in lieu thereof "regional technology alliance".

(2) The heading of such section is amended to read as follows:

"§ 2513. Regional technology alliances assistance program".

(c) PROGRAM OBJECTIVES.—Subsection (a) of such section is amended by striking out "provide" and inserting in lieu thereof "further the national security objectives set forth in section 2501(a) of this title by providing".

(d) PROGRAMS PARTICIPANTS.—Subsection (c)(2)(B) of such section is amended by adding at the end the following new clause:

"(iii) an institution of higher education designated by a State or local government.".

(e) MAXIMUM ASSISTANCE.—(1) Subsection (d)(1)(A) of such section is amended by striking out "30 percent" and inserting in lieu thereof "50 percent".

(2) Subsection (e)(1) of such section is amended by striking out "70 percent" and inserting in lieu thereof "50 percent".

(f) AMENDMENT TO CROSS REFERENCE.—Subsection (g) of such section is amended by striking out "2523" and inserting in lieu thereof "2511".

(g) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $100,000,000 shall be available for defense regional technology alliances under section 2513 of title 10, United States Code, as redesignated by subsection (a).

SEC. 4224. ENCOURAGEMENT OF TECHNOLOGY TRANSFER.

(a) IN GENERAL.—Subchapter III of chapter 148, as amended by section 4223, is further amended by inserting after section 2513 the following:

"§ 2514. Encouragement of technology transfer

"(a) ENCOURAGEMENT OF TRANSFER REQUIRED.—The Secretary of Defense shall encourage, to the extent consistent with national security objectives, the transfer of technology between laboratories and research centers of the Department of Defense and other Federal agencies, State and local governments, colleges and universities, and private persons in cases that are likely to result in accomplishing the objectives set forth in section 2501(a) of this title.

"(b) EXAMINATION AND IMPLEMENTATION OF METHODS TO ENCOURAGE TRANSFER.—The Secretary shall examine and implement methods, in addition to the encouragement referred to in subsection (a) and the program described in subsection (c), that are consistent with national security objectives and will enable Department of Defense personnel to promote technology transfer.

"(c) PROGRAM TO ENCOURAGE DIVERSIFICATION OF DEFENSE LABORATORIES.—(1) The Secretary of Defense shall establish and implement a program to be known as the Federal Defense Laboratory Diversification Program (hereinafter in this subsection referred to as the 'Program'). The purpose of the Program shall be to encourage greater cooperation in research and production activities carried out by defense laboratories and by private industry of the United States in order to enhance and improve the products of such research and production activities.

"(2) Under the Program, the defense laboratories, in coordination with the Office of Technology Transfer in the Office of the Secretary of Defense, shall carry out cooperative activities with private industry in order to promote (by the use or exchange of patents, licenses, cooperative research and development agreements and other cooperative agreements, and the use of symposia, meetings, and other similar mechanisms) the transfer of defense or dual-use technologies from the defense laboratories to private industry, and the development and application of such technologies by the defense laboratories and private industry, for the purpose of the commercial utilization of such technologies by private industry.

"(3) The Secretary of Defense shall develop and annually update a plan for each defense laboratory that participates in the Program under which plan the laboratory shall carry out cooperative activities with private industry to promote the transfers described in subsection (b).

"(4) In this subsection, the term 'defense laboratory' means any laboratory owned or operated by the Department of Defense that carries out research in fiscal year 1993 in an amount in excess of $50,000,000.

"(5) The Secretary shall coordinate the Program with the National Defense Technology and Industrial Base Council.".

(b) REPORTS ON SURVEY OF LABS AND IMPLEMENTATION OF PROGRAM.—Not later than September 30, 1993, the Secretary of Defense shall submit to Congress a report containing the following:

(1) An assessment of the potential of each defense laboratory to promote the transfers described in section 2514(c) of title 10, United States Code, as added by subsection (a).

(2) Recommendations on the manner in which each such laboratory might better promote such transfers.

(3) A description of the extent to which each such laboratory has implemented effectively the plan established for the laboratory under such subsection (c) during the year preceding the date of the report.

(4) Recommendations of the Secretary for the improvement of the Federal Defense Laboratory Diversification Program established pursuant to such section 2514(c).

(c) CONFORMING REPEAL.—Section 2363 of title 10, United States Code, is repealed.

SEC. 4225. OFFICE OF TECHNOLOGY TRANSITION.

(a) ESTABLISHMENT.—Subchapter III of chapter 148, as amended by section 4224, is further amended by inserting after section 2514 the following:

"§ 2515. Office of Technology Transition

"(a) ESTABLISHMENT.—The Secretary of Defense shall establish within the Office of the Secretary of Defense an Office of Technology Transition.

"(b) PURPOSE.—The purpose of the office shall be to ensure, to the maximum extent practicable, that technology developed for national security purposes is integrated into the private sector of the United States in order to enhance national technology and industrial base, reinvestment, and conversion activities consistent with the objectives set forth in section 2501(a) of this title.

"(c) DUTIES.—The head of the office shall ensure that the office—

"(1) monitors all research and development activities that are carried out by or for the military departments and Defense Agencies;

"(2) identifies all such research and development activities that use technologies, or result in technological advancements, having potential nondefense commercial applications;

"(3) serves as a clearinghouse for, coordinates, and otherwise actively facilitates the transition of such technologies and technological advancements from the Department of Defense to the private sector;

"(4) conducts its activities in consultation and coordination with the Department of Energy and the Department of Commerce; and

"(5) provides private firms with assistance to resolve problems associated with security clearances, proprietary rights, and other legal considerations involved in such a transition of technology.

"(d) REPORTING REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives an annual report on the activities of the Office at the same time that the budget is submitted to Congress by the President pursuant to section 1105 of title 31. The report shall contain a discussion of the accomplishments of the Office during the fiscal year preceding the fiscal year in which the report is submitted.".

(b) SCHEDULE FOR ESTABLISHMENT.—The Office of Technology Transition shall commence operations within 120 days after the date of the enactment of this Act. 10 USC 2515 note.

(c) REPORTING REQUIREMENTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the establishment of the Office of Technology Transition. The report shall contain a description of the organization of the Office, the staffing of the Office, and the activities undertaken by the Office.

10 USC 2515 note.

(2) Notwithstanding section 2515(d) of title 10, United States Code (as added by subsection (a))—

(A) the first report under that section shall be submitted not later than one year after the date of the enactment of this Act; and

(B) no additional report is necessary under that section in the fiscal year in which such first report is submitted.

SEC. 4226. MILITARY-CIVILIAN INTEGRATION AND TECHNOLOGY TRANSFER ADVISORY BOARD.

(a) ESTABLISHMENT.—Subchapter III of chapter 148, as amended by section 4225, is further amended by inserting after section 2515 the following:

"§ 2516. Military-Civilian Integration and Technology Transfer Advisory Board

"(a) ESTABLISHMENT.—There is established a Military-Civilian Integration and Technology Transfer Advisory Board (in this section referred to as the 'Advisory Board').

"(b) GOALS.—The goals of the Advisory Board are to ensure, in furtherance of the national security objectives set forth in section 2501(a) of this title—

"(1) the effective integration of commercial technologies and best practices into defense industries;

"(2) the efficient transfer of defense technologies to civilian industries, where applicable;

"(3) that civilian markets are appropriately integrated into dual-use technology development strategies; and

"(4) that dual use critical technologies are used in carrying out defense reinvestment, diversification, and conversion activities described in section 2501(b) of this title.

"(c) COMPOSITION.—The Advisory Board shall be composed of at least 17 members. The members of the Advisory Board shall be appointed by the National Defense Technology and Industrial Base Council from among individuals who, because of their experience and accomplishments in defense or civilian technology development, business development, international trade, or finance, are exceptionally qualified to analyze and formulate policy that would improve the integration of military and civilian capabilities and resources. The National Defense Technology and Industrial Base Council shall designate one member to serve as chairman, with the chairmanship to change annually. Membership of the Advisory Board shall be composed of—

"(1) representatives of—

"(A) large and small firms involved in both defense and civilian technologies;

"(B) universities and independent research institutes;

"(C) State and local government agencies involved in technology extension and economic development;

"(D) Federal defense and nondefense laboratories;

"(E) industrial, worker, and professional organizations; and

"(F) financial organizations; and

"(2) other individuals that possess important insight to issues of military-commercial integration, as determined by the National Defense Technology and Industrial Base Council.

"(d) DUTIES.—The duties of the Advisory Board shall include—

"(1) advising the National Defense Technology and Industrial Base Council in the planning, execution, and evaluation of programs in the Department of Defense that would facilitate military-commercial integration, including the research, development, and application of dual-use technologies, and manufacturing and industrial assistance programs, educational programs, and financial support programs;

"(2) advising the National Defense Technology and Industrial Base Council on policies that the Advisory Board considers essential to effective military-commercial integration;

"(3) organizing a Dual-Use Technology Sub-board that will advise the Council on the effectiveness of military-civilian integration regarding dual-use technologies and strategies; and

"(4) organizing other sub-boards, with the consent or at the request of the Council, to examine priority issues in military-civilian integration.

"(e) MEETINGS.—The Advisory Board shall meet at least once every four months, and at the call of the Council.

"(f) TRAVEL EXPENSES.—Members of the Advisory Board, other than full-time employees of the United States, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5 when engaged in the business of the Advisory Board.

"(g) TERMINATION.—The Advisory Board shall terminate at the close of fiscal year 1997.".

(b) FIRST MEETING.—The chairman of the Military-Civilian Integration and Technology Transfer Advisory Board shall call the first meeting of the Advisory Board no later than 90 days after the date of enactment of this Act.

10 USC 2516 note.

SEC. 4227. OFFICE FOR FOREIGN DEFENSE CRITICAL TECHNOLOGY MONITORING AND ASSESSMENT.

(a) TRANSFER AND REDESIGNATION OF SECTION.—Section 2525 of title 10, United States Code, is transferred to subchapter III of chapter 148, inserted after section 2516 (as added by section 4226), and redesignated as section 2517.

(b) TECHNICAL AMENDMENT.—Subsection (a) of section 2517, as so redesignated, is amended by inserting "Critical" after "Foreign Defense".

SEC. 4228. OVERSEAS FOREIGN CRITICAL TECHNOLOGY MONITORING AND ASSESSMENT FINANCIAL ASSISTANCE PROGRAM.

Section 2526 of title 10, United States Code, is transferred to subchapter III of chapter 148, inserted after section 2517 (as added by section 4227), and redesignated as section 2518.

Subtitle D—Defense Manufacturing Technology, Dual-Use Assistance Extension, and Defense Supplier Base Enhancement and Support Programs

SEC. 4231. NATIONAL DEFENSE MANUFACTURING TECHNOLOGY PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—Subchapter IV of chapter 148 is amended by inserting after the table of sections the following:

"§ 2521. National Defense Manufacturing Technology Program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense shall establish a National Defense Manufacturing Technology Program. The Secretary shall use the program to—

"(1) provide centralized guidance and direction (including goals, milestones, and priorities) to the military departments and the Defense Agencies on all matters relating to manufacturing technology;

"(2) direct the development and implementation of Department of Defense plans, programs, projects, activities, and policies that promote the development and application of advanced technologies to manufacturing processes, tools, and equipment;

"(3) improve the manufacturing quality, productivity, technology, and practices of businesses and workers providing goods and services to the Department of Defense;

"(4) promote dual-use manufacturing processes;

"(5) disseminate information concerning improved manufacturing improvement concepts, including information on such matters as best manufacturing practices, product data exchange specifications, computer-aided acquisition and logistics support, and rapid acquisition of manufactured parts;

"(6) sustain and enhance the skills and capabilities of the manufacturing work force;

"(7) promote high-performance work systems (with development and dissemination of production technologies that build upon the skills and capabilities of the work force), high levels of worker education and training; and

"(8) ensure appropriate coordination between the manufacturing technology programs and industrial preparedness programs of the Department of Defense and similar programs undertaken by other departments and agencies of the Federal Government or by the private sector.

"(b) RELATIONSHIP TO NATIONAL TECHNOLOGY AND INDUSTRIAL BASE PLAN.—The Secretary shall ensure that the program is developed and implemented in accordance with the manufacturing technology guidance set forth in the national technology and industrial base plan prepared under section 2506 of this title.

"(c) REVISIONS.—The Secretary shall revise the program not later than March 15 of each year through fiscal year 1997 and of each odd-numbered year thereafter. Each revision shall identify each manufacturing technology program, project, or activity of the Department of Defense and the amounts provided for each such program, project, and activity in the budget submitted by the President under section 1105 of title 31 for the fiscal year beginning in that year. ".

(b) REPEAL OF LIMITATION.—Section 203(d) of the National Defense Authorization Act for Fiscal Year 1992 and 1993 (Public Law 102–190; 105 Stat. 1315) is repealed.

SEC. 4232. DEFENSE ADVANCED MANUFACTURING TECHNOLOGY PARTNERSHIPS.

(a) TRANSFER AND REDESIGNATION OF SECTION.—Section 2518 of title 10, United States Code, is transferred to chapter 148, inserted after section 2521 (as added by section 4231), and redesignated as section 2522.

(b) PROGRAM AMENDMENTS.—Section 2522 of title 10, United States Code, as redesignated by subsection (a), is amended—

(1) in subsection (a)—

(A) by inserting ", in order to further the national security objectives set forth in section 2501(a) of this title," after "The Secretary of Defense may"; and

(B) by inserting "military and dual-use" after "broad range of";

(2) in subsection (c), by striking out "section 2523" and inserting in lieu thereof "section 2511";

(3) in subsection (d)—

(A) in paragraph (1), by striking out "section 2523(f)" and inserting in lieu thereof "section 2511(f)"; and

(B) by adding at the end the following new paragraph:

"(3) Such other criteria as prescribed by the Secretary of Defense, in consultation with the Council."; and

(4) by striking out subsection (e).

(c) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $25,000,000 shall be available for defense advanced manufacturing technology partnerships under section 2522 of title 10, United States Code, as redesignated by subsection (a).

SEC. 4233. MANUFACTURING EXTENSION PROGRAMS.

(a) TRANSFER AND REDESIGNATION OF SECTION.—Section 2517 of title 10, United States Code, is transferred to subchapter IV of chapter 148, inserted after section 2522 of such title (as added by section 4232), and redesignated as section 2523.

(b) FURTHERANCE OF NATIONAL SECURITY OBJECTIVES.—Subsection (b)(1) of section 2523, as redesignated by subsection (a), is amended in the matter before subparagraph (A) by inserting ", in order to further the national security objectives set forth in section 2501(a) of this title," after "shall".

(c) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $100,000,000 shall be available for support of manufacturing extension programs under section 2523 of title 10, United States Code, as redesignated by section 4233.

SEC. 4234. DEFENSE DUAL-USE ASSISTANCE EXTENSION PROGRAM.

(a) REQUIREMENT FOR PROGRAM.—Subchapter IV of chapter 148, as amended by section 4233, is further amended by inserting after section 2523 the following:

"§ 2524. Defense dual-use assistance extension program

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense, in consultation and coordination with the Secretary of Energy and the Secretary of Commerce, shall establish a program to further

the national security objectives set forth in section 2501(a) of this title and the defense reinvestment, diversification, and conversion program objectives set forth in section 2501(b) of this title by providing support to entities referred to in subsection (b) for programs described in that subsection.

"(b) PROGRAMS SUPPORTED.—The Secretary may provide support under this section for programs sponsored by the Federal Government, regional entities, States, local governments, and private entities and nonprofit organizations that assist businesses economically dependent on Department of Defense expenditures to acquire dual-use capabilities through the provision under those programs of the following forms of assistance:

"(1) Assistance in converting from government-oriented management, production, training, and marketing practices to commercial practices.

"(2) Assistance in acquiring and using public and private sector resources, literature, and other information concerning—

"(A) research, development, and production processes and practices;

"(B) identification of technologies and products having the potential for defense and nondefense commercial applications;

"(C) marketing practices and opportunities;

"(D) identification of potential suppliers, partners, and subcontractors;

"(E) identification of opportunities for government support, including support through grants, contracts, partnerships, and consortia;

"(F) enhancement of work force skills and capabilities, including—

"(i) development and introduction of high-performance work systems, workforce literacy programs, and programs for worker education and training;

"(ii) other programs that build upon the skills and capabilities of the work force; and

"(G) trade and export assistance.

"(3) Loan guarantees to small businesses that are economically dependent on defense expenditures, under the terms and conditions specified under other applicable law.

"(c) ASSISTANCE AUTHORIZED.—(1) The Secretary may make grants, enter into contracts, or enter into cooperative agreements and other transactions pursuant to section 2371 of this title.

"(2) Subject to subsection (d), the Secretary may provide a program referred to in subsection (b) with technical and other assistance.

"(3) The Secretary is authorized to carry out a program to provide assistance to small businesses that are economically dependent on defense expenditures to obtain access to a national network of scientists and engineers, and to information resources (including access through on-line data bases to local, national, and international technical and business literature encompassing a wide range of technologies), that can help minimize technical risk and thereby facilitate the development and commercialization of new products.

"(d) FINANCIAL COMMITMENT OF NON-DEPARTMENT OF DEFENSE PARTICIPANTS.—(1) The Secretary shall ensure that the amount of funds provided by the Department of Defense for a program

under this section does not exceed the maximum authorized percentage of the combined amount provided by the Department of Defense and all other sources of funding for the program for any year.

"(2) The maximum authorized percentage of Department of Defense funding referred to in paragraph (1) for each year of Department of Defense assistance for a program under this section is as follows:

"(A) 50 percent in the first year.

"(B) 40 percent in the second year.

"(C) 30 percent in the third and following years.

"(e) SELECTION PROCESS.—Competitive procedures shall be used in the selection of programs to receive assistance under this section.

"(f) SELECTION CRITERIA.—The criteria for the selection of a program to receive assistance under this section shall include the following:

"(1) The extent to which the program advances and enhances the national security objectives set forth in section 2501(a) of this title and the reinvestment, diversification, and conversion program objectives set forth in section 2501(b) of this title.

"(2) The technical excellence of the program.

"(3) The qualifications of the personnel proposed to participate in the program's research activities.

"(4) The adequacy of timely private sector investment in activities that is sufficient to achieve the goals and objectives of the programs.

"(5) The potential effectiveness of the program in the conversion of businesses (and their work forces) from capabilities that make the companies economically dependent on Department of Defense expenditures to capabilities having defense and nondefense commercial applications.

"(6) The ability of the program to assist businesses (and their work forces) that are adversely affected by significant reductions in Department of Defense spending.

"(7) The extent of the financial commitment by sources other than the Department of Defense.

"(8) The extent to which the program would supplement, rather than duplicate, other available services.

"(9) The likelihood that, within five years after the commencement of assistance for a program under this section (or a lesser period established by the Secretary), Department of Defense assistance will not be necessary to sustain the program.

"(10) Such other criteria as the Secretary prescribes.

"(g) TERMINATION OF AUTHORITY.—After September 30, 1995, funds may be provided by the Department of Defense under this section only for programs referred to in subsection (b) for which funds have been provided by the Department of Defense under this section on or before that date. No funds may be provided by the Department of Defense under this section for a program referred to in subsection (b) after September 30, 1998.".

(b) FUNDING.—Of the amount authorized to be appropriated in section 201 for Defense Agencies, $200,000,000 shall be available for the defense dual-use extension program under section 2524 of title 10, United States Code (as added by subsection (a)), of which—

(1) $50,000,000 shall be available to provide support to regional, State, and local government programs; and

(2) $75,000,000 shall be available for programs designed to assist small businesses.

SEC. 4235. DEFENSE INDUSTRIAL RESERVE.

(a) TRANSFER OF SECTIONS.—(1) Subchapter V of chapter 148 is amended by adding at the end, without text, the following new section:

"§ 2535. Defense Industrial Reserve".

(2) The text of section 2 of the Defense Industrial Reserve Act (50 U.S.C. 451) is—

10 USC 2535.

(A) transferred to section 2535;

(B) inserted after the section heading; and

(C) amended by striking out "In enacting this Act, it" and inserting in lieu thereof the following: "(a) DECLARATION OF PURPOSE AND POLICY.—It".

(3) The text of section 4 of that Act (50 U.S.C. 453) is—

(A) transferred to section 2535;

(B) inserted after subsection (a), as designated by paragraph (2)(C); and

(C) amended—

(i) by striking out "(a) To execute the policy set forth in this Act," and inserting in lieu thereof the following: "(b) POWERS AND DUTIES OF THE SECRETARY OF DEFENSE.—(1) To execute the policy set forth in this section,";

(ii) by striking out "(1) determine" and inserting in lieu thereof "(A) determine";

(iii) by striking out "(2) designate" and inserting in lieu thereof "(B) designate";

(iv) by striking out "(3) establish" and inserting in lieu thereof "(C) establish";

(v) by striking out "(4) direct" and inserting in lieu thereof "(D) direct";

(vi) by striking out "(5) direct" and inserting in lieu thereof "(E) direct";

(vii) by striking out "(6) authorize" and inserting in lieu thereof "(F) authorize";

(viii) by striking out "(7) authorize" and all that follows through "(B) such institution" and inserting in lieu thereof "(G) authorize and regulate the lending of any such property to any nonprofit educational institution or training school whenever (i) the program proposed by such institution or school for the use of such property will contribute materially to national defense, and (ii) such institution";

(ix) by striking out "(b)(1) The Secretary" and inserting in lieu thereof "(2)(A) The Secretary";

(x) by striking out "(A) storage" and inserting in lieu thereof "(i) storage";

(xi) by striking out "(B) repair" and inserting in lieu thereof "(ii) repair";

(xii) by striking out "(C) overhead" and inserting in lieu thereof "(iii) overhead"; and

(xiii) by striking out "(2) The Secretary of Defense shall prescribe regulations" and inserting in lieu thereof "(B) The Secretary of Defense shall prescribe regulations".

Regulations.

(b) DEFINITIONS.—The text of section 3 of that Act (50 U.S.C. 452) is—

(i) transferred to section 2535; 10 USC 2535.

(ii) inserted following subsection (b), as designated by subsection (a)(3)(C)(i); and

(iii) amended by striking out "As used in this Act—" and inserting in lieu thereof "(c) DEFINITIONS.—In this section:".

SEC. 4236. DEFENSE PROCUREMENT TECHNICAL ASSISTANCE PROGRAM.

(a) AUTHORITY TO PROVIDE CERTAIN TYPES OF TECHNICAL ASSISTANCE.—(1) Chapter 142 of title 10, United States Code, is amended—

(A) by redesignating section 2418 as section 2419; and

(B) by inserting after section 2417 the following new section:

"§ 2418. Authority to provide certain types of technical assistance

"(a) The procurement technical assistance furnished by eligible entities assisted by the Department of Defense under this chapter may include technical assistance relating to contracts entered into with (1) Federal departments and agencies other than the Department of Defense, and (2) State and local governments.

"(b) An eligible entity assisted by the Department of Defense under this chapter also may furnish information relating to assistance and other programs available pursuant to the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992.".

(2) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 2418 and inserting in lieu thereof the following:

"Sec. 2418. Authority to provide certain types of technical assistance.
"Sec. 2419. Regulations.".

(b) FISCAL YEAR 1993 FUNDING.—Of the amount authorized to be appropriated in section 301 for Defense Agencies, $12,000,000 shall be available for carrying out the provisions of chapter 142 of title 10, United States Code, as amended by this section.

(c) SPECIFIC PROGRAMS.—Of the amounts referred to in subsection (a), $600,000 shall be available for fiscal year 1993 for the purpose of carrying out programs sponsored by eligible entities referred to in subparagraph (D) of section 2411(1) of title 10, United States Code, that provide procurement technical assistance in distressed areas referred to in subparagraph (B) of section 2411(2) of such title. If there is an insufficient number of satisfactory proposals for cooperative agreements in such distressed areas to allow for effective use of the funds made available in accordance with this subsection in such areas, the funds shall be allocated among the Defense Contract Administration Services regions in accordance with section 2415 of such title.

SEC. 4237. SMALL BUSINESS INNOVATION RESEARCH PROGRAM IN THE DEPARTMENT OF DEFENSE. 15 USC 638 note.

(a) EXTENSION OF PROGRAM.—Section 5 of the Small Business Innovation Development Act of 1982 (Public Law 97-219; 15 U.S.C. 638 note) is amended—

(1) by striking out "Effective October 1, 1993, paragraphs" and inserting in lieu thereof "Paragraphs"; and

(2) by striking out "are repealed" and inserting in lieu thereof "shall cease to be effective with respect to departments and agencies of the Federal Government other than the Department of Defense on October 1, 1993, and are repealed effective October 1, 2000".

(b) LIMITATION ON PROGRAM AWARDS.—Amounts paid to a small business concern by the Department of Defense under the Small Business Innovation Research Program for a project—

(1) in phase I under the program may not exceed $100,000; and

(2) in phase II under the program may not exceed $750,000.

(c) COMMERCIAL APPLICATIONS STRATEGY.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Defense, in consultation with the Administrator of the Small Business Administration, shall develop and issue a strategy for effectuating the transition of successful projects under the Small Business Innovation Research Program from phase II under the program into phase III under the program.

(d) REPEAL OF EXCLUSION OF CERTAIN ACTIVITIES.—(1) Subsection (e)(1) of section 9 of the Small Business Act (15 U.S.C. 638) is amended by striking out "except that for the Department of Defense" and all that follows through "development, and".

(2)(A) Subsection (e)(1) of section 9 of the Small Business Act (15 U.S.C. 638) is amended by striking out the semicolon at the end and inserting in lieu thereof ", and except that for the Department of Energy it shall not include amounts obligated for atomic energy defense programs for weapons and weapons-related activities or for naval reactor programs;".

(B) Subsection (f) of such section is amended by striking out paragraph (2).

(e) PERCENTAGE OF REQUIRED EXPENDITURES FOR SBIR CONTRACTS.—(1) The Small Business Innovation Research Program shall apply to the Department of Defense (including the military departments) as if the percentage specified in section 9(f)(1) of the Small Business Act (15 U.S.C. 638(f)(1)) with respect to fiscal years after fiscal year 1982 were determined in accordance with the table set forth in paragraph (2) (rather than 1.25 percent).

(2)(A) The percentage under section 9(f)(1) of the Small Business Act (15 U.S.C. 638(f)(1)) for any fiscal year for the Department of Defense and each military department shall be determined in accordance with the following table:

For fiscal year:	The percentage is:
1993	1.25
1994	1.5
1995	1.75
1996	2.0
1997	2.25
1998 and thereafter	2.5.

(B) If the determination of the Secretary of Defense under subparagraph (C) is a negative determination (as set forth in that paragraph), then the percentage under section 9(f)(1) of the Small Business Act (15 U.S.C. 638(f)(1)) for the Department of Defense and each military department for fiscal years after fiscal year 1996 shall remain at the level applicable for fiscal year 1996 (notwithstanding the percentages specified in subparagraph (A) for fiscal years after fiscal year 1996).

(C) Not later than June 30, 1996, the Secretary of Defense during fiscal year 1996 shall determine whether there has been

a demonstrable reduction in the quality of research performed under funding agreements awarded by the Department of Defense under the SBIR program since the beginning of fiscal year 1993 such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to the department would adversely affect the performance of the department's research programs. If the determination of the Secretary is that there has been such a demonstrable reduction in the quality of research such that increasing the percentage under subparagraph (B) for fiscal years after fiscal year 1996 with respect to the department would adversely affect the performance of the department's research programs, the Secretary shall be considered for purposes of subparagraph (B) to have made a negative determination. The determination of the Secretary concerned under this paragraph shall be made after considering the assessment of the Comptroller General with respect to that department in the report transmitted under subparagraph (D).

(D) Not later than March 30, 1996, the Comptroller General shall transmit to the Congress and the Secretary of Defense a report setting forth the Comptroller General's assessment, with respect to the Department of Defense of whether there has been a demonstrable reduction in the quality of research performed under funding agreements awarded by the department under the SBIR program since the beginning of fiscal year 1993 such that increasing the percentage under subparagraph (A) for fiscal years after fiscal year 1996 with respect to the department would adversely affect the performance of the department's research programs. Reports.

(E) The results of each determination under subparagraph (C) shall be transmitted to the Congress not later than June 30, 1996.

(f) DEFINITIONS.—In this section:

(1) The term "Small Business Innovation Research Program" means the program established under the following provisions of section 9 of the Small Business Act (15 U.S.C. 638):

(A) Paragraphs (4) through (7) of subsection (b).

(B) Subsections (e) through (k).

(2) The term "phase I", with respect to the Small Business Innovation Research Program, means the first phase described in subsection (e)(4)(A) of section 9 of the Small Business Act.

(3) The term "phase II", with respect to the Small Business Innovation Research Program, means the second phase described in subsection (e)(4)(B) of such section.

(4) The term "phase III", with respect to the Small Business Innovation Research Program, means the third phase described in subsection (e)(4)(C) of such section.

(g) EFFECTIVE DATE.—Subject to subsection (h), this section, and the amendments made by this section, shall take effect on October 1, 1992, and shall apply with respect to fiscal years after fiscal year 1992.

(h) EFFECTIVENESS OF SECTION CONDITIONAL ON FAILURE TO ENACT OTHER LEGISLATION.—(1) In the event of the enactment of H.R. 4400 or S. 2941, 102d Congress, on or before the date of the enactment of this Act, then this section and the amendments made by this section shall not take effect.

(2)(A) In the event of the enactment of H.R. 4400 or S. 2941, 102d Congress, after the date of the enactment of this Act, then,

effective immediately before the enactment of H.R. 4400 or S. 2941, 102d Congress—

(i) this section shall cease to be effective; and

(ii) the provisions of a small business law that are amended by this section shall be effective and read as such provisions of that law were in effect immediately before the enactment of this Act, except that to the extent that any amendment is made to such a provision of a small business law by any other provision of law referred to in subparagraph (B), such provision of a small business law shall be effective and shall read as amended by that other provision of law.

(B) For the purposes of subparagraph (A)(ii), a provision of law referred to in this subparagraph is the following:

(i) A provision of this Act other than a provision of this section.

(ii) A provision of any other Act if the provision takes effect during the period beginning on the date of the enactment of this Act and ending immediately before the enactment of H.R. 4400 or S. 2941, 102d Congress.

(C) In this paragraph, the term "small business law" means—

(i) the Small Business Act (15 U.S.C. 631 et seq.); and

(ii) the Small Business Innovation Development Act of 1982 (15 U.S.C. 638 note).

SEC. 4238. DEFENSE MANUFACTURING EXPERTS IN THE CLASSROOM.

(a) PROGRAM.—Section 2197 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out "managers and" in the matter preceding paragraph (1); and

(2) by adding at the end the following new subsection:

"(e) MANUFACTURING EXPERT DEFINED.—In this section, the term 'manufacturing expert' means manufacturing managers and workers having experience in the organization of production and education and training needs and other experts in manufacturing.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 2197. Manufacturing experts in the classroom".

(2) The table of sections at the beginning of chapter 111 of such title is amended by striking out the item relating to section 2197 and inserting in lieu thereof the following:

"2197. Manufacturing experts in the classroom.".

10 USC 2501 note.

SEC. 4239. INDUSTRIAL DIVERSIFICATION PLANNING FOR DEFENSE CONTRACTORS.

Regulations.

Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall prescribe regulations to encourage defense contractors to engage in industrial diversification planning.

Subtitle E—Defense Advanced Research Projects Agency

SEC. 4261. DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.

(a) SENSE OF CONGRESS CONCERNING NAME OF AGENCY.—It is the sense of Congress that the Secretary of Defense should rename the Defense Advanced Research Projects Agency as the Advanced Research Projects Agency.

(b) SENSE OF CONGRESS CONCERNING MISSION.—It is the sense of Congress that the Secretary of Defense should direct that the agency referred to in subsection (a), in conjunction with industry, institutions of higher education, and other Federal and State organizations, should, among its other purposes, do the following:

(1) Pursue imaginative and innovative research and development projects having significant potential for—

(A) both military and commercial (dual use) applications; and

(B) solely for military applications.

(2) Support and stimulate a national technology base that—

(A) serves both civilian and military purposes through technology sharing and otherwise; and

(B) by serving both civilian and military purposes, increases the productivity of both the civilian and military sectors.

(3) Manage and direct the conduct of basic and applied research and development that exploits scientific breakthroughs and demonstrates the feasibility of revolutionary approaches for improved cost and performance of advanced technology having future military applications, including advanced technology also having future civilian applications.

(4) Stimulate increased emphasis on prototyping in defense systems and subsystems—

(A) by conducting prototype projects embodying technology that might be incorporated in joint programs, programs in support of deployed forces, or selected programs of the military departments; and

(B) on request of the Secretary of a military department, by assisting that military department in any prototyping program of the military department.

(c) SENSE OF CONGRESS CONCERNING PRIORITY OF TECHNOLOGY DEVELOPMENT.—It is further the sense of Congress that the Secretary of Defense—

(1) should establish priorities for development of technologies by the agency referred to in subsection (a) to meet the needs of national security; and

(2) should consult with the Secretary of Commerce and the Secretary of Energy before providing annual planning guidance to that agency.

Subtitle F—Conforming Amendments and Funding Matters

SEC. 4271. CONFORMING AMENDMENTS.

(a) CONFORMING REPEALS.—(1) Section 2330 of title 10, United States Code, is repealed.

(2) Section 2363 of such title is repealed.

(b) CLERICAL AMENDMENTS.—(1) The tables of chapters at the beginning of subtitle A of title 10, United States Code, and part IV of such subtitle are amended by striking out the items relating to chapters 148, 149, and 150 and inserting in lieu thereof the following:

"148. National Defense Technology and Industrial Base, Defense Reinvestment, and Defense Conversion ..... 2491".

(2) The table of sections at the beginning of chapter 137 of such title is amended by striking out the item relating to section 2330.

(3) The table of sections at the beginning of chapter 139 of such title is amended by striking out the item relating to section 2363.

(4) The heading of section 2534, as redesignated by section 4202(a), is amended to read as follows:

"§ 2534. Miscellaneous limitations on the procurement of goods other than United States goods".

(c) CONFORMING AMENDMENT.—Section 2531, as redesignated by section 4202(a), is amended by striking out "defense industrial base" in subsection (a)(1) and inserting in lieu thereof "defense technology and industrial base".

SEC. 4272. FUNDING FOR DEFENSE MANUFACTURING EDUCATION PROGRAMS FOR FISCAL YEAR 1993.

Of the amount authorized to be appropriated in section 201 for Defense Agencies—

(1) $25,000,000 shall be available for defense manufacturing engineering education grants under section 2196 of title 10, United States Code, and

(2) $5,000,000 shall be available for the manufacturing experts in the classroom program under section 2197 of such title.

TITLE XLIII—COMMUNITY ADJUSTMENT AND ASSISTANCE PROGRAMS AND YOUTH SERVICE PROGRAMS

SEC. 4301. EXPANSION OF ADJUSTMENT ASSISTANCE AVAILABLE TO STATES AND LOCAL GOVERNMENTS FROM THE OFFICE OF ECONOMIC ADJUSTMENT.

(a) OPERATIONAL ASSISTANCE.—Subsection (b) of section 2391 of title 10, United States Code, is amended—

(1) by redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph:

"(4)(A) In the case of a State or local government eligible for assistance under paragraph (1), the Secretary of Defense may also make grants, conclude cooperative agreements, and supplement other Federal funds in order to assist the State or local government to carry out a community adjustment and economic diversification program (including State industrial extension or modernization efforts to facilitate the economic diversification of defense contractors and subcontractors) in addition to planning such a program.

"(B) The Secretary shall establish criteria for the selection of community adjustment and economic diversification programs to receive assistance under subparagraph (A). Such criteria shall include a requirement that the State or local government agree—

"(i) to provide not less than 10 percent of the funding for the program from non-Federal sources;

"(ii) to provide business planning and market exploration services under the program to defense contractors and subcontractors that seek modernization or diversification assistance; and

"(iii) to provide training, counseling, and placement services for members of the armed forces and dislocated defense workers.

"(C) The Secretary shall carry out this paragraph in coordination with the Secretary of Commerce.".

(b) ASSISTANCE UPON CLOSURE OF PRIVATE DEFENSE FACILITIES.—(1) Subsection (b)(1) of such section is amended—

(A) by striking out ", or (D)" and inserting in lieu thereof ", (D)";

(B) by striking out "or (C)" and inserting in lieu thereof "(C), or (E)"; and

(C) by inserting before "if the Secretary" the following: "or (E) by the closure or the significantly reduced operations of a defense facility as the result of the merger, acquisition, or consolidation of the defense contractor operating the defense facility,".

(2) Subsection (b)(3) of such section is amended by inserting after "Defense spending," the following: "the closure or significantly reduced operations of a defense facility,".

(3) Subsection (d) of such section is amended to read as follows:

"(d) DEFINITIONS.—In this section:

"(1) The term 'military installation' means any camp, post, station, base, yard, or other installation under the jurisdiction of a military department that is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or Guam.

"(2) The term 'defense facility' means any private facility producing goods or services pursuant to a defense contract.".

(c) CLERICAL AMENDMENTS.—Such section is further amended—

(1) by inserting "REUSE STUDIES.—" after "(a)";

(2) by inserting "ADJUSTMENT AND DIVERSIFICATION ASSISTANCE.—" after "(b)";

(3) by inserting "ANNUAL REPORT.—" after "(c)"; and

(4) by inserting "ASSISTANCE SUBJECT TO APPROPRIATIONS.—" after "(e)".

(d) ADVANCE ADJUSTMENT PLANNING.—During fiscal year 1993, the Secretary of Defense may make grants and other assistance available under section 2391(b) of title 10, United States Code, to assist a State or local government in planning community adjustments and economic diversification even though the State or local government currently fails to meet the criteria for assistance under such section if the Secretary determines that a substantial portion of the economic activity or population of the geographic area to be subject to the adjustment or diversification planning is dependent on Department of Defense expenditures. 10 USC 2391 note.

(e) FUNDING FOR FISCAL YEAR 1993.—(1) Of the amount authorized to be appropriated in section 301(5), $50,000,000 shall be available as community adjustment and economic diversification assistance under section 2391(b)(4) of title 10, United States Code, as added by subsection (a)(2).

(2) The Secretary of Defense may use up to five percent of the amount described in paragraph (1) for the purpose of providing preparation assistance to those States intending to establish the types of programs for which assistance is authorized under such section.

(3) Of the amount authorized to be appropriated to the Department of Defense in section 301(5) and made available for fiscal year 1993 for the Office of Economic Adjustment, $2,000,000 shall be made available for community adjustment and economic diversification assistance under subsection (d).

10 USC 2391 note.

(f) EFFECT OF AMENDMENTS ON EFFORTS OF ECONOMIC DEVELOPMENT ADMINISTRATION.—Nothing in this section is intended to replace the efforts of the economic development program administered by the Economic Development Administration of the Department of Commerce.

10 USC 2391 note.

SEC. 4302. PILOT PROJECT TO IMPROVE ECONOMIC ADJUSTMENT PLANNING.

(a) PILOT PROJECT.—During fiscal year 1993, the Secretary of Defense shall conduct a pilot project to examine methods to improve the provision of economic adjustment and diversification assistance under section 2391(b)(1) of title 10, United States Code, to State and local governments adversely affected by the closure of military installations, the cancellation or completion of defense contracts, or reductions in defense spending.

(b) PLANNING GRANTS.—Under the pilot project, the Secretary of Defense shall make planning grants under section 2391(b)(1) of title 10, United States Code, to State and local governments in four study areas selected by the Secretary. The total amount of grants under the pilot program may not exceed $500,000 per study area.

(c) STUDY AREAS.—In selecting study areas for inclusion in the pilot program, the Secretary of Defense shall ensure that—

(1) one study area covers an area in which the local economy is heavily dependent on a defense contractor that is in the process of terminating a major defense contract or closing a major facility;

(2) one study area covers an area in which the local economy would be adversely affected by changes in the use of a national laboratory previously needed for the testing of nuclear weapons;

(3) one study area covers an area in which the local economy would be adversely affected by the closing of a military installation; and

(4) one study area covers an area in which the local economy would be adversely affected by at least two of the changes referred to in the preceding paragraphs.

(d) USE OF GRANTS.—Grants made under the pilot program may be used to determine the needs of the communities in a study area as they experience the economic dislocation associated with the closure of military installations, the cancellation or completion of defense contracts, or reductions in defense spending and develop responses tailored to those needs through the use of a wide variety of sources and expertise in the communities.

(e) MONITORING OF GRANT USE.—The Secretary of Defense shall monitor the activities under the pilot project to develop a more complete understanding of the unique needs of each type of study area and the methodologies that may be successful in addressing similar economic dislocation in other communities in the United States.

(f) FUNDING.—Of the amount authorized to be appropriated in section 301(5), $2,000,000 shall be made available for grants under this section.

SEC. 4303. REPORT ON ALTERNATIVES TO PRESENT PRIORITY FOR TRANSFER OF EXCESS DEFENSE SUPPLIES TO STATE AND LOCAL GOVERNMENTS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The reduction in the size of the United States military will result in an increase in nonlethal supplies of the Department of Defense that are in excess of current and projected requirements of the Department of Defense.

(2) Agencies of State and local governments, many of which are suffering economic hardship, may be able to use the excess nonlethal supplies to create jobs for the citizens of the United States and to stimulate national economic growth.

(b) REPORTING REQUIREMENT.—Not later than February 15, 1993, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on alternatives to the existing procedures for management of the Department of Defense excess property program for nonlethal supplies (including excess construction, mining, excavating and highway maintenance equipment) in order to provide higher priority for State agencies to receive such excess supplies.

(c) DEFINITIONS.—For purposes of subsection (b), the term "supplies" has the meaning given such term in section 101 of title 10, United States Code.

SEC. 4304. LIMITATION ON USE OF EXCESS CONSTRUCTION OR FIRE EQUIPMENT FROM DEPARTMENT OF DEFENSE STOCKS IN FOREIGN ASSISTANCE OR MILITARY SALES PROGRAMS.

(a) LIMITATION ON USE OF CERTAIN EXCESS EQUIPMENT.—Subchapter II of chapter 152 of title 10, United States Code, as amended by section 304(c)(1), is amended by adding at the end the following new section:

"§ 2552. Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs

"(a) LIMITATION.—Excess construction or fire equipment from the stocks of the Department of Defense may be transferred to any foreign country or international organization pursuant to part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.) or section 21 of the Arms Export Control Act (22 U.S.C. 2761) only if—

"(1) no department or agency of the Federal Government (other than the Department of Defense), no State, and no other person or entity eligible to receive excess or surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472 et seq.) submits to the Defense Reutilization and Marketing Service a request for such equipment during the period for which the Defense Reutilization and Marketing Service accepts such a request; or

"(2) the President determines that the transfer is necessary in order to respond to an emergency for which the equipment is especially suited.

"(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to limit the authority to transfer construction or fire equipment under section 2547 of this title.

"(c) DEFINITION.—In this section, the term 'construction or fire equipment' includes tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, pumpers, fuel and water tankers, crash trucks, utility vans, rescue trucks, ambulances, hook and ladder units, compressors, and miscellaneous fire fighting equipment.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such subchapter, as amended by section 304(c)(2), is amended by adding at the end the following new item:

"2552. Limitation on use of excess construction or fire equipment from Department of Defense stocks in foreign assistance or military sales programs.".

SEC. 4305. COMMUNITY ECONOMIC ADJUSTMENT ASSISTANCE THROUGH THE ECONOMIC DEVELOPMENT ADMINISTRATION.

Of the amount authorized to be appropriated in section 301(5), $80,000,000 shall be available for the provision of economic adjustment assistance pursuant to section 4103 of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (division D of Public Law 101–510; 10 U.S.C. 2391 note) to substantially and seriously affected communities (as defined in section 4003(5)(A) of such Act).

SEC. 4306. REPORT RELATING TO CONTINUING HEALTH BENEFITS COVERAGE OF CERTAIN TERMINATED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) REPORT REQUIRED.—Not later than March 1, 1993, the Under Secretary of Defense for Acquisition shall submit to Congress a report on matters relating to the provision by contractors of the Department of Defense of continuing health benefits coverage to employees of such contractors who are involuntarily separated from such employment by reason of the termination or curtailment of defense contracts.

(b) CONTENT OF REPORT.—The report shall contain—

(1) an estimate of the number of employees referred to in subsection (a) who will be involuntarily separated from employment referred to in that subsection for the reason referred to in that subsection during each of fiscal years 1993 and 1994;

(2) an estimate of the number of such employees who will elect in each such fiscal year to receive continuation coverage under section 4980B of the Internal Revenue Code of 1986, and an estimate of the aggregate monthly costs that will be incurred during such fiscal years by such employees who make the elections;

(3) an estimate of the cost to the Department of Defense of providing continuing health benefits coverage to such employees in the same manner as continuing health benefits are provided to individuals under paragraph (4) of section 8905a(d) of title 5, United States Code, as added by section 346(a);

(4) an assessment of the capability of the employers of such employees to bear a portion or all of the costs estimated under paragraph (3) and a description of any current efforts by such employers to bear such costs; and

(5) recommendations relating to the optimal allocation of such costs between the Federal Government and such employers.

TITLE XLIV—PERSONNEL ADJUSTMENT, EDUCATION, AND TRAINING PROGRAMS

Subtitle A—Active Forces Transition Enhancements

SEC. 4401. IMPROVEMENT IN PRESEPARATION COUNSELING FOR MEMBERS OF THE ARMED FORCES.

(a) ADVANCE NOTICE OF SEPARATION TO MEMBER.—Subsection (a)(1) of section 1142 of title 10, United States Code, is amended by striking out "Upon the discharge" and inserting in lieu thereof "As soon as possible before, but in no event later than 90 days before, the date of the discharge".

(b) CREATION OF TRANSITION PLAN.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

"(10) The creation of a transition plan for the member to attempt to achieve the educational, training, and employment objectives of the member and, if the member has a spouse, the spouse of the member.".

SEC. 4402. AUTHORIZATION OF TEMPORARY RATE OF BASIC PAY APPLICABLE TO CERTAIN MEMBERS WITH OVER 24 YEARS OF SERVICE.

37 USC 1009 note.

(a) TEMPORARY RATE OF BASIC PAY.—Subject to subsection (b), the rate of monthly basic pay for a member of the uniformed services who is entitled to such pay under section 204 of title 37, United States Code, is in pay grade E–7, E–8, E–9, W–4, W–5, or O–6, and has over 24, but under 26, years of service (as computed under section 205 of such title) shall be as set forth in the following table:

Temporary Rate of Monthly Basic Pay

Pay Grade	24–26 Years of Service
E–7	$2,359.30
E–8	$2,639.70
E–9	$2,977.70
W–4	$3,430.90
W–5	$3,827.30
O–6	$5,417.70

(b) TEMPORARY APPLICATION OF PAY RATE.—The rates of monthly basic pay established under subsection (a) shall be effective for months beginning after December 31, 1992, and before October 1, 1995, except that a member of the uniformed services who is entitled to a rate of special pay under such subsection on September 1, 1995, shall continue to be entitled to such rate (and any adjustment pursuant to subsection (c)) so long as the member remains entitled to basic pay under section 204 of title 37, United States Code, and is in pay grade E–7, E–8, E–9, W–4, W–5, or O–6.

(c) ADJUSTMENTS OF COMPENSATION.—The rates of monthly basic pay established under subsection (a) shall be adjusted in accordance with section 1009 of title 37, United States Code, or other applicable provision of law, except that the increase in the

rates of basic pay made by section 601(b) shall not apply to the rates established under subsection (a).

10 USC 1293 note.

SEC. 4403. TEMPORARY EARLY RETIREMENT AUTHORITY.

(a) PURPOSE.—The purpose of this section is to provide the Secretary of Defense a temporary additional force management tool with which to effect the drawdown of military forces through 1995.

(b) RETIREMENT FOR 15 TO 20 YEARS OF SERVICE.—(1) During the active force drawdown period, the Secretary of the Army may—

(A) apply the provisions of section 3911 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years" in subsection (a) of that section;

(B) apply the provisions of section 3914 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting "at least 15" for "at least 20"; and

(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years".

(2) During the active force drawdown period, the Secretary of the Navy may—

(A) apply the provisions of section 6323 of title 10, United States Code, to an officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years" in subsection (a) of that section;

(B) apply the provisions of section 6330 of such title to an enlisted member of the Navy or Marine Corps with at least 15 but less than 20 years of service by substituting "15 or more years" for "20 or more years" in the first sentence of subsection (a), in the case of an enlisted member of the Navy, and in the second sentence of subsection (b), in the case of an enlisted member of the Marine Corps; and

(C) apply the provisions of section 1293 of such title to a warrant officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years".

(3) During the active force drawdown period, the Secretary of the Air Force may—

(A) apply the provisions of section 8911 of title 10, United States Code, to a regular or reserve commissioned officer with at least 15 but less than 20 years of service by substituting "at least 15 years" for "at least 20 years" in subsection (a) of that section; and

(B) apply the provisions of section 8914 of such title to an enlisted member with at least 15 but less than 20 years of service by substituting "at least 15" for "at least 20".

(c) ADDITIONAL ELIGIBILITY REQUIREMENT.—In order to be eligible for retirement by reason of the authority provided in subsection (b), a member of the Armed Forces shall—

(1) register on the registry maintained under section 1143a(b) of title 10, United States Code (as added by section 4462(a)); and

(2) receive information regarding public and community service job opportunities from the Secretary of Defense or

another source approved by the Secretary and be afforded, on request, counseling on such job opportunities.

(d) REGULATIONS.—The Secretary of each military department may prescribe regulations and policies regarding the criteria for eligibility for early retirement by reason of eligibility pursuant to this section and for the approval of applications for such retirement. Such criteria may include factors such as grade, years of service, and skill.

(e) COMPUTATION OF RETIRED PAY.—Retired or retainer pay of a member retired (or transferred to the Fleet Reserve or Fleet Marine Corps Reserve) under a provision of title 10, United States Code, by reason of eligibility pursuant to subsection (b) shall be reduced by 1/12th of 1 percent for each full month by which the number of months of active service of the member are less than 240 as of the date of the member's retirement (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve).

(f) FUNDING.—(1) Notwithstanding section 1463 of title 10, United States Code, and subject to the availability of appropriations for this purpose, the Secretary of each military department shall provide in accordance with this section for the payment of retired pay payable during the fiscal years covered by the other provisions of this subsection to members of the Armed Forces under the jurisdiction of that Secretary who are being retired under the authority of this section.

(2) In each fiscal year in which the Secretary of a military department retires a member of the Armed Forces under the authority of this section, the Secretary shall credit to a subaccount (which the Secretary shall establish) within the appropriation account for that fiscal year for pay and allowances of active duty members of the Armed Forces under the jurisdiction of that Secretary such amount as is necessary to pay the retired pay payable to such member for the entire initial period (determined under paragraph (3)) of the entitlement of that member to receive retired pay.

(3) The initial period applicable under paragraph (2) in the case of a retired member referred to in that paragraph is the number of years (and any fraction of a year) that is equal to the difference between 20 years and the number of years (and any fraction of a year) of service that were completed by the member (as computed under the provision of law used for determining the member's years of service for eligibility to retirement) before being retired under the authority of this section.

(4) The Secretary shall pay the member's retired pay for such initial period out of amounts credited to the subaccount under paragraph (2). The amounts so credited with respect to that member shall remain available for payment for that period.

(5) For purposes of this subsection—

(A) the transfer of an enlisted member of the Navy or Marine Corps to the Fleet Reserve or Fleet Marine Corps Reserve shall be treated as a retirement; and

(B) the term "retired pay" shall be treated as including retainer pay.

(g) COORDINATION WITH OTHER SEPARATION PROVISIONS.—(1) A member of the Armed Forces retired under the authority of this section is not entitled to benefits under section 1174, 1174a, or 1175 of title 10, United States Code.

(2) Section 638a(b)(4)(C) of title 10, United States Code, is amended by inserting "(other than by reason of eligibility pursuant

to section 4403 of the National Defense Authorization Act for Fiscal Year 1993)" after "any provision of law".

(h) MEMBERS RECEIVING SSB OR VSI.—The Secretary of a military department may retire (or transfer to the Fleet Reserve or Fleet Marine Corps Reserve) pursuant to the authority provided by this section a member of a reserve component who before the date of the enactment of this Act was separated from active duty pursuant to an agreement entered into under section 1174a or 1175 of title 10, United States Code. The retired or retainer pay of any such member so retired (or transferred) by reason of the authority provided in this section shall be reduced by the amount of any payment to such member before the date of such retirement under the provisions of such agreement under section 1174a or 1175 of title 10, United States Code.

(i) ACTIVE FORCE DRAWDOWN PERIOD.—For purposes of this section, the active force drawdown period is the period beginning on the date of the enactment of this Act and ending on October 1, 1995.

SEC. 4404. OPPORTUNITY FOR CERTAIN PERSONS TO ENROLL IN ALL-VOLUNTEER FORCE EDUCATIONAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 30 of title 38, United States Code, is amended by adding after section 3018A the following new section:

"§ 3018B. Opportunity for certain persons to enroll

"(a) Notwithstanding any other provision of law—

"(1) the Secretary of Defense shall, subject to the availability of appropriations, allow an individual who—

"(A) is separated from the active military, naval, or air service with an honorable discharge and receives voluntary separation incentives under section 1174a or 1175 of title 10;

"(B) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

"(C) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before such separation pursuant to procedures which the Secretary of each military department shall provide in accordance with regulations prescribed by the Secretary of Defense for the purpose of carrying out this section or which the Secretary of Transportation shall provide for such purpose with respect to the Coast Guard when it is not operating as service in the Navy;

"(D) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in subparagraph (C) of this paragraph, before such separation to receive benefits under this section in lieu of benefits under such chapter 32; and

"(E) before such separation elects to receive assistance under this section pursuant to procedures referred to in subparagraph (C) of this paragraph; or

"(2) the Secretary, in consultation with the Secretary of Defense, shall, subject to the availability of appropriations, allow an individual who—

"(A) separated before the date of enactment of this section from the active military, naval, or air service with an honorable discharge and received or is receiving voluntary separation incentives under section 1174a or 1175 of title 10;

"(B) before applying for benefits under this section, has completed the requirements of a secondary school diploma (or equivalency certificate) or has successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree;

"(C) in the case of any individual who has made an election under section 3011(c)(1) or 3012(d)(1) of this title, withdraws such election before making an election under this paragraph pursuant to procedures which the Secretary shall provide, in consultation with the Secretary of Defense and the Secretary of Transportation with respect to the Coast Guard when it is not operating as service in the Navy, which shall be similar to the regulations prescribed under paragraph (1)(C) of this subsection;

"(D) in the case of any person enrolled in the educational benefits program provided by chapter 32 of this title makes an irrevocable election, pursuant to procedures referred to in subparagraph (C) of this paragraph, before making an election under this paragraph to receive benefits under this section in lieu of benefits under such chapter 32; and

"(E) before the one-year period beginning on the date of enactment of this section, elects to receive assistance under this section pursuant to procedures referred to in subparagraph (C) of this paragraph,

to elect to become entitled to basic education assistance under this chapter.

"(b)(1) The basic pay or voluntary separation incentives of an individual who makes an election under subsection (a)(1) to become entitled to basic education assistance under this chapter shall be reduced by $1,200.

"(2) The Secretary shall collect $1,200 from an individual who makes an election under subsection (a)(2) to become entitled to basic education assistance under this chapter, which shall be paid into the Treasury of the United States as miscellaneous receipts.

"(c) A withdrawal referred to in subsection (a)(1)(C) or (a)(2)(C) of this section is irrevocable.

"(d)(1) Except as provided in paragraph (3) of this subsection, an individual who is enrolled in the educational benefits program provided by chapter 32 of this title and who makes the election described in subsection (a)(1)(D) or (a)(2)(D) of this subsection shall be disenrolled from such chapter 32 program as of the date of such election.

"(2) For each individual who is disenrolled from such program, the Secretary shall refund—

"(A) as provided in section 3223(b) of this title, to the individual the unused contributions made by the individual to the Post-Vietnam Era Veterans Education Account established pursuant to section 3222(a) of this title; and

"(B) to the Secretary of Defense the unused contributions (other than contributions made under section 3222(c) of this title) made by such Secretary to the Account on behalf of such individual.

"(3) Any contribution made by the Secretary of Defense to the Post-Vietnam Era Veterans Education Account pursuant to subsection (c) of section 3222 of this title on behalf of any individual referred to in paragraph (1) of this subsection shall remain in such Account to make payments of benefits to such individual under section 3015(e) of this chapter.".

(b) CONFORMING AMENDMENTS.—(1) The table of sections at the beginning of chapter 30 of such title is amended by inserting after the item relating to section 3018A the following new item:

"3018B. Opportunity for certain persons to enroll.".

(2) Section 3013(d) of such title is amended by inserting "or 3018B" after "section 3018A".

(3) Section 3035(b) of such title is amended—

(A) in paragraph (3), by inserting "or 3018B" after "section 3018A"; and

(B) in paragraph (3)(B), by inserting ", 3018B(a)(1)(C), or 3018B(a)(2)(C)" after "section 3018A(a)(3)".

SEC. 4405. AUTHORIZED BENEFITS UNDER SPECIAL SEPARATION BENEFITS PROGRAM AND VOLUNTARY SEPARATION INCENTIVE.

(a) TRAVEL AND TRANSPORTATION BENEFITS UNDER SSB.—Subsection (b)(2)(B) of section 1174a of title 10, United States Code, is amended by inserting after "chapter 58 of this title" the following: ", sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note)".

(b) ELIGIBILITY FOR INVOLUNTARY SEPARATION BENEFITS UNDER VSI.—Section 1175 of such title is amended by adding at the end the following new subsection:

"(j) A member of the armed forces who is provided a voluntary separation incentive under this section shall be eligible for the same benefits and services as are provided under chapter 58 of this title, sections 404 and 406 of title 37, and section 503(c) of the National Defense Authorization Act for Fiscal Year 1991 (104 Stat. 1558; 37 U.S.C. 406 note) for members of the armed forces who are involuntarily separated within the meaning of section 1141 of this title.".

10 USC 1174a note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply as if included in sections 1174a and 1175 of title 10, United States Code, as enacted on December 5, 1991, but any benefits or services payable by reason of the applicability of the provisions of those amendments during the period beginning on December 5, 1991, and ending on the date of the enactment of this Act shall be subject to the availability of appropriations.

SEC. 4406. CALCULATION OF ANNUAL PAYMENT OF VOLUNTARY SEPARATION INCENTIVE.

(a) RECOUPMENT OF ACTIVE OR RESERVE PAY.—Section 1175(e) of title 10, United States Code, is amended—

(1) in paragraph (2), by striking out "shall forfeit" and all that follows and inserting in lieu thereof "may elect to have a reduction in the voluntary separation incentive payable

for the same period in an amount not to exceed the amount of the basic pay or compensation received for that period."; and

(2) in paragraph (3), by adding at the end the following new sentence: "If the member elected to have a reduction in voluntary separation incentive for any period pursuant to paragraph (2), the deduction required under the preceding sentence shall be reduced accordingly.".

(b) CREDITING OF MILITARY SERVICE FOR CIVIL SERVICE RETIREMENT.—Such section is further amended by striking out paragraph (6).

(c) EFFECTIVE DATE.—The amendments to section 1175 of title 10, United States Code, made by subsections (a) and (b) shall apply as if included in section 1175 of title 10, United States Code, as enacted on December 5, 1991. 10 USC 1175 note.

SEC. 4407. IMPROVED CONVERSION HEALTH POLICIES AS PART OF TRANSITIONAL MEDICAL CARE.

(a) SEPARATED MEMBERS.—Section 1145(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by adding at the end the following new sentence: "A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.";

(2) in paragraph (2)(A), by striking out "one-year period" and inserting in lieu thereof "18-month period"; and

(3) by adding at the end the following new paragraphs:

"(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

"(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

"(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

"(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

"(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.".

(b) ONE-YEAR DEPENDENTS.—Section 1086a(a) of such title is amended—

(1) in subsection (a), by adding at the end the following new sentence: "A conversion health policy offered under this

subsection shall provide coverage for not less than a 24-month period.";

(2) in subsection (b)(1), by striking out "one-year period" and inserting in lieu thereof "24-month period";

(3) by redesignating subsection (c) as subsection (d); and

(4) by inserting after subsection (b) the following new subsection:

"(c) EFFECT OF UNAVAILABILITY OF POLICIES.—(1) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to offer conversion health policies under subsection (a) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall provide the coverage required under such a policy through the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (2), a person receiving coverage under this subsection shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

"(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

"(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

"(2) The amount paid by a person who purchases a conversion health policy from the Secretary of Defense under paragraph (1) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

"(3) In order to reduce premiums required under paragraph (1), the Secretary of Defense may offer a program of coverage that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.".

10 USC 1086a note.

(c) APPLICATION TO EXISTING CONTRACTS.—In the case of conversion health policies provided under section 1145(b) or 1086a(a) of title 10, United States Code, and in effect on the date of the enactment of this Act, the Secretary of Defense shall—

(1) arrange with the private insurer providing these policies to extend the term of the policies (and coverage of preexisting conditions) as provided by the amendments made by this section; or

(2) make other arrangements to implement the amendments made by this section with respect to these policies.

SEC. 4408. CONTINUED HEALTH COVERAGE.

(a) MEMBERS, EMANCIPATED CHILDREN, AND FORMER SPOUSES.—(1) Chapter 55 of title 10, United States Code, is amended by inserting after section 1078 the following new section:

"§1078a. Continued health benefits coverage

"(a) PROVISION OF CONTINUED HEALTH COVERAGE.—Beginning on October 1, 1994, the Secretary of Defense shall implement and carry out a program of continued health benefits coverage in accordance with this section to provide persons described in subsection (b) with temporary health benefits comparable to the health benefits provided for former civilian employees of the Federal Government and other persons under section 8905a of title 5.

"(b) ELIGIBLE PERSONS.—The persons referred to in subsection (a) are the following:

"(1) A member of the armed forces who—

"(A) is discharged or released from active duty (or full-time National Guard duty), whether voluntarily or involuntarily, under other than adverse conditions, as characterized by the Secretary concerned;

"(B) immediately preceding that discharge or release, is entitled to medical and dental care under section 1074(a) of this title (except in the case of a member discharged or released from full-time National Guard duty); and

"(C) after that discharge or release and any period of transitional health care provided under section 1145(a) of this title, would not otherwise be eligible for any benefits under this chapter.

"(2) A person who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child of a member or former member of the armed forces under section 1072(2)(D) of this title;

"(B) on the day before ceasing to meet those requirements, was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) would not otherwise be eligible for any benefits under this chapter.

"(3) A person who—

"(A) is an unremarried former spouse of a member or former member of the armed forces; and

"(B) on the day before the date of the final decree of divorce, dissolution, or annulment was covered under a health benefits plan under this chapter or transitional health care under section 1145(a) of this title as a dependent of the member or former member; and

"(C) is not a dependent of the member or former member under subparagraphs (F) or (G) of section 1072(2) of this title or ends a one-year period of dependency under subparagraph (H) of such section.

"(c) NOTIFICATION OF ELIGIBILITY.—(1) The Secretary of Defense shall prescribe regulations to provide for persons described in subsection (b) to be notified of eligibility to receive health benefits under this section. Regulations.

"(2) In the case of a member who becomes (or will become) eligible for continued coverage under subsection (b)(1), the regulations shall provide for the Secretary concerned to notify the member of the member's rights under this section as part of preseparation counseling conducted under section 1142 of this title or any other provision of other law.

"(3) In the case of a child of a member or former member who becomes eligible for continued coverage under subsection (b)(2), the regulations shall provide that—

"(A) the member or former member may submit to the Secretary concerned a written notice of the child's change in status (including the child's name, address, and such other information as the Secretary of Defense may require); and

"(B) the Secretary concerned shall, within 14 days after receiving that notice, inform the child of the child's rights under this section.

"(4) In the case of a former spouse of a member or former member who becomes eligible for continued coverage under subsection (b)(3), the regulations shall provide appropriate notification provisions and a 60-day election period under subsection (d)(3).

"(d) ELECTION OF COVERAGE.—In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Secretary of Defense may prescribe) shall be made as follows:

"(1) In the case of a member described in subsection (b)(1), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

"(A) the date of the discharge or release of the member from active duty or full-time National Guard duty;

"(B) the date on which the period of transitional health care applicable to the member under section 1145(a) of this title ends; or

"(C) the date the member receives the notification required pursuant to subsection (c).

"(2)(A) In the case of a child of a member or former member who becomes eligible for continued coverage subsection (b)(2), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

"(i) the date on which the child first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title, or

"(ii) the date the child receives the notification pursuant to subsection (c).

"(B) Notwithstanding subparagraph (A), if the Secretary concerned determines that the child's parent has failed to provide the notice referred to in subsection (c)(3)(A) with respect to the child in a timely fashion, the 60-day period under this paragraph shall be based only on the date under subparagraph (A)(i).

"(3) In the case of a former spouse of a member or a former member who becomes eligible for continued coverage under subsection (b)(3), the written election shall be submitted to the Secretary concerned before the end of the 60-day period beginning on the later of—

"(A) the date as of which the former spouse first ceases to meet the requirements for being considered a dependent under section 1072(2) of this title; or

"(B) such other date as the Secretary of Defense may prescribe.

"(e) COVERAGE OF DEPENDENTS.—A person eligible under subsection (b)(1) to elect to receive coverage may elect coverage either as an individual or, if appropriate, for self and dependents. A person eligible under subsection (b)(2) or subsection (b)(3) may elect only individual coverage.

"(f) CHARGES.—(1) Under arrangements satisfactory to the Secretary of Defense, a person receiving continued coverage under this section shall be required to pay into the Military Health Care

Account or other appropriate account an amount equal to the sum of—

"(A) the employee and agency contributions which would be required in the case of a similarly situated employee enrolled in a comparable health benefits plan under section 8905a(d)(1)(A)(i) of title 5; and

"(B) an amount, not to exceed 10 percent of the amount determined under subparagraph (A), determined under regulations prescribed by the Secretary of Defense to be necessary for administrative expenses; and

"(2) If a person elects to continue coverage under this section before the end of the applicable period under subsection (d), but after the person's coverage under this chapter (and any transitional extension of coverage under section 1145(a) of this title) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(g) PERIOD OF CONTINUED COVERAGE.—(1) Continued coverage under this section may not extend beyond—

"(A) in the case of a member described in subsection (b)(1), the date which is 18 months after the date the member ceases to be entitled to care under section 1074(a) of this title and any transitional care under section 1145 of this title, as the case may be;

"(B) in the case of a person described in subsection (b)(2), the date which is 36 months after the date on which the person first ceases to meet the requirements for being considered an unmarried dependent child under section 1072(2)(D) of this title; and

"(C) in the case of a person described in subsection (b)(3), except as provided in paragraph (4), the date which is 36 months after the later of—

"(i) the date on which the final decree of divorce, dissolution, or annulment occurs; and

"(ii) if applicable, the date the one-year extension of dependency under section 1072(2)(H) of this title expires.

"(2) Notwithstanding paragraph (1)(B), if a child of a member becomes eligible for continued coverage under subsection (b)(2) during a period of continued coverage of the member for self and dependents under this section, extended coverage of the child under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

"(3) Notwithstanding paragraph (1)(C), if a person becomes eligible for continued coverage under subsection (b)(3) as the former spouse of a member during a period of continued coverage of the member for self and dependents under this section, extended coverage of the former spouse under this section may not extend beyond the date which is 36 months after the date the member became ineligible for medical and dental care under section 1074(a) of this title and any transitional health care under section 1145(a) of this title.

"(4)(A) Notwithstanding paragraph (1), in the case of a former spouse described in subparagraph (B), continued coverage under

this section shall continue for such period as the former spouse may request.

"(B) A former spouse referred to in subparagraph (A) is a former spouse of a member or former member (other than a former spouse whose marriage was dissolved after the separation of the member from the service unless such separation was by retirement)—

"(i) who has not remarried before age 55 after the marriage to the employee, former employee, or annuitant was dissolved;

"(ii) who was enrolled in an approved health benefits plan under this chapter as a family member at any time during the 18-month period before the date of the divorce, dissolution, or annulment; and

"(iii)(I) who is receiving any portion of the retired or retainer pay of the member or former member or an annuity based on the retired or retainer pay of the member; or

"(II) for whom a court order (as defined in section 1408(a)(2) of this title) has been issued for payment of any portion of the retired or retainer pay or for whom a court order (as defined in section 1447(8) of this title) or a written agreement (whether voluntary or pursuant to a court order) provides for an election by the member or former member to provide an annuity to the former spouse.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1078 the following new item:

"1078a. Continued health benefits coverage.".

10 USC 1145 note.

(b) TRANSITIONAL PROVISIONS.—The Secretary of Defense shall provide a period for the enrollment for health benefits coverage under this section by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before the October 1, 1994, implementation date of section 1078a of such title, as added by subsection (a).

10 USC 1086a note.

(c) TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES.—(1) No person may purchase a conversion health policy under section 1145(b) or 1086a of title 10, United States Code, on or after October 1, 1994. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

(2) No person may be covered concurrently by a conversion health policy under section 1145(b) or 1086a of such title and a health benefits plan under section 1078a of such title.

Subtitle B—Guard and Reserve Transition Initiatives

10 USC 1162 note.

SEC. 4411. FORCE REDUCTION TRANSITION PERIOD DEFINED.

In this subtitle, the term "force reduction transition period" means the period beginning on October 1, 1991, and ending on September 30, 1995.

SEC. 4412. MEMBER OF SELECTED RESERVE DEFINED.

In this subtitle, the term "member of the Selected Reserve" means—

(1) a member of a unit in the Selected Reserve of the Ready Reserve; and

(2) a Reserve designated pursuant to section 268(b) of title 10, United States Code, who is assigned to an authorized position the performance of the duties of which qualify the member for basic pay or compensation for inactive-duty training or both.

SEC. 4413. RESTRICTION ON RESERVE FORCE REDUCTION.

Regulations.

(a) IN GENERAL.—During the force reduction transition period, a member of the Selected Reserve may not be involuntarily discharged from a reserve component of the Armed Forces, or involuntarily transferred from the Selected Reserve, before the Secretary of Defense has prescribed and implemented regulations that govern the treatment of members of the Selected Reserve assigned to such units and members of the Selected Reserve that are being subjected to such actions and a copy of such regulations has been transmitted to the Committees on Armed Services of the Senate and House of Representatives.

(b) SAVINGS PROVISION.—Subsection (a) shall not apply to actions completed before the date of the enactment of this Act.

SEC. 4414. TRANSITION PLAN REQUIREMENTS.

(a) PURPOSE OF PLAN.—The purpose of the regulations referred to in section 4413 shall be to ensure that the members of the Selected Reserve are treated with fairness, with respect for their service to their country, and with attention to the adverse personal consequences of Selected Reserve unit inactivations, involuntary discharges of such members from the reserve components of the Armed Forces, and involuntary transfers of such members from the Selected Reserve.

(b) SCOPE OF PLAN.—The regulations shall include—

(1) such provisions as are necessary to implement the provisions of this subtitle and the amendments made by this subtitle; and

(2) such other policies and procedures for the recruitment of personnel for service in the Selected Reserve of the Ready Reserve, and for the reassignment, retraining, separation, and retirement of members of the Selected Reserve, as are appropriate for satisfying the needs of the Selected Reserve together with the purpose set out in subsection (a).

(c) MINIMUM REQUIREMENTS FOR PLAN.—The regulations shall include the following:

(1) The giving of a priority for enrollment in, or reassignment to, Selected Reserve units not being inactivated to—

(A) personnel being separated from active-duty or full-time National Guard duty; and

(B) members of the Selected Reserve whose units are inactivated.

(2) The giving of a priority to such personnel for transfer among the reserve components of the Armed Forces in order to facilitate reassignment to such units.

(3) A requirement that the Secretaries of the military departments take diligent actions to ensure that members of the reserve components of the Armed Forces are informed in easily understandable terms of the rights and benefits conferred upon such personnel by this subtitle, by the amendments made by this subtitle, and by such regulations.

(4) Such other protections, preferences, and benefits as the Secretary of Defense considers appropriate.

(d) UNIFORM APPLICABILITY.—The regulations shall apply uniformly to the Army, Navy, Air Force, and Marine Corps.

SEC. 4415. INAPPLICABILITY TO CERTAIN DISCHARGES AND TRANSFERS.

The protections, preferences, and benefits provided for in regulations prescribed in accordance with this subtitle do not apply with respect to a member of the Selected Reserve who is discharged from a reserve component of the Armed Forces or is transferred from the Selected Reserve to another category of the Ready Reserve, to the Standby Reserve, or to the Retired Reserve—

(1) at the request of the member unless such request was made and approved under a provision of this subtitle or section 1331a of title 10, United States Code (as added by section 4417);

(2) because the member no longer meets the qualifications for membership in the Selected Reserve set forth in any provision of law as in effect on the day before the date of the enactment of this Act;

(3) under adverse conditions, as characterized by the Secretary of the military department concerned; or

(4) if the member—

(A) is immediately eligible for retired pay based on military service under any provision of law;

(B) is serving as a military technician, as defined in section 8401(30) of title 5, United States Code, and would be immediately eligible for an unreduced annuity under the provisions of subchapter III of chapter 83 of such title, relating to the Civil Service Retirement and Disability System, or the provisions of chapter 84 of such title, relating to the Federal Employees' Retirement System; or

(C) is eligible for separation pay under section 1174 of title 10, United States Code.

SEC. 4416. FORCE REDUCTION PERIOD RETIREMENTS.

(a) TEMPORARY SPECIAL AUTHORITY FOR ELIMINATION OF OFFICERS FROM ACTIVE STATUS.—(1) During the force reduction transition period, the Secretary of the Army and the Secretary of the Air Force may, whenever the Secretary determines that such action is necessary, convene a board to recommend an appropriate number of officers in the reserve components of the Army or the Air Force, as the case may be, who (A) have met the age and service requirements specified in section 1331 of title 10, United States Code, for entitlement to retired pay for nonregular service except for not being at least 60 years of age, or (B) are immediately eligible for retired pay based on military service under any provision of law, for elimination from an active status.

(2) An officer who is to be eliminated from an active status under this section, shall, if qualified, be given an opportunity to request transfer to the appropriate Retired Reserve and, if the officer requests it, shall be so transferred. If the officer is not transferred to the Retired Reserve, the officer shall, in the discretion of the Secretary concerned, be transferred to the appropriate inactive status list or be discharged.

(3) A member of the Army National Guard of the United States or the Air National Guard of the United States may not be eliminated from an active status under this section without the consent of the Governor or other appropriate authority of the

State or territory, Puerto Rico, or the District of Columbia, whichever is concerned.

(b) TEMPORARY SPECIAL AUTHORITY.—During the period referred to in subsection (c), the Secretary concerned may grant a member of the Selected Reserve under the age of 60 years the annual payments provided for under this section if—

(1) as of October 1, 1991, that member has completed at least 20 years of service computed under section 1332 of title 10, United States Code, or after that date and before October 1, 1995, such member completes 20 years of service computed under that section;

(2) the member satisfies the requirements of paragraphs (3) and (4) of section 1331(a) of title 10, United States Code; and

(3) the member applies for transfer to the Retired Reserve—

(A) in the case of a member who has not received the notice required by section 1331(d) of that title before the date of the enactment of this Act, within one year after receiving such notice; and

(B) in the case of a member who received such a notice before the date of the enactment of this Act, within one year after that date.

(c) PERIOD OF APPLICABILITY.—The period referred to in subsection (b) is, with respect to a member of the Selected Reserve, the force reduction transition period, the period provided under paragraph (3) of that subsection for the member to submit an application, and the period necessary for taking action on that application.

(d) ANNUAL PAYMENT PERIOD.—An annual payment granted to a member under this section shall be paid for 5 years, except that if the member attains 60 years of age during the 5-year period the entitlement to the annual payment shall terminate on the member's 60th birthday.

(e) COMPUTATION OF ANNUAL PAYMENT.—(1) The annual payment for a member shall be equal to the amount determined by multiplying the product of 12 and the applicable percent under paragraph (2) by the monthly basic pay to which the member would be entitled if the member were serving on active duty as of the date the member is transferred to the Retired Reserve.

(2)(A) Subject to subparagraph (B) the percent applicable to a member for purposes of paragraph (1) is 5 percent plus 0.5 percent for each full year of service, computed under section 1332 of title 10, United States Code, that a member has completed in excess of 20 years before transfer to the Retired Reserve.

(B) The maximum percent applicable under this paragraph is 10 percent.

(f) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary concerned may limit the applicability of this section to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories. Regulations.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a).

(g) NONDUPLICATION OF BENEFITS.—A member transferred to the Retired Reserve under the authority of section 1331a of title 10, United States Code (as added by section 4417), may not be paid annual payments under this section.

(h) FUNDING.—To the extent provided in appropriations Acts, payments under this section in a fiscal year shall be made out of amounts available to the Department of Defense for that fiscal year for the pay of reserve component personnel.

SEC. 4417. RETIREMENT WITH 15 YEARS OF SERVICE.

(a) AUTHORITY.—Chapter 67 of title 10, United States Code, is amended by inserting after section 1331 the following new section:

"§ 1331a. Temporary special retirement qualification authority

"(a) RETIREMENT WITH AT LEAST 15 YEARS OF SERVICE.—For the purposes of section 1331 of this title, the Secretary of a military department may—

"(1) during the period described in subsection (b), determine to treat a member of the Selected Reserve of a reserve component of the armed force under the jurisdiction of that Secretary as having met the service requirements of subsection (a)(2) of that section and provide the member with the notification required by subsection (d) of that section if the member—

"(A) as of October 1, 1991, has completed at least 15, and less than 20, years of service computed under section 1332 of this title; or

"(B) after that date and before October 1, 1995, completes 15 years of service computed under that section; and

"(2) upon the request of the member submitted to the Secretary within one year after the date of the notification referred to in paragraph (1), transfer the member to the Retired Reserve.

"(b) PERIOD OF AUTHORITY.—The period referred to in subsection (a)(1) is the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 1993 and ending on October 1, 1995.

"(c) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) The Secretary of the military department concerned may limit the applicability of subsection (a) to any category of personnel defined by the Secretary in order to meet a need of the armed force under the jurisdiction of the Secretary to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

"(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a) of the National Defense Authorization Act for Fiscal Year 1993.

"(d) EXCLUSION.—This section does not apply to persons referred to in section 1331(c) of this title.

"(e) REGULATIONS.—The authority provided in this section shall be subject to regulations prescribed by the Secretary of Defense.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1331 the following new item:

"1331a. Temporary special retirement qualification authority.".

SEC. 4418. SEPARATION PAY.

(a) ELIGIBILITY.—Subject to section 4415, a member of the Selected Reserve who, after completing at least 6 years of service computed under section 1332 of title 10, United States Code, and before completing 15 years of service computed under that section, is involuntarily discharged from a reserve component of the Armed Forces or is involuntarily transferred from the Selected Reserve is entitled to separation pay.

(b) AMOUNT OF SEPARATION PAY.—(1) The amount of separation pay which may be paid to a person under this section is 15 percent of the product of—

(A) the years of service credited to that person under section 1333 of title 10, United States Code; and

(B) 62 times the daily equivalent of the monthly basic pay to which the person would have been entitled had the person been serving on active duty at the time of the person's discharge or transfer.

(2) In the case of a person who receives separation pay under this section and who later receives basic pay, compensation for inactive duty training, or retired pay under any provision of law, such basic pay, compensation, or retired pay, as the case may be, shall be reduced by 75 percent until the total amount withheld through such reduction equals the total amount of the separation pay received by that person under this section.

(c) RELATIONSHIP TO OTHER SERVICE-RELATED PAY.—Subsections (g) and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section.

(d) REGULATIONS.—The Secretary of Defense shall prescribe regulations, which shall be uniform for the Army, Navy, Air Force, and Marine Corps, for the administration of this section.

SEC. 4419. WAIVER OF CONTINUED SERVICE REQUIREMENT FOR CERTAIN RESERVISTS FOR MONTGOMERY GI BILL BENEFITS.

(a) CHAPTER 106.—Section 2133(b)(1) of title 10, United States Code, is amended to read as follows:

"(b)(1) In the case of a person—

"(A) who is separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter; or

"(B) who, on or after the date on which such person became entitled to educational assistance under this chapter ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on September 30, 1995, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of this title,

the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection.".

(b) CHAPTER 30.—Section 3012(b)(1)(B) of title 38, United States Code, is amended—

(1) by striking out "or" at the end of clause (i);

(2) by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or"; and

(3) by adding after clause (ii) the following:

"(iii) who, before completing the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, ceases to be a member of the Selected Reserve during the period beginning on October 1, 1991, and ending on September 30, 1995, by reason of the inactivation of the person's unit of assignment or by reason of involuntarily ceasing to be designated as a member of the Selected Reserve pursuant to section 268(b) of title 10.".

SEC. 4420. COMMISSARY AND EXCHANGE PRIVILEGES.

Regulations.

The Secretary of Defense shall prescribe regulations to authorize a person who involuntarily ceases to be a member of the Selected Reserve during the force reduction transition period to continue to use commissary and exchange stores in the same manner as a member of the Selected Reserve for a period of two years beginning on the later of—

(1) the date on which that person ceases to be a member of the Selected Reserve; or

(2) the date of the enactment of this Act.

SEC. 4421. APPLICABILITY AND TERMINATION OF BENEFITS.

Regulations.

(a) APPLICABILITY SUBJECT TO NEEDS OF THE SERVICE.—(1) Subject to regulations prescribed by the Secretary of Defense, the Secretary of the military department concerned may limit the applicability of a benefit provided under sections 4418 through 4420 to any category of personnel defined by the Secretary concerned in order to meet a need of the armed force under the jurisdiction of the Secretary concerned to reduce the number of members in certain grades, the number of members who have completed a certain number of years of service, or the number of members who possess certain military skills or are serving in designated competitive categories.

(2) A limitation under paragraph (1) shall be consistent with the purpose set forth in section 4414(a).

(b) INAPPLICABILITY TO CERTAIN SEPARATIONS AND REASSIGNMENTS.—Sections 4418 through 4420 do not apply with respect to personnel who cease to be members of the Selected Reserve under adverse conditions, as characterized by the Secretary of the military department concerned.

(c) TERMINATION OF BENEFITS.—The eligibility of a member of a reserve component of the Armed Forces (after having involuntarily ceased to be a member of the Selected Reserve) to receive benefits and privileges under sections 4418 through 4420 terminates upon the involuntary separation of such member from the Armed Forces under adverse conditions, as characterized by the Secretary of the military department concerned.

SEC. 4422. READJUSTMENT BENEFITS FOR CERTAIN VOLUNTARILY SEPARATED MEMBERS OF THE RESERVE COMPONENTS.

(a) SPECIAL SEPARATION BENEFITS.—Section 1174a of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting "or full-time National Guard duty" after "active duty";

(2) in subsection (c)(2), by inserting "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty";

(3) in subsection (c)(3), by inserting after "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty";

(4) in subsection (c)(4), by inserting "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty", and by inserting "and" after the semicolon at the end; and

(5) in subsection (c), by striking out paragraph (5) and redesignating paragraph (6) as paragraph (5).

(b) VOLUNTARY SEPARATION INCENTIVE.—Section 1175 of title 10, United States Code, is amended—

(1) in subsection (b)(1), by inserting "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty";

(2) in subsection (b)(2), by inserting "or full-time National Guard duty or any combination of active duty and full-time National Guard duty" after "active duty"; and

(3) in subsection (b), by striking out paragraph (3) and redesignating paragraph (4) as paragraph (3).

Subtitle C—Department of Defense Civilian Personnel Transition Initiatives

Labor.

SEC. 4431. GOVERNMENT-WIDE LIST OF VACANT POSITIONS.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

"§ 3329. Government-wide list of vacant positions

"(a) For the purpose of this section, the term 'agency' means an Executive agency, excluding the General Accounting Office and any agency (or unit thereof) whose principal function is the conduct of foreign intelligence or counterintelligence activities, as determined by the President.

"(b) The Office of Personnel Management shall establish and keep current a comprehensive list of all announcements of vacant positions in the competitive service within each agency that are to be filled by appointment for more than one year and for which applications are being (or will soon be) accepted from outside the agency's work force.

"(c) Included for any position listed shall be—

"(1) a brief description of the position, including its title, tenure, location, and rate of pay;

"(2) application procedures, including the period within which applications may be submitted and procedures for obtaining additional information; and

"(3) any other information which the Office considers appropriate.

"(d) The list shall be available to members of the public.

Public information.

"(e) The Office shall prescribe such regulations as may be necessary to carry out this section. Any requirement under this section that agencies notify the Office as to the availability of any vacant positions shall be designed so as to avoid any duplication

Regulations.

of information otherwise required to be furnished under section 3327 of this title or any other provision of law.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by inserting after the item relating to section 3328 the following:

"3329. Government-wide list of vacant positions.".

5 USC 3301 note.

SEC. 4432. TEMPORARY MEASURES TO FACILITATE REEMPLOYMENT OF CERTAIN DISPLACED FEDERAL EMPLOYEES.

(a) DEFINITIONS.—For the purpose of this section—

(1) the term "agency" means an Executive agency (as defined by section 105 of title 5, United States Code), excluding the General Accounting Office and the Department of Defense; and

(2) the term "displaced employee" means any individual who is—

(A) an employee of the Department of Defense who has been given specific notice that such employee is to be separated due to a reduction in force; or

(B) a former employee of the Department of Defense who was involuntarily separated therefrom due to a reduction in force.

Regulations.

(b) METHOD OF CONSIDERATION.—In accordance with regulations which the Office of Personnel Management shall prescribe, consistent with otherwise applicable provisions of law, an agency shall, in filling a vacant position for which a qualified displaced employee has applied in timely fashion, give full consideration to the application of the displaced employee before selecting any candidate from outside the agency for the position.

(c) LIMITATION.—A displaced employee is entitled to consideration in accordance with this section for the 24-month period beginning on the date such employee receives the specific notice referred to in subsection (a)(2)(A), except that, if the employee is separated pursuant to such notice, the right to such consideration shall continue through the end of the 24-month period beginning on the date of separation.

(d) APPLICABILITY.—(1) This section shall apply to any individual who—

(A) became a displaced employee within the 12-month period ending immediately before the date of the enactment of this Act; or

(B) becomes a displaced employee on or after the date of the enactment of this Act and before October 1, 1997.

(2) In the case of a displaced employee described in paragraph (1)(A), for purposes of computing any period of time under subsection (c), the date of the specific notice described in subsection (a)(2)(A) (or, if the employee was separated as described in subsection (a)(2)(B) before the date of enactment of this Act, the date of separation) shall be deemed to have occurred on such date of enactment.

(3) Nothing in this section shall be considered to apply with respect to any position—

(A) which has been filled as of the date of enactment of this Act; or

(B) which has been excepted from the competitive service because of its confidential, policy-determining, policy-making or policy-advocating character.

SEC. 4433. REDUCTION-IN-FORCE NOTIFICATION REQUIREMENTS.

(a) IN GENERAL.—(1) Section 3502 of title 5, United States Code, is amended by adding at the end the following:

"(d)(1) Except as provided under subsection (e), an employee may not be released, due to a reduction in force, unless—

"(A) such employee and such employee's exclusive representative for collective-bargaining purposes (if any) are given written notice, in conformance with the requirements of paragraph (2), at least 60 days before such employee is so released; and

"(B) if the reduction in force would involve the separation of a significant number of employees, the requirements of paragraph (3) are met at least 60 days before any employee is so released.

"(2) Any notice under paragraph (1)(A) shall include—

"(A) the personnel action to be taken with respect to the employee involved;

"(B) the effective date of the action;

"(C) a description of the procedures applicable in identifying employees for release;

"(D) the employee's ranking relative to other competing employees, and how that ranking was determined; and

"(E) a description of any appeal or other rights which may be available.

"(3) Notice under paragraph (1)(B)—

"(A) shall be given to—

"(i) the appropriate State dislocated worker unit or units (referred to in section 311(b)(2) of the Job Training Partnership Act); and

"(ii) the chief elected official of such unit or each of such units of local government as may be appropriate; and

"(B) shall consist of written notification as to—

"(i) the number of employees to be separated from service due to the reduction in force (broken down by geographic area or on such other basis as may be required under paragraph (4));

"(ii) when those separations will occur; and

"(iii) any other matter which might facilitate the delivery of rapid response assistance or other services under the Job Training Partnership Act.

"(4) The Office shall prescribe such regulations as may be necessary to carry out this subsection. The Office shall consult with the Secretary of Labor on matters relating to the Job Training Partnership Act. Regulations.

"(e)(1) Subject to paragraph (3), upon request submitted under paragraph (2), the President may, in writing, shorten the period of advance notice required under subsection (d)(1)(A) and (B), with respect to a particular reduction in force, if necessary because of circumstances not reasonably foreseeable.

"(2) A request to shorten notice periods shall be submitted to the President by the head of the agency involved, and shall indicate the reduction in force to which the request pertains, the number of days by which the agency head requests that the periods be shortened, and the reasons why the request is necessary.

"(3) No notice period may be shortened to less than 30 days under this subsection.".

5 USC 3502 note.

(2) The amendment made by paragraph (1) shall apply with respect to any personnel action taking effect on or after the last day of the 90-day period beginning on the date of enactment of this Act.

5 USC 3502 note.

(b) SPECIAL RULE.—(1) The provisions of section 3502(d) and (e) of title 5, United States Code (as added by subsection (a)) shall apply to employees of the Department of Defense according to their terms, except that, with respect to any reduction in force within that agency that would involve the separation of a significant number of employees (as determined under paragraph (1)(B) of such section 3502(d)), any reference in such section 3502(d) to "60 days" shall, in the case of the employees described in paragraph (2), be deemed to read "120 days".

(2) The employees described in this paragraph are those employees of the Department of Defense who are to be separated, due to a reduction in force described in paragraph (1), effective on or after the last day of the 90-day period referred to in subsection (a)(2) and before February 1, 1998.

(3) Nothing in this subsection shall prevent the application of the amendment made by subsection (a) with respect to an employee if—

(A) the preceding paragraphs of this subsection do not apply with respect to such employee; and

(B) the amendment made by subsection (a) would otherwise apply with respect to such employee.

Regulations.

(4) The Secretary of Defense shall prescribe such regulations as may be necessary to carry out this subsection.

SEC. 4434. RESTORATION OF CERTAIN LEAVE.

Section 6304(d) of title 5, United States Code, is amended by adding at the end the following:

"(3) For the purpose of this subsection, the closure of an installation of the Department of Defense, during the period beginning on October 1, 1992, and ending on December 31, 1997, shall be deemed to create an exigency of the public business and any leave that is lost by an employee of such installation by operation of this section (regardless of whether such leave was scheduled) shall be restored to the employee and shall be credited and available in accordance with paragraph (2).".

10 USC 1597 note.

SEC. 4435. SKILL TRAINING PROGRAMS IN THE DEPARTMENT OF DEFENSE.

Regulations.

(a) AUTHORITY.—(1) Under regulations prescribed by the Secretary of Defense, the Secretaries of the military departments, and the Secretary of Defense with respect to employees of the Department of Defense other than employees of the military departments, may provide not more than one year of training in training facilities of the Department to civilian employees of the Department of Defense who are separated from employment as a result of a reduction in force or a closure or realignment of a military installation.

(2) Training may be provided under this subsection during the period beginning on October 1, 1992, and ending on September 30, 1995.

(b) REGISTER OF TRAINING PROGRAMS.—Not later than February 1, 1993, the Secretary of Defense, in consultation with the Secretary of Labor and the Director of the Office of Personnel

Management, shall publish a register of the skill training programs carried out by the Department of Defense. The register shall—

(1) include a list of the skill training programs;

(2) provide information on the location of such programs, the training provided under such programs, and the number of persons who may receive training under such programs; and

(3) identify the programs that provide training in skills that are useful to employees in the civilian work force.

SEC. 4436. SEPARATION PAY.

(a) IN GENERAL.—(1) Subchapter IX of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"§ 5597. Separation pay

"(a) For the purpose of this section—

"(1) the term 'Secretary' means the Secretary of Defense;

"(2) the term 'defense agency' means an agency of the Department of Defense, as further defined under regulations prescribed by the Secretary; and

"(3) the term 'employee' means an employee of a defense agency, serving under an appointment without time limitation, who has been currently employed for a continuous period of at least 12 months, except that such term does not include—

"(A) a reemployed annuitant under subchapter III of chapter 83, chapter 84, or another retirement system for employees of the Government; or

"(B) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under any of the retirement systems referred to in subparagraph (A).

"(b) In order to avoid or minimize the need for involuntary separations due to a reduction in force, base closure, reorganization, transfer of function, or other similar action affecting 1 or more defense agencies, the Secretary shall establish a program under which separation pay may be offered to encourage eligible employees to separate from service voluntarily (whether by retirement or resignation).

"(c) Under the program, separation pay may be offered by a defense agency only—

"(1) with the prior consent, or on the authority, of the Secretary; and

"(2) to employees within such occupational groups or geographic locations, or subject to such other similar limitations or conditions, as the Secretary may require.

"(d) Such separation pay—

"(1) shall be paid in a lump sum;

"(2) shall be equal to the lesser of—

"(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section; or

"(B) $25,000;

"(3) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

"(4) shall not be taken into account for purposes of determining the amount of any severance pay to which an individual may be entitled under section 5595 based on any other separation.

"(e) No amount shall be payable under this section based on any separation occurring after September 30, 1997.

"(f) The Secretary shall prescribe such regulations as may be necessary to carry out this section.".

(2) The table of sections at the beginning of chapter 55 of title 5, United States Code, is amended by adding at the end the following:

"5597. Separation pay.".

5 USC 5597 note.

(b) SOURCE OF PAYMENTS.—(1) For fiscal years after fiscal year 1993, separation pay shall be paid by an agency out of any funds or appropriations available for salaries and expenses of such agency.

(2) Of the amount authorized to be appropriated in section 301(5) for operation and maintenance for the Defense Agencies, $70,000,000 shall be made available for payment of separation pay under section 5597 of title 5, United States Code, as added by subsection (a).

5 USC 5597 note.

(c) REPORT.—At the end of each of fiscal years 1993 through 1998, the Secretary of Defense shall submit to the President, the Congress, and the Director of the Office of Personnel Management a report on the effectiveness and costs of carrying out the amendments made by this section.

5 USC 8348 note.

(d) TIMELY PROCESSING OF RETIREMENT BENEFITS.—(1) In order to ensure the timely processing of applications for retirement benefits, under the Civil Service Retirement System or the Federal Employees' Retirement System, for civilian employees of the Department of Defense and other employees who retire when their agency is undergoing a major reorganization, a major reduction in force, or a major transfer of function, the costs incurred by the Office of Personnel Management in processing any such application shall be deemed to be an administrative expense described in section 8348(a)(1)(B) of title 5, United States Code.

(2) This subsection shall apply with respect to applications for retirement benefits based on separations occurring before January 1, 1998.

SEC. 4437. THRIFT SAVINGS PLAN BENEFITS OF EMPLOYEES SEPARATED BY A REDUCTION IN FORCE.

(a) BENEFITS.—Section 8433(b) of title 5, United States Code, is amended by inserting "any employee who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "chapter 81 of this title,".

(b) PROTECTIONS FOR SPOUSES.—Section 8435(c)(2)(A) of title 5, United States Code, is amended by inserting ", or who separates from Government employment pursuant to regulations under section 3502(a) of this title or procedures under section 3595(a) of this title in a reduction in force," after "8451 of this title".

(c) APPLICATION TO CIVIL SERVICE RETIREMENT SYSTEM EMPLOYEES.—Section 8351(b)(4) of title 5, United States Code, is amended by inserting ", separates from Government employment pursuant to regulations under section 3502(a) of this title or proce-

dures under section 3595(a) of this title in a reduction in force," after "section 8337 of this title)".

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to separations occurring after December 31, 1993, or such earlier date as the Executive Director (appointed under section 8474 of title 5, United States Code) may by regulation prescribe. 5 USC 8351 note.

SEC. 4438. CONTINUED HEALTH BENEFITS.

(a) IN GENERAL.—Section 8905a(d) of title 5, United States Code, is amended—

(1) in paragraph (1)(A) by striking "An individual" and inserting "Except as provided in paragraph (4), an individual";

(2) in paragraph (2) by striking "in accordance with paragraph (1))" and inserting "in accordance with paragraph (1) or (4), as the case may be)"; and

(3) by adding at the end the following:

"(4)(A) If the basis for continued coverage under this section is an involuntary separation from a position in or under the Department of Defense due to a reduction in force—

"(i) the individual shall be liable for not more than the employee contributions referred to in paragraph (1)(A)(i); and

"(ii) the agency which last employed the individual shall pay the remaining portion of the amount required under paragraph (1)(A).

"(B) This paragraph shall apply with respect to any individual whose continued coverage is based on a separation occurring on or after the date of enactment of this paragraph and before—

"(i) October 1, 1997; or

"(ii) February 1, 1998, if specific notice of such separation was given to such individual before October 1, 1997.".

(b) SOURCE OF PAYMENTS.—(1) Any amount which becomes payable by an agency as a result of the enactment of subsection (a) shall be paid out of funds or appropriations available for salaries and expenses of such agency. 5 USC 8905a note.

(2) Of the amounts authorized to be appropriated pursuant to section 301, $2,000,000 shall be available for agency payments under section 8905a(d)(4)(A)(ii) of title 5, United States Code, as added by subsection (a).

Subtitle D—Defense Efforts to Relieve Shortages of Elementary and Secondary School Teachers and Teachers' Aides

SEC. 4441. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM FOR SEPARATED MEMBERS OF THE ARMED FORCES.

(a) PLACEMENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1151. Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may establish a program—

"(1) to assist eligible members of the armed forces after their separation from active duty to obtain—

"(A) certification or licensure as elementary or secondary school teachers; or

"(B) the credentials necessary to serve as teachers' aides; and

"(2) to facilitate the employment of such members by local educational agencies identified under subsection (b)(2) as experiencing a shortage of teachers or teachers' aides.

"(b) STATES WITH ALTERNATIVE CERTIFICATION REQUIREMENTS AND TEACHER AND TEACHER'S AIDE SHORTAGES.—Upon the establishment of the placement program authorized by subsection (a), the Secretary of Defense, in consultation with the Secretary of Education, shall—

"(1) conduct a survey of States to identify those States that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the armed forces toward satisfying certification or licensure requirements for teachers;

"(2) periodically request information from States identified under paragraph (1) to identify in these States those local educational agencies that—

"(A) are receiving grants under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; and

"(B) are also experiencing a shortage of qualified teachers, in particular a shortage of science, mathematics, or engineering teachers; and

"(3) periodically request information from all States to identify local educational agencies that—

"(A) are receiving grants under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; and

"(B) are experiencing a shortage of teachers' aides.

"(c) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member shall be eligible for selection by the Secretary of Defense to participate in the placement program authorized by subsection (a) if the member—

"(A) during the five-year period beginning on October 1, 1992, is discharged or released from active duty after six or more years of continuous active duty immediately before the discharge or release;

"(B) has received—

"(i) in the case of a member applying for assistance for placement as an elementary or secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

"(ii) in the case of a member applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

"(C) satisfies such other criteria for selection as the Secretary may prescribe.

"(2) A member who is discharged or released from service under other than honorable conditions shall not be eligible to participate in the program.

"(3) The Secretary may accept an application from a member who was discharged or released from active duty during the period beginning on October 1, 1990, and ending on October 1, 1992, if the member otherwise satisfies the eligibility criteria specified in paragraph (1).

"(d) INFORMATION REGARDING PLACEMENT PROGRAM.—The Secretary of Defense shall provide information regarding the placement program, and make applications for the program available, to members as part of preseparation counseling provided under section 1142 of this title. The information provided to members shall identify those States that have alternative certification or licensure requirements for teachers, including those States that grant credit for service in the armed forces toward satisfying such requirements, and indicate those local educational agencies identified under subsection (b)(2) as experiencing a shortage of qualified teachers or teachers' aides.

"(e) SELECTION OF PARTICIPANTS.—(1) Selection of members to participate in the placement program authorized by subsection (a) shall be made on the basis of applications submitted to the Secretary of Defense before the date of the discharge or release of the members from active duty. In the case of members referred to in subsection (c)(3), the Secretary shall establish a reasonable time period after the date of the enactment of this section for the submission of applications. An application shall be in such form and contain such information as the Secretary may require.

"(2) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary shall give priority to members who—

"(A) have educational or military experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

"(B) have educational or military experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

"(3) The Secretary may not select a member to participate in the program unless the Secretary has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under subsections (g) and (h) with respect to that member.

"(f) AGREEMENT.—A member selected to participate in the placement program authorized by subsection (a) shall be required to enter into an agreement with the Secretary of Defense in which the member agrees—

"(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

"(2) to accept—

"(A) in the case of a member selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less

than two school years with a local educational agency identified under subsection (b)(2), to begin the school year after obtaining that certification or licensure; or

"(B) in the case of a member selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under subsection (b)(3), to begin the school year after obtaining the necessary credentials.

"(g) STIPEND FOR PARTICIPANTS.—(1) Except as provided in paragraph (2), the Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

"(A) $5,000; or

"(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087ll) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

"(2) A member who is entitled to benefits under section 1174a or 1175 of this title or is given early retirement under section 4403 of the National Defense Authorization Act for Fiscal Year 1993 shall not be paid a stipend under paragraph (1).

"(3) A stipend paid under paragraph (1) shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(h) GRANTS TO FACILITATE PLACEMENT.—(1) In the case of a participant in the placement program obtaining teacher certification or licensure, the Secretary of Defense shall offer to enter into an agreement under this subsection with the first local educational agency identified under subsection (b)(2) that employs the participant as a full-time elementary or secondary school teacher after the participant obtains teacher certification or licensure.

"(2) In the case of a participant in the program obtaining credentials to serve as a teacher's aide, the Secretary shall offer to enter into an agreement under this subsection with the first local educational agency identified under subsection (b)(3) that employs the participant as a full-time teacher's aide.

"(3) Under an agreement referred to in paragraph (1) or (2)—

"(A) the local educational agency shall agree to employ the participant full time for not less than two consecutive school years (at a basic salary to be certified to the Secretary) in a school of the local educational agency serving a concentration of children from low-income families; and

"(B) the Secretary shall agree to pay to the local educational agency an amount equal to the lesser of—

"(i) the basic salary to be paid by the local educational agency to the participant during the two years; and

"(ii) $50,000.

"(4) Payments required under paragraph (2) may be made by the Secretary in such installments as the Secretary may determine.

"(5) If a participant leaves the employment of a local educational agency before the end of the two years of required service, the

local educational agency shall reimburse the Secretary in an amount that bears the same ratio to the total amount already paid under the agreement as the unserved portion bears to the two years of required service.

"(6) The Secretary may not make a grant under this subsection to a local educational agency if the Secretary determines that the agency terminated the employment of another employee in order to fill the vacancy so created with a participant.

"(i) REIMBURSEMENT UNDER CERTAIN CIRCUMSTANCES.—(1) If a participant in the placement program fails to obtain teacher certification or licensure or employment as an elementary or secondary school teacher or employment as a teacher's aide as required under the agreement or voluntarily leaves, or is terminated for cause, from the employment during the two years of required service, the participant shall be required to reimburse the Secretary of Defense for any stipend paid to the participant under subsection (g)(1) in an amount that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the two years of required service.

"(2) The obligation to reimburse the Secretary under this subsection is, for all purposes, a debt owing the United States. A discharge in bankruptcy under title 11 shall not release a participant from the obligation to reimburse the Secretary. Any amount owed by a participant under paragraph (1) shall bear interest at the rate equal to the highest rate being paid by the United States on the day on which the reimbursement is determined to be due for securities having maturities of ninety days or less and shall accrue from the day on which the participant is first notified of the amount due.

"(j) EXCEPTIONS TO REIMBURSEMENT PROVISIONS.—(1) A participant in the placement program shall not be considered to be in violation of an agreement entered into under subsection (f) during any period in which the participant—

"(A) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(B) is serving on active duty as a member of the Armed Forces;

"(C) is temporarily totally disabled for a period of time not to exceed three years as established by sworn affidavit of a qualified physician;

"(D) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(E) is seeking and unable to find full-time employment as a teacher or teacher's aide in an elementary or secondary school for a single period not to exceed 27 months; or

"(F) satisfies the provisions of additional reimbursement exceptions that may be prescribed by the Secretary of Defense.

"(2) A participant shall be excused from reimbursement under subsection (i) if the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician. The Secretary may also waive reimbursement in cases of extreme hardship to the participant, as determined by the Secretary.

"(k) DEFINITIONS.—In this section:

"(1) The term 'State' includes the District of Columbia, American Samoa, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Commonwealth of

the Northern Mariana Islands, the Commonwealth of Puerto Rico, Palau, and the Virgin Islands.

"(2) The term 'alternative certification or licensure requirements' means State or local teacher certification or licensure requirements that permit a demonstrated competence in appropriate subject areas gained in careers outside of education to be substituted for traditional teacher training course work.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1151. Assistance to separated members to obtain certification and employment as teachers or employment as teachers' aides.".

(b) INFORMATION REGARDING PLACEMENT PROGRAM IN PRESEPARATION COUNSELING.—Section 1142(b)(4) of such title is amended by inserting before the period the following: "and information regarding the placement program established under section 1151 of this title to assist members obtain employment as elementary or secondary school teachers or teachers' aides.".

SEC. 4442. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM FOR TERMINATED DEFENSE EMPLOYEES.

(a) PLACEMENT PROGRAM.—Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1598. Assistance to terminated employees to obtain certification and employment as teachers or employment as teachers' aides

"(a) PLACEMENT PROGRAM.—The Secretary of Defense may establish a program—

"(1) to assist eligible civilian employees of the Department of Defense and the Department of Energy after the termination of their employment to obtain—

"(A) certification or licensure as elementary or secondary school teachers; or

"(B) the credentials necessary to serve as teachers' aides; and

"(2) to facilitate the employment of such employees by local educational agencies that—

"(A) are receiving grants under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as a result of having within their jurisdictions concentrations of children from low-income families; and

"(B) are also experiencing a shortage of teachers or teachers' aides.

"(b) ELIGIBLE EMPLOYEES.—(1) A civilian employee of the Department of Defense or the Department of Energy shall be eligible for selection by the Secretary of Defense to participate in the placement program authorized by subsection (a) if the employee—

"(A) during the five-year period beginning October 1, 1992, is terminated from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense or the Secretary of Energy, as the case may be;

"(B) has received—

"(i) in the case of an employee applying for assistance for placement as an elementary or secondary school teacher,

a baccalaureate or advanced degree from an accredited institution of higher education; or

"(ii) in the case of an employee applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

"(C) satisfies such other criteria for selection as the Secretary of Defense may prescribe.

"(2) The Secretary of Defense may accept an application from a civilian employee referred to in paragraph (1) who was terminated during the period beginning on October 1, 1990, and ending on October 1, 1992, if the employee otherwise satisfies the eligibility criteria specified in that paragraph.

"(c) SELECTION OF PARTICIPANTS.—(1) Selection of civilian employees to participate in the placement program shall be made on the basis of applications submitted to the Secretary of Defense after the employees receive a notice of termination. An application shall be filed within such time, in such form, and contain such information as the Secretary of Defense may require.

"(2) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary of Defense shall give priority to civilian employees who—

"(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

"(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

"(3) The Secretary of Defense may not select a civilian employee to participate in the program unless the Secretary has sufficient appropriations for the placement program available at the time of the selection to satisfy the obligations to be incurred by the United States under the program with respect to that member.

"(d) AGREEMENT.—A civilian employee selected to participate in the placement program shall be required to enter into an agreement with the Secretary of Defense in which the employee agrees—

"(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

"(2) to accept—

"(A) in the case of an employee selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2) of this title, to begin the school year after obtaining that certification or licensure; or

"(B) in the case of an employee selected for assistance for placement as a teacher's aide, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3) of

this title, to begin the school year after obtaining the necessary credentials.

"(e) STIPEND FOR PARTICIPANTS.—(1) Except as provided in paragraph (2), the Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

"(A) $5,000; or

"(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

"(2) A civilian employee selected to participate in the placement program who receives separation pay under section 5597 of title 5 shall not be paid a stipend under paragraph (1).

"(3) A stipend paid under paragraph (1) shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(4) A person who receives a stipend under section 4436 of this title shall not be paid a stipend pursuant to paragraph (1).

"(f) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES.—Subsections (h) through (k) of section 1151 of this title shall apply with respect to the placement program authorized by this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1598. Assistance to terminated employees to obtain certification and employment as teachers or employment as teachers' aides.".

SEC. 4443. TEACHER AND TEACHER'S AIDE PLACEMENT PROGRAM FOR DISPLACED SCIENTISTS AND ENGINEERS OF DEFENSE CONTRACTORS.

(a) PLACEMENT PROGRAM.—Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410c. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides

"(a) ASSISTANCE PROGRAM.—The Secretary of Defense may enter into a cooperative agreement with a defense contractor in order—

"(1) to assist an eligible scientist or engineer employed by the contractor whose employment is terminated to obtain—

"(A) certification or licensure as an elementary or secondary school teacher; or

"(B) the credentials necessary to serve as a teacher's aide; and

"(2) to facilitate the employment of the scientist or engineer by a local educational agency that—

"(A) is receiving a grant under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) as a result of having within its

jurisdiction concentrations of children from low-income families; and

"(B) is also experiencing a shortage of teachers or teachers' aides.

"(b) ELIGIBLE DEFENSE CONTRACTORS.—(1) The Secretary of Defense shall establish an application and selection process for the participation of defense contractors in a cooperative agreement authorized under subsection (a).

"(2) The Secretary shall determine which defense contractors are eligible to participate in the placement program on the basis of applications submitted under subsection (c). The Secretary shall limit participation to those defense contractors or subcontractors that—

"(A) produce goods or services for the Department of Defense pursuant to a defense contract or operate nuclear weapons manufacturing facilities for the Department of Energy; and

"(B) have recently reduced operations, or are likely to reduce operations, due to the completion or termination of a defense contract or program or by reductions in defense spending.

"(3) The Secretary shall give special consideration to defense contractors who are located in areas that have been hit particularly hard by reductions in defense spending.

"(c) DEFENSE CONTRACTOR APPLICATIONS.—(1) A defense contractor desiring to enter into a cooperative agreement with the Secretary of Defense under subsection (a) shall submit an application to the Secretary containing the following:

"(A) Evidence that the contractor has been, or is expected to be, adversely affected by the completion or termination of a defense contract or program or by reductions in defense spending.

"(B) An explanation that scientists and engineers employed by the contractor have been terminated, laid off, or retired, or are likely to be terminated, laid off, or retired, as a result of the completion or termination of a defense contract or program or reductions in defense spending.

"(C) A description of programs implemented or proposed by the contractor to assist these scientists and engineers.

"(D) A commitment to help fund the costs associated with the placement program by paying 50 percent of the stipend provided under subsection (g) to an employee or former employee of the contractor selected to receive assistance under this section.

"(2) Once a cooperative agreement is entered into under subsection (a) between the Secretary and the defense contractor, the contractor shall publicize the program and distribute applications to prospective participants, and assist the prospective participants with the State screening process.

"(d) ELIGIBLE SCIENTISTS AND ENGINEERS.—An individual shall be eligible for selection by the Secretary of Defense to receive assistance under this section if the individual—

"(1) is employed or has been employed for not less than five years as a scientist or engineer with a private defense contractor that has entered into an agreement under subsection (a);

"(2) has received—

"(A) in the case of an individual applying for assistance for placement as an elementary or secondary school teacher, a baccalaureate or advanced degree from an accredited institution of higher education; or

"(B) in the case of an individual applying for assistance for placement as a teacher's aide in an elementary or secondary school, an associate, baccalaureate, or advanced degree from an accredited institution of higher education or a junior or community college; and

"(3) has been terminated or laid off (or received notice of termination or lay off) as a result of the completion or termination of a defense contract or program or reductions in defense spending; and

"(4) satisfies such other criteria for selection as the Secretary may prescribe.

"(e) SELECTION OF PARTICIPANTS.—(1) In selecting participants to receive assistance for placement as elementary or secondary school teachers, the Secretary shall give priority to individuals who—

"(A) have educational, military, or employment experience in science, mathematics, or engineering and agree to seek employment as science, mathematics, or engineering teachers in elementary or secondary schools; or

"(B) have educational, military, or employment experience in another subject area identified by the Secretary, in consultation with the Secretary of Education, as important for national educational objectives and agree to seek employment in that subject area in elementary or secondary schools.

"(2) The Secretary may not select an individual under this section unless the Secretary has sufficient appropriations to carry out this section available at the time of the selection to satisfy the obligations to be incurred by the United States under this section with respect to that individual.

"(f) AGREEMENT.—An individual selected under this section shall be required to enter into an agreement with the Secretary in which the participant agrees—

"(1) to obtain, within such time as the Secretary may require, certification or licensure as an elementary or secondary school teacher or the necessary credentials to serve as a teacher's aide in an elementary or secondary school; and

"(2) to accept—

"(A) in the case of an individual selected for assistance for placement as a teacher, an offer of full-time employment as an elementary or secondary school teacher for not less than two school years with a local educational agency identified under section 1151(b)(2) of this title, to begin the school year after obtaining that certification or licensure; or

"(B) in the case of an individual selected for assistance for placement as a teacher's aid, an offer of full-time employment as a teacher's aide in an elementary or secondary school for not less than two school years with a local educational agency identified under section 1151(b)(3) of this title, to begin the school year after obtaining the necessary credentials.

"(g) STIPEND FOR PARTICIPANTS.—(1) The Secretary of Defense shall pay to each participant in the placement program a stipend in an amount equal to the lesser of—

"(A) $5,000; or

"(B) the total costs of the type described in paragraphs (1), (2), (3), (8), and (9) of section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087*ll*) incurred by the participant while obtaining teacher certification or licensure or the necessary credentials to serve as a teacher's aide and employment as an elementary or secondary school teacher or teacher aide.

"(2) A stipend provided under this section shall be taken into account in determining the eligibility of the participant for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

"(h) PLACEMENT OF PARTICIPANTS AS TEACHERS AND TEACHERS' AIDES.—Subsections (h) through (k) of section 1151 of this title shall apply with respect to the placement as teachers and teachers' aides of individuals selected under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410c. Displaced contractor employees: assistance to obtain certification and employment as teachers or employment as teachers' aides.".

SEC. 4444. FUNDING FOR FISCAL YEAR 1993.

Of the amount authorized to be appropriated in section 301(5), $65,000,000 shall be available for the teacher and teacher's aide placement programs authorized by sections 1151, 1598, and 2410c of title 10, United States Code, as added by this subtitle.

Subtitle E—Environmental Education and Retraining Provisions

SEC. 4451. ENVIRONMENTAL SCHOLARSHIP AND FELLOWSHIP PROGRAMS FOR THE DEPARTMENT OF DEFENSE.

10 USC 2701 note.

(a) ESTABLISHMENT.—The Secretary of Defense (hereinafter in this section referred to as the "Secretary") may conduct scholarship and fellowship programs for the purpose of enabling individuals to qualify for employment in the field of environmental restoration or other environmental programs in the Department of Defense.

(b) ELIGIBILITY.—To be eligible to participate in the scholarship or fellowship program, an individual must—

(1) be accepted for enrollment or be currently enrolled as a full-time student at an institution of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

(2) be pursuing a program of education that leads to an appropriate higher education degree in engineering, biology, chemistry, or another qualifying field related to environmental activities, as determined by the Secretary;

(3) sign an agreement described in subsection (c);

(4) be a citizen or national of the United States or be an alien lawfully admitted to the United States for permanent residence; and

(5) meet any other requirements prescribed by the Secretary.

(c) AGREEMENT.—An agreement between the Secretary and an individual participating in a scholarship or fellowship established in subsection (a) shall be in writing, shall be signed by the individual, and shall include the following provisions:

(1) The agreement of the Secretary to provide the individual with educational assistance for a specified number of school years (not to exceed 5 years) during which the individual is pursuing a course of education in a qualifying field. The assistance may include payment of tuition, fees, books, laboratory expenses, and (in the case of a fellowship) a stipend.

(2) The agreement of the individual to perform the following:

(A) Accept such educational assistance.

(B) Maintain enrollment and attendance in the educational program until completed.

(C) Maintain, while enrolled in the educational program, satisfactory academic progress as prescribed by the institution of higher education in which the individual is enrolled.

(D) Serve, upon completion of the educational program and selection by the Secretary under subsection (e), as a full-time employee in an environmental restoration or other environmental position in the Department of Defense for the applicable period of service specified in subsection (d).

(d) PERIOD OF SERVICE.—The period of service required under subsection (c)(2)(D) is as follows:

(1) For an individual who completes a bachelor's degree under a scholarship program established under subsection (a), a period of 12 months for each school year or part thereof for which the individual is provided a scholarship under the program.

(2) For an individual who completes a master's degree or other post-graduate degree under a fellowship program established under subsection (a), a period of 24 months for each school year or part thereof for which the individual is provided a fellowship under the program.

(e) SELECTION FOR SERVICE.—The Secretary shall annually review the number and performance under the agreement of individuals who complete educational programs during the preceding year under any scholarship and fellowship programs conducted pursuant to subsection (a). From among such individuals, the Secretary shall select individuals for environmental positions in the Department of Defense, based on the type and availability of such positions.

(f) REPAYMENT.—(1) Any individual participating in a scholarship or fellowship program under this section shall agree to pay to the United States the total amount of educational assistance provided to the individual under the program, plus interest at the rate prescribed in paragraph (4), if—

(A) the individual does not complete the educational program as agreed to pursuant to subsection (c)(2)(B), or is selected by the Secretary under subsection (e) but declines to serve, or fails to complete the service, in a position in the Department of Defense as agreed to pursuant to subsection (c)(2)(D); or

(B) the individual is involuntarily separated for cause from the Department of Defense before the end of the period for

which the individual has agreed to continue in the service of the Department of Defense.

(2) If an individual fails to fulfill the agreement of the individual to pay to the United States the total amount of educational assistance provided under a program established under subsection (a), plus interest at the rate prescribed in paragraph (4), a sum equal to the amount of the educational assistance (plus such interest, if applicable) shall be recoverable by the United States from the individual or his estate by—

(A) in the case of an individual who is an employee of the Department of Defense or other Federal agency, set off against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the United States; and

(B) such other method provided by law for the recovery of amounts owing to the United States.

(3) The Secretary may waive in whole or in part a required repayment under this subsection if the Secretary determines the recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

(4) The total amount of educational assistance provided to an individual under a program established under subsection (a) shall, for purposes of repayment under this section, bear interest at the applicable rate of interest under section 427A(c) of the Higher Education Act of 1965 (20 U.S.C. 1077a(c)).

(g) PREFERENCE.—In evaluating applicants for the award of a scholarship or fellowship under a program established under subsection (a), the Secretary shall give a preference to—

(1) individuals who are, or have been, employed by the Department of Defense or its contractors and subcontractors who have been engaged in defense-related activities; and

(2) individuals who are or have been members of the Armed Forces.

(h) COORDINATION OF BENEFITS.—A scholarship or fellowship awarded under this section shall be taken into account in determining the eligibility of the individual for Federal student financial assistance provided under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(i) AWARD OF SCHOLARSHIPS AND FELLOWSHIPS.—The Secretary may award to qualified applicants not more than 100 scholarships (for undergraduate students) and not more than 30 fellowships (for graduate students) in fiscal year 1993.

(j) REPORT TO CONGRESS.—Not later than January 1, 1994, the Secretary shall submit to the Congress a report on activities undertaken under the programs established under subsection (a) and recommendations for future activities under the programs.

(k) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301(5)—

(1) $7,000,000 shall be available to carry out the scholarship and fellowship programs established in subsection (a); and

(2) $3,000,000 shall be available to provide training to Department of Defense personnel to obtain the skills required to comply with existing environmental statutory and regulatory requirements.

10 USC 2701 note.

SEC. 4452. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION TO PROVIDE TRAINING IN ENVIRONMENTAL RESTORATION AND HAZARDOUS WASTE MANAGEMENT.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Defense may establish a program to assist institutions of higher education, as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), to provide education and training in environmental restoration and hazardous waste management.

(b) FINANCIAL ASSISTANCE.—The Secretary may award grants to such institutions under the program established under subsection (a).

(c) ELIGIBILITY AND SELECTION.—(1) To be eligible for financial assistance under this section, such an institution shall submit to the Secretary a proposal for such assistance in the time and manner and containing the information required by the Secretary.

(2) The Secretary shall, pursuant to a merit-based selection process, select such institutions to receive funding under a program established under this section based upon—

(A) the proposal of such an institution to provide expertise, training, and education in environmental restoration and hazardous waste management and other environmental fields applicable to defense manufacturing sites and Department of Defense and Department of Energy defense facilities; and

(B) any other criteria prescribed by the Secretary.

(d) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301(5), $10,000,000 shall be available to carry out the program established under subsection (a).

Subtitle F—Job Training and Employment and Educational Opportunities

10 USC 1143 note.

SEC. 4461. IMPROVED COORDINATION OF JOB TRAINING AND PLACEMENT PROGRAMS FOR MEMBERS OF THE ARMED FORCES.

The Secretary of Defense shall consult with the Secretary of Labor, the Secretary of Education, the Secretary of Veterans Affairs, and the Economic Adjustment Committee to improve the coordination of, and eliminate duplication between, the following job training and placement programs available to members of the Armed Forces who are discharged or released from active duty:

(1) The Job Training Partnership Act (29 U.S.C. 1501 et seq.).

(2) Sections 1143 and 1144 of title 10, United States Code.

(3) Chapter 41 of title 38, United States Code.

(4) The Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.).

(5) The Act of August 16, 1937 (Chapter 663; 50 Stat 664; 29 U.S.C. 50 et seq.), commonly known as the National Apprenticeship Act.

(6) The Wagner-Peyser Act (29 U.S.C. 49 et seq.)

SEC. 4462. ENCOURAGEMENT FOR CONTINUING PUBLIC AND COMMUNITY SERVICE.

(a) PERMANENT PROGRAM.—(1) Chapter 58 of title 10, United States Code, is amended by inserting after section 1143 the following new section:

"§ 1143a. Encouragement of postseparation public and community service: Department of Defense

"(a) IN GENERAL.—The Secretary of Defense shall implement a program to encourage members and former members of the armed forces to enter into public and community service jobs after discharge or release from active duty.

"(b) PERSONNEL REGISTRY.—The Secretary shall maintain a registry of members and former members of the armed forces discharged or released from active duty who request registration for assistance in pursuing public and community service job opportunities. The registry shall include information on the particular job skills, qualifications, and experience of the registered personnel.

"(c) REGISTRY OF PUBLIC SERVICE AND COMMUNITY SERVICE ORGANIZATIONS.—The Secretary shall also maintain a registry of public service and community service organizations. The registry shall contain information regarding each organization, including its location, its size, the types of public and community service positions in the organization, points of contact, procedures for applying for such positions, and a description of each such position that is likely to be available. Any such organization may request registration under this subsection and, subject to guidelines prescribed by the Secretary, be registered.

"(d) ASSISTANCE TO BE PROVIDED.—(1) The Secretary shall actively attempt to match personnel registered under subsection (b) with public and community service job opportunities and to facilitate job-seeking contacts between such personnel and the employers offering the jobs.

"(2) The Secretary shall offer personnel registered under subsection (b) counselling services regarding—

"(A) public service and community service organizations; and

"(B) procedures and techniques for qualifying for and applying for jobs in such organizations.

"(3) The Secretary may provide personnel registered under subsection (b) with access to the interstate job bank program of the United States Employment Service if the Secretary determines that such program meets the needs of separating members of the armed forces for job placement.

"(e) CONSULTATION REQUIREMENT.—In carrying out this section, the Secretary shall consult closely with the Secretary of Labor, the Secretary of Veterans Affairs, the Secretary of Education, the Director of the Office of Personnel Management, appropriate representatives of State and local governments, and appropriate representatives of businesses and nonprofit organizations in the private sector.

"(f) DELEGATION.—The Secretary, with the concurrence of the Secretary of Labor, may designate the Secretary of Labor as the executive agent of the Secretary of Defense for carrying out all or part of the responsibilities provided in this section. Such a designation does not relieve the Secretary of Defense from the responsibility for the implementation of the provisions of this section.

"(g) DEFINITIONS.—In this section, the term 'public service and community service organization' includes the following organizations:

"(1) Any organization that provides the following services:

"(A) Elementary, secondary, or postsecondary school teaching or administration.

"(B) Support of such teaching or school administration.

"(C) Law enforcement.

"(D) Public health care.

"(E) Social services.

"(F) Any other public or community service.

"(2) Any nonprofit organization that coordinates the provision of services described in paragraph (1).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1143 the following new item:

"1143a. Encouragement of postseparation public and community service: Department of Defense.".

(b) DEPARTMENT OF VETERANS AFFAIRS RESPONSIBILITIES.—Section 1142(b)(4) of title 10, United States Code, is amended by inserting before the period at the end the following: ", including the public and community service jobs program carried out under section 1143a of this title".

(c) PRESEPARATION ASSISTANCE BY THE DEPARTMENT OF LABOR.—Section 1144(b) of such title is amended by adding at the end the following new paragraph:

"(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.".

10 USC 1143a note.

SEC. 4463. PROGRAM OF EDUCATIONAL LEAVE RELATING TO CONTINUING PUBLIC AND COMMUNITY SERVICE.

Regulations.

(a) PROGRAM.—Under regulations prescribed by the Secretary of Defense after consultation with the Secretary of Transportation and subject to subsections (b) and (c), the Secretary concerned may grant to an eligible member of the Armed Forces a leave of absence for a period not to exceed one year for the purpose of permitting the member to pursue a program of education or training (including an internship) for the development of skills that are relevant to the performance of public and community service. A program of education or training referred to in the preceding sentence includes any such program that is offered by the Department of Defense or by any civilian educational or training institution.

(b) ELIGIBILITY REQUIREMENT.—(1) A member may not be granted a leave of absence under this section unless the member agrees in writing—

(A) diligently to pursue employment in public service and community service organizations upon the separation of the member from active duty in the Armed Forces; and

(B) to serve in the Ready Reserve of an armed force, upon such separation, for a period of 4 months for each month of the period of the leave of absence.

(2)(A) A member may not be granted a leave of absence under this section until the member has completed any period of extension of enlistment or reenlistment, or any period of obligated active duty service, that the member has incurred under section 708 of title 10, United States Code.

(B) The Secretary concerned may waive the limitation in subparagraph (A) for a member who enters into an agreement with the Secretary for the member to serve in the Ready Reserve

of a reserve component for a period equal to the uncompleted portion of the member's period of service referred to in that subparagraph. Any such period of agreed service in the Ready Reserve shall be in addition to any other period that the member is obligated to serve in a reserve component.

(c) TREATMENT OF LEAVE OF ABSENCE.—A leave of absence under this section shall be subject to the provisions of subsections (c) and (d) of section 708 of title 10, United States Code.

(d) EXCLUSION FROM END STRENGTH LIMITATION.—A member of the Armed Forces, while on leave granted pursuant to this section, may not be counted for purposes of any provision of law that limits the active duty strength of the member's armed force.

(e) DEFINITIONS.—In this section:

(1) The term "Secretary concerned" has the meaning given such term in section 101 of title 10, United States Code.

(2) The term "eligible member of the Armed Forces" means a member of the Armed Forces who is eligible for an educational leave of absence under section 708(e) of such title.

(3) The term "public service and community service organization" has the meaning given such term in section 1143a of such title (as added by section 531(a)).

(f) EXPIRATION.—The authority to grant a leave of absence under subsection (a) shall expire on September 30, 1995.

SEC. 4464. INCREASED EARLY RETIREMENT RETIRED PAY FOR PUBLIC OR COMMUNITY SERVICE.

10 USC 1143a note.

(a) RECOMPUTATION OF RETIRED PAY.—(1) If a member or former member of the Armed Forces retired under section 4403(a) or any other provision of law authorizing retirement from the Armed Forces (other than for disability) before the completion of at least 20 years of active duty service (as computed under the applicable provision of law) is employed by a public service or community service organization listed on the registry maintained under section 1143a(c) of title 10, United States Code (as added by section 4462(a)), within the period of the member's enhanced retirement qualification period, the member's or former member's retired or retainer pay shall be recomputed effective on the first day of the first month beginning after the date on which the member or former member attains 62 years of age.

(2) For purposes of recomputing a member's or former member's retired pay—

(A) the years of the member's or former member's employment by a public service or community service organization referred to in paragraph (1) during the member's or former member's enhanced retirement qualification period shall be treated as years of active duty service in the Armed Forces; and

(B) in applying section 1401a of title 10, United States Code, the member's or former member's years of active duty service shall be deemed as of the date of retirement to have included the years of employment referred to in subparagraph (A).

(3) Section 1405(b) of title 10, United States Code, shall apply in determining years of service under this subsection.

(4) In this subsection, the term "enhanced retirement qualification period", with respect to a member or former member retired under a provision of law referred to in paragraph (1), means the

period beginning on the date of the retirement of the member or former member and ending the number of years (including any fraction of a year) after that date which when added to the number of years (including any fraction of a year) of service credited for purposes of computing the retired pay of the member or former member upon retirement equals 20 years.

(b) SBP ANNUITIES.—(1) Effective on the first day of the first month after a member or former member of the Armed Forces retired under a provision of law referred to in subsection (a)(1) attains 62 years of age or, in the event of death before attaining that age, would have attained that age, the base amount applicable under section 1447(2) of title 10, United States Code, to any Survivor Benefit Plan annuity provided by that member or former member shall be recomputed. For the recomputation the total years (including any fraction of a year) of the member's or former member's active service shall be treated as having included the member's or former member's years (including any fraction of a year) of employment referred to in subsection (a)(1) as of the date when the member or former member became eligible for retired pay under this section.

(2) In this subsection, the term "Survivor Benefit Plan" means the plan established under subchapter II of chapter 73 of title 10, United States Code.

SEC. 4465. TRAINING, ADJUSTMENT ASSISTANCE, AND EMPLOYMENT SERVICES FOR DISCHARGED MILITARY PERSONNEL, TERMINATED DEFENSE EMPLOYEES, AND DISPLACED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) IN GENERAL.—Title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) is amended by inserting after section 325 the following new section:

29 USC 1662d-1.

"SEC. 325A. DEFENSE DIVERSIFICATION PROGRAM.

"(a) IN GENERAL.—From the amount made available under section 4465(c) of the Defense Conversion, Reinvestment, and Transition Assistance Act of 1992, the Secretary of Defense, in consultation with the Secretary of Labor, may make grants to States, substate grantees, employers, representatives of employees, labor-management committees, and other employer-employee entities to provide for training, adjustment assistance, and employment services to eligible individuals described in subsection (b) and to develop plans for defense diversification or conversion assistance to affected facilities located within an area directly affected by reductions in expenditures by the United States for defense or by closures of United States military facilities.

"(b) INDIVIDUALS ELIGIBLE FOR TRAINING, ASSISTANCE, AND SERVICES.—

"(1) CERTAIN MEMBERS OF THE ARMED FORCES.—A member of the Armed Forces shall be eligible for training, adjustment assistance, and employment services under this section if the member—

"(A) was on active duty or full-time National Guard duty on September 30, 1990;

"(B) during the 5-year period beginning on that date—

"(i) is involuntarily separated (as defined in section 1141 of title 10, United States Code) from active duty or full-time National Guard duty; or

"(ii) is separated from active duty or full-time National Guard duty pursuant to a special separation benefits program under section 1174a of title 10, United States Code, or the voluntary separation incentive program under section 1175 of that title;

"(C) is not entitled to retired or retainer pay incident to that separation; and

"(D) applies for such training, adjustment assistance, or employment services before the end of the 180-day period beginning on the date of that separation.

"(2) CERTAIN DEFENSE EMPLOYEES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a civilian employee of the Department of Defense or the Department of Energy shall be eligible for training, adjustment assistance, and employment services under this section if the employee—

"(i) during the 5-year period beginning on October 1, 1992, is terminated or laid off (or receives a notice of termination or lay off) from such employment as a result of reductions in defense spending, as determined by the Secretary of Defense or the Secretary of Energy, except that, in the case of a notice of termination or lay off, the eligibility of the employee shall not begin until 180 days before the projected date of the termination or lay off; and

"(ii) is not entitled to retired or retainer pay incident to that termination or lay off.

"(B) SPECIAL RULE FOR CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE EMPLOYED AT CERTAIN MILITARY INSTALLATIONS.—

"(i) IN GENERAL.—A civilian employee of the Department of Defense employed at a military installation being closed or realigned under the laws referred to in clause (ii) shall be eligible for training, adjustment assistance, and employment services under this section beginning on the date on which such employee receives actual notice of termination, or the date determined by the Secretary of Defense under clause (iii), whichever occurs earlier.

"(ii) CERTAIN DEFENSE LAWS.—The laws referred to in this clause are—

"(I) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note); and

"(II) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

"(iii) DATE.—The date determined under this clause is the date that is 24 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.

"(3) CERTAIN DEFENSE CONTRACTOR EMPLOYEES.—An employee of a private defense contractor shall be eligible for training, adjustment assistance, and employment services under this section if the employee—

"(A) during the 5-year period beginning on October 1, 1992, is terminated or laid off (or receives a notice of termination or lay off) from such employment as a result of reductions in defense spending or the closure or realignment of a military installation, as determined by the Secretary of Defense, except that, in the case of a notice of termination or lay off, the eligibility of the employee shall not begin until 180 days before the projected date of the termination or lay off; and

"(B) is not entitled to retired or retainer pay incident to that termination.

"(c) APPLICATION REQUIREMENTS.—

"(1) IN GENERAL.—To receive a grant under subsection (a), an applicant shall submit to the Secretary of Defense an application which contains such information as the Secretary may require and which meets the following requirements:

"(A) CONSULTATION.—

"(i) IN GENERAL.—(I) In the case of an applicant other than a State, such applicant shall submit an application to the Secretary of Defense developed in consultation with the State, and, where appropriate, in consultation with the labor-management committee or other employer-employee entity established pursuant to subparagraph (C)(ii) at the affected facility and in consultation with representatives from the Department of Defense.

"(II) Prior to the submission of an application under subclause (I) to the Secretary of Defense, the applicant shall submit the application to the State for review. The State shall have 30 calendar days to review the application. The applicant may submit the application to the Secretary after the date on which the State completes its review of the application or upon expiration of the 30 calendar days, whichever occurs first.

"(ii) STATES.—In the case of an applicant that is a State, such State shall submit an application to the Secretary of Defense developed in consultation with appropriate substate grantees, and, where appropriate, in consultation with the labor-management committee or other employer-employee entity established pursuant to subparagraph (C)(ii) at the affected facility and in consultation with representatives from the Department of Defense.

"(B) CONTENTS OF APPLICATION.—An application shall contain a local labor market analysis, a general assessment of basic skills, career interests, income needs, and strategies necessary for the training and placement of the population that may be served, and, where appropriate—

"(i) a preliminary outline of a program to convert the affected defense base or facility;

"(ii) preliminary plant or military base conversion proposals, and proposals for the effective use or conversion of surplus Federal property; and

"(iii) assurances that the applicant will coordinate the activities and services provided under this section

with the Office of Economic Adjustment and other relevant agencies.

"(C) PROVISION OF STATE DISLOCATED WORKER SERVICES.—The applicant shall provide verification that the State dislocated worker unit has provided, or is in the process of providing, in addition to the services described in section 311(b)(3) and 314(b), the following activities and services:

"(i) The State dislocated worker unit, in conjunction with the substate grantee (and where appropriate, representatives from the Department of Defense), has established on-site contact with employers and employee representatives affected by a dislocation or potential dislocation of eligible individuals, preferably not later than 2 business days after notification of such dislocation.

"(ii) The State dislocated worker unit has promoted the formation of a labor-management committee or other employer-employee entity in the case of a facility affected by an employee dislocation or potential dislocation in accordance with section 314(b)(1)(B), including the provision of technical assistance and, where appropriate, financial assistance to cover the start-up costs of such committee.

"(iii) The State dislocated worker unit has provided, in conjunction with the labor-management committee or other employer-employee entity established pursuant to clause (ii), the following services:

"(I) An initial survey of potential eligible individuals to determine the approximate number of such individuals interested in receiving services under this section, orientation sessions, counseling services, and early intervention services for eligible individuals and management. Such services may be provided in coordination with representatives from the United States Employment Service, the Interstate Job Bank, the Department of Defense, and the National Occupational Information Coordinating Committee.

"(II) Initial basic readjustment services in conjunction with such services provided by substate grantees.

"(D) SKILLS UPGRADING.—The applicant shall provide assurances satisfactory to the Secretary of Defense that if the applicant uses amounts from a grant under subsection (a) for skills upgrading at defense facilities pursuant to subsection (f)(2), the applicant will maintain its expenditures from all other sources for skills upgrading at or above the average level of such expenditures in the fiscal year preceding the date of the enactment of this section.

"(2) TECHNICAL ASSISTANCE.—The Secretary of Defense may provide technical assistance to an applicant for the purpose of assisting the applicant to meet the application requirements under paragraph (1).

"(3) TIMELY DECISION.—The Secretary of Defense shall make a determination with regard to an application received

under paragraph (1) not later than 30 calendar days after the date on which the Secretary receives the application.

"(4) TIMELY NOTIFICATION.—The Secretary of Defense shall provide timely written notification to an applicant upon determination by the Secretary that the applicant has not satisfied the requirements under paragraph (1).

"(d) SELECTION REQUIREMENTS.—

"(1) IN GENERAL.—In reviewing applications for grants under subsection (a), the Secretary of Defense—

"(A) in consultation with the Secretary of Labor, shall not approve an application for a grant unless the application contains assurances that the applicant will use amounts from a grant to provide needs-related payments in accordance with subsection (i);

"(B) shall select applications from areas most severely impacted by the reduction in defense expenditures and base closures, particularly areas with existing high poverty levels or existing high unemployment levels; and

"(C) shall select applications from areas which have the greatest number of eligible individuals, taking into account the ratio of eligible individuals in the affected community to the population of such community.

"(2) PRIORITY.—In reviewing applications for grants under subsection (a), the Secretary of Defense shall give priority to each of the following:

"(A) Applications received from substate grantees.

"(B) Applications received from any applicant on behalf of affected employers in a similar defense-related industry or on behalf of a single employer with multiple bases or plants within a State.

"(C) Applications demonstrating employer-employee cooperation, including the participation of labor-management committees or other employer-employee entities.

"(e) RETENTION OF PORTION OF GRANT AMOUNT BY SECRETARY OF DEFENSE.—

"(1) PORTION RELATING TO GENERAL APPLICATION REQUIREMENTS.—Subject to paragraph (2), the Secretary of Defense shall retain 25 percent of the amount of a grant awarded under subsection (a) and shall disburse the amount to the applicant not later than 90 days after the date on which the Secretary determines that the applicant is satisfactorily implementing the plans and strategies described in subsection (c)(1)(B).

"(2) PORTION RELATING TO STATE DISLOCATED WORKER SERVICES.—The Secretary of Defense shall retain up to 20 percent of the amount retained under paragraph (1) (not to exceed $50,000) and shall disburse the amount to the State dislocated worker unit not later than 90 days after the date on which the Secretary determines that the applicant has provided verification that such unit has satisfactorily provided the activities and services described in subsection (c)(1)(C). The amount disbursed under the preceding sentence shall be used to reimburse such unit for expenses incurred in providing such activities and services.

"(f) USE OF FUNDS.—Subject to the requirements of subsections (g), (h), (i), and (j), grants under subsection (a) may be used only for the following purposes:

"(1) Any purpose for which funds may be used under section 314 or this section.

"(2) Skills upgrading, which may be provided to—

"(A) individuals who are employed in non-managerial positions, including individuals in such positions who have received notice of termination or lay off, if such upgrading—

"(i) is integral to the conversion of a defense facility and necessary to prevent a closure or mass layoff which would result in the termination or layoff of such individuals; and

"(ii) is to replace or update obsolete skills of such individuals with marketable skills; and

"(B) individuals who have received notice of termination or lay off from non-managerial positions, including individuals who have been terminated or laid off from such positions, if such upgrading is to replace or update obsolete skills of such individuals with marketable skills, without which reemployment in a high demand occupation or industry would be unlikely.

"(3) The development and introduction of high performance workplace systems, employee and participative management systems, and workforce participation in the evaluation, selection, and implementation of new production technologies.

"(g) LIMITATION.—Not more than 20 percent of amounts received from a grant under subsection (a) shall be used for administration, conversion planning activities, and the activities described in subsection (f)(3).

"(h) ADJUSTMENT ASSISTANCE REQUIREMENTS.—The adjustment assistance requirements described in section 326(e) shall apply for purposes of grants made under subsection (a) for adjustment assistance.

"(i) NEEDS-RELATED PAYMENTS REQUIREMENTS.—The Secretary of Defense shall prescribe regulations with respect to the use of funds from grants under subsection (a) for needs-related payments in accordance with the requirements described in section 326(f) in order to enable eligible individuals to complete training or education programs. Priority for needs-related payments shall be given to eligible individuals participating in certificate or degree awarding vocational training or education programs of 1 year or more. Regulations.

"(j) DEPARTMENT OF DEFENSE FINANCIAL ASSISTANCE REQUIREMENT.—The Secretary of Defense, in consultation with the Secretary of Labor, shall prescribe regulations to ensure that student financial assistance authorized under programs for employees of the Department of Defense and veterans is provided prior to adjustment assistance under subsection (h), needs-related payments under subsection (i), and any other student financial assistance provided under Federal law. Regulations.

"(k) DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In carrying out the grant program established under subsection (a), the Secretary of Defense, in consultation with the Secretary of Labor, may make grants to the entities referred to in that subsection for the purpose of developing demonstration projects to encourage and promote innovative responses to the dislocation resulting from reductions in expenditures by the United States for defense or by the closure of United States military installations. Such demonstration projects may include—

"(A) projects to assist in retraining efforts designed to address the needs of individuals who have received notice of termination or lay off and individuals who have been terminated or laid off in communities affected by such reductions or closures;

"(B) projects to assist in retraining and reorganization efforts designed to avert layoffs that would otherwise occur as a result of such reductions or closures; and

"(C) projects to assist communities in addressing and reducing the impact of such economic dislocation.

"(2) LIMITATION.—Not more than 10 percent of the funds available to the Secretary of Defense to carry out this section for any fiscal year may be used to carry out the projects established under paragraph (1).

"(l) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) LABOR-MANAGEMENT COMMITTEE.—The term 'labor-management committee'—

"(A) has the meaning given such term in section 301(b)(1); and

"(B) includes a committee established at a military installation to assist members of the Armed Forces who are being separated and civilian employees of the Department of Defense and the Department of Energy who are being terminated.

"(2) DEFENSE CONTRACTOR.—The term 'defense contractor' means a private person producing goods or services pursuant to—

"(A) one or more defense contracts which have a total amount not less than $500,000 entered into with the Department of Defense; or

"(B) one or more subcontracts entered into in connection with a defense contract and which have a total amount not less than $500,000.".

29 USC 1662d-1 note.

(b) AUTHORITY TO TRANSFER FUNCTIONS.—The Secretary of Defense may transfer any function of such Secretary under the amendment made by subsection (a) to the Secretary of Labor. Whenever such a transfer is made, any funds available to the Secretary of Defense for the performance of such function shall be transferred to the appropriate accounts of the Department of Labor.

29 USC 1662d-1 note.

(c) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301 for Defense Agencies, $75,000,000 shall be available to carry out section 325A of the Job Training Partnership Act, as added by subsection (a).

(d) TECHNICAL AMENDMENT.—The table of contents of the Job Training Partnership Act is amended by inserting after the item relating to section 325 the following new item:

"Sec. 325A. Defense Diversification Program.".

10 USC 1143 note.

SEC. 4466. PARTICIPATION OF DISCHARGED MILITARY PERSONNEL IN UPWARD BOUND PROJECTS TO PREPARE FOR COLLEGE.

(a) PROGRAM.—The Secretary of Defense may carry out a program to assist a member of the Armed Forces described in subsection (b) who is accepted to participate in an upward bound project assisted under section 402C of the Higher Education Act of 1965 (20 U.S.C. 1070a–13) to cover the cost of providing services

through the project to the member to assist the member to prepare for and pursue a program of higher education upon separation from active duty. Assistance provided under the program may include a stipend provided under subsection (d) of such section.

(b) ELIGIBLE MEMBERS.—A member of the Armed Forces shall be eligible for assistance under subsection (a) if the member—

(1) was on active duty or full-time National Guard duty on September 30, 1990;

(2) during the five-year period beginning on that date, was or is discharged or released from such duty (under other than adverse circumstances); and

(3) submits an application to the Secretary of Defense within such time, in such form, and containing such information as the Secretary of Defense may require.

(c) NOTIFICATION OF MEMBERS PREVIOUSLY SEPARATED.—To the extent feasible, the Secretary of Defense shall notify members of the Armed Forces who, between September 30, 1990, and the date of the enactment of this Act, were discharged or released from active duty or full-time National Guard duty regarding the availability of the program under subsection (a). The Secretary may establish a time limit within which such members may apply to participate in the program.

(d) PROVISION OF ASSISTANCE.—

(1) DETERMINATION OF AMOUNT.—The amount of assistance provided under subsection (a) to a member of the Armed Forces shall be equal to the anticipated cost of providing services to the member through an upward bound project, subject to the limitation that such amount may not exceed the monthly basic pay to which the member is entitled at the time of the separation of the member. The Secretary of Defense may provide assistance in excess of that limitation if the Secretary determines, on a case by case basis, that such assistance is warranted by the special training needs of the member.

(2) CONSULTATION.—The Secretary of Education may assist the Secretary of Defense in determining the amount to be provided under paragraph (1).

(e) USE OF ASSISTANCE.—A member of the Armed Forces who is selected to participate in the program may receive services through any upward bound project assisted under section 402C of the Higher Education Act of 1965 (20 U.S.C. 1070a–13) to the same extent as other individuals eligible to receive such services. A member may not participate after the end of the two-year period beginning on the date on which the member is discharged or released from active duty, except that, in the case of a member described in subsection (b) who was discharged or released from active duty before the date of the enactment of this Act, the period for participation in the program shall be two years from the date of the enactment of this Act.

(f) REIMBURSEMENT.—Upon submission to the Secretary of Defense of a request for reimbursement of the costs to provide services to a participant, the Secretary shall reimburse the upward bound project submitting the request for the actual cost of providing services (including a stipend) to the member, not to exceed the amount provided under subsection (d)(1). Funds provided under this subsection shall be in addition to the funds otherwise provided to the project under the Higher Education Act of 1965 (20 U.S.C.

1001 et seq.). Not more than 10 percent of the funds provided under this subsection may be used for administrative costs.

(g) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301 for Defense Agencies, $5,000,000 shall be available to provide assistance under this section.

SEC. 4467. IMPROVEMENTS TO EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS UNDER THE JOB TRAINING PARTNERSHIP ACT.

(a) ADDITIONAL STATE DISLOCATED WORKER UNIT ASSISTANCE REQUIREMENTS.—Section 311(b) of the Job Training Partnership Act (29 U.S.C. 1661(b)) is amended—

(1) in paragraph (3)(D), by inserting before the semicolon at the end the following: ", including immediate notification to substate grantees of current or projected permanent closures or substantial layoffs in the substate area of such grantee to continue and expand the services initiated by the rapid response teams";

(2) in paragraph (9), by striking out "on the plan; and" and inserting in lieu thereof "on the plan;";

(3) in paragraph (10), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding at the end the following new paragraphs:

"(11) the State unit will provide the Secretary with a cost breakdown of all funds made available under this title used by such unit for administrative expenditures; and

"(12) the State will not transfer the responsibility for the rapid response assistance functions of the State unit under section 314(b) to another entity, but the State may contract with another entity to perform rapid response assistance services.".

(b) OVERSIGHT BY SECRETARY OF RAPID RESPONSE ASSISTANCE SERVICES.—Section 314(b) of such Act (29 U.S.C. 1661c(b)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall oversee the administration by each State of the rapid response assistance services provided in such State and the effectiveness, efficiency, and timeliness of the delivery of such services. If the Secretary determines that such services are not being performed adequately, the Secretary shall implement appropriate corrective action, including, where necessary, the selection of a new rapid response assistance service provider.".

(c) EXPANDED DEFINITION OF SUBSTANTIAL LAYOFF FOR RAPID RESPONSE ASSISTANCE.—Section 314(b) of such Act (29 U.S.C. 1661c(b)) (as amended by subsection (b)) is further amended by adding at the end the following new paragraph:

"(4) For purposes of rapid response assistance provided by a State dislocated worker unit, the term 'substantial layoff' means a layoff of 50 or more individuals.".

(d) CLARIFICATION OF DEFINITION OF ELIGIBLE DISLOCATED WORKERS FOR CERTAIN SERVICES PROVIDED UNDER SECTION 314.—Section 314 of such Act (29 U.S.C. 1661c) is amended—

(1) in subsection (e)(1), by inserting "is unemployed and" after "to provide needs-related payments to an eligible dislocated worker who"; and

(2) by adding at the end the following new subsection:

"(h) CLARIFICATION OF DEFINITION OF ELIGIBLE DISLOCATED WORKERS FOR CERTAIN SERVICES.—(1) The term 'eligible dislocated workers' includes individuals who have not received specific notice of termination or lay off and work at a facility at which the employer has made a public announcement that such facility will close (except those individuals likely to remain employed with the same employer or likely to retire instead of seeking new employment)—

"(A) with respect to basic readjustment services provided under paragraphs (1) through (14), (16), and (18) of subsection (c); and

"(B) with respect to services provided under this section beginning 180 days before the date on which the facility is scheduled to close.

"(2) Services described in paragraph (1)(A) and provided to the individuals described in paragraph (1) shall, to the extent practicable, be funded under section 302(c)(1).".

(e) NOTICE OF TERMINATION OF CERTAIN DEFENSE EMPLOYEES FOR SERVICES PROVIDED UNDER SECTION 325.—Section 325 of such Act (29 U.S.C. 1662d) is amended by adding at the end the following new subsection:

"(e) NOTICE OF TERMINATION FOR CERTAIN DEFENSE EMPLOYEES.—

"(1) IN GENERAL.—A civilian employee of the Department of Defense employed at a military installation being closed or realigned under the laws referred to in paragraph (2) shall be eligible for training, adjustment assistance, and employment services under subsection (a) beginning on the date on which such employee receives actual notice of termination, or the date determined by the Secretary of Defense under paragraph (3), whichever occurs earlier.

"(2) CERTAIN DEFENSE LAWS.—The laws referred to in this paragraph are—

"(A) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note); and

"(B) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

"(3) DATE.—The date determined under this paragraph is the date that is 24 months before the date on which the military installation is to be closed or the realignment of the installation is to be completed, as the case may be.".

(f) PROHIBITION OF USE OF FUNDS UNDER JOB TRAINING PROGRAMS FOR TRANSFER OF FEDERAL PROPERTY AND EQUIPMENT BETWEEN FEDERAL AGENCIES.—

(1) IN GENERAL.—Section 141 of such Act (29 U.S.C. 1551) is amended by adding at the end the following new subsection:

"(s) Notwithstanding any other provision of law, a job training program under this Act or an education program shall receive priority consideration for the transfer of Federal property and equipment that the Secretary of Defense determines are in excess of current and projected requirements of the Department of Defense. Such property and equipment shall be transferred at no cost to such program.".

(2) CONFORMING AMENDMENT.—Section 131(i) of the Job Training Reform Amendments of 1992 is amended by striking

Ante, p. 1042.

"adding at the end" and inserting "inserting after subsection (p)".

29 USC 1662d-1 note.

SEC. 4468. JOB BANK PROGRAM FOR DISCHARGED MILITARY PERSONNEL, TERMINATED DEFENSE EMPLOYEES, AND DISPLACED EMPLOYEES OF DEFENSE CONTRACTORS.

(a) INTERSTATE JOB BANK PROGRAM.—The Secretary of Defense shall establish a program to expand the services of and provide access to the Interstate Job Bank program in the United States Employment Service to individuals eligible for training, adjustment assistance, and employment services under sections 325 and 325A of the Job Training Partnership Act and, in the case of members of the Armed Forces so eligible, the spouses of such members. The Secretary may establish such program in coordination with the Defense Outplacement Referral System and other automated job opening networks.

(b) SERVICES INCLUDED.—The program established under subsection (a) may include the following services:

(1) A phone bank reachable by a toll-free number, staffed by an international "help desk" of individuals familiar with the services provided under section 1144 of title 10, United States Code, and related transition programs under chapter 58 of such title (in the case of members of the Armed Forces, priority shall be given to recently-discharged veterans, members of the Armed Forces who have been separated from active duty, and their spouses).

(2) Interstate Job Bank satellite offices or systems at defense contractor plants by State employment security agencies and at all military bases for direct access and self service to job listings.

(3) Specialized job banks to integrate with the Interstate Job Bank for specialized listings or services such as the Defense Outplacement Referral System (DORS) of resumes, National Academy of Sciences Network, commercial systems, and the outplacement of defense-related personnel in high-tech occupations through the expansion and coordination of existing networks to ensure that resources are available at all service locations.

(4) A system by which individuals and public and private organizations may access the Interstate Job Bank using individual modems or related automated employment systems.

(c) FUNDING FOR FISCAL YEAR 1993.—Of the amount authorized to be appropriated in section 301 for Defense Agencies, $4,000,000 shall be available to carry out the program established under subsection (a).

SEC. 4469. AUTHORIZATION OF APPROPRIATIONS FOR CERTAIN EMPLOYMENT, JOB TRAINING, AND OTHER ASSISTANCE.

Section 1144(e) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "$4,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$11,000,000 for fiscal year 1993 and $8,000,000 for each of fiscal years 1994 and 1995."; and

(2) in paragraph (2), by striking out "$1,000,000 for fiscal year 1991" and all that follows through the period and inserting in lieu thereof "$6,500,000 for each of fiscal years 1993, 1994, and 1995.".

SEC. 4470. DEFENSE CONTRACTOR REQUIREMENT TO LIST SUITABLE EMPLOYMENT OPENINGS WITH LOCAL EMPLOYMENT SERVICE OFFICE.

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2410c, as added by section 4303(a), the following new section:

"§ 2410d. Defense contractors: listing of suitable employment openings with local employment service office

"(a) REGULATIONS.—The Secretary of Defense shall promulgate regulations containing the requirement described in subsection (b) and such other provisions as the Secretary considers necessary to administer such requirement. Such regulations shall require that each contract described in subsection (c) shall contain a clause requiring the contractor to comply with such regulations.

"(b) REQUIREMENT.—The regulations promulgated under this section shall require each contractor carrying out a contract described in subsection (c) to list immediately with the appropriate local employment service office, and where appropriate the Interstate Job Bank (established by the United States Employment Service), all of its suitable employment openings under such contract.

"(c) COVERED CONTRACTS.—The regulations promulgated under this section shall apply to any contract entered into with the Department of Defense in an amount of $500,000 or more.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2410c, as added by section 4303(b), the following new item:

"2410d. Defense contractors: listing of suitable employment openings with local employment service office.".

(b) EFFECTIVE DATE.—Section 2410d of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into beginning 120 days after the date of the enactment of this Act. 10 USC 2410d note.

SEC. 4471. NOTICE REQUIREMENTS UPON PROPOSED AND ACTUAL TERMINATION OR SUBSTANTIAL REDUCTION IN DEFENSE PROGRAMS. 10 USC 2501 note.

(a) SECRETARY OF DEFENSE NOTICE REQUIREMENT AFTER SUBMISSION OF PRESIDENT'S BUDGET TO CONGRESS.—Not later than 30 days after the date on which the President submits to the Congress the annual budget of the President pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall—

(1) determine which defense programs are likely to be terminated or substantially reduced under such budget; and

(2) provide notice of the proposed termination of, or substantial reduction in, a defense program under paragraph (1) to each defense contractor that—

(A) has entered into a defense contract under such program; and

(B) will be adversely affected by the termination of, or substantial reduction in, such program.

(b) SECRETARY OF DEFENSE NOTICE REQUIREMENT AFTER DATE OF ENACTMENT OF AN ACT MAKING APPROPRIATIONS FOR DEFENSE.—Not later than 30 days after the date of the enactment of an Act appropriating funds pursuant to an authorization for the

Department of Defense or for defense programs in the Department of Energy, the Secretary of Defense shall—

(1) determine which defense programs are likely to be terminated or substantially reduced under such Act; and

(2) provide notice of the proposed termination of, or substantial reduction in, a defense program under paragraph (1) to each defense contractor that—

(A) has entered into a defense contract under such program; and

(B) will be adversely affected by the termination of, or substantial reduction in, such program.

(c) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice under subsection (a) or (b), as the case may be, of the termination of, or substantial reduction in, a defense program, the contractor shall provide notice of such termination or substantial reduction to—

(1)(A) each representative of employees whose work is directly related to the defense contract under such program and who are employed by the defense contractor; or

(B) if there is no such representative at that time, each such employee; and

(2) the State dislocated worker unit or office described in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)) and the chief elected official of the unit of general local government within which the adverse effect may occur.

(d) CONSTRUCTIVE NOTICE.—The notice of termination of, or substantial reduction in, a defense program provided under subsection (c)(1) to an employee of a defense contractor shall have the same effect as a notice of termination to such employee for the purposes of determining whether such employee is eligible for training, adjustment assistance, and employment services under section 325 of the Job Training Partnership Act, or section 325A of such Act (as added by section 4465(a)), as the case may be, except where the employer has specified that the termination of, or reduction in, the program is not likely to result in plant closure or mass layoff. Any employee considered to have received such notice under the preceding sentence shall only be eligible to receive services under section 314(b) of such Act and under paragraphs (1) through (14), (16), and (18) of section 314(c) of such Act.

(e) WITHDRAWAL OF NOTIFICATION.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of an Act appropriating funds pursuant to an authorization for the Department of Defense or for defense programs in the Department of Energy, the Secretary of Defense shall provide notice of withdrawal of the notification provided under subsection (a)(2) to each defense contractor—

(A) that received notice under such subsection; and

(B) with respect to which the Secretary determines will not be adversely affected by the termination of, or substantial reduction in, the defense program referred to in such subsection due to a sufficient level of funding for the program provided in such Act.

(2) DEFENSE CONTRACTOR NOTICE REQUIREMENT.—Not later than 2 weeks after a defense contractor receives notice of withdrawal of notification under paragraph (1), the contractor shall provide notice of such withdrawal to—

(A)(i) each representative of employees whose work is directly related to the defense contract under the defense program and who are employed by the defense contractor; or

(ii) if there is no such representative at that time, each such employee;

(B) the State dislocated worker unit or office described in section 311(b)(2) of the Job Training Partnership Act (29 U.S.C. 1661(b)(2)) and the chief elected official of the unit of general local government within which the adverse effect may occur; and

(C) each grantee under section 325(a) of the Job Training Partnership Act, or section 325A(a) of such Act, as the case may be, providing training, adjustment assistance, and employment services to each employee described in this paragraph.

(3) LOSS OF ELIGIBILITY.—An employee who receives notice of withdrawal under paragraph (2) shall not be eligible for training, adjustment assistance, and employment services under section 325 of the Job Training Partnership Act, or section 325A of such Act, as the case may be, beginning on the date the employee receives such notice.

(f) DEFENSE CONTRACTOR DEFINED.—For purposes of this section, the term "defense contractor" means a private person producing goods or services pursuant to—

(1) a contract with the Department of Defense in an amount not less than $500,000; or

(2) a subcontract in an amount not less than $500,000 entered into under a contract with the Department of Defense.

SEC. 4472. STUDY TO DETERMINE THE DISLOCATION EFFECTS OF CURRENT AND FUTURE REDUCTIONS IN SPENDING FOR THE NATIONAL DEFENSE.

10 USC 2504 note.

(a) STUDY.—The Secretary of Defense and the Secretary of Labor shall jointly conduct a study to determine the dislocation effects that are projected to occur as a result of current and future reductions in spending for the national defense. The responsibilities of the Secretary of Defense under this section shall be carried out by the Defense Economic Adjustment Center established within the National Defense University under section 2504(a) of title 10, United States Code.

(b) CONDUCT OF STUDY.—In carrying out the study under subsection (a), the Secretaries shall—

(1) consider the reemployment potential of workers losing jobs as a result of reduced defense spending, including the probability that such workers will be absorbed into other comparable jobs in the Federal Government or other comparable jobs in the geographic locality of such workers;

(2) include projections for—

(A) dislocation in the private sector defense industry, dislocation of active duty military, and dislocation of civilians working for the Department of Defense; and

(B) secondary dislocation in communities that are substantially and seriously affected (as defined in section 4003(5)(A) of the Defense Economic Adjustment, Diversification, Conversion, and Stabilization Act of 1990 (Public Law 101-510; 104 Stat. 1848; 10 U.S.C. 2391 note)) where

job loss occurs as a consequence of the closing or reduction in force of military facilities, or the cancellation or reduction in defense contracts in such community;

(3) include information on the regional impact of reduced defense spending as it applies to worker dislocation;

(4) include a comparison of the characteristics of the workforce population being dislocated as a consequence of reduced defense spending to the characteristics of the general dislocated workforce population in the United States, including characteristics relating to education status, income level, and occupation;

(5) include projections on how dislocations occurring as a consequence of reduced defense spending will impact on other Federal programs that serve dislocated workers (particularly programs in which funding is based on unemployment statistics), including programs under the Job Training Partnership Act (29 U.S.C. 1501 et seq.); and

(6) include a comparison of the average length of advance notice received by workers being dislocated as a consequence of reduced defense spending to the average length of advance notice received by workers being dislocated for other reasons.

(c) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretaries shall jointly submit to the Congress a report containing—

(1) the findings and conclusions of the Secretaries resulting from the study under subsection (a); and

(2) recommendations for assistance to dislocated workers based on the findings and conclusions referred to in paragraph (1).

29 USC 1662d-1 note.

SEC. 4473. TREATMENT OF CERTAIN PROVISIONS OF LAW UPON TRANSFER OF AMOUNTS PROVIDED UNDER THIS ACT.

(a) CONTINGENT REPEAL.—

(1) IN GENERAL.—If a transfer is made in accordance with section 4501(c) of the full amount of an amount described in subparagraph (A) or (B) of paragraph (2), then the section referred to in that subparagraph (including the amendments made by the section) is repealed, effective as of the date of the enactment of this Act, and the provisions of any Act amended by such section shall apply as if the amendments had not been enacted.

(2) AMOUNTS DESCRIBED.—(A) The amount described in this subparagraph is the amount provided under subsection (c) of section 4465 for the amendments to the Job Training Partnership Act under such section.

(B) The amount described in this subparagraph is the amount provided under subsection (c) of section 4468 for the program under such section.

(b) PUBLICATION IN THE FEDERAL REGISTER.—If a transfer described in subsection (a)(1) is made, then the Secretary of Defense shall promptly publish in the Federal Register a notice of such transfer. Such notice shall specify the date on which such transfer occurred.

Subtitle G—Service Members Occupational Conversion and Training

Service Members Occupational Conversion and Training Act of 1992.
10 USC 1143 note.

SEC. 4481. SHORT TITLE.

This subtitle may be cited as the "Service Members Occupational Conversion and Training Act of 1992".

SEC. 4482. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the men and women serving in our Nation's Armed Forces are of the highest caliber—intelligent, dedicated, and disciplined—and hundreds of thousands of these service members will be separating from the Armed Forces due to the drawdown in military personnel;

(2) these men and women will be entering the civilian workforce during a time of economic instability and uncertainty;

(3) many of these service personnel specialized in critical skills such as combat arms which will not transfer to the civilian workforce;

(4) as part of the Nation's obligation to these service members, the Secretary of Defense has a unique responsibility and obligation to provide them with the tools they need to be reassimilated into the civilian community and continue to be outstanding, productive citizens;

(5) the rapid placement of separated military personnel in civilian employment and training opportunities will significantly reduce the Department of Defense's costs relative to unemployment compensation for ex-service members;

(6) military personnel are a national resource whose skills and abilities must be absorbed by and integrated into the civilian workforce; and

(7) providing such training will reduce the total cost of the drawdown and is important to the national defense function of the Department of Defense.

(b) PURPOSE.—The purpose of this subtitle is to provide additional means by which the Secretary of Defense can manage the drawdown of the Armed Forces and to provide additional forms of assistance to members of the Armed Forces who are forced or induced to leave military service by reason of the drawdown of the Armed Forces, thereby facilitating the Secretary's ability to achieve end strength reductions caused by the drawdown.

SEC. 4483. DEFINITIONS.

For the purposes of this subtitle:

(1) The term "Secretary" means the Secretary of Defense.

(2) The terms "veteran", "compensation", "service-connected", "State", and "active military, naval, or air service" have the meanings given such terms in paragraphs (2), (13), (16), (20), and (24), respectively, of section 101 of title 38, United States Code.

SEC. 4484. ESTABLISHMENT OF PROGRAM.

(a) ESTABLISHMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary shall carry out a program in accordance with this subtitle to assist eligible persons in obtaining employment through participation in programs of significant training for employment in stable and permanent positions. The Secretary may enter into an agreement with the Secretary of Veter-

ans Affairs, the Secretary of Labor, or both, for the implementation of the program. The program shall be carried out through payments to employers who employ and train eligible persons in such positions. Such payments shall be made to assist such employers in defraying the costs of necessary training.

(b) STATE AGENCIES.—(1) The implementing official may enter into contracts or agreements with State approving agencies, as designated pursuant to section 3671(a) of title 38, United States Code, or other State agencies to carry out any duty of the implementing official under this subtitle. Payment may be made to such agencies pursuant to any such contract or agreement for reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out such duties. Each such payment may be made only from funds available to the implementing official pursuant to section 4495(a)(3).

Reports.

(2) Each State approving agency or other State agency with which a contract or agreement is entered into under this section shall submit to the implementing official on a monthly or quarterly basis, as determined by the agency, a report containing a certification of such expenses for the period covered by the report. The report shall be submitted in the form and manner required by such official.

(c) EXPEDITIOUS IMPLEMENTATION.—A requirement in this subtitle to issue regulations shall not be the basis for a delay in carrying out this program within the time limit established by subsection (a).

SEC. 4485. ELIGIBILITY FOR PROGRAM; PERIOD OF TRAINING.

(a) IN GENERAL.—(1) To be eligible for participation in a program of job training under this subtitle, an eligible person must be an eligible person described in paragraph (2) who—

(A)(i) is unemployed at the time of applying for participation in a program under this subtitle; and

(ii) has been unemployed for at least 8 of the 15 weeks immediately preceding the date of such eligible person's application for participation in a program under this subtitle;

(B) separates from the active military, naval, or air service and whose primary or secondary occupational specialty in the Armed Forces is (as determined under regulations prescribed by the Secretary and in effect before the date of such separation) not readily transferable to the civilian workforce; or

(C) served in the active military, naval, or air service and is entitled to compensation (or who but for the receipt of military retired pay would be entitled to compensation) under the laws administered by the Secretary of Veterans Affairs for a disability rated at 30 percent or more.

(2) For purposes of paragraph (1), an eligible person referred to in paragraph (1) is a veteran who—

(A) was discharged on or after August 2, 1990; and

(B)(i) served in the active military, naval, or air service for a period of more than 90 days; or

(ii) was discharged or released from active duty because of a service-connected disability.

(3) For purposes of paragraph (1), an eligible person shall be considered to be unemployed during any period such person is without a job and wants and is available for work. In determining whether a person is unemployed for purposes of paragraph (1),

the implementing official shall not take into consideration part-time or temporary employment, as defined by such official.

(b) APPLICATION PROCESS.—(1) An eligible person who desires to participate in a program of job training under this subtitle shall submit to the implementing official an application for participation in such a program. Such an application—

(A) shall include a certification by the eligible person that the eligible person meets the criteria for eligibility prescribed by subparagraph (A), (B), or (C) of subsection (a)(1);

(B) shall include an opportunity for the eligible person to request counseling under section 4493(a); and

(C) shall be in such form and contain such additional information as such official may prescribe.

(2)(A) Subject to subparagraph (B), an application by an eligible person for participation in a program of job training under this subtitle shall be approved unless the implementing official finds that the eligible person is not eligible to participate in a program of job training under this subtitle.

(B) Approval of an application of an eligible person under this subtitle may be withheld if the implementing official determines that, because of limited funds available for the purpose of making payments to employers under this subtitle, it is necessary to limit the number of participants in the program carried out under this subtitle.

(3)(A) Subject to section 4491(c), the implementing official shall certify as eligible for participation under this subtitle an eligible person whose application is approved under this subsection and shall furnish the eligible person with a certificate of that eligible person's eligibility for presentation to an employer offering a program of job training under this subtitle. Any such certificate shall expire 180 days after it is furnished to the eligible person. The date on which a certificate is furnished to an eligible person under this paragraph shall be stated on the certificate.

(B) A certificate furnished under this paragraph may, upon the eligible person's application, be renewed in accordance with the terms and conditions of subparagraph (A).

(c) APPEAL OF DENIAL OF CERTIFICATE.—The implementing official shall permit each eligible person who is not issued a certificate of eligibility under subsection (b) (other than an eligible person who is not issued such a certificate by reason of subsection (b)(2)(B)) to challenge in a hearing before the implementing official the decision of the implementing official not to issue the certificate. The implementing official shall prescribe procedures with respect to the initiation and conduct of hearings under this subsection.

(d) PERIOD OF TRAINING.—An employer shall provide a period of training under a program of job training under this subtitle of not less than 6 months or more than 18 months in a field of employment providing a reasonable probability of stable, long-term employment.

SEC. 4486. APPROVAL OF EMPLOYER PROGRAMS.

(a) IN GENERAL.—(1) An employer may be paid assistance under section 4487(a) on behalf of an eligible person employed by such employer and participating in a program of job training offered by that employer only if the program is approved under this section.

(2) Except as provided in subsection (b), a proposed program of job training of an employer shall be approved unless the

implementing official determines that the application does not contain a certification and other information meeting the requirements established under this subtitle or that withholding of approval is warranted under subsection (g).

(b) INELIGIBLE PROGRAMS.—A program of job training—

(1) for employment which consists of seasonal, intermittent, or temporary jobs;

(2) for employment under which commissions are the primary source of income;

(3) for employment which involves political or religious activities;

(4) for employment with any department, agency, instrumentality, or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission); or

(5) for employment outside of a State,

may not be approved under this subtitle.

(c) APPLICATION.—An employer offering a program of job training that the employer desires to have approved for the purposes of this subtitle shall submit to the implementing official a written application for such approval. Such application shall be in such form as such official shall prescribe.

(d) CERTIFICATION.—An application under subsection (c) shall include a certification by the employer of the following:

(1) That the employer is planning that, upon an eligible person's completion of the program of job training, the employer will employ the eligible person in a position for which the eligible person has been trained and that the employer expects that such a position will be available on a stable and permanent basis to the eligible person at the end of the training period.

(2) That the wages and benefits to be paid to an eligible person participating in the employer's program of job training will be not less than the wages and benefits normally paid to other employees participating in the same or a comparable program of job training.

(3) That the employment of an eligible person under the program—

(A) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits); and

(B) will not be in a job (i) while any other individual is on layoff from the same or any substantially equivalent job, or (ii) the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its work force with the intention of hiring an eligible person in such job under this subtitle.

(4) That the employer will not employ in the program of job training an eligible person who is already qualified by training and experience for the job for which training is to be provided.

(5) That the job which is the objective of the training program is one that involves significant training.

(6) That the training content of the program is adequate, in light of the nature of the occupation for which training is to be provided and of comparable training opportunities

in such occupation, to accomplish the training objective certified under paragraph (2) of subsection (e).

(7) That each participating eligible person will be employed full time in the program of job training.

(8) That the training period under the proposed program is not longer than the training periods that employers in the community customarily require new employees to complete in order to become competent in the occupation or job for which training is to be provided.

(9) That there are in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as are needed to accomplish the training objective certified under subsection (e)(2).

(10) That the employer will keep records adequate to show the progress made by each eligible person participating in the program and otherwise to demonstrate compliance with the requirements established under this subtitle.

(11) That the employer will furnish each participating eligible person, before the eligible person's entry into training, with a copy of the employer's certification under this subsection and will obtain and retain the eligible person's signed acknowledgment of having received such certification.

(12) That, as applicable, the employer will provide each participating eligible person with the full opportunity to participate in a personal interview pursuant to section 4493(b)(1)(B) during the eligible person's normal workday.

(13) That the program meets such other criteria as the Secretary, in consultation with the Secretary of Veterans Affairs and the Secretary of Labor, may determine are essential for the effective implementation of the program established by this subtitle.

(e) HOURS AND TRAINING CONTENT.—A certification under subsection (d) shall include—

(1) a statement indicating (A) the total number of hours of participation in the program of job training to be offered an eligible person, (B) the length of the program of job training, and (C) the starting rate of wages to be paid to a participant in the program; and

(2) a description of the training content of the program (including any agreement the employer has entered into with an educational institution under section 4489) and of the objective of the training.

(f) STATUS OF CERTIFIED MATTERS.—(1) Except as specified in paragraph (2), each matter required to be certified to in paragraphs (1) through (11) of subsection (d) shall be considered to be a requirement established under this subtitle.

(2)(A) For the purposes of section 4487(c), only matters required to be certified in paragraphs (1) through (10) of subsection (d) shall be so considered.

(B) For the purposes of section 4490, a matter required to be certified under paragraph (12) of subsection (d) shall also be so considered.

(g) WITHHOLDING APPROVAL; DISAPPROVAL.—In accordance with regulations which the Secretary shall prescribe, the implementing official may withhold approval of an employer's proposed program of job training pending the outcome of an investigation under section

Regulations.

4491 and, based on the outcome of such an investigation, may disapprove such program.

(h) ON-JOB TRAINING.—For the purposes of this section, approval of a program of apprenticeship or other on-job training for the purposes of section 3687 of title 38, United States Code, shall be considered to meet all requirements established under the provisions of this subtitle (other than subsection (b) and (d)(3)) for approval of a program of job training.

SEC. 4487. PAYMENTS TO EMPLOYERS; OVERPAYMENT.

(a) PAYMENTS.—(1)(A) Except as provided in subsections (b) and (c) and subject to section 4485(d), the implementing official shall make payments to employers in accordance with this section. The amount payable to such an employer on behalf of an eligible person with respect to an approved program of job training under this subtitle shall be determined by such official at the beginning of such program. Except as provided in subparagraph (B), that amount shall be equal to 50 percent of the product of (i) the starting hourly rate of wages paid to the eligible person by the employer (without regard to overtime or premium pay), and (ii) the number of hours to be worked by the eligible person during the entire program period.

(B) In no case may the amount determined under subparagraph (A) exceed—

(i) $12,000 for an eligible person with a service-connected disability rated at 30 percent or more; or

(ii) $10,000 for an eligible person not described in clause (i).

(b) PAYMENT PERIOD.—(1) Except as provided in paragraphs (2) and (3), the implementing official shall pay training assistance to employers under this section on a quarterly basis.

(2) The implementing official may pay training assistance to an employer on a monthly basis if the implementing official determines (pursuant to regulations prescribed by the implementing official) that the number of employees of the employer is such that the payment of assistance on a quarterly basis would be burdensome to the employer.

(3) The implementing official shall withhold 25 percent of each payment due under this subsection with respect to an eligible person. The total amount withheld with respect to an eligible person under this paragraph shall be paid to the employer at the end of the four month period of employment of such person under this subtitle beginning on the date of completion of training.

(c) TOOLS AND OTHER WORK-RELATED MATERIALS.—In addition to payments under subsection (a), the implementing official shall reimburse the employer for the cost of tools and other work-related materials necessary for the eligible person's participation in the program of job training in an amount up to $500 if the employer presents to the implementing official a certification signed by the employer and eligible person that—

(1) tools and other work-related materials are necessary for the eligible person's participation in the job training program,

(2) the eligible person bought the tools and other work-related materials, and

(3) the employer paid the eligible person for the cost of the tools and other work-related materials.

(d) OVERPAYMENTS.—(1)(A) Whenever the implementing official finds that an overpayment under this subtitle has been made to an employer on behalf of an eligible person as a result of a certification, or information contained in an application, submitted by an employer which was false in any material respect, the amount of such overpayment shall constitute a liability of the employer to the United States.

(B) Whenever such official finds that an employer has failed in any substantial respect to comply for a period of time with a requirement established under this subtitle (unless the employer's failure is the result of false or incomplete information provided by the eligible person), each amount paid to the employer on behalf of an eligible person for that period shall be considered to be an overpayment under this subtitle, and the amount of such overpayment shall constitute a liability of the employer to the United States.

(2) Whenever such official finds that an overpayment under this subtitle has been made to an employer on behalf of an eligible person as a result of a certification by the eligible person, or as a result of information provided to an employer or contained in an application submitted by the eligible person, which was willfully or negligently false in any material respect, the amount of such overpayment shall constitute a liability of the eligible person to the United States.

(3) Any overpayment referred to in paragraph (1) or (2) may be recovered in the same manner as any other debt due the United States. Any overpayment recovered shall be credited to funds available to make payments under this subtitle. If there are no such funds, any overpayment recovered shall be deposited into the Treasury.

(4) Any overpayment referred to in paragraph (1) or (2) may be waived, in whole or in part, in accordance with the terms and conditions set forth in section 5302 of title 38, United States Code.

(e) LIMITATIONS.—(1) Payment may not be made to an employer for a period of training under this subtitle on behalf of an eligible person until the implementing official has received—

(A) from the eligible person, a certification that the eligible person was employed full time by the employer in a program of job training during such period; and

(B) from the employer, a certification—

(i) that the eligible person was employed by the employer during that period and that the eligible person's performance and progress during such period were satisfactory; and

(ii) of the number of hours worked by the eligible person during that period.

With respect to the first such certification by an employer with respect to an eligible person, the certification shall indicate the date on which the employment of the eligible person began and the starting hourly rate of wages paid to the eligible person (without regard to overtime or premium pay).

(2) Payment may not be made to an employer for a period of training under this subtitle on behalf of an eligible person for which a request for payment is made after two years after the date on which that period of training ends.

SEC. 4488. ENTRY INTO PROGRAM OF JOB TRAINING.

(a) IN GENERAL.—Notwithstanding any other provision of this subtitle, the implementing official shall withhold or deny approval of an eligible person's entry into an approved program of job training if such official determines that funds are not available to make payments under this subtitle on behalf of the eligible person to the employer offering that program. Before the entry of an eligible person into an approved program of job training of an employer for purposes of assistance under this subtitle, the employer shall notify such official of the employer's intention to employ that eligible person. The eligible person may begin such program of job training with the employer two weeks after the notice is transmitted, by means prescribed by such official, to such official unless within that time the employer has received notice from such official that approval of the eligible person's entry into that program of job training must be withheld or denied in accordance with this section.

(b) PERIOD FOR COMMENCEMENT OF PARTICIPATION UNDER CERTIFICATE.—An eligible person who is issued a certificate of eligibility for participation in a program of job training under this subtitle shall commence participation in such a program not more than 180 days after the date of the issuance of the certificate. The date on which a certificate is furnished to an eligible person shall be stated on the certificate.

SEC. 4489. PROVISION OF TRAINING THROUGH EDUCATIONAL INSTITUTIONS.

An employer may enter into an agreement with an educational institution that has been approved for the purposes of chapter 106 of title 10, United States Code, in order that such institution may provide a program of job training (or a portion of such a program) under this subtitle. When such an agreement has been entered into, the application of the employer under section 4486 shall so state and shall include a description of the training to be provided under the agreement.

SEC. 4490. DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN CERTAIN EMPLOYER PROGRAMS.

(a) FAILURE TO MEET REQUIREMENTS.—If the implementing official finds at any time that a program of job training previously approved for the purposes of this subtitle thereafter fails to meet any of the requirements established under this subtitle, such official may immediately disapprove further participation by eligible persons in that program. Such official shall provide to the employer concerned, and to each eligible person participating in the employer's program, a statement of the reasons for, and an opportunity for a hearing with respect to, such disapproval. The employer and each such eligible person shall be notified of such disapproval, the reasons for such disapproval, and the opportunity for a hearing. Notification shall be by a certified or registered letter, and a return receipt shall be secured.

(b) RATE OF COMPLETION.—(1) If the implementing official determines that the rate of eligible persons' successful completion of an employer's programs of job training previously approved for the purposes of this subtitle is disproportionately low because of deficiencies in the quality of such programs, such official shall disapprove participation in such programs on the part of eligible persons who had not begun such participation on the date that

the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, such official shall take into account appropriate data, including—

(A) the quarterly data provided by the Secretary of Labor with respect to the number of eligible persons who receive counseling in connection with training under this subtitle, are referred to employers under this subtitle, participate in job training under this subtitle, and complete such training or do not complete such training, and the reasons for noncompletion; and

(B) data compiled through the particular employer's compliance surveys.

(2) With respect to a disapproval under paragraph (1), the implementing official shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

(3) A disapproval under paragraph (1) shall remain in effect until such time as the implementing official determines that adequate remedial action has been taken.

SEC. 4491. INSPECTION OF RECORDS; INVESTIGATIONS.

(a) RECORDS.—The records and accounts of employers pertaining to eligible persons on behalf of whom assistance has been paid under this subtitle, as well as other records that the implementing official determines to be necessary to ascertain compliance with the requirements established under this subtitle, shall be available at reasonable times for examination by authorized representatives of the Federal Government.

(b) COMPLIANCE MONITORING.—Such official may monitor employers and eligible persons participating in programs of job training under this subtitle to determine compliance with the requirements established under this subtitle.

(c) INVESTIGATIONS.—Such official may investigate any matter such official considers necessary to determine compliance with the requirements established under this subtitle. The investigations authorized by this subsection may include examining records (including making certified copies of records), questioning employees, and entering into any premises or onto any site where any part of a program of job training is conducted under this subtitle, or where any of the records of the employer offering or providing such program are kept.

(d) DEPARTMENT OF LABOR.—Functions may be administered under subsections (b) and (c) in accordance with an agreement between the Secretary and the Secretary of Labor providing for the administration of such subsections (or any portion of such subsections) by the Department of Labor. Under such an agreement, any entity of the Department of Labor specified in the agreement may administer such subsections.

SEC. 4492. COORDINATION WITH OTHER PROGRAMS.

(a) VETERANS EDUCATION PROGRAMS.—(1) Assistance may not be paid under this subtitle to an employer on behalf of an eligible person for any period of time described in paragraph (2) and to such eligible person under chapter 30, 31, 32, 35, or 36 of title 38, United States Code, or chapter 106 of title 10, United States Code, for the same period of time.

(2) A period of time referred to in paragraph (1) is the period of time beginning on the date on which the eligible person enters

into an approved program of job training of an employer for purposes of assistance under this subtitle and ending on the last date for which such assistance is payable.

(b) OTHER TRAINING AND EMPLOYMENT.—Assistance may not be paid under this subtitle to an employer on behalf of an eligible person for any period if the employer receives for that period any other form of assistance on account of the training or employment of the eligible person, including assistance under the Job Training Partnership Act or a credit under section 51 of the Internal Revenue Code of 1986 (relating to credit for employment of certain new employees).

(c) PREVIOUS COMPLETION OF PROGRAM.—Assistance may not be paid under this subtitle on behalf of an eligible person who has completed a program of job training under this subtitle.

(d) PROMOTION.—(1) In carrying out section 3116(b) of title 38, United States Code, the Secretary of Veterans Affairs shall take all feasible steps to establish and encourage, for eligible persons who are eligible to have payments made on their behalf under such section, the development of training opportunities through programs of job training under this subtitle.

(2) The Secretary of Veterans Affairs, in cooperation with the implementing official (unless the Secretary of Veterans Affairs is the implementing official), shall take all feasible steps to ensure that, in the cases of eligible persons who are eligible to have payments made on their behalf under both this subtitle and section 3116(b) of title 38, United States Code, the authority under such section is utilized, to the maximum extent feasible and consistent with the eligible person's best interests, to make payments to employers on behalf of such eligible persons.

SEC. 4493. COUNSELING.

Contracts.

(a) IN GENERAL.—The implementing official shall, upon request, provide, by contract or otherwise, employment counseling services to any eligible person eligible to participate under this subtitle in order to assist such eligible person in selecting a suitable program of job training under this subtitle.

(b) CASE MANAGER.—(1) The implementing official shall provide for a program under which—

(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 4103A(a) of title 38, United States Code, is assigned as a case manager for each eligible person participating in a program of job training under this subtitle;

(B) the eligible person has an in-person interview with the case manager not later than 60 days after entering into a program of training under this subtitle; and

(C) periodic (not less frequent than monthly) contact is maintained with each such eligible person for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the eligible person to appropriate counseling, if necessary, (iii) facilitating the eligible person's successful completion of such program, and (iv) following up with the employer and the eligible person in order to determine the eligible person's progress in the program and the outcome regarding the eligible person's participation in and successful completion of the program.

(2) No case manager shall be assigned pursuant to paragraph (1)(A)—

(A) for an eligible person if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the implementing official determines that there is no need for a case manager for such eligible person; or

(B) in the case of the employees of an employer, if the implementing official determines that—

(i) the employer has an appropriate and effective employee assistance program that is available to all eligible persons participating in the employer's programs of job training under this subtitle; or

(ii) the rate of eligible persons' successful completion of the employer's programs of job training under this subtitle, either cumulatively or during the previous program year, is 60 percent or higher.

(3) The implementing official shall provide, to the extent feasible, a program of counseling or other services designed to resolve difficulties that may be encountered by eligible persons during their training under this subtitle. Such counseling or other services shall be similar to the counseling and other services provided under sections 1712A, 3697A, 4103A, 4104, 7723, and 7724 of title 38, United States Code, and section 1144 of title 10, United States Code.

(c) CASE MANAGER REQUIRED.—Before an eligible person who voluntarily terminates from a program of job training under this subtitle or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this subtitle, such eligible person must be provided by the Secretary of Labor, after consultation with the implementing official, with a case manager.

SEC. 4494. INFORMATION AND OUTREACH; USE OF AGENCY RESOURCES.

(a) IN GENERAL.—(1) The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall jointly provide for an outreach and public information program—

(A) to inform eligible persons about the employment and job training opportunities available under this subtitle and under other provisions of law; and

(B) to inform private industry and business concerns (including small business concerns), public agencies and organizations, educational institutions, trade associations, and labor unions about the job training opportunities available under, and the advantages of participating in, the program established by this subtitle.

(2) The Secretary, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, shall promote the development of employment and job training opportunities for eligible persons by encouraging potential employers to make programs of job training under this subtitle available for eligible persons, by advising other appropriate Federal departments and agencies of the program established by this subtitle, and by advising employers of applicable responsibilities under chapters 41 and 42 of title 38, United States Code, with respect to eligible persons.

(b) COORDINATION.—The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall coordinate the outreach and public information program under subsection (a)(1), and job development activities under subsection (a)(2), with job counseling, placement, job development, and other services provided for under chapters 41 and 42 of title 38, United States Code, and with other similar services offered by other public agencies and organizations.

(c) AGENCY RESOURCES.—(1) The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall make available such personnel as are necessary to facilitate the effective implementation of this subtitle.

(2) In carrying out the responsibilities of the Secretary of Labor under this subtitle, the Secretary of Labor shall make maximum use of the services of Directors and Assistant Directors for Veterans' Employment and Training, disabled veterans' outreach program specialists, and employees of local offices, appointed pursuant to sections 4103, 4103A, and 4104 of title 38, United States Code. To the extent that the implementing official withholds approval of eligible persons' applications under this subtitle pursuant to section 4485(b)(2)(B), the Secretary of Labor shall take steps to assist such eligible persons in taking advantage of opportunities that may be available to them under any other program carried out with funds provided by the Secretary of Labor.

(d) SMALL BUSINESS.—The implementing official shall request and obtain from the Administrator of the Small Business Administration a list of small business concerns and shall, on a regular basis, update such list. Such list shall be used to identify and promote possible training and employment opportunities for eligible persons.

(e) ASSISTANCE TO PARTICIPATE.—The Secretary, the Secretary of Veterans Affairs, and the Secretary of Labor shall assist eligible persons and employers desiring to participate under this subtitle in making application and completing necessary certifications.

(f) COLLECTION OF CERTAIN INFORMATION.—The Secretary of Labor shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans' Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of eligible persons who receive counseling services pursuant to section 4493, who are referred to employers participating under this subtitle, who participate in programs of job training under this subtitle (including a description of the nature of the training and salaries that are part of such programs), and who complete such programs, and the reasons for eligible persons' noncompletion.

SEC. 4495. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—(1) Of the amounts authorized to be appropriated in section 301 for Defense Agencies, $75,000,000 shall be made available for the purpose of making payments to employers under this subtitle. The Secretary of Veterans Affairs and the Secretary of Labor shall submit an estimate to the Secretary of the amount needed to carry out any agreement entered into under section 4484(a), including administrative costs referred to in paragraph (3). Such agreements shall include administrative procedures

to ensure the prompt and timely payments to employers by the implementing official.

(2) Amounts made available pursuant to this section for a fiscal year shall remain available until the end of the second fiscal year following the fiscal year in which such amounts were appropriated.

(3) Of the amounts made available pursuant to this section for a fiscal year, six percent of such amounts may be used for the purpose of administering this subtitle, including reimbursing expenses incurred.

(b) AVAILABILITY OF DEOBLIGATED FUNDS.—Notwithstanding any other provision of law, any funds made available pursuant to this section for a fiscal year which are obligated for the purpose of making payments under section 4487 on behalf of an eligible person (including funds so obligated which previously had been obligated for such purpose on behalf of another eligible person and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the implementing official for obligation for such purpose. The further obligation of such funds by such official for such purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.

SEC. 4496. TIME PERIODS FOR APPLICATION AND INITIATION OF TRAINING.

Assistance may not be paid to an employer under this subtitle—

(1) on behalf of an eligible person who initially applies for a program of job training under this subtitle after September 30, 1995; or

(2) for any such program which begins after March 31, 1996.

SEC. 4497. TREATMENT OF CERTAIN PROVISIONS OF LAW UPON TRANSFER OF AMOUNTS PROVIDED UNDER THIS ACT.

(a) CONTINGENT AMENDMENT.—If a transfer is made in accordance with section 4501(c) of the full amount of the amount provided under section 4495(a) for the program established under section 4484(a), then, effective as of the date of the enactment of this Act, the first sentence of section 4484(a) is amended by striking "the Secretary shall carry out" and inserting "the Secretary may carry out".

(b) PUBLICATION IN THE FEDERAL REGISTER.—If the transfer described in subsection (a) is made, then the Secretary of Defense shall promptly publish in the Federal Register a notice of such transfer. Such notice shall specify the date on which such transfer occurred.

TITLE XLV—BUDGET

SEC. 4501. BUDGET DETERMINATION BY THE DIRECTOR OF OMB.

10 USC 114 note.

(a) REQUIREMENT FOR DETERMINATION.—An amount made available under this Act for a program described in subsection (b) may be obligated for that program only if expenditures for that program have been determined by the Director of the Office of Management and Budget to be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act

of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) COVERED PROGRAMS.—The programs referred to in subsection (a) are the programs under title XLIII and subtitles D through G of title XLIV.

(c) EFFECT ON APPROPRIATIONS FOR PROGRAMS NOT COUNTED AGAINST DEFENSE CATEGORY.—(1) Not later than the third day after the date of the enactment of this Act, the Director of the Office of Management and Budget shall make a determination as to the classification by discretionary spending limit category for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 of amounts appropriated for fiscal year 1993 for each of the programs described in subsection (b). If the Director determines that any such amount shall not classify against the defense category, then the President shall submit to Congress a report listing all such amounts that the Director has determined will not classify against the defense category (as described in subsection (a)). Such report shall contain an explanation for each such determination.

President. Reports.

(2) All amounts listed in the report under paragraph (1) may be transferred only to the programs under titles XLII, XLIII, and XLIV that are classified against the defense category by virtue of the report of the President submitted under paragraph (1) pursuant to amounts specified in appropriation Acts. Any such transfer shall be taken into account for purposes of calculating all reports under section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 5006 (S. 3114):

HOUSE REPORTS: Nos. 102-527 (Comm. on Armed Services) and 102-966 (Comm. of Conference).
SENATE REPORTS: No. 102-352 accompanying S. 3114 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 3-5, considered and passed House.
Aug. 7, 10, Sept. 17, 18, S. 3114 considered and passed Senate; H.R. 5006, amended, passed in lieu.
Oct. 3, House agreed to conference report.
Oct. 5, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 23, Presidential remarks and statement.

Public Law 102-485
102d Congress

An Act

To facilitate recovery from recent disasters by providing greater flexibility for depository institutions and their regulators, and for other purposes.

Oct. 23, 1992
[H.R. 6050]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Depository Institutions Disaster Relief Act of 1992.
12 USC 1811 note.

This Act may be cited as the "Depository Institutions Disaster Relief Act of 1992".

SEC. 2. APPRAISAL REQUIREMENTS.

Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.) is amended by adding at the end the following new section:

"SEC. 1123. EMERGENCY EXCEPTIONS FOR DISASTER AREAS.

12 USC 3352.

"(a) IN GENERAL.—Each Federal financial institutions regulatory agency may, by regulation or order, make exceptions to this title, and to standards prescribed pursuant to this title, for transactions involving institutions for which the agency is the primary Federal regulator with respect to real property located within a disaster area if the agency—

"(1) makes the exception not later than 30 months after the date on which the President determines, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, that a major disaster exists in the area; and

"(2) determines that the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(b) 3-YEAR LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than 3 years after the date of the determination referred to in subsection (a)(1).

"(c) PUBLICATION REQUIRED.—Any Federal financial institutions regulatory agency shall publish in the Federal Register a statement that—

Federal Register, publication.

"(1) describes any exception made under this section; and

"(2) explains how the exception—

"(A) would facilitate recovery from the major disaster; and

"(B) is consistent with safety and soundness.

"(d) DISASTER AREA DEFINED.—For purposes of this section, the term 'disaster area' means an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists.".

12 USC 4008 note.

SEC. 3. TRUTH IN LENDING ACT; EXPEDITED FUNDS AVAILABILITY ACT.

(a) TRUTH IN LENDING ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Truth in Lending Act for transactions within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(b) EXPEDITED FUNDS AVAILABILITY ACT.—During the 180-day period beginning on the date of enactment of this Act, the Board of Governors of the Federal Reserve System may make exceptions to the Expedited Funds Availability Act for depository institution offices located within an area referred to in subsection (a) of this section if the Board determines that the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

(c) TIME LIMIT ON EXCEPTIONS.—Any exception made under this section shall expire not later than the earlier of—

(1) 1 year after the date of enactment of this Act; or

(2) 1 year after the date of the Presidential determination referred to in subsection (a).

Federal Register, publication.

(d) PUBLICATION REQUIRED.—The Board of Governors of the Federal Reserve System shall publish in the Federal Register a statement that—

(1) describes any exception made under this section; and

(2) explains how the exception can reasonably be expected to produce benefits to the public that outweigh possible adverse effects.

12 USC 1831*o* note.

SEC. 4. DEPOSIT OF INSURANCE PROCEEDS.

(a) IN GENERAL.—The appropriate Federal banking agency may, by order, permit an insured depository institution, during the 18-month period beginning on the date of enactment of this Act, to subtract from the institution's total assets, in calculating compliance with the leverage limit prescribed under section 38 of the Federal Deposit Insurance Act, an amount not exceeding the qualifying amount attributable to insurance proceeds, if the agency determines that—

(1) the institution—

(A) had its principal place of business within an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, on the day before the date of that determination;

(B) derives more than 60 percent of its total deposits from persons who normally reside within, or whose principal place of business is normally within, areas of intense devastation caused by the major disaster (such as that portion of Dade County, Florida, south of Kendall Drive and east of Everglades National Park, as damaged by Hurricane Andrew);

(C) was adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act) before the major disaster; and

(D) has an acceptable plan for managing the increase in its total assets and total deposits; and

(2) the subtraction is consistent with the purpose of section 38 of the Federal Deposit Insurance Act.

(b) DEFINITIONS.—For purposes of this section:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term "appropriate Federal banking agency" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(2) INSURED DEPOSITORY INSTITUTION.—The term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(3) LEVERAGE LIMIT.—The term "leverage limit" has the same meaning as in section 38 of the Federal Deposit Insurance Act.

(4) QUALIFYING AMOUNT ATTRIBUTABLE TO INSURANCE PROCEEDS.—The term "qualifying amount attributable to insurance proceeds" means the amount (if any) by which the institution's total assets exceed the institution's average total assets during the calendar quarter ending before the date of the Presidential determination referred to in subsection (a)(1)(A), because of the deposit of insurance payments or governmental assistance made with respect to damage caused by, or other costs resulting from, the major disaster.

SEC. 5. BANKING AGENCY PUBLICATION REQUIREMENTS.

12 USC 1828 note.

(a) IN GENERAL.—During the 180-day period beginning on the date of enactment of this Act, a qualifying regulatory agency may take any of the following actions with respect to depository institutions or other regulated entities whose principal place of business is within, or with respect to transactions or activities within, an area in which the President, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, has determined that a major disaster exists, if the agency determines that the action would facilitate recovery from the major disaster:

(1) PROCEDURE.—Exercising the agency's authority under provisions of law other than this section without complying with—

(A) any requirement of section 553 of title 5, United States Code; or

(B) any provision of law that requires notice or opportunity for hearing or sets maximum or minimum time limits with respect to agency action.

(2) PUBLICATION REQUIREMENTS.—Making exceptions, with respect to institutions or other entities for which the agency is the primary Federal regulator, to—

(A) any publication requirement with respect to establishing branches or other deposit-taking facilities; or

(B) any similar publication requirement.

(b) PUBLICATION REQUIRED.—A qualifying regulatory agency shall publish in the Federal Register a statement that—

Federal Register, publication.

(1) describes any action taken under this section; and

(2) explains the need for the action.

(c) QUALIFYING REGULATORY AGENCY DEFINED.—For purposes of this section, the term "qualifying regulatory agency" means—

(1) the Board of Governors of the Federal Reserve System;

(2) the Comptroller of the Currency;

(3) the Director of the Office of Thrift Supervision;

(4) the Federal Deposit Insurance Corporation;
(5) the Financial Institutions Examination Council;
(6) the National Credit Union Administration; and
(7) with respect to chapter 53 of title 31, United States Code, the Secretary of the Treasury.

SEC. 6. COMMUNITY DEVELOPMENT AUTHORITY OF BANKS.

(a) NATIONAL BANKS.—Section 5136 of the Revised Statutes (12 U.S.C. 24) is amended by adding at the end the following new paragraph:

"Eleventh. To make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs). A national banking association may make such investments directly or by purchasing interests in an entity primarily engaged in making such investments. An association shall not make any such investment if the investment would expose the association to unlimited liability. The Comptroller of the Currency shall limit an association's investments in any 1 project and an association's aggregate investments under this paragraph. An association's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the association's capital stock actually paid in and unimpaired and 5 percent of the association's unimpaired surplus fund, unless the Comptroller determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the association is adequately capitalized. In no case shall an association's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the association's capital stock actually paid in and unimpaired and 10 percent of the association's unimpaired surplus fund.".

(b) STATE MEMBER BANKS.—Section 9 of the Federal Reserve Act (12 U.S.C. 321–338) is amended by adding at the end the following new paragraph:

12 USC 338a.

"State member banks may make investments designed primarily to promote the public welfare, including the welfare of low- and moderate-income communities or families (such as by providing housing, services, or jobs), to the extent permissible under State law, and subject to such restrictions and requirements as the Board of Governors of the Federal Reserve System may prescribe by regulation or order. A bank shall not make any such investment if the investment would expose the bank to unlimited liability. The Board shall limit a bank's investments in any 1 project and bank's aggregate investments under this paragraph. A bank's aggregate investments under this paragraph shall not exceed an amount equal to the sum of 5 percent of the bank's capital stock actually paid in and unimpaired and 5 percent of the bank's unimpaired surplus fund, unless the Board determines by order that the higher amount will pose no significant risk to the affected deposit insurance fund, and the bank is adequately capitalized. In no case shall a bank's aggregate investments under this paragraph exceed an amount equal to the sum of 10 percent of the bank's capital stock actually paid in and unimpaired and 10 percent of the bank's unimpaired surplus fund.".

SEC. 7. SENSE OF THE CONGRESS.

It is the sense of the Congress that the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, and the National Credit Union Administration should encourage depository institutions in areas affected by such major disasters as Hurricane Andrew, Hurricane Iniki, and the Los Angeles civil unrest to meet the financial services needs of their communities.

SEC. 8. OTHER AUTHORITY NOT AFFECTED.

12 USC 1811 note.

Nothing in this Act limits the authority of any department or agency under any other provision of law.

Approved October 23, 1992.

LEGISLATIVE HISTORY—H.R. 6050:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 23, Presidential statement.

Public Law 102-486
102d Congress

An Act

Oct. 24, 1992
[H.R. 776]

To provide for improved energy efficiency.

Energy Policy Act of 1992.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 13201 note.

(a) SHORT TITLE.—This Act may be cited as the "Energy Policy Act of 1992".

(b) TABLE OF CONTENTS.—

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Subtitle B—Utilities

Sec. 111. Encouragement of investments in conservation and energy efficiency by electric utilities.
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TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

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Sec. 3018. Radiation exposure compensation.
Sec. 3019. Strategic diversification.
Sec. 3020. Consultative Commission on Western Hemisphere Energy and Environment.
Sec. 3021. Disadvantaged business enterprises.

42 USC 13201.

SEC. 2. DEFINITION.

For purposes of this Act, the term "Secretary" means the Secretary of Energy.

TITLE I—ENERGY EFFICIENCY

Subtitle A—Buildings

SEC. 101. BUILDING ENERGY EFFICIENCY STANDARDS.

(a) IN GENERAL.—Title III of the Energy Conservation and Production Act (42 U.S.C. 6831 et seq.) is amended—

42 USC 6832.

(1) in section 303—

(A) by striking paragraph (9);

(B) by redesignating paragraphs (10), (11), (12), and (13) as paragraphs (9), (10), (11), and (12), respectively; and

(C) by adding at the end the following new paragraphs—

"(13) The term 'Federal building energy standards' means energy consumption objectives to be met without specification of the methods, materials, or equipment to be employed in achieving those objectives, but including statements of the requirements, criteria, and evaluation methods to be used, and any necessary commentary.

"(14) The term 'voluntary building energy code' means a building energy code developed and updated through a consen-

sus process among interested persons, such as that used by the Council of American Building Officials; the American Society of Heating, Refrigerating, and Air-Conditioning Engineers; or other appropriate organizations.

"(15) The term 'CABO' means the Council of American Building Officials.

"(16) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air-Conditioning Engineers."; and

(2) by striking sections 304, 306, 308, 309, 310, and 311 and inserting the following: 42 USC 6833, 6835, 6837-6840.

"SEC. 304. UPDATING STATE BUILDING ENERGY EFFICIENCY CODES. 42 USC 6833.

"(a) CONSIDERATION AND DETERMINATION RESPECTING RESIDENTIAL BUILDING ENERGY CODES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed CABO Model Energy Code, 1992.

"(2) The determination referred to in paragraph (1) shall be—

"(A) made after public notice and hearing;

"(B) in writing;

"(C) based upon findings included in such determination and upon the evidence presented at the hearing; and

"(D) available to the public.

"(3) Each State may, to the extent consistent with otherwise applicable State law, revise the provisions of its residential building code regarding energy efficiency to meet or exceed CABO Model Energy Code, 1992, or may decline to make such revisions.

"(4) If a State makes a determination under paragraph (1) that it is not appropriate for such State to revise its residential building code, such State shall submit to the Secretary, in writing, the reasons for such determination, and such statement shall be available to the public.

"(5)(A) Whenever CABO Model Energy Code, 1992, (or any successor of such code) is revised, the Secretary shall, not later than 12 months after such revision, determine whether such revision would improve energy efficiency in residential buildings. The Secretary shall publish notice of such determination in the Federal Register.

"(B) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed the provisions of its residential building code regarding energy efficiency and made a determination as to whether it is appropriate for such State to revise such residential building code provisions to meet or exceed the revised code for which the Secretary made such determination.

"(C) Paragraphs (2), (3), and (4) shall apply to any determination made under subparagraph (B).

"(b) CERTIFICATION OF COMMERCIAL BUILDING ENERGY CODE UPDATES.—(1) Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, each State shall certify to the Secretary that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency. Such certifi-

cation shall include a demonstration that such State's code provisions meet or exceed the requirements of ASHRAE Standard 90.1–1989.

"(2)(A) Whenever the provisions of ASHRAE Standard 90.1–1989 (or any successor standard) regarding energy efficiency in commercial buildings are revised, the Secretary shall, not later than 12 months after the date of such revision, determine whether such revision will improve energy efficiency in commercial buildings. The Secretary shall publish a notice of such determination in the Federal Register.

"(B)(i) If the Secretary makes an affirmative determination under subparagraph (A), each State shall, not later than 2 years after the date of the publication of such determination, certify that it has reviewed and updated the provisions of its commercial building code regarding energy efficiency in accordance with the revised standard for which such determination was made. Such certification shall include a demonstration that the provisions of such State's commercial building code regarding energy efficiency meet or exceed such revised standard.

"(ii) If the Secretary makes a determination under subparagraph (A) that such revised standard will not improve energy efficiency in commercial buildings, State commercial building code provisions regarding energy efficiency shall meet or exceed ASHRAE Standard 90.1–1989, or if such standard has been revised, the last revised standard for which the Secretary has made an affirmative determination under subparagraph (A).

"(c) EXTENSIONS.—The Secretary shall permit extensions of the deadlines for the certification requirements under subsections (a) and (b) if a State can demonstrate that it has made a good faith effort to comply with such requirements and that it has made significant progress in doing so.

"(d) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes or to otherwise promote the design and construction of energy efficient buildings.

"(e) AVAILABILITY OF INCENTIVE FUNDING.—(1) The Secretary shall provide incentive funding to States to implement the requirements of this section, and to improve and implement State residential and commercial building energy efficiency codes. In determining whether, and in what amount, to provide incentive funding under this subsection, the Secretary shall consider the actions proposed by the State to implement the requirements of this section, to improve and implement residential and commercial building energy efficiency codes, and to promote building energy efficiency through the use of such codes.

Appropriation authorization.

"(2) There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

42 USC 6834.

"SEC. 305. FEDERAL BUILDING ENERGY EFFICIENCY STANDARDS.

"(a)(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with appropriate Federal agencies, CABO, ASHRAE, the National Association of Home Builders, the Illuminating Engineering Society, the American Institute of Architects, the National Conference of the States on Building Codes and Standards, and other appropriate persons, shall establish, by rule, Federal

building energy standards that require in new Federal buildings those energy efficiency measures that are technologically feasible and economically justified. Such standards shall become effective no later than 1 year after such rule is issued.

"(2) The standards established under paragraph (1) shall—

"(A) contain energy saving and renewable energy specifications that meet or exceed the energy saving and renewable energy specifications of CABO Model Energy Code, 1992 (in the case of residential buildings) or ASHRAE Standard 90.1–1989 (in the case of commercial buildings);

"(B) to the extent practicable, use the same format as the appropriate voluntary building energy code; and

"(C) consider, in consultation with the Environmental Protection Agency and other Federal agencies, and where appropriate contain, measures with regard to radon and other indoor air pollutants.

"(b) REPORT ON COMPARATIVE STANDARDS.—The Secretary shall identify and describe, in the report required under section 308, the basis for any substantive difference between the Federal building energy standards established under this section (including differences in treatment of energy efficiency and renewable energy) and the appropriate voluntary building energy code.

"(c) PERIODIC REVIEW.—The Secretary shall periodically, but not less than once every 5 years, review the Federal building energy standards established under this section and shall, if significant energy savings would result, upgrade such standards to include all new energy efficiency and renewable energy measures that are technologically feasible and economically justified.

"(d) INTERIM STANDARDS.—Interim energy performance standards for new Federal buildings issued by the Secretary under this title as it existed before the date of the enactment of the Energy Policy Act of 1992 shall remain in effect until the standards established under subsection (a) become effective.

"SEC. 306. FEDERAL COMPLIANCE. 42 USC 6835.

"(a) PROCEDURES.—(1) The head of each Federal agency shall adopt procedures necessary to assure that new Federal buildings meet or exceed the Federal building energy standards established under section 305.

"(2) The Federal building energy standards established under section 305 shall apply to new buildings under the jurisdiction of the Architect of the Capitol. The Architect shall adopt procedures necessary to assure that such buildings meet or exceed such standards.

"(b) CONSTRUCTION OF NEW BUILDINGS.—The head of a Federal agency may expend Federal funds for the construction of a new Federal building only if the building meets or exceeds the appropriate Federal building energy standards established under section 305.

"SEC. 307. SUPPORT FOR VOLUNTARY BUILDING ENERGY CODES. 42 USC 6836.

"(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, the Secretary, after consulting with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, other appropriate Federal agencies, CABO, ASHRAE, the National Conference of States on Building Codes and Standards, and any other appropriate building codes and standards organization, shall support the upgrading of

voluntary building energy codes for new residential and commercial buildings. Such support shall include—

"(1) a compilation of data and other information regarding building energy efficiency standards and codes in the possession of the Federal Government, State and local governments, and industry organizations;

"(2) assistance in improving the technical basis for such standards and codes;

"(3) assistance in determining the cost-effectiveness and the technical feasibility of the energy efficiency measures included in such standards and codes; and

"(4) assistance in identifying appropriate measures with regard to radon and other indoor air pollutants.

"(b) REVIEW.—The Secretary shall periodically review the technical and economic basis of voluntary building energy codes and, based upon ongoing research activities—

"(1) recommend amendments to such codes including measures with regard to radon and other indoor air pollutants;

"(2) seek adoption of all technologically feasible and economically justified energy efficiency measures; and

"(3) otherwise participate in any industry process for review and modification of such codes.

42 USC 6837.

"SEC. 308. REPORTS.

"The Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, and other appropriate Federal agencies, shall report annually to the Congress on activities conducted pursuant to this title. Such report shall include—

"(1) recommendations made under section 307(b) regarding the prevailing voluntary building energy codes;

"(2) a State-by-State summary of actions taken under this title; and

"(3) recommendations to the Congress with respect to opportunities to further promote building energy efficiency and otherwise carry out the purposes of this title.".

(b) CONFORMING AMENDMENT.—The table of contents of such Act is amended by striking the items relating to sections 304, 306, 308, 309, 310 and 311, and inserting in lieu thereof the following—

"Sec. 304. Updating State building energy efficiency codes.
"Sec. 305. Federal building energy efficiency standards.
"Sec. 306. Federal compliance.
"Sec. 307. Support for voluntary building energy codes.
"Sec. 308. Reports.".

(c) FEDERAL MORTGAGE REQUIREMENTS.—

(1) AMENDMENT TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709) is amended to read as follows:

"SEC. 109. ENERGY EFFICIENCY STANDARDS.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than 1 year after the date of the enactment of the Energy Policy Act of 1992, jointly establish, by rule, energy efficiency standards for—

"(A) new construction of public and assisted housing and single family and multifamily residential housing (other than manufactured homes) subject to mortgages insured under the National Housing Act; and

"(B) new construction of single family housing (other than manufactured homes) subject to mortgages insured, guaranteed, or made by the Secretary of Agriculture under title V of the Housing Act of 1949.

"(2) CONTENTS.—Such standards shall meet or exceed the requirements of the Council of American Building Officials Model Energy Code, 1992 (hereafter in this section referred to as 'CABO Model Energy Code, 1992'), or, in the case of multifamily high rises, the requirements of the American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (hereafter in this section referred to as 'ASHRAE Standard 90.1–1989'), and shall be cost-effective with respect to construction and operating costs on a life-cycle cost basis. In developing such standards, the Secretaries shall consult with an advisory task force composed of homebuilders, national, State, and local housing agencies (including public housing agencies), energy agencies, building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretaries.

"(b) MODEL ENERGY CODE.—If the Secretaries have not, within 1 year after the date of the enactment of the Energy Policy Act of 1992, established energy efficiency standards under subsection (a), all new construction of housing specified in such subsection shall meet the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, the requirements of ASHRAE Standard 90.1–1989.

"(c) REVISIONS OF MODEL ENERGY CODE.—If the requirements of CABO Model Energy Code, 1992, or, in the case of multifamily high rises, ASHRAE Standard 90.1–1989, are revised at any time, the Secretaries shall, not later than 1 year after such revision, amend the standards established under subsection (a) to meet or exceed the requirements of such revised code or standard unless the Secretaries determine that compliance with such revised code or standard would not result in a significant increase in energy efficiency or would not be technologically feasible or economically justified.".

(2) AMENDMENT TO TITLE 38, UNITED STATES CODE.—Section 3704 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.".

SEC. 102. RESIDENTIAL ENERGY EFFICIENCY RATINGS.

(a) RATINGS.—Title II of the National Energy Conservation Policy Act (42 U.S.C. 8211 et seq.) is amended by adding at the end the following new part:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATING GUIDELINES

42 USC 8236.

"SEC. 271. VOLUNTARY RATING GUIDELINES.

"(a) IN GENERAL.—Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary, in consultation with the Secretary of Housing and Urban Development, the Secretary of Veterans Affairs, representatives of existing home energy rating programs, and other appropriate persons, shall, by rule, issue voluntary guidelines that may be used by State and local governments, utilities, builders, real estate agents, lenders, agencies in mortgage markets, and others, to enable and encourage the assignment of energy efficiency ratings to residential buildings.

"(b) CONTENTS OF GUIDELINES.—The voluntary guidelines issued under subsection (a) shall—

"(1) encourage uniformity with regard to systems for rating the annual energy efficiency of residential buildings;

"(2) establish protocols and procedures for—

"(A) certification of the technical accuracy of building energy analysis tools used to determine energy efficiency ratings;

"(B) training of personnel conducting energy efficiency ratings;

"(C) data collection and reporting;

"(D) quality control; and

"(E) monitoring and evaluation;

"(3) encourage consistency with, and support for, the uniform plan for Federal energy efficient mortgages, including that developed under section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) and pursuant to sections 105 and 106 of the Energy Policy Act of 1992;

"(4) provide that rating systems take into account local climate conditions and construction practices, solar energy collected on-site, and the benefits of peak load shifting construction practices, and not discriminate among fuel types; and

"(5) establish procedures to ensure that residential buildings can receive an energy efficiency rating at the time of sale and that such rating is communicated to potential buyers.

42 USC 8236a.

"SEC. 272. TECHNICAL ASSISTANCE.

"Not later than 2 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall establish a program to provide technical assistance to State and local organizations to encourage the adoption of and use of residential energy efficiency rating systems consistent with the voluntary guidelines issued under section 271.

42 USC 8236b.

"SEC. 273. REPORT.

"Not later than 3 years after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall transmit to the President and the Congress a final report containing—

"(1) a description of actions taken by the Secretary and other Federal agencies to implement this part;

"(2) a description of the action taken by States, local governments, and other organizations to implement the voluntary

guidelines issued under section 271 and any problems encountered in implementing such guidelines; and

"(3) recommendations on the feasibility of requiring, as a prerequisite to receiving federally assisted, guaranteed, or insured mortgages, the achievement of a minimum energy efficiency rating.".

(b) CONFORMING AMENDMENT.—The table of contents for such Act is amended by adding at the end of title II the following:

"PART 6—RESIDENTIAL ENERGY EFFICIENCY RATINGS

"Sec. 271. Voluntary rating guidelines.
"Sec. 272. Technical assistance.
"Sec. 273. Report.".

SEC. 103. ENERGY EFFICIENT LIGHTING AND BUILDING CENTERS. 42 USC 13458.

(a) PURPOSE.—The purpose of this section is to encourage energy efficiency in buildings through the establishment of regional centers to promote energy efficient lighting, heating and cooling, and building design.

(b) GRANTS FOR ESTABLISHMENT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall make grants to nonprofit institutions, or to consortiums that may include nonprofit institutions, State and local governments, universities, and utilities, to establish or enhance one regional building energy efficiency center (hereafter in this section referred to as a "regional center") in each of the 10 regions served by a Department of Energy regional support office.

(c) PERMITTED ACTIVITIES.—Each regional center established under this section may—

(1) provide information, training, and technical assistance to building professionals such as architects, designers, engineers, contractors, and building code officials, on building energy efficiency methods and technologies, including lighting, heating and cooling, and passive solar;

(2) operate an outreach program to inform such building professionals of the benefits and opportunities of energy efficiency, and of the services of the center;

(3) provide displays demonstrating building energy efficiency methods and technologies, such as lighting, windows, and heating and cooling equipment;

(4) coordinate its activities and programs with other institutions within the region, such as State and local governments, utilities, and educational institutions, in order to support their efforts to promote building energy efficiency;

(5) serve as a clearinghouse to ensure that information about new building energy efficiency technologies, including case studies of successful applications, is disseminated to end-users in the region;

(6) study the building energy needs of the region and make available region-specific energy efficiency information to facilitate the adoption of cost-effective energy efficiency improvements;

(7) assist educational institutions in establishing building energy efficiency engineering and technical programs and curricula; and

(8) evaluate the performance of the center in promoting building energy efficiency.

(d) APPLICATION.—Any nonprofit institution or consortium interested in receiving a grant under this section shall submit to the Secretary an application in such form and containing such information as the Secretary may require. A lighting or building energy center in existence on the date of the enactment of this section which is owned and operated by a nonprofit institution or a consortium as described in subsection (b) shall be eligible for a grant under this section.

(e) SELECTION CRITERIA.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(1) The capability of the grant recipient to establish a board of directors for the regional center composed of representatives from utilities, State and local governments, building trade and professional organizations, manufacturers, and nonprofit energy and environmental organizations.

(2) The demonstrated or potential resources available to the grant recipient for carrying out this subsection.

(3) The demonstrated or potential ability of the grant recipient to promote building energy efficiency by carrying out the activities specified in subsection (c).

(4) The activities which the grant recipient proposes to carry out under the grant.

(f) REQUIREMENT OF MATCHING FUNDS.—

(1) FEDERAL SHARE.—The Federal share of a grant under this section shall be no more than 50 percent of the costs of establishing, and no more than 25 percent of the cost of operating the regional center.

(2) NON-FEDERAL CONTRIBUTIONS.—No grant may be made under this section in any fiscal year unless the recipient of such grant enters into such agreements with the Secretary as the Secretary may require to ensure that such recipient will provide the necessary non-Federal contributions. Such non-Federal contributions may be provided by utilities, State and local governments, nonprofit institutions, foundations, corporations, and other non-Federal entities.

Establishment.

(g) TASK FORCE.—The Secretary shall establish a task force to—

(1) advise the Secretary on activities to be carried out by grant recipients;

(2) review and evaluate programs carried out by grant recipients; and

(3) make recommendations regarding the building energy efficiency center grant program.

(h) MEMBERSHIP TERMS AND ADMINISTRATION OF TASK FORCE.—

(1) IN GENERAL.—The task force shall be composed of approximately 20 members, appointed by the Secretary, with expertise in the area of building energy efficiency, including representatives from—

(A) State or local energy offices;

(B) utilities;

(C) building construction trade or professional associations;

(D) architecture, engineering or professional associations;

(E) building component or equipment manufacturers;

(F) from national laboratories;

(G) building code officials or professional associations; and

(H) nonprofit energy or environmental organizations.

(2) GEOGRAPHIC REPRESENTATION.—The Secretary shall ensure that there is broad geographical representation among task force members.

(3) TERMS.—Members shall be appointed for a term of 3 years. A vacancy in the task force shall be filled in the manner in which the original appointment was made.

(4) PAY.—Members shall serve without pay. Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(5) CHAIRPERSON.—The Chairperson and Vice Chairperson of the task force shall be elected by the members.

(6) MEETINGS.—The task force shall meet biannually and at the call of the Chairperson.

(7) INAPPLICABILITY OF TERMINATION DATE.—Section 14 of the Federal Advisory Committee Act shall not apply to the task force.

(i) REPORT.—The Secretary shall transmit annually to the Congress a report on the activities of regional centers established under this section, including the degree to which matching funds are being leveraged from private sources to establish and operate such centers.

(j) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for purposes of carrying out this section, to remain available until expended, not more than $10,000,000 for each of fiscal years 1994, 1995, and 1996.

SEC. 104. MANUFACTURED HOUSING ENERGY EFFICIENCY.

(a) AMENDMENTS TO CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 109 Stat. 4413) is amended— 104 Stat. 4413.

(1) in subparagraph (D), by striking "thermal insulation, energy efficiency";

(2) by redesignating subparagraphs (E), (F), (G), and (H) as subparagraphs (F), (G), (H), and (I), respectively; and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) consult with the Secretary of Energy and make recommendations regarding additional or revised standards for thermal insulation and energy efficiency applicable to manufactured housing;".

(b) DUTIES OF THE SECRETARY.—The Secretary of Housing and Urban Development shall assess the energy performance of manufactured housing and make recommendations to the National Commission on Manufactured Housing established under section 943 of the Cranston-Gonzalez National Affordable Housing Act regarding any thermal insulation and energy efficiency improvements applicable to manufactured housing which are technologically feasible and economically justified. The Secretary shall also test the performance and determine the cost effectiveness of manufactured housing constructed in compliance with the standards established under such section.

42 USC 5403 note.

(c) EXCEPTION TO FEDERAL PREEMPTION.—If the Secretary of Housing and Urban Development has not issued, within 1 year after the date of the enactment of this Act, final regulations pursuant to section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) that establish thermal insulation and energy efficiency standards for manufactured housing that take effect before January 1, 1995, then States may establish thermal insulation and energy efficiency standards for manufactured housing if such standards are at least as stringent as thermal performance standards for manufactured housing contained in the Second Public Review Draft of BSR/ASHRAE 90.2P entitled "Energy Efficient Design of Low-Rise Residential Buildings" and all public reviews of Independent Substantive Changes to such document that have been approved on or before the date of the enactment of this Act.

SEC. 105. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended by adding at the end the following new paragraph:

"(24) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

42 USC 12712 note.

SEC. 106. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program

as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable, in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Subtitle B—Utilities

SEC. 111. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY ELECTRIC UTILITIES.

(a) AMENDMENT TO THE PUBLIC UTILITY REGULATORY POLICIES ACT.—The Public Utility Regulatory Policies Act of 1978 (P.L. 95–617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by adding the following at the end of section 111(d): 16 USC 2621.

"(7) INTEGRATED RESOURCE PLANNING.—Each electric utility shall employ integrated resource planning. All plans or filings before a State regulatory authority to meet the requirements of this paragraph must be updated on a regular basis, must provide the opportunity for public participation and comment, and contain a requirement that the plan be implemented.

"(8) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for the construction of new generation, transmission, and distribution equipment. Such energy conservation, energy efficiency resources and other demand side management measures shall be appropriately monitored and evaluated.

"(9) ENERGY EFFICIENCY INVESTMENTS IN POWER GENERATION AND SUPPLY.—The rates charged by any electric utility shall be such that the utility is encouraged to make investments in, and expenditures for, all cost-effective improvements in the energy efficiency of power generation, transmission and distribution. In considering regulatory changes to achieve the objectives of this paragraph, State regulatory authorities and nonregulated electric utilities shall consider the disincentives caused by existing ratemaking policies, and practices, and consider incentives that would encourage better maintenance, and investment in more efficient power generation, transmission and distribution equipment.".

(b) PROTECTION FOR SMALL BUSINESS.—The Public Utility Regulatory Policies Act of 1978 (Public Law 95–617; 92 Stat. 3117; 16 U.S.C. 2601 and following) is amended by inserting the following new paragraph at the end of subsection 111(c):

"(3) If a State regulatory authority implements a standard established by subsection (d)(7) or (8), such authority shall—

"(A) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation or servicing of energy conservation, energy efficiency or other demand side management measures, and

"(B) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(c) EFFECTIVE DATE.—Section 112(b) of such Act is amended by inserting "(or after the enactment of the Comprehensive National Energy Policy Act in the case of standards under paragraphs (7), 16 USC 2622.

(8), and (9) of section 111(d))" after "Act" in both places such word appears in paragraphs (1) and (2).

16 USC 2602.

(d) DEFINITIONS.—Section 3 of such Act is amended by adding the following new paragraphs at the end thereof:

"(19) The term 'integrated resource planning' means, in the case of an electric utility, a planning and selection process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(20) The term 'system cost' means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, distribution, transportation, utilization, waste management, and environmental compliance.

"(21) The term 'demand side management' includes load management techniques.".

16 USC 2621 note.

(e) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit a report to the President and to the Congress containing—

(1) a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978;

(2) an evaluation by the Secretary of whether and to what extent, integrated resource planning is likely to result in—

(A) higher or lower electricity costs to an electric utility's ultimate consumers or to classes or groups of such consumers;

(B) enhanced or reduced reliability of electric service; and

(C) increased or decreased dependence on particular energy resources; and

(3) a survey of practices and policies under which electric cooperatives prepare integrated resource plans, submit such plans to the Rural Electrification Administration and the extent to which such integrated resource planning is reflected in rates charged to customers.

The report shall include an analysis prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation of energy conservation, energy efficiency, and other demand side management programs by utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand side management measures and whether any unfair, deceptive, or predatory acts exist, or are likely to exist, from implementation of such programs.

SEC. 112. ENERGY EFFICIENCY GRANTS TO STATE REGULATORY AUTHORITIES. 42 USC 6807a.

(a) ENERGY EFFICIENCY GRANTS.—The Secretary is authorized in accordance with the provisions of this section to provide grants to State regulatory authorities in an amount not to exceed $250,000 per authority, for purposes of encouraging demand-side management including energy conservation, energy efficiency and load management techniques and for meeting the requirements of paragraphs (7), (8), and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978 and as a means of meeting gas supply needs and to meet the requirements of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. Such grants may be utilized by a State regulatory authority to provide financial assistance to nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in order to facilitate participation by such subgrantees in proceedings of such regulatory authority to examine energy conservation, energy efficiency, or other demand-side management programs.

(b) PLAN.—A State regulatory authority wishing to receive a grant under this section shall submit a plan to the Secretary that specifies the actions such authority proposes to take that would achieve the purposes of this section.

(c) SECRETARIAL ACTION.—(1) In determining whether, and in what amount, to provide a grant to a State regulatory authority under this section the Secretary shall consider, in addition to other appropriate factors, the actions proposed by the State regulatory authority to achieve the purposes of this section and to consider implementation of the ratemaking standards established in—

(A) paragraphs (7), (8) and (9) of section 111(d) of the Public Utility Regulatory Policies Act of 1978; or

(B) paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978.

(2) Such actions—

(A) shall include procedures to facilitate the participation of grantees and nonprofit subgrantees of the Department of Energy's Weatherization Assistance Program in proceedings of such regulatory authorities examining demand-side management programs; and

(B) shall provide for coverage of the cost of such grantee and subgrantees' participation in such proceedings.

(d) RECORDKEEPING.—Each State regulatory authority that receives a grant under this section shall keep such records as the Secretary shall require.

(e) DEFINITION.—For purposes of this section, the term "State regulatory authority" shall have the same meaning as provided by section 3 of the Public Utility Regulatory Policies Act of 1978 in the case of electric utilities, and such term shall have the same meaning as provided by section 302 of the Public Utility Regulatory Policies Act of 1978 in the case of gas utilities, except that in the case of any State without a statewide ratemaking authority, such term shall mean the State energy office.

(f) AUTHORIZATION.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1994, 1995 and 1996 to carry out the purposes of this section.

16 USC 831m-1.

SEC. 113. TENNESSEE VALLEY AUTHORITY LEAST-COST PLANNING PROGRAM.

(a) IN GENERAL.—The Tennessee Valley Authority shall conduct a least-cost planning program in accordance with this section.

(b) CONDUCT OF PROGRAM.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall employ and implement a planning and selection process for new energy resources which evaluates the full range of existing and incremental resources (including new power supplies, energy conservation and efficiency, and renewable energy resources) in order to provide adequate and reliable service to electric customers of the Tennessee Valley Authority at the lowest system cost.

(2) PLANNING AND SELECTION PROCESS.—The planning and selection process referred to in paragraph (1) shall—

(A) take into account necessary features for system operation, including diversity, reliability, dispatchability, and other factors of risk;

(B) take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and

(C) treat demand and supply resources on a consistent and integrated basis.

(3) SYSTEM COST DEFINED.—As used in paragraph (1), the term "system cost" means all direct and quantifiable net costs for an energy resource over its available life, including the cost of production, transportation, utilization, waste management, environmental compliance, and, in the case of imported energy resources, maintaining access to foreign sources of supply.

(c) PARTICIPATION BY DISTRIBUTORS.—

(1) IN GENERAL.—In conducting a least-cost planning program under subsection (a), the Tennessee Valley Authority shall—

(A) provide an opportunity for distributors of the Tennessee Valley Authority to recommend cost-effective energy efficiency opportunities, rate structure incentives, and renewable energy proposals for inclusion in such program; and

(B) encourage and assist such distributors in the planning and implementation of cost-effective energy efficiency options.

(2) ASSISTANCE.—The Tennessee Valley Authority shall provide appropriate assistance to distributors under paragraph (1)(B). Such assistance shall, where cost effective, be provided by the Tennessee Valley Authority acting through, or in cooperation with, an association of distributors. Such assistance may include publications, workshops, conferences, one-on-one assistance, financial assistance, equipment loans, technology assessment studies, marketing studies, and other appropriate mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers.

(d) PUBLIC REVIEW AND COMMENT.—Before the selection and addition of a major new energy resource on the Tennessee Valley Authority system, the Tennessee Valley Authority shall provide

an opportunity for public review and comment and shall include a description of any such action in an annual report to the President and Congress.

(e) EXEMPTION FROM CERTAIN REQUIREMENTS.—The Tennessee Valley Authority shall not be subject to the least-cost planning requirements contained in section 111(d) of the Public Utility Regulatory Policies Act of 1978 or any similar requirement which might arise out of the Tennessee Valley Authority's electric power transactions with the Southeastern Power Administration.

SEC. 114. AMENDMENT OF HOOVER POWER PLANT ACT.

Title II of the Hoover Power Plant Act of 1984 (42 U.S.C. 7275–7276, Public Law 98–381) is amended to read as follows:

"TITLE II—INTEGRATED RESOURCE PLANNING

"Sec. 201. Definitions.
"Sec. 202. Regulations to require integrated resource planning.
"Sec. 203. Technical assistance.
"Sec. 204. Integrated resource plans.
"Sec. 205. Miscellaneous provisions.

"SEC. 201. DEFINITIONS. 42 USC 7275.

"As used in this title:

"(1) The term 'Administrator' means the Administrator of the Western Area Power Administration.

"(2) The term 'integrated resource planning' means a planning process for new energy resources that evaluates the full range of alternatives, including new generating capacity, power purchases, energy conservation and efficiency, cogeneration and district heating and cooling applications, and renewable energy resources, in order to provide adequate and reliable service to its electric customers at the lowest system cost. The process shall take into account necessary features for system operation, such as diversity, reliability, dispatchability, and other factors of risk; shall take into account the ability to verify energy savings achieved through energy conservation and efficiency and the projected durability of such savings measured over time; and shall treat demand and supply resources on a consistent and integrated basis.

"(3) The term 'least cost option' means an option for providing reliable electric services to electric customers which will, to the extent practicable, minimize life-cycle system costs, including adverse environmental effects, of providing such service. To the extent practicable, energy efficiency and renewable resources may be given priority in any least-cost option.

"(4) The term 'long-term firm power service contract' means any contract for the sale by Western Area Power Administration of firm capacity, with or without energy, which is to be delivered over a period of more than one year.

"(5) The terms 'customer' or 'customers' means any entity or entities purchasing firm capacity with or without energy, from the Western Area Power Administration under a long-term firm power service contract. Such terms include parent-type entities and their distribution or user members.

"(6) For any customer, the term 'applicable integrated resource plan' means the integrated resource plan approved by the Administrator under this title for that customer.

42 USC 7276.

"SEC. 202. REGULATIONS TO REQUIRE INTEGRATED RESOURCE PLANNING.

"(a) REGULATIONS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer purchasing electric energy under a long-term firm power service contract with the Western Area Power Administration to implement, within 3 years after the enactment of this section, integrated resource planning in accordance with the requirements of this title.

"(b) CERTAIN SMALL CUSTOMERS.—Notwithstanding subsection (a), for customers with total annual energy sales or usage of 25 Gigawatt Hours or less which are not members of a joint action agency or a generation and transmission cooperative with power supply responsibility, the Administrator may establish different regulations and apply such regulations to customers that the Administrator finds have limited economic, managerial, and resource capability to conduct integrated resource planning. The regulations under this subsection shall require such customers to consider all reasonable opportunities to meet their future energy service requirements using demand-side techniques, new renewable resources and other programs that will provide retail customers with electricity at the lowest possible cost, and minimize, to the extent practicable, adverse environmental effects.

42 USC 7276a.

"SEC. 203. TECHNICAL ASSISTANCE.

"The Administrator may provide technical assistance to customers to, among other things, conduct integrated resource planning, implement applicable integrated resource plans, and otherwise comply with the requirements of this title. Technical assistance may include publications, workshops, conferences, one-to-one assistance, equipment loans, technology and resource assessment studies, marketing studies, and other mechanisms to transfer information on energy efficiency and renewable energy options and programs to customers. The Administrator shall give priority to providing technical assistance to customers that have limited capability to conduct integrated resource planning.

42 USC 7276b.

"SEC. 204. INTEGRATED RESOURCE PLANS.

Regulations.

"(a) REVIEW BY WESTERN AREA POWER ADMINISTRATION.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to submit an integrated resource plan to the Administrator within 12 months after such regulations are amended. The regulation shall require a revision of such plan to be submitted every 5 years after the initial submission. The Administrator shall review the initial plan in accordance with a schedule established by the Administrator (which schedule will provide for the review of all initial plans within 24 months after such regulations are amended), and each revision thereof within 120 days after his receipt of the plan or revision and determine whether the customer has in the development of the plan or revi-

sion, complied with this title. Plan amendments may be submitted to the Administrator at any time and the Administrator shall review each such amendment within 120 days after receipt thereof to determine whether the customer in amending its plan has complied with this title. If the Administrator determines that the customer, in developing its plan, revision, or amendment, has not complied with the requirements of this title, the customer shall resubmit the plan at any time thereafter. Whenever a plan or revision or amendment is resubmitted the Administrator shall review the plan or revision or amendment within 120 days after his receipt thereof to determine whether the customer has complied with this title.

"(b) CRITERIA FOR APPROVAL OF INTEGRATED RESOURCE PLANS.—The Administrator shall approve an integrated resource plan submitted as required under subsection (a) if, in developing the plan, the customer has:

"(1) Identified and accurately compared all practicable energy efficiency and energy supply resource options available to the customer.

"(2) Included a 2-year action plan and a 5-year action plan which describe specific actions the customer will take to implement its integrated resource plan.

"(3) Designated 'least-cost options' to be utilized by the customer for the purpose of providing reliable electric service to its retail consumers and explained the reasons why such options were selected.

"(4) To the extent practicable, minimized adverse environmental effects of new resource acquisitions.

"(5) In preparation and development of the plan (and each revision or amendment of the plan) has provided for full public participation, including participation by governing boards.

"(6) Included load forecasting.

"(7) Provided methods of validating predicted performance in order to determine whether objectives in the plan are being met.

"(8) Met such other criteria as the Administrator shall require.

"(c) USE OF OTHER INTEGRATED RESOURCE PLANS.—Where a customer or group of customers are implementing integrated resource planning under a program responding to Federal, State, or other initiatives, including integrated resource planning considered and implemented pursuant to section 111(d) of the Public Utility Regulatory Policies Act of 1978, in evaluating that customer's integrated resource plan under this title, the Administrator shall accept such plan as fulfillment of the requirements of this title to the extent such plan substantially complies with the requirements of this title.

"(d) COMPLIANCE WITH INTEGRATED RESOURCE PLANS.—Within 1 year after the enactment of this section, the Administrator shall, by regulation, revise the Final Amended Guidelines and Acceptance Criteria for Customer Conservation and Renewable Energy Programs published in the Federal Register on August 21, 1985 (50 F.R. 33892), or any subsequent amendments thereto, to require each customer to fully comply with the applicable integrated resource plan and submit an annual report to the Administrator (in such form and containing such information as the Administrator may require) describing the customer's progress to the goals established in such plan. After the initial review under subsection (a) Regulations.

the Administrator shall periodically conduct reviews of a representative sample of applicable integrated resource plans and the customer's implementation of the applicable integrated resource plan to determine if the customers are in compliance with their plans. If the Administrator finds a customer out-of-compliance, the Administrator shall impose a surcharge under this section on all electric energy purchased by the customer from the Western Area Power Administration or reduce such customer's power allocation by 10 percent, unless the Administrator finds that a good faith effort has been made to comply with the approved plan.

"(e) ENFORCEMENT.—

"(1) NO APPROVED PLAN.—If an integrated resource plan for any customer is not submitted before the date 12 months after the guidelines are amended as required under this section or if the plan is disapproved by the Administrator and a revised plan is not resubmitted by the date 9 months after the date of such disapproval, the Administrator shall impose a surcharge of 10 percent of the purchase price on all power obtained by that customer from the Western Area Power Administration after such date. The surcharge shall remain in effect until an integrated resource plan is approved for that customer. If the plan is not submitted for more than one year after the required date, the surcharge shall increase to 20 percent for the second year (or any portion thereof prior to approval of the plan) and to 30 percent thereafter until the plan is submitted or the contract for the purchase of power by such customer from the Western Area Power Administration terminates.

"(2) FAILURE TO COMPLY WITH APPROVED PLAN.—After approval by the Administrator of an applicable integrated resource plan for any customer, the Administrator shall impose a 10 percent surcharge on all power purchased by such customer from the Western Area Power Administration whenever the Administrator determines that such customer's activities are not consistent with the applicable integrated resource plan. The surcharge shall remain in effect until the Administrator determines that the customer's activities are consistent with the applicable integrated resource plan. The surcharge shall be increased to 20 percent if the customer's activities are out of compliance for more than one year and to 30 percent after more than 2 years, except that no surcharge shall be imposed if the customer demonstrates, to the satisfaction of the Administrator, that a good faith effort has been made to comply with the approved plan.

"(3) REDUCTION IN POWER ALLOCATION.—In the case of any customer subject to a surcharge under paragraph (1) or (2), in lieu of imposing such surcharge the Administrator may reduce such customer's power allocation from the Western Area Power Administration by 10 percent. The Administrator shall provide by regulation the terms and conditions under which a power allocation terminated under this subsection may be reinstated.

Regulations.

"(f) INTEGRATED RESOURCE PLANNING COOPERATIVES.—With the approval of the Administrator, customers within any State or region may form integrated resource planning cooperatives for the purposes of complying with this title, and such customers shall be

allowed an additional 6 months to submit an initial integrated resource plan to the Administrator.

"(g) CUSTOMERS WITH MORE THAN 1 CONTRACT.—If more than one long-term firm power service contract exists between the Administrator and a customer, only one integrated resource plan shall be required for that customer under this title.

"(h) PROGRAM REVIEW.—Within 1 year after January 1, 1999, and at appropriate intervals thereafter, the Administrator shall initiate a public process to review the program established by this section. The Administrator is authorized at that time to revise the criteria set forth in section 204(b) to reflect changes, if any, in technology, needs, or other developments.

"SEC. 205. MISCELLANEOUS PROVISIONS. 42 USC 7276c.

"(a) ENVIRONMENTAL IMPACT STATEMENT.—The provisions of the National Environmental Policy Act of 1969 shall apply to actions of the Administrator implementing this title in the same manner and to the same extent as such provisions apply to other major Federal actions significantly affecting the quality of the human environment.

"(b) ANNUAL REPORTS.—The Administrator shall include in the annual report submitted by the Western Area Power Administration (1) a description of the activities undertaken by the Administrator and by customers under this title and (2) an estimate of the energy savings and renewable resource benefits achieved as a result of such activities.

"(c) STATE REGULATED INVESTOR-OWNED UTILITIES.—Any State regulated electric utility (as defined in section 3(18) of the Public Utility Regulatory Policies Act of 1978) shall be exempt from the provisions of this title.

"(d) RURAL ELECTRIFICATION ADMINISTRATION REQUIREMENTS.—Nothing in this title shall require a customer to take any action inconsistent with a requirement imposed by the Rural Electrification Administration".

SEC. 115. ENCOURAGEMENT OF INVESTMENTS IN CONSERVATION AND ENERGY EFFICIENCY BY GAS UTILITIES.

(a) DEFINITIONS.—Section 302 of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by adding the following at the end thereof:

"(9) The term 'integrated resource planning' means, in the case of a gas utility, planning by the use of any standard, regulation, practice, or policy to undertake a systematic comparison between demand-side management measures and the supply of gas by a gas utility to minimize life-cycle costs of adequate and reliable utility services to gas consumers. Integrated resource planning shall take into account necessary features for system operation such as diversity, reliability, dispatchability, and other factors of risk and shall treat demand and supply to gas consumers on a consistent and integrated basis.

"(10) The term 'demand-side management' includes energy conservation, energy efficiency, and load management techniques.".

(b) IN GENERAL.—Section 303(b) of the Public Utility Regulatory Policies Act of 1978 (15 U.S.C. 3202) is amended by inserting at the end the following new paragraphs: 15 USC 3203.

"(3) INTEGRATED RESOURCE PLANNING.—Each gas utility shall employ, in order to provide adequate and reliable service to its gas customers at the lowest system cost. All plans or filings of a State regulated gas utility before a State regulatory authority to meet the requirements of this paragraph shall (A) be updated on a regular basis, (B) provide the opportunity for public participation and comment, (C) provide for methods of validating predicted performance, and (D) contain a requirement that the plan be implemented after approval of the State regulatory authority. Subsection (c) shall not apply to this paragraph to the extent that it could be construed to require the State regulatory authority to extend the record of a State proceeding in submitting reports to the Federal Government.

"(4) INVESTMENTS IN CONSERVATION AND DEMAND MANAGEMENT.—The rates charged by any State regulated gas utility shall be such that the utility's prudent investments in, and expenditures for, energy conservation and load shifting programs and for other demand-side management measures which are consistent with the findings and purposes of the Energy Policy Act of 1992 are at least as profitable (taking into account the income lost due to reduced sales resulting from such programs) as prudent investments in, and expenditures for, the acquisition or construction of supplies and facilities. This objective requires that (A) regulators link the utility's net revenues, at least in part, to the utility's performance in implementing cost-effective programs promoted by this section; and (B) regulators ensure that, for purposes of recovering fixed costs, including its authorized return, the utility's performance is not affected by reductions in its retail sales volumes.".

15 USC 3203.

(c) IMPACT ON SMALL BUSINESS.—Section 303 of such Act is amended by inserting the following new subsection at the end thereof:

"(d) SMALL BUSINESS IMPACTS.—If a State regulatory authority implements a standard established by subsection (b) (3) or (4), such authority shall—

"(1) consider the impact that implementation of such standard would have on small businesses engaged in the design, sale, supply, installation, or servicing of energy conservation, energy efficiency, or other demand-side management measures, and

"(2) implement such standard so as to assure that utility actions would not provide such utilities with unfair competitive advantages over such small businesses.".

(d) EFFECTIVE DATE.—Section 303(a) of such Act is amended by inserting "(or after the enactment of the Energy Policy Act of 1992 in the case of standards under paragraphs (3), and (4) of subsection (b))" after "Act" and by striking out "standard established by subsection (b)(2)" in paragraph (2) and inserting "standards established by paragraphs (2), (3) and (4) of subsection (b)".

15 USC 3203 note.

(e) REPORT.—The report under section 111(e) of this Act transmitted by the Secretary of Energy to the President and to the Congress shall contain a survey of all State laws, regulations, practices, and policies under which State regulatory authorities implement the provisions of paragraphs (3) and (4) of section 303(b) of the Public Utility Regulatory Policies Act of 1978. The report shall include an analysis, prepared in conjunction with the Federal Trade Commission, of the competitive impact of implementation

of energy conservation, energy efficiency, and other demand side management programs by gas utilities on small businesses engaged in the design, sale, supply, installation, or servicing of similar energy conservation, energy efficiency, or other demand-side management measures and whether any unfair, deceptive, or predatory acts or practices exist, or are likely to exist, from implementation of such programs.

Subtitle C—Appliance and Equipment Energy Efficiency Standards

SEC. 121. ENERGY EFFICIENCY LABELING FOR WINDOWS AND WINDOW SYSTEMS.

42 USC 6292 note.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Fenestration Rating Council, industry representatives, and other appropriate organizations, provide financial assistance to support a voluntary national window rating program that will develop energy ratings and labels for windows and window systems.

(2) Such rating program shall include—

(A) specifications for testing procedures and labels that will enable window buyers to make more informed purchasing decisions about the energy efficiency of windows and window systems; and

(B) information (which may be disseminated through catalogs, trade publications, labels, or other mechanisms) that will allow window buyers to assess the energy consumption and potential cost savings of alternative window products.

(3) Such rating program shall be developed by the National Fenestration Rating Council according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts of the National Fenestration Rating Council and, not later than one year after the date of the enactment of this Act, make a determination as to whether the program developed by the Council is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national window rating program consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for windows and window systems.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those windows and window systems for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of window or window system (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures

or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 122. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT.

(a) DEFINITIONS.—Section 340 of the Energy Policy and Conservation Act (42 U.S.C. 6311) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraph (B) as subparagraph (G); and

(B) by inserting after subparagraph (A) the following:

"(B) Small commercial package air conditioning and heating equipment.

"(C) Large commercial package air conditioning and heating equipment.

"(D) Packaged terminal air-conditioners and packaged terminal heat pumps.

"(E) Warm air furnaces and packaged boilers.

"(F) Storage water heaters, instantaneous water heaters, and unfired hot water storage tanks."; and

(2) in paragraph (2)(B)—

(A) by striking out "pumps)" and inserting in lieu thereof "pumps, small and large commercial package air conditioning and heating equipment, packaged terminal air-conditioners, packaged terminal heat pumps, warm air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks)"; and

(B) by striking out clauses (v) and (xi) and redesignating clauses (vi), (vii), (viii), (ix), (x), (xii), (xiii), and (xiv) as clauses (v), (vi), (vii), (viii), (ix), (x), (xi), and (xii), respectively; and

(3) by adding at the end the following:

"(8) The term 'small commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated below 135,000 Btu per hour (cooling capacity).

"(9) The term 'large commercial package air conditioning and heating equipment' means air-cooled, water-cooled, evaporatively-cooled, or water source (not including ground water source) electrically operated, unitary central air conditioners and central air conditioning heat pumps for commercial application which are rated at or above 135,000 Btu per hour and below 240,000 Btu per hour (cooling capacity).

"(10)(A) The term 'packaged terminal air conditioner' means a wall sleeve and a separate unencased combination of heating and cooling assemblies specified by the builder and intended for mounting through the wall. It includes a prime source of refrigeration, separable outdoor louvers, forced ventilation,

and heating availability by builder's choice of hot water, steam, or electricity.

"(B) The term 'packaged terminal heat pump' means a packaged terminal air conditioner that utilizes reverse cycle refrigeration as its prime heat source and should have supplementary heat source available to builders with the choice of hot water, steam, or electric resistant heat.

"(11)(A) The term 'warm air furnace' means a self-contained oil- or gas-fired furnace designed to supply heated air through ducts to spaces that require it and includes combination warm air furnace/electric air conditioning units but does not include unit heaters and duct furnaces.

"(B) The term 'packaged boiler' means a boiler that is shipped complete with heating equipment, mechanical draft equipment, and automatic controls; usually shipped in one or more sections.

"(12)(A) The term 'storage water heater' means a water heater that heats and stores water within the appliance at a thermostatically controlled temperature for delivery on demand. Such term does not include units with an input rating of 4000 Btu per hour or more per gallon of stored water.

"(B) The term 'instantaneous water heater' means a water heater that has an input rating of at least 4000 Btu per hour per gallon of stored water.

"(C) The term 'unfired hot water storage tank' means a tank used to store water that is heated externally.

"(13)(A) The term 'electric motor' means any motor which is a general purpose T-frame, single-speed, foot-mounting, polyphase squirrel-cage induction motor of the National Electrical Manufacturers Association, Design A and B, continuous rated, operating on 230/460 volts and constant 60 Hertz line power as defined in NEMA Standards Publication MG1–1987.

"(B) The term 'definite purpose motor' means any motor designed in standard ratings with standard operating characteristics or standard mechanical construction for use under service conditions other than usual or for use on a particular type of application and which cannot be used in most general purpose applications.

"(C) The term 'special purpose motor' means any motor, other than a general purpose motor or definite purpose motor, which has special operating characteristics or special mechanical construction, or both, designed for a particular application.

"(D) The term 'open motor' means a motor having ventilating openings which permit passage of external cooling air over and around the windings of the machine.

"(E) The term 'enclosed motor' means a motor so enclosed as to prevent the free exchange of air between the inside and outside of the case but not sufficiently enclosed to be termed airtight.

"(F) The term 'small electric motor' means a NEMA general purpose alternating current single-speed induction motor, built in a two-digit frame number series in accordance with NEMA Standards Publication MG1–1987.

"(G) The term 'efficiency' when used with respect to an electric motor means the ratio of an electric motor's useful power output to its total power input, expressed in percentage.

"(H) The term 'nominal full load efficiency' means the average efficiency of a population of motors of duplicate design as determined in accordance with NEMA Standards Publication MG1-1987.

"(14) The term 'ASHRAE' means the American Society of Heating, Refrigerating, and Air Conditioning Engineers.

"(15) The term 'IES' means the Illuminating Engineering Society of North America.

"(16) The term 'NEMA' means the National Electrical Manufacturers Association.

"(17) The term 'IEEE' means the Institute of Electrical and Electronics Engineers.

"(18) The term 'energy conservation standard' means—

"(A) a performance standard that prescribes a minimum level of energy efficiency or a maximum quantity of energy use for a product; or

"(B) a design requirement for a product.".

(b) TEST PROCEDURES.—(1) Section 343(a) of such Act (42 U.S.C. 6314) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) The Secretary may conduct an evaluation of a class of covered equipment and may prescribe test procedures for such class in accordance with the provisions of this section."; and

(B) by adding at the end the following new paragraphs:

"(4)(A) With respect to small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks to which standards are applicable under section 342, the test procedures shall be those generally accepted industry testing procedures or rating procedures developed or recognized by the Air-Conditioning and Refrigeration Institute or by the American Society of Heating, Refrigerating and Air Conditioning Engineers, as referenced in ASHRAE/IES Standard 90.1 and in effect on June 30, 1992.

Federal Register, publication.

"(B) If such an industry test procedure or rating procedure for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks is amended, the Secretary shall amend the test procedure for the product as necessary to be consistent with the amended industry test procedure or rating procedure unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish an amended test procedure for such product that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).

"(5)(A) With respect to electric motors to which standards are applicable under section 342, the test procedures shall be the test procedures specified in NEMA Standards Publication MG1–1987 and IEEE Standard 112 Test Method B for motor efficiency, as in effect on the date of the enactment of the Energy Policy Act of 1992.

"(B) If the test procedure requirements of NEMA Standards Publication MG–1987 and IEEE Standard 112 Test Method B for motor efficiency are amended, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such amended test procedure requirements unless the Secretary determines, by rule, published in the Federal Register and supported by clear and convincing evidence, that to do so would not meet the requirements for test procedures described in paragraphs (2) and (3) of this subsection. Federal Register, publication.

"(C) If the Secretary prescribes a rule containing such a determination, the rule may establish amended test procedures for such electric motors that meets the requirements of paragraphs (2) and (3) of this subsection. In establishing any amended test procedure under this subparagraph or subparagraph (B), the Secretary shall follow the procedures and meet the requirements specified in section 323(e).".

(2) The second subsection designated as subsection (d) of section 343 of such Act (42 U.S.C. 6314(d)(1)) is amended in paragraph (1) in the material preceding subparagraph (A), by inserting after "180 days" the following: "(or, in the case of small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, 360 days)".

(c) LABELING.—Section 344 of such Act (42 U.S.C. 6315) is amended—

(1) in subsection (a), by striking out "may" and inserting in lieu thereof "shall";

(2) in subsection (c), by striking out "may" in the material preceding paragraph (1) and inserting in lieu thereof "shall";

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), (j), and (k), respectively; and

(4) by inserting after subsection (c), the following new subsections:

"(d) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for electric motors under section 343, the Secretary shall prescribe labeling rules under this section applicable to electric motors taking into consideration NEMA Standards Publication MG1–1987. Such rules shall provide that the labeling of any electric motor manufactured after the 12-month period beginning on the date the Secretary prescribes such labeling rules, shall—

"(1) indicate the energy efficiency of the motor on the permanent nameplate attached to such motor;

"(2) prominently display the energy efficiency of the motor in equipment catalogs and other material used to market the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for electric motors under section 342.

"(e) Subject to subsection (h), not later than 12 months after the Secretary establishes test procedures for small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks under section 343, the Secretary shall prescribe labeling rules under this section for such equipment. Such rules shall provide that the labeling of any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heating equipment, packaged terminal air conditioner, packaged terminal heat pump, warm-air furnace, packaged boiler, storage water heater, instantaneous water heater, and unfired hot water storage tank manufactured after the 12-month period beginning on the date the Secretary prescribes such rules shall—

"(1) indicate the energy efficiency of the equipment on the permanent nameplate attached to such equipment or other nearby permanent marking;

"(2) prominently display the energy efficiency of the equipment in new equipment catalogs used by the manufacturer to advertise the equipment; and

"(3) include such other markings as the Secretary determines necessary solely to facilitate enforcement of the standards established for such equipment under section 342.".

42 USC 6313.

(d) STANDARDS.—Section 342 of such Act is amended to read as follows:

"STANDARDS

"SEC. 342. (a) SMALL AND LARGE COMMERCIAL PACKAGE AIR CONDITIONING AND HEATING EQUIPMENT, PACKAGED TERMINAL AIR CONDITIONERS AND HEAT PUMPS, WARM-AIR FURNACES, PACKAGED BOILERS, STORAGE WATER HEATERS, INSTANTANEOUS WATER HEATERS, AND UNFIRED HOT WATER STORAGE TANKS.—(1) Each small commercial package air conditioning and heating equipment manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 10.0.

"(B) The minimum seasonal energy efficiency ratio of air-cooled three-phase electric central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 9.7.

"(C) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 8.9 (at a standard rating of 95 degrees F db).

"(D) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity), split systems, shall be 6.8.

"(E) The minimum heating seasonal performance factor of air-cooled three-phase electric central air conditioning heat

pumps less than 65,000 Btu per hour (cooling capacity), single package, shall be 6.6.

"(F) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 3.0 (at a high temperature rating of 47 degrees F db).

"(G) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps less than 65,000 Btu per hour (cooling capacity) shall be 9.3 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water-source and water-cooled equipment).

"(H) The minimum energy efficiency ratio of water-cooled, evaporatively-cooled and water-source central air conditioners and central air conditioning heat pumps at or above 65,000 Btu per hour (cooling capacity) and less than 135,000 Btu per hour (cooling capacity) shall be 10.5 (at a standard rating of 95 degrees F db, outdoor temperature for evaporatively cooled equipment, and 85 degrees Fahrenheit entering water temperature for water source and water-cooled equipment).

"(I) The minimum coefficient of performance in the heating mode of water-source heat pumps less than 135,000 Btu per hour (cooling capacity) shall be 3.8 (at a standard rating of 70 degrees Fahrenheit entering water).

"(2) Each large commercial package air conditioning and heating equipment manufactured on or after January 1, 1995, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio of air-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 8.5 (at a standard rating of 95 degrees F db).

"(B) The minimum coefficient of performance in the heating mode of air-cooled central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 2.9.

"(C) The minimum energy efficiency ratio of water- and evaporatively-cooled central air conditioners and central air conditioning heat pumps at or above 135,000 Btu per hour (cooling capacity) and less than 240,000 Btu per hour (cooling capacity) shall be 9.6 (according to ARI Standard 360–86).

"(3) Each packaged terminal air conditioner and packaged terminal heat pump manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum energy efficiency ratio (EER) of packaged terminal air conditioners and packaged terminal heat pumps in the cooling mode shall be 10.0 — (0.16 x Capacity [in thousands of Btu per hour at a standard rating of 95 degrees F db, outdoor temperature]). If a unit has a capacity of less than 7,000 Btu per hour, then 7,000 Btu per hour shall be used in the calculation. If a unit has a capacity of greater than 15,000 Btu per hour, then 15,000 Btu per hour shall be used in the calculation.

"(B) The minimum coefficient of performance (COP) of packaged terminal heat pumps in the heating mode shall be

1.3 + (0.16 x the minimum cooling EER as specified in subparagraph (A)) (at a standard rating of 47 degrees F db).

"(4) Each warm air furnace and packaged boiler manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) The minimum thermal efficiency at the maximum rated capacity of gas-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 80 percent.

"(B) The minimum thermal efficiency at the maximum rated capacity of oil-fired warm-air furnaces with capacity of 225,000 Btu per hour or more shall be 81 percent.

"(C) The minimum combustion efficiency at the maximum rated capacity of gas-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 80 percent.

"(D) The minimum combustion efficiency at the maximum rated capacity of oil-fired packaged boilers with capacity of 300,000 Btu per hour or more shall be 83 percent.

"(5) Each storage water heater, instantaneous water heater, and unfired water storage tank manufactured on or after January 1, 1994, shall meet the following standard levels:

"(A) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of electric storage water heaters shall be 0.30 + (27/Measured Storage Volume [in gallons]).

"(B) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of 155,000 Btu per hour or less shall be 1.30 + (114/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(C) Except as provided in subparagraph (G), the maximum standby loss, in percent per hour, of gas- and oil-fired storage water heaters with input ratings of more than 155,000 Btu per hour shall be 1.30 + (95/Measured Storage Volume [in gallons]). The minimum thermal efficiency of such units shall be 78 percent.

"(D) The minimum thermal efficiency of instantaneous water heaters with a storage volume of less than 10 gallons shall be 80 percent.

"(E) Except as provided in subparagraph (G), the minimum thermal efficiency of instantaneous water heaters with a storage volume of 10 gallons or more shall be 77 percent. The maximum standby loss, in percent/hour, of such units shall be 2.30 + (67/Measured Storage Volume [in gallons]).

"(F) Except as provided in subparagraph (G), the maximum heat loss of unfired hot water storage tanks shall be 6.5 Btu per hour per square foot of tank surface area.

"(G) Storage water heaters and hot water storage tanks having more than 140 gallons of storage capacity need not meet the standby loss or heat loss requirements specified in subparagraphs (A) through (C) and subparagraphs (E) and (F) if the tank surface area is thermally insulated to R–12.5 and if a standing pilot light is not used.

Federal Register, publication.

"(6)(A) If ASHRAE/IES Standard 90.1, as in effect on the date of enactment of the Energy Policy Act of 1992, is amended with respect to any small commercial package air conditioning and heating equipment, large commercial package air conditioning and heat-

ing equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, or unfired hot water storage tanks, the Secretary shall establish an amended uniform national standard for that product at the minimum level for each effective date specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the Federal Register and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than such amended ASHRAE/IES Standard 90.1 for such product would result in significant additional conservation of energy and is technologically feasible and economically justified.

"(B)(i) If the Secretary issues a rule containing such a determination, the rule shall establish such amended standard. In determining whether a standard is economically justified for the purposes of subparagraph (A), the Secretary shall, after receiving views and comments furnished with respect to the proposed standard, determine whether the benefits of the standard exceed its burdens by, to the greatest extent practicable, considering—

"(I) the economic impact of the standard on the manufacturers and on the consumers of the products subject to such standard;

"(II) the savings in operating costs throughout the estimated average life of the product in the type (or class) compared to any increase in the price of, or in the initial charges for, or maintenance expenses of, the products which are likely to result from the imposition of the standard;

"(III) the total projected amount of energy savings likely to result directly from the imposition of the standard;

"(IV) any lessening of the utility or the performance of the products likely to result from the imposition of the standard;

"(V) the impact of any lessening of competition, as determined in writing by the Attorney General, that is likely to result from the imposition of the standard;

"(VI) the need for national energy conservation; and

"(VII) other factors the Secretary considers relevant.

"(ii) The Secretary may not prescribe any amended standard under this paragraph which increases the maximum allowable energy use, or decreases the minimum required energy efficiency, of a covered product. The Secretary may not prescribe an amended standard under this subparagraph if the Secretary finds (and publishes such finding) that interested persons have established by a preponderance of the evidence that a standard is likely to result in the unavailability in the United States in any product type (or class) of performance characteristics (including reliability), features, sizes, capacities, and volumes that are substantially the same as those generally available in the United States at the time of the Secretary's finding. The failure of some types (or classes) to meet this criterion shall not affect the Secretary's determination of whether to prescribe a standard for other types or classes.

"(C) A standard amended by the Secretary under this paragraph shall become effective for products manufactured—

"(i) with respect to small commercial package air conditioning and heating equipment, packaged terminal air conditioners, packaged terminal heat pumps, warm-air furnaces, packaged boilers, storage water heaters, instantaneous water heaters, and unfired hot water storage tanks, on or after a

"(ii) standards for such motors would not be technologically feasible or economically justified.

"(B) Not later than one year after the date of the enactment of this subsection, a manufacturer seeking an exemption under this paragraph with respect to a type or class of electric motor developed on or before the date of the enactment of such subsection shall submit a petition to the Secretary requesting such exemption. Such petition shall include evidence that the type or class of motor meets the criteria for exemption specified in subparagraph (A).

"(C) Not later than two years after the date of the enactment of this subsection, the Secretary shall rule on each petition for exemption submitted pursuant to subparagraph (B). In making such ruling, the Secretary shall afford an opportunity for public comment.

"(D) Manufacturers of types or classes of motors developed after the date of the enactment of this subsection to which standards under paragraph (1) would be applicable may petition the Secretary for exemptions from compliance with such standards based on the criteria specified in subparagraph (A).

"(3)(A) The Secretary shall publish a final rule no later than the end of the 24-month period beginning on the effective date of the standards established under paragraph (1) to determine if such standards should be amended. Such rule shall provide that any amendment shall apply to electric motors manufactured on or after a date which is five years after the effective date of the standards established under paragraph (1). Regulations.

"(B) The Secretary shall publish a final rule no later than 24 months after the effective date of the previous final rule to determine whether to amend the standards in effect for such product. Any such amendment shall apply to electric motors manufactured after a date which is five years after— Regulations.

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective.".

(e) ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION.—(1) Section 345(a) of such Act (42 U.S.C. 6316(a)) is amended—

(A) in the material preceding paragraph (1)—

(i) by inserting after "to this part" the following: "(other than the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1))"; and

(ii) by striking out "and sections 328" and inserting in lieu thereof ", the provisions of subsections (l) through (s) of section 325, and section 327";

(B) in paragraph (1)—

(i) by striking out "and 324" and inserting in lieu thereof ", 324, and 325"; and

(ii) by striking out "343 and 344, respectively" and inserting in lieu thereof "343, 344, and 342, respectively";

(C) in paragraph (3), by striking out "and" at the end thereof;

(D) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon; and

(E) by adding after paragraph (4) the following new paragraphs:

"(5) section 327(a) shall be applied, in the case of electric motors, as if the National Appliance Energy Conservation Act of 1987 was the Energy Policy Act of 1992;

"(6) section 327(b)(1) shall be applied as if electric motors were fluorescent lamp ballasts and as if the National Appliance Energy Conservation Amendments of 1988 were the Energy Policy Act of 1992;

"(7) section 327(b)(4) shall be applied as if electric motors were fluorescent lamp ballasts and as if paragraph (5) of section 325(g) were section 342; and

"(8) notwithstanding any other provision of law, a regulation or other requirement adopted by a State or subdivision of a State contained in a State or local building code for new construction concerning the energy efficiency or energy use of an electric motor covered under this part is not superseded by the standards for such electric motor established or prescribed under section 342(b) if such regulation or requirement is identical to the standards established or prescribed under such section.".

(2) Section 345 of such Act (42 U.S.C. 6316) is amended by adding at the end the following new subsections:

"(b)(1) The provisions of section 326(a), (b), and (d), section 327(a), and sections 328 through 336 shall apply with respect to the equipment specified in subparagraphs (B), (C), (D), (E), and (F) of section 340(1) to the same extent and in the same manner as they apply in part B. In applying such provisions for the purposes of such equipment, paragraphs (1), (2), (3), and (4) of subsection (a) shall apply.

"(2)(A) A standard prescribed or established under section 342(a) shall, beginning on the effective date of such standard, supersede any State or local regulation concerning the energy efficiency or energy use of a product for which a standard is prescribed or established pursuant to such section.

"(B) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a standard for such a product contained in a State or local building code for new construction if—

"(i) the standard in the building code does not require that the energy efficiency of such product exceed the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1; and

"(ii) the standard in the building code does not take effect prior to the effective date of the applicable minimum energy efficiency requirement in amended ASHRAE/IES Standard 90.1.

"(C) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede the standards established by the State of California set forth in Table C–6, California Code of Regulations, Title 24, Part 2, Chapter 2–53, for water-source heat pumps below 135,000 Btu per hour (cooling capacity) that become effective on January 1, 1993.

"(D) Notwithstanding subparagraph (A), a standard prescribed or established under section 342(a) shall not supersede a State regulation which has been granted a waiver by the Secretary. The Secretary may grant a waiver pursuant to the terms, conditions, criteria, procedures, and other requirements specified in section 327(d) of this Act.

"(c) With respect to any electric motor to which standards are applicable under section 342(b), the Secretary shall require manufacturers to certify, through an independent testing or certification program nationally recognized in the United States, that such motor meets the applicable.".

(3) Section 345 of such Act (42 U.S.C. 6316) is amended by striking out the section heading and inserting in lieu thereof "ADMINISTRATION, PENALTIES, ENFORCEMENT, AND PREEMPTION".

(f) TECHNICAL AMENDMENTS.—(1) Section 340(3) of such Act is amended by striking out "(3) the" and inserting in lieu thereof the following: "(3) The". 42 USC 6311.

(2) Section 343 of such Act (42 U.S.C. 6314) is amended by redesignating the first subsection designated as subsection (d) as subsection (c).

(3) The table of contents of such Act is amended—

(A) by striking out the item relating to section 342 and inserting in lieu thereof the following new item:

"Sec. 342. Standards.";

and

(B) by striking the item for section 345 and inserting in lieu thereof the following new item:

"Sec. 345. Administration, penalties, enforcement, and preemption.".

SEC. 123. ENERGY CONSERVATION REQUIREMENTS FOR CERTAIN LAMPS AND PLUMBING PRODUCTS.

(a) STATEMENT OF PURPOSE.—Section 2 of the Energy Policy and Conservation Act (42 U.S.C. 6201) is amended—

(1) in paragraph (6), by striking out "and" at the end;

(2) in paragraph (7), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(8) to conserve water by improving the water efficiency of certain plumbing products and appliances.".

(b) DEFINITIONS.—Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended—

(1) by striking out the subsection designation;

(2) in paragraph (1)—

(A) in subparagraph (A), by inserting before the semicolon the following: "or, with respect to showerheads, faucets, water closets, and urinals, water"; and

(B) in subparagraph (B), by striking out "ballasts" and inserting in lieu thereof the following: "ballasts, general service fluorescent lamps, incandescent reflector lamps, showerheads, faucets, water closets, and urinals";

(3) in paragraph (6)—

(A) in subparagraph (A), by inserting ", or, in the case of showerheads, faucets, water closets, and urinals, water use," after "energy use"; and

(B) in subparagraph (B)—

(i) by striking out "and (14)" and inserting in lieu thereof "(15), (16), (17), and (19)"; and

(ii) by striking out "325(o)" and inserting in lieu thereof "325(r)";

(4) in paragraph (7), by inserting after "to be consumed annually" the following: ", and in the case of showerheads, faucets, water closets, and urinals, the aggregate retail cost

of water and wastewater treatment services likely to be incurred annually,"; and

(5) by adding at the end the following new paragraphs:

"(30)(A) Except as provided in subparagraph (E), the term 'fluorescent lamp' means a low pressure mercury electric-discharge source in which a fluorescing coating transforms some of the ultraviolet energy generated by the mercury discharge into light, including only the following:

"(i) Any straight-shaped lamp (commonly referred to as 4-foot medium bi-pin lamps) with medium bi-pin bases of nominal overall length of 48 inches and rated wattage of 28 or more.

"(ii) Any U-shaped lamp (commonly referred to as 2-foot U-shaped lamps) with medium bi-pin bases of nominal overall length between 22 and 25 inches and rated wattage of 28 or more.

"(iii) Any rapid start lamp (commonly referred to as 8-foot high output lamps) with recessed double contact bases of nominal overall length of 96 inches and 0.800 nominal amperes, as defined in ANSI C78.1–1978 and related supplements.

"(iv) Any instant start lamp (commonly referred to as 8-foot slimline lamps) with single pin bases of nominal overall length of 96 inches and rated wattage of 52 or more, as defined in ANSI C78.3–1978 (R1984) and related supplement ANSI C78.3a–1985.

"(B) The term 'general service fluorescent lamp' means fluorescent lamps which can be used to satisfy the majority of fluorescent applications, but does not include any lamp designed and marketed for the following nongeneral lighting applications:

"(i) Fluorescent lamps designed to promote plant growth.

"(ii) Fluorescent lamps specifically designed for cold temperature installations.

"(iii) Colored fluorescent lamps.

"(iv) Impact-resistant fluorescent lamps.

"(v) Reflectorized or aperture lamps.

"(vi) Fluorescent lamps designed for use in reprographic equipment.

"(vii) Lamps primarily designed to produce radiation in the ultra-violet region of the spectrum.

"(viii) Lamps with a color rendering index of 82 or greater.

"(C) Except as provided in subparagraph (E), the term 'incandescent lamp' means a lamp in which light is produced by a filament heated to incandescence by an electric current, including only the following:

"(i) Any lamp (commonly referred to as lower wattage nonreflector general service lamps, including any tungsten-halogen lamp) that has a rated wattage between 30 and 199 watts, has an E26 medium screw base, has a rated voltage or voltage range that lies at least partially within 115 and 130 volts, and is not a reflector lamp.

"(ii) Any lamp (commonly referred to as a reflector lamp) which is not colored or designed for rough or vibration service applications, that contains an inner reflective

coating on the outer bulb to direct the light, an R, PAR, or similar bulb shapes (excluding ER or BR) with E26 medium screw bases, a rated voltage or voltage range that lies at least partially within 115 and 130 volts, a diameter which exceeds 2.75 inches, and is either—

"(I) a low(er) wattage reflector lamp which has a rated wattage between 40 and 205 watts; or

"(II) a high(er) wattage reflector lamp which has a rated wattage above 205 watts.

"(iii) Any general service incandescent lamp (commonly referred to as a high- or higher-wattage lamp) that has a rated wattage above 199 watts (above 205 watts for a high wattage reflector lamp).

"(D) The term 'general service incandescent lamp' means any incandescent lamp (other than a miniature or photographic lamp) that has an E26 medium screw base, a rated voltage range at least partially within 115 and 130 volts, and which can be used to satisfy the majority of lighting applications, but does not include any lamps specifically designed for—

"(i) traffic signal, or street lighting service;

"(ii) airway, airport, aircraft, or other aviation service;

"(iii) marine or marine signal service;

"(iv) photo, projection, sound reproduction, or film viewer service;

"(v) stage, studio, or television service;

"(vi) mill, saw mill, or other industrial process service;

"(vii) mine service;

"(viii) headlight, locomotive, street railway, or other transportation service;

"(ix) heating service;

"(x) code beacon, marine signal, lighthouse, reprographic, or other communication service;

"(xi) medical or dental service;

"(xii) microscope, map, microfilm, or other specialized equipment service;

"(xiii) swimming pool or other underwater service;

"(xiv) decorative or showcase service;

"(xv) producing colored light;

"(xvi) shatter resistance which has an external protective coating; or

"(xvii) appliance service.

"(E) The terms 'fluorescent lamp' and 'incandescent lamp' do not include any lamp excluded by the Secretary, by rule, as a result of a determination that standards for such lamp would not result in significant energy savings because such lamp is designed for special applications or has special characteristics not available in reasonably substitutable lamp types.

"(F) The term 'incandescent reflector lamp' means a lamp described in subparagraph (C)(ii).

"(G) The term 'average lamp efficacy' means the lamp efficacy readings taken over a statistically significant period of manufacture with the readings averaged over that period.

"(H) The term 'base' means the portion of the lamp which connects with the socket as described in ANSI C81.61–1990.

"(I) The term 'bulb shape' means the shape of lamp, especially the glass bulb with designations for bulb shapes found in ANSI C79.1–1980 (R1984).

"(J) The term 'color rendering index' or 'CRI' means the measure of the degree of color shift objects undergo when illuminated by a light source as compared with the color of those same objects when illuminated by a reference source of comparable color temperature.

"(K) The term 'correlated color temperature' means the absolute temperature of a blackbody whose chromaticity most nearly resembles that of the light source.

"(L) The term 'IES' means the Illuminating Engineering Society of North America.

"(M) The term 'lamp efficacy' means the lumen output of a lamp divided by its wattage, expressed in lumens per watt (LPW).

"(N) The term 'lamp type' means all lamps designated as having the same electrical and lighting characteristics and made by one manufacturer.

"(O) The term 'lamp wattage' means the total electrical power consumed by a lamp in watts, after the initial seasoning period referenced in the appropriate IES standard test procedure and including, for fluorescent, arc watts plus cathode watts.

"(P) The terms 'life' and 'lifetime' mean length of operating time of a statistically large group of lamps between first use and failure of 50 percent of the group in accordance with test procedures described in the IES Lighting Handbook-Reference Volume.

"(Q) The term 'lumen output' means total luminous flux (power) of a lamp in lumens, as measured in accordance with applicable IES standards as determined by the Secretary.

"(R) The term 'tungsten-halogen lamp' means a gas-filled tungsten filament incandescent lamp containing a certain proportion of halogens in an inert gas.

"(S) The term 'medium base compact fluorescent lamp' means an integrally ballasted fluorescent lamp with a medium screw base and a rated input voltage of 115 to 130 volts and which is designed as a direct replacement for a general service incandescent lamp.

"(31)(A) The term 'water use' means the quantity of water flowing through a showerhead, faucet, water closet, or urinal at point of use, determined in accordance with test procedures under section 323.

"(B) The term 'ASME' means the American Society of Mechanical Engineers.

"(C) The term 'ANSI' means the American National Standards Institute.

"(D) The term 'showerhead' means any showerhead (including a handheld showerhead), except a safety shower showerhead.

"(E) The term 'faucet' means a lavatory faucet, kitchen faucet, metering faucet, or replacement aerator for a lavatory or kitchen faucet.

"(F) The term 'water closet' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(G) The term 'urinal' has the meaning given such term in ASME A112.19.2M–1990, except such term does not include fixtures designed for installation in prisons.

"(H) The terms 'blowout', 'flushometer tank', 'low consumption', and 'flushometer valve' have the meaning given such terms in ASME A112.19.2M–1990.".

(c) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (14) as paragraph (19); and

(2) by inserting after paragraph (13) the following new paragraphs:

"(14) General service fluorescent lamps and incandescent reflector lamps.

"(15) Showerheads, except safety shower showerheads.

"(16) Faucets.

"(17) Water closets.

"(18) Urinals.".

(d) TEST PROCEDURES.—Section 323 of such Act (42 U.S.C. 6293) is amended—

(1) in subsection (b)—

(A) in paragraph (3), by inserting after "energy use," the following "water use (in the case of showerheads, faucets, water closets and urinals),";

(B) in paragraph (4)—

(i) by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use" after "energy use";

(ii) by inserting after "such cycle" the following: ", or in the case of showerheads, faucets, water closets, or urinals, representative average unit costs of water and wastewater treatment service resulting from the operation of such products during such cycle"; and

(iii) by inserting ", water, and wastewater treatment" before the period at the end of the second sentence; and

(C) by adding at the end the following new paragraphs:

"(6) With respect to fluorescent lamps and incandescent reflector lamps to which standards are applicable under subsection (i) of section 325, the Secretary shall prescribe test procedures, to be carried out by accredited test laboratories, that take into consideration the applicable IES or ANSI standard.

"(7)(A) Test procedures for showerheads and faucets to which standards are applicable under subsection (j) of section 325 shall be the test procedures specified in ASME A112.18.1M–1989 for such products.

"(B) If the test procedure requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).

"(8)(A) Test procedures for water closets and urinals to which standards are applicable under subsection (k) of section 325 shall be the test procedures specified in ASME A112.19.6–1990 for such products.

"(B) If the test procedure requirements of ASME A112.19.6–1990 are revised at any time and approved by ANSI, the Secretary shall amend the test procedures established by subparagraph (A) to conform to such revised ASME/ANSI requirements unless the Secretary determines, by rule, that to do so would not meet the requirements of paragraph (3).";

(2) in paragraphs (1) and (2) of subsection (c), by inserting "or, in the case of showerheads, faucets, water closets, and urinals, water use" after "efficiency" each place it appears;

(3) in subsection (c)(2), in the material preceding subparagraph (A), by inserting "or established" after "prescribed"; and

(4) in subsection (e)—

(A) in paragraph (1), by striking out "or measured energy use" and inserting in lieu thereof ", measured energy use, or measured water use";

(B) in paragraph (2), by striking out "energy efficiency or energy use" each place it appears and inserting in lieu thereof "energy efficiency, energy use, or water use"; and

(C) in paragraph (3), by striking out "energy efficiency or energy use" and inserting in lieu thereof "energy efficiency, energy use, or water use".

(e) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2), by adding at the end the following new subparagraphs:

Regulations. "(C)(i) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section applicable to general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps. Except as provided in clause (ii), such rules shall provide that the labeling of any general service fluorescent lamp, medium base compact fluorescent lamp, and general service incandescent lamp manufactured after the 12-month period beginning on the date of the publication of such rule shall indicate conspicuously on the packaging of the lamp, in a manner prescribed by the Commission under subsection (b), such information as the Commission deems necessary to enable consumers to select the most energy efficient lamps which meet their requirements. Labeling information for incandescent lamps shall be based on performance when operated at 120 volts input, regardless of the rated lamp voltage.

"(ii) If the Secretary determines that compliance with the standards specified in section 325(j) for any lamp will result in the discontinuance of the manufacture of such lamp, the Commission may exempt such lamp from the labeling rules prescribed under clause (i).

Regulations. "(D)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for showerheads and faucets to which standards are applicable under subsection (j) of section 325. Such rules shall provide that the labeling of any showerhead or faucet manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.18.1M–1989, except that each showerhead and flow restricting or controlling spout-end device shall bear a permanent legible marking indicating the flow rate, expressed in gallons per minute (gpm) or gallons

per cycle (gpc), and the flow rate value shall be the actual flow rate or the maximum flow rate specified by the standards established in subsection (j) of section 325.

"(ii) If the marking and labeling requirements of ASME A112.18.1M–1989 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each showerhead and flow restricting or controlling spout-end device to bear a permanent legible marking indicating the flow rate of such product.

"(E)(i) Not later than one year after the date of the enactment of the Energy Policy Act of 1992, the Commission shall prescribe labeling rules under this section for water closets and urinals to which standards are applicable under subsection (k) of section 325. Such rules shall provide that the labeling of any water closet or urinal manufactured after the 12-month period beginning on the date of the publication of such rule shall be consistent with the marking and labeling requirements of ASME A112.19.2M–1990, except that each fixture (and flushometer valve associated with such fixture) shall bear a permanent legible marking indicating the water use, expressed in gallons per flush (gpf), and the water use value shall be the actual water use or the maximum water use specified by the standards established in subsection (k) of section 325. Regulations.

"(ii) If the marking and labeling requirements of ASME A112.19.2M–1990 are revised at any time and approved by ANSI, the Commission shall amend the labeling rules established pursuant to clause (i) to be consistent with such revised ASME/ANSI requirements unless such requirements are inconsistent with the purposes of this Act or the requirement specified in clause (i) requiring each fixture and flushometer valve to bear a permanent legible marking indicating the water use of such fixture or flushometer valve.

"(iii) Any labeling rules prescribed under this subparagraph before January 1, 1997, shall provide that, with respect to any gravity tank-type white 2-piece toilet which has a water use greater than 1.6 gallons per flush (gpf), any printed matter distributed or displayed in connection with such product (including packaging and point of sale material, catalog material, and print advertising) shall include, in a conspicuous manner, the words 'For Commercial Use Only'.";

(2) in subsection (a)(3), by striking out "(14)" and inserting in lieu thereof "(19)";

(3) in subsection (b)(1)(B), by striking out "(14)" and inserting in lieu thereof "(13), and paragraphs (15) through (19)";

(4) in paragraphs (3) and (5) of subsection (b), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(5) in subsection (c)—

(A) in paragraph (7), by striking out "paragraph (13) of section 322" and inserting in lieu thereof "paragraphs (13), (14), (15), (16), (17), and (18) of section 322(a)"; and

(B) by adding at the end the following:

"(8) If a manufacturer of a covered product specified in paragraph (15) or (17) of section 322(a) elects to provide a label for such covered product conveying the estimated annual operating

cost of such product or the range of estimated annual operating costs for the type or class of such product—

"(A) such estimated cost or range of costs shall be determined in accordance with test procedures prescribed under section 323;

"(B) the format of such label shall be in accordance with a format prescribed by the Commission; and

"(C) such label shall be displayed in a manner, prescribed by the Commission, to be likely to assist consumers in making purchasing decisions and appropriate to carry out the purposes of this Act.".

(f) STANDARDS.—Section 325 of such Act (42 U.S.C. 6295) is amended—

(1) by redesignating subsections (i) through (q) as subsections (l) through (t);

(2) by inserting after subsection (h) the following:

"(i) GENERAL SERVICE FLUORESCENT LAMPS AND INCANDESCENT REFLECTOR LAMPS.—(1)(A) Each of the following general service fluorescent lamps and incandescent reflector lamps manufactured after the effective date specified in the tables listed in this paragraph shall meet or exceed the following lamp efficacy and CRI standards:

"FLUORESCENT LAMPS

"Lamp Type	Nominal Lamp Wattage	Minimum CRI	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
4-foot medium bi-pin	>35 W	69	75.0	36
	≤35 W	45	75.0	36
2-foot U-shaped	>35 W	69	68.0	36
	≤35 W	45	64.0	36
8-foot slimline	65 W	69	80.0	18
	≤65 W	45	80.0	18
8-foot high output	>100 W	69	80.0	18
	≤100 W	45	80.0	18

"INCANDESCENT REFLECTOR LAMPS

"Nominal Lamp Wattage	Minimum Average Lamp Efficacy (LPW)	Effective Date (Months)
40–50	10.5	36
51–66	11.0	36
67–85	12.5	36
86–115	14.0	36
116–155	14.5	36
156–205	15.0	36

"(B) For the purposes of the tables set forth in subparagraph (A), the term 'effective date' means the last day of the month set forth in the table which follows the date of the enactment of the Energy Policy Act of 1992.

"(2) Notwithstanding section 332(a)(5) and section 332(b), it shall not be unlawful for a manufacturer to sell a lamp which

is in compliance with the law at the time such lamp was manufactured.

"(3) Not less than 36 months after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than the end of the 54-month period beginning on the date of the enactment of this subsection to determine if the standards established under paragraph (1) should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published. Regulations.

"(4) Not less than eight years after the date of the enactment of this subsection, the Secretary shall initiate a rulemaking procedure and shall publish a final rule not later than nine years and six months after the date of the enactment of this subsection to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after the 36-month period beginning on the date such final rule is published. Regulations.

"(5) Not later than the end of the 24-month period beginning on the date labeling requirements under section 324(a)(2)(C) become effective, the Secretary shall initiate a rulemaking procedure to determine if the standards in effect for fluorescent lamps and incandescent lamps should be amended so that they would be applicable to additional general service fluorescent and general service incandescent lamps and shall publish, not later than 18 months after initiating such rulemaking, a final rule including such amended standards, if any. Such rule shall provide that the amendment shall apply to products manufactured after a date which is 36 months after the date such rule is published. Regulations.

"(6)(A) With respect to any lamp to which standards are applicable under this subsection or any lamp specified in section 346, the Secretary shall inform any Federal entity proposing actions which would adversely impact the energy consumption or energy efficiency of such lamp of the energy conservation consequences of such action. It shall be the responsibility of such Federal entity to carefully consider the Secretary's comments.

"(B) Notwithstanding section 325(n)(1), the Secretary shall not be prohibited from amending any standard, by rule, to permit increased energy use or to decrease the minimum required energy efficiency of any lamp to which standards are applicable under this subsection if such action is warranted as a result of other Federal action (including restrictions on materials or processes) which would have the effect of either increasing the energy use or decreasing the energy efficiency of such product.

"(7) Not later than the date on which standards established pursuant to this subsection become effective, or, with respect to high-intensity discharge lamps covered under section 346, the effective date of standards established pursuant to such section, each manufacturer of a product to which such standards are applicable shall file with the Secretary a laboratory report certifying compliance with the applicable standard for each lamp type. Such report shall include the lumen output and wattage consumption for each lamp type as an average of measurements taken over the preceding 12-month period. With respect to lamp types which are not manufactured during the 12-month period preceding the date such standards Reports.

become effective, such report shall be filed with the Secretary not later than the date which is 12 months after the date manufacturing is commenced and shall include the lumen output and wattage consumption for each such lamp type as an average of measurements taken during such 12-month period.

"(j) STANDARDS FOR SHOWERHEADS AND FAUCETS.—(1) The maximum water use allowed for any showerhead manufactured after January 1, 1994, is 2.5 gallons per minute when measured at a flowing water pressure of 80 pounds per square inch. Any such showerhead shall also meet the requirements of ASME/ANSI A112.18.1M–1989, 7.4.3(a).

"(2) The maximum water use allowed for any of the following faucets manufactured after January 1, 1994, when measured at a flowing water pressure of 80 pounds per square inch, is as follows:

"Lavatory faucets	2.5 gallons per minute
"Lavatory replacement aerators	2.5 gallons per minute
"Kitchen faucets	2.5 gallons per minute
"Kitchen replacement aerators	2.5 gallons per minute
"Metering faucets	0.25 gallons per cycle

Federal Register, publication.

"(3)(A) If the maximum flow rate requirements or the design requirements of ASME/ANSI Standard A112.18.1M–1989 are amended to improve the efficiency of water use of any type or class of showerhead or faucet and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in the amended ASME/ANSI Standard A112.18.1M and providing that such standard shall apply to products manufactured after a date which is 12 months after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.18.1M—

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of showerhead or faucet more stringent than such amended ASME/ANSI Standard A112.18.1M—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A112.18.1M for such type or class of showerhead or faucet and the standard in effect for such product on the day before

the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(C) If, after any period of five consecutive years, the maximum flow rate requirements of the ASME/ANSI standard for showerheads are not amended to improve the efficiency of water use of such products, or after any such period such requirements for faucets are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of showerhead or faucet if such State regulation—

"(i) is more stringent than the standards in effect for such type of class of showerhead or faucet; and

"(ii) is applicable to any sale or installation of all products in such type or class of showerhead or faucet.

"(k) STANDARDS FOR WATER CLOSETS AND URINALS.—(1)(A) Except as provided in subparagraph (B), the maximum water use allowed in gallons per flush for any of the following water closets manufactured after January 1, 1994, is the following:

"Gravity tank-type toilets	1.6 gpf.
"Flushometer tank toilets	1.6 gpf.
"Electromechanical hydraulic toilets	1.6 gpf.
"Blowout toilets	3.5 gpf.

"(B) The maximum water use allowed for any gravity tank-type white 2-piece toilet which bears an adhesive label conspicuous upon installation consisting of the words 'Commercial Use Only' manufactured after January 1, 1994, and before January 1, 1997, is 3.5 gallons per flush.

"(C) The maximum water use allowed for flushometer valve toilets, other than blowout toilets, manufactured after January 1, 1997, is 1.6 gallons per flush.

"(2) The maximum water use allowed for any urinal manufactured after January 1, 1994, is 1.0 gallon per flush.

"(3)(A) If the maximum flush volume requirements of ASME Standard A112.19.6–1990 are amended to improve the efficiency of water use of any low consumption water closet or low consumption urinal and are approved by ANSI, the Secretary shall, not later than 12 months after the date of such amendment, publish a final rule establishing an amended uniform national standard for that product at the level specified in amended ASME/ANSI Standard A112.19.6 and providing that such standard shall apply to products manufactured after a date which is one year after the publication of such rule, unless the Secretary determines, by rule published in the Federal Register, that adoption of a uniform national standard at the level specified in such amended ASME/ANSI Standard A112.19.6— Federal Register, publication.

"(i) is not technologically feasible and economically justified under subsection (o);

"(ii) is not consistent with the maintenance of public health and safety; or

"(iii) is not consistent with the purposes of this Act.

"(B)(i) As part of the rulemaking conducted under subparagraph (A), the Secretary shall also determine if adoption of a uniform national standard for any type or class of low consumption water

closet or low consumption urinal more stringent than such amended ASME/ANSI Standard A112.19.6 for such product—

"(I) would result in additional conservation of energy or water;

"(II) would be technologically feasible and economically justified under subsection (o); and

"(III) would be consistent with the maintenance of public health and safety.

"(ii) If the Secretary makes an affirmative determination under clause (i), the final rule published under subparagraph (A) shall waive the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of low consumption water closet or low consumption urinal if such State regulation—

"(I) is more stringent than amended ASME/ANSI Standard A112.19.6 for such type or class of low consumption water closet or low consumption urinal and the standard in effect for such product on the day before the date on which a final rule is published under subparagraph (A); and

"(II) is applicable to any sale or installation of all products in such type or class of low consumption water closet or low consumption urinal.

Regulations.

"(C) If, after any period of five consecutive years, the maximum flush volume requirements of the ASME/ANSI standard for low consumption water closets are not amended to improve the efficiency of water use of such products, or after any such period such requirements for low consumption urinals are not amended to improve the efficiency of water use of such products, the Secretary shall, not later than six months after the end of such five-year period, publish a final rule waiving the provisions of section 327(c) with respect to any State regulation concerning the water use or water efficiency of such type or class of water closet or urinal if such State regulation—

"(i) is more stringent than the standards in effect for such type or class of water closet or urinal; and

"(ii) is applicable to any sale or installation of all products in such type or class of water closet or urinal.";

(3) in subsection (l) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraphs (1) and (2), by striking out "(14)" and inserting in lieu thereof "(19)"; and

(B) in paragraphs (1) and (3), by striking out "(l) and (m)" and inserting in lieu thereof "(o) and (p)";

(4) in subsection (m) (as redesignated by paragraph (1) of this subsection), by striking out "(h)" and inserting in lieu thereof "(i)";

(5) in subsection (n) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1)—

(i) by striking out "and in paragraph (13)" and inserting in lieu thereof ", and in paragraphs (13) and (14)"; and

(ii) by striking out "(h)" and inserting in lieu thereof "(i)";

(B) in paragraph (2)(C), by striking out "(l)(2)(B)(i)(II)" and inserting in lieu thereof "(o)(2)(B)(i)(II)"; and

(C) in paragraph (3)(B), by inserting "general service fluorescent lamps, incandescent reflector lamps," after "fluorescent lamp ballasts,";

(6) in subsection (o) (as redesignated by paragraph (1) of this subsection)—

(A) in paragraph (1), by inserting "or, in the case of showerheads, faucets, water closets, or urinals, water use," after "energy use,";

(B) in paragraph (2)(A), by inserting ", or, in the case of showerheads, faucets, water closets, or urinals, water efficiency," after "energy efficiency";

(C) in paragraph (2)(B)(i)(III), by inserting ", or as applicable, water," after "energy";

(D) in paragraph (2)(B)(i)(VI), by inserting "and water" after "energy";

(E) in paragraph (2)(B)(iii), by striking out "energy savings" and inserting "energy, and as applicable, water, savings"; and

(F) in paragraph (3)(B), by inserting ", in the case of showerheads, faucets, water closets, or urinals, water, or" after "energy or"; and

(7) in subsection (p)(3)(A) (as redesignated by paragraph (1) of this subsection)—

(A) by striking out "(l)(2)" and inserting in lieu thereof "(o)(2)"; and

(B) by striking out "(l)(4)" and inserting in lieu thereof "(o)(4)".

(g) REQUIREMENTS OF MANUFACTURERS.—Section 326 of such Act (42 U.S.C. 6296) is amended—

(1) in subsection (b)(4), by inserting "or water use" after "consumption"; and

(2) in subsection (d)(1), by striking out "or energy use" and inserting in lieu thereof ", energy use, or, in the case of showerheads, faucets, water closets, and urinals, water use".

(h) EFFECT ON OTHER LAW.—Section 327 of such Act (42 U.S.C. 6297) is amended—

(1) in subsection (a)—

(A) in paragraph (1), in the material preceding subparagraph (A), by inserting "or water use" after "energy consumption";

(B) in paragraph (1)(A), by inserting ", water use," after "energy consumption";

(C) in paragraph (1)(B), by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use"; and

(D) by amending paragraph (2) to read as follows:

"(2) For purposes of this section, the following definitions apply:

"(A) The term 'State regulation' means a law, regulation, or other requirement of a State or its political subdivisions. With respect to showerheads, faucets, water closets, and urinals, such term shall also mean a law, regulation, or other requirement of a river basin commission that has jurisdiction within a State.

"(B) The term 'river basin commission' means—

"(i) a commission established by interstate compact to apportion, store, regulate, or otherwise manage or coordinate the management of the waters of a river basin; and

"(ii) a commission established under section 201(a) of the Water Resources Planning Act (42 U.S.C. 1962b(a)).";

(2) in subsection (b)—

(A) in the material preceding paragraph (1), by striking out "or energy use of the covered product" and inserting in lieu thereof ", energy use, or water use of the covered product";

(B) by inserting before the semicolon at the end of paragraph (1) the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent or incandescent lamps, flow rate requirements for showerheads or faucets, or water use requirements for water closets or urinals, was prescribed or enacted before the date of the enactment of the Energy Policy Act of 1992";

(C) in paragraph (4), by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those to which section 325(i) is applicable, or is a regulation (or portion thereof) regulating showerheads or faucets other than those to which section 325(j) is applicable or regulating lavatory faucets (other than metering faucets) for installation in public places, or is a regulation (or portion thereof) regulating water closets or urinals other than those to which section 325(k) is applicable";

(D) in paragraph (5), by striking out "or";

(E) in paragraph (6), by striking out the period at the end and inserting "; or"; and

(F) by adding at the end the following new paragraph:

"(7) is a regulation (or portion thereof) concerning the water efficiency or water use of low consumption flushometer valve water closets.";

(3) in subsection (c)—

(A) in the material preceding paragraph (1)—

(i) by inserting ", subparagraphs (B) and (C) of section 325(j)(3), and subparagraphs (B) and (C) of section 325(k)(3)" after "section 325(b)(3)(A)(ii)"; and

(ii) by striking out "or energy use" and inserting in lieu thereof the following: ", energy use, or water use";

(B) in paragraph (1), by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent or incandescent lamps other than those for which section 325(i) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary and is applicable to such lamps";

(C) in paragraph (2), by striking out "or";

(D) in paragraph (3), by striking out the period at the end and inserting a semicolon; and

(E) by adding at the end the following new paragraphs:

"(4) is a regulation concerning the water use of lavatory faucets adopted by the State of New York or the State of Georgia before the date of the enactment of the Energy Policy Act of 1992;

"(5) is a regulation concerning the water use of lavatory or kitchen faucets adopted by the State of Rhode Island prior

to the date of the enactment of the Energy Policy Act of 1992; or

"(6) is a regulation (or portion thereof) concerning the water efficiency or water use of gravity tank-type low consumption water closets for installation in public places, except that such a regulation shall be effective only until January 1, 1997.";

(4) in subsection (d)(1)—

(A) in subparagraph (A)—

(i) by inserting "or river basin commission" after "Any State"; and

(ii) by striking out "or energy efficiency" and inserting in lieu thereof ", energy efficiency, or water use";

(B) in subparagraph (B)—

(i) by striking out "State has" and inserting "State or river basin commission has"; and

(ii) by inserting "or water" after "energy";

(C) in subparagraph (C)—

(i) in the material preceding clause (i) and in clause (ii), by inserting "or water" after "energy" each place it appears; and

(ii) by inserting before the period at the end the following: ", and, with respect to a State regulation for which a petition has been submitted to the Secretary which provides for any energy conservation standard or requirement with respect to water use of a covered product, within the context of the water supply and groundwater management plan, water quality program, and comprehensive plan (if any) of the State or river basin commission for improving, developing, or conserving a waterway affected by water supply development"; and

(5) in subsection (d)(5)(B), by striking clause (i) and inserting the following:

"(i) there exists within the State an energy emergency condition or, if the State regulation provides for an energy conservation standard or other requirement with respect to the water use of a covered product for which there is a Federal energy conservation standard under subsection (j) or (k) of section 325, a water emergency condition, which—

"(I) imperils the health, safety, and welfare of its residents because of the inability of the State or utilities within the State to provide adequate quantities of gas or electric energy or, in the case of a water emergency condition, water or wastewater treatment, to its residents at less than prohibitive costs; and

"(II) cannot be substantially alleviated by the importation of energy or, in the case of a water emergency condition, by the importation of water, or by the use of interconnection agreements; and".

(i) INCENTIVE PROGRAMS.—Section 337 of such Act (42 U.S.C. 6307) is amended—

(1) by striking out "337." and inserting "337. (a) IN GENERAL.—"; and

(2) by adding at the end the following:

"(b) STATE AND LOCAL INCENTIVE PROGRAMS.—(1) The Secretary shall, not later than one year after the date of the enactment

of this subsection, issue recommendations to the States for establishing State and local incentive programs designed to encourage the acceleration of voluntary replacement, by consumers, of existing showerheads, faucets, water closets, and urinals with those products that meet the standards established for such products pursuant to subsections (j) and (k) of section 325.

"(2) In developing such recommendations, the Secretary shall consult with the heads of other federal agencies, including the Administrator of the Environmental Protection Agency; State officials; manufacturers, suppliers, and installers of plumbing products; and other interested parties.".

SEC. 124. HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS.

(a) STANDARDS.—Section 346 of the Energy Policy and Conservation Act (42 U.S.C. 6317) is amended to read as follows:

"ENERGY CONSERVATION STANDARDS FOR HIGH-INTENSITY DISCHARGE LAMPS, DISTRIBUTION TRANSFORMERS, AND SMALL ELECTRIC MOTORS

"SEC. 346. (a)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those high-intensity discharge lamps and distribution transformers for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Regulations.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those high-intensity discharge lamps and distribution transformers for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) with respect to high-intensity discharge lamps shall apply to such lamps manufactured 36 months after the date such rule is published.

"(b)(1) The Secretary shall, within 30 months after the date of the enactment of the Energy Policy Act of 1992, prescribe testing requirements for those small electric motors for which the Secretary makes a determination that energy conservation standards would be technologically feasible and economically justified, and would result in significant energy savings.

Regulations.

"(2) The Secretary shall, within 18 months after the date on which testing requirements are prescribed by the Secretary pursuant to paragraph (1), prescribe, by rule, energy conservation standards for those small electric motors for which the Secretary prescribed testing requirements under paragraph (1).

"(3) Any standard prescribed under paragraph (2) shall apply to small electric motors manufactured 60 months after the date such rule is published or, in the case of small electric motors which require listing or certification by a nationally recognized testing laboratory, 84 months after such date. Such standards shall not apply to any small electric motor which is a component of a covered product under section 322(a) or a covered equipment under section 340.

"(c) In establishing any standard under this section, the Secretary shall take into consideration the criteria contained in section 325(n).

"(d) The Secretary shall, within six months after the date on which energy conservation standards are prescribed by the Secretary for high-intensity discharge lamps and distribution transformers pursuant to subsection (a)(2) and small electric motors pursuant to subsection (b)(2), prescribe labeling requirements for such lamps, transformers, and small electric motors.

"(e) Beginning on the date which occurs six months after the date on which a labeling rule is prescribed for a product under subsection (d), each manufacturer of a product to which such a rule applies shall provide a label which meets, and is displayed in accordance with, the requirements of such rule.

"(f)(1) After the date on which a manufacturer must provide a label for a product pursuant to subsection (e)—

"(A) each such product shall be considered, for purposes of paragraphs (1) and (2) of section 332(a), a new covered product to which a rule under section 324 applies; and

"(B) it shall be unlawful for any manufacturer or private labeler to distribute in commerce any new product for which an energy conservation standard is prescribed under subsection (a)(2) or (b)(2) which is not in conformity with the applicable energy conservation standard.

"(2) For purposes of section 333(a), paragraph (1) of this subsection shall be considered to be a part of section 332.".

(b) TECHNICAL AMENDMENT.—The table of contents of such Act is amended by striking out the item for section 346 and inserting in lieu thereof the following new item:

"Sec. 346. Energy conservation standards for high-intensity discharge lamps, distribution transformers, and small electric motors.".

(c) STUDY OF UTILITY DISTRIBUTION TRANSFORMERS.—The Secretary shall evaluate the practicability, cost-effectiveness, and potential energy savings of replacing, or upgrading components of, existing utility distribution transformers during routine maintenance and, not later than 18 months after the date of the enactment of this Act, report the findings of such evaluation to the Congress with recommendations on how such energy savings, if any, could be achieved. 42 USC 6317.

SEC. 125. ENERGY EFFICIENCY INFORMATION FOR COMMERCIAL OFFICE EQUIPMENT. 42 USC 6292 note.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the Computer and Business Equipment Manufacturers Association and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of commercial office equipment that are widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the commercial office equipment to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such commercial office equipment to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mecha-

nisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedure and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether such program is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for commercial office equipment consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such commercial office equipment.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for commercial office equipment for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of commercial office equipment (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

42 USC 6292 note.

SEC. 126. ENERGY EFFICIENCY INFORMATION FOR LUMINAIRES.

(a) IN GENERAL.—(1) The Secretary shall, after consulting with the National Electric Manufacturers Association, the American Lighting Association, and other interested organizations, provide financial and technical assistance to support a voluntary national testing and information program for those types of luminaires that are widely used and for which there is a potential for significant energy savings as a result of such program.

(2) Such program shall—

(A) consistent with the objectives of paragraph (1), determine the luminaires to be covered under such program;

(B) include specifications for testing procedures that will enable purchasers of such luminaires to make more informed decisions about the energy efficiency and costs of alternative products; and

(C) include information, which may be disseminated through catalogs, trade publications, labels, or other mecha-

nisms, that will allow consumers to assess the energy consumption and potential cost savings of alternative products.

(3) Such program shall be developed by an appropriate organization (composed of interested parties) according to commonly accepted procedures for the development of national testing procedures and labeling programs.

(b) MONITORING.—The Secretary shall monitor and evaluate the efforts to develop the program described in subsection (a) and, not later than three years after the date of the enactment of this Act, shall make a determination as to whether the program developed is consistent with the objectives of subsection (a).

(c) ALTERNATIVE SYSTEM.—(1) If the Secretary makes a determination under subsection (b) that a voluntary national testing and information program for luminaires consistent with the objectives of subsection (a) has not been developed, the Secretary shall, after consultation with the National Institute of Standards and Technology, develop, not later than two years after such determination, test procedures under section 323 of the Energy Policy and Conservation Act (42 U.S.C. 6293) for such luminaires.

(2) Not later than one year after the Secretary develops test procedures under paragraph (1), the Federal Trade Commission (hereafter in this section referred to as the "Commission") shall prescribe labeling rules under section 324 of such Act (42 U.S.C. 6294) for those luminaires for which the Secretary has prescribed test procedures under paragraph (1) except that, with respect to any type of luminaire (or class thereof), the Secretary may determine that such labeling is not technologically feasible or economically justified or is not likely to assist consumers in making purchasing decisions. Regulations.

(3) For purposes of sections 323, 324, and 327 of such Act, each product for which the Secretary has established test procedures or labeling rules pursuant to this subsection shall be considered a new covered product under section 322 of such Act (42 U.S.C. 6292) to the extent necessary to carry out this subsection.

(4) For purposes of section 327(a) of such Act, the term "this part" includes this subsection to the extent necessary to carry out this subsection.

SEC. 127. REPORT ON THE POTENTIAL OF COOPERATIVE ADVANCED APPLIANCE DEVELOPMENT. 42 USC 6292 note.

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, prepare and submit to the Congress, a report on the potential for the development and commercialization of appliances which are substantially more efficient than required by Federal or State law.

(b) IDENTIFICATION OF HIGH-EFFICIENCY APPLIANCES.—The report submitted under subsection (a) shall identify candidate high-efficiency appliances which meet the following criteria:

(1) The potential exists for substantial improvement in the appliance's energy efficiency, beyond the minimum established in Federal and State law.

(2) There is the potential for significant energy savings at the national or regional level.

(3) Such appliances are likely to be cost-effective for consumers.

(4) Electric, water, or gas utilities are prepared to support and promote the commercialization of such appliances.

(5) Manufacturers are unlikely to undertake development and commercialization of such appliances on their own, or development and production would be substantially accelerated by support to manufacturers.

(c) RECOMMENDATIONS AND PROPOSALS.—The report submitted under subsection (a) shall also—

(1) describe the general actions the Secretary or the Administrator of the Environmental Protection Agency could take to coordinate and assist utilities and appliance manufacturers in developing and commercializing highly efficient appliances;

(2) describe specific proposals for Department of Energy or Environmental Protection Agency assistance to utilities and appliance manufacturers to promote the development and commercialization of highly efficient appliances;

(3) identify methods by which Federal purchase of highly efficient appliances could assist in the development and commercialization of such appliances; and

(4) identify the funding levels needed to develop and implement a Federal program to assist in the development and commercialization of highly efficient appliances.

42 USC 6292 note.

SEC. 128. EVALUATION OF UTILITY EARLY REPLACEMENT PROGRAMS FOR APPLIANCES.

Within 18 months after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, utilities, and appliance manufacturers, shall evaluate and report to the Congress on the energy savings and environmental benefits of programs which are directed to the early replacement of older, less efficient appliances presently in use by consumers with existing products which are more efficient than required by Federal law. For the purposes of this section, the term "appliance" means those consumer products specified in section 322(a).

Subtitle D—Industrial

42 USC 6348.

SEC. 131. ENERGY EFFICIENCY IN INDUSTRIAL FACILITIES.

(a) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants to industry associations to support programs to improve energy efficiency in industry. In order to be eligible for a grant under this subsection, an industry association shall establish a voluntary energy efficiency improvement target program.

(2) AWARDING OF GRANTS.—The Secretary shall request project proposals and provide annual grants on a competitive basis. In evaluating grant proposals under this subsection, the Secretary shall consider—

(A) potential energy savings;

(B) potential environmental benefits;

(C) the degree of cost sharing;

(D) the degree to which new and innovative technologies will be encouraged;

(E) the level of industry involvement;

(F) estimated project cost-effectiveness; and

(G) the degree to which progress toward the energy improvement targets can be monitored.

(3) ELIGIBLE PROJECTS.—Projects eligible for grants under this subsection may include the following:

(A) Workshops.

(B) Training seminars.

(C) Handbooks.

(D) Newsletters.

(E) Data bases.

(F) Other activities approved by the Secretary.

(4) LIMITATION ON COST SHARING.—Grants provided under this subsection shall not exceed $250,000 and each grant shall not exceed 75 percent of the total cost of the project for which the grant is made.

(5) AUTHORIZATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize those industry associations or individual industrial companies that have significantly improved their energy efficiency.

(c) REPORT ON INDUSTRIAL REPORTING AND VOLUNTARY TARGETS.—Not later than one year after the date of the enactment of this Act, the Secretary shall, in consultation with affected industries, evaluate and report to the Congress regarding the establishment of Federally mandated energy efficiency reporting requirements and voluntary energy efficiency improvement targets for energy intensive industries. Such report shall include an evaluation of the costs and benefits of such reporting requirements and voluntary energy efficiency improvement targets, and recommendations regarding the role of such activities in improving energy efficiency in energy intensive industries.

SEC. 132. PROCESS-ORIENTED INDUSTRIAL ENERGY EFFICIENCY. 42 USC 6349.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "covered industry" means the food and food products industry, lumber and wood products industry, petroleum and coal products industry, and all other manufacturing industries specified in Standard Industrial Classification Codes 20 through 39 (or successor classification codes);

(2) the term "process-oriented industrial assessment" means—

(A) the identification of opportunities in the production process (from the introduction of materials to final packaging of the product for shipping) for—

(i) improving energy efficiency;

(ii) reducing environmental impact; and

(iii) designing technological improvements to increase competitiveness and achieve cost-effective product quality enhancement;

(B) the identification of opportunities for improving the energy efficiency of lighting, heating, ventilation, air conditioning, and the associated building envelope; and

(C) the identification of cost-effective opportunities for using renewable energy technology in the production process and in the systems described in subparagraph (B); and

(3) the term "utility" means any person, State agency (including any municipality), or Federal agency, which sells electric or gas energy to retail customers.

(b) GRANT PROGRAM.—

(1) USE OF FUNDS.—The Secretary shall, to the extent funds are made available for such purpose, make grants to States which, consistent with State law, shall be used for the following purposes:

(A) To promote, through appropriate institutions such as universities, nonprofit organizations, State and local government entities, technical centers, utilities, and trade organizations, the use of energy-efficient technologies in covered industries.

(B) To establish programs to train individuals (on an industry-by-industry basis) in conducting process-oriented industrial assessments and to encourage the use of such trained assessors.

(C) To assist utilities in developing, testing, and evaluating energy efficiency programs and technologies for industrial customers in covered industries.

(2) CONSULTATION.—States receiving grants under this subsection shall consult with utilities and representatives of affected industries, as appropriate, in determining the most effective use of such funds consistent with the requirements of paragraph (1).

(3) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish eligibility criteria for grants made pursuant to this subsection. Such criteria shall require a State applying for a grant to demonstrate that such State—

(A) pursuant to section 111(a) of the Public Utility and Regulatory Policies Act of 1978 (16 U.S.C. 2621(a)), has considered and made a determination regarding the implementation of the standards specified in paragraphs (7) and (8) of section 111(d) of such Act (with respect to integrated resources planning and investments in conservation and demand management); and

(B) by legislation or regulation—

(i) allows utilities to recover the costs prudently incurred in providing process-oriented industrial assessments; and

(ii) encourages utilities to provide to covered industries—

(I) process-oriented industrial assessments; and

(II) financial incentives for implementing energy efficiency improvements.

(4) ALLOCATION OF FUNDS.—Grants made pursuant to this subsection shall be allocated each fiscal year among States meeting the criteria specified in paragraph (3) who have submitted applications 60 days before the first day of such fiscal year. Such allocation shall be made in accordance with a formula to be prescribed by the Secretary based on each State's share of value added in industry (as determined by the Census of Manufacturers) as a percentage of the value added by all such States.

(5) RENEWAL OF GRANTS.—A grant under this subsection may continue to be renewed after 2 consecutive fiscal years during which a State receives a grant under this subsection, subject to the availability of funds, if—

(A) the Secretary determines that the funds made available to the State during the previous 2 years were used in a manner required under paragraph (1); and

(B) such State demonstrates, in a manner prescribed by the Secretary, utility participation in programs established pursuant to this subsection.

(6) COORDINATION WITH OTHER FEDERAL PROGRAMS.—In carrying out the functions described in paragraph (1), States shall, to the extent practicable, coordinate such functions with activities and programs conducted by the Energy Analysis and Diagnostic Centers of the Department of Energy and the Manufacturing Technology Centers of the National Institute of Standards and Technology.

(c) OTHER FEDERAL ASSISTANCE.—

(1) ASSESSMENT CRITERIA.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall, by contract with nonprofit organizations with expertise in process-oriented industrial energy efficiency technologies, establish and, as appropriate, update criteria for conducting process-oriented industrial assessments on an industry-by-industry basis. Such criteria shall be made available to State and local government, public utility commissions, utilities, representatives of affected process-oriented industries, and other interested parties.

(2) DIRECTORY.—The Secretary shall establish a nationwide directory of organizations offering industrial energy efficiency assessments, technologies, and services consistent with the purposes of this section. Such directory shall be made available to State governments, public utility commissions, utilities, industry representatives, and other interested parties.

(3) AWARD PROGRAM.—The Secretary shall establish an annual award program to recognize utilities operating outstanding or innovative industrial energy efficiency technology assistance programs.

(4) MEETINGS.—In order to further the purposes of this section, the Secretary shall convene annual meetings of parties interested in process-oriented industrial assessments, including representatives of State government, public utility commissions, utilities, and affected process-oriented industries.

(d) REPORT.—Not later than 2 years after the date of the enactment of this Act, and annually thereafter, the Secretary shall submit to the Congress a report which—

(1) identifies barriers encountered in implementing this section;

(2) makes recommendations for overcoming such barriers;

(3) documents the results achieved by the programs established and grants awarded pursuant to this section;

(4) reviews any difficulties encountered by industry in securing and implementing energy efficiency technologies recommended in process-oriented industrial assessments or otherwise identified as a result of programs established pursuant to this section; and

(5) recommends methods for further promoting the distribution and implementation of energy efficiency technologies consistent with the purposes of this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

42 USC 6350.

SEC. 133. INDUSTRIAL INSULATION AND AUDIT GUIDELINES.

(a) VOLUNTARY GUIDELINES FOR ENERGY EFFICIENCY AUDITING AND INSULATING.—Not later than 18 months after the date of the enactment of this Act, the Secretary, after consultation with utilities, major industrial energy consumers, and representatives of the insulation industry, shall establish voluntary guidelines for—

(1) the conduct of energy efficiency audits of industrial facilities to identify cost-effective opportunities to increase energy efficiency; and

(2) the installation of insulation to achieve cost-effective increases in energy efficiency in industrial facilities.

(b) EDUCATIONAL AND TECHNICAL ASSISTANCE.—The Secretary shall conduct a program of educational and technical assistance to promote the use of the voluntary guidelines established under subsection (a).

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, and biennially thereafter, the Secretary shall report to the Congress on activities conducted pursuant to this section, including—

(1) a review of the status of industrial energy auditing procedures; and

(2) an evaluation of the effectiveness of the guidelines established under subsection (a) and the responsiveness of the industrial sector to such guidelines.

Subtitle E—State and Local Assistance

SEC. 141. AMENDMENTS TO STATE ENERGY CONSERVATION PROGRAM.

(a) STATE BUILDINGS ENERGY INCENTIVE FUND.—

(1) IN GENERAL.—Section 363 of the Energy Policy and Conservation Act (42 U.S.C. 6323) is amended by adding at the end the following new subsection:

"(f) If the Secretary determines that a State has demonstrated a commitment to improving the energy efficiency of buildings within such State, the Secretary may, beginning in fiscal year 1994, provide up to $1,000,000 to such State for deposit into a revolving fund established by such State for the purpose of financing energy efficiency improvements in State and local government buildings. In making such determination the Secretary shall consider whether—

"(1) such State, or a majority of the units of local government with jurisdiction over building energy codes within such State, has adopted codes for energy efficiency in new buildings that are at least as stringent as American Society of Heating, Refrigerating, and Air-Conditioning Engineers Standard 90.1–1989 (with respect to commercial buildings) and Council of American Building Officials Model Energy Code, 1992 (with respect to residential buildings);

"(2) such State has established a program, including a revolving fund, to finance energy efficiency improvement

projects in State and local government facilities and buildings; and

"(3) such State has obtained funding from non-Federal sources, including but not limited to, oil overcharge funds, State or local government appropriations, or utility contributions (including rebates) equal to or greater than three times the amount provided by the Secretary under this subsection for deposit into such revolving fund.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 365(f) of such Act (42 U.S.C. 6325(f)) is amended—

(A) by striking "(f) For the purpose" and inserting the following: "(f)(1) Except as provided in paragraph (2), for the purpose"; and

(B) by inserting at the end the following:

"(2) For the purposes of carrying out section 363(f), there is authorized to be appropriated for fiscal year 1994 and each fiscal year thereafter such sums as may be necessary, to remain available until expended.".

(b) TRAINING OF BUILDING DESIGNERS AND CONTRACTORS; BUILDING RETROFIT STANDARDS; FEASIBILITY; RURAL RENEWABLE ENERGY.—Subsection 362(d) of the Energy Policy and Conservation Act (42 U.S.C. 6322(d)) is amended—

(1) in paragraph (12) by striking "and";

(2) by redesignating paragraph (13) as paragraph (17); and

(3) by inserting after paragraph (12) the following new paragraphs:

"(13) programs (enlisting appropriate trade and professional organizations in the development and financing of such programs) to provide training and education (including, if appropriate, training workshops, practice manuals, and testing for each area of energy efficiency technology) to building designers and contractors involved in building design and construction or in the sale, installation, and maintenance of energy systems and equipment to promote building energy efficiency improvements;

"(14) programs for the development of building retrofit standards and regulations, including retrofit ordinances enforced at the time of the sale of a building;

"(15) support for prefeasibility and feasibility studies for projects that utilize renewable energy and energy efficiency resource technologies in order to facilitate access to capital and credit for such projects;

"(16) programs to facilitate and encourage the voluntary use of renewable energy technologies for eligible participants in Federal agency programs, including the Rural Electrification Administration and the Farmers Home Administration; and"

(c) STATE ENERGY CONSERVATION PLAN REQUIREMENT.—

(1) IN GENERAL.—Section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)) is amended by striking "; and" and by inserting the following: "and to turn such vehicle left from a one-way street onto a one-way street at a red light after stopping; and".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1995. 42 USC 6322 note.

(d) STUDY REGARDING IMPACT OF PERMITTING RIGHT AND LEFT TURNS ON RED LIGHTS.— 42 USC 6322 note.

(1) IN GENERAL.—The Administrator of the National Highway Traffic Safety Administration, in consultation with State agencies with jurisdiction over traffic safety issues, shall conduct a study on the safety impact of the requirement specified in section 362(c)(5) of the Energy Policy and Conservation Act (42 U.S.C. 6322(c)(5)), particularly with respect to the impact on pedestrian safety.

(2) REPORT.—The Administrator shall report the findings of the study conducted under paragraph (1) to the Congress and the Secretary not later than 2 years after the date of the enactment of this Act.

SEC. 142. AMENDMENTS TO LOW-INCOME WEATHERIZATION PROGRAM.

(a) PRIVATE SECTOR INVESTMENTS IN LOW-INCOME WEATHERIZATION.—Part A of title IV of the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) is amended by inserting after section 414 the following new sections:

42 USC 6864a.

"SEC. 414A. PRIVATE SECTOR INVESTMENTS.

"(a) IN GENERAL.—The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

"(b) USE OF FUNDS.—Financial assistance provided under this section may be used for—

"(1) the negotiation of such partnerships, agreements and other arrangements;

"(2) the presentation of arguments before State or local agencies;

"(3) expert advice on the development of such partnerships, agreements, and other arrangements; or

"(4) other activities reasonably associated with the development and initial implementation of such arrangements.

"(c) CONDITIONS.—(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 413 or section 414.

"(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

"(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

42 USC 6864b.

"SEC. 414B. TECHNICAL TRANSFER GRANTS.

"(a) IN GENERAL.—The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 for—

"(1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;

"(2) producing technical information for use by persons involved in weatherizing low-income housing;

"(3) exchanging information; and

"(4) conducting training programs for persons involved in weatherizing low-income housing.

"(b) CONDITIONS.—(1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.

"(2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.".

(b) USE OF SOLAR THERMAL WATER HEATERS AND WOOD-BURNING HEATING APPLIANCES FOR LOW-INCOME WEATHERIZATION.—Section 412(9) of the Energy Conservation and Production Act (42 U.S.C. 6862(9)) is amended—

(1) by moving subparagraph (G) 2-ems to the right and by striking "and";

(2) by redesignating subparagraph (H) as subparagraph (J); and

(3) by inserting after subparagraph (G), the following:

"(H) solar thermal water heaters;

"(I) wood-heating appliances; and".

(c) CLERICAL AMENDMENT.—The table of contents for part A of title IV of the Energy Conservation and Production Act is amended by inserting after the item related to section 414 the following items:

"Sec. 414A. Private sector investments.
"Sec. 414B. Technical transfer grants.".

SEC. 143. ENERGY EXTENSION SERVICE PROGRAM.

(a) REPEAL.—The National Energy Extension Service Act, title V of Public Law 95–39, is repealed.

(b) CONFORMING AMENDMENT.—Section 103 of the Energy Reorganization Act of 1974 (42 U.S.C. 5813(7)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), and (12) as paragraphs (7), (8), (9), (10), and (11), respectively.

Subtitle F—Federal Agency Energy Management

SEC. 151. DEFINITIONS. 42 USC 8262.

For purposes of this subtitle—

(1) the term "agency" means has the meaning given such term in section 551(1) of title 5, United States Code, except that such term does not include the United States Postal Service;

(2) the term "facility energy supervisor" means the employee with responsibility for the daily operations of a Federal facility, including the management, installation, operation, and maintenance of energy systems in Federal facilities which may include more than one building;

(3) the term "trained energy manager" means a person who has demonstrated proficiency, or who has completed a course of study in the areas of fundamentals of building energy systems, building energy codes and applicable professional

standards, energy accounting and analysis, life-cycle cost methodology, fuel supply and pricing, and instrumentation for energy surveys and audits;

(4) the term "Task Force" means the Interagency Energy Management Task Force established under section 547 of the National Energy Conservation Policy Act (42 U.S.C. 8257); and

(5) the term "energy conservation measures" has the meaning given such term in section 551(4) of the National Energy Conservation Policy Act.

SEC. 152. FEDERAL ENERGY MANAGEMENT AMENDMENTS.

(a) PURPOSE.—Section 542 of the National Energy Conservation Policy Act (42 U.S.C. 8252) is amended by inserting after "use of energy" the following: "and water, and the use of renewable energy sources,".

(b) REQUIREMENTS FOR FEDERAL AGENCIES.—Section 543 of such Act (42 U.S.C. 8253(a)) is amended—

(1) in the section heading by striking "GOALS" and inserting "REQUIREMENTS";

(2) in subsection (a) by striking "GOAL" and inserting "REQUIREMENT";

(3) in subsection (a)(1), by striking the period at the end and inserting the following: "and so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 2000 is at least 20 percent less than the energy consumption per gross square foot of its Federal buildings in use during fiscal year 1985."; and

(4) by redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following:

"(b) ENERGY MANAGEMENT REQUIREMENT FOR FEDERAL AGENCIES.—(1) Not later than January 1, 2005, each agency shall, to the maximum extent practicable, install in Federal buildings owned by the United States all energy and water conservation measures with payback periods of less than 10 years, as determined by using the methods and procedures developed pursuant to section 544.

"(2) The Secretary may waive the requirements of this subsection for any agency for such periods as the Secretary may determine if the Secretary finds that the agency is taking all practicable steps to meet the requirements and that the requirements of this subsection will pose an unacceptable burden upon the agency. If the Secretary waives the requirements of this subsection, the Secretary shall notify the Congress promptly in writing with an explanation and a justification of the reasons for such waiver.

"(3) This subsection shall not apply to an agency's facilities that generate or transmit electric energy or to the uranium enrichment facilities operated by the Department of Energy.

"(4) An agency may participate in the Environmental Protection Agency's 'Green Lights' program for purposes of receiving technical assistance in complying with the requirements of this section.

"(c) EXCLUSIONS.—(1) An agency may exclude, from the energy consumption requirements for the year 2000 established under subsection (a) and the requirements of subsection (b)(1), any Federal building or collection of Federal buildings, and the associated energy consumption and gross square footage, if the head of such agency finds that compliance with such requirements would be impractical. A finding of impracticability shall be based on the energy intensive-

ness of activities carried out in such Federal buildings or collection of Federal buildings, the type and amount of energy consumed, the technical feasibility of making the desired changes, and, in the cases of the Departments of Defense and Energy, the unique character of certain facilities operated by such Departments.

"(2) Each agency shall identify and list, in each report made under section 548(a), the Federal buildings designated by it for such exclusion. The Secretary shall review such findings for consistency with the impracticability standards set forth in paragraph (1), and may within 90 days after receipt of the findings, reverse a finding of impracticability. In the case of any such reversal, the agency shall comply with the energy consumption requirements for the building concerned.".

(c) IMPLEMENTATION.—Section 543(d) of such Act (as redesignated by subsection (b)(4) of this section) is amended— 42 USC 8253.

(1) in the material preceding paragraph (1), by striking out "To achieve the goal established in subsection (a)," and inserting in lieu thereof the following: "The Secretary shall consult with the Secretary of Defense and the Administrator of General Services in developing guidelines for the implementation of this part. To meet the requirements of this section,";

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) prepare and submit to the Secretary, not later than December 31, 1993, a plan describing how the agency intends to meet such requirements, including how it will—

"(A) designate personnel primarily responsible for achieving such requirements;

"(B) identify high priority projects through calculation of payback periods;

"(C) take maximum advantage of contracts authorized under title VIII of this Act, of financial incentives and other services provided by utilities for efficiency investment, and of other forms of financing to reduce the direct costs to the Government; and

"(D) otherwise implement this part;";

(3) in paragraph (2), by inserting before the semicolon at the end the following: "and update such surveys as needed, incorporating any relevant information obtained from the survey conducted pursuant to section 550";

(4) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) using such surveys, determine the cost and payback period of energy and water conservation measures likely to achieve the requirements of this section;

"(4) install energy and water conservation measures that will achieve the requirements of this section through the methods and procedures established pursuant to section 544; and"; and

(5) by redesignating paragraph (4) as paragraph (5).

(d) LIFE CYCLE COST METHODS AND PROCEDURES.—Section 544 of such Act (42 U.S.C. 8254) is amended—

(1) in subsection (a), in the material preceding paragraph (1), by striking out "National Bureau of Standards," and inserting in lieu thereof "National Institute of Standards and Technology,"; and

(2) in subsection (b)(2), by striking "agency shall" and all that follows through the period at the end and inserting the following: "agency shall, after January 1, 1994, fully consider the efficiency of all potential building space at the time of renewing or entering into a new lease.".

(e) IDENTIFICATION OF FUNDS.—Section 545 of such Act (42 U.S.C. 8255) is amended to read as follows:

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"The President shall transmit to the Congress, along with each budget that is submitted to the Congress under section 1105 of title 31, United States Code, a statement of the amount of appropriations requested in such budget, if any, on an individual agency basis, for—

"(1) electric and other energy costs to be incurred in operating and maintaining agency facilities; and

"(2) compliance with the provisions of this part, the Energy Policy and Conservation Act (42 U.S.C. 6201 et seq.), and all applicable Executive orders, including Executive Order 12003 (42 U.S.C. 6201 note) and Executive Order 12759 (56 Fed. Reg. 16257).".

(f) INCENTIVE PROGRAM.—Section 546 of such Act (42 U.S.C. 8256) is amended—

(1) by striking "(a) IN GENERAL.—" and inserting in lieu thereof "(a) CONTRACTS.—(1)";

(2) by redesignating subsection (b) as paragraph (2) and amending it to read as follows:

"(2) The Secretary shall, not later than 18 months after the date of the enactment of the Energy Policy Act of 1992 and after consultation with the Director of the Office of Management and Budget, the Secretary of Defense, and the Administrator of General Services, develop appropriate procedures and methods for use by agencies to implement the incentives referred to in paragraph (1).";

(3) by striking out subsection (c); and

(4) by adding at the end the following new subsections:

Establishment. Grants.

"(b) FEDERAL ENERGY EFFICIENCY FUND.—(1) The Secretary shall establish a Federal Energy Efficiency Fund to provide grants to agencies to assist them in meeting the requirements of section 543.

"(2) Not later than June 30, 1993, the Secretary shall issue guidelines to be followed by agencies submitting proposals for such grants. All agencies shall be eligible to submit proposals for grants under the Fund.

"(3) The Secretary shall award grants from the Fund after a competitive assessment of the technical and economic effectiveness of each agency proposal. The Secretary shall consider the following factors in determining whether to provide funding under this subsection:

"(A) The cost-effectiveness of the project.

"(B) The amount of energy and cost savings anticipated to the Federal Government.

"(C) The amount of funding committed to the project by the agency requesting financial assistance.

"(D) The extent that a proposal leverages financing from other non-Federal sources.

"(E) Any other factor which the Secretary determines will result in the greatest amount of energy and cost savings to the Federal Government.

"(4) There are authorized to be appropriated, to remain available to be expended, to carry out this subsection not more than $10,000,000 for fiscal year 1994, $50,000,000 for fiscal year 1995, and such sums as may be necessary for fiscal years thereafter.

"(c) UTILITY INCENTIVE PROGRAMS.—(1) Agencies are authorized and encouraged to participate in programs to increase energy efficiency and for water conservation or the management of electricity demand conducted by gas, water, or electric utilities and generally available to customers of such utilities.

"(2) Each agency may accept any financial incentive, goods, or services generally available from any such utility, to increase energy efficiency or to conserve water or manage electricity demand.

"(3) Each agency is encouraged to enter into negotiations with electric, water, and gas utilities to design cost-effective demand management and conservation incentive programs to address the unique needs of facilities utilized by such agency.

"(4) If an agency satisfies the criteria which generally apply to other customers of a utility incentive program, such agency may not be denied collection of rebates or other incentives.

"(5)(A) An amount equal to fifty percent of the energy and water cost savings realized by an agency (other than the Department of Defense) with respect to funds appropriated for any fiscal year beginning after fiscal year 1992 (including financial benefits resulting from energy savings performance contracts under title VIII and utility energy efficiency rebates) shall, subject to appropriation, remain available for expenditure by such agency for additional energy efficiency measures which may include related employee incentive programs, particularly at those facilities at which energy savings were achieved.

(B) Agencies shall establish a fund and maintain strict financial accounting and controls for savings realized and expenditures made under this subsection. Records maintained pursuant to this subparagraph shall be made available for public inspection upon request.

"(d) FINANCIAL INCENTIVE PROGRAM FOR FACILITY ENERGY MANAGERS.—(1) The Secretary shall, in consultation with the Task Force established pursuant to section 547, establish a financial bonus program to reward, with funds made available for such purpose, outstanding Federal facility energy managers in agencies and the United States Postal Service.

"(2) Not later than June 1, 1993, the Secretary shall issue procedures for implementing and conducting the award program, including the criteria to be used in selecting outstanding energy managers and contributors who have—

"(A) improved energy performance through increased energy efficiency;

"(B) implemented proven energy efficiency and energy conservation techniques, devices, equipment, or procedures;

"(C) developed and implemented training programs for facility energy managers, operators, and maintenance personnel;

"(D) developed and implemented employee awareness programs;

"(E) succeeded in generating utility incentives, shared energy savings contracts, and other federally approved performance based energy savings contracts;

"(F) made successful efforts to fulfill compliance with energy reduction mandates, including the provisions of section 543; and

"(G) succeeded in the implementation of the guidelines established under section 159.

"(3) There is authorized to be appropriated to carry out this subsection not more than $250,000 for each of the fiscal years 1993, 1994, and 1995.

(g) REPORTS.—Section 548 of such Act (42 U.S.C. 8258) is amended—

(1) in subsection (b)(1), by striking "including" and all that follows through the semicolon and inserting the following: "including—

"(A) a copy of the list of the exclusions made under sections 543(a)(2) and 543(c)(3); and

"(B) a statement detailing the amount of funds awarded to each agency under section 546(b), the energy and water conservation measures installed with such funds, the projected energy and water savings to be realized from installed measures, and, for each installed measure for which the projected energy and water savings reported in the previous year were not realized, the percentage of such projected savings that was not realized, the reasons such savings were not realized, and proposals for, and projected costs of, achieving such projected savings in the future;"; and

(2) by adding at the end the following new subsection:

"(c) OTHER REPORT.—The Secretary, in consultation with the Administrator of General Services, shall—

"(1) conduct a study and evaluate legal, institutional, and other constraints to connecting buildings owned or leased by the Federal Government to district heating and district cooling systems; and

"(2) not later than 18 months after the date of the enactment of this subsection, transmit to the Congress a report containing the findings and conclusions of such study, including recommendations for the development of streamlined processes for the consideration of connecting buildings owned or leased by the Federal Government to district heating and cooling systems.".

(h) DEMONSTRATION OF NEW TECHNOLOGY; SURVEY OF ENERGY SAVING POTENTIAL.—Such Act is amended—

42 USC 8259.

(1) by redesignating section 549 as section 551; and

(2) by inserting the following new sections after section 548:

42 USC 8258a.

"SEC. 549. DEMONSTRATION OF NEW TECHNOLOGY.

"(a) DEMONSTRATION PROGRAM.—Not later than January 1, 1994, the Secretary, in cooperation with the Administrator of General Services, shall establish a demonstration program to install, in federally owned facilities or federally assisted housing, energy conservation measures for which the Secretary has determined that such installation would accelerate commercial viability. In those cases where technologies are determined to be equivalent,

priority shall be given to those technologies that have received or are receiving Federal financial assistance.

"(b) SELECTION CRITERIA.—In addition to the determination under subsection (a), the Secretary shall select, in cooperation with the Administrator of General Services, proposals to be funded under this section on the basis of—

"(1) cost-effectiveness;

"(2) technical feasibility and system reliability in a working environment;

"(3) lack of market penetration in the Federal sector;

"(4) the potential needs of the proposing Federal agency for the technology, projected over 5 to 10 years;

"(5) the potential Federal sector market, projected over 5 to 10 years;

"(6) energy efficiency; and

"(7) other environmental benefits, including the projected reduction of greenhouse gas emissions and indoor air pollution.

"(c) PROPOSALS.—Federal agencies may submit to the Secretary, for each fiscal year, proposals for projects to be funded by the Secretary under this section. Each such proposal shall include—

"(1) a description of the proposed project emphasizing the innovative use of technology in the Federal sector;

"(2) a description of the technical reliability and cost-effectiveness data expected to be acquired;

"(3) an identification of the potential needs of the Federal agency for the technology;

"(4) a commitment to adopt the technology, if the project establishes its technical reliability and life cycle cost-effectiveness, to supply at least 10 percent of the Federal agency's potential needs identified under paragraph (3);

"(5) schedules and milestones for installing additional units; and

"(6) a technology transfer plan to publicize the results of the project.

"(d) PARTICIPATION BY GSA.—The Secretary may only select a project for funding under this section which is proposed to be carried out in a building under the jurisdiction of the General Services Administration if the project will be carried out by the Administrator of General Services. If such project involves a total expenditure in excess of $1,600,000, no appropriation shall be made for such project unless such project has been approved by a resolution adopted by the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate.

"(e) STUDY.—The Secretary shall conduct a study to evaluate the potential use of the purchasing power of the Federal Government to promote the development and commercialization of energy efficient products. The study shall identify products for which there is a high potential for Federal purchasing power to substantially promote their development and commercialization, and shall include a plan to develop such potential. The study shall be conducted in consultation with utilities, manufacturers, and appropriate nonprofit organizations concerned with energy efficiency. The Secretary shall report to the Congress on the results of the study not later than two years after the date of the enactment of this Act.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,000,000 for each of the fiscal years 1993, 1994, and 1995.

42 USC 8258b.

"SEC. 550. SURVEY OF ENERGY SAVING POTENTIAL.

"(a) IN GENERAL.—The Secretary shall, in consultation with the Interagency Energy Management Task Force established under section 547, carry out an energy survey for the purposes of—

"(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country;

"(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings; and

"(3) identifying barriers which may prevent an agency's ability to comply with section 543 and other energy management goals.

"(b) IMPLEMENTATION.—(1) The Secretary shall transmit to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, within 180 days after the date of the enactment of the Energy Policy Act of 1992, a plan for implementing this section.

"(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of the buildings of the types and in the climates that is representative of buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings. Such sample shall include, where appropriate, the following types of Federal facility space:

"(A) Housing.
"(B) Storage.
"(C) Office.
"(D) Services.
"(E) Schools.
"(F) Research and Development.
"(G) Industrial.
"(H) Prisons.
"(I) Hospitals.

"(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544.

"(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

"(A) employees of the Department of Energy; or

"(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

"(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

"(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, and the agencies who own the buildings involved in such project. Such report shall include an analysis of the probability of each agency achieving the 20 percent reduction goal established under section 543(a) of the National Energy Conservation Policy Act (42 U.S.C. 8253(a)).".

(i) TECHNICAL AMENDMENTS.—(1) Section 548 of such Act (42 U.S.C. 8258) is amended—

(A) in subsection (a)(2), by striking "546(b)" and inserting in lieu thereof "546(a)(2)"; and

(B) in subsection (b), in the material preceding paragraph (1), by striking "annually," and insert the following: ", not later than April 2 of each year,".

(2) The table of contents of such Act is amended by striking the item for section 549 and inserting in lieu thereof the following new items:

"Sec. 549. Demonstration of new technology.
"Sec. 550. Survey of energy saving potential.
"Sec. 551. Definitions.".

(3) Section 3 of the Federal Energy Management Improvement Act of 1988 (42 U.S.C. 8253 note) is hereby repealed.

SEC. 153. GENERAL SERVICES ADMINISTRATION FEDERAL BUILDINGS FUND.

Section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), is amended—

(1) in paragraph (1), by inserting "(to be known as the Federal Buildings Fund)" after "a fund"; and

(2) by adding at the end the following new paragraphs:

"(7)(A) The Administrator is authorized to receive amounts from rebates or other cash incentives related to energy savings and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (D).

"(B) The Administrator may accept, from a utility, goods or services which enhance the energy efficiency of Federal facilities.

"(C) In the administration of any real property for which the Administrator leases and pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in such real property if the payback period for such improvement is at least 2 years less than the remainder of the term of the lease.

"(D) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate for energy management improvement programs—

"(i) amounts received and deposited in the Federal Buildings Fund under subparagraph (A);

"(ii) goods and services received under subparagraph (B); and

"(iii) amounts the Administrator determines are not needed for other authorized projects and are otherwise available to implement energy efficiency programs.

"(8)(A) The Administrator is authorized to receive amounts from the sale of recycled materials and shall deposit such amounts in the Federal Buildings Fund for use as provided in subparagraph (B).

"(B) The Administrator may, in addition to amounts appropriated for such purposes and without regard to paragraph (2), obligate amounts received and deposited in the Federal Buildings Fund under subparagraph (A) for programs which—

"(i) promote further source reduction and recycling programs; and

"(ii) encourage employees to participate in recycling programs by providing funding for child care.".

42 USC 8262a.

SEC. 154. REPORT BY GENERAL SERVICES ADMINISTRATION.

Not later than one year after the date of the enactment of this Act, and annually thereafter, the Administrator of General Services shall report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives on the activities of the General Services Administration conducted pursuant to this subtitle.

SEC. 155. ENERGY SAVINGS PERFORMANCE CONTRACTS.

(a) IN GENERAL.—Section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287) is amended—

(1) by striking "The head" and inserting the following: "(a) IN GENERAL.—(1) The head"; and

(2) by inserting at the end the following:

"(2)(A) Contracts under this title shall be energy savings performance contracts and shall require an annual energy audit and specify the terms and conditions of any Government payments and performance guarantees. Any such performance guarantee shall provide that the contractor is responsible for maintenance and repair services for any energy related equipment, including computer software systems.

"(B) Aggregate annual payments by an agency to both utilities and energy savings performance contractors, under an energy savings performance contract, may not exceed the amount that the agency would have paid for utilities without an energy savings performance contract (as estimated through the procedures developed pursuant to this section) during contract years. The contract shall provide for a guarantee of savings to the agency, and shall establish payment schedules reflecting such guarantee, taking into account any capital costs under the contract.

"(C) Federal agencies may incur obligations pursuant to such contracts to finance energy conservation measures provided guaranteed savings exceed the debt service requirements.

"(D) A Federal agency may enter into a multiyear contract under this title for a period not to exceed 25 years, without funding of cancellation charges before cancellation, if—

"(i) such contract was awarded in a competitive manner pursuant to subsection (b)(2), using procedures and methods established under this title;

"(ii) funds are available and adequate for payment of the costs of such contract for the first fiscal year;

"(iii) 30 days before the award of any such contract that contains a clause setting forth a cancellation ceiling in excess of $750,000, the head of such agency gives written notification of such proposed contract and of the proposed cancellation ceiling for such contract to the appropriate authorizing and appropriating committees of the Congress; and

"(iv) such contract is governed by part 17.1 of the Federal Acquisition Regulation promulgated under section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) or the applicable rules promulgated under this title.

"(b) IMPLEMENTATION.—(1)(A) The Secretary, with the concurrence of the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act, not later than 180 days after the date of the enactment of the Energy Policy Act of 1992, shall, by rule, establish appropriate procedures and methods for use by Federal agencies to select, monitor, and terminate contracts with energy service contractors in accordance with laws governing Federal procurement that will achieve the intent of this section in a cost-effective manner. In developing such procedures and methods, the Secretary, with the concurrence of the Federal Acquisition Regulatory Council, shall determine which existing regulations are inconsistent with the intent of this section and shall formulate substitute regulations consistent with laws governing Federal procurement.

"(B) The procedures and methods established pursuant to subparagraph (A) shall be the procedures and contracting methods for selection, by an agency, of a contractor to provide energy savings performance services. Such procedures and methods shall provide for the calculation of energy savings based on sound engineering and financial practices.

"(2) The procedures and methods established pursuant to paragraph (1)(A) shall—

"(A) allow the Secretary to—

"(i) request statements of qualifications, which shall, at a minimum, include prior experience and capabilities of contractors to perform the proposed types of energy savings services and financial and performance information, from firms engaged in providing energy savings services; and

"(ii) from the statements received, designate and prepare a list, with an update at least annually, of those firms that are qualified to provide energy savings services;

"(B) require each agency to use the list prepared by the Secretary pursuant to subparagraph (A)(ii) unless the agency elects to develop an agency list of firms qualified to provide energy savings performance services using the same selection procedures and methods as are required of the Secretary in preparing such lists; and

"(C) allow the head of each agency to—

"(i) select firms from the list prepared pursuant to subparagraph (A)(ii) or the list prepared by the agency pursuant to subparagraph (B) to conduct discussions concerning a particular proposed energy savings project, including requesting a technical and price proposal from such selected firms for such project;

"(ii) select from such firms the most qualified firm to provide energy savings services based on technical and price proposals and any other relevant information;

"(iii) permit receipt of unsolicited proposals for energy savings performance contracting services from a firm that such agency has determined is qualified to provide such services under the procedures established pursuant to paragraph (1)(A), and require agency facility managers to place a notice in the Commerce Business Daily announcing they have received such a proposal and invite other similarly qualified firms to submit competing proposals; and

"(iv) enter into an energy savings performance contract with a firm qualified under clause (iii), consistent with the procedures and methods established pursuant to paragraph (1)(A).

"(3) A firm not designated as qualified to provide energy savings services under paragraph (2)(A)(i) or paragraph (2)(B) may request a review of such decision to be conducted in accordance with procedures to be developed by the board of contract appeals of the General Services Administration. Procedures developed by the board of contract appeals under this paragraph shall be substantially equivalent to procedures established under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f)).

"(c) SUNSET AND REPORTING REQUIREMENTS.—(1) The authority to enter into new contracts under this section shall cease to be effective five years after the date procedures and methods are established under subsection (b).

"(2) Beginning one year after the date procedures and methods are established under subsection (b), and annually thereafter, for a period of five years after such date, the Comptroller General of the United States shall report on the implementation of this section. Such reports shall include, but not be limited to, an assessment of the following issues:

"(A) The quality of the energy audits conducted for the agencies.

"(B) The Government's ability to maximize energy savings.

"(C) The total energy cost savings accrued by the agencies that have entered into such contracts.

"(D) The total costs associated with entering into and performing such contracts.

"(E) A comparison of the total costs incurred by agencies under such contracts and the total costs incurred under similar contracts performed in the private sector.

"(F) The number of firms selected as qualified firms under this section and their respective shares of awarded contracts.

"(G) The number of firms engaged in similar activity in the private sector and their respective market shares.

"(H) The number of applicant firms not selected as qualified firms under this section and the reason for their nonselection.

"(I) The frequency with which agencies have utilized the services of Government labs to perform any of the functions specified in this section.

"(J) With the respect to the final report submitted pursuant to this paragraph, an assessment of whether the contracting procedures developed pursuant to this section and utilized by agencies have been effective and whether continued use of

such procedures, as opposed to the procedures provided by existing public contract law, is necessary for implementation of successful energy savings performance contracts.".

(b) DEFINITION.—Section 804 of such Act (42 U.S.C. 8287c) is amended—

(1) in the material preceding paragraph (1), by striking "title—" and inserting "title, the following definitions apply:";

(2) in paragraph (1), by striking "the" and inserting "The" and by striking ", and" and inserting a period;

(3) in paragraph (2), by striking "the term" and inserting "The term"; and

(4) by adding at the end the following:

"(3) The terms 'energy savings contract' and 'energy savings performance contract' mean a contract which provides for the performance of services for the design, acquisition, installation, testing, operation, and, where appropriate, maintenance and repair, of an identified energy conservation measure or series of measures at one or more locations. Such contracts—

"(A) may provide for appropriate software licensing agreements; and

"(B) shall, with respect to an agency facility that is a public building as such term is defined in section 13(1) of the Public Buildings Act of 1959 (40 U.S.C. 612(1)), be in compliance with the prospectus requirements and procedures of section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606).

"(4) The term 'energy conservation measures' has the meaning given such term in section 551(4).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) The title heading for title VIII of such Act is amended to read as follows:

"TITLE VIII—ENERGY SAVINGS PERFORMANCE CONTRACTS".

(2) The table of contents of such Act is amended by striking the item relating to title VIII and inserting the following: "ENERGY SAVINGS PERFORMANCE CONTRACTS".

SEC. 156. INTERGOVERNMENTAL ENERGY MANAGEMENT PLANNING AND COORDINATION. 42 USC 8262b.

(a) CONFERENCE WORKSHOPS.—The Administrator of General Services, in consultation with the Secretary and the Task Force, shall hold regular, biennial conference workshops in each of the 10 standard Federal regions on energy management, conservation, efficiency, and planning strategy. The Administrator shall work and consult with the Department of Energy and other Federal agencies to plan for particular regional conferences. The Administrator shall invite Department of Energy, State, local, tribal, and county public officials who have responsibilities for energy management or may have an interest in such conferences and shall seek the input of, and be responsive to, the views of such officials in the planning and organization of such workshops.

(b) FOCUS OF WORKSHOPS.—Such workshops and conferences shall focus on the following (but may include other topics):

(1) Developing strategies among Federal, State, tribal, and local governments to coordinate energy management policies

and to maximize available intergovernmental energy management resources within the region regarding the use of governmental facilities and buildings.

(2) The design, construction, maintenance, and retrofitting of governmental facilities to incorporate energy efficient techniques.

(3) Procurement and use of energy efficient products.

(4) Dissemination of energy information on innovative programs, technologies, and methods which have proven successful in government.

(5) Technical assistance to design and incorporate effective energy management strategies.

(c) ESTABLISHMENT OF WORKSHOP TIMETABLE.—As a part of the first report to be submitted pursuant to section 154, the Administrator shall set forth the schedule for the regional energy management workshops to be conducted under this section. Not less than five such workshops shall be held by September 30, 1993, and at least one such workshop shall be held in each of the 10 Federal regions every two years beginning on September 30, 1993.

42 USC 8262c.

SEC. 157. FEDERAL AGENCY ENERGY MANAGEMENT TRAINING.

(a) ENERGY MANAGEMENT TRAINING.—(1) Each executive department described under section 101 of title 5, United States Code, the Environmental Protection Agency, the National Aeronautics and Space Administration, the General Services Administration, and the United States Postal Service shall establish and maintain a program to ensure that facility energy managers are trained energy managers. Such programs shall be managed—

(A) by the department or agency representative on the Task Force; or

(B) if a department or agency is not represented on the Task Force, by the designee of the head of such department or agency.

(2) Departments and agencies described in paragraph (1) shall encourage appropriate employees to participate in energy manager training courses. Employees may enroll in courses of study in the areas described in section 151(3) including, but not limited to, courses offered by—

(A) private or public educational institutions;

(B) Federal agencies; or

(C) professional associations.

(b) REPORT TO TASK FORCE.—(1) Each department and agency described in subsection (a)(1) shall, not later than 60 days following the date of the enactment of this Act, report to the Task Force the following information:

(A) Those individuals employed by such department or agency on the date of the enactment of this Act who qualify as trained energy managers.

(B) The General Schedule (GS) or grade level at which each of the individuals described in subparagraph (A) is employed.

(C) The facility or facilities for which such individuals are responsible or otherwise stationed.

(2) The Secretary shall provide a summary of the reports described in paragraph (1) to the Congress as part of the first report submitted under section 548 of the National Energy Con-

servation Policy Act (42 U.S.C. 8258) after the date of the enactment of this Act.

(c) REQUIREMENTS AT FEDERAL FACILITIES.—(1) Not later than one year after the date of the enactment of this Act, the departments and agencies described under subsection (a)(1) shall upgrade their energy management capabilities by—

(A) designating facility energy supervisors;

(B) encouraging facility energy supervisors to become trained energy managers; and

(C) increasing the overall number of trained energy managers within such department or agency to a sufficient level to ensure effective implementation of this Act.

(2) Departments and agencies described in subsection (a)(1) may hire trained energy managers to be facility energy supervisors. Trained energy managers, including those who are facility supervisors as well as other trained personnel, shall focus their efforts on improving energy efficiency in the following facilities—

(A) department or agency facilities identified as most costly to operate or most energy inefficient; or

(B) other facilities identified by the department or agency head as having significant energy savings potential.

(d) ANNUAL REPORT TO SECRETARY AND CONGRESS.—Each department and agency listed in subsection (a)(1) shall report to the Secretary on the status and implementation of the requirements of this section. The Secretary shall include a summary of each such report in the annual report to Congress as required under section 548(b) of the National Energy Conservation Policy Act (42 U.S.C. 8258).

SEC. 158. ENERGY AUDIT TEAMS. 42 USC 8262d.

(a) ESTABLISHMENT.—The Secretary shall assemble from existing personnel with appropriate expertise, and with particular utilization of the national laboratories, and make available to all Federal agencies, one or more energy audit teams which shall be equipped with instruments and other advanced equipment needed to perform energy audits of Federal facilities.

(b) MONITORING PROGRAMS.—The Secretary shall also assist in establishing, at each site that has utilized an energy audit team, a program for monitoring the implementation of energy efficiency improvements based upon energy audit team recommendations, and for recording the operating history of such improvements.

SEC. 159. FEDERAL ENERGY COST ACCOUNTING AND MANAGEMENT. 42 USC 8262e.

(a) GUIDELINES.—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in cooperation with the Secretary, the Administrator of General Services, and the Secretary of Defense, shall establish guidelines to be employed by each Federal agency to assess accurate energy consumption for all buildings or facilities which the agency owns, operates, manages or leases, where the Government pays utilities separate from the lease and the Government operates the leased space. Such guidelines are to be used in reports required under section 548 of the National Energy Conservation Policy Act (42 U.S.C. 8258). Each agency shall implement such guidelines no later than 120 days after their establishment. Each facility energy manager shall maintain energy consumption and energy cost records for review by the Inspector General, the Congress, and the general public.

(b) CONTENTS OF GUIDELINES.—Such guidelines shall include the establishment of a monitoring system to determine—

(1) which facilities are the most costly to operate when measured on an energy consumption per square foot basis or other relevant analytical basis;

(2) unusual or abnormal changes in energy consumption; and

(3) the accuracy of utility charges for electric and gas consumption.

(c) FEDERALLY LEASED SPACE ENERGY REPORTING REQUIREMENT.—The Administrator of General Services shall include, in each report submitted under section 154, the estimated energy cost of leased buildings or space in which the Federal Government does not directly pay the utility bills.

42 USC 8262f.

SEC. 160. INSPECTOR GENERAL REVIEW AND AGENCY ACCOUNTABILITY.

(a) AUDIT SURVEY.—Not later than 120 days after the date of the enactment of this Act, each Inspector General created to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2) of the Inspector General Act of 1978 (5 U.S.C. App.), and the Chief Postal Inspector of the United States Postal Service, in accordance with section 8E(f)(1) as established by section 8E(a)(2) of the Inspector General Act Amendments of 1988 (Public Law 100–504) shall—

(1) identify agency compliance activities to meet the requirements of section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253) and any other matters relevant to implementing the goals of such Act; and

(2) determine if the agency has the internal accounting mechanisms necessary to assess the accuracy and reliability of energy consumption and energy cost figures required under such section.

(b) PRESIDENTS COUNCIL ON INTEGRITY AND EFFICIENCY REPORT TO CONGRESS.—Not later than 150 days after the date of the enactment of this Act, the President's Council on Integrity and Efficiency shall submit a report to the Committee on Energy and Natural Resources and the Committee on Governmental Affairs of the Senate, the Committee on Energy and Commerce, the Committee on Government Operations, and the Committee on Public Works and Transportation of the House of Representatives, on the review conducted by the Inspector General of each agency under this section.

(c) INSPECTOR GENERAL REVIEW.—Each Inspector General established under section 2 of the Inspector General Act of 1978 (5 U.S.C. App.) is encouraged to conduct periodic reviews of agency compliance with part 3 of title V of the National Energy Conservation Policy Act, the provisions of this subtitle, and other laws relating to energy consumption. Such reviews shall not be inconsistent with the performance of the required duties of the Inspector General's office.

42 USC 8262g.

SEC. 161. PROCUREMENT AND IDENTIFICATION OF ENERGY EFFICIENT PRODUCTS.

(a) PROCUREMENT.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, each shall undertake a program to include energy efficient products in carrying out their procurement and supply functions.

(b) IDENTIFICATION PROGRAM.—The Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, in consultation with the Secretary of Energy, each shall implement, in conjunction with carrying out their procurement and supply functions, a program to identify and designate those energy efficient products that offer significant potential savings, using, to the extent practicable, the life cycle cost methods and procedures developed under section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254). The Secretary of Energy shall, to the extent necessary to carry out this section and after consultation with the aforementioned agency heads, provide estimates of the degree of relative energy efficiency of products.

(c) GUIDELINES.—The Administrator for Federal Procurement Policy, in consultation with the Administrator of General Services, the Secretary of Energy, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall issue guidelines to encourage the acquisition and use by all Federal agencies of products identified pursuant to this section. The Secretary of Defense and the Director of the Defense Logistics Agency shall consider, and place emphasis on, the acquisition of such products as part of the Agency's ongoing review of military specifications.

(d) REPORT TO CONGRESS.—Not later than December 31 of 1993 and of each year thereafter, the Secretary of Energy, in consultation with the Administrator for Federal Procurement Policy, the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency, shall report on the progress, status, activities, and results of the programs under subsections (a), (b), and (c). The report shall include—

(1) the types and functions of each product identified under subsection (b), and efforts undertaken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to encourage the acquisition and use of such products;

(2) the actions taken by the Administrator of General Services, the Secretary of Defense, and the Director of the Defense Logistics Agency to identify products under subsection (b), the barriers which inhibit implementation of identification of such products, and recommendations for legislative action, if necessary;

(3) progress on the development and issuance of guidelines under subsection (c);

(4) an indication of whether energy cost savings technologies identified by the Advanced Building Technology Council, under section 809(h) of the National Housing Act (12 U.S.C. 1701j–2), have been used in the identification of products under subsection (b);

(5) an estimate of the potential cost savings to the Federal Government from acquiring products identified under subsection (b) with respect to which energy is a significant component of life cycle cost, based on the quantities of such products that could be utilized throughout the Government; and

(6) the actual quantities acquired of products described in paragraph (5).

SEC. 162. FEDERAL ENERGY EFFICIENCY FUNDING STUDY.

(a) STUDY.—The Secretary shall, in consultation with the Secretary of the Treasury, the Director of the Office of Management

and Budget, the Administrator of General Services, and such other individuals and organizations as the Secretary deems appropriate, conduct a detailed study of options for the financing of energy and water conservation measures required under part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251 et seq.) and all applicable Executive orders. Such study shall, taking into account the unique characteristics of Federal agencies, consider and analyze—

(1) the Federal financial investment necessary to comply with such requirements;

(2) the use of revolving funds and other funding mechanisms which offer stable, long-term financing of energy and water conservation measures; and

(3) the means for capitalizing such funds.

(b) REPORT TO CONGRESS.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing the results of the study required under subsection (a).

42 USC 8262h.

SEC. 163. UNITED STATES POSTAL SERVICE ENERGY REGULATIONS.

(a) IN GENERAL.—The Postmaster General shall issue regulations to ensure the reliable and accurate accounting of energy consumption costs for all buildings or facilities which it owns, leases, operates, or manages. Such regulations shall—

(1) establish a monitoring system to determine which facilities are the most costly to operate on an energy consumption per square foot basis or other relevant analytical basis;

(2) identify unusual or abnormal changes in energy consumption; and

(3) check the accuracy of utility charges for electricity and gas consumption.

(b) IDENTIFICATION OF ENERGY EFFICIENCY PRODUCTS.—The Postmaster General shall actively undertake a program to identify and procure energy efficiency products for use in its facilities. In carrying out this subsection, the Postmaster General shall, to the maximum extent practicable, incorporate energy efficient information available on Federal Supply Schedules maintained by the General Services Administration and the Defense Logistics Agency.

42 USC 8262h note.

SEC. 164. UNITED STATES POSTAL SERVICE BUILDING ENERGY SURVEY AND REPORT.

(a) IN GENERAL.—The Postmaster General shall conduct an energy survey, as defined in section 551(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the United States Postal Service in different areas of the country;

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar United States Postal Service buildings; and

(3) identifying barriers which may prevent the United States Postal Service from complying with energy management goals, including Executive Orders No. 12003 and 12579.

(b) IMPLEMENTATION.—(1) The Postmaster General shall transmit to the Committee on Governmental Affairs and the Committee

on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives, within 180 days after the date of the enactment of this Act, a plan for implementing this section.

(2) The Postmaster General shall designate buildings to be surveyed in the project so as to obtain a sample of United States Postal Service facilities of the types and in the climates that consume the major portion of the energy consumed by the United States Postal Service.

(3) For the purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of the facility or the remaining term of a lease of a building leased by the United States Postal Service.

(c) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Postmaster General shall transmit a report of the findings and conclusions of the survey to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives.

SEC. 165. UNITED STATES POSTAL SERVICE ENERGY MANAGEMENT REPORT. 42 USC 8262i.

Not later than one year after the date of the enactment of this Act, and not later than January 1 of each year thereafter, the Postmaster General shall submit a report to the Committee on Governmental Affairs and the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce and the Committee on Post Office and Civil Service of the House of Representatives on the United States Postal Service's building management program as it relates to energy efficiency. The report shall include, but not be limited to—

(1) a description of actions taken to reduce energy consumption;

(2) future plans to reduce energy consumption;

(3) an assessment of the success of the energy conservation program;

(4) a statement of energy costs incurred in operating and maintaining all United States Postal Service facilities; and

(5) the status of the energy efficient procurement program established under section 163.

SEC. 166. ENERGY MANAGEMENT REQUIREMENTS FOR THE UNITED STATES POSTAL SERVICE. 42 USC 8262j.

(a) ENERGY MANAGEMENT REQUIREMENTS FOR POSTAL FACILITIES.—(1) The Postmaster General shall, to the maximum extent practicable, ensure that each United States Postal Service facility meets the energy management requirements for Federal buildings and agencies specified in section 543 of the National Energy Conservation Policy Act (42 U.S.C. 8253).

(2) The Postmaster General may exclude from the requirements of such section any facility or collection of facilities, and the associated energy consumption and gross square footage if the Postmaster General finds that compliance with the requirements of such section would be impracticable. A finding of impracticability shall be based on the energy intensiveness of activities carried out in such facility

or collection of facilities, the type and amount of energy consumed, or the technical feasibility of making the desired changes. The Postmaster General shall identify and list in the report required under section 165 the facilities designated by it for such exclusion.

(b) IMPLEMENTATION STEPS.—In carrying subsection (a), the Postmaster General shall—

(1) not later than 1 year after the date of the enactment of this Act, prepare or update, as appropriate, a plan (which may be submitted as part of the first report submitted under section 165)—

(A) describing how this section will be implemented;

(B) designating personnel primarily responsible for achieving the requirements of this section; and

(C) identifying high priority projects;

(2) perform energy surveys of United States Postal Service facilities as necessary to achieve the requirements of this section;

(3) install those energy conservation measures that will attain the requirements of this section in a cost-effective manner as defined in section 544 of the National Energy Conservation Policy Act (42 U.S.C. 8254); and

(4) ensure that the operation and maintenance procedures applied under this section are continued.

42 USC 8262k.

SEC. 167. GOVERNMENT CONTRACT INCENTIVES.

(a) ESTABLISHMENT OF CRITERIA.—Each agency, in consultation with the Federal Acquisition Regulatory Council, shall establish criteria for the improvement of energy efficiency in Federal facilities operated by Federal Government contractors or subcontractors.

(b) PURPOSE OF CRITERIA.—The criteria established under subsection (a) shall be used to encourage Federal contractors, and their subcontractors, which manage and operate federally-owned facilities, to adopt and utilize energy conservation measures designed to reduce energy costs in Government-owned and contractor-operated facilities and which are ultimately borne by the Federal Government.

40 USC 166 note.

SEC. 168. ENERGY MANAGEMENT REQUIREMENTS FOR CONGRESSIONAL BUILDINGS.

(a) IN GENERAL.—The Architect of the Capitol (hereafter in this section referred to as the "Architect") shall undertake a program of analysis and, as necessary, retrofit of the Capitol Building, the Senate Office Buildings, the House Office Buildings, and the Capitol Grounds, in accordance with subsection (b).

(b) PROGRAM.—

(1) LIGHTING.—

(A) IMPLEMENTATION.—

(i) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act and subject to the availability of funds to carry out this section, the Architect shall begin implementing a program to replace in each building described in subsection (a) all inefficient office and general use area fluorescent lighting systems with systems that incorporate the best available design and technology and that have payback periods of 10 years or less, as determined by using methods and procedures established under

section 544(a) of the National Energy and Conservation Policy Act (42 U.S.C. 8254(a)).

(ii) REPLACEMENT OF INCANDESCENT LIGHTING.—Whenever practicable in office and general use areas, the Architect shall replace incandescent lighting with efficient fluorescent lighting.

(B) COMPLETION.—Subject to the availability of funds to carry out this section, the program described in subparagraph (A) shall be completed not later than 5 years after the date of the enactment of this Act.

(2) EVALUATION AND REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of the enactment of this Act, the Architect shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report evaluating potential energy conservation measures for each building described in subsection (a) in the areas of heating, ventilation, air conditioning equipment, insulation, windows, domestic hot water, food service equipment, and automatic control equipment.

(B) COSTS.—The report submitted under subparagraph (A) shall detail the projected installation cost, energy and cost savings, and payback period of each energy conservation measure, as determined by using methods and procedures established under section 544(a) of the National Energy Conservation Policy Act (42 U.S.C. 8254(a)).

(3) REVIEW AND APPROVAL OF ENERGY CONSERVATION MEASURES.—The Committee on Public Works and Transportation of the House of Representatives and the Committee on Rules and Administration of the Senate shall review the energy conservation measures identified in accordance with paragraph (2) and shall approve any such measure before it may be implemented.

(4) UTILITY INCENTIVE PROGRAMS.—In carrying out this section, the Architect is authorized and encouraged to—

(A) accept any rebate or other financial incentive offered through a program for energy conservation or demand management of electricity, water, or gas that—

(i) is conducted by an electric, natural gas, or water utility;

(ii) is generally available to customers of the utility; and

(iii) provides for the adoption of energy efficiency technologies or practices that the Architect determines are cost-effective for the buildings described in subsection (a); and

(B) enter into negotiations with electric and natural gas utilities to design a special demand management and conservation incentive program to address the unique needs of the buildings described in subsection (a).

(5) USE OF SAVINGS.—The Architect shall use an amount equal to the rebate or other savings from the financial incentive programs under paragraph (4)(A), without additional authorization or appropriation, for the implementation of additional energy and water conservation measures in the buildings under the jurisdiction of the Architect.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

Subtitle G—Miscellaneous

SEC. 171. ENERGY INFORMATION.

(a) ENERGY INFORMATION ADMINISTRATION.—Section 205(i)(1) of the Department of Energy Organization Act (42 U.S.C. 7135(i)(1)) is amended—

(1) in the matter preceding subparagraph (A), by striking "on at least a triennial basis" and inserting in lieu thereof the following: "at least once every two years"; and

(2) by amending subparagraph (D) to read as follows:

"(D) use of nonpurchased sources of energy, such as solar, wind, biomass, geothermal, waste by-products, and cogeneration.".

(b) RENEWABLE ENERGY INFORMATION.—Section 205 of the Department of Energy Organization Act (42 U.S.C. 7135) is amended by adding at the end the following new subsections:

"(j)(1) The Administrator shall annually collect and publish the results of a survey of electricity production from domestic renewable energy resources, including production in kilowatt hours, total installed capacity, capacity factor, and any other measure of production efficiency. Such results shall distinguish between various renewable energy resources.

"(2) In carrying out this subsection, the Administrator shall—

"(A) utilize, to the maximum extent practicable and consistent with the faithful execution of his responsibilities under this Act, reliable statistical sampling techniques; and

"(B) otherwise take into account the reporting burdens of energy information by small businesses.

"(3) As used in this subsection, the term 'renewable energy resources' includes energy derived from solar thermal, geothermal, biomass, wind, and photovoltaic resources.

"(k) Pursuant to section 52(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. 790a(a)), the Administrator shall—

"(1) conduct surveys of residential and commercial energy use at least once every 3 years, and make such information available to the public;

"(2) when surveying electric utilities, collect information on demand-side management programs conducted by such utilities, including information regarding the types of demand-side management programs being operated, the quantity of measures installed, expenditures on demand-side management programs, estimates of energy savings resulting from such programs, and whether the savings estimates were verified; and

"(3) in carrying out this subsection, take into account reporting burdens and the protection of proprietary information as required by law.

"(l) In order to improve the ability to evaluate the effectiveness of the Nation's energy efficiency policies and programs, the Administrator shall, in carrying out the data collection provisions of subsections (i) and (k), consider—

"(1) expanding the survey instruments to include questions regarding participation in Government and utility conservation programs;

"(2) expanding fuel-use surveys in order to provide greater detail on energy use by user subgroups; and

"(3) expanding the scope of data collection on energy efficiency and load-management programs, including the effects of building construction practices such as those designed to obtain peak load shifting.".

SEC. 172. DISTRICT HEATING AND COOLING PROGRAMS.

42 USC 13451 note.

(a) IN GENERAL.—The Secretary, in consultation with appropriate industry organizations, shall conduct a study to—

(1) assess existing district heating and cooling technologies to determine cost-effectiveness, technical performance, energy efficiency, and environmental impacts as compared to alternative methods for heating and cooling buildings;

(2) estimate the economic value of benefits that may result from implementation of district heating and cooling systems but that are not currently recognized, such as reduced emissions of air pollutants, local economic development, and energy security;

(3) evaluate the cost-effectiveness, including the economic value referred to in paragraph (2), of cogenerated district heating and cooling technologies compared to other alternatives for generating or conserving electricity; and

(4) assess and make recommendations for reducing institutional and other constraints on the implementation of district heating and cooling systems.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report containing the findings, conclusions and recommendations, if any, of the Secretary for carrying out Federal, State, and local programs as a result of the study conducted under subsection (a).

SEC. 173. STUDY AND REPORT ON VIBRATION REDUCTION TECHNOLOGIES.

42 USC 13451 note.

(a) IN GENERAL.—The Secretary shall, in consultation with the appropriate industry representatives, conduct a study to assess the cost-effectiveness, technical performance, energy efficiency, and environmental impacts of active noise and vibration cancellation technologies that use fast adapting algorithms.

(b) PROCEDURE.—In carrying out such study, the Secretary shall—

(1) estimate the potential for conserving energy and the economic and environmental benefits that may result from implementing active noise and vibration abatement technologies in demand side management; and

(2) evaluate the cost-effectiveness of active noise and vibration cancellation technologies as compared to other alternatives for reducing noise and vibration.

(c) REPORT.—The Secretary shall transmit to the Congress, not later than 12 months after the date of the enactment of this Act, a report containing the findings and conclusions of the study carried out under this section.

(d) DEMONSTRATION.—The Secretary may, based on the findings and conclusions of the study carried out under this section, conduct at least one project designed to demonstrate the commercial applica-

tion of active noise and vibration cancellation technologies using fast adapting algorithms in products or equipment with a significant potential for increased energy efficiency.

TITLE II—NATURAL GAS

SEC. 201. FEWER RESTRICTIONS ON CERTAIN NATURAL GAS IMPORTS AND EXPORTS.

Section 3 of the Natural Gas Act (15 U.S.C. 717b) is amended by inserting "(a)" before "After six months"; and by adding at the end the following new subsections:

"(b) With respect to natural gas which is imported into the United States from a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, and with respect to liquefied natural gas—

"(1) the importation of such natural gas shall be treated as a 'first sale' within the meaning of section 2(21) of the Natural Gas Policy Act of 1978; and

"(2) the Commission shall not, on the basis of national origin, treat any such imported natural gas on an unjust, unreasonable, unduly discriminatory, or preferential basis.

"(c) For purposes of subsection (a), the importation of the natural gas referred to in subsection (b), or the exportation of natural gas to a nation with which there is in effect a free trade agreement requiring national treatment for trade in natural gas, shall be deemed to be consistent with the public interest, and applications for such importation or exportation shall be granted without modification or delay.".

SEC. 202. SENSE OF CONGRESS.

It is the sense of the Congress that natural gas consumers and producers, and the national economy, are best served by a competitive natural gas wellhead market.

TITLE III—ALTERNATIVE FUELS—GENERAL

42 USC 13211.

SEC. 301. DEFINITIONS.

For purposes of this title, title IV, and title V (unless otherwise specified)—

(1) the term "Administrator" means the Administrator of the Environmental Protection Agency;

(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

(3) the term "alternative fueled vehicle" means a dedicated vehicle or a dual fueled vehicle;

(4) the term "comparable conventionally fueled motor vehicle" means a motor vehicle which is, as determined by the Secretary—

(A) commercially available at the time the comparability of the vehicle is being assessed;

(B) powered by an internal combustion engine that utilizes gasoline or diesel fuel as its fuel source; and

(C) provides passenger capacity or payload capacity the same or similar to the alternative fueled vehicle to which it is being compared;

(5) "covered person" means a person that owns, operates, leases, or otherwise controls—

(A) a fleet that contains at least 20 motor vehicles that are centrally fueled or capable of being centrally fueled, and are used primarily within a metropolitan statistical area or a consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of 250,000 or more; and

(B) at least 50 motor vehicles within the United States;

(6) the term "dedicated vehicle" means—

(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

(7) the term "domestic" means derived from resources within the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other Commonwealth, territory, or possession of the United States, including the outer Continental Shelf, as such term is defined in the Outer Continental Shelf Lands Act, or from resources within a Nation with which there is in effect a free trade agreement requiring national treatment for trade;

(8) the term "dual fueled vehicle" means—

(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel;

(9) the term "fleet" means a group of 20 or more light duty motor vehicles, used primarily in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by a governmental entity or other person who owns, operates, leases, or otherwise controls 50 or more such vehicles, by any person who controls such person, by any person controlled by such person, and by any person under common control with such person, except that such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles held for sale by motor vehicle dealers, including demonstration motor vehicles;

(C) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(D) law enforcement motor vehicles;

(E) emergency motor vehicles;

(F) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons;

(G) nonroad vehicles, including farm and construction motor vehicles; or

(H) motor vehicles which under normal operations are garaged at personal residences at night;

(10) the term "fuel supplier" means—

(A) any person engaged in the importing, refining, or processing of crude oil to produce motor fuel;

(B) any person engaged in the importation, production, storage, transportation, distribution, or sale of motor fuel; and

(C) any person engaged in generating, transmitting, importing, or selling at wholesale or retail electricity;

(11) the term "light duty motor vehicle" means a light duty truck or light duty vehicle, as such terms are defined under section 216(7) of the Clean Air Act (42 U.S.C. 7550(7)), of less than or equal to 8,500 pounds gross vehicle weight rating;

(12) the term "motor fuel" means any substance suitable as a fuel for a motor vehicle;

(13) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2)); and

(14) the term "replacement fuel" means the portion of any motor fuel that is methanol, ethanol, or other alcohols, natural gas, liquefied petroleum gas, hydrogen, coal derived liquid fuels, fuels (other than alcohol) derived from biological materials, electricity (including electricity from solar energy), ethers, or any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits.

SEC. 302. AMENDMENTS TO THE ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENTS.—Section 400AA of the Energy Policy and Conservation Act (42 U.S.C. 6374) is amended—

(1) in subsection (a)(1)—

(A) by striking "passenger automobiles and light duty trucks" and inserting in lieu thereof "vehicles"; and

(B) by striking "alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles." and inserting in lieu thereof "alternative fueled vehicles. In no event shall the number of such vehicles acquired be less than the number required under section 303 of the Energy Policy Act of 1992.";

(2) by amending subsection (a)(3) to read as follows:

"(3)(A) To the extent practicable, the Secretary shall acquire both dedicated and dual fueled vehicles, and shall ensure that each type of alternative fueled vehicle is used by the Federal Government.

"(B) Vehicles acquired under this section shall be acquired from original equipment manufacturers. If such vehicles are not available from original equipment manufacturers, vehicles converted to use alternative fuels may be acquired if, after conversion, the original equipment manufacturer's warranty continues to apply to such vehicles, pursuant to an agreement between the original equipment manufacturer and the person performing the conversion. This subparagraph shall not apply to vehicles acquired by the United States Postal Service pursuant to a contract entered into by the United States Postal Service before the date of enactment of this subparagraph and which terminates on or before December 31, 1997.

"(C) Alternative fueled vehicles, other than those described in subparagraph (B), may be acquired solely for the purposes of studies under subsection (b), whether or not original equipment manufacturer warranties still apply.

"(D) In deciding which types of alternative fueled vehicles to acquire in implementing this part, the Secretary shall consider as a factor—

"(i) which types of vehicles yield the greatest reduction in pollutants emitted per dollar spent; and

"(ii) the source of the fuel to supply the vehicles, giving preference to vehicles that operate on alternative fuels derived from domestic sources.

"(E) Dual fueled vehicles acquired pursuant to this section shall be operated on alternative fuels unless the Secretary determines that operation on such alternative fuels is not feasible.

"(F) At least 50 percent of the alternative fuels used in vehicles acquired pursuant to this section shall be derived from domestic feedstocks, except to the extent inconsistent with the General Agreement on Tariffs and Trade. The Secretary shall issue regulations to implement this requirement. For purposes of this subparagraph, the term 'domestic' has the meaning given such term in section 301(7) of the Energy Policy Act of 1992. Regulations.

"(G) Except to the extent inconsistent with the General Agreement on Tariffs and Trade, vehicles acquired under this section shall be motor vehicles manufactured in the United States or Canada.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(4) Acquisitions of vehicles under this section shall, to the extent practicable, be coordinated with acquisitions of alternative fueled vehicles by State and local governments.";

(4) in subsection (b), by inserting after paragraph (2) the following new paragraphs:

"(3)(A) The Secretary, in cooperation with the Environmental Protection Agency and the Department of Transportation, shall collect data and conduct a study of heavy duty vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including reliability, durability, and performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of conventionally fueled heavy duty vehicles.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committees on Energy and Commerce and Government Operations of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter.

"(4)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of heavy duty vehicles acquired under subsection (a) and any problems with such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge.

Reports.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation, Governmental Affairs, and Energy and Natural Resources of the Senate, and the Committee on Energy and Commerce and the Committee on Government Operations of the House of Representatives, within one year after funds are appropriated for carrying out this paragraph.

"(5) Studies undertaken under this subsection shall be coordinated with relevant testing activities of the Environmental Protection Agency and the Department of Transportation.";

(5) in subsection (c)—

(A) by striking "alcohol or natural gas, alcohol or natural gas" and inserting in lieu thereof "alternative fuels, such fuels"; and

(B) by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel" in paragraph (1);

(6) in subsection (d)(2)(B), by striking "The Secretary" and inserting in lieu thereof "To the extent that appropriations are available for such purposes, the Secretary";

(7) in subsection (g), by striking paragraphs (2) through (6) and inserting in lieu thereof the following:

"(2) the term "alternative fuel" means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal-derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(3) the term 'alternative fueled vehicle' means a dedicated vehicle or a dual fueled vehicle;

"(4) the term 'dedicated vehicle' means—

"(A) a dedicated automobile, as such term is defined in section 513(h)(1)(C) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that operates solely on alternative fuel;

"(5) the term 'dual fueled vehicle' means—

"(A) dual fueled automobile, as such term is defined in section 513(h)(1)(D) of the Motor Vehicle Information and Cost Savings Act; or

"(B) a motor vehicle, other than an automobile, that is capable of operating on alternative fuel and is capable of operating on gasoline or diesel fuel; and

"(6) the term 'heavy duty vehicle' means a vehicle of greater than 8,500 pounds gross vehicle weight rating."; and

(8) by amending subsection (i)(1) to read as follows: "(1) For the purposes of this section, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.".

(b) REPEAL OF TERMINATION DATE.—Section 4(b) of the Alternative Motor Fuels Act of 1988 is repealed. 42 USC 6374 note.

SEC. 303. MINIMUM FEDERAL FLEET REQUIREMENT. 42 USC 13212.

(a) GENERAL REQUIREMENTS.—(1) The Federal Government shall acquire at least—

(A) 5,000 light duty alternative fueled vehicles in fiscal year 1993;

(B) 7,500 light duty alternative fueled vehicles in fiscal year 1994; and

(C) 10,000 light duty alternative fueled vehicles in fiscal year 1995.

(2) The Secretary shall allocate the acquisitions necessary to meet the requirements under paragraph (1).

(b) PERCENTAGE REQUIREMENTS.—(1) Of the total number of vehicles acquired by a Federal fleet, at least—

(A) 25 percent in fiscal year 1996;

(B) 33 percent in fiscal year 1997;

(C) 50 percent in fiscal year 1998; and

(D) 75 percent in fiscal year 1999 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary, in consultation with the Administrator of General Services where appropriate, may permit a Federal fleet to acquire a smaller percentage than is required in paragraph (1), so long as the aggregate percentage acquired by all Federal fleets is at least equal to the required percentage.

(3) For purposes of this subsection, the term "Federal fleet" means 20 or more light duty motor vehicles, located in a metropolitan statistical area or consolidated metropolitan statistical area, as established by the Bureau of the Census, with a 1980 population of more than 250,000, that are centrally fueled or capable of being centrally fueled and are owned, operated, leased, or otherwise controlled by or assigned to any Federal executive department, military department, Government corporation, independent establishment, or executive agency, the United States Postal Service, the Congress, the courts of the United States, or the Executive Office of the President. Such term does not include—

(A) motor vehicles held for lease or rental to the general public;

(B) motor vehicles used for motor vehicle manufacturer product evaluations or tests;

(C) law enforcement vehicles;

(D) emergency vehicles;

(E) motor vehicles acquired and used for military purposes that the Secretary of Defense has certified to the Secretary must be exempt for national security reasons; or

(F) nonroad vehicles, including farm and construction vehicles.

(c) ALLOCATION OF INCREMENTAL COSTS.—The General Services Administration and any other Federal agency that procures motor vehicles for distribution to other Federal agencies may allocate the incremental cost of alternative fueled vehicles over the cost of comparable gasoline vehicles across the entire fleet of motor vehicles distributed by such agency.

(d) APPLICATION OF REQUIREMENTS.—The provisions of section 400AA of the Energy Policy and Conservation Act relating to the Federal acquisition of alternative fueled vehicles shall apply to the acquisition of vehicles pursuant to this section.

(e) RESALE.—The Administrator of General Services shall take all feasible steps to ensure that all alternative fueled vehicles sold by the Federal Government shall remain alternative fueled vehicles at time of sale.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

42 USC 13213.

SEC. 304. REFUELING.

(a) IN GENERAL.—Federal agencies shall, to the maximum extent practicable, arrange for the fueling of alternative fueled vehicles acquired under section 303 at commercial fueling facilities that offer alternative fuels for sale to the public. If publicly available fueling facilities are not convenient or accessible to the location of Federal alternative fueled vehicles purchased under section 303, Federal agencies are authorized to enter into commercial arrangements for the purposes of fueling Federal alternative fueled vehicles, including, as appropriate, purchase, lease, contract, construction, or other arrangements in which the Federal Government is a participant.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1998, to remain available until expended.

42 USC 13214.

SEC. 305. FEDERAL AGENCY PROMOTION, EDUCATION, AND COORDINATION.

(a) PROMOTION AND EDUCATION.—The Secretary, in cooperation with the Administrator of General Services, shall promote programs and educate officials and employees of Federal agencies on the merits of alternative fueled vehicles. The Secretary, in cooperation with the Administrator of General Services, shall provide and disseminate information to Federal agencies on—

(1) the location of refueling and maintenance facilities available to alternative fueled vehicles in the Federal fleet;

(2) the range and performance capabilities of alternative fueled vehicles;

(3) State and local government and commercial alternative fueled vehicle programs;

(4) Federal alternative fueled vehicle purchases and placements;

(5) the operation and maintenance of alternative fueled vehicles in accordance with the manufacturer's standards and recommendations; and

(6) incentive programs established pursuant to sections 306 and 307 of this Act.

(b) ASSISTANCE IN PROCUREMENT AND PLACEMENT.—The Secretary, in cooperation with the Administrator of General Services, shall provide guidance, coordination and technical assistance to Federal agencies in the procurement and geographic location of alternative fueled vehicles purchased through the Administrator of General Services. The procurement and geographic location of such vehicles shall comply with the purchase requirements under section 303 of this Act.

SEC. 306. AGENCY INCENTIVES PROGRAM. 42 USC 13215.

(a) REDUCTION IN RATES.—To encourage and promote use of alternative fueled vehicles in Federal agencies, the Administrator of General Services may offer a reduction in fees charged to agencies for the lease of alternative fueled vehicles below those fees charged for the lease of comparable conventionally fueled motor vehicles.

(b) SUNSET PROVISION.—This section shall cease to be effective 3 years after the date of the enactment of this Act.

SEC. 307. RECOGNITION AND INCENTIVE AWARDS PROGRAM. 42 USC 13216.

Establishment.

(a) AWARDS PROGRAM.—The Administrator of General Services shall establish annual awards program to recognize those Federal employees who demonstrate the strongest commitment to the use of alternative fuels and fuel conservation in Federal motor vehicles.

(b) CRITERIA.—The Administrator of General Services shall provide annual awards to Federal employees who best demonstrate a commitment—

(1) to the success of the Federal alternative fueled vehicle program through—

(A) exemplary promotion of alternative fueled vehicle use within Federal agencies;

(B) proper alternative fueled vehicle care and maintenance;

(C) coordination with Federal, State, and local efforts;

(D) innovative alternative fueled vehicle procurement, refueling, and maintenance arrangements with commercial entities;

(E) making regular requests for alternative fueled vehicles for agency use; and

(F) maintaining a high number of alternative fueled vehicles used relative to comparable conventionally fueled motor vehicles used; and

(2) to fuel efficiency in Federal motor vehicle use through the promotion of such measures as increased use of fuel-efficient vehicles, carpooling, ride-sharing, regular maintenance, and other conservation and awareness measures.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of carrying out this section not more than $35,000 for fiscal year 1994 and such sums as may be necessary for each of the fiscal years 1995 and 1996.

42 USC 13217.

SEC. 308. MEASUREMENT OF ALTERNATIVE FUEL USE.

The Administrator of General Services shall use such means as may be necessary to measure the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services. Not later than one year after the date of the enactment of this Act, the Secretary, in consultation with the Administrator of General Services, shall issue guidelines to Federal agencies for use in measuring the aggregate percentage of alternative fuel use in dual-fueled vehicles in their fleets.

SEC. 309. INFORMATION COLLECTION.

42 USC 6374.

Section 400AA(b)(1)(A) of the Energy Policy and Conservation Act is amended by striking "the vehicles acquired under subsection (a)" and inserting in lieu thereof "a representative sample of alternative fueled vehicles in Federal fleets".

42 USC 13218.

SEC. 310. GENERAL SERVICES ADMINISTRATION REPORT.

Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Administrator of General Services shall report to the Congress on the General Services Administration's alternative fueled vehicle program under this Act. The report shall contain information on—

(1) the number and type of alternative fueled vehicles procured;

(2) the location of alternative fueled vehicles by standard Federal region;

(3) the total number of alternative fueled vehicles used by each Federal agency;

(4) arrangements with commercial entities for refueling and maintenance of alternative fueled vehicles;

(5) future alternative fueled vehicle procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the purchase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) coordination among Federal, State, and local governments for alternative fueled vehicle procurement and placement;

(8) the percentage of alternative fuel use in dual-fueled vehicles procured by the Administrator of General Services as measured under section 308;

(9) a description of the representative sample of alternative fueled vehicles as determined under section 400AA(b)(1)(A) of the Energy Policy and Conservation Act; and

(10) award recipients under this title.

42 USC 13219.

SEC. 311. UNITED STATES POSTAL SERVICE.

(a) REPORT.—Not later than one year after the date of the enactment of this Act, and biennially thereafter, the Postmaster General shall submit a report to the Congress on the Postal Service's alternative fueled vehicle program. The report shall contain information on—

(1) the total number and type of alternative fueled vehicles procured prior to the date of the enactment of this Act (first report only);

(2) the number and type of alternative fueled vehicles procured in the preceding year;

(3) the location of alternative fueled vehicles by region;

(4) arrangements with commercial entities for purposes of refueling and maintenance;

(5) future alternative fuel procurement and placement strategy;

(6) the difference in cost between the purchase, maintenance, and operation of alternative fueled vehicles and the purchase, maintenance, and operation of comparable conventionally fueled motor vehicles;

(7) the percentage of alternative fuel use in dual-fueled vehicles procured by the Postmaster General;

(8) promotions and incentives to encourage the use of alternative fuels in dual-fueled vehicles; and

(9) an assessment of the program's relative success and policy recommendations for strengthening the program.

(b) COORDINATION.—To the maximum extent practicable, the Postmaster General shall coordinate the Postal Service's alternative fueled vehicle procurement, placement, refueling, and maintenance programs with those at the Federal, State, and local level. The Postmaster General shall communicate, share, and disseminate, on a regular basis, information on such programs with the Secretary, the Administrator of General Services, and heads of appropriate Federal agencies.

(c) PROGRAM CRITERIA.—The Postmaster General shall consider the following criteria in the procurement and placement of alternative fueled vehicles:

(1) The procurement plans of State and local governments and other public and private institutions.

(2) The current and future availability of refueling and repair facilities.

(3) The reduction in emissions of the Postal fleet.

(4) Whether the vehicle is to be used in a nonattainment area as specified in the Clean Air Act Amendments of 1990.

(5) The operational requirements of the Postal fleet.

(6) The contribution to the reduction in the consumption of oil in the transportation sector.

TITLE IV—ALTERNATIVE FUELS—NON-FEDERAL PROGRAMS

SEC. 401. TRUCK COMMERCIAL APPLICATION PROGRAM.

(a) ALTERNATIVE FUELED TRUCKS.—Section 400BB(a) of the Energy Policy and Conservation Act (42 U.S.C. 6374a(a)) is amended by striking "alcohol and natural gas" and inserting in lieu thereof "alternative fuels".

(b) FUNDING.—Section 400BB(b)(1) of such Act (42 U.S.C. 6374a(b)(1)) is amended to read as follows: "(1) There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary for fiscal years 1993 through 1995, to remain available until expended.".

SEC. 402. CONFORMING AMENDMENTS.

Part J of title III of the Energy Policy and Conservation Act is amended—

(1) in section 400CC(a)— 42 USC 6374b.

(A) by striking "alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "alternative fuels"; and

(B) by striking "both buses capable of operating on alcohol and buses capable of operating on natural gas" and inserting in lieu thereof "each of the various types of alternative fuel buses";

42 USC 6374c.

(2) in section 400DD(d), by striking "alcohols, natural gas, and other potential alternative motor" and inserting in lieu thereof "alternative"; and

(3) in section 400DD(d) and (e), by striking "motor" each place it appears.

SEC. 403. ALTERNATIVE MOTOR FUELS AMENDMENTS.

Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended—

15 USC 2001.

(1) in section 501(1), by striking "alcohol or natural gas" and inserting in lieu thereof "alternative fuel";

15 USC 2002.

(2) in section 502(e)—

(A) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(B) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

15 USC 2006.

(3) in section 506(a)(4)—

(A) in subparagraph (A)—

(i) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated"; and

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels"; and

(B) in subparagraph (B)—

(i) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled"; and

(ii) by striking "energy automobile or natural gas dual energy automobile, as the case may be" and inserting in lieu thereof "fueled automobile"; and

(4) in section 506(b)(3)—

(A) in subparagraph (A)—

(i) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled";

(ii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (i); and

(iii) by striking "alcohol or natural gas, as the case may be" and inserting in lieu thereof "alternative fuels" in clause (ii); and

(B) in subparagraph (B)—

(i) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(ii) by striking "alcohol" and inserting in lieu thereof "alternative fuels" in clauses (i) and (ii); and

15 USC 2013.

(5) in section 513—

(A) in subsection (a)—

(i) by striking "ALCOHOL POWERED" and inserting in lieu thereof "DEDICATED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (c) or in section 503(a)(3), if";

(iii) by striking "alcohol powered" and inserting in lieu thereof "dedicated";

(iv) by striking "content of the alcohol" and inserting in lieu thereof "content of the alternative fuel"; and

(v) by striking "gallon of alcohol" and inserting in lieu thereof "gallon of a liquid alternative fuel";

(B) in subsection (b)—

(i) by striking "ENERGY" and inserting in lieu thereof "FUELED";

(ii) by striking "If" and inserting in lieu thereof "Except as provided in subsection (d) or in section 503(a)(3), if";

(iii) by striking "energy" and inserting in lieu thereof "fueled"; and

(iv) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in paragraph (2);

(C) in subsection (c)—

(i) by striking "NATURAL GAS POWERED" and inserting in lieu thereof "GASEOUS FUEL DEDICATED";

(ii) by striking "powered" and inserting in lieu thereof "dedicated";

(iii) by striking "natural gas" each place it appears in the first sentence and inserting in lieu thereof "gaseous fuel"; and

(iv) by adding at the end the following new sentence: "For purposes of this section, the Secretary shall determine the appropriate gallons equivalent measurement for gaseous fuels other than natural gas, and a gallon equivalent of such gaseous fuel shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.";

(D) in subsection (d)—

(i) by striking "NATURAL GAS DUAL ENERGY" and inserting in lieu thereof "GASEOUS FUEL DUAL FUELED";

(ii) by striking "dual energy" and inserting in lieu thereof "dual fueled"; and

(iii) by striking "natural gas" each place it appears and inserting in lieu thereof "gaseous fuel";

(E) in subsection (e), by striking "alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy" and inserting in lieu thereof "dedicated automobile or dual fueled";

(F) in subsection (f)(2)(A)(i), by striking "alcohol powered automobiles, natural gas powered automobiles," and inserting in lieu thereof "alternative fueled automobiles";

(G) in subsection (g)—

(i) in paragraph (1)—

(I) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (A);

(II) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(III) by inserting ", other than electric automobiles," after "each category of automobiles" in subparagraph (B);

(IV) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(V) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (C); and

(VI) by striking "energy automobile or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (C); and

(ii) in paragraph (2)—

(I) by striking "energy passenger automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(II) by striking "alcohol powered automobiles or natural gas powered" and inserting in lieu thereof "dedicated" in subparagraph (B); and

(III) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (B);

(H) in subsection (h)(1)—

(i) by striking subparagraphs (D) and (E) and redesignating subparagraph (C) as subparagraph (D);

(ii) by striking subparagraphs (A) and (B) and inserting in lieu thereof the following new subparagraphs:

"(A) the term 'alternative fuel' means methanol, denatured ethanol, and other alcohols; mixtures containing 85 percent or more (or such other percentage, but not less than 70 percent, as determined by the Secretary, by rule, to provide for requirements relating to cold start, safety, or vehicle functions) by volume of methanol, denatured ethanol, and other alcohols with gasoline or other fuels; natural gas; liquefied petroleum gas; hydrogen; coal derived liquid fuels; fuels (other than alcohol) derived from biological materials; electricity (including electricity from solar energy); and any other fuel the Secretary determines, by rule, is substantially not petroleum and would yield substantial energy security benefits and substantial environmental benefits;

"(B) the term 'alternative fueled automobile' means an automobile that—

"(i) is a dedicated automobile; or

"(ii) is a dual fueled automobile;

"(C) the term 'dedicated automobile' means an automobile that operates solely on alternative fuels; and"; and

(iii) in subparagraph (D), as so redesignated by clause (i) of this subparagraph—

(I) by striking "dual energy" and inserting in lieu thereof "dual fueled";

(II) by striking "alcohol" and inserting in lieu thereof "alternative fuel" in clauses (i), (ii), and (iii);

(III) by inserting "in the case of an automobile capable of operating on a mixture of an alternative fuel and gasoline or diesel fuel," before "which, for model years" in clause (iii); and

(IV) by striking the semicolon at the end of clause (iv) and inserting in lieu thereof a period; and

(I) in subsection (h)(2)—

(i) by striking "paragraphs (1)(C) and (D)" and inserting in lieu thereof "paragraph (1)(D)" in subparagraph (A);

(ii) by striking "energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas" and inserting in lieu thereof "fueled automobiles when operating on alternative fuels" in subparagraph (A);

(iii) by striking "energy automobiles or natural gas dual energy" and inserting in lieu thereof "fueled" both places it appears in subparagraph (A);

(iv) by striking "energy automobiles and natural gas dual energy" and inserting in lieu thereof "fueled" in subparagraph (A);

(v) by striking "energy" and inserting in lieu thereof "fueled" each place it appears in subparagraphs (B) and (C); and

(vi) by inserting "other than electric automobiles" after "automobiles" each place it appears in subparagraphs (B) and (C).

SEC. 404. VEHICULAR NATURAL GAS JURISDICTION.

(a) NATURAL GAS ACT AMENDMENTS.—(1) Section 1 of the Natural Gas Act (15 U.S.C. 717) is amended by inserting after subsection (c) the following new subsection:

"(d) The provisions of this Act shall not apply to any person solely by reason of, or with respect to, any sale or transportation of vehicular natural gas if such person is—

"(1) not otherwise a natural-gas company; or

"(2) subject primarily to regulation by a State commission, whether or not such State commission has, or is exercising, jurisdiction over the sale, sale for resale, or transportation of vehicular natural gas.".

(2) Section 2 of the Natural Gas Act (15 U.S.C. 717a) is amended by inserting after paragraph (9) the following new paragraph:

"(10) 'Vehicular natural gas' means natural gas that is ultimately used as a fuel in a self-propelled vehicle.".

(b) STATE LAWS AND REGULATIONS.—The transportation or sale of natural gas by any person who is not otherwise a public utility, within the meaning of State law— 15 USC 717 note.

(1) in closed containers; or

(2) otherwise to any person for use by such person as a fuel in a self-propelled vehicle,

shall not be considered to be a transportation or sale of natural gas within the meaning of any State law, regulation, or order

in effect before January 1, 1989. This subsection shall not apply to any provision of any State law, regulation, or order to the extent that such provision has as its primary purpose the protection of public safety.

15 USC 79b note.

(c) NONAPPLICABILITY OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935.—(1) A company shall not be considered to be a gas utility company under section 2(a)(4) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79b(a)(4)) solely because it owns or operates facilities used for the distribution at retail of vehicular natural gas.

(2) Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79k(b)(1)), a holding company registered under such Act solely by reason of the application of section 2(a)(7) (A) or (B) of such Act with respect to control of a gas utility company or subsidiary thereof, may acquire or retain, in any geographic area, any interest in a company that is not a public utility company and which, as a primary business, is involved in the sale of vehicular natural gas or the manufacture, sale, transport, installation, servicing, or financing of equipment related to the sale for consumption of vehicular natural gas.

(3) The sale or transportation of vehicular natural gas by a company, or any subsidiary of such company, shall not be taken into consideration in determining whether under section 3 of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79c) such company is exempt from registration.

(4) For purposes of this subsection, terms that are defined under the Public Utility Holding Company Act of 1935 shall have the meaning given such terms in such Act.

(5) For purposes of this subsection, the term "vehicular natural gas" means natural or manufactured gas that is ultimately used as a fuel in a self-propelled vehicle.

42 USC 13231.

SEC. 405. PUBLIC INFORMATION PROGRAM.

The Secretary, in consultation with appropriate Federal agencies and individuals and organizations with practical experience in the production and use of alternative fuels and alternative fueled vehicles, shall, for the purposes of promoting the use of alternative fuels and alternative fueled vehicles, establish a public information program on the benefits and costs of the use of alternative fuels in motor vehicles. Within 18 months after the date of enactment of this Act, the Secretary shall produce and make available an information package for consumers to assist them in choosing among alternative fuels and alternative fueled vehicles. Such information package shall provide relevant and objective information on motor vehicle characteristics and fuel characteristics as compared to gasoline, on a life cycle basis, including environmental performance, energy efficiency, domestic content, cost, maintenance requirements, reliability, and safety. Such information package shall also include information with respect to the conversion of conventional motor vehicles to alternative fueled vehicles. The Secretary shall include such other information as the Secretary determines is reasonable and necessary to help promote the use of alternative fuels in motor vehicles. Such information package shall be updated annually to reflect the most recent available information.

42 USC 13232.

SEC. 406. LABELING REQUIREMENTS.

(a) ESTABLISHMENT OF REQUIREMENTS.—The Federal Trade Commission, in consultation with the Secretary, the Administrator

of the Environmental Protection Agency, and the Secretary of Transportation, shall, within 18 months after the date of enactment of this Act, issue a notice of proposed rulemaking for a rule to establish uniform labeling requirements, to the greatest extent practicable, for alternative fuels and alternative fueled vehicles, including requirements for appropriate information with respect to costs and benefits, so as to reasonably enable the consumer to make choices and comparisons. Required labeling under the rule shall be simple and, where appropriate, consolidated with other labels providing information to the consumer. In formulating the rule, the Federal Trade Commission shall give consideration to the problems associated with developing and publishing useful and timely cost and benefit information, taking into account lead time, costs, the frequency of changes in costs and benefits that may occur, and other relevant factors. The Commission shall obtain the views of affected industries, consumer organizations, Federal and State agencies, and others in formulating the rule. A final rule shall be issued within 1 year after the notice of proposed rulemaking is issued. Such rule shall be updated periodically to reflect the most recent available information. Regulations.

(b) TECHNICAL ASSISTANCE AND COORDINATION.—The Secretary shall provide technical assistance to the Federal Trade Commission in developing labeling requirements under subsection (a). The Secretary shall coordinate activities under this section with activities under section 405.

SEC. 407. DATA ACQUISITION PROGRAM. 42 USC 13233.

(a) Not later than one year after the date of enactment of this Act, the Secretary, through the Energy Information Administration, and in cooperation with appropriate State, regional, and local authorities, shall establish a data collection program to be conducted in at least 5 geographically and climatically diverse regions of the United States for the purpose of collecting data which would be useful to persons seeking to manufacture, convert, sell, own, or operate alternative fueled vehicles or alternative fueling facilities. Such data shall include—

(1) identification of the number and types of motor vehicle trips made daily and miles driven per trip, including commuting, business, and recreational trips;

(2) the projections of the Secretary as to the most likely combination of alternative fueled vehicle use and other forms of transit, including rail and other forms of mass transit;

(3) cost, performance, environmental, energy, and safety data on alternative fuels and alternative fueled vehicles; and

(4) other appropriate demographic information and consumer preferences.

(b) The Secretary shall consult with interested parties, including other appropriate Federal agencies, manufacturers, public utilities, owners and operators of fleets of light duty motor vehicles, and State or local governmental entities, to determine the types of data to be collected and analyzed under subsection (a).

SEC. 408. FEDERAL ENERGY REGULATORY COMMISSION AUTHORITY TO APPROVE RECOVERY OF CERTAIN EXPENSES IN ADVANCE. 42 USC 13234.

(a) NATURAL GAS MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 4 of the Natural Gas Act, allow recovery of expenses in advance by natural-gas companies

for research, development, and demonstration activities by the Gas Research Institute for projects on the use of natural gas, including fuels derived from natural gas, for transportation, and projects on the use of natural gas to control pollutants and to control emissions from the combustion of other fuels, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to such projects, the Commission shall ensure that the costs of such activities shall be provided in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(b) ELECTRIC MOTOR VEHICLES.—The Federal Energy Regulatory Commission may, under section 205 of the Federal Power Act, allow recovery of expenses in advance by electric utilities for research, development, and demonstration activities by the Electric Power Research Institute for projects on electric motor vehicles, if the Commission finds that the benefits, including environmental benefits, to existing and future ratepayers resulting from such activities exceed all direct costs to existing and future ratepayers. To the maximum extent practicable, through the establishment of cofunding requirements applicable to each project, the costs of such activities shall be provided, in part, through contributions of cash, personnel, services, equipment, and other resources, by sources other than the recovery of expenses pursuant to this section.

(c) REPEAL.—The second paragraph of the matter under the heading "FEDERAL ENERGY REGULATORY COMMISSION, SALARIES AND EXPENSES" in title III of the Energy and Water Development Appropriations Act, 1992, is repealed.

15 USC 717c note.

42 USC 13235.

SEC. 409. STATE AND LOCAL INCENTIVES PROGRAMS.

Regulations.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary shall, within one year after the date of enactment of this Act, issue regulations establishing guidelines for comprehensive State alternative fuels and alternative fueled vehicle incentives and program plans designed to accelerate the introduction and use of such fuels and vehicles. Such guideline shall address the development, modification, and implementation of such State plans and shall describe those program elements, as described in paragraph (3), to be addressed in such plans.

(2) The Secretary, after consultation with the Secretary of Transportation and the Administrator of the Environmental Protection Agency, shall invite the Governor of each State to submit to the Secretary a State plan within one year after the effective date of the regulations issued under paragraph (1). Such plan shall include—

(A) provisions designed to result in scheduled progress toward, and achievement of, the goal of introducing substantial numbers of alternative fueled vehicles in such State by the year 2000; and

(B) a detailed description of the requirements, including the estimated cost of implementation, of such plan.

(3) Each proposed State plan, in order to be eligible for Federal assistance under this section, shall describe the manner in which coordination shall be achieved with Federal and local governmental

entities in implementing such plan, and shall include an examination of—

(A) exemption from State sales tax or other State or local taxes or surcharges (other than such taxes or surcharges which are dedicated for transportation purposes) with respect to alternative fueled vehicles, alternative fuels, or alternative fueling facilities;

(B) the introduction of alternative fueled vehicles into State-owned or operated motor vehicle fleets;

(C) special parking at public buildings and airport and transportation facilities;

(D) programs of public education to promote the use of alternative fueled vehicles;

(E) the treatment of sales of alternative fuels for use in alternative fueled vehicles;

(F) methods by which State and local governments might facilitate—

(i) the availability of alternative fuels; and

(ii) the ability to recharge electric motor vehicles at public locations;

(G) allowing public utilities to include in rates the incremental cost of—

(i) new alternative fueled vehicles;

(ii) converting conventional vehicles to operate on alternative fuels; and

(iii) installing alternative fuel fueling facilities,

but only to the extent that the inclusion of such costs in rates would not create competitive disadvantages for other market participants, and taking into consideration the effect inclusion of such costs would have on rates, service, and reliability to other utility customers;

(H) such other programs and incentives as the State may describe;

(I) whether accomplishing any of the goals in this subsection would require amendment to State law or regulation, including traffic safety prohibitions;

(J) services provided by municipal, county, and regional transit authorities; and

(K) effects of such plan on programs authorized by the Intermodal Surface Transportation Efficiency Act of 1991 and amendments made by that Act.

(b) FEDERAL ASSISTANCE TO STATES.—(1) Upon request of the Governor of any State with a plan approved under this section, the Secretary may provide to such State—

(A) information and technical assistance, including model State laws and proposed regulations relating to alternative fueled vehicles;

(B) grants of Federal financial assistance for the purpose of assisting such State in the implementation of such plan or any part thereof; and

(C) grants of Federal financial assistance for the acquisition of alternative fueled vehicles.

(2) In determining whether to approve a State plan submitted under subsection (a), and in determining the amount of Federal financial assistance, if any, to be provided to any State under this subsection, the Secretary shall take into account—

(A) the energy-related and environmental-related impacts, on a life cycle basis, of the introduction and use of alternative fueled vehicles included in the plan compared to conventional motor vehicles;

(B) the number of alternative fueled vehicles likely to be introduced by the year 2000, as a result of successful implementation of the plan; and

(C) such other factors as the Secretary considers appropriate.

(3) The Secretary, in consultation with the Administrator of General Services, shall provide assistance to States in procuring alternative fueled vehicles, including coordination with Federal procurements of such vehicles.

(4) The Secretary may not approve a State plan submitted under subsection (a) unless the State agrees to provide at least 20 percent of the cost of activities for which assistance is provided under paragraph (1).

(c) GENERAL PROVISIONS.—(1) In carrying out this section, the Secretary shall consult with the Secretary of Transportation on matters relating to transportation and with other appropriate Federal and State departments and agencies.

Reports.

(2) The Secretary shall report annually to the President and the Congress, and shall furnish copies of such report to the Governor of each State participating in the program, on the operation of the program under this section. Such report shall include—

(A) an estimate of the number of alternative fueled vehicles in use in each State;

(B) the degree of each State's participation in the program;

(C) a description of Federal, State, and local programs undertaken in the various States, whether pursuant to a State plan under this section or not, to provide incentives for introduction of alternative fueled vehicles;

(D) an estimate of the energy and environmental benefits of the program; and

(E) the recommendations of the Secretary, if any, for additional action by the Federal Government.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) GOVERNOR.—The term "Governor" means the chief executive of a State.

(2) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other Commonwealth, territory, or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out this section, $10,000,000 for each of the 5 fiscal years beginning after the date of enactment of this Act.

42 USC 13236.

SEC. 410. ALTERNATIVE FUEL BUS PROGRAM.

(a) COOPERATIVE AGREEMENTS AND JOINT VENTURES.—(1) The Secretary of Transportation, in consultation with the Secretary, may enter into cooperative agreements and joint ventures proposed by any municipal, county, or regional transit authority in an urban area with a population over 100,000 (according to latest available

census information) to demonstrate the feasibility of commercial application, including safety of specific vehicle design, of using alternative fuels for urban buses and other motor vehicles used for mass transit.

(2) The cooperative agreements and joint ventures under paragraph (1) may include interested or affected private firms willing to provide assistance in cash, or in kind, for any such demonstration.

(3) Federal assistance provided under cooperative agreements and joint ventures entered into under paragraph (1) to demonstrate the feasibility of commercial application of using alternative fuels for urban buses shall be in addition to Federal assistance provided under any other law for such purpose.

(b) LIMITATIONS.—(1) The Secretary of Transportation may not enter into cooperative agreement or joint venture under subsection (a) with any municipal, county, or regional transit authority, unless such government body agrees to provide 20 percent of the costs of such demonstration.

(2) The Secretary of Transportation may grant such priority under this section to any entity that demonstrates that the use of alternative fuels for transportation would have a significant beneficial effect on the environment.

(c) SCHOOL BUSES.—The Secretary of Transportation may also provide, in accordance with such rules as he may prescribe, financial assistance to any agency, municipality, or political subdivision in an urban area referred to in subsection (a), of any State or the District of Columbia for the purpose of meeting the incremental costs of school buses that are dedicated vehicles and used regularly for such transportation during the school term. Such costs may include the purchase and installation of alternative fuel refueling facilities to be used for school bus refueling, and the conversion of school buses to dedicated vehicles. The Secretary of Transportation may provide such assistance directly to a person who is a contractor of such agency, municipality, or political subdivision, upon the request of the agency, municipality, or political subdivision, and who, under such contract, provides for such transportation. Any conversion under this subsection shall comply with the warranty and safety requirements for alternative fuel conversions contained in section 247 of the Clean Air Act Amendments of 1990.

(d) FUNDING AUTHORIZATION.—There are authorized to be appropriated not more than $30,000,000 for each of the fiscal years 1993, 1994, and 1995 for purposes of this section.

SEC. 411. CERTIFICATION OF TRAINING PROGRAMS. 42 USC 13237.

The Secretary shall ensure that the Federal Government establishes and carries out a program for the certification of training programs for technicians who are responsible for motor vehicle installation of equipment that converts gasoline or diesel-fueled motor vehicles into dedicated vehicles or dual fueled vehicles, and for the maintenance of such converted motor vehicles. A training program shall not be certified under the program established under this section unless it provides technicians with instruction on the proper and safe installation procedures and techniques, adherence to specifications (including original equipment manufacturer specifications), motor vehicle operating procedures, emissions testing, and other appropriate mechanical concerns applicable to these motor vehicle conversions. The Secretary shall ensure that, in the development of the program required under this section, original

equipment manufacturers, fuel suppliers, companies that convert conventional vehicles to use alternative fuels, and other affected persons are consulted.

42 USC 13238.

SEC. 412. ALTERNATIVE FUEL USE IN NONROAD VEHICLES AND ENGINES.

(a) NONROAD VEHICLES AND ENGINES.—(1) The Secretary shall conduct a study to determine whether the use of alternative fuels in nonroad vehicles and engines would contribute substantially to reduced reliance on imported energy sources. Such study shall be completed, and the results thereof reported to Congress, within 2 years after the date of enactment of this Act.

(2) The study shall assess the potential of nonroad vehicles and engines to run on alternative fuels. Taking into account the nonroad vehicles and engines for which running on alternative fuels is feasible, the study shall assess the potential reduction in reliance on foreign energy sources that could be achieved if such vehicles were to run on alternative fuels.

(3) The report required under paragraph (1) may include the Secretary's recommendations for encouraging or requiring nonroad vehicles and engines which can feasibly be run on alternative fuels, to utilize such alternative fuels.

(b) DEFINITION OF NONROAD VEHICLES AND ENGINES.—Nonroad vehicles and engines, for purposes of this section, shall include nonroad vehicles and engines used for surface transportation or principally for industrial or commercial purposes, vehicles used for rail transportation, vehicles used at airports, vehicles or engines used for marine purposes, and other vehicles or engines at the discretion of the Secretary.

(c) DESIGNATION.—Upon completion of the study required pursuant to subsection (a) of this section, the Secretary may designate such vehicles and engines as qualifying for loans pursuant to section 414 of this title.

SEC. 413. REPORTS TO CONGRESS.

Within 6 months after the date of enactment of this Act, the Secretary shall—

(1) identify and report to Congress on purchasing policies of the Federal Government which inhibit or prevent the purchase by the Federal Government of alternative fueled vehicles; and

(2) report to Congress on Federal, State, and local traffic control measures and policies and how the use of alternative fueled vehicles could be promoted by granting such vehicles exemptions or preferential treatment under such measures.

42 USC 13239.

SEC. 414. LOW INTEREST LOAN PROGRAM.

(a) ESTABLISHMENT.—Within 1 year after the date of enactment of this Act, the Secretary shall establish a program for making low interest loans, giving preference to small businesses that own or operate fleets, for—

(1) the conversion of motor vehicles to operation on alternative fuels;

(2) covering the incremental costs of the purchase of motor vehicles which operate on alternative fuels, when compared with purchase costs of comparable conventionally fueled motor vehicles; or

(3) covering the incremental costs of purchase of non-road vehicles and engines designated by the Secretary pursuant to section 412(c) of this title.

(b) LOAN TERMS.—The Secretary, to the extent practicable, shall establish reasonable terms for loans made under this subsection, with preference given to repayment schedules that enable such loans to be repaid by the borrower from the cost differential between gasoline and the alternative fuel on which the motor vehicle operates.

(c) CRITERIA.—In deciding to whom loans shall be made under this subsection, the Secretary shall consider—

(1) the financial need of the applicant;

(2) the goal of assisting the greatest number of applicants; and

(3) the ability of an applicant to repay the loan, taking into account the fuel cost savings likely to accrue to the applicant.

(d) PRIORITIES.—Priority shall be given under this section to fleets where the use of alternative fuels would have a significant beneficial effect on energy security and the environment.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, $25,000,000 for each of the fiscal years 1993, 1994, and 1995.

TITLE V—AVAILABILITY AND USE OF REPLACEMENT FUELS, ALTERNATIVE FUELS, AND ALTERNATIVE FUELED PRIVATE VEHICLES

SEC. 501. MANDATE FOR ALTERNATIVE FUEL PROVIDERS.

42 USC 13251.

Regulations.

(a) IN GENERAL.—(1) The Secretary shall, before January 1, 1994, issue regulations requiring that of the new light duty motor vehicles acquired by a covered person described in paragraph (2), the following percentages shall be alternative fueled vehicles for the following model years:

(A) 30 percent for model year 1996.

(B) 50 percent for model year 1997.

(C) 70 percent for model year 1998.

(D) 90 percent for model year 1999 and thereafter.

(2) For purposes of this section, a person referred to in paragraph (1) is—

(A) a covered person whose principal business is producing, storing, refining, processing, transporting, distributing, importing, or selling at wholesale or retail any alternative fuel other than electricity;

(B) a non-Federal covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity; or

(C) a covered person—

(i) who produces, imports, or produces and imports in combination, an average of 50,000 barrels per day or more of petroleum; and

(ii) a substantial portion of whose business is producing alternative fuels.

(3)(A) In the case of a covered person described in paragraph (2) with more than one affiliate, division, or other business unit, only an affiliate, division, or business unit which is substantially engaged in the alternative fuels business (as determined by the Secretary by rule) shall be subject to this subsection.

(B) No covered person or affiliate, division, or other business unit of such person whose principal business is—

(i) transforming alternative fuels into a product that is not an alternative fuel; or

(ii) consuming alternative fuels as a feedstock or fuel in the manufacture of a product that is not an alternative fuel,

shall be subject to this subsection.

(4) The vehicles purchased pursuant to this section shall be operated solely on alternative fuels except when operating in an area where the appropriate alternative fuel is unavailable.

(5) Regulations issued under paragraph (1) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, from the requirements of paragraph (1) of any covered person, in whole or in part, if such person demonstrates to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of that person are not reasonably available for acquisition; or

(B) alternative fuels that meet the normal requirements and practices of the principal business of that person are not available in the area in which the vehicles are to be operated.

(b) REVISIONS AND EXTENSIONS.—With respect to model years 1997 and thereafter, the Secretary may—

(1) revise the percentage requirements under subsection (a)(1) downward, except that under no circumstances shall the percentage requirement for a model year be less than 20 percent; and

(2) extend the time under subsection (a)(1) for up to 2 model years.

Regulations.

(c) OPTION FOR ELECTRIC UTILITIES.—The Secretary shall, within 1 year after the date of enactment of this Act, issue regulations requiring that, in the case of a covered person whose principal business is generating, transmitting, importing, or selling at wholesale or retail electricity, the requirements of subsection (a)(1) shall not apply until after December 31, 1997, with respect to electric motor vehicles. Any covered person described in this subsection which plans to acquire electric motor vehicles to comply with the requirements of this section shall so notify the Secretary before January 1, 1996.

(d) REPORT TO CONGRESS.—The Secretary shall, before January 1, 1998, submit a report to the Congress providing detailed information on actions taken to carry out this section, and the progress made and problems encountered thereunder.

42 USC 13252.

SEC. 502. REPLACEMENT FUEL SUPPLY AND DEMAND PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a program to promote the development and use in light duty motor vehicles of domestic replacement fuels. Such program shall promote the replacement of petroleum motor fuels with replacement fuels to the maximum extent practicable. Such program shall, to the extent practicable, ensure the availability of those replacement fuels that will have the greatest impact in reducing oil imports,

improving the health of our Nation's economy and reducing greenhouse gas emissions.

(b) DEVELOPMENT PLAN AND PRODUCTION GOALS.—Under the program established under subsection (a), the Secretary, before October 1, 1993, in consultation with the Administrator, the Secretary of Transportation, the Secretary of Agriculture, the Secretary of Commerce, and the heads of other appropriate agencies, shall review appropriate information and—

(1) estimate the domestic and nondomestic production capacity for replacement fuels and alternative fueled vehicles needed to implement this section;

(2) determine the technical and economic feasibility of achieving the goals of producing sufficient replacement fuels to replace, on an energy equivalent basis—

(A) at least 10 percent by the year 2000; and

(B) at least 30 percent by the year 2010,

of the projected consumption of motor fuel in the United States for each such year, with at least one half of such replacement fuels being domestic fuels;

(3) determine the most suitable means and methods of developing and encouraging the production, distribution, and use of replacement fuels and alternative fueled vehicles in a manner that would meet the program goals described in subsection (a);

(4) identify ways to encourage the development of reliable replacement fuels and alternative fueled vehicle industries in the United States, and the technical, economic, and institutional barriers to such development; and

(5) determine the greenhouse gas emission implications of increasing the use of replacement fuels, including an estimate of the maximum feasible reduction in such emissions from the use of replacement fuels.

The Secretary shall publish in the Federal Register the results of actions taken under this subsection, and provide for an opportunity for public comment. Federal Register, publication.

SEC. 503. REPLACEMENT FUEL DEMAND ESTIMATES AND SUPPLY INFORMATION. 42 USC 13253.

(a) ESTIMATES.—Not later than October 1, 1993, and annually thereafter, the Secretary, in consultation with the Administrator, the Secretary of Transportation, and other appropriate State and Federal officials, shall estimate for the following calendar year—

(1) the number of each type of alternative fueled vehicle likely to be in use in the United States;

(2) the probable geographic distribution of such vehicles;

(3) the amount and distribution of each type of replacement fuel; and

(4) the greenhouse gas emissions likely to result from replacement fuel use.

(b) INFORMATION.—Beginning on October 1, 1994, the Secretary shall annually require—

(1) fuel suppliers to report to the Secretary on the amount of each type of replacement fuel that such supplier—

(A) has supplied in the previous calendar year; and

(B) plans to supply for the following calendar year;

(2) suppliers of alternative fueled vehicles to report to the Secretary on the number of each type of alternative fueled vehicle that such supplier—

(A) has made available in the previous calendar year; and

(B) plans to make available for the following calendar year; and

(3) such fuel suppliers to provide the Secretary information necessary to determine the greenhouse gas emissions from the replacement fuels used, taking into account the entire fuel cycle.

(c) PROTECTION OF INFORMATION.—Information provided to the Secretary under subsection (b) shall be subject to applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

42 USC 13254.

SEC. 504. MODIFICATION OF GOALS; ADDITIONAL RULEMAKING AUTHORITY.

(a) EXAMINATION OF GOALS.—Within 3 years after the date of enactment of this Act, and periodically thereafter, the Secretary shall examine the goals established under section 502(b)(2), in the context of the program goals stated under section 502(a), to determine if the goals under section 502(b)(2), including the applicable percentage requirements and dates, should be modified under this section. The Secretary shall publish in the Federal Register the results of each examination under this subsection and provide an opportunity for public comment.

Federal Register, publication.

(b) MODIFICATION OF GOALS.—If, after analysis of information obtained in connection with carrying out subsection (a) or section 502, or other information, and taking into account the determination of technical and economic feasibility made under section 502(b)(2), the Secretary determines that goals described in section 502(b)(2), including the percentage requirements or dates, are not achievable, the Secretary, in consultation with appropriate Federal agencies, shall, by rule, establish goals that are achievable, for purposes of this title. The modification of goals under this section may include changing the target dates specified in section 502(b)(2).

(c) ADDITIONAL RULEMAKING AUTHORITY.—If the Secretary determines that the achievement of goals described in section 502(b)(2) would result in a significant and correctable failure to meet the program goals described in section 502(a), the Secretary shall issue such additional regulations as are necessary to remedy such failure. The Secretary shall have no authority under this Act to mandate the production of alternative fueled vehicles or to specify, as applicable, the models, lines, or types of, or marketing or pricing practices, policies, or strategies for, vehicles subject to this Act. Nothing in this Act shall be construed to give the Secretary authority to mandate marketing or pricing practices, policies, or strategies for alternative fuels or to mandate the production or delivery of such fuels.

42 USC 13255.

SEC. 505. VOLUNTARY SUPPLY COMMITMENTS.

The Secretary shall, by January 1, 1994, and thereafter, undertake to obtain voluntary commitments in geographically diverse regions of the United States—

(1) from fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) from owners of 10 or more motor vehicles to acquire and use alternative fueled vehicles and alternative fuels; and

(3) from suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services,

in sufficient volume to achieve the goals described in section 502(b)(2) or as modified under section 504, and in order to meet any fleet requirement program established by rule under this title. The Secretary shall periodically report to the Congress on the results of efforts under this section. All voluntary commitments obtained pursuant to this section shall be available to the public, except to the extent provided in applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

SEC. 506. TECHNICAL AND POLICY ANALYSIS. 42 USC 13256.

(a) REQUIREMENT.—Not later than March 1, 1995, and March 1, 1997, the Secretary shall prepare and transmit to the President and the Congress a technical and policy analysis under this section. The Secretary shall utilize the analytical capability and authorities of the Energy Information Administration and such other offices of the Department of Energy as the Secretary considers appropriate.

(b) PURPOSES.—The technical and policy analysis prepared under this section shall be based on the best available data and information obtainable by the Secretary under section 503, or otherwise, and on experience under this title and other provisions of law in the development and use of replacement fuels and alternative fueled vehicles, and shall evaluate—

(1) progress made in achieving the goals described in section 502(b)(2), as modified under section 504;

(2) the actual and potential role of replacement fuels and alternative fueled vehicles in significantly reducing United States reliance on imported oil to the extent of the goals referred to in paragraph (1); and

(3) the actual and potential availability of various domestic replacement fuels and dedicated vehicles and dual fueled vehicles.

(c) PUBLICATION.—The Secretary shall publish a proposed version of each analysis under this section in the Federal Register for public comment before transmittal to the President and the Congress. Public comment received in response to such publication shall be preserved for use in rulemaking proceedings under section 507. Federal Register, publication.

SEC. 507. FLEET REQUIREMENT PROGRAM. 42 USC 13257.

(a) FLEET PROGRAM PURCHASE GOALS.—(1) Except as provided in paragraph (2), the following percentages of new light duty motor vehicles acquired in each model year for a fleet, other than a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person subject to section 501, shall be alternative fueled vehicles:

(A) 20 percent of the motor vehicles acquired in model years 1999, 2000, and 2001;

(B) 30 percent of the motor vehicles acquired in model year 2002;

(C) 40 percent of the motor vehicles acquired in model year 2003;

(D) 50 percent of the motor vehicles acquired in model year 2004;

(E) 60 percent of the motor vehicles acquired in model year 2005; and

(F) 70 percent of the motor vehicles acquired in model year 2006 and thereafter.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (b), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 1998 (or model year 1999) for initiating the fleet requirements under paragraph (1).

Regulations.

(3) The Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(A) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(B) identifying the problems associated with achieving those goals;

(C) assessing the adequacy and practicability of those goals; and

(D) considering all actions needed to achieve those goals.

The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

Federal Register, publication.

(4) After the completion of such advance notice of proposed rulemaking, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (b), and shall provide for a public comment period, with hearings, of not less than 90 days.

(b) EARLY RULEMAKING.—(1) Not earlier than 1 year after the date of the enactment of this Act, and after carrying out the requirements of subsection (a), the Secretary shall initiate a rulemaking to determine whether a fleet requirement program to begin in calendar year 1998 (when model year 1999 begins), or such other later date as he may select pursuant to subsection (a), is necessary under this section. Such rule, consistent with subsection (a)(1), shall establish the annual applicable model year percentage. No rule under this subsection may be promulgated after December 15, 1996, and be enforceable. A fleet requirement program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504;

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section

504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals; and

(C) by 1998 (when model year 1999 begins) or the date specified by the Secretary in such rule for initiating a fleet requirement program—

(i) there exists sufficient evidence to ensure that the fuel and the needed infrastructure, including the supply and deliverability systems, will be installed and located at convenient places in the fleet areas subject to the rule and will be fully operational when the rule is effective to offer a reliable and timely supply of the applicable alternative fuel at reasonable costs (as compared to conventional fuels) to meet the fleet requirement program, as demonstrated through use of the provisions of section 505(1) of this title regarding voluntary commitments or other adequate, reliable, and convincing forms of agreements, arrangements, or representations that such fuels and infrastructure are in existence or will exist when the rule is effective and will be expanded as the percentages increase annually;

(ii) there will be a sufficient number of new alternative fueled vehicles from original equipment manufacturers that comply with all applicable requirements of the Clean Air Act and the National Traffic and Motor Vehicle Safety Act of 1966;

(iii) such new vehicles will meet the applicable non-Federal and non-State fleet performance requirements of such fleets (including range, passenger or cargo-carrying capacity, reliability, refueling capability, vehicle mix, and economical operation and maintenance); and

(iv) establishment of a fleet requirement program by rule under this subsection will not result in unfair competitive advantages or disadvantages, or result in undue economic hardship, to the affected fleets.

(2) The Secretary shall not promulgate a rule under this subsection if he is unable to make affirmative findings in the case of each of the subparagraphs under paragraph (1), and each of the clauses under subparagraph (C) of paragraph (1).

(3) If the Secretary does not determine that such program is necessary under this subsection, the provisions of subsection (e) shall apply to the consideration in the future of any fleet requirement program. The record of this rulemaking, including the Secretary's findings, shall be incorporated into a rulemaking under that subsection. If the Secretary determines under this subsection that such program is necessary, the Secretary shall not initiate the later rulemaking under subsection (e).

(c) ADVANCE NOTICE OF PROPOSED RULEMAKING.—Not later than April 1, 1998, the Secretary shall publish an advance notice of proposed rulemaking for the purpose of—

(1) evaluating the progress toward achieving the goals of replacement fuel use described in section 502(b)(2), as modified under section 504;

(2) identifying the problems associated with achieving those goals;

(3) assessing the adequacy and practicability of those goals; and

(4) considering all actions needed to achieve those goals. The Secretary shall provide for at least 3 regional hearings on the advance notice of proposed rulemaking, with respect to which official transcripts shall be maintained. The comment period in connection with such advance notice of proposed rulemaking shall be completed within 7 months after publication of the advance notice.

Federal Register, publication.

(d) PROPOSED RULE.—Before May 1, 1999, the Secretary shall publish in the Federal Register a proposed rule for the rule required under subsection (g), and shall provide for a public comment period, with hearings, of not less than 90 days.

(e) DETERMINATION.—(1) Not later than January 1, 2000, the Secretary shall, through the rule required under subsection (g), determine whether a fleet requirement program is necessary under this section. Such a program shall be considered necessary and a rule therefor shall be promulgated if the Secretary finds that—

(A) the goal of replacement fuel use described in section 502(b)(2)(B), as modified under section 504, is not expected to be actually achieved by 2010, or such other date as is established under section 504, by voluntary means or pursuant to this title or any other law without such a fleet requirement program, taking into consideration the status of the achievement of the interim goal described in section 502(b)(2)(A), as modified under section 504; and

(B) such goal is practicable and actually achievable within periods specified in section 502(b)(2), as modified under section 504, through implementation of such a fleet requirement program in combination with voluntary means and the application of other programs relevant to achieving such goals.

(2) The rule under subsection (b) or (g) shall also modify the goal described in section 502(b)(2)(B) and establish a revised goal pursuant to section 504 if the Secretary determines, based on the proceeding required under subsection (a) or (c), that the goal in effect at the time of that proceeding is inadequate or impracticable, and not expected to be achievable. Such goal as modified and established shall be applicable in making the findings described in paragraph (1). If the Secretary modifies the goal under this paragraph, he may also modify the percentages stated in subsection (a)(1) or (g)(1) and the minimum percentage stated in subsection (a)(2) or (g)(2) shall be not less than 10 percent.

(f) EXPLANATION OF DETERMINATION THAT FLEET REQUIREMENT PROGRAM IS NOT NECESSARY.—If the Secretary determines, based on findings under subsection (b) or (e), that a fleet requirement program under this section is not necessary, the Secretary shall—

(1) by December 15, 1996, with respect to a rulemaking under subsection (b); and

(2) by January 1, 2000, with respect to a rulemaking under subsection (e),

publish such determination in the Federal Register as a final agency action, including an explanation of the findings on which such determination is made and the basis for the determination.

(g) FLEET REQUIREMENT PROGRAM.—(1) If the Secretary determines under subsection (e) that a fleet requirement program is necessary, the Secretary shall, by January 1, 2000, by rule require that, except as provided in paragraph (2), of the total number of new light duty motor vehicles acquired for a fleet, other than

a Federal fleet, State fleet, or fleet owned, operated, leased, or otherwise controlled by a covered person under section 501—

(A) 20 percent of the motor vehicles acquired in model year 2002;

(B) 40 percent of the motor vehicles acquired in model year 2003;

(C) 60 percent of the motor vehicles acquired in model year 2004; and

(D) 70 percent of the motor vehicles acquired in model year 2005 and thereafter,

shall be alternative fueled vehicles.

(2) The Secretary may not establish percentage requirements higher than those described in paragraph (1). The Secretary may, if appropriate, and pursuant to a rule under subsection (g), establish a lesser percentage requirement for any model year. The Secretary may, by rule, establish a date later than 2002 (when model year 2003 begins) for initiating the fleet requirements under paragraph (1).

(3) Nothing in this title shall be construed as requiring any fleet to acquire alternative fueled vehicles or alternative fuels that do not meet the normal business requirements and practices and needs of that fleet.

(4) A vehicle operating only on gasoline that complies with applicable requirements of the Clean Air Act shall not be considered an alternative fueled vehicle under subsection (b) or this subsection, except that the Secretary, as part of the rule under subsection (b) or this subsection, may determine that such vehicle should be treated as an alternative fueled vehicle for purposes of this section, for fleets subject to part C of title II of the Clean Air Act, taking into consideration the impact on energy security and the goals stated in section 502(a).

(h) EXTENSION OF DEADLINES.—The Secretary may, by notice published in the Federal Register, extend the deadlines established under subsections (e), (f)(2), and (g) for an additional 90 days if the Secretary is unable to meet such deadlines. Such extension shall not be reviewable.

(i) EXEMPTIONS.—(1) A rule issued under subsection (b), (g), or (o) shall provide for the prompt exemption by the Secretary, through a simple and reasonable process, of any fleet from the requirements of subsection (b), (g), or (o), in whole or in part, if it is demonstrated to the satisfaction of the Secretary that—

(A) alternative fueled vehicles that meet the normal requirements and practices of the principal business of the fleet owner are not reasonably available for acquisition;

(B) alternative fuels that meet the normal requirements and practices of the principal business of the fleet owner are not available in the area in which the vehicles are to be operated; or

(C) in the case of State and local government entities, the application of such requirements would pose an unreasonable financial hardship.

(2) In the case of private fleets, if the motor vehicles, when under normal operations, are garaged at personal residences at night, such motor vehicles shall be exempt from the requirements of subsections (b) and (g).

(j) CONVERSIONS.—Nothing in this title or the amendments made by this title shall require a fleet owner to acquire conversion vehicles.

(k) INCLUSION OF LAW ENFORCEMENT VEHICLES AND URBAN BUSES.—(1) If the Secretary determines, by rule, that the inclusion of fleets of law enforcement motor vehicles in the fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, and the Secretary finds that such inclusion would not hinder the use of the motor vehicles for law enforcement purposes, the Secretary may include such fleets in such program. The Secretary may only initiate one rulemaking under this paragraph.

(2) If the Secretary determines, by rule, that the inclusion of new urban buses, as defined by the Administrator under title II of the Clean Air Act, in a fleet requirement program established under subsection (g) would contribute to achieving the goal described in section 502(b)(2)(B), as modified under section 504, the Secretary may include such urban buses in such program, if the Secretary finds that such application will be consistent with energy security goals and the needs and objectives of encouraging and facilitating the greater use of such urban buses by the public, taking into consideration the impact of such application on public transit entities. The Secretary may only initiate one rulemaking under this paragraph.

(3) Rulemakings under paragraph (1) or (2) shall be separate from a rulemaking under subsection (g), but may not occur unless a rulemaking is carried out under subsection (g).

(l) CONSIDERATION OF FACTORS.—In carrying out this section, the Secretary shall take into consideration energy security, costs, safety, lead time requirements, vehicle miles traveled annually, effect on greenhouse gases, technological feasibility, energy requirements, economic impacts, including impacts on workers and the impact on consumers (including users of the alternative fuel for purposes such as for residences, agriculture, process use, and nonfuel purposes) and fleets, the availability of alternative fuels and alternative fueled vehicles, and other relevant factors.

(m) CONSULTATION AND PARTICIPATION OF OTHER FEDERAL AGENCIES.—In carrying out this section and section 506, the Secretary shall consult with the Secretary of Transportation, the Administrator, and other appropriate Federal agencies. The Secretary shall provide for the participation of the Secretary of Transportation and the Administrator in the development and issuance of the rule under this section, including the public process concerning such rule.

(n) PETITIONS.—As part of the rule promulgated either pursuant to subsection (b) or (g) of this section, the Secretary shall establish procedures for any fleet owner or operator or motor vehicle manufacturer to request that the Secretary modify or suspend a fleet requirement program established under either subsection nationally, by region, or in an applicable fleet area because, as demonstrated by the petitioner, the infrastructure or fuel supply or distribution system for an applicable alternative fuel is inadequate to meet the needs of a fleet. In the event that the Secretary determines that a modification or suspension of the fleet requirement program on a regional basis would detract from the nationwide character of any fleet requirement program established by rule

or would sufficiently diminish the economies of scale for the production of alternative fueled vehicles or alternative fuels and thereafter the practicability and effectiveness of such program, the Secretary may only modify or suspend the program nationally. The procedures shall include provisions for notice and public hearings. The Secretary shall deny or grant the petition within 180 days after filing.

(o) MANDATORY STATE FLEET PROGRAMS.—(1) Pursuant to a rule promulgated by the Secretary, beginning in calendar year 1995 (when model year 1996 begins), the following percentages of new light duty motor vehicles acquired annually for State government fleets, including agencies thereof, but not municipal fleets, shall be alternative fueled vehicles:

(A) 10 percent of the motor vehicles acquired in model year 1996;

(B) 15 percent of the motor vehicles acquired in model year 1997;

(C) 25 percent of the motor vehicles acquired in model year 1998;

(D) 50 percent of the motor vehicles acquired in model year 1999;

(E) 75 percent of the motor vehicles acquired in model year 2000 and thereafter.

(2)(A) The Secretary shall within 18 months after the date of the enactment of this Act promulgate a rule providing that a State may submit a plan within 12 months after such promulgation containing a light duty alternative fueled vehicle plan for State fleets to meet the annual percentages established under paragraph (1) for the acquisition of light duty motor vehicles. The plan shall provide for the voluntary conversion or acquisition or combination thereof, beyond any acquisition required by this title, of such motor vehicles by State, local, or private fleets, in numbers greater than or equal to the number of State alternative fueled vehicles required pursuant to paragraph (1). Regulations.

(B) The plan, if approved by the Secretary, would be in lieu of the State meeting such annual percentages solely through purchases of new State-owned vehicles. All conversions or acquisitions or combinations thereof of any alternative fueled vehicles under the plan must be voluntary and must conform with the requirements of section 247 of the Clean Air Act and must comply with applicable safety requirements. The Secretary of Transportation shall within 3 years after enactment promulgate rules setting forth safety standards in accordance with the National Traffic and Motor Vehicle Safety Act of 1966 applicable to all conversions.

SEC. 508. CREDITS. 42 USC 13258.

(a) IN GENERAL.—The Secretary shall allocate a credit to a fleet or covered person that is required to acquire an alternative fueled vehicle under this title, if that fleet or person acquires an alternative fueled vehicle in excess of the number that fleet or person is required to acquire under this title or acquires an alternative fueled vehicle before the date that fleet or person is required to acquire an alternative fueled vehicle under such title.

(b) ALLOCATION.—In allocating credits under subsection (a), the Secretary shall allocate one credit for each alternative fueled vehicle the fleet or covered person acquires that exceeds the number of alternative fueled vehicles that fleet or person is required to acquire under this title or that is acquired before the date that

fleet or person is required to acquire an alternative fueled vehicle under such title. In the event that a vehicle is acquired before the date otherwise required, the Secretary shall allocate one credit per vehicle for each year the vehicle is acquired before the required date. The credit shall be allocated for the same type vehicle as the excess vehicle or earlier acquired vehicle.

(c) USE OF CREDITS.—At the request of a fleet or covered person allocated a credit under this section, the Secretary shall treat the credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by that fleet or person when determining whether that fleet or person has complied with this title in the year designated. A credit may be counted toward compliance for only one year.

(d) TRANSFERABILITY.—A fleet or covered person allocated a credit under this section or to whom a credit is transferred under this section, may transfer freely the credit to another fleet or person who is required to comply with this title. At the request of the fleet or person to whom a credit is transferred, the Secretary shall treat the transferred credit as the acquisition of one alternative fueled vehicle of the type for which the credit is allocated in the year designated by the fleet or person to whom the credit is transferred when determining whether that fleet or person has complied with this title in the year designated. A transferred credit may be counted toward compliance for only one year. In the case of the alternative fuel provider program under section 501, a transferred credit may be counted toward compliance only if the requirement of section 501(a)(4) is met.

42 USC 13259.

SEC. 509. SECRETARY'S RECOMMENDATIONS TO CONGRESS.

(a) RECOMMENDATIONS TO REQUIRE AVAILABILITY OR ACQUISITION.—If the Secretary determines, under section 507(f), that a fleet requirement program under section 507 is not necessary, the Secretary shall so notify the Congress. If the Secretary so notifies the Congress, the Secretary shall, within 2 years after such notification and by rule, prepare and submit to the Congress recommendations for requirements or incentives for—

(1) fuel suppliers to make available to the public replacement fuels, including providing for the construction or availability of related fuel delivery systems;

(2) suppliers of alternative fueled vehicles to make available to the public alternative fueled vehicles and to ensure the availability of necessary related services; and

(3) motor vehicle drivers to use replacement fuels,

to the extent necessary to achieve such goals of replacement fuel use and to ensure that the availability of alternative fuels and of alternative fueled vehicles are consistent with each other.

(b) FAIR AND EQUITABLE APPLICATION.—In carrying out this section, the Secretary shall recommend the imposition of requirements proportionately on all appropriate fuel suppliers and purchasers of motor fuels and suppliers and purchasers of motor vehicles in a fair and equitable manner.

42 USC 13260.

SEC. 510. EFFECT ON OTHER LAWS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act shall be construed to alter, affect, or modify the provisions of the Clean Air Act, or regulations issued thereunder.

(b) COMPLIANCE BY ALTERNATIVE FUELED VEHICLES.—Alternative fueled vehicles, whether dedicated vehicles or dual fueled

vehicles, and the alternative fuels for operating such vehicles, shall comply with requirements of the Clean Air Act applicable to such vehicles and fuels.

SEC. 511. PROHIBITED ACTS. 42 USC 13261.

It shall be unlawful for any person to violate any provision of section 501, 503(b), or 507, or any regulation issued under such sections.

SEC. 512. ENFORCEMENT. 42 USC 13262.

(a) Whoever violates section 511 shall be subject to a civil penalty of not more than $5,000 for each violation.

(b) Whoever willfully violates section 511 shall be fined not more than $10,000 for each violation.

(c) Any person who knowingly and willfully violates section 511 after having been subjected to a civil penalty for a prior violation of section 511 shall be fined not more than $50,000.

SEC. 513. POWERS OF THE SECRETARY. 42 USC 13263.

For the purpose of carrying out title III, title IV, this title, and title VI, the Secretary, or the duly designated agent of the Secretary, may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpena, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary of Transportation is authorized to do under section 505(b)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2005(b)(1)).

SEC. 514. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13264.

There are authorized to be appropriated to the Secretary for carrying out this title $10,000,000 for each of the fiscal years 1993 through 1997, and such sums as may be necessary for fiscal years 1998 through 2000.

TITLE VI—ELECTRIC MOTOR VEHICLES

SEC. 601. DEFINITIONS. 42 USC 13271.

For the purposes of this title—

(1) the term "antitrust laws" means the Acts set forth in section 1 of the Clayton Act (15 U.S.C. 12);

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "discount payment" means the amount determined pursuant to section 613 of this title;

(4) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle;

(5) the term "electric-hybrid vehicle" means a vehicle primarily powered by an electric motor that draws current from

rechargeable storage batteries, fuel cells, or other source of electric current and also relies on a non-electric source of power;

(6) the term "eligible metropolitan area" means any Metropolitan Area (as such term is defined by the Office of Management and Budget pursuant to section 3504 of title 44, United States Code) with a 1980 population of 250,000 or more that has been designated by a proposer and the Secretary for a demonstration project under this title, except that the Secretary may designate an area with a 1990 population of 50,000 or more as an eligible metropolitan area;

(7) the term "infrastructure and support systems" includes support and maintenance services and facilities, electricity delivery mechanisms and methods, regulatory treatment of investment in electric motor vehicles and associated equipment, consumer education programs, safety and health procedures, and battery availability, replacement, recycling, and disposal, that may be required to enable electric utilities, manufacturers, and others to support the operation and maintenance of electric motor vehicles and associated equipment;

(8) the term "motor vehicle" has the meaning given such term under section 216(2) of the Clean Air Act (42 U.S.C. 7550(2));

(9) the term "non-Federal person" means an entity not part of the Federal Government that is either—

(A) organized under the laws of the United States or the laws of a State of the United States; or

(B) a unit of State or local government;

(10) the term "proposer" means a non-Federal person that submits a proposal to conduct a demonstration project under this title;

(11) the term "price differential" means—

(A) in the case of a purchased electric motor vehicle, the difference between the manufacturer's suggested retail price of such electric motor vehicle and the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle; and

(B) in the case of a leased electric motor vehicle, the difference between the monthly lease payment of such electric motor vehicle over the life of the lease and the monthly lease payment of a comparable conventionally fueled motor vehicle over the life of the lease; and

(12) the term "user" means a person or entity that purchases or leases an electric motor vehicle.

Subtitle A—Electric Motor Vehicle Commercial Demonstration Program

42 USC 13281.

SEC. 611. PROGRAM AND SOLICITATION.

(a) PROGRAM.—The Secretary shall conduct a program to demonstrate electric motor vehicles and the associated equipment of such vehicles, in consultation with the Electric and Hybrid Vehicle Program Site Operators, manufacturers, the electric utility industry, and such other persons as the Secretary considers appropriate. Such program shall be—

(1) designed to accelerate the development and use of electric motor vehicles; and

(2) structured to evaluate the performance of such electric motor vehicles in field operation, including fleet operation, and evaluate the necessary supporting infrastructure.

(b) SOLICITATION.—(1) Not later than 18 months after the date of enactment of this Act, the Secretary shall solicit proposals to demonstrate electric motor vehicles and associated equipment in one or more eligible metropolitan areas. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this subtitle.

(2)(A) Solicitations for proposals under this subsection shall require the proposer to include a description, including the manufacturer or manufacturers of the electric motor vehicles; the proposed users of the electric motor vehicles; the eligible metropolitan area or areas involved; the number of electric motor vehicles to be demonstrated and their type, characteristics, and life-cycle costs; the price differential; the proposed discount payment; the contributions of State or local governments and other persons to the demonstration project; the type of associated equipment to be demonstrated; the domestic content of the electric motor vehicles and associated equipment; and any other information the Secretary considers appropriate.

(B) If the proposal includes a lease arrangement, the proposal shall indicate the terms of such lease arrangement for the electric motor vehicles or associated equipment.

(3) The solicitation for proposals under this subsection shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

SEC. 612. SELECTION OF PROPOSALS. 42 USC 13282.

(a) SELECTION.—(1) The Secretary, in consultation with the Secretary of Transportation, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency, shall, not later than 120 days after the closing date, as established by the Secretary, for receipt of proposals under section 611, select at least one, but not more than 10, proposals to receive financial assistance under section 613.

(2) The Secretary may select more than 10 proposals under this section, if the Secretary determines that the total amount of available funds is not likely to be otherwise utilized.

(3) Any proposal selected under paragraph (1) must satisfy the limitations set forth in section 613(c).

(4) No one project selected under this section shall receive more than 25 percent of the funds authorized under section 616.

(5) A demonstration project may not include electric motor vehicles in more than one eligible metropolitan area, unless the total number of electric motor vehicles in that project is equal to, or greater than, 100.

(b) CRITERIA.—In selecting a proposal and in negotiating financial assistance under this section, the Secretary shall consider—

(1) the ability of the manufacturer, directly, indirectly, or in combination with the proposer, to develop, assist in the demonstration of, manufacture, distribute, sell, provide warranties for, service, and ensure the continued availability of parts for, electric motor vehicles in the demonstration project;

(2) the geographic and climatic diversity of the eligible metropolitan area or areas in which the demonstration project

is to be undertaken, when considered in combination with other proposals and other selected demonstration projects;

(3) the long-term technical and competitive viability of the electric motor vehicles;

(4) the suitability of the electric motor vehicles for their intended uses;

(5) the environmental effects of the use of the proposed electric motor vehicles;

(6) the price differential and the proposed discount payment;

(7) the extent of involvement of State or local government and other persons in the demonstration project, and whether such involvement will—

(A) permit a reduction of the Federal cost share per vehicle; or

(B) otherwise be used to allow the Federal contribution to be provided for a greater number of electric motor vehicles;

(8) the proportion of domestic content of the electric motor vehicles and associated equipment;

(9) the safety of the electric motor vehicles; and

(10) such other criteria as the Secretary considers appropriate.

(c) CONDITIONS.—The Secretary shall require that—

(1) as a part of a demonstration project, the user or users of the electric motor vehicles will provide to the proposer and the manufacturer information regarding the operation, maintenance, performance, and use of the electric motor vehicles for 5 years after the beginning of the demonstration project;

(2) the proposer shall provide to the Secretary such information regarding the operation, maintenance, performance, and use of the electric motor vehicles as the Secretary may request during the period of the demonstration project;

(3) in the case of a demonstration project including automobiles or light duty trucks, the number of electric motor vehicles to be included in the demonstration project shall be no less than 50, except that the Secretary may select a demonstration project with fewer than 50 electric motor vehicles if the Secretary determines that selection of such a proposal will ensure that there is geographic or climatic diversity among the proposals selected and that an adequate demonstration to accelerate the development and use of electric motor vehicles can be undertaken with fewer than 50 electric motor vehicles; and

(4) the procurement practices of the manufacturer do not discriminate against United States producers of vehicle parts.

42 USC 13283.

SEC. 613. DISCOUNT PAYMENTS.

(a) CERTIFICATION.—The Secretary shall provide a discount payment to a proposer of a proposal selected under this subtitle for purposes of reimbursing the proposer for a discount provided to the users if the proposer certifies to the Secretary that—

(1) the electric motor vehicles have been purchased or leased by a user or users in accordance with the requirements of this subtitle; and

(2) the proposer has provided to the user or users a discount payment in accordance with the requirements of this subtitle.

(b) PAYMENT.—Not later than 30 days after receipt from the proposer of certification that the Secretary determines satisfies the requirements of subsection (a), the Secretary shall pay to the proposer the full amount of the discount payment, to the extent provided in advance in appropriations Acts.

(c) CALCULATIONS OF DISCOUNT PAYMENTS.—(1) The discount payment shall be no greater than—

(A) the price differential; or

(B) the price of the comparable conventionally fueled motor vehicle.

(2) The purchase price of the electric motor vehicle, less the discount payment and less any additional reduction in the purchase price of the electric motor vehicle that may result from contributions provided by other parties, may not be less than the manufacturer's suggested retail price of a comparable conventionally fueled motor vehicle.

(3) The maximum discount payment shall be no greater than $10,000 per electric motor vehicle.

SEC. 614. COST-SHARING. 42 USC 13284.

(a) REQUIREMENT.—The Secretary shall require at least 50 percent of the costs directly and specifically related to any project under this subtitle to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(b) REDUCTION.—The Secretary may reduce the amount of costs required to be provided by non-Federal sources under subsection (a) if the Secretary determines that the reduction is necessary and appropriate—

(1) considering the technological risks involved in the project; and

(2) in order to meet the objectives of this subtitle.

SEC. 615. REPORTS TO CONGRESS. 42 USC 13285.

(a) PROGRESS REPORTS.—The Secretary shall report annually to Congress on the progress being made, through demonstration projects supported under this subtitle, to accelerate the development and use of electric motor vehicles.

(b) REPORT ON ENCOURAGING THE PURCHASE AND USE OF ELECTRIC MOTOR VEHICLES.—Within 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on methods for encouraging the purchase and use of electric motor vehicles. Such report shall—

(1) address the potential cost of purchasing and maintaining electric motor vehicles, including the initial cost of the batteries and the cost of replacement batteries;

(2) identify methods for reducing, subsidizing, or sharing such costs; and

(3) include recommendations for legislative and administrative measures to encourage the purchase and use of electric motor vehicles.

SEC. 616. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13286.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $50,000,000 for the 10-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

Subtitle B—Electric Motor Vehicle Infrastructure and Support Systems Development Program

42 USC 13291.

SEC. 621. GENERAL AUTHORITY.

(a) PROGRAM.—The Secretary shall undertake a program with one or more non-Federal persons, including fleet operators, for cost-shared research, development, demonstration, or commercial application of an infrastructure and support systems program.

(b) ELIGIBILITY.—A non-Federal person shall be eligible to receive financial assistance under this subtitle only if such person demonstrates, to the satisfaction of the Secretary, that the person will conduct a substantial portion of activities under the project in the United States using domestic labor and materials.

(c) COORDINATION.—Activities under this subtitle shall be coordinated with activities under subtitle A.

42 USC 13292.

SEC. 622. PROPOSALS.

(a) SOLICITATION.—Not later than one year after the date of enactment of this Act, the Secretary shall solicit proposals from non-Federal persons, including fleet operators, for projects under this subtitle. Within 240 days after proposals have been solicited, the Secretary shall select proposals.

(b) CRITERIA.—(1) The Secretary shall provide financial assistance to no more than 10 projects under this subtitle, unless the Secretary determines that the total amount of available funds is not likely to be otherwise used.

(2) The proposals selected by the Secretary shall, to the extent practicable, represent geographically and climatically diverse regions of the United States.

(3) The aggregate Federal financial assistance for each project under this subtitle may not exceed $4,000,000.

(c) PROJECTS.—The infrastructure and support systems programs for which projects are selected under this subtitle may address—

(1) the ability to service electric motor vehicles and to provide or service associated equipment;

(2) the installation of charging facilities;

(3) rates and cost recovery for electric utilities who invest in infrastructure capital-related expenditures;

(4) the development of safety and health procedures and guidelines related to battery charging, watering, and emissions;

(5) the conduct of information dissemination programs; and

(6) such other subjects as the Secretary considers necessary in order to address the infrastructure and support systems needed to support the development and use of energy storage technologies, including advanced batteries, and the demonstration of electric motor vehicles.

42 USC 13293.

SEC. 623. PROTECTION OF PROPRIETARY INFORMATION.

(a) IN GENERAL.—In the case of activities, including joint venture activities, under this title, and in the case of any existing or future activities, including joint venture activities, related primarily to battery technology for electric motor vehicles under other provisions of law, where the knowledge resulting from research

and development activities conducted pursuant to such activities, including joint venture activities, is for the benefit of the participants (particularly domestic companies) that provide financial resources to a project under this title, the Secretary, for a period of up to 5 years after the development of information that—

(1) results from research and development activities conducted under this title; and

(2) would be a trade secret or commercial or financial information that is privileged or confidential if the information had been obtained from a participant,

shall, notwithstanding any other provision of law, provide appropriate protections against the dissemination of such information to the public, and the provisions of section 1905 of title 18, United States Code, shall apply to such information. Nothing in this subsection provides protections against the dissemination of such information to Congress.

(b) DEFINITION.—For purposes of subsection (a), the term "domestic companies" means entities which are substantially involved in the United States in the domestic production of motor vehicles for sale in the United States and have a substantial percentage of their production facilities in the United States.

SEC. 624. COMPLIANCE WITH EXISTING LAW. 42 USC 13294.

Nothing in this title shall be deemed to convey to any person, partnership, corporation, or other entity, immunity from civil or criminal liability under any antitrust law or to create defenses to actions under any antitrust law.

SEC. 625. ELECTRIC UTILITY PARTICIPATION STUDY. 42 USC 13295.

The Secretary, in consultation with appropriate Federal agencies, representatives of State regulatory commissions and electric utilities, and such other persons as the Secretary considers appropriate, shall undertake or cause to have undertaken a study to determine the means by which electric utilities may invest in, own, sell, lease, service, or recharge batteries used to power electric motor vehicles.

SEC. 626. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13296.

There are authorized to be appropriated to the Secretary for purposes of this subtitle $40,000,000 for the 5-year period beginning with the first full fiscal year after the date of enactment of this Act, to remain available until expended.

TITLE VII—ELECTRICITY

Subtitle A—Exempt Wholesale Generators

SEC. 711. PUBLIC UTILITY HOLDING COMPANY ACT REFORM.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 and following) is amended by redesignating sections 32 and 33 as sections 34 and 35 respectively and by adding the following new section after section 31: 15 USC 79, 79z-6.

"SEC. 32. EXEMPT WHOLESALE GENERATORS. 15 USC 79z-5a.

"(a) DEFINITIONS.—For purposes of this section—

"(1) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' means any person determined by the Fed-

eral Energy Regulatory Commission to be engaged directly, or indirectly through one or more affiliates as defined in section 2(a)(11)(B), and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities and selling electric energy at wholesale. No person shall be deemed to be an exempt wholesale generator under this section unless such person has applied to the Federal Energy Regulatory Commission for a determination under this paragraph. A person applying in good faith for such a determination shall be deemed an exempt wholesale generator under this section, with all of the exemptions provided by this section, until the Federal Energy Regulatory Commission makes such determination. The Federal Energy Regulatory Commission shall make such determination within 60 days of its receipt of such application and shall notify the Commission whenever a determination is made under this paragraph that any person is an exempt wholesale generator. Not later than 12 months after the date of enactment of this section, the Federal Energy Regulatory Commission shall promulgate rules implementing the provisions of this paragraph. Applications for determination filed after the effective date of such rules shall be subject thereto.

Regulations.

"(2) ELIGIBLE FACILITY.—The term 'eligible facility' means a facility, wherever located, which is either—

"(A) used for the generation of electric energy exclusively for sale at wholesale, or

"(B) used for the generation of electric energy and leased to one or more public utility companies; *Provided*, That any such lease shall be treated as a sale of electric energy at wholesale for purposes of sections 205 and 206 of the Federal Power Act.

Such term shall not include any facility for which consent is required under subsection (c) if such consent has not been obtained. Such term includes interconnecting transmission facilities necessary to effect a sale of electric energy at wholesale. For purposes of this paragraph, the term 'facility' may include a portion of a facility subject to the limitations of subsection (d) and shall include a facility the construction of which has not been commenced or completed.

"(3) SALE OF ELECTRIC ENERGY AT WHOLESALE.—The term 'sale of electric energy at wholesale' shall have the same meaning as provided in section 201(d) of the Federal Power Act (16 U.S.C. 824(d)).

"(4) RETAIL RATES AND CHARGES.—The term 'retail rates and charges' means rates and charges for the sale of electric energy directly to consumers.

"(b) FOREIGN RETAIL SALES.—Notwithstanding paragraphs (1) and (2) of subsection (a), retail sales of electric energy produced by a facility located in a foreign country shall not prevent such facility from being an eligible facility, or prevent a person owning or operating, or both owning and operating, such facility from being an exempt wholesale generator if none of the electric energy generated by such facility is sold to consumers in the United States.

"(c) STATE CONSENT FOR EXISTING RATE-BASED FACILITIES.—If a rate or charge for, or in connection with, the construction of a facility, or for electric energy produced by a facility (other than any portion of a rate or charge which represents recovery

of the cost of a wholesale rate or charge) was in effect under the laws of any State as of the date of enactment of this section, in order for the facility to be considered an eligible facility, every State commission having jurisdiction over any such rate or charge must make a specific determination that allowing such facility to be an eligible facility (1) will benefit consumers, (2) is in the public interest, and (3) does not violate State law; *Provided,* That in the case of such a rate or charge which is a rate or charge of an affiliate of a registered holding company:

"(A) such determination with respect to the facility in question shall be required from every State commission having jurisdiction over the retail rates and charges of the affiliates of such registered holding company; and

"(B) the approval of the Commission under this Act shall not be required for the transfer of the facility to an exempt wholesale generator.

"(d) HYBRIDS.—(1) No exempt wholesale generator may own or operate a portion of any facility if any other portion of the facility is owned or operated by an electric utility company that is an affiliate or associate company of such exempt wholesale generator.

"(2) ELIGIBLE FACILITY.—Notwithstanding paragraph (1), an exempt wholesale generator may own or operate a portion of a facility identified in paragraph (1) if such portion has become an eligible facility as a result of the operation of subsection (c).

"(e) EXEMPTION OF EWGS.—An exempt wholesale generator shall not be considered an electric utility company under section 2(a)(3) of this Act and, whether or not a subsidiary company, an affiliate, or an associate company of a holding company, an exempt wholesale generator shall be exempt from all provisions of this Act.

"(f) OWNERSHIP OF EWGS BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act, a holding company that is exempt under section 3 of this Act shall be permitted, without condition or limitation under this Act, to acquire and maintain an interest in the business of one or more exempt wholesale generators.

"(g) OWNERSHIP OF EWGS BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act and the Commission's jurisdiction as provided under subsection (h) of this section, a registered holding company shall be permitted (without the need to apply for, or receive, approval from the Commission, and otherwise without condition under this Act) to acquire and hold the securities, or an interest in the business, of one or more exempt wholesale generators.

"(h) FINANCING AND OTHER RELATIONSHIPS BETWEEN EWGS AND REGISTERED HOLDING COMPANIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, the guarantee of securities of an exempt wholesale generator by a registered holding company, the entering into service, sales or construction contracts, and the creation or maintenance of any other relationship in addition to that described in subsection (g) between an exempt wholesale generator and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act: *Provided,* That—

"(1) section 11 of this Act shall not prohibit the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located), and such ownership by a registered holding company shall be deemed consistent with the operation of an integrated public utility system;

"(2) the ownership of an interest in the business of one or more exempt wholesale generators by a registered holding company (regardless of where facilities owned or operated by such exempt wholesale generators are located) shall be considered as reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system;

"(3) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes of financing the acquisition of an exempt wholesale generator, or (B) the guarantee of a security of an exempt wholesale generator by a registered holding company, the Commission shall not make a finding that such security is not reasonably adapted to the earning power of such company or to the security structure of such company and other companies in the same holding company system, or that the circumstances are such as to constitute the making of such guarantee an improper risk for such company, unless the Commission first finds that the issue or sale of such security, or the making of the guarantee, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(4) in determining whether to approve (A) the issue or sale of a security by a registered holding company for purposes other than the acquisition of an exempt wholesale generator, or (B) other transactions by such registered holding company or by its subsidiaries other than with respect to exempt wholesale generators, the Commission shall not consider the effect of the capitalization or earnings of any subsidiary which is an exempt wholesale generator upon the registered holding company system, unless the approval of the issue or sale or other transaction, together with the effect of such capitalization and earnings, would have a substantial adverse impact on the financial integrity of the registered holding company system;

"(5) the Commission shall make its decision under paragraph (3) to approve or disapprove the issue or sale of a security or the guarantee of a security within 120 days of the filing of a declaration concerning such issue, sale or guarantee; and

"(6) the Commission shall promulgate regulations with respect to the actions which would be considered, for purposes of this subsection, to have a substantial adverse impact on the financial integrity of the registered holding company system; such regulations shall ensure that the action has no adverse impact on any utility subsidiary or its customers, or on the ability of State commissions to protect such subsidiary or customers, and shall take into account the amount and type of capital invested in exempt wholesale generators, the ratio of such capital to the total capital invested in utility operations, the availability of books and records, and the financial and operating experience of the registered holding company

and the exempt wholesale generator; the Commission shall promulgate such regulations within 6 months after the enactment of this section; after such 6-month period the Commission shall not approve any actions under paragraph (3), (4) or (5) except in accordance with such issued regulations.

"(i) APPLICATION OF ACT TO OTHER ELIGIBLE FACILITIES.—In the case of any person engaged directly and exclusively in the business of owning or operating (or both owning and operating) all or part of one or more eligible facilities, an advisory letter issued by the Commission staff under this Act after the date of enactment of this section, or an order issued by the Commission under this Act after the date of enactment of this section, shall not be required for the purpose, or have the effect, of exempting such person from treatment as an electric utility company under section 2(a)(3) or exempting such person from any provision of this Act.

"(j) OWNERSHIP OF EXEMPT WHOLESALE GENERATORS AND QUALIFYING FACILITIES.—The ownership by a person of one or more exempt wholesale generators shall not result in such person being considered as being primarily engaged in the generation or sale of electric power within the meaning of sections 3(17)(C)(ii) and 3(18)(B)(ii) of the Federal Power Act (16 U.S.C. 796(17)(C)(ii) and 796(18)(B)(ii)).

"(k) PROTECTION AGAINST ABUSIVE AFFILIATE TRANSACTIONS.—

"(1) PROHIBITION.—After the date of enactment of this section, an electric utility company may not enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator if the exempt wholesale generator is an affiliate or associate company of the electric utility company.

"(2) STATE AUTHORITY TO EXEMPT FROM PROHIBITION.—Notwithstanding paragraph (1), an electric utility company may enter into a contract to purchase electric energy at wholesale from an exempt wholesale generator that is an affiliate or associate company of the electric utility company—

"(A) if every State commission having jurisdiction over the retail rates of such electric utility company makes each of the following specific determinations in advance of the electric utility company entering into such contract:

"(i) A determination that such commission has sufficient regulatory authority, resources and access to books and records of the electric utility company and any relevant associate, affiliate or subsidiary company to exercise its duties under this subparagraph.

"(ii) A determination that the transaction—

"(I) will benefit consumers,

"(II) does not violate any State law (including where applicable, least cost planning),

"(III) would not provide the exempt wholesale generator any unfair competitive advantage by virtue of its affiliation or association with the electric utility company, and

"(IV) is in the public interest; or

"(B) if such electric utility company is not subject to State commission retail rate regulation and the purchased electric energy:

"(i) would not be resold to any affiliate or associate company, or

"(ii) the purchased electric energy would be resold to an affiliate or associate company and every State commission having jurisdiction over the retail rates of such affiliate or associate company makes each of the determinations provided under subparagraph (A), including the determination concerning a State commission's duties.

"(l) RECIPROCAL ARRANGEMENTS PROHIBITED.—Reciprocal arrangements among companies that are not affiliates or associate companies of each other that are entered into in order to avoid the provisions of this section are prohibited.".

SEC. 712. STATE CONSIDERATION OF THE EFFECTS OF POWER PURCHASES ON UTILITY COST OF CAPITAL; CONSIDERATION OF THE EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND CONSIDERATION OF ADEQUATE FUEL SUPPLIES.

16 USC 2621.

Section 111 of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2601 and following) is amended by inserting the following new paragraph after paragraph (9):

"(10) CONSIDERATION OF THE EFFECTS OF WHOLESALE POWER PURCHASES ON UTILITY COST OF CAPITAL; EFFECTS OF LEVERAGED CAPITAL STRUCTURES ON THE RELIABILITY OF WHOLESALE POWER SELLERS; AND ASSURANCE OF ADEQUATE FUEL SUPPLIES.—(A) To the extent that a State regulatory authority requires or allows electric utilities for which it has ratemaking authority to consider the purchase of long-term wholesale power supplies as a means of meeting electric demand, such authority shall perform a general evaluation of:

"(i) the potential for increases or decreases in the costs of capital for such utilities, and any resulting increases or decreases in the retail rates paid by electric consumers, that may result from purchases of long-term wholesale power supplies in lieu of the construction of new generation facilities by such utilities;

"(ii) whether the use by exempt wholesale generators (as defined in section 32 of the Public Utility Holding Company Act of 1935) of capital structures which employ proportionally greater amounts of debt than the capital structures of such utilities threatens reliability or provides an unfair advantage for exempt wholesale generators over such utilities;

"(iii) whether to implement procedures for the advance approval or disapproval of the purchase of a particular long-term wholesale power supply; and

"(iv) whether to require as a condition for the approval of the purchase of power that there be reasonable assurances of fuel supply adequacy.

"(B) For purposes of implementing the provisions of this paragraph, any reference contained in this section to the date of enactment of the Public Utility Regulatory Policies Act of 1978 shall be deemed to be a reference to the date of enactment of this paragraph.

"(C) Notwithstanding any other provision of Federal law, nothing in this paragraph shall prevent a State regulatory authority from taking such action, including action with respect to the allowable capital structure of exempt wholesale genera-

tors, as such State regulatory authority may determine to be in the public interest as a result of performing evaluations under the standards of subparagraph (A).

"(D) Notwithstanding section 124 and paragraphs (1) and (2) of section 112(a), each State regulatory authority shall consider and make a determination concerning the standards of subparagraph (A) in accordance with the requirements of subsections (a) and (b) of this section, without regard to any proceedings commenced prior to the enactment of this paragraph.

"(E) Notwithstanding subsections (b) and (c) of section 112, each State regulatory authority shall consider and make a determination concerning whether it is appropriate to implement the standards set out in subparagraph (A) not later than one year after the date of enactment of this paragraph.".

SEC. 713. PUBLIC UTILITY HOLDING COMPANIES TO OWN INTERESTS IN COGENERATION FACILITIES.

Public Law 99–186 (99 Stat. 1180, as amended by Public Law 99–553, 100 Stat. 3087), is amended to read as follows: 15 USC 79k note.

"SECTION 1. Notwithstanding section 11(b)(1) of the Public Utility Holding Company Act of 1935, a company registered under said Act, or a subsidiary company of such registered company, may acquire or retain, in any geographic area, an interest in any qualifying cogeneration facilities and qualifying small power production facilities as defined pursuant to the Public Utility Regulatory Policies Act of 1978, and shall qualify for any exemption relating to the Public Utility Holding Company Act of 1935 prescribed pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978.

"SEC. 2. Nothing herein shall be construed to affect the applicability of section 3(17)(C) or section 3(18)(B) of the Federal Power Act or any provision of the Public Utility Holding Company Act of 1935, other than section 11(b)(1), to the acquisition or retention of any such interest by any such company.".

SEC. 714. BOOKS AND RECORDS.

Section 201 of the Federal Power Act is amended by adding the following new subsection at the end thereof: 16 USC 824.

"(g) BOOKS AND RECORDS.—(1) Upon written order of a State commission, a State commission may examine the books, accounts, memoranda, contracts, and records of—

"(A) an electric utility company subject to its regulatory authority under State law,

"(B) any exempt wholesale generator selling energy at wholesale to such electric utility, and

"(C) any electric utility company, or holding company thereof, which is an associate company or affiliate of an exempt wholesale generator which sells electric energy to an electric utility company referred to in subparagraph (A),

wherever located, if such examination is required for the effective discharge of the State commission's regulatory responsibilities affecting the provision of electric service.

"(2) Where a State commission issues an order pursuant to paragraph (1), the State commission shall not publicly disclose trade secrets or sensitive commercial information.

"(3) Any United States district court located in the State in which the State commission referred to in paragraph (1) is located shall have jurisdiction to enforce compliance with this subsection.

"(4) Nothing in this section shall—

"(A) preempt applicable State law concerning the provision of records and other information; or

"(B) in any way limit rights to obtain records and other information under Federal law, contracts, or otherwise.

"(5) As used in this subsection the terms 'affiliate', 'associate company', 'electric utility company', 'holding company', 'subsidiary company', and 'exempt wholesale generator' shall have the same meaning as when used in the Public Utility Holding Company Act of 1935.".

SEC. 715. INVESTMENT IN FOREIGN UTILITIES.

The Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) is amended by inserting after section 32 the following new section:

15 USC 79z-5b.

"SEC. 33. TREATMENT OF FOREIGN UTILITIES.

"(a) EXEMPTIONS FOR FOREIGN UTILITY COMPANIES.—

"(1) IN GENERAL.—A foreign utility company shall be exempt from all of the provisions of this Act, except as otherwise provided under this section, and shall not, for any purpose under this Act, be deemed to be a public utility company under section 2(a)(5), notwithstanding that the foreign utility company may be a subsidiary company, an affiliate, or an associate company of a holding company or of a public utility company.

"(2) STATE COMMISSION CERTIFICATION.—Section (a)(1) shall not apply or be effective unless every State commission having jurisdiction over the retail electric or gas rates of a public utility company that is an associate company or an affiliate of a company otherwise exempted under section (a)(1) (other than a public utility company that is an associate company or an affiliate of a registered holding company) has certified to the Commission that it has the authority and resources to protect ratepayers subject to its jurisdiction and that it intends to exercise its authority. Such certification, upon the filing of a notice by such State commission, may be revised or withdrawn by the State commission prospectively as to any future acquisition. The requirement of State certification shall be deemed satisfied if the relevant State commission had, prior to the date of enactment of this section, on the basis of prescribed conditions of general applicability, determined that ratepayers of a public utility company are adequately insulated from the effects of diversification and the diversification would not impair the ability of the State commission to regulate effectively the operations of such company.

"(3) DEFINITION.—For purposes of this section, the term 'foreign utility company' means any company that—

"(A) owns or operates facilities that are not located in any State and that are used for the generation, transmission, or distribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, if such company—

"(i) derives no part of its income, directly or indirectly, from the generation, transmission, or dis-

tribution of electric energy for sale or the distribution at retail of natural or manufactured gas for heat, light, or power, within the United States; and

"(ii) neither the company nor any of its subsidiary companies is a public utility company operating in the United States; and

"(B) provides notice to the Commission, in such form as the Commission may prescribe, that such company is a foreign utility company.

"(b) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY EXEMPT HOLDING COMPANIES.—Notwithstanding any provision of this Act except as provided under this section, a holding company that is exempt under section 3 of the Act shall be permitted without condition or limitation under the Act to acquire and maintain an interest in the business of one or more foreign utility companies.

"(c) REGISTERED HOLDING COMPANIES.—

"(1) OWNERSHIP OF FOREIGN UTILITY COMPANIES BY REGISTERED HOLDING COMPANIES.—Notwithstanding any provision of this Act except as otherwise provided under this section, a registered holding company shall be permitted as of the date of enactment of this section (without the need to apply for, or receive approval from the Commission) to acquire and hold the securities or an interest in the business, of one or more foreign utility companies. The Commission shall promulgate rules or regulations regarding registered holding companies' acquisition of interests in foreign utility companies which shall provide for the protection of the customers of a public utility company which is an associate company of a foreign utility company and the maintenance of the financial integrity of the registered holding company system. Regulations.

"(2) ISSUANCE OF SECURITIES.—The issuance of securities by a registered holding company for purposes of financing the acquisition of a foreign utility company, the guarantee of securities of a foreign utility company by a registered holding company, the entering into service, sales, or construction contracts, and the creation or maintenance of any other relationship between a foreign utility company and a registered holding company, its affiliates and associate companies, shall remain subject to the jurisdiction of the Commission under this Act (unless otherwise exempted under this Act, in the case of a transaction with an affiliate or associate company located outside of the United States). Any State commission with jurisdiction over the retail rates of a public utility company which is part of a registered holding company system may make such recommendations to the Commission regarding the registered holding company's relationship to a foreign utility company, and the Commission shall reasonably and fully consider such State recommendation.

"(3) CONSTRUCTION.—Any interest in the business of 1 or more foreign utility companies, or 1 or more companies organized exclusively to own, directly or indirectly, the securities or other interest in a foreign utility company, shall for all purposes of this Act, be considered to be—

"(A) consistent with the operation of a single integrated public utility system, within the meaning of section 11; and

"(B) reasonably incidental, or economically necessary or appropriate, to the operations of an integrated public utility system, within the meaning of section 11.

"(d) EFFECT ON EXISTING LAW; NO STATE PREEMPTION.—Nothing in this section shall—

"(1) preclude any person from qualifying for or maintaining any exemption otherwise provided for under this Act or the rules, regulations, or orders promulgated or issued under this Act; or

"(2) be deemed or construed to limit the authority of any State (including any State regulatory authority) with respect to—

"(A) any public utility company or holding company subject to such State's jurisdiction; or

"(B) any transaction between any foreign utility company (or any affiliate or associate company thereof) and any public utility company or holding company subject to such State's jurisdiction.

"(e) REPORTING REQUIREMENTS.—

"(1) FILING OF REPORTS.—A public utility company that is an associate company of a foreign utility company shall file with the Commission such reports (with respect to such foreign utility company) as the Commission may by rules, regulations, or order prescribe as necessary or appropriate in the public interest or for the protection of investors or consumers.

"(2) NOTICE OF ACQUISITIONS.—Not later than 30 days after the consummation of the acquisition of an interest in a foreign utility company by an associate company of a public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates or by such public utility company, such associate company or such public utility company, shall provide notice of such acquisition to every State commission having jurisdiction over the retail electric or gas rates of such public utility company, in such form as may be prescribed by the State commission.

"(f) PROHIBITION ON ASSUMPTION OF LIABILITIES.—

"(1) IN GENERAL.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall issue any security for the purpose of financing the acquisition, or for the purposes of financing the ownership or operation, of a foreign utility company, nor shall any such public utility company assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of a foreign utility company.

"(2) EXCEPTION FOR HOLDING COMPANIES WHICH ARE PREDOMINANTLY PUBLIC UTILITY COMPANIES.—Subsection (f)(1) shall not apply if:

"(A) the public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates is a holding company and is not an affiliate under section 2(a)(11)(B) of another holding company or is not subject to regulation as a holding company and has no affiliate as defined in section 2(a)(11)(A) that is a public utility company subject to the jurisdiction of a State commission with respect to its retail electric or gas rates; and

"(B) each State commission having jurisdiction with respect to the retail electric and gas rates of such public utility company expressly permits such public utility to engage in a transaction otherwise prohibited under section (f)(1); and

"(C) the transaction (aggregated with all other then-outstanding transactions exempted under this subsection) does not exceed 5 per centum of the then-outstanding total capitalization of the public utility.

"(g) PROHIBITION ON PLEDGING OR ENCUMBERING UTILITY ASSETS.—No public utility company that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall pledge or encumber any utility assets or utility assets of any subsidiary thereof for the benefit of an associate foreign utility company.".

Subtitle B—Federal Power Act; Interstate Commerce in Electricity

SEC. 721. AMENDMENTS TO SECTION 211 OF FEDERAL POWER ACT.

Section 211 of the Federal Power Act (16 U.S.C. 824j) is amended as follows:

(1) The first sentence of subsection (a) is amended to read as follows: "Any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale, may apply to the Commission for an order under this subsection requiring a transmitting utility to provide transmission services (including any enlargement of transmission capacity necessary to provide such services) to the applicant.".

(2) In the second sentence of subsection (a), strike "the Commission may" and all that follows and insert "the Commission may issue such order if it finds that such order meets the requirements of section 212, and would otherwise be in the public interest. No order may be issued under this subsection unless the applicant has made a request for transmission services to the transmitting utility that would be the subject of such order at least 60 days prior to its filing of an application for such order.".

(3) Amend subsection (b) to read as follows:

"(b) RELIABILITY OF ELECTRIC SERVICE.—No order may be issued under this section or section 210 if, after giving consideration to consistently applied regional or national reliability standards, guidelines, or criteria, the Commission finds that such order would unreasonably impair the continued reliability of electric systems affected by the order.".

(4) In subsection (c)—

(A) Strike out paragraph (1).

(B) In paragraph (2) strike "which requires the electric" and insert "which requires the transmitting".

(C) Strike out paragraphs (3) and (4).

(5) In subsection (d)—

(A) In the first sentence of paragraph (1), strike "electric" and insert "transmitting" in each place it appears.

(B) In the second sentence of paragraph (1) before "and each affected electric utility," insert "each affected transmitting utility,".

(C) In paragraph (3), strike "electric" and insert "transmitting".

(D) Strike the period in subparagraph (B) of paragraph (1) and insert ", or" and after subparagraph (B) insert the following new subparagraph:

"(C) the ordered transmission services require enlargement of transmission capacity and the transmitting utility subject to the order has failed, after making a good faith effort, to obtain the necessary approvals or property rights under applicable Federal, State, and local laws.".

SEC. 722. TRANSMISSION SERVICES.

16 USC 824k.

Section 212 of the Federal Power Act is amended as follows:

(1) Strike subsections (a) and (b) and insert the following:

"(a) RATES, CHARGES, TERMS, AND CONDITIONS FOR WHOLESALE TRANSMISSION SERVICES.—An order under section 211 shall require the transmitting utility subject to the order to provide wholesale transmission services at rates, charges, terms, and conditions which permit the recovery by such utility of all the costs incurred in connection with the transmission services and necessary associated services, including, but not limited to, an appropriate share, if any, of legitimate, verifiable and economic costs, including taking into account any benefits to the transmission system of providing the transmission service, and the costs of any enlargement of transmission facilities. Such rates, charges, terms, and conditions shall promote the economically efficient transmission and generation of electricity and shall be just and reasonable, and not unduly discriminatory or preferential. Rates, charges, terms, and conditions for transmission services provided pursuant to an order under section 211 shall ensure that, to the extent practicable, costs incurred in providing the wholesale transmission services, and properly allocable to the provision of such services, are recovered from the applicant for such order and not from a transmitting utility's existing wholesale, retail, and transmission customers.".

(2) Subsection (e) is amended to read as follows:

"(e) SAVINGS PROVISIONS.—(1) No provision of section 210, 211, 214, or this section shall be treated as requiring any person to utilize the authority of any such section in lieu of any other authority of law. Except as provided in section 210, 211, 214, or this section, such sections shall not be construed as limiting or impairing any authority of the Commission under any other provision of law.

"(2) Sections 210, 211, 213, 214, and this section, shall not be construed to modify, impair, or supersede the antitrust laws. For purposes of this section, the term 'antitrust laws' has the meaning given in subsection (a) of the first sentence of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section relates to unfair methods of competition.".

(3) Add the following new subsections at the end thereof:

"(g) PROHIBITION ON ORDERS INCONSISTENT WITH RETAIL MARKETING AREAS.—No order may be issued under this Act which is inconsistent with any State law which governs the retail marketing areas of electric utilities.

"(h) PROHIBITION ON MANDATORY RETAIL WHEELING AND SHAM WHOLESALE TRANSACTIONS.—No order issued under this Act shall be conditioned upon or require the transmission of electric energy:

"(1) directly to an ultimate consumer, or

"(2) to, or for the benefit of, an entity if such electric energy would be sold by such entity directly to an ultimate consumer, unless:

"(A) such entity is a Federal power marketing agency; the Tennessee Valley Authority; a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision); a corporation or association that has ever received a loan for the purposes of providing electric service from the Administrator of the Rural Electrification Administration under the Rural Electrification Act of 1936; a person having an obligation arising under State or local law (exclusive of an obligation arising solely from a contract entered into by such person) to provide electric service to the public; or any corporation or association which is wholly owned, directly or indirectly, by any one or more of the foregoing; and

"(B) such entity was providing electric service to such ultimate consumer on the date of enactment of this subsection or would utilize transmission or distribution facilities that it owns or controls to deliver all such electric energy to such electric consumer.

Nothing in this subsection shall affect any authority of any State or local government under State law concerning the transmission of electric energy directly to an ultimate consumer.".

"(i) LAWS APPLICABLE TO FEDERAL COLUMBIA RIVER TRANSMISSION SYSTEM.—(1) The Commission shall have authority pursuant to section 210, section 211, this section, and section 213 to (A) order the Administrator of the Bonneville Power Administration to provide transmission service and (B) establish the terms and conditions of such service. In applying such sections to the Federal Columbia River Transmission System, the Commission shall assure that—

"(i) the provisions of otherwise applicable Federal laws shall continue in full force and effect and shall continue to be applicable to the system; and

"(ii) the rates for the transmission of electric power on the system shall be governed only by such otherwise applicable provisions of law and not by any provision of section 210, section 211, this section, or section 213, except that no rate for the transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential, as determined by the Commission.

"(2) Notwithstanding any other provision of this Act with respect to the procedures for the determination of terms and conditions for transmission service—

"(A) when the Administrator of the Bonneville Power Administration either (i) in response to a written request for specific transmission service terms and conditions does not offer the requested terms and conditions, or (ii) proposes to establish terms and conditions of general applicability for transmission service on the Federal Columbia River Transmission System, then the Administrator may provide opportunity for a hearing and, in so doing, shall—

"(I) give notice in the Federal Register and state in such notice the written explanation of the reasons why

the specific terms and conditions for transmission services are not being offered or are being proposed;

"(II) adhere to the procedural requirements of paragraphs (1) through (3) of section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839(i) (1) through (3)), except that the hearing officer shall, unless the hearing officer becomes unavailable to the agency, make a recommended decision to the Administrator that states the hearing officer's findings and conclusions, and the reasons or basis thereof, on all material issues of fact, law, or discretion presented on the record; and

"(III) make a determination, setting forth the reasons for reaching any findings and conclusions which may differ from those of the hearing officer, based on the hearing record, consideration of the hearing officer's recommended decision, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section; and

"(B) if application is made to the Commission under section 211 for transmission service under terms and conditions different than those offered by the Administrator, or following the denial of a request for transmission service by the Administrator, and such application is filed within 60 days of the Administrator's final determination and in accordance with Commission procedures, the Commission shall—

"(i) in the event the Administrator has conducted a hearing as herein provided for (I) accord parties to the Administrator's hearing the opportunity to offer for the Commission record materials excluded by the Administrator from the hearing record, (II) accord such parties the opportunity to submit for the Commission record comments on appropriate terms and conditions, (III) afford those parties the opportunity for a hearing if and to the extent that the Commission finds the Administrator's hearing record to be inadequate to support a decision by the Commission, and (IV) establish terms and conditions for or deny transmission service based on the Administrator's hearing record, the Commission record, section 211 and this section, as amended by the Energy Policy Act of 1992, and the provisions of law as preserved in this section, or

"(ii) in the event the Administrator has not conducted a hearing as herein provided for, determine whether to issue an order for transmission service in accordance with section 211 and this section, including providing the opportunity for a hearing.

"(3) Notwithstanding those provisions of section 313(b) of this Act (16 U.S.C. 825l) which designate the court in which review may be obtained, any party to a proceeding concerning transmission service sought to be furnished by the Administrator of the Bonneville Power Administration seeking review of an order issued by the Commission in such proceeding shall obtain a review of such order in the United States Court of Appeals for the Pacific Northwest, as that region is defined by section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)).

"(4) To the extent the Administrator of the Bonneville Power Administration cannot be required under section 211, as a result of the Administrator's other statutory mandates, either to (A) provide transmission service to an applicant which the Commission would otherwise order, or (B) provide such service under rates, terms, and conditions which the Commission would otherwise require, the applicant shall not be required to provide similar transmission services to the Administrator or to provide such services under similar rates, terms, and conditions.

"(5) The Commission shall not issue any order under section 210, section 211, this section, or section 213 requiring the Administrator of the Bonneville Power Administration to provide transmission service if such an order would impair the Administrator's ability to provide such transmission service to the Administrator's power and transmission customers in the Pacific Northwest, as that region is defined in section 3(14) of the Pacific Northwest Electric Power Planning and Conservation Act (16 U.S.C. 839a(14)), as is needed to assure adequate and reliable service to loads in that region.

"(j) EQUITABILITY WITHIN TERRITORY RESTRICTED ELECTRIC SYSTEMS.—With respect to an electric utility which is prohibited by Federal law from being a source of power supply, either directly or through a distributor of its electric energy, outside an area set forth in such law, no order issued under section 211 may require such electric utility (or a distributor of such electric utility) to provide transmission services to another entity if the electric energy to be transmitted will be consumed within the area set forth in such Federal law, unless the order is in furtherance of a sale of electric energy to that electric utility: *Provided, however,* That the foregoing provision shall not apply to any area served at retail by an electric transmission system which was such a distributor on the date of enactment of this subsection and which before October 1, 1991, gave its notice of termination under its power supply contract with such electric utility.

"(k) ERCOT UTILITIES.—

"(1) RATES.—Any order under section 211 requiring provision of transmission services in whole or in part within ERCOT shall provide that any ERCOT utility which is not a public utility and the transmission facilities of which are actually used for such transmission service is entitled to receive compensation based, insofar as practicable and consistent with subsection (a), on the transmission ratemaking methodology used by the Public Utility Commission of Texas.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) the term 'ERCOT' means the Electric Reliability Council of Texas; and

"(B) the term 'ERCOT utility' means a transmitting utility which is a member of ERCOT.".

SEC. 723. INFORMATION REQUIREMENTS.

Part II of the Federal Power Act is amended by adding the following new section after section 212:

"SEC. 213. INFORMATION REQUIREMENTS. 16 USC 824*l*.

"(a) REQUESTS FOR WHOLESALE TRANSMISSION SERVICES.—Whenever any electric utility, Federal power marketing agency, or any other person generating electric energy for sale for resale makes a good faith request to a transmitting utility to provide

wholesale transmission services and requests specific rates and charges, and other terms and conditions, unless the transmitting utility agrees to provide such services at rates, charges, terms and conditions acceptable to such person, the transmitting utility shall, within 60 days of its receipt of the request, or other mutually agreed upon period, provide such person with a detailed written explanation, with specific reference to the facts and circumstances of the request, stating (1) the transmitting utility's basis for the proposed rates, charges, terms, and conditions for such services, and (2) its analysis of any physical or other constraints affecting the provision of such services.

Regulations.

"(b) TRANSMISSION CAPACITY AND CONSTRAINTS.—Not later than 1 year after the enactment of this section, the Commission shall promulgate a rule requiring that information be submitted annually to the Commission by transmitting utilities which is adequate to inform potential transmission customers, State regulatory authorities, and the public of potentially available transmission capacity and known constraints.".

SEC. 724. SALES BY EXEMPT WHOLESALE GENERATORS.

Part II of the Federal Power Act is amended by adding the following new section after section 213:

16 USC 824m.

"SEC. 214. SALES BY EXEMPT WHOLESALE GENERATORS.

"No rate or charge received by an exempt wholesale generator for the sale of electric energy shall be lawful under section 205 if, after notice and opportunity for hearing, the Commission finds that such rate or charge results from the receipt of any undue preference or advantage from an electric utility which is an associate company or an affiliate of the exempt wholesale generator. For purposes of this section, the terms 'associate company' and 'affiliate' shall have the same meaning as provided in section 2(a) of the Public Utility Holding Company Act of 1935.".

SEC. 725. PENALTIES.

16 USC 825n, 825o.

(a) EXISTING PENALTIES NOT APPLICABLE TO TRANSMISSION PROVISIONS.—Sections 315 and 316 of the Federal Power Act are each amended by adding the following at the end thereof:

"(c) This subsection shall not apply in the case of any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.".

(b) PENALTIES APPLICABLE TO TRANSMISSION PROVISIONS.—Title III of the Federal Power Act is amended by inserting the following new section after section 316:

16 USC 825o-1.

"SEC. 316A. ENFORCEMENT OF CERTAIN PROVISIONS.

"(a) VIOLATIONS.—It shall be unlawful for any person to violate any provision of section 211, 212, 213, or 214 or any rule or order issued under any such provision.

"(b) CIVIL PENALTIES.—Any person who violates any provision of section 211, 212, 213, or 214 or any provision of any rule or order thereunder shall be subject to a civil penalty of not more than $10,000 for each day that such violation continues. Such penalty shall be assessed by the Commission, after notice and opportunity for public hearing, in accordance with the same provisions as are applicable under section 31(d) in the case of civil penalties assessed under section 31. In determining the amount of a proposed penalty, the Commission shall take into consideration

the seriousness of the violation and the efforts of such person to remedy the violation in a timely manner.".

SEC. 726. DEFINITIONS.

(a) ADDITIONAL DEFINITIONS.—Section 3 of the Federal Power Act is amended by adding the following at the end thereof: 16 USC 796.

"(23) TRANSMITTING UTILITY.—The term 'transmitting utility' means any electric utility, qualifying cogeneration facility, qualifying small power production facility, or Federal power marketing agency which owns or operates electric power transmission facilities which are used for the sale of electric energy at wholesale.

"(24) WHOLESALE TRANSMISSION SERVICES.—The term 'wholesale transmission services' means the transmission of electric energy sold, or to be sold, at wholesale in interstate commerce.

"(25) EXEMPT WHOLESALE GENERATOR.—The term 'exempt wholesale generator' shall have the meaning provided by section 32 of the Public Utility Holding Company Act of 1935.".

(b) CLARIFICATION OF TERMS.—Section 3(22) of the Federal Power Act is amended by inserting "(including any municipality)" after "State agency".

Subtitle C—State and Local Authorities

SEC. 731. STATE AUTHORITIES. 15 USC 79 note.

Nothing in this title or in any amendment made by this title shall be construed as affecting or intending to affect, or in any way to interfere with, the authority of any State or local government relating to environmental protection or the siting of facilities.

TITLE VIII—HIGH-LEVEL RADIOACTIVE WASTE

SEC. 801. NUCLEAR WASTE DISPOSAL. 42 USC 10141 note.

(a) ENVIRONMENTAL PROTECTION AGENCY STANDARDS.—

(1) PROMULGATION.—Notwithstanding the provisions of section 121(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(a)), section 161 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(b)), and any other authority of the Administrator of the Environmental Protection Agency to set generally applicable standards for the Yucca Mountain site, the Administrator shall, based upon and consistent with the findings and recommendations of the National Academy of Sciences, promulgate, by rule, public health and safety standards for protection of the public from releases from radioactive materials stored or disposed of in the repository at the Yucca Mountain site. Such standards shall prescribe the maximum annual effective dose equivalent to individual members of the public from releases to the accessible environment from radioactive materials stored or disposed of in the repository. The standards shall be promulgated not later than 1 year after the Administrator receives the findings and recommendations of the National Academy of Sciences under paragraph (2) and shall

be the only such standards applicable to the Yucca Mountain site.

(2) STUDY BY NATIONAL ACADEMY OF SCIENCES.—Within 90 days after the date of the enactment of this Act, the Administrator shall contract with the National Academy of Sciences to conduct a study to provide, by not later than December 31, 1993, findings and recommendations on reasonable standards for protection of the public health and safety, including—

(A) whether a health-based standard based upon doses to individual members of the public from releases to the accessible environment (as that term is defined in the regulations contained in subpart B of part 191 of title 40, Code of Federal Regulations, as in effect on November 18, 1985) will provide a reasonable standard for protection of the health and safety of the general public;

(B) whether it is reasonable to assume that a system for post-closure oversight of the repository can be developed, based upon active institutional controls, that will prevent an unreasonable risk of breaching the repository's engineered or geologic barriers or increasing the exposure of individual members of the public to radiation beyond allowable limits; and

(C) whether it is possible to make scientifically supportable predictions of the probability that the repository's engineered or geologic barriers will be breached as a result of human intrusion over a period of 10,000 years.

(3) APPLICABILITY.—The provisions of this section shall apply to the Yucca Mountain site, rather than any other authority of the Administrator to set generally applicable standards for radiation protection.

(b) NUCLEAR REGULATORY COMMISSION REQUIREMENTS AND CRITERIA.—

(1) MODIFICATIONS.—Not later than 1 year after the Administrator promulgates standards under subsection (a), the Nuclear Regulatory Commission shall, by rule, modify its technical requirements and criteria under section 121(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10141(b)), as necessary, to be consistent with the Administrator's standards promulgated under subsection (a).

(2) REQUIRED ASSUMPTIONS.—The Commission's requirements and criteria shall assume, to the extent consistent with the findings and recommendations of the National Academy of Sciences, that, following repository closure, the inclusion of engineered barriers and the Secretary's post-closure oversight of the Yucca Mountain site, in accordance with subsection (c), shall be sufficient to—

(A) prevent any activity at the site that poses an unreasonable risk of breaching the repository's engineered or geologic barriers; and

(B) prevent any increase in the exposure of individual members of the public to radiation beyond allowable limits.

(c) POST-CLOSURE OVERSIGHT.—Following repository closure, the Secretary of Energy shall continue to oversee the Yucca Mountain site to prevent any activity at the site that poses an unreasonable risk of—

(1) breaching the repository's engineered or geologic barriers; or

(2) increasing the exposure of individual members of the public to radiation beyond allowable limits.

SEC. 802. OFFICE OF THE NUCLEAR WASTE NEGOTIATOR.

(a) EXTENSION.—Section 410 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10250) is amended by striking "5 years" and inserting "7 years".

(b) DEFINITION OF STATE.—Section 401 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241) is amended—

(1) by striking "States," the first place it appears and inserting "States and"; and

(2) by inserting a period after "District of Columbia" and striking the remainder of the sentence.

SEC. 803. NUCLEAR WASTE MANAGEMENT PLAN.

42 USC 10101 note.

(a) PREPARATION AND SUBMISSION OF REPORT.—The Secretary of Energy, in consultation with the Nuclear Regulatory Commission and the Environmental Protection Agency, shall prepare and submit to the Congress a report on whether current programs and plans for management of nuclear waste as mandated by the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) are adequate for management of any additional volumes or categories of nuclear waste that might be generated by any new nuclear power plants that might be constructed and licensed after the date of the enactment of this Act. The Secretary shall prepare the report for submission to the President and the Congress within 1 year after the date of the enactment of this Act. The report shall examine any new relevant issues related to management of spent nuclear fuel and high-level radioactive waste that might be raised by the addition of new nuclear-generated electric capacity, including anticipated increased volumes of spent nuclear fuel or high-level radioactive waste, any need for additional interim storage capacity prior to final disposal, transportation of additional volumes of waste, and any need for additional repositories for deep geologic disposal.

(b) OPPORTUNITY FOR PUBLIC COMMENT.—In preparation of the report required under subsection (a), the Secretary of Energy shall offer members of the public an opportunity to provide information and comment and shall solicit the views of the Nuclear Regulatory Commission, the Environmental Protection Agency, and other interested parties.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE IX—UNITED STATES ENRICHMENT CORPORATION

SEC. 901. ESTABLISHMENT OF THE UNITED STATES ENRICHMENT CORPORATION.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new title:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

42 USC 2297.

"SEC. 1201. DEFINITIONS.

"For purposes of this title:

"(1) The term 'alternative technologies for uranium enrichment' means technologies to enrich uranium by methods other than the gaseous diffusion process.

"(2) The term 'AVLIS' means atomic vapor laser isotope separation technology.

"(3) The term 'Board' means the Board of Directors of the Corporation established under section 1304.

"(4) The term 'Corporation' means the United States Enrichment Corporation.

"(5) The term 'corrective actions' has the meaning given such term by the Administrator of the Environmental Protection Agency under section 3004(u) of the Solid Waste Disposal Act (42 U.S.C. 6924(u)).

"(6) The term 'decontamination and decommissioning' means those activities, other than response actions or corrective actions, undertaken to decontaminate and decommission inactive uranium enrichment facilities that have residual radioactive or mixed radioactive and hazardous chemical contamination, including depleted tailings.

"(7) The term 'Department' means the Department of Energy.

"(8) The term 'highly enriched uranium' means uranium enriched to 20 percent or more of the uranium-235 isotope.

"(9) The term 'low-enriched uranium' means uranium enriched to less than 20 percent of the uranium-235 isotope.

"(10) The term 'releases' has the meaning given the term 'release' in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

"(11) The term 'remedial action' has the meaning given such term in section 101(24) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(24)).

"(12) The term 'response actions' has the meaning given the term 'response' in section 101(25) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(25)).

"(13) The term 'Secretary' means the Secretary of Energy.

"(14) The term 'uranium enrichment' means the separation of uranium of a given isotopic content into 2 components, 1 having a higher percentage of a fissile isotope and 1 having a lower percentage.

42 USC 2297a.

"SEC. 1202. PURPOSES.

"The Corporation is created for the following purposes:

"(1) To operate as a business enterprise on a profitable and efficient basis.

"(2) To maximize the long-term value of the Corporation to the Treasury of the United States.

"(3) To lease Department uranium enrichment facilities, as needed.

"(4) To acquire uranium for uranium enrichment, low-enriched uranium for resale, and highly enriched uranium for conversion into low-enriched uranium, as needed.

"(5) To market and sell its enriched uranium and uranium enrichment and related services to—

"(A) the Department for governmental purposes; and

"(B) domestic and foreign persons, as provided in section 1303(6).

"(6) To conduct research and development as required to meet business objectives for the purposes of identifying, evaluating, improving, and testing alternative technologies for uranium enrichment.

"(7) To conduct the business as a self-financing corporation and eliminate the need for Federal Government appropriations or sources of Federal financing other than those provided in this title.

"(8) To help maintain a reliable and economical domestic source of uranium enrichment services.

"(9) To comply with laws, and regulations promulgated thereunder, to protect the public health, safety, and the environment.

"(10) To continue at all times to meet the objectives of ensuring the Nation's common defense and security, including abiding by United States laws and policies concerning special nuclear materials and nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy.

"(11) To take all other lawful actions in furtherance of these purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"SEC. 1301. ESTABLISHMENT OF THE CORPORATION. 42 USC 2297b.

"(a) IN GENERAL.—There is established a body corporate to be known as the United States Enrichment Corporation.

"(b) GOVERNMENT CORPORATION.—The Corporation shall be established as a wholly owned Government corporation subject to chapter 91 of title 31, United States Code (commonly referred to as the Government Corporation Control Act), except as otherwise provided in this title.

"(c) FEDERAL AGENCY.—The Corporation shall be an agency and instrumentality of the United States.

"SEC. 1302. CORPORATE OFFICES. 42 USC 2297b-1.

"The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

"SEC. 1303. POWERS OF THE CORPORATION. 42 USC 2297b-2.

"In order to accomplish its purposes, the Corporation—

"(1) shall, except as provided in this title or applicable Federal law, have all the powers of a private corporation incor-

porated under the District of Columbia Business Corporation Act;

"(2) shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates;

"(3) may obtain from the Administrator of General Services the services the Administrator is authorized to provide agencies of the United States, on the same basis as those services are provided to other agencies of the United States;

"(4) shall enrich uranium, provide for uranium to be enriched by others, or acquire enriched uranium (including low-enriched uranium derived from highly enriched uranium provided under section 1408);

"(5) may conduct, or provide for conducting, those research and development activities related to uranium enrichment and related processes and activities the Corporation considers necessary or advisable to maintain the Corporation as a commercial enterprise operating on a profitable and efficient basis;

"(6) may enter into transactions regarding uranium, enriched uranium, or depleted uranium with—

"(A) persons licensed under section 53, 63, 103, or 104 in accordance with the licenses held by those persons;

"(B) persons in accordance with, and within the period of, an agreement for cooperation arranged under section 123; or

"(C) persons otherwise authorized by law to enter into such transactions;

"(7) may enter into contracts with persons licensed under section 53, 63, 103, or 104, for as long as the Corporation considers necessary or desirable, to provide uranium or uranium enrichment and related services;

"(8) may enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged under section 123 or as otherwise authorized by law; and

"(9) shall sell to the Department as provided in this title, without regard to section 57 e., the amounts of uranium enrichment and related services that the Department determines from time to time are required for it to—

"(A) carry out Presidential directions and authorizations under section 91; and

"(B) conduct other Department programs.

42 USC 2297b-3.

"SEC. 1304. BOARD OF DIRECTORS.

"(a) IN GENERAL.—The powers of the Corporation are vested in the Board of Directors.

President.

"(b) APPOINTMENT.—The Board of Directors shall consist of 5 individuals, to be appointed by the President by and with the advice and consent of the Senate. The President shall designate a Chairman of the Board from among members of the Board.

"(c) QUALIFICATIONS.—Members of the Board shall be citizens of the United States. No member of the Board shall be an employee of the Corporation or have any direct financial relationship with the Corporation other than that of being a member of the Board.

"(d) TERMS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), members of the Board shall serve 5-year terms or until the

election of a new Board of Directors under section 1704, whichever comes first.

"(2) INITIAL MEMBERS.—Of the members first appointed to the Board—

"(A) 1 shall be appointed for a 1-year term;

"(B) 1 shall be appointed for a 2-year term;

"(C) 1 shall be appointed for a 3-year term; and

"(D) 1 shall be appointed for a 4-year term.

"(3) REAPPOINTMENT.—Members of the Board may be reappointed by the President, by and with the advice and consent of the Senate.

"(e) VACANCIES.—Upon the occurrence of a vacancy on the Board, the President by and with the advice and consent of the Senate shall appoint an individual to fill such vacancy for the remainder of the applicable term.

"(f) MEETINGS AND QUORUM.—The Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly. Three voting members of the Board shall constitute a quorum. A majority of the Board shall adopt and from time to time may amend bylaws for the operation of the Board.

"(g) POWERS.—The Board shall be responsible for general management of the Corporation and shall have the same authority, privileges, and responsibilities as the board of directors of a private corporation incorporated under the District of Columbia Business Corporation Act.

"(h) COMPENSATION.—Members of the Board shall serve on a part-time basis and shall receive per diem, when engaged in the actual performance of Corporation duties, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

"(i) MEMBERSHIP OF SECRETARY OF TREASURY.—The President may appoint the Secretary of the Treasury or his designee to serve as a member of the Board or as a nonvoting, ex officio member of the Board.

"(j) CONFLICT OF INTEREST REQUIREMENTS.—No director, officer, or other management level employee of the Corporation may have a financial interest in any customer, contractor, or competitor of the Corporation or in any business that may be adversely affected by the success of the Corporation.

"SEC. 1305. EMPLOYEES OF THE CORPORATION. 42 USC 2297b-4.

"(a) APPOINTMENT.—The Board shall appoint such officers and employees as are necessary for the transaction of its business.

"(b) COMPENSATION, DUTIES, AND REMOVAL.—The Board shall, without regard to section 5301 of title 5, United States Code, fix the compensation of all officers and employees of the Corporation, define their duties, and provide a system of organization to fix responsibility and promote efficiency. Any officer or employee of the Corporation may be removed in the discretion of the Board.

"(c) APPLICABLE CRITERIA.—The Board shall ensure that the personnel function and organization is consistent with the principles of section 2301(b) of title 5, United States Code, relating to merit system principles. Officers and employees shall be appointed, promoted, and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title

5 of the United States Code governing appointments and other personnel actions in the competitive service.

"(d) TREATMENT OF PERSONS EMPLOYED PRIOR TO TRANSITION DATE.—Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the transition date, whether provided by statute or by rules of the Department or the executive branch, shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Board.

"(e) PROTECTION OF EXISTING EMPLOYEES.—

"(1) IN GENERAL.—It is the purpose of this subsection to ensure that the establishment of the Corporation pursuant to this chapter shall not result in any adverse effects on the employment rights, wages, or benefits of employees at facilities that are operated, directly or under contract, in the performance of the functions vested in the Corporation.

"(2) APPLICABILITY OF EXISTING COLLECTIVE BARGAINING AGREEMENT.—Any employer (including the Corporation) at a facility described in paragraph (1) shall abide by the terms of a collective bargaining agreement in effect on April 30, 1991, at each individual facility until—

"(A) the earlier of the date on which a new bargaining agreement is signed; or

"(B) the end of the 2-year period beginning on the date of the enactment of this title.

"(3) APPLICABILITY OF NLRA.—Except as specifically provided in this subsection, the Corporation is subject to the provisions of the National Labor Relations Act (29 U.S.C. 151 et seq.).

"(4) BENEFITS OF TRANSFEREES AND DETAILEES.—At the request of the Board and subject to the approval of the Secretary, an employee of the Department may be transferred or detailed as provided for in section 1315, to the Corporation without any loss in accrued benefits or standing within the Civil Service System. For those employees who accept transfer to the Corporation, it shall be their option as to whether to have any accrued retirement benefits transferred to a retirement system established by the Corporation or to retain their coverage under either the Civil Service Retirement System or the Federal Employees' Retirement System, as applicable, in lieu of coverage by the Corporation's retirement system. For those employees electing to remain with one of the Federal retirement systems, the Corporation shall withhold pay and make such payments as are required under the Federal retirement system. For those Department employees detailed, the Department shall offer those employees a position of like grade, compensation, and proximity to their official duty station after their services are no longer required by the Corporation.

42 USC 2297b-5.

"SEC. 1306. AUDITS.

"(a) INDEPENDENT AUDITS.—

"(1) IN GENERAL.—The financial statements of the Corporation shall be prepared in accordance with generally accepted accounting principles and shall be audited annually by an independent certified public accountant in accordance with auditing standards issued by the Comptroller General. Such

auditing standards shall be consistent with the private sector's generally accepted auditing standards.

"(2) REVIEW BY GAO.—The Comptroller General may review any audit of the Corporation's financial statements conducted under paragraph (1). The Comptroller General shall report to the Congress and the Corporation the results of any such review and shall include in such report appropriate recommendations. Reports.

"(b) GAO AUDITS.—

"(1) IN GENERAL.—The Comptroller General may audit the financial statements of the Corporation for any year in the manner provided in subsection (a)(1).

"(2) REIMBURSEMENT BY CORPORATION.—The Corporation shall reimburse the Comptroller General for the full cost of any audit conducted under this subsection, as determined by the Comptroller General.

"(c) AVAILABILITY OF BOOKS AND RECORDS.—All books, accounts, financial records, reports, files, papers, and other property belonging to or in use by the Corporation and its auditor that the Comptroller General considers necessary to the performance of any audit or review under this section shall be made available to the Comptroller General, subject to section 1314.

"(d) TREATMENT OF GAO AUDITS.—Activities the Comptroller General conducts under this section shall be in lieu of any other audit of the financial transactions of the Corporation the Comptroller General is required to make under chapter 91 of title 31, United States Code, or other law.

"SEC. 1307. ANNUAL REPORTS. 42 USC 2297b–6.

"(a) IN GENERAL.—The Corporation shall prepare and submit an annual report of its activities to the President and the Congress. This report shall contain—

"(1) a general description of the Corporation's operations;

"(2) a summary of the Corporation's operating and financial performance, including an explanation of the decision to pay or not pay dividends;

"(3) copies of audit reports prepared under section 1305;

"(4) the information required under regulations issued under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m); and

"(5) an identification and assessment of any impairment of capital or ability of the Corporation to comply with this title.

"(b) DEADLINE.—The report shall be completed not later than 150 days following the close of each of the Corporation's fiscal years and shall accurately reflect the financial position of the Corporation at fiscal year end.

"SEC. 1308. ACCOUNTS. 42 USC 2297b–7.

"(a) ESTABLISHMENT OF UNITED STATES ENRICHMENT CORPORATION FUND.—There is established in the Treasury of the United States a revolving fund, to be known as the 'United States Enrichment Corporation Fund', which shall be available to the Corporation, without need for further appropriation and without fiscal year limitation, for carrying out its purposes, functions, and powers, and which shall not be subject to apportionment under subchapter II of chapter 15 of title 31, United States Code.

"(b) TRANSFER OF UNEXPENDED BALANCES.—On the transfer date, the Secretary shall, without need of further appropriation, transfer to the Corporation the unexpended balance of appropriations and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which are related to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

42 USC 2297b-8.

"SEC. 1309. OBLIGATIONS.

"(a) ISSUANCE.—

"(1) IN GENERAL.—The Corporation may issue and sell bonds, notes, and other evidences of indebtedness (collectively referred to in this title as 'bonds'), except that the Corporation may not issue or sell bonds for the purpose of constructing new uranium enrichment facilities or conducting directly related preconstruction activities. Borrowing under this paragraph during any fiscal year ending before October 1, 1996, shall be subject to approval in appropriation Acts.

"(2) USE OF REVENUES.—The Corporation may pledge and use its revenues for payment of the principal of and interest on its bonds, for their purchase or redemption, and for other purposes incidental to these functions, including creation of reserve funds and other funds that may be similarly pledged and used.

"(3) AGREEMENTS WITH HOLDERS AND TRUSTEES.—The Corporation may enter into binding covenants with the holders and trustees of its bonds with respect to—

"(A) the establishment of reserve and other funds;

"(B) stipulations concerning the subsequent issuance of bonds; and

"(C) other matters not inconsistent with this title;

that the Corporation determines necessary or desirable to enhance the marketability of the bonds.

"(b) NOT OBLIGATIONS OF UNITED STATES.—Bonds issued by the Corporation under this section shall not be obligations of, or guaranteed as to principal or interest by, the United States, and the bonds shall so plainly state.

"(c) TERMS AND CONDITIONS.—

"(1) NEGOTIABLE; MATURITY.—Bonds issued by the Corporation under this section shall be negotiable instruments unless otherwise specified in the bond and shall mature not more than 50 years after their date of issuance.

"(2) ROLE OF SECRETARY OF THE TREASURY.—

"(A) RIGHT OF DISAPPROVAL.—The Corporation may set the terms and conditions of bonds issued under this section, subject to disapproval of such terms and conditions by the Secretary of the Treasury within 5 days after the Secretary of the Treasury is notified of the following terms and conditions of the bonds:

"(i) Their forms and denominations.

"(ii) The times, amounts, and prices at which they are sold.

"(iii) Their rates of interest.

"(iv) The terms at which they may be redeemed by the Corporation before maturity.

"(v) The priority of their claims on the Corporation's net revenues with respect to principal and interest payments.

"(vi) Any other terms and conditions.

"(B) INAPPLICABILITY OF RIGHT TO PRESCRIBE TERMS.—Section 9108(a) of title 31, United States Code, shall not apply to the Corporation.

"(d) INAPPLICABILITY OF SECURITIES REQUIREMENTS.—The Corporation shall be considered an executive department of the United States for purposes of section 3(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(c)).

"(e) INAPPLICABILITY OF FFB.—The Corporation shall not issue or sell any bonds to the Federal Financing Bank.

"SEC. 1310. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES. 42 USC 2297b-9.

"(a) EXEMPTION FROM TAXATION.—In order to render financial assistance to those States and localities in which the facilities of the Corporation are located, the Corporation shall, beginning in fiscal year 1998, make payments to State and local governments as provided in this section. These payments shall be in lieu of any and all State and local taxes on the real and personal property of the Corporation. All property of the Corporation is expressly exempted from taxation in any manner or form by any State, county, or other local government entity including State, county, or other local government sales tax.

"(b) PAYMENTS IN LIEU OF TAXES.—Beginning in fiscal year 1998, the Corporation shall make annual payments, in amounts determined by the Corporation to be fair and reasonable, to the State and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making these determinations, the Corporation shall be guided by the following criteria:

"(1) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

"(2) The payment made to any taxing authority for any period shall not be less than the payments that would have been made to the taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1404 and that would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the transition date.

"(c) TIME OF PAYMENTS.—Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable.

"(d) DETERMINATION OF AMOUNT DUE.—The determination by the Corporation of the amounts due under this section shall be final and conclusive.

"SEC. 1311. COOPERATION WITH OTHER AGENCIES. 42 USC 2297b-10.

"The Corporation may request to use on a reimbursable basis the available services, equipment, personnel, and facilities of agen-

cies of the United States, and on a similar basis may cooperate with such agencies in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of State, territorial, municipal, or other local agencies.

42 USC 2297b-11.

"SEC. 1312. APPLICABILITY OF CERTAIN FEDERAL LAWS.

"(a) ANTITRUST LAWS.—The Corporation shall conduct its activities in a manner consistent with the policies expressed in the following antitrust laws:

"(1) The Sherman Act (15 U.S.C. 1–7).

"(2) The Clayton Act (15 U.S.C. 12–27).

"(3) Sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8 and 9).

"(b) ENVIRONMENTAL LAWS.—The Corporation shall be subject to, and comply with, all Federal and State, interstate, and local environmental laws and requirements, both substantive and procedural, in the same manner, and to the same extent, as any person who is subject to such laws and requirements. For purposes of enforcing any such law or substantive or procedural requirements (including any injunctive relief, administrative order, or civil or administrative penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation. For the purposes of this subsection, the term 'person' means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, or political subdivision of a State.

"(c) OSHA REQUIREMENTS.—Notwithstanding sections 3(5), 4(b)(1), and 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 652(5), 653(b)(1), and 668)), the Corporation shall be subject to, and comply with, such Act and all regulations and standards promulgated thereunder in the same manner, and to the same extent, as an employer is subject to such Act. For the purposes of enforcing such Act (including any injunctive relief, administrative order, or civil, administrative, or criminal penalty or fine) against the Corporation, the United States expressly waives any immunity otherwise applicable to the Corporation.

"(d) LABOR STANDARDS.—The Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.) and the Service Contract Act of 1965 (41 U.S.C. 351 et seq.) shall apply to the Corporation. All laborers and mechanics employed on the construction, alteration, or repair of projects funded, in whole or in part, by the Corporation shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with such Act of March 3, 1931. The Secretary of Labor shall have, with respect to the labor standards specified in this subsection, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c).

"(e) ENERGY REORGANIZATION ACT REQUIREMENTS.—The Corporation is subject to the provisions of section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5850) to the same extent as an employer subject to such section, and, with respect to the operation of the facilities leased by the Corporation, section 206 of the Energy Reorganization Act of 1974 (42 U.S.C. 5846) shall apply to the directors and officers of the Corporation.

"(f) EXEMPTION FROM FEDERAL PROPERTY REQUIREMENTS.—The Corporation shall not be subject to the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 471 et seq.).

"SEC. 1313. SECURITY.

42 USC 2297b-12.

"Any references to the term 'Commission' or to the Department in sections 161k., 221a., and 230 shall be considered to include the Corporation.

"SEC. 1314. CONTROL OF INFORMATION.

42 USC 2297b-13.

"(a) IN GENERAL.—Except as provided in subsection (b), the Corporation may protect trade secrets and commercial or financial information to the same extent as a privately owned corporation.

"(b) OTHER APPLICABLE LAWS.—Section 552(d) of title 5, United States Code, shall apply to the Corporation, and such information shall be subject to the applicable provisions of law protecting the confidentiality of trade secrets and business and financial information, including section 1905 of title 18, United States Code.

"SEC. 1315. TRANSITION.

42 USC 2297b-14.

President.

"(a) TRANSITION MANAGER.—Within 30 days after the date of the enactment of this title, the President shall appoint a Transition Manager, who shall serve at the pleasure of the President until a quorum of the Board has been appointed and confirmed in accordance with section 1304.

"(b) POWERS.—

"(1) IN GENERAL.—Until a quorum of the Board has qualified, the Transition Manager shall exercise the powers and duties of the Board and shall be responsible for taking all actions needed to effect the transfer of the uranium enrichment enterprise from the Secretary to the Corporation on the transition date.

"(2) CONTINUATION UNTIL BOARD HAS QUORUM.—In the event that a quorum of the Board has not qualified by the transition date, the Transition Manager shall continue to exercise the powers and duties of the Board until a quorum has qualified.

"(c) RATIFICATION OF TRANSITION MANAGER'S ACTIONS.—All actions taken by the Transition Manager before the qualification of a quorum of the Board shall be subject to ratification by the Board.

"(d) RESPONSIBILITIES OF SECRETARY.—Before the transition date, the Secretary shall—

"(1) continue to be responsible for the management and operation of the uranium enrichment plants;

"(2) provide funds, to the extent provided in appropriations Acts, to the Transition Manager to pay salaries and expenses;

"(3) delegate Department employees to assist the Transition Manager in meeting his responsibilities under this section; and

"(4) assist and cooperate with the Transition Manager in preparing for the transfer of the uranium enrichment enterprise to the Corporation on the transition date.

"(e) TRANSITION DATE.—The transition date shall be July 1, 1993.

"(f) DETAIL OF PERSONNEL.—For the purpose of continuity of operations, maintenance, and authority, the Department shall detail, for up to 18 months after the date of the enactment of

this title, appropriate Department personnel as may be required in an acting capacity, until such time as a Board is confirmed and top officers of the Corporation are hired. The Corporation shall reimburse the Department and its contractors for the detail of such personnel.

42 USC 2297b-15.

"SEC. 1316. WORKING CAPITAL ACCOUNT.

"There shall be established within the Corporation a Working Capital Account in which the Corporation may retain all revenue necessary for legitimate business expenses, or investments, related to carrying out its purposes.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

42 USC 2297c.

"SEC. 1401. MARKETING AND CONTRACTING AUTHORITY.

"(a) EXCLUSIVE MARKETING AGENT.—The Corporation shall act as the exclusive marketing agent on behalf of the United States Government for entering into contracts for providing enriched uranium (including low-enriched uranium derived from highly enriched uranium) and uranium enrichment and related services. The Department may not market enriched uranium (including low-enriched uranium derived from highly enriched uranium), or uranium enrichment and related services, after the transition date.

"(b) TRANSFER OF CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), all contracts, agreements, and leases with the Department, including all uranium enrichment contracts and power purchase contracts, that have been executed by the Department before the transition date and that relate to uranium enrichment and related services shall transfer to the Corporation.

"(2) EXCEPTIONS.—

"(A) TVA SETTLEMENT.—The rights and responsibilities of the Department under the settlement agreement with the Tennessee Valley Authority, filed on December 18, 1987, with the United States Claims Court, shall not transfer to the Corporation.

"(B) NONTRANSFERABLE POWER CONTRACTS.—If the Secretary determines that a power purchase contract executed by the Department prior to the transition date cannot be transferred under its terms, the Secretary may continue to receive power under the contract and resell such power to the Corporation at cost.

"(C) NONPOWER APPLICATIONS.—Contracts for enriched uranium and uranium services in existence as of the date of the enactment of this title for research and development or other nonpower applications shall remain with the Department. At the request of the Department, the Corporation, in consultation with the Department, may enter into such contracts it determines to be appropriate.

42 USC 2297c-1.

"SEC. 1402. PRICING.

"(a) SERVICES PROVIDED TO COMMERCIAL CUSTOMERS.—The Corporation shall establish prices for its products, materials, and services provided to customers other than the Department on a basis that will allow it to attain the normal business objectives of a profitmaking corporation.

"(b) SERVICES PROVIDED TO DOE.—The Corporation shall charge prices to the Department for uranium enrichment services provided under section 1303(9) on a basis that will allow it to recover its costs, on a yearly basis, for providing products, materials, and services, and provide for a reasonable profit.

"SEC. 1403. LEASING OF GASEOUS DIFFUSION FACILITIES OF DEPARTMENT. 42 USC 2297c-2.

"(a) IN GENERAL.—The Corporation shall lease the Paducah Gaseous Diffusion Plant in Paducah, Kentucky, the Portsmouth Gaseous Diffusion Plant in Piketon, Ohio, and related property of the Department, for a period of 6 years from the transition date. Thereafter, the Corporation shall have the exclusive option to lease such facilities and related property for additional periods.

"(b) TERMS OF LEASE.—The Corporation and the Department shall set mutually agreeable terms for a lease under subsection (a), including specifying annual payments to the Department by the Corporation to be made. The amount of annual payments shall be equal to the cost incurred by the Department in administering the lease and providing services related to the lease to the Corporation (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under subsection (d)).

"(c) EXCLUSION OF FACILITIES FOR PRODUCTION OF HIGHLY ENRICHED URANIUM.—Subsection (a) shall not apply to Department facilities necessary for the production of highly enriched uranium. The Secretary may grant to the Corporation access to such facilities for purposes other than the production of highly enriched uranium.

"(d) DOE RESPONSIBILITY FOR PREEXISTING CONDITIONS.—The payment of any costs of decontamination and decommissioning, response actions, or corrective actions with respect to conditions existing before the transition date, in connection with property of the Department leased under subsection (a), shall remain the sole responsibility of the Department.

"(e) ENVIRONMENTAL AUDIT.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a comprehensive environmental audit identifying environmental conditions that will remain the responsibility of the Department pursuant to subsection (d) after the transition date. Such audit shall be completed no later than the transition date.

"(f) TREATMENT UNDER PRICE-ANDERSON PROVISIONS.—Any lease executed between the Secretary and the Corporation under this section shall be deemed to be a contract for purposes of section 170 d.

"(g) WAIVER OF EIS REQUIREMENT.—The execution of the lease by the Corporation and the Department shall not be considered a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332).

"SEC. 1404. CAPITAL STRUCTURE OF CORPORATION. 42 USC 2297c-3.

"(a) CAPITAL STOCK.—

"(1) ISSUANCE TO SECRETARY OF THE TREASURY.—The Corporation shall issue capital stock representing an equity investment equal to the greater of—

"(A) $3,000,000,000; or

"(B) the book value of assets transferred to the Corporation, as reported in the Uranium Enrichment Annual

Report for fiscal year 1991, modified to reflect continued depreciation and other usual changes that occur up to the transfer date.

The Secretary of the Treasury shall hold such stock for the United States, except that all rights and duties pertaining to management of the Corporation shall remain vested in the Board.

"(2) RESTRICTION ON TRANSFERS OF STOCK BY UNITED STATES.—The capital stock of the Corporation shall not be sold, transferred, or conveyed by the United States, except to carry out the privatization of the Corporation under section 1502.

"(3) ANNUAL ASSESSMENT.—The Secretary of the Treasury shall annually assess the value of the stock held by the Secretary under paragraph (1) and submit to the Congress a report setting forth such value. The annual assessment of the Secretary shall be subject to review by an independent auditor.

"(b) PAYMENT OF DIVIDENDS.—The Corporation shall pay into miscellaneous receipts of the Treasury of the United States or such other fund as is provided by law, dividends on the capital stock, out of earnings of the Corporation, as a return on the investment represented by such stock. Until privatization occurs under section 1502, the Corporation shall pay as dividends to the Treasury of the United States all net revenues remaining at the end of each fiscal year not required for operating expenses or for deposit into the Working Capital Account established in section 1316.

"(c) PROHIBITION ON ADDITIONAL FEDERAL ASSISTANCE.—Except as otherwise specifically provided in this title, the Corporation shall receive no appropriations, loans, or other financial assistance from the Federal Government.

"(d) SOLE RECOVERY OF UNRECOVERED COSTS.—Receipt by the United States of the proceeds from the sale of stock issued by the Corporation under subsection (a)(1), and the dividends paid under subsection (b), shall constitute the sole recovery by the United States of previously unrecovered costs (including depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants) that have been incurred by the United States for uranium enrichment activities prior to the transition date.

42 USC 2297c-4.

"SEC. 1405. PATENTS AND INVENTIONS.

"The Corporation may at any time apply to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when the patent has not been declared to be affected with the public interest under section 153 a. and when use of the patent is within the Corporation's authority. An application shall constitute an application under section 153 c. subject to section 153 c., d., e., f., g., and h.

42 USC 2297c-5.

"SEC. 1406. LIABILITIES.

"(a) LIABILITIES BASED ON OPERATIONS BEFORE TRANSITION.—Except as otherwise provided in this title, all liabilities attributable to operation of the uranium enrichment enterprise before the transition date shall remain direct liabilities of the Department.

"(b) JUDGMENTS BASED ON OPERATIONS BEFORE TRANSITION.—Any judgment entered against the Corporation imposing liability arising out of the operation of the uranium enrichment enterprise

before the transition date shall be considered a judgment against and shall be payable solely by the Department.

"(c) REPRESENTATION.—With regard to any claim seeking to impose liability under subsection (a) or (b), the United States shall be represented by the Department of Justice.

"(d) JUDGMENTS BASED ON OPERATIONS AFTER TRANSITION.—Any judgment entered against the Corporation arising from operations of the Corporation on or after the transition date shall be payable solely by the Corporation from its own funds. The Corporation shall not be considered a Federal agency for purposes of chapter 171 of title 28, United States Code.

"SEC. 1407. TRANSFER OF URANIUM INVENTORIES. 42 USC 2297c-6.

"The Secretary shall transfer to the Corporation without charge all raw and low-enriched uranium inventories of the Department necessary for the fulfillment of contracts transferred under section 1401(b).

"SEC. 1408. PURCHASE OF HIGHLY ENRICHED URANIUM FROM FORMER SOVIET UNION. 42 USC 2297c-7.

"(a) IN GENERAL.—The Corporation is authorized to negotiate the purchase of all highly enriched uranium made available by any State of the former Soviet Union under a government-to-government agreement or shall assume the obligations of the Department under any contractual agreement that has been reached with any such State or any private entity before the transition date. The Corporation may only purchase this material so long as the quality of the material can be made suitable for use in commercial reactors.

"(b) ASSESSMENT OF POTENTIAL USE.—The Corporation shall prepare an assessment of the potential use of highly enriched uranium in the business operations of the Corporation.

"(c) PLAN FOR BLENDING AND CONVERSION.—In the event that the agreement under subsection (a) provides for the Corporation to provide for the blending and conversion the assessment shall include a plan for such blending and conversion. The plan shall determine the least-cost approach to providing blending and conversion services, compatible with environmental, safety, security, and nonproliferation requirements. The plan shall include a competitive process that the Corporation shall use for selecting a provider of such services, including the public solicitation of proposals from the private sector to allow a determination of the least-cost approach.

"(d) MINIMIZATION OF IMPACT ON DOMESTIC INDUSTRIES.—The Corporation shall seek to minimize the impact on domestic industries (including uranium mining) of the sale of low-enriched uranium derived from highly enriched uranium.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"SEC. 1501. STRATEGIC PLAN FOR PRIVATIZATION. 42 USC 2297d.

"(a) IN GENERAL.—Within 2 years after the transition date, the Corporation shall prepare a strategic plan for transferring ownership of the Corporation to private investors. The Corporation shall revise the plan as needed.

"(b) CONSIDERATION OF ALTERNATIVE MEANS OF TRANSFERRING OWNERSHIP.—The plan shall include consideration of alternative means for transferring ownership of the Corporation to private investors, including public stock offering, private placement, or

merger or acquisition. The plan may call for the phased transfer of ownership or for complete transfer at a single point of time. If the plan calls for phased transfer of ownership, then—

"(1) privatization shall be deemed to occur when 100 percent of ownership has been transferred to private investors;

"(2) prior to privatization, such stock shall be nonvoting stock; and

"(3) at the time of privatization, such stock shall convert to voting stock.

"(c) EVALUATION AND RECOMMENDATION.—The plan shall evaluate the relative merits of the alternatives considered and the estimated return on the Government's investment in the Corporation achievable through each alternative. The plan shall include the Corporation's recommendation on its preferred means of privatization.

"(d) TRANSMITTAL.—The Corporation shall transmit copies of the strategic plan for privatization to the President and Congress upon completion.

42 USC 2297d-1.

"SEC. 1502. PRIVATIZATION.

"(a) IMPLEMENTATION.—Subsequent to transmitting a plan for privatization pursuant to section 1501, and subject to subsections (b) and (c), the Corporation may implement the privatization plan if the Corporation determines, in consultation with appropriate agencies of the United States, that privatization will—

"(1) result in a return to the United States at least equal to the net present value of the Corporation;

"(2) not result in the Corporation being owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government;

"(3) not be inimical to the health and safety of the public or the common defense and security; and

"(4) provide reasonable assurance that adequate enrichment capacity will remain available to meet the domestic electric utility industry.

"(b) REQUIREMENT OF PRESIDENTIAL APPROVAL.—The Corporation may not implement the privatization plan without the approval of the President.

"(c) NOTIFICATION OF CONGRESS AND GAO EVALUATION.—The Corporation shall notify the Congress of its intent to implement the privatization plan. Within 30 days of notification, the Comptroller General shall submit a report to Congress evaluating the extent to which—

"(1) the privatization plan would result in any ongoing obligation or undue cost to the Federal Government; and

"(2) the revenues gained by the Federal Government under the privatization plan would represent at least the net present value of the Corporation.

"(d) PERIOD FOR CONGRESSIONAL REVIEW.—The Corporation may not implement the privatization plan less than 60 days after notification of the Congress.

"(e) DEPOSIT OF PROCEEDS.—Proceeds from the sale of capital stock of the Corporation under this section shall be deposited in the general fund of the Treasury.

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

"SEC. 1601. ASSESSMENT BY UNITED STATES ENRICHMENT CORPORATION. 42 USC 2297e.

"(a) IN GENERAL.—The Corporation shall prepare an assessment of the economic viability of proceeding with the commercialization of AVLIS and alternative technologies for uranium enrichment in accordance with this chapter. The assessment shall include—

"(1) an evaluation of market conditions together with a marketing strategy;

"(2) an analysis of the economic viability of competing enrichment technologies;

"(3) an identification of predeployment and capital requirements for the commercialization of AVLIS and alternative technologies for uranium enrichment;

"(4) an estimate of potential earnings from the licensing of AVLIS and alternative technologies for uranium enrichment to a private government sponsored corporation;

"(5) an analysis of outstanding and potential patent and related claims with respect to AVLIS and alternative technologies for uranium enrichment, and a plan for resolving such claims; and

"(6) a contingency plan for providing enriched uranium and related services in the event that deployment of AVLIS and alternative technologies for uranium enrichment is determined not to be economically viable.

"(b) DETERMINATION BY CORPORATION TO PROCEED WITH COMMERCIALIZATION OF AVLIS OR ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.—The succeeding sections of this chapter shall apply only to the extent the Corporation determines in its business judgment, on the basis of the assessment prepared under subsection (a), to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment.

"SEC. 1602. TRANSFER OF RIGHTS AND PROPERTY TO UNITED STATES ENRICHMENT CORPORATION. 42 USC 2297e-1.

"(a) EXCLUSIVE RIGHT TO COMMERCIALIZE.—The Corporation shall have the exclusive commercial right to deploy and use any AVLIS patents, processes, and technical information owned or controlled by the Government, upon completion of a royalty agreement with the Department.

"(b) TRANSFER OF RELATED PROPERTY TO CORPORATION.—

"(1) IN GENERAL.—To the extent requested by the Corporation, the President shall transfer without charge to the Corporation all of the Department's right, title, or interest in and to property owned by the Department, or by the United States but under control or custody of the Department, that is directly related to and materially useful in the performance of the Corporation's purposes regarding AVLIS and alternative technologies for uranium enrichment, including—

"(A) facilities, equipment, and materials for research, development, and demonstration activities; and

"(B) all other facilities, equipment, materials, processes, patents, technical information of any kind, contracts, agreements, and leases.

"(2) EXCEPTION.—Facilities, real estate, improvements, and equipment related to the gaseous diffusion, and gas centrifuge, uranium enrichment programs of the Department shall not transfer under paragraph (1)(B).

"(3) EXPIRATION OF TRANSFER AUTHORITY.—The President's authority to transfer property under this subsection shall expire upon privatization under section 1502.

"(c) LIABILITY FOR PATENT AND RELATED CLAIMS.—With respect to any right, title, or interest provided to the Corporation under subsection (a) or (b), the Corporation shall have sole liability for any payments made or awards under section 157 b. (3), or any settlements or judgments involving claims for alleged patent infringement. Any royalty agreement under subsection (a) shall provide for a reduction of royalty payments to the Department to offset any payments, awards, settlements, or judgments under this subsection.

42 USC 2297e-2.

"SEC. 1603. PREDEPLOYMENT ACTIVITIES BY UNITED STATES ENRICHMENT CORPORATION.

"The Corporation may begin activities necessary to prepare AVLIS or alternative technologies for uranium enrichment for commercialization including—

"(1) completion of preapplication activities with the Nuclear Regulatory Commission;

"(2) preparation of a transition plan to move AVLIS or alternative technologies for uranium enrichment from the laboratory to the marketplace;

"(3) confirmation of technical performance;

"(4) validation of economic projections;

"(5) completion of feasibility and risk studies;

"(6) initiation of preliminary plant design and engineering; and

"(7) site selection, site characterization, and environmental documentation activities on the basis of site evaluations and recommendations prepared for the Department by the Argonne National Laboratory.

42 USC 2297e-3.

"SEC. 1604. UNITED STATES ENRICHMENT CORPORATION SPONSORSHIP OF PRIVATE FOR-PROFIT CORPORATION TO CONSTRUCT AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—If the Corporation determines to proceed with the commercialization of AVLIS or alternative technologies for uranium enrichment under this chapter, the Corporation may provide for the establishment of a private for-profit corporation, which shall have as its initial purpose the construction of a uranium enrichment facility using AVLIS technology or alternative technologies for uranium enrichment.

"(2) PROCESS OF ORGANIZATION.—For purposes of the establishment of the private corporation under paragraph (1), the Corporation shall appoint not less than 3 persons to be incorporators. The incorporators so appointed shall each sign the articles of incorporation and shall serve as the initial board of directors until the members of the 1st regular board of directors shall have been appointed and elected. Such incorporators shall take whatever actions are necessary or appropriate to establish the private corporation, including the

filing of articles of incorporation in such jurisdiction as the incorporators determine to be appropriate. The incorporators shall also develop a plan for the issuance by the private corporation of voting common stock to the public, which plan shall be subject to the approval of the Secretary of the Treasury.

"(b) LEGAL STATUS OF PRIVATE CORPORATION.—

"(1) NOT FEDERAL AGENCY.—The private corporation established under subsection (a) shall not be an agency, instrumentality, or establishment of the United States Government and shall not be a Government corporation or Government controlled corporation.

"(2) NO RECOURSE AGAINST UNITED STATES.—Obligations of the private corporation established under subsection (a) shall not be obligations of, or guaranteed as to principal or interest by, the Corporation or the United States, and the obligations shall so plainly state.

"(3) NO CLAIMS COURT JURISDICTION.—No action under section 1491 of title 28, United States Code, shall be allowable against the United States based on the actions of the private corporation established under subsection (a).

"(c) TRANSACTIONS BETWEEN UNITED STATES ENRICHMENT CORPORATION AND PRIVATE CORPORATION.—

"(1) GRANTS FROM USEC.—The Corporation may make grants to the private corporation established under subsection (a) from amounts available in the AVLIS Commercialization Fund. Such grants shall be used by the private corporation to carry out any remaining predeployment activity assigned to the private corporation by the Corporation. Such grants may not be used for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than such assigned predeployment activities). The aggregate amount of such grants shall not exceed $364,000,000.

"(2) LICENSING AGREEMENT.—The Corporation shall license to the private corporation established under subsection (a) the rights, titles, and interests provided to the Corporation under section 1602. The licensing agreement shall require the private corporation to make periodic payments to the Corporation in an amount that is not less than the aggregate amounts paid by the Corporation during the period involved under subsections (a) and (c) of section 1602.

"(3) PURCHASE AGREEMENT.—The Corporation may enter into a commitment to purchase all enriched uranium produced at an AVLIS, or alternative technologies for uranium enrichment, facility of the private corporation established under subsection (a) at a price negotiated by the 2 corporations that—

"(A) provides the private corporation with a reasonable return on its investment; and

"(B) is less costly than enriched uranium available from other sources.

"(4) ADDITIONAL ASSISTANCE.—The Corporation may provide to the private corporation established under subsection (a), on a reimbursable basis, such additional personnel, services, and equipment as the 2 corporations may determine to be appropriate.

42 USC 2297e-4.

"SEC. 1605. AVLIS COMMERCIALIZATION FUND WITHIN UNITED STATES ENRICHMENT CORPORATION.

"(a) ESTABLISHMENT.—The Corporation may establish within the Corporation an AVLIS Commercialization Fund, which shall consist of not more than $364,000,000 paid into the Fund by the Corporation from amounts provided in appropriation Acts for such purposes and from the retained earnings of the Corporation.

"(b) EXPENDITURES FROM FUND.—Amounts in the AVLIS Commercialization Fund shall be available for—

"(1) expenses of the Corporation in preparing the assessment under section 1601;

"(2) expenses of predeployment activities under section 1603; and

"(3) grants to the private corporation under section 1604.

"(c) LIMITATIONS.—

"(1) EXCLUSIVE SOURCE OF FUNDS.—The Corporation may not incur any obligation, or expend any amount, with respect to AVLIS or alternative technologies for uranium enrichment, except from amounts available in the AVLIS Commercialization Fund.

"(2) UNAVAILABLE FOR CONSTRUCTION COSTS.—No amount may be used from the AVLIS Commercialization Fund for the costs of constructing an AVLIS, or alternative technologies for uranium enrichment, production facility or engaging in directly related preconstruction activities (other than activities specified in subsection (b)).

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $364,000,000 from the Uranium Enrichment Special Fund for purposes of this section.

"(e) COST REPORT.—On the basis of the assessment under section 1601(a)(3), the Corporation shall submit to the Congress a report on the capital requirements for commercialization of AVLIS.

42 USC 2297e-5.

"SEC. 1606. DEPARTMENT RESEARCH AND DEVELOPMENT ASSISTANCE.

"If requested by the Corporation, the Secretary shall provide, on a reimbursable basis, research and development of AVLIS and alternative technologies for uranium enrichment.

42 USC 2297e-6.

"SEC. 1607. SITE SELECTION.

"This chapter shall not prejudice consideration of the site of an existing uranium enrichment facility as a candidate site for future expansion or replacement of uranium enrichment capacity through AVLIS or alternative technologies for uranium enrichment. Selection of a site for the AVLIS, or alternative technologies for uranium enrichment, facility shall be made on a competitive basis, taking into consideration economic performance, environmental compatibility, and use of any existing uranium enrichment facilities.

42 USC 2297e-7.

"SEC. 1608. EXCLUSION FROM PRICE-ANDERSON COVERAGE.

"Section 170 shall not apply to any license under section 53, 63, or 103 for a uranium enrichment facility constructed after the date of the enactment of this title.".

SEC. 902. CONFORMING AMENDMENTS AND REPEALERS.

(a) ATOMIC ENERGY ACT OF 1954.—

(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended—

(A) by inserting after "ATOMIC ENERGY ACT OF 1954" the 1st place it appears the following:

"TABLE OF CONTENTS

"TITLE I—ATOMIC ENERGY";

and

(B) by adding at the end of the table of contents the following:

"TITLE II—UNITED STATES ENRICHMENT CORPORATION

"CHAPTER 22—GENERAL PROVISIONS

"Sec. 1201. Definitions.
"Sec. 1202. Purposes.

"CHAPTER 23—ESTABLISHMENT, POWERS, AND ORGANIZATION OF CORPORATION

"Sec. 1301. Establishment of the Corporation.
"Sec. 1302. Corporate offices.
"Sec. 1303. Powers of the Corporation.
"Sec. 1304. Board of Directors.
"Sec. 1305. Employees of the Corporation.
"Sec. 1306. Audits.
"Sec. 1307. Annual reports.
"Sec. 1308. Accounts.
"Sec. 1309. Obligations.
"Sec. 1310. Exemption from taxation and payments in lieu of taxes.
"Sec. 1311. Cooperation with other agencies.
"Sec. 1312. Applicability of certain Federal laws.
"Sec. 1313. Security.
"Sec. 1314. Control of information.
"Sec. 1315. Transition.
"Sec. 1316. Working Capital Account.

"CHAPTER 24—RIGHTS, PRIVILEGES, AND ASSETS OF THE CORPORATION

"Sec. 1401. Marketing and contracting authority.
"Sec. 1402. Pricing.
"Sec. 1403. Leasing of gaseous diffusion facilities of department.
"Sec. 1404. Capital structure of Corporation.
"Sec. 1405. Patents and inventions.
"Sec. 1406. Liabilities.
"Sec. 1407. Transfer of uranium inventories.
"Sec. 1408. Purchase of highly enriched uranium from former Soviet Union.

"CHAPTER 25—PRIVATIZATION OF THE CORPORATION

"Sec. 1501. Strategic plan for privatization.
"Sec. 1502. Privatization.

"CHAPTER 26—AVLIS AND ALTERNATIVE TECHNOLOGIES FOR URANIUM ENRICHMENT

"Sec. 1601. Assessment by United States Enrichment Corporation.
"Sec. 1602. Transfer of rights and property to United States Enrichment Corporation.
"Sec. 1603. Predeployment activities by United States Enrichment Corporation.
"Sec. 1604. United States Enrichment Corporation sponsorship of private for-profit corporation to construct AVLIS and alternative technologies for uranium enrichment.
"Sec. 1605. AVLIS Commercialization Fund within United States Enrichment Corporation.
"Sec. 1606. Department research and development assistance.
"Sec. 1607. Site selection.
"Sec. 1608. Exclusion from Price-Anderson coverage.".

(2) Section 41 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2061(a)) is amended—

(A) by striking "or";

(B) by striking "pursuant to under this Act" and inserting "under this title"; and

(C) by striking the period at the end and inserting "; or (3) are owned by the United States Enrichment Corporation.".

(3) Section 53 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2073(c)(1)) is amended—

(A) by striking "grant," and inserting "or grant"; and

(B) by striking "or through the provision of production or enrichment services" both places it appears.

(4) Section 161 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) is amended to read as follows:

"v. provide services in support of the United States Enrichment Corporation, except that the Secretary of Energy shall annually collect payments and other charges from the Corporation sufficient to ensure recovery of the costs (excluding depreciation and imputed interest on original plant investments in the Department's gaseous diffusion plants and costs under section 1403(d)) incurred by the Department of Energy after the date of the enactment of the Energy Policy Act of 1992 in performing such services;".

(5) Section 161 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2201(w)) is amended—

(A) by striking the comma after "104 b." and inserting the following: ", or which operates any facility regulated or certified under section 1701 or 1702,"; and

(B) by inserting "or certificates" after "holders of, such licenses".

(6) Section 274 c. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(c)(1)) is amended by inserting "or any uranium enrichment facility" before the semicolon at the end.

(7) Section 318(1) of the Atomic Energy Act of 1954 (42 U.S.C. 2286g(1)) is amended by striking "or" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting "; or", and by adding at the end the following new subparagraph:

"(D) any facility owned by the United States Enrichment Corporation.".

(8) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting before the chapter heading for chapter 1 the following new heading:

"TITLE I—ATOMIC ENERGY".

(b) GOVERNMENT CORPORATION CONTROL PROVISIONS.—Section 9101(3) of title 31, United States Code is amended by adding at the end the following:

"(N) the Uranium Enrichment Corporation.".

Repeal.

(c) ENERGY AND WATER DEVELOPMENT APPROPRIATION ACT, 1988.—Section 306 of the Energy and Water Development Appropriation Act, 1988 (Pub. L. 100-202; 101 Stat. 1329-126) is repealed.

(d) EXEMPTION FROM DEFICIT CONTROL ACT.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after the item relating to the Tennessee Valley Authority fund the following new item:

"United States Enrichment Corporation;".

SEC. 903. RESTRICTIONS ON NUCLEAR EXPORTS.

(a) FURTHER RESTRICTIONS.—

(1) IN GENERAL.—Chapter 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2151 et seq.) is amended by adding at the end the following new section:

"SEC. 134. FURTHER RESTRICTIONS ON EXPORTS.— 42 USC 2160d.

"a. The Commission may issue a license for the export of highly enriched uranium to be used as a fuel or target in a nuclear research or test reactor only if, in addition to any other requirement of this Act, the Commission determines that—

"(1) there is no alternative nuclear reactor fuel or target enriched in the isotope 235 to a lesser percent than the proposed export, that can be used in that reactor;

"(2) the proposed recipient of that uranium has provided assurances that, whenever an alternative nuclear reactor fuel or target can be used in that reactor, it will use that alternative in lieu of highly enriched uranium; and

"(3) the United States Government is actively developing an alternative nuclear reactor fuel or target that can be used in that reactor.

"b. As used in this section—

"(1) the term 'alternative nuclear reactor fuel or target' means a nuclear reactor fuel or target which is enriched to less than 20 percent in the isotope U–235;

"(2) the term 'highly enriched uranium' means uranium enriched to 20 percent or more in the isotope U–235; and

"(3) a fuel or target 'can be used' in a nuclear research or test reactor if—

"(A) the fuel or target has been qualified by the Reduced Enrichment Research and Test Reactor Program of the Department of Energy, and

"(B) use of the fuel or target will permit the large majority of ongoing and planned experiments and isotope production to be conducted in the reactor without a large percentage increase in the total cost of operating the reactor.".

(2) CLERICAL AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 is amended by adding at the end of the items relating to chapter 11 the following new item:

"Sec. 134. Further restrictions on exports.".

(b) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Chairman of the Nuclear Regulatory Commission, after consulting with other relevant agencies, shall submit to the Congress a report detailing the current disposition of previous United States exports of highly enriched uranium, including—

(A) their location;

(B) whether they are irradiated;

(C) whether they have been used for the purpose stated in their export license; and

(D) whether they have been used for an alternative purpose and, if so, whether such alternative purpose has been explicitly approved by the Commission.

(2) EXPORTS TO EURATOM.—To the maximum extent possible, the report required by paragraph (1) shall include—

(A) exports of highly enriched uranium to EURATOM; and

(B) subsequent retransfers of such material within EURATOM, without regard to the extent of United States control over such retransfers.

42 USC 2297 note.

SEC. 904. SEVERABILITY.

If any provision of this title, or the amendments made by this title, or the application of any provision to any entity, person, or circumstance, is for any reason adjudged by a court of competent jurisdiction to be invalid, the remainder of this title, and the amendments made by this title, or its application shall not be affected.

TITLE X—REMEDIAL ACTION AND URANIUM REVITALIZATION

Subtitle A—Remedial Action at Active Processing Sites

42 USC 2296a.

SEC. 1001. REMEDIAL ACTION PROGRAM.

(a) IN GENERAL.—Except as provided in subsection (b), the costs of decontamination, decommissioning, reclamation, and other remedial action at an active uranium or thorium processing site shall be borne by persons licensed under section 62 or 81 of the Atomic Energy Act of 1954 (42 U.S.C. 2091, 2111) for any activity at such site which results or has resulted in the production of byproduct material.

(b) REIMBURSEMENT.—

(1) IN GENERAL.—The Secretary of Energy shall, subject to paragraph (2), reimburse at least annually a licensee described in subsection (a) for such portion of the costs described in such subsection as are—

(A) determined by the Secretary to be attributable to byproduct material generated as an incident of sales to the United States; and

(B) either—

(i) incurred by such licensee not later than December 31, 2002; or

(ii) placed in escrow not later than December 31, 2002, in accordance with a plan for subsequent decontamination, decommissioning, reclamation, and other remedial action approved by the Secretary.

(2) AMOUNT.—

(A) TO INDIVIDUAL ACTIVE SITE URANIUM LICENSEES.—The amount of reimbursement paid to any licensee under paragraph (1) shall be determined by the Secretary in accordance with regulations issued pursuant to section 1002 and, for uranium mill tailings only, shall not exceed an amount equal to $5.50 multiplied by the dry short tons of byproduct material located on the date of the enactment of this Act at the site of the activities of such licensee described in subsection (a), and generated as an incident of sales to the United States.

(B) TO ALL ACTIVE SITE URANIUM LICENSEES.—Payments made under paragraph (1) to active site uranium licensees shall not in the aggregate exceed $270,000,000.

(C) TO THORIUM LICENSEES.—Payments made under paragraph (1) to the licensee of the active thorium site shall not exceed $40,000,000, and may only be made for off-site disposal.

(D) INFLATION ESCALATION INDEX.—The amounts in subparagraphs (A), (B), and (C) of this paragraph shall be increased annually based upon an inflation index. The Secretary shall determine the appropriate index to apply.

(E) ADDITIONAL REIMBURSEMENT.—

(i) DETERMINATION OF EXCESS.—The Secretary shall determine as of July 31, 2005, whether the amount authorized to be appropriated pursuant to section 1003, when considered with the $5.50 per dry short ton limit on reimbursement, exceeds the amount reimbursable to the licensees under subsection (b)(2).

(ii) IN THE EVENT OF EXCESS.—If the Secretary determines under clause (i) that there is an excess, the Secretary may allow reimbursement in excess of $5.50 per dry short ton on a prorated basis at such sites where the costs reimbursable under subsection (b)(1) exceed the $5.50 per dry short ton limitation described in paragraph (2) of such subsection.

(3) BYPRODUCT LOCATION.—Notwithstanding the requirement of paragraph (2)(A) that byproduct material be located at the site on the date of the enactment of this Act, byproduct material moved from the site of the Edgemont Mill to a disposal site as the result of the decontamination, decommissioning, reclamation, and other remedial action of such mill shall be eligible for reimbursement to the extent eligible under paragraph (1).

SEC. 1002. REGULATIONS. 42 USC 2296a-1.

Within 180 days of the date of the enactment of this Act, the Secretary shall issue regulations governing reimbursement under section 1001. An active uranium or thorium processing site owner shall apply for reimbursement hereunder by submitting a request for the amount of reimbursement, together with reasonable documentation in support thereof, to the Secretary. Any such request for reimbursement, supported by reasonable documentation, shall be approved by the Secretary and reimbursement therefor shall be made in a timely manner subject only to the limitations of section 1001.

SEC. 1003. AUTHORIZATION OF APPROPRIATIONS. 42 USC 2296a-2.

(a) IN GENERAL.—There is authorized to be appropriated $310,000,000 to carry out this subtitle. The aggregate amount authorized in the preceding sentence shall be increased annually as provided in section 1001, based upon an inflation index to be determined by the Secretary.

(b) SOURCE.—Funds described in subsection (a) shall be provided from the Fund established under section 1801 of the Atomic Energy Act of 1954.

SEC. 1004. DEFINITIONS. 42 USC 2296a-3.

For purposes of this subtitle:

(1) The term "active uranium or thorium processing site" means—

(A) any uranium or thorium processing site, including the mill, containing byproduct material for which a license (issued by the Nuclear Regulatory Commission or its predecessor agency under the Atomic Energy Act of 1954, or by a State as permitted under section 274 of such Act (42 U.S.C. 2021)) for the production at such site of any uranium or thorium derived from ore—

(i) was in effect on January 1, 1978;

(ii) was issued or renewed after January 1, 1978; or

(iii) for which an application for renewal or issuance was pending on, or after January 1, 1978; and

(B) any other real property or improvement on such real property that is determined by the Secretary or by a State as permitted under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021) to be—

(i) in the vicinity of such site; and

(ii) contaminated with residual byproduct material;

(2) The term "byproduct material" has the meaning given such term in section 11 e. (2) of the Atomic Energy Act of 1954, (42 U.S.C. 2014(e)(2)); and

(3) The term "decontamination, decommissioning, reclamation, and other remedial action" means work performed prior to or subsequent to the date of the enactment of this Act which is necessary to comply with all applicable requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7901 et seq.), or where appropriate, with requirements established by a State that is a party to a discontinuance agreement under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021).

Subtitle B—Uranium Revitalization

42 USC 2296b.

SEC. 1011. OVERFEED PROGRAM.

(a) URANIUM PURCHASES.—To the maximum extent permitted by sound business practice, the Corporation shall purchase uranium in accordance with subsection (b) and overfeed it into the enrichment process to reduce the amount of power required to produce the enriched uranium ordered by enrichment services customers, taking into account costs associated with depleted tailings.

(b) USE OF DOMESTIC URANIUM.—Uranium purchased by the Corporation for purposes of this section shall be of domestic origin and purchased from domestic uranium producers to the extent permitted under the General Agreement on Tariffs and Trade and the United States-Canada Free Trade Agreement.

42 USC 2296b-1.

SEC. 1012. NATIONAL STRATEGIC URANIUM RESERVE.

There is hereby established the National Strategic Uranium Reserve under the direction and control of the Secretary. The Reserve shall consist of natural uranium and uranium equivalents contained in stockpiles or inventories currently held by the United States for defense purposes. Effective on the date of the enactment of this Act and for 6 years thereafter, use of the Reserve shall be restricted to military purposes and government research. Use of the Department of Energy's stockpile of enrichment tails existing

on the date of the enactment of this Act shall be restricted to military purposes for 6 years thereafter.

SEC. 1013. SALE OF REMAINING DOE INVENTORIES. 42 USC 2296b-2.

The Secretary, after making the transfer required under section 1407 of the Atomic Energy Act of 1954, may sell, from time to time, portions of the remaining inventories of raw or low-enriched uranium of the Department that are not necessary to national security needs, to the Corporation, at a fair market price. Sales under this section may be made only if such sales will not have a substantial adverse impact on the domestic uranium mining industry. Proceeds from sales under this subsection shall be deposited into the general fund of the United States Treasury.

SEC. 1014. RESPONSIBILITY FOR THE INDUSTRY. 42 USC 2296b-3.

(a) CONTINUING SECRETARIAL RESPONSIBILITY.—The Secretary shall have a continuing responsibility for the domestic uranium industry to encourage the use of domestic uranium. The Secretary, in fulfilling this responsibility, shall not use any supervisory authority over the Corporation. The Secretary shall report annually to the appropriate committees of Congress on action taken with respect to the domestic uranium industry, including action to promote the export of domestic uranium pursuant to subsection (b).

(b) ENCOURAGE EXPORT.—The Department, with the cooperation of the Department of Commerce, the United States Trade Representative and other governmental organizations, shall encourage the export of domestic uranium. Within 180 days after the date of the enactment of this Act, the Secretary shall develop recommendations and implement government programs to promote the export of domestic uranium.

SEC. 1015. ANNUAL URANIUM PURCHASE REPORTS. 42 USC 2296b-4.

(a) IN GENERAL.—By January 1 of each year, the owner or operator of any civilian nuclear power reactor shall report to the Secretary, acting through the Administrator of the Energy Information Administration, for activities of the previous fiscal year—

(1) the country of origin and the seller of any uranium or enriched uranium purchased or imported into the United States either directly or indirectly by such owner or operator; and

(2) the country of origin and the seller of any enrichment services purchased by such owner or operator.

(b) CONGRESSIONAL ACCESS.—The information provided to the Secretary pursuant to this section shall be made available to the Congress by March 1 of each year.

SEC. 1016. URANIUM INVENTORY STUDY. 42 USC 2296b-5.

Within 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a study and report that includes—

(1) a comprehensive inventory of all Government owned uranium or uranium equivalents, including natural uranium, depleted tailings, low-enriched uranium, and highly enriched uranium available for conversion to commercial use;

(2) a plan for the conversion of inventories of foreign and domestic highly enriched uranium to low-enriched uranium for commercial use;

(3) an estimation of the potential need of the United States for inventories of highly enriched uranium;

(4) an analysis and summary of technological requirements and costs associated with converting highly enriched uranium to low-enriched uranium, including the construction of facilities if necessary;

(5) an estimation of potential net proceeds from the conversion and sale of highly enriched uranium;

(6) recommendations for implementing a plan to convert highly enriched uranium to low-enriched uranium; and

(7) recommendations for the future use and disposition of such inventories.

42 USC 2296b-6.

SEC. 1017. REGULATORY TREATMENT OF URANIUM PURCHASES.

(a) ENCOURAGEMENT.—The Secretary shall encourage States and utility regulatory authorities to take into consideration the achievement of the objectives and purposes of this subtitle, including the national need to avoid dependence on imports, when considering whether to allow the owner or operator of any electric power plant to recover in its rates and charges to customers any cost of purchase of domestic uranium, enriched uranium, or enrichment services from a non-affiliated seller greater than the cost of non-domestic uranium, enriched uranium or enrichment services.

(b) REPORT.—Within 1 year after the date of the enactment of this Act, and annually thereafter, the Secretary shall report to the Congress on the progress of the Secretary in encouraging actions by State regulatory authorities pursuant to subsection (a). Such report shall include detailed information on programs initiated by the Secretary to encourage appropriate State regulatory action and recommendations, if any, on further action that could be taken by the Secretary, other Federal agencies, or the Congress in order to further the purposes of this subtitle.

(c) SAVINGS PROVISION.—This section may not be construed to authorize the Secretary to take any action in violation of the General Agreement on Tariffs and Trade or the United States-Canada Free Trade Agreement.

42 USC 2296b-7.

SEC. 1018. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Corporation" means the United States Enrichment Corporation established under section 1301 of the Atomic Energy Act of 1954, as added by this Act.

(2) The term "country of origin" means—

(A) with respect to uranium, that country where the uranium was mined;

(B) with respect to enriched uranium, that country where the uranium was mined and enriched; or

(C) with respect to enrichment services, that country where the enrichment services were performed.

(3) The term "domestic origin" refers to any uranium that has been mined in the United States including uranium recovered from uranium deposits in the United States by underground mining, open-pit mining, strip mining, in situ recovery, leaching, and ion recovery, or recovered from phosphoric acid manufactured in the United States.

(4) The term "domestic uranium producer" means a person or entity who produces domestic uranium and who has, to the extent required by State and Federal agencies having juris-

diction, licenses and permits for the operation, decontamination, decommissioning, and reclamation of sites, structures and equipment.

(5) The term "non-affiliated" refers to a seller who does not control, and is not controlled by or under common control with, the buyer.

(6) The term "overfeed" means to use uranium in the enrichment process in excess of the amount required at the transactional tails assay.

(7) The term "utility regulatory authority" means any State agency or Federal agency that has ratemaking authority with respect to the sale of electric energy by any electric utility or independent power producer. For purposes of this paragraph, the terms "electric utility", "State agency", "Federal agency", and "ratemaking authority" have the respective meanings given such terms in section 3 of the Public Utility Regulatory Policies Act of 1978.

Subtitle C—Remedial Action at Inactive Processing Sites

SEC. 1031. URANIUM MILL TAILINGS RADIATION CONTROL ACT EXTENSION.

Section 112(a) of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7922(a)) is amended by striking "1994" and inserting "1996".

TITLE XI—URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES

SEC. 1101. URANIUM ENRICHMENT HEALTH, SAFETY, AND ENVIRONMENT ISSUES.

The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), as amended by title IX of this Act, is further amended by adding at the end of title II the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"SEC. 1701. GASEOUS DIFFUSION FACILITIES.

42 USC 2297f.

Regulations.

"(a) ISSUANCE OF STANDARDS.—Within 2 years after the date of the enactment of this title, the Nuclear Regulatory Commission shall establish by regulation such standards as are necessary to govern the gaseous diffusion uranium enrichment facilities of the Department in order to protect the public health and safety from radiological hazard and provide for the common defense and security. Regulations promulgated pursuant to this subsection shall, among other things, require that adequate safeguards (within the meaning of section 147) are in place.

"(b) ANNUAL REPORT.—

"(1) IN GENERAL.—The Nuclear Regulatory Commission, in consultation with the Department and the Environmental

Protection Agency, shall report at least annually to the Congress on the status of health, safety, and environmental conditions at the gaseous diffusion uranium enrichment facilities of the Department.

"(2) REQUIRED DETERMINATION.—Such report shall include a determination regarding whether the gaseous diffusion uranium enrichment facilities of the Department are in compliance with the standards established under subsection (a) and all applicable laws.

"(c) CERTIFICATION PROCESS.—

"(1) ESTABLISHMENT.—The Nuclear Regulatory Commission shall establish a certification process to ensure that the Corporation complies with standards established under subsection (a).

"(2) ANNUAL APPLICATION FOR CERTIFICATE OF COMPLIANCE.—The Corporation shall apply at least annually to the Nuclear Regulatory Commission for a certificate of compliance under paragraph (1). The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review any such application and any determination made under subsection (b)(2) shall be based on the results of any such review.

"(3) TREATMENT OF CERTIFICATE OF COMPLIANCE.—The requirement for a certificate of compliance under paragraph (1) shall be in lieu of any requirement for a license for any gaseous diffusion facility of the Department leased by the Corporation.

"(4) NRC REVIEW.—

"(A) IN GENERAL.—The Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, shall review the operations of the Corporation with respect to any gaseous diffusion uranium enrichment facilities of the Department leased by the Corporation to ensure that public health and safety are adequately protected.

"(B) ACCESS TO FACILITIES AND INFORMATION.—The Corporation and the Department shall cooperate fully with the Nuclear Regulatory Commission and the Environmental Protection Agency and shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with the ready access to the facilities, personnel, and information the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection. A contractor operating a Corporation facility for the Corporation shall provide the Nuclear Regulatory Commission and the Environmental Protection Agency with ready access to the facilities, personnel, and information of the contractor as the Nuclear Regulatory Commission and the Environmental Protection Agency consider necessary to carry out their responsibilities under this subsection.

"(C) LIMITATION.—The Nuclear Regulatory Commission shall limit its finding under subsection (b)(2) to a determination of whether the facilities are in compliance with the standards established under subsection (a).

"(d) REQUIREMENT FOR OPERATION.—The gaseous diffusion uranium enrichment facilities of the Department may not be operated

by the Corporation unless the Nuclear Regulatory Commission, in consultation with the Environmental Protection Agency, makes a determination of compliance under subsection (b) or approves a plan prepared by the Department for achieving compliance required under subsection (b).

"SEC. 1702. LICENSING OF OTHER TECHNOLOGIES. 42 USC 2297f-1.

"(a) IN GENERAL.—Corporation facilities using alternative technologies for uranium enrichment, other than AVLIS, shall be licensed under sections 53 and 63.

"(b) COSTS FOR DECONTAMINATION AND DECOMMISSIONING.—The Corporation shall provide for the costs of decontamination and decommissioning of any Corporation facilities described in subsection (a) in accordance with the requirements of the amendments made by section 5 of the Solar, Wind, Waste, and Geothermal Power Production Act of 1990.

"SEC. 1703. REGULATION OF RESTRICTED DATA. 42 USC 2297f-2.

"The Corporation shall be subject to this Act with respect to the use of, or access to, Restricted Data to the same extent as any private corporation.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"SEC. 1801. URANIUM ENRICHMENT DECONTAMINATION AND DECOMMISSIONING FUND. 42 USC 2297g.

"(a) ESTABLISHMENT.—There is established in the Treasury of the United States an account to be known as the Uranium Enrichment Decontamination and Decommissioning Fund (referred to in this chapter as the 'Fund'). The Fund, and any amounts deposited in it, including any interest earned thereon, shall be available to the Secretary subject to appropriations for the exclusive purpose of carrying out this chapter.

"(b) ADMINISTRATION.—

"(1) IN GENERAL.—The Secretary of the Treasury shall hold the Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Fund during the preceding fiscal year.

"(2) INVESTMENTS.—The Secretary of the Treasury shall invest amounts contained within the Fund in obligations of the United States—

"(A) having maturities determined by the Secretary of the Treasury to be appropriate for what the Department determines to be the needs of the Fund; and

"(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to these obligations.

"SEC. 1802. DEPOSITS. 42 USC 2297g-1.

"(a) AMOUNT.—The Fund shall consist of deposits in the amount of $480,000,000 per fiscal year (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) as provided in this section.

"(b) SOURCE.—Deposits described in subsection (a) shall be from the following sources:

"(1) Sums collected pursuant to subsection (c).

"(2) Appropriations made pursuant to subsection (d).

"(c) SPECIAL ASSESSMENT.—The Secretary shall collect a special assessment from domestic utilities. The total amount collected for a fiscal year shall not exceed $150,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor). The amount collected from each utility pursuant to this subsection for a fiscal year shall be in the same ratio to the amount required under subsection (a) to be deposited for such fiscal year as the total amount of separative work units such utility has purchased from the Department of Energy for the purpose of commercial electricity generation, before the date of the enactment of this title, bears to the total amount of separative work units purchased from the Department of Energy for all purposes (including units purchased or produced for defense purposes) before the date of the enactment of this title. For purposes of this subsection—

"(1) a utility shall be considered to have purchased a separative work unit from the Department if such separative work unit was produced by the Department, but purchased by the utility from another source; and

"(2) a utility shall not be considered to have purchased a separative work unit from the Department if such separative work unit was purchased by the utility, but sold to another source.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund, for the period encompassing 15 years after the date of the enactment of this title, such sums as are necessary to ensure that the amount required under subsection (a) is deposited for each fiscal year.

"(e) TERMINATION OF ASSESSMENTS.—The collection of amounts under subsection (c) shall cease after the earlier of—

"(1) 15 years after the date of the enactment of this title; or

"(2) the collection of $2,250,000,000 (to be annually adjusted for inflation using the Consumer Price Index for all-urban consumers published by the Department of Labor) under such subsection.

"(f) CONTINUATION OF DEPOSITS.—Except as provided in subsection (e), deposits shall continue to be made into the Fund under subsection (d) for the period specified in such subsection.

"(g) TREATMENT OF ASSESSMENT.—Any special assessment levied under this section on domestic utilities for the decontamination and decommissioning of the Department's gaseous diffusion enrichment facilities shall be deemed a necessary and reasonable current cost of fuel and shall be fully recoverable in rates in all jurisdictions in the same manner as the utility's other fuel cost.

42 USC 2297g-2.

"SEC. 1803. DEPARTMENT FACILITIES.

"(a) STUDY BY NATIONAL ACADEMY OF SCIENCES.—The National Academy of Sciences shall conduct a study and provide recommendations for reducing costs associated with decontamination and decommissioning, and shall report its findings to the Congress within 3 years after the date of the enactment of this title. Such report shall include a determination of the decontamination and decommissioning required for each facility, shall identify alternative methods, using different technologies, shall include site-specific sur-

veys of the actual contamination, and shall provide estimated costs of those activities.

"(b) PAYMENT OF DECONTAMINATION AND DECOMMISSIONING COSTS.—The costs of all decontamination and decommissioning activities of the Department shall be paid from the Fund until such time as the Secretary certifies and the Congress concurs, by law, that such activities are complete.

"(c) PAYMENT OF REMEDIAL ACTION COSTS.—The annual cost of remedial action at the Department's gaseous diffusion facilities shall be paid from the Fund to the extent the amount available in the Fund is sufficient. To the extent the amount in the Fund is insufficient, the Department shall be responsible for the cost of remedial action. No provision of this title may be construed to relieve in any way the responsibility or liability of the Department for remedial action under applicable Federal and State laws and regulations.

"SEC. 1804. EMPLOYEE PROVISIONS. 42 USC 2297g-3.

"All laborers and mechanics employed by contractors or subcontractors in the performance of decontamination or decommissioning of uranium enrichment facilities of the Department shall be paid wages at rates not less than those prevailing on projects of a similar character in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a et seq.). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176, 64 Stat. 1267) and the Act of June 13, 1934 (40 U.S.C. 276c). This section may not be construed to require the contracting out of activities associated with the decontamination or decommissioning of uranium enrichment facilities.

"SEC. 1805. REPORTS TO CONGRESS. 42 USC 2297g-4.

"Within 3 years after the date of the enactment of this title, and at least once every 3 years thereafter, the Secretary shall report to the Congress on progress under this chapter. The 5th report submitted under this section shall contain recommendations of the Secretary for the reauthorization of the program and Fund under this title.".

SEC. 1102. LICENSING OF AVLIS.

The last sentence of section 11 v. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(v)) is amended to read as follows: "Except with respect to the export of a uranium enrichment production facility or the construction and operation of a uranium enrichment production facility using Atomic Vapor Laser Isotope Separation technology, such term as used in chapters 10 and 16 shall not include any equipment or device (or important component part especially designed for such equipment or device) capable of separating the isotopes of uranium or enriching uranium in the isotope 235.".

SEC. 1103. TABLE OF CONTENTS.

The table of contents for title II of the Atomic Energy Act of 1954, as added by title IX of this Act, is amended by adding at the end the following:

"CHAPTER 27—LICENSING AND REGULATION OF URANIUM ENRICHMENT FACILITIES

"Sec. 1701. Gaseous diffusion facilities.
"Sec. 1702. Licensing of other technologies.
"Sec. 1703. Regulation of restricted data.

"CHAPTER 28—DECONTAMINATION AND DECOMMISSIONING

"Sec. 1801. Uranium Enrichment Decontamination and Decommissioning Fund.
"Sec. 1802. Deposits.
"Sec. 1803. Department facilities.
"Sec. 1804. Employee provisions.
"Sec. 1805. Reports to Congress.".

TITLE XII—RENEWABLE ENERGY

42 USC 13311.

SEC. 1201. PURPOSES.

The purposes of this title are to promote—

(1) increases in the production and utilization of energy from renewable energy resources;

(2) further advances of renewable energy technologies; and

(3) exports of United States renewable energy technologies and services.

SEC. 1202. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS FOR RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGIES.

(a) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—Section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12005) is amended to read as follows:

"SEC. 6. DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.

"(a) PURPOSE.—The purpose of this section is to direct the Secretary to further the commercialization of renewable energy and energy efficiency technologies through a five-year program.

"(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROJECTS.—

"(1) ESTABLISHMENT.—(A) The Secretary shall solicit proposals for demonstration and commercial application projects for renewable energy and energy efficiency technologies pursuant to subsection (c). Such projects may include projects for—

"(i) the production and sale of electricity, thermal energy, or other forms of energy using a renewable energy technology;

"(ii) increasing the efficiency of energy use; and

"(iii) improvements in, or expansion of, facilities for the manufacture of renewable energy or energy efficiency technologies.

"(B) REQUIREMENTS.—Each project selected under this section shall include at least one for-profit business. Activities supported under this section shall be performed in the United States. Each project under this section shall require the manufacture and reproduction substantially within the United States for commercial sale of any invention or product that may result from the project.

"(2) FORMS OF FINANCIAL ASSISTANCE.—(A) In supporting projects selected under subsection (c), the Secretary may choose

from among the forms of agreements described in section 3001 of the Energy Policy Act of 1992.

"(B) In supporting projects selected under subsection (c), the Secretary may also enter into agreements with private lenders to pay a portion of the interest on loans made for such projects.

"(3) COST SHARING.—Cost sharing for projects under this section shall be conducted according to the procedures described in section 3002 (b) and (c) of the Energy Policy Act of 1992.

"(4) ADVISORY COMMITTEE.—(A) The Secretary shall establish an Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this Act referred to as the 'Advisory Committee') to advise the Secretary on the development of the solicitation and evaluation criteria for projects under this section, and on otherwise carrying out his responsibilities under this section. The Secretary shall appoint members to the Advisory Committee, including at least one member representing—

"(i) the Secretary of Commerce;

"(ii) the National Laboratories of the Department of Energy;

"(iii) the Solar Energy Research Institute;

"(iv) the Electric Power Research Institute;

"(v) the Gas Research Institute;

"(vi) the National Institute of Building Sciences;

"(vii) the National Institute of Standards and Technology;

"(viii) associations of firms in the major renewable energy manufacturing industries; and

"(ix) associations of firms in the major energy efficiency manufacturing industries.

Nothing in this subparagraph shall be construed to require the Secretary to reestablish the Advisory Committee in place under this subsection as of the date of enactment of the Energy Policy Act of 1992, or to perform again any duties performed by such advisory committee before such date of enactment.

"(B) Not later than 18 months after the date of the enactment of the Energy Policy Act of 1992, the Advisory Committee shall provide the Secretary with a report assessing the implementation of the program under this section, including specific recommendations for improvements or changes to the program and solicitation process. The Secretary shall transmit such report and, if any, the Secretary's recommendations to the Congress. Reports.

"(c) SELECTION OF PROJECTS.—

"(1) SOLICITATION.—(A) Not later than 9 months after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall solicit proposals for projects under this section. The Secretary may make additional solicitations for proposals if the Secretary determines that such solicitations are necessary to carry out this section.

"(B) A solicitation for proposals under this paragraph shall establish a closing date for receipt of proposals. The Secretary may, if necessary, extend the closing date for receipt of proposals for a period not to exceed 90 days.

"(C) Each solicitation under this paragraph shall include a description of the criteria, developed by the Secretary, accord-

ing to which proposals will be evaluated. In developing such criteria, the Secretary shall consider—

"(i) the need for Federal involvement to commercialize the technology or speed commercialization of the technology;

"(ii) the potential for the technology to have significant market penetration;

"(iii) the potential energy efficiency gains or energy supply contributions of the technology;

"(iv) potential environmental improvements associated with the technology;

"(v) the export potential of the technology;

"(vi) the likelihood that the proposal is technically sufficient to achieve the objective of the solicitation;

"(vii) the degree to which non-Federal financial participation is involved in the proposal;

"(viii) the business and financial history of the proposer or proposers; and

"(ix) any other factor the Secretary considers appropriate.

"(2) PROJECT TECHNOLOGIES.—Projects under this section may include the following technologies:

"(A) Conversion of cellulosic biomass to liquid fuels.

"(B) Ethanol and ethanol byproduct processes.

"(C) Direct combustion or gasification of biomass.

"(D) Biofuels energy systems.

"(E) Photovoltaics, including utility scale and remote applications.

"(F) Solar thermal, including solar water heating.

"(G) Wind energy.

"(H) High temperature and low temperature geothermal energy.

"(I) Fuel cells, including transportation and stationary applications.

"(J) Nondefense high-temperature superconducting electricity technology.

"(K) Source reduction technology.

"(L) Factory-made housing.

"(M) Advanced district cooling.

"(3) PROJECT SELECTION.—The Secretary shall, within 120 days after the closing date established under paragraph (1)(B), select proposals to receive financial assistance under this section. In selecting proposals under this paragraph, the Secretary shall—

"(A) consider each proposal's ability to meet the criteria developed pursuant to paragraph (1)(C); and

"(B) attempt to achieve technological and geographic diversity.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $50,000,000 for fiscal year 1994.

(b) NATIONAL GOALS AND MULTIYEAR FUNDING FOR ALCOHOL FROM BIOMASS.—Section 4(a) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12003(a)) is amended—

(1) by redesignating paragraph (4) as paragraph (5);

(2) by inserting after paragraph (3) the following new paragraph:

"(4) ALCOHOL FROM BIOMASS.—(A) In general, the goal of the Alcohol From Biomass Program shall be to advance research and development to a point where alcohol from biomass technology is cost-competitive with conventional hydrocarbon transportation fuels, and to promote the integration of this technology into the transportation fuel sector of the economy.

"(B)(i) Specific goals for producing ethanol from biomass shall be to—

"(I) reduce the cost of alcohol to 70 cents per gallon;

"(II) improve the overall biomass carbohydrate conversion efficiency to 91 percent;

"(III) reduce the capital cost component of the cost of alcohol to 23 cents per gallon; and

"(IV) reduce the operating and maintenance component of the cost of alcohol to 47 cents per gallon.

"(ii) Specific goals for producing methanol from biomass shall be to—

"(I) reduce the cost of alcohol to 47 cents per gallon; and

"(II) reduce the capital component of the cost of alcohol to 16 cents per gallon."; and

(3) in paragraph (5), as so redesignated by paragraph (1) of this subsection, by inserting "Biodiesel Energy Systems," after "Biofuels Energy Systems,".

(c) NATIONAL RENEWABLE ENERGY AND ENERGY EFFICIENCY MANAGEMENT PLAN.—Section 9(b) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12008(b)) is amended— 42 USC 12006.

(1) in paragraph (1) by inserting "three-year" before "management plan"; and

(2) by striking paragraph (5) and inserting in lieu thereof the following new paragraphs:

"(5) In addition, the Plan shall—

"(A) contain a detailed assessment of program needs, objectives, and priorities for each of the programs authorized under section 6 of this Act;

"(B) use a uniform prioritization methodology to facilitate cost-benefit analyses of proposals in various program areas;

"(C) establish milestones for setting forth specific technology transfer activities under each program area;

"(D) include annual and five-year cost estimates for individual programs under this Act; and

"(E) identify program areas for which funding levels have been changed from the previous year's Plan.

"(6) Within one year after the date of the enactment of the Energy Policy Act of 1992, the Secretary shall submit a revised management plan under this section to Congress. Thereafter, the Secretary shall submit a management plan every three years at the time of submittal of the President's annual budget submission to the Congress.".

(d) CONFORMING AMENDMENTS.—The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.) is further amended—

(1) in section 2(b)— 42 USC 12001.

(A) by striking "authority contained in" and all that follows through "applicable to the Secretary" and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992"; and

(B) by striking "and demonstration" and inserting in lieu thereof "demonstration, and commercial application";

(2) in section 2(b)(4)—

(A) by striking "research and development"; and

(B) by striking "joint ventures" and inserting in lieu thereof "demonstration and commercial application projects";

(3) in section 2(c), by striking "the authority contained in" and all that follows and inserting in lieu thereof "section 3001 of the Energy Policy Act of 1992, is authorized and directed to—

"(1) pursue a program of research, development, demonstration, and commercial application with the private sector, to achieve the purpose of this Act, including the goals established under section 4; and

"(2) undertake demonstration and commercial application projects as provided in section 6.";

42 USC 12002.

(4) in section 3—

(A) by striking paragraph (2);

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively;

(C) in paragraph (4), as so redesignated by subparagraph (B) of this paragraph—

(i) by striking "joint venture" and inserting in lieu thereof "demonstration and commercial application project";

(ii) by striking "venture" and inserting in lieu thereof "demonstration and commercial application project"; and

(iii) by striking "and" at the end thereof; and

(D) by inserting after paragraph (4), as so redesignated by subparagraph (B) of this paragraph, the following new paragraph:

"(5) the term 'source reduction' means any practice which—

"(A) reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment, including fugitive emissions, prior to recycling, treatment, or disposal; and

"(B) reduces the hazards to the public health and the environment associated with the release of such substances, pollutants, or contaminants,

including equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, and inventory control, but not including any practice which alters the physical, chemical, or biological characteristics or the volume of a hazardous substance, pollutant, or contaminant through a process or activity which itself is not integral to and necessary for the production of a product or the providing of a service;"; and

42 USC 12006.

(5) in section 9(a), by striking ", projects, and joint ventures" and inserting in lieu thereof "and projects".

SEC. 1203. RENEWABLE ENERGY EXPORT TECHNOLOGY TRAINING. 42 USC 13312.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, shall establish a program for the training of individuals from developing countries in the operation and maintenance of renewable energy and energy efficiency technologies in accordance with this section. The Secretary and the Administrator of the Agency for International Development shall, within one year after the date of enactment of this Act, enter into a written agreement to carry out this program.

(b) PURPOSE.—The purpose of the program established under this section shall be to train appropriate persons in the system design, operation, and maintenance of renewable energy and energy efficiency equipment manufactured in the United States, including equipment for water pumping, heating and purification, and the production of electric power in remote areas.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $6,000,000 for each of the fiscal years 1994, 1995, and 1996, to carry out this section.

SEC. 1204. RENEWABLE ENERGY ADVANCEMENT AWARDS. 42 USC 13313.

(a) AUTHORITY.—The Secretary shall make Renewable Energy Advancement Awards in recognition of developments that advance the practical application of biomass, geothermal, hydroelectric, photovoltaic, solar thermal, ocean thermal, and wind technologies to consumer, utility, or industrial uses, in accordance with this section. Except as provided in subsection (f), Renewable Energy Advancement Awards shall include a cash award.

(b) SELECTION CRITERIA.—The Secretary, in consultation with the Advisory Committee on Demonstration and Commercial Application of Renewable Energy and Energy Efficiency Technologies (in this section referred to as the "Advisory Committee"), under section 6 of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989, shall develop criteria to be applied in the selection of award recipients under this section. Such criteria shall include the following:

(1) The degree to which the technological development increases the utilization of renewable energy.

(2) The degree to which the development will have a significant impact, by benefitting a large number of people, by reducing the costs of an important industrial process or commercial product or service, or otherwise.

(3) The ingenuity of the development.

(4) Whether the application has significant export potential.

(5) The environmental soundness of the development.

(c) SELECTION.—Beginning in fiscal year 1994, and annually thereafter for a period of 10 years, the Secretary, in consultation with the Advisory Committee, shall select developments described in subsection (a) that are worthy of receiving an award under this section, and shall make such awards.

(d) ELIGIBILITY.—Awards may be made under this section only to individuals who are United States nationals or permanent resident aliens, or to non-Federal organizations that are organized under the laws of the United States or the laws of a State of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary $50,000 for each of the fiscal years 1994, 1995, and 1996 for carrying out this section.

(f) AWARDS MADE IN ABSENCE OF APPROPRIATIONS.—The Secretary shall make honorary awards under this section if sufficient funds are not available for financial awards in any fiscal year.

42 USC 13314.

SEC. 1205. STUDY OF TAX AND RATE TREATMENT OF RENEWABLE ENERGY PROJECTS.

(a) The Secretary, in conjunction with State regulatory commissions, shall undertake a study to determine if conventional taxation and ratemaking procedures result in economic barriers to or incentives for renewable energy power plants compared to conventional power plants.

Reports.

(b) Within 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study undertaken under subsection (a).

SEC. 1206. STUDY OF RICE MILLING ENERGY BY-PRODUCT MARKETING.

The Department of Energy shall conduct a study to facilitate the marketing of energy byproducts from rice milling.

SEC. 1207. DUTIES OF INTERAGENCY WORKING GROUP ON RENEWABLE ENERGY AND ENERGY EFFICIENCY EXPORTS.

(a) INTERAGENCY WORKING GROUP.—Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) is amended to read as follows:

"(d) INTERAGENCY WORKING GROUP.—

"(1) ESTABLISHMENT.—(A) There shall be established an interagency working group that, in consultation with the representative industry groups and relevant agency heads, shall make recommendations to coordinate the actions and programs of the Federal Government affecting exports of renewable energy and energy efficiency products and services. The interagency working group shall establish a program to inform foreign countries of the benefits of policies that would increase energy efficiency or would allow facilities that use renewable energy to compete effectively with producers of energy from nonrenewable sources.

"(B) There shall be established an Interagency Working Subgroup on Renewable Energy and an Interagency Working Subgroup on Energy Efficiency that shall, in consultation with representative industry groups, nonprofit organizations, and relevant Federal agencies, make recommendations to coordinate the actions and programs of the Federal Government to promote the export of domestic renewable energy and energy efficiency products and services, respectively.

"(C) The Secretary of Energy, or the Secretary's designee, shall chair the interagency working group and each subgroup established under this paragraph. The Administrator of the Agency for International Development and the Secretary of Commerce, or their designees, shall be members of both subgroups established under this paragraph. The Secretary shall provide staff for carrying out the functions of the interagency working group and each subgroup established under this paragraph. The heads of appropriate agencies may detail such personnel and may furnish such services to such group and subgroups, with or without reimbursement, as may be necessary to carry out their functions.

"(2) DUTIES OF THE INTERAGENCY WORKING SUBGROUPS.—(A) The interagency working subgroups established under para-

graph (1)(B), through the member agencies of the interagency working group, shall promote the development and application in foreign countries of renewable energy and energy efficiency products and services, respectively, that—

"(i) reduce dependence on unreliable sources of energy by encouraging the use of sustainable biomass, wind, small-scale hydroelectric, solar, geothermal, and other renewable energy and energy efficiency products and services; and

"(ii) use hybrid fossil-renewable energy systems.

"(B) In addition, the interagency working subgroups shall explore mechanisms for assisting domestic firms, particularly small businesses, with the export of their renewable energy and energy efficiency products and services and with the identification of potential projects.

"(3) TRAINING AND ASSISTANCE.—The interagency working subgroups shall encourage the member agencies of the interagency working group to—

"(A) provide technical training and education for international development personnel and local users in their own country;

"(B) provide financial and technical assistance to nonprofit institutions that support the marketing and export efforts of domestic companies that provide renewable energy and energy efficiency products and services;

"(C) develop environmentally sustainable renewable energy and energy efficiency projects in foreign countries;

"(D) provide technical assistance and training materials to loan officers of the World Bank, international lending institutions, commercial and energy attaches at embassies of the United States and other appropriate personnel in order to provide information about renewable energy and energy efficiency products and services to foreign governments or other potential project sponsors;

"(E) support, through financial incentives, private sector efforts to commercialize and export renewable energy and energy efficiency products and services; and

"(F) augment budgets for trade and development programs in order to support pre-feasibility or feasibility studies for projects that utilize renewable energy and energy efficiency products and services.".

(b) FUNCTIONS.—Section 256(f) of the Energy Policy and Conservation Act (42 U.S.C. 6276(f)) is amended by inserting "and energy efficiency" after "renewable energy" each place it appears.

(c) DEFINITIONS.—Section 256(g) of the Energy Policy and Conservation Act (42 U.S.C. 6276(g)) is repealed.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 256(h) of the Energy Policy and Conservation Act (42 U.S.C. 6276(h)) is amended to read as follows:

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for purposes of carrying out the programs under subsections (d) and (e) $10,000,000, to be divided equitably between the interagency working subgroups based on program requirements, for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995 to carry out the purposes of this subtitle.".

SEC. 1208. STUDY OF EXPORT PROMOTION PRACTICES.

Section 256(d) of the Energy Policy and Conservation Act (42 U.S.C. 6276(d)) as amended by section 1208 of this Act, is further amended by adding at the end the following new paragraph:

"(4) The interagency working group shall conduct a study of subsidies, incentives, and policies that foreign countries use to promote exports of their own renewable energy and energy efficiency technologies and products. Such study shall also identify foreign trade barriers to the import of renewable energy and energy efficiency technologies and products produced in the United States. The interagency working group shall report to the appropriate committees of the House of Representatives and the Senate the results of such study within 18 months after the date of the enactment of the Energy Policy Act of 1992.".

Reports.

42 USC 13315.

SEC. 1209. DATA SYSTEM AND ENERGY TECHNOLOGY EVALUATION.

The Secretary of Commerce, in his or her role as a member of the interagency working group established under section 256 of the Energy Policy and Conservation Act (42 U.S.C. 6276), shall—

(1) develop a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial Information Management System of the Department of Commerce, that will provide information on the specific energy technology needs of foreign countries, and the technical and economic competitiveness of various renewable energy and energy efficiency products and technologies;

(2) make such information available to industry, Federal and multilateral lending agencies, nongovernmental organizations, host-country and donor-agency officials, and such others as the Secretary of Commerce considers necessary; and

(3) prepare and transmit to the Congress not later than June 1, 1993, and biennially thereafter, a comprehensive report evaluating the full range of energy and environmental technologies necessary to meet the energy needs of foreign countries, including—

(A) information on the specific energy needs of foreign countries;

(B) an inventory of United States technologies and services to meet those needs;

(C) an update on the status of ongoing bilateral and multilateral programs which promote United States exports of renewable energy and energy efficiency products and technologies; and

(D) an evaluation of current programs (and recommendations for future programs) that develop and promote energy efficiency and sustainable use of indigenous renewable energy resources in foreign countries to reduce the generation of greenhouse gases.

SEC. 1210. OUTREACH.

(a) OUTREACH.—The interagency working group established under section 256(d)(1)(A) of the Energy Policy and Conservation Act and the Secretary of Commerce shall select one individual who is experienced in renewable energy and energy efficiency products and technologies to be assigned by the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Pacific Rim, and one such individual to be assigned by

the Secretary of Commerce to an office of the United States and Foreign Commercial Service in the Caribbean Basin, for the sole purpose of providing information concerning domestic renewable energy and energy efficiency products, technologies, and industries to territories, foreign governments, industries, and other appropriate persons.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for the purposes of this section $500,000 for each of the fiscal years 1993 and 1994, and such sums as may be necessary for fiscal year 1995.

SEC. 1211. INNOVATIVE RENEWABLE ENERGY TECHNOLOGY TRANSFER PROGRAM. 42 USC 13316.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the interagency working group established under section 256(d) of Energy Policy and Conservation Act (in this section referred to as the "interagency working group"), shall establish a renewable energy technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States renewable energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States renewable energy technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from renewable resources;

(4) develop markets for United States renewable energy technologies to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of renewable energy technology projects in foreign countries;

(8) assist foreign countries in meeting their energy needs through the use of renewable energy in an environmentally acceptable manner, consistent with sustainable development policies; and

(9) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States renewable energy technologies, and services related thereto, in developing countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms in the development of innovative financing packages for renewable energy technology projects that utilize other financial assistance programs available through the Federal Government.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States renewable energy technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271

Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States renewable energy technology, including services related thereto, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the working group, shall—

(1) establish eligibility criteria for host countries;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes stated in section 1201(b);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will make greater use of indigenous renewable energy resources.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce renewable energy technologies into foreign countries.

(l) DEFINITIONS.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed renewable energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country.

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1212. RENEWABLE ENERGY PRODUCTION INCENTIVE. 42 USC 13317.

(a) INCENTIVE PAYMENTS.—For electric energy generated and sold by a qualified renewable energy facility during the incentive period, the Secretary shall make, subject to the availability of appropriations, incentive payments to the owner or operator of such facility. The amount of such payment made to any such owner or operator shall be as determined under subsection (e). Payments under this section may only be made upon receipt by the Secretary of an incentive payment application which establishes that the applicant is eligible to receive such payment and which satisfies such other requirements as the Secretary deems necessary. Such application shall be in such form, and shall be submitted at such time, as the Secretary shall establish.

(b) QUALIFIED RENEWABLE ENERGY FACILITY.—For purposes of this section, a qualified renewable energy facility is a facility which is owned by a State or any political subdivision of a State (or an agency, authority, or instrumentality of a State or a political subdivision), by any corporation or association which is wholly owned, directly or indirectly, by one or more of the foregoing, or by a nonprofit electrical cooperative and which generates electric energy for sale in, or affecting, interstate commerce using solar, wind, biomass, or geothermal energy, except that—

(1) the burning of municipal solid waste shall not be treated as using biomass energy; and

(2) geothermal energy shall not include energy produced from a dry steam geothermal reservoir which has—

(A) no mobile liquid in its natural state;

(B) steam quality of 95 percent water; and

(C) an enthalpy for the total produced fluid greater than or equal to 1200 Btu/lb (British thermal units per pound).

(c) ELIGIBILITY WINDOW.—Payments may be made under this section only for electricity generated from a qualified renewable energy facility first used during the 10-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section.

(d) PAYMENT PERIOD.—A qualified renewable energy facility may receive payments under this section for a 10-fiscal year period. Such period shall begin with the fiscal year in which electricity generated from the facility is first eligible for such payments.

(e) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Incentive payments made by the Secretary under this section to the owner or operator of any qualified renewable energy facility shall be based on the number of kilowatt hours of electricity generated by the facility through the use of solar, wind, biomass, or geothermal energy during the payment period referred to in subsection (d). For

any facility, the amount of such payment shall be 1.5 cents per kilowatt hour, adjusted as provided in paragraph (2).

(2) ADJUSTMENTS.—The amount of the payment made to any person under this subsection as provided in paragraph (1) shall be adjusted for inflation for each fiscal year beginning after calendar year 1993 in the same manner as provided in the provisions of section 29(d)(2)(B) of the Internal Revenue Code of 1986, except that in applying such provisions the calendar year 1993 shall be substituted for calendar year 1979.

(f) SUNSET.—No payment may be made under this section to any facility after the expiration of the 20-fiscal year period beginning with the first full fiscal year occurring after the enactment of this section, and no payment may be made under this section to any facility after a payment has been made with respect to such facility for a 10-fiscal year period.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

TITLE XIII—COAL

Subtitle A—Research, Development, Demonstration, and Commercial Application

42 USC 13331.

SEC. 1301. COAL RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION PROGRAMS.

(a) ESTABLISHMENT.—The Secretary shall, in accordance with section 3001 and 3002 of this Act, conduct programs for research, development, demonstration, and commercial application on coal-based technologies. Such research, development, demonstration, and commercial application programs shall include the programs established under this subtitle, and shall have the goals and objectives of—

(1) ensuring a reliable electricity supply;

(2) complying with applicable environmental requirements;

(3) achieving the control of sulfur oxides, oxides of nitrogen, air toxics, solid and liquid wastes, greenhouse gases, or other emissions resulting from coal use or conversion at levels of proficiency greater than or equal to applicable currently available commercial technology;

(4) achieving the cost competitive conversion of coal into energy forms usable in the transportation sector;

(5) demonstrating the conversion of coal to synthetic gaseous, liquid, and solid fuels;

(6) demonstrating, in cooperation with other Federal and State agencies, the use of coal-derived fuels in mobile equipment, with opportunities for industrial cost sharing participation;

(7) ensuring the timely commercial application of cost-effective technologies or energy production processes or systems utilizing coal which achieve—

(A) greater efficiency in the conversion of coal to useful energy when compared to currently available commercial technology for the use of coal; and

(B) the control of emissions from the utilization of coal; and

(8) ensuring the availability for commercial use of such technologies by the year 2010.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAMS.—(1) In selecting either a demonstration project or a commercial application project for financial assistance under this subtitle, the Secretary shall seek to ensure that, relative to otherwise comparable commercially available technologies or products, the selected project will meet one or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(2) In administering demonstration and commercial application programs authorized by this subtitle, the Secretary shall establish accounting and project management controls that will be adequate to control costs.

(3)(A) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures and criteria for the recoupment of the Federal share of each cost shared demonstration and commercial application project authorized pursuant to this subtitle. Such recoupment shall occur within a reasonable period of time following the date of completion of such project, but not later than 20 years following such date, taking into account the effect of recoupment on—

(i) the commercial competitiveness of the entity carrying out the project;

(ii) the profitability of the project; and

(iii) the commercial viability of the coal-based technology utilized.

(B) The Secretary may at any time waive or defer all or some portion of the recoupment requirement as necessary for the commercial viability of the project.

(4) Projects selected by the Secretary under this subtitle for demonstration or commercial application of a technology shall, in the judgment of the Secretary, be capable of enhancing the state of the art for such technology.

(c) REPORT.—Within 240 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate a report which shall include each of the following:

(1) A detailed description of ongoing research, development, demonstration, and commercial application activities regarding coal-based technologies undertaken by the Department of Energy, other Federal or State government departments or agencies and, to the extent such information is publicly avail-

able, other public or private organizations in the United States and other countries.

(2) A listing and analysis of current Federal and State government regulatory and financial incentives that could further the goals of the programs established under this subtitle.

(3) Recommendations regarding the manner in which any ongoing coal-based demonstration and commercial application program might be modified and extended in order to ensure the timely demonstrations of advanced coal-based technologies so as to ensure that the goals established under this section are achieved and that such demonstrated technologies are available for commercial use by the year 2010.

(4) Recommendations, if any, regarding the manner in which the cost sharing demonstrations conducted pursuant to the Clean Coal Program established by Public Law 98–473 might be modified and extended in order to ensure the timely demonstration of advanced coal-based technologies.

(5) A detailed plan for conducting the research, development, demonstration, and commercial application programs to achieve the goals and objectives of subsection (a) of this section, which plan shall include a description of—

(A) the program elements and management structure to be utilized;

(B) the technical milestones to be achieved with respect to each of the advanced coal-based technologies included in the plan; and

(C) the dates at which further deadlines for additional cost sharing demonstrations shall be established.

(d) STATUS REPORTS.—Within one year after transmittal of the report described in subsection (c), and every 2 years thereafter for a period of 6 years, the Secretary shall transmit to the Congress a report that provides a detailed description of the status of development of the advanced coal-based technologies and the research, development, demonstration, and commercial application activities undertaken to carry out the programs required by this subtitle.

(e) CONSULTATION.—In carrying out research, development, demonstration, and commercial application activities under this subtitle, the Secretary shall consult with the National Coal Council and other representatives of the public and private sectors as the Secretary considers appropriate.

42 USC 13332.

SEC. 1302. COAL-FIRED DIESEL ENGINES.

The Secretary shall conduct a program of research, development, demonstration, and commercial application for utilizing coal-derived liquid or gaseous fuels, including ultra-clean coal-water slurries, in diesel engines. The program shall address—

(1) required engine retrofit technology;

(2) coal-fuel production technology;

(3) emission control requirements;

(4) the testing of low-Btu highly reactive fuels;

(5) fuel delivery and storage systems requirements; and

(6) other infrastructure required to support commercial deployment.

42 USC 13333.

SEC. 1303. CLEAN COAL, WASTE-TO-ENERGY.

The Secretary shall establish a program of research, development, demonstration, and commercial application with respect to

the use of solid waste combined with coal as a fuel source for clean coal combustion technologies. The program shall address—

(1) the feasibility of cofiring coal and used vehicle tires in fluidized bed combustion units;

(2) the combined gasification of coal and municipal sludge using integrated gasification combined cycle technology;

(3) the creation of fuel pellets combining coal and material reclaimed from solid waste;

(4) the feasibility of cofiring, in fluidized bed combustion units, waste methane from coal mines, including ventilation air, together with coal or coal wastes; and

(5) other sources of waste and coal mixtures in other applications that the Secretary considers appropriate.

SEC. 1304. NONFUEL USE OF COAL. 42 USC 13334.

(a) PROGRAM.—The Secretary shall prepare a plan for and carry out a program of research, development, demonstration, and commercial application with respect to technologies for the nonfuel use of coal, including—

(1) production of coke and other carbon products derived from coal;

(2) production of coal-derived, carbon-based chemical intermediates that are precursors of value-added chemicals and polymers;

(3) production of chemicals from coal-derived synthesis gas;

(4) coal treatment processes, including methodologies such as solvent-extraction techniques that produce low ash, low sulfur, coal-based chemical feedstocks; and

(5) waste utilization, including recovery, processing, and marketing of products derived from sulfur, carbon dioxide, nitrogen, and ash from coal.

(b) PLAN CONTENTS.—The plan described in subsection (a) shall address and evaluate—

(1) the known and potential processes for using coal in the creation of products in the chemical, utility, fuel, and carbon-based materials industries;

(2) the costs, benefits, and economic feasibility of using coal products in the chemical and materials industries, including value-added chemicals, carbon-based products, coke, and waste derived from coal;

(3) the economics of coproduction of products from coal in conjunction with the production of electric power, thermal energy, and fuel;

(4) the economics of the refining of coal and coal byproducts to produce nonfuel products;

(5) the economics of coal utilization in comparison with other feedstocks that might be used for the same purposes;

(6) the steps that can be taken by the public and private sectors to bring about commercialization of technologies developed under the program recommended; and

(7) the past development, current status, and future potential of coal products and processes associated with nonfuel uses of coal.

SEC. 1305. COAL REFINERY PROGRAM. 42 USC 13335.

(a) PROGRAM.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for coal refining technologies.

(b) OBJECTIVES.—The program shall include technologies for refining high sulfur coals, low sulfur coals, sub-bituminous coals, and lignites to produce clean-burning transportation fuels, compliance boiler fuels, fuel additives, lubricants, chemical feedstocks, and carbon-based manufactured products, either alone or in conjunction with the generation of electricity or process heat, or the manufacture of a variety of products from coal. The objectives of such program shall be to achieve—

(1) the timely commercial application of technologies, including mild gasification, hydrocracking and other hydropyrolysis processes, and other energy production processes or systems to produce coal-derived fuels and coproducts, which achieve greater efficiency and economy in the conversion of coal to electrical energy and coproducts than currently available technology;

(2) the production of energy, fuels, and products which, on a complete energy system basis, will result in environmental emissions no greater than those produced by existing comparable energy systems utilized for the same purpose;

(3) the capability to produce a range of coal-derived transportation fuels, including oxygenated hydrocarbons, boiler fuels, turbine fuels, and coproducts, which can reduce dependence on imported oil by displacing conventional petroleum in the transportation sector and other sectors of the economy;

(4) reduction in the cost of producing such coal-derived fuels and coproducts;

(5) the control of emissions from the combustion of coal-derived fuels; and

(6) the availability for commercial use of such technologies by the year 2000.

42 USC 13336.

SEC. 1306. COALBED METHANE RECOVERY.

(a) STUDY OF BARRIERS AND ENVIRONMENTAL AND SAFETY ASPECTS.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall conduct a study of—

(1) technical, economic, financial, legal, regulatory, institutional, or other barriers to coalbed methane recovery, and of policy options for eliminating such barriers; and

(2) the environmental and safety aspects of flaring coalbed methane liberated from coal mines.

Reports.

Within two years after the date of enactment of this Act, the Secretary shall submit a report to the Congress detailing the results of such study.

(b) INFORMATION DISSEMINATION.—Beginning one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall disseminate to the public information on state-of-the-art coalbed methane recovery techniques, including information on costs and benefits.

(c) DEMONSTRATION AND COMMERCIAL APPLICATION PROGRAM.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Interior, shall establish a coalbed methane recovery demonstration and commercial application program, which shall emphasize gas enrichment technology. Such program shall address—

(1) gas enrichment technologies for enriching medium-quality methane recovered from coal mines to pipeline quality;

(2) technologies to use mine ventilation air in nearby power generation facilities, including gas turbines, internal combustion engines, or other coal fired powerplants;

(3) technologies for cofiring methane recovered from mines, including methane from ventilation systems and degasification systems, together with coal in conventional or clean coal technology boilers; and

(4) other technologies for producing and using methane from coal mines that the Secretary considers appropriate.

SEC. 1307. METALLURGICAL COAL DEVELOPMENT. 42 USC 13337.

(a) The Secretary shall establish a research, development, demonstration, and commercial application program on metallurgical coal utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of the Nation's metallurgical coal resources.

(b) The program referred to in subsection (a) shall include the use of metallurgical coal—

(1) as a boiler fuel for the purpose of generating steam to produce electricity, including blending metallurgical coal with other coals in order to enhance its efficient application as a boiler fuel;

(2) as an ingredient in the manufacturing of steel; and

(3) as a source of pipeline quality coalbed methane.

SEC. 1308. UTILIZATION OF COAL WASTES. 42 USC 13338.

(a) COAL WASTE UTILIZATION PROGRAM.—The Secretary, in consultation with the Secretary of the Interior, shall establish a research, development, demonstration, and commercial application program on coal waste utilization for the purpose of developing techniques that will lead to the greater and more efficient utilization of coal wastes from mining and processing, other than coal ash.

(b) USE AS BOILER FUEL.—The program referred to in subsection (a) shall include projects to facilitate the use of coal wastes from mining and processing as a boiler fuel for the purpose of generating steam to produce electricity.

SEC. 1309. UNDERGROUND COAL GASIFICATION. 42 USC 13339.

(a) PROGRAM.—The Secretary shall conduct a research, development, demonstration, and commercial application program for underground coal gasification technology for in-situ conversion of coal to a cleaner burning, easily transportable gaseous fuel. The goal and objective of this program shall be to accelerate the development and commercialization of underground coal gasification. In carrying out this program, the Secretary shall give equal consideration to all ranks of coal.

(b) DEMONSTRATION PROJECTS.—As part of the program authorized in subsection (a), the Secretary may solicit proposals for underground coal gasification technology projects to fulfill the goal and objective of subsection (a).

SEC. 1310. LOW-RANK COAL RESEARCH AND DEVELOPMENT. 42 USC 13340.

The Secretary shall pursue a program of research and development with respect to the technologies needed to expand the use of low-rank coals which take into account the unique properties

of lignites and sub-bituminous coals, including, but not limited to, the following areas—

(1) high value-added carbon products;
(2) fuel cell applications;
(3) emissions control and combustion efficiencies;
(4) coal water fuels and underground coal gasification;
(5) distillates; and
(6) any other technologies which will assist in the development of niche markets for lignites and sub-bituminous coals.

42 USC 13341.

SEC. 1311. MAGNETOHYDRODYNAMICS.

(a) PROGRAM.—The Secretary shall carry out a research, development, demonstration, and commercial application program in magnetohydrodynamics. The purpose of this program shall be to determine the adequacy of the engineering and design information completed to date under Department of Energy contracts related to magnetohydrodynamics retrofit systems and to determine whether any further Federal investment in this technology is warranted.

(b) SOLICITATION OF PROPOSALS.—In order to carry out the program authorized in subsection (a), the Secretary may solicit proposals from the private sector and seek to enter into an agreement with appropriate parties.

42 USC 13342.

SEC. 1312. OIL SUBSTITUTION THROUGH COAL LIQUEFACTION.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program of research, development, demonstration, and commercial application for the purpose of developing economically and environmentally acceptable advanced technologies for oil substitution through coal liquefaction.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) improved resource selection and product quality;
(2) the development of technologies to increase net yield of liquid fuel product per ton of coal;
(3) an increase in overall thermal efficiency; and
(4) a reduction in capital and operating costs through technology improvements.

(c) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

42 USC 13343.

SEC. 1313. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $278,139,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 through 1997.

Subtitle B—Clean Coal Technology Program

42 USC 13351.

SEC. 1321. ADDITIONAL CLEAN COAL TECHNOLOGY SOLICITATIONS.

(a) PROGRAM DESIGN.—Additional clean coal technology solicitations described in subsection (b) shall be designed to ensure the timely development of cost-effective technologies or energy production processes or systems utilizing coal that achieve greater effi-

ciency in the conversion of coal to useful energy when compared to currently commercially available technology for the use of coal and the control of emissions from the combustion of coal. Such program shall be designed to ensure, to the greatest extent possible, the availability for commercial use of such technologies by the year 2010.

(b) ADDITIONAL SOLICITATIONS.—In conducting the Clean Coal Program established by Public Law 98–473, the Secretary shall consider the potential benefits of conducting additional solicitations pursuant to such program and, based on the results of that consideration, may carry out such additional solicitations, which shall be similar in scope and percentage of Federal cost sharing as that provided by Public Law 101–121.

Subtitle C—Other Coal Provisions

SEC. 1331. CLEAN COAL TECHNOLOGY EXPORT PROMOTION AND INTERAGENCY COORDINATION. 42 USC 13361.

(a) ESTABLISHMENT.—There shall be established within the Trade Promotion Coordinating Committee (established by the President on May 23, 1990) a Clean Coal Technology Subgroup (in this subtitle referred to as the "CCT Subgroup") to focus interagency efforts on clean coal technologies. The CCT Subgroup shall seek to expand the export and use of clean coal technologies, particularly in those countries which can benefit from gains in the efficiency of, and the control of environmental emissions from, coal utilization.

(b) MEMBERSHIP.—The CCT Subgroup shall include 1 member from each agency represented on the Energy, Environment, and Infrastructure Working Group of the Trade Promotion Coordinating Committee as of the date of enactment of this Act. The Secretary shall serve as chair of the CCT Subgroup and shall be responsible for ensuring that the functions of the CCT Subgroup are carried out through its member agencies.

(c) CONSULTATION.—(1) In carrying out this section, the CCT Subgroup shall consult with representatives from the United States coal industry, representatives of railroads and other transportation industries, organizations representing workers, the electric utility industry, manufacturers of equipment utilizing clean coal technology, members of organizations formed to further the goals of environmental protection or to promote the development and use of clean coal technologies that are developed, manufactured, or controlled by United States firms, and other appropriate interested members of the public.

(2) The CCT Subgroup shall maintain ongoing liaison with other elements of the Trade Promotion Coordinating Committee relating to clean coal technologies or regions where these technologies could be important, including Eastern Europe, Asia, and the Pacific.

(d) DUTIES.—The Secretary, acting through the CCT Subgroup, shall—

(1) facilitate the establishment of technical training for the consideration, planning, construction, and operation of clean coal technologies by end users and international development personnel;

(2) facilitate the establishment of and, where practicable, cause to be established, consistent with the goals and objectives

stated in section 1301(a), within existing departments and agencies—

(A) financial assistance programs (including grants, loan guarantees, and no interest and low interest loans) to support prefeasibility and feasibility studies for projects that will utilize clean coal technologies; and

(B) loan guarantee programs, grants, and no interest and low interest loans designed to facilitate access to capital and credit in order to finance such clean coal technology projects;

(3) develop and ensure the execution of programs, including the establishment of financial incentives, to encourage and support private sector efforts in exports of clean coal technologies that are developed, manufactured, or controlled by United States firms;

(4) encourage the training in, and understanding of, clean coal technologies by representatives of foreign companies or countries intending to use coal or clean coal technologies by providing technical or financial support for training programs, workshops, and other educational programs sponsored by United States firms;

(5) educate loan officers and other officers of international lending institutions, commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, for the purposes of providing information about clean coal technologies to foreign governments or potential project sponsors of clean coal technology projects;

(6) develop policies and practices to be conducted by commercial and energy attachés of the United States, and such other personnel as the CCT Subgroup considers appropriate, in order to promote the exports of clean coal technologies to those countries interested in or intending to utilize coal resources;

(7) augment budgets for trade and development programs supported by Federal agencies for the purpose of financially supporting prefeasibility or feasibility studies for projects in foreign countries that will utilize clean coal technologies;

(8) review ongoing clean coal technology projects and review and advise Federal agencies on the approval of planned clean coal technology projects which are sponsored abroad by any Federal agency to determine whether such projects are consistent with the overall goals and objectives of this section;

(9) coordinate the activities of the appropriate Federal agencies in order to ensure that Federal clean coal technology export promotion policies are implemented in a timely fashion;

(10) work with CCT Subgroup member agencies to develop an overall strategy for promoting clean coal technology exports, including setting goals and allocating specific responsibilities among member agencies, consistent with applicable statutes; and

(11) coordinate with multilateral institutions to ensure that United States technologies are properly represented in their projects.

(e) DATA AND INFORMATION.—(1) The CCT Subgroup, consistent with other applicable provisions of law, shall ensure the development of a comprehensive data base and information dissemination system, using the National Trade Data Bank and the Commercial

Information Management System of the Department of Commerce, relating to the availability of clean coal technologies and the potential need for such technologies, particularly in developing countries and countries making the transition from nonmarket to market economies.

(2) The Secretary, acting through the CCT Subgroup, shall assess and prioritize foreign markets that have the most potential for the export of clean coal technologies that are developed, manufactured, or controlled by United States firms. Such assessment shall include—

(A) an analysis of the financing requirements for clean coal technology projects in foreign countries and whether such projects are dependent upon financial assistance from foreign countries or multilateral institutions;

(B) the availability of other fuel or energy resources that may be available to meet the energy requirements intended to be met by the clean coal technology projects;

(C) the priority of environmental considerations in the selection of such projects;

(D) the technical competence of those entities likely to be involved in the planning and operation of such projects;

(E) an objective comparison of the environmental, energy, and economic performance of each clean coal technology relative to conventional technologies;

(F) a list of United States vendors of clean coal technologies; and

(G) answers to commonly asked questions about clean coal technologies,

The Secretary, acting through the CCT Subgroup, shall make such information available to the House of Representatives and the Senate, and to the appropriate committees of each House of Congress, industry, Federal and international financing organizations, nongovernmental organizations, potential customers abroad, governments of countries where such clean coal technologies might be used, and such others as the CCT Subgroup considers appropriate.

(f) REPORT.—Within 180 days after the Secretary submits the report to the Congress as required by section 409 of Public Law 101–549, the Secretary, acting through the CCT Subgroup, shall provide to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan which details actions to be taken in order to address those recommendations and findings made in the report submitted pursuant to section 409 of Public Law 101–549. As a part of the plan required by this subsection, the Secretary, acting through the CCT Subgroup, shall specifically address the adequacy of financial assistance available from Federal departments and agencies and international financing organizations to aid in the financing of prefeasibility and feasibility studies and projects that would use a clean coal technology in developing countries and countries making the transition from nonmarket to market economies.

SEC. 1332. INNOVATIVE CLEAN COAL TECHNOLOGY TRANSFER PROGRAM. 42 USC 13362.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the other members of the CCT Subgroup, shall establish a clean

coal technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate United States agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from coal resources;

(4) develop markets for United States technologies and, where appropriate, United States coal resources to be utilized in meeting the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies that have been developed or demonstrated in the United States through publicly or privately funded demonstration programs;

(6) provide for the accelerated deployment of United States technologies that will serve to introduce into foreign countries United States technologies intended to use coal resources in a more efficient, cost-effective, and environmentally acceptable manner;

(7) serve to ensure the introduction of United States firms and expertise in foreign countries;

(8) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of clean coal technology projects in foreign countries;

(9) assist foreign countries in meeting their energy needs through the use of coal in an environmentally acceptable manner, consistent with sustainable development policies; and

(10) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the CCT Subgroup, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries, and shall identify a list of such projects within 240 days after the date of enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects utilizing United States clean coal technologies, and services related thereto, in developing countries and countries making the transition from nonmarket to market economies;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects, including—

(i) financing the incremental costs of a clean coal technology project attributable only to expenditures to prevent or abate emissions;

(ii) providing the difference between the costs of a conventional energy project in the host country and a comparable project that would utilize a clean coal technology capable of achieving greater efficiency of energy products and improved environmental emissions compared to such conventional project; and

(iii) such other forms of financial assistance as the Secretary, through the Agency for International Development, considers appropriate.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-United States funding that is available to the project; and

(B) utilized to assist United States firms to develop innovative financing packages for clean coal technology projects that seek to utilize other financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE-PS01-90FE62271

Clean Coal Technology IV as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States clean coal technology, including services related thereto, and, where appropriate, United States coal resources, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the CCT Subgroup, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the develop-

ment of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the goals and objectives stated in section 1301(a);

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet 1 or more of the following criteria:

(A) It will reduce environmental emissions to an extent greater than required by applicable provisions of law.

(B) It will increase the overall efficiency of the utilization of coal, including energy conversion efficiency and, where applicable, production of products derived from coal.

(C) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet one or more of these criteria.

(i) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(j) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(k) REPORTS TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce clean coal technologies into foreign countries.

(l) DEFINITION.—For purposes of this section, the term "host country" means a foreign country which is—

(1) the participant in or the site of the proposed clean coal technology project; and

(2) either—

(A) classified as a country eligible to participate in development assistance programs of the Agency for Inter-

national Development pursuant to applicable law or regulation; or

(B) a developing country or country with an economy in transition from a nonmarket to a market economy.

(m) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

42 USC 13363.

SEC. 1333. CONVENTIONAL COAL TECHNOLOGY TRANSFER.

If the Secretary determines that the utilization of a clean coal technology is not practicable for a proposed project and that a United States conventional coal technology would constitute a substantial improvement in efficiency, costs, and environmental performance relative to the technology being used in a developing country or country making the transition from nonmarket to market economies, with significant indigenous coal resources, such technology shall, for purposes of sections 1321 and 1322, be considered a clean coal technology. In the case of combustion technologies, only the retrofit, repowering, or replacement of a conventional technology shall constitute a substantial improvement for purposes of this section. In carrying out this section, the Secretary shall give highest priority to promoting the most environmentally sound and energy efficient technologies.

42 USC 13364.

SEC. 1334. STUDY OF UTILIZATION OF COAL COMBUSTION BYPRODUCTS.

(a) DEFINITION.—As used in this section, the term "coal combustion byproducts" means the residues from the combustion of coal including ash, slag, and flue gas desulfurization materials.

(b) STUDY AND REPORT TO CONGRESS.—(1) The Secretary shall conduct a detailed and comprehensive study on the institutional, legal, and regulatory barriers to increased utilization of coal combustion byproducts by potential governmental and commercial users. Such study shall identify and investigate barriers found to exist at the Federal, State, or local level, which may have limited or may have the foreseeable effect of limiting the quantities of coal combustion byproducts that are utilized. In conducting this study, the Secretary shall consult with other departments and agencies of the Federal Government, appropriate State and local governments, and the private sector.

Reports.

(2) Not later than one year after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing the results of the study required by paragraph (1) and the Secretary's recommendations for action to be taken to increase the utilization of coal combustion byproducts. At a minimum, such report shall identify actions that would increase the utilization of coal combustion byproducts in—

(A) bridge and highway construction;

(B) stabilizing wastes;

(C) procurement by departments and agencies of the Federal Government and State and local governments; and

(D) federally funded or federally subsidized procurement by the private sector.

16 USC 824a-3 note.

SEC. 1335. CALCULATION OF AVOIDED COST.

Nothing in section 210 of the Public Utility Regulatory Policies Act of 1978 (Public Law 95–617) requires a State regulatory author-

ity or nonregulated electric utility to treat a cost reasonably identified to be incurred or to have been incurred in the construction or operation of a facility or a project which has been selected by the Department of Energy and provided Federal funding pursuant to the Clean Coal Program authorized by Public Law 98–473 as an incremental cost of alternative electric energy.

SEC. 1336. COAL FUEL MIXTURES. 42 USC 13365.

Reports.

Within one year following the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Commerce and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate on the status of technologies for combining coal with other materials, such as oil or water fuel mixtures. The report shall include—

(1) a technical and economic feasibility assessment of such technologies;

(2) projected developments in such technologies;

(3) an assessment of the market potential of such technologies, including the potential to displace imported crude oil and refined petroleum products;

(4) identification of barriers to commercialization of such technologies; and

(5) recommendations for addressing barriers to commercialization.

SEC. 1337. NATIONAL CLEARINGHOUSE. 42 USC 13366.

(a) FEASIBILITY.—(1) The Secretary shall assess the feasibility of establishing a national clearinghouse for the exchange and dissemination of technical information on technology relating to coal and coal-derived fuels.

(2) In assessing the feasibility, the Secretary shall consider whether such a clearinghouse would be appropriate for purposes of—

(A) collecting information and data on technology relating to coal, and coal-derived fuels, which can be utilized to improve environmental quality and increase energy independence;

(B) disseminating to appropriate individuals, governmental departments, agencies, and instrumentalities, institutions of higher education, and other entities, information and data collected pursuant to this section;

(C) maintaining a library of technology publications and treatises relating to technology information and data collected pursuant to this section;

(D) organizing and conducting seminars for government officials, utilities, coal companies, and other entities or institutions relating to technology using coal and coal-derived fuels that will improve environmental quality and increase energy independence;

(E) gathering information on research grants made for the purpose of improving or enhancing technology relating to the use of coal, and coal-derived fuels, which will improve environmental quality and increase energy independence;

(F) translating into English foreign research papers, articles, seminar proceedings, test results that affect, or could affect, clean coal use technology, and other documents;

(G) encouraging, during the testing of technologies, the use of coal from a variety of domestic sources, and collecting

or developing, or both, complete listings of test results using coals from all sources;

(H) establishing and maintaining an index or compilation of research projects relating to clean coal technology carried out throughout the world; and

(I) conducting economic modeling for feasibility of projects.

(b) AUTHORITY TO ESTABLISH CLEARINGHOUSE.—Based upon the assessment under subsection (a), the Secretary may establish a clearinghouse.

42 USC 13367.

SEC. 1338. COAL EXPORTS.

(a) PLAN.—Within 180 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Secretary and other appropriate Federal agencies, shall submit to the appropriate committees of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a plan for expanding exports of coal mined in the United States.

(b) PLAN CONTENTS.—The plan submitted under subsection (a) shall include—

(1) a description of the location, size, and projected growth in potential export markets for coal mined in the United States;

(2) the identification by country of the foreign trade barriers to the export of coal mined in the United States, including foreign coal production and utilization subsidies, tax treatment, labor practices, tariffs, quotas, and other nontariff barriers;

(3) recommendations and a plan for addressing any such trade barriers;

(4) an evaluation of existing infrastructure in the United States and any new infrastructure requirements in the United States to support an expansion of exports of coal mined in the United States, including ports, vessels, rail lines, and any other supporting infrastructure; and

(5) an assessment of environmental implications of coal exports and the identification of export opportunities for blending coal mined in the United States with coal indigenous to other countries to enhance energy efficiency and environmental performance.

42 USC 13368.

SEC. 1339. OWNERSHIP OF COALBED METHANE.

(a) FEDERAL LANDS AND MINERAL RIGHTS.—In the case of any deposit of coalbed methane where the United States is the owner of the surface estate or where the United States has transferred the surface estate but reserved the subsurface mineral estate, the Secretary of the Interior shall administer this section. This section and the definitions contained herein shall be applicable only on lands within Affected States.

Federal Register, publication.

(b) AFFECTED STATES.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, with the participation of the Secretary of Energy, shall publish in the Federal Register a list of Affected States which shall be comprised of States—

(1) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that disputes, uncertainty, or litigation exist, regarding the ownership of coalbed methane gas;

(2) in which the Secretary of the Interior, with the participation of the Secretary of Energy, determines that development of significant deposits of coalbed methane gas is being impeded

by such existing disputes, uncertainty, or litigation regarding ownership of such coalbed methane;

(3) which do not have in effect a statutory or regulatory procedure or existing case law permitting and encouraging the development of coalbed methane gas within that State; and

(4) which do not have extensive development of coalbed methane gas.

The Secretary of the Interior, with the participation of the Secretary of Energy, shall revise such list of Affected States from time to time. Any Affected State shall be deleted from the list of Affected States upon the receipt by the Secretary of the Interior of a Governor's petition requesting such deletion, a State law requesting such deletion, or a resolution requesting such deletion enacted by the legislative body of the State. A Governor intending to petition the Secretary of the Interior to delete a State from the list of Affected States shall provide the State's legislative body with 6 months notice of such petition during a legislative session. At the end of such 6-month period, the Governor may petition the Secretary of the Interior to delete a State from the list of Affected States, unless during such 6-month period, the State's legislative body has enacted a law or resolution disapproving the Governor's petition. Until the Secretary of the Interior, with the participation of the Secretary of Energy, publishes a different list, the States of West Virginia, Pennsylvania, Kentucky, Ohio, Tennessee, Indiana, and Illinois shall be the Affected States, effective on the date of the enactment of this Act. The States of Colorado, Montana, New Mexico, Wyoming, Utah, Virginia, Washington, Mississippi, Louisiana, and Alabama shall not be included on the Secretary of the Interior's list of Affected States or any extension or revision thereof.

(c) FAILURE TO ADOPT STATUTORY OR REGULATORY PROCEDURE.—If an Affected State has not placed in effect, by statute or by regulation, a substantial program promoting the permitting, drilling and production of coalbed methane wells (including pooling arrangements) within that State within 3 years after becoming an Affected State, the Secretary of the Interior, with the participation of the Secretary of Energy, shall administer this section and shall promulgate such regulations as are necessary to carry out this section in that State.

(d) IMPLEMENTATION BY THE SECRETARY OF THE INTERIOR.—In implementing this section, the Secretary of the Interior, with the participation of the Secretary of Energy, shall—

(A) consider existing and future coal mining plans,

(B) preserve the mineability of coal seams, and

(C) provide for the prevention of waste and maximization of recovery of coal and coalbed methane gas in a manner which will protect the rights of all entities owning an interest in such coalbed methane resource.

(e) SPACING.—Except where State law in an Affected State contains existing spacing requirements regarding the minimum distance between coalbed methane wells and the minimum distance of a coalbed methane well from a property line, the Secretary of the Interior shall establish such requirements within 90 days after the assertion of jurisdiction pursuant to subsection (c) of this section.

(f) SPACING UNITS.—Applications to establish spacing units for the drilling and operation of coalbed methane gas wells may be

filed by any entity claiming a coalbed methane ownership interest within a proposed spacing unit. Upon receipt and approval of an application, the Secretary of the Interior shall issue an order establishing the boundaries of the coalbed methane spacing unit. Spacing units shall generally be uniform in size.

(g) DEVELOPMENT UNDER POOLING ARRANGEMENT.—Following issuance of an order establishing a spacing unit under subsection (f), and pursuant to an application for pooling filed by the entity claiming a coalbed methane ownership interest and proposing to drill a coalbed methane gas well, the Secretary of the Interior shall hold a hearing to consider the application for pooling and shall, if the criteria of this section are met, issue an order allowing the proposed pooling of acreage within the designated spacing unit for purposes of drilling and production of coalbed methane from the spacing unit. The pooling order shall not be issued before notice or a reasonable and diligent effort to provide notice has been made to each entity which may claim an ownership interest in the coalbed methane gas within such spacing unit and each such entity has been offered an opportunity to appear before the Secretary of the Interior at the hearing. Upon issuance of a pooling order, each owner or claimant of an ownership interest shall be allowed to make one of the following elections:

(1) An election to sell or lease its coalbed methane ownership interest to the unit operator at a rate determined by the Secretary of the Interior as set forth in the pooling order.

(2) An election to become a participating working interest owner by bearing a share of the risks and costs of drilling, completing, equipping, gathering, operating (including all disposal costs), plugging and abandoning the well, and receiving a share of production from the well.

(3) An election to share in the operation of the well as a nonparticipating working interest owner by relinquishing its working interest to participating working interest owners until the proceeds allocable to its share equal 300 percent of the share of such costs allocable to its interest. Thereafter, the nonparticipating working interest owner shall become a participating working interest owner.

The pooling order shall designate a unit operator who shall be authorized to drill and operate the spacing unit. The pooling order shall provide that any entity claiming an ownership interest in the coalbed methane within such spacing unit which does not make an election under the pooling order shall be deemed to have leased its coalbed methane interest to the unit operator under such terms and conditions as the pooling order may provide. No pooling order may be issued under this paragraph for any spacing unit if all entities claiming an ownership interest in the coalbed methane in the spacing unit have entered into a voluntary agreement providing for the drilling and operation of the coalbed methane gas well for the spacing unit.

(h) ESCROW ACCOUNT.—(1) Each pooling order issued under subsection (g) shall provide for the establishment of an escrow account into which the payment of costs and proceeds attributable to the conflicting interests shall be deposited and held for the interest of the claimants as follows:

(A) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account its proportionate share of the costs allocable to the ownership interest

claimed by each such participating working interest owner as set forth in the pooling order issued by the Secretary of the Interior.

(B) The unit operator shall deposit in the escrow account all proceeds attributable to the conflicting interests of lessees, plus all proceeds in excess of ongoing operational expenses (including reasonable overhead costs) attributable to conflicting working interests.

(2) The Secretary of the Interior shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within 30 days of receipt by the Secretary of the Interior of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane gas. Upon such final determination—

(A) each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(B) each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner (as determined by the election of the entity under the applicable pooling order);

(C) each entity leasing (or deemed to have leased) its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds (as set out in the applicable pooling order) attributable to the conflicting interests of lessees; and

(D) the unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner.

The Secretary of the Interior shall enact rules and regulations for the administration and protection of funds delivered to the escrow accounts.

(i) APPROVAL OF THE SECRETARY OF THE INTERIOR.—No entity may drill any well for the production of coalbed methane gas from a coal seam, subject to the provisions of subsection (g), in an Affected State unless the drilling of such well has been approved by the Secretary of the Interior.

(j) AUTHORIZATION TO STIMULATE A COAL SEAM.—(1) No operator of a coalbed methane well may stimulate a coal seam without the written consent of each entity which, at the time that the coalbed methane operator applies for a drilling permit, is operating a coal mine, or has by virtue of his property rights in the coal the ability to operate a coal mine, located within a horizontal or vertical distance from the point of stimulation as established by the Secretary of the Interior pursuant to paragraph (3) of this subsection. In seeking the coal operator's consent, a coalbed methane well operator shall provide the coal operator with necessary information about such stimulation, including relevant information to ensure compliance with coal mine safety laws and rules.

(2) In the absence of a written consent pursuant to paragraph (1) and at the request of a coalbed methane operator, the Secretary of the Interior shall make a determination regarding stimulation of a coal seam. Such request shall include an affidavit which shall—

(A) state that an entity from which consent is required pursuant to paragraph (1) has refused to provide written consent;

(B) set forth in detail the efforts undertaken by the applicant to obtain such written consent;

(C) state the known reasons for the consent not being provided;

(D) set forth the conditions and compensation, if any, offered by the applicant as part of the efforts to obtain consent; and

(E) provide prima facie evidence that the method of stimulation proposed by the coalbed methane operator will not (i) cause unreasonable loss or damage to the coal seam considering all factors, including the prospect, taking into consideration the economics of the coal industry, that coal seams for which no actual or proposed mining plans exist will be mined at some future date, or (ii) violate mine safety requirements. If a denial of consent by a coal operator is based on reasons related to safety, the Secretary of the Interior shall seek the views and recommendations of the appropriate State or Federal coal mine safety agency. Any determination by the Secretary of the Interior shall be in accordance with all applicable Federal and State coal mine safety laws and such views and recommendations. A determination by the Secretary of the Interior approving a method of stimulation may include reasonable conditions including, but not limited to, conditions to mitigate, to the extent practicable, economic damage to the coal seam. Any determination approving or denying a method of stimulation by the Secretary of the Interior shall be subject to appeal. Interested entities shall be allowed to participate in and comment on proceedings under this paragraph.

(3) The Secretary of the Interior shall by rule establish, for an Affected State, a region thereof, or a multi-State region comprised of Affected States, the boundaries within which a coalbed methane operator shall be required to obtain written consent from a coal operator pursuant to paragraph (1). Such boundaries shall be stated in terms of a horizontal and a vertical distance from the point of stimulation and shall be determined based on an evaluation of the maximum length, height and depth of fracture producible in a coal seam in such Affected State, region thereof, or multi-State region comprised of Affected States.

(4) The consent required under this subsection shall in no way be deemed to impair, abridge, or affect any contractual rights or objections arising out of a coalbed methane gas contract or coalbed methane gas lease in existence as of the effective date of this section between the coalbed methane operator and the coal operator, and the existence of such lease or contractual agreement and any extensions or renewals of such lease shall be deemed to fully meet the requirements of this section.

(5) Nothing in this subsection precludes either a coal operator or a coalbed methane operator from seeking in the appropriate State forum compensation for the consequences of a determination by the Secretary of the Interior pursuant to paragraph (2).

(k) NOTICE AND OBJECTION.—(1) The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless the unit operator has notified each entity which is operating, or has the ability, by virtue of his property rights in the coal, to

operate, a coal mine in any portion of the coalbed that would be affected by such well within the distances established pursuant to the rules promulgated under subsection (j)(3). Any notified entity may object to the drilling of such well within 30 days after receipt of a notice. Upon receipt of a timely objection to the drilling of any coalbed methane gas well submitted by a notified entity, the Secretary of the Interior may refuse to approve the drilling of the well based on any of the following:

(A) The proposed activity, due to its proximity to any coal mine opening, shaft, underground workings, or to any proposed extension of the coal mine, would adversely affect any operating, inactive or abandoned coal mine, including any coal mine already surveyed and platted but not yet being operated.

(B) The proposed activity would not conform with a coal operator's development plan for an existing or proposed operation.

(C) There would be an unreasonable interference from the proposed activity with present or future coal mining operations, including the ability to comply with other applicable laws and regulations.

(D) The presence of evidence indicating that the proposed drilling activities would be unsafe, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal.

(E) The proposed activity would unreasonably interfere with the safe recovery of coal, oil and gas.

(2) In the event the Secretary of the Interior does not approve the drilling of a coalbed methane well pursuant to paragraph (1), the Secretary of the Interior shall consider whether such drilling could be approved if the unit operator modifies the proposed activities to take into account any of the following:

(A) The proposed activity could instead be reasonably done through an existing or planned pillar of coal, or in close proximity to an existing well or such pillar of coal, taking into consideration surface topography.

(B) The proposed activity could instead be moved to a mined-out area, below the coal outcrop or to some other feasible area.

(C) The unit operator agrees to a drilling moratorium of not more than two years in order to permit completion of coal mining operations.

(D) The practicality of locating the proposed spacing unit or well on a uniform pattern with other spacing units or wells.

(l) PLUGGING.—All coalbed methane wells drilled after enactment of this Act that penetrate coal seams with remaining reserves shall provide for subsequent safe mining through the well in accordance with standards prescribed by the Secretary of the Interior, in consultation with any Federal and State agencies having authority over coal mine safety. Well plugging costs should be allocated in accordance with State law or private contractual arrangement, as the case may be.

(m) NOTICE AND OBJECTION BY OTHER PARTIES.—The Secretary of the Interior shall not approve the drilling of any coalbed methane well unless such well complies with the spacing and other requirements established by the Secretary of the Interior and each of the following:

(1) The unit operator of such well has notified, or has made a reasonable and diligent effort to notify, all entities claiming ownership of coalbed methane to be drained by such well and provided an opportunity to object in accordance with requirements established by the Secretary of the Interior.

(2) Where conflicting interests exist, an order under subsection (g) establishing pooling requirements has been issued.

The notification requirements of this subsection shall be additional to the notification referred to in subsection (k). The Secretary of the Interior shall establish the conditions under which entities claiming ownership of coalbed methane may object to the drilling of a coalbed methane well.

(n) VENTING FOR SAFETY.—Nothing in this section shall be construed to prevent or inhibit the entity which has the right to develop and mine coal in any mine from venting coalbed methane gas to ensure safe mine operations.

(o) OTHER LAWS.—The Secretary of the Interior shall comply with all applicable Federal and State coal mine safety laws and regulations.

(p) DEFINITIONS.—As used in this section—

(1) The term "Affected State" means a State listed by the Secretary of the Interior, with the participation of the Secretary of Energy, under subsection (b).

(2) The term "coalbed methane gas" means occluded natural gas produced (or which may be produced) from coalbeds and rock strata associated therewith.

(3) The term "unit operator" means the entity designated in a pooling order to develop a spacing unit by the drilling of one or more wells on the unit.

(4) The term "nonparticipating working interest owner" means a gas or oil owner of a tract included in a spacing unit which elects to share in the operation of the well on a carried basis by agreeing to have its proportionate share of the costs allocable to its interest charged against its share of production of the well in accordance with subsection (f)(3).

(5) The term "participating working interest owner" means a gas or oil owner which elects to bear a share of the risks and costs of drilling, completing, equipping, gathering, operating (including any and all disposal costs) plugging, and abandoning a well on a spacing unit and to receive a share of production from the well equal to the proportion which the acreage in the spacing unit it owns or holds under lease bears to the total acreage of the spacing unit.

(6) The term "coal seam" means any stratum of coal 20 inches or more in thickness, unless a stratum of less thickness is being commercially worked, or can in the judgment of the Secretary of the Interior forseeably be commercially worked and will require protection if wells are being drilled through it.

42 USC 13369.

SEC. 1340. ESTABLISHMENT OF DATA BASE AND STUDY OF TRANSPORTATION RATES.

(a) DATA BASE.—The Secretary shall review the information currently collected by the Federal Government and shall determine whether information on transportation rates for rail and pipeline transport of domestic coal, oil, and gas during the period of January 1, 1988, through December 31, 1997, is reasonably available. If

he determines that such information is not reasonably available, the Secretary shall establish a data base containing, to the maximum extent practicable, information on all such rates. The confidentiality of contract rates shall be preserved. To obtain data pertaining to rail contract rates, the Secretary shall acquire such data in aggregate form only from the Interstate Commerce Commission, under terms and conditions that maintain the confidentiality of such rates.

(b) STUDY.—The Energy Information Administration shall determine the extent to which any agency of the Federal Government is studying the rates and distribution patterns of domestic coal, oil, and gas to determine the impact of the Clean Air Act as amended by the Act entitled "An Act to amend the Clean Air Act to provide for attainment and maintenance of health protective national ambient air quality standards, and for other purposes.", enacted November 15, 1990 (Public Law 101-549), and other Federal policies on such rates and distribution patterns. If the Energy Information Administration finds that no such study is underway, or that reports of the results of such study will not be available to the Congress providing the information specified in this subsection and subsection (a) by the dates established in subsection (c), the Energy Information Administration shall initiate such a study.

(c) REPORTS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall report to the Congress on the determination the Energy Information Administration is required to make under subsection (b). Within three years after the date of enactment of this Act, the Secretary shall submit reports on any data base or study developed under this section. Any such reports shall be updated and resubmitted to the Congress within eight years after such date of enactment. If the Energy Information Administration has determined pursuant to subsection (b) that another study or studies will provide all or part of the information called for in this section, the Secretary shall transmit the results of that study by the dates established in this subsection, together with his comments.

(d) CONSULTATION WITH OTHER AGENCIES.—The Secretary and the Energy Information Administration shall consult with the Chairmen of the Federal Energy Regulatory Commission and the Interstate Commerce Commission in implementing this section.

SEC. 1341. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13370.

There are authorized to be appropriated to the Secretary for carrying out this subtitle, other than section 1322, such sums as may be necessary for fiscal years 1993 through 1998.

TITLE XIV—STRATEGIC PETROLEUM RESERVE

SEC. 1401. DRAWDOWN AND DISTRIBUTION OF THE RESERVE.

Section 161 of the Energy Policy and Conservation Act (42 U.S.C. 6241) is amended—

(1) in subsection (d)—

(A) by striking "(d)" and inserting "(d)(1)"; and

(B) by adding at the end the following new paragraph:

"(2) For purposes of this section, in addition to the circumstances set forth in section 3(8), a severe energy supply interruption shall be deemed to exist if the President determines that—

"(A) an emergency situation exists and there is a significant reduction in supply which is of significant scope and duration;

"(B) a severe increase in the price of petroleum products has resulted from such emergency situation; and

"(C) such price increase is likely to cause a major adverse impact on the national economy."; and

(2) in subsection (h)(1)(A), by inserting "or international" after "domestic".

SEC. 1402. EXPANSION OF RESERVE.

Section 154(a) of the Energy Policy and Conservation Act (42 U.S.C. 6234) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following:

"(2) Beginning on the date of the enactment of the Energy Policy Act of 1992, the President shall take actions to enlarge the Strategic Petroleum Reserve to 1,000,000,000 barrels as rapidly as possible. Such actions may include—

"(A) petroleum acquisition, transportation, and injection activities at the highest practicable fill rate achievable, subject to the availability of appropriated funds;

"(B) contracting for petroleum product not owned by the United States as specified in part C;

"(C) contracting for petroleum product for storage in facilities not owned by the United States, except that no such product may be stored in such facilities unless petroleum product stored in facilities owned by the United States on the date such product is delivered for storage is at least 750,000,000 barrels;

"(D) carrying out the activities described in section 160(h);

"(E) the transferring of oil from the Naval Petroleum Reserve; and

"(F) other activities specified in this title.".

SEC. 1403. AVAILABILITY OF FUNDING FOR LEASING.

Section 171 of the Energy Policy and Conservation Act (42 U.S.C. 6249) is amended by adding at the end the following new subsection:

"(f) AVAILABILITY OF FUNDS.—The Secretary may utilize such funds as are available in the SPR Petroleum Account to carry out the activities described in subsection (a), and may obligate and expend such funds to carry out such activities, in advance of the receipt of petroleum products.".

SEC. 1404. PURCHASE FROM STRIPPER WELL PROPERTIES.

(a) IN GENERAL.—Section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240) is amended by adding at the end the following new subsection:

"(h)(1) If the President finds that declines in the production of oil from domestic resources pose a threat to national energy security, the President may direct the Secretary to acquire oil from domestic production of stripper well properties for storage in the Strategic Petroleum Reserve. Except as provided in para-

graph (2), the Secretary may set such terms and conditions as he deems necessary for such acquisition.

"(2) Crude oil purchased by the Secretary pursuant to this subsection shall be by competitive bid. The price paid by the Secretary—

"(A) shall take into account the cost of production including costs of reservoir and well maintenance; and

"(B) shall not exceed the price that would have been paid if the Secretary had acquired petroleum products of a similar quality on the open market under competitive bid procedures without regard to the source of the petroleum products.".

(b) TECHNICAL CORRECTIONS.—Part B of title I of such Act is amended—

(1) in section 167(d), in the matter preceding paragraph (1), by striking "subsection (g)" and inserting "under subsection (g)"; and 42 USC 6247.

(2) in section 160(d)(2)— 42 USC 6240.

(A) by striking "(2)(A)" and inserting "(2)"; and

(B) by redesignating clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

SEC. 1405. REDESIGNATION OF ISLAND STATES.

Section 157(a) of the Energy Policy and Conservation Act (42 U.S.C. 6237(a)) is amended—

(1) by striking "(a)" and inserting "(a)(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For the purpose of carrying out this section—

"(A) any State that is an island shall be considered to be a separate Federal Energy Administration Region, as defined in title 10, Code of Federal Regulations, as in effect on November 1, 1975;

"(B) determinations made with respect to Regions, other than States that are islands, shall be made as if the islands were not part of the Regions; and

"(C) with respect to determinations made for any State that is an island, the term 'refined petroleum product' shall have the same meaning given the term 'petroleum product' in section 3(3).".

SEC. 1406. INSULAR AREAS STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study of the implications of the unique vulnerabilities of the insular areas to an oil supply disruption. Such study shall outline how the insular areas shall gain access to vital oil supplies during times of national emergency. Such study shall be completed and submitted to the Congress not later than 9 months after the date of the enactment of this Act.

(b) DEFINITION.—For purposes of this section, the term "insular areas" means the Virgin Islands, Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau.

TITLE XV—OCTANE DISPLAY AND DISCLOSURE

SEC. 1501. CERTIFICATION AND POSTING OF AUTOMOTIVE FUEL RATINGS.

(a) COVERAGE OF ALL LIQUID AUTOMOTIVE FUELS.—Section 201(6) of the Petroleum Marketing Practices Act (15 U.S.C. 2821(6)) is amended to read as follows:

"(6) The term 'automotive fuel' means liquid fuel of a type distributed for use as a fuel in any motor vehicle.".

(b) AUTOMOTIVE FUEL RATING.—Section 201 of such Act (15 U.S.C. 2821) is amended by adding at the end the following new paragraphs:

"(17) The term 'automotive fuel rating' means—

"(A) the octane rating of an automotive spark-ignition engine fuel; and

"(B) if provided for by the Federal Trade Commission by rule, the cetane rating of diesel fuel oils; or

"(C) another form of rating determined by the Federal Trade Commission, after consultation with the American Society for Testing and Materials, to be more appropriate to carry out the purposes of this title with respect to the automotive fuel concerned.

"(18)(A) The term 'cetane rating' means a measure, as indicated by a cetane index or cetane number, of the ignition quality of diesel fuel oil and of the influence of the diesel fuel oil on combustion roughness.

"(B) The term 'cetane index' and the term 'cetane number' have the meanings determined in accordance with the test methods set forth in the American Society for Testing and Materials standard test methods—

"(i) designated D976 or D4737 in the case of cetane index; and

"(ii) designated D613 in the case of cetane number, (as in effect on the date of the enactment of this Act) and shall apply to any grade or type of diesel fuel oils defined in the specification of the American Society for Testing and Materials entitled 'Standard Specification for Diesel Fuel Oils' designated D975 (as in effect on such date).".

(c) CONFORMING AMENDMENTS.—(1) Section 201 of such Act (15 U.S.C. 2821) is amended—

(A) in paragraph (1), by striking out "gasoline" and inserting in lieu thereof "fuel";

(B) in paragraph (2)—

(i) by striking out "Standard Specifications for Automotive Gasoline" and inserting in lieu thereof "Standard Specification for Automotive Spark-Ignition Engine Fuel"; and

(ii) by striking out "D 439" and inserting in lieu thereof "D4814";

(C) in paragraph (4)—

(i) by striking out "gasoline" the first place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) The term 'refiner' means any person engaged in the production or importation of automotive fuel.";

(E) in paragraph (11)—

(i) by striking out "octane" each place it appears and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(F) in paragraph (16), by striking out "gasoline" each place it appears and inserting in lieu thereof "automotive fuel".

(2) Section 202 of such Act (15 U.S.C. 2822) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (a) and (b), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(C) in subsection (c)—

(i) by striking out "gasoline" each place it appears (other than the second place it appears) and inserting in lieu thereof "automotive fuel"; and

(ii) by striking out "gasoline" the second place it appears and inserting in lieu thereof "fuel";

(D) in subsection (d), by striking out "octane" and inserting in lieu thereof "automotive fuel";

(E) in subsection (e)—

(i) by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(ii) by striking out "gasoline's" and inserting in lieu thereof "fuel's";

(F) in subsections (f), (g), and (h), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel";

(G) in subsection (h), by striking out "octane requirement" each place it appears and inserting in lieu thereof "automotive fuel requirement"; and

(H) in the section heading, by striking out "OCTANE" and inserting in lieu thereof "AUTOMOTIVE FUEL RATING".

(3) Section 203 of such Act (15 U.S.C. 2823) is amended—

(A) by striking out "octane rating" and "octane ratings" each place such terms appear and inserting in lieu thereof "automotive fuel rating" and "automotive fuel ratings", respectively;

(B) in subsections (b) and (c), by striking out "gasoline" each place it appears and inserting in lieu thereof "fuel"; and

(C) in subsection (c)(3), by striking out "201(1)" and inserting in lieu thereof "201".

(d) EFFECTIVE DATE.—(1) The amendments made by this section shall become effective at the end of the one-year period beginning on the date of the enactment of this Act. 15 USC 2821 note.

(2) The Federal Trade Commission shall, within 270 days after the date of the enactment of this Act, prescribe rules for the purpose of implementing the amendments made in this section. Regulations. 15 USC 2821 note.

SEC. 1502. INCREASED AUTHORITY FOR ENFORCEMENT.

(a) STATE LAW.—Section 204 of the Petroleum Marketing Practices Act (15 U.S.C. 2824) is amended to read as follows:

"RELATIONSHIP OF THIS TITLE TO STATE LAW

"SEC. 204. (a) To the extent that any provision of this title applies to any act or omission, no State or any political subdivision thereof may adopt or continue in effect, except as provided in subsection (b), any provision of law or regulation with respect to such act or omission, unless such provision of such law or regulation is the same as the applicable provision of this title.

"(b) A State or political subdivision thereof may provide for any investigative or enforcement action, remedy, or penalty (including procedural actions necessary to carry out such investigative or enforcement actions, remedies, or penalties) with respect to any provision of law or regulation permitted by subsection (a).".

15 USC 2823.

(b) FTC ENFORCEMENT.—Section 203(e) of such Act is amended by striking out "; except that" in the second sentence and all that follows through the period and inserting in lieu thereof a period.

(c) EPA ENFORCEMENT.—Section 203(b)(1) of such Act is amended—

(1) in the matter preceding subparagraph (A), by striking out "shall";

(2) in subparagraph (A), by striking out "conduct" and inserting in lieu thereof "may conduct";

(3) in subparagraph (B), by striking out "certify" and inserting in lieu thereof "shall certify";

(4) in subparagraph (C), by striking out "notify" and inserting in lieu thereof "shall notify"; and

(5) in subparagraph (C), by striking out "discovered" and all that follows through "testing".

15 USC 2822 note.

SEC. 1503. STUDIES.

(a) IN GENERAL.—For the purpose of making the findings, conclusions, and recommendations referred to in subsection (c)—

(1) the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Energy, shall carry out a study to determine whether, and if so, how, the anti-knock characteristics of nonliquid fuels usable as a fuel for a motor vehicle (as defined in section 201(7) of the Petroleum Marketing Practices Act) can be determined; and

(2) the Federal Trade Commission, in consultation with the Administrator of the Environmental Protection Agency, shall carry out a study—

(A) to determine the need for, and the desirability of, having a uniform national label on devices used to dispense automotive fuel to consumers that would consolidate information required by Federal law to be posted on such devices; and

(B) to determine the nature of such label if it is determined under subparagraph (A) that such a need exists.

(b) IMPLEMENTATION.—(1) In carrying out studies under this section, each agency shall—

(A) publish general notice of each of the studies in the Federal Register; and

(B) give interested parties an opportunity to participate in such studies through submission of written data, views, or arguments.

(2) In carrying out the study to determine the nature of a uniform national label under subsection (a)(2)(B), the Federal Trade Commission shall—

(A) weigh the consumer, environmental, and energy saving benefits of any element of such label against the necessity for a concise, practical, and cost-efficient label; and

(B) consider as a possible element of such label a statement suggesting consumers check the vehicle's owner's manual regarding octane requirements.

(c) REPORTS.—The Administrator of the Environmental Protection Agency, the Secretary of Energy, and the Chairman of the Federal Trade Commission shall transmit to the Congress, within one year after the date of the enactment of this Act, the findings, conclusions, and recommendations made as a result of the studies carried out by such officers under this section, together with a description of the administrative and legislative actions needed to implement such recommendations.

TITLE XVI—GLOBAL CLIMATE CHANGE

SEC. 1601. REPORT. 42 USC 13381.

Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to the Congress that includes an assessment of—

(1) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of stabilizing the generation of greenhouse gases in the United States by the year 2005;

(2) the recommendations made in chapter 9 of the 1991 National Academy of Sciences report entitled "Policy Implications of Greenhouse Warming", including an analysis of the benefits and costs of each recommendation;

(3) the extent to which the United States is responding, compared with other countries, to the recommendations made in chapter 9 of the 1991 National Academy of Sciences report;

(4) the feasibility of reducing the generation of greenhouse gases;

(5) the feasibility and economic, energy, social, environmental, and competitive implications, including implications for jobs, of achieving a 20 percent reduction from 1988 levels in the generation of carbon dioxide by the year 2005 as recommended by the 1988 Toronto Scientific World Conference on the Changing Atmosphere;

(6) the potential economic, energy, social, environmental, and competitive implications, including implications for jobs, of implementing the policies necessary to enable the United States to comply with any obligations under the United Nations Framework Convention on Climate Change or subsequent international agreements.

SEC. 1602. LEAST-COST ENERGY STRATEGY. 42 USC 13382.

(a) STRATEGY.—The first National Energy Policy Plan (in this title referred to as the "Plan") under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321) prepared and required to be submitted by the President to Congress after February 1, 1993, and each subsequent such Plan, shall include a least-cost

energy strategy prepared by the Secretary. In developing the least-cost energy strategy, the Secretary shall take into consideration the economic, energy, social, environmental, and competitive costs and benefits, including costs and benefits for jobs, of his choices. Such strategy shall also take into account the report required under section 1601 and relevant Federal, State, and local requirements. Such strategy shall be designed to achieve to the maximum extent practicable and at least-cost to the Nation—

(1) the energy production, utilization, and energy conservation priorities of subsection (d);

(2) the stabilization and eventual reduction in the generation of greenhouse gases;

(3) an increase in the efficiency of the Nation's total energy use by 30 percent over 1988 levels by the year 2010;

(4) an increase in the percentage of energy derived from renewable resources by 75 percent over 1988 levels by the year 2005; and

(5) a reduction in the Nation's oil consumption from the 1990 level of approximately 40 percent of total energy use to 35 percent by the year 2005.

(b) ADDITIONAL CONTENTS.—The least-cost energy strategy shall also include—

(1) a comprehensive inventory of available energy and energy efficiency resources and their projected costs, taking into account all costs of production, transportation, distribution, and utilization of such resources, including—

(A) coal, clean coal technologies, coal seam methane, and underground coal gasification;

(B) energy efficiency, including existing technologies for increased efficiency in production, transportation, distribution, and utilization of energy, and other technologies that are anticipated to be available through further research and development; and

(C) other energy resources, such as renewable energy, solar energy, nuclear fission, fusion, geothermal, biomass, fuel cells, hydropower, and natural gas;

(2) a proposed two-year program for ensuring adequate supplies of the energy and energy efficiency resources and technologies described in paragraph (1), and an identification of administrative actions that can be undertaken within existing Federal authority to ensure their adequate supply;

(3) estimates of life-cycle costs for existing energy production facilities;

(4) basecase forecasts of short-term and long-term national energy needs under low and high case assumptions of economic growth; and

(5) an identification of all applicable Federal authorities needed to achieve the purposes of this section, and of any inadequacies in those authorities.

(c) SECRETARIAL CONSIDERATION.—In developing the least-cost energy strategy, the Secretary shall give full consideration to—

(1) the relative costs of each energy and energy efficiency resource based upon a comparison of all direct and quantifiable net costs for the resource over its available life, including the cost of production, transportation, distribution, utilization, waste management, environmental compliance, and, in the case

of imported energy resources, maintaining access to foreign sources of supply; and

(2) the economic, energy, social, environmental, and competitive consequences resulting from the establishment of any particular order of Federal priority as determined under subsection (d).

(d) PRIORITIES.—The least-cost energy strategy shall identify Federal priorities, including policies that—

(1) implement standards for more efficient use of fossil fuels;

(2) increase the energy efficiency of existing technologies;

(3) encourage technologies, including clean coal technologies, that generate lower levels of greenhouse gases;

(4) promote the use of renewable energy resources, including solar, geothermal, sustainable biomass, hydropower, and wind power;

(5) affect the development and consumption of energy and energy efficiency resources and electricity through tax policy;

(6) encourage investment in energy efficient equipment and technologies; and

(7) encourage the development of energy technologies, such as advanced nuclear fission and nuclear fusion, that produce energy without greenhouse gases as a byproduct, and encourage the deployment of nuclear electric generating capacity.

(e) ASSUMPTIONS.—The Secretary shall include in the least-cost energy strategy an identification of all of the assumptions used in developing the strategy and priorities thereunder, and the reasons for such assumptions.

(f) PREFERENCE.—When comparing an energy efficiency resource to an energy resource, a higher priority shall be assigned to the energy efficiency resource whenever all direct and quantifiable net costs for the resource over its available life are equal to the estimated cost of the energy resource.

(g) PUBLIC REVIEW AND COMMENT.—The Secretary shall provide for a period of public review and comment of the least-cost energy strategy, for a period of at least 30 days, to be completed at least 60 days before the issuance of such strategy. The Secretary shall also provide for public review and comment before the issuance of any update to the least-cost energy strategy required under this section.

SEC. 1603. DIRECTOR OF CLIMATE PROTECTION. 42 USC 13383.

Within 6 months after the date of the enactment of this Act, the Secretary shall establish, within the Department of Energy, a Director of Climate Protection (in this section referred to as the "Director"). The Director shall—

(1) in the absence of the Secretary, serve as the Secretary's representative for interagency and multilateral policy discussions of global climate change, including the activities of the Committee on Earth and Environmental Sciences as established by the Global Change Research Act of 1990 (Public Law 101-606) and the Policy Coordinating Committee Working Group on Climate Change;

(2) monitor, in cooperation with other Federal agencies, domestic and international policies for their effects on the generation of greenhouse gases; and

(3) have the authority to participate in the planning activities of relevant Department of Energy programs.

42 USC 13384.

SEC. 1604. ASSESSMENT OF ALTERNATIVE POLICY MECHANISMS FOR ADDRESSING GREENHOUSE GAS EMISSIONS.

Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit a report to Congress containing a comparative assessment of alternative policy mechanisms for reducing the generation of greenhouse gases. Such assessment shall include a short-run and long-run analysis of the social, economic, energy, environmental, competitive, and agricultural costs and benefits, including costs and benefits for jobs and competition, and the practicality of each of the following policy mechanisms:

(1) Various systems for controlling the generation of greenhouse gases, including caps for the generation of greenhouse gases from major sources and emissions trading programs.

(2) Federal standards for energy efficiency for major sources of greenhouse gases, including efficiency standards for power plants, industrial processes, automobile fuel economy, appliances, and buildings, and for emissions of methane.

(3) Various Federal and voluntary incentives programs.

42 USC 13385.

SEC. 1605. NATIONAL INVENTORY AND VOLUNTARY REPORTING OF GREENHOUSE GASES.

(a) NATIONAL INVENTORY.—Not later than one year after the date of the enactment of this Act, the Secretary, through the Energy Information Administration, shall develop, based on data available to, and obtained by, the Energy Information Administration, an inventory of the national aggregate emissions of each greenhouse gas for each calendar year of the baseline period of 1987 through 1990. The Administrator of the Energy Information Administration shall annually update and analyze such inventory using available data. This subsection does not provide any new data collection authority.

(b) VOLUNTARY REPORTING.—

(1) ISSUANCE OF GUIDELINES.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall, after opportunity for public comment, issue guidelines for the voluntary collection and reporting of information on sources of greenhouse gases. Such guidelines shall establish procedures for the accurate voluntary reporting of information on—

(A) greenhouse gas emissions—

(i) for the baseline period of 1987 through 1990; and

(ii) for subsequent calendar years on an annual basis;

(B) annual reductions of greenhouse gas emissions and carbon fixation achieved through any measures, including fuel switching, forest management practices, tree planting, use of renewable energy, manufacture or use of vehicles with reduced greenhouse gas emissions, appliance efficiency, energy efficiency, methane recovery, cogeneration, chlorofluorocarbon capture and replacement, and power plant heat rate improvement;

(C) reductions in greenhouse gas emissions achieved as a result of—

(i) voluntary reductions;

(ii) plant or facility closings; and
(iii) State or Federal requirements; and
(D) an aggregate calculation of greenhouse gas emissions by each reporting entity.

Such guidelines shall also establish procedures for taking into account the differential radiative activity and atmospheric lifetimes of each greenhouse gas.

(2) REPORTING PROCEDURES.—The Administrator of the Energy Information Administration shall develop forms for voluntary reporting under the guidelines established under paragraph (1), and shall make such forms available to entities wishing to report such information. Persons reporting under this subsection shall certify the accuracy of the information reported.

(3) CONFIDENTIALITY.—Trade secret and commercial or financial information that is privileged or confidential shall be protected as provided in section 552(b)(4) of title 5, United States Code.

(4) ESTABLISHMENT OF DATA BASE.—Not later than 18 months after the date of the enactment of this Act, the Secretary, through the Administrator of the Energy Information Administration, shall establish a data base comprised of information voluntarily reported under this subsection. Such information may be used by the reporting entity to demonstrate achieved reductions of greenhouse gases.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult, as appropriate, with the Administrator of the Environmental Protection Agency.

SEC. 1606. REPEAL.

Title III of the Energy Security Act (42 U.S.C. 7361 et seq.) is hereby repealed.

SEC. 1607. CONFORMING AMENDMENT. 42 USC 13386.

The Secretary, through the Trade Promotion Coordinating Council, shall develop policies and programs to encourage the export and promotion of domestic energy resource technologies, including renewable energy, energy efficiency, and clean coal technologies, to developing countries.

SEC. 1608. INNOVATIVE ENVIRONMENTAL TECHNOLOGY TRANSFER PROGRAM. 42 USC 13387.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary, through the Agency for International Development, and in consultation with the interagency working group established under section 256(d) of the Energy Policy and Conservation Act (in this section referred to as the "interagency working group", shall establish a technology transfer program to carry out the purposes described in subsection (b). Within 150 days after the date of the enactment of this Act, the Secretary and the Administrator of the Agency for International Development shall enter into a written agreement to carry out this section. The agreement shall establish a procedure for resolving any disputes between the Secretary and the Administrator regarding the implementation of specific projects. With respect to countries not assisted by the Agency for International Development, the Secretary may enter into agreements with other appropriate Federal agencies. If the Secretary and the Administrator, or the Secretary and an agency described in the previous sentence, are unable to

reach an agreement, each shall send a memorandum to the President outlining an appropriate agreement. Within 90 days after receipt of either memorandum, the President shall determine which version of the agreement shall be in effect. Any agreement entered into under this subsection shall be provided to the appropriate committees of the Congress and made available to the public.

(b) PURPOSES OF THE PROGRAM.—The purposes of the technology transfer program under this section are to—

(1) reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;

(2) retain and create manufacturing and related service jobs in the United States;

(3) encourage the export of United States technologies, including services related thereto, to those countries that have a need for developmentally sound facilities to provide energy derived from technologies that substantially reduce environmental pollutants, including greenhouse gases;

(4) develop markets for United States technologies, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, that meet the energy and environmental requirements of foreign countries;

(5) better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms as well as utilization of United States technologies;

(6) ensure the introduction of United States firms and expertise in foreign countries;

(7) provide financial assistance by the Federal Government to foster greater participation by United States firms in the financing, ownership, design, construction, or operation of technologies or services that substantially reduce environmental pollutants, including greenhouse gases; and

(8) assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

(c) IDENTIFICATION.—Pursuant to the agreements required by subsection (a), the Secretary, through the Agency for International Development, and after consultation with the interagency working group, United States firms, and representatives from foreign countries, shall develop mechanisms to identify potential energy projects in host countries that substantially reduce environmental pollutants, including greenhouse gases, and shall identify a list of such projects within 240 days after the date of the enactment of this Act, and periodically thereafter.

(d) FINANCIAL MECHANISMS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall—

(A) establish appropriate financial mechanisms to increase the participation of United States firms in energy projects, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases in foreign countries;

(B) utilize available financial assistance authorized by this section to counterbalance assistance provided by foreign governments to non-United States firms; and

(C) provide financial assistance to support projects.

(2) The financial assistance authorized by this section may be—

(A) provided in combination with other forms of financial assistance, including non-Federal funding that may be available for the project; and

(B) utilized in conjunction with financial assistance programs available through other Federal agencies.

(3) United States obligations under the Arrangement on Guidelines for Officially Supported Export Credits established through the Organization for Economic Cooperation and Development shall be applicable to this section.

(e) SOLICITATIONS FOR PROJECT PROPOSALS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, within one year after the date of the enactment of this Act, and subsequently as appropriate thereafter, shall solicit proposals from United States firms for the design, construction, testing, and operation of the project or projects identified under subsection (c) which propose to utilize a United States technology or service. Each solicitation under this section shall establish a closing date for receipt of proposals.

(2) The solicitation under this subsection shall, to the extent appropriate, be modeled after the RFP No. DE–PS01–90FE62271 Clean Coal Technology IV, as administered by the Department of Energy.

(3) Any solicitation made under this subsection shall include the following requirements:

(A) The United States firm that submits a proposal in response to the solicitation shall have an equity interest in the proposed project.

(B) The project shall utilize a United States technology, including services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, in meeting the applicable energy and environmental requirements of the host country.

(C) Proposals for projects shall be submitted by and undertaken with a United States firm, although a joint venture or other teaming arrangement with a non-United States manufacturer or other non-United States entity is permissible.

(f) ASSISTANCE TO UNITED STATES FIRMS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall establish a procedure to provide financial assistance to United States firms under this section for a project identified under subsection (c) where solicitations for the project are being conducted by the host country or by a multilateral lending institution.

(g) OTHER PROGRAM REQUIREMENTS.—Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, and in consultation with the interagency working group, shall—

(1) establish eligibility criteria for countries that will host projects;

(2) periodically review the energy needs of such countries and export opportunities for United States firms for the development of projects in such countries;

(3) consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects; and

(4) determine whether each project selected under this section is developmentally sound, as determined under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development.

(h) ELIGIBLE TECHNOLOGIES.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall prepare a list of eligible technologies and services under this section. In preparing such a list, the Secretary shall consider fuel cell powerplants, aeroderivitive gas turbines and catalytic combustion technologies for aeroderivitive gas turbines, ocean thermal energy conversion technology, anaerobic digester and storage tanks, and other renewable energy and energy efficiency technologies.

(i) SELECTION OF PROJECTS.—(1) Pursuant to the agreements under subsection (a), the Secretary, through the Agency for International Development, shall, not later than 120 days after receipt of proposals in response to a solicitation under subsection (e), select one or more proposals under this section.

(2) In selecting a proposal under this section, the Secretary, through the Agency for International Development, shall consider—

(A) the ability of the United States firm, in cooperation with the host country, to undertake and complete the project;

(B) the degree to which the equipment to be included in the project is designed and manufactured in the United States;

(C) the long-term technical and competitive viability of the United States technology, and services related thereto, and the ability of the United States firm to compete in the development of additional energy projects using such technology in the host country and in other foreign countries;

(D) the extent of technical and financial involvement of the host country in the project;

(E) the extent to which the proposed project meets the purposes of this section;

(F) the extent of technical, financial, management, and marketing capabilities of the participants in the project, and the commitment of the participants to completion of a successful project in a manner that will facilitate acceptance of the United States technology or service for future application; and

(G) such other criteria as may be appropriate.

(3) In selecting among proposed projects, the Secretary shall seek to ensure that, relative to otherwise comparable projects in the host country, a selected project will meet the following criteria:

(A) It will reduce environmental emissions, including greenhouse gases, to an extent greater than required by applicable provisions of law.

(B) It will be a more cost-effective technological alternative, based on life cycle capital and operating costs per unit of energy produced and, where applicable, costs per unit of product produced.

(C) It will increase the overall efficiency of energy use.

Priority in selection shall be given to those projects which, in the judgment of the Secretary, best meet these criteria.

(j) UNITED STATES-ASIA ENVIRONMENTAL PARTNERSHIP.—Activities carried out under this section shall be coordinated with the United States-Asia Environmental Partnership.

(k) BUY AMERICA.—In carrying out this section, the Secretary, through the Agency for International Development, and pursuant to the agreements under subsection (a), shall ensure—

(1) the maximum percentage, but in no case less than 50 percent, of the cost of any equipment furnished in connection with a project authorized under this section shall be attributable to the manufactured United States components of such equipment; and

(2) the maximum participation of United States firms.

In determining whether the cost of United States components equals or exceeds 50 percent, the cost of assembly of such United States components in the host country shall not be considered a part of the cost of such United States component.

(l) REPORT TO CONGRESS.—The Secretary and the Administrator of the Agency for International Development shall report annually to the Committee on Energy and Natural Resources of the Senate and the appropriate committees of the House of Representatives on the progress being made to introduce innovative energy technologies, and services related thereto, that substantially reduce environmental pollutants, including greenhouse gases, into foreign countries.

(m) DEFINITIONS.—For purposes of this section—

(1) the term "host country" means a foreign country which is—

(A) the participant in or the site of the proposed innovative energy technology project; and

(B) either—

(i) classified as a country eligible to participate in development assistance programs of the Agency for International Development pursuant to applicable law or regulation; or

(ii) a developing country; and

(2) the term "developing country" includes, but is not limited to, countries in Central and Eastern Europe or in the independent states of the former Soviet Union.

(n) AUTHORIZATION FOR PROGRAM.—There are authorized to be appropriated to the Secretary to carry out the program required by this section, $100,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.

SEC. 1609. GLOBAL CLIMATE CHANGE RESPONSE FUND. 42 USC 13388.

(a) ESTABLISHMENT OF THE FUND.—The Secretary of the Treasury, in consultation with the Secretary of State, shall establish a Global Climate Change Response Fund to act as a mechanism for United States contributions to assist global efforts in mitigating and adapting to global climate change.

(b) RESTRICTIONS ON DEPOSITS.—No deposits shall be made to the Global Climate Change Response Fund until the United States has ratified the United Nations Framework Convention on Climate Change.

(c) USE OF THE FUND.—Moneys deposited into the Fund shall be used by the President, to the extent authorized and appropriated under section 302 of the Foreign Assistance Act of 1961, solely for contributions to a financial mechanism negotiated pursuant

to the United Nations Framework Convention on Climate Change, including all protocols or agreements related thereto.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for deposit in the Fund to carry out the purposes of this section, $50,000,000 for fiscal year 1994 and such sums as may be necessary for fiscal years 1995 and 1996.

TITLE XVII—ADDITIONAL FEDERAL POWER ACT PROVISIONS

SEC. 1701. ADDITIONAL FEDERAL POWER ACT PROVISIONS.

16 USC 803.

(a) ANNUAL CHARGES FOR COSTS.—(1) Section 10(e)(1) of the Federal Power Act is amended by striking the semicolon after "Part" and inserting the following: ", including any reasonable and necessary costs incurred by Federal and State fish and wildlife agencies and other natural and cultural resource agencies in connection with studies or other reviews carried out by such agencies for purposes of administering their responsibilities under this part;".

(2) Section 10(e)(1) of such Act is further amended by inserting after "as conditions may require:" the following proviso: "*Provided,* That, subject to annual appropriations Acts, the portion of such annual charges imposed by the Commission under this subsection to cover the reasonable and necessary costs of such agencies shall be available to such agencies (in addition to other funds appropriated for such purposes) solely for carrying out such studies and reviews and shall remain available until expended:".

16 USC 811 note.

(b) CLARIFICATION OF AUTHORITY REGARDING FISHWAYS.—The definition of the term "fishway" contained in 18 C.F.R. 4.30(b)(9)(iii), as in effect on the date of enactment of this Act, is vacated without prejudice to any definition or interpretation by rule of the term "fishway" by the Federal Energy Regulatory Commission for purposes of implementing section 18 of the Federal Power Act: *Provided,* That any future definition promulgated by regulatory rulemaking shall have no force or effect unless concurred in by the Secretary of the Interior and the Secretary of Commerce: *Provided further,* That the items which may constitute a "fishway" under section 18 for the safe and timely upstream and downstream passage of fish shall be limited to physical structures, facilities, or devices necessary to maintain all life stages of such fish, and project operations and measures related to such structures, facilities, or devices which are necessary to ensure the effectiveness of such structures, facilities, or devices for such fish.

(c) EXTENSION OF DEADLINES.—(1) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC Project No. 4031 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project for up to a maximum of 3 consecutive 2-year periods. This section shall take effect for such project upon the expiration of the extension (issued by the Commission under such section 13) of the period required for commencement of construction of such project.

(2) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission,

upon the request of the licensee for FERC Project No. 6221 (and after reasonable notice), is authorized, in accordance with the good faith, due diligence, and public interest requirements of such section 13 and the Commission's procedures under such section, to extend the time required for commencement of construction of such project until July 29, 1995.

(3) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee for FERC project numbered 6641 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until June 29, 1996, the time required for the licensee to acquire the required real property and commence the construction of project numbered 6641, and until June 29, 2000, the time required for completion of construction of such project.

(4) Notwithstanding the time limitations of section 13 of the Federal Power Act, the Federal Energy Regulatory Commission, upon the request of the licensee of FERC project numbered 4656 (and after reasonable notice) is authorized, in accordance with the good faith, due diligence, and public interest requirements of section 13 and the Commission's procedures under such section, to extend until March 26, 1999, the time required for the licensee to acquire the required real property and commence the construction of project numbered 4656.

(5) The authorization for issuing extensions under paragraphs (1) through (4) shall terminate 3 years after the date of enactment of this section. To facilitate requests under such subsections, the Commission may consolidate the requests. The Commission shall provide at the beginning of each Congress a report on the status of all extensions granted by Congress regarding the requirements of section 13 of the Federal Power Act, including information about any delays by the Commission on the licensee and the reasons for such delays.

(d) EMINENT DOMAIN.—Section 21 of the Federal Power Act is amended by striking the period at the end thereof and adding the following: "*Provided further,* That no licensee may use the right of eminent domain under this section to acquire any lands or other property that, prior to the date of enactment of the Energy Policy Act of 1992, were owned by a State or political subdivision thereof and were part of or included within any public park, recreation area or wildlife refuge established under State or local law. In the case of lands or other property that are owned by a State or political subdivision and are part of or included within a public park, recreation area or wildlife refuge established under State or local law on or after the date of enactment of such Act, no licensee may use the right of eminent domain under this section to acquire such lands or property unless there has been a public hearing held in the affected community and a finding by the Commission, after due consideration of expressed public views and the recommendations of the State or political subdivision that owns the lands or property, that the license will not interfere or be inconsistent with the purposes for which such lands or property are owned.". 16 USC 814.

42 USC 7122 note.

TITLE XVIII—OIL PIPELINE REGULATORY REFORM

SEC. 1801. OIL PIPELINE RATEMAKING METHODOLOGY.

(a) ESTABLISHMENT.—Not later than 1 year after the date of the enactment of this Act, the Federal Energy Regulatory Commission shall issue a final rule which establishes a simplified and generally applicable ratemaking methodology for oil pipelines in accordance with section 1(5) of part I of the Interstate Commerce Act.

(b) EFFECTIVE DATE.—The final rule to be issued under subsection (a) may not take effect before the 365th day following the date of the issuance of the rule.

SEC. 1802. STREAMLINING OF COMMISSION PROCEDURES.

(a) RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Commission shall issue a final rule to streamline procedures of the Commission relating to oil pipeline rates in order to avoid unnecessary regulatory costs and delays.

(b) SCOPE OF RULEMAKING.—Issues to be considered in the rulemaking proceeding to be conducted under subsection (a) shall include the following:

(1) Identification of information to be filed with an oil pipeline tariff and the availability to the public of any analysis of such tariff filing performed by the Commission or its staff.

(2) Qualification for standing (including definitions of economic interest) of parties who protest oil pipeline tariff filings or file complaints thereto.

(3) The level of specificity required for a protest or complaint and guidelines for Commission action on the portion of the tariff or rate filing subject to protest or complaint.

(4) An opportunity for the oil pipeline to file a response for the record to an initial protest or complaint.

(5) Identification of specific circumstances under which Commission staff may initiate a protest.

(c) ADDITIONAL PROCEDURAL CHANGES.—In conducting the rulemaking proceeding to carry out subsection (a), the Commission shall identify and transmit to Congress any other procedural changes relating to oil pipeline rates which the Commission determines are necessary to avoid unnecessary regulatory costs and delays and for which additional legislative authority may be necessary.

(d) WITHDRAWAL OF TARIFFS AND COMPLAINTS.—

(1) WITHDRAWAL OF TARIFFS.—If an oil pipeline tariff which is filed under part I of the Interstate Commerce Act and which is subject to investigation is withdrawn—

(A) any proceeding with respect to such tariff shall be terminated;

(B) the previous tariff rate shall be reinstated; and

(C) any amounts collected under the withdrawn tariff rate which are in excess of the previous tariff rate shall be refunded.

(2) WITHDRAWAL OF COMPLAINTS.—If a complaint which is filed under section 13 of the Interstate Commerce Act with

respect to an oil pipeline tariff is withdrawn, any proceeding with respect to such complaint shall be terminated.

(e) ALTERNATIVE DISPUTE RESOLUTION.—To the maximum extent practicable, the Commission shall establish appropriate alternative dispute resolution procedures, including required negotiations and voluntary arbitration, early in an oil pipeline rate proceeding as a method preferable to adjudication in resolving disputes relating to the rate. Any proposed rates derived from implementation of such procedures shall be considered by the Commission on an expedited basis for approval.

SEC. 1803. PROTECTION OF CERTAIN EXISTING RATES.

(a) RATES DEEMED JUST AND REASONABLE.—Except as provided in subsection (b)—

(1) any rate in effect for the 365-day period ending on the date of the enactment of this Act shall be deemed to be just and reasonable (within the meaning of section 1(5) of the Interstate Commerce Act); and

(2) any rate in effect on the 365th day preceding the date of such enactment shall be deemed to be just and reasonable (within the meaning of such section 1(5)) regardless of whether or not, with respect to such rate, a new rate has been filed with the Commission during such 365-day period;

if the rate in effect, as described in paragraph (1) or (2), has not been subject to protest, investigation, or complaint during such 365-day period.

(b) CHANGED CIRCUMSTANCES.—No person may file a complaint under section 13 of the Interstate Commerce Act against a rate deemed to be just and reasonable under subsection (a) unless—

(1) evidence is presented to the Commission which establishes that a substantial change has occurred after the date of the enactment of this Act—

(A) in the economic circumstances of the oil pipeline which were a basis for the rate; or

(B) in the nature of the services provided which were a basis for the rate; or

(2) the person filing the complaint was under a contractual prohibition against the filing of a complaint which was in effect on the date of enactment of this Act and had been in effect prior to January 1, 1991, provided that a complaint by a party bound by such prohibition is brought within 30 days after the expiration of such prohibition.

If the Commission determines pursuant to a proceeding instituted as a result of a complaint under section 13 of the Interstate Commerce Act that the rate is not just and reasonable, the rate shall not be deemed to be just and reasonable. Any tariff reduction or refunds that may result as an outcome of such a complaint shall be prospective from the date of the filing of the complaint.

(c) LIMITATION REGARDING UNDULY DISCRIMINATORY OR PREFERENTIAL TARIFFS.—Nothing in this section shall prohibit any aggrieved person from filing a complaint under section 13 or section 15(1) of the Interstate Commerce Act challenging any tariff provision as unduly discriminatory or unduly preferential.

SEC. 1804. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Energy Regulatory Commission and, unless the context

requires otherwise, includes the Oil Pipeline Board and any other office or component of the Commission to which the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)) are delegated.

(2) OIL PIPELINE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "oil pipeline" means any common carrier (within the meaning of the Interstate Commerce Act) which transports oil by pipeline subject to the functions and authority vested in the Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(B) EXCEPTION.—The term "oil pipeline" does not include the Trans-Alaska Pipeline authorized by the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) or any pipeline delivering oil directly or indirectly to the Trans-Alaska Pipeline.

(3) OIL.—The term "oil" has the same meaning as is given such term for purposes of the transfer of functions from the Interstate Commerce Commission to the Federal Energy Regulatory Commission under section 402(b) of the Department of Energy Organization Act (42 U.S.C. 7172(b)).

(4) RATE.—The term "rate" means all charges that an oil pipeline requires shippers to pay for transportation services.

TITLE XIX—REVENUE PROVISIONS

SEC. 1901. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

Subtitle A—Energy Conservation and Production Incentives

SEC. 1911. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $155 per month in the case of qualified parking.

"(3) CASH REIMBURSEMENTS.—For purposes of this subsection, the term 'qualified transportation fringe' includes a cash reimbursement by an employer to an employee for a benefit described in paragraph (1). The preceding sentence shall apply to a cash reimbursement for any transit pass only if a voucher or similar item which may be exchanged only for a transit pass is not readily available for direct distribution by the employer to the employee.

"(4) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool. Such term shall not include any parking on or near property used by the employee for residential purposes.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(6) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1993, the dollar amounts contained in paragraph (2) (A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1992' for 'calendar year 1989' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $5, such increase shall be rounded to the next lowest multiple of $5.

"(7) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

26 USC 132 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits provided after December 31, 1992.

SEC. 1912. EXCLUSION OF ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

(a) GENERAL RULE.—Part III of subchapter B of chapter 1 (relating to amounts specifically excluded from gross income) is amended by redesignating section 136 as section 137 and by inserting after section 135 the following new section:

"SEC. 136. ENERGY CONSERVATION SUBSIDIES PROVIDED BY PUBLIC UTILITIES.

"(a) EXCLUSION.—

"(1) IN GENERAL.—Gross income shall not include the value of any subsidy provided (directly or indirectly) by a public utility to a customer for the purchase or installation of any energy conservation measure.

"(2) LIMITATION ON EXCLUSION FOR NONRESIDENTIAL PROPERTY.—

"(A) IN GENERAL.—In the case of any subsidy provided with respect to any energy conservation measure referred to in subsection (c)(1)(B), only the applicable percentage of such subsidy shall be excluded from gross income under paragraph (1).

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means—

"(i) 40 percent in the case of subsidies provided during 1995,

"(ii) 50 percent in the case of subsidies provided during 1996, and

"(iii) 65 percent in the case of subsidies provided after 1996.

"(b) DENIAL OF DOUBLE BENEFIT.—Notwithstanding any other provision of this subtitle, no deduction or credit shall be allowed for, or by reason of, any expenditure to the extent of the amount excluded under subsection (a) for any subsidy which was provided with respect to such expenditure. The adjusted basis of any property shall be reduced by the amount excluded under subsection (a) which was provided with respect to such property.

"(c) ENERGY CONSERVATION MEASURE.—

"(1) IN GENERAL.—For purposes of this section, the term 'energy conservation measure' means any installation or modification primarily designed to reduce consumption of electricity or natural gas or to improve the management of energy demand—

"(A) with respect to a dwelling unit, and

"(B) on or after January 1, 1995, with respect to property other than dwelling units.

The purchase and installation of specially defined energy property shall be treated as an energy conservation measure described in subparagraph (B).

"(2) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) SPECIALLY DEFINED ENERGY PROPERTY.—The term 'specially defined energy property' means—

"(i) a recuperator,

"(ii) a heat wheel,

"(iii) a regenerator,

"(iv) a heat exchanger,

"(v) a waste heat boiler,

"(vi) a heat pipe,

"(vii) an automatic energy control system,

"(viii) a turbulator,

"(ix) a preheater,

"(x) a combustible gas recovery system,

"(xi) an economizer,

"(xii) modifications to alumina electrolytic cells,

"(xiii) modifications to chlor-alkali electrolytic cells, or

"(xiv) any other property of a kind specified by the Secretary by regulations,

the principal purpose of which is reducing the amount of energy consumed in any existing industrial or commercial process and which is installed in connection with an existing industrial or commercial facility.

"(B) DWELLING UNIT.—The term 'dwelling unit' has the meaning given such term by section 280A(f)(1).

"(C) PUBLIC UTILITY.—The term 'public utility' means a person engaged in the sale of electricity or natural gas to residential, commercial, or industrial customers for use by such customers. For purposes of the preceding sentence, the term 'person' includes the Federal Government, a State or local government or any political subdivision thereof, or any instrumentality of any of the foregoing.

"(d) EXCEPTION.—This section shall not apply to any payment to or from a qualified cogeneration facility or qualifying small

power production facility pursuant to section 210 of the Public Utility Regulatory Policy Act of 1978."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter B of chapter 1 is amended by striking the item relating to section 136 and inserting:

"Sec. 136. Energy conservation subsidies provided by public utilities.
"Sec. 137. Cross reference to other Acts."

26 USC 136 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts received after December 31, 1992.

SEC. 1913. TREATMENT OF CLEAN-FUEL VEHICLES.

(a) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—

(1) IN GENERAL.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding after section 179 the following new section:

"SEC. 179A. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

"(a) ALLOWANCE OF DEDUCTION.—

"(1) IN GENERAL.—There shall be allowed as a deduction an amount equal to the cost of—

"(A) any qualified clean-fuel vehicle property, and

"(B) any qualified clean-fuel vehicle refueling property.

The deduction under the preceding sentence with respect to any property shall be allowed for the taxable year in which such property is placed in service.

"(2) INCREMENTAL COST FOR CERTAIN VEHICLES.—If a vehicle may be propelled by both a clean-burning fuel and any other fuel, only the incremental cost of permitting the use of the clean-burning fuel shall be taken into account.

"(b) LIMITATIONS.—

"(1) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY.—

"(A) IN GENERAL.—The cost which may be taken into account under subsection (a)(1)(A) with respect to any motor vehicle shall not exceed—

"(i) in the case of a motor vehicle not described in clause (ii) or (iii), $2,000,

"(ii) in the case of any truck or van with a gross vehicle weight rating greater than 10,000 pounds but not greater than 26,000 pounds, $5,000, or

"(iii) $50,000 in the case of—

"(I) a truck or van with a gross vehicle weight rating greater than 26,000 pounds, or

"(II) any bus which has a seating capacity of at least 20 adults (not including the driver).

"(B) PHASEOUT.—In the case of any qualified clean-fuel vehicle property placed in service after December 31, 2001, the limit otherwise applicable under subparagraph (A) shall be reduced by—

"(i) 25 percent in the case of property placed in service in calendar year 2002,

"(ii) 50 percent in the case of property placed in service in calendar year 2003, and

"(iii) 75 percent in the case of property placed in service in calendar year 2004.

"(2) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY.—

"(A) IN GENERAL.—The aggregate cost which may be taken into account under subsection (a)(1)(B) with respect to qualified clean-fuel vehicle refueling property placed in service during the taxable year at a location shall not exceed the excess (if any) of—

"(i) $100,000, over

"(ii) the aggregate amount taken into account under subsection (a)(1)(B) by the taxpayer (or any related person or predecessor) with respect to property placed in service at such location for all preceding taxable years.

"(B) RELATED PERSON.—For purposes of this paragraph, a person shall be treated as related to another person if such person bears a relationship to such other person described in section 267(b) or 707(b)(1).

"(C) ELECTION.—If the limitation under subparagraph (A) applies for any taxable year, the taxpayer shall, on the return of tax for such taxable year, specify the items of property (and the portion of costs of such property) which are to be taken into account under subsection (a)(1)(B).

"(c) QUALIFIED CLEAN-FUEL VEHICLE PROPERTY DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified clean-fuel vehicle property' means property which is acquired for use by the taxpayer and not for resale, the original use of which commences with the taxpayer, with respect to which the environmental standards of paragraph (2) are met, and which is described in either of the following subparagraphs:

"(A) RETROFIT PARTS AND COMPONENTS.—Any property installed on a motor vehicle which is propelled by a fuel which is not a clean-burning fuel for purposes of permitting such vehicle to be propelled by a clean-burning fuel—

"(i) if the property is an engine (or modification thereof) which may use a clean-burning fuel, or

"(ii) to the extent the property is used in the storage or delivery to the engine of such fuel, or the exhaust of gases from combustion of such fuel.

"(B) ORIGINAL EQUIPMENT MANUFACTURER'S VEHICLES.—A motor vehicle produced by an original equipment manufacturer and designed so that the vehicle may be propelled by a clean-burning fuel, but only to the extent of the portion of the basis of such vehicle which is attributable to an engine which may use such fuel, to the storage or delivery to the engine of such fuel, or to the exhaust of gases from combustion of such fuel.

"(2) ENVIRONMENTAL STANDARDS.—Property shall not be treated as qualified clean-fuel vehicle property unless—

"(A) the motor vehicle of which it is a part meets any applicable Federal or State emissions standards with respect to each fuel by which such vehicle is designed to be propelled, or

"(B) in the case of property described in paragraph (1)(A), such property meets applicable Federal and State

emissions-related certification, testing, and warranty requirements.

"(3) EXCEPTION FOR QUALIFIED ELECTRIC VEHICLES.—The term 'qualified clean-fuel vehicle property' does not include any qualified electric vehicle (as defined in section 30(c)).

"(d) QUALIFIED CLEAN-FUEL VEHICLE REFUELING PROPERTY DEFINED.—For purposes of this section, the term 'qualified clean-fuel vehicle refueling property' means any property (not including a building and its structural components) if—

"(1) such property is of a character subject to the allowance for depreciation,

"(2) the original use of such property begins with the taxpayer, and

"(3) such property is—

"(A) for the storage or dispensing of a clean-burning fuel into the fuel tank of a motor vehicle propelled by such fuel, but only if the storage or dispensing of the fuel is at the point where such fuel is delivered into the fuel tank of the motor vehicle, or

"(B) for the recharging of motor vehicles propelled by electricity, but only if the property is located at the point where the motor vehicles are recharged.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) CLEAN-BURNING FUEL.—The term 'clean-burning fuel' means—

"(A) natural gas,

"(B) liquefied natural gas,

"(C) liquefied petroleum gas,

"(D) hydrogen,

"(E) electricity, and

"(F) any other fuel at least 85 percent of which is 1 or more of the following: methanol, ethanol, any other alcohol, or ether.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(3) COST OF RETROFIT PARTS INCLUDES COST OF INSTALLATION.—The cost of any qualified clean-fuel vehicle property referred to in subsection (c)(1)(A) shall include the cost of the original installation of such property.

Regulations.

"(4) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any deduction allowable under subsection (a) with respect to any property which ceases to be property eligible for such deduction.

"(5) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No deduction shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(6) BASIS REDUCTION.—

"(A) IN GENERAL.—For purposes of this title, the basis of any property shall be reduced by the portion of the cost of such property taken into account under subsection (a).

"(B) ORDINARY INCOME RECAPTURE.—For purposes of section 1245, the amount of the deduction allowable under subsection (a) with respect to any property which is of a character subject to the allowance for depreciation shall be treated as a deduction allowed for depreciation under section 167.

"(g) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) DEDUCTION FROM GROSS INCOME.—Section 62(a) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.—The deduction allowed by section 179A."

(3) CONFORMING AMENDMENTS.—

(A) Section 1016(a) is amended by striking "and" at the end of paragraph (23), by striking the period at the end of paragraph (24) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 179A(e)(6)(A)."

(B) The table of sections for part VI of subchapter B of chapter 1 is amended by inserting after the item relating to section 179 the following new item:

"Sec. 179A. Deduction for clean-fuel vehicles and certain refueling property."

(b) CREDIT FOR QUALIFIED ELECTRIC VEHICLES.—

(1) IN GENERAL.—Subpart B of part IV of subchapter A of chapter 1 is amended by inserting after section 29 the following new section:

"SEC. 30. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

"(a) ALLOWANCE OF CREDIT.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the cost of any qualified electric vehicle placed in service by the taxpayer during the taxable year.

"(b) LIMITATIONS.—

"(1) LIMITATION PER VEHICLE.—The amount of the credit allowed under subsection (a) for any vehicle shall not exceed $4,000.

"(2) PHASEOUT.—In the case of any qualified electric vehicle placed in service after December 31, 2001, the credit otherwise allowable under subsection (a) (determined after the application of paragraph (1)) shall be reduced by—

"(A) 25 percent in the case of property placed in service in calendar year 2002,

"(B) 50 percent in the case of property placed in service in calendar year 2003, and

"(C) 75 percent in the case of property placed in service in calendar year 2004.

"(3) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) for any taxable year shall not exceed the excess (if any) of—

"(A) the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, and 29, over—

"(B) the tentative minimum tax for the taxable year.

"(c) QUALIFIED ELECTRIC VEHICLE.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified electric vehicle' means any motor vehicle—

"(A) which is powered primarily by an electric motor drawing current from rechargeable batteries, fuel cells, or other portable sources of electrical current,

"(B) the original use of which commences with the taxpayer, and

"(C) which is acquired for use by the taxpayer and not for resale.

"(2) MOTOR VEHICLE.—For purposes of paragraph (1), the term 'motor vehicle' means any vehicle which is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails) and which has at least 4 wheels.

"(d) SPECIAL RULES.—

"(1) BASIS REDUCTION.—The basis of any property for which a credit is allowable under subsection (a) shall be reduced by the amount of such credit.

Regulations.

"(2) RECAPTURE.—The Secretary shall, by regulations, provide for recapturing the benefit of any credit allowable under subsection (a) with respect to any property which ceases to be property eligible for such credit.

"(3) PROPERTY USED OUTSIDE UNITED STATES, ETC., NOT QUALIFIED.—No credit shall be allowed under subsection (a) with respect to any property referred to in section 50(b) or with respect to the portion of the cost of any property taken into account under section 179.

"(e) TERMINATION.—This section shall not apply to any property placed in service after December 31, 2004."

(2) CONFORMING AMENDMENTS.—

(A) The table of sections for subpart B of part IV of subchapter A of chapter 1 is amended by adding after the item relating to section 29 the following new item:

"Sec. 30. Credit for qualified electric vehicles."

(B) Section 1016(a), as amended by subsection (a)(3), is amended by striking "and" at the end of paragraph (24), by striking the period at the end of paragraph (25) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(26) to the extent provided in section 30(d)(1)."

(C) Section 53(d)(1)(B)(iii) is amended—

(i) by striking "section 29(b)(5)(B) or" and inserting "section 29(b)(6)(B),", and

(ii) by inserting ", or not allowed under section 30 solely by reason of the application of section 30(b)(3)(B)" before the period.

(D) Section 55(c)(2) is amended by striking "29(b)(5)," and inserting "29(b)(6), 30(b)(3),".

26 USC 30 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after June 30, 1993.

SEC. 1914. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE SOURCES.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 45. ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

"(a) GENERAL RULE.—For purposes of section 38, the renewable electricity production credit for any taxable year is an amount equal to the product of—

"(1) 1.5 cents, multiplied by

"(2) the kilowatt hours of electricity—

"(A) produced by the taxpayer—

"(i) from qualified energy resources, and

"(ii) at a qualified facility during the 10-year period beginning on the date the facility was originally placed in service, and

"(B) sold by the taxpayer to an unrelated person during the taxable year.

"(b) LIMITATIONS AND ADJUSTMENTS.—

"(1) PHASEOUT OF CREDIT.—The amount of the credit determined under subsection (a) shall be reduced by an amount which bears the same ratio to the amount of the credit (determined without regard to this paragraph) as—

"(A) the amount by which the reference price for the calendar year in which the sale occurs exceeds 8 cents, bears to

"(B) 3 cents.

"(2) CREDIT AND PHASEOUT ADJUSTMENT BASED ON INFLATION.—The 1.5 cent amount in subsection (a) and the 8 cent amount in paragraph (1) shall each be adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1 cent, such amount shall be rounded to the nearest multiple of 0.1 cent.

"(3) CREDIT REDUCED FOR GRANTS, TAX-EXEMPT BONDS, SUBSIDIZED ENERGY FINANCING, AND OTHER CREDITS.—The amount of the credit determined under subsection (a) with respect to any project for any taxable year (determined after the application of paragraphs (1) and (2)) shall be reduced by the amount which is the product of the amount so determined for such year and a fraction—

"(A) the numerator of which is the sum, for the taxable year and all prior taxable years, of—

"(i) grants provided by the United States, a State, or a political subdivision of a State for use in connection with the project,

"(ii) proceeds of an issue of State or local government obligations used to provide financing for the project the interest on which is exempt from tax under section 103,

"(iii) the aggregate amount of subsidized energy financing provided (directly or indirectly) under a Federal, State, or local program provided in connection with the project, and

"(iv) the amount of any other credit allowable with respect to any property which is part of the project, and

"(B) the denominator of which is the aggregate amount of additions to the capital account for the project for the taxable year and all prior taxable years.

The amounts under the preceding sentence for any taxable year shall be determined as of the close of the taxable year.

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED ENERGY RESOURCES.—The term 'qualified energy resources' means—

"(A) wind, and

"(B) closed-loop biomass.

"(2) CLOSED-LOOP BIOMASS.—The term 'closed-loop biomass' means any organic material from a plant which is planted exclusively for purposes of being used at a qualified facility to produce electricity.

"(3) QUALIFIED FACILITY.—The term 'qualified facility' means any facility owned by the taxpayer which is originally placed in service after December 31, 1993 (December 31, 1992, in the case of a facility using closed-loop biomass to produce electricity), and before July 1, 1999.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ONLY PRODUCTION IN THE UNITED STATES TAKEN INTO ACCOUNT.—Sales shall be taken into account under this section only with respect to electricity the production of which is within—

"(A) the United States (within the meaning of section 638(1)), or

"(B) a possession of the United States (within the meaning of section 638(2)).

"(2) COMPUTATION OF INFLATION ADJUSTMENT FACTOR AND REFERENCE PRICE.—

Federal Register, publication.

"(A) IN GENERAL.—The Secretary shall, not later than April 1 of each calendar year, determine and publish in the Federal Register the inflation adjustment factor and the reference price for such calendar year in accordance with this paragraph.

"(B) INFLATION ADJUSTMENT FACTOR.—The term 'inflation adjustment factor' means, with respect to a calendar year, a fraction the numerator of which is the GDP implicit price deflator for the preceding calendar year and the denominator of which is the GDP implicit price deflator for the calendar year 1992. The term 'GDP implicit price deflator' means the most recent revision of the implicit price deflator for the gross domestic product as computed and published by the Department of Commerce before March 15 of the calendar year.

"(C) REFERENCE PRICE.—The term 'reference price' means, with respect to a calendar year, the Secretary's determination of the annual average contract price per kilowatt hour of electricity generated from the same qualified energy resource and sold in the previous year in the United States. For purposes of the preceding sentence, only contracts entered into after December 31, 1989, shall be taken into account.

"(3) PRODUCTION ATTRIBUTABLE TO THE TAXPAYER.—In the case of a facility in which more than 1 person has an ownership interest, except to the extent provided in regulations prescribed by the Secretary, production from the facility shall be allocated among such persons in proportion to their respective ownership interests in the gross sales from such facility.

"(4) RELATED PERSONS.—Persons shall be treated as related to each other if such persons would be treated as a single employer under the regulations prescribed under section 52(b). In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated return, such corporation shall be treated as selling electricity to an unrelated person if such electricity is sold to such a person by another member of such group.

"(5) PASS-THRU IN THE CASE OF ESTATES AND TRUSTS.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end thereof the following new paragraph:

"(8) the renewable electricity production credit under section 45(a)."

(c) LIMITATION ON CARRYBACK.—Subsection (d) of section 39 is amended by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1), by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and by adding at the end thereof the following new paragraph:

"(3) NO CARRYBACK OF RENEWABLE ELECTRICITY PRODUCTION CREDIT BEFORE EFFECTIVE DATE.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 45 (relating to electricity produced from certain renewable resources) may be carried back to any taxable year ending before January 1, 1993 (before January 1, 1994, to the extent such credit is attributable to wind as a qualified energy resource)."

(d) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 45. Electricity produced from certain renewable resources."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1992. 26 USC 38 note.

SEC. 1915. REPEAL OF MINIMUM TAX PREFERENCES FOR DEPLETION AND INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.

(a) DEPLETION.—

(1) Paragraph (1) of section 57(a) (relating to depletion) is amended by adding at the end thereof the following new sentence: "Effective with respect to taxable years beginning after December 31, 1992, this paragraph shall not apply to any deduction for depletion computed in accordance with section 613A(c).".

(2) Subparagraph (F) of section 56(g)(4) is amended to read as follows:

"(F) DEPLETION.—

"(i) IN GENERAL.—The allowance for depletion with respect to any property placed in service in a taxable year beginning after December 31, 1989, shall be cost depletion determined under section 611.

"(ii) EXCEPTION FOR INDEPENDENT OIL AND GAS PRODUCERS AND ROYALTY OWNERS.—In the case of any taxable year beginning after December 31, 1992, clause (i) (and subparagraph (C)(i)) shall not apply to any deduction for depletion computed in accordance with section 613A(c)."

(b) INTANGIBLE DRILLING COSTS.—

(1) Section 57(a)(2) is amended by adding at the end the following new subparagraph:

"(E) EXCEPTION FOR INDEPENDENT PRODUCERS.—In the case of any oil or gas well—

"(i) IN GENERAL.—In the case of any taxable year beginning after December 31, 1992, this paragraph shall not apply to any taxpayer which is not an integrated oil company (as defined in section 291(b)(4)).

"(ii) LIMITATION ON BENEFIT.—The reduction in alternative minimum taxable income by reason of clause (i) for any taxable year shall not exceed 40 percent (30 percent in case of taxable years beginning in 1993) of the alternative minimum taxable income for such year determined without regard to clause (i) and the alternative tax net operating loss deduction under section 56(a)(4)."

(2) Clause (i) of section 56(g)(4)(D) is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), in the case of any oil or gas well, this clause shall not apply in the case of amounts paid or incurred in taxable years beginning after December 31, 1992.".

(c) CONFORMING AMENDMENTS.—

(1) Section 56 is amended by striking subsection (h).

(2) Section 56(d)(1)(A) is amended to read as follows:

"(A) the amount of such deduction shall not exceed 90 percent of alternate minimum taxable income determined without regard to such deduction, and".

(3) Section 59(a)(2)(A)(ii) is amended by striking "and the alternative tax energy preference deduction under section 56(h)" and inserting "and section 57(a)(2)(E)".

26 USC 56 note.

(4) Section 59A(b)(1) is amended by striking "or the alternative tax energy preference deduction under section 56(h)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 1916. PERMANENT EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) GENERAL RULE.—Paragraph (2) of section 48(a) (defining energy percentage) is amended—

(1) by striking "Except as provided in subparagraph (B), the" in subparagraph (A) and inserting "The",

(2) by striking subparagraph (B), and

(3) by redesignating subparagraph (C) as subparagraph (B).

26 USC 48 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 30, 1992.

SEC. 1917. NUCLEAR DECOMMISSIONING FUNDS.

(a) REPEAL OF INVESTMENT RESTRICTIONS.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommis-

sioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) REDUCTION IN RATE OF TAX.—Paragraph (2) of section 468A(e) is amended—

(1) by striking "at the rate equal to the highest rate of tax specified in section 11(b)" in subparagraph (A) and inserting "at the rate set forth in subparagraph (B)", and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively, and by inserting after subparagraph (A) the following new subparagraph:

"(B) RATE OF TAX.—For purposes of subparagraph (A), the rate set forth in this subparagraph is—

"(i) 22 percent in the case of taxable years beginning in calendar year 1994 or 1995, and

"(ii) 20 percent in the case of taxable years beginning after December 31, 1995."

(c) EFFECTIVE DATES.— 26 USC 468A note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1992.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to taxable years beginning after December 31, 1993. Section 15 of the Internal Revenue Code of 1986 shall not apply to any change in rate resulting from the amendment made by subsection (b).

SEC. 1918. EXTENSION OF SECTION 29 CREDIT FOR CERTAIN FACILITIES.

Section 29 (relating to credit for producing fuel from a nonconventional source) is amended by adding at the end thereof the following new subsection:

"(g) EXTENSION FOR CERTAIN FACILITIES.—

"(1) IN GENERAL.—In the case of a facility for producing qualified fuels described in subparagraph (B)(ii) or (C) of subsection (c)(1)—

"(A) for purposes of subsection (f)(1)(B), such facility shall be treated as being placed in service before January 1, 1993, if such facility is placed in service before January 1, 1997, pursuant to a binding written contract in effect before January 1, 1996, and

"(B) if such facility is originally placed in service after December 31, 1992, paragraph (2) of subsection (f) shall be applied with respect to such facility by substituting 'January 1, 2008' for 'January 1, 2003'.

"(2) SPECIAL RULE.—Paragraph (1) shall not apply to any facility which produces coke or coke gas unless the original use of the facility commences with the taxpayer."

SEC. 1919. TREATMENT UNDER LOCAL FURNISHING RULES OF CERTAIN ELECTRICITY TRANSMITTED OUTSIDE LOCAL AREA.

(a) IN GENERAL.—Subsection (f) of section 142 (relating to local furnishing of electric energy or gas) is amended to read as follows:

"(f) LOCAL FURNISHING OF ELECTRIC ENERGY OR GAS.—For purposes of subsection (a)(8)—

"(1) IN GENERAL.—The local furnishing of electric energy or gas from a facility shall only include furnishing solely within the area consisting of—

"(A) a city and 1 contiguous county, or

"(B) 2 contiguous counties.

"(2) TREATMENT OF CERTAIN ELECTRIC ENERGY TRANSMITTED OUTSIDE LOCAL AREA.—

"(A) IN GENERAL.—A facility shall not be treated as failing to meet the local furnishing requirement of subsection (a)(8) by reason of electricity transmitted pursuant to an order of the Federal Energy Regulatory Commission under section 211 or 213 of the Federal Power Act (as in effect on the date of the enactment of this paragraph) if the portion of the cost of the facility financed with tax-exempt bonds is not greater than the portion of the cost of the facility which is allocable to the local furnishing of electric energy (determined without regard to this paragraph).

"(B) SPECIAL RULE FOR EXISTING FACILITIES.—In the case of a facility financed with bonds issued before the date of an order referred to in subparagraph (A) which would (but for this subparagraph) cease to be tax-exempt by reason of subparagraph (A), such bonds shall not cease to be tax-exempt bonds (and section 150(b)(4) shall not apply) if, to the extent necessary to comply with subparagraph (A)—

"(i) an escrow to pay principal of, premium (if any), and interest on the bonds is established within a reasonable period after the date such order becomes final, and

"(ii) bonds are redeemed not later than the earliest date on which such bonds may be redeemed."

26 USC 142 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued before, on, or after the date of the enactment of this Act.

SEC. 1920. ALCOHOL FUELS.

(a) REDUCED RATE OF TAX ON GASOLINE MIXED WITH ALCOHOL.—Paragraph (1) of section 4081(c) (relating to gasoline mixed with alcohol at refinery, etc.) is amended to read as follows:

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, subsection (a) shall be applied by multiplying the otherwise applicable rate by a fraction the numerator of which is 10 and the denominator of which is—

"(A) 9 in the case of 10 percent gasohol,

"(B) 9.23 in the case of 7.7 percent gasohol, and

"(C) 9.43 in the case of 5.7 percent gasohol,

in the case of the removal or entry of any gasoline for use in producing gasohol at the time of such removal or entry. Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or entry."

(b) CONFORMING AMENDMENTS.—Section 4081(c) is amended—

(1) by striking "6.1 cents a gallon" in paragraph (2) and inserting "an otherwise applicable rate", and

(2) by striking paragraph (4) and inserting the following new paragraph:

"(4) OTHERWISE APPLICABLE RATE.—For purposes of this subsection—

"(A) IN GENERAL.—In the case of the Highway Trust Fund financing rate, the term 'otherwise applicable rate' means—

"(i) 6.1 cents a gallon for 10 percent gasohol,

"(ii) 7.342 cents a gallon for 7.7 percent gasohol, and

"(iii) 8.422 cents a gallon for 5.7 percent gasohol. In the case of gasohol none of the alcohol in which consists of ethanol, clauses (i), (ii), and (iii) shall be applied by substituting '5.5 cents' for '6.1 cents', '6.88 cents' for '7.342 cents', and '8.08 cents' for '8.422 cents'.

"(B) 10 PERCENT GASOHOL.—The term '10 percent gasohol' means any mixture of gasoline with alcohol if at least 10 percent of such mixture is alcohol.

"(C) 7.7 PERCENT GASOHOL.—The term '7.7 percent gasohol' means any mixture of gasoline with alcohol if at least 7.7 percent, but not 10 percent or more, of such mixture is alcohol.

"(D) 5.7 PERCENT GASOHOL.—The term '5.7 percent gasohol' means any mixture of gasoline with alcohol if at least 5.7 percent, but not 7.7 percent or more, of such mixture is alcohol."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to gasoline removed (as defined in section 4082 of the Internal Revenue Code of 1986) or entered after December 31, 1992. 26 USC 4081 note.

SEC. 1921. TAX-EXEMPT FINANCING FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 (relating to exempt facility bonds) is amended—

(1) by striking "or" at the end of paragraph (10),

(2) by striking the period at the end of paragraph (11) and inserting ", or", and

(3) by adding at the end the following new paragraph:

"(12) environmental enhancements of hydroelectric generating facilities."

(b) DEFINITION AND SPECIAL RULES FOR ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

(1) IN GENERAL.—Section 142 is amended by adding at the end the following new subsection:

"(j) ENVIRONMENTAL ENHANCEMENTS OF HYDROELECTRIC GENERATING FACILITIES.—

"(1) IN GENERAL.—For purposes of subsection (a)(12), the term 'environmental enhancements of hydroelectric generating facilities' means property—

"(A) the use of which is related to a federally licensed hydroelectric generating facility owned and operated by a governmental unit, and

"(B) which—

"(i) protects or promotes fisheries or other wildlife resources, including any fish by-pass facility, fish hatchery, or fisheries enhancement facility, or

"(ii) is a recreational facility or other improvement required by the terms and conditions of any Federal licensing permit for the operation of such generating facility.

"(2) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(12) shall not be considered an exempt facility bond unless at least 80 percent of the net proceeds of the issue of which it is a part are used to finance property described in paragraph (1)(B)(i)."

(2) FINANCED PROPERTY MUST BE GOVERNMENTALLY OWNED.—Subparagraph (A) of section 142(b)(1) (relating to certain facilities must be governmentally owned) is amended by striking "(2) or (3)" and inserting "(2), (3), or (12)".

(3) EXCLUSION FROM VOLUME CAP.—Paragraph (3) of section 146(g) (relating to exception for certain bonds) is amended—

(A) by striking "or (2)" and inserting ", (2), or (12)", and

(B) by striking "and docks and wharves" and inserting ", docks and wharves, and environmental enhancements of hydroelectric generating facilities".

26 USC 142 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SEC. 1922. TRANS-ALASKA PIPELINE LIABILITY FUND INCOME TAX CREDIT.

(a) IN GENERAL.—Section 4612 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) INCOME TAX CREDIT FOR UNUSED PAYMENTS INTO TRANS-ALASKA PIPELINE LIABILITY FUND.—

"(1) IN GENERAL.—For purposes of section 38, the current year business credit shall include the credit determined under this subsection.

"(2) DETERMINATION OF CREDIT.—

"(A) IN GENERAL.—The credit determined under this subsection for any taxable year is an amount equal to the aggregate credit which would be allowed to the taxpayer under subsection (d) for amounts paid into the Trans-Alaska Pipeline Liability Fund had the Oil Spill Liability Trust Fund financing rate not ceased to apply.

"(B) LIMITATION.—

"(i) IN GENERAL.—The amount of the credit determined under this subsection for any taxable year with respect to any taxpayer shall not exceed the excess of—

"(I) the amount determined under clause (ii), over

"(II) the aggregate amount of the credit determined under this subsection for prior taxable years with respect to such taxpayer.

"(ii) OVERALL LIMITATION.—The amount determined under this clause with respect to any taxpayer is the excess of—

"(I) the aggregate amount of credit which would have been allowed under subsection (d) to the taxpayer for periods before the termination date specified in section 4611(f)(1), if amounts in the Trans-Alaska Pipeline Liability Fund which are actually transferred into the Oil Spill Liability Fund were tranferred on January 1, 1990, and

the Oil Spill Liability Trust Fund financing rate did not terminate before such termination date, over

"(II) the aggregate amount of the credit allowed under subsection (d) to the taxpayer.

"(3) COST OF INCOME TAX CREDIT BORNE BY TRUST FUND.—

"(A) IN GENERAL.—The Secretary shall from time to time transfer from the Oil Spill Liability Trust Fund to the general fund of the Treasury amounts equal to the credits allowed by reason of this subsection.

"(B) TRUST FUND BALANCE MAY NOT BE REDUCED BELOW $1,000,000,000.—Transfers may be made under subparagraph (A) only to the extent that the unobligated balance of the Oil Spill Liability Trust Fund exceeds $1,000,000,000. If any transfer is not made by reason of the preceding sentence, such transfer shall be made as soon as permitted under such sentence.

"(4) NO CARRYBACK.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under this subsection may be carried to a taxable year beginning on or before the date of the enactment of this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 4612 note.

Subtitle B—Revenue Increases, Etc.

SEC. 1931. INCREASED BASE TAX AMOUNT ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

"Calendar year:	Base tax amount:
1993	3.35
1994	4.35
1995	5.35."

(b) RATES RETAINED FOR CHEMICALS USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended by striking "10" and inserting "7.46".

(c) FLOOR STOCKS.—Subparagraph (C) of section 4682(h)(2) (relating to tax-increase dates) is amended by striking "of 1991, 1992, 1993, and 1994" and inserting "of any calendar year after 1991".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after January 1, 1993. 26 USC 4681 note.

SEC. 1932. TREATMENT OF CERTAIN OZONE DEPLETING CHEMICALS.

(a) TREATMENT OF CERTAIN HALONS.—The table contained in subparagraph (A) of section 4682(g)(2) (relating to halons) is amended to read as follows:

"In the case of:	The applicable percentage in the case of sales or use during 1993 is:
Halon-1211	2.49
Halon-1301	0.75
Halon-2402	1.24."

(b) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—Subsection (g) of section 4682 (relating to phase-in of tax on certain substances) is amended by adding at the end thereof the following new paragraph:

"(4) CHEMICALS USED FOR STERILIZING MEDICAL INSTRUMENTS AND AS PROPELLANTS IN METERED-DOSE INHALERS.—

"(A) RATE OF TAX.—

"(i) IN GENERAL.—In the case of—

"(I) any use during the applicable period of any substance to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) any qualified sale during such period by the manufacturer, producer, or importer of any substance,

the tax imposed by section 4681 shall be equal to $1.67 per pound.

"(ii) QUALIFIED SALE.—For purposes of clause (i), the term 'qualified sale' means any sale by the manufacturer, producer, or importer of any substance—

"(I) for use by the purchaser to sterilize medical instruments or as propellants in metered-dose inhalers, or

"(II) for resale by the purchaser to a 2d purchaser for such use by the 2d purchaser.

The preceding sentence shall apply only if the manufacturer, producer, and importer, and the 1st and 2d purchasers (if any) meet such registration requirements as may be prescribed by the Secretary.

"(B) OVERPAYMENTS.—If any substance on which tax was paid under this subchapter is used during the applicable period by any person to sterilize medical instruments or as propellants in metered-dose inhalers, credit or refund without interest shall be allowed to such person in an amount equal to the excess of—

"(i) the tax paid under this subchapter on such substance, or

"(ii) the tax (if any) which would be imposed by section 4681 if such substance were used for such use by the manufacture, producer, or importer thereof on the date of its use by such person.

Amounts payable under the preceding sentence with respect to uses during the taxable year shall be treated as described in section 34(a) for such year unless claim thereof has been timely filed under this subparagraph.

"(C) APPLICABLE PERIOD.—For purposes of this paragraph, the term 'applicable period' means—

"(i) 1993 in the case of substances to sterilize medical instruments, and

"(ii) any period after 1992 in the case of propellants in metered-dose inhalers."

(c) TREATMENT OF METHYL CHLOROFORM.—Subsection (g) of section 4682, as amended by subsection (b), is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF METHYL CHLOROFORM.—The tax imposed by section 4681 during 1993 by reason of the treatment of methyl chloroform as an ozone-depleting chemical shall be 63.02 percent of the amount of such tax which would (but for this paragraph) be imposed."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and uses on or after January 1, 1993. 26 USC 4682 note.

SEC. 1933. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(h) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991. 26 USC 6109 note.

SEC. 1934. INCREASED WITHHOLDING ON GAMBLING WINNINGS.

(a) IN GENERAL.—Section 3402(q)(1) (relating to extension of withholding to certain gambling winnings) is amended by striking "20 percent" and inserting "28 percent".

26 USC 3402 note.

(b) EFFECTIVE DATE.—The amendment made by this section applies to payments received after December 31, 1992.

SEC. 1935. INCREASE IN BACKUP WITHHOLDING RATE.

(a) IN GENERAL.—Section 3406(a)(1) is amended by striking "20 percent" and inserting "31 percent".

26 USC 3406 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after December 31, 1992.

SEC. 1936. CLASSIFICATION OF CERTAIN INTEREST AS STOCK OR INDEBTEDNESS.

(a) GENERAL RULE.—Section 385 (relating to treatment of certain interests in corporations as stock or indebtedness) is amended by adding at the end thereof the following new subsection:

"(c) EFFECT OF CLASSIFICATION BY ISSUER.—

"(1) IN GENERAL.—The characterization (as of the time of issuance) by the issuer as to whether an interest in a corporation is stock or indebtedness shall be binding on such issuer and on all holders of such interest (but shall not be binding on the Secretary).

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—Except as provided in regulations, paragraph (1) shall not apply to any holder of an interest if such holder on his return discloses that he is treating such interest in a manner inconsistent with the characterization referred to in paragraph (1).

"(3) REGULATIONS.—The Secretary is authorized to require such information as the Secretary determines to be necessary to carry out the provisions of this subsection."

26 USC 385 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to instruments issued after the date of the enactment of this Act.

SEC. 1937. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

(a) GENERAL RULE.—Subpart C of part II of subchapter K of chapter 1 (relating to distributions by a partnership) is amended by adding at the end thereof the following new section:

"SEC. 737. RECOGNITION OF PRECONTRIBUTION GAIN IN CASE OF CERTAIN DISTRIBUTIONS TO CONTRIBUTING PARTNER.

"(a) GENERAL RULE.—In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

"(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

"(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.

"(b) NET PRECONTRIBUTION GAIN.—For purposes of this section, the term 'net precontribution gain' means the net gain (if any) which would have been recognized by the distributee partner under section 704(c)(1)(B) if all property which—

"(1) had been contributed to the partnership by the distributee partner within 5 years of the distribution, and

"(2) is held by such partnership immediately before the distribution,

had been distributed by such partnership to another partner.

"(c) BASIS RULES.—

"(1) PARTNER'S INTEREST.—The adjusted basis of a partner's interest in a partnership shall be increased by the amount of any gain recognized by such partner under subsection (a). Except for purposes of determining the amount recognized under subsection (a), such increase shall be treated as occurring immediately before the distribution.

"(2) PARTNERSHIP'S BASIS IN CONTRIBUTED PROPERTY.—Appropriate adjustments shall be made to the adjusted basis of the partnership in the contributed property referred to in subsection (b) to reflect gain recognized under subsection (a).

"(d) EXCEPTIONS.—

"(1) DISTRIBUTIONS OF PREVIOUSLY CONTRIBUTED PROPERTY.—If any portion of the property distributed consists of property which had been contributed by the distributee partner to the partnership, such property shall not be taken into account under subsection (a)(1) and shall not be taken into account in determining the amount of the net precontribution gain. If the property distributed consists of an interest in an entity, the preceding sentence shall not apply to the extent that the value of such interest is attributable to property contributed to such entity after such interest had been contributed to the partnership.

"(2) COORDINATION WITH SECTION 751.—This section shall not apply to the extent section 751(b) applies to such distribution."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (B) of section 704(c)(1) is amended by striking out "is distributed" in the material preceding clause (i) and inserting "is distributed (directly or indirectly)".

(2) Subsection (c) of section 731 is amended—

(A) by striking "and section 751" and inserting ", section 751", and

(B) by inserting before the period at the end thereof the following: ", and section 737 (relating to recognition of precontribution gain in case of certain distributions)".

(3) The table of sections for subpart B of part II of subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 737. Recognition of precontribution gain in case of certain distributions to contributing partner."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions on or after June 25, 1992. 26 USC 704 note.

SEC. 1938. DEDUCTION FOR EXPENSES AWAY FROM HOME.

(a) IN GENERAL.—Section 162(a) is amended by adding at the end the following new sentence: "For purposes of paragraph (2), the taxpayer shall not be treated as being temporarily away from home during any period of employment if such period exceeds 1 year."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to costs paid or incurred after December 31, 1992. 26 USC 162 note.

SEC. 1939. REPORTING REQUIREMENTS WITH RESPECT TO CERTAIN APPORTIONED REAL ESTATE TAXES.

(a) GENERAL RULE.—Paragraph (4) of section 6045(e) is amended to read as follows:

"(4) ADDITIONAL INFORMATION REQUIRED.—In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b):

"(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B).

"(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

26 USC 6045 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transactions after December 31, 1992.

SEC. 1940. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusively covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits; and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph:

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to that pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) EXCEPTION FROM TAX ON SELF-DEALING.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) TECHNICAL AMENDMENT.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991. 26 USC 192 note.

SEC. 1941. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

26 USC 2056 note.

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 1942. UNIFORM EXEMPTION AMOUNT FOR GAMBLING WINNINGS SUBJECT TO WITHHOLDING.

(a) IN GENERAL.—Subparagraphs (A) and (C) of section 3402(q)(3) are each amended by striking "$1,000" and inserting "$5,000".

26 USC 3042 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments of winnings after December 31, 1992.

Coal Industry Retiree Health Benefit Act of 1992.

Subtitle C—Health Care of Coal Miners

26 USC 1 note.

SEC. 19141. SHORT TITLE.

This subtitle may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 19142. FINDINGS AND DECLARATION OF POLICY.

26 USC 9701 note.

(a) FINDINGS.—The Congress finds that—

(1) the production, transportation, and use of coal substantially affects interstate and foreign commerce and the national public interest; and

(2) in order to secure the stability of interstate commerce, it is necessary to modify the current private health care benefit plan structure for retirees in the coal industry to identify persons most responsible for plan liabilities in order to stabilize plan funding and allow for the provision of health care benefits to such retirees.

(b) STATEMENT OF POLICY.—It is the policy of this subtitle—

(1) to remedy problems with the provision and funding of health care benefits with respect to the beneficiaries of multiemployer benefit plans that provide health care benefits to retirees in the coal industry;

(2) to allow for sufficient operating assets for such plans; and

(3) to provide for the continuation of a privately financed self-sufficient program for the delivery of health care benefits to the beneficiaries of such plans.

SEC. 19143. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A—Definitions of general applicability.
"SUBCHAPTER B—Combined benefit fund.
"SUBCHAPTER C—Health benefits of certain miners.
"SUBCHAPTER D—Other provisions.

"Subchapter A—Definitions of General Applicability

"Sec. 9701. Definitions of general applicability.

"SEC. 9701. DEFINITIONS OF GENERAL APPLICABILITY.

"(a) PLANS AND FUNDS.—For purposes of this chapter—

"(1) UMWA BENEFIT PLAN.—

"(A) IN GENERAL.—The term 'UMWA Benefit Plan' means a plan—

"(i) which is described in section 404(c), or a continuation thereof; and

"(ii) which provides health benefits to retirees and beneficiaries of the industry which maintained the 1950 UMWA Pension Plan.

"(B) 1950 UMWA BENEFIT PLAN.—The term '1950 UMWA Benefit Plan' means a UMWA Benefit Plan, participation in which is substantially limited to individuals who retired before 1976.

"(C) 1974 UMWA BENEFIT PLAN.—The term '1974 UMWA Benefit Plan' means a UMWA Benefit Plan, partici-

pation in which is substantially limited to individuals who retired on or after January 1, 1976.

"(2) 1950 UMWA PENSION PLAN.—The term '1950 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired before 1976.

"(3) 1974 UMWA PENSION PLAN.—The term '1974 UMWA Pension Plan' means a pension plan described in section 404(c) (or a continuation thereof), participation in which is substantially limited to individuals who retired in 1976 and thereafter.

"(4) 1992 UMWA BENEFIT PLAN.—The term '1992 UMWA Benefit Plan' means the plan referred to in section 9713A.

"(5) COMBINED FUND.—The term 'Combined Fund' means the United Mine Workers of America Combined Benefit Fund established under section 9702.

"(b) AGREEMENTS.—For purposes of this section—

"(1) COAL WAGE AGREEMENT.—The term 'coal wage agreement' means—

"(A) the National Bituminous Coal Wage Agreement, or

"(B) any other agreement entered into between an employer in the coal industry and the United Mine Workers of America that required or requires one or both of the following:

"(i) the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan; or

"(ii) contributions to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or any predecessor thereof.

"(2) SETTLORS.—The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (referred to in this chapter as the 'BCOA').

"(3) NATIONAL BITUMINOUS COAL WAGE AGREEMENT.—The term 'National Bituminous Coal Wage Agreement' means a collective bargaining agreement negotiated by the BCOA and the United Mine Workers of America.

"(c) TERMS RELATING TO OPERATORS.—For purposes of this section—

"(1) SIGNATORY OPERATOR.—The term 'signatory operator' means a person which is or was a signatory to a coal wage agreement.

"(2) RELATED PERSONS.—

"(A) IN GENERAL.—A person shall be considered to be a related person to a signatory operator if that person is—

"(i) a member of the controlled group of corporations (within the meaning of section 52(a)) which includes such signatory operator;

"(ii) a trade or business which is under common control (as determined under section 52(b)) with such signatory operator; or

"(iii) any other person who is identified as having a partnership interest or joint venture with a signatory operator in a business within the coal industry, but

only if such business employed eligible beneficiaries, except that this clause shall not apply to a person whose only interest is as a limited partner.

A related person shall also include a successor in interest of any person described in clause (i), (ii), or (iii).

"(B) TIME FOR DETERMINATION.—The relationships described in clauses (i), (ii), and (iii) of subparagraph (A) shall be determined as of July 20, 1992, except that if, on July 20, 1992, a signatory operator is no longer in business, the relationships shall be determined as of the time immediately before such operator ceased to be in business.

"(3) 1988 AGREEMENT OPERATOR.—The term '1988 agreement operator' means—

"(A) a signatory operator which was a signatory to the 1988 National Bituminous Coal Wage Agreement,

"(B) an employer in the coal industry which was a signatory to an agreement containing pension and health care contribution and benefit provisions which are the same as those contained in the 1988 National Bituminous Coal Wage Agreement, or

"(C) an employer from which contributions were actually received after 1987 and before July 20, 1992, by the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan in connection with employment in the coal industry during the period covered by the 1988 National Bituminous Coal Wage Agreement.

"(4) LAST SIGNATORY OPERATOR.—The term 'last signatory operator' means, with respect to a coal industry retiree, a signatory operator which was the most recent coal industry employer of such retiree.

"(5) ASSIGNED OPERATOR.—The term 'assigned operator' means, with respect to an eligible beneficiary defined in section 9703(f), the signatory operator to which liability under subchapter B with respect to the beneficiary is assigned under section 9706.

"(6) OPERATORS OF DEPENDENT BENEFICIARIES.—For purposes of this chapter, the signatory operator, last signatory operator, or assigned operator of any eligible beneficiary under this chapter who is a coal industry retiree shall be considered to be the signatory operator, last signatory operator, or assigned operator with respect to any other individual who is an eligible beneficiary under this chapter by reason of a relationship to the retiree.

"(7) BUSINESS.—For purposes of this chapter, a person shall be considered to be in business if such person conducts or derives revenue from any business activity, whether or not in the coal industry.

"(d) ENACTMENT DATE.—For purposes of this chapter, the term 'enactment date' means the date of the enactment of this chapter.

"Subchapter B—Combined Benefit Fund

"Part I—ESTABLISHMENT AND BENEFITS
"Part II—FINANCING
"Part III—ENFORCEMENT
"Part IV—OTHER PROVISIONS

"PART I—ESTABLISHMENT AND BENEFITS

"Sec. 9702. Establishment of the United Mine Workers of America Combined Benefit Fund.
"Sec. 9703. Plan benefits.

"SEC. 9702. ESTABLISHMENT OF THE UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—As soon as practicable (but not later than 60 days) after the enactment date, the persons described in subsection (b) shall designate the individuals to serve as trustees. Such trustees shall create a new private plan to be known as the United Mine Workers of America Combined Benefit Fund.

"(2) MERGER OF RETIREE BENEFIT PLANS.—As of February 1, 1993, the settlors of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall cause such plans to be merged into the Combined Fund, and such merger shall not be treated as an employer withdrawal for purposes of any 1988 coal wage agreement.

"(3) TREATMENT OF PLAN.—The Combined Fund shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(4) TAX TREATMENT.—For purposes of this title, the Combined Fund and any related trust shall be treated as an organization exempt from tax under section 501(a).

"(b) BOARD OF TRUSTEES.—

"(1) IN GENERAL.—For purposes of subsection (a), the board of trustees for the Combined Fund shall be appointed as follows:

"(A) one individual who represents employers in the coal mining industry shall be designated by the BCOA;

"(B) one individual shall be designated by the three employers, other than 1988 agreement operators, who have been assigned the greatest number of eligible beneficiaries under section 9706;

"(C) two individuals designated by the United Mine Workers of America; and

"(D) three persons selected by the persons appointed under subparagraphs (A), (B), and (C).

"(2) SUCCESSOR TRUSTEES.—Any successor trustee shall be appointed in the same manner as the trustee being succeeded. The plan establishing the Combined Fund shall provide for the removal of trustees.

"(3) SPECIAL RULES.—

"(A) BCOA.—If the BCOA ceases to exist, any trustee or successor under paragraph (1)(A) shall be designated by the 3 employers who were members of the BCOA on the enactment date and who have been assigned the greatest number of eligible beneficiaries under section 9706.

"(B) FORMER SIGNATORIES.—The initial trustee under paragraph (1)(B) shall be designated by the 3 employers, other than 1988 agreement operators, which the records

of the 1950 UMWA Benefit Plan and 1974 UMWA Benefit Plan indicate have the greatest number of eligible beneficiaries as of the enactment date, and such trustee and any successor shall serve until November 1, 1993.

"(c) PLAN YEAR.—The first plan year of the Combined Fund shall begin February 1, 1993, and end September 30, 1993. Each succeeding plan year shall begin on October 1 of each calendar year.

"SEC. 9703. PLAN BENEFITS.

"(a) IN GENERAL.—Each eligible beneficiary of the Combined Fund shall receive—

"(1) health benefits described in subsection (b), and

"(2) in the case of an eligible beneficiary described in subsection (f)(1), death benefits coverage described in subsection (c).

"(b) HEALTH BENEFITS.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide health care benefits to each eligible beneficiary by enrolling the beneficiary in a health care services plan which undertakes to provide such benefits on a prepaid risk basis. The trustees shall utilize all available plan resources to ensure that, consistent with paragraph (2), coverage under the managed care system shall to the maximum extent feasible be substantially the same as (and subject to the same limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) PLAN PAYMENT RATES.—

"(A) IN GENERAL.—The trustees of the Combined Fund shall negotiate payment rates with the health care services plans described in paragraph (1) for each plan year which are in amounts which—

"(i) vary as necessary to ensure that beneficiaries in different geographic areas have access to a uniform level of health benefits; and

"(ii) result in aggregate payments for such plan year from the Combined Fund which do not exceed the total premium payments required to be paid to the Combined Fund under section 9704(a) for the plan year, adjusted as provided in subparagraphs (B) and (C).

"(B) REDUCTIONS.—The amount determined under subparagraph (A)(ii) for any plan year shall be reduced—

"(i) by the aggregate death benefit premiums determined under section 9704(c) for the plan year, and

"(ii) by the amount reserved for plan administration under subsection (d).

"(C) INCREASES.—The amount determined under subparagraph (A)(ii) shall be increased—

"(i) by any reduction in the total premium payments required to be paid under section 9704(a) by reason of transfers described in section 9705,

"(ii) by any carryover to the plan year from any preceding plan year which—

"(I) is derived from amounts described in section 9704(e)(3)(B)(i), and

"(II) the trustees elect to use to pay benefits for the current plan year, and

"(iii) any interest earned by the Combined Fund which the trustees elect to use to pay benefits for the current plan year.

"(3) QUALIFIED PROVIDERS.—The trustees of the Combined Fund shall not enter into an agreement under paragraph (1) with any provider of services which is of a type which is required to be certified by the Secretary of Health and Human Services when providing services under title XVIII of the Social Security Act unless the provider is so certified.

"(4) EFFECTIVE DATE.—Benefits shall be provided under paragraph (1) on and after February 1, 1993.

"(c) DEATH BENEFITS COVERAGE.—

"(1) IN GENERAL.—The trustees of the Combined Fund shall provide death benefits coverage to each eligible beneficiary described in subsection (f)(1) which is identical to the benefits provided under the 1950 UMWA Pension Plan or 1974 UMWA Pension Plan, whichever is applicable, on July 20, 1992. Such coverage shall be provided on and after February 1, 1993.

"(2) TERMINATION OF COVERAGE.—The 1950 UMWA Pension Plan and the 1974 UMWA Pension Plan shall each be amended to provide that death benefits coverage shall not be provided to eligible beneficiaries on and after February 1, 1993. This paragraph shall not prohibit such plans from subsequently providing death benefits not described in paragraph (1).

"(d) RESERVES FOR ADMINISTRATION.—The trustees of the Combined Fund may reserve for each plan year, for use in payment of the administrative costs of the Combined Fund, an amount not to exceed 5 percent of the premiums to be paid to the Combined Fund under section 9704(a) during the plan year.

"(e) LIMITATION ON ENROLLMENT.—The Combined Fund shall not enroll any individual who is not receiving benefits under the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of July 20, 1992.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this subchapter, the term 'eligible beneficiary' means an individual who—

"(1) is a coal industry retiree who, on July 20, 1992, was eligible to receive, and receiving, benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, or

"(2) on such date was eligible to receive, and receiving, benefits in either such plan by reason of a relationship to such retiree.

"PART II—FINANCING

"Sec. 9704. Liability of assigned operators.
"Sec. 9705. Transfers.
"Sec. 9706. Assignment of eligible beneficiaries.

"SEC. 9704. LIABILITY OF ASSIGNED OPERATORS.

"(a) ANNUAL PREMIUMS.—Each assigned operator shall pay to the Combined Fund for each plan year beginning on or after February 1, 1993, an annual premium equal to the sum of the following three premiums—

"(1) the health benefit premium determined under subsection (b) for such plan year, plus

"(2) the death benefit premium determined under subsection (c) for such plan year, plus

"(3) the unassigned beneficiaries premium determined under subsection (d) for such plan year.

Any related person with respect to an assigned operator shall be jointly and severally liable for any premium required to be paid by such operator.

"(b) HEALTH BENEFIT PREMIUM.—For purposes of this chapter—

"(1) IN GENERAL.—The health benefit premium for any plan year for any assigned operator shall be an amount equal to the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries assigned to such operator under section 9706.

"(2) PER BENEFICIARY PREMIUM.—The Secretary of Health and Human Services shall calculate a per beneficiary premium for each plan year beginning on or after February 1, 1993, which is equal to the sum of—

"(A) the amount determined by dividing—

"(i) the aggregate amount of payments from the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for health benefits (less reimbursements but including administrative costs) for the plan year beginning July 1, 1991, for all individuals covered under such plans for such plan year, by

"(ii) the number of such individuals, plus

"(B) the amount determined under subparagraph (A) multiplied by the percentage (if any) by which the medical component of the Consumer Price Index for the calendar year in which the plan year begins exceeds such component for 1992.

"(3) ADJUSTMENTS FOR MEDICARE REDUCTIONS.—If, by reason of a reduction in benefits under title XVIII of the Social Security Act, the level of health benefits under the Combined Fund would be reduced, the trustees of the Combined Fund shall increase the per beneficiary premium for the plan year in which the reduction occurs and each subsequent plan year by the amount necessary to maintain the level of health benefits which would have been provided without such reduction.

"(c) DEATH BENEFIT PREMIUM.—The death benefit premium for any plan year for any assigned operator shall be equal to the applicable percentage of the amount, actuarially determined, which the Combined Fund will be required to pay during the plan year for death benefits coverage described in section 9703(c).

"(d) UNASSIGNED BENEFICIARIES PREMIUM.—The unassigned beneficiaries premium for any plan year for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

"(e) PREMIUM ACCOUNTS; ADJUSTMENTS.—

"(1) ACCOUNTS.—The trustees of the Combined Fund shall establish and maintain 3 separate accounts for each of the premiums described in subsections (b), (c), and (d). Such accounts shall be credited with the premiums received and debited with expenditures allocable to such premiums.

"(2) ALLOCATIONS.—

"(A) ADMINISTRATIVE EXPENSES.—Administrative costs for any plan year shall be allocated to premium accounts under paragraph (1) on the basis of expenditures (other than administrative costs) from such accounts during the preceding plan year.

"(B) INTEREST.—Interest shall be allocated to the account established for health benefit premiums.

"(3) SHORTFALLS AND SURPLUSES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if, for any plan year, there is a shortfall or surplus in any premium account, the premium for the following plan year for each assigned operator shall be proportionately reduced or increased, whichever is applicable, by the amount of such shortfall or surplus.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any surplus in the health benefit premium account or the unassigned beneficiaries premium account which is attributable to—

"(i) the excess of the premiums credited to such account for a plan year over the benefits (and administrative costs) debited to such account for the plan year, but such excess shall only be available for purposes of the carryover described in section 9703(b)(2)(C)(ii) (relating to carryovers of premiums not used to provide benefits), or

"(ii) interest credited under paragraph (2)(B) for the plan year or any preceding plan year.

"(C) NO AUTHORITY FOR INCREASED PAYMENTS.—Nothing in this paragraph shall be construed to allow expenditures for health care benefits for any plan year in excess of the limit under section 9703(b)(2).

"(f) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'applicable percentage' means, with respect to any assigned operator, the percentage determined by dividing the number of eligible beneficiaries assigned under section 9706 to such operator by the total number of eligible beneficiaries assigned under section 9706 to all such operators (determined on the basis of assignments as of October 1, 1993).

"(2) ANNUAL ADJUSTMENTS.—In the case of any plan year beginning on or after October 1, 1994, the applicable percentage for any assigned operator shall be redetermined under paragraph (1) by making the following changes to the assignments as of October 1, 1993:

"(A) Such assignments shall be modified to reflect any changes during the period beginning October 1, 1993, and ending on the last day of the preceding plan year pursuant to the appeals process under section 9706(f).

"(B) The total number of assigned eligible beneficiaries shall be reduced by the eligible beneficiaries of assigned operators which (and all related persons with respect to which) had ceased business (within the meaning of section 9701(c)(6)) during the period described in subparagraph (A).

"(g) PAYMENT OF PREMIUMS.—

"(1) IN GENERAL.—The annual premium under subsection (a) for any plan year shall be payable in 12 equal monthly

installments, due on the twenty-fifth day of each calendar month in the plan year. In the case of the plan year beginning February 1, 1993, the annual premium under subsection (a) shall be added to such premium for the plan year beginning October 1, 1993.

"(2) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(h) INFORMATION.—The trustees of the Combined Fund shall, not later than 60 days after the enactment date, furnish to the Secretary of Health and Human Services information as to the benefits and covered beneficiaries under the fund, and such other information as the Secretary may require to compute any premium under this section.

"(i) TRANSITION RULES.—

"(1) 1988 AGREEMENT OPERATORS.—

"(A) 1ST YEAR COSTS.—During the plan year of the Combined Fund beginning February 1, 1993, the 1988 agreement operators shall make contributions to the Combined Fund in amounts necessary to pay benefits and administrative costs of the Combined Fund incurred during such year, reduced by the amount transferred to the Combined Fund under section 9705(a) on February 1, 1993.

"(B) DEFICITS FROM MERGED PLANS.—During the period beginning February 1, 1993, and ending September 30, 1994, the 1988 agreement operators shall make contributions to the Combined Fund as are necessary to pay off the expenses accrued (and remaining unpaid) by the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, reduced by the assets of such plans as of such date.

"(C) FAILURE.—If any 1988 agreement operator fails to meet any obligation under this paragraph, any contributions of such operator to the Combined Fund or any other plan described in section 404(c) shall not be deductible under this title until such time as the failure is corrected.

"(D) PREMIUM REDUCTIONS.—

"(i) 1ST YEAR PAYMENTS.—In the case of a 1988 agreement operator making contributions under subparagraph (A), the premium of such operator under subsection (a) shall be reduced by the amount paid under subparagraph (A) by such operator for the plan year beginning February 1, 1993.

"(ii) DEFICIT PAYMENTS.—In the case a 1988 agreement operator making contributions under subparagraph (B), the premium of such operator under subsection (a) shall be reduced by the amounts which are paid to the Combined Fund by reason of claims arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims based on the 'evergreen clause' found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan, and which are allocated to such operator under subparagraph (E).

"(iii) LIMITATION.—Clause (ii) shall not apply to the extent the amounts paid exceed the contributions.

"(iv) PLAN YEARS.—Premiums under subsection (a) shall be reduced for the first plan year for which amounts described in clause (i) or (ii) are available and for any succeeding plan year until such amounts are exhausted.

"(E) ALLOCATIONS OF CONTRIBUTIONS AND REFUNDS.—Contributions under subparagraphs (A) and (B), and premium reductions under subparagraph (D)(ii), shall be made ratably on the basis of aggregate contributions made by such operators under the applicable 1988 coal wage agreements as of January 31, 1993.

"(2) 1ST PLAN YEAR.—In the case of the plan year of the Combined Fund beginning February 1, 1993—

"(A) the premiums under subsections (a)(1) and (a)(3) shall be 67 percent of such premiums without regard to this paragraph, and

"(B) the premiums under subsection (a) shall be paid as provided in subsection (g).

"(3) STARTUP COSTS.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall pay the costs of the Combined Fund incurred before February 1, 1993. For purposes of this section, such costs shall be treated as administrative expenses incurred for the plan year beginning February 1, 1993.

"SEC. 9705. TRANSFERS.

"(a) TRANSFER OF ASSETS FROM 1950 UMWA PENSION PLAN.—

"(1) IN GENERAL.—From the funds reserved under paragraph (2), the board of trustees of the 1950 UMWA Pension Plan shall transfer to the Combined Fund—

"(A) $70,000,000 on February 1, 1993,

"(B) $70,000,000 on October 1, 1993, and

"(C) $70,000,000 on October 1, 1994.

"(2) RESERVATION.—Immediately upon the enactment date, the board of trustees of the 1950 UMWA Pension Plan shall segregate $210,000,000 from the general assets of the plan. Such funds shall be held in the plan until disbursed pursuant to paragraph (1). Any interest on such funds shall be deposited into the general assets of the 1950 UMWA Pension Plan.

"(3) USE OF FUNDS.—Amounts transferred to the Combined Fund under paragraph (1) shall—

"(A) in the case of the transfer on February 1, 1993, be used to proportionately reduce the premium of each assigned operator under section 9704(a) for the plan year of the Fund beginning February 1, 1993, and

"(B) in the case of any other such transfer, be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) and the death benefit premium under section 9704(a)(2) of each assigned operator for the plan year in which transferred and for any subsequent plan year in which such funds remain available.

Such funds may not be used to pay any amounts required to be paid by the 1988 agreement operators under section 9704(i)(1)(B).

"(4) TAX TREATMENT; VALIDITY OF TRANSFER.—

"(A) NO DEDUCTION.—No deduction shall be allowed under this title with respect to any transfer pursuant to

paragraph (1), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers, or amounts hereafter contributed by employers, to the 1950 UMWA Pension Plan, the 1950 UMWA Benefit Plan, the 1974 UMWA Pension Plan, the 1974 UMWA Benefit Plan, the 1992 UMWA Benefit Plan, or the Combined Fund.

"(B) OTHER TAX PROVISIONS.—Any transfer pursuant to paragraph (1)—

"(i) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(ii) shall not be includible in the gross income of any employer maintaining the 1950 UMWA Pension Plan.

"(5) TREATMENT OF TRANSFER.—Any transfer pursuant to paragraph (1) shall not be deemed to violate, or to be prohibited by, any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to liability, taxes, fines, or penalties of any kind whatsoever.

"(b) TRANSFERS FROM ABANDONED MINE RECLAMATION FUND.—

"(1) IN GENERAL.—The Combined Fund shall include any amount transferred to the Fund under section 402(h) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)).

"(2) USE OF FUNDS.—Any amount transferred under paragraph (1) for any fiscal year shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for the plan year in which transferred.

"SEC. 9706. ASSIGNMENT OF ELIGIBLE BENEFICIARIES.

"(a) IN GENERAL.—For purposes of this chapter, the Secretary of Health and Human Services shall, before October 1, 1993, assign each coal industry retiree who is an eligible beneficiary to a signatory operator which (or any related person with respect to which) remains in business in the following order:

"(1) First, to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry for at least 2 years.

"(2) Second, if the retiree is not assigned under paragraph (1), to the signatory operator which—

"(A) was a signatory to the 1978 coal wage agreement or any subsequent coal wage agreement, and

"(B) was the most recent signatory operator to employ the coal industry retiree in the coal industry.

"(3) Third, if the retiree is not assigned under paragraph (1) or (2), to the signatory operator which employed the coal industry retiree in the coal industry for a longer period of time than any other signatory operator prior to the effective date of the 1978 coal wage agreement.

"(b) RULES RELATING TO EMPLOYMENT AND REASSIGNMENT UPON PURCHASE.—For purposes of subsection (a)—

"(1) AGGREGATION RULES.—

"(A) RELATED PERSON.—Any employment of a coal industry retiree in the coal industry by a signatory operator shall be treated as employment by any related persons to such operator.

"(B) CERTAIN EMPLOYMENT DISREGARDED.—Employment with—

"(i) a person which is (and all related persons with respect to which are) no longer in business, or

"(ii) a person during a period during which such person was not a signatory to a coal wage agreement,

shall not be taken into account.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of an assigned operator after the enactment date, the assigned operator may transfer the assignment of an eligible beneficiary under subsection (a) to such successor, and such successor shall be treated as the assigned operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the assigned operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. An assigned operator shall notify the trustees of the Combined Fund of any transfer described in this paragraph.

"(c) IDENTIFICATION OF ELIGIBLE BENEFICIARIES.—The 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan shall, by the later of October 1, 1992, or the twentieth day after the enactment date, provide to the Secretary of Health and Human Services a list of the names and social security account numbers of each eligible beneficiary, including each deceased eligible beneficiary if any other individual is an eligible beneficiary by reason of a relationship to such deceased eligible beneficiary. In addition, the plans shall provide, where ascertainable from plan records, the names of all persons described in subsection (a) with respect to any eligible beneficiary or deceased eligible beneficiary.

"(d) COOPERATION BY OTHER AGENCIES AND PERSONS.—

"(1) COOPERATION.—The head of any department, agency, or instrumentality of the United States shall cooperate fully and promptly with the Secretary of Health and Human Services in providing information which will enable the Secretary to carry out his responsibilities under this section.

"(2) PROVIDING OF INFORMATION.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, including section 6103, the head of any other agency, department, or instrumentality shall, upon receiving a written request from the Secretary of Health and Human Services in connection with this section, cause a search to be made of the files and records maintained by such agency, department, or instrumentality with a view to determining whether the information requested is contained in such files or records. The Secretary shall be advised whether the search disclosed the information requested, and, if so, such information shall be promptly transmitted to the Secretary, except that if the disclosure of any requested information would contravene national policy or security interests of the United States, or the

confidentiality of census data, the information shall not be transmitted and the Secretary shall be so advised.

"(B) LIMITATION.—Any information provided under subparagraph (A) shall be limited to information necessary for the Secretary to carry out his duties under this section.

"(3) TRUSTEES.—The trustees of the Combined Fund, the 1950 UMWA Benefit Plan, the 1974 UMWA Benefit Plan, the 1950 UMWA Pension Plan, and the 1974 UMWA Pension Plan shall fully and promptly cooperate with the Secretary in furnishing, or assisting the Secretary to obtain, any information the Secretary needs to carry out the Secretary's responsibilities under this section.

"(e) NOTICE BY SECRETARY.—

"(1) NOTICE TO FUND.—The Secretary of Health and Human Services shall advise the trustees of the Combined Fund of the name of each person identified under this section as an assigned operator, and the names and social security account numbers of eligible beneficiaries with respect to whom he is identified.

"(2) OTHER NOTICE.—The Secretary of Health and Human Services shall notify each assigned operator of the names and social security account numbers of eligible beneficiaries who have been assigned to such person under this section and a brief summary of the facts related to the basis for such assignments.

"(f) RECONSIDERATION BY SECRETARY.—

"(1) IN GENERAL.—Any assigned operator receiving a notice under subsection (e)(2) with respect to an eligible beneficiary may, within 30 days of receipt of such notice, request from the Secretary of Health and Human Services detailed information as to the work history of the beneficiary and the basis of the assignment.

"(2) REVIEW.—An assigned operator may, within 30 days of receipt of the information under paragraph (1), request review of the assignment. The Secretary of Health and Human Services shall conduct such review if the Secretary finds the operator provided evidence with the request constituting a prima facie case of error.

"(3) RESULTS OF REVIEW.—

"(A) ERROR.—If the Secretary of Health and Human Services determines under a review under paragraph (2) that an assignment was in error—

"(i) the Secretary shall notify the assigned operator and the trustees of the Combined Fund and the trustees shall reduce the premiums of the operator under section 9704 by (or if there are no such premiums, repay) all premiums paid under section 9704 with respect to the eligible beneficiary, and

"(ii) the Secretary shall review the beneficiary's record for reassignment under subsection (a).

"(B) NO ERROR.—If the Secretary of Health and Human Services determines under a review conducted under paragraph (2) that no error occurred, the Secretary shall notify the assigned operator.

"(4) DETERMINATIONS.—Any determination by the Secretary of Health and Human Services under paragraph (2) or (3) shall be final.

"(5) PAYMENT PENDING REVIEW.—An assigned operator shall pay the premiums under section 9704 pending review by the Secretary of Health and Human Services or by a court under this subsection.

"(6) PRIVATE ACTIONS.—Nothing in this section shall preclude the right of any person to bring a separate civil action against another person for responsibility for assigned premiums, notwithstanding any prior decision by the Secretary.

"(g) CONFIDENTIALITY OF INFORMATION.—Any person to which information is provided by the Secretary of Health and Human Services under this section shall not disclose such information except in any proceedings related to this section. Any civil or criminal penalty which is applicable to an unauthorized disclosure under section 6103 shall apply to any unauthorized disclosure under this section.

"PART III—ENFORCEMENT

"Sec. 9707. Failure to pay premium.

"SEC. 9707. FAILURE TO PAY PREMIUM.

"(a) GENERAL RULE.—There is hereby imposed a penalty on the failure of any assigned operator to pay any premium required to be paid under section 9704 with respect to any eligible beneficiary.

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed by subsection (a) on any failure with respect to any eligible beneficiary shall be $100 per day in the noncompliance period with respect to any such failure.

"(c) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure to pay any premium or installment thereof, the period—

"(1) beginning on the due date for such premium or installment, and

"(2) ending on the date of payment of such premium or installment.

"(d) LIMITATIONS ON AMOUNT OF PENALTY.—

"(1) IN GENERAL.—No penalty shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary of the Treasury that none of the persons responsible for such failure knew, or exercising reasonable diligence, would have known, that such failure existed.

"(2) CORRECTIONS.—No penalty shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date that any of the persons responsible for such failure knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) WAIVER.—In the case of a failure that is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive all or part of the penalty imposed by subsection (a) for failures to the extent that the Secretary determines, in his sole discretion, that the payment of such penalty would be excessive relative to the failure involved.

"(e) LIABILITY FOR PENALTY.—The person failing to meet the requirements of section 9704 shall be liable for the penalty imposed by subsection (a).

"(f) TREATMENT.—For purposes of this title, the penalty imposed by this section shall be treated in the same manner as the tax imposed by section 4980B.

"PART IV—OTHER PROVISIONS

"Sec. 9708. Effect on pending claims or obligations.

"SEC. 9708. EFFECT ON PENDING CLAIMS OR OBLIGATIONS.

"All liability for contributions to the Combined Fund that arises on and after February 1, 1993, shall be determined exclusively under this chapter, including all liability for contributions to the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan for coal production on and after February 1, 1993. However, nothing in this chapter is intended to have any effect on any claims or obligations arising in connection with the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of February 1, 1993, including claims or obligations based on the 'evergreen' clause found in the language of the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan. This chapter shall not be construed to affect any rights of subrogation of any 1988 agreement operator with respect to contributions due to the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan as of February 1, 1993.

"Subchapter C—Health Benefits of Certain Miners

"Part I—Individual employer plans
"Part II—1992 UMWA benefit plan

"PART I—INDIVIDUAL EMPLOYER PLANS

"Sec. 9711. Continued obligations of individual employer plans.

"SEC. 9711. CONTINUED OBLIGATIONS OF INDIVIDUAL EMPLOYER PLANS.

"(a) COVERAGE OF CURRENT RECIPIENTS.—The last signatory operator of any individual who, as of February 1, 1993, is receiving retiree health benefits from an individual employer plan maintained pursuant to a 1978 or subsequent coal wage agreement shall continue to provide health benefits coverage to such individual and the individual's eligible beneficiaries which is substantially the same as (and subject to all the limitations of) the coverage provided by such plan as of January 1, 1992. Such coverage shall continue to be provided for as long as the last signatory operator (and any related person) remains in business.

"(b) COVERAGE OF ELIGIBLE RECIPIENTS.—

"(1) IN GENERAL.—The last signatory operator of any individual who, as of February 1, 1993, is not receiving retiree health benefits under the individual employer plan maintained by the last signatory operator pursuant to a 1978 or subsequent coal wage agreement, but has met the age and service requirements for eligibility to receive benefits under such plan as of such date, shall, at such time as such individual becomes eligible to receive benefits under such plan, provide health benefits coverage to such individual and the individual's eligible beneficiaries which is described in paragraph (2). This para-

graph shall not apply to any individual who retired from the coal industry after September 30, 1994, or any eligible beneficiary of such individual.

"(2) COVERAGE.—Subject to the provisions of subsection (d), health benefits coverage is described in this paragraph if it is substantially the same as (and subject to all the limitations of) the coverage provided by the individual employer plan as of January 1, 1992. Such coverage shall continue for as long as the last signatory operator (and any related person) remains in business.

"(c) JOINT AND SEVERAL LIABILITY OF RELATED PERSONS.—Each related person of a last signatory operator to which subsection (a) or (b) applies shall be jointly and severally liable with the last signatory operator for the provision of health care coverage described in subsection (a) or (b).

"(d) MANAGED CARE AND COST CONTAINMENT.—The last signatory operator shall not be treated as failing to meet the requirements of subsection (a) or (b) if benefits are provided to eligible beneficiaries under managed care and cost containment rules and procedures described in section 9712(c) or agreed to by the last signatory operator and the United Mine Workers of America.

"(e) TREATMENT OF NONCOVERED EMPLOYEES.—The existence, level, and duration of benefits provided to former employees of a last signatory operator (and their eligible beneficiaries) who are not otherwise covered by this chapter and who are (or were) covered by a coal wage agreement shall only be determined by, and shall be subject to, collective bargaining, lawful unilateral action, or other applicable law.

"(f) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means any individual who is eligible for health benefits under a plan described in subsection (a) or (b) by reason of the individual's relationship with the retiree described in such subsection (or to an individual who, based on service and employment history at the time of death, would have been so described but for such death).

"(g) RULES APPLICABLE TO THIS PART AND PART II.—For purposes of this part and part II—

"(1) SUCCESSOR.—The term 'last signatory operator' shall include a successor in interest of such operator.

"(2) REASSIGNMENT UPON PURCHASE.—If a person becomes a successor of a last signatory operator after the enactment date, the last signatory operator may transfer any liability of such operator under this chapter with respect to an eligible beneficiary to such successor, and such successor shall be treated as the last signatory operator with respect to such eligible beneficiary for purposes of this chapter. Notwithstanding the preceding sentence, the last signatory operator transferring such assignment (and any related person) shall remain the guarantor of the benefits provided to the eligible beneficiary under this chapter. A last signatory operator shall notify the trustees of the 1992 UMWA Benefit Plan of any transfer described in this paragraph.

"PART II—1992 UMWA BENEFIT PLAN

"Sec. 9712. Establishment and coverage of 1992 UMWA Benefit Plan.

"SEC. 9712. ESTABLISHMENT AND COVERAGE OF 1992 UMWA BENEFIT PLAN.

"(a) CREATION OF PLAN.—

"(1) IN GENERAL.—As soon as practicable after the enactment date, the settlors shall create a separate private plan which shall be known as the United Mine Workers of America 1992 Benefit Plan. For purposes of this title, the 1992 UMWA Benefit Plan shall be treated as an organization exempt from taxation under section 501(a). The settlors shall be responsible for designing the structure, administration and terms of the 1992 UMWA Benefit Plan, and for appointment and removal of the members of the board of trustees. The board of trustees shall initially consist of five members and shall thereafter be the number set by the settlors.

"(2) TREATMENT OF PLAN.—The 1992 UMWA Benefit Plan shall be—

"(A) a plan described in section 302(c)(5) of the Labor Management Relations Act, 1947 (29 U.S.C. 186(c)(5)),

"(B) an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)), and

"(C) a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(b) COVERAGE REQUIREMENT.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall only provide health benefits coverage to any eligible beneficiary who is not eligible for benefits under the Combined Fund and shall not provide such coverage to any other individual.

"(2) ELIGIBLE BENEFICIARY.—For purposes of this section, the term 'eligible beneficiary' means an individual who—

"(A) but for the enactment of this chapter, would be eligible to receive benefits from the 1950 UMWA Benefit Plan or the 1974 UMWA Benefit Plan, based upon age and service earned as of February 1, 1993; or

"(B) with respect to whom coverage is required to be provided under section 9711, but who does not receive such coverage from the applicable last signatory operator or any related person,

and any individual who is eligible for benefits by reason of a relationship to an individual described in subparagraph (A) or (B). In no event shall the 1992 UMWA Benefit Plan provide health benefits coverage to any eligible beneficiary who is a coal industry retiree who retired from the coal industry after September 30, 1994, or any beneficiary of such individual.

"(c) HEALTH BENEFITS.—

"(1) IN GENERAL.—The 1992 UMWA Benefit Plan shall provide health care benefits coverage to each eligible beneficiary which is substantially the same as (and subject to all the limitations of) coverage provided under the 1950 UMWA Benefit Plan and the 1974 UMWA Benefit Plan as of January 1, 1992.

"(2) MANAGED CARE.—The 1992 UMWA Benefit Plan shall develop managed care and cost containment rules which shall be applicable to the payment of benefits under this subsection. Application of such rules shall not cause the plan to be treated as failing to meet the requirements of this subsection. Such rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision

as to whether a network medical provider will be used. Major elements of such rules may include, but are not limited to, elements described in paragraph (3).

"(3) MAJOR ELEMENTS OF RULES.—Elements described in this paragraph are—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use,

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status with the amount of the potential discount varying by geographic region,

"(C) limiting benefit payments to physicians to the allowable charge under title XVIII of the Social Security Act, while protecting beneficiaries from balance billing by providers,

"(D) utilizing, in the claims payment function 'appropriateness of service' protocols under title XVIII of the Social Security Act if more stringent,

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries,

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network, and

"(G) utilizing a managed care network provider system, as practiced in the health care industry, at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this subsection.

"(4) LAST SIGNATORY OPERATORS.—The board of trustees of the 1992 UMWA Benefit Plan shall permit any last signatory operator required to maintain an individual employer plan under section 9711 to utilize the managed care and cost containment rules and programs developed under this subsection if the operator elects to do so.

"(5) STANDARDS OF QUALITY.—Any managed care system or cost containment adopted by the board of trustees of the 1992 UMWA Benefit Plan or by a last signatory operator may not be implemented unless it is approved by, and meets the standards of quality adopted by, a medical peer review panel, which has been established—

"(A) by the settlors, or

"(B) by the United Mine Workers of America and a last signatory operator or group of operators.

Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending on the nature of the medical need.

"(d) GUARANTEE OF BENEFITS.—

"(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c), in accordance with contribution requirements established in the 1992 UMWA Benefit Plan. Such contribution requirements, which shall be applied uniformly to each 1988 last signatory operator, on the basis of the number of eligible and potentially eligible beneficiaries attributable to each operator, shall include:

"(A) the payment of an annual prefunding premium for all eligible and potentially eligible beneficiaries attributable to a 1988 last signatory operator,

"(B) the payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA Benefit Plan, and

"(C) the provision of security (in the form of a bond, letter of credit or cash escrow) in an amount equal to a portion of the projected future cost to the 1992 UMWA Benefit Plan of providing health benefits for eligible and potentially eligible beneficiaries attributable to the 1988 last signatory operator. If a 1988 last signatory operator is unable to provide the security required, the 1992 UMWA Benefit Plan shall require the operator to pay an annual prefunding premium that is greater than the premium otherwise applicable.

"(2) ADJUSTMENTS.—The 1992 UMWA Benefit Plan shall provide for—

"(A) annual adjustments of the per beneficiary premium to cover changes in the cost of providing benefits to eligible beneficiaries, and

"(B) adjustments as necessary to the annual prefunding premium to reflect changes in the cost of providing benefits to eligible beneficiaries for whom per beneficiary premiums are not paid.

"(3) ADDITIONAL LIABILITY.—Any last signatory operator who is not a 1988 last signatory operator shall pay the monthly per beneficiary premium under paragraph (1)(B) for each eligible beneficiary described in such paragraph attributable to that operator.

"(4) JOINT AND SEVERAL LIABILITY.—A 1988 last signatory operator or last signatory operator described in paragraph (3), and any related person to any such operator, shall be jointly and severally liable with such operator for any amount required to be paid by such operator under this section.

"(5) DEDUCTIBILITY.—Any premium required by this section shall be deductible without regard to any limitation on deductibility based on the prefunding of health benefits.

"(6) 1988 LAST SIGNATORY OPERATOR.—For purposes of this section, the term '1988 last signatory operator' means a last signatory operator which is a 1988 agreement operator.

"Subchapter D—Other Provisions

"Sec. 9721. Civil enforcement.
"Sec. 9722. Sham transactions.

"SEC. 9721. CIVIL ENFORCEMENT.

"The provisions of section 4301 of the Employee Retirement Income Security Act of 1974 shall apply to any claim arising out of an obligation to pay any amount required to be paid by this chapter in the same manner as any claim arising out of an obligation to pay withdrawal liability under subtitle E of title IV of such Act. For purposes of the preceding sentence, a signatory operator and related persons shall be treated in the same manner as employers.

"SEC. 9722. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and such liability shall be imposed) without regard to such transaction."

(b) AMENDMENTS TO SURFACE MINING ACT.—

(1) EXTENSION OF FEE PROGRAM.—Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "September 30, 1995" and inserting "September 30, 2004".

(2) TRANSFER TO FUND.—Section 402 of such Act (30 U.S.C. 1232) is amended by adding at the end the following new subsection:

"(h) TRANSFER OF FUNDS TO COMBINED FUND.—(1) In the case of any fiscal year beginning on or after October 1, 1995, with respect to which fees are required to be paid under this section, the Secretary shall, as of the beginning of such fiscal year and before any allocation under subsection (g), make the transfer provided in paragraph (2).

"(2) The Secretary shall transfer from the fund to the United Mine Workers of America Combined Benefit Fund established under section 9702 of the Internal Revenue Code of 1986 for any fiscal year an amount equal to the sum of—

"(A) the amount of the interest which the Secretary estimates will be earned and paid to the Fund during the fiscal year, plus

"(B) the amount by which the amount described in subparagraph (A) is less than $70,000,000.

"(3)(A) The aggregate amount which may be transferred under paragraph (2) for any fiscal year shall not exceed the amount of expenditures which the trustees of the Combined Fund estimate will be debited against the unassigned beneficiaries premium account under section 9704(e) of the Internal Revenue Code of 1986 for the fiscal year of the Combined Fund in which the transfer is made.

"(B) The aggregate amount which may be transferred under paragraph (2)(B) for all fiscal years shall not exceed an amount equivalent to all interest earned and paid to the fund after September 30, 1992, and before October 1, 1995.

"(4) If, for any fiscal year, the amount transferred is more or less than the amount required to be transferred, the Secretary shall appropriately adjust the amount transferred for the next fiscal year."

(3) CONFORMING AMENDMENTS.—(A) Section 401(c) of such Act (30 U.S.C. 1231(c)) is amended by striking "and" at the end of paragraph (11), by redesignating paragraph (12) as paragraph (13), and by adding after paragraph (11) the following new paragraph:

"(12) for the purpose described in section 402(h); and".

(B) Section 402(g)(1) of such Act (30 U.S.C. 1232(g)) is amended by striking "Moneys" and inserting "Except as provided in subsection (h), moneys".

TITLE XX—GENERAL PROVISIONS; REDUCTION OF OIL VULNERABILITY

SEC. 2001. GOALS. 42 USC 13401.

It is the goal of the United States in carrying out energy supply and energy conservation research and development—

(1) to strengthen national energy security by reducing dependence on imported oil;

(2) to increase the efficiency of the economy by meeting future needs for energy services at the lowest total cost to the Nation, including environmental costs, giving comparable consideration to technologies that enhance energy supply and technologies that improve the efficiency of energy end uses;

(3) to reduce the air, water, and other environmental impacts (including emissions of greenhouse gases) of energy production, distribution, transportation, and utilization, through the development of an environmentally sustainable energy system;

(4) to maintain the technological competitiveness of the United States and stimulate economic growth through the development of advanced materials and technologies;

(5) to foster international cooperation by developing international markets for domestically produced sustainable energy technologies, and by transferring environmentally sound, advanced energy systems and technologies to developing countries to promote sustainable development;

(6) to consider the comparative environmental and public health impacts of the energy to be produced or saved by the specific activities;

(7) to consider the obstacles inherent in private industry's development of new energy technologies and steps necessary for establishing or maintaining technological leadership in the area of energy and energy efficiency resource technologies; and

(8) to consider the contribution of a given activity to fundamental scientific knowledge.

Subtitle A—Oil and Gas Supply Enhancement

SEC. 2011. ENHANCED OIL RECOVERY. 42 USC 13411.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on technologies to increase the recoverability of domestic oil resources to—

(1) improve reservoir characterization;

(2) improve analysis and field verification;

(3) field test and demonstrate enhanced oil recovery processes, including advanced processes, in reservoirs the Secretary considers to be of high priority, ranked primarily on the basis of oil recovery potential and risk of abandonment;

(4) transfer proven recovery technologies to producers and operators of wells, including stripper wells, that would otherwise be likely to be abandoned in the near term due to declining production;

(5) improve enhanced oil recovery process technology for more economic and efficient oil production;

(6) identify and develop new recovery technologies;

(7) study reservoir properties and how they affect oil recovery from porous media;

(8) improve techniques for meeting environmental requirements;

(9) improve data bases of reservoir and environmental conditions; and

(10) lower lifting costs on stripper wells by utilizing advanced renewable energy technologies such as small wind turbines and others.

(b) PROGRAM GOALS.—

(1) NEAR-TERM PRIORITIES.—The near-term priorities of the program include preserving access to high potential reservoirs, identifying available technologies that can extend the lifetime of wells and of stripper well property, and developing environmental field operations for waste disposal and injection practices.

(2) MID-TERM PRIORITIES.—The mid-term priorities of the program include developing and testing identified but unproven technologies, and transferring those technologies for widespread use.

(3) LONG-TERM PRIORITIES.—The long-term priorities of the program include developing advanced techniques to recover oil not recoverable by other techniques.

(c) ACCELERATED PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a plan for carrying out under this section the accelerated field testing of technologies to achieve the priorities stated in subsection (b). In preparing the plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, and with the Advisory Board established under section 2302.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) CONSULTATION.—In carrying out the provisions of this section, the Secretary shall consult representatives of the oil and gas industry with respect to innovative research and development proposals to improve oil and gas recovery and shall consider relevant technical data from industry and other research and information centers and institutes.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including advanced extraction and process technology, $57,250,000 for fiscal year 1993 and $70,000,000 for fiscal year 1994.

42 USC 13412.

SEC. 2012. OIL SHALE.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on oil shale extraction and conversion, including research and development on both eastern and western shales, as provided in this section.

(b) PROGRAM GOALS.—The goals of the program established under this section include—

(1) supporting the development of economically competitive and environmentally acceptable technologies to produce domestic supplies of liquid fuels from oil shale;

(2) increasing knowledge of environmentally acceptable oil shale waste disposal technologies and practices;

(3) increasing knowledge of the chemistry and kinetics of oil shale retorting;

(4) increasing understanding of engineering issues concerning the design and scale-up of oil shale extraction and conversion technologies;

(5) improving techniques for oil shale mining systems; and

(6) providing for cooperation with universities and other private sector entities.

(c) EASTERN OIL SHALE PROGRAM.—(1) As part of the program authorized by this section, the Secretary shall carry out a program on oil shale that includes applied research, in cooperation with universities and the private sector, on eastern oil shale that may have the potential to decrease United States dependence on energy imports.

(2) As part of the program authorized by this subsection, the Secretary shall consider the potential benefits of including in that program applied research carried out in cooperation with universities and other private sector entities that are, as of the date of enactment of this Act, engaged in research on eastern oil shale retorting and associated processes.

(3) The program carried out under this subsection shall be cost-shared with universities and the private sector to the maximum extent possible.

(d) WESTERN OIL SHALE PROGRAM.—As part of the program authorized by this section, the Secretary shall carry out a program on extracting oil from western oil shales that includes, if appropriate, establishment and utilization of at least one field testing center for the purpose of testing, evaluating, and developing improvements in oil shale technology at the field test level. In establishing such a center, the Secretary shall consider sites with existing oil shale mining and processing infrastructure and facilities. Sixty days prior to establishing any such field testing center, the Secretary shall submit a report to Congress on the center to be established. Reports.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $5,250,000 for fiscal year 1993 and $6,000,000 for fiscal year 1994.

SEC. 2013. NATURAL GAS SUPPLY. 42 USC 13413.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase the recoverable natural gas resource base including, but not limited to—

(1) more intensive recovery of natural gas from discovered conventional resources;

(2) the extraction of natural gas from tight gas sands and devonian shales or other unconventional sources;

(3) surface gasification of coal; and

(4) recovery of methane from biofuels including municipal solid waste.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(c) COFIRING OF NATURAL GAS AND COAL.—

(1) PROGRAM.—The Secretary shall establish and carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cofiring natural gas with coal in utility and large industrial boilers in order to determine optimal natural gas injection levels for both environmental and operational benefits.

(2) FINANCIAL ASSISTANCE.—The Secretary shall enter into agreements with, and provide financial assistance to, appropriate parties for application of cofiring technologies to boilers to demonstrate this technology.

(3) REPORT TO CONGRESS.—The Secretary shall, before December 31, 1995, submit to the Congress a report on the progress made in carrying out this subsection.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section and sections 2014 and 2015, $29,745,000 for fiscal year 1993 and $45,000,000 for fiscal year 1994.

42 USC 13414.

SEC. 2014. NATURAL GAS END-USE TECHNOLOGIES.

The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on new and advanced natural gas utilization technologies including, but not limited to—

(1) stationary source emissions control and efficiency improvements including combustion systems, industrial processes, cogeneration, and waste fuels; and

(2) natural gas storage including increased deliverability from existing gas storage facilities and new capabilities for storage near demand centers, and on-site storage at major energy consuming facilities.

42 USC 13415.

SEC. 2015. MIDCONTINENT ENERGY RESEARCH CENTER.

(a) FINDING.—Congress finds that petroleum resources in the midcontinent region of the United States are very large but are being prematurely abandoned.

(b) PURPOSES.—The purposes of this section are to—

(1) improve the efficiency of petroleum recovery;

(2) increase ultimate petroleum recovery; and

(3) delay the abandonment of resources.

(c) ESTABLISHMENT.—The Secretary may establish the Midcontinent Energy Research Center (referred to in this section as the "Center") to—

(1) conduct research in petroleum geology and engineering focused on improving the recovery of petroleum from existing fields and established plays in the upper midcontinent region of the United States; and

(2) ensure that the results of the research described in paragraph (1) are transferred to users.

(d) RESEARCH.—

(1) IN GENERAL.—In conducting research under this section, the Center shall, to the extent practicable, cooperate with agencies of the Federal Government, the States in the midcontinent region of the United States, and the affected industry.

(2) PROGRAMS.—Research programs conducted by the Center may include—

(A) data base development and transfer of technology;
(B) reservoir management;
(C) reservoir characterization;
(D) advanced recovery methods; and
(E) development of new technology.

Subtitle B—Oil and Gas Demand Reduction and Substitution

SEC. 2021. GENERAL TRANSPORTATION. 42 USC 13431.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to reduce the demand for oil in the transportation sector for all motor vehicles, including existing vehicles, through increased energy efficiency and the use of alternative fuels. Such program shall include a broad range of technological approaches, and shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2022 through 2027, and ongoing activities of a similar nature at the Department of Energy.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) PROPOSALS.--Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(d) DEFINITION.—For purposes of this subtitle, the term "alternative fuels" includes natural gas, liquefied petroleum gas, hydrogen, fuels other than alcohol that are derived from biological materials, and any fuel the content of which is at least 85 percent by volume methanol, ethanol, or other alcohol.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all transportation sector energy conservation research and development (other than activities under section 2025) and all transportation sector biofuels energy systems under solar energy, $119,144,000 for fiscal year 1993 and $160,000,000 for fiscal year 1994.

(2) There are authorized to be appropriated to the Secretary for carrying out section 2025—
(A) $60,300,000 for fiscal year 1993;
(B) $75,000,000 for fiscal year 1994;
(C) $80,000,000 for fiscal year 1995;
(D) $80,000,000 for fiscal year 1996;
(E) $90,000,000 for fiscal year 1997; and
(F) $100,000,000 for fiscal year 1998.

SEC. 2022. ADVANCED AUTOMOTIVE FUEL ECONOMY. 42 USC 13432.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program, in accordance with sections 3001 and 3002 of this Act, to

supplement ongoing research activities of a similar nature at the Department of Energy, to accelerate the near-term and mid-term development of advanced technologies to improve the fuel economy of light-duty passenger vehicles powered by a piston engine, and hybrid vehicles powered by a combination of piston engine and electric motor.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to stimulate the development of emerging technologies with the potential to achieve significant improvements in fuel economy while reducing emissions of air pollutants.

(c) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section, making a special effort to involve small businesses in the program.

42 USC 13433.

SEC. 2023. ALTERNATIVE FUEL VEHICLE PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall carry out a program, in accordance with sections 3001 and 3002 of this Act, on techniques related to improving natural gas and other alternative fuel vehicle technology, including—

(1) fuel injection;
(2) carburetion;
(3) manifolding;
(4) combustion;
(5) power optimization;
(6) efficiency;
(7) lubricants and detergents;
(8) engine durability;
(9) ignition, including fuel additives to assist ignition;
(10) multifuel engines;
(11) emissions control, including catalysts;
(12) novel gas compression concepts;
(13) advanced storage systems;
(14) advanced gaseous fueling technologies; and
(15) the incorporation of advanced materials in these areas.

(b) COOPERATIVE AGREEMENTS AND ASSISTANCE.—The Secretary may enter into cooperative agreements with, and provide financial assistance to, public or private entities willing to provide 50 percent of the costs of a program to perform activities under subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "alternative fuel vehicle" means a motor vehicle that operates on alternative fuels; and

(2) the term "motor vehicle" includes any automobile, truck, bus, van, or other on-road or off-road motor vehicle, including a boat.

42 USC 13434.

SEC. 2024. BIOFUELS USER FACILITY.

(a) The Secretary shall establish a biofuels user facility to expedite industry adoption of biofuels technologies, including production of alcohol fuels from biomass.

(b) The Secretary, through such universities and colleges as the Secretary determines are qualified, shall establish a program, in accordance with sections 3001 and 3002 of this Act, with respect to the production and use of diesel fuels from vegetable oils or animal fats. The program shall investigate—

(1) the economic feasibility of production of oilseed crops for biofuels purposes; and

(2) the establishment of a mobile small-scale oilseed pressing and esterification unit and a stationary small-scale commercial oilseed pressing and esterification unit.

SEC. 2025. ELECTRIC MOTOR VEHICLES AND ASSOCIATED EQUIPMENT RESEARCH AND DEVELOPMENT. 42 USC 13435.

(a) GENERAL.—The Secretary shall conduct, pursuant to the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901–5920), a research and development program on electric motor vehicles and associated equipment. Such program shall be conducted in cooperation with the electric utility industry, and automobile industry, battery manufacturers, and such other persons as the Secretary considers appropriate.

(b) COMPREHENSIVE PLAN.—(1) The Secretary shall prepare a comprehensive 5-year program plan for carrying out the purposes of this section. Such comprehensive plan shall be updated annually for a period of not less than 10 years after the date of enactment of this Act.

(2) The comprehensive plan under paragraph (1) shall be prepared in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Transportation, the Secretary of Commerce, the heads of other appropriate Federal agencies, representatives of the electric utility industry, electric motor vehicle manufacturers, the United States automobile industry, and such other persons as the Secretary considers appropriate.

(3) The comprehensive plan shall include—

(A) a prioritization of research areas critical to the commercialization of electric motor vehicles, including advanced battery technology;

(B) the program elements, management structure, and activities, including program responsibilities, of Federal agencies;

(C) the program strategies, including technical milestones to be achieved toward specific goals during each fiscal year of the comprehensive plan for all major activities and projects;

(D) the estimated costs of individual program elements, including estimated costs for each of the fiscal years of the comprehensive plan for each of the participating Federal agencies;

(E) a description of the methods of technology transfer;

(F) a proposal for participation by non-Federal entities in the implementation of the comprehensive plan; and

(G) such other information as the Secretary considers appropriate.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall transmit the comprehensive plan to the Congress. Annual updates shall be submitted to the Congress.

(c) COOPERATIVE AGREEMENTS.—The Secretary, consistent with the comprehensive plan under subsection (b), may enter into cooperative agreements to conduct research and development projects with industry in such areas of technology development as—

(1) high efficiency electric power trains, including advanced motors, motor controllers, and hybrid power trains for electric motor vehicle range improvement;

(2) light-weight structures for electric motor vehicle weight reduction;

(3) advanced batteries with high energy density and power density, and improved range or recharging cycles for a given unit weight, for electric motor vehicle application;

(4) hybrid power trains incorporating an electric motor and recyclable battery charged by an onboard liquid fuel engine, designed to significantly improve fuel economies while maintaining acceleration characteristics comparable to a conventionally fueled vehicle;

(5) batteries and fuel cells for electric-hybrid vehicle application;

(6) fuel cells and fuel cell systems for primary electric motor vehicle power sources; and

(7) photovoltaics for use with electric motor vehicles.

(d) SOLICITATION OF PROPOSALS.—(1) Within one year after the date of enactment of this Act, the Secretary shall solicit proposals for cooperative agreements for research and development under subsection (c).

(2) Thereafter, the Secretary may solicit additional proposals for cooperative agreements under subsection (c) if, in the judgment of the Secretary, such cooperative agreements could contribute to the development of electric motor vehicles and associated equipment.

(e) COST-SHARING.—(1) The Secretary shall require at least 50 percent of the costs directly and specifically related to any cooperative agreement under this section, other than a cooperative agreement under subsection (j), to be from non-Federal sources. Such share may be in the form of cash, personnel, services, equipment, and other resources.

(2) The Secretary may reduce the amount of costs required to be provided by non-Federal sources under paragraph (1), if the Secretary determines that the reduction is necessary and appropriate—

(A) considering the technological risks involved in the project; and

(B) in order to meet the objectives of this section.

(f) DEPLOYMENT.—(1) The Secretary shall conduct a program designed to accelerate deployment of advanced battery technologies for use with electric motor vehicles.

(2) In carrying out the program authorized by this subsection, the Secretary shall—

(A) undertake an inventory and assessment of advanced battery technologies and electric motor vehicle technologies and the commercial capability of such technologies; and

(B) develop a Federal industry information exchange program to improve the deployment or use of such technologies, which may consist of workshops, publications, conferences, and a data base for use by the public and private sectors.

Regulations.

(g) DOMESTIC PARTS MANUFACTURERS.—In carrying out this section, the Secretary, in consultation with the Secretary of Commerce, shall issue regulations to ensure that the procurement practices of participating electric motor vehicle and associated equipment manufacturers do not discriminate against the United States manufacturers of vehicle parts.

(h) HOLD HARMLESS.—Nothing in this section shall be construed to alter, affect, modify, or change any activities or agreements initiated prior to the date of enactment of this Act with domestic

motor vehicle manufacturers through joint venture or consortium agreements regarding batteries for electric motor vehicles.

(i) CONSULTATION.—The Secretary shall consult with the Administrator of the Environmental Protection Agency and the Secretary of Transportation in carrying out this section.

(j) FUEL CELLS FOR TRANSPORTATION.—(1) The Secretary shall develop and implement a comprehensive program of research, development, and demonstration of fuel cells and related systems for transportation applications through the establishment of one or more cooperative programs among industry, government, and research institutions to develop and demonstrate the use of fuel cells as the primary power source for private and mass transit vehicles and other mobile applications.

(2) Research, development, and demonstration activities under this subsection shall be designed to incorporate one or more of the following priorities:

(A) The potential for near-term to mid-term commercialization.

(B) The ability of the systems to use a variety of renewable and nonfossil fuels.

(C) Emission reduction and energy conservation potential.

(D) The potential to utilize fuel cells and fuel cell systems developed under Department of Defense and National Aeronautics and Space Administration programs.

(E) The potential to take maximum practical advantage of advances made in electric motor vehicle research, stationary source fuel cell research, and other research activities authorized by this title.

(3)(A) Research, development, and demonstration projects selected by the Secretary under this subsection shall apply to—

(i) passenger vehicles;

(ii) vans and utility vehicles;

(iii) light rail systems and locomotives;

(iv) trucks, including long-haul trucks, dump trucks, and garbage trucks;

(v) passenger buses;

(vi) non-chlorofluorocarbon mobile refrigeration systems;

(vii) marine vessels, including recreational marine engines; or

(viii) mobile engines and power generation, including recreational generators, and industrial and construction equipment.

(B) The Secretary shall establish programs to undertake research, development, and demonstration activities for the applications listed in clauses (i) through (viii) of subparagraph (A) in each of fiscal years 1993, 1994, 1995, and 1996, based on the priorities established in paragraph (2), so that by the end of the period, research, development, and demonstration activities are under way for the applications under each such clause. The initiatives authorized and implemented pursuant to this subsection shall be in addition to any other fuel cell programs authorized in existing law.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "advanced battery technology" means electrochemical storage devices and systems, including fuel cells, and associated technology necessary to charge, discharge, recharge,

or regenerate such devices, for use as a source of power for an electric motor vehicle and any other associated equipment;

(2) the term "associated equipment" means equipment necessary for the regeneration, refueling, or recharging of batteries or other forms of electric energy used to power an electric motor vehicle and, in the case of electric-hybrid vehicles, such term includes nonpetroleum-related equipment necessary for, and solely related to, the demonstration of such vehicles;

(3) the term "electric motor vehicle" means a motor vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, photovoltaic arrays, or other sources of electric current and may include an electric-hybrid vehicle; and

(4) the term "electric-hybrid vehicle" means vehicle primarily powered by an electric motor that draws current from rechargeable storage batteries, fuel cells, or other sources of electric current and also relies on a nonelectric source of power that also operates on or is capable of operating on a nonelectrical source of power.

42 USC 13436.

SEC. 2026. RENEWABLE HYDROGEN ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on renewable hydrogen energy systems. Such program shall be conducted in accordance with the Spark M. Matsunaga Hydrogen Research, Development, and Demonstration Act of 1990 (Public Law 101-566), to supplement ongoing activities of a similar nature at the Department of Energy, including—

(1) at least one program to generate hydrogen from renewable energy sources;

(2) at least one program to assess the feasibility of existing natural gas pipelines carrying hydrogen gas, including experimentation if needed, with a goal of determining those components of the natural gas distribution system that would have to be modified to carry—

(A) more than 20 percent hydrogen mixed with natural gas; and

(B) pure hydrogen gas;

(3) at least one program to develop a hydrogen storage system suitable for electric motor vehicles powered by fuel cells, with emphasis on—

(A) improved metal hydride hydrogen storage;

(B) activated carbon-based hydrogen storage;

(C) high pressure compressed hydrogen; or

(D) other novel hydrogen storage techniques;

(4) at least one program to develop a fuel cell suitable to power an electric motor vehicle; and

(5) such other programs as the Secretary considers necessary to carry out this section.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

42 USC 13437.

SEC. 2027. ADVANCED DIESEL EMISSIONS PROGRAM.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, on diesel engine combustion and engine systems, related advanced materials, and fuels and lubricants to reduce emissions oxides of

nitrogen and particulates. Activities conducted under this program shall supplement activities of a similar nature at the Department of Energy. Such program shall include field demonstrations of sufficient scale and number in operating environments to prove technical and economic viability to meet the goal stated in subsection (b).

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to accelerate the ability of United States diesel manufacturers to meet current and future oxides of nitrogen and particulate emissions requirements.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. Such plan shall be included as part of the plan required by section 2021(b).

(d) SOLICITATION OF PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan.

SEC. 2028. TELECOMMUTING STUDY. 42 USC 13438.

(a) STUDY.—The Secretary, in consultation with the Secretary of Transportation, shall conduct a study of the potential costs and benefits to the energy and transportation sectors of telecommuting. The study shall include—

(1) an estimation of the amount and type of reduction of commuting by form of transportation type and numbers of commuters;

(2) an estimation of the potential number of lives saved;

(3) an estimation of the reduction in environmental pollution, in consultation with the Environmental Protection Agency;

(4) an estimation of the amount and type of reduction of energy use and savings by form of transportation type; and

(5) an estimation of the social impact of widespread use of telecommuting.

(b) This study shall be completed no more than one hundred and eighty days after the date of enactment of this Act. A report, summarizing the results of the study, shall be transmitted to the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate no more than sixty days after completion of this study. Reports.

TITLE XXI—ENERGY AND ENVIRONMENT

Subtitle A—Improved Energy Efficiency

SEC. 2101. GENERAL IMPROVED ENERGY EFFICIENCY. 42 USC 13451.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on cost effective technologies to improve energy efficiency and increase the use of renewable energy in the buildings, industrial, and utility sectors. Such program shall include a broad range of

technological approaches, and shall include field demonstrations of sufficient scale and number to prove technical and economic viability to meet the goals stated in section 2001. Such program shall include the activities required under sections 2102, 2103, 2104, 2105, 2106, 2107, and 2108 and ongoing activities of a similar nature at the Department of Energy. Such program shall also include the activities conducted pursuant to the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 (Public Law 100–680) and the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101–425).

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) in the buildings sector—

(A) to accelerate the development of technologies that will increase energy efficiency;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts;

(2) in the industrial sector—

(A) to accelerate the development of technologies that will increase energy efficiency in order to improve productivity;

(B) to increase the use of renewable energy; and

(C) to reduce environmental impacts; and

(3) in the utility sector—

(A) to accelerate the development of technologies that will increase energy efficiency; and

(B) to increase the use of integrated resource planning.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide activities under this subtitle. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, utilities, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this subtitle, including all building, industry, and utility sectors energy conservation research and development, and inventions and innovation under energy conservation technical and financial assistance, $178,250,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

42 USC 13452.

SEC. 2102. NATURAL GAS AND ELECTRIC HEATING AND COOLING TECHNOLOGIES.

(a) PROGRAM DIRECTION.—(1) The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on energy efficient natural gas and electric heating and cooling technologies for residential and commercial buildings.

(2) The natural gas heating and cooling program shall include activities on—

(A) thermally activated heat pumps, including absorption heat pumps and engine-driven heat pumps; and

(B) other advanced natural gas technologies, including fuel cells for residential and commercial applications.

(3) The electric heating and cooling program shall focus on—

(A) advanced heat pumps;

(B) thermal storage; and

(C) advanced electric HVAC (heating, ventilating, and air conditioning) and refrigeration systems that utilize replacements for chlorofluorocarbons.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2103. PULP AND PAPER. 42 USC 13453.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on advanced pulp and paper technologies. Such program shall include activities on energy generation technologies, boilers, combustion processes, pulping processes (excluding de-inking), chemical recovery, causticizing, source reduction processes, and other related technologies that can improve the energy efficiency of, and reduce the adverse environmental impacts of, pulp and papermaking operations. This section does not authorize projects involving the combustion of waste paper, other than gasification.

(b) PROPOSALS.—Within 180 days after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

SEC. 2104. ADVANCED BUILDINGS FOR 2005. 42 USC 13454.

(a) PROGRAM DIRECTION.—The Secretary shall initiate a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase building energy efficiency, while maintaining affordability, by the year 2005. Such program shall include activities on—

(1) building design, design methods, and construction techniques;

(2) building materials, including recycled materials, and components;

(3) on-site energy supply conversion systems such as photovoltaics;

(4) automated energy management systems;

(5) methods of evaluating performance; and

(6) insulation products manufactured with nonozone depleting materials.

(b) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include and be judged upon—

(A) evidence of knowledge of current building practices in the United States and in other countries;

(B) an explanation of how the proposal will encourage the commercialization of the technologies resulting from activities in subsection (a);

(C) evidence of consideration of collaboration with Department of Energy national laboratories;

(D) evidence of collaboration with relevant industry or other groups or organizations; and

(E) a demonstration of the ability of the proposers to undertake and complete the project proposed.

42 USC 13455.

SEC. 2105. ELECTRIC DRIVES.

(a) PROGRAM.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to increase the efficiency of electric drive technologies, including adjustable speed drives, high speed motors, and high efficiency motors.

(b) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for projects under this section.

SEC. 2106. STEEL, ALUMINUM, AND METAL RESEARCH.

(a) STEEL AMENDMENTS.—The Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988 is amended—

15 USC 5103.

(1) in section 4(b)(5), by striking "Industrial Programs" and inserting in lieu thereof "Industrial Technologies";

15 USC 5107.

(2) in section 8, by inserting at the end the following new sentence: "The reports submitted at the close of fiscal years 1993, 1995, and 1997 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.";

15 USC 5108.

(3) in section 9(a)(1), by striking "and $25,000,000 for fiscal year 1991" and inserting in lieu thereof "$25,000,000 for fiscal year 1991, $17,968,000 for fiscal year 1992, and $18,091,000 for each of the fiscal years 1993 through 1997, to be derived from sums authorized under section 2101(e) of the Energy Policy Act of 1992";

(4) in section 9(b), by striking "and 1991" and inserting in lieu thereof "1991, 1992, 1993, 1994, 1995, 1996, and 1997, to be derived from sums otherwise authorized to be appropriated to the Institute"; and

15 USC 5110.

(5) in section 11(a), by striking "or fiscal year 1991" both places it appears and inserting in lieu thereof "fiscal year 1991, fiscal year 1992, fiscal year 1993, fiscal year 1994, fiscal year 1995, fiscal year 1996, and fiscal year 1997".

(b) METAL CASTING AMENDMENT.—Section 8 of the Department of Energy Metal Casting Competitiveness Research Act of 1990 (Public Law 101–425) is amended by striking "and 1993" and inserting in lieu thereof "1993, 1994, 1995, 1996, and 1997, to be derived from such sums as are otherwise authorized under section 2101(e) of the Energy Policy Act of 1992".

15 USC 5307.

42 USC 13456.

SEC. 2107. IMPROVING EFFICIENCY IN ENERGY-INTENSIVE INDUSTRIES.

(a) SECRETARIAL ACTION.—The Secretary, in accordance with sections 3001 and 3002 of this Act, shall—

(1) pursue a research, development, demonstration and commercial application program intended to improve energy efficiency and productivity in energy-intensive industries and industrial processes; and

(2) undertake joint ventures to encourage the commercialization of technologies developed under paragraph (1).

(b) JOINT VENTURES.—(1) The Secretary shall—

(A) conduct a competitive solicitation for proposals from private firms and investors for such joint ventures under subsection (a)(2); and

(B) provide financial assistance to at least five such joint ventures.

(2) The purpose of the joint ventures shall be to design, test, and demonstrate changes to industrial processes that will result in improved energy efficiency and productivity. The joint ventures may also demonstrate other improvements of benefit to such industries so long as demonstration of energy efficiency improvements is the principal objective of the joint venture.

(3) In evaluating proposals for financial assistance and joint ventures under this section, the Secretary shall consider—

(A) whether the activities conducted under this section improve the quality and energy efficiency of industries or industrial processes;

(B) the regional distribution of the energy-intensive industries and industrial processes; and

(C) whether the proposed joint venture project would be located in the region which has the energy-intensive industry and industrial processes that would benefit from the project.

SEC. 2108. ENERGY EFFICIENT ENVIRONMENTAL PROGRAM. 42 USC 13457.

(a) PROGRAM DIRECTION.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, is authorized to continue to carry out a 5-year program to improve the energy efficiency and cost effectiveness of pollution prevention technologies and processes, including source reduction and waste minimization technologies and processes. The purposes of this section shall be to—

(1) apply a systems approach to minimizing adverse environmental effects of industrial production in the most cost effective and energy efficient manner; and

(2) incorporate consideration of the entire materials and energy cycle with the goal of minimizing adverse environmental impacts.

(b) IDENTIFICATION OF OPPORTUNITIES.—Within 9 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall identify opportunities for the demonstration of energy efficient pollution prevention technologies and processes.

(c) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall submit a report to Congress evaluating the opportunities identified under subsection (b). Such report shall include—

(1) an assessment of the technologies available to increase productivity and simultaneously reduce the consumption of energy and material resources and the production of wastes;

(2) an assessment of the current use of such technologies by industry in the United States;

(3) the status of any such technologies currently being developed, together with projected schedules of their commercial availability;

(4) the energy savings resulting from the use of such technologies;

(5) the environmental benefits of such technologies;

(6) the costs of such technologies;

(7) an evaluation of any existing Federal or State regulatory disincentives for the employment of such technologies; and

(8) an evaluation of any other barriers to the use of such technologies.

In preparing the report required by this subsection, the Secretary shall consult with the Administrator of the Environmental Protection Agency, any other Federal, State, or local official the Secretary considers necessary, representatives of appropriate industries, members of organizations formed to further the goals of environmental protection or energy efficiency, and other appropriate interested members of the public, as determined by the Secretary.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall solicit proposals for activities under this section. Proposals selected under this subsection shall demonstrate—

(1) technical viability and cost effectiveness; and

(2) procedures for technology transfer and information outreach during and after completion of the project.

Subtitle B—Electricity Generation and Use

42 USC 13471.

SEC. 2111. RENEWABLE ENERGY.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a comprehensive 5-year program, in accordance with sections 3001 and 3002 of this Act, to provide cost-effective options for the generation of electricity from renewable energy sources for grid and nongrid application, including field demonstrations of sufficient scale and number in operating environments to prove technical and economic feasibility for providing cost effective generation and for meeting the goal stated in section 2001(3) and section 1602(a)(4).

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section, including all solar energy programs (other than activities under section 2021), geothermal systems, electric energy systems, and energy storage systems, $208,975,000 for fiscal year 1993 and $275,000,000 for fiscal year 1994.

42 USC 13472.

SEC. 2112. HIGH EFFICIENCY HEAT ENGINES.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, to improve the efficiency of heat engines. Such program shall—

(1) include field demonstrations of sufficient scale and number so as to demonstrate technical and economic feasibility;

(2) incorporate materials that increase engine efficiency; and

(3) cover advanced engine designs for electric and industrial power generation for a range of small-, mid-, and large-scale applications, including—

(A) mechanically recuperated gas turbines;

(B) intercooled gas turbines with steam injection or recuperation;

(C) gas turbines utilizing reformed fuels or hydrogen; and

(D) high efficiency, simple cycle gas turbines.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) shall be to develop heat engines that can achieve over 50 percent efficiency in the mid-term.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan, to be included in the plan required under section 2101(c), to guide the activities under this section. In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including the Environmental Protection Agency and national laboratories, and professional and technical societies.

(d) PROPOSALS.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary to be derived from sums authorized under section 2101(e).

SEC. 2113. CIVILIAN NUCLEAR WASTE. 42 USC 13473.

(a) STUDY.—The Secretary shall conduct a study of the potential for minimizing the volume and toxic lifetime of nuclear waste, including an analysis of the viability of existing technologies and an assessment of the extent of research and development required for new technologies.

(b) PROGRAM.—Based on the results of the study required under subsection (a), the Secretary shall prepare and submit to Congress a 5-year program plan for carrying out a program of research and development on new technologies for minimizing the volume and toxic lifetime of, and thereby mitigating hazards associated with, nuclear waste.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $4,700,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2114. FUSION ENERGY. 42 USC 13474.

(a) PROGRAM.—The Secretary shall conduct a fusion energy 5-year program, in accordance with sections 3001 and 3002 of this Act, that by the year 2010 will result in a technology demonstration which verifies the practicability of commercial electric power production.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) a broad based fusion energy program;

(2) United States participation in the Engineering Design Activity of the International Thermonuclear Experimental Reactor (ITER) program and in the related research and technology development efforts;

(3) the development of technology for fusion power and industrial participation in the development of such technology;

(4) the design and construction of a major new machine for fusion research and technology development consistent with paragraphs (2) and (3); and

(5) research and development for Inertial Confinement Fusion Energy and development of a Heavy Ion Inertial Confinement Fusion experiment.

(c) MANAGEMENT PLAN.—(1) Within 180 days after the date of enactment of this Act, the Secretary shall prepare a comprehensive management plan for the fusion energy program. The plan shall include specific program objectives, milestones and schedules for technology development, and cost estimates and program management resource requirements.

(2) The plan shall also include a description of—

(A) United States participation in the Engineering Design Activity of ITER, including industrial participation;

(B) potential United States participation in the construction and operation of an ITER facility; and

(C) the requirements needed to build and test an inertial fusion energy reactor for the purpose of power production.

(3) As part of the plan required under paragraph (1), the Secretary shall evaluate the status of international fusion programs and evaluate whether the Federal Government should initiate efforts to strengthen existing international cooperative agreements in fusion energy or enter into new cooperative agreements to accomplish the purposes of this section.

(4) The plan shall also evaluate the extent to which university or private sector participation is appropriate or necessary in order to carry out the purposes of this section.

(5) Within 1 year after the date of enactment of this Act, and every 2 years thereafter, the Secretary shall issue a report describing the progress made in meeting the program objectives, milestones, and schedules established in the management plan. Each such report shall also describe the organization of the program, the personnel assigned and funds committed to the program, and expenditures made in carrying out the program objectives. The report shall be submitted with the plan required under section 2304.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $339,710,000 for fiscal year 1993 and $380,000,000 for fiscal year 1994.

42 USC 13475.

SEC. 2115. FUEL CELLS.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a 5-year program, in accordance with sections 3001 and 3002 of this Act, on efficient and environmentally benign power generation using fuel cells. The program may include activities on molten carbonate, solid oxide, including tubular, monolithic, and planar technologies, and advanced concepts.

(b) PROGRAM GOAL.—The goal of the program established under subsection (a) is the development of cost-effective, efficient, and environmentally benign fuel cell systems which will operate on fossil fuels in multiple end use sectors.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $51,555,000 for fiscal year 1993 and $56,000,000 for fiscal year 1994.

SEC. 2116. ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT PROGRAM. 42 USC 13476.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for fiscal year 1993 $70,000,000 for the Fast Flux Test Facility to maintain the operational status of the reactor, such sums to be derived from amounts appropriated to the Secretary for the environmental restoration and waste management program.

(b) LONG-TERM MISSIONS.—The Secretary shall aggressively pursue the development and implementation of long-term missions for the Fast Flux Test Facility. Within 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the progress made in carrying out this subsection. Reports.

SEC. 2117. HIGH-TEMPERATURE SUPERCONDUCTIVITY PROGRAM. 42 USC 13477.

(a) PROGRAM.—The Secretary shall carry out a 5-year program, in accordance with sections 3001 and 3002 of this Act, on high-temperature superconducting electric power equipment technologies. Elements of the program shall include, but are not limited to—

(1) activities that address the development of high-temperature superconducting materials that have increased electrical current capacity, which shall be the emphasis of the program for the near-term;

(2) the development of prototypes, where appropriate, of the major elements of a superconducting electric power system such as motors, generators, transmission lines, transformers, and magnetic energy storage systems;

(3) activities that will improve the efficiency of materials performance of higher temperatures and at all magnetic field orientations;

(4) development of prototypes based on high-temperature superconducting wire, that operate at the highest temperature possible, and refrigeration systems using cryogenics such as nitrogen;

(5) activities that will assist the private sector with designs for more efficient electric power generation and delivery systems which are cost competitive with conventional energy systems; and

(6) development of prototypes that have application in both the commercial and defense sectors.

The Secretary is also encouraged to expedite government, laboratory, industry, and university collaborative agreements under existing mechanisms at the Department of Energy in coordination with other Federal agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section $21,900,000 for fiscal year 1993 and such sums as may be necessary for subsequent fiscal years, to be derived from sums authorized under section 2111(c).

SEC. 2118. ELECTRIC AND MAGNETIC FIELDS RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAM. 42 USC 13478.

(a) PROGRAM.—The Secretary shall, in accordance with this section (including the agenda developed under subsection (d)(1)(A)) and within 2 months after the date of the enactment of this Act, establish a comprehensive program to—

(1) determine whether or not exposure to electric and magnetic fields produced by the generation, transmission, and use of electric energy affects human health;

(2) carry out research, development, and demonstration with respect to technologies to mitigate any adverse human health effects; and

(3) provide for dissemination of information described in subsection (b)(1) to the public.

(b) CONTENTS.—The program shall provide for—

(1) collection, compilation, publication, and dissemination of scientifically valid information on—

(A) possible human health effects of electric and magnetic fields;

(B) the types and extent of human exposure to electric and magnetic fields in various occupational and residential settings;

(C) technologies to measure and characterize electric and magnetic fields; and

(D) methods to assess and manage exposure to electric and magnetic fields;

(2)(A) research on mechanisms by which electric and magnetic fields interact with biological systems; and

(B) epidemiological research on the possible human health effects of electric and magnetic fields; and

(3) research, development, and demonstration with respect to—

(A) technologies to improve the measurement and characterization of electric and magnetic fields; and

(B) techniques to assess and manage exposure to electric and magnetic fields.

(c) ROLE OF THE DIRECTOR.—

(1) ROLE OF THE DIRECTOR.—The Secretary of Health and Human Services, acting through the Director, shall have sole responsibility under the program for research on possible human health effects of electric and magnetic fields. The Director may delegate this responsibility to the extent the Director determines appropriate.

(2) AGREEMENT.—Within 6 months after the date of the enactment of this Act, the Secretary shall enter into an agreement with the Secretary of Health and Human Services to carry out, through the Director, the information activities under subsection (b)(1)(A) and the research under subsection (b)(2).

(3) ACTIONS OF THE DIRECTOR.—The actions of the Director in carrying out research and information responsibilities under this section shall not be subject to approval by the Secretary.

(4) TRANSFER OF FUNDS.—The Secretary is authorized, subject to appropriations Acts, to transfer funds to the Director to carry out the Director's responsibilities under paragraph (2).

(5) REPORT.—The Director shall report, by June 1, 1995, and by March 31, 1997, and as appropriate, to the Interagency Committee established under subsection (d) and to Congress the findings and conclusions of the Director on the extent to which exposure to electric and magnetic fields produced by the generation, transmission, or use of electric energy affects human health.

(d) INTERAGENCY COMMITTEE.—

(1) The President shall, within 2 months after the date of the enactment of this Act, establish the Electric and Magnetic Fields Interagency Committee to— Establishment.

(A) develop within 8 months after the date of the enactment of this Act a comprehensive agenda for conducting research, development, and demonstration under the program, with particular emphasis on electric and magnetic fields of the 60 hertz frequency;

(B) develop recommendations, within 8 months after the date of the enactment of this Act, for guidelines for the coordination of activities of Federal agencies engaged in research on human health effects of electric and magnetic fields that ensure that such research advances the agenda under subparagraph (A) and is not unnecessarily duplicative of other research activities;

(C) develop recommendations, within 8 months after the date of the enactment of this Act, for mechanisms for communication of the results of the program to the public, including recommendations on the scope and nature of the information to be disseminated; and

(D) monitor, review and periodically evaluate the program.

(2)(A) The Interagency Committee shall be composed of 9 members with 1 member to be appointed from each of the following:

(i) The Department of Energy.

(ii) The National Institute of Environmental Health Sciences.

(iii) The Environmental Protection Agency.

(iv) The Department of Defense.

(v) The Occupational Safety and Health Administration.

(vi) The National Institute of Standards and Technology.

(vii) The Department of Transportation.

(viii) The Rural Electrification Administration.

(ix) The Federal Energy Regulatory Commission.

(B) The Interagency Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Interagency Committee are carried out.

(C) Agencies that have members on the Interagency Committee shall provide appropriate staff to carry out the duties of the Interagency Committee.

(e) ADVISORY COMMITTEE.—

(1) Not later than 2 months after the date of the enactment of this Act, the Secretary of Health and Human Services and the Secretary shall establish the National Electric and Magnetic Fields Advisory Committee in accordance with the Federal Advisory Committee Act and this section.

(2) The Advisory Committee shall make recommendations to the Interagency Committee with respect to the duties of the Interagency Committee under subsection (d)(1) and advise the Secretary and the Director with respect to the design and implementation of the program, including preparation of solicitations for proposals to conduct research under the program.

(3) The Advisory Committee shall be composed of 10 members, chosen from among experts in possible human health

effects of electric and magnetic fields, experts in the measurement and characterization of electric and magnetic fields, experts in the assessment and management of electric and magnetic fields, State regulatory agencies, State health agencies, electric utilities, electric equipment manufacturers, labor unions and the public. Five members shall be chosen by the Secretary of Health and Human Services in consultation with the Director, and 5 members shall be chosen by the Secretary.

(4) The Advisory Committee shall elect a chairperson from among its members who shall be responsible for ensuring that the duties of the Advisory Committee are carried out.

Termination date.

(5) The Advisory Committee shall terminate not later than December 31, 1997.

(f) FINANCIAL ASSISTANCE.—

Contracts.

(1) The Secretary and the Director may provide financial assistance and enter into contracts to conduct activities under the program.

(2) The Secretary shall solicit contributions from non-Federal sources to offset at least 50 percent of the total funding for all activities under the program. The Secretary shall adopt procedures, including a mechanism for collecting contributions, that ensures that no contributor of non-Federal funds may influence the program.

(3) The Secretary may not obligate funds under this section in any fiscal year unless funds received from non-Federal sources under paragraph (2) are available to offset at least 50 percent of the appropriations made under subsection (j) for such fiscal year.

(4) SOLICITATION AND SELECTION OF PROPOSALS.—

(A) IN GENERAL.—Within 15 months after the date of the enactment of this Act, and as often thereafter as appropriate, the Secretary and the Director shall, in consultation with the Interagency Committee, solicit and select proposals to conduct activities under the program.

(B) CONSULTATION WITH ADVISORY COMMITTEE.—In preparing solicitations for proposals to conduct activities, the Secretary and the Director shall consult with the Advisory Committee.

(C) PEER REVIEW PANELS.—Before a proposal to conduct activities under the program may be selected by the Secretary or the Director, such proposal must be submitted to, and evaluated by, at least one scientific and technical peer review panel.

(g) REPORTS.—

(1) REPORT UPON COMPLETION OF ACTIVITY.—Any person who conducts activities under the program shall, upon completion of the activity, submit to the National Academy of Sciences, the Interagency Committee, and the Advisory Committee a report summarizing the activities and results thereof.

(2) REPORT TO INTERAGENCY COMMITTEE AND ADVISORY COMMITTEE.—The Secretary shall enter into appropriate arrangements with the National Academy of Sciences under which the Academy shall periodically submit to the Interagency Committee and the Advisory Committee a report that evaluates the research activities under the program. The report shall include recommendations to promote the effective transfer of information derived from such research projects, including the

transfer to representatives of State regulatory agencies, State health agencies, electric utilities, electrical equipment manufacturers, labor unions, and the public. The Secretary shall be responsible for expenses incurred by the Academy in connection with the preparation of such reports.

(3) REPORT TO CONGRESS.—The Interagency Committee, in consultation with the Advisory Committee, shall submit to the Secretary and the Congress—

(A) not later than December 31, 1995, a report summarizing the progress of the research program established under this subsection; and

(B) not later than September 30, 1997, a final report stating the Committee's findings and conclusions on the effects, if any, of electric and magnetic fields on human health and remedial actions, if any, that may be needed to minimize any such health effects.

(h) CONFLICTS OF INTEREST.—The Secretary and the Director shall include conflict of interest provisions in any grant or other funding provided, or contract entered into, under the research program established under this section including provisions—

(1) that require any person conducting a project under such program to disclose any other source of funding received by the person to conduct other related projects, including funding received from consulting on issues relating to electric and magnetic fields; and

(2) that prohibit a person who has been awarded a grant or contract under this program from receiving compensation beyond expenses for testifying in a court of law as an expert on the specific research the person is conducting under such grant or contract.

(i) DEFINITIONS.—For purposes of this section:

(1) The term "Advisory Committee" means the National Electric and Magnetic Fields Advisory Committee established under subsection (e).

(2) The term "Interagency Committee" means the Electric and Magnetic Fields Interagency Committee established under subsection (d).

(3) The term "Director" means the Director of the National Institute of Environmental Health Sciences.

(4) The term "program" means the electric and magnetic fields research and public information dissemination program established in subsection (a).

(5) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other commonwealth, territory, or possession of the United States.

(j) AUTHORIZATION OF APPROPRIATIONS.—

(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to the Secretary a total of $65,000,000 for the period encompassing fiscal years 1993 through 1997 to carry out the provisions of this section, except that not more than $1,000,000 may be expended in any such fiscal year for activities under subsection (b)(1). Any amounts appropriated pursuant to this paragraph shall remain available until expended.

(2) RESTRICTIONS ON USE OF FUNDS.—

(A) ADMINISTRATIVE EXPENSES OF CERTAIN FUNDING RECIPIENTS.—Of the total funds provided to any institution under this section, the amount of such funds that may be used for the administrative indirect costs of the institution may not exceed 26 percent of the modified direct costs of the project.

(B) ADMINISTRATIVE EXPENSES OF THE SECRETARY AND THE DIRECTOR.—Of the total amount of funds made available under this section for any fiscal year, not more than 10 percent of such funds may be used for authorized administrative expenses of the Secretary and the Director in carrying out this section.

(C) CONSTRUCTION AND REHABILITATION OF FACILITIES AND EQUIPMENT.—Funds made available under this section may not be used for the construction or rehabilitation of facilities or fixed equipment.

(k) SENSE OF CONGRESS.—It is the sense of the Congress that remedial action taken by the Government on electric and magnetic fields, if and as necessary, should be based on, and consistent with, scientifically valid research such as the results and findings of the research authorized by this Act.

(l) SUNSET PROVISION.—All authority under this section shall expire on December 31, 1997.

Hawaii.
42 USC 13479.

SEC. 2119. SPARK M. MATSUNAGA RENEWABLE ENERGY AND OCEAN TECHNOLOGY CENTER.

(a) FINDINGS.—The Congress finds that—

(1) the late Spark M. Matsunaga, United States Senator from Hawaii, was a longstanding champion of research and development of renewable energy, particularly wind and ocean energy, photovoltaics, and hydrogen fuels;

(2) it was Senator Matsunaga's vision that renewable energy could provide a sustained source of non-polluting energy and that such forms of alternative energy might ultimately be employed in the production of liquid hydrogen as a transportation fuel and energy storage medium available as an energy export;

(3) Senator Matsunaga also believed that research on other aspects of renewable energy and ocean resources, such as advanced materials, could be crucial to full development of energy storage and conversion systems; and

(4) Keahole Point, Hawaii is particularly well-suited as a site to conduct renewable energy and associated marine research.

(b) PURPOSE.—It is the purpose of this section to establish the facilities and equipment located at Keahole Point, Hawaii as a cooperative research and development facility, to be known as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center.

(c) ESTABLISHMENT.—The facilities and equipment located at Keahole Point, Hawaii are established as the Spark M. Matsunaga Renewable Energy and Ocean Technology Center (in this section referred to as the "Center").

(d) ADMINISTRATION.—(1) Not later than 180 days after the date of enactment of this Act, the Secretary may authorize a cooperative agreement with a qualified research institution to administer the Center.

(2) For the purpose of paragraph (1), a qualified research institution is a research institution located in the State of Hawaii that has demonstrated competence and will be the lead organization in the State in renewable energy and ocean technologies.

(e) ACTIVITIES.—The Center may carry out research, development, educational, and technology transfer activities on—

(1) renewable energy;

(2) energy storage, including the production of hydrogen from renewable energy;

(3) materials applications related to energy and marine environments;

(4) other environmental and ocean research concepts, including sea ranching and global climate change; and

(5) such other matters as the Secretary may direct.

(f) MATCHING FUNDS.—To be eligible for Federal funds under this section, the Center must provide funding in cash or in kind from non-Federal sources for each amount provided by the Secretary.

(g) AUTHORIZATION.—There is authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2111(c).

Subtitle C—Advanced Nuclear Reactors

SEC. 2121. PURPOSES AND DEFINITIONS. 42 USC 13491.

(a) PURPOSES.—The purposes of this subtitle are—

(1) to require the Secretary to carry out civilian nuclear programs in a way that will lead toward the commercial availability of advanced nuclear reactor technologies; and

(2) to authorize such activities to further the timely availability of advanced nuclear reactor technologies, including technologies that utilize standardized designs or exhibit passive safety features.

(b) DEFINITIONS.—For purposes of this subtitle—

(1) the term "advanced nuclear reactor technologies" means—

(A) advanced light water reactors that may be commercially available in the near-term, including but not limited to mid-sized reactors with passive safety features for the generation of commercial electric power from nuclear fission; and

(B) other advanced nuclear reactor technologies that may require prototype demonstration prior to commercial availability in the mid- or long-term, including but not limited to high-temperature, gas-cooled reactors and liquid metal reactors, for the generation of commercial electric power from nuclear fission;

(2) the term "Commission" means the Nuclear Regulatory Commission;

(3) the term "standardized design" means a design for a nuclear power plant that may be utilized for a multiple number of units or a multiple number of sites; and

(4) the term "certification" means approval by the Commission of a standardized design.

42 USC 13492.

SEC. 2122. PROGRAM, GOALS, AND PLAN.

(a) PROGRAM DIRECTION.—The Secretary shall conduct a program to encourage the deployment of advanced nuclear reactor technologies that to the maximum extent practicable—

(1) are cost effective in comparison to alternative sources of commercial electric power of comparable availability and reliability, taking into consideration life cycle environmental costs;

(2) facilitate the design, licensing, construction, and operation of a nuclear powerplant using a standardized design;

(3) exhibit enhanced safety features; and

(4) incorporate features that advance the objectives of the Nuclear Non-Proliferation Act of 1978.

(b) PROGRAM GOALS.—The goals of the program established under subsection (a) shall include—

(1) for the near-term—

(A) to facilitate the completion, by September 30, 1996, for certification by the Commission, of standardized advanced light water reactor technology designs that the Secretary determines have the characteristics described in subsection (a) (1) through (4);

(B) to facilitate the completion of submissions, by September 30, 1996, for preliminary design approvals by the Commission of standardized designs for the modular high-temperature gas-cooled reactor technology and the liquid metal reactor technology; and

(C) to evaluate by September 30, 1996, actinide burn technology to determine if it can reduce the volume of long-lived fission byproducts;

(2) for the mid-term—

(A) to facilitate increased efficiency of enhanced safety, advanced light water reactors to produce electric power at the lowest cost to the customer;

(B) to develop advanced reactor concepts that are passively safe and environmentally acceptable; and

(C) to complete necessary research and development on high-temperature gas-cooled reactor technology and liquid metal reactor technology to support the selection, by September 30, 1998, of one or both of those technologies as appropriate for prototype demonstration; and

(3) for the long-term, to complete research and development and demonstration to support the design of advanced reactor technologies capable of providing electric power to a utility grid as soon as practicable but no later than the year 2010.

(c) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a 5-year program plan to guide the activities under this section. The program plan shall include schedule milestones, Federal funding requirements, and non-Federal cost sharing requirements. In preparing the program plan, the Secretary shall take into consideration—

(1) the need for, and the potential for future adoption by electric utilities or other entities of, advanced nuclear reactor technologies that are available, under development, or have the potential for being developed, for the generation of energy from nuclear fission;

(2) how the Federal Government, acting through the Secretary, can be effective in ensuring the availability of such technologies when they are needed;

(3) how the Federal Government can most effectively cooperate with the private sector in the accomplishment of the goals set forth in subsection (b); and

(4) potential alternative funding sources for carrying out this section.

In preparing the program plan, the Secretary shall consult with appropriate representatives of industry, institutions of higher education, Federal agencies, including national laboratories, and professional and technical societies. The Secretary shall update the program plan annually and submit such update to Congress. Each such update shall describe any activities that are behind schedule, any funding shortfalls, and any other circumstances that might affect the ability of the Secretary to meet the goals set forth in subsection (b).

SEC. 2123. COMMERCIALIZATION OF ADVANCED LIGHT WATER REACTOR TECHNOLOGY. 42 USC 13493.

(a) CERTIFICATION OF DESIGNS.—In order to achieve the goal of certification of completed standardized designs by the Commission by 1996 as set forth in section 2122(b), the Secretary shall conduct a 5-year program of technical and financial assistance to encourage the development and submission for certification of advanced light water reactor designs which, in the judgment of the Secretary, can be certified by the Commission by no later than the end of fiscal year 1996.

(b) FIRST-OF-A-KIND ENGINEERING.—

(1) ESTABLISHMENT OF PROGRAM.—The Secretary shall conduct a program of Federal financial and technical assistance for the first-of-a-kind engineering design of standardized commercial nuclear powerplants which are included, as of the date of enactment of this Act, in the Department of Energy's program for certification of advanced light water reactor designs.

(2) SELECTION CRITERIA.—In order to be eligible for assistance under this subsection, an entity shall certify to the satisfaction of the Secretary that—

(A) the entity, or its members, are bona fide entities engaged in the design, engineering, manufacture, construction, or operation of nuclear reactors;

(B) the entity, or its members, have the financial resources necessary for, and fully intend to pursue the design, engineering, manufacture, construction, and operation in the United States of nuclear power plants through completion of construction and into operation;

(C) the design proposed is scheduled for certification by the Commission under the Department of Energy's program for certification of light water reactor designs; and

(D) at least 50 percent of the funding for the project shall be obtained from non-Federal sources, and a substantial portion of that non-Federal funding shall be obtained from utilities or entities whose primary purpose is the production of electrical power for public consumption.

(3) PROGRAM DOCUMENTS.—The Secretary shall prepare and submit to the Congress a program document for each

design selected under this subsection, specifying goals and objectives, major milestones for achieving those goals and objectives, and the work products to be provided to the Secretary or made available for inspection.

(4) FUNDING LIMITATIONS.—(A) Before entering into an agreement with an entity under this subsection, the Secretary shall establish a cost ceiling for the contribution of the Federal Government for the project, and shall report such cost ceiling to the Congress.

(B) No entity shall receive assistance under this subsection for a period greater than 4 years.

(C) The aggregate funding provided by the Secretary for projects under this subsection shall not exceed $100,000,000 for the period encompassing fiscal years 1993 through 1997.

(5) STATUS REPORT.—The Secretary shall annually submit to the Congress a status report on each project receiving assistance under this subsection.

42 USC 13494.

SEC. 2124. PROTOTYPE DEMONSTRATION OF ADVANCED NUCLEAR REACTOR TECHNOLOGY.

(a) SOLICITATION OF PROPOSALS.—Within 3 years after the date of enactment of this Act, the Secretary shall solicit proposals for carrying out the preliminary engineering design of not more than 2 prototype advanced nuclear reactor technologies developed by the Department of Energy, other than advanced light water reactor technologies, necessary to support a decision on whether to recommend construction of a prototype demonstration reactor with the characteristics described in section 2123(a). Proposals submitted under this subsection shall be for modular design concepts of sufficient size to address requirements related to the certification of a standardized design.

(b) RECOMMENDATION TO CONGRESS.—(1) Not later than September 30, 1998, the Secretary shall submit to Congress recommendations on whether to build one or more prototype demonstration reactors under this section. Such recommendations shall—

(A) specify a preferred technology or technologies;

(B) include detailed information on milestones for construction and operation;

(C) include an estimate of the funding requirements; and

(D) specify the extent and type of non-Federal financial support anticipated.

In developing the recommendations under this paragraph, the Secretary shall provide for public notice and an opportunity for comment, and shall solicit the views of the Commission and other parties with technical expertise the Secretary considers useful in the development of such recommendations.

(2) The prototype demonstration program under this section shall be carried out to the maximum extent practicable with private sector funding. At least 50 percent of the funding for such program shall be non-Federal funding. The extent of non-Federal cost sharing proposed for any demonstration project shall be a criterion for the selection of the project.

(c) SELECTION OF TECHNOLOGY.—Any technology selected by the Secretary for recommendation for prototype demonstration under this section shall to the maximum extent possible exhibit the characteristics set forth in section 2123(a).

SEC. 2125. REPEALS.

The Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 is amended—

(1) in section 4(c)(1)(C), by inserting "and" after "Program;"; 42 USC 12003.

(2) in section 4(c)(2)(C), by striking "Program; and" and inserting in lieu thereof "Program.";

(3) by striking section 4(c)(3);

(4) in section 5(1)(B), by inserting "and" after "program;"; 42 USC 12004.

(5) in section 5(2)(B), by striking "program; and" and inserting in lieu thereof "program."; and

(6) by striking section 5(3).

SEC. 2126. AUTHORIZATION OF APPROPRIATIONS. 42 USC 13495.

There are authorized to be appropriated to the Secretary for carrying out this subtitle $212,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994. Amounts authorized or otherwise made available for program direction, space reactor power systems, advanced radioisotope power systems, and the space exploration initiative under nuclear energy research and development shall be in addition to the amounts authorized in the preceding sentence.

TITLE XXII—ENERGY AND ECONOMIC GROWTH

SEC. 2201. NATIONAL ADVANCED MATERIALS INITIATIVE. 42 USC 13501.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Materials Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of techniques for processing, synthesizing, fabricating, and manufacturing advanced materials and associated components. At a minimum, the Program shall expedite the private sector deployment of advanced materials for use in high performance energy efficient and renewable energy technologies in the industrial, transportation, and buildings sectors that can foster economic growth and competitiveness. The Program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility. Establishment.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced materials in energy efficiency or renewable energy in the near-term to mid-term;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) GENERAL SERVICES ADMINISTRATION DEMONSTRATION PROGRAM.—The Secretary, in consultation with the Administrator of General Services, shall establish a program to expedite the use, in goods and services acquired by the General Services Administration, of advanced materials technologies. Such program shall include a demonstration of the use of advanced materials technologies as may be necessary to establish technical and economic feasibility. The Secretary shall transfer funds to the General Services Administration for carrying out this subsection.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived for energy efficient applications from section 2101(e) and for renewable applications from section 2111(c), including Department of Energy national laboratory participation in proposals submitted under subsection (c), and including transferring funds to the General Services Administration.

42 USC 13502.

SEC. 2202. NATIONAL ADVANCED MANUFACTURING TECHNOLOGIES INITIATIVE.

(a) PROGRAM DIRECTION.—The Secretary shall establish a 5-year National Advanced Manufacturing Technologies Program, in accordance with sections 3001 and 3002 of this Act. Such program shall foster the commercialization of advanced manufacturing technologies to improve energy efficiency and productivity in manufacturing. At a minimum, the Program shall expedite the private sector deployment of advanced manufacturing technologies to improve productivity, quality, and control in manufacturing processes that can foster economic growth, energy efficiency, and competitiveness. The program shall include field demonstrations of sufficient scale and number to prove technical and economic feasibility.

(b) PROGRAM PLAN.—Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to the Congress a 5-year program plan to guide activities under this section. The Secretary shall biennially update and resubmit the program plan to Congress.

(c) PROPOSALS.—

(1) SOLICITATION.—Within 1 year after the date of enactment of this Act, the Secretary shall solicit proposals for conducting activities consistent with the 5-year program plan. Such proposals may be submitted by one or more parties.

(2) CONTENTS OF PROPOSALS.—Proposals submitted under this subsection shall include—

(A) an explanation of how the proposal will expedite the commercialization of advanced manufacturing tech-

nologies to improve energy efficiency in the building, industry, and transportation sectors;

(B) evidence of consideration of whether the unique capabilities of Department of Energy national laboratories warrants collaboration with such laboratories, and the extent of such collaboration proposed;

(C) a description of the extent to which the proposal includes collaboration with relevant industry or other groups or organizations; and

(D) evidence of the ability of the proposers to undertake and complete the proposed project.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for carrying out this section such sums as may be necessary, to be derived from sums authorized under section 2101(e), including Department of Energy national laboratory participation in proposals submitted under subsection (c).

SEC. 2203. SUPPORTING RESEARCH AND TECHNICAL ANALYSIS. 42 USC 13503.

(a) BASIC ENERGY SCIENCES.—

(1) PROGRAM DIRECTION.—The Secretary shall continue to support a vigorous program of basic energy sciences to provide basic research support for the development of energy technologies. Such program shall focus on the efficient production and use of energy, and the expansion of our knowledge of materials, chemistry, geology, and other related areas of advancing technology development.

(2) USER FACILITIES.—(A) As part of the program referred to in paragraph (1), the Secretary shall carry out planning, construction, and operation of user facilities to provide special scientific and research capabilities, including technical expertise and support as appropriate, to serve the research needs of our Nation's universities, industry, private laboratories, Federal laboratories, and others. Research institutions or individuals from other nations shall be accommodated at such user facilities in cases where reciprocal accommodations are provided to United States research institutions and individuals or where the Secretary considers such accommodation to be in the national interest.

(B) The construction of the Advanced Photon Source at the Argonne National Laboratory is hereby authorized.

(C) The Secretary shall not change the user fee practice in effect as of October 1, 1991, with respect to user facilities unless the Secretary notifies Congress 90 days before the effective date of any change.

(D) The Secretary shall expedite the design for construction of the Advanced Neutron Source at the Oak Ridge National Laboratory, in order to provide critical research capabilities in support of our national research initiatives for advanced materials and biotechnology, as well as a broad range of research. Such action shall be consistent with the Basic Energy Sciences Advisory Committee's Technical Evaluation of accelerator and reactor neutron source technologies. Within 90 days after the date of enactment of this Act, the Secretary shall submit to the Congress a plan for such design, including a schedule for construction.

(3) COST SHARING.—The Secretary shall not require cost sharing for research and development pursuant to this subsection, except—

(A) as otherwise provided for in cooperative research and development agreements or other agreements entered into under existing law;

(B) for fees for user facilities, as determined by the Secretary; or

(C) in the case of specific projects, where the Secretary determines that the benefits of such research and development accrue to a specific industry or group of industries, in which case cost sharing under section 3002 of this Act shall apply.

(b) UNIVERSITY AND SCIENCE EDUCATION.—(1) The Secretary shall support programs for improvements and upgrading of university research reactors and associated instrumentation and equipment. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the condition and status of university research reactors, which includes a 5-year plan for upgrading and improving such facilities, instrumentation capabilities, and related equipment.

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(2) The Secretary shall develop a method to evaluate the effectiveness of science and mathematics education programs provided by the Department of Energy and its laboratories, including specific evaluation criteria.

(3)(A)(i) The Director of the Office of Energy Research shall operate an Experimental Program to Stimulate Competitive Research (in this paragraph referred to as "EPSCoR") as part of the Department of Energy's University and Science Education Programs.

(ii) The objectives of EPSCoR shall be—

(I) to enhance the competitiveness of the peer-review process within academic institutions in eligible States; and

(II) to increase the probability of long-term growth of competitive funding to investigators at institutions from eligible States.

(iii) In order to carry out the objectives stated in clause (ii), EPSCoR shall provide for activities which may include (but not be limited to) competitive research awards and graduate traineeships.

(iv) EPSCoR shall assist those States that—

(I) historically have received relatively little Federal research and development funding; and

(II) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(B) For purposes of this paragraph, the term "eligible States" means States that received a Department-EPSCoR planning or traineeship grant in fiscal year 1991 or fiscal year 1992.

(C) No more than $5,000,000 of the funds appropriated to EPSCoR in any fiscal year, through fiscal year 1997, are authorized to be appropriated for graduate traineeships.

(c) TECHNOLOGY TRANSFER.—The Secretary shall support technology transfer activities conducted by the National Laboratories. Within 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the adequacy of funding for such activities, along with a proposal recommending ways to

Reports.

reduce the length of time required to consummate cooperative research and development agreements.

(d) FACILITIES SUPPORT FOR MULTIPROGRAM ENERGY LABORATORIES.—

(1) FACILITY POLICY.—The Secretary shall develop and implement a least cost strategy for correcting facility problems, closing unneeded facilities, making facility modifications, and building new facilities at multiprogram energy laboratories.

(2) FACILITY PLAN.—Within 1 year after the date of enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive plan for conducting future facility maintenance, making repairs, modifications, and new additions, and constructing new facilities at multiprogram energy laboratories. Such plan shall provide for facilities work in accordance with the following priorities, listed in descending order of priority:

(A) Providing for the safety and health of employees, visitors, and the general public with regard to correcting existing structural, mechanical, electrical, and environmental deficiencies.

(B) Providing for the repair and rehabilitation of existing facilities to keep them in use and prevent deterioration.

(C) Providing engineering design and construction services for those facilities which require modification or additions in order to meet the needs of new or expanded programs.

Such plan shall include plans for new facilities and facility modifications which will be required to meet the Department of Energy's changing missions of the twenty-first century, including schedules and estimates for implementation, and including a section outlining long-term funding requirements consistent with anticipated budgets and annual authorization of appropriations. Such plan shall address the coordination of modernization and consolidation of facilities in order to meet changing mission requirements, and shall provide for annual reports to Congress on accomplishments, conformance to schedules, commitments, and expenditures.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for Supporting Research and Technical Analysis, including Basic Energy Sciences, Energy Research Analysis, University and Science Education, Technology Transfer, Advisory and Oversight Program Direction, and Facilities Support for Multiprogram Energy Laboratories, $966,804,000 for fiscal year 1993 and such sums as may be necessary for fiscal year 1994.

SEC. 2204. MATH AND SCIENCE EDUCATION PROGRAM.

42 USC 13504.

(a) PROGRAM.—The Secretary shall enter into contracts with existing qualified entities to conduct science and mathematics education programs that supplement the Special Programs for Students from Disadvantaged Backgrounds carried out by the Secretary of Education under sections 417A through 417F of Public Law 89-329, as amended (20 U.S.C. 1070d through 1070d-1d).

Contracts.

(b) PURPOSE.—(1) The purpose of the programs shall be to provide support to Federal, State, and private programs designed to promote the participation of low-income and first generation college students as defined in section 417A of Public Law 89-

329, as amended (20 U.S.C. 1070d–d), in post-secondary science and mathematics education.

(2) Support activities may include—

(A) the development of educational materials;

(B) the training of teachers and counselors;

(C) the establishment of student internships;

(D) the development of seminars on mathematics and science;

(E) tutoring in mathematics and science;

(F) academic counseling;

(G) the development of opportunities for research; and

(H) such other activities that may promote the participation of low-income and first generation college students in post-secondary science and mathematics education.

(c) SUPPORT.—(1) In carrying out the purpose of this section, the entities may provide support under subsection (b)(2) to—

(A) low-income and first generation college students; and

(B) institutions of higher education, public and private agencies and organizations, and secondary and middle schools that principally benefit low-income students.

(2) The qualified entities shall, to the extent practicable, coordinate support activities under this section with the Secretary of Education and the Secretary.

(d) COOPERATION WITH QUALIFIED ENTITIES.—The Secretary shall cooperate with qualified entities and, to the extent practicable, make available to the entities such personnel, facilities, and other resources of the Department of Energy as may be necessary to carry out the duties of the entities.

(e) REPORT.—Not later than October 1 of each year, the entities shall report to the Secretary, the Secretary of Education, and the Congress on—

(1) progress made to promote the participation of low-income and first generation college students in post-secondary science and mathematics education by—

(A) the qualified entities;

(B) other mathematics and science education programs of the Department of Energy; and

(C) the Special Programs for Students from Disadvantaged Backgrounds of the Department of Education; and

(2) recommendations for such additional actions as may be needed to promote the participation of low-income students in post-secondary science and mathematics education.

(f) EFFECT ON EXISTING PROGRAMS.—The programs in this section shall supplement and be developed in cooperation with the current mathematics and science education programs of the Department of Energy and the Department of Education but shall not supplant them.

(g) DEFINITION.—For purposes of this section, the term "qualified entity" means a nonprofit corporation, association, or institution that has demonstrated special knowledge of, and experience with, the education of low-income and first generation college students and whose primary mission is the operation of national programs that focus on low-income students and provide training and other services to educators.

(h) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary, to be derived from section 2203(e)

and the Environmental Restoration and Waste Management program, to carry out the purposes of this section.

SEC. 2205. INTEGRATION OF RESEARCH AND DEVELOPMENT. 42 USC 13505.

Within 180 days after the date of enactment of this Act, the Secretary, in consultation with appropriate representatives of industry, institutions of higher education, Department of Energy national laboratories, and professional and technical societies, shall prepare and submit to Congress a 5-year program plan for improving the integration of basic energy research programs with other energy programs within the Department of Energy. Such program plan shall include—

(1) an evaluation of current procedures and mechanisms used to achieve such integration;

(2) an assessment of the role that the Department of Energy national laboratories play in such integration;

(3) an identification and evaluation of models that could enhance such integration;

(4) an identification and evaluation of new programs, mechanisms, and related policy options that could improve the integrating process, including—

(A) set aside funding for matching or leveraging basic and applied programs;

(B) more formal linkages; and

(C) program coordination;

(5) recommendations for expanded research and development and new technology areas; and

(6) budget estimates for activities under this section.

SEC. 2206. DEFINITIONS. 42 USC 13506.

For purposes of this title—

(1) the term "advanced manufacturing technology" means processes, equipment, techniques, practices, and capabilities that are applied for the purpose of—

(A) improving the productivity, quality, or energy efficiency of the design, development, testing, or manufacture of a product; or

(B) expanding the technical capability to design, develop, test, or manufacture a product that is fundamentally different in character from existing products and that will result in improved energy efficiency;

(2) the term "advanced materials" means materials that are processed, synthesized, fabricated, and manufactured to develop high performance properties that exceed the corresponding properties of conventional materials for structural, electronic, magnetic, or photonic applications, or for joining, welding, bonding, or packaging components into complex assemblies, including—

(A) advanced monolithic materials such as metals, ceramics, and polymers;

(B) advanced composite materials such as metal matrix (including intermetallics), polymer matrix, ceramic matrix, continuous fiber ceramic composite, and carbon matrix composites; and

(C) advanced electronic, magnetic, and photonic materials, including superconducting, semiconductor, electrooptic, magnetooptic, thin-film, and special purpose

coating materials used in technologies for energy efficiency, renewable energy, or electric power applications; and

(3) the term "United States" means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

TITLE XXIII—POLICY AND ADMINISTRATIVE PROVISIONS

42 USC 13521.

SEC. 2301. POLICY ON MAJOR CONSTRUCTION PROJECTS.

(a) REPORT AND MANAGEMENT PLAN.—The Secretary shall submit to the Congress a report and management plan for any major construction project involving $100,000,000 or more, prior to the expenditure of those funds.

(b) CONGRESSIONAL REVIEW.—Expenditure of funds for a project described in subsection (a) may be made after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days prior to a day certain) has passed after receipt of the report and management plan by Congress.

42 USC 13522.

SEC. 2302. ENERGY RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary shall establish an Energy Research, Development, Demonstration, and Commercial Application Advisory Board (hereafter in this section referred to as the "Advisory Board").

Reports.

(b) RESPONSIBILITIES.—The Advisory Board shall provide impartial technical advice to the Secretary to assist in the development of energy research, development, demonstration, and commercial application plans and reports under sections 6 and 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905 and 5914), under section 801 of the Department of Energy Organization Act (42 U.S.C. 7321), and as otherwise provided in titles XX through XXIII of this Act. The Advisory Board shall also periodically review such plans and reports and their implementation in relation to the goals stated in section 2001 of this Act, and report the results of such review to the Secretary and the Congress. Such report shall be included as part of the report required under section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5914).

(c) USE OF EXISTING ADVISORY BOARD.—The Secretary may use an existing advisory board to carry out the responsibilities described in subsection (b).

SEC. 2303. AMENDMENTS TO EXISTING LAW.

(a) FEDERAL NONNUCLEAR ENERGY RESEARCH AND DEVELOPMENT ACT OF 1974 AMENDMENTS.—Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905) is amended—

(1) in subsection (a)—

(A) by striking "the Administrator" and inserting "the Department of Energy Organization Act (42 U.S.C. 7101 et seq.), and titles XX through XXIII of the Energy Policy

Act of 1992, the Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by striking "(to the early 1980's)" in paragraph (1) and inserting "(the period up to 5 years after submission of the plan or its annual revision)";

(C) by striking "(the early 1980's to 2000)" in paragraph (2) and inserting "(the period from 5 years to 10 years after submission of the plan or its annual revision)"; and

(D) by striking "(beyond 2000)" in paragraph (3) and inserting "(the period beyond 10 years after submission of the plan or its annual revision)";

(2) in subsection (b)—

(A) by striking "Administrator" in paragraphs (1) and (2) and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,";

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." at the end of paragraph (1);

(C) by striking "(to the early 1980's), middle-term (the early 1980's to 2000), and long-term (beyond 2000) time intervals" in paragraph (2) and inserting ", middle-term, and long-term time intervals described in subsection (a)(1) through (3)";

(D) by striking "and" at the end of paragraph (3)(P);

(E) by striking the period at the end of paragraph (3)(Q) and inserting a semicolon; and

(F) by adding at the end of paragraph (3) the following new subparagraphs:

"(R) to implement the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12001 et seq.); and

"(S) to implement titles XX through XXIII of the Energy Policy Act of 1992."; and

(3) in subsection (c)—

(A) by striking "Administrator" and inserting "Secretary, in consultation with the Advisory Board established under section 2302 of the Energy Policy Act of 1992,"; and

(B) by inserting "Such program shall be updated and transmitted to the Congress annually as part of the report required under section 15." after "and demonstration plans.".

(b) RENEWABLE ENERGY AND ENERGY EFFICIENCY TECHNOLOGY COMPETITIVENESS ACT OF 1989 AMENDMENT.—Section 9(b)(4) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989 (42 U.S.C. 12006(b)(4)) is amended by inserting "and the plan developed under section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5905)" after "(42 U.S.C. 7321)".

SEC. 2304. MANAGEMENT PLAN. 42 USC 13523.

(a) PLAN PREPARATION.—The Secretary, in consultation with the Advisory Board established under section 2302, shall prepare a management plan for the conduct of research, development, dem-

onstration, and commercial application of energy technologies that is consistent with the goals stated in section 2001.

(b) CONTENTS OF PLAN.—The management plan under subsection (a) shall provide for—

(1) investigation of promising energy and energy efficiency resource technologies that have been identified as potentially significant future contributors to national energy security;

(2) development of energy and energy efficiency resource technologies that have the potential to reduce energy supply vulnerability, and to minimize adverse impacts on the environment, the global climate, and the economy; and

(3) creation of opportunities for export of energy and energy efficiency resource technologies from the United States that can enhance the Nation's competitiveness.

(c) ENERGY TECHNOLOGY INVENTORY AND STATUS REPORT.—As part of the management plan, the Secretary, with the advice of the Advisory Board established under section 2302 of this Act, shall develop an inventory and status report of technologies to enhance energy supply and to improve the efficiency of energy end uses. The inventory and status report shall include fossil, renewable, nuclear, and energy conservation technologies which have not yet achieved the status of fully reliable and cost-competitive commercial availability, but which the Secretary projects may become available with additional research, development, and demonstration. The inventory and status report shall provide, for each technology—

(1) an assessment of its—

(A) degree of technological maturity; and

(B) principal research, development, and demonstration issues, including—

(i) the barriers posed by capital, operating, and maintenance costs;

(ii) technical performance; and

(iii) potential environmental impacts;

(2) the projected time frame for commercial availability, specifying at a minimum whether the technology will be commercially available in the near-term, mid-term, or long-term, whether there are too many uncertainties to project availability, or whether it is unlikely that the technology will ever be commercial; and

(3) a projection of the future cost-competitiveness of the technology in comparison with alternative technologies to provide the same energy service.

(d) PUBLIC COMMENT.—The Secretary shall publish the proposed management plan for a written public comment period of at least 90 days. The Secretary shall consider such comments and include a summary thereof in the management plan.

(e) PLAN SUBMISSION.—Within one year after the date of enactment of this Act, the Secretary shall submit the first management plan under this section to Congress. Thereafter, the Secretary shall submit a revised management plan biennially, at the time of submittal of the President's annual budget submission to the Congress.

42 USC 13524.

SEC. 2305. COSTS RELATED TO DECOMMISSIONING AND THE STORAGE AND DISPOSAL OF NUCLEAR WASTE.

(a) AWARD OF CONTRACTS.—

(1) PRIME CONTRACTORS.—In awarding contracts to perform nuclear hot cell services, the Secretary, in evaluating bids for such contracts, shall exclude from consideration costs related to the decommissioning of nuclear facilities or the storage and disposal of nuclear waste, if—

(A) one or more of the parties bidding to perform such services is a United States company that is subject to such costs; and

(B) one or more of the parties bidding to perform such services is a foreign company that is not subject to comparable costs.

(2) SUBCONTRACTORS.—Any person awarded a contract subject to the restrictions described in paragraph (1) who subcontracts with a person to perform the services described in such paragraph shall be subject to the same restrictions in evaluating bids among potential subcontractors, as the Secretary was subject to in evaluating bids among prime contractors.

(b) ISSUANCE OF REGULATIONS.—The Secretary shall issue regulations not later than 90 days after the date of the enactment of this Act to carry out the requirements of subsection (a).

(c) DEFINITIONS.—As used in this section—

(1) the term "costs related to decommissioning of nuclear facilities" means any cost associated with the compliance with regulatory requirements governing the decommissioning of nuclear facilities licensed by the Nuclear Regulatory Commission;

(2) the term "costs related to storage and disposal of nuclear waste" means any costs, whether required by regulation or incurred as a matter of prudent business practice, associated with the storage or disposal of nuclear waste;

(3) the term "nuclear hot cell services" means services related to the examination of, or performance of various operations on, nuclear fuel rods, control assemblies, or other components that are emitting large quantities of ionizing radiation; and

(4) the term "nuclear waste" means any radioactive waste material subject to regulation by the Nuclear Regulatory Commission or the Department of Energy.

SEC. 2306. LIMITS ON PARTICIPATION BY COMPANIES. 42 USC 13525.

A company shall be eligible to receive financial assistance under titles XX through XXIII of this Act only if—

(1) the Secretary finds that the company's participation in any program under such titles would be in the economic interest of the United States, as evidenced by investments in the United States in research, development, and manufacturing (including, for example, the manufacture of major components or subassemblies in the United States); significant contributions to employment in the United States; an agreement with respect to any technology arising from assistance provided under this section to promote the manufacture within the United States of products resulting from that technology (taking into account the goals of promoting the competitiveness of United States industry), and to procure parts and materials from competitive suppliers; and

(2) either—

(A) the company is a United States-owned company; or

(B) the Secretary finds that the company is incorporated in the United States and has a parent company which is incorporated in a country which affords to United States-owned companies opportunities, comparable to those afforded to any other company, to participate in any joint venture similar to those authorized under this Act; affords to United States-owned companies local investment opportunities comparable to those afforded to any other company; and affords adequate and effective protection for the intellectual property rights of United States-owned companies.

42 USC 13526.

SEC. 2307. UNCOSTED OBLIGATIONS.

(a) REPORT.—Along with the submission of each of the President's annual budget requests to Congress, the Secretary shall submit to Congress a report which—

(1) identifies the amount of Department of Energy funds that were, as of the end of the previous fiscal year—

(A) committed uncosted obligations; and

(B) uncommitted uncosted obligations;

(2) specifically describes the purposes for which all such funds are intended; and

(3) explains the effect that information contained in the report has had on the annual budget request for the Department of Energy being simultaneously submitted.

(b) DEFINITIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall submit a report to the Congress containing definitions of the terms "uncosted obligation", "committed uncosted obligation", and "uncommitted uncosted obligation" for purposes of reports to be submitted under subsection (a).

TITLE XXIV—NON-FEDERAL POWER ACT HYDROPOWER PROVISIONS

SEC. 2401. RIGHTS-OF-WAY ON CERTAIN FEDERAL LANDS.

Section 501 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761) is amended—

(1) by inserting in subsection (a) after "public lands" the following: "(including public lands, as defined in section 103(e) of this Act, which are reserved from entry pursuant to section 24 of the Federal Power Act (16 U.S.C. 818))";

(2) in paragraph (4) of subsection (a), by striking "Federal Power Commission under the Federal Power Act of 1935 (49 Stat. 847; 16 U.S.C. 791) and inserting in lieu thereof "Federal Energy Regulatory Commission under the Federal Power Act, including part 1 thereof (41 Stat. 1063, 16 U.S.C. 791a–825r).";" and

(3) by adding the following new subsection at the end thereof:

"(d) With respect to any project or portion thereof that was licensed pursuant to, or granted an exemption from, part I of the Federal Power Act which is located on lands subject to a reservation under section 24 of the Federal Power Act and which did not receive a permit, right-of-way or other approval under

this section prior to enactment of this subsection, no such permit, right-of-way, or other approval shall be required for continued operation, including continued operation pursuant to section 15 of the Federal Power Act, of such project unless the Commission determines that such project involves the use of any additional public lands or National Forest lands not subject to such reservation.".

SEC. 2402. DAMS IN NATIONAL PARK SYSTEM UNITS. 16 USC 797c.

After the date of enactment of this Act, the Federal Energy Regulatory Commission may not issue an original license under Part I of the Federal Power Act (nor an exemption from such Part) for any new hydroelectric power project located within the boundaries of any unit of the National Park System that would have a direct adverse effect on Federal lands within any such unit. Nothing in this section shall be construed as repealing any existing provision of law (or affecting any treaty) explicitly authorizing a hydroelectric power project.

SEC. 2403. THIRD PARTY CONTRACTING BY FERC. 16 USC 797d.

(a) ENVIRONMENTAL IMPACT STATEMENTS.—Where the Federal Energy Regulatory Commission is required to prepare a draft or final environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit, at the election of the applicant, a contractor, consultant or other person funded by the applicant and chosen by the Commission from among a list of such individuals or companies determined by the Commission to be qualified to do such work, to prepare such statement for the Commission. The contractor shall execute a disclosure statement prepared by the Commission specifying that it has no financial or other interest in the outcome of the project. The Commission shall establish the scope of work and procedures to assure that the contractor, consultant or other person has no financial or other potential conflict of interest in the outcome of the proceeding. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(b) ENVIRONMENTAL ASSESSMENTS.—Where an environmental assessment is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 and following) in connection with an application for a license under part I of the Federal Power Act, the Commission may permit an applicant, or a contractor, consultant or other person selected by the applicant, to prepare such environmental assessment. The Commission shall institute procedures, including pre-application consultations, to advise potential applicants of studies or other information foreseeably required by the Commission. The Commission may allow the filing of such applicant-prepared environmental assessments as part of the application. Nothing herein shall affect the Commission's responsibility to comply with the National Environmental Policy Act of 1969.

(c) EFFECTIVE DATE.—This section shall take effect with respect to license applications filed after the enactment of this Act.

SEC. 2404. IMPROVEMENT AT EXISTING FEDERAL FACILITIES. 16 USC 797 note.

(a) STUDIES OF OPPORTUNITIES FOR INCREASED HYDROELECTRIC GENERATION.—The Secretary, in consultation with the Secretary of the Interior and the Secretary of the Army, shall perform recon-

naissance level studies of cost effective opportunities to increase hydropower production at existing federally-owned or operated water regulation, storage, and conveyance facilities. Such studies shall be completed within 2 years after the date of enactment of this Act and transmitted to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the United States Senate and to the Committee on Energy and Commerce, the Committee on Interior and Insular Affairs, and the Committee on Public Works and Transportation of the United States House of Representatives. An individual study shall be prepared for each of the Nation's principal river basins. Each such study shall identify and describe with specificity the following matters:

(1) opportunities to improve the efficiency of hydroelectric generation at such facilities through, but not limited to, mechanical, structural, or operational changes;

(2) opportunities to improve the efficiency of the use of water supplied or regulated by Federal projects where such improvement could, in the absence of legal or administrative constraints, make additional water supplies available for hydroelectric generation or reduce project energy use;

(3) opportunities to create additional generating capacity at existing facilities through, but not limited to, the construction of additional generating units, the uprating of generators and turbines, and the construction of pumped storage facilities; and

(4) preliminary assessment of the costs and the economic and environmental consequences of such measures.

(b) EXCEPTION FOR PREVIOUS STUDIES.—In those cases where studies of the type required by this section have been prepared by any agency of the United States and published within the ten years prior to the date of enactment of this Act, the Secretary may choose not to perform new studies but incorporate the information developed by such studies into the study reports required by this section.

(c) AUTHORIZATION.—There is authorized to be appropriated in each of the fiscal years 1993, 1994, and 1995 such sums as may be necessary to carry out the purposes of this section.

16 USC 797 note.

SEC. 2405. WATER CONSERVATION AND ENERGY PRODUCTION.

(a) STUDIES.—The Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388), and Acts supplementary thereto and amendatory thereof, is authorized and directed to conduct feasibility investigations of opportunities to increase the amount of hydroelectric energy available for marketing by the Secretary from Federal hydroelectric power generation facilities resulting from a reduction in the consumptive use of such power for Federal reclamation project purposes or as a result of an increase in the amount of water available for such generation because of water conservation efforts on Federal reclamation projects or a combination thereof. The Secretary of the Interior is further authorized and directed to conduct feasibility investigations of opportunities to mitigate damages to or enhance fish and wildlife as a result of increasing the amount of water available for such purposes because of water conservation efforts on Federal reclamation projects. Such feasibility investigations shall include, but not be limited to—

(1) an analysis of the technical, environmental, and economic feasibility of reducing the amount of water diverted upstream of such Federal hydroelectric power generation facilities by Federal reclamation projects;

(2) an estimate of the reduction, if any, of project power consumed as a result of the decreased amount of diversion;

(3) an estimate of the increase in the amount of electrical energy and related revenues which would result from the marketing of such power by the Secretary;

(4) an estimate of the fish and wildlife benefits which would result from the decreased or modified diversions;

(5) a finding by the Secretary of the Interior that the activities proposed in the feasibility study can be carried out in accordance with applicable Federal and State law, interstate compacts and the contractual obligations of the Secretary; and

(6) a finding by the affected Federal Power Marketing Administrator that the hydroelectric component of the proposed water conservation feature is cost-effective and that the affected Administrator is able to market the hydro-electric power expected to be generated.

(b) CONSULTATION.—In preparing feasibility studies pursuant to this section, the Secretary of the Interior shall consult with, and seek the recommendations of, affected State, local and Indian tribal interests, and shall provide for appropriate public comment.

(c) AUTHORIZATION.—There is hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to carry out this section.

SEC. 2406. FEDERAL PROJECTS IN THE PACIFIC NORTHWEST.

16 USC 839d-1.

Without further appropriation and without fiscal year limitation, the Secretaries of the Interior and Army are authorized to plan, design, construct, operate and maintain generation additions, improvements and replacements, at their respective Federal projects in the Pacific Northwest Region as defined in the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), Public Law 96–501 (16 U.S.C. 839a(14)), and to operate and maintain the respective Secretary's power facilities in the Region, that the respective Secretary determines necessary or appropriate and that the Bonneville Power Administrator subsequently determines necessary or appropriate, with any funds that the Administrator determines to make available to the respective Secretary for such purposes. Each Secretary is authorized, without further appropriation, to accept and use such funds for such purposes: *Provided,* That, such funds shall continue to be exempt from sequestration pursuant to section 255(g)(1) of the Balanced Budget and Emergency Deficit Control Act of 1985: *Provided further,* That this section shall not modify or affect the applicability of any provision of the Northwest Power Act. This provision shall be effective on October 1, 1993.

Effective date.

SEC. 2407. CERTAIN PROJECTS IN ALASKA.

(a) AUTHORITY TO ISSUE EXEMPTIONS.—Except as provided in subsection (b) or (c), upon receipt of an application under this section, the Federal Energy Regulatory Commission (hereinafter in this section referred to as the "Commission") may grant, notwithstanding the provisions of section 2402, an exemption in whole or in part from the requirements of part I of the Federal Power Act, including any license requirements contained in part I of

the Federal Power Act, to the following facilities located in the State of Alaska:

(1) a project located at Sitka, Alaska, with application numbered UL89–08–000;

(2) a project located at Juneau, Alaska, with preliminary permit numbered 10681–000; and

(3) a project located near Nondalton, Alaska, with application numbered EL88–25–001.

(b) CAPACITY LIMITATIONS.—No exemption under subsection (a) shall be applicable to any facility the installed capacity of which exceeds 5 megawatts.

(c) MANDATORY TERMS AND CONDITIONS.—In making the determination under subsection (a), the Commission shall consult with the United States Fish and Wildlife Service, the National Marine Fisheries Service, and the State agency exercising administration over the fish and wildlife resources of the State of Alaska, in the manner provided by the Fish and Wildlife Coordination Act (16 U.S.C. 661, et seq.), and shall include in any such exemption—

(1) such terms and conditions as the Fish and Wildlife Service, National Marine Fisheries Service, and the State agency each determine are appropriate to prevent loss of, or damage to, such resources and to otherwise carry out the purposes of such Act, and

(2) such terms and conditions as the Commission deems appropriate to ensure that such facility continues to comply with the provisions of this section and terms and conditions included in any such exemption.

(d) ENFORCEMENT.—Any violation of a term or condition of any exemption granted under subsection (a) shall be treated as a violation of a rule or order of the Commission under the Federal Power Act.

(e) FEES.—The Commission may establish fees which shall be paid by an applicant for a license or exemption for a project that is required to meet terms and conditions set by fish and wildlife agencies under subsection (c). Such fees shall be adequate to reimburse the fish and wildlife agencies referred to in subsection (c) for any reasonable costs incurred in connection with any studies or other reviews carried out by such agencies for purposes of compliance with this section. The fees shall, subject to annual appropriations Acts, be transferred to such agencies by the Commission for use solely for purposes of carrying out such studies and shall remain available until expended.

(f) EXPEDITED PROCESSING.—A completed application for an exemption under this section shall be acted on by the Commission in an expedited manner, in accordance with this section, within 6 months after the date on which the application for such exemption is applied for, or as promptly as practicable thereafter.

16 USC 797 note.

SEC. 2408. PROJECTS ON FRESH WATERS IN STATE OF HAWAII.

Reports.

The Federal Energy Regulatory Commission, in consultation with the State of Hawaii, shall carry out a study of hydroelectric licensing in the State of Hawaii. For purposes of considering whether such licensing should be transferred to the State, within 18 months after the enactment of this Act, the Commission shall complete the study and submit a report containing the results of the study to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee

on Energy and Natural Resources of the United States Senate. The study shall examine, and the report shall at a minimum contain an analysis of, each of the following:

(1) The State regulatory programs applicable to hydroelectric power production and the extent to which such programs are suitable as a substitute for regulation of such projects under the Federal Power Act, taking into consideration all aspects of such regulation, including energy, environmental, and safety considerations.

(2) Any unique geographical, hydrological, or other characteristics of waterways in Hawaii or any other aspects of hydroelectric power development and natural resource protection in Hawaii that would justify or not justify the permanent transfer of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects to that State.

(3) The adequacy of mechanisms and procedures for consideration of fish and wildlife and other environmental values applicable in connection with hydroelectric power development in Hawaii under the State programs referred to in paragraph (1).

(4) Any national policy considerations that would justify or not justify the removal of Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

(5) The precedent-setting effect, if any, of provisions of law adopted by the Congress removing Federal Energy Regulatory Commission jurisdiction over hydroelectric power projects in Hawaii.

SEC. 2409. EVALUATION OF DEVELOPMENT POTENTIAL.

The Act of August 30, 1935 (Public Law No. 409 of the 74th Congress), is amended by inserting "The Secretary shall undertake a demonstration project to evaluate the potential for hydropower development, utilizing tidal currents;" after "Document Numbered 15, Seventy-fourth Congress;". 49 Stat. 1028.

TITLE XXV—COAL, OIL, AND GAS

SEC. 2501. HOT DRY ROCK GEOTHERMAL ENERGY. 30 USC 1028.

(a) USGS PROGRAM.—The Secretary of the Interior, acting through the United States Geological Survey, and in consultation with the Secretary of Energy, shall establish a cooperative Government-private sector program with respect to hot dry rock geothermal energy resources on public lands (as such term is defined in section 103(e) of the Federal Land Policy and Management Act of 1976) and lands managed by the Department of Agriculture, other than any such public or other lands that are withdrawn from geothermal leasing. Such program shall include, but shall not be limited to, activities to identify, select, and classify those areas throughout the United States that have a high potential for hot dry rock geothermal energy production and activities to develop and disseminate information regarding the utilization of such areas for hot dry rock energy production. Such information may include information regarding field test processes and techniques for assuring that hot dry rock geothermal energy development projects are developed in an economically feasible manner without adverse environmental

consequences. Utilizing the information developed by the Secretary, together with information developed in connection with other related programs carried out by other Federal agencies, the Secretary, acting through the United States Geological Survey, may also enter into contracts and cooperative agreements with any public or private entity to provide assistance to any such entity to enable such entity to carry out additional projects with respect to the utilization of hot dry rock geothermal energy resources which will further the purposes of this section.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necesary to carry out this section.

SEC. 2502. HOT DRY ROCK GEOTHERMAL ENERGY IN EASTERN UNITED STATES.

The United States Geological Survey, in collaboration with the Secretary of Energy, shall convene a workshop of interested governmental and private parties to discuss the regional potential for hot dry rock geothermal energy in the Eastern United States. The purpose of the workshop shall be to review the status of recoverability of hot dry rock energy in the Eastern United States and to determine what geologic, technological, and economic obstacles need to be overcome to make the utilization of hot dry rock energy feasible. The workshop shall be convened within 6 months after enactment of this Act and the United States Geological Survey shall submit a report to Congress within 6 months after the workshop containing a summary of the findings and conclusions of the workshop.

Reports.

SEC. 2503. COAL REMINING.

(a) MODIFICATION OF PROHIBITION.—Section 510 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1260) is amended by adding the following new subsection at the end thereof:

"(e) MODIFICATION OF PROHIBITION.—After the date of enactment of this subsection, the prohibition of subsection (c) shall not apply to a permit application due to any violation resulting from an unanticipated event or condition at a surface coal mining operation on lands eligible for remining under a permit held by the person making such application. As used in this subsection, the term 'violation' has the same meaning as such term has under subsection (c). The authority of this subsection and section 515(b)(20)(B) shall terminate on September 30, 2004.".

(b) PERIOD OF RESPONSIBILITY.—Section 515(b)(20) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1265(b)(20)) is amended as follows:

(1) Insert "(A)" after "(20)".

(2) Add the following new subparagraph at the end thereof:

"(B) on lands eligible for remining assume the responsibility for successful revegetation for a period of two full years after the last year of augmented seeding, fertilizing, irrigation, or other work in order to assure compliance with the applicable standards, except in those areas or regions of the country where the annual average precipitation is twenty-six inches or less, then the operator's assumption of responsibility and liability will be extended for a period of five full years after the last year of augmented seeding, fertilizing, irrigation, or

other work in order to assure compliance with the applicable standards.".

(c) DEFINITIONS.—Section 701 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291) is amended by striking the period at the end of paragraph (32) and inserting a semicolon in lieu thereof, and by adding the following new paragraphs at the end thereof:

"(33) the term 'unanticipated event or condition' as used in section 510(e) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit; and

"(34) the term 'lands eligible for remining' means those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4).".

(d) ELIGIBILITY.—Section 404 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1234) is amended by adding the following new sentence at the end thereof: "Surface coal mining operations on lands eligible for remining shall not affect the eligibility of such lands for reclamation and restoration under this title after the release of the bond or deposit for any such operation as provided under section 519. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this title may be used if the amount of such bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the Secretary shall immediately exercise his authority under section 410.".

Regulations. Federal Register, publication. 30 USC 1251a.

(e) ABANDONED COAL REFUSE SITES.—(1) Notwithstanding any other provision of the Surface Mining Control and Reclamation Act of 1977 to the contrary, the Secretary of the Interior shall, within one year after the enactment of this Act, publish proposed regulations in the Federal Register, and after opportunity for public comment publish final regulations, establishing environmental protection performance and reclamation standards, and separate permit systems applicable to operations for the on-site reprocessing of abandoned coal refuse and operations for the removal of abandoned coal refuse on lands that would otherwise be eligible for expenditure under section 404 and section 402(g)(4) of the Surface Mining Control and Reclamation Act of 1977.

(2) The standards and permit systems referred to in paragraph (1) shall distinguish between those operations which reprocess abandoned coal refuse on-site, and those operations which completely remove abandoned coal refuse from a site for the direct use of such coal refuse, or for the reprocessing of such coal refuse, at another location. Such standards and permit systems shall be premised on the distinct differences between operations for the on-site reprocessing, and operations for the removal, of abandoned coal refuse and other types of surface coal mining operations.

(3) The Secretary of the Interior may devise a different standard than any of those set forth in section 515 and section 516 of the Surface Mining Control and Reclamation Act of 1977, and devise a separate permit system, if he determines, on a standard-by-standard basis, that a different standard may facilitate the on-site reprocessing, or the removal, of abandoned coal refuse in a manner that would provide the same level of environmental protection as under section 515 and section 516.

(4) Not later than 30 days prior to the publication of the proposed regulations referred to in this subsection, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives, and the Committee on Energy and Natural Resources of the United States Senate containing a detailed description of any environmental protection performance and reclamation standards, and separate permit systems, devised pursuant to this subsection.

SEC. 2504. SURFACE MINING ACT IMPLEMENTATION.

(a) SUBSIDENCE.—(1) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section at the end thereof:

30 USC 1309a.

"SEC. 720. SUBSIDENCE.

"(a) REQUIREMENTS.—Underground coal mining operations conducted after the date of enactment of this section shall comply with each of the following requirements:

"(1) Promptly repair, or compensate for, material damage resulting from subsidence caused to any occupied residential dwelling and structures related thereto, or non-commercial building due to underground coal mining operations. Repair of damage shall include rehabilitation, restoration, or replacement of the damaged occupied residential dwelling and structures related thereto, or non-commercial building. Compensation shall be provided to the owner of the damaged occupied residential dwelling and structures related thereto or non-commercial building and shall be in the full amount of the diminution in value resulting from the subsidence. Compensation may be accomplished by the purchase, prior to mining, of a noncancellable premium-prepaid insurance policy.

"(2) Promptly replace any drinking, domestic, or residential water supply from a well or spring in existence prior to the application for a surface coal mining and reclamation permit, which has been affected by contamination, diminution, or interruption resulting from underground coal mining operations.

Nothing in this section shall be construed to prohibit or interrupt underground coal mining operations.

"(b) REGULATIONS.—Within one year after the date of enactment of this section, the Secretary shall, after providing notice and opportunity for public comment, promulgate final regulations to implement subsection (a).".

30 USC 1309a note.

(2)(A) The Secretary of the Interior shall review existing requirements related to underground coal mine subsidence and natural gas and petroleum pipeline safety. Such review shall consider the following with respect to subsidence: notification; mitigation; coordination; requirements of the Natural Gas Pipeline Safety Act and the Hazardous Liquid Pipeline Safety Act; and the status of Federal, State and local laws, as well as common law, with respect to prevention or mitigation of damage from subsidence.

(B) The review shall also include a survey of the status of Federal, State, and local laws, as well as common law, with respect to the responsibilities of the relevant parties for costs resulting from damage due to subsidence or from mitigation efforts undertaken to prevent damage from subsidence.

(C) In conducting the review, the Secretary of the Interior shall consult with the Secretary of Transportation, the Attorney

General of the United States, appropriate officials of relevant States, and owners and representatives of natural gas and petroleum pipeline companies and coal companies.

(D) The Secretary of the Interior shall submit a report detailing the results of the review to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within 18 months of enactment of this Act. Where appropriate, the Secretary of the Interior shall commence a rulemaking to address any deficiencies in existing law determined in the review under subparagraph (A) regarding notification, coordination and mitigation. Reports.

(b) VALID EXISTING RIGHTS.—During the 1-year period following the enactment of this Act, in administering the provisions of the Surface Mining Control and Reclamation Act of 1977 regarding valid existing rights, the Secretary of the Interior shall continue in force and effect the policies of the Office of Surface Mining as set forth in the November 10, 1986 Statement of Policy published in 51 Federal Register 41952.

(c) RESEARCH.—(1) Section 401(c)(6) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231(c)(6)) is amended as follows:

(A) Insert ", research, and demonstration projects" after "studies".

(B) Strike "to provide information, advice, and technical assistance, including research and demonstration projects".

(2) Section 403(a) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233) is amended by striking paragraph (4) and renumber the subsequent paragraphs accordingly.

(3) Title VII of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1291 and following) is amended by adding the following new section after section 720:

"SEC. 721. RESEARCH. 30 USC 1309b.

"The Office of Surface Mining Reclamation and Enforcement is authorized to conduct studies, research and demonstration projects relating to the implementation of, and compliance with, title V of this Act, and provide technical assistance to states for that purpose. Prior to approving any such studies, research or demonstration projects the Director, Office of Surface Mining Reclamation and Enforcement, shall first consult with the Director, Bureau of Mines, and obtain a determination from such Director that the Bureau of Mines is not already conducting like or similar studies, research or demonstration projects. Studies, research and demonstration projects for the purposes of title IV of this Act shall only be conducted in accordance with section 401(c)(6).". 30 USC 551 note.

(d) COAL FORMATIONS.—(1) In furtherance of the purposes of the Act of August 31, 1954 (30 U.S.C. 551–558) the Secretary of the Interior, acting through the Director of the Office of Surface Mining Reclamation and Enforcement, shall, upon application by a State, enter into a cooperative agreement with any such State that has an approved abandoned mine reclamation program pursuant to section 405 of the Surface Mining Control and Reclamation Act of 1977 to undertake the activities referred to in section 3(b) of the Act of August 31, 1954 (30 U.S.C. 553(b)). The Secretary shall immediately enter into such cooperative agreement upon application by a State. Any such cooperative agreement shall not

be subject to review or approval by the Appalachian Regional Development Commission.

(2) For the purposes of the cooperative agreements entered into pursuant to paragraph (1), the requirements of section 5 of the Act of August 31, 1954 (30 U.S.C. 555) are hereby waived.

(3) Section 8 of the Act of August 31, 1954 (30 U.S.C. 558) is amended by striking "not to exceed $500,000 annually,".

(e) TECHNICAL AMENDMENT.—Section 403(b)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(b)(2)) is amended by inserting ", or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B)" after "1977" in each instance such date appears.

SEC. 2505. FEDERAL LIGNITE COAL ROYALTIES.

(a) COAL IN FORT UNION REGION.—Notwithstanding any other provision of law, or any regulation or guideline issued thereunder, the Secretary of the Interior may determine, with respect to lignite coal in the Fort Union region, a lesser royalty than the royalty specified under section 7 of the Mineral Leasing Act (30 U.S.C. 207). Any lesser royalty granted under this section, or under section 39 of the Mineral Leasing Act (30 U.S.C. 209) after March 29, 1990, for lignite coal in the Fort Union region shall continue for a term of at least 10 years from the effective date of such reduction.

(b) REVIEW AND EXTENSION.—Within 10 years after the date of enactment of this Act, the Secretary of the Interior shall review the effect of any royalty reduction pursuant to subsection (a) on the production of coal. If the Secretary determines that such royalty reduction has had no significant adverse impact on coal production, upon a request by a lignite coal operator in the Fort Union region, the Secretary may grant an additional royalty reduction for a period of 10 years, provided that the total term of the reduced royalty granted pursuant to subsection (a) and this subsection for a tract or lease does not exceed a period of 20 years.

SEC. 2506. ACQUIRED FEDERAL LAND MINERAL RECEIPTS MANAGEMENT.

(a) MINERAL RECEIPTS UNDER ACQUIRED LANDS ACT.—Section 6 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 355) is amended by inserting "(a)" before the first sentence and by adding the following new subsection at the end thereof:

"(b) Notwithstanding any other provision of law, any payment to a State under this section shall be made by the Secretary of the Interior and shall be made not later than the last business day of the month following the month in which such moneys or associated reports are received by the Secretary of the Interior, whichever is later. The Secretary shall pay interest to a State on any amount not paid to the State within that time at the rate prescribed under section 111 of the Federal Oil and Gas Royalty Management Act of 1982 from the date payment was required to be made under this subsection until the date payment is made.".

(b) AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.—The Mineral Leasing Act for Acquired Lands (30 U.S.C. 351 and following) is amended by adding the following new section at the end thereof:

30 USC 360.

"SEC. 11. AUTHORITY TO MANAGE CERTAIN MINERAL LEASES.

"Each department, agency and instrumentality of the United States which administers lands acquired by the United States with

one or more existing mineral lease shall transfer to the Secretary of the Interior the authority to administer such lease and to collect all receipts due and payable to the United States under the lease. In the case of lands acquired on or before the date of the enactment of this section, the authority to administer the leases and collect receipts shall be transferred to the Secretary of the Interior as expeditiously as practicable after the date of enactment of this section. In the case of lands acquired after the date of enactment of this section, such authority shall be vested with the Secretary at the time of acquisition. The provisions of section 6 of this Act shall apply to all receipts derived from such leases where such receipts are due and payable to the United States under the lease in the same manner as such provisions apply to receipts derived from leases issued under the authority of this Act. For purposes of this section, the term 'existing mineral lease' means any lease in existence at the time land is acquired by the United States. Nothing in this section shall be construed to affect the existing surface management authority of any Federal agency.".

(c) CLARIFICATION.—Section 7 of the Act of August 18, 1941, ch. 377 (33 U.S.C. 701c–3) is amended by adding the following sentence at the end thereof: "For the purposes of this section, the term 'money' includes, but is not limited to, such bonuses, royalties and rentals (and any interest or other charge paid to the United States by reason of the late payment of any royalty, rent, bonus or other amount due to the United States) paid to the United States from a mineral lease issued under the authority of the Mineral Leasing Act for Acquired Lands or paid to the United States from a mineral lease in existence at the time of the acquisition of the land by the United States.".

SEC. 2507. RESERVED OIL AND GAS.

(a) IN GENERAL.—Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended as follows—

(1) In paragraph (1)(A), strike out "under paragraph (2)" and insert in lieu thereof "under paragraphs (2) and (3)".

(2) Adding at the end thereof the following new paragraph:

"(3)(A) If the United States held a vested future interest in a mineral estate that, immediately prior to becoming a vested present interest, was subject to a lease under which oil or gas was being produced, or had a well capable of producing, in paying quantities at an annual average production volume per well per day of either not more than 15 barrels per day of oil or condensate, or not more than 60,000 cubic feet of gas, the holder of the lease may elect to continue the lease as a noncompetitive lease under subsection (c)(1).

"(B) An election under this paragraph is effective—

"(i) in the case of an interest which vested after January 1, 1990, and on or before the date of enactment of this paragraph, if the election is made before the date that is 1 year after the date of enactment of this paragraph;

"(ii) in the case of an interest which vests within 1 year after the date of enactment of this paragraph, if the election is made before the date that is 2 years after the date of enactment of this paragraph; and

"(iii) in any case other than those described in clause (i) or (ii), if the election is made prior to the interest becoming a vested present interest.

"(C) Notwithstanding the consent requirement referenced in section 3 of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 352), the Secretary shall issue a noncompetitive lease under subsection (c)(1) to a holder who makes an election under subparagraph (A) and who is qualified to hold a lease under this Act. Such lease shall be subject to all terms and conditions under this Act that are applicable to leases issued under subsection (c)(1).

"(D) A lease issued pursuant to this paragraph shall continue so long as oil or gas continues to be produced in paying quantities.

"(E) This paragraph shall apply only to those lands under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following).".

30 USC 226 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to those mineral estates in which the interest of the United States becomes a vested present interest after January 1, 1990.

SEC. 2508. CERTAIN OUTSTANDING OIL AND GAS.

(a) IN GENERAL.—Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding the following new subsection after subsection (n):

"(o) CERTAIN OUTSTANDING OIL AND GAS.—(1) Prior to the commencement of surface-disturbing activities relating to the development of oil and gas deposits on lands described under paragraph (5), the Secretary of Agriculture shall require, pursuant to regulations promulgated by the Secretary, that such activities be subject to terms and conditions as provided under paragraph (2).

"(2) The terms and conditions referred to in paragraph (1) shall require that reasonable advance notice be furnished to the Secretary of Agriculture at least 60 days prior to the commencement of surface disturbing activities.

"(3) Advance notice under paragraph (2) shall include each of the following items of information:

"(A) A designated field representative.

"(B) A map showing the location and dimensions of all improvements, including but not limited to, well sites and road and pipeline accesses.

"(C) A plan of operations, of an interim character if necessary, setting forth a schedule for construction and drilling.

"(D) A plan of erosion and sedimentation control.

"(E) Proof of ownership of mineral title.

Nothing in this subsection shall be construed to affect any authority of the State in which the lands concerned are located to impose any requirements with respect to such oil and gas operations.

"(4) The person proposing to develop oil and gas deposits on lands described under paragraph (5) shall either—

"(A) permit the Secretary to market merchantable timber owned by the United States on lands subject to such activities; or

"(B) arrange to purchase merchantable timber on lands subject to such surface disturbing activities from the Secretary of Agriculture, or otherwise arrange for the disposition of such merchantable timber, upon such terms and upon such advance notice of the items referred to in subparagraphs (A) through (E) of paragraph (3) as the Secretary may accept.

"(5)(A) The lands referred to in this subsection are those lands referenced in subparagraph (B) which are under the administration of the Secretary of Agriculture where the United States acquired an interest in such lands pursuant to the Act of March 1, 1911 (36 Stat. 961 and following), but does not have an interest in oil and gas deposits that may be present under such lands. This subsection does not apply to any such lands where, under the provisions of its acquisition of an interest in the lands, the United States is to acquire any oil and gas deposits that may be present under such lands in the future but such interest has not yet vested with the United States.

"(B) This subsection shall only apply in the Allegheny National Forest.".

(b) REGULATIONS.—Within 90 days after the enactment of this Act the Secretary of Agriculture shall promulgate regulations to implement the amendment made by subsection (a). 30 USC 226 note.

SEC. 2509. FEDERAL ONSHORE OIL AND GAS LEASING.

The first sentence of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) is amended by striking the phrase starting with "Competitive leases" and ending with "ten years: *Provided, however,*" and inserting in lieu thereof the following: "Competitive and noncompetitive leases issued under this section shall be for a primary term of 10 years: *Provided, however,*".

SEC. 2510. OIL PLACER CLAIMS.

Notwithstanding any other provision of law, in furtherance of the purposes of the Act of February 11, 1897, commonly referred to as the Oil Placer Act, and section 37 of the Mineral Leasing Act, the Secretary of the Interior is authorized and directed to, within 90 days after the enactment of this Act, (1) convey by quit-claim deed to the owner or owners, or (2) separately and as an alternative, disclaim and relinquish by a document in any form suitable for recordation in the county within which the lands are situated, all right, title and interest or claim of interest of the United States to those lands in the counties of Hot Springs, Park and Washakie in the State of Wyoming, held pursuant to the Act of February 11, 1897, and which are currently producing covered substances under a cooperative or unit plan of development.

SEC. 2511. OIL SHALE CLAIMS. 30 USC 242.

(a) NOTICE.—Notwithstanding any other provision of law, within 60 days from the date of enactment of this Act, the Secretary of the Interior shall provide notice to each holder of an unpatented oil shale mining claim of the requirements of this Act. Such notice shall be made by registered mail and by publication in a newspaper of general circulation in the areas in which such claims are located.

(b) FULL PATENT.—The holder of a valid oil shale mining claim who has filed a patent application and received first half final certificate for patent by date of enactment of this Act, may obtain a patent pursuant to the general mining laws of the United States.

(c) PATENT.—(1) Notwithstanding any other provision of law, the holder of a valid oil shale mining claim who has filed a patent application which has been accepted for processing by the Department of the Interior by the date of enactment of this Act but has not received first half final certificate for patent by the date of enactment of this Act may receive only a patent limited to the oil shale and associated minerals, upon payment of $2.50 per

acre. Title to the surface and to all other minerals, including, but not limited to, oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Maintenance of claims referred to in this subsection prior to patent issuance shall be in accordance with the requirements of applicable law prior to enactment of this Act.

(3) Any holder of a valid oil shale mining claim referred to in this subsection may maintain such claim in accordance with the requirements set forth in subsection (e)(2) in lieu of receiving a patent under this section.

(4) Notwithstanding any other provision of law, any person referred to in paragraph (1) who obtains compensation from the United States as a result of the application of this section being declared to be a taking of property within the meaning of the Fifth Amendment to the United States Constitution, may obtain a full patent upon tender to the Secretary of the amount of such compensation, not including interest, and upon the receipt of such amount, the Secretary shall convey to such person a patent in the form and manner provided under the general mining laws of the United States. Such tender may only be made within 3 years of obtaining such compensation.

(d) ELECTION.—(1) Notwithstanding any other provision of law, within 180 days from the date of which the Secretary provided notice under subsection (a), a holder of a valid oil shale mining claim for which a patent application was not filed and accepted for processing by the Department of the Interior prior to the date of enactment of this Act shall file with the Secretary a notice of election to—

(A) proceed to limited patent as provided in subsection (e)(1); or

(B) maintain the unpatented claim as provided for in subsection (e)(2).

(2) Failure to file the notice of election as required by paragraph (1) shall be deemed conclusively to constitute an abandonment of the claim by operation of law.

(3) Any claim holder who elects to proceed under paragraph (1)(A) must apply for a patent within 2 years from the date of election or notify the Secretary in writing prior to expiration of the 2-year period of a decision to maintain such claim as provided in paragraph (1)(B) or such claim shall be deemed conclusively to have been abandoned by operation of law.

(4) The provisions of this subsection shall be in addition to the requirements of section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744).

(e) EFFECT OF ELECTION.—(1) Notwithstanding any other provisions of law, a claim holder subject to the election requirements of subsection (d) who elects to receive a limited patent shall receive title only to the oil shale associated minerals, upon payment of fair market value for the oil shale and associated minerals. Title to the surface and to all other minerals, including, but not limited to oil, gas, and coal, shall remain in the United States. Patents issued pursuant to this subsection shall provide for surface use to the same extent as is provided under applicable law prior to

the enactment of this Act with respect to oil shale mining claims, subject to the requirements of subsection (f).

(2) Notwithstanding any other provision of law, a claim holder referred to in subsection (c) or a claim holder subject to the election requirements of subsection (d) who maintains or elects to maintain an unpatented claim shall maintain such claim by complying with the general mining laws of the United States, and with the provisions of this section, except that the claim holder shall no longer be required to perform annual labor, and instead shall pay to the Secretary $550 per claim per year for deposit as miscellaneous receipts in the general fund of the Treasury, commencing with calendar year 1993. Such fee shall accompany the filing made by the claim holder with the Bureau of Land Management pursuant to section 314(a)(2) of the Federal Land Policy and Management Act (43 U.S.C. 1744(a)(2)).

(f) RECLAMATION.—In addition to other applicable requirements, any person who holds a limited patent or maintains a claim pursuant to this section shall be required to carry out reclamation as prescribed by the Secretary and to furnish a bond or other appropriate financial guarantee in an amount sufficient to ensure adequate reclamation of the lands to be disturbed by any aspect of the proposed mining activities.

(g) REAFFIRMATION OF REQUIREMENTS.—Without comment on the adequacy of current or former standards for determining validity of oil shale claims, Congress reaffirms the requirements of law that a patent may issue only to persons who hold valid claims and the need for careful review of any applications.

(h) ISSUANCE OF PATENTS.—Notwithstanding any other provision of law, with respect to any oil shale mining claim located under the general mining laws of the United States, no patent for such claim shall be issued except as provided by this section.

SEC. 2512. HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PROGRAM. 30 USC 951a.

(a) HEALTH, SAFETY, AND MINING TECHNOLOGY RESEARCH PLAN.—(1) Every 5 years, the Secretary of the Interior, acting through the Director of the Bureau of Mines (hereinafter in this section referred to as the "Director"), shall develop a Plan for Health, Safety, and Mining Technology Research (hereinafter in this subsection referred to as the "Plan").

(2) The Plan shall identify the goals and objectives of the Health, Safety, and Mining Technology program of the Bureau of Mines, and shall guide research and technology development under such program, over each 5-year period.

(3) In preparing the proposed Plan referred to in paragraph (1), the Director shall solicit suggestions, comments and proposals for research and technology development projects from the mining industry, labor, academia and other concerned groups and individuals.

(b) TECHNICAL AMENDMENT.—For the purposes of section 501(b) of Public Law 91-173, as amended, activities in the field of coal or other mine health under such section shall also be carried out by the Secretary of the Interior acting through the Director of the Bureau of Mines. Nothing in this subsection is intended to preclude or duplicate the ongoing research activities of the Bureau of Mines on health hazards safety technology or research

conducted by the National Institute of Occupational Safety and Health on coal mine safety and health effects.

SEC. 2513. ASSISTANCE TO SMALL COAL OPERATORS.

(a) ASSISTANCE.—Section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257(c)) is amended to read as follows:

"(c) ASSISTANCE TO SMALL COAL OPERATORS.—(1) If the regulatory authority finds that the probable total annual production at all locations of a coal surface mining operator will not exceed 300,000 tons, the cost of the following activities, which shall be performed by a qualified public or private laboratory or such other public or private qualified entity designated by the regulatory authority, shall be assumed by the regulatory authority upon the written request of the operator in connection with a permit application:

"(A) The determination of probable hydrologic consequences required by subsection (b)(11), including the engineering analyses and designs necessary for the determination.

"(B) The development of cross-section maps and plans required by subsection (b)(14).

"(C) The geologic drilling and statement of results of test borings and core samplings required by subsection (b)(15).

"(D) The collection of archaeological information required by subsection (b)(13) and any other archaeological and historical information required by the regulatory authority, and the preparation of plans necessitated thereby.

"(E) Pre-blast surveys required by section 515(b)(15)(E).

"(F) The collection of site-specific resource information and production of protection and enhancement plans for fish and wildlife habitats and other environmental values required by the regulatory authority under this Act.

"(2) The Secretary shall provide or assume the cost of training coal operators that meet the qualifications stated in paragraph (1) concerning the preparation of permit applications and compliance with the regulatory program, and shall ensure that qualified coal operators are aware of the assistance available under this subsection.".

(b) REIMBURSEMENT OF COSTS.—Section 507 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1257) is amended by adding at the end thereof the following new subsection:

"(h) REIMBURSEMENT OF COSTS.—A coal operator that has received assistance pursuant to subsection (c) (1) or (2) shall reimburse the regulatory authority for the cost of the services rendered if the program administrator finds that the operator's actual and attributed annual production of coal for all locations exceeds 300,000 tons during the 12 months immediately following the date on which the operator is issued the surface coal mining and reclamation permit.".

SEC. 2514. SURFACE MINING REGULATIONS.

Section 710 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1300) is amended by adding at the end the following new subsection:

"(i) GRANTS.—The Secretary shall make grants to the Navajo, Hopi, Northern Cheyenne, and Crow tribes to assist such tribes in developing regulations and programs for regulating surface coal

mining and reclamation operations on Indian lands, except that nothing in this subsection may be construed as providing such tribes with the authorities set forth under section 503. Grants made under this subsection shall be used to establish an office of surface mining regulation for each such tribe. Each such office shall—

"(1) develop tribal regulations and program policies with respect to surface mining;

"(2) assist the Office of Surface Mining Reclamation and Enforcement established by section 201 in the inspection and enforcement of surface mining activities on Indian lands, including, but not limited to, permitting, mine plan review, and bond release; and

"(3) sponsor employment training and education in the area of mining and mineral resources.".

SEC. 2515. AMENDMENT TO SURFACE MINING ACT.

Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) is amended by striking "1995" and inserting in lieu thereof "2004, after which time the fee shall be established at a rate to continue to provide for the deposit referred to in subsection (h)".

TITLE XXVI—INDIAN ENERGY RESOURCES

SEC. 2601. DEFINITIONS. 25 USC 3501.

For purposes of this title—

(1) the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

(2) the term "Indian reservation" includes Indian reservations; public domain Indian allotments; former Indian reservations in Oklahoma; land held by incorporated Native groups, regional corporations, and village corporations under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State.

SEC. 2602. TRIBAL CONSULTATION. 25 USC 3502.

In implementing the provisions of this Act, the Secretary of Energy shall involve and consult with Indian tribes to the maximum extent possible and where appropriate and shall do so in a manner that is consistent with the Federal trust and the Government-to-Government relationships between Indian tribes and the Federal Government.

25 USC 3503.

SEC. 2603. PROMOTING ENERGY RESOURCE DEVELOPMENT AND ENERGY VERTICAL INTEGRATION ON INDIAN RESERVATIONS.

(a) DEMONSTRATION PROGRAMS.—The Secretary of Energy, in consultation with the Secretary of the Interior, shall establish and implement a demonstration program to assist Indian tribes in pursuing energy self-sufficiency and to promote the development of a vertically integrated energy industry on Indian reservations, in order to increase development of the substantial energy resources located on such Indian reservations. Such program shall include, but not be limited to, the following components:

(1) The Secretary shall provide development grants to Indian tribes or to joint ventures which are 51 percent or more controlled by an Indian tribe to assist Indian tribes in obtaining the managerial and technical capability needed to develop the energy resources on Indian reservations. Such grants shall include provisions for management training for tribal or village members, improving the technical capacity of the Indian tribe, and the reduction of tribal unemployment. Each grant shall be for a period of 3 years.

(2) The Secretary shall provide grants, not to exceed 50 percent of the project costs, for vertical integration projects. For purposes of this paragraph, the term "vertical integration project" means a project that promotes the vertical integration of the energy resources on an Indian reservation, so that the energy resources are used or processed on such Indian reservation. Such term includes, but is not limited to, projects involving solar and wind energy, oil refineries, the generation and transmission of electricity, hydroelectricity, cogeneration, natural gas distribution, and clean, innovative uses of coal.

(3) The Secretary shall provide technical assistance (and such other assistance as is appropriate) to Indian tribes for energy resource development and to promote the vertical integration of energy resources on Indian reservations.

(b) LOW INTEREST LOANS.—

(1) IN GENERAL.—The Secretary shall establish a program for making low interest loans to Indian tribes. Such loans shall be used exclusively by Indian tribes in the promotion of energy resource development and vertical integration on Indian reservations.

(2) TERMS.—The Secretary shall establish reasonable terms for loans made under this section which are to be used to carry out the purposes of this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(1);

(2) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (a)(2); and

(3) $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of subsection (b).

25 USC 3504.

SEC. 2604. INDIAN ENERGY RESOURCE REGULATION.

(a) GRANTS.—The Secretary of the Interior is authorized to make annual grants to Indian tribes for the purpose of assisting Indian tribes in the development, administration, implementation,

and enforcement of tribal laws and regulations governing the development of energy resources on Indian reservations.

(b) PURPOSE.—The purposes for which funds provided under a grant awarded under subsection (a) may be used include, but are not limited to—

(1) the training and education of employees responsible for enforcing or monitoring compliance with Federal and tribal laws and regulations;

(2) the development of tribal inventories of energy resources;

(3) the development of tribal laws and regulations;

(4) the development of tribal legal and governmental infrastructure to regulate environmental quality pursuant to Federal and tribal laws; and

(5) the enforcement and monitoring of Federal and tribal laws and regulations.

(c) OTHER ASSISTANCE.—The Secretary of the Interior and the Secretary of Energy shall cooperate with and provide assistance to Indian tribes for the purpose of assisting Indian tribes in the development, administration, and enforcement of tribal programs. Such cooperation and assistance shall include the following:

(1) Technical assistance and training, including the provision of necessary circulars and training materials.

(2) Assistance in the preparation and maintenance of a continuing inventory of information on tribal energy resources and tribal operations. In providing assistance under this paragraph, Federal departments and agencies shall make available to Indian tribes all relevant data concerning tribal energy resource development consistent with applicable laws regarding disclosure of proprietary and confidential information.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997 to carry out the purposes of this section.

SEC. 2605. INDIAN ENERGY RESOURCE COMMISSION. 25 USC 3505.

(a) ESTABLISHMENT.—There is hereby established the Indian Energy Resource Commission (hereafter in this section referred to as the "Commission").

(b) MEMBERSHIP.—The Commission shall consist of—

(1) 8 members appointed by the Secretary of the Interior from recommendations submitted by Indian tribes with developable energy resources, at least 4 of whom shall be elected tribal leaders;

(2) 3 members appointed by the Secretary of the Interior from recommendations submitted by the Governors of States that have Indian reservations with developable energy resources;

(3) 2 members appointed by the Secretary of the Interior from among individuals in the private sector with expertise in tribal and State taxation of energy resources;

(4) 2 members appointed by the Secretary of the Interior from individuals with expertise in oil and gas royalty management administration, including auditing and accounting;

(5) 2 members appointed by the Secretary of the Interior from individuals in the private sector with expertise in energy development;

(6) 1 member appointed by the Secretary of the Interior from recommendations submitted by National environmental organizations;

(7) the Secretary of the Interior, or his designee; and

(8) the Secretary of Energy, or his designee.

(c) APPOINTMENTS.—Members of the Commission shall be appointed not later than 60 days after the date of the enactment of this title.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) CHAIRPERSON.—The members of the Commission shall elect a Chairperson from among the members of the Commission.

(f) QUORUM.—Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) ORGANIZATIONAL MEETING.—The Commission shall hold an organizational meeting to establish the rules and procedures of the Commission not later than 30 days after the members are first appointed to the Commission.

(h) COMPENSATION.—Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission, not to exceed the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(i) TRAVEL.—While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees under sections 5702 and 5703 of title 5, United States Code.

(j) COMMISSION STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) ADDITIONAL PERSONNEL.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission. Such appointments shall be made in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, but at rates not to exceed the rate of basic pay payable for level 15 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such rules as may be issued by the Commission, the Chairperson may procure temporary and intermittent services of experts and consultants to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

(4) PERSONNEL DETAIL AUTHORIZED.—Upon the request of the Chairperson, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title. Such detail shall be without interruption or loss of civil service status or privilege.

(k) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop proposals to address the dual taxation by Indian tribes and States of the extraction of mineral resources on Indian reservations;

(2) make recommendations to improve the management, administration, accounting and auditing of royalties associated with the production of oil and gas on Indian reservations;

(3) develop alternatives for the collection and distribution of royalties associated with production of oil and gas on Indian reservations;

(4) develop proposals on incentives to foster the development of energy resources on Indian reservations;

(5) identify barriers or obstacles to the development of energy resources on Indian reservations, and make recommendations designed to foster the development of energy resources on Indian reservations and promote economic development;

(6) develop proposals for the promotion of vertical integration of the development of energy resources on Indian reservations; and

(7) develop proposals on taxation incentives to foster the development of energy resources on Indian reservations including, but not limited to, investment tax credits and enterprise zone credits.

(l) POWERS OF THE COMMISSION.—The powers of the Commission shall include the following:

(1) For the purpose of carrying out its duties under this section, the Commission may hold hearings, take testimony, and receive evidence at such times and places as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out its duties under this section.

(m) COMMISSION REPORT.—

(1) IN GENERAL.—The Commission shall, within 12 months after funds are made available to carry out this section, prepare and transmit to the President, the Committee on Interior and Insular Affairs of the House of Representatives, the Select Committee on Indian Affairs of the Senate, and the Committee on Energy and Natural Resources of the Senate, a report containing the recommendations and proposals specified in subsection (k).

(2) REVIEW AND COMMENT.—Prior to submission of the report required under this section, the Chairman shall circulate a draft of the report to Indian tribes and States that have

Indian reservations with developable energy resources and other interested tribes and States for review and comment.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission $1,000,000 to carry out this section. Such sum shall remain available, without fiscal year limitation, until expended.

(o) TERMINATION.—The Commission shall terminate 30 days after submitting the final report required by subsection (m).

25 USC 3506.

SEC. 2606. TRIBAL GOVERNMENT ENERGY ASSISTANCE PROGRAM.

(a) FINANCIAL ASSISTANCE.—The Secretary may grant financial assistance to Indian tribal governments, or private sector persons working in cooperation with Indian tribal governments, to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy projects on Indian reservations. Such grants may include the costs of technical assistance in resource assessment, feasibility analysis, technology transfer, and the resolution of other technical, financial, or management issues identified by the applicants for such grants.

(b) CONDITIONS.—Any applicant for financial assistance under this section must evidence coordination and cooperation with, and support from, local educational institutions and the affected local energy institutions.

(c) CONSIDERATIONS.—In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

(1) the extent of involvement of local educational institutions and local energy institutions;

(2) the ease and costs of operation and maintenance of any project contemplated as a part of the project;

(3) whether the measure will contribute significantly to the development, or the quality of the environment, of the affected Indian reservations; and

(4) any other factors which the Secretary may determine to be relevant to a particular project.

(d) COST-SHARE.—With the exception of grants awarded for the purpose of feasibility studies, the Secretary shall require at least 20 percent of the costs of any project under this section to be provided from non-Federal sources, unless the grant recipient is a for-profit private sector institution, in which case the Secretary shall require at least 50 percent of the costs of any project to be provided from non-Federal sources.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for the development and implementation of the program established by this section.

TITLE XXVII—INSULAR AREAS ENERGY SECURITY

SEC. 2701. INSULAR AREAS ENERGY ASSISTANCE PROGRAM.

Section 604 of the Act entitled "An Act to authorize appropriations for certain insular areas of the United States, and for other purposes", Public Law 96-597, as amended by Public Law 98-213 (48 U.S.C. 1492), is amended by adding at the end the following new subsection:

"(g) FINANCIAL ASSISTANCE.—(1) The Secretary of Energy may grant financial assistance, not to exceed $2,000,000 annually, to insular area governments or private sector persons working in cooperation with insular area governments to carry out projects to evaluate the feasibility of, develop options for, and encourage the adoption of energy efficiency and renewable energy measures which reduce the dependency of the insular areas on imported fuels, improve the quality of the environment, and promote development in the insular areas.

"(2) Any applicant for financial assistance under this subsection must evidence coordination and cooperation with, and support from, the affected local energy institutions.

"(3) In determining the amount of financial assistance to be provided for a proposed project, the Secretary shall consider—

"(A) whether the measure will reduce the relative dependence of the insular area on imported fuels;

"(B) the ease and costs of operation and maintenance of any facilities contemplated as a part of the project;

"(C) whether the project will rely on the use of conservation measures or indigenous, renewable energy resources that were identified in the 1982 Territorial Energy Assessment or that are identified by the Secretary as consistent with the purposes of this subsection;

"(D) whether the measure will contribute significantly to development and the quality of the environment in the insular area; and

"(E) any other factors which the Secretary may determine to be relevant to a particular project.

"(4) Notwithstanding the requirements of section 501(d) of Public Law 95–134 (48 U.S.C. 1469a(d)), the Secretary shall require at least 20 percent of the costs of any project under this subsection to be provided from non-Federal sources. Such cost sharing may be in the form of in-kind services, donated equipment, or any combination thereof.

"(5) For the purposes of this subsection—

"(A) the term 'insular area' means American Samoa, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, the Federated States of Micronesia, Guam, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands; and

"(B) the term '1982 Territorial Energy Assessment' means the comprehensive energy plan prepared by the Secretary of Energy pursuant to subsection (c).".

SEC. 2702. DEFINITION.

For amendment of the definition of the term "State" for purposes of the nuclear waste negotiation provisions of title IV of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10241 et seq.), see section 802(b).

SEC. 2703. ELECTRICITY REQUIREMENTS IN TRUST TERRITORY OF THE PACIFIC ISLANDS.

Not later than 3 months after the completion of the Palau National Master Development Plan developed pursuant to the Department of the Interior Secretary's Order No. 3142, the Secretary of the Interior shall, in consultation with the Government of Palau, submit a plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular

Affairs of the House of Representatives to provide electric service in Palau that is consistent with determinations made in developing the Palau National Master Development Plan, with regard to the need for and financing and scheduling of the availability of such service.

SEC. 2704. PCB CLEANUP IN MARSHALL ISLANDS AND FEDERATED STATES OF MICRONESIA.

48 USC 1681 note.

Section 105(h) of Public Law 99–239 is amended by adding at the end the following new paragraph:

"(5) The programs and services of the Environmental Protection Agency regarding PCB's shall, to the extent applicable, as appropriate, and in accordance with applicable law, be construed to be made available to such islands.".

TITLE XXVIII—NUCLEAR PLANT LICENSING

SEC. 2801. COMBINED LICENSES.

Section 185 of the Atomic Energy Act of 1954 (42 U.S.C. 2235) is amended—

(1) in the heading for such section by adding "and Operating Licenses" after "Permits";

(2) by adding a subsection designator "a." before "All applicants for licenses"; and

(3) by adding at the end the following new subsection:

"b. After holding a public hearing under section 189 a. (1)(A), the Commission shall issue to the applicant a combined construction and operating license if the application contains sufficient information to support the issuance of a combined license and the Commission determines that there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. The Commission shall identify within the combined license the inspections, tests, and analyses, including those applicable to emergency planning, that the licensee shall perform, and the acceptance criteria that, if met, are necessary and sufficient to provide reasonable assurance that the facility has been constructed and will be operated in conformity with the license, the provisions of this Act, and the Commission's rules and regulations. Following issuance of the combined license, the Commission shall ensure that the prescribed inspections, tests, and analyses are performed and, prior to operation of the facility, shall find that the prescribed acceptance criteria are met. Any finding made under this subsection shall not require a hearing except as provided in section 189 a. (1)(B).".

SEC. 2802. POST-CONSTRUCTION HEARINGS ON COMBINED LICENSES.

Section 189 a. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(1)) is amended—

(1) by adding a subparagraph designator "(A)" before "In any proceeding under this Act,"; and

(2) by adding after subparagraph (A) the following new subparagraph:

Federal Register, publication.

"(B)(i) Not less than 180 days before the date scheduled for initial loading of fuel into a plant by a licensee that has been

issued a combined construction permit and operating license under section 185 b., the Commission shall publish in the Federal Register notice of intended operation. That notice shall provide that any person whose interest may be affected by operation of the plant, may within 60 days request the Commission to hold a hearing on whether the facility as constructed complies, or on completion will comply, with the acceptance criteria of the license.

"(ii) A request for hearing under clause (i) shall show, prima facie, that one or more of the acceptance criteria in the combined license have not been, or will not be met, and the specific operational consequences of nonconformance that would be contrary to providing reasonable assurance of adequate protection of the public health and safety.

"(iii) After receiving a request for a hearing under clause (i), the Commission expeditiously shall either deny or grant the request. If the request is granted, the Commission shall determine, after considering petitioners' prima facie showing and any answers thereto, whether during a period of interim operation, there will be reasonable assurance of adequate protection of the public health and safety. If the Commission determines that there is such reasonable assurance, it shall allow operation during an interim period under the combined license.

"(iv) The Commission, in its discretion, shall determine appropriate hearing procedures, whether informal or formal adjudicatory, for any hearing under clause (i), and shall state its reasons therefor.

"(v) The Commission shall, to the maximum possible extent, render a decision on issues raised by the hearing request within 180 days of the publication of the notice provided by clause (i) or the anticipated date for initial loading of fuel into the reactor, whichever is later. Commencement of operation under a combined license is not subject to subparagraph (A).".

SEC. 2803. RULEMAKING.

The Nuclear Regulatory Commission shall modify part 52 of title 10, Code of Federal Regulations, to conform with sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, not later than 1 year after the date of the enactment of this Act.

SEC. 2804. AMENDMENT OF A COMBINED LICENSE PENDING A HEARING.

Section 189 a. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2239(a)(2)) is amended by inserting "or any amendment to a combined construction and operating license" after "any amendment to an operating license" each time it occurs.

SEC. 2805. JUDICIAL REVIEW.

Section 189 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2239(b)) is amended by inserting "or any final order allowing or prohibiting a facility to begin operating under a combined construction and operating license" before "shall be subject to judicial review".

SEC. 2806. EFFECT ON PENDING PROCEEDINGS.

42 USC 2235 note.

Sections 185 b. and 189 a. (1)(B) of the Atomic Energy Act of 1954, as added by sections 2801 and 2802 of this Act, shall apply to all proceedings involving a combined license for which an application was filed after May 8, 1991, under such sections.

SEC. 2807. CONFORMING AMENDMENT.

The table of contents of the Atomic Energy Act of 1954 is amended by amending the item related to section 185 to read as follows:

"Sec. 185. Construction Permits and Operating Licenses.".

TITLE XXIX—ADDITIONAL NUCLEAR ENERGY PROVISIONS

SEC. 2901. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF NRC REGULATORY CONCERN.

(a) IN GENERAL.—The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by inserting after section 275 the following new section:

42 USC 2023.

"SEC. 276. STATE AUTHORITY TO REGULATE RADIATION BELOW LEVEL OF REGULATORY CONCERN OF NUCLEAR REGULATORY COMMISSION.

"(a) IN GENERAL.—No provision of this Act, or of the Low-Level Radioactive Waste Policy Act, may be construed to prohibit or otherwise restrict the authority of any State to regulate, on the basis of radiological hazard, the disposal or off-site incineration of low-level radioactive waste, if the Nuclear Regulatory Commission, after the date of the enactment of the Energy Policy Act of 1992 exempts such waste from regulation.

"(b) RELATION TO OTHER STATE AUTHORITY.—This section may not be construed to imply preemption of existing State authority. Except as expressly provided in subsection (a), this section may not be construed to confer on any State any additional authority to regulate activities licensed by the Nuclear Regulatory Commission.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'low-level radioactive waste' means radioactive material classified by the Nuclear Regulatory Commission as low-level radioactive waste on the date of the enactment of the Energy Policy Act of 1992.

"(2) The term 'off-site incineration' means any incineration of radioactive materials at a facility that is located off the site where such materials were generated.

"(3) The term 'State' means each of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) REVOCATION OF RELATED NRC POLICY STATEMENTS.—The policy statements of the Nuclear Regulatory Commission published in the Federal Register on July 3, 1990 (55 Fed. Reg. 27522) and August 29, 1986 (51 Fed. Reg. 30839), relating to radioactive waste below regulatory concern, shall have no effect after the date of the enactment of this Act.

(c) CONFORMING AMENDMENT.—The table of contents of the Atomic Energy Act of 1954 (42 U.S.C. 2011 prec.) is amended by inserting after the item relating to section 275 the following new item:

"Sec. 276. State authority to regulate radiation below level of regulatory concern of Nuclear Regulatory Commission.".

SEC. 2902. EMPLOYEE PROTECTION FOR NUCLEAR WHISTLEBLOWERS.

(a) INTERNAL WHISTLEBLOWERS; EMPLOYERS.—Section 210(a) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(a)) is amended—

(1) by inserting "(1)" after "SEC. 210. (a)";

(2) by striking ", including" and all that follows through "licensee or applicant,";

(3) by inserting after the dash the following new subparagraphs:

"(A) notified his employer of an alleged violation of this Act or the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.);

"(B) refused to engage in any practice made unlawful by this Act or the Atomic Energy Act of 1954, if the employee has identified the alleged illegality to the employer;

"(C) testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this Act or the Atomic Energy Act of 1954;";

(4) by redesignating paragraphs (1) through (3) as subparagraphs (D) through (F), respectively; and

(5) by adding at the end the following new paragraph:

"(2) For purposes of this section, the term 'employer' includes—

"(A) a licensee of the Commission or of an agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021);

"(B) an applicant for a license from the Commission or such an agreement State;

"(C) a contractor or subcontractor of such a licensee or applicant; and

"(D) a contractor or subcontractor of the Department of Energy that is indemnified by the Department under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), but such term shall not include any contractor or subcontractor covered by Executive Order No. 12344.".

(b) TIME PERIOD FOR FILING COMPLAINT.—Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended by striking "thirty days" and inserting "180 days".

(c) INTERIM RELIEF.—Section 210(b)(2)(A) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(2)(A)) is amended by inserting before the last sentence the following: "Upon the conclusion of such hearing and the issuance of a recommended decision that the complaint has merit, the Secretary shall issue a preliminary order providing the relief prescribed in subparagraph (B), but may not order compensatory damages pending a final order.".

(d) AVOIDANCE OF FRIVOLOUS COMPLAINTS.—Section 210(b) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)) is amended by adding at the end the following new paragraph:

"(3)(A) The Secretary shall dismiss a complaint filed under paragraph (1), and shall not conduct the investigation required under paragraph (2), unless the complainant has made a prima facie showing that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(B) Notwithstanding a finding by the Secretary that the complainant has made the showing required by subparagraph (A), no investigation required under paragraph (2) shall be conducted if the employer demonstrates, by clear and convincing evidence,

that it would have taken the same unfavorable personnel action in the absence of such behavior.

"(C) The Secretary may determine that a violation of subsection (a) has occurred only if the complainant has demonstrated that any behavior described in subparagraphs (A) through (F) of subsection (a)(1) was a contributing factor in the unfavorable personnel action alleged in the complaint.

"(D) Relief may not be ordered under paragraph (2) if the employer demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior.".

(e) NONPREEMPTION.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is amended by adding at the end the following new subsection:

"(h) This section may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by the employer against the employee.".

(f) POSTING REQUIREMENT.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(i) The provisions of this section shall be prominently posted in any place of employment to which this section applies.".

(g) DUTY OF NRC TO INVESTIGATE SUBSTANTIVE ALLEGATIONS.—Section 210 of the Energy Reorganization Act of 1974 (42 U.S.C. 5851) is further amended by adding at the end the following new subsection:

"(j)(1) The Commission or the Department of Energy shall not delay taking appropriate action with respect to an allegation of a substantial safety hazard on the basis of—

"(A) the filing of a complaint under subsection (b)(1) arising from such allegation; or

"(B) any investigation by the Secretary, or other action, under this section in response to such complaint.

"(2) A determination by the Secretary under this section that a violation of subsection (a) has not occurred shall not be considered by the Commission or the Department of Energy in its determination of whether a substantial safety hazard exists.".

(h) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The title heading of title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) is amended to read as follows:

"TITLE II—NUCLEAR REGULATORY COMMISSION; NUCLEAR WHISTLEBLOWER PROTECTION".

(2) Section 210(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) is amended—

(A) by striking "(hereinafter in this subsection referred to as the 'Secretary')" and inserting "(in this section referred to as the 'Secretary')"; and

(B) by striking "and the Commission" and inserting ", the Commission, and the Department of Energy".

(3) The second of the two sections of the Energy Reorganization Act of 1974 that is numbered 210 (42 U.S.C. 5851) is redesignated as section 211.

(i) APPLICABILITY.—The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act. 42 USC 5851 note.

SEC. 2903. EXEMPTION OF CERTAIN RESEARCH AND EDUCATIONAL LICENSEES FROM ANNUAL CHARGES.

(a) IN GENERAL.—Section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 (42 U.S.C. 2214(c)) is amended—

(1) in paragraph (1), by striking "Any licensee" and inserting "Except as provided in paragraph (4), any licensee"; and

(2) by adding at the end the following new paragraph:

"(4) EXEMPTION.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the holder of any license for a federally owned research reactor used primarily for educational training and academic research purposes.

"(B) RESEARCH REACTOR.—For purposes of subparagraph (A), the term 'research reactor' means a nuclear reactor that—

"(i) is licensed by the Nuclear Regulatory Commission under section 104 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2134(c)) for operation at a thermal power level of 10 megawatts or less; and

"(ii) if so licensed for operation at a thermal power level of more than 1 megawatt, does not contain—

"(I) a circulating loop through the core in which the licensee conducts fuel experiments;

"(II) a liquid fuel loading; or

"(III) an experimental facility in the core in excess of 16 square inches in cross-section.".

(b) APPLICABILITY.—The amendments made subsection (a) shall apply to annual charges assessed under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990 for fiscal year 1992 or any succeeding fiscal year. 42 USC 2214 note.

(c) POLICY REVIEW.—The Nuclear Regulatory Commission shall review its policy for assessment of annual charges under section 6101(c) of the Omnibus Budget Reconciliation Act of 1990, solicit public comment on the need for changes to such policy, and recommend to the Congress such changes in existing law as the Commission finds are needed to prevent the placement of an unfair burden on certain licensees of the Commission, in particular those that hold licenses to operate federally owned research reactors used primarily for educational training and academic research purposes. 42 USC 2214 note.

SEC. 2904. STUDY AND IMPLEMENTATION PLAN ON SAFETY OF SHIPMENTS OF PLUTONIUM BY SEA.

(a) STUDY.—The President, in consultation with the Nuclear Regulatory Commission, shall conduct a study on the safety of shipments of plutonium by sea. The study shall consider the following:

(1) The safety of the casks containing the plutonium.

(2) The safety risks to the States of such shipments.

(3) Upon the request of any State, the adequacy of that State's emergency plans with respect to such shipments.

(4) The Federal resources needed to assist the States on account of such shipments.

(b) REPORT.—The President shall, not later than 60 days after the date of the enactment of this Act, transmit to the Congress a report on the study conducted under subsection (a), together with his recommendations based on the study.

(c) IMPLEMENTATION PLAN.—The President, in consultation with the Nuclear Regulatory Commission, shall establish a plan to implement the recommendations contained in the study conducted under subsection (a) and shall, not later than 90 days after transmitting the report to the Congress under subsection (b), transmit to the Congress that implementation plan.

(d) DEFINITION.—As used in this section, the term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

TITLE XXX—MISCELLANEOUS

Subtitle A—General Provisions

42 USC 13541.

SEC. 3001. RESEARCH, DEVELOPMENT, DEMONSTRATION, AND COMMERCIAL APPLICATION ACTIVITIES.

(a) RESEARCH, DEVELOPMENT, AND DEMONSTRATION.—(1) Except as otherwise provided in this Act, research, development, and demonstration activities under this Act may be carried out under the procedures of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901–5920), the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), or any other Act under which the Secretary is authorized to carry out such activities, but only to the extent the Secretary is authorized to carry out such activities under each such Act. An objective of any demonstration program under this Act shall be to determine the technical and commercial feasibility of energy technologies.

(2) Except as otherwise provided in this Act, in carrying out research, development, and demonstration programs and activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary.

(b) COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, in carrying out commercial application programs and commercial application activities under this Act, the Secretary may use, to the extent authorized under applicable provisions of law, contracts, cooperative agreements, cooperative research and development agreements under the Stevenson-Wydler Technology Innovation Act of 1980, grants, joint ventures, and any other form of agreement available to the Secretary. An objective of any commercial application program under this Act shall be to accelerate the transition of technologies from the research and development stage.

(c) DEFINITION.—For purposes of this section, the term "joint venture" has the meaning given the term "joint research and development venture" under section 2(a)(6) and (b) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6) and (b)), except that such term may apply under this section to research, development, demonstration, and commercial application joint ventures.

(d) PROTECTION OF INFORMATION.—Section 12(c)(7) of the Stevenson-Wydler Technology Innovation Act of 1980, relating to the protection of information, shall apply to research, development, demonstration, and commercial application programs and activities under this Act.

(e) GUIDELINES AND PROCEDURES.—The Secretary shall provide guidelines and procedures for the transition, where appropriate, of energy technologies from research through development and demonstration under subsection (a) to commercial application under subsection (b). Nothing in this section shall preclude the Secretary from—

(1) entering into a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary under this section that relates to research, development, demonstration, and commercial application; or

(2) extending a contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that relates to research, development, and demonstration to cover commercial application.

(f) APPLICATION OF SECTION.—This section shall not apply to any contract, cooperative agreement, cooperative research and development agreement under the Stevenson-Wydler Technology Innovation Act of 1980, grant, joint venture, or any other form of agreement available to the Secretary that is in effect as of the date of the enactment of this Act.

SEC. 3002. COST SHARING. 42 USC 13542.

(a) RESEARCH AND DEVELOPMENT.—Except as otherwise provided in this Act, for research and development programs carried out under this Act, the Secretary shall require a commitment from non-Federal sources of at least 20 percent of the cost of the project. The Secretary may reduce or eliminate the non-Federal requirement under this subsection if the Secretary determines that the research and development is of a basic or fundamental nature.

(b) DEMONSTRATION AND COMMERCIAL APPLICATION.—Except as otherwise provided in this Act, the Secretary shall require at least 50 percent of the costs directly and specifically related to any demonstration or commercial application project under this Act to be provided from non-Federal sources. The Secretary may reduce the non-Federal requirement under this subsection if the Secretary determines that the reduction is necessary and appropriate considering the technological risks involved in the project and is necessary to meet the objectives of this Act.

(c) CALCULATION OF AMOUNT.—In calculating the amount of the non-Federal commitment under paragraph (1) or (2), the Secretary shall include cash, personnel, services, equipment, and other resources.

(d) TENNESSEE VALLEY AUTHORITY.—Funds derived by the Tennessee Valley Authority from its power program may be used for all or part of any cost sharing requirements under this section, except to the extent that such funds are provided by annual appropriation Acts.

Subtitle B—Other Miscellaneous Provisions

SEC. 3011. POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978 REPEAL.

Section 403(c) of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8373(c)) is repealed.

SEC. 3012. ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 REPEAL.

(a) REPEAL.—Section 7(a)(5) of the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719e(a)(5)) is repealed.

15 USC 719e.

(b) ABOLITION OF OFFICE OF FEDERAL INSPECTOR OF CONSTRUCTION.—The Office of Federal Inspector of Construction for the Alaska Natural Gas Transportation System, created pursuant to the paragraph repealed by subsection (a) of this section, is abolished. All functions and authority vested in the Inspector are hereby transferred to the Secretary of Energy.

(c) REVOCATION OF CERTAIN OFI REGULATIONS.—Regulations applicable to the Office of Federal Inspector of the Alaska Natural Gas Transportation System, as set forth in chapter 15 of title 10, Code of Federal Regulations, are hereby revoked.

42 USC 13551.

SEC. 3013. GEOTHERMAL HEAT PUMPS.

The Secretary shall—

(1) encourage States, municipalities, counties, and townships to consider allowing the installation of geothermal heat pumps, and, where applicable, and consistent with public health and safety, to permit public and private water recipients to utilize the flow of water from, and back into, public and private water mains for the purpose of providing sufficient water supply for the operation of residential and commercial geothermal heat pumps; and

(2) not discourage any local authority which allows the use of geothermal heat pumps from—

(A) inspecting, at any reasonable time, geothermal heat pump connections to the water system to ensure the exclusive use of the public or private water supply to the geothermal heat pump system; and

(B) requiring that geothermal heat pump systems be designed and installed in a manner that eliminates any risk of contamination to the public water supply.

42 USC 13552.

SEC. 3014. USE OF ENERGY FUTURES FOR FUEL PURCHASES.

(a) FUEL STUDY.—The Secretary shall conduct a study—

(1) to ascertain if the use of energy futures and options contracts could provide cost-effective protection for Government entities (including Government purchases for military purposes and for the Strategic Petroleum Reserve) and consumer cooperatives (or any organization whose purpose is to purchase fuel in bulk) from unanticipated surges in the price of fuel; and

(2) to ascertain how such Government entities or consumer cooperatives may be educated in the prudent use of energy futures and options contracts to maximize their purchasing effectiveness, protect themselves against unanticipated surges in the price of fuel, and minimize fuel costs.

(b) REPORT.—The Secretary, no later than 12 months after the date of the enactment of this Act, shall transmit the study required in this section to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) PILOT PROGRAM.—The Secretary shall conduct a pilot program, commencing not later than 30 days after the transmission of the study required in subsection (b), to educate such governmental entities, consumer cooperatives, or other organizations on the prudent and cost-effective use of energy futures and options contracts to increase their protection against unanticipated surges in the price of fuel and thereby increase the efficiency of their fuel purchase or assistance programs.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 3015. ENERGY SUBSIDY STUDY. 42 USC 13553.

(a) IN GENERAL.—The Secretary shall contract with the National Academy of Sciences to conduct a study of energy subsidies that—

(1) are in effect on the date of the enactment of this Act; or

(2) have been in effect prior to the date of the enactment of this Act.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Congress, the results of such study to be accompanied by recommendations for legislation, if any.

(c) CONTENTS.—

(1) IN GENERAL.—The study shall identify and quantify the direct and indirect subsidies and other legal and institutional factors that influence decisions in the marketplace concerning fuels and energy technologies.

(2) TOPICS FOR EXAMINATION.—The study shall examine—

(A) fuel and technology choices that are—

(i) available on the date of the enactment of this Act; or

(ii) reasonably foreseeable on the date of the enactment of this Act;

(B) production subsidies for the extraction of raw materials;

(C) subsidies encouraging investment in large capital projects;

(D) indemnification;

(E) fuel cycle subsidies, including waste disposal;

(F) government research and development support; and

(G) other relevant incentives and disincentives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for each of the fiscal years 1993 and 1994.

SEC. 3016. TAR SANDS. 42 USC 13554.

(a) POLICY.—It is the policy of the United States to promote the development and production, by all means consistent with sound engineering, economic, and environmental practices, of deposits of tar sands.

(b) DEFINITION.—(1) For purposes of this section, the term "tar sands" means any consolidated or unconsolidated rock (other than coal, oil shale, or gilsonite) that either—

(A) contains a hydrocarbonaceous material with a gas-free viscosity, at original reservoir temperature, greater than 10,000 centipoise; or

(B) contains a hydrocarbonaceous material and is produced by mining or quarrying.

(2) Nothing in this section is intended or shall be construed to affect in any way the definition of the term tar sands under any other provision of Federal law.

(c) STUDY.—The Secretary, in consultation with the Secretary of the Interior, shall submit a study to the House of Representatives and the Committee on Energy and Natural Resources of the Senate within one year after the date of enactment of this Act. Such study shall identify and evaluate the development potential of sources of tar sands in the United States. The study shall also identify and evaluate processes for extracting oil from the identified tar sand sources, including existing tar sands waste tailings, and evaluate the environmental benefits of, and the potential for co-production of minerals and metals from, such processes.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994 to carry out this section.

SEC. 3017. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (21) the following:

"(21A) 'farmout agreement' means a written agreement in which—

"(A) the owner of a right to drill, produce, or operate liquid or gaseous hydrocarbons on property agrees or has agreed to transfer or assign all or a part of such right to another entity; and

"(B) such other entity (either directly or through its agents or its assigns), as consideration, agrees to perform drilling, reworking, recompleting, testing, or similar or related operations, to develop or produce liquid or gaseous hydrocarbons on the property;".

(b) PROPERTY OF THE ESTATE.—Section 541(b) of title 11, United States Code, is amended—

(1) in paragraph (2) by striking "or" at the end,

(2) in paragraph (3) by striking the period at the end and inserting "or", and

(3) by adding at the end the following:

"(4) any interest of the debtor in liquid or gaseous hydrocarbons to the extent that—

"(A) the debtor has transferred or has agreed to transfer such interest pursuant to a farmout agreement or any written agreement directly related to a farmout agreement; and

"(B) but for the operation of this paragraph, the estate could include such interest only by virtue of section 365 or 544(a)(3) of this title.

Paragraph (4) shall not be construed to exclude from the estate any consideration the debtor retains, receives, or is entitled to

receive for transferring an interest in liquid or gaseous hydrocarbons pursuant to a farmout agreement.".

(c) EFFECTIVE DATE; APPLICATION OF AMENDMENTS.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act. 11 USC 101 note.

(2) The amendments made by this section shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 3018. RADIATION EXPOSURE COMPENSATION.

Section 6 of the Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended by adding at the end the following new subsection:

"(l) JUDICIAL REVIEW.—An individual whose claim for compensation under this Act is denied may seek judicial review solely in a district court of the United States. The court shall review the denial on the administrative record and shall hold unlawful and set aside the denial if it is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 3019. STRATEGIC DIVERSIFICATION.

The Office of Barter within the United States Department of Commerce and the Interagency Group on Countertrade shall within six months from the date of enactment report to the President and the Congress on the feasibility of using barter, countertrade and other self-liquidating finance methods to facilitate the strategic diversification of United States oil imports through cooperation with the former Soviet Union in the development of its energy resources. The report shall consider among other relevant topics the feasibility of trading American grown food for Soviet produced oil, minerals or energy. Reports.

SEC. 3020. CONSULTATIVE COMMISSION ON WESTERN HEMISPHERE ENERGY AND ENVIRONMENT. 42 USC 13555.

(a) FINDINGS.—The Congress finds that—

(1) there is growing mutual economic interdependence among the countries of the Western Hemisphere;

(2) energy and environmental issues are intrinsically linked and must be considered together when formulating policy on the broader issue of sustainable economic development for the Western Hemisphere as a whole;

(3) when developing their respective energy infrastructures, countries in the Western Hemisphere must consider existing and emerging environmental constraints, and do so in a way that results in sustainable long-term economic growth;

(4) the coordination of respective national energy and environmental policies of the governments of the Western Hemisphere could be substantially improved through regular consultation among these countries;

(5) the development, production and consumption of energy can affect environmental quality, and the environmental consequences of energy-related activities are not confined within national boundaries, but are regional and global in scope;

(6) although the Western Hemisphere is richly endowed with indigenous energy resources, an insufficient energy supply would severely constrain future opportunities for sustainable economic development and growth in each of these member countries; and

(7) the energy markets of the United States are linked with those in other countries of the Western Hemisphere and the world.

(b) DEFINITION.—For purposes of this section, the term "Commission" means the Consultative Commission on Western Hemisphere Energy and Environment.

(c) NEGOTIATIONS.—The President is authorized to direct the United States representative to the Organization of American States to initiate negotiations with the Organization of American States for the establishment of a Consultative Commission on Western Hemisphere Energy and Environment under the auspices of the Organization of American States.

(d) THE COMMISSION.—In the course of the negotiations, the following shall be pursued:

(1) OBJECTIVES.—The objectives of the Commission shall be—

(A) to evaluate from the viewpoint of the Western Hemisphere as a whole the energy and environmental situations, trends, and policies of the countries of the participating governments necessary to support sustainable economic development;

(B) to recommend to the participating governments actions, policies, and institutional arrangements that will enhance cooperation and policy coordination among their respective countries in the future development and use of indigenous energy resources and technologies, and in the future development and implementation of measures to protect the environment of the Western Hemisphere; and

(C) to recommend to the participating governments actions and policies that will enhance energy and environmental cooperation and coordination among the countries of the Western Hemisphere and the world.

(2) COMPOSITION OF THE COMMISSION.—The Commission shall include representatives of—

(A) the respective foreign energy and environmental ministries or departments of the participating governments;

(B) the parliamentary or legislative bodies with legislative responsibilities for energy and environmental matters; and

(C) other governmental and non-governmental observers appointed by the heads of each participating government on the basis of their experience and expertise.

(3) SECRETARIAT.—A small secretariat shall be chosen by the participating governments for their expertise in the areas of energy and the environment.

(4) SUNSET PROVISION.—The Commission's authority—

(A) shall terminate five years from the date of the agreement under which it was created; and

(B) may be extended for a five-year term at the expiration of the previous term by agreement of the participating governments.

(e) REPORT.—The President shall, within one year after the date of enactment of this Act, report to the Committee on Energy and Commerce and the Committee on Foreign Affairs of the House of Representatives, and to the Committee on Energy and Natural Resources and the Committee on Foreign Relations of the Senate,

on the progress toward the establishment of the Commission and achievement of the purposes of this section.

SEC. 3021. DISADVANTAGED BUSINESS ENTERPRISES. 42 USC 13556.

(a) GENERAL RULE.—To the extent practicable, the head of each agency shall provide that the obligation of not less than 10 percent of the total combined amounts obligated for contracts and subcontracts by each agency under this Act and amendments made by this Act pursuant to competitive procedures within the meaning of either the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), or chapter 137 of title 10, United States Code, shall be expended either with—

(1) small business concerns controlled by socially and economically disadvantaged individuals or women;

(2) historically Black colleges and universities; or

(3) colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans.

(b) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

(1) The term "small business concern" has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632). However, for purposes of contracts and subcontracts requiring engineering services the applicable size standard shall be that established for military and aerospace equipment and military weapons.

(2) The term "socially and economically disadvantaged individuals" has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 776 (S. 2166):

HOUSE REPORTS: Nos. 102-474, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Science, Space, and Technology), Pt. 3 (Comm. on Public Works and Transportation), Pt. 4 (Comm. on Foreign Affairs), Pt. 5 (Comm. on Government Operations), Pt. 6 (Comm. on Ways and Means), Pt. 7 (Comm. on the Judiciary), Pt. 8 (Comm. on Interior and Insular Affairs), and Pt. 9 (Comm. on Merchant Marine and Fisheries), and 102-1018 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 138 (1992):
Feb. 5-7, 18, 19, S. 2166 considered and passed Senate.
May 20, 21, 27, H.R. 776 considered and passed House.
July 29, 30, considered and passed Senate, amended.
Oct. 5, House agreed to conference report. Senate considered conference report.
Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 24, Presidential remarks and statement.

Public Law 102-487
102d Congress

An Act

Oct. 24, 1992
[H.R. 2263]

To amend chapter 45 of title 5, United States Code, to authorize awards for cost savings disclosures.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AWARDS FOR COST SAVINGS DISCLOSURES.

(a) REPEAL OF LIMITATION.—Section 4514 of title 5, United States Code, is repealed.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 5, United States Code, is amended by striking out the item relating to section 4514.

5 USC 4511 note.

(c) AUTHORITY TO MAKE AWARDS.—Awards may be made under subchapter II of chapter 45 of title 5, United States Code, on and after the date of the enactment of this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 2263:

HOUSE REPORTS: No. 102-356 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 25, considered and passed House.
Vol. 138 (1992): Sept. 24, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

Public Law 102-488
102d Congress

An Act

To authorize the Secretary of the Interior to revise the boundaries of the Minute Man National Historical Park in the State of Massachusetts, and for other purposes.

Oct. 24, 1992
[H.R. 2896]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Minute Man National Historical Park Amendments of 1991.
Conservation.
16 USC 410s note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Minute Man National Historical Park Amendments of 1991".

SEC. 2. AMENDMENTS TO MINUTE MAN PARK ACT.

16 USC 410s.

The Act of September 21, 1959, entitled "An Act to provide for the establishment of the Minute Man National Historical Park in Massachusetts, and for other purposes" (Public Law 86-321; 73 Stat. 590; 16 U.S.C. 410s and following) is amended by striking so much of the first section as follows the first sentence thereof (including all of subsections (b) and (c)) and inserting the following: "The purposes of the park shall include the preservation and interpretation of (1) the historic landscape along the road between Lexington and Concord, (2) sites associated with the causes and consequences of the American Revolution, and (3) the Wayside on Lexington Road in Concord, the home of Nathaniel Hawthorne, Bronson Alcott, Louisa May Alcott, and Margaret Sidney, whose works illustrate the nineteenth century American literary renaissance.

"(b) The park shall be comprised of the lands depicted on the map entitled 'Boundary Map NARO-406-20015C', dated June 1991.".

16 USC 410t.

(3) Section 2 is amended by inserting "(a)" after "SEC. 2." and by adding the following at the end thereof:

"(b) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of Defense the two parcels currently administered by the Secretary of the Interior, as depicted on the map dated April 1990 and numbered NARO-406/80805. The Secretary of Defense shall transfer to the administrative jurisdiction of the Secretary of the Interior, without reimbursement, for inclusion in the Minute Man National Historical Park the 4 parcels now administered by the Secretary of Defense, as depicted on the maps dated April 1990 and numbered NARO-406/80804 and NARO-406/80805.

Gifts and property.

"(c) The Secretary of the Interior is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, lands or interests in lands within the areas included within the boundaries of the park pursuant to amendments made by the Minute Man National Historical Park Amendments of 1991 (hereinafter referred to as '1991 additions'), except that—

"(1) lands, and interests in lands, within the 1991 additions which are owned by the State of Massachusetts or any political subdivision thereof, may be acquired only by donation, and

"(2) lands, and interests in lands, within the 1991 additions which are used for noncommercial residential purposes as of July 1, 1991, may be acquired only with the consent of the owner thereof unless the property is being developed, or is proposed to be developed, in a manner which the Secretary determines to be detrimental to the scenic, historical, cultural, and other values of the park.

Nothing in paragraph (2) shall be construed to prohibit the use of condemnation as a means of acquiring a clear and marketable title, free of any and all encumbrances for any lands within the 1991 additions. Not later than 6 months after the enactment of the Minute Man National Historical Park Amendments of 1991, and after notice and opportunity for public comment, the Secretary of the Interior shall publish specific guidelines for making determinations under paragraph (2). Such guidelines shall provide for (A) written notice to the Secretary prior to commencement of any proposed development on the lands referred to in paragraph (2), (B) written notice by the Secretary to the owner of such lands of any determination proposed to be made under paragraph (2), and (C) a reasonable opportunity for the owner to comment on such proposed determination.

Real property.

"(d)(1) Any individual who owns private property acquired by the Secretary under subsection (c) may, on the date of such acquisition and as a condition of such acquisition, retain for himself and his successors or assigns, a right of use and occupancy of the property for a definite term of not more than 25 years from the date of acquisition by the Secretary or a term ending at the death of the owner or the owner's spouse, whichever is later. The owner shall elect the term to be reserved.

"(2) Unless the property is wholly or partially donated, the Secretary shall pay to the owner reserving a right of use and occupancy under this subsection the fair market value of the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner.

"(3) For purposes of applying this subsection, ownership shall be determined as of July 1, 1991.".

Appropriation authorization.
16 USC 410x.

(4) At the end of section 6 insert "For fiscal years after fiscal year 1991, there is authorized to be appropriated an additional $15,000,000 for development and an additional $7,300,000 for acquisition of lands and interests in lands.".

(5) Add the following new section at the end of such Act:

16 USC 410x-1.

"SEC. 7. RESIDENTIAL OCCUPANCY.

"(a) OFFER.—In the case of each individual who—

"(1) sold residential property between 1966 and 1968 to the United States for purposes of the park, and

"(2) continues to occupy such residential property pursuant to a residential special use permit as of the enactment of this section,

the Secretary of the Interior shall offer to extend such residential special use permit for a term ending on the death of such individual or such individual's spouse, whichever is later.

"(b) TERMS AND CONDITIONS.—Any residential special use permit extended pursuant to subsection (a) shall—

"(1) permit the reasonable residential use and occupancy of the property by the individual to whom such permit is granted and such individual's spouse; and

"(2) be subject to such terms and conditions as the Secretary may prescribe (including termination) to ensure that the permit does not unreasonably diminish the values of the park.

The extension of any such residential special use permit shall be conditional upon the payment by the individual holding such permit of an annual fee in the same amount as required as of July 1, 1991.

"SEC. 8. DEFINITION. 16 USC 410x-2.

"As used in this Act, the term 'residential property' means a single-family dwelling, the construction of which began before July 1, 1991, together with such land on which the dwelling and appurtenant buildings are located as is in the same ownership as such dwelling and as the Secretary designates as reasonably necessary for the owner's continued use and occupancy of the dwelling.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 2896:

HOUSE REPORTS: No. 102-276 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-330 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 28, considered and passed House.
Vol. 138 (1992): Oct. 7, considered and passed Senate.

Public Law 102-489
102d Congress

An Act

Oct. 24, 1992
[H.R. 3638]

Making technical amendments to the law which authorizes modification of the boundaries of the Alaska Maritime National Wildlife Refuge.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Koniag Lands Conveyance Amendments of 1991.
16 USC 668dd note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Koniag Lands Conveyance Amendments of 1991".

SEC. 2. DEFINITIONS.

Section 1 of the Act entitled "An Act to authorize modification of the boundaries of the Alaska National Wildlife Refuge (Public Law 101-622; hereinafter in this Act referred to as the 'Boundary Act')" is amended—

16 USC 668dd note.

(1) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (4), and (5), respectively;

(2) by inserting before paragraph (2), as redesignated, the following:

"(1) 'Identified lands' means lands (including improvements, surface rights, and subsurface rights) designated as Tracts 1, 2, and 3 upon the map entitled 'Koniag Land Exchange,' dated September 4, 1990, and available for inspection in appropriate offices of the United States Fish and Wildlife Service;"; and

(3) by inserting after paragraph (2), as redesignated, the following:

"(3) 'Koniag Lands' means approximately 209 acres of lands (including improvements, surface rights, and subsurface rights to land) on Kodiak Island, Alaska, designated as 'Koniag Lands' on the maps referred to in paragraph (1),".

SEC. 3. LANDS TO BE EXCHANGED.

16 USC 668dd note.

(a) LANDS EXCHANGED TO THE UNITED STATES.—Section 2(a) of the Boundary Act is amended to read as follows:

"(a) LANDS EXCHANGED TO THE UNITED STATES.—(1) If after a final value is assigned to the Identified lands and to the Koniag Lands, Koniag expresses to the Secretary in writing the intent of Koniag to enter into a land exchange with the United States, then the Secretary shall accept from Koniag a conveyance by limited general warranty deed of the Koniag Lands.

"(2) A value shall be a final value for purposes of paragraph (1) if—

"(A) the Secretary has assigned a value to the Identified lands and the Koniag Lands in accordance with section 3; and

"(B) either—

"(i) Koniag has expressed in writing its intent to forego judicial review under chapter 7 of title 5, United States Code, of the value assigned by the Secretary;

"(ii) the time limit for filing a petition for judicial review under that chapter has expired and no petition has been filed; or

"(iii) a final determination on any such petition is issued.

"(3) For purposes of this subsection, a determination is final only if all rights to appeal the determination, or to request a review, rehearing, or redetermination of the matter that is the subject of the determination, have been exhausted or have lapsed.

"(4) The Koniag Lands shall be included in the Alaska Maritime National Wildlife Refuge as of the date of the acceptance of the conveyance of those lands from Koniag.".

(b) LANDS EXCHANGED TO KONIAG.—Section 2(b) of the Boundary Act is amended to read as follows: 16 USC 668dd note.

"(b) LANDS EXCHANGED TO KONIAG.—In exchange for the Koniag Lands conveyed under subsection (a)(1), the Secretary shall, subject to valid existing rights and notwithstanding any other provision of law, convey to Koniag from within the Identified lands, land selected by Koniag with a total assigned value, as determined in accordance with section 3, equal to the sum of the value of the Koniag Lands, plus one-half of the cost of all appraisals performed under section 3. Such conveyance shall be by quitclaim deed, based upon a metes and bounds description of the land to be conveyed.".

SEC. 4. ASSIGNMENT OF VALUES.

(a) APPRAISALS.—Section 3(a) of the Boundary Act is amended to read as follows: 16 USC 668dd note.

"(a) APPRAISALS.—(1) Not later than 60 days after the date of the enactment of the Koniag Lands Conveyance Amendments of 1991, the Secretary and Koniag shall each select an appraiser who shall independently perform an appraisal of the fair market value of the Koniag Lands and of the Identified lands.

"(2) Each appraiser selected under paragraph (1)—

"(A) shall be a member of or certified by the Appraisal Foundation, and

"(B) shall have a professional designation compatible with the valuation to be performed.

"(3) Appraisals under this subsection shall be performed in conformity with the standards of the Appraisal Foundation. Any special instruction regarding the performance of the appraisals shall be issued only upon the mutual agreement of Koniag and the Secretary.

"(4)(A) Koniag shall bear the cost of all such appraisals, but shall be reimbursed by the United States for one-half of such costs—

"(i) in land, in accordance with subsection (b)(2), or

"(ii) in accordance with subparagraph (B).

"(B) The Secretary shall pay to Koniag an amount equal to one-half of the costs of appraisals performed pursuant to this section, if—

"(i) the values assigned by the Secretary pursuant to subsection (c) are different than—

"(I) the values determined by the review appraiser pursuant to subsection (b)(2), or

"(II) the average of the values assigned to the respective lands by the appraisers if no review appraiser is required to be selected, and

"(ii) Koniag elects not to consummate the exchange.".

16 USC 668dd note.

(b) DIFFERENCES IN APPRAISALS.—Section 3(b) of the Boundary Act is amended to read as follows:

"(b) DIFFERENCES IN APPRAISALS.—(1) If the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the Identified lands differ by less than 20 percent in their assignment of values to particular tracts of those lands, then both appraisals for those particular tracts shall be submitted to the Secretary.

"(2)(A) In the event that the appraisals conducted under subsection (a) for tracts of the Koniag Lands or of the Identified lands differ by more than 20 percent in their assignment of values to particular tracts of those lands, then the Secretary and Koniag shall jointly select a third appraiser who meets the requirements of section 3(a)(2).

"(B) Such appraiser shall review the previously conducted appraisals for those tracts of land with appraisals differing by more than 20 percent, and shall assign values to those tracts, giving due consideration to the values set by the other 2 appraisers.

"(C) Such appraiser shall then submit all 3 appraisals for those tracts to the Secretary.".

(c) TECHNICAL AMENDMENTS.—The heading for section 3 of the Boundary Act is amended to read as follows:

"SEC. 3. ASSIGNMENT OF LAND VALUES.".

(d) ASSIGNMENT OF VALUE BY SECRETARY.—Section 3 of the Boundary Act is amended by adding at the end the following:

"(c) After considering the appraisals submitted to the Secretary, the Secretary shall assign values, as appropriate, to tracts of the Koniag Lands and to the Identified lands. This assignment of value shall be considered a final agency action for purposes of judicial review under chapter 7 of title 5, United States Code.".

SEC. 5. TIMING.

16 USC 668dd note.

(a) CONVEYANCE BY KONIAG.—Section 4(c) of the Boundary Act is amended to read as follows:

"(c) CONVEYANCE BY KONIAG.—Koniag shall have 180 days after the date the values are final under section 2(a)(2) in order to notify the Secretary of its intent to enter into the exchange and convey to the Secretary the Koniag Lands and to deliver to the Secretary a technically correct description of the lands to be con-

veyed to Koniag under section 2(b). The Secretary may extend such time for good cause.".

(b) TECHNICAL AMENDMENT.—Section 4(d) of the Boundary Act is amended by striking "them" in the first sentence and inserting "Koniag". 16 USC 668dd note.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 3638:

HOUSE REPORTS: No. 102-350 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 102-467 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 23, 26, considered and passed House.
Vol. 138 (1992): Oct. 7, considered and passed Senate.

Public Law 102-490
102d Congress

An Act

Oct. 24, 1992
[H.R. 3673]

To authorize a research program through the National Science Foundation on the treatment of contaminated water through membrane processes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Membrane Processes Research Act of 1992.
42 USC 10341 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Membrane Processes Research Act of 1992".

42 USC 10341.

SEC. 2. FINDINGS.

The Congress finds that—

(1) there is an increasing threat of impairment to the quantity and quality of the Nation's water resources due to, among other things, growing national needs, recurring drought in the Western States, point and nonpoint source pollution, and saltwater intrusion into existing groundwater supplies;

(2) many communities in the United States have water supplies containing high salinity levels or contaminants which pose health risks;

(3) the Nation needs to develop economical processes to treat existing water supplies that are contaminated;

(4) it is necessary to provide for research into new techniques to reclaim waste water and to convert saline and other contaminated waters to a quality suitable for municipal, industrial, agricultural, recreational, and other beneficial uses;

(5) there is very little Federal funding being applied to basic research in the field of treatment of contaminated water through membrane processes; and

(6) the treatment of contaminated water through membrane processes will solve a wide variety of water treatment problems, including compliance with the Federal Water Pollution Control Act and the Safe Drinking Water Act.

42 USC 10342.

SEC. 3. RESEARCH PROGRAM.

The Director of the National Science Foundation shall establish a basic research program on membranes and membrane processes. Such program may be carried out through awarding grants, entering into contracts or cooperative agreements, or direct research.

42 USC 10343.

SEC. 4. GOALS OF RESEARCH PROGRAM.

The goals of the research program established under section 3 shall be—

(1) the development of membranes resistant to degradation, bacterial or otherwise, thereby extending the life of such membranes;

(2) the development of membranes useful for the efficient and cost effective treatment of contaminated water; and

(3) the development of innovative technologies for membrane processes.

SEC. 5. COORDINATION WITH OTHER RESEARCH. 42 USC 10344.

The research program established under section 3 shall be carried out in coordination with any other related Federal research efforts.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 42 USC 10345.

There are authorized to be appropriated to the Director of the National Science Foundation, from sums otherwise authorized to be appropriated, $2,500,000 for fiscal year 1993, for carrying out this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 3673:

HOUSE REPORTS: No. 102-566 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-491
102d Congress

An Act

Oct. 24, 1992
[H.R. 4398]

To remove outdated limitations on the acquisition or construction of branch buildings by Federal Reserve banks which are necessary for bank branch expansion if the acquisition or construction is approved by the Board of Governors of the Federal Reserve System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Reserve Bank Branch Modernization Act.
12 USC 226 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Reserve Bank Branch Modernization Act".

SEC. 2. ACQUISITION OR CONSTRUCTION OF FEDERAL RESERVE BANK BRANCH BUILDINGS.

The 9th undesignated paragraph of section 10 of the Federal Reserve Act (12 U.S.C. 522) is amended to read as follows:

"No Federal Reserve bank may authorize the acquisition or construction of any branch building, or enter into any contract or other obligation for the acquisition or construction of any branch building, without the approval of the Board.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 4398:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-492
102d Congress

An Act

To amend title 17, United States Code, relating to fair use of copyrighted works.

Oct. 24, 1992
[H.R. 4412]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 107 of title 17, United States Code, is amended by adding at the end the following: "The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 4412:

HOUSE REPORTS: No. 102-836 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 11, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-493
102d Congress

An Act

Oct. 24, 1992
[H.R. 4773]

To provide for reporting of pregnancy success rates of assisted reproductive technology programs and for the certification of embryo laboratories.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fertility Clinic Success Rate and Certification Act of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fertility Clinic Success Rate and Certification Act of 1992".

42 USC 263a-1.

SEC. 2. ASSISTED REPRODUCTIVE TECHNOLOGY PROGRAMS.

(a) IN GENERAL.—Effective 2 years after the date of the enactment of this Act, each assisted reproductive technology (as defined in section 7) program shall annually report to the Secretary through the Centers for Disease Control—

(1) pregnancy success rates achieved by such program through each assisted reproductive technology, and

(2) the identity of each embryo laboratory (as defined in section 7) used by such program and whether the laboratory is certified under section 3 or has applied for such certification.

(b) PREGNANCY SUCCESS RATES.—

Public information.

(1) IN GENERAL.—For purposes of subsection (a)(1), the Secretary shall, in consultation with the organizations referenced in subsection (c), define pregnancy success rates and shall make public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency) during its development.

(2) DEFINITION.—In developing the definition of pregnancy success rates, the Secretary shall take into account the effect on success rates of age, diagnosis, and other significant factors and shall include in such rates—

(A) the basic live birth rate calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of ovarian stimulation procedures attempted by such program, and

(B) the live birth rate per successful oocyte retrieval procedure calculated for each assisted reproductive technology performed by an assisted reproductive technology program by dividing the number of pregnancies which result in live births by the number of successful oocyte retrieval procedures performed by such program.

(c) CONSULTATION.—In developing the definition under subsection (b), the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with assisted reproductive technologies.

42 USC 263a-2.

SEC. 3. CERTIFICATION OF EMBRYO LABORATORIES.

(a) IN GENERAL.—

(1) DEVELOPMENT.—Not later than 2 years after the date of the enactment of this Act, the Secretary, through the Centers for Disease Control, shall develop a model program for the certification of embryo laboratories (referred to in this section as a "certification program") to be carried out by the States.

(2) CONSULTATION.—In developing the certification program under paragraph (1), the Secretary shall consult with appropriate consumer and professional organizations with expertise in using, providing, and evaluating professional services and embryo laboratories associated with the assisted reproductive technology programs.

(b) DISTRIBUTION.—The Secretary shall distribute a description of the certification program to—

(1) the Governor of each State,

(2) the presiding officers of each State legislature,

(3) the public health official of each State, and

(4) the official responsible in each State for the operation of the State's contract with the Secretary under section 1864 of the Social Security Act,

and shall encourage such officials to assist in the State adopting such program.

(c) REQUIREMENTS.—The certification program shall include the following requirements:

(1) ADMINISTRATION.—The certification program shall be administered by the State and shall provide for the inspection and certification of embryo laboratories in the State by the State or by approved accreditation organizations.

(2) APPLICATION REQUIREMENTS.—The certification program shall provide for the submission of an application to a State by an embryo laboratory for certification, in such form as may be specified by the State. Such an application shall include—

(A) assurances satisfactory to the State that the embryo laboratory will be operated in accordance with the standards under subsection (d),

(B) a report to the State identifying the assisted reproductive technology programs with which the laboratory is associated, and

(C) such other information as the State finds necessary.

An embryo laboratory which meets the requirements of section 353 of the Public Health Service Act shall, for the purposes of subparagraph (A) be considered in compliance with the standards referred to in such subparagraph which are the same as the standards in effect under such section 353.

(d) STANDARDS.—The certification program shall include the following standards developed by the Secretary:

(1) A standard to assure consistent performance of procedures by each embryo laboratory certified under the certification program or by an approved accreditation organization in a State which has not adopted the certification program.

(2) A standard for a quality assurance and a quality control program to assure valid, reliable, and reproduceable procedures in the laboratory.

(3) A standard for the maintenance of records (on a program by program basis) on laboratory tests and procedures performed, including the scientific basis of, and the methodology used for, the tests, procedures, and preparation of any standards or controls, criteria for acceptable and unacceptable out-

comes, criteria for sample rejection, and procedures for safe sample disposal.

(4) A standard for the maintenance of written records on personnel and facilities necessary for proper and effective operation of the laboratory, schedules of preventive maintenance, function verification for equipment, and the release of such records to the State upon demand.

(5) A standard for the use of such personnel who meet such qualifications as the Secretary may develop.

(e) CERTIFICATION UNDER STATE PROGRAMS.—A State may qualify to adopt the certification program if the State has submitted an application to the Secretary to adopt such program and the Secretary has approved the application. Such an application shall include—

(1) assurances by the State satisfactory to the Secretary that the certification program within the State meets the requirements of this section,

(2) an agreement to make such reports as the Secretary may require, and

(3) information about any proposed use of accreditation organizations under subsection (g).

(f) USE OF ACCREDITATION ORGANIZATIONS.—A State which has adopted the certification program may use accreditation organizations approved under section 4 to inspect and certify embryo laboratories.

(g) INSPECTIONS.—

(1) IN GENERAL.—A State which qualifies to adopt the certification program within the State shall conduct inspections in accordance with paragraph (2) to determine if laboratories in the State meet the requirements of such program. Such inspections shall be carried out by the State or by accreditation organizations used by the State under subsection (g).

(2) REQUIREMENTS.—Inspections carried out under paragraph (1) shall—

(A) be periodic and unannounced, or

(B) be announced in such circumstances as the Secretary determines will not diminish the likelihood of discovering deficiencies in the operations of a laboratory.

Public information.

Before making a determination under subparagraph (B), the Secretary shall make public, in such manner as to facilitate comment from any person (including any Federal or other public agency), a proposal indicating the circumstances under which announced inspections would be permitted.

Public information.

(3) RESULTS.—The specific findings, including deficiencies, identified in an inspection carried out under paragraph (1) and any subsequent corrections to those deficiencies shall be announced and made available to the public upon request beginning no later than 60 days after the date of the inspection.

(h) VALIDATION INSPECTIONS.—

(1) IN GENERAL.—The Secretary may enter and inspect, during regular hours of operation, embryo laboratories—

(A) which have been certified by a State under the certification program, or

(B) which have been certified by an accreditation organization approved by the Secretary under section 4,

for the purpose of determining whether the laboratory is being operated in accordance with the standards in subsection (d).

(2) ACCESS TO FACILITIES AND RECORDS.—In conducting an inspection of an embryo laboratory under paragraph (1), the Secretary shall have access to all facilities, equipment, materials, records, and information which the Secretary determines is necessary to determine if such laboratory is being operated in accordance with the standards in subsection (d). As part of such an inspection, the Secretary may copy any material, record, or information inspected or require it to be submitted to the Secretary. Such an inspection may be made only upon the presentation of identification to the owner, operator, or agent in charge of the laboratory being inspected.

(3) FAILURE TO COMPLY.—If the Secretary determines as a result of an inspection under paragraph (1) that the embryo laboratory is not in compliance with the standards in subsection (d), the Secretary shall—

(A) notify the State in which the laboratory is located and, if appropriate, the accreditation organization which certified the laboratory,

(B) make available to the public the results of the inspection,

(C) conduct additional inspections of other embryo laboratories under paragraph (1) to determine if—

(i) such State in carrying out the certification program is reliably identifying the deficiencies of such laboratory, or

(ii) the accreditation organization which certified such laboratories is reliably identifying such deficencies, and

(D) if the Secretary determines—

(i) that such State in carrying out the certification program has not met the requirements applicable to such program, or

(ii) the accreditation organization which certified such laboratory has not met the requirements of section 4,

the Secretary may revoke the approval of the State certification program or revoke the approval of such accreditation organization.

(i) LIMITATION.—

(1) SECRETARY.—In developing the certification program, the Secretary may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(2) STATE.—In adopting the certification program, a State may not establish any regulation, standard, or requirement which has the effect of exercising supervision or control over the practice of medicine in assisted reproductive technology programs.

(j) TERM.—The term of a certification issued by a State or an accreditation organization in a State shall be prescribed by the Secretary in the certification program and shall be valid for a period of time to be defined by the Secretary through the public comment process described in subsection (h)(2). The Secretary shall provide an application for recertification to be submitted at the time of changes in the ownership of a certified laboratory or changes in the administration of such a laboratory.

42 USC 263a-3.

SEC. 4. ACCREDITATION ORGANIZATIONS.

(a) APPROVAL OF ACCREDITATION ORGANIZATIONS.—Not later than 2 years after the date of the enactment of this Act the Secretary, through the Centers for Disease Control, shall promulgate criteria and procedures for the approval of accreditation organizations to inspect and certify embryo laboratories. The procedures shall require an application to the Secretary by an accreditation organization for approval. An accreditation organization which has received such an approval—

(1) may be used by States in the certification program under section 3 to inspect and certify embryo laboratories, or

(2) may certify embryo laboratories in States which have not adopted such a certification program.

(b) CRITERIA AND PROCEDURES.—The criteria and procedures promulgated under subsection (a) shall include—

(1) requirements for submission of such reports and the maintenance of such records as the Secretary or a State may require, and

(2) requirements for the conduct of inspections under section 3(h).

(c) EVALUATIONS.—The Secretary shall evaluate annually the performance of each accreditation organization approved by the Secretary by—

(1) inspecting under section 3(i) a sufficient number of embryo laboratories accredited by such an organization to allow a reasonable estimate of the performance of such organization, and

(2) such other means as the Secretary determines to be appropriate.

(d) TRANSITION.—If the Secretary revokes approval under section 3(i)(3)(D) of an accreditation organization after an evaluation under subsection (c), the certification of any embryo laboratory accredited by the organization shall continue in effect for 60 days after the laboratory is notified by the Secretary of the withdrawal of approval, except that the Secretary may extend the period during which the certification shall remain in effect if the Secretary determines that the laboratory submitted an application to another approved accreditation organization for certification after receipt of such notice in a timely manner.

42 USC 263a-4.

SEC. 5. CERTIFICATION REVOCATION AND SUSPENSION.

(a) IN GENERAL.—A certification issued by a State or an accreditation organization for an embryo laboratory shall be revoked or suspended if the State or organization finds, on the basis of inspections and after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that the owner or operator or any employee of the laboratory—

(1) has been guilty of misrepresentation in obtaining the certification,

(2) has failed to comply with any standards under section 3 applicable to the certification, or

(3) has refused a request of the State or accreditation organization for permission to inspect the laboratory, its operations, and records.

(b) EFFECT.—If the certification of an embryo laboratory is revoked or suspended, the certification of the laboratory shall con-

tinue in effect for 60 days after the laboratory receives notice of the revocation or suspension. If the certification of an embryo laboratory is revoked or suspended, the laboratory may apply for recertification after one year after the date of the revocation or suspension.

SEC. 6. PUBLICATION. 42 USC 263a-5.

The Secretary, through the Centers for Disease Control, shall not later than 3 years after the date of the enactment of this Act and annually thereafter publish and distribute to the States and the public—

(1)(A) pregnancy success rates reported to the Secretary under section 2(a)(1) and, in the case of an assisted reproductive technology program which failed to report one or more success rates as required under such section, the name of each such program and each pregnancy success rate which the program failed to report, and

(B) from information reported under section 2(a)(2)—

(i) the identity of each embryo laboratory in a State which has adopted the certification program under such program and whether such laboratory is certified under section 3,

(ii) the identity of each embryo laboratory in a State which has not adopted such certification program and which has been certified by an accreditation organization approved by the Secretary under section 4, and

(iii) in the case of an embryo laboratory which is not certified under section 3 or certified by an accreditation organization approved by the Secretary under section 4, whether the laboratory applied for certification.

SEC. 7. FEES. 42 USC 263a-6.

The Secretary may require the payment of fees for the purpose of, and in an amount sufficient to cover the cost of, administering this Act. A State operating a program under section 3 may require the payment of fees for the purpose of, and in an amount sufficient to cover the costs of, administering its program.

SEC. 8. DEFINITIONS. 42 USC 263a-7.

For purposes of this Act:

(1) ASSISTED REPRODUCTIVE TECHNOLOGY.—The term "assisted reproductive technology" means all treatments or procedures which include the handling of human oocytes or embryos, including in vitro fertilization, gamete intrafallopian transfer, zygote intrafallopian transfer, and such other specific technologies as the Secretary may include in this definition, after making public any proposed definition in such manner as to facilitate comment from any person (including any Federal or other public agency).

(2) EMBRYO LABORATORY.—The term "embryo laboratory" means a facility in which human oocytes are subject to assisted reproductive technology treatment or procedures based on manipulation of oocytes or embryos which are subject to implantation.

(3) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

42 USC 263a-1 note.

SEC. 9. EFFECTIVE DATE.

This Act shall take effect upon the expiration of 2 years after the date of the enactment of this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 4773:

HOUSE REPORTS: No. 102-624 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 102-452 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 29, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-494
102d Congress

An Act

Granting the consent of the Congress to the New Hampshire-Maine Interstate School Compact.

Oct. 24, 1992
[H.R. 4841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Inter-governmental relations.

SECTION 1. CONSENT OF CONGRESS.

The Congress consents to the compact which was entered into between the States of New Hampshire and Maine providing for the establishment of an interstate school district, and was approved by the States of New Hampshire and Maine in 1969. The compact is substantially as follows:

"NEW HAMPSHIRE-MAINE INTERSTATE SCHOOL COMPACT

"ARTICLE I

"GENERAL PROVISIONS

"A. STATEMENT OF POLICY.—It is the purpose of this compact to increase the educational opportunities within the states of New Hampshire and Maine by encouraging the formation of interstate school districts which will each be a natural social and economic region with adequate financial resources and a number of pupils sufficient to permit the efficient use of school facilities within the interstate district and to provide improved instruction. The state boards of education of New Hampshire and Maine may formulate and adopt additional standards consistent with this purpose and with these standards; and the formation of any interstate school district and the adoption of its articles of agreement shall be subject to the approval of both state boards as set forth.

"B. REQUIREMENT OF CONGRESSIONAL APPROVAL.—This compact shall not become effective until approved by the United States Congress.

Effective date.

"C. DEFINITIONS.—The terms used in this compact shall be construed as follows, unless a different meaning is clearly apparent from the language or context:

"a. COMMISSIONER.—'Commissioner' shall refer to Commissioner of Education.

"b. ELEMENTARY SCHOOL.—'Elementary school' shall mean a school which includes all grades from kindergarten or grade one through not less than grade 6 nor more than grade 8.

"c. INTERSTATE BOARD.—'Interstate board' shall refer to the board serving an interstate school district.

"d. INTERSTATE SCHOOL DISTRICT.—'Interstate school district' and 'interstate district' shall mean a school district composed of one or more school districts located in the State of Maine associated under this compact with one or more school

districts located in the state of New Hampshire and may include either the elementary schools, the secondary schools, or both.

"e. JOINT ACTION.—'Joint action' where joint action by both state boards is required, each state board shall deliberate and vote by its own majority, but shall separately reach the same result or take the same action as the other state board.

"f. MAINE BOARD.—'Maine Board' shall refer to the Maine State Board of Education.

"g. MEMBER SCHOOL DISTRICT.—'Member school district' and 'member district' shall mean a school administrative unit located either in Maine or New Hampshire which is included within the boundaries of a proposed or established interstate school district.

"h. NEW HAMPSHIRE BOARD.—'New Hampshire board' shall refer to the New Hampshire State Board of Education.

"i. PROFESSIONAL STAFF PERSONNEL.—'Professional staff personnel' and 'instructional staff personnel' shall include superintendents, assistant superintendents, administrative assistants, principals, guidance counselors, special educational personnel, school nurses, therapists, teachers, and other certificated personnel.

"j. SECONDARY SCHOOL.—'Secondary school' shall mean a school which includes all grades beginning no lower than grade 7 and no higher than grade 12.

"k. WARRANT.—'Warrant' or 'warning' to mean the same for both states.

"ARTICLE II

"PROCEDURE FOR FORMATION OF AN INTERSTATE SCHOOL DISTRICT

"A. CREATION OF PLANNING COMMITTEE.—The New Hampshire and Maine commissioners of education shall have the power, acting jointly to constitute and discharge one or more interstate school district planning committees. Each such planning committee shall consist of at least 2 voters from each of a group of 2 or more neighboring member districts. One of the representatives from each member district shall be a member of its school board, whose term on the planning committee shall be concurrent with his term as a school board member. The term of each member of a planning committee who is not also a school board member shall expire on June 30th of the third year following his appointment. The existence of any planning committee may be terminated either by vote of a majority of its members or by joint action of the commissioners. In forming and appointing members to an interstate school district planning board, the commissioners shall consider and take into account recommendations and nominations made by school boards of member districts. No member of a planning committee shall be disqualified because he is at the same time a member of another planning board or committee created under this compact or under any other provisions of law. An existing informal interstate school planning committee may be reconstituted as a formal planning committee in accordance with the provisions hereof, and its previous deliberations adopted and ratified by the reorganized formal planning committee. Vacancies on a planning committee shall be filled by the commissioners acting jointly.

"B. OPERATING PROCEDURES OF PLANNING COMMITTEE.—Each interstate school district planning committee shall meet in the first instance at the call of any member, and shall organize by the election of a chairman and clerk-treasurer, each of whom shall be a resident of a different state. Subsequent meetings may be called by either officer of the committee. The members of the committee shall serve without pay. The member districts shall appropriate money on an equal basis at each annual meeting to meet the expenses of the committee, including the cost of publication and distribution of reports and advertising. From time to time the commissioners may add additional members and additional member districts to the committee, and may remove members and member districts from the committee. An interstate school district planning committee shall act by majority vote of its membership present and voting.

"C. DUTIES OF INTERSTATE SCHOOL DISTRICT PLANNING COMMITTEE.—It shall be the duty of an interstate school district planning committee, in consultation with the commissioners and the state departments of education: to study the advisability of establishing an interstate school district in accordance with the standards set forth in paragraph A, its organization, operation and control, and the advisability of constructing, maintaining and operating a school or schools to serve the needs of such interstate district; to estimate the construction and operating costs thereof; to investigate the methods of financing such school or schools, and any other matters pertaining to the organization and operation of an interstate school district; and to submit a report or reports of its findings and recommendations to the several member districts. Reports.

"D. RECOMMENDATIONS AND PREPARATION OF ARTICLES OF AGREEMENT.—An interstate school district planning committee may recommend that an interstate school district composed of all the member districts represented by its membership, or any specified combination of such member districts, be established. If the planning committee does recommend the establishment of an interstate school district, it shall include in its report such recommendation, and shall prepare and include in its report proposed articles of agreement for the proposed interstate school district, which shall be signed by at least a majority of the membership of the planning committee, which set forth the following:

"a. The name of the interstate school district.

"b. The member districts which shall be combined to form the proposed interstate school district.

"c. The number, composition, method of selection and terms of office of the interstate school board, provided that:

"(1) The interstate school board shall consist of an odd number of members, not less than 5 nor more than 15;

"(2) The terms of office shall not exceed 3 years;

"(3) Each member district shall be entitled to elect at least one member of the interstate school board. Each member district shall either vote separately at the interstate school district meeting by the use of a distinctive ballot, or shall choose its member or members at any other election at which school officials may be chosen;

"(4) The method of election shall provide for the filing of candidacies in advance of election and for the use of a printed nonpartisan ballot;

"(5) Subject to the foregoing, provision may be made for the election of one or more members at large.

"d. The grades for which the interstate school district shall be responsible.

"e. The specific properties of member districts to be acquired initially by the interstate school district and the general location of any proposed new schools to be initially established or constructed by the interstate school district.

"f. The method of apportioning the operating expenses of the interstate school district among the several member districts, and the time and manner of payments of such shares.

"g. The indebtedness of any member district which the interstate district is to assume.

"h. The method of apportioning the capital expenses of the interstate school district among the several member districts, which need not be the same as the method of apportioning operating expenses, and the time and manner of payment of such shares. Capital expenses shall include the cost of acquiring land and buildings for school purposes; the construction, furnishing and equipping of school buildings and facilities; and the payment of the principal and interest of any indebtedness which is incurred to pay for the same.

"i. The manner in which state aid, available under the laws of either New Hampshire or Maine, shall be allocated, unless otherwise expressly provided in this compact or by the laws making such aid available.

"j. The method by which the articles or agreement may be amended, which amendments may include the annexation of territory, or an increase or decrease in the number of grades for which the interstate district shall be responsible, provided that no amendment shall be effective until approved by both state boards in the same manner as required for approval of the original articles of agreement.

"k. The date of operating responsibility of the proposed interstate school district and a proposed program for the assumption of operating responsibility for education by the proposed interstate school district, and any school construction; which the interstate school district shall have the power to vary by vote as circumstances may require.

"l. Any other matters, not incompatible with law, which the interstate school district planning committee may consider appropriate to include in the articles of agreement, including, without limitation:

"(1) The method of allocating the cost of transportation between the interstate district and member districts;

"(2) The nomination of individual school directors to serve until the first annual meeting of the interstate school district.

"E. HEARINGS.—If the planning committee recommends the formation of an interstate school district, it shall hold at least one public hearing on its report and the proposed articles of agreement within the proposed interstate school district in Maine, and at least one public hearing thereon within the proposed interstate school district in New Hampshire. The planning committee shall give such notice thereof as it may determine to be reasonable, provided that such notice shall include at least one publication in a newspaper of general circulation within the proposed interstate

school district not less than 15 days, not counting the date of publication and not counting the date of the hearing, before the date of the first hearing. Such hearings may be adjourned from time to time and from place to place. The planning committee may revise the proposed articles of agreement after the date of the hearings. It shall not be required to hold further hearings on the revised articles of agreement but may hold one or more further hearings after notice similar to that required for the first hearings if the planning committee in its sole discretion determines that the revisions are so substantial in nature as to require further presentation to the public before submission to the state boards of education.

"F. APPROVAL BY STATE BOARDS.—After the hearings a copy of the proposed articles of agreement, as revised, signed by a majority of the planning committee, shall be submitted by it to each state board. The state boards may if they find that the articles of agreement are in accord with the standards set forth in this compact and in accordance with sound educational policy, approve the same as submitted, or refer them back to the planning committee for further study. The planning committee may make additional revisions to the proposed articles of agreement to conform to the recommendations of the state boards. Further hearings on the proposed articles of agreement shall not be required unless ordered by the state boards in their discretion. In exercising such discretion, the state boards shall take into account whether or not the additional revisions are so substantial in nature as to require further presentation to the public. If both state boards find that the articles of agreement as further revised are in accord with the standards set forth in this compact and in accordance with sound educational policy, they shall approve the same. After approval by both state boards, each state board shall cause the articles of agreement to be submitted to the school boards of the several member districts in each state for acceptance by the member districts as provided in paragraph G. At the same time, each state board shall designate the form of warrant, date, time, place, and period of voting for the special meeting of the member district to be held in accordance with paragraph G.

"G. ADOPTION BY MEMBER DISTRICTS.—Upon receipt of written notice from the state board in its state of the approval of the articles of agreement by both state boards, the school board of each member district shall cause the articles of agreement to be filed with the member district clerk. Within 10 days after receipt of such notice, the school board shall issue its warrant for a special meeting of the member district, the warrant to be in the form, and the meeting to be held at the time and place and in the manner prescribed by the state board. No approval of the superior court shall be required for such special school district meeting in New Hampshire. Voting shall be with the use of a check-list by a ballot substantially in the following form:

"Shall the school district accept the provisions of the New Hampshire-Maine Interstate School Compact providing for the establishment of an interstate school district, together with the school districts of and , etc., in accordance with the proposed articles of agreement filed with the school district (town, city or incorporated school district) clerk?

"YES ( ) NO ( )

"If the articles of agreement included the nomination of individual school directors, those nominated from each member district shall be included in the ballot and voted upon, such election to become effective upon the formation of an interstate school district.

"If a majority of the votes present and voting in a member district vote in the affirmative, the clerk for such member district shall forthwith send to the state board in its state a certified copy of the warrant, certificate of posting, and minutes of the meeting of the district. If the state boards of both states find that a majority of the voters present and voting in each member district have voted in favor of the establishment of the interstate school district, they shall issue a joint certificate to that effect; and such certificate shall be conclusive evidence of the lawful organization and formation of the interstate school district as of its date of issuance.

"H. RESUBMISSION.—If the proposed articles of agreement are adopted by one or more of the member districts but rejected by one or more of the member districts, the state boards may resubmit them, in the same form as previously submitted, to the rejecting member districts, in which case the school boards thereof shall resubmit them to the voters in accordance with paragraph G. An affirmative vote in accordance therewith shall have the same effect as though the articles of agreement had been adopted in the first instance. In the alternative, the state boards may either discharge the planning committee, or refer the articles of agreement back for further consideration to the same or a reconstituted planning committee, which shall have all the powers and duties as the planning committee as originally constituted.

"ARTICLE III

"POWERS OF INTERSTATE SCHOOL DISTRICT

"A. POWERS.—Each interstate school district shall be a body corporate and politic, with power to:

"a. Acquire, construct, extend, improve, staff, operate, manage and govern public schools within its boundaries;

"b. Sue and be sued, subject to the limitations of liability hereinafter set forth;

"c. Have a seal and alter the same at pleasure;

"d. Adopt, maintain and amend bylaws not inconsistent with this compact, and the laws of the 2 states;

"e. Acquire by purchase, condemnation, lease or otherwise, real and personal property for the use of its schools;

"f. Enter into contracts and incur debts;

"g. Borrow money for the purposes set forth, and to issue its bonds or notes therefor;

"h. Make contracts with and accept grants and aid from the United States, the State of Maine, the State of New Hampshire, any agency or municipality thereof, and private corporations and individuals for the construction, maintenance, reconstruction, operation and financing of its schools; and to do any and all things necessary in order to avail itself of such aid and cooperation;

"i. Employ such assistants, agents, servants and independent contractors as it shall deem necessary or desirable for its purposes; and

"j. Take any other action which is necessary or appropriate in order to exercise any of the foregoing powers.

"ARTICLE IV

"DISTRICT MEETINGS

"A. GENERAL.—Votes of the district shall be taken at a duly warned meeting held at any place in the district, at which all of the eligible legal voters of the member districts shall be entitled to vote, except as otherwise provided with respect to the election of directors.

"B. ELIGIBILITY OF VOTERS.—Any resident who would be eligible to vote at a meeting of a member district being held at the same time shall be eligible to vote at a meeting of the interstate district. The town clerks in each Maine member district and the supervisors of the checklist of each New Hampshire district shall respectively prepare a checklist of eligible voters for each meeting of the interstate district in the same manner, and they shall have all the same powers and duties with respect to eligibility of voters in their districts as for a meeting of a member district.

"C. WARNING OF MEETINGS.—A meeting shall be warned by a warrant addressed to the residents of the interstate school district qualified to vote in district affairs, stating the time and place of the meeting and the subject matter of the business to be acted upon. The warrant shall be signed by the clerk and by a majority of the directors. Upon written application of 10 or more voters in the district, presented to the directors or to one of them, at least 25 days before the day prescribed for an annual meeting, the directors shall insert in their warrant for such meeting any subject matter specified in such application.

"D. POSTING AND PUBLICATION OF WARRANT.—The directors shall cause an attested copy of the warrant to be posted at the place of meeting, and a like copy at a public place in each member district at least 20 days, not counting the date of posting and the date of meeting, before the date of the meeting. In addition, the directors shall cause the warrant to be advertised in a newspaper of general circulation on at least one occasion, such publication to occur at least 10 days, not counting the date of publication and not counting the date of the meeting, before the date of the meeting. Although no further notice shall be required, the directors may give such further notice of the meeting as they in their discretion deem appropriate under the circumstances.

Records.

"E. RETURN OF WARRANT.—The warrant with a certificate thereon, verified by oath, stating the time and place when and where copies of the warrant were posted and published, shall be given to the clerk of the interstate school district at or before the time of the meeting, and shall be recorded by him in the records of the interstate school district.

"F. ORGANIZATION MEETING.—The commissioners, acting jointly, shall fix a time and place for a special meeting of the qualified voters within the interstate school district for the purpose of organization, and shall prepare and issue the warrant for the meeting after consultation with the interstate school district plan-

ning board and the members-elect, if any, of the interstate school board of directors. Such meeting shall be held within 60 days after the date of issuance of the certificate of formation, unless the time is further extended by the joint action of the state boards. At the organization meeting the commissioner of education of the state where the meeting is held, or his designate, shall preside in the first instance, and the following business shall be transacted:

"a. A temporary moderator and a temporary clerk shall be elected from among the qualified voters who shall serve until a moderator and clerk respectively have been elected and qualified.

"b. A moderator, clerk, a treasurer and 3 auditors shall be elected to serve until the next annual meeting and thereafter until their successors are elected and qualified. Unless previously elected, a board of school directors shall be elected to serve until their successors are elected and qualified.

"c. The date for the annual meeting shall be established.

"d. Provision shall be made for the payment of any organizational or other expense incurred on behalf of the district before the organization meeting, including the cost of architects, surveyors, contractors, attorneys, and educational or other consultants or experts.

"e. Any other business, the subject matter of which has been included in the warrant, and which the voters would have had powers to transact at any annual meeting.

"G. ANNUAL MEETINGS.—An annual meeting of the district shall be held between January 15th and June 1st of each year at such time as the interstate district may by vote determine. Once determined, the date of the annual meeting shall remain fixed until changed by vote of the interstate district as a subsequent annual or special meeting. At each annual meeting the following business shall be transacted:

"a. Necessary officers shall be elected.

"b. Money shall be appropriated for the support of the interstate district schools for the fiscal year beginning the following July 1st.

"c. Such other business as may properly come before the meeting.

"H. SPECIAL MEETINGS.—A special meeting of the district shall be held whenever, in the opinion of the directors, there is occasion therefor, or whenever written application shall have been made by 5 percent or more of the voters based on the checklists as prepared for the last preceding meeting, setting forth the subject matter upon which such action is desired. A special meeting may appropriate money without compliance with RSA 33:8 or RSA 197:3 which would otherwise require the approval of the New Hampshire superior court.

"I. CERTIFICATION OF RECORDS.—The clerk of an interstate school district shall have the power to certify the record of the votes adopted at an interstate school district meeting to the respective commissioners and state boards and, where required, for filing with a secretary of state.

"J. METHOD OF VOTING AT SCHOOL DISTRICT MEETINGS.—Voting at meetings of interstate school districts shall take place as follows:

"a. SCHOOL DIRECTORS.—A separate ballot shall be prepared for each member district, listing the candidates for interstate school director to represent such member district; and

any candidates for interstate school director at large; and the voters of each member district shall register on a separate ballot their choice for the office of school director or directors. In the alternative, the articles of agreement may provide for the election of school directors by one or more of the member districts at an election otherwise held for the choice of school or other municipal officers.

"b. OTHER VOTES.—Except as otherwise provided in the articles of agreement or this compact, with respect to all other votes, the voters of the interstate school district shall vote as one body irrespective of the member districts in which they are resident, and a simple majority of those present and voting, at any duly warned meeting shall carry the vote. Voting for officers to be elected at any meeting, other than school directors, shall be by ballot or voice, as the interstate district may determine, either in its articles of agreement or by a vote of the meeting.

"ARTICLE V

"OFFICERS

"A. OFFICERS; GENERAL.—The officers of an interstate school district shall be a board of school directors, a chairman of the board, a vice-chairman of the board, a secretary of the board, a moderator, a clerk, a treasurer and 3 auditors. Except as otherwise specifically provided, they shall be eligible to take office immediately following their election; they shall serve until the next annual meeting of the interstate district and until their successors are elected and qualified. Each shall take oath for the faithful performance of his duties before the moderator, or a notary public or a justice of the peace of the state in which the oath is administered. Their compensation shall be fixed by vote of the district. No person shall be eligible to any district office unless he is a voter in the district. A custodian, school teacher, principal, superintendent or other employee of an interstate district acting as such shall not be eligible to hold office as a school director.

"B. BOARD OF DIRECTORS.—

"a. HOW CHOSEN.—Each member district shall be represented by at least one resident on the board of school directors of an interstate school district. A member district shall be entitled to such further representation on the interstate board of school directors as provided in the articles of agreement as amended from time to time. The articles of agreement as amended from time to time may provide for school directors at large, as set forth. No person shall be disqualified to serve as a member of an interstate board because he is at the same time a member of the school board of a member district.

"b. TERM.—Interstate school directors shall be elected for terms in accordance with the articles of agreement.

"c. DUTIES OF BOARD OF DIRECTORS.—The board of school directors of an interstate school district shall have and exercise all of the powers of the district not reserved herein to the voters of the district.

"d. ORGANIZATION.—The clerk of the district shall warn a meeting of the board of school directors to be held within 10 days following the date of the annual meeting, for the

purpose of organizing the board, including the election of its officers.

"C. CHAIRMAN OF THE BOARD.—The chairman of the board of interstate school directors shall be elected by the interstate board from among its members at its first meeting following the annual meeting. The chairman shall preside at the meetings of the board and shall perform such other duties as the board may assign to him.

"D. VICE-CHAIRMAN OF THE BOARD OF DIRECTORS.—The vice-chairman of the interstate board shall be elected in the same manner as the chairman. He shall represent a member district in a state other than that represented by the chairman. He shall preside in the absence of the chairman and shall perform such other duties as may be assigned to him by the interstate board.

"E. SECRETARY OF THE BOARD.—The secretary of the interstate board shall be elected in the same manner as the chairman. Instead of electing one of its members, the interstate board may appoint the interstate district clerk to serve as secretary of the board in addition to his other duties. The secretary of the interstate board, or the interstate district clerk, if so appointed, shall keep the minutes of its meetings, shall certify its records, and perform such other duties as may be assigned to him by the board.

"F. MODERATOR.—The moderator shall preside at the district meetings, regulate the business thereof, decide questions of order, and make a public declaration of every vote passed. He may prescribe rules of procedure; but such rules may be altered by the district. He may administer oaths to district officers in either state.

Records.

"G. CLERK.—The clerk shall keep a true record of all proceedings at each district meeting, shall certify its records, shall make an attested copy of any records of the district for any person upon request and tender of reasonable fees therefor, if so appointed, shall serve as secretary of the board of school directors, and shall perform such other duties as may be required by custom or law.

"H. TREASURER.—The treasurer shall have custody of all of the monies belonging to the district and shall pay out the same only upon the order of the interstate board. He shall keep a fair and accurate account of all sums received into and paid from the interstate district treasury, and at the close of each fiscal year he shall make a report to the interstate district, giving a particular account of all receipts and payments during the year. He shall furnish to the interstate directors, statements from his books and submit his books and vouchers to them and to the district auditors for examination whenever so requested. He shall make all returns called for by laws relating to school districts. Before entering on his duties, the treasurer shall give a bond with sufficient sureties and in such sum as the directors may require. The treasurer's term of office is from July 1st to the following June 30th.

"I. AUDITORS.—At the organization meeting of the district, 3 auditors shall be chosen, one to serve for a term of one year, one to serve for a term of 2 years and one to serve for a term of 3 years. After the expiration of each original term, the successor shall be chosen for a 3 year term. At least one auditor shall be a resident of Maine, and one auditor shall be a resident of New Hampshire. An interstate district may vote to employ a certified public accountant to assist the auditors in the performance of their duties. The auditors shall carefully examine the accounts

of the treasurer and the directors at the close of each fiscal year, and at such other times whenever necessary, and report to the district whether the same are correctly cast and properly vouched.

"J. SUPERINTENDENT.—The superintendent of schools shall be selected by a majority vote of the board of school directors of the interstate district with the approval of both commissioners.

"K. VACANCIES.—Any vacancy among the elected officers of the district shall be filled by the interstate board until the next annual meeting of the district or other election, when a successor shall be elected to serve out the remainder of the unexpired term, if any. Until all vacancies on the interstate board are filled, the remaining members shall have full power to act.

"ARTICLE VI

"APPROPRIATION AND APPORTIONMENT OF FUNDS

"A. BUDGET.—Before each annual meeting, the interstate board shall prepare a report of expenditures for the preceding fiscal year, an estimate of expenditures for the current fiscal year, and a budget for the succeeding fiscal year. Reports.

"B. APPROPRIATION.—The interstate board of directors shall present the budget report at the annual meeting. The interstate district shall appropriate a sum of money for the support of its schools and for the discharge of its obligations for the ensuing fiscal year.

"C. APPORTIONMENT OF APPROPRIATION.—Subject to the provisions of article VII, the interstate board shall first apply against such appropriation any income to which the interstate district is entitled, and shall then apportion the balance among the member districts in accordance with one of the following formulas as determined by the articles of agreement as amended from time to time.

"a. All of such balance to be apportioned on the basis of the ratio that the fair market value of the taxable property in each member district bears to that of the entire interstate district; or

"b. All of such balance to be apportioned on the basis that the average daily resident membership for the preceding fiscal year of each member district bears to that of the average daily resident membership of the entire interstate school district; or

"c. A formula based on any combination of the foregoing factors. The term 'fair market value of taxable property' shall mean the last locally assessed valuation of a member district in New Hampshire, as last equalized by the New Hampshire commissioner of revenue administration.

"The term 'fair market value of taxable property' shall mean the equalized grand list of a Maine member district, as determined by the Maine Bureau of Taxation.

"Such assessed valuation and grand list may be further adjusted by elimination of certain types of taxable property from one or the other or otherwise, in accordance with the articles of agreement, in order that the fair market value of taxable property in each state shall be comparable.

"Average daily resident membership of the interstate district in the first instance shall be the sum of the average daily resident membership of the member districts in the grades

involved for the preceding fiscal year where no students were enrolled in the interstate district schools for such preceding fiscal year.

"D. SHARE OF NEW HAMPSHIRE MEMBER DISTRICT.—The interstate board shall certify the share of a New Hampshire member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district. The interstate district shall not set up its own capital reserve funds; but a New Hampshire member district may set up a capital reserve fund in accordance with RSA 35, to be turned over to the interstate district in payment of the New Hampshire member district's share of any anticipated obligations.

"E. SHARE OF MAINE MEMBER DISTRICT.—The interstate board shall certify the share of a Maine member district of the total appropriation to the school board of each member district which shall add such sum to the amount appropriated by the member district itself for the ensuing year and raise such sum in the same manner as though the appropriation had been voted at a school district meeting of the member district.

"ARTICLE VII

"BORROWING

"A. INTERSTATE DISTRICT INDEBTEDNESS.—Indebtedness of an interstate district shall be a general obligation of the district and shall be a joint and several general obligation of each member district, except that such obligations of the district and its member districts shall not be deemed indebtedness of any member district for the purposes of determining its borrowing capacity under Maine or New Hampshire law. A member district which withdraws from an interstate district shall remain liable for indebtedness of the interstate district which is outstanding at the time of withdrawal and shall be responsible for paying its share of such indebtedness to the same extent as though it had not withdrawn.

"B. TEMPORARY BORROWING.—The interstate board may authorize the borrowing of money by the interstate district (1) in anticipation of payments of operating and capital expenses by the member districts to the interstate district and (2) in anticipation of the issue of bonds or notes of the interstate district which have been authorized for the purpose of financing capital projects. Such temporary borrowing shall be evidenced by interest bearing or discounted notes of the interstate district. The amount of notes issued in any fiscal year in anticipation of expense payments shall not exceed the amount of such payments received by the interstate district in the preceding fiscal year. Notes issued under this paragraph shall be payable within one year in the case of notes under clause (1) and 3 years in the case of notes under clause (2) from their respective dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes, provided that the period from the date of an original note to the maturity of any note issued to renew or pay the same debt shall not exceed the maximum period permitted for the original loan.

"C. BORROWING FOR CAPITAL PROJECTS.—An interstate district may incur debt and issue its bonds or notes to finance capital projects. Such projects may consist of the acquisition or improvement of land and buildings for school purposes, the construction, reconstruction, alteration or enlargement of school buildings and related school facilities, the acquisition of equipment of a lasting character and the payment of judgments. No interstate district may authorize indebtedness in excess of 10 percent of the total fair market value of taxable property in its member districts as defined in article VI. The primary obligation of the interstate district to pay indebtedness of member districts shall not be considered indebtedness of the interstate district for the purpose of determining its borrowing capacity under this section. Bonds or notes issued under this section shall mature in equal or diminishing installments of principal payable at least annually commencing no later than 2 years and ending not later than 30 years after their dates.

"D. AUTHORIZATION.—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof.

"E. SALE OF BONDS AND NOTES.—Bonds and notes which have been authorized under this article may be issued from time to time and shall be sold at not less than par and accrued interest at public or private sale by the chairman of the school board and by the treasurer. Interstate district bonds and notes shall be signed by the said officers, except that either one of the 2 required signatures may be a facsimile. Subject to this compact and the authorizing vote, they shall be in such form, bear such rates of interest and mature at such times as the said officers may determine. Bonds shall, but notes need not, bear the seal of the interstate district, or a facsimile of such seal. Any bonds or notes of the interstate district which are properly executed by the said officers shall be valid and binding according to their terms notwithstanding that before the delivery thereof such officers may have ceased to be officers of the interstate district.

"F. PROCEEDS OF BONDS.—Any accrued interest received upon delivery of bonds or notes of an interstate district shall be applied to the payment of the first interest which becomes due thereon. The other proceeds of the sale of such bonds or notes, other than temporary notes, including any premiums, may be temporarily invested by the interstate district pending their expenditure; and such proceeds, including any income derived from the temporary investment of such proceeds, shall be used to pay the costs of issuing and marketing the bonds or notes and to meet the operating expenses or capital expenses in accordance with the purposes for which the bonds or notes were issued or, by proceedings taken in the manner required for the authorization of such debt, for other purposes for which such debt could be incurred. No purchaser of any bonds or notes of an interstate district shall be responsible in any way to see to the application of the proceeds thereof.

"G. STATE AID PROGRAMS.—As used in this section the term 'initial aid' shall include New Hampshire and Maine financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction

costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire state guarantee under RSA 195–B with respect to bonds or notes and Maine construction aid under section 3457. As used in this section the term 'long-term aid' shall include New Hampshire and Maine financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Maine school building aid under section 3457. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each state, subject to the following provisions. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a Maine share and a New Hampshire share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a state guarantee of interstate district bonds or notes under RSA 195–B, the interstate district shall be eligible to apply for and receive an unconditional state guarantee with respect to an amount of its bonds or notes which does not exceed 50 percent of the amount of the New Hampshire share as determined above. Maine aid shall be available with respect to the amount of the Maine share as though it were funds voted by a Maine school district. Payments of Maine aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Maine long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Maine shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of 45 percent if there are 3 or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Maine long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Maine may at any time change their state school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation for these purposes may specify how such programs shall be applied with respect to interstate districts.

"H. TAX EXEMPTION.—Bonds and notes of an interstate school district shall be exempt from local property taxes in both states, and the interest or discount thereon and any profit derived from

the disposition thereof shall be exempt from personal income taxes in both states.

"ARTICLE VIII

"TAKING OVER OF EXISTING PROPERTY

"A. POWER TO ACQUIRE PROPERTY OF MEMBER DISTRICT.—The articles of agreement, or an amendment thereof, may provide for the acquisition by an interstate district from a member district of all or a part of its existing plant and equipment.

"B. VALUATION.—The articles of agreement, or the amendment, shall provide for the determination of the value of the property to be acquired in one or more of the following ways:

"a. A valuation set forth in the articles of agreement or the amendment.

"b. By appraisal, in which case, one appraiser shall be appointed by each commissioner, and a third appraiser appointed by the first 2 appraisers.

"C. REIMBURSEMENT TO MEMBER DISTRICT.—The articles of agreement shall specify the method by which the member district shall be reimbursed by the interstate district for the property taken over, in one or more of the following ways:

"a. By one lump sum, appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"b. In installments over a period of not more than 20 years, each of which is appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"c. By an agreement to assume or reimburse the member district for all principal and interest on any outstanding indebtedness originally incurred by the member district to finance the acquisition and improvement of the property, each such installment to be appropriated, allocated and raised by the interstate district in the same manner as an appropriation for operating expenses.

"The member district transferring the property shall have the same obligation to pay to the interstate district its share of the cost of such acquisition, but may offset its right to reimbursement.

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement may be adopted in the same manner provided for the adoption of the original articles of agreement, except that:

"a. Unless the amendment calls for the addition of a new member district, the functions of the planning committee shall be carried out by the interstate district board of directors.

"b. If the amendment proposes the addition of a new member district, the planning committee shall consist of all the members of the interstate board and all of the members of the school board of the proposed new member district or districts. In such case the amendment shall be submitted to the voters at an interstate district meeting, at which an affirmative vote of ⅔ of those present and voting shall be required. The

articles of agreement together with the proposed amendment shall be submitted to the voters of the proposed new member district at a meeting thereof, at which a simple majority of those present and voting shall be required.

"c. In all cases an amendment may be adopted on the part of an interstate district upon the affirmative vote of voters thereof at a meeting voting as one body. Except where the amendment proposes the admission of a new member district, a simple majority of those present and voting shall be required for adoption.

"d. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"ARTICLE X

"APPLICABILITY OF NEW HAMPSHIRE LAWS

"A. GENERAL SCHOOL LAWS.—With respect to the operation and maintenance of any school of the district located in New Hampshire, New Hampshire law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate board and the powers and duties of the union superintendent shall be exercised and discharged by the interstate district superintendent.

"B. NEW HAMPSHIRE STATE AID.—A New Hampshire school district shall be entitled to receive an amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the New Hampshire member district, and as though the New Hampshire member district pupils attending the interstate school were attending a New Hampshire cooperative school district's school. The state aid shall be paid to the New Hampshire member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. CONTINUED EXISTENCE OF NEW HAMPSHIRE MEMBER SCHOOL DISTRICT.—A New Hampshire member school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school district shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The New Hampshire member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor, unless the indebtedness is specifically assumed in accordance with the articles of agreement. Any trust funds or capital reserve funds and any property not taken over by the interstate district shall be retained

by the New Hampshire member district and held or disposed of according to law. If all of the schools in a member district are incorporated into an interstate district, then no annual meeting of the member district shall be required unless the members of the interstate board from the member district shall determine that there is occasion for such an annual meeting.

"D. SUIT AND SERVICE OF PROCESS IN NEW HAMPSHIRE.—The courts of New Hampshire shall have the same jurisdiction over the district as though a New Hampshire member district were a party instead of the interstate district. The service necessary to institute suit in New Hampshire shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last usual place of abode of one of the directors who resides in New Hampshire, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested. Courts.

"E. EMPLOYMENT.—Each employee of an interstate district assigned to a school located in New Hampshire shall be considered an employee of a New Hampshire school district for the purpose of the New Hampshire teachers retirement system, the New Hampshire state employees retirement system, the New Hampshire workmen's compensation law and any other law relating to the regulation of employment or the provision of benefits for employees of New Hampshire school districts except as follows:

"a. A teacher in a New Hampshire member district may elect to remain a member of the New Hampshire retirement system, even though assigned to teach in an interstate school in Maine.

"b. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the teachers retirement system of either the State of New Hampshire or the State of Maine but in no case will they participate in both retirement systems simultaneously.

"c. It shall be the duty of the superintendent in an interstate district to:

"(1) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement systems;

"(2) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

"(3) provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"ARTICLE XI

"APPLICABILITY OF MAINE LAWS

"A. GENERAL SCHOOL LAWS.—With respect to the operation and maintenance of any school of the district located in Maine, the provisions of Maine law shall apply except as otherwise provided in this compact and except that the powers and duties of the school board shall be exercised and discharged by the interstate

board and the powers and duties of the superintendent shall be exercised and discharged by the interstate district superintendent.

"B. MAINE STATE AID.—A Maine school district shall be entitled to receive such amount of state aid for operating expenditures as though its share of the interstate district's expenses were the expenses of the Maine member district, and as though the Maine member district pupils attending the interstate schools were attending a Maine unit. Such state aid shall be paid to the Maine member school district to reduce the sums which would otherwise be required to be raised by taxation within the member district.

"C. CONTINUED EXISTENCE OF MAINE SCHOOL DISTRICTS.—A Maine school district shall continue in existence, and shall have all of the powers and be subject to all of the obligations imposed by law and not herein delegated to the interstate district. If the interstate district incorporates only a part of the schools in the member school district, then the school board of the member school districts shall continue in existence and it shall have all of the powers and be subject to all of the obligations imposed by law on it and not herein delegated to the district. However, if all of the schools in the member school district are incorporated into the interstate school district, then the member or members of the interstate board representing the member district shall have all of the powers and be subject to all of the obligations imposed by law on the members of a school board for the member district and not herein delegated to the interstate district. The Maine member school district shall remain liable on its existing indebtedness; and the interstate school district shall not become liable therefor. Any trust funds and any property not taken over shall be retained by the Maine member school district and held or disposed of according to law.

"D. SUIT AND SERVICE OF PROCESS IN MAINE.—The courts of Maine shall have the same jurisdiction over the districts as though a Maine member district were a party instead of the interstate district. The service necessary to institute suit in Maine shall be made on the district by leaving a copy of the writ or other proceedings in hand or at the last and usual place of abode of one of the directors who resides in Maine, and by mailing a like copy to the clerk and to one other director by certified mail with return receipt requested.

"E. EMPLOYMENT.—Each employee of an interstate district assigned to a school located in Maine shall be considered an employee of a Maine school district for the purpose of the state retirement system, the Maine workmen's compensation law, and any other laws relating to the regulation of employment or the provision of benefits for employees of Maine school districts except as follows:

"a. A teacher in a Maine member district may elect to remain a member of the state retirement system of Maine, even though assigned to teach in an interstate school in New Hampshire.

"b. Employees of interstate districts designated as professional or instructional staff members, as defined in article I, may elect to participate in the state retirement system of the State of Maine or the teachers retirement system of the State of New Hampshire but in no case will they participate in both retirement systems simultaneously.

"c. It shall be the duty of the superintendent in an interstate district to:

"(1) advise teachers and other professional staff employees contracted for the district about the terms of the contract and the policies and procedures of the retirement system;

"(2) see that each teacher or professional staff employee selects the retirement system of his choice at the time his contract is signed;

"(3) provide the commissioners of education in New Hampshire and in Maine with the names and other pertinent information regarding each staff member under his jurisdiction so that each may be enrolled in the retirement system of his preference.

"ARTICLE XII

"MISCELLANEOUS PROVISIONS

"A. STUDIES.—Insofar as practicable, the studies required by the laws of both states shall be offered in an interstate school district.

"B. TEXTBOOKS.—Textbooks and scholar's supplies shall be provided at the expense of the interstate district for pupils attending its schools.

"C. TRANSPORTATION.—The allocation of the cost of transportation in an interstate school district, as between the interstate district and the member districts, shall be determined by the articles of agreement.

"D. LOCATION OF SCHOOLHOUSES.—In any case where a new schoolhouse or other school facility is to be constructed or acquired, the interstate board shall first determine whether it shall be located in New Hampshire or in Maine. If it is to be located in New Hampshire, RSA 199, relating to schoolhouses, shall apply. If it is to be located in Maine, the Maine law relating to schoolhouses shall apply.

"E. FISCAL YEAR.—The fiscal year of each interstate district shall begin on July 1st of each year and end on June 30th of the following year.

"F. IMMUNITY FROM TORT LIABILITY.—Notwithstanding the fact that an interstate district may derive income from operating profit, fees, rentals, and other services, it shall be immune from suit and from liability for injury to persons or property and for other torts caused by it or its agents, servants or independent contractors, except insofar as it may have liability under RSA 281, relating to workmen's compensation or may have undertaken such liability under RSA 412:3 relating to the procurement of liability insurance by a governmental agency and except insofar as it may have undertaken such liability under Maine laws relating to workmen's compensation or Maine laws relating to the procurement of liability insurance by a governmental agency.

"G. ADMINISTRATIVE AGREEMENT BETWEEN COMMISSIONERS OF EDUCATION.—The commissioners of education of New Hampshire and Maine may enter into one or more administrative agreements prescribing the relationship between the interstate districts, member districts, and each of the 2 state departments of education,

in which any conflicts between the 2 states in procedure, regulations, and administrative practices may be resolved.

"H. AMENDMENTS.—Neither state shall amend its legislation or any agreement authorized thereby without the consent of the other in such manner as to substantially adversely affect the rights of the other state or its people hereunder, or as to substantially impair the rights of the holders of any bonds or notes or other evidences of indebtedness then outstanding or the rights of an interstate school district to procure the means for payment thereof. Subject to the foregoing, any reference herein to other statutes of either state shall refer to such statute as it may be amended or revised from time to time.

"I. SEPARABILITY.—If any of the provisions of this compact, or legislation enabling the same, shall be held invalid or unconstitutional in relation to any of the applications thereof, such invalidity or unconstitutionality shall not affect other applications thereof or other provisions thereof; and to this end the provisions of this compact are declared to be severable.

"J. INCONSISTENCY OF LANGUAGE.—The validity of this compact shall not be affected by any insubstantial differences in its form or language as adopted by the 2 states.

"ARTICLE XIII

"EFFECTIVE DATE

"A. This compact shall become effective when a bill of the Maine general assembly which incorporates the compact becomes a law in Maine and when it is approved by the United States Congress.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 4841:

HOUSE REPORTS: No. 102-874 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 22, considered and passed House.
Oct. 2, considered and passed Senate.

Public Law 102-495
102d Congress

An Act

To restore Olympic National Park and the Elwha River ecosystem and fisheries in the State of Washington.

Oct. 24, 1992
[H.R. 4844]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Elwha River Ecosystem and Fisheries Restoration Act.
Conservation.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Elwha River Ecosystem and Fisheries Restoration Act".

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(a) The term "Administrator" means the Administrator of the Bonneville Power Administration.

(b) The term "Commission" means the Federal Energy Regulatory Commission.

(c) The term "electric power" means electric peaking capacity or electric energy or both.

(d) The term "Elwha Project" means the Elwha River Hydroelectric Project, Federal Energy Regulatory Commission Project Number 2683, including appurtenant works and project lands, located on the Elwha River in Clallam County, Washington.

(e) The term "Glines Project" means the Glines Canyon Hydroelectric Project, Federal Energy Regulatory Commission Project Number 588, including appurtenant works and project lands, located on private and public lands both within and without the exterior boundaries of Olympic National Park on the Elwha River in Clallam County, Washington.

(f) The term "local industrial consumer" means the owner of the pulp and paper mill located on Ediz Hook in Port Angeles, Washington, that, on the date of enactment of this Act, receives and consumes the electric power produced by the Projects, or its successors or assignees.

(g) The term "local preference customer" means Port Angeles City Light.

(h) The term "owner" means the current owner of the Projects or its successors or assignees, but shall not mean the Secretary, the United States, or any other entity acquiring title to the Projects or features thereof pursuant to the terms of this Act.

(i) The term "Park" means Olympic National Park.

(j) The term "Project" or "Projects" means either or both the Elwha Project and the Glines Project, including project works and appurtenant lands.

(k) The term "project replacement power" means electric power delivered to the local industrial consumer to replace losses of electric power generation from the Projects following their acquisition by the Secretary pursuant to this Act, in

an amount not to exceed 172.088 gigawatthours of energy in any year.

(l) The term "Secretary" means the Secretary of the Interior.

(m) The term "State" means the State of Washington, including its agencies and departments.

SEC. 3. ACQUISITION OF PROJECTS.

Effective date.

(a) Effective sixty days after submission to the Congress of the report referred to in section 3(c), the Secretary is authorized to acquire the Elwha and Glines Canyon Projects, and all rights of the owner and local industrial consumer therein, subject to the appropriation of funds therefor: *Provided,* That the Secretary shall not acquire the projects unless he has determined pursuant to subsection (c) that removal of the Project dams is necessary for the full restoration of the Elwha River ecosystem and native anadromous fisheries and that funds for that purpose will be available for such removal within two years after acquisition.

(b) The consideration for acquisition of the Projects shall be $29.5 million and no more, to be paid by the Secretary to the owner and local industrial consumer at the time of acquisition, and shall be conditioned on a release of liability providing that all obligations and liabilities of the owner and the local industrial consumer to the United States arising from the Projects, based upon ownership, license, permit, contract, or other authority, including, but not limited to, project removal and any ecosystem, fish and wildlife mitigation or restoration obligations, shall, from the moment of title transfer, be deemed to have been satisfied: *Provided,* That the United States may not assume or satisfy any liability, if any, of the owner or local industrial consumer to any federally recognized Indian Tribe nor shall such liability to the Tribe, if any, be deemed satisfied without the consent of such Tribe.

Reports.

(c) The Secretary shall prepare a report on the acquisition of the Projects and his plans for the full restoration of the Elwha River ecosystem and the native anadromous fisheries and submit such report on or before January 31, 1994, to the Appropriations Committees of the United States Senate and the United States House of Representatives, as well as to the Committee on Energy and Natural Resources of the Senate and the Committees on Energy and Commerce, Interior and Insular Affairs, and Merchant Marine and Fisheries of the United States House of Representatives. The report shall contain, without limitation:

(1) The precise terms of acquisition of the Projects, with an analysis of the costs, in addition to the consideration set out in section 3(b), and potential liabilities and benefits, if any, to the Federal Government resulting from the acquisition and all other actions authorized under this Act;

(2) Alternatives, in lieu of dam removal, for the restoration of the Elwha River ecosystem and the native anadromous fisheries and wildlife of the Elwha River Basin, consistent with the management plan of the Park, the rights of any Indian tribe secured by treaty or other Federal law, and applicable State law. The report shall include feasibility studies for each alternative considered and a definite plan for removal. Such definite plan shall include the timetable after conveyance for removal of the dams and the plans for removal and disposal of sediment, debris, and other materials consistent with all

applicable environmental laws and a detailed explanation of all costs of removal. In conducting the feasibility studies and in the preparation of the definite plan, the Secretary is authorized to use the services of any Federal agency on a reimbursable basis and the heads of all Federal agencies are authorized to provide such technical and other assistance as the Secretary may request. For each alternative considered, the Secretary shall estimate total costs, environmental risks and benefits, the potential for full restoration of the Elwha River ecosystem and native anadromous fisheries, and the effect on natural and historic resources (together with any comments made by the Advisory Council on Historic Preservation for any properties which are listed, or eligible for listing, on the National Register of Historic Places).

(3) Specific proposals for management of all lands or interests therein acquired pursuant to this Act which are located outside the exterior boundaries of the Olympic National Park. The Secretary shall specifically address the suitability of such lands, or portions thereof, for addition to the National Wildlife Refuge System; National Park System; transfer to the Lower Elwha Klallam Tribe in trust for tribal housing, cultural, or economic development purposes in accordance with a plan developed by the Lower Elwha Klallam Tribe in consultation with the Secretary; and development and use by the State. Upon acquisition, all lands and interests therein within the exterior boundaries of the Park shall be managed pursuant to authorities otherwise applicable to the Park. For the purposes of protecting the Federal investment in restoration, that portion of the river outside the Park on which the Federal Government will acquire both banks shall, upon such acquisition, be managed in accordance with the declared policy of section 1(b) of Public Law 90–542, except that modifications necessary to restore, protect, and enhance fish resources and to protect the existing quality of water supplied from the river are hereby authorized.

(4) Specific proposals and any Federal funding and the availability of that funding that may be necessary to protect the existing quality and availability of water from the Elwha River for municipal and industrial use from possible adverse impacts of dam removal.

(5) Identification of any non-Federal parties or entities, excluding Federally recognized Indian tribes, which would directly benefit from the commercial, recreational, and ecological values that would be enhanced by the restoration of the Elwha River ecosystem and fisheries, if the Secretary believes that such parties or entities should assume some portion of the cost involved in the restoration, together with the specific cost-share provisions which the Secretary deems necessary and reasonable.

(d) In preparing his report, the Secretary shall consult with appropriate State and local officials, affected Indian tribes, the Commission, the Environmental Protection Agency, the Secretary of Energy, the Administrator, the Pacific Northwest Power Planning Council, the Secretary of Commerce, and of the Advisory Council on Historic Preservation, as well as interested members of the public. In addition, the Secretary shall afford an opportunity for

public comment on the report prior to its submission to the Congress.

(e) Upon the appropriation of the sum provided for in section 3(b) for the acquisition of the Projects and the determination that dam removal is necessary, the owner and local industrial consumer shall convey to the United States, through the Secretary, title to the Projects, including all property and all other rights and interests. Upon such conveyance and payment of the consideration as provided in section 3(b), and without further action by the United States, title shall transfer and vest in the United States, the owner and local industrial consumer shall be released from any further liability to the United States, as provided in section 3(b), and the acquisition from the owner and local industrial consumer shall be deemed to be completed.

Effective date.

SEC. 4. ECOSYSTEM AND FISHERIES RESTORATION.

(a) Effective sixty days after submission of the report referred to in section 3(c) and following the conveyance in section 3(e), the Secretary is authorized and directed, subject to the appropriation of funds therefor, to take such actions as are necessary to implement—

(1) the definite plan referred to in section 3(c)(2) for the removal of the dams and full restoration of the Elwha River ecosystem and native anadromous fisheries;

(2) management of lands acquired pursuant to this Act which are located outside the exterior boundaries of the Park; and

(3) protection of the existing quality and availability of water from the Elwha River for municipal and industrial uses from possible adverse impacts of dam removal.

(b) The definite plan referred to section 3(c)(2) must include all actions reasonably necessary to maintain and protect existing water quality for the City of Port Angeles, Dry Creek Water Association, and the industrial users of Elwha River water against adverse impacts of dam removal. The cost of such actions, which may include as determined by the Secretary, if reasonably necessary, design, construction, operation and maintenance of water treatment or related facilities, shall be borne by the Secretary. Funds may not be appropriated for removal of the dams, unless, at the same time, funds are appropriated for actions necessary to protect existing water quality.

(c) Nothing in this section shall be construed as an entitlement for which a claim against the United States may be made under the Tucker Act.

SEC. 5. PROJECT OPERATION AND REPLACEMENT POWER.

(a) Notwithstanding any other provision of law, neither the Federal Energy Regulatory Commission nor any other agency of the Federal Government shall have the authority or jurisdiction to issue a permanent license or similar order with respect to either Project prior to conveyance as provided in section 3(e), except that the Commission shall have jurisdiction under the Federal Power Act and is hereby authorized and directed to issue or maintain in effect annual licenses or authorizations for both Projects, authorizing continued operation of both Projects by the owner and local industrial consumer, such operation to be under such terms and conditions and in accordance with such practices as existed on September 1, 1992, until (1) the date the Secretary has acquired

title to the Projects or (2) if the Secretary's report required in section 3(c) does not provide for dam removal, five years after the expiration of the current annual license or authorization then in effect, after which time the Commission shall have authority under the Federal Power Act to issue appropriate licenses with respect to such Projects to the extent the Commission has jurisdiction over such Projects under such Act on the date of enactment of this Act.

(b) To ensure the availability of adequate electric power supplies to the operating facilities of the local industrial consumer, the Administrator shall, following acquisition of the Projects pursuant to this Act, deliver all project replacement power required by the operating facilities of the local industrial consumer through the local preference customer at a rate equal to the priority firm rate, or the rate which is then the equivalent of the priority firm rate if that designation is no longer used by the Administrator, as such rate is fixed by the Administrator from time to time, without regard to any new large single load determinations or similar factors. The local industrial consumer shall pay the local preference customer for such project replacement power at the same rate as all other industrial consumers of the local preference customer.

(c) Upon conveyance of the Projects to the United States, the Secretary shall maintain the dams in a safe condition for the period prior to their removal.

SEC. 6. LEASE OF FEDERAL LANDS.

(a) LEASE OF LANDS TO THE CITY OF PORT ANGELES.—After the Secretary makes the determination to remove the dams and actually acquires the projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to issue a lease to the City of Port Angeles, Washington, for those lands situated on Ediz Hook, Clallam County, Washington, currently leased to the City under Lease No. DOT–CG13–4811–72, dated April 4, 1972, as amended, except for that parcel of land described in subsection (b)(2). Such lease shall be issued pursuant to the Act of June 14, 1926, as amended (43 U.S.C. 869), for a period of 99 years, beginning on a date to be determined by the Secretary, without right of patent.

(b) LEASE OF LANDS TO THE LOWER ELWHA KLALLAM TRIBE.—(1) After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to lease to the Lower Elwha Klallam Tribe that parcel of land situated on Ediz Hook, Clallam County, Washington, described in paragraph (2) for the purposes of the construction and operation of a tribal cultural facility, such as a longhouse or a museum, and associated interpretive and parking facilities. Such lease shall be issued pursuant to the Act of June 14, 1926, as amended (43 U.S.C. 869), for a period of ninety-nine years beginning on a date determined by the Secretary, without right of patent.

(2) The parcel of land to be leased to the Lower Elwha Klallam Tribe is that parcel of land lying south of the existing roadway and extending southward to the southern boundary of the land currently leased to the City of Port Angeles (Lease No. DOT–CG13–4811–72, dated April 4, 1972, as amended) and beginning at the north-south line 200 feet east of the western boundary

of Out Lot 6 and running easterly 600 feet to the north-south line 300 feet west of the eastern boundary of Out Lot 6.

(3) In addition to the general terms and conditions applicable under the Act of June 14, 1926, as amended (43 U.S.C. 869), the lease to the Tribe shall be subject to the following terms and conditions:

(A) There shall be public access to the beach along the south side of the parcel at all times.

(B) The City of Port Angeles shall have the right to construct and maintain a waterfront trail adjacent to the existing roadway along the north side of the parcel, the location of which shall be determined in conjunction with the Secretary.

(C) Parking facilities on the parcel shall be open to the public at all times.

(c) In addition to the terms and conditions described in this section for the leases to the City and the Tribe, the Secretary shall incorporate by reference into each lease the Agreement entered into on August 11, 1992, between the City and the Tribe regarding the use of the adjacent leaseholds.

SEC. 7. TRIBAL LAND ACQUISITION AND DEVELOPMENT.

(a) After the Secretary makes the determination to remove the dams and actually acquires the Projects and funds are appropriated for such conveyance and removal, the Secretary is authorized to acquire by purchase, and hold in trust in reservation status for the benefit of the Lower Elwha Klallam Tribe, lands in Clallam County, Washington, for housing, economic development, and moorage for the Tribal commercial fishing fleet.

Appropriation authorization.

(b) There is authorized to be appropriated an amount not to exceed $4,000,000 to carry out the land acquisition purposes of this section.

SEC. 8. SAVINGS.

(a) Nothing in this Act shall abridge or modify existing rights to Elwha River water.

(b) Nothing in this Act shall affect the rights of any Indian Tribe secured by Treaty or other law of the United States.

(c) This Act does not modify any of the Administrator's obligations or require the Administrator to take any actions regarding the protection, mitigation, or enhancement of fish and wildlife or expand those provided for under the Pacific Northwest Power Planning and Conservation Act, Public Law 96-501. Notwithstanding any other provision of law, the Administrator shall not be required to make any expenditures from the Bonneville Power Administration fund for the operation, maintenance, rehabilitation, improvement, or removal, breach, or bypass of the Projects.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary of the Interior for expenditure through the Assistant Secretary for Fish, Wildlife, and Parks and to the Secretary of Commerce for

expenditure through the National Marine Fisheries Service such sums as may be necessary to carry out the purposes of this Act: *Provided,* That such authorization shall not become effective until sixty days following submission of the report provided for in section (3)(c) of this Act. Effective date.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 4844:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 138 (1992):
Oct. 24, Presidential statement.

Public Law 102-496
102d Congress

An Act

Oct. 24, 1992
[H.R. 5095]

To authorize appropriations for fiscal year 1993 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, to revise and restate the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intelligence Authorization Act for Fiscal Year 1993.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1993".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.
Sec. 102. Classified Schedule of Authorizations.
Sec. 103. Personnel ceiling adjustments.
Sec. 104. Community Management Staff.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Sec. 301. Increase in employee compensation and benefits authorized by law.
Sec. 302. Restriction on conduct of intelligence activities.
Sec. 303. Sense of Congress regarding disclosure of annual intelligence budget.
Sec. 304. Technical amendments.
Sec. 305. Airborne reconnaissance.

TITLE IV—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

Sec. 401. Postemployment assistance for certain DIA employees.
Sec. 402. Inclusion of Senior Executive Service positions in civilian intelligence personnel system.
Sec. 403. Notice to congressional intelligence committees of Department of Defense real property transactions and construction projects involving intelligence agencies.
Sec. 404. Amendments to National Security Education Act of 1991.
Sec. 405. Pay and allowances for employees of the National Security Agency.
Sec. 406. Exemption for National Reconnaissance Office from any requirement for disclosure of personnel information.

TITLE V—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS

Sec. 501. Temporary FBI authority to accept bequests or devises.

TITLE VI—CENTRAL INTELLIGENCE AGENCY

Sec. 601. Authority of Inspector General to receive complaints and information from any person.

TITLE VII—INTELLIGENCE ORGANIZATION

Sec. 701. Short title.
Sec. 702. Definitions.

Sec. 703. Participation of the Director of Central Intelligence in the National Security Council.
Sec. 704. Appointment of the Director and Deputy Director of Central Intelligence.
Sec. 705. Responsibilities and authorities of the Director of Central Intelligence.
Sec. 706. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.

TITLE VIII—RESTATEMENT OF CIARDS STATUTE

Sec. 801. Short title.
Sec. 802. Restatement of Act.
Sec. 803. Conforming amendments.
Sec. 804. Savings provisions.
Sec. 805. Effective date.

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 1993 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1993, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany the conference report on the bill H.R. 5095 of the One Hundred Second Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch. President.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1993 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed two percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall promptly notify the Permanent Select

Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. COMMUNITY MANAGEMENT STAFF.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Community Management Staff of the Director of Central Intelligence for fiscal year 1993 the sum of $86,900,000.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 161 full-time personnel as of September 30, 1993. Such personnel may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During fiscal year 1993, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(d) COMMUNITY MANAGEMENT STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY.—During fiscal year 1993, activities and personnel of the Community Management Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1993 the sum of $168,900,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

SEC. 303. SENSE OF CONGRESS REGARDING DISCLOSURE OF ANNUAL INTELLIGENCE BUDGET. 50 USC 414 note.

It is the sense of Congress that, beginning in 1993, and in each year thereafter, the aggregate amount requested and authorized for, and spent on, intelligence and intelligence-related activities should be disclosed to the public in an appropriate manner.

SEC. 304. TECHNICAL AMENDMENTS.

(a) NATIONAL SECURITY AGENCY ACT OF 1959.—The National Security Agency Act of 1959 is amended by redesignating the second section 17 (added by section 405 of Public Law 102–183) as section 18. 50 USC 402 note.

(b) PUBLIC LAW 102–88.—Effective as of August 14, 1991, section 305(a)(3) of Public Law 102–88 (105 Stat. 432) is amended by striking out "in the last sentence" and inserting in lieu thereof "in the penultimate sentence". 50 USC 403 note.

SEC. 305. AIRBORNE RECONNAISSANCE.

(a) Of the amount authorized to be appropriated by section 101 for reconnaissance programs, funds are authorized for an advanced airborne reconnaissance system.

(b) The amount authorized in subsection (a) is the amount equal to one-third of the amount authorized for a similar activity in the National Foreign Intelligence Program for fiscal year 1992 by the Intelligence Authorization Act for Fiscal Year 1992 (Public Law 102–183).

TITLE IV—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 401. POSTEMPLOYMENT ASSISTANCE FOR CERTAIN DIA EMPLOYEES.

(a) ASSISTANCE AUTHORIZED.—Subsection (e) of section 1604 of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding any other provision of law, the Secretary of Defense may use appropriated funds to assist employees who have been in sensitive positions in the Defense Intelligence Agency and who are found to be ineligible for continued access to Sensitive Compartmented Information and employment with the Defense Intelligence Agency, or whose employment with the Defense Intelligence Agency has been terminated—

"(i) in finding and qualifying for subsequent employment;

"(ii) in receiving treatment of medical or psychological disabilities; and

"(iii) in providing necessary financial support during periods of unemployment.

"(B) Assistance may be provided under subparagraph (A) only if the Secretary determines that such assistance is essential to maintain the judgment and emotional stability of such employee and avoid circumstances that might lead to the unlawful disclosure of classified information to which such employee had access. Assistance provided under this paragraph for an employee shall not be provided any longer than five years after the termination of the employment of the employee.

Reports.

"(C) The Secretary shall report annually to the Committees on Appropriations of the Senate and House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives with respect to any expenditure made pursuant to this paragraph.".

10 USC 1604 note.

(b) FIRST ANNUAL REPORT.—The first report under paragraph (4) of section 1604(e) of title 10, United States Code, shall be submitted not later than 12 months after the date of the enactment of this Act.

SEC. 402. INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS IN CIVILIAN INTELLIGENCE PERSONNEL SYSTEM.

(a) INCLUSION OF SENIOR EXECUTIVE SERVICE POSITIONS.—Section 1590 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting ", including positions in the Senior Executive Service," after "positions"; and

(B) by inserting after "such departments" the following: ", except that the total number of positions in the Senior Executive Service established pursuant to this section may not exceed one-half of one percent of the total number of all civilian intelligence positions established pursuant to this section;";

(2) in subsection (b), by inserting after the first sentence the following new sentence: "The Secretary shall also fix rates of pay for positions in the Senior Executive Service established pursuant to this section that are not in excess of the maximum rate or less than the minimum rate of basic pay established pursuant to section 5382 of title 5."; and

(3) by adding at the end the following new subsections:

Regulations.

"(f) With regard to any position in the Senior Executive Service which may be established pursuant to this section, the Secretary of Defense shall prescribe regulations to implement this section which are consistent with the requirements set forth in sections 3131, 3132(a)(2), 3393a, 3396(c), 3592, 3595(a), 5384, and 6304, subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the Senior Executive Service is entitled shall be held or decided pursuant to regulations issued by the Secretary), and subchapter II of chapter 43 of title 5. The Secretary of Defense shall also prescribe, to the extent practicable, regulations to implement such other provisions of title 5 as apply to members of the Senior Executive Service or to individuals applying for positions in the Senior Executive Service.

"(g) The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507 of title 5 to members of the Senior Executive Service whose positions may be established pursuant to this section. The awarding of such a rank shall be made in a manner consistent with the provisions of that section.".

(b) CONFORMING AMENDMENT.—Section 3132(a)(1)(B) of title 5, United States Code, is amended by inserting after "National Security Agency" the following: ", Department of Defense intelligence activities the civilian employees of which are subject to section 1590 of title 10,".

SEC. 403. NOTICE TO CONGRESSIONAL INTELLIGENCE COMMITTEES OF DEPARTMENT OF DEFENSE REAL PROPERTY TRANSACTIONS AND CONSTRUCTION PROJECTS INVOLVING INTELLIGENCE AGENCIES.

(a) REAL PROPERTY TRANSACTIONS.—(1) Section 2662 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) Whenever a transaction covered by this section is made by or on behalf of an intelligence component of the Department of Defense or involves real property used by such a component, any report under this section with respect to the transaction that is submitted to the Committees on Armed Services of the Senate and the House of Representatives shall be submitted concurrently to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.". Reports.

(2)(A) The heading of such section is amended to read as follows:

"§ 2662. Real property transactions: reports to congressional committees".

(B) The item relating to such section in the table of sections at the beginning of chapter 159 of such title is amended to read as follows:

"2662. Real property transactions: reports to congressional committees.".

(b) CONSTRUCTION PROJECTS.—Section 2801(c)(4) of such title is amended by inserting before the period at the end the following: "and, with respect to any project to be carried out by, or for the use of, an intelligence component of the Department of Defense, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate".

SEC. 404. AMENDMENTS TO NATIONAL SECURITY EDUCATION ACT OF 1991.

(a) REDESIGNATION OF ACT.—Section 801(a) of the National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) is amended to read as follows: 50 USC 1901.

"(a) SHORT TITLE.—This title may be cited as the 'David L. Boren National Security Education Act of 1991'.". David L. Boren National Security Education Act of 1991.

(b) PROGRAM REVISIONS.—Section 802(a) of such Act (50 U.S.C. 1902(a))—

(1) in paragraph (1)(A), by inserting "or equivalent term," after "at least one academic semester";

(2) in paragraph (1)(B)(i), by striking out "in the United States" and inserting in lieu thereof "as part of a graduate degree program of a United States institution of higher education"; and

(3) in paragraph (4), by adding at the end the following new sentence: "In addition, the Secretary may enter into personal service contracts for periods up to one year for program administration, except that not more than 10 such contracts may be in effect at any one time.".

(c) REPEAL OF REQUIRED ENTITY TO ADMINISTER PROGRAM.—Section 802 of such Act is further amended—

(1) by striking out subsection (e); and

(2) by redesignating subsection (f) as subsection (e).

(d) NATIONAL SECURITY EDUCATION BOARD.—Section 803(b) of such Act (50 U.S.C. 1903(b)) is amended—

(1) by redesignating paragraph (7) as paragraph (8);

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Chairperson of the National Endowment for the Humanities."; and

(3) in paragraph (8) (as so redesignated)—

(A) by striking out "Four individuals" and inserting in lieu thereof "Six individuals"; and

(B) by inserting before the period at the end the following: "and who may not be officers or employees of the Federal Government".

(e) FUND ASSETS AVAILABLE FOR INVESTMENT.—Section 804(c) of such Act (50 U.S.C. 1904(c)) is amended by striking out "obligation" at the end of the first sentence and inserting in lieu thereof "expenditure".

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal year 1993 to the National Security Education Trust Fund established by section 804 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1904) the sum of $30,000,000.

SEC. 405. PAY AND ALLOWANCES FOR EMPLOYEES OF THE NATIONAL SECURITY AGENCY.

Section 2 of the National Security Agency Act of 1959 (Public Law 86–36; 50 U.S.C. 402 note) is amended to read as follows:

"SEC. 2. (a) The Secretary of Defense (or his designee) is authorized to establish such positions, and to appoint thereto, without regard to the civil service laws, such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic pay for such positions shall be fixed by the Secretary of Defense (or his designee for this purpose) in relation to the rates of basic pay provided for in subpart D of part III of title 5, United States Code, for positions subject to such title which have corresponding levels of duties and responsibilities. Except as otherwise provided by law, no officer or employee of the National Security Agency shall be paid basic pay at a rate in excess of the maximum rate payable under section 5376 of such title and not more than 70 such officers and employees shall be paid within the range of rates authorized in section 5376 of such title.

"(b) The Secretary of Defense (or his designee) may provide officers and employees of the National Security Agency other compensation, benefits, incentives, and allowances which are consistent with, and do not exceed the levels authorized for, such compensation, benefits, incentives, or allowances by title 5, United States Code.".

10 USC 424 note.

SEC. 406. EXEMPTION FOR NATIONAL RECONNAISSANCE OFFICE FROM ANY REQUIREMENT FOR DISCLOSURE OF PERSONNEL INFORMATION.

(a) EXEMPTION FROM DISCLOSURE.—Except as required by the President or as provided in subsection (b), nothing in this Act or any other provision of law shall be construed to require the disclosure of the name, title, or salary of any person employed by, or assigned or detailed to, the National Reconnaissance Office or the disclosure of the number of such persons.

(b) PROVISION OF INFORMATION TO CONGRESS.—Subsection (a) does not apply with respect to the provision of information to Congress.

TITLE V—FEDERAL BUREAU OF INVESTIGATION ADMINISTRATIVE PROVISIONS

SEC. 501. TEMPORARY FBI AUTHORITY TO ACCEPT BEQUESTS OR DEVISES.

(a) ACCEPTANCE OF BEQUESTS.—During fiscal year 1993, the Director of the Federal Bureau of Investigation may accept, on behalf of the Bureau, any bequest or devise made by a citizen of the United States, if such bequest or devise is used only—

(1) to fund and administer, in accordance with regulations prescribed by the Director, a scholarship program for the benefit of the immediate families of Federal law enforcement officers slain or permanently disabled in the line of duty; and

(2) to pay all necessary expenses in connection with the acceptance of such bequest or devise.

(b) AUTHORITY TO USE FUNDS.—(1) Notwithstanding any other provision of law, proceeds from the sale of property accepted as a bequest or devise by the Director pursuant to subsection (a) shall be maintained in an interest bearing account and shall remain available for disbursement for purposes of this section until such funds are expended.

(2) The authority of paragraph (1) may be exercised only to such extent and in such amounts as are provided in advance in appropriation Acts.

(c) REGULATIONS REQUIRED.—Not later than 90 days after accepting any bequest or devise pursuant to this section, the Director shall prescribe regulations to implement the provisions of this section in a fair, equitable manner, and shall make copies of such regulations available to all Federal law enforcement agencies. Copies of such regulations shall also be provided the Judiciary Committees of the Senate and the House of Representatives.

TITLE VI—CENTRAL INTELLIGENCE AGENCY

SEC. 601. AUTHORITY OF CIA INSPECTOR GENERAL TO RECEIVE COMPLAINTS AND INFORMATION FROM ANY PERSON.

Section 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended—

(1) by striking out "an employee of the Agency" and inserting in lieu thereof "any person"; and

(2) by inserting "from an employee of the Agency" after "received".

Intelligence Organization Act of 1992.

TITLE VII—INTELLIGENCE ORGANIZATION

50 USC 401 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Intelligence Organization Act of 1992".

50 USC 401a.

SEC. 702. DEFINITIONS.

The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 2 the following new section:

"DEFINITIONS

"SEC. 3. As used in this Act:

"(1) The term 'intelligence' includes foreign intelligence and counterintelligence.

"(2) The term 'foreign intelligence' means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons.

"(3) The term 'counterintelligence' means information gathered and activities conducted to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

"(4) The term 'intelligence community' includes—

"(A) the Office of the Director of Central Intelligence, which shall include the Office of the Deputy Director of Central Intelligence, the National Intelligence Council (as provided for in section 105(b)(3)), and such other offices as the Director may designate;

"(B) the Central Intelligence Agency;

"(C) the National Security Agency;

"(D) the Defense Intelligence Agency;

"(E) the central imagery authority within the Department of Defense;

"(F) the National Reconnaissance Office;

"(G) other offices within the Department of Defense for the collection of specialized national intelligence through reconnaissance programs;

"(H) the intelligence elements of the Army, the Navy, the Air Force, the Marine Corps, the Federal Bureau of Investigation, the Department of the Treasury, and the Department of Energy;

"(I) the Bureau of Intelligence and Research of the Department of State; and

"(J) such other elements of any other department or agency as may be designated by the President, or designated jointly by the Director of Central Intelligence and the head of the department or agency concerned, as an element of the intelligence community.

"(5) The terms 'national intelligence' and 'intelligence related to the national security'—

"(A) each refer to intelligence which pertains to the interests of more than one department or agency of the Government; and

"(B) do not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation except to the extent provided for in procedures agreed to by the Director of Central Intelligence and the Attorney General, or otherwise as expressly provided for in this title.

"(6) The term 'National Foreign Intelligence Program' refers to all programs, projects, and activities of the intelligence community, as well as any other programs of the intelligence community designated jointly by the Director of Central Intelligence and the head of a United States department or agency or by the President. Such term does not include programs, projects, or activities of the military departments to acquire intelligence solely for the planning and conduct of tactical military operations by United States Armed Forces.".

SEC. 703. PARTICIPATION OF THE DIRECTOR OF CENTRAL INTELLIGENCE IN THE NATIONAL SECURITY COUNCIL.

Section 101 of the National Security Act of 1947 (50 U.S.C. 402) is amended by adding at the end thereof the following new subsection:

"(h) The Director of Central Intelligence (or, in the Director's absence, the Deputy Director of Central Intelligence) may, in the performance of the Director's duties under this Act and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

SEC. 704. APPOINTMENT OF THE DIRECTOR AND DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.

Section 102 of the National Security Act of 1947 (50 U.S.C. 403(a)) is amended—

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a)—

(A) by striking out "under the National Security Council"; and

(B) by striking out "with a Director" and all that follows through "disability"; and

(3) by striking out the second sentence of subsection (a) and subsections (b) through (f) and inserting in lieu thereof the following:

"(2) There shall be a Director of Central Intelligence who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall— President.

"(A) serve as head of the United States intelligence community;

"(B) act as the principal adviser to the President for intelligence matters related to the national security; and

"(C) serve as head of the Central Intelligence Agency.

"(b) To assist the Director of Central Intelligence in carrying out the Director's responsibilities under this Act, there shall be a Deputy Director of Central Intelligence, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall act for, and exercise the powers of, the Director during the Director's absence or disability.

"(c)(1) The Director or Deputy Director of Central Intelligence may be appointed from among the commissioned officers of the Armed Forces, or from civilian life, but at no time shall both positions be simultaneously occupied by commissioned officers of the Armed Forces, whether in an active or retired status.

"(2) It is the sense of the Congress that under ordinary circumstances, it is desirable that either the Director or the Deputy Director be a commissioned officer of the Armed Forces or that either such appointee otherwise have, by training or experience, an appreciation of military intelligence activities and requirements.

"(3)(A) A commissioned officer of the Armed Forces appointed pursuant to paragraph (2) or (3), while serving in such position—

"(i) shall not be subject to supervision or control by the Secretary of Defense or by any officer or employee of the Department of Defense;

"(ii) shall not exercise, by reason of the officer's status as a commissioned officer, any supervision or control with respect to any of the military or civilian personnel of the Department of Defense except as otherwise authorized by law; and

"(iii) shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the military department of which such officer is a member.

"(B) Except as provided in clause (i) or (ii) of paragraph (A), the appointment of a commissioned officer of the Armed Forces pursuant to paragraph (2) or (3) shall in no way affect the status, position, rank, or grade of such officer in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade.

"(C) A commissioned officer of the Armed Forces appointed pursuant to subsection (a) or (b), while serving in such position, shall continue to receive military pay and allowances (including retired pay) payable to a commissioned officer of the officer's grade and length of service for which the appropriate military department shall be reimbursed from funds available to the Director of Central Intelligence.

"(d) The Office of the Director of Central Intelligence shall, for administrative purposes, be within the Central Intelligence Agency.".

SEC. 705. RESPONSIBILITIES AND AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended—

50 USC 403-1. 50 USC 404, 404a.

(1) by striking out section 102a;

(2) by redesignating sections 103 and 104 as sections 107 and 108, respectively; and

(3) by inserting after section 102, as amended by section 721, the following new sections:

"RESPONSIBILITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

50 USC 403-3.

"SEC. 103. (a) PROVISION OF INTELLIGENCE.—(1) Under the direction of the National Security Council, the Director of Central Intelligence shall be responsible for providing national intelligence—

"(A) to the President;

"(B) to the heads of departments and agencies of the executive branch;

"(C) to the Chairman of the Joint Chiefs of Staff and senior military commanders; and

"(D) where appropriate, to the Senate and House of Representatives and the committees thereof.

"(2) Such national intelligence should be timely, objective, independent of political considerations, and based upon all sources available to the intelligence community.

"(b) NATIONAL INTELLIGENCE COUNCIL.—(1)(A) There is established within the Office of the Director of Central Intelligence the National Intelligence Council (hereafter in this section referred to as the 'Council'). The Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the Director of Central Intelligence. Establishment. Reports.

"(B) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

"(2) The Council shall—

"(A) produce national intelligence estimates for the Government, including, whenever the Council considers appropriate, alternative views held by elements of the intelligence community; and

"(B) otherwise assist the Director in carrying out the responsibilities described in subsection (a).

"(3) Within their respective areas of expertise and under the direction of the Director, the members of the Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the Government.

"(4) The Director shall make available to the Council such staff as may be necessary to permit the Council to carry out its responsibilities under this subsection and shall take appropriate measures to ensure that the Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

"(5) The heads of elements within the intelligence community shall, as appropriate, furnish such support to the Council, including the preparation of intelligence analyses, as may be required by the Director.

"(c) HEAD OF THE INTELLIGENCE COMMUNITY.—In the Director's capacity as head of the intelligence community, the Director shall—

"(1) develop and present to the President an annual budget for the National Foreign Intelligence Program of the United States;

"(2) establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community;

"(3) promote and evaluate the utility of national intelligence to consumers within the Government;

"(4) eliminate waste and unnecessary duplication within the intelligence community;

"(5) protect intelligence sources and methods from unauthorized disclosure; and

"(6) perform such other functions as the President or the National Security Council may direct.

"(d) HEAD OF THE CENTRAL INTELLIGENCE AGENCY.—In the Director's capacity as head of the Central Intelligence Agency, the Director shall—

"(1) collect intelligence through human sources and by other appropriate means, except that the Agency shall have no police, subpoena, or law enforcement powers or internal security functions;

"(2) provide overall direction for the collection of national intelligence through human sources by elements of the intelligence community authorized to undertake such collection and, in coordination with other agencies of the Government which are authorized to undertake such collection, ensure that the most effective use is made of resources and that the risks to the United States and those involved in such collection are minimized;

"(3) correlate and evaluate intelligence related to the national security and providing appropriate dissemination of such intelligence;

"(4) perform such additional services as are of common concern to the elements of the intelligence community, which services the Director of Central Intelligence determines can be more efficiently accomplished centrally; and

"(5) perform such other functions and duties related to intelligence affecting the national security as the President or the National Security Council may direct.

"AUTHORITIES OF THE DIRECTOR OF CENTRAL INTELLIGENCE

50 USC 403-4.

"SEC. 104. (a) ACCESS TO INTELLIGENCE.—To the extent recommended by the National Security Council and approved by the President, the Director of Central Intelligence shall have access to all intelligence related to the national security which is collected by any department, agency, or other entity of the United States.

"(b) APPROVAL OF BUDGETS.—The Director of Central Intelligence shall provide guidance to elements of the intelligence community for the preparation of their annual budgets and shall approve such budgets before their incorporation in the National Foreign Intelligence Program.

"(c) ROLE OF DCI IN REPROGRAMMING.—No funds made available under the National Foreign Intelligence Program may be reprogrammed by any element of the intelligence community without the prior approval of the Director of Central Intelligence except in accordance with procedures issued by the Director.

"(d) TRANSFER OF FUNDS OR PERSONNEL WITHIN THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the Director of Central Intelligence, with the approval of the Director of the Office of Management and Budget, may transfer funds appropriated for a program within the National Foreign Intelligence Program to another such program and, in accordance with procedures to be developed by the Director and the heads of affected departments and agencies, may transfer personnel authorized for an element of the intelligence community to another such element for periods up to a year.

"(2) A transfer of funds or personnel may be made under this subsection only if—

"(A) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

"(B) the need for funds or personnel for such activity is based on unforeseen requirements;

"(C) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the Central Intelligence Agency;

"(D) the transfer does not involve a transfer of funds or personnel from the Federal Bureau of Investigation; and

"(E) the Secretary or head of the department which contains the affected element or elements of the intelligence community does not object to such transfer.

"(3) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

"(4) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this section.

Reports.

"(5) The Director shall promptly submit to the Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives and, in the case of the transfer of personnel to or from the Department of Defense, the Committees on Armed Services of the Senate and House of Representatives, a report on any transfer of personnel made pursuant to this subsection. The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

"(e) COORDINATION WITH FOREIGN GOVERNMENTS.—Under the direction of the National Security Council and in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927), the Director shall coordinate the relationships between elements of the intelligence community and the intelligence or security services of foreign governments on all matters involving intelligence related to the national security or involving intelligence acquired through clandestine means.

"(f) USE OF PERSONNEL.—The Director shall, in coordination with the heads of departments and agencies with elements in the intelligence community, institute policies and programs within the intelligence community—

"(1) to provide for the rotation of personnel between the elements of the intelligence community, where appropriate, and to make such rotated service a factor to be considered for promotion to senior positions; and

"(2) to consolidate, wherever possible, personnel, administrative, and security programs to reduce the overall costs of these activities within the intelligence community.

"(g) TERMINATION OF EMPLOYMENT OF CIA EMPLOYEES.—Notwithstanding the provisions of any other law, the Director may, in the Director's discretion, terminate the employment of any officer or employee of the Central Intelligence Agency whenever the Director shall deem such termination necessary or advisable in the interests of the United States. Any such termination shall not affect the right of the officer or employee terminated to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the Office of Personnel Management.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in the first section of the National Security Act of 1947 is amended by striking out the items relating to sections 102a and 103 and inserting in lieu thereof the following new items:

"Sec. 103. Responsibilities of the Director of Central Intelligence.
"Sec. 104. Authorities of the Director of Central Intelligence.
"Sec. 107. National Security Resources Board.
"Sec. 108. Annual National Security Strategy Report.".

SEC. 706. RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.

(a) IN GENERAL.—The National Security Act of 1947 (50 U.S.C. 401 et seq.) is amended by inserting after section 104 (as added by section 705) the following new sections:

"RESPONSIBILITIES OF THE SECRETARY OF DEFENSE PERTAINING TO THE NATIONAL FOREIGN INTELLIGENCE PROGRAM

50 USC 403-5.

"SEC. 105. (a) IN GENERAL.—The Secretary of Defense shall—

"(1) ensure that the budgets of the elements of the intelligence community within the Department of Defense are adequate to satisfy the overall intelligence needs of the Department of Defense, including the needs of the chairman of the Joint Chiefs of Staff and the commanders of the unified and specified commands and, wherever such elements are performing governmentwide functions, the needs of other departments and agencies;

"(2) ensure appropriate implementation of the policies and resource decisions of the Director of Central Intelligence by elements of the Department of Defense within the National Foreign Intelligence Program;

"(3) ensure that the tactical intelligence activities of the Department of Defense complement and are compatible with intelligence activities under the National Foreign Intelligence Program;

"(4) ensure that the elements of the intelligence community within the Department of Defense are responsive and timely with respect to satisfying the needs of operational military forces;

"(5) eliminate waste and unnecessary duplication among the intelligence activities of the Department of Defense; and

"(6) ensure that intelligence activities of the Department of Defense are conducted jointly where appropriate.

"(b) RESPONSIBILITY FOR THE PERFORMANCE OF SPECIFIC FUNCTIONS.—Consistent with sections 103 and 104 of this Act, the Secretary of Defense shall ensure—

"(1) through the National Security Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the conduct of signals intelligence activities and shall ensure that the product is disseminated in a timely manner to authorized recipients;

"(2) through a central imagery authority (except as otherwise directed by the President or the National Security Council), with appropriate representation from the intelligence community, the continued operation of an effective unified organization within the Department of Defense for carrying out tasking of imagery collection, for the coordination of imagery processing and exploitation activities, and for ensuring the dissemination of imagery in a timely manner to authorized recipients;

"(3) through the National Reconnaissance Office (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified organization for the research and development, acquisition, and operation of overhead reconnaissance systems necessary to satisfy the requirements of all elements of the intelligence community;

"(4) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), the continued operation of an effective unified system within the Department of Defense for the production of timely, objective military and military-related intelligence, based upon all sources available to the intelligence community, and shall ensure the appropriate dissemination of such intelligence to authorized recipients;

"(5) through the Defense Intelligence Agency (except as otherwise directed by the President or the National Security Council), effective management of Department of Defense human intelligence activities, including defense attaches; and

"(6) that the military departments maintain sufficient capabilities to collect and produce intelligence to meet—

"(A) the requirements of the Director of Central Intelligence;

"(B) the requirements of the Secretary of Defense or the Chairman of the Joint Chiefs of Staff;

"(C) the requirements of the unified and specified combatant commands and of joint operations; and

"(D) the specialized requirements of the military departments for intelligence necessary to support tactical commanders, military planners, the research and development process, the acquisition of military equipment, and training and doctrine.

"(c) USE OF ELEMENTS OF DEPARTMENT OF DEFENSE.—The Secretary of Defense, in carrying out the functions described in this section, may use such elements of the Department of Defense as may be appropriate for the execution of those functions, in addition to, or in lieu of, the elements identified in this section.

"ADMINISTRATIVE PROVISIONS PERTAINING TO DEFENSE ELEMENTS WITHIN THE INTELLIGENCE COMMUNITY

"SEC. 106. (a) CONSULTATIONS WITH REGARD TO CERTAIN APPOINTMENTS.—The Secretary of Defense shall undertake appro- 50 USC 403-6.

priate consultations with the Director of Central Intelligence before the appointment of any individual as head of the National Security Agency, the National Reconnaissance Office, or the Defense Intelligence Agency.

"(b) APPOINTMENT OF HEAD OF CENTRAL IMAGERY AUTHORITY.—The Secretary shall appoint, upon the recommendation of the Director, the head of the central imagery authority within the Department of Defense.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 104 (as added by section 705(b)) the following new items:

"Sec. 105. Responsibilities of the Secretary of Defense pertaining to the National Foreign Intelligence Program.
"Sec. 106. Administrative provisions pertaining to defense elements within the intelligence community.".

CIARDS Technical Corrections Act of 1992.

TITLE VIII—RESTATEMENT OF CIARDS STATUTE

50 USC 2001 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "CIARDS Technical Corrections Act of 1992".

SEC. 802. RESTATEMENT OF ACT.

The Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended to read as follows:

Central Intelligence Agency Retirement Act. 50 USC 2001 note.

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Central Intelligence Agency Retirement Act'.

"(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

"Sec. 1. Short title; table of contents.

"TITLE I—DEFINITIONS

"Sec. 101. Definitions relating to the system.
"Sec. 102. Definitions relating to participants and annuitants.

"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

"PART A—ESTABLISHMENT OF SYSTEM

"Sec. 201. The CIARDS system.
"Sec. 202. Central Intelligence Agency Retirement and Disability Fund.
"Sec. 203. Participants in the CIARDS system.
"Sec. 204. Annuitants.

"PART B—CONTRIBUTIONS

"Sec. 211. Contributions to fund.

"PART C—COMPUTATION OF ANNUITIES

"Sec. 221. Computation of annuities.
"Sec. 222. Annuities for former spouses.
"Sec. 223. Election of survivor benefits for certain former spouses divorced as of November 15, 1982.
"Sec. 224. Survivor annuity for certain other former spouses.
"Sec. 225. Retirement annuity for certain former spouses.
"Sec. 226. Survivor annuities for previous spouses.

"PART D—BENEFITS ACCRUING TO CERTAIN PARTICIPANTS

"Sec. 231. Retirement for disability or incapacity—medical examination—recovery.
"Sec. 232. Death in service.
"Sec. 233. Voluntary retirement.
"Sec. 234. Discontinued service benefits.
"Sec. 235. Mandatory retirement.
"Sec. 236. Eligibility for annuity.

"PART E—LUMP-SUM PAYMENTS

"Sec. 241. Lump-sum payments.

"PART F—PERIOD OF SERVICE FOR ANNUITIES

"Sec. 251. Computation of length of service.
"Sec. 252. Prior service credit.
"Sec. 253. Credit for service while on military leave.

"PART G—MONEYS

"Sec. 261. Estimate of appropriations needed.
"Sec. 262. Investment of moneys in the fund.
"Sec. 263. Payment of benefits.
"Sec. 264. Attachment of moneys.
"Sec. 265. Recovery of payments.

"PART H—RETIRED PARTICIPANTS RECALLED, REINSTATED, OR REAPPOINTED IN THE AGENCY OR REEMPLOYED IN THE GOVERNMENT

"Sec. 271. Recall.
"Sec. 272. Reemployment.
"Sec. 273. Reemployment compensation.

"PART I—VOLUNTARY CONTRIBUTIONS

"Sec. 281. Voluntary contributions.

"PART J—COST-OF-LIVING ADJUSTMENT OF ANNUITIES

"Sec. 291. Cost-of-living adjustment of annuities.

"PART K—CONFORMITY WITH CIVIL SERVICE RETIREMENT SYSTEM

"Sec. 292. Authority to maintain existing areas of conformity between Civil Service and Central Intelligence Agency Retirement and Disability Systems.
"Sec. 293. Thrift savings plan participation.
"Sec. 294. Alternative forms of annuities.
"Sec. 295. Payments from CIARDS fund for portions of certain Civil Service Retirement System annuities.

"TITLE III—PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"Sec. 301. Application of Federal Employees' Retirement System to Agency employees.
"Sec. 302. Special rules relating to section 203 criteria employees.
"Sec. 303. Special rules for other employees for service abroad.
"Sec. 304. Special rules for former spouses.
"Sec. 305. Administrative provisions.
"Sec. 306. Regulations.
"Sec. 307. Transition regulations.

"TITLE I—DEFINITIONS

"SEC. 101. DEFINITIONS RELATING TO THE SYSTEM. 50 USC 2001.

"When used in this Act:

"(1) AGENCY.—The term 'Agency' means the Central Intelligence Agency.

"(2) DIRECTOR.—The term 'Director' means the Director of Central Intelligence.

"(3) QUALIFYING SERVICE.—The term 'qualifying service' means service determined by the Director to have been performed in carrying out duties described in section 203.

"(4) FUND BALANCE.—The term 'fund balance' means the sum of—

"(A) the investments of the fund calculated at par value; and

"(B) the cash balance of the fund on the books of the Treasury.

"(5) UNFUNDED LIABILITY.—The term 'unfunded liability' means the estimated amount by which—

"(A) the present value of all benefits payable from the fund exceeds

"(B) the sum of—

"(i) the present value of deductions to be withheld from the future basic pay of participants subject to title II and of future Agency contributions to be made on the behalf of such participants;

"(ii) the present value of Government payments to the fund under sections 261(c) and 261(d); and

"(iii) the fund balance as of the date on which the unfunded liability is determined.

"(6) NORMAL COST.—The term 'normal cost' means the level percentage of payroll required to be deposited in the fund to meet the cost of benefits payable under the system (computed in accordance with generally accepted actuarial practice on an entry-age basis) less the value of retirement benefits earned under another retirement system for government employees and less the cost of credit allowed for military service.

"(7) LUMP-SUM CREDIT.—The term 'lump-sum credit' means the unrefunded amount consisting of retirement deductions made from a participant's basic pay, amounts deposited by a participant covering earlier service, including any amounts deposited under section 252(h), and interest determined under section 281.

"(8) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term 'congressional intelligence committees' means the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

"(9) EMPLOYEE.—The term 'employee' includes an officer of the Agency.

50 USC 2002.

"SEC. 102. DEFINITIONS RELATING TO PARTICIPANTS AND ANNUITANTS.

"(a) GENERAL DEFINITIONS.—When used in title II:

"(1) FORMER PARTICIPANT.—The term 'former participant' means a person who—

"(A) while an employee of the Agency was a participant in the system; and

"(B) separates from the Agency without entitlement to immediate receipt of an annuity from the fund.

"(2) RETIRED PARTICIPANT.—The term 'retired participant' means a person who—

"(A) while an employee of the Agency was a participant in the system; and

"(B) is entitled to receive an annuity from the fund based upon such person's service as a participant.

"(3) SURVIVING SPOUSE.—

"(A) IN GENERAL.—The term 'surviving spouse' means the surviving wife or husband of a participant or retired

participant who (i) was married to the participant or retired participant for at least 9 months immediately preceding the participant's or retired participant's death, or (ii) who is the parent of a child born of the marriage.

"(B) TREATMENT WHEN PARTICIPANT DIES LESS THAN 9 MONTHS AFTER MARRIAGE.—In a case in which the participant or retired participant dies within the 9-month period beginning on the date of the marriage, the requirement under subparagraph (A)(i) that a marriage have a duration of at least 9 months immediately preceding the death of the participant or retired participant shall be treated as having been met if—

"(i) the death of the participant or retired participant was accidental; or

"(ii) the surviving wife or husband had been previously married to the participant or retired participant (and subsequently divorced) and the aggregate time married is at least 9 months.

"(4) FORMER SPOUSE.—The term 'former spouse' means a former wife or husband of a participant, former participant, or retired participant as follows:

"(A) DIVORCES ON OR BEFORE DECEMBER 4, 1991.—In the case of a divorce that became final on or before December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent outside the United States by both such participant and former wife or husband during the participant's service as an employee of the Agency.

"(B) DIVORCES AFTER DECEMBER 4, 1991.—In the case of a divorce that becomes final after December 4, 1991, such term means a former wife or husband of a participant, former participant, or retired participant who was married to such participant for not less than 10 years during periods of the participant's creditable service, at least 5 years of which were spent by the participant during the participant's service as an employee of the Agency (i) outside the United States, or (ii) otherwise in a position the duties of which qualified the participant for designation by the Director as a participant under section 203.

"(C) CREDITABLE SERVICE.—For purposes of subparagraphs (A) and (B), the term 'creditable service' means all periods of a participant's service that are creditable under sections 251, 252, and 253.

"(5) PREVIOUS SPOUSE.—The term 'previous spouse' means an individual who was married for at least 9 months to a participant, former participant, or retired participant who had at least 18 months of service which are creditable under sections 251, 252, and 253.

"(6) SPOUSAL AGREEMENT.—The term 'spousal agreement' means an agreement between a participant, former participant, or retired participant and the participant, former participant, or retired participant's spouse or former spouse that—

"(A) is in writing, is signed by the parties, and is notarized;

"(B) has not been modified by court order; and

"(C) has been authenticated by the Director.

"(7) COURT ORDER.—The term 'court order' means—

"(A) a court decree of divorce, annulment, or legal separation; or

"(B) a court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

"(8) COURT.—The term 'court' means a court of a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian court.

"(b) DEFINITION OF CHILD.—For purposes of sections 221 and 232:

"(1) IN GENERAL.—The term 'child' means any of the following:

"(A) MINOR CHILDREN.—An unmarried dependent child under 18 years of age, including—

"(i) an adopted child;

"(ii) a stepchild, but only if the stepchild lived with the participant or retired participant in a regular parent-child relationship;

"(iii) a recognized natural child; and

"(iv) a child who lived with the participant, for whom a petition of adoption was filed by the participant or retired participant, and who is adopted by the surviving spouse after the death of the participant or retired participant.

"(B) DISABLED ADULT CHILDREN.—An unmarried dependent child, regardless of age, who is incapable of self-support because of a physical or mental disability incurred before age 18.

"(C) STUDENTS.—An unmarried dependent child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

"(2) SPECIAL RULES FOR STUDENTS.—

"(A) EXTENSION OF AGE TERMINATION OF STATUS AS 'CHILD'.—For purposes of this subsection, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while regularly pursuing such a course of study or training, shall be treated as having attained the age of 22 on the first day of July following that birthday.

"(B) TREATMENT OF INTERIM PERIOD BETWEEN SCHOOL YEARS.—A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim does not exceed 5 months and if the child shows to the satisfaction of the Director that the child has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately following the interim.

"(3) DEPENDENT DEFINED.—For purposes of this subsection, the term 'dependent', with respect to the child of a participant or retired participant, means that the participant or retired participant was, at the time of the death of the participant or retired participant, either living with or contributing to the support of the child, as determined in accordance with regulations prescribed under title II.

"(4) EXCLUSION OF STEPCHILDREN FROM LUMP-SUM PAYMENT.—For purposes of section 241(c), the term 'child' includes an adopted child and a natural child, but does not include a stepchild.

"TITLE II—THE CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

"Part A—Establishment of System

"SEC. 201. THE CIARDS SYSTEM. 50 USC 2011.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT OF SYSTEM.—There is a retirement and disability system for certain employees of the Central Intelligence Agency known as the Central Intelligence Agency Retirement and Disability System (hereinafter in this Act referred to as the 'system'), originally established pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

"(2) DCI REGULATIONS.—The Director shall prescribe regulations for the system. The Director shall submit any proposed regulations for the system to the congressional intelligence committees not less than 14 days before they take effect.

"(b) ADMINISTRATION OF SYSTEM.—The Director shall administer the system in accordance with regulations prescribed under this title and with the principles established by this title.

"(c) FINALITY OF DECISIONS OF DCI.—In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 102(d)(3) of the National Security Act of 1947 (50 U.S.C. 403(d)(3)) that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, and notwithstanding the provisions of chapter 7 of title 5, United States Code, or any other provision of law (except section 305(b) of this Act), any determination by the Director authorized by this Act shall be final and conclusive and shall not be subject to review by any court.

"SEC. 202. CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY FUND. 50 USC 2012.

"The Director shall maintain the fund in the Treasury known as the 'Central Intelligence Agency Retirement and Disability Fund' (hereinafter in this Act referred to as the 'fund'), originally created pursuant to title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

50 USC 2013.

"SEC. 203. PARTICIPANTS IN THE CIARDS SYSTEM.

"(a) DESIGNATION OF PARTICIPANTS.—The Director may from time to time designate employees of the Agency who shall be entitled to participate in the system. Employees so designated who elect to participate in the system are referred to in this Act as 'participants'.

"(b) QUALIFYING SERVICE.—Designation of employees under this section may be made only from among employees of the Agency who have completed at least 5 years of qualifying service. For purposes of this Act, qualifying service is service in the Agency performed in carrying out duties that are determined by the Director—

"(1) to be in support of Agency activities abroad hazardous to life or health; or

"(2) to be so specialized because of security requirements as to be clearly distinguishable from normal government employment.

"(c) ELECTION OF EMPLOYEE TO BE A PARTICIPANT.—

"(1) PERMANENCE OF ELECTION.—An employee of the Agency who elects to accept designation as a participant in the system shall remain a participant of the system for the duration of that individual's employment with the Agency.

"(2) IRREVOCABILITY OF ELECTION.—Such an election shall be irrevocable except as and to the extent provided in section 301(d).

"(3) ELECTION NOT SUBJECT TO APPROVAL.—An election under this section is not subject to review or approval by the Director.

50 USC 2014.

"SEC. 204. ANNUITANTS.

"Persons who are annuitants under the system are—

"(1) those persons who, on the basis of their service in the Agency, have met all requirements for an annuity under this title or any other Act and are receiving an annuity from the fund; and

"(2) those persons who, on the basis of someone else's service, meet all the requirements under this title or any other Act for an annuity payable from the fund.

"Part B—Contributions

50 USC 2021.

"SEC. 211. CONTRIBUTIONS TO FUND.

"(a) IN GENERAL.—

"(1) PARTICIPANT'S CONTRIBUTIONS.—Except as provided in subsection (d), 7 percent of the basic pay received by a participant for any pay period shall be deducted and withheld from the pay of that participant and contributed to the fund.

"(2) AGENCY CONTRIBUTIONS.—An equal amount shall be contributed to the fund for that pay period from the appropriation or fund which is used for payment of the participant's basic pay.

"(3) DEPOSITS TO THE FUND.—The amounts deducted and withheld from basic pay, together with the amounts so contributed from the appropriation or fund, shall be deposited by the Director to the credit of the fund.

"(b) CONSENT OF PARTICIPANT TO DEDUCTIONS FROM PAY.—Each participant shall be deemed to consent and agree to such deductions from basic pay, and payment less such deductions shall be a full and complete discharge and acquittance of all claims and demands whatsoever for all regular services during the period covered by such payment, except the right to the benefits to which the participant is entitled under this title, notwithstanding any law, rule, or regulation affecting the individual's pay.

"(c) TREATMENT OF CONTRIBUTIONS AFTER 35 YEARS OF SERVICE.—

"(1) ACCRUAL OF INTEREST.—Amounts deducted and withheld from the basic pay of a participant under this section for pay periods after the first day of the first pay period beginning after the day on which the participant completes 35 years of creditable service computed under sections 251 and 252 (excluding service credit for unused sick leave under section 221(a)(2)) shall accrue interest. Such interest shall accrue at the rate of 3 percent a year through December 31, 1984, and thereafter at the rate computed under section 8334(e) of title 5, United States Code, and shall be compounded annually from the date on which the amount is so deducted and withheld until the date of the participant's retirement or death.

"(2) USE OF AMOUNTS WITHHELD AFTER 35 YEARS OF SERVICE.—

"(A) USE FOR DEPOSITS DUE UNDER SECTION 252(b).—Amounts described in paragraph (1), including interest accrued on such amounts, shall be applied upon the participant's retirement or death toward any deposit due under section 252(b).

"(B) LUMP-SUM PAYMENT.—Any balance of such amounts not so required for such a deposit shall be refunded to the participant in a lump sum after the participant's separation (or, in the event of a death in service, to a beneficiary in order of precedence specified in subsection 241(c)), subject to the requirement under section 241(b)(4).

"(C) PURCHASES OF ADDITIONAL ELECTIVE BENEFITS.—In lieu of such a lump-sum payment, the participant may use such amounts—

"(i) to purchase an additional annuity in accordance with section 281; or

"(ii) provide any additional survivor benefit for a current or former spouse or spouses.

"(d) OFFSET FOR SOCIAL SECURITY TAXES.—

"(1) PERSONS COVERED.—In the case of a participant who was a participant subject to this title before January 1, 1984, and whose service—

"(A) is employment for the purposes of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, and

"(B) is not creditable service for any purpose under title III of this Act or chapter 84 of title 5, United States Code,

there shall be deducted and withheld from the basic pay of the participant under this section during any pay period only the amount computed under paragraph (2).

"(2) REDUCTION IN CONTRIBUTION.—The amount deducted and withheld from the basic pay of a participant during any pay period pursuant to paragraph (1) shall be the excess of—

"(A) the amount determined by multiplying the percent applicable to the participant under subsection (a) by the basic pay payable to the participant for that pay period, over

"(B) the amount of the taxes deducted and withheld from such basic pay under section 3101(a) of the Internal Revenue Code of 1954 (relating to old-age, survivors, and disability insurance) for that pay period.

"Part C—Computation of Annuities

50 USC 2031.

"SEC. 221. COMPUTATION OF ANNUITIES.

"(a) ANNUITY OF PARTICIPANT.—

"(1) COMPUTATION OF ANNUITY.—The annuity of a participant is the product of—

"(A) the participant's high-3 average pay (as defined in paragraph (4)); and

"(B) the number of years, not exceeding 35, of service credit (determined in accordance with sections 251 and 252) multiplied by 2 percent.

"(2) CREDIT FOR UNUSED SICK LEAVE.—The total service of a participant who retires on an immediate annuity (except under section 231) or who dies leaving a survivor or survivors entitled to an annuity shall include (without regard to the 35-year limitation prescribed in paragraph (1)) the days of unused sick leave to the credit of the participant. Days of unused sick leave may not be counted in determining average basic pay or eligibility for an annuity under this title. A deposit shall not be required for days of unused sick leave credited under this paragraph.

"(3) CREDITING OF PART-TIME SERVICE.—

"(A) IN GENERAL.—In the case of a participant whose service includes service on a part-time basis performed after April 6, 1986, the participant's annuity shall be the sum of the amounts determined under subparagraphs (B) and (C).

"(B) COMPUTATION OF PRE-APRIL 7, 1986, ANNUITY.—The portion of an annuity referred to in subparagraph (A) with respect to service before April 7, 1986, shall be the amount computed under paragraph (1) using the participant's length of service before that date (increased by the unused sick leave to the credit of the participant at the time of retirement) and the participant's high-3 average pay.

"(C) COMPUTATION OF POST-APRIL 6, 1986, ANNUITY.—The portion of an annuity referred to in subparagraph (A) with respect to service after April 6, 1986, shall be the product of—

"(i) the amount computed under paragraph (1), using the participant's length of service after that date and the participant's high-3 average pay, as determined by using the annual rate of basic pay that would be payable for full-time service; and

"(ii) the ratio which the participant's actual service after April 6, 1986 (as determined by prorating the participant's total service after that date to reflect the service that was performed on a part-time basis) bears to the total service after that date that would be creditable for the participant if all the service had been performed on a full-time basis.

"(D) TREATMENT OF EMPLOYMENT ON TEMPORARY OR INTERMITTENT BASIS.—Employment on a temporary or intermittent basis shall not be considered to be service on a part-time basis for purposes of this paragraph.

"(4) HIGH-3 AVERAGE PAY DEFINED.—For purposes of this subsection, a participant's high-3 average pay is the amount of the participant's average basic pay for the highest 3 consecutive years of the participant's service (or, in the case of an annuity computed under section 232 and based on less than 3 years, over the total service) for which full contributions have been made to the fund.

"(5) COMPUTATION OF SERVICE.—In determining the aggregate period of service upon which an annuity is to be based, any fractional part of a month shall not be counted.

"(b) SPOUSE OR FORMER SPOUSE SURVIVOR ANNUITY.—

"(1) REDUCTION IN PARTICIPANT'S ANNUITY TO PROVIDE SPOUSE OR FORMER SPOUSE SURVIVOR ANNUITY.—

"(A) GENERAL RULE.—Except to the extent provided otherwise under a written election under subparagraph (B) or (C), if at the time of retirement a participant or former participant is married (or has a former spouse who has not remarried before attaining age 55), the participant shall receive a reduced annuity and provide a survivor annuity for the participant's spouse under this subsection or former spouse under section 222(b), or a combination of such annuities, as the case may be.

"(B) JOINT ELECTION FOR WAIVER OR REDUCTION OF SPOUSE SURVIVOR ANNUITY.—A married participant or former participant and the participant's spouse may jointly elect in writing at the time of retirement to waive a survivor annuity for that spouse under this section or to reduce such survivor annuity under this section by designating a portion of the annuity of the participant as the base for the survivor annuity. If the marriage is dissolved following an election for such a reduced annuity and the spouse qualifies as a former spouse, the base used in calculating any annuity of the former spouse under section 222(b) may not exceed the portion of the participant's annuity designated under this subparagraph.

"(C) JOINT ELECTION OF PARTICIPANT AND FORMER SPOUSE.—If a participant or former participant has a former spouse, such participant and the participant's former spouse may jointly elect by spousal agreement under section 264(b) to waive, reduce, or increase a survivor annuity under section 222(b) for that former spouse. Any such election must be made (i) before the end of the 12-month period beginning on the date on which the divorce or annulment involving that former spouse becomes final, or (ii) at the time of retirement of the participant, whichever is later.

"(D) UNILATERAL ELECTIONS IN ABSENCE OF SPOUSE OR FORMER SPOUSE.—The Director may prescribe regulations under which a participant or former participant may make an election under subparagraph (B) or (C) without the participant's spouse or former spouse if the participant establishes to the satisfaction of the Director that the participant does not know, and has taken all reasonable steps to determine, the whereabouts of the spouse or former spouse.

"(2) AMOUNT OF REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity of a participant or former participant providing a survivor annuity under this section (or section 222(b)), excluding any portion of the annuity not designated or committed as a base for any survivor annuity, shall be reduced by 2½ percent of the first $3,600 plus 10 percent of any amount over $3,600. The reduction under this paragraph shall be calculated before any reduction under section 222(a)(5).

"(3) AMOUNT OF SURVIVING SPOUSE ANNUITY.—

"(A) IN GENERAL.—If a retired participant receiving a reduced annuity under this subsection dies and is survived by a spouse, a survivor annuity shall be paid to the surviving spouse. The amount of the annuity shall be equal to 55 percent of (i) the full amount of the participant's annuity computed under subsection (a), or (ii) any lesser amount elected as the base for the survivor annuity under paragraph (1)(B).

"(B) LIMITATION.—Notwithstanding subparagraph (A), the amount of the annuity calculated under subparagraph (A) for a surviving spouse in any case in which there is also a surviving former spouse of the retired participant who qualifies for an annuity under section 222(b) may not exceed 55 percent of the portion (if any) of the base for survivor annuities which remains available under section 222(b)(4)(B).

"(C) EFFECTIVE DATE AND TERMINATION OF ANNUITY.—An annuity payable from the fund to a surviving spouse under this paragraph shall commence on the day after the retired participant dies and shall terminate on the last day of the month before the surviving spouse's death or remarriage before attaining age 55. If such survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(c) 18–MONTH OPEN PERIOD AFTER RETIREMENT TO PROVIDE SPOUSE COVERAGE.—

"(1) SURVIVOR ANNUITY ELECTIONS.—

"(A) ELECTION WHEN SPOUSE COVERAGE WAIVED AT TIME OF RETIREMENT.—A participant or former participant who retires after March 31, 1992 and who—

"(i) is married at the time of retirement; and

"(ii) elects at that time (in accordance with subsection (b)) to waive a survivor annuity for the spouse,

may, during the 18-month period beginning on the date of the retirement of the participant, elect to have a reduction under subsection (b) made in the annuity of the partici-

pant (or in such portion thereof as the participant may designate) in order to provide a survivor annuity for the participant's spouse.

"(B) ELECTION WHEN REDUCED SPOUSE ANNUITY ELECTED.—A participant or former participant who retires after March 31, 1992, and—

"(i) who, at the time of retirement, is married, and

"(ii) who, at that time designates (in accordance with subsection (b)) that a portion of the annuity of such participant is to be used as the base for a survivor annuity,

may, during the 18-month period beginning on the date of the retirement of such participant, elect to have a greater portion of the annuity of such participant so used.

"(2) DEPOSIT REQUIRED.—

"(A) REQUIREMENT.—An election under paragraph (1) shall not be effective unless the amount specified in subparagraph (B) is deposited into the fund before the end of that 18-month period.

"(B) AMOUNT OF DEPOSIT.—The amount to be deposited with respect to an election under this subsection is the amount equal to the sum of the following:

"(i) ADDITIONAL COST TO SYSTEM.—The additional cost to the system that is associated with providing a survivor annuity under subsection (b) and that results from such election, taking into account—

"(I) the difference (for the period between the date on which the annuity of the participant or former participant commences and the date of the election) between the amount paid to such participant or former participant under this title and the amount which would have been paid if such election had been made at the time the participant or former participant applied for the annuity; and

"(II) the costs associated with providing for the later election.

"(ii) INTEREST.—Interest on the additional cost determined under clause (i), computed using the interest rate specified or determined under section 8334(e) of title 5, United States Code, for the calendar year in which the amount to be deposited is determined.

"(3) VOIDING OF PREVIOUS ELECTIONS.—An election by a participant or former participant under this subsection voids prospectively any election previously made in the case of such participant under subsection (b).

"(4) REDUCTIONS IN ANNUITY.—An annuity that is reduced in connection with an election under this subsection shall be reduced by the same percentage reductions as were in effect at the time of the retirement of the participant or former participant whose annuity is so reduced.

"(5) RIGHTS AND OBLIGATIONS RESULTING FROM REDUCED ANNUITY ELECTION.—Rights and obligations resulting from the election of a reduced annuity under this subsection shall be the same as the rights and obligations that would have resulted

had the participant involved elected such annuity at the time of retirement.

"(d) ANNUITIES FOR SURVIVING CHILDREN.—

"(1) PARTICIPANTS DYING BEFORE APRIL 1, 1992.—In the case of a retired participant who died before April 1, 1992, and who is survived by a child or children—

"(A) if the retired participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

"(B) if the retired participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

"(2) PARTICIPANTS DYING ON OR AFTER APRIL 1, 1992.—In the case of a retired participant who dies on or after April 1, 1992, and who is survived by a child or children—

"(A) if the retired participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under paragraph (3)(A); and

"(B) if the retired participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under paragraph (3)(B).

"(3) AMOUNT OF ANNUITY.—

"(A) The annual amount of an annuity for the surviving child of a participant covered by paragraph (1)(A) or (2)(A) of this subsection (or covered by paragraph (1)(A) or (2)(A) of section 232(c)) is the smallest of the following:

"(i) 60 percent of the participant's high-3 average pay, as determined under subsection (a)(4), divided by the number of children.

"(ii) $900, as adjusted under section 291.

"(iii) $2,700, as adjusted under section 291, divided by the number of children.

"(B) The amount of an annuity for the surviving child of a participant covered by paragraph (1)(B) or (2)(B) of this subsection (or covered by paragraph (1)(B) or (2)(B) of section 232(c)) is the smallest of the following:

"(i) 75 percent of the participant's high-3 average pay, as determined under subsection (a)(4), divided by the number of children.

"(ii) $1,080, as adjusted under section 291.

"(iii) $3,240, as adjusted under section 291, divided by the number of children.

"(4) RECOMPUTATION OF CHILD ANNUITIES.—

"(A) In the case of a child annuity payable under paragraph (1), upon the death of a surviving spouse or the termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse or child had not survived the retired participant.

"(B) In the case of a child annuity payable under paragraph (2), upon the death of a surviving spouse or

former spouse or termination of the annuity of a child, the annuities of any remaining children shall be recomputed and paid as though the spouse, former spouse, or child had not survived the retired participant. If the annuity of a surviving child who has not been receiving an annuity is initiated or resumed, the annuities of any other children shall be recomputed and paid from that date as though the annuities of all currently eligible children were then being initiated.

"(5) DEFINITION OF FORMER SPOUSE.—For purposes of this subsection, the term 'former spouse' includes any former wife or husband of the retired participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

"(e) COMMENCEMENT AND TERMINATION OF CHILD ANNUITIES.—

"(1) COMMENCEMENT.—An annuity payable to a child under subsection (d), or under section 232(c), shall begin on the day after the date on which the participant or retired participant dies or, in the case of an individual over the age of 18 who is not a child within the meaning of section 102(b), shall begin or resume on the first day of the month in which the individual later becomes or again becomes a student as described in section 102(b). Such annuity may not commence until any lump-sum that has been paid is returned to the fund.

"(2) TERMINATION.—Such an annuity shall terminate on the last day of the month before the month in which the recipient of the annuity dies or no longer qualifies as a child (as defined in section 102(b)).

"(f) PARTICIPANTS NOT MARRIED AT TIME OF RETIREMENT.—

"(1) DESIGNATION OF PERSONS WITH INSURABLE INTEREST.—

"(A) AUTHORITY TO MAKE DESIGNATION.—Subject to the rights of former spouses under sections 221(b) and 222, at the time of retirement an unmarried participant found by the Director to be in good health may elect to receive an annuity reduced in accordance with subparagraph (B) and designate in writing an individual having an insurable interest in the participant to receive an annuity under the system. The amount of such an annuity shall be equal to 55 percent of the participant's reduced annuity after the participant's death.

"(B) REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity payable to the participant making such election shall be reduced by 10 percent of an annuity computed under subsection (a) and by an additional 5 percent for each full 5 years the designated individual is younger than the participant. The total reduction under this subparagraph may not exceed 40 percent.

"(C) COMMENCEMENT OF SURVIVOR ANNUITY.—The annuity payable to the designated individual shall begin on the day after the retired participant dies and terminate on the last day of the month before the designated individual dies.

"(D) RECOMPUTATION OF PARTICIPANT'S ANNUITY ON DEATH OF DESIGNATED INDIVIDUAL.—An annuity which is reduced under this paragraph shall, effective the first day of the month following the death of the designated individ-

ual, be recomputed and paid as if the annuity had not been so reduced.

"(2) ELECTION OF SURVIVOR ANNUITY UPON SUBSEQUENT MARRIAGE.—A participant who is unmarried at the time of retirement and who later marries may irrevocably elect, in a signed writing received by the Director within one year after the marriage, to receive a reduced annuity as provided in section 221(b). Such election and reduction shall be effective on the first day of the month beginning 9 months after the date of marriage. The election voids prospectively any election previously made under paragraph (1).

"(g) EFFECT OF DIVORCE AFTER RETIREMENT.—

"(1) RECOMPUTATION OF RETIRED PARTICIPANT'S ANNUITY UPON DIVORCE.—An annuity which is reduced under this section (or any similar prior provision of law) to provide a survivor annuity for a spouse shall, if the marriage of the retired participant to such spouse is dissolved, be recomputed and paid for each full month during which a retired participant is not married (or is remarried if there is no election in effect under paragraph (2)) as if the annuity had not been so reduced, subject to any reduction required to provide a survivor annuity under subsection (b) or (c) of section 222 or under section 226.

"(2) ELECTION OF SURVIVOR ANNUITY UPON SUBSEQUENT REMARRIAGE.—

"(A) IN GENERAL.—Upon remarriage, the retired participant may irrevocably elect, by means of a signed writing received by the Director within one year after such remarriage, to receive a reduced annuity for the purpose of providing an annuity for the new spouse of the retired participant in the event such spouse survives the retired participant. Such reduction shall be equal to the reduction in effect immediately before the dissolution of the previous marriage (unless such reduction is adjusted under section 222(b)(5) or elected under subparagraph (B)).

"(B) WHEN ANNUITY PREVIOUSLY NOT (OR NOT FULLY) REDUCED.—

"(i) ELECTION.—If the retired participant's annuity was not reduced (or was not fully reduced) to provide a survivor annuity for the participant's spouse or former spouse as of the time of retirement, the retired participant may make an election under the first sentence of subparagraph (A) upon remarriage to a spouse other than the spouse at the time of retirement. For any remarriage that occurred before August 14, 1991, the retired participant may make such an election within 2 years after such date.

"(ii) DEPOSIT REQUIRED.—

"(I) The retired participant shall, within one year after the date of the remarriage (or by August 14, 1993 for any remarriage that occurred before August 14, 1991), deposit in the fund an amount determined by the Director, as nearly as may be administratively feasible, to reflect the amount by which the retired participant's annuity would have been reduced if the election had been in effect

since the date the annuity commenced, plus interest.

"(II) The annual rate of interest for each year during which the retired participant's annuity would have been reduced if the election had been in effect since the date the annuity commenced shall be 6 percent.

"(III) If the retired participant does not make the deposit, the Director shall collect such amount by offset against the participant's annuity, up to a maximum of 25 percent of the net annuity otherwise payable to the retired participant, and the retired participant is deemed to consent to such offset.

"(IV) The deposit required by this subparagraph may be made by the surviving spouse of the retired participant.

"(C) EFFECTS OF ELECTION.—An election under this paragraph and the reduction in the participant's annuity shall be effective on the first day of the month beginning 9 months after the date of remarriage. A survivor annuity elected under this paragraph shall be treated in all respects as a survivor annuity under subsection (b).

"(h) COORDINATION OF ANNUITIES.—

"(1) SURVIVING SPOUSE.—A surviving spouse whose survivor annuity was terminated because of remarriage before attaining age 55 shall not be entitled under subsection (b)(3)(C) to the restoration of that survivor annuity payable from the fund unless the surviving spouse elects to receive it instead of any other survivor annuity to which the surviving spouse may be entitled under the system or any other retirement system for Government employees by reason of the remarriage.

"(2) FORMER SPOUSE.—A surviving former spouse of a participant or retired participant shall not become entitled under section 222(b) or 224 to a survivor annuity or to the restoration of a survivor annuity payable from the fund unless the surviving former spouse elects to receive it instead of any other survivor annuity to which the surviving former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

"(3) SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE.—A surviving spouse who married a participant after the participant's retirement shall be entitled to a survivor annuity payable from the fund only upon electing that annuity instead of any other survivor annuity to which the surviving spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the retired participant.

"(i) SUPPLEMENTAL SURVIVOR ANNUITIES.—

"(1) SPOUSE OF RECALLED ANNUITANT.—A married recalled annuitant who reverts to retired status with entitlement to a supplemental annuity under section 271(b) shall, unless the annuitant and the annuitant's spouse jointly elect in writing to the contrary at the time of reversion to retired status, have the supplemental annuity reduced by 10 percent to provide a supplemental survivor annuity for the annuitant's spouse.

Such supplemental survivor annuity shall be equal to 55 percent of the supplemental annuity of the annuitant.

"(2) REGULATIONS.—The Director shall prescribe regulations to provide for the application of paragraph (1) of this subsection and of subsection (b) of section 271 in any case in which an annuitant has a former spouse who was married to the recalled annuitant at any time during the period of recall service and who qualifies for an annuity under section 222(b).

"(j) OFFSET OF ANNUITIES BY AMOUNT OF SOCIAL SECURITY BENEFIT.—Notwithstanding any other provision of this title, an annuity (including a disability annuity) payable under this title to an individual described in sections 211(d)(1) and 301(c)(1) and any survivor annuity payable under this title on the basis of the service of such individual shall be reduced (except as provided in paragraph (2)) in a manner consistent with section 8349 of title 5, United States Code, under conditions consistent with the conditions prescribed in that section.

"(k) INFORMATION FROM OTHER AGENCIES.—

"(1) OTHER AGENCIES.—For the purpose of ensuring the accuracy of the information used in the determination of eligibility for and the computation of annuities payable from the fund under this title, at the request of the Director—

"(A) the Secretary of Defense shall provide information on retired or retainer pay paid under title 10, United States Code;

"(B) the Secretary of Veterans Affairs shall provide information on pensions or compensation paid under title 38, United States Code;

"(C) the Secretary of Health and Human Services shall provide information contained in the records of the Social Security Administration; and

"(D) the Secretary of Labor shall provide information on benefits paid under subchapter I of chapter 81 of title 5, United States Code.

"(2) LIMITATION ON INFORMATION REQUESTED.—The Director shall request only such information as the Director determines is necessary.

"(3) LIMITATION ON USES OF INFORMATION.—The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this subsection is used only for the purposes authorized.

"(l) INFORMATION ON RIGHTS UNDER THE SYSTEM.—The Director shall, on an annual basis—

"(1) inform each retired participant of the participant's right of election under subsections (c), (f)(2), and (g); and

"(2) to the maximum extent practicable, inform spouses and former spouses of participants, former participants, and retired participants of their rights under this Act.

50 USC 2032.

"SEC. 222. ANNUITIES FOR FORMER SPOUSES.

"(a) FORMER SPOUSE SHARE OF PARTICIPANT'S ANNUITY.—

"(1) PRO RATA SHARE.—Unless otherwise expressly provided by a spousal agreement or court order under section 264(b), a former spouse of a participant, former participant, or retired participant is entitled to an annuity—

"(A) if married to the participant, former participant, or retired participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(B) if not married to the participant throughout such creditable service, equal to that proportion of 50 percent of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this title bears to the total number of days of such creditable service.

"(2) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—A former spouse is not qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

"(3) COMMENCEMENT OF ANNUITY.—The annuity of a former spouse under this subsection commences on the day the participant upon whose service the annuity is based becomes entitled to an annuity under this title or on the first day of the month after the divorce or annulment involved becomes final, whichever is later.

"(4) TERMINATION OF ANNUITY.—The annuity of such former spouse and the right thereto terminate on—

"(A) the last day of the month before the month in which the former spouse dies or remarries before 55 years of age; or

"(B) the date on which the annuity of the participant terminates (except in the case of an annuity subject to paragraph (5)(B)).

"(5) TREATMENT OF PARTICIPANT'S ANNUITY.—

"(A) REDUCTION IN PARTICIPANT'S ANNUITY.—The annuity payable to any participant shall be reduced by the amount of an annuity under this subsection paid to any former spouse based upon the service of that participant. Such reduction shall be disregarded in calculating—

"(i) the survivor annuity for any spouse, former spouse, or other survivor under this title; and

"(ii) any reduction in the annuity of the participant to provide survivor benefits under subsection (b) or under section 221(b).

"(B) TREATMENT WHEN ANNUITANT RETURNS TO SERVICE.—If an annuitant whose annuity is reduced under subparagraph (A) is recalled to service under section 271, or reinstated or reappointed, in the case of a recovered disability annuitant, or if any annuitant is reemployed as provided for under sections 272 and 273, the pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the fund.

"(6) DISABILITY ANNUITANT.—Notwithstanding paragraph (3), in the case of a former spouse of a disability annuitant—

"(A) the annuity of that former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this title (other than a disability annuity) or

the date on which the disability annuity begins, whichever is later, and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(7) ELECTION OF BENEFITS.—A former spouse of a participant, former participant, or retired participant shall not become entitled under this subsection to an annuity payable from the fund unless the former spouse elects to receive it instead of any other annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

"(8) LIMITATION IN CASE OF MULTIPLE FORMER SPOUSE ANNUITIES.—No spousal agreement or court order under section 264(b) involving a participant may provide for an annuity or a combination of annuities under this subsection that exceeds the annuity of the participant.

"(b) FORMER SPOUSE SURVIVOR ANNUITY.—

"(1) PRO RATA SHARE.—Subject to any election under section 221(b)(1)(B) and (C) and unless otherwise expressly provided by a spousal agreement or court order under section 264(b), if an annuitant is survived by a former spouse, the former spouse shall be entitled—

"(A) if married to the annuitant throughout the creditable service of the annuitant, to a survivor annuity equal to 55 percent of the unreduced amount of the annuitant's annuity, as computed under section 221(a); and

"(B) if not married to the annuitant throughout such creditable service, to a survivor annuity equal to that proportion of 55 percent of the unreduced amount of such annuity that is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant under this title bears to the total number of days of such creditable service.

"(2) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—A former spouse shall not be qualified for an annuity under this subsection if before the commencement of that annuity the former spouse remarries before becoming 55 years of age.

"(3) COMMENCEMENT, TERMINATION, AND RESTORATION OF ANNUITY.—An annuity payable from the fund under this title to a surviving former spouse under this subsection shall commence on the day after the annuitant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55. If such a survivor annuity is terminated because of remarriage, it shall be restored at the same rate commencing on the date such remarriage is dissolved by death, annulment, or divorce if any lump sum paid upon termination of the annuity is returned to the fund.

"(4) SURVIVOR ANNUITY AMOUNT.—

"(A) MAXIMUM AMOUNT.—The maximum survivor annuity or combination of survivor annuities under this subsection (and section 221(b)(3)) with respect to any participant may not exceed 55 percent of the full amount of the participant's annuity, as calculated under section 221(a).

"(B) LIMITATION ON OTHER SURVIVOR ANNUITIES BASED ON SERVICE OF SAME PARTICIPANT.—Once a survivor annuity has been provided under this subsection for any former spouse, a survivor annuity for another individual may thereafter be provided under this subsection (or section 221(b)(3)) with respect to the participant only for that portion (if any) of the maximum available which is not committed for survivor benefits for any former spouse whose prospective right to such annuity has not terminated by reason of death or remarriage.

"(C) FINALITY OF COURT ORDER UPON DEATH OF PARTICIPANT.—After the death of a participant or retired participant, a court order under section 264(b) may not adjust the amount of the annuity of a former spouse of that participant or retired participant under this section.

"(5) EFFECT OF TERMINATION OF FORMER SPOUSE ENTITLEMENT.—

"(A) RECOMPUTATION OF PARTICIPANT'S ANNUITY.—If a former spouse of a retired participant dies or remarries before attaining age 55, the annuity of the retired participant, if reduced to provide a survivor annuity for that former spouse, shall be recomputed and paid, effective on the first day of the month beginning after such death or remarriage, as if the annuity had not been so reduced, unless an election is in effect under subparagraph (B).

"(B) ELECTION OF SPOUSE ANNUITY.—Subject to paragraph (4)(B), the participant may elect in writing within one year after receipt of notice of the death or remarriage of the former spouse to continue the reduction in order to provide a higher survivor annuity under section 221(b)(3) for any spouse of the participant.

"(c) OPTIONAL ADDITIONAL SURVIVOR ANNUITIES FOR OTHER FORMER SPOUSE OR SURVIVING SPOUSE.—

"(1) IN GENERAL.—In the case of any participant providing a survivor annuity under subsection (b) for a former spouse—

"(A) such participant may elect, or

"(B) a spousal agreement or court order under section 264(b) may provide for,

an additional survivor annuity under this subsection for any other former spouse or spouse surviving the participant, if the participant satisfactorily passes a physical examination as prescribed by the Director.

"(2) LIMITATION.—Neither the total amount of survivor annuity or annuities under this subsection with respect to any participant, nor the survivor annuity or annuities for any one surviving spouse or former spouse of such participant under this section or section 221, may exceed 55 percent of the unreduced amount of the participant's annuity, as computed under section 221(a).

"(3) CONTRIBUTION FOR ADDITIONAL ANNUITIES.—

"(A) PROVISION OF ADDITIONAL SURVIVOR ANNUITY.—In accordance with regulations which the Director shall prescribe, the participant involved may provide for any annuity under this subsection— Regulations.

"(i) by a reduction in the annuity or an allotment from the basic pay of the participant;

"(ii) by a lump-sum payment or installment payments to the fund; or

"(iii) by any combination thereof.

"(B) ACTUARIAL EQUIVALENCE TO BENEFIT.—The present value of the total amount to accrue to the fund under subparagraph (A) to provide any annuity under this subsection shall be actuarially equivalent in value to such annuity, as calculated upon such tables of mortality as may from time to time be prescribed for this purpose by the Director.

"(C) EFFECT OF FORMER SPOUSE'S DEATH OR DISQUALIFICATION.—If a former spouse predeceases the participant or remarries before attaining age 55 (or, in the case of a spouse, the spouse predeceases or does not qualify as a former spouse upon dissolution of the marriage)—

"(i) if an annuity reduction or pay allotment under subparagraph (A) is in effect for that spouse or former spouse, the annuity shall be recomputed and paid as if it had not been reduced or the pay allotment terminated, as the case may be; and

Regulations.

"(ii) any amount accruing to the fund under subparagraph (A) shall be refunded, but only to the extent that such amount may have exceeded the actuarial cost of providing benefits under this subsection for the period such benefits were provided, as determined under regulations prescribed by the Director.

"(D) RECOMPUTATION UPON DEATH OR REMARRIAGE OF FORMER SPOUSE.—Under regulations prescribed by the Director, an annuity shall be recomputed (or a pay allotment terminated or adjusted), and a refund provided (if appropriate), in a manner comparable to that provided under subparagraph (C), in order to reflect a termination or reduction of future benefits under this subsection for a spouse in the event a former spouse of the participant dies or remarries before attaining age 55 and an increased annuity is provided for that spouse in accordance with this section.

"(4) COMMENCEMENT AND TERMINATION OF ADDITIONAL SURVIVOR ANNUITY.—An annuity payable under this subsection to a spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the former spouse's death or remarriage before attaining age 55.

"(5) NONAPPLICABILITY OF COLA PROVISION.—Section 291 does not apply to an annuity under this subsection, unless authorized under regulations prescribed by the Director.

50 USC 2033.

"SEC. 223. ELECTION OF SURVIVOR BENEFITS FOR CERTAIN FORMER SPOUSES DIVORCED AS OF NOVEMBER 15, 1982.

"(a) FORMER SPOUSES AS OF NOVEMBER 15, 1982.—A participant, former participant, or retired participant in the system who on November 15, 1982, had a former spouse may, by a spousal agreement, elect to receive a reduced annuity and provide a survivor annuity for such former spouse under section 222(b).

"(b) TIME FOR MAKING ELECTION.—

"(1) If the participant or former participant has not retired under such system on or before November 15, 1982, an election under this section may be made at any time before retirement.

"(2) If the participant or former participant has retired under such system on or before November 15, 1982, an election under this section may be made within such period after November 15, 1982, as the Director may prescribe.

"(3) For the purposes of applying this title, any such election shall be treated in the same manner as if it were a spousal agreement under section 264(b).

"(c) BASE FOR ANNUITY.—An election under this section may provide for a survivor annuity based on all or any portion of that part of the annuity of the participant which is not designated or committed as a base for a survivor annuity for a spouse or any other former spouse of the participant. The participant and the participant's spouse may make an election under section 221(b)(1)(B) before the time of retirement for the purpose of allowing an election to be made under this section.

"(d) REDUCTION IN PARTICIPANT'S ANNUITY.—

"(1) COMPUTATION.—The amount of the reduction in the participant's annuity shall be determined in accordance with section 221(b)(2).

"(2) EFFECTIVE DATE OF REDUCTION.—Such reduction shall be effective as of—

"(A) the commencing date of the participant's annuity, in the case of an election under subsection (b)(1); or

"(B) November 15, 1982, in the case of an election under subsection (b)(2).

"SEC. 224. SURVIVOR ANNUITY FOR CERTAIN OTHER FORMER SPOUSES. 50 USC 2034.

"(a) SURVIVOR ANNUITY.—

"(1) IN GENERAL.—An individual who was a former spouse of a participant or retired participant on November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to a survivor annuity equal to 55 percent of the greater of—

"(A) the unreduced amount of the participant's or retired participant's annuity, as computed under section 221(a); or

"(B) the unreduced amount of what such annuity as so computed would be if the participant, former participant, or retired participant had not elected payment of the lump-sum credit under section 294.

"(2) REDUCTION IN SURVIVOR ANNUITY.—A survivor annuity payable under this section shall be reduced by an amount equal to any survivor annuity payments made to the former spouse under section 223.

"(b) LIMITATIONS.—A former spouse is not entitled to a survivor annuity under this section if—

"(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

"(2) the former spouse is less than 50 years of age.

"(c) COMMENCEMENT AND TERMINATION OF ANNUITY.—

"(1) COMMENCEMENT OF ANNUITY.—The entitlement of a former spouse to a survivor annuity under this section shall commence—

"(A) in the case of a former spouse of a participant or retired participant who is deceased as of October 1, 1986, beginning on the later of—

"(i) the 60th day after such date; or

"(ii) the date on which the former spouse reaches age 50; and

"(B) in the case of any other former spouse, beginning on the latest of—

"(i) the date on which the participant or former participant to whom the former spouse was married dies;

"(ii) the 60th day after October 1, 1986; or

"(iii) the date on which the former spouse attains age 50.

"(2) TERMINATION OF ANNUITY.—The entitlement of a former spouse to a survivor annuity under this section terminates on the last day of the month before the former spouse's death or remarriage before attaining age 55. The entitlement of a former spouse to such a survivor annuity shall be restored on the date such remarriage is dissolved by death, annulment, or divorce.

"(d) APPLICATION.—

"(1) TIME LIMIT; WAIVER.—A survivor annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require. Any such application shall be submitted not later than April 1, 1989. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

"(2) RETROACTIVE BENEFITS.—Upon approval of an application provided under paragraph (1), the appropriate survivor annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to such annuity under this section, but in no event shall a survivor annuity be payable under this section with respect to any period before October 1, 1986.

"(e) RESTORATION OF ANNUITY.—Notwithstanding subsection (d)(1), the deadline by which an application for a survivor annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such a survivor annuity is restored under subsection (b)(1) or (c)(2).

50 USC 2035.

"SEC. 225. RETIREMENT ANNUITY FOR CERTAIN FORMER SPOUSES.

"(a) RETIREMENT ANNUITY.—An individual who was a former spouse of a participant, former participant, or retired participant on November 15, 1982, and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982, shall be entitled, except to the extent such former spouse is disqualified under subsection (b), to an annuity—

"(1) if married to the participant throughout the creditable service of the participant, equal to 50 percent of the annuity of the participant; or

"(2) if not married to the participant throughout such creditable service, equal to that former spouse's pro rata share of 50 percent of such annuity.

"(b) LIMITATIONS.—A former spouse is not entitled to an annuity under this section if—

"(1) the former spouse remarries before age 55, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

"(2) the former spouse is less than 50 years of age.

"(c) COMMENCEMENT AND TERMINATION.—

"(1) RETIREMENT ANNUITIES.—The entitlement of a former spouse to an annuity under this section—

"(A) shall commence on the later of—

"(i) the day the participant upon whose service the right to the annuity is based becomes entitled to an annuity under this title;

"(ii) the first day of the month in which the divorce or annulment involved becomes final; or

"(iii) such former spouse's 50th birthday; and

"(B) shall terminate on the earlier of—

"(i) the last day of the month before the former spouse dies or remarries before 55 years of age, except that the entitlement of the former spouse to an annuity under this section shall be restored on the date such remarriage is dissolved by death, annulment, or divorce; or

"(ii) the date on which the annuity of the participant terminates.

"(2) DISABILITY ANNUITIES.—Notwithstanding paragraph (1)(A)(i), in the case of a former spouse of a disability annuitant—

"(A) the annuity of the former spouse shall commence on the date on which the participant would qualify on the basis of the participant's creditable service for an annuity under this title (other than disability annuity) or the date the disability annuity begins, whichever is later; and

"(B) the amount of the annuity of the former spouse shall be calculated on the basis of the annuity for which the participant would otherwise so qualify.

"(3) ELECTION OF BENEFITS.—A former spouse of a participant or retired participant shall not become entitled under this section to an annuity or to the restoration of an annuity payable from the fund unless the former spouse elects to receive it instead of any other annuity to which the former spouse may be entitled under this or any other retirement system for Government employees on the basis of a marriage to someone other than the participant.

"(4) APPLICATION.—

"(A) TIME LIMIT; WAIVER.—An annuity under this section shall not be payable unless appropriate written application is provided to the Director, complete with any supporting documentation which the Director may by regulation require, not later than June 2, 1991. The Director may waive the application deadline under the preceding sentence in any case in which the Director determines that the circumstances warrant such a waiver.

"(B) RETROACTIVE BENEFITS.—Upon approval of an application under subparagraph (A), the appropriate annuity shall be payable to the former spouse with respect to all periods before such approval during which the former spouse was entitled to an annuity under this section, but in no event shall an annuity be payable under this section with respect to any period before December 2, 1987.

"(d) RESTORATION OF ANNUITIES.—Notwithstanding subsection (c)(4)(A), the deadline by which an application for a retirement annuity must be submitted shall not apply in cases in which a former spouse's entitlement to such annuity is restored under subsection (b)(1) or (c)(1)(B).

"(e) SAVINGS PROVISION.—Nothing in this section shall be construed to impair, reduce, or otherwise affect the annuity or the entitlement to an annuity of a participant or former participant under this title.

50 USC 2036. Regulations.

"SEC. 226. SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES.

"The Director shall prescribe regulations under which a previous spouse who is divorced after September 29, 1988, from a participant, former participant, or retired participant shall be eligible for a survivor annuity to the same extent and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to former spouses (as defined in section 8331(23) of title 5, United States Code) of participants in the Civil Service Retirement and Disability System (CSRS) as prescribed by the Civil Service Retirement Spouse Equity Act of 1984.

"Part D—Benefits Accruing to Certain Participants

50 USC 2051.

"SEC. 231. RETIREMENT FOR DISABILITY OR INCAPACITY—MEDICAL EXAMINATION—RECOVERY.

"(a) DISABILITY RETIREMENT.—

"(1) ELIGIBILITY.—A participant who has become disabled shall, upon the participant's own application or upon order of the Director, be retired on an annuity computed under subsection (b).

"(2) STANDARD FOR DISABILITY DETERMINATION.—A participant shall be considered to be disabled only if the participant—

"(A) is found by the Director to be unable, because of disease or injury, to render useful and efficient service in the participant's position; and

"(B) is not qualified for reassignment, under procedures prescribed by the Director, to a vacant position in the Agency at the same grade or level and in which the participant would be able to render useful and efficient service.

"(3) TIME LIMIT FOR APPLICATION.—

"(A) ONE YEAR REQUIREMENT.—A claim may be allowed under this section only if the application is submitted before the participant is separated from the Agency or within one year thereafter.

"(B) WAIVER FOR MENTALLY INCOMPETENT PARTICIPANT.—The time limitation may be waived by the Director for a participant who, at the date of separation from the

Agency or within one year thereafter, is mentally incompetent, if the application is filed with the Agency within one year from the date of restoration of the participant to competency or the appointment of a fiduciary, whichever is earlier.

"(b) COMPUTATION OF DISABILITY ANNUITY.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an annuity payable under subsection (a) shall be computed under section 221(a). However, if the disabled or incapacitated participant has less than 20 years of service credit toward retirement under the system at the time of retirement, the annuity shall be computed on the assumption that the participant has had 20 years of service, but the additional service credit that may accrue to a participant under this paragraph may not exceed the difference between the participant's age at the time of retirement and age 60.

"(2) COORDINATION WITH MILITARY RETIRED PAY AND VETERANS' COMPENSATION AND PENSION.—If a participant retiring under this section is receiving retired pay or retainer pay for military service (except that specified in section 252(e)(3)) or Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, the annuity of that participant shall be computed under section 221(a), excluding credit for such military service from that computation. If the amount of the annuity so computed, plus the retired or retainer pay which is received, or which would be received but for the application of the limitation in section 5532 of title 5, United States Code, or the Department of Veterans Affairs compensation or pension in lieu of such retired or retainer pay, is less than the annuity that would be payable under this section in the absence of the previous sentence, an amount equal to the difference shall be added to the annuity payable under section 221(a).

"(c) MEDICAL EXAMINATIONS.—

"(1) MEDICAL EXAMINATION REQUIRED FOR DETERMINATION OF DISABILITY.—In each case, the participant shall be given a medical examination by one or more duly qualified physicians or surgeons designated by the Director to conduct examinations, and disability shall be determined by the Director on the basis of the advice of such physicians or surgeons.

"(2) ANNUAL REEXAMINATIONS UNTIL AGE 60.—Unless the disability is permanent, like examinations shall be made annually until the annuitant becomes age 60. If the Director determines on the basis of the advice of one or more duly qualified physicians or surgeons conducting such examinations that an annuitant has recovered to the extent that the annuitant can return to duty, the annuitant may apply for reinstatement or reappointment in the Agency within one year from the date the annuitant's recovery is determined.

"(3) REINSTATEMENT.—Upon application, the Director may reinstate any such recovered disability annuitant in the grade held at time of retirement, or the Director may, taking into consideration the age, qualifications, and experience of such annuitant, and the present grade of the annuitant's contemporaries in the Agency, appoint the annuitant to a grade higher than the one held before retirement.

"(4) TERMINATION OF DISABILITY ANNUITY.—Payment of the annuity shall continue until a date one year after the date of examination showing recovery or until the date of reinstatement or reappointment in the Agency, whichever is earlier.

"(5) PAYMENT OF FEES.—Fees for examinations under this subsection, together with reasonable traveling and other expenses incurred in order to submit to examination, may be paid out of the fund.

"(6) SUSPENSION OF ANNUITY PENDING REQUIRED EXAMINATION.—If the annuitant fails to submit to examination as required under this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

"(7) TERMINATION OF ANNUITY UPON RESTORATION OF EARNING CAPACITY.—If the annuitant receiving a disability retirement annuity is restored to earning capacity before becoming age 60, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity shall be considered to be restored if in any calendar year the income of the annuitant from wages or self-employment, or both, equals at least 80 percent of the current rate of pay for the grade and step the annuitant held at the time of retirement.

"(d) TREATMENT OF RECOVERED DISABILITY ANNUITANT WHO IS NOT REINSTATED.—

"(1) SEPARATION.—If a recovered or restored disability annuitant whose annuity is discontinued is for any reason not reinstated or reappointed in the Agency, the annuitant shall be considered, except for service credit, to have been separated within the meaning of section 234 as of the date of termination of the disability annuity.

"(2) RETIREMENT.—After such termination, the recovered or restored annuitant shall be entitled to the benefits of section 234 or 241(b), except that the annuitant may elect voluntary retirement under section 233, if qualified thereunder, or may be placed by the Director in an involuntary retirement status under section 235(a), if qualified thereunder. Retirement rights under this paragraph shall be based on the provisions of this title in effect as of the date on which the disability annuity is discontinued.

"(3) FURTHER DISABILITY BEFORE AGE 62.—If, based on a current medical examination, the Director determines that a recovered annuitant has, before reaching age 62, again become totally disabled due to recurrence of the disability for which the annuitant was originally retired, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the date of such medical examination. If a restored-to-earning-capacity annuitant has not medically recovered from the disability for which retired and establishes to the Director's satisfaction that the annuitant's income from wages and self-employment in any calendar year before reaching age 62 was less than 80 percent of the rate of pay for the grade and step the annuitant held at the time of retirement, the annuitant's terminated disability annuity (same type and rate) shall be reinstated from the first of the next following year. If the annuitant has been allowed an involuntary or voluntary retire-

ment annuity in the meantime, the annuitant's reinstated disability annuity shall be substituted for it unless the annuitant elects to retain the former benefit.

"(e) COORDINATION OF BENEFITS.—

"(1) WORKERS' COMPENSATION.—A participant is not entitled to receive for the same period of time—

"(A) an annuity under this title, and

"(B) compensation for injury to, or disability of, such participant under subchapter I of chapter 81 of title 5, United States Code, other than compensation payable under section 8107 of such title.

"(2) SURVIVOR ANNUITIES.—An individual is not entitled to receive an annuity under this title and a concurrent benefit under subchapter I of chapter 81 of title 5, United States Code, on account of the death of the same person.

"(3) GREATER BENEFIT.—Paragraphs (1) and (2) do not bar the right of a claimant to the greater benefit conferred by either this title or subchapter I of chapter 81 of title 5, United States Code.

"(f) OFFSET FROM SURVIVOR ANNUITY FOR WORKERS' COMPENSATION PAYMENT.—

"(1) REFUND TO DEPARTMENT OF LABOR.—If an individual is entitled to an annuity under this title and the individual receives a lump-sum payment for compensation under section 8135 of title 5, United States Code, based on the disability or death of the same person, so much of the compensation as has been paid for a period extended beyond the date payment of the annuity commences, as determined by the Secretary of Labor, shall be refunded to the Department for credit to the Employees' Compensation Fund. Before the individual may receive the annuity, the individual shall—

"(A) refund to the Secretary of Labor the amount representing the commuted compensation payments for the extended period; or

"(B) authorize the deduction of the amount from the annuity.

"(2) SOURCE OF DEDUCTION.—Deductions from the annuity may be made from accrued or accruing payments. The amounts deducted and withheld from the annuity shall be transmitted to the Secretary for reimbursement to the Employees' Compensation Fund.

"(3) PRORATING DEDUCTION.—If the Secretary finds that the financial circumstances of an individual entitled to an annuity under this title warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as the Secretary determines appropriate.

"SEC. 232. DEATH IN SERVICE. 50 USC 2052.

"(a) RETURN OF CONTRIBUTIONS WHEN NO ANNUITY PAYABLE.—If a participant dies and no claim for an annuity is payable under this title, the participant's lump-sum credit and any voluntary contributions made under section 281, with interest, shall be paid in the order of precedence shown in section 241(c).

"(b) SURVIVOR ANNUITY FOR SURVIVING SPOUSE OR FORMER SPOUSE.—

"(1) IN GENERAL.—If a participant dies before separation or retirement from the Agency and is survived by a spouse or by a former spouse qualifying for a survivor annuity under section 222(b), such surviving spouse shall be entitled to an annuity equal to 55 percent of the annuity computed in accordance with paragraphs (2) and (3) of this subsection and section 221(a), and any such surviving former spouse shall be entitled to an annuity computed in accordance with section 222(b) and paragraph (2) of this subsection as if the participant died after being entitled to an annuity under this title. The annuity of such surviving spouse or former spouse shall commence on the day after the participant dies and shall terminate on the last day of the month before the death or remarriage before attaining age 55 of the surviving spouse or former spouse (subject to the payment and restoration provisions of sections 221(b)(3)(C), 221(h), and 222(b)(3)).

"(2) COMPUTATION.—The annuity payable under paragraph (1) shall be computed in accordance with section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (A) 40 percent of the participant's high-3 average pay, or (B) the sum obtained under such section after increasing the participant's length of service by the difference between the participant's age at the time of death and age 60.

"(3) LIMITATION.—Notwithstanding paragraph (1), if the participant had a former spouse qualifying for an annuity under section 222(b), the annuity of a surviving spouse under this section shall be subject to the limitation of section 221(b)(3)(B), and the annuity of a former spouse under this section shall be subject to the limitation of section 222(b)(4)(B).

"(4) PRECEDENCE OF SECTION 224 SURVIVOR ANNUITY OVER DEATH-IN-SERVICE ANNUITY.—If a former spouse who is eligible for a death-in-service annuity under this section is or becomes eligible for an annuity under section 222, the annuity provided under this section shall not be payable and shall be superseded by the annuity under section 224.

"(c) ANNUITIES FOR SURVIVING CHILDREN.—

"(1) PARTICIPANTS DYING BEFORE APRIL 1, 1992.—In the case of a participant who before April 1, 1992, died before separation or retirement from the Agency and who was survived by a child or children—

"(A) if the participant was survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(A); and

"(B) if the participant was not survived by a spouse, there shall be paid from the fund to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(B).

"(2) PARTICIPANTS DYING ON OR AFTER APRIL 1, 1992.—In the case of a participant who on or after April 1, 1992, dies before separation or retirement from the Agency and who is survived by a child or children—

"(A) if the participant is survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid from the fund

to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(A); and

"(B) if the participant is not survived by a spouse or former spouse who is the natural or adoptive parent of a surviving child of the participant, there shall be paid to or on behalf of each such surviving child an annuity determined under section 221(d)(3)(B).

"(3) FORMER SPOUSE DEFINED.—For purposes of this subsection, the term 'former spouse' includes any former wife or husband of a participant, regardless of the length of marriage or the amount of creditable service completed by the participant.

"SEC. 233. VOLUNTARY RETIREMENT. 50 USC 2053.

"A participant who is at least 50 years of age and has completed 20 years of service may, on the participant's application and with the consent of the Director, be retired from the Agency and receive benefits in accordance with the provisions of section 221 if the participant has not less than 10 years of service with the Agency.

"SEC. 234. DISCONTINUED SERVICE BENEFITS. 50 USC 2054.

"(a) DEFERRED ANNUITY.—A participant who separates from the Agency may, upon separation or at any time before the commencement of an annuity under this title, elect—

"(1) to have the participant's contributions to the fund returned to the participant in accordance with section 241(a); or

"(2) except in a case in which the Director determines that separation was based in whole or in part on the ground of disloyalty to the United States, to leave the contributions in the fund and receive an annuity, computed as prescribed in section 221, commencing at age 62.

"(b) REFUND OF CONTRIBUTIONS IF FORMER PARTICIPANT DIES BEFORE AGE 62.—If a participant who qualifies under subsection (a) to receive a deferred annuity commencing at age 62 dies before reaching age 62, the participant's contributions to the fund, with interest, shall be paid in accordance with the provisions of sections 241 and 281.

"SEC. 235. MANDATORY RETIREMENT. 50 USC 2055.

"(a) INVOLUNTARY RETIREMENT.—

"(1) AUTHORITY OF DIRECTOR.—The Director may, in the Director's discretion, place in a retired status any participant in the system described in paragraph (2).

"(2) Paragraph (1) applies with respect to any participant who has not less than 10 years of service with the Agency and who—

"(A) has completed at least 25 years of service; or

"(B) is at least 50 years of age and has completed at least 20 years of service.

"(b) MANDATORY RETIREMENT FOR AGE.—

"(1) IN GENERAL.—A participant in the system shall be automatically retired from the Agency—

"(A) upon reaching age 65, in the case of a participant in the system receiving compensation under the Senior Intelligence Service pay schedule at the rate of level 4 or above; and

"(B) upon reaching age 60, in the case of any other participant in the system.

"(2) EFFECTIVE DATE OF RETIREMENT.—Retirement under paragraph (1) shall be effective on the last day of the month in which the participant reaches the age applicable to that participant under that paragraph.

"(3) AUTHORITY FOR EXTENSION.—In any case in which the Director determines it to be in the public interest, the Director may extend the mandatory retirement date for a participant under this subsection by a period of not to exceed 5 years.

"(c) RETIREMENT BENEFITS.—A participant retired under this section shall receive retirement benefits in accordance with section 221.

50 USC 2056.

"SEC. 236. ELIGIBILITY FOR ANNUITY.

"(a) ONE-OUT-OF-TWO REQUIREMENT.—A participant must complete, within the last two years before any separation from service (except a separation because of death or disability) at least one year of creditable civilian service during which the participant is subject to this title and in a pay status before the participant or the participant's survivors are eligible for an annuity under this title based on that separation.

"(b) REFUND OF CONTRIBUTIONS FOR TIME NOT ALLOWED FOR CREDIT.—If a participant (other than a participant separated from the service because of death or disability) fails to meet the service and pay status requirement of subsection (a), any amounts deducted from the participant's pay during the period for which no eligibility is established based on the separation shall be returned to the participant on the separation.

"(c) EXCEPTION.—Failure to meet the service and pay status requirement of subsection (a) shall not deprive the participant or the participant's survivors of any annuity to which they may be entitled under this title based on a previous separation.

"Part E—Lump-Sum Payments

50 USC 2071.

"SEC. 241. LUMP-SUM PAYMENTS.

"(a) ENTITLEMENT TO LUMP-SUM CREDIT.—Subject to section 252(d) and subsection (b) of this section, a participant who—

"(1) is separated from the Agency for at least 31 consecutive days and is not transferred to employment covered by another retirement system for Government employees;

"(2) files an application with the Director for payment of the lump-sum credit;

"(3) is not reemployed in a position in which the participant is subject to this title at the time the participant files the application; and

"(4) will not become eligible to receive an annuity under this title within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Receipt of the payment of the lump-sum credit by the former participant voids all annuity rights under this title based on the service on which the lump-sum credit is based, until the former participant is reemployed in service subject to this title.

"(b) CONDITIONS FOR PAYMENT OF LUMP-SUM CREDIT.—

"(1) IN GENERAL.—Whenever a former participant becomes entitled to receive payment of the lump-sum credit under subsection (a), such lump-sum credit shall be paid to the former participant and to any former spouse or former wife or husband of the former participant in accordance with paragraphs (2) through (4). The former participant's lump-sum credit shall be reduced by the amount of the lump-sum credit payable to any former spouse or former wife or husband.

"(2) PRO RATA SHARE FOR FORMER SPOUSE.—Unless otherwise expressly provided by any spousal agreement or court order under section 264(b), a former spouse of the former participant shall be entitled to receive a share of such participant's lump-sum credit—

"(A) if married to the participant throughout the period of creditable service of the participant, equal to 50 percent of such lump-sum credit; or

"(B) if not married to the participant throughout such creditable service, equal to a proportion of 50 percent of such lump-sum credit which is the proportion that the number of days of the marriage of the former spouse to the participant during periods of creditable service of such participant bears to the total number of days of such creditable service.

"(3) SHARE FOR FORMER WIFE OR HUSBAND.—Payment of the former participant's lump-sum credit shall be subject to the terms of a court order under section 264(c) concerning any former wife or husband of the former participant if—

"(A) the court order expressly relates to any portion of such lump-sum credit; and

"(B) payment of the lump-sum credit would extinguish entitlement of such former wife or husband to a survivor annuity under section 226 or to any portion of the participant's annuity under section 264(c).

"(4) NOTIFICATION.—A lump-sum credit may be paid to or for the benefit of a former participant—

"(A) only upon written notification to (i) the current spouse, if any, (ii) any former spouse, and (iii) any former wife or husband who has a court order covered by paragraph (3); and

"(B) only if the express written concurrence of the current spouse has been received by the Director.

This paragraph may be waived under circumstances described in section 221(b)(1)(D).

"(c) ORDER OF PRECEDENCE OF PAYMENT.—A lump-sum benefit that would have been payable to a participant, former participant, or annuitant, or to a survivor annuitant, authorized by subsection (d) or (e) of this section or by section 234(b) or 281(d) shall be paid in the following order of precedence to individuals surviving the participant and alive on the date entitlement to the payment arises, upon establishment of a valid claim therefor, and such payment bars recovery by any other individual:

"(1) To the beneficiary or beneficiaries designated by such participant in a signed and witnessed writing received by the Director before the participant's death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed with the Director shall have no force or effect.

"(2) If there is no designated beneficiary, to the surviving wife or husband of such participant.

"(3) If none of the above, to the child or children of such participant and descendent of deceased children by representation.

"(4) If none of the above, to the parents of such participant or the survivor of them.

"(5) If none of the above, to the duly appointed executor or administrator of the estate of such participant.

"(6) If none of the above, to such other next of kin of such participant as the Director determines to be legally entitled to such payment.

"(d) DEATH OF FORMER PARTICIPANT BEFORE RETIREMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if a former participant eligible for a deferred annuity under section 234 dies before reaching age 62, such former participant's lump-sum credit shall be paid in accordance with subsection (c).

"(2) LIMITATION.—In any case where there is a surviving former spouse or surviving former wife or husband of such participant who is entitled to a share of such participant's lump-sum credit under paragraphs (2) and (3) of subsection (b), the lump-sum credit payable under paragraph (1) shall be reduced by the lump-sum credit payable to such former spouse or former wife or husband.

"(e) TERMINATION OF ALL ANNUITY RIGHTS.—If all annuity rights under this title based on the service of a deceased participant or annuitant terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid in accordance with subsection (c).

"(f) TERMINATION OF SURVIVOR ANNUITY.—An annuity accrued and unpaid on the termination, except by death, of the annuity of a survivor annuitant shall be paid to that individual. An annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other individual:

"(1) To the duly appointed executor or administrator of the estate of the survivor annuitant.

"(2) If there is no executor or administrator, to such next of kin of the survivor annuitant as the Director determines to be legally entitled to such payment, except that no payment shall be made under this paragraph until after the expiration of 30 days from the date of death of the survivor annuitant.

"Part F—Period of Service for Annuities

50 USC 2081.

"SEC. 251. COMPUTATION OF LENGTH OF SERVICE.

"(a) IN GENERAL.—

"(1) CREDITING SERVICE AS PARTICIPANT.—For the purposes of this title, the period of service of a participant shall be computed from the date on which the participant becomes a participant under this title.

"(2) EXCLUSION OF CERTAIN PERIODS.—In computing the period of service of a participant, all periods of separation from the Agency and so much of any leave of absence without pay as may exceed six months in the aggregate in any calendar

year shall be excluded, except leaves of absence while receiving benefits under chapter 81 of title 5, United States Code, and leaves of absence granted participants while performing active and honorable service in the Armed Forces.

"(3) CREDITING CERTAIN PERIODS OF SEPARATION.—A participant or former participant who returns to Government duty after a period of separation shall have included in the participant or former participant's period of service that part of the period of separation in which the participant or former participant was receiving benefits under chapter 81 of title 5, United States Code.

"(b) EXTRA CREDIT FOR PERIODS SERVED AT UNHEALTHFUL POSTS OVERSEAS.—

"(1) CLASSIFICATION OF CERTAIN POSTS AS UNHEALTHFUL.—The Director may from time to time establish a list of places outside the United States that, by reason of climatic or other extreme conditions, are to be classed as unhealthful posts. Such list shall be established in consultation with the Secretary of State.

"(2) EXTRA CREDIT.—Each year of duty at a post on the list established under paragraph (1), inclusive of regular leaves of absence, shall be counted as one and a half years in computing the length of service of a participant under this title for the purpose of retirement. In computing such service, any fractional month shall be treated as a full month.

"(3) COORDINATION WITH BENEFITS UNDER TITLE 5.—Extra credit for service at an unhealthful post may not be credited to a participant who is paid a differential under section 5925 or 5928 of title 5, United States Code, for the same service.

"SEC. 252. PRIOR SERVICE CREDIT. 50 USC 2082.

"(a) IN GENERAL.—A participant may, subject to the provisions of this section, include in the participant's period of service—

"(1) civilian service in the Government before becoming a participant that would be creditable toward retirement under subchapter III of chapter 83 of title 5, United States Code (as determined under section 8332(b) of such title); and

"(2) honorable active service in the Armed Forces before the date of the separation upon which eligibility for an annuity is based, or honorable active service in the Regular or Reserve Corps of the Public Health Service after June 30, 1960, or as a commissioned officer of the National Oceanic and Atmospheric Administration after June 30, 1961.

"(b) LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the total service of any participant shall exclude—

"(A) any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made,

"(B) any period of service for which a refund of contributions has been made, or

"(C) any period of service for which contributions were not transferred pursuant to subsection (c)(1);

unless the participant makes a deposit to the fund in an amount equal to the percentages of basic pay received for such service as specified in the table contained in section 8334(c) of title 5, United States Code, together with interest computed in

accordance with section 8334(e) of such title. The deposit may be made in one or more installments (including by allotment from pay), as determined by the Director.

"(2) EFFECT OF RETIREMENT DEDUCTIONS NOT MADE.—If a participant has not paid a deposit for civilian service performed before October 1, 1982, for which retirement deductions were not made, such participant's annuity shall be reduced by 10 percent of the deposit described in paragraph (1) remaining unpaid, unless the participant elects to eliminate the service involved for the purpose of the annuity computation.

"(3) EFFECT OF REFUND OF RETIREMENT CONTRIBUTIONS.—A participant who received a refund of retirement contributions under this or any other retirement system for Government employees covering service for which the participant may be allowed credit under this title may deposit the amount received, with interest computed under paragraph (1). Credit may not be allowed for the service covered by the refund until the deposit is made, except that a participant who—

"(A) separated from Government service before October 1, 1990, and received a refund of the participant's retirement contributions covering a period of service ending before October 1, 1990;

"(B) is entitled to an annuity under this title (other than a disability annuity) which commences after December 1, 1992; and

"(C) does not make the deposit required to receive credit for the service covered by the refund;

shall be entitled to an annuity actuarially reduced in accordance with section 8334(d)(2)(B) of title 5, United States Code.

"(4) ENTITLEMENT UNDER ANOTHER SYSTEM.—Credit toward retirement under the system shall not be allowed for any period of civilian service on the basis of which the participant is receiving (or will in the future be entitled to receive) an annuity under another retirement system for Government employees, unless the right to such annuity is waived and a deposit is made under paragraph (1) covering that period of service, or a transfer is made pursuant to subsection (c).

"(c) TRANSFER FROM OTHER GOVERNMENT RETIREMENT SYSTEMS.—

"(1) IN GENERAL.—If an employee who is under another retirement system for Government employees becomes a participant in the system by direct transfer, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5, United States Code) under such retirement system on behalf of the employee as well as such employee's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the employee's credit in the fund effective as of the date such employee becomes a participant in the system.

"(2) CONSENT OF EMPLOYEE.—Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the other Government retirement fund on account of service rendered before becoming a participant in the system.

"(3) ADDITIONAL CONTRIBUTIONS; REFUNDS.—A participant whose contributions are transferred pursuant to paragraph (1) shall not be required to make additional contributions for periods of service for which full contributions were made to the other Government retirement fund, nor shall any refund be made to any such participant on account of contributions made during any period to the other Government retirement fund at a higher rate than that fixed for employees by section 8334(c) of title 5, United States Code, for contributions to the fund.

"(d) TRANSFER TO OTHER GOVERNMENT RETIREMENT SYSTEMS.—

"(1) IN GENERAL.—If a participant in the system becomes an employee under another Government retirement system by direct transfer to employment covered by such system, the Government's contributions (including interest accrued thereon computed in accordance with section 8334(e) of title 5, United States Code) to the fund on the participant's behalf as well as the participant's total contributions and deposits (including interest accrued thereon), except voluntary contributions, shall be transferred to the participant's credit in the fund of such other retirement system effective as of the date on which the participant becomes eligible to participate in such other retirement system.

"(2) CONSENT OF EMPLOYEE.—Each such employee shall be deemed to consent to the transfer of such funds, and such transfer shall be a complete discharge and acquittance of all claims and demands against the fund on account of service rendered before the participant's becoming eligible for participation in that other system.

"(e) PRIOR MILITARY SERVICE CREDIT.—

"(1) APPLICATION TO OBTAIN CREDIT.—If a deposit required to obtain credit for prior military service described in subsection (a)(2) was not made to another Government retirement fund and transferred under subsection (c)(1), the participant may obtain credit for such military service, subject to the provisions of this subsection and subsections (f) through (h), by applying for it to the Director before retirement or separation from the Agency.

"(2) EMPLOYMENT STARTING BEFORE, ON, OR AFTER OCTOBER 1, 1982.—Except as provided in paragraph (3)—

"(A) the service of a participant who first became a Federal employee before October 1, 1982, shall include credit for each period of military service performed before the date of separation on which entitlement to an annuity under this title is based, subject to section 252(f); and

"(B) the service of a participant who first becomes a Federal employee on or after October 1, 1982, shall include credit for—

"(i) each period of military service performed before January 1, 1957, and

"(ii) each period of military service performed after December 31, 1956, and before the separation on which entitlement to an annuity under this title is based, only if a deposit (with interest, if any) is made with respect to that period, as provided in subsection (h).

"(3) EFFECT OF RECEIPT OF MILITARY RETIRED PAY.—In the case of a participant who is entitled to retired pay based on a period of military service, the participant's service may not

include credit for such period of military service unless the retired pay is paid—

"(A) on account of a service-connected disability—

"(i) incurred in combat with an enemy of the United States; or

"(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war (as defined in section 1101 of title 38, United States Code); or

"(B) under chapter 67 of title 10, United States Code.

"(4) SURVIVOR ANNUITY.—Notwithstanding paragraph (3), the survivor annuity of a survivor of a participant—

"(A) who was awarded retired pay based on any period of military service, and

"(B) whose death occurs before separation from the Agency,

shall be computed in accordance with section 8332(c)(3) of title 5, United States Code.

"(f) EFFECT OF ENTITLEMENT TO SOCIAL SECURITY BENEFITS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this section (except paragraph (3) of this subsection) or section 253, any military service (other than military service covered by military leave with pay from a civilian position) performed by a participant after December 1956 shall be excluded in determining the aggregate period of service on which an annuity payable under this title to such participant or to the participant's spouse, former spouse, previous spouse, or child is based, if such participant, spouse, former spouse, previous spouse, or child is entitled (or would upon proper application be entitled), at the time of such determination, to monthly old-age or survivors' insurance benefits under section 202 of the Social Security Act (42 U.S.C. 402), based on such participant's wages and self-employment income. If the military service is not excluded under the preceding sentence, but upon attaining age 62, the participant or spouse, former spouse, or previous spouse becomes entitled (or would upon proper application be entitled) to such benefits, the aggregate period of service on which the annuity is based shall be redetermined, effective as of the first day of the month in which the participant or spouse, former spouse, or previous spouse attains age 62, so as to exclude such service.

"(2) LIMITATION.—The provisions of paragraph (1) relating to credit for military service do not apply to—

"(A) any period of military service of a participant with respect to which the participant has made a deposit with interest, if any, under subsection (h); or

"(B) the military service of any participant described in subsection (e)(2)(B).

"(3) EFFECT OF ENTITLEMENT BEFORE SEPTEMBER 8, 1982.—(A) The annuity recomputation required by paragraph (1) shall not apply to any participant who was entitled to an annuity under this title on or before September 8, 1982, or who is entitled to a deferred annuity based on separation from the Agency occurring on or before such date. Instead of an annuity recomputation, the annuity of such participant shall be reduced at age 62 by an amount equal to a fraction of the participant's old-age or survivors' insurance benefits under section 202 of

the Social Security Act. The reduction shall be determined by multiplying the participant's monthly Social Security benefit by a fraction, the numerator of which is the participant's total military wages and deemed additional wages (within the meaning of section 229 of the Social Security Act (42 U.S.C. 429)) that were subject to Social Security deductions and the denominator of which is the total of all the participant's wages, including military wages, and all self-employment income that were subject to Social Security deductions before the calendar year in which the determination month occurs.

"(B) The reduction determined in accordance with subparagraph (A) shall not be greater than the reduction that would be required under paragraph (1) if such paragraph applied to the participant. The new formula shall be applicable to any annuity payment payable after October 1, 1982, including annuity payments to participants who had previously reached age 62 and whose annuities had already been recomputed.

"(C) For purposes of this paragraph, the term 'determination month' means—

"(i) the first month for which the participant is entitled to old-age or survivors' insurance benefits (or would be entitled to such benefits upon application therefor); or

"(ii) October 1982, in the case of any participant entitled to such benefits for that month.

"(g) DEPOSITS PAID BY SURVIVORS.—For the purpose of survivor annuities, deposits authorized by subsections (b) and (h) may also be made by the survivor of a participant.

"(h) DEPOSITS FOR PERIODS OF MILITARY SERVICE.—

"(1) Each participant who has performed military service before the date of separation on which entitlement to an annuity under this title is based may pay to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of title 37, United States Code, to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide or, if the Director determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).

"(2) Any deposit made under paragraph (1) more than two years after the later of—

"(A) October 1, 1983, or

"(B) the date on which the participant making the deposit first becomes an employee of the Federal Government,

shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under section 8334(e) of title 5, United States Code.

"(3) Any payment received by the Director under this subsection shall be deposited in the Treasury of the United States to the credit of the fund.

"(4) The provisions of section 221(k) shall apply with respect to such information as the Director determines to be necessary

for the administration of this subsection in the same manner that such section applies concerning information described in that section.

50 USC 2083.

"SEC. 253. CREDIT FOR SERVICE WHILE ON MILITARY LEAVE.

"(a) GENERAL RULE.—A participant who, during the period of any war or of any national emergency as proclaimed by the President or declared by the Congress, leaves the participant's position in the Agency to enter military service shall not be considered, for purposes of this title, as separated from the participant's position in the Agency by reason of such military service, unless the participant applies for and receives a refund of contributions under this title. Such a participant may not be considered as retaining such position in the Agency after December 31, 1956, or upon the expiration of five years of such military service, whichever is later.

"(b) WAIVER OF CONTRIBUTIONS.—Except to the extent provided under section 252(e) or 252(h), contributions shall not be required covering periods of leave of absence from the Agency granted a participant while performing active service in the Armed Forces.

"Part G—Moneys

50 USC 2091.

"SEC. 261. ESTIMATE OF APPROPRIATIONS NEEDED.

"(a) ESTIMATES OF ANNUAL APPROPRIATIONS.—The Director shall prepare the estimates of the annual appropriations required to be made to the fund.

"(b) ACTUARIAL VALUATIONS.—The Director shall cause to be made actuarial valuations of the fund at such intervals as the Director determines to be necessary, but not less often than every five years.

"(c) CHANGES IN LAW AFFECTING ACTUARIAL STATUS OF FUND.—Any statute which authorizes—

"(1) new or increased benefits payable from the fund under this title, including annuity increases other than under section 291;

"(2) extension of the coverage of this title to new groups of employees; or

"(3) increases in pay on which benefits are computed;

is deemed to authorize appropriations to the fund in order to provide funding for the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the system and with the first payment thereof due as of the end of the fiscal year in which such new or liberalized benefit, extension of coverage, or increase in pay is effective.

"(d) AUTHORIZATION.—There is hereby authorized to be appropriated to the fund for each fiscal year such amounts as may be necessary to meet the amount of normal cost for each year that is not met by contributions under section 211(a).

"(e) UNFUNDED LIABILITY; CREDIT ALLOWED FOR MILITARY SERVICE.—There is hereby authorized to be appropriated to the fund for each fiscal year such sums as may be necessary to provide the amount equivalent to—

"(1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the system; and

"(2) that portion of disbursement for annuities for that year that the Director estimates is attributable to credit allowed for military service,

less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the fund under section 252(h).

"SEC. 262. INVESTMENT OF MONEYS IN THE FUND. 50 USC 2092.

"The Director may, with the approval of the Secretary of the Treasury, invest from time to time in interest-bearing securities of the United States such portions of the fund as in the Director's judgment may not be immediately required for the payment of annuities, cash benefits, refunds, and allowances from the fund. The income derived from such investments shall be credited to and constitute a part of the fund.

"SEC. 263. PAYMENT OF BENEFITS. 50 USC 2093.

"(a) ANNUITIES STATED AS ANNUAL AMOUNTS.—Each annuity is stated as an annual amount, 1/12 of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

"(b) COMMENCEMENT OF ANNUITY.—

"(1) COMMENCEMENT OF ANNUITY FOR PARTICIPANTS GENERALLY.—Except as otherwise provided in paragraph (2), the annuity of a participant who has met the eligibility requirements for an annuity shall commence on the first day of the month after separation from the Agency or after pay ceases and the service and age requirements for title to an annuity are met.

"(2) EXCEPTIONS.—The annuity of—

"(A) a participant involuntarily separated from the Agency;

"(B) a participant retiring under section 231 due to a disability; and

"(C) a participant who serves 3 days or less in the month of retirement;

shall commence on the day after separation from the Agency or the day after pay ceases and the service and age or disability requirements for title to annuity are met.

"(3) OTHER ANNUITIES.—Any other annuity payable from the fund commences on the first day of the month after the occurrence of the event on which payment thereof is based.

"(c) TERMINATION OF ANNUITY.—An annuity payable from the fund shall terminate—

"(1) in the case of a retired participant, on the day death or any other terminating event provided by this title occurs; or

"(2) in the case of a former spouse or a survivor, on the last day of the month before death or any other terminating event occurs.

"(d) APPLICATION FOR SURVIVOR ANNUITIES.—The annuity to a survivor shall become effective as otherwise specified but shall not be paid until the survivor submits an application for such annuity, supported by such proof of eligibility as the Director may

require. If such application or proof of eligibility is not submitted during the lifetime of an otherwise eligible individual, no annuity shall be due or payable to the individual's estate.

"(e) WAIVER OF ANNUITY.—An individual entitled to an annuity from the fund may decline to accept all or any part of the annuity by submitting a signed waiver to the Director. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver is in effect.

"(f) LIMITATIONS.—

"(1) APPLICATION BEFORE 115TH ANNIVERSARY.—No payment shall be made from the fund unless an application for benefits based on the service of the participant is received by the Director before the 115th anniversary of the participant's birth.

"(2) APPLICATION WITHIN 30 YEARS.—Notwithstanding paragraph (1), after the death of a participant or retired participant, no benefit based on that participant's service may be paid from the fund unless an application for the benefit is received by the Director within 30 years after the death or other event which gives rise to eligibility for the benefit.

"(g) WITHHOLDING OF STATE INCOME TAX FROM ANNUITIES.—

"(1) AGREEMENTS WITH STATES.—The Director shall, in accordance with this subsection, enter into an agreement with any State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Director shall withhold State income tax in the case of the monthly annuity of any annuitant who voluntarily requests, in writing, such withholding. The amounts withheld during any calendar quarter shall be held in the Fund and disbursed to the States during the month following that calendar quarter.

"(2) LIMITATION ON MULTIPLE REQUESTS.—An annuitant may have in effect at any time only one request for withholding under this subsection, and an annuitant may not have more than two such requests during any one calendar year.

"(3) CHANGE IN STATE DESIGNATION.—Subject to paragraph (2), an annuitant may change the State designated by that annuitant for purposes of having withholdings made, and may request that the withholdings be remitted in accordance with such change. An annuitant also may revoke any request of that annuitant for withholding. Any change in the State designated or revocation is effective on the first day of the month after the month in which the request or the revocation is processed by the Director, but in no event later than on the first day of the second month beginning after the day on which such request or revocation is received by the Director.

"(4) GENERAL PROVISIONS.—This subsection does not give the consent of the United States to the application of a statute which imposes more burdensome requirements of the United States than on employers generally, or which subjects the United States or any annuitant to a penalty or liability because of this subsection. The Director may not accept pay from a State for services performed in withholding State income taxes from annuities. Any amount erroneously withheld from an annuity and paid to a State by the Director shall be repaid by the State in accordance with regulations prescribed by the Director.

Regulations.

"(5) DEFINITION.—For the purpose of this subsection, the term 'State' includes the District of Columbia and any territory or possession of the United States.

"SEC. 264. ATTACHMENT OF MONEYS. 50 USC 2094.

"(a) EXEMPTION FROM LEGAL PROCESS.—Except as provided in subsections (b), (c), and (e), none of the moneys mentioned in this title shall be assignable either in law or equity, or be subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

"(b) PAYMENT TO FORMER SPOUSES UNDER COURT ORDER OR SPOUSAL AGREEMENT.—In the case of any participant, former participant, or retired participant who has a former spouse who is covered by a court order or who is a party to a spousal agreement—

"(1) any right of the former spouse to any annuity under section 222(a) in connection with any retirement or disability annuity of the participant, and the amount of any such annuity;

"(2) any right of the former spouse of a participant or retired participant to a survivor annuity under section 222(b) or 222(c), and the amount of any such annuity;

"(3) any right of the former spouse of a former participant to any payment of a lump-sum credit under section 241(b) and to any payment of a return of contributions under section 234(a); and

"(4) any right of the former spouse of a participant or former participant to a lump-sum payment or additional annuity payable from a voluntary contribution account under section 281;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this title.

"(c) OTHER PAYMENTS UNDER COURT ORDERS.—Payments under this title that would otherwise be made to a participant, former participant, or retired participant based upon that participant's service shall be paid, in whole or in part, by the Director to another individual if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(d) PROSPECTIVE PAYMENTS; BAR TO RECOVERY.—

"(1) Subsections (b) and (c) apply only to payments made under this title for periods beginning after the date of receipt by the Director of written notice of such decree, order, or agreement and such additional information and documentation as the Director may require.

"(2) Any payment under subsection (b) or (c) to an individual bars recovery by any other individual.

"(e) ALLOTMENTS.—An individual entitled to an annuity from the fund may make allotments or assignments of amounts from such annuity for such purposes as the Director considers appropriate.

"SEC. 265. RECOVERY OF PAYMENTS. 50 USC 2095.

"Recovery of payments under this Act may not be made from an individual when, in the judgment of the Director, the individual

is without fault and recovery would be against equity and good conscience. Withholding or recovery of money payable pursuant to this Act on account of a certification or payment made by a former employee of the Agency in the discharge of the former employee's official duties may be made if the Director certifies that the certification or payment involved fraud on the part of the former employee.

"Part H—Retired Participants Recalled, Reinstated, or Reappointed in the Agency or Reemployed in the Government

50 USC 2111.

"SEC. 271. RECALL.

"(a) AUTHORITY TO RECALL.—The Director may, with the consent of a retired participant, recall that participant to service in the Agency whenever the Director determines that such recall is in the public interest.

"(b) PAY OF RETIRED PARTICIPANT WHILE SERVING.—A retired participant recalled to duty in the Agency under subsection (a) or reinstated or reappointed in accordance with section 231(b) shall, while so serving, be entitled, in lieu of the retired participant's annuity, to the full basic pay of the grade in which the retired participant is serving. During such service, the retired participant shall make contributions to the fund in accordance with section 211.

"(c) RECOMPUTATION OF ANNUITY.—When the retired participant reverts to retired status, the annuity of the retired participant shall be redetermined in accordance with section 221.

50 USC 2112.

"SEC. 272. REEMPLOYMENT.

"A participant retired under this title shall not, by reason of that retired status, be barred from employment in Federal Government service in any appointive position for which the participant is qualified.

50 USC 2113.

"SEC. 273. REEMPLOYMENT COMPENSATION.

"(a) DEDUCTION FROM BASIC PAY.—An annuitant who has retired under this title and who is reemployed in the Federal Government service in any appointive position (either on a part-time or full-time basis) shall be entitled to receive the annuity payable under this title, but there shall be deducted from the annuitant's basic pay a sum equal to the annuity allocable to the period of actual employment.

"(b) RECOVERY OF OVERPAYMENTS.—In the event of an overpayment under this section, the amount of the overpayment shall be recovered by withholding the amount involved from the basic pay payable to such reemployed annuitant or from any other moneys, including the annuitant's annuity, payable in accordance with this title.

"(c) DEPOSIT IN THE FUND.—Sums deducted from the basic pay of a reemployed annuitant under this section shall be deposited in the Treasury of the United States to the credit of the fund.

"Part I—Voluntary Contributions

"SEC. 281. VOLUNTARY CONTRIBUTIONS. 50 USC 2121.

"(a) AUTHORITY FOR VOLUNTARY CONTRIBUTIONS.—

"(1) IN GENERAL.—Under such regulations as may be prescribed by the Director, a participant may voluntarily contribute additional sums in multiples of one percent of the participant's basic pay, but not in excess of 10 percent of such basic pay.

"(2) INTEREST.—The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest—

"(A) for periods before January 1, 1985, at 3 percent a year; and

"(B) for periods on or after January 1, 1985, at the rate computed under section 8334(e) of title 5, United States Code,

compounded annually to the date of election under subsection (b) or the date of payment under subsection (d).

"(b) TREATMENT OF VOLUNTARY CONTRIBUTIONS.—Effective on the date of retirement and at the election of the participant, the participant's account shall be—

"(1) returned in a lump sum;

"(2) used to purchase an additional life annuity;

"(3) used to purchase an additional life annuity for the participant and to provide for a cash payment on the participant's death to a beneficiary; or

"(4) used to purchase an additional life annuity for the participant and a life annuity commencing on the participant's death payable to a beneficiary, with a guaranteed return to the beneficiary or the beneficiary's legal representative of an amount equal to the cash payment referred to in paragraph (3).

In the case of a benefit provided under paragraph (3) or (4), the participant shall notify the Director in writing of the name of the beneficiary of the cash payment or life annuity to be paid upon the participant's death.

"(c) VALUE OF BENEFITS.—The benefits provided by subsection (b) (2), (3), or (4) shall be actuarially equivalent in value to the payment provided for in subsection (b)(1) and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Director.

"(d) LUMP-SUM PAYMENT.—A voluntary contribution account shall be paid in a lump sum at such time as the participant dies or separates from the Agency without entitlement to an annuity. In the case of death, the account shall be paid in the order of precedence specified in section 241(c).

"(e) BENEFITS IN ADDITION TO OTHER BENEFITS.—Any benefit payable to a participant or to the participant's beneficiary with respect to the additional contributions provided under this section shall be in addition to benefits otherwise provided under this title.

"Part J—Cost-of-Living Adjustment of Annuities

50 USC 2131.

"SEC. 291. COST-OF-LIVING ADJUSTMENT OF ANNUITIES.

"(a) IN GENERAL.—Each annuity payable from the fund shall be adjusted as follows:

"(1) Each cost-of-living annuity increase under this section shall be identical to the corresponding percentage increase under section 8340(b) of title 5, United States Code.

"(2) A cost-of-living increase made under paragraph (1) shall become effective under this section on the effective date of each such increase under section 8340(b) of title 5, United States Code. Except as provided in subsection (b), each such increase shall be applied to each annuity payable from the fund which has a commencing date not later than the effective date of the increase.

"(b) ELIGIBILITY.—Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

"(1) The first cost-of-living increase (if any) made under subsection (a) to an annuity which is payable from the fund to a participant who retires, to the surviving spouse, former spouse, or previous spouse of a participant who dies in service, or to the surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been increased under this subsection or subsection (a), shall be equal to the product (adjusted to the nearest 1/10 of one percent) of—

"(A) 1/12 of the applicable percent change computed under subsection (a), multiplied by

"(B) the number of months (not to exceed 12 months, counting any portion of a month as a month)—

"(i) for which the annuity was payable from the fund before the effective date of the increase, or

"(ii) in the case of a surviving spouse, former spouse, previous spouse, or insurable interest designee of a deceased annuitant whose annuity has not been so increased, since the annuity was first payable to the deceased annuitant.

"(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled to an annuity under section 221(d) or section 232(c)) shall be increased by the total percentage increase the annuitant was receiving under this section at death.

"(3) For purposes of computing the annuity of a child under section 221(d) that commences after October 31, 1969, the dollar amounts specified in section 221(d)(3) shall each be increased by the total percentage increases allowed and in force under this section on or after such day and, in the case of a deceased annuitant, the percentages specified in that section shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

"(c) LIMITATION.—An annuity increase provided by this section may not be computed on any additional annuity purchased at retirement by voluntary contributions.

"(d) ROUNDING TO NEXT LOWER DOLLAR.—The monthly annuity installment, after adjustment under this section, shall be rounded to the next lowest dollar, except that such installment shall, after adjustment, reflect an increase of at least $1.

"(e) LIMITATION ON MAXIMUM AMOUNT OF ANNUITY.—

"(1) IN GENERAL.—An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS–15 30 days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in the rates of pay of the General Schedule under subchapter I of chapter 53 of title 5, United States Code, during the period—

"(i) beginning on the date on which the annuity commenced (or, in the case of a survivor of the retired participant, the date on which the participant's annuity commenced), and

"(ii) ending on the effective date of the adjustment under this section.

"(2) PAY DEFINED.—For purposes of paragraph (1), the term 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.

"Part K—Conformity With Civil Service Retirement System

"SEC. 292. AUTHORITY TO MAINTAIN EXISTING AREAS OF CONFORMITY BETWEEN CIVIL SERVICE AND CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEMS. 50 USC 2141.

"(a) PRESIDENTIAL AUTHORITY.—

"(1) CONFORMITY TO CSRS BY EXECUTIVE ORDER.—Whenever the President determines that it would be appropriate for the purpose of maintaining existing conformity between the Civil Service Retirement and Disability System and the Central Intelligence Agency Retirement and Disability System with respect to substantially identical provisions, the President may, by Executive order, extend to current or former participants in the Central Intelligence Agency Retirement and Disability System, or to their survivors, a provision of law enacted after January 1, 1975, which—

"(A) amends subchapter III of chapter 83 of title 5, United States Code, and is applicable to civil service employees generally; or

"(B) otherwise affects current or former participants in the Civil Service Retirement and Disability System, or their survivors.

"(2) EXTENSION TO CIARDS.—Any such order shall extend such provision of law so that it applies in like manner with respect to such Central Intelligence Agency Retirement and Disability System participants, former participants, or survivors.

"(3) LEGAL STATUS.—Any such order shall have the force and effect of law.

"(4) EFFECTIVE DATE.—Any such order may be given retroactive effect to a date not earlier than the effective date of the corresponding provision of law applicable to employees under the Civil Service Retirement System.

"(b) EFFECT OF EXECUTIVE ORDER.—Provisions of an Executive order issued pursuant to this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

"(1) provisions of law enacted before the effective date of the Executive order; and

"(2) any prior provision of an Executive order issued under this section.

50 USC 2142.

"SEC. 293. THRIFT SAVINGS PLAN PARTICIPATION.

"(a) ELIGIBILITY FOR THRIFT SAVINGS PLAN.—Participants in the system shall be deemed to be employees for the purposes of section 8351 of title 5, United States Code.

"(b) MANAGEMENT OF THRIFT SAVINGS PLAN ACCOUNTS BY DIRECTOR.—Subsections (k) and (m) of section 8461 of title 5, United States Code, shall apply with respect to contributions made by participants to the Thrift Savings Fund under section 8351 of such title and to earnings attributable to the investment of such contributions.

50 USC 2143.
Regulations.

"SEC. 294. ALTERNATIVE FORMS OF ANNUITIES.

"(a) AUTHORITY FOR ALTERNATIVE FORM OF ANNUITY.—The Director shall prescribe regulations under which a participant may, at the time of retiring under this title (other than under section 231), elect annuity benefits under this section instead of any other benefits under this title (including any survivor benefits under this title) based on the service of the participant creditable under this title.

"(b) BASIS FOR ALTERNATIVE FORMS OF ANNUITY.—The regulations and alternative forms of annuity shall, to the maximum extent practicable, meet the requirements prescribed in section 8343a of title 5, United States Code.

"(c) LUMP-SUM CREDIT.—Any lump-sum credit provided pursuant to an election under subsection (a) shall not preclude an individual from receiving other benefits provided under that subsection.

"(d) SUBMISSION OF REGULATIONS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—The Director shall submit the regulations prescribed under subsection (a) to the congressional intelligence committees before the regulations take effect.

50 USC 2144.

"SEC. 295. PAYMENTS FROM CIARDS FUND FOR PORTIONS OF CERTAIN CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES.

"The amount of the increase in any annuity that results from the application of section 18 of the Central Intelligence Agency Act of 1949, if and when such increase is based on an individual's overseas service as an employee of the Central Intelligence Agency, shall be paid from the fund.

"TITLE III—PARTICIPATION IN THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM

"SEC. 301. APPLICATION OF FEDERAL EMPLOYEES' RETIREMENT SYSTEM TO AGENCY EMPLOYEES. 50 USC 2151.

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), all employees of the Agency, any of whose service after December 31, 1983, is employment for the purpose of title II of the Social Security Act and chapter 21 of the Internal Revenue Code of 1954, shall be subject to chapter 84 of title 5, United States Code.

"(b) EXCEPTION FOR PRE-1984 EMPLOYEES.—Participants in the Central Intelligence Agency Retirement and Disability System who were participants in such system on or before December 31, 1983, and who have not had a break in service in excess of one year since that date, are not subject to chapter 84 of title 5, United States Code, without regard to whether they are subject to title II of the Social Security Act.

"(c) NONAPPLICABILITY OF FERS TO CERTAIN EMPLOYEES.—

"(1) The provisions of chapter 84 of title 5, United States Code, shall not apply with respect to—

"(A) any individual who separates, or who has separated, from Federal Government service after having been an employee of the Agency subject to title II of this Act; and

"(B) any employee of the Agency having at least 5 years of civilian service which was performed before January 1, 1987, and is creditable under title II of this Act (determined without regard to any deposit or redeposit requirement under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act, or any requirement that the individual become subject to such subchapter or to title II of this Act after performing the service involved).

"(2) Paragraph (1) shall not apply with respect to an individual who has elected under regulations prescribed under section 307 to become subject to chapter 84 of title 5, United States Code, to the extent provided in such regulations.

"(3) An individual described in paragraph (1) shall be deemed to be an individual excluded under section 8402(b)(2) of title 5, United States Code.

"(d) ELECTION TO BECOME SUBJECT TO FERS.—An employee who is designated as a participant in the Central Intelligence Agency Retirement and Disability System after December 31, 1987, pursuant to section 203 may elect to become subject to chapter 84 of title 5, United States Code. Such election—

"(1) shall not be effective unless it is made during the six-month period beginning on the date on which the employee is so designated;

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable.

"(e) SPECIAL RULES.—The application of the provisions of chapter 84 of title 5, United States Code, to an employee referred

to in subsection (a) shall be subject to the exceptions and special rules provided in this title. Any provision of that chapter which is inconsistent with a special rule provided in this title shall not apply to such employees.

50 USC 2152.

"SEC. 302. SPECIAL RULES RELATING TO SECTION 203 CRITERIA EMPLOYEES.

"(a) IN GENERAL.—Except as otherwise provided in this section, in the application of chapter 84 of title 5, United States Code, to an employee of the Agency who is subject to such chapter and is designated by the Director under the criteria prescribed in section 203, such employee shall be treated for purposes of determining such employee's retirement benefits and obligations under such chapter as if the employee were a law enforcement officer (as defined in section 8401(17) of title 5, United States Code).

"(b) VOLUNTARY AND MANDATORY RETIREMENT.—The provisions of sections 233 and 235 shall apply to employees referred to in subsection (a), except that the retirement benefits shall be determined under chapter 84 of title 5, United States Code.

"(c) RECALL.—

"(1) Except as provided in paragraph (2), section 271 shall apply to an employee referred to in subsection (a).

"(2) Contributions during recall service shall be made as provided in section 8422 of title 5, United States Code.

"(3) When an employee recalled under this subsection reverts to a retired status, the annuity of such employee shall be redetermined under the provisions of chapter 84 of title 5, United States Code.

50 USC 2153.

"SEC. 303. SPECIAL RULES FOR OTHER EMPLOYEES FOR SERVICE ABROAD.

"(a) SPECIAL COMPUTATION RULE.—Notwithstanding any provision of chapter 84 of title 5, United States Code, the annuity under subchapter II of such chapter of a retired employee of the Agency who is not designated under section 302(a) and who has served abroad as an employee of the Agency after December 31, 1986, shall be computed as provided in subsection (b).

"(b) COMPUTATION.—

"(1) SERVICE ABROAD.—The portion of the annuity relating to such service abroad shall be computed as provided in section 8415(d) of title 5, United States Code.

"(2) OTHER SERVICE.—The portions of the annuity relating to other creditable service shall be computed as provided in section 8415 of such title that is applicable to such service under the conditions prescribed in chapter 84 of such title.

50 USC 2154.

"SEC. 304. SPECIAL RULES FOR FORMER SPOUSES.

"(a) GENERAL RULE.—Except as otherwise specifically provided in this section, the provisions of chapter 84 of title 5, United States Code, shall apply in the case of an employee of the Agency who is subject to chapter 84 of title 5, United States Code, and who has a former spouse (as defined in section 8401(12) of title 5, United States Code) or a qualified former spouse.

"(b) DEFINITIONS.—For purposes of this section:

"(1) EMPLOYEE.—The term 'employee' means an employee of the Agency who is subject to chapter 84 of title 5, United States Code, including an employee referred to in section 302(a).

"(2) QUALIFIED FORMER SPOUSE.—The term 'qualified former spouse' means a former spouse of an employee or retired employee who—

"(A) in the case of a former spouse whose divorce from such employee became final on or before December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, United States Code, at least 5 years of which were spent outside the United States by both the employee and the former spouse during the employee's service with the Agency; and

"(B) in the case of a former spouse whose divorce from such employee becomes final after December 4, 1991, was married to such employee for not less than 10 years during periods of the employee's service which are creditable under section 8411 of title 5, United States Code, at least 5 years of which were spent by the employee outside the United States during the employee's service with the Agency or otherwise in a position the duties of which qualified the employee for designation by the Director under the criteria prescribed in section 203.

"(3) PRO RATA SHARE.—The term 'pro rata share' means the percentage that is equal to (A) the number of days of the marriage of the qualified former spouse to the employee during the employee's periods of creditable service under chapter 84 of title 5, United States Code, divided by (B) the total number of days of the employee's creditable service.

"(4) SPOUSAL AGREEMENT.—The term 'spousal agreement' means an agreement between an employee, former employee, or retired employee and such employee's spouse or qualified former spouse that—

"(A) is in writing, is signed by the parties, and is notarized;

"(B) has not been modified by court order; and

"(C) has been authenticated by the Director.

"(5) COURT ORDER.—The term 'court order' means any court decree of divorce, annulment or legal separation, or any court order or court-approved property settlement agreement incident to such court decree of divorce, annulment, or legal separation.

"(c) ENTITLEMENT OF QUALIFIED FORMER SPOUSE TO RETIREMENT BENEFITS.—

"(1) ENTITLEMENT.—

"(A) IN GENERAL.—Unless otherwise expressly provided by a spousal agreement or court order governing disposition of benefits payable under subchapter II or V of chapter 84 of title 5, United States Code, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of all benefits otherwise payable to such employee under subchapter II or V of chapter 84 of title 5, United States Code.

"(B) AMOUNT OF SHARE.—The share referred to in subparagraph (A) equals—

"(i) 50 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 50, United States Code; or

"(ii) a pro rata share of 50 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

"(2) ANNUITY SUPPLEMENT.—The benefits payable to an employee under subchapter II of chapter 84 of title 5, United States Code, shall include, for purposes of this subsection, any annuity supplement payable to such employee under sections 8421 and 8421a of such title.

"(3) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—A qualified former spouse shall not be entitled to any benefit under this subsection if, before the commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

"(4) COMMENCEMENT AND TERMINATION.—

"(A) COMMENCEMENT.—The benefits of a qualified former spouse under this subsection commence on the later of—

"(i) the day on which the employee upon whose service the benefits are based becomes entitled to the benefits; or

"(ii) the first day of the second month beginning after the date on which the Director receives written notice of the court order or spousal agreement, together with such additional information or documentation as the Director may prescribe.

"(B) TERMINATION.—The benefits of the qualified former spouse and the right thereto terminate on—

"(i) the last day of the month before the qualified former spouse remarries before 55 years of age or dies; or

"(ii) the date on which the retired employee's benefits terminate (except in the case of benefits subject to paragraph (5)(B)).

"(5) PAYMENTS TO RETIRED EMPLOYEES.—

"(A) CALCULATION OF SURVIVOR ANNUITY.—Any reduction in payments to a retired employee as a result of payments to a qualified former spouse under this subsection shall be disregarded in calculating—

"(i) the survivor annuity for any spouse, former spouse (qualified or otherwise), or other survivor under chapter 84 of title 5, United States Code, and

"(ii) any reduction in the annuity of the retired employee to provide survivor benefits under subsection (d) of this section or under sections 8442 or 8445 of title 5, United States Code.

"(B) REDUCTION IN BASIC PAY UPON RECALL TO SERVICE.—If a retired employee whose annuity is reduced under paragraph (1) is recalled to service under section 302(c), the basic pay of that annuitant shall be reduced by the same amount as the annuity would have been reduced if it had continued. Amounts equal to the reductions under this subparagraph shall be deposited in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund.

"(6) SPECIAL RULES FOR DISABILITY ANNUITANTS.—Notwithstanding paragraphs (1) and (4), in the case of any qualified former spouse of a disability annuitant—

"(A) the annuity of such former spouse shall commence on the date on which the employee would qualify, on the basis of the employee's creditable service, for benefits under subchapter II of chapter 84 of title 5, United States Code, or on the date on which the disability annuity begins, whichever is later; and

"(B) the amount of the annuity of the qualified former spouse shall be calculated on the basis of the benefits for which the employee would otherwise qualify under subchapter II of chapter 84 of such title.

"(7) PRO RATA SHARE IN CASE OF EMPLOYEES TRANSFERRED TO FERS.—Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse shall equal the sum of—

"(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) if applicable, 50 percent of the employee's benefits under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

"(8) TREATMENT OF PRO RATA SHARE UNDER INTERNAL REVENUE CODE.—For purposes of the Internal Revenue Code of 1986, payments to a qualified former spouse under this subsection shall be treated as income to the qualified former spouse and not to the employee.

"(d) QUALIFIED FORMER SPOUSE SURVIVOR BENEFITS.—

"(1) ENTITLEMENT.—

"(A) IN GENERAL.—Subject to an election under section 8416(a) of title 5, United States Code, and unless otherwise expressly provided by any spousal agreement or court order governing survivor benefits payable under this subsection to a qualified former spouse, such former spouse is entitled to a share, determined under subparagraph (B), of all survivor benefits that would otherwise be payable under subchapter IV of chapter 84 of title 5, United States Code, to an eligible surviving spouse of the employee.

"(B) AMOUNT OF SHARE.—The share referred to in subparagraph (A) equals—

"(i) 100 percent, if the qualified former spouse was married to the employee throughout the entire period of the employee's service which is creditable under chapter 84 of title 5, United States Code; or

"(ii) a pro rata share of 100 percent, if the qualified former spouse was not married to the employee throughout such creditable service.

"(2) SURVIVOR BENEFITS.—

"(A) The survivor benefits payable under this subsection to a qualified former spouse shall include the amount payable under section 8442(b)(1)(A) of title 5, United States Code, and any supplementary annuity under section 8442(f) of such title that would be payable if such former spouse were a widow or widower entitled to an annuity under such section.

"(B) Any calculation under section 8442(f) of title 5, United States Code, of the supplementary annuity payable to a widow or widower of an employee referred to in section 302(a) shall be based on an 'assumed CIARDS annuity' rather than an 'assumed CSRS annuity' as stated in section 8442(f) of such title. For the purpose of this subparagraph, the term 'assumed CIARDS annuity' means the amount of the survivor annuity to which the widow or widower would be entitled under title II of this Act based on the service of the deceased annuitant determined under section 8442(f)(5) of such title.

"(3) DISQUALIFICATION UPON REMARRIAGE BEFORE AGE 55.—A qualified former spouse shall not be entitled to any benefit under this subsection if, before commencement of any benefit, the qualified former spouse remarries before becoming 55 years of age.

"(4) RESTORATION.—If the survivor annuity payable under this subsection to a surviving qualified former spouse is terminated because of remarriage before becoming age 55, the annuity shall be restored at the same rate commencing on the date such remarriage is dissolved by death, divorce, or annulment, if—

"(A) such former spouse elects to receive this survivor annuity instead of any other survivor benefit to which such former spouse may be entitled under subchapter IV of chapter 84 of title 5, United States Code, or under another retirement system for Government employees by reason of the remarriage; and

"(B) any lump sum paid on termination of the annuity is returned to the Civil Service Retirement and Disability Fund.

"(5) MODIFICATION OF COURT ORDER OR SPOUSAL AGREEMENT.—A modification in a court order or spousal agreement to adjust a qualified former spouse's share of the survivor benefits shall not be effective if issued after the retirement or death of the employee, former employee, or annuitant, whichever occurs first.

"(6) EFFECT OF TERMINATION OF QUALIFIED FORMER SPOUSE'S ENTITLEMENT.—After a qualified former spouse of a retired employee remarries before becoming age 55 or dies, the reduction in the retired employee's annuity for the purpose of providing a survivor annuity for such former spouse shall be terminated. The annuitant may elect, in a signed writing received by the Director within 2 years after the qualified former spouse's remarriage or death, to continue the reduction in order to provide or increase the survivor annuity for such

annuitant's spouse. The annuitant making such election shall pay a deposit in accordance with the provisions of section 8418 of title 5, United States Code.

"(7) PRO RATA SHARE IN CASE OF EMPLOYEES TRANSFERRED TO FERS.—Notwithstanding paragraph (1)(B), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the share of such employee's qualified former spouse to survivor benefits shall equal the sum of—

"(A) 50 percent of the employee's annuity under subchapter III of chapter 83 of title 5, United States Code, or under title II of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service before the effective date of the election to transfer bears to the employee's total creditable service before such effective date; and

"(B) if applicable—

"(i) 50 percent of the employee's annuity under chapter 84 of title 5, United States Code, or section 302(a) of this Act (computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or section 307 of this Act), plus

"(ii) the survivor benefits referred to in subsection (d)(2)(A),

multiplied by the proportion that the number of days of marriage during the period of the employee's creditable service on and after the effective date of the election to transfer bears to the employee's total creditable service after such effective date.

"(e) QUALIFIED FORMER SPOUSE THRIFT SAVINGS PLAN BENEFIT.—

"(1) ENTITLEMENT.—

"(A) IN GENERAL.—Unless otherwise expressly provided by a spousal agreement or court order governing disposition of the balance of an account in the Thrift Savings Fund under subchapter III of chapter 84 of title 5, United States Code, a qualified former spouse of an employee is entitled to a share (determined under subparagraph (B)) of the balance in the employee's account in the Thrift Savings Fund on the date the divorce of the qualified former spouse and employee becomes final.

"(B) AMOUNT OF SHARE.—The share referred to in subparagraph (A) equals 50 percent of the employee's account balance in the Thrift Savings Fund that accrued during the period of marriage. For purposes of this subsection, the employee's account balance shall not include the amount of any outstanding loan.

"(2) PAYMENT OF BENEFIT.—

"(A) TIME OF PAYMENT.—The entitlement of a qualified former spouse under paragraph (1) shall be effective on the date the divorce of the qualified former spouse and employee becomes final. The qualified former spouse's benefit shall be payable after the date on which the Director receives the divorce decree or any applicable court order

or spousal agreement, together with such additional information or documentation as the Director may require.

"(B) METHOD OF PAYMENT.—The qualified former spouse's benefit under this subsection shall be paid in a lump sum.

"(C) LIMITATION.—A spousal agreement or court order may not provide for payment to a qualified former spouse under this subsection of an amount that exceeds the employee's account balance in the Thrift Savings Fund.

"(D) DEATH OF QUALIFIED FORMER SPOUSE.—If the qualified former spouse dies before payment of the benefit provided under this subsection, such payment shall be made to the estate of the qualified former spouse.

"(E) BAR TO RECOVERY.—Any payment under this subsection to an individual bars recovery by any other individual.

"(3) CLOSED ACCOUNT.—No payment under this subsection may be made by the Director if the date on which the divorce becomes final is after the date on which the total amount of the employee's account balance has been withdrawn or transferred, or the date on which an annuity contract has been purchased, in accordance with section 8433 of title 5, United States Code.

"(f) PRESERVATION OF RIGHTS OF QUALIFIED FORMER SPOUSES.—An employee may not make an election or modification of election under section 8417 or 8418 of title 5, United States Code, or other section relating to the employee's annuity under subchapter II of chapter 84 of title 5, United States Code, that would diminish the entitlement of a qualified former spouse to any benefit granted to such former spouse by this section or by court order or spousal agreement.

"(g) PAYMENT OF SHARE OF LUMP-SUM CREDIT.—Whenever an employee or former employee becomes entitled to receive the lump-sum credit under section 8424(a) of title 5, United States Code, a share (determined under subsection (c)(1)(B) of this section) of that lump-sum credit shall be paid to any qualified former spouse of such employee, unless otherwise expressly provided by any spousal agreement or court order governing disposition of the lump-sum credit involved.

"(h) PAYMENT TO QUALIFIED FORMER SPOUSES UNDER COURT ORDER OR SPOUSAL AGREEMENT.—In the case of any employee or retired employee who has a qualified former spouse who is covered by a court order or who is a party to a spousal agreement—

"(1) any right of the qualified former spouse to any retirement benefits under subsection (c) and to any survivor benefits under subsection (d), and the amount of any such benefits;

"(2) any right of the qualified former spouse to any Thrift Savings Plan benefit under subsection (e), and the amount of any such benefit; and

"(3) any right of the qualified former spouse to any payment of a lump-sum credit under subsection (g), and the amount of any such payment;

shall be determined in accordance with that spousal agreement or court order, if and to the extent expressly provided for in the terms of the spousal agreement or court order that are not inconsistent with the requirements of this section.

"(i) APPLICABILITY OF CIARDS FORMER SPOUSE BENEFITS.—

"(1) Except as provided in paragraph (2), in the case of an employee who has elected to become subject to chapter 84 of title 5, United States Code, the provisions of sections 224 and 225 shall apply to such employee's former spouse (as defined in section 102(a)(3)) who would otherwise be eligible for benefits under sections 224 and 225 but for the employee having elected to become subject to such chapter.

"(2) For the purposes of computing such former spouse's benefits under sections 224 and 225—

"(A) the retirement benefits shall be equal to the amount determined under subsection (c)(7)(A); and

"(B) the survivor benefits shall be equal to 55 percent of the full amount of the employee's annuity computed in accordance with section 302(a) of the Federal Employees' Retirement System Act of 1986 or regulations prescribed under section 307 of this Act.

"(3) Benefits provided pursuant to this subsection shall be payable from the Central Intelligence Agency Retirement and Disability Fund.

"SEC. 305. ADMINISTRATIVE PROVISIONS. 50 USC 2155.

"(a) FINALITY OF DECISIONS OF DIRECTOR.—Section 201(c) of this Act shall apply in the administration of chapter 84 of title 5, United States Code, with respect to employees of the Agency.

"(b) EXCEPTION.—Notwithstanding subsection (a), section 8461(e) of title 5, United States Code, shall apply with respect to employees of the Agency who are not participants in the Central Intelligence Agency Retirement and Disability System and are not designated under section 302(a).

"SEC. 306. REGULATIONS. 50 USC 2156.

"(a) REQUIREMENT.—The Director shall prescribe in regulations appropriate procedures to carry out this title. Such regulations shall be prescribed in consultation with the Director of the Office of Personnel Management and the Executive Director of the Federal Retirement Thrift Investment Board.

"(b) CONGRESSIONAL REVIEW.—The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect.

"SEC. 307. TRANSITION REGULATIONS. 50 USC 2157.

"(a) REGULATIONS.—The Director shall prescribe regulations providing for the transition from the Central Intelligence Agency Retirement and Disability System to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, in a manner consistent with sections 301 through 304 of the Federal Employees' Retirement System Act of 1986.

"(b) CONGRESSIONAL REVIEW.—The Director shall submit regulations prescribed under subsection (a) to the congressional intelligence committees before they take effect.".

SEC. 803. CONFORMING AMENDMENTS.

(a) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—

(1) SECTION 14.—Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by striking out "sections 204, 221(b) (1)–(3), 221(f), 221(g)(2), 221(l), 221(m), 221(n), 221(o), 222, 223, 224, 225, 232(b), 234(c), 234(d), 234(e), and 263(b) of the Central Intelligence Agency Retirement Act

of 1964 for Certain Employees" and inserting in lieu thereof "sections 102, 221(b) (1)–(3), 221(f), 221(g), 221(h)(2), 221(i), 221(l), 222, 223, 224, 225, 232(b), 241(b), 241(d), and 264(b) of the Central Intelligence Agency Retirement Act".

(2) SECTION 18.—Section 18(a) of such Act (50 U.S.C. 403r(a)) is amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

(3) SECTION 19.—Section 19 of such Act (50 U.S.C. 403s) is amended—

(A) in subsection (a)—

(i) by inserting "OFFICERS AND EMPLOYEES TO WHOM CIARDS SECTION 231 RULES APPLY.—" after "(a)";

(ii) by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended" in clause (ii) and inserting in lieu thereof "the Central Intelligence Agency Retirement Act";

(iii) by inserting "such" in clause (iii) before "section 203";

(iv) by striking out "such section 231" in the matter after clause (iv) and inserting in lieu thereof "section 231 of such Act"; and

(v) by redesignating clauses (i) through (iv) as paragraphs (1) through (4), respectively;

(B) in subsection (b)—

(i) by inserting "SURVIVORS OF OFFICERS AND EMPLOYEES TO WHOM CIARDS SECTION 231 RULES APPLY.—" after "(b)";

(ii) by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended" in clause (ii) and inserting in lieu thereof "the Central Intelligence Agency Retirement Act";

(iii) by striking out "widow or widower, former spouse, and/or child or children as defined in section 204 and section 232 of such the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" in clause (iv) and inserting in lieu thereof "surviving spouse, former spouse, or child as defined in section 102 of the Central Intelligence Agency Retirement Act";

(iv) by striking out "widow or widower, former spouse, and/or child or children" in the matter after clause (iv) and inserting in lieu thereof "surviving spouse, former spouse, or child";

(v) by striking out "such section 232" in the matter after clause (iv) and inserting in lieu thereof "section 231 of such Act"; and

(vi) by redesignating clauses (i) through (iv) as paragraphs (1) through (4), respectively;

(C) by striking out subsections (c) and (d); and

(D) by redesignating subsection (e) as subsection (c) and in that subsection—

(i) by striking out "(1)" and inserting in lieu thereof "ANNUITIES UNDER THIS SECTION DEEMED ANNUITIES UNDER CSRS.—";

(ii) by striking out "established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "maintained pursuant to section 202 of the Central Intelligence Agency Retirement Act"; and

(iii) by striking out paragraph (2).

(b) NATIONAL SECURITY AGENCY ACT OF 1959.—Section 9(b)(3) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

(c) TITLE 5, UNITED STATES CODE.—Sections 8347(n)(4)(A) and 8423(a)(1)(B)(i) of title 5, United States Code, are amended by striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act".

(d) TITLE 10, UNITED STATES CODE.—Section 1605(a) of title 10, United States Code, is amended in the second sentence—

(1) striking out "the Central Intelligence Agency Retirement Act of 1964 for Certain Employees" and inserting in lieu thereof "the Central Intelligence Agency Retirement Act"; and

(2) by inserting "(50 U.S.C. 403r)" after "the Central Intelligence Agency Act of 1949".

SEC. 804. SAVINGS PROVISIONS.

50 USC 2001 note.

(a) PRIOR ELECTIONS.—Any election made under the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before the effective date specified in section 805 shall not be affected by the amendment made by section 802 and shall be deemed to have been made under the corresponding provision of that Act as restated by section 802 as the Central Intelligence Agency Retirement Act.

(b) REFERENCES.—Any reference in any other Act, or in any Executive order, rule, or regulation, to the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, or to a provision of that Act, shall be deemed to refer to that Act and to the corresponding provision of that Act, as restated by section 802 as the Central Intelligence Agency Retirement Act.

50 USC 2001 note.

SEC. 805. EFFECTIVE DATE.

The amendments made by sections 802 and 803 shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 5095 (S. 2991):

HOUSE REPORTS: Nos. 102-544, Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services), and 102-963 (Comm. of Conference).

SENATE REPORTS: Nos. 102-324 (Permanent Select Comm. on Intelligence) and 102-407 (Comm. on Armed Services), both accompanying S. 2991.

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 25, considered and passed House.

Sept. 23, considered and passed Senate, amended, in lieu of S. 2991.

Oct. 2, House and Senate agreed to conference report.

Public Law 102-497
102d Congress

An Act

To make technical amendments to certain Federal Indian statutes.

Oct. 24, 1992
[H.R. 5686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CORRECTION OF LAND DESCRIPTION WITH RESPECT TO THE GRAND RONDE RESERVATION.

Section 4(b) of Public Law 100–425 (25 U.S.C. 713f note) is amended by striking "SE¼NE¼" in the fourth column of the description of the 47th tract of land listed in such subsection and inserting the following: "SE¼NE¼,E½SW¼".

SEC. 2. EXTENSION OF DEADLINE WITH RESPECT TO PONCA ECONOMIC DEVELOPMENT PLAN.

Section 10(a)(3) of the Ponca Restoration Act (25 U.S.C. 983h(a)(3)) is amended by striking "2" and inserting "3".

SEC. 3. EXPENDITURE OF JUDGMENT FUNDS.

(a) CROW TRIBE JUDGMENT FUND.—Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with Crow Tribal Resolution 91–14, any and all remaining funds (principal and interest accounts) which were awarded in satisfaction of the judgments in Indian Claims Commission Docket No. 54 (1961) and United States Claims Court Docket Nos. 796–71 and 797–71 (1981).

(b) SHOSHONE-BANNOCK JUDGMENT FUND.—Notwithstanding any other provision of law, or any distribution plan approved pursuant to the Indian Tribal Judgment Funds Use or Distribution Act (25 U.S.C. 1401 et seq.), the Secretary of the Interior may reprogram, in accordance with Shoshone-Bannock Tribal Resolution GNCL–91–0616, dated July 19, 1991, any and all remaining funds (principal and interest accounts) which were awarded in satisfaction of the judgment in Indian Claims Commission Docket No. 326–C–2 (1985).

SEC. 4. AUTHORITY TO CONVEY LANDS.

Notwithstanding any other provision of law, the Mississippi Band of Choctaw Indians is authorized to sell, convey, and warrant to National Disposal Systems, Inc., without further approval of the United States, all the Band's interests in real property located in Noxubee County, Mississippi, that it acquired from National Disposal Systems, Inc. Nothing in this section is intended to authorize the Mississippi Band of Choctaw Indians to sell any of its lands that are held in trust by the United States.

SEC. 5. AMENDMENTS TO 99-YEAR LEASE STATUTE.

The second sentence of subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415) is amended by inserting

immediately after "Oklahoma," the following: "lands held in trust for the Pueblo of Santa Clara, lands held in trust for the Confederated Tribes of the Colville Reservation, lands held in trust for the Cahuilla Band of Indians of California,".

SEC. 6. AMENDMENTS TO THE SAN CARLOS IRRIGATION PROJECT DIVESTITURE ACT OF 1991.

The San Carlos Indian Irrigation Project Divestiture Act of 1991 (Public Law 102-231; 105 Stat. 1722 et seq.) is amended by—

105 Stat. 1725, 1731.

(1) deleting in sections 4(a) and 10(b) the date "December 31, 1992" and inserting in lieu thereof the date "July 31, 1993";

105 Stat. 1725.

(2) inserting immediately before the period at the end of paragraph (1) of subsection 5(a) the phrase "and otherwise administer all customer accounts"; and

105 Stat. 1727.

(3) deleting "5(a)(2)" in the second sentence of section 6 and inserting in lieu thereof "5(a)(5)".

SEC. 7. EXPENDITURE OF LEDGER ACCOUNT.

The Secretary of the Interior is authorized to expend not to exceed $1,300,000 of receipts, including interest, generated from the Wapato Indian Irrigation Project, currently available in the Bureau of Indian Affairs' Account for Operation and Maintenance, Indian Irrigation Systems (Appropriation Account 14X5240), which includes principal collected under the authority of the Act of February 14, 1920, for purposes of rehabilitation and betterment of the irrigation system at the Wapato Indian Irrigation Project, and to which the principal sums collected shall be credited in a manner which reduces the obligation for repayment of construction costs for those units of the Wapato Indian Irrigation Project from which such funds were generated.

Southern Arizona Water Rights Settlement Technical Amendments Act of 1992.

SEC. 8. TECHNICAL AMENDMENTS TO SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT OF 1982.

(a) SHORT TITLE.—This section may be cited as the "Southern Arizona Water Rights Settlement Technical Amendments Act of 1992".

(b) TECHNICAL AMENDMENTS.—The Southern Arizona Water Rights Settlement Act of 1982 is amended as follows:

96 Stat. 1284.

(1) in section 313(b)(1)(A), delete "paragraph (3)" and insert in lieu thereof "paragraph (2)";

(2) in clauses (i), (ii) and (iii) of section 313(b)(1)(B), delete "(adjusted as provided in paragraph (2))" each place it appears and insert in lieu thereof "which has been";

(3) in section 313(b)(1)(C), immediately before the period at the end thereof, insert a comma and the following: "including all interest which has accrued to the Fund since the Fund was established and all interest which accrued on contributions and appropriations to the Fund from October 12, 1985, to the date of the enactment of the Southern Arizona Water Rights Settlement Technical Amendments Act of 1992";

(4) in subsection (b), delete paragraph (2) and renumber paragraph (3) as paragraph (2);

(5) amend section 313 by adding at the end thereof the following new subsection:

"(g)(1) Notwithstanding the provisions of subsection (e), if no funds contributed to the Cooperative Fund pursuant to subsection

(b)(1)(B) (or accrued interest thereon) have been returned to any of the contributors, the Cooperative Fund shall not be terminated; except that, if the final judgment in the lawsuit referred to in section 307(a)(1)(C) does not dismiss all claims against the defendants named therein, the Cooperative Fund shall be terminated and the Secretary of the Treasury shall return all amounts contributed to the Fund (together with a ratable share of the remaining accrued interest) to the respective contributors.

"(2)(A) If the share contributed to the Cooperative Fund by the United States has been deposited in the General Fund of the Treasury pursuant to subsection (e), there is authorized to be appropriated to the Cooperative Fund the amount so deposited in the General Fund of the Treasury, adjusted to include an amount representing the additional interest which would have been earned by the Cooperative Fund if that portion had not been deposited in the General Fund of the Treasury.

"(B) If the final judgment in the lawsuit referred to in section 307(a)(1)(C) does not dismiss all claims against the defendants named therein, the share of the Cooperative Fund contributed by the United States shall be deposited in the General Fund of the Treasury.";

(6) in section 304(e)(2), delete ", as long as such water is used for irrigation of Indian lands"; 96 Stat. 1276.

(7) in section 306(c), by adding at the end thereof the following new paragraph: 96 Stat. 1279.

"(3) For the purpose of determining allocation and repayment of costs of the Central Arizona Project as provided in article 9.3 of contract numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District, dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of Central Arizona Project water under the sales, exchanges or temporary dispositions herein authorized shall be nonreimbursable, and such costs shall be excluded from such District's repayment obligation."; and

(8) in sections 313(c)(1)(A), 304(c)(1) and 305(d)(1), immediately after "10 years" each place it appears, insert "and 9 months". 96 Stat. 1284, 1276, 1278.

SEC. 9. AMENDMENTS TO THE NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) FINANCIAL ASSISTANCE FOR NATIVE AMERICAN PROJECTS.—The second sentence of section 803(a) of the Native American Programs Act of 1974 (42 U.S.C. 2991b(a)) is amended by striking ", subject to the availability of funds appropriated under the authority of section 816(c),".

(b) DEFINITION.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c) is amended—

(1) in paragraph (4) by striking "; and" at the end,

(2) in paragraph (5) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(6) the term 'Native American Pacific Islander' means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsection (c), and

(2) by redesignating subsection (d) as subsection (c).

Ak-Chin Water Use Amendments Act of 1992.

SEC. 10. TECHNICAL AMENDMENTS TO AK-CHIN WATER USE ACT OF 1984.

(a) SHORT TITLE.—This section may be cited as the "Ak-Chin Water Use Amendments Act of 1992".

(b) AUTHORIZATION OF USE OF WATER.—Section 2(j) of the Act of October 19, 1984 (Public Law 98–530; 98 Stat. 2698) is amended to read as follows:

"(j) The Ak-Chin Indian Community (hereafter in this Act referred to as the 'Community') shall have the right to devote the permanent water supply provided for by this Act to any use, including agricultural, municipal, industrial, commercial, mining, recreational or other beneficial use, in the areas initially designated as the Pinal, Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1. The community is authorized to lease or enter into an option to lease, extend leases, exchange or temporarily dispose of water to which it is entitled for beneficial use in the areas initially designated as the Pinal, Phoenix and Tucson Active Management Areas pursuant to the Arizona Groundwater Management Act of 1980, laws 1980, fourth special session, chapter 1: *Provided,* That the term of any such lease shall not exceed 100 years and the Community may not permanently alienate any water right. In the event the Community leases, extends leases, exchanges or temporarily disposes of water, such action shall be pursuant to a contract that has been accepted and ratified by a resolution of the Ak-Chin Indian Community Council and approved and executed by the Secretary.".

SEC. 11. AMENDMENT.

The Act entitled "An Act to authorize certain appropriations for the territories of the United States, to amend certain Acts relating thereto, and for other purposes", approved October 15, 1977 (91 Stat. 1159), is amended by adding at the end thereof the following:

Indian Environmental General Assistance Program Act of 1992.
42 USC 4368b.

"SEC. 502. GENERAL ASSISTANCE PROGRAM.

"(a) SHORT TITLE.—This section may be cited as the 'Indian Environmental General Assistance Program Act of 1992'.

"(b) PURPOSES.—The purposes of this section are to—

"(1) provide general assistance grants to Indian tribal governments and intertribal consortia to build capacity to administer environmental regulatory programs that may be delegated by the Environmental Protection Agency on Indian lands; and

"(2) provide technical assistance from the Environmental Protection Agency to Indian tribal governments and intertribal consortia in the development of multimedia programs to address environmental issues on Indian lands.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'Indian tribal government' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village cor-

poration (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C.A. 1601, et seq.)), which is recognized as eligible for the special services provided by the United States to Indians because of their status as Indians.

"(2) The term 'intertribal consortia' or 'intertribal consortium' means a partnership between two or more Indian tribal governments authorized by the governing bodies of those tribes to apply for and receive assistance pursuant to this section.

"(3) The term 'Administrator' means the Administrator of the Environmental Protection Agency.

"(d) GENERAL ASSISTANCE PROGRAM.—(1) The Administrator of the Environmental Protection Agency shall establish an Indian Environmental General Assistance Program that provides grants to eligible Indian tribal governments or intertribal consortia to cover the costs of planning, developing, and establishing environmental protection programs on Indian lands. Grants. Environmental protection.

"(2) Each grant awarded for general assistance under this subsection for a fiscal year shall be no less than $75,000, and no single grant may be awarded to an Indian tribal government or intertribal consortium for more than 10 percent of the funds appropriated under subsection (h) of this section.

"(3) The term of any general assistance award made under this subsection may exceed one year. Any awards made pursuant to this section shall remain available until expended. An Indian tribal government or intertribal consortium may receive a general assistance grant for a period of up to four years in each specific media area.

"(e) NO REDUCTION IN AMOUNTS.—In no case shall the award of a general assistance grant to an Indian tribal government or intertribal consortium under this section result in a reduction of Environmental Protection Agency grants for environmental programs to that tribal government or consortium. Nothing in this section shall preclude an Indian tribal government or intertribal consortium from receiving individual media grants or cooperative agreements. Funds provided by the Environmental Protection Agency through the general assistance program shall be used by an Indian tribal government or intertribal consortium to supplement other funds provided by the Environmental Protection Agency through individual media grants or cooperative agreements.

"(f) EXPENDITURE OF GENERAL ASSISTANCE.—Any general assistance under this section shall be expended for the purpose of planning, developing, and establishing the capability to implement programs administered by the Environmental Protection Agency and specified in the assistance agreement. Purposes and programs authorized under this section shall include the development and implementation of solid and hazardous waste programs for Indian lands. An Indian tribal government or intertribal consortium receiving general assistance pursuant to this section shall utilize such funds for programs and purposes to be carried out in accordance with the terms of the assistance agreement.

"(g) PROCEDURES.—(1) Within 12 months following the date of the enactment of this section, the Administrator shall promulgate regulations establishing procedures under which an Indian tribal government or intertribal consortium may apply for general assistance grants under this section. Regulations.

Federal Register, publication.

"(2) The Administrator shall publish regulations issued pursuant to this section in the Federal Register.

"(3) The Administrator shall establish procedures for accounting, auditing, evaluating, and reviewing any programs or activities funded in whole or in part for a general assistance grant under this section.

Appropriation authorization.

"(h) AUTHORIZATION.—There are authorized to be appropriated to carry out the provisions of this section, $15,000,000 for each of the fiscal years 1993 and 1994.".

SEC. 12. ENROLLMENT AS NATIVES.

Yvonne LeCornu Salazar. Andres Manuel Salazar. Shaan-Seet, Inc.

Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enroll the following-named individuals as Natives under the Alaska Native Claims Settlement Act (Public Law 92–203): Yvonne LeCornu Salazar and Andres Manuel Salazar. Each individual is entitled to receive 100 shares of stock in Shaan-Seet, Inc. and such other benefits as the board of directors of that corporation may approve. No individual enrolled pursuant to this Act shall be entitled to share in any dividends or Alaska Native Claims Settlement Act distributions made by the United States or Shaan-Seet, Inc. prior to the individual's enrollment. Nor shall this Act alter said individual's rights to receive dividends or Alaska Native Claims Settlement Act distributions made by Sealaska Corporation prior to the individual's enrollment in Shaan-Seet. Enrollment of these individuals shall not alter the entitlement to or distribution of land to any corporation under the terms of the Alaska Native Claims Settlement Act.

SEC. 13. TRANSFER OF BUREAU OF INDIAN AFFAIRS' ADMINISTRATIVE SITE IN BETHEL, ALASKA TO THE YUKON KUSKOKWIM HEALTH CORPORATION.

(a) CONVEYANCE.—To the extent consistent with this section and applicable Federal and State environmental laws, the Secretary of the Interior, notwithstanding section 1302(h) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3192(h)), shall convey, in fee, the buildings of the former Bureau of Indian Affairs Bethel Agency, Bethel, Alaska, and lands necessary for the use of these buildings, but not to exceed 27 acres of the Agency site, to the Yukon Kuskokwim Health Corporation (hereafter referred to as the "Corporation"). Such conveyance shall be made on terms mutually agreed on between the Secretary of the Interior and the Corporation. The Secretary may require that the Corporation, as exclusive consideration for this conveyance, enter into an agreement under which the Corporation agrees to indemnify the United States Fish and Wildlife Service and the Bureau of Indian Affairs for any liability arising out of the operation and maintenance of any response at the property concerning asbestos. The conveyance required by this section shall be made, subject to subsection (b)(2), prior to September 30, 1993.

(b) ENVIRONMENTAL RESPONSE.—Prior to the conveyance of the property to the Corporation pursuant to subsection (a), for responses that are necessary under applicable Federal and State laws to protect human health and the environment with respect to any hazardous substance or hazardous waste remaining on the property, the Secretary of the Interior and the Secretary of the Air Force shall—

(1) complete and equally share the cost of such response, or

(2) grant and equally share the cost of such grant to the Corporation an amount equal to the cost of such response, except that such grant shall be used to complete such response prior to the conveyance of the property.

(c) Notwithstanding any other Federal law, except with respect to liability arising from the operation and maintenance of the property, the United States Fish and Wildlife Service and the Bureau of Indian Affairs shall not be liable under any Federal law for any additional response necessary for asbestos at the property following its conveyance to the Corporation pursuant to the authority of subsection (a). Nothing in this section shall affect any liability of any person other than the United States Fish and Wildlife Service and the Bureau of Indian Affairs.

(d) EASEMENT.—The conveyance under this section shall reserve an easement for access to adjacent areas of the Yukon Delta National Wildlife Refuge, if determined necessary by the Secretary.

(e) DEFINITIONS.—As used in this section:

(1) The terms "response", "hazardous substance", "person", and "environment" as used herein shall have the meaning of such terms as provided in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

(2) The term "hazardous waste" shall have the meaning of such term as provided in the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

SEC. 14. REGULATION OF CLASS III GAMING.

Montana.

(a) IN GENERAL.—Notwithstanding section 11(d)(1) of the Indian Gaming Regulatory Act (25 U.S.C. 2710(d)(1), during the six-month period beginning on the date of the enactment of this Act, any class III gaming activity conducted on Indian lands in the State of Montana shall be lawful if such gaming activity—

(1) is conducted in accordance with State law made applicable by the Indian Gaming Regulatory Act; and

(2) was owned or being conducted on May 1, 1988.

(b) INAPPLICABILITY OF ACT OF JANUARY 2, 1951.—During the six-month period specified in subsection (a), the provisions of section 5 of the Act of January 2, 1951 (15 U.S.C. 1175), shall not apply to any gaming activity described in such subsection which meets the requirements of paragraphs (1) and (2) of such subsection.

SEC. 15. DEFINITIONS.

For purposes of this section, the terms "Indian lands" and "class III gaming" have the meaning given such terms in section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

SEC. 16. CONFORMING AMENDMENT.

Section 4(7)(E) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(7)(E)) is amended by striking "or Montana".

SEC. 17. SETTLEMENT OF LAWSUIT.

The Act of October 25, 1972 (86 Stat. 1168), is amended by adding at the end thereof the following new section:

"SEC. 306. AUTHORITY TO SETTLE ACTION.

"Notwithstanding any provision of this Act or any other provision of law, the Attorney General is authorized to negotiate and settle any action that may be or has been brought to contest

the constitutionality or validity under law of the distribution to all other Sisseton and Wahpeton Sioux provided for in section 202 of this Act.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 5686:

HOUSE REPORTS: No. 102-774 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-428 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Oct. 1, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.

Public Law 102-498
102d Congress

An Act

To designate certain land in the State of Missouri owned by the United States and administered by the Secretary of Agriculture as part of the Mark Twain National Forest.

Oct. 24, 1992
[H.R. 6014]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The boundary of the Mark Twain National Forest in the State of Missouri is modified to include all lands in Boone and Callaway Counties within the Cedar Creek Purchase Unit as generally depicted on a map entitled "Mark Twain National Forest Addition, June 1992" which map is on file and available for public inspection in the Office of the Chief, Forest Service, Washington, District of Columbia.

SEC. 2. All lands now or hereafter owned by the United States and administered by the Secretary of Agriculture within the Cedar Creek Purchase Unit, which by this Act are made a part of the Mark Twain National Forest in Missouri, shall be subject to the Weeks Act of March 1, 1911 (36 Stat. 961) as amended, and to all laws, rules, and regulations applicable to the National Forest System.

SEC. 3. The lands added to the Mark Twain National Forest by this Act shall be administered by the Secretary of Agriculture as the Cedar Creek Ranger District: *Provided,* That nothing in this section shall limit the authorities of the Secretary under section 11 of the Weeks Act (16 U.S.C. 521) to modify administration of this area at any time.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 6014:

HOUSE REPORTS: No. 102-936 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-499
102d Congress

An Act

Oct. 24, 1992
[H.R. 6047]

To amend the United States Information and Educational Exchange Act of 1948, the Foreign Service Act of 1980, and other provisions of law to make certain changes in administrative authorities.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGES IN ADMINISTRATIVE AUTHORITIES.

(a) RADIO FACILITIES.—Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) is amended— 104 Stat. 58.

(1) by amending the heading of section 235 to read as follows: "CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES"; and

(2) by inserting ", Sri Lanka, Sao Tome, and Kuwait" after "Thailand".

SEC. 2. APPROPRIATIONS AUTHORITIES.

Section 701 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1476) is amended by adding at the end thereof the following new subsection:

"(f)(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the United States Information Agency in the Department of State and Related Agencies Appropriations Act, for the second fiscal year of any 2-year authorization cycle may be appropriated for such second fiscal year for any other account of the United States Information Agency.

"(2) Amounts appropriated for the 'Salaries and Expenses' and 'Educational and Cultural Exchange Programs' accounts may not exceed by more than 5 percent the amount specifically authorized to be appropriated for each such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

"(3) The requirements and limitations of subsection (a) shall not apply to the appropriation of funds pursuant to this subsection.

Termination date.

"(4) This subsection shall cease to have effect after September 30, 1993.".

SEC. 3. PROTECTION OF FOREIGN DIPLOMATIC MISSIONS.

(a) AMENDMENT TO TITLE 3.—Section 202(10) of title 3, United States Code, is amended by striking ", pursuant to invitations of the United States Government" and inserting "when such officials are in the United States to conduct official business with the United States Government".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of October 1, 1991.

SEC. 4. FOREIGN SERVICE RETIREMENT AND DISABILITY.

(a) CONTRIBUTIONS TO THE FUND.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding the percentage limitation contained in paragraph (1) of this subsection—

"(A) the Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed in the same manner as that of a law enforcement officer pursuant to section 8339(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8334(a)(1) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amount deducted and withheld from basic salary and amounts contributed by the Department.

"(B) The Department shall deduct and withhold from the basic pay of a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development, who is qualified to have his annuity computed pursuant to section 8415(d) of title 5, an amount equal to that to be withheld from a law enforcement officer pursuant to section 8422(a)(2)(B) of title 5. The amounts so deducted shall be contributed to the Fund for the payment of annuities, cash benefits, refunds, and allowances. An equal amount shall be contributed by the Department from the appropriations or fund used for payment of the salary of the participant. The Department shall deposit in the Fund the amounts deducted and withheld from basic salary and amounts contributed by the Department.".

(b) SPECIAL CONTRIBUTIONS.—Section 805(d) of the Foreign Service Act of 1980 (22 U.S.C. section 4045) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding paragraph (1), a special contribution for past service as a Foreign Service criminal investigator/inspector of the Office of the Inspector General, Agency for International Development which would have been creditable toward retirement under either section 8336(c) or 8412(d) of title 5, and for which a special contribution has not been made shall be equal to the difference between the amount actually contributed pursuant to either section 4045 or 4071e of title 22 and the amount that should have been contributed pursuant to either section 8334 or 8422 of title 5.".

(c) MANDATORY RETIREMENT.—Section 812(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4052(a)(2)) is amended in the first sentence by striking "55" and inserting "57".

(d) COMPUTATION OF ANNUITIES.—Section 806(a)(6) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)(6)) is amended by striking "section 5545(a)(2)" and inserting "section 5545(c)(2)".

SEC. 5. BENEFITS FOR UNITED STATES HOSTAGES CAPTURED IN LEBANON.

5 USC 5561 note.

(a) IN GENERAL.—Section 599C(b)(2) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (Public Law 101–513) is amended by adding at the end the following: "For purposes of this paragraph, any United States hostage captured in Lebanon who was paid a salary or wage in Lebanese pounds in amounts that were not adjusted to compensate for any devaluation of the Lebanese pound that occurred during such hostage's period of captivity shall not be considered to have received a salary or wage from an employer.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be deemed to have become effective as of the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 6047:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-500
102d Congress

An Act

To amend the John F. Kennedy Center Act to authorize appropriations for maintenance, repair, alteration, and other services necessary for the John F. Kennedy Center for the Performing Arts.

Oct. 24, 1992
[H.R. 6164]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MAINTENANCE, REPAIRS, AND OTHER BUILDING SERVICES.

Section 6(e)(3) of the John F. Kennedy Center Act (20 U.S.C. 761(e)(3)) is amended to read as follows: 20 USC 76*l*.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of the Interior to carry out this subsection—

"(A) for fiscal year 1993, not more than—

"(i) $8,000,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $12,806,000 for deferred maintenance, repairs, and alterations; and

"(B) for fiscal year 1994, not more than—

"(i) $12,000,000 for annual maintenance, repairs, alterations, and operating services; and

"(ii) $15,000,000 for deferred maintenance, repairs, and alterations.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 6164:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-501
102d Congress

An Act

Oct. 24, 1992
[H.R. 6183]

To amend the Public Health Service Act to provide protections from legal liability for certain health care professionals providing services pursuant to such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federally Supported Health Centers Assistance Act of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federally Supported Health Centers Assistance Act of 1992".

SEC. 2. LIABILITY PROTECTIONS FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) IN GENERAL.—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding at the end the following new subsection:

"(g)(1) For purposes of this section, an entity described in paragraph (4) and any officer, employee, or contractor (subject to paragraph (5)) of such an entity who is a physician or other licensed or certified health care practitioner shall be deemed to be an employee of the Public Health Service for a calendar year that begins during a fiscal year for which a transfer of the full amount estimated under subsection (k)(1)(A) was made under subsection (k)(3) (subject to paragraph (3)). The remedy against the United States for an entity described in paragraph (4) and any officer, employee, or contractor (subject to paragraph (5)) of such an entity who is deemed to be an employee of the Public Health Service pursuant to this paragraph shall be exclusive of any other civil action or proceeding to the same extent as the remedy against the United States is exclusive pursuant to subsection (a).

"(2) If, with respect to an entity or person deemed to be an employee for purposes of paragraph (1), a cause of action is instituted against the United States pursuant to this section, any claim of the entity or person for benefits under an insurance policy with respect to medical malpractice relating to such cause of action shall be subrogated to the United States.

"(3) This subsection shall apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1993. This subsection shall not apply with respect to a cause of action arising from an act or omission which occurs on or after January 1, 1996.

"(4) An entity described in this paragraph is a public or nonprofit private entity receiving Federal funds under any of the following grant programs:

"(A) Section 329 (relating to grants for migrant health centers).

"(B) Section 330 (relating to grants for community health centers).

"(C) Section 340 (relating to grants for health services for the homeless).

"(D) Section 340A (relating to grants for health services for residents of public housing).

"(5) For purposes of paragraph (1), an individual may be considered a contractor of an entity described in paragraph (4) only if—

"(A) the individual normally performs on average at least 32½ hours of service per week for the entity for the period of the contract; or

"(B) in the case of an individual who normally performs on average less than 32½ hours of services per week for the entity for the period of the contract and is a licensed or certified provider of obstetrical services—

"(i) the individual's medical malpractice liability insurance coverage does not extend to services performed by the individual for the entity under the contract, or

"(ii) the Secretary finds that patients to whom the entity furnishes services will be deprived of obstetrical services if such individual is not considered a contractor of the entity for purposes of paragraph (1).".

(b) REQUIREMENT OF APPROPRIATE POLICIES AND PROCEDURES REGARDING HEALTH CARE PROFESSIONALS.—Section 224 of the Public Health Service Act, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(h) Notwithstanding subsection (g)(1), the Secretary, in consultation with the Attorney General, may not deem an entity described in subsection (g)(4) to be an employee of the Public Health Service Act for purposes of this section unless the entity—

"(1) has implemented appropriate policies and procedures to reduce the risk of malpractice and the risk of lawsuits arising out of any health or health-related functions performed by the entity;

"(2) has reviewed and verified the professional credentials, references, claims history, fitness, professional review organization findings, and license status of its physicians and other licensed or certified health care practitioners, and, where necessary, has obtained the permission from these individuals to gain access to this information;

"(3) has no history of claims having been filed against the United States as a result of the application of this section to the entity or its officers, employees, or contractors as provided for under this section, or, if such a history exists, has fully cooperated with the Attorney General in defending against any such claims and either has taken, or will take, any necessary corrective steps to assure against such claims in the future; and

"(4) has fully cooperated with the Attorney General in providing information relating to an estimate described under subsection (k).".

(c) AUTHORIZATION FOR THE ATTORNEY GENERAL TO EXCLUDE CERTAIN HEALTH CARE PROFESSIONALS FROM COVERAGE.—Section 224 of the Public Health Service Act, as amended by subsections (a) and (b), is further amended by adding at the end the following new subsection:

"(i)(1) Notwithstanding subsection (g)(1), the Attorney General, in consultation with the Secretary, may determine, after notice and opportunity for a hearing, that an individual physician or other licensed or certified health care practitioner who is an officer,

employee, or contractor of an entity described in subsection (g)(4) shall not be deemed to be an employee of the Public Health Service for purposes of this section, if treating such individual as such an employee would expose the Government to an unreasonably high degree of risk of loss because such individual—

"(A) does not comply with the policies and procedures that the entity has implemented pursuant to subsection (h)(1);

"(B) has a history of claims filed against him or her as provided for under this section that is outside the norm for licensed or certified health care practitioners within the same specialty;

"(C) refused to reasonably cooperate with the Attorney General in defending against any such claim;

"(D) provided false information relevant to the individual's performance of his or her duties to the Secretary, the Attorney General, or an applicant for or recipient of funds under this Act; or

"(E) was the subject of disciplinary action taken by a State medical licensing authority or a State or national professional society.

"(2) A final determination by the Attorney General under this subsection that an individual physician or other licensed or certified health care professional shall not be deemed to be an employee of the Public Health Service shall be effective upon receipt by the entity employing such individual of notice of such determination, and shall apply only to acts or omissions occurring after the date such notice is received.".

SEC. 3. HOSPITAL ADMITTING PRIVILEGES FOR CERTAIN HEALTH CARE PROVIDERS.

Section 224 of the Public Health Service Act, as amended by section 2, is further amended by adding at the end the following new subsection:

"(j) In the case of a health care provider who is an officer, employee, or contractor of an entity described in subsection (g)(4), section 335(e) shall apply with respect to the provider to the same extent and in the same manner as such section applies to any member of the National Health Service Corps.".

SEC. 4. PAYMENT OF JUDGMENTS.

Section 224 of the Public Health Service Act, as amended by sections 2 and 3, is further amended by adding at the end the following new subsection:

"(k)(1)(A) For each of the fiscal years 1993, 1994, and 1995, the Attorney General, in consultation with the Secretary, shall estimate by the beginning of the year (except that an estimate shall be made for fiscal year 1993 by December 31, 1992, subject to an adjustment within 90 days thereafter) the amount of all claims which are expected to arise under this section (together with related fees and expenses of witnesses) for which payment is expected to be made in accordance with section 1346 and chapter 171 of title 28, United States Code, from the acts or omissions, during the calendar year that begins during that fiscal year, of entities described in subsection (g)(4) and of officers, employees, or contractors (subject to subsection (g)(5)) of such entities.

"(B) The estimate under subparagraph (A) shall take into account—

"(i) the value and frequency of all claims for damage for personal injury, including death, resulting from the performance of medical, surgical, dental, or related functions by entities described in subsection (g)(4) or by officers, employees, or contractors (subject to subsection (g)(5)) of such entities who are deemed to be employees of the Public Health Service under subsection (g)(1) that, during the preceding 5-year period, are filed under this section or, with respect to years occurring before this subsection takes effect, are filed against persons other than the United States,

"(ii) the amounts paid during that 5-year period on all claims described in clause (i), regardless of when such claims were filed, adjusted to reflect payments which would not be permitted under section 1346 and chapter 171 of title 28, United States Code, and

"(iii) amounts in the fund established under paragraph (2) but unspent from prior fiscal years.

"(2) Subject to appropriations, for each of the fiscal years 1993, 1994, and 1995, the Secretary shall establish a fund of an amount equal to the amount estimated under paragraph (1) that is attributable to entities receiving funds under each of the grant programs described in paragraph (4) of subsection (g), but not to exceed a total of $30,000,000 for each such fiscal year.

"(3) In order for payments to be made for judgments against the United States (together with related fees and expenses of witnesses) pursuant to this section arising from the acts or omissions of entities described in subsection (g)(4) and of officers, employees, or contractors (subject to subsection (g)(5)) of such entities, the total amount contained within the fund established by the Secretary under paragraph (2) for a fiscal year shall be transferred not later than the December 31 that occurs during the fiscal year to the appropriate accounts in the Treasury.".

SEC. 5. REPORT ON RISK EXPOSURE OF COVERED ENTITIES. 42 USC 233 note.

(a) IN GENERAL.—Not later than April 1, 1995, the Attorney General, in consultation with the Secretary of Health and Human Services (hereafter referred to as the "Secretary"), shall submit a report to Congress on the medical malpractice liability claims experience of entities subject to section 224(g) of the Public Health Service Act (as added by section 2(a)) and the risk exposure associated with such entities.

(b) EFFECT OF LIABILITY PROTECTIONS ON COSTS INCURRED BY COVERED ENTITIES.—The Attorney General's report under subsection (a) shall include an analysis by the Secretary comparing—

(1) the Secretary's estimate of the aggregate amounts that such entities (together with the officers, employees, and contractors of such entities who are subject to section 224(g) of such Act) would have directly or indirectly paid to obtain medical malpractice liability insurance coverage had section 224(g) of the Public Health Service Act not been enacted into law, with

(2) the aggregate amounts by which the grants received

by such entities under the Public Health Service Act were reduced as a result of the enactment of section 224(k)(2) of such Act.

42 USC 233 note.

SEC. 6. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.R. 6183:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-502
102d Congress

Joint Resolution

Authorizing the Go For Broke National Veterans Association Foundation to establish a memorial in the District of Columbia or its environs to honor Japanese American patriotism in World War II.

Oct. 24, 1992
[H.J. Res. 271]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

40 USC 1003 note.

(a) IN GENERAL.—The Go For Broke National Veterans Association Foundation is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor Japanese American patriotism in World War II.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes" approved November 14, 1986 (40 U.S.C. 1001, et seq.).

SEC. 2. PAYMENT OF EXPENSES.

40 USC 1003 note.

The Go For Broke National Veterans Association Foundation shall be solely responsible for acceptance of contributions for, and payment of the expenses of, the establishment of the memorial. No Federal funds may be used to pay any expense of the establishment of the memorial.

SEC. 3. DEPOSIT OF EXCESS FUNDS.

40 USC 1003 note.

If, upon payment of all expenses of the establishment of the memorial (including the maintenance and preservation amount provided for in section 8(b) of the Act referred to in section 1(b)), or upon expiration of the authority for the memorial under section 10(b) of that Act, there remains a balance of funds received for

the establishment of the memorial, the Go For Broke National Veterans Association Foundation shall transmit the amount of the balance to the Secretary of the Treasury for deposit in the account provided for in section 8(b)(1) of that Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.J. Res. 271:

HOUSE REPORTS: No. 102-727 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-503
102d Congress

Joint Resolution

Designating January 16, 1993, as "National Good Teen Day".

Oct. 24, 1992
[H.J. Res. 409]

Whereas Salem City Schools in Salem, Ohio, have proclaimed January 16, 1992, as "Good Teen Day";
Whereas there are more than twenty-four million teenagers in the United States according to the 1990 Census;
Whereas our Nation's teenagers represent an important part of our society, and the many physical and emotional changes and character-building experiences which teenagers go through are an important concern;
Whereas it is easy to stereotype teenagers as either those who have problems or those who excel;
Whereas teenagers should not simply be recognized for their intelligence, abilities, skills and talents, but rather for the good which is inherent in all human beings;
Whereas as unique individuals, teenagers are encouraged to esteem the good as well as the potential that is within each of them;
Whereas a day should be created to focus on the positive qualities in America's youth; and
Whereas teenagers are the future of this great country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 16, 1993, is designated as "National Good Teen Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day by recognizing the teenagers of the United States and by participating in appropriate ceremonies and activities.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.J. Res. 409:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 10, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-504
102d Congress

Joint Resolution

Oct. 24, 1992
[H.J. Res. 429]

Designating May 2, 1993, through May 8, 1993, as "Be Kind to Animals and National Pet Week".

Whereas 1992 marks the 77th anniversary of the American Humane Association's "Be Kind to Animals Week" and the 12th anniversary of "National Pet Week", sponsored by the American Veterinary Medical Association, the Auxiliary to the American Veterinary Medical Association, and the American Animal Hospital Association;

Whereas animals and pets give companionship and pleasure in daily living, share the homes of over 50,000,000 individuals or families in the United States, and provide special benefits to elderly persons and children;

Whereas the people of the United States have a firm commitment to promote responsible care of animals and pets and to guard against cruel and irresponsible treatment;

Whereas teaching kindness and respect for all living creatures through education in schools and communities is essential to the basic values of a humane and civilized society;

Whereas the people of the United States are grateful to the veterinary medical profession for providing preventative and emergency medical care and assistance to animals, spaying and neutering animals to combat overpopulation, and contributing to the education of animal owners; and

Whereas the people of the United States are indebted to animal protection organizations, State humane organizations, and local animal care and control agencies for promoting respect for animals and pets, educating children about humane attitudes, and caring for lost, unwanted, abused, and abandoned animals: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 2, 1993, through May 8, 1993, is designated as "Be Kind to Animals and National Pet Week". The President is authorized and requested to issue a proclamation calling upon the people of the United

States to observe the week with appropriate ceremonies and activities.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.J. Res. 429:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-505
102d Congress

Joint Resolution

Oct. 24, 1992
[H.J. Res. 458]

Designating the week beginning October 25, 1992, as "World Population Awareness Week".

Whereas in 1992 the population of the world exceeds 5,000,000,000 persons and is growing at an unprecedented rate of approximately 90,000,000 persons per year;

Whereas virtually all of this growth is occurring in the poorest countries, those countries least able to provide even basic services for their current citizens;

Whereas the demands of growing populations have contributed substantially to enormous environmental devastation and pose threats of even greater harm to the world;

Whereas one-half of the 10,000,000 infant deaths and one-quarter of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas research reveals that one-half of the women of reproductive age in the developing world want to limit the size of their families but lack the means or ability to gain access to family planning;

Whereas for more than 20 years the global community has recognized that it is a fundamental human right for people to voluntarily and responsibly determine the number and spacing of their children and the United States has been a leading advocate of this right;

Whereas the demands of growing populations force many countries to borrow heavily and sell off their natural resources to cover the interest on their debt;

Whereas selling off natural resources in these circumstances often causes irretrievable losses, such as the destruction of the tropical rain forests at a rate of 50,000 acres per day;

Whereas the reliance of a rapidly growing world population on burning fuels is a critical factor in the emission of carbon dioxide into the atmosphere, which many scientists believe has already catalyzed a warming of the Earth's climate;

Whereas pollution is damaging the ozone layer to such an extent that within 40 years the ultraviolet light reaching our planet is expected to be up to 20 percent greater than it is today; and

Whereas in 1990 and 1991 the Congress designated and President Bush proclaimed "World Population Awareness Week" nationally, and in 1991 37 State Governors proclaimed such week in their States, to call attention to the consequences of rapid population growth: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week

beginning October 25, 1992, is designated as "World Population Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 24, 1992.

LEGISLATIVE HISTORY—H.J. Res. 458:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-506
102d Congress

An Act

Oct. 24, 1992
[S. 1145]

To amend the Ethics in Government Act of 1978 to remove the limitation on the authorization of appropriations for the Office of Government Ethics.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Office of Government Ethics Amendment of 1992.
5 USC app. 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Government Ethics Amendment of 1992".

SEC. 2. REMOVAL OF THE CAP ON THE AUTHORIZATION OF APPROPRIATIONS.

Section 405 of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking "each of the 5 fiscal years thereafter." and inserting "the fiscal year ending September 30, 1990; and"; and

(3) by adding after paragraph (2) the following new paragraph:

"(3) such sums as may be necessary for each of the 4 fiscal years thereafter.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 1145 (H.R. 2828):

HOUSE REPORTS: No. 102-586, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Post Office and Civil Service), both accompanying H.R. 2828.
SENATE REPORTS: No. 102-132 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Aug. 2, considered and passed Senate.
Vol. 138 (1992): Aug. 4, H.R. 2828 considered and passed House; S. 1145, amended, passed in lieu.
Oct. 7, Senate concurred in House amendment.

Public Law 102-507
102d Congress

An Act

To amend the Alzheimer's Disease and Related Dementias Services Research Act of 1986 to reauthorize the Act, and for other purposes.

Oct. 24, 1992
[S. 1577]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alzheimer's Disease Research, Training, and Education Amendments of 1992.
Health and health care.
42 USC 11201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alzheimer's Disease Research, Training, and Education Amendments of 1992".

SEC. 2. SHORT TITLE OF ACT.

(a) IN GENERAL.—Section 901 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 note) is amended by striking "Services Research Act of 1986" and inserting "Research Act of 1992".

(b) CONFORMING AMENDMENT.—The Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11201 et seq.) is amended in the heading for title IX by striking "**SERVICES**".

SEC. 3. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Alzheimer's Disease and Related Dementias Research Act of 1992 (42 U.S.C. 11201 et seq.).

SEC. 4. FINDINGS.

Section 902 (42 U.S.C. 11201) is amended—

(1) by redesignating paragraphs (7) through (12) as paragraphs (9) through (14);

(2) by striking paragraphs (4), (5), and (6); and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the cost of caring for individuals with Alzheimer's disease and related dementias is great, and conservative estimates range between $38,000,000,000 and $42,000,000,000 per year solely for direct costs;

"(5) progress in the neurosciences and behavioral sciences has demonstrated the interdependence and mutual reinforcement of basic science, clinical research, and services research for Alzheimer's disease and related dementias;

"(6) programs initiated as part of the Decade of the Brain are likely to provide significant progress in understanding the fundamental mechanisms underlying the causes of, and treatments for, Alzheimer's disease and related dementias;

"(7) although substantial progress has been made in recent years in identifying possible leads to the causes of Alzheimer's disease and related dementias, and more progress can be expected in the near future, there is little likelihood of a break-

through in the immediate future that would eliminate or substantially reduce—

"(A) the number of individuals with the disease and dementias; or

"(B) the difficulties of caring for the individuals;

"(8) the responsibility for care of individuals with Alzheimer's disease and related dementias falls primarily on their families, and the care is financially and emotionally devastating;".

SEC. 5. COUNCIL ON ALZHEIMER'S DISEASE.

(2) ESTABLISHMENT.—Section 911 (42 U.S.C. 11211) is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "Surgeon General of the United States" and inserting "Surgeon General of the Public Health Service";

(B) in paragraph (6), by striking "and Communicative Diseases" and inserting "Disorders";

(C) by striking paragraphs (10), (11), and (12); and

(D) by adding at the end the following new paragraphs:

"(10) the Administrator of the Agency for Health Care Policy and Research;

"(11) the Administrator of the Health Resources and Services Administration;

"(12) the Director of the National Center for Nursing Research;

"(13) the Chief Medical Director of the Department of Veterans Affairs;

"(14) the Director of the National Center for Health Statistics; and

"(15) such additional members as the Secretary of Health and Human Services (hereinafter referred to as the 'Secretary') considers appropriate.";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) The Assistant Secretary for Health shall serve as the Chairman of the Council."; and

(3) in subsection (d), by striking "twice" and inserting "once".

(b) FUNCTIONS.—Section 912 (42 U.S.C. 11212) is amended—

(1) in subsection (a)—

(A) by adding "and" at the end of paragraph (3);

(B) by striking "; and" at the end of paragraph (4) and inserting a period; and

(C) by striking paragraph (5); and

(2) by striking subsection (b) and inserting the following new subsection:

Reports.

"(b)(1) The Chairman of the Council shall submit to the committees listed in paragraph (2) an annual report containing information on—

"(A) progress made by research, sponsored by the Federal Government, on Alzheimer's disease and related dementias; and

"(B) new directions that the Council considers potentially important in research on Alzheimer's disease and related dementias.

"(2) The Chairman of the Council shall submit the report described in paragraph (1) to—

"(A) the Committee on Energy and Commerce of the House of Representatives;

"(B) the Committee on Ways and Means of the House of Representatives;

"(C) the Committee on Veterans' Affairs of the House of Representatives;

"(D) the Committee on Appropriations of the House of Representatives;

"(E) the Committee on Labor and Human Resources of the Senate;

"(F) the Committee on Finance of the Senate;

"(G) the Committee on Veterans' Affairs of the Senate; and

"(H) the Committee on Appropriations of the Senate.".

SEC. 6. ADVISORY PANEL ON ALZHEIMER'S DISEASE.

(a) ESTABLISHMENT.—Section 921 (42 U.S.C. 11221) is amended—

(1) in subsection (a)(2), by striking "the Director of the National Center for Health Services Research and Health Care Technology Assessment" and inserting "the Administrator of the Agency for Health Care Policy and Research";

(2) in subsection (d), to read as follows:

"(d)(1)(A) Except as provided in subparagraph (B), members of the Panel appointed under subsection (a)(1) shall each serve for a term of 3 years.

"(B) Of the members appointed under subsection (a)(1) that are serving on the Panel on the day before the date of the enactment of this subsection—

"(i) five shall serve for a term that expires on such date;

"(ii) five shall serve for a term that expires 1 year after such date; and

"(iii) five shall serve for a term that expires 2 years after such date.

"(2) A vacancy on the Panel shall be filled in the same manner as the original appointment was made, and not later than 90 days after the date on which the vacancy first arises. A vacancy on the Panel shall not affect the powers of the Panel.";

(3) in subsection (f), by striking "twice" and inserting "once";

(4) in subsection (h), by striking "of $100 per day" and inserting "at the daily equivalent of the maximum rate specified for GS–15 of the General Schedule under section 5332 of title 5, United States Code,"; and

(5) by adding at the end the following new subsection:

"(i) Notwithstanding section 14 of the Federal Advisory Committee Act (5 U.S.C. App.), on September 30, 1996, the Panel shall be abolished and all programs established under this part shall terminate.". Termination date.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 923 (42 U.S.C. 11223) is amended to read as follows:

"SEC. 923. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1992 through 1996.".

SEC. 7. RESEARCH RELATING TO SERVICES FOR INDIVIDUALS WITH ALZHEIMER'S DISEASE AND RELATED DEMENTIAS AND FAMILIES OF THE INDIVIDUALS.

(a) RESPONSIBILITIES OF THE NATIONAL INSTITUTE OF MENTAL HEALTH.—

(1) GRANTS.—Section 931 (42 U.S.C. 11251) is amended—

(A) by striking subsections (b)(2) and (c);

(B) in subsection (a), by inserting "and specialized care" after "services"; and

(C) in subsection (b)(1)—

(i) by striking "Within 6 months" and all that follows through "plan shall" and inserting "The Director of the National Institute of Mental Health shall";

(ii) in subparagraph (A)—

(I) by striking "provide for" and inserting "ensure that the research conducted under subsection (a) includes";

(II) by striking clause (iii) and inserting the following new clause:

"(iii) the optimal range, types, and cost-effectiveness of services and specialized care for individuals with Alzheimer's disease and related dementias and for their families, in community and residential settings (including home care, day care, and respite care), and in institutional settings, particularly with respect to—

"(I) the design of the services and care;

"(II) appropriate staffing for the provision of the services and care;

"(III) the timing of the services and care during the progression of the disease or dementias; and

"(IV) the appropriate mix and coordination of the services and specialized care;";

(III) in clause (iv), by inserting "the evaluation of best practices for the development of" before "appropriate"; and

(IV) in clauses (v) and (vii), by striking "and nursing home services" and inserting "nursing home services, and other residential services and care"; and

(iii) in subparagraph (B), by striking "research carried out under the plan" and inserting "the research".

(2) CONFORMING AMENDMENTS.—Section 931(b) (42 U.S.C. 11251(b)) is amended—

(A) by striking "(1)";

(B) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(C) in paragraph (1) (as redesignated by subparagraph (B) of this paragraph), by redesignating clauses (i) through (vii) as subparagraphs (A) through (G), respectively; and

(D) in paragraph (1)(C) (as so redesignated, and as amended by paragraph (1)(C)(ii)(II) of this subsection), by redesignating subclauses (I) through (IV) as clauses (i) through (iv), respectively.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 933 (42 U.S.C. 11253) is amended to read as follows:

"SEC 933. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1992 through 1996.".

(b) RESPONSIBILITIES OF THE AGENCY FOR HEALTH CARE POLICY AND RESEARCH.—

(1) RESEARCH PROGRAM AND PLAN.—Subpart 2 of part D (42 U.S.C. 11261 et seq.) is amended—

(A) in the heading for the subpart, by striking "National Center" and all that follows and inserting the following: "Agency for Health Care Policy and Research"; and

(B) by striking section 934 and inserting the following new section:

"SEC 934. RESEARCH PROGRAM. 42 USC 11261.

"(a) GRANTS FOR RESEARCH.—The Administrator of the Agency for Health Care Policy and Research shall conduct, or make grants for the conduct of, research relevant to appropriate services for individuals with Alzheimer's disease and related dementias and for their families.

"(b) RESEARCH SUBJECTS.—The Administrator of the Agency for Health Care Policy and Research shall ensure that research conducted under subsection (a) shall include research—

"(1) concerning improving the organization, delivery, and financing of services for individuals with Alzheimer's disease and related dementias and for their families, including research on—

"(A) the design, staffing, and operation of special care units for the individuals in institutional settings, as well as individuals in institutional settings, as well as individuals in home care, day care, and respite care; and

"(B) the exploration and enhancement of services such as home care, day care, and respite care, that provide alternatives to institutional care;

"(2) concerning the costs incurred by individuals with Alzheimer's disease and related dementias and by their families in obtaining services, particularly services that are essential to the individuals and that are not generally required by other patients under long-term care programs;

"(3) concerning the costs, cost-effectiveness, and effectiveness of various interventions to provide services for individuals with Alzheimer's disease and related dementias and for their families;

"(4) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning the role of physicians in caring for persons with Alzheimer's disease and related dementias and for their families, including the role of a physician in connecting such persons with appropriate health care and supportive services, including those supported through State and area agencies on aging designated under section 305(a) (1) and (2)(A) of the Older Americans Act of 1965 (42 U.S.C. 3025(a)(1) and (2)(A)); and

"(5) conducted in consultation with the Director of the National Institute on Aging and the Commissioner of the Administration on Aging, concerning legal and ethical issues,

including issues associated with special care units, facing individuals with Alzheimer's disease and related dementias and facing their families.".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 936 (42 U.S.C. 11263) is amended to read as follows:

"SEC. 936. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subpart such sums as may be necessary for each of the fiscal years 1992 through 1996.".

SEC. 8. TRAINING AND EDUCATIONAL ACTIVITIES.

(a) ACTIVITIES.—Section 962 (42 U.S.C. 11292) is amended to read as follows:

"SEC. 962. EDUCATION OF THE PUBLIC, INDIVIDUALS WITH ALZHEIMER'S DISEASE AND THEIR FAMILIES, AND HEALTH AND LONG-TERM CARE PROVIDERS.

"(a) TRAINING MODELS GRANTS.—

"(1) GRANTS.—The Director of the National Institute on Aging may award grants to eligible entities to assist the entities in developing and evaluating model training programs—

"(A) for—

"(i) health care professionals, including mental health professionals;

"(ii) health care paraprofessionals;

"(iii) personnel, including information and referral, case management, and in-home services personnel (including personnel receiving support under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.)), providing supportive services to the elderly and the families of the elderly;

"(iv) family caregivers providing care and treatment for individuals with Alzheimer's disease and related disorders; and

"(v) personnel of local organizations (including community groups, business and labor groups, and religious, educational, and charitable organizations) that have traditionally not been involved in planning and developing long-term care services; and

"(B) with attention to such variables as—

"(i) curricula development for training and continuing education programs;

"(ii) care setting; and

"(iii) intervention technique.

"(2) ELIGIBLE ENTITY.—To be eligible to receive grants under this subsection, an entity shall be—

"(A) an educational institution providing training and education in medicine, psychology, nursing, social work, gerontology, or health care administration;

"(B) an educational institution providing preparatory training and education of personnel for nursing homes, hospitals, and home or community settings; or

"(C) an Alzheimer's Disease Research Center described in section 445(a) of the Public Health Service Act.

"(b) EDUCATIONAL GRANTS.—The Director of the National Institute on Aging is authorized to make grants to public and nonprofit private entities to assist such entities in establishing

programs, for educating health care providers and the families of individuals with Alzheimer's disease or related disorders, regarding—

"(1) caring for individuals with such diseases or disorders; and

"(2) the availability in the community of public and private sources of assistance, including financial assistance, for caring for such individuals.

"(c) AWARD OF GRANTS.—In awarding grants under this section, the Director of the National Institute on Aging shall—

"(1) award the grants on the basis of merit;

"(2) award the grants in a manner that will ensure access to the programs described in subsections (a) and (b) by rural, minority, and underserved populations throughout the country; and

"(3) ensure that the grants are distributed among the principal geographic regions of the United States.

"(d) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Director of the National Institute on Aging at such time, in such manner, and containing or accompanied by such information, as the Director may reasonably require, including, at a minimum, an assurance that the entity will coordinate programs provided under this section with the State agency designated under section 305(a)(1) of the Older Americans Act of 1965, in the State in which the entity will provide such programs.

"(e) COORDINATION.—The Director of the National Institute on Aging shall coordinate the award of grants under this section with the heads of other appropriate agencies, including the Commissioner of the Administration on Aging.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 964 of such Act (42 U.S.C. 11294) is amended—

(1) by inserting "(a)" after "964.";

(2) in subsection (a), as designated by paragraph (1) of this section, by striking "this part" and inserting "sections 961 and 963"; and

(3) by adding at the end the following new subsection:

"(b) There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1992 through 1996, to carry out section 962.".

SEC. 9. GRANTS FOR PROMOTING INDEPENDENCE AND PREVENTING SECONDARY DISABILITIES IN PERSONS WITH ALZHEIMER'S DISEASE.

Section 445C of the Public Health Service Act (42 U.S.C. 285e-5) is amended by adding at the end the following new subsection:

"(d) the Director of the Institute may develop, or make grants to develop—

"(1) model techniques to—

"(A) promote greater independence, including enhanced independence in performing activities of daily living and instrumental activities of daily living, for persons with Alzheimer's disease and related disorders; and

"(B) prevent or reduce the severity of secondary disabilities, including confusional episodes, falls, bladder and bowel incontinence, and adverse effects of prescription and over-the-counter medications, in such persons; and

"(2) model curricula for health care professionals, health care paraprofessionals, and family caregivers, for training and application in the use of such techniques.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 1577:

SENATE REPORTS: No. 102-242 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 26, considered and passed Senate.
Vol. 138 (1992): Oct. 5, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 102-508
102d Congress

An Act

To increase the safety to humans and the environment from the transportation by pipeline of natural gas and hazardous liquids, and for other purposes.

Oct. 24, 1992
[S. 1583]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pipeline Safety Act of 1992.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Act of 1992". 49 USC app. 1671 note.

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—NATURAL GAS PIPELINE SAFETY

Sec. 101. Environmental protection.
Sec. 102. High-density population areas.
Sec. 103. Increased inspection requirements.
Sec. 104. Excess flow valves.
Sec. 105. Technical pipeline safety standards committee.
Sec. 106. Operator testing.
Sec. 107. Replacement of cast iron pipelines.
Sec. 108. Pipeline facility inspection amendments.
Sec. 109. Gathering lines.
Sec. 110. Revised reporting requirements.
Sec. 111. Authority of Secretary.
Sec. 112. Enforcement.
Sec. 113. Participation in agreement proceedings.
Sec. 114. Authorization of appropriations.
Sec. 115. Customer-owned service lines.
Sec. 116. Additional State standards.
Sec. 117. Underwater abandoned pipeline facilities.
Sec. 118. Natural Gas Pipeline Safety Act of 1968 table of contents.

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

Sec. 201. Environmental protection.
Sec. 202. Environmentally sensitive and high-density population areas.
Sec. 203. Increased inspection requirements.
Sec. 204. Technical Pipeline Safety Standards Committee.
Sec. 205. Operator testing.
Sec. 206. Low internal stress hazardous liquid pipeline facilities.
Sec. 207. Pipeline facility inspection amendments.
Sec. 208. Gathering lines.
Sec. 209. Revised reporting requirements.
Sec. 210. Authority of Secretary.
Sec. 211. Enforcement.
Sec. 212. Emergency flow restricting devices.
Sec. 213. Participation in agreement proceedings.
Sec. 214. Authorization of appropriations.
Sec. 215. Additional State standards.
Sec. 216. Underwater abandoned pipeline facilities.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

Sec. 301. Grants-in-aid authorization.
Sec. 302. Underground storage tanks.
Sec. 303. Pipeline accident investigations.
Sec. 304. One-call enforcement.
Sec. 305. Additional inspectors.
Sec. 306. Development of underground utility location technologies.
Sec. 307. Study of underwater abandoned pipeline facilities.

TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

Sec. 401. Research and Special Programs Administration.

TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS

Sec. 501. Correction to reference to Indian Self-Determination and Education Assistance Act.
Sec. 502. Definitions of HAZMAT employee and employer.
Sec. 503. Technical corrections to section 106.
Sec. 504. Technical correction to section 115.
Sec. 505. Technical corrections to section 116.
Sec. 506. Technical correction to section 118.
Sec. 507. Uniformity of State motor carrier permitting forms and procedures.
Sec. 508. Exemption for certain rail-motor carrier mergers.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Page Avenue extension.
Sec. 602. Rural access.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. ENVIRONMENTAL PROTECTION.

(a) FEDERAL SAFETY STANDARDS AND REPORTS.—Section 3(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)) is amended—

(1) in paragraph (1) by inserting "and the protection of the environment" after "need for pipeline safety";

(2) in paragraph (1)(D) by inserting "and the protection of the environment" after "contribute to public safety"; and

(3) in paragraph (3)(A) by striking "or property" and inserting ", property, or the environment".

(b) CORRECTIVE ACTION.—Section 12(b) of such Act (49 U.S.C. App. 1679b(b)) is amended—

(1) in paragraph (1) by striking "or property," and inserting ", property, or the environment,";

(2) in paragraph (2)(A) by striking "or property," and inserting ", property, or the environment,";

(3) in paragraph (2)(B)—

(A) by striking "or property," and inserting ", property, or the environment,"; and

(B) by striking "or property." and inserting ", property, or the environment."; and

(4) in paragraph (5) by striking "or property." and inserting ", property, or the environment.".

SEC. 102. HIGH-DENSITY POPULATION AREAS.

(a) PIPELINE INVENTORY.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended—

(1) in subsection (f)—

(A) by inserting "(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 21(b))" after "subject to this Act"; and

(B) by inserting after the first sentence the following new sentence: "Such inventory shall also include an identification of each of the pipeline facilities of such operator which pass through an area described in regulations issued under subsection (i)(1)."; and

(2) by adding at the end the following new subsection:

"(i) HIGH-DENSITY POPULATION AREAS.—

"(1) IDENTIFICATION OF FACILITIES.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities, of all pipeline facilities that are located in high-density population areas. Such regulations shall provide for such identification to be carried out through the inventory required under subsection (f). Regulations.

"(2) EXCLUSION OF NATURAL GAS DISTRIBUTION LINES.—Natural gas distribution lines shall not be included among pipeline facilities required to be identified pursuant to paragraph (1).".

(b) MAPS.—Section 3(e)(2) of such Act is amended by inserting "including an identification of areas described in regulations issued under subsection (i)(1)," after "supplementary geographic description,". 49 USC app. 1672.

(c) INSPECTION AND MAINTENANCE PLANS.—Section 13(a)(4) of such Act (49 U.S.C. App. 1680(a)(4)) is amended by inserting "and the protection of the environment" after "public safety".

SEC. 103. INCREASED INSPECTION REQUIREMENTS.

Section 3(g) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(g)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may extend such regulation to require existing transmission facilities, whose basic construction would accommodate an instrumented internal inspection device, to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (i) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline.". Regulations.

SEC. 104. EXCESS FLOW VALVES.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is further amended by adding at the end the following new subsection:

"(j) EXCESS FLOW VALVES.—

"(1) REGULATIONS PRESCRIBING INSTALLATION CIRCUMSTANCES.—Not later than 18 months after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing the circumstances, if any, under which operators of natural gas distribution systems must install excess flow valves in such systems. In prescribing such circumstances, the Secretary shall consider—

"(A) the system design pressure and the system operating pressure;

"(B) the types of customers to which the distribution system supplies natural gas, including hospitals, schools, and commercial enterprises;

"(C) the technical feasibility and cost of the installation of such valves;

"(D) the public safety benefits of the installation of such valves;

"(E) the location of customer meters; and

"(F) such other factors as the Secretary determines to be relevant.

"(2) REGULATIONS PRESCRIBING NOTIFICATION TO CUSTOMERS OF AVAILABILITY.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution systems to notify, in writing, their customers with lines in which excess flow valves are not required by law, but can be installed in accordance with the performance standards developed under paragraph (4)—

"(A) of the availability of excess flow valves for installation in such systems,

"(B) of any safety benefits to be derived from the installation, and

"(C) of any costs associated with the installation.

Such regulations shall provide that, except in circumstances under which the installation is required under paragraph (1), excess flow valves shall be installed at the request of a customer if the customer will pay all costs associated with the installation.

"(3) REPORT.—If the Secretary determines under paragraph (1) that there are no circumstances under which operators must install excess flow valves, the Secretary shall transmit to Congress, not later than 30 days after the date of such determination, a report on the reasons for such determination.

"(4) PERFORMANCE STANDARDS.—Not later than 18 months after the date of the enactment of this paragraph, the Secretary shall develop standards for the performance of excess flow valves used to protect lines in natural gas distribution systems. Such standards shall be incorporated into any regulations issued by the Secretary under this subsection. All installations of excess flow valves shall be made in accordance with such standards.

Regulations.

"(5) APPLICABILITY OF REGULATIONS AND STANDARDS.—Regulations and standards issued under paragraphs (1), (2), and (4) shall only apply to—

"(A) natural gas distribution systems installed after the effective date of such regulations; and

"(B) other natural gas distribution systems where repairs to such system require the replacement of parts

in a manner to accommodate the installation of excess flow valves.".

SEC. 105. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 4 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1673) is amended—

(1) in subsection (a)(3) by striking the period and inserting ", including 2 members who have education, background, or experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development.".

SEC. 106. OPERATOR TESTING.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended—

(1) in the third sentence by striking "may" and inserting "shall"; and

(2) by inserting after the third sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits.".

SEC. 107. REPLACEMENT OF CAST IRON PIPELINES.

Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended by adding at the end the following new subsection:

"(c) REPLACEMENT OF CAST IRON PIPELINES.—The Secretary shall publish a notice as to the availability of the industry guidelines, developed by the Gas Piping Technology Committee, for the replacement of cast iron pipelines. Within 2 years after the industry guidelines become available, the Secretary shall conduct a survey of operators with cast iron pipe in their systems to determine the extent to which each operator has adopted a plan for the safe management and replacement of cast iron, the elements of the plan, including anticipated rate of replacement, and the progress that has been made. Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy), shall not apply to the conduct of such survey. Nothing in this section shall preclude the Secretary from developing such Federal guidelines or regulations with respect to cast iron pipelines as the Secretary deems appropriate.". Public information.

SEC. 108. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following:
"periodic inspection program of—
"(A) all offshore pipeline facilities; and
"(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";
(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and
(5) by adding at the end the following new paragraph:
"(5) SUPPLEMENTARY INITIAL INSPECTION.—
Reports.
"(A) REQUIREMENT.—Not later than—
"(i) 3 years after the date of the enactment of this paragraph; or
"(ii) 6 months after the establishment of standards under subparagraph (D),
whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.
"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).
"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.
"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—
"(i) for what constitutes an exposed pipeline facility; and
"(ii) for what constitutes a hazard to navigation.".

SEC. 109. GATHERING LINES.

(a) DEFINITION OF TRANSPORTATION OF GAS.—
(1) AMENDMENTS.—Section 2(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671(3)) is amended—
(A) by inserting ", other than gathering through regulated gathering lines," after "include the gathering of gas"; and

(B) by inserting ", but such term shall include the movement of gas through regulated gathering lines" after "a nonrural area".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 21 of the Natural Gas Pipeline Safety Act of 1968, as added by subsection (b) of this section. 49 USC app. 1671 note.

(b) REGULATIONS DEFINING GATHERING LINES.—Such Act is further amended by adding at the end the following new section:

"SEC. 21. GATHERING LINES.

Regulations. 49 USC app. 1688.

"(a) GATHERING LINES DEFINED.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term 'gathering line'. In defining such term, the Secretary shall consider functional and operational characteristics of the lines to be included in the definition and shall not be bound by any classifications established by the Federal Energy Regulatory Commission under the Natural Gas Act.

"(b) REGULATED GATHERING LINES DEFINED.—The Secretary shall, within 3 years after the date of the enactment of this section, define by regulation the term 'regulated gathering line'. In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, and the composition of the transported gas in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act.".

SEC. 110. REVISED REPORTING REQUIREMENTS.

(a) PROPERTY DAMAGE THRESHOLD.—Section 5(a)(ii) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(ii)) is amended by striking "$5,000" and inserting "an amount established by the Secretary".

(b) DATE OF ANNUAL REPORT TO CONGRESS.—Section 16(a) of such Act (49 U.S.C. App. 1683(a)) is amended by striking "April 15" and inserting "August 15".

SEC. 111. AUTHORITY OF SECRETARY.

The first sentence of section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)) is amended by striking "when" and inserting "to the extent that".

SEC. 112. ENFORCEMENT.

(a) MAXIMUM CIVIL PENALTY.—Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended by striking "$10,000" and inserting "$25,000".

(b) ENFORCEMENT ORDERS.—Section 14 of such Act (49 U.S.C. App. 1681) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT ORDERS.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such

person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court.".

SEC. 113. PARTICIPATION IN AGREEMENT PROCEEDINGS.

(a) IN GENERAL.—Section 12(b) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679b(b)) is amended by adding at the end the following new paragraph:

Intergovernmental relations.

"(6) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials.".

49 USC app. 1679b note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act.

SEC. 114. AUTHORIZATION OF APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) $6,405,000 for the fiscal year ending September 30, 1992;

"(11) $6,857,000 for the fiscal year ending September 30, 1993;

"(12) $7,000,000 for the fiscal year ending September 30, 1994; and

"(13) $7,500,000 for the fiscal year ending September 30, 1995.".

SEC. 115. CUSTOMER-OWNED SERVICE LINES.

(a) SERVICE LINE MAINTENANCE INFORMATION.—Section 18 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1685) is amended—

(1) by inserting "(a) PUBLIC EDUCATION PROGRAM.—" before "Each person"; and

(2) by adding at the end the following new subsection:

Regulations.

"(b) SERVICE LINE MAINTENANCE INFORMATION.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations requiring operators of natural gas distribution pipelines which do not maintain customer-owned service lines up to building walls to advise their customers of the requirements for maintenance of those lines, any resources known to the operator that could aid customers in doing such maintenance, any information that the operator has concerning the operation and maintenance of its lines that could aid customers, and the potential hazards of not maintaining service lines.".

49 USC app. 1672 note.

(b) MAINTENANCE OF CUSTOMER-OWNED SERVICE LINES.—

(1) DOT SAFETY REVIEW.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct a review of Department of Transportation and State rules, policies, procedures, and other measures with

respect to the safety of customer-owned natural gas service lines, including the effectiveness of such rules, policies, procedures, and other measures. The Secretary of Transportation shall include in the review an evaluation of the extent to which lack of maintenance of customer-owned natural gas service lines raises safety concerns and shall make recommendations regarding maintenance of such lines, including the need for any legislative changes or regulatory action. In conducting the review and developing the recommendations, the Secretary of Transportation shall consider the following factors: State and local law, including law governing private property and rights, and including State pipeline safety regulation of distribution operators; the views of State and local regulatory authorities; the extent of operator compliance with the program for advising customers regarding maintenance of such lines required under section 18(b) of the Natural Gas Pipeline Safety Act of 1968; available accident information; the recommendations of the National Transportation Safety Board; costs; the civil liability implications of distribution operators taking responsibility for customer-owned service lines; and whether the service line maintenance information program required under such section 18(b) sufficiently addresses safety risks and concerns involving customer-owned service lines.

(2) OPERATION AND MAINTENANCE RESPONSIBILITY.—Within 18 months after the date of the enactment of this Act, the Secretary of Transportation shall conduct, with the participation of the operators of natural gas distribution facilities, a survey of owners of customer-owned service lines to determine the views of such owners regarding whether distribution companies should assume responsibility for the operation and maintenance of customer-owned service lines. In conducting the survey, the Secretary of Transportation shall ensure that such customers are aware of any potential safety benefits, any potential implementation issues (including any property rights or cost issues), the recommendations of the National Transportation Safety Board, and accidents that have occurred, related to customer-owned service lines.

(3) APPLICABILITY.—Chapter 35 of title 44, United States Code (relating to coordination of Federal information policy) shall not apply to the conduct of the review or survey under this subsection.

(4) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on the results of the review and survey conducted under this subsection, together with any recommendations (including legislative recommendations) regarding maintenance of customer-owned natural gas service lines.

(c) SAFETY MEASURES.—Section 3 of the Natural Gas Pipeline Safety Act of 1968 (14 U.S.C. App. 1672) is further amended by adding at the end the following new subsection: 49 USC app. 1672.

"(k) SAFETY MEASURES.—The Secretary shall, within 1 year after transmitting the report required by section 115(b) of the Pipeline Safety Act of 1992, taking into consideration such report, and in cooperation and coordination with appropriate State and local authorities, take action, as appropriate, to promote the adop-

tion of measures that would improve the safety of customer-owned service lines.".

SEC. 116. ADDITIONAL STATE STANDARDS.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is further amended by inserting "that has submitted a current certification under section 5(a)" after "Any State agency".

SEC. 117. UNDERWATER ABANDONED PIPELINE FACILITIES.

Section 3(h) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(h)) is further amended by adding at the end the following new paragraph:

"(6) ABANDONED PIPELINE FACILITIES.—

"(A) TREATMENT.—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term 'pipeline facilities' includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility.

"(B) REGULATIONS.—

"(i) IDENTIFICATION OF HAZARDS.—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.

"(ii) OTHER REQUIREMENTS.—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—

"(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and

"(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment.

"(C) REPORTING REQUIREMENTS.—

"(i) FORM.—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.

"(ii) PRE-ENACTMENT ABANDONED PIPELINES.—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location, size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. The Secretary shall, within 18 months after the date of the enactment

of this subsection, specify the manner in which such information shall be reported.

"(iii) MAINTENANCE OF RECORDS BY UNITED STATES.—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

"(iv) COLLISIONS.—The Secretary shall request that State agencies which have information on collisions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

"(D) ABANDONED DEFINED.—For purposes of this paragraph, the term 'abandoned' means permanently removed from service.".

SEC. 118. NATURAL GAS PIPELINE SAFETY ACT OF 1968 TABLE OF CONTENTS.

The first section of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Natural Gas Pipeline Safety Act of 1968'.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title; table of contents.
"Sec. 2. Definitions.
"Sec. 3. Standards established.
"Sec. 4. Technical Pipeline Safety Standards Committee.
"Sec. 5. State certifications and agreements.
"Sec. 6. Standards for LNG facilities.
"Sec. 7. Financial responsibility for certain LNG activities; studies.
"Sec. 8. Judicial review.
"Sec. 9. Cooperation with Federal Energy Regulatory Commission and State commissions.
"Sec. 10. Compliance.
"Sec. 11. Penalties.
"Sec. 12. Specific relief.
"Sec. 13. Inspection and maintenance plans.
"Sec. 14. Powers and duties of the Secretary.
"Sec. 15. Natural gas safety cooperation and coordination.
"Sec. 16. Annual report.
"Sec. 17. Appropriations authorized.
"Sec. 18. Consumer education.
"Sec. 19. Citizen's civil action.
"Sec. 20. Minimum requirements for one-call notification systems.
"Sec. 21. Gathering lines.".

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

SEC. 201. ENVIRONMENTAL PROTECTION.

(a) FEDERAL SAFETY STANDARDS AND REPORTS.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (a)(1) by inserting "and the protection of the environment" after "safe transportation of hazardous liquids";

(2) in subsection (a)(2)(A) by striking "or property" and inserting ", property, or the environment"; and

(3) in subsection (b)(4) by inserting "and the protection of the environment" after "contribute to public safety".

(b) CORRECTIVE ACTION.—Section 209(b) of such Act (49 U.S.C. App. 2008(b)) is amended—

(1) in paragraph (1) by striking "or property," and inserting ", property, or the environment,";

(2) in paragraph (2)(A) by striking "or property," and inserting ", property, or the environment,";

(3) in paragraph (2)(B)—

(A) by striking "or property," and inserting ", property, or the environment,"; and

(B) by striking "or property." and inserting ", property, or the environment.";

(4) in paragraph (3)(C) by inserting "proximity of such areas to environmentally sensitive areas," after "associated with such areas,"; and

(5) in paragraph (5) by striking "or property." and inserting ", property, or the environment.".

SEC. 202. ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.

(a) PIPELINE INVENTORY.—Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended—

(1) in subsection (j)—

(A) by inserting "(and, to the extent the Secretary considers necessary, operators of gathering lines that are not regulated gathering lines as such term is defined pursuant to section 220(b))" after "subject to this title"; and

(B) by inserting after the first sentence the following new sentence: "Such inventory shall also include an identification of each of the pipeline facilities and gathering lines of such operator which pass through an area described in regulations issued under subsection (m), whether or not such pipeline facility or gathering line is otherwise subject to regulation under this Act."; and

(2) by adding at the end the following new subsection:

Regulations.

"(m) ENVIRONMENTALLY SENSITIVE AND HIGH-DENSITY POPULATION AREAS.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall issue regulations establishing criteria for the identification, by operators of pipeline facilities and operators of gathering lines, of—

"(1) all pipeline facilities and gathering lines, whether otherwise subject to regulation under this Act or not, that are located in areas that are described, by the Secretary in consultation with the Administrator of the Environmental Protection Agency, as unusually sensitive to environmental damage in the event of a pipeline accident; and

"(2) all pipeline facilities, whether otherwise subject to regulation under this Act or not, that—

"(A) cross a navigable waterway, as such term is defined by the Secretary by regulation; or

"(B) are located in areas that are described in such criteria as high-density population areas.

Such regulations shall provide for such identification to be carried out through the inventory required under subsection (j). In describ-

ing areas that are unusually sensitive to environmental damage, the Secretary shall consider including earthquake zones and areas subject to substantial ground movements such as landslides; areas where ground water contamination would be likely in the event of the rupture of a pipeline facility; freshwater lakes, rivers, and waterways; and river deltas and other areas subject to soil erosion or subsidence from flooding or other water action, where pipeline facilities are likely to become exposed or undermined.".

(b) MAPS.—Section 203(i)(2) of such Act (49 U.S.C. App. 2002(i)(2)) is amended by inserting "including an identification of areas described in regulations issued under subsection (m)," after "supplementary geographic description,".

(c) INSPECTION AND MAINTENANCE PLANS.—Section 210 of such Act (49 U.S.C. App. 2009) is amended—

(1) in subsection (b)(4) by inserting "and the protection of the environment" after "public safety"; and

(2) in each of subsections (c)(2)(D) and (d)(2)(D) by inserting "the proximity of such areas to areas that are unusually sensitive to environmental damage," after "pipeline facilities are located,".

SEC. 203. INCREASED INSPECTION REQUIREMENTS.

Section 203(k) of the Hazardous Liquids Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(k)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1) FEDERAL SAFETY STANDARDS.—" after "INSPECTION DEVICES.—";

(3) by indenting paragraph (1), as designated by paragraph (2) of this subsection, and moving such paragraph (1) (including subparagraphs (A) and (B), as designated by paragraph (1) of this subsection) 2 ems to the right;

(4) by adding at the end of paragraph (1), as designated by paragraph (2) of this subsection, the following new sentence: "The Secretary may extend such regulation to require existing transmission facilities whose basic construction would accommodate an instrumented internal inspection device to be modified to permit the inspection of such facilities with instrumented internal inspection devices."; and

(5) by adding at the end the following new paragraph:

"(2) PERIODIC INSPECTIONS.—Not later than 3 years after the date of the enactment of this paragraph, the Secretary shall issue regulations requiring the periodic inspection of each pipeline identified pursuant to subsection (m) by the operator of the pipeline. In issuing the regulations, the Secretary shall prescribe the circumstances, if any, under which such inspections shall be conducted with an instrumented internal inspection device. In those circumstances under which an instrumented internal inspection device is not required, the Secretary shall require the use of an inspection method that is at least as effective as the use of such a device in providing for the safety of the pipeline.". Regulations.

SEC. 204. TECHNICAL PIPELINE SAFETY STANDARDS COMMITTEE.

Section 204 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2003) is amended—

(1) in subsection (a)(3) by striking the period and inserting ", including 2 members who have education, background, or

experience in environmental protection or public safety. At least 1 of the members selected under this paragraph shall have no financial interests in the pipeline, petroleum, or natural gas industries."; and

(2) in subsection (b) by inserting after the sixth sentence the following new sentence: "The Committee, if requested by the Secretary, shall make recommendations to the Secretary concerning policy development.".

SEC. 205. OPERATOR TESTING.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended—

(1) in the second sentence by striking "may" and inserting "shall"; and

(2) by inserting after the second sentence the following new sentence: "Such certification may, as the Secretary considers appropriate, be performed by the operator. Such testing and certification shall address the ability to recognize and appropriately react to abnormal operating conditions which may indicate a dangerous situation or a condition exceeding design limits.".

SEC. 206. LOW INTERNAL STRESS HAZARDOUS LIQUID PIPELINE FACILITIES.

Section 203(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(b)) is further amended by inserting after paragraph (4) the following new sentence:
"In exercising any discretion under this Act, the Secretary shall not provide an exception to regulation under this Act for any pipeline facility solely on the basis of the fact that such pipeline facility operates at low internal stress.".

SEC. 207. PIPELINE FACILITY INSPECTION AMENDMENTS.

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is amended—

(1) in paragraph (2)(A) by striking "pipeline facility operators described in paragraph (1)(A)" and inserting "operators of pipeline facilities described in paragraph (3)";

(2) in paragraph (2)(B) by striking "paragraph (1)(A)" and inserting "paragraph (3)";

(3) in paragraph (3) by striking "periodic inspection program" and all that follows through "and its inlets" and inserting the following:
"periodic inspection program of—

"(A) all offshore pipeline facilities; and

"(B) any other pipeline facilities which cross under, over, or through navigable waters, as such term is defined by the Secretary, if the location of such pipeline facilities in such navigable waters could pose a hazard to navigation or public safety, as determined by the Secretary";

(4) in paragraph (4) by striking "offshore pipeline facility" and inserting "pipeline facility described in paragraph (3)"; and

(5) by adding at the end the following new paragraphs:

"(5) TRANSFER PIPELINE FACILITIES.—The Secretary shall not exempt from regulation under this Act any offshore pipeline facility solely on the basis of the fact that such pipeline facility

serves to transfer hazardous liquids in underwater pipelines between vessels and onshore facilities.

"(6) SUPPLEMENTARY INITIAL INSPECTION.—

"(A) REQUIREMENT.—Not later than— Reports.

"(i) 3 years after the date of the enactment of this paragraph; or

"(ii) 6 months after the establishment of standards under subparagraph (D),

whichever occurs first, the operator of each offshore pipeline facility not described in paragraph (1)(A) shall inspect such pipeline facility and report to the Secretary on any portion of the pipeline facility which is exposed or is a hazard to navigation. This subparagraph shall apply only to pipeline facilities between the high water mark and the point where the subsurface is under 15 feet of water, as measured from mean low water.

"(B) EXTENSION.—The Secretary may extend the time period for compliance under subparagraph (A) with respect to a pipeline facility for an additional period of up to 6 months if the operator of the pipeline facility demonstrates to the satisfaction of the Secretary that a good faith effort, with due diligence and care, has failed to enable compliance with the deadline under subparagraph (A).

"(C) PRIOR INSPECTION RECOGNITION.—Any inspection of a pipeline facility which has occurred after October 3, 1989, may be used for compliance with subparagraph (A) if the inspection conforms to the requirements of that subparagraph.

"(D) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within 2 years after the date of the enactment of this paragraph, establish, for the purposes of this paragraph, standards—

"(i) for what constitutes an exposed pipeline facility; and

"(ii) for what constitutes a hazard to navigation.".

SEC. 208. GATHERING LINES.

(a) DEFINITION OF TRANSPORTATION OF HAZARDOUS LIQUIDS.—

(1) AMENDMENTS.—Section 202(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001(3)) is amended—

(A) by striking "any such";

(B) by inserting ", other than regulated gathering lines," after "through gathering lines"; and

(C) by inserting ", but such term shall include the movement of hazardous liquids through regulated gathering lines" after "any of such facilities".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the effective date of the regulations required under section 220 of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (b) of this section. 49 USC app. 2001 note.

(b) REGULATIONS DEFINING GATHERING LINES.—Such Act is further amended by adding at the end the following new section:

49 USC app. 2016. Regulations.

"SEC. 220. GATHERING LINES.

"(a) GATHERING LINES DEFINED.—The Secretary shall, within 2 years after the date of the enactment of this section, define by regulation the term 'gathering lines'.

Regulations.

"(b) REGULATED GATHERING LINES DEFINED.—The Secretary shall, within 3 years after the date of the enactment of this section, define by regulation the term 'regulated gathering lines'. In defining such term, the Secretary shall consider such factors as location, length of line from the well site, operating pressure, throughput, diameter, and the composition of the transported hazardous liquid in determining the types of lines which are functionally gathering but which, due to specific physical characteristics, warrant regulation under this Act. Such definition shall not include crude oil gathering lines that are of a nominal diameter of 6 inches or less, are operated at low pressure, and are located in rural areas that are not unusually sensitive to environmental damage.".

(c) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by adding at the end the following new item:

"Sec. 220. Gathering lines.".

SEC. 209. REVISED REPORTING REQUIREMENTS.

(a) PROPERTY DAMAGE THRESHOLD.—Section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "$5,000" and inserting "an amount established by the Secretary".

(b) DATE OF ANNUAL REPORT TO CONGRESS.—Section 213(a) of such Act (49 U.S.C. App. 2012(a)) is amended by striking "April 15" and inserting "August 15".

SEC. 210. AUTHORITY OF SECRETARY.

The first sentence of section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)) is amended by striking "when" and inserting "to the extent that".

SEC. 211. ENFORCEMENT.

(a) MAXIMUM CIVIL PENALTY.—Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended by striking "$10,000" and inserting "$25,000".

(b) ENFORCEMENT ORDERS.—Section 211 of such Act (49 U.S.C. App. 2010) is amended by adding at the end the following new subsection:

"(f) ENFORCEMENT ORDERS.—In case of contumacy or refusal to obey a subpoena, or refusal to allow officers, employees, or agents authorized by the Secretary to enter, conduct inspections, or examine records and properties for purposes of determining compliance with this Act, by any person who resides, is found, or transacts business within the jurisdiction of any district court of the United States, such district court shall, upon the request of the Attorney General, acting at the request of the Secretary, have jurisdiction to issue to such person an order requiring such person to comply forthwith. Failure to obey such an order is punishable by that court as a contempt of court.".

SEC. 212. EMERGENCY FLOW RESTRICTING DEVICES.

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is further amended by adding at the end the following new subsection:

"(n) EMERGENCY FLOW RESTRICTING DEVICES.—

"(1) SURVEY AND ASSESSMENT.—The Secretary shall, within 2 years after the date of the enactment of this subsection, survey and assess the effectiveness of emergency flow restricting devices (including remotely controlled valves and check valves) and other procedures, systems, and equipment used to detect and locate pipeline ruptures and minimize product releases from pipeline facilities.

"(2) REGULATIONS.—Not later than 2 years after the completion of the survey and assessment required by paragraph (1), the Secretary shall issue regulations prescribing the circumstances under which operators of hazardous liquid pipeline facilities must use emergency flow restricting devices and other procedures, systems, and equipment described in paragraph (1) on such facilities.".

SEC. 213. PARTICIPATION IN AGREEMENT PROCEEDINGS.

(a) IN GENERAL.—Section 209(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2008(b)) is amended by adding at the end the following new paragraph:

"(6) OPPORTUNITY FOR STATE COMMENT.—The Secretary shall provide, to appropriate State officials responsible for pipeline safety in any State in which a pipeline facility is located, notice and an opportunity to comment on any agreement proposed to be entered into by the Secretary to resolve a proceeding initiated under this section with respect to such pipeline facility. Comment submitted under this paragraph shall incorporate comments of affected local officials.". Intergovernmental relations.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day following the date of the enactment of this Act. 49 USC app. 2008 note.

SEC. 214. AUTHORIZATION OF APPROPRIATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting a semicolon; and

(3) by inserting after paragraph (9) the following new paragraphs:

"(10) $1,600,500 for the fiscal year ending September 30, 1992;

"(11) $1,728,500 for the fiscal year ending September 30, 1993;

"(12) $1,866,800 for the fiscal year ending September 30, 1994; and

"(13) $2,000,000 for the fiscal year ending September 30, 1995.".

SEC. 215. ADDITIONAL STATE STANDARDS.

Section 203(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(d)) is further amended by inserting "that has submitted a current certification under section 205(a)" after "Any State agency".

SEC. 216. UNDERWATER ABANDONED PIPELINE FACILITIES.

Section 203(l) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(l)) is further amended by adding at the end the following new paragraph:

"(7) ABANDONED PIPELINE FACILITIES.—

"(A) TREATMENT.—For the purposes of this subsection, except with respect to the initial inspection required under paragraph (1), the term 'pipeline facilities' includes underwater abandoned pipeline facilities. For the purposes of this subsection, in a case where such a pipeline facility has no current operator, the most recent operator of such pipeline facility shall be deemed to be the operator of such pipeline facility.

"(B) REGULATIONS.—

"(i) IDENTIFICATION OF HAZARDS.—In issuing regulations under paragraph (3), the Secretary shall identify what constitutes a hazard to navigation with respect to underwater abandoned pipeline facilities.

"(ii) OTHER REQUIREMENTS.—In issuing regulations under paragraphs (3) and (4) regarding underwater pipeline facilities abandoned after the date of the enactment of this paragraph, the Secretary shall—

"(I) include such requirements as will lessen the potential that such pipeline facilities will pose a hazard to navigation; and

"(II) take into consideration the relationship between water depth and navigational safety and factors relevant to the local marine environment.

"(C) REPORTING REQUIREMENTS.—

"(i) FORM.—The operator of a pipeline facility abandoned after the date of the enactment of this paragraph shall report such abandonment to the Secretary in a manner specifying whether the facility has been properly abandoned according to applicable Federal and State requirements.

"(ii) PRE-ENACTMENT ABANDONED PIPELINES.—Within 3 years after the date of the enactment of this paragraph, the operator of a pipeline facility abandoned before the date of the enactment of this paragraph shall report to the Secretary reasonably available information, including information in the possession of third parties, relating to the abandoned pipeline facility. Such information shall include the location, size, date, and method of abandonment, whether the pipeline had been properly abandoned pursuant to applicable law, and such other relevant information as the Secretary may require. Within 18 months after the date of the enactment of this paragraph, the Secretary shall specify the manner in which such information shall be reported.

"(iii) MAINTENANCE OF RECORDS BY UNITED STATES.—The Secretary shall ensure that the information reported under clause (ii) is maintained by the Federal Government in a manner accessible to the appropriate Federal and State agencies.

"(iv) COLLISIONS.—The Secretary shall request that State agencies which have information on colli-

sions between vessels and underwater pipeline facilities report such information to the Secretary in a timely manner and make a reasonable effort to specify the location, date, and severity of such collisions. Chapter 35 of title 44, United States Code, relating to coordination of Federal information policies, shall not apply to the collection of information under this clause.

"(D) ABANDONED DEFINED.—For purposes of this paragraph, the term 'abandoned' means permanently removed from service.".

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

SEC. 301. GRANTS-IN-AID AUTHORIZATION.

Section 17(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(c)) is amended by striking "and $5,500,000 for the fiscal year ending September 30, 1991" and inserting "$5,500,000 for the fiscal year ending September 30, 1991, $7,750,000 for the fiscal year ending September 30, 1992, $7,750,000 for the fiscal year ending September 30, 1993, $9,000,000 for the fiscal year ending September 30, 1994, and $10,000,000 for the fiscal year ending September 30, 1995".

SEC. 302. UNDERGROUND STORAGE TANKS.

Section 9001(1)(D) of the Solid Waste Disposal Act (42 U.S.C. 6991(1)(D)) is amended to read as follows:

"(D) pipeline facility (including gathering lines)—

"(i) which is regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671 et seq.),

"(ii) which is regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.), or

"(iii) which is an intrastate pipeline facility regulated under State laws as provided in the provisions of law referred to in clause (i) or (ii) of this subparagraph,

and which is determined by the Secretary to be connected to a pipeline or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline,".

SEC. 303. PIPELINE ACCIDENT INVESTIGATIONS.

Section 304(a)(1)(D) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(1)(D)) is amended by inserting "or significant injury to the environment" after "substantial property damage".

SEC. 304. ONE-CALL ENFORCEMENT.

(a) ONE-CALL ENFORCEMENT.—Section 20 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1687) is amended by adding at the end the following new subsections:

"(g) VIOLATIONS.—Any person who knowingly and willfully—

"(1) engages in excavation activities—

"(A) without first using an available one-call notification system to determine the location of underground facilities in the area being excavated; or

"(B) without heeding appropriate location information or markings established by an operator of a natural gas or hazardous liquid pipeline facility; and

"(2) subsequently damages—

"(A) a natural gas pipeline facility resulting in death, serious bodily harm, or actual damage to property exceeding $50,000; or

"(B) a hazardous liquid pipeline facility resulting in death, serious bodily harm, actual damage to property exceeding $50,000, or release of more than 50 barrels of product,

shall, upon conviction, be subject, for each offense, to a fine under title 18, United States Code, imprisonment for a term not to exceed 5 years, or both.

"(h) MARKING OF FACILITIES.—Upon notification by an operator of a damage prevention program or by a contractor, excavator, or other person planning to carry out demolition, excavation, tunneling, or construction in the vicinity of a natural gas or hazardous liquid pipeline facility, the operator of the pipeline facility shall accurately mark, in a reasonable and timely manner, the location of the pipeline facilities in the vicinity of such demolition, excavation, tunneling, or construction.".

(b) TECHNICAL AMENDMENTS.—Subsections (a)(1) and (c)(1) of section 11 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1678) are each amended by inserting "or section 20(h)" after "section 10(a)".

49 USC app. 1679a.

(c) NOTIFICATION OF OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION.—The Secretary of Transportation shall, in consultation with the Occupational Safety and Health Administration, establish procedures to notify such Administration of any pipeline accident in which an excavator, causing damage to a pipeline, may have violated Occupational Safety and Health Administration regulations.

49 USC app. 1682 note.

SEC. 305. ADDITIONAL INSPECTORS.

To the extent and in such amounts as are provided in advance in appropriations Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and retain thereafter an additional 12 employees for regional or field pipeline safety offices above the number of such employees authorized for fiscal year 1992. The primary functions of such additional employees shall be—

(1) to provide technical assistance and training to State pipeline inspectors and to assist in the review and management of pipeline safety grants;

(2) to inspect pipeline facilities, including interstate and intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of section 205 (a) or (b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004 (a) or (b));

(3) to assist the States identified in paragraph (2) in developing hazardous liquid pipeline safety programs that meet such requirements; and

(4) to inspect interstate hazardous liquid pipeline facilities constructed before 1971.

SEC. 306. DEVELOPMENT OF UNDERGROUND UTILITY LOCATION TECHNOLOGIES. 49 USC 112 note.

(a) IN GENERAL.—The Secretary of Transportation shall carry out a research and development program on underground utility location technologies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 307. STUDY OF UNDERWATER ABANDONED PIPELINE FACILITIES. 49 USC app. 1672 note.

(a) STUDY.—The Secretary of Transportation, in consultation with State and other Federal agencies having authority over underwater natural gas and hazardous liquid pipeline facilities and with pipeline owners and operators, the fishing and maritime industries, and other affected groups, shall undertake a study of the abandonment of such pipeline facilities. Such study shall include—

(1) a survey of Federal policies and authorities with respect to abandonment of such pipeline facilities;

(2) an analysis of the extent and nature of the problems currently caused by such pipeline facilities;

(3) an analysis of alternative methods and requirements for abandonment as well as the relevant costs and other factors associated with those alternative methods and requirements;

(4) an analysis of the navigational, safety, and environmental impacts and economic costs associated with the disposition of pipeline facilities permanently removed from service;

(5) an analysis of various factors associated with retroactively imposing requirements on previously abandoned pipeline facilities; and

(6) other matters as may contribute to the development of a recommendation for Federal action.

(b) REPORT TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report on the results of the study undertaken under this section, together with a recommendation for Federal action.

(c) ADDITIONAL AUTHORITY.—Based on the findings of the study undertaken under this section, the Secretary may require, by regulations issued under the Natural Gas Pipeline Safety Act of 1968 or the Hazardous Liquid Pipeline Safety Act of 1979, operators of facilities abandoned before the date of the enactment of this Act to take any additional appropriate actions to prevent hazards to navigation in connection with such facilities.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $300,000 for fiscal years beginning after September 30, 1992. Such funds shall remain available until expended.

TITLE IV—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

SEC. 401. RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.

(a) ESTABLISHMENT.—Chapter 1, title 49, United States Code, is amended by adding at the end the following new section:

"§ 112. Research and Special Programs Administration

"(a) ESTABLISHMENT.—There is established in the Department of Transportation a Research and Special Programs Administration.

"(b) ADMINISTRATOR.—

President.

"(1) APPOINTMENT.—The Administration shall be headed by an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) REPORTING.—The Administrator shall report directly to the Secretary.

"(c) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary of Transportation. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(d) RESPONSIBILITIES OF ADMINISTRATOR.—The Administrator of the Administration shall be responsible for carrying out the following:

"(1) HAZMAT TRANSPORTATION SAFETY.—Duties and powers vested in the Secretary of Transportation with respect to hazardous materials transportation safety, except as otherwise delegated by the Secretary.

"(2) PIPELINE SAFETY.—Duties and powers vested in the Secretary with respect to pipeline safety.

"(3) ACTIVITIES OF VOLPE NATIONAL TRANSPORTATION SYSTEMS CENTER.—Duties and powers vested in the Secretary with respect to activities of the Volpe National Transportation Systems Center.

"(4) OTHER.—Such other duties and powers as the Secretary shall prescribe, including such multimodal and intermodal duties as are appropriate.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall affect any delegation of authority, regulation, order, approval, exemption, waiver, contract, or other administrative act of the Secretary with respect to laws administered through the Research and Special Programs Administration of the Department of Transportation on the date of the enactment of this section.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of such title is amended by adding at the end the following new item:

"112. Research and Special Programs Administration.".

(c) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Administrator, Research and Special Programs Administration.".

TITLE V—HAZARDOUS MATERIALS TRANSPORTATION ACT TECHNICAL AMENDMENTS

SEC. 501. CORRECTION TO REFERENCE TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Section 103(8) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802(8)) is amended by inserting after "Education" the following: "Assistance".

SEC. 502. DEFINITIONS OF HAZMAT EMPLOYEE AND EMPLOYER.

Section 103 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1802) is amended in each of paragraphs (5)(B) and (6)(A)(iii)—

(1) by striking "reconditions" and inserting "manufactures, reconditions,"; and

(2) by inserting "as qualified" after "represented".

SEC. 503. TECHNICAL CORRECTIONS TO SECTION 106.

(a) IN GENERAL.—Section 106 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1805) is amended—

(1) in subsection (c)(1)(C) by inserting "(in other than a bulk packaging)" after "5,000 pounds or more";

(2) in subsection (c)(8) by inserting ", or carries out an activity at more than one location," after "one activity";

(3) in subsection (c)(12) by striking "117(h)" and inserting "117A(h)";

(4) in subsection (d)(5) by striking "this section" and inserting "this subsection"; and

(5) in subsection (d)(5) by inserting ", in quantities established by the Secretary," after "motor carrier".

(b) SUBSECTION DESIGNATION AND HEADING.—Section 8 of the Hazardous Materials Transportation Uniform Safety Act of 1990 is amended by inserting before "Section 106" the first place it appears the following: "(a) IN GENERAL.—". 49 USC app. 1805.

SEC. 504. TECHNICAL CORRECTION TO SECTION 115.

Section 115(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1812(a)) is amended by inserting ", 117A, 118," after "117".

SEC. 505. TECHNICAL CORRECTIONS TO SECTION 116.

Section 116 of the Hazardous Materials Transportation Act (49 U.S.C. App. 1813) is amended—

(1) in subsection (c) by inserting "and" after "alternative routes,"; and

(2) by adding at the end the following new subsection:

"(e) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) HIGH-LEVEL RADIOACTIVE WASTE.—The term 'high-level radioactive waste' has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

"(2) SPENT NUCLEAR FUEL.—The term 'spent nuclear fuel' has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).".

SEC. 506. TECHNICAL CORRECTION TO SECTION 118.

Section 118(d) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1816(d)) is amended by striking "117(h)" and inserting "117A(h)".

SEC. 507. UNIFORMITY OF STATE MOTOR CARRIER PERMITTING FORMS AND PROCEDURES.

(a) WORKING GROUP.—Section 121(a) of the Hazardous Materials Transportation Act (49 U.S.C. App. 1819(a)) is amended—

(1) in paragraph (1) by striking "States that" and inserting "a State to";

(2) in paragraph (1) by striking ", by motor vehicle" and inserting "by motor vehicle in such State and for a State to permit the transportation of hazardous materials in such State"; and

(3) in paragraph (2) by inserting "and permit" before "forms and".

(b) CONSULTATION REQUIREMENT.—Section 121(b) of such Act is amended by inserting "and permit" before "requirements".

SEC. 508. EXEMPTION FOR CERTAIN RAIL-MOTOR CARRIER MERGERS.

Any transaction in which a rail carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter I of chapter 105 of title 49, United States Code (or a person controlled by or affiliated with such a rail carrier) seeks to acquire control of a motor carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of such title shall be exempt from the fourth sentence of section 11344(c) of such title (1) if, during the period between November 30, 1987, and May 1, 1992, such rail carrier or person acquired a minority stock interest in the motor carrier, and (2) if such rail carrier or person (or a person controlled by or affiliated with such rail carrier or person) was authorized by the Commission to provide transportation as a motor carrier before the acquisition of such minority stock interest.

TITLE VI—MISCELLANEOUS PROVISIONS

Missouri.

SEC. 601. PAGE AVENUE EXTENSION.

(a) Upon submission of a request by the State of Missouri for Federal Highway Administration approval of the Page Avenue Extension project (hereinafter cited in this section as "the project"), the Secretary of the United States Department of Transportation (hereinafter cited in this section as "the Secretary") is authorized to waive the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, for the alignment designated by the State of Missouri as the "Red Alignment", as described in the draft environmental impact statement approved by the Federal Highway Administration on May 30, 1990, if:

(1) the Secretary determines that a final environmental impact statement has been completed by the State of Missouri and approved by the Secretary; and

(2) the State of Missouri enters into an enforceable agreement with the Secretary to implement a project mitigation plan that includes, at a minimum— Contracts.

(A) expansion of the Creve Coeur Lake Memorial Park (hereinafter cited in this section as "the Park") in the vicinity of St. Louis, Missouri, by at least 50 percent, through acquisition and addition to the Park of not less than six hundred acres of land;

(B) development of a walking and bicycle path that is not less than ten feet in width and connects the Park to the KATY Trail State Park in St. Charles County, Missouri;

(C) construction of nature trails in the wooded upland portion of the additions to the Park referred to in subparagraph (A);

(D) development of a Wetland Wildlife area that includes lake areas and marshes, trails, observation points, and other environmentally compatible features in the Park or in one of the additions to the Park referred to in subparagraph (A);

(E) dredging of Creve Coeur Lake to help remedy a chronic siltation problem and to promote fish and wildlife populations;

(F) construction of a new lake in one of the additions to the Park referred to in subparagraph (A) to help alleviate the recurrence of a chronic siltation problem in a manner that minimizes, to the maximum extent practicable and in accordance with section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344), the disturbance of any existing wetlands;

(G) design and construction of features to minimize the visual and physical impact of the project in the vicinity of the Park, consistent, to the extent practicable, with recommendations of the design committee established in accordance with subsection (c), including—

(i) the use of textured concrete, as appropriate;

(ii) the minimization of bridge pier sizing in the elevated portion of the project;

(iii) the use of a bridge design that is more aesthetically pleasing than standard elevated roadway designs;

(iv) construction of bridge siderails with materials that are effective noise attenuators to reduce operational noise levels near the bridge;

(v) design and construction of a drainage system to prevent contamination of Creve Coeur Lake and Creve Coeur Creek with pollution from roadway runoff;

(vi) landscaping of the area between the elevated roadway and Creve Coeur Mill Road to enhance visual parameters without compromising road user safety; and

(vii) the placement of signs to direct road users to appropriate park entrances and facilities;

(H) such other mitigation measures as the Secretary may determine are appropriate to ensure that the environmental benefits of the project mitigation plan exceed the environmental damage associated with the project; and

(I) a monetary contribution by the State of Missouri as may be necessary to implement the entire mitigation plan, in an amount not less than $6,000,000, including the payment of not less than $250,000 for facility improvements in the Park, and all funds to develop and implement the mitigation plan shall come from non-Federal sources of funding.

(b) None of the costs to develop or implement the project mitigation plan referred to in subsection (a) shall be considered expenditures pursuant to or in satisfaction of the transportation enhancement requirements of section 133 of title 23, United States Code (as amended by section 1007 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, 105 Stat. 1927–1931).

(c) The Governor of the State of Missouri shall establish a design committee to develop recommendations concerning design and construction features to minimize the visual and physical impact of the project in the vicinity of the Park. The Committee shall include representatives of local elected officials, regional park officials, local community groups, design professionals, environmental organizations, and business organizations.

(d) To the maximum extent practicable, the State of Missouri shall implement the project mitigation plan referred to in subsection (a) prior to the commencement of construction of the Page Avenue Extension project. At a minimum, the mitigation measures specified in subsection (a)(2)(A) and (a)(2)(C) shall be completed prior to commencement of construction of the Page Avenue Extension project.

(e) If the project does not comply with all other requirements of Federal environmental law that are applicable to the project, including sections 134 and 135 of title 23, United States Code (as amended by sections 1024 and 1025 of the Intermodal Surface Transportation Efficiency Act of 1991, Public Law 102–240, 105 Stat. 1955–1962 and 105 Stat. 1962–1965) and all other requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240, 105 Stat. 1914 et seq.), any waiver of the requirements of section 138 of title 23, United States Code and section 303 of title 49, United States Code, granted by the Secretary under the authority of this section shall be stayed pending a determination by the Secretary that the project has been brought into compliance with such other requirements. Any determination by the Secretary under the preceding sentence shall be subject to judicial review.

Pennsylvania.

SEC. 602. RURAL ACCESS.

The table contained in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2037–2042) is amended in item number 52, relating to Bedford Springs, Pennsylvania—

(1) by striking "Bedford Springs,";

(2) by inserting "in Bedford Springs, Pennsylvania," after "access road"; and

(3) by inserting "or other projects in the counties of Bedford, Blair, Fulton, and Huntington, as selected by the State of Pennsylvania" after "therewith".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 1583 (H.R. 1489):

HOUSE REPORTS: No. 102-247, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Public Works and Transportation), both accompanying H.R. 1489.
SENATE REPORTS: No. 102-152 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Oct. 7, considered and passed Senate.
Vol. 138 (1992): Sept. 15, H.R. 1489 considered and passed House; S. 1583, amended, passed in lieu.
Oct. 5, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

Public Law 102-509
102d Congress

An Act

Oct. 24, 1992
[S. 2201]

To authorize the admission to the United States of certain scientists of the independent states of the former Soviet Union and the Baltic states as employment-based immigrants under the Immigration and Nationality Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Soviet Scientists Immigration Act of 1992.
8 USC 1153 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Soviet Scientists Immigration Act of 1992".

8 USC 1153 note.

SEC. 2. DEFINITIONS.

For purposes of this Act—

(1) the term "Baltic states" means the sovereign nations of Latvia, Lithuania, and Estonia;

(2) the term "independent states of the former Soviet Union" means the sovereign nations of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(3) the term "eligible independent states and Baltic scientists" means aliens—

(A) who are nationals of any of the independent states of the former Soviet Union or the Baltic states; and

(B) who are scientists or engineers who have expertise in nuclear, chemical, biological or other high technology fields or who are working on nuclear, chemical, biological or other high-technology defense projects, as defined by the Attorney General.

8 USC 1153 note.

SEC. 3. WAIVER OF JOB OFFER REQUIREMENT.

The requirement in section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)) that an alien's services in the sciences, arts, or business be sought by an employer in the United States shall not apply to any eligible independent states or Baltic scientist who is applying for admission to the United States for permanent residence in accordance with that section.

8 USC 1153 note.

SEC. 4. CLASSIFICATION OF INDEPENDENT STATES SCIENTISTS AS HAVING EXCEPTIONAL ABILITY.

(a) IN GENERAL.—The Attorney General shall designate a class of eligible independent states and Baltic scientists, based on their level of expertise, as aliens who possess "exceptional ability in the sciences", for purposes of section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)), whether or not such scientists possess advanced degrees.

(b) REGULATIONS.—The Attorney General shall prescribe regulations to carry out subsection (a).

(c) LIMITATION.—Not more than 750 eligible independent states and Baltic scientists (excluding spouses and children if accompanying or following to join) within the class designated under subsection

(a) may be allotted visas under section 203(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(2)(A)).

(d) TERMINATION.—The authority of subsection (a) shall terminate 4 years after the date of enactment of this Act.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 2201:

HOUSE REPORTS: No. 102-881, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
May 20, considered and passed Senate.
Sept. 21, considered and passed House, amended.
Oct. 2, Senate concurred in House amendments.

Public Law 102-510
102d Congress

An Act

Oct. 24, 1992
[S. 2322]

To amend title 38, United States Code, to increase, effective as of December 1, 1992, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of such veterans.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Compensation Cost-of-Living Adjustment Act of 1992.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 1992".

38 USC 1114 note.

SEC. 2. DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs shall, as provided in paragraph (2), increase, effective December 1, 1992, the rates of and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation.

(2)(A) The Secretary shall increase each of the rates and limitations in sections 1114, 1115(1), 1162, 1311, 1313, and 1314 of title 38, United States Code, that were increased by the amendments made by the Veterans' Compensation Rate Amendments of 1991 (Public Law 102-152; 105 Stat. 985). The increase shall be made in such rates and limitations as in effect on November 30, 1992, and shall be by the same percentage that benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1, 1992, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(B) In the computation of increased rates and limitations pursuant to subparagraph (A), amounts of $0.50 or more shall be rounded to the next higher dollar amount and amounts of less than $0.50 shall be rounded to the next lower dollar amount.

(b) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (2 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

(c) PUBLICATION REQUIREMENT.—At the same time as the matters specified in section 214(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 1992, the Secretary shall publish in the Federal Register the rates and limitations referred to in subsection (a)(2)(A) as increased under this section. Federal Register, publication.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 2322 (H.R. 4244):

HOUSE REPORTS: No. 102-752 accompanying H.R. 4244 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 102-322 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 28, considered and passed Senate.
Aug. 4, H.R. 4244 considered and passed House; S. 2322, amended, passed in lieu.
Sept. 22, Senate concurred in House amendments with an amendment.
Sept. 30, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 24, Presidential statement.

Public Law 102-511
102d Congress

An Act

Oct. 24, 1992
[S. 2532]

To support freedom and open markets in the independent states of the former Soviet Union, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.
FREEDOM Support Act.
22 USC 5801 note.

SECTION 1. SHORT TITLES.

This Act may be cited as the "Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992" or the "FREEDOM Support Act".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short titles.
Sec. 2. Table of contents.
Sec. 3. Definition of independent states.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Program coordination, implementation, and oversight.
Sec. 103. Report on overall assistance and economic cooperation strategy.
Sec. 104. Annual report.

TITLE II—BILATERAL ECONOMIC ASSISTANCE ACTIVITIES

Sec. 201. Support for economic and democratic development in the independent states.
Sec. 202. Ineligibility for assistance of institutions withholding certain documents of United States nationals.

TITLE III—BUSINESS AND COMMERCIAL DEVELOPMENT

Sec. 301. American Business Centers.
Sec. 302. Business and Agriculture Advisory Council.
Sec. 303. Funding for export promotion activities and capital projects.
Sec. 304. Interagency working group on energy of the Trade Promotion Coordinating Committee.
Sec. 305. Reports to Congress.
Sec. 306. Policy on combatting tied aid practices.
Sec. 307. Technical assistance for the Russian Far East.
Sec. 308. Funding for OPIC programs.

TITLE IV—THE DEMOCRACY CORPS.

Sec. 401. Authorization for establishment of the Democracy Corps.

TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

Sec. 501. Findings.
Sec. 502. Eligibility.
Sec. 503. Nonproliferation and disarmament activities in the independent states.
Sec. 504. Nonproliferation and disarmament fund.
Sec. 505. Limitations on defense conversion authorities.
Sec. 506. Soviet weapons destruction.
Sec. 507. Waiver of certain provisions.
Sec. 508. Notice and reports to Congress.
Sec. 509. International nonproliferation initiative.
Sec. 510. Report on special nuclear materials.
Sec. 511. Research and development foundation.

TITLE VI—SPACE TRADE AND COOPERATION

Sec. 601. Facilitating discussions regarding the acquisition of space hardware, technology, and services from the former Soviet Union.
Sec. 602. Office of Space Commerce.
Sec. 603. Report to Congress.
Sec. 604. Definitions

TITLE VII—AGRICULTURAL TRADE

Sec. 701. Food for Progress Act.
Sec. 702. Definitions for Agricultural Trade Act of 1978.
Sec. 703. Assistance for private voluntary organizations.
Sec. 704. Distribution of aid to the independent states of the former Soviet Union.
Sec. 705. Agricultural fellowship program for middle income countries and emerging democracies.
Sec. 706. Promotion of agricultural exports to emerging democracies.
Sec. 707. Direct credit sales.
Sec. 708. Export credit guarantees.
Sec. 709. Export promotion programs amendments.

TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

Sec. 801. Designation of Edmund S. Muskie Fellowship Program.
Sec. 802. New diplomatic posts in the independent states.
Sec. 803. Occupancy of new chancery buildings.
Sec. 804. Certain positions at United States missions.
Sec. 805. International Development Law Institute.
Sec. 806. Certain Board for International Broadcasting construction activities.
Sec. 807. Exchanges and training and similar programs.

TITLE IX—OTHER PROVISIONS

Sec. 901. Foreign Assistance Act list of communist countries.
Sec. 902. Johnson Act.
Sec. 903. Support for East European Democracy (SEED) Act.
Sec. 904. Peace Corps volunteer training requirements.
Sec. 905. Establishing categories of aliens for purposes of refugee determinations; adjustment of status for certain Soviet and Indochinese parolees.
Sec. 906. Eligibility of Baltic states for nonlethal defense articles.
Sec. 907. Restriction on assistance to Azerbaijan.

TITLE X—INTERNATIONAL FINANCIAL INSTITUTIONS

Sec. 1001. International Monetary Fund quota increase.
Sec. 1002. International Monetary Fund policy changes.
Sec. 1003. Reduction of military spending and promotion of long-term sustainable economic growth by developing nations.
Sec. 1004. Support for macroeconomic stabilization in the independent states of the former Soviet Union.
Sec. 1005. Role of the International Finance Corporation in supporting economic restructuring in the independent states of the former Soviet Union.
Sec. 1006. Authority to agree to amendments to the Articles of Agreement of the International Finance Corporation.
Sec. 1007. Report on debt of the former Soviet Union held by commercial financial institutions.
Sec. 1008. Human rights.
Sec. 1009. Multilateral investment guarantees for the independent states of the former Soviet Union.

SEC. 3. DEFINITION OF INDEPENDENT STATES. 22 USC 5801.

For purposes of this Act, the terms "independent states of the former Soviet Union" and "independent states" mean the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS. 22 USC 5811.

The Congress finds that—

(1) recent developments in Russia and the other independent states of the former Soviet Union present an historic opportunity for a transition to a peaceful and stable international order and the integration of the independent states of the former Soviet Union into the community of democratic nations;

(2) the entire international community has a vital interest in the success of this transition, and the dimension of the problems now faced in the independent states of the former Soviet Union makes it imperative for donor countries and institutions to provide the expertise and support necessary to ensure continued progress on economic and political reforms;

(3) the United States is especially well-positioned because of its heritage and traditions to make a substantial contribution to this transition by building on current technical cooperation, medical, and food assistance programs, by assisting in the development of democratic institutions, and by fostering conditions that will encourage the United States business community to engage in trade and investment;

(4) failure to meet the opportunities presented by these developments could threaten United States national security interests and jeopardize substantial savings in United States defense that these developments have made possible;

(5) the independent states of the former Soviet Union face unprecedented environmental problems that jeopardize the quality of life and the very existence of not only their own peoples but also the peoples of other countries, and it is incumbent on the international community to assist the independent states in addressing these problems and in promoting sustainable use of resources and development;

(6) the success of United States assistance for the independent states of the former Soviet Union depends on—

(A) effective coordination of United States efforts with similar activities of friendly and allied donor countries and of international financial institutions, and

(B) reciprocal commitments by the governments of the independent states to work toward the creation of democratic institutions and an environment hospitable to foreign investment based upon the rule of law, including negotiation of bilateral and multilateral agreements on open trade and investment, adoption of commercial codes, establishment of transparency in regulatory and other governmental decision making, and timely payment of obligations carried over from previous governmental entities; and

(7) trade and investment opportunities in the independent states of the former Soviet Union will generate employment and other economic benefits for the United States as the economies of the independent states of the former Soviet Union begin to realize their enormous potential as both customers and suppliers.

22 USC 5812.

SEC. 102. PROGRAM COORDINATION, IMPLEMENTATION, AND OVERSIGHT.

President.

(a) COORDINATION.—The President shall designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall assistance and economic cooperation strategy for the independent states of the former Soviet Union;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this Act (including the amendments made by this Act);

(3) pursuing coordination with other countries and international organizations with respect to assistance to independent states;

(4) ensuring that United States assistance programs for the independent states are consistent with this Act (including the amendments made by this Act);

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for the independent states; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for the independent states.

(b) EXPORT PROMOTION ACTIVITIES.—Consistent with subsection (a), coordination of activities related to the promotion of exports of United States goods and services to the independent states of the former Soviet Union shall continue to be primarily the responsibility of the Secretary of Commerce, in the Secretary's role as Chair of the Trade Promotion Coordination Committee.

(c) INTERNATIONAL ECONOMIC ACTIVITIES.—Consistent with subsection (a), coordination of activities relating to United States participation in international financial institutions and relating to organization of multilateral efforts aimed at currency stabilization, currency convertibility, debt reduction, and comprehensive economic reform programs shall continue to be primarily the responsibility of the Secretary of the Treasury, in the Secretary's role as Chair of the National Advisory Council on International Monetary and Financial Policies and as the United States Governor of the international financial institutions.

(d) ACCOUNTABILITY FOR FUNDS.—Any agency managing and implementing an assistance program for the independent states of the former Soviet Union shall be accountable for any funds made available to it for such program.

SEC. 103. REPORT ON OVERALL ASSISTANCE AND ECONOMIC COOPERATION STRATEGY. 22 USC 5813.

(a) REQUIREMENT FOR SUBMISSION.—As soon as practicable after the date of enactment of this Act, the coordinator designated pursuant to section 102(a) shall submit to the Congress a report on the overall assistance and economic cooperation strategy for the independent states of the former Soviet Union that is required to be developed pursuant to paragraph (1) of that section.

(b) ASSISTANCE PLAN.—The report submitted pursuant to subsection (a) shall include a plan specifying—

(1) the amount of the funds authorized to be appropriated for fiscal year 1993 by chapter 11 of part I of the Foreign Assistance Act of 1961 proposed to be allocated for each of the categories of activities authorized by section 498 of that Act and to carry out section 301 of this Act (relating to American Business Centers), section 303 of this Act (relating to export promotion activities and capital projects), and title IV of this Act (relating to the Democracy Corps);

(2) the amount of other funds made available for fiscal year 1993 to carry out the Foreign Assistance Act of 1961

proposed to be allocated for assistance under that Act for the independent states of the former Soviet Union; and

(3) the amount of funds available for fiscal year 1993 under the Foreign Assistance Act of 1961 that are proposed to be made to each agency to carry out activities for the independent states under that Act or this Act.

President.
22 USC 5814.

SEC. 104. ANNUAL REPORT.

Not later than January 31 of each year, the President shall submit to the Congress a report on United States assistance for the independent states of the former Soviet Union under this Act or other provisions of law. Each such report shall include—

(1) an assessment of the progress each independent state has made in meeting the standards set forth in section 498A of the Foreign Assistance Act of 1961, including a description of the steps each independent state has taken or is taking toward meeting those standards and a discussion of additional steps that each independent state could take to meet those standards;

(2) a description of the United States assistance for each independent state that was provided during the preceding fiscal year, is planned for the current fiscal year, and is proposed for the coming fiscal year, specifying the extent to which such assistance for the preceding fiscal year and for current fiscal year has actually been delivered;

(3) an assessment of the effectiveness of United States assistance in achieving its purposes; and

(4) an evaluation of the manner in which the "notwithstanding" authority provided in section 498B(j)(1) of the Foreign Assistance Act of 1961, and the "notwithstanding" authority provided in any other provision of law with respect to assistance for the independent states, has been used and why the use of that authority was necessary.

TITLE II—BILATERAL ECONOMIC ASSISTANCE ACTIVITIES

SEC. 201. SUPPORT FOR ECONOMIC AND DEMOCRATIC DEVELOPMENT IN THE INDEPENDENT STATES.

Part I of the Foreign Assistance Act of 1961 is amended by adding after chapter 10 the following:

"CHAPTER 11—SUPPORT FOR THE ECONOMIC AND DEMOCRATIC DEVELOPMENT OF THE INDEPENDENT STATES OF THE FORMER SOVIET UNION

President.
22 USC 2295.

"SEC. 498. ASSISTANCE FOR THE INDEPENDENT STATES.

"The President is authorized to provide assistance to the independent states of the former Soviet Union under this chapter for the following activities:

"(1) URGENT HUMANITARIAN NEEDS.—Meeting urgent humanitarian needs (including those arising from the health effects of exposure to radiation in the Chernobyl region), in particular—

"(A) meeting needs for medicine, medical supplies and equipment, and food, including the nutritional needs of infants such as processed baby food; and

"(B) continuing efforts to rebuild from the earthquake in Armenia.

"(2) DEMOCRACY.—Establishing a democratic and free society by fostering—

"(A) political, social, and economic pluralism;

"(B) respect for internationally recognized human rights and the rule of law;

"(C) the development of institutions of democratic governance, including electoral and legislative processes;

"(D) the institution and improvement of public administration at the national, intergovernmental, regional, and local level;

"(E) the development of a free and independent media;

"(F) the development of effective control by elected civilian officials over, and the development of a nonpolitical officer corps in, the military and security forces; and

"(G) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e).

"(3) FREE MARKET SYSTEMS.—Creating and developing private enterprise and free market systems based on the principle of private ownership of property, including—

"(A) the development of private cooperatives, credit unions, and labor unions;

"(B) the improvement in the collection and analysis of statistical information;

"(C) the reform and restructuring of banking and financial systems; and

"(D) the protection of intellectual property.

"(4) TRADE AND INVESTMENT.—Creating conditions that promote trade and investment, and encouraging participation of the United States private sector in the development of the private sector in the independent states of the former Soviet Union.

"(5) FOOD DISTRIBUTION AND PRODUCTION.—Promoting market-based mechanisms for the distribution of the inputs necessary to agricultural production and for the handling, marketing, storage, and processing of agricultural commodities; encouraging policies that provide incentives for agricultural production; and creating institutions that provide technical and financial support for the agricultural sector.

"(6) HEALTH AND HUMAN SERVICES.—Promoting programs to strengthen and build institutions that provide quality health care and voluntary family planning services, housing, and other services and policies that are components of a social safety net, particularly for infants, children, and people with disabilities.

"(7) EDUCATION AND EDUCATIONAL TELEVISION.—Promoting broad-based educational reform at all levels, in particular—

"(A) by assisting the development of curricula and by making available textbooks, other educational materials, and appropriate telecommunications technologies for the delivery of educational and instructional programming; and

"(B) by assisting the development of the skills necessary to produce educational television programs aimed at promoting basic skills and the human values associated with a democratic society and a free market economy.

"(8) ENERGY EFFICIENCY AND PRODUCTION.—Promoting market-based pricing policies and the transfer of technologies that reduce energy wastage and harmful emissions; supporting developmentally sound capital energy projects that utilize United States advanced coal technologies; and promoting efficient production, use, and transportation of oil, gas, coal, and other sources of energy.

"(9) CIVILIAN NUCLEAR REACTOR SAFETY.—Implementing—

"(A) a program of short-term safety upgrade of civilian nuclear power plants, including the training of power plant personnel, implementation of improved procedures for nuclear power plant operation, the development of effective and independent regulatory authorities, and cost-effective hardware upgrades; and

"(B) a program to retire those civilian nuclear power plants whose capacity could be more cost-effectively replaced through energy efficiency.

"(10) ENVIRONMENT.—Enhancing the human and natural environment and conserving environmental resources, including through—

"(A) facilitation of the adoption of environmentally-sound policies and technologies, environmental restoration, and sustainable use of natural resources;

"(B) promotion of the provision of environmental technology, education, and training by United States businesses, not-for-profit organizations, and institutions of higher education; and

"(C) promotion of cooperative research efforts to validate and improve environmental monitoring of protracted radiation exposure.

"(11) TRANSPORTATION AND TELECOMMUNICATIONS.—Improving transportation and telecommunications infrastructure and management, including intermodal transportation systems to ensure the safe and efficient movement of people, products, and materials.

"(12) DRUG EDUCATION, INTERDICTION, AND ERADICATION.—Promoting drug education, interdiction, and eradication programs.

"(13) MIGRATION.—Protecting and caring for refugees, displaced persons, and other migrants; addressing the root causes of migration; and promoting the development of appropriate immigration and emigration laws and procedures.

22 USC 2295a.

"SEC. 498A. CRITERIA FOR ASSISTANCE TO GOVERNMENTS OF THE INDEPENDENT STATES.

"(a) IN GENERAL.—In providing assistance under this chapter for the government of any independent state of the former Soviet Union, the President shall take into account not only relative need but also the extent to which that independent state is acting to—

"(1) make significant progress toward, and is committed to the comprehensive implementation of, a democratic system based on principles of the rule of law, individual freedoms,

and representative government determined by free and fair elections;

"(2) make significant progress in, and is committed to the comprehensive implementation of, economic reform based on market principles, private ownership, and integration into the world economy, including implementation of the legal and policy frameworks necessary for such reform (including protection of intellectual property and respect for contracts);

"(3) respect internationally recognized human rights, including the rights of minorities and the rights to freedom of religion and emigration;

"(4) respect international law and obligations and adhere to the Helsinki Final Act of the Conference on Security and Cooperation in Europe and the Charter of Paris, including the obligations to refrain from the threat or use of force and to settle disputes peacefully;

"(5) cooperate in seeking peaceful resolution of ethnic and regional conflicts;

"(6) implement responsible security policies, including—

"(A) adhering to arms control obligations derived from agreements signed by the former Soviet Union;

"(B) reducing military forces and expenditures to a level consistent with legitimate defense requirements;

"(C) not proliferating nuclear, biological, or chemical weapons, their delivery systems, or related technologies; and

"(D) restraining conventional weapons transfers;

"(7) take constructive actions to protect the international environment, prevent significant transborder pollution, and promote sustainable use of natural resources;

"(8) deny support for acts of international terrorism;

"(9) accept responsibility for paying an equitable portion of the indebtedness to United States firms incurred by the former Soviet Union;

"(10) cooperate with the United States Government in uncovering all evidence regarding Americans listed as prisoners-of-war, or otherwise missing during American operations, who were detained in the former Soviet Union during the Cold War; and

"(11) terminate support for the communist regime in Cuba, including removal of troops, closing of military facilities, and ceasing trade subsidies and economic, nuclear, and other assistance.

"(b) INELIGIBILITY FOR ASSISTANCE.—The President shall not provide assistance under this chapter—

"(1) for the government of any independent state that the President determines is engaged in a consistent pattern of gross violations of internationally recognized human rights or of international law;

"(2) for the government of any independent state that the President determines has failed to take constructive actions to facilitate the effective implementation of applicable arms control obligations derived from agreements signed by the former Soviet Union;

"(3) for the government of any independent state that the President determines has, on or after the date of enactment of this chapter, knowingly transferred to another country—

"(A) missiles or missile technology inconsistent with the guidelines and parameters of the Missile Technology Control Regime; or

"(B) any material, equipment, or technology that would contribute significantly to the ability of such country to manufacture any weapon of mass destruction (including nuclear, chemical, and biological weapons) if the President determines that the material, equipment, or technology was to be used by such country in the manufacture of such weapon;

"(4) for the government of any independent state that is prohibited from receiving such assistance by section 669 or 670 of this Act or sections 306(a)(1) and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991; or

"(5) for the Government of Russia if it has failed to make significant progress on the removal of Russian or Commonwealth of Independent States troops from Estonia, Latvia, and Lithuania or if it has failed to undertake good faith efforts, such as negotiations, to end other military practices that violate the sovereignty of the Baltics states.

"(c) EXCEPTIONS TO INELIGIBILITY.—Assistance prohibited by subsection (b) or any similar provision of law, other than assistance prohibited by the provisions referred to in subsection (b)(4), may be furnished under any of the following circumstances:

"(1) The President determines that furnishing such assistance is important to the national interest of the United States.

"(2) The President determines that furnishing such assistance will foster respect for internationally recognized human rights and the rule of law or the development of institutions of democratic governance.

"(3) The assistance is furnished for the alleviation of suffering resulting from a natural or man-made disaster.

President. Reports.

The President shall immediately report to the Congress any determination under paragraph (1) or (2) or any decision to provide assistance under paragraph (3).

22 USC 2295b.

"SEC. 498B. AUTHORITIES RELATING TO ASSISTANCE AND OTHER PROVISIONS.

"(a) ASSISTANCE THROUGH GOVERNMENTS AND NONGOVERNMENTAL ORGANIZATIONS.—Assistance under this chapter may be provided to governments or through nongovernmental organizations.

"(b) TECHNICAL AND MANAGERIAL ASSISTANCE.—Technical assistance under this chapter shall, to the maximum extent feasible, be provided on a long term, on-site basis and shall emphasize the provision of practical, management and other problem-solving advice, particularly advice on private enterprise provided by United States business volunteers.

"(c) ENTERPRISE FUNDS.—Activities supported pursuant to this chapter may include the establishment of and the provision of support for one or more enterprise funds for the independent states of the former Soviet Union. If the President determines that an enterprise fund should be established and supported under this chapter, the provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that

section) shall be deemed to apply with respect to such enterprise fund and to funds made available to such enterprise fund pursuant to this chapter.

"(d) COOPERATIVE DEVELOPMENT AND RESEARCH PROJECTS.—Assistance under this chapter may include support for cooperative development projects, including cooperative development research projects, among the United States, other countries, and independent states of the former Soviet Union.

"(e) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in the independent states of the former Soviet Union under paragraph (2)(G) of section 498, the President may exercise the same authorities as are available under section 534 of this Act, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

"(f) USE OF ECONOMIC SUPPORT FUNDS.—Any funds that have been allocated under chapter 4 of part II for assistance for the independent states of the former Soviet Union may be used in accordance with the provisions of this chapter.

"(g) USE OF SEED AGENCY FUNDS AND ADMINISTRATIVE AUTHORITIES.—The President may authorize any agency of the United States Government that has authority to conduct activities under the Support for East European Democracy (SEED) Act of 1989 to use—

"(1) any funds that are available to it for activities related to international affairs outside Eastern Europe, and

"(2) any administrative authorities that are available to it for activities with respect to Eastern Europe,

to conduct activities authorized by section 498 with respect to the independent states of the former Soviet Union.

"(h) PROCUREMENT RESTRICTIONS.—Funds made available for assistance under this chapter may be used for procurement—

"(1) in the United States, the independent states of the former Soviet Union, or a developing country; or

(2) in any other country but only if—

"(A) the provision of such assistance requires commodities or services of a type that are not produced in and available for purchase in any country specified in paragraph (1); or

"(B) the President determines, on a case-by-case basis, that procurement in such other country is necessary—

"(i) to meet unforseen circumstances, such as emergency situations, where it is important to permit procurement in a country not specified in paragraph (1), or

"(ii) to promote efficiency in the use of United States foreign assistance resources, including to avoid impairment of foreign assistance objectives.

"(i) TERMS AND CONDITIONS.—Assistance under this chapter shall be provided on such terms and conditions as the President may determine, consistent with applicable provisions of law (except as otherwise provided in subsection (j)).

"(j) WAIVER OF CERTAIN PROVISIONS.—

"(1) IN GENERAL.—Funds authorized to be appropriated for fiscal year 1993 by this chapter, and any other funds appropriated for fiscal year 1993 that are used under the authority of subsection (f) or (g), may be used to provide assistance

under this chapter notwithstanding any other provision of law, except for—

"(A) this chapter;

"(B) section 634A of this Act and comparable notification requirements contained in sections of the annual foreign operations, export financing, and related programs Act;

"(C) sections 669 and 670 of this Act and sections 306 and 307 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1961, to the extent that they apply to assistance to governments; and

"(D) section 1341 of title 31, United States Code (commonly referred to as the 'Anti-Deficiency Act'), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

"(2) NUCLEAR REACTOR SAFETY AND RELATED ACTIVITIES.—Any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology) shall not apply with respect to funds used pursuant to this chapter.

"(k) DEFINITIONS.—

"(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this chapter, the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

"(2) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—As used in this chapter, the terms 'independent states of the former Soviet Union' and 'independent states' have the meaning given those terms by section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992.

22 USC 2295c.

"SEC. 498C. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this chapter, there are authorized to be appropriated to the President for fiscal year 1993 $410,000,000, in addition to amounts otherwise available for assistance for the independent states of the former Soviet Union. Amounts appropriated pursuant to this subsection are authorized to remain available until expended.

"(b) OPERATING EXPENSES.—

"(1) AUTHORITY TO TRANSFER PROGRAM FUNDS.—Subject to paragraph (2), funds made available under subsection (a) may be transferred to, and merged with, funds appropriated for 'Operating Expenses of the Agency for International Development'. Funds so transferred may be expended for administrative costs in carrying out this chapter, including reimbursement of the Department of State for its incremental costs associated with assistance provided under this chapter.

"(2) LIMITATION ON AMOUNT TRANSFERRED.—Not more than 2 percent of the funds made available for a fiscal year under subsection (a) may be transferred pursuant to paragraph (1) unless, at least 15 days before transferring any additional amount, the President notifies the appropriate congressional

committees in accordance with the procedures applicable to reprogramming notifications under section 634A of this Act.".

SEC. 202. INELIGIBILITY FOR ASSISTANCE OF INSTITUTIONS WITHHOLDING CERTAIN DOCUMENTS OF UNITED STATES NATIONALS.

22 USC 2295a note.

(a) PROHIBITION.—Except as provided in subsections (b) and (c), an agency, instrumentality, or other governmental entity of an independent state of the former Soviet Union shall not be eligible to receive assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 if—

(1) on the date of enactment of this Act, there is outstanding a final judgment by a court of competent jurisdiction in that independent state that that governmental entity is withholding unlawfully books or other documents of religious or historical significance that are the property of United States persons; and

(2) within 90 days of a request by such United States persons, the Secretary of State determines that execution of the court's judgment is blocked as the result of extrajudicial causes such as any of the following:

(A) A declared refusal of the defendant to comply.

(B) The unwillingness or failure of local authorities to enforce compliance.

(C) The issuance of an administrative decree nullifying a court's judgment or forbidding compliance.

(D) The passage of legislation, after a court's judgment, nullifying that judgment or forbidding compliance with that judgment.

(b) EXCEPTION FOR HUMANITARIAN ASSISTANCE.—The prohibition contained in subsection (a) shall not apply to the provision of assistance to alleviate suffering resulting from a natural or man-made disaster.

(c) WAIVER AUTHORITY.—The Secretary of State may waive the application of subsection (a) whenever the Secretary finds that—

(1) the court's judgment has been executed; or

(2) it is important to the national interest of the United States to do so.

(d) REPORT.—Nine months after the date of enactment of this Act, the Secretary of State shall report to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate on the status of final judgments described in subsection (a)(1).

(e) UNITED STATES PERSON.—For purposes of this section, the term "United States person" means—

(1) any citizen, national, or permanent resident alien of the United States; and

(2) any corporation, partnership, or other juridical entity which is 50 percent or more beneficially owned by individuals described in paragraph (1).

TITLE III—BUSINESS AND COMMERCIAL DEVELOPMENT

President.
22 USC 5821.

SEC. 301. AMERICAN BUSINESS CENTERS.

(a) ESTABLISHMENT.—The President is authorized and encouraged to establish American Business Centers in the independent states of the former Soviet Union receiving assistance under chapter 11 of part I of the Foreign Assistance Act of 1961 where the President determines that such centers can be cost-effective in promoting the objectives described in section 498 of that Act and United States economic interests and in establishing commercial partnerships between the people of the United States and the peoples of the independent states.

(b) ENVIRONMENTAL BUSINESS CENTERS AND AGRIBUSINESS CENTERS.—For purposes of this section, the term "American Business Centers" includes the following:

(1) Environmental business centers in those independent states that offer promising market possibilities for the export of United States environmental goods and services. To the maximum extent practicable, these environmental business centers should be established as a component of other centers.

(2) Agribusiness centers that include the participation of private United States agribusinesses or agricultural cooperatives, private nonprofit organizations, State universities and land grant colleges, and financial institutions, that make appropriate contributions of equipment, materials, and personnel for the operation of such centers. The purposes of these agribusiness centers shall be—

(A) to enhance the ability of farmers and other agribusiness practitioners in the independent states to better meet the needs of the people of the independent states;

(B) to assist the transition from a command and control system in agriculture to a free market system; and

(C) to facilitate the demonstration and use of United States agricultural equipment and technology.

(c) ADDITIONAL POLICY GUIDANCE.—To the maximum extent possible, and consistent with the particular purposes of the specific types of centers, the President should direct that—

(1) the American Business Centers established pursuant to this section place special emphasis on assistance to United States small- and medium-sized businesses to facilitate their entry into the commercial markets of the independent states;

(2) such centers offer office space, business facilities, and market analysis services to United States firms, trade associations, and State economic development offices on a user-fee basis that minimizes the cost of operating such centers;

(3) such centers serve as a repository for commercial, legal, and technical information, including environmental and export control information;

(4) such centers identify existing or potential counterpart businesses or organizations that may require specific technical coordination or assistance;

(5) such centers be established in several sites in the independent states; and

(6) host countries be asked to make appropriate contributions of real estate and personnel for the establishment and operation of such centers.

(d) FUNDING.—

(1) REIMBURSEMENT AGREEMENT.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Agency for International Development shall conclude a reimbursement agreement with the Secretary of Commerce for the Department of Commerce's services in establishing and operating American Business Centers pursuant to this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961, up to $12,000,000 for fiscal year 1993 are authorized to be appropriated to carry out this section, in addition to amounts otherwise available for such purpose.

SEC. 302. BUSINESS AND AGRICULTURE ADVISORY COUNCIL.

President.
22 USC 5822.

(a) ESTABLISHMENT.—The President is authorized to establish an advisory council to be known as the Independent States Business and Agriculture Advisory Council (hereinafter in this section referred to as the "Council")—

(1) to consult with and advise the President periodically regarding programs of assistance for the independent states of the former Soviet Union; and

(2) to evaluate, and consult periodically with the President regarding, the adequacy of bilateral and multilateral assistance programs that would facilitate exports by United States companies to, and investments by United States companies in, the independent states.

(b) MEMBERSHIP.—The Council should consist of 15 members, appointed by the President, who are drawn from United States companies reflecting diverse businesses and perspectives that have experience and expertise in dealing with the independent states of the former Soviet Union. The President should designate one such member to serve as Chair of the Council. Five such members should be appointed upon the recommendation of the Speaker and the Minority Leader of the House of Representatives and 5 should be appointed upon the recommendation of the Majority Leader and Minority Leader of the Senate. Members of the Council shall receive no compensation from the United States Government by reason of their service on the Council.

(c) STAFF.—Upon request of the Chair of the Council, the head of any United States Government agency may detail, on a nonreimbursable basis, any of the personnel of such agency to the Council to assist the Council.

SEC. 303. FUNDING FOR EXPORT PROMOTION ACTIVITIES AND CAPITAL PROJECTS.

22 USC 5823.

(a) ALLOCATION OF A.I.D. FUNDS.—The President is encouraged to use a portion of the funds made available for the independent states of the former Soviet Union under chapter 11 of part I of the Foreign Assistance Act of 1961—

(1) to fund the export promotion, finance, and related activities carried out pursuant to subsection (b)(1), including activities relating to the export of intermediary goods; and

(2) to fund capital projects, including projects for telecommunications, environmental cleanup, power production, and energy related projects.

(b) EXPORT PROMOTION, FINANCE, AND RELATED ACTIVITIES.—The Secretary of Commerce, as Chair of the Trade Promotion Coordination Committee, should, in conjunction with other members of that committee, design and implement programs to provide adequate commercial and technical assistance to United States businesses seeking markets in the independent states of the former Soviet Union, including the following:

(1) Increasing the United States and Foreign Commercial Service presence in the independent states, in particular in the Russian Far Eastern cities of Vladivostok and Khabarovsk.

(2) Preparing profiles of export opportunities for United States businesses in the independent states and providing other technical assistance.

(3) Utilizing the Market Development Cooperator Program under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723).

(4) Developing programs specifically for the purpose of assisting small- and medium-sized businesses in entering commercial markets of the independent states. In carrying out this paragraph, the Secretary of Commerce, to the extent possible, should work directly with private sector organizations with proven experience in trade and economic relations with the independent states.

(5) Supporting projects undertaken by the United States business community on the basis of partnership, joint venture, contractual, or other cooperative agreements with appropriate entities in the independent states.

(6) Supporting export finance programs, feasibility studies, political risk insurance, and other related programs through increased funding and flexibility in the implementation of such programs.

(7) Supporting the Business Information Service (BISNIS) and its related programs.

22 USC 5824.

SEC. 304. INTERAGENCY WORKING GROUP ON ENERGY OF THE TRADE PROMOTION COORDINATING COMMITTEE.

The Trade Promotion Coordinating Committee should utilize its interagency working group on energy to assist United States energy sector companies to develop a long-term strategy for penetrating the energy market in the independent states of the former Soviet Union. The working group should—

(1) work with officials from the independent states in creating an environment conducive to United States energy investment;

(2) help to coordinate assistance to United States companies involved with projects to clean up former Soviet nuclear weapons sites and commercial nuclear waste; and

(3) work with representatives from United States business and industry involved with the energy sector to help facilitate the identification of business opportunities, including the promotion of oil, gas, and clean coal technology and products, energy efficiency, and the formation of joint ventures between United States companies and companies of the independent nations.

SEC. 305. REPORTS TO CONGRESS. 22 USC 5825.

Not later than January 31 of each year (beginning in 1994), the Secretary of Commerce shall submit to the Congress a report—

(1) describing the implementation of the preceding sections of this title;

(2) analyzing the programs of other industrialized nations to assist their companies with their efforts to transact business in the independent states of the former Soviet Union, and

(3) examining the trading practices of other Organization for Economic Cooperation and Development nations, as well as the pricing practices of transitional economies in the independent states, that may disadvantage against United States companies.

SEC. 306. POLICY ON COMBATTING TIED AID PRACTICES. 22 USC 5826.

Should the Secretary of the Treasury determine that foreign countries are engaged in tied aid practices with respect to any of the independent states of the former Soviet Union that violate the 1991 Helsinki agreement of the Organization for Economic Cooperation and Development, the President should give priority attention to combatting such practices.

SEC. 307. TECHNICAL ASSISTANCE FOR THE RUSSIAN FAR EAST. 22 USC 5827.

(a) AUTHORIZATION.—The President is authorized to provide technical assistance, through an American university in a region which received nonstop air service to and from the Russian Far East as of July 1, 1992, to facilitate the development of United States business opportunities, free markets, and democratic institutions in the Russian Far East.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 to carry out subsection (a).

SEC. 308. FUNDING FOR OPIC PROGRAMS. 22 USC 5828.

(a) AUTHORITY TO MAKE ADDITIONAL FUNDS AVAILABLE.—Funds authorized to be appropriated for fiscal year 1993 to carry out chapter 11 of part I of the Foreign Assistance Act of 1961 may be made available to cover costs incurred by the Overseas Private Investment Corporation in carrying out programs with respect to the independent states of the former Soviet Union under title IV of chapter 2 of part I of that Act (22 U.S.C. 2191 and following), in addition to amounts otherwise available for that purpose.

(b) ENACTMENT OF OPIC AUTHORIZATION ACT.—The authority of subsection (a) shall cease to be effective upon the enactment of the Overseas Private Investment Corporation Act Amendments Act of 1992. Termination date.

TITLE IV—THE DEMOCRACY CORPS

SEC. 401. AUTHORIZATION FOR ESTABLISHMENT OF THE DEMOCRACY CORPS. 22 USC 5841.

(a) ESTABLISHMENT; PURPOSE.—The President is authorized to provide for the establishment of the Democracy Corps as a private nonprofit organization, incorporated in the District of Columbia, whose purpose shall be to maintain a presence in the independent states of the former Soviet Union as described in subsection (c).

(b) BOARD OF DIRECTORS.—The Board of Directors of the Democracy Corps shall have not more than 10 members, appointed by the President. Individuals appointed to the Board—

(1) shall, individually or through the organizations they represent, have experience and expertise appropriate to carrying out the purpose of the Democracy Corps, including involvement either with activities of the type described in subsection (d) or in the independent states;

(2) shall be United States citizens; and

(3) may not be officers or employees of the United States Government or Members of Congress.

(c) GRANTS TO THE DEMOCRACY CORPS; PURPOSE.—The Administrator is authorized to make an annual grant to the Democracy Corps with the funds made available pursuant to this section. The purpose of such grants shall be to enable the Democracy Corps to maintain a presence in independent states of the former Soviet Union that will assist at the local level in the development of—

(1) institutions of democratic governance (including judicial, electoral, legislative, and administrative processes), and

(2) the nongovernmental organizations of a civil society (including charitable, educational, trade union, business, professional, voluntary, community, and other civic organizations),

by mobilizing the expertise of the American people to provide practical assistance through "on the ground" person-to-person advice, technical assistance, and small grants to indigenous individuals and indigenous entities, in accordance with subsection (d).

(d) ACTIVITIES.—The Democracy Corps shall be required to carry out its purpose through the placement within the independent states of teams of United States citizens with appropriate expertise and knowledge. Under guidelines developed by the Board, these teams shall assist indigenous individuals and entities in the independent states that are involved in the development of the institutions and organizations referred to in paragraphs (1) and (2) of subsection (c) by—

(1) providing advice and technical assistance;

(2) making small grants (which in most cases should not exceed $5,000) to such individuals and entities to assist the development of those institutions and organizations;

(3) identifying other sources of assistance; and

(4) operating local centers to serve as information, logistical, and educational centers and otherwise encourage cooperation and effectiveness by those involved in the development of democratic institutions, a market-oriented economy, and a civil society in the independent states.

These local centers may be designated as "Democracy Houses" or given another appropriate appellation.

(e) GRANT AGREEMENT.—Grants under this section shall be made pursuant to a grant agreement requiring the Democracy Corps to comply with the requirements specified in this section and with such other terms and conditions as the Administrator may require, which shall include requirements regarding consultation with the coordinator designated pursuant to section 102(a), conflicts of interest, and accountability for funds, including a requirement for annual independent audits.

(f) COORDINATION.—The Democracy Corps shall be required to—

(1) coordinate its activities pursuant to this section with the programs and activities of other entities operating in or providing assistance to the independent states of the former Soviet Union in support of the development of democratic institutions, a market-oriented economy, and a civil society; and

(2) ensure that its activities pursuant to this section are designed to avoid duplication with activities carried out under other United States Government foreign assistance and international information, educational, cultural, and exchange programs.

(g) PROHIBITION ON CAMPAIGN FINANCING.—Funds made available to the Democracy Corps under this section may not be expended by the Democracy Corps, or any recipient of a grant from the Democracy Corps, to finance the campaigns of candidates for public office.

(h) FREEDOM OF INFORMATION.—

(1) IN GENERAL.—Notwithstanding the fact that the Democracy Corps is not an agency or establishment of the United States Government, the Democracy Corps shall be required to comply fully with all of the provisions of section 552 of title 5, United States Code.

(2) PUBLICATION IN FEDERAL REGISTER.—For purposes of complying pursuant to paragraph (1) with section 552(a)(1) of title 5, the Democracy Corps shall make available to the Administrator such records and other information as the Administrator determines may be necessary for such purposes. The Administrator shall cause such records and other information to be published in the Federal Register. Records.

(3) AID REVIEW.—In the event that the Democracy Corps determines not to comply with a request for records under section 552 of title 5, the Democracy Corps shall submit a report to the Administrator explaining the reasons for not complying with such request. If the Administrator approves such determination, the Agency for International Development shall assume full responsibility, including financial responsibility, for defending the Democracy Corps in any litigation relating to such request. If the Administrator disapproves such determination, the Democracy Corps shall be required to comply with such request. Reports.

(i) ANNUAL REPORTS.—The Board shall be required to submit to the Administrator and the Congress, not later than January 31 each year, a comprehensive report on the activities of the Democracy Corps. Each such report shall list each grant made by the Democracy Corps under subsection (d)(2) during the preceding fiscal year, specifying the grantee and the amount of the grant.

(j) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated to carry out chapter 11 of part I of the Foreign Assistance Act of 1961, up to $15,000,000 for fiscal year 1993 are authorized to be appropriated for grants to the Democracy Corps under this section, in addition to amounts otherwise available for such purpose.

(k) SUNSET PROVISION.—Grants may not be made to the Democracy Corps under this section after the end of fiscal year 1997.

(l) DEFINITIONS.—As used in this section—

(1) the term "Administrator" means the Administrator of the Agency for International Development; and

(2) the term "Board" means the Board of Directors of the Democracy Corps.

TITLE V—NONPROLIFERATION AND DISARMAMENT PROGRAMS AND ACTIVITIES

22 USC 5851.

SEC. 501. FINDINGS.

The Congress finds that it is in the national security interest of the United States—

(1) to facilitate, on a priority basis—

(A) the transportation, storage, safeguarding, and destruction of nuclear and other weapons of mass destruction of the independent states of the former Soviet Union;

(B) the prevention of proliferation of weapons of mass destruction and destabilizing conventional weapons of the independent states, and the establishment of verifiable safeguards against the proliferation of such weapons;

(C) the prevention of diversion of weapons-related scientific expertise of the former Soviet Union to terrorist groups or third countries; and

(D) other efforts designed to reduce the military threat from the former Soviet Union;

(2) to support the conversion of the massive defense-related industry and equipment of the independent states of the former Soviet Union for civilian purposes and uses; and

(3) to expand military-to-military contacts between the United States and the independent states.

22 USC 5852.

SEC. 502. ELIGIBILITY.

Funds may be obligated for a fiscal year for assistance or other programs or activities for an independent state of the former Soviet Union under sections 503 and 504 only if the President has certified to the Congress, during that fiscal year, that such independent state is committed to—

(1) making a substantial investment of its resources for dismantling or destroying such weapons of mass destruction, if that independent state has an obligation under a treaty or other agreement to destroy or dismantle any such weapons;

(2) forgoing any military modernization program that exceeds legitimate defense requirements and forgoing the replacement of destroyed weapons of mass destruction;

(3) forgoing any use in new nuclear weapons of fissionable or other components of destroyed nuclear weapons; and

(4) facilitating United States verification of any weapons destruction carried out under section 503(a) or 504(a) of this Act or section 212 of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note).

President.
22 USC 5853.

SEC. 503. NONPROLIFERATION AND DISARMAMENT ACTIVITIES IN THE INDEPENDENT STATES.

(a) AUTHORIZATION.—The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons of the independent states of the former Soviet Union;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons of the independent states, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) USE OF DEFENSE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, funds made available pursuant to sections 108 and 109 of Public Law 102–229 or under the amendments made by section 506(a) of this Act.

(2) LIMITATION.—Funds described in paragraph (1) may not be obligated for programs and activities under subsection (a) unless the Director of the Office of Management and Budget has determined that expenditures during fiscal year 1993 pursuant to such obligation shall be counted against the defense category of the discretionary spending limits for that fiscal year (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEC. 504. NONPROLIFERATION AND DISARMAMENT FUND.

President.
22 USC 5854.

(a) AUTHORIZATION.—The President is authorized to promote bilateral and multilateral nonproliferation and disarmament activities—

(1) by supporting the dismantlement and destruction of nuclear, biological, and chemical weapons, their delivery systems, and conventional weapons;

(2) by supporting bilateral and multilateral efforts to halt the proliferation of nuclear, biological, and chemical weapons, their delivery systems, related technologies, and other weapons, including activities such as—

(A) the storage, transportation, and safeguarding of such weapons, and

(B) the purchase, barter, or other acquisition of such weapons or materials derived from such weapons;

(3) by establishing programs for safeguarding against the proliferation of nuclear, biological, chemical, and other weapons of the independent states of the former Soviet Union;

(4) by establishing programs for preventing diversion of weapons-related scientific and technical expertise of the independent states to terrorist groups or to third countries;

(5) by establishing science and technology centers in the independent states for the purpose of engaging weapons scientists and engineers of the independent states (in particular those who were previously involved in the design and production of nuclear, biological, and chemical weapons) in productive, nonmilitary undertakings; and

(6) by establishing programs for facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities.

(b) FUNDING PRIORITIES.—Priority in carrying out this section shall be given to the activities described in paragraphs (1) through (5) of subsection (a).

(c) USE OF SECURITY ASSISTANCE FUNDS.—

(1) AUTHORIZATION.—In recognition of the direct contributions to the national security interests of the United States of the programs and activities authorized by subsection (a), the President is authorized to make available for use in carrying out those programs and activities, in addition to amounts otherwise available for such purposes, up to $100,000,000 of security assistance funds for fiscal year 1993.

(2) DEFINITION.—As used in paragraph (1), the term "security assistance funds" means funds made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund) or assistance under section 23 of the Arms Export Control Act (relating to the "Foreign Military Financing Program").

(3) EXEMPTION FROM CERTAIN RESTRICTIONS.—Section 531(e) of the Foreign Assistance Act of 1961, and any provision that corresponds to section 510 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1991 (relating to the prohibition on financing exports of nuclear equipment, fuel, and technology), shall not apply with respect to funds used pursuant to this subsection.

22 USC 5855.

SEC. 505. LIMITATIONS ON DEFENSE CONVERSION AUTHORITIES.

Notwithstanding any other provision of law (including any other provision of this Act), funds may not be obligated in any fiscal year for purposes of facilitating the conversion of military technologies and capabilities and defense industries of the former Soviet Union into civilian activities, as authorized by sections 503(a)(6) and 504(a)(6) or any other provision of law, unless the President has previously obligated in the same fiscal year an amount equal to or greater than that amount of funds for defense conversion

and defense transition activities in the United States. For purposes of this section, the term "defense conversion and defense transition activities in the United States" means those United States Government funded programs whose primary purpose is to assist United States private sector defense workers, United States companies that manufacture or otherwise provide defense goods or services, or United States communities adversely affected by reductions in United States defense spending, such as programs funded through the Office of Economic Adjustment in the Department of Defense, through the Defense Conversion Adjustment Program (as authorized by the Job Training Partnership Act), or through the Economic Development Administration.

SEC. 506. SOVIET WEAPONS DESTRUCTION. 22 USC 5856.

(a) ADDITIONAL FUNDING.—

(1) AUTHORIZATION AMOUNT.—Section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 (title II of Public Law 102–228; 22 U.S.C. 2551 note) is amended by striking out "$400,000,000" and inserting in lieu thereof "$800,000,000".

(2) AUTHORIZATION PERIOD.—Section 221(e) of such Act is amended—

(A) by inserting "for fiscal year 1992 or fiscal year 1993" after "under part B";

(B) by inserting "for that fiscal year" after "for that program"; and

(C) by striking out "for fiscal year 1992" and inserting in lieu thereof "for that fiscal year".

(b) TECHNICAL REVISIONS TO PUBLIC LAW 102–229.—Public Law 102–229 is amended—

(1) in section 108 (105 Stat. 1708), by striking out "contained in H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "(title II of Public Law 102–228)"; and

(2) in section 109 (105 Stat. 1708)—

(A) by striking out "H.R. 3807, as passed the Senate on November 25, 1991" and inserting in lieu thereof "Public Law 102–228 (105 Stat. 1696)"; and

(B) by striking out "of H.R. 3807".

(c) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—The amendments made by this section shall not be effective if the National Defense Authorization Act for Fiscal Year 1993 enacts an amendment to section 221(a) of the Soviet Nuclear Threat Reduction Act of 1991 that authorizes the transfer of an amount that is the same or greater than the amount that is authorized by the amendment made by subsection (a)(1) of this section and enacts amendments identical to those in subsections (a)(2) and (b) of this section. If that Act enacts such amendments, sections 503 and 508 of this Act shall be deemed to apply with respect to the funds made available under such amendments.

SEC. 507. WAIVER OF CERTAIN PROVISIONS. 22 USC 5857.

(a) IN GENERAL.—Funds made available for fiscal year 1993 under sections 503 and 504 to provide assistance or otherwise carry out programs and activities with respect to the independent states of the former Soviet Union under those sections may be used notwithstanding any other provision of law, other than the provisions cited in subsection (b).

(b) EXCEPTIONS.—Subsection (a) does not apply with respect to—

(1) this title; and

(2) section 1341 of title 31, United States Code (commonly referred to as the "Anti-Deficiency Act"), the Congressional Budget and Impoundment Control Act of 1974, the Balanced Budget and Emergency Deficit Control Act of 1985, and the Budget Enforcement Act of 1990.

President.
22 USC 5858.

SEC. 508. NOTICE AND REPORTS TO CONGRESS.

(a) NOTICE OF PROPOSED OBLIGATIONS.—Not less than 15 days before obligating any funds under section 503 or 504 or the amendments made by section 506(a), the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the proposed obligation. Each such report shall specify—

(1) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligations; and

(2) the activities and forms of assistance for which the President plans to obligate such funds.

(b) SEMIANNUAL REPORT.—Not later than April 30, 1993, and not later than October 30, 1993, the President shall transmit to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the appropriate congressional committees a report on the activities carried out under sections 503 and 504 and the amendments made by section 506(a). Each such report shall set forth, for the preceding 6-month period and cumulatively, the following:

(1) The amounts expended for such activities and the purposes for which they were expended.

(2) The source of the funds obligated for such activities, specified by program.

(3) A description of the participation of all United States Government departments and agencies in such activities.

(4) A description of the activities carried out and the forms of assistance provided.

(5) Such other information as the President considers appropriate to fully inform the Congress concerning the operation of the programs and activities carried out under sections 503 and 504 and the amendments made by section 506(a).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES.—As used in this section—

(1) the term "appropriate congressional committees" means—

(A) the Committee on Foreign Relations of the Senate, the Committee on Foreign Affairs of the House of Representatives, and the Committees on Appropriations of the House and the Senate, wherever the account, budget activity, or program is funded from appropriations made under the international affairs budget function (150);

(B) the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives, wherever the account, budget activity,

or program is funded from appropriations made under the national defense budget function (050); and

(2) the committee to which the specified activities of section 503(a) or 504(a) or subtitle B of the Soviet Nuclear Threat Reduction Act of 1991 (as the case may be), if the subject of separate legislation, would be referred, under the rules of the respective House of Congress.

SEC. 509. INTERNATIONAL NONPROLIFERATION INITIATIVE. 22 USC 5859.

(a) ASSISTANCE FOR INTERNATIONAL NONPROLIFERATION ACTIVITIES.—Subject to the limitations and requirements provided in this section, during fiscal year 1993 the Secretary of Defense, under the guidance of the President, may provide assistance to support international nonproliferation activities.

(b) ACTIVITIES FOR WHICH ASSISTANCE MAY BE PROVIDED.—Activities for which assistance may be provided under this section are activities such as the following:

(1) Activities carried out by the International Atomic Energy Agency (IAEA) that are designed to ensure more effective safeguards against nuclear proliferation and more aggressive verification of compliance with the Treaty on the Non-Proliferation of Nuclear Weapons, done on July 1, 1968.

(2) Activities of the On-Site Inspection Agency in support of the United Nations Special Commission on Iraq.

(3) Collaborative international nuclear security and nuclear safety projects to combat the threat of nuclear theft, terrorism, or accidents, including joint emergency response exercises, technical assistance, and training.

(4) Efforts to improve international cooperative monitoring of nuclear proliferation through joint technical projects and improved intelligence sharing.

(c) FORM OF ASSISTANCE.—(1) Assistance under this section may include funds and in-kind contributions of supplies, equipment, personnel, training, and other forms of assistance.

(2) Assistance under this section may be provided to international organizations in the form of funds only if the amount in the "Contributions to International Organizations" account of the Department of State is insufficient or otherwise unavailable to meet the United States fair share of assessments for international nuclear nonproliferation activities.

(3) No amount may be obligated for an expenditure under this section unless the Director of the Office of Management and Budget determines that the expenditure will be counted against the defense category of the discretionary spending limits for fiscal year 1993 (as defined in section 601(a)(2) of the Congressional Budget Act of 1974) for purposes of part C of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) No assistance may be furnished under this section unless the Secretary of Defense determines and certifies to the Congress 30 days in advance that the provision of such assistance—

(A) is in the national security interest of the United States; and

(B) will not adversely affect the military preparedness of the United States.

(5) The authority to provide assistance under this section in the form of funds may be exercised only to the extent and in the amounts provided in advance in appropriations Act.

(d) SOURCES OF ASSISTANCE.—(1) Funds provided as assistance under this section shall be derived from amounts made available to the Department of Defense for fiscal year 1993 or from balances in working capital accounts of the Department of Defense.

(2) Supplies and equipment provided as assistance under this section may be provided, by loan or donation, from existing stocks of the Department of Defense and the Department of Energy.

(3) The total amount of the assistance provided in the form of funds under this section may not exceed $40,000,000. Of such amount, not more than $20,000,000 may be used for the activities of the On-Site Inspection agency in support of the United Nations Special Commission on Iraq.

Reports.

(4) Not less than 30 days before obligating any funds to provide assistance under this section, the Secretary of Defense shall transmit to the committees of Congress named in subsection (e)(2) a report on the proposed obligation. Each such report shall specify—

(A) the account, budget activity, and particular program or programs from which the funds proposed to be obligated are to be derived and the amount of the proposed obligation; and

(B) the activities and forms of assistance for which the Secretary of Defense plans to obligate the funds.

(e) QUARTERLY REPORT.—(1) Not later than 30 days after the end of each quarter of fiscal year 1993, the Secretary of Defense shall transmit to the committees of Congress named in paragraph (2) a report of the activities to reduce the proliferation threat carried out under this section. Each report shall set forth (for the preceding quarter and cumulatively)—

(A) the amounts spent for such activities and the purposes for which they were spent;

(B) a description of the participation of the Department of Defense and the Department of Energy and the participation of other Government agencies in those activities; and

(C) a description of the activities for which the funds were spent.

(2) The committees of Congress to which reports under paragraph (1) and under subsection (d)(2) are to be transmitted are—

(A) the Committee on Armed Services, the Committee on Appropriations, and the Committee on Foreign Relations of the Senate; and

(B) the Committee on Armed Services, the Committee on Appropriations, the Committee on Foreign Affairs, and the Committee on Energy and Commerce of the House of Representatives.

(f) AVOIDANCE OF DUPLICATIVE AUTHORIZATIONS.—This section shall not apply if the National Defense Authorization Act for Fiscal Year 1993 enacts the same authorities and requirements as are contained in this section and authorizes the appropriation of the same (or a greater) amount to carry out such authorities.

22 USC 5860.

SEC. 510. REPORT ON SPECIAL NUCLEAR MATERIALS.

Not later than 180 days after the date of enactment of this Act, the Secretary of State shall prepare, in consultation with the Secretary of Defense and the Secretary of Energy, and shall transmit to the Congress a report on the possible alternatives for the ultimate disposition of special nuclear materials of the former Soviet Union. This report shall include—

(1) a cost-benefit analysis comparing (A) the relative merits of the indefinite storage and safeguarding of such materials in the independent states of the former Soviet Union and (B) its acquisition by the United States by purchase, barter, or other means;

(2) a discussion of relevant issues such as the protection of United States uranium producers from dumping, the relative vulnerability of these stocks of special nuclear materials to illegal proliferation, and the potential electrical and other savings associated with their being made available in the fuel cycle in the United States; and

(3) a discussion of how highly enriched uranium stocks could be diluted for reactor fuel.

SEC. 511. RESEARCH AND DEVELOPMENT FOUNDATION. 22 USC 5861.

(a) ESTABLISHMENT.—The Director of the National Science Foundation (hereinafter in this section referred to as the "Director") is authorized to establish an endowed, nongovernmental, nonprofit foundation (hereinafter in this section referred to as the "Foundation") in consultation with the Director of the National Institute of Standards and Technology.

(b) PURPOSES.—The purposes of the Foundation shall be the following:

(1) To provide productive research and development opportunities within the independent states of the former Soviet Union that offer scientists and engineers alternatives to emigration and help prevent the dissolution of the technological infrastructure of the independent states.

(2) To advance defense conversion by funding civilian collaborative research and development projects between scientists and engineers in the United States and in the independent states of the former Soviet Union.

(3) To assist in the establishment of a market economy in the independent states of the former Soviet Union by promoting, identifying, and partially funding joint research, development, and demonstration ventures between United States businesses and scientists, engineers, and entrepreneurs in those independent states.

(4) To provide a mechanism for scientists, engineers, and entrepreneurs in the independent states of the former Soviet Union to develop an understanding of commercial business practices by establishing linkages to United States scientists, engineers, and businesses.

(5) To provide access for United States businesses to sophisticated new technologies, talented researchers, and potential new markets within the independent states of the former Soviet Union.

(c) FUNCTIONS.—In carrying out its purposes, the Foundation shall—

(1) promote and support joint research and development projects for peaceful purposes between scientists and engineers in the United States and independent states of the former Soviet Union on subjects of mutual interest; and

(2) seek to establish joint nondefense industrial research, development, and demonstration activities through private sector linkages which may involve participation by scientists and

engineers in the university or academic sectors, and which shall include some contribution from industrial participants.

(d) FUNDING.—

(1) USE OF CERTAIN DEPARTMENT OF DEFENSE FUNDS.—(A) To the extent funds appropriated to carry out subtitle E of title XIV of the National Defense Authorization Act for Fiscal Year 1993 (relating to joint research and development programs with the independent states of the former Soviet Union) are otherwise available for such purpose, such funds may be made available to the Director for use by the Director in establishing the endowment of the Foundation and otherwise carrying out this section.

(B) For each fiscal year after fiscal year 1993, not more than 50 percent of the funds made available to the Foundation by the United States Government may be funds appropriated in the national defense budget function (function 050).

(2) CONTRIBUTION TO ENDOWMENT BY PARTICIPATING INDEPENDENT STATES.—As a condition of participation in the Foundation, an independent state of the former Soviet Union must make a minimum contribution to the endowment of the Foundation, as determined by the Director, which shall reflect the ability of the independent state to make a financial contribution and its expected level of participation in the Foundation's programs.

(3) DEBT CONVERSIONS.—To the extent provided in advance by appropriations Acts, local currencies or other assets resulting from government-to-government debt conversions may be made available to the Foundation. For purposes of this paragraph, the term "debt conversion" means an agreement whereby a country's government-to-government or commercial external debt burden is exchanged by the holder for local currencies, policy commitments, other assets, or other economic activities, or for an equity interest in an enterprise theretofore owned by the debtor government.

(4) LOCAL CURRENCIES.—In addition to other uses provided by law, and subject to agreement with the foreign government, local currencies generated by United States assistance programs may be made available to the Foundation.

(5) INVESTMENT OF GOVERNMENT ASSISTANCE.—The Foundation may invest any revenue provided to it through United States Government assistance, and any interest earned on such investment may be used only for the purpose for which the assistance was provided.

(6) OTHER FUNDS FROM GOVERNMENT AND NON-GOVERNMENTAL SOURCES.—The Foundation may accept such other funds as may be provided to it by Government agencies or nongovernmental entities.

TITLE VI—SPACE TRADE AND COOPERATION

22 USC 5871.

SEC. 601. FACILITATING DISCUSSIONS REGARDING THE ACQUISITION OF SPACE HARDWARE, TECHNOLOGY, AND SERVICES FROM THE FORMER SOVIET UNION.

(a) EXPEDITED REVIEW.—Any request for a license or other approval described in subsection (c) that is submitted to any United

States Government agency by the National Aeronautics and Space Administration, any of its contractors, or any other person shall be considered on an expedited basis by that agency and any other agency involved in an applicable interagency review process.

(b) NOTICE TO CONGRESS IF LICENSE DENIED.—If any United States Government agency denies a request for a license or other approval described in subsection (c), that agency shall immediately notify the designated congressional committees. Each such notification shall include a statement of the reasons for the denial.

(c) DESCRIPTION OF DISCUSSIONS.—This section applies to a request for any license or other approval that may be necessary to conduct discussions with an independent state of the former Soviet Union with respect to the possible acquisition of any space hardware, space technology, or space service for integration into—

(1) United States space projects that have been approved by the Congress, or

(2) commercial space ventures,

including discussions relating to technical evaluation of such hardware, technology, or service.

SEC. 602. OFFICE OF SPACE COMMERCE. 22 USC 5872.

(a) TRADE MISSIONS.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct one or more trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states.

(b) MONITORING NEGOTIATIONS.—The Office of Space Commerce—

(1) shall monitor the progress of any discussions described in section 601(c)(1) that are being conducted; and

(2) shall advise the Administrator of the National Aeronautics and Space Administration as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union, specifically including any anti-competitive issues the Office may observe.

SEC. 603. REPORT TO CONGRESS. 22 USC 5873.

Within one year after the date of enactment of this title, the President shall submit to the designated congressional committees a report describing—

(1) the opportunities for increased space-related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states;

(3) specific space hardware, space technology, and space services that have been, or could be, the subject of discussions described in section 601(c);

(4) the trade missions carried out pursuant to section 602(a), including the private participation in and the results of such missions;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and independent

states, including any such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised during the course of negotiations, as observed pursuant to section 602(b).

22 USC 5874.

SEC. 604. DEFINITIONS.

For purposes of this title—

(1) the term "contractor" means a National Aeronautics and Space Administration contractor to the extent that the acquisition of space hardware, space technology, or space services from the independent states of the former Soviet Union may be relevant to the contractor's responsibilities under the contract; and

(2) the term "designated congressional committees" means the Committee on Science, Space, and Technology and the Committee on Foreign Affairs of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations of the Senate.

TITLE VII—AGRICULTURAL TRADE

SEC. 701. FOOD FOR PROGRESS ACT.

7 USC 1736o.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) in subsection (b)—

(A) by inserting "(including the independent states of the former Soviet Union)" after "such countries";

(B) by striking "or cooperatives" and inserting "cooperatives, or other private entities";

(C) by inserting "(1)" after "(b)"; and

(D) by adding at the end the following:

"(2) The annual tonnage limitation contained in subsection (g) shall not apply with respect to commodities furnished to the independent states of the former Soviet Union during fiscal year 1993.";

(2) by amending subsection (f)(1) to read as follows:

"(f)(1) The Commodity Credit Corporation may provide for—

"(A) grants, or

"(B) in the case of the independent states of the former Soviet Union, sales on credit terms,

of commodities made available under section 416(b) of the Agricultural Act of 1949 for use in carrying out this section."; and

(3) by adding at the end the following:

President.

"(m) In carrying out this section with respect to the independent states of the former Soviet Union, the President shall approve, as determined appropriate by the President, agreements with private voluntary organizations and cooperatives that provide for—

"(1) the sale of commodities, including the marketing of these commodities through the private sector; and

"(2) the use in the independent states of the proceeds generated in the humanitarian and development programs of such private voluntary organizations and cooperatives.

"(n) As used in this section, the term 'independent states of the former Soviet Union' means the independent states of the former Soviet Union as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8)).".

SEC. 702. DEFINITIONS FOR AGRICULTURAL TRADE ACT OF 1978.

(a) AGRICULTURAL COMMODITY.—Section 102(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(1)) is amended by striking "feed, or fiber" and inserting "feed, fiber, or livestock (including livestock as it is defined in section 602(2) of the Agricultural Act of 1949 (7 U.S.C. 1471(2)) and insects)".

(b) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—Section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602) is amended by adding at the end the following:

"(8) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—The term 'independent states of the former Soviet Union' means the following: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.".

SEC. 703. ASSISTANCE FOR PRIVATE VOLUNTARY ORGANIZATIONS.

The President is encouraged to use funds made available under section 109 of Public Law 102–229 (105 Stat. 1708), and funds made available under chapter 11 of part I of the Foreign Assistance Act of 1961, to assist private voluntary organizations and cooperatives in carrying out food assistance programs for the independent states of the former Soviet Union under—

(1) section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o);

(2) section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); or

(3) title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

SEC. 704. DISTRIBUTION OF AID TO THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

It is the sense of Congress that, in order to avoid waste and to ensure fair and equitable distribution of food and commodities provided to the independent states of the former Soviet Union, the President should, as appropriate, when discussing and planning the provision of such food aid, whether acting unilaterally or multilaterally with other donor countries, encourage the involvement of suitable multinational organizations to monitor the transport and distribution of such food aid within such entities.

SEC. 705. AGRICULTURAL FELLOWSHIP PROGRAM FOR MIDDLE INCOME COUNTRIES AND EMERGING DEMOCRACIES.

(a) ELIGIBLE COUNTRIES.—Section 1543 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293) is amended—

(1) in subsection (a) by striking "middle income countries and emerging democracies" and by inserting "(as determined under subsection (b))" after "eligible countries"; and

(2) in subsection (b)—

(A) by striking "that meet the following requirements" in the text preceding paragraph (1) and inserting "described in any of the following paragraphs"; and

(B) by adding at the end the following:

"(4) INDEPENDENT STATES OF THE FORMER SOVIET UNION.—A country that is an independent state of the former Soviet Union (as defined in section 102(8) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(8)), to the extent that the Secretary

of Agriculture determines that such country should be eligible to participate in the program established under this section.".

(b) INDIVIDUALS WHO MAY RECEIVE FELLOWSHIPS.—Section 1543(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3293(b)) is amended by adding at the end the following: "The Secretary may provide fellowships under the program authorized by this section to private agricultural producers from eligible countries.".

SEC. 706. PROMOTION OF AGRICULTURAL EXPORTS TO EMERGING DEMOCRACIES.

Section 1542 of the Agricultural Development and Trade Act of 1990 (7 U.S.C. 5622 note) is amended—

(1) in subsection (a)—

(A) by inserting "direct credits or" before "export credit";

(B) by inserting "201 or" before "202"; and

(C) by inserting "or authorized" after "required";

(2) in subsection (b)—

(A) by striking the subsection heading and inserting "(b) FACILITIES AND SERVICES.—";

(B) by striking "for the establishment or improvement by United States persons of facilities in emerging democracies" and inserting the following: "for—

"(1) the establishment or improvement of facilities, or

"(2) the provision of services or United States produced goods,

in emerging democracies by United States persons"; and

(C) by striking the last sentence and inserting the following: "The Commodity Credit Corporation shall give priority under this subsection—

"(1) to opportunities or projects identified under subsection (d)(1);

"(2) to projects that encourage the privatization of the agricultural sector or that benefit private farms or cooperatives in emerging democracies; and

"(3) to projects for which nongovernmental persons agree to assume a relatively larger share of the costs.";

(3) in subsection (d)(1)(B)(i), by inserting ", farmers, other persons from the private sector," after "agricultural consultants"; and

(4) by amending subsection (d)(1)(D) to read as follows:

"(D) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide, or pay the necessary costs for, technical assistance to enable individuals or other entities to implement the recommendations or to carry out the opportunities and projects identified under paragraph (1)(A).".

SEC. 707. DIRECT CREDIT SALES.

(a) REQUIRED DETERMINATIONS.—Section 201(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(c)) is amended by inserting after paragraph (3) the following:

"The reference in paragraphs (1) and (2) to 'on a long-term basis' shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.".

(b) ELIGIBLE COUNTRIES.—Section 201(d)(1)(C) of the Agricultural Trade Act of 1978 (7 U.S.C. 5621(d)(1)(C)) is amended to read as follows:

"(C) to assist countries in meeting their food and fiber needs, particularly—

"(i) developing countries; and

"(ii) countries that are emerging democracies that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and".

(c) RESTRICTIONS.—Section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621) is amended by adding at the end the following new subsection:

"(f) RESTRICTIONS.—The Commodity Credit Corporation may not make export sales financing authorized under this section available in connection with sales of an agricultural commodity to any country that the Secretary determines cannot adequately service the debt associated with such sale.".

(d) REGULATIONS.—The Secretary of Agriculture shall issue final regulations to implement section 201 of the Agricultural Trade Act of 1978 (7 U.S.C. 5621), as amended by this section, not later than 30 days after the date of enactment of this Act. 22 USC 5621 note.

SEC. 708. EXPORT CREDIT GUARANTEES.

(a) REQUIRED DETERMINATIONS.—Section 202(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(c)) is amended by inserting after paragraph (3) the following:

"The reference in paragraphs (1) and (2) to 'on a long-term basis' shall not apply in the case of determinations with respect to sales to the independent states of the former Soviet Union.".

(b) PURPOSE OF PROGRAM.—Section 202(d)(3) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(c)) to read as follows:

"(3) to assist countries in meeting their food and fiber needs, particularly—

"(A) developing countries; and

"(B) countries that are emerging democracies that have committed to carry out, or are carrying out, policies that promote economic freedom, private domestic production of food commodities for domestic consumption, and the creation and expansion of efficient domestic markets for the purchase and sale of agricultural commodities; and".

SEC. 709. EXPORT PROMOTION PROGRAMS AMENDMENTS.

(a) PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCT EXPORT CREDIT GUARANTEE PROGRAM.—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended—

(1) in subsections (a) and (b), by inserting ", including processed agricultural products and high-value agricultural products," after "agricultural commodities" both places it appears; and

(2) by adding at the end the following new subsection:

"(k) SET-ASIDES.—

"(1) IN GENERAL.—In issuing export credit guarantees under this section in connection with sales to the independent states of the former Soviet Union, the Commodity Credit Corporation shall, to the extent practicable and subject to paragraph (2), ensure that no less than 35 percent of the total amount of credit guarantees issued for a fiscal year are issued

to promote the export of processed and high-value agricultural products and that the balance are issued to promote the export of bulk or raw agricultural commodities.

"(2) LIMITATION.—The 35 percent requirement of paragraph (1) shall apply for a fiscal year only to the extent that the percentage of the total amount of credit guarantees issued for that fiscal year under this section to promote the export to all countries of processed and high-value agricultural products is less than 25 percent.".

(b) PROCESSED AND HIGH-VALUE AGRICULTURAL PRODUCT EXPORT ENHANCEMENT PROGRAM.—Section 301 of the Agricultural Trade Act of 1978 (7 U.S.C. 5651) is amended—

(1) in subsection (a), by inserting ", including processed agricultural products and high-value agricultural products," after "agricultural commodities"; and

(2) in subsection (e)—

(A) by striking "The Commodity" and inserting the following:

"(1) IN GENERAL.—The Commodity"; and

(B) by adding at the end the following new paragraph:

"(2) SET-ASIDES.—(A) For each fiscal year, the Corporation shall, to the extent practicable and subject to subparagraph (B), ensure that no less than 25 percent of the total of—

"(i) the funds expended, and

"(ii) the value of any commodities made available,

under this section in connection with sales of agricultural commodities to the independent states of the former Soviet Union is used to promote the export of processed and high-value United States agricultural products and that the balance of the funds expended and commodities made available under this section in connection with such sales is used to promote the export of bulk or raw United States agricultural commodities.

"(B) The 25 percent requirement of subparagraph (A) shall apply for a fiscal year only to the extent that the percentage of the total of—

"(i) the funds expended, and

"(ii) the value of commodities made available,

for that fiscal year under this section to promote the export to all countries of processed and high-value United States agricultural products is less than 15 percent.".

TITLE VIII—UNITED STATES INFORMATION AGENCY, DEPARTMENT OF STATE, AND RELATED AGENCIES AND ACTIVITIES

SEC. 801. DESIGNATION OF EDMUND S. MUSKIE FELLOWSHIP PROGRAM.

Section 227 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (22 U.S.C. 2452 note), is amended by adding at the end the following new subsection:

"(f) DESIGNATION OF PROGRAM AND SCHOLARSHIPS.—

"(1) The scholarship program established by this section shall be known as the 'Edmund S. Muskie Fellowship Program'.

"(2) Scholarships provided under this section shall be known as 'Muskie Fellowships'.".

SEC. 802. NEW DIPLOMATIC POSTS IN THE INDEPENDENT STATES.

Appropriation authorization.

There are authorized to be appropriated for "NEW DIPLOMATIC POSTS" for personnel, support, and other expenses, not otherwise provided for, for the Department of State and the United States Information Agency to establish and operate new diplomatic posts in the independent states of former Soviet Union, $25,000,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.

SEC. 803. OCCUPANCY OF NEW CHANCERY BUILDINGS.

Subsections (f) and (g) of section 132 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, are repealed. 105 Stat. 662.

SEC. 804. CERTAIN POSITIONS AT UNITED STATES MISSIONS.

(a) AMENDMENT.—Section 1004(a) of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 is amended by adding at the end the following: "Not less than 15 shall be provided during fiscal year 1993.". 22 USC 4903.

(b) FUNDING.—In addition to the funds made available pursuant to section 1005(c) of that Act, funds authorized to be appropriated by chapter 11 of part I of the Foreign Assistance Act of 1961 may be used in carrying out the amendment made by subsection (a) with respect to missions in the independent states of the former Soviet Union. 22 USC 4903 note.

SEC. 805. INTERNATIONAL DEVELOPMENT LAW INSTITUTE. 22 USC 288j.

For purposes of the International Organizations Immunities Act (22 U.S.C. 288 and following), the International Development Law Institute shall be considered to be a public international organization in which the United States participates under the authority of an Act of Congress authorizing such participation.

SEC. 806. CERTAIN BOARD FOR INTERNATIONAL BROADCASTING CONSTRUCTION ACTIVITIES.

Section 301(c) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (104 Stat. 63), is amended by adding at the end the following:

"(3) For purposes of the notification requirements of section 634A(c) of the Foreign Assistance Act of 1961, any action by the Board for International Broadcasting or its agents, after the date of enactment of this paragraph, to require or allow the construction authorized by this subsection to proceed shall be treated as a reprogramming of funds subject to the notification requirements of the annual Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act. Amounts authorized to be appropriated under paragraph (1) shall be available for expenditure for construction services only in accordance with the procedures applicable under that section.".

SEC. 807. EXCHANGES AND TRAINING AND SIMILAR PROGRAMS. 22 USC 2452 note.

(a) FUNDING FOR EXCHANGES AND TRAINING AND SIMILAR PROGRAMS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—To carry out a broad spectrum of exchanges, and of training and similar programs to promote the objectives described in section 498 of the Foreign Assistance Act of 1961, between the United States and the independent states of the former Soviet Union, there are authorized to be appropriated for fiscal year 1993 (in addition to amounts otherwise available for such purposes) the following:

(A) $20,000,000 for exchange programs for secondary school students.

(B) $30,000,000 for programs for participants other than secondary school students, including undergraduate and graduate students, farmers and other agribusiness practitioners, and participants in the exchanges carried out under paragraph (2).

(2) LOCAL AND REGIONAL SELF-GOVERNMENT EXCHANGES.—The Director of the United States Information Agency is authorized to use funds authorized to be appropriated by paragraph (1)(B) to conduct exchanges to provide technical assistance in local and regional self-government to the independent states.

(3) REPORT ON PROPOSED FUNDING ALLOCATIONS.—Within 45 days after the date of the enactment of this Act, the coordinator designated pursuant to section 102(a) of this Act shall submit to the Congress a report specifying the amount of funds authorized to be appropriated by paragraph (1) that is proposed to be allocated for each category of program and for each Government agency.

(4) PROGRAM ADMINISTRATION.—

(A) USIA.—Educational, cultural, and any other exchange programs carried out under this subsection, including any such programs for secondary school students, shall be administered by the United States Information Agency, and funds allocated for such programs shall be transferred to that Agency.

(B) OTHER AGENCIES.—Training and other non-exchange programs carried out under this subsection shall be administered by the Agency for International Development or such other Government agency as has experience and expertise in carrying out such programs.

(5) ADMINISTRATIVE EXPENSES.—Up to 5 percent of the funds made available to each Government agency under this subsection may be used by that agency for administrative expenses of program implementation.

Appropriation authorization.

(b) ENHANCEMENT OF USIA EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—In addition to amounts otherwise available for such purposes, there are authorized to be appropriated to the United States Information Agency for fiscal year 1993 for enhancement of existing educational and cultural exchange programs the following:

(1) $9,950,000 for Fulbright Academic Exchange Programs.

(2) $10,850,000 for other programs administered by the Bureau of Educational and Cultural Affairs.

Effective date.
22 USC 2452 note.

(c) REPEAL.—Effective 6 months after the date of enactment of this Act, section 225 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, and the item relating to that section in the table of contents set forth in section 2 of that Act, are repealed.

(d) AGRIBUSINESS EXCHANGES.—

(1) AUTHORIZATION.—The President is authorized to establish regional agribusiness offices at State universities and land grant colleges in the United States for the purpose of expanding exchanges between agribusiness practitioners in the United States and agribusiness practitioners in the independent states of the former Soviet Union. President. Colleges and universities.

(2) LIMITATION ON FUNDING SOURCES.—Funds authorized to be appropriated by this section or other provisions of this Act (including chapter 11 of part I of the Foreign Assistance Act of 1961) may not be used to carry out this subsection.

TITLE IX—OTHER PROVISIONS

SEC. 901. FOREIGN ASSISTANCE ACT LIST OF COMMUNIST COUNTRIES.

Paragraph (1) of section 620(f) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(f)(1)) is amended by striking out from the list of countries in the last sentence of that paragraph the following: "Czechoslovak Socialist Republic.", "Estonia.", "German Democratic Republic.", "Hungarian People's Republic.", "Latvia.", "Lithuania.", "People's Republic of Albania.", "People's Republic of Bulgaria.", "Polish People's Republic.", "Socialist Federal Republic of Yugoslavia.", "Socialist Republic of Romania.", and "Union of Soviet Socialist Republics (including its captive constituent republics).".

SEC. 902. JOHNSON ACT. 18 USC 955 note.

Section 955 of title 18, United States Code, shall not apply with respect to any obligations of the former Soviet Union, or any of the independent states of the former Soviet Union, or any political subdivision, organization, or association thereof.

SEC. 903. SUPPORT FOR EAST EUROPEAN DEMOCRACY (SEED) ACT.

(a) SCOPE OF AUTHORITY.—The Support for East European Democracy (SEED) Act of 1989 is amended by inserting after section 2 (22 U.S.C. 5401) the following:

"SEC. 3. SCOPE OF AUTHORITY. 22 USC 5402.

"(a) GENERAL AUTHORIZATION.—The President is authorized to conduct activities for any East European country that are similar to any activity authorized by this Act to be conducted in Poland or Hungary (excluding those authorized by section 102 or the amendments made by sections 301 and 304) if such similar activities would effectively promote a transition to market-oriented democracy.

"(b) ADMINISTRATION OF JUSTICE PROGRAMS.—In order to strengthen the administration of justice in East European countries, the President may exercise the same authorities with respect to those countries as are available under section 534 of the Foreign Assistance Act of 1961, subject to the limitations and requirements of that section, other than subsection (c) and the last two sentences of subsection (e).

"(c) DEFINITION OF EAST EUROPEAN COUNTRY.—For purposes of this Act, the term 'East European country' includes Albania, Bulgaria, the Czech and Slovak Federal Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, and states that were part of the former Socialist Federal Republic of Yugoslavia.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1 of that Act is amended by inserting after the item relating to section 2 insert the following:

"Sec. 3. Scope of authority.".

SEC. 904. PEACE CORPS VOLUNTEER TRAINING REQUIREMENTS.

Section 8(c) of the Peace Corps Act (22 U.S.C. 2507(c)) is repealed.

SEC. 905. ESTABLISHING CATEGORIES OF ALIENS FOR PURPOSES OF REFUGEE DETERMINATIONS; ADJUSTMENT OF STATUS FOR CERTAIN SOVIET AND INDOCHINESE PAROLEES.

(a) EXTENSION OF PROVISIONS.—The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990 (Public Law 101-167) is amended in section 599D (8 U.S.C. 1157 note)—

(1) in subsection (b)(3), by inserting "and within the number of such admissions allocated for each of fiscal years 1993 and 1994 for refugees who are nationals of the independent states of the former Soviet Union, Estonia, Latvia, and Lithuania under such section" after "Act"; and

(2) in subsection (e), by striking out "October 1, 1992" each place it appears and inserting in lieu thereof "October 1, 1994".

(b) CORRECTION OF REFERENCES TO SOVIET UNION.—That Act is amended—

(1) in section 599D(b)—

(A) in paragraphs (1)(A), (2)(A), and (2)(B), by striking out "of the Soviet Union" each place it appears and inserting in lieu thereof "of an independent state of the former Soviet Union or of Estonia, Latvia, or Lithuania"; and

(B) in paragraph (1)(A), by striking out "in the Soviet Union" and inserting in lieu thereof "in that state"; and

8 USC 1255 note.

(2) in section 599E(b)(1), by striking out "of the Soviet Union," and inserting in lieu thereof "of an independent state of the former Soviet Union, Estonia, Latvia, Lithuania,".

(c) REPEAL OF EXECUTED REPORTING REQUIREMENTS.—Section 599D of that Act is amended by repealing subsection (f).

22 USC 2753 note.

SEC. 906. ELIGIBILITY OF BALTIC STATES FOR NONLETHAL DEFENSE ARTICLES.

(a) ELIGIBILITY.—Estonia, Latvia, and Lithuania shall each be eligible—

(1) to purchase, or to receive financing for the purchase of, nonlethal defense articles—

(A) under the Arms Export Control Act (22 U.S.C. 2751 et seq.), without regard to section 3(a)(1) of that Act, or

(B) under section 503 of the Foreign Assistance Act of 1961 (22 U.S.C. 2311), without regard to the requirement in subsection (a) of that section for a Presidential finding; and

(2) to receive nonlethal excess defense articles transferred under section 519 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321m), without regard to the restrictions in subsection (a) of that section.

(b) DEFINITIONS.—As used in this section—

(1) the term "defense article" has the same meaning given to that term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794(3)); and

(2) the term "excess defense article" has the same meaning given to that term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

SEC. 907. RESTRICTION ON ASSISTANCE TO AZERBAIJAN.

President. Reports. 22 USC 5812 note.

United States assistance under this or any other Act (other than assistance under title V of this Act) may not be provided to the Government of Azerbaijan until the President determines, and so reports to the Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

TITLE X—INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 1001. INTERNATIONAL MONETARY FUND QUOTA INCREASE.

The Bretton Woods Agreements Act (22 U.S.C. 286 and following) is amended by adding at the end the following:

"SEC. 56. QUOTA INCREASE. 22 USC 286e-11.

"The United States Governor of the Fund may consent to an increase in the quota of the United States in the Fund equivalent to 8,608,500,000 Special Drawing Rights, limited to such amounts as are provided in advance in appropriations Acts.

"SEC. 57. ACCEPTANCE OF AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE FUND. 22 USC 286e-5b.

"The United States Governor of the Fund may agree to and accept the amendments to the Articles of Agreement of the Fund as proposed in the resolution numbered 45–3 of the Board of Governors of the Fund that was approved by such Board on June 28, 1990.

"SEC. 58. APPROVAL OF FUND PLEDGE TO SELL GOLD TO PROVIDE RESOURCES FOR THE RESERVE ACCOUNT OF THE ENHANCED STRUCTURAL ADJUSTMENT FACILITY TRUST. 22 USC 286e-13.

"The Secretary of the Treasury is authorized to instruct the United States Executive Director of the Fund to vote to approve the Fund's pledge to sell, if needed, up to 3,000,000 ounces of the Fund's gold, to restore the resources of the Reserve Account of the Enhanced Structural Adjustment Facility Trust to a level that would be sufficient to meet obligations of the Trust payable to lenders which have made loans to the Loan Account of the Trust that have been used for the purpose of financing programs to Fund members previously in arrears to the Fund.".

SEC. 1002. INTERNATIONAL MONETARY FUND POLICY CHANGES.

The Bretton Woods Agreements Act (22 U.S.C. 286 and following) is amended by adding after the sections added by section 1001 of this Act the following:

"SEC. 59. FUND POLICY CHANGES. 22 USC 286ll.

"(a) POLICY CHANGES WITHIN THE IMF.—The Secretary of the Treasury shall instruct the United States Executive Director of

the Fund to promote regularly and vigorously in program discussions and quota increase negotiations the following proposals:

"(1) POVERTY ALLEVIATION, REDUCTION OF BARRIERS TO ECONOMIC AND SOCIAL PROGRESS, AND PROGRESS TOWARD ENVIRONMENTALLY SOUND POLICIES AND PROGRAMS.—(A)(i) Considerations of poverty alleviation and the reduction of barriers to economic and social progress should be incorporated into all Fund programs and all consultations under article IV of the Articles of Agreement of the Fund.

"(ii) Preparation of Policy Framework Papers should be extended to all nations which have Fund programs and active Bank or International Development Association lending programs, and existence of a Policy Framework Paper should be a precondition for new lending to such nations by the Fund.

"(iii) All Policy Framework Papers should articulate the principal poverty, economic, and social measures that the borrowing nation needs to address, and this portion of the Policy Framework Paper (or a summary thereof that includes specific measures and timing) should be made available when the Policy Framework Paper is submitted to the Executive Directors of the Bank and of the Fund for consideration.

"(iv) In considering whether to allocate resources of the Fund to a borrower, the Fund should take into consideration the nature of the program and commitment of the borrower to address the issues referred to in clause (iii).

"(v) The Fund should establish procedures to enable the Fund to cooperate with the Bank in evaluating the effectiveness of the measures referred to in clause (iii), at the levels of policy, project design, monitoring, and reporting, in the international financial institutions and in the borrowing nations.

"(B)(i) The Fund should be encouraged to make further progress toward environmentally sound policies and programs.

"(ii) The Fund should incorporate environmental considerations into all Fund programs, including consultations under article IV of the Articles of Agreement of the Fund.

"(iii) The Fund should be encouraged to support the efforts of nations to implement systems of natural resource accounting in their national income accounts.

"(iv) The Fund should be encouraged to assist and cooperate fully with the statistical research being undertaken by the Organization for Economic Cooperation and Development and by the United Nations in order to facilitate development and adoption of a generally applicable system for taking account of the depletion or degradation of natural resources in national income accounts.

"(v) The Fund should be encouraged to consider and implement, as appropriate, revisions in its national income reporting systems consistent with such new systems as are of general applicability.

"(2) POLICY AUDITS.—(A) The Fund should conduct periodic audits to review systematically the policy prescriptions recommended and required by the Fund in the areas of poverty and the environment.

"(B) The purposes of such audits would be—

"(i) to determine whether the Fund's objectives were met; and

"(ii) to evaluate the social and environmental impacts of the implementation of the policy prescriptions.

"(C) Such audits would have access to all ongoing programs and activities of the Fund and the ability to review the effects of Fund-supported programs, on a country-by-country basis, with respect to poverty, economic development, and environment.

"(D) Such audits should be made public as appropriate with due respect to confidentiality.

"(3) ENSURING POLICY OPTIONS THAT INCREASE THE PRODUCTIVE PARTICIPATION OF THE POOR.—The Fund should establish procedures that ensure the focus of future economic reform programs approved by the Fund on policy options that increase the productive participation of the poor in the economy.

"(4) PUBLIC ACCESS TO INFORMATION.—(A) The Fund should establish procedures for public access to information.

"(B) Such procedures shall seek to ensure access of the public to information while paying due regard to appropriate confidentiality.

"(C) Policy Framework Papers and the supporting documents prepared by the Fund's mission to a country are examples of documents that should be made public at an appropriate time and in appropriate ways.

"(b) PROGRESS REPORT.—Each annual report of the National Advisory Council on International Monetary and Financial Policies shall describe the following:

"(1) The actions that the United States Executive Director and other officials have taken to convince the Fund to adopt the proposals set forth in subsection (a) through formal initiatives before the Board and management of the Fund, through bilateral discussions with other member nations, and through any further quota increase negotiations.

"(2) The status of the progress being made by the Fund in implementing the proposals set forth in subsection (a).

"(c) STUDY.—The Secretary of the Treasury shall instruct the United States Executive Director to the Fund to urge the Fund—

"(1) to explore ways to increase the involvement and participation of important ministries, national development experts, environmental experts, free-market experts, and other legitimate experts and representatives from the loan-recipient country in the development of Fund programs; and

"(2) to report on the status of Fund efforts in this regard.".

SEC. 1003. REDUCTION OF MILITARY SPENDING AND PROMOTION OF LONG-TERM SUSTAINABLE ECONOMIC GROWTH BY DEVELOPING NATIONS.

The Bretton Woods Agreements Act (22 U.S.C. 286 and following) is amended by adding after the sections added by sections 1001 and 1002 of this Act the following:

"SEC. 60. MEASURES TO REDUCE MILITARY SPENDING BY DEVELOPING NATIONS. 22 USC 286mm.

"(a) DEVELOPMENT BY THE FUND OF MEANS TO MEASURE MILITARY SPENDING.—

"(1) POSITION OF THE UNITED STATES.—The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, in consultation with the Bank, to continue to develop an economic methodology

to measure the level of military spending by each developing country.

"(2) PROGRESS REPORT TO THE CONGRESS.—No later than 1 year after the date of the enactment of this section, the Secretary of the Treasury shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate a report on the status of the development by the Fund of a workable economic methodology to measure military spending by developing countries.

"(b) ANNUAL REPORTS BY FUND ON LEVELS OF MILITARY SPENDING.—The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, beginning with 1994, to provide the Executive Board of the Fund with annual reports stating the estimate by the Fund of the level of military spending by each developing country in the immediately preceding calendar year (or, with respect to developing countries whose fiscal years are not calendar years, in the most recently completed fiscal year of the developing country), not later than the date of the annual fall Interim and Development Committee meetings.

"(c) ANALYSIS AND ASSESSMENT OF MILITARY SPENDING TO BE INCLUDED IN ARTICLE IV CONSULTATIONS BY THE FUND.—The United States Executive Director of the Fund shall use the voice and vote of the United States to urge the Fund, beginning no later than the date of the first report provided as described in subsection (b), to include in every article IV consultation with a developing country an analysis of the level of military spending by the developing country in the immediately preceding calendar year (or, with respect to developing countries whose fiscal years are not calendar years, in the most recently completed fiscal year of the developing country).".

22 USC 5812 note.

SEC. 1004. SUPPORT FOR MACROECONOMIC STABILIZATION IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

(a) IN GENERAL.—In order to promote macroeconomic stabilization and the integration of the independent states of the former Soviet Union into the international financial system, enhance the opportunities for trade, improve the climate for foreign investment, and strengthen the process of transformation of the former socialist economies into free enterprise systems and thereby progressively enhance the well-being of the citizens of these states, the United States should in appropriate circumstances take a leading role in organizing and supporting multilateral efforts at macroeconomic stabilization and debt rescheduling, conditioned on the appropriate development and implementation of comprehensive economic reform programs.

(b) CURRENCY STABILIZATION.—In furtherance of the purposes and consistent with the conditions described in subsection (a), the Congress expresses its support for United States participation, in sums of up to $3,000,000,000, in a currency stabilization fund or funds for the independent states of the former Soviet Union.

(c) STUDY OF THE NEED FOR AND FEASIBILITY OF A CURRENCY STABILIZATION FUND FOR UKRAINE.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Monetary Fund to use the voice and vote of the United States to urge the Fund to conduct a study of the need for and

feasibility of a currency stabilization fund for Ukraine, and, if it is found that such a fund is needed and is feasible, which considers and makes recommendations with respect to the economic and policy conditions required for the success of such a fund.

SEC. 1005. ROLE OF THE INTERNATIONAL FINANCE CORPORATION IN SUPPORTING ECONOMIC RESTRUCTURING IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

The International Finance Corporation Act (22 U.S.C. 282–282k) is amended by adding at the end the following:

"SEC. 15. AUTHORITY TO VOTE FOR CAPITAL INCREASES NECESSARY TO SUPPORT ECONOMIC RESTRUCTURING IN THE INDEPENDENT STATES OF THE FORMER SOVIET UNION. 22 USC 282m.

"The United States Governor of the Corporation may vote in favor of any increase in the capital stock of the Corporation that may be needed to accommodate the requirements of the independent states of the former Soviet Union (as defined in section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992).".

SEC. 1006. AUTHORITY TO AGREE TO AMENDMENTS TO THE ARTICLES OF AGREEMENT OF THE INTERNATIONAL FINANCE CORPORATION. 22 USC 282n.

The International Finance Corporation Act (22 U.S.C. 282–282k) is amended by adding after the section added by section 1005 of this Act the following:

"SEC. 16. AUTHORITY TO AGREE TO AMENDMENTS TO THE ARTICLES OF AGREEMENT.

"The United States Governor of the Corporation is authorized to agree to amendments to the Articles of Agreement of the Corporation that would—

"(1) amend Article II, Section 2(c)(ii), to increase the vote by which the Board of Governors of the Corporation may increase the capital stock of the Corporation from a three-fourths majority to a four-fifths majority; and

"(2) amend Article VII(a) to increase the vote by which the Board of Governors of the Corporation may amend the Articles of Agreement of the Corporation from a four-fifths majority to an eighty-five percent majority.".

SEC. 1007. REPORT ON DEBT OF THE FORMER SOVIET UNION HELD BY COMMERCIAL FINANCIAL INSTITUTIONS. 22 USC 5812 note.

The Secretary of the Treasury, using information available from the International Monetary Fund, the International Bank for Reconstruction and Development, and other appropriate international financial institutions, shall report to the Congress, not later than one year after the date of enactment of this Act, on the debt incurred by the former Soviet Union that is held by commercial financial institutions outside the independent states of the former Soviet Union that are obligated on such debt.

SEC. 1008. HUMAN RIGHTS.

(a) ADVANCEMENT OF HUMAN RIGHTS THROUGH THE IMF AND EBRD.—Section 701(a) of the International Financial Institutions Act (22 U.S.C. 262d(a)) is amended by striking "and the African Development Bank," and inserting "the African Development Bank,

the European Bank for Reconstruction and Development, and the International Monetary Fund,".

(b) ACCOUNTING FOR AMERICANS MISSING IN ACTION CONSIDERED IN ASSESSING HUMAN RIGHTS IN THE INDEPENDENT STATES.—Section 701(b)(4) of such Act (22 U.S.C. 262d(b)(4)) is amended by inserting "Russia and the other independent states of the former Soviet Union (as defined in section 3 of the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992)," after "Laos,".

Reports.

SEC. 1009. MULTILATERAL INVESTMENT GUARANTEES FOR THE INDEPENDENT STATES OF THE FORMER SOVIET UNION.

Not later than 60 days after the date of enactment of this Act, the United States Director of the Multilateral Investment Guarantee Agency shall transmit to the Congress a report analyzing—

(1) the investments in the independent states of the former Soviet Union which have been guaranteed by the Agency; and

(2) the demand for investment guarantees of the type provided by the Agency for investments in the independent states.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 2532 (H.R. 4547):

HOUSE REPORTS: Nos. 102-569, Pt. 1 and Pt. 2 (both from Comm. on Foreign Affairs), Pt. 3 (Comm. on Armed Services), and Pt. 4 (Comm. on Agriculture) all accompanying H.R. 4547, and 102-964 (Comm. of Conference).

SENATE REPORTS: No. 102-292 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 29, July 1, 2, considered and passed Senate.

Aug. 6, H.R. 4547 considered and passed House; S. 2532, amended, passed in lieu.

Oct. 1, Senate agreed to conference report.

Oct. 3, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 24, Presidential statement.

Public Law 102-512
102d Congress

An Act

To amend the National School Lunch Act and the Child Nutrition Act of 1966 to better assist children in homeless shelters, to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC), and for other purposes.

Oct. 24, 1992
[S. 2875]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Children's Nutrition Assistance Act of 1992.
42 USC 1771 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Nutrition Assistance Act of 1992".

TITLE I—HOMELESS CHILDREN'S ASSISTANCE

Homeless Children's Assistance Act of 1992.

42 USC 1771 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Homeless Children's Assistance Act of 1992".

SEC. 102. EXPENDITURE OF FUNDS FOR ADMINISTRATIVE EXPENSES.

Section 18(c)(2)(B)(i) of the National School Lunch Act (42 U.S.C. 1769(c)(2)(B)(i)) is amended by striking "Each such organization" and inserting "Each private nonprofit organization".

SEC. 103. ALLOCATION OF RETURNED FUNDS.

Section 7(a)(5)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(a)(5)(B)(i)) is amended—

(1) by striking ", the Secretary shall—" and inserting a colon;

(2) by striking subclause (I) and inserting the following new clause:

"(I) The Secretary shall allocate, for the purpose of providing grants on an annual basis to public entities and private nonprofit organizations participating in projects under section 18(c) of the National School Lunch Act (42 U.S.C. 1769(c)), not more than $4,000,000 in each of fiscal years 1993 and 1994. Subject to the maximum allocation for the projects for each fiscal year, at the beginning of each of fiscal years 1993 and 1994, the Secretary shall allocate, from funds available under this section that have not been otherwise allocated to the States, an amount equal to the estimates by the Secretary of funds to be returned under this clause, but not less than $1,000,000 in each fiscal year. To the extent that amounts returned to the Secretary are less than estimated or are insufficient to meet the needs of the projects, the Secretary may, subject to the maximum allocations established in this subclause, allocate amounts to meet the needs of the projects

from funds available under this section that have not been otherwise allocated to States."; and

(3) in subclause (II), by striking "then allocate," and inserting "After making the allocations under subclause (I), the Secretary shall allocate,".

42 USC 1769 note.

SEC. 104. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on September 30, 1992.

WIC Infant Formula Procurement Act of 1992.

TITLE II—WIC INFANT FORMULA PROCUREMENT

42 USC 1771 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "WIC Infant Formula Procurement Act of 1992".

42 USC 1786 note.

SEC. 202. WIC INFANT FORMULA PROTECTION.

(a) FINDINGS.—

(1) the domestic infant formula industry is one of the most concentrated manufacturing industries in the United States;

(2) only three pharmaceutical firms are responsible for almost all domestic infant formula production;

(3) coordination of pricing and marketing strategies is a potential danger where only a very few companies compete regarding a given product;

(4) improved competition among suppliers of infant formula to the special supplemental food program for women, infants, and children (WIC) can save substantial additional sums to be used to put thousands of additional eligible women, infants, and children on the WIC program; and

(5) barriers exist in the infant formula industry that inhibit the entry of new firms and thus limit competition.

(b) PURPOSES.—It is the purpose of this title to enhance competition among infant formula manufacturers and to reduce the per unit costs of infant formula for the special supplemental food program for women, infants, and children (WIC).

SEC. 203. DEFINITIONS.

Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by striking paragraph (17) and inserting the following new paragraphs:

"(17) 'Competitive bidding' means a procurement process under which the Secretary or a State agency selects a single source (a single infant formula manufacturer) offering the lowest price, as determined by the submission of sealed bids, for a product for which bids are sought for use in the program authorized by this section.

"(18) 'Rebate' means the amount of money refunded under cost containment procedures to any State agency from the manufacturer or other supplier of the particular food product as the result of the purchase of the supplemental food with a voucher or other purchase instrument by a participant in each such agency's program established under this section.

"(19) 'Discount' means, with respect to a State agency that provides program foods to participants without the use of retail grocery stores (such as a State that provides for the home delivery or direct distribution of supplemental food), the amount of the price reduction or other price concession provided to any State agency by the manufacturer or other supplier of the particular food product as the result of the purchase of program food by each such State agency, or its representative, from the supplier.

"(20) 'Net price' means the difference between the manufacturer's wholesale price for infant formula and the rebate level or the discount offered or provided by the manufacturer under a cost containment contract entered into with the pertinent State agency.".

SEC. 204. PROCUREMENT OF INFANT FORMULA FOR WIC.

Section 17(h)(8) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)) is amended by striking subparagraph (G) and inserting the following new subparagraphs:

Contracts. Intergovernmental relations.

"(G)(i) The Secretary shall offer to solicit bids on behalf of State agencies regarding cost-containment contracts to be entered into by infant formula manufacturers and State agencies. The Secretary shall make the offer to State agencies once every 12 months. Each such bid solicitation shall only take place if two or more State agencies request the Secretary to perform the solicitation. For such State agencies, the Secretary shall solicit bids and select the winning bidder for a cost containment contract to be entered into by State agencies and infant formula manufacturers or suppliers.

"(ii) If the Secretary determines that the number of State agencies making the election in clause (i) so warrants, the Secretary may, in consultation with such State agencies, divide such State agencies into more than one group of such agencies and solicit bids for a contract for each such group. In determining the size of the groups of agencies, the Secretary shall, to the extent practicable, take into account the need to maximize the number of potential bidders so as to increase competition among infant formula manufacturers.

"(iii) State agencies that elect to authorize the Secretary to perform the bid solicitation and selection process on their behalf and enter into the resulting containment contract shall obtain the rebates or discounts from the manufacturers or suppliers participating in the contract.

"(iv) In soliciting bids and determining the winning bidder under clause (i), the Secretary shall comply with the requirements of subparagraphs (B) and (F).

"(v)(I) Except as provided in subclause (II), the term of the contract for which bids are to be solicited under this paragraph shall be announced by the Secretary in consultation with the affected State agencies and shall be not less than 2 years.

"(II) If the law of a State regarding the duration of contracts is inconsistent with subclause (I), the Secretary shall permit a 1-year contract, with the option provided to the State to extend the contract for additional years.

"(vi) In prescribing specifications for the bids, the Secretary shall ensure that the contracts to be entered into by the State agencies and the infant formula manufacturers or suppliers provide

for a constant net price for infant formula products for the full term of the contracts and provide for rebates or discounts for all units of infant formula sold through the program that are produced by the manufacturer awarded the contract and that are for a type of formula product covered under the contract. The contracts shall cover all types of infant formula products normally covered under cost containment contracts entered into by State agencies.

"(vii) The Secretary shall also develop procedures for—

"(I) rejecting all bids for any joint contract and announcing a resolicitation of infant formula bids where necessary;

"(II) permitting a State agency that has authorized the Secretary to undertake bid solicitation on its behalf under this subparagraph to decline to enter into the joint contract to be negotiated and awarded pursuant to the solicitation if the agency promptly determines after the bids are opened that participation would not be in the best interest of its program; and

"(III) assuring infant formula manufacturers submitting a bid under this subparagraph that a contract awarded pursuant to the bid will cover State agencies serving no fewer than a number of infants to be specified in the bid solicitation.

"(viii) The bid solicitation and selection process on behalf of the State agencies shall be conducted in accordance with any procedures the Secretary deems necessary for the effective and efficient administration of the bid solicitation and selection process and consistent with the requirements of this subparagraph. The procedures established by the Secretary shall ensure that—

"(I) the bid solicitation and selection process is conducted in a manner providing full and open competition; and

"(II) the bid solicitation and selection process is free of any real or apparent conflict of interest.".

"(H) In soliciting bids for contracts for infant formula for the program authorized by this section, the Secretary shall solicit bids from infant formula manufacturers under procedures in which bids for rebates or discounts are solicited for milk-based and soy-based infant formula, separately, except where the Secretary determines that such solicitation procedures are not in the best interest of the program.

"(I) To reduce the costs of any supplemental foods, the Secretary—

"(i) shall promote, but not require, the joint purchase of infant formula among State agencies electing not to participate under the procedures set forth in subparagraph (G);

"(ii) shall encourage and promote (but not require) the purchase of supplemental foods other than infant formula under cost containment procedures;

"(iii) shall inform State agencies of the benefits of cost containment and provide assistance and technical advice at State agency request regarding the State agency's use of cost containment procedures;

"(iv) shall encourage (but not require) the joint purchase of supplemental foods other than infant formula under procedures specified in subparagraph (B), if the Secretary determines that—

"(I) the anticipated savings are expected to be significant;

"(II) the administrative expenses involved in purchasing the food item through competitive bidding procedures, whether under a rebate or discount system, will not exceed the savings anticipated to be generated by the procedures; and

"(III) the procedures would be consistent with the purposes of the program; and

"(v) may make available additional funds to State agencies out of the funds otherwise available under paragraph (1)(A) for nutrition services and administration in an amount not exceeding one half of 1 percent of the amounts to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.

"(J)(i) Any person, company, corporation, or other legal entity that submits a bid to supply infant formula to carry out the program authorized by this section and announces or otherwise discloses the amount of the bid, or the rebate or discount practices of such entities, in advance of the time the bids are opened by the Secretary or the State agency, or any person, company, corporation, or other legal entity that makes a statement (prior to the opening of bids) relating to levels of rebates or discounts, for the purpose of influencing a bid submitted by any other person, shall be ineligible to submit bids to supply infant formula to the program for the bidding in progress for up to 2 years from the date the bids are opened and shall be subject to a civil penalty of up to $100,000,000, as determined by the Secretary to provide restitution to the program for harm done to the program. The Secretary shall issue regulations providing such person, company, corporation, or other legal entity appropriate notice, and an opportunity to be heard and to respond to charges. Regulations.

"(ii) The Secretary shall determine the length of the disqualification, and the amount of the civil penalty referred to in clause (i) based on such factors as the Secretary by regulation determines appropriate.

"(iii) Any person, company, corporation, or other legal entity disqualified under clause (i) shall remain obligated to perform any requirements under any contract to supply infant formula existing at the time of the disqualification and until each such contract expires by its terms.

"(K) Not later than the expiration of the 180-day period beginning on the date of enactment of this subparagraph, the Secretary shall prescribe regulations to carry out this paragraph.". Regulations.

SEC. 205. PROCEDURES TO REDUCE PURCHASES OF LOW-IRON INFANT FORMULA.

Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended by adding at the end the following new paragraph:

"(22) In the State plan submitted to the Secretary for fiscal year 1994, each State agency shall advise the Secretary regarding the procedures to be used by the State agency to reduce the purchase of low-iron infant formula for infants on the program for whom such formula has not been prescribed by a physician or other appropriate health professional, as determined by regulations issued by the Secretary.". Regulations.

SEC. 206. ASSISTANCE TO ENCOURAGE ADDITIONAL COST CONTAINMENT EFFORTS.

The second sentence of section 17(h)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(2)(A)) is amended—

(1) by striking "formula shall—" and inserting "formula—";

(2) by inserting "shall" after the clause designations of each of clauses (i), (ii), and (iii);

(3) by striking "and" at the end of clause (ii);

(4) by striking the period at the end of clause (iii) and inserting "; and"; and

(5) by adding at the end the following new clause:

"(iv) may provide funds, to the extent funds are not already provided under subparagraph (I)(v) for the same purpose, to help defray reasonable anticipated expenses associated with innovations in cost containment or associated with procedures that tend to enhance competition.".

SEC. 207. TECHNICAL ASSISTANCE.

Section 17(h)(8)(E)(ii) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(E)(ii)) is amended by striking "that do not have large caseloads and".

42 USC 1786 note. Reports.

SEC. 208. STUDY.

Not later than April 1, 1994, the Secretary of Agriculture shall report to the Committee on Education and Labor of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on—

(1) State agencies that request the Secretary of Agriculture to conduct bid solicitations for infant formula under section 17(h)(8)(G)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(G)(i)) (as amended by section 204 of this Act);

(2) cost reductions achieved by the solicitations; and

(3) other matters the Secretary determines to be appropriate regarding this title and the amendments made by this title.

SEC. 209. TERMINATION.

43 USC 1786 note.

The authority provided by this title and the amendments made by this title shall terminate on September 30, 1994, except with regard to section 17(h)(8)(J) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(8)(J)) (as amended by section 204 of this Act).

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 2875:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed Senate and House.

Public Law 102-513
102d Congress

An Act

Oct. 24, 1992
[S. 3224]

To designate the United States Courthouse to be constructed in Fargo, North Dakota, as the "Quentin N. Burdick United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Courthouse to be constructed in Fargo, North Dakota shall be known and designated as the "Quentin N. Burdick United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Courthouse referred to in section 1 shall be deemed a reference to the "Quentin N. Burdick United States Courthouse".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 3224:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 10, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-514
102d Congress

An Act

To extend the authorization of use of official mail in the location and recovery of missing children, and for other purposes.

Oct. 24, 1992
[S. 3279]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION OF USE OF OFFICIAL MAIL IN THE LOCATION AND RECOVERY OF MISSING CHILDREN.

The Act entitled "An Act to amend title 3, United States Code, to authorize the use of penalty and franked mail in efforts relating to the location and recovery of missing children", approved August 9, 1985 (39 U.S.C. 3220 note; Public Law 99-87), is amended—

(1) in section 3(a) by striking out "June 30, 1992" and inserting in lieu thereof "June 30, 1997"; and

(2) in section 5 by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1997".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 3279:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 26, considered and passed Senate.
Sept. 30, considered and passed House.

Public Law 102-515
102d Congress

An Act

Oct. 24, 1992
[S. 3312]

Entitled the "Cancer Registries Amendment Act".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cancer Registries Amendment Act.
Diseases.
Health and health care.
42 USC 201 note.
42 USC 280e note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cancer Registries Amendment Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) cancer control efforts, including prevention and early detection, are best addressed locally by State health departments that can identify unique needs;

(2) cancer control programs and existing statewide population-based cancer registries have identified cancer incidence and cancer mortality rates that indicate the burden of cancer for Americans is substantial and varies widely by geographic location and by ethnicity;

(3) statewide cancer incidence and cancer mortality data, can be used to identify cancer trends, patterns, and variation for directing cancer control intervention;

(4) the American Association of Central Cancer Registries (AACCR) cites that of the 50 States, approximately 38 have established cancer registries, many are not statewide and 10 have no cancer registry; and

(5) AACCR also cites that of the 50 States, 39 collect data on less than 100 percent of their population, and less than half have adequate resources for insuring minimum standards for quality and for completeness of case information.

(b) PURPOSE.—It is the purpose of this Act to establish a national program of cancer registries.

SEC. 3. NATIONAL PROGRAM OF CANCER REGISTRIES.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end the following new part:

"PART M—NATIONAL PROGRAM OF CANCER REGISTRIES

42 USC 280e.

"SEC. 399H. NATIONAL PROGRAM OF CANCER REGISTRIES.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States, or may make grants or enter into contracts with academic or nonprofit organizations designated by the State to operate the State's cancer registry in lieu of making a grant directly to the State, to support the operation of population-based, statewide cancer registries in order to collect, for each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), data concerning—

"(1) demographic information about each case of cancer;

"(2) information on the industrial or occupational history of the individuals with the cancers, to the extent such information is available from the same record;

"(3) administrative information, including date of diagnosis and source of information;

"(4) pathological data characterizing the cancer, including the cancer site, stage of disease (pursuant to Staging Guide), incidence, and type of treatment; and

"(5) other elements determined appropriate by the Secretary.

"(b) MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the State, or the academic or nonprofit private organization designated by the State to operate the cancer registry of the State, involved agrees, with respect to the costs of the program, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs or $1 for every $3 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION; MAINTENANCE OF EFFORT.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) With respect to a State in which the purpose described in subsection (a) is to be carried out, the Secretary, in making a determination of the amount of non-Federal contributions provided under paragraph (1), may include only such contributions as are in excess of the amount of such contributions made by the State toward the collection of data on cancer for the fiscal year preceding the first year for which a grant under subsection (a) is made with respect to the State. The Secretary may decrease the amount of non-Federal contributions that otherwise would have been required by this subsection in those cases in which the State can demonstrate that decreasing such amount is appropriate because of financial hardship.

"(c) ELIGIBILITY FOR GRANTS.—

"(1) IN GENERAL.—No grant shall be made by the Secretary under subsection (a) unless an application has been submitted to, and approved by, the Secretary. Such application shall be in such form, submitted in such a manner, and be accompanied by such information, as the Secretary may specify. No such application may be approved unless it contains assurances that the applicant will use the funds provided only for the purposes specified in the approved application and in accordance with the requirements of this section, that the application will establish such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement and accounting of Federal funds paid to the applicant under subsection (a)

of this section, and that the applicant will comply with the peer review requirements under sections 491 and 492.

"(2) ASSURANCES.—Each applicant, prior to receiving Federal funds under subsection (a), shall provide assurances satisfactory to the Secretary that the applicant will—

"(A) provide for the establishment of a registry in accordance with subsection (a);

"(B) comply with appropriate standards of completeness, timeliness, and quality of population-based cancer registry data;

"(C) provide for the annual publication of reports of cancer data under subsection (a); and

"(D) provide for the authorization under State law of the statewide cancer registry, including promulgation of regulations providing—

"(i) a means to assure complete reporting of cancer cases (as described in subsection (a)) to the statewide cancer registry by hospitals or other facilities providing screening, diagnostic or therapeutic services to patients with respect to cancer;

"(ii) a means to assure the complete reporting of cancer cases (as defined in subsection (a)) to the statewide cancer registry by physicians, surgeons, and all other health care practitioners diagnosing or providing treatment for cancer patients, except for cases directly referred to or previously admitted to a hospital or other facility providing screening, diagnostic or therapeutic services to patients in that State and reported by those facilities;

"(iii) a means for the statewide cancer registry to access all records of physicians and surgeons, hospitals, outpatient clinics, nursing homes, and all other facilities, individuals, or agencies providing such services to patients which would identify cases of cancer or would establish characteristics of the cancer, treatment of the cancer, or medical status of any identified patient;

"(iv) for the reporting of cancer case data to the statewide cancer registry in such a format, with such data elements, and in accordance with such standards of quality timeliness and completeness, as may be established by the Secretary;

"(v) for the protection of the confidentiality of all cancer case data reported to the statewide cancer registry, including a prohibition on disclosure to any person of information reported to the statewide cancer registry that identifies, or could lead to the identification of, an individual cancer patient, except for disclosure to other State cancer registries and local and State health officers;

"(vi) for a means by which confidential case data may in accordance with State law be disclosed to cancer researchers for the purposes of cancer prevention, control and research;

"(vii) for the authorization or the conduct, by the statewide cancer registry or other persons and organizations, of studies utilizing statewide cancer reg-

istry data, including studies of the sources and causes of cancer, evaluations of the cost, quality, efficacy, and appropriateness of diagnostic, therapeutic, rehabilitative, and preventative services and programs relating to cancer, and any other clinical, epidemiological, or other cancer research; and

"(viii) for protection for individuals complying with the law, including provisions specifying that no person shall be held liable in any civil action with respect to a cancer case report provided to the statewide cancer registry, or with respect to access to cancer case information provided to the statewide cancer registry.

"(d) RELATIONSHIP TO CERTAIN PROGRAMS.—

"(1) IN GENERAL.—This section may not be construed to act as a replacement for or diminishment of the program carried out by the Director of the National Cancer Institute and designated by such Director as the Surveillance, Epidemiology, and End Results Program (SEER).

"(2) SUPPLANTING OF ACTIVITIES.—In areas where both such programs exist, the Secretary shall ensure that SEER support is not supplanted and that any additional activities are consistent with the guidelines provided for in subsection (c)(2) (C) and (D) and are appropriately coordinated with the existing SEER program.

"(3) TRANSFER OF RESPONSIBILITY.—The Secretary may not transfer administration responsibility for such SEER program from such Director.

"(4) COORDINATION.—To encourage the greatest possible efficiency and effectiveness of Federally supported efforts with respect to the activities described in this subsection, the Secretary shall take steps to assure the appropriate coordination of programs supported under this part with existing Federally supported cancer registry programs.

"(e) REQUIREMENT REGARDING CERTAIN STUDY ON BREAST CANCER.—In the case of a grant under subsection (a) to any State specified in section 399K(b), the Secretary may establish such conditions regarding the receipt of the grant as the Secretary determines are necessary to facilitate the collection of data for the study carried out under section 399C.

"SEC. 399I. PLANNING GRANTS REGARDING REGISTRIES. 42 USC 280e-1.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States for the purpose of developing plans that meet the assurances required by the Secretary under section 399B(c)(2).

"(2) OTHER ENTITIES.—For the purpose described in paragraph (1), the Secretary may make grants to public entities other than States and to nonprofit private entities. Such a grant may be made to an entity only if the State in which the purpose is to be carried out has certified that the State approves the entity as qualified to carry out the purpose.

"(b) APPLICATION.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the certification required in subsection (a)(2) (if the application is for a grant under such subsection), and the application is in such form, is made in such

manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

42 USC 280e-2.

"SEC. 399J. TECHNICAL ASSISTANCE IN OPERATIONS OF STATEWIDE CANCER REGISTRIES.

"The Secretary, acting through the Director of the Centers for Disease Control, may, directly or through grants and contracts, or both, provide technical assistance to the States in the establishment and operation of statewide registries, including assistance in the development of model legislation for statewide cancer registries and assistance in establishing a computerized reporting and data processing system.

42 USC 280e-3.

"SEC. 399K. STUDY IN CERTAIN STATES TO DETERMINE THE FACTORS CONTRIBUTING TO THE ELEVATED BREAST CANCER MORTALITY RATES.

"(a) IN GENERAL.—Subject to subsections (c) and (d), the Secretary, acting through the Director of the National Cancer Institute, shall conduct a study for the purpose of determining the factors contributing to the fact that breast cancer mortality rates in the States specified in subsection (b) are elevated compared to rates in other States.

"(b) RELEVANT STATES.—The States referred to in subsection (a) are Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, and the District of Columbia.

"(c) COOPERATION OF STATE.—The Secretary may conduct the study required in subsection (a) in a State only if the State agrees to cooperate with the Secretary in the conduct of the study, including providing information from any registry operated by the State pursuant to section 399H(a).

"(d) PLANNING, COMMENCEMENT, AND DURATION.—The Secretary shall, during each of the fiscal years 1993 and 1994, develop a plan for conducting the study required in subsection (a). The study shall be initiated by the Secretary not later than fiscal year 1994, and the collection of data under the study may continue through fiscal year 1998.

"(e) REPORT.—Not later than September 30, 1999, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings and recommendations made as a result of the study.

42 USC 280e-4.

"SEC. 399L. AUTHORIZATION OF APPROPRIATIONS.

"(a) REGISTRIES.—For the purpose of carrying out this part, the Secretary may use $30,000,000 for each of the fiscal years 1993 through 1997. Out of any amounts used for any such fiscal year, the Secretary may obligate not more than 25 percent for carrying out section 399I, and not more than 10 percent may be expended for assessing the accuracy, completeness and quality of data collected, and not more than 10 percent of which is to be expended under subsection 399J.

"(b) BREAST CANCER STUDY.—Of the amounts appropriated for the National Cancer Institute under subpart 1 of part C of title IV for any fiscal year in which the study required in section 399K is being carried out, the Secretary shall expend not less than $1,000,000 for the study.".

Approved October 24, 1992.

LEGISLATIVE HISTORY—S. 3312:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed Senate.
Oct. 5, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

59-194 O—93——21 : QL 3 (Pt. 4)

Public Law 102-516
102d Congress

Joint Resolution

Oct. 24, 1992
[S.J. Res. 304]

Designating January 3, 1993, through January 9, 1993, as "National Law Enforcement Training Week".

Whereas law enforcement training and the sciences related to law enforcement are critical to the immediate and long-term safety and well-being of this Nation because law enforcement professionals provide service and protection to citizens in all sectors of society;

Whereas law enforcement training is a critical component of national efforts to protect the citizens of this Nation from violent crime, to combat the malignancy of illicit drugs, and to apprehend criminals who commit personal, property, and business crimes;

Whereas law enforcement training serves the hard working and law abiding citizens of this Nation;

Whereas it is essential that the citizens of this Nation be able to enjoy an inherent right of freedom from fear and learn of the significant contributions that law enforcement trainers have made to assure such right;

Whereas it is vital to build and maintain a highly trained and motivated law enforcement work force that is educated and trained in the skills of law enforcement and the sciences related to law enforcement in order to take advantage of the opportunities that law enforcement provides;

Whereas it is in the national interest to stimulate and encourage the youth of this Nation to understand the significance of law enforcement training to the law enforcement profession and to the safety and security of all citizens;

Whereas it is in the national interest to encourage the youth of this Nation to appreciate the intellectual fascination of law enforcement training; and

Whereas it is in the national interest to make the youth of this Nation aware of career options available in law enforcement and disciplines related to law enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 3, 1993, through January 9, 1993, is designated as "National Law Enforcement Training Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate exhibits, ceremonies, and activities, including programs designed to heighten the awareness of all citizens, particularly the youth of this Nation, of the importance of law enforcement training and related disciplines.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S.J. Res. 304:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-517
102d Congress

Joint Resolution

Oct. 24, 1992
[S.J. Res. 309]

Designating the week beginning November 8, 1992, as "National Women Veterans Recognition Week".

Whereas 1992 marks the 50th anniversary of the establishment of the Women's Army Auxiliary Corps, the Women Accepted for Voluntary Emergency Service, the Women Air Force Service Pilots, and the Women's Reserve of the Coast Guard, in which more than 400,000 women served during World War II;

Whereas there are more than 1,200,000 women veterans in the United States representing 4.6 percent of the total veteran population;

Whereas the number of women serving in the United States Armed Forces and the number of women veterans continue to increase;

Whereas women veterans have contributed greatly to the security of the United States through honorable military service, often involving great hardship and danger;

Whereas women are performing a wider range of tasks in the United States Armed Forces, as demonstrated by the participation of women in the military actions taken in Panama and the Persian Gulf region;

Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;

Whereas the lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and

Whereas designating a week to recognize women veterans will help both to promote important gains made by women veterans and to focus attention on the special needs of women veterans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 8, 1992, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S.J. Res. 309:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-518
102d Congress

Joint Resolution

Oct. 24, 1992
[S.J. Res. 318]

Designating November 13, 1992, as "Vietnam Veterans Memorial 10th Anniversary Day".

Whereas on November 13, 1982, the Vietnam Veterans Memorial was dedicated in honor and recognition of the men and women of the Armed Forces of the United States who served in the Vietnam War, particularly those who gave their lives or who remain missing;

Whereas the Vietnam Veterans Memorial, located on a site in West Potomac Park in the District of Columbia near the Lincoln Memorial as authorized by Public Law 96-297, was constructed with funds raised entirely from private sources;

Whereas this memorial, bearing the names of 58,183 men and women, has become the most visited memorial in the Nation's capital;

Whereas November 13, 1992, marks the 10th anniversary of the Vietnam Veterans Memorial, a milestone which will be observed during 1992 through educational seminars, a reading of the names on the Wall, veterans reunions, and other appropriate events;

Whereas this anniversary offers an opportunity for the entire country to reflect on the Vietnam Veterans Memorial and its role in healing the Nation's wounds from the Vietnam era; and

Whereas the anniversary will enable new generations to discuss lessons learned in the decade since the Memorial's dedication: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 13, 1992, is designated as "Vietnam Veterans Memorial 10th Anniversary Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 24, 1992.

LEGISLATIVE HISTORY—S.J. Res. 318:

CONGRESSIONAL RECORD, Vol. 138 (1992):
June 26, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-519
102d Congress

An Act

Oct. 25, 1992
[H.R. 4542]

To prevent and deter auto theft.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti Car Theft Act of 1992. Intergovernmental relations.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti Car Theft Act of 1992".

TITLE I—TOUGHER LAW ENFORCEMENT AGAINST AUTO THEFT

Subtitle A—Enhanced Penalties for Auto Theft

15 USC 1901 note.

SEC. 101. FEDERAL PENALTIES FOR ARMED ROBBERIES OF AUTOS.

(a) IN GENERAL.—Chapter 103 of title 18, United States Code, is amended by adding at the end the following:

"§ 2119. Motor vehicles

"Whoever, possessing a firearm as defined in section 921 of this title, takes a motor vehicle that has been transported, shipped, or received in interstate or foreign commerce from the person or presence of another by force and violence or by intimidation, or attempts to do so, shall—

"(1) be fined under this title or imprisoned not more than 15 years, or both,

"(2) if serious bodily injury (as defined in section 1365 of this title) results, be fined under this title or imprisoned not more than 25 years, or both, and

"(3) if death results, be fined under this title or imprisoned for any number of years up to life, or both.".

18 USC 2119 note.

(b) FEDERAL COOPERATION TO PREVENT "CARJACKING" AND MOTOR VEHICLE THEFT.—In view of the increase of motor vehicle theft with its growing threat to human life and to the economic well-being of the Nation, the Attorney General, acting through the Federal Bureau of Investigation and the United States Attorneys, is urged to work with State and local officials to investigate car thefts, including violations of section 2119 of title 18, United States Code, for armed carjacking, and as appropriate and consistent with prosecutorial discretion, prosecute persons who allegedly violate such law and other relevant Federal statutes.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 103 of title 18, United States Code, is amended by adding at the end the following new item:

"2119. Motor vehicles.".

SEC. 102. IMPORTATION AND EXPORTATION.

Section 553(a) of title 18, United States Code, is amended by striking "fined not more than $15,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 103. TRAFFICKING IN STOLEN VEHICLES.

Each of sections 2312 and 2313(a) of title 18, United States Code, are amended by striking "fined not more than $5,000 or imprisoned not more than five years" and inserting "fined under this title or imprisoned not more than 10 years".

SEC. 104. CIVIL AND CRIMINAL FORFEITURE.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended by adding after subparagraph (E) the following:

"(F) Any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, from a violation of—

"(i) section 511 (altering or removing motor vehicle identification numbers);

"(ii) section 553 (importing or exporting stolen motor vehicles);

"(iii) section 2119 (armed robbery of automobiles);

"(iv) section 2312 (transporting stolen motor vehicles in interstate commerce); or

"(v) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce).".

(b) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended by adding after paragraph (4) the following:

"(5) The court, in imposing sentence on a person convicted of a violation or conspiracy to violate—

"(A) section 511 (altering or removing motor vehicle identification numbers);

"(B) section 553 (importing or exporting stolen motor vehicles);

"(C) section 2119 (armed robbery of automobiles);

"(D) section 2312 (transporting stolen motor vehicles in interstate commerce); or

"(E) section 2313 (possessing or selling a stolen motor vehicle that has moved in interstate commerce);

shall order that the person forfeit to the United States any property, real or personal, which represents or is traceable to the gross proceeds obtained, directly or indirectly, as a result of such violation.".

SEC. 105. CHOP SHOPS.

(a) AMENDMENT.—Chapter 113 of title 18, United States Code, is amended by adding at the end the following:

"§ 2322. Chop shops.

"(a) IN GENERAL.—

"(1) UNLAWFUL ACTION.—Any person who knowingly owns, operates, maintains, or controls a chop shop or conducts operations in a chop shop shall be punished by a fine under this title or by imprisonment for not more than 15 years, or both. If a conviction of a person under this paragraph is for a violation committed after the first conviction of such person under this

paragraph, the maximum punishment shall be doubled with respect to any fine and imprisonment.

"(2) INJUNCTIONS.—The Attorney General shall, as appropriate, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation.".

"(b) DEFINITION.—For purposes of this section, the term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 18, United States Code, is amended by adding at the end the following new item:

"2322. Chop shops.".

Subtitle B—Targeted Law Enforcement

42 USC 3750a.

SEC. 130. GRANT AUTHORIZATION.

(a) PURPOSE.—The purpose of this subtitle is to supplement the provisions of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program to help the States to curb motor vehicle thefts and the related violence.

(b) GRANTS.—The Director of the Bureau of Justice Assistance shall make grants to Anti Car Theft Committees submitting applications in compliance with the requirements of this subtitle.

42 USC 3750b.

SEC. 131. APPLICATION.

(a) SUBMISSION.—To be eligible to receive a grant under this subtitle, a chief executive of an Anti Car Theft Committee shall submit an application to the Director of the Bureau of Justice Assistance.

(b) CONTENT.—The application submitted under subsection (a) shall include the following:

(1) A statement that the applicant Anti Car Theft Committee is either a State agency or an agency of a unit of local government.

(2) A statement that the applicant Anti Car Theft Committee is or will be financed in part (A) by a fee on motor vehicles registered by the State or possessed or insured within the State (and that such fee is not less than $1 per vehicle), or (B) in the same manner and to the same extent as is a similar program financed and implemented in a State like Michigan.

(3) An assurance that Federal funds received under a grant under this subtitle shall be used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under such grant.

(4) A statement that the resources of the applicant Anti Car Theft Committee will be devoted entirely to combating motor vehicle theft, including any or all of the following:

(A) Financing law enforcement officers or investigators whose duties are entirely or primarily related to investigating cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(B) Financing prosecutors whose duties are entirely or primarily related to prosecuting cases of motor vehicle theft or of trafficking in stolen motor vehicles or motor vehicle parts.

(C) Motor vehicle theft prevention programs, including vehicle identification number etching programs, programs implemented by law enforcement agencies and designed to enable the electronic tracking of stolen automobiles, and programs designed to prevent the export of stolen vehicles.

(5) A description of the budget for the applicant Anti Car Theft Committee for the fiscal year for which a grant is sought.

SEC. 132. AWARD OF GRANTS. 42 USC 3750c.

(a) IN GENERAL.—The Director shall allocate to each State a proportion of the total funds available under this subtitle that is equal to the proportion of the number of motor vehicles registered in such State to the total number of motor vehicles registered in the United States. The Director shall ensure that all applicant States have an opportunity to receive grants from an available appropriation. Any State that has not met the requirements described in section 203 of this Act shall be excluded from any allocation under this subsection.

(b) GRANT AMOUNTS.—If one Anti Car Theft Committee within a State submits an application in compliance with section 131, the Director shall award to such Anti Car Theft Committee a grant equal to the total amount of funds allocated to such State under this section. In no case shall the Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee.

(c) MULTIPLE COMMITTEES.—If two or more Anti Car Theft Committees within a State submit applications in compliance with section 131, the Director shall award to such Anti Car Theft Committees grants that in sum are equal to the total amount of funds allocated to such State under this section. In no case shall an Anti Car Theft Committee receive a grant that is more than 50 percent of the preaward budget for such Anti Car Theft Committee. The Director shall allocate funds among two or more Anti Car Theft Committees with a State according to the proportion of the preaward budget of each Anti Car Theft Committee to the total preaward budget for all grant recipient Anti Car Theft Committees within such State.

(d) RENEWAL OF GRANTS.—Subject to the availability of funds, a grant under this subtitle may be renewed for up to 2 additional years after the first fiscal year during which the recipient receives an initial grant under this subtitle if the Director determines that the funds made available to the recipient during the previous year were used in the manner required under the approved application.

SEC. 133. AUTHORIZATION OF APPROPRIATIONS. 42 USC 3750d.

There are authorized to be appropriated $10,000,000 to carry out this subtitle for each of the fiscal years 1993, 1994, and 1995.

Subtitle C—Report Regarding State Motor Vehicle Titling Programs to Combat Motor Vehicle Thefts and Fraud

15 USC 2041 note.

SEC. 140. ESTABLISHMENT OF TASK FORCE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Transportation and the Attorney General of the United States, working together, shall, as soon as practicable after the date of the enactment of this Act but not later than 180 days after such date, establish a task force to study problems which relate to motor vehicle titling, vehicle registration, and controls over motor vehicle salvage which may affect the motor vehicle theft problem. The study shall include an examination of the extent to which the absence of uniformity and integration in State laws regulating vehicle titling and registration and salvage of used vehicles allows enterprising criminals to find the weakest link to "wash" the stolen character of the vehicles. It shall also consider the adoption of a title brand on all certificates of title indicating that the applicable vehicle was previously issued a title brand or a title signifying "rebuilt", "reconstructed", or "flood".

(2) REPORT.—The task force shall prepare a report containing the results of such study and shall submit such report to the President and the Congress and to the chief executive officer of each State not later than 12 months after the task force is established, together with appropriate recommendations to solve these problems.

(b) MEMBERSHIP.—The task force shall consist of—

(1) the Secretary of Transportation, or the Secretary's delegate;

(2) the Attorney General of the United States, or the Attorney General's delegate;

(3) the Secretary of Commerce, or the Secretary's delegate;

(4) the Secretary of the Treasury, or the Secretary's delegate;

(5) at least 3 representatives, to be designated by the Attorney General of the United States;

(6) at least 5 representatives of State motor vehicle departments, to be designated by the Secretary of Transportation; and

(7) at least 1 representative, to be designated by the Secretary of Transportation, from each of the following groups:

(A) Motor vehicle manufacturers.

(B) Motor vehicle dealers and distributors.

(C) Motor vehicle dismantlers, recyclers, and salvage dealers.

(D) Motor vehicle repair and body shop operators.

(E) Motor vehicle scrap processors.

(F) Insurers of motor vehicles.

(G) State law enforcement officials.

(H) Local law enforcement officials.

(I) The American Association of Motor Vehicle Administrators.

(J) The National Insurance Crime Bureau.

(K) The National Committee on Traffic Laws and Ordinances.

(c) REIMBURSEMENT.—

(1) SALARY.—The members of the task force shall serve without pay.

(2) TRAVEL EXPENSES.—While away from their residences or regular places of business in performance of services for the Federal Government, members of the task force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code.

(3) CHAIR.—The Secretary of Transportation, or the Secretary's delegate, shall serve as chairman of the task force. The task force may also invite representatives of the Governors and State legislators to participate.

(d) REPORT.—

(1) BASIS.—The report required by subsection (a)(2) shall be made after a meaningful consultative process and review of existing laws, practices, studies, and recommendations regarding the problems specified in subsection (a)(1).

(2) CONTENT.—The report shall specify the key aspects of motor vehicle antitheft measures necessary to prevent the disposition or use of stolen motor vehicles, or the major components of motor vehicles, and to prevent insurance and other fraud based upon false reports of stolen motor vehicles. The report shall indicate any of the antitheft measures for which national uniformity would be crucial in order for the measure to be adequately effective. The report shall recommend viable ways of obtaining any national uniformity which is necessary.

(3) RECOMMENDATIONS.—The report also shall include other recommendations for legislative or administrative action at the State level or at the Federal level, and recommendations for industry and public actions.

TITLE II—AUTOMOBILE TITLE FRAUD

SEC. 201. DEFINITIONS. 15 USC 2041.

For purposes of this title:

(1) The term "automobile" has the meaning given such term by section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)).

(2) The term "certificate of title" means a document issued by a State evidencing ownership of an automobile.

(3) The term "insurance carrier" means an individual, corporation, or other entity which is engaged in the business of underwriting automobile insurance.

(4) The term "junk automobile" means any automobile which is incapable of operation on roads or highways and which has no value except as a source of parts or scrap.

(5) The term "junk yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning junk automobiles for resale, either in their entirety or as spare parts, for rebuilding or restoration, or for crushing.

(6) The term "operator" means a person or entity authorized or designated as the operator of the information system pursu-

ant to section 202(a)(2) or if no such person or entity is authorized, the Secretary.

(7) The term "salvage automobile" means any automobile which is damaged by collision, fire, flood, accident, trespass, or other occurrence to the extent that its fair salvage value plus the cost of repairing the automobile for legal operation on roads or highways would exceed the fair market value of the automobile immediately prior to the occurrence causing its damage.

(8) The term "salvage yard" means any individual, corporation, or other entity which is engaged in the business of acquiring or owning salvage automobiles for resale, either in their entirety or as spare parts, or for rebuilding or restoration, or for crushing.

(9) The term "Secretary" means the Secretary of Transportation.

(10) The term "State" means any State of the United States or the District of Columbia.

15 USC 2042.

SEC. 202. NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM.

(a) INFORMATION SYSTEM.—

(1) ESTABLISHMENT.—Not later than January 1996, the Secretary, in cooperation with the States, shall establish an information system (in this title referred to as the "National Motor Vehicle Title Information System") which will enable States and others to gain instant and reliable access to information maintained by other States pertaining to the titling of automobiles, unless the Secretary determines that an existing information system meets the requirements of subsections (b) and (c) of this section and will enable the Secretary to implement this title as early as possible and designates, in consultation with the Attorney General of the United States, such system as the information system for purposes of this title. In establishing the system, the Secretary, working with the Attorney General of the United States and the States, shall ascertain the extent to which title and related information to be included in the system will be adequate, timely, reliable, uniform, and capable of aiding in efforts to prevent the introduction or reintroduction into interstate commerce of stolen vehicles or parts.

(2) OPERATION.—The Secretary may authorize the operation of the information system established or designated under paragraph (1) by contract through an agreement with a State or States, or by redesignating, after consultation with the States, a third party which represents the interests of the States.

(3) FEES.—Operation of the information system established or designated under paragraph (1) shall be paid for by a system of user fees and should be self-sufficient and not be dependent on Federal funds. The amount of fees collected and retained subject to annual appropriation Acts, by the operator pursuant to this paragraph, not including fees collected by the operator and passed on to a State or other entity providing information to the operator, shall not exceed the costs of operating the system.

(b) MINIMUM FUNCTIONAL CAPABILITIES.—The information system established or designated under subsection (a)(1) shall, at a

minimum, enable a user of the system instantly and reliably to determine—

(1) the validity and status of a document purporting to be a certification of title,

(2) whether an automobile bearing a known vehicle identification number is titled in a particular State,

(3) whether an automobile known to be titled in a particular State is or has been a junk vehicle or a salvage vehicle,

(4) for an automobile known to be titled in a particular State, the odometer reading information, as required in section 408 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988), of such vehicle on the date its certificate of title was issued and such later odometer information, if noted by the State, and

(5) whether an automobile bearing a known vehicle identification number has been reported as a junk vehicle or a salvage vehicle pursuant to section 204.

(c) AVAILABILITY OF INFORMATION.—

(1) TO STATE.—Upon request of a participating State, the operator makes available to such State information in the information system pertaining to any automobile.

(2) TO LAW ENFORCEMENT.—Upon request of a Federal, State, or local law enforcement official, the operator makes available to such official information in the information system pertaining to a particular automobile, salvage yard, or junk yard.

(3) TO PROSPECTIVE PURCHASERS.—Upon request of a prospective purchaser of an automobile, including an auction company or an entity that is in the business of purchasing used automobiles, the operator makes available to such prospective purchaser information in the information system pertaining to such automobile.

(4) TO INSURANCE CARRIERS.—Upon request of a prospective or current insurer of an automobile, the operator makes available to such prospective or current insurer information in the information system pertaining to such automobile.

(5) PRIVACY.—Notwithstanding any provision of paragraphs (1) through (4), the operator shall release no information other than what is necessary to reasonably satisfy the requirements of subsection (b). In no event shall the operator collect an individual's social security number or enable users of the information system to obtain an individual's address or social security number.

SEC. 203. STATE PARTICIPATION IN THE NATIONAL MOTOR VEHICLE TITLE INFORMATION SYSTEM. 15 USC 2043.

(a) REQUIREMENTS.—

(1) INFORMATION SHARING.—Each State shall make titling information maintained by such State available for use in establishing the National Motor Vehicle Title Information System established under section 202.

(2) TITLE VERIFICATION.—Each State shall establish a practice of performing an instant title verification check before issuing a certificate of title to an individual or entity claiming to have purchased an automobile from an individual or entity in another State. Such instant title verification check shall consist of—

(A) communicating to the operator the vehicle identification number of the vehicle for which the certificate of title is sought, the name of the State which issued the most recent certificate of title pertaining to the vehicle, and the name of the individual or entity to whom such certificate was issued; and

(B) affording the operator an opportunity to communicate to the participating State the results of a search of the information.

(b) GRANTS TO STATES.—

(1) REVIEW OF STATE SYSTEMS.—Not later than January 1, 1994, the Secretary, in cooperation with the States, shall—

(A) conduct a review of systems used by the States to compile and maintain information concerning the titling of automobiles, and

(B) determine, for each State, the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System for the purpose of meeting the requirements of subsection (b).

(2) AWARD OF GRANTS.—The Secretary may award grants to participating States to be used in making titling information maintained by such States available to the operator of the National Motor Vehicle Title Information System if—

(A) for any State that is a recipient of such a grant, the grant does not exceed—

(i) 25 percent of the cost of making titling information maintained by such State available to the operator of the National Motor Vehicle Title Information System as determined by the Secretary under subsection (d)(1)(B); or

(ii) $300,000;

whichever is lower; and

(B) the Secretary determined that such grants are fair, reasonable, and necessary for the establishment of the National Motor Vehicle Title Information System under section 202(a)(1).

(c) REPORT TO CONGRESS.—No later than January 1, 1997, the Secretary shall report to Congress which States have met the requirements imposed by section 203. If any State has not met these requirements, the Secretary shall describe the impediments that have resulted in the State's failure to meet the requirements.

15 USC 2044.

SEC. 204. REPORTING.

(a) OPERATORS OF JUNK OR SALVAGE YARD.—

(1) INVENTORY REPORT.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity in the business of operating an automobile junk yard or automobile salvage yard shall file a monthly report with the operator. Such report shall contain an inventory of all junk vehicles or salvage vehicles obtained by the junk yard or salvage yard during the preceding month. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter

obtained the vehicle, and a statement of whether the vehicle was crushed or otherwise disposed of for sale or other purposes.

(2) APPLICATION.—Paragraph (1) shall not apply to—

(A) persons or entities that are required by State law to report the acquisition of junk vehicles or salvage vehicles to State or local authorities if such authorities make such information available to the operator, or

(B) any person who is issued a verification under section 607 of the Motor Vehicle Information and Cost Savings Act stating that the vehicle or parts from such vehicle are not reported as stolen.

(b) INSURANCE CARRIERS.—Beginning at a time determined by the Secretary, but no earlier than 3 months prior to the establishment of the National Motor Vehicle Title Information System, any person or entity engaged in the business of an insurance carrier shall file, directly or through a designated agent, a monthly report with the operator. Such report shall contain an inventory of all vehicles of the current model year or any of the 4 preceding model years which such carrier has, during the preceding month, obtained possession of and determined to be salvage or junk vehicles. Such inventory shall contain the vehicle identification number of each vehicle obtained, the date on which it was obtained, the name of the person or entity from whom the reporter obtained the vehicle, and the owner of the vehicle at the time of the filing of the report.

(c) ENFORCEMENT PROVISIONS.—

(1) PENALTY AMOUNT.—Whoever violates this section may be assessed a civil penalty of not to exceed $1,000 for each violation.

(2) PENALTY PROCEDURE.—Any such penalty shall be assessed by the Secretary and collected in a civil action brought by the Attorney General of the United States. Any such penalty may be compromised by the Secretary. In determining the amount of such penalty, or the amount agreed upon in compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, finally determined, or the amount agreed upon in compromise, may be deducted from any sums owed by the United States to the person charged.

(d) PROCEDURES AND PRACTICES.—The Secretary shall establish by rule procedures and practices to facilitate reporting in the least burdensome and costly fashion.

TITLE III—AMENDMENTS ON THEFT PREVENTION REGARDING "CHOP SHOP" RELATED THEFTS

SEC. 301. DEFINITIONS.

(a) CARS, SPECIALTY VEHICLES, AND LIGHT-DUTY TRUCKS.—Section 601(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021(1)) is amended to read as follows:

"(1) The term 'passenger motor vehicle' includes any multipurpose passenger vehicle and light-duty truck that is rated at 6,000 pounds gross vehicle weight or less.".

(b) CHOP SHOP DEFINITION.—Section 601 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2021) is amended by adding at the end the following:

"(11) The term 'chop shop' means any building, lot, facility, or other structure or premise where one or more persons engage in receiving, concealing, destroying, disassembling, dismantling, reassembling, or storing any passenger motor vehicle or passenger motor vehicle part which has been unlawfully obtained in order to alter, counterfeit, deface, destroy, disguise, falsify, forge, obliterate, or remove the identity, including the vehicle identification number or derivative thereof, of such vehicle or vehicle part and to distribute, sell, or dispose of such vehicle or vehicle part in interstate or foreign commerce.".

(c) MAJOR REPLACEMENT PART.—Section 601(8) (15 U.S.C. 2021(8)) is amended to read as follows:

"(8) The term 'major replacement part' means any major part—

"(A) which is not installed in or on a motor vehicle at the time of its delivery to the first purchaser and the equitable or legal title to which has not been transferred to any first purchaser, or

"(B) which is a customized or modified version of an original major part in or on a completed motor vehicle after the manufacture of such vehicle but before the time of its delivery to the first purchaser.".

SEC. 302. THEFT PREVENTION STANDARD.

Section 602 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2022) is amended—

(1) by amending subsection (d)(1) to read as follows:

"(d)(1) In the case of major parts installed by the motor vehicle manufacturer, the standard under this section may not require any part to have more than a single identification.", and

(2) by adding at the end the following:

Regulations.

"(f)(1) Within 2 years after the date of the enactment of the Anti Car Theft Act of 1992, the Secretary shall promulgate a vehicle theft standard which conforms to the requirements of this title and which applies with respect to the covered major parts which are installed by all foreign and domestic manufacturers into passenger motor vehicles (other than light-duty trucks) in not to exceed one-half of the lines not designated under section 603 as high theft lines. Such rule shall be effective for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(2) Within 3 years after the rule under paragraph (1) is promulgated, the Secretary, based on the Attorney General's finding under paragraph (3), shall designate all the remaining such lines of such passenger motor vehicles (other than light-duty trucks) and apply such standard to such lines in conformance with the requirements of this title. Such rule shall also apply to the major replacement parts for the major parts described in this paragraph. Such rule shall be effective, for model years applicable to such passenger motor vehicles as provided in subsection (c)(4) of this section.

"(3) The Attorney General shall make a finding prior to the Secretary's initiation and promulgation of a rule under paragraph (2) that the rule shall be promulgated unless the Attorney General finds, based upon the information collected and analyzed under

section 615 and such other information as the Attorney General may develop (after notice and after a public hearing), that requiring such additional parts marking for all of the applicable passenger motor vehicles would not substantially inhibit chop shop operations and vehicle thefts. The Attorney General shall also take into account as part of the record additional costs, effectiveness, competition, and available alternatives factors. The Attorney General shall transmit the finding and the record upon which the finding is based to the Secretary. Such finding and record shall be a part of the Secretary's rulemaking record.

"(4) The Attorney General of the United States shall by December 31, 1999, determine, after notice and a public hearing, whether one or both rules promulgated under this subsection have been an effective means to substantially inhibit the operation of chop shops and vehicle theft, taking into account the additional cost, competition, and available alternatives. The Attorney General shall base his determination on information collected and analyzed under section 615, the 3-year and 5-year reports issued by the Secretary under this title, and such other information as he may develop and include in the public record. He shall take into consideration the effectiveness, extent of use, and the extent to which civil and criminal penalties under section 610(b) of this title and 18 U.S.C. 2322 regarding chop shops have been effective in substantially inhibiting chop shop operations and vehicle theft. The Attorney General shall promptly transmit his finding to the Secretary. If the determination is that one or both rules have not been an effective means to substantially inhibit chop shop operation and vehicle theft, the Secretary shall within 180 days after receipt of such finding terminate by order 1 or both of the rules promulgated under this subsection effective the next model year following the issuance of such order.

Termination date.

"(5) The Attorney General shall make a separate determination by December 31, 1999, after notice and a public hearing, as to whether the antitheft devices for which an exemption under section 605 is authorized are an effective substitute for parts marking in substantially inhibiting vehicle theft, taking into account the additional cost, competition, and available alternatives. If the Attorney General determines that such antitheft devices are an effective substitute for parts marking in substantially inhibiting vehicle theft, the Secretary shall continue to grant exemptions under section 605 at the level authorized prior to the date of the enactment of the Anti Car Theft Act of 1992 or at the level authorized for model year 2000, as determined by the Attorney General. Nothing in this paragraph affects exemptions granted in model year 2000 or earlier to any manufacturer.

"(6) The Secretary and the Attorney General shall keep the appropriate legislative committees of Congress with jurisdiction over this Act and 18 U.S.C. 2322 informed about the actions taken or planned under this subsection.

"(g) The Secretary is authorized to periodically redetermine and establish by rule the median theft rate under subsection (a)(1), but not more than every 2 years.".

SEC. 303. DESIGNATION OF HIGH THEFT VEHICLE LINES AND PARTS.

Section 603 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2023) is amended—

(1) by striking in subsection (a)(1)(A) "in which the final standard is promulgated" and inserting in lieu thereof "in which the Anti Car Theft Act of 1992 is enacted";

(2) by striking out paragraph (3) of subsection (a) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) by striking "or (3)" in redesignated paragraphs (3) and (4) of subsection (a);

(4) by adding at the end of subsection (a) (as amended by paragraph (2)) the following:

"(5) Any motor vehicle line subject, on the date of enactment of the Anti Car Theft Act of 1992, to parts marking requirements under section 602 and this section shall continue to be subject to such requirements unless such motor vehicle line becomes exempt from such requirements under section 605.", and

(5) by striking paragraph (4) of subsection (b) and redesignating paragraph (5) as paragraph (4).

SEC. 304. LIMITED EXEMPTION FOR NEW VEHICLES EQUIPPED WITH EFFECTIVE ANTITHEFT AS ORIGINAL EQUIPMENT.

(a) CONTINUING CURRENT LAW.—The second sentence of section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by inserting "through model year 1996" after "model year".

(b) MODEL YEARS AFTER MODEL YEAR 1996.—Section 605(a)(2) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2025(a)(2)) is amended by adding at the end the following: "For model year 1997 through model year 2000, the Secretary may grant such an exemption for not more than 1 additional line of any manufacturer and such exemption shall not affect the validity of the exemption of any line previously exempted under this paragraph. For model years subsequent to 2000, the number of lines for which the Secretary may grant such an exemption (if any) shall be determined by the Attorney General under section 602(f)(5).

SEC. 305. PROHIBITED ACTS.

(a) RULES.—Section 610(a)(2) of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) is amended by inserting "or Attorney General" after "Secretary". 15 USC 2027.

(b) CHOP SHOPS.—Section 610 of the Motor Vehicle Information and Cost Savings Act (as so redesignated by section 306 of this Act) (15 U.S.C. 2027) is amended by adding at the end the following:

"(c)(1) It shall be unlawful for any person to knowingly own, operate, maintain, or control a chop shop or conduct operations in a chop shop of any kind or transport by any means any passenger motor vehicle or passenger motor vehicle part to or from a chop shop.

"(2) The Secretary shall, as appropriate and in consultation with the Attorney General, in the case of any person who violates paragraph (1), commence a civil action for permanent or temporary injunction to restrain such violation or the Secretary shall assess and recover a civil penalty of not more than $100,000 per day for each such violation, or both.".

SEC. 306. VERIFICATION.

(a) IN GENERAL.—Title VI of the Motor Vehicle Information and Cost Savings Act is amended by redesignating sections 607 through 614 as sections 610 through 617, respectively, by striking in section 602(e) "and 612" and inserting "and 615", and by inserting after section 606 the following: 15 USC 2027-2034. 15 USC 2022.

"VERIFICATION OF VEHICLE AS LEGAL SALVAGE OR JUNK VEHICLE

"SEC. 607. (a) Any person engaged in business as an insurance carrier to sell comprehensive insurance coverage for motor vehicles shall, if such carrier obtains possession of and transfers a junk motor vehicle or a salvage motor vehicle— 15 USC 2026a.

"(1) verify, in accordance with procedures established by rule under section 609 by the Attorney General and in consultation with the Secretary of Transportation, whether that motor vehicle is reported as stolen, and

"(2) provide verification to whomever such carrier transfers or sells any such salvage or junk motor vehicle identifying the vehicle identification number or derivative thereof of such vehicle and verifying that such vehicle has not been reported as stolen or, if reported as stolen, that such insurance carrier has recovered the vehicle and has proper legal title to the vehicle.

For purposes of paragraph (2), the term 'vehicle identification number' means a unique identification number assigned to a passenger motor vehicle by a manufacturer in compliance with applicable regulations or a derivative thereof. Nothing in this paragraph shall be construed to prohibit such carrier from transferring a motor vehicle if, within a reasonable period of time during normal business operations (as determined by the Attorney General under section 609 of this title) using reasonable efforts, such carrier has not received a determination under section 609 that the vehicle has not been reported as stolen or to otherwise determine whether such vehicle has been reported as stolen, except that such carrier shall provide a written certification of such lack of determination.

"(b) The Attorney General, in consultation with the Secretary, shall promulgate such regulations as are needed to ensure that verification performed and provided by insurance carriers under subsection (a)(2) is uniform, effective, and resistant to fraudulent use.". Regulations.

(b) EFFECTIVE DATE.—The regulations required by section 607(b) of the Motor Vehicle Information and Cost Savings Act shall be promulgated within 6 months after the date of the enactment of this subsection. The amendment made by subsection (a) shall take effect within 3 months after such regulations are promulgated, but not before the system in section 609 of the Motor Vehicle Information and Cost Savings Act is operational. 15 USC 2026a note.

(c) PARTS.—Title VI of such Act, as amended by subsection (a), is amended by inserting after section 607 the following new section:

"PARTS

"SEC. 608. (a) No person engaged in the business of salvaging, dismantling, recycling, or repairing passenger motor vehicles shall knowingly sell or distribute in commerce or transfer or install a major part marked with an identification number without— 15 USC 2026b.

"(1) first determining, through a procedure established by rule by the Attorney General in consultation with the Secretary of Transportation under section 609 that such major part has not been reported as stolen; and

"(2) providing the purchaser or transferee with a verification identifying the vehicle identification number or derivative thereof of such major part, and verifying that such major part has not been reported as stolen.

Regulations.

"(b) The Attorney General, in consultation with the Secretary of Transportation, shall promulgate such regulations as are needed to ensure that verifications provided by persons under subsection (a)(2) are uniform, effective, and resistant to fraudulent use.

"(c) Subsection (a) shall not apply to a person who is the manufacturer of the major part, who has purchased the major part directly from the manufacturer, who has received a verification from an insurance carrier pursuant to section 607 that the motor vehicle from which such major part is derived has not been reported as stolen, or that such carrier has failed, in accordance with section 607, to determine whether such vehicle has been stolen. Such person shall be required to provide such verification to any person to whom such vehicle, or any major part of such vehicle, is thereafter transferred or sold in commerce. The Attorney General shall promulgate regulations to implement this section.".

Regulations.

15 USC 2026b note.

(d) EFFECTIVE DATE.—The amendment made by subsection (c) shall be effective on the date that the system required by section 609 is established.

(e) NATIONAL STOLEN AUTO PART INFORMATION SYSTEM.—Title VI of such Act, as amended by subsection (c), is amended by inserting after section 608 the following new section:

"NATIONAL STOLEN AUTO PART INFORMATION SYSTEM

15 USC 2026c.

"SEC. 609. (a) The Attorney General shall, within 9 months of the date of the enactment of the Anti Car Theft Act of 1992, maintain in the National Crime Information Center an information system containing the identification numbers of stolen passenger motor vehicles and stolen passenger motor vehicle parts. The Attorney General shall also consult with State and local law enforcement agencies in the establishment of such system. The Attorney General shall also consult with the National Crime Information Center Policy Advisory Board to ensure the security of the information in such system and that such system will not compromise the security of stolen vehicle and vehicle parts information in such information system.

"(b) The Attorney General shall specify procedures by rule by which individuals or entities seeking to transfer a vehicle or vehicle parts may obtain a determination whether a part is listed in the system as stolen. If the Attorney General determines that the National Crime Information Center is not able to perform the functions of the information system required under subsection (a), the Attorney General shall enter into an agreement for the operation of such a system separate from the National Crime Information Center.

"(c) The information system under subsection (a) shall, at a minimum, include the following information pertaining to each passenger motor vehicle reported to a law enforcement authority as stolen and not recovered:

"(1) The vehicle identification number of such passenger motor vehicle.

"(2) The make and model year of such passenger motor vehicle.

"(3) The date on which the passenger motor vehicle was reported as stolen.

"(4) The location of the law enforcement authority that received the reports of the passenger motor vehicle's theft.

"(5) If the passenger motor vehicle at the time of its theft contained parts bearing identification numbers or the derivative thereof different from the vehicle identification number of the stolen passenger motor vehicle, the identification numbers of such parts.

"(d) ADVISORY COMMITTEE.—

"(1) IN GENERAL.—The National Stolen Auto Part Information System to be maintained under subsection (a) is to be developed by the Attorney General with the advice and recommendation of the advisory committee established under paragraph (2).

"(2) ESTABLISHMENT.—Not later than 60 days after the date of the enactment of this Act, the Attorney General shall establish in the Department of Justice and appoint an advisory committee with respect to the National Stolen Auto Part Information System to be maintained under subsection (a).

"(3) MEMBERSHIP.—The advisory committee established under paragraph (2) shall be composed of 10 members as follows:

"(A) The Attorney General shall serve as the chairperson of the advisory committee.

"(B) The Secretary of Transportation.

"(C) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the State level.

"(D) One individual appointed by the Attorney General who is qualified to represent the interests of the law enforcement community at the local level.

"(E) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive recycling industry.

"(F) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive repair industry.

"(G) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive rebuilders industry.

"(H) One individual appointed by the Attorney General who is qualified to represent the interests of the automotive parts suppliers industry.

"(I) One individual appointed by the Attorney General who is qualified to represent the interests of the insurance industry.

"(J) One individual appointed by the Attorney General who is qualified to represent the interests of consumers.

"(4) DUTIES.—The advisory committee established under paragraph (2) shall make recommendations regarding—

"(A) the development and implementation of the National Stolen Auto Part Information System, and

"(B) the development and implementation of a verification system as required by section 607.

"(5) REPORT.—Not later than 6 months after the date of the enactment of the Anti Car Theft Act of 1992, the advisory committee established under paragraph (2) shall submit to the Attorney General, the Secretary of Transportation, and the Congress a report containing the committee's recommendations.".

"(e) Upon request by an insurance carrier, a person lawfully selling or distributing in interstate commerce passenger motor vehicle parts, or an individual or enterprise engaged in the business of repairing passenger motor vehicles, the Attorney General, or the entity or entities designated by the Attorney General, shall immediately provide such insurance carrier or person with a determination as to whether the information system under subsection (a) contains a record of an passenger motor vehicle or a passenger motor vehicle part bearing a particular vehicle identification number or derivative thereof having been reported stolen. The Attorney General may require such verification as the Attorney General deems appropriate to ensure that the request is legitimate and will not compromise the security of the system.

Appropriation authorization.

"(f) There are authorized to be appropriated such sums as may be necessary to carry out this section. The information system established under subsection (a) shall be effective as provided in the rules promulgated by the Attorney General.".

15 USC 2034.

(e) STUDY.—Section 617 of the Motor Vehicle Information and Cost Savings Act (as so redesignated) is amended in subsection (a)(1) by striking "after the date of the enactment of this title" and in subsection (b)(1) by striking "after the promulgation of the standard required by this title" and inserting in each place "after the date of the enactment of the Anti Car Theft Act of 1992".

TITLE IV—EXPORT OF STOLEN AUTOMOBILES

SEC. 401. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

Part VI of title IV of the Tariff Act of 1930 is amended by inserting after section 646 the following new sections:

19 USC 1646b.

"SEC. 646A. RANDOM CUSTOMS INSPECTIONS FOR STOLEN AUTOMOBILES BEING EXPORTED.

"The Commissioner of Customs shall direct customs officers to conduct at random inspections of automobiles, and of shipping containers that may contain automobiles that are being exported, for purposes of determining whether such automobiles were stolen.

"SEC. 646B. EXPORT REPORTING REQUIREMENT.

19 USC 1646c.

"The Commissioner of Customs shall require all persons or entities exporting used automobiles, including automobiles exported for personal use, by air or ship to provide to the Customs Service, at least 72 hours before the export, the vehicle identification number of each such automobile and proof of ownership of such automobile. The Commissioner shall establish specific criteria for randomly selecting used automobiles scheduled to be exported, consistent

with the risk of stolen automobiles being exported and shall check the vehicle identification number of each automobile selected pursuant to such criteria against the information in the National Crime Information Center to determine whether such automobile has been reported stolen. At the request of the Director of the Federal Bureau of Investigation, the Commissioner shall make available to the Director all vehicle identification numbers obtained under this section.".

SEC. 402. PILOT STUDY AUTHORIZING UTILITY OF NONDESTRUCTIVE EXAMINATION SYSTEM.

19 USC 1646b note.

The Secretary of the Treasury, acting through the Commissioner of Customs, shall conduct a pilot study of the utility of a nondestructive examination system to be used for inspection of containers that may contain automobiles leaving the country for the purpose of determining whether such automobiles have been stolen.

Approved October 25, 1992.

LEGISLATIVE HISTORY—H.R. 4542:

HOUSE REPORTS: No. 102-851, Pt. 1 (Comm. on the Judiciary), Pt. 2 (Comm. on Energy and Commerce), and Pt. 3 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 25, Presidential statement.

Public Law 102-520
102d Congress

An Act

Oct. 25, 1992
[H.R. 5862]

To amend title I of the Omnibus Crime Control and Safe Streets Act of 1968 to ensure an equitable and timely distribution of benefits to public safety officers.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISABILITY BENEFITS.

42 USC 3796.

Section 1201(b) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by striking "a benefit of up to $100,000,"; and

(2) by inserting "the same benefit in any year that is payable under subsection (a) in such year,".

42 USC 3796 note.

SEC. 2. RETROACTIVE APPLICATION.

The amendments made by section 1 of this Act shall apply with respect to injuries occurring on or after November 29, 1990, using the calculation method used to determine benefits under section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Approved October 25, 1992.

LEGISLATIVE HISTORY—H.R. 5862:

HOUSE REPORTS: No. 102-994 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.

O

69-139 O - 92 (520)

Public Law 102-521
102d Congress

An Act

To impose a criminal penalty for flight to avoid payment of arrearages in child support.

Oct. 25, 1992
[S. 1002]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Child Support Recovery Act of 1992.
18 USC 228 note.

This Act may be cited as the "Child Support Recovery Act of 1992".

SEC. 2. FAILURE TO PAY LEGAL CHILD SUPPORT OBLIGATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 11 the following new chapter:

"CHAPTER 11A—CHILD SUPPORT

"Sec.
"228. Failure to pay legal child support obligations.

"§ 228. Failure to pay legal child support obligations

"(a) OFFENSE.—Whoever willfully fails to pay a past due support obligation with respect to a child who resides in another State shall be punished as provided in subsection (b).

"(b) PUNISHMENT.—The punishment for an offense under this section is—

"(1) in the case of a first offense under this section, a fine under this title, imprisonment for not more than 6 months, or both; and

"(2) in any other case, a fine under this title, imprisonment for not more than 2 years, or both.

"(c) RESTITUTION.—Upon a conviction under this section, the court shall order restitution under section 3663 in an amount equal to the past due support obligation as it exists at the time of sentencing.

"(d) DEFINITIONS.—As used in this section—

"(1) the term 'past due support obligation' means any amount—

"(A) determined under a court order or an order of an administrative process pursuant to the law of a State to be due from a person for the support and maintenance of a child or of a child and the parent with whom the child is living; and

"(B) that has remained unpaid for a period longer than one year, or is greater than $5,000; and

"(2) the term 'State' includes the District of Columbia, and any other possession or territory of the United States.".

(b) TECHNICAL AMENDMENT.—The part analysis for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 11 the following new item:

"11A. Child support ..... 228".

SEC. 3. DISCRETIONARY CONDITION OF PROBATION.

Section 3563(b) of title 18, United States Code, is amended—

(1) by striking "or" at the end of paragraph (20);

(2) by redesignating paragraph (21) as paragraph (22); and

(3) by inserting after paragraph (20) the following new paragraph:

"(21) comply with the terms of any court order or order of an administrative process pursuant to the law of a State, the District of Columbia, or any other possession or territory of the United States, requiring payments by the defendant for the support and maintenance of a child or of a child and the parent with whom the child is living; or".

SEC. 4. CRIMINAL CHILD SUPPORT ENFORCEMENT.

(a) AMENDMENT OF THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

42 USC 3797.

(1) by redesignating part P as part Q;

(2) by redesignating section 1601 as section 1701; and

(3) by inserting after part O the following new part:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

42 USC 3796cc.

"SEC. 1601. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance may make grants under this part to States, for the use by States, and local entities in the States to develop, implement, and enforce criminal interstate child support legislation and coordinate criminal interstate child support enforcement efforts.

"(b) USES OF FUNDS.—Funds distributed under this part shall be used to—

"(1) develop a comprehensive assessment of existing criminal interstate child support enforcement efforts, including the identification of gaps in, and barriers to, the enforcement of such efforts;

"(2) plan and implement comprehensive long-range strategies for criminal interstate child support enforcement;

"(3) reach an agreement within the State regarding the priorities of such State in the enforcement of criminal interstate child support legislation;

"(4) develop a plan to implement such priorities; and

"(5) coordinate criminal interstate child support enforcement efforts.

42 USC 3796cc-1.

"SEC. 1602. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) An application under paragraph (1) shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of title I—

"(1) shall prepare the application required under section 1602; and

"(2) shall administer grant funds received under this part, including, review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1603. REVIEW OF STATE APPLICATIONS.

42 USC 3796cc-2.

"(a) IN GENERAL.—The Bureau shall make a grant under section 1601(a) to carry out the projects described in the application submitted by an applicant under section 1602 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Bureau has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1602 shall be considered approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Bureau shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1604. LOCAL APPLICATIONS.

42 USC 3796cc-3.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a local entity shall submit an application to the office designated under section 1602(b).

"(2) An application under paragraph (1) shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If an application under paragraph (1) is approved, the local entity is eligible to receive funds under this part.

"(b) DISTRIBUTION TO LOCAL ENTITIES.—A State that receives funds under section 1601 in a fiscal year shall make such funds available to a local entity with an approved application within 45 days after the Bureau has approved the application submitted by the State and has made funds available to the State. The Director may waive the 45-day requirement in this section upon a finding that the State is unable to satisfy the requirement of the preceding sentence under State statutes.

"SEC. 1605. DISTRIBUTION OF FUNDS.

42 USC 3796cc-4.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the project described in the application submitted under section 1602(a) for the fiscal year for which the project receives assistance under this part.

"SEC. 1606. EVALUATION.

42 USC 3796cc-5.

"(a) IN GENERAL.—(1) Each State and local entity that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines

issued by the Director and in consultation with the Director of the National Institute of Justice.

"(2) The Director may waive the requirement specified in subsection (a) if the Director determines that such evaluation is not warranted in the case of the State or local entity involved.

Public information.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State or local entity may use not more than 5 percent of the funds it receives under this part to develop an evaluation program under this section.

42 USC 3796cc-6.

"SEC. 1607. DEFINITIONS.

"For purposes of this part, the term 'local entity' means a child support enforcement agency, law enforcement agency, prosecuting attorney, or unit of local government.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the matter relating to part P and inserting the following:

"PART P—CRIMINAL CHILD SUPPORT ENFORCEMENT

"Sec. 1601. Grant authorization.
"Sec. 1602. State applications.
"Sec. 1603. Review of State applications.
"Sec. 1604. Local applications.
"Sec. 1605. Distribution of funds.
"Sec. 1606. Evaluation.
"Sec. 1607. Definitions.

"PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1701. Continuation of rules, authorities, and proceedings.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)) is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9); and

(2) by adding at the end the following new paragraph:

"(10) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out projects under part P.".

42 USC 12301 note.

SEC. 5. COMMISSION ON CHILD AND FAMILY WELFARE.

(a) ESTABLISHMENT.—There is established a commission to be known as the Commission on Child and Family Welfare (referred to in this section as the "Commission").

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 15 members of whom—

(A) 3 shall be appointed by the President, in consultation with the Attorney General and the Secretary of Health and Human Services;

(B) 4 shall be appointed by the President pro tempore of the Senate;

(C) 2 shall be appointed by the minority leader of the Senate;

(D) 4 shall be appointed by the Speaker of the House of Representatives; and

(E) 2 shall be appointed by the minority leader of the House of Representatives.

(2) QUALIFICATIONS.—Members of the Commission shall be—

(A) persons who have expertise in family law, children's issues, mental health, and related policies;

(B) persons who have expertise, through research and practice, in laws and policies related to child and family welfare;

(C) persons who represent organizations that seek to protect the civil rights of children;

(D) persons who represent advocacy groups that work for the interests of children;

(E) persons who represent advocacy groups that work for the interests of both custodial and noncustodial parents; and

(F) persons who have conducted extensive research on, or delivered services to, children adversely affected by divorce.

(3) DATE.—The appointments of the members of the Commission shall be made no later than June 1, 1993.

(c) PERIOD OF APPOINTMENT; VACANCIES.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(d) INITIAL MEETING.—No later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(e) MEETINGS.—The Commission shall meet at the call of the Chairman.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number of members may hold hearings.

(g) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall select a Chairman and Vice Chairman from among its members.

(h) DUTIES.—The Commission shall—

(1) compile information and data on the issues that affect the best interests of children, including domestic issues such as abuse, family relations, services and agencies for children and families, family courts and juvenile courts;

(2) compile a report that lists the strengths and weaknesses of the child welfare system as it relates to placement (including child custody and visitation), summarizes State laws and regulations relating to visitation, and makes recommendations for changing the system or developing a Federal role in strengthening the system; Reports.

(3) study the strengths and weaknesses of the juvenile and family courts as they relate to visitation, custody, and child support enforcement and suggest any recommendations for changing these systems; and

(4) study domestic issues that relate to the treatment and placement of children (such as child and spousal abuse) and suggest recommendations for any needed changes, including models for mediation and other programs.

(i) REPORT.—Not later than January 1, 1994, the Commission shall submit to the President and the Congress an interim report, and not later than January 1, 1995, a final report, which shall

contain a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers to be appropriate.

(j) HEARINGS.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out the purposes of this section.

(2) BROAD PUBLIC PARTICIPATION.—The Commission shall conduct hearings in various areas of the country, including inner cities, suburbs, and rural areas, to gather a broad spectrum of information on the issues to be addressed. Parents, children, experts, religious leaders, and public and private agency officials shall be afforded the opportunity to give testimony at such hearings.

(k) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission to the extent permitted by law.

(l) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(m) COMPENSATION OF MEMBERS.—Each member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission. All members of the Commission who are officers or employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(n) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(o) STAFF.—

(1) IN GENERAL.—The Chairman of the Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment of an executive director shall be subject to confirmation by the Commission.

(2) COMPENSATION.—The Chairman of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and

other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(p) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(q) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(r) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate 90 days after the date on which the Commission submits its final report under subsection (i).

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on that date shall be disposed of as excess or surplus property.

(s) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the Commission $2,000,000 for fiscal years 1993 and 1994 to carry out this section.

(2) AVAILABILITY.—Any sums appropriated under the authorization contained in this subsection shall remain available, without fiscal year limitation, until expended.

Approved October 25, 1992.

LEGISLATIVE HISTORY—S. 1002:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 18, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 25, Presidential statement.

59-194 O—93——22 : QL 3 (Pt. 4)

Public Law 102-522
102d Congress

An Act

Oct. 26, 1992
[H.R. 2042]

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fire Administration Authorization Act of 1992.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fire Administration Authorization Act of 1992".

TITLE I—UNITED STATES FIRE ADMINISTRATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Section 17(g)(1) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(g)(1)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(D) $25,550,000 for the fiscal year ending September 30, 1992;

"(E) $26,521,000 for the fiscal year ending September 30, 1993; and

"(F) $27,529,000 for the fiscal year ending September 30, 1994.".

SEC. 102. PRIORITY ACTIVITIES OF THE UNITED STATES FIRE ADMINISTRATION.

(a) PRIORITY ACTIVITIES.—In expending funds appropriated pursuant to the amendments made by section 101 of this Act, the United States Fire Administration shall give priority to—

(1) reducing the incidence of residential fires, especially in residences of the very old, the very young, or the disabled in urban and rural areas, through the development and dissemination of public education and awareness programs, through arson research and technical assistance programs, and through research and development on new technologies;

(2) working with State Fire Marshals and other State level fire safety offices to identify fire problems that are national in scope;

(3) disseminating information about the activities and programs of the United States Fire Administration to State and local fire services;

(4) enhancing the residential sprinkler programs, including research, demonstration activities, and technical assistance to the public and private sectors;

(5) enhancing research into sprinkler programs in areas or structures with limited or no domestic water supply;

(6) through the National Fire Academy, enhancing the residential and field program in support of State level training programs, particularly those that support the volunteer fire service; and

(7) strengthening programs that help protect the lives and safety of fire and emergency medical services personnel, including research into causes of death and injuries, research and development on new technologies to mitigate and prevent injuries, dissemination of information, and technical assistance to State and local fire departments.

(b) REPORT TO CONGRESS.—The United States Fire Administration shall, within 1 year after the date of enactment of this Act, submit a report to the Congress on the activities undertaken pursuant to subsection (a)(1).

SEC. 103. REPORT ON IMPLEMENTATION OF HOTEL AND MOTEL FIRE SAFETY ACT OF 1990.

The United States Fire Administration shall, within 6 months after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on its progress in implementing the Hotel and Motel Fire Safety Act of 1990 (Public Law 101–391; 104 Stat. 747), including amendments made by that Act. The report shall specify the nature of expenditures made as of the date of the report, as well as including an estimate of the costs and a specific schedule for implementation.

SEC. 104. LISTING OF DESIGNATED PLACES OF PUBLIC ACCOMMODATION.

Section 28 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2224) is amended—

(1) by striking "CERTIFIED" in the section heading; and

(2) in subsection (a)—

(A) by inserting "(acting through its Governor or the Governor's designee)" immediately after "each State" wherever it appears; and

(B) by striking "the Governor of the State or his designee certifies".

SEC. 105. FIRE PREVENTION AND CONTROL GUIDELINES FOR PLACES OF PUBLIC ACCOMMODATION.

(a) EXCEPTIONS FOR CERTAIN AUTOMATIC SPRINKLER SYSTEMS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225), is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) EXCEPTIONS.—(1) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce with an automatic sprinkler system installed before October 25, 1992, if the automatic sprinkler system is installed in compliance with an applicable standard (adopted by the governmental authority having jurisdiction, and in effect, at the time of installation) that required the placement of a sprinkler head in the sleeping area of each guest room.

"(2) The requirement described in subsection (a)(2) shall not apply to a place of public accommodation affecting commerce to the extent that such place of public accommodation affecting com-

merce is subject to a standard that includes a requirement or prohibition that prevents compliance with a provision of National Fire Protection Association Standard 13 or 13–R. In such a case, the place of public accommodation affecting commerce is exempt only from that specific provision.".

(b) DEFINITIONS.—Section 29 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2225), is amended by adding at the end of subsection (d), as redesignated by this section, the following new paragraph:

"(3) The term 'governmental authority having jurisdiction' means the Federal, State, local, or other governmental entity with statutory or regulatory authority for the approval of fire safety systems, equipment, installations, or procedures within a specified locality.".

SEC. 106. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

(a) AMENDMENT.—The Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 et seq.), is amended by adding at the end the following new section:

15 USC 2227.

"SEC. 31. FIRE SAFETY SYSTEMS IN FEDERALLY ASSISTED BUILDINGS.

"(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

"(1) The term 'affordable cost' means the cost to a Federal agency of leasing office space in a building that is protected by an automatic sprinkler system or equivalent level of safety, which cost is no more than 10 percent greater than the cost of leasing available comparable office space in a building that is not so protected.

"(2) The term 'automatic sprinkler system' means an electronically supervised, integrated system of piping to which sprinklers are attached in a systematic pattern, and which, when activated by heat from a fire—

"(A) will protect human lives by discharging water over the fire area, in accordance with the National Fire Protection Association Standard 13, 13D, or 13R, whichever is appropriate for the type of building and occupancy being protected, or any successor standard thereto; and

"(B) includes an alarm signaling system with appropriate warning signals (to the extent such alarm systems and warning signals are required by Federal, State, or local laws or regulations) installed in accordance with the National Fire Protection Association Standard 72, or any successor standard thereto.

"(3) The term 'equivalent level of safety' means an alternative design or system (which may include automatic sprinkler systems), based upon fire protection engineering analysis, which achieves a level of safety equal to or greater than that provided by automatic sprinkler systems.

"(4) The term 'Federal employee office building' means any office building in the United States, whether owned or leased by the Federal Government, that is regularly occupied by more than 25 full-time Federal employees in the course of their employment.

"(5) The term 'housing assistance'—

"(A) means assistance provided by the Federal Government to be used in connection with the provision of housing,

that is provided in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

"(B) does not include assistance provided by the Secretary of Veterans Affairs; the Federal Emergency Management Agency; the Secretary of Housing and Urban Development under the single family mortgage insurance programs under the National Housing Act or the homeownership assistance program under section 235 of such Act; the National Homeownership Trust; the Federal Deposit Insurance Corporation under the affordable housing program under section 40 of the Federal Deposit Insurance Act; or the Resolution Trust Corporation under the affordable housing program under section 21A(c) of the Federal Home Loan Bank Act.

"(6) The term 'hazardous areas' means those areas in a building referred to as hazardous areas in National Fire Protection Association Standard 101, known as the Life Safety Code, or any successor standard thereto.

"(7) The term 'multifamily property' means—

"(A) in the case of housing for Federal employees or their dependents, a residential building consisting of more than 2 residential units that are under one roof; and

"(B) in any other case, a residential building consisting of more than 4 residential units that are under one roof.

"(8) The term 'prefire plan' means specific plans for fire fighting activities at a property or location.

"(9) The term 'rebuilding' means the repairing or reconstructing of portions of a multifamily property where the cost of the alterations is 70 percent or more of the replacement cost of the completed multifamily property, not including the value of the land on which the multifamily property is located.

"(10) The term 'renovated' means the repairing or reconstructing of 50 percent or more of the current value of a Federal employee office building, not including the value of the land on which the Federal employee office building is located.

"(11) The term 'smoke detectors' means single or multiple station, self-contained alarm devices designed to respond to the presence of visible or invisible particles of combustion, installed in accordance with the National Fire Protection Association Standard 74 or any successor standard thereto.

"(12) The term 'United States' means the States collectively.

"(b) FEDERAL EMPLOYEE OFFICE BUILDINGS.—(1)(A) No Federal funds may be used for the construction or purchase of a Federal employee office building of 6 or more stories unless during the period of occupancy by Federal employees the building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the construction or purchase of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the building are protected by automatic sprinkler systems or an equivalent level of safety.

"(B)(i) Except as provided in clause (ii), no Federal funds may be used for the lease of a Federal employee office building of 6 or more stories, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000

square feet of space is federally occupied, unless during the period of occupancy by Federal employees the entire Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the lease of any other Federal employee office building unless during the period of occupancy by Federal employees the hazardous areas of the entire Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(ii) The first sentence of clause (i) shall not apply to the lease of a building the construction of which is completed before the date of enactment of this section if the leasing agency certifies that no suitable building with automatic sprinkler systems or an equivalent level of safety is available at an affordable cost.

"(iii) Within 3 years after such date of enactment, and periodically thereafter, the Comptroller General shall audit a selection of certifications made under clause (ii) and report to Congress on the results of such audit.

"(2) Paragraph (1) shall not apply to—

"(A) a Federal employee office building that was owned by the Federal Government before the date of enactment of this section;

"(B) space leased in a Federal employee office building if the space was leased by the Federal Government before such date of enactment;

"(C) space leased on a temporary basis for not longer than 6 months;

"(D) a Federal employee office building that becomes a Federal employee office building pursuant to a commitment to move Federal employees into the building that is made prior to such date of enactment; or

"(E) a Federal employee office building that is owned or managed by the Resolution Trust Corporation.

Nothing in this subsection shall require the installation of an automatic sprinkler system or equivalent level of safety by reason of the leasing, after such date of enactment, of space below the sixth floor in a Federal employee office building.

"(3) No Federal funds may be used for the renovation of a Federal employee office building of 6 or more stories that is owned by the Federal Government unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for the renovation of any other Federal employee office building that is owned by the Federal Government unless after that renovation the hazardous areas of the Federal employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(4) No Federal funds may be used for entering into or renewing a lease of a Federal employee office building of 6 or more stories that is renovated after the date of enactment of this section, where at least some portion of the federally leased space is on the sixth floor or above and at least 35,000 square feet of space is federally occupied, unless after that renovation the Federal employee office building is protected by an automatic sprinkler system or equivalent level of safety. No Federal funds may be used for entering into or renewing a lease of any other Federal employee office building that is renovated after such date of enactment of this section, unless after that renovation the hazardous areas of the Federal

employee office building are protected by automatic sprinkler systems or an equivalent level of safety.

"(c) HOUSING.—(1)(A) No Federal funds may be used for the construction, purchase, lease, or operation by the Federal Government of housing in the United States for Federal employees or their dependents unless—

"(i) in the case of a multifamily property acquired or rebuilt by the Federal Government after the date of enactment of this section, the housing is protected, before occupancy by Federal employees or their dependents, by an automatic sprinkler system (or equivalent level of safety) and hard-wired smoke detectors; and

"(ii) in the case of any other housing, the housing, before—

"(I) occupancy by the first Federal employees (or their dependents) who do not occupy such housing as of such date of enactment; or

"(II) the expiration of 3 years after such date of enactment,

whichever occurs first, is protected by hard-wired smoke detectors.

"(B) Nothing in this paragraph shall be construed to supersede any guidelines or requirements applicable to housing for Federal employees that call for a higher level of fire safety protection than is required under this paragraph.

"(2)(A)(i) Housing assistance may not be used in connection with any newly constructed multifamily property, unless after the new construction the multifamily property is protected by an automatic sprinkler system and hard-wired smoke detectors.

"(ii) For purposes of clause (i), the term 'newly constructed multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is newly constructed after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such new construction, or (b) a binding commitment is made, before commencement of such construction, to provide housing assistance for the newly constructed property.

"(iii) Clause (i) shall not apply to any multifamily property for which, before such date of enactment, a binding commitment is made to provide housing assistance for the new construction of the property or for the newly constructed property.

"(B)(i) Except as provided in clause (ii), housing assistance may not be used in connection with any rebuilt multifamily property, unless after the rebuilding the multifamily property complies with the chapter on existing apartment buildings of National Fire Protection Association Standard 101 (known as the Life Safety Code), as in effect at the earlier of (I) the time of any approval by the Department of Housing and Urban Development of the specific plan or budget for rebuilding, or (II) the time that a binding commitment is made to provide housing assistance for the rebuilt property.

"(ii) If any rebuilt multifamily property is subject to, and in compliance with, any provision of a State or local fire safety standard or code that prevents compliance with a specific provision of National Fire Protection Association Standard 101, the requirement under clause (i) shall not apply with respect to such specific provision.

"(iii) For purposes of this subparagraph, the term 'rebuilt multifamily property' means a multifamily property of 4 or more stories above ground level—

"(I) that is rebuilt after the last day of the second fiscal year that ends after the date of enactment of this section; and

"(II) for which (a) housing assistance is used for such rebuilding, or (b) a binding commitment is made, before commencement of such rebuilding, to provide housing assistance for the rebuilt property.

"(C) After the expiration of the 180-day period beginning on the date of enactment of this section, housing assistance may not be used in connection with any other dwelling unit, unless the unit is protected by a hard-wired or battery-operated smoke detector. For purposes of this subparagraph, housing assistance shall be considered to be used in connection with a particular dwelling unit only if such assistance is provided (i) for the particular unit, in the case of assistance provided on a unit-by-unit basis, or (ii) for the multifamily property in which the unit is located, in the case of assistance provided on a structure-by-structure basis.

"(d) REGULATIONS.—The Administrator of General Services, in cooperation with the United States Fire Administration, the National Institute of Standards and Technology, and the Department of Defense, within 2 years after the date of enactment of this section, shall promulgate regulations to further define the term 'equivalent level of safety', and shall, to the extent practicable, base those regulations on nationally recognized codes.

"(e) STATE AND LOCAL AUTHORITY NOT LIMITED.—Nothing in this section shall be construed to limit the power of any State or political subdivision thereof to implement or enforce any law, rule, regulation, or standard that establishes requirements concerning fire prevention and control. Nothing in this section shall be construed to reduce fire resistance requirements which otherwise would have been required.

"(f) PREFIRE PLAN.—The head of any Federal agency that owns, leases, or operates a building or housing unit with Federal funds shall invite the local agency or voluntary organization having responsibility for fire protection in the jurisdiction where the building or housing unit is located to prepare, and biennially review, a prefire plan for the building or housing unit.

"(g) REPORTS TO CONGRESS.—(1) Within 3 years after the date of enactment of this section, and every 3 years thereafter, the Administrator of General Services shall transmit to Congress a report on the level of fire safety in Federal employee office buildings subject to fire safety requirements under this section. Such report shall contain a description of such buildings for each Federal agency.

"(2) Within 10 years after the date of enactment of this section, each Federal agency providing housing to Federal employees or housing assistance shall submit a report to Congress on the progress of that agency in implementing subsection (c) and on plans for continuing such implementation.

"(3)(A) The National Institute of Standards and Technology shall conduct a study and submit a report to Congress on the use, in combination, of fire detection systems, fire suppression systems, and compartmentation. Such study shall—

"(i) quantify performance and reliability for fire detection systems, fire suppression systems, and compartmentation,

including a field assessment of performance and determination of conditions under which a reduction or elimination of 1 or more of those systems would result in an unacceptable risk of fire loss; and

"(ii) include a comparative analysis and compartmentation using fire resistive materials and compartmentation using noncombustible materials.

"(B) The National Institute of Standards and Technology shall obtain funding from non-Federal sources in an amount equal to 25 percent of the cost of the study required by subparagraph (A). Funding for the National Institute of Standards and Technology for carrying out such study shall be derived from amounts otherwise authorized to be appropriated, for the Building and Fire Research Center at the National Institute of Standards and Technology, not to exceed $750,000. The study shall commence until receipt of all matching funds from non-Federal sources. The scope and extent of the study shall be determined by the level of project funding. The Institute shall submit a report to Congress on the study within 30 months after the date of enactment of this section.

"(h) RELATION TO OTHER REQUIREMENTS.—In the implementation of this section, the process for meeting space needs in urban areas shall continue to give first consideration to a centralized community business area and adjacent areas of similar character to the extent of any Federal requirement therefor.".

(b) EFFECTIVE DATE.—Subsection (b) of section 31 of the Federal Fire Prevention and Control Act of 1974, as added by subsection (a) of this section, shall take effect 2 years after the date of enactment of this Act. 15 USC 2227 note.

TITLE II—NATIONAL FALLEN FIREFIGHTERS FOUNDATION

National Fallen Firefighters Foundation Act.

SEC. 201. SHORT TITLE. 36 USC 5201 note.

This title may be cited as the "National Fallen Firefighters Foundation Act".

SEC. 202. ESTABLISHMENT AND PURPOSES OF FOUNDATION. 36 USC 5201.

(a) ESTABLISHMENT.—There is established the National Fallen Firefighters Foundation (hereafter in this title referred to as the "Foundation"). The Foundation is a charitable and nonprofit corporation to be organized under the laws of the State of Maryland and is not an agency or establishment of the United States.

(b) PURPOSES.—The purposes of the Foundation are—

(1) primarily to encourage, accept, and administer private gifts of property for the benefit of the National Fallen Firefighters' Memorial and the annual memorial service associated with it;

(2) to provide financial assistance to families of fallen firefighters for transportation to and lodging at non-Federal facilities during the annual memorial service;

(3) to assist State and local efforts to recognize firefighters who die in the line of duty; and

(4) to provide scholarships and other financial assistance for educational purposes and job training for the spouses and children of fallen firefighters.

SEC 203. BOARD OF DIRECTORS OF THE FOUNDATION. 36 USC 5202.

(a) ESTABLISHMENT AND MEMBERSHIP.—

(1) VOTING MEMBERS.—The Foundation shall have a governing Board of Directors (hereafter in this title referred to as the "Board"), which shall consist of nine voting members, of whom—

(A) one member shall be an active volunteer firefighter;

(B) one member shall be an active career firefighter;

(C) one member shall be a Federal firefighter; and

(D) six members shall have a demonstrated interest in the fire service.

(2) NONVOTING MEMBER.—The Administrator of the United States Fire Administration of the Federal Emergency Management Agency (hereafter in this title referred to as the "Administrator") shall be an ex officio nonvoting member of the Board.

(3) STATUS OF BOARD MEMBERS.—Appointment to the Board shall not constitute employment by, or the holding of an office of, the United States for the purposes of any Federal law.

(4) COMPENSATION—Members of the Board shall serve without compensation.

(b) APPOINTMENT AND TERMS.—Within 3 months after the date of enactment of this Act, the Administrator shall appoint the voting members of the Board. The voting members shall be appointed for terms of 6 years, except that the Administrator, in making the initial appointments to the Board, shall appoint—

(1) three members to a term of 2 years;

(2) three members to a term of 4 years; and

(3) three members to a term of 6 years.

(c) VACANCY.—A vacancy on the Board shall be filled within 60 days in the manner in which the original appointment was made.

(d) CHAIRMAN.—The Chairman shall be elected by the Board from its voting members for a 2-year term.

(e) QUORUM.—A majority of the current membership of the Board shall constitute a quorum for the transaction of business.

(f) MEETINGS.—The Board shall meet at the call of the Chairman at least once a year. If a member of the Board misses three consecutive meetings, that individual may be removed from the Board and that vacancy filled in accordance with subsection (c).

(g) GENERAL POWERS.—

(1) ACTIONS BY THE BOARD.—The Board may complete the organization of the Foundation by—

(A) appointing no more than two officers or employees;

(B) adopting a constitution and bylaws consistent with this title; and

(C) undertaking other such acts as may be necessary to carry out this title.

(2) LIMITATION.—Officers and employees may not be appointed until the Foundation has sufficient funds to pay for their services.

(h) OFFICERS AND EMPLOYEES.—

(1) STATUS.—Officers and employees of the Foundation shall not be considered Federal employees, shall be appointed without regard to title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) MAXIMUM SALARY.—No officer or employee may receive pay in excess of the annual rate of basic pay prescribed for level GS–15 of the General Schedule under section 5107 of title 5, United States Code.

SEC. 204. RIGHTS AND OBLIGATIONS OF THE FOUNDATION. 36 USC 5203.

(a) IN GENERAL.—The Foundation—

(1) shall have perpetual succession;

(2) may conduct business throughout the several States, territories, and possessions of the United States;

(3) shall have its principal offices in the State of Maryland; and

(4) shall at all times maintain a designated agent authorized to accept service of process for the Foundation.

(b) SEAL.—The Foundation shall have an official seal selected by the Board which shall be judicially noticed.

(c) POWERS.—To carry out its purposes under section 202, the Foundation shall have, in addition to the powers otherwise given it under this title, the usual powers of a corporation acting as a trustee in the State of Maryland, including the power—

(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of real or personal property or any income therefrom or other interest therein;

(2) to sue and be sued, and complain and defend itself in any court of competent jurisdiction, except that the members of the Board shall not be personally liable, except for gross negligence;

(3) unless otherwise required by the instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income therefrom;

(4) to enter into contracts and other arrangements with public agencies and private organizations and persons and to make such payments as may be necessary to carry out its functions; and

(5) to do any and all acts necessary and proper to carry out the purposes of the Foundation.

SEC. 205. ADMINISTRATIVE SERVICES AND SUPPORT. 36 USC 5204.

The Administrator may provide personnel, facilities, and other administrative services to the Foundation and shall require and accept reimbursements for such personnel, facilities, and services that shall be deposited in the Treasury to the credit of the appropriations then current and chargeable for the cost of providing such services. Notwithstanding any other provision of law, Federal personnel and stationery shall not be used to solicit funding for the Foundation.

SEC. 206. VOLUNTEER STATUS. 36 USC 5205.

The Administrator may accept, without regard to the Federal civil service classification laws, rules, or regulations, the services of the Foundation, the Board, and the officers and employees of the Board, without compensation from the United States Fire Administration, as volunteers in the performance of the functions authorized under this title.

36 USC 5206.

SEC. 207. AUDITS, REPORT REQUIREMENTS, AND PETITION OF ATTORNEY GENERAL FOR EQUITABLE RELIEF.

(a) AUDITS.—For purposes of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101 et seq.), the Foundation shall be treated as a private corporation established under Federal law.

(b) REPORT.—The Foundation shall, within 4 months after the end of each fiscal year, prepare and submit to the appropriate committees of the Congress a report of the Foundation's proceedings and activities during such year, including a full and complete statement of its receipts, expenditures, and investments.

(c) RELIEF FOR CERTAIN FOUNDATION ACTS OR FAILURES TO ACT.—If the Foundation—

(1) engages in, or threatens to engage in, any act, practice, or policy that is inconsistent with the purposes set forth in section 202(b); or

(2) refuses, fails, or neglects to discharge its obligations under this title, or threatens to do so,

the Attorney General may petition in the United States District Court for the District of Columbia for such equitable relief as may be necessary or appropriate.

36 USC 5207.

SEC. 208. IMMUNITY OF THE UNITED STATES.

The United States shall not be liable for any debts, defaults, acts, or omissions of the Foundation nor shall the full faith and credit of the United States extend to any obligation of the Foundation.

Workers' Family Protection Act.
29 USC 671a.

SEC. 209. WORKERS' FAMILY PROTECTION.

(a) SHORT TITLE.—This section may be cited as the "Workers' Family Protection Act".

(b) FINDINGS AND PURPOSES.—

(1) FINDINGS.—Congress finds that—

(A) hazardous chemicals and substances that can threaten the health and safety of workers are being transported out of industries on workers' clothing and persons;

(B) these chemicals and substances have the potential to pose an additional threat to the health and welfare of workers and their families;

(C) additional information is needed concerning issues related to employee transported contaminant releases; and

(D) additional regulations may be needed to prevent future releases of this type.

(2) PURPOSE.—It is the purpose of this section to—

(A) increase understanding and awareness concerning the extent and possible health impacts of the problems and incidents described in paragraph (1);

(B) prevent or mitigate future incidents of home contamination that could adversely affect the health and safety of workers and their families;

(C) clarify regulatory authority for preventing and responding to such incidents; and

(D) assist workers in redressing and responding to such incidents when they occur.

(c) EVALUATION OF EMPLOYEE TRANSPORTED CONTAMINANT RELEASES.—

(1) STUDY.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Director of the National Institute for Occupational Safety and Health (hereafter in this section referred to as the "Director"), in cooperation with the Secretary of Labor, the Administrator of the Environmental Protection Agency, the Administrator of the Agency for Toxic Substances and Disease Registry, and the heads of other Federal Government agencies as determined to be appropriate by the Director, shall conduct a study to evaluate the potential for, the prevalence of, and the issues related to the contamination of workers' homes with hazardous chemicals and substances, including infectious agents, transported from the workplaces of such workers.

(B) MATTERS TO BE EVALUATED.—In conducting the study and evaluation under subparagraph (A), the Director shall—

(i) conduct a review of past incidents of home contamination through the utilization of literature and of records concerning past investigations and enforcement actions undertaken by—

(I) the National Institute for Occupational Safety and Health;

(II) the Secretary of Labor to enforce the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.);

(III) States to enforce occupational safety and health standards in accordance with section 18 of such Act (29 U.S.C. 667); and

(IV) other government agencies (including the Department of Energy and the Environmental Protection Agency), as the Director may determine to be appropriate;

(ii) evaluate current statutory, regulatory, and voluntary industrial hygiene or other measures used by small, medium and large employers to prevent or remediate home contamination;

(iii) compile a summary of the existing research and case histories conducted on incidents of employee transported contaminant releases, including—

(I) the effectiveness of workplace housekeeping practices and personal protective equipment in preventing such incidents;

(II) the health effects, if any, of the resulting exposure on workers and their families;

(III) the effectiveness of normal house cleaning and laundry procedures for removing hazardous materials and agents from workers' homes and personal clothing;

(IV) indoor air quality, as the research concerning such pertains to the fate of chemicals transported from a workplace into the home environment; and

(V) methods for differentiating exposure health effects and relative risks associated with specific

agents from other sources of exposure inside and outside the home;

(iv) identify the role of Federal and State agencies in responding to incidents of home contamination;

Reports.

(v) prepare and submit to the Task Force established under paragraph (2) and to the appropriate committees of Congress, a report concerning the results of the matters studied or evaluated under clauses (i) through (iv); and

(vi) study home contamination incidents and issues and worker and family protection policies and practices related to the special circumstances of firefighters and prepare and submit to the appropriate committees of Congress a report concerning the findings with respect to such study.

(2) DEVELOPMENT OF INVESTIGATIVE STRATEGY.—

Establishment.

(A) TASK FORCE.—Not later than 12 months after the date of enactment of this Act, the Director shall establish a working group, to be known as the "Workers' Family Protection Task Force". The Task Force shall—

(i) be composed of not more than 15 individuals to be appointed by the Director from among individuals who are representative of workers, industry, scientists, industrial hygienists, the National Research Council, and government agencies, except that not more than one such individual shall be from each appropriate government agency and the number of individuals appointed to represent industry and workers shall be equal in number;

(ii) review the report submitted under paragraph (1)(B)(v);

(iii) determine, with respect to such report, the additional data needs, if any, and the need for additional evaluation of the scientific issues related to and the feasibility of developing such additional data; and

(iv) if additional data are determined by the Task Force to be needed, develop a recommended investigative strategy for use in obtaining such information.

(B) INVESTIGATIVE STRATEGY.—

(i) CONTENT.—The investigative strategy developed under subparagraph (A)(iv) shall identify data gaps that can and cannot be filled, assumptions and uncertainties associated with various components of such strategy, a timetable for the implementation of such strategy, and methodologies used to gather any required data.

(ii) PEER REVIEW.—The Director shall publish the proposed investigative strategy under subparagraph (A)(iv) for public comment and utilize other methods, including technical conferences or seminars, for the purpose of obtaining comments concerning the proposed strategy.

(iii) FINAL STRATEGY.—After the peer review and public comment is conducted under clause (ii), the Director, in consultation with the heads of other government agencies, shall propose a final strategy for investigating issues related to home contamination

that shall be implemented by the National Institute for Occupational Safety and Health and other Federal agencies for the period of time necessary to enable such agencies to obtain the information identified under subparagraph (A)(iii).

(C) CONSTRUCTION.—Nothing in this section shall be construed as precluding any government agency from investigating issues related to home contamination using existing procedures until such time as a final strategy is developed or from taking actions in addition to those proposed in the strategy after its completion.

(3) IMPLEMENTATION OF INVESTIGATIVE STRATEGY.—Upon completion of the investigative strategy under subparagraph (B)(iii), each Federal agency or department shall fulfill the role assigned to it by the strategy.

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 4 years after the date of enactment of this Act, and periodically thereafter, the Secretary of Labor, based on the information developed under subsection (c) and on other information available to the Secretary, shall—

(A) determine if additional education about, emphasis on, or enforcement of existing regulations or standards is needed and will be sufficient, or if additional regulations or standards are needed with regard to employee transported releases of hazardous materials; and

(B) prepare and submit to the appropriate committees of Congress a report concerning the result of such determination. Reports.

(2) ADDITIONAL REGULATIONS OR STANDARDS.—If the Secretary of Labor determines that additional regulations or standards are needed under paragraph (1), the Secretary shall promulgate, pursuant to the Secretary's authority under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.), such regulations or standards as determined to be appropriate not later than 3 years after such determination.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from sums otherwise authorized to be appropriated, for each fiscal year such sums as may be necessary to carry out this section.

Approved October 26, 1992.

LEGISLATIVE HISTORY—H.R. 2042 (S. 1690):

HOUSE REPORTS: No. 102-62 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 102-369 accompanying S. 1690 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 3, considered and passed House.
Vol. 138 (1992): Sept. 29, considered and passed Senate, amended, in lieu of S. 1690.
Oct. 2, House concurred in Senate amendment.

Public Law 102-523
102d Congress

An Act

To amend the Marine Mammal Protection Act of 1972 to authorize the Secretary of State to enter into international agreements to establish a global moratorium to prohibit harvesting of tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals, and for other purposes.

Oct. 26, 1992
[H.R. 5419]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Dolphin Conservation Act of 1992.
16 USC 136 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Dolphin Conservation Act of 1992".

SEC. 2. GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

"TITLE III—GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES

"SEC. 301. FINDINGS AND POLICY.

16 USC 1411.

"(a) FINDINGS.—The Congress finds the following:

"(1) The yellowfin tuna fishery of the eastern tropical Pacific Ocean has resulted in the deaths of millions of dolphins.

"(2) Significant awareness and increased concern for the health and safety of dolphin populations has encouraged a change in fishing methods worldwide.

"(3) United States tuna fishing vessels have led the world in the development of fishing methods to reduce dolphin mortalities in the eastern tropical Pacific Ocean and United States tuna processing companies have voluntarily promoted the marketing of tuna that is dolphin safe.

"(4) Nations harvesting yellowfin tuna in the eastern tropical Pacific Ocean have indicated their willingness to participate in appropriate multilateral agreements to reduce, and eventually eliminate, dolphin mortality in that fishery.

"(b) POLICY.—It is the policy of the United States to—

"(1) eliminate the marine mammal mortality resulting from the intentional encirclement of dolphins and other marine mammals in tuna purse seine fisheries;

"(2) secure appropriate multilateral agreements to reduce, and eventually eliminate, the mortality referred to in paragraph (1);

"(3) ensure that the market of the United States does not act as an incentive to the harvest of tuna caught in association with dolphins or with driftnets;

"(4) secure appropriate multilateral agreements to ensure that United States tuna fishing vessels shall have continued access to productive tuna fishing grounds in the South Pacific Ocean and elsewhere; and

"(5) encourage observer coverage on purse seine vessels fishing for tuna outside of the eastern tropical Pacific Ocean in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals.

16 USC 1412.

"SEC. 302. INTERNATIONAL AGREEMENTS TO ESTABLISH GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES.

"(a) IN GENERAL.—The Secretary of State, in consultation with the Secretary, may enter into international agreements which establish, in accordance with this title, a global moratorium of at least 5 years duration to prohibit harvesting tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals.

"(b) TERMS OF AGREEMENT.—Any agreement entered into under this section shall—

"(1) establish a moratorium described in subsection (a) which takes effect on March 1, 1994;

"(2) include an international research program and, notwithstanding the moratorium, authorize harvesting of tuna under that program;

"(3) provide for reviews and reports in accordance with section 304 on results of research conducted under the research program;

"(4) require each country that is a party to the agreement to take all the necessary and appropriate steps to ensure compliance with the moratorium; and

"(5) encourage each country that is a party to the agreement to seek, through bilateral and multilateral negotiations, to encourage other countries that participate in fisheries to which the agreement applies to become parties to the agreement.

"(c) COMPLIANCE BY UNITED STATES WITH MORATORIUM.—The moratorium authorized under subsection (a) may be terminated prior to December 31, 1999, with respect to the United States for the harvesting of tuna in the eastern tropical Pacific Ocean only if—

"(1) the Secretary submits to the Congress in accordance with section 304(b) a recommendation that the moratorium be terminated; and

"(2) the recommendation is approved by enactment of a joint resolution of approval.

16 USC 1413.

"SEC. 303. RESEARCH PROGRAMS.

"(a) IN GENERAL.—An agreement entered into under section 302 shall—

"(1) establish an international research program to develop methods of fishing for large yellowfin tuna—

"(A) without setting nets on dolphins or other marine mammals; or

"(B) by setting nets on dolphins or other marine mammals with zero set-caused mortality;

"(2) require that proposals for research under the program be reviewed and authorized by a competent regional organization;

"(3) require that research under the program be conducted by dedicated vessels that—

"(A) are authorized to conduct that research by a competent regional organization; and

"(B) have on board in accordance with section 305(a)(2) an observer who is responsible to, and supervised by, a competent regional organization.

"(b) LIMITATIONS ON DOLPHIN MORTALITY.—For the eastern tropical Pacific Ocean, an agreement entered into under section 302 shall require that—

"(1) the total number of research sets on dolphins conducted pursuant to this section during the period beginning March 1, 1994, and ending December 31, 1999, shall not exceed 400 annually, and that the total annual dolphin mortality shall not exceed 1,000;

"(2) the Inter-American Tropical Tuna Commission shall establish a panel to review and report on the compliance of the international yellowfin tuna fishery fleet with the limits established in paragraph (1) and make recommendations as appropriate; and

"(3) the Inter-American Tropical Tuna Commission shall establish an Advisory Board of technical specialists from the international communities of scientists, government agencies, environmental groups, and the fishing industry, to assist that commission in efforts to coordinate, facilitate, and guide research.

"(c) FUNDING.—

"(1) IN GENERAL.—An agreement entered into under section 302 shall establish fair and equitable mechanisms for funding research conducted pursuant to this section.

"(2) PROCEEDS OF RESEARCH HARVESTS.—An agreement entered into under section 302 shall provide that the proceeds of any tuna harvested for the purpose of research conducted pursuant to this section should, to the extent possible, be used for funding research conducted pursuant to this section.

"(3) LIMITATION ON USE OF UNITED STATES FUNDING.—Funding provided by the United States for research shall be used only for the purpose of developing methods of fishing for large yellowfin tuna that do not involve intentionally encircling dolphins or other marine mammals.

"(d) REVIEW OF RESEARCH PROPOSALS.—The Marine Mammal Commission established under section 201 shall—

"(1) review all research proposals submitted to the Inter-American Tropical Tuna Commission; and

"(2) recommend an appropriate response to each of those proposals, to the United States Commissioners on the Inter-American Tropical Tuna Commission.

16 USC 1414.

"SEC. 304. REVIEWS, REPORTS, AND RECOMMENDATIONS.

"(a) REPORTS BY THE SECRETARY.—The Secretary shall submit annual reports to the Congress which include—

"(1) results of research conducted pursuant to section 303;

"(2) a description of the status of stocks of yellowfin tuna;

"(3) an assessment of the economic impacts on the tuna industry and consumers caused by the moratorium established by agreements entered into under section 302;

"(4) an assessment of the effectiveness of the moratorium in protecting dolphin populations in the eastern tropical Pacific Ocean;

"(5) results of reviews conducted under section 305(c);

"(6) copies of any international agreements or undertakings authorized by or related to this title;

"(7) an assessment of the impact on fishery resources, other than yellowfin tuna, of methods of fishing for large yellowfin tuna in the eastern tropical Pacific Ocean that do not involve the intentional encirclement of dolphins; and

"(8) any other relevant information.

"(b) RECOMMENDATIONS OF THE SECRETARY.—If a competent regional organization under the auspices of which research is conducted pursuant to section 303, or any country which participates in such an organization, submits to the United States a recommendation that a moratorium established by agreements entered into under section 302 should be terminated prior to December 31, 1999, the Secretary shall—

"(1) review the information on which the recommendation is based;

"(2) consult with relevant Federal agencies, including the Marine Mammal Commission, and other interested persons; and

"(3) submit to the Congress a recommendation regarding the termination of the moratorium.

16 USC 1415.

"SEC. 305. INTERNATIONAL COMMITMENTS.

"(a) LIMITATION ON APPLICATION OF BAN ON IMPORTS.—Except as provided in subsection (b), the Secretary of the Treasury shall not, under section 101(a)(2) (A) and (B), ban the importation of yellowfin tuna or yellowfin tuna products from a country that transmits to the Secretary of State a formal communication in which the country commits to—

"(1) implement a moratorium of at least 5 years duration beginning March 1, 1994, on the practice of harvesting tuna through the use of purse seine nets deployed on or to encircle dolphins or other marine mammals unless the moratorium is terminated in accordance with section 302(c);

"(2) require an observer on each vessel of the country larger than 400 short tons carrying capacity which engages in purse seine fishing for yellowfin tuna in the eastern tropical Pacific Ocean, and ensure that at least 50 percent of all such observers are responsible to, and supervised by, a competent regional organization;

"(3) reduce the dolphin mortality resulting from purse seine net operations conducted by vessels of the country in 1992 to a level that is lower than such mortality in 1991 by a statistically significant margin; and

"(4) reduce the dolphin mortality resulting from purse seine net operations conducted by vessels of the country in the period beginning January 1, 1993, and ending February 28, 1994, to a level that is lower than such mortality in 1992 by a statistically significant margin.

"(b) SUBSEQUENT BANS ON FISH AND FISH PRODUCT IMPORTS FOR FAILURE TO COMPLY WITH COMMITMENTS.—

"(1) BAN ON IMPORTS OF YELLOWFIN TUNA AND YELLOWFIN TUNA PRODUCTS.—The Secretary, in consultation with the Secretary of State, shall periodically determine whether each country which has transmitted a formal communication expressing the commitments described in subsection (a) is fully implementing those commitments. If the Secretary determines that any such country is not implementing those commitments—

"(A) the Secretary shall notify the President and the Congress of that determination; and

"(B) 15 days after such notification, the Secretary of the Treasury shall ban the importation from that country of all yellowfin tuna and yellowfin tuna products.

"(2) BAN ON IMPORTS OF OTHER FISH AND FISH PRODUCTS.—

"(A) IN GENERAL.—If—

"(i) a country does not, within 60 days after the establishment with respect to that country of a ban on importation under paragraph (1)(B), certify and provide reasonable proof to the Secretary that the country has fully implemented the commitment described in subsection (a)(1) or has taken the necessary actions to remedy its failure to comply with the commitments described in subsection (a) (2), (3), and (4); and

"(ii) the Secretary does not, before the end of that 60-day period, certify to the President that the country has provided such certification and proof;

the President shall direct the Secretary of the Treasury to ban the importation from that country of all articles (other than those subject to an importation ban under paragraph (1)(B)) that are classified under one or more of those fish and fish product categories that the President, subject to subparagraph (B), considers appropriate to carry out this paragraph. President.

"(B) BAN CRITERIA.—The one or more fish and fish product categories to which the President imposes an import ban under subparagraph (A) with respect to a country must be a fish and fish product category or categories with respect to which the articles classified thereunder and imported from that country in the base year had an aggregate customs valuation equal to 40 percent of the aggregate customs valuation of all articles classified under all fish and fish product categories that were imported from that country during the base year.

"(C) DEFINITION OF BASE YEAR.—For purposes of subparagraph (B), the term 'base year' means the calendar year immediately occurring before the calendar year in which the import ban under subparagraph (A) commences with respect to the country.

"(3) DURATION OF IMPORT BANS.—Bans on importation imposed under paragraphs (1) and (2) with respect to a country shall continue in effect until the Secretary determines that

the country is implementing the commitments described in subsection (a).

"(4) IMPLEMENTATION OF IMPORT BANS.—The Secretary of the Treasury shall take such action as may be necessary or appropriate to implement importation bans imposed under paragraphs (1) and (2).

"(c) REVIEWS AND REPORTS.—The Secretary, in consultation with the Secretary of State, shall—

"(1) periodically review the activities of countries which have transmitted to the Secretary of State formal communications expressing the commitments described in subsection (a), to determine whether those countries are complying with those commitments; and

"(2) include the results of those reviews in annual reports submitted to the Congress pursuant to section 304(a).

16 USC 1416.

"SEC. 306. PERMITS FOR TAKING DOLPHINS.

"(a) ADDITIONAL RESTRICTIONS UNDER GENERAL PERMIT.—Notwithstanding section 104(h), the general permit issued to the American Tunaboat Association on December 1, 1980, shall be subject to the following additional restrictions:

"(1) Total dolphin mortalities (including mortalities resulting from research) authorized by the permit shall not exceed 1,000 during the period beginning January 1, 1992, and ending December 31, 1992, and 800 during the period beginning January 1, 1993, and ending March 1, 1994.

"(2) No purse seine net may be deployed under the permit on or to encircle any school of dolphins in which any eastern spinner dolphin (Stenella longirostris) or coastal spotted dolphin (Stenella attenuata) is observed prior to release of the net skiff.

"(3) The permit shall expire March 1, 1994, unless no major purse seine tuna fishing country enters into an agreement with the Secretary in accordance with section 302 before that date (notwithstanding any agreement under that section with a country that is not a major purse seine tuna fishing country).

"(4) If no major purse seine tuna fishing country enters into an agreement with the Secretary in accordance with section 302 before March 1, 1994, and notwithstanding any agreement under that section with a country that is not a major purse seine tuna fishing country—

"(A) the total dolphin mortalities authorized by the permit for each year after 1992, including mortalities caused by research, shall not exceed the number of dolphin mortalities which occurred under the permit during the preceding year;

"(B) the total dolphin mortalities occurring under the permit each year shall continue to be reduced by statistically significant amounts each year to levels approaching zero by December 31, 1999;

"(C) the permit shall be subject to any additional restrictions that the Secretary considers appropriate; and

"(D) the permit shall expire December 31, 1999.

"(b) PERMITS REQUIRED FOR TAKING DOLPHINS FOR RESEARCH PURPOSES.—An agreement entered into under section 302 shall not supersede or be interpreted to supersede any provision of this

Act under which a permit under this Act is required for activities conducted pursuant to this title.

"(c) MAJOR PURSE SEINE TUNA FISHING COUNTRY DEFINED.—For purposes of this section, the term 'major purse seine tuna fishing country' means a country which on the effective date of this title has an active purse seine tuna fishing fleet of 20 or more vessels.

"SEC. 307. PROHIBITIONS. 16 USC 1417.

"(a) IN GENERAL.—It is unlawful—

"(1) for any person, after June 1, 1994, to sell, purchase, offer for sale, transport, or ship, in the United States, any tuna or tuna product that is not dolphin safe;

"(2) for any person or vessel that is subject to the jurisdiction of the United States, intentionally to set a purse seine net on or to encircle any marine mammal during any tuna fishing operation after February 28, 1994, except—

"(A) as necessary for scientific research approved by the Inter-American Tropical Tuna Commission;

"(B) in accordance with a recommendation that is approved under section 302(c)(2); or

"(C) as authorized by the general permit issued to the American Tunaboat Association on December 1, 1980 (including any additional restrictions applicable under section 306(a)), notwithstanding any agreement under section 302 with a country that is not a major purse seine tuna fishing country (as that term is defined in section 306(c));

"(3) for any person to import any yellowfin tuna or yellowfin tuna product or any other fish or fish product in violation of a ban on importation imposed under section 305(b) (1) or (2);

"(4) for any person to violate any regulation promulgated under this title;

"(5) for any person to refuse to permit any duly authorized officer to board a vessel subject to that person's control for purposes of conducting any search or inspection in connection with the enforcement of this title; and

"(6) for any person to assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in paragraph (5).

"(b) PENALTIES.—

"(1) CIVIL PENALTY.—A person that knowingly and willfully violates subsection (a) (1), (2), (3), (4), or (5) shall be subject to a civil penalty under section 105(a).

"(2) CRIMINAL PENALTY.—A person that knowingly and willfully violates subsection (a)(6) shall be subject to a criminal penalty under section 105(b).

"(c) CIVIL FORFEITURES.—Any vessel (including its fishing gear, appurtenances, stores, and cargo) used, and any fish (or its fair market value) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by this section shall be subject to forfeiture to the United States in the manner provided in section 310 of the Magnuson Fishery Conservation and Management Act.

"(d) DOLPHIN SAFE TUNA.—For purposes of this section, tuna or a tuna product is dolphin safe if—

"(1) it does not contain tuna that was harvested on the high seas by a vessel engaged in driftnet fishing, as that term is defined in section 4003 of the Driftnet Impact, Monitoring, Assessment, and Control Act of 1987;

"(2) in the case of tuna or a tuna product that contains tuna harvested in the eastern tropical Pacific Ocean, it is dolphin safe under subsection (d)(2) of the Dolphin Protection Consumer Information Act;

"(3) in the case of tuna or a tuna product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel, it is accompanied by a written statement executed by the captain of the vessel certifying that no purse seine net was intentionally deployed on or to encircle dolphins during the particular voyage on which the tuna was harvested; and

"(4) in the case of tuna or a product that contains tuna harvested outside the eastern tropical Pacific Ocean by a purse seine vessel in a fishery in which the Secretary has determined that a regular and significant association occurs between marine mammals and tuna, and in which tuna is harvested through the use of purse seine nets deployed on or to encircle marine mammals, it is accompanied by a written statement executed by the captain of the vessel and by an observer, certifying that no purse seine net was intentionally deployed on or to encircle marine mammals during the particular voyage on which the tuna was harvested.

16 USC 1418.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the National Marine Fisheries Service for carrying out section 303, $3,000,000 for each of the fiscal years 1993, 1994, 1995, 1996, 1997, and 1998.".

(b) CLERICAL AMENDMENT.—The table of contents at the end of the first section of that Act is amended by adding at the end the following:

"TITLE III—GLOBAL MORATORIUM TO PROHIBIT CERTAIN TUNA HARVESTING PRACTICES

"Sec. 301. Findings and policy.
"Sec. 302. International agreements to establish global moratorium to prohibit certain tuna harvesting practices.
"Sec. 303. Research program.
"Sec. 304. Reviews, reports, and recommendations.
"Sec. 305. International commitments.
"Sec. 306. Permits for taking dolphins.
"Sec. 307. Prohibitions.
"Sec. 308. Authorization of appropriations.".

(c) DEFINITIONS.—Section 3 of that Act (16 U.S.C. 1362) is amended by adding at the end the following:

"(15) The term 'fishery' means—

"(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

"(B) any fishing for such stocks.

"(16) The term 'competent regional organization'—

"(A) for the tuna fishery in the eastern tropical Pacific Ocean, means the Inter-American Tropical Tuna Commission; and

"(B) in any other case, means an organization consisting of those nations participating in a tuna fishery, the purpose of which is the conservation and management of that fishery and the management of issues relating to that fishery.

"(17) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B). If such nation certifies and provides reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States pursuant to this section, the Secretary shall, as soon as practicable after receiving complete information regarding certification and proof, make an affirmative finding that such nation does not constitute an intermediary nation for purposes of this section.".

SEC. 3. AMENDMENTS TO TUNA CONVENTIONS ACT OF 1950 AND SOUTH PACIFIC TUNA ACT OF 1988.

(a) TUNA CONVENTIONS ACT OF 1950.—The Tuna Conventions Act is amended—

(1) in section 3— 16 USC 952.

(A) in paragraph (b) by striking "and" after the semicolon at the end;

(B) in paragraph (c) by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(d) at least one shall be chosen from a nongovernmental conservation organization."; and

(2) in section 4 by inserting after "under the conventions," the following: "and from nongovernmental conservation organizations,". 16 USC 953.

(b) SOUTH PACIFIC TUNA ACT OF 1988.—Section 20(a) of the South Pacific Tuna Act of 1988 (16 U.S.C. 973r) is amended by striking "1988, 1989, 1990, 1991, and 1992" each place it appears and inserting "1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002".

Approved October 26, 1992.

LEGISLATIVE HISTORY—H.R. 5419:

HOUSE REPORTS: No. 102-746, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 22, 24, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 26, Presidential statement.

Public Law 102-524
102d Congress

An Act

Oct. 26, 1992
[S. 2044]

To assist Native Americans in assuring the survival and continuing vitality of their languages.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native American Languages Act of 1992.
42 USC 2991 note.
42 USC 2991b-3.

SECTION 1. SHORT TITLE.

This Act, other than section 4, may be cited as the "Native American Languages Act of 1992".

SEC. 2. GRANT PROGRAM.

The Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.) is amended by inserting before section 804 the following:

"SEC. 803C. GRANT PROGRAM TO ENSURE THE SURVIVAL AND CONTINUING VITALITY OF NATIVE AMERICAN LANGUAGES.

"(a) AUTHORITY TO AWARD GRANTS.—The Secretary shall award a grant to any agency or organization that is—

"(1) eligible for financial assistance under section 803(a); and

"(2) selected under subsection (c);

to be used to assist Native Americans in ensuring the survival and continuing vitality of Native American languages.

"(b) PURPOSES FOR WHICH GRANTS MAY BE USED.—The purposes for which each grant awarded under subsection (a) may be used include, but are not limited to—

"(1) the establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the transfer of Native American language skills from one generation to another;

"(2) the establishment of a project to train Native Americans to teach a Native American language to others or to enable them to serve as interpreters or translators of such language;

"(3) the development, printing, and dissemination of materials to be used for the teaching and enhancement of a Native American language;

"(4) the establishment or support of a project to train Native Americans to produce or participate in a television or radio program to be broadcast in a Native American language;

"(5) the compilation, transcription, and analysis of oral testimony to record and preserve a Native American language; and

"(6) the purchase of equipment (including audio and video recording equipment, computers, and software) required to conduct a Native American language project.

"(c) APPLICATIONS.—For the purpose of making grants under subsection (a), the Secretary shall select applicants from among agencies and organizations described in such subsection on the

basis of applications submitted to the Secretary at such time, in such form, and containing such information as the Secretary shall require, but each application shall include at a minimum—

"(1) a detailed description of the current status of the Native American language to be addressed by the project for which a grant under subsection (a) is requested, including a description of existing programs and projects, if any, in support of such language;

"(2) a detailed description of the project for which such grant is requested;

"(3) a statement of objectives that are consonant with the purpose described in subsection (a);

"(4) a detailed description of a plan to be carried out by the applicant to evaluate such project, consonant with the purpose for which such grant is made;

"(5) if appropriate, an identification of opportunities for the replication of such project or the modification of such project for use by other Native Americans; and

"(6) a plan for the preservation of the products of the Native American language project for the benefit of future generations of Native Americans and other interested persons.

"(d) PARTICIPATING ORGANIZATIONS.—If a tribal organization or other eligible applicant decides that the objectives of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a school, college, or university, the applicant shall identify such school, college, or university as a participating organization in the application submitted under subsection (c).

"(e) LIMITATIONS ON FUNDING.—

"(1) SHARE.—Notwithstanding any other provision of this title, a grant made under subsection (a) may not be expended to pay more than 80 percent of the cost of the project that is assisted by such grant. Not less than 20 percent of such cost—

"(A) shall be in cash or in kind, fairly evaluated, including plant, equipment, or services; and

"(B)(i) may be provided from any private or non-Federal source; and

"(ii) may include funds (including interest) distributed to a tribe—

"(I) by the Federal Government pursuant to the satisfaction of a claim made under Federal law;

"(II) from funds collected and administered by the Federal Government on behalf of such tribe or its constituent members; or

"(III) by the Federal Government for general tribal administration or tribal development under a formula or subject to a tribal budgeting priority system, such as, but not limited to, funds involved in the settlement of land or other judgment claims, severance or other royalty payments, or payments under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or tribal budget priority system.

"(2) DURATION.—The Secretary may make grants made under subsection (a) on a 1-year, 2-year, or 3-year basis.

"(f) ADMINISTRATION.—(1) The Secretary shall carry out this section through the Administration for Native Americans.

"(2)(A) Not later than 180 days after the effective date of this section, the Secretary shall appoint a panel of experts for the purpose of assisting the Secretary to review—

"(i) applications submitted under subsection (a);

"(ii) evaluations carried out to comply with subsection (c)(4); and

"(iii) the preservation of products required by subsection (c)(5).

"(B) Such panel shall include, but not be limited to—

"(i) a designee of the Institute of American Indian and Alaska Native Culture and Arts Development;

"(ii) a designee of the regional centers funded under section 5135 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3215);

"(iii) representatives of national, tribal, and regional organizations that focus on Native American language, or Native American cultural, research, development, or training; and

"(iv) other individuals who are recognized for their expertise in the area of Native American language.

Recommendations for appointment to such panel shall be solicited from Indian tribes and tribal organizations.

"(C) The duties of such panel include—

"(i) making recommendations regarding the development and implementation of regulations, policies, procedures, and rules of general applicability with respect to the administration of this section;

"(ii) reviewing applications received under subsection (c);

"(iii) providing to the Secretary a list of recommendations for the approval of such applications—

"(I) in accordance with regulations issued by the Secretary; and

"(II) the relative need for the project; and

"(iv) reviewing evaluations submitted to comply with subsection (c)(4).

"(D)(i) Subject to clause (ii), a copy of the products of the Native American language project for which a grant is made under subsection (a)—

"(I) shall be transmitted to the Institute of American Indian and Alaska Native Culture and Arts Development; and

"(II) may be transmitted, in the discretion of the grantee, to national and regional repositories of similar material;

for preservation and use consonant with their respective responsibilities under other Federal law.

"(ii) Based on the Federal recognition of the sovereign authority of Indian tribes over all aspects of their cultures and language and except as provided in clause (iii), an Indian tribe may make a determination—

"(I) not to transmit copies of such products under clause (i) or not to permit the redistribution of such copies; or

"(II) to restrict in any manner the use or redistribution of such copies after transmission under such clause.

"(iii) Clause (ii) shall not be construed to authorize Indian tribes—

"(I) to limit the access of the Secretary to such products for purposes of administering this section or evaluating such products; or

"(II) to sell such products, or copies of such products, for profit to the entities referred to in clause (i).".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by inserting "803C" after "803A" each place it appears; and

(2) by adding at the end the following:

"(f) There are authorized to be appropriated to carry out section 803C, $2,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, 1996, and 1997.".

SEC. 4. NATIVE AMERICANS EDUCATIONAL ASSISTANCE ACT.

Native Americans Educational Assistance Act. 25 USC 2001 note.

(a) SHORT TITLE.—This section may be cited as the "Native Americans Educational Assistance Act".

(b) AGREEMENT TO CARRY OUT DEMONSTRATION PROJECT.—The Secretary of the Interior is authorized to enter into an agreement with a nonprofit captioning agency engaged in manufacturing and distributing captioning decoders, for the purpose of carrying out a demonstration project to determine the effectiveness of captioned educational materials as an educational tool in schools operated by the Bureau of Indian Affairs.

(c) REPORT.—Prior to the expiration of the 12-month period following the date of the agreement entered into pursuant to subsection (b), the Secretary of the Interior shall report to the Congress the results of the demonstration project carried out pursuant to such agreement, together with recommendations of the Secretary.

(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

Approved October 26, 1992.

LEGISLATIVE HISTORY—S. 2044:

SENATE REPORTS: No. 102-343 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 5, considered and passed Senate.
Oct. 2, considered and passed House, amended.
Oct. 5, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 26, Presidential statement.

Public Law 102-525
102d Congress

An Act

Oct. 26, 1992
[S. 2890]

To provide for the establishment of the Brown v. Board of Education National Historic Site in the State of Kansas, and for other purposes.

Civil rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 461 note.

TITLE I—BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE

SEC. 101. DEFINITIONS.

As used in this title—

(1) the term "Secretary" means the Secretary of the Interior.

(2) The term "historic site" means the Brown v. Board of Education National Historic Site as established in section 103.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds as follows:

(1) The Supreme Court, in 1954, ruled that the earlier 1896 Supreme Court decision in Plessy v. Ferguson that permitted segregation of races in elementary schools violated the fourteenth amendment to the United States Constitution, which guarantees all citizens equal protection under the law.

(2) In the 1954 proceedings, Oliver Brown and twelve other plaintiffs successfully challenged an 1879 Kansas law that had been patterned after the law in question in Plessy v. Ferguson after the Topeka, Kansas, Board of Education refused to enroll Mr. Brown's daughter, Linda.

(3) Sumner Elementary, the all-white school that refused to enroll Linda Brown, and Monroe Elementary, the segregated school she was forced to attend, have subsequently been designated National Historic Landmarks in recognition of their national significance.

(4) Sumner Elementary, an active school, is administered by the Topeka Board of Education; Monroe Elementary, closed in 1975 due to declining enrollment, is privately owned and stands vacant.

(b) PURPOSES.—The purposes of this title are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations, the places that contributed materially to the landmark United States Supreme Court decision that brought an end to segregation in public education; and

(2) to interpret the integral role of the Brown v. Board of Education case in the civil rights movement.

(3) to assist in the preservation and interpretation of related resources within the city of Topeka that further the understanding of the civil rights movement.

SEC. 103. ESTABLISHMENT OF THE CIVIL RIGHTS IN EDUCATION: BROWN V. BOARD OF EDUCATION NATIONAL HISTORIC SITE.

(a) IN GENERAL.—There is hereby established as a unit of the National Park System the Brown v. Board of Education National Historic Site in the State of Kansas.

(b) DESCRIPTION.—The historic site shall consist of the Monroe Elementary School site in the city of Topeka, Shawnee County, Kansas, as generally depicted on a map entitled "Brown v. Board of Education National Historic Site," numbered Appendix A and dated June 1992. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 104. PROPERTY ACQUISITION.

The Secretary is authorized to acquire by donation, exchange, or purchase with donated or appropriated funds the real property described in section 103(b). Any property owned by the States of Kansas or any political subdivision thereof may be acquired only by donation. The Secretary may also acquire by the same methods personal property associated with, and appropriate for, the interpretation of the historic site: *Provided, however,* That the Secretary may not acquire such personal property without the consent of the owner.

SEC. 105. ADMINISTRATION OF HISTORIC SITE.

(a) IN GENERAL.—The Secretary shall administer the historic site in accordance with this title and the laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535), and the Act of August 21, 1935 (49 Stat. 666).

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with private as well as public agencies, organizations, and institutions in furtherance of the purposes of this title.

(c) GENERAL MANAGEMENT PLAN.—Within two complete fiscal years after funds are made available, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,250,000 to carry out the purposes of this title including land acquisition and initial development.

TITLE II—DRY TORTUGAS NATIONAL PARK

Florida.

SEC. 201. ESTABLISHMENT OF DRY TORTUGAS NATIONAL PARK.

16 USC 410xx.

(a) IN GENERAL.—In order to preserve and protect for the education, inspiration, and enjoyment of present and future generations nationally significant natural, historic, scenic, marine, and scientific values in South Florida, there is hereby established the Dry Tortugas National Park (hereinafter in this title referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands, waters, and interests therein generally depicted on the map entitled

"Boundary Map, Fort Jefferson National Monument", numbered 364–90,001, and dated April 1980 (which is the map referenced by section 201 of Public Law 96–287). The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

16 USC 431 note. (c) ABOLITION OF MONUMENT.—The Fort Jefferson National Monument is hereby abolished.

16 USC 410xx–1. **SEC. 202. ADMINISTRATION.**

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this title and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4).

(b) MANAGEMENT PURPOSES.—The park shall be managed for the following purposes, among others:

(1) To protect and interpret a pristine subtropical marine ecosystem, including an intact coral reef community.

(2) To protect populations of fish and wildlife, including (but not limited to) loggerhead and green sea turtles, sooty terns, frigate birds, and numerous migratory bird species.

(3) To protect the pristine natural environment of the Dry Tortugas group of islands.

(4) To protect, stabilize, restore, and interpret Fort Jefferson, an outstanding example of nineteenth century masonry fortification.

(5) To preserve and protect submerged cultural resources.

(6) In a manner consistent with paragraphs (1) through (5), to provide opportunities for scientific research.

16 USC 410xx–2. **SEC. 203. LAND ACQUISITION AND TRANSFER OF PROPERTY.**

(a) IN GENERAL.—Within the boundaries of the park the Secretary may acquire lands and interests in land by donation or exchange. For the purposes of acquiring property by exchange with the State of Florida, the Secretary may, notwithstanding any other provision of law, exchange those Federal lands which were deleted from the park by the boundary modifications enacted by section 201 of the Act of June 28, 1980 (Public Law 96–287), and which are directly adjacent to lands owned by the State of Florida outside of the park, for lands owned by the State of Florida within the park boundary.

(b) UNITED STATES COAST GUARD LANDS.—When all or any substantial portion of lands under the administration of the United States Coast Guard located within the park boundaries, including Loggerhead Key, have been determined by the United States Coast Guard to be excess to its needs, such lands shall be transferred directly to the jurisdiction of the Secretary for the purposes of this title. The United States Coast Guard may reserve the right in such transfer to maintain and utilize the existing lighthouse on Loggerhead Key in a manner consistent with the purposes of the United States Coast Guard and the purposes of this title.

(c) ADMINISTRATIVE SITE.—The Secretary is authorized to lease or to acquire, by purchase, donation, or exchange, and to operate incidental administrative and support facilities in Key West, Florida, for park administration and to further the purposes of this title.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS. 16 USC 410xx-3.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this title. Any funds available for the purposes of the monument shall be available for the purposes of the park, and authorizations of funds for the monument shall be available for the park.

TITLE III—NATIONAL PARK SYSTEM ADVISORY COMMITTEES

SEC. 301. NATIONAL PARK SYSTEM ADVISORY COMMITTEES. 16 USC 1a-14.

(a) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (5 U.S.C. Appendix; 86 Stat. 776) are hereby waived with respect to any advisory commission or advisory committee established by law in connection with any national park system unit during the period such advisory commission or advisory committee is authorized by law.

(b) MEMBERS.—In the case of any advisory commission or advisory committee established in connection with any national park system unit, any member of such Commission or Committee may serve after the expiration of his or her term until a successor is appointed.

SEC. 302. MISSISSIPPI NATIONAL RIVER AND RECREATION AREA.

Section 703(i) of the Act of November 18, 1988 entitled "An Act to provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes" (Public Law 100-696; 102 Stat. 4602; 16 U.S.C. 460zz-2) is amended by striking "3 years after enactment of this Act" and inserting "3 years after appointment of the full membership of the Commission".

SEC. 303. EXTENSION OF GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMITTEE.

Section 5(g) of the Act approved October 27, 1972 (16 U.S.C. 460bb-4(g)), is amended by striking out "twenty years" and inserting in lieu thereof "thirty years".

TITLE IV—NEW RIVER WILD AND SCENIC STUDY

SEC. 401. DESIGNATION OF NEW RIVER AS A STUDY RIVER.

Section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) is amended by adding the following new paragraph at the end thereof:

"( ) NEW RIVER, WEST VIRGINIA AND VIRGINIA.—The segment defined by public lands commencing at the U.S. Route 460 bridge over the New River in Virginia to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake in West Virginia; by the Secretary of the Interior. Nothing in this Act shall affect or impair the management of the Bluestone project or the authority of any department, agency or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. The study of the river segment identified in this paragraph shall be completed and reported on within one year after the date of enactment of this paragraph.". Reports.

TITLE V—BOSTON HARBOR ISLANDS STUDY

16 USC 1a-5 note.

SEC. 501. BOSTON HARBOR ISLANDS STUDY.

(a) IN GENERAL.—The Secretary of the Interior shall, within 1 year after the date of the enactment of this title, conduct a study of the Boston Harbor Islands to assess the opportunities for the National Park Service to contribute to State, regional, and local efforts to promote the conservation of the Boston Harbor Islands and their use and enjoyment by the public. In conducting the study, the Secretary shall—

(1) consult closely with and explore means for expanded cooperation with the Massachusetts Department of Environmental Management, the Metropolitan District Commission, and the City of Boston;

(2) evaluate the suitability of establishing the Boston Harbor Islands as a unit of the National Park System;

(3) assess the opportunities for expanded tourism, public education, and visibility by managing the Boston Harbor Islands in conjunction with units of the National Park System in the vicinity, including the Adams National Historic Site in Quincy, Massachusetts; and

(4) evaluate the possibility for developing ferry service and other transportation links among those units to enhance their public use and enjoyment.

(b) REPORT.—The Secretary of the Interior shall submit to the Congress a report on the findings, conclusions, and recommendations of the study under subsection (a), by not later than 1 year after the date of the enactment of this title.

Approved October 26, 1992.

LEGISLATIVE HISTORY—S. 2890 (H.R. 5484):

HOUSE REPORTS: No. 102-1038 accompanying H.R. 5484 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-468 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 1, considered and passed Senate.
Oct. 4, 5, considered and passed House, amended.
Oct. 8, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 26, Presidential statement.

Public Law 102-526
102d Congress

An Act

To provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy.

Oct. 26, 1992
[S. 3006]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

President John F. Kennedy Assassination Records Collection Act of 1992.
44 USC 2107 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "President John F. Kennedy Assassination Records Collection Act of 1992".

44 USC 2107 note.

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSES.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) all Government records related to the assassination of President John F. Kennedy should be preserved for historical and governmental purposes;

(2) all Government records concerning the assassination of President John F. Kennedy should carry a presumption of immediate disclosure, and all records should be eventually disclosed to enable the public to become fully informed about the history surrounding the assassination;

(3) legislation is necessary to create an enforceable, independent, and accountable process for the public disclosure of such records;

(4) legislation is necessary because congressional records related to the assassination of President John F. Kennedy would not otherwise be subject to public disclosure until at least the year 2029;

(5) legislation is necessary because the Freedom of Information Act, as implemented by the executive branch, has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy;

(6) legislation is necessary because Executive Order No. 12356, entitled "National Security Information" has eliminated the declassification and downgrading schedules relating to classified information across government and has prevented the timely public disclosure of records relating to the assassination of President John F. Kennedy; and

(7) most of the records related to the assassination of President John F. Kennedy are almost 30 years old, and only in the rarest cases is there any legitimate need for continued protection of such records.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide for the creation of the President John F. Kennedy Assassination Records Collection at the National Archives and Records Administration; and

(2) to require the expeditious public transmission to the Archivist and public disclosure of such records.

44 USC 2107 note.

SEC. 3. DEFINITIONS.

In this Act:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination record" means a record that is related to the assassination of President John F. Kennedy, that was created or made available for use by, obtained by, or otherwise came into the possession of—

(A) the Commission to Investigate the Assassination of President John F. Kennedy (the "Warren Commission");

(B) the Commission on Central Intelligence Agency Activities Within the United States (the "Rockefeller Commission");

(C) the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (the "Church Committee");

(D) the Select Committee on Intelligence (the "Pike Committee") of the House of Representatives;

(E) the Select Committee on Assassinations (the "House Assassinations Committee") of the House of Representatives;

(F) the Library of Congress;

(G) the National Archives and Records Administration;

(H) any Presidential library;

(I) any Executive agency;

(J) any independent agency;

(K) any other office of the Federal Government; and

(L) any State or local law enforcement office that provided support or assistance or performed work in connection with a Federal inquiry into the assassination of President John F. Kennedy,

but does not include the autopsy records donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those records, or copies and reproductions made from such records.

(3) "Collection" means the President John F. Kennedy Assassination Records Collection established under section 4.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code, and includes any Executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government, including the Executive Office of the President, or any independent regulatory agency.

(5) "Government office" means any office of the Federal Government that has possession or control of assassination records, including—

(A) the House Committee on Administration with regard to the Select Committee on Assassinations of the records of the House of Representatives;

(B) the Select Committee on Intelligence of the Senate with regard to records of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities and other assassination records;

(C) the Library of Congress;

(D) the National Archives as custodian of assassination records that it has obtained or possesses, including the Commission to Investigate the Assassination of President

John F. Kennedy and the Commission on Central Intelligence Agency Activities in the United States; and

(E) any other executive branch office or agency, and any independent agency.

(6) "Identification aid" means the written description prepared for each record as required in section 4.

(7) "National Archives" means the National Archives and Records Administration and all components thereof, including Presidential archival depositories established under section 2112 of title 44, United States Code.

(8) "Official investigation" means the reviews of the assassination of President John F. Kennedy conducted by any Presidential commission, any authorized congressional committee, and any Government agency either independently, at the request of any Presidential commission or congressional committee, or at the request of any Government official.

(9) "Originating body" means the Executive agency, government commission, congressional committee, or other governmental entity that created a record or particular information within a record.

(10) "Public interest" means the compelling interest in the prompt public disclosure of assassination records for historical and governmental purposes and for the purpose of fully informing the American people about the history surrounding the assassination of President John F. Kennedy.

(11) "Record" includes a book, paper, map, photograph, sound or video recording, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(12) "Review Board" means the Assassination Records Review Board established by section 7.

(13) "Third agency" means a Government agency that originated an assassination record that is in the possession of another agency.

SEC. 4. PRESIDENT JOHN F. KENNEDY ASSASSINATION RECORDS COLLECTION AT THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION.

44 USC 2107 note.

(a) IN GENERAL.—(1) Not later than 60 days after the date of enactment of this Act, the National Archives and Records Administration shall commence establishment of a collection of records to be known as the President John F. Kennedy Assassination Records Collection. In so doing, the Archivist shall ensure the physical integrity and original provenance of all records. The Collection shall consist of record copies of all Government records relating to the assassination of President John F. Kennedy, which shall be transmitted to the National Archives in accordance with section 2107 of title 44, United States Code. The Archivist shall prepare and publish a subject guidebook and index to the collection.

Printing.

(2) The Collection shall include—

(A) all assassination records—

(i) that have been transmitted to the National Archives or disclosed to the public in an unredacted form prior to the date of enactment of this Act;

(ii) that are required to be transmitted to the National Archives; or

(iii) the disclosure of which is postponed under this Act;

(B) a central directory comprised of identification aids created for each record transmitted to the Archivist under section 5; and

(C) all Review Board records as required by this Act.

(b) DISCLOSURE OF RECORDS.—All assassination records transmitted to the National Archives for disclosure to the public shall be included in the Collection and shall be available to the public for inspection and copying at the National Archives within 30 days after their transmission to the National Archives.

(c) FEES FOR COPYING.—The Archivist shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

Historic preservation.

(d) ADDITIONAL REQUIREMENTS.—(1) The Collection shall be preserved, protected, archived, and made available to the public at the National Archives using appropriations authorized, specified, and restricted for use under the terms of this Act.

(2) The National Archives, in consultation with the Information Security Oversight Office, shall ensure the security of the postponed assassination records in the Collection.

(e) OVERSIGHT.—The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the Collection.

44 USC 2107 note.

SEC. 5. REVIEW, IDENTIFICATION, TRANSMISSION TO THE NATIONAL ARCHIVES, AND PUBLIC DISCLOSURE OF ASSASSINATION RECORDS BY GOVERNMENT OFFICES.

(a) IN GENERAL.—(1) As soon as practicable after the date of enactment of this Act, each Government office shall identify and organize its records relating to the assassination of President John F. Kennedy and prepare them for transmission to the Archivist for inclusion in the Collection.

(2) No assassination record shall be destroyed, altered, or mutilated in any way.

(3) No assassination record made available or disclosed to the public prior to the date of enactment of this Act may be withheld, redacted, postponed for public disclosure, or reclassified.

(4) No assassination record created by a person or entity outside government (excluding names or identities consistent with the requirements of section 6) shall be withheld, redacted, postponed for public disclosure, or reclassified.

(b) CUSTODY OF ASSASSINATION RECORDS PENDING REVIEW.—During the review by Government offices and pending review activity by the Review Board, each Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

(1) the Review Board requires the physical transfer of records for purposes of conducting an independent and impartial review;

(2) transfer is necessary for an administrative hearing or other Review Board function; or

(3) it is a third agency record described in subsection (c)(2)(C).

(c) REVIEW.—(1) Not later than 300 days after the date of enactment of this Act, each Government office shall review, identify and organize each assassination record in its custody or possession for disclosure to the public, review by the Review Board, and transmission to the Archivist.

(2) In carrying out paragraph (1), a Government office shall—

(A) determine which of its records are assassination records;

(B) determine which of its assassination records have been officially disclosed or publicly available in a complete and unredacted form;

(C)(i) determine which of its assassination records, or particular information contained in such a record, was created by a third agency or by another Government office; and

(ii) transmit to a third agency or other Government office those records, or particular information contained in those records, or complete and accurate copies thereof;

(D)(i) determine whether its assassination records or particular information in assassination records are covered by the standards for postponement of public disclosure under this Act; and

(ii) specify on the identification aid required by subsection (d) the applicable postponement provision contained in section 6;

(E) organize and make available to the Review Board all assassination records identified under subparagraph (D) the public disclosure of which in whole or in part may be postponed under this Act;

(F) organize and make available to the Review Board any record concerning which the office has any uncertainty as to whether the record is an assassination record governed by this Act;

(G) give priority to—

(i) the identification, review, and transmission of all assassination records publicly available or disclosed as of the date of enactment of this Act in a redacted or edited form; and

(ii) the identification, review, and transmission, under the standards for postponement set forth in this Act, of assassination records that on the date of enactment of this Act are the subject of litigation under section 552 of title 5, United States Code; and

(H) make available to the Review Board any additional information and records that the Review Board has reason to believe it requires for conducting a review under this Act.

(3) The Director of each archival depository established under section 2112 of title 44, United States Code, shall have as a priority the expedited review for public disclosure of assassination records in the possession and custody of the depository, and shall make such records available to the Review Board as required by this Act.

(d) IDENTIFICATION AIDS.—(1)(A) Not later than 45 days after the date of enactment of this Act, the Archivist, in consultation with the appropriate Government offices, shall prepare and make available to all Government offices a standard form of identification or finding aid for use with each assassination record subject to review under this Act.

(B) The Archivist shall ensure that the identification aid program is established in such a manner as to result in the creation of a uniform system of electronic records by Government offices that are compatible with each other.

(2) Upon completion of an identification aid, a Government office shall—

(A) attach a printed copy to the record it describes;

(B) transmit to the Review Board a printed copy; and

(C) attach a printed copy to each assassination record it describes when it is transmitted to the Archivist.

(3) Assassination records which are in the possession of the National Archives on the date of enactment of this Act, and which have been publicly available in their entirety without redaction, shall be made available in the Collection without any additional review by the Review Board or another authorized office under this Act, and shall not be required to have such an identification aid unless required by the Archivist.

(e) TRANSMISSION TO THE NATIONAL ARCHIVES.—Each Government office shall—

Public information.

(1) transmit to the Archivist, and make immediately available to the public, all assassination records that can be publicly disclosed, including those that are publicly available on the date of enactment of this Act, without any redaction, adjustment, or withholding under the standards of this Act; and

(2) transmit to the Archivist upon approval for postponement by the Review Board or upon completion of other action authorized by this Act, all assassination records the public disclosure of which has been postponed, in whole or in part, under the standards of this Act, to become part of the protected Collection.

(f) CUSTODY OF POSTPONED ASSASSINATION RECORDS.—An assassination record the public disclosure of which has been postponed shall, pending transmission to the Archivist, be held for reasons of security and preservation by the originating body until such time as the information security program has been established at the National Archives as required in section 4(e)(2).

(g) PERIODIC REVIEW OF POSTPONED ASSASSINATION RECORDS.—(1) All postponed or redacted records shall be reviewed periodically by the originating agency and the Archivist consistent with the recommendations of the Review Board under section 9(c)(3)(B).

(2)(A) A periodic review shall address the public disclosure of additional assassination records in the Collection under the standards of this Act.

(B) All postponed assassination records determined to require continued postponement shall require an unclassified written description of the reason for such continued postponement. Such description shall be provided to the Archivist and published in the Federal Register upon determination.

Federal Register, publication.

(C) The periodic review of postponed assassination records shall serve to downgrade and declassify security classified information.

(D) Each assassination record shall be publicly disclosed in full, and available in the Collection no later than the date that is 25 years after the date of enactment of this Act, unless the President certifies, as required by this Act, that—

(i) continued postponement is made necessary by an identifiable harm to the military defense, intelligence operations, law enforcement, or conduct of foreign relations; and

(ii) the identifiable harm is of such gravity that it outweighs the public interest in disclosure.

(h) FEES FOR COPYING.—Executive branch agencies shall—

(1) charge fees for copying assassination records; and

(2) grant waivers of such fees pursuant to the standards established by section 552(a)(4) of title 5, United States Code.

SEC. 6. GROUNDS FOR POSTPONEMENT OF PUBLIC DISCLOSURE OF RECORDS. 44 USC 2107 note.

Disclosure of assassination records or particular information in assassination records to the public may be postponed subject to the limitations of this Act if there is clear and convincing evidence that—

(1) the threat to the military defense, intelligence operations, or conduct of foreign relations of the United States posed by the public disclosure of the assassination is of such gravity that it outweighs the public interest, and such public disclosure would reveal—

(A) an intelligence agent whose identity currently requires protection;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government and which has not been officially disclosed, the disclosure of which would interfere with the conduct of intelligence activities; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States, the disclosure of which would demonstrably impair the national security of the United States;

(2) the public disclosure of the assassination record would reveal the name or identity of a living person who provided confidential information to the United States and would pose a substantial risk of harm to that person;

(3) the public disclosure of the assassination record could reasonably be expected to constitute an unwarranted invasion of personal privacy, and that invasion of privacy is so substantial that it outweighs the public interest;

(4) the public disclosure of the assassination record would compromise the existence of an understanding of confidentiality currently requiring protection between a Government agent and a cooperating individual or a foreign government, and public disclosure would be so harmful that it outweighs the public interest; or

(5) the public disclosure of the assassination record would reveal a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or another Government agency responsible for protecting Government officials, and public disclosure would be so harmful that it outweighs the public interest.

SEC. 7. ESTABLISHMENT AND POWERS OF THE ASSASSINATION RECORDS REVIEW BOARD. 44 USC 2107 note.

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassinations Records Review Board.

(b) APPOINTMENT.—(1) The President, by and with the advice and consent of the Senate, shall appoint, without regard to political President.

affiliation, 5 citizens to serve as members of the Review Board to ensure and facilitate the review, transmission to the Archivist, and public disclosure of Government records related to the assassination of President John F. Kennedy.

(2) The President shall make nominations to the Review Board not later than 90 calendar days after the date of enactment of this Act.

(3) If the Senate votes not to confirm a nomination to the Review Board, the President shall make an additional nomination not later than 30 days thereafter.

(4)(A) The President shall make nominations to the Review Board after considering persons recommended by the American Historical Association, the Organization of American Historians, the Society of American Archivists, and the American Bar Association.

(B) If an organization described in subparagraph (A) does not recommend at least 2 nominees meeting the qualifications stated in paragraph (5) by the date that is 45 days after the date of enactment of this Act, the President shall consider for nomination the persons recommended by the other organizations described in subparagraph (A).

(C) The President may request an organization described in subparagraph (A) to submit additional nominations.

(5) Persons nominated to the Review Board—

(A) shall be impartial private citizens, none of whom is presently employed by any branch of the Government, and none of whom shall have had any previous involvement with any official investigation or inquiry conducted by a Federal, State, or local government, relating to the assassination of President John F. Kennedy;

(B) shall be distinguished persons of high national professional reputation in their respective fields who are capable of exercising the independent and objective judgment necessary to the fulfillment of their role in ensuring and facilitating the review, transmission to the public, and public disclosure of records related to the assassination of President John F. Kennedy and who possess an appreciation of the value of such material to the public, scholars, and government; and

(C) shall include at least 1 professional historian and 1 attorney.

(c) SECURITY CLEARANCES.—(1) All Review Board nominees shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(2) All nominees shall qualify for the necessary security clearance prior to being considered for confirmation by the Committee on Governmental Affairs of the Senate.

(d) CONFIRMATION HEARINGS.—(1) The Committee on Governmental Affairs of the Senate shall hold confirmation hearings within 30 days in which the Senate is in session after the nomination of 3 Review Board members.

Reports.

(2) The Committee on Governmental Affairs shall vote on the nominations within 14 days in which the Senate is in session after the confirmation hearings, and shall report its results to the full Senate immediately.

(3) The Senate shall vote on each nominee to confirm or reject within 14 days in which the Senate is in session after reported by the Committee on Governmental Affairs.

(e) VACANCY.—A vacancy on the Review Board shall be filled in the same manner as specified for original appointment within 30 days of the occurrence of the vacancy.

(f) CHAIRPERSON.—The Members of the Review Board shall elect one of its members as chairperson at its initial meeting.

(g) REMOVAL OF REVIEW BOARD MEMBER.—(1) No member of the Review Board shall be removed from office, other than—

(A) by impeachment and conviction; or

(B) by the action of the President for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, and that removal is by the President, not later than 10 days after the removal the President shall submit to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate a report specifying the facts found and the grounds for the removal.

(B) The President shall publish in the Federal Register a report submitted under paragraph (2)(A), except that the President may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report until the completion of such pending cases or pursuant to privacy protection requirements in law.

Federal Register, publication. President. Reports.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court for the District of Columbia.

(B) The member may be reinstated or granted other appropriate relief by order of the court.

(h) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(i) DUTIES OF THE REVIEW BOARD.—(1) The Review Board shall consider and render decisions on a determination by a Government office to seek to postpone the disclosure of assassination records.

(2) In carrying out paragraph (1), the Review Board shall consider and render decisions—

(A) whether a record constitutes an assassination record; and

(B) whether an assassination record or particular information in a record qualifies for postponement of disclosure under this Act.

(j) POWERS.—(1) The Review Board shall have the authority to act in a manner prescribed under this Act including authority to—

(A) direct Government offices to complete identification aids and organize assassination records;

(B) direct Government offices to transmit to the Archivist assassination records as required under this Act, including segregable portions of assassination records, and substitutes and summaries of assassination records that can be publicly disclosed to the fullest extent;

(C)(i) obtain access to assassination records that have been identified and organized by a Government office;

(ii) direct a Government office to make available to the Review Board, and if necessary investigate the facts surrounding, additional information, records, or testimony from individuals, which the Review Board has reason to believe is required to fulfill its functions and responsibilities under this Act; and

(iii) request the Attorney General to subpoena private persons to compel testimony, records, and other information relevant to its responsibilities under this Act;

(D) require any Government office to account in writing for the destruction of any records relating to the assassination of President John F. Kennedy;

(E) receive information from the public regarding the identification and public disclosure of assassination records; and

(F) hold hearings, administer oaths, and subpoena witnesses and documents.

(2) A subpoena issued under paragraph (1)(C)(iii) may be enforced by any appropriate Federal court acting pursuant to a lawful request of the Review Board.

(k) WITNESS IMMUNITY.—The Review Board shall be considered to be an agency of the United States for purposes of section 6001 of title 18, United States Code.

(l) OVERSIGHT.—(1) The Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board and the disposition of postponed records after termination of the Review Board, and shall have access to any records held or created by the Review Board.

(2) The Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(m) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis.

(n) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

(o) TERMINATION AND WINDING UP.—(1) The Review Board and the terms of its members shall terminate not later than 2 years after the date of enactment of this Act, except that the Review Board may, by majority vote, extend its term for an additional 1-year period if it has not completed its work within that 2-year period.

Reports.

(2) Upon its termination, the Review Board shall submit reports to the President and the Congress including a complete and accurate

accounting of expenditures during its existence, and shall complete all other reporting requirements under this Act.

(3) Upon termination and winding up, the Review Board shall transfer all of its records to the Archivist for inclusion in the Collection, and no record of the Review Board shall be destroyed.

SEC. 8. ASSASSINATION RECORDS REVIEW BOARD PERSONNEL.

44 USC 2107 note.

(a) EXECUTIVE DIRECTOR.—(1) Not later than 45 days after the initial meeting of the Review Board, the Review Board shall appoint one citizen, without regard to political affiliation, to the position of Executive Director.

(2) The person appointed as Executive Director shall be a private citizen of integrity and impartiality who is a distinguished professional and who is not a present employee of any branch of the Government and has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for Executive Director shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate shall qualify for the necessary security clearance prior to being approved by the Review Board.

(4) The Executive Director shall—

(A) serve as principal liaison to Government offices;

(B) be responsible for the administration and coordination of the Review Board's review of records;

(C) be responsible for the administration of all official activities conducted by the Review Board; and

(D) have no authority to decide or determine whether any record should be disclosed to the public or postponed for disclosure.

(5) The Executive Director shall not be removed for reasons other than by a majority vote of the Review Board for cause on the grounds of inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the responsibilities of the Executive Director or the staff of the Review Board.

(b) STAFF.—(1) The Review Board may, in accordance with the civil service laws but without regard to civil service law and regulation for competitive service as defined in subchapter 1, chapter 33 of title 5, United States Code, appoint and terminate additional personnel as are necessary to enable the Review Board and its Executive Director to perform its duties.

(2) A person appointed to the staff of the Review Board shall be a private citizen of integrity and impartiality who is not a present employee of any branch of the Government and who has had no previous involvement with any official investigation or inquiry relating to the assassination of President John F. Kennedy.

(3)(A) A candidate for staff shall be granted the necessary security clearances in an accelerated manner subject to the standard procedures for granting such clearances.

(B) A candidate for the staff shall qualify for the necessary security clearance prior to being approved by the Review Board.

(c) COMPENSATION.—The Review Board shall fix the compensation of the Executive Director and other personnel in accordance with title 5, United States Code, except that the rate of pay for the Executive Director and other personnel may not exceed

the rate payable for level V of the Executive Schedule under section 5316 of that title.

(d) ADVISORY COMMITTEES.—(1) The Review Board shall have the authority to create advisory committees to assist in fulfilling the responsibilities of the Review Board under this Act.

(2) Any advisory committee created by the Review Board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

44 USC 2107 note.

SEC. 9. REVIEW OF RECORDS BY THE ASSASSINATION RECORDS REVIEW BOARD.

(a) CUSTODY OF RECORDS REVIEWED BY BOARD.—Pending the outcome of the Review Board's review activity, a Government office shall retain custody of its assassination records for purposes of preservation, security, and efficiency, unless—

Federal Register, publication.

(1) the Review Board requires the physical transfer of records for reasons of conducting an independent and impartial review; or

(2) such transfer is necessary for an administrative hearing or other official Review Board function.

(b) STARTUP REQUIREMENTS.—The Review Board shall—

(1) not later than 90 days after the date of its appointment, publish a schedule for review of all assassination records in the Federal Register; and

(2) not later than 180 days after the date of enactment of this Act, begin its review of assassination records under this Act.

(c) DETERMINATIONS OF THE REVIEW BOARD.—(1) The Review Board shall direct that all assassination records be transmitted to the Archivist and disclosed to the public in the Collection in the absence of clear and convincing evidence that—

(A) a Government record is not an assassination record; or

(B) a Government record or particular information within an assassination record qualifies for postponement of public disclosure under this Act.

(2) In approving postponement of public disclosure of an assassination record, the Review Board shall seek to—

(A) provide for the disclosure of segregable parts, substitutes, or summaries of such a record; and

(B) determine, in consultation with the originating body and consistent with the standards for postponement under this Act, which of the following alternative forms of disclosure shall be made by the originating body:

(i) Any reasonably segregable particular information in an assassination record.

(ii) A substitute record for that information which is postponed.

(iii) A summary of an assassination record.

(3) With respect to each assassination record or particular information in assassination records the public disclosure of which is postponed pursuant to section 6, or for which only substitutions or summaries have been disclosed to the public, the Review Board shall create and transmit to the Archivist a report containing—

(A) a description of actions by the Review Board, the originating body, the President, or any Government office (including a justification of any such action to postpone disclosure of any record or part of any record) and of any official proceedings

conducted by the Review Board with regard to specific assassination records; and

(B) a statement, based on a review of the proceedings and in conformity with the decisions reflected therein, designating a recommended specified time at which or a specified occurrence following which the material may be appropriately disclosed to the public under this Act.

(4)(A) Following its review and a determination that an assassination record shall be publicly disclosed in the Collection or postponed for disclosure and held in the protected Collection, the Review Board shall notify the head of the originating body of its determination and publish a copy of the determination in the Federal Register within 14 days after the determination is made. Federal Register, publication.

(B) Contemporaneous notice shall be made to the President for Review Board determinations regarding executive branch assassination records, and to the oversight committees designated in this Act in the case of legislative branch records. Such notice shall contain a written unclassified justification for public disclosure or postponement of disclosure, including an explanation of the application of any standards contained in section 6.

(d) PRESIDENTIAL AUTHORITY OVER REVIEW BOARD DETERMINATION.—

(1) PUBLIC DISCLOSURE OR POSTPONEMENT OF DISCLOSURE.—After the Review Board has made a formal determination concerning the public disclosure or postponement of disclosure of an executive branch assassination record or information within such a record, or of any information contained in an assassination record, obtained or developed solely within the executive branch, the President shall have the sole and nondelegable authority to require the disclosure or postponement of such record or information under the standards set forth in section 6, and the President shall provide the Review Board with an unclassified written certification specifying the President's decision within 30 days after the Review Board's determination and notice to the executive branch agency as required under this Act, stating the justification for the President's decision, including the applicable grounds for postponement under section 6, accompanied by a copy of the identification aid required under section 4.

(2) PERIODIC REVIEW.—Any executive branch assassination record postponed by the President shall be subject to the requirements of periodic review, downgrading and declassification of classified information, and public disclosure in the collection set forth in section 4.

(3) RECORD OF PRESIDENTIAL POSTPONEMENT.—The Review Board shall, upon its receipt, publish in the Federal Register a copy of any unclassified written certification, statement, and other materials transmitted by or on behalf of the President with regard to postponement of assassination records. Federal Register, publication.

(e) NOTICE TO PUBLIC.—Every 30 calendar days, beginning on the date that is 60 calendar days after the date on which the Review Board first approves the postponement of disclosure of an assassination record, the Review Board shall publish in the Federal Register a notice that summarizes the postponements approved by the Review Board or initiated by the President, the House of Representatives, or the Senate, including a description Federal Register, publication.

of the subject, originating agency, length or other physical description, and each ground for postponement that is relied upon.

(f) REPORTS BY THE REVIEW BOARD.—(1) The Review Board shall report its activities to the leadership of the Congress, the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, the President, the Archivist, and the head of any Government office whose records have been the subject of Review Board activity.

(2) The first report shall be issued on the date that is 1 year after the date of enactment of this Act, and subsequent reports every 12 months thereafter until termination of the Review Board.

(3) A report under paragraph (1) shall include the following information:

(A) A financial report of the expenses for all official activities and requirements of the Review Board and its personnel.

(B) The progress made on review, transmission to the Archivist, and public disclosure of assassination records.

(C) The estimated time and volume of assassination records involved in the completion of the Review Board's performance under this Act.

(D) Any special problems, including requests and the level of cooperation of Government offices, with regard to the ability of the Review Board to operate as required by this Act.

(E) A record of review activities, including a record of postponement decisions by the Review Board or other related actions authorized by this Act, and a record of the volume of records reviewed and postponed.

(F) Suggestions and requests to Congress for additional legislative authority needs.

(G) An appendix containing copies of reports of postponed records to the Archivist required under section 9(c)(3) made since the date of the preceding report under this subsection.

(4) At least 90 calendar days before completing its work, the Review Board shall provide written notice to the President and Congress of its intention to terminate its operations at a specified date.

44 USC 2107 note.

SEC. 10. DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—

(1) The Review Board may request the Attorney General to petition any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Act shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the Attorney General should assist the Review Board in good faith to unseal any records that the Review Board

determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) the Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glaynoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

44 USC 2107 note.

(a) PRECEDENCE OVER OTHER LAW.—When this Act requires transmission of a record to the Archivist or public disclosure, it shall take precedence over any other law (except section 6103 of the Internal Revenue Code), judicial decision construing such law, or common law doctrine that would otherwise prohibit such transmission or disclosure, with the exception of deeds governing access to or transfer or release of gifts and donations of records to the United States Government.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Act shall be construed to eliminate or limit any right to file requests with any executive agency or seek judicial review of the decisions pursuant to section 552 of title 5, United States Code.

(c) JUDICIAL REVIEW.—Nothing in this Act shall be construed to preclude judicial review, under chapter 7 of title 5, United States Code, of final actions taken or required to be taken under this Act.

(d) EXISTING AUTHORITY.—Nothing in this Act revokes or limits the existing authority of the President, any executive agency, the Senate, or the House of Representatives, or any other entity of the Government to publicly disclose records in its possession.

(e) RULES OF THE SENATE AND HOUSE OF REPRESENTATIVES.—To the extent that any provision of this Act establishes a procedure to be followed in the Senate or the House of Representatives, such provision is adopted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and is deemed to be part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 12. TERMINATION OF EFFECT OF ACT.

44 USC 2107 note.

(a) PROVISIONS PERTAINING TO THE REVIEW BOARD.—The provisions of this Act that pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to section 7(o).

(b) OTHER PROVISIONS.—The remaining provisions of this Act shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination records have been made available to the public in accordance with this Act.

44 USC 2107 note.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Act, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Act.

44 USC 2107 note.

SEC. 14. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

Approved October 26, 1992.

LEGISLATIVE HISTORY—S. 3006 (H.J. Res. 454):

HOUSE REPORTS: No. 102-625, Pt. 1 (Comm. on Government Operations) and Pt. 2 (Comm. on the Judiciary) both accompanying H.J. Res. 454.
SENATE REPORTS: No. 102-328 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed Senate.
Aug. 11, 12, H.J. Res. 454 considered and passed House.
Sept. 30, S. 3006 considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 26, Presidential statement.

Public Law 102-527
102d Congress

An Act

To authorize the State Justice Institute to analyze and disseminate information regarding the admissibility and quality of testimony of witnesses with expertise relating to battered women, and to develop and disseminate training materials to increase the use of such experts to provide testimony in criminal trials of battered women, particularly in cases involving indigent women.

Oct. 27, 1992
[H.R. 1252]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Battered Women's Testimony Act of 1992.

SECTION 1. SHORT TITLE.

42 USC 10702 note.

This Act may be cited as the "Battered Women's Testimony Act of 1992".

SEC. 2. AUTHORITY OF STATE JUSTICE INSTITUTE.

42 USC 10702 note.

The State Justice Institute shall—

(1) collect nationwide and analyze information regarding—

(A) the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, and

(B) sources of, and methods to obtain, funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants,

(2) develop training materials to assist—

(A) battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use such expert testimony in appropriate cases, particularly appropriate cases involving indigent women defendants, and

(B) individuals with expertise in the experiences of battered women to develop skills appropriate to providing such expert testimony, and

(3) disseminate such information and such training materials, and provide related technical assistance, to battered women, such operators, such advocates, such attorneys, and such individuals.

SEC. 3. ADMINISTRATIVE PROVISIONS.

42 USC 10702 note.

For purposes of this Act—

(1) subsections (d) and (e) of section 206 of the State Justice Institute Act of 1984, and

(2) subsections (a) and (b) of section 207 of such Act,

shall apply in the same manner as such subsections apply with respect to grants and contracts made under such Act.

42 USC 10702 note.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $600,000 to carry out this Act.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 1252:

HOUSE REPORTS: No. 102-991 (Comm. on the Judiciary.)
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-528
102d Congress

An Act

To amend the State Justice Institute Act of 1984 to carry out research, and develop judicial training curricula, relating to child custody litigation.

Oct. 27, 1992
[H.R. 1253]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION.

Section 202 of the State Justice Institute Act of 1984 (42 U.S.C. 10701) is amended—

(1) in paragraph (6) by striking "and" at the end,

(2) in paragraph (7) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(8) 'domestic violence' means—

"(A) any action that constitutes—

"(i) attempting to cause or intentionally, knowingly, or recklessly causing bodily injury or physical illness;

"(ii) rape, sexual assault, or causing involuntary deviate sexual intercourse;

"(iii) placing by physical menace another in fear of imminent serious bodily injury; or

"(iv) the infliction of false imprisonment;

if such action is taken by one of 2 spouses, former spouses, or sexual or intimate partners against the other spouse, former spouse, or partner and the 2 of whom share biological parenthood of, have adopted, are legal custodians of, or are stepparents of a minor child; or

"(B) physically or sexually abusing such minor child if such abuse is inflicted by either of such spouses, former spouses, or partners.".

SEC. 2. AUTHORITY TO PROVIDE FUNDS FOR RESEARCH AND CURRICULUM DEVELOPMENT RELATING TO CHILD CUSTODY LITIGATION.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (12) by striking "and" at the end,

(2) by redesignating paragraph (13) as paragraph (14), and

(3) by inserting after paragraph (12) the following:

"(13) conduct not more than 5 projects at an aggregate cost of not to exceed $600,000—

"(A) to investigate, and carry out research regarding State judicial decisions relating to child custody litigation involving domestic violence;

"(B) to develop training curricula to assist State courts to develop an understanding of, and appropriate responses to, child custody litigation involving domestic violence; and

"(C) to disseminate the results of the investigation and research carried out under subparagraph (A), and the curricula developed under subparagraph (B), to State courts; and".

SEC. 3. TECHNICAL AMENDMENTS.

The State Justice Institute Act of 1984 (42 U.S.C. 10701 et seq.) is amended—

42 USC 10702.

(1) in section 203(f) by striking the last sentence,

(2) in section 206(c), as amended by section 2—

(A) in paragraph (3) by striking "judicial and" the second place it appears,

(B) by redesignating paragraphs (4) through (14) as paragraphs (5) through (15), respectively, and

(C) by inserting after paragraph (3) the following:

"(4) to support studies of the appropriateness of efficacy of court organization and financing structures in particular States, and to enable States to implement plans for improved court organization and finance;".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 1253:

HOUSE REPORTS: No. 102-992 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-529
102d Congress

An Act

To authorize appropriations for the United States Holocaust Memorial Council, and for other purposes.

Oct. 27, 1992
[H.R. 2660]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Act of October 7, 1980 (Public Law 96–388; 36 U.S.C. 1408) is amended to read as follows:

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"To carry out the purposes of this Act there are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year through fiscal year 2000. Notwithstanding any other provision of law, there are authorized to be appropriated to the Council such amounts as may be necessary to obtain, from a private insurance carrier, insurance against loss in connection with the memorial museum and related property and exhibits. Notwithstanding any other provision of this Act, no funds authorized under this Act may be used for construction. Authority to enter into contracts and to make payments under this Act, using funds authorized to be appropriated under this section shall be effective only to the extent, and in such amounts, as provided in advance in appropriations Acts.".

SEC. 2. REPORT.

The Act of October 7, 1980 (Public Law 96–388; 36 U.S.C. 1401 and following) is amended by adding the following new section at the end thereof:

"SEC. 11. REPORT. 36 USC 1411.

"The Council shall submit to Congress by June 30, 1995, a report containing each of the following:

"(1) A description of the extent to which the objectives of this Act are being met.

"(2) An examination of future major endeavors, initiatives, programs, or activities that the Council or museum proposes to undertake to better fulfill the objectives of this Act.

"(3) An examination of the Federal role in the funding of the Council and its activities, and any changes that may be warranted.".

SEC. 3. MISCELLANEOUS AMENDMENTS.

The Act of October 7, 1980 (Public Law 96–388; 36 U.S.C. 1401) is amended as follows:

(1) In section 1, strike "oversee the operation of," in paragraph (2) and insert "operate,". 36 USC 1401.

(2) Section 6 is amended by adding the following at the end thereof: 36 USC 1406.

"(d) All employees of the memorial who on April 1, 1993, including employees currently on excepted appointments covered under schedules A, B, and C who are performing inherently governmental functions which will continue after the opening of the museum shall be brought into the competitive service in accordance with the classification and pay policy guidelines contained in title V of the United States Code.

"(e) The Council shall maintain insurance on the memorial museum to cover such risks, in such amount, and containing such terms and conditions as the Council deems necessary.".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 2660:

HOUSE REPORTS: No. 102-563, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 16, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-530
102d Congress

An Act

To assist business in providing women with opportunities in apprenticeship and nontraditional occupations.

Oct. 27, 1992
[H.R. 3475]

Be it enacted by the Senate and House of Representatives of the United States of American in Congress assembled,

Women in Apprenticeship and Nontraditional Occupations Act.
Labor.
29 USC 2501 note.
29 USC 2501.

SECTION 1. SHORT TITLE.

This Act shall be cited as the "Women in Apprenticeship and Nontraditional Occupations Act".

SEC. 2. FINDINGS; STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) American businesses now and for the remainder of the 20th century will face a dramatically different labor market than the one to which they have become accustomed;

(2) two in every three new entrants to the work force will be women, and to meet labor needs such women must work in all occupational areas including in apprenticeable occupations and nontraditional occupations;

(3) women face significant barriers to their full and effective participation in apprenticeable occupations and nontraditional occupations;

(4) the business community must be prepared to address the barriers that women have to such jobs, in order to successfully integrate them into the work force; and

(5) few resources are available to employers and unions who need assistance in recruiting, training, and retaining women in apprenticeable occupations and other nontraditional occupations.

(b) PURPOSE.—It is the purpose of this Act to provide technical assistance to employers and labor unions to encourage employment of women in apprenticeable occupations and nontraditional occupations. Such assistance will enable business to meet the challenge of Workforce 2000 by preparing employers to successfully recruit, train, and retain women in apprenticeable occupations and nontraditional occupations and will expand the employment and self-sufficiency options of women. This purpose will be achieved by—

(1) promoting the program to employers and labor unions to inform them of the availability of technical assistance which will assist them in preparing the workplace to employ women in apprenticeable occupations and nontraditional occupations;

(2) providing grants to community-based organizations to deliver technical assistance to employers and labor unions to prepare them to recruit, train, and employ women in apprenticeable occupations and nontraditional occupations;

(3) authorizing the Department of Labor to serve as a liaison between employers, labor, and the community-based organizations providing technical assistance, through its national office and its regional administrators; and

(4) conducting a comprehensive study to examine the barriers to the participation of women in apprenticeable occupations and nontraditional occupations and to develop recommendations for the workplace to eliminate such barriers.

29 USC 2502.

SEC. 3. OUTREACH TO EMPLOYERS AND LABOR UNIONS.

(a) IN GENERAL.—With funds available to the Secretary of Labor to carry out the operations of the Department of Labor in fiscal year 1994 and subsequent fiscal years, the Secretary shall carry out an outreach program to inform employers of technical assistance available under section 4(a) to assist employers to prepare the workplace to employ women in apprenticeable occupations and other nontraditional occupations.

(1) Under such program the Secretary shall provide outreach to employers through, but not limited to, the private industry councils in each service delivery area.

(2) The Secretary shall provide outreach to labor unions through, but not limited to, the building trade councils, joint apprenticeable occupations councils, and individual labor unions.

(b) PRIORITY.—The Secretary shall give priority to providing outreach to employers located in areas that have nontraditional employment and training programs specifically targeted to women.

Grants.
29 USC 2503.

SEC. 4. TECHNICAL ASSISTANCE.

(a) IN GENERAL.—With funds appropriated to carry out this section, the Secretary shall make grants to community-based organizations to provide technical assistance to employers and labor unions selected under subsection (b). Such technical assistance may include—

(1) developing outreach and orientation sessions to recruit women into the employers' apprenticeable occupations and nontraditional occupations;

(2) developing preapprenticeable occupations or nontraditional skills training to prepare women for apprenticeable occupations or nontraditional occupations;

(3) providing ongoing orientations for employers, unions, and workers on creating a successful environment for women in apprenticeable occupations or nontraditional occupations;

(4) setting up support groups and facilitating networks for women in nontraditional occupations on or off the job site to improve their retention;

(5) setting up a local computerized data base referral system to maintain a current list of tradeswomen who are available for work;

(6) serving as a liaison between tradeswomen and employers and tradeswomen and labor unions to address workplace issues related to gender; and

(7) conducting exit interviews with tradeswomen to evaluate their on-the-job experience and to assess the effectiveness of the program.

(b) SELECTION OF EMPLOYER AND LABOR UNIONS.—The Secretary shall select a total of 50 employers or labor unions to receive technical assistance provided with grants made under subsection (a).

SEC. 5. COMPETITIVE GRANTS. 29 USC 2504.

(a) IN GENERAL.—Each community-based organization that desires to receive a grant to provide technical assistance under section 4(a) to employers and labor unions shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(b) PRIORITY.—In awarding grants under section 4(a), the Secretary shall give priority to applications from community-based organizations that—

(1) demonstrate experience preparing women to gain employment in apprenticeable occupations or other nontraditional occupations;

(2) demonstrate experience working with the business community to prepare them to place women in apprenticeable occupations or other nontraditional occupations;

(3) have tradeswomen or women in nontraditional occupations as active members of the organization, as either employed staff or board members; and

(4) have experience delivering technical assistance.

SEC. 6. APPLICATIONS. 29 USC 2505.

To be eligible to be selected under section 4(b) to receive technical assistance provided with grants made under section 4(a), an employer or labor union shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require. At a minimum, the application should include—

(1) a description of the need for technical assistance;

(2) a description of the types of apprenticeable occupations or nontraditional occupations in which the employer or labor union would like to train or employ women;

(3) assurances that there are or will be suitable and appropriate positions available in the apprenticeable occupations program or in the nontraditional occupations being targeted; and

(4) commitments that reasonable efforts shall be made to place qualified women in apprenticeable occupations or nontraditional occupations.

SEC. 7. LIAISON ROLE OF DEPARTMENT OF LABOR. 29 USC 2506.

The Department of Labor shall serve as a liaison among employers, labor unions, and community-based organizations. The liaison role may include—

(1) coordination of employers, labor unions, and community-based organizations with respect to technical assistance provided under section 4(a);

(2) conducting regular assessment meetings with representatives of employers, labor unions, and community-based organizations with respect to such technical assistance; and

(3) seeking the input of employers and labor unions with respect to strategies and recommendations for improving such technical assistance.

SEC. 8. STUDY OF THE BARRIERS TO THE PARTICIPATION OF WOMEN IN APPRENTICEABLE OCCUPATIONS AND NONTRADITIONAL OCCUPATIONS. 29 USC 2507.

(a) STUDY.—With funds available to the Secretary to carry out the operations of the Department of Labor in fiscal years 1994 and 1995, the Secretary shall conduct a study of the participa-

tion of women in apprenticeable occupations and nontraditional occupations. The study shall examine—

(1) the barriers to participation of women in apprenticeable occupations and nontraditional occupations;

(2) strategies for overcoming such barriers;

(3) the retention rates for women in apprenticeable occupations and nontraditional occupations;

(4) strategies for retaining women in apprenticeable occupations and nontraditional occupations;

(5) the effectiveness of the technical assistance provided by the community-based organizations; and

(6) other relevant issues affecting the participation of women in apprenticeable occupations and nontraditional occupations.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit to the Congress a report containing a summary of the results of the study described in subsection (a) and such recommendations as the Secretary determines to be appropriate.

29 USC 2508.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) The term "community-based organization" means a community-based organization as defined in section 4(5) of the Job Training Partnership Act (29 U.S.C. 1501(5)), that has demonstrated experience administering programs that train women for apprenticeable occupations or other nontraditional occupations.

(2) The term "nontraditional occupation" means jobs in which women make up 25 percent or less of the total number of workers in that occupation.

(3) The term "Secretary" means the Secretary of Labor.

29 USC 2509.

SEC. 10. TECHNICAL ASSISTANCE PROGRAM AUTHORIZATION.

There is authorized to be appropriated $1,000,000 to carry out section 4.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 3475:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-531
102d Congress

An Act

To amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes.

Oct. 27, 1992
[H.R. 3635]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Preventive Health Amendments of 1992.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Preventive Health Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

Sec. 101. Authorization of appropriations.
Sec. 102. Use of allotments.
Sec. 103. Application for payments.
Sec. 104. Reports, data, and audits.

TITLE II—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

Sec. 201. Establishment of Foundation.

TITLE III—CERTAIN PROGRAMS

Sec. 301. Injury control.
Sec. 302. Establishment of Office of Adolescent Health.
Sec. 303. Lead poisoning prevention.
Sec. 304. Preventable cases of infertility arising as result of sexually transmitted diseases.
Sec. 305. Bulk purchases of vaccines for certain programs.
Sec. 306. State programs regarding data on birth defects.
Sec. 307. Screenings for breast and cervical cancer.
Sec. 308. Screenings for prostate cancer.
Sec. 309. Certain programs.
Sec. 310. International cooperation.
Sec. 311. Miscellaneous provisions.
Sec. 312. Change in name of Centers for Disease Control.
Sec. 313. Technical corrections.
Sec. 314. Authorization of appropriations regarding vaccine compensation.

TITLE I—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "For the purpose" and all that follows and inserting the following: "For the purpose of allotments under section 1902, there are authorized to be appropriated $205,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.".

(b) ALLOCATION FOR SERVICES FOR RAPE VICTIMS AND FOR RAPE PREVENTION.—Section 1901(b) of the Public Health Service Act

(42 U.S.C. 300w(b)) is amended by striking "$3,500,000" and inserting "$7,000,000".

SEC. 102. USE OF ALLOTMENTS.

(a) IN GENERAL.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w–3(a)(1)) is amended to read as follows:

"(1) Except as provided in subsections (b) and (c), payments made to a State under section 1903 may be used for the following:

"(A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000 (in this part referred to as 'year 2000 health objectives').

"(B) Preventive health service programs for the control of rodents and for community and school-based fluoridation programs.

"(C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of section 1213(a).

"(D) Providing services to victims of sex offenses and for prevention of sex offenses.

"(E) With respect to activities described in any of subparagraphs (A) through (D), related planning, administration, and educational activities.

"(F) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (E)".

(b) TRANSFERS FROM CERTAIN ALLOTMENT.—Section 1904(c) of the Public Health Service Act (42 U.S.C. 300w–3(c)) is amended by striking "parts B and C" and inserting "part B".

SEC. 103. APPLICATION FOR PAYMENTS.

(a) IN GENERAL.—Section 1905 of the Public Health Service Act (42 U.S.C. 300w–4) is amended to read as follows:

"APPLICATION FOR PAYMENTS; STATE PLAN

"SEC. 1905. (a) IN GENERAL.—The Secretary may make payments under section 1903 to a State for a fiscal year only if—

"(1) the State submits to the Secretary an application for the payments;

"(2) the application contains a State plan in accordance with subsection (b);

"(3) the application contains the certification described in subsection (c);

"(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this part (including assurances regarding compliance with the agreements described in subsection (c)); and

"(5) the application is in such form and is submitted by such date as the Secretary may require.

"(b) STATE PLAN.—A State plan required in subsection (a)(2) for a fiscal year is in accordance with this subsection if the plan meets the following conditions:

"(1) The plan is developed by the State agency with principal responsibility for public health programs, in consultation with the advisory committee established pursuant to subsection (c)(2).

"(2) The plan specifies the activities authorized in section 1904 that are to be carried out with payments made to the State under section 1903, including a specification of the year 2000 health objectives for which the State will expend the payments.

"(3) The plan specifies the populations in the State for which such activities are to be carried out.

"(4) The plan specifies any populations in the State that have a disparate need for such activities.

"(5) With respect to each population specified under paragraph (3), the plan contains a strategy for expending such payments to carry out such activities to make progress toward improving the health status of the population, which strategy includes—

"(A) a description of the programs and projects to be carried out;

"(B) an estimate of the number of individuals to be served by the programs and projects; and

"(C) an estimate of the number of public health personnel needed to carry out the strategy.

"(6) The plan specifies the amount of such payments to be expended for each of such activities and, with respect to the activity involved—

"(A) the amount to be expended for each population specified under paragraph (3); and

"(B) the amount to be expended for each population specified under paragraph (4).

"(c) STATE CERTIFICATION.—The certification referred to in subsection (a)(3) for a fiscal year is a certification to the Secretary by the chief executive officer of the State involved as follows:

"(1)(A) In the development of the State plan required in subsection (a)(2)—

"(i) the chief health officer of the State held public hearings on the plan; and

"(ii) proposals for the plan were made public in a manner that facilitated comments from public and private entities (including Federal and other public agencies).

"(B) The State agrees that, if any revisions are made in such plan during the fiscal year, the State will, with respect to the revisions, hold hearings and make proposals public in accordance with subparagraph (A), and will submit to the Secretary a description of the revisions.

"(2) The State has established an advisory committee in accordance with subsection (d).

"(3) The State agrees to expend payments under section 1903 only for the activities authorized in section 1904.

"(4) The State agrees to expend such payments in accordance with the State plan submitted under subsection (a)(2)

(with any revisions submitted to the Secretary under paragraph (1)(B)), including making expenditures to carry out the strategy contained in the plan pursuant to subsection (b)(5).

"(5)(A) The State agrees that, in the case of each population for which such strategy is carried out, the State will measure the extent of progress being made toward improving the health status of the population.

"(B) The State agrees that—

"(i) the State will collect and report data in accordance with section 1906(a); and

"(ii) for purposes of subparagraph (A), progress will be measured through use of each of the applicable uniform data items developed by the Secretary under paragraph (2) of such section, or if no such items are applicable, through use of the uniform criteria developed by the Secretary under paragraph (3) of such section.

"(6) With respect to the activities authorized in section 1904, the State agrees to maintain State expenditures for such activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1903.

"(7) The State agrees to establish reasonable criteria to evaluate the effective performance of entities that receive funds from such payments and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

"(8) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1907.

"(9) The State has in effect a system to protect from inappropriate disclosure patient and sex offense victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

"(10) The State agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

"(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

"(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.

"(d) STATE ADVISORY COMMITTEE.—

"(1) IN GENERAL.—For purposes of subsection (c)(2), an advisory committee is in accordance with this subsection if such committee is known as the State Preventive Health Advisory Committee (in this subsection referred to as the 'Committee') and the Committee meets the conditions described in the subsequent paragraphs of this subsection.

"(2) DUTIES.—A condition under paragraph (1) for a State is that the duties of the Committee are—

"(A) to hold public hearings on the State plan required in subsection (a)(2); and

"(B) to make recommendations pursuant to subsection (b)(1) regarding the development and implementation of such plan, including recommendations on—

"(i) the conduct of assessments of the public health;

"(ii) which of the activities authorized in section 1904 should be carried out in the State;

"(iii) the allocation of payments made to the State under section 1903;

"(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

"(v) the collection and reporting of data in accordance with section 1906(a).

"(3) COMPOSITION.—

"(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

"(B) With respect to compliance with subparagraph (A), the membership of advisory committees established pursuant to subsection (c)(2) may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 1904.

"(4) CHAIR; MEETINGS.—A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.".

(b) DELAYED APPLICABILITY OF REQUIREMENT REGARDING ADVISORY COMMITTEES.—With respect to compliance with the requirement established in subsection (c)(2) of section 1905 of the Public Health Service Act (as amended by subsection (a) of this section), a State is deemed, notwithstanding such section, to be in compliance with such requirement if the State establishes an advisory committee in accordance with subsection (d) of such section not later than 180 days after the date of the enactment of this Act. 42 USC 300w-4 note.

SEC. 104. REPORTS, DATA, AND AUDITS.

(a) IN GENERAL.—Section 1906(a) of the Public Health Service Act (42 U.S.C. 300w-5(a)) is amended to read as follows:

"(a)(1) For purposes of section 1905(c)(5)(B)(i), a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that—

"(A) describes the purposes for which the State expended payments made to the State under section 1903;

"(B) pursuant to section 1905(c)(5)(A), describes the extent of progress made by the State for purposes of such section;

"(C) meets the conditions described in the subsequent paragraphs of this subsection; and

"(D) contains such additional information regarding activities authorized in section 1904, and is submitted in such form, as the Secretary may require.

"(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as 'uniform data sets'). Each of such sets shall consist of one or more categories of information (in this subsection individually referred to as a 'uniform data item'). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

"(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.

"(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 1905 for the fiscal year, specified as a purpose for which payments under section 1903 are to be expended.

"(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 1904 with respect to which no uniform data items exist.

"(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.".

(b) CONFORMING AMENDMENTS.—Section 1906 of the Public Health Service Act (42 U.S.C. 300w–5) is amended—

(1) in the heading for the section, by inserting ", DATA," after "REPORTS"; and

(2) by striking subsection (d).

SEC. 105. REPEAL OF YEAR 2000 HEALTH OBJECTIVES PLANNING ACT.

The Year 2000 Health Objectives Planning Act (Public Law 101–582; 42 U.S.C. 246 note) is repealed.

TITLE II—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

SEC. 201. ESTABLISHMENT OF FOUNDATION.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.), as amended by section 401 of Public Law 102–321 (106 Stat. 419), is amended by adding at the end the following new part:

"PART N—NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION

"SEC. 399F. ESTABLISHMENT AND DUTIES OF FOUNDATION. 42 USC 280d-11.

"(a) IN GENERAL.—There shall be established in accordance with this section a nonprofit private corporation to be known as the National Foundation for the Centers for Disease Control and Prevention (in this part referred to as the 'Foundation'). The Foundation shall not be an agency or instrumentality of the Federal Government, and officers, employees, and members of the board of the Foundation shall not be officers or employees of the Federal Government.

"(b) PURPOSE OF FOUNDATION.—The purpose of the Foundation shall be to support and carry out activities for the prevention and control of diseases, disorders, injuries, and disabilities, and for promotion of public health.

"(c) ENDOWMENT FUND.—

"(1) IN GENERAL.—In carrying out subsection (b), the Foundation shall establish a fund for providing endowments for positions that are associated with the Centers for Disease Control and Prevention and dedicated to the purpose described in such subsection. Subject to subsection (f)(1)(B), the fund shall consist of such donations as may be provided by non-Federal entities and such non-Federal assets of the Foundation (including earnings of the Foundation and the fund) as the Foundation may elect to transfer to the fund.

"(2) AUTHORIZED EXPENDITURES OF FUND.—The provision of endowments under paragraph (1) shall be the exclusive function of the fund established under such paragraph. Such endowments may be expended only for the compensation of individuals holding the positions, for staff, equipment, quarters, travel, and other expenditures that are appropriate in supporting the positions, and for recruiting individuals to hold the positions endowed by the fund.

"(d) CERTAIN ACTIVITIES OF FOUNDATION.—In carrying out subsection (b), the Foundation may provide for the following with respect to the purpose described in such subsection:

"(1) Programs of fellowships for State and local public health officials to work and study in association with the Centers for Disease Control and Prevention.

"(2) Programs of international arrangements to provide opportunities for public health officials of other countries to serve in public health capacities in the United States in association with the Centers for Disease Control and Prevention or elsewhere, or opportunities for employees of such Centers (or other public health officials in the United States) to serve in such capacities in other countries, or both.

"(3) Studies, projects, and research (which may include applied research on the effectiveness of prevention activities, demonstration projects, and programs and projects involving international, Federal, State, and local governments).

"(4) Forums for government officials and appropriate private entities to exchange information. Participants in such forums may include institutions of higher education and appropriate international organizations.

"(5) Meetings, conferences, courses, and training workshops.

"(6) Programs to improve the collection and analysis of data on the health status of various populations.

"(7) Programs for writing, editing, printing, and publishing of books and other materials.

"(8) Other activities to carry out the purpose described in subsection (b).

"(e) GENERAL STRUCTURE OF FOUNDATION; NONPROFIT STATUS.—

"(1) BOARD OF DIRECTORS.—The Foundation shall have a board of directors (in this part referred to as the 'Board'), which shall be established and conducted in accordance with subsection (f). The Board shall establish the general policies of the Foundation for carrying out subsection (b), including the establishment of the bylaws of the Foundation.

"(2) EXECUTIVE DIRECTOR.—The Foundation shall have an executive director (in this part referred to as the 'Director'), who shall be appointed by the Board, who shall serve at the pleasure of the Board, and for whom the Board shall establish the rate of compensation. Subject to compliance with the policies and bylaws established by the Board pursuant to paragraph (1), the Director shall be responsible for the daily operations of the Foundation in carrying out subsection (b).

"(3) NONPROFIT STATUS.—In carrying out subsection (b), the Board shall establish such policies and bylaws under paragraph (1), and the Director shall carry out such activities under paragraph (2), as may be necessary to ensure that the Foundation maintains status as an organization that—

"(A) is described in subsection (c)(3) of section 501 of the Internal Revenue Code of 1986; and

"(B) is, under subsection (a) of such section, exempt from taxation.

"(f) BOARD OF DIRECTORS.—

"(1) CERTAIN BYLAWS.—

"(A) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation include bylaws for the following:

"(i) Policies for the selection of the officers, employees, agents, and contractors of the Foundation.

"(ii) Policies, including ethical standards, for the acceptance and disposition of donations to the Foundation and for the disposition of the assets of the Foundation.

"(iii) Policies for the conduct of the general operations of the Foundation.

"(iv) Policies for writing, editing, printing, and publishing of books and other materials, and the acquisition of patents and licenses for devices and procedures developed by the Foundation.

"(B) In establishing bylaws under subsection (e)(1), the Board shall ensure that the bylaws of the Foundation (and activities carried out under the bylaws) do not—

"(i) reflect unfavorably upon the ability of the Foundation, or the Centers for Disease Control and Prevention, to carry out its responsibilities or official duties in a fair and objective manner; or

"(ii) compromise, or appear to compromise, the integrity of any governmental program or any officer or employee involved in such program.

"(2) COMPOSITION.—

"(A) Subject to subparagraph (B), the Board shall be composed of 7 individuals, appointed in accordance with paragraph (4), who collectively possess education or experience appropriate for representing the general field of public health, the general field of international health, and the general public. Each such individual shall be a voting member of the Board.

"(B) The Board may, through amendments to the bylaws of the Foundation, provide that the number of members of the Board shall be a greater number than the number specified in subparagraph (A).

"(3) CHAIR.—The Board shall, from among the members of the Board, designate an individual to serve as the chair of the Board (in this subsection referred to as the 'Chair').

"(4) APPOINTMENTS, VACANCIES, AND TERMS.—Subject to subsection (j) (regarding the initial membership of the Board), the following shall apply to the Board:

"(A) Any vacancy in the membership of the Board shall be filled by appointment by the Board, after consideration of suggestions made by the Chair and the Director regarding the appointments. Any such vacancy shall be filled not later than the expiration of the 180-day period beginning on the date on which the vacancy occurs.

"(B) The term of office of each member of the Board appointed under subparagraph (A) shall be 5 years. A member of the Board may continue to serve after the expiration of the term of the member until the expiration of the 180-day period beginning on the date on which the term of the member expires.

"(C) A vacancy in the membership of the Board shall not affect the power of the Board to carry out the duties of the Board. If a member of the Board does not serve the full term applicable under subparagraph (B), the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(5) COMPENSATION.—Members of the Board may not receive compensation for service on the Board. The members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Board.

"(g) CERTAIN RESPONSIBILITIES OF EXECUTIVE DIRECTOR.—In carrying out subsection (e)(2), the Director shall carry out the following functions:

"(1) Hire, promote, compensate, and discharge officers and employees of the Foundation, and define the duties of the officers and employees.

"(2) Accept and administer donations to the Foundation, and administer the assets of the Foundation.

"(3) Establish a process for the selection of candidates for holding endowed positions under subsection (c).

"(4) Enter into such financial agreements as are appropriate in carrying out the activities of the Foundation.

"(5) Take such action as may be necessary to acquire patents and licenses for devices and procedures developed by the Foundation and the employees of the Foundation.

"(6) Adopt, alter, and use a corporate seal, which shall be judicially noticed.

"(7) Commence and respond to judicial proceedings in the name of the Foundation.

"(8) Other functions that are appropriate in the determination of the Director.

"(h) GENERAL PROVISIONS.—

"(1) AUTHORITY FOR ACCEPTING FUNDS.—The Director of the Centers for Disease Control and Prevention may accept and utilize, on behalf of the Federal Government, any gift, donation, bequest, or devise of real or personal property from the Foundation for the purpose of aiding or facilitating the work of such Centers. Funds may be accepted and utilized by such Director under the preceding sentence without regard to whether the funds are designated as general-purpose funds or special-purpose funds.

"(2) AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES.—

"(A) The Director of the Centers for Disease Control and Prevention may accept, on behalf of the Federal Government, any voluntary services provided to such Centers by the Foundation for the purpose of aiding or facilitating the work of such Centers. In the case of an individual, such Director may accept the services provided under the preceding sentence by the individual for not more than 2 years.

"(B) The limitation established in subparagraph (A) regarding the period of time in which services may be accepted applies to each individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation.

"(3) ADMINISTRATIVE CONTROL.—No officer, employee, or member of the Board of the Foundation may exercise any administrative or managerial control over any Federal employee.

"(4) APPLICABILITY OF CERTAIN STANDARDS TO NON-FEDERAL EMPLOYEES.—In the case of any individual who is not an employee of the Federal Government and who serves in association with the Centers for Disease Control and Prevention pursuant to financial support from the Foundation, the Foundation shall negotiate a memorandum of understanding with the individual and the Director of the Centers for Disease Control and Prevention specifying that the individual—

"(A) shall be subject to the ethical and procedural standards regulating Federal employment, scientific investigation, and research findings (including publications and patents) that are required of individuals employed by the Centers for Disease Control and Prevention, including standards under this Act, the Ethics in Government Act, and the Technology Transfer Act; and

"(B) shall be subject to such ethical and procedural standards under chapter 11 of title 18, United States Code (relating to conflicts of interest), as the Director of such

Centers determines is appropriate, except such memorandum may not provide that the individual shall be subject to the standards of section 209 of such chapter.

"(5) FINANCIAL CONFLICTS OF INTEREST.—Any individual who is an officer, employee, or member of the Board of the Foundation may not directly or indirectly participate in the consideration or determination by the Foundation of any question affecting—

"(A) any direct or indirect financial interest of the individual; or

"(B) any direct or indirect financial interest of any business organization or other entity of which the individual is an officer or employee or in which the individual has a direct or indirect financial interest.

"(6) AUDITS; AVAILABILITY OF RECORDS.—The Foundation shall—

"(A) provide for biennial audits of the financial condition of the Foundation; and

"(B) make such audits, and all other records, documents, and other papers of the Foundation, available to the Secretary and the Comptroller General of the United States for examination or audit.

"(7) REPORTS.—

"(A) Not later than February 1 of each fiscal year, the Foundation shall publish a report describing the activities of the Foundation during the preceding fiscal year. Each such report shall include for the fiscal year involved a comprehensive statement of the operations, activities, financial condition, and accomplishments of the Foundation.

"(B) With respect to the financial condition of the Foundation, each report under subparagraph (A) shall include the source, and a description of, all gifts to the Foundation of real or personal property, and the source and amount of all gifts to the Foundation of money. Each such report shall include a specification of any restrictions on the purposes for which gifts to the Foundation may be used.

"(C) The Foundation shall make copies of each report submitted under subparagraph (A) available for public inspection, and shall upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy. Public information.

"(8) LIAISON FROM CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Director of the Centers for Disease Control and Prevention shall serve as the liaison representative of such Centers to the Board and the Foundation.

"(i) FEDERAL FUNDING.—

"(1) AUTHORITY FOR ANNUAL GRANTS.—

"(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall—

"(i) for fiscal year 1993, make a grant to an entity described in subsection (j)(9) (relating to the establishment of a committee to establish the Foundation);

"(ii) for fiscal year 1994, make a grant to the committee established under such subsection, or if the

Foundation has been established, to the Foundation; and

"(iii) for fiscal year 1995 and each subsequent fiscal year, make a grant to the Foundation.

"(B) A grant under subparagraph (A) may be expended—

"(i) in the case of an entity receiving the grant under subparagraph (A)(i), only for the purpose of carrying out the duties established in subsection (j)(9) for the entity;

"(ii) in the case of the committee established under such subsection, only for the purpose of carrying out the duties established in subsection (j) for the committee; and

"(iii) in the case of the Foundation, only for the purpose of the administrative expenses of the Foundation.

"(C) A grant under subparagraph (A) may not be expended to provide amounts for the fund established under subsection (c).

"(D) For the purposes described in subparagraph (B)—

"(i) any portion of the grant made under subparagraph (A)(i) for fiscal year 1993 that remains unobligated after the entity receiving the grant completes the duties established in subsection (j)(9) for the entity shall be available to the committee established under such subsection; and

"(ii) any portion of a grant under subparagraph (A) made for fiscal year 1993 or 1994 that remains unobligated after such committee completes the duties established in such subsection for the committee shall be available to the Foundation.

"(2) FUNDING FOR GRANTS.—

Appropriation authorization.

"(A) For the purpose of grants under paragraph (1), there is authorized to be appropriated $500,000 for each fiscal year.

"(B) For the purpose of grants under paragraph (1), the Secretary may for each fiscal year make available not more than $500,000 from the amounts appropriated for the fiscal year for the programs of the Department of Health and Human Services. Such amounts may be made available without regard to whether amounts have been appropriated under subparagraph (A).

"(3) CERTAIN RESTRICTION.—If the Foundation receives Federal funds for the purpose of serving as a fiscal intermediary between Federal agencies, the Foundation may not receive such funds for the indirect costs of carrying out such purpose in an amount exceeding 10 percent of the direct costs of carrying out such purpose. The preceding sentence may not be construed as authorizing the expenditure of any grant under paragraph (1) for such purpose.

"(j) COMMITTEE FOR ESTABLISHMENT OF FOUNDATION.—

"(1) IN GENERAL.—There shall be established in accordance with this subsection a committee to carry out the functions described in paragraph (2) (which committee is referred to in this subsection as the 'Committee').

"(2) FUNCTIONS.—The functions referred to in paragraph (1) for the Committee are as follows:

"(A) To carry out such activities as may be necessary to incorporate the Foundation under the laws of the State involved, including serving as incorporators for the Foundation. Such activities shall include ensuring that the articles of incorporation for the Foundation require that the Foundation be established and operated in accordance with the applicable provisions of this part (or any successor to this part), including such provisions as may be in effect pursuant to amendments enacted after the date of the enactment of the Preventive Health Amendments of 1992.

"(B) To ensure that the Foundation qualifies for and maintains the status described in subsection (e)(3) (regarding taxation).

"(C) To establish the general policies and initial bylaws of the Foundation, which bylaws shall include the bylaws described in subsections (e)(3) and (f)(1).

"(D) To provide for the initial operation of the Foundation, including providing for quarters, equipment, and staff.

"(E) To appoint the initial members of the Board in accordance with the requirements established in subsection (f)(2)(A) for the composition of the Board, and in accordance with such other qualifications as the Committee may determine to be appropriate regarding such composition. Of the members so appointed—

"(i) 2 shall be appointed to serve for a term of 3 years;

"(ii) 2 shall be appointed to serve for a term of 4 years; and

"(iii) 3 shall be appointed to serve for a term of 5 years.

"(3) COMPLETION OF FUNCTIONS OF COMMITTEE; INITIAL MEETING OF BOARD.—

"(A) The Committee shall complete the functions required in paragraph (1) not later than September 30, 1994. The Committee shall terminate upon the expiration of the 30-day period beginning on the date on which the Secretary determines that the functions have been completed. Termination date.

"(B) The initial meeting of the Board shall be held not later than November 1, 1994.

"(4) COMPOSITION.—The Committee shall be composed of 5 members, each of whom shall be a voting member. Of the members of the Committee—

"(A) no fewer than 2 shall have broad, general experience in public health; and

"(B) no fewer than 2 shall have broad, general experience in nonprofit private organizations (without regard to whether the individuals have experience in public health).

"(5) CHAIR.—The Committee shall, from among the members of the Committee, designate an individual to serve as the chair of the Committee.

"(6) TERMS; VACANCIES.—The term of members of the Committee shall be for the duration of the Committee. A vacancy in the membership of the Committee shall not affect the power of the Committee to carry out the duties of the

Committee. If a member of the Committee does not serve the full term, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

"(7) COMPENSATION.—Members of the Committee may not receive compensation for service on the Committee. Members of the Committee may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Committee.

"(8) COMMITTEE SUPPORT.—The Director of the Centers for Disease Control and Prevention may, from amounts available to the Director for the general administration of such Centers, provide staff and financial support to assist the Committee with carrying out the functions described in paragraph (2). In providing such staff and support, the Director may both detail employees and contract for assistance.".

"(9) GRANT FOR ESTABLISHMENT OF COMMITTEE.—

"(A) With respect to a grant under paragraph (1)(A)(i) of subsection (i) for fiscal year 1993, an entity described in this paragraph is a private nonprofit entity with significant experience in domestic and international issues of public health. Not later than 180 days after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary shall make the grant to such an entity (subject to the availability of funds under paragraph (2) of such subsection).

"(B) The grant referred to in subparagraph (A) may be made to an entity only if the entity agrees that—

"(i) the entity will establish a committee that is composed in accordance with paragraph (4); and

"(ii) the entity will not select an individual for membership on the Committee unless the individual agrees that the Committee will operate in accordance with each of the provisions of this subsection that relate to the operation of the Committee.

"(C) The Secretary may make a grant referred to in subparagraph (A) only if the applicant for the grant makes an agreement that the grant will not be expended for any purpose other than carrying out subparagraph (B). Such a grant may be made only if an application for the grant is submitted to the Secretary containing such agreement, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Secretary determines to be necessary to carry out this paragraph.".

TITLE III—CERTAIN PROGRAMS

SEC. 301. INJURY CONTROL.

Section 392(b) of the Public Health Service Act (42 U.S.C. 280b–1(b)) is amended—

(1) in paragraph (1), by striking "and" after the semicolon at the end;

(2) in paragraph (2)—

Public information.

(A) by adding at the end the following sentence: "In carrying out the preceding sentence, the Secretary shall

disseminate such information to the public, including through elementary and secondary schools."; and

(B) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(3) make grants to States and, after consultation with State health agencies, to other public or nonprofit private entities for the purpose of carrying out demonstration projects for the prevention and control of injuries at sites that are not subject to the Occupational Safety and Health Act of 1970, including homes, elementary and secondary schools, and public buildings.".

SEC. 302. ESTABLISHMENT OF OFFICE OF ADOLESCENT HEALTH.

Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended by adding at the end the following section:

"OFFICE OF ADOLESCENT HEALTH

"SEC. 1708. (a) IN GENERAL.—There is established an Office of Adolescent Health within the Office of the Assistant Secretary for Health, which office shall be headed by a director appointed by the Secretary. The Secretary shall carry out this section acting through the Director of such Office. 42 USC 300u-7.

"(b) DUTIES.—With respect to adolescent health, the Secretary shall—

"(1) coordinate all activities within the Department of Health and Human Services that relate to disease prevention, health promotion, preventive health services, and health information and education with respect to the appropriate use of health care, including coordinating—

"(A) the design of programs, support for programs, and the evaluation of programs;

"(B) the monitoring of trends;

"(C) projects of research (including multidisciplinary projects) on adolescent health; and

"(D) the training of health providers who work with adolescents, particularly nurse practitioners, physician assistants, and social workers;

"(2) coordinate the activities described in paragraph (1) with similar activities in the private sector; and

"(3) support projects, conduct research, and disseminate information relating to preventive medicine, health promotion, and physical fitness and sports medicine.

"(c) CERTAIN DEMONSTRATION PROJECTS.—

"(1) IN GENERAL.—In carrying out subsection (b)(3), the Secretary may make grants to carry out demonstration projects for the purpose of improving adolescent health, including projects to train health care providers in providing services to adolescents and projects to reduce the incidence of violence among adolescents, particularly among minority males.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(d) INFORMATION CLEARINGHOUSE.—In carrying out subsection (b), the Secretary shall establish and maintain a National Informa-

tion Clearinghouse on Adolescent Health to collect and disseminate to health professionals and the general public information on adolescent health.

"(e) NATIONAL PLAN.—In carrying out subsection (b), the Secretary shall develop a national plan for improving adolescent health. The plan shall be consistent with the applicable objectives established by the Secretary for the health status of the people of the United States for the year 2000, and shall be periodically reviewed, and as appropriate, revised. The plan, and any revisions in the plan, shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

"(f) ADOLESCENT HEALTH.—For purposes of this section, the term 'adolescent health', with respect to adolescents of all ethnic and racial groups, means all diseases, disorders, and conditions (including with respect to mental health)—

"(1) unique to adolescents, or more serious or more prevalent in adolescents;

"(2) for which the factors of medical risk or types of medical intervention are different for adolescents, or for which it is unknown whether such factors or types are different for adolescents; or

"(3) with respect to which there has been insufficient clinical research involving adolescents as subjects or insufficient clinical data on adolescents.".

SEC. 303. LEAD POISONING PREVENTION.

(a) IN GENERAL.—Section 317A of the Public Health Service Act (42 U.S.C. 247b–1) is amended to read as follows:

"SCREENINGS, REFERRALS, AND EDUCATION REGARDING LEAD POISONING

"SEC. 317A. (a) AUTHORITY FOR GRANTS.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and political subdivisions of States for the initiation and expansion of community programs designed—

"(A) to provide, for infants and children—

"(i) screening for elevated blood lead levels;

"(ii) referral for treatment of such levels; and

"(iii) referral for environmental intervention associated with such levels; and

"(B) to provide education about childhood lead poisoning.

"(2) AUTHORITY REGARDING CERTAIN ENTITIES.—With respect to a geographic area with a need for activities authorized in paragraph (1), in any case in which neither the State nor the political subdivision in which such area is located has applied for a grant under paragraph (1), the Secretary may make a grant under such paragraph to any grantee under section 329, 330, 340, or 340A for carrying out such activities in the area.

"(3) PROVISION OF ALL SERVICES AND ACTIVITIES THROUGH EACH GRANTEE.—In making grants under paragraph (1), the Secretary shall ensure that each of the activities described in such paragraph is provided through each grantee under

such paragraph. The Secretary may authorize such a grantee to provide the services and activities directly, or through arrangements with other providers.

"(b) STATUS AS MEDICAID PROVIDER.—

"(1) IN GENERAL.—Subject to paragraph (2), the Secretary may not make a grant under subsection (a) unless, in the case of any service described in such subsection that is made available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant will enter into an agreement with a provider under which the provider will provide the service, and the provider has entered into such a participation agreement and is qualified to receive such payments.

"(2) WAIVER REGARDING CERTAIN SECONDARY AGREEMENTS.—

"(A) In the case of a provider making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the provider does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(B) A determination by the Secretary of whether a provider referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the provider accepts voluntary donations regarding the provision of services to the public.

"(c) PRIORITY IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give priority to applications for programs that will serve areas with a high incidence of elevated blood lead levels in infants and children.

"(d) GRANT APPLICATION.—No grant may be made under subsection (a), unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

"(1) A complete description of the program which is to be provided by or through the applicant.

"(2) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to—

"(A) communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children (including the sources of lead exposure, the importance of screening young children for lead, and the preventive steps that parents can take in reducing the risk of lead poisoning) which the program is designed to detect and prevent; and

"(B) communicate to health professionals and paraprofessionals updated knowledge concerning lead poisoning and research (including the health consequences, if any,

of low-level lead burden; the prevalence of lead poisoning among all socioeconomic groupings; the benefits of expanded lead screening; and the therapeutic and other interventions available to prevent and combat lead poisoning in affected children and families).

"(3) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness.

"(4) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

"(5) Assurances satisfactory to the Secretary that the applicant will coordinate the activities carried out pursuant to subsection (a) with related activities and services carried out in the State by grantees under title V or XIX of the Social Security Act.

"(6) Assurances satisfactory to the Secretary that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(7) Such other information as the Secretary may prescribe.

"(e) RELATIONSHIP TO SERVICES AND ACTIVITIES UNDER OTHER PROGRAMS.—

"(1) IN GENERAL.—A recipient of a grant under subsection (a) may not make payments from the grant for any service or activity to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service or activity—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(2) APPLICABILITY TO CERTAIN SECONDARY AGREEMENTS FOR PROVISION OF SERVICES.—Paragraph (1) shall not apply in the case of a provider through which a grantee under subsection (a) provides services under such subsection if the Secretary has provided a waiver under subsection (b)(2) regarding the provider.

"(f) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(g) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(h) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(i) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(j) ANNUAL REPORT.—

"(1) IN GENERAL.—Not later than May 1 of each year, the Secretary shall submit to the Congress a report on the effectiveness during the preceding fiscal year of programs carried out with grants under subsection (a) and of any programs that are carried out by the Secretary pursuant to subsection (l)(2).

"(2) CERTAIN REQUIREMENTS.—Each report under paragraph (1) shall include, in addition to any other information that the Secretary may require, the following information:

"(A) The number of infants and children screened.

"(B) Demographic information on the population of infants and children screened, including the age and racial or ethnic status of such population.

"(C) The number of screening sites.

"(D) A description of the severity of the extent of the blood lead levels of the infants and children screened, expressed in categories of severity.

"(E) The sources of payment for the screenings.

"(F) A comparison of the data provided pursuant to subparagraphs (A) through (E) with the equivalent data, if any, provided in the report under paragraph (1) preceding the report involved.

"(k) INDIAN TRIBES.—For purposes of this section, the term 'political subdivision' includes Indian tribes.

"(l) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1997.

"(2) ALLOCATION FOR OTHER PROGRAMS.—Of the amounts appropriated under paragraph (1) for any fiscal year, the Secretary may reserve not more than 20 percent for carrying out programs regarding the activities described in subsection (a) in addition to the program of grants established in such subsection.".

(b) OTHER PROGRAMS.—Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 317A the following section:

"EDUCATION, TECHNOLOGY ASSESSMENT, AND EPIDEMIOLOGY REGARDING LEAD POISONING

42 USC 247b-3.

"SEC. 317B. (a) PREVENTION.—

"(1) PUBLIC EDUCATION.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall carry out a program to educate health professionals and paraprofessionals and the general public on the prevention of lead poisoning in infants and children. In carrying out the program, the Secretary shall make available information concerning the health effects of low-level lead toxicity, the causes of lead poisoning, and the primary and secondary preventive measures that may be taken to prevent such poisoning.

Establishment.

"(2) INTERAGENCY TASK FORCE.—

"(A) Not later than 6 months after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary shall establish a council to be known as the Interagency Task Force on the Prevention of Lead Poisoning (in this paragraph referred to as the 'Task Force'). The Task Force shall coordinate the efforts of Federal agencies to prevent lead poisoning.

"(B) The Task Force shall be composed of—

"(i) the Secretary, who shall serve as the chair of the Task Force;

"(ii) the Secretary of Housing and Urban Development;

"(iii) the Administrator of the Environmental Protection Agency; and

"(iv) senior staff of each of the officials specified in clauses (i) through (iii), as selected by the officials respectively.

"(C) The Task Force shall—

"(i) review, evaluate, and coordinate current strategies and plans formulated by the officials serving as members of the Task Force, including—

"(I) the plan of the Secretary of Health and Human Services entitled "Strategic Plan for the Elimination of Lead Poisoning", dated February 21, 1991;

"(II) the plan of the Secretary of Housing and Urban Development entitled "Comprehensive and Workable Plan for the Abatement of Lead-Based Paint in Privately Owned Housing", dated December 7, 1990; and

"(III) the strategy of the Administrator of the Environmental Protection Agency entitled "Strategy for Reducing Lead Exposures", dated February 21, 1991;

"(ii) develop a unified implementation plan for programs that receive Federal financial assistance for activities related to the prevention of lead poisoning;

"(iii) establish a mechanism for sharing and disseminating information among the agencies represented on the Task Force;

"(iv) identify the most promising areas of research and education concerning lead poisoning;

"(v) identify the practical and technological constraints to expanding lead poisoning prevention;

"(vi) annually carry out a comprehensive review of Federal programs providing assistance to prevent lead poisoning, and not later than May 1 of each year, submit to the Committee on Labor and Human Resources of the Senate and the Committee on the Environment and Public Works of the Senate, and to the Committee on Energy and Commerce of the House of Representatives, a report that summarizes the findings made as a result of such review and that contains the recommendations of the Task Force on the programs and policies with respect to which the Task Force is established, including related budgetary recommendations; and Reports.

"(vii) annually review and coordinate departmental and agency budgetary requests with respect to all lead poisoning prevention activities of the Federal Government.

"(b) TECHNOLOGY ASSESSMENT AND EPIDEMIOLOGY.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall, directly or through grants or contracts—

"(1) provide for the development of improved, more cost-effective testing measures for detecting lead toxicity in children;

"(2) provide for the development of improved methods of assessing the prevalence of lead poisoning, including such methods as may be necessary to conduct individual assessments for each State;

"(3) provide for the collection of data on the incidence and prevalence of lead poisoning of infants and children, on the demographic characteristics of infants and children with such poisoning (including racial and ethnic status), and on the source of payment for treatment for such poisoning (including the extent to which insurance has paid for such treatment); and

"(4) provide for any applied research necessary to improve the effectiveness of programs for the prevention of lead poisoning in infants and children.".

SEC. 304. PREVENTABLE CASES OF INFERTILITY ARISING AS RESULT OF SEXUALLY TRANSMITTED DISEASES.

Part A of title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after section 318 the following section:

Women.

"INFERTILITY AND SEXUALLY TRANSMITTED DISEASES

42 USC 247c-1.

"SEC. 318A. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States, political subdivisions of States, and other public or nonprofit private entities for the purpose of carrying out the activities described in subsection (c) regarding any treatable sexually transmitted disease that can cause infertility in women if treatment is not received for the disease.

"(b) AUTHORITY REGARDING INDIVIDUAL DISEASES.—With respect to diseases described in subsection (a), the Secretary shall, in making a grant under such subsection, specify the particular disease or diseases with respect to which the grant is to be made. The Secretary may not make the grant unless the applicant involved agrees to carry out this section only with respect to the disease or diseases so specified.

"(c) AUTHORIZED ACTIVITIES.—With respect to any sexually transmitted disease described in subsection (a), the activities referred to in such subsection are—

"(1) screening women for the disease and for secondary conditions resulting from the disease, subject to compliance with criteria issued under subsection (f);

"(2) providing treatment to women for the disease;

"(3) providing counseling to women on the prevention and control of the disease (including, in the case of a woman with the disease, counseling on the benefits of locating and providing such counseling to any individual from whom the woman may have contracted the disease and any individual whom the woman may have exposed to the disease);

"(4) providing follow-up services;

"(5) referrals for necessary medical services for women screened pursuant to paragraph (1), including referrals for evaluation and treatment with respect to acquired immune deficiency syndrome and other sexually transmitted diseases;

"(6) in the case of any woman receiving services pursuant to any of paragraphs (1) through (5), providing to the partner of the woman the services described in such paragraphs, as appropriate;

"(7) providing outreach services to inform women of the availability of the services described in paragraphs (1) through (6);

"(8) providing to the public information and education on the prevention and control of the disease, including disseminating such information; and

"(9) providing training to health care providers in carrying out the screenings and counseling described in paragraphs (1) and (3).

"(d) REQUIREMENT OF AVAILABILITY OF ALL SERVICES THROUGH EACH GRANTEE.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that each activity authorized in subsection (c) will be available through the applicant. With

respect to compliance with such agreement, the applicant may expend the grant to carry out any of the activities directly, and may expend the grant to enter into agreements with other public or nonprofit private entities under which the entities carry out the activities.

"(e) REQUIRED PROVIDERS REGARDING CERTAIN SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, in expending the grant to carry out activities authorized in subsection (c), the services described in paragraphs (1) through (7) of such subsection will be provided only through entities that are State or local health departments, grantees under section 329, 330, 340, 340A, or 1001, or are other public or nonprofit private entities that provide health services to a significant number of low-income women.

"(f) QUALITY ASSURANCE REGARDING SCREENING FOR DISEASES.—For purposes of this section, the Secretary shall establish criteria for ensuring the quality of screening procedures for diseases described in subsection (a).

"(g) CONFIDENTIALITY.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees, subject to applicable law, to maintain the confidentiality of information on individuals with respect to activities carried out under subsection (c).

"(h) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the individual involved; and

"(3) will not be imposed on any individual with an income of less than 150 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(i) LIMITATIONS ON CERTAIN EXPENDITURES.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees that not less than 80 percent of the grant will be expended for the purpose of carrying out paragraphs (1) through (7) of subsection (c).

"(j) REPORTS TO SECRETARY.—

"(1) COLLECTION OF DATA.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees, with respect to any disease selected under subsection (b) for the applicant, to submit to the Secretary, for each fiscal year for which the applicant receives such a grant, a report providing—

"(A) the incidence of the disease among the population of individuals served by the applicant;

"(B) the number and demographic characteristics of individuals in such population;

"(C) the types of interventions and treatments provided by the applicant, and the health conditions with respect to which referrals have been made pursuant to subsection (c)(5);

"(D) an assessment of the extent to which the activities carried pursuant to subsection (a) have reduced the incidence of infertility in the geographic area involved; and

"(E) such other information as the Secretary may require with respect to the project carried out with the grant.

"(2) UTILITY AND COMPARABILITY OF DATA.—The Secretary shall carry out activities for the purpose of ensuring the utility and comparability of data collected pursuant to paragraph (1).

"(k) MAINTENANCE OF EFFORT.—With respect to activities for which a grant under subsection (a) is authorized to be expended, the Secretary may make such a grant only if the applicant involved agrees to maintain expenditures of non-Federal amounts for such activities at a level that is not less than the average level of such expenditures maintained by the applicant for the 2-year period preceding the fiscal year for which the applicant is applying to receive such a grant.

"(l) REQUIREMENT OF APPLICATION.—

"(1) IN GENERAL.—The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary, the application contains the plan required in paragraph (2), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(2) SUBMISSION OF PLAN FOR PROGRAM OF GRANTEE.—

"(A) IN GENERAL.—The Secretary may make a grant under subsection (a) only if the applicant involved submits to the Secretary a plan describing the manner in which the applicant will comply with the agreements required as a condition of receiving such a grant, including a specification of the entities through which activities authorized in subsection (c) will be provided.

"(B) PARTICIPATION OF CERTAIN ENTITIES.—The Secretary may make a grant under subsection (a) only if the applicant provides assurances satisfactory to the Secretary that the plan submitted under subparagraph (A) has been prepared in consultation with an appropriate number and variety of—

"(i) representatives of entities in the geographic area involved that provide services for the prevention and control of sexually transmitted diseases, including programs to provide to the public information and education regarding such diseases; and

"(ii) representatives of entities in such area that provide family planning services.

"(m) DURATION OF GRANT.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Secretary of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments in such year. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

"(n) TECHNICAL ASSISTANCE, AND SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance to grantees under subsection (a) with respect to the planning, development, and operation of any program or service carried out under such subsection. The Secretary may provide such technical assistance directly or through grants or contracts.

"(2) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(A) the fair market value of any supplies or equipment furnished the grant recipient; and

"(B) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee;

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(o) EVALUATIONS AND REPORTS BY SECRETARY.—

"(1) EVALUATIONS.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to subsection (a) in order to determine the quality and effectiveness of the programs.

"(2) REPORT TO CONGRESS.—Not later than 1 year after the date on which amounts are first appropriated pursuant to subsection (s), and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report—

"(A) summarizing the information provided to the Secretary in reports made pursuant to subsection (j)(1), including information on the incidence of sexually transmitted diseases described in subsection (a); and

"(B) summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year.

"(p) COORDINATION OF FEDERAL PROGRAMS.—The Secretary shall coordinate the program carried out under this section with any similar programs administered by the Secretary (including coordination between the Director of the Centers for Disease Control and Prevention and the Director of the National Institutes of Health).

"(q) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, other than subsections (o) and (r), there are authorized to be appropriated $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.

"(r) SEPARATE GRANTS FOR RESEARCH ON DELIVERY OF SERVICES.—

"(1) IN GENERAL.—The Secretary may make grants for the purpose of conducting research on the manner in which the delivery of services under subsection (a) may be improved. The Secretary may make such grants only to grantees under such subsection and to public and nonprofit private entities that are carrying out programs substantially similar to programs carried out under such subsection.

"(2) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out paragraph (1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 through 1995.".

SEC. 305. BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following subpart:

"Subpart VIII—Bulk Purchases of Vaccines for Certain Programs

"BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS

42 USC 256c.

"SEC. 340B. (a) AGREEMENTS FOR PURCHASES.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of the Preventive Health Amendments of 1992, the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Health Resources and Services Administration, shall enter into negotiations with manufacturers of vaccines for the purpose of establishing and maintaining agreements under which entities described in paragraph (2) may purchase vaccines from the manufacturers at the prices specified in the agreements.

"(2) RELEVANT ENTITIES.—The entities referred to in paragraph (1) are entities that provide immunizations against vaccine-preventable diseases under the programs established in sections 329, 330, 340, and 340A.

"(b) NEGOTIATION OF PRICES.—In carrying out subsection (a), the Secretary shall, to the extent practicable, ensure that the prices provided for in agreements under such subsection are comparable to the prices provided for in agreements negotiated by the Secretary on behalf of grantees under section 317(j)(1).

"(c) AUTHORITY OF SECRETARY.—In carrying out subsection (a), the Secretary, in the discretion of the Secretary, may enter into the agreements described in such subsection (and may decline to enter into such agreements), may modify such agreements, may extend such agreements, and may terminate such agreements.

"(d) RULE OF CONSTRUCTION.—This section may not be construed as requiring any State to reduce or terminate the supply of vaccines provided by the State to any of the entities described in subsection (a)(2).".

SEC. 306. STATE PROGRAMS REGARDING DATA ON BIRTH DEFECTS.

(a) IN GENERAL.—Part A of title III of the Public Health Service Act, as amended by section 303(b) of this Act, is amended by inserting after section 317B the following section:

"COLLECTION OF DATA ON BIRTH DEFECTS

"SEC. 317C. (a) STATE PROGRAMS.— 42 USC 247b-4.

"(1) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall encourage States to establish or improve programs for the collection and analysis of epidemiological data on birth defects.

"(2) PROVISION OF ASSISTANCE.—The Secretary may, directly or through grants, cooperative agreements, or contracts, provide assistance to States regarding the purpose specified in subsection (a).

"(b) NATIONAL CLEARINGHOUSE.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish and maintain a National Information Clearinghouse on Birth Defects to collect and disseminate to health professionals and the general public information on birth defects, including the prevention of such defects.

"(c) REPORT.—Not later than July 1, 1993, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, a report describing activities carried out under this section and containing any recommendations of the Secretary regarding this section.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $5,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 and 1995.".

SEC. 307. SCREENINGS FOR BREAST AND CERVICAL CANCER.

Title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) is amended by inserting after section 1502 the following section:

"SEC. 1502A. REQUIREMENT REGARDING MEDICAID. 42 USC 300*l*-1.

"The Secretary may not make a grant under section 1501 for a program in a State unless the State plan under title XIX of the Social Security Act for the State includes the screening procedures specified in subparagraphs (A) and (B) of section 1503(a)(2) as medical assistance provided under the plan.".

SEC. 308. SCREENINGS FOR PROSTATE CANCER.

Part A of title III of the Public Health Service Act, as amended by section 306 of this Act, is amended by inserting after section 317C the following section:

"PREVENTIVE HEALTH MEASURES WITH RESPECT TO PROSTATE CANCER

"SEC. 317D. (a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States and local health departments for the purpose of enabling such States and departments to carry out programs— 42 USC 247b-5.

"(1) to screen men for prostate cancer as a preventive health measure;

"(2) to provide appropriate referrals for medical treatment of men screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;

"(3) to develop and disseminate public information and education programs for the detection and control of prostate cancer;

"(4) to improve the education, training, and skills of health professionals (including appropriate allied health professionals) in the detection and control of prostate cancer;

"(5) to establish mechanisms through which the States and such departments can monitor the quality of screening procedures for prostate cancer, including the interpretation of such procedures; and

"(6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program monitoring activities.

"(b) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $1 for each $3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the applicant involved toward the purpose described in subsection (a) for the 2-year period preceding the fiscal year for which the applicant involved is applying to receive a grant under such subsection.

"(C) In making a determination of the amount of non-Federal contributions for purposes of paragraph (1), the Secretary shall, subject to subparagraphs (A) and (B) of this paragraph, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act by the applicant involved toward the purpose described in paragraphs (1) and (2) of subsection (a).

"(c) EDUCATION ON SIGNIFICANCE OF EARLY DETECTION.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, in carrying out subsection (a)(3), the applicant will carry out education programs to communicate to men, and to local health officials, the significance of the early detection of prostate cancer.

"(d) REQUIREMENT OF PROVISION OF ALL SERVICES BY DATE CERTAIN.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees—

"(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of such subsection;

"(2) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in such subsection is provided; and

"(3) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

"(e) ADDITIONAL REQUIRED AGREEMENTS.—

"(1) PRIORITY FOR LOW-INCOME MEN.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that low-income men, and men at risk of prostate cancer, will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of such subsection.

"(2) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(A) will be made according to a schedule of charges that is made available to the public;

"(B) will be adjusted to reflect the income of the man involved; and

"(C) will not be imposed on any man with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(3) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(B) by an entity that provides health services on a prepaid basis.

"(4) COORDINATION WITH OTHER PROSTATE CANCER PROGRAMS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that the services and activities funded through the grant will be coordinated with other Federal, State, and local prostate cancer programs.

"(5) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

"(6) RESTRICTIONS ON USE OF GRANT.—The Secretary may not make a grant under subsection (a) unless the applicant

involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

"(7) RECORDS AND AUDITS.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees that—

"(A) the applicant will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the applicant under such section; and

"(B) upon request, the applicant will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the applicant of the grant.

"(f) REPORTS TO SECRETARY.—The Secretary may not make a grant under subsection (a) unless the applicant involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

"(g) DESCRIPTION OF INTENDED USES OF GRANT.—The Secretary may not make a grant under subsection (a) unless—

"(1) the applicant involved submits to the Secretary a description of the purposes for which the applicant intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the applicant with a need for the services or activities described in subsection (a);

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprivate entities; and

"(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

"(h) REQUIREMENT OF SUBMISSION OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(i) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of the underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants.

"(j) TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to subsection (a). The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

"(2) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(A) Upon the request of an applicant receiving a grant under subsection (a), the Secretary may, subject to subparagraph (B), provide supplies, equipment, and services for the purpose of aiding the applicant in carrying out such section and, for such purpose, may detail to the applicant any officer or employee of the Department of Health and Human Services.

"(B) With respect to a request described in subparagraph (A), the Secretary shall reduce the amount of payments under the grant under subsection (a) to the applicant involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"(k) DEFINITION.—For purposes of this section, the term 'units of local government' includes Indian tribes.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1996.

"(2) ALLOCATION FOR TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out subsection (j)(1).".

SEC. 309. CERTAIN PROGRAMS.

(a) MIGRANT HEALTH CENTERS.—

(1) INFANT MORTALITY AND MORBIDITY.—Section 329(h)(2) of the Public Health Service Act (42 U.S.C. 254b(h)(2)) is amended—

(A) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make grants to migrant health centers for the purpose of assisting such centers in—

"(i) providing comprehensive health care and support services for the reduction of (I) the incidence of infant mortality, and (II) morbidity among children who are less than 3 years of age; and

"(ii) developing and coordinating service and referral arrangements between migrant health centers and other entities for the health management of pregnant women and children described in clause (i).";

(B) by adding at the end the following subparagraphs:

"(D) The Secretary may make a grant under subparagraph (B) only if the migrant health center involved agrees to expend the grant for the following activities with respect to the purpose described in such subparagraph:

"(i) Primary health services, including prenatal care.

"(ii) Community education, outreach, and case finding.

"(iii) Case management services.

"(iv) Client education, including parenting and child development education.

"(E) The purposes for which a migrant health center may expend a grant under subparagraph (B) include, with respect to the purpose described in such subparagraph, substance abuse

screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(F) The Secretary may make a grant under subparagraph (B) only if the migrant health center involved agrees that—

"(i) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(ii) such services will be continuous for each such recipient;

"(iii) the center will provide follow-up services for individuals who are referred by the center for services described in subparagraph (E); and

"(iv) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in such subparagraph.".

(2) CERTAIN SERVICES.—Section 329(a)(6)(C) of the Public Health Service Act (42 U.S.C. 254b(a)(6)(C)) is amended by inserting after "well child services," the following: "immunizations against vaccine-preventable diseases, screenings for elevated blood lead levels,".

(3) CERTAIN EXPENDITURES.—Section 329(d)(4) of the Public Health Service Act (42 U.S.C. 254b(d)(4)) is amended by adding at the end the following subparagraph:

"(C) With respect to amounts described in clauses (i) and (ii) of subparagraph (A), the Secretary may not restrict expenditures of such amounts by any grantee under paragraph (1)(A) for—

"(i) repair or minor renovation of the physical plant;

"(ii) establishment of a financial reserve as required for the furnishing of services on a prepaid basis or as needed to cover unanticipated expenses;

"(iii) interest payments on short-term loans to cover cash shortfalls; or

"(iv) necessary salary requirements to remain competitive in hiring health care practitioners.".

(b) COMMUNITY HEALTH CENTERS.—

(1) INFANT MORTALITY AND MORBIDITY.—Section 330(g)(2) of the Public Health Service Act (42 U.S.C. 254c(g)(2)) is amended—

(A) by amending subparagraph (B) to read as follows:

"(B) The Secretary may make grants to community health centers for the purpose of assisting such centers in—

"(i) providing comprehensive health care and support services for the reduction of (I) the incidence of infant mortality, and (II) morbidity among children who are less than 3 years of age; and

"(ii) developing and coordinating service and referral arrangements between community health centers and other entities for the health management of pregnant women and children described in clause (i).''; and

(B) by adding at the end the following subparagraphs:

"(D) The Secretary may make a grant under subparagraph (B) only if the community health center involved agrees to expend the grant for the following activities with respect to the purpose described in such subparagraph:

"(i) Primary health services, including prenatal care.

"(ii) Community education, outreach, and case finding.

"(iii) Case management services.

"(iv) Client education, including parenting and child development education.

"(E) The purposes for which a community health center may expend a grant under subparagraph (B) include, with respect to the purpose described in such subparagraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(F) The Secretary may make a grant under subparagraph (B) only if the community health center involved agrees that—

"(i) the center will coordinate the provision of services under the grant to each of the recipients of the services;

"(ii) such services will be continuous for each such recipient;

"(iii) the center will provide follow-up services for individuals who are referred by the center for services described in subparagraph (E); and

"(iv) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in such subparagraph.".

(2) CERTAIN SERVICES.—Section 330(b)(1)(C) of the Public Health Service Act (42 U.S.C. 254c(b)(1)(C)) is amended by inserting after "well child services," the following: "immunizations against vaccine-preventable diseases, screenings for elevated blood lead levels,".

(3) CERTAIN EXPENDITURES.—Section 330(d)(4) of the Public Health Service Act (42 U.S.C. 254c(d)(4)) is amended by adding at the end the following subparagraph:

"(C) With respect to amounts described in clauses (i) and (ii) of subparagraph (A), the Secretary may not restrict expenditures of such amounts by any grantee under paragraph (1) for—

"(i) repair or minor renovation of the physical plant;

"(ii) establishment of a financial reserve as required for the furnishing of services on a prepaid basis or as needed to cover unanticipated expenses;

"(iii) interest payments on short-term loans to cover cash shortfalls; or

"(iv) necessary salary requirements to remain competitive in hiring health care practitioners.".

(c) HEALTH CARE FOR THE HOMELESS.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following subsection:

"(t) INFANT MORTALITY AND MORBIDITY.—

"(1) IN GENERAL.—The Secretary may make grants to grantees under subsection (a) for the purpose of assisting such grantees in—

"(A) providing comprehensive health care and support services for the reduction of (i) the incidence of infant mortality, and (ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between such grantees and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) REQUIRED ACTIVITIES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees

to expend the grant for the following activities with respect to the purpose described in such paragraph:

"(A) Primary health services, including prenatal care.

"(B) Community education, outreach, and case finding.

"(C) Case management services.

"(D) Client education, including parenting and child development education.

"(3) CERTAIN AUTHORIZED ACTIVITIES.—The purposes for which a grant under paragraph (1) may be expended include, with respect to the purpose described in such paragraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(4) CERTAIN REQUIREMENTS REGARDING PROVISION OF SERVICES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that—

"(A) the applicant will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the applicant will provide follow-up services for individuals who are referred by the applicant for services described in paragraph (3); and

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the applicant for primary health services (including prenatal care) with respect to the purpose described in paragraph (1).

"(5) APPLICATION FOR GRANT.—The Secretary may make a grant under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(d) HEALTH CARE FOR RESIDENTS OF PUBLIC HOUSING.—Section 340A of the Public Health Service Act (42 U.S.C. 256a) is amended by adding at the end the following subsection:

"(q) INFANT MORTALITY AND MORBIDITY.—

"(1) IN GENERAL.—The Secretary may make grants to grantees under subsection (a) for the purpose of assisting such grantees in—

"(A) providing comprehensive health care and support services for the reduction of (i) the incidence of infant mortality, and (ii) morbidity among children who are less than 3 years of age; and

"(B) developing and coordinating service and referral arrangements between such grantees and other entities for the health management of pregnant women and children described in subparagraph (A).

"(2) REQUIRED ACTIVITIES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees to expend the grant for the following activities with respect to the purpose described in such paragraph:

"(A) Primary health services, including prenatal care.

"(B) Community education, outreach, and case finding.

"(C) Case management services.

"(D) Client education, including parenting and child development education.

"(3) CERTAIN AUTHORIZED ACTIVITIES.—The purposes for which a grant under paragraph (1) may be expended include, with respect to the purpose described in such paragraph, substance abuse screening, counseling and referral services, and other necessary nonmedical support services, including child care, translation services, and housing assistance.

"(4) CERTAIN REQUIREMENTS REGARDING PROVISION OF SERVICES.—The Secretary may make a grant under paragraph (1) only if the applicant involved agrees that—

"(A) the applicant will coordinate the provision of services under the grant to each of the recipients of the services;

"(B) such services will be continuous for each such recipient;

"(C) the applicant will provide follow-up services for individuals who are referred by the applicant for services described in paragraph (3); and

"(D) the grant will be expended to supplement, and not supplant, the expenditures of the applicant for primary health services (including prenatal care) with respect to the purpose described in paragraph (1).

"(5) APPLICATION FOR GRANT.—The Secretary may make a grant under paragraph (1) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subsection.

"(6) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1993 and 1994.".

SEC. 310. INTERNATIONAL COOPERATION.

Section 307(b) of the Public Health Service Act (42 U.S.C. 242*l*(b)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon at the end;

(2) in paragraph (7), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following paragraph:

"(8) enter into contracts with individuals for the provision of services (as defined in section 104 of part 37 of title 48, Code of Federal Regulations (48 CFR 37.104)) in participating foreign countries, which individuals may not be deemed employees of the United States for any purpose.".

SEC. 311. MISCELLANEOUS PROVISIONS.

(a) CERTAIN STUDY.—Section 813 of the Health Maintenance Organization Amendments of 1986 (42 U.S.C. 300e note) is repealed. The amendment made by the preceding sentence shall take effect as if enacted on November 14, 1986. Effective date.

(b) HEALTH INFORMATION.—

(1) GENERAL AUTHORITY.—Section 1701(a)(11)(C) of the Public Health Service Act (42 U.S.C. 300u(a)(11)(C)) is amended by striking "preventive health services," and inserting the fol-

lowing: "preventive health services (which may include information concerning models and standards for insurance coverage of such services),".

(2) RESEARCH PROGRAMS.—Section 1702(a)(6) of the Public Health Service Act (42 U.S.C. 300u–2(a)(6)) is amended by inserting before the period the following: "(which measures and services may include blood pressure screening, cholesterol screening and control, smoking cessation programs, substance abuse programs, cancer screening, dietary and nutritional counseling, diabetes screening and education, intraocular pressure screening, and stress management)".

SEC. 312. CHANGE IN NAME OF CENTERS FOR DISEASE CONTROL.

(a) COMPREHENSIVE SMOKING EDUCATION ACT.—Section 3(b)(1)(A) of the Comprehensive Smoking Education Act (15 U.S.C. 1341(b)(1)(A)) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(b) EDUCATION AMENDMENTS OF 1978.—Section 1121(b)(2) of the Education Amendments of 1978 is amended by striking out "Federal Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

25 USC 2001.

(c) VETERANS' BENEFITS AND SERVICES ACT OF 1988.—Section 123(b)(1) of the Veterans' Benefits and Services Act of 1988 (38 U.S.C. 210 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(d) PUBLIC HEALTH SERVICE ACT.—The Public Health Service Act is amended—

(1) in section 227 (42 U.S.C. 236) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 319(a) (42 U.S.C. 247d(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(3) in section 391 (42 U.S.C. 280b) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(4) in section 392 (42 U.S.C. 280b–1) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(5) in section 393 (42 U.S.C. 280b–2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(6) in section 430(b)(2)(A)(i) (42 U.S.C. 285c–4(b)(2)(A)(i)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(7) in section 442(b)(2)(A) (42 U.S.C. 285d–7(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(8) in section 464D(b)(2)(A) (42 U.S.C. 285m–4(b)(2)(A)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(9) in section 494(a) (42 U.S.C. 289c(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(10) in section 508(b)(6) (42 U.S.C. 290aa–6(b)(6)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; 42 USC 290bb–1.

(11) in section 509B(a) (42 U.S.C. 290aa–9(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(12) in section 1706(c)(2)(B) (42 U.S.C. 300u–5(c)(2)(B)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(13) in section 2102 (42 U.S.C. 300aa–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(14) in section 2119(a)(2) (42 U.S.C. 300aa–19(a)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(15) in section 2126(b)(2) (42 U.S.C. 300aa–26(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(16) in section 2301(b)(4) (42 U.S.C. 300cc(b)(4)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(17) in section 2303 (42 U.S.C. 300cc–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(18) in section 2315(b) (42 U.S.C. 300cc–15(b)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(19) in section 2317 (42 U.S.C. 300cc–17) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(20) in section 2320 (42 U.S.C. 300cc–20) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(21) in section 2341(a) (42 U.S.C. 300cc–31(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(22) in section 2521 (42 U.S.C. 300ee–31) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(23) in section 2522(a) (42 U.S.C. 300ee–32(a)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(24) in section 2524(b)(2) (42 U.S.C. 300ee–34(b)(2)) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

(25) in section 2601 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention"; 42 USC 300ff–11.

(26) in section 2602(a)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; 42 USC 300ff–12.

42 USC 300ff-13. (27) in section 2603(a)(3)(B)(i) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-17. (28) in section 2607(2) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-27. (29) in section 2617(d)(3)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-28. (30) in section 2618(c)(1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-41. (31) in section 2641(a) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-43. (32) in section 2643(c)(1)(A) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention";

42 USC 300ff-49. (33) in section 2649 by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

42 USC 300ff-75. (34) in section 2675(a) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(e) HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988.—The Health Omnibus Programs Extension of 1988 is amended—

(1) in section 161 (42 U.S.C. 241 note) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention";

(2) in section 252 (42 U.S.C. 300ee–1) by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention"; and

(3) in section 253 (42 U.S.C. 300ee–2) by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

(f) HEALTH RESEARCH EXTENSION ACT OF 1985.—Section 5(b)(1)(G) of the Health Research Extension Act of 1985 (42 U.S.C. 281 note) is amended by striking out "Centers for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(g) PAINT POISONING PREVENTION.—Section 501(3)(B)(i) of Public Law 91–695 (42 U.S.C. 4841(3)(B)(i)) is amended by striking out "Center for Disease Control" and inserting in lieu thereof "Centers for Disease Control and Prevention".

(h) COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT OF 1980.—Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9604) is amended by striking out "Centers for Disease Control" each place that such occurs and inserting in lieu thereof "Centers for Disease Control and Prevention".

42 USC 236 note. (i) RULE OF CONSTRUCTION.—The amendments made by this section may not be construed as prohibiting the Director of the Centers for Disease Control and Prevention from utilizing for official purposes the term "CDC" as an acronym for such Centers.

SEC. 313. TECHNICAL CORRECTIONS.

(a) IN GENERAL.—The Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992 (the enactment of the bill, H.R. 3508, of the One Hundred Second Congress), is amended—

(1) in section 735(b), by striking "smaller: the amount requested in its application; or an amount which" and inserting "smaller: (A) the amount requested in its application; or (B) an amount which"; *Ante*, p. 2021.

(2) in section 746— *Ante*, p. 2034.

(A) in subsection (a)(2)(A)—

(i) in clause (i), by striking "Health Professionals" and inserting "Health Professions"; and

(ii) in the matter after and below clause (ii), by moving the matter two ems to the right; and

(B) in subsection (i)(1)—

(i) by moving subparagraph (A) two ems to the right; and

(ii) by moving subparagraphs (B) and (C) four ems to the right;

(3) in section 748(a), in the matter preceding paragraph (1), by striking "hospital" and inserting "hospitals"; *Ante*, p. 2043.

(4) in section 776(a)(3), by striking "no grant" and inserting "No grant"; *Ante*, p. 2050.

(5) in section 791(b), in the matter preceding paragraph (1)— *Ante*, p. 2058.

(A) by striking "763" and inserting "763, 766, or 767"; and

(B) by striking "752(a)" and inserting "798(f)(2)";

(6) in section 793(c)(2), by striking "subparts I and II of part D," and inserting "this title,"; *Ante*, p. 2061.

(7) in section 795(a)(3), by striking "in the case" and inserting "In the case"; *Ante*, p. 2063.

(8) in section 798(d), by inserting "of the United States" after "Statutes"; *Ante*, p. 2064.

(9) in section 820(d)(5)(A), by striking "nursing respect to" and inserting "nursing with respect to"; *Ante*, p. 2069.

(10) in section 860(d), by inserting "827," after "822,"; and *Ante*, p. 2075.

(11) in part B of title VIII, by striking subpart III and redesignating subpart IV as subpart III. 42 USC prec. 297j, 297j, and prec. 297n.

(b) RELATED TECHNICAL CORRECTION.—The Health Professions Education Extension Amendments of 1992 (the enactment of the bill, H.R. 3508, of the One Hundred Second Congress) is amended in section 301(a)(2) by striking "voluntary" and inserting "voluntarily". *Ante*, p. 2080.

(c) EFFECTIVE DATE.—The amendments described in this section are made, and take effect, immediately after the enactment of the bill, H.R. 3508, of the One Hundred Second Congress. 42 USC 292g note.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS REGARDING VACCINE COMPENSATION.

Section 2115(j) of the Public Health Service Act (42 U.S.C. 300aa–15(j)) is amended by striking "$80,000,000 for fiscal year 1993," and inserting "$110,000,000 for fiscal year 1993,".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 3635:

HOUSE REPORTS: Nos. 102-318 (Comm. on Energy and Commerce) and 102-1019 (Comm. of Conference).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 19, considered and passed House.
Nov. 27, considered and passed Senate, amended.
Vol. 138 (1992): Oct. 5, House agreed to conference report.
Oct. 7, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-532
102d Congress

An Act

To amend the Agricultural Trade Development and Assistance Act of 1954 to authorize additional functions within the Enterprise for the Americas Initiative, and for other purposes.

Oct. 27, 1992
[H.R. 4059]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Enterprise for the Americas Initiative Act of 1992.
7 USC 1691 note.

This Act may be cited as the "Enterprise for the Americas Initiative Act of 1992".

SEC. 2. GOOD NEIGHBOR ENVIRONMENTAL ACT OF 1992.

Title VI of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738 and following) is amended by adding at the end the following new sections:

"SEC. 616. SALE OF QUALIFIED DEBT TO ELIGIBLE COUNTRIES.

7 USC 1738o.

"(a) IN GENERAL.—

"(1) AUTHORIZATION.—The President may sell to an eligible country up to 40 percent of such country's qualified debt, only if an amount of the local currency of such country (other than the price paid for the debt) equal to—

"(A) not less than 40 percent of the price paid for such debt by such eligible country, or

"(B) the difference between the price paid for such debt and the face value of such debt;

whichever is less, is used by such country through an Environmental Fund for eligible activities described in section 612.

"(2) ENVIRONMENTAL FUNDS.—For purposes of this section, the term 'Environmental Fund' means an Environmental Fund established under section 608. In the case of Mexico, such fund may be designated as the Good Neighbor Environmental Fund for the Border.

"(3) ESTABLISHMENT AND OPERATION OF ENVIRONMENTAL FUNDS.—The President should advise eligible countries on the procedures required to establish and operate the Environmental Funds required to be established under paragraph (1).

"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions, including the amount to be paid by the eligible country, under which such country's qualified debt may be sold under this section.

President.

"(c) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

"(d) CERTAIN PROHIBITIONS INAPPLICABLE.—A sale of debt under this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(e) IMPLEMENTATION BY THE FACILITY.—A sale of debt authorized under this section shall be accomplished at the direction of the Facility. The Facility shall direct the Commodity Credit Cor-

poration to carry out such sale. The Commodity Credit Corporation shall make an adjustment in its accounts to reflect the sale.

"(f) DEPOSIT OF PROCEEDS.—The proceeds from a sale of qualified debt under this section shall be deposited in the account or accounts established by the Commodity Credit Corporation for the repayment of such debt by the eligible country.

"(g) DEBTOR CONSULTATION.—Before any sale of qualified debt may occur under this section, the President should consult with the eligible country's government concerning such sale. The topics addressed in the consultation shall include the amount of qualified debt involved in the transaction and the uses to which funds made available as a result of the sale shall be applied.

7 USC 1738p.

"SEC. 617. SALE, REDUCTION, OR CANCELLATION OF QUALIFIED DEBT TO FACILITATE CERTAIN DEBT SWAPS.

"(a) AUTHORITY TO SELL, REDUCE, OR CANCEL QUALIFIED DEBT.—For the purpose of facilitating eligible debt swaps, the President, in accordance with this section—

"(1) may sell to an eligible purchaser (as determined pursuant to subsection (c)(1)) any qualified debt of an eligible country; or

"(2) may reduce or cancel eligible debt of an eligible country upon receipt of payment from an eligible payor (as determined under subsection (c)(2)).

President.

"(b) TERMS AND CONDITIONS.—The President shall establish the terms and conditions under which qualified debt may be sold, reduced, or canceled pursuant to this section.

"(c) ELIGIBLE PURCHASERS AND ELIGIBLE PAYORS.—

"(1) SALES OF DEBT.—Qualified debt may be sold pursuant to subsection (a)(1) only to a purchaser who presents plans satisfactory to the President for using the debt for the purpose of engaging in eligible debt swaps.

"(2) REDUCTION OR CANCELLATION OF DEBT.—Qualified debt may be reduced or cancelled pursuant to subsection (a)(2) only if the payor presents plans satisfactory to the President for using such reduction or cancellation for the purpose of facilitating eligible debt swaps.

"(d) DEBTOR CONSULTATION AND RIGHT OF FIRST REFUSAL.—

"(1) CONSULTATION.—Before selling, reducing, or canceling any qualified debt of an eligible country pursuant to this section, the President should consult with that country concerning, among other things, the amount of debt to be sold, reduced, or canceled and the uses of such debt for eligible debt swaps.

"(2) RIGHT OF FIRST REFUSAL.—The qualified debt of an eligible country may be sold, reduced, or cancelled pursuant to this section only if that country has been offered the opportunity to purchase that debt pursuant to section 616 and has not accepted that offer.

"(e) LIMITATION.—In the aggregate, not more than 40 percent of the qualified debt of an eligible country may be sold, reduced, or cancelled under this section or sold under section 616.

"(f) ADMINISTRATION.—The Facility shall notify the Commodity Credit Corporation of purchasers and payors the President has determined to be eligible under subsection (c), and shall direct the corporation to carry out the sale, reduction, or cancellation of a qualified debt pursuant to this section. The Commodity Credit

Corporation shall make an adjustment in its accounts to reflect such sale, reduction, or cancellation.

"(g) APPROPRIATIONS REQUIREMENT.—The authorities provided by this section may be exercised only in such amounts and to such extent as is provided in advance in appropriations Acts.

"(h) DEPOSIT OF PROCEEDS.—The proceeds from the sale, reduction, or cancellation of qualified debt pursuant to this section shall be deposited in the United States Government account or accounts established for the repayment of such debt.

"(i) ELIGIBLE DEBT SWAPS.—As used in this section, the term 'eligible debt swap' means a debt-for-development swap or debt-for-nature swap.

"SEC. 618. NOTIFICATION TO CONGRESSIONAL COMMITTEES. 7 USC 1738q.

"(a) NOTICE OF NEGOTIATIONS.—The Secretary of State and the Secretary of the Treasury shall, in every feasible instance, notify the designated congressional committees not less than 15 days prior to any formal negotiation for debt relief under this title.

"(b) TRANSMITTAL OF TEXT OF AGREEMENTS.—The Secretary of State shall transmit to the designated congressional committees a copy of the text of any agreement with any foreign government which would result in any debt relief under this title no less than 30 days prior to its entry into force, together with a detailed justification of the interest of the United States in the proposed debt relief.

"(c) ANNUAL REPORT.—The Secretary of State or the Secretary of the Treasury, as appropriate, shall submit to the designated congressional committees not later than February 1 of each year a consolidated statement of the budgetary implications of all debt relief agreements entered into force under this title during the preceding fiscal year.

"(d) DESIGNATED CONGRESSIONAL COMMITTEES.—As used in this section, the term 'designated congressional committees' means the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

"SEC. 619. DEFINITION OF QUALIFIED DEBT. 7 USC 1738r.

"As used in sections 616, 617, and 618, the term 'qualified debt' means any obligation, or portion of such obligation, of an eligible country to pay for purchases of United States agricultural commodities guaranteed by the Commodity Credit Corporation under export credit guarantee programs authorized pursuant to section 5(f) of the Commodity Credit Corporation Charter Act or section 4(b) of the Food for Peace Act of 1966—

"(1) in which the Commodity Credit Corporation obtained a legal right or interest, as a result of assignment or subrogation, not later than September 1, 1992; and

"(2) the payment of which obligation has been, not later than September 1, 1992, rescheduled in accordance with principles set forth in an Agreed Minute of the Paris Club.

Such term includes the obligation to pay any interest which was due or accrued not later than September 1, 1992, and unpaid as of the date of a debt sale pursuant to section 616 or a debt sale, reduction, or cancellation pursuant to section 617 (as the case may be).".

7 USC 1738m.

SEC. 3. ANNUAL REPORTS TO THE CONGRESS.

Section 614(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm(a)) is amended by adding at the end the following: "This report shall include—

"(1) a description of the activities undertaken by the Facility during the previous fiscal year;

"(2) a description of any Enviromental Framework Agreement entered into under this title;

"(3) a report on what Environmental Funds have been established under this title and on the operations of such Funds; and

"(4) a description of any grants that have been extended by administering bodies pursuant to an Enviromental Framework Agreement under this title.".

Canada.
Mexico.
7 USC 3294.

SEC. 4. CENTER FOR NORTH AMERICAN STUDIES.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish a center, to be known as the Center For North American Studies, whose primary purpose shall be to promote better agricultural relationships among Canada, Mexico, and the United States through cooperative study, training, and research.

(b) LOCATION.—The Institute shall be located at an institution of higher education or at a consortium of such institutions.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1994 and such sums as may necessary for each of fiscal years 1995 and 1996.

SEC. 5. STUDY OF THE EFFECT OF FREE TRADE WITH LATIN AMERICAN AND CARIBBEAN COUNTRIES ON THE UNITED STATES ECONOMY.

President.

The President shall transmit to the Congress, not later than 8 months after the date of the enactment of this Act, a study describing—

(1) in summary fashion, the likely effect on major United States industries and other sectors, including agriculture, that could be most affected by a hemispherical free trade zone with Latin American and Caribbean countries;

(2) the regions in the United States that would be most affected by a hemispherical free trade zone with Latin American and Caribbean countries and, in summary fashion, the nature of these effects;

(3) the extent to which horticultural exports from Latin American and Caribbean countries complement or compete with United States production;

(4) a country-by-country overview of recent economic developments in Latin American and Caribbean countries significantly influencing United States relations with such countries, including present trade and investment patterns in these regions;

(5) the likely effect of a hemispherical free trade zone with Latin American and Caribbean countries on the United States economy and its multilateral interrelationship with other countries in the region, including Canada and Mexico;

(6) the extent to which manufactured products exported from Latin American and Caribbean countries complement or compete with United States production; and

(7) the likely effects of a hemispherical free trade zone with Latin American and Caribbean countries on existing environmental, agricultural, labor, and consumer protection laws and practices within the United States and within the other countries included in the zone.

SEC. 6. THE GOOD NEIGHBOR ENVIRONMENTAL BOARD.

7 USC 5404.

(a) ESTABLISHMENT.—The President shall establish an advisory board to be known as the Good Neighbor Environmental Board (hereinafter in this section referred to as the "Board"). President.

(b) PURPOSE.—The purpose of the Board shall be to advise the President and the Congress on the need for implementation of environmental and infrastructure projects (including projects that affect agriculture, rural development, and human nutrition) within the States of the United States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border.

(c) MEMBERSHIP.—The Board shall be composed of—

(1) representatives from the United States Government, including a representative from the Department of Agriculture and representatives from other appropriate agencies;

(2) representatives from the governments of the States of Arizona, California, New Mexico, and Texas; and

(3) representatives from private organizations, including community development, academic, health, environmental, and other nongovernmental entities with experience and expertise on environmental and infrastructure problems along the southwest border.

(d) ANNUAL REPORTS TO THE PRESIDENT AND CONGRESS.—

(1) IN GENERAL.—The Board shall submit to the President and the Congress of the United States an annual report on—

(A) the environmental and infrastructure projects referred to in subsection (a) that have been implemented, and

(B) the need for the implementation of additional environmental and infrastructure projects.

(2) TRANSMISSION OF COPIES TO BOARD MEMBERS.—The Board shall—

(A) transmit to each member of the Board a copy of any report to be submitted pursuant to paragraph (1) at least 14 days before its submission, and

(B) allow each member of the Board to have 14 days within which to prepare and submit supplemental views

with respect to the recommendations of the Board for inclusion in such report.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 4059:

HOUSE REPORTS: No. 102-667, Pt. 1 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-533
102d Congress

An Act

To authorize appropriations for the National Railroad Passenger Corporation, and for other purposes.

Oct. 27, 1992
[H.R. 4250]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Amtrak Authorization and Development Act.
45 USC 501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Amtrak Authorization and Development Act".

SEC. 2. SAFETY IMPROVEMENTS.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) is amended by adding at the end the following new section:

"SEC. 811. RAIL AT-GRADE CROSSINGS.

45 USC 650.

"(a) ELIMINATION.—The Secretary, in consultation with the States along the main line of the Northeast Corridor, shall develop a plan by September 30, 1993, for the elimination of all highway at-grade crossings of such main line by December 31, 1997.

"(b) EXCEPTIONS.—The plan developed under subsection (a) may provide that the elimination of a highway at-grade crossing not be required if eliminating such crossing is impracticable or unnecessary and the use of the crossing will be consistent with such conditions as the Secretary considers appropriate to ensure safety.

"(c) FUNDING.—The Corporation shall pay 20 percent of the cost of the elimination of each highway at-grade crossing pursuant to the plan.".

SEC. 3. EXPERIMENTATION WITH NEW TECHNOLOGIES.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 2) is amended by adding at the end the following new section:

"SEC. 812. EXPERIMENTATION WITH NEW TECHNOLOGIES.

45 USC 650b.

"(a) PLAN.—The Corporation shall develop a plan for the demonstration of new technologies in rail passenger equipment. Such plan shall provide that any new equipment procured by the Corporation that may significantly increase train speeds over existing rail facilities shall be demonstrated, to the extent practicable, throughout the national intercity rail passenger system.

"(b) REPORT TO CONGRESS.—The Corporation shall, not later than September 30, 1993, submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report summarizing the plan developed under subsection (a), including its goals, locations for technology demonstration, and a schedule for implementation of the plan.

"(c) COOPERATION.—The Corporation, in order to facilitate efforts to increase train speeds throughout the national intercity rail passenger system, shall, upon request by eligible applicants,

consult and cooperate, to the extent feasible, with such applicants proposing technology demonstrations authorized and funded pursuant to Federal law.".

SEC. 4. NORTHEAST CORRIDOR PROGRAM MASTER PLAN.

(a) AMENDMENT.—Title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.) is amended by adding at the end the following new section:

45 USC 856.

"SEC. 708. PROGRAM MASTER PLAN.

"Within 1 year after the date of enactment of this section, the Secretary, in consultation with the Corporation and the commuter and freight railroads operating over the Northeast Corridor main line between Boston, Massachusetts, and New York, New York, shall develop and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a program master plan for a coordinated program of improvements to such main line that will permit the establishment of regularly scheduled, safe, and dependable rail passenger service between Boston, Massachusetts, and New York, New York, including appropriate intermediate stops, in 3 hours or less. Such plan shall include—

"(1) a description of the implications of such improvements for the regional transportation system, including the probable effects on general travel trends and on travel volumes in other transportation modes, and the implications for State and local governments in attaining compliance with the Clean Air Act;

"(2) an identification of the coordinated program of improvements and the specific projects that comprise that program, including their estimated costs, schedules, timing, and relationship with other projects;

"(3) an identification of the financial responsibility for the specific projects that comprise the program, and the sources of those funds;

"(4) an operating plan for the period of construction of the improvements demonstrating a coordinated approach to scheduling intercity and commuter trains;

"(5) an operating plan, for the period after completion of the program, for the coordinated scheduling of intercity and commuter trains, including the provision of priority scheduling, dispatching, and occupancy of tracks for appropriately frequent, regularly scheduled intercity rail passenger service of 3 hours or less between Boston, Massachusetts, and New York, New York, with appropriate intermediate stops;

"(6) a comprehensive plan to control future congestion on the Northeast Corridor attributable to increases in intercity and commuter rail passenger service;

"(7) an assessment of long-term operational safety needs and a list of specific projects designed to maximize operational safety; and

"(8) any comments the Corporation submits to the Secretary regarding the contents of the plan.

The Secretary shall submit to the Congress any modifications made to the program master plan, along with any comments the Corporation submits to the Secretary regarding such modifications.".

(b) CONFORMING AMENDMENT.—The table of contents for the Railroad Revitalization and Regulatory Reform Act of 1976 is

amended by inserting after the item relating to section 707 the following new item:

"Sec. 708. Program master plan.".

SEC. 5. AUTHORIZATION OF PREFERRED STOCK.

Section 304(c) of the Rail Passenger Service Act (45 U.S.C. 544(c)) is amended by adding at the end the following new paragraph:

"(4) No amendment to the articles of incorporation of the Corporation shall be required for the issuance of the preferred stock required to be issued pursuant to this subsection.".

SEC. 6. PROPERTY FINANCING.

Section 306(n) of the Rail Passenger Service Act (45 U.S.C. 546(n)) is amended to read as follows:

"(n)(1) The Corporation shall not be required to pay any additional taxes as a consequence of its expenditure of funds to acquire or improve real property, equipment, facilities, or right-of-way materials or structures used directly or indirectly in the provision of rail passenger service. For purposes of this subsection, 'additional taxes' means taxes or fees (A) on the acquisition, improvement, ownership, or operation of personal property by the Corporation; and (B) on real property other than taxes or fees on the acquisition of real property, or on the value of real property which is not attributable to improvements made, or the operation of such improvements, by the Corporation.

"(2) For purposes of this subsection, the term 'Corporation' includes the Corporation's railroad subsidiaries and any lessors and lessees of the Corporation or its railroad subsidiaries.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 601 of the Rail Passenger Service Act (45 U.S.C. 601) is amended to read as follows:

"SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

"(a) CAPITAL ACQUISITION AND CORRIDOR DEVELOPMENT.—

"(1) NORTHEAST CORRIDOR.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under title VII of the Railroad Revitalization and Regulatory Improvement Act of 1976 (45 U.S.C. 851 et seq.)—

"(A) $220,000,000 for fiscal year 1993; and

"(B) $250,000,000 for fiscal year 1994.

"(2) GENERAL CAPITAL EXPENDITURES.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for making capital expenditures under this Act—

"(A) $250,000,000 for fiscal year 1993; and

"(B) $250,000,000 for fiscal year 1994.

"(3) NEW CORRIDOR DEVELOPMENT.—

"(A) IN GENERAL.—Of the amounts appropriated pursuant to paragraphs (1) and (2), not more than 15 percent of each amount shall be made available for projects described in subparagraphs (B) and (C) of this paragraph.

"(B) CORRIDORS BETWEEN DENSELY POPULATED CITIES.—(i) Except as provided in clause (ii), funds made

available under subparagraph (A) shall be used to develop new intercity rail passenger service on corridors—

"(I) between cities undergoing significant population growth; and

"(II) where such service can reasonably be expected to provide travel times comparable with other surface transportation modes.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 90 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(C) LONG DISTANCE RAIL PASSENGER CORRIDOR DEVELOPMENT.—(i) Except as provided in clause (ii), funds made available under subparagraph (A) shall be used to initiate new long distance intercity rail passenger service.

"(ii) Amounts shall be expended for the purposes described in clause (i) only if the service is requested by a State or States and the Corporation and such State or States agree that—

"(I) at least 75 percent of the cost of the acquisition of rolling stock for such service shall be paid by the Corporation; and

"(II) at least 90 percent of the cost of improvements in the right-of-way, including track structure, signal systems, passenger station facilities, highway and pedestrian grade crossings, and other safety equipment or facilities, shall be paid by the State or States.

"(iii) Service described in clause (i) shall be subject to section 403(b) with respect to operating expenses.

"(b) OPERATING EXPENSES.—

"(1) CORE SYSTEM.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating expenses—

"(A) $381,000,000 for fiscal year 1993; and

"(B) $381,000,000 for fiscal year 1994.

Of the amounts appropriated in subparagraphs (A) and (B), not more than 5 percent for each fiscal year shall be used for the payment of operating expenses under section 403(b) of this Act for service in operation as of September 30, 1992.

"(2) NEW STATE-SUPPORTED SERVICE.—There are authorized to be appropriated to the Secretary for the benefit of the Corporation for operating losses under section 403(b) of this Act for service commencing after September 30, 1992—

"(A) $7,500,000 for fiscal year 1993; and

"(B) $9,500,000 for fiscal year 1994.

The expenditure by the Corporation of funds appropriated for operating losses under section 403(b) of this Act for service

commencing after September 30, 1992, shall not be considered to be an operating expense for purposes of calculating the revenue-to-operating expense ratio of the Corporation.

"(c) MANDATORY PAYMENTS.—There are authorized to be appropriated to the Secretary $150,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994, for the payment of—

"(1) tax liabilities under section 3221 of the Internal Revenue Code of 1986 due in such fiscal years in excess of amounts needed to fund benefits for individuals who retire from the Corporation and for their beneficiaries;

"(2) obligations of the Corporation under section 8(a) of the Railroad Unemployment Insurance Act (45 U.S.C. 358(a)) due in such fiscal years in excess of its obligations calculated on an experience-rated basis; and

"(3) obligations of the Corporation due under section 3321 of the Internal Revenue Code of 1986.

Funds appropriated under this subsection shall not be considered a Federal subsidy of the Corporation.

"(d) ADMINISTRATION OF APPROPRIATIONS.—Funds appropriated pursuant to this section shall be made available to the Secretary during the fiscal year for which appropriated, except that appropriations for capital acquisitions and improvements may be made in an appropriations Act for a fiscal year preceding the fiscal year in which the appropriation is to be available for obligation. Funds appropriated are authorized to remain available until expended. Appropriated sums shall be paid by the Secretary to the Corporation for expenditure by it in accordance with the Secretary's budget request as approved or modified by Congress at the time of appropriation. Payments by the Secretary to the Corporation of appropriated funds shall be made no more frequently than every 90 days, unless the Corporation, for good cause, requests more frequent payment before the expiration of any 90-day period.

"(e) SCHEDULE OF PAYMENTS.—In each fiscal year in which funds are authorized to be appropriated under this section, payments by the Secretary to the Corporation of appropriated funds shall be made on the following basis—

"(1) 50 percent on the first day of a fiscal year;

"(2) 25 percent on the first day of the second quarter of a fiscal year; and

"(3) 25 percent on the first day of the third quarter of a fiscal year.".

(b) CONFORMING AMENDMENT.—Section 403(b)(1)(B)(iii) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)(B)(iii)) is amended by striking "and 50 percent of the associated capital costs" and inserting in lieu thereof "and, except as provided in section 601(a), 50 percent of the associated capital costs".

(c) REPEAL.—Section 602 of the Rail Passenger Service Act (45 U.S.C. 602) is repealed.

SEC. 8. DEFINITION.

Section 103 of the Rail Passenger Service Act (45 U.S.C. 502) is amended—

(1) by redesignating paragraphs (13) through (17) as paragraphs (14) through (18), respectively; and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) 'Northeast Corridor' has the meaning given such term in section 701(c) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851(c)).".

SEC. 9. HIGH SPEED RAIL CORRIDOR DEVELOPMENT.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 3) is amended by adding at the end the following new section:

45 USC 650c.

"SEC. 813. HIGH SPEED RAIL CORRIDOR DEVELOPMENT.

"(a) ENCOURAGEMENT AND ASSISTANCE.—The Corporation shall, upon reasonable request by States, political subdivisions, regional partnerships, private sector representatives, and other qualified persons, consult and cooperate with such parties to the extent feasible to assist the efforts of such parties to achieve high-speed rail service through equipment upgrades, grade-crossing safety improvements, and incremental infrastructure improvements on existing railroad facilities utilized by the Corporation, other than the Northeast Corridor.

"(b) REPORT.—The Corporation shall submit a written report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by September 30, 1993, on the Corporation's efforts under subsection (a).".

SEC. 10. DISCONTINUATION, MODIFICATION, OR ALTERATION OF CERTAIN RAIL PASSENGER SERVICES.

Section 403(d) of the Rail Passenger Service Act (45 U.S.C. 563(d)) is amended by inserting at the end the following: "Notwithstanding the second sentence of this subsection, on any date between October 1, 1993, and September 30, 1995, if the service operated pursuant to this paragraph on a route during the previous 6-month period has a short-term avoidable loss, the Corporation may elect to consider discontinuance, modification, or adjustment of such service. If such election is made, the Corporation shall solicit public comment on alternatives to discontinuance, modification, or adjustment of such service. The public comment period shall be at least 30 days. Within 60 days after the expiration of that comment period, the Corporation may discontinue, modify, or adjust such service so that there is no short-term avoidable loss for operation of service pursuant to this subsection on the route. For purposes of this paragraph the calculation of short-term avoidable loss shall not include the cost of providing passenger equipment required to operate such service.".

SEC. 11. EMERGENCY TRAINING AND RESPONSE.

Title VIII of the Rail Passenger Service Act (45 U.S.C. 642 et seq.) (as amended by section 9) is amended by adding at the end the following new section:

45 USC 650d.

"SEC. 814. EMERGENCY TRAINING AND RESPONSE.

"(a) TASK FORCE.—The Corporation, together with representatives from each of the on-board service and operating crafts and unions, shall form a task force to consider recommendations for improving emergency training and performance of on-board service and operating crew members. A representative of the Federal Railroad Administration shall serve on the task force. The task force

shall convene its first meeting within 90 days following the date of enactment of this section.

"(b) MATTERS TO BE CONSIDERED.—The task force formed under subsection (a) shall consider, at a minimum—

"(1) whether the Corporation's emergency training and drill program as presently constituted is adequate, and if not, in what ways it can be augmented or improved;

"(2) whether medical first-aid training, including cardiopulmonary resuscitation, should be required for all on-board service crew members;

"(3) whether the Corporation's requirements with respect to employee responsibilities for passenger evacuation, emergency communications, crew coordination, and disaster response should be coordinated; and

"(4) whether certification of the Corporation's emergency training program and evacuation procedures by the Federal Railroad Administration is warranted.

In considering the matters described in paragraphs (1) through (4), the task force shall address relevant prior recommendations and findings by the National Transportation Safety Board.

"(c) REPORT.—Not later than June 1, 1993, the task force shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on its findings in subsection (b), together with a summary of actions implemented to date and recommendations for future action.".

SEC. 12. COLUMBUS AND GREENVILLE RAILWAY.

(a) IN GENERAL.—Title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 et seq.) is amended by adding at the end the following new section:

"SEC. 518. COLUMBUS AND GREENVILLE RAILWAY. 45 USC 838.

"(a) LIMITATION OF UNITED STATES INTEREST.—Notwithstanding any other provision of this title, the Secretary shall limit the interest of the United States in any debt of the Columbus and Greenville Railway under sections 505 and 511 of this title to an interest which attaches to such debt in the event of (1) bankruptcy, or (2) substantial sale or liquidation of the assets of the railroad, the proceeds of which are not reinvested in the operations of the railroad. The Secretary may substitute for the evidence of such debt contingency notes payable solely from the railroad operating assets then securing such debt, including reinvestments thereof, or such other contingency notes as the Secretary deems appropriate and which conform to the terms in this section.

"(b) HIGHER PRIORITY FOR NEW DEBT.—If the interest of the United States is limited under subsection (a) of this section, any new debt issued by such railroad subsequent to the issuance of the debt described in such subsection may have such higher priority in the event of bankruptcy, liquidation, or abandonment of the assets of such a railroad than the debt described in such subsection as the Secretary and railroad may agree.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Railroad Revitalization and Regulatory Reform Act of 1976 is amended by inserting immediately after the item relating to section 517 the following new item:

"Sec. 518. Columbus and Greenville Railway.".

SEC. 13. NEW YORK CITY STATION FACILITIES.

Title VIII of the Rail Passenger Service Act (455 U.S.C. 642 et seq.) (as amended by section 11) is amended by adding at the end the following new section:

45 USC 650e.

"SEC. 815. NEW YORK CITY STATION FACILITIES.

"The Corporation shall develop a plan for new or redeveloped station facilities in New York City, New York, to accommodate the intercity rail passenger service requirements of the Corporation, along with needs of the commuter rail services currently using New York Penn Station. In developing the plan, the Corporation shall consider use of the James A. Farley Post Office building as the primary facility for handling intercity passengers, shall evaluate sources of State, local, and private funding therefor, and shall determine the future allocation of space and costs in the existing New York Penn Station and new facilities among all transportation services using the facilities. The plan shall be predicated upon completing the project without Federal funds appropriated for the Corporation. The Corporation shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on such plan no later than April 1, 1993.".

Reports.

SEC. 14. LOCOMOTIVE CONSPICUITY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(u) LOCOMOTIVE CONSPICUITY.—

"(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to locomotive conspicuity and shall complete the Department's current locomotive conspicuity research no later than December 31, 1993. As part of this review, the Secretary shall collect relevant data from operational experience by railroads having enhanced conspicuity measures in service.

Regulations.

"(2) Not later than December 31, 1992, the Secretary shall issue interim regulations identifying ditch lights, crossing lights, strobe lights, and oscillating lights as interim locomotive conspicuity measures, and authorizing and encouraging installation and use of such measures. The interim regulations and any amendments thereto shall be adopted without regard to subchapter II of chapter 5 of title 5, United States Code. Any locomotive equipped with such interim conspicuity measures on the date of issuance of final regulations under paragraph (3) shall be considered in full compliance with such final regulations until 4 years after issuance of such final regulations.

Regulations.

"(3) Not later than June 30, 1994, the Secretary shall initiate a rulemaking proceeding to issue final regulations requiring substantially enhanced locomotive conspicuity measures. In such rulemaking proceeding, the Secretary shall consider, at a minimum—

"(A) revisions to the existing locomotive headlight standard, including standards for placement and intensity;

"(B) requiring use of reflective materials to enhance locomotive conspicuity:

"(C) requiring use of additional alerting lights (including ditch, crossing, strobe, and oscillating lights);

"(D) requiring use of auxiliary lights to enhance locomotive conspicuity when viewed from the side;

"(E) the effect of any enhanced conspicuity measures on the vision, health, and safety of train crew members;

"(F) separate standards for self-propelled, push-pull and multi-unit passenger operations without a dedicated head-end locomotive.

"(4) In issuing regulations under paragraph (3), the Secretary may exclude from any specific conspicuity requirement and category of trains or rail operations if the Secretary determines that such an exclusion is in the public interest and is consistent with rail safety (including grade-crossing safety).

"(5) The Secretary shall issue final regulations requiring enhanced locomotive conspicuity measures no later than June 30, 1995. The Secretary shall require that all locomotives not excluded from the regulations be equipped with interim conspicuity measures under paragraph (2) or the conspicuity measures mandated by final regulations issued under this paragraph, no later than December 31, 1997. Regulations.

"(6) As used in this subsection, the term 'locomotive conspicuity' means the enhancement of day and night visibility of the front-end unit of a train, by means of lighting, reflective materials, or other means, with particular consideration to the visibility and perspective of drivers of motor vehicles at grade crossings.".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 4250 (S. 2608):

HOUSE REPORTS: Nos. 102-513 (Comm. on Energy and Commerce) and 102-990 (Comm. of Conference).

SENATE REPORTS: No. 102-326 accompanying S. 2608 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 11, considered and passed House.

Aug. 12, considered and passed Senate, amended.

Oct. 5, House agreed to conference report.

Oct. 7, Senate agreed to conference report.

Public Law 102-534
102d Congress

An Act

Oct. 27, 1992
[H.R. 5716]

To extend for two years the authorizations of appropriations for certain programs under title I of the Omnibus Crime Control and Safe Streets Act of 1968.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF PROGRAMS.

42 USC 3793.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) by redesignating the last three paragraphs sequentially as paragraphs (7), (8), and (9);

(2) in paragraph (1)—

(A) by striking "each of the";

(B) by striking "years 1989, 1990, 1991, and 1992"; and

(C) by inserting after "fiscal" the following: "year 1992 and $33,000,000 for each of the fiscal years 1993 and 1994";

(3) in paragraph (2)—

(A) by striking "for each of the fiscal years 1989," and all that follows through "1990, 1991, and 1992"; and

(B) by inserting after "$30,000,000" the following: "for fiscal year 1992 and $33,000,000 for each of the fiscal years 1993 and 1994";

(4) in paragraph (3)—

(A) by striking "$25,500,000" and all that follows through "M, and N"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992 and $28,000,000 for each of the fiscal years 1993 and 1994 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance other than functions under parts D, E, F, G, L, M, N, and O";

(5) in paragraph (5)—

(A) by striking "$900,000,000" and all that follows through "parts D and E of this title."; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992 and $1,000,000,000 for each of the fiscal years 1993 and 1994 to carry out the programs under parts D and E (other than chapter B of subpart 2 of part E) of this title.";

(6) in paragraph (6)—

(A) by striking "$220,000,000 for fiscal year 1991 and such sums as may be necessary for fiscal year 1992"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992, $245,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994";

(7) in paragraph (7), as redesignated—

(A) by striking "1991, 1992, and 1993"; and

(B) by inserting in lieu thereof "1992, 1993, and 1994";

(8) in paragraph (8), as redesignated—

(A) by striking "$15,000,000" and all that follows through "part M of this title"; and

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992, $16,500,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994";

(9) in paragraph (9), as redesignated—

(A) by striking "$20,000,000" and all that follows through "fiscal years 1992 and 1993,";

(B) by inserting in lieu thereof "such sums as may be necessary for fiscal year 1992, $22,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994"; and

(C) by striking "such parts" in subsection (c) and inserting "such part".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 5716:

HOUSE REPORTS: No. 102-884 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 22, 24, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-535
102d Congress

An Act

Oct. 27, 1992
[H.R. 5763]

To provide equitable treatment to producers of sugarcane subject to proportionate shares.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EQUITABLE TREATMENT FOR PRODUCERS.

Section 359f(b)(5) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1359ff(b)(5)) (hereinafter referred to as "the 1938 Act"), is amended by striking subparagraph (B) and inserting the following:

"(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a fiscal year.

"(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm's proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the fiscal year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.".

SEC. 2. ADJUSTMENT AFTER DISASTER.

Section 359f(b) of the 1938 Act, as amended by section 1 of this Act, is further amended by inserting after paragraph (6) the following new paragraph:

"(7) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State's cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.".

SEC. 3. CLARIFYING AND CONFORMING AMENDMENTS.

Section 359f(b) of the 1938 Act, as amended by sections 1 and 2 of this Act, is further amended— 7 USC 1359ff.

(a) in paragraph (1)(B), by—

(1) striking "production of sugar" and inserting "production of sugarcane"; and

(2) inserting "of sugar" before the period at the end;

(b) in the first sentence of paragraph (2), by—

(1) striking "sugar processed from all crops by all processors" and inserting "sugarcane produced by producers in the area"; and

(2) inserting "of sugar" after "provide a normal carryover inventory"; and

(c) in the second sentence of paragraph (2), by inserting "paragraph (7) and" after "under".

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 5763 (See S. 1709):

HOUSE REPORTS: No. 102-831 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 10, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 102-536
102d Congress

An Act

Oct. 27, 1992
[H.R. 5853]

To designate segments of the Great Egg Harbor River and its tributaries in the State of New Jersey as components of the National Wild and Scenic Rivers System.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end thereof:

"( ) GREAT EGG HARBOR, NEW JERSEY.—39.5 miles of the main stem to be administered by the Secretary of the Interior in the following classifications:

"(A) from the mouth of the Patcong Creek to the mouth of Perch Cove Run, approximately 10 miles, as a scenic river;

"(B) from Perch Cove Run to the Mill Street Bridge, approximately 5.5 miles, as a recreational river;

"(C) from Lake Lenape to the Atlantic City Expressway, approximately 21 miles, as a recreational river; and

"(D) from Williamstown-New Freedom Road to the Pennsylvania Railroad right-of-way, approximately 3 miles, as a recreational river, and

89.5 miles of the following tributaries to be administered by the Secretary of the Interior in the following classifications:

"(E) Squankum Branch from its confluence with Great Egg Harbor River to Malaga Road, approximately 4.5 miles, as a recreational river;

"(F) Big Bridge Branch, from its confluence with Great Egg Harbor River to headwaters, approximately 2.2 miles, as a recreational river;

"(G) Penny Pot Stream Branch, from its confluence with Great Egg Harbor River to 14th Street, approximately 4.1 miles, as a recreational river;

"(H) Deep Run, from its confluence with Great Egg Harbor River to Pancoast Mill Road, approximately 5.4 miles, as a recreational river;

"(I) Mare Run, from its confluence with Great Egg Harbor River to Weymouth Avenue, approximately 3 miles, as a recreational river;

"(J) Babcock Creek, from its confluence with Great Egg Harbor River to headwaters, approximately 7.5 miles, as a recreational river;

"(K) Gravelly Run, from its confluence with Great Egg Harbor River to Pennsylvania Railroad Right-of-Way, approximately 2.7 miles, as a recreational river;

"(L) Miry Run, from its confluence with Great Egg Harbor River to Asbury Road, approximately 1.7 miles, as a recreational river;

"(M) South River, from its confluence with Great Egg Harbor River to Main Avenue, approximately 13.5 miles, as a recreational river;

"(N) Stephen Creek, from its confluence with Great Egg Harbor River to New Jersey Route 50, approximately 2.3 miles, as a recreational river;

"(O) Gibson Creek, from its confluence with Great Egg Harbor River to First Avenue, approximately 5.6 miles, as a recreational river;

"(P) English Creek, from its confluence with Great Egg Harbor River to Zion Road, approximately 3.5 miles, as a recreational river;

"(Q) Lakes Creek, from its confluence with Great Egg Harbor River to the dam, approximately 2.2 miles, as a recreational river;

"(R) Middle River, from its confluence with Great Egg Harbor River to the levee, approximately 5.6 miles, as a scenic river;

"(S) Patcong Creek, from its confluence with Great Egg Harbor River to Garden State Parkway, approximately 2.8 miles, as a recreational river;

"(T) Tuckahoe River (lower segment) from its confluence with Great Egg Harbor River to the Route 50 bridge, approximately 9 miles, as a scenic river;

"(U) Tuckahoe River, from the Route 50 Bridge to Route 49 Bridge, approximately 7.3 miles, as a recreational river; and

"(V) Cedar Swamp Creek, from its confluence with Tuckahoe River to headwaters, approximately 6 miles, as a scenic river.".

SEC. 2. MANAGEMENT.

16 USC 1274 note.

(a) DUTIES OF SECRETARY.—The Secretary of the Interior shall manage the river segments designated as components of the National Wild and Scenic Rivers System by this Act through cooperative agreements with the political jurisdictions within which such segments pass, pursuant to section 10(e) of the Wild and Scenic Rivers Act, and in consultation with such jurisdictions, except that publicly-owned lands within the boundaries of such segments shall continue to be managed by the agency having jurisdiction over such lands.

(b) AGREEMENTS.—(1) Cooperative agreements for management of the river segments referred to in subsection (a) shall provide for the long-term protection, preservation, and enhancement of such segments and shall be consistent with the comprehensive management plans for such segments to be prepared by the Secretary of the Interior pursuant to section 3(d) of the Wild and Scenic Rivers Act and with local river management plans prepared by appropriate local political jurisdictions in conjunction with the Secretary of the Interior.

(2) The Secretary of the Interior, in consultation with appropriate representatives of local political jurisdictions and the State of New Jersey, shall review local river management plans described in paragraph (1) to assure that their proper implementation will protect the values for which the river segments described in subsection (a) were designated as components of the National Wild and Scenic Rivers System. If after such review the Secretary deter-

mines that such plans meet the protection standards for local zoning ordinances specified in section 6(c) of the Wild and Scenic Rivers Act, such plans shall be deemed to constitute "local zoning ordinances" and each township and other incorporated local jurisdiction covered by such plans shall be deemed to constitute a "village" for the purposes of section 6(c) (prohibiting the acquisition of lands by condemnation) of the Wild and Scenic Rivers Act.

Reports.

(3) The Secretary of the Interior shall biennially review compliance with the local river management plans described in paragraph (1) and shall promptly report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate any deviation from such plans which could result in any diminution of the values for which the river segment concerned was designated as a component of the National Wild and Scenic Rivers System.

(c) PLANNING ASSISTANCE.—(1) The Secretary of the Interior may provide planning assistance to local political subdivisions of the State of New Jersey through which flow river segments that are designated as components of the National Wild and Scenic Rivers System, and may enter into memoranda of understanding or cooperative agreements with officials or agencies of the United States or the State of New Jersey to ensure that Federal and State programs that could affect such segments are carried out in a manner consistent with the Wild and Scenic Rivers Act and applicable river management plans.

Appropriation authorization.

(2) For purposes of the planning assistance authorized and reviews required by this subsection, there are hereby authorized to be appropriated not to exceed $70,000 annually.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 5853 (S. 3217):

HOUSE REPORTS: No. 102-952 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-471 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-537
102d Congress

An Act

To amend the Fair Credit Reporting Act to require the inclusion in consumer reports of information provided to consumer reporting agencies regarding the failure of a consumer to pay overdue child support.

Oct. 27, 1992
[H.R. 6022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ted Weiss Child Support Enforcement Act of 1992. 15 USC 1601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ted Weiss Child Support Enforcement Act of 1992".

SEC. 2. INCLUSION IN CONSUMER REPORTS OF INFORMATION REGARDING FAILURES OF CONSUMERS TO PAY OVERDUE CHILD SUPPORT.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by redesignating section 622 as section 623 and by inserting after section 621 the following new section: 15 USC 1681t.

"§ 622. Information on overdue child support obligations 15 USC 1681s-1.

"Notwithstanding any other provision of this title, a consumer reporting agency shall include in any consumer report furnished by the agency in accordance with section 604, any information on the failure of the consumer to pay overdue support which—

"(1) is provided—

"(A) to the consumer reporting agency by a State or local child support enforcement agency; or

"(B) to the consumer reporting agency and verified by any local, State, or Federal Government agency; and

"(2) antedates the report by 7 years or less.".

(b) DEFINITIONS.—Section 603 of the Fair Credit Reporting Act (15 U.S.C. 1681a) is amended by adding at the end the following new subsection:

"(j) DEFINITIONS RELATING TO CHILD SUPPORT OBLIGATIONS.—

"(1) OVERDUE SUPPORT.—The term 'overdue support' has the meaning given to such term in section 466(e) of the Social Security Act.

"(2) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—The term 'State or local child support enforcement agency' means a State or local agency which administers a State or local program for establishing and enforcing child support obligations.".

(c) CLERICAL AMENDMENT.—The table of sections for the Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended by redesignating the item relating to section 622 as section 623 and by inserting after the item relating to section 621 the following new item:

"622. Information on overdue child support obligations.".

15 USC 1681a note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 6022:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 102-538
102d Congress

An Act

To authorize appropriations for the National Telecommunications and Information Administration, and for other purposes.

Oct. 27, 1992
[H.R. 6180]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telecommunications Authorization Act of 1992.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Authorization Act of 1992".

TITLE I—NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

National Telecommunications and Information Administration Organization Act.

PART A—ORGANIZATION AND FUNCTIONS

SEC. 101. SHORT TITLE.

47 USC 901 note.

This title may be cited as the "National Telecommunications and Information Administration Organization Act".

SEC. 102. DEFINITIONS; FINDINGS; POLICY.

47 USC 901.

(a) DEFINITIONS.—In this title, the following definitions apply:

(1) The term "NTIA" means the National Telecommunications and Information Administration.

(2) The term "Assistant Secretary" means the Assistant Secretary for Communications and Information.

(3) The term "Secretary" means the Secretary of Commerce.

(4) The term "Commission" means the Federal Communications Commission.

(5) The term "Corporation" means the Communications Satellite Corporation authorized in title III of the Communications Satellite Act of 1962 (47 U.S.C. 731 et seq.).

(b) FINDINGS.—The Congress finds the following:

(1) Telecommunications and information are vital to the public welfare, national security, and competitiveness of the United States.

(2) Rapid technological advances being made in the telecommunications and information fields make it imperative that the United States maintain effective national and international policies and programs capable of taking advantage of continued advancements.

(3) Telecommunications and information policies and recommendations advancing the strategic interests and the international competitiveness of the United States are essential aspects of the Nation's involvement in international commerce.

(4) There is a critical need for competent and effective telecommunications and information research and analysis and

national and international policy development, advice, and advocacy by the executive branch of the Federal Government.

(5) As one of the largest users of the Nation's telecommunications facilities and resources, the Federal Government must manage its radio spectrum use and other internal communications operations in the most efficient and effective manner possible.

(6) It is in the national interest to codify the authority of the National Telecommunications and Information Administration, an agency in the Department of Commerce, as the executive branch agency principally responsible for advising the President on telecommunications and information policies, and for carrying out the related functions it currently performs, as reflected in Executive Order 12046.

(c) POLICY.—The NTIA shall seek to advance the following policies:

(1) Promoting the benefits of technological development in the United States for all users of telecommunications and information facilities.

(2) Fostering national safety and security, economic prosperity, and the delivery of critical social services through telecommunications.

(3) Facilitating and contributing to the full development of competition, efficiency, and the free flow of commerce in domestic and international telecommunications markets.

(4) Fostering full and efficient use of telecommunications resources, including effective use of the radio spectrum by the Federal Government, in a manner which encourages the most beneficial uses thereof in the public interest.

(5) Furthering scientific knowledge about telecommunications and information.

47 USC 902.

SEC. 103. ESTABLISHMENT; ASSIGNED FUNCTIONS.

(a) ESTABLISHMENT.—

(1) ADMINISTRATION.—There shall be within the Department of Commerce an administration to be known as the National Telecommunications and Information Administration.

(2) HEAD OF ADMINISTRATION.—The head of the NTIA shall be an Assistant Secretary of Commerce for Communications and Information, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) ASSIGNED FUNCTIONS.—

(1) IN GENERAL.—Subject to section 105(d), the Secretary shall assign to the Assistant Secretary and the NTIA responsibility for the performance of the Secretary's communications and information functions.

(2) COMMUNICATIONS AND INFORMATION FUNCTIONS.—Subject to section 105(d), the functions to be assigned by the Secretary under paragraph (1) include (but are not limited to) the following functions transferred to the Secretary by Reorganization Plan Number 1 of 1977 and Executive Order 12046:

(A) The authority delegated by the President to the Secretary to assign frequencies to radio stations or classes of radio stations belonging to and operated by the United States, including the authority to amend, modify, or revoke

such assignments, but not including the authority to make final disposition of appeals from frequency assignments.

(B) The authority to authorize a foreign government to construct and operate a radio station at the seat of Government of the United States, but only upon recommendation of the Secretary of State and after consultation with the Attorney General and the Chairman of the Commission.

(C) Functions relating to the communications satellite system, including authority vested in the President by section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)) and delegated to the Secretary under Executive Order 12046, to—

(i) aid in the planning and development of the commercial communications satellite system and the execution of a national program for the operation of such a system;

(ii) conduct a continuous review of all phases of the development and operation of such system, including the activities of the Corporation;

(iii) coordinate, in consultation with the Secretary of State, the activities of governmental agencies with responsibilities in the field of telecommunications, so as to ensure that there is full and effective compliance at all times with the policies set forth in the Communications Satellite Act of 1962;

(iv) make recommendations to the President and others as appropriate, with respect to steps necessary to ensure the availability and appropriate utilization of the communications satellite system for general governmental purposes in consonance with section 201(a)(6) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)(6));

(v) help attain coordinated and efficient use of the electromagnetic spectrum and the technical compatibility of the communications satellite system with existing communications facilities both in the United States and abroad;

(vi) assist in the preparation of Presidential action documents for consideration by the President as may be appropriate under section 201(a) of the Communications Satellite Act of 1962 (47 U.S.C. 721(a)), make necessary recommendations to the President in connection therewith, and keep the President informed with respect to the carrying out of the Communications Satellite Act of 1962; and

(vii) serve as the chief point of liaison between the President and the Corporation.

(D) The authority to serve as the President's principal adviser on telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(E) The authority to advise the Director of the Office of Management and Budget on the development of policies relating to the procurement and management of Federal telecommunications systems.

(F) The authority to conduct studies and evaluations concerning telecommunications research and development and concerning the initiation, improvement, expansion, testing, operation, and use of Federal telecommunications systems and advising agencies of the results of such studies and evaluations.

(G) Functions which involve—

(i) developing and setting forth, in coordination with the Secretary of State and other interested agencies, plans, policies, and programs which relate to international telecommunications issues, conferences, and negotiations;

(ii) coordinating economic, technical, operational, and related preparations for United States participation in international telecommunications conferences and negotiations; and

(iii) providing advice and assistance to the Secretary of State on international telecommunications policies to strengthen the position and serve the best interests of the United States in support of the Secretary of State's responsibility for the conduct of foreign affairs.

(H) The authority to provide for the coordination of the telecommunications activities of the executive branch and assist in the formulation of policies and standards for those activities, including (but not limited to) considerations of interoperability, privacy, security, spectrum use, and emergency readiness.

(I) The authority to develop and set forth telecommunications policies pertaining to the Nation's economic and technological advancement and to the regulation of the telecommunications industry.

(J) The responsibility to ensure that the views of the executive branch on telecommunications matters are effectively presented to the Commission and, in coordination with the Director of the Office of Management and Budget, to the Congress.

(K) The authority to establish policies concerning spectrum assignments and use by radio stations belonging to and operated by the United States.

(L) Functions which involve—

(i) developing, in cooperation with the Commission, a comprehensive long-range plan for improved management of all electromagnetic spectrum resources;

(ii) performing analysis, engineering, and administrative functions, including the maintenance of necessary files and data bases, as necessary for the performance of assigned functions for the management of electromagnetic spectrum resources;

(iii) conducting research and analysis of electromagnetic propagation, radio systems characteristics, and operating techniques affecting the utilization of the electromagnetic spectrum in coordination with specialized, related research and analysis performed by other Federal agencies in their areas of responsibility; and

(iv) conducting research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies.

(M) The authority to conduct studies and make recommendations concerning the impact of the convergence of computer and communications technology.

(N) The authority to coordinate Federal telecommunications assistance to State and local governments.

(O) The authority to conduct and coordinate economic and technical analyses of telecommunications policies, activities, and opportunities in support of assigned functions.

(P) The authority to contract for studies and reports relating to any aspect of assigned functions.

(Q) The authority to participate, as appropriate, in evaluating the capability of telecommunications resources, in recommending remedial actions, and in developing policy options.

(R) The authority to participate with the National Security Council and the Director of the Office of Science and Technology Policy as they carry out their responsibilities under sections 4–1, 4–2, and 4–3 of Executive Order 12046, with respect to emergency functions, the national communication system, and telecommunications planning functions.

(S) The authority to establish coordinating committees pursuant to section 10 of Executive Order 11556.

(T) The authority to establish, as permitted by law, such interagency committees and working groups composed of representatives of interested agencies and consulting with such departments and agencies as may be necessary for the effective performance of assigned functions.

(3) ADDITIONAL COMMUNICATIONS AND INFORMATION FUNCTIONS.—In addition to the functions described in paragraph (2), the Secretary under paragraph (1)—

(A) may assign to the NTIA the performance of functions under section 504(a) of the Communications Satellite Act of 1962 (47 U.S.C. 753(a)); and

(B) shall assign to the NTIA the administration of the Public Telecommunications Facilities Program under sections 390 through 393 of the Communications Act of 1934 (47 U.S.C. 390–393), and the National Endowment for Children's Educational Television under section 394 of the Communications Act of 1934 (47 U.S.C. 394).

SEC. 104. SPECTRUM MANAGEMENT ACTIVITIES.

47 USC 903.

(a) REVISION OF REGULATIONS.—Within 180 days after the date of the enactment of this Act, the Secretary of Commerce and the NTIA shall amend the Department of Commerce spectrum management document entitled "Manual of Regulations and Procedures for Federal Radio Frequency Management" to improve Federal spectrum management activities and shall publish in the Federal Register any changes in the regulations in such document.

Federal Register, publication.

(b) REQUIREMENTS FOR REVISIONS.—The amendments required by subsection (a) shall—

(1) provide for a period at the beginning of each meeting of the Interdepartmental Radio Advisory Committee to be open to the public to make presentations and receive advice, and provide the public with other meaningful opportunities to make presentations and receive advice;

(2) include provisions that will require (A) publication in the Federal Register of major policy proposals that are not classified and that involve spectrum management, and (B) adequate opportunity for public review and comment on those proposals;

(3) include provisions that will require publication in the Federal Register of major policy decisions that are not classified and that involve spectrum management;

(4) include provisions that will require that nonclassified spectrum management information be made available to the public, including access to electronic databases; and

(5) establish procedures that provide for the prompt and impartial consideration of requests for access to Government spectrum by the public, which procedures shall include provisions that will require the disclosure of the status and ultimate disposition of any such request.

(c) CERTIFICATION TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall certify to Congress that the Secretary has complied with this section.

(d) RADIO SERVICES.—

(1) ASSIGNMENTS FOR RADIO SERVICES.—In assigning frequencies for mobile radio services and other radio services, the Secretary of Commerce shall promote efficient and cost-effective use of the spectrum to the maximum extent feasible.

(2) AUTHORITY TO WITHHOLD ASSIGNMENTS.—The Secretary of Commerce shall have the authority to withhold or refuse to assign frequencies for mobile radio service or other radio service in order to further the goal of making efficient and cost-effective use of the spectrum.

(3) SPECTRUM PLAN.—By October 1, 1993, the Secretary of Commerce shall adopt and commence implementation of a plan for Federal agencies with existing mobile radio systems to use more spectrum-efficient technologies that are at least as spectrum-efficient and cost-effective as readily available commercial mobile radio systems. The plan shall include a time schedule for implementation.

(4) REPORT TO CONGRESS.—By October 1, 1993, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report summarizing the plan adopted under paragraph (3), including the implementation schedule for the plan.

47 USC 904.

SEC. 105. GENERAL ADMINISTRATIVE PROVISIONS.

(a) INTERAGENCY FUNCTIONS.—

(1) AGENCY CONSULTATION.—Federal agencies shall consult with the Assistant Secretary and the NTIA to ensure that the conduct of telecommunications activities by such agencies is consistent with the policies developed under section 103(b)(2)(K).

(2) REPORT TO PRESIDENT.—The Secretary shall timely submit to the President each year the report (including evaluations and recommendations) provided for in section 404(a) of the Communications Satellite Act of 1962 (47 U.S.C. 744(a)).

(3) COORDINATION WITH SECRETARY OF STATE.—The Secretary shall coordinate with the Secretary of State the performance of the functions described in section 103(b)(2)(C). The Corporation and concerned executive agencies shall provide the Secretary with such assistance, documents, and other cooperation as will enable the Secretary to carry out those functions.

(b) ADVISORY COMMITTEES AND INFORMAL CONSULTATIONS WITH INDUSTRY.—To the extent the Assistant Secretary deems it necessary to continue the Interdepartmental Radio Advisory Committee, such Committee shall serve as an advisory committee to the Assistant Secretary and the NTIA. As permitted by law, the Assistant Secretary may establish one or more telecommunications or information advisory committees (or both) composed of experts in the telecommunications and/or information areas outside the Government. The NTIA may also informally consult with industry as appropriate to carry out the most effective performance of its functions.

(c) GENERAL PROVISIONS.—

(1) REGULATIONS.—The Secretary and NTIA shall issue such regulations as may be necessary to carry out the functions assigned under this title.

(2) SUPPORT AND ASSISTANCE FROM OTHER AGENCIES.—All executive agencies are authorized and directed to cooperate with the NTIA and to furnish it with such information, support, and assistance, not inconsistent with law, as it may require in the performance of its functions.

(3) EFFECT ON VESTED FUNCTIONS.—Nothing in this title reassigns any function that is, on the date of enactment of this Act, vested by law or executive order in the Commission, or the Department of State, or any officer thereof.

(d) REORGANIZATION.—

(1) AUTHORITY TO REORGANIZE.—Subject to paragraph (2), the Secretary may reassign to another unit of the Department of Commerce a function (or portion thereof) required to be assigned to the NTIA by section 103(b).

(2) LIMITATION ON AUTHORITY.—The Secretary may not make any reassignment of a function (or portion thereof) required to be assigned to the NTIA by section 103(b) unless the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a statement describing the proposed reassignment and containing an explanation of the reasons for the reassignment. No reassignment of any such function (or portion thereof) shall be effective until 90 legislative days after the Secretary submits that statement to such Committees. For purposes of this paragraph, the term "legislative days" includes only days on which both Houses of Congress are in session.

(e) LIMITATION ON SOLICITATIONS.—Notwithstanding section 1 of the Act of October 2, 1964 (15 U.S.C. 1522), neither the Secretary, the Assistant Secretary, nor any officer or employee of the NTIA shall solicit any gift or bequest of property, both real and personal,

from any entity for the purpose of furthering the authorized functions of the NTIA if such solicitation would create a conflict of interest or an appearance of a conflict of interest.

Part B—Special and Temporary Provisions

SEC. 131. AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATION.

There are authorized to be appropriated for the administration of the NTIA $17,600,000 for fiscal year 1992 and $17,900,000 for fiscal year 1993, and such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs.

SEC. 132. NATIONAL ENDOWMENT FOR CHILDREN'S EDUCATIONAL TELEVISION.

Section 394(h) of the Communications Act of 1934 (47 U.S.C. 394(h)) is amended—

(1) by striking "1991 and" and inserting in lieu thereof "1991,"; and

(2) by inserting ", $5,000,000 for fiscal year 1993, and $6,000,000 for fiscal year 1994" immediately after "1992".

SEC. 133. PEACESAT PROGRAM.

(a) FINDINGS.—Section 2(a) of the Act entitled "An Act to authorize appropriations for activities of the National Telecommunications and Information Administration for Fiscal Years 1990 and 1991", approved November 15, 1990 (Public Law 101–555; 104 Stat. 2758), is amended—

(1) in paragraph (2) by striking "the Soviet Union and";

(2) in paragraph (8)—

(A) by striking "since 1988, significant progress has been" and inserting in lieu thereof "in fiscal years 1988 and 1989, significant progress was"; and

(B) by striking "negotiating to acquire" and inserting in lieu thereof "acquiring"; and

(3) by striking all after paragraph (8) and inserting in lieu thereof the following new paragraphs:

"(9) because these activities exhausted the funds previously appropriated for the PEACESAT program, Congress authorized to be appropriated $1,000,000 for fiscal year 1990 and such sums as necessary for fiscal year 1991 for use by the Secretary of Commerce in the negotiation for and acquisition of satellite capacity and equipment under subsection (c)(1) of this section and the management and operation of satellite communications services under subsection (c)(2) of this section;

"(10) while no funds were appropriated for fiscal year 1990 because of the availability of carry-over funds, Congress appropriated $1,000,000 for fiscal year 1991 for the ongoing maintenance and operation of the GOES–3 satellite, for the administration of the PEACESAT program, for the acquisition and installation of earth stations and the training of engineers to operate the Earth stations, and for the study of a long-term solution to the satellite needs of the PEACESAT program;

"(11) with these funds, the PEACESAT program has been reestablished, over 20 new Earth terminals have been installed (some at the expense of the individual user groups), and the use of the PEACESAT network is expanding;

"(12) while the PEACESAT program has now been reestablished, additional funding continues to be necessary for the ongoing administrative and operational expenses of the PEACESAT program and especially for the acquisition of satellite capacity after 1994;

"(13) the importance of the PEACESAT program to the educational and cultural communications in the Pacific Ocean region makes it imperative that the Secretary of Commerce and the PEACESAT users explore every available option for long-term satellite capacity, including the possibility of using foreign-owned satellites or engaging in joint ventures with foreign entities to satisfy these long-term needs for transmission capacity; and

"(14) whether or not a domestic or foreign-owned satellite is used for transmission, it is essential to the achievement of United States policy goals that the headquarters, management, and operation of the PEACESAT program be located and conducted in the United States.".

(b) AUTHORIZATION.—The first sentence of section 2(d) of such Act of November 15, 1990 (104 Stat. 2758), is amended by striking all through "fiscal year 1991" and inserting in lieu thereof "There are authorized to be appropriated $400,000 for fiscal year 1992 and $1,500,000 for fiscal year 1993".

SEC. 134. COMMUNICATIONS FOR RURAL HEALTH PROVIDERS.

42 USC 254r note.

(a) PURPOSE.—It is the purpose of this section to improve the ability of rural health providers to use communications to obtain health information and to consult with others concerning the delivery of patient care. Such enhanced communications ability may assist in—

(1) improving and extending the training of rural health professionals; and

(2) improving the continuity of patient care in rural areas.

(b) ADVISORY PANEL.—The Secretary of Commerce, in conjunction with the Secretary of Health and Human Services, shall establish an advisory panel (hereafter in this section referred to as the "Panel") to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information.

Establishment.

(c) COMPOSITION OF PANEL.—The Panel shall be composed of individuals from organizations with rural constituencies and practitioners from health care disciplines, representatives of the National Library of Medicine, and representatives of different health professions schools, including nurse practitioners.

(d) SELECTION OF CONSULTANTS.—The Panel may select consultants to provide advice to the Panel regarding the types of information that rural health care practitioners need, the procedures to gather and disseminate such information, and the types of communications equipment and training needed by rural health care practitioners to obtain access to such information.

(e) REPORT TO CONGRESS.—Not later than 1 year after the Panel is established under subsection (b), the Secretary of Commerce shall prepare and submit, to the Committee on Commerce, Science, and Transportation and the Committee on Labor and Human Resources of the Senate and the Committee on Energy

and Commerce of the House of Representatives, a report summarizing the recommendations made by the Panel under subsection (b).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Commerce to carry out this section $1,000,000 to remain available until expended.

SEC. 135. REPORT ON THE ROLE OF TELECOMMUNICATIONS IN HATE CRIMES.

(a) REQUIREMENT OF REPORT.—Within 240 days after the date of enactment of this Act, the NTIA, with the assistance of the Commission, the Department of Justice, and the United States Commission on Civil Rights, shall prepare a report on the role of telecommunications in crimes of hate and violent acts against ethnic, religious, and racial minorities and shall submit such report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) SCOPE OF REPORT.—The report required by subsection (a) shall—

(1) analyze information on the use of telecommunications, including broadcast television and radio, cable television, public access television, computer bulletin boards, and other electronic media, to advocate and encourage violent acts and the commission of crimes of hate, as described in the Hate Crimes Statistics Act (28 U.S.C. 534), against ethnic, religious, and racial minorities.

(2) include any recommendations deemed appropriate and necessary by the NTIA.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION

SEC. 201. TRAVEL REIMBURSEMENT PROGRAM.

Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1992" and inserting in lieu thereof "1994".

SEC. 202. HAWAII MONITORING STATION.

Section 9(a) of the Federal Communications Commission Authorization Act of 1988 (Public Law 100–594; 102 Stat. 3024) is amended by striking "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1991, 1992, 1993, and 1994".

SEC. 203. CLARIFICATION OF COMMISSION REFUND AUTHORITY.

Section 204(a)(1) of the Communications Act of 1934 (47 U.S.C. 204(a)(1)) is amended—

(1) by striking "an increased charge" and inserting in lieu thereof "a revised charge";

(2) by striking "or increased" and inserting in lieu thereof "or revised";

(3) by striking "increased charges" and inserting in lieu thereof "revised charges";

(4) by striking "charge increased, or sought to be increased" and inserting in lieu thereof "new or revised charge, or a proposed new or revised charge"; and

(5) by striking "increased charge" and inserting in lieu thereof "new or revised charge".

SEC. 204. ELECTRONIC FILING OF APPLICATIONS.

(a) WAIVER OF FREQUENCY OR SPECTRUM CLAIM.—Sections 304 of the Communications Act of 1934 (47 U.S.C. 304) is amended by striking "signed a waiver of" and inserting in lieu thereof "waived".

(b) SIGNING OF LICENSE APPLICATIONS.—Section 308(b) of the Communications Act of 1934 (47 U.S.C. 308(b)) is amended by inserting "in any manner or form, including by electronic means, as the Commission may prescribe by regulation" immediately before the period at the end.

(c) SIGNING OF CONSTRUCTION PERMIT APPLICATIONS.—Section 319(a) of the Communications Act of 1934 (47 U.S.C. 319(a)) is amended by inserting "in any manner or form, including by electronic means, as the Commission may prescribe by regulation" immediately before the period at the end.

SEC. 205. LICENSED OPERATORS.

Section 318 of the Communications Act of 1934 (47 U.S.C. 318) is amended—

(1) by striking "(3) stations engaged in broadcasting other than those engaged primarily in the function of rebroadcasting the signals of broadcast stations)"; and

(2) by striking "(4)" and inserting in lieu thereof "(3)".

SEC. 206. STATUTE OF LIMITATIONS FOR FORFEITURE PROCEEDINGS.

Section 503(b)(6) of the Communications Act of 1934 (47 U.S.C. 503(b)(6)) is amended—

(1) by striking "so long as such violation occurred within 3 years prior to the date of issuance of such required notice"; and

(2) by adding at the end the following: "For purposes of this paragraph, 'date of commencement of the current term of such license' means the date of commencement of the last term of license for which the licensee has been granted a license by the Commission. A separate license term shall not be deemed to have commenced as a result of continuing a license in effect under section 307(c) pending decision on an application for renewal of the license.".

SEC. 207. TELEPHONE OPERATOR SERVICES.

Section 226(d)(4)(A) of the Communications Act of 1934 (47 U.S.C. 226(d)(4)(A)) is amended by inserting "and aggregators" immediately after "operator services".

SEC. 208. GIFT AND BEQUEST AUTHORITY.

Section 4(g) of the Communications Act of 1934 (47 U.S.C. 154(g)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of law, in furtherance of its functions the Commission is authorized to accept, hold, administer, and use unconditional gifts, donations, and bequests of real, personal, and other property (including voluntary and uncompensated services, as authorized by section 3109 of title 5, United States Code).

"(B) The Commission, for purposes of providing radio club and military-recreational call signs, may utilize the voluntary, uncompensated, and unreimbursed services of amateur radio organizations authorized by the Commission that have tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986.

"(C) For the purpose of Federal law on income taxes, estate taxes, and gift taxes, property or services accepted under the authority of subparagraph (A) shall be deemed to be a gift, bequest, or devise to the United States.

Regulations.

"(D) The Commission shall promulgate regulations to carry out the provisions of this paragraph. Such regulations shall include provisions to preclude the acceptance of any gift, bequest, or donation that would create a conflict of interest or the appearance of a conflict of interest.".

SEC. 209. CHANGES TO SCHEDULE OF CHARGES.

(a) FEES FOR LOW-EARTH ORBIT SATELLITE SYSTEMS.—The Schedule of Charges under section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by adding at the end of the matter under the heading "Common Carrier Services" the following:

"22. Low-Earth Orbit Satellite Systems

a. Application for Authority to Construct (per system of technology identical satellites).	6,000.00
b. Application for Authority to Launch and Operate (per system of technologically identical satellites).	210,000.00
c. Assignment or Transfer (per request)	6,000.00
d. Modification (per request)	15,000.00
e. Special Temporary Authority or Waiver of Prior Construction Authorization (per request).	1,500.00
f. Amendment of Application (per request)	3,000.00
g. Extension of Construction Permit/Launch Authorization (per request).	1,500.00".

(b) FEE FOR INSPECTION OF GREAT LAKES VESSELS.—The matter under the heading "MISCELLANEOUS CHARGES" in the Schedule of Charges for section 8(g) of the Communications Act of 1934 (47 U.S.C. 158(g)) is amended by striking "360.00" in item 3.c. (relating to the inspection of vessels under the Great Lakes Agreement) and inserting in lieu thereof "75.00".

SEC. 210. TOWER SAFETY ACCOUNTABILITY.

(a) LIABILITY EXTENDED TO TOWER OWNERS.—Section 303(q) of the Communications Act of 1934 (47 U.S.C. 303(q)) is amended by inserting ", and the tower owner in any case in which the owner is not the permittee or licensee," immediately after "permittee or licensee".

(b) LIABILITY FOR FORFEITURE.—Section 503(b)(5) of the Communications Act of 1934 (47 U.S.C. 503(b)(5)) is amended—

(1) by striking "system operator or" and inserting in lieu thereof "system operator,"; and

(2) by inserting ", or in the case of violations of section 303(q), if the person involved is a nonlicensee tower owner who has previously received notice of the obligations imposed by section 303(q) from the Commission or the permittee or licensee who uses that tower" immediately after "section 307(e)".

47 USC 303 note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 30 days after the date of enactment of this Act.

SEC. 211. REVIEW OF LICENSE TRANSFER.

(a) REQUIREMENT FOR HEARING.—The Federal Communications Commission shall not approve any assignment or transfer of control of a license held by any corporation identified in subsection (b) without first holding a full hearing on the record, with notice and opportunity for comment.

(b) APPLICABILITY.—Subsection (a) applies to any corporation holding a television broadcast license, the transfer of which was approved by the Federal Communications Commission on November 14, 1985, and which is a corporation owned or controlled directly or indirectly by a corporation organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(c) REPORT TO CONGRESS.—The Federal Communications Commission shall submit a report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate concerning the proposed transfer 30 days prior to authorizing any such transfer. The report required by this subsection shall include a review of the consistency of such transfer with the Commission's minority ownership policies.

(d) WAIVER.—The requirements of subsections (a) and (c) shall not apply in any case in which the Native Regional corporation identified in subsection (b) requests in writing that this section be waived by the Federal Communications Commission.

SEC. 212. COMMUNICATIONS SUPPORT FROM OLDER AMERICANS.

(a) AUTHORITY FOR GRANTS AND COOPERATIVE AGREEMENTS.—Section 6(a) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended—

(1) by striking "1988, 1989, 1990, and 1991" and inserting in lieu thereof "1992 and 1993"; and

(2) by inserting "designated by the Secretary of Labor under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.)" immediately after "private nonprofit organizations".

(b) CERTIFICATION.—Section 6(b) of the Federal Communications Commission Authorization Act of 1988 (47 U.S.C. 154 note) is amended—

(1) by adding "or" at the end of paragraph (2);

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

SEC. 213. TELEPHONE RATES FOR MEMBERS OF ARMED FORCES DEPLOYED ABROAD. 47 USC 201 note.

(a) IN GENERAL.—The Federal Communications Commission shall make efforts to reduce telephone rates for Armed Forces personnel in the following countries: Germany, Japan, Korea, Saudi Arabia, Great Britain, Italy, Philippines, Panama, Spain, Turkey, Iceland, the Netherlands, Greece, Cuba, Belgium, Portugal, Bermuda, Diego Garcia, Egypt, and Honduras.

(b) FACTORS TO CONSIDER.—In making the efforts described in subsection (a), the Federal Communications Commission, in coordination with the Department of Defense, Department of State, and the National Telecommunications and Information Administration shall consider the cost to military personnel and their families of placing telephone calls by—

(1) evaluating and analyzing the costs to Armed Forces personnel of such telephone calls to and from American military bases abroad;

(2) evaluate methods of reducing the rates imposed on such calls;

(3) determine the extent to which it is feasible for the Federal Communications Commission to encourage the carriers to adopt flexible billing procedures and policies for members of the Armed Forces and their families for telephone calls to and from the countries listed in subsection (a); and

(4) advise executive branch agencies of methods for the United States to persuade foreign governments to reduce the surcharges that are often placed on such telephone calls.

47 USC 303 note.

SEC. 214. AM RADIO IMPROVEMENT STANDARD.

The Federal Communications Commission shall—

(1) within 60 days after the date of enactment of this Act, initiate a rulemaking to adopt a single AM radio stereophonic transmitting equipment standard that specifies the composition of the transmitted stereophonic signal; and

(2) within one year after such date of enactment, adopt such standard.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 6180:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-539
102d Congress

An Act

To amend the Public Health Service Act to establish the authority for the regulation of mammography services and radiological equipment, and for other purposes.

Oct. 27, 1992
[H.R. 6182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Mammography Quality Standards Act of 1992.
42 USC 201 note.

This Act may be cited as the "Mammography Quality Standards Act of 1992".

SEC. 2. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

Part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—Mammography Facilities

"SEC. 354. CERTIFICATION OF MAMMOGRAPHY FACILITIES.

42 USC 263b.

"(a) DEFINITIONS.—As used in this section:

"(1) ACCREDITATION BODY.—The term 'accreditation body' means a body that has been approved by the Secretary under subsection (e)(1)(A) to accredit mammography facilities.

"(2) CERTIFICATE.—The term 'certificate' means the certificate described in subsection (b)(1).

"(3) FACILITY.—

"(A) IN GENERAL.—The term 'facility' means a hospital, outpatient department, clinic, radiology practice, or mobile unit, an office of a physician, or other facility as determined by the Secretary, that conducts breast cancer screening or diagnosis through mammography activities. Such term does not include a facility of the Department of Veterans Affairs.

"(B) ACTIVITIES.—For the purposes of this section, the activities of a facility include the operation of equipment to produce the mammogram, the processing of the film, the initial interpretation of the mammogram and the viewing conditions for that interpretation. Where procedures such as the film processing, or the interpretation of the mammogram are performed in a location different from where the mammogram is performed, the facility performing the mammogram shall be responsible for meeting the quality standards described in subsection (f).

"(4) INSPECTION.—The term 'inspection' means an onsite evaluation of the facility by the Secretary, or State agency on behalf of the Secretary.

"(5) MAMMOGRAM.—The term 'mammogram' means a radiographic image produced through mammography.

"(6) MAMMOGRAPHY.—The term 'mammography' means radiography of the breast.

"(7) SURVEY.—The term 'survey' means an onsite physics consultation and evaluation performed by a medical physicist as described in subsection (f)(1)(E).

"(b) CERTIFICATE REQUIREMENT.—

"(1) CERTIFICATE.—No facility may conduct an examination or procedure described in paragraph (2) involving mammography after October 1, 1994, unless the facility obtains—

"(A) a certificate—

"(i) that is issued, and, if applicable, renewed, by the Secretary in accordance with subsection (c)(1);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility; or

"(B) a provisional certificate—

"(i) that is issued by the Secretary in accordance with subsection (c)(2);

"(ii) that is applicable to the examination or procedure to be conducted; and

"(iii) that is displayed prominently in such facility.

The reference to a certificate in this section includes a provisional certificate.

"(2) EXAMINATION OR PROCEDURE.—A facility shall obtain a certificate in order to—

"(A) operate radiological equipment that is used to image the breast;

"(B) provide for the interpretation of a mammogram produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed; and

"(C) provide for the processing of film produced by such equipment at the facility or under arrangements with a qualified individual at a facility different from where the mammography examination is performed.

"(c) ISSUANCE AND RENEWAL OF CERTIFICATES.—

"(1) IN GENERAL.—The Secretary may issue or renew a certificate for a facility if the person or agent described in subsection (d)(1)(A) meets the applicable requirements of subsection (d)(1) with respect to the facility. The Secretary may issue or renew a certificate under this paragraph for not more than 3 years.

"(2) PROVISIONAL CERTIFICATE.—The Secretary may issue a provisional certificate for an entity to enable the entity to qualify as a facility. The applicant for a provisional certificate shall meet the requirements of subsection (d)(1), except providing information required by clauses (iii) and (iv) of subsection (d)(1)(A). A provisional certificate may be in effect no longer than 6 months from the date it is issued, except that it may be extended once for a period of not more than 90 days if the owner, lessor, or agent of the facility demonstrates to the Secretary that without such extension access to mammography in the geographic area served by the facility would be significantly reduced and if the owner, lessor, or agent of the facility will describe in a report to the Secretary steps that will be taken to qualify the facility for certification under subsection (b)(1).

Reports.

"(d) APPLICATION FOR CERTIFICATE.—

"(1) SUBMISSION.—The Secretary may issue or renew a certificate for a facility if—

"(A) the person who owns or leases the facility or an authorized agent of the person, submits to the Secretary, in such form and manner as the Secretary shall prescribe, an application that contains at a minimum—

"(i) a description of the manufacturer, model, and type of each x-ray machine, image receptor, and processor operated in the performance of mammography by the facility;

"(ii) a description of the procedures currently used to provide mammography at the facility, including—

"(I) the types of procedures performed and the number of such procedures performed in the prior 12 months;

"(II) the methodologies for mammography; and

"(III) the names and qualifications (educational background, training, and experience) of the personnel performing mammography and the physicians reading and interpreting the results from the procedures;

"(iii) proof of on-site survey by a qualified medical physicist as described in subsection (f)(1)(E); and

"(iv) proof of accreditation in such manner as the Secretary shall prescribe; and

"(B) the person or agent submits to the Secretary—

"(i) a satisfactory assurance that the facility will be operated in accordance with standards established by the Secretary under subsection (f) to assure the safety and accuracy of mammography;

"(ii) a satisfactory assurance that the facility will—

"(I) permit inspections under subsection (g);

"(II) make such records and information available, and submit such reports, to the Secretary as the Secretary may require; and

Records. Reports.

"(III) update the information submitted under subparagraph (A) or assurances submitted under this subparagraph on a timely basis as required by the Secretary; and

"(iii) such other information as the Secretary may require.

An applicant shall not be required to provide in an application under subparagraph (A) any information which the applicant has supplied to the accreditation body which accredited the applicant, except as required by the Secretary.

"(2) APPEAL.—If the Secretary denies an application for the certification of a facility submitted under paragraph (1)(A), the Secretary shall provide the owner or lessor of the facility or the agent of the owner or lessor who submitted such application—

"(A) a statement of the grounds on which the denial is based, and

"(B) an opportunity for an appeal in accordance with the procedures set forth in regulations of the Secretary published at 42 C.F.R. 498 and in effect on the date of the enactment of this section.

"(3) EFFECT OF DENIAL.—If the application for the certification of a facility is denied, the facility may not operate unless the denial of the application is overturned at the conclusion of the administrative appeals process provided in the regulations referred to in paragraph (2)(B).

"(e) ACCREDITATION.—

"(1) APPROVAL OF ACCREDITATION BODIES.—

"(A) IN GENERAL.—The Secretary may approve a private nonprofit organization or State agency to accredit facilities for purposes of subsection (d)(1)(A)(iv) if the accreditation body meets the standards for accreditation established by the Secretary as described in subparagraph (B) and provides the assurances required by subparagraph (C).

"(B) STANDARDS.—The Secretary shall establish standards for accreditation bodies, including—

"(i) standards that require an accreditation body to perform—

"(I) a review of clinical images from each facility accredited by such body not less often than every 3 years which review will be made by qualified practicing physicians; and

"(II) a review of a random sample of clinical images from such facilities in each 3-year period beginning October 1, 1994, which review will be made by qualified practicing physicians;

"(ii) standards that prohibit individuals conducting the reviews described in clause (i) from maintaining any financial relationship to the facility undergoing review which would constitute a conflict of interest;

"(iii) standards that limit the imposition of fees for accreditation to reasonable amounts;

"(iv) standards that require as a condition of accreditation that each facility undergo a survey at least annually by a medical physicist as described in subsection (f)(1)(E) to ensure that the facility meets the standards described in subparagraphs (A) and (B) of subsection (f)(1);

"(v) standards that require monitoring and evaluation of such survey, as prescribed by the Secretary;

"(vi) standards that are equal to standards established under subsection (f) which are relevant to accreditation as determined by the Secretary; and

"(vii) such additional standards as the Secretary may require.

"(C) ASSURANCES.—The accrediting body shall provide the Secretary satisfactory assurances that the body will—

"(i) comply with the standards as described in subparagraph (B);

"(ii) comply with the requirements described in paragraph (4);

"(iii) submit to the Secretary the name of any facility for which the accreditation body denies, suspends, or revokes accreditation;

"(iv) notify the Secretary in a timely manner before the accreditation body changes the standards of the body;

"(v) notify each facility accredited by the accreditation body if the Secretary withdraws approval of the accreditation body under paragraph (2) in a timely manner; and

"(vi) provide such other additional information as the Secretary may require.

"(D) REGULATIONS.—Not later than 9 months after the date of the enactment of this section, the Secretary shall promulgate regulations under which the Secretary may approve an accreditation body.

"(2) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary shall promulgate regulations under which the Secretary may withdraw the approval of an accreditation body if the Secretary determines that the accreditation body does not meet the standards under subparagraph (B) of paragraph (1), the requirements of clauses (i) through (vi) of subparagraph (C) of paragraph (1), or the requirements of paragraph (4). Regulations.

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the approval of an accreditation body under subparagraph (A), the certificate of any facility accredited by the body shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain another accreditation.

"(3) ACCREDITATION.—To be accredited by an approved accreditation body a facility shall meet—

"(A) the standards described in paragraph (1)(B) which the Secretary determines are applicable to the facility, and

"(B) such other standards which the accreditation body may require.

"(4) COMPLIANCE.—To ensure that facilities accredited by an accreditation body will continue to meet the standards of the accreditation body, the accreditation body shall—

"(A) make onsite visits on an annual basis of a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

"(B) take such additional measures as the Secretary determines to be appropriate.

Visits made under subparagraph (A) shall be made after providing such notice as the Secretary may require.

"(5) REVOCATION OF ACCREDITATION.—If an accreditation body revokes the accreditation of a facility, the certificate of the facility shall continue in effect until such time as may be determined by the Secretary.

"(6) EVALUATION AND REPORT.—

"(A) EVALUATION.—The Secretary shall evaluate annually the performance of each approved accreditation body by—

"(i) inspecting under subsection (g)(2) a sufficient number of the facilities accredited by the body to allow a reasonable estimate of the performance of the body; and

"(ii) such additional means as the Secretary determines to be appropriate.

"(B) REPORT.—The Secretary shall annually prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report that describes the results of the evaluation conducted in accordance with subparagraph (A).

"(f) QUALITY STANDARDS.—

"(1) IN GENERAL.—The standards referred to in subsection (d)(1)(B)(i) are standards established by the Secretary which include—

"(A) standards that require establishment and maintenance of a quality assurance and quality control program at each facility that is adequate and appropriate to ensure the reliability, clarity, and accuracy of interpretation of mammograms and standards for appropriate radiation dose;

"(B) standards that require use of radiological equipment specifically designed for mammography, including radiologic standards and standards for other equipment and materials used in conjunction with such equipment;

"(C) a requirement that personnel who perform mammography—

"(i)(I) be licensed by a State to perform radiological procedures; or

"(II) be certified as qualified to perform radiological procedures by an organization described in paragraph (2)(A); and

"(ii) during the 2-year period beginning October 1, 1994, meet training standards for personnel who perform mammography or meet experience requirements which shall at a minimum include 1 year of experience in the performance of mammography; and

"(iii) upon the expiration of such 2-year period meet minimum training standards for personnel who perform mammograms;

"(D) a requirement that mammograms be interpreted by a physician who is certified as qualified to interpret radiological procedures, including mammography—

"(i)(I) by a board described in paragraph (2)(B); or

"(II) by a program that complies with the standards described in paragraph (2)(C); and

"(ii) who meets training and continuing medical education requirements as established by the Secretary;

"(E) a requirement that individuals who survey mammography facilities be medical physicists—

"(i) licensed or approved by a State to perform such surveys, reviews, or inspections for mammography facilities;

"(ii) certified in diagnostic radiological physics or certified as qualified to perform such surveys by a board as described in paragraph (2)(D); or

"(iii) in the first 5 years after the date of the enactment of this section, who meet other criteria established by the Secretary which are comparable to the criteria described in clause (i) or (ii);

"(F) a requirement that a medical physicist who is qualified in mammography as described in subparagraph (E) survey mammography equipment and oversee quality assurance practices at each facility;

"(G) a requirement that—

"(i) a facility that performs any mammogram maintain the mammogram in the permanent medical records of the patient— Records.

"(I) for a period of not less than 5 years, or not less than 10 years if no additional mammograms of such patient are performed at the facility, or longer if mandated by State law; or

"(II) until such time as the patient should request that the patient's medical records be forwarded to a medical institution or a physician of the patient;

whichever is longer; and

"(ii)(I) a facility must assure the preparation of a written report of the results of any mammography examination signed by the interpreting physician; Reports.

"(II) such written report shall be provided to the patient's physicians (if any);

"(III) if such a physician is not available or if there is no such physician, the written report shall be sent directly to the patient; and

"(IV) if such report is sent to the patient, the report shall include a summary written in terms easily understood by a lay person; and

"(H) standards relating to special techniques for mammography of patients with breast implants.

Subparagraph (G) shall not be construed to limit a patient's access to the patient's medical records.

"(2) CERTIFICATION OF PERSONNEL.—The Secretary shall by regulation— Regulations.

"(A) specify organizations eligible to certify individuals to perform radiological procedures as required by paragraph (1)(C);

"(B) specify boards eligible to certify physicians to interpret radiological procedures, including mammography, as required by paragraph (1)(D);

"(C) establish standards for a program to certify physicians described in paragraph (1)(D); and

"(D) specify boards eligible to certify medical physicists who are qualified to survey mammography equipment and to oversee quality assurance practices at mammography facilities.

"(g) INSPECTIONS.—

"(1) ANNUAL INSPECTIONS.—

"(A) IN GENERAL.—The Secretary may enter and inspect certified facilities to determine compliance with the standards established under subsection (f). The Secretary shall, if feasible, delegate to a State agency the authority to make such inspections.

"(B) IDENTIFICATION.—The Secretary, or State agency acting on behalf of the Secretary, may conduct inspections only on presenting identification to the owner, operator, or agent in charge of the facility to be inspected.

"(C) SCOPE OF INSPECTION.—In conducting inspections, the Secretary or State agency acting on behalf of the Secretary—

"(i) shall have access to all equipment, materials, records, and information that the Secretary or State agency considers necessary to determine whether the facility is being operated in accordance with this section; and

"(ii) may copy, or require the facility to submit to the Secretary or the State agency, any of the materials, records, or information.

"(D) QUALIFICATIONS OF INSPECTORS.—Qualified individuals, as determined by the Secretary, shall conduct all inspections. The Secretary may request that a State agency acting on behalf of the Secretary designate a qualified officer or employee to conduct the inspections, or designate a qualified Federal officer or employee to conduct inspections. The Secretary shall establish minimum qualifications and appropriate training for inspectors and criteria for certification of inspectors in order to inspect facilities for compliance with subsection (f).

"(E) FREQUENCY.—The Secretary or State agency acting on behalf of the Secretary shall conduct inspections under this paragraph of each facility not less often than annually.

"(F) RECORDS AND ANNUAL REPORTS.—The Secretary or a State agency acting on behalf of the Secretary which is responsible for inspecting mammography facilities shall maintain records of annual inspections required under this paragraph for a period as prescribed by the Secretary. Such a State agency shall annually prepare and submit to the Secretary a report concerning the inspections carried out under this paragraph. Such reports shall include a description of the facilities inspected and the results of such inspections.

"(2) INSPECTION OF ACCREDITED FACILITIES.—The Secretary shall inspect annually a sufficient number of the facilities accredited by an accreditation body to provide the Secretary with a reasonable estimate of the performance of such body.

"(3) INSPECTION OF FACILITIES INSPECTED BY STATE AGENCIES.—The Secretary shall inspect annually facilities inspected by State agencies acting on behalf of the Secretary to assure a reasonable performance by such State agencies.

"(4) TIMING.—The Secretary, or State agency, may conduct inspections under paragraphs (1), (2), and (3), during regular business hours or at a mutually agreeable time and after providing such notice as the Secretary may prescribe, except that the Secretary may waive such requirements if the continued performance of mammography at such facility threatens the public health.

"(5) LIMITED REINSPECTION.—Nothing in this section limits the authority of the Secretary to conduct limited reinspections of facilities found not to be in compliance with this section.

"(h) SANCTIONS.—

"(1) IN GENERAL.—In order to promote voluntary compliance with this section, the Secretary may, in lieu of taking

the actions authorized by subsection (i), impose one or more of the following sanctions:

"(A) Directed plans of correction which afford a facility an opportunity to correct violations in a timely manner.

"(B) Payment for the cost of onsite monitoring.

"(2) CIVIL MONEY PENALTIES.—The Secretary may assess civil money penalties in an amount not to exceed $10,000 for—

"(A) failure to obtain a certificate as required by subsection (b),

"(B) each failure by a facility to substantially comply with, or each day on which a facility fails to substantially comply with, the standards established under subsection (f) or the requirements described in subclauses (I) through (III) of subsection (d)(1)(B)(ii), and

"(C) each violation, or for each aiding and abetting in a violation of, any provision of, or regulation promulgated under, this section by an owner, operator, or any employee of a facility required to have a certificate.

"(3) PROCEDURES.—The Secretary shall develop and implement procedures with respect to when and how each of the sanctions is to be imposed under paragraphs (1) and (2). Such procedures shall provide for notice to the owner or operator of the facility and a reasonable opportunity for the owner or operator to respond to the proposed sanctions and appropriate procedures for appealing determinations relating to the imposition of sanctions.

"(i) SUSPENSION AND REVOCATION.—

"(1) IN GENERAL.—The certificate of a facility issued under subsection (c) may be suspended or revoked if the Secretary finds, after providing, except as provided in paragraph (2), reasonable notice and an opportunity for a hearing to the owner or operator of the facility, that the owner, operator, or any employee of the facility—

"(A) has been guilty of misrepresentation in obtaining the certificate;

"(B) has failed to comply with the requirements of subsection (d)(1)(B)(ii)(III) or the standards established by the Secretary under subsection (f);

"(C) has failed to comply with reasonable requests of the Secretary for any record, information, report, or material that the Secretary concludes is necessary to determine the continued eligibility of the facility for a certificate or continued compliance with the standards established under subsection (f);

"(D) has refused a reasonable request of the Secretary, any Federal officer or employee duly designated by the Secretary, or any State officer or employee duly designated by the State, for permission to inspect the facility or the operations and pertinent records of the facility in accordance with subsection (g);

"(E) has violated or aided and abetted in the violation of any provision of, or regulation promulgated under, this section; or

"(F) has failed to comply with a sanction imposed under subsection (h).

"(2) ACTION BEFORE A HEARING.—

"(A) IN GENERAL.—The Secretary may suspend the certificate of the facility before holding a hearing required by paragraph (1) if the Secretary makes the finding described in paragraph (1) and determines that—

"(i) the failure of a facility to comply with the standards established by the Secretary under subsection (f) presents a serious risk to human health; or

"(ii) a facility has engaged in an action described in subparagraph (D) or (E) of paragraph (1).

"(B) HEARING.—If the Secretary suspends a certificate under subparagraph (A), the Secretary shall provide an opportunity for a hearing to the owner or operator of the facility not later than 60 days from the effective date of the suspension. The suspension shall remain in effect until the decision of the Secretary made after the hearing.

"(3) INELIGIBILITY TO OWN OR OPERATE FACILITIES AFTER REVOCATION.—If the Secretary revokes the certificate of a facility on the basis of an act described in paragraph (1), no person who owned or operated the facility at the time of the act may, within 2 years of the revocation of the certificate, own or operate a facility that requires a certificate under this section.

Courts.

"(j) INJUNCTIONS.—If the Secretary determines that—

"(1) continuation of any activity related to the provision of mammography by a facility would constitute a serious risk to human health, the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin continuation of the activity; and

"(2) a facility is operating without a certificate as required by subsection (b), the Secretary may bring suit in the district court of the United States for the district in which the facility is situated to enjoin the operation of the facility.

Upon a proper showing, the district court shall grant a temporary injunction or restraining order against continuation of the activity or against operation of a facility, as the case may be, without requiring the Secretary to post a bond, pending issuance of a final order under this subsection.

"(k) JUDICIAL REVIEW.—

"(1) PETITION.—If the Secretary imposes a sanction on a facility under subsection (h) or suspends or revokes the certificate of a facility under subsection (i), the owner or operator of the facility may, not later than 60 days after the date the action of the Secretary becomes final, file a petition with the United States court of appeals for the circuit in which the facility is situated for judicial review of the action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary. As soon as practicable after receipt of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

Records.

"(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the

failure to adduce such evidence in the proceeding before the Secretary, the court may order the additional evidence (and evidence in rebuttal of the additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may determine to be proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file the modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of the original action of the Secretary with the return of the additional evidence.

"(3) JUDGMENT OF COURT.—Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set the action aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

"(l) INFORMATION.—

"(1) IN GENERAL.—Not later than October 1, 1996, and annually thereafter, the Secretary shall compile and make available to physicians and the general public information that the Secretary determines is useful in evaluating the performance of facilities, including a list of facilities—

"(A) that have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks;

"(B) that have been subject to sanctions under subsection (h), together with a statement of the reasons for the sanctions;

"(C) that have had certificates revoked or suspended under subsection (i), together with a statement of the reasons for the revocation or suspension;

"(D) against which the Secretary has taken action under subsection (j), together with a statement of the reasons for the action;

"(E) whose accreditation has been revoked, together with a statement of the reasons of the revocation;

"(F) against which a State has taken adverse action; and

"(G) that meets such other measures of performance as the Secretary may develop.

"(2) DATE.—The information to be compiled under paragraph (1) shall be information for the calendar year preceding the date the information is to be made available to the public.

"(3) EXPLANATORY INFORMATION.—The information to be compiled under paragraph (1) shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraph.

"(m) STATE LAWS.—Nothing in this section shall be construed to limit the authority of any State to enact and enforce laws relating

to the matters covered by this section that are at least as stringent as this section or the regulations issued under this section.

"(n) NATIONAL ADVISORY COMMITTEE.—

"(1) ESTABLISHMENT.—In carrying out this section, the Secretary shall establish an advisory committee to be known as the National Mammography Quality Assurance Advisory Committee (hereafter in this subsection referred to as the 'Advisory Committee').

"(2) COMPOSITION.—The Advisory Committee shall be composed of not fewer than 13, nor more than 19 individuals, who are not officers or employees of the Federal Government. The Secretary shall make appointments to the Advisory Committee from among—

"(A) physicians,

"(B) practitioners, and

"(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 4 individuals from among national breast cancer or consumer health organizations with expertise in mammography and at least 2 practicing physicians who provide mammography services.

"(3) FUNCTIONS AND DUTIES.—The Advisory Committee shall—

"(A) advise the Secretary on appropriate quality standards and regulations for mammography facilities;

"(B) advise the Secretary on appropriate standards and regulations for accreditation bodies;

"(C) advise the Secretary in the development of regulations with respect to sanctions;

"(D) assist in developing procedures for monitoring compliance with standards under subsection (f);

"(E) make recommendations and assist in the establishment of a mechanism to investigate consumer complaints;

"(F) report on new developments concerning breast imaging that should be considered in the oversight of mammography facilities;

"(G) determine whether there exists a shortage of mammography facilities in rural and health professional shortage areas and determine the effects of personnel or other requirements of subsection (f) on access to the services of such facilities in such areas;

"(H) determine whether there will exist a sufficient number of medical physicists after October 1, 1999, to assure compliance with the requirements of subsection (f)(1)(E);

"(I) determine the costs and benefits of compliance with the requirements of this section (including the requirements of regulations promulgated under this section); and

"(J) perform other activities that the Secretary may require.

Reports. The Advisory Committee shall report the findings made under subparagraphs (G) and (I) to the Secretary and the Congress no later than October 1, 1993.

"(4) MEETINGS.—The Advisory Committee shall meet not less than quarterly for the first 3 years of the program and thereafter, at least biannually.

"(5) CHAIRPERSON.—The Secretary shall appoint a chairperson of the Advisory Committee.

"(o) CONSULTATIONS.—In carrying out this section, the Secretary shall consult with appropriate Federal agencies within the Department of Health and Human Services for the purposes of developing standards, regulations, evaluations, and procedures for compliance and oversight.

"(p) BREAST CANCER SCREENING SURVEILLANCE RESEARCH GRANTS.—

"(1) RESEARCH.—

"(A) GRANTS.—The Secretary shall award grants to such entities as the Secretary may determine to be appropriate to establish surveillance systems in selected geographic areas to provide data to evaluate the functioning and effectiveness of breast cancer screening programs in the United States, including assessments of participation rates in screening mammography, diagnostic procedures, incidence of breast cancer, mode of detection (mammography screening or other methods), outcome and follow up information, and such related epidemiologic analyses that may improve early cancer detection and contribute to reduction in breast cancer mortality. Grants may be awarded for further research on breast cancer surveillance systems upon the Secretary's review of the evaluation of the program.

"(B) USE OF FUNDS.—Grants awarded under subparagraph (A) may be used—

"(i) to study—

"(I) methods to link mammography and clinical breast examination records with population-based cancer registry data;

"(II) methods to provide diagnostic outcome data, or facilitate the communication of diagnostic outcome data, to radiology facilities for purposes of evaluating patterns of mammography interpretation; and

"(III) mechanisms for limiting access and maintaining confidentiality of all stored data; and

"(ii) to conduct pilot testing of the methods and mechanisms described in subclauses (I), (II), and (III) of clause (i) on a limited basis.

"(C) GRANT APPLICATION.—To be eligible to receive funds under this paragraph, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(D) REPORT.—A recipient of a grant under this paragraph shall submit a report to the Secretary containing the results of the study and testing conducted under clauses (i) and (ii) of subparagraph (B), along with recommendations for methods of establishing a breast cancer screening surveillance system.

"(2) ESTABLISHMENT.—The Secretary shall establish a breast cancer screening surveillance system based on the recommendations contained in the report described in paragraph (1)(D).

"(3) STANDARDS AND PROCEDURES.—The Secretary shall establish standards and procedures for the operation of the breast cancer screening surveillance system, including procedures to maintain confidentiality of patient records.

"(4) INFORMATION.—The Secretary shall recruit facilities to provide to the breast cancer screening surveillance system relevant data that could help in the research of the causes, characteristics, and prevalence of, and potential treatments for, breast cancer and benign breast conditions, if the information may be disclosed under section 552 of title 5, United States Code.

"(q) STATE PROGRAM.—

"(1) IN GENERAL.—The Secretary may, upon application, authorize a State—

"(A) to carry out, subject to paragraph (2), the certification program requirements under subsections (b), (c), (d), (g)(1), (h), (i), and (j) (including the requirements under regulations promulgated pursuant to such subsections), and

"(B) to implement the standards established by the Secretary under subsection (f),

with respect to mammography facilities operating within the State.

"(2) APPROVAL.— The Secretary may approve an application under paragraph (1) if the Secretary determines that—

"(A) the State has enacted laws and issued regulations relating to mammography facilities which are the requirements of this section (including the requirements under regulations promulgated pursuant to such subsections), and

"(B) the State has provided satisfactory assurances that the State—

"(i) has the legal authority and qualified personnel necessary to enforce the requirements of and the regulations promulgated pursuant to this section (including the requirements under regulations promulgated pursuant to such subsections),

"(ii) will devote adequate funds to the administration and enforcement of such requirements, and

"(iii) will provide the Secretary with such information and reports as the Secretary may require.

"(3) AUTHORITY OF SECRETARY.—In a State with an approved application—

"(A) the Secretary shall carry out the Secretary's functions under subsections (e) and (f);

"(B) the Secretary may take action under subsections (h), (i), and (j); and

"(C) the Secretary shall conduct oversight functions under subsections (g)(2) and (g)(3).

"(4) WITHDRAWAL OF APPROVAL.—

"(A) IN GENERAL.—The Secretary may, after providing notice and opportunity for corrective action, withdraw the approval of a State's authority under paragraph (1) if the Secretary determines that the State does not meet the requirements of such paragraph. The Secretary shall promulgate regulations for the implementation of this subparagraph.

Regulations.

"(B) EFFECT OF WITHDRAWAL.—If the Secretary withdraws the approval of a State under subparagraph (A),

the certificate of any facility accredited by the State shall continue in effect until the expiration of a reasonable period, as determined by the Secretary, for such facility to obtain certification by the Secretary.

"(r) FUNDING.—

"(1) FEES.—

"(A) IN GENERAL.—The Secretary shall, in accordance with this paragraph assess and collect fees from persons described in subsection (d)(1)(A) (other than persons who are governmental entities, as determined by the Secretary) to cover the costs of inspections conducted under subsection (g)(1) by the Secretary or a State acting under a delegation under subparagraph (A) of such subsection. Fees may be assessed and collected under this paragraph only in such manner as would result in an aggregate amount of fees collected during any fiscal year which equals the aggregate amount of costs for such fiscal year for inspections of facilities of such persons under subsection (g)(1). A person's liability for fees shall be reasonably based on the proportion of the inspection costs which relate to such person.

"(B) DEPOSIT AND APPROPRIATIONS.—

"(i) DEPOSIT AND AVAILABILITY.—Fees collected under subparagraph (A) shall be deposited as an offsetting collection to the appropriations for the Department of Health and Human Services as provided in appropriation Acts and shall remain available without fiscal year limitation.

"(ii) APPROPRIATIONS.—Fees collected under subparagraph (A) shall be collected and available only to the extent provided in advance in appropriation Acts.

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

"(A) to award research grants under subsection (q), such sums as may be necessary for each of the fiscal years 1993 through 1997; and

"(B) for the Secretary to carry out other activities which are not supported by fees authorized and collected under paragraph (1), such sums as may be necessary for fiscal year 1993 through 1997.".

SEC. 3. STUDY.

42 USC 263b note.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of the certification program authorized by the amendment made by section 2 to determine—

(1) if the program has resulted in the improvement of the quality and accessibility of mammography services, and

(2) if the program has reduced the frequency of poor quality mammography and improved the early detection of breast cancer.

(b) REPORTS.—Not later than 3 years from the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives an interim report of the results of the study under subsection (a). Not later than 5 years from such date the Comptroller General shall submit a final report on such study to such Committees.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.R. 6182:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-540
102d Congress

Joint Resolution

Acknowledging the sacrifices that military families have made on behalf of the Nation and designating November 23, 1992, as "National Military Families Recognition Day".

Oct. 27, 1992
[H.J. Res. 503]

Whereas the Congress recognizes and supports the Department of Defense policies to recruit, train, equip, retain, and field a military force that is capable of preserving peace and protecting the vital interests of the United States and its allies;

Whereas military families shoulder the responsibility of providing emotional support for their service members;

Whereas, in times of war and military action, military families have demonstrated their patriotism through their steadfast support and commitment to the Nation;

Whereas the emotional and mental readiness of the United States military personnel around the world is tied to the well-being and satisfaction of their families;

Whereas the quality of life that the Armed Forces provide to military families is a key factor in the retention of military personnel;

Whereas the people of the United States are truly indebted to military families for facing adversities, including extended separations from their service members, frequent household moves due to reassignments, and restrictions on their employment and educational opportunities;

Whereas 72 percent of officers and 54 percent of enlisted personnel in the Armed Forces are married;

Whereas families of active duty military personnel (including individuals other than spouses or children) account for more than 2,815,000 of the more than 4,880,000 individuals in the active duty community, and spouses and children of members of the Reserves in paid status account for more than 1,320,000 of the more than 2,470,000 individuals in the Reserves community;

Whereas spouses, children, and other dependents living abroad with members of the Armed Forces total nearly 450,000 and these family members at times face feelings of cultural isolation and financial hardship;

Whereas the significantly reduced global military tensions after the end of the Cold war have led to a down-sizing of the national defense and a refocusing of national priorities to strengthening the American economy and competitiveness in the global marketplace;

Whereas the Congress is grateful for such sacrifices and is committed to assisting the service members and their families who undergo the transition from active duty to civilian life; and

Whereas military families are devoted to the overall mission of the Department of Defense and have accepted the role of the United States as the military leader and protector of the free world: Now, therefore, be it

69-139 O - 92 (540)

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress acknowledges and appreciates the commitment and devotion of present and former military families and the sacrifices that such families have made on behalf of the Nation; and

(2) November 23, 1992, is designated as "National Military Families Recognition Day". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Approved October 27, 1992.

LEGISLATIVE HISTORY—H.J. Res. 503 (S.J. Res. 328):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-541
102d Congress

An Act

To expand the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia.

Oct. 27, 1992
[S. 225]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDING.

16 USC 425k note.

Congress finds that the land area near Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park, Virginia, located south and west of the intersection of the Orange Plank Road and Brock Road in Spotsylvania County was strategically significant ground associated with the battle of the Civil War known as the Battle of the Wilderness, and that the tract of land adjacent to such area known as "Longstreet's Flank Attack" was also strategically significant to that battle.

SEC. 2. ADDITION TO WILDERNESS BATTLEFIELD.

(a) Section (2) of Public Law 101-214 (16 U.S.C. 425k(a)) is amended—

(1) by striking "326-40072E/89,"; and

(2) by striking "1989." and inserting in lieu thereof "1989, and the map entitled 'Fredericksburg and Spotsylvania National Military Park,' numbered 326-40072E/89/A and dated September 1990.": *Provided,* That this subsection shall not be effective until the lands included within the proposed new boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this Act have been donated to the Secretary of the Interior.

16 USC 425k note.

(b) Lands included within the boundaries of the Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park pursuant to this section may be acquired only by donation.

16 USC 425k note.

SEC. 3. ADDITION TO APPOMATTOX COURT HOUSE NATIONAL HISTORICAL PARK.

(a) Section 308(a) of Public Law 94-578 (16 U.S.C. 450e-1(a)) is amended by striking "numbered 340-20,000A, and dated September 1976," and inserting in lieu thereof, "numbered 340/80,015 and dated June 1992,": *Provided,* That this subsection shall not be effective until the lands included within the proposed new boundaries of the Appomattox Court House National Historical Park pursuant to this Act have been donated to the Secretary of the Interior.

16 USC 450e-1 note.

16 USC 450e-1 note.

(b) Lands included within the boundaries of the Appomattox Court House National Historical Park pursuant to this section may be acquired only by donation.

Approved October 27, 1992.

LEGISLATIVE HISTORY—S. 225:

SENATE REPORTS: No. 102-335 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 29, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 102-542
102d Congress

An Act

To amend certain trademark laws to clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of trademarks, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity.

Oct. 27, 1992
[S. 759]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Trademark Remedy Clarification Act. 15 USC 1051 note.

This Act may be cited as the "Trademark Remedy Clarification Act".

SEC. 2. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.

(a) LIABILITY AND REMEDIES.—Section 32(1) of the Act (15 U.S.C. 1114(1)) is amended by adding at the end thereof the following:

"As used in this subsection, the term 'any person' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS.—The Act is amended by inserting after section 39 (15 U.S.C. 1121) the following new section:

"SEC. 40. (a) Any State, instrumentality of a State or any officer or employee of a State or instrumentality of a State acting in his or her official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity for any violation under this Act. 15 USC 1122.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any person other than a State, instrumentality of a State, or officer

or employee of a State or instrumentality of a State acting in his or her official capacity. Such remedies include injunctive relief under section 34, actual damages, profits, costs and attorney's fees under section 35, destruction of infringing articles under section 36, the remedies provided for under sections 32, 37, 38, 42 and 43, and for any other remedies provided under this Act.".

(c) FALSE DESIGNATION OF ORIGIN AND FALSE DESCRIPTIONS FORBIDDEN.—Section 43(a) of the Act (15 U.S.C. 1125(a)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after "(a)"; and

(3) by adding at the end thereof:

"(2) As used in this subsection, the term 'any person' includes any State, instrumentality of a State or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(d) DEFINITION.—Section 45 of the Act (15 U.S.C. 1127) is amended by inserting after the fourth undesignated paragraph the following:

"The term 'person' also includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his or her official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

15 USC 1114 note.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Approved October 27, 1992.

LEGISLATIVE HISTORY—S. 759:

SENATE REPORTS: No. 102-280 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 12, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 102-543
102d Congress

An Act

To establish the Keweenaw National Historical Park, and for other purposes.

Oct. 27, 1992
[S. 1664]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Michigan.
Conservation.
16 USC 410yy.

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) The oldest and largest lava flow known on Earth is located on the Keweenaw Peninsula of Michigan. This volcanic activity produced the only place on Earth where large scale economically recoverable 97 percent pure native copper is found.

(2) The Keweenaw Peninsula is the only site in the country where prehistoric, aboriginal mining of copper occurred. Artifacts made from this copper by these ancient Indians were traded as far south as present day Alabama.

(3) Copper mining on the Keweenaw Peninsula pioneered deep shaft, hard rock mining, milling, and smelting techniques and advancements in related mining technologies later used throughout the world.

(4) Michigan Technological University, located in the copper district, was established in 1885 to supply the great demand for new technologies and trained engineers requested by the area's mining operations. Michigan Technological University possesses a wealth of both written and photographic historic documentation of the mining era in its archives.

(5) Michigan's copper country became a principal magnet to European immigrants during the mid-1800's and the cultural heritage of these varied nationalities is still preserved in this remarkable ethnic conglomerate.

(6) The corporate-sponsored community planning in Calumet, Michigan, as evidenced in the architecture, municipal design, surnames, foods, and traditions, and the large scale corporate paternalism was unprecedented in American industry and continues to express the heritage of the district.

(7) The entire picture of copper mining on Michigan's Keweenaw Peninsula is best represented by three components: the Village of Calumet, the former Calumet and Hecla Mining Company properties (including the Osceola #13 mine complex), and the former Quincy Mining Company properties. The Village of Calumet best represents the social, ethnic, and commercial themes. Extant Calumet and Hecla buildings best depict corporate paternalism and power, and the themes of extraction and processing are best represented by extant structures of the Quincy Mining Company.

(8) The Secretary of the Interior has designated two National Historic Landmark Districts in the proposed park area, the Calumet National Historic Landmark District and the Quincy Mining Company National Historic Landmark District.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve the nationally significant historical and cultural sites, structures, and districts of a portion of the Keweenaw Peninsula in the State of Michigan for the education, benefit, and inspiration of present and future generations; and

(2) to interpret the historic synergism between the geological, aboriginal, sociological, cultural technological, and corporate forces that relate the story of copper on the Keweenaw Peninsula.

16 USC 410yy-1.

SEC. 2. DEFINITIONS.

As used in this Act, the term—

(1) "Commission" means the Keweenaw Historic Preservation Advisory Commission established by section 9.

(2) "park" means the Keweenaw National Historical Park established by section 3(a)(1).

(3) "Secretary" means the Secretary of the Interior.

16 USC 410yy-2.

SEC. 3. ESTABLISHMENT AND ADMINISTRATION OF PARK.

(a) ESTABLISHMENT AND ADMINISTRATION.—(1) There is hereby established as a unit of the National Park System the Keweenaw National Historical Park in and near Calumet and Hancock, Michigan.

(2) The Secretary shall administer the park in accordance with the provisions of this Act, and the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1, 2–4), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 et seq.).

(b) BOUNDARIES AND MAP.—(1) The boundaries of the park shall be as generally depicted on the map entitled "Keweenaw National Historical Park, Michigan", numbered NHP–KP/20012–B and dated June, 1992. Such map shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior, Washington, District of Columbia, and the office of the village council, Calumet, Michigan.

Federal Register, publication.

(2) Within 180 days after the date of enactment of this Act, the Secretary shall publish in the Federal Register a detailed description and map of the boundaries established under paragraph (a)(1).

16 USC 410yy-3.

SEC. 4. ACQUISITION OF PROPERTY.

(a) IN GENERAL.—Subject to subsections (b) and (c), the Secretary is authorized to acquire lands, or interests therein, within the boundaries of the park by donation, purchase with donated or appropriated funds, exchange, or transfer.

(b) STATE PROPERTY.—Property owned by the State of Michigan or any political subdivision of the State may be acquired only by donation.

(c) CONSENT.—No lands or interests therein within the boundaries of the park may be acquired without the consent of the owner, unless the Secretary determines that the land is being developed, or is proposed to be developed in a manner which is detrimental to the natural, scenic, historic, and other values for which the park is established.

(d) HAZARDOUS SUBSTANCES.—The Secretary shall not acquire any lands pursuant to this Act if the Secretary determines that such lands, or any portion thereof, have become contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)).

SEC. 5. COOPERATION BY FEDERAL AGENCIES. 16 USC 410yy-4.

(a) Any Federal entity conducting or supporting activities directly affecting the park shall—

(1) consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary and the Commission;

(2) conduct or support such activities in a manner that—

(A) to the maximum extent practicable, is consistent with the standards and criteria established pursuant to the general management plan developed pursuant to section 6; and

(B) will not have an adverse effect on the resources of the park; and

(3) provide for full public participation in order to consider the views of all interested parties.

SEC. 6. GENERAL MANAGEMENT PLAN. 16 USC 410yy-5.

Not later than 3 fiscal years after the date of enactment of this Act, the Secretary shall prepare, in consultation with the Commission, and submit to Congress a general management plan for the park containing the information described in section 12(b) of the Act of August 18, 1970 (16 U.S.C. 1a–7(b)). Such plan shall interpret the technological and social history of the area, and the industrial complexes of the Calumet and Hecla, and Quincy Mining Companies, with equal emphasis.

SEC. 7. COOPERATIVE AGREEMENTS. 16 USC 410yy-6.

The Secretary, after consultation with the Commission, may enter into cooperative agreements with owners of property within the park of nationally significant historic or other cultural resources in order to provide for interpretive exhibits or programs. Such agreements shall provide, whenever appropriate, that—

(1) the public may have access to such property at specified, reasonable times for purposes of viewing such property or exhibits, or attending the programs established by the Secretary under this subsection; and

(2) the Secretary, with the agreement of the property owner, may make such minor improvements to such property as the Secretary deems necessary to enhance the public use and enjoyment of such property, exhibits, and programs.

SEC. 8. FINANCIAL AND TECHNICAL ASSISTANCE. 16 USC 410yy-7.

(a) IN GENERAL.—The Secretary may provide to any owner of property within the park containing nationally significant historic or cultural resources, in accordance with cooperative agreements or grant agreements, as appropriate, such financial and technical assistance to mark, interpret, and restore non-Federal properties within the park as the Secretary determines appropriate to carry out the purposes of this Act, provided that—

(1) the Secretary, acting through the National Park Service, shall have right of access at reasonable times to public portions of the property covered by such agreement for the purpose

of conducting visitors through such properties and interpreting them to the public; and

(2) no changes or alterations shall be made in such properties except by mutual agreement between the Secretary and the other parties to the agreements.

(b) MATCHING FUNDS.—Funds authorized to be appropriated to the Secretary for the purposes of this section shall be expended in the ratio of $1 of Federal funds for each $4 of funds contributed by non-Federal sources. For the purposes of this subsection, the Secretary is authorized to accept from non-Federal sources, and to utilize for purposes of this Act, any money so contributed. Donations of land, or interests in land, by the State of Michigan may be considered as a contribution from non-Federal sources for the purposes of this subsection.

16 USC 410yy-8.

SEC. 9. KEWEENAW NATIONAL HISTORICAL PARK ADVISORY COMMISSION.

(a) ESTABLISHMENT AND DUTIES.—There is established the Keweenaw National Historical Park Advisory Commission. The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 6;

(2) advise the Secretary on the development of and priorities for implementing standards and criteria by which the Secretary, pursuant to agreements referred to in sections 7 and 8, will provide financial as well as technical assistance to owners of non-Federal properties within the park;

(3) advise the Secretary on the development of rules governing the disbursal of funds for the development of non-Federal properties;

(4) advise the Secretary with respect to the selection of sites for interpretation and preservation by means of cooperative agreements pursuant to section 7;

(5) assist the Secretary in developing policies and programs for the conservation and protection of the scenic, historical, cultural, natural and technological values of the park which would complement the purposes of this Act;

(6) assist the Secretary in coordinating with local governments and the State of Michigan the implementation of the general management plan, and furthering the purposes of this Act;

(7) be authorized to carry out historical, educational, or cultural programs which encourage or enhance appreciation of the historic resources in the park, surrounding areas, and on the Keweenaw Peninsula; and

(8) be authorized to seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source, consistent with the purposes of this Act and the park management.

(b)(1) The Commission may acquire real property, or interests in real property, to further the purposes of the Act by gift or devise; or, by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, to further the purposes of this Act.

(2) For the purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.

(3) Any real property or interest in real property acquired by the Commission shall be conveyed by the Commission to the National Park Service or the appropriate public agency as soon as possible after such acquisition, without consideration, and on the condition that the real property or interest in real property so conveyed is used for public purposes. Real property.

(4) The value of funds or property, or interests in property, conveyed to the National Park Service by the Commission may be considered as non-Federal, at the Commission's discretion.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of seven members appointed by the Secretary, of whom—

(A) two members shall be appointed from nominees submitted by the Calumet Village Council and the Calumet Township Board;

(B) one member shall be appointed from nominees submitted by the Quincy Township Board and the Franklin Township Board;

(C) one member shall be appointed from nominees submitted by the Houghton County Board of Commissioners;

(D) one member shall be appointed from nominees submitted by the Governor of the State of Michigan; and,

(E) two members who are qualified to serve on the Commission because of their familiarity with National Parks and historic preservation.

(2) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members to serve a term of 3 years.

(3) VACANCIES.—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) TERMS OF SERVICE.—

(A) IN GENERAL.—Each member shall be appointed for a term of 3 years and may be reappointed not more than three times.

(B) INITIAL MEMBERS.—Of the members first appointed under subsection (b)(1), the Secretary shall appoint—

(i) two members for a term of 1 year;

(ii) two members for a term of 2 years; and

(iii) three members for a term of 3 years.

(5) EXTENDED SERVICE.—A member may serve after the expiration of that member's term until a successor has taken office.

(6) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(7) QUORUM.—Five members shall constitute a quorum.

(d) COMPENSATION.—Members shall serve without pay. Members who are full-time officers or employees of the United States, the State of Michigan, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Commis-

sion, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(g) STAFF.—The Commission may appoint and fix the pay of such personnel as the Commission deems desirable. The Secretary may provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties, on a cost reimbursable basis. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this section. The Secretary may accept the services of personnel detailed from the State of Michigan or any political subdivision of the State and reimburse the State or such political subdivision for such services. The Commission may procure additional temporary and intermittent services under section 3109(b) of title 5 of the United States Code, with funds obtained under section 9(a)(6), or as provided by the Secretary.

(h) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

16 USC 410yy-9.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) Except as provided in subsection (b), there are authorized to be appropriated such sums as may be necessary to carry out this Act, but not to exceed $5,000,000 for the acquisition of lands and interests therein, $25,000,000 for development, and $3,000,000 for financial and technical assistance to owners of non-Federal property as provided in section 8.

(b) There are authorized to be appropriated annually to the Commission to carry out its duties under this Act, $100,000 except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

Approved October 27, 1992.

LEGISLATIVE HISTORY—S. 1664:

SENATE REPORTS: No. 102-480 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 1, considered and passed Senate.
Oct. 5, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-544
102d Congress

An Act

Oct. 27, 1992
[S. 2964]

Granting the consent of the Congress to a supplemental compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey concerning the Delaware River Port Authority.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress consents to a supplemental compact or agreement between The Commonwealth of Pennsylvania and the State of New Jersey amending articles I, II, III, IV, XII, and XIII of the compact or agreement between the Commonwealth of Pennsylvania and the State of New Jersey entitled "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties". The supplemental compact or agreement is substantially as follows:

(1) Article I of the "Agreement Between The Commonwealth of Pennsylvania and The State of New Jersey creating the Delaware River Joint Commission as a body corporate and politic and defining its powers and duties", as amended and supplemented, is amended to read as follows:

"The body corporate and politic, heretofore created and known as the Delaware River Joint Commission hereby is continued under the name of the Delaware River Port Authority (hereinafter in this agreement called the 'commission'), which shall constitute the public corporate instrumentality of the Commonwealth of Pennsylvania and the State of New Jersey for the following public purposes, and which shall be deemed to be exercising an essential governmental function in effectuating such purposes, to wit:

"(a) The operation and maintenance of the bridge, owned jointly by the 2 States, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, including its approaches, and the making of additions and improvements thereto.

"(b) The effectuation, establishment, construction, acquisition, operation, and maintenance of railroad or other facilities for the transportation of passengers across any bridge or tunnel owned or controlled by the commission, including extensions of such railroad or other facilities necessary for efficient operation in the Port District.

"(c) The improvement and development of the Port District for port purposes by or through the acquisition, construction, maintenance, or operation of any and all projects for the improvement and development of the Port District for port purposes, or directly related thereto, either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation or in any other manner.

"(d) Co-operation with all other bodies interested or concerned with, or affected by the promotion, development or use of the Delaware River and the Port District.

"(e) The procurement from the Government of the United States of any consents which may be requisite to enable any project within its powers to be carried forward.

"(f) The construction, acquisition, operation and maintenance of other bridges and tunnels across or under the Delaware River, between the city of Philadelphia or the county of Delaware in the Commonwealth of Pennsylvania and the State of New Jersey, including approaches and the making of additions and improvements thereto.

"(g) The promotion as a highway of commerce of the Delaware River, and the promotion of increased passenger and freight commerce on the Delaware River and for such purpose the publication of literature and the adoption of any other means as may be deemed appropriate.

"(h) To study and make recommendations to the proper authorities for the improvement of terminal, lighterage, wharfage, warehouse and other facilities necessary for the promotion of commerce on the Delaware River.

"(i) Institution through its counsel, or such other counsel as it shall designate, or intervention in, any litigation involving rates, preferences, rebates, or other matters vital to the interest of the Port District; provided, that notice of any such institution of or intervention in litigation shall be given promptly to the Attorney General of the Commonwealth of Pennsylvania and to the Attorney General of the State of New Jersey, and provision for such notices shall be made in a resolution authorizing any such intervention or litigation and shall be incorporated in the minutes of the commission.

"(j) The establishment, maintenance, rehabilitation, construction and operation of a rapid transit system for the transportation of passengers, express mail, and baggage, or any of them, between points in New Jersey within the Port District and points in Pennsylvania within the Port District, and intermediate points. Such system may be established either by utilizing existing rapid transit systems, railroad facilities, highways, and bridges within the territory involved or by the construction or provision of new rail facilities where deemed necessary, and may be established either directly by purchase, lease, or contract, or by lease or agreement with any other public or private body or corporation, or in any other manner.

"(k) The performance of such other functions which may be of mutual benefit to the Commonwealth of Pennsylvania and the State of New Jersey insofar as concerns the promotion and development of the Port District for port purposes and the use of its facilities by commercial vessels.

"(l) The performance or effectuation of such additional bridge, tunnel, railroad, rapid transit, transportation, transportation facility, terminal, terminal facility, and port improvement and development purposes within the Port District as may hereafter be delegated to or imposed upon it by the action of either State concurred in by legislation of the other.

"(m) The unification of the ports of the Delaware River through (i) the acquisition or taking control of any terminal, terminal facility, transportation facility or marine terminal or port facility or associated property within the Port District through purchase, lease, or otherwise, or by the acquisition, merger, becoming the successor to or entering into contracts, agreements, or partnerships with

any other port corporation, port authority, or port related entity which is located within the Port District, all in accordance with the applicable laws of the State in which the facility, corporation, or authority is located; (ii) the exercise of the other powers granted by this compact; or (iii) the establishment (whether solely or jointly with any other entity or entities) of such subsidiary corporation or corporations or maritime or port advisory committees as may be necessary or desirable to effectuate this purpose.

"(n) The planning, financing, development, acquisition, construction, purchase, lease, maintenance, marketing, improvement and operation of any project, including but not limited to any terminal, terminal facility, transportation facility, or any other facility of commerce or economic development activity; from funds available after appropriate allocation for maintenance of bridge and other capital facilities.".

(2) Article II of the agreement is amended to read as follows:

"The commission shall consist of sixteen commissioners, eight resident voters of the Commonwealth of Pennsylvania and eight resident voters of the State of New Jersey, who shall serve without compensation.

"The commissioners for the State of New Jersey shall be appointed by the Governor of New Jersey with the advice and consent of the Senate of New Jersey, for terms of five years, and in case of a vacancy occurring in the office of commissioner during a recess of the Legislature, it may be filled by the Governor by an ad interim appointment which shall expire at the end of the next regular session of the Senate unless a successor shall be sooner appointed and qualify and, after the end of the session, no ad interim appointment to the same vacancy shall be made unless the Governor shall have submitted to the Senate a nomination to the office during the session and the Senate shall have adjourned without confirming or rejecting it, and no person nominated for any such vacancy shall be eligible for an ad interim appointment to such office if the nomination shall have failed of confirmation by the Senate.

"Six of the eight commissioners for the Commonwealth of Pennsylvania shall be appointed by the Governor of Pennsylvania for terms of five years. The Auditor General and the State Treasurer of said Commonwealth shall be ex officio commissioners for said Commonwealth, each having the privilege of appointing a representative to serve in his place at a meeting of the commission which he does not attend personally. Any commissioner who is an elected public official shall have the privilege of appointing a representative to serve and act in his place at any meeting of the commission which he does not attend personally.

"All commissioners shall continue to hold office after the expiration of the terms for which they are appointed or elected until their respective successors are appointed and qualify, but a period during which any commissioner shall hold over shall be deemed to be an extension of his term of office for the purpose of computing the date on which his successor's term expires.".

(3) Article III of the agreement is amended to read as follows:

"The commissioners shall have charge of the commission's property and affairs and shall for the purpose of doing business constitute a board, but no action of the commissioners shall be binding unless a majority of the members of the commission from Pennsylva-

nia and a majority of the members of the commission from New Jersey shall vote in favor thereof.

"Notwithstanding the above, each State reserves the right to provide by law for the exercise of a veto power by the Governor of that State over any action of any commissioner from that State at any time within 10 days (Saturdays, Sundays, and public holidays in the particular State excepted) after receipt at the Governor's office of a certified copy of the minutes of the meeting at which such vote was taken. Each State may provide by law for the manner of delivery of such minutes, and for notification of the action thereon.".

(4) Article IV of the agreement is amended to read as follows:

"For the effectuation of its authorized purposes the commission is hereby granted the following powers:

"(a) To have perpetual succession.

"(b) To sue and be sued.

"(c) To adopt and use an official seal.

"(d) To elect a chairman, vice-chairman, secretary, and treasurer, and to adopt suitable bylaws for the management of its affairs. The secretary and treasurer need not be members of the commission.

"(e) To appoint, hire, or employ counsel and such other officers and such agents and employees as it may require for the performance of its duties, by contract or otherwise, and fix and determine their qualifications, duties, and compensation.

"(f) To enter into contracts.

"(g) To acquire, own, hire, use, operate, and dispose of personal property.

"(h) To acquire, own, use, lease, operate, mortgage, and dispose of real property and interests in real property, and to make improvements thereon.

"(i) To grant by franchise, lease, or otherwise, the use of any property or facility owned or controlled by the commission and to make charges therefor.

"(j) To borrow money upon its bonds or other obligations, either with or without security, and to make, enter into, and perform any and all such covenants and agreements with the holders of such bonds or other obligations as the commission may determine to be necessary or desirable for the security and payment thereof, including without limitation of the foregoing, covenants and agreements as to the management and operation of any property or facility owned or controlled by it, the tolls, rents, rates, or other charges to be established, levied, made, and collected for any use of any such property or facility, or the application, use, and disposition of the proceeds of any bonds or other obligations of the commission or the proceeds of any such tolls, rents, rates, or other charges or any other revenues or moneys of the commission.

"(k) To exercise the right of eminent domain within the Port District.

"(l) To determine the exact location, system, and character of and all other matters in connection with any and all improvements or facilities which it may be authorized to own, construct, establish, effectuate, operate, or control.

"(m) In addition to the foregoing, to exercise the powers, duties, authority, and jurisdiction heretofore conferred and

imposed upon the aforesaid the Delaware River Joint Commission by the Commonwealth of Pennsylvania or the State of New Jersey, or both of the said 2 States.

"(n) To exercise all other powers not inconsistent with the constitutions of the 2 States or of the United States, which may be reasonably necessary or incidental to the effectuation of its authorized purposes or to the exercise of any of the foregoing powers, except the power to levy taxes or assessments, and generally to exercise in connection with its property and affairs, and in connection with property within its control, any and all powers which might be exercised by a natural person or a private corporation in connection with similar property and affairs.

"(o) To acquire, purchase, construct, lease, operate, maintain, and undertake any project, including any terminal, terminal facility, transportation facility, or any other facility of commerce and to make charges for the use thereof.

"(p) To make expenditures anywhere in the United States and foreign countries, to pay commissions, and hire or contract with experts or consultants, and otherwise to do indirectly anything which the commission may do directly.

"(q) To establish 1 or more operating divisions as deemed necessary to exercise the power and effectuate the purposes of this agreement.

"The commission shall also have such additional powers as may hereafter be delegated to or imposed upon it from time to time by the action of either State concurred in by legislation of the other.

"It is the policy and intent of the Legislature of the Commonwealth of Pennsylvania and the State of New Jersey that the powers granted by this article shall be so exercised that the American system of free competitive private enterprise is given full consideration and is maintained and furthered. In making its reports and recommendations to the Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey on the need for any facility or project which the commission believes should be undertaken for the promotion and development of the Port District, the commission shall include therein its findings which fully set forth that the facility or facilities operated by private enterprise within the Port District and which it is intended shall be supplanted or added to are not adequate.".

(5) Article XII of the agreement is amended to read as follows:

Reports.

"The Commission shall, within 90 days after the end of each fiscal year, submit to the Governors and Legislatures of the Commonwealth of Pennsylvania and the State of New Jersey a complete and detailed report of the following:

"(1) its operations and accomplishments during the completed fiscal year;

"(2) its receipts and disbursements or revenues and expenses during that year in accordance with the categories and classifications established by the commission for its own operating and capital outlay purposes;

"(3) its assets and liabilities at the end of the fiscal year, including the status of reserve, depreciation, special or other funds including debits and credits of these funds;

"(4) a schedule of bonds and notes outstanding at the end of the fiscal year;

"(5) a list of all contracts exceeding $100,000 entered into during the fiscal year;

"(6) a business or strategic plan for the commission and for each of its operating divisions; and

"(7) a five year capital plan.

"Not less than once every five years, the commission shall cause a management audit of its operational effectiveness and efficiency to be conducted by an independent consulting firm selected by the commission. The first management audit to be conducted shall commence within 3 years of the date of coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act. This audit is in addition to any other audit which the commission determines to conduct from time to time.

"The commission shall, not later than 2 years after the date of the coming into force of the supplemental compact or agreement authorized by this 1991 amendatory act, prepare a comprehensive master plan for the development of the Port District. The plan shall include, but not be limited to, plans for the construction, financing, development, reconstruction, purchase, lease, improvement, and operation of any terminal, terminal facility, transportation facility or any other facility of commerce or economic development activity. The master plan shall include the general location of such projects and facilities as may be included in the master plan and shall to the maximum extent practicable include, but not be limited to, a general description of each such project and facility, the land use requirements necessary therefor, and estimates of project costs and of a schedule for commencement of each such project. Prior to adopting such master plan, the commission shall give written notice to, afford a reasonable opportunity for comment, consult with and consider any recommendations from States, county and municipal government, as well as commissions, public corporations and authorities, and the private sector. The commission may modify or change any part of the plan in the same form and manner as provided for the adoption of the original plan. At the time the commission authorizes any project or facility, the commission shall promptly provide to the Governor and Legislature of each State a detailed report on the project including its status within the master plan. The commission shall include within the authorization a status of the project or facility in the master plan and any amendment thereof, and no project shall be authorized if not included in the master plan or amendment thereof. Any project which has been commenced and approved by the commission prior to the adoption of the master plan shall be included, for informational purposes only, in the master plan. The commission shall provide notice of such on-going projects to those States, county and municipal governments, as well as entities in the private sector who would be entitled to such notice had the project not been commenced in anticipation of adopting the master plan, but there shall be no requirement that the project be delayed or deferred due to these provisions.

"In addition to other powers conferred upon it, and not in limitation thereof, the commission may acquire all right, title and interest in and to the Tacony-Palmyra bridge, across the Delaware River at Palmyra, New Jersey, together with any approaches and interests in real property necessary thereto. The acquisition of such bridge, approaches and interests by the commission shall be by purchase or by condemnation in accordance with the provi-

sions of the Federal law consenting to or authorizing the construction of such bridge or approaches, or the acquisition of such bridge, approaches or interests by the commission shall be pursuant to and in accordance with the provisions of section 48:5–22 and 48:5–23 of the Revised Statutes of New Jersey, and for all the purposes of said provisions and sections the commission is hereby appointed as the agency of the State of New Jersey and the Commonwealth of Pennsylvania exercising the rights and powers granted or reserved by said Federal law or sections to the State of New Jersey and Commonwealth of Pennsylvania jointly or to the State of New Jersey acting in conjunction with the Commonwealth of Pennsylvania. The commission shall have authority to so acquire such bridge, approaches and interests, whether the same be owned, held, operated or maintained by any private person, firm, partnership, company, association or corporation or by any instrumentality, public body, commission, public agency or political subdivision (including any county or municipality) of, or created by or in, the State of New Jersey or the Commonwealth of Pennsylvania, or by any instrumentality, public body, commission, or public agency of, or created by or in, a political subdivision (including any county or municipality) of the State of New Jersey or the Commonwealth of Pennsylvania. None of the provisions of the preceding paragraph shall be applicable with respect to the acquisition by the commission, pursuant to this paragraph, of said Tacony-Palmyra bridge, approaches and interests. The power and authority herein granted to the commission to acquire said Tacony-Palmyra bridge, approaches and interests shall not be exercised unless and until the Governor of the State of New Jersey and the Governor of the Commonwealth of Pennsylvania have filed with the commission their written consents to such acquisition.

"Notwithstanding any provision of this agreement, nothing herein contained shall be construed to limit or impair any right or power granted or to be granted to the Pennsylvania Turnpike Commission or the New Jersey Turnpike Authority, to finance, construct, operate, and maintain the Pennsylvania Turnpike System or any turnpike project of the New Jersey Turnpike Authority, respectively, throughout the Port District, including the right and power, acting alone or in conjunction with each other, to provide for the financing, construction, operation, and maintenance of one bridge across the Delaware River south of the city of Trenton in the State of New Jersey; provided that such bridge shall not be constructed within a distance of 10 miles, measured along the boundary line between the Commonwealth of Pennsylvania and the State of New Jersey, from the existing bridge, operated and maintained by the commission, across the Delaware River between the city of Philadelphia in the Commonwealth of Pennsylvania and the city of Camden in the State of New Jersey, so long as there are any outstanding bonds or other securities or obligations of the commission for which the tolls, rents, rates, or other revenues, or any part thereof, of said existing bridge shall have been pledged. Nothing contained in this agreement shall be construed to authorize the commission to condemn any such bridge.

"Anything herein contained to the contrary notwithstanding, no bridge or tunnel shall be constructed, acquired, operated, or maintained by the commission across or under the Delaware River north of the boundary line between Bucks County and Philadelphia county in the Commonwealth of Pennsylvania as extended across

the Delaware River to the New Jersey shore of said river, and any new bridge or tunnel authorized by or pursuant to this compact or agreement to be constructed or erected by the commission may be constructed or erected at any location south of said boundary line notwithstanding the terms and provisions of any other agreement between the Commonwealth of Pennsylvania and the State of New Jersey. Except as may hereafter be otherwise provided in conformity with Article IX hereof with respect to specific properties designated by action of the Legislatures of both of the signatory States, no property or facility owned or controlled by the commission shall be acquired from it by any exercise of powers of condemnation or eminent domain.".

(6) Article XIII of the agreement is amended to read as follows:

"As used herein, unless a different meaning clearly appears from the context:

" 'Port District' shall mean all the territory within the counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia in Pennsylvania, and all the territory within the counties of Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem in New Jersey.

" 'Commission' shall mean the Delaware River Port Authority and, when required by the context, the board constituting the governing body thereof in charge of its property and affairs.

" 'Commissioner' shall mean a member of the governing body of the Delaware River Port Authority.

" 'Economic development activity' or 'economic development' means any structure or facility or any development within the Port District in connection with manufacturing, port-oriented development, foreign trade zone site development or research, commercial, industrial, or recreational purposes, or for purposes of warehousing or consumer and supporting services directly relating to any of the foregoing or to any authority project or facility which are required for the sound economic development of the Port District.

" 'Terminal' shall include any marine, motor truck, motorbus, railroad, and air terminal or garage, also any coal, grain, and lumber terminal and any union freight and other terminals used or to be used in connection with the transportation of passengers and freight, and equipment, materials, and supplies therefor.

" 'Transportation facility' and 'facilities for transportation of passengers' shall include railroads operated by steam, electricity, or other power, rapid transit lines, motor trucks, motorbuses, tunnels, bridges, airports, boats, ferries, carfloats, lighters, tugs, floating elevators, barges, scows, or harbor craft of any kind, and aircraft, and equipment, materials, and supplies therefor.

" 'Terminal facility' shall include wharves, piers, slips, berths, ferries, docks, drydocks, ship repair yards, bulkheads, dock walls, basins, carfloats, floatbridges, dredging equipment, radio receiving and sending stations, grain or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, bunker coal, oil, and fresh water stations, markets, and every kind of terminal, storage, or supply facility now in use, or hereafter designed for use to facilitate passenger transportation and for the handling, storage, loading, or unloading of freight at terminals, and equipment, materials, and supplies therefor.

" 'Transportation of passengers' and 'passenger transportation' shall mean the transportation of passengers by railroad or other facilities.

" 'Rapid transit system' shall mean a transit system for the transportation of passengers, express mail, and baggage by railroad or other facilities, and equipment, materials, and supplies therefor.

" 'Project' shall mean any improvement, betterment, facility or structure authorized by or pursuant to this compact or agreement to be constructed, erected, acquired, owned, or controlled or otherwise undertaken by the commission. 'Project' shall not include undertakings for purposes described in Article I, subdivisions (d), (e), (g), (h), and (i).

" 'Railroad' shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, powerhouses, substations, lines for the transmission of power, carbarns, shops, yards, sidings, turnouts, switches, stations, and approaches thereto, cars, and motive equipment.

" 'Bridge' and 'tunnel' shall include such approach highways and interests in real property necessary therefor in the Commonwealth of Pennsylvania or the State of New Jersey as may be determined by the commission to be necessary to facilitate the flow of traffic in the vicinity of a bridge or tunnel or to connect a bridge or tunnel with the highway system or other traffic facilities in said Commonwealth or said State; provided, however, that the power and authority herein granted to the commission to construct new or additional approach highways shall not be exercised unless and until the Department of Transportation of the Commonwealth of Pennsylvania shall have filed with the commission its written approval as to approach highways to be located in said Commonwealth and the State Highway Department of the State of New Jersey shall have filed with the commission its written approval as to approach highways to be located in said State.

" 'Facility' shall include all works, buildings, structures, property, appliances, and equipment, together with appurtenances necessary and convenient for the proper construction, equipment, maintenance, and operation of a facility or facilities or any 1 or more of them.

" 'Personal property' shall include choses in action and all other property now commonly, or legally, defined as personal property, or which may hereafter be so defined.

" 'Lease' shall include rent or hire.

" 'Municipality' shall include a county, city, borough, village, township, town, public agency, public authority, or political subdivision.

"Words importing the singular number include the plural number and vice versa.

"Wherever legislation or action by the Legislature of either signatory State is herein referred to it shall mean an act of the Legislature duly adopted in accordance with the provisions of the Constitution of such State.".

Approved October 27, 1992.

LEGISLATIVE HISTORY—S. 2964:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 12, considered and passed Senate.
Oct. 5, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 27, Presidential statement.

Public Law 102-545
102d Congress

An Act

To expand the production and distribution of educational and instructional video programming and supporting educational materials for preschool and elementary school children as a tool to improve school readiness, to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children, to expand services provided by Head Start programs, and for other purposes.

Oct. 27, 1992
[S. 3134]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Ready to Learn Act.
20 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ready to Learn Act".

20 USC 3161 note.

SEC. 2. PURPOSE.

It is the purpose of this Act to—

(1) expand the availability of educational and instructional video programming and supporting educational resources for preschool and elementary school children and their parents as a tool to improve school readiness and literacy; and

(2) to develop and distribute educational and instructional video programming and support materials for parents, child care providers, and educators of young children.

SEC. 3. READY TO LEARN PROGRAMS.

The Elementary and Secondary Education Act of 1965 is amended by adding after part F of title IV the following:

"PART G—READY TO LEARN TELEVISION

20 USC 3161.

"SEC. 4701. READY TO LEARN.

"(a) IN GENERAL.—The Secretary is authorized to enter into contracts, cooperative agreements, or grants with entities described in section 4702(b) to develop, produce, and distribute educational and instructional video programming for preschool and elementary school children and their parents in order to facilitate the achievement of the national education goals.

"(b) AVAILABILITY.—In making such contracts, cooperative agreements, or grants, the Secretary shall ensure that recipients make programming widely available with support materials as appropriate to young children, their parents, child care workers, and Head Start providers to increase the effective use of such programming.

20 USC 3161a.

"SEC. 4702. EDUCATIONAL PROGRAMMING.

Contracts.

"(a) AWARDS.—The Secretary shall award contracts, cooperative agreements, or grants to eligible entities to—

"(1) facilitate the development directly or through contracts with producers of children and family educational television programming, educational programming for preschool and elementary school children, and accompanying support mate-

rials and services that promote the effective use of such programming; and

"(2) contract with entities (such as public broadcasting entities and those funded under the Star Schools Assistance Act) in order that programs developed under this section are disseminated and distributed to the widest possible audience appropriate to be served by the programming by the most appropriate distribution technologies.

"(b) ELIGIBLE ENTITIES.—To be eligible to receive a contract, cooperative agreement, or grant under subsection (a), an entity shall be—

"(1) a nonprofit, nongovernmental entity able to demonstrate a capacity for the development and distribution of educational and instructional television programming of high quality for preschool and elementary school children; and

"(2) able to demonstrate a capacity to contract with the producers of children's television programming for the purpose of developing educational television programming of high quality for preschool and elementary school children.

"(c) CULTURAL EXPERIENCES.—Programming developed under this section shall reflect the recognition of diverse cultural experiences and the needs and experiences of both boys and girls in engaging and preparing young children for schooling.

"SEC. 4703. DUTIES OF SECRETARY. 20 USC 3161b.

"The Secretary is authorized—

"(1) to establish and administer a Special Projects of National Significance program to award contracts, cooperative agreements, or grants to public and nonprofit private entities, or local public television stations or such public television stations that are part of a consortium with one or more State educational agencies, local educational agencies, local schools, institutions of higher education, or community-based organizations of demonstrated effectiveness, for the purpose of—

"(A) addressing the learning needs of young children in limited English proficient households, and developing appropriate educational and instructional television programming to foster the school readiness of such children;

"(B) developing programming and support materials to increase family literacy skills among parents to assist parents in teaching their children and utilizing educational television programming to promote school readiness; and

"(C) identifying, supporting, and enhancing the effective use and outreach of innovative programs that promote school readiness;

"(2) to establish within the Department a clearinghouse to compile and provide information, referrals and model program materials and programming obtained or developed under this part to parents, child care providers, and other appropriate individuals or entities to assist such individuals and entities in accessing programs and projects under this part; and

"(3) to develop and disseminate training materials, including—

"(A) interactive programs and programs adaptable to distance learning technologies that are designed to enhance knowledge of children's social and cognitive skill development and positive adult-child interactions; and

"(B) support materials to promote the effective use of materials developed under paragraph (2);

among parents, Head Start providers, in-home and center based day care providers, early childhood development personnel, and elementary school teachers, public libraries, and after school program personnel caring for preschool and elementary school children;

"(4) coordinate activities with the Secretary of Health and Human Services in order to—

"(A) maximize the utilization of quality educational programming by preschool and elementary school children, and make such programming widely available to federally funded programs serving such populations; and

"(B) provide information to grantees of Federal programs that have major training components for early childhood development, including Head Start, Even Start, and State training activities funded under the Child Care Development Block Grant Act of 1990 regarding the availability and utilization of materials developed under paragraph (3) to enhance parent and child care provider skills in early childhood development and education.

20 USC 3161c.

"SEC. 4704. APPLICATIONS.

"Each eligible entity desiring a contract, cooperative agreement, or grant under section 4701 or 4703 shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

20 USC 3161d.

"SEC. 4705. REPORTS AND EVALUATION.

"(a) ANNUAL REPORT TO SECRETARY.—An entity receiving funds under section 4701 shall prepare and submit to the Secretary an annual report which contains such information as the Secretary may require. At a minimum, the report shall describe the program activities undertaken with funds received under this section, including—

"(1) the programming that has been developed directly or indirectly by the entity, and the target population of the programs developed;

"(2) the support materials that have been developed to accompany the programming, and the method by which such materials are distributed to consumers and users of the programming;

"(3) the means by which programming developed under this section has been distributed, including the distance learning technologies that have been utilized to make programming available and the geographic distribution achieved through such technologies; and

"(4) the initiatives undertaken by the entity to develop public-private partnerships to secure non-Federal support for the development and distribution and broadcast of educational and instructional programming.

"(b) REPORT TO CONGRESS.—The Secretary shall prepare and submit to the relevant committees of Congress a biannual report which includes—

"(1) a summary of the information made available under section 4702(a);

"(2) a description of the training materials made available under section 4703(3), the manner in which outreach has been

conducted to inform parents and child care providers of the availability of such materials, and the manner in which such materials have been distributed in accordance with such section.

"SEC. 4706. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3161e.

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for fiscal year 1994. Not less than 60 percent of the amounts appropriated under this subsection for each fiscal year shall be used to carry out section 4702.

"(b) SPECIAL PROJECTS.—Of the amount appropriated under subsection (1) for each fiscal year, at least 10 percent of such amount shall be utilized in each such fiscal year for activities under section 4703(1)(C).

"SEC. 4707. ADMINISTRATIVE COSTS. 20 USC 3161f.

"With respect to the implementation of section 4702, entities receiving a contract, cooperative agreement, or grant from the Secretary may use up to 5 percent of the amounts received under such section for the normal and customary expenses of administering the contract, cooperative agreement, or grant.

"SEC. 4708. DEFINITION. 20 USC 3161g.

"For the purposes of this part, the term 'distance learning' means the transmission of educational or instructional programming to geographically dispersed individuals and groups via telecommunications.".

Approved October 27, 1992.

LEGISLATIVE HISTORY—S. 3134:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 1, considered and passed Senate.
Oct. 5, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 102-546
102d Congress

An Act

To amend the Commodity Exchange Act to improve the regulation of futures and options traded under rules and regulations of the Commodity Futures Trading Commission; to establish registration standards for all exchange floor traders; to restrict practices which may lead to the abuse of outside customers of the marketplace; to reinforce development of exchange audit trails to better enable the detection and prevention of such practices; to establish higher standards for service on governing boards and disciplinary committees of self-regulatory organizations; to enhance the international regulation of futures trading; to regularize the process of authorizing appropriations for the Commodity Futures Trading Commission; and for other purposes.

Oct. 28, 1992
[H.R. 707]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Futures Trading Practices Act of 1992.
Securities.
7 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Futures Trading Practices Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; table of contents.
Sec. 2. References to the Commodity Exchange Act.

TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES

Sec. 101. Dual trading.
Sec. 102. Restrictions on trading among members of broker associations.
Sec. 103. Broker association disclosure.

TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

Sec. 201. Duties of contract markets; audit trails.
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Sec. 218. Study of assessments on transactions.
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Sec. 220. Computerized futures trading.
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TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

Sec. 301. Subpoena authority.
Sec. 302. Cooperation with foreign futures authorities.
Sec. 303. Investigative assistance to foreign futures authorities.
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Sec. 305. Disclosure of information to foreign futures authorities.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

Sec. 401. Authorization of appropriations.
Sec. 402. Technical amendments.
Sec. 403. Effective date.
Sec. 404. Definitions.

TITLE V—INTERMARKET COORDINATION

Sec. 501. Margin on stock index futures.
Sec. 502. Exemptive authority.

SEC. 2. REFERENCES TO THE COMMODITY EXCHANGE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Commodity Exchange Act (7 U.S.C. 1 et seq.).

TITLE I—LIMITATIONS ON CERTAIN TRADING PRACTICES

SEC. 101. DUAL TRADING.

(a) PROHIBITION.—Section 4j (7 U.S.C. 6j) is amended—

(1) by redesignating paragraphs (1) and (2) as subsections (b) and (c), respectively;

(2) in subsection (b), as so redesignated, by striking "The Commission shall within nine months after the effective date of the Commodity Futures Trading Commission Act of 1974, and subsequently when it determines that changes are required," and inserting "If, in addition to the regulations issued pursuant to subsection (a), the Commission has reason to believe that dual trading-related or facilitated abuses are not being or cannot be effectively addressed by subsection (a), the Commission shall"; and

(3) by inserting a new subsection (a) to read as follows:

"(a)(1) The Commission shall issue regulations to prohibit the privilege of dual trading on each contract market which has not been exempted from such regulations under paragraph (3). The regulations issued by the Commission under this paragraph—

"(A) shall provide that the prohibition of dual trading thereunder shall take effect not less than thirty days after the issuance of the regulations;

"(B) shall provide for exceptions, as the Commission determines necessary and appropriate, to ensure fairness and orderly trading in affected contract markets, including—

"(i) transition measures and a reasonable phase-in period,

"(ii) exceptions for spread transactions and the correction of trading errors,

"(iii) allowance for a customer to designate in writing not less than once annually a named floor broker to execute

orders for such customer, notwithstanding the regulations to prohibit the privilege of dual trading required under this paragraph, and

"(iv) other measures reasonably designed to accommodate unique or special characteristics of individual boards of trade or contract markets, to address emergency or unusual market conditions, or otherwise to further the public interest;

"(C) shall establish procedures for the application for and issuance of exemptions under paragraph (3) which, among other things, shall specify the relevant data required to be submitted by the board of trade with each application;

"(D) shall specify the methodology by which it shall determine the average daily trading volume on a contract market for purposes of paragraph (4) based on a moving daily average of either six or twelve months; and

"(E) shall establish an expeditious procedure to revoke an exemption granted under paragraph (3) providing sufficient notice, opportunity for hearing, and findings to assure fundamental fairness.

"(2) As used in this section, the term 'dual trading' means the execution of customer orders by a floor broker during any trading session in which the floor broker executes any trade in the same contract market for—

"(A) the account of such floor broker;

"(B) an account for which such floor broker has trading discretion; or

"(C) an account controlled by a person with whom such floor broker is subject to trading restrictions under section 4j(d).

"(3) The Commission shall exempt a contract market from the regulations issued under paragraph (1), either unconditionally or on stated conditions (including stated periods of time) relevant to the attainment or maintenance of compliance with the standards in subparagraphs (A) and (B), upon finding that—

"(A) the trade monitoring system in place at the contract market satisfies the requirements of section 5a(b) with regard to violations attributable to dual trading at such contract market; or

"(B)(i) there is a substantial likelihood that a dual trading suspension would harm the public interest in hedging or price basing at such contract market, and

"(ii) other corrective actions, such as those described in section 8e, are sufficient and appropriate to bring the contract market into compliance with the standard in subparagraph (A).

"(4)(A) The regulations issued by the Commission under paragraph (1) shall not apply to any contract market in which the Commission determines that the average daily trading volume is less than the threshold trading level established for the contract market under this paragraph.

"(B) The threshold trading level shall be set initially at eight thousand contracts.

"(C) The Commission may, by rule or order—

"(i) increase, or

"(ii) at any time following the date three years after the date of enactment of this paragraph, decrease,

the threshold trading level for specific contract markets after taking into consideration the actual or potential effects of a dual trading ban on the public interest in hedging or price basing at the affected contract market.

"(D) The Commission shall provide the affected contract market with adequate notice of any such increase or decrease.

"(5) Before the Commission denies an application for an exemption under paragraph (3) or exempts a contract market subject to conditions, it shall—

"(A) provide the affected board of trade with notice of the reason or reasons that the application was not approved as submitted, including—

"(i) any reason the Commission has to believe that the trade monitoring system in place at the contract market does not satisfy the requirements of paragraph (3)(A) and the basis for such reason;

"(ii) any corrective action or actions, such as those described in section 8e, that the Commission believes the affected contract market must take to satisfy the requirements of paragraph (3)(A), and an acceptable timetable for such corrective action; and

"(iii) any conditions or limitations that the Commission proposes to attach to the exemption under paragraph (3);

"(B) provide the affected board of trade with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the board of trade, through an oral presentation of views and comments to the Commission, in order to make the demonstration required under paragraph (3) or otherwise to petition the Commission with respect to its application; and

"(C) make findings, based on the information, views, and arguments placed before it in connection with the application, as to whether—

"(i) the standard in either paragraph (3)(A) or (3)(B) applies, and

"(ii) any conditions or limitations which the Commission proposes to attach under paragraph (3) are appropriate in light of the purposes of this subsection.

The Commission shall publish in the Federal Register notice of any exemptive petitions filed under paragraph (3) and any proposed or final actions the Commission may take on such petitions. Unless the Commission determines that more immediate action is appropriate in the public interest, any Commission order denying an application or exempting a contract market conditionally shall not take effect for at least twenty days following the issuance of the order. Federal Register, publication.

"(6) Violation of an order issued under this subsection shall be considered a violation of an order of the Commission for purposes of—

"(i) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(ii) initiating proceedings under section 5b or 6(a).

"(7) Any board of trade which has applied to the Commission to exempt a contract market from the regulations issued under paragraph (1) may obtain judicial review of any final action of

the Commission to deny such application, to issue an exemption subject to conditions, or to revoke an exemption, only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.

"(8)(A) The Commission shall issue the regulations required under paragraph (1) not later than two hundred and seventy days after the enactment of this section. If, prior to the effective date of the prohibition on dual trading under such regulations, a board of trade submits to the Commission an application for an exemption for a contract market under paragraph (3), the Commission shall not apply the prohibition against dual trading under paragraph (1) to the contract market until the Commission has approved or denied the application.

"(B) The Commission shall approve or deny any application for an exemption under paragraph (3) within seventy-five days after receipt of the application, or as soon as practicable.".

SEC. 102. RESTRICTIONS ON TRADING AMONG MEMBERS OF BROKER ASSOCIATIONS.

(a) IN GENERAL.—Section 4j (7 U.S.C. 6j) is amended by adding at the end the following new subsection:

"(d)(1) Except as provided in paragraph (2), a floor broker may not execute an order of a customer if such floor broker knows the opposite party to the transaction to be a floor broker or floor trader with whom such trader or broker has a relationship involving trading on such contract market as—

"(A) a partner in a partnership;

"(B) an employer or employee; or

"(C) Such other affiliation as the Commission may specify by rule.

"(2) Paragraph (1) shall not apply—

"(A) if the Commission has adopted rules that the Commission certifies to Congress require procedures and standards designed to prevent violations of this Act attributable to the trading described in paragraph (1); or

"(B) to any contract market that has implemented rules designed to prevent violations of this Act attributable to the trading described in paragraph (1), except that, if the Commission determines, by rule or order, that such rules are not adequate to prevent such violations, paragraph (1) shall become effective with respect to such contract market after a reasonable period determined by the Commission.".

7 USC 6j note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective two hundred and seventy days after the date of enactment of this Act.

SEC. 103. BROKER ASSOCIATION DISCLOSURE.

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended—

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting a semicolon; and

(3) by adding at the end the following new paragraph:

"(13) provide for disclosure to the contract market and the Commission of any trade, business, or financial partnership,

cost-, profit-, or capital-sharing agreements or other formal arrangement among or between floor brokers and traders on such contract market where such partnership agreement or arrangement is material and known to the floor broker or floor trader;".

TITLE II—ENHANCEMENT OF REGULATORY AND ENFORCEMENT ACTIVITIES

SEC. 201. DUTIES OF CONTRACT MARKETS; AUDIT TRAILS.

(a) IN GENERAL.—Section 5a (7 U.S.C. 7a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b)(1) Each contract market shall maintain and utilize a system to monitor trading to detect and deter violations of the contract market's rules and regulations committed in the making of trades and the execution of customer orders on the floor or subject to the rules of such contract market. The system shall include—

"(A) physical observation of trading areas;

"(B) audit trail and recordkeeping systems able to capture essential data on the terms, participants, and sequence of transactions (including relevant data on unmatched trades and outtrades);

"(C) systems capable of reviewing, and used to review, data on trades effectively on a regular basis to detect violations committed in making trades and executing customer orders on the floor or subject to the rules of such contract market, including—

"(i) all types of violations attributable to dual trading; and

"(ii) to the full extent feasible, as determined by the Commission, all other types of violations involving the making of trades and the execution of customer orders;

"(D) the use of information gathered through such system on a consistent basis to bring appropriate disciplinary actions against violators;

"(E) the commitment of resources to such system necessary for such system to be effective in detecting and deterring such violations, including adequate staff to develop and prosecute disciplinary actions; and

"(F) the assessment of meaningful penalties against violators and the referral of appropriate cases to the Commission.

"(2) The audit trail system of the contract market shall, consistent with Commission regulations, accurately record— Records.

"(A) the times of trades in increments of no more than one minute in length; and

"(B) the sequence of trades for each floor trader and broker.

"(3) Beginning three years after the date of enactment of this subsection, the audit trail system of each contract market, except as provided in paragraph (5) and except to the extent the Commission determines that circumstances beyond the control of the contract market prevent compliance despite the contract market's affirmative good faith efforts to comply, shall— Records.

"(A) for all trades, record accurately and promptly the essential data on terms, participants, and times as required by the Commission by rule, including the time of execution of such trade, through a means that—

"(i) records such data in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time, to the extent practicable as determined by the Commission—

"(I) independently of the person making the trade;

"(II) through a mechanism that records the time automatically when entered by the person making the trade; or

"(III) through such other means that will capture a similarly reliable time; and

"(iv) is adequately precise to determine, to the extent practicable as determined by the Commission by rule or order—

"(I) the sequence of all trades by each floor trader; and

"(II) the sequence of all trades by each floor broker; and

"(B) to the extent practicable as determined by the Commission by rule or order, for customer trades, record the time that each order is received on the floor of the board of trade, is received by the floor broker for execution (or when such order is transmitted in an extremely rapid manner to the broker), and is reported from the floor of the board of trade as executed, through a means that—

"(i) records such times in a form which cannot be altered except in a manner that will leave a complete and independent record of such alteration;

"(ii) continually provides such data to the contract market;

"(iii) identifies such time—

"(I) independently of the person making the trade or processing the order;

"(II) through a mechanism that records the time automatically when entered by the person making the trade or processing such order, as appropriate; or

"(III) through such other means as will capture a similarly reliable time; and

"(iv) is adequately precise to determine—

"(I) the sequence in which, for each futures commission merchant, floor broker, or member firm, as applicable, all orders are received on and reported from the floor of the contract market; and

"(II) the sequence in which orders are received by each floor broker for execution.

"(4) The Commission may, by rule, establish standards under which the audit trail systems required under paragraph (3) shall record, to the extent practicable—

"(A) the sequence of all trades made by all floor traders and floor brokers; and

"(B) the interval between the time of receipt and the time of execution of each order by the floor broker executing the order.

"(5)(A) The Commission shall, by rule or order, make exemptions from the requirements of paragraph (3)—

"(i) for an exchange with respect to which the Commission finds that—

"(I) the volume of trading on such exchange is relatively small and the exchange has demonstrated substantial compliance with the objectives of such paragraph; and

"(II) the trade monitoring system at such exchange otherwise maintains a high level of compliance with this subsection; and

"(ii) to the extent determined appropriate by the Commission, for categories of customer orders with respect to which the Commission finds that such orders are transmitted to and reported from the trading pit in an extremely rapid manner such that substantial compliance with the objectives of paragraph (3) can be otherwise achieved.

"(B) For purposes of subparagraph (A)(i)(I) the Commission shall find that the volume of trading at an exchange is relatively small if, among other things, the Commission determines that the average daily trading volume for each contract market for which the board of trade is designated is less than the threshold trading level established for the contract market under section 4j(a)(4).

"(6) Any rule or order adopted by the Commission under paragraphs (4) and (5) shall become effective thirty legislative days or ninety calendar days, whichever is later, after submission of such rule or order to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. For purposes of this paragraph, the term 'legislative day' means any day on which either House of Congress is in session.". Effective date.

(b) STUDY.— 7 USC 7a note.

(1) IN GENERAL.—Not later than two years after the date of enactment of this Act, the Commodity Futures Trading Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains— Reports.

(A) an assessment of the progress of each contract market in developing and implementing systems to record the times of transactions independently, precisely, and completely as required under section 5a(b) of the Commodity Exchange Act (as added by subsection (a) of this section); and

(B) recommendations as to whether any extension of time for the completion of such systems or any modification of the standards contained in such section is appropriate.

(2) GAO VIEWS.—The Comptroller General of the United States shall state to Congress the views of the Comptroller General with regard to the issues addressed in such report.

(c) AUDIT TRAIL COMPLIANCE AS CONDITION FOR CONTRACT MARKET DESIGNATION.—Section 5 (7 U.S.C. 7) is amended by—

(1) indenting the left margin of subdivisions (a) through (g) by 2 ems;

(2) striking "(a)", "(b)", "(c)", "(d)", "(e)", "(f)", and "(g)", and inserting "(1)", "(2)", "(3)", "(4)", "(5)", "(6)", and "(7)", respectively; and

(3) adding at the end the following:

"(8) When such board of trade demonstrates that every contract market for which such board of trade is designated complies with the requirements of section 5a(b).".

SEC. 202. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.

(a) IN GENERAL.—The Act is amended by inserting after section 8d (7 U.S.C. 12d) the following new section:

7 USC 12e.

"SEC. 8e. COMMISSION OVERSIGHT; DEFICIENCY ORDERS.

"(a) ASSESSMENTS.—At least once every two years, to the extent practicable, the Commission shall assess whether the trade monitoring system of each contract market satisfies section 5a(b).

"(b) DEFICIENCY ORDERS.—

"(1) CAUSES.—The Commission may issue a proposed deficiency order in accordance with paragraph (2), or take such other administrative or enforcement action as the Commission determines is appropriate, if, based on its assessment or on other information, the Commission at any time has reason to believe that a contract market's trade monitoring system implemented pursuant to section 5a(b) does not satisfy one or more of the requirements of such section.

"(2) CONTENTS.—A proposed deficiency order issued under this subsection shall specify—

"(A) the deficiencies the Commission has reason to believe exist in the trade monitoring system of the contract market and a statement of reasons supporting the Commission's belief that those deficiencies exist;

"(B) the corrective action that the Commission believes that the contract market must take and an acceptable timetable for such corrective action; and

"(C) a date, not less than twenty days from the date of issuance of the proposed deficiency order, when such deficiency order will become final, subject to subsection (d).

"(3) REMEDIES.—On becoming final, the Commission deficiency order may—

"(A) require the contract market to—

"(i) institute appropriate improvements in its trade monitoring system necessary to correct the deficiencies noted therein;

"(ii) satisfy stated objective performance criteria to correct such deficiencies;

"(iii) upgrade or reconfigure existing systems for collecting or processing relevant data on trading and trader or broker activity, including, where appropriate, the commitment of additional resources; or

"(B) revoke any exemption of the contract market from the regulations prohibiting the privilege of dual trading under section 4j(a), if the deficiency noted in such deficiency order relates to—

"(i) the audit trail system the contract market is required to maintain under paragraph (2), (3), or (4) of section 5a(b); or

"(ii) the prevention, detection, or disciplining of violations attributable to such trading at such contract market, subject to the standards, exceptions, and duration provisions of section 4j(a); or

"(C) take any combination of the actions described in subparagraphs (A) and (B).

"(4) REMOVAL.—If the Commission finds, after notice and opportunity for a hearing on the record prior to such deficiency order becoming final, that a named officer, director, committee member, or employee of such contract market has willfully—

"(A) violated this Act, the rules or regulations of the Commission thereunder, or the rules of such contract market;

"(B) abused the authority of such person; or

"(C) without reasonable justification or excuse, failed to enforce compliance with any provision of the rules of such contract market by any member or person associated with a member thereof,

the Commission may issue a deficiency order under this section to remove such officer, director, committee member, or employee.

"(5) DESIGNATION AS CONTRACT MARKET.—Notwithstanding section 6, during the period that a proposed or final deficiency order under this section is in effect, the Commission may refrain from approving any application for designation as a contract market made by the board of trade whose contract market is the subject of such deficiency order.

"(6) DELEGATION.—The Commission shall not delegate the authority to issue deficiency orders under this subsection.

"(c) RESCISSION, MODIFICATION, OR DELAY OF DEFICIENCY ORDERS.—Before any proposed deficiency order issued by the Commission under subsection (b) may become final, the Commission shall—

"(1) provide the affected contract market with an opportunity for a hearing through submission of written data, views, or arguments and, under terms set by the Commission at the request of the contract market, through an oral presentation of views and comments to the Commission, in order to petition the Commission to rescind, modify, or delay such deficiency order; and

"(2) rule on such petition, not less than twenty days before the deficiency order takes effect, making findings, as appropriate, as to whether—

"(A) the deficiencies cited by the Commission have been corrected or are being corrected under an expeditious timetable acceptable to the Commission;

"(B) the trade monitoring system of the contract market is deficient as noted in the deficiency order; or

"(C) the timetable for corrective action by the contract market in the proposed deficiency order, and the particular corrective action proposed, is appropriate in light of the deficiencies noted and the purposes of this Act.

"(d) PENALTIES.—Violation of a final deficiency order issued under subsection (c) shall be considered a violation of an order of the Commission for purposes of—

"(1) establishing liability and assessing penalties against a contract market or any director, officer, agent, or employee thereof under section 6b or 6c; or

"(2) initiating proceedings under section 5b or 6(a).

"(e) JUDICIAL REVIEW.—

"(1) PERSONS.—Any person, other than a contract market, aggrieved by a deficiency order issued under subsection (b)(4), may obtain review of such deficiency order when issued by the Commission under the terms and conditions in section 6(b).

"(2) CONTRACT MARKETS.—Any contract market that has petitioned the Commission to rescind, modify, or delay any proposed deficiency order issued under subsection (b) may obtain judicial review of any final such deficiency order only in the United States Court of Appeals for the circuit in which the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit, under the standards applicable to rulemaking proceedings under section 553 of title 5, United States Code.".

SEC. 203. ORAL ORDERS.

(a) IN GENERAL.—Section 4c (7 U.S.C. 6c) is amended by adding at the end the following new subsection:

"(g) The Commission shall adopt rules requiring that a contemporaneous written record be made, as practicable, of all orders for execution on the floor or subject to the rules of each contract market placed by a member of the contract market who is present on the floor at the time such order is placed.".

7 USC 6c note.

(b) EFFECTIVE DATE.—The Commission shall adopt the rules required by the amendment made under subsection (a) within two hundred and seventy days after the date of enactment of this Act.

SEC. 204. TELEMARKETING FRAUD.

(a) IN GENERAL.—Section 17(p) (7 U.S.C. 21(p)) is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) establish special supervisory guidelines to protect the public interest relating to the solicitation by telephone of new futures or options accounts and make such guidelines applicable to those members determined to require such guidelines in accordance with standards established by the Commission consistent with this Act. Such guidelines may include a requirement that, with respect to a customer with no previous futures or commodity options trading experience, the member may not enter an order for the account of such customer for a period of three days following opening of the account and receipt of a signed acknowledgment by the customer of receipt of a risk disclosure statement.".

7 USC 21 note.

(b) IMPLEMENTATION.—The guidelines required under section 17(p)(4) of the Commodity Exchange Act (as added by subsection (a) of this section) shall be submitted by a futures association registered with the Commodity Futures Trading Commission on the date of enactment of this Act to the Commission for the approval of the Commission not later than one hundred and eighty days after the date of enactment of this Act.

SEC. 205. UNDERCOVER OPERATIONS AND ENFORCEMENT.

Section 8(a) of the Commodity Exchange Act (7 U.S.C. 12(a)) is amended by—

(1) inserting "(1)" after "(a)"; and

(2) adding at the end the following:

"(2) In conducting investigations authorized under this subsection or any other provision of this Act, the Commission shall continue, as the Commission determines necessary, to request the assistance of and cooperate with the appropriate Federal agencies in the conduct of such investigations, including undercover operations by such agencies. The Commission and the Department of Justice shall assess the effectiveness of such undercover operations and, within two years of the date of enactment of the Futures Trading Practices Act of 1992, shall recommend to Congress any additional undercover or other authority for the Commission that the Commission or the Department of Justice believes to be necessary.".

SEC. 206. SELF REGULATORY ORGANIZATION DISCIPLINARY COMMITTEES AND GOVERNING BOARDS.

(a) CONTRACT MARKETS.—

(1) GOVERNING BOARDS AND DISCIPLINARY COMMITTEES.—Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a)(1) and 217 of this Act) is further amended by adding at the end the following new paragraphs:

"(14)(A) provide for meaningful representation on the governing board of the contract market's board of trade of a diversity of interests, including—

"(i) futures commission merchants;

"(ii) producers of, and consumers, processors, distributors, or merchandisers of, principal commodities traded on the board of trade;

"(iii) floor brokers and traders; and

"(iv) participants in a variety of pits or principal groups of commodities traded on the exchange.

"(B) provide that no less than 20 percent of the regular voting members of such board be comprised of nonmembers of such contract market's board of trade with—

"(i) expertise in futures trading, or the regulation thereof, or in commodities traded through contracts on the board of trade; or

"(ii) other eminent qualifications making such person capable of participating in and contributing to board deliberations.

"(C) provide that no less than 10 percent of the regular voting members of such board be comprised where applicable of farmers, producers, merchants, or exporters of principal commodities traded on the exchange;

"(15)(A) provide on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(B) Consistent with Commission rules, a major disciplinary committee hearing a disciplinary matter shall include—

"(i) a majority of qualified persons representing a trading status other than that of the subject of the proceeding; and

"(ii) where appropriate to carry out the purposes of this Act, qualified persons who are not members of the exchange.

"(C) For purposes of this paragraph, a trading status on a contract market may include, consistent with Commission rules, such categories as

(i) floor brokers and traders;

(ii) producers, consumers, processors, distributors, or merchandisers of commodities;

(iii) futures commission merchants; and

(iv) members of the aforementioned categories who participate in particular contract markets or principal groups of commodities on the board of trade.

"(D) If a contract market takes final disciplinary action against a member for a violation that involves the execution of a customer transaction and results in financial harm to such customer, the contract market shall promptly inform the futures commission merchant identified on the records of such contract market as having cleared such transaction, and such futures commission merchant shall promptly inform the person identified on its records as the owner of the account for which such transaction was executed, of the disciplinary action and the principal facts thereof;

"(16) provide that no member found by the Commission, a contract market, a registered futures association, or a court of competent jurisdiction to have committed any violation of this Act or any other provision of law that would reflect on the fitness of the member may serve on any contract market oversight or disciplinary panel for an appropriate period (as defined by Commission rule); and".

(2) MAJOR DISCIPLINARY RULE VIOLATIONS.—Section 8c (7 U.S.C. 12c) is amended—

(A) by redesignating subsections (1) through (4) as subsections (a) through (d);

(B) in subsection (a), as so redesignated—

(i) by striking "(A)" and inserting "(1)"; and

(ii) by striking "(B)" and inserting "(2)";

(C) in subsection (c), as so redesignated, by striking "subsection (2)" each place it appears and inserting "subsection (b)";

(D) in subsection (d), as so redesignated, by striking "subsection (1)" and inserting "subsection (a)"; and

(E) by adding at the end the following:

"(e)(1) The Commission shall issue regulations requiring each contract market to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such contract market.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any individual who is found to have committed any major violation from service on the governing board of any contract market or registered futures association, or on any disciplinary committee thereof.".

(b) REGISTERED FUTURES ASSOCIATIONS.—

(1) GOVERNING BOARDS AND DISCIPLINARY COMMITTEES.—Section 17(b) (7 U.S.C. 21(b)) is amended—

(A) in subparagraphs (A) and (B) of paragraph (3) by striking "or" at the end;

(B) in paragraphs (3)(D), (4)(A), (4)(B), (4)(C), (4)(D), (4)(F), (5), (6), (7), (8), (9), (9)(A), (9)(B), and (9)(D) by striking the period at the end and inserting a semicolon;

(C) in paragraphs (4)(E), (9)(C), and (10) by striking the period at the end and inserting "; and"; and

(D) by adding at the end the following new paragraphs:

"(11) such association provides for meaningful representation on the governing board of such association of a diversity of membership interests and provides that no less than 20 percent of the regular voting members of such board be comprised of qualified nonmembers of or persons who are not regulated by such association.

"(12)(A) such association provides on all major disciplinary committees for a diversity of membership sufficient to ensure fairness and to prevent special treatment or preference for any person in the conduct of disciplinary proceedings and the assessment of penalties.

"(13) A major disciplinary committee hearing a disciplinary matter shall include—

"(A) qualified persons representing segments of the association membership other than that of the subject of the proceeding; and

"(B) where appropriate to carry out the purposes of this paragraph, qualified persons who are not members of the association.".

(2) MAJOR DISCIPLINARY RULE VIOLATIONS.—Section 17 (7 U.S.C. 21), as amended by section 204, is amended by inserting after subsection (p) the following:

"(q)(1) The Commission shall issue regulations requiring each registered futures association to establish and make available to the public a schedule of major violations of any rule within the disciplinary jurisdiction of such registered futures association.

"(2) The regulations issued by the Commission pursuant to this subsection shall prohibit, for a period of time to be determined by the Commission, any member of a registered futures association who is found to have committed any major violation from service on the governing board of any registered futures association or contract market, or on any disciplinary committee thereof.".

(c) IMPLEMENTATION.—Not later than two hundred and seventy days after the date of enactment of this Act, the Commodity Futures Trading Commission shall adopt such rules as are necessary to carry out the amendments made by subsections (a) and (b), including rules that— 7 USC 7a note.

(1) specify membership categories that shall be represented on disciplinary panels;

(2) define "major disciplinary committee" for purposes of sections 5a(a)(15) and 17(b)(12) of the Commodity Exchange Act (as added by subsections (a) and (b), respectively); and

(3) specify the conditions under which such panels shall include qualified persons who are not members of the exchange or association, which shall include at a minimum—

(A) any disciplinary action where the subject of such action is a member of the contract market or association governing board or of any major disciplinary committee of such contract market or association; and

(B) any disciplinary action based on facts related to a claim that the subject of such action manipulated or attempted to manipulate the price of a commodity or future or option.

SEC. 207. REQUIRED REGISTRATION OF FLOOR TRADERS.

(a) REQUIREMENT.—Section 4e (7 U.S.C. 6e) is amended to read as follows:

"SEC. 4e. It shall be unlawful for any person to act as floor trader in executing purchases and sales, or as floor broker in executing any orders for the purchase or sale, of any commodity for future delivery, or involving any contracts of sale of any commodity for future delivery, on or subject to the rules of any contract market unless such person shall have registered, under this Act, with the Commission as such floor trader or floor broker and such registration shall not have expired nor been suspended nor revoked.".

(b) CONFORMING AMENDMENTS.—The Act is amended—

(1) in sections 4f(1), 4g(1), and 6d(1) (7 U.S.C. 6f(1), 6g(1), 13a–2(1)), by striking "or floor broker" and inserting "floor broker, or floor trader";

(2) in section 6d(8)(A) (7 U.S.C. 13a–2(8)(A)), by inserting ", floor trader," after "floor broker";

(3) in section 8a(1), (7 U.S.C. 12a(1)), by striking "and floor brokers" and inserting "floor brokers, and floor traders"; and

(4) in sections 8a(2)(C)(i), 8a(2)(D)(ii), and 8a(3)(E)(ii) (7 U.S.C. 12a(2)(C)(i), 12a(2)(D)(ii), and 12a(3)(E)(ii)), by inserting "floor trader," after "floor broker,".

Effective date.
7 USC 6e note.

(c) REGULATIONS.—The amendments made by this section shall become effective one hundred and eighty days after the date of enactment of this Act, and the Commodity Futures Trading Commission shall issue any regulations necessary to implement the amendments made by this section no later than one hundred and eighty days after the date of enactment of this Act.

SEC. 208. ENHANCEMENT OF REGISTRATION REQUIREMENTS.

(a) INJUNCTIONS.—Section 8a(2)(C)(ii) (7 U.S.C. 12a(2)(C)(ii)) is amended to read as follows:

"(ii) engaging in or continuing any activity where such activity involves embezzlement, theft, extortion, fraud, fraudulent conversion, misappropriation of funds, securities or property, forgery, counterfeiting, false pretenses, bribery, gambling, or any transaction in or advice concerning contracts of sale of a commodity for future delivery, concerning matters subject to Commission regulation under section 4c or 19, or concerning securities".

(b) CERTAIN VIOLATIONS OF LAW.—Section 8a(2)(D)(iv) (7 U.S.C. 12a(2)(D)(iv)) is amended by—

(1) inserting "1001," after "152,";

(2) striking "or" after "1342,";

(3) inserting "1503, 1623, 1961, 1962, 1963, or 2314," after "1343,"; and

(4) inserting ", or section 7201 or 7206 of the Internal Revenue Code of 1986" after "Code".

(c) OTHER VIOLATIONS OF LAW.—Section 8a(2)(E) (7 U.S.C. 12a(2)(E)) is amended—

(1) by striking "by any court of competent jurisdiction," and inserting "in a proceeding brought"; and

(2) in clause (i) by inserting "chapter 96 of title 18 of the United States Code," after "1977,".

(d) REGISTRATION REVOCATION BASED ON INACCURATE STATEMENTS.—Section 8a(2)(G) (7 U.S.C. 12a(2)(G)) is amended by—

(1) striking "subparagraphs (A) through (F) of this paragraph," and inserting "this paragraph and paragraph (3),";

(2) striking "material" the first place it appears and inserting "materially"; and

(3) striking "application" and inserting "application or any update thereto".

(e) GENERAL FELONY CONVICTIONS.—Section 8a(3)(D) (7 U.S.C. 12a(3)(D)) is amended by—

(1) inserting "pleaded guilty to or" after "person";

(2) inserting a comma after "section" the first place it appears;

(3) striking "within ten years preceding the filing of the application or at any time thereafter,";

(4) striking ", including a felony"; and

(5) striking ", more than" and inserting "more than".

(f) SPECIAL FELONY CONVICTIONS.—Section 8a(3)(E) (7 U.S.C. 12a(3)(E)) is amended—

(1) by inserting "pleaded guilty to or" after "person";

(2) by striking "within ten years preceding the filing of the application for registration or at any time thereafter"; and

(3) in clause (iv) by inserting ", or section 7203, 7204, 7205, or 7207 of the Internal Revenue Code of 1986" after "Code".

(g) REGISTRATION DENIED OR CONDITIONED BASED ON INACCURATE STATEMENTS.—Section 8a(3)(G) (7 U.S.C. 12a(3)(G)) is amended by—

(1) striking "material" the first place it appears and inserting "materially";

(2) striking the comma after "application";

(3) inserting "or any update thereto," after "application";

(4) striking "thereunder, or" and inserting "thereunder,"; and

(5) inserting "or in any registration disqualification proceeding" after "Commission".

(h) NON-FEDERAL CRIMINAL CONDUCT.—Section 8a(3)(H) (7 U.S.C. 12a(3)(H)) is amended by inserting ", in a United States military court," after "State court".

(i) EXISTING RESTRICTIONS ON MEMBERSHIPS.—Section 8a(3)(J) (7 U.S.C. 12a(3)(J)) is amended by—

(1) striking "or" after "association," the first place it appears;

(2) inserting "or any foreign regulatory body that the Commission recognizes as having a comparable regulatory program" after "organization," the first place it appears;

(3) striking "or" after "association," the second place it appears; and

(4) striking "organization;" and inserting "organization, or foreign regulatory body;".

SEC. 209. ENFORCEMENT OF CIVIL MONEY PENALTIES.

(a) MONEY PENALTIES.—Section 6 (7 U.S.C. 8 et seq.) is amended—

7 USC 8, 9, 9a, 13b, 15.

(1) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively;

(2) by inserting "(a)" after "Sec. 6";

7 USC 8.

(3) in subsection (a), as so redesignated, by striking "paragraph (a)" and inserting "subsection (b)";

7 USC 13b.

(4) in subsection (d), as so redesignated—

(A) by striking "paragraph (b) of this section" and inserting "subsection (c)"; and

(B) by striking "section 6(b) of this Act" and inserting "subsection (c)"; and

7 USC 9a.

(5) by amending subsection (e), as so redesignated, to read as follows:

"(e)(1) In determining the amount of the money penalty assessed under subsection (c), the Commission shall consider the appropriateness of such penalty to the gravity of the violation.

"(2) Unless the person against whom a money penalty is assessed under subsection (c) shows to the satisfaction of the Commission within fifteen days from the expiration of the period allowed for payment of such penalty that either an appeal as authorized by subsection (c) has been taken or payment of the full amount of the penalty then due has been made, at the end of such fifteen-day period and until such person shows to the satisfaction of the Commission that payment of such amount with interest thereon to date of payment has been made—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

"(3) If a person against whom a money penalty is assessed under subsection (c) takes an appeal and if the Commission prevails or the appeal is dismissed, unless such person shows to the satisfaction of the Commission that payment of the full amount of the penalty then due has been made by the end of thirty days from the date of entry of judgment on the appeal—

"(A) such person shall be prohibited automatically from trading on all contract markets; and

"(B) if such person is registered with the Commission, such registration shall be suspended automatically.

If the person against whom the money penalty is assessed fails to pay such penalty after the lapse of the period allowed for appeal or after the affirmance of such penalty, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.".

(b) CONFORMING AMENDMENTS.—The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

7 USC 2a.

(1) in section 2(a)(1)(B)(iv)—

(A) in subclause (I) by striking "section 6(b)" and inserting "section 6(c)"; and

(B) in subclause (II) by striking "section 6(a)" and inserting "section 6(b)";

7 USC 7.

(2) in section 5(6), as so redesignated by section 201(c)(2), by striking "paragraph (b) of section 6" and inserting "section 6(c)";

(3) in section 5b by striking "paragraph (a) of section 6" and inserting "section 6(b)"; 7 USC 7b.

(4) in section 6a(1) by striking "paragraph (a) of section 6" and inserting "section 6(b)"; 7 USC 10a.

(5) in section 6b by striking "paragraph (a) of section 6" and inserting "section 6(b)"; 7 USC 13a.

(6) in section 8a— 7 USC 12a.

(A) in the first proviso to paragraph (2) by striking "section 6(b)" and inserting "section 6(c)";

(B) in the second proviso to paragraph (3) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in paragraph (4) by striking "section 6(b)" each place it appears and inserting "section 6(c)";

(7) in section 14(e) by striking "paragraph (b) of section 6" and inserting "section 6(c)"; and 7 USC 18.

(8) in section 17— 7 USC 21.

(A) in subsection (b)—

(i) in paragraph (3)(B) by striking "section 6(b)" and inserting "section 6(c)"; and

(ii) in paragraph (4)(F) by striking "subsection (b) of section 6" and inserting "section 6(c)";

(B) in subsection (i)(4) by striking "section 6(b)" and inserting "section 6(c)"; and

(C) in subsection (o)(4) by striking "section 6(b)" and inserting "section 6(c)".

SEC. 210. ETHICS TRAINING FOR REGISTRANTS.

(a) MANDATORY TRAINING FOR REGISTRANTS.—Section 4p (7 U.S.C. 6p) is amended by—

(1) inserting "(a)" after "SEC. 4p."; and

(2) adding at the end the following:

"(b) The Commission shall issue regulations to require new registrants, within six months after receiving such registration, to attend a training session, and all other registrants to attend periodic training sessions, to ensure that registrants understand their responsibilities to the public under this Act, including responsibilities to observe just and equitable principles of trade, any rule or regulation of the Commission, any rule of any appropriate contract market, registered futures association, or other self-regulatory organization, or any other applicable Federal or state law, rule or regulation.".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue the regulations required by section 4p(b) of the Commodity Exchange Act, as added by subsection (a), no later than one hundred and eighty days after the date of enactment of this Act. 7 USC 6p note.

SEC. 211. NATIONWIDE SERVICE OF PROCESS AND VENUE.

Section 22(c) (7 U.S.C. 25(c)) is amended to read as follows:

"(c) The United States district courts shall have exclusive jurisdiction of actions brought under this section. Any such action shall be brought not later than two years after the date the cause of action arises. Any action brought under subsection (a) of this section may be brought in any judicial district wherein the defendant is found, resides, or transacts business, or in the judicial district wherein any act or transaction constituting the violation occurs. Process in such action may be served in any judicial district of Courts.

which the defendant is an inhabitant or wherever the defendant may be found.".

SEC. 212. INCREASED PENALTIES.

(a) FELONY VIOLATIONS.—Section 9 (7 U.S.C. 13) is amended—

(1) by—

(A) striking subsections (a), (b), and (c);

(B) redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(C) inserting before subsection (c), as redesignated, the following new subsections:

"(a) It shall be a felony punishable by a fine of not more than $1,000,000 (or $500,000 in the case of a person who is an individual) or imprisonment for not more than five years, or both, together with the costs of prosecution, for:

"(1) Any person registered or required to be registered under this Act, or any employee or agent thereof, to embezzle, steal, purloin, or with criminal intent convert to such person's use or to the use of another, any money, securities, or property having a value in excess of $100, which was received by such person or any employee or agent thereof to margin, guarantee, or secure the trades or contracts of any customer or accruing to such customer as a result of such trades or contracts or which otherwise was received from any customer, client, or pool participant in connection with the business of such person. The word 'value' as used in this paragraph means face, par, or market value, or cost price, either wholesale or retail, whichever is greater.

"(2) Any person to manipulate or attempt to manipulate the price of any commodity in interstate commerce, or for future delivery on or subject to the rules of any contract market, or to corner or attempt to corner any such commodity or knowingly to deliver or cause to be delivered for transmission through the mails or interstate commerce by telegraph, telephone, wireless, or other means of communication false or misleading or knowingly inaccurate reports concerning crop or market information or conditions that affect or tend to affect the price of any commodity in interstate commerce, or knowingly to violate the provisions of section 4, section 4b, subsections (a) through (e) of subsection 4c, section 4h, section 4o(1), or section 19.

"(3) Any person knowingly to make, or cause to be made, any statement in any application, report, or document required to be filed under this Act or any rule or regulation thereunder or any undertaking contained in a registration statement required under this Act, or by any contract market or registered futures association in connection with an application for membership or participation therein or to become associated with a member thereof, which statement was false or misleading with respect to any material fact, or knowingly to omit any material fact required to be stated therein or necessary to make the statements therein not misleading.

"(4) Any person willfully to falsify, conceal, or cover up by any trick, scheme, or artifice a material fact, make any false, fictitious, or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement

or entry to a contract market, board of trade, or futures association designated or registered under this Act acting in furtherance of its official duties under this Act.

"(5) Any person willfully to violate any other provision of this Act, or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, but no person shall be subject to imprisonment under this paragraph for the violation of any rule or regulation if such person proves that he had no knowledge of such rule or regulation.

"(b) Any person convicted of a felony under this section shall be suspended from registration under this Act and shall be denied registration or reregistration for five years or such longer period as the Commission may determine, and barred from using, or participating in any manner in, any market regulated by the Commission for five years or such longer period as the Commission shall determine, on such terms and conditions as the Commission may prescribe, unless the Commission determines that the imposition of such suspension, denial of registration or reregistration, or market bar is not required to protect the public interest. The Commission may upon petition later review such disqualification and market bar and for good cause shown reduce the period thereof.";

(2) in subsection (c) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000"; and

(3) in subsection (d) (as redesignated by paragraph (1) of this section) by striking "$100,000" and inserting "$500,000".

(b) OTHER VIOLATIONS.—Section 6(c) and 6(d) (7 U.S.C. 9 and 13b), as such subsections are redesignated by section 209, are each amended by striking "$100,000" each place it appears and inserting "the higher of $100,000 or triple the monetary gain to such person".

(c) NONENFORCEMENT OF RULES OF GOVERNMENT OR OTHER VIOLATIONS.—Section 6b (7 U.S.C. 13a) is amended—

(1) by striking "$100,000" each place it appears and inserting "$500,000"; and

(2) in the last sentence, by striking "the appropriateness of such penalty to the net worth of the offending person and".

SEC. 213. CONTRACT MARKET EMERGENCY ACTIONS.

(a) PRIOR COMMISSION NOTIFICATION REQUIRED.—Section 5a(a)(12) (7 U.S.C. 7a(12)), as redesignated by section 201, is amended—

(1) by striking "(12) except" and inserting "(12)(A) except"; and

(2) by striking the last two sentences of paragraph (12)(A) as so redesignated, and inserting the following:

"(B)(i) The Commission shall issue regulations to specify the terms and conditions under which, in an emergency as defined by the Commission, a contract market may, by a two-thirds vote of its governing board, make a rule (hereinafter referred to as an 'emergency rule') effective on a temporary basis without prior Commission approval, or without compliance with the ten-day notice requirement under subparagraph (A), or during any period of review by the Commission, if the contract market makes every effort practicable to notify

the Commission of such emergency rule, along with a complete explanation of the emergency involved, prior to making the emergency rule effective. If the contract market does not provide the Commission with such notification and explanation before making the emergency rule effective, the contract market shall provide the Commission with such notification and explanation at the earliest possible date. The Commission may delegate the power to receive such notification and explanation to such individuals as the Commission determines necessary and appropriate.

"(ii) Within ten days of the receipt from a contract market of notification of such an emergency rule and an explanation of the emergency involved, or as soon as practicable, the Commission shall determine whether it is appropriate either—

"(I) to permit such rule to remain in effect during the pendency of the emergency, or

"(II) to suspend the effect of such rule pending review either under the procedures of subparagraph (A) or otherwise.

Reports. The Commission shall submit a report on its determination and the basis thereof with respect to such emergency rule to the affected contract market, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. If the report is submitted more than ten days after the Commission's receipt of notification of such an emergency rule from a contract market, the report shall explain why submission within such ten-day period was not practicable. A determination by the Commission to suspend the effect of a rule under this subparagraph shall be subject to judicial review on the same basis as an emergency determination under section 8a(9). Nothing in this paragraph shall be construed to limit the authority of the Commission under section 8a(9);".

7 USC 7a note. (b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement section 5a(12)(B) of the Commodity Exchange Act, as added by subsection (a), no later than one hundred and eighty days after the date of enactment of this Act. Until the effective date of such regulations, any regulation of the Commission that implements the last two sentences of section 5a(12), as such sentences were in effect immediately before the date of enactment of this Act, shall remain in effect.

SEC. 214. PROHIBITION AGAINST INSIDER TRADING.

(a) IN GENERAL.—Section 9 (7 U.S.C. 13) is amended by adding at the end the following:

"(f) It shall be a felony for any person—

"(1) who is an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association, in violation of a regulation issued by the Commission, willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of, or willfully and knowingly to disclose for any purpose inconsistent with the performance of such person's official duties as an employee or member, any material nonpublic information obtained through special access related to the performance of such duties.

(2) willfully and knowingly to trade for such person's own account, or for or on behalf of any other account, in contracts for future delivery or options thereon on the basis of any material nonpublic information that such person knows was obtained in violation of paragraph (1) from an employee, member of the governing board, or member of any committee of a board of trade, contract market, or registered futures association.

Such felony shall be punishable by a fine of not more than $500,000, plus the amount of any profits realized from such trading or disclosure made in violation of this subsection, or imprisonment for not more than five years, or both, together with the costs of prosecution.".

(b) REGULATIONS.—The Commodity Futures Trading Commission shall issue regulations to implement the amendment made by subsection (a) not later than three hundred and sixty days after the date of enactment of this Act. 7 USC 13 note.

SEC. 215. QUALIFICATIONS OF COMMISSIONERS.

Section 2(a)(2)(A) (7 U.S.C. 4a(a)(1)) is amended by striking the second and third sentences and inserting the following: "The Commission shall be composed of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. In nominating persons for appointment, the President shall— President.

"(i) select persons who shall each have demonstrated knowledge in futures trading or its regulation, or the production, merchandising, processing or distribution of one or more of the commodities or other goods and articles, services, rights, and interests covered by this Act; and

"(ii) seek to ensure that the demonstrated knowledge of the Commissioners is balanced with respect to such areas.".

SEC. 216. COMMISSION OPERATIONS.

Section 12(b) (7 U.S.C. 16(b)) is amended—

(1) by designating the first through third sentences as paragraphs (1) through (3), respectively; and

(2) by adding at the end the following new paragraph:

"(4) The Commission may request (in accordance with the procedures set forth in subchapter II of chapter 31 of title 5, United States Code) and the Office of Personnel Management shall authorize pursuant to the request, eight positions in the Senior Executive Service in addition to the number of such positions authorized for the Commission on the date of enactment of this sentence.".

SEC. 217. PROHIBITION ON VOTING BY INTERESTED MEMBERS.

Subsection (a) of section 5a (7 U.S.C. 7a) (as amended by sections 201(a) and 206(a)(1) of this Act) is further amended by adding at the end the following:

"(17)(A) provide for the avoidance of conflict of interest in deliberations by the governing board and any disciplinary and oversight committees. In order to comply with this subparagraph, each contract market shall adopt rules and procedures to require, at a minimum, that

"(i) any member of a governing board or a disciplinary or other oversight committee must abstain from confidential deliberations and voting on any matter where the

named party in interest is the member, the member's employer, the member's employee, or any other person that has a business, employment, or family relationship with the member that warrants abstention by the member;

"(ii) any member of a governing board or a disciplinary or other oversight committee must abstain from voting on any significant action that would not be submitted to the Commission for its prior approval, if, as determined in accordance with regulations promulgated by the Commission, the member knowingly has a direct and substantial financial interest in the result of the vote, based either on positions held personally or at an affiliated firm;

"(iii) prior to the deliberations of the governing board, disciplinary board, or other oversight committee, acting directly or indirectly through an authorized member or contract market official, the positions of the members of such board or committee, and positions of the firm or firms with which such members are affiliated, are reviewed: *Provided, however,* That no contract market or official, employee, member, other than the member whose position or positions are being reviewed, or agent thereof shall be subject to liability, except for liability in an action initiated by the Commission, for having conducted this review and for having taken or not taken further action; and

"(iv) the board or committee shall clearly reflect, in the minutes of such meeting, that the review required in clause (iii) occurred and any decisions by a member to abstain or by the board or committee whether to direct a member or members to abstain from deliberations or voting on the matter before the board or committee.

Any member prohibited from voting on a rule pursuant to this paragraph shall not be included in determining whether there has been a two-thirds vote of members of the governing board or committee as required by subparagraph (12).

"(B) For the purposes of this paragraph, the term 'significant action that would not be submitted to the Commission for its prior approval' includes—

"(i) any nonphysical emergency rule; or

"(ii) any changes in margin levels designed to respond to extraordinary market conditions that are likely to have a substantial affect on prices in any contract traded on such contract market, but does not include any rule not submitted for prior Commission approval because such rule is unrelated to terms and conditions of any contract traded on such contract market.

"(C) Notwithstanding the provisions of subparagraph (A)(ii), the Commission shall issue rules establishing the conditions under which a member of a board or committee who is required to abstain from voting on a significant action, as provided in subparagraph (A)(ii), may participate in deliberations on that action prior to such vote, where the member's participation is consistent with the public interest.".

7 USC 16a note.

SEC. 218. STUDY OF ASSESSMENTS ON TRANSACTIONS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study to determine whether—

(1) it is feasible to fund some or all of the enforcement and market surveillance activities of the Commodity Futures Trading Commission, as required by the amendments to the Commodity Exchange Act made by the Futures Trading Practices Act of 1992, through the imposition of an assessment on commodity futures and options transactions executed pursuant to the Commodity Exchange Act; and

(2) a program of assessment-based funding for some or all of such enforcement and market surveillance activities would better provide resources to the Commodity Futures Trading Commission to enable the Commission to—

(A) protect the interests of market users (including hedgers and speculators), producers of commodities traded on the futures markets, and the general public; and

(B) maintain and enhance the credibility of such futures and options markets.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the Comptroller General's determinations pursuant to subsection (a), together with any appropriate recommendations for the implementation of such a program of assessment-based funding for some or all of the Commodity Futures Trading Commission's enforcement and market surveillance activities.

SEC. 219. COMPETITIVENESS STUDY.

7 USC 4a note. Reports.

(a) IN GENERAL.—No later than eighteen months following the enactment of this Act, the Commodity Futures Trading Commission shall study the competitiveness of boards of trade over which it has jurisdiction compared with the boards of trade (or their foreign equivalent) over which foreign futures authorities, as defined in section 2(a)(1)(A) of the Commodity Exchange Act (7 U.S.C. 2(a)(1)(A)), have jurisdiction, and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report of its findings with respect to—

(1) the overall competitive status of United States boards of trade in the world market;

(2) a comparison of applicable statutes, rules, or regulations as they relate to futures and options administered and enforced by the Commission and those administered and enforced by foreign futures authorities;

(3) any trends in, or movements of, volume of futures and options trading to or from United States boards of trade during the period of the study, and whether such trends or movements, if any, were the result of the adoption of statutes, regulations, or other enforcement mechanisms in foreign countries or the United States, as opposed to other competitive, economic, regional, or commercial factors;

(4) any significant harms or risks to the public interest, market users, traders, and commerce in relation to futures or options traded on such foreign boards of trade which may result from the absence of statutes, regulations, or other enforcement mechanisms in foreign countries or the United

States or disparities in regulatory protections offered by United States and foreign authorities; and

(5) any recommendations the Commission may have as a result of the study to enhance the competitive status of United States boards of trade in the world market, or to enhance the regulations of markets in the global environment, that will not impair customer confidence in United States boards of trade.

(b) COOPERATION.—To promote the efficient use of resources, the Commission shall endeavor, as it determines appropriate, to obtain the assistance of the General Accounting Office, the Office of the United States Trade Representative, or other appropriate offices of the Federal Government in order to obtain information with regard to trading at foreign boards of trade and the regulation of such boards of trade by foreign futures authorities.

SEC. 220. COMPUTERIZED FUTURES TRADING.

(a) INTERNATIONAL COMPETITIVENESS OF ELECTRONIC TRADING SYSTEMS.—Section 12 (7 U.S.C. 16) (as amended by section 303 of this Act) is further amended by adding at the end the following new subsection:

"(g) Consistent with its responsibilities under section 18, the Commission is directed to facilitate the development and operation of computerized trading as an adjunct to the open outcry auction system. The Commission is further directed to cooperate with the Office of the United States Trade Representative, the Department of the Treasury, the Department of Commerce, and the Department of State in order to remove any trade barriers that may be imposed by a foreign nation on the international use of electronic trading systems.".

7 USC 22 note.

(b) STUDY.—The Commodity Futures Trading Commission shall conduct a study to assess—

(1) the progress made under initiatives to conduct trading in futures and options subject to the jurisdiction of the Commission under the Commodity Exchange Act through systems of computers or by other electronic means; and

(2) whether the experience with such systems of trading indicates that they may be useful or effective to enhance access to the futures and options markets by potential market participants, improve the ability of the Commission to audit the activities of the futures and options markets, reduce the opportunity for trading abuses, and otherwise be in the public interest or raise other related issues.

(c) REPORT.—Not later than two years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study conducted under subsection (a), together with any appropriate recommendations.

7 USC 13a-1.

SEC. 221. MONEY PENALTIES IN CIVIL COURT ACTIONS.

Section 6c (7 U.S.C. 13c) is amended—

(1) by designating the first, second, third, fourth, fifth, and sixth sentences as subsections (a), (b), (c), (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) (as so designated) the following new subsection:

"(d)(1) In any action brought under this section, the Commission may seek and the court shall have jurisdiction to impose, on a proper showing, on any person found in the action to have committed any violation a civil penalty in the amount of not more than the higher of $100,000 or triple the monetary gain to the person for each violation.

"(2) If a person on whom such a penalty is imposed fails to pay the penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover the penalty by action in the appropriate United States district court.".

SEC. 222. CIVIL DAMAGES; LIABILITY OF FUTURES COMMISSION MERCHANTS.

(a) DUTIES OF CONTRACT MARKETS.—Subsection (a)(11) of section 5a (7 U.S.C. 7a) (as amended by section 201(a)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "market" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation;".

(b) COMPLAINTS AGAINST REGISTERED PERSONS.—Section 14(a) (7 U.S.C. 18(a)) is amended by striking "awarding actual damages proximately caused by such violation." and inserting "awarding—

"(1) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be

responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(2) in the case of any action arising from a willful and intentional violation in the execution of an order on the floor of a contract market, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

(c) REGISTERED FUTURES ASSOCIATIONS.—Section 17(b)(10) (7 U.S.C. 21(b)(10)) (as amended by section 206(b)(1) of this Act) is further amended—

(1) by striking "(i)" and inserting "(A)";

(2) by striking "voluntary and (ii)" and inserting "voluntary, (B)"; and

(3) by inserting after the word "association" the following: ", and (C) in the case of a claim arising from a violation in the execution of an order on the floor of a contract market, such procedure shall provide, to the extent appropriate—

"(i) for payment of actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(ii) where the violation is willful and intentional, for payment to the customer of punitive or exemplary damages, in addition to losses proximately caused by the violation, in an amount equal to no more than two times the amount of such losses. If punitive or exemplary damages are awarded against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of such order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy the award of punitive or exemplary damages if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation".

(d) PRIVATE RIGHTS OF ACTION.—Section 22(a) (7 U.S.C. 25(a)) is amended by adding at the end the following new paragraph:

"(3) In any action arising from a violation in the execution of an order on the floor of a contract market, the person referred to in paragraph (1) shall be liable for—

"(A) actual damages proximately caused by such violation. If an award of actual damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award; and

"(B) where the violation is willful and intentional, punitive or exemplary damages equal to no more than two times the amount of such actual damages. If an award of punitive or exemplary damages is made against a floor broker in connection with the execution of a customer order, and the futures commission merchant which selected the floor broker for the execution of the customer order is held to be responsible under section 2(a)(1) for the floor broker's violation, such futures commission merchant may be required to satisfy such award if the floor broker fails to do so, except that such requirement shall apply to the futures commission merchant only if it willfully and intentionally selected the floor broker with the intent to assist or facilitate the floor broker's violation.".

SEC. 223. CUSTOMER RESTITUTION.

The tenth sentence of section 6(c) (7 U.S.C. 9) (as redesignated by section 209(a)(1) of this Act) is amended—

(1) by inserting "(1)" after "may" the first place it appears;

(2) by striking "and, if" and inserting "(2) if";

(3) by striking "may suspend" and inserting "suspend";

(4) by striking "and may" and inserting "(3)"; and

(5) by inserting before the period the following: "and (4) require restitution to customers of damages proximately caused by violations of such persons".

SEC. 224. COMPLAINTS AGAINST REGISTERED PERSONS; CLASS ACTION SUITS.

Section 14(a) (7 U.S.C. 18(a)) (as amended by section 222(b) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting "(1)" after the subsection designation; and

(3) by adding at the end the following new paragraph:

"(2)(A) An action may be brought under this subsection by any one or more persons described in this subsection for and in behalf of such person or persons and other persons similarly situated, if the Commission permits such actions pursuant to a final rule issued by the Commission.

"(B) Not later than two hundred and seventy days after the date of enactment of this paragraph, the Commission shall propose and publish for public comment such rules as are necessary to carry out subparagraph (A). In developing such rules, the Commission shall consider the potential impact of such actions on resources available to the reparations system established under this Act and the relative merits of bringing such actions in Federal court.".

7 USC 13 note.

SEC. 225. PENALTIES STUDY AND GUIDELINES.

(a) STUDY.—The Commodity Futures Trading Commission shall study the penalties the Commission imposes against persons found to have violated the Commodity Exchange Act (7 U.S.C. 1 et seq.) and the penalties imposed by contract markets and registered futures associations against persons found to have violated their respective rules established under such Act.

(b) REPORT.—Not later than two years after the date of enactment of this Act, the Commission shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study conducted under subsection (a). The report shall—

(1) include an analysis of whether systematic differences exist among penalties imposed by various contract markets and registered futures associations for similar offenses, and, if so, the causes of such differences;

(2) propose industry-wide guidelines or rules to make penalty levels among contract markets and registered futures associations consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses; and

(3) propose guidelines or rules to make Commission penalty levels consistent, including, if appropriate, minimum penalties or penalty ranges for various offenses.

SEC. 226. PUBLICATION OF COMMISSION OPINIONS.

Section 2(a)(9) (7 U.S.C. 4a(h)) is amended by adding at the end the following new subparagraph:

"(C) Whenever the Commission issues for official publication any opinion, release, rule, order, interpretation, or other determination on a matter, the Commission shall provide that any dissenting, concurring, or separate opinion by any Commissioner on the matter be published in full along with the Commission opinion, release, rule, order, interpretation, or determination.".

SEC. 227. SUSPENSION OF REGISTRANTS CHARGED WITH FELONIES.

Section 8a (7 U.S.C. 12a) is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(11)(A) by written notice served on the person and pursuant to such rules, regulations, and orders as the Commission may adopt, to suspend or modify the registration of any person registered under this Act who is charged (in any information, indictment, or complaint authorized by a United States attorney or an appropriate official of any State) with the commission of or participation in a crime involving a violation of this Act, or a violation of any other provision of Federal or State law that would reflect on the honesty or the fitness of the person to act as a fiduciary (including an offense specified in subparagraph (D) or (E) of paragraph (2)) that is punishable by imprisonment for a term exceeding one year, if the Commission determines that continued registration of the person may pose a threat to the public interest or may threaten to impair public confidence in any market regulated by the Commission.

"(B) Prior to the suspension or modification of the registration of a person under this paragraph, the person shall be afforded an opportunity for a hearing at which the Commission shall have the burden of showing that the continued registration of the person does, or is likely to, pose a threat to the public interest or threaten to impair public confidence in any market regulated by the Commission.

"(C) Any notice of suspension or modification issued under this paragraph shall remain in effect until such information, indictment, or complaint is disposed of or until terminated by the Commission.

"(D) On disposition of such information, indictment, or complaint, the Commission may issue and serve on such person an order pursuant to paragraph (2) or (4) to suspend, restrict, or revoke the registration of such person.

"(E) A finding of not guilty or other disposition of the charge shall not preclude the Commission from thereafter instituting any other proceedings under this Act.

"(F) A person aggrieved by an order issued under this paragraph may obtain review of such order in the same manner and on the same terms and conditions as are provided in section 6(b).".

SEC. 228. APPEALS BY REGISTERED FUTURES ASSOCIATIONS.

Section 17(i)(4) (7 U.S.C. 21(i)(4)) is amended by striking "(other than a registered futures association)."

SEC. 229. RISK ASSESSMENT FOR HOLDING COMPANY SYSTEMS.

Section 4f (7 U.S.C. 6f) (as amended by section 207(b)(1) of this Act) is further amended—

(1) by redesignating paragraphs (1) and (2) as subsections (a) and (b), respectively;

(2) in subsection (b) (as so redesignated), by striking "this paragraph (2)" and inserting "this subsection"; and

(3) by adding at the end the following new subsection:

"(c)(1) As used in this subsection:

"(i) The term 'affiliated person' means any person directly or indirectly controlling, controlled by, or under common control with a futures commission merchant, as the Commission, by rule or regulation, may determine will effectuate the purposes of this subsection.

"(ii) The term 'Federal banking agency' shall have the same meaning as the term 'appropriate Federal banking agency' in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

"(2)(A) Each registered futures commission merchant shall obtain such information and make and keep such records as the Commission, by rule or regulation, prescribes concerning the registered futures commission merchant's policies, procedures, or systems for monitoring and controlling financial and operational risks to it resulting from the activities of any of its affiliated persons, other than a natural person. Records.

"(B) The records required under subparagraph (A) shall describe, in the aggregate, each of the futures and other financial activities conducted by, and the customary sources of capital and funding of, those of its affiliated persons whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant, includ-

ing its adjusted net capital, its liquidity, or its ability to conduct or finance its operations.

"(C) The Commission, by rule or regulation, may require summary reports of such information to be filed by the futures commission merchant with the Commission no more frequently than quarterly.

"(3)(A), If, as a result of adverse market conditions or based on reports provided to the Commission pursuant to paragraph (2) or other available information, the Commission reasonably concludes that the Commission has concerns regarding the financial or operational condition of any registered futures commission merchant, the Commission may require the futures commission merchant to make reports concerning the futures and other financial activities of any of such person's affiliated persons, other than a natural person, whose business activities are reasonably likely to have a material impact on the financial or operational condition of the futures commission merchant.

"(B) The Commission, in requiring reports pursuant to this paragraph, shall specify the information required, the period for which it is required, the time and date on which the information must be furnished, and whether the information is to be furnished directly to the Commission or to a contract market or other self-regulatory organization with primary responsibility for examining the registered futures commission merchant's financial and operational condition.

"(4)(A) in developing and implementing reporting requirements pursuant to paragraph (2) with respect to affiliated persons subject to examination by or reporting requirements of a Federal banking agency, the Commission shall consult with and consider the views of each such Federal banking agency. If a Federal banking agency comments in writing on a proposed rule of the Commission under this subsection that has been published for comment, the Commission shall respond in writing to the written comment before adopting the proposed rule. The Commission shall, at the request of the Federal banking agency, publish the comment and response in the Federal Register at the time of publishing the adopted rule.

Federal Register, publication.

"(B)(i) Except as provided in clause (ii), a registered futures commission merchant shall be considered to have compiled with a recordkeeping or reporting requirement adopted pursuant to paragraph (2) concerning an affiliated person that is subject to examination by, or reporting requirements of, a Federal banking agency if the futures commission merchant utilizes for the recordkeeping or reporting requirement copies of reports filed by the affiliated person with the Federal banking agency pursuant to section 5211 of the Revised Statutes (12 U.S.C. 161), section 9 of the Federal Reserve Act (12 U.S.C. 321 et seq.), section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a), section 10(b) of the Home Owners' Loan Act (12 U.S.C. 1467a(b)), or section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844).

"(ii) The Commission may, by rule adopted pursuant to paragraph (2), require any futures commission merchant filing the reports with the Commission to obtain, maintain, or report supplemental information if the Commission makes an explicit finding that the supplemental information is necessary to inform the Commission regarding potential risks to the futures commission merchant. Prior to requiring any such supplemental information,

the Commission shall first request the Federal banking agency to expand its reporting requirements to include the information.

"(5) Prior to making a request pursuant to paragraph (3) for information with respect to an affiliated person that is subject to examination by or reporting requirements of a Federal banking agency, the Commission shall—

"(A) notify the agency of the information required with respect to the affiliated person; and

"(B) consult with the agency to determine whether the information required is available from the agency and for other purposes, unless the Commission determines that any delay resulting from the consultation would be inconsistent with ensuring the financial and operational condition of the futures commission merchant or the stability or integrity of the futures markets.

"(6) Nothing in this subsection shall be construed to permit the Commission to require any futures commission merchant to obtain, maintain, or furnish any examination report of any Federal banking agency or any supervisory recommendations or analysis contained in the report.

"(7) No information provided to or obtained by the Commission from any Federal banking agency pursuant to a request under paragraph (5) regarding any affiliated person that is subject to examination by or reporting requirements of a Federal banking agency may be disclosed to any other person (other than as provided in section 8 or section 8a(6)), without the prior written approval of the Federal banking agency.

"(8) The Commission shall notify a Federal banking agency of any concerns of the Commission regarding significant financial or operational risks resulting from the activities of any futures commission merchant to any affiliated person thereof that is subject to examination by or reporting requirements of the Federal banking agency.

"(9) The Commission, by rule, regulation, or order, may exempt any person or class of persons under such terms and conditions and for such periods as the Commission shall provide in the rule, regulation, or order, from this subsection and the rules and regulations issued under this subsection. In granting the exemption, the Commission shall consider, among other factors—

"(A) whether information of the type required under this subsection is available from a supervisory agency (as defined in section 1101(7) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3401(7))), a State insurance commission or similar State agency, the Securities and Exchange Commission, or a similar foreign regulator;

"(B) the primary business of any affiliated person;

"(C) the nature and extent of domestic or foreign regulation of the affiliated person's activities;

"(D) the nature and extent of the registered futures commission merchant's commodity futures and options activities; and

"(E) with respect to the registered futures commission merchant and its affiliated persons, on a consolidated basis, the amount and proportion of assets devoted to, and revenues derived from activities in the United States futures markets.

"(10) Information required to be provided pursuant to this subsection shall be subject to section 8. Except as specifically provided in section 8 and notwithstanding any other provision of law,

the Commission shall not be compelled to disclose any information required to be reported under this subsection, or any information supplied to the Commission by any domestic or foreign regulatory agency that relates to the financial or operational condition of any affiliated person of a registered futures commission merchant.

"(11) Nothing in paragraphs (1) through (10) shall be construed to supersede or to limit in any way the authority or powers of the Commission pursuant to any other provision of this Act or regulations issued under this Act.".

TITLE III—ASSISTANCE TO FOREIGN FUTURES AUTHORITIES

SEC. 301. SUBPOENA AUTHORITY.

The third sentence of section 6(c) (7 U.S.C. 15) (as redesignated by section 209(a)(1)) is amended—

(1) by striking "Act and" and inserting "Act,"; and

(2) by striking "Act, any" and inserting "Act, and for the purpose of any action taken under section 12(f), any".

SEC. 302. COOPERATION WITH FOREIGN FUTURES AUTHORITIES.

Section 12(a) (7 U.S.C. 16(a)) is amended by inserting after "thereof," the following: "any foreign futures authority, any department or agency of a foreign government or political subdivision thereof,".

SEC. 303. INVESTIGATIVE ASSISTANCE TO FOREIGN FUTURES AUTHORITIES.

Section 12 (7 U.S.C. 16) is amended by adding at the end the following:

"(f)(1) On request from a foreign futures authority, the Commission may, in its discretion, provide assistance in accordance with this section if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws, rules or regulations relating to futures or options matters that the requesting authority administers or enforces. The Commission may conduct such investigation as the Commission deems necessary to collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States.

"(2) In deciding whether to provide assistance under this subsection, the Commission shall consider whether—

"(A) the requesting authority has agreed to provide reciprocal assistance to the Commission in futures and options matters; and

"(B) compliance with the request would prejudice the public interest of the United States.

"(3) Notwithstanding any other provision of law, the Commission may accept payment and reimbursement, in cash or in kind, from a foreign futures authority, or made on behalf of such authority, for necessary expenses incurred by the Commission, its members, and employees in carrying out any investigation, or in providing any other assistance to a foreign futures authority, pursuant to this section. Any payment or reimbursement accepted shall be considered a reimbursement to the appropriated funds of the Commission.".

SEC. 304. DISCLOSURE OF INFORMATION RECEIVED FROM FOREIGN FUTURES AUTHORITIES.

Section 8 of the Commodity Exchange Act (7 U.S.C. 12) is amended—

(1) by adding at the end of subsection (a)(1) (as so redesignated by section 205(1)), the following:

"The Commission shall not be compelled to disclose any information or data obtained from a foreign futures authority if—

"(A) the foreign futures authority has in good faith determined and represented to the Commission that disclosure of such information or data by that foreign futures authority would violate the laws applicable to that foreign futures authority; and

"(B) the Commission obtains such information pursuant to—

"(i) such procedure as the Commission may authorize for use in connection with the administration or enforcement of this Act; or

"(ii) a memorandum of understanding with that foreign futures authority;

except that nothing in this subsection shall prevent the Commission from disclosing publicly any information or data obtained by the Commission from a foreign futures authority when such disclosure is made in connection with a congressional proceeding, an administrative or judicial proceeding commenced by the United States or the Commission, in any receivership proceeding commenced involving a receiver appointed in a judicial proceeding by the United States or the Commission, or in any proceeding under title 11 of the United States Code in which the Commission has intervened or in which the Commission has the right to appear and be heard. Nothing in this subsection shall be construed to authorize the Commission to withhold information or data from Congress. For purposes of section 552 of title 5, United States Code, this subsection shall be considered a statute described in subsection (b)(3)(B) of section 552."; and

(2) by adding at the end of subsection (b) the following: "This subsection shall not apply to the disclosure of data or information obtained by the Commission from a foreign futures authority.".

SEC. 305. DISCLOSURE OF INFORMATION TO FOREIGN FUTURES AUTHORITIES

Section 8(e) (7 U.S.C. 12(e)) is amended—

(1) in the fifth sentence—

(A) by inserting after "jurisdiction," the first place it appears the following: "any foreign futures authority,"; and

(B) by inserting after "such" the following: "foreign futures authority,"; and

(2) in the last sentence—

(A) by inserting after "information to a" the following: "foreign futures authority or to a";

(B) by inserting after "disclosed by such" the following: "foreign futures authority,"; and

(C) by inserting after "or agency thereof" the following: ", or foreign futures authority.".

TITLE IV—AUTHORIZATION OF APPROPRIATIONS; TECHNICAL AMENDMENTS; EFFECTIVE DATE

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Section 12(d) (7 U.S.C. 16(d)) is amended to read as follows:

"(d) There are authorized to be appropriated to carry out this Act—

"(1) $53,000,000 for fiscal year 1993; and

"(2) $60,000,000 for fiscal year 1994.".

SEC. 402. TECHNICAL AMENDMENTS.

The Commodity Exchange Act (7 U.S.C. 1 et seq.) is amended—

(1) by striking "commission" in—

7 USC 6a. (A) section 4a (as amended by paragraph (2)) each place it appears, other than in subsection (d), as so redesignated;

7 USC 8. (B) section 6(b), as so redesignated by section 209(a)(1), each place it appears;

7 USC 9. (C) section 6(c), as so redesignated by section 209(a)(1);

7 USC 13c. (D) section 13(c); and inserting "Commission";

(2) in section 4a (7 U.S.C. 6a)—

(A) in subsection (1) by striking "subparagraphs 2 (A) and (B)" and inserting "paragraphs (1) and (2) of subsection (b)";

(B) in subsection (3) by striking "subsection (1)" and inserting "subsection (a)";

(C) by redesignating subsections (1) through (5) as subsections (a) through (e), respectively; and

(D) in subsection (b), as so redesignated, by redesignating paragraphs (A) and (B) as paragraphs (1) and (2), respectively.

7 USC 6b. (3) in section 4b—

(A) by redesignating subdivisions (A) through (D) as subdivisions (i) through (iv), respectively;

(B) by striking "(a)", "(b)", and "(c)", and inserting "(A)", "(B)", and "(C)", respectively;

(C) by inserting "(a)" after "SEC. 4b.";

(D) by inserting "(b)" before "Nothing in this section or"; and

(E) by inserting "(c)" before "Nothing in this section shall";

7 USC 6c. (4) in section 4c(d)(2)—

(A) in subparagraph (A)(iv) by striking "(15 U.S.C. 78c(a)(12))" and inserting "(15 U.S.C. 78c(a)(12))"; and

(B) in the matter following subparagraph (C) by striking "section (2)(a)" and inserting "section 2(a)";

(5) in section 4g (7 U.S.C. 6g)—

(A) by redesignating subsections (1) through (6) as subsections (a) through (f), respectively; and

(B) in subsection (c), as so redesignated, by striking "subsection (2)" and inserting "subsection (b)";

7 USC 9. (6) in section 6(c), as so redesignated by section 209(a)(1), by striking "offending person." and inserting "offending person";

7 USC 15, 12. (7) in section 6(c), as so redesignated by section 209(a)(1), and in section 8(f) by striking "subpena" and "subpenas" each place they appear and inserting "subpoena" and "subpoenas", respectively;

(8) in section 6a, as amended by section 209(b)(4), by redesignating subsections (1) and (2) as subsections (a) and (b), respectively; 7 USC 10a.

(9) by striking "the Secretary of Agriculture or"—

(A) in the first sentence of section 6(b), as so redesignated by section 209(a)(1); 7 USC 8.

(B) in the first sentence of section 6(c), as so redesignated by section 207(a)(1); and 7 USC 9.

(C) in section 13(c); 7 USC 13c.

(10) in section 8a— 7 USC 12a.

(A) in paragraph (5) by striking "and" at the end; and

(B) in paragraph (7) by striking "matters as:" and inserting "matters as—";

(11) in section 14(g) by striking "fifteen months" the second place it appears and inserting "15-month"; 7 USC 18.

(12) in section 17— 7 USC 21.

(A) in subsection (a) by indenting the left margin of paragraphs (1) and (2) by 2 ems; and

(B) in subsection (l)(2)(B)—

(i) by striking "the Commodity Exchange" and inserting "this"; and

(ii) by striking the period at the end and inserting "; and";

(13) by striking section 21; 7 USC 4a note.

(14) in section 22(a)— 7 USC 25.

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A) by striking "clauses (A) through (D)" and inserting "subparagraphs (A) through (D)"; and

(ii) in subparagraph (D) by striking "clause (B)" and inserting "subparagraph (B)"; and

(B) in paragraph (2) by striking "17b(10)" and inserting "17(b)(10)"; and

(15) by striking section 23. 7 USC 26.

SEC. 403. EFFECTIVE DATE. 7 USC 1a note.

Except as otherwise specifically provided in this Act, this Act and the amendments made by this Act shall become effective on the date of enactment of this Act.

SEC. 404. DEFINITIONS.

(a) IN GENERAL.—The Act is amended by inserting after the first section (7 U.S.C. 1) the following new section:

"SEC. 1a. DEFINITIONS. 7 USC 1a.

"As used in this Act:

"(1) BOARD OF TRADE.—The term 'board of trade' means any exchange or association, whether incorporated or unincorporated, of persons who are engaged in the business of buying or selling any commodity or receiving the same for sale on consignment.

"(2) COMMISSION.—The term 'Commission' means the Commodity Futures Trading Commission established under section 2(a)(2).

"(3) COMMODITY.—The term 'commodity' means wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, mill feeds, butter, eggs, Solanum tuberosum (Irish potatoes), wool,

wool tops, fats and oils (including lard, tallow, cottonseed oil, peanut oil, soybean oil, and all other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice, and all other goods and articles, except onions as provided in Public Law 85–839 (7 U.S.C. 13–1), and all services, rights, and interests in which contracts for future delivery are presently or in the future dealt in.

"(4) COMMODITY POOL OPERATOR.—The term 'commodity pool operator' means any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market, except that the term does not include such persons not within the intent of the definition of the term as the Commission may specify by rule, regulation, or order.

"(5) COMMODITY TRADING ADVISOR.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'commodity trading advisor' means any person who—

"(i) for compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in—

"(I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market;

"(II) any commodity option authorized under section 4c; or

"(III) any leverage transaction authorized under section 19; or

"(ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

"(B) EXCLUSIONS.—Subject to subparagraph (C), the term 'commodity trading advisor' does not include—

"(i) any bank or trust company or any person acting as an employee thereof;

"(ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher;

"(iii) any floor broker or futures commission merchant;

"(iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees;

"(v) the fiduciary of any defined benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.);

"(vi) any contract market; and

"(vii) such other persons not within the intent of this paragraph as the Commission may specify by rule, regulation, or order.

"(C) INCIDENTAL SERVICES.—Subparagraph (B) shall apply only if the furnishing of such services by persons referred to in subparagraph (B) is solely incidental to the conduct of their business or profession.

"(D) ADVISORS.—The Commission, by rule or regulation, may include within the term 'commodity trading advisor', any person advising as to the value of commodities or issuing reports or analyses concerning commodities if the Commission determines that the rule or regulation will effectuate the purposes of this paragraph.

"(6) CONTRACT OF SALE.—The term 'contract of sale' includes sales, agreements of sale, and agreements to sell.

"(7) COOPERATIVE ASSOCIATION OF PRODUCERS.—The term 'cooperative association of producers' means any cooperative association, corporate, or otherwise, not less than 75 percent in good faith owned or controlled, directly or indirectly, by producers of agricultural products and otherwise complying with the Act of February 18, 1922 (42 Stat. 388, chapter 57; 7 U.S.C. 291 and 292), including any organization acting for a group of such associations and owned or controlled by such associations, except that business done for or with the United States, or any agency thereof, shall not be considered either member or nonmember business in determining the compliance of any such association with this Act.

"(8) FLOOR BROKER.—The term 'floor broker' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, shall purchase or sell for any other person any commodity for future delivery on or subject to the rules of any contract market.

"(9) FLOOR TRADER.—The term 'floor trader' means any person who, in or surrounding any pit, ring, post, or other place provided by a contract market for the meeting of persons similarly engaged, purchases, or sells solely for such person's own account, any commodity for future delivery on or subject to the rules of any contract market.

"(10) FOREIGN FUTURES AUTHORITY.—The term 'foreign futures authority' means any foreign government, or any department, agency, governmental body, or regulatory organization empowered by a foreign government to administer or enforce a law, rule, or regulation as it relates to a futures or options matter, or any department or agency of a political subdivision of a foreign government empowered to administer or enforce a law, rule, or regulation as it relates to a futures or options matter.

"(11) FUTURE DELIVERY.—The term 'future delivery' does not include any sale of any cash commodity for deferred shipment or delivery.

"(12) FUTURES COMMISSION MERCHANT.—The term 'futures commission merchant' means an individual, association, partnership, corporation, or trust that—

"(A) is engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future deliv-

ery on or subject to the rules of any contract market; and

"(B) in or in connection with such solicitation or acceptance of orders, accepts any money, securities, or property (or extends credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(13) INTERSTATE COMMERCE.—The term 'interstate commerce' means commerce—

"(A) between any State, territory, or possession, or the District of Columbia, and any place outside thereof; or

"(B) between points within the same state, territory, or possession, or the District of Columbia, but through any place outside thereof, or within any territory or possession, or the District of Columbia.

"(14) INTRODUCING BROKER.—The term 'introducing broker' means any person (except an individual who elects to be and is registered as an associated person of a futures commission merchant) engaged in soliciting or in accepting orders for the purchase or sale of any commodity for future delivery on or subject to the rules of any contract market who does not accept any money, securities, or property (or extend credit in lieu thereof) to margin, guarantee, or secure any trades or contracts that result or may result therefrom.

"(15) MEMBER OF A CONTRACT MARKET.—The term 'member of a contract market' means an individual, association, partnership, corporation, or trust owning or holding membership in, or admitted to membership representation on, a contract market or given members' trading privileges thereon.

"(16) PERSON.—The term 'person' imports the plural or singular, and includes individuals, associations, partnerships, corporations, and trusts.".

(b) CONFORMING AMENDMENTS.—Section 2(a)(1)(A) (7 U.S.C. 2 and 4) is amended—

(1) by striking "For the purposes" and all that follows through "; *Provided,* That the Commission" and inserting "(i) The Commission";

(2) by striking ": *And provided further,* That, except" and inserting a period and "Except";

(3) by redesignating clauses (i) and (ii) of the third sentence (as in effect before the amendments made by this subsection) as subclauses (I) and (II), respectively;

(4) by designating the fifth sentence (as in effect before the amendments made by this subsection) as clause (ii);

(5) by striking the sixth and seventh sentences (as in effect before the amendments made by this subsection);

(6) by designating the eighth sentence (as in effect before the amendments made by this subsection) as clause (iii); and

(7) by striking the ninth sentence (as in effect before the amendments made by this subsection) through the end of the subparagraph.

TITLE V—INTERMARKET COORDINATION

SEC. 501. MARGIN ON STOCK INDEX FUTURES.

Section 2(a)(1)(B) (7 U.S.C. 2a) is amended by adding at the end the following new clause:

"(vi)(I) Notwithstanding any other provision of this Act, any contract market in a stock index futures contract (or option thereon) shall file with the Board of Governors of the Federal Reserve System any rule establishing or changing the levels of margin (initial and maintenance) for the stock index futures contract (or option thereon).

"(II) The Board may at any time request any contract market to set the margin for any stock index futures contract (or option thereon) at such levels as the Board in its judgment determines are appropriate to preserve the financial integrity of the contract market or its clearing system or to prevent systemic risk. If the contract market fails to do so within the time specified by the Board in its request, the Board may direct the contract market to alter or supplement the rules of the contract market as specified in the request.

"(III) Subject to such conditions as the Board may determine, the Board may delegate any or all of its authority under this clause only to the Commission.

"(IV) Nothing in this clause shall supersede or limit the authority granted to the Commission in section 8a(9) to direct a contract market, on finding an emergency to exist, to raise temporary emergency margin levels on any futures contract or option on the contract covered by this clause.

"(V) Any action taken by the Board, or by the Commission acting under the delegation of authority under subclause III, under this clause directing a contract market to alter or supplement a contract market rule shall be subject to review only in the Court of Appeals where the party seeking review resides or has its principal place of business, or in the United States Court of Appeals for the District of Columbia Circuit. The review shall be based on the examination of all information before the Board or the Commission, as the case may be, at the time the determination was made. The court reviewing the action of the Board or the Commission shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

SEC. 502. EXEMPTIVE AUTHORITY.

(a) IN GENERAL.—Section 4 (7 U.S.C. 6) is amended—

(1) in subsection (a), by striking "It shall be unlawful" and inserting "Unless exempted by the Commission pursuant to subsection (c), it shall be unlawful"; and

(2) by adding at the end the following new subsections:

"(c)(1) In order to promote responsible economic or financial innovation and fair competition, the Commission by rule, regulation, or order, after notice and opportunity for hearing, may (on its own initiative or on application of any person, including any board of trade designated as a contract market for transactions for future delivery in any commodity under section 5 of this Act) exempt any agreement, contract, or transaction (or class thereof) that is otherwise subject to subsection (a) (including any person or class of persons offering, entering into, rendering advice or rendering other services with respect to, the agreement, contract, or transaction), either unconditionally or on stated terms or conditions or for stated periods and either retroactively or prospectively, or

both, from any of the requirements of subsection (a), or from any other provision of this Act (except section 2(a)(1)(B)), if the Commission determines that the exemption would be consistent with the public interest."

"(2) The Commission shall not grant any exemption under paragraph (1) from any of the requirements of subsection (a) unless the Commission determines that—

"(A) the requirement should not be applied to the agreement, contract, or transaction for which the exemption is sought and that the exemption would be consistent with the public interest and the purposes of this Act; and

"(B) the agreement, contract, or transaction—

"(i) will be entered into solely between appropriate persons; and

"(ii) will not have a material adverse effect on the ability of the Commission or any contract market to discharge its regulatory or self-regulatory duties under this Act.

"(3) For purposes of this subsection, the term 'appropriate person' shall be limited to the following persons or classes thereof:

"(A) A bank or trust company (acting in an individual or fiduciary capacity).

"(B) A savings association.

"(C) An insurance company.

"(D) An investment company subject to regulation under the Investment Company Act of 1940 (15 U.S.C. 80a–1 et seq.).

"(E) A commodity pool formed or operated by a person subject to regulation under this Act.

"(F) A corporation, partnership, proprietorship, organization, trust, or other business entity with a net worth exceeding $1,000,000 or total assets exceeding $5,000,000, or the obligations of which under the agreement, contract or transaction are guaranteed or otherwise supported by a letter of credit or keepwell, support, or other agreement by any such entity or by an entity referred to in subparagraph (A), (B), (C), (H), (I), or (K) of this paragraph.

"(G) An employee benefit plan with assets exceeding $1,000,000, or whose investment decisions are made by a bank, trust company, insurance company, investment adviser registered under the Investment Advisers Act of 1940 (15 U.S.C. 80a–1 et seq.), or a commodity trading advisor subject to regulation under this Act.

"(H) Any governmental entity (including the United States, any state, or any foreign government) or political subdivision thereof, or any multinational or supranational entity or any instrumentality, agency, or department of any of the foregoing.

"(I) A broker-dealer subject to regulation under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) acting on its own behalf or on behalf of another appropriate person.

"(J) A futures commission merchant, floor broker, or floor trader subject to regulation under this Act acting on its own behalf or on behalf of another appropriate person.

"(K) Such other persons that the Commission determines to be appropriate in light of their financial or other qualifications, or the applicability of appropriate regulatory protections.

"(4) During the pendency of an application for an order granting an exemption under paragraph (1), the Commission may limit the public availability of any information received from the applicant if the applicant submits a written request to limit disclosure contemporaneous with the application, and the Commission determines that—

"(A) the information sought to be restricted constitutes a trade secret; or

"(B) public disclosure of the information would result in material competitive harm to the applicant.

"(5) The Commission may—

"(A) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) with respect to classes of hybrid instruments that are predominantly securities or depository instruments, to the extent that such instruments may be regarded as subject to the provisions of this Act; or

"(B) promptly following the enactment of this subsection, or upon application by any person, exercise the exemptive authority granted under paragraph (1) effective as of October 23, 1974, with respect to classes of swap agreements (as defined in section 101 of title 11, United States Code) that are not part of a fungible class of agreements that are standardized as to their material economic terms, to the extent that such agreements may be regarded as subject to the provisions of this Act.

Any exemption pursuant to this paragraph shall be subject to such terms and conditions as the Commission shall determine to be appropriate pursuant to paragraph (1).

"(d) The granting of an exemption under this section shall not affect the authority of the Commission under any other provision of this Act to conduct investigations in order to determine compliance with the requirements or conditions of such exemption or to take enforcement action for any violation of any provision of this Act or any rule, regulation or order thereunder caused by the failure to comply with or satisfy such conditions or requirements.".

(b) COMPETITIVE FAIRNESS.—Section 15 (7 U.S.C. 19) is amended by striking "regulation," and inserting "regulation (including any exemption under section 4(c) or 4c(b)),".

(c) CONFORMING AMENDMENT.—Section 12(e)(2)(A) (7 U.S.C. 16(e)(2)(A)) is amended by inserting after "market," the following: "or, in the case of any State or local law that prohibits or regulates

gaming or the operation of 'bucket shops' (other than antifraud provisions of general applicability), that is not a transaction or class of transactions that has received or is covered by the terms of any exemption previously granted by the Commission under subsection (c) of section 4 of this Act,".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 707 (S. 207):

HOUSE REPORTS: Nos. 102-6 (Comm. on Agriculture) and 102-978 (Comm. of Conference).
SENATE REPORTS: No. 102-22 accompanying S. 207 (Comm. on Agriculture, Nutrition and Forestry).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Mar. 5, considered and passed House.
Apr. 16-18, S. 207 considered in Senate; H.R. 707, amended, passed in lieu.
Vol. 138 (1992): Oct. 2, House agreed to conference report.
Oct. 8, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-547
102d Congress

An Act

To amend title 38, United States Code, with respect to housing loans for veterans.

Oct. 28, 1992
[H.R. 939]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans Home Loan Program Amendments of 1992.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Home Loan Program Amendments of 1992".

SEC. 2. ELIGIBILITY OF SELECTED RESERVE.

(a) SELECTED RESERVE.—Chapter 37 of title 38, United States Code, is amended—

(1) in section 3701(b), by adding at the end the following:

"(5)(A) The term 'veteran' also includes an individual who is not otherwise eligible for the benefits of this chapter and who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve.

"(B) The term 'Selected Reserve' means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 268(b) of title 10."; and

(2) in section 3702(a)(2), by adding at the end the following:

"(E) For the 7-year period beginning on the date of enactment of this subparagraph, each veteran described in section 3701(b)(5) of this title.".

(b) FEES.—(1) Section 3729(a)(2) of such title is amended—

(A) by striking out "and" at the end of subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a semicolon; and

(C) by adding after subparagraph (C) the following new subparagraph:

"(D) in the case of a loan made to, or guaranteed or insured on behalf of, a veteran described in section 3701(b)(5) of this title under this chapter, the amount of such fee shall be—

"(i) two percent of the total loan amount;

"(ii) in the case of a loan for any purpose specified in section 3712 of this title, one percent of such amount; or

"(iii) in the case of a loan for a purchase (other than a purchase referred to in section 3712 of this title) or

for construction with respect to which the veteran has made a downpayment of 5 percent or more of the total purchase price or construction cost—

"(I) 1.50 percent of the total loan amount if such downpayment is less than 10 percent of such price or cost; or

"(II) 1.25 percent of the total loan amount if such downpayment is 10 percent or more of such price or cost; and".

(2) Subparagraphs (A) and (B) of section 3725(c)(2) of such title are amended by inserting "(other than loans described in section 3729(a)(2)(D) of this title)" after "for each loan".

38 USC 3702 note.

(c) REPORT.—The Secretary of Veterans Affairs shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1994, and annually thereafter. The report shall contain—

(1) a declaration of the number of veterans (as defined by section 3701(b)(5) of title 38, United States Code) who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a);

(2) a comparison of the default rate of veterans described in paragraph (1) with the default rate for all other veterans who have received loans guaranteed or insured by the Secretary; and

(3) a comparison of the proportion of veterans who receive mortgage loans guaranteed by the Secretary as a result of the amendments made by subsection (a) who are first time homebuyers with the proportion of all other veterans who receive mortgage loans guaranteed or insured by the Secretary and who are first time homebuyers.

SEC. 3. ADJUSTABLE RATE MORTGAGE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—(1) Chapter 37 of title 38, United States Code, is amended by adding after section 3706 the following new section:

"§ 3707. Adjustable rate mortgages

"(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993, 1994, and 1995 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

"(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

"(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

"(2) be made by adjusting the monthly payment on an annual basis on the anniversary of the date on which the loan was closed;

"(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

"(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

"(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

"(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

"(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

"(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

"(4) such other factors as the Secretary finds appropriate.

"(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.".

(2) The table of sections for chapter 37, of title 38, United States Code, is amended by inserting after the item relating to section 3706 the following new item:

"3707. Adjustable rate mortgages.".

38 USC 3707 note.

(b) REPORT.—The Secretary shall transmit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives no later than December 31, 1993, containing a description of the project carried out under section 3707 of title 38, United States Code (as added by subsection (a)), and shall continue to make annual reports to the Committees with respect to the default rate and other information concerning the loans guaranteed under such section. Such reports shall—

(1) compare the number of adjustable rate mortgages guaranteed under such section with the number of fixed rate loans guaranteed or insured under chapter 37 of such title and contrast this ratio with a corresponding ratio for loans for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act;

(2) compare the initial interest rate of the adjustable rate mortgages guaranteed under such section with the fixed interest rate on loans guaranteed or insured under chapter 37 of such title;

(3) describe the monthly mortgage payment savings to the veteran, if any, under an adjustable rate mortgage guaranteed under such section compared with the payments that would have been required if the loan bore interest at a maximum fixed rate established by the Secretary;

(4) discuss whether the market share for housing loans guaranteed under chapter 37 of such title has increased or decreased since the implementation of such section;

(5) compare the default rate on mortgages guaranteed under such section with the default rate of fixed-rate mortgages guaranteed or insured under chapter 37 of such title; and

(6) compare the number of first time homebuyers using adjustable rate mortgage loans under such section with the

number of first time homebuyers using any other loan guaranteed under chapter 37 of such title.

SEC. 4. ENHANCED LOAN ASSET SALE AUTHORITY.

Section 3720(h)(2) of title 38, United States Code, is amended by striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

SEC. 5. FEES FOR REFINANCING LOANS.

Section 3729(a)(2) of title 38, United States Code (as amended by section 2(b) of this Act), is amended—

(1) in subparagraph (A), by inserting "(other than section 3712(a)(1)(F))" after "section 3712"; and

(2) by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a loan guaranteed under section 3710(a)(8), 3710(a)(9)(B)(i), or 3712(a)(1)(F) of this title, the amount of such fee shall be 0.5 percent of the total loan amount.".

SEC. 6. GUARANTY AMOUNT RELATIVE TO LOAN REFINANCINGS.

Chapter 37 of title 38, United States Code, is amended—

(1) in section 3710(e), by amending paragraph (1)(D) to read as follows:

"(D) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (i) the original guaranty amount of the loan being refinanced, or (ii) 25 percent of the loan;"; and

(2) in section 3712(a)(4), by amending subparagraph (A)(iv) to read as follows:

"(iv) notwithstanding section 3703(a)(1) of this title, the amount of the guaranty of the loan may not exceed the greater of (I) the original guaranty amount of the loan being refinanced, or (II) 25 percent of the loan;".

SEC. 7. EXTENSION OF LENDER APPRAISAL PROGRAM.

Section 3731(f)(3) of title 38, United States Code, is amended by striking out "1992" and inserting in lieu thereof "1995".

SEC. 8. NATIVE AMERICAN VETERANS DIRECT HOUSING LOAN PILOT PROGRAM.

(a) PROGRAM.—Chapter 37 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"§ 3761. Pilot program

"(a) The Secretary shall establish and implement a pilot program under which the Secretary may make direct housing loans to Native American veterans. The purpose of such loans is to permit such veterans to purchase, construct, or improve dwellings on trust land. The Secretary shall establish and implement the pilot program in accordance with the provisions of this subchapter.

"(b) In carrying out the pilot program under this subchapter, the Secretary shall, to the extent practicable, make direct housing loans to Native American veterans who are located in a variety

of geographic areas and in areas experiencing a variety of economic circumstances.

"(c) No loans may be made under this subchapter after September 30, 1997.

"§ 3762. Direct housing loans to Native American veterans

"(a) The Secretary may make a direct housing loan to a Native American veteran if—

"(1) the Secretary has entered into a memorandum of understanding with respect to such loans with the tribal organization that has jurisdiction over the veteran; and

"(2) the memorandum is in effect when the loan is made.

"(b)(1) Subject to paragraph (2), the Secretary shall ensure that each memorandum of understanding that the Secretary enters into with a tribal organization shall provide for the following:

"(A) That each Native American veteran who is under the jurisdiction of the tribal organization and to whom the Secretary makes a direct loan under this subchapter—

"(i) holds, possesses, or purchases using the proceeds of the loan a meaningful interest in a lot or dwelling (or both) that is located on trust land; and

"(ii) will purchase, construct, or improve (as the case may be) a dwelling on the lot using the proceeds of the loan.

"(B) That each such Native American veteran will convey to the Secretary by an appropriate instrument the interest referred to in subparagraph (A) as security for a direct housing loan under this subchapter.

"(C) That the tribal organization and each such Native American veteran will permit the Secretary to enter upon the trust land of that organization or veteran for the purposes of carrying out such actions as the Secretary determines are necessary—

"(i) to evaluate the advisability of the loan; and

"(ii) to monitor any purchase, construction, or improvements carried out using the proceeds of the loan.

"(D) That the tribal organization has established standards and procedures that apply to the foreclosure of the interest conveyed by a Native American veteran pursuant to subparagraph (B), including—

"(i) procedures for foreclosing the interest; and

"(ii) procedures for the resale of the lot or the dwelling (or both) purchased, constructed, or improved using the proceeds of the loan.

"(E) That the tribal organization agrees to such other terms and conditions with respect to the making of direct loans to Native American veterans under the jurisdiction of the tribal organization as the Secretary may require in order to ensure that the pilot program established under this subchapter is implemented in a responsible and prudent manner.

"(2) The Secretary may not enter into a memorandum of understanding with a tribal organization under this subsection unless the Secretary determines that the memorandum provides for such standards and procedures as are necessary for the reasonable protection of the financial interests of the United States.

"(c)(1)(A) Except as provided in subparagraph (B), the principal amount of any direct housing loan made to a Native American under this section may not exceed $80,000.

"(B) The Secretary may make loans exceeding the amount specified in subparagraph (A) in a geographic area if the Secretary determines that housing costs in the area are significantly higher than average housing costs nationwide. The amount of such increase shall be the amount that the Secretary determines is necessary in order to carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans to Native American veterans who are located in a variety of geographic areas and in geographic areas experiencing a variety of economic conditions.

"(2) Loans made under this section shall bear interest at a rate determined by the Secretary, which rate may not exceed the appropriate rate authorized for guaranteed loans under section 3703(c)(1) or section 3712(f) of this title, and shall be subject to such requirements or limitations prescribed for loans guaranteed under this title as the Secretary may prescribe.

"(3) Notwithstanding section 3704(a) of this title, the Secretary shall establish minimum requirements for planning, construction, improvement, and general acceptability relating to any direct loan made under this section.

"(d)(1) The Secretary shall establish credit underwriting standards to be used in evaluating loans made under this subchapter. In establishing such standards, the Secretary shall take into account the purpose of this program to make available housing to Native American veterans living on trust lands.

"(2) The Secretary shall determine the reasonable value of the interest in property that will serve as security for a loan made under this section and shall establish procedures for appraisals upon which the Secretary may base such determinations. The procedures shall incorporate generally the relevant requirements of section 3731 of this title, unless the Secretary determines that such requirements are impracticable to implement in a geographic area, on particular trust lands, or under circumstances specified by the Secretary.

"(e) Loans made under this section shall be repaid in monthly installments.

"(f) In connection with any loan under this section, the Secretary may make advances in cash to provide for repairs, alterations, and improvements and to meet incidental expenses of the loan transaction. The Secretary shall determine the amount of any expenses incident to the origination of loans made under this section, which expenses, or a reasonable flat allowance in lieu thereof, shall be paid by the veteran in addition to the loan closing costs.

"(g) Without regard to any provision of this chapter (other than a provision of this section), the Secretary may—

"(1) take any action that the Secretary determines to be necessary with respect to the custody, management, protection, and realization or sale of investments under this section;

"(2) determine any necessary expenses and expenditures and the manner in which such expenses and expenditures shall be incurred, allowed, and paid;

"(3) make such rules, regulations, and orders as the Secretary considers necessary for carrying out the Secretary's functions under this section; and

"(4) in a manner consistent with the provisions of this chapter and with the Secretary's functions under this subchapter, employ, utilize, and compensate any persons, organizations, or departments or agencies (including departments and agencies of the United States) designated by the Secretary to carry out such functions.

"(h) The Secretary shall carry out an outreach program to inform and educate tribal organizations and Native American veterans of the pilot program provided for under this subchapter and the availability of direct housing loans for Native American veterans who live on trust lands.

"§ 3763. Housing loan program account

"(a) There is hereby established in the Treasury of the United States an account known as the 'Native American Veteran Housing Loan Program Account' (hereafter in this subchapter referred to as the 'Account').

"(b) The Account shall be available to the Secretary to carry out all operations relating to the making of direct housing loans to Native American veterans under this subchapter, including any administrative expenses relating to the making of such loans. Amounts in the Account shall be available without fiscal year limitation.

"§ 3764. Definitions

"For the purposes of this subchapter—

"(1) The term 'trust land' means any land that—

"(A) is held in trust by the United States for Native Americans;

"(B) is subject to restrictions on alienation imposed by the United States on Indian lands (including native Hawaiian homelands);

"(C) is owned by a Regional Corporation or a Village Corporation, as such terms are defined in section 3(g) and 3(j) of the Alaska Native Claims Settlement Act, respectively (43 U.S.C. 1602(g), (j)); or

"(D) is on any island in the Pacific Ocean if such land is, by cultural tradition, communally-owned land, as determined by the Secretary.

"(2) The term 'Native American veteran' means any veteran who is a Native American.

"(3) The term 'Native American' means—

"(A) an Indian, as defined in section 4(d) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(d));

"(B) a native Hawaiian, as that term is defined in section 201(a)(7) of the Hawaiian Homes Commission Act, 1920 (Public Law 67-34; 42 Stat. 108);

"(C) an Alaska Native, within the meaning provided for the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)); and

"(D) a Pacific Islander, within the meaning of the Native American Programs Act of 1974 (42 U.S.C. 2991 et seq.).

"(4) The term 'tribal organization' shall have the meaning given such term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)) and shall include the Department of Hawaiian Homelands, in the case of native Hawaiians, and such other organizations as the Secretary may prescribe.".

38 USC 3761 note.

(b) CONSULTATION.—In carrying out the direct housing loan pilot program authorized under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), the Secretary of Veterans Affairs shall consider the views and recommendations, if any, of the Advisory Committee on Native-American Veterans established under section 19032 of the Veterans' Health-Care Amendments of 1986 (title XIX of Public Law 99-272; 100 Stat. 388).

(c) CONFORMING AMENDMENT.—The table of sections of such chapter is amended by adding at the end the following new matter:

"SUBCHAPTER V—NATIVE AMERICAN VETERAN HOUSING LOAN PILOT PROGRAM

"3761. Pilot program.
"3762. Direct housing loans to Native American veterans.
"3763. Housing loan program account.
"3764. Definitions.".

38 USC 3761 note.

(d) ANNUAL REPORTS.—Not later than February 1 of each of 1994 through 1998, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report relating to—

(1) the implementation of the Native American veterans direct housing loan pilot program established under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), during the period ending on September 30 of the year preceding the date of the report;

(2) the Secretary's exercise of the authority provided under section 3762(c)(1)(B) of such title (as so added) to make loans exceeding the maximum loan amount;

(3) the appraisals performed for the Secretary during that period under the authority of section 3732(d)(2) of such title (as so added), including a description of—

(A) the manner in which such appraisals were performed;

(B) the qualifications of the appraisers who performed such appraisals; and

(C) the actions taken by the Secretary with respect to such appraisals to protect the interests of veterans and the United States; and

(4) the Secretary's recommendations, if any, for legislation regarding the pilot program.

38 USC 3761 note.

(e) AUTHORIZATION OF APPROPRIATIONS.—New direct loan obligations for Native American veteran housing loans under subchapter V of chapter 37 of title 38, United States Code (as added by subsection (a)), may be incurred only to the extent that appropriations of budget authority to cover the anticipated cost, as defined in section 502 of the Congressional Budget Act of 1974, for such loans are made in advance. There is authorized to be appropriated for such purpose $5,000,000 for fiscal year 1993, which amount shall remain available without fiscal year limitation.

(f) CONFORMING FUNDING AMENDMENT.—Title I of the Departments of Veterans Affairs and Housing and Urban Development,

and Independent Agencies Appropriations Act, 1993 is amended by striking out "direct loans authorized by" and all that follows through "Veterans' Affairs)" under the heading "NATIVE AMERICAN VETERAN HOUSING LOAN PROGRAM ACCOUNT" and inserting in lieu thereof "direct loans authorized by subchapter V of chapter 37 of title 38, United States Code".

SEC. 9. ENERGY EFFICIENT MORTGAGES.

(a) IN GENERAL.—Subsection (d) of section 3710 of title 38, United States Code, is amended to read as follows:

"(d)(1) The Secretary shall carry out a program to demonstrate the feasibility of guaranteeing loans for the acquisition of an existing dwelling and the cost of making energy efficiency improvements to the dwelling or for energy efficiency improvements to a dwelling owned and occupied by a veteran. A loan may be guaranteed under this subsection only if it meets the requirements of this chapter, except as those requirements are modified by this subsection.

"(2) The cost of energy efficiency measures that may be financed by a loan guaranteed under this section may not exceed the greater of—

"(A) the cost of the energy efficiency improvements, up to $3,000; or

"(B) $6,000, if the increase in the monthly payment for principal and interest does not exceed the likely reduction in monthly utility costs resulting from the energy efficiency improvements.

"(3) Notwithstanding the provisions of section 3703(a)(1)(A) of this title, any loan guaranteed under this subsection shall be guaranteed in an amount equal to the sum of—

"(A) the guaranty that would be provided under those provisions for the dwelling without the energy efficiency improvements; and

"(B) an amount that bears the same relation to the cost of the energy efficiency improvements as the guaranty referred to in subparagraph (A) bears to the amount of the loan minus the cost of such improvements.

"(4) The amount of the veteran's entitlement, calculated in accordance with section 3703(a)(1)(B) of this title, shall not be affected by the amount of the guaranty referred to in paragraph (3)(B).

"(5) The Secretary shall take appropriate actions to notify eligible veterans, participating lenders, and interested realtors of the availability of loan guarantees under this subsection and the procedures and requirements that apply to the obtaining of such guarantees.

"(6) For the purposes of this subsection:

"(A) The term 'energy efficiency improvement' includes a solar heating system, a solar heating and cooling system, or a combined solar heating and cooling system, and the application of a residential energy conservation measure.

"(B) The term 'solar heating' has the meaning given such term in section 3(1) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(1)) and, in addition, includes a passive system based on conductive, convective, or radiant energy transfer.

"(C) The terms 'solar heating and cooling' and 'combined solar heating and cooling' have the meaning given such terms

in section 3(2) of the Solar Heating and Cooling Demonstration Act of 1974 (42 U.S.C. 5502(2)) and, in addition, include a passive system based on conductive, convective, or radiant energy transfer.

"(D) The term 'passive system' includes window and skylight glazing, thermal floors, walls, and roofs, movable insulation panels (when in conjunction with glazing), portions of a residential structure that serve as solar furnaces so as to add heat to the structure, double-pane window insulation, and such other energy-related components as are determined by the Secretary to enhance the natural transfer of energy for the purpose of heating or heating and cooling a residence.

"(E) The term 'residential energy conservation measure' means—

"(i) caulking and weatherstripping of all exterior doors and windows;

"(ii) furnace efficiency modifications limited to—

"(I) replacement burners, boilers, or furnaces designed to reduce the firing rate or to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency,

"(II) devices for modifying flue openings which will increase the efficiency of the heating system, and

"(III) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

"(iii) clock thermostats;

"(iv) ceiling, attic, wall, and floor insulation;

"(v) water heater insulation;

"(vi) storm windows and doors;

"(vii) heat pumps; and

"(viii) such other energy conservation measures as the Secretary may identify for the purposes of this subparagraph.

"(7) A loan may not be guaranteed under this subsection after December 31, 1995.".

(b) PURCHASE OR CONSTRUCTION WITH ENERGY EFFICIENCY IMPROVEMENTS.—(1) Section 3710(a)(7) of such title is amended to read as follows:

"(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d).".

(2) Section 3710(a) of such title is further amended by adding after paragraph (9) the following:

"(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).".

38 USC 3710 note.

(c) REPORTS.—Not later than 1 year after the date on which the Secretary of Veterans Affairs first exercises the authority to guarantee loans under section 3710(d) of title 38, United States Code (as added by subsection (a) of this section), and for each of the 3 years thereafter, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the program under such section. Each such report shall contain information pertaining to—

(1) the number of mortgages guaranteed under such section;

(2) the average amount of money added to the mortgage to finance energy efficiency features;

(3) the types of energy efficiency features obtained with mortgages under such section; and

(4) the default rates on the mortgages guaranteed under such section compared with the default rates on all other types of mortgages guaranteed by the Secretary.

SEC. 10. NEGOTIATED INTEREST RATES.

(a) IN GENERAL.—Section 3703(c) of title 38, United States Code, is amended—

(1) in the first sentence of paragraph (1)—

(A) by striking "the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for" and inserting "applicable to"; and

(B) by striking all that follows "(12 U.S.C. 1709(b))" and inserting a period; and

(2) by adding at the end the following:

"(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

"(i) agreed upon by the veteran and the mortgagee; or

"(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

"(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

"(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

"(D) This paragraph shall expire on December 31, 1995.".

Termination date.
38 USC 3703 note.

(b) REPORT.—Not later than December 31, 1993, and annually thereafter, the Secretary of Veterans Affairs shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on whether the Secretary has implemented the authority to guarantee and insure loans that bear negotiated interest rates and points under section 3703(c)(4) of title 38, United States Code (as added by subsection (a)). If the Secretary has implemented that authority, the Secretary shall include in the report—

(1) a comparison of the interest rates paid by veterans for loans that bear interest rates negotiated under section 3703(c)(4) of such title with interest rates allowable under mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and interest rates charged under conventional mortgage loan programs for single family housing;

(2) a comparison of the negotiated interest rates being charged under paragraph 4 of section 3703(c) of such title with the interest rate that the Secretary would have established under paragraph (1) of such section during the same time period;

(3) a comparison of the number of discount points charged by the lender for mortgage loans that bear interest rates negotiated under section 3703(c)(4) of such title with the number of discount points charged for mortgages for single family housing insured by the Secretary of Housing and Urban Development pursuant to the National Housing Act and the number of discount points charged under conventional mortgage loan programs for single family housing;

(4) a discussion of the extent to which borrowers or sellers are paying the discount points on negotiated interest rate loans under section 3703(c)(4) of such title;

(5) a discussion of whether the market share for housing loans guaranteed under such title has increased or decreased since the implementation of the authority to guarantee and insure loans that bear negotiated interest rates under section 3703(c)(4) of such title, and a discussion of the extent to which any change in market share was the result of that authority;

(6) in claims paid following foreclosure, a discussion of the difference in the interest portion paid on loans guaranteed under section 3703(c)(4) of such title to what the interest portion would have been under the interest rate established under section 3703(c)(1) of such title; and

(7) the number of first time homebuyers using loans that bear negotiated interest rates under section 3703(c)(4) of such title.

SEC. 11. ELIGIBILITY FOR FLAGS AND GRAVE MARKERS.

(a) FLAGS.—Section 2301(a) of title 38, United States Code, is amended to read as follows:

"(a) The Secretary shall furnish a flag to drape the casket of each—

"(1) deceased veteran who—

"(A) was a veteran of any war, or of service after January 31, 1955;

"(B) had served at least one enlistment; or

"(C) had been discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty; and

"(2) deceased individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

(b) HEADSTONES OR MARKERS.—Section 2306(a) of title 38, United States Code, is amended by adding at the end thereof the following:

"(5) Any individual who at the time of death was entitled to retired pay under chapter 67 of title 10 or would have been entitled to retired pay under that chapter but for the fact that the person was under 60 years of age.".

SEC. 12. TECHNICAL AMENDMENT.

Section 5 of Public Law 102-54 (105 Stat. 268) is amended by striking out "3102" and inserting in lieu thereof "5302". 38 USC 5302.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 939 (S. 3108):

HOUSE REPORTS: No. 102-292, Pt. 1 (Comm. on Veterans' Affairs) and Pt. 2 (Comm. on Ways and Means).
SENATE REPORTS: No. 102-405 accompanying S. 3108 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Mar. 3, considered and passed House.
Oct. 1, considered and passed Senate, amended, in lieu of S. 3108.
Oct. 5, House concurred in Senate amendments with an amendment.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-548
102d Congress

An Act

Oct. 28, 1992
[H.R. 3598]

To amend title 49, United States Code, to provide for verification of weights, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Intermodal Safe Container Transportation Act of 1992.
49 USC 501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Intermodal Safe Container Transportation Act of 1992".

SEC. 2. CERTIFICATION OF WEIGHTS.

(a) IN GENERAL.—Subchapter I of chapter 5 of title 49, United States Code, is amended by adding at the end the following new section:

"§ 508. Certification of weights and description

"(a) NOTIFICATION AND CERTIFICATION.—

"(1) PRIOR NOTIFICATION.—Before the time any person tenders to an initial carrier any loaded container or trailer for intermodal transportation having a projected gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, such person shall give such carrier written notification of such gross cargo weight and a reasonable description of the contents of the container or trailer. The notification may be transmitted electronically.

"(2) CERTIFICATION.—At or before the time of tendering to an initial carrier for intermodal transportation of a container or trailer to which paragraph (1) applies or of a loaded container or trailer having an actual gross cargo weight (inclusive of packing material and pallets) of more than 10,000 pounds, the person tendering the container or trailer shall certify to the carrier in writing the actual gross cargo weight and a reasonable description of the contents of the container or trailer.

"(3) VIOLATION.—After the date on which the Secretary of Transportation issues final regulations to enforce this section, it shall be a violation of this section for any person tendering a loaded container or trailer to fail to comply with paragraph (1) or (2) or to provide false or erroneous information in a written certification required by paragraph (2).

"(4) LIMITATION ON APPLICABILITY.—For purposes of this section, a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, and terminal operator shall not be considered to be a person tendering a loaded container or trailer to an initial carrier, unless the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator assumes legal responsibility for the loading of property into the container or trailer.

"(b) FORWARDING INFORMATION TO SUBSEQUENT CARRIERS.—

"(1) IN GENERAL.—It shall be a violation of this section for a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator to fail to forward the certification of actual gross cargo weight and reasonable description of the contents of a loaded container or trailer provided under subsection (a)(2) to a subsequent carrier transporting the container or trailer in intermodal transportation.

"(2) LIMITATION ON INTERPRETATION OF CARRIER FORWARDING INFORMATION.—The forwarding of information under paragraph (1) by a carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator shall not constitute, or in any way be construed as, a verification or affirmation by the carrier, agent, broker, customs broker, freight forwarder, warehouseman, or terminal operator of the accuracy or completeness of such information.

"(c) UNLAWFUL COERCION.—It shall be unlawful—

"(1) for any person to coerce or attempt to coerce a person participating in intermodal transportation to transport a loaded container or trailer having an actual gross cargo weight of more than 10,000 pounds (inclusive of packing materials and pallets) before the certification required by subsection (a)(2) has been provided; and

"(2) for any person, knowing that the weight of the loaded container or trailer or the weight of the tractor-trailer combination carrying the container or trailer in intermodal transportation is in excess of that permitted by applicable State law, to coerce or attempt to coerce any carrier—

"(A) to transport the container or trailer; or

"(B) to operate the tractor-trailer combination;

in violation of such law.

"(d) DUTY OF MOTOR CARRIER.—It shall be unlawful for a motor carrier (as such term is defined in section 10102 of this title) to provide transportation of a loaded container or trailer to which subsection (a)(2) applies prior to receiving the certification required by subsection (a)(2).

"(e) LIMITATION ON APPLICABILITY TO CARRIERS.—The provisions of subsections (a) and (c) shall not apply to a carrier when the carrier is transferring a loaded container or trailer to other carriers in the course of intermodal transportation, unless the carrier is also the person tendering the loaded container or trailer to the initial carrier.

"(f) STATE ENFORCEMENT.—A State is authorized to enact legislation to enable the State or a political subdivision of the State—

"(1) to assess fines and penalties for violations of State highway weight laws and regulations by a tractor-trailer combination carrying a loaded container or trailer for which a certification is required under subsection (a)(2) against the person tendering to the initial carrier the loaded container or trailer; and

"(2) to impound the container or trailer until such fines and penalties have been paid by the owners or beneficial owners of the contents of the container or trailer or the person tendering the loaded container or trailer to the initial carrier;

in any case in which the fines or penalties result from providing false or erroneous information in a written certification in violation of subsection (a)(3).

"(g) LIENS.—

"(1) IN GENERAL.—If a carrier or person involved in the intermodal transportation of a loaded container or trailer for which a certification is required under subsection (a)(2) must under State law post bond or pay any fines, penalties, costs, expenses, or interest resulting from providing false or erroneous information in a written certification with respect to the container or trailer or the contents thereof to the initial carrier in violation of subsection (a)(3), the carrier or other person shall have a lien against such contents equivalent to the amount of such bond or fines, penalties, costs, expenses, or interest incurred by the carrier or other person until the carrier or other person has received a payment of such amount from the owner or beneficial owner of the contents or from the person responsible for making the certification.

"(2) LIMITATIONS.—

"(A) LIMITATION ON DISPOSITION OF CONTENTS.—A lien under this subsection shall not authorize a carrier or other person to sell or otherwise dispose of the contents of a loaded container or trailer until the person who tendered the container or trailer to the initial carrier is given a reasonable opportunity to determine responsibility for the bond or fines, penalties, costs, expenses, or interest.

"(B) TREATMENT OF CERTAIN OWNERS AND BENEFICIAL OWNERS.—For purposes of this subsection, an owner or beneficial owner of the contents of a container or trailer or a person tendering a container or trailer to the initial carrier shall not be treated as a carrier or person involved in the intermodal transportation of the container or trailer.

"(C) LIMITATION ON APPLICABILITY.—The provisions of this subsection and subsection (f)(2) shall not apply to a container or trailer the contents of which are perishable agricultural commodities (as such term is defined in the Perishable Agricultural Commodities Act, 1930).

"(h) LIMITATION ON STATUTORY CONSTRUCTION.—This section shall not be construed as creating any obligation or responsibility for the person tendering the loaded container or trailer to the initial carrier to ensure that the initial carrier or any other carrier involved in the intermodal transportation will comply with any State statutes or regulations prescribing weight limitations for highway transportation, beyond the requirements set forth in this section.".

49 USC 521.

(b) ENFORCEMENT.—Section 521(b)(2)(A) of such title is amended by inserting "or which is a violation of section 508 of this title" after "Act of 1984".

(c) DEFINITIONS.—Section 501(a) of such title is amended by adding at the end the following new paragraphs:

"(4) 'beneficial owner' means a person who does not have title to property but has ownership rights in the property. For purposes of this paragraph, a trustee of property in transit from an overseas point of origin who is domiciled in or is doing business in the United States shall be treated as a beneficial owner of such property. A carrier, agent of a carrier, broker, customs broker, freight forwarder, warehouseman, or terminal operator providing or arranging for any portion of intermodal transportation of property shall in no case be a beneficial owner of such property, for purposes of this para-

graph, solely by reason of providing or arranging for such transportation.

"(5) 'carrier' means—

"(A) a motor carrier, water carrier, and rail carrier (as such terms are defined in section 10102 of this title), and

"(B) an ocean common carrier (as such term is defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702)),

providing transportation of property in commerce.

"(6) 'container' has the meaning given the term 'freight container' by the International Standards Organization in Series 1, Freight Containers, 3rd Edition (reference number IS0668–1979(E)), including successive revisions thereto, and similar containers that are used in providing transportation in interstate commerce.

"(7) 'initial carrier' means the first carrier transporting a loaded container or trailer in intermodal transportation.

"(8) 'intermodal transportation' means successive carriage of a loaded container or trailer from an origin point to a destination point by more than one mode of transportation in interstate or foreign commerce. Such term shall include carriage by more than one mode of transportation in interstate or foreign commerce both under a single bill of lading and under separate bills of lading.

"(9) 'trailer' means a nonpower, cargo carrying, trailing unit which is designed for use in combination with a truck tractor.".

(d) REGULATIONS.—The Secretary shall initiate a proceeding to issue regulations to enforce section 508 of title 49, United States Code, within 180 days after the date of the enactment of this Act and shall issue final regulations within 270 days after such date of enactment. The Secretary may establish, by regulation, exemptions to such regulations that are in the public interest and consistent with the purposes of this Act. 49 USC 508 note.

(e) CONFORMING AMENDMENT TO CHAPTER ANALYSIS.—The analysis for subchapter I of chapter 105 of title 49, United States Code, is amended by adding at the end the following new item:

"508. Certification of weights and description.".

SEC. 3. DATA COLLECTION NEEDS. 49 USC 508 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study for the purpose of—

(1) assessing—

(A) existing data and data collection needs with respect to the movement in intermodal transportation of loaded containers and trailers (including containers and trailers containing perishable agricultural commodities) in violation of section 508 of title 49, United States Code, and State highway motor vehicle weight laws;

(B) the legal and practical impediments to the collection of such data; and

(C) how these intermodal movements compare with other overweight domestic highway freight movements; and

(2) providing legislative and other recommendations for improving the collection of such data.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary of Transportation shall consult with the States and shippers, carriers, port authorities, and other persons involved in the intermodal transportation of loaded containers and trailers.

(c) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall transmit to the Committee on Public Works and Transportation, the Committee on Energy and Commerce, and the Committee on Merchant Marine and Fisheries of the House of Representatives and to the appropriate committees of the Senate a report on the results of the study conducted under this section, together with the recommendations referred to in subsection (a).

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 3598:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-549
102d Congress

An Act

To extend the authorities of the Overseas Private Investment Corporation, and for other purposes.

Oct. 28, 1992
[H.R. 4996]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Jobs Through Exports Act of 1992.
22 USC 2151 note.

This Act may be cited as the "Jobs Through Exports Act of 1992".

TITLE I—OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 101. CREATION, PURPOSE AND POLICY.

Section 231 of the Foreign Assistance Act of 1961 (22 U.S.C. 2191) is amended in the first sentence by striking "friendly countries and areas," and inserting "countries and areas, and countries in transition from nonmarket to market economies,".

SEC. 102. WORKER RIGHTS.

(a) LIMITATION.—Section 231A(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2191a(a)) is amended by adding at the end the following: "The Corporation shall also include the following language, in substantially the following form, in all contracts which the Corporation enters into with eligible investors to provide financial support under this title:

> "'The investor agrees not to take actions to prevent employees of the foreign enterprise from lawfully exercising their right of association and their right to organize and bargain collectively. The investor further agrees to observe applicable laws relating to a minimum age for employment of children, acceptable conditions of work with respect to minimum wages, hours of work, and occupational health and safety, and not to use forced labor. The investor is not responsible under this paragraph for the actions of a foreign government.'".

SEC. 103. EQUITY INVESTMENT FUND.

Section 234(g)(5) of the Foreign Assistance Act of 1961 (22 U.S.C. 2194(g)(5)) is amended to read as follows:

"(c) CREATION OF FUND FOR ACQUISITION OF EQUITY.—The Corporation is authorized to establish a revolving fund to be available solely for the purposes specified in this subsection and to make transfers to the fund of a total of $10,000,000 (less amounts transferred to the fund before the date of the enactment of the Jobs Through Exports Act of 1992) from its noncredit account revolving fund. The Corporation shall transfer to the fund in each fiscal year all amounts received by the Corporation during the preceding fiscal year as income on securities acquired under this subsection,

and from the proceeds on the disposition of such securities. Purchases of, investments in, and other acquisitions of equity from the fund are authorized for any fiscal year only to the extent or in such amounts as are provided in advance in appropriations Acts or are transferred to the Corporation pursuant to section 632(a) of this Act.".

SEC. 104. ISSUING AUTHORITY, DIRECT INVESTMENTS, AND ADMINISTRATIVE EXPENSES.

(a) ISSUING AUTHORITY AND DIRECT INVESTMENT AUTHORITY.—Section 235 of the Foreign Assistance Act of 1961 (22 U.S.C. 2195) is amended—

(1) in the section caption by striking "FUND" and inserting "AUTHORITY";

(2) by amending subsection (a) to read as follows:

"(a) ISSUING AUTHORITY.—

"(1) INSURANCE.—The maximum contingent liability outstanding at any one time pursuant to insurance issued under section 234(a) shall not exceed in the aggregate $9,000,000,000.

"(2) GUARANTEES.—(A) The maximum contingent liability outstanding at any one time pursuant to guarantees issued under section 234(b) shall not exceed in the aggregate $2,500,000,000.

"(B) Subject to spending authority provided in appropriations Acts, pursuant to section 504(b) of the Federal Credit Reform Act of 1990, the Corporation is authorized—

"(i) to transfer $9,800,000, or such sums as are necessary, from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 234 of $650,000,000 for fiscal year 1993; and

"(ii) to transfer such sums as are necessary from its noncredit account revolving fund to pay for the subsidy cost of a program level for the loan and loan guarantee program under subsections (b) and (c) of section 234 of $850,000,000 for fiscal year 1994.

"(3) TERMINATION OF AUTHORITY.—The authority of subsections (a) and (b) of section 234 shall continue until September 30, 1994."; and

(3) by repealing subsection (b).

(b) ADMINISTRATIVE EXPENSES.—Section 235 of such Act is amended by adding at the end the following:

"(g) ADMINISTRATIVE EXPENSES.—Subject to spending authority provided in appropriations Acts, the Corporation is authorized to draw from its noncredit account revolving fund for the administrative costs of its direct loan and loan guarantee programs—

"(1) $8,128,000 for fiscal year 1993; and

"(2) $11,000,000 for fiscal year 1994.".

SEC. 105. GENERAL PROVISIONS.

(a) FEES.—Section 237(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2197(d)) is amended to read as follows:

"(d) FEES.—

"(1) IN GENERAL.—Fees may be charged for providing insurance, reinsurance, financing, and other services under this title in amounts to be determined by the Corporation. In the event fees charged for insurance, reinsurance, financing, or other

services are reduced, fees to be paid under existing contracts for the same type of insurance, reinsurance, financing, or services and for similar guarantees issued under predecessor guarantee authority may be reduced.

"(2) CREDIT TRANSACTION COSTS.—Project-specific transaction costs incurred by the Corporation relating to loan obligations or loan guarantee commitments covered by the provisions of the Federal Credit Reform Act of 1990, including the costs of project-related travel and expenses for legal representation provided by persons outside the Corporation and other similar expenses which are charged to the borrower, shall be paid out of the appropriate finance account established pursuant to section 505(b) of such Act.

"(3) NONCREDIT TRANSACTION COSTS.—Fees paid for the project-specific transaction costs and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 (other than those covered in paragraph (2)), including financing, insurance, reinsurance, missions, seminars, conferences, and other preinvestment services, shall be available for obligation for the purposes for which they were collected, notwithstanding any other provision of law.".

(b) PENALTIES FOR FRAUD.—Section 237 of such Act is amended by adding at the end the following:

"(n) PENALTIES FOR FRAUD.—Whoever knowingly makes any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of the Corporation with respect to any insurance, reinsurance, guarantee, loan, equity investment, or other activity of the Corporation under section 234 or any change or extension of any such insurance, reinsurance, guarantee, loan, equity investment, or activity, by renewal, deferment of action or otherwise, or the acceptance, release, or substitution of security therefor, shall be fined not more than $1,000,000 or imprisoned not more than 30 years, or both.".

(c) USE OF LOCAL CURRENCIES.—Section 237 of such Act is amended by adding at the end the following:

"(o) USE OF LOCAL CURRENCIES.—Direct loans or investments made in order to preserve the value of funds received in inconvertible foreign currency by the Corporation as a result of activities conducted pursuant to section 234(a) shall not be considered in determining whether the Corporation has made or has outstanding loans or investments to the extent of any limitation on obligations and equity investment imposed by or pursuant to this title. The provisions of section 504(b) of the Federal Credit Reform Act of 1990 shall not apply to direct loan obligations made with funds described in this subsection.".

SEC. 106. DEFINITIONS.

Section 238 of the Foreign Assistance Act of 1961 (22 U.S.C. 2198) is amended—

(1) in subsection (c) by striking "and" after the semicolon at the end;

(2) by redesignating subsection (d) as subsection (f); and

(3) by inserting after subsection (c) the following:

"(d) the term 'noncredit account revolving fund' means the account in which funds under section 236 and all funds from noncredit activities are held; and

"(e) the term 'noncredit activities' means all activities of the Corporation other than its loan guarantee program under section 234(b) and its direct loan program under section 234(c);".

SEC. 107. CONTRACTING AUTHORITY.

Section 239(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2199(d)) is amended by inserting after "legal and arbitral proceedings;" the following: "to enter into limited-term contracts with nationals of the United States for personal services to carry out activities in the United States and abroad under subsections (d) and (e) of section 234;".

SEC. 108. REPORTS TO CONGRESS.

Section 240A(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2200a(b)) is amended by striking paragraph (2) and inserting the following:

"(2) The projections required by this subsection shall be based on an analysis of each of the projects described in paragraph (1).

"(3) In reporting the projections on employment required by this subsection, the Corporation shall specify, with respect to each project—

"(A) any loss of jobs in the United States caused by the project, whether or not the project itself creates other jobs;

"(B) any jobs created by the project; and

"(C) the country in which the project is located, and the economic sector involved in the project.

Privacy. No proprietary information may be disclosed under this paragraph.".

SEC. 109. AWARDING OF CONTRACTS.

Title IV of chapter 2 of part I of the Foreign Assistance Act of 1961 is amended by inserting after section 240A the following new section:

22 USC 2200b. **"SEC. 240B. PROHIBITION ON NONCOMPETITIVE AWARDING OF INSURANCE CONTRACTS ON OPIC SUPPORTED EXPORTS.**

"(a) REQUIREMENT FOR CERTIFICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), the investor on whose behalf insurance, reinsurance, guaranties, or other financing is provided under this title with respect to a project shall be required to certify to the Corporation that any contract for the export of goods as part of that project will include a clause requiring that United States insurance companies have a fair and open competitive opportunity to provide insurance against risk of loss of such export.

"(2) WHEN CERTIFICATION MUST BE MADE.—The investor shall be required, in every practicable case, to so certify before the insurance, reinsurance, guarantee, or other financing is provided. In any case in which such a certification is not made in advance, the investor shall include in the certification the reasons for the failure to make a certification in advance.

"(3) EXCEPTION.—Paragraph (1) does not apply with respect to an investor who does not, because of the nature of the investment, have a controlling interest in fact in the project in question.

"(b) REPORTS BY THE UNITED STATES TRADE REPRESENTATIVE.—The United States Trade Representative shall review the actions of the Corporation under subsection (a) and, after consultation with representatives of United States insurance companies, shall

report to the Congress in the report required by section 181(b) of the Trade Act of 1974 with respect to such actions.

"(c) DEFINITIONS.—For purposes of this section—

"(1) the term 'United States insurance company' includes—

"(A) an individual, partnership, corporation, holding company, or other legal entity which is authorized, or in the case of a holding company, subsidiaries of which are authorized, by a State to engage in the business of issuing insurance contracts or reinsuring the risk underwritten by insurance companies; and

"(B) foreign operations, branches, agencies, subsidiaries, affiliates, or joint ventures of any entity described in subparagraph (A);

"(2) United States insurance companies shall be considered to have had a 'fair and open competitive opportunity to provide insurance' if they—

"(A) have received notice of the opportunity to provide insurance; and

"(B) have been evaluated on a nondiscriminatory basis; and

"(3) the term 'State' includes the District of Columbia and any commonwealth, territory, or possession of the United States.".

TITLE II—TRADE AND DEVELOPMENT AGENCY

SEC. 201. TRADE AND DEVELOPMENT AGENCY.

Section 661 of the Foreign Assistance Act of 1961 is amended to read as follows: 22 USC 2421.

"SEC. 661. TRADE AND DEVELOPMENT AGENCY.

"(a) PURPOSE.—The Trade and Development Agency shall be an agency of the United States under the foreign policy guidance of the Secretary of State. The purpose of the Trade and Development Agency is to promote United States private sector participation in development projects in developing and middle-income countries.

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—

"(1) AUTHORITY.—The Director of the Trade and Development Agency is authorized to work with foreign countries, including those in which the United States development programs have been concluded or those not receiving assistance under part I, to carry out the purpose of this section by providing funds for feasibility studies, architectural and engineering design, and other activities related to development projects which provide opportunities for the use of United States exports.

"(2) USE OF FUNDS.—Funds under this section may be used to provide support for feasibility studies for the planning, development, and management of, and procurement for, bilateral and multilateral development projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States goods and services in such projects. Funds under this section may also be used for architectural and engineering design, including—

"(A) concept design, which establishes the basic technical and operational criteria for a project, such as architectural drawings for a proposed facility, evaluation of site constraints, procurement requirements, and equipment specifications; and

"(B) detail design, which sets forth specific dimensions and criteria for structural, mechanical, electrical, and architectural operations, and identifies other resources required for project operations.

"(3) INFORMATION DISSEMINATION.—(A) The Trade and Development Agency shall disseminate information about its project activities to the private sector.

"(B) Other agencies of the United States Government shall cooperate with the Trade and Development Agency in order for the Agency to provide more effectively informational services to persons in the private sector concerning trade development and export promotion related to development projects.

"(4) NONAPPLICABILITY OF OTHER PROVISIONS.—Any funds used for purposes of this section may be used notwithstanding any other provision of law.

"(c) DIRECTOR AND PERSONNEL.—

President.

"(1) DIRECTOR.—There shall be at the head of the Trade and Development Agency a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(2) OFFICERS AND EMPLOYEES.—(A) The Director may appoint such officers and employees of the Trade and Development Agency as the Director considers appropriate.

"(B) The officers and employees appointed under this paragraph shall have such functions as the Director may determine.

"(C) Of the officers and employees appointed under this paragraph, 2 may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be compensated without regard to the provisions of chapter 51 or subchapter III of chapter 53 of such title.

"(D) Under such regulations as the President may prescribe, any individual appointed under subparagraph (C) may be entitled, upon removal (except for cause) from the position to which the appointment was made, to reinstatement to the position occupied by that individual at the time of appointment or to a position of comparable grade and pay.

President.

"(d) ANNUAL REPORT.—The President shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Agency in the preceding fiscal year.

"(e) AUDITS.—

"(1) IN GENERAL.—The Trade and Development Agency shall be subject to the provisions of chapter 35 of title 31, United States Code, except as otherwise provided in this section.

"(2) INDEPENDENT AUDIT.—An independent certified public accountant shall perform a financial and compliance audit of the financial statements of the Trade and Development Agency each year, in accordance with generally accepted Government auditing standards for a financial and compliance audit, taking

into consideration any standards recommended by the Comptroller General. The independent certified public accountant shall report the results of such audit to the Director of the Trade and Development Agency. The financial statements of the Trade and Development Agency shall be presented in accordance with generally accepted accounting principles. These financial statements and the report of the accountant shall be included in a report which contains, to the extent applicable, the information identified in section 3512 of title 31, United States Code, and which the Trade and Development Agency shall submit to the Congress not later than 6½ months after the end of the last fiscal year covered by the audit. The Comptroller General may review the audit conducted by the accountant and the report to the Congress in the manner and at such times as the Comptroller General considers necessary. Reports.

"(3) AUDIT BY COMPTROLLER GENERAL.—In lieu of the financial and compliance audit required by paragraph (2), the Comptroller General shall, if the Comptroller General considers it necessary or upon the request of the Congress, audit the financial statements of the Trade and Development Agency in the manner provided in paragraph (2).

"(4) AVAILABILITY OF INFORMATION.—All books, accounts, financial records, reports, files, workpapers, and property belonging to or in use by the Trade and Development Agency and the accountant who conducts the audit under paragraph (2), which are necessary for purposes of this subsection, shall be made available to the representatives of the General Accounting Office designated by the Comptroller General.

"(f) FUNDING.—

"(1) AUTHORIZATION.—There are authorized to be appropriated for purposes of this section, in addition to funds otherwise available for such purposes, $55,000,000 for fiscal year 1993 and $65,000,000 for fiscal year 1994.

"(2) FUNDING FOR TECHNICAL ASSISTANCE GRANTS BY MULTILATERAL DEVELOPMENT BANKS.—(A) The Trade and Development Agency should, in fiscal years 1993 and 1994, substantially increase the amount of funds it provides to multilateral development banks for technical assistance grants.

"(B) As used in subparagraph (A)—

"(i) the term 'technical assistance grants' means funding by multilateral development banks of services from the United States in connection with projects and programs supported by such banks, including, but not limited to, engineering, design, and consulting services; and

"(ii) the term 'multilateral development bank' has the meaning given that term in section 1701(c) of the International Financial Institutions Act.".

SEC. 202. RENAMING OF TRADE AND DEVELOPMENT PROGRAM; CONFORMING CHANGES.

(a) RENAMING OF TRADE AND DEVELOPMENT PROGRAM.—The Trade and Development Program shall, on or after the effective date of this section, be known as the Trade and Development Agency. 22 USC 2421 note.

(b) APPOINTMENT OF PRESENT DIRECTOR NOT AFFECTED.—The enactment of this title shall not affect the appointment of the 22 USC 2421 note.

individual who is the Director of the Trade and Development Program on the effective date of this section.

(c) TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—(1) Sections 644, 645, and 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q, 635r, and 635s) are each amended by striking "Trade and Development Program" each place it appears and inserting "Trade and Development Agency".

(2) The section heading for section 645 of such Act is amended by striking "TRADE AND DEVELOPMENT PROGRAM" and inserting "TRADE AND DEVELOPMENT AGENCY".

(d) TITLE 5.—Section 5314 of title 5, United States Code, is amended by striking

"Director, Trade and Development Program."

and inserting

"Director, Trade and Development Agency.".

22 USC 2421 note.

(e) REFERENCE IN OTHER LAWS.—Any reference in any law to the Trade and Development Program shall be deemed to be a reference to the Trade and Development Agency.

Aid, Trade, and Competitiveness Act of 1992.

TITLE III—AID, TRADE, AND COMPETITIVENESS

22 USC 2421a note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Aid, Trade, and Competitiveness Act of 1992".

22 USC 2421a.

SEC. 302. CAPITAL PROJECTS OFFICE WITHIN THE AGENCY FOR INTERNATIONAL DEVELOPMENT.

(a) ESTABLISHMENT OF OFFICE.—The Administrator of AID shall establish a capital projects office to carry out the purposes described in subsection (b).

(b) PURPOSES OF OFFICE.—The purposes referred to in subsection (a) are—

(1) to develop an AID program that would focus solely on developmentally sound capital projects, taking into consideration development needs of the host country and the export opportunities for the United States; and

(2) to consider specifically opportunities for United States high-technology firms, including small- and medium-sized firms, in supporting capital projects for developing countries and for countries making the transition from nonmarket to market economies.

(c) ACTIVITIES OF AID.—The Administrator of AID (acting through the capital projects office), in coordination with the appropriate members of the Trade Promotion Coordination Committee—

(1) shall support capital projects in developing countries and in countries making the transition from nonmarket to market economies;

(2) shall periodically review infrastructure needs in developing countries and countries making the transition from nonmarket to market economies and shall explore opportunities for United States firms in the development of new capital projects in these countries, keeping both United States firms and the Congress informed of these reviews;

(3) shall ensure that each capital project for which AID provides funding is developmentally sound, as determined

under the criteria developed by the Development Assistance Committee of the Organization for Economic Cooperation and Development;

(4) shall coordinate its activities with other AID offices, and work with AID country missions, in developing capital projects that provide opportunities for United States firms consistent with AID's primary mission to help developing countries with traditional development projects;

(5) shall coordinate, where appropriate, funds available to AID for tied-aid purposes; and

(6) shall play a special role in helping to meet the infrastructure needs of countries making the transition from nonmarket to market economies by meeting the challenge of infrastructure assistance provided by foreign governments to those countries, including by undertaking a comprehensive study of the infrastructure needs of the various countries making the transition from nonmarket to market economies—

(A) to identify those sectors in the economies of these countries that are most in need of rebuilding, and

(B) to identify the state of technology in these countries and the opportunity for United States high technology firms to help develop a technological infrastructure in these countries, including an assessment of export opportunities for United States high technology companies.

The results of the study conducted pursuant to paragraph (6) shall be reported to the appropriate congressional committees within 12 months after the date of the enactment of this Act. Reports.

SEC. 303. CAPITAL PROJECTS FOR POVERTY ALLEVIATION AND ENVIRONMENTAL SAFETY AND SUSTAINABILITY. 22 USC 2421b.

(a) PURPOSES.—The Administrator of AID shall develop a program, in accordance with subsection (b), that focuses on developmentally sound capital projects for basic infrastructure that will measurably alleviate the worst manifestations of poverty or directly promote environmental safety and sustainability at the community level, taking into consideration development needs of the host country and export opportunities for services and goods from the United States.

(b) ACTIVITIES OF AID.—In order to carry out subsection (a), the Administrator of AID shall, working with AID technical support staff, regional bureau staff, and country missions, identify and provide funding for capital projects to alleviate the worst manifestations of poverty or to promote environmental safety and sustainability at the community level in countries receiving assistance under part I of the Foreign Assistance Act of 1961. Such projects may include basic sanitation systems, basic water supply and treatment, pollution control, and rural infrastructure benefiting poor communities or establishing environmentally sustainable patterns of rural development. Such projects should have measurable positive effects on indicators of human and environmental health.

SEC. 304. COORDINATION. President. 22 USC 2421c.

The President shall use the Trade Promotion Coordination Committee to coordinate activities under this title with other relevant activities of the United States Government.

President.
22 USC 2421a note.

SEC. 305. REPORTS TO CONGRESS ON CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Congress a report describing—

(1) the extent to which United States Government resources have been expended specifically to support the projects described in this title in developing countries and countries making the transition from nonmarket to market economies;

(2) the extent to which the activities of the United States Government have been coordinated pursuant to section 304; and

(3) the extent to which United States Government capital projects and tied-aid credit programs have affected United States exports.

22 USC 2421d.

SEC. 306. FUNDING FOR CAPITAL PROJECTS.

(a) FUNDING LEVEL.—The Congress strongly urges the President to use at least $650,000,000 for fiscal year 1993 and at least $700,000,000 for fiscal year 1994 of the total amounts made available for assistance under chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund), assistance under the Support for East European Democracy (SEED) Act of 1989, assistance under the Freedom for Russia and Emerging Eurasian Democracies and Open Markets Support Act of 1992, and assistance under the Multilateral Assistance Initiative for the Philippines, for grants for developmentally sound capital projects. Such grants may be combined with financing offered by private financial entities or other entities.

(b) DEVELOPMENT ASSISTANCE CAPITAL PROJECTS.—Funds appropriated to carry out chapter 1 or chapter 10 of part I of the Foreign Assistance Act of 1961 (relating to development assistance and the Development Fund for Africa) may not be used for capital projects that do not meet the criteria contained in section 303 of this Act. This subsection does not apply with respect to capital projects for which funds have been obligated or expended before the date of the enactment of this Act.

President.
22 USC 2421a note.

SEC. 307. REPORT ON THE FEASIBILITY OF AID CREDIT GUARANTEES TO FINANCE CAPITAL PROJECTS.

Not later than May 1, 1993, the President shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate a report on the feasibility of allowing AID to offer credit guarantees for the financing of capital projects.

22 USC 2421e.

SEC. 308. DEFINITIONS.

For purposes of this title—

(1) the term "AID" means the Agency for International Development; and

(2) the term "capital project" means a project involving the construction, expansion, alteration of, or the acquisition of equipment for, a physical facility or physical infrastructure, including related engineering design (concept and detail) and other services, the procurement of equipment (including any related services), and feasibility studies or similar engineering and economic services.

TITLE IV—UNITED STATES COMMERCIAL CENTERS

SEC. 401. UNITED STATES COMMERCIAL CENTERS. 22 USC 4723a.

(a) ESTABLISHMENT.—The Secretary of Commerce, in his or her role as chairperson of the Trade Promotion Coordinating Committee, is authorized and encouraged to establish United States Commercial Centers (hereinafter in this section referred to as "Centers") in Asia, in Latin America, and in Africa.

(b) PURPOSE OF THE CENTERS.—The purpose of the Centers shall be to provide additional resources for the promotion of exports of United States goods and services to the host countries, by familiarizing United States exporters with the industries, markets, and customs of the host countries, thus facilitating commercial ties and trade.

(c) FUNCTIONS OF THE CENTERS.—Each Center shall—

(1) collect and publish economic and market data with respect to the host country;

(2) provide, on a user-fee basis, preliminary technical and clerical assistance, language translation, and administrative assistance, and information regarding the legal systems, laws, regulations, and procedures of the host country, to United States exporters seeking to do business in the host country; and

(3) in other ways promote exports of United States goods and services to the host country.

(d) SPECIFIC SERVICES TO BE PROVIDED.—To carry out its objectives, each Center shall make available the following (on a user-fee basis):

(1) BUSINESS FACILITIES.—Business facilities, including exhibition space, conference rooms, office space (including telephones and other basic office equipment), and, where warranted by impeding deficiencies in the public system, high quality international telecommunications facilities.

(2) BUSINESS SERVICES.—Business support services, including language translation services, clerical services, and a commercial library containing a comprehensive collection of reference materials covering United States and host country industries and markets.

(3) COMMERCIAL LAW INFORMATION SERVICES.—Commercial law information services, including—

(A) a clearinghouse for information regarding the relevant commercial laws, practices, and regulations of the host country;

(B) publications to assist United States businesses;

(C) legal referral services; and

(D) lists of local agents and distributors.

(e) OTHER TRADE PROMOTION ACTIVITIES.—Each Center shall also promote United States export trade by—

(1) facilitating contacts between buyers, sellers, bankers, traders, distributors, agents, and necessary government officials from the United States and the host country;

(2) coordinating trade missions; and

(3) assisting with applications, contracts, and clearances for imports into the host country and exports from the United States.

(f) STAFFING OF CENTERS.—Each Center shall be staffed by members of the United States and Foreign Commercial Service, participants in the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723), other employees of the Department of Commerce, and employees of appropriate executive branch departments and agencies which are members of the Trade Promotion Coordinating Committee.

(g) CENTER FACILITIES AND THEIR RELATIONSHIP TO UNITED STATES DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—

(1) PHYSICAL ACCOMMODATIONS FOR THE CENTERS.—The Secretary of Commerce shall locate each Center in the primary commercial city of the host country. The Secretary shall acquire office space, exhibition space, and other facilities and equipment that are necessary for each Center to perform its functions. To the extent feasible, each Center shall be located in the central commercial district of the host city.

(2) CONSOLIDATION OF DEPARTMENT OF COMMERCE OPERATIONS IN HOST COUNTRIES.—For the purpose of obtaining maximum effectiveness and efficiency and to the extent consistent with the purposes of the Centers, the Secretary of Commerce is encouraged to place all personnel of the Department of Commerce who are assigned to the city in which a Center is located in the same facilities as those in which the Center conducts its activities.

(h) USE OF MARKET DEVELOPMENT COOPERATOR PROGRAM.—The Secretary of Commerce shall, to the greatest extent feasible, use the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988 (15 U.S.C. 4723) to assist in carrying out the purposes of the Centers established under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce to carry out this section $8,000,000 for fiscal year 1993, and $5,500,000 for fiscal year 1994. Funds made available under this subsection may be used for the acquisition of real property.

(j) REPORTS TO CONGRESS.—The Secretary of Commerce shall submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 1 year after the date of the enactment of this Act, and not later than the end of each 1-year period occurring thereafter, a report on the status, activities, and effectiveness of the Centers. Each such report shall include any recommendations with respect to the program established under this section.

(k) DEFINITIONS.—For purposes of this section—

(1) the term "United States exporter" means—

(A) a United States citizen,

(B) a corporation, partnership, or other association created under the laws of the United States or of any State, or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(2) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(3) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

TITLE V—OTHER EXPORT PROMOTION ACTIVITIES

SEC. 501. ADDITIONAL PROCUREMENT OFFICERS.

22 USC 262s-2 note.

(a) APPOINTMENT.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint one or more full-time additional procurement officers, for each multilateral development bank, to promote exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and one or more multilateral development banks, whether or not the banks have offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank involved, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small- and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(b) DEFINITION.—As used in this section, the term "multilateral development bank" has the meaning given that term in section 1701(c) of the International Financial Institutions Act (22 U.S.C. 262r(c)).

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $1,000,000 for each of the fiscal years 1993 and 1994 to carry out this section. Amounts appropriated pursuant to this subsection shall be available only for the purpose of making the appointment of additional procurement officers required by subsection (a).

Enterprise for the Americas Act of 1992.

TITLE VI—ENTERPRISE FOR THE AMERICAS INITIATIVE

22 USC 2151 note.

SEC. 601. SHORT TITLE.

This title may be cited as the "Enterprise for the Americas Act of 1992".

SEC. 602. FOREIGN ASSISTANCE ACT DEBT REDUCTION.

(a) AUTHORIZATION.—The Foreign Assistance Act of 1961 is amended by adding at the end the following new part:

"PART IV—ENTERPRISE FOR THE AMERICAS INITIATIVE

22 USC 2430.

"SEC. 701. PURPOSE.

"The purpose of this part is to encourage and support improvement in the lives of the people of Latin America and the Caribbean through market-oriented reforms and economic growth with interrelated actions to promote debt reduction, investment reforms, community based conservation, and sustainable use of the environment, and child survival and child development. The Facility will support these objectives through administration of debt reduction operations under this part for those countries with democratically elected governments that meet investment reforms and other policy conditions.

22 USC 2430a.

"SEC. 702. DEFINITIONS.

"For purposes of this part—

"(1) the term 'administering body' means the entity provided for in section 708(c);

"(2) the term 'Americas Framework Agreement' means an Americas Framework Agreement provided for in section 708;

"(3) the term 'Americas Fund' means an Enterprise for the Americas Fund provided for in section 707(a);

"(4) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate;

"(5) the term 'beneficiary country' means an eligible country with respect to which the authority of section 704(a)(1) is exercised;

"(6) the term 'eligible country' means a country designated by the President in accordance with section 703;

"(7) the term 'Enterprise for the Americas Board' or 'Board' means the board established by section 610 of the Agricultural Trade Development and Assistance Act of 1954; and

"(8) the term 'Facility' means the Enterprise for the Americas Facility established in the Department of the Treasury by section 601 of that Act.

22 USC 2430b.

"SEC. 703. ELIGIBILITY FOR BENEFITS.

"(a) REQUIREMENTS.—To be eligible for benefits from the Facility under this part, a country must be a Latin American or Caribbean country—

"(1) whose government is democratically elected;

"(2) whose government has not repeatedly provided support for acts of international terrorism;

"(3) whose government is not failing to cooperate on international narcotics control matters;

"(4) whose government (including its military or other security forces) does not engage in a consistent pattern of gross violations of internationally recognized human rights;

"(5) that has in effect, has received approval for, or, as appropriate in exceptional circumstances, is making significant progress toward—

"(A) an International Monetary Fund standby arrangement, extended Fund arrangement, or an arrangement under the structural adjustment facility or enhanced structural adjustment facility, or in exceptional circumstances, a Fund monitored program or its equivalent, unless the President determines (after consultation with the Enterprise for the Americas Board) that such an arrangement or program (or its equivalent) could reasonably be expected to have significant adverse social or environmental effects; and

"(B) as appropriate, structural or sectoral adjustment loans from the International Bank for Reconstruction and Development or the International Development Association, unless the President determines (after consultation with the Enterprise for the Americas Board) that the resulting adjustment requirements could reasonably be expected to have significant adverse social or environmental effects;

"(6) has put in place major investment reforms in conjunction with an Inter-American Development Bank loan or otherwise is implementing, or is making significant progress toward, an open investment regime; and

"(7) if appropriate, has agreed with its commercial bank lenders on a satisfactory financing program, including, as appropriate, debt or debt service reduction.

"(b) ELIGIBILITY DETERMINATIONS.—Consistent with subsection (a), the President shall determine whether a country is eligible to receive benefits under this part. The President shall notify the appropriate congressional committees of his intention to designate a country as an eligible country at least 15 days in advance of any formal determination. President.

"SEC. 704. REDUCTION OF CERTAIN DEBT. 22 USC 2430c.

"(a) AUTHORITY TO REDUCE DEBT.—

"(1) AUTHORITY.—The President may reduce the amount owed to the United States (or any agency of the United States) that is outstanding as of January 1, 1992, as a result of concessional loans made to an eligible country by the United States under part I of this Act, chapter 4 of part II of this Act, or predecessor foreign economic assistance legislation.

"(2) APPROPRIATIONS REQUIREMENT.—The authority provided by this section may be exercised only in such amounts or to such extent as is provided in advance by appropriations Acts.

"(3) CERTAIN PROHIBITIONS INAPPLICABLE.—(A) A reduction of debt pursuant to this section shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(B) The authority of this section may be exercised notwithstanding section 620(r) of this Act or section 321 of the International Development and Food Assistance Act of 1975.

"(b) IMPLEMENTATION OF DEBT REDUCTION.—

"(1) IN GENERAL.—Any debt reduction pursuant to subsection (a) shall be accomplished at the direction of the Facility by the exchange of a new obligation for obligations outstanding as of the date specified in subsection (a)(1).

"(2) EXCHANGE OF OBLIGATIONS.—The Facility shall notify the agency primarily responsible for administering part I of this Act of the agreement with an eligible country to exchange a new obligation for outstanding obligations pursuant to this subsection. At the direction of the Facility, the old obligations shall be canceled and a new debt obligation for the country shall be established, and the agency primarily responsible for administering part I of this Act shall make an adjustment in its accounts to reflect the debt reduction.

22 USC 2430d.

"SEC. 705. REPAYMENT OF PRINCIPAL.

"(a) CURRENCY OF PAYMENT.—The principal amount of each new obligation issued pursuant to section 704(b) shall be repaid in United States dollars.

"(b) DEPOSIT OF PAYMENTS.—Principal repayments of new obligations shall be deposited in the United States Government account established for principal repayments of the obligations for which those obligations were exchanged.

22 USC 2430e.

"SEC. 706. INTEREST ON NEW OBLIGATIONS.

"(a) RATE OF INTEREST.—New obligations issued by a beneficiary country pursuant to section 704(b) shall bear interest at a concessional rate.

"(b) CURRENCY OF PAYMENT; DEPOSITS.—

"(1) LOCAL CURRENCY.—If the beneficiary country has entered into an Americas Framework Agreement, interest shall be paid in the local currency of the beneficiary country and deposited in an Americas Fund. Such interest shall be the property of the beneficiary country, until such time as it is disbursed pursuant to section 707(d). Such local currencies shall be used for the purposes specified in the Americas Framework Agreement.

"(2) UNITED STATES DOLLARS.—If the beneficiary country has not entered into an Americas Framework Agreement, interest shall be paid in United States dollars and deposited in the United States Government account established for interest payments of the obligations for which the new obligations were exchanged.

"(c) INTEREST ALREADY PAID.—If a beneficiary country enters into an Americas Framework Agreement subsequent to the date on which interest first became due on the newly issued obligation, any interest already paid on such new obligation shall not be redeposited into the Americas Fund established for that country.

22 USC 2430f.

"SEC. 707. ENTERPRISE FOR THE AMERICAS FUNDS.

"(a) ESTABLISHMENT.—Each beneficiary country that enters into an Americas Framework Agreement shall be required to establish an Enterprise for the Americas Fund to receive payments in local currency pursuant to section 706(b)(1).

"(b) DEPOSITS.—Local currencies deposited in an Americas Fund shall not be considered assistance for purposes of any provision of law limiting assistance to a country.

"(c) INVESTMENT.—Deposits made in an Americas Fund shall be invested until disbursed. Any return on such investment may be retained by the Americas Fund, without deposit in the Treasury of the United States and without further appropriation by the Congress.

"(d) DISBURSEMENTS.—Funds in an Americas Fund shall be disbursed only pursuant to an Americas Framework Agreement.

"SEC. 708. AMERICAS FRAMEWORK AGREEMENTS. 22 USC 2430g.

"(a) AUTHORITY.—The Secretary of State is authorized, in consultation with other appropriate Government officials, to enter into an Americas Framework Agreement with any eligible country concerning the operation and use of the Americas Fund for that country. In the negotiation of such Agreements, the Secretary shall consult with the Enterprise for the Americas Board in accordance with section 709.

"(b) CONTENTS OF AGREEMENTS.—An Americas Framework Agreement with an eligible country shall—

"(1) require that country to establish an Americas Fund;

"(2) require that country to make interest payments under section 706(b)(1) into an Americas Fund;

"(3) require that country to make prompt disbursements from the Americas Fund to the administering body described in subsection (c);

"(4) when appropriate, seek to maintain the value of the local currency resources of the Americas Fund in terms of United States dollars;

"(5) specify, in accordance with subsection (d), the purposes for which amounts in an Americas Fund may be used; and

"(6) contain reasonable provisions for the enforcement of the terms of the agreement.

"(c) ADMINISTERING BODY.—

"(1) IN GENERAL.—Funds disbursed from the Americas Fund in each beneficiary country shall be administered by a body constituted under the laws of that country.

"(2) COMPOSITION.—The administering body shall consist of—

"(A) one or more individuals appointed by the United States Government,

"(B) one or more individuals appointed by the government of the beneficiary country, and

"(C) individuals who represent a broad range of—

"(i) environmental nongovernmental organizations of the beneficiary country,

"(ii) child survival and child development nongovernmental organizations of the beneficiary country,

"(iii) local community development nongovernmental organizations of the beneficiary country, and

"(iv) scientific or academic organizations or institutions of the beneficiary country.

A majority of the members of the administering body shall be individuals described in subparagraph (C).

"(3) RESPONSIBILITIES.—The administering body—

"(A) shall receive proposals for grant assistance from eligible grant recipients (as determined under subsection (e)) and make grants to eligible grant recipients in accordance with the priorities agreed upon in the Americas Framework Agreement, consistent with subsection (d);

"(B) shall be responsible for the management of the program and oversight of grant activities funded from resources of the Americas Fund;

"(C) shall be subject, on an annual basis, to an audit of financial statements conducted in accordance with generally accepted auditing standards by an independent auditor;

"(D) shall be required to grant to representatives of the United States General Accounting Office such access to books and records associated with operations of the Americas Fund as the Comptroller General of the United States may request;

"(E) shall present an annual program for review each year by the Enterprise for the Americas Board; and

Reports. "(F) shall submit a report each year on the activities that it undertook during the previous year to the Chair of the Enterprise for the Americas Board and to the government of the beneficiary country.

Grants. "(d) ELIGIBLE ACTIVITIES.—Grants from an Americas Fund shall be used for—

"(1) activities that link the conservation and sustainable use of natural resources with local community development; and

"(2) child survival and other child development activities.

"(e) GRANT RECIPIENTS.—Grants made from an Americas Fund shall be made to—

"(1) nongovernmental environmental, conservation, child survival and child development, development, and indigenous peoples organizations of the beneficiary country;

"(2) other appropriate local or regional entities; and

"(3) in exceptional circumstances, the government of the beneficiary country.

"(f) REVIEW OF LARGER GRANTS.—Any grant of more than $100,000 from an Americas Fund shall be subject to veto by the Government of the United States or the government of the beneficiary country.

"(g) ELIGIBILITY CRITERIA.—In the event that a country ceases to meet the eligibility requirements set forth in section 703(a), as determined by the President pursuant to section 703(b), then grants from the Americas Fund for that country may only be made to nongovernmental organizations until such time as the President determines that such country meets the eligibility requirements set forth in section 703(a).

22 USC 2430h. **"SEC. 709. ENTERPRISE FOR THE AMERICAS BOARD.**

"For purposes of this part, the Enterprise for the Americas Board shall—

"(1) advise the Secretary of State on the negotiations of Americas Framework Agreements;

"(2) ensure, in consultation with—

"(A) the government of the beneficiary country,

"(B) nongovernmental organizations of the beneficiary country,

"(C) nongovernmental organizations of the region (if appropriate),

"(D) environmental, scientific, child survival and child development, and academic leaders of the beneficiary country, and

"(E) environmental, scientific, child survival and child development, and academic leaders of the region (as appropriate),

that a suitable administering body is identified for each Americas Fund; and

"(3) review the programs, operations, and fiscal audits of each administering body.

"SEC. 710. ANNUAL REPORTS TO THE CONGRESS. 22 USC 2430i.

"The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a description of each Americas Framework Agreement and a description of any grants that have been extended by administering bodies pursuant to an Americas Framework Agreement.".

(b) CONFORMING AMENDMENT TO AVOID DUPLICATIVE AUTHORIZATIONS.—Chapter 12 of part I of the Foreign Assistance Act of 1961 (as enacted by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1993), relating to the Enterprise for the Americas Initiative, is repealed. Any exercise of the authorities provided in that chapter prior to its repeal by this subsection shall be deemed to be an exercise of the authorities of part IV of the Foreign Assistance Act of 1961 (as enacted by subsection (a) of this section) and shall be carried out, after the enactment of this section, in accordance with that part.

Ante, p. 1692.

SEC. 603. ENTERPRISE FOR THE AMERICAS BOARD.

Section 610 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738i) is amended—

(1) in the section heading, by striking out "ENVIRONMENT" and inserting in lieu thereof "ENTERPRISE";

(2) in subsection (a), by striking out "Environment" and inserting in lieu thereof "Enterprise"; and

(3) in subsection (b)(1)(B)—

(A) by inserting "child survival and child development," after "environmental,"; and

(B) by inserting ", at least one of whom shall be a representative from a child survival and child development organization" after "Caribbean".

SEC. 604. INTERNATIONAL UNIVERSITY FOR THE AMERICAS. 22 USC 2077.

(a) PURPOSE.—The purpose of this section is to promote economic integration and the consolidation and strengthening of democratic institutions in the Western Hemisphere, and to commemorate the 500th anniversary of the discovery of the Americas by Christopher Columbus through the establishment of an institution of higher education, which shall be known as the "International University for the Americas".

(b) ESTABLISHMENT.—The Secretary of State, in consultation with other governments in the Western Hemisphere, shall determine the most appropriate location for the International University

for the Americas. In making that determination, the Secretary shall ensure that—

(1) the location chosen is in the Americas and is easily accessible to all peoples in the region; and

(2) the relevant government—

(A) has demonstrated a commitment to economic integration and democratic values though its policies and programs; and

(B) has expressed an interest in that location being chosen as a site and has agreed to contribute some amount of assistance, either in cash or kind, toward the costs of developing the institution.

(c) FACULTY, STUDENTS, AND CURRICULUM.—In developing the bylaws of the International University for the Americas, the Secretary of State shall ensure that they contain provisions to ensure that faculty and students are drawn from all the nations in the Western Hemisphere, and that the curriculum is designed to develop expertise in fields that will promote the economic integration of the Americas and the consolidation of democracy throughout the Hemisphere.

(d) ANNUAL REPORT.—The annual reports submitted pursuant to section 614 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1738mm) shall include a progress report on the selection of a site and design for the establishment of the International University for the Americas.

(e) FUNDING.—Of the funds that are allocated for assistance for Latin America and the Caribbean under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and chapter 4 of part II of that Act (relating to the economic support fund), $500,000 may be made available to carry out the site location and design phase of the International University for the Americas.

TITLE VII—TRADE PROMOTION EXPANSION

SEC. 701. INCREASE IN COMMERCIAL SERVICE OFFICERS IN CERTAIN COUNTRIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise available, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1993 and 1994 for use by the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service in accordance with subsection (b).

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available only for placing and maintaining 20 additional Commercial Service Officers abroad. The Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, may place such additional Commercial Service Officers—

(1) in countries with which the United States has the largest trade deficit, and

(2) in newly emerging market economy countries, with democratically elected governments, in Central and Eastern Europe and elsewhere.

(c) REPORT TO CONGRESS.—The Secretary of Commerce, acting through the Assistant Secretary of Commerce and the Director General of the United States and Foreign Commercial Service, shall, not later than December 31, 1994, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of subsection (b). Each report shall specify—

(1) in what countries the additional Commercial Service Officers were placed, and the number of such officers placed in each such country; and

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to the countries in which such officers were placed.

TITLE VIII—GENERAL PROVISIONS

SEC. 801. IMPACT ON EMPLOYMENT IN THE UNITED STATES.

22 USC 2151 note.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States, if such incentive or inducement is likely to reduce the number of employees in the United States because United States production is being replaced by such enterprise outside the United States.

SEC. 802. INTERNATIONALLY RECOGNIZED WORKER RIGHTS.

22 USC 2151 note.

No funds made available to carry out any provision of this Act or the amendments made by this Act may be obligated or expended for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone in that country.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 4996 (S. 3294):

HOUSE REPORTS: Nos. 102-551 (Comm. on Foreign Affairs) and 102-1026 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 138 (1992):

June 17, Aug. 5, considered and passed House.

Oct. 1, considered and passed Senate, amended, in lieu of S. 3294.

Oct. 5, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

Public Law 102-550
102d Congress

An Act

Oct. 28, 1992
[H.R. 5334]

To amend and extend certain laws relating to housing and community development, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Housing and Community Development Act of 1992.
42 USC 5301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Housing and Community Development Act of 1992".

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SEC. 2. EFFECTIVE DATE.

42 USC 5301 note.

The provisions of this Act and the amendments made by this Act shall take effect and shall apply upon the date of the enactment of this Act, unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

TITLE I—HOUSING ASSISTANCE

Subtitle A—General Provisions

SEC. 101. LOW-INCOME HOUSING AUTHORIZATION.

(a) AGGREGATE BUDGET AUTHORITY.—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraph (7) is increased (to the extent approved in appropriation Acts) by $14,710,990,520 on October 1, 1992, and by $15,328,852,122 on October 1993.".

(b) UTILIZATION OF BUDGET AUTHORITY.—Section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) is

amended by striking the paragraph designation and all that follows through the end of subparagraph (B) and inserting the following:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $830,900,800, of which amount not more than $257,320,000 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $1,977,662,720, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,100,000,000;

"(iv) for assistance under section 8 for property disposition, not more than $93,032,000;

"(v) for assistance under section 8 for loan management, not more than $202,000,000;

"(vi) for extensions of contracts expiring under section 8, not more than $6,746,135,000, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,350,000,000;

"(viii) for public housing lease adjustments and amendments, not more than $83,055,000;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $12,767,000; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $300,000,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1994, the Secretary shall, to the extent approved in appropriation Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than $865,798,634, of which amount not more than $268,127,440 shall be available for Indian housing;

"(ii) for assistance under section 8, not more than $2,060,724,554, of which $20,000,000 shall be available for 15-year contracts for project-based assistance to be used for a multicultural tenant empowerment and homeownership project located in the District of Columbia, except that assistance provided for such project shall not be considered for purposes of the percentage limitations under section 8(i)(2); except that not more than 49 percent of any amounts appropriated under this clause may be used for vouchers under section 8(o);

"(iii) for comprehensive improvement assistance grants under section 14(k), not more than $3,230,200,000;

"(iv) for assistance under section 8 for property disposition, not more than $96,939,344;

"(v) for assistance under section 8 for loan management, not more than $210,484,000;

"(vi) for extensions of contracts expiring under section 8, not more than $7,029,472,670, which shall be for 5-year contracts for assistance under section 8 and for loan management assistance under such section;

"(vii) for amendments to contracts under section 8, not more than $1,406,700,000;

"(viii) for public housing lease adjustments and amendments, not more than $86,543,310;

"(ix) for conversions from leased housing contracts under section 23 of this Act (as in effect immediately before the enactment of the Housing and Community Development Act of 1974) to assistance under section 8, not more than $13,303,214; and

"(x) for grants under section 24 for revitalization of severely distressed public housing, not more than $312,600,000.".

SEC. 102. EXTENSION OF CEILING RENTS.

(a) REMOVAL OF 5-YEAR LIMIT.—Section 3(a)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(A)) is amended by striking "for not more than a 5-year period".

(b) EXTENSION OF PREVIOUS CEILING RENTS.—Section 3(a)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(2)(B)) is amended—

(1) by striking the first sentence; and

(2) in the last sentence, by striking "for the 5-year period beginning on such date of enactment" and inserting "without time limitation".

SEC. 103. DEFINITIONS OF INCOME AND ADJUSTED INCOME AND APPLICABILITY TO INDIAN HOUSING PROGRAMS.

(a) IN GENERAL.—

(1) INCOME.—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting after "family" the following: "and any amounts which would be eligible for exclusion under section 1613(a)(7) of the Social Security Act (42 U.S.C. 1382b(a)(7))".

(2) ADJUSTED INCOME.—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking subparagraph (D) and inserting the following new subparagraph:

"(D) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education;";

(B) by striking "and" at the end of subparagraph (E);

(C) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(D) by inserting after subparagraph (F) the following new subparagraph:

"(G) excessive travel expenses, not to exceed $25 per family per week, for employment- or education-related travel, except that this subparagraph shall apply only to families assisted by Indian housing authorities.".

42 USC 1437a note.

(3) BUDGET COMPLIANCE.—To the extent that the amendments made by paragraphs (1) and (2) result in additional costs under this title, such amendments shall be effective only to the extent that amounts to cover such additional costs are provided in advance in appropriation Acts.

42 USC 1437aa note.

(b) APPLICABILITY OF DEFINITIONS TO INDIAN HOUSING.—

(1) IN GENERAL.—In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the provisions of sections 572, 573, and 574 of the Cranston-Gonzalez National Affordable Housing Act shall apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such provision were enacted upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.

Regulations. 42 USC 1437d note.

SEC. 104. PUBLIC AND SECTION 8 HOUSING TENANT PREFERENCE RULES.

Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue regulations implementing the amendments made by sections 501 and 545 of the Cranston-Gonzalez National Affordable Housing Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon issuance.

SEC. 105. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) EXEMPTION FROM WAITING LIST REQUIREMENTS.—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended—

(1) in the first sentence, by striking the second comma and inserting "and";

(2) in the first sentence, by striking ", and shall" and inserting ". In developing such admission procedures, the Secretary shall"; and

(3) by inserting before the period at the end of the penultimate sentence the following: "; except that such prohibition shall not apply with respect to families selected for occupancy in public housing under the system of preferences established by the agency pursuant to section 6(c)(4)(A)(ii)".

(b) EXEMPTION FROM ELIGIBILITY RESTRICTIONS.—Section 16(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437n(d)(2)) is amended by inserting before the period ", to scattered site public housing dwelling units sold or intended to be sold to public housing tenants under section 5(h) of this title.".

SEC. 106. FAMILY SELF-SUFFICIENCY PROGRAM.

(a) RESERVATION OF OPERATING SUBSIDIES.—The last sentence of section 23(h)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(h)(2)) is amended to read as follows: "Of any amounts appropriated under section 9(c) for fiscal year 1993, $25,000,000 is authorized to be used for costs under this paragraph, and of any amounts appropriated under such section for fiscal year 1994, $25,900,000 is authorized to be used for costs under this paragraph.".

(b) EXCEPTION TO REQUIRED ESTABLISHMENT OF PROGRAM.—Section 23(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)(2)) is amended by striking subparagraphs (A) through (D) and inserting the following:

"(A) lack of supportive services accessible to eligible families, which shall include insufficient availability of resources for programs under the Job Training Partnerships Act or the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; or

"(D) any other circumstances that the Secretary may consider appropriate.

In allocating assistance available for reservation under this Act, the Secretary may not refuse to provide assistance or decrease the amount of assistance that would otherwise be provided to any public housing agency because the agency has provided a certification under this paragraph or because, pursuant to a certification, the agency has failed to carry out a self-sufficiency program.".

(c) NONPARTICIPATION.—Section 23(b) of the United States Housing Act of 1937 (42 U.S.C. 1437u(b)) is amended by adding at the end the following new paragraph:

"(4) NONPARTICIPATION.—Assistance under the certificate or voucher programs under section 8 for a family that elects not to participate in a local program shall not be delayed by reason of such election.".

(d) CONTRACT OF PARTICIPATION.—Section 23(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(1)) is amended—

(1) in the second sentence, by inserting after "program" the following: ", shall establish specific interim and final goals by which compliance with and performance of the contract may be measured,"; and

(2) by striking the last sentence and inserting the following new sentences: "The contract shall provide that the public housing agency may terminate or withhold assistance under section 8 and services under paragraph (2) of this subsection if the public housing agency determines, through an administrative grievance procedure in accordance with the requirements of section 6(k), that the family has failed to comply with the requirements of the contract without good cause (which may include a loss or reduction in access to supportive services, or a change in circumstances that makes the family or individual unsuitable for participation).".

(e) SUPPORTIVE SERVICES.—The first sentence of section 23(c)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(c)(2)) is amended by striking "to each participating family" the second place it appears.

(f) ESCROW SAVINGS ACCOUNTS.—Section 23(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)(2)) is amended in the last sentence by striking "only after" and all that follows through the end of the sentence and inserting the following: "after the family ceases to receive income assistance under Federal or State welfare programs, upon successful performance of the obligations of the family under the contract of participation entered

into by the family under subsection (c), as determined according to the specific goals and terms included in the contract, and under other circumstances in which the Secretary determines an exception for good cause is warranted. A public housing agency establishing such escrow accounts may make certain amounts in the accounts available to the participating families before full performance of the contract obligations based on compliance with, and completion of, specific interim goals included in the contract; except that any such amounts shall be used by the participating families for purposes consistent with the contracts of participation, as determined by the public housing agency.".

(g) INCENTIVES FOR PARTICIPATION.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u(d)) is amended—

(1) by striking the subsection designation and heading and inserting the following:

"(d) INCENTIVES FOR PARTICIPATION.—"; and

(2) by adding at the end the following new paragraph:

"(3) PLAN.—Each public housing agency carrying out a local program under this section shall establish a plan to offer incentives to families to encourage families to participate in the program. The plan shall require the establishment of escrow savings accounts under paragraph (2) and may include any other incentives designed by the public housing agency.".

(h) ACTION PLAN.—Section 23(g)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437u(g)(3)) is amended—

(1) in subparagraph (F), by striking "and" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting "; and";

(3) by redesignating subparagraphs (D) through (G) (as so amended) as subparagraphs (E) through (H), respectively;

(4) by inserting after subparagraph (C) the following new subparagraph:

"(D) a description of the incentives pursuant to subsection (d) offered by the public housing agency to families to encourage participation in the program;"; and

(5) by adding at the end the following new paragraph:

"(I) assurances satisfactory to the Secretary that nonparticipating families will retain their rights to public housing or section 8 assistance notwithstanding the provisions of this section.".

(i) DEFINITIONS.—Section 23(n) of the United States Housing Act of 1937 (42 U.S.C. 1437u(n)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'eligible family' means a family whose head of household is not elderly, disabled, pregnant, a primary caregiver for children under the age of 3, or for whom the family self-sufficiency program would otherwise be unsuitable. Notwithstanding the preceding sentence, a public housing agency may enroll such families if they choose to participate in the program."; and

(3) by adding at the end the following new paragraph:

"(6) The term 'vacant unit' means a dwelling unit that has been vacant for not less than 9 consecutive months.".

(j) INDIAN HOUSING.—Section 23(o)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437u(o)(2)) is amended to read as follows:

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING AUTHORITIES.—Notwithstanding any other provision of law, the provisions of this section shall be optional for Indian housing authorities.".

Subtitle B—Public and Indian Housing

SEC. 111. MAJOR RECONSTRUCTION OF OBSOLETE PROJECTS.

(a) IN GENERAL.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)) is amended to read as follows:

"(2)(A) Notwithstanding any other provision of law, the Secretary may reserve not more than 20 percent of any amounts appropriated for development of public housing in each fiscal year for the substantial redesign, reconstruction, or redevelopment of existing obsolete public housing projects or buildings and for the costs of improving the management and operation of projects undergoing redesign, reconstruction, or redevelopment under this paragraph (to the extent that such improvement is necessary to maintain the physical improvements resulting from such redesign, reconstruction, or redevelopment).

"(B) For purposes of this paragraph, the term 'obsolete public housing project or building' means a public housing project or building (i) having design or marketability problems resulting in vacancy in more than 25 percent of the units, or (ii)(I) for which the costs for redesign, reconstruction, or redevelopment (including any costs for lead-based paint abatement activities) exceed 70 percent of the total development cost limits for new construction of similar units in the area, and (II) which has an occupancy density or a building height that is significantly in excess of that which prevails in the neighborhood in which the project is located, a bedroom configuration that could be altered to better serve the needs of families seeking occupancy to dwellings of the public housing agency, significant security problems in and around the project, or significant physical deterioration or inefficient energy and utility systems.

"(C) The Secretary shall allocate amounts reserved under this section to public housing agencies on the basis of a competition among public housing agencies applying for such amounts. The competition shall be based on—

"(i) the management capability of the public housing agency to carry out the redesign, reconstruction, or redevelopment;

"(ii) the expected term of the useful life of the project or building after redesign, reconstruction or redevelopment; and

"(iii) the likelihood of achieving full occupancy within the projects or buildings of the agency that are to be assisted under this paragraph.

"(D) The Secretary shall establish limitations on the total costs of any project or building receiving amounts under this paragraph for redesign, reconstruction, and redevelopment. The cost limitations shall not be related to the total development cost system for new development or to the cost limits for modernization and shall recognize the higher direct costs of such work.

"(E) Assistance may not be provided under this paragraph for any project or building assisted under section 14.

"(F)(i) For each fiscal year for which amounts are reserved or appropriated for the purposes of this paragraph, the Secretary shall establish performance goals to evaluate the effectiveness of the use of such amounts. The goals shall—

"(I) be designed to maximize the effectiveness of the expenditures in a quantifiable manner; and

"(II) describe the number of units to be redesigned, redeveloped, and reconstructed with such amounts and improvements in the management of projects so assisted to be accomplished with such amounts.

Reports. "(ii) Not later than 60 days after the end of each such fiscal year, the Secretary shall submit a report to the Congress, which shall describe the performance goals established for the fiscal year, the activities carried out with such amounts, and a statement of whether the performance goals were met. If the performance goals were not met, the report shall contain—

"(I) an explanation of why the goals were not met and a description of any managerial deficiencies or legal problems that contributed to not meeting such goals;

"(II) plans and a schedule for achieving the level of performance under such performance goals;

"(III) recommendations for legislative or regulatory changes necessary to achieve the performance goals or improve performance; and

"(IV) a statement of whether the performance goals established for the fiscal year were impractical or infeasible, and, if so, the factors that contributed and resulted in establishing such impractical or infeasible goals and recommendations of actions to meet such goals, which may include changing the goals or altering or eliminating the program under this paragraph for major reconstruction of projects.".

(b) MODERNIZATION AND DISPOSITION REQUIREMENTS.—

42 USC 1437*l*. (1) MODERNIZATION.—Section 14(c) of the United States Housing Act of 1937 (42 U.S.C. 1437l(c)) is amended—

(A) in the matter preceding paragraph (1)—

(i) by inserting "buildings of" after "for"; and

(ii) by striking "which";

(B) in each of paragraphs (1), (2), (3), and (4), by inserting "which projects" after the paragraph designation;

(C) in paragraph (3), by striking "and" at the end;

(D) by redesignating paragraph (4) as paragraph (5); and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) which buildings are not assisted under section 5(j)(2); and".

42 USC 1437p. (2) DEMOLITION AND DISPOSITION.—Section 18(a) of the United States Housing Act of 1937 (42 U.S.C. 1437q(a)) is amended—

(A) in paragraph (1), by striking "or" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) in the case of an application proposing demolition or disposition of any portion of a public housing project, assisted at any time under section 5(j)(2)—

"(A) such assistance has not been provided for the portion of the project to be demolished or disposed within the 10-year period ending upon submission of the application; or

"(B) the property's retention is not in the best interest of the tenants or the public housing agency because of extraordinary changes in the area surrounding the project or other extraordinary circumstances of the project.".

(c) REGULATIONS.—The Secretary shall issue regulations necessary to carry out the amendments made by this section as provided under section 191 of this Act.

SEC. 112. PUBLIC HOUSING TENANT PREFERENCES.

Section 6(c)(4)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)(i)) is amended by striking "70 percent" and inserting "50 percent".

SEC. 113. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) INDEPENDENT MANAGEMENT ASSESSMENT.—Section 6(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(2)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C);

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) Upon designating a public housing agency as troubled pursuant to subparagraph (A) and determining that an assessment under this subparagraph will not duplicate any review conducted under section 14(p), the Secretary shall provide for an on-site, independent assessment of the management of the agency.

"(ii) To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), the assessment team shall also consider issues relating to the agency's resident population and physical inventory, including the extent to which (I) the agency's comprehensive plan prepared pursuant to section 14 adequately and appropriately addresses the rehabilitation needs of the agency's inventory, (II) residents of the agency are involved in and informed of significant management decisions, and (III) any projects in the agency's inventory are severely distressed and eligible for assistance pursuant to section 24.

"(iii) An independent assessment under this subparagraph shall be carried out by a team of knowledgeable individuals selected by the Secretary (referred to in this section as the 'assessment team') with expertise in public housing and real estate management. In conducting an assessment, the assessment team shall consult with the residents and with public and private entities in the jurisdiction in which the public housing is located. The assessment team shall provide to the Secretary and the public housing agency a written report, which shall contain, at a minimum, recommendations for such management improvements as are necessary to eliminate or substantially remedy existing deficiencies."; and

Reports.

(3) in subparagraph (C), as so redesignated by paragraph (1)—

(A) by striking "agency setting forth" and inserting the following: "agency, after reviewing the report submitted pursuant to subparagraph (B) and consulting with the agency's assessment team. Such agreement shall set forth"; and

(B) by inserting before the second sentence the following new flush sentence:

"To the extent the Secretary deems appropriate (taking into account an agency's performance under the indicators specified under paragraph (1)), such agreement shall also set forth a plan for enhancing resident involvement in the management of the public housing agency.".

(b) ADDITIONAL STATUTORY REMEDIES.—Section 6(j)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)(A)) is amended—

(1) in clause (i), by inserting after "agents" the first place it appears the following: "(which may be selected by existing tenants through administrative procedures established by the Secretary)";

(2) at the end of clause (ii), by striking "and";

(3) by redesignating clause (iii) as clause (iv);

(4) by inserting after clause (ii) the following new clause:

"(iii) solicit competitive proposals from other public housing agencies and private entities with experience in construction management in the eventuality that such agencies or firms may be needed to oversee implementation of assistance made available under section 14 for the housing; and"; and

(5) by adding at the end the following new flush sentence:

"Residents of a public housing agency designated as troubled pursuant to paragraph (2)(A) may petition the Secretary in writing to take 1 or more of the actions referred to in this subparagraph. The Secretary shall respond to such petitions in a timely manner with a written description of the actions, if any, the Secretary plans to take and, where applicable, the reasons why such actions differ from the course proposed by the residents.".

(c) RESOURCES.—Section 6(j)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(3)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary may make available to receivers and other entities selected or appointed pursuant to this paragraph such assistance as is necessary to remedy the substantial deterioration of living conditions in individual public housing developments or other related emergencies that endanger the health, safety and welfare of the residents.".

(d) ANNUAL REPORTS.—Section 6(j)(5)(E) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(4)(E)), as so redesignated by subsection (d)(1), is amended by inserting before the semicolon the following: ", including an accounting of the authorized funds that have been expended to support such actions".

(e) APPLICABILITY.—

(1) ASSESSMENT OF RESIDENT MANAGEMENT CORPORATIONS.—Section 6(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437d(j)(1)) is amended—

(A) in the first sentence, by inserting "and resident management corporations" before the period;

(B) in the third sentence, by inserting "and resident management corporations" after "agencies"; and

(C) in the fourth sentence, by striking "indicators." and inserting "indicators for public housing agencies, to the extent practicable:".

(2) PROCEDURES.—Section 6(j)(2) of the United States Housing Act of 1937, as amended by subsection (a) of this section, is further amended by adding at the end the following new subparagraph:

"(D) The Secretary shall apply the provisions of this paragraph to resident management corporations as well as public housing agencies.".

SEC. 114. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c)(1) There are authorized to be appropriated for purposes of providing annual contributions under this section $2,282,436,000 for fiscal year 1993 and $2,378,298,312 for fiscal year 1994.

"(2) There are also authorized to be appropriated to provide annual contributions under this section, in addition to amounts under paragraph (1), such sums as may be necessary for each of fiscal years 1993 and 1994, to provide each public housing agency with the difference between (A) the amount provided to the agency from amounts appropriated pursuant to paragraph (1), and (B) all funds for which the agency is eligible under the performance funding system without adjustments for estimated or unrealized savings.

"(3) In addition to amounts under paragraphs (1) and (2), there are authorized to be appropriated for annual contributions under this section to provide for the costs of the adjustments to income and adjusted income under the amendments made by sections 573(b) and (c) of the Cranston-Gonzalez National Affordable Housing Act such sums as may be necessary for fiscal years 1993 and 1994.".

(b) ADJUSTMENT OF PERFORMANCE FUNDING SYSTEM.—Section 9(a)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(A)) is amended by inserting after the period at the end the following new sentence: "Notwithstanding sections 583(a) and 585(a) of title 5, United States Code (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), any proposed regulation providing for amendment, alteration, adjustment, or other change to the performance funding system relating to vacant public housing units shall be issued pursuant to a negotiated rulemaking procedure under subchapter IV of chapter 5 of such title (as added by section 3(a) of the Negotiated Rulemaking Act of 1990), and the Secretary shall establish a negotiated rulemaking committee for development of any such proposed regulations.".

(c) ENERGY SAVINGS.—Section 9(a)(3)(B)(i) of the United States Housing Act of 1937 is amended by inserting before the semicolon at the end the following: ", and in subsequent years, if the energy savings are cost-effective, the Secretary may continue the sharing arrangement with the public housing agency for a period not to exceed 6 years".

SEC. 115. PUBLIC HOUSING VACANCY REDUCTION.

42 USC 1437*l*.

(a) FUNDING.—Section 14(p)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(5)) is amended to read as follows:

"(5)(A) Of any amounts available under this section in each of fiscal years 1993 and 1994 (after amounts are reserved pursuant to subsection (k)(1)), an amount equal to 4 percent of such remaining funds shall be available in each such fiscal year for the purposes under subparagraph (B).

"(B) Of such amounts available under subparagraph (A) in each such fiscal year—

"(i) 20 percent shall be available only for carrying out activities under section 6(j); and

"(ii) 80 percent shall be available for carrying out this subsection.".

(b) SCOPE OF PROGRAM.—Section 14(p)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(1)) is amended—

(1) by striking "or that" and inserting ", that"; and

(2) by inserting after "6(j)," the following: "or for which a receiver has been appointed pursuant to section 6(j)(3),".

(c) VACANCY REDUCTION ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended—

(1) in subparagraph (B), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made"; and

(2) in subparagraph (C), by inserting before the semicolon the following: ", except that the Secretary may provide assistance to a public housing agency designated as a troubled agency for the purposes under this subparagraph only if the Secretary determines that the agency is making substantial progress in remedying management deficiencies, if any, or that the agency has provided reasonable assurances that such progress will be made".

(d) AVAILABILITY OF ASSISTANCE.—Section 14(p)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(4)) is amended by striking the first comma and all that follows through the second comma and inserting ", subject to the availability of amounts under paragraph (6),".

(e) USE OF AMOUNTS FOR ASSESSMENT TEAMS.—Section 14(p)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)) is amended by adding at the end the following new subparagraph:

"(D) The Secretary may use amounts made available under paragraph (6) for any travel and administrative expenses of assessment teams under this paragraph.".

(f) ASSESSMENT TEAM.—The second sentence of section 14(p)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(3)(A)) is amended—

(1) by striking "and" after "Development" and inserting a comma; and

(2) by striking "who" and inserting "and officials of the public housing agency, all of whom".

(g) RESERVATION OF ANNUAL CONTRIBUTIONS FOR ACTIVITIES UNDER PLAN.—Section 14(p) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)) is amended—

(1) by redesignating paragraphs (3), (4), and (5) (as amended by the preceding provisions of this section) as paragraphs (4), (5), and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Upon the expiration of the 24-month period beginning upon the receipt of assistance under paragraph (5) by a public housing agency, the Secretary shall, after reviewing the progress made in complying with the plan, reserve from the annual contribution attributable to each unit vacant for the 24-month period an amount determined by the Secretary but not exceeding 80 percent of such contribution. The Secretary may not reserve any amounts under this subparagraph for any vacant dwelling unit that is vacant because of modernization, reconstruction, or lead-based paint reduction activities.

"(B) The Secretary shall deposit any amounts reserved under subparagraph (A) in a separate account established on behalf of the public housing agency, and such amounts shall be available to the agency only for the purpose of carrying out activities in compliance with the vacancy reduction plan of the agency.

"(C) If, after the expiration of the 24-month period beginning upon the reservation under subparagraph (A) of amounts for a public housing agency, the Secretary determines that the agency has not made significant progress to comply with the provisions of the vacancy reduction plan of the agency, the amount remaining in the account for the agency established under subparagraph (B) shall be recaptured by the Secretary.".

(h) TECHNICAL CORRECTIONS.—Section 14(p)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437l(p)(2)) is amended—

(1) in clause (D), by striking "modernization, reconstruction" and inserting "comprehensive modernization, major reconstruction"; and

(2) in clause (E), by striking "the modernization" and inserting "the comprehensive modernization".

SEC. 116. PUBLIC HOUSING DEMOLITION AND DISPOSITION.

(a) COORDINATION WITH TENANTS.—Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by inserting "of the project or portion of the project covered by the application" after "tenant cooperative".

(b) REPLACEMENT PLAN.—Section 18(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(3)) is amended—

(1) in subparagraph (A)—

(A) in clause (ii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under section 8 having a term of not less than 5 years";

(B) in clause (iii), by inserting before the semicolon at the end the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of available project-based assistance under

other Federal programs having a term of not less than 5 years"; and

(C) in clause (v), by inserting before the semicolon the following: "to the extent available; or if such assistance is not available, in the case of an application proposing demolition or disposition of 200 or more units, the use of tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years";

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon;

(3) by redesignating subparagraphs (B) through (G) as subparagraphs (C) through (H), respectively;

(4) by inserting after subparagraph (A) the following new subparagraph:

"(B) in the case of an application proposing demolition or disposition of 200 or more units, shall provide that (notwithstanding the limitation under section 8(d)(2)(A) on the amount of project-based assistance provided by an agency)—

"(i) not less than 50 percent of such additional dwelling units shall be provided through the acquisition or development of additional public housing dwelling units or through project-based assistance; and

"(ii) not more than 50 percent of such additional dwelling units shall be provided through tenant-based assistance under section 8 (excluding vouchers under section 8(o)) having a term of not less than 5 years;"; and

(5) by adding at the end the following new flush matter: "except that, in any 5-year period, a public housing agency may demolish not more than the lesser of 5 dwelling units or 5 percent of the total dwelling units owned and operated by the public housing agency, without providing an additional dwelling unit for each such public housing dwelling unit to be demolished, but only if the space occupied by the demolished unit is used for meeting the service or other needs of public housing residents.".

(c) SET-ASIDES FOR REPLACEMENT HOUSING.—Section 18 of the United States Housing Act of 1937 (42 U.S.C. 1437p) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for assistance under section 8 that is available for families not currently receiving such assistance not more than 10 percent of such budget authority for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.

"(2) In each of fiscal years 1993 and 1994, the Secretary may reserve from any budget authority appropriated for such year for development of public housing under section 5(a)(2) not more than the lesser of 30 percent of such budget authorization or $150,000,000, for providing replacement housing under subsection (b)(3)(A) for units demolished or disposed of pursuant to this section.".

(d) YOLO COUNTY HOUSING AUTHORITY.—The Secretary of Housing and Urban Development shall approve the application for disposition by the Yolo County Housing Authority (CA30–PO–003 and CA30–PO44–099), provided that the application states that the tenant councils, resident management corporation, and tenant cooperative, if any, shall be given appropriate opportunities to purchase the new replacement units, which shall be available and ready for occupancy before the disposition of the existing subject units. The new units shall be considered public housing for the purposes of the United States Housing Act of 1937 for which the Secretary shall provide annual contributions for operation using any amounts made available under section 9(c).

SEC. 117. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $4,750,000 for fiscal year 1993 and $4,949,500 for fiscal year 1994.".

SEC. 118. PUBLIC HOUSING HOMEOWNERSHIP.

(a) HOMEOWNERSHIP ASSISTANCE.—Section 21(a)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(2)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such Act" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

(b) CONDITIONS OF PURCHASE.—Section 21(a)(3)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)(3)(C)) is amended—

(1) in the first sentence, by striking "the effective date of the regulations implementing title III of this Act" and inserting "February 4, 1991"; and

(2) in the second sentence—

(A) by striking "effective"; and

(B) by striking "such title" and inserting "the Cranston-Gonzalez National Affordable Housing Act".

SEC. 119. PUBLIC HOUSING FAMILY INVESTMENT CENTERS.

Section 22(k) of the United States Housing Act of 1937 (42 U.S.C. 1437t(k)) is amended to read as follows:

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1993 and $26,050,000 for fiscal year 1994.".

SEC. 120. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

42 USC 1437v.

"SEC. 24. REVITALIZATION OF SEVERELY DISTRESSED PUBLIC HOUSING.

"(a) PROGRAM AUTHORITY.—The Secretary may make—

"(1) planning grants under subsection (c) to enable applicants to develop revitalization programs for severely distressed public housing in accordance with this section; and

"(2) implementation grants under subsection (d) to carry out revitalization programs for severely distressed public housing in accordance with this section.

"(b) DESIGNATION OF ELIGIBLE PROJECTS.—

"(1) IDENTIFICATION.—Not later than 90 days after the date of enactment of the Housing and Community Development Act of 1992, public housing agencies shall identify, in such form and manner as the Secretary may prescribe, any public housing projects that they consider to be severely distressed public housing for purposes of receiving assistance under this section.

"(2) REVIEW BY SECRETARY.—The Secretary shall review the projects identified pursuant to paragraph (1) to ascertain whether the projects are severely distressed housing (as such item is defined in subsection (h)). Not later than 180 days after the date of enactment of this section, the Secretary shall publish a list of those projects that the Secretary determines are severely distressed public housing.

"(3) APPEAL OF SECRETARY'S DETERMINATION.—The Secretary shall establish procedures for public housing agencies to appeal the Secretary's determination that a project identified by a public housing agency is not severely distressed.

"(c) PLANNING GRANTS.—

"(1) IN GENERAL.—The Secretary may make planning grants under this subsection to applicants for the purpose of developing revitalization programs for severely distressed public housing under this section.

"(2) AMOUNT.—The amount of a planning grant under this subsection may not exceed $200,000 per project, except that the Secretary may for good cause approve a grant in a higher amount.

"(3) ELIGIBLE ACTIVITIES.—A planning grant may be used for activities to develop revitalization programs for severely distressed public housing, including—

"(A) studies of the different options for revitalization, including the feasibility, costs and neighborhood impact of such options;

"(B) providing technical or organizational support to ensure resident involvement in all phases of the planning and implementation processes;

"(C) improvements to stabilize the development, including security investments;

"(D) conducting workshops to ascertain the attitudes and concerns of the neighboring community;

"(E) preliminary architectural and engineering work;

"(F) planning for economic development, job training and self-sufficiency activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) designing a suitable replacement housing plan, in situations where partial or total demolition is considered;

"(H) planning for necessary management improvements; and

"(I) preparation of an application for an implementation grant under this section.

"(4) APPLICATIONS.—An application for a planning grant shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed, the schedule for completing the activities, the personnel necessary to complete the activities and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(5) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include— Regulations.

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident interest and involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this section in an effective and efficient manner.

"(6) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(d) IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Secretary may make implementation grants under this subsection to applicants for the purpose of carrying out revitalization programs for severely distressed public housing under this section.

"(2) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out revitalization programs for severely distressed public housing, including—

"(A) architectural and engineering work;

"(B) the redesign, reconstruction, or redevelopment of the severely distressed public housing development, including the site on which the development is located;

"(C) covering the administrative costs of the applicant, which may not exceed such portion of the assistance provided under this subsection as the Secretary may prescribe;

"(D) any necessary temporary relocation of tenants during the activity specified under subparagraph (B);

"(E) payment of legal fees;

"(F) economic development activities that promote the economic self-sufficiency of residents under the revitalization program;

"(G) necessary management improvements;

"(H) transitional security activities; and

"(I) any necessary support services, except that not more than 15 percent of any grant under this subsection may be used for such purpose.

"(3) APPLICATION.—An application for a implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the project involved, and a description of the composition of the tenants, including family size and income;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

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"(4) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this subsection, which shall include—

"(A) the qualities or potential capabilities of the applicant;

"(B) the extent of resident involvement in the development of a revitalization program for the project;

"(C) the extent of involvement of local public and private entities in the development of a revitalization program for the project and in the provision of supportive services to project residents;

"(D) the potential of the applicant for developing a successful and affordable revitalization program and the suitability of the project for such a program;

"(E) national geographic diversity among housing for which applicants are selected to receive assistance;

"(F) the extent of the need for and potential impact of the revitalization program; and

"(G) such other factors that the Secretary determines are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(5) NOTIFICATION.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or disapproved.

"(e) EXCEPTIONS TO GENERAL PROGRAM REQUIREMENTS.—

"(1) LONG-TERM VIABILITY.—The Secretary may waive or revise rules established under this title governing rents, income eligibility, and other areas of public housing management, to permit a public housing agency to undertake measures that enhance the long-term viability of a severely distressed public housing project revitalized under this section.

"(2) SELECTION OF TENANTS.—For projects revitalized under this section, a public housing agency may select tenants pursuant to a local system of preferences, in lieu of selecting tenants pursuant to the preferences specified under section 6(c)(4)(A)(i). Such local system shall be established in writing and shall respond to local housing needs and priorities as determined by the public housing agency. The public housing agency shall hold 1 or more public hearings to obtain the views of low-income tenants and other interested parties on the housing needs and priorities of the agency's jurisdiction.

"(f) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—Subject to the provisions of this section, the Secretary—

"(A) shall establish cost limitations on eligible activities under this section sufficient to provide for effective revitalization programs; and

"(B) may establish other cost limitations on eligible activities under this section.

"(2) ECONOMIC DEVELOPMENT.—Not more than an aggregate of $250,000 from amounts made available under subsections (c) and (d) may be used for economic development activities under subsections (c) and (d) for any project, except that the Secretary may for good cause waive the applicability of this paragraph for a project.

"(g) ADMINISTRATION.—For the purpose of carrying out the revitalization of severely distressed public housing in accordance with this section, the Secretary shall establish within the Department of Housing and Urban Development an Office of Severely Distressed Public Housing Revitalization.

"(h) DEFINITIONS.—For the purposes of this section:

"(1) APPLICANT.—The term 'applicant' means—

"(A) any public housing agency that is not designated as troubled pursuant to section 6(j)(2);

"(B) any public housing agency or private housing management agent selected, or receiver appointed pursuant, to section 6(j)(3);

"(C) any public housing agency that is designated as troubled pursuant to section 6(j)(2), if such agency acts in concert with a private nonprofit organization, another public housing agency that is not designated as a troubled agency, resident management corporation or other entity approved by the Secretary; and

"(D) any public housing agency that is designated as troubled pursuant to section 6(j)(2) that—

"(i) is so designated principally for reasons that will not affect the capacity of the agency to carry out a revitalization program;

"(ii) is making substantial progress toward eliminating the deficiencies of the agency; or

"(iii) is otherwise determined by the Secretary to be capable of carrying out a revitalization program.

"(2) PRIVATE NONPROFIT CORPORATION.—The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to very low-income families.

"(3) PUBLIC HOUSING AGENCY.—The term 'public housing agency' has the meaning given the term in section 3(b), except that it does not include any Indian housing authority.

"(4) RESIDENT MANAGEMENT CORPORATION.—The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(5) SEVERELY DISTRESSED PUBLIC HOUSING.—The term 'severely distressed public housing' means a public housing project—

"(A) that—

"(i) requires major redesign, reconstruction or redevelopment, or partial or total demolition, to correct serious deficiencies in the original design (including appropriately high population density), deferred maintenance, physical deterioration or obsolescence of major systems and other deficiencies in the physical plant of the project;

"(ii) is occupied predominantly by families with children who are in a severe state of distress, characterized by such factors as high rates of unemployment, teenage pregnancy, single-parent households, long-term dependency on public assistance and minimal educational achievement;

"(iii) is in a location for recurrent vandalism and criminal activity (including drug-related criminal activity); and

"(iv) cannot remedy the elements of distress specified in clauses (i) through (iii) through assistance under other programs, such as the programs under section 9 or 14, or through other administrative means; or

"(B) that—

"(i) is owned by a public housing agency designated as troubled pursuant to section 6(j)(2);

"(ii) has a vacancy rate, as determined by the Secretary, of 50 percent or more, unless the project or building is vacant because it is awaiting rehabilitation under a modernization program under section 14 that—

"(I) has been approved and funded; and

"(II) as determined by the Secretary, is on schedule and is expected to result in full occupancy of the project or building upon completion of the program; and

"(iii) in the case of individual buildings, the building is, in the Secretary's determination, sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this subtitle.

"(i) ANNUAL REPORT.—The Secretary shall submit to the Congress an annual report setting forth—

"(1) the number, type, and cost of public housing units revitalized pursuant to this section;

"(2) the status of projects identified as severely distressed public housing pursuant to subsection (b);

"(3) the amount and type of financial assistance provided under and in conjunction with this section; and

"(4) the recommendations of the Secretary for statutory and regulatory improvements to the program established by this section.".

SEC. 121. CHOICE IN PUBLIC HOUSING MANAGEMENT.

42 USC 1437w note.

(a) PURPOSE.—The purpose of this section is to encourage choice in management of distressed public housing projects by residents and increased resident management of public housing projects, as a means of improving living conditions in public housing projects, by providing for resident councils and resident management corporations to transfer the management of distressed projects to alternative managers.

(b) AMENDMENT TO 1937 ACT.—Title I of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding after section 24 (as added by section 120 of this Act) the following new section:

"SEC. 25. CHOICE IN PUBLIC HOUSING MANAGEMENT.

Choice in Public Housing Management Act of 1992. 42 USC 1437w.

"(a) SHORT TITLE.—This section may be cited as the 'Choice in Public Housing Management Act of 1992'.

"(b) FUNDING.—

"(1) REHABILITATION AND REDEVELOPMENT GRANTS.—From amounts reserved under section 14(k)(2) for each of fiscal years 1993 and 1994, the Secretary may reserve not more than $50,000,000 in each such fiscal year for activities under this section (which may include funding operating reserves for

eligible housing transferred under this section). The Secretary may make grants to managers and ownership entities to rehabilitate eligible housing in accordance with this section, as appropriate.

"(2) TECHNICAL ASSISTANCE.—The Secretary may use up to 5 percent of the total amount reserved under paragraph (1) for any fiscal year to provide, by contract, technical assistance to residents of public housing and resident councils to help such residents and councils make informed choices about options for alternative management under this section.

"(c) PROGRAM AUTHORITY.—

"(1) TRANSFER OF MANAGEMENT.—

"(A) IN GENERAL.—The Secretary may approve not more than 25 applications submitted for fiscal years 1993 and 1994 by resident councils for the transfer of the management of distressed public housing projects, or one or more buildings within projects, that are owned or operated by troubled public housing agencies, from public housing agencies to alternative managers.

"(B) REQUIRED VOTES.—An application for such transfer may be submitted and approved only if a majority of the members of the board of the resident council has voted in favor of the proposed transfer of management responsibilities, and a majority of the residents has also voted in favor of the transfer in an election supervised by a disinterested third party.

"(C) ASSISTANCE OF MANAGEMENT SPECIALIST.—Any resident council seeking to transfer management of distressed public housing under this section shall, in cooperation with the public housing agency for such housing, select a qualified public housing management specialist to assist in identifying and acquiring a capable manager for the housing.

"(2) REHABILITATION AND CAPITAL IMPROVEMENTS.—The Secretary may make rehabilitation grants and provide capital improvement funding under subsection (e) in connection with the transfer of eligible housing to a manager under this section.

"(d) OPERATING SUBSIDIES.—

"(1) AUTHORITY TO PROVIDE.—The Secretary may make operating subsidies under section 9 available to managers under this section.

"(2) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount of the operating subsidies made available to a manager based on the share for the housing under section 9 as determined by the Secretary.

"(3) EFFECT ON PHA GRANT.—Operating subsidies for any public housing agency transferring management under this section shall be reduced in accordance with the requirements of section 9.

"(e) REHABILITATION GRANTS AND CAPITAL IMPROVEMENT FUNDING.—

"(1) REHABILITATION GRANTS.—An application under subsection (f) may request approval of amounts set aside under subsection (b) for the rehabilitation of eligible housing. The manager and the Secretary shall enter into a contract governing the use of any such assistance provided.

"(2) ANNUAL CAPITAL IMPROVEMENT FUNDING.—

"(A) AUTHORITY TO PROVIDE.—The Secretary may make funding for capital improvements available annually from amounts under section 14 to managers of eligible housing. In accordance with the contract entered into pursuant to subsection (h), each manager receiving such funding shall establish a capital improvements reserve account and deposit in the account each year an amount not less than the annual amount of comprehensive grant funds it receives. Amounts in the reserve account may be used only for capital improvements and replacements.

"(B) AMOUNT OF SUBSIDY.—The Secretary shall establish the amount made available to a manager under paragraph (1) for capital improvements based on the share for the housing under the comprehensive grant formula and, to the extent practicable, the public housing agency's comprehensive grant plan, in accordance with section 14, as determined by the Secretary.

"(C) LIMITATION IN THE CASE OF RECENT REHABILITATION.—Where eligible housing has received rehabilitation funding under paragraph (1) or has otherwise been comprehensively modernized within 3 years before the effective date of the contract between the Secretary and the manager for management of the eligible housing, only the accrual portion of the comprehensive grant formula amount shall be available for payment to the manager.

"(D) EFFECT ON PHA GRANT.—The formula amount of a comprehensive grant for a public housing agency transferring the housing under this section shall be reduced in accordance with the requirements of section 14.

"(3) RELATIONSHIP TO SECTION 14.—The provisions of section 14 shall apply with respect to rehabilitation grants under paragraph (1) or capital improvement funding under paragraph (2); except that the Secretary may waive the applicability of any of the provisions of such section where such provisions are not appropriate to the assistance under this subsection.

"(f) APPLICATION.—

"(1) FORM AND PROCEDURES.—

"(A) IN GENERAL.—To be eligible for approval for transfer of management from a public housing agency to a manager and for a grant under subsection (e), a resident council shall submit an application to the Secretary in such form and in accordance with such procedures as the Secretary shall establish.

"(B) PHA COMMENT ON APPLICATION.—A resident council submitting an application shall provide the public housing agency that owns or operates the housing involved a reasonable opportunity to comment on the application, as the Secretary shall prescribe.

"(C) PHA PROPOSAL.—The public housing agency may present to the resident council a proposal for the continued management of the housing by the agency, and the resident council shall give reasonable consideration to any such proposal.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain—

"(A) a description of the resident council and documentation of its authority;

"(B) documentation of the votes required under subsection (c)(1)(B);

"(C) a description of the proposed manager selected by the applicant (in accordance with procedures established or approved by the Secretary) and documentation of its capacity to manage the eligible housing;

"(D) a plan for carrying out the manager's responsibilities for managing the eligible housing;

"(E) documentation that the project (or building or buildings) for which management transfer is proposed is eligible housing;

"(F) documentation that each of the requirements under paragraph (1)(B) have been fulfilled;

"(G)(i) if the application includes a request for a rehabilitation grant under subsection (e) (which shall be included in any application involving eligible housing that is 50 percent or more vacant), the basis for the estimate of the amount requested, including—

"(I) the estimate of the eligible housing's need under the public housing agency's comprehensive plan (under section 14(e)(1)); and

"(II) an explanation, where appropriate, if an amount higher than the amount planned by the agency is being requested; or

"(ii) if the application does not include a request for a rehabilitation grant under subsection (e), a demonstration that needs for capital improvements and replacement for the housing can reasonably be expected to be funded from funding for capital improvements under subsection (e);

"(H) if the manager proposes to administer a program to enable residents to achieve economic independence and self-sufficiency, a description of the program and evidence of commitment of resources to the program;

"(I) an analysis showing that the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost;

"(J) a certification that the manager will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(K) such other information that the Secretary considers appropriate.

"(g) REVIEW AND APPROVAL BY THE SECRETARY.—

"(1) APPLICATIONS NOT REQUESTING REHABILITATION ASSISTANCE.—In the case of applications for the transfer of management of public housing that do not include a request for rehabilitation assistance under subsection (e), the Secretary may approve an application that meets the requirements of subsection (f)(2) and this section.

"(2) APPLICATIONS REQUESTING REHABILITATION GRANTS.—In the case of applications that include a request for rehabilitation assistance under subsection (e), the Secretary shall select applicants for approval based on a national competition. The Secretary shall, by regulation, establish selection criteria for the competition which provide for separate rating of applicants under this paragraph and of applicants under this section,

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and for selections from a single list of all applicants. The criteria shall include—

"(A) the quality of the plan for rehabilitating the eligible housing;

"(B) the extent of the capacity or potential capacity of the proposed manager to manage the housing and to carry out the rehabilitation program;

"(C) the extent to which a program is proposed to enable residents to achieve economic independence and self-sufficiency;

"(D) the extent to which the planned rehabilitation will result in the long-term viability of the housing at a reasonable cost; and

"(E) such other criteria as the Secretary may require.

"(h) CONTRACT BETWEEN SECRETARY AND MANAGER.—

"(1) TERMS.—After the Secretary approves an application, the Secretary shall enter into a contract with the manager for transfer of management of the eligible housing. In addition to other contract provisions required under this section, the contract shall—

"(A) give the manager the right to receive operating subsidies under subsection (d) and capital improvement funding under subsection (e);

"(B) require the manager to carry out all management responsibilities for the eligible housing, as provided in or required by the contract;

"(C) require the manager to carry out, for the eligible housing, all management responsibilities applicable to public housing agencies owning or operating public housing projects, including (i) maintaining the units in decent, safe, and sanitary condition in accordance with any standards for public housing established or adopted by the Secretary, (ii) determining eligibility of applicants for occupancy of units subject to the requirements of this Act, (iii) terminating tenancy in accordance with the procedures applicable to the section 8 new construction program, and (iv) determining the amount of rent paid for units in accordance with this Act; and

"(D) permit, but not require, the manager to select applicants from the public housing waiting list maintained by the public housing agency.

"(2) EXTENSION, EXPIRATION, AND TERMINATION.—

"(A) IN GENERAL.—The Secretary shall provide for a resident council that has entered into a contract under this subsection to—

"(i) approve the renewal of the contract between the Secretary and the manager; or

"(ii) disapprove renewal and submit an application to the Secretary, in accordance with subsection (f), proposing another manager, which may be the public housing agency.

"(B) DEFAULT.—If the Secretary determines that a manager is in default of its responsibilities under the contract, the Secretary may require the resident council to submit another application proposing a different manager, which may be the public housing agency.

"(i) OTHER PROGRAM REQUIREMENTS.—

"(1) COST LIMITATIONS.—The Secretary may establish cost limitations on activities under this section. The amount of rehabilitation funds under subsection (e)(1) that may be approved may not exceed the per unit cost limit applicable to the comprehensive grant program under section 14.

"(2) DEMOLITION AND DISPOSITION NOT PERMITTED.—A manager may not demolish or dispose of eligible housing under this section.

"(3) CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS.—To be eligible to become a manager under this section, a resident management corporation—

"(A) shall demonstrate to the Secretary its ability to manage public housing effectively and efficiently, as determined by the Secretary, which shall include evidence of its most recent financial audit; or

"(B) shall arrange for operation of the housing by a qualified management entity.

"(4) LIMITATIONS ON PHA LIABILITY.—A public housing agency shall not be liable for any act or failure to act by the manager or resident council.

Regulations.

"(5) BONDING AND INSURANCE.—Before assuming any management responsibility for eligible housing, a manager shall obtain fidelity bonding and insurance, or equivalent protection, in accordance with regulations and requirements established by the Secretary. Such bonding and insurance, or its equivalent, shall be adequate to protect the Secretary and the public housing agency against loss, theft, embezzlement, or fraudulent acts on the part of the manager or its employees.

"(6) RESTRICTION ON DISPLACEMENT BEFORE TRANSFER.—A public housing agency may not involuntarily displace, as determined by the Secretary, any resident of eligible housing during the period beginning on the date that an application under subsection (f) is submitted by a resident council, and ending upon transfer of management of the housing or, if the application is disapproved, the date of the disapproval.

"(j) PERFORMANCE REVIEW AND COMPLIANCE.—

"(1) MONITORING.—The Secretary shall monitor the performance of managers under this section and shall assess their management performance using the performance indicators established under section 6(j)(1).

"(2) RECORDS, REPORTS, AND AUDITS OF MANAGERS.—

"(A) KEEPING OF RECORDS.—Each manager and resident council under this subtitle shall keep such records as may be reasonably necessary to disclose the amount and the disposition by the manager of the proceeds of assistance received under this section and to ensure compliance with the requirements of this section.

"(B) ACCESS TO DOCUMENTS.—

"(i) SECRETARY.—The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of a manager, resident council, and public housing agency that are pertinent to assistance received under, and to the requirements of, this section.

"(ii) GAO.—The Comptroller General of the United States, and any duly authorized representatives of the Comptroller General, shall have access for the purpose

of audit and examination to any books, documents, papers, and records of a manager and resident council that are pertinent to assistance received under, and to the requirements of, this section.

"(C) REPORTING REQUIREMENTS.—Each manager shall submit to the Secretary such reports as the Secretary determines appropriate to carry out the Secretary's responsibilities under this section, including an annual financial audit.

"(D) ANNUAL REPORT.—The Secretary shall submit an annual report to the Congress evaluating management transfers under this section compared to other methods of dealing with severely distressed public housing.

"(k) NONDISCRIMINATION.—No person in the United States shall, on the grounds of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this section. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

"(l) RELATIONSHIP TO OTHER PROGRAMS.—

"(1) HOMEOWNERSHIP.—After a transfer of management in accordance with this section, the eligible housing shall remain eligible for assistance under title III and for sale under section 5(h). Participation in a homeownership program shall be consistent with a contract between the Secretary and a manager.

"(2) SELF-SUFFICIENCY.—Where an application under subsection (f) proposes a program to enable residents to achieve economic independence and self-sufficiency, consistent with the objectives of the program under section 23, and demonstrates that the manager has the capacity to carry out a self-sufficiency program, the Secretary may approve such a program. Where such a program is approved, the Secretary shall authorize the manager to adopt policies consistent with section 23(d) (relating to maximum rents and escrow savings accounts) and section 23(e) (relating to effect of increases in family income).

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'eligible housing' means a public housing project, or one or more buildings within a project, that—

"(A) is owned or operated by a troubled public housing agency; and

"(B) has been identified as severely distressed under section 24 of this Act.

In the case of an individual building, the building shall, in the determination of the Secretary, be sufficiently separable from the remainder of the project to make use of the building feasible for purposes of this section.

"(2) The term 'manager' means one of the following entities that has entered into a contract with the Secretary for the management of eligible housing under this section:

"(A) A public or private nonprofit organization (including, as determined by the Secretary, such an organization sponsored by the public housing agency).

"(B) A for-profit entity, if it has (i) demonstrated experience in providing low-income housing, and (ii) is participating in joint venture with an organization described in paragraph (3).

"(C) A State or local government, including an agency or instrumentality thereof.

"(D) A public housing agency (other than the public housing agency that owns the project).

The term does not include a resident council.

"(3) The term 'private nonprofit organization' means any private nonprofit organization (including a State or locally chartered nonprofit organization) that—

"(A) is incorporated under State or local law;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income families.

The term includes resident management corporations.

"(4) The term 'public housing agency' has the meaning given such term in section 3(b), except that it does not include Indian housing authorities.

"(5) The term 'public nonprofit organization' means any public nonprofit entity, except the public housing agency that owns the eligible housing.

"(6) The term 'resident council' means any nonprofit organization or association that—

"(A) is representative of the residents of the eligible housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the eligible housing.

"(7) The term 'resident management corporation' means a resident management corporation established in accordance with the requirements of the Secretary under section 20.

"(8) The term 'troubled public housing agency' means a public housing agency with 250 or more units that—

"(A) has been designated as a troubled public housing agency for the current Federal fiscal year, and for the 2 preceding Federal fiscal years—

"(i) under section 6(j)(2)(A)(i); or

"(ii) before the implementation of such authority, under any other procedure for designating troubled public housing agencies that was used by the Secretary and is determined by the Secretary to be appropriate for purposes of this section; and

"(B) has not met targets for improved performance under section 6(j)(2)(C).".

SEC. 122. ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

(a) EXEMPTION FROM NEW CONSTRUCTION LIMITATION.—Section 201(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(c)) is amended by inserting before the period at the end the following: "or section 6(h) of the United States Housing Act

of 1937 (relating to a limitation on contracts involving new construction)".

(b) MODERNIZATION.—Section 202(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)(2)) is amended by striking "single" in the second sentence.

(c) PAYMENTS TO MUNICIPALITIES.—Section 203(b) of the United States Housing Act of 1937 (42 U.S.C. 1437cc(b)) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this Act, the Secretary shall make annual payments from funds appropriated under section 9(c) to municipalities providing such roads, facilities, and systems in a amount equal to—

"(1) 10 percent of the applicable shelter rent, minus the utility allowance; or

"(2) $150,

whichever is greater, for each rental housing unit covered by this subsection.".

SEC. 123. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT SERVICES.

Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriation Acts, of any amounts appropriated for fiscal year 1993 under section 103 of the Housing and Community Development Act of 1974, $5,000,000 shall be available to carry out this section. To the extent approved in appropriation Acts, of any amounts appropriated for fiscal year 1994 under section 5(c) of the United States Housing Act of 1937 for grants for the development of public housing, $5,210,000 shall be available to carry out this section. Any such amounts shall remain available until expended.".

SEC. 124. INDIAN HOUSING CHILDHOOD DEVELOPMENT SERVICES.

(a) FUNDING.—Section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note) is amended by striking the subsection designation and all that follows through the end of the first sentence and inserting the following:

"(a) FUNDING.—To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1993 for public housing grants for Indian housing, $5,200,000 may be used to carry out the demonstration program under this section. To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1994 for public housing grants for Indian housing, $5,418,400 may be used to carry out the demonstration program under this section.".

(b) ELIGIBLE RECIPIENTS.—The second sentence of section 518(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701z–6 note) is amended—

(1) by inserting ", Indian housing authorities, and Indian tribes" after "nonprofit organizations"; and

(2) by inserting ", housing authorities, and tribes" after "such organizations".

SEC. 125. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

Section 521(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437t note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out the demonstration program under this section $200,000 for fiscal year 1993 and $208,400 for fiscal year 1994.".

SEC. 126. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) FUNDING FROM PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION FUNDS.—Section 5130 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909) is amended by adding at the end the following new subsection:

"(c) SET-ASIDE FOR YOUTH SPORTS PROGRAMS.—Of any amount made available in any fiscal year to carry out this chapter, 5 percent of such amount shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act for such fiscal year.".

(b) ELIGIBILITY OF INSTITUTIONS OF HIGHER LEARNING.—

(1) IN GENERAL.—Section 520(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(b)) is amended—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(8) institutions of higher learning that have never participated in a youth sports program assisted under this section.".

(2) TRANSPORTATION COSTS AS ELIGIBLE EXPENSE.—Section 520(d) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11903a(d)) is amended by adding at the end the following new paragraph:

"(4) In the case only of an eligible entity described in subsection (b)(8), any transportation costs in connection with the program.".

Florida.

(c) DEMONSTRATION PROGRAM.—Of any amounts made available in fiscal year 1993 for carrying out section 520 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development shall provide not more than $500,000 for the program known as the "Success Through Academic and Recreational Support" program, administered by the City of Fort Myers, Florida, to demonstrate the effectiveness of programs that use trained counselors to run sports and academic activities for at-risk children, including children of low-income families residing in public housing. The grantee shall comply with all applicable program requirements under subsections (c), (d), (e), and (h) of such section. The Secretary shall evaluate the advantages of the program assisted under this subsection and determine how the program may provide a model for other cities conducting, or interested in conducting, similar activities.

SEC. 127. NATIONAL COMMISSION ON DISTRESSED PUBLIC HOUSING.

(a) TERMINATION.—Section 507 of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z–1a note) is amended by striking "upon the expiration of 18 months

following the appointment of all the members under section 503(a)" and inserting "at the end of September 30, 1992".

(b) AUDIT.—Not later than December 30, 1992, the Comptroller General of the United States shall conduct an audit of the financial transactions of the National Commission on Distressed Public Housing to determine the use of any amounts received by the Commission from the Federal Government before October 1, 1992, and shall submit a report to the Congress regarding the results of the audit. The Comptroller General and any duly authorized representatives of the Comptroller General shall have access to, and the right to examine and copy, all records and other recorded information in any form, and to examine any property, within the possession and control of the Commission that the Comptroller General considers relevant to the audit. Reports.

SEC. 128. NATIONAL COMMISSION ON AMERICAN INDIAN, ALASKA NATIVE, AND NATIVE HAWAIIAN HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 605 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 1437aa note) is amended to read as follows: "There is authorized to be appropriated to carry out this title $500,000 for fiscal year 1993.".

(b) EXTENSION OF TERMINATION DATE.—Section 602(g) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1437aa note) is amended by striking "upon the expiration of 18 months after all members of the Commission are appointed under paragraph (1)" and inserting "on October 1, 1993". 42 USC 1437aa note.

SEC. 129. RENTAL ASSISTANCE FRAUD RECOVERIES.

(a) IN GENERAL.—Section 326(d) of the Housing and Community Development Amendments of 1981 (42 U.S.C. 1437f note) is amended to read as follows:

"(d) RENTAL ASSISTANCE FRAUD RECOVERIES.—

"(1) AUTHORITY TO RETAIN RECOVERED AMOUNTS.—The Secretary of Housing and Urban Development shall permit public housing agencies administering the housing assistance payments program under section 8 of the United States Housing Act of 1937 to retain, out of amounts obtained by the agencies from tenants that are due as a result of fraud and abuse, an amount (determined in accordance with regulations issued by the Secretary) equal to the greater of—

"(A) 50 percent of the amount actually collected, or

"(B) the actual, reasonable, and necessary expenses related to the collection, including costs of investigation, legal fees, and collection agency fees.

"(2) USE.—Amounts retained by an agency shall be made available for use in support of the affected program or project, in accordance with regulations issued by the Secretary. Where the Secretary is the principal party initiating or sustaining an action to recover amounts from families or owners, the provisions of this section shall not apply.

"(3) RECOVERY.—Amounts may be recovered under this paragraph—

"(A) by an agency through a lawsuit (including settlement of the lawsuit) brought by the agency or through court-ordered restitution pursuant to a criminal proceeding resulting from an agency's investigation where the agency

seeks prosecution of a family or where an agency seeks prosecution of an owner; or

"(B) through administrative repayment agreements with a family or owner entered into as a result of an administrative grievance procedure conducted by an impartial decisionmaker in accordance with section 6(k) of the United States Housing Act of 1937.".

42 USC 1437f note.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to actions by public housing agencies initiated on or after the date of the enactment of this Act.

SEC. 130. PROJECT-BASED ACCOUNTING.

Section 502(c)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437d note) is amended by inserting before the period the following: "for public housing agencies with 500 or more units and not later than January 1, 1994 for public housing agencies with less than 500 units.

SEC. 131. SALE OF CERTAIN SCATTERED-SITE HOUSING.

The Secretary of Housing and Urban Development shall authorize the Delaware State Housing Authority in the State of Delaware to sell scattered-site public housing of the Authority under the provisions of section 5(h) of the United States Housing Act of 1937. Any proceeds from the disposition of such housing shall be used to purchase replacement scattered-site dwellings, which shall be considered public housing for the purposes of such Act and for which the Secretary shall provide annual contributions for operation, using amounts made available under section 9(c) of such Act.

SEC. 132. HOMEOWNERSHIP DEMONSTRATION PROGRAM IN OMAHA, NEBRASKA.

(a) ESTABLISHMENT.—The Secretary shall carry out a program to facilitate self-sufficiency and homeownership of single-family homes administered by the Housing Authority of the city of Omaha, in the State of Nebraska (in this section referred to as the "Housing Authority"), to demonstrate the effectiveness of promoting homeownership and providing support services.

(b) PARTICIPATING PUBLIC HOUSING UNITS.—For purposes of the demonstration program, the Secretary shall authorize the Housing Authority to designate single-family housing units for eventual homeownership. Over the term of the demonstration, the demonstration program may be applied to not more than 20 percent of the total number of public housing units administered by the Housing Authority. In conducting the demonstration, the Housing Authority shall affirmatively further fair housing objectives.

(c) NONDISPLACEMENT.—No person who is a tenant of public housing may be involuntarily relocated or displaced as a result of the demonstration program.

(d) ECONOMIC SELF-SUFFICIENCY.—

(1) ESTABLISHMENT OF PARTICIPATION CRITERIA.—The Housing Authority shall establish criteria for the participation of families in the demonstration program. Such criteria shall be based on factors that may reasonably be expected to predict a family's ability to succeed in the homeownership program established by this section.

(2) CONTENTS OF PARTICIPATION CRITERIA.—The criteria referred to in paragraph (1) shall include evidence of interest

by the family in homeownership, the employment status and history of employment of family members, and maintenance by the family of the family's previous dwelling.

(e) PROVISION OF SUPPORTIVE SERVICES.—The Housing Authority shall ensure the availability of supportive services to each family participating in the demonstration program through its own resources and through coordination with Federal, State, and local agencies and private entities. Supportive services available under the demonstration program may include counseling, remedial education, education for completion of high school, job training and preparation, financial counseling emphasizing planning for homeownership, and any other appropriate services.

(f) REPORTS TO CONGRESS.—

(1) BIENNIAL REPORT.—Upon the expiration of the 2-year period beginning on the date of enactment of this Act, and each 2-year period thereafter, the Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the effectiveness of the demonstration program established under this section.

(2) FINAL REPORT.—Not later than 60 days after termination of the demonstration program pursuant to subsection (h), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program.

(g) REGULATIONS.—Not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, the Secretary shall issue interim regulations to carry out this section, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

(h) TERMINATION.—The demonstration program established under this section shall terminate 10 years after the date of the enactment of this Act.

Subtitle C—Section 8 Assistance

SEC. 141. ELIGIBILITY OF LOW-INCOME FAMILIES TO RECEIVE RENTAL ASSISTANCE.

(a) CERTIFICATES.—The first sentence of section 8(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(4)) is amended by inserting before the first comma the following: "or by a family that qualifies to receive assistance under subsection (b) pursuant to section 223 or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

(b) VOUCHERS.—Section 8(o)(3)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(A)) is amended—

(1) by striking "or" at the end of clause (iii); and

(2) by inserting before the period the following: ", or (v) a family that qualifies to receive a voucher under section 223

or 226 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 142. CONTRACT ADJUSTMENTS FOR EXPIRATION OF PROPERTY TAX EXEMPTION.

Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by inserting after the first sentence the following new sentence: "The Secretary shall make additional adjustments in the maximum monthly rent for units under contract (subject to the availability of appropriations for contract amendments) to the extent the Secretary determines such adjustments are necessary to reflect increases in the actual and necessary expenses of owning and maintaining the units that have resulted from the expiration of a real property tax exemption.".

SEC. 143. TERMINATION OF CONTRACTS.

The last sentence of section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended by inserting before the period at the end the following: ", and such term shall include termination of the contract for business reasons".

SEC. 144. PREFERENCES FOR VETERANS WITH DISABILITIES THAT PREVENT USE OF HOME.

(a) CERTIFICATES.—Section 8(d)(1)(A)(ii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(ii)) is amended—

(1) by striking "(V)" and inserting "(VI)"; and

(2) by inserting after "adoption is not available;" the following: "(V) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

(b) VOUCHERS.—The third sentence of section 8(o)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)(B)) is amended—

(1) by striking "(v)" and inserting "(vi)"; and

(2) by inserting after "adoption is not available;" the following: "(v) assisting veterans who are eligible and have applied for assistance, will use the assistance for a dwelling unit designed for the handicapped, and, upon discharge or eligibility for discharge from a hospital or nursing home, have physical disability which, because of the configuration of their homes, prevents them from access to or use of their homes;".

SEC. 145. TERMINATION OF TENANCY FOR CRIMINAL ACTIVITY.

Section 8(d)(1)(B)(iii) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(B)(iii)) is amended—

(1) by inserting ", any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises," before "or any drug-related"; and

(2) by striking "public housing tenant" and inserting "tenant of any unit".

SEC. 146. DEFINITIONS OF "PROJECT-BASED ASSISTANCE" AND "TENANT-BASED ASSISTANCE".

Section 8(f) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'project-based assistance' means rental assistance under subsection (b) that is attached to the structure pursuant to subsection (d)(2); and

"(7) the term 'tenant-based assistance' means rental assistance under subsection (b) or (o) that is not project-based assistance.".

SEC. 147. PORTABILITY.

Section 8(r)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(r)) is amended by inserting before the period at the end the following: "; except that any family not living within the jurisdiction of a public housing agency at the time that such family applies for assistance from such agency shall, during the 12-month period beginning upon the receipt of any tenant-based rental assistance made available on behalf of the family, use such assistance to rent an eligible dwelling unit located within the jurisdiction served by such public housing agency".

SEC. 148. FAMILY UNIFICATION ASSISTANCE.

Section 8(x)(1) of the United States Housing Act of 1937 (12 U.S.C. 1437f(x)(1)) is amended to read as follows: 42 USC 1437f.

"(1) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) for assistance under section 8(b) is authorized to be increased by $100,000,000 on or after October 1, 1992, and by $104,200,000 on or after October 1, 1993.".

SEC. 149. IMPLEMENTATION OF AMENDMENTS TO PROJECT-BASED CERTIFICATE PROGRAM. Regulations. 42 USC 1437f note.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the amendments made by section 547 of the Cranston-Gonzalez National Affordable Housing Act not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

SEC. 150. EFFECTIVENESS OF SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS. 42 USC 1437f note.

The amendments made by section 548 of the Cranston-Gonzalez National Affordable Housing Act shall be effective notwithstanding the absence of any regulations issued by the Secretary of Housing and Urban Development.

Regulations.
42 USC 1437f note.

SEC. 151. IMPLEMENTATION OF INCOME ELIGIBILITY PROVISIONS FOR SECTION 8 NEW CONSTRUCTION UNITS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to carry out the provisions of section 555 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437f note) not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section) and shall take effect upon the expiration of the 30-day period beginning upon issuance.

42 USC 1437f note.

SEC. 152. MOVING TO OPPORTUNITY FOR FAIR HOUSING.

(a) AUTHORITY.—Using any amounts available under subsection (e), the Secretary of Housing and Urban Development shall carry out a demonstration program to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 to assist very low-income families with children who reside in public housing or housing receiving project-based assistance under section 8 of the United States Housing Act of 1937 to move out of areas with high concentrations of persons living in poverty to areas with low concentrations of such persons. The demonstration program carried out under this section shall compare and contrast the costs associated with implementing such a program (including the costs of counseling, supportive services, housing assistance payments and other relevant program elements) with the costs associated with the routine implementation of the section 8 tenant-based rental assistance programs. The Secretary shall enter into annual contributions contracts with public housing agencies to administer housing assistance payments contracts under the demonstration.

Contracts.

(b) ELIGIBLE CITIES.—

(1) IN GENERAL.—The Secretary shall carry out the demonstration only in cities with populations exceeding 350,000 that are located in consolidated metropolitan statistical areas (as designated by the Director of the Office of Management and Budget) having populations exceeding 1,500,000.

(2) 1993.—Notwithstanding paragraph (1), in fiscal year 1993, only the 5 cities selected for the demonstration under the item relating to "HOUSING PROGRAMS—ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING (INCLUDING RESCISSION OF FUNDS)" of title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (105 Stat. 745), and the City of Los Angeles, California, shall be eligible for the demonstration under this section.

Contracts.

(c) SERVICES.—The Secretary shall enter into contracts with nonprofit organizations to provide counseling and services in connection with the demonstration.

(d) REPORTS.—

(1) BIENNIAL.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act (and biennially thereafter), the Secretary shall submit interim reports to the Congress evaluating the effectiveness of the demonstration program under this section. The interim reports shall include a statement of the number of persons served, the level of counseling and the types of services provided,

the cost of providing such counseling and services, updates on the employment record of families assisted under the program, and any other information the Secretary considers appropriate in evaluating the demonstration.

(2) FINAL.—Not later than September 30, 2004, the Secretary shall submit a final report to the Congress describing the long-term housing, employment, and educational achievements of the families assisted under the demonstration program. Such report shall also contain an assessment of such achievements for a comparable population of section 8 recipients who have not received assistance under the demonstration program.

(e) FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for tenant-based assistance under section 8 of such Act is authorized to be increased by $50,000,000, on or after October 1, 1992, and by $52,100,000, on or after October 1, 1993, to carry out the demonstration under this section. Any amounts made available under this paragraph shall be used in connection with the demonstration under this section.

(f) IMPLEMENTATION.—The Secretary may, by notice published in the Federal Register, establish any requirements necessary to carry out the demonstration under this section and the amendment made by this section. The Secretary shall publish such notice not later than the expiration of the 90-day period beginning on the date of the enactment of this Act and shall submit a copy of such notice to the Congress not less than 15 days before publication. Federal Register, publication.

SEC. 153. DIRECTIVE TO FURTHER FAIR HOUSING OBJECTIVES UNDER CERTIFICATE AND VOUCHER PROGRAMS. 42 USC 1437f note.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with individuals representing fair housing organizations, low-income tenants, public housing agencies, and other interested parties, shall—

(1) review and comment upon the study prepared by the Comptroller General of the United States pursuant to section 558(3) of the Cranston-Gonzalez National Affordable Housing Act;

(2) evaluate the implementation and effects of existing demonstration and judicially mandated programs that help minority families receiving section 8 certificates and vouchers move out of areas with high concentrations of minority persons living in poverty to areas with low concentrations, including how such programs differ from the routine implementation of the section 8 certificate and voucher programs;

(3) independently assess factors (including the adequacy of section 8 fair market rentals, the level of counseling provided by public housing agencies, the existence of racial and ethnic discrimination by landlords) that may impede the geographic dispersion of families receiving section 8 certificates and vouchers;

(4) identify and implement any administrative revisions that would enhance geographic dispersion and tenant choice and incorporate the positive elements of various demonstration and judicially mandated mobility programs; and

Reports.

(5) submit to the Congress a report describing its findings under paragraphs (1), (2), and (3), the actions taken under paragraph (4), and any recommendations for additional demonstration, research, or legislative action.

SEC. 154. HOUSING ASSISTANCE IN JEFFERSON COUNTY, TEXAS.

Section 213(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(e)) is amended by striking "the Park Central New Community Project or in adjacent areas that are recognized by the unit of general local government in which such Project is located as being included within the Park Central New Town in Town Project." and inserting "Jefferson County, Texas.".

SEC. 155. COMPLIANCE OF CERTAIN ACTIVITIES WITH LIMITATIONS ON PROJECT-BASED ASSISTANCE.

Rehabilitation activities undertaken by the Committee for Dignity and Fairness for the Homeless Housing Development, Inc. in connection with 46 dwelling units that were renovated for permanent housing for the homeless and that are located in Philadelphia, Pennsylvania, are hereby deemed to have been conducted pursuant to an agreement with the Secretary of Housing and Urban Development under clause (ii) of the third sentence of section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)).

Subtitle D—Other Programs

SEC. 161. PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 5130(a) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(a)) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter $175,000,000 for fiscal year 1993 and $182,350,000 for fiscal year 1994.".

(b) FISCAL YEAR 1993 SET-ASIDES.—Section 5130(b) of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11909(b)) is amended—

(1) by striking "SET-ASIDE FOR ASSISTED HOUSING" and inserting "SET-ASIDES"; and

(2) by inserting after the period at the end the following new sentence: "Notwithstanding any other provision of law, of any amounts appropriated for drug elimination grants under this chapter for fiscal years 1993 and 1994, not more than 6.25 percent shall be available for grants for federally assisted low-income housing and 5.0 percent shall be available for public housing youth sports program grants under section 520 of the Cranston-Gonzalez National Affordable Housing Act.".

(c) DRUG-RELATED ACTIVITY IN OTHER PHA-OWNED HOUSING.—Section 5124 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11903) is amended—

(1) by inserting "(a) PUBLIC AND ASSISTED HOUSING.—" before "Grants"; and

(2) by adding at the end the following new subsection:

"(b) OTHER PHA-OWNED HOUSING.—Notwithstanding any other provision of this chapter, grants under this chapter may be used to eliminate drug-related crime in housing owned by public housing agencies that is not public housing assisted under the United States Housing Act of 1937 and is not otherwise federally assisted, for the activities described in paragraphs (1) through (7) of subsection (a), but only if—

"(1) the housing is located in a high intensity drug trafficking area designated pursuant to section 1005 of this Act; and

"(2) the public housing agency owning the housing demonstrates, to the satisfaction of the Secretary, that drug-related activity at the housing has a detrimental effect on or about the real property comprising any public or other federally assisted low-income housing.".

(d) ELIGIBILITY OF PUBLIC HOUSING RESIDENT MANAGEMENT CORPORATIONS.—Chapter 2 of subtitle C of title 5 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11901 et seq.) is amended—

(1) in section 5123, by inserting after "(including Indian Housing Authorities)" the following: ", public housing resident management corporations that are principally managing, as determined by the Secretary, public housing projects owned by public housing agencies,"; 42 USC 11902.

(2) in paragraph (7) of section 5124(a) (as so designated by subsection (c) of this section), by inserting after "(7)" the following: "where a public housing agency receives a grant,"; and 42 USC 11903.

(3) in the first sentence of section 5125(a), by inserting after "public housing agency" the following: ", a public housing resident management corporation,". 42 USC 11904.

(e) PUBLICATION OF REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary shall publish such final regulations as may be necessary to implement section 5130(b) of the Public and Assisted Housing Drug Elimination Act of 1990 (42 U.S.C. 11909(a)). 42 USC 11909 note.

SEC. 162. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows through the period and inserting "except that for such purposes there are authorized to be appropriated $6,025,000 for fiscal year 1993 and $6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to $500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992.".

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to read as follows: "There are authorized to be appropriated to carry out this section $7,000,000 for fiscal year 1993 and $7,294,000 for fiscal year 1994, of which amounts $1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D).".

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(3) AVAILABILITY.—Section 106(c)(3)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(3)(A)) is amended—

(A) in clause (i), by striking "and" at the end; and

(B) by adding at the end the following new clause:

"(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act; and".

(4) ELIGIBILITY.—Section 106(c)(4) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(4)) is amended by adding at the end the following new flush sentence: "An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act.".

(5) NOTIFICATION OF AVAILABILITY.—Section 106(c)(5)(A) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(i) REQUIREMENT.—Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

"(ii) CONTENT.—Notification under this subparagraph shall—

"(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

"(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act; and

"(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i).".

(6) ANNUAL UPDATE OF LIST OF COUNSELING ORGANIZATIONS FOR TOLL-FREE NUMBER.—The matter preceding subclause (I) in section 106(c)(5)(D)(i) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(D)(i)) is amended by inserting ", which shall be updated annually," after "organizations".

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106(d)(12) of the Housing and Urban

Development Act of 1968 (12 U.S.C. 1701x(d)(12)) is amended to read as follows:

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $365,000 for fiscal year 1993 and $380,330 for fiscal year 1994.".

(d) ELIGIBILITY FOR COUNSELING ASSISTANCE UNDER HOUSING AND URBAN DEVELOPMENT ACT OF 1968 AND CERTIFICATION AND TRAINING PROGRAM.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsections:

"(e) CERTIFICATION.—

"(1) REQUIREMENT FOR ASSISTANCE.—An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d), unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling.

"(2) STANDARDS AND EXAMINATION.—The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas: Regulations.

"(A) Financial management.

"(B) Property maintenance.

"(C) Responsibilities of homeownership and tenancy.

"(D) Fair housing laws and requirements.

"(E) Housing affordability.

"(F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

"(3) ENCOURAGEMENT.—The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

"(f) HOMEOWNERSHIP AND RENTAL COUNSELOR TRAINING AND CERTIFICATION PROGRAMS.—

"(1) ESTABLISHMENT.—To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

"(2) ELIGIBILITY AND SELECTION.—

"(A) ELIGIBILITY.—To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

"(B) SELECTION.—The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

"(i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);

"(ii) minimize the costs involved in establishing the program; and

"(iii) effectively and efficiently carry out the program.

"(3) TRAINING.—The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

"(4) CERTIFICATION.—The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

"(5) FEES.—Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

"(6) TIMING.—The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

"(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1993 and $2,084,000 for 1994.".

42 USC 1701x note.

(e) REGULATIONS.—The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsection (d), not later than the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 163. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

IN GENERAL.—Section 1012 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 1437f note) is amended to read as follows:

"SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE AND LOCAL FINANCE PROJECTS.

"(a) DEFINITION OF QUALIFIED PROJECT.—For purposes of this section, the term 'qualified project' means any State financed project or local government or local housing agency financed project, that—

"(1) was—

"(A) provided a financial adjustment factor under section 8 of the United States Housing Act of 1937; or

"(B) constructed or substantially rehabilitated pursuant to assistance provided under a contract under section

8(b)(2) of the United States Housing Act of 1937 (as in effect on September 30, 1983) entered into during any of calendar years 1979 through 1984; and

"(2) is being refinanced.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall make available to the State housing finance agency in the State in which a qualified project is located, or the local government or local housing agency initiating the refinancing of the qualified project, as applicable, an amount equal to 50 percent of the amounts recaptured from the project (as determined by the Secretary on a project-by-project basis). Notwithstanding any other provision of law, such amounts shall be used only for providing decent, safe, and sanitary housing affordable for very low-income families and persons.

"(c) APPLICABILITY AND BUDGET COMPLIANCE.—

"(1) RETROACTIVITY.—This section shall apply to refinancings of projects for which settlement occurred or occurs before, on, or after the date of the enactment of the Housing and Community Development Act of 1992, subject to the provisions of paragraph (2).

"(2) BUDGET COMPLIANCE.—This section shall apply only to the extent or in such amounts as are provided in appropriation Acts.".

SEC. 164. HOPE FOR YOUTH.

Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa note et seq.) is amended by adding at the end the following new subtitle:

"Subtitle D—HOPE for Youth: Youthbuild

Disadvantaged.

"SEC. 451. STATEMENT OF PURPOSE. 42 USC 12899.

"It is the purpose of this subtitle—

"(1) to expand the supply of permanent affordable housing for homeless individuals and members of low- and very low-income families by utilizing the energies and talents of economically disadvantaged young adults;

"(2) to provide economically disadvantaged young adults with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals and members of low- and very low-income families;

"(3) to enable economically disadvantaged young adults to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

"(4) to foster the development of leadership skills and commitment to community development among young adults in low-income communities.

"SEC. 452. PROGRAM AUTHORITY. 42 USC 12899a.

"The Secretary may make—

"(1) planning grants to enable applicants to develop Youthbuild programs; and

"(2) implementation grants to enable applicants to carry out Youthbuild programs.

"SEC. 453. PLANNING GRANTS. 42 USC 12899b.

"(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing Youthbuild pro-

grams under this subtitle. The amount of a planning grant under this section may not exceed $150,000, except that the Secretary may for good cause approve a grant in a higher amount.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop Youthbuild programs including—

"(1) studies of the feasibility of a Youthbuild program;

"(2) establishment of consortia between youth training and education programs and housing owners or developers, including any organizations specified in section 457(2), which will participate in the Youthbuild program;

"(3) identification and selection of a site for the Youthbuild program;

"(4) preliminary architectural and engineering work for the Youthbuild program;

"(5) identification and training of staff for the Youthbuild program;

"(6) planning for education, job training, and other services that will be provided as part of the Youthbuild program;

"(7) other planning, training, or technical assistance necessary in advance of commencing the Youthbuild program; and

"(8) preparation of an application for an implementation grant under this subtitle.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) identification and description of potential sites for the program and the construction or rehabilitation activities that would be undertaken at such sites; potential methods for identifying and recruiting youth participants; potential educational and job training activities, work opportunities and other services for participants; and potential coordination with other Federal, State, and local housing and youth education and employment training activities including activities conducted by Indian tribes;

"(D) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(E) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include— Regulations.

"(1) the qualifications or potential capabilities of the applicant;

"(2) the potential of the applicant for developing a successful and affordable Youthbuild program;

"(3) the need for the prospective program, as determined by the degree of economic distress—

"(A) of the community from which participants would be recruited (such as poverty, youth unemployment, and number of individuals who have dropped out of high school); and

"(B) of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, and poverty); and

"(4) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"SEC. 454. IMPLEMENTATION GRANTS. 42 USC 12899c.

"(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out Youthbuild programs approved under this subtitle.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used to carry out Youthbuild programs, including the following activities:

"(1) Architectural and engineering work.

"(2) Acquisition, rehabilitation, acquisition and rehabilitation, or construction of housing and related facilities to be used for the purposes of providing homeownership under subtitle B and subtitle C of this title, residential housing for homeless individuals, and low- and very low-income families, or transitional housing for persons who are homeless, have disabilities, are ill, are deinstitutionalized, or have other special needs.

"(3) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section, or such higher percentage as the Secretary determines is necessary to support capacity development by a private nonprofit organization.

"(4) Education and job training services and activities including—

"(A) work experience and skills training, coordinated, to the maximum extent feasible, with preapprenticeship and apprenticeship programs, in the construction and rehabilitation activities described in subsection (b)(2);

"(B) services and activities designed to meet the educational needs of participants, including—

"(i) basic skills instruction and remedial education;

"(ii) bilingual education for individuals with limited-English proficiency;

"(iii) secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent; and

"(iv) counseling and assistance in attaining post-secondary education and required financial aid;

"(C) counseling services and related activities;

"(D) activities designed to develop employment and leadership skills, including support for youth councils; and

"(E) support services and need-based stipends necessary to enable individuals to participate in the program and, for a period not to exceed 12 months after completion of training, to assist participants through support services in retaining employment.

"(5) Wage stipends and benefits provided to participants.

"(6) Funding of operating expenses and replacement reserves of the property covered by the Youthbuild program.

"(7) Legal fees.

"(8) Defraying costs for the ongoing training and technical assistance needs of the recipient that are related to developing and carrying out the Youthbuild program.

"(c) APPLICATION.—

"(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) a description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction and with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs, and other community groups;

"(C) a description of the proposed site for the program;

"(D) a description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

"(E) a description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

"(F) a description of the manner in which eligible youths will be recruited and selected, including a description of arrangements which will be made with community-based organizations, State and local educational agencies, including agencies of Indian tribes, public assistance agencies, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

"(G) a description of the special outreach efforts that will be undertaken to recruit eligible young women (including young women with dependent children);

"(H) a description of how the proposed program will be coordinated with other Federal, State, and local activities and activities conducted by Indian tribes, including vocational, adult and bilingual education programs, job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988, and housing and community development programs, including programs that receive assistance under section 106 of the Housing and Community Development Act of 1974;

"(I) assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained the level of journeyman or its equivalent;

"(J) a description of the applicant's relationship with local building trade unions regarding their involvement in training, and the relationship of the Youthbuild program with established apprenticeship programs;

"(K) a description of activities that will be undertaken to develop the leadership skills of participants;

"(L) a detailed budget and a description of the system of fiscal controls and auditing and accountability procedures that will be used to ensure fiscal soundness;

"(M) a description of the commitments for any additional resources to be made available to the program from the applicant, from recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or from other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988;

"(N) identification and description of the financing proposed for any—

"(i) rehabilitation;

"(ii) acquisition of the property; or

"(iii) construction;

"(O) identification and description of the entity that will operate and manage the property;

"(P) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located; and

"(Q) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the feasibility of the Youthbuild program;

"(3) the potential for developing a successful Youthbuild program;

"(4) the need for the prospective project, as determined by the degree of economic distress of the community from which participants would be recruited (such as poverty, youth unemployment, number of individuals who have dropped out of high school) and of the community in which the housing proposed to be constructed or rehabilitated would be located (such as incidence of homelessness, shortage of affordable housing, poverty);

"(5) the apparent commitment of the applicant to leadership development, education, and training of participants;

"(6) the inclusion of previously homeless tenants in the housing provided;

"(7) the commitment of other resources to the program by the applicant and by recipients of other Federal, State or local housing and community development assistance who will sponsor any part of the construction, rehabilitation, operation and maintenance, or other housing and community development activities undertaken as part of the program, or by other Federal, State or local activities and activities conducted by Indian tribes, including, but not limited to, vocational, adult and bilingual education programs, and job training provided with funds available under the Job Training Partnership Act and the Family Support Act of 1988; and

"(8) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(e) PRIORITY FOR APPLICANTS WHO OBTAIN HOUSING MONEY FROM OTHER SOURCES.—The Secretary shall give priority in the award of grants under this section to applicants to the extent that they propose to finance activities described in paragraphs (1), (2), and (6) of subsection (b) from funds provided from Federal, State, local, or private sources other than assistance under this subtitle.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 4 months after the date of the submission of the application, whether the application is approved or not approved.

"(g) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION PROCEDURE.—The Secretary shall develop a procedure under which an applicant may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

42 USC 12899d.

"SEC. 455. YOUTHBUILD PROGRAM REQUIREMENTS.

"(a) RESIDENTIAL RENTAL HOUSING.—Each residential rental housing project receiving assistance under this subtitle shall meet the following requirements:

"(1) OCCUPANCY BY LOW- AND VERY LOW-INCOME FAMILIES.—In the project—

"(A) at least 90 percent of the units shall be occupied, or available for occupancy, by individuals and families with incomes less than 60 percent of the area median income, adjusted for family size; and

"(B) the remaining units shall be occupied, or available for occupancy, by low-income families.

"(2) TENANT PROTECTIONS.—

"(A) LEASE.—The lease between a tenant and an owner of residential rental housing assisted under this subtitle shall be for not less than 1 year, unless otherwise mutually agreed to by the tenant and the owner, and shall contain such terms and conditions as the Secretary shall determine to be appropriate.

"(B) TERMINATION OF TENANCY.—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of residential rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by not less than 30 days by the owner's service upon the tenant of a written notice specifying the grounds for the action.

"(C) MAINTENANCE AND REPLACEMENT.—The owner of residential rental housing assisted under this subtitle shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

"(D) TENANT SELECTION.—The owner of residential rental housing assisted under this subtitle shall adopt written tenant selection policies and criteria that—

"(i) are consistent with the purpose of providing housing for very low-income and low-income families and individuals;

"(ii) are reasonably related to program eligibility and the applicant's ability to perform the obligations of the lease;

"(iii) give reasonable consideration to the housing needs of families that would qualify for a preference under section 6(c)(4)(A) of the United States Housing Act of 1937; and

"(iv) provide for (I) the selection of tenants from a written waiting list in the chronological order of their application, to the extent practicable, and (II) for the prompt notification in writing of any rejected applicant of the grounds for any rejection.

"(3) LIMITATION ON RENTAL PAYMENTS.—Tenants in each project shall not be required to pay rent in excess of the amount provided under section 3(a) of the United States Housing Act of 1937.

"(4) TENANT PARTICIPATION PLAN.—For each project owned by a nonprofit organization, the organization shall provide a plan for and follow a program of tenant participation in management decisions.

"(5) PROHIBITION AGAINST DISCRIMINATION.—A unit in a project assisted under this subtitle may not be refused for leasing to a family holding tenant-based assistance under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such assistance.

"(b) TRANSITIONAL HOUSING.—Each transitional housing project receiving assistance under this subtitle shall adhere to the requirements regarding service delivery, housing standards, and rent

limitations applicable to comparable housing receiving assistance under title IV of the Stewart B. McKinney Homeless Assistance Act.

"(c) LIMITATIONS ON PROFITS FOR RENTAL AND TRANSITIONAL HOUSING.—

"(1) MONTHLY RENTAL LIMITATION.—The aggregate monthly rental for each eligible project may not exceed the operating costs of the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on any equity investment of the project owner.

"(2) PROFIT LIMITATIONS ON PARTNERS.—A nonprofit organization that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purpose of providing housing for low- and moderate-income families. Profit-motivated partners in a nonprofit partnership may receive—

"(A) not more than a 6 percent return on their equity investment from project operations; and

"(B) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

"(d) HOMEOWNERSHIP.—Each homeownership project that receives assistance under this subtitle shall comply with the requirements of subtitle B or subtitle C of this title.

"(e) RESTRICTIONS ON CONVEYANCE.—The ownership interest in a project that receives assistance under this subtitle may not be conveyed unless the instrument of conveyance requires a subsequent owner to comply with the same restrictions imposed upon the original owner.

"(f) CONVERSION OF TRANSITIONAL HOUSING.—The Secretary may waive the requirements of subsection (b) to permit the conversion of a transitional housing project to a permanent housing project only if such housing would meet the requirements for residential rental housing specified in this section.

"(g) PERIOD OF RESTRICTIONS.—A project that receives assistance under this subtitle shall comply with the requirements of this section for the remaining useful life of the property.

42 USC 12899e.

"SEC. 456. ADDITIONAL PROGRAM REQUIREMENTS.

"(a) ELIGIBLE PARTICIPANTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an individual may participate in a Youthbuild program receiving assistance under this subtitle only if such individual is—

"(A) 16 to 24 years of age, inclusive;

"(B) a very low-income individual or a member of a very low-income family; and

"(C) an individual who has dropped out of high school.

"(2) EXCEPTION FOR INDIVIDUALS NOT MEETING INCOME OR EDUCATIONAL NEED REQUIREMENTS.—Not more than 25 percent of the participants in such program may be individuals who do not meet the requirements of either paragraphs (1)(B) or (C), but who have educational needs despite attainment of a high school diploma or its equivalent.

"(3) PARTICIPATION LIMITATION.—Any eligible individual selected for full-time participation in a Youthbuild program may be offered full-time participation for a period of not less than 6 months and not more than 24 months.

"(b) MINIMUM TIME DEVOTED TO EDUCATIONAL SERVICES AND ACTIVITIES.—A Youthbuild program receiving assistance under this subtitle shall be structured so that 50 percent of the time spent by participants in the program is devoted to educational services and activities, such as those specified in subparagraphs (B) through (F) of section 454(b)(4).

"(c) AUTHORITY RESTRICTION.—No provision of this subtitle may be construed to authorize any agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system.

"(d) STATE AND LOCAL STANDARDS.—All educational programs and activities supported with funds provided under this subtitle shall be consistent with applicable State and local educational standards. Standards and procedures with respect to the awarding of academic credit and certifying educational attainment in such programs shall be consistent with applicable State and local educational standards.

"(e) WAGES, LABOR STANDARDS, AND NONDISCRIMINATION.—To the extent consistent with the provisions of this subtitle, sections 142, 143 and 167 of the Job Training Partnership Act, relating to wages and benefits, labor standards, and nondiscrimination, shall apply to the programs conducted under this subtitle as if such programs were conducted under the Job Training Partnership Act. This section may not be construed to prevent a recipient of a grant under this subtitle from using funds from non-Federal sources to increase wages and benefits under such programs, if appropriate.

"SEC. 457. DEFINITIONS. 42 USC 12899f.

"For purposes of this subtitle:

"(1) ADJUSTED INCOME.—The term 'adjusted income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(2) APPLICANT.—The term 'applicant' means a public or private nonprofit agency, including—

"(A) a community-based organization;

"(B) an administrative entity designated under section 103(b)(1)(B) of the Job Training Partnership Act;

"(C) a community action agency;

"(D) a State and local housing development agency;

"(E) a community development corporation;

"(F) a State and local youth service and conservation corps; and

"(G) any other entity eligible to provide education and employment training under other Federal employment training programs.

"(3) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization that—

"(A) maintains, through significant representation on the organization's governing board or otherwise, accountability to low-income community residents and, to the extent practicable, low-income beneficiaries of programs receiving assistance under this subtitle; and

"(B) has a history of serving the local community or communities where a program receiving assistance under this subtitle is located.

"(4) HOMELESS INDIVIDUAL.—The term 'homeless individual' has the meaning given the term in section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(5) HOUSING DEVELOPMENT AGENCY.—The term 'housing development agency' means any agency of a State or local government, or any private nonprofit organization that is engaged in providing housing for homeless or low-income families.

"(6) INCOME.—The term 'income' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(7) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(17)).

"(8) INDIVIDUAL WHO HAS DROPPED OUT OF HIGH SCHOOL.—The term 'individual who has dropped out of high school' means an individual who is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

"(9) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965.

"(10) LIMITED-ENGLISH PROFICIENCY.—The term 'limited-English proficiency' has the meaning given the term in section 7003 of the Bilingual Education Act.

"(11) LOW-INCOME FAMILY.—The term 'low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(12) OFFENDER.—The term 'offender' means any adult or juvenile with a record of arrest or conviction for a criminal offense.

"(13) QUALIFIED NONPROFIT AGENCY.—The term 'qualified public or private nonprofit agency' means any nonprofit agency that has significant prior experience in the operation of projects similar to the Youthbuild program authorized under this subtitle and that has the capacity to provide effective technical assistance.

"(14) RELATED FACILITIES.—The term 'related facilities' includes cafeterias or dining halls, community rooms or buildings, appropriate recreation facilities, and other essential service facilities.

"(15) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(16) STATE.—The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, the Trust Terri-

tories of the Pacific Islands, or any other territory or possession of the United States.

"(17) TRANSITIONAL HOUSING.—The term 'transitional housing' means a project that has as its purpose facilitating the movement of homeless individuals and families to independent living within a reasonable amount of time. Transitional housing includes housing primarily designed to serve deinstitutionalized homeless individuals and other homeless individuals with mental or physical disabilities and homeless families with children.

"(18) VERY LOW-INCOME FAMILY.—The term 'very low-income family' has the meaning given the term in section 3(b) of the United States Housing Act of 1937.

"(19) YOUTHBUILD PROGRAM.—The term 'Youthbuild program' means any program that receives assistance under this subtitle and provides disadvantaged youth with opportunities for employment, education, leadership development, and training in the construction or rehabilitation of housing for homeless individuals and members of low- and very low-income families.

"SEC. 458. MANAGEMENT AND TECHNICAL ASSISTANCE. 42 USC 12899g.

"(a) SECRETARY ASSISTANCE.—The Secretary may enter into contracts with a qualified public or private nonprofit agency to provide assistance to the Secretary in the management, supervision, and coordination of Youthbuild programs receiving assistance under this subtitle.

"(b) SPONSOR ASSISTANCE.—The Secretary shall enter into contracts with a qualified public or private nonprofit agency to provide appropriate training, information, and technical assistance to sponsors of programs assisted under this subtitle. Contracts.

"(c) APPLICATION PREPARATION.—Technical assistance may also be provided in the development of program proposals and the preparation of applications for assistance under this subtitle to eligible entities which intend or desire to submit such applications. Community-based organizations shall be given first priority in the provision of such assistance.

"(d) RESERVATION OF FUNDS.—In each fiscal year, the Secretary shall reserve 5 percent of the amounts available for activities under this subtitle pursuant to section 402 to carry out subsections (b) and (c) of this section.

"SEC. 459. CONTRACTS. 42 USC 12899h.

"Each Youthbuild program shall carry out the services and activities under this subtitle directly or through arrangements or under contracts with administrative entities designated under section 103(b)(1)(B) of the Job Training Partnership Act, with State and local educational agencies, institutions of higher education, State and local housing development agencies, or with other public agencies, including agencies of Indian tribes, and private organizations.

"SEC. 460. REGULATIONS. 42 USC 12899i.

"The Secretary shall issue any regulations necessary to carry out this subtitle.".

SEC. 165. EXTENSION FOR COMMENCEMENT OF CERTAIN CONSTRUCTION.

Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937, the Secretary of Housing and Urban Development

shall extend the deadline for commencement of construction until September 30, 1993, for the application for assistance under such section 17 for HDG project number IL004HG702, and upon commencement of construction shall execute the grant agreement for such project as currently approved or amended.

Subtitle E—Homeownership Programs

SEC. 181. HOPE PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS AND TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended by inserting after section 401 the following new section:

42 USC 12870.

"SEC. 402. AUTHORIZATION OF APPROPRIATIONS.

"(a) FISCAL YEAR 1993.—There are authorized to be appropriated for grants under this title $855,000,000 for fiscal year 1993, of which—

"(1) $285,000,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, of which up to $4,500,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $285,000,000 shall be available for activities authorized under subtitle B, of which up to $3,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $285,000,000 shall be available for activities under subtitle C, of which up to $2,250,000 of any amounts appropriated may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $40,000,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(b) FISCAL YEAR 1994.—There are authorized to be appropriated for grants under this title $883,641,000 for fiscal year 1994, of which—

"(1) $294,547,000 shall be available for activities authorized under title III of the United States Housing Act of 1937, up to $4,500,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this title;

"(2) $294,547,000 shall be available for activities authorized under subtitle B, up to $3,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle; and

"(3) $294,547,000 shall be available for activities under subtitle C, up to $2,250,000 of which may be made available for technical assistance to potential applicants, applicants and recipients of assistance under this subtitle.

Of the amounts appropriated pursuant to this subsection, up to $41,680,000, but not less than 5 percent, shall be available for activities authorized under subtitle D. Any amount appropriated pursuant to this subsection shall remain available until expended.

"(c) TECHNICAL ASSISTANCE.—Technical assistance made available under title III of the United States Housing Act of 1937 or subtitle B or subtitle C of this title may include, but shall not be limited to, training, clearinghouse services, the collection, processing and dissemination of program information useful for local and national program management, and provision of seed money. Such technical assistance may be made available directly, or indirectly under contracts and grants, as appropriate. In any fiscal year, no single applicant, potential applicant, or recipient under title III of the United States Housing Act of 1937, or subtitle B or subtitle C of this title may receive technical assistance in an amount exceeding 20 percent of the total amount made available for technical assistance under such title or subtitle for the fiscal year.".

(2) CONFORMING AMENDMENTS.—

(A) HOPE I.—Section 301 of the United States Housing Act of 1937 (42 U.S.C. 1437aaa(c)) is amended by striking subsection (c).

(B) HOPE II AND HOPE III.—Title IV of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12871 et seq.) is amended—

(i) by striking subsection (c) of section 421; and 42 USC 12871.

(ii) in section 441— 42 USC 12891.

(I) by striking "(a) IN GENERAL.—"; and

(II) by striking subsection (b).

(3) GAO AUDIT OF TECHNICAL ASSISTANCE CONTRACTS.— 42 USC 12870 note.
The Comptroller General of the United States shall conduct an audit of all of the technical assistance contracts awarded for fiscal years 1993 and 1994 pursuant to section 402 of the Cranston-Gonzalez National Affordable Housing Act. The Comptroller General shall submit a report to the Congress describing the results of such audit not later than September 30, 1994. Reports.

(b) HOPE I MATCHING FUNDING.—Section 303(c) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(c)(1)) is amended—

(1) in paragraph (1), by inserting after "expenses" the following: "and replacement housing"; and

(2) by inserting at the end the following new paragraph:

"(3) REDUCTION OF REQUIREMENT.—The Secretary shall reduce the matching requirement for homeownership programs carried out under this section in accordance with the formula established under section 220(d) of the Cranston-Gonzalez National Affordable Housing Act.".

(c) GRANT SELECTION CRITERIA FOR HOPE I.—Section 303(e)(8) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(e)(8)) is amended—

(1) by striking "of the type assisted under this title"; and

(2) by striking "appreciably".

(d) ELIGIBILITY OF MUTUAL HOUSING ASSOCIATIONS FOR HOPE II GRANTS.—Section 426(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(1)) is amended by adding at the end the following new subparagraph:

"(G) A mutual housing association.".

(e) ELIGIBLE PROPERTY UNDER HOPE II.—Section 426(3)(D) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D)) is amended by inserting before the period at the end the following "or an agency or instrumentality thereof".

(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS UNDER HOPE III.—Section 444 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12894) is amended by adding at the end the following new subsection:

"(f) PREFERENCE FOR ACQUISITION OF VACANT UNITS.—Each homeownership program under this subtitle shall provide that, in making vacant units in eligible properties available for acquisition by eligible families, preference shall be given to eligible families who reside in public or Indian housing.".

(g) TRANSFER OF SCATTERED SITE PUBLIC AND INDIAN HOUSING TO HOPE PROGRAMS.—

(1) HOPE I.—

(A) IN GENERAL.—Sections 303(b)(2) and 304(d) of the United States Housing Act of 1937 (42 U.S.C. 1437aaa–2(b)(2) and 42 U.S.C. 1437aaa–3(d)) are each amended by striking "(not including scattered site single family housing of a public housing agency)".

42 USC 1437aaa-2.

(B) OPERATING SUBSIDIES.—Section 303(b)(9) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 1437aaa–2(b)(9)) is amended by inserting before the period at the end the following: ", and except that implementation grants may not be used under this paragraph to fund operating expenses for scattered site public housing acquired under a homeownership program".

(2) HOPE III.—Section 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12896(4)) is amended by striking "(including scattered site single family properties, and" and inserting "(excluding public or Indian housing under the United States Housing Act of 1937 and including".

(h) ELIGIBILITY OF OTHER FEDERAL PROPERTY FOR HOPE PROGRAMS.—Sections 426(3)(D) and 446(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12876(3)(D) and 42 U.S.C. 12896(4)) are each amended by inserting after "Corporation," the following: "the Federal Deposit Insurance Corporation, the Secretary of Defense, the Secretary of Transportation, the General Services Administration, any other Federal agency,".

SEC. 182. NATIONAL HOMEOWNERSHIP TRUST DEMONSTRATION.

(a) EXTENSION OF TRUST.—Section 310 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12859) is amended by striking "on September 30, 1993" and inserting "September 30, 1994".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 308 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12857) is amended to read as follows:

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for assistance payments under this subtitle $520,665,600 for fiscal year 1993 and $542,533,555 for fiscal year 1994, of which such sums as may be necessary shall be available in each such fiscal year for use under section 303(e). Any amount appropriated under this section

shall be deposited in the Fund and shall remain available until expended, subject to the provisions of section 311.".

(c) USE OF TRUST AMOUNTS IN CONNECTION WITH MORTGAGE REVENUE BONDS.—

(1) IN GENERAL.—Section 303 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852) is amended by adding at the end the following new subsection:

"(e) ASSISTANCE IN CONNECTION WITH HOUSING FINANCED WITH MORTGAGE REVENUE BONDS.—

"(1) AUTHORITY.—The Trust shall provide assistance for first-time homebuyers in the form of interest rate buydowns and downpayment assistance under this subsection. Such assistance shall be available only with respect to mortgages for the purchase of residences (A) financed with the proceeds of a qualified mortgage bond (as such term is defined in section 143 of the Internal Revenue Code of 1986), or (B) for which a credit is allowable under section 25 of such Code.

"(2) ELIGIBILITY.—To be eligible for assistance under this subsection, homebuyers and mortgages shall also meet the requirements under subsection (b) of this section, except that—

"(A) the certification under subsection (b)(3) shall not be required for assistance under this subsection;

"(B) the provisions of subsection (b)(2) shall not apply to assistance under this section; and

"(C) the aggregate income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subsection, shall not exceed 80 percent of the median income for a family of 4 persons (as adjusted for family size) in the applicable metropolitan statistical area.

"(3) LIMITATION OF ASSISTANCE.—Notwithstanding subsection (a), assistance payments for first-time homebuyers under this subsection shall be provided in the following manners:

"(A) INTEREST RATE BUYDOWNS.—Assistance payments to decrease the rate of interest payable on the mortgages by the homebuyers, in an amount not exceeding—

"(i) in the first year of the mortgage, 2.0 percent of the total principal obligation of the mortgage;

"(ii) in the second year of the mortgage, 1.5 percent of the total principal obligation of the mortgage;

"(iii) in the third year of the mortgage, 1.0 percent of the total principal obligation of the mortgage; and

"(iv) in the fourth year of the mortgage, 0.5 percent of the total principal obligation of the mortgage.

"(B) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments on mortgages by the homebuyers, in an amount not exceeding 2.5 percent of the principal obligation of the mortgage.

"(3) AVAILABILITY.—The Trust may make assistance payments under subparagraphs (A) and (B) of paragraph (3) with respect to a single mortgage of a homebuyer.".

(2) CONFORMING AMENDMENT.—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding at the end the following new paragraph:

"(3) ASSISTANCE IN CONNECTION WITH MORTGAGE REVENUE BONDS FINANCING.—Interest rate buydowns and downpayment assistance in the manner provided in subsection (e).".

(d) ELIGIBILITY OF MANUFACTURED HOME OWNERS.—Section 303(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(b)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(D) meets the requirements of subparagraph (A), (B), or (C), except for owning, as a principal residence, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations; or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

(e) SECOND MORTGAGE ASSISTANCE.—Section 303(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12852(a)) is amended by adding after paragraph (3) (as added by subsection (c)(3) of this section) the following new paragraphs:

"(4) SECOND MORTGAGE ASSISTANCE.—Assistance payments to provide loans (secured by second mortgages) with deferred payment of interest and principal; and

"(5) CAPITALIZATION OF REVOLVING LOAN FUNDS.—Grants to public organizations or agencies to establish revolving loan funds to provide homeownership assistance to eligible first-time homebuyers consistent with the requirements of this subtitle. Such grants shall be matched by an equal amount of local investment in such revolving loan funds. Any proceeds or repayments from loans made under this paragraph shall be returned to the revolving loan fund established under this paragraph to be used for purposes related to this section.".

SEC. 183. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

12 USC 1715*l* note.

(a) HOMEOWNER INCENTIVE.—Section 604 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) in subsection (b)(4), by inserting before the period the following: ", subject to the provisions of subsection (c)"; and

(2) by adding at the end the following new subsection:

"(c) HOMEOWNER INCENTIVE.—The nonprofit organization may provide that, upon the sale or transfer of a property purchased with a loan made under this section, any proceeds remaining after repaying the first mortgage shall be distributed in the following order:

"(1) DOWNPAYMENT.—The amount of the downpayment made by the seller or transferor upon the purchase of the property shall be paid to the seller or transferor.

"(2) LOAN AND PROFIT.—Any amounts remaining after distribution under paragraph (1) shall be shared equally between the Secretary and the seller or transferor, but only to the extent that the Secretary recovers an amount equal to the amount of the loan made under this section. If such remaining

amounts are insufficient for the Secretary to recover the full amount of the loan made under this section, the second mortgage held by the Secretary under subsection (b)(1) shall be cancelled.

"(3) PROFIT.—Any amounts remaining after distribution under paragraphs (1) and (2) shall be paid to the seller or transferor.".

(b) CONFORMING AMENDMENTS.—Section 606(e)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended— 12 USC 1715l note.

(1) by inserting "subject to the provisions of section 604(c)," after the comma; and

(2) by striking "(in which case" and all that follows through "repaid)".

(c) APPLICABILITY.—The amendments made by this section shall apply to any loan made under section 604 of the Housing and Community Development Act of 1987 after July 1, 1990. 12 USC 1715l note.

SEC. 184. LOAN GUARANTEES FOR INDIAN HOUSING. 12 USC 1715z-13a.

(a) AUTHORITY.—To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family or Indian housing authority.

(b) ELIGIBLE LOANS.—Loans guaranteed pursuant to this section shall meet the following requirements:

(1) ELIGIBLE BORROWERS.—The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) ELIGIBLE HOUSING.—The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) SECURITY.—The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) LENDERS.—The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act.

(B) Any lender whose housing loans under chapter 37 of title 38, United States Code are automatically guaranteed pursuant to section 1802(d) of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949.

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) TERMS.—The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404 and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) an amount equal to the sum of (I) 97 percent of $25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of $25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) CERTIFICATE OF GUARANTEE.—

(1) APPROVAL PROCESS.—Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) STANDARD FOR APPROVAL.—The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) EFFECT.—A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) FRAUD AND MISREPRESENTATION.—This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) GUARANTEE FEE.—The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the

determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

(e) LIABILITY UNDER GUARANTEE.—The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) TRANSFER AND ASSUMPTION.—Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) DISQUALIFICATION OF LENDERS AND CIVIL MONEY PENALTIES.—

(1) IN GENERAL.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) CIVIL MONEY PENALTIES FOR INTENTIONAL VIOLATIONS.—If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act with respect to mortgagees and lenders under such Act.

(3) PAYMENT ON LOANS MADE IN GOOD FAITH.—Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) PAYMENT UNDER GUARANTEE.—

(1) LENDER OPTIONS.—

(A) IN GENERAL.—In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) FORECLOSURE.—The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) NO FORECLOSURE.—Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) REQUIREMENTS.—Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) ASSIGNMENT BY SECRETARY.—Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) LIMITATIONS ON LIQUIDATION.—In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) INDIAN HOUSING LOAN GUARANTEE FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) CREDITS.—The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) USE.—Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) INVESTMENT.—Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) LIMITATION ON COMMITMENTS TO GUARANTEE LOANS AND MORTGAGES.—

(A) REQUIREMENT OF APPROPRIATIONS.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) LIMITATIONS ON COSTS OF GUARANTEES.—The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of such loan guarantees for such fiscal year.

(C) LIMITATION ON OUTSTANDING AGGREGATE PRINCIPAL AMOUNT.—Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal

amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) LIABILITIES.—All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and $50,000,000 for fiscal year 1994.

Regulations.

(j) REQUIREMENTS FOR STANDARD HOUSING.—The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act.

(k) DEFINITIONS.—For purposes of this section:

(1) The term "family" means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term "Guarantee Fund" means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term "Indian" means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term "Indian area" means the area within which an Indian housing authority is authorized to provide housing.

(5) The term "Indian housing authority" means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "standard housing" means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) The term "tribe" means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term "trust land" means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

SEC. 185. ASSISTANCE UNDER SECTION 8 FOR HOMEOWNERSHIP.

(a) AUTHORITY.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by adding at the end the following new subsection:

"(y) HOMEOWNERSHIP OPTION.—

"(1) USE OF ASSISTANCE FOR HOMEOWNERSHIP.—A family receiving tenant-based assistance under this section may receive assistance for occupancy of a dwelling owned by one or more members of the family if the family—

"(A) is a first-time homeowner;

"(B)(i) participates in the family self-sufficiency program under section 23 of the public housing agency providing the assistance; or

"(ii) demonstrates that the family has income from employment or other sources (other than public assistance), as determined in accordance with requirements of the Secretary, that is not less than twice the payment standard established by the public housing agency (or such other amount as may be established by the Secretary);

"(C) except as provided by the Secretary, demonstrates at the time the family initially receives tenant-based assistance under this subsection that one or more adult members of the family have achieved employment for the period as the Secretary shall require;

"(D) participates in a homeownership and housing counseling program provided by the agency; and

"(E) meets any other initial or continuing requirements established by the public housing agency in accordance with requirements established by the Secretary.

"(2) MONTHLY ASSISTANCE PAYMENT.—

"(A) IN GENERAL.—Notwithstanding any other provisions of this section governing determination of the amount of assistance payments under this section on behalf of a family, the monthly assistance payment for any family assisted under this subsection shall be the amount by which the fair market rental for the area established under subsection (c)(1) exceeds 30 percent of the family's monthly adjusted income; except that the monthly assistance payment shall not exceed the amount by which the monthly homeownership expenses, as determined in accordance with requirements established by the Secretary, exceeds 10 percent of the family's monthly income.

"(B) EXCLUSION OF EQUITY FROM INCOME.—For purposes of determining the monthly assistance payment for a family, the Secretary shall not include in family income an amount imputed from the equity of the family in a dwelling occupied by the family with assistance under this subsection.

"(3) RECAPTURE OF CERTAIN AMOUNTS.—Upon sale of the dwelling by the family, the Secretary shall recapture from any net proceeds the amount of additional assistance (as determined in accordance with requirements established by the Secretary) paid to or on behalf of the eligible family as a result of paragraph (2)(B).

"(4) DOWNPAYMENT REQUIREMENT.—Each public housing agency providing assistance under this subsection shall ensure that each family assisted shall provide from its own resources not less than 80 percent of any downpayment in connection with a loan made for the purchase of a dwelling. Such resources may include amounts from any escrow account for the family established under section 23(d). Not more than 20 percent of the downpayment may be provided from other sources, such as from nonprofit entities and programs of States and units of general local government.

"(5) INELIGIBILITY UNDER OTHER PROGRAMS.—A family may not receive assistance under this subsection during any period when assistance is being provided for the family under other Federal homeownership assistance programs, as determined by the Secretary, including assistance under the HOME Investment Partnerships Act, the Homeownership and Opportunity Through HOPE Act, title II of the Housing and Community Development Act of 1987, and section 502 of the Housing Act of 1949.

"(6) INAPPLICABILITY OF CERTAIN PROVISIONS.—Assistance under this subsection shall not be subject to the requirements of the following provisions:

"(A) Subsection (c)(3)(B) of this section.

"(B) Subsection (d)(1)(B)(i) of this section.

"(C) Any other provisions of this section governing maximum amounts payable to owners and amounts payable by assisted families.

"(D) Any other provisions of this section concerning contracts between public housing agencies and owners.

"(E) Any other provisions of this Act that are inconsistent with the provisions of this subsection.

"(7) REVERSION TO RENTAL STATUS.—

"(A) FHA-INSURED MORTGAGES.—If a family receiving assistance under this subsection for occupancy of a dwelling defaults under a mortgage for the dwelling insured by the Secretary under the National Housing Act, the family may not continue to receive rental assistance under this section unless the family (i) transfers to the Secretary marketable title to the dwelling, (ii) moves from the dwelling within the period established or approved by the Secretary, and (iii) agrees that any amounts the family is required to pay to reimburse the escrow account under section 23(d)(3) may be deducted by the public housing agency from the assistance payment otherwise payable on behalf of the family.

"(B) OTHER MORTGAGES.—If a family receiving assistance under this subsection defaults under a mortgage not insured under the National Housing Act, the family may not continue to receive rental assistance under this section unless it complies with requirements established by the Secretary.

"(C) ALL MORTGAGES.—A family receiving assistance under this subsection that defaults under a mortgage may not receive assistance under this subsection for occupancy of another dwelling owned by one or more members of the family.

"(8) DEFINITION OF FIRST-TIME HOMEOWNER.—For purposes of this subsection, the term 'first-time homeowner' means—

"(A) a family, no member of which has had a present ownership interest in a principal residence during the 3 years preceding the date on which the family initially receives assistance for homeownership under this subsection; and

"(B) any other family, as the Secretary may prescribe.".

(b) FAMILY SELF-SUFFICIENCY PROGRAM.—Section 23(d) of the United States Housing Act of 1937 (42 U.S.C. 1437u) is amended by adding at the end the following new paragraph:

"(3) USE OF ESCROW SAVINGS ACCOUNTS FOR SECTION 8 HOMEOWNERSHIP.—Notwithstanding paragraph (3), a family that uses assistance under section 8(y) to purchase a dwelling may use up to 50 percent of the amount in its escrow account established under paragraph (3) for a downpayment on the dwelling. In addition, after the family purchases the dwelling, the family may use any amounts remaining in the escrow account to cover the costs of major repair and replacement needs of the dwelling. If a family defaults in connection with the loan to purchase a dwelling and the mortgage is foreclosed, the remaining amounts in the escrow account shall be recaptured by the Secretary.".

(c) USE OF FHA INSURANCE WITH SECTION 8 HOMEOWNERSHIP.—

(1) IN GENERAL.—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(A) in the matter preceding subparagraph (A) in subsection (c)(2), by inserting "or of the General Insurance Fund pursuant to subsection (v)" after "Fund"; and

(B) by adding at the end the following new subsection:

"(v) Notwithstanding section 202 of this title, the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title. The provisions of subsections (a) through (h), (j), and (k) of section 204 shall apply to such mortgages, except that (1) all references in section 204 to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) shall be retained by the Secretary and credited to the General Insurance Fund.".

(2) GENERAL INSURANCE FUND.—Section 519(e) of the National Housing Act (12 U.S.C. 1735c(e)) is amended by inserting after "203(b)" the following: "(except as provided in section 203(v))".

(3) MORTGAGE INSURANCE TRANSITION PREMIUMS.—The matter preceding paragraph (1) in section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended by inserting "or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act" after "Fund".

(4) CONFORMING AMENDMENT.—The third sentence of section 3(a)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)(1)) is amended by inserting "or (y) or paying rent under section 8(c)(3)(B)" after "section 8(o)".

Disadvantaged.
42 USC 12898a.

SEC. 186. ENTERPRISE ZONE HOMEOWNERSHIP OPPORTUNITY GRANTS.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section—

(1) to encourage homeownership by families in the United States who are not otherwise able to afford homeownership;

(2) to encourage the redevelopment of economically depressed areas; and

(3) to provide better housing opportunities in federally approved and equivalent State-approved enterprise zones.

(b) DEFINITIONS.—For purposes of this section the following definitions shall apply:

(1) HOME.—The term "home" means any 1- to 4-family dwelling. Such term includes any dwelling unit in a condominium project or cooperative project consisting of not more than 4 dwelling units, any town house, and any manufactured home.

(2) METROPOLITAN STATISTICAL AREA.—The term "metropolitan statistical area" means a metropolitan statistical area as established by the Office of Management and Budget.

(3) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means a private nonprofit corporation, or other private nonprofit legal entity, that is approved by the Secretary as to financial responsibility.

(4) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(5) STATE.—The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(c) ASSISTANCE TO NONPROFIT ORGANIZATIONS.—

(1) IN GENERAL.—The Secretary may provide assistance to nonprofit organizations to carry out enterprise zone homeownership opportunity programs to promote homeownership in federally approved and equivalent State-approved enterprise zones in accordance with the provisions of this section. Such assistance shall be made in the form of grants.

(2) APPLICATIONS.—Applications for assistance under this section shall be made in such form, and in accordance with such procedures, as the Secretary may prescribe.

(d) ELIGIBLE USES OF ASSISTANCE.—

(1) IN GENERAL.—Any nonprofit organization receiving assistance under this section shall use such assistance to provide loans to families purchasing homes constructed or rehabilitated in accordance with an enterprise zone homeownership opportunity program approved under this section.

(2) SPECIFIC REQUIREMENTS.—Each loan made to a family under this subsection shall—

(A) be secured by a second mortgage held by the Secretary on the property involved;

(B) be in an amount not exceeding $15,000;

(C) bear no interest; and

(D) be repayable to the Secretary upon the sales, lease, or other transfer of such property.

(e) PROGRAM REQUIREMENTS.—

(1) IN GENERAL.—Assistance provided under this section may be used only in connection with an enterprise zone homeownership opportunity program of construction or rehabilitation of homes.

(2) FAMILY NEED.—Each family purchasing a home under this section shall—

(A) have a family income on the date of such purchase that is not more than the median income for a family of 4 persons (adjusted for family size) in the metropolitan statistical area in which a federally approved or equivalent State-approved enterprise zone is located; and

(B) not have owned a home during the 3-year period preceding such purchase.

(3) DOWNPAYMENT.—Each family purchasing a home under this section shall make a downpayment of not less than 5 percent of the sale price of such home.

(4) LEASING PROHIBITION.—No family purchasing a home under this section may lease such home.

(f) TERMS AND CONDITIONS OF ASSISTANCE.—

(1) LOCAL CONSULTATION.—No proposed enterprise zone homeownership opportunity program may be approved by the Secretary under this section unless the applicant involved demonstrates to the satisfaction of the Secretary that—

(A) it has consulted with and received the support of residents of the neighborhood in which such program is to be located; and

(B) it has the approval of each unit of general local government in which such program is to be located.

(2) PROGRAM SCHEDULE.—Each applicant for assistance under this section shall submit to the Secretary an estimated schedule for completion of its proposed enterprise zone homeownership opportunity program, which schedule shall have been agreed to by each unit of general local government in which such program is to be located.

(3) LOCATION.—All homes constructed or rehabilitated under such program will be located in federally approved or equivalent State-approved enterprise zones.

(4) SALES CONTRACTS.—Sales contracts entered into under such program will contain provisions requiring repayment of any loan made under this section upon the sale or other transfer of the home involved, unless the Secretary approves a transfer of such home without repayment (in which case the second mortgage held by the Secretary on such home shall remain in force until such loan is fully repaid).

(g) PROGRAM SELECTION CRITERIA.—

(1) IN GENERAL.—In selecting enterprise zone homeownership opportunity programs for assistance under this section from among eligible programs, the Secretary shall make such selection on the basis of the extent to which—

(A) non-Federal public or private entities will contribute land necessary to make each program feasible;

(B) non-Federal public and private financial or other contributions (including tax abatements, waivers of fees related to development, waivers of construction, development, or zoning requirements, and direct financial contributions) will reduce the cost of home constructed or rehabilitated under each program;

(C) each program will produce the greatest number of units for the least amount of assistance provided under this section, taking into consideration the cost differences among different market areas; and

(D) each program provides for the involvement of local residents in the planning, and construction or rehabilitation, of homes.

(2) EXCEPTION.—To the extent that non-Federal public entities are prohibited by the law of any State from making any form of contribution described in subparagraph (A) or (B) of paragraph (1), the Secretary shall not consider such form of contribution in evaluating such program.

(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall issue final regulations to carry out the provisions of this title. Any such regulations shall be issued in accordance with section 553 of title 5, United States Code, notwithstanding the provisions of subsection (a)(2) of such section.

Appropriation authorization.

(i) FUNDING.—There are authorized to be appropriated to carry out this section $30,000,000 in each of fiscal years 1993 and 1994.

Subtitle F—Implementation

Regulations. 42 USC 1437a note.

SEC. 191. IMPLEMENTATION.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the

expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE II—HOME INVESTMENT PARTNERSHIPS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12724) is amended to read as follows:

"SEC. 205. AUTHORIZATION.

"There are authorized to be appropriated to carry out this title $2,086,000,000 for fiscal year 1993, and $2,173,612,000 for fiscal year 1994, of which—

"(1) not more than $14,000,000 for fiscal year 1993, and $14,000,000 for fiscal year 1994, shall be for community housing partnership activities authorized under section 233; and

"(2) not more than $11,000,000 for fiscal year 1993, and $11,000,000 for fiscal year 1994, shall be for activities in support of State and local housing strategies authorized under subtitle C.".

SEC. 202. HOME PROGRAM THRESHOLDS.

(a) PARTICIPATING JURISDICTIONS.—Section 216 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12746) is amended—

(1) in paragraph (3), by striking "A jurisdiction" and inserting "Except as provided in paragraph (10), a jurisdiction";

(2) in paragraph (9)(B), by inserting ", except as provided in paragraph (10)" after "in any 1 year"; and

(3) by adding at the end the following:

"(10) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that year—

"(A) by substituting '$500,000' for '$750,000' both places it appears in paragraph (3); and

"(B) by substituting '$500,000', '$410,000', and '$335,000' for '$750,000', '$625,000', and '$500,000', respectively, where they appear in paragraph (9).".

(b) SUPPLEMENTAL ALLOCATION.—Section 217(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)) is amended—

(1) in paragraph (3), by inserting ", except as provided in paragraph (4)" before the period at the end of the second sentence; and

(2) by adding at the end the following:

"(4) THRESHOLD REDUCTION.—If the amount appropriated pursuant to section 205 for any fiscal year is less than $1,500,000,000, then this section shall be applied during that

year by substituting '$335,000' for '$500,000' where it appears in paragraph (3).".

42 USC 12746 note.

(c) APPLICABILITY.—Notwithstanding any other provision of law, the grant thresholds provided for in section 216, as amended by this section, and the grant thresholds provided for in section 217(b) of the Cranston-Gonzalez National Affordable Housing Act, as amended by this section, shall apply.

SEC. 203. ELIMINATION OF RESTRICTIONS ON NEW CONSTRUCTION.

(a) ELIGIBLE USES OF INVESTMENT.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended—

(1) in the last sentence of paragraph (2), by striking "under paragraph (3) of this subsection or";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(b) FORMULA ALLOCATION.—Section 217(b)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(1)) is amended—

(1) by striking subparagraph (A);

(2) in subparagraph (D), by striking "Except as provided in subparagraph (A), the basic formula established under subparagraph (B)" and inserting "The basic formula established under subparagraph (A)";

(3) in subparagraph (E), by striking "formulas in subparagraph (B)" and inserting "formula in subparagraph (A)";

(4) in subparagraph (F)—

(A) in the first sentence, by striking "subparagraph (B)" and inserting "subparagraph (A)"; and

(B) by striking the second sentence;

(5) in subparagraph (G), by striking "formulas in subparagraphs (A) and (B)" and inserting "formula in subparagraph (A)"; and

(6) by redesignating subparagraphs (B) through (G) (as amended by this paragraph) as subparagraphs (A) through (F), respectively.

(c) CONFORMING AMENDMENT.—Section 218(g) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748(g)) is amended by striking "Except as provided in section 217(b)(1)(A)(ii), if" and inserting "If".

SEC. 204. POLICIES AND PREFERENCE RULES; USE OF TENANT-BASED RENTAL ASSISTANCE AMOUNTS FOR SECURITY DEPOSITS.

(a) POLICIES AND PREFERENCE RULES.—Section 212(a)(3) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(3)), as so redesignated by section 203(a)(3) of this Act, is amended by adding at the end the following:

"(E) SECURITY DEPOSIT ASSISTANCE.—A jurisdiction using funds provided under this subtitle for tenant-based rental assistance may use such funds to provide loans or grants to very low- and low-income families for security deposits for rental of dwelling units. Assistance under this subparagraph does not preclude assistance under any other provision of this paragraph.".

(b) SECURITY DEPOSITS.—Section 212(a)(3)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(4)(A)), as so redesignated by section 203(a)(3) of this Act, is amended by striking clause (ii) and inserting the following:

"(ii) the tenant-based rental assistance is provided in accordance with written tenant selection policies and criteria that are consistent with the purposes of providing housing to very low- and low-income families and are reasonably related to preference rules established under section 6(c)(4)(A) of the Housing Act of 1937.".

SEC. 205. USE OF HOME FUNDS FOR HOMELESS ASSISTANCE.

Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by adding at the end the following: "For the purpose of this subtitle, the term 'affordable housing' includes permanent housing for disabled homeless persons, transitional housing, and single room occupancy housing.".

SEC. 206. PER UNIT COST LIMITS.

Regulations.

Section 212(d)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(d)(1)) is amended by inserting after the first sentence the following: "For multifamily housing, such limits shall not be less than the per unit dollar amount limitations set forth in section 221(d)(3)(ii) of the National Housing Act, as such limitations may be adjusted in accordance therewith, except that for purposes of this subsection the Secretary shall, by regulation, increase the per unit dollar amount limitations in any geographical area by an amount, not to exceed 140 percent, that equals the amount by which the costs of multifamily housing construction in the area exceed the national average of such costs.".

SEC. 207. ADMINISTRATIVE COSTS AS ELIGIBLE USE OF INVESTMENT.

(a) HOUSING USES.—Section 212(a)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)(1)) is amended by inserting after "organizations," the following: "to provide for the payment of reasonable administrative and planning costs, to provide for the payment of operating expenses of community housing development organizations,".

(b) ELIGIBLE USE.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended—

(1) in subsection (c)(1), by inserting "that exceed the amount specified under subsection (c)" before the comma at the end;

(2) by redesignating subsections (c), (d) (as amended by the preceding provisions of this Act), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting after subsection (b) the following:

"(c) ADMINISTRATIVE COSTS.—In each fiscal year, each participating jurisdiction may use not more than 10 percent of the funds made available under this subtitle to the jurisdiction for such year for any administrative and planning costs of the jurisdiction in carrying out this subtitle, including the costs of the salaries of persons engaged in administering and managing activities assisted with funds made available under this subtitle.".

(c) RECOGNITION OF MATCH.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended—

(1) in subsection (b)(2), by striking "shall" and all that follows and inserting "may not be recognized for purposes of subsection (a).''; and

(2) in subsection (c)—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

(d) LIMITATION ON ADMINISTRATIVE COSTS.—Section 212 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742) is amended by adding at the end the following:

"(g) LIMITATION ON OPERATING ASSISTANCE.—A participating jurisdiction may not use more than 5 percent of its allocation under this subtitle for the payment of operating expenses for community housing development organizations.".

SEC. 208. AFFORDABLE HOUSING.

(a) RENT CALCULATIONS.—Section 215(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)) is amended—

(1) in paragraph (1)(A) by striking "smaller and larger families" and inserting "number of bedrooms in the unit";

(2) in paragraph (3), by adding at the end the following: "The preceding sentence shall not apply with respect to funds made available under this Act for units that have been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code 1986."; and

(3) in the second sentence of paragraph (3), by striking "not less than" and inserting "the lesser of the amount payable by the tenant under State or local law or".

(b) EXCEPTION TO TERMINATION RULE.—Section 215(a)(1)(E) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(a)(1)(E)) is amended by inserting after "Act" the following: ", except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action (i) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure, and (ii) is not for the purpose of avoiding low income affordability restrictions, as determined by the Secretary".

SEC. 209. HOMEOWNERSHIP RESALE RESTRICTIONS.

Section 215(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745(b)) is amended by striking paragraph (4) and inserting the following:

"(4) is subject to resale restrictions that are established by the participating jurisdiction and determined by the Secretary to be appropriate to—

"(A) allow for subsequent purchase of the property only by persons who meet the qualifications specified under paragraph (2), at a price which will—

"(i) provide the owner with a fair return on investment, including any improvements, and

"(ii) ensure that the housing will remain affordable to a reasonable range of low-income homebuyers; or

"(B) recapture the investment provided under this title in order to assist other persons in accordance with the requirements of this subsection, except where there are no net proceeds or where the net proceeds are insufficient to repay the full amount of the assistance; and".

SEC. 210. MATCHING REQUIREMENTS.

(a) TIERED CONTRIBUTION.—Section 220(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and" and inserting a comma;

(B) by inserting "and substantial rehabilitation" after "rehabilitation"; and

(C) by inserting "and" after the semicolon;

(2) in paragraph (2)—

(A) by striking "33" and inserting "30"; and

(B) by striking "substantial rehabilitation; and" and inserting "new construction.";

(3) by striking paragraph (3); and

(4) in the matter preceding paragraph (1), by striking "affordable housing assisted under this title" and inserting "housing that qualifies as affordable housing under this title".

(b) FORM.—Section 220(c) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750(c)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following:

"(6) up to—

"(A) 50 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a multifamily affordable housing project financed, and

"(B) 25 percent of proceeds from bond financing validly issued by a State or local government, agency or instrumentality thereof, or political subdivision thereof, and repayable with revenues derived from a single-family project financed, but not more than 25 percent of the contribution required under subsection (a) may be derived from these sources;

"(7) the reasonable value of any site-preparation and construction materials and any donated or voluntary labor in connection with the site-preparation for, or construction or rehabilitation of, affordable housing; and

"(8) such other contributions to affordable housing as the Secretary considers appropriate.".

(c) REDUCTION OF REQUIREMENT.—Section 220 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12750) is amended by striking subsection (d) and inserting:

"(d) REDUCTION OF REQUIREMENT.—

"(1) IN GENERAL.—The Secretary shall reduce the matching requirement under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during a fiscal year by—

"(A) 50 percent for a jurisdiction that certifies that it is in fiscal distress; and

"(B) 100 percent for a jurisdiction that certifies that it is in severe fiscal distress.

"(2) DEFINITIONS.—For purposes of this section—

"(A) 'fiscal distress' means a jurisdiction other than a State that satisfies 1 of the distress criteria set forth in paragraph (3); and

"(B) 'severe fiscal distress' means a jurisdiction other than a State that satisfies both of the distress criteria set forth in paragraph (3).

"(3) DISTRESS CRITERIA.—For purposes of a jurisdiction other than a State certifying that it is distressed, the following criteria shall apply:

"(A) POVERTY RATE.—The average poverty rate in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was equal to or greater than 125 percent of the average national poverty rate during such calendar year (as determined according to information of the Bureau of the Census).

"(B) PER CAPITA INCOME.—The average per capita income in the jurisdiction for the calendar year immediately preceding the year in which its fiscal year begins was less than 75 percent of the average national per capita income during such calendar year (as determined according to information of the Bureau of the Census).

"(4) STATES.—In determining the degree to which a jurisdiction that is a State is distressed, the Secretary shall take into consideration the State's fiscal capacity and expenditure needs as determined by a national organization which compiles the relevant data.

"(5) WAIVER IN DISASTER AREAS.—If a participating jurisdiction is located in an area in which a declaration of a disaster pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act is in effect for any part of a fiscal year, the Secretary may reduce the matching requirement for that fiscal year under subsection (a) with respect to any funds drawn from a jurisdiction's HOME Investment Trust Fund Account during that fiscal year by up to 100 percent.".

42 USC 12750 note.

(d) APPLICABILITY.—The amendments made by this section shall apply with respect to fiscal year 1993 and each fiscal year thereafter.

SEC. 211. ASSISTANCE FOR INSULAR AREAS.

(a) REPEAL OF AMENDMENTS MADE BY PUBLIC LAW 102-230.—

(1) DEFINITIONS.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704) is amended to read as if the amendments made by section 2 of Public Law 102-230 (105 Stat. 1720) had not been enacted.

(2) ALLOCATION OF RESOURCES.—Section 217(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(a)) is amended—

(A) by striking the first sentence of paragraph (1) and inserting the following: "After reserving amounts under paragraph (2) for Indian tribes and after reserving amounts under paragraph (3) for the insular areas, the Secretary shall allocate funds approved in an appropriation Act to carry out this title by formula as provided in subsection (b).";

(B) by striking paragraph (3) (as added by Public Law 102-229; 105 Stat. 1709);

(C) by striking paragraph (3) (as added by Public Law 102-230; 105 Stat. 1720); and

(D) by adding after paragraph (2) the following:

"(3) INSULAR AREAS.—For each fiscal year, of any amounts approved in appropriation Acts to carry out this title, the Secretary shall reserve for grants to the insular areas the greater of (A) $750,000, or (B) 0.2 percent of the amounts appropriated under such Acts. The Secretary shall provide for the distribution of amounts reserved under this paragraph among the insular areas pursuant to specific criteria for such distribution, which shall be contained in a regulation issued by the Secretary.". Regulations.

(3) EXPEDITED ISSUANCE OF REGULATION.—The regulation referred to in the amendment made by paragraph (2)(D) shall take effect not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulation shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code, or section 7(o) of the Department of Housing and Urban Development Act. Effective date. 42 USC 12747 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to fiscal year 1993 and thereafter. 42 USC 12704 note.

SEC. 212. COMMUNITY HOUSING PRODUCTION SET-ASIDE.

(a) EXTENSION OF PERIOD.—Section 231 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771) is amended by striking "18 months" each place it appears in subsections (a) and (b) and inserting "24 months".

(b) ALLOCATION FOR USE BY NONPROFIT ORGANIZATION.—Section 231(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12771(a)) is amended by inserting after the second sentence the following: "If during the first 24 months of its participation under this title, a participating jurisdiction is unable to identify a sufficient number of capable community housing development organizations, then up to 20 percent of the funds allocated to that jurisdiction under this section, but not to exceed $150,000, may be made available to carry out activities that develop the capacity of community housing development organizations in that jurisdiction.".

(c) OTHER REQUIREMENTS.—Section 234(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12774(b)) is amended—

(1) by striking ", together with other Federal assistance,"; and

(2) by inserting before the period the following: "or $50,000 annually, whichever is greater".

SEC. 213. HOUSING EDUCATION AND ORGANIZATIONAL SUPPORT FOR COMMUNITY LAND TRUSTS.

(a) COMMUNITY LAND TRUSTS.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773) is amended—

(1) in subsection (a)(2), by inserting ", including community land trusts," after "organizations";

(2) in subsection (b), by adding at the end the following:

"(6) COMMUNITY LAND TRUSTS.—Organizational support, technical assistance, education, training, and continuing support under this subsection may be made available to community land trusts (as such term is defined in subsection (f)) and to community groups for the establishment of community land trusts."; and

(3) by adding at the end the following:

"(f) DEFINITION OF COMMUNITY LAND TRUST.—For purposes of this section, the term 'community land trust' means a community housing development organization (except that the requirements under subparagraphs (C) and (D) of section 104(6) shall not apply for purposes of this subsection)—

"(1) that is not sponsored by a for-profit organization;

"(2) that is established to carry out the activities under paragraph (3);

"(3) that—

"(A) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(B) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(C) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity;

"(4) whose corporate membership that is open to any adult resident of a particular geographic area specified in the bylaws of the organization; and

"(5) whose board of directors—

"(A) includes a majority of members who are elected by the corporate membership; and

"(B) is composed of equal numbers of (i) lessees pursuant to paragraph (3)(B), (ii) corporate members who are not lessees, and (iii) any other category of persons described in the bylaws of the organization.".

(b) WOMEN IN HOMEBUILDING.—Section 233 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12773), as amended by subsection (a) of this section, is further amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) to achieve the purposes under paragraphs (1) and (2) by helping women who reside in low- and moderate-income neighborhoods rehabilitate and construct housing in the neighborhoods.".

(2) in subsection (b), by adding after paragraph (6) (as added by subsection (a)(2) of this section) the following:

"(7) FACILITATING WOMEN IN HOMEBUILDING PROFESSIONS.—Technical assistance may be made available to businesses, unions, and organizations involved in construction and rehabilitation of housing in low- and moderate-income areas to assist women residing in the area to obtain jobs involving such activities, which may include facilitating access by such women to, and providing, apprenticeship and other training programs regarding nontraditional skills, recruiting women to participate in such programs, providing continuing support for women at job sites, counseling and educating businesses regarding suitable work environments for women, providing information to such women regarding opportunities for establishing small housing construction and rehabilitation businesses, and providing materials and tools for training such women (in an

amount not exceeding 10 percent of any assistance provided under this paragraph). The Secretary shall give priority under this paragraph to providing technical assistance for organizations rehabilitating single family or multifamily housing owned or controlled by the Secretary pursuant to title II of the National Housing Act and which have women members in occupations in which women constitute 25 percent or less of the total number of workers in the occupation (in this section referred to as 'nontraditional occupations').";

(3) in subsection (c)(1)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking "or" at the end and inserting "and"; and

(C) by adding at the end the following:

"(E) in the case of activities under subsection (b)(7), is a community-based organization (as such term is defined in section 4 of the Job Training Partnership Act) or public housing agency, which has demonstrated experience in preparing women for apprenticeship training in construction or administering programs for training women for construction or other nontraditional occupations (and such organizations may use assistance for activities under such subsection to employ women in housing construction and rehabilitation activities to the extent that the organization has the capacity to conduct such activities); or"; and

(4) by adding at the end of subsection (e) the following: "The Secretary shall provide assistance under this section, to the extent applications are submitted and approved, to contractors in each of the geographic regions having a regional office of the Department of Housing and Urban Development.".

SEC. 214. LAND BANK REDEVELOPMENT.

(a) PRIORITIES FOR CAPACITY DEVELOPMENT.—Section 242 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12782) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(6) facilitate the establishment and efficient operation of land bank programs, under which title to vacant and abandoned parcels of real estate located in or causing blighted neighborhoods is cleared for use consistent with the purposes of this title.".

SEC. 215. RESEARCH IN PROVIDING AFFORDABLE HOUSING THROUGH INNOVATIVE BUILDING TECHNIQUES AND TECHNOLOGY.

The second sentence of section 244 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12784) is amended by inserting before the period at the end the following: ", through the use of cost-saving innovative building technology and construction techniques".

SEC. 216. USE OF INNOVATIVE BUILDING TECHNOLOGIES TO PROVIDE COST-SAVING HOUSING OPPORTUNITIES.

Subtitle D of title II of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12801 et seq.) is amended by adding at the end the following:

42 USC 12810.

"SEC. 260. COST-SAVING BUILDING TECHNOLOGIES AND CONSTRUCTION TECHNIQUES.

"(a) IN GENERAL.—The Secretary shall make available a model program to utilize cost-saving building technologies and construction techniques for purposes of providing homeownership and rental opportunities under this title.

"(b) SELECTION CRITERIA.—The Secretary shall establish criteria for participating jurisdictions to select projects for assistance under the model program which may include—

"(1) the extent to which innovative, cost-saving building and construction technologies are utilized;

"(2) the extent to which innovative, cost-saving construction techniques are utilized;

"(3) the extent to which units will be made available to low-income families and individuals;

"(4) the extent to which non-Federal public or private assistance is utilized; and

"(5) any other factor, determined by the Secretary to be appropriate.

"(c) GUIDELINES.—The Secretary shall publish guidelines for the model program under this section not later than 180 days after the date of the enactment of the Housing and Community Development Act of 1992.

"(d) REPORT.—The Secretary shall submit a biennial report to the Congress on the utilization of the model program under this section.".

SEC. 217. DEFINITION OF COMMUNITY HOUSING DEVELOPMENT ORGANIZATION.

(a) IN GENERAL.—Section 104(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(6)) is amended by adding at the end the following new flush material:

"In the case of an organization serving more than one county, the Secretary may not require that such organization, to be considered a community housing development organization for purposes of this Act, include as members on the organization's governing board low-income persons residing in each county served.".

42 USC 12704 note.

(b) TRANSITION RULE.—For the purposes of determining compliance with the requirements of section 104(6) of the Cranston-Gonzalez National Affordable Housing Act, the Secretary of Housing and Urban Development may provide an exception for organizations that meet the definition of community housing development organization, except for significant representation of low-income community residents on the board, if such organization fulfills such requirement within 6 months of receiving funds under title II of such Act or September 30, 1993, whichever is sooner.

SEC. 218. INCLUSION OF ECHO HOUSING IN DEFINITION OF HOUSING.

Section 104(8) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(8)) is amended by inserting before the period at the end the following: "and elder cottage housing

opportunity units that are small, free-standing, barrier-free, energy-efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

SEC. 219. ELIGIBILITY OF MANUFACTURED HOME OWNERS AS FIRST-TIME HOMEBUYERS.

Section 104(14) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704(14)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) an individual shall not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual owns or owned, as a principal residence during such 3-year period, a dwelling unit whose structure is—

"(i) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations, or

"(ii) not in compliance with State, local, or model building codes, or other applicable codes, and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.".

SEC. 220. ELIGIBILITY FOR ASSISTANCE AND CONTENTS OF STRATEGIES.

(a) HOMELESSNESS INFORMATION.—Section 105(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(2)) is amended—

(1) by inserting ", including rural homelessness," after "homelessness" the first place it appears; and

(2) by inserting "including tabular representation of such information," after "with homelessness,".

(b) ANTIDISPLACEMENT PLAN AND ANTIPOVERTY STRATEGY.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by striking paragraph (14) and inserting the following:

"(14) include a certification that the jurisdiction has in effect and is following a residential antidisplacement and relocation assistance plan that, in any case of any such displacement in connection with any activity assisted with amounts provided under title II, requires the same actions and provides the same rights as required and provided under a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 in the event of displacement in connection with a development project assisted under section 106 or 119 of such Act;".

(2) in paragraph (15), by striking the period at the end and inserting "; and" and

(3) by adding at the end the following:

"(16) for any housing strategy submitted for fiscal year 1994 or any fiscal year thereafter and taking into consideration factors over which the jurisdiction has control, describe the jurisdiction's goals, programs, and policies for reducing the number of households with incomes below the poverty line (as defined by the Office of Management and Budget and revised annually), and, in consultation with other appropriate

public and private agencies, state how the jurisdiction's goals, programs, and policies for producing and preserving affordable housing set forth in the housing strategy will be coordinated with other programs and services for which the jurisdiction is responsible and the extent to which they will reduce (or assist in reducing) the number of households with incomes below the poverty line; and".

(c) LINKAGE BETWEEN HOUSING NEED AND ALLOCATION OF HOUSING RESOURCES.—Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) by redesignating paragraphs (8) through (16) as paragraphs (9) through (17), respectively; and

(2) by inserting after paragraph (7) the following:

"(8) describe how the jurisdiction's plan will address the housing needs identified pursuant to subparagraphs (1) and (2), describe the reasons for allocation priorities, and identify any obstacles to addressing underserved needs;".

SEC. 221. LOCATION OF ACTIVITIES.

42 USC 12748.

Section 218(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12748a) is amended by inserting after "boundaries" the following: "or within the boundaries of contiguous jurisdictions in joint projects which serve residents from both jurisdictions".

42 USC 12704 note.

SEC. 222. REGULATIONS.

The Secretary of Housing and Urban Development shall issue any final regulations necessary to implement the provisions of this title and the amendments made by this title not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, except as expressly provided otherwise in this title and the amendments made by this title. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

42 USC 12704 note.

SEC. 223. RETROACTIVE APPLICATION OF HOME AMENDMENTS.

The amendments made by this title shall apply to unexpended funds allocated under title II of the Cranston-Gonzalez National Affordable Housing Act in fiscal year 1992, except as otherwise specifically provided.

TITLE III—PRESERVATION OF LOW-INCOME HOUSING

Subtitle A—Prepayment of Mortgages Insured Under National Housing Act

12 USC 4124.

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 234 of the Housing and Community Development Act of 1987 (12 U.S.C. 4124) is amended to read as follows:

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle

$638,252,784 for fiscal year 1993 and $665,059,401 for fiscal year 1994.

"(b) GRANTS.—Subject to approval in appropriation Acts, not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1993, and not more than $50,000,000 of the amounts made available under subsection (a) for fiscal year 1994, shall be available for grants under section 221(d)(2).".

SEC. 302. GUIDELINES FOR APPRAISALS OF PRESERVATION VALUE.

The first sentence of section 213(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4103(c)) is amended by inserting before "and costs" the following: "simultaneous termination of any Federal rental assistance,".

SEC. 303. SECOND NOTICE OF INTENT.

Section 216(d) of the Housing and Community Development Act of 1987 (12 U.S.C. 4106(d)) is amended by adding at the end the following new paragraph:

"(3) FILING WITH THE STATE OR LOCAL GOVERNMENT, TENANTS, AND MORTGAGEE.—Upon filing a second notice of intent under this subsection, the owner shall simultaneously file such notice of the intent with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located and with the mortgagee, and shall inform the tenants of the housing of the filing.".

SEC. 304. PLAN OF ACTION.

(a) SUPPORTING DOCUMENTATION REGARDING PLAN OF ACTION.—Section 217(a)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(a)(2)) is amended by inserting after the second sentence the following new sentence: "Each owner and the Secretary shall also, upon request, make available to the tenants of the housing and to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located all documentation supporting the plan of action, but not including any information that the Secretary determines is proprietary information.".

(b) SUPPORTING DOCUMENTATION REGARDING REVISIONS.—Section 217(c) of the Housing and Community Development Act of 1987 (12 U.S.C. 4107(c)) is amended in the second sentence by inserting before the period the following: "and make available to the Secretary and tenants all documentation supporting any revision, but not including any information that the Secretary determines is proprietary information".

SEC. 305. APPROVAL OF PLAN OF ACTION.

Section 218 of the Housing and Community Development Act of 1987 (12 U.S.C. 4108) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) STANDARDS AND PROCEDURE FOR WRITTEN FINDINGS.—

"(1) STANDARDS.—A written finding under subsection (a) shall be based on an analysis of the evidence considered by the Secretary in reaching such finding and shall contain documentation of such evidence.

"(2) PROCEDURE AND CRITERIA.—The Secretary shall, by regulation, develop (A) a procedure for determining whether Regulations.

the conditions under paragraphs (1) and (2) of subsection (a) exist, (B) requirements for evidence on which such determinations are based, and (C) criteria on which such determinations are based.".

SEC. 306. RECEIPT OF INCENTIVES TO EXTEND LOW-INCOME USE.

Section 219(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 4109(a)) is amended—

(1) in the first sentence, by inserting after "receive" the following: "(for each year after the approval of the plan of action)"; and

(2) by adding at the end the following new sentence: "The Secretary shall take such actions as are necessary to ensure that owners receive the annual authorized return for the housing determined under section 214(a) during the period in which rent increases are phased in as provided in section 222(a)(2)(E), including (in order of preference) (1) allowing the owner access to residual receipt accounts (pursuant to subsection (b)(1) of this section), (2) deferring remittance of excess rent payments, and (3) providing an increase in rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 (pursuant to subsection (b)(2) of this section).".

SEC. 307. TRANSFER TO QUALIFIED PURCHASERS.

(a) ELIGIBILITY FOR ASSISTANCE.—The matter preceding subparagraph (A) in section 220(d)(2) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)) is amended by inserting after "purchasers" the following: "(including all priority purchasers other than resident councils acquiring under the homeownership program authorized by section 226)".

(b) PROJECT OVERSIGHT.—Section 220(d)(2)(D) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(D)) is amended by inserting before the semicolon the following: ", and in the case of a priority purchaser, meet project oversight costs".

(c) RETURN.—Section 220(d)(2)(E) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(E)) is amended to read as follows:

"(E) receive a distribution equal to an 8 percent annual return on any actual cash investment (from sources other than assistance provided under this title) made to acquire or rehabilitate the project;".

(d) REIMBURSEMENT.—Section 220(d)(2)(F) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(2)(F)) is amended to read as follows:

"(F) in the case of a priority purchaser, receive a reimbursement of all reasonable transaction expenses associated with the acquisition, loan closing, and implementation of an approved plan of action; and".

(e) INCENTIVES.—Section 220(d)(3)(A) of the Housing and Community Development Act of 1987 (12 U.S.C. 4110(d)(3)(A)) is amended by striking "any residual receipts" and all that follows through "(b) or (c) and".

SEC. 308. CRITERIA FOR PLAN OF ACTION INVOLVING INCENTIVES.

(a) ELIMINATION OF WINDFALL PROFITS TEST.—Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 4112) is amended by striking subsection (e).

(b) RENT ADJUSTMENTS.—Section 222(a)(2)(G)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4112(a)(2)(G)(i)) is amended by striking "by making changes in the annual authorized return under section 214" and inserting the following: ", where the owner is a priority purchaser, to the portion of rent attributable to project oversight costs".

SEC. 309. RESIDENT HOMEOWNERSHIP PROGRAM.

Section 226(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4116(b)) is amended—

(1) in paragraph (2)—

(A) by inserting "AND LIMITATION ON CONDITIONS OF APPROVAL" before the period at the end of the paragraph heading; and

(B) by inserting after the period at the end the following new sentence: "The Secretary may not require the prepayment of the mortgage on eligible low-income housing for the approval of a plan of action involving a homeownership program for the housing.";

(2) in paragraph (3)—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the low-income affordability restrictions shall continue to apply to any rental units in the housing for any period during which such units remain rental units.";

(3) in paragraph (8), by striking "Resident" and inserting "Except in the case of limited equity cooperatives, resident"; and

(4) in paragraph (10)—

(A) by striking ", as determined by the Secretary,";

(B) by striking "section 222(d)" and inserting "section 222(c)"; and

(C) by striking the last sentence.

SEC. 310. DEFINITION OF ELIGIBLE LOW-INCOME HOUSING.

Section 229(1)(A)(i) of the Housing and Community Development Act of 1987 (12 U.S.C. 4119(1)(A)(i)) is amended by striking "assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937" and inserting "receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965".

SEC. 311. PREEMPTION OF STATE AND LOCAL LAWS.

The first sentence of section 232(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 4122(b)) is amended by striking "and" the first place it appears and inserting ", such as any law or regulation".

SEC. 312. TECHNICAL ASSISTANCE AND CAPACITY BUILDING.

Title II of the Housing and Community Development Act of 1987 (42 U.S.C. 4101 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle C—Technical Assistance and Capacity Building

12 USC 4141.

"SEC. 251. AUTHORITY.

"The Secretary of Housing and Urban Development may provide technical assistance and capacity building to further the preservation program established under this title.

12 USC 4142.

"SEC. 252. PURPOSES.

"The purposes of this subtitle are—

"(1) to promote the ability of residents of eligible low-income housing to meaningfully participate in the preservation process established by this title and affect decisions about the future of their housing;

"(2) to promote the ability of community-based nonprofit housing developers and resident councils to acquire, rehabilitate, and competently own and manage eligible housing as rental or cooperative housing for low- and moderate-income people; and

"(3) to assist the Secretary in discharging the obligation under section 220 to notify potential qualified purchasers of the availability of properties for sale and to otherwise facilitate the coordination and oversight of the preservation program established under this title.

12 USC 4143.

"SEC. 253. GRANTS FOR BUILDING RESIDENT CAPACITY AND FUNDING PREDEVELOPMENT COSTS.

"(a) IN GENERAL.—Assistance made available under this section shall be used for direct assistance grants to resident organizations and community-based nonprofit housing developers and resident councils to assist the acquisition of specific projects (including the payment of reasonable administrative expenses to participating intermediaries).

"(b) ALLOCATION.—30 percent of the assistance made available under this section shall be used for resident capacity grants in accordance with subsection (d). The remainder shall be used for predevelopment grants in connection with specific projects in accordance with subsection (e).

"(c) LIMITATION ON GRANT AMOUNTS.—A resident capacity grant under subsection (d) may not exceed $30,000 per project and a grant under subsection (e) for predevelopment costs may not exceed $200,000 per project, exclusive of any fees paid to a participating intermediary by the Secretary for administering the program.

"(d) RESIDENT CAPACITY GRANTS.—

"(1) USE.—Resident capacity grants under this subsection shall be available to eligible applicants to cover expenses for resident outreach, incorporation of a resident organization or council, conducting democratic elections, training, leadership development, legal and other technical assistance to the board of directors, staff and members of the resident organization or council.

"(2) ELIGIBLE HOUSING.—Grants under this subsection may be provided with respect to eligible low-income housing for which the owner has filed a notice of intent under subtitle B of this title or title II of the Emergency Low Income Housing

Preservation Act of 1987 (pursuant to section 604 of the Cranston-Gonzalez National Affordable Housing Act).

"(e) PREDEVELOPMENT GRANTS.—

"(1) USE.—Predevelopment grants under this subsection shall be made available to community-based nonprofit housing developers and resident councils to cover the cost of organizing a purchasing entity and pursuing an acquisition, including third party costs for training, development consulting, legal, appraisal, accounting, environmental, architectural and engineering, application fees, and sponsor's staff and overhead costs.

"(2) ELIGIBLE HOUSING.—Such grants may only be made available with respect to any eligible low-income housing project for which the owner has filed an initial notice of intent to transfer the housing to a qualified purchaser in accordance with section 220 of this title, or has filed a notice of intent and entered into a binding agreement to sell the housing to a resident organization or nonprofit organization.

"(3) PHASE-IN OF GRANT PAYMENTS.—Grant payments under this subsection shall be made in phases, based on performance benchmarks established by the Secretary in consultation with intermediaries selected under section 255(b).

"(f) GRANT APPLICATIONS.—Grant applications for assistance under subsections (d) and (e) shall be received monthly on a rolling basis and approved or rejected on at least a quarterly basis by intermediaries selected under section 255(b).

"(g) APPEAL.—If an application for assistance under subsections (d) or (e) is denied, the applicant shall have the right to appeal the denial to the Secretary and receive a binding determination within 30 days of the appeal.

"SEC. 254. GRANTS FOR OTHER PURPOSES. 12 USC 4144.

"The Secretary may provide grants under this subtitle—

"(1) to resident-controlled or community-based nonprofit organizations with experience in resident education and organizing for the purpose of conducting community, city or county wide outreach and training programs to identify and organize residents of eligible low-income housing; and

"(2) to State and local government agencies and nonprofit intermediaries for the purpose of carrying out such activities as the Secretary deems appropriate to further the preservation program established under this title.

"SEC. 255. DELIVERY OF ASSISTANCE THROUGH INTERMEDIARIES. 12 USC 4145.

"(a) IN GENERAL.—The Secretary shall approve and disburse assistance under section 253 through eligible intermediaries selected by the Secretary under subsection (b). If the Secretary does not receive an acceptable proposal from an intermediary offering to administer assistance under this section in a given State, the Secretary shall administer the program in such State directly.

"(b) SELECTION OF ELIGIBLE INTERMEDIARIES.—

"(1) IN GENERAL.—The Secretary shall develop criteria to select eligible intermediaries, through a competitive process, to administer assistance under this subtitle. The process shall include provision for a reasonable administrative fee.

"(2) PRIORITY.—With respect to all forms of grants available under section 253, such criteria shall give priority to applications from eligible intermediaries with demonstrated expertise

or experience with the program established under this title or under the Emergency Low Income Housing Preservation Act of 1987.

"(3) CRITERIA.—The criteria developed under this subsection shall—

"(A) not assign any preference or priority to applications from eligible intermediaries based on their previous participation in administering or receiving Federal grants or loans (but may exclude applicants who have failed to perform under prior contracts of a similar nature);

"(B) require an applicant to prepare a proposal that demonstrates adequate staffing, qualifications, prior experience, and a plan for participation; and

"(C) permit an applicant to serve as the administrator of assistance made available under section 253(d) or (e), based on the applicant's suitability and interest.

"(4) GEOGRAPHIC COVERAGE.—The Secretary may select more than 1 State or regional intermediary for a single State or region. The number of intermediaries chosen for each State or region may be based on the number of eligible low-income housing projects in the State or region, provided there is no duplication of geographic coverage by intermediaries in the administration of the direct assistance grant program.

"(5) NATIONAL NONPROFIT INTERMEDIARIES.—National nonprofit intermediaries shall be selected to administer the assistance made available under section 253 only with respect to States or regions for which no other eligible intermediary, acceptable to the Secretary, has submitted a proposal to participate.

"(6) PREFERENCE.—With respect to assistance made available under section 254, preference shall be given to eligible regional, State, and local intermediaries, over national nonprofit organizations.

"(c) CONFLICTS OF INTEREST.—Eligible intermediaries selected under subsection (b) to disburse assistance under section 253 shall certify that they will serve only as delegated program administrators, charged with the responsibility for reviewing and approving grant applications on behalf of the Secretary. Selected intermediaries shall—

"(1) establish appropriate procedures for grant administration and fiscal management, pursuant to standards established by the Secretary; and

"(2) receive a reasonable administrative fee, except that they may not provide other services to grant recipients with respect to projects that are the subject of the grant application and may not receive payment, directly or indirectly, from the proceeds of grants they have approved.

"(d) DEFINITION OF ELIGIBLE INTERMEDIARIES.—For purposes of this section, the term 'eligible intermediary' means a State, regional, or national organization (including a quasi-public organization) or a State or local housing agency that—

"(1) has as a central purpose the preservation of existing affordable housing and the prevention of displacement;

"(2) does not receive direct Federal appropriations for operating support;

"(3) in the case of a national nonprofit organization, has been in existence for at least 5 years prior to the date of

application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(4) in the case of a regional or State nonprofit organization, has been in existence for at least 3 years prior to the date of application and has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 or is otherwise a tax-exempt entity;

"(5) has a record of service to low-income individuals or community-based nonprofit housing developers in multiple communities and, with respect to intermediaries administering assistance under section 253, has experience with the allocation or administration of grant or loan funds; and

"(6) meets standards of fiscal responsibility established by the Secretary.

"SEC. 256. DEFINITIONS. 12 USC 4146.

"For purposes of this subtitle—

"(1) the term 'community-based nonprofit housing developer' means a nonprofit community development corporation that—

"(A) has been classified by the Internal Revenue Service as an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986;

"(B) has been in existence for at least 2 years prior to the date of the grant application;

"(C) has a record of service to low- and moderate-income people in the community in which the project is located;

"(D) is organized at the neighborhood, city, county or multi-county level; and

"(E) in the case of a corporation acquiring eligible housing under subtitle B of this title, agrees to form a purchaser entity that conforms to the definition of a community-based nonprofit organization under such subtitle and agrees to use its best efforts to secure majority tenant consent to the acquisition of the project for which grant assistance is requested; and

"(2) the terms 'eligible low-income housing', 'nonprofit organization', 'owner', and 'resident council' have the meanings given such terms in section 229.

"SEC. 257. FUNDING. 12 USC 4147.

"The Secretary shall use not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1993, and not more than $25,000,000 of the amounts made available under section 234(a) for fiscal year 1994, to carry out this subtitle. Of any amounts made available to carry out this subtitle in any appropriation Act, 90 percent shall be set aside for use in accordance with section 253 and 10 percent shall be set aside for use in accordance with subsection 254.".

SEC. 313. TRANSITION PROVISIONS.

(a) EFFECT OF ELECTION.—Section 604(a) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following sentence: "An owner that elects to be subject to the provisions of the Emergency Low

Income Housing Preservation Act of 1987 shall comply with section 212(b), section 217(a)(2), and section 217(c) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990.".

(b) CHANGES TO PROVISIONS OF 1987 ACT.—Section 604(c) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4101 note) is amended by adding at the end the following new sentence: "With respect to housing for which such an election is made—

"(1) in making incentives under section 224 of such Act available to such housing, the Secretary—

"(A) shall, for approvable plans of action, provide assistance sufficient to enable a nonprofit organization that has purchased or will purchase an eligible low income housing project to meet project oversight costs; and

"(B) may not refuse to offer incentives referred to in such section to any owner who filed a notice of intent under section 222 of such Act before October 15, 1991, based solely on the date of filing of the plan of action for the housing; and

"(2) the provisions of section 233(1)(A)(i) of such Act shall not apply, and the term 'eligible low income housing' shall, for purposes of such Act, shall include housing financed by a loan or mortgage that is insured or held by the Secretary or a State or State agency under section 221(d)(3) of the National Housing Act and receiving loan management assistance under section 8 of the United States Housing Act of 1937 due to a conversion from section 101 of the Housing and Urban Development Act of 1965.".

12 USC 4101 note.

SEC. 314. CONDITIONS OF ASSISTANCE.

(a) ELIHPA OF 1987.—The Secretary may not require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low income housing under the provisions of the Emergency Low Income Housing Preservation Act of 1987, and may not provide any preference or priority for such assistance for any applicant based on participation in such a program.

(b) LIHPRHA OF 1990.—The Secretary may require, as a condition of eligibility for or receipt of technical assistance made available under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992 (Public Law 102–139) (including any phase of a grant), that an applicant participate in a training program sponsored or conducted by the Department of Housing and Urban Development for acquisition of eligible low-income housing under this title, and may provide preference or priority for such assistance for applicants based on participation in such a program, but only if the program is made available on a nationwide basis not later than March 1, 1993.

Regulations. 12 USC 4117 note.

SEC. 315. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

The Secretary of Housing and Urban Development shall issue interim regulations implementing section 227 of the Housing and Community Development Act of 1987 (as amended by section 601(a) of the Cranston-Gonzalez National Affordable Housing Act) not

later than the expiration of the 30-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing such section 227 after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

SEC. 316. INSURANCE FOR SECOND MORTGAGE FINANCING.

(a) TERMS.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z-6(f)) is amended—

(1) in paragraph (2)(B)(i), by inserting after "equal to" the following: "the amount of rehabilitation costs required by the plan of action and related charges and";

(2) in paragraph (3)(B), by inserting after "1990" the following: "and the amount of rehabilitation costs required by the plan of action and related charges and";

(3) in paragraph (5)—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by striking subparagraph (A) and inserting the following new subparagraphs:

"(A)(i) in the case of equity loans, have a term not to exceed 40 years and amortization provisions which will, to the extent practicable, support the loan amount authorized under paragraph (2)(B); and

"(ii) in the case of acquisition loans, have a term of not less than 40 years; and

"(B) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee and be secured in such manner as the Secretary may require; and";

(4) by striking paragraph (6); and

(5) by redesignating paragraphs (7) through (9) as paragraphs (6) through (8), respectively.

(b) RENEGOTIATION.—Section 241(f) of the National Housing Act (12 U.S.C. 17z-6(f)) is amended by adding at the end the following new paragraph: 12 USC 1715z-6.

"(10) The Secretary shall renegotiate and modify the terms of an equity loan insured under this subsection, at the request of the owner of the project for which the loan is made, if—

"(1) the loan was made during the period beginning 30 days before the date of the enactment of the Housing and Community Development Act of 1992 and ending 90 days after such date of enactment under this subsection; and

"(2) the loan was made pursuant to a plan of action under the provisions of the Emergency Low Income Housing Preservation Act of 1987 and accepted by the Secretary for processing in December 1991.".

(c) REGULATIONS.—Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, the Secretary shall issue regulations implementing section 241(f)(1) of the National Housing Act. The regulations shall not be subject 12 USC 1715z-6 note.

to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.

SEC. 317. TECHNICAL AMENDMENTS.

(a) LOW-INCOME HOUSING PRESERVATION AND RESIDENT HOMEOWNERSHIP ACT OF 1990.—The Housing and Community Development Act of 1987 (12 U.S.C. 4101 et seq.) is amended—

12 USC 4105. (1) in section 215(a)(2), by inserting "Housing" after "United States";

12 USC 4106. (2) in section 216(b)(4), by striking "exceeds" and inserting "exceed";

12 USC 4111. (3) in the second sentence of section 221(c), by striking "that" and inserting "than";

12 USC 4112. (4) in section 222—

(A) in subsection (a)(2)(A), by striking "low income" and inserting "low-income";

(B) in subsection (c)(2), by striking "an hearing" and inserting "a hearing";

(C) in subsection (d)(2)(B), by inserting "the" after "that"; and

(D) in subsection (d)(2)(C)(ii), by inserting "in" before "default";

12 USC 4119. (5) in section 229(11)(A), by striking "resident" and inserting "residents"; and

12 USC 4121. (6) in section 231(b), by striking "section 222(d)" and inserting "section 222(c)".

(b) CRANSTON-GONZALEZ NATIONAL AFFORDABLE HOUSING ACT.—Section 613(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 4125(b)(2)) is amended by striking "section 224(e)" and inserting "section 222(d)".

(c) NATIONAL HOUSING ACT.—Section 241(f) of the National Housing Act (12 U.S.C. 1715z–6(f)) is amended—

(1) in paragraph (2)(B)(ii), by striking "and" at the end; and

(2) in paragraph (7), by striking "acquisiton loan" and inserting "acquisition loan".

12 USC 4109 note.

SEC. 318. STUDY OF PROJECTS ASSISTED UNDER FLEXIBLE SUBSIDY PROGRAM.

(a) STUDY.—The Secretary shall conduct a study of housing projects that (1) are assisted under section 236 of the National Housing Act or the proviso of section 221(d)(5) of such Act, and (2) have received or are receiving assistance under section 201 of the Housing and Community Development Amendments of 1978, to determine the cost of providing such projects with incentives under the Low-Income Housing Preservation and Resident Homeownership Act of 1990. The study shall examine any projects portions of which assisted under such section 236 that are assisted primarily by State agencies.

(b) REPORT.—The Secretary shall submit a report to the Congress regarding any findings and conclusions of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

Subtitle B—Other Preservation Provisions

SEC. 331. ELIGIBILITY OF PUBLIC MORTGAGORS FOR SECTION 236 MORTGAGE INSURANCE.

Section 236(j)(4)(A) of the National Housing Act (12 U.S.C. 1715z–1(j)(4)(A)) is amended by striking "private".

SEC. 332. REGULATIONS.

12 USC 4101 note.

Except as otherwise provided in this title, the Secretary of Housing and Urban Development shall issue interim regulations implementing this title and the amendments made by this title not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall take effect upon issuance. The Secretary shall issue final regulations implementing this title and the amendments made by this title after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

TITLE IV—MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

SEC. 401. DEFINITIONS.

12 USC 1715z–1a note.

For purposes of this title:

(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term "covered multifamily housing property" means any housing—

(A) that is—

(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959;

(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act);

(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act; and

(B) that is not eligible for assistance under—

(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990;

(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 (as in effect imme-

diately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act); or

(iii) the HOME Investment Partnerships Act.

(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term "covered multifamily housing property for the elderly" means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

12 USC 1715z-1a note.

SEC. 402. REQUIRED SUBMISSION.

(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title.

(b) TIMING.—The Secretary shall require the owners of approximately one-third of the aggregate number of covered multifamily housing properties, and the owners of approximately one-third of the aggregate number of covered multifamily housing properties for the elderly, to submit the comprehensive needs assessments under this section for the properties in each of fiscal years 1993, 1994, and 1995, in a manner designed to ensure that upon the conclusion of fiscal year 1995 the assessments for all such properties have been submitted.

12 USC 1715z-1a note.

SEC. 403. CONTENTS.

(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

(4) A description of any assistance needed for the property under programs administered by the Secretary.

(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

(2) A description of any modernization needs and activities for the property.

(3) A description of any personnel needs for the property.

SEC. 404. SUBMISSION AND REVIEW.

12 USC 1715z-1a note.

(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

(d) REVIEW.—The Secretary shall review each comprehensive needs assessment and shall approve the assessment before the expiration of the 90-day period beginning upon the receipt of the assessment, unless the Secretary determines that the assessment has not been provided in a substantially complete manner.

(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

(f) NOTICE.—The Secretary shall immediately notify each owner submitting a comprehensive needs assessment (and any State housing finance agency to which the owner has submitted an assessment under subsection (d)) of the approval or disapproval of the assessment upon making such determination. Within 30 days after disapproving any assessment, the Secretary shall inform the owner in writing of the reasons for disapproval. The Secretary shall require any owner whose assessment is disapproved to resubmit an amended assessment not later than 30 days after the owner receives the notice of disapproval.

(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance

with cost-containment requirements established by the Secretary;

(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act.

(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.

SEC. 405. TROUBLED MULTIFAMILY HOUSING.

(a) MANDATORY ELEMENTS.—Section 201(d) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(d)) is amended—

(1) in paragraph (5), by striking "and";

(2) in paragraph (6), by striking the period and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

"(8) the project has a feasible plan to involve the residents in project decisions;

"(9) the affirmative fair housing marketing plan meets applicable requirements; and

"(10) the owner certifies that it will comply with various equal opportunity statutes.".

(b) SELECTION CRITERIA.—

(1) REPEAL OF SECTION 201(k)(4).—Section 201(k)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(k)(4)) is repealed.

(2) NEW CRITERIA.—Section 201 of the Housing and Community Development Amendments of 1978 is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

"(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

"(B) The extent to which the project is financially troubled.

"(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment

submitted in accordance with title IV of the Housing and Community Development Act of 1992.

"(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

"(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

"(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

"(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.".

(c) LOW-INCOME AFFORDABILITY RESTRICTIONS.—Section 201(l)(2)(D) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(l)(2)(D)) is amended by adding at the end the following: "The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term 'remaining useful life' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.".

(d) EXCLUSIVITY OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(o) Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.".

(e) OWNER CONTRIBUTIONS.—Section 201(k)(2) of the Housing and Community Development Amendments of 1978 is amended—

(1) in subparagraph (B), by striking "and";

(2) in subparagraph (C), by striking the period and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.".

(f) COORDINATION OF ASSISTANCE.—Section 201 of the Housing and Community Development Amendments of 1978, as amended by this section, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section

8(v) of the United States Housing Act of 1937 and section 203 of this Act to enhance the cost effectiveness of the Federal response to troubled multifamily housing.".

SEC. 406. FLEXIBLE SUBSIDY PROGRAM.

Section 201(d)(6) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(d)(6)) is amended by inserting before the period at the end the following: "; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved".

SEC. 407. CAPACITY STUDY.

Section 110(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12710(a)) is amended—

(1) by striking ", and"; and

(2) by striking the period at the end and inserting the following: ", and the ability to respond to areas identified as 'material weaknesses' by the Office of the Inspector General in financial audits or other reports.".

SEC. 408. FLEXIBLE SUBSIDY PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(j)(5) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a(j)(5)) is amended to read as follows:

"(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $54,392,400 for fiscal year 1994.".

(b) USE OF SECTION 236 RENTAL ASSISTANCE FUND AMOUNTS FOR FLEXIBLE SUBSIDY PAYMENTS.—Section 236(f)(3) of the National Housing Act (12 U.S.C. 1715z–1a(f)(3)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

12 USC 1715z–1.

TITLE V—MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET

Subtitle A—FHA Mortgage Insurance Programs

SEC. 501. LIMITATION ON INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f–9(b)) is amended to read as follows:

"(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and to the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of $65,905,824,960 during fiscal year 1993 and $68,673,868,600 during fiscal year 1994.".

SEC. 502. FEDERAL HOUSING ADMINISTRATION ADVISORY BOARD.

Section 202(b) of the National Housing Act (12 U.S.C. 1708(b)) is amended by adding at the end the following new paragraph:

"(11) The Board shall terminate on January 1, 1995.".

SEC. 503. MAXIMUM MORTGAGE AMOUNT.

(a) IN GENERAL.—The first sentence of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of $25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of $25,000 but not in excess of $125,000; and

"(iii) 90 percent of such value in excess of $125,000.".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only to mortgages executed on or after January 1, 1993. 12 USC 1709 note.

(c) CONFORMING AMENDMENTS.—

(1) TITLE I—LOANS.—Notwithstanding any other provision of law, section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended by striking subparagraphs (C), (D), and (E) and inserting the following new subparagraphs:

"(C) $48,600 if made for the purpose of financing the purchase of a manufactured home;

"(D) $64,800 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and

"(E) $16,200 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.".

(2) HOME EQUITY CONVERSION MORTGAGES FOR ELDERLY HOMEOWNERS.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "for a 1-family residence" and inserting "for 1-family residences in the area

in which the dwelling subject to the mortgage under this section is located".

(3) RTC AFFORDABLE HOUSING PROGRAM.—Subparagraphs (D)(ii) and (G)(II) of section 21A(c)(9) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: "$67,500 in the case of a 1-family residence, $76,000 in the case of a 2-family residence, $92,000 in the case of a 3-family residence, and $107,000 in the case of a 4-family residence".

(4) FDIC AFFORDABLE HOUSING PROGRAM.—Paragraphs (4)(B) and (7)(B) of section 40(p) of the Federal Deposit Insurance Act (12 U.S.C. 1831q(p)) are each amended to read as follows:

"(B) that has an appraised value that does not exceed the amount provided in section 203(b)(2)(A) of the National Housing Act except that such amount shall not exceed $101,250 in the case of a 1-family residence, $114,000 in the case of a 2-family residence, $138,000 in the case of a 3-family residence, and $160,000 in the case of a 4-family residence."

(d) GAO STUDY ON FHA LOAN LIMITS AND GSE CONFORMING LOAN LIMITS.—

Reports.

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, on or before September 1, 1993, a report which evaluates the methodology used to establish the annual conforming loan limits for the secondary market, pursuant to section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act, as well as the loan limits adjustments utilized under the single family mortgage insurance program under section 203 of the National Housing Act.

(2) CONTENTS.—The report shall—

(A) evaluate the methodology used to determine the annual adjustment to the conforming loan limit, including the accuracy of using the Mortgage Interest Rate Survey (MIRS) in determining the median home sales price each year;

(B) recommend any legislative or administrative changes to ensure that the conforming loan limits accurately reflect market dynamics;

(C) assess the long-term consequences of indexing the mortgage limits utilized under the FHA section 203(b) single family mortgage insurance program to the annual adjustments to the conforming loan limits for the secondary market;

(D) assess the impact of such annual adjustments on the ability of the FHA single family insurance program to serve low and moderate income borrowers; and

(E) recommend alternative measures that could be employed to ensure that FHA can meet the needs of low and moderate income families in low and high cost areas of the country.

SEC. 504. FHA ANNUAL REPORT.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following:

"(v) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

"(1) an analysis of the income groups served by the single family insurance program, including—

"(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

"(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

"(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

"(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

"(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

"(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

SEC. 505. MAXIMUM PRINCIPAL OBLIGATION OF MORTGAGES FOR VETERANS.

(a) IN GENERAL.—The first sentence of the last undesignated paragraph of section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking "Notwithstanding any other provision of this paragraph," and inserting "Except with respect to mortgages executed by mortgagors who are veterans,".

(b) TECHNICAL AMENDMENT.—Section 203(b)(9) of the National Housing Act (12 U.S.C. 1709(b)(9)) is amended by striking "(except in a case to which the next to the last sentence of paragraph (2) applies)" and inserting "(except with respect to a mortgage executed by a mortgagor who is a veteran)".

SEC. 506. PREPURCHASE COUNSELING REQUIREMENT.

(a) IN GENERAL.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting at the end the following new undesignated paragraph:

"Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to mortgages for which commitments for insurance

12 USC 1709 note.

are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 507. AUTHORITY TO DECREASE INSURANCE PREMIUM CHARGES.

(a) PERMANENT PROVISIONS.—Section 203(c)(2) of the National Housing Act (12 U.S.C. 1709(c)(2)) is amended—

(1) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(2) in subparagraph (B)—

(A) in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(B) in clause (ii), by striking "equal to 0.55 percent" and inserting "not exceeding 0.55 percent".

(b) TRANSITION PROVISIONS.—Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 (12 U.S.C. 1709 note) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding"; and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "equal to" and inserting "not exceeding"; and

(B) in subparagraph (B), in the matter preceding clause (i), by striking "equal to" and inserting "not exceeding".

SEC. 508. STATUTE OF LIMITATIONS ON PAYMENT OF DISTRIBUTIVE SHARES.

(a) DISTRIBUTION OF SHARES.—Section 205(c) of the National Housing Act (12 U.S.C. 1711(c)) is amended by adding at the end the following two new sentences: "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.".

12 USC 1711 note.

(b) EXCEPTION.—Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act, the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act in accordance with procedures in effect on such date.

SEC. 509. MORTGAGE LIMITS FOR MULTIFAMILY PROJECTS.

(a) SECTION 207 LIMITS.—Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(b) SECTION 213 LIMITS.—Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(c) SECTION 220 LIMITS.—Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(d) SECTION 221(d)(3) LIMITS.—Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended by striking "$28,032", "$32,321", "$38,979", "$49,893", "$55,583", "$29,500", "$33,816", "$41,120", "$53,195", and "$58,392" and inserting "$33,638", "$38,785", "$46,775", "$59,872", "$66,700", "$35,400", "$40,579", "$49,344", "$63,834", and "$70,070", respectively. 12 USC 1715*l*.

(e) SECTION 221(d)(4) LIMITS.—Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended by striking "$25,228", "$28,636", "$34,613", "$43,446", "$49,231", "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$30,274", "$34,363", "$41,536", "$52,135", "$59,077", "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

(f) SECTION 231 LIMITS.—Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(1) by striking "$23,985", "$26,813", "$32,019", "$38,532", and "$45,300" and inserting "$28,782", "$32,176", "$38,423", "$46,238", and "$54,360", respectively; and

(2) by striking "$27,251", "$31,239", "$37,986", "$49,140", and "$53,942" and inserting "$32,701", "$37,487", "$45,583", "$58,968", and "$64,730", respectively.

(g) SECTION 234 LIMITS.—Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(1) by striking "$25,350", "$28,080", "$33,540", "$41,340", and "$46,800" and inserting "$30,420", "$33,696", "$40,248", "$49,608", and "$59,160", respectively; and

(2) by striking "$29,250", "$32,760", "$40,170", "$50,310", and "$56,885" and inserting "$35,100", "$39,312", "$48,204", "$60,372", and "$68,262", respectively.

(h) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g), which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act. 12 USC 1713 note.

(i) CONFORMING AMENDMENTS.—Clauses (i)(II) and (ii)(II) of section 21A(c)(9)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(9)(E)) are each amended by striking "the applicable dollar amount" and all that follows through "areas)" and inserting the following: ", for such part of the property as may be attributable

to dwelling use (excluding exterior land improvements), $29,500 per family unit without a bedroom, $33,816 per family unit with 1 bedroom, $41,120 per family unit with 2 bedrooms, $53,195 per family unit with 3 bedrooms, and $58,392 per family unit with 4 or more bedrooms".

SEC. 510. INSURANCE OF LOANS FOR OPERATING LOSSES OF MULTIFAMILY PROJECTS.

Section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)) is amended by adding at the end the following new paragraph:

"(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before the date of the enactment of the Housing and Community Development Act of 1992 and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.".

SEC. 511. ELIGIBILITY OF ASSISTED LIVING FACILITIES FOR MORTGAGE INSURANCE UNDER SECTION 232.

(a) PURPOSE.—Section 232(a) of the National Housing Act (12 U.S.C. 1715w(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "either" and inserting "any"; and

(2) by adding at the end the following new paragraph:

"(3) The development of assisted living facilities for the care of frail elderly persons.".

(b) DEFINITIONS.—Section 232(b) of the National Housing Act (12 U.S.C. 1715w(b)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'assisted living facility' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

"(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

"(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to

residents home health care services, such as nursing and therapy; and

"(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

"(7) the term 'frail elderly person' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(c) MORTGAGE REQUIREMENTS.—Section 232(d) of the National Housing Act (12 U.S.C. 1715w(d)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting ", assisted living facility," before "or intermediate care facility";

(B) by striking "combined nursing home and intermediate care facility" and inserting "any combination of nursing home, assisted living facility, and intermediate care facility"; and

(C) by inserting after "intermediate care facility" the first place it appears the following: ", including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,";

(2) in paragraph (2), in the matter preceding subparagraph (A), by inserting "or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 221(d)(3) of this Act)," before "including";

(3) in paragraph (3), by adding at the end the following: "The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and

(4) in paragraph (4), by adding at the end the following new subparagraph:

"(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

"(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

"(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

"(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.".

(d) FIRE SAFETY EQUIPMENT.—Section 232(i)(1) of the National Housing Act (12 U.S.C. 1715w(i)(1)) is amended by inserting ", assisted living facilities," after "nursing homes".

(e) ADMINISTRATION.—Section 232 of the National Housing Act (12 U.S.C. 1715w) is amended by adding at the end the following new subsection:

"(j) The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.".

Reports.

(f) AUTHORITY TO INSURE REFINANCING.—Section 223(f) of the National Housing Act (12 U.S.C. 1715n(f)) is amended by inserting "existing assisted living facility," after "existing nursing home," each place it appears.

SEC. 512. EXPEDITING INSURANCE FOR ACQUISITION OF RESOLUTION TRUST CORPORATION PROPERTY.

(a) IN GENERAL.—Section 534 of the National Housing Act (12 U.S.C. 1735f–12) is amended—

(1) by inserting "(a) STATE OFFICES.—" after "534."; and

(2) by adding at the end the following new subsection:

"(b) EXPEDITED PROCEDURE FOR RTC PROPERTIES.—To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this Act that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.".

Regulations.
12 USC 1735f–12.

(b) IMPLEMENTATION.—The procedure referred to in the amendment made by subsection (a) shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

42 USC 12712 note.

SEC. 513. ENERGY EFFICIENT MORTGAGES PILOT PROGRAM.

(a) ESTABLISHMENT OF PILOT PROGRAM.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) PILOT PROGRAM.—The pilot program established under this subsection shall include the following criteria, where applicable:

(A) ORIGINATION.—The lender shall originate a housing loan that is insured under title II of the National Housing Act in accordance with the applicable requirements.

(B) APPROVAL.—The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) COST OF IMPROVEMENTS.—The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

(i) 5 percent of the property value (not to exceed $8,000); or

(ii) $4,000.

(3) AUTHORITY FOR MORTGAGEES.—In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) PROMOTION OF PILOT PROGRAM.—The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) TRAINING PROGRAM.—Not later than 9 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection. Establishment.

(6) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the pilot program nationwide.

Reports.

(b) EXPANSION OF PROGRAM.—Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act or title 38, United States Code, that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) RULE OF CONSTRUCTION.—This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 514. STUDY REGARDING HOME WARRANTY PLANS.

12 USC 1701j-1 note.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall conduct a study of home and builder's warranties and protection plans regarding the construction of, and materials used in, 1- to 4-family dwellings subject to mortgages insured under title II of the National Housing Act.

(b) SCOPE OF STUDY.—The study shall analyze—

(1) the extent to which home sellers and builders use such warranties and plans,

(2) how such warranties and plans affect the single family mortgage insurance program under the National Housing Act and the solvency of the Mutual Mortgage Insurance Fund,

(3) any effects on homeowners of reliance upon such warranties and plans,

(4) the cost of inspections of mortgaged homes not covered by such warranties or plans,

(5) how quickly the issuers of such warranties and plans pay claims to homeowners under the warranties and plans,

(6) how well such warranties and plans provide for the prevention of structural damage before damage occurs,

(7) how responsive the issuers are to homeowner complaints,

(8) the extent to which homeowners are adequately informed of the extent of insurance coverage, the complaint procedures, and the arbitration procedures available to them under such warranties and plans,

(9) the extent to which the arbitration process used to settle claims under such warranties and plans provides fair and reasonable relief for homeowners,

(10) how well homeowners are informed of their right to appeal the decision of such arbitrators to the Secretary,

(11) whether the reporting and inspection requirements to which such warranties and plans are subject provide the Secretary with sufficient information to verify that such warranties and plans are acceptable,

(12) whether dwellings covered by such warranties and plans satisfy all requirements which would have been applicable if such dwellings had been approved for mortgage insurance by the Secretary before the beginning of construction, and

(13) any other issues relating to such warranties and plans that the Secretary considers appropriate.

(c) REPORT.—The Secretary shall submit a report to the Congress regarding the findings of the study and any recommendations of the Secretary resulting from the study, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act.

SEC. 515. EXPENDITURES TO CORRECT DEFECTS.

Section 518(a) of the National Housing Act (12 U.S.C. 1735b(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as subparagraphs (A) through (C), respectively; and

(2) by striking out "The Secretary" and all that follows through "make expenditures for" and inserting in lieu thereof the following:

"(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

"(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

"(B) was approved, before the beginning of construction, for mortgage insurance under this Act or for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

"(C) the Secretary finds to have structural defects.

"(2) Expenditures under this subsection may be made for".

SEC. 516. PAYMENT OF MORTGAGE INSURANCE CLAIMS.

(a) PAYMENT OF INSURANCE.—Section 204 of the National Housing Act (12 U.S.C. 1710) is amended—

(1) in the fifth sentence of subsection (a), by striking ", subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value" and insert in lieu thereof the following: "issue to the mortgagee debentures having a par value";

(2) by striking subsection (c) and inserting the following: "(c) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.";

(3) in the first sentence of subsection (d)—

(A) by striking "executed" and inserting "issued"; and

(B) by striking ", shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and inserting the following: "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations"; and

(4) by striking in the fifth sentence of subsection (d) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty".

(b) RENTAL HOUSING INSURANCE.—Section 207 of the National Housing Act (12 U.S.C. 1713) is amended—

(1) by striking in the second sentence of subsection (g) ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value" and inserting the following: "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value";

(2) by striking in the first sentence of subsection (i) "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following:

"shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(3) by striking in the fourth sentence of subsection (i) "and such guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, such guaranty"; and

(4) by striking subsection (j) and inserting the following: "(j) Debentures issued under this section—

"(1) shall be in such form and amounts;

"(2) shall be subject to such terms and conditions;

"(3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and

"(4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.".

(c) REHABILITATION AND NEIGHBORHOOD CONSERVATION HOUSING INSURANCE.—Section 220(h) of the National Housing Act (12 U.S.C. 1715k) is amended—

(1) by striking in the first sentence of paragraph (7), "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable" and inserting the following: "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations";

(2) by striking in the fourth sentence of paragraph (h)(7) "and the guaranty" and inserting the following: "and, in the case of debentures issued in certificated registered form, the guaranty";

(3) by striking the sixth sentence of paragraph (7), and inserting the following: "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations."; and

(4) by striking the last sentence of paragraph (7).

(d) HOUSING FOR MODERATE INCOME AND DISPLACED FAMILIES.—The second sentence of section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715l(g)(4)(A)) is amended by striking ", subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value" and inserting the following: "issue to the mortgagee debentures having a par value". 12 USC 1715*l*.

SEC. 517. COVERAGE OF THE MULTIFAMILY MORTGAGE FORECLOSURE ACT.

(a) PURPOSES.—Section 362 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3701) is amended—

(1) in subsection (a)(1), by striking "real estate" and all that follows through "properties" and inserting: "multifamily mortgages"; and

(2) in subsection (b), by striking "multiunit" and all that follows through "1964" and inserting "multifamily mortgages".

(b) DEFINITION.—Section 363(2) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3702(2)) is amended to read as follows:

"(2) 'multifamily mortgage' means a mortgage held by the Secretary pursuant to—

"(A) section 608 or 801, or title II or X, of the National Housing Act;

"(B) section 312 of the Housing Act of 1964, as it existed immediately before its repeal by section 289 of the Cranston-Gonzalez National Affordable Housing Act;

"(C) section 202 of the Housing Act of 1959, as it existed immediately before its amendment by section 801 of the Cranston-Gonzalez National Affordable Housing Act;

"(D) section 202 of the Housing Act of 1959, as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act; and

"(E) section 811 of the Cranston-Gonzalez National Affordable Housing Act.".

(c) PREREQUISITES TO FORECLOSURE.—The last sentence of section 366 of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3705) is amended by striking "status" and all that follows through "rents" and inserting the following: "status, relief under an assignment of rents, or transfer to a nonprofit entity pursuant to section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act) or section 811 of the Cranston-Gonzalez National Affordable Housing Act".

(d) NOTICE.—Section 367(b)(1) of the Multifamily Mortgage Foreclosure Act of 1981 (12 U.S.C. 3706(b)(1)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2)(A), the Secretary may require, as a condition and term of sale, that the purchaser at a foreclosure sale under this part agree to continue to operate the security property in accordance with the terms of the program under which the mortgage insurance or assistance was provided, or any applicable regulatory or other agreement in effect with respect to such property immediately prior to the time of foreclosure sale.".

SEC. 518. MORTGAGEE REVIEW BOARD.

Section 202(c)(3)(C) of the National Housing Act (12 U.S.C. 1708(c)(3)(C)) is amended—

(1) by inserting "temporarily" after "order";

(2) by inserting "(i)" after "Administration if";

(3) by inserting "(ii)" after "violations and"; and

(4) by striking the period after "6 months" and inserting the following: ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended.".

SEC. 519. DEFINITION OF MORTGAGEE.

Section 202(c) of the National Housing Act (12 U.S.C. 1708(c)) is amended—

(1) by striking paragraph (6)(D); and

(2) by redesignating paragraph (7) as paragraph (8), and inserting the following after paragraph (6):

"(7) DEFINITION OF 'MORTGAGEE'.—For purposes of this subsection, the term 'mortgagee' means—

"(A) a mortgagee approved under this Act;

"(B) a lender or a loan correspondent approved under title I of this Act;

"(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

"(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.".

SEC. 520. EXEMPTION FROM SECTION 137(b) OF THE TRUTH IN LENDING ACT.

Section 255(j) of the National Housing Act (12 U.S.C. 1715z–20(j)) is amended by adding at the end the following: "Section 137(b) of the Truth in Lending Act (15 U.S.C. 1647(b)) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.".

Subtitle B—Secondary Mortgage Market Programs

SEC. 531. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $88,000,000,000 during fiscal year 1993 and $91,696,000,000 during fiscal year 1994. There is authorized to be appropriated such sums as may be necessary to cover the costs (as such term is defined in section 502 of the Congressional Budget Act of 1974) of guarantees issued under this Act by the Association.". Appropriation authorization.

SEC. 532. AUTHORITY FOR GNMA TO MAKE HARDSHIP INTEREST PAYMENTS.

Section 306(g)(1) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(1)) is amended by inserting after the period at the end of the third sentence the following new sentence: "In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor.".

Multifamily Housing Finance Improvement Act.
12 USC 1707.

Subtitle C—Improvement of Financing for Multifamily Housing

SEC. 541. SHORT TITLE.

This subtitle may be cited as the "Multifamily Housing Finance Improvement Act".

SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) RISK-SHARING PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a pilot program through the Federal Housing Administration to provide for risk sharing related to mortgages on multifamily housing.

(2) AUTHORITY FOR REINSURANCE AGREEMENTS.—The Secretary may enter into reinsurance agreements (as such term is defined in section 544) with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, qualified housing finance agencies, and the Federal Housing Finance Board. The agreements may provide for risk-sharing and other forms of credit enhancement with respect to mortgage lending on multifamily housing, including reinsurance with respect to pools of loans on multifamily housing properties, that the Secretary determines to be appropriate to carry out the purposes of this subsection. The agreements shall be in a form and have such terms and conditions as the Secretary determines to be appropriate to carry out the purposes of this subsection.

(3) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit

enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

(4) ELIGIBILITY STANDARDS.—The Secretary shall establish and enforce standards for financial institutions and entities to be eligible to enter into reinsurance agreements under this subsection, as the Secretary determines to be appropriate.

(5) FUNDING.—Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

(6) FEES.—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

(7) NON-FEDERAL PARTICIPATION.—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

(8) TIMING.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8-month period beginning on the date of the enactment of this Act.

(c) HOUSING FINANCE AGENCY PILOT PROGRAM.—

(1) IN GENERAL.—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

(2) PILOT PROGRAM REQUIREMENTS.—

(A) IN GENERAL.—In carrying out the pilot program authorized under this subsection, the Secretary shall enter

into risk-sharing agreements with qualified housing finance agencies.

(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.

(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

(3) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

(4) LIMITATION ON INSURANCE AUTHORITY.—Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994,

and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

(5) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

(7) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by very low-income families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986.

(8) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

(d) INDEPENDENT STUDIES AND REPORTS.—

(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act.

(3) SECRETARY.—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

(4) COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section.

The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act.

(5) FEDERAL HOUSING FINANCE BOARD.—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act, and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the "Task Force").

(c) MEMBERSHIP OF TASK FORCE.—

(1) FEDERAL OFFICIALS.—The Task Force shall be composed of—

(A) the Secretary of Housing and Urban Development;

(B) the Chairperson of the Federal Housing Finance Board;

(C) the Comptroller of the Currency;

(D) the Chairman of the Board of Governors of the Federal Reserve System;

(E) the Director of the Office of Thrift Supervision;

(F) the Chairperson of the Federal Deposit Insurance Corporation;

(G) the Chairperson of the Federal National Mortgage Association; and

(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

(A) 1 individual who is a representative of a State housing finance agency;

(B) 1 individual who is a representative of a local housing finance agency;

(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

(C) 1 individual who is a representative from a nationally recognized rating agency.

(d) ADMINISTRATION.—

(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

(e) FUNCTIONS OF THE TASK FORCE.—

(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act, the Task Force shall submit to the

Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

(f) AUTHORITY OF TASK FORCE.—

(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

(2) ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

(A) all information obtained shall be used only for the purposes authorized in this section;

(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $6,000,000 for fiscal year 1993 and $6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

SEC. 544. DEFINITIONS.

For purposes of this subtitle:

(1) The term "multifamily housing" means a property consisting of more than 4 dwelling units.

(2) The term "qualified housing finance agency" means any State or local housing finance agency that—

(A) carries the designation of "top tier" or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of "A" for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term "reinsurance agreement" means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

TITLE VI—HOUSING FOR ELDERLY PERSONS AND PERSONS WITH DISABILITIES

Subtitle A—Supportive Housing Programs

SEC. 601. FUNDING FOR SUPPORTIVE HOUSING FOR THE ELDERLY AND FOR PERSONS WITH DISABILITIES.

Appropriation authorization.

(a) AGGREGATE FUNDING.—There are authorized to be appropriated for the purpose of providing assistance in accordance with section 202 of the Housing Act of 1959 and section 811 of the Cranston-Gonzalez National Affordable Housing Act, $1,309,853,000 for fiscal year 1993 and $1,364,866,826 for fiscal year 1994.

(b) ALLOCATION.—Of any amounts made available for assistance under the sections referred to in subsection (a), 70 percent of such amount shall be used for assistance in accordance with section 202 of the Housing Act of 1959 and 30 percent of such amount shall be used for assistance in accordance with section 811 of the Cranston-Gonzalez National Affordable Housing Act.

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(l) of the Housing Act of 1959 (12 U.S.C. 1701q(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).''; and

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).";

(4) in paragraph (3), by striking "under this subtitle" and inserting "for assistance under this section".

(d) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(l) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(l)) is amended—

(1) by striking "AUTHORIZATIONS.—" and inserting "ALLOCATION OF FUNDS.—";

(2) in paragraph (1)—

(A) by striking the first sentence and inserting the following new sentence: "Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1).";

(B) in the second sentence, by striking "Amounts so appropriated" and inserting "Such amounts";

(3) by striking paragraph (2) and inserting the following new paragraph:

"(2) PROJECT RENTAL ASSISTANCE.—Of any amounts made available for assistance under subsection (b), such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).";

(4) by redesignating paragraphs (1) and (2) (as so amended) as paragraphs (2) and (3), respectively; and

(5) by inserting before paragraph (2) (as so redesignated) the following new paragraph:

"(1) ALLOCATION.—Of any amount made available for assistance under this section in any fiscal year, an amount shall be used for assistance under subsection (b) that is not less than the amount made available in appropriation Acts for such assistance in the preceding year, and the remainder shall be available for tenant-based assistance under subsection (n).".

SEC. 602. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) TECHNICAL CORRECTIONS.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (g)(1), by striking "and persons with disabilities"; and

(2) in subsection (i)(1)(A), by striking "persons with disabilities" and inserting "elderly persons".

(b) REPEAL OF REQUIREMENT FOR STATE AND LOCAL CERTIFICATION OF SERVICES.—Section 202(e) of the Housing Act of 1959 (12 U.S.C. 1701q(e)), as amended by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) by striking paragraph (5); and

(2) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(c) SELECTION CRITERIA.—Section 202(f)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(f)(2)) is amended by adding at the end

", taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities".

(d) ELDER COTTAGE HOUSING.—

(1) IMPLEMENTATION.—Section 806(b) of the Cranston-Gonzalez National Affordable Housing Act (12 U.S.C. 1701q note) is amended to read as follows:

"(b) DEMONSTRATION PROGRAM.—

"(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959, the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

"(2) ALLOCATION.—Notwithstanding any other law, the Secretary shall reserve from any amounts available for capital advances and project rental assistance under section 202 of the Housing Act of 1959, amounts sufficient in each of fiscal years 1993 and 1994 to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered an eligible development cost under sections 202 of the Housing Act of 1959.

"(3) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

Regulations.

"(4) IMPLEMENTATION.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992.".

(e) ACCESS TO RESIDUAL RECEIPTS.—Section 202(j) of the Housing Act of 1959 (12 U.S.C. 1701q(j)) is amended by adding at the end the following new paragraph:

"(6) ACCESS TO RESIDUAL RECEIPTS.—The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of $500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 802(d)(3) of the Cranston-Gonzalez National Affordable Housing Act, to provide a service coordinator for the project as described in section 802(d)(4) of such Act, or to provide supportive services (as such term is defined in section 802(k) of such Act) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section,

the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.".

(f) WAIVER OF OWNER DEPOSIT.—Section 202(j)(3)(B) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(3)(B)) is amended by adding at the end the following new sentence: "The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.".

(g) NONMETROPOLITAN ALLOCATION.—Section 202(l)(4) of the Housing Act of 1959 (12 U.S.C. 1701q(l)(3)) is amended by striking "20 percent" and inserting "15 percent".

SEC. 603. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

Section 811(k)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(k)(6)) is amended—

(1) by striking "incorporated private";

(2) by redesignating subparagraphs (A), (B), and (C), as subparagraphs (B), (C), and (D), respectively; and

(3) by inserting after "foundation—" the following new subparagraph:

"(A) that has received, or has temporary clearance to receive, tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;".

SEC. 604. REVISED CONGREGATE HOUSING SERVICES PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 802(n)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(n)(1)) is amended by striking the matter preceding subparagraph (A) and inserting the following:

"(1) AUTHORIZATION AND USE.—There are authorized to be appropriated to carry out this section $21,000,000 for fiscal year 1993, and $21,882,000 for fiscal year 1994, of which not more than—". Appropriation authorization.

(b) SUPPLEMENTAL CONTRIBUTIONS.—Section 802(i)(1)(B)(i) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(i)(1)(B)(i)) is amended by striking "3-year" each place it appears and inserting "6-year".

(c) REGULATIONS.— 42 USC 8011 note.

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall submit to the Congress a copy of proposed interim regulations implementing section 802 of the Cranston-Gonzalez National Affordable Housing Act with respect to eligible federally assisted housing (as such term is defined in section 802(k) of such Act) administered by each such Secretary. Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, each such Secretary shall publish interim regulations implementing such section 802, which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), each such Secretary shall issue final regulations implementing section 802 of the Cran-

ston-Gonzalez National Affordable Housing Act after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

(3) FAILURE UNDER 1990 ACT.—This subsection may not be construed to authorize any failure to comply with the requirements of section 802(m) of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 605. HOPE FOR ELDERLY INDEPENDENCE.

(a) SECTION 8 ASSISTANCE.—Section 803(j) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(j)) is amended to read as follows:

"(j) SECTION 8 FUNDING.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under sections 8(b) and 8(o) of such Act is authorized to be increased by $38,288,000 on or after October 1, 1992, and by $39,896,096 on or after October 1, 1993. The amounts made available under this subsection shall be used only in connection with the demonstration under this section.

(b) SUPPORTIVE SERVICES AUTHORIZATION.—Section 803(k) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012(k)) is amended to read as follows:

Appropriation authorization.

"(k) FUNDING FOR SERVICES.—There are authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section $10,000,000 to become available in fiscal year 1993, and $10,420,000 to become available in fiscal year 1994. Any such amounts appropriated under this subsection shall remain available until expended.".

(c) DEMONSTRATION PERIOD.—Section 803 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8012) is amended—

(1) in subsection (a), by striking "beginning on the date of the enactment of this Act" and inserting "determined by the Secretary"; and

(2) by striking paragraph (1) of subsection (g) and inserting the following new paragraph:

"(1) The term 'demonstration period' means the 5-year period referred to in subsection (a).".

SEC. 606. HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS.

(a) AMENDMENT OF CRANSTON-GONZALEZ NATIONAL HOUSING ACT.—Whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Cranston-Gonzalez National Affordable Housing Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 863 (42 U.S.C. 12912) is amended to read as follows:

"SEC. 863. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $150,000,000 for fiscal year 1993 and $156,300,000 for fiscal year 1994.".

(c) DEFINITIONS.—Section 853 (42 U.S.C. 12902) is amended—

(1) in paragraph (2), by striking "sponsor receiving assistance from a grantee" and inserting "organization eligible to receive assistance under this subtitle";

(2) in paragraph (5), by striking "metropolitan area" and inserting "metropolitan statistical area"; and

(3) by adding at the end the following new paragraphs:

"(11) The term 'city' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(12) The term 'eligible person' means a person with acquired immunodeficiency syndrome or a related disease and the family of such person.

"(13) The term 'nonprofit organization' means any nonprofit organization (including a State or locally chartered, nonprofit organization) that—

"(A) is organized under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its purposes significant activities related to providing services or housing to persons with acquired immunodeficiency syndrome or related diseases.

"(14) The term 'project sponsor' means a nonprofit organization or a housing agency of a State or unit of general local government that contracts with a grantee to receive assistance under this subtitle.".

(d) GRANT ELIGIBILITY AND ALLOCATION.—Section 854 (42 U.S.C. 12903) is amended—

(1) in subsection (a), by striking "and units of general local government" and inserting ", units of general local government, and nonprofit organizations";

(2) by striking subsection (b) and inserting the following new subsection:

"(b) IMPLEMENTATION OF ELIGIBLE ACTIVITIES.—A grantee shall carry out eligible activities under section 855 through project sponsors. Any grantee that is a State that enters into a contract with a nonprofit organization to carry out eligible activities in a locality shall obtain the approval of the unit of general local government for the locality before entering into the contract.";

(3) by striking paragraph (1) of subsection (c) and inserting the following new paragraph:

"(1) FORMULA ALLOCATION.—The Secretary shall allocate 90 percent of the amounts approved in appropriation Acts under section 863 among States and cities whose most recent comprehensive housing affordability strategy (or abbreviated strategy) has been approved by the Secretary under section 105 of this Act. Such amounts shall be allocated as follows:

"(A) 75 percent among—

"(i) cities that are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome; and

"(ii) States with more than 1,500 cases of acquired immunodeficiency syndrome outside of metropolitan statistical areas described in clause (i); and

"(B) 25 percent among cities that (i) are the most populous unit of general local government in a metropolitan statistical area having a population greater than 500,000 and more than 1,500 cases of acquired immunodeficiency syndrome, and (ii) have a higher than average per capita incidence of acquired immunodeficiency syndrome.

A single city may receive assistance allocated under subparagraph (A) and subparagraph (B). For purposes of allocating amounts under this paragraph for any fiscal year, the number of cases of acquired immunodeficiency syndrome shall be the number of such cases reported to and confirmed by the Director of the Centers for Disease Control of the Public Health Service as of March 31 of the fiscal year immediately preceding the fiscal year for which the amounts are appropriated and to be allocated.";

(4) in subsection (c)(3)—

(A) by striking the paragraph heading and inserting "NONFORMULA ALLOCATION.—"; and

(B) by striking subparagraph (A) and inserting the following new subparagraph:

"(A) IN GENERAL.—The Secretary shall allocate 10 percent of the amounts appropriated under section 863 among—

"(i) States and units of general local government that do not qualify for allocation of amounts under paragraph (1); and

"(ii) States, units of general local government, and nonprofit organizations, to fund special projects of national significance.";

(5) in the first sentence of subsection (d), by striking "approvable applications submitted by eligible applicants" and inserting "applications submitted by applicants and approved by the Secretary";

(6) in subsection (e), by striking "requirements of subsection (b)" and inserting "other requirements of this section"; and

(7) by adding at the end the following new subsection:

"(f) ADDITIONAL REQUIREMENT FOR CITY FORMULA GRANTEES.—In addition to the other requirements of this section, to be eligible for a grant pursuant to subsection (c)(1), a city shall provide such assurances as the Secretary may require that any grant amounts received will be allocated among eligible activities in a manner that addresses the needs within the metropolitan statistical area in which the city is located, including areas not within the jurisdiction of the city. Any such city shall coordinate with other units of general local government located within the metropolitan statistical area to provide such assurances and comply with the assurances.".

(e) LIMITATION ON SPENDING FOR OTHER ACTIVITIES.—Section 855(6) (42 U.S.C. 12904(6)) is amended by inserting before the period at the end the following: ", except that activities developed under this paragraph may be assisted only with amounts provided under section 854(c)(3)".

(f) FEES AND LIMITATION ON USE OF GRANT AMOUNTS FOR ADMINISTRATIVE EXPENSES.—Section 856 (42 U.S.C. 12905) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) PROHIBITION OF FEES.—The recipient shall agree that no fee will be charged to any eligible person for any housing or services provided with amounts from a grant under this subtitle."; and

(2) by adding at the end the following new subsection:

"(g) ADMINISTRATIVE EXPENSES.—

"(1) GRANTEES.—Notwithstanding any other provision of this subtitle, each grantee may use not more than 3 percent of the grant amount for administrative costs relating to administering grant amounts and allocating such amounts to project sponsors.

"(2) PROJECT SPONSORS.—Notwithstanding any other provision of this subtitle, each project sponsor receiving amounts from grants made under this title may use not more than 7 percent of the amounts received for administrative costs relating to carrying out eligible activities under section 855, including the costs of staff necessary to carry out eligible activities.".

(g) SHORT-TERM SUPPORTED HOUSING AND SERVICES.—Section 858 (42 U.S.C. 12907) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting before the period at the end the following: "(except that health services under this paragraph may only be provided to individuals with acquired immunodeficiency syndrome or related diseases), and providing technical assistance to eligible persons to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments";

(B) by striking paragraphs (4) and (5); and

(C) by adding at the end the following new paragraphs:

"(4) OPERATION.—Providing for the operation of short-term supported housing provided under this section, including the costs of security, operation insurance, utilities, furnishings, equipment, supplies, and other incidental costs.

"(5) ADMINISTRATION.—Providing staff to carry out the program under this section (subject to the provisions of section 856(g)).";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking subparagraph (B);

(ii) in subparagraph (C), by striking "limitations under subparagraphs (A) and (B)" and inserting "limitation under subparagraph (A)"; and

(iii) by redesignating subparagraph (C) (as so amended) as subparagraph (B); and

(B) in paragraph (3), by adding at the end the following new subparagraph:

"(C) WAIVER.—Notwithstanding subparagraphs (A) and (B), the Secretary may waive the applicability of the requirements under such subparagraphs with respect to any individual for which the project sponsor has made

a good faith effort to acquire permanent housing (in accordance with paragraph (4)) and has been unable to do so.".

(h) RENTAL ASSISTANCE.—

(1) IN GENERAL.—Section 859 (42 U.S.C. 12908) is amended—

(A) by striking the section heading and inserting the following new section heading:

"SEC. 859. RENTAL ASSISTANCE.";

(B) in the first sentence of subsection (a)(1), by striking "short-term"; and

(C) by adding at the end the following new subsection:

"(c) ADMINISTRATIVE COSTS.—A project sponsor providing rental assistance under this section may use amounts from any grant received under this section for administrative expenses involved in providing such assistance, subject to the provisions of 856(g)(2).".

(2) CONFORMING AMENDMENT.—Section 855(3) (42 U.S.C. 12904(3)) is amended by striking "short-term".

(i) COMMUNITY RESIDENCES AND SERVICES.—Section 861(c) (42 U.S.C. 12910(c)) is amended—

(1) in paragraph (1)(C), by inserting before the period at the end the following: ", and expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases provided for individuals residing in proximity of eligible persons assisted under this subtitle"; and

(2) by striking paragraph (3) and inserting the following new paragraph:

"(3) ADMINISTRATIVE EXPENSES.—For administrative expenses related to the planning and carrying out activities under this section (subject to the provisions of section 856(g)).".

(j) ELIGIBILITY OF FAMILIES.—

(1) Section 852 (42 U.S.C. 12901) is amended by inserting "and families of such persons" before the period at the end.

(2) Section 854(c)(3) (42 U.S.C. 12903(c)(3)) is amended by striking "persons with acquired immunodeficiency syndrome" and inserting "eligible persons" each place it appears.

(3) Section 855 (42 U.S.C. 12904) is amended—

(A) in the matter preceding paragraph (1), by striking "such persons with acquired immunodeficiency syndrome" and inserting "eligible persons"; and

(B) in paragraph (5), by striking "with acquired immunodeficiency syndrome".

(4) Section 856(c) (42 U.S.C. 12905(c)) is amended by striking "such individuals" and inserting "such eligible persons".

(5) Section 858(a)(3) (42 U.S.C. 12907(a)(3)) is amended by striking "individuals" and inserting "eligible persons".

(6) Section 859(b)(1) (42 U.S.C. 12908(b)(1)) is amended by striking "individuals" and inserting "eligible persons".

(7) Sections 859(b)(2) and 860(b)(2) (42 U.S.C. 12908(b), 12909(b)(2)) are amended by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual" each place it appears.

(8) Section 861(a) (42 U.S.C. 12910(a)) is amended by striking "persons with acquired immunodeficiency syndrome or related diseases" and inserting "eligible persons".

(9) Section 861(b)(1)(A)(iv) (42 U.S.C. 12910(b)(1)(A)(iv)) is amended by striking "such individuals" and inserting "such eligible persons".

(10) Section 861(d)(1) (42 U.S.C. 12910(d)(1)) is amended—

(A) in subparagraph (A), by striking "individuals" and inserting "eligible persons"; and

(B) in subparagraph (D), by inserting "with acquired immunodeficiency syndrome or related diseases" after "any individual".

(11) Subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12901 et seq.) is amended by striking "individuals with acquired immunodeficiency syndrome or related diseases" each place it appears in the following provisions and inserting "eligible persons":

(A) Section 856(c). 42 USC 12905.

(B) Section 857. 42 USC 12906.

(C) Section 858— 42 USC 12907.

(i) in subsection (a), in the matter preceding paragraph (1); and

(ii) in subsection (b)(1)(A);

(D) Section 859(a)(1). 42 USC 12908.

(E) Section 861— 42 USC 12910.

(i) in subsection (b); and

(ii) in subsection (d).

(k) REGULATIONS.— 42 USC 12901 note.

(1) INTERIM REGULATIONS.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a copy of proposed interim regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section). Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act, but not before the expiration of the 15-day period beginning upon the submission of the proposed interim regulations to the Congress, the Secretary shall publish interim regulations implementing such subtitle (as amended), which shall take effect upon publication.

(2) FINAL REGULATIONS.—Not later than the expiration of the 90-day period beginning upon the publication of interim regulations under paragraph (1), the Secretary shall issue final regulations implementing subtitle D of title VIII of the Cranston-Gonzalez National Affordable Housing Act (as amended by this section) after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such section 553 shall be not less than 60 days, and the final regulations shall take effect upon issuance.

Subtitle B—Authority for Public Housing Agencies To Provide Designated Public Housing and Assistance for Disabled Families

SEC. 621. DEFINITIONS.

Paragraph 3 of section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended to read as follows:

"(3) PERSONS AND FAMILIES.—

"(A) SINGLE PERSONS.—The term 'families' includes families consisting of a single person in the case of (i) an elderly person, (ii) a disabled person, (iii) a displaced person, (iv) the remaining member of a tenant family, and (v) any other single persons. In no event may any single person under clause (v) of the first sentence be provided a housing unit assisted under this Act of 2 or more bedrooms. In determining priority for admission to housing under this Act, the Secretary shall give preference to single persons who are elderly, disabled, or displaced persons before single persons who are eligible under clause (v) of the first sentence.

"(B) FAMILIES.—The term 'families' means families with children, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more such persons living with 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

"(C) ABSENCE OF CHILDREN.—The temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size.

"(D) ELDERLY PERSON.—The term 'elderly person' means a person who is at least 62 years of age.

"(E) PERSON WITH DISABILITIES.—The term 'person with disabilities' means a person who—

"(i) has a disability as defined in section 223 of the Social Security Act,

"(ii) is determined, pursuant to regulations issued by the Secretary, to have a physical, mental, or emotional impairment which (I) is expected to be of long-continued and indefinite duration, (II) substantially impedes his or her ability to live independently, and (III) is of such a nature that such ability could be improved by more suitable housing conditions, or

"(iii) has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act.

Such term shall not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions aris-

ing from the etiologic agent for acquired immunodeficiency syndrome.

"(F) DISPLACED PERSON.—The term 'displaced person' means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

"(G) NEAR-ELDERLY PERSON.—The term 'near-elderly person' means a person who is at least 50 years of age but below the age of 62.".

SEC. 622. AUTHORITY.

(a) IN GENERAL.—Section 7 of the United States Housing Act of 1937 (42 U.S.C. 1437e) is amended to read as follows:

"DESIGNATED HOUSING

"SEC. 7. (a) AUTHORITY TO PROVIDE DESIGNATED HOUSING.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, a public housing agency whose allocation plan under subsection (f) (and any biannual update) has been approved by the Secretary may, to the extent provided in the allocation plan, provide public housing projects (or portions of projects) designated for occupancy by (A) only elderly families, (B) only disabled families (subject to the provisions of subsection (e)), or (C) elderly and disabled families.

"(2) PRIORITY FOR OCCUPANCY.—In determining priority for admission to public housing projects (or portions of projects) that are designated for occupancy as provided in paragraph (1), the public housing agency may make units in such projects (or portions) available only to the types of families for whom the project is designated. Among such types of families, preference for occupancy in such projects (or portions) shall be given according to the preferences for occupancy under section 6(c)(4)(A).

"(3) ELIGIBILITY OF NEAR-ELDERLY FAMILIES.—If a public housing agency determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families to fill all the units in a project (or portion of a project) designated under paragraph (1) for occupancy by only elderly families, the agency may (pursuant to the approved allocation plan under subsection (f) for the agency) provide that near-elderly families who qualify for preferences for occupancy under section 6(c)(4)(A) may occupy dwelling units in the project (or portion).

"(4) VACANCY.—Notwithstanding the authority under paragraphs (1) and (2) to designate public housing projects (or portions of projects) for occupancy by only certain types of families, a public housing agency shall make any dwelling unit that is ready for occupancy in such a project (or portion of a project) that has been vacant for more than 60 consecutive days generally available for occupancy (subject to the requirements of this title) without regard to such designation.

"(b) AVAILABILITY OF HOUSING.—

"(1) TENANT CHOICE.—The decision of any disabled family not to occupy or accept occupancy in an appropriate type of project or assistance made available to the family under this title shall not adversely affect the family with respect to a

public housing agency making available occupancy in other appropriate projects in public housing or assistance under this title.

"(2) DISCRIMINATORY SELECTION.—Paragraph (1) shall not apply to any family who decides not to occupy or accept an appropriate dwelling unit in public housing or to accept assistance under this Act on the basis of the race, color, religion, sex, disability, familial status, or national origin of occupants of housing or the surrounding area.

"(3) APPROPRIATENESS OF DWELLING UNITS.—This section may not be construed to require a public housing agency to offer occupancy in any dwelling unit assisted under this Act to any family who is not of appropriate family size for the dwelling unit.

"(c) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in the project may not be evicted or otherwise required to vacate such unit because of the designation of the project (or portion of a project) or because of any action taken by the Secretary of Housing and Urban Development or any public housing agency pursuant to this section.

"(d) ACCOMMODATION OF HOUSING AND SERVICE NEEDS.—In designing, developing, otherwise acquiring and operating, designating, and providing housing and assistance under this title, each public housing agency shall meet, to the extent practicable, the housing and service needs of eligible families applying for assistance under this title, as provided in any allocation plan of the agency approved under subsection (f). To meet such needs, public housing agencies may, wherever practicable and in accordance with any allocation plan of the agency—

"(1) provide housing in which supportive services are provided, facilitated, or coordinated, mixed housing, shared housing, family housing, group homes, congregate housing, and other housing as the public housing agency considers appropriate;

"(2) carry out major reconstruction of obsolete public housing projects and reconfiguration of public housing dwelling units; and

"(3) provide tenant-based assistance under section 811(b)(1).

"(e) APPLICATION FOR DESIGNATED HOUSING FOR DISABLED FAMILIES.—

"(1) REQUIREMENT.—A project (or portion of a project) may be designated under subsection (a)(1) for occupancy by only disabled families only if the public housing agency administering the project complies with the other requirements of this section and the Secretary approves an application under this subsection for such designation. The Secretary shall establish the form and procedures for submission and approval of applications under this subsection.

"(2) CONTENTS.—An application under this subsection shall contain—

"(i) a description of the projects (or portions of projects) to be designated (which may include group homes, independent living facilities, units in multifamily housing developments, condominium housing, cooperative housing, and scattered site housing);

"(ii) a supportive service plan—

"(I) describing the needs of persons with disabilities that the housing is expected to serve;

"(II) providing for delivery of supportive services appropriate to meet the individual needs of persons with disabilities occupying the housing;

"(III) describing the experience of the applicant (or service providers) in providing such services;

"(IV) describing the manner in which such services will be provided to such persons; and

"(V) identifying any State, local, other Federal, or other funds available for providing such services; and

"(iii) any other information or certification that the Secretary considers appropriate.

"(3) APPROVAL.—The Secretary may approve an application under this subsection only if the Secretary determines that—

"(i) the persons with disabilities occupying the housing will receive supportive services based on their individual needs;

"(ii) the applicant (or service providers) have sufficient experience in providing supportive services;

"(iii) residential supervision will be provided in the housing sufficient to facilitate the provision of supportive services; and

"(iv) the supportive services are adequately designed to meet the special needs of the tenants.

"(4) SUPPORTIVE SERVICES.—For purposes of this subsection, the term 'supportive services' means services designed to meet the special needs of tenants, and may include meal services, health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services.

"(f) ALLOCATION PLANS.—

"(1) REQUIREMENT.—A public housing agency may not designate a project (or portion of a project) for occupancy under subsection (a)(1) unless the agency submits an allocation plan under this subsection and the plan is approved under paragraph (4) of this subsection.

"(2) CONTENTS.—An allocation plan submitted under this subsection by a public housing agency shall include—

"(A) a description of the projects (or portions of projects) to be designated and the types of tenants occupying such projects (or portions);

"(B) a description of the estimated pool of applicants for such housing, based on the waiting lists for such housing, and any information collected in the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the jurisdiction within which the area served by the public housing agency is located;

"(C) a statement identifying the projects or portions of projects (including the buildings or floors) to be designated for occupancy under subsection (a)(1) for only cer-

tain types of families, the types of families who will be eligible for occupancy in such projects (or portions), and the reasons for the designation;

"(D) documentation of the number of units in the projects (or portions) identified under subparagraph (C) which became vacant and available for occupancy during the preceding year;

"(E) an estimate of the number of units in the projects (or portions) identified under subparagraph (C) that will become vacant and available for occupancy during the ensuing 2-year period;

"(F) a description of the occupancy policies and procedures, including procedures for maintaining waiting lists for eligible applicants who are elderly families or disabled families for occupancy in units in projects administered by the agency sufficient to document the number and duration of instances in which housing assistance for eligible applicants will be denied or delayed by the agency because of a lack of appropriately designated units;

"(G) a plan for securing sufficient additional resources that the agency owns, controls, or has received preliminary notification that it will obtain, or for which the agency plans to apply, that will be sufficient to provide assistance to not less than the number of nonelderly disabled families that would have been housed if occupancy in such units were not restricted pursuant to this section; and

"(H) any comments of agencies, organizations, or persons with whom the public housing agency consults under paragraph (3).

"(3) DEVELOPMENT.—In preparing the initial allocation plan, or updates of a plan under paragraph (5), for submission under this subsection, a public housing agency shall consult with the State or unit of general local government in whose jurisdiction the area served by the public housing agency is located, public and private service providers, advocates for the interest of eligible elderly families, disabled families, and families with children, and other interested parties.

"(4) APPROVAL.—

"(A) CRITERIA.—The Secretary shall approve an allocation plan, or an updated plan, submitted under this subsection if the Secretary determines that, based on the plan and comments submitted pursuant to paragraph (2)(H)—

"(i) the information contained in the plan is complete and accurate and the projections are reasonable;

"(ii) implementation of the plan will not result in excessive vacancy rates in projects (or portions of projects) identified in paragraph (2)(C); and

"(iii) the plan under paragraph (2)(G) can reasonably be achieved.

"(B) NOTIFICATION.—

"(i) IN GENERAL.—The Secretary shall notify each public housing agency submitting an allocation plan under this subsection in writing of approval or disapproval of the plan.

"(ii) TIMING.—A plan shall be considered to be approved if the Secretary does not notify the public housing agency of approval or disapproval of the initial

or revised plan within (I) 90 days after the submission of any plan that contains comments pursuant to paragraph (2)(H), or (II) 45 days for any other plan.

"(iii) RESUBMISSION.—If the Secretary disapproves the plan, the Secretary shall, for a period of not less than 45 days following the date of disapproval, permit amendments to, or resubmission of, the plan.

"(C) RULE OF CONSTRUCTION.—The approval of an allocation plan or updated plan under this subsection may not be construed to constitute approval of any request for assistance for major reconstruction of obsolete projects, assistance for development or acquisition of public housing, or assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, that are contained in the plan pursuant to subparagraph (H).

"(5) BIANNUAL UPDATE.—

"(A) IN GENERAL.—Each public housing agency that owns or operates a project (or portion of a project) that is designated for occupancy under subsection (a)(1) shall update the plan of the agency under this subsection not less than once every 2 years, as the Secretary shall provide. The Secretary shall notify each public housing agency submitting an updated plan under this paragraph of approval or disapproval of the updated plan as required under paragraph (4)(B), and the provisions of such paragraph shall apply to updated plans under this paragraph.

"(B) CONTENTS.—The updated plan shall include—

"(i) a review of the data and projections contained in the allocation plan and the most recent update submitted under this subsection;

"(ii) an assessment of the accuracy of the projections contained in such plan and update;

"(iii) a statement of the number of times a vacancy was filled pursuant to subsection (a)(4);

"(iv) a statement of the number of times an application for housing assistance by an eligible applicant was denied or delayed because of a lack of appropriately designated units; and

"(v) a plan for adjusting the allocation, if necessary, in accordance with the needs identified pursuant to this subparagraph.

"(C) STANDARDS FOR APPROVAL.—The Secretary shall establish standards for preparation, submission, and approval of updated plans.

"(g) PROHIBITION OF COERCION.—No elderly or disabled family residing in any public housing project may be required to accept services.".

(b) OCCUPANCY PREFERENCES.—The matter preceding clause (i) in section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "specifically designated for elderly families" and inserting "designated for occupancy pursuant to section 7(a)".

(c) DEFINITIONS.—Section 3(c) of the United States Housing Act of 1937 (42 U.S.C. 1437a(c)) is amended by inserting after "project." the following new paragraphs:

"(4) The term 'congregate housing' means low-rent housing with which there is connected a central dining facility where whole-

some and economical meals can be served to occupants. Expenditures incurred by a public housing agency in the operation of a central dining facility in connection with congregate housing (other than the cost of providing food and service) shall be considered a cost of operation of the project.

"(5) The terms 'group home' and 'independent living facility' have the meanings given such terms in section 811(k) of the Cranston-Gonzalez National Affordable Housing Act.

SEC. 623. TENANT-BASED ASSISTANCE FOR PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Section 811 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013) is amended—

(1) by amending the section heading to read as follows:

"SEC. 811. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.";

(2) in subsection (b)—

(A) in the matter following paragraph (2)—

(i) by moving such matter 2 ems to the right; and

(ii) by striking "Such assistance" and inserting "assistance under this paragraph";

(B) by striking the subsection heading and all that follows through the end of paragraph (2) and inserting the following:

"(b) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary is authorized—

"(1) to provide tenant-based rental assistance to eligible persons with disabilities, in accordance with subsection (d)(4); and

"(2) to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities, which shall be provided as—

"(A) capital advances in accordance with subsection (d)(1), and

"(B) contracts for project rental assistance in accordance with subsection (d)(2);";

(3) in subsection (d)—

(A) in paragraphs (1) and (3), by striking "this section" and inserting "subsection (b)(2)"; and

(B) by adding at the end the following new paragraph—

"(4) TENANT-BASED RENTAL ASSISTANCE.—Tenant-based rental assistance provided under subsection (b)(1) may be provided only through a public housing agency that has submitted, and had approved, an allocation plan under section 7(f) of the United States Housing Act of 1937, and a public housing agency shall be eligible to apply under this section only for the purposes of providing such assistance. Such assistance shall be made available to eligible persons with disabilities and administered under the same rules that govern rental assistance made available under section 8 of the United States Housing Act of 1937. In determining the amount of assistance provided under subsection (b)(1) for a public housing agency, the Secretary shall consider the needs of the agency as described in the allocation plan.";

(4) in subsection (e)(1), by striking "this section" and inserting "subsection (b)(2)";

(5) in subsection (f), in the first and second sentences, by striking "this section" and inserting "subsection (b)(2)"; and

(6) in subsection (g), by striking "this section" and inserting "subsection (b)(2)".

(b) SECTION 8 ASSISTANCE.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), is amended by inserting after subsection (h) the following new subsection:

"(i) The Secretary may not consider the receipt by a public housing agency of assistance under section 811(b)(1) of the Cranston-Gonzalez National Affordable Housing Act, or the amount received, in approving assistance for the agency under this section or determining the amount of such assistance to be provided.".

SEC. 624. DEVELOPMENT AND RECONSTRUCTION OF HOUSING FOR DISABLED FAMILIES.

(a) SET-ASIDE OF MAJOR RECONSTRUCTION FUNDS FOR RECONFIGURATION OF PROJECTS.—Section 5(j)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(2)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(G)(i) In fiscal years 1993 and 1994, the Secretary shall commit for use under clause (ii) not less than 5 percent of any amounts reserved under subparagraph (A) for each such fiscal year.

"(ii) The amounts referred to in clause (i) shall be available to public housing agencies only for use for projects (or portions of projects) designated for occupancy under section 7(a)(1) and (e) by disabled families.

"(iii) In allocating amounts reserved under this subparagraph among public housing agencies, the Secretary shall consider the need for any such amounts as identified in the allocation plans submitted by agencies under section 7(f).".

(b) SET-ASIDE OF NEW CONSTRUCTION FUNDS FOR HOUSING DESIGNED FOR DISABLED FAMILIES AND SINGLE PERSONS.—Section 5(j) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)) is amended by adding at the end the following new paragraph:

"(3)(A) In fiscal years 1993 and 1994, the Secretary shall reserve for use under subparagraph (B) not less than 5 percent of any amounts approved in appropriation Acts for each such fiscal year for public housing grants under subsection (a)(2) that are not designated under such Acts for use under paragraph (2) of this subsection for the substantial redesign, reconstruction, or redevelopment of existing public housing projects, buildings, or units.

"(B) Any amount reserved under subparagraph (A) shall be available only to public housing agencies that have designated projects (or portions of projects) for occupancy under section 7(a)(1) for use only for the costs of development or acquisition of public housing projects or buildings designated for occupancy under section 7(a)(1) and (e) by disabled families. A building so assisted may not contain more than 25 dwelling units, except that the Secretary may (in the discretion of the Secretary) waive such limitation for a building.

"(C) The Secretary shall carry out a competition for budget authority reserved under subparagraph (A) among eligible public housing agencies and shall allocate such budget authority to public housing agencies pursuant to the competition, based on (i) the need of the agency for such assistance (taking into consideration the allocation plans submitted under section 7(f) by agencies), and

(ii) the extent to which the public housing projects and buildings to be developed or assisted meet the requirements of section 7(e).".

(c) REQUIREMENT FOR USE OF NEW CONSTRUCTION FUNDS FOR PROJECTS DESIGNATED FOR ELDERLY FAMILIES.—Section 5(j)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437c(j)(1)) is amended—

(1) in subparagraph (D), by striking "and" at the end;

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by adding at the end the following new subparagraph:

"(E) in the case of an application for development of projects (or portions of projects) designated under section 7(a)(1) for occupancy for elderly families, only if the agency certifies to the Secretary that the use of such assistance will assist in expanding the housing available for eligible persons with disabilities identified in the allocation plan for the agency submitted under section 7(f); and".

SEC. 625. CONFORMING AMENDMENTS.

(a) UNITED STATES HOUSING ACT OF 1937.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437a. (1) in section 3(b)(5)(B), by inserting "or disabled" after "elderly";

42 USC 1437d. (2) in the last sentence of section 6(a), by striking "the elderly" and inserting "elderly or disabled families";

42 USC 1437*l*. (3) in section 14(i)(1)(D)(ii), by striking "elderly families and handicapped families" and inserting "elderly and disabled families"; and

42 USC 1437*o*. (4) in section 17(c)(2)(G)(i), by striking "the elderly" and inserting "elderly families".

(b) HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The first sentence of section 209 of the Housing and Community Development Act of 1974 (42 U.S.C. 1438) is amended by striking "the elderly or the handicapped" and inserting "elderly or disabled families".

42 USC 1437a note. **SEC. 626. INAPPLICABILITY TO INDIAN PUBLIC HOUSING.**

The amendments made by this subtitle shall not apply with respect to lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

Subtitle C—Standards and Obligations of Residency in Federally Assisted Housing

42 USC 13601. **SEC. 641. COMPLIANCE BY OWNERS AS CONDITION OF FEDERAL ASSISTANCE.**

The Secretary of Housing and Urban Development shall require owners of federally assisted housing (as such term is defined in section 683(2)), as a condition of receiving housing assistance for such housing, to comply with the procedures and requirements established under this subtitle.

SEC. 642. COMPLIANCE WITH CRITERIA FOR OCCUPANCY AS REQUIREMENT FOR TENANCY. 42 USC 13602.

In selecting tenants for occupancy of units in federally assisted housing, an owner of such housing shall utilize the criteria for occupancy in federally assisted housing established by the Secretary, by regulation, under section 643. If an owner determines that an applicant for occupancy in the housing does not meet such criteria, the owner may deny such applicant occupancy.

SEC. 643. ESTABLISHMENT OF CRITERIA FOR OCCUPANCY. 42 USC 13603.

(a) TASK FORCE.—

(1) ESTABLISHMENT.—To assist the Secretary in establishing reasonable criteria for occupancy in federally assisted housing, the Secretary shall establish a task force to review all rules, policy statements, handbooks, technical assistance memoranda, and other relevant documents issued by the Department of Housing and Urban Development on the standards and obligations governing residency in federally assisted housing and make recommendations to the Secretary for the establishment of such criteria for occupancy.

(2) MEMBERS.—The Secretary shall appoint members to the task force, which shall include individuals representing the interests of owners, managers, and tenants of federally assisted housing, public housing agencies, owner and tenant advocacy organizations, persons with disabilities and disabled families, organizations assisting homeless individuals, and social service, mental health, and other nonprofit servicer providers who serve federally assisted housing.

(3) COMPENSATION.—Members of the task force shall not receive compensation for serving on the task force.

(4) DUTIES.—The task force shall—

(A) review all existing standards, regulations, and guidelines governing occupancy and tenant selection policies in federally assisted housing;

(B) review all existing standards, regulations, and guidelines governing lease provisions and other rules of occupancy for federally assisted housing;

(C) determine whether the standards, regulations, and guidelines reviewed under subparagraphs (A) and (B) provide sufficient guidance to owners and managers of federally assisted housing to—

(i) develop procedures for preselection inquiries sufficient to determine the capacity of applicants to comply with reasonable lease terms and conditions of occupancy;

(ii) utilize leases that prohibit behavior which endangers the health or safety of other tenants or violates the rights of other tenants to peaceful enjoyment of the premises;

(iii) assess the need to provide, and appropriate measures for providing, reasonable accommodations required under the Fair Housing Act and section 504 of the Rehabilitation Act of 1973 for persons with various types of disabilities; and

(iv) comply with civil rights laws and regulations;

(D) propose criteria for occupancy in federally assisted housing, standards for the reasonable performance and behavior of tenants of federally assisted housing, compliance standards consistent with the reasonable accommodation of the requirements of the Fair Housing Act and section 504 of the Rehabilitation Act of 1973, standards for compliance with other civil rights laws, and procedures for the eviction of tenants not complying with such standards consistent with sections 6 and 8 of the United States Housing Act of 1937; and

(E) report to the Congress and the Secretary of Housing and Urban Development pursuant to paragraph (7).

(5) PROCEDURE.—In carrying out its duties, the task force shall hold public hearings and receive written comments for a period of not less than 60 days.

(6) SUPPORT.—The Secretary of Housing and Urban Development shall cooperate fully with the task force and shall provide support staff and office space to assist the task force in carrying out its duties.

(7) REPORTS.—Not later than 3 months after the date of enactment of this Act, the task force shall submit to the Secretary and the Congress a preliminary report describing its initial actions. Not later than 6 months after the date of enactment of this Act, the task force shall submit a report to the Secretary and the Congress, which shall include—

(A) a description of its findings; and

(B) recommendations to revise such standards, regulations, and guidelines to provide accurate and complete guidance to owners and managers of federally assisted housing as determined necessary under paragraph (4).

(b) RULEMAKING.—

Regulations.

(1) AUTHORITY.—The Secretary shall, by regulation, establish criteria for selection of tenants for occupancy in federally assisted housing and lease provisions for such housing.

(2) STANDARDS.—The criteria shall provide sufficient guidance to owners and managers of federally assisted housing to enable them to (A) select tenants capable of complying with reasonable lease terms, (B) utilize leases prohibiting behavior which endangers the health or safety of others or violates the right of other tenants to peaceful enjoyment of the premises, (C) comply with legal requirements to make reasonable accommodations for persons with disabilities, and (D) comply with civil rights laws. The criteria shall be consistent with the requirements under subsections (k) and (l) of section 6 and section 8(d)(1) of the United States Housing Act of 1937 and any similar contract and lease requirements for federally assisted housing. In establishing the criteria, the Secretary shall take into consideration the report of the task force under subsection (a)(7).

Regulations.

(3) PROCEDURE.—Not later than 90 days after the submission of the final report under subsection (a)(7), the Secretary shall issue a notice of proposed rulemaking of the regulations under this subsection providing for notice and opportunity for public comment regarding the regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment under such

section 553 shall not be less than 60 days. The Secretary shall issue final regulations under this subsection not later than the expiration of the 60-day period beginning upon the conclusion of the comment period, which shall take effect upon issuance. Regulations.

SEC. 644. ASSISTED APPLICATIONS. 42 USC 13604.

(a) AUTHORITY.—The Secretary shall provide that any individual or family applying for occupancy in federally assisted housing may include in the application for the housing the name, address, phone number, and other relevant information of a family member, friend, or social, health, advocacy, or other organization, and that the owner shall treat such information as confidential.

(b) MAINTENANCE OF INFORMATION.—The Secretary shall require the owner of any federally assisted housing receiving an application including such information to maintain such information for any applicants who become tenants of the housing, for the purposes of facilitating contact by the owner with such person or organization to assist in providing any services or special care for the tenant and assist in resolving any relevant tenancy issues arising during the tenancy of such tenant.

(c) LIMITATIONS.—An owner of federally assisted housing may not require any individual or family applying for occupancy in the housing to provide the information described in subsection (a).

Subtitle D—Authority To Provide Preferences for Elderly Residents and Units for Disabled Residents in Certain Section 8 Assisted Housing

SEC. 651. AUTHORITY. 42 USC 13611.

Notwithstanding any other provision of law, an owner of a covered section 8 housing project (as such term is defined in section 659) designed primarily for occupancy by elderly families may, in selecting tenants for units in the project that become available for occupancy, give preference to elderly families who have applied for occupancy in the housing, subject to the requirements of this subtitle.

SEC. 652. RESERVATION OF UNITS FOR DISABLED FAMILIES. 42 USC 13612.

(a) REQUIREMENT.—Notwithstanding any other provision of law, for any project for which an owner gives preference in occupancy to elderly families pursuant to section 651, such owner shall (subject to sections 653, 654, and 655) reserve units in the project for occupancy only by disabled families who are not elderly or near-elderly families (and who have applied for occupancy in the housing) in the number determined under subsection (b).

(b) NUMBER OF UNITS.—Each owner required to reserve units in a project for occupancy under subsection (a) shall reserve a number of units in the project that is not less than the lesser of—

(1) the number of units equivalent to the higher of—

(A) the percentage of units in the project that were occupied by such disabled families upon the date of the enactment of this Act; or

(B) the percentage of units in the project that were occupied by such families upon January 1, 1992; or

(2) 10 percent of the number of units in the project.

42 USC 13613. **SEC. 653. SECONDARY PREFERENCES.**

(a) INSUFFICIENT ELDERLY FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of elderly families who have applied for occupancy in the housing to fill all the units in the project not reserved under section 652, the owner may give preference for occupancy of such units to disabled families who are near-elderly families and have applied for occupancy in the housing.

(b) INSUFFICIENT NON-ELDERLY DISABLED FAMILIES.—If an owner of a covered section 8 housing project in which elderly families are given a preference for occupancy pursuant to section 651 determines (in accordance with regulations established by the Secretary) that there are insufficient numbers of disabled families who are not elderly or near-elderly families and have applied for occupancy in the housing to fill all the units in the project reserved under section 652, the owner may give preference for occupancy of units so reserved to disabled families who are near-elderly families and have applied for occupancy in the housing.

42 USC 13614. **SEC. 654. GENERAL AVAILABILITY OF UNITS.**

If an owner of a covered section 8 housing project in which disabled families who are near-elderly families are given a preference for occupancy pursuant to subsection (a) or (b) of section 653 determines (in accordance with regulations established by the Secretary) that there are an insufficient number of such families to fill all the units in the project for which the preference is applicable, the owner shall make such units generally available for occupancy by families who have applied, and are eligible, for occupancy in the housing, without regard to the preferences established pursuant to this subtitle.

42 USC 13615. **SEC. 655. PREFERENCE WITHIN GROUPS.**

Among disabled families qualifying for occupancy in units reserved under section 652, and among elderly families and near-elderly families qualifying for preference for occupancy pursuant to section 651 or 653, preference for occupancy in units that are assisted under section 8 of the United States Housing Act of 1937 shall be given to disabled families according to the preferences for occupancy referred to in section 8(d)(1)(A)(i) of the United States Housing Act of 1937 and the first sentence of section 8(o)(3)(B) of such Act, to elderly families according to such preferences, and to near-elderly families according to such preferences, respectively.

42 USC 13616. **SEC. 656. PROHIBITION OF EVICTIONS.**

Any tenant who, except for reservation of a percentage of the units of a project pursuant to section 652 or any preference for occupancy established pursuant to this subtitle, is lawfully residing in a dwelling unit in a covered section 8 housing project, may not be evicted or otherwise required to vacate such unit because

of the reservation or preferences or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

SEC. 657. TREATMENT OF COVERED SECTION 8 HOUSING NOT SUBJECT TO ELDERLY PREFERENCE. 42 USC 13617.

If an owner of any covered section 8 housing project designed primarily for occupancy by elderly families does not give preference in occupancy to elderly families as authorized in this subtitle, then elderly families (as such term was defined in section 3 of the United States Housing Act of 1937 before the date of the enactment of this Act) shall be eligible for occupancy in such housing to the same extent that such families were eligible before the date of the enactment of this Act.

SEC. 658. TREATMENT OF OTHER FEDERALLY ASSISTED HOUSING. 42 USC 13618.

(a) RESTRICTED OCCUPANCY.—An owner of any federally assisted project (or portion of a project) as described in subparagraphs (D), (E), and (F) of section 683(2) that was designed for occupancy by elderly families may continue to restrict occupancy in such project (or portion) to elderly families in accordance with the rules, standards, and agreements governing occupancy in such housing in effect at the time of the development of the housing.

(b) PROHIBITION OF EVICTIONS.—Any tenant who is lawfully residing in a dwelling unit in a housing project described in subsection (a) may not be evicted or otherwise required to vacate such unit because of any reservation or preferences under this subtitle or because of any action taken by the Secretary of Housing and Urban Development or the owner of the project pursuant to this subtitle.

SEC. 659. COVERED SECTION 8 HOUSING. 42 USC 13619.

For purposes of this subtitle, the term "covered section 8 housing" means housing described in section 683(2)(G) that was originally designed for occupancy by elderly families.

SEC. 660. SECTION 8 PREFERENCE.

Section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) is amended by adding at the end the following new paragraph:

"(4) A public housing agency that serves more than one unit of general local government may, at the discretion of the agency, in allocating assistance under this section, give priority to disabled families that are not elderly families.".

SEC. 661. STUDY. Reports. 42 USC 13620.

The Secretary of Housing and Urban Development shall conduct a study to determine the extent to which Federal housing programs serve elderly families, disabled families, and families with children, in relation to the need of such families who are eligible for assistance under such programs. The Secretary shall submit a report to the Congress describing the study and the findings of the study not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

Subtitle E—Service Coordinators for Elderly and Disabled Residents of Federally Assisted Housing

42 USC 13631.

SEC. 671. REQUIREMENT TO PROVIDE SERVICE COORDINATORS.

(a) IN GENERAL.—To the extent that amounts are made available to carry out this subtitle pursuant to the amendments made by this subtitle, the Secretary shall require owners of covered federally assisted housing projects (as such term is defined in subsection (d)) receiving such amounts to provide for employing or otherwise retaining the services of one or more individuals to coordinate the provision of supportive services for elderly and disabled families residing in the projects (in this section referred to as a "service coordinator"). No such elderly or disabled family may be required to accept services.

(b) RESPONSIBILITIES.—Each service coordinator of a covered federally assisted housing project provided pursuant to this subtitle or the amendments made by this subtitle—

(1) shall consult with the owner of the housing, tenants, any tenant organizations, any resident management organizations, service providers, and any other appropriate persons, to identify the particular needs and characteristics of elderly and disabled families who reside in the project and any supportive services related to such needs and characteristics;

(2) shall manage and coordinate the provision of such services for residents of the project;

(3) may provide training to tenants of the project in the obligations of tenancy or coordinate such training;

(4) shall meet the minimum qualifications and standards required under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act; and

(5) may carry out other appropriate activities for residents of the project.

(c) INCLUDED SERVICES.—Supportive services referred to under subsection (b)(1) may include health-related services, mental health services, services for nonmedical counseling, meals, transportation, personal care, bathing, toileting, housekeeping, chore assistance, safety, group and socialization activities, assistance with medications (in accordance with any applicable State laws), case management, personal emergency response, and other appropriate services. The services may be provided through any agency of the Federal Government or any other public or private department, agency, or organization.

(d) COVERED FEDERALLY ASSISTED HOUSING.—For purposes of this subtitle, the term "covered federally assisted housing" means housing that is federally assisted housing (as such term is defined in section 683(2), except that such term does not include housing described in subparagraphs (C) and (D) of such section.

SEC. 672. REQUIRED TRAINING OF SERVICE COORDINATORS.

Section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8011(d)(4)) is amended by inserting after the period at the end of the first sentence beginning after subparagraph (E) the following new sentence: "Such qualifications and standards shall include requiring each service coordinator to be

trained in the aging process, elder services, disability services, eligibility for and procedures of Federal and applicable State entitlement programs, legal liability issues relating to providing service coordination, drug and alcohol use and abuse by the elderly, and mental health issues.".

SEC. 673. COSTS OF PROVIDING SERVICE COORDINATORS IN PUBLIC HOUSING.

Section 9(a)(1)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(1)(B)) is amended—

(1) in the first sentence, by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively;

(2) in the second sentence—

(A) by striking "subparagraph" and inserting "clause";

(B) by inserting "or section 802 of the Cranston-Gonzalez National Affordable Housing Act" after "Congregate Housing Services Act of 1978"; and

(C) by inserting a period after "section 811 of the Cranston-Gonzalez National Affordable Housing Act";

(3) by inserting "(i)" after the subparagraph designation; and

(4) by adding at the end the following new clause:

"(ii) Annual contributions under this section to any public housing agency for any project may be used, with respect to such project, for (I) the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of any supportive services within the project for residents of the project who are elderly families and disabled families, and (II) expenses for the provision of such services for such residents of the project. Not more than 15 percent of the cost of the provision of such services may be provided under this section. Services may not be provided under this clause for any person receiving assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act. The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $30,000,000 on or after October 1, 1992, and by $30,000,000 on or after October 1, 1993. Amounts made available under this clause shall be used to provide additional annual contributions to public housing agencies only for the purpose of providing service coordinators and services under this clause for public housing projects.".

SEC. 674. COSTS OF PROVIDING SERVICE COORDINATORS IN PROJECT-BASED SECTION 8 HOUSING.

Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended by adding at the end the following new subparagraph:

"(F)(i) In determining the amount of assistance provided under an assistance contract for project-based assistance under this paragraph or a contract for assistance for housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983), the Secretary may consider and annually adjust, with respect to such project, for the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development

Act of 1992 to coordinate the provision of any services within the project for residents of the project who are elderly or disabled families.

"(ii) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $15,000,000 on or after October 1, 1992, and by $15,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for assistance under this section which shall be made available through assistance contracts only for the purpose of providing service coordinators under clause (i) for projects receiving project-based assistance under this paragraph and to provide additional amounts under contracts for assistance for projects constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of this Act (as such section existed immediately before October 1, 1983) only for such purpose.".

SEC. 675. COSTS OF PROVIDING SERVICE COORDINATORS FOR FAMILIES RECEIVING FEDERAL TENANT-BASED ASSISTANCE.

Section 8(q) of the United States Housing Act of 1937 (42 U.S.C. 1437f(q)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3)(A) Fees under this subsection may be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 of the Housing and Community Development Act of 1992 to coordinate the provision of supportive services for elderly families and disabled families on whose behalf tenant-based assistance is provided under this section or section 811(b)(1). Such service coordinators shall have the same responsibilities with respect to such families as service coordinators of covered federally assisted housing projects have under section 661 of such Act with respect to residents of such projects.

"(B) To the extent amounts are provided in appropriation Acts under subparagraph (C), the Secretary shall increase fees under this subsection to provide for the costs of such service coordinators for public housing agencies.

"(C) The budget authority available under section 5(c) for assistance under this section is authorized to be increased by $5,000,000 on or after October 1, 1992, and by $5,000,000 on or after October 1, 1993. Amounts made available under this subparagraph shall be used to provide additional amounts under annual contributions contracts for increased fees under this subsection, which shall be used only for the purpose of providing service coordinators for public housing agencies described in subparagraph (A).".

42 USC 13632.

SEC. 676. GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS IN MULTIFAMILY HOUSING ASSISTED UNDER NATIONAL HOUSING ACT.

(a) AUTHORITY.—The Secretary may make grants under this section to owners of federally assisted housing projects described in subparagraphs (E) and (F) of section 683(2). Any grant amounts shall be used for the costs of employing or otherwise retaining the services of one or more service coordinators under section 661 to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families (as such terms are defined in section 683 of this Act).

(b) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section and for selection of applicants to receive such grants.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for grants under this section.

(d) ELIGIBLE PROJECT EXPENSE.—For any federally assisted housing project described in subparagraph (E) or (F) of section 683(2) that does not receive a grant under this section, the cost of employing or otherwise retaining the services of one or more service coordinators under section 661 and not more than 15 percent of the cost of providing services to the residents of the project shall be considered an eligible project expense, but only to the extent that amounts are available from project rent and other income for such costs.

SEC. 677. EXPANDED RESPONSIBILITIES OF SERVICE COORDINATORS IN SECTION 202 HOUSING.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(A) in paragraph (2), by striking the last sentence; and

(B) by adding at the end the following new paragraph:

"(3) SERVICE COORDINATORS.—Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.".

(b) OLD SECTION 202 PROJECTS.— 12 USC 1701q note.

(1) AVAILABILITY OF SECTION 8 ASSISTANCE.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 to be provided for a project assisted under section 202 of the Housing Act of 1959, as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act, the Secretary shall consider (and annually adjust for) the costs of—

(A) employing or otherwise retaining the services of one or more service coordinators under section 661 of this Act to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

(B) expenses for the provision of such services.

Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

(2) INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989, the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

(3) LIMITATION.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 or section 802 of the Cranston-Gonzalez National Affordable Housing Act, the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable.

Subtitle F—General Provisions

SEC. 681. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGIES.

Section 105(b) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)) is amended—

(1) in paragraph (1) by inserting "persons with disabilities," after "the elderly,"; and

(2) by adding after paragraph (16), as added by the preceding provisions of this Act, the following new paragraph:

"(17) describe the jurisdictions activities to enhance coordination between public and assisted housing providers and private and governmental health, mental health, and service agencies.".

SEC. 682. CONFORMING AMENDMENTS.

(a) PUBLIC HOUSING.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) requiring the public housing agency to ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

(b) PROJECT-BASED SECTION 8 HOUSING.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), as amended by section 664 of this Act, is further amended by adding at the end the following new subparagraphs:

"(G) An assistance contract for project-based assistance under this paragraph shall provide that the owner shall ensure and maintain compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.

"(H) Notwithstanding subsection (d)(1)(A)(i), an owner of a covered section 8 housing project (as such term is defined in section 659 of the Housing and Community Development Act of 1992) may give preference for occupancy of dwelling units in the project, and reserve units for occupancy, in accordance with subtitle D of title VI of the Housing and Community Development Act of 1992.".

(c) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended—

(1) in subsection (i)(1), by inserting after the first sentence the following new sentence: "Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."; and

(2) in subsection (j), by adding after paragraph (6) (as added by section 601(d) of this Act) the following new paragraph:

"(7) COMPLIANCE WITH HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1992.—Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle.".

SEC. 683. DEFINITIONS. 42 USC 13641.

For purposes of this title:

(1) ELDERLY, DISABLED, AND NEAR-ELDERLY FAMILIES.—The terms "elderly family", "disabled family", and "near-elderly family" have the meanings given the terms under section 3(b)(3) of the United States Housing Act of 1937.

(2) FEDERALLY ASSISTED HOUSING.—The terms "federally assisted housing" and "project" mean—

(A) a public housing project (as such term is defined in section 3(b) of the United States Housing Act of 1937);

(B) housing for which project-based assistance is provided under section 8 of the United States Housing Act of 1937;

(C) housing that is assisted under section 202 of the Housing Act of 1959 (as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act);

(D) housing that is assisted under section 202 of the Housing Act of 1959, as such section existed before the enactment of the Cranston-Gonzalez National Affordable Housing Act;

(E) housing financed by a loan or mortgage insured under section 221(d)(3) of the National Housing Act that bears interest at a rate determined under the proviso of section 221(d)(5) of such Act;

(F) housing insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; and

(G) housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as in effect before October 1, 1983, that is assisted under a contract for assistance under such section.

(3) HOUSING ASSISTANCE.—The term "housing assistance" means, with respect to federally assisted housing, the grant, contribution, capital advance, loan, mortgage insurance, or other assistance provided for the housing under the provisions of law referred to in paragraph (2). The term also includes any related assistance provided for the housing by the Secretary, including any rental assistance for low-income occupants.

(4) OWNER.—The term "owner" means, with respect to federally assisted housing, the entity or private person, including a cooperative or public housing agency, that has the legal right to lease or sublease dwelling units in such housing.

(5) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

42 USC 13642.

SEC. 684. APPLICABILITY.

Except as otherwise provided in subtitles B through F of this title and the amendments made by such subtitles, such subtitles and the amendments made by such subtitles shall apply upon the expiration of the 6-month period beginning on the date of the enactment of this Act.

42 USC 13643.

SEC. 685. REGULATIONS.

The Secretary shall issue regulations necessary to carry out subtitles B through F of this title and the amendments made by such subtitles not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

TITLE VII—RURAL HOUSING

SEC. 701. PROGRAM AUTHORIZATIONS.

(a) INSURANCE AND GUARANTEE AUTHORITY.—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a) IN GENERAL.—(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1993 and 1994, in aggregate amounts not to exceed $2,446,855,600 and $2,549,623,535, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of low-income borrowers receiving assistance under section 521(a)(1), $1,676,484,000 for fiscal year 1993 and $1,746,896,328 for fiscal year 1994.

"(B) For guaranteed loans under section 502(h) on behalf of low- and moderate-income borrowers, such sums as may be appropriated for fiscal years 1993 and 1994.

"(C) For loans under section 504, $12,400,000 for fiscal year 1993 and $12,920,800 for fiscal year 1994.

"(D) For insured loans under section 514, $16,821,600 for fiscal year 1993 and $17,528,107 for fiscal year 1994.

"(E) For insured loans under section 515, $739,500,000 for fiscal year 1993 and $770,559,000 for fiscal year 1994.

"(F) For loans under section 523(b)(1)(B), $800,000 for fiscal year 1993 and $833,600 for fiscal year 1994.

"(G) For site loans under section 524, $850,000 for fiscal year 1993 and $885,700 for fiscal year 1994.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994, and to remain available until expended, the following amounts:

"(1) For grants under section 502(f)(1), $1,100,000 for fiscal year 1993 and $1,146,200 for fiscal year 1994.

"(2) For grants under section 504, $21,100,000 for fiscal year 1993 and $21,986,200 for fiscal year 1994.

"(3) For purposes of section 509(c), $600,000 for fiscal year 1993 and $625,200 for fiscal year 1994.

"(4) For project preparation grants under section 509(f)(6), $5,300,000 in fiscal year 1993 and $5,522,600 in fiscal year 1994.

"(5) In fiscal years 1993 and 1994, such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(6) For grants for service coordinators under section 515(y), $1,000,000 in fiscal year 1993 and $1,042,000 in fiscal year 1994.

"(7) For financial assistance under section 516—

"(A) for low-rent housing and related facilities for domestic farm labor under subsections (a) through (j) of such section, $21,700,000 for fiscal year 1993 and $22,611,400 for fiscal year 1994; and

"(B) for housing for rural homeless and migrant farmworkers under subsection (k) of such section, $10,500,000 for fiscal year 1993 and $10,941,000 for fiscal year 1994.

"(8) For grants under section 523(f), $13,900,000 for fiscal year 1993 and $14,483,800 for fiscal year 1994.

"(9) For grants under section 533, $30,800,000 for fiscal year 1993 and $32,093,600 for fiscal year 1994.".

(c) RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c) RENTAL ASSISTANCE.—(1) The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating $414,100,000 for fiscal year 1993 and $431,492,200 for fiscal year 1994.".

(d) SUPPLEMENTAL RENTAL ASSISTANCE PAYMENT CONTRACTS.—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.—The Secretary, to the extent approved in appropriations Acts for fiscal years 1993 and 1994, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating

$12,178,000 for fiscal year 1993 and $12,689,476 for fiscal year 1994.".

(e) RENTAL HOUSING LOAN AUTHORITY.—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1992" and inserting "September 30, 1994".

(f) RURAL HOUSING VOUCHER PROGRAM.—Section 513(e) of the Housing Act of 1949 (42 U.S.C. 1483(e)) is amended to read as follows:

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for rural housing vouchers under section 542, $130,000,000 for fiscal year 1993 and $140,000,000 for fiscal year 1994.".

(g) DEFERRED MORTGAGE DEMONSTRATION.—Section 502(g)(3) of the Housing Act of 1949 (42 U.S.C. 1472(g)(3)) is amended by striking "1991 and 1992" and inserting "1993 and 1994".

SEC. 702. ELIGIBILITY OF HOMES ON LEASED LAND OWNED BY COMMUNITY LAND TRUSTS FOR SECTION 502 LOANS.

(a) ELIGIBILITY.—Section 502(a) of the Housing Act of 1949 (42 U.S.C. 1472(a)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding any other provision of this title, a loan may be made under this section for the purchase of a dwelling located on land owned by a community land trust, if the borrower and the loan otherwise meet the requirements applicable to loans under this section.

"(B) For purposes of this paragraph, the term 'community land trust' means a community housing development organization as such term is defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (except that the requirements under section 104(6)(C) and section 104(6)(D) shall not apply for purposes of this paragraph)—

"(i) that is not sponsored by a for-profit organization;

"(ii) that is established to carry out the activities under clause (iii);

"(iii) that—

"(I) acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;

"(II) transfers ownership of any structural improvements located on such leased parcels to the lessees; and

"(III) retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low- and moderate-income families in perpetuity; and

"(iv) that has its corporate membership open to any adult resident of a particular geographic area specified in the bylaws of the organization.".

(b) RECAPTURE.—Section 521(a)(1)(D) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)(D)) is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by adding at the end the following new clause:

"(ii) In determining the amount recaptured under this subparagraph with respect to any loan made pursuant to section 502(a)(3) for the purchase of a dwelling located on land owned by a community land trust, the Secretary shall determine any appreciation of the dwelling based on any agreement between the borrower

and the community land trust that limits the sale price or appreciation of the dwelling.".

SEC. 703. MAXIMUM INCOME OF BORROWERS UNDER GUARANTEED LOANS.

Section 502(h)(2) of the Housing Act of 1949 (42 U.S.C. 1472(h)(2)) is amended by inserting "115 percent of" after "exceed".

SEC. 704. REMOTE RURAL AREAS.

Section 502(f) of the Housing Act of 1949 (42 U.S.C. 1472(f)) is amended—

(1) in paragraph (1), by inserting "or on tribal allotted or Indian trust land" after "area"; and

(2) in paragraph (2), by inserting "or on tribal allotted or Indian trust land" before the period.

SEC. 705. DESIGNATION OF UNDERSERVED AREAS AND RESERVATION OF ASSISTANCE.

(a) REAUTHORIZATION OF DESIGNATION.—Section 509(f) of the Housing Act of 1949 (42 U.S.C. 1479(f)) is amended—

(1) in paragraph (1), by striking "in each of fiscal years 1991 and 1992" and inserting "in each fiscal year";

(2) in paragraph (2), by inserting at the end the following new flush sentence:

"In designating underserved areas under paragraph (1), in each fiscal year the Secretary shall designate not less than 5 counties or communities that contain tribal allotted or Indian trust land."; and

(3) in paragraph (4), by striking "an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992" and inserting "an amount equal to 5.0 percent in fiscal years 1993 and 1994".

(b) DEFINITION OF COLONIAS.—Section 509(f)(8) of the Housing Act of 1949 (42 U.S.C. 1479(f)(8)) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

(c) COLONIAS REFINEMENTS.—Section 509(f)(4)(B)(ii) of the Housing Act of 1949 (42 U.S.C. 1479(f)(4)(B)(ii)) is amended by inserting before "a colonia", the following ", or in close proximity to, and serving the residents of,".

SEC. 706. RURAL HOUSING VOUCHER PROGRAM.

Title V of the Housing Act of 1949 (42 U.S.C. 501 et seq.) is amended—

(1) in the last sentence of section 533(a) (42 U.S.C. 1490m(a)), by inserting after "1937" the following: "or section 542 of this title"; and

(2) by adding at the end the following new section:

"SEC. 542. RURAL HOUSING VOUCHER PROGRAM. 42 USC 1490r.

"(a) IN GENERAL.—To such extent or in such amounts as are approved in appropriation Acts, the Secretary shall carry out a

rural housing voucher program to assist very low-income families and persons to reside in rental housing in rural areas. For such purposes, the Secretary may provide assistance using a payment standard based on the fair market rental rate established by the Secretary for the area. The monthly assistance payment for any family shall be the amount by which the payment standard for the area exceeds 30 per centum of the family's monthly adjusted income, except that such monthly assistance payment shall not exceed the amount which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 10 per centum of the family's monthly gross income.

"(b) COORDINATION AND LIMITATION.—In carrying out the rural housing voucher program under this section, the Secretary shall—

"(1) coordinate activities under this section with activities assisted under sections 515 and 533 of this title; and

"(2) enter into contracts for assistance for not more than 5000 units in any fiscal year.".

SEC. 707. RENTAL HOUSING LOANS.

(a) DEVELOPMENT COSTS.—Section 515(e)(4) of the Housing Act of 1949 (42 U.S.C. 1485(e)(4)) is amended—

(1) by striking "and" before "initial";

(2) by inserting before the first period the following: ", impact fees, local charges for installation, provision, or use of infrastructure, and local assessments for public improvements and services imposed by State and local governments"; and

(3) by inserting after the period at the end the following new sentence: "Notwithstanding the first sentence of this paragraph, the term 'development cost' shall not include any initial operating expenses in the case of any nonprofit corporation or consumer cooperative that is financing housing under this section and has been allocated a low-income housing tax credit by a housing credit agency pursuant to section 42 of the Internal Revenue Code of 1986.".

(b) COORDINATION OF LOANS AND RENTAL ASSISTANCE PAYMENTS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended—

(1) in subsection (l), by striking paragraph (1) and inserting the following new paragraph:

"(1) in the case of any applicant who applies for rental assistance payments under section 521 in connection with such project, the Secretary shall consider the availability of such rental assistance payments with respect to the project and shall require such applicant to demonstrate that a market exists for persons and families eligible for such rental assistance payments; and"; and

(2) in subsection (p)—

(1) in paragraph (4), by striking ", except" in the first sentence and all that follows through the end of the paragraph and inserting a period; and

(2) by inserting at the end the following new paragraph:

"(5) The Secretary shall coordinate the processing of any application for a loan under this section for a project and the processing of any application for assistance under section 521(a)(2)

with respect to housing units in the same project in an economical and efficient manner. At the time the Secretary enters into a commitment to make or insure a loan under this section the Secretary shall obligate amounts for assistance payments under section 521(a)(2) for the project, to the extent that such amounts are available and the Secretary determines such assistance is necessary for the market feasibility of the project.".

(c) EQUITY CONTRIBUTION.—Section 515(r)(2) of the Housing Act of 1949 (42 U.S.C. 1485(r)(2)) is amended by inserting before the period at the end the following: ", except that the Secretary shall require a 5 percent contribution in the case of a project that is allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986".

(d) UNIFORM PROJECT COSTS AND COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(x) UNIFORM PROJECT COSTS; COORDINATION OF HOUSING RESOURCES AND TAX BENEFITS.—The Secretary shall—

"(1) establish standard guidelines for State offices that describe allowable development costs which are required for development of all projects under this section, without regard to whether the project was allocated a low-income housing tax credit;

"(2) require each State to establish a process for coordinating the selection of projects under this section with the housing needs and priorities as established in a State comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act and a low-income housing tax credit allocation plan under section 42 of the Internal Revenue Code of 1986; and

"(3) develop, in consultation with housing credit agencies (as that term is defined under section 42 of the Internal Revenue Code of 1986), uniform procedures for identifying and sharing information on project costs, builder profit, identity of interests relationships, and other factors, as appropriate, with the relevant housing credit agency for projects that are allocated a low-income housing tax credit pursuant to section 42(h) of the Internal Revenue Code of 1986 for the purpose of achieving compliance with section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)).".

(e) GRANTS FOR COSTS OF PROVIDING SERVICE COORDINATORS.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(y) SERVICE COORDINATORS.—

"(1) GRANTS.—The Secretary may make grants under this subsection, with respect to any project that the Secretary determines has a sufficient number of frail elderly residents, for the cost of employing or otherwise retaining the services of one or more individuals to coordinate services provided to frail elderly residents of the project (in this subsection referred to as a 'service coordinator'), who shall be responsible for—

"(A) assessing the supportive service needs of frail elderly residents of the project, based on objective criteria and interviews with such residents;

"(B) working with service providers to design the provision of services to meet the needs of frail elderly residents of the project, taking into consideration the needs and desires of such residents and their ability and willingness to pay for such services, as expressed by the residents;

"(C) mobilizing public and private resources to obtain funding for such services for such residents;

"(D) monitoring and evaluating the impact and effectiveness of any supportive services provided for such residents;

"(E) consulting and coordinating with any appropriate public and private agencies regarding the provision of supportive services; and

"(F) performing such other duties that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

"(2) QUALIFICATIONS.—Individuals employed as service coordinators pursuant to this subsection shall meet the minimum qualifications and standards established under section 802(d)(4) of the Cranston-Gonzalez National Affordable Housing Act for service coordinators under a congregate housing services program.

"(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection and for the selection of applicants to receive the grants.

"(4) DEFINITION OF FRAIL ELDERLY.—For purposes of this subsection, the term 'frail elderly' has the meaning given the term in section 802(k) of the Cranston-Gonzalez National Affordable Housing Act.".

(f) PROHIBITIONS REGARDING CONSIDERATIONS IN MAKING LOANS.—

(1) IN GENERAL.—Section 515 of the Housing Act of 1949 (42 U.S.C. 1485), as amended by this section, is further amended by adding at the end the following new subsection:

"(z) PROHIBITIONS.—

"(1) REMOTE RURAL AREAS.—The Secretary may not refuse to make a loan that otherwise complies with the requirements under this section solely because the housing and related facilities involved are located in an area that is excessively rural in character or excessively remote.

"(2) ESSENTIAL SERVICES.—In making loans under this section, the Secretary may not provide any preference for any project based on the availability of any particular essential service. For purposes of this paragraph, an essential service shall include post offices (and postal services), grocery stores, pharmacies, schools, and health service facilities (and health services).

"(3) GEOGRAPHIC LOCATION.—In making loans under this section, the Secretary may not grant or deny approval based on the geographic location of the proposed project if the project is located in a rural area, as such term is defined in section 520, except that the Secretary shall give preference to any application for a project that will serve the needs of a rural community located 20 or more miles from an urban area.".

(2) REGULATIONS.—The Secretary of Agriculture shall issue any regulations necessary to carry out the amendment made by paragraph (1) not later than the expiration of the 45-day period beginning on the date of the enactment of this Act. Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the Secretary shall submit a copy of any regulations to be issued under this subsection to the Congress. The requirements of section 534(d) of the Housing Act of 1949 and subsections (b) and (c) of section 553 of title 5, United States Code, shall apply to any such regulations. 42 USC 1485 note.

(g) INDEPENDENT COST CERTIFICATIONS.—Section 517(j)(3) of the Housing Act of 1949 (42 U.S.C. 1487(j)(3)) is amended by inserting after "industry," the following: "independent audits of project expenses,".

SEC. 708. NONPROFIT SET-ASIDE.

(a) IN GENERAL.—Section 515(w) of the Housing Act of 1949 (42 U.S.C. 1485(w)) is amended—

(1) in paragraph (1), by striking "not less than 7 percent of the amounts available in fiscal year 1991 and not less than 9 percent of the amounts available in fiscal year 1992" and inserting "not less than 9 percent of the amounts available in fiscal years 1993 and 1994";

(2) in paragraph (1), in the second sentence by striking "or under whole or partial control with a for-profit entity";

(3) in paragraph (1), by adding at the end the following new sentence: "A partnership, that has as its general partner a nonprofit entity or the nonprofit entity's for-profit subsidiary, is eligible to receive funds set aside under this subsection to sponsor a project which is receiving low-income housing tax credits authorized under section 42 of the Internal Revenue Code of 1986. For the purposes of this subsection, a nonprofit entity is an organization that—

"(A) will own an interest in a project to be financed under this section and will materially participate in the development and the operation of the project;

"(B) is a private organization that has nonprofit, tax exempt status under section 501(c)(3) or section 501(c)(4) of the Internal Revenue Code of 1986;

"(C) has among its purposes the planning, development, or management of low-income housing or community development projects; and

"(D) is not affiliated with or controlled by a for-profit organization.";

(4) in paragraph (2), by adding at the end the following: "The Secretary may provide amounts available for reallocation under this subsection in excess of $750,000 in a given State, if such amounts are necessary to finance a project under this section."; and

(5) by striking paragraph (3) and inserting the following: "(3) UNUSED AMOUNTS.—

"(A) EQUITABLE DISTRIBUTION.—Any amounts set aside under this subsection from the allocation for any State that are not obligated by 9 months after the allocation, shall first be pooled and made available to any other eligible nonprofit entity in any State as defined in this

subsection. The Secretary shall make reasonable efforts to ensure that pooled funds are distributed under this subparagraph in an equitable manner.

"(B) RETURN TO THE STATES.—After funds have been pooled and obligated for 30 days, the Secretary shall return any remaining funds to the States on a proportional basis for use by any other eligible entity as defined in this section.".

42 USC 1485 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(5) shall take effect on October 1, 1993, and shall apply to fiscal year 1994 and each fiscal year thereafter.

SEC. 709. CONSIDERATION OF CERTAIN AREAS AS RURAL AREAS.

Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended by adding at the end the following new sentence: "Notwithstanding any other provision of this section, the city of Plainview, Texas, shall be considered a rural area for purposes of this title.".

SEC. 710. PERMANENT AUTHORITY FOR SECTION 523.

Section 523 of the Housing Act of 1949 (42 U.S.C. 1490c) is amended—

(1) in subsection (b)(1)(A), by inserting after "efforts" the following: ", including the repair of units financed under section 502 that are being held in inventory"; and

(2) by striking subsection (f).

SEC. 711. HOUSING PRESERVATION GRANTS FOR REPLACEMENT OF HOUSING.

Section 533 of the Housing Act of 1949 (42 U.S.C. 1490m) is amended—

(1) in subsection (a)—

(A) by inserting "or replace" after "rehabilitate" each place it appears; and

(B) in the second sentence, by inserting "or replaced" after "rehabilitated";

(2) in subsection (b)—

(A) by striking "Rehabilitation programs" and inserting "Preservation programs";

(B) in paragraph (3), by inserting "or replacement" after "rehabilitation" each place it appears;

(C) in paragraph (4), by striking "repair and rehabilitation" and inserting "repair, rehabilitation, and replacement";

(D) by redesignating paragraphs (2) through (6) (as amended by this paragraph) as paragraphs (3) through (7), respectively; and

(E) by inserting after paragraph (1) the following new paragraph:

"(2) be used to provide loans or grants, not to exceed $15,000 per unit, to owners of single family housing to replace existing housing if repair or rehabilitation of the housing is determined by the Secretary not to be practicable and the owner of the housing is unable to afford a loan under section 502 for replacement housing;";

(3) in the first sentence of subsection (c)(1), by striking "rehabilitation grant funds" and inserting "grant funds under this section"; and

(4) in subsection (d)—

(A) in paragraph (1), by striking "rehabilitation program" and inserting "preservation program";

(B) in paragraphs (3)(A), (3)(B), and (3)(D), by striking "repair and rehabilitation" each place it appears and inserting "repair, rehabilitation, and replacement";

(C) in paragraph (4), by inserting ", or replacement," after "repair and rehabilitation"; and

(D) by adding at the end the following new paragraph:

"(5) A grantee may use housing preservation grant funds under this section for replacement housing only after providing documentation to the Secretary that—

"(A) the existing housing is in such poor condition that rehabilitation is not economically feasible;

"(B) the owner of the housing lacks the income or repayment ability necessary to qualify for a loan under section 502; and

"(C) the grantee will extend assistance to the owner of the housing under terms that the owner can afford.".

SEC. 712. PRESERVATION.

(a) APPLICABILITY.—Section 502(c) of the Housing Act of 1949 (42 U.S.C. 1472(c)) is amended—

(1) in subparagraph (2), by striking "before December 21, 1979," and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(2) in subparagraph (4)(A), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989";

(3) in subparagraph (5)(F), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989"; and

(4) in subparagraph (5)(G), by striking "before December 21, 1979" and inserting "prior to the date of enactment of the Department of Housing and Urban Development Reform Act of 1989".

(b) INCENTIVES.—Section 502(c)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)) is amended by adding the following new clause:

"(vi) In the case of a project that has received rental assistance under section 8 of the United States Housing Act of 1937, permitting the owner to receive rent in excess of the amount determined necessary by the Secretary to defray the cost of long-term repair or maintenance of such a project.".

(c) OFFICE OF RURAL HOUSING PRESERVATION.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by inserting after section 536 the following:

"SEC. 537. OFFICE OF RURAL HOUSING PRESERVATION. 42 USC 1490p-1.

"(a) ESTABLISHMENT.—There is established within the Farmers Home Administration an Office of Rental Housing Preservation (hereafter in this section referred to as the 'Office'). The Office shall be headed by a Director designated by the Secretary of Agriculture.

"(b) PURPOSES.—The purposes of the Office are:

"(1) to review and process applications under section 502(c) and section 515(t) related to the preservation of rural rental housing;

"(2) to provide technical or financial assistance to any other projects needing such assistance;

"(3) to coordinate and direct all other activities related to the preservation of rural housing; and

"(4) to monitor compliance of projects prepaid or receiving incentives under the Housing Act of 1949.".

SEC. 713. DISASTER ASSISTANCE.

Section 541(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490q(a)(1)) is amended in the first sentence by striking "amounts available under this title" and inserting "amounts made available to the Secretary by an appropriations Act for such purpose".

SEC. 714. PROHIBITION ON TRANSFER OF RURAL HOUSING PROGRAMS.

Section 501 of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following new subsection:

"(j) PROGRAM TRANSFERS.—Notwithstanding any other provision of law, the Secretary shall not transfer any program authorized by this title to the Rural Development Administration.".

SEC. 715. SITE ACQUISITION AND DEVELOPMENT.

Section 524(a) of the Housing Act of 1949 (42 U.S.C. 1490d(a)) is amended—

(1) by inserting "(1) IN GENERAL.—" before "The Secretary" in the first sentence; and

(2) by adding at the end the following:

"(2) REVOLVING FUNDS.—The Secretary may make grants to nonprofit housing agencies to establish revolving loan funds for the acquisition and preparation of building sites for low-income housing. Any proceeds and repayments from such loans shall be returned to the revolving loan fund to be used for purposes related to this section. Loan funds and interest payments shall be used solely for the acquisition of land; the preparation of land for building sites; the payment of reimbursable legal and technical costs; and technical assistance and administrative costs, not to exceed 10 percent of the fund.".

SEC. 716. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Termination date.
42 USC 1490o.

(a) EXTENSION OF AUTHORITY.—Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490o(b)) is amended by striking the last sentence and inserting the following new sentence: "This subsection shall not apply after June 15, 1993.".

42 USC 1490o note.

(b) RETROACTIVITY.—Any administrative approval of any housing subdivision made after the expiration of the 18-month period beginning on the date of the enactment of the Department of Housing and Urban Development Reform Act of 1989 and before the date of the enactment of this Act is approved and shall be considered to have been lawfully made, but only if otherwise made in accordance with the provisions of section 535(b) of the Housing Act of 1949.

(c) APPROVAL BY LOCAL, COUNTY, OR STATE AGENCIES.—Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended by adding at the end the following new subsection:

"(d) For loans made under this title, the Secretary may accept subdivisions that have been approved by local, county, or State agencies.".

TITLE VIII—COMMUNITY DEVELOPMENT

Subtitle A—Community Development Block Grants

SEC. 801. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

Appropriation authorization.

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second and third sentences and inserting the following: "For purposes of assistance under section 106, there are authorized to be appropriated $4,000,000,000 for fiscal year 1993 and $4,168,000,000 for fiscal year 1994.

(b) LIMITATION ON LOAN GUARANTEES.—The fifth sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities and to the authority provided in this section, to the extent approved or provided in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of $2,000,000,000 for fiscal year 1993 and $2,000,000,000 for fiscal year 1994.".

(c) SPECIAL PURPOSE GRANTS.—

(1) SET-ASIDE.—Section 107 of the Housing and Community Development Act of 1974 (42 U.S.C. 5307) is amended by striking "SEC. 107. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 107. (a) SET-ASIDE.—

"(1) IN GENERAL.—For each fiscal year (except as otherwise provided in this paragraph), of the total amount provided in appropriation Acts under section 103 for the fiscal year, $60,000,000 shall be set aside for grants under subsection (b) for such year for the following purposes:

"(A) $7,000,000 shall be available for grants under subsection (b)(1);

"(B) $6,500,000 shall be available for grants under subsection (b)(3);

"(C) $6,000,000 shall be available for grants under subsection (b)(5);

"(D) $6,000,000 shall be available in fiscal year 1993 for grants under subsection (b)(7);

"(E) $3,000,000 shall be available for grants under subsection (c);

"(F) such sums as may be necessary shall be available for grants under paragraphs (2), (4), and (6) of subsection (b);

"(G) $2,000,000 shall be available in fiscal year 1993 for a grant to the City of Bridgeport, Connecticut, subject to the approval of sufficient amounts in an appropriation Act and to binding commitments made by the City of

Bridgeport and the State of Connecticut that the city and State, respectively, will supplement such amount with $2,000,000 of additional funds;

"(H) $15,000,000 shall be available for grants under the Removal of Regulatory Barriers to Affordable Housing Act of 1992; and

"(I) $7,500,000 shall be available to carry out the Community Outreach Partnership Act of 1992.

"(2) TREATMENT OF GRANTS.—Any grants made under this section shall be in addition to any other grants that may be made under this title to the same entities for the same purposes.".

(2) OTHER PURPOSES.—Section 107(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(b)) is amended—

(A) in paragraph (3), by striking "and" at the end;

(B) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

"(5) to States and units of general local government and institutions of higher education having a demonstrated capacity to carry out eligible activities under this title, except that the Secretary may make a grant under this paragraph only to a State or unit of general local government that jointly, with an institution of higher education, has prepared and submitted to the Secretary an application for such grant, as the Secretary shall by regulation require;

"(6) to units of general local government in nonentitlement areas for planning community adjustments and economic diversification activities, which may include any eligible activities under section 105, required—

"(A) by the proposed or actual establishment, realignment, or closure of a military installation,

"(B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, or

"(C) by a publicly announced planned major reduction in Department of Defense spending that would directly and adversely affect a unit of general local government and will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a 5-year period in the unit of general local government and the surrounding area, or

if the Secretary (in consultation with the Secretary of Defense) determines that an action described in subparagraph (A), (B), or (C) is likely to have a direct and significant adverse consequence on the unit of general local government; and

"(7) for the purposes of rebuilding and revitalizing distressed areas of the Los Angeles metropolitan area.".

42 USC 5307 note.

(3) REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall issue proposed regulations to carry out section 107(b)(6) of the Housing and Community Development Act of 1974, as added by subsection (c)(2) of this section. The Secretary shall issue final regulations to carry out section 107(b)(6) not later than the expiration of the 120-day period beginning on the

date of the enactment of this Act and after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Such final regulations shall take effect 30 days after issuance.

(4) CONFORMING AMENDMENT.—Section 107(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(c)) is amended by striking "to the extent" and all that follows up to "grants to institutions" and inserting "make".

(d) GRANT ACTIVITIES.—The special purpose grant of the City of Dubuque, Iowa, under Public Law 102–139 may be used for land acquisition, new construction, relocation assistance payments, and rehabilitation for housing of low- and moderate-income families.

SEC. 802. UNITS OF GENERAL LOCAL GOVERNMENT.

(a) DEFINITION.—Section 102(a)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(1)) is amended by striking "recognized by the Secretary" and inserting the following: "that, except as provided in section 106(d)(4), is recognized by the Secretary".

(b) GRANTS TO NONENTITLEMENT AREAS.—Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (3) the following new paragraph:

"(4) Any combination of units of general local governments may not be required to obtain recognition by the Secretary pursuant to section 102(a)(1) to be treated as a single unit of general local government for purposes of this subsection.".

SEC. 803. URBAN COUNTIES.

Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(1) in clause (iii), by striking "or" at the end;

(2) in clause (iv), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(v)(I) has a population of 175,000 or more (including the population of metropolitan cities therein), (II) before January 1, 1975, was designated by the Secretary of Defense pursuant to section 608 of the Military Construction Authorization Act, 1975 (Public Law 93–552; 88 Stat. 1763), as a Trident Defense Impact Area, and (III) has located therein not less than 1 unit of general local government that was classified as a metropolitan city and (a) for which county each such unit of general local government therein has relinquished its classification as a metropolitan city under the 6th sentence of paragraph (4), or (b) that has entered into cooperative agreements with each metropolitan city therein to undertake or to assist in the undertaking of essential community development and housing assistance activities.".

SEC. 804. RETENTION OF PROGRAM INCOME.

The first sentence of section 104(j) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(j)) is amended—

(1) by striking "while the unit of general local government is participating in a community development program under this title"; and

(2) by inserting before the period at the end the following: "; except that the Secretary may, by regulation, exclude from consideration as program income any amounts determined to be so small that compliance with this subsection creates an unreasonable administrative burden on the unit of general local government".

SEC. 805. ECONOMIC DEVELOPMENT.

(b) Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305) is amended by adding at the end the following new subsection:

"(d) TRAINING PROGRAM.—The Secretary shall implement, using funds recaptured pursuant to section 119(o), an on-going education and training program for officers and employees of the Department, especially officers and employees of area and other field offices of the Department, who are responsible for monitoring and administering activities pursuant to paragraphs (14), (15), and (17) of subsection (a) for the purpose of ensuring that (A) such personnel possess a thorough understanding of such activities; and (B) regulations and guidelines are implemented in a consistent fashion.".

SEC. 806. EVALUATION, SELECTION, AND REVIEW OF ECONOMIC DEVELOPMENT PROJECTS.

(a) GUIDELINES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 805, is amended by adding at the end the following new subsection:

"(e) GUIDELINES FOR EVALUATING AND SELECTING ECONOMIC DEVELOPMENT PROJECTS.—

Regulations.

"(1) ESTABLISHMENT.—The Secretary shall establish, by regulation, guidelines to assist grant recipients under this title to evaluate and select activities described in section 105(a)(14), (15), and (17) for assistance with grant amounts. The Secretary shall not base a determination of eligibility of the use of funds under this title for such assistance solely on the basis that the recipient fails to achieve one or more of the guidelines' objectives as stated in paragraph (2).

"(2) PROJECT COSTS AND FINANCIAL REQUIREMENTS.—The guidelines established under this subsection shall include the following objectives:

"(A) The project costs of such activities are reasonable.

"(B) To the extent practicable, reasonable financial support has been committed for such activities from non-Federal sources prior to disbursement of Federal funds.

"(C) To the extent practicable, any grant amounts to be provided for such activities do not substantially reduce the amount of non-Federal financial support for the activity.

"(D) Such activities are financially feasible.

"(E) To the extent practicable, such activities provide not more than a reasonable return on investment to the owner.

"(F) To the extent practicable, grant amounts used for the costs of such activities are disbursed on a pro rata basis with amounts from other sources.

"(3) PUBLIC BENEFIT.—The guidelines established under this subsection shall provide that the public benefit provided by the activity is appropriate relative to the amount of assistance provided with grant amounts under this title.".

(b) ASSISTANCE TO FOR-PROFIT ENTITIES.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by subsection (a), is amended by inserting at the end the following new subsection:

"(f) ASSISTANCE TO FOR-PROFIT ENTITIES.—In any case in which an activity described in paragraph (17) of subsection (a) is provided assistance such assistance shall not be limited to activities for which no other forms of assistance are available or could not be accomplished but for that assistance.".

(c) GAO STUDY.—The Comptroller General of the United States shall conduct a study of the use of grant amounts under title I of the Housing and Community Development Act of 1974 for activities described in paragraphs (14), (15), and (17) of section 105(a) of such Act. The study shall evaluate whether the activities for which such amounts are being used under such paragraphs further the goals and objectives of such program, as established in section 101 of such Act. The Comptroller General shall submit a report to the Congress regarding the findings of the study not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. The report shall include recommendations of— 42 USC 5305 note. Reports.

(1) any administrative or legislative actions that may be taken to ensure that such grant amounts are properly and efficiently used for economic development activities; and

(2) criteria by which to evaluate the effectiveness of activities assisted under paragraphs (14), (15), and (17) of such section 105(a).

(d) ENHANCING JOB QUALITY.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the types and quality of jobs created or retained through assistance provided pursuant to title I of the Housing and Community Development Act of 1974 and the extent to which projects and activities assisted under that title enhance the upward mobility and future earning capacity of low- and moderate-income persons who are benefited by such projects and activities. Reports. 42 USC 5305 note.

(e) REBUILDING DISTRESSED NEIGHBORHOODS.—Section 105(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(c)) is amended by adding at the end the following new paragraph:

"(4) For the purposes of subsection (c)(1)(C)—

"(A) if an employee resides in, or the assisted activity through which he or she is employed, is located in a census tract that meets the Federal enterprise zone eligibility criteria, the employee shall be presumed to be a person of low- or moderate-income; or

"(B) if an employee resides in a census tract where not less than 70 percent of the residents have incomes at or below 80 percent of the area median, the employee shall be presumed to be a person of low or moderate income.".

SEC. 807. ELIGIBLE ACTIVITIES.

(a) ADDITIONAL ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (8), by inserting before the semicolon at the end the following: ", and except that of any amount

of assistance under this title (including program income) in each of fiscal years 1993 through 1997 to the City of Los Angeles and County of Los Angeles, each such unit of general government may use not more than 25 percent in each such fiscal year for activities under this paragraph";

(2) in paragraph (19), by striking "and" at the end;

(3) by redesignating paragraph (20) as paragraph (25); and

(4) by inserting after paragraph (19) the following new paragraphs:

"(20) provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or economic development activities, which assistance shall not be considered a planning cost as defined in paragraph (12) or administrative cost as defined in paragraph (13);

"(21) housing services, such as housing counseling, energy auditing, preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in housing activities authorized under this section, or under title II of the Cranston-Gonzalez National Affordable Housing Act, except that activities under this paragraph shall be subject to any limitation on administrative expenses imposed by any law;

"(22) provision of assistance by recipients under this title to institutions of higher education having a demonstrated capacity to carry out eligible activities under this subsection for carrying out such activities;

"(23) provision of assistance to public and private organizations, agencies, and other entities (including nonprofit and for-profit entities) to enable such entities to facilitate economic development by—

"(A) providing credit (including providing direct loans and loan guarantees, establishing revolving loan funds, and facilitating peer lending programs) for the establishment, stabilization, and expansion of microenterprises;

"(B) providing technical assistance, advice, and business support services (including assistance, advice, and support relating to developing business plans, securing funding, conducting marketing, and otherwise engaging in microenterprise activities) to owners of microenterprises and persons developing microenterprises; and

"(C) providing general support (such as peer support programs and counseling) to owners of microenterprises and persons developing microenterprises;

"(24) activities necessary to make essential repairs and to pay operating expenses necessary to maintain the habitability of housing units acquired through tax foreclosure proceedings in order to prevent abandonment and deterioration of such housing in primarily low- and moderate-income neighborhoods; and".

(b) DIRECT HOMEOWNERSHIP ASSISTANCE.—Section 907(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5305 note) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1994";

(2) by striking "October 1, 1993" and inserting "October 1, 1995"; and

(3) by striking "(18)", "(19)", and "(20)" and inserting "(23)", "(24)", and "(25)", respectively.

(c) MICROENTERPRISE AND SMALL BUSINESS DEVELOPMENT INITIATIVE.—

(1) IN GENERAL.—Section 105 of the Housing and Community Development Act of 1974 (42 U.S.C. 5305), as amended by section 806, is further amended by adding at the end the following new subsection:

"(g) MICROENTERPRISE AND SMALL BUSINESS PROGRAM REQUIREMENTS.—In developing program requirements and providing assistance pursuant to paragraph (17) of subsection (a) to a microenterprise or small business, the Secretary shall—

"(1) take into account the special needs and limitations arising from the size of the entity; and

"(2) not consider training, technical assistance, or other support services costs provided to small businesses or microenterprises or to grantees and subgrantees to develop the capacity to provide such assistance, as a planning cost pursuant to section 105(a)(12) or an administrative cost pursuant to section 105(a)(13).".

(2) DEFINITIONS.—Section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)) is amended by adding at the end the following new paragraphs:

"(22) The term 'microenterprise' means a commercial enterprise that has 5 or fewer employees, 1 or more of whom owns the enterprise.

"(23) The term 'small business' means a business that meets the criteria set forth in section 3(a) of the Small Business Act.".

(3) SENSE OF THE CONGRESS.—It is the sense of the Congress that each grantee under title I of the Housing and Community Development Act of 1974 should reserve 1 percent of any grant amounts the grantee receives in each fiscal year for the purpose of providing assistance under section 105(a)(23) of such Act to facilitate economic development through commercial microenterprises.

(4) REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Congress a report on the effectiveness of assistance provided through title I of the Housing and Community Development Act of 1974 in promoting development of microenterprises, including a review of any statutory or regulatory provision that impedes the development of microenterprises. 42 USC 5305 note.

(d) LOANS OF CDBG FUNDS.—Section 105(a)(14) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(14)) is amended by inserting before "activities" the following: "provision of assistance including loans (both interim and long-term) and grants for".

(e) CDBG CODE ENFORCEMENT.—Section 105(a)(3) of the Housing and Community Development Act of 1974 is amended by striking "improvements and" and inserting "or private improvements or".

(f) NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS.—Section 105(a)(15) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(15)) is amended by inserting after "corporations," the following: "nonprofit organizations serving the development needs of the communities in nonentitlement areas,".

SEC. 808. REFERENCE TO FAIR HOUSING ACT.

Sections 104(b)(2), 106(d)(5)(B), and 107(e)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(2), 5306(d)(5)(B), and 5307(e)(1)) are each amended by striking "Public Law 88–352 and Public Law 90–284" and inserting "the Civil Rights Act of 1964 and the Fair Housing Act".

SEC. 809. ELIGIBILITY OF ENTERPRISE ZONES.

Section 105(a)(13) of the Housing and Community Development Act of 1974 is amended by inserting immediately after "(13)" the following: "payment of reasonable administrative costs related to establishing and administering federally approved enterprise zones and".

SEC. 810. ASSISTANCE FOR COLONIAS.

(a) ELIGIBLE ACTIVITIES.—Section 916 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by adding at the end of subsection (b) the following new paragraph:

"(3) OTHER IMPROVEMENTS.—Other activities eligible under section 105 of the Housing and Community Development Act of 1974 designed to meet the needs of residents of colonias."; and

(2) in subsection (f), by striking "and 1993" and inserting "1993, and 1994".

(b) DEFINITION OF COLONIA.—Section 916(e)(1) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306 note) is amended—

(1) by striking subparagraph (C);

(2) by redesignating subparagraph (D) as subparagraph (C); and

(3) by striking subparagraph (E) and inserting the following new subparagraph:

"(D) was in existence as a colonia before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act.".

SEC. 811. STATE SET-ASIDE FOR TECHNICAL ASSISTANCE.

Section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)) is amended by inserting after paragraph (4), as added by section 802, the following:

"(5) From the amounts received under paragraph (1) for distribution in nonentitlement areas, the State may deduct an amount, not to exceed 1 percent of the amount so received, to provide technical assistance to local governments and nonprofit program recipients.".

SEC. 812. COMMUNITY DEVELOPMENT PLANS AND REPORTS.

(a) IN GENERAL.—Subsection (l) of section 104 of the Housing and Community Development Act of 1974, as added by section 922 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5304(l)), is amended to read as follows:

"(m) COMMUNITY DEVELOPMENT PLANS.—

"(1) IN GENERAL.—Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a description of its priority nonhousing community development needs eligible for assistance under this title. Regulations.

"(2) LOCAL GOVERNMENTS.—In the case of a recipient that is a unit of general local government—

"(A) prior to the submission required by paragraph (1), the recipient shall, to the extent practicable, notify adjacent units of general local government and solicit the views of citizens on priority nonhousing community development needs; and

"(B) the description required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe. Regulations.

"(3) STATES.—In the case of a recipient that is a State, the description required by paragraph (1)—

"(A) shall include only the needs within the State that affect more than one unit of general local government and involve activities typically funded by such States under this title; and

"(B) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe. Regulations.

"(4) EFFECT OF SUBMISSION.—A submission under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.".

(b) CONFORMING AMENDMENTS.—Section 104(b)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(4)) is amended—

(1) by inserting "pursuant to subsection (m)" before the first comma; and

(2) by striking "and housing".

SEC. 813. DELAY USE OF 1990 CENSUS HOUSING DATA TO EXAMINE EFFECT ON TARGETING FOR CDBG FORMULA.

Notwithstanding any other provision of law, for fiscal year 1993, no data derived from the 1990 Decennial Census, except those relating to population and poverty, shall be taken into account for purposes of the allocation of amounts under section 106 of the Housing and Community Development Act of 1974.

Subtitle B—Other Community Development Programs

SEC. 831. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 608(a)(1) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows: "There are authorized to be appropriated to the corporation to carry out this title $29,476,000 for fiscal year 1993 and $30,713,992 for fiscal year 1994.".

(b) EXPANDED PROGRAMS.—The matter preceding subparagraph (A) of section 608(a)(2) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)(2)) is amended by striking "each of the fiscal years 1991 and 1992" and inserting "any fiscal year".

SEC. 832. NEIGHBORHOOD DEVELOPMENT PROGRAM.

42 USC 5318a.

(a) AUTHORIZATION.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

Appropriation authorization.

"(g) AUTHORIZATION.—Of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974, $1,000,000 for fiscal year 1993 (in addition to other amounts provided for such fiscal year) and $3,000,000 for fiscal year 1994 shall be available to carry out this section.".

42 USC 5318a.

(b) PERMANENT PROGRAM.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended—

(1) by striking the section heading and inserting the following new heading:

"JOHN HEINZ NEIGHBORHOOD DEVELOPMENT PROGRAM";

(2) by striking "demonstration program" each place it appears and inserting "program";

(3) in subsection (b)(1), by striking "determine the feasibility of supporting" and inserting "support";

(4) in subsection (e)(3), by inserting after "year" the following: ", except that, if appropriations for this section exceed $3,000,000, the Secretary may pay not more than $75,000 to any participating neighborhood development organization";

(5) in subsection (e)(6)—

(A) in subparagraph (C), by inserting "and" after the semicolon at the end;

(B) by striking subparagraph (D);

(C) by redesignating subparagraph (E) as subparagraph (D); and

(D) in subparagraph (D), as so redesignated, by striking "demonstration" and inserting "program";

(6) by striking subsection (f) and inserting the following new subsection:

Reports.

"(f) The Secretary shall submit a report to the Congress, not later than 3 months after the end of each fiscal year in which payments are made under this section, regarding the program under this section. The report shall contain a summary of the activities carried out under this section during such fiscal year and any findings, conclusions, and recommendations for legislation regarding the program."; and

(7) by adding at the end the following new subsection:

John Heinz Neighborhood Development Act.

"(h) SHORT TITLE.—This section may be cited as the 'John Heinz Neighborhood Development Act'.".

(c) COMPLIANCE WITH CHAS AND COMMUNITY DEVELOPMENT PLANS.—Section 123(e)(5)(A) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended by striking "housing and community development plans of such unit" and inserting "comprehensive housing affordability strategy of such unit approved under section 105 of the Cranston-Gonzalez National Affordable Housing Act or the statement of community development activities and community development plans of the unit submitted

42 USC 5318a.

under section 104(m) of the Housing and Community Development Act of 1974".

(d) ELIGIBLE NEIGHBORHOOD DEVELOPMENT ORGANIZATION.—Section 123(a)(2) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended— 42 USC 5318a.

(1) in subparagraph (A), by inserting "(i)" after "(A)";

(2) in subparagraph (E), by striking the period at the end and inserting "; or";

(3) by redesignating subparagraphs (B) through (E) as clauses (ii) through (v), respectively; and

(4) by adding at the end the following new subparagraph:

"(B) any facility that provides small entrepreneurial business with affordable shared support services and business development services and meets the requirements of subparagraph (A).".

(e) DEFINITIONS.—Section 123(a) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended— 42 USC 5318a.

(1) by striking subparagraph (2)(A)(iv) (as so redesignated by subsection (d) of this section) and inserting the following new clause:

"(iv) an organization that operates within an area that—

"(I) meets the requirements for Federal assistance under section 119 of the Housing and Community Development Act of 1974;

"(II) is designated as an enterprise zone under Federal law;

"(III) is designated as an enterprise zone under State law and recognized by the Secretary for purposes of this section as a State enterprise zone; or

"(IV) is a qualified distressed community within the meaning of section 233(b)(1) of the Bank Enterprise Act of 1991; and";

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting before paragraph (4) (as so redesignated) the following new paragraph:

"(3) The term 'neighborhood development funding organization' means—

"(A) a depository institution the accounts of which are insured pursuant to the Federal Deposit Insurance Act or the Federal Credit Union Act, and any subsidiary (as such term is defined in section 3(w) of the Federal Deposit Insurance Act) thereof;

"(B) a depository institution holding company and any subsidiary thereof (as such term is defined in section 3(w) of the Federal Deposit Insurance Act); or

"(C) a company at least 75 percent of the common stock of which is owned by one or more insured depository institutions or depository institution holding companies.".

(f) COORDINATION WITH COMMUNITY DEVELOPMENT FUNDING ORGANIZATIONS.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended— 42 USC 5318a.

(1) in subsection (b)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhoods";

(2) in subsection (b)(3)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period and inserting the following: ", especially in cooperation with a neighborhood development funding organization, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the cooperation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(i) is located in an area described in subsection (a)(2)(A)(iv) that does not contain a neighborhood development funding organization; or

"(ii) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the cooperation of any neighborhood development funding organization in such area despite having made a good faith effort to obtain such cooperation; and"; and

(C) by adding at the end the following new subparagraph:

"(D) specify a strategy for increasing the capacity of the organization.";

(3) in subsection (c)(3), by inserting before the semicolon the following: "and by the extent of participation in the proposed activities by a neighborhood development funding organization that has a branch or office in the neighborhood, except that an eligible neighborhood development organization shall be deemed to have the full benefit of the participation of a neighborhood development funding organization if the eligible neighborhood development organization—

"(A) is located in an neighborhood that does not contain a branch or office of a neighborhood development funding organization; or

"(B) demonstrates to the satisfaction of the Secretary that it has been unable to obtain the participation of any neighborhood development funding organization that has a branch or office in the neighborhood despite having made a good faith effort to obtain such participation"; and

(4) in subsection (e)(1), by inserting ", and from neighborhood development funding organizations," after "neighborhood".

(g) ADMINISTRATIVE CHANGES.—Section 123 of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended— 42 USC 5318a.

(1) in subsection (a)(2)(A)(iii), as so redesignated by subsection (d) of this section, by striking "three years" and inserting "one year"; and

(2) in subsection (b)(2), by striking "Not more than 30 per centum" and inserting "For fiscal year 1993 and thereafter, not more than 50 percent".

SEC. 833. STUDY REGARDING HOUSING TECHNOLOGY RESEARCH.

(a) STUDY.—The Secretary of Housing and Urban Development, through the Assistant Secretary for Policy Development and Research, shall conduct a study of—

(1) the extent of Federal, other public, and private basic research in the United States in housing technology, including design and construction techniques and methodology, smart building technology, area and neighborhood planning, and other areas relating to the preservation and production of affordable housing and livable communities;

(2) the extent of competitiveness of the United States in the field of basic housing technology research in comparison with other countries that are substantially involved in trade with the United States, taking into consideration the balance of trade, the degree of government support of private research activities, and the degree of fragmentation of research; and

(3) the types of research projects regarding basic housing technology conducted by such other countries, the results of such research, and the extent of success in applying and marketing such results.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress describing the results of the study conducted under this section not later than September 30, 1993.

SEC. 834. DESIGNATION OF ENTERPRISE ZONES.

(a) IN GENERAL.—Section 701 of the Housing and Community Development Act of 1987 (42 U.S.C. 11501) is amended—

(1) in subsection (a)(4)(B), by striking "the effective date of the regulations described in subparagraph (A) occurs" and inserting "the date of the enactment of the Housing and Community Development Act of 1992 occurs"; and

(2) in subsection (c)(3)(B), by striking "this Act" and inserting "the Housing and Community Development Act of 1992".

(b) REPORT.—Section 702 of the Housing and Community Development Act of 1987 (42 U.S.C. 11502) is amended by inserting "pursuant to the amendments made by section 834 of the Housing and Community Development Act of 1992" before the first comma.

Subtitle C—Miscellaneous Programs

SEC. 851. COMMUNITY OUTREACH ACT.

Community Outreach Partnership Act of 1992.
42 USC 5307 note.

(a) SHORT TITLE.—This section may be cited as the "Community Outreach Partnership Act of 1992".

(b) PURPOSE.—The Secretary shall carry out, in accordance with this section, a 5-year demonstration program to determine the feasibility of facilitating partnerships between institutions of higher education and communities to solve urban problems through research, outreach, and the exchange of information.

(c) GRANT PROGRAM.—

(1) IN GENERAL.—The Secretary is authorized to make grants to public and private nonprofit institutions of higher education to assist in establishing or carrying out research and outreach activities addressing the problems of urban areas.

(2) USE OF GRANTS.—Grants under this Act shall be used to establish and operate Community Outreach Partnership Centers (hereafter in this section referred to as "Centers") which shall—

(A) conduct competent and qualified research and investigations on theoretical or practical problems in large and small cities; and

(B) facilitate partnerships and outreach activities between institutions of higher education, local communities, and local governments to address urban problems.

(3) SPECIFIC PROBLEMS.—Research and outreach activities assisted under this Act shall focus on problems associated with

housing, economic development, neighborhood revitalization, infrastructure, health care, job training, education, crime prevention, planning, community organizing, and other areas deemed appropriate by the Secretary.

(d) APPLICATION.—Any public or private nonprofit institution of higher education may submit an application for a grant under this section in such form and containing such information as the Secretary may require by regulation.

(e) SELECTION CRITERIA.—

(1) IN GENERAL.—The Secretary shall select recipients of grants under this section on the basis of the following criteria:

(A) The demonstrated research and outreach resources available to the applicant for carrying out the purposes of this section.

(B) The capability of the applicant to provide leadership in solving community problems and in making national contributions to solving long-term and immediate urban problems.

(C) The demonstrated commitment of the applicant to supporting urban research and outreach programs by providing matching contributions for any Federal assistance received.

(D) The demonstrated ability of the applicant to disseminate results of research and successful strategies developed through outreach activities to other Centers and communities served through the demonstration program.

(E) The projects and activities that the applicant proposes to carry out under the grant.

(F) The effectiveness of the applicant's strategy to provide outreach activities to communities.

(G) The extent of need in the communities to be served by the Centers.

(H) Other criteria deemed appropriate by the Secretary.

(2) PREFERENCE.—The Secretary shall give preference to institutions of higher education that undertake research and outreach activities by bringing together knowledge and expertise in the various social science and technical disciplines that relate to urban problems.

(f) FEDERAL SHARES.—The Federal share of a grant under this section shall not be more than—

(1) 50 percent of the cost of establishing and operating a Center's research activities; and

(2) 75 percent of the cost of establishing and operating a Center's outreach activities.

(g) NON-FEDERAL SHARES.—The non-Federal share of a grant may include cash, or the value of non-cash contributions, equipment, or other in-kind contributions deemed appropriate by the Secretary.

(h) RESPONSIBILITIES.—A Center established under this section shall—

(1) employ the research and outreach resources of its sponsoring institution of higher education to solve specific urban problems identified by communities served by the Center;

(2) establish outreach activities in areas identified in the grant application as the communities to be served;

(3) establish a community advisory committee comprised of representatives of local institutions and residents of the

communities to be served to assist in identifying local needs and advise on the development and implementation of strategies to address those issues;

(4) coordinate outreach activities in communities to be served by the Center;

(5) facilitate public service projects in the communities served by the Center;

(6) act as a clearinghouse for the dissemination of information;

(7) develop instructional programs, convene conferences, and provide training for local community leaders, when appropriate; and

(8) exchange information with other Centers.

(i) NATIONAL ADVISORY COUNCIL.—

(1) ESTABLISHMENT.—The Secretary shall establish a national advisory council (hereafter in this section referred to as the "council") to—

(A) disseminate the results of research and outreach activities carried out under this section;

(B) act as a clearinghouse between grant recipients and other institutions of higher education; and

(C) review and evaluate programs carried out by grant recipients.

(2) MEMBERS.—The council shall be composed of 12 members to be appointed by the Secretary as follows—

(A) 3 representatives of State and local governments;

(B) 3 representatives of institutions of higher education that receive grants under this section;

(C) 3 individuals or representatives of organizations that possess significant expertise in urban issues; and

(D) 3 representatives from community advisory committees created pursuant to this section.

(3) VACANCIES.—A vacancy in the membership of the council shall be filled in the manner in which the original appointment was made.

(4) COMPENSATION.—Members of the council shall serve without pay.

(5) CHAIRMAN.—The council shall elect a member to serve as chairperson of the council.

(6) MEETINGS.—The council shall meet at least biannually and at such other times as the chairman may designate.

(j) NATIONAL CLEARINGHOUSE.—The Secretary shall establish a national clearinghouse to disseminate information resulting from the research and successful outreach activities developed through the Centers to grant recipients and other interested institutions of higher education. Establishment.

(k) AUTHORIZATIONS.—The sums set aside by section 107 of the Housing and Community Development Act of 1974 for the purpose of this section shall be available—

(1) to enable Centers to carry out research and outreach activities;

(2) to establish and operate the national clearinghouse to be established under subsection (j).

(l) REPORTING.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall submit an annual report to the Committee on Banking, Housing, and Urban Affairs of the Senate and

the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) CONTENTS.—The report under paragraph (1) shall contain a summary of the activities carried out under this section during the preceding fiscal year, and findings and conclusions drawn from such activities.

42 USC 5304 note.

SEC. 852. COMPUTERIZED DATABASE OF COMMUNITY DEVELOPMENT NEEDS.

(a) ESTABLISHMENT OF DEMONSTRATION PROGRAM.—Not later than the expiration of the 1-year period beginning on the date appropriations for the purposes of this section are made available, the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish and implement a demonstration program to determine the feasibility of assisting States and units of general local government to develop methods, utilizing contemporary computer technology, to—

(1) monitor, inventory, and maintain current listings of the community development needs of the States and units of general local government; and

(2) coordinate strategies within States (especially among various units of general local government) for meeting such needs.

(b) INTEGRATED DATABASE SYSTEM AND COMPUTER MAPPING TOOL.—

(1) DEVELOPMENT AND PURPOSES.—In carrying out the program under this section, the Secretary shall provide for the development of an integrated database system and computer mapping tool designed to efficiently (A) collect, store, process, and retrieve information relating to priority nonhousing community development needs within States, and (B) coordinate strategies for meeting such needs. The integrated database system and computer mapping tool shall be designed in a manner to coordinate and facilitate the preparation of community development plans under section 104(m)(1) of the Housing and Community Development Act of 1974 and to process any information necessary for such plans.

(2) AVAILABILITY TO STATES.—The Secretary shall make the integrated database system and computer mapping tool developed pursuant to this subsection available to States without charge.

(3) COORDINATION WITH EXISTING TECHNOLOGY.—The Secretary shall, to the extent practicable, utilize existing technologies and coordinate such activities with existing data systems to prevent duplication.

(c) TECHNICAL ASSISTANCE.—Under the program under this section, the Secretary shall provide consultation and advice to States and units of general local government regarding the capabilities and advantages of the integrated database system and computer mapping tool developed pursuant to subsection (b) and assistance in installing and using the database system and mapping tool.

(d) GRANTS.—

(1) AUTHORITY AND PURPOSE.—The Secretary shall, to the extent amounts are made available under appropriation Acts pursuant to subsection (g), make grants to States for capital costs relating to installation and use of the integrated database

system and computer mapping tool developed pursuant to subsection (b).

(2) LIMITATIONS.—The Secretary may not make more than one grant under this subsection to any single State. The Secretary may not make a grant under this subsection to any single State in an amount exceeding $1,000,000.

(3) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this subsection. The Secretary shall establish criteria for the selection of States which have submitted applications to receive grants under this section and shall select recipients according to such criteria, which shall give priority to States having, on a long-term basis (as determined by the Secretary), levels of unemployment above the national average level.

(e) STATE COORDINATION OF LOCAL NEEDS.—Each State that receives a grant under subsection (d) shall annually submit to the Secretary a report containing a summary of the priority nonhousing community development needs within the State.

(f) REPORTS BY SECRETARY.—The Secretary shall annually submit to the Committees on Banking, Finance and Urban Affairs of the House of Representatives and Banking, Housing, and Urban Affairs of the Senate, a report containing a summary of the information submitted for the year by States pursuant to subsection (e), which shall describe the priority nonhousing community development needs within such States.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1993 and 1994, $10,000,000 to carry out the program established under this section.

SEC. 853. COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.

Community Investment Corporation Demonstration Act.
42 USC 5305 note.

(a) SHORT TITLE.—This section may be cited as the "Community Investment Corporation Demonstration Act".

(b) COMMUNITY INVESTMENT CORPORATION DEMONSTRATION.—

(1) FINDINGS.—The Congress finds that—

(A) the Nation's urban and rural communities face critical social and economic problems arising from lack of growth; growing numbers of low-income persons and persons living in poverty; lack of employment and other opportunities to improve the quality of life of these residents; and lack of capital for business located in, or seeking to locate in these communities;

(B) the future well-being of the United States and its residents depends on the restoration and maintenance of viable local economies, and will require increased public and private investment in low-income housing, business development, and economic and community development activities, and technical assistance to local organizations carrying out revitalization strategies;

(C) lack of expertise and technical capacity can significantly limit the ability of residents and local institutions to effectively carry out revitalization strategies;

(D) the Federal Government needs to develop new models for facilitating local revitalization activities;

(E) indigenous community-based financial institutions play a significant role in identifying and responding to community needs; and

(F) institutions, such as South Shore Bank (Chicago, Illinois), Southern Development Bancorporation (Arkadelphia, Arkansas), Center for Community Self Help (Durham, North Carolina), and Community Capital Bank (Brooklyn, New York), with a primary mission of promoting community development have proven their ability to promote revitalization and are appropriate models for restoring economic stability and growth in distressed communities and neighborhoods.

(2) PURPOSES.—The demonstration program carried out under this section shall—

(A) improve access to capital for initiatives which benefit residents and businesses in targeted geographic areas; and

(B) test new models for bringing credit and investment capital to targeted geographic areas and low-income persons in such areas through the provision of assistance for capital, development services, and technical assistance

(3) DEFINITIONS.—As used in this section—

(A) the term "Federal financial supervisory agency" means—

(i) the Comptroller of the Currency with respect to national banks;

(ii) the Board of Governors of the Federal Reserve System with respect to State-chartered banks which are members of the Federal Reserve System and bank holding companies;

(iii) the Federal Deposit Insurance Corporation with respect to State-chartered banks and savings banks which are not members of the Federal Reserve System and the deposits of which are insured by the Federal Deposit Insurance Corporation;

(iv) the National Credit Union Administration Board with respect to insured credit union associations; and

(v) the Office of Thrift Supervision with respect to insured savings associations and savings and loan holding companies that are not bank holding companies;

(B) the term "community investment corporation" means an eligible organization selected by the Secretary to receive assistance pursuant to this section;

(C) the term "development services" means activities that are consistent with the purposes of this section and which support and strengthen the lending and investment activities undertaken by eligible organizations including—

(i) the development of real estate;

(ii) administrative activities associated with the extension of credit or necessary to make an investment;

(iii) marketing and management assistance;

(iv) business planning and counseling services; and

(v) other capacity building activities which enable borrowers, prospective borrowers, or entities in which eligible organizations have invested, or expect to invest, to improve the likelihood of success of their activities;

(D) the term "eligible organization" means an entity—

(i) that is organized as—

(I) a depository institution holding company as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813); or

(II) a nonprofit organization—

(aa) that is organized under State law;

(bb) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or other person;

(cc) complies with standards of financial accountability acceptable to the Secretary; and

(dd) is affiliated with a nondepository lending institution; or is affiliated with a regulated financial institution but is not a subsidiary thereof;

(ii) that has as its primary mission the revitalization of a targeted geographic area;

(iii) that maintains, through significant representation on its governing board and otherwise, accountability to community residents;

(iv) that has principals active in the implementation of its programs who possess significant experience in lending and the development of affordable housing, small business development, or community revitalization;

(v) that directly or through a subsidiary or affiliate carries out development services; and

(vi) that will match any assistance received dollar-for-dollar with non-Federal sources of funds;

(E) the term "equity investment" means a capital contribution through the purchase of nonvoting common stock or through equity grants or contributions to capital reserves or surplus, subject to terms and conditions satisfactory to the Secretary;

(F) the term "low-income person" means a person in a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families;

(G) the term "regulated financial institution" means an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813), or an insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752));

(H) the term "Secretary" means the Secretary of Housing and Urban Development;

(I) the term "targeted geographic area" means a geographically contiguous area of chronic economic distress, as measured by unemployment, growth lag, poverty, lag in growth of per capita income, extent of blight and disinvestment, fiscal distress, or other indicators deemed appropriate by the Secretary, that has been identified by an eligible organization as the area to be served by it; and

(J) an entity is an "affiliate" of another entity if the first entity controls, is controlled by, or is under common control with the other entity.

(4) SELECTION CRITERIA.—The Secretary shall select eligible organizations from among applications submitted to participate

in the demonstration program, using selection criteria based on—

(A) the capacity of the eligible organizations to carry out the purposes of this section;

(B) the range and comprehensiveness of lending, investment strategies, and development services to be offered by the organizations directly or through subsidiaries and affiliates thereof;

(C) the types of activities to be pursued, including lending and development of small business, agriculture, industrial, commercial, or residential projects;

(D) the extent of need in the targeted geographic area to be served;

(E) the experience and background of the principals at each eligible organization responsible for carrying out the purposes of this section;

(F) the extent to which the eligible organizations directly or through subsidiaries and affiliates has successfully implemented other revitalization activities;

(G) an appropriate distribution of eligible organizations among regions of the United States; and

(H) other criteria determined to be appropriate by the Secretary and consistent with the purposes of this section.

(5) PROGRAM ASSISTANCE.—The Secretary shall—

(A) carry out, in accordance with this section, a program to improve access to capital and demonstrate the feasibility of facilitating the revitalization of targeted geographic areas by providing assistance to eligible organizations;

(B) accept applications from eligible organizations; and

(C) select eligible organizations to receive assistance pursuant to this section.

(6) ACTIVITIES REQUIRED.—All eligible organizations receiving assistance pursuant to this section are required to engage in activities that provide access to capital for initiatives which benefit residents and businesses in targeted geographic areas.

(7) CAPITAL ASSISTANCE.—

(A) IN GENERAL.—

(i) IN GENERAL.—The Secretary shall make grants and loans to eligible organizations.

(ii) LOANS.—Assistance provided to a depository institution holding company that is an eligible organization as defined in paragraph (3)(D)(i)(I) shall be in the form of a loan to be repaid to the Secretary. The terms and conditions of each loan shall be determined by the Secretary based on the ability of such entity to repay, except that interest shall accrue at the current Treasury rate for obligations of comparable maturity.

(iii) GRANTS OR LOANS.—Assistance provided to an eligible organization that is a nonprofit organization, as defined in paragraph (3)(D)(i)(II), may be in the form of a grant or a loan. If an eligible organization that is a nonprofit organization uses assistance that it received under this section to provide assistance to a for-profit entity, the assistance provided by the nonprofit organization must be in the form of a loan

with interest to be repaid to the nonprofit organization and the nonprofit organization must use the proceeds of the loan for activities consistent with this section.

(B) ELIGIBLE ACTIVITIES.—Capital assistance may only be used to support the following activities that facilitate revitalization of targeted geographic areas or that provide economic opportunities for low-income persons—

(i) increasing the capital available for the purpose of making loans;

(ii) providing funds for equity investments in projects;

(iii) providing a portion of loan loss reserves of regulated financial institutions; and

(iv) providing credit enhancement.

(C) CAPITAL REQUIREMENTS.—Any investment derived from assistance provided by the Secretary and made by an eligible organization to a regulated financial institution shall not be included as an asset in calculating compliance with applicable capital standards. Such standards shall be satisfied from sources other than assistance provided under this section.

(D) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $25,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994 to be used to provide capital assistance to eligible organizations. Funds appropriated pursuant to this subparagraph shall remain available until expended. Appropriation authorization.

(8) DEVELOPMENT SERVICES AND TECHNICAL ASSISTANCE GRANTS.—

(A) IN GENERAL.—The Secretary shall—

(i) provide grants or loans to eligible organizations for the provision of development services that support and contribute to the success of the mission of such organizations; and

(ii) provide, or contract to provide, technical assistance to eligible organizations to assist in establishing program activities that are consistent with the purposes of this section.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph, $15,000,000 for fiscal year 1993 and $15,600,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended. Appropriation authorization.

(9) TRAINING PROGRAM.—

(A) IN GENERAL.—The Secretary shall establish, or contract to establish, an ongoing training program to assist eligible organizations and their staffs in developing the capacity to carry out the purposes of this section. Establishment.

(B) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph $2,000,000 for fiscal year 1993 and $2,100,000 for fiscal year 1994. Funds appropriated pursuant to this subparagraph shall remain available until expended. Appropriation authorization.

(10) REPORTS.—The Secretary shall determine the appropriate reporting requirements with which eligible organizations receiving assistance under this section must comply.

(11) ADVISORY BOARD.—

(A) IN GENERAL.—In establishing requirements to carry out the provisions of this section, and in considering applications under this section, the Secretary shall consult with an advisory board comprised of the following members:

(i) the Administrator of the Small Business Administration;

(ii) two representatives from among the Federal financial supervisory agencies who possess expertise in matters related to extending credit to persons in low-income communities;

(iii) two representatives of organizations that possess expertise in development of low-income housing;

(iv) two representatives of organizations that possess expertise in economic development;

(v) two representatives of organizations that possess expertise in small business development;

(vi) two representatives from organizations that possess expertise in the needs of low-income communities; and

(vii) two representatives from community investment corporations receiving assistance under this section.

(B) CHAIRPERSON.—The Board shall elect from among its members a chairperson who shall serve for a term of 2 years.

(C) TERMS.—The members shall serve for terms of 3 years which shall expire on a staggered basis.

(D) REIMBURSEMENT.—The members shall serve without additional compensation but shall be reimbursed for travel, per diem, and other necessary expenses incurred in the performance of their duties as members of the advisory board, in accordance with sections 5702 and 5703 of title 5, United States Code.

(E) DESIGNATED REPRESENTATIVES.—A member who is necessarily absent from a meeting of the board, or of a committee of the board, may participate in such meeting through a duly designated representative who is serving in the same agency or organization as the absent member.

(F) QUORUM.—The presence of a majority of members, or their representatives, shall constitute a quorum.

(12) EVALUATION AND REPORT.—The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an annual report containing a summary of the activities carried out under this section during the fiscal year and any preliminary findings or conclusions drawn from the demonstration program.

(13) NO BENEFIT RULE.—To the extent that assistance is provided to an eligible organization that is a depository institution holding company, the Secretary shall ensure, to the extent practicable, that such assistance does not inure to the benefit of directors, officers, employees and stockholders.

(14) REGULATIONS.—(A) The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

(B) The appropriate Federal financial supervisory agency, by regulation or order—

(i) may restrict any regulated financial institution's receipt of an extension of credit from, or investment by, an eligible organization;

(ii) may restrict the making, by a regulated financial institution or holding company, of an extension of credit to, or investment in, an eligible organization; and

(iii) shall prohibit any transaction that poses an undue risk to the affected deposit insurance fund.

(C) To the extent practicable, the Secretary and the Federal financial supervisory agencies shall coordinate the development of regulations and other program guidelines.

(15) SAFETY AND SOUNDNESS OF INSURED DEPOSITORIES.—Nothing in this section shall limit the applicability of other law relating to the safe and sound operation and management of a regulated financial institution (or a holding company) affiliated with an eligible organization or receiving assistance provided under this section.

(16) EFFECTIVE DATE.—This section shall become effective 6 months from the date of enactment of this Act.

SEC. 854. EMERGENCY ASSISTANCE FOR LOS ANGELES.

(a) IN GENERAL.—Of the funds made available under 107(b) of the Housing and Community Development Act of 1974 for purposes of this section, $3,000,000 shall be made available to each of the following:

(1) A nonprofit community-based public benefit corporation which was created in response to the civil disturbances of April 29, 1992, through May 6, 1992, in Los Angeles, California, with the support of the Speaker of the California State Assembly and community elected officials representing the affected areas.

(2) A nonprofit public benefit corporation established by the Mayor of Los Angeles and the Governor of California.

(b) USE OF FUNDS.—Such funds shall be used to carry out a community revitalization strategy in areas for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for the purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) STRATEGY.—Such strategy shall—

(1) include efforts to create jobs in distressed neighborhoods, spur community-based economic development, improve housing accessibility and affordability, and address other community development needs; and

(2) be developed in consultation with low-income residents and community leaders in the distressed areas.

(d) ELIGIBLE ACTIVITIES.—Funds made available under this subsection may be used for eligible activities pursuant to section 105 of the Housing and Community Development Act of 1974 or to provide seed capital to nonprofit community development corporations to carry out the strategy developed in subsection (c)(2).

(e) MATCH REQUIRED.—Funds provided under this section shall be matched with private or public non-Federal funds in an amount not less than 50 percent of the funds provided under this section.

TITLE IX—REGULATORY AND MISCELLANEOUS PROGRAMS

Subtitle A—Miscellaneous

SEC. 901. HUD RESEARCH AND DEVELOPMENT.

Appropriation authorization.

Section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1) is amended by striking the second sentence and all that follows and inserting the following new sentence: "There is authorized to be appropriated to carry out this title $35,000,000 for fiscal year 1993 and $36,470,000 for fiscal year 1994.".

SEC. 902. ADMINISTRATION OF DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

(a) SPECIAL ASSISTANT FOR INDIAN AND ALASKA NATIVE PROGRAMS.—

(1) RESPONSIBILITIES.—Section 4(e)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(e)(1)) is amended—

(A) by inserting "(A)" after "(1)";

(B) in the first sentence, by striking "responsible" and all that follows through "development" and inserting "located in the Office of the Assistant Secretary for Public and Indian Housing"; and

(C) by adding at the end the following new subparagraphs:

"(B) The Special Assistant for Indian and Alaska Native Programs shall be appointed based solely on merit and shall be covered under the provisions of title 5, United States Code, governing appointments in the competitive service.

"(C) The Special Assistant for Indian and Alaska Native Programs shall be responsible for—

"(i) administering, in coordination with the relevant office in the Department, the provision of housing assistance to Indian tribes or Indian housing authorities under each program of the Department that provides for such assistance;

"(ii) administering the community development block grant program for Indian tribes under title I of the Housing and Community Development Act of 1974 and the provision of assistance to Indian tribes under such Act;

"(iii) directing, coordinating, and assisting in managing any regional offices of the Department that administer Indian programs to the extent of such programs; and

"(iv) coordinating all programs of the Department relating to Indian and Alaska Native housing and community development.

"(D) The Secretary shall include in the annual report under section 8 a description of the extent of the housing needs for Indian families and community development needs of Indian tribes in the United States and the activities of the Department, and extent of such activities, in meeting such needs.".

42 USC 3533 note.

(2) TRANSFER OF FUNCTIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development

shall transfer to the Special Assistant for Indian and Alaska Native Programs any functions and duties described in section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection).

(3) STAFF.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall transfer from offices within the Department of Housing and Urban Development to the office of the Special Assistant for Indian and Alaska Native Programs such staff, having experience and capacity to administer Indian housing and community development programs, as may be necessary and appropriate to assist the Special Assistant in carrying out the responsibilities under section 4(e)(1)(B) of the Department of Housing and Urban Development Act (as added by paragraph (1) of this subsection). 42 USC 3533 note.

(b) AVOIDANCE OF FORECLOSURE ON MORTGAGES HELD BY SECRETARY.—Section 7(i) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(i)) is amended—

(1) in paragraph (5), by inserting before the semicolon the following: "; except that with respect to any mortgage held by the Secretary, the Secretary shall, subject to the availability of amounts provided in appropriation Acts, implement the authority under this paragraph to reduce the interest rate on the mortgage to a rate not less than the rate for recently issued marketable obligations of the Treasury having a comparable maturity if (and to the extent that) such a reduction, when taken together with other actions authorized under the National Housing Act, is necessary to avoid foreclosure on the mortgage; and except that for any mortgage for which the interest rate is reduced pursuant to an appropriation under the preceding clause, if the Secretary determines that the income or ability of the mortgagor to make interest payments has increased, the Secretary may (not more than once for each such mortgage) increase such interest rate to a rate not exceeding the prevailing market rate, as determined by the Secretary"; and

(2) in paragraph (6), by inserting before the period the following: ", including any provisions relating to the authority or requirements under paragraph (5)".

(c) PROGRAM MONITORING AND EVALUATION.—The first sentence of section 7(r)(6) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)(6)) is amended to read as follows: "There are authorized to be appropriated to carry out this subsection such sums as may be necessary for fiscal year 1993 and fiscal year 1994.". Appropriation authorization.

SEC. 903. PARTICIPANT'S CONSENT TO RELEASE OF INFORMATION.

(a) IN GENERAL.—Section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (42 U.S.C. 3544) is amended by adding at the end the following new subsection:

"(e) CONDITIONS OF RELEASE OF INFORMATION BY THIRD PARTIES.—An applicant or participant under any program of the Department of Housing and Urban Development may not be required or requested to consent to the release of information by third parties as a condition of initial or continuing eligibility for participation in the program unless—

"(1) the request for consent is made, and the information secured is maintained, in accordance with this section, section 552a of title 5, United States Code; and

"(2) the consent that is requested is appropriately limited, with respect to time and information relevant and necessary to meet the requirements of this section.".

42 USC 3544 note.

(b) FORMS.—

(1) NEW FORM.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall develop a release form that meets the requirements of section 904 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, as amended by this section. In developing the form, the Secretary shall consult with interested parties, which shall include not less than 2 representatives of public housing agencies, 1 representative of a national tenant organization, 1 representative of a State tenant organization, and 1 representative of a legal group representing tenants.

(2) EFFECT OF OLD FORM.—During the period beginning upon the date of the enactment of this Act and ending upon implementation of the use of the form developed under paragraph (1), the benefits provided to an applicant or participant under any program of the Department of Housing and Urban Development, or eligibility for such benefits, may not be terminated, denied, suspended, or reduced because of any failure to sign any form authorizing the release of information from any third party (including Form HUD–9886), if the applicant or participant otherwise discloses all financial information relating to the application or recertification.

SEC. 904. NATIONAL INSTITUTE OF BUILDING SCIENCES.

(a) TECHNICAL CORRECTION TO HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—Section 809 of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j–2) is amended—

(1) by redesignating subsections (h) and (i) as subsections (i) and (j), respectively; and

(2) by inserting after subsection (g) the material inserted by the amendment made by section 952(b)(2) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4418).

12 USC 1748h-1.

(b) TECHNICAL CORRECTION TO NATIONAL HOUSING ACT.—Section 809 of the National Housing Act is amended by striking subsection (h) (as added by section 952(b) of the Cranston-Gonzalez National Affordable Housing Act).

Discrimination.

SEC. 905. FAIR HOUSING INITIATIVES PROGRAM.

42 USC 3616a note.

(a) FINDINGS.—The Congress finds that—

(1) in the past half decade, there have been major legislative and administrative changes in Federal fair housing and fair lending laws and substantial improvements in the Nation's understanding of discrimination in the housing markets;

(2) in response to evidence of continuing housing discrimination, the Congress passed the Fair Housing Act Amendments of 1988, to provide for more effective enforcement of fair housing rights through judicial and administrative avenues and to expand the number of protected classes covered under Federal fair housing laws;

(3) in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, the Congress expanded the disclosure provisions under the Home Mortgage Disclosure Act to provide increased information on the mortgage lending patterns of financial institutions;

(4) in the Americans with Disabilities Act of 1990, the Congress provided a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities;

(5) in 1991, data collected under the Home Mortgage Disclosure Act disclosed evidence of pervasive discrimination in the Nation's mortgage lending markets;

(6) the Housing Discrimination Survey, released by the Department of Housing and Urban Development in 1991, found that Hispanic and African-American homeseekers experience some form of discrimination in at least half of their encounters with sales and rental agents;

(7) the Fair Housing Initiatives Program should be revised and expanded to reflect the significant changes in the fair housing and fair lending area that have taken place since the Program's initial authorization in the Housing and Community Development Act of 1987;

(8) continuing educational efforts by the real estate industry are a useful way to increase understanding by the public of their fair housing rights and responsibilities; and

(9) the proven efficacy of private nonprofit fair housing enforcement organizations and community-based efforts makes support for these organizations a necessary component of the fair housing enforcement system.

(b) IN GENERAL.—Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended— 42 USC 3616a.

(1) by redesignating subsections (b) through (e) as subsections (e) through (h), respectively;

(2) by inserting after subsection (a) the following new subsections:

"(b) PRIVATE ENFORCEMENT INITIATIVES.—

"(1) IN GENERAL.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, investigations of violations of the rights granted under title VIII of the Civil Rights Act of 1968, and such enforcement activities as appropriate to remedy such violations. The Secretary may enter into multiyear contracts and take such other action as is appropriate to enhance the effectiveness of such investigations and enforcement activities.

"(2) ACTIVITIES.—The Secretary shall use funds made available under this subsection to conduct, through contracts with private nonprofit fair housing enforcement organizations, a range of investigative and enforcement activities designed to—

"(A) carry out testing and other investigative activities in accordance with subsection (b)(1), including building the capacity for housing investigative activities in unserved or underserved areas;

"(B) discover and remedy discrimination in the public and private real estate markets and real estate-related transactions, including, but not limited to, the making or purchasing of loans or the provision of other financial

assistance sales and rentals of housing and housing advertising;

"(C) carry out special projects, including the development of prototypes to respond to new or sophisticated forms of discrimination against persons protected under title VIII of the Civil Rights Act of 1968;

"(D) provide technical assistance to local fair housing organizations, and assist in the formation and development of new fair housing organizations; and

"(E) provide funds for the costs and expenses of litigation, including expert witness fees.

"(c) FUNDING OF FAIR HOUSING ORGANIZATIONS.—

Contracts.

"(1) IN GENERAL.—The Secretary shall use funds made available under this section to enter into contracts or cooperative agreements with qualified fair housing enforcement organizations, other private nonprofit fair housing enforcement organizations, and nonprofit groups organizing to build their capacity to provide fair housing enforcement, for the purpose of supporting the continued development or implementation of initiatives which enforce the rights granted under title VIII of the Civil Rights Act of 1968, as amended. Contracts or cooperative agreements may not provide more than 50 percent of the operating budget of the recipient organization for any one year.

"(2) CAPACITY ENHANCEMENT.—The Secretary shall use funds made available under this section to help establish, organize, and build the capacity of fair housing enforcement organizations, particularly in those areas of the country which are currently underserved by fair housing enforcement organizations as well as those areas where large concentrations of protected classes exist. For purposes of meeting the objectives of this paragraph, the Secretary may enter into contracts or cooperative agreements with qualified fair housing enforcement organizations. The Secretary shall establish annual goals which reflect the national need for private fair housing enforcement organizations.

"(d) EDUCATION AND OUTREACH.—

Contracts.

"(1) IN GENERAL.—The Secretary, through contracts with one or more qualified fair housing enforcement organizations, other fair housing enforcement organizations, and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, shall establish a national education and outreach program. The national program shall be designed to provide a centralized, coordinated effort for the development and dissemination of fair housing media products, including—

"(A) public service announcements, both audio and video;

"(B) television, radio and print advertisements;

"(C) posters; and

"(D) pamphlets and brochures.

The Secretary shall designate a portion of the amounts provided in subsection (g)(4) for a national program specifically for activities related to the annual national fair housing month. The Secretary shall encourage cooperation with real estate industry organizations in the national education and outreach program. The Secretary shall also encourage the dissemination of edu-

cational information and technical assistance to support compliance with the housing adaptability and accessibility guidelines contained in the Fair Housing Act Amendments of 1988.

"(2) REGIONAL AND LOCAL PROGRAMS.—The Secretary, through contracts with fair housing enforcement organizations, other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, State and local agencies certified by the Secretary under section 810(f) of the Fair Housing Act, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, shall establish or support education and outreach programs at the regional and local levels. Contracts.

"(3) COMMUNITY-BASED PROGRAMS.—The Secretary shall provide funding to fair housing organizations and other nonprofit organizations representing groups of persons protected under title VIII of the Civil Rights Act of 1968, or other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices, to support community-based education and outreach activities, including school, church, and community presentations, conferences, and other educational activities.";

(3) in subsection (g), as redesignated by paragraph (1) by striking all in the first sentence after "section," and inserting the following: "$21,000,000 for fiscal year 1993 and $26,000,000 for fiscal year 1994, of which—

"(1) not less than $3,820,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for private enforcement initiatives authorized under subsection (b), divided equally between activities specified under subsection (b)(1) and those specified under subsection (b)(2);

"(2) not less than $2,230,000 for fiscal year 1993 and $8,500,000 for fiscal year 1994 shall be for qualified fair housing enforcement organizations authorized under subsection (c)(1);

"(3) not less than $2,010,000 for fiscal year 1993 and $4,000,000 for fiscal year 1994 shall be for the creation of new fair housing enforcement organizations authorized under subsection (c)(2); and

"(4) not less than $2,540,000 for fiscal year 1993 and $5,000,000 for fiscal year 1994 shall be for education and outreach programs authorized under subsection (d), to be divided equally between activities specified under subsection (d)(1) and those specified under subsections (d)(2) and (d)(3).''; and

(4) by striking subsection (h), as redesignated by paragraph (1), and inserting the following:

"(h) QUALIFIED FAIR HOUSING ENFORCEMENT ORGANIZATION.—(1) The term 'qualified fair housing enforcement organization' means any organization that—

"(A) is organized as a private, tax-exempt, nonprofit, charitable organization;

"(B) has at least 2 years experience in complaint intake, complaint investigation, testing for fair housing violations and enforcement of meritorious claims; and

"(C) is engaged in all the activities listed in paragraph (1)(B) at the time of application for assistance under this section.

An organization which is not solely engaged in fair housing enforcement activities may qualify as a qualified fair housing enforcement organization, provided that the organization is actively engaged in each of the activities listed in subparagraph (B).

"(2) The term 'fair housing enforcement organization' means any organization that—

"(A) meets the requirements specified in paragraph (1)(A);

"(B) is currently engaged in the activities specified in paragraph (1)(B);

"(C) upon the receipt of funds under this section will become engaged in all of the activities specified in paragraph (1)(B); and

"(D) for purposes of funding under subsection (b), has at least 1 year of experience in the activities specified in paragraph (1)(B).

"(i) PROHIBITION ON USE OF FUNDS.—None of the funds authorized under this section may be used by the Secretary for purposes of settling claims, satisfying judgments or fulfilling court orders in any litigation action involving either the Department or housing providers funded by the Department. None of the funds authorized under this section may be used by the Department for administrative costs.

"(j) REPORTING REQUIREMENTS.—Not later than 180 days after the close of each fiscal year in which assistance under this section is furnished, the Secretary shall prepare and submit to the Congress a comprehensive report which shall contain—

"(1) a description of the progress made in accomplishing the objectives of this section;

"(2) a summary of all the private enforcement activities carried out under this section and the use of such funds during the preceding fiscal year;

"(3) a list of all fair housing enforcement organizations funded under this section during the preceding fiscal year, identified on a State-by-State basis;

"(4) a summary of all education and outreach activities funded under this section and the use of such funds during the preceding fiscal year; and

"(5) any findings, conclusions, or recommendations of the Secretary as a result of the funded activities.".

SEC. 906. NATIONAL COMMISSION ON MANUFACTURED HOUSING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 943(f) of the Cranston-Gonzalez National Affordable Housing Act is amended to read as follows: 104 Stat. 4413.

"(f) AUTHORIZATION.—Of the amount appropriated pursuant to section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z–1), there shall be set aside to carry out this section $1,000,000 for fiscal year 1993. Any amounts provided pursuant to this section shall remain available until expended.".

(b) FUNCTIONS OF THE COMMISSION.—Section 943(d)(1) of the Cranston-Gonzalez National Affordable Housing Act is amended—

(1) in subparagraph (G), by striking "and" at the end;

(2) by adding after subparagraph (G) the following new subparagraphs:

"(H) evaluate the extent to which manufacturers in compliance with Federal standards do and should comply with State implied or expressed warranty requirements;

"(I) examine the feasibility of expanding and establishing standards governing manufactured home sales including transportation and on-site set up; and"; and

(3) by redesignating subparagraph (H) as subparagraph (J).

(c) EXTENSION OF TERMINATION DATE.—Section 943(g) of the Cranston-Gonzalez National Affordable Housing Act is amended by striking "upon the expiration of the 9 months following the appointment of all the members under subsection (c)" and inserting "on October 1, 1993". 104 Stat. 4413.

(d) STAFF.—Section 943(e) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101-625; 104 Stat. 44134) is amended by adding at the end the following new paragraph: 104 Stat. 4413.

"(7) STAFF.—

"(A) EXECUTIVE DIRECTOR.—The Commission shall appoint an executive director of the Commission who shall be compensated at a rate fixed by the Commission, but which may not exceed the rate established for level V of the Executive Schedule under title 5, United States Code.

"(B) PERSONNEL.—In addition to the executive director, the Commission may appoint and fix the compensation of such personnel as the Commission deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

"(C) LIMITATION.—This paragraph shall be effective only to the extent amounts are made available in appropriation Acts.".

SEC. 907. MANUFACTURED HOUSING.

Section 604 of the Housing and Community Development Act of 1974 (42 U.S.C. 5403) is amended by adding at the end the following new subsection:

"(j) The Secretary shall develop a new standard for hardboard panel siding on manufactured housing taking into account durability, longevity, consumer's costs for maintenance and any other relevant information pursuant to subsection (f). The Secretary shall consult with the National Manufactured Home Advisory Council and the National Commission on Manufactured Housing in establishing the new standard. The new performance standard developed shall ensure the durability of hardboard sidings for at least a normal life of a mortgage with minimum maintenance required. Not later than 180 days from the date of enactment of this subsection, the Secretary shall update the standards for hardboard siding.".

SEC. 908. REAL ESTATE SETTLEMENT PROCEDURES ACT OF 1974.

(a) APPLICABILITY TO MORTGAGE ORIGINATION.—Section 3(3) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(3)) is amended by inserting after "broker," the following: "the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans),".

(b) APPLICABILITY TO SECOND MORTGAGES AND REFINANCINGS.—Section 3(1)(A) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2602(1)(A)) is amended—

(1) by inserting "or subordinate" after "first"; and

(2) by inserting before the semicolon the following: ", including any such secured loan, the proceeds of which are used to prepay or pay off an existing loan secured by the same property".

12 USC 2602 note.

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue regulations to implement the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

12 USC 2602 note.

(d) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act and shall not apply retroactively.

SEC. 909. COMMUNITY REINVESTMENT ACT OF 1977.

The Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) is amended—

12 USC 2903.

(1) in section 804—

(A) by inserting before the first sentence the following: "(a) IN GENERAL.—"; and

(B) by adding at the end the following new subsection:

"(b) MAJORITY-OWNED INSTITUTIONS.—In assessing and taking into account, under subsection (a), the record of a nonminority-owned and nonwomen-owned financial institution, the appropriate Federal financial supervisory agency may consider as a factor capital investment, loan participation, and other ventures undertaken by the institution in cooperation with minority- and women-owned financial institutions and low-income credit unions provided that these activities help meet the credit needs of local communities in which such institutions and credit unions are chartered."; and

12 USC 2907.

(2) in section 808(a), by striking "shall be treated as" and inserting "may be a factor in determining whether the depository institution is".

12 USC 2901 note.

SEC. 910. REPORT ON COMMUNITY DEVELOPMENT LENDING.

(a) IN GENERAL.—Not later than 12 months after the date of enactment of this section, the Board of Governors of the Federal Reserve System, in consultation with the Comptroller of the Currency, the Chairman of the Federal Deposit Insurance Corporation, the Director of the Office of Thrift Supervision, and the Chairman of the National Credit Union Administration, shall submit a report to the Congress comparing residential, small business, and commercial lending by insured depository institutions in low-income, minority, and distressed neighborhoods to such lending in other neighborhoods.

(b) CONTENTS OF REPORT.—The report required by subsection (a) shall—

(1) compare the risks and returns of lending in low-income, minority, and distressed neighborhoods with the risks and returns of lending in other neighborhoods;

(2) analyze the reasons for any differences in risk and return between low-income, minority, and distressed neighborhoods and other neighborhoods; and

(3) if the risks of lending in low-income, minority, and distressed neighborhoods exceed the risks of lending in other neighborhoods, recommend ways of mitigating those risks.

SEC. 911. SUBSIDY LAYERING REVIEW.

42 USC 3545 note.

(a) IN GENERAL.—The Secretary shall establish guidelines for housing credit agencies, as defined under section 42 of the Internal Revenue Code of 1986, to implement the requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) for projects receiving assistance within the jurisdiction of the Department of Housing and Urban Development and under section 42 of the Internal Revenue Code of 1986.

(b) IN PARTICULAR.—The guidelines established pursuant to subsection (a) shall—

(1) require that the amount of equity capital contributed by investors to a project partnership is not less than the amount generally contributed by investors in current market conditions, as determined by the housing credit agency; and

(2) require that project costs, including developer fees, are within a reasonable range, taking into account project size, project characteristics, project location and project risk factors, as determined by the housing credit agency.

(c) EFFECTIVE DATE.—As of January 1, 1993, a housing credit agency shall carry out the responsibilities of section 102(d) of the Housing and Urban Development Reform Act for projects allocated a low-income housing tax credit pursuant to section 42 of the Internal Revenue Code of 1986 if such agency certifies to the Secretary that it is properly implementing the guidelines established under subsection (a). The Secretary may revoke the responsibility delegated in the preceding sentence if the Secretary determines that a housing credit agency has failed to properly implement such guidelines.

(d) APPLICABILITY.—Section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545(d)) shall apply only to projects for which an application for assistance or insurance was filed after the date of enactment of the Housing and Urban Development Reform Act.

SEC. 912. SOLAR ASSISTANCE FINANCING ENTITY.

42 USC 5511a.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish within the Department of Housing and Urban Development the Solar Assistance Financing Entity (in this section referred to as the "Entity").

(b) PURPOSE.—The purpose of the Entity shall be to assist in financing solar and renewable energy capital investments and projects for eligible buildings under subsection (c).

(c) ELIGIBLE BUILDINGS.—The Entity may provide assistance under this section only for the following buildings:

(1) SINGLE FAMILY HOUSING.—Any building consisting of 1 to 4 dwelling units that has a system for heating or cooling, or both.

(2) MULTIFAMILY HOUSING.—Any building consisting of more than 4 dwelling units that has a system for heating or cooling, or both.

(3) COMMERCIAL BUILDINGS.—Any building used primarily to carry on a business (including any nonprofit business) that

is not used primarily for the manufacture or production of raw materials, products, or agricultural commodities.

(4) SCHOOLS, HOSPITALS, AND AGRICULTURAL BUILDINGS.—Any school, any hospital, and any building used exclusively in connection with the harvesting, storage, or drying of agricultural commodities.

(5) OTHER BUILDINGS.—Any other building of a type that the Entity considers appropriate.

(d) FINANCING OPTIONS.—Assistance provided under this section by the Entity may be provided only for programs for financing solar and renewable energy capital investments and projects, which may include programs for making loans, making grants, reducing the principal obligations of loans, prepayment of interest on loans, purchase and sale of loans and advances of credit, providing loan guarantees, providing loan downpayment assistance, and providing rebates and other incentives for the purchase and installation of solar and renewable energy measures.

(e) AUTHORITY TO LEVERAGE OTHER FUNDS.—The Entity may encourage or require programs receiving assistance under this section to supplement the assistance received under this section with amounts from other public and private sources, and, in making assistance under this section available, may give preference to programs that leverage amounts from such other sources.

(f) PROVISION OF ASSISTANCE.—The Entity shall provide assistance under this section through State agencies responsible for developing State energy conservation plans pursuant to section 362 of the Energy Policy and Conservation Act, or any other entity or agency authorized to specifically carry out the purposes of this section.

(g) REGULATIONS.—Not later than the expiration of the 12-month period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall issue any regulations necessary to carry out this section, which shall ensure maximum flexibility in utilizing amounts made available under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Such sums are to be available until expended.

(i) REPEALS.—

(1) SOLAR ENERGY AND ENERGY CONSERVATION BANK ACT.—Subtitle A of title V of the Energy Security Act (12 U.S.C. 3601 et seq.) is repealed.

(2) FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.—Sections 315 and 316 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723g, 1723h) are repealed.

SEC. 913. TECHNICAL AND CONFORMING AMENDMENTS RELATING TO LABOR WAGE RATES UNDER HOUSING PROGRAMS.

(a) SUPPORTIVE HOUSING FOR THE ELDERLY.—Section 202(j)(5) of the Housing Act of 1959 (12 U.S.C. 1701q(j)(5)), as amended by section 801 of the Cranston-Gonzalez National Affordable Housing Act, is amended to read as follows:

"(5) LABOR.—

"(A) IN GENERAL.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction

of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (commonly known as the Davis-Bacon Act).

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

(b) SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.—Section 811(j)(6) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 8013(j)(6)) is amended—

(1) by striking "(6) LABOR STANDARDS.—The Secretary" and inserting the following:

"(6) LABOR STANDARDS.—

"(A) IN GENERAL.—The Secretary";

(2) by striking "assisted under this section and designed for dwelling use by 12 or more persons with disabilities" and inserting "with 12 or more units assisted under this section";

(3) by inserting "commonly known as" before "the Davis-Bacon Act";

(4) by striking "; but the Secretary" and all that follows through "undertaking the construction"; and

(5) by adding at the end the following new subparagraph:

"(B) EXEMPTION.—Subparagraph (A) shall not apply to any individual who—

"(i) performs services for which the individual volunteered;

"(ii)(I) does not receive compensation for such services; or

"(II) is paid expenses, reasonable benefits, or a nominal fee for such services; and

"(iii) is not otherwise employed at any time in the construction work.".

SEC. 914. ENERGY EFFICIENT MORTGAGES.

(a) DEFINITION OF ENERGY EFFICIENT MORTGAGE.—Section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704), as amended by section 210(a)(1) of this Act, is further amended by adding at the end the following new paragraph:

"(25) The term 'energy efficient mortgage' means a mortgage that provides financing incentives for the purchase of energy efficient homes, or that provides financing incentives to make energy efficiency improvements in existing homes by incorporating the cost of such improvements in the mortgage.".

(b) UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.—Section 946 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12712 note) is amended—

(1) in subsection (a), by striking "mortgage financing incentives for energy efficiency" and inserting "energy efficient mortgages (as such term is defined in section 104 of this Act)"; and

(2) in subsection (b)—

(A) in the second sentence, by inserting ", but not be limited to," after "include"; and

(B) by inserting after the period at the end of the following new sentence: "The Task Force shall determine whether notifying potential home purchasers of the availability of energy efficient mortgages would promote energy efficiency in residential buildings, and if so, the Task Force shall recommend appropriate notification guidelines, and agencies and organizations referred to in the preceding sentence are authorized to implement such guidelines.".

SEC. 915. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) is amended to read as follows:

"SEC. 3. ECONOMIC OPPORTUNITIES FOR LOW- AND VERY LOW-INCOME PERSONS.

"(a) FINDINGS.—The Congress finds that—

"(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

"(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

"(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

"(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

"(b) POLICY.—It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

"(c) EMPLOYMENT.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 5 of the United

States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To residents of the housing developments for which the assistance is expended.

"(ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.

"(iii) To participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

"(B) PRIORITY.—Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(d) CONTRACTING.—

"(1) PUBLIC AND INDIAN HOUSING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 5 of the United States Housing Act of 1937, operating assistance provided pursuant to section 9 of that Act, and modernization grants provided pursuant to section 14 of that Act, to business concerns that provide economic opportunities for low- and very low-income persons.

"(B) PRIORITY.—The efforts required under subparagraph (A) shall be directed in the following order of priority:

"(i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.

"(ii) To business concerns that provide economic opportunities for residents of other housing develop-

ments operated by the public and Indian housing agency that is providing the assistance.

"(iii) To Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

"(2) OTHER PROGRAMS.—

"(A) IN GENERAL.—In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

"(B) PRIORITY.—Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act.

"(e) DEFINITIONS.—For the purposes of this section the following definitions shall apply:

"(1) LOW- AND VERY LOW-INCOME PERSONS.—The terms 'low-income persons' and 'very low-income persons' have the same meanings given the terms 'low-income families' and 'very low-income families', respectively, in section 3(b)(2) of the United States Housing Act of 1937.

"(2) BUSINESS CONCERN THAT PROVIDES ECONOMIC OPPORTUNITIES.—The term 'a business concern that provides economic opportunities' means a business concern that—

"(A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;

"(B) employs a substantial number of such persons; or

"(C) meets such other criteria as the Secretary may establish.

"(f) COORDINATION WITH OTHER FEDERAL AGENCIES.—The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

"(g) REGULATIONS.—Not later than 180 days after the date of enactment of the National Affordable Housing Act Amendments of 1992, the Secretary shall promulgate regulations to implement this section.".

SEC. 916. STUDY OF THE EFFECTIVENESS OF SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

12 USC 1701u note.

Reports.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, a report describing—

(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968;

(2) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

(3) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

(4) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

(b) CONTENTS.—

(1) ENFORCEMENT.—The description under subsection (a)(1) of the Secretary's enforcement efforts shall include, at a minimum—

(A) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 is allocated within the Department of Housing and Urban Development;

(B) a discussion of the status of existing regulations implementing such section 3;

(C) a discussion of ongoing efforts to enforce current regulations;

(D) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

(E) a separate description of the activities carried out under section 3 with respect to each of these programs.

(2) IMPEDIMENTS.—The discussion under subsection (a)(2) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

(A) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

(B) any barriers created by Federal, State, or local procurement regulations or other laws;

(C) any difficulties in coordination with labor unions;

(D) any difficulties in coordination with other implicated Federal agencies; and

(E) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

(c) CONSULTATION.—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968.

SEC. 917. INDIAN HOUSING AUTHORITIES.

Appropriation authorization.

There is authorized to be appropriated $500,000 for fiscal year 1993 and $521,000 for fiscal year 1994 to a nonprofit organization under section 501(c)(3) of the Internal Revenue Code of 1986 that has been in existence since 1975 and that provides training, technical assistance, and information to Indian housing authorities, Indian tribal governments, and other groups. These sums shall be used by such nonprofit organization to—

(1) provide technical assistance and training to Indian housing authorities;

(2) improve the administrative capacities of Indian housing authorities; and

(3) provide for other activities designed to improve Indian housing conditions.

SEC. 918. STUDY REGARDING FORECLOSURE ALTERNATIVES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study to review and analyze alternatives to foreclosure for homeowners whose principal residences are subject to federally-related mortgages (in connection with federally related mortgage loans, as such term is defined in section 3 of the Real Estate Settlement Procedures Act of 1974) under which the homeowner is in default. In conducting the study, the Secretary—

(1) may consult with any appropriate Federal agencies that make, insure, or guarantee mortgage loans relating to 1- to 4-family dwellings and with the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, and the Federal Agricultural Mortgage Corporation; and

(2) shall review and assess the adequacy, with respect to providing alternatives to foreclosure, of—

(A) the temporary mortgage assistance payments program authorized under section 230 of the National Housing Act;

(B) the authority of the Secretary to modify interest rates and other terms of mortgages transferred to the Secretary under section 7(i) of the Department of Housing and Urban Development Act; and

(C) any authority pursuant to Debt Collection Act of 1982 to reduce interest rates on outstanding debt to the borrowing rate for the Treasury of the United States.

The Secretary shall evaluate alternatives to foreclosure based on fairness of the procedures to the homeowner and reducing adverse effects on the mortgage lending system.

(b) REPORT.—Not later than March 1, 1993, the Secretary shall submit a report to the Congress regarding the results of the study conducted under subsection (a). The report shall contain a detailed description and assessment of each alternative to foreclosure analyzed under the study and a statement by the Secretary regarding the intent of the Secretary to use any authority available under the provisions referred to in subsection (a)(2) to avoid foreclosure under mortgages (and any reasons for not using such authority). The report may also contain any recommendations of the Secretary for administrative or legislative action to assist homeowners to avoid foreclosure and any loss of equity in their mortgaged homes that may result from foreclosure.

SEC. 919. REGULATIONS CLARIFYING THE TERM "HOUSING FOR OLDER PERSONS". 42 USC 3607 note.

The Secretary of Housing and Urban Development shall, not later than 180 days after the date of the enactment of this Act, make rules defining what are "significant facilities and services especially designed to meet the physical or social needs of older persons" required under section 807(b)(2) of the Fair Housing Act to meet the definition of the term "housing for older persons" in such section.

SEC. 920. USE OF DOMESTIC PRODUCTS. 42 USC 3546.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(b) REPORT.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall each submit, before January 1, 1994, a report to the Congress on procurements of products that are not domestic products.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 921. IMPROVED COORDINATION OF URBAN POLICY.

Title VII of the Housing and Urban Development Act of 1970 (42 U.S.C. 4501 et seq.) is amended—

(1) in section 702(d), by striking paragraph (8) and inserting the following: 42 USC 4502.

"(8) increase coordination among Federal programs that seek to promote job opportunities and skills, decent and affordable housing, public safety, access to health care, educational opportunities, and fiscal soundness for urban communities and their residents.";

(2) in section 703(a)— 42 USC 4503.

(A) by striking "during February 1978, and during February of every even-numbered year thereafter," and inserting ", not later than June 1, 1993, and not later than the first day of June of every odd-numbered year thereafter,"; and

(B) in paragraph (8), by striking "such" and all that follows through the end of the sentence and inserting "legislative or administrative proposals—

"(A) to promote coordination among Federal programs to assist urban areas;

"(B) to enhance the fiscal capacity of fiscally distressed urban areas;

"(C) to promote job opportunities in economically distressed urban areas and to enhance the job skills of residents of such areas;

"(D) to generate decent and affordable housing;

"(E) to reduce racial tensions and to combat racial and ethnic violence in urban areas;

"(F) to combat urban drug abuse and drug-related crime and violence;

"(G) to promote the delivery of health care to low-income communities in urban areas;

"(H) to expand educational opportunities in urban areas; and

"(I) to achieve the goals of the national urban policy."; and

42 USC 4503. (3) by adding at the end of section 703 the following new subsection:

"(d) REFERRAL.—The National Urban Policy Report shall, when transmitted to Congress, be referred in the Senate to the Committee on Banking, Housing, and Urban Affairs, and in the House of Representatives to the Committee on Banking, Finance and Urban Affairs.".

SEC. 922. PROHIBITION OF LUMP-SUM PAYMENTS.

The Department of Housing and Urban Development Act (42 U.S.C. 3531 et seq.) is amended by adding at the end the following new section:

"PROHIBITION OF LUMP-SUM PAYMENTS

42 USC 3537c. "SEC. 14. In providing relocation assistance in connection with any program administered by the Department of Housing and Urban Development, the Secretary may not make lump-sum payments to any displaced residential tenant, except where necessary to cover—

"(1) moving expenses;

"(2) a downpayment on the purchase of a replacement residence, including a condominium unit or membership in a cooperative housing association; or

"(3) any incidental expenses related to paragraph (1) or (2).".

42 USC 12714 note. **SEC. 923. ECONOMIC INDEPENDENCE.**

The Secretary of Housing and Urban Development should immediately implement section 957 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12714). Other Federal agencies authorized to assist low-income families should take similar steps to encourage economic independence and the accumulation of assets.

SEC. 924. ADMINISTRATIVE PROVISION.

Subject to the availability of appropriations for this purpose, the Secretary of Housing and Urban Development shall cancel the indebtedness of the town of McLain, Mississippi, relating to the public facilities loan (Project No. MS 94–PFL39456). The town of McLain, Mississippi, is relieved of all liability to the Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

42 USC 3536. **SEC. 925. PERFORMANCE GOALS.**

(a) PERFORMANCE GOALS FOR THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.—

(1) IN GENERAL.—The Secretary of the Department of Housing and Urban Development (hereafter in this Act referred to as the "Secretary") may establish performance goals for

the major programs of the Department of Housing and Urban Development in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary shall include in the Secretary's annual report to the Congress a description of the progress made in attaining the performance goals for each program, citing the results achieved in each program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the description under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

(b) PERFORMANCE GOALS FOR THE FARMERS HOME ADMINISTRATION.— 42 USC 1471 note.

(1) IN GENERAL.—The Secretary of Agriculture may establish performance goals for the major housing programs of the Farmers Home Administration in order to measure progress towards meeting the objectives of national housing policy.

(2) FORM OF GOALS.—The performance goals referred to in paragraph (1) shall be expressed in terms sufficient to measure progress.

(3) REPORT.—The Secretary of Agriculture shall prepare a report to the Congress on the progress made in attaining the performance goals for each program, citing the actual results achieved in such program for the previous year.

(4) FAILURE TO MEET GOALS.—If a performance standard or goal has not been met, the report under paragraph (3) shall include an explanation of why the goal was not met, propose plans for achieving the performance goal, and recommend any legislative or regulatory changes necessary for achievement of the goal.

SEC. 926. REGULATION OF CONSULTANTS.

Section 13(f)(1) of the Department of Housing and Urban Development Act (42 U.S.C. 3537b(f)(1)) is amended by striking "authority", "State", and "local government", and by adding immediately before the period at the end the following: ", but does not include a State or local government, or the officer or employee of a State or local government or housing finance agency thereof who is engaged in the official business of the State or local government".

SEC. 927. CLARIFICATION ON UTILITY ALLOWANCES. 42 USC 8624 note.

(a) ELIGIBILITY.—Tenants who—

(1) are responsible for making out-of-pocket payments for utility bills; and

(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 (including but not limited to the Low-Income Home Energy Assistance Program) reduced or eliminated.

(b) EQUAL TREATMENT IN BENEFIT PROGRAMS.—Tenants described in subsection (a) shall be treated identically with other households eligible for such assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes.

(c) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, section 202 of the Housing Act of 1959, and title V of the Housing Act of 1949.

SEC. 928. FLOOD CONTROL RESTORATION ZONE.

42 USC 4014.

Section 1307 of the National Flood Insurance Act of 1968 is amended by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, this subsection shall only apply in a community which has been determined by the Director of the Federal Emergency Management Agency to be in the process of restoring flood protection afforded by a flood protection system that had been previously accredited on a Flood Insurance Rate Map as providing 100-year frequency flood protection but no longer does so. Except as provided in this subsection, in such a community, flood insurance shall be made available to those properties impacted by the disaccreditation of the flood protection system at premium rates that do not exceed those which would be applicable to any property located in an area of special flood hazard, the construction of which was started prior to the effective date of the initial Flood Insurance Rate Map published by the Director for the community in which such property is located. A revised Flood Insurance Rate Map shall be prepared for the community to delineate as Zone AR the areas of special flood hazard that result from the disaccreditation of the flood protection system. A community will be considered to be in the process of restoration if—

"(1) the flood protection system has been deemed restorable by a Federal agency in consultation with the local project sponsor;

"(2) a minimum level of flood protection is still provided to the community by the disaccredited system; and

"(3) restoration of the flood protection system is scheduled to occur within a designated time period and in accordance with a progress plan negotiated between the community and the Federal Emergency Management Agency.

Communities that the Director of the Federal Emergency Management Agency determines to meet the criteria set forth in paragraphs (1) and (2) as of January 1, 1992, shall not be subject to revised Flood Insurance Rate Maps that contravene the intent of this subsection. Such communities shall remain eligible for C zone rates for properties located in zone AR for any policy written prior to promulgation of final regulations for this section. Floodplain management criteria for such communities shall not require the elevation of improvements to existing structures and shall not exceed 3 feet above existing grade for new construction, provided the base flood elevation based on the disaccredited flood control system does not exceed five feet above existing grade, or the remaining new construction in such communities is limited to infill sites, rehabilitation of existing structures, or redevelopment of previously developed areas.

The Director of the Federal Emergency Management Agency shall develop and promulgate regulations to implement this subsection, including minimum floodplain management criteria, within 24 months after the date of enactment of this subsection.". Regulations.

SEC. 929. SALARIES AND EXPENSES.

Section 7 of the Department of Housing and Urban Development Act (42 U.S.C. 3535) is amended by inserting at the end the following new subsection:

"(s)(1) Notwithstanding any other provision of law, there is authorized to be appropriated for salaries and expenses to carry out the purposes of this section $988,000,000 for fiscal year 1993 and $1,029,496,000 for fiscal year 1994. Appropriation authorization.

"(2) Of the amounts authorized to be appropriated by this section, $96,000,000 shall be available for each of the fiscal years 1993 and 1994, which amounts shall be used to provide staff in regional, field, or zone offices of the Department of Housing and Urban Development to review, process, approve, and service applications for mortgage insurance under title II of the National Housing Act for housing consisting of 5 or more dwelling units.

"(3) Of the amounts authorized to be appropriated to carry out this section, not less than $5,000,000 of such amount shall be available for each fiscal year exclusively for the purposes of providing ongoing training and capacity building for Department personnel.".

SEC. 930. THE NATIONAL CITIES IN SCHOOLS COMMUNITY DEVELOPMENT PROGRAM.

(a) PURPOSE.—The purposes of this section are—

(1) to empower the local community by investing in its human capital through a private-public partnership to rebuild urban and rural communities through schools and other community organizations, including public housing communities; and

(2) to ensure that by December 1997, the Cities in Schools Program, through the National Center for Partnership Development, will have developed the capacity to reach 500,000 at-risk youth and their families through community-wide programs that channel existing community resources to provide personal, coordinated and accountable support.

(b) GRANTS TO STRENGTHEN THE NATIONAL CITIES IN SCHOOLS PROGRAM.—The Secretary of Housing and Urban Development shall make grants to expand the National Cities in Schools Program and operations of the National Center for Partnership Development to—

(1) develop, establish, and support projects to strengthen local community dropout prevention programs in elementary and secondary schools;

(2) train community leaders responsible for the implementation of local community Cities in Schools dropout prevention programs; and

(3) disseminate to, and support replication by, States and communities of effective dropout prevention strategies.

(c) AUTHORIZATION.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and $10,420,000 for fiscal year 1994. Appropriation authorization.

SEC. 931. BANK ENTERPRISE ACT OF 1991 AND RELATED PROVISIONS.

(a) ASSESSMENT RATE FOR LIFELINE ACCOUNT DEPOSITS.—Section 7(b)(10) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(10)) (as added by section 232(b)(2) of the Bank Enterprise Act of 1991) is amended by striking "at the assessment rate of ½ the maximum rate." and inserting "at an assessment rate to be determined by the Corporation by regulation. Such assessment rate may not be less than ½ the maximum assessment rate.".

(b) ASSESSMENT PROCEDURE.—Section 7(b)(2)(A)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1917(b)(2)(A)(iii)(I)) (as added by section 232(b)(3)(C) of the Bank Enterprise Act of 1991) is amended to read as follows:

12 USC 1817.

"(I) the assessment rate determined by the Corporation pursuant to paragraph (10) with respect to such semiannual period; and".

(c) QUALIFYING ACTIVITIES FOR ASSESSMENT CREDITS.—Section 233(a)(2) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(2)) is amended to read as follows:

12 USC 1834a.

"(2) QUALIFYING ACTIVITIES.—An insured depository institution shall be eligible for any community enterprise assessment credit for any semiannual period for—

"(A) the amount, during such period, of new originations of qualified loans and other financial assistance provided for low- and moderate-income persons in distressed communities, or enterprises integrally involved with such neighborhoods, which the Board determines are qualified to be taken into account for purposes of this subsection; and

"(B) the amount, during such period, of deposits accepted from persons domiciled in the distressed community, at any office of the institution (including any branch) located in any qualified distressed community, and new originations of any loans and other financial assistance made within that community, except that in no case shall the credit for deposits at any institution or branch exceed the credit for loans and other financial assistance by the bank or branch in the distressed community.".

(d) AMOUNT OF ASSESSMENT CREDIT.—Section 233(a)(3) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(a)(3)) is amended to read as follows:

12 USC 1834a.

"(3) AMOUNT OF ASSESSMENT CREDIT.—The amount of any community enterprise assessment credit available under section 7(d)(4) of the Federal Deposit Insurance Act for any insured depository institution, or a qualified portion thereof, shall be the amount which is equal to 5 percent, in the case of an institution which does not meet the community development organization requirements under section 234, and 15 percent, in the case of an institution, or a qualified portion thereof, which meets such requirements (or any percentage designated under paragraph (5)) of—

"(A) for the first full semiannual period in which community enterprise assessment credits are available, the sum of—

"(i) the amounts of assets described in paragraph (2)(A); and

"(ii) the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B); and

"(B) for any subsequent semiannual period, the sum of—

"(i) any increase during such period in the amount of assets described in paragraph (2)(A) that has been deemed eligible for credit by the Board; and

"(ii) any increase during such period in the amounts of deposits, loans, and other financial assistance described in paragraph (2)(B) that has been deemed eligible for credit by the Board.".

(e) ELIGIBILITY REQUIREMENTS FOR QUALIFIED DISTRESSED COMMUNITIES.—Section 233(b)(4) of the Bank Enterprise Act of 1991 (12 U.S.C. 1934a(b)(4)) is amended to read as follows: 12 USC 1834a.

"(4) ELIGIBILITY REQUIREMENTS.—For purposes of this subsection, an area meets the requirements of this paragraph if the following criteria are met:

"(A) At least 30 percent of the residents residing in the area have incomes which are less than the national poverty level.

"(B) The unemployment rate for the area is 1½ times greater than the national average (as determined by the Bureau of Labor Statistics' most recent figures).

"(C) Such additional eligibility requirements as the Board may, in its discretion, deem necessary to carry out the provisions of this subtitle.".

SEC. 932. DISCLOSURES UNDER THE HOME MORTGAGE DISCLOSURE ACT OF 1975.

(a) IN GENERAL.—Section 304 of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803) is amended by adding at the end the following new subsections:

"(j) LOAN APPLICATION REGISTER INFORMATION.—

"(1) IN GENERAL.—In addition to the information required to be disclosed under subsections (a) and (b), any depository institution which is required to make disclosures under this section shall make available to the public, upon request, loan application register information (as defined by the Board by regulation) in the form required under regulations prescribed by the Board. Regulations.

"(2) FORMAT OF DISCLOSURE.—

"(A) UNEDITED FORMAT.—Subject to subparagraph (B), the loan application register information described in paragraph (1) may be disclosed by a depository institution without editing or compilation and in the format in which such information is maintained by the institution.

"(B) PROTECTION OF APPLICANT'S PRIVACY INTEREST.—The Board shall require, by regulation, such deletions as the Board may determine to be appropriate to protect— Regulations.

"(i) any privacy interest of any applicant, including the deletion of the applicant's name and identification number, the date of the application, and the date of any determination by the institution with respect to such application; and

"(ii) a depository institution from liability under any Federal or State privacy law.

"(C) CENSUS TRACT FORMAT ENCOURAGED.—It is the sense of the Congress that a depository institution should provide loan register information under this section in a

format based on the census tract in which the property is located.

"(3) CHANGE OF FORM NOT REQUIRED.—A depository institution meets the disclosure requirement of paragraph (1) if the institution provides the information required under such paragraph in the form in which the institution maintains such information.

"(4) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides information under this subsection may impose a reasonable fee for any cost incurred in reproducing such information.

"(5) TIME OF DISCLOSURE.—The disclosure of the loan application register information described in paragraph (1) for any year pursuant to a request under paragraph (1) shall be made—

"(A) in the case of a request made on or before March 1 of the succeeding year, before April 1 of the succeeding year; and

"(B) in the case of a request made after March 1 of the succeeding year, before the end of the 30-day period beginning on the date the request is made.

"(6) RETENTION OF INFORMATION.—Notwithstanding subsection (c), the loan application register information described in paragraph (1) for any year shall be maintained and made available, upon request, for 3 years after the close of the 1st year during which such information is required to be maintained and made available.

"(7) MINIMIZING COMPLIANCE COSTS.—In prescribing regulations under this subsection, the Board shall make every effort to minimize the costs incurred by a depository institution in complying with this subsection and such regulations.

"(k) DISCLOSURE OF STATEMENTS BY DEPOSITORY INSTITUTIONS.—

"(1) IN GENERAL.—In accordance with procedures established by the Board pursuant to this section, any depository institution required to make disclosures under this section—

"(A) shall make a disclosure statement available, upon request, to the public no later than 3 business days after the institution receives the statement from the Federal Financial Institutions Examination Council; and

"(B) may make such statement available on a floppy disc which may be used with a personal computer or in any other media which is not prohibited under regulations prescribed by the Board.

"(2) NOTICE THAT DATA IS SUBJECT TO CORRECTION AFTER FINAL REVIEW.—Any disclosure statement provided pursuant to paragraph (1) shall be accompanied by a clear and conspicuous notice that the statement is subject to final review and revision, if necessary.

"(3) REASONABLE CHARGE FOR INFORMATION.—Any depository institution which provides a disclosure statement pursuant to paragraph (1) may impose a reasonable fee for any cost incurred in providing or reproducing such statement.

"(l) PROMPT DISCLOSURES.—

"(1) IN GENERAL.—Any disclosure of information pursuant to this section or section 310 shall be made as promptly as possible.

"(2) MAXIMUM DISCLOSURE PERIOD.—

"(A) 6- AND 9-MONTH MAXIMUM PERIODS.—Except as provided in subsections (j)(5) and (k)(1) and regulations prescribed by the Board and subject to subparagraph (B), any information required to be disclosed for any year beginning after December 31, 1992, under—

"(i) this section shall be made available to the public before September 1 of the succeeding year; and

"(ii) section 310 shall be made available to the public before December 1 of the succeeding year.

"(B) SHORTER PERIODS ENCOURAGED AFTER 1994.—With respect to disclosures of information under this section or section 310 for any year beginning after December 31, 1993, every effort shall be made—

"(i) to make information disclosed under this section available to the public before July 1 of the succeeding year; and

"(ii) to make information required to be disclosed under section 310 available to the public before September 1 of the succeeding year.

"(3) IMPROVED PROCEDURE.—The Federal Financial Institutions Examination Council shall make such changes in the system established pursuant to subsection (f) as may be necessary to carry out the requirements of this subsection.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 304(c) of the Home Mortgage Disclosure Act of 1975 (12 U.S.C. 2803(c)) is amended by inserting ", other than loan application register information under subsection (j)," after "under this section".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to information disclosed under section 304 of the Home Mortgage Disclosure Act of 1975 for any year which ends after the date of the enactment of this Act. 12 USC 2803 note.

SEC. 933. PROHIBITION ON USE OF "RULE OF 78's" IN CONNECTION WITH MORTGAGE REFINANCINGS AND OTHER CONSUMER LOANS. 15 USC 1615.

(a) PROMPT REFUND OF UNEARNED INTEREST REQUIRED.—

(1) IN GENERAL.—If a consumer prepays in full the financed amount under any consumer credit transaction, the creditor shall promptly refund any unearned portion of the interest charge to the consumer.

(2) EXCEPTION FOR REFUND OF DE MINIMUS AMOUNT.—No refund shall be required under paragraph (1) with respect to the prepayment of any consumer credit transaction if the total amount of the refund would be less than $1.

(3) APPLICABILITY TO REFINANCED TRANSACTIONS AND ACCELERATION BY THE CREDITOR.—This subsection shall apply with respect to any prepayment of a consumer credit transaction described in paragraph (1) without regard to the manner or the reason for the prepayment, including—

(A) any prepayment made in connection with the refinancing, consolidation, or restructuring of the transaction; and

(B) any prepayment made as a result of the acceleration of the obligation to repay the amount due with respect to the transaction.

(b) USE OF "RULE OF 78'S" PROHIBITED.—For the purpose of calculating any refund of interest required under subsection (a) for any precomputed consumer credit transaction of a term exceeding 61 months which is consummated after September 30, 1993, the creditor shall compute the refund based on a method which is at least as favorable to the consumer as the actuarial method.

(c) STATEMENT OF PREPAYMENT AMOUNT.—

(1) IN GENERAL.—Before the end of the 5-day period beginning on the date an oral or written request is received by a creditor from a consumer for the disclosure of the amount due on any precomputed consumer credit account, the creditor or assignee shall provide the consumer with a statement of—

(A) the amount necessary to prepay the account in full; and

(B) if the amount disclosed pursuant to subparagraph (A) includes an amount which is required to be refunded under this section with respect to such prepayment, the amount of such refund.

(2) WRITTEN STATEMENT REQUIRED IF REQUEST IS IN WRITING.—If the customer's request is in writing, the statement under paragraph (1) shall be in writing.

(3) 1 FREE ANNUAL STATEMENT.—A consumer shall be entitled to obtain 1 statement under paragraph (1) each year without charge.

(4) ADDITIONAL STATEMENTS SUBJECT TO REASONABLE FEES.—Any creditor may impose a reasonable fee to cover the cost of providing any statement under paragraph (1) to any consumer in addition to the 1 free annual statement required under paragraph (3) if the amount of the charge for such additional statement is disclosed to the consumer before furnishing such statement.

(d) DEFINITIONS.—For the purpose of this section—

(1) ACTUARIAL METHOD.—The term "actuarial method" means the method of allocating payments made on a debt between the amount financed and the finance charge pursuant to which a payment is applied first to the accumulated finance charge and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the amount financed.

(2) CONSUMER, CREDIT.—The terms "consumer" and "creditor" have the meanings given to such terms in section 103 of the Consumer Credit Protection Act.

(3) CREDITOR.—The term "creditor"—

(A) has the meaning given to such term in section 103 of the Consumer Credit Protection Act; and

(B) includes any assignee of any creditor with respect to credit extended in connection with any consumer credit transaction and any subsequent assignee with respect to such credit.

Subtitle B—Bank Regulatory Clarification Provisions

SEC. 951. AMENDMENT RELATING TO ESTIMATES OF REAL ESTATE SETTLEMENT COSTS.

Section 5(d) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2604(d)) is amended by striking the last sentence

and inserting "Such booklet shall be provided by delivering it or placing it in the mail not later than 3 business days after the lender receives the application, but no booklet need be provided if the lender denies the application for credit before the end of the 3-day period.".

SEC. 952. ADJUSTABLE RATE MORTGAGE CAPS.

Section 1204(d)(2) of the Competitive Equality Banking Act of 1987 (12 U.S.C. 3806(d)(2)) is amended by striking "any loan" and inserting "any consumer loan".

SEC. 953. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.

(a) IN GENERAL.—Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended by redesignating clause (iii) as clause (ix) and by inserting after clause (ii) the following new clauses:

"(iii) AGENCY DISCRETION TO PRESCRIBE GREATER PERCENTAGE.—Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

"(I) would not constitute an unsafe or unsound practice;

"(II) would not increase the risk to the affected deposit insurance fund; and

"(III) would not be likely to result in the association's being in an unsafe or unsound condition.

"(iv) SUBSTANTIAL COMPLIANCE WITH APPROVED CAPITAL PLAN.—In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s), or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act, an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

"(v) LIMITATION ON INVESTMENTS TAKEN INTO ACCOUNT.—In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

"(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

"(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

"(vi) LIMIT.—The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

"For the following period:	The limit is:
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

"(vii) CRITICALLY UNDERCAPITALIZED INSTITUTION.—In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting 'Corporation' for 'Director' each place such term appears.

"(viii) QUALIFIED SAVINGS ASSOCIATION DEFINED.—For purposes of clause (iii), the term 'qualified savings association' means an eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

"(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act); or

"(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act, and is not critically undercapitalized (as defined in such section).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Clause (ix) of section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) (as so redesignated by subsection (a) of this section) is amended by inserting "or prescribed under clause (iii)" after "clause (ii)".

SEC. 954. REAL ESTATE APPRAISAL AMENDMENT.

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by striking "Each Federal financial institutions" and inserting "(a) IN GENERAL.—Each Federal financial institutions"; and

(2) by adding at the end the following new subsections:

"(b) THRESHOLD LEVEL.—Each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a threshold level at or below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines in writing that such threshold level does not represent a threat to the safety and soundness of financial institutions.

"(c) GAO STUDY OF APPRAISALS IN CONNECTION WITH REAL ESTATE RELATED FINANCIAL TRANSACTIONS BELOW THE THRESHOLD LEVEL.—

"(1) STUDY REQUIRED.—At the end of the 18-month period, and the end of the 36-month period, beginning on the date of the enactment of this subsection, the Comptroller General

of the United States shall conduct a study on the adequacy and quality of appraisals or evaluations conducted in connection with real estate related financial transactions below the threshold level established under subsection (b), taking into account—

"(A) the cost to any financial institution involved in any such transaction;

"(B) the possibility of losses to the Bank Insurance Fund, the Savings Association Insurance Fund, or the National Credit Union Share Insurance Fund;

"(C) the cost to any customer involved in any such transaction; and

"(D) the effect on low-income housing.

"(2) REPORTS TO CONGRESS AND THE APPROPRIATE FEDERAL FINANCIAL INSTITUTIONS REGULATORY AGENCIES.—Upon completing each of the studies required under paragraph (1), the Comptroller General shall submit a report on the Comptroller General's findings and conclusions with respect to such study to the Federal financial institutions regulatory agencies, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.".

SEC. 955. INSIDER LENDING.

(a) AUTHORITY TO MAKE EXCEPTIONS TO DEFINITION OF EXTENSION OF CREDIT.—Section 22(h)(9)(D) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(D)) is amended—

(1) by striking "(D) EXTENSION OF CREDIT.—A member bank" and inserting the following:

"(D) EXTENSION OF CREDIT.—

"(i) IN GENERAL.—A member bank"; and

(2) by adding at the end the following new clause:

"(ii) EXCEPTIONS.—The Board may, by regulation, make exceptions to clause (i) for transactions that the Board determines pose minimal risk.".

(b) PRINCIPAL SHAREHOLDER DEFINED.—Section 22(h)(9)(F) of the Federal Reserve Act (12 U.S.C. 375b(h)(9)(F)) is amended—

(1) by striking "shareholder' means any person" and inserting "shareholder'—

"(i) means any person";

(2) by striking the period at the end of clause (i) (as so redesignated by paragraph (1) of this subsection) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(ii) does not include a company of which a member bank is a subsidiary.".

SEC. 956. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (as added by section 132(a) of Federal Deposit Insurance Corporation Improvement Act of 1991) (12 U.S.C. 1831s) is amended—

(1) by striking subsection (d) and inserting the following new subsection:

"(d) STANDARDS TO BE PRESCRIBED BY REGULATION.—

"(1) IN GENERAL.—Standards under subsections (a), (b), and (c) shall be prescribed by regulation. Such regulations may not prescribe standards that set a specific level or range

of compensation for directors, officers, or employees of insured depository institutions.

"(2) APPLICABILITY OF OTHER LAWS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict the level of compensation, including golden parachute payments (as defined in section 18(k)(4)), paid to any director, officer, or employee of an insured depository institution under any other provision of law.

"(3) SENIOR EXECUTIVE OFFICERS AT UNDERCAPITALIZED INSTITUTIONS.—Paragraph (1) shall not affect the authority of any appropriate Federal banking agency to restrict compensation paid to any senior executive officer of an undercapitalized insured depository institution pursuant to section 38.

"(4) SAFETY AND SOUNDNESS OR ENFORCEMENT ACTIONS.—Paragraph (1) shall not be construed as affecting the authority of any appropriate Federal banking agency under any provision of this Act other than this section, or under any other provision of law, to prescribe a specific level or range of compensation for any director, officer, or employee of an insured depository institution—

"(A) to preserve the safety and soundness of the institution; or

"(B) in connection with any action under section 8 or any order issued by the agency, any agreement between the agency and the institution, or any condition imposed by the agency in connection with the agency's approval of an application or other request by the institution, which is enforceable under section 8."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 957. TRUTH IN SAVINGS ACT AMENDMENTS.

(a) ON-PREMISES DISPLAYS.—Section 263 of the Truth in Savings Act (12 U.S.C. 4302) is amended—

(1) in subsection (a), by striking "subsection (b)" and inserting "subsections (b) and (c)";

(2) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(3) by inserting after subsection (b) the following new subsection:

"(c) DISCLOSURE REQUIRED FOR ON-PREMISES DISPLAYS.—

"(1) IN GENERAL.—The disclosure requirements contained in this section shall not apply to any sign (including a rate board) disclosing a rate or rates of interest which is displayed on the premises of the depository institution if such sign contains—

"(A) the accompanying annual percentage yield; and

"(B) a statement that the consumer should request further information from an employee of the depository institution concerning the fees and terms applicable to the advertised account.

"(2) DEFINITION.—For purposes of paragraph (1), a sign shall only be considered to be displayed on the premises of a depository institution if the sign is designed to be viewed only from the interior of the premises of the depository institution.".

(b) EFFECTIVE DATE OF REGULATIONS.—Section 269(a)(2) of the Truth in Savings Act (12 U.S.C. 4308(a)(2)) is amended by striking "6 months" and inserting "9 months".

TITLE X—RESIDENTIAL LEAD-BASED PAINT HAZARD REDUCTION ACT OF 1992

Residential Lead-Based Paint Hazard Reduction Act of 1992.

SEC. 1001. SHORT TITLE.

42 USC 4851 note.

This title may be cited as the "Residential Lead-Based Paint Hazard Reduction Act of 1992".

SEC. 1002. FINDINGS.

42 USC 4851.

The Congress finds that—

(1) low-level lead poisoning is widespread among American children, afflicting as many as 3,000,000 children under age 6, with minority and low-income communities disproportionately affected;

(2) at low levels, lead poisoning in children causes intelligence quotient deficiencies, reading and learning disabilities, impaired hearing, reduced attention span, hyperactivity, and behavior problems;

(3) pre-1980 American housing stock contains more than 3,000,000 tons of lead in the form of lead-based paint, with the vast majority of homes built before 1950 containing substantial amounts of lead-based paint;

(4) the ingestion of household dust containing lead from deteriorating or abraded lead-based paint is the most common cause of lead poisoning in children;

(5) the health and development of children living in as many as 3,800,000 American homes is endangered by chipping or peeling lead paint, or excessive amounts of lead-contaminated dust in their homes;

(6) the danger posed by lead-based paint hazards can be reduced by abating lead-based paint or by taking interim measures to prevent paint deterioration and limit children's exposure to lead dust and chips;

(7) despite the enactment of laws in the early 1970's requiring the Federal Government to eliminate as far as practicable lead-based paint hazards in federally owned, assisted, and insured housing, the Federal response to this national crisis remains severely limited; and

(8) the Federal Government must take a leadership role in building the infrastructure—including an informed public, State and local delivery systems, certified inspectors, contractors, and laboratories, trained workers, and available financing and insurance—necessary to ensure that the national goal of eliminating lead-based paint hazards in housing can be achieved as expeditiously as possible.

SEC. 1003. PURPOSES.

42 USC 4851a.

The purposes of this Act are—

(1) to develop a national strategy to build the infrastructure necessary to eliminate lead-based paint hazards in all housing as expeditiously as possible;

(2) to reorient the national approach to the presence of lead-based paint in housing to implement, on a priority basis, a broad program to evaluate and reduce lead-based paint hazards in the Nation's housing stock;

(3) to encourage effective action to prevent childhood lead poisoning by establishing a workable framework for lead-based paint hazard evaluation and reduction and by ending the current confusion over reasonable standards of care;

(4) to ensure that the existence of lead-based paint hazards is taken into account in the development of Government housing policies and in the sale, rental, and renovation of homes and apartments;

(5) to mobilize national resources expeditiously, through a partnership among all levels of government and the private sector, to develop the most promising, cost-effective methods for evaluating and reducing lead-based paint hazards;

(6) to reduce the threat of childhood lead poisoning in housing owned, assisted, or transferred by the Federal Government; and

(7) to educate the public concerning the hazards and sources of lead-based paint poisoning and steps to reduce and eliminate such hazards.

42 USC 4851b.

SEC. 1004. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ABATEMENT.—The term "abatement" means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by appropriate Federal agencies. Such term includes—

(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead contaminated soil; and

(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

(2) ACCESSIBLE SURFACE.—The term "accessible surface" means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

(3) CERTIFIED CONTRACTOR.—The term "certified contractor" means—

(A) a contractor, inspector, or supervisor who has completed a training program certified by the appropriate Federal agency and has met any other requirements for certification or licensure established by such agency or who has been certified by any State through a program which has been found by such Federal agency to be at least as rigorous as the Federal certification program; and

(B) workers or designers who have fully met training requirements established by the appropriate Federal agency.

(4) CONTRACT FOR THE PURCHASE AND SALE OF RESIDENTIAL REAL PROPERTY.—The term "contract for the purchase and sale of residential real property" means any contract or agreement in which one party agrees to purchase an interest in real

property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(5) DETERIORATED PAINT.—The term "deteriorated paint" means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

(6) EVALUATION.—The term "evaluation" means risk assessment, inspection, or risk assessment and inspection.

(7) FEDERALLY ASSISTED HOUSING.—The term "federally assisted housing" means residential dwellings receiving project-based assistance under programs including—

(A) section 221(d)(3) or 236 of the National Housing Act;

(B) section 1 of the Housing and Urban Development Act of 1965;

(C) section 8 of the United States Housing Act of 1937; or

(D) sections 502(a), 504, 514, 515, 516 and 533 of the Housing Act of 1949.

(8) FEDERALLY OWNED HOUSING.—The term "federally owned housing" means residential dwellings owned or managed by a Federal agency, or for which a Federal agency is a trustee or conservator. For the purpose of this paragraph, the term "Federal agency" includes the Department of Housing and Urban Development, the Farmers Home Administration, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the General Services Administration, the Department of Defense, the Department of Veterans Affairs, the Department of the Interior, the Department of Transportation, and any other Federal agency.

(9) FEDERALLY SUPPORTED WORK.—The term "federally supported work" means any lead hazard evaluation or reduction activities conducted in federally owned or assisted housing or funded in whole or in part through any financial assistance program of the Department of Housing and Urban Development, the Farmers Home Administration, or the Department of Veterans Affairs.

(10) FRICTION SURFACE.—The term "friction surface" means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

(11) IMPACT SURFACE.—The term "impact surface" means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

(12) INSPECTION.—The term "inspection" means a surface-by-surface investigation to determine the presence of lead-based paint as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act and the provision of a report explaining the results of the investigation.

(13) INTERIM CONTROLS.—The term "interim controls" means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

(14) LEAD-BASED PAINT.—The term "lead-based paint" means paint or other surface coatings that contain lead in excess of limits established under section 302(c) of the Lead-Based Paint Poisoning Prevention Act.

(15) LEAD-BASED PAINT HAZARD.—The term "lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the appropriate Federal agency.

(16) LEAD-CONTAMINATED DUST.—The term "lead-contaminated dust" means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the appropriate Federal agency to pose a threat of adverse health effects in pregnant women or young children.

(17) LEAD-CONTAMINATED SOIL.—The term "lead-contaminated soil" means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the appropriate Federal agency.

(18) MORTGAGE LOAN.—The term "mortgage loan" includes any loan (other than temporary financing such as a construction loan) that—

(A) is secured by a first lien on any interest in residential real property; and

(B) either—

(i) is insured, guaranteed, made, or assisted by the Department of Housing and Urban Development, the Department of Veterans Affairs, or the Farmers Home Administration, or by any other agency of the Federal Government; or

(ii) is intended to be sold by each originating mortgage institution to any federally chartered secondary mortgage market institution.

(19) ORIGINATING MORTGAGE INSTITUTION.—The term "originating mortgage institution" means a lender that provides mortgage loans.

(20) PRIORITY HOUSING.—The term "priority housing" means target housing that qualifies as affordable housing under section 215 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12745), including housing that receives assistance under subsection (b) or (o) of section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f(b) or (o)).

(21) PUBLIC HOUSING.—The term "public housing" has the same meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(22) REDUCTION.—The term "reduction" means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

(23) RESIDENTIAL DWELLING.—The term "residential dwelling" means—

(A) a single-family dwelling, including attached structures such as porches and stoops; or

(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit,

and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(24) RESIDENTIAL REAL PROPERTY.—The term "residential real property" means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

(25) RISK ASSESSMENT.—The term "risk assessment" means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

(B) visual inspection;

(C) limited wipe sampling or other environmental sampling techniques;

(D) other activity as may be appropriate; and

(E) provision of a report explaining the results of the investigation.

(26) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(27) TARGET HOUSING.—The term "target housing" means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary, at the Secretary's discretion, may designate an earlier date.

Subtitle A—Lead-Based Paint Hazard Reduction

SEC. 1011. GRANTS FOR LEAD-BASED PAINT HAZARD REDUCTION IN TARGET HOUSING. 42 USC 4852.

(a) GENERAL AUTHORITY.—The Secretary is authorized to provide grants to eligible applicants to evaluate and reduce lead-based paint hazards in priority housing that is not federally assisted housing, federally owned housing, or public housing, in accordance with the provisions of this section.

(b) ELIGIBLE APPLICANTS.—A State or unit of local government that has an approved comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is eligible to apply for a grant under this section.

(c) FORM OF APPLICATIONS.—To receive a grant under this section, a State or unit of local government shall submit an application in such form and in such manner as the Secretary shall prescribe. An application shall contain—

(1) a copy of that portion of an applicant's comprehensive housing affordability strategy required by section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.);

(2) a description of the amount of assistance the applicant seeks under this section;

(3) a description of the planned activities to be undertaken with grants under this section, including an estimate of the amount to be allocated to each activity;

(4) a description of the forms of financial assistance to owners and occupants of priority housing that will be provided through grants under this section; and

(5) such assurances as the Secretary may require regarding the applicant's capacity to carry out the activities.

(d) SELECTION CRITERIA.—The Secretary shall award grants under this section on the basis of the merit of the activities proposed to be carried out and on the basis of selection criteria, which shall include—

(1) the extent to which the proposed activities will reduce the risk of lead-based paint poisoning to children under the age of 6 who reside in priority housing;

(2) the degree of severity and extent of lead-based paint hazards in the jurisdiction to be served;

(3) the ability of the applicant to leverage State, local, and private funds to supplement the grant under this section;

(4) the ability of the applicant to carry out the proposed activities; and

(5) such other factors as the Secretary determines appropriate to ensure that grants made available under this section are used effectively and to promote the purposes of this Act.

(e) ELIGIBLE ACTIVITIES.—A grant under this section may be used to—

(1) perform risk assessments and inspections in priority housing;

(2) provide for the interim control of lead-based paint hazards in priority housing;

(3) provide for the abatement of lead-based paint hazards in priority housing;

(4) provide for the additional cost of reducing lead-based paint hazards in units undergoing renovation funded by other sources;

(5) ensure that risk assessments, inspections, and abatements are carried out by certified contractors in accordance with section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act;

(6) monitor the blood-lead levels of workers involved in lead hazard reduction activities funded under this section;

(7) assist in the temporary relocation of families forced to vacate priority housing while lead hazard reduction measures are being conducted;

(8) educate the public on the nature and causes of lead poisoning and measures to reduce exposure to lead, including exposure due to residential lead-based paint hazards;

(9) test soil, interior surface dust, and the blood-lead levels of children under the age of 6 residing in priority housing after lead-based paint hazard reduction activity has been conducted, to assure that such activity does not cause excessive exposures to lead; and

(10) carry out such other activities that the Secretary determines appropriate to promote the purposes of this Act.

(f) FORMS OF ASSISTANCE.—The applicant may provide the services described in this section through a variety of programs, including grants, loans, equity investments, revolving loan funds, loan funds, loan guarantees, interest write-downs, and other forms of assistance approved by the Secretary.

(g) TECHNICAL ASSISTANCE AND CAPACITY BUILDING.—

(1) IN GENERAL.—The Secretary shall develop the capacity of eligible applicants to carry out the requirements of section 105(b)(16) of the Cranston-Gonzalez National Affordable Housing Act and to carry out activities under this section. In fiscal years 1993 and 1994, the Secretary may make grants of up to $200,000 for the purpose of establishing State training, certification or accreditation programs that meet the requirements of section 402 of the Toxic Substances Control Act, as added by section 1021 of this Act.

(2) SET-ASIDE.—Of the total amount approved in appropriation Acts under subsection (o), there shall be set aside to carry out this subsection $3,000,000 for fiscal year 1993 and $3,000,000 for fiscal year 1994.

(h) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall make contributions toward the cost of activities that receive assistance under this section in an amount not less than 10 percent of the total grant amount under this section.

(i) PROHIBITION OF SUBSTITUTION OF FUNDS.—Grants under this subtitle may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this subtitle.

(j) LIMITATION ON USE.—An applicant shall ensure that not more than 10 percent of the grant will be used for administrative expenses associated with the activities funded.

(k) FINANCIAL RECORDS.—An applicant shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

(l) REPORT.—An applicant under this section shall submit to the Secretary, for any fiscal year in which the applicant expends grant funds under this section, a report that—

(1) describes the use of the amounts received;

(2) states the number of risk assessments and the number of inspections conducted in residential dwellings;

(3) states the number of residential dwellings in which lead-based paint hazards have been reduced through interim controls;

(4) states the number of residential dwellings in which lead-based paint hazards have been abated; and

(5) provides any other information that the Secretary determines to be appropriate.

(m) NOTICE OF FUNDING AVAILABILITY.—The Secretary shall publish a Notice of Funding Availability pursuant to this section not later than 120 days after funds are appropriated for this section.

(n) RELATIONSHIP TO OTHER LAW.—Effective 2 years after the date of promulgation of regulations under section 402 of the Toxic Substances Control Act, no grants for lead-based paint hazard evaluation or reduction may be awarded to a State under this section unless such State has an authorized program under section 404 of the Toxic Substances Control Act.

(o) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this Act, there are authorized to be appropriated $125,000,000 for fiscal year 1993 and $250,000,000 for fiscal year 1994.

SEC. 1012. EVALUATION AND REDUCTION OF LEAD-BASED PAINT HAZARDS IN FEDERALLY ASSISTED HOUSING.

(a) GENERAL REQUIREMENTS.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended—

(1) by striking the title of the section and inserting:

"REQUIREMENTS FOR HOUSING RECEIVING FEDERAL ASSISTANCE";

(2) in the first sentence of subsection (a)—

(A) by striking "The Secretary" and inserting the following:

"(1) ELIMINATION OF HAZARDS.—The Secretary"; and

(B) by inserting before the period "or otherwise receives more than $5,000 in project-based assistance under a Federal housing program";

(3) by striking the second sentence of subsection (a) and inserting: "Beginning on January 1, 1995, such procedures shall apply to all such housing that constitutes target housing, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, and shall provide for appropriate measures to conduct risk assessments, inspections, interim controls, and abatement of lead-based paint hazards. At a minimum, such procedures shall require—

"(A) the provision of lead hazard information pamphlets, developed pursuant to section 406 of the Toxic Substances Control Act, to purchasers and tenants;

"(B) periodic risk assessments and interim controls in accordance with a schedule determined by the Secretary, the initial risk assessment of each unit constructed prior to 1960 to be conducted not later than January 1, 1996, and, for units constructed between 1960 and 1978—

"(i) not less than 25 percent shall be performed by January 1, 1998;

"(ii) not less than 50 percent shall be performed by January 1, 2000; and

"(iii) the remainder shall be performed by January 1, 2002;

"(C) inspection for the presence of lead-based paint prior to federally-funded renovation or rehabilitation that is likely to disturb painted surfaces;

"(D) reduction of lead-based paint hazards in the course of rehabilitation projects receiving less than $25,000 per unit in Federal funds;

"(E) abatement of lead-based paint hazards in the course of substantial rehabilitation projects receiving more than $25,000 per unit in Federal funds;

"(F) where risk assessment, inspection, or reduction activities have been undertaken, the provision of notice to occupants describing the nature and scope of such activities and the actual risk assessment or inspection reports (including available information on the location of any remaining lead-based paint on a surface-by-surface basis); and

"(G) such other measures as the Secretary deems appropriate."; and

(4) in the third sentence, by striking "The Secretary may" and inserting the following:

"(2) ADDITIONAL MEASURES.—The Secretary may".

(b) MEASUREMENT CRITERIA.—Section 302(b) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(b)) is amended by striking "for the detection" and all that follows through the end of paragraph (2) and inserting "for the risk assessment, interim control, inspection, and abatement of lead-based paint hazards in housing covered by this section shall be based upon guidelines developed pursuant to section 1017 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(c) INSPECTION.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the second sentence, by striking "qualified" and inserting "certified"; and

(2) in the third and fourth sentences, by inserting "or 0.5 percent by weight" after "squared".

(d) PUBLIC HOUSING.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) in the heading, by striking "CIAP" and inserting "MODERNIZATION"; and

(2) in the fourth sentence, by striking "to eliminate the lead-based paint poisoning hazards" and inserting "of lead-based paint and lead-based paint hazards".

(e) HOME INVESTMENT PARTNERSHIPS.—Section 212(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12742(a)) is amended by adding at the end the following new paragraph:

"(5) LEAD-BASED PAINT HAZARDS.—A participating jurisdiction may use funds provided under this subtitle for the evaluation and reduction of lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(f) COMMUNITY DEVELOPMENT BLOCK GRANTS.—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (19), by striking "and" at the end;

(2) in paragraph (20), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(21) lead-based paint hazard evaluation and reduction, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(g) SECTION 8 RENTAL ASSISTANCE.—Section 8(c)(2)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(B)) is amended by adding at the end the following: "The Secretary may (at the discretion of the Secretary and subject to the availability of appropriations for contract amendments), on a project by project basis for projects receiving project-based assistance, provide adjustments to the maximum monthly rents to cover the costs of evaluating and reducing lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(h) HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended—

42 USC 1437aaa-1.

(1) in section 302(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

42 USC 1437aaa-2.

(2) in section 303(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by adding after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(i) HOPE FOR HOMEOWNERSHIP OF MULTIFAMILY UNITS.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

42 USC 12872.

(1) in section 422(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

42 USC 12873.

(2) in section 423(b)—

(A) by redesignating paragraphs (4) through (13) as paragraphs (5) through (14), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(j) HOPE FOR HOMEOWNERSHIP OF SINGLE FAMILY HOMES.—The Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12701 et seq.) is amended—

42 USC 12892.

(1) in section 442(b)—

(A) by redesignating paragraphs (4) through (8) as paragraphs (5) through (9), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) inspection for lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act;"; and

42 USC 12893.

(2) in section 443(b)—

(A) by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively; and

(B) by inserting after paragraph (3) the following:

"(4) Abatement of lead-based paint hazards, as required by section 302(a) of the Lead-Based Paint Poisoning Prevention Act.".

(k) FHA INSURANCE FOR SINGLE FAMILY HOMES.—

(1) HOME IMPROVEMENT LOANS.—Section 2(a) of the National Housing Act (12 U.S.C. 1703(a)) is amended in the fifth paragraph—

(A) by inserting after the first sentence the following: "Alterations, repairs, and improvements upon or in connec-

tion with existing structures may also include the evaluation and reduction of lead-based paint hazards."; and

(B) by adding at the end the following:

"(4) the terms 'evaluation', 'reduction', and 'lead-based paint hazard' have the same meanings given those terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(2) REHABILITATION LOANS.—Section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)) is amended by adding at the end the following: "The term 'rehabilitation' may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

(l) FHA INSURANCE FOR MULTIFAMILY HOUSING.—Section 221(d)(4)(iv) of the National Housing Act (12 U.S.C. 1715l(d)(4)(iv)) is amended by inserting after "rehabilitation" the first time it appears the following: "(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992)".

(m) RURAL HOUSING.—Section 501(a) of the Housing Act of 1949 (42 U.S.C. 1471) is amended by adding at the end the following:

"(5) DEFINITIONS.—For purposes of this title, the terms 'repair', 'repairs', 'rehabilitate', and 'rehabilitation' include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.".

SEC. 1013. DISPOSITION OF FEDERALLY OWNED HOUSING.

Section 302(a) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(a)) (as amended by section 1012(a)) is amended by striking the fourth sentence and adding at the end the following:

"(3) DISPOSITION OF FEDERALLY OWNED HOUSING.—

"(A) PRE-1960 TARGET HOUSING.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require the inspection and abatement of lead-based paint hazards in all federally owned target housing constructed prior to 1960.

"(B) TARGET HOUSING CONSTRUCTED BETWEEN 1960 AND 1978.—Beginning on January 1, 1995, procedures established under paragraphs (1) and (2) shall require an inspection for lead-based paint and lead-based paint hazards in all federally owned target housing constructed between 1960 and 1978. The results of such inspections shall be made available to prospective purchasers, identifying the presence of lead-based paint and lead-based paint hazards on a surface-by-surface basis. The Secretary shall have the discretion to waive the requirement of this subparagraph for housing in which a federally funded risk assessment, performed by a certified contractor, has determined no lead-based paint hazards are present.

"(C) BUDGET AUTHORITY.—To the extent that subparagraphs (A) and (B) increase the cost to the Government of outstanding direct loan obligations or loan guarantee commitments, such activities shall be treated as modifica-

tions under section 504(e) of the Federal Credit Reform Act of 1990 and shall be subject to the availability of appropriations. To the extent that paragraphs (A) and (B) impose additional costs to the Resolution Trust Corporation and the Federal Deposit Insurance Corporation, its requirements shall be carried out only if appropriations are provided in advance in an appropriations Act. In the absence of appropriations sufficient to cover the costs of subparagraphs (A) and (B), these requirements shall not apply to the affected agency or agencies.

"(D) DEFINITIONS.—For the purposes of this subsection, the terms 'inspection', 'abatement', 'lead-based paint hazard', 'federally owned housing', 'target housing', 'risk assessment', and 'certified contractor' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'risk assessment', 'inspection', 'interim control', 'abatement', 'reduction', and 'lead-based paint hazard' have the same meaning given such terms in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992.

SEC. 1014. COMPREHENSIVE HOUSING AFFORDABILITY STRATEGY.

Section 105 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705) is amended—

(1) in subsection (b)(14), by striking "and" at the end;

(2) in subsection (b)(15), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (15) of subsection (b) the following new paragraph:

"(16) estimate the number of housing units within the jurisdiction that are occupied by low-income families or very low-income families and that contain lead-based paint hazards, as defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, outline the actions proposed or being taken to evaluate and reduce lead-based paint hazards, and describe how lead-based paint hazard reduction will be integrated into housing policies and programs."; and

(4) in subsection (e)—

(A) by striking "When preparing" and inserting the following:

"(1) IN GENERAL.—When preparing"; and

(B) by adding at the end the following new paragraph:

"(2) LEAD-BASED PAINT HAZARDS.—When preparing that portion of a housing strategy required by subsection (b)(16), a jurisdiction shall consult with State or local health and child welfare agencies and examine existing data related to lead-based paint hazards and poisonings, including health department data on the addresses of housing units in which children have been identified as lead poisoned.".

42 USC 4852a.

SEC. 1015. TASK FORCE ON LEAD-BASED PAINT HAZARD REDUCTION AND FINANCING.

(a) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish a task force to make recommendations on expanding resources and efforts to evaluate and reduce lead-based paint hazards in private housing.

(b) MEMBERSHIP.—The task force shall include individuals representing the Department of Housing and Urban Development, the Farmers Home Administration, the Department of Veterans Affairs, the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Environmental Protection Agency, employee organizations in the building and construction trades industry, landlords, tenants, primary lending institutions, private mortgage insurers, single-family and multifamily real estate interests, nonprofit housing developers, property liability insurers, public housing agencies, low-income housing advocacy organizations, national, State and local lead-poisoning prevention advocates and experts, and community-based organizations located in areas with substantial rental housing.

(c) RESPONSIBILITIES.—The task force shall make recommendations to the Secretary and the Administrator of the Environmental Protection Agency concerning—

(1) incorporating the need to finance lead-based paint hazard reduction into underwriting standards;

(2) developing new loan products and procedures for financing lead-based paint hazard evaluation and reduction activities;

(3) adjusting appraisal guidelines to address lead safety;

(4) incorporating risk assessments or inspections for lead-based paint as a routine procedure in the origination of new residential mortgages;

(5) revising guidelines, regulations, and educational pamphlets issued by the Department of Housing and Urban Development and other Federal agencies relating to lead-based paint poisoning prevention;

(6) reducing the current uncertainties of liability related to lead-based paint in rental housing by clarifying standards of care for landlords and lenders, and by exploring the "safe harbor" concept;

(7) increasing the availability of liability insurance for owners of rental housing and certified contractors and establishing alternative systems to compensate victims of lead-based paint poisoning; and

(8) evaluating the utility and appropriateness of requiring risk assessments or inspections and notification to prospective lessees of rental housing.

(d) COMPENSATION.—The members of the task force shall not receive Federal compensation for their participation.

SEC. 1016. NATIONAL CONSULTATION ON LEAD-BASED PAINT HAZARD REDUCTION. 42 USC 4852b.

In carrying out this Act, the Secretary shall consult on an ongoing basis with the Administrator of the Environmental Protection Agency, the Director of the Centers for Disease Control, other Federal agencies concerned with lead poisoning prevention, and the task force established pursuant to section 1015.

SEC. 1017. GUIDELINES FOR LEAD-BASED PAINT HAZARD EVALUATION AND REDUCTION ACTIVITIES. 42 USC 4852c.

Not later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Labor, and the Secretary of Health and Human Services (acting through the Director of the Centers for Disease Control), shall issue guidelines for the conduct of federally supported work involving risk assessments,

inspections, interim controls, and abatement of lead-based paint hazards. Such guidelines shall be based upon criteria that measure the condition of the housing (and the presence of children under age 6 for the purposes of risk assessments) and shall not be based upon criteria that measure the health of the residents of the housing.

42 USC 4852d.

SEC. 1018. DISCLOSURE OF INFORMATION CONCERNING LEAD UPON TRANSFER OF RESIDENTIAL PROPERTY.

(a) LEAD DISCLOSURE IN PURCHASE AND SALE OR LEASE OF TARGET HOUSING.—

Regulations.

(1) LEAD-BASED PAINT HAZARDS.—Not later than 2 years after the date of enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall promulgate regulations under this section for the disclosure of lead-based paint hazards in target housing which is offered for sale or lease. The regulations shall require that, before the purchaser or lessee is obligated under any contract to purchase or lease the housing, the seller or lessor shall—

(A) provide the purchaser or lessee with a lead hazard information pamphlet, as prescribed by the Administrator of the Environmental Protection Agency under section 406 of the Toxic Substances Control Act;

(B) disclose to the purchaser or lessee the presence of any known lead-based paint, or any known lead-based paint hazards, in such housing and provide to the purchaser or lessee any lead hazard evaluation report available to the seller or lessor; and

(C) permit the purchaser a 10-day period (unless the parties mutually agree upon a different period of time) to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(2) CONTRACT FOR PURCHASE AND SALE.—Regulations promulgated under this section shall provide that every contract for the purchase and sale of any interest in target housing shall contain a Lead Warning Statement and a statement signed by the purchaser that the purchaser has—

(A) read the Lead Warning Statement and understands its contents;

(B) received a lead hazard information pamphlet; and

(C) had a 10-day opportunity (unless the parties mutually agreed upon a different period of time) before becoming obligated under the contract to purchase the housing to conduct a risk assessment or inspection for the presence of lead-based paint hazards.

(3) CONTENTS OF LEAD WARNING STATEMENT.—The Lead Warning Statement shall contain the following text printed in large type on a separate sheet of paper attached to the contract:

"Every purchaser of any interest in residential real property on which a residential dwelling was built prior to 1978 is notified that such property may present exposure to lead from lead-based paint that may place young children at risk of developing lead poisoning. Lead poisoning in young children may produce permanent neurological damage, including learning disabilities, reduced intelligence quotient, behavioral problems, and impaired memory. Lead poisoning also poses a particular risk to pregnant women.

The seller of any interest in residential real property is required to provide the buyer with any information on lead-based paint hazards from risk assessments or inspections in the seller's possession and notify the buyer of any known lead-based paint hazards. A risk assessment or inspection for possible lead-based paint hazards is recommended prior to purchase.".

(4) COMPLIANCE ASSURANCE.—Whenever a seller or lessor has entered into a contract with an agent for the purpose of selling or leasing a unit of target housing, the regulations promulgated under this section shall require the agent, on behalf of the seller or lessor, to ensure compliance with the requirements of this section.

(5) PROMULGATION.—A suit may be brought against the Secretary of Housing and Urban Development and the Administrator of the Environmental Protection Agency under section 20 of the Toxic Substances Control Act to compel promulgation of the regulations required under this section and the Federal district court shall have jurisdiction to order such promulgation.

(b) PENALTIES FOR VIOLATIONS.—

(1) MONETARY PENALTY.—Any person who knowingly violates any provision of this section shall be subject to civil money penalties in accordance with the provisions of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545).

(2) ACTION BY SECRETARY.—The Secretary is authorized to take such lawful action as may be necessary to enjoin any violation of this section.

(3) CIVIL LIABILITY.—Any person who knowingly violates the provisions of this section shall be jointly and severally liable to the purchaser or lessee in an amount equal to 3 times the amount of damages incurred by such individual.

(4) COSTS.—In any civil action brought for damages pursuant to paragraph (3), the appropriate court may award court costs to the party commencing such action, together with reasonable attorney fees and any expert witness fees, if that party prevails.

(5) PROHIBITED ACT.—It shall be a prohibited act under section 409 of the Toxic Substances Control Act for any person to fail or refuse to comply with a provision of this section or with any rule or order issued under this section. For purposes of enforcing this section under the Toxic Substances Control Act, the penalty for each violation applicable under section 16 of that Act shall not be more than $10,000.

(c) VALIDITY OF CONTRACTS AND LIENS.—Nothing in this section shall affect the validity or enforceability of any sale or contract for the purchase and sale or lease of any interest in residential real property or any loan, loan agreement, mortgage, or lien made or arising in connection with a mortgage loan, nor shall anything in this section create a defect in title.

(d) EFFECTIVE DATE.—The regulations under this section shall take effect 3 years after the date of the enactment of this title.

Lead-Based Paint Exposure Reduction Act.

Subtitle B—Lead Exposure Reduction

SEC. 1021. CONTRACTOR TRAINING AND CERTIFICATION.

(a) AMENDMENT TO THE TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is amended by adding after title III the following new title:

"TITLE IV—LEAD EXPOSURE REDUCTION

15 USC 2681.

"SEC. 401. DEFINITIONS.

"For the purposes of this title:

"(1) ABATEMENT.—The term 'abatement' means any set of measures designed to permanently eliminate lead-based paint hazards in accordance with standards established by the Administrator under this title. Such term includes—

"(A) the removal of lead-based paint and lead-contaminated dust, the permanent containment or encapsulation of lead-based paint, the replacement of lead-painted surfaces or fixtures, and the removal or covering of lead-contaminated soil; and

"(B) all preparation, cleanup, disposal, and postabatement clearance testing activities associated with such measures.

"(2) ACCESSIBLE SURFACE.—The term 'accessible surface' means an interior or exterior surface painted with lead-based paint that is accessible for a young child to mouth or chew.

"(3) DETERIORATED PAINT.—The term 'deteriorated paint' means any interior or exterior paint that is peeling, chipping, chalking or cracking or any paint located on an interior or exterior surface or fixture that is damaged or deteriorated.

"(4) EVALUATION.—The term 'evaluation' means risk assessment, inspection, or risk assessment and inspection.

"(5) FRICTION SURFACE.—The term 'friction surface' means an interior or exterior surface that is subject to abrasion or friction, including certain window, floor, and stair surfaces.

"(6) IMPACT SURFACE.—The term 'impact surface' means an interior or exterior surface that is subject to damage by repeated impacts, for example, certain parts of door frames.

"(7) INSPECTION.—The term 'inspection' means (A) a surface-by-surface investigation to determine the presence of lead-based paint, as provided in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, and (B) the provision of a report explaining the results of the investigation.

"(8) INTERIM CONTROLS.—The term 'interim controls' means a set of measures designed to reduce temporarily human exposure or likely exposure to lead-based paint hazards, including specialized cleaning, repairs, maintenance, painting, temporary containment, ongoing monitoring of lead-based paint hazards or potential hazards, and the establishment and operation of management and resident education programs.

"(9) LEAD-BASED PAINT.—The term 'lead-based paint' means paint or other surface coatings that contain lead in excess of 1.0 milligrams per centimeter squared or 0.5 percent by weight or (A) in the case of paint or other surface coatings

on target housing, such lower level as may be established by the Secretary of Housing and Urban Development, as defined in section 302(c) of the Lead-Based Paint Poisoning Prevention Act, or (B) in the case of any other paint or surface coatings, such other level as may be established by the Administrator.

"(10) LEAD-BASED PAINT HAZARD.—The term 'lead-based paint hazard' means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil, lead-contaminated paint that is deteriorated or present in accessible surfaces, friction surfaces, or impact surfaces that would result in adverse human health effects as established by the Administrator under this title.

"(11) LEAD-CONTAMINATED DUST.—The term 'lead-contaminated dust' means surface dust in residential dwellings that contains an area or mass concentration of lead in excess of levels determined by the Administrator under this title to pose a threat of adverse health effects in pregnant women or young children.

"(12) LEAD-CONTAMINATED SOIL.—The term 'lead-contaminated soil' means bare soil on residential real property that contains lead at or in excess of the levels determined to be hazardous to human health by the Administrator under this title.

"(13) REDUCTION.—The term 'reduction' means measures designed to reduce or eliminate human exposure to lead-based paint hazards through methods including interim controls and abatement.

"(14) RESIDENTIAL DWELLING.—The term 'residential dwelling' means—

"(A) a single-family dwelling, including attached structures such as porches and stoops; or

"(B) a single-family dwelling unit in a structure that contains more than 1 separate residential dwelling unit, and in which each such unit is used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(15) RESIDENTIAL REAL PROPERTY.—The term 'residential real property' means real property on which there is situated 1 or more residential dwellings used or occupied, or intended to be used or occupied, in whole or in part, as the home or residence of 1 or more persons.

"(16) RISK ASSESSMENT.—The term 'risk assessment' means an on-site investigation to determine and report the existence, nature, severity and location of lead-based paint hazards in residential dwellings, including—

"(A) information gathering regarding the age and history of the housing and occupancy by children under age 6;

"(B) visual inspection;

"(C) limited wipe sampling or other environmental sampling techniques;

"(D) other activity as may be appropriate; and

"(E) provision of a report explaining the results of the investigation.

"(17) TARGET HOUSING.—The term 'target housing' means any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is

less than 6 years of age resides or is expected to reside in such housing for the elderly or persons with disabilities) or any 0-bedroom dwelling. In the case of jurisdictions which banned the sale or use of lead-based paint prior to 1978, the Secretary of Housing and Urban Development, at the Secretary's discretion, may designate an earlier date.

15 USC 2682.

"SEC. 402. LEAD-BASED PAINT ACTIVITIES TRAINING AND CERTIFICATION.

"(a) REGULATIONS.—

"(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this section, the Administrator shall, in consultation with the Secretary of Labor, the Secretary of Housing and Urban Development, and the Secretary of Health and Human Services (acting through the Director of the National Institute for Occupational Safety and Health), promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained; that training programs are accredited; and that contractors engaged in such activities are certified. Such regulations shall contain standards for performing lead-based paint activities, taking into account reliability, effectiveness, and safety. Such regulations shall require that all risk assessment, inspection, and abatement activities performed in target housing shall be performed by certified contractors, as such term is defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The provisions of this section shall supersede the provisions set forth under the heading 'Lead Abatement Training and Certification' and under the heading 'Training Grants' in title III of the Act entitled 'An Act making appropriations for the Departments of Veterans Affairs and Housing and Urban Development, and for sundry independent agencies, commissions, corporations, and offices for the fiscal year ending September 30, 1992, and for other purposes', Public Law 102–139, and upon the enactment of this section the provisions set forth in such public law under such headings shall cease to have any force and effect.

"(2) ACCREDITATION OF TRAINING PROGRAMS.—Final regulations promulgated under paragraph (1) shall contain specific requirements for the accreditation of lead-based paint activities training programs for workers, supervisors, inspectors and planners, and other individuals involved in lead-based paint activities, including, but not limited to, each of the following:

"(A) Minimum requirements for the accreditation of training providers.

"(B) Minimum training curriculum requirements.

"(C) Minimum training hour requirements.

"(D) Minimum hands-on training requirements.

"(E) Minimum trainee competency and proficiency requirements.

"(F) Minimum requirements for training program quality control.

"(3) ACCREDITATION AND CERTIFICATION FEES.—The Administrator (or the State in the case of an authorized State program) shall impose a fee on—

"(A) persons operating training programs accredited under this title; and

"(B) lead-based paint activities contractors certified in accordance with paragraph (1).

The fees shall be established at such level as is necessary to cover the costs of administering and enforcing the standards and regulations under this section which are applicable to such programs and contractors. The fee shall not be imposed on any State, local government, or nonprofit training program. The Administrator (or the State in the case of an authorized State program) may waive the fee for lead-based paint activities contractors under subparagraph (A) for the purpose of training their own employees.

"(b) LEAD-BASED PAINT ACTIVITIES.—For purposes of this title, the term 'lead-based paint activities' means—

"(1) in the case of target housing, risk assessment, inspection, and abatement; and

"(2) in the case of any public building constructed before 1978, commercial building, bridge, or other structure or superstructure, identification of lead-based paint and materials containing lead-based paint, deleading, removal of lead from bridges, and demolition.

For purposes of paragraph (2), the term 'deleading' means activities conducted by a person who offers to eliminate lead-based paint or lead-based paint hazards or to plan such activities.

"(c) RENOVATION AND REMODELING.—

"(1) GUIDELINES.—In order to reduce the risk of exposure to lead in connection with renovation and remodeling of target housing, public buildings constructed before 1978, and commercial buildings, the Administrator shall, within 18 months after the enactment of this section, promulgate guidelines for the conduct of such renovation and remodeling activities which may create a risk of exposure to dangerous levels of lead. The Administrator shall disseminate such guidelines to persons engaged in such renovation and remodeling through hardware and paint stores, employee organizations, trade groups, State and local agencies, and through other appropriate means.

"(2) STUDY OF CERTIFICATION.—The Administrator shall conduct a study of the extent to which persons engaged in various types of renovation and remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings are exposed to lead in the conduct of such activities or disturb lead and create a lead-based paint hazard on a regular or occasional basis. The Administrator shall complete such study and publish the results thereof within 30 months after the enactment of this section.

"(3) CERTIFICATION DETERMINATION.—Within 4 years after the enactment of this section, the Administrator shall revise the regulations under subsection (a) to apply the regulations to renovation or remodeling activities in target housing, public buildings constructed before 1978, and commercial buildings that create lead-based paint hazards. In determining which contractors are engaged in such activities, the Administrator shall utilize the results of the study under paragraph (2) and consult with the representatives of labor organizations, lead-based paint activities contractors, persons engaged in remodeling and renovation, experts in lead health effects, and others. If the Administrator determines that any category of contractors engaged in renovation or remodeling does not require certifi- Regulations.

cation, the Administrator shall publish an explanation of the basis for that determination.

15 USC 2683. **"SEC. 403. IDENTIFICATION OF DANGEROUS LEVELS OF LEAD.**

Regulations. "Within 18 months after the enactment of this title, the Administrator shall promulgate regulations which shall identify, for purposes of this title and the Residential Lead-Based Paint Hazard Reduction Act of 1992, lead-based paint hazards, lead-contaminated dust, and lead-contaminated soil.

15 USC 2684. **"SEC. 404. AUTHORIZED STATE PROGRAMS.**

"(a) APPROVAL.—Any State which seeks to administer and enforce the standards, regulations, or other requirements established under section 402 or 406, or both, may, after notice and opportunity for public hearing, develop and submit to the Administrator an application, in such form as the Administrator shall require, for authorization of such a State program. Any such State may also certify to the Administrator at the time of submitting such program that the State program meets the requirements of paragraphs (1) and (2) of subsection (b). Upon submission of such certification, the State program shall be deemed to be authorized under this section, and shall apply in such State in lieu of the corresponding Federal program under section 402 or 406, or both, as the case may be, until such time as the Administrator disapproves the program or withdraws the authorization.

"(b) APPROVAL OR DISAPPROVAL.—Within 180 days following submission of an application under subsection (a), the Administrator shall approve or disapprove the application. The Administrator may approve the application only if, after notice and after opportunity for public hearing, the Administrator finds that—

"(1) the State program is at least as protective of human health and the environment as the Federal program under section 402 or 406, or both, as the case may be, and

"(2) such State program provides adequate enforcement.

Upon authorization of a State program under this section, it shall be unlawful for any person to violate or fail or refuse to comply with any requirement of such program.

"(c) WITHDRAWAL OF AUTHORIZATION.—If a State is not administering and enforcing a program authorized under this section in compliance with standards, regulations, and other requirements of this title, the Administrator shall so notify the State and, if corrective action is not completed within a reasonable time, not to exceed 180 days, the Administrator shall withdraw authorization of such program and establish a Federal program pursuant to this title.

"(d) MODEL STATE PROGRAM.—Within 18 months after the enactment of this title, the Administrator shall promulgate a model State program which may be adopted by any State which seeks to administer and enforce a State program under this title. Such model program shall, to the extent practicable, encourage States to utilize existing State and local certification and accreditation programs and procedures. Such program shall encourage reciprocity among the States with respect to the certification under section 402.

"(e) OTHER STATE REQUIREMENTS.—Nothing in this title shall be construed to prohibit any State or political subdivision thereof from imposing any requirements which are more stringent than those imposed by this title.

"(f) STATE AND LOCAL CERTIFICATION.—The regulations under this title shall, to the extent appropriate, encourage States to seek program authorization and to use existing State and local certification and accreditation procedures, except that a State or local government shall not require more than 1 certification under this section for any lead-based paint activities contractor to carry out lead-based paint activities in the State or political subdivision thereof.

"(g) GRANTS TO STATES.—The Administrator is authorized to make grants to States to develop and carry out authorized State programs under this section. The grants shall be subject to such terms and conditions as the Administrator may establish to further the purposes of this title.

"(h) ENFORCEMENT BY ADMINISTRATOR.—If a State does not have a State program authorized under this section and in effect by the date which is 2 years after promulgation of the regulations under section 402 or 406, the Administrator shall, by such date, establish a Federal program for section 402 or 406 (as the case may be) for such State and administer and enforce such program in such State.

"SEC. 405. LEAD ABATEMENT AND MEASUREMENT. 15 USC 2685.

"(a) PROGRAM TO PROMOTE LEAD EXPOSURE ABATEMENT.—The Administrator, in cooperation with other appropriate Federal departments and agencies, shall conduct a comprehensive program to promote safe, effective, and affordable monitoring, detection, and abatement of lead-based paint and other lead exposure hazards.

"(b) STANDARDS FOR ENVIRONMENTAL SAMPLING LABORATORIES.—(1) The Administrator shall establish protocols, criteria, and minimum performance standards for laboratory analysis of lead in paint films, soil, and dust. Within 2 years after the enactment of this title, the Administrator, in consultation with the Secretary of Health and Human Services, shall establish a program to certify laboratories as qualified to test substances for lead content unless the Administrator determines, by the date specified in this paragraph, that effective voluntary accreditation programs are in place and operating on a nationwide basis at the time of such determination. To be certified under such program, a laboratory shall, at a minimum, demonstrate an ability to test substances accurately for lead content.

"(2) Not later than 24 months after the date of the enactment of this section, and annually thereafter, the Administrator shall publish and make available to the public a list of certified or accredited environmental sampling laboratories. Public information.

"(3) If the Administrator determines under paragraph (1) that effective voluntary accreditation programs are in place for environmental sampling laboratories, the Administrator shall review the performance and effectiveness of such programs within 3 years after such determination. If, upon such review, the Administrator determines that the voluntary accreditation programs are not effective in assuring the quality and consistency of laboratory analyses, the Administrator shall, not more than 12 months thereafter, establish a certification program that meets the requirements of paragraph (1).

"(c) EXPOSURE STUDIES.—(1) The Secretary of Health and Human Services (hereafter in this subsection referred to as the 'Secretary'), acting through the Director of the Centers for Disease

Control, (CDC), and the Director of the National Institute of Environmental Health Sciences, shall jointly conduct a study of the sources of lead exposure in children who have elevated blood lead levels (or other indicators of elevated lead body burden), as defined by the Director of the Centers for Disease Control.

"(2) The Secretary, in consultation with the Director of the National Institute for Occupational Safety and Health, shall conduct a comprehensive study of means to reduce hazardous occupational lead abatement exposures. This study shall include, at a minimum, each of the following—

"(A) Surveillance and intervention capability in the States to identify and prevent hazardous exposures to lead abatement workers.

"(B) Demonstration of lead abatement control methods and devices and work practices to identify and prevent hazardous lead exposures in the workplace.

"(C) Evaluation, in consultation with the National Institute of Environmental Health Sciences, of health effects of low and high levels of occupational lead exposures on reproductive, neurological, renal, and cardiovascular health.

"(D) Identification of high risk occupational settings to which prevention activities and resources should be targeted.

"(E) A study assessing the potential exposures and risks from lead to janitorial and custodial workers.

"(3) The studies described in paragraphs (1) and (2) shall, as appropriate, examine the relative contributions to elevated lead body burden from each of the following:

"(A) Drinking water.

"(B) Food.

"(C) Lead-based paint and dust from lead-based paint.

"(D) Exterior sources such as ambient air and lead in soil.

"(E) Occupational exposures, and other exposures that the Secretary determines to be appropriate.

Reports. "(4) Not later than 30 months after the date of the enactment of this section, the Secretary shall submit a report to the Congress concerning the studies described in paragraphs (1) and (2).

"(d) PUBLIC EDUCATION.—(1) The Administrator, in conjunction with the Secretary of Health and Human Services, acting through the Director of the Agency for Toxic Substances and Disease Registry, and in conjunction with the Secretary of Housing and Urban Development, shall sponsor public education and outreach activities to increase public awareness of—

"(A) the scope and severity of lead poisoning from household sources;

"(B) potential exposure to sources of lead in schools and childhood day care centers;

"(C) the implications of exposures for men and women, particularly those of childbearing age;

"(D) the need for careful, quality, abatement and management actions;

"(E) the need for universal screening of children;

"(F) other components of a lead poisoning prevention program;

"(G) the health consequences of lead exposure resulting from lead-based paint hazards;

"(H) risk assessment and inspection methods for lead-based paint hazards; and

"(I) measures to reduce the risk of lead exposure from lead-based paint.

"(2) The activities described in paragraph (1) shall be designed to provide educational services and information to—

"(A) health professionals;

"(B) the general public, with emphasis on parents of young children;

"(C) homeowners, landlords, and tenants;

"(D) consumers of home improvement products;

"(E) the residential real estate industry; and

"(F) the home renovation industry.

"(3) In implementing the activities described in paragraph (1), the Administrator shall assure coordination with the President's Commission on Environmental Quality's education and awareness campaign on lead poisoning.

"(4) The Administrator, in consultation with the Chairman of the Consumer Product Safety Commission, shall develop information to be distributed by retailers of home improvement products to provide consumers with practical information related to the hazards of renovation and remodeling where lead-based paint may be present.

"(e) TECHNICAL ASSISTANCE.—

"(1) CLEARINGHOUSE.—Not later than 6 months after the enactment of this subsection, the Administrator shall establish, in consultation with the Secretary of Housing and Urban Development and the Director of the Centers for Disease Control, a National Clearinghouse on Childhood Lead Poisoning (hereinafter in this section referred to as 'Clearinghouse'). The Clearinghouse shall— Establishment.

"(A) collect, evaluate, and disseminate current information on the assessment and reduction of lead-based paint hazards, adverse health effects, sources of exposure, detection and risk assessment methods, environmental hazards abatement, and clean-up standards;

"(B) maintain a rapid-alert system to inform certified lead-based paint activities contractors of significant developments in research related to lead-based paint hazards; and

"(C) perform any other duty that the Administrator determines necessary to achieve the purposes of this Act.

"(2) HOTLINE.—Not later than 6 months after the enactment of this subsection, the Administrator, in cooperation with other Federal agencies and with State and local governments, shall establish a single lead-based paint hazard hotline to provide the public with answers to questions about lead poisoning prevention and referrals to the Clearinghouse for technical information.

"(f) PRODUCTS FOR LEAD-BASED PAINT ACTIVITIES.—Not later than 30 months after the date of enactment of this section, the President shall, after notice and opportunity for comment, establish by rule appropriate criteria, testing protocols, and performance characteristics as are necessary to ensure, to the greatest extent possible and consistent with the purposes and policy of this title, that lead-based paint hazard evaluation and reduction products introduced into commerce after a period specified in the rule are President. Regulations.

effective for the intended use described by the manufacturer. The rule shall identify the types or classes of products that are subject to such rule. The President, in implementation of the rule, shall, to the maximum extent possible, utilize independent testing laboratories, as appropriate, and consult with such entities and others in developing the rules. The President may delegate the authorities under this subsection to the Environmental Protection Agency or the Secretary of Commerce or such other appropriate agency.

15 USC 2686.

"SEC. 406. LEAD HAZARD INFORMATION PAMPHLET.

"(a) LEAD HAZARD INFORMATION PAMPHLET.—Not later than 2 years after the enactment of this section, after notice and opportunity for comment, the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Housing and Urban Development and with the Secretary of Health and Human Services, shall publish, and from time to time revise, a lead hazard information pamphlet to be used in connection with this title and section 1018 of the Residential Lead-Based Paint Hazard Reduction Act of 1992. The pamphlet shall—

"(1) contain information regarding the health risks associated with exposure to lead;

"(2) provide information on the presence of lead-based paint hazards in federally assisted, federally owned, and target housing;

"(3) describe the risks of lead exposure for children under 6 years of age, pregnant women, women of childbearing age, persons involved in home renovation, and others residing in a dwelling with lead-based paint hazards;

"(4) describe the risks of renovation in a dwelling with lead-based paint hazards;

"(5) provide information on approved methods for evaluating and reducing lead-based paint hazards and their effectiveness in identifying, reducing, eliminating, or preventing exposure to lead-based paint hazards;

"(6) advise persons how to obtain a list of contractors certified pursuant to this title in lead-based paint hazard evaluation and reduction in the area in which the pamphlet is to be used;

"(7) state that a risk assessment or inspection for lead-based paint is recommended prior to the purchase, lease, or renovation of target housing;

"(8) state that certain State and local laws impose additional requirements related to lead-based paint in housing and provide a listing of Federal, State, and local agencies in each State, including address and telephone number, that can provide information about applicable laws and available governmental and private assistance and financing; and

"(9) provide such other information about environmental hazards associated with residential real property as the Administrator deems appropriate.

Regulations.

"(b) RENOVATION OF TARGET HOUSING.—Within 2 years after the enactment of this section, the Administrator shall promulgate regulations under this subsection to require each person who performs for compensation a renovation of target housing to provide a lead hazard information pamphlet to the owner and occupant of such housing prior to commencing the renovation.

"SEC. 407. REGULATIONS. 15 USC 2687.

"The regulations of the Administrator under this title shall include such recordkeeping and reporting requirements as may be necessary to insure the effective implementation of this title. The regulations may be amended from time to time as necessary.

"SEC. 408. CONTROL OF LEAD-BASED PAINT HAZARDS AT FEDERAL FACILITIES. 15 USC 2688.

"Each department, agency, and instrumentality of executive, legislative, and judicial branches of the Federal Government (1) having jurisdiction over any property or facility, or (2) engaged in any activity resulting, or which may result, in a lead-based paint hazard, and each officer, agent, or employee thereof, shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for certification, licensing, recordkeeping, or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief) respecting lead-based paint, lead-based paint activities, and lead-based paint hazards in the same manner, and to the same extent as any nongovernmental entity is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders and all civil and administrative penalties and fines regardless of whether such penalties or fines are punitive or coercive in nature, or whether imposed for isolated, intermittent or continuing violations. The United States hereby expressly waives any immunity otherwise applicable to the United States with respect to any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil or administrative penalty or fine referred to in the preceding sentence, or reasonable service charge). The reasonable service charges referred to in this section include, but are not limited to, fees or charges assessed for certification and licensing, as well as any other nondiscriminatory charges that are assessed in connection with a Federal, State, interstate, or local lead-based paint, lead-based paint activities, or lead-based paint hazard activities program. No agent, employee, or officer of the United States shall be personally liable for any civil penalty under any Federal, State, interstate, or local law relating to lead-based paint, lead-based paint activities, or lead-based paint hazards with respect to any act or omission within the scope of his official duties.

"SEC. 409. PROHIBITED ACTS. 15 USC 2689.

"It shall be unlawful for any person to fail or refuse to comply with a provision of this title or with any rule or order issued under this title.

"SEC. 410. RELATIONSHIP TO OTHER FEDERAL LAW. 15 USC 2690.

"Nothing in this title shall affect the authority of other appropriate Federal agencies to establish or enforce any requirements which are at least as stringent as those established pursuant to this title.

15 USC 2691.

"SEC. 411. GENERAL PROVISIONS RELATING TO ADMINISTRATIVE PROCEEDINGS.

"(a) APPLICABILITY.—This section applies to the promulgation or revision of any regulation issued under this title.

"(b) RULEMAKING DOCKET.—Not later than the date of proposal of any action to which this section applies, the Administrator shall establish a rulemaking docket for such action (hereinafter in this subsection referred to as a 'rule'). Whenever a rule applies only within a particular State, a second (identical) docket shall be established in the appropriate regional office of the Environmental Protection Agency.

"(c) INSPECTION AND COPYING.—(1) The rulemaking docket required under subsection (b) shall be open for inspection by the public at reasonable times specified in the notice of proposed rulemaking. Any person may copy documents contained in the docket. The Administrator shall provide copying facilities which may be used at the expense of the person seeking copies, but the Administrator may waive or reduce such expenses in such instances as the public interest requires. Any person may request copies by mail if the person pays the expenses, including personnel costs to do the copying.

"(2)(A) Promptly upon receipt by the agency, all written comments and documentary information on the proposed rule received from any person for inclusion in the docket during the comment period shall be placed in the docket. The transcript of public hearings, if any, on the proposed rule shall also be included in the docket promptly upon receipt from the person who transcribed such hearings. All documents which become available after the proposed rule has been published and which the Administrator determines are of central relevance to the rulemaking shall be placed in the docket as soon as possible after their availability.

"(B) The drafts of proposed rules submitted by the Administrator to the Office of Management and Budget for any interagency review process prior to proposal of any such rule, all documents accompanying such drafts, and all written comments thereon by other agencies and all written responses to such written comments by the Administrator shall be placed in the docket no later than the date of proposal of the rule. The drafts of the final rule submitted for such review process prior to promulgation and all such written comments thereon, all documents accompanying such drafts, and written responses thereto shall be placed in the docket no later than the date of promulgation.

"(d) EXPLANATION.—(1) The promulgated rule shall be accompanied by an explanation of the reasons for any major changes in the promulgated rule from the proposed rule.

"(2) The promulgated rule shall also be accompanied by a response to each of the significant comments, criticisms, and new data submitted in written or oral presentations during the comment period.

"(3) The promulgated rule may not be based (in part or whole) on any information or data which has not been placed in the docket as of the date of such promulgation.

"(e) JUDICIAL REVIEW.—The material referred to in subsection (c)(2)(B) shall not be included in the record for judicial review.

"(f) EFFECTIVE DATE.—The requirements of this section shall take effect with respect to any rule the proposal of which occurs after 90 days after the date of the enactment of this section.

"SEC. 412. AUTHORIZATION OF APPROPRIATIONS. 15 USC 2692.

"There are authorized to be appropriated to carry out the purposes of this title such sums as may be necessary.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2610) is amended as follows:

(1) In paragraph (1) of section 7(a), strike "or 6" and insert "6, or title IV" and after "5" insert "or title IV". 15 USC 2606.

(2) In the first sentence of subsection (a) of section 11: 15 USC 2610.

(A) Strike "or mixtures" before "are manufactured" and insert ", mixtures, or products subject to title IV".

(B) Insert "such products," before "or such articles".

(3) In paragraph (1) of subsection (b) of section 11, strike "or mixtures" and insert ", mixtures, or products subject to title IV".

(4) In paragraph (1) of section 13(a), strike "or 6" in each place it appears and insert ", 6, or title IV" and strike "or 7" and insert ", 7 or title IV". 15 USC 2612.

(5) In section 16, insert "or 409" after "section 15" each place it appears. 15 USC 2615.

(6) In section 17, amend subsection (a) to read as follows: 15 USC 2616.

"(a) SPECIFIC ENFORCEMENT.—(1) The district courts of the United States shall have jurisdiction over civil actions to—

"(A) restrain any violation of section 15 or 409,

"(B) restrain any person from taking any action prohibited by section 5, 6, or title IV, or by a rule or order under section 5, 6, or title IV,

"(C) compel the taking of any action required by or under this Act, or

"(D) direct any manufacturer or processor of a chemical substance, mixture, or product subject to title IV manufactured or processed in violation of section 5, 6, or title IV, or a rule or order under section 5, 6, or title IV, and distributed in commerce, (i) to give notice of such fact to distributors in commerce of such substance, mixture, or product and, to the extent reasonably ascertainable, to other persons in possession of such substance, mixture, or product or exposed to such substance, mixture, or product, (ii) to give public notice of such risk of injury, and (iii) to either replace or repurchase such substance, mixture, or product, whichever the person to which the requirement is directed elects.". Public information.

(7) In the first sentence of subsection (b) of section 17—

(A) strike "or mixture" after "Any chemical substance" and inserting ", mixture, or product subject to title IV"; and

(B) insert "product," before "or article" in each place that it appears.

(8) In section 19— 15 USC 2618.

(A) In the first sentence of subsection (a), after "title II" insert "or IV".

(B) Before the semicolon at the end of subsection (a)(3)(B) insert "and in the case of a rule under title IV, the finding required for the issuance of such a rule".

(9) In section 20(a)(1) after "title II" insert "or IV" in each place it appears. 15 USC 2619.

(10) Add at the end of the table of contents in section 1 the following:

"TITLE IV—LEAD EXPOSURE REDUCTION

"Sec. 401. Definitions.
"Sec. 402. Lead-based paint activities training and certification.
"Sec. 403. Identification of dangerous levels of lead.
"Sec. 404. Authorized State programs.
"Sec. 405. Lead abatement and measurement.
"Sec. 406. Lead hazard information pamphlet.
"Sec. 407. Regulations.
"Sec. 408. Control of lead-based paint hazards at Federal facilities.
"Sec. 409. Prohibited acts.
"Sec. 410. Relationship to other Federal law.
"Sec. 411. General provisions relating to administrative proceedings.
"Sec. 412. Authorization of appropriations.".

15 USC 2601 note.

(c) SHORT TITLE.—This subtitle may be cited as the "Lead-Based Paint Exposure Reduction Act".

Subtitle C—Worker Protection

42 USC 4853.

SEC. 1031. WORKER PROTECTION.

Regulations.

Not later than 180 days after the enactment of this Act, the Secretary of Labor shall issue an interim final regulation regulating occupational exposure to lead in the construction industry. Such interim final regulation shall provide employment and places of employment to employees which are as safe and healthful as those which would prevail under the Department of Housing and Urban Development guidelines published at Federal Register 55, page 38973 (September 28, 1990) (Revised Chapter 8). Such interim final regulations shall take effect upon issuance (except that such regulations may include a reasonable delay in the effective date), shall have the legal effect of an Occupational Safety and Health Standard, and shall apply until a final standard becomes effective under section 6 of the Occupational Safety and Health Act of 1970.

42 USC 4853a.

SEC. 1032. COORDINATION BETWEEN ENVIRONMENTAL PROTECTION AGENCY AND DEPARTMENT OF LABOR.

The Secretary of Labor, in promulgating regulations under section 1031, shall consult and coordinate with the Administrator of the Environmental Protection Agency for the purpose of achieving the maximum enforcement of title IV of the Toxic Substances Control Act and the Occupational Safety and Health Act of 1970 while imposing the least burdens of duplicative requirements on those subject to such title and Act and for other purposes.

SEC. 1033. NIOSH RESPONSIBILITIES.

29 USC 671.

Section 22 of the Occupational Safety and Health Act of 1970 is amended by adding the following new subsection at the end thereof:

"(g) LEAD-BASED PAINT ACTIVITIES.—

"(1) TRAINING GRANT PROGRAM.—(A) The Institute, in conjunction with the Administrator of the Environmental Protection Agency, may make grants for the training and education of workers and supervisors who are or may be directly engaged in lead-based paint activities.

"(B) Grants referred to in subparagraph (A) shall be awarded to nonprofit organizations (including colleges and universities, joint labor-management trust funds, States, and nonprofit government employee organizations)—

"(i) which are engaged in the training and education of workers and supervisors who are or who may be directly

engaged in lead-based paint activities (as defined in title IV of the Toxic Substances Control Act),

"(ii) which have demonstrated experience in implementing and operating health and safety training and education programs, and

"(iii) with a demonstrated ability to reach, and involve in lead-based paint training programs, target populations of individuals who are or will be engaged in lead-based paint activities.

Grants under this subsection shall be awarded only to those organizations that fund at least 30 percent of their lead-based paint activities training programs from non-Federal sources, excluding in-kind contributions. Grants may also be made to local governments to carry out such training and education for their employees.

"(C) There are authorized to be appropriated, at a minimum, $10,000,000 to the Institute for each of the fiscal years 1994 through 1997 to make grants under this paragraph. Appropriation authorization.

"(2) EVALUATION OF PROGRAMS.—The Institute shall conduct periodic and comprehensive assessments of the efficacy of the worker and supervisor training programs developed and offered by those receiving grants under this section. The Director shall prepare reports on the results of these assessments addressed to the Administrator of the Environmental Protection Agency to include recommendations as may be appropriate for the revision of these programs. The sum of $500,000 is authorized to be appropriated to the Institute for each of the fiscal years 1994 through 1997 to carry out this paragraph.". Appropriation authorization.

Subtitle D—Research and Development

PART 1—HUD RESEARCH

SEC. 1051. RESEARCH ON LEAD EXPOSURE FROM OTHER SOURCES. 42 USC 4854.

The Secretary, in cooperation with other Federal agencies, shall conduct research on strategies to reduce the risk of lead exposure from other sources, including exterior soil and interior lead dust in carpets, furniture, and forced air ducts.

SEC. 1052. TESTING TECHNOLOGIES. 42 USC 4854a.

The Secretary, in cooperation with other Federal agencies, shall conduct research to—

(1) develop improved methods for evaluating lead-based paint hazards in housing;

(2) develop improved methods for reducing lead-based paint hazards in housing;

(3) develop improved methods for measuring lead in paint films, dust, and soil samples;

(4) establish performance standards for various detection methods, including spot test kits;

(5) establish performance standards for lead-based paint hazard reduction methods, including the use of encapsulants;

(6) establish appropriate cleanup standards;

(7) evaluate the efficacy of interim controls in various hazard situations;

(8) evaluate the relative performance of various abatement techniques;

(9) evaluate the long-term cost-effectiveness of interim control and abatement strategies; and

(10) assess the effectiveness of hazard evaluation and reduction activities funded by this Act.

42 USC 4854b.

SEC. 1053. AUTHORIZATION.

Of the total amount approved in appropriation Acts under section 1011(o), there shall be set aside to carry out this part $5,000,000 for fiscal year 1993, and $5,000,000 for fiscal year 1994.

PART 2—GAO REPORT

42 USC 4855.

SEC. 1056. FEDERAL IMPLEMENTATION AND INSURANCE STUDY.

(a) FEDERAL IMPLEMENTATION STUDY.—The Comptroller General of the United States shall assess the effectiveness of Federal enforcement and compliance with lead safety laws and regulations, including any changes needed in annual inspection procedures to identify lead-based paint hazards in units receiving assistance under subsections (b) and (o) of section 8 of the United States Housing Act of 1937.

(b) INSURANCE STUDY.—The Comptroller General of the United States shall assess the availability of liability insurance for owners of residential housing that contains lead-based paint and persons engaged in lead-based paint hazard evaluation and reduction activities. In carrying out the assessment, the Comptroller General shall—

(1) analyze any precedents in the insurance industry for the containment and abatement of environmental hazards, such as asbestos, in federally assisted housing;

(2) provide an assessment of the recent insurance experience in the public housing lead hazard identification and reduction program; and

(3) recommend measures for increasing the availability of liability insurance to owners and contractors engaged in federally supported work.

Subtitle E—Reports

42 USC 4856.

SEC. 1061. REPORTS OF THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT.

(a) ANNUAL REPORT.—The Secretary shall transmit to the Congress an annual report that—

(1) sets forth the Secretary's assessment of the progress made in implementing the various programs authorized by this title;

(2) summarizes the most current health and environmental studies on childhood lead poisoning, including studies that analyze the relationship between interim control and abatement activities and the incidence of lead poisoning in resident children;

(3) recommends legislative and administrative initiatives that may improve the performance by the Department of Housing and Urban Development in combating lead hazards through the expansion of lead hazard evaluation and reduction activities;

(4) describes the results of research carried out in accordance with subtitle D; and

(5) estimates the amount of Federal assistance annually expended on lead hazard evaluation and reduction activities.

(b) BIENNIAL REPORT.—

(1) IN GENERAL.—24 months after the date of enactment of this Act, and at the end of every 24-month period thereafter, the Secretary shall report to the Congress on the progress of the Department of Housing and Urban Development in implementing expanded lead-based paint hazard evaluation and reduction activities.

(2) CONTENTS.—The report shall—

(A) assess the effectiveness of section 1018 in making the public aware of lead-based paint hazards;

(B) estimate the extent to which lead-based paint hazard evaluation and reduction activities are being conducted in the various categories of housing;

(C) monitor and report expenditures for lead-based paint hazard evaluation and reduction for programs within the jurisdiction of the Department of Housing and Urban Development;

(D) identify the infrastructure needed to eliminate lead-based paint hazards in all housing as expeditiously as possible, including cost-effective technology, standards and regulations, trained and certified contractors, certified laboratories, liability insurance, private financing techniques, and appropriate Government subsidies;

(E) assess the extent to which the infrastructure described in subparagraph (D) exists, make recommendations to correct shortcomings, and provide estimates of the costs of measures needed to build an adequate infrastructure; and

(F) include any additional information that the Secretary deems appropriate.

TITLE XI—NEW TOWNS DEMONSTRATION PROGRAM FOR EMERGENCY RELIEF OF LOS ANGELES

California.
42 USC 5318 note.

SEC. 1101. AUTHORITY.

To provide for the revitalization and renewal of inner city neighborhoods in the areas of Los Angeles, California, that were damaged by the civil disturbances during April and May of 1992, and to demonstrate the effectiveness of new town developments in revitalizing and restoring depressed and underprivileged inner city neighborhoods, the Secretary of Housing and Urban Development shall, to the extent or in such amounts as are provided in appropriation Acts, make any assistance authorized under this title available under this title to units of general local government, governing boards, and eligible mortgagors in accordance with the provisions of this title.

SEC. 1102. NEW TOWN PLAN.

(a) REQUIREMENT.—The Secretary may make assistance available under this title only in connection with, and according to

the provisions of a new town plan developed and established by a governing board under section 1107 and approved under subsection (d) of this section. In developing such plans, the governing board shall consult with representatives of the units of general local government within whose boundaries are located any portion of the new town demonstration area for the demonstration program to be carried out under such plan.

(b) ELIGIBLE NEW TOWN DEMONSTRATION AREAS.—A new town plan under this section shall provide for carrying out a new town development demonstration providing assistance available under this title within a new town demonstration area, which shall be a geographic area defined in the new town plan—

(1) that is one of pervasive poverty, unemployment, and general distress;

(2) that has an unemployment rate of not less than 1.5 times the national unemployment rate for the 2 years preceding approval of the new town plan;

(3) that has a poverty rate of not less than 20 percent during such 2-year period;

(4) for which not less than 70 percent of the households living in the area have incomes below 80 percent of the median income of households of the unit of general local government in which they are located;

(5) that has a shortage of adequate jobs for residents; and

(6) that is located—

(A) in or near the City or County of Los Angeles, in the State of California; and

(B) within an area for which the President, pursuant to title IV or V of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, declared that a major disaster or emergency existed for purposes of such Act, as a result of the civil disturbances involving acts of violence occurring on or after April 29, 1992, and before May 6, 1992.

(c) CONTENTS.—Each new town plan shall include the following information:

(1) GOVERNING BOARD.—A description of the members and purposes of the governing board that developed the plan, the manner in which members of the governing board were selected, and the businesses, agencies, interests, and community ties of each member of the governing board.

(2) NEW TOWN DEMONSTRATION AREA.—A definition and description of the new town demonstration area for the new town development demonstration to be assisted under this title.

(3) TARGET COMMUNITY.—A description of the economic, social, racial, and ethnic characteristics of the population of the neighborhood or area in which the new town demonstration area is located.

(4) AGREEMENTS.—Agreements that the governing board will carry out the new town demonstration program in accordance with the requirements of this title.

(5) HOUSING UNITS.—A description of the number, size, location, cost, style, and characteristics of rental and homeownership housing units to be developed under the new town demonstration program, any financing for developing such

housing, and the amount of assistance necessary under section 1105 for developing the housing under the program.

(6) JOBS.—A description of the number, types, and duration of any new jobs that will be created in the new town demonstration area and surrounding areas as a result of the demonstration program, and of any job training activities and apprenticeship programs to be made available in connection with the program.

(7) SOCIAL SERVICES.—A description of the social and supportive services to be made available under the demonstration program to residents of housing assisted under the demonstration program pursuant to section 1103(d) and to residents of the new town demonstration area.

(8) SUPPLEMENTAL RESOURCES.—A description of any funds, assistance, in-kind contributions, and other resources to be made available in connection with the demonstration program, including the sources and amounts of any private capital resources and non-Federal funds required under section 1103(h).

(9) CONTRACTORS AND DEVELOPERS.—A listing of the contractors and developers who potentially will carry out any construction and rehabilitation work for development of housing under the demonstration program and the expected costs involved in hiring such contractors and developers.

(10) FINANCING FOR HOMEBUYERS.—A description of any mortgage lenders who have indicated that they will make financing available to families purchasing housing developed under the demonstration program through mortgages eligible for insurance under section 1104 and proposed terms of such mortgages.

(11) COMMITMENTS.—Evidence of any commitments entered into for making any of the resources described in paragraphs (6) through (8) available in connection with the demonstration program.

(12) PRESALE REQUIREMENTS.—A description of commitments made to purchase not less than 50 percent of the housing to be developed under the demonstration program for purchase by the occupant and to rent not less than 50 percent of the rental dwelling units to be developed under the demonstration program.

(13) COMMUNITY DEVELOPMENT ACTIVITIES.—A description of the community development activities to be carried out with assistance under section 1106, the amount of assistance necessary under such section for such activities, and of the projected uses of such assistance.

(d) REVIEW AND APPROVAL.—

(1) SUBMISSION.—Not later than the expiration of the 6-month period beginning on the date of the enactment of this Act, a governing board shall submit a new town plan under this section to the chief executive officers of each unit of general local government within whose boundaries is located any portion of the new town demonstration area described under the plan of the board.

(2) APPROVAL.—For a plan to be eligible for assistance available under this title, the chief executive officer of all units of general local government to whom the new town plan is submitted shall approve the plan at a public meeting after

the plan has been made publicly available for a period of not less than 30 days. A governing board may resubmit for approval any plan returned by any such chief executive officer to the governing board, and such chief executive officer may, upon returning the plan indicate any modifications necessary for approval. A new town plan may not be approved unless such chief executive officers determine that the membership of the governing board submitting the plan is constituted in accordance with section 1107 and the governing board is capable of carrying out the plan.

(3) AMENDMENT.—An approved new town plan for the demonstration program developed by the governing board may be amended by the board by obtaining approval of the amendment in the manner provided under this subsection for approval of plans. If the chief executive officer of the unit of general local government does not approve or return the amended plan within 30 days of submission, the amended plan shall be considered to be approved for purposes of this subsection.

SEC. 1103. NEW TOWN DEVELOPMENT DEMONSTRATION PROGRAM REQUIREMENTS.

(a) IN GENERAL.—Each of the 2 new town development demonstration programs selected for assistance under this title under section 1102 shall be carried out, by the governing board submitting the new town plan for the demonstration program, in accordance with such plan (and any approved amendments of such plans) and shall be subject to the requirements under this section.

(b) LOCAL PARTICIPATION.—With respect to any activities carried out under the demonstration program, the program shall give preference in awarding contracts, purchasing materials, acquiring services, and obtaining assistance or training, to contractors, businesses, developers, professionals, and other establishments located or having offices within the new town demonstration area.

(c) HOUSING.—

(1) NUMBER OF UNITS.—The demonstration program shall construct or renovate not less than 1,500 dwelling units in the new town demonstration area, of which not less than 60 percent shall be units available for purchase by the occupant.

(2) AFFORDABILITY.—Units of varying sizes and costs shall be designed and developed under the demonstration program so that the program provides housing affordable to families of varying incomes not exceeding 115 percent of the median income for the area in which the new town demonstration area is located, including very low- and low-income families (as such terms are defined in section 3(b) of the United States Housing Act of 1937).

(3) HOMEOWNERSHIP UNITS.—Dwelling units developed under the demonstration program for purchase by the occupant shall initially be sold at prices affordable to families eligible to purchase such units. Such units shall be available for purchase only by families having incomes not exceeding the amount specified in paragraph (2). The demonstration shall develop 2-, 3-, and 4-bedroom units for purchase.

(4) RENTAL UNITS.—Dwelling units developed under the demonstration program that are to be available for rental shall include family-type units and single bedroom and efficiency units designed for elderly occupants. Such units shall be avail-

able for occupancy only by families who (upon initial occupancy) have incomes of (A) less than 60 percent of the median income for the area, or (B) less than $20,000. Occupant families shall pay not more than 30 percent of the family income for rent.

(d) SOCIAL SERVICES.—The demonstration program shall provide for appropriate social and supportive services to be made available to residents of housing assisted under the demonstration program and to other residents of the new town demonstration area, which may include rental and homeownership counseling, child care, job placement, educational programs, recreational and health care facilities and programs, and other appropriate services.

(e) JOB CREATION AND TRAINING.—The demonstration program shall provide, to the extent practicable, that activities in connection with the demonstration program, including development of housing under subsection (c) and community development activities assisted under section 1106, shall employ and provide job training opportunities for residents of the housing assisted under the demonstration program and other residents of the new town demonstration area.

(f) FINANCING.—The demonstration program shall provide for coordination with banks, credit unions, and other mortgage lenders to make financing available to purchasers of units developed under the demonstration program through mortgages eligible for insurance under section 1104, and shall give preference to such mortgage lenders who have offices located within or near the new town demonstration area.

(g) SUPPORT FACILITIES.—The demonstration program shall encourage, facilitate, and provide for development of appropriate support facilities to serve residents in the housing developed under the program, including infrastructure and commercial facilities.

(h) NON-FEDERAL FUNDS.—The governing board carrying out the demonstration program shall ensure that not less than 25 percent of the total amounts used to carry out the demonstration program is provided from non-Federal sources, including State or local government funds, any salary paid to staff to carry out the demonstration program, the value of any time, services, and materials donated to carry out the program, the value of any donated building, and the value of any lease on a building.

SEC. 1104. FEDERAL MORTGAGE INSURANCE.

(a) IN GENERAL.—Pursuant to title II and section 251 of the National Housing Act, the Secretary shall (to the extent authority is available pursuant to subsection (d)) insure mortgages under this section involving properties upon which are located dwelling units described in section 1103(c)(3) of this Act that are developed under the new town demonstration programs carried out pursuant to this title.

(b) MORTGAGE TERMS.—Mortgages insured under this section shall—

(1) provide for periodic adjustments in the effective rate of interest charged, which—

(A) for the first 5 years of the mortgage, shall be an annual rate of not more than 7 percent; and

(B) after the expiration of such 5-year period, may increase on an annual basis, but—

(i) shall be limited, with respect to any single interest rate increase, to not more than a 10-percent increase in the annual percentage rate; and

(ii) may not be increased at any time to a rate greater than the rate necessary at such time to fully amortize the outstanding loan balance over the term of the mortgage; and

(2) have a maturity of 35 years from the date of the beginning of the amortization of the mortgage.

(c) BOARD APPROVAL.—The Secretary may provide insurance under this section for a mortgage only if the governing board for the demonstration program for the new town demonstration area in which the property subject to the mortgage is located has indicated to the Secretary approval of the mortgage in connection with the demonstration program.

(d) INSURANCE AUTHORITY.—To the extent provided in appropriation Acts, the Secretary shall use any authority provided pursuant to section 531(b) of the National Housing Act to enter into commitments to insure loans and mortgages under this section in fiscal years 1993 and 1994 with an aggregate principal amount not exceeding such sums as may be necessary to carry out the demonstration under this title. Mortgages insured under this section shall not be considered for purposes of the aggregate limitation on the number of mortgages insured under section 251 of the National Housing Act specified in subsection (c) of such section.

SEC. 1105. SECONDARY SOFT MORTGAGE FINANCING FOR HOUSING.

(a) IN GENERAL.—The Secretary shall, to the extent amounts are provided in appropriation Acts under subsection (e), provide assistance under this section through the governing boards carrying out the new town demonstration programs under this section to assist in the development of housing under the program.

(b) USE.—Any assistance provided under this section shall be used only for costs in planning, developing, constructing, and rehabilitating housing under the demonstration program available for rental or purchase by the occupant. The governing board shall determine, according to the new town plan for the demonstration program, the allocation of amounts of assistance provided under this section.

(c) AMOUNT.—The Secretary may not provide assistance under this section for the development of housing under a demonstration program in an amount exceeding $50,000 per dwelling unit assisted.

(d) SECOND MORTGAGE.—

(1) IN GENERAL.—Assistance under this section shall be repaid in accordance with this subsection. Repayment of the amount of any assistance provided with respect to—

(A) any building containing rental units, or

(B) any dwelling unit available for purchase by the occupant that is developed under a demonstration program,

shall be secured by a second mortgage held by the Secretary on the property involved.

(2) TERMS.—During the period ending upon repayment of the assistance as provided in this subsection, any building containing rental units that is provided assistance under this section shall be used as rental housing subject to the requirements of section 1103(c)(4). During the period ending upon repayment of the assistance as provided in this subsection, any dwelling unit made available for purchase by the occupant that is provided assistance under this section may be sold

only to a family having an income not exceeding the amount specified in section 1103(c)(2).

(3) INTEREST.—Any assistance provided under this section for a building or dwelling unit shall bear interest at a rate equivalent to the rate for the most recently marketable obligations issued by the United States Treasury have terms of 10 years. The interest on such assistance shall be required to be repaid only upon sale of the building.

(4) DISCOUNTED REPAYMENT.—The assistance provided under this section for any building containing rental units or any dwelling unit available for purchase by the occupant shall be considered to have been repaid for purposes of this subsection if the original purchaser of the building or the dwelling unit pays to the Secretary an amount equal to 50 percent of the amount of the assistance provided under this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for providing assistance under this section.

SEC. 1106. COMMUNITY DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide assistance under this section, to the extent amounts are provided in appropriation Acts under subsection (h), to units of general local government to address vital unmet needs and to promote the creation of jobs and economic development in connection with the new town demonstration programs carried out under this title.

(b) ELIGIBLE UNITS OF GENERAL LOCAL GOVERNMENT.—Assistance may be provided under this section only to units of general local government—

(1) within whose boundaries are located any portion of the new town demonstration areas described under the new town demonstration plans for the demonstration programs carried out under this title;

(2) that make the certifications to the Secretary required under subsection (c); and

(3) that will comply with a residential antidisplacement and relocation assistance plan described in subsection (d).

(c) REQUIRED CERTIFICATIONS.—The certifications referred to in subsection (b)(2) shall be certifications that—

(1) the assistance will be conducted and administered in conformity with the Civil Rights Act of 1964 and the Civil Rights Act of 1968, and the unit of general local government will affirmatively further fair housing;

(2) the projected use of funds has been developed in a manner that gives maximum feasible priority to activities which are designed to meet community development needs that have been delayed because of the lack of fiscal resources of the unit of general local government or which are designed to address conditions that pose a serious and immediate threat to the health or welfare of the community;

(3) any projected use of funds for public services will benefit primarily low- and moderate-income families;

(4) the unit of general local government will not attempt to recover any capital costs of public improvements assisted in whole or part under this section by assessing any amount against properties owned and occupied by persons of low- and moderate-income, including any fee charged or assessment

made as a condition of obtaining access to such public improvements, unless—

(A) funds received under this section are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this section; or

(B) for purposes of assessing any amount against properties owned and occupied by persons of moderate income, the grantee certifies to the Secretary that it lacks sufficient funds received under this section to comply with the requirements of subparagraph (A); and

(5) the unit of general local government will comply with the other provisions of this title and with other applicable laws.

(d) ANTIDISPLACEMENT AND RELOCATION PLAN.—

(1) CONTENTS.—The residential antidisplacement and relocation assistance plan referred to in subsection (b)(3) shall, in connection with activities assisted under this section—

(A) provide that, in the event of such displacement—

(i) governmental agencies or private developers shall provide, within the same community, comparable replacement dwellings for the same number of occupants as could have been housed in the occupied and vacant occupiable low- and moderate-income dwelling units demolished or converted to a use other than for housing for low- and moderate-income persons, and provide that such replacement housing may include existing housing assisted with project based assistance provided under section 8 of the United States Housing Act of 1937;

(ii) such comparable replacement dwellings shall be designed to remain affordable to persons of low- and moderate-income for 10 years from the time of initial occupancy;

(iii) relocation benefits shall be provided for all low- or moderate-income persons who occupied housing demolished or converted to a use other than for low- or moderate-income housing, including reimbursement for actual and reasonable moving expenses, security deposits, credit checks, and other moving-related expenses, including any interim living costs; and in the case of displaced persons of low- and moderate-income, provide either—

(I) compensation sufficient to ensure that, for a 5-year period, the displaced families shall not bear, after relocation, a ratio of shelter costs to income that exceeds 30 percent; or

(II) if elected by a family, a lump-sum payment equal to the capitalized value of the benefits available under subclause (I) to permit the household to secure participation in a housing cooperative or mutual housing association; and

(iv) persons displaced shall be relocated into comparable replacement housing that is—

(I) decent, safe, and sanitary;

(II) adequate in size to accommodate the occupants;

(III) functionally equivalent; and

(IV) in an area not subject to unreasonably adverse environmental conditions; and

(B) provide that persons displaced shall have the right to elect, as an alternative to the benefits under this subsection, to receive benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 if such persons determine that it is in their best interest to do so; and

(C) provide that where a claim for assistance under subparagraph (A)(iv) is denied by the unit of general local government, the claimant may appeal to the Secretary, and that the decision of the Secretary shall be final unless a court determines the decision was arbitrary and capricious.

(2) EXCEPTION.—Paragraphs (1)(A)(i) and (1)(A)(ii) shall not apply in any case in which the Secretary finds, on the basis of objective data, that there is available in the area an adequate supply of habitable affordable housing for low- and moderate-income persons. A determination under this paragraph shall be final and nonreviewable.

(e) ELIGIBLE ACTIVITIES.—Activities assisted with amounts provided under this section may include only the following activities:

(1) ACQUISITION OF REAL PROPERTY.—The acquisition of real property (including air rights, water rights, and other interests therein) that is located within the new town demonstration area and is—

(A) blighted, deteriorated, undeveloped, or inappropriately developed from the standpoint of sound community development and growth;

(B) appropriate for rehabilitation activities;

(C) appropriate for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development;

(D) to be used for the provision of public works, facilities, and improvements eligible for assistance under this section;

(E) to be used as a facility for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act); or

(F) to be used for other public purposes.

(2) CONSTRUCTION OF PUBLIC WORKS AND FACILITIES.—The acquisition, construction, rehabilitation, or installation of public works or public facilities within the new town demonstration area, including buildings for the general conduct of government and facilities for coordinating and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act).

(3) CLEARANCE AND REHABILITATION OF BUILDINGS.—The clearance, removal, and rehabilitation of buildings and improvements located within the new town demonstration area, including interim assistance, assistance for facilities for coordinating

and providing activities and services for high risk youth (as such term is defined in section 509A of the Public Health Service Act), and assistance to privately owned buildings and improvements.

(4) PROVISION OF PUBLIC SERVICES AND HOUSING.—

(A) PUBLIC SERVICES.—The provision of public services within the new town demonstration area that are concerned with job training and retraining, health care and education, crime prevention, drug abuse treatment and rehabilitation, child care, education, and recreation, which may include the provision of public health and public safety vehicles.

(B) HOUSING ACTIVITIES.—The acquisition and rehabilitation of housing for low- and moderate-income families within the new town demonstration area, except that any grantee that uses amounts received under this section for housing activities under this subparagraph shall make not less than 15 percent of the amount used for such housing activities available only for community housing development organizations and nonprofit organizations (as such terms are defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act) for such activities;

(C) LIMITATION.—Not more than 25 percent of the amount of any assistance provided under this section (including program income) to any unit of general local government may be used for activities under this paragraph.

(5) RELOCATION ASSISTANCE.—Relocation payments and assistance for individuals, families, business, and organizations that are displaced as a result of activities assisted under this title.

(6) PAYMENT OF ADMINISTRATIVE EXPENSES.—Payment of reasonable administrative costs associated with activities assisted under this section and any expenses of developing the new town plan under section 1102.

(f) ALLOCATION OF ASSISTANCE.—The Secretary may not provide more than 50 percent of any amounts appropriated under this section in connection with any one of the 2 new town demonstration programs carried out under this title.

(g) OTHER REQUIREMENTS.—The provisions of subsections (f), (g), and (h) of section 104, subsections (c) and (d) of section 105, section 107, 108, 109, and 110 of the bill, H.R. 4073, 102d Congress (as reported on March 14, 1992, by the Committee on Banking, Finance and Urban Affairs of the House of Representatives), shall apply to grantees receiving assistance under this section.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 and 1994 such sums as may be necessary for assistance under this section.

SEC. 1107. GOVERNING BOARDS.

(a) PURPOSE.—For purposes of this title, a governing board shall be a board organized for the purpose of developing a new town plan under this title and carrying out a new town development demonstration under this title.

(b) MEMBERSHIP.—Each governing board shall consist of not less than 10 members, who shall include—

(1) residents of the area in which the new town demonstration area under the plan developed by the board is located;

(2) owners of business in such area;

(3) leaders or participants in community groups in such area; and

(4) representatives of financial institutions located or having offices in such area.

(c) ORGANIZATION.—A governing board may organize itself and conduct business in the manner that the board determines is appropriate to carry out the new town development demonstration under this title.

SEC. 1108. REPORTS.

Each governing board carrying out a new town development demonstration under this title shall submit to the Congress the following information:

(1) NEW TOWN PLAN.—Upon approval of the new town plan of the governing board under section 1102(d), a copy of the approved plan.

(2) ANNUAL REPORTS.—For the 5-year period beginning upon the approval of the new town plan, annual reports for each 12-month period during such 5-year period, which shall be submitted within 3 months after the expiration of the 12-month period. Each report shall include a description of any activities during such period to carry out the demonstration program of the governing board, the use during such period of any assistance provided under this title, and any amendments under section 1102(d)(4) to the new town plan approved during such period.

SEC. 1109. DEFINITIONS.

For purposes of this title:

(1) DEMONSTRATION PROGRAM.—The terms "demonstration program" and "program" mean a new town development demonstration program receiving assistance under this title, which is carried out within a new town demonstration area by a governing board.

(2) GOVERNING BOARD.—The term "governing board" means a board established under section 1107.

(3) NEW TOWN DEMONSTRATION AREA.—The term "new town demonstration area" means the area defined in a new town plan in which the new town development demonstration under the plan is to be carried out.

(4) NEW TOWN PLAN.—The terms "new town plan" and "plan" mean a plan under section 1102 developed by a governing board.

(5) UNIT OF GENERAL LOCAL GOVERNMENT.—The term "unit of general local government" means any city, county, town, township, parish, village, or other general purpose political subdivision of the State of California.

Removal of Regulatory Barriers to Affordable Housing Act of 1992.
Inter-governmental relations.
42 USC 12705a note.

TITLE XII—REMOVAL OF REGULATORY BARRIERS TO AFFORDABLE HOUSING

SEC. 1201. SHORT TITLE.

This title may be cited as the "Removal of Regulatory Barriers to Affordable Housing Act of 1992".

42 USC 12705a.

SEC. 1202. PURPOSES.

The purposes of this title are—

(1) to encourage State and local governments to further identify and remove regulatory barriers to affordable housing (including barriers that are excessive, unnecessary, duplicative, or exclusionary) that significantly increase housing costs and limit the supply of affordable housing; and

(2) to strengthen the connection between Federal housing assistance and State and local efforts to identify and eliminate regulatory barriers.

42 USC 12705b.

SEC. 1203. DEFINITION OF REGULATORY BARRIERS TO AFFORDABLE HOUSING.

For purposes of this title, the terms "regulatory barriers to affordable housing" and "regulatory barriers" mean any public policies (including policies embodied in statutes, ordinances, regulations, or administrative procedures or processes) required to be identified by a jurisdiction in connection with its comprehensive housing affordability strategy under section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act. Such terms do not include policies relating to rents imposed on a structure by a jurisdiction or policies that have served to create or preserve, or can be shown to create or preserve, housing for low- and very low-income families, including displacement protections, demolition controls, replacement housing requirements, relocation benefits, housing trust funds, dedicated funding sources, waiver of local property taxes and builder fees, inclusionary zoning, rental zoning overlays, long-term use restrictions, and rights of first refusal.

42 USC 12705c.

SEC. 1204. GRANTS FOR REGULATORY BARRIER REMOVAL STRATEGIES AND IMPLEMENTATION.

(a) IN GENERAL.—The amounts set aside under section 107 of the Housing and Community Development Act of 1974 for the purpose of this subsection shall be available for grants under subsection (b) and (c).

(b) STATE GRANTS.—The Secretary may make grants to States for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring State and local regulatory barriers;

(2) identifying State and local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a State program to reduce State and local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model State standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances;

(5) carrying out the simplification and consolidation of State administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits; and

(6) providing technical assistance and information to units of general local government for implementation of legislative and administrative reform programs to remove regulatory barriers to affordable housing.

(c) LOCAL GRANTS.—The Secretary may make grants to units of general local government for the costs of developing and implementing strategies to remove regulatory barriers to affordable housing, including the costs of—

(1) identifying, assessing, and monitoring local regulatory barriers;

(2) identifying local policies (including laws and regulations) that permit or encourage regulatory barriers;

(3) developing legislation to provide a local program to reduce local regulatory barriers and developing a strategy for adoption of such legislation;

(4) developing model local standards and ordinances to reduce regulatory barriers and assisting in the adoption and use of the standards and ordinances; and

(5) carrying out the simplification and consolidation of local administrative procedures and processes constituting regulatory barriers to affordable housing, including the issuance of permits.

(d) DEFINITION.—For purposes of this section, the terms "regulatory barriers to affordable housing" and "regulatory barriers" have the meaning given such terms in section 1203.

(e) APPLICATION AND SELECTION.—The Secretary shall provide for the form and manner of applications for grants under this section, which shall describe how grant amounts will assist the State or unit of general local government in developing and implementing strategies to remove regulatory barriers to affordable housing. The Secretary shall establish criteria for approval of applications under this subsection and for the selection of units of general local government to receive grants under subsection (f)(2).

(f) ALLOCATION OF AMOUNTS.—

(1) STATE GRANTS.—

(A) IN GENERAL.—Of the total amount appropriated for each fiscal year to carry out this subsection, the Secretary shall use two-thirds of such amount to provide grants under subsection (b) to each State submitting an application that is approved by the Secretary. Such amounts shall be allocated among the States based upon the measure of need (for the whole State) of each State, as determined under section 217(b)(1)(A) (excluding adjustments under section 217(b)(1)(D)) of the Cranston-Gonzalez National Affordable Housing Act, except that the minimum grant amount for each fiscal year grant shall be $100,000 (to the extent sufficient amounts are made available).

(B) PRO RATA DISTRIBUTION.—If insufficient amounts are made available for grants in the amount under subparagraph (A) to each State submitting an approved application, each such State shall receive a pro rata portion of such

amount based on the ratio of the population of such State to the population of all States.

(2) LOCAL GRANTS.—Of the total amount appropriated for each fiscal year to carry out this section, the Secretary shall use one-third of such amount to provide grants on a competitive basis to units of general local government based on the proposed uses of such amounts, as provided in the application. Each grant made with such amounts shall be in an amount not less than $10,000.

(g) COORDINATION WITH CLEARINGHOUSE.—Each State and unit of general local government receiving a grant under this section, shall consult, coordinate, and exchange information with the clearinghouse established under section 1205.

(h) REPORTS TO SECRETARY.—Each State and unit of general local government receiving a grant under this section shall submit a report to the Secretary, not less than 12 months after receiving the grant, describing any activities carried out with the grant amounts. The report shall contain an assessment of the impact of any regulatory barriers identified by the grantee on the housing patterns of minorities.

(i) CONFORMING AMENDMENTS.—The first sentence of section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "for grants" and all that follows through "(2))" and inserting "that remains after allocations pursuant to paragraphs (1) and (2) of subsection (a)".

42 USC 12705d.

SEC. 1205. REGULATORY BARRIERS CLEARINGHOUSE.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish a clearinghouse to receive, collect, process, and assemble information regarding—

(1) State and local laws, regulations, and policies affecting the development, maintenance, improvement, availability, or cost of affordable housing, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on investment in residential property;

(2) State and local activities, strategies, and plans to remove or ameliorate the negative effects, if any, of such laws, regulations, and policies; and

(3) State and local strategies, activities and plans that promote affordable housing and housing desegregation.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries from State and local governments, other organizations, and individuals requesting information regarding State and local laws, regulations, policies, activities, strategies, and plans described in subsection (a); and

(2) provide assistance in identifying, examining, and understanding such laws, regulations, policies, activities, strategies, and plans.

SEC. 1206. SUBSTANTIALLY EQUIVALENT FEDERAL AND STATE BARRIER ASSESSMENT REMOVAL REQUIREMENTS.

Section 105(b)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12705(b)(4)) is amended by inserting before the semicolon at the end the following: ", except that, if a State requires a unit of general local government to submit a regulatory barrier assessment that is substantially equivalent to the informa-

tion required under this paragraph, as determined by the Secretary, the unit of general local government may submit its assessment submitted to the State to the Secretary and shall be considered to have complied with this paragraph".

SEC. 1207. REPORTS BY SECRETARY.

42 USC 12705a note.

Not later than 2 years after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress. The report shall—

(1) describe any successful State and local strategies for the removal of barriers to affordable housing;

(2) assess the impact of identified regulatory barriers on the housing patterns of minorities; and

(3) describe any strategies developed or implemented by the Department of Housing and Urban Development for reducing barriers to affordable housing imposed by the Federal Government.

TITLE XIII—GOVERNMENT SPONSORED ENTERPRISES

Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

SEC. 1301. SHORT TITLE.

12 USC 4501 note.

This title may be cited as the "Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

SEC. 1302. CONGRESSIONAL FINDINGS.

12 USC 4501.

The Congress finds that—

(1) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (referred to in this section collectively as the "enterprises"), and the Federal Home Loan Banks (referred to in this section as the "Banks"), have important public missions that are reflected in the statutes and charter Acts establishing the Banks and the enterprises;

(2) because the continued ability of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation to accomplish their public missions is important to providing housing in the United States and the health of the Nation's economy, more effective Federal regulation is needed to reduce the risk of failure of the enterprises;

(3) considering the current operating procedures of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Home Loan Banks, the enterprises and the Banks currently pose low financial risk of insolvency;

(4) neither the enterprises nor the Banks, nor any securities or obligations issued by the enterprises or the Banks, are backed by the full faith and credit of the United States;

(5) an entity regulating the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation should have sufficient autonomy from the enterprises and special interest groups;

(6) an entity regulating such enterprises should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary,

and enforce compliance with the standards and rules that it establishes;

(7) the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation have an affirmative obligation to facilitate the financing of affordable housing for low- and moderate-income families in a manner consistent with their overall public purposes, while maintaining a strong financial condition and a reasonable economic return; and

(8) the Federal Home Loan Bank Act should be amended to emphasize that providing for financial safety and soundness of the Federal Home Loan Banks is the primary mission of the Federal Housing Finance Board.

12 USC 4502.

SEC. 1303. DEFINITIONS.

For purposes of this title:

(1) AFFILIATE.—Except as provided by the Director, the term "affiliate" means any entity that controls, is controlled by, or is under common control with, an enterprise.

(2) CAPITAL DISTRIBUTION.—

(A) IN GENERAL.—The term "capital distribution" means—

(i) any dividend or other distribution in cash or in kind made with respect to any shares of, or other ownership interest in, an enterprise, except a dividend consisting only of shares of the enterprise;

(ii) any payment made by an enterprise to repurchase, redeem, retire, or otherwise acquire any of its shares, including any extension of credit made to finance an acquisition by the enterprise of such shares; and

(iii) any transaction that the Director determines by regulation to be, in substance, the distribution of capital.

(B) EXCEPTION.—Any payment made by an enterprise to repurchase its shares for the purpose of fulfilling an obligation of the enterprise under an employee stock ownership plan that is qualified under section 401 of the Internal Revenue Code of 1986 or any substantially equivalent plan, as determined by the Director, shall not be considered a capital distribution.

(3) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(4) CORE CAPITAL.—The term "core capital" means, with respect to an enterprise, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par or stated value of outstanding common stock.

(B) The par or stated value of outstanding perpetual, noncumulative preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

The core capital of an enterprise shall not include any amounts that the enterprise could be required to pay, at the option of investors, to retire capital instruments.

(5) DIRECTOR.—The term "Director" means the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(6) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof; and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(7) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

(8) LOW-INCOME.—The term "low-income" means—

(A) in the case of owner-occupied units, income not in excess of 80 percent of area median income; and

(B) in the case of rental units, income not in excess of 80 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(9) MEDIAN INCOME.—The term "median income" means, with respect to an area, the unadjusted median family income for the area, as determined and published annually by the Secretary.

(10) MODERATE-INCOME.—The term "moderate-income" means—

(A) in the case of owner-occupied units, income not in excess of area median income; and

(B) in the case of rental units, income not in excess of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

(11) MORTGAGE PURCHASES.—The term "mortgage purchases" includes mortgages purchased for portfolio or securitization.

(12) MULTIFAMILY HOUSING.—The term "multifamily housing" means a residence consisting of more than 4 dwelling units.

(13) NEW PROGRAM.—The term "new program" means any program for the purchasing, servicing, selling, lending on the security of, or otherwise dealing in, conventional mortgages that—

(A) is significantly different from programs that have been approved under this Act or that were approved or engaged in by an enterprise before the date of the enactment of this Act; or

(B) represents an expansion, in terms of the dollar volume or number of mortgages or securities involved, of programs above limits expressly contained in any prior approval.

(14) OFFICE.—The term "Office" means the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(15) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(16) SINGLE FAMILY HOUSING.—The term "single family housing" means a residence consisting of 1 to 4 dwelling units.

(17) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) TOTAL CAPITAL.—The term "total capital" means, with respect to an enterprise, the sum of the following:

(A) The core capital of the enterprise;

(B) A general allowance for foreclosure losses, which—

(i) shall include an allowance for portfolio mortgage losses, an allowance for nonreimbursable foreclosure costs on government claims, and an allowance for liabilities reflected on the balance sheet for the enterprise for estimated foreclosure losses on mortgage-backed securities; and

(ii) shall not include any reserves of the enterprise made or held against specific assets.

(C) Any other amounts from sources of funds available to absorb losses incurred by the enterprise, that the Director by regulation determines are appropriate to include in determining total capital.

(19) VERY LOW-INCOME.—The term "very low-income" means—

(A) in the case of owner-occupied units, income not in excess of 60 percent of area median income; and

(B) in the case of rental units, income not in excess of 60 percent of area median income, with adjustments for smaller and larger families, as determined by the Secretary.

12 USC 4503.

SEC. 1304. PROTECTION OF TAXPAYERS AGAINST LIABILITY.

This title and the amendments made by this title may not be construed as obligating the Federal Government, either directly or indirectly, to provide any funds to the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks, or to honor, reimburse, or otherwise guarantee any obligation or liability of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, or the Federal Home Loan Banks. This title and the amendments made by this title may not be construed as implying that any such enterprise or Bank, or any obligations or securities of such an enterprise or Bank, are backed by the full faith and credit of the United States.

Subtitle A—Supervision and Regulation of Enterprises

PART 1—FINANCIAL SAFETY AND SOUNDNESS REGULATOR

12 USC 4511.

SEC. 1311. ESTABLISHMENT OF OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.

There is hereby established an office within the Department of Housing and Urban Development, which shall be known as the Office of Federal Housing Enterprise Oversight.

SEC. 1312. DIRECTOR. 12 USC 4512.

(a) APPOINTMENT.—The Office shall be under the management of a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the nomination of such individual for appointment as Director. President.

(b) TERM.—The Director shall be appointed for a term of 5 years.

(c) VACANCY.—A vacancy in the position of Director shall be filled in the manner in which the original appointment was made under subsection (a).

(d) SERVICE AFTER END OF TERM.—A Director may serve after the expiration of the term for which the Director was appointed until a successor Director has been appointed.

(e) DEPUTY DIRECTOR.—

(1) IN GENERAL.—The Office shall have a Deputy Director who shall be appointed by the Director from among individuals who are citizens of the United States, have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of mortgage security markets and housing finance. An individual may not be appointed as Deputy Director if the individual has served as an executive officer or director of an enterprise at any time during the 3-year period ending upon the appointment of such individual as Deputy Director.

(2) FUNCTIONS.—The Deputy Director shall have such functions, powers, and duties as the Director shall prescribe. In the event of the death, resignation, sickness, or absence of the Director, the Deputy Director shall serve as acting Director until the return of the Director or the appointment of a successor pursuant to subsection (c).

SEC. 1313. DUTY AND AUTHORITY OF DIRECTOR. 12 USC 4513.

(a) DUTY.—The duty of the Director shall be to ensure that the enterprises are adequately capitalized and operating safely, in accordance with this title.

(b) AUTHORITY EXCLUSIVE OF SECRETARY.—The Director is authorized, without the review or approval of the Secretary, to make such determinations, take such actions, and perform such functions as the Director determines necessary regarding—

(1) the issuance of regulations to carry out this part, subtitle B, and subtitle C (including the establishment of capital standards pursuant to subtitle B);

(2) examinations of the enterprises under section 1317;

(3) determining the capital levels of the enterprises and classification of the enterprises within capital classifications established under subtitle B;

(4) decisions to appoint conservators for the enterprises;

(5) administrative and enforcement actions under subtitle B, actions taken under subtitle C with respect to enforcement of subtitle B, and other matters relating to safety and soundness;

(6) approval of payments of capital distributions by the enterprises under section 303(c)(2) of the Federal National Mortgage Association Charter Act and section 303(b)(2) of the Federal Home Loan Mortgage Corporation Act;

(7) requiring the enterprises to submit reports under section 1314 of this title, section 309(k) of the Federal National Mortgage Association Charter Act, and section 307(c) of the Federal Home Loan Mortgage Corporation Act;

(8) prohibiting the payment of excessive compensation by the enterprises to any executive officer of the enterprises under section 1318;

(9) the management of the Office, including the establishment and implementation of annual budgets, the hiring of, and compensation levels for, personnel of the Office, and annual assessments for the costs of the Office;

(10) conducting research and financial analysis; and

(11) the submission of reports required by the Director under this title.

(c) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any determinations, actions, and functions of the Director not referred to in subsection (b) shall be subject to the review and approval of the Secretary.

(d) DELEGATION OF AUTHORITY.—The Director may delegate to officers and employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(e) INDEPENDENCE IN PROVIDING INFORMATION TO CONGRESS.—The Director shall not be required to obtain the prior approval, comment, or review of any officer or agency of the United States before submitting to the Congress, or any committee or subcommittee thereof, any reports, recommendations, testimony, or comments if such submissions include a statement indicating that the views expressed therein are those of the Director and do not necessarily represent the views of the Secretary or the President.

12 USC 4514.

SEC. 1314. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

(a) SPECIAL REPORTS AND REPORTS OF FINANCIAL CONDITION.—

(1) FINANCIAL CONDITION.—The Director may require an enterprise to submit reports of financial condition and operations (in addition to the annual and quarterly reports required under section 309(k) of the Federal National Mortgage Association Charter Act and section 307(c) of the Federal Home Loan Mortgage Corporation Act).

(2) SPECIAL REPORTS.—The Director may also require an enterprise to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of this title.

(3) LIMITATION.—The Director may not require the inclusion, in any report pursuant to paragraph (1) or (2), of any information that is not reasonably obtainable by the enterprise.

(4) NOTICE AND DECLARATION.—The Director shall notify the enterprise, a reasonable period in advance of the date for submission of any report under this subsection, of any specific information to be contained in the report and the date for the submission of the report. Each report under this subsection shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the enterprise to make such declaration, that

the report is true and correct to the best of such officer's knowledge and belief.

(b) CAPITAL DISTRIBUTIONS.—The Director may require an enterprise to submit a report to the Director after the declaration of any capital distribution by the enterprise and before making the capital distribution. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.

SEC. 1315. PERSONNEL. 12 USC 4515.

(a) OFFICE PERSONNEL.—The Director may appoint and fix the compensation of such officers and employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

(b) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subsection (a), the Director shall consult with, and maintain comparability with compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision.

(c) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Office, the Director may use information, services, staff, and facilities of any executive agency, independent agency, or department on a reimbursable basis, with the consent of such agency or department.

(d) REIMBURSEMENT OF HUD.—The Director shall reimburse the Department of Housing and Urban Development for reasonable costs incurred by the Department that are directly related to the operations of the Office.

(e) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law limiting pay or compensation, the Director may appoint and compensate such outside experts and consultants as the Director determines necessary to assist the work of the Office.

(f) EQUAL OPPORTUNITY REPORT.—Not later than the expiration of the 180-day period beginning upon the appointment of the Director under section 1312, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing—

(1) a complete description of the equal opportunity, affirmative action, and minority business enterprise utilization programs of the Office; and

(2) such recommendations for administrative and legislative action as the Director determines appropriate to carry out such programs.

SEC. 1316. FUNDING. 12 USC 4516.

(a) ANNUAL ASSESSMENTS.—The Director may, to the extent provided in appropriation Acts, establish and collect from the enterprises annual assessments in an amount not exceeding the amount sufficient to provide for reasonable costs and expenses of the Office, including the expenses of any examinations under section 1317. The initial annual assessment shall include any startup costs of

the Office and any anticipated costs and expenses of the Office for the following fiscal year.

(b) ALLOCATION OF ANNUAL ASSESSMENT TO ENTERPRISES.—

(1) AMOUNT OF PAYMENT.—Each enterprise shall pay to the Director a proportion of the annual assessment made pursuant to subsection (a) that bears the same ratio to the total annual assessment that the total assets of each enterprise bears to the total assets of both enterprises.

(2) TIMING OF PAYMENT.—The annual assessment shall be payable semiannually on September 1 and March 1 of the year for which the assessment is made.

(3) DEFINITION.—For the purpose of this section, the term "total assets" means, with respect to an enterprise, the sum of—

(A) on-balance-sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(B) the unpaid principal balance of outstanding mortgage-backed securities issued or guaranteed by the enterprise that are not included in subparagraph (A); and

(C) other off-balance-sheet obligations as determined by the Director.

(c) DEFICIENCIES DUE TO INCREASED COSTS OF REGULATION.—The semiannual payments made pursuant to subsection (b) by any enterprise that is not classified (for purposes of subtitle B) as adequately capitalized may be increased, as necessary, in the discretion of the Director to pay additional estimated costs of regulation of the enterprise.

(d) SURPLUS.—If any amount from any annual assessment collected from an enterprise remains unobligated at the end of the year for which the assessment was collected, such amount shall be credited to the assessment to be collected from the enterprise for the following year.

(e) INITIAL SPECIAL ASSESSMENT.—Not later than the expiration of the 30-day period beginning on the date of the enactment of this Act, the enterprises shall each pay into the Federal Housing Enterprises Oversight Fund established under subsection (f) an initial assessment of $1,500,000 to cover the startup costs of the Office, including space and modifications thereof, capital equipment, supplies, recruitment, and activities of the Office during the period preceding the first annual assessment under subsection (a). Any amounts collected from an enterprise under this subsection shall be credited against the first annual assessment collected pursuant to subsection (a), and are hereby appropriated, and shall be available and used, without fiscal year limitation, as provided in this section.

(f) FUND.—There is established in the Treasury of the United States a fund to be known as the Federal Housing Enterprises Oversight Fund. Any assessments collected pursuant to this section shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriation Acts and subsection (e), for—

(1) carrying out the responsibilities of the Director relating to the enterprises; and

(2) necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this title.

(g) BUDGET AND FINANCIAL REPORTS.—

(1) FINANCIAL OPERATING PLANS AND FORECASTS.—Before the beginning of each fiscal year, the Director shall submit a copy of the financial operating plans and forecasts for the Office to the Secretary and the Director of the Office of Management and Budget.

(2) REPORTS OF OPERATIONS.—As soon as practicable after the end of each fiscal year and each quarter thereof, the Director shall submit a copy of the report of the results of the operations of the Office during such period to the Secretary and the Director of the Office of Management and Budget.

(3) INCLUSION IN PRESIDENT'S BUDGET.—The annual plans, forecasts, and reports required under this subsection shall be included (A) in the Budget of the United States in the appropriate form, and (B) in the congressional justifications of the Department of Housing and Urban Development for each fiscal year in a form determined by the Secretary.

SEC. 1317. EXAMINATIONS. 12 USC 4517.

(a) ANNUAL EXAMINATION.—The Director shall annually conduct an on-site examination under this section of each enterprise to determine the condition of the enterprise for the purpose of ensuring its financial safety and soundness.

(b) OTHER EXAMINATIONS.—In addition to annual examinations under subsection (a), the Director may conduct an examination under this section whenever the Director determines that an examination is necessary to determine the condition of an enterprise for the purpose of ensuring its financial safety and soundness.

(c) EXAMINERS.—The Director shall appoint examiners to conduct examinations under this section. The Director may contract with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Director of the Office of Thrift Supervision for the services of examiners. The Director shall reimburse such agencies for any costs of providing examiners from amounts available in the Federal Housing Enterprises Oversight Fund. Contracts.

(d) LAW APPLICABLE TO EXAMINERS.—The Director and each examiner shall have the same authority and each examiner shall be subject to the same disclosures, prohibitions, obligations, and penalties as are applicable to examiners employed by the Federal Reserve banks.

(e) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers appropriate to provide temporary technical assistance relating to examinations to the Director, officers, and employees of the Office. The Director shall describe, in the record of each examination, the nature and extent of any such temporary technical assistance.

(f) OATHS, EVIDENCE, AND SUBPOENA POWERS.—In connection with examinations under this section, the Director shall have the authority provided under section 1379B.

SEC. 1318. PROHIBITION OF EXCESSIVE COMPENSATION. 12 USC 4518.

(a) IN GENERAL.—The Director shall prohibit the enterprises from providing compensation to any executive officer of the enterprise that is not reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities.

(b) PROHIBITION OF SETTING COMPENSATION.—In carrying out subsection (a), the Director may not prescribe or set a specific level or range of compensation.

12 USC 4519.

SEC. 1319. AUTHORITY TO PROVIDE FOR REVIEW OF ENTERPRISES BY RATING ORGANIZATION.

The Director may, on such terms and conditions as the Director deems appropriate, contract with any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rules for broker-dealers, to conduct a review of the enterprises.

Minorities.
Women.
12 USC 4520.

SEC. 1319A. EQUAL OPPORTUNITY IN SOLICITATION OF CONTRACTS.

(a) IN GENERAL.—Each enterprise shall establish a minority outreach program to ensure the inclusion (to the maximum extent possible) in contracts entered into by the enterprises of minorities and women and businesses owned by minorities and women, including financial institutions, investment banking firms, underwriters, accountants, brokers, and providers of legal services.

(b) REPORT.—Not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, each enterprise shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the actions taken by the enterprise pursuant to subsection (a).

12 USC 4521.

SEC. 1319B. ANNUAL REPORTS BY DIRECTOR.

(a) GENERAL REPORT.—The Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than June 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this title;

(2) a description of the financial safety and soundness of each enterprise, including the results and conclusions of the annual examinations of the enterprises conducted under section 1317(a); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the enterprises.

(b) REPORT ON ENFORCEMENT ACTIONS.—Not later than March 15 of each year, the Director shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report describing, for the preceding calendar year, the requests by the Director to the Attorney General for enforcement actions under subtitle C and describing the disposition of each request, which shall include statements of—

(1) the total number of requests made by the Director;

(2) the number of requests that resulted in the commencement of litigation by the Department of Justice;

(3) the number of requests that did not result in the commencement of litigation by the Department of Justice;

(4) with respect to requests that resulted in the commencement of litigation—

(A) the number of days between the date of the request and the commencement of the litigation; and

(B) the number of days between the date of the commencement and termination of the litigation; and

(5) the number of litigation requests pending at the beginning of the calendar year, the number of requests made during the calendar year, the number of requests for which action was completed during the calendar year, and the number of requests pending at the end of the calendar year.

SEC. 1319C. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS. 12 USC 4522.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under subtitle C and that has become final; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any action of the Director or notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing under subtitle C if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under subtitle C. Records.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding of any information from, or to prohibit the disclosure of any information to, the Congress or any committee or subcommittee thereof.

SEC. 1319D. LIMITATION ON SUBSEQUENT EMPLOYMENT. 12 USC 4523.

Neither the Director nor any former officer or employee of the Office who, while employed by the Office, was compensated at a rate in excess of the lowest rate for a position classified higher than GS–15 of the General Schedule under section 5107

of title 5, United States Code, may accept compensation from an enterprise during the 2-year period beginning on the date of separation from employment by the Office.

12 USC 4524.

SEC. 1319E. AUDITS BY GAO.

The Comptroller General shall audit the operations of the Office in accordance with generally accepted Government auditing standards. All books, records, accounts, reports, files, and property belonging to, or used by, the Office shall be made available to the Comptroller General. Audits under this section shall be conducted annually for the first 2 fiscal years following the date of the enactment of this Act and as appropriate thereafter.

12 USC 4525.

SEC. 1319F. INFORMATION, RECORDS, AND MEETINGS.

For purposes of subchapter II of chapter 5 of title 5, United States Code—

(1) the Office, and

(2) the Department of Housing and Urban Development,

with respect to activities under this title,

shall be considered agencies responsible for the regulation or supervision of financial institutions.

12 USC 4526.

SEC. 1319G. REGULATIONS AND ORDERS.

(a) AUTHORITY.—The Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this title before the expiration of the 18-month period beginning on the appointment of the Director under section 1312. Such regulations and orders shall be subject to the approval of the Secretary only to the extent provided in subsections (b) and (c) of section 1313.

(b) NOTICE AND COMMENT.—Any regulations issued by the Director under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

(c) CONGRESSIONAL REVIEW.—The Director may not publish any regulation for comment under subsection (b) unless, not less than 15 days before it is published for comment, the Director has submitted a copy of the regulation, in the form it is intended to be proposed, to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

PART 2—AUTHORITY OF SECRETARY

Subpart A—General Authority

12 USC 4541.

SEC. 1321. REGULATORY AUTHORITY.

Except for the authority of the Director of the Office of Federal Housing Enterprise Oversight described in section 1313(b) and all other matters relating to the safety and soundness of the enterprises, the Secretary of Housing and Urban Development shall have general regulatory power over each enterprise and shall make such rules and regulations as shall be necessary and proper to ensure that this part and the purposes of the Federal National Mortgage Association Charter Act and the Federal Home Loan Mortgage Corporation Act are accomplished.

SEC. 1322. PRIOR APPROVAL AUTHORITY FOR NEW PROGRAMS. 12 USC 4542.

(a) AUTHORITY.—The Secretary shall require each enterprise to obtain the approval of the Secretary for any new program of the enterprise before implementing the program.

(b) STANDARD FOR APPROVAL.—

(1) PERMANENT STANDARD.—Except as provided in paragraph (2), the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) for a new program of the Federal National Mortgage Association, the Secretary determines that the program is not authorized under paragraph (2), (3), (4), or (5) of section 302(b) of the Federal National Mortgage Association Charter Act, or under section 304 of such Act;

(B) for a new program of the Federal Home Loan Mortgage Corporation, the Secretary determines that the program is not authorized under section 305(a) (1), (4), or (5) of the Federal Home Loan Mortgage Corporation Act; or

(C) the Secretary determines that the new program is not in the public interest.

(2) TRANSITION STANDARD.—Before the date occurring 12 months after the date of the effectiveness of the regulations under section 1361(e) establishing the risk-based capital test, the Secretary shall approve any new program of an enterprise for purposes of subsection (a) unless—

(A) The Secretary makes a determination as described in paragraph (1) (A), (B), or (C); or

(B) the Director determines that the new program would risk significant deterioration of the financial condition of the enterprise.

(c) PROCEDURE FOR APPROVAL.—

(1) SUBMISSION OF REQUEST.—To obtain the approval of the Secretary for purposes of subsection (a), an enterprise shall submit to the Secretary a written request for approval of the new program that describes the program.

(2) RESPONSE.—The Secretary shall, not later than the expiration of the 45-day period beginning upon the submission of a request for approval, approve the request or submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report explaining the reasons for not approving the request. The Secretary may extend such period for a single additional 15-day period only if the Secretary requests additional information from the enterprise.

(3) FAILURE TO RESPOND.—If the Secretary fails to approve the request or fails to submit a report under paragraph (2) during the period under such paragraph, the request shall be considered to have been approved.

(4) REVIEW OF DISAPPROVAL.—

(A) UNAUTHORIZED NEW PROGRAMS.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subparagraph (A) or (B) of subsection (b)(1), the Secretary shall provide the enterprise submitting the request with a timely opportunity to review and supplement the administrative record.

(B) NEW PROGRAMS NOT IN PUBLIC INTEREST.—If the Secretary submits a report under paragraph (2) of this subsection disapproving a request for approval on the grounds under subsection (b)(1)(C) or (b)(2)(B), the Secretary shall provide the enterprise submitting the request notice of, and opportunity for, a hearing on the record regarding such disapproval.

12 USC 4543.

SEC. 1323. PUBLIC ACCESS TO MORTGAGE INFORMATION.

(a) IN GENERAL.—The Secretary shall make available to the public, in forms useful to the public (including forms accessible by computers), the data submitted by the enterprises in the reports required under section 309(m) of the Federal National Mortgage Association Charter Act or section 307(e) of the Federal Home Loan Mortgage Corporation Act.

(b) ACCESS.—

(1) PROPRIETARY DATA.—Except as provided in paragraph (2), the Secretary may not make available to the public data that the Secretary determines pursuant to section 1326 are proprietary information.

(2) EXCEPTION.—The Secretary shall not restrict access to the data provided in accordance with section 309(m)(1)(A) of the Federal National Mortgage Association Charter Act or section 307(e)(1)(A) of the Federal Home Loan Mortgage Corporation Act.

(c) FEES.—The Secretary may charge reasonable fees to cover the cost of making data available under this section to the public.

12 USC 4544.

SEC. 1324. ANNUAL HOUSING REPORT.

(a) IN GENERAL.—After reviewing and analyzing the reports submitted under section 309(n) of the Federal National Mortgage Association Charter Act and section 307(f) of the Federal Home Loan Mortgage Corporation Act, the Secretary shall submit a report, as part of the annual report under section 1328(a) of this title, on the extent to which each enterprise is achieving the annual housing goals established under subpart B of this part and the purposes of the enterprise established by law.

(b) CONTENTS.—The report shall—

(1) aggregate and analyze census tract data to assess the compliance of each enterprise with the central cities, rural areas, and other underserved areas housing goal and to determine levels of business in central cities, rural areas, underserved areas, low- and moderate-income census tracts, minority census tracts, and other geographical areas deemed appropriate by the Secretary;

(2) aggregate and analyze data on income to assess the compliance of each enterprise with the low- and moderate-income and special affordable housing goals;

(3) aggregate and analyze data on income, race, and gender by census tract and compare such data with larger demographic, housing, and economic trends;

(4) examine actions that each enterprise has undertaken or could undertake to promote and expand the annual goals established under sections 1332, 1333, and 1334, and the purposes of the enterprise established by law;

(5) examine the primary and secondary multifamily housing mortgage markets and describe—

(A) the availability and liquidity of mortgage credit;

(B) the status of efforts to provide standard credit terms and underwriting guidelines for multifamily housing and to securitize such mortgage products; and

(C) any factors inhibiting such standardization and securitization;

(6) examine actions each enterprise has undertaken and could undertake to promote and expand opportunities for first-time homebuyers; and

(7) describe any actions taken under section 1325(5) with respect to originators found to violate fair lending procedures.

SEC. 1325. FAIR HOUSING.

12 USC 4545. Regulations.

The Secretary shall—

(1) by regulation, prohibit each enterprise from discriminating in any manner in the purchase of any mortgage because of race, color, religion, sex, handicap, familial status, age, or national origin, including any consideration of the age or location of the dwelling or the age of the neighborhood or census tract where the dwelling is located in a manner that has a discriminatory effect;

(2) by regulation, require each enterprise to submit data to the Secretary to assist the Secretary in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Fair Housing Act;

(3) by regulation, require each enterprise to submit data to the Secretary to assist in investigating whether a mortgage lender with which the enterprise does business has failed to comply with the Equal Credit Opportunity Act, and shall submit any such information received to the appropriate Federal agencies, as provided in section 704 of the Equal Credit Opportunity Act, for appropriate action;

(4) obtain information from other regulatory and enforcement agencies of the Federal Government and State and local governments regarding violations by lenders of the Fair Housing Act and the Equal Credit Opportunity Act and make such information available to the enterprises;

(5) direct the enterprises to undertake various remedial actions, including suspension, probation, reprimand, or settlement, against lenders that have been found to have engaged in discriminatory lending practices in violation of the Fair Housing Act or the Equal Credit Opportunity Act, pursuant to a final adjudication on the record, and after opportunity for an administrative hearing, in accordance with subchapter II of chapter 5 of title 5, United States Code; and

(6) periodically review and comment on the underwriting and appraisal guidelines of each enterprise to ensure that such guidelines are consistent with the Fair Housing Act and this section.

SEC. 1326. PROHIBITION OF PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION.

12 USC 4546.

(a) IN GENERAL.—The Secretary may, by regulation or order, provide that certain information shall be treated as proprietary information and not subject to disclosure under section 1323 of this title, section 309(n)(3) of the Federal National Mortgage Association Charter Act, or section 307(f)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) PROTECTION OF INFORMATION ON HOUSING ACTIVITIES.—The Secretary shall not provide public access to, or disclose to the public, any information required to be submitted by an enterprise under section 309(n) of the Federal National Mortgage Association Charter Act or section 307(f) of the Federal Home Loan Mortgage Corporation Act that the Secretary determines is proprietary.

(c) NONDISCLOSURE PENDING CONSIDERATION.—This section may not be construed to authorize the disclosure of information to, or examination of data by, the public or a representative of any person or agency pending the issuance of a final decision under this section.

12 USC 4548.

SEC. 1327. AUTHORITY TO REQUIRE REPORTS BY ENTERPRISES.

The Secretary shall require each enterprise to submit reports on its activities to the Secretary as the Secretary considers appropriate.

12 USC 4548.

SEC. 1328. REPORTS BY SECRETARY.

(a) ANNUAL REPORT.—The Secretary shall, not later than June 30 of each year, submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the activities of each enterprise.

(b) VIEWS ON BUDGET AND FINANCIAL PLANS OF ENTERPRISES.—On an annual basis, the Secretary shall provide the Committees referred to in subsection (a) with comments on the plans, forecasts, and reports required under section 1316(g).

Subpart B—Housing Goals

12 USC 4561.

SEC. 1331. ESTABLISHMENT.

Regulations.

(a) IN GENERAL.—The Secretary shall establish, by regulation, housing goals under this subpart for each enterprise. The housing goals shall include a low- and moderate-income housing goal pursuant to section 1332, a special affordable housing goal pursuant to section 1333, and a central cities, rural areas, and other underserved areas housing goal pursuant to section 1334. The Secretary shall implement this subpart in a manner consistent with section 301(3) of the Federal National Mortgage Association Charter Act and section 301(b)(3) of the Federal Home Loan Mortgage Corporation Act.

(b) CONSIDERATION OF UNITS IN MULTIFAMILY HOUSING.—In establishing any goal under this subpart, the Secretary may take into consideration the number of housing units financed by any mortgage on multifamily housing purchased by an enterprise.

(c) ADJUSTMENT OF HOUSING GOALS.—Except as otherwise provided in this title, from year to year the Secretary may, by regulation, adjust any housing goal established under this subpart.

12 USC 4562.

SEC. 1332. LOW- AND MODERATE-INCOME HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing for low- and moderate-income families. The Secretary may establish separate specific subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision

of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the goal under this section, the Secretary shall consider—

(1) national housing needs;

(2) economic, housing, and demographic conditions;

(3) the performance and effort of the enterprises toward achieving the low- and moderate-income housing goal in previous years;

(4) the size of the conventional mortgage market serving low- and moderate-income families relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available for low- and moderate-income families; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low- and moderate-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for low- and moderate-income mortgage purchases for each enterprise shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions

under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

12 USC 4563.

SEC. 1333. SPECIAL AFFORDABLE HOUSING GOAL.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary shall establish a special annual goal designed to adjust the purchase by each enterprise of mortgages on rental and owner-occupied housing to meet the then-existing unaddressed needs of, and affordable to, low-income families in low-income areas and very low-income families. The special affordable housing goal established under this section for an enterprise shall not be less than 1 percent of the dollar amount of the mortgage purchases by the enterprise for the previous year.

(2) STANDARDS.—In establishing the special affordable housing goal for an enterprise, the Secretary shall consider—

(A) data submitted to the Secretary in connection with the special affordable housing goal for previous years;

(B) the performance and efforts of the enterprise toward achieving the special affordable housing goal in previous years;

(C) national housing needs within the categories set forth in this section;

(D) the ability of the enterprise to lead the industry in making mortgage credit available for low-income and very low-income families; and

(E) the need to maintain the sound financial condition of the enterprise.

(b) FULL CREDIT ACTIVITIES.—

(1) IN GENERAL.—The Secretary shall give full credit toward achievement of the special affordable housing goal under this section (for purposes of section 1336) to the following activities:

(A) FEDERALLY RELATED MORTGAGES.—The purchase or securitization of federally insured or guaranteed mortgages, if—

(i) such mortgages cannot be readily securitized through the Government National Mortgage Association or any other Federal agency;

(ii) participation of the enterprise substantially enhances the affordability of the housing subject to such mortgages; and

(iii) the mortgages involved are on housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(B) PORTFOLIOS.—The purchase or refinancing of existing, seasoned portfolios of loans, if—

(i) the seller is engaged in a specific program to use the proceeds of such sales to originate additional loans that meet such goal; and

(ii) such purchases or refinancings support additional lending for housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(C) RTC AND FDIC LOANS.—The purchase of direct loans made by the Resolution Trust Corporation or the Federal Deposit Insurance Corporation, if such loans—

(i) are not guaranteed by such agencies themselves or other Federal agencies;

(ii) are made with recourse provisions similar to those offered through private mortgage insurance or other conventional sellers; and

(iii) are made for the purchase of housing that otherwise qualifies under such goal to be considered for purposes of such goal.

(2) EXCLUSION.—No credit toward the achievement of the special affordable housing goal may be given to the purchase or securitization of mortgages associated with the refinancing of the existing enterprise portfolios.

(c) USE OF BORROWER AND TENANT INCOME.—

(1) IN GENERAL.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on—

(A) in the case of an owner-occupied dwelling, the mortgagor's income at the time of origination of the mortgage; or

(B) in the case of a rental dwelling—

(i) the income of the prospective or actual tenants of the property, where such data are available; or

(ii) the rent levels affordable to low-income and very low-income families, where the data referred to in clause (i) are not available.

(2) AFFORDABILITY.—For the purpose of paragraph (1)(B)(ii), a rent level shall be considered affordable if it does not exceed 30 percent of the maximum income level of the income categories referred to in this section, with appropriate adjustments for unit size as measured by the number of bedrooms.

(d) TRANSITION.—

(1) FNMA MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal National Mortgage Association shall include mortgage purchases of not less than $2,000,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(2) FHLMC MORTGAGE PURCHASES.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the special affordable housing goal for the Federal Home Loan Mortgage Corporation shall include mortgage purchases of not less than $1,500,000,000 (for such 2-year period), with one-half of such purchases consisting of mortgages on single family housing and one-half consisting of mortgages on multifamily housing.

(3) INCOME CHARACTERISTICS FOR MORTGAGE PURCHASES.—

(A) MULTIFAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on multifamily housing

that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages on multifamily housing affordable to low-income families; and

(ii) 55 percent shall be mortgages on multifamily housing in which—

(I) at least 20 percent of the units are affordable to families whose incomes do not exceed 50 percent of the median income for the area; or

(II) at least 40 percent of the units are affordable to very low-income families.

(B) SINGLE FAMILY MORTGAGES.—The special affordable housing goals established under paragraphs (1) and (2) shall provide that, of mortgages on single family housing that are purchased and contribute to the achievement of such goals—

(i) 45 percent shall be mortgages of low-income families who live in census tracts in which the median income does not exceed 80 percent of the area median income; and

(ii) 55 percent shall be mortgages of very low-income families.

(C) COMPLIANCE WITH SPECIAL AFFORDABLE HOUSING GOALS.—Only the portion of mortgages on multifamily housing purchased by an enterprise that are attributable to units affordable to low-income families shall contribute to the achievement of the special affordable housing goals under subparagraph (A)(ii).

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

12 USC 4564.

SEC. 1334. CENTRAL CITIES, RURAL AREAS, AND OTHER UNDERSERVED AREAS HOUSING GOAL.

(a) IN GENERAL.—The Secretary shall establish an annual goal for the purchase by each enterprise of mortgages on housing located in central cities, rural areas, and other underserved areas. The Secretary may establish separate subgoals within the goal under this section and such subgoals shall not be enforceable under the provisions of section 1336, any other provision of this title, or any provision of the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act.

(b) FACTORS TO BE APPLIED.—In establishing the housing goal under this section, the Secretary shall consider—

(1) urban and rural housing needs and the housing needs of underserved areas;

(2) economic, housing, and demographic conditions;

(3) the performance and efforts of the enterprises toward achieving the central cities, rural areas, and other underserved areas housing goal in previous years;

(4) the size of the conventional mortgage market for central cities, rural areas, and other underserved areas relative to the size of the overall conventional mortgage market;

(5) the ability of the enterprises to lead the industry in making mortgage credit available throughout the United States, including central cities, rural areas, and other underserved areas; and

(6) the need to maintain the sound financial condition of the enterprises.

(c) LOCATION OF PROPERTIES.—The Secretary shall monitor the performance of each enterprise in carrying out this section and shall evaluate such performance (for purposes of section 1336) based on the location of the properties subject to mortgages purchased by each enterprise.

(d) TRANSITION.—

(1) INTERIM TARGET.—Notwithstanding any other provision of this section, during the 2-year period beginning on January 1, 1993, the annual target under this section for purchases by each enterprise of mortgages on housing located in central cities shall be 30 percent of the total number of dwelling units financed by mortgage purchases of the enterprise.

(2) INTERIM GOAL.—During such 2-year period, the Secretary shall establish a separate annual goal for each enterprise, the achievement of which shall require—

(A) an enterprise that is not meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to such target annually and, to the maximum extent feasible, to meet such target at the conclusion of such 2-year period; and

(B) an enterprise that is meeting the target under paragraph (1) upon January 1, 1993, to improve its performance relative to the target.

(3) DEFINITION OF CENTRAL CITY.—For purposes of this subsection, the term "central city" means any political subdivision designated as a central city by the Office of Management and Budget.

(4) IMPLEMENTATION.—The Secretary shall establish any requirements necessary to implement the transition provisions under this subsection by notice, after providing the enterprises with an opportunity to review and comment not less than 30 days before the issuance of such notice. Such notice shall be issued not later than the expiration of the 90-day period beginning upon the date of the enactment of this Act and shall be effective upon issuance.

SEC. 1335. OTHER REQUIREMENTS. 12 USC 4565.

To meet the low- and moderate-income housing goal under section 1332, the special affordable housing goal under section 1333, and the central cities, rural areas, and other underserved areas housing goal under section 1334, each enterprise shall—

(1) design programs and products that facilitate the use of assistance provided by the Federal Government and State and local governments;

(2) develop relationships with nonprofit and for-profit organizations that develop and finance housing and with State and local governments, including housing finance agencies;

(3) take affirmative steps to—

(A) assist primary lenders to make housing credit available in areas with concentrations of low-income and minority families, and

(B) assist insured depository institutions to meet their obligations under the Community Reinvestment Act of 1977,

which shall include developing appropriate and prudent underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures; and

(4) develop the institutional capacity to help finance low- and moderate-income housing, including housing for first-time homebuyers.

12 USC 4566.

SEC. 1336. MONITORING AND ENFORCING COMPLIANCE WITH HOUSING GOALS.

(a) IN GENERAL.—

(1) AUTHORITY.—The Secretary shall monitor and enforce compliance with the housing goals established under sections 1332, 1333, and 1334, as provided in this section.

(2) GUIDELINES.—The Secretary shall establish guidelines to measure the extent of compliance with the housing goals, which may assign full credit, partial credit, or no credit toward achievement of the housing goals to different categories of mortgage purchase activities of the enterprises, based on such criteria as the Secretary deems appropriate.

(3) EXTENT OF COMPLIANCE.—In determining compliance with the housing goals established under this subpart, the Secretary—

(A) shall consider any single mortgage purchased by an enterprise as contributing to the achievement of each housing goal for which such mortgage purchase qualifies; and

(B) may take into consideration the number of housing units financed by any mortgage on housing purchased by an enterprise.

(b) NOTICE AND DETERMINATION OF FAILURE TO MEET GOALS.—

(1) NOTICE.—If the Secretary determines that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, the Secretary shall provide written notice to the enterprise of such a determination, the reasons for such determination, the requirement to submit a housing plan under subsection (c) of this section, and the information on which the Secretary based the determination or imposed such requirement.

(2) RESPONSE PERIOD.—

(A) IN GENERAL.—During the 30-day period beginning on the date that an enterprise is provided notice under paragraph (1), the enterprise may submit to the Secretary any written information that the enterprise considers appropriate for consideration by the Secretary in determining whether such failure has occurred or whether the achievement of such goal was or is feasible.

(B) EXTENDED PERIOD.—The Secretary may extend the period under subparagraph (A) for good cause for not more than 30 additional days.

(C) SHORTENED PERIOD.—The Secretary may shorten the period under subparagraph (A) for good cause.

(D) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the 30-day period under this paragraph (as extended or shortened) shall waive any right of the enterprise to comment on the proposed determination or action of the Secretary.

(3) CONSIDERATION OF INFORMATION AND DETERMINATION.—

(A) IN GENERAL.—After the expiration of the response period under paragraph (2) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Secretary shall determine (i) whether the enterprise has failed, or there is a substantial probability that the enterprise will fail, to meet the housing goal, and (ii) whether (taking into consideration market and economic conditions and the financial condition of the enterprise) the achievement of the housing goal was or is feasible.

(B) CONSIDERATIONS.—In making such determinations, the Secretary shall take into consideration any relevant information submitted by the enterprise during the response period.

(C) NOTICE.—The Secretary shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, of—

(i) each determination that an enterprise has failed, or that there is a substantial probability that the enterprise will fail, to meet a housing goal;

(ii) each determination that the achievement of a housing goal was or is feasible; and

(iii) the reasons for each such determination.

Such notice shall respond to any information submitted during the response period.

(c) HOUSING PLANS.—

(1) REQUIREMENT.—If the Secretary finds pursuant to subsection (b), that an enterprise has failed, or that there is a substantial probability that an enterprise will fail, to meet any housing goal established under section 1332, 1333, or 1334, and that the achievement of the housing goal was or is feasible, the Secretary shall require the enterprise to submit a housing plan under this subsection for approval by the Secretary.

(2) CONTENTS.—Each housing plan shall be a feasible plan describing the specific actions the enterprise will take—

(A) to achieve the goal for the next calendar year; or

(B) if the Secretary determines that there is a substantial probability that the enterprise will fail to meet a goal in the current year, to make such improvements as are reasonable in the remainder of such year.

The plan shall be sufficiently specific to enable the Secretary to monitor compliance periodically.

(3) DEADLINE FOR SUBMISSION.—The Secretary shall, by regulation, establish a deadline for an enterprise to submit a housing plan to the Secretary, which may not be more than 45 days after the enterprise is provided notice under subsection

Regulations.

(b)(3) that a housing plan is required. The regulations shall provide that the Secretary may extend the deadline to the extent that the Secretary determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(4) APPROVAL.—The Secretary shall review each housing plan submitted under this subsection and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Secretary may extend the period for approval or disapproval for a single additional 30-day period if the Secretary determines it necessary. The Secretary shall approve any plan that the Secretary determines is likely to succeed, and conforms with the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act (as applicable), this title, and any other applicable laws and regulations.

(5) NOTICE OF APPROVAL AND DISAPPROVAL.—The Secretary shall provide written notice to any enterprise submitting a housing plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(6) RESUBMISSION.—If the initial housing plan submitted by an enterprise is disapproved, the enterprise shall submit an amended plan acceptable to the Secretary within 30 days or such longer period that the Secretary determines is in the public interest.

12 USC 4567.

SEC. 1337. REPORTS DURING TRANSITION.

Each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report for each transitional housing goal for the enterprise under section 1332(d), 1333(d), or 1334(d), describing the actions the enterprise plans to take to meet such goal. Each such report shall be submitted within 45 days after the establishment of the goal for which the report is submitted.

12 USC 4562 note.

SEC. 1338. EFFECTIVE DATE OF TRANSITION GOALS.

The housing goals established under sections 1332(d), 1333(d), and 1334(d) shall not become effective until January 1, 1993.

Subpart C—Enforcement of Housing Goals

12 USC 4581.

SEC. 1341. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE.—The Secretary may issue and serve a notice of charges under this section upon an enterprise if, in the determination of the Secretary—

(1) the enterprise has failed to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) the enterprise is engaging or has engaged, or the Secretary has reasonable cause to believe that the enterprise is about to engage, in any failure to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) the enterprise has failed to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection

(e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged conduct and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct should issue.

(2) ISSUANCE OF ORDER.—If the Secretary finds on the record made at such hearing that any conduct specified in the notice of charges has been established (or the enterprise consents pursuant to section 1342(a)(4)), the Secretary may issue and serve upon the enterprise an order requiring the enterprise to (A) submit a housing plan in compliance with section 1336(c), (B) comply with the housing plan, or (C) provide the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(c) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Secretary or otherwise, as provided in this subpart.

(d) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any cease-and-desist order under this section for any failure by an enterprise, during the 2-year period beginning on the January 1, 1993, to comply with an approved housing plan, unless the Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with the approved plan.

SEC. 1342. HEARINGS. 12 USC 4582.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1341 or 1345 shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1341(b)(1) or determination to impose a penalty under section 1345(c)(1), unless an earlier or a later date is set by the hearing officer at the request of the enterprise served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the enterprise served fails to appear at the hearing through a duly authorized representative, such enterprise shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the enterprise has been notified that the case has been submitted to the Secretary for final decision, the Secretary shall render the decision (which shall include findings of fact

upon which the decision is predicated) and shall issue and serve upon the enterprise an order or orders consistent with the provisions of this subpart.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1343. Unless such a petition for review is timely filed as provided in section 1343, and thereafter until the record in the proceeding has been filed as so provided, the Secretary may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Secretary considers proper. Upon such filing of the record, the Secretary may modify, terminate, or set aside any such order with permission of the court.

12 USC 4583.

SEC. 1343. JUDICIAL REVIEW.

(a) COMMENCEMENT.—An enterprise that is a party to a proceeding under section 1341 or 1345 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Secretary be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Secretary.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Secretary shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Secretary shall (except as provided in the last sentence of section 1342(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Secretary.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Secretary under this subpart.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Secretary.

12 USC 4584.

SEC. 1344. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under section 1341 or 1345. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subpart, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1341 or 1345, or to review, modify, suspend, terminate, or set aside any such notice or order.

12 USC 4585.

SEC. 1345. CIVIL MONEY PENALTIES.

(a) AUTHORITY.—The Secretary may impose a civil money penalty, in accordance with the provisions of this section, on any enterprise that has failed—

(1) to submit a housing plan that substantially complies with section 1336(c) within the applicable period;

(2) to make a good faith effort to comply with a housing plan for the enterprise submitted and approved under section 1336(c); or

(3) to submit the information required under subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act, subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act, or section 1337 of this title.

(b) AMOUNT OF PENALTY.—The amount of the penalty, as determined by the Secretary, may not exceed—

(1) for any failure described in subsection (a)(1), $25,000 for each day that the failure occurs; and

(2) for any failure described in subsection (a) (2) or (3), $10,000 for each day that the failure occurs.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Secretary shall establish standards and procedures governing the imposition of civil money penalties under this section. Such standards and procedures—

(A) shall provide for the Secretary to notify the enterprise in writing of the Secretary's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise has been given an opportunity for a hearing on the record pursuant to section 1342; and

(C) may provide for review by the Director for any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Secretary shall give consideration to such factors as the gravity of the offense, any history of prior offenses, ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine, by regulation, to be appropriate.

(d) ACTION TO COLLECT PENALTY.—If an enterprise fails to comply with an order by the Secretary imposing a civil money penalty under this section, after the order is no longer subject to review as provided by sections 1342 and 1343, the Secretary may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY SECRETARY.—The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) TRANSITION PERIOD LIMITATION.—The Secretary may not impose any civil money penalty under this section for any failure by an enterprise, during the 2-year period beginning on January 1, 1993, to comply with an approved housing plan, unless the

Secretary determines that the enterprise has intentionally failed to make a good faith effort to comply with an approved plan.

(g) DEPOSIT OF PENALTIES.—The Secretary shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

12 USC 4586.

SEC. 1346. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS.

(a) IN GENERAL.—The Secretary shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Secretary or any modification to or termination thereof, unless the Secretary, in the Secretary's discretion, determines that public disclosure would be contrary to the public interest or determines under subsection (c) that public disclosure would seriously threaten the financial health or security of the enterprise;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Secretary under this subpart and that has become final in accordance with sections 1342 and 1343; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings with respect to any notice of charges issued by the Secretary shall be open to the public, unless the Secretary, in the Secretary's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Secretary makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial soundness of the enterprise, the Secretary may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Secretary may file any document or part thereof under seal in any hearing under this subpart if the Secretary determines in writing that disclosure thereof would be contrary to the public interest.

Records.

(e) RETENTION OF DOCUMENTS.—The Secretary shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Secretary under this subpart.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

12 USC 4587.

SEC. 1347. NOTICE OF SERVICE.

Any service required or authorized to be made by the Secretary under this subpart may be made by registered mail or in such other manner reasonably calculated to give actual notice, as the Secretary may by regulation or otherwise provide.

12 USC 4588.

SEC. 1348. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subpart, the Secretary shall have the authority—

(1) to administer oaths and affirmations;
(2) to take and preserve testimony under oath;
(3) to issue subpoenas and subpoenas duces tecum; and
(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Secretary.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Secretary may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

SEC. 1349. REGULATIONS. 12 USC 4589.

The Secretary shall issue any final regulations necessary to implement the provisions of this part (not including the provisions of sections 1332(d), 1333(d), and 1334(d), relating to transition housing goals) not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

PART 3—MISCELLANEOUS PROVISIONS

SEC. 1351. AMENDMENTS TO TITLE 5, UNITED STATES CODE.

(a) DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item:

"Director of the Office of Federal Housing Enterprise Oversight, Department of Housing and Urban Development.".

(b) EXCLUSION FROM SENIOR EXECUTIVE SERVICE.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development," after "Farm Credit Administration,".

SEC. 1352. PROHIBITION OF MERGER OF OFFICE.

Section 5 of the Department of Housing and Urban Development Act (42 U.S.C. 3534) is amended by adding at the end the following new subsection:

"(d) Notwithstanding any other provision of this Act, the Secretary may not merge or consolidate the Office of Federal Housing Enterprise Oversight of the Department, or any of the functions

or responsibilities of such Office, with any function or program administered by the Secretary.".

SEC. 1353. PROTECTION OF CONFIDENTIAL INFORMATION.

Section 1905 of title 18, United States Code, is amended by inserting "any person acting on behalf of the Office of Federal Housing Enterprise Oversight," after "or agency thereof,".

12 USC 4601.

SEC. 1354. REVIEW OF UNDERWRITING GUIDELINES.

(a) STUDY.—Each of the enterprises shall conduct a study to review the underwriting guidelines of the enterprise. The studies shall examine—

(1) the extent to which the underwriting guidelines prevent or inhibit the purchase or securitization of mortgages for housing located in mixed-use, urban center, and predominantly minority neighborhoods and for housing for low- and moderate-income families;

(2) the standards employed by private mortgage insurers and the extent to which such standards inhibit the purchase and securitization by the enterprises of mortgages described in paragraph (1); and

(3) the implications of implementing underwriting standards that—

(A) establish a downpayment requirement for mortgagors of 5 percent or less;

(B) allow the use of cash on hand as a source for downpayments; and

(C) approve borrowers who have a credit history of delinquencies if the borrower can demonstrate a satisfactory credit history for at least the 12-month period ending on the date of the application for the mortgage.

(b) REPORT.—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, each enterprise shall submit to the Secretary, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate a report regarding the study conducted by the enterprise under subsection (a). Each report shall include any recommendations of the enterprise for better meeting the housing needs of low- and moderate-income families.

12 USC 4602.

SEC. 1355. STUDIES OF EFFECTS OF PRIVATIZATION OF FNMA AND FHLMC.

(a) IN GENERAL.—The Comptroller General of the United States, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each conduct and submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, a study regarding the desirability and feasibility of repealing the Federal charters of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, eliminating any Federal sponsorship of the enterprises, and allowing the enterprises to continue to operate as fully private entities.

(b) REQUIREMENTS.—Each study shall particularly examine the effects of such privatization on—

(1) the requirements applicable to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under Federal law and the costs to the enterprises;

(2) the cost of capital to the enterprises;

(3) housing affordability and availability and the cost of homeownership;

(4) the level of secondary mortgage market competition subsequently available in the private sector;

(5) whether increased amounts of capital would be necessary for the enterprises to continue operation;

(6) the secondary market for residential loans and the liquidity of such loans; and

(7) any other factors that the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, or the Director of the Congressional Budget Office deems appropriate to enable the Congress to evaluate the desirability and feasibility of privatization of the enterprises.

(c) INFORMATION.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation shall provide full and prompt access to the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office to any books, records, and other information requested for the purposes of conducting the studies under this section.

(d) VIEWS OF THE FNMA AND FHLMC.—

(1) CONSIDERATION IN STUDIES.—In conducting the studies under this section, the Comptroller General, the Secretary of Housing and Urban Development, the Secretary of the Treasury, and the Director of the Congressional Budget Office shall each consider the views of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) DIRECT REPORT.—The Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation may each report directly to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on its own analysis of the desirability and feasibility of repealing the Federal charters of the enterprises, eliminating any Federal sponsorship, and allowing the enterprises to continue to operate as fully private entities.

SEC. 1356. TRANSITION. 12 USC 4603.

Before the expiration of the period ending 18 months after the appointment of the Director under section 1312, any rules and regulations promulgated before the date of the enactment of this Act by the Secretary pursuant to the Federal National Mortgage Association Charter Act or the Federal Home Loan Mortgage Corporation Act shall remain in effect unless modified, terminated, superseded, or revoked by operation of law or in accordance with law. Such rules and regulations shall terminate, effective upon the expiration of such period. Termination date.

Subtitle B—Required Capital Levels for Enterprises and Special Enforcement Powers

12 USC 4611.

Regulations.

SEC. 1361. RISK-BASED CAPITAL LEVELS.

(a) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test under this section for the enterprises. When applied to an enterprise, the risk-based capital test shall determine the amount of total capital for the enterprise that is sufficient for the enterprise to maintain positive capital during a 10-year period in which the following circumstances occur (in this section referred to as the "stress period"):

(1) CREDIT RISK.—With respect to mortgages owned or guaranteed by the enterprise and other obligations of the enterprise, losses occur throughout the United States at a rate of default and severity (based on any measurements of default reasonably related to prevailing practice for that industry in determining capital adequacy) reasonably related to the rate and severity that occurred in contiguous areas of the United States containing an aggregate of not less than 5 percent of the total population of the United States that, for a period of not less than 2 years, experienced the highest rates of default and severity of mortgage losses, in comparison with such rates of default and severity of mortgage losses in other such areas for any period of such duration.

(2) INTEREST RATE RISK.—

(A) IN GENERAL.—Interest rates decrease as described in subparagraph (B) or increase as described in subparagraph (C), whichever would require more capital for the enterprise.

(B) DECREASES.—The 10-year constant maturity Treasury yield decreases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield decreases to the lesser of—

(i) 600 basis points below the average yield during the preceding 9 months, or

(ii) 60 percent of the average yield during the preceding 3 years,

but in no case to a yield less than 50 percent of the average yield during the preceding 9 months.

(C) INCREASES.—The 10-year constant maturity Treasury yield increases during the first year of the stress period and will remain at the new level for the remainder of the stress period. The yield increases to the greater of—

(i) 600 basis points above the average yield during the preceding 9 months, or

(ii) 160 percent of the average yield during the preceding 3 years,

but in no case to a yield greater than 175 percent of the average yield during the preceding 9 months.

(D) DIFFERENT TERMS TO MATURITY.—Yields of Treasury instruments with other terms to maturity will change relative to the 10-year constant maturity Treasury yield in patterns and for durations that are reasonably related

to historical experience and are judged reasonable by the Director.

(E) LARGE INCREASES IN YIELDS.—If the 10-year constant maturity Treasury yield is assumed to increase by more than 50 percent over the average yield during the preceding 9 months, the Director shall adjust the losses in paragraphs (1) and (3) to reflect a correspondingly higher rate of general price inflation.

(3) NEW BUSINESS.—

(A) IN GENERAL.—Any contractual commitments of the enterprise to purchase mortgages or issue securities will be fulfilled. The characteristics of resulting mortgage purchases, securities issued, and other financing will be consistent with the contractual terms of such commitments, recent experience, and the economic characteristics of the stress period. No other purchases of mortgages shall be assumed, except as provided in subparagraph (B).

(B) ADDITIONAL NEW BUSINESS.—The Director may, after consideration of each of the studies required by subparagraph (C), assume that the enterprise conducts additional new business during the stress period consistent with the following—

(i) AMOUNT AND PRODUCT TYPES.—The amount and types of mortgages purchased and their financing will be reasonably related to recent experience and the economic characteristics of the stress period.

(ii) LOSSES.—Default and loss severity characteristics of mortgages purchased will be reasonably related to historical experience.

(iii) PRICING.—Prices charged by the enterprise in purchasing new mortgages will be reasonably related to recent experience and the economic characteristics of the stress period. The Director may assume that a reasonable period of time would lapse before the enterprise would recognize and react to the characteristics of the stress period.

(iv) INTEREST RATE RISK.—Interest rate risk on new mortgages purchased will occur to an extent reasonably related to historical experience.

(v) RESERVES.—The enterprise must maintain reserves during and at the end of the stress period on new business conducted during the first 5 years of the stress period reasonably related to the expected future losses on such business, consistent with generally accepted accounting principles and industry accounting practice.

(C) STUDIES.—Within 1 year after regulations are first issued under subsection (e), the Director of the Congressional Budget Office, and the Comptroller General of the United States shall each submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study of the advisability and appropriate form of any new business assumptions under subparagraph (B).

(D) EFFECTIVE DATE.—The provisions of subparagraph (B) shall become effective 4 years after regulations are first issued under subsection (e).

(4) OTHER ACTIVITIES.—Losses or gains on other activities, including interest rate and foreign exchange hedging activities, shall be determined by the Director, on the basis of available information, to be consistent with the stress period.

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In establishing the risk-based capital test under subsection (a), the Director shall take into account appropriate distinctions among types of mortgage products, differences in seasoning of mortgages, and any other factors the Director considers appropriate.

(2) CONSISTENCY.—Characteristics of the stress period other than those specifically set forth in subsection (a), such as prepayment experience and dividend policies, will be those determined by the Director, on the basis of available information, to be most consistent with the stress period.

(c) RISK-BASED CAPITAL LEVEL.—For purposes of this subtitle, the risk-based capital level for an enterprise shall be equal to the sum of the following amounts:

(1) CREDIT AND INTEREST RATE RISK.—The amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(2) MANAGEMENT AND OPERATIONS RISK.—To provide for management and operations risk, 30 percent of the amount of total capital determined by applying the risk-based capital test under subsection (a) to the enterprise.

(d) DEFINITIONS.—For purposes of this section:

(1) SEASONING.—The term "seasoning" means the change over time in the ratio of the unpaid principal balance of a mortgage to the value of the property by which such mortgage loan is secured, determined on an annual basis by region, in accordance with the Constant Quality Home Price Index published by the Secretary of Commerce (or any index of similar quality, authority, and public availability that is regularly used by the Federal Government).

(2) TYPE OF MORTGAGE PRODUCT.—The term "type of mortgage product" means a classification of one or more mortgage products, as established by the Director, which have similar characteristics from each set of characteristics under the following subparagraphs:

(A) The property securing the mortgage is—

(i) a residential property consisting of 1 to 4 dwelling units; or

(ii) a residential property consisting of more than 4 dwelling units.

(B) The interest rate on the mortgage is—

(i) fixed; or

(ii) adjustable.

(C) The priority of the lien securing the mortgage is—

(i) first; or

(ii) second or other.

(D) The term of the mortgage is—

(i) 1 to 15 years;

(ii) 16 to 30 years; or

(iii) more than 30 years.

(E) The owner of the property is—

(i) an owner-occupant; or

(ii) an investor.

(F) The unpaid principal balance of the mortgage—

(i) will amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage;

(ii) will not amortize completely over the term of the mortgage and will not increase significantly at any time during the term of the mortgage; or

(iii) may increase significantly at some time during the term of the mortgage.

(G) Any other characteristics of the mortgage, as the Director may determine.

(e) REGULATIONS.—

(1) ISSUANCE.—The Director shall issue final regulations establishing the risk-based capital test under this section not later than the expiration of the 18-month period beginning on the date of the appointment of the Director. Such regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code, and shall take effect upon issuance.

(2) CONTENTS.—The regulations under this subsection shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, loan-to-value ratios, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(3) CONFIDENTIALITY OF INFORMATION.—Any person that receives any book, record, or information from the Director or an enterprise to enable the risk-based capital test to be applied shall—

(A) maintain the confidentiality of the book, record, or information in a manner that is generally consistent with the level of confidentiality established for the material by the Director or the enterprise; and

(B) be exempt from section 552 of title 5, United States Code, with respect to the book, record, or information.

(f) AVAILABILITY OF MODEL.—The Director shall provide copies of the statistical model or models used to implement the risk-based capital test under this section to the Secretary, the Board of Governors of the Federal Reserve System, the Director of the Office of Management and Budget, the Comptroller General of the United States, and the Director of the Congressional Budget Office. The Director shall make copies of such model or models available for public acquisition and may charge a reasonable fee for such copies.

SEC. 1362. MINIMUM CAPITAL LEVELS. 12 USC 4612.

(a) IN GENERAL.—For purposes of this subtitle, the minimum capital level for each enterprise shall be the sum of—

(1) 2.50 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.45 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.45 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

(b) TRANSITION.—Notwithstanding subsection (a), during the 18-month period beginning upon the date of the enactment of this Act, the minimum capital level for each enterprise shall be the sum of—

(1) 2.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.40 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.40 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

12 USC 4613.

SEC. 1363. CRITICAL CAPITAL LEVELS.

For purposes of this subtitle, the critical capital level for each enterprise shall be the sum of—

(1) 1.25 percent of the aggregate on-balance sheet assets of the enterprise, as determined in accordance with generally accepted accounting principles;

(2) 0.25 percent of the unpaid principal balance of outstanding mortgage-backed securities and substantially equivalent instruments issued or guaranteed by the enterprise that are not included in paragraph (1); and

(3) 0.25 percent of other off-balance sheet obligations of the enterprise not included in paragraph (2) (excluding commitments in excess of 50 percent of the average dollar amount of the commitments outstanding each quarter over the preceding 4 quarters), except that the Director shall adjust such percentage to reflect differences in the credit risk of such obligations in relation to the instruments included in paragraph (2).

12 USC 4614.

SEC. 1364. CAPITAL CLASSIFICATIONS.

(a) IN GENERAL.—For purposes of this subtitle, the Director shall classify the enterprises according to the following capital classifications:

(1) ADEQUATELY CAPITALIZED.—An enterprise shall be classified as adequately capitalized if the enterprise—

(A) maintains an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise under section 1361; and

(B) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise under section 1362.

(2) UNDERCAPITALIZED.—An enterprise shall be classified as undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) maintains an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; or

(B) the enterprise is otherwise classified as undercapitalized under subsection (b)(1) of this section.

(3) SIGNIFICANTLY UNDERCAPITALIZED.—An enterprise shall be classified as significantly undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise;

(ii) does not maintain an amount of core capital that is equal to or exceeds the minimum capital level established for the enterprise; and

(iii) maintains an amount of core capital that is equal to or exceeds the critical capital level established for the enterprise under section 1363; or

(B) the enterprise is otherwise classified as significantly undercapitalized under subsection (b)(2) of this section or section 1365(b).

(4) CRITICALLY UNDERCAPITALIZED.—An enterprise shall be classified as critically undercapitalized if—

(A) the enterprise—

(i) does not maintain an amount of total capital that is equal to or exceeds the risk-based capital level established for the enterprise; and

(ii) does not maintain an amount of core capital that is equal to or exceeds the critical capital level for the enterprise; or

(B) is otherwise classified as critically undercapitalized under subsection (b)(3) of this section or section 1366(b)(5).

(b) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that an enterprise is engaging in conduct not approved by the Director that could result in a rapid depletion of core capital or that the value of the property subject to mortgages held or securitized by the enterprise has decreased significantly, the Director may classify the enterprise—

(1) as undercapitalized, if the enterprise is otherwise classified as adequately capitalized;

(2) as significantly undercapitalized, if the enterprise is otherwise classified as undercapitalized; and

(3) as critically undercapitalized, if the enterprise is otherwise classified as significantly undercapitalized.

(c) QUARTERLY DETERMINATION.—The Director shall determine the capital classification of the enterprises for purposes of this

subtitle on not less than a quarterly basis (and as appropriate under subsection (b)). The first such determination shall be made during the 3-month period beginning on the appointment of the Director.

(d) IMPLEMENTATION.—Notwithstanding any other provision of this section, during the period beginning on the date of the enactment of this Act and ending upon the effective date of section 1365 (as provided in section 1365(c)), an enterprise shall be classified as adequately capitalized if the enterprise maintains an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise under section 1362.

12 USC 4615.

SEC. 1365. SUPERVISORY ACTIONS APPLICABLE TO UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as undercapitalized shall, within the time period provided in section 1369C (b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—An enterprise that is classified as undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as significantly undercapitalized or critically undercapitalized.

(b) DISCRETIONARY RECLASSIFICATION FROM UNDERCAPITALIZED TO SIGNIFICANTLY UNDERCAPITALIZED.—The Director may reclassify as significantly undercapitalized an enterprise that is classified as undercapitalized (and the enterprise shall be subject to the provisions of section 1366) if—

(1) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(2) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(c) EFFECTIVE DATE.—This section shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under section 1361(e) establishing the risk-based capital test.

12 USC 4616.

SEC. 1366. SUPERVISORY ACTIONS APPLICABLE TO SIGNIFICANTLY UNDERCAPITALIZED ENTERPRISES.

(a) MANDATORY SUPERVISORY ACTIONS.—

(1) CAPITAL RESTORATION PLAN.—An enterprise that is classified as significantly undercapitalized shall, within the time period under section 1369C (b) and (d), submit to the Director a capital restoration plan that complies with section 1369C and carry out the plan after approval.

(2) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(A) PRIOR APPROVAL.—An enterprise that is classified as significantly undercapitalized may not make any capital distribution that would result in the enterprise being reclassified as critically undercapitalized. An enterprise that is classified as significantly undercapitalized enter-

prise may not make any other capital distribution unless the Director approves the distribution.

(B) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by an enterprise classified as significantly undercapitalized only if the Director determines that the distribution (i) will enhance the ability of the enterprise to meet the risk-based capital level and the minimum capital level for the enterprise promptly, (ii) will contribute to the long-term financial safety and soundness of the enterprise, or (iii) is otherwise in the public interest.

(b) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under subsection (a)), the Director may, at any time, take any of the following actions with respect to an enterprise that is classified as significantly undercapitalized:

(1) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the enterprise, including off-balance sheet obligations.

(2) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the enterprise or require contraction of the assets of the enterprise.

(3) ACQUISITION OF NEW CAPITAL.—Require the enterprise to acquire new capital in a form and amount determined by the Director.

(4) RESTRICTION OF ACTIVITIES.—Require the enterprise to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the enterprise.

(5) RECLASSIFICATION FROM SIGNIFICANTLY TO CRITICALLY UNDERCAPITALIZED.—The Director may reclassify as critically undercapitalized an enterprise that is classified as significantly undercapitalized (and the enterprise shall be subject to the provisions of section 1367) if—

(A) the enterprise does not submit a capital restoration plan that is substantially in compliance with section 1369C within the applicable period or the Director does not approve the capital restoration plan submitted by the enterprise; or

(B) the Director determines that the enterprise has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(6) CONSERVATORSHIP.—Appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsection (a) (1) and (2)), but only if the Director determines—

(A) that the amount of core capital of the enterprise is less than the minimum capital level established for the enterprise under section 1362; and

(B) that alternative remedies available to the Director under this title are not satisfactory.

(c) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

12 USC 4617.

SEC. 1367. APPOINTMENT OF CONSERVATORS FOR CRITICALLY UNDERCAPITALIZED ENTERPRISES.

(a) APPOINTMENT.—

(1) IN GENERAL.—Upon a determination and notice under section 1368(d) that an enterprise is critically undercapitalized and not later than 30 days after providing notice under section 1369(a)(3), the Director shall appoint a conservator for the enterprise in accordance with the provisions of section 1369 (excluding subsections (a) (1) and (2)).

(2) EXCEPTION.—Notwithstanding paragraph (1), the Director may determine not to appoint a conservator for an enterprise classified as critically undercapitalized, but only pursuant to a written finding by the Director, with the written concurrence of the Secretary of the Treasury, that—

(A) the appointment of a conservator would have serious adverse effects on economic conditions of national financial markets or on the financial stability of the housing finance market; and

(B) the public interest would be better served by taking some other enforcement action authorized under this title.

(b) AUTHORITY.—The Director shall have the authority to take any actions under sections 1365 and 1366 with respect to an enterprise under conservatorship.

(c) APPROVAL OF ACTIVITIES.—

(1) CONSERVATOR.—The conservator of any enterprise classified as critically undercapitalized may undertake an activity subject to the approval of the Secretary under section 1322 of this title only with the additional approval of the Director.

(2) NO CONSERVATOR.—If the Director determines under subsection (a)(2) not to appoint a conservator for an enterprise classified as critically undercapitalized, the provisions of section 1366 shall apply with respect to the enterprise.

(d) EFFECTIVE DATE.—This section shall take effect upon the first classification of the enterprises within capital classifications that occurs under section 1364.

12 USC 4618.

SEC. 1368. NOTICE OF CLASSIFICATION AND ENFORCEMENT ACTION.

(a) NOTICE.—Before taking any action referred to in subsection (b), the Director shall provide to the enterprise written notice of the proposed action, which states the reasons for the proposed action and the information on which the proposed action is based.

(b) APPLICABILITY.—The requirements of subsection (a) shall apply to the following actions:

(1) Classification or reclassification of an enterprise within a particular capital classification under section 1364.

(2) Any discretionary supervisory action pursuant to section 1365.

(3) Any discretionary supervisory action pursuant to section 1366 except a decision to appoint a conservator under section 1366(b)(6).

Notice of classification under paragraph (1) and notice of supervisory actions under paragraph (2) or (3) may be provided together in a single notice under subsection (a).

(c) RESPONSE PERIOD.—

(1) IN GENERAL.—During the 30-day period beginning on the date that an enterprise is provided notice under subsection (a) of a proposed action, the enterprise may submit to the

Director any information relevant to the action that the enterprise considers appropriate for consideration by the Director in determining whether to take such action. The Director may, at the discretion of the Director, hold an informal administrative hearing to receive and discuss such information and the proposed determination.

(2) EXTENDED PERIOD.—The Director may extend the period under paragraph (1) for good cause for not more than 30 additional days.

(3) SHORTENED PERIOD.—The Director may shorten the period under paragraph (1) if the Director determines that the condition of the enterprise so requires or the enterprise consents.

(4) FAILURE TO RESPOND.—The failure of an enterprise to provide information during the response period under this subsection (as extended or shortened) shall waive any right of the enterprise to comment on the proposed action of the Director.

(d) CONSIDERATION OF INFORMATION AND DETERMINATION.—After the expiration of the response period under subsection (c) or upon receipt of information provided during such period by the enterprise, whichever occurs earlier, the Director shall determine whether to take the action proposed, taking into consideration any relevant information submitted by the enterprise during the response period. The Director shall provide written notice of a determination to take action and the reasons for such determination to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate. Such notice shall respond to any information submitted during the response period.

(e) EFFECTIVE DATE OF ACTIONS.—An action referred to in subsection (b) shall take effect upon receipt by the enterprise of notice of the determination of the Director under subsection (d), unless otherwise provided in such notice.

SEC. 1369. APPOINTMENT OF CONSERVATORS. 12 USC 4619.

(a) APPOINTMENT.—

(1) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under paragraph (3), appoint a conservator for an enterprise upon a determination in writing—

(A) that alternative remedies available to the Director under this title are not satisfactory; and

(B) that—

(i) the enterprise is not likely to pay its obligations in the normal course of business;

(ii) the enterprise has incurred or is reasonably likely to incur losses that would deplete substantially all of its core capital and it is unlikely that the enterprise will replenish its core capital within a reasonable period;

(iii) the enterprise has concealed or is concealing books, papers, records, or assets of the enterprise that are material to the discharge of the Director's responsibilities under this subtitle, or has refused or is refusing to submit such books, papers, records, or

information regarding the affairs of the enterprise for inspection to the Director upon request; or

(iv) the enterprise has willfully violated, or is willfully violating, a final cease-and-desist order under section 1371.

(2) CONSENT OF ENTERPRISE.—Notwithstanding paragraph (1), the Director may appoint a conservator for an enterprise if the enterprise, by an affirmative vote of a majority of the members of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(3) NOTICE.—Upon making a determination under paragraph (1) of this subsection or under section 1366 or 1367 to appoint a conservator for an enterprise, or upon consent of the enterprise under paragraph (2) to such an appointment, the Director shall provide written notice to the enterprise, the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate—

(A) that a conservator will be appointed for the enterprise;

(B) stating the reasons for the appointment of the conservator; and

(C) identifying the person or governmental agency that the Director intends to appoint as conservator.

(4) QUALIFICATIONS.—The conservator shall be—

(A) the Director or any other governmental agency; or

(B) any person that—

(i) has no claim against, or financial interest in, the enterprise or other basis for a conflict of interest; and

(ii) has the financial and management expertise necessary to direct the operations and affairs of the enterprise.

(b) JUDICIAL REVIEW.—

(1) TIMING AND JURISDICTION.—Except as provided in paragraph (2), an enterprise for which a conservator is appointed (pursuant to this section or section 1366 or 1367) may bring an action in the United States District Court for the District of Columbia for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only during the 20-day period beginning upon the appointment of the conservator.

(2) CONSENSUAL APPOINTMENTS.—Appointment of a conservator pursuant to consent of the enterprise under subsection (a)(2) shall not be subject to judicial review under this subsection.

(3) STANDARD OF REVIEW.—A decision of the Director to appoint a conservator may be set aside under this subsection only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(4) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subsection, no court may take any action regarding

the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(c) REPLACEMENT.—The Director may, without notice or hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the enterprise under subsection (b) to obtain judicial review of the decision of the Director to appoint a conservator.

(d) EXAMINATIONS.—The Director may examine and supervise any enterprise in conservatorship during the period in which the enterprise continues to operate as a going concern.

(e) TERMINATION.—

(1) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under subsection (a) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the enterprise to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(2) MANDATORY.—The Director shall terminate a conservatorship initiated pursuant to section 1366 or 1367 upon a determination by the Director that the enterprise has maintained an amount of core capital that is equal to or exceeds the minimum capital level for the enterprise established under section 1362, and may by written order prescribe such terms, conditions, and limitations on the enterprise as the Director considers appropriate.

(3) TERMS.—Any terms, conditions, and limitations imposed by the Director upon termination of a conservatorship shall be enforceable and reviewable under the provisions of sections 1374 and 1375, to the same extent as any cease-and-desist order issued pursuant to subtitle C.

SEC. 1369A. POWERS OF CONSERVATORS. 12 USC 4620.

(a) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the enterprise under conservatorship and may operate the enterprise in the name of the enterprise, unless the Director provides otherwise.

(b) ADDITIONAL POWER.—A conservator may avoid any security interest taken by a creditor with the intent to hinder, delay, or defraud the enterprise or the creditors of the enterprise.

(c) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in section 1369B, shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the enterprise.

(d) ENFORCEMENT OF CONTRACTS.—

(1) IN GENERAL.—A conservator may enforce any contract described in paragraph (2), notwithstanding any provision of the contract providing for the termination, default, acceleration, or other exercise of rights upon, or solely by reason of, the insolvency of the enterprise or the appointment of a conservator.

(2) ENFORCEABLE CONTRACTS.—Any contract that is within a class of contracts shall be enforceable under paragraph (1) if the Director—

(A) determines that the continued enforceability of such class of contracts is necessary to achieve the purpose of the conservatorship; and

(B) specifically provides for the enforceability of such class of contracts in a regulation or order, issued for the purpose of this subsection, which describes such class.

(3) APPLICABILITY.—This subsection and any regulation or order issued under this subsection shall apply only to contracts entered into, modified, extended, or renewed after the effective date of the regulation or order.

(e) STAYS.—

(1) IN GENERAL.—Not later than 45 days after appointment pursuant to section 1366, 1367, or 1369, or 45 days after receipt of actual notice of an action or proceeding that is pending at the time of appointment, a conservator may request that any judicial action or proceeding to which the conservator or the enterprise is or may become a party be stayed for a period not exceeding 45 days after the request. Upon petition, the court shall grant such stay as to all parties.

(2) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for an enterprise is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under paragraph (1) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(f) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(g) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government for similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(h) EXPENSES.—All expenses of a conservatorship pursuant to this section (including compensation pursuant to subsection (f)) shall be paid by the enterprise under conservatorship and shall be secured by a lien on the enterprise, which shall have priority over any other lien.

(i) CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE.—A conservator shall be subject to any laws and regulations relating to conflicts of interest and financial disclosure that apply to employees of the Office.

12 USC 4621.

SEC. 1369B. LIABILITY PROTECTION FOR CONSERVATORS.

(a) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which a conservator appointed under this subtitle is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or

omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(b) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subsection (a), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence or any form of intentional tortious conduct or criminal conduct.

(c) INDEMNIFICATION.—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

SEC. 1369C. CAPITAL RESTORATION PLANS. 12 USC 4622.

(a) CONTENTS.—Each capital restoration plan submitted under this subtitle shall set forth a feasible plan for restoring the core capital of the enterprise subject to the plan to an amount not less than the minimum capital level for the enterprise and for restoring the total capital of the enterprise to an amount not less than the risk-based capital level for the enterprise. Each capital restoration plan shall—

(1) specify the level of capital the enterprise will achieve and maintain;

(2) describe the actions that the enterprise will take to become classified as adequately capitalized;

(3) establish a schedule for completing the actions set forth in the plan;

(4) specify the types and levels of activities (including existing and new programs) in which the enterprise will engage during the term of the plan; and

(5) describe the actions that the enterprise will take to comply with any mandatory and discretionary requirements imposed under this subtitle.

(b) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the enterprise is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines it necessary. Any extension of the deadline shall be in writing and for a time certain. Regulations.

(c) APPROVAL.—The Director shall review each capital restoration plan submitted under this section and, not later than 30 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 30-day period if the Director determines it necessary. The Director shall provide written notice to any enterprise submitting a plan of the approval or disapproval of the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval.

(d) RESUBMISSION.—If the Director disapproves the initial capital restoration plan submitted by the enterprise, the enterprise shall submit an amended plan acceptable to the Director within 30 days or such longer period that the Director determines is in the public interest.

SEC. 1369D. JUDICIAL REVIEW OF DIRECTOR ACTION. 12 USC 4623.

(a) JURISDICTION.—

(1) FILING OF PETITION.—An enterprise that is not classified as critically undercapitalized and is the subject of a classification under section 1364 or a discretionary supervisory action taken under this subtitle by the Director (other than action to appoint a conservator under section 1366 or 1367 or action under section 1369) may obtain review of the classification or action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the classification or action of the Director be modified, terminated, or set aside.

(2) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(b) SCOPE OF REVIEW.—The Court may modify, terminate, or set aside an action taken by the Director and reviewed by the Court pursuant to this section only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(c) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review pursuant to this section shall not operate as a stay of any action taken by the Director. Pending judicial review of the action, the court shall not have jurisdiction to stay, enjoin, or otherwise delay any supervisory action taken by the Director with respect to an enterprise that is classified as significantly or critically undercapitalized or any action of the Director that results in the classification of an enterprise as significantly or critically undercapitalized.

(d) LIMITATION ON JURISDICTION.—Except as provided in this section, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any classification or action of the Director under this subtitle (other than appointment of a conservator under section 1366 or 1367 or action under section 1369) or to review, modify, suspend, terminate, or set aside such classification or action.

Subtitle C—Enforcement Provisions

12 USC 4631.

SEC. 1371. CEASE-AND-DESIST PROCEEDINGS.

(a) GROUNDS FOR ISSUANCE AGAINST ADEQUATELY CAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise that is classified (for purposes of subtitle B) as adequately capitalized or upon any executive officer or director of such an enterprise, if in the determination of the Director, the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct that threatens to cause a significant depletion of the core capital of the enterprise;

(2) any conduct or violation that may result in the issuance of an order described in subsection (d)(1); or

(3) any conduct that violates—

(A) any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation

under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act; or

(B) any written agreement entered into by the enterprise with the Director.

(b) GROUNDS FOR ISSUANCE AGAINST UNDERCAPITALIZED, SIGNIFICANTLY UNDERCAPITALIZED, AND CRITICALLY UNDERCAPITALIZED ENTERPRISES.—The Director may issue and serve a notice of charges under this section upon an enterprise classified (for purposes of subtitle B) as undercapitalized, significantly undercapitalized, or critically undercapitalized, or any executive officer or director of any such enterprise, if in the determination of the Director the enterprise, executive officer, or director is engaging or has engaged, or the Director has reasonable cause to believe that the enterprise, executive officer, or director is about to engage, in—

(1) any conduct likely to result in a material depletion of the core capital of the enterprise, or

(2) any conduct or violation described in paragraph (2) or (3) of subsection (a),

except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act.

(c) PROCEDURE.—

(1) NOTICE OF CHARGES.—Each notice of charges under this section shall contain a statement of the facts constituting the alleged conduct or violation and shall fix a time and place at which a hearing will be held to determine on the record whether an order to cease and desist from such conduct or violation should issue.

(2) ISSUANCE OF ORDER.—If the Director finds on the record made at such hearing that any conduct or violation specified in the notice of charges has been established (or the enterprise consents pursuant to section 1373(a)(4)), the Director may issue and serve upon the enterprise, executive officer, or director an order requiring such party to cease and desist from any such conduct or violation and to take affirmative action to correct or remedy the conditions resulting from any such conduct or violation.

(d) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this section and section 1372 to issue any order requiring an enterprise, executive officer, or director to take affirmative action to correct or remedy any condition resulting from any conduct or violation with respect to which such order is issued includes the authority—

(1) to require an executive officer or a director to make restitution to, or provide reimbursement, indemnification, or guarantee against loss to the enterprise to the extent that such person—

(A) was unjustly enriched in connection with such conduct or violation; or

(B) engaged in conduct or a violation that would subject such person to a civil penalty pursuant to section 1376(b)(3);

(2) to require an enterprise to seek restitution, or to obtain reimbursement, indemnification, or guarantee against loss;

(3) to restrict the growth of the enterprise;

(4) to require the enterprise to dispose of any asset involved;

(5) to require the enterprise to rescind agreements or contracts;

(6) to require the enterprise to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(7) to require the enterprise to take such other action as the Director determines appropriate.

(e) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this section or section 1372 includes the authority to place limitations on the activities or functions of the enterprise or any executive officer or director of the enterprise.

(f) EFFECTIVE DATE.—An order under this section shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the enterprise, executive officer, or director concerned (except in the case of an order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise, as provided in this subtitle.

12 USC 4632.

SEC. 1372. TEMPORARY CEASE-AND-DESIST ORDERS.

(a) GROUNDS FOR ISSUANCE AND SCOPE.—Whenever the Director determines that any conduct or violation, or threatened conduct or violation, specified in the notice of charges served upon the enterprise, executive officer, or director pursuant to section 1371 (a) or (b), or the continuation thereof, is likely—

(1) to cause insolvency,

(2) to cause a significant depletion of the core capital of the enterprise, or

(3) otherwise to cause irreparable harm to the enterprise, prior to the completion of the proceedings conducted pursuant to section 1371(c), the Director may issue a temporary order requiring the enterprise, executive officer, or director to cease and desist from any such conduct or violation and to take affirmative action to prevent or remedy such insolvency, depletion, or harm pending completion of such proceedings. Such order may include any requirement authorized under section 1371(d).

(b) EFFECTIVE DATE.—An order issued pursuant to subsection (a) shall become effective upon service upon the enterprise, executive officer, or director and, unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable pending the completion of the proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to section 1371.

(c) INCOMPLETE OR INACCURATE RECORDS.—

(1) TEMPORARY ORDER.—If a notice of charges served under section 1371 (a) or (b) specifies on the basis of particular facts and circumstances that the books and records of the enterprise served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the enterprise or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that enterprise, the Director may issue a temporary order requiring—

(A) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(B) affirmative action to restore the books or records to a complete and accurate state.

(2) EFFECTIVE PERIOD.—Any temporary order issued under paragraph (1)—

(A) shall become effective upon service; and

(B) unless set aside, limited, or suspended by a court in proceedings pursuant to subsection (d), shall remain in effect and enforceable until the earlier of—

(i) the completion of the proceeding initiated under section 1371 in connection with the notice of charges; or

(ii) the date the Director determines, by examination or otherwise, that the books and records of the enterprise are accurate and reflect the financial condition of the enterprise.

(d) JUDICIAL REVIEW.—An enterprise, executive officer, or director that has been served with a temporary order pursuant to this section may apply to the United States District Court for the District of Columbia within 10 days after such service for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the enterprise, executive officer, or director under section 1371 (a) or (b). Such court shall have jurisdiction to issue such injunction.

(e) ENFORCEMENT BY ATTORNEY GENERAL.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this section, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order or may, under the direction and control of the Attorney General, bring such an action. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

SEC. 1373. HEARINGS. 12 USC 4633.

(a) REQUIREMENTS.—

(1) VENUE AND RECORD.—Any hearing under section 1371 or 1376(c) shall be held on the record and in the District of Columbia.

(2) TIMING.—Any such hearing shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice of charges under section 1371 or determination to impose a penalty under section 1376, unless an earlier or

a later date is set by the hearing officer at the request of the party served.

(3) PROCEDURE.—Any such hearing shall be conducted in accordance with chapter 5 of title 5, United States Code.

(4) FAILURE TO APPEAR.—If the party served fails to appear at the hearing through a duly authorized representative, such party shall be deemed to have consented to the issuance of the cease-and-desist order or the imposition of the penalty for which the hearing is held.

(b) ISSUANCE OF ORDER.—

(1) IN GENERAL.—After any such hearing, and within 90 days after the parties have been notified that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this subtitle.

(2) MODIFICATION.—Judicial review of any such order shall be exclusively as provided in section 1374. Unless such a petition for review is timely filed as provided in section 1374, and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

12 USC 4634.

SEC. 1374. JUDICIAL REVIEW.

(a) COMMENCEMENT.—Any party to a proceeding under section 1371 or 1376 may obtain review of any final order issued under such section by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(b) FILING OF RECORD.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(c) JURISDICTION.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of section 1373(b)(2)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(d) REVIEW.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(e) ORDER TO PAY PENALTY.—Such court shall have the authority in any such review to order payment of any penalty imposed by the Director under this subtitle.

(f) NO AUTOMATIC STAY.—The commencement of proceedings for judicial review under this section shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

12 USC 4635.

SEC. 1375. ENFORCEMENT AND JURISDICTION.

(a) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this subtitle

or subtitle B or may, under the direction and control of the Attorney General, bring such an action. Such court shall have jurisdiction and power to order and require compliance herewith.

(b) LIMITATION ON JURISDICTION.—Except as otherwise provided in this subtitle and sections 1369 and 1369D, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under section 1371, 1372, or 1376, or subtitle B, or to review, modify, suspend, terminate, or set aside any such notice or order.

SEC. 1376. CIVIL MONEY PENALTIES. 12 USC 4636.

(a) IN GENERAL.—The Director may impose a civil money penalty in accordance with this section on any enterprise, or any executive officer or director of any enterprise, that—

(1) violates any provision of this title, the Federal National Mortgage Association Charter Act, the Federal Home Loan Mortgage Corporation Act, or any order, rule, or regulation under any such title or Act, except that the Director may not enforce compliance with any housing goal established under subpart B of part 2 of subtitle A of this title, with section 1336 or 1337 of this title, or with subsection (m) or (n) of section 309 of the Federal National Mortgage Association Charter Act or subsection (e) or (f) of section 307 of the Federal Home Loan Mortgage Corporation Act;

(2) violates any final or temporary order issued pursuant to section 1365, 1366, 1371, or 1372;

(3) violates any written agreement between the enterprise and the Director; or

(4) engages in any conduct that causes or is likely to cause a loss to the enterprise.

(b) AMOUNT OF PENALTY.—

(1) FIRST TIER.—The Director may impose a penalty on an enterprise for any violation described in paragraphs (1) through (3) of subsection (a). The amount of a penalty under this paragraph shall not exceed $5,000 for each day that a violation continues.

(2) SECOND TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $10,000, or on an enterprise in an amount not to exceed $25,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct—

(A) is part of a pattern of misconduct; or

(B) involved recklessness and caused or would be likely to cause a material loss to the enterprise.

(3) THIRD TIER.—The Director may impose a penalty on an executive officer or director in an amount not to exceed $100,000, or on an enterprise in an amount not to exceed $1,000,000, for each day that a violation or conduct described in subsection (a) continues, if the Director finds that the violation or conduct was knowing and caused or would be likely to cause a substantial loss to the enterprise.

(c) PROCEDURES.—

(1) ESTABLISHMENT.—The Director shall establish standards and procedures governing the imposition of civil money penalties under subsections (a) and (b). Such standards and procedures—

(A) shall provide for the Director to notify the enterprise in writing of the Director's determination to impose the penalty, which shall be made on the record;

(B) shall provide for the imposition of a penalty only after the enterprise, executive officer, or director has been given an opportunity for a hearing on the record pursuant to section 1373; and

(C) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(2) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under this section, the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations, the effect of the penalty on the safety and soundness of the enterprise, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation to be appropriate.

(3) REVIEW OF IMPOSITION OF PENALTY.—The order of the Director imposing a penalty under this section shall not be subject to review, except as provided in section 1374.

(d) ACTION TO COLLECT PENALTY.—If an enterprise, executive officer, or director fails to comply with an order of the Director imposing a civil money penalty under this section, after the order is no longer subject to review as provided under subsection (c)(1) and section 1374, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the enterprise, executive officer, or director and such other relief as may be available, or may, under the direction and control of the Attorney General, bring such an action. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the order of the Director imposing the penalty shall not be subject to review.

(e) SETTLEMENT BY DIRECTOR.—The Director may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(f) AVAILABILITY OF OTHER REMEDIES.—Any civil money penalty under this section shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(g) PROHIBITION OF REIMBURSEMENT OR INDEMNIFICATION.—An enterprise may not reimburse or indemnify any individual for any penalty imposed under subsection (b)(3).

(h) DEPOSIT OF PENALTIES.—The Director shall deposit any civil money penalties collected under this section into the general fund of the Treasury.

(i) APPLICABILITY.—A penalty under this section may be imposed only for conduct or violations under subsection (a) occurring after the date of the enactment of this Act.

12 USC 4637.

SEC. 1377. NOTICE AFTER SEPARATION FROM SERVICE.

The resignation, termination of employment or participation, or separation of a director or executive officer of an enterprise shall not affect the jurisdiction and authority of the Director to

issue any notice and proceed under this subtitle against any such director or executive officer, if such notice is served before the end of the 2-year period beginning on the date such director or executive officer ceases to be associated with the enterprise.

SEC. 1378. PRIVATE RIGHTS OF ACTION. 12 USC 4638.

This title and the amendments made by this title shall not create any private right of action on behalf of any person against an enterprise, or any director or executive officer of an enterprise, or impair any existing private right of action under other applicable law.

SEC. 1379. PUBLIC DISCLOSURE OF FINAL ORDERS AND AGREEMENTS. 12 USC 4639.

(a) IN GENERAL.—The Director shall make available to the public—

(1) any written agreement or other written statement for which a violation may be redressed by the Director or any modification to or termination thereof, unless the Director, in the Director's discretion, determines that public disclosure would be contrary to the public interest;

(2) any order that is issued with respect to any administrative enforcement proceeding initiated by the Director under this subtitle and that has become final in accordance with sections 1373 and 1374; and

(3) any modification to or termination of any final order made public pursuant to this subsection.

(b) HEARINGS.—All hearings on the record with respect to any notice of charges issued by the Director shall be open to the public, unless the Director, in the Director's discretion, determines that holding an open hearing would be contrary to the public interest.

(c) DELAY OF PUBLIC DISCLOSURE UNDER EXCEPTIONAL CIRCUMSTANCES.—If the Director makes a determination in writing that the public disclosure of any final order pursuant to subsection (a) would seriously threaten the financial health or security of the enterprise, the Director may delay the public disclosure of such order for a reasonable time.

(d) DOCUMENTS FILED UNDER SEAL IN PUBLIC ENFORCEMENT HEARINGS.—The Director may file any document or part thereof under seal in any hearing commenced by the Director if the Director determines in writing that disclosure thereof would be contrary to the public interest.

(e) RETENTION OF DOCUMENTS.—The Director shall keep and maintain a record, for not less than 6 years, of all documents described in subsection (a) and all enforcement agreements and other supervisory actions and supporting documents issued with respect to or in connection with any enforcement proceeding initiated by the Director under this subtitle or any other law. Records.

(f) DISCLOSURES TO CONGRESS.—This section may not be construed to authorize the withholding, or to prohibit the disclosure, of any information to the Congress or any committee or subcommittee thereof.

SEC. 1379A. NOTICE OF SERVICE. 12 USC 4640.

Any service required or authorized to be made by the Director under this subtitle may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

12 USC 4641.

SEC. 1379B. SUBPOENA AUTHORITY.

(a) IN GENERAL.—In the course of or in connection with any administrative proceeding under this subtitle, the Director shall have the authority—

(1) to administer oaths and affirmations;

(2) to take and preserve testimony under oath;

(3) to issue subpoenas and subpoenas duces tecum; and

(4) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(b) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this section may be required from any place in any State at any designated place where such proceeding is being conducted.

(c) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this section or may, under the direction and control of the Attorney General, bring such an action. Such courts shall have jurisdiction and power to order and require compliance therewith.

(d) FEES AND EXPENSES.—Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this section by an enterprise may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the enterprise or from its assets.

Subtitle D—Amendments to Charter Acts of Enterprises

SEC. 1381. AMENDMENTS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION CHARTER ACT.

(a) PURPOSES.—Section 301 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716) is amended—

(1) by striking "home" each place it appears and inserting "residential";

(2) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking "and" at the end;

(3) by redesignating paragraph (4) as paragraph (5);

(4) by inserting after paragraph (3) the following new paragraph:

"(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and

improving the distribution of investment capital available for residential mortgage financing; and".

(b) HIGH COST AREAS.—The last sentence of section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(c) SECRETARY'S APPROVAL AUTHORITY.—Section 302(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)) is amended—

(1) in the first sentence of paragraph (2), by striking "and with the approval of the Secretary of Housing and Urban Development,";

(2) in the first sentence of paragraph (3), by striking ", with the approval of the Secretary of Housing and Urban Development,";

(3) in the first sentence of paragraph (4), by striking ", with the approval of the Secretary of Housing and Urban Development,"; and

(4) by adding at the end the following new paragraph:

"(6) The corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

(d) CAPITALIZATION.—Section 303 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1718) is amended—

(1) in subsection (a), by inserting after the period at the end the following new sentence: "The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.";

(2) by striking subsections (b) and (c) and inserting the following new subsections:

"(b)(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

"(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

"(c)(1) Except as provided in paragraph (2), the corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the board of directors. All capital distributions shall be charged against the general surplus account of the corporation.

"(2) The corporation may not make any capital distribution that would decrease the total capital of the corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the corporation established under section 1361 of such Act or that would decrease the core capital of the corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director

of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.";

(3) in subsection (f)—

(A) by striking "to make payments" and all that follows through "such capital contributions,"; and

(B) by striking "additional shares of such stock," and inserting "shares of common stock of the corporation"; and

(4) by redesignating subsection (f) (as so amended) as subsection (d).

(e) RATIO OF OBLIGATIONS.—Section 304 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719) is amended—

(1) in subsection (b), by striking the semicolon in the first sentence and all that follows through the end of the second sentence and inserting a period; and

(2) in subsection (e), by striking the fourth sentence.

(f) STATEMENT IN SECURITIES.—Section 304(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(d)) is amended by inserting after the period at the end the following new sentence: "The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the corporation.".

(g) ASSESSMENTS FOR OFFICE OF FEDERAL HOUSING ENTERPRISE OVERSIGHT.—The first sentence of section 304(f) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(f)) is amended by inserting before the first comma the following: "of this Act and assessments pursuant to section 1316 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(h) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households".

12 USC 1723 note.

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the board of directors of the Federal National Mortgage Association that occurs after the date of the enactment of this Act.

(i) REMOVAL AUTHORITY OF PRESIDENT.—The third sentence of section 308(b) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723(b)) is amended by inserting "appointed" after "any such".

(j) COMPENSATION.—Section 309(d) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(d)) is amended—

(1) in the first sentence of paragraph (2) by striking "as it may determine" and inserting the following: "as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including

other publicly held financial institutions or major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in paragraph (3)(C)) of the corporation shall be based on the performance of the corporation"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Not later than June 30, 1993, and annually thereafter, the corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the corporation during the preceding year that was based on the corporation's performance, and (iii) the comparability of the corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the corporation's proxy statement for the annual meeting of shareholders for the preceding year. Reports.

"(B) Notwithstanding the first sentence of paragraph (2), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(k) GENERAL REGULATORY AUTHORITY.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by striking subsections (h) and (i).

(l) GAO AUDITS.—Section 309(j) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(j)) is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (l), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(m) FINANCIAL REPORTS TO DIRECTOR.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding at the end the following new subsection:

"(k)(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the corporation; and

"(ii) the compliance of the corporation with designated safety and soundness laws.

"(3) The corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the board of directors of the corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(n) AUDITS OF FINANCIAL STATEMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (k) (as added by subsection (m) of this section) the following new subsection:

"(l)(1) The corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (k)(2)(B).".

(o) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after sub-

section (l) (as added by subsection (n) of this section) the following new subsection:

"(m)(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the corporation.".

(p) REPORT ON HOUSING ACTIVITIES.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (m) (as added by subsection (o) of this section) the following new subsection:

"(n)(1) The corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (m)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

Public information.

"(3)(A) The corporation shall make each report under this subsection available to the public at the principal and regional offices of the corporation.

"(B) Before making a report under this subsection available to the public, the corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(q) HOUSING ADVISORY COUNCIL.—Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended by adding after subsection (n) (as added by subsection (p) of this section) the following new subsection:

"(o)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the corporation shall appoint an Affordable Housing Advisory Council to advise the corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

(r) STOCK ISSUANCES.—The second sentence of section 311 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723c) is amended by striking all that follows "Commission" and inserting a period.

(s) TECHNICAL AMENDMENTS.—

(1) Section 302(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(c)) is amended—

(A) in paragraph (2)—

(i) in the first sentence following subparagraph (F), by striking "him" and inserting "the trustor"; and

(ii) in the last sentence, by striking "his" each place it appears and inserting "the trustor's"; and

(B) in paragraph (3), by striking "he" each place it appears and inserting "the trustor".

(2) Section 304(c) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1719(c)) is amended—

(A) by striking "his" each place it appears and inserting "the Secretary's"; and

(B) in the fourth sentence—

(i) by striking "he" and inserting "the Secretary"; and

(ii) by striking "him" and inserting "the Secretary".

(3) Section 309 of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a) is amended—

(A) in subsection (d)(2)—

(i) in the third sentence, by striking "his employment" each place it appears and inserting "the employment of such officer or employee"; and

(ii) in the last sentence, by striking "his basic pay" and inserting "the basic pay of such person"; and

(B) in subsection (e), by striking "he or it" and inserting "the individual, association, partnership, or corporation".

SEC. 1382. AMENDMENTS TO FEDERAL HOME LOAN MORTGAGE CORPORATION ACT.

(a) PURPOSES.—Section 301(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 note) is amended—

(1) by striking "home" each place it appears in paragraphs (1) and (3) and inserting "residential";

(2) by striking "and" at the end of paragraph (2);

(3) in paragraph (3)—

(A) by striking the parentheses and all the matter contained therein and inserting the following: "(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)"; and

(B) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing.".

(b) DEFINITIONS.—The third sentence of section 302(h) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451(h)) is amended by striking "made" and all that follows through "305(a)(1)" and inserting "purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate".

(c) BOARD OF DIRECTORS.—

(1) IN GENERAL.—The second sentence of section 303(a)(2)(A) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(A)) is amended—

(A) by striking "and" after the second comma; and

(B) by inserting before the period at the end the following: ", and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households".

12 USC 1452 note.

(2) IMPLEMENTATION.—The amendments made by paragraph (1) shall apply to the first annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act.

(d) REMOVAL AUTHORITY OF PRESIDENT.—Section 303(a)(2)(B) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(a)(2)(B)) is amended by inserting before the period at the end the following: ", except that any appointed member may be removed from office by the President for good cause".

(e) GENERAL REGULATORY AUTHORITY.—Section 303(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(b)) is amended to read as follows:

"(b)(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) as may be declared by the Board of Directors.

"(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Corporation established under section 1361 of such Act or that would decrease the core capital of the Corporation (as such term is defined in section 1303 of such Act) to an amount less than the minimum capital level for the Corporation established under section 1362 of such Act, without prior written approval of the distribution by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.".

(f) COMPENSATION.—Section 303 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452) is amended—

(1) in clause (9) of the first sentence of subsection (c), by inserting after "agents" the following: "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation"; and

(2) by adding at the end the following new subsection:

"(h)(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year. Reports.

"(2) Notwithstanding the first sentence of subsection (c), after the date of the enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under

the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(3) For purposes of this subsection, the term 'executive officer' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(g) POWERS OF CORPORATION.—Section 303(c) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(c)) is amended by striking the second sentence.

(h) REPEAL OF PROHIBITION ON PREJUDGMENT ATTACHMENT.—Section 303(f) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1452(f)) is amended by striking the last sentence.

(i) CAPITAL STOCK.—Section 304 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1453) is amended—

(1) by striking subsections (b), (c), and (d);

(2) in subsection (a)(1), by striking "(1) The common stock" and all that follows and inserting the following: "The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation."; and

(3) in subsection (a)(2)—

(A) in the first sentence, by striking "nonvoting common stock and the";

(B) by striking the last sentence; and

(C) by striking the paragraph designation and inserting "(b)".

(j) MORTGAGE SELLERS.—Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(1)) is amended—

(1) in the first sentence, by striking "from any Federal home loan bank" and all that follows through the end of the sentence and inserting a period; and

(2) in the second sentence, by striking ", and the servicing" and all that follows through the end of the sentence and inserting a period.

(k) HIGH COST AREAS.—The last sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) is amended by striking "and Hawaii" and inserting "Hawaii, and the Virgin Islands".

(l) REPEAL OF PROHIBITION ON MORTGAGE LIMITATIONS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by striking subsection (c).

(m) PRIOR APPROVAL OF SECRETARY FOR NEW PROGRAMS.—Section 305 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454) is amended by inserting after subsection (b) the following new subsection:

"(c) The Corporation may not implement any new program (as such term is defined in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992) before obtaining the approval of the Secretary under section 1322 of such Act.".

(n) OBLIGATIONS AND SECURITIES AND ASSESSMENTS FOR OFFICE.—Section 306 of the Federal Home Loan Mortgage Corporation (12 U.S.C. 1455) is amended—

(1) in subsection (h)—

(A) by inserting "(1)" after "(h)"; and

(B) by adding at the end the following new paragraph:

"(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 305 clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation."; and

(2) in the first sentence of subsection (i), by striking "section 303(c) or 306(c)" and inserting the following: "sections 303(c) and 1316(c) of this Act and assessments pursuant to section 106 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992".

(o) GAO AUDITS.—Section 307(b) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking the first sentence and inserting the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General."; and

(3) by adding at the end the following new paragraph:

"(2) To carry out this subsection, the representatives of the General Accounting Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.".

(p) FINANCIAL REPORTS TO DIRECTOR.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding at the end the following new subsection:

"(c)(1) The Corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

"(2) Each such annual report shall include—

"(A) financial statements prepared in accordance with generally accepted accounting principles;

"(B) any supplemental information or alternative presentation that the Director may require; and

"(C) an assessment (as of the end of the Corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—

"(i) the effectiveness of the internal control structure and procedures of the Corporation; and

"(ii) the compliance of the Corporation with designated safety and soundness laws.

"(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.".

(q) AUDITS OF FINANCIAL STATEMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (c) (as added by subsection (p) of this section) the following new subsection:

"(d)(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

"(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B).".

(r) MORTGAGE DATA COLLECTION AND REPORTING REQUIREMENTS.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (d) (as added by subsection (q) of this section) the following new subsection:

"(e)(1) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

"(A) the income, census tract location, race, and gender of mortgagors under such mortgages;

"(B) the loan-to-value ratios of purchased mortgages at the time of origination;

"(C) whether a particular mortgage purchased is newly originated or seasoned;

"(D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and

"(E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

"(2) The Corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

"(A) census tract location of the housing;

"(B) income levels and characteristics of tenants of the housing (to the extent practicable);

"(C) rent levels for units in the housing;

"(D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);

"(E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);

"(F) use of funds (such as new construction, rehabilitation, refinancing);

"(G) type of originating institution; and

"(H) any other information that the Secretary considers appropriate, to the extent practicable.

"(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

"(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation.".

(s) REPORT ON HOUSING ACTIVITIES.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (e) (as added by subsection (r) of this section) the following new subsection:

"(f)(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Secretary a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

"(2) The report under this subsection shall—

"(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

"(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

"(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

"(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

"(E) include, in aggregate form and by appropriate category, the data provided to the Secretary under subsection (e)(1)(B);

"(F) compare the level of securitization versus portfolio activity;

"(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

"(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

"(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

"(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

"(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 105 of the Cranston-Gonzalez National Affordable Housing Act; and

"(L) include any other information that the Secretary considers appropriate.

Public information.

"(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

"(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Secretary has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.".

(t) HOUSING ADVISORY COUNCIL.—Section 307 of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1456) is amended by adding after subsection (f) (as added by subsection (s) of this section) the following new subsection:

"(g)(1) Not later than 4 months after the date of enactment of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

"(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.".

Regulations. 12 USC 1451 note.

SEC. 1383. IMPLEMENTATION.

(a) IN GENERAL.—The Secretary of Housing and Urban Development and the Director, as appropriate, shall issue any final regulations necessary to implement the amendments made by this subtitle not later than the expiration of the 18-month period beginning on the date of the enactment of this Act.

(b) NOTICE AND COMMENT.—The regulations under this section shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code.

Subtitle E—Regulation of Federal Home Loan Bank System

SEC. 1391. PRIMACY OF FINANCIAL SAFETY AND SOUNDNESS FOR FEDERAL HOUSING FINANCE BOARD.

Section 2A(a)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(a)(3)) is amended to read as follows:

"(3) DUTIES.—

"(A) SAFETY AND SOUNDNESS.—The primary duty of the Board shall be to ensure that the Federal Home Loan Banks operate in a financially safe and sound manner.

"(B) OTHER DUTIES.—To the extent consistent with subparagraph (A), the duties of the Board shall also be—

"(i) to supervise the Federal Home Loan Banks;

"(ii) to ensure that the Federal Home Loan Banks carry out their housing finance mission; and

"(iii) to ensure that the Federal Home Loan Banks remain adequately capitalized and able to raise funds in the capital markets.".

SEC. 1392. ADVANCES UNDER FEDERAL HOME LOAN BANK ACT.

(a) ADVANCES TO NONQUALIFIED THRIFT LENDER MEMBERS.—Section 10(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1430(e)(2)) is amended by striking the second sentence and inserting the following new sentence: "The aggregate amount of the advances by the Federal Home Loan Bank System to members that are not qualified thrift lenders shall not exceed 30 percent of the total advances of the Federal Home Loan Bank System.".

(b) EXCEPTION TO REQUIREMENTS FOR ADVANCES.—Section 10b of the Federal Home Loan Bank Act (12 U.S.C. 1430b) is amended—

(1) in the first sentence, by inserting before "Each" the following new subsection designation and heading: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) EXCEPTION.—An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of the Internal Revenue Code of 1986, need not be collateralized by a mortgage insured under title II of the National Housing Act or otherwise, if—

"(1) such advance otherwise meets the requirements of this subsection; and

"(2) such advance meets the requirements of section 10(a) of this Act, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.".

SEC. 1393. STUDIES REGARDING FEDERAL HOME LOAN BANK SYSTEM.

(a) IN GENERAL.—The Federal Housing Finance Board, the Comptroller General of the United States, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each conduct a study analyzing and making appropriate recommendations with respect to the following topics:

(1) The appropriate capital standards for the Federal Home Loan Bank System.

(2) The relationship between the capital standards for the Federal Home Loan Bank System and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(3) The relationship between the capital standards for federally insured depository institutions and the capital standards under this title for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) The advantages and disadvantages of expanding credit products and services for member institutions of the Federal Home Loan Bank System, including a determination of the feasibility of Federal Home Loan Banks (A) purchasing housing-related assets from member institutions, (B) providing credit enhancements and other products to members in addition to making advances, and (C) making direct loans for housing construction.

(5) The advantages and disadvantages of expanding eligible collateral for advances to member institutions of the Federal Home Loan Bank System by removing the limits on the amount of housing-related assets that member institutions can use to collateralize advances.

(6) The advantages and disadvantages of further measures to expand the role of the Federal Home Loan Bank System as a support mechanism for community-based lenders and to reinforce the overall role of the System in housing finance.

(7) The advantages and disadvantages of measures to increase membership in, and increase the profitability of, the System by modifying—

(A) restrictions on membership and stock purchases of nonqualified thrift lenders;

(B) the overall advance limit imposed on the Federal Home Loan Bank System to nonqualified thrift lenders; and

(C) the membership requirement for qualified thrift lenders.

(8) The competitive effect of the mortgage activities of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation on the home mortgage activities of federally insured depository institutions and the cost of such activities to such institutions, the Savings Association Insurance Fund, and the Resolution Trust Corporation.

(9) The likelihood that the Federal Home Loan Banks will be able to continue to pay the amounts required under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(10) The extent to which a reduction in the number of Federal Home Loan Banks would reduce noninterest costs of the System.

(11) The impact that a reduction in the number of Federal Home Loan Banks would have on the effectiveness of affordable housing programs and community support programs under the Federal Home Loan Bank System.

(12) The impact that a reduction in the number of Federal Home Loan Banks would have on the availability of affordable housing in rural areas and the ability of small rural financial institutions to provide housing financing.

(13) The current and prospective impact of the Federal Home Loan Bank System on—

(A) the availability and affordability of housing for low- and moderate-income households; and

(B) the relative availability of housing credit across geographic areas, with particular regard to differences depending on whether properties are inside or outside of central cities.

(14) The appropriateness of extending to the Federal Home Loan Bank System the public purposes and housing goals established for the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation under this title, the Federal National Mortgage Association Charter Act, and the Federal Home Loan Mortgage Corporation Act.

(b) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Federal Housing Finance Board, the Comptroller General, the Director of the Congressional Budget Office, and the Secretary of Housing and Urban Development shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the studies required under subsection (a) containing any recommendations for legislative action based on the results of the studies.

(c) COMMENTS.—The Secretary of the Treasury, the Director of the Office of Federal Housing Enterprise Oversight, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association shall each submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate any recommendations and opinions regarding the studies under subsection (a), to the extent that the recommendations and views of such officers and entities differ from the recommendations and opinions of the Federal Housing Finance Board, the Comptroller General, the Director of Congressional Budget Office, and the Secretary of Housing and Urban Development.

(d) DEFINITION.—For purposes of this section, the term "housing-related assets" means residential mortgages, residential mortgage-related securities, loans or loan participations secured by residential real estate, housing production loans, and warehouse lines of credit for residential mortgage banking activities.

SEC. 1394. REPORT OF FEDERAL HOME LOAN BANK MEMBERS.

Establishment.

(a) IN GENERAL.—The Federal Home Loan Banks shall establish a committee to be known as the Study Committee. The Study Committee shall be comprised of 24 members, of whom 2 shall be elected by the Board of Directors of each Federal Home Loan Bank from among officers or directors of stockholder institutions of the Federal Home Loan Bank. Each Federal Home Loan Bank shall elect members to the Study Committee not later than 45 days after the date of the enactment of this Act.

(b) STUDY AND REPORT.—The Study Committee referred to in subsection (a) shall conduct a study on the topics referred to in section 1391(a) and on the costs and benefits of consolidation of the Federal Home Loan Bank System. Not later than 6 months after the date of the enactment of this Act, the Study Committee shall submit a report to the Committee on Banking, Finance and

Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, the Federal Housing Finance Board, and the presidents of the Federal Home Loan Banks on its findings, including any recommendations for legislative or administrative action, together with any minority views or recommendations.

SEC. 1395. REPORTS REGARDING CONSOLIDATION OF FEDERAL HOME LOAN BANK SYSTEM.

Not later than 6 months after the date of the enactment of this Act, the Board of Directors of each Federal Home Loan Bank shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report of the directors' evaluation of the costs and benefits of consolidating the Federal Home Loan Bank System.

Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992.

TITLE XIV—HOUSING PROGRAMS UNDER STEWART B. MCKINNEY HOMELESS ASSISTANCE ACT

Subtitle A—Housing Assistance

42 USC 11301 note.

SEC. 1401. SHORT TITLE.

This title may be cited as the "Stewart B. McKinney Homeless Housing Assistance Amendments Act of 1992".

SEC. 1402. EMERGENCY SHELTER GRANTS PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $138,000,000 for fiscal year 1993 and $143,796,000 for fiscal year 1994.".

(b) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 415(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)) is amended—

(1) at the end of paragraph (1), by striking the period and inserting a semicolon;

(2) at the end of paragraph (3), by striking "and";

(3) in paragraph (4)—

(A) by inserting "it will" after "State,"; and

(B) by striking "and" at the end;

(4) in paragraph (5)—

(A) by inserting "it will" before "develop"; and

(B) by striking the period at the end and inserting a semicolon;

(5) in the paragraph that follows paragraph (5) (as added by section 832(h)(3) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625; 104 Stat. 4362))—

(A) by redesignating the paragraph as paragraph (6); and

(B) by striking the period at the end and inserting "; and"; and

(6) by adding at the end the following new paragraph:

"(7) to the maximum extent practicable, it will involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted under this subtitle, in providing services assisted under this subtitle, and in providing services for occupants of facilities assisted under this subtitle.".

(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding at the end the following new subsection:

"(d) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient that is not a State to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient, to the extent that such entity considers and makes policies and decisions regarding any facility, services, or other assistance of the recipient assisted under this subtitle. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.". Regulations.

(d) TERMINATION OF ASSISTANCE.—Section 415 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375) is amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

"(e) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals affected, which may include a hearing.".

(e) ELIGIBILITY OF STAFF COSTS.—Section 414(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(3)) is amended—

(1) by striking "(other than staff)"; and

(2) by inserting before the period at the end the following: ", except that not more than 10 percent of the amount of any grant received under this subtitle may be used for costs of staff".

SEC. 1403. SUPPORTIVE HOUSING PROGRAM.

(a) IN GENERAL.—Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by striking subtitles C and D and inserting the following new subtitle: 42 USC 11381-11394.

"Subtitle C—Supportive Housing Program

"SEC. 421. PURPOSE. 42 USC 11381.

"The purpose of the program under this subtitle is to promote the development of supportive housing and supportive services, including innovative approaches to assist homeless persons in the transition from homelessness, and to promote the provision of

supportive housing to homeless persons to enable them to live as independently as possible.

42 USC 11382.

"SEC. 422. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'applicant' means a State, Indian tribe, metropolitan city, urban county, governmental entity, private nonprofit organization, or community mental health association that is a public nonprofit organization, that is eligible to receive assistance under this subtitle and submits an application under section 426(a).

"(2) The term 'disability' means—

"(A) a disability as defined in section 223 of the Social Security Act,

"(B) to be determined to have, pursuant to regulations issued by the Secretary, a physical, mental, or emotional impairment which (i) is expected to be of long-continued and indefinite duration, (ii) substantially impedes an individual's ability to live independently, and (iii) of such a nature that such ability could be improved by more suitable housing conditions,

"(C) a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, or

"(D) the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agency for acquired immunodeficiency syndrome.

Subparagraph (D) shall not be construed to limit eligibility under subparagraphs (A) through (C) or the provisions referred to in subparagraphs (A) through (C).

"(3) The term 'Indian tribe' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

"(4) The term 'metropolitan city' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"(5) The term 'operating costs' means expenses incurred by a recipient operating supportive housing under this subtitle with respect to—

"(A) the administration, maintenance, repair, and security of such housing;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) the conducting of the assessment under section 426(c)(2).

"(6) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management.

"(7) The term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(8) The term 'project' means a structure or structures (or a portion of such structure or structures) that is acquired, rehabilitated, constructed, or leased with assistance provided under this subtitle or with respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle, or supportive services.

"(9) The term 'recipient' means any governmental or nonprofit entity that receives assistance under this subtitle.

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) The term 'supportive housing' means a project that meets the requirements of section 424.

"(13) The term 'supportive services' means services under section 425.

"(14) The term 'urban county' has the meaning given the term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 423. ELIGIBLE ACTIVITIES. 42 USC 11383.

"(a) IN GENERAL.—The Secretary may provide any project with one or more of the following types of assistance under this subtitle:

"(1) ACQUISITION AND REHABILITATION.—A grant, in an amount not to exceed $200,000, for the acquisition, rehabilitation, or acquisition and rehabilitation, of an existing structure (including a small commercial property or office space) to provide supportive housing other than emergency shelter or to provide supportive services; except that the Secretary may increase the dollar limitation under this sentence to not more than $400,000 for areas that the Secretary finds have high acquisition and rehabilitation costs. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for a grant under this paragraph if the structure was not used as supportive housing, or to provide supportive services, before the receipt of assistance.

"(2) NEW CONSTRUCTION.—A grant, in an amount not to exceed $400,000, for new construction of a structure to provide supportive housing.

"(3) LEASING.—A grant for leasing of an existing structure or structures, or portions thereof, to provide supportive housing or supportive services during the period covered by the application. Grant recipients may reapply for such assistance as needed to continue the use of such structure for purposes of this subtitle.

"(4) OPERATING COSTS.—Annual payments for operating costs of housing assisted under this subtitle, not to exceed 75 percent of the annual operating costs of such housing. Grant recipients may reapply for such assistance as needed to continue the use of the housing for purposes of this subtitle.

"(5) SUPPORTIVE SERVICES.—A grant for costs of supportive services provided to homeless individuals. Any recipient, includ-

ing program recipients under title IV of this Act before the date of the enactment of the Housing and Community Development Act of 1992, may reapply for such assistance or for the renewal of such assistance to continue services funded under prior grants or to provide other services.

"(6) TECHNICAL ASSISTANCE.—Technical assistance in carrying out the purposes of this subtitle.

"(b) USE RESTRICTIONS.—

"(1) ACQUISITION, REHABILITATION, AND NEW CONSTRUCTION.—Projects assisted under subsection (a) (1) or (2) shall be operated for not less than 20 years for the purpose specified in the application.

"(2) OTHER ASSISTANCE.—Projects assisted under subsection (a) (3), (4), (5), or (6) (but not under subsection (a) (1) or (2)) shall be operated for the purposes specified in the application for the duration of the period covered by the grant.

"(3) CONVERSION.—If the Secretary determines that a project is no longer needed for use as supportive housing and approves the use of the project for the direct benefit of low-income persons pursuant to a request for such use by the recipient operating the project, the Secretary may authorize the recipient to convert the project to such use.

"(c) REPAYMENT OF ASSISTANCE AND PREVENTION OF UNDUE BENEFITS.—

"(1) REPAYMENT.—The Secretary shall require recipients to repay 100 percent of any assistance received under subsection (a) (1) or (2) if the project ceases to be used as supportive housing within 10 years after the project is placed in service. If such project is used as supportive housing for more than 10 years, the Secretary shall reduce the percentage of the amount required to be repaid by 10 percentage points for each year in excess of 10 that the project is used as supportive housing.

"(2) PREVENTION OF UNDUE BENEFITS.—Except as provided in paragraph (3), upon any sale or other disposition of a project assisted under subsection (a) (1) or (2) occurring before the expiration of the 20-year period beginning on the date that the project is placed in service, the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from such sale or disposition.

"(3) EXCEPTION.—A recipient shall not be required to comply with the terms and conditions prescribed under paragraphs (1) and (2) if the sale or disposition of the project results in the use of the project for the direct benefit of very low-income persons or if all of the proceeds are used to provide supportive housing meeting the requirements of this subtitle.

42 USC 11384.

"SEC. 424. SUPPORTIVE HOUSING.

"(a) IN GENERAL.—Housing providing supportive services for homeless individuals shall be considered supportive housing for purposes of this subtitle if—

"(1) the housing is safe and sanitary and meets any applicable State and local housing codes and licensing requirements in the jurisdiction in which the housing is located; and

"(2) the housing—

"(A) is transitional housing;

"(B) is permanent housing for homeless persons with disabilities; or

"(C) is, or is part of, a particularly innovative project for, or alternative methods of, meeting the immediate and long-term needs of homeless individuals and families.

"(b) TRANSITIONAL HOUSING.—For purposes of this section, the term 'transitional housing' means housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months or such longer period as the Secretary determines necessary. The Secretary may deny assistance for housing based on a violation of this subsection only if the Secretary determines that a substantial number of homeless individuals or families have remained in the housing longer than such period.

"(c) PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.—For purposes of this section, the term 'permanent housing for homeless persons with disabilities' means community-based housing for homeless persons with disabilities that provides long-term housing and supportive services for not more than—

"(1) 8 such persons in a single structure or contiguous structures;

"(2) 16 such persons, but only if not more than 20 percent of the units in a structure are designated for such persons; or

"(3) more than 16 persons if the applicant demonstrates that local market conditions dictate the development of a large project and such development will achieve the neighborhood integration objectives of the program within the context of the affected community.

"(d) SINGLE ROOM OCCUPANCY DWELLINGS.—A project may provide supportive housing or supportive services in dwelling units that do not contain bathrooms or kitchen facilities and are appropriate for use as supportive housing or in projects containing some or all such dwelling units.

"SEC. 425. SUPPORTIVE SERVICES. 42 USC 11385.

"(a) IN GENERAL.—To the extent practicable, each project shall provide supportive services for residents of the project and homeless persons using the project, which may be designed by the recipient or participants.

"(b) REQUIREMENTS.—Supportive services provided in connection with a project shall address the special needs of individuals (such as homeless persons with disabilities and homeless families with children) intended to be served by a project.

"(c) SERVICES.—Supportive services may include such activities as (A) establishing and operating a child care services program for homeless families, (B) establishing and operating an employment assistance program, (C) providing outpatient health services, food, and case management, (D) providing assistance in obtaining permanent housing, employment counseling, and nutritional counseling, (E) providing security arrangements necessary for the protection of residents of supportive housing and for homeless persons using the housing or project, (F) providing assistance in obtaining other Federal, State, and local assistance available for such residents (including mental health benefits, employment counseling, and medical assistance, but not including major medical equipment), and (G) providing other appropriate services.

"(d) PROVISION OF SERVICES.—Services provided pursuant to this section may be provided directly by the recipient or by contract with other public or private service providers. Such services may be provided to homeless individuals who do not reside in supportive housing.

"(e) COORDINATION WITH SECRETARY OF HEALTH AND HUMAN SERVICES.—

"(1) APPROVAL.—Promptly upon receipt of any application for assistance under this subtitle that includes the provision of outpatient health services, the Secretary of Housing and Urban Development shall consult with the Secretary of Health and Human Services with respect to the proposed outpatient health services. If, within 45 days of such consultation, the Secretary of Health and Human Services determines that the proposal for delivery of the outpatient health services does not meet guidelines for determining the appropriateness of such proposed services, the Secretary of Housing and Urban Development may require resubmission of the application, and the Secretary of Housing and Urban Development may not approve such portion of the application unless and until such portion has been resubmitted in a form that the Secretary of Health and Human Services determines meets such guidelines.

"(2) GUIDELINES.—The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining the appropriateness of proposed outpatient health services under this section. Such guidelines shall include any provisions necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this subtitle for the final selection of applications for assistance.

42 USC 11386.

"SEC. 426. PROGRAM REQUIREMENTS.

"(a) APPLICATIONS.—

"(1) FORM AND PROCEDURE.—Applications for assistance under this subtitle shall be submitted by applicants in the form and in accordance with the procedures established by the Secretary. The Secretary may not give preference or priority to any application on the basis that the application was submitted by any particular type of applicant entity.

"(2) CONTENTS.—The Secretary shall require that applications contain at a minimum—

"(A) a description of the proposed project, including the activities to be undertaken;

"(B) a description of the size and characteristics of the population that would occupy the supportive housing assisted under this subtitle;

"(C) a description of the public and private resources that are expected to be made available for the project;

"(D) in the case of projects assisted under section 423(a)(1) or (2), assurances satisfactory to the Secretary that the project will be operated for not less than 20 years for the purpose specified in the application;

"(E) in the case of projects assisted under this title that do not receive assistance under such sections, annual assurances during the period specified in the application

that the project will be operated for the purpose specified in the application for such period;

"(F) a certification from the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the project is located that the proposed project is consistent with the approved housing strategy of such State or unit of general local government; and

"(G) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(3) SITE CONTROL.—The Secretary shall require that each application include reasonable assurances that the applicant will own or have control of a site for the proposed project not later than the expiration of the 12-month period beginning upon notification of an award for grant assistance, unless the application proposes providing supportive housing assisted under section 423(a)(3) or housing that will eventually be owned or controlled by the families and individuals served. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If any recipient fails to obtain ownership or control of the site within 12 months after notification of an award for grant assistance, the grant shall be recaptured and reallocated under this subtitle.

"(b) SELECTION CRITERIA.—The Secretary shall select applicants approved by the Secretary as to financial responsibility to receive assistance under this subtitle by a national competition based on criteria established by the Secretary, which shall include—

"(1) the ability of the applicant to develop and operate a project;

"(2) the innovative quality of the proposal in providing a project;

"(3) the need for the type of project proposed by the applicant in the area to be served;

"(4) the extent to which the amount of assistance to be provided under this subtitle will be supplemented with resources from other public and private sources;

"(5) the cost-effectiveness of the proposed project;

"(6) the extent to which the applicant has demonstrated coordination with other Federal, State, local, private and other entities serving homeless persons in the planning and operation of the project, to the extent practicable; and

"(7) such other factors as the Secretary determines to be appropriate to carry out this subtitle in an effective and efficient manner.

"(c) REQUIRED AGREEMENTS.—The Secretary may not provide assistance for any project under this subtitle unless the applicant agrees—

"(1) to operate the proposed project in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the supportive services required by homeless individuals served by the project and the availability of such services to such individuals;

"(3) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents and users of the project;

"(4) to monitor and report to the Secretary on the progress of the project;

"(5) to develop and implement procedures to ensure (A) the confidentiality of records pertaining to any individual provided family violence prevention or treatment services through any project assisted under this subtitle, and (B) that the address or location of any family violence shelter project assisted under this subtitle will not be made public, except with written authorization of the person or persons responsible for the operation of such project;

"(6) to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in constructing, rehabilitating, maintaining, and operating the project assisted under this subtitle and in providing supportive services for the project; and

"(7) to comply with such other terms and conditions as the Secretary may establish to carry out this subtitle in an effective and efficient manner.

"(d) OCCUPANCY CHARGE.—Each homeless individual or family residing in a project providing supportive housing may be required to pay an occupancy charge in an amount determined by the recipient providing the project, which may not exceed the amount determined under section 3(a) of the United States Housing Act of 1937. Occupancy charges paid may be reserved, in whole or in part, to assist residents in moving to permanent housing.

"(e) MATCHING FUNDING.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from sources other than this subtitle.

"(f) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, constructed, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.

Regulations.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any project, supportive services, or assistance provided under this subtitle. The Secretary may grant waivers to applicants unable to meet the requirement under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) LIMITATION ON USE OF FUNDS.—No assistance received under this subtitle (or any State or local government funds used to supplement such assistance) may be used to replace other State or local funds previously used, or designated for use, to assist homeless persons.

"(i) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of a grant received under this subtitle for administrative purposes.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this subtitle (not including residents of an emergency shelter) from a recipient violates program requirements, the recipient may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

"SEC. 427. REGULATIONS. 42 USC 11387.

"Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1992, the Secretary shall issue interim regulations to carry out this subtitle, which shall take effect upon issuance. The Secretary shall issue final regulations to carry out this subtitle after notice and opportunity for public comment regarding the interim regulations, pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). The duration of the period for public comment shall not be less than 60 days, and the final regulations shall be issued not later than the expiration of the 60-day period beginning upon the conclusion of the comment period and shall take effect upon issuance.

"SEC. 428. REPORTS TO CONGRESS. 42 USC 11388.

"The Secretary shall submit a report to the Congress annually, summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 4 months after the end of each fiscal year (except that, in the case of fiscal year 1993, the report shall be submitted not later than 6 months after the end of the fiscal year).

"SEC. 429. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11389.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subtitle $204,000,000 for fiscal year 1993 and $212,568,000 for fiscal year 1994.

"(b) SET-ASIDES.—Of any amounts appropriated to carry out this subtitle—

"(1) not less than 25 percent shall be allocated to projects designed primarily to serve homeless families with children;

"(2) not less than 25 percent shall be allocated to projects designed primarily to serve homeless persons with disabilities; and

"(3) not less than 10 percent shall be allocated for use only for providing supportive services under sections 423(a)(5) and 425, not provided in conjunction with supportive housing.

"(c) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

(b) TRANSITION.—Notwithstanding the amendment made by subsection (a), before the date of the effectiveness of the regulations issued under section 427 of the Stewart B. McKinney Homeless 42 USC 11381 note.

Assistance Act (as amended by subsection (a) of this section) the Secretary may make grants under the provisions of subtitles C and D of the Stewart B. McKinney Homeless Assistance Act, as in effect immediately before the enactment of this Act. Any grants made before such effective date shall be subject to the provisions of such subtitles.

SEC. 1404. SAFE HAVENS FOR HOMELESS INDIVIDUALS DEMONSTRATION PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by inserting after subtitle C (as added by section 1003(a) of this Act) the following new subtitle:

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

42 USC 11391.

"SEC. 431. ESTABLISHMENT OF DEMONSTRATION.

"(a) IN GENERAL.—The Secretary may make grants to applicants to demonstrate the desirability and feasibility of providing very low-cost housing, to be known as safe havens, to homeless persons who, at the time, are unwilling or unable to participate in mental health treatment programs or to receive other supportive services.

"(b) PURPOSES.—The demonstration program carried out under this subtitle shall demonstrate—

"(1) whether and on what basis eligible persons choose to reside in safe havens;

"(2) the extent to which, after a period of residence in a safe haven, residents are willing to participate in mental health treatment programs, substance abuse treatment, or other treatment programs and to move toward a more traditional form of permanent housing and the availability in the community of such permanent housing and treatment programs;

"(3) whether safe havens are cost-effective in comparison with other alternatives for eligible persons; and

"(4) the various ways in which safe havens may be used to provide accommodations and low-demand services and referrals for eligible persons.

42 USC 11392.

"SEC. 432. DEFINITIONS.

"For purposes of this subtitle:

"(1) APPLICANT.—The term 'applicant' means a nonprofit corporation, public nonprofit organization, State, or unit of general local government.

"(2) ELIGIBLE PERSON.—The term 'eligible person' means an individual who—

"(A) is seriously mentally ill and resides primarily in a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings, which may include occasional residence in an emergency shelter; and

"(B) is currently unwilling or unable to participate in mental health or substance abuse treatment programs or to receive other supportive services.

Such term does not include a person whose sole impairment is substance abuse.

"(3) FACILITY.—The term 'facility' means a structure or a clearly identifiable portion of a structure that is assisted under this subtitle.

"(4) LOW-DEMAND SERVICES AND REFERRALS.—The term 'low-demand services and referrals' means the provision of health care, mental health, substance abuse, and other supportive services and referrals for services in a noncoercive manner, which may include medication management, education, counseling, job training, and assistance in obtaining entitlement benefits and in obtaining other supportive services including mental health treatment and substance abuse treatment.

"(5) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.

"(6) OPERATING COSTS.—The term 'operating costs' means expenses incurred by a recipient operating a safe haven under this subtitle with respect to—

"(A) the operation of the facility, including the cost of 24-hour management, and maintenance, repair, and security;

"(B) utilities, fuel, furnishings, and equipment for such housing; and

"(C) other reasonable costs necessary to the operation of the facility, which may include appropriate outreach and drop-in services.

"(7) RECIPIENT.—The term 'recipient' means an applicant that receives assistance under this subtitle.

"(8) SAFE HAVEN.—The term 'safe haven' means a facility—

"(A) that provides 24-hour residence for eligible persons who may reside for an unspecified duration;

"(B) that provides private or semiprivate accommodations;

"(C) that may provide for the common use of kitchen facilities, dining rooms, and bathrooms;

"(D) that may provide supportive services to eligible persons who are not residents on a drop-in basis; and

"(E) in which overnight occupancy is limited to no more than 25 persons.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) SERIOUSLY MENTALLY ILL.—The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) STATE.—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto

Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau.

"(12) UNIT OF GENERAL LOCAL GOVERNMENT.—The term 'unit of general local government' has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974.

42 USC 11393.

"SEC. 433. PROGRAM ASSISTANCE.

"(a) IN GENERAL.—

"(1) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance with respect to a program under this subtitle for the following activities:

"(A) The construction of a structure for use in providing a safe haven or the acquisition, rehabilitation, or acquisition and rehabilitation of an existing structure for use in providing a safe haven.

"(B) The leasing of an existing structure for use in providing a safe haven.

"(C) To cover the operating costs of a safe haven.

"(D) To cover the costs of administering a safe haven program, not to exceed 10 percent of the amounts made available for activities under subparagraphs (A) through (C).

"(E) Outreach activities designed to inform eligible persons about and attract them to a safe haven program.

"(F) The provision of low-demand services and referrals for residents of a safe haven, except that grants under this subtitle may not be used to cover more than 50 percent of the cost of such services and referrals.

"(G) Other activities that further the purposes of this subtitle, including the modification of an existing facility to use a portion of the facility to provide with a safe haven.

"(2) PERIOD OF ASSISTANCE.—Assistance may be provided to any safe haven program for activities under subparagraphs (B) through (F) of paragraph (1) for a period of not more than 5 years, except that the Secretary may, upon application by the recipient, provide assistance for an additional period of time, not to exceed 5 years, subject to—

"(A) the determination of the Secretary that the performance of the recipient under this subtitle is satisfactory; and

"(B) the availability of appropriations for such purpose.

"(3) LIMIT ON AMOUNT.—The total amount of assistance provided to any recipient under this subsection may not exceed $400,000 in any 5-year period.

"(b) MATCHING FUNDING.—

"(1) IN GENERAL.—Each recipient shall supplement a grant provided under this subtitle with an equal amount of funds from sources other than this subtitle. Each recipient shall certify to the Secretary that it has complied with this paragraph, and shall include with the certification a description of the sources and amounts of such supplemental funds.

"(2) CALCULATION OF AMOUNTS.—In calculating the amount of supplemental funds required under paragraph (1), a recipient may include any funds derived from another source, the value of any lease on a building, any salary paid to staff to carry

out the program of the recipient, and the value of the time and services contributed by volunteers, at a rate determined by the Secretary, to carry out the program of the recipient.

"SEC. 434. PROGRAM REQUIREMENTS. 42 USC 11394.

"(a) APPLICATIONS.—Applications for assistance under this subtitle shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish, and such applications shall contain at a minimum—

"(1) a description of the proposed facility;

"(2) a description of the number and characteristics of the eligible persons expected to occupy the safe haven;

"(3) a plan for identifying and selecting eligible persons to participate;

"(4) a program plan, containing a description of the method—

"(A) of operation of the facility, including staffing plans and facility rules;

"(B) by which the applicant will secure supportive services for residents of the safe haven;

"(C) by which the applicant will monitor the willingness of residents to engage in treatment programs and other supportive services;

"(D) by which access to supportive services will be secured for residents willing to use them;

"(E) by which access to permanent housing with appropriate services, such as the Shelter Plus Care program under subtitle F, will be sought after residents are stabilized; and

"(F) by which the applicant will conduct outreach activities to facilitate the entrance of eligible persons into the safe haven;

"(5) a plan to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) an estimate of program costs;

"(7) a description of the resources that are expected to be made available in accordance with section 433(b);

"(8) assurances satisfactory to the Secretary that the facility will have 24-hour, on-site management, if practicable;

"(9) assurances satisfactory to the Secretary that the facility will be operated for the purpose specified in the application for each year in which assistance is provided under this subtitle;

"(10) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the Cranston-Gonzalez National Affordable Housing Act for the State or unit of general local government within which the facility is located that the proposed activities are consistent with the approved housing strategy for such jurisdiction;

"(11) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing;

"(12) a plan for program evaluation based on information that is collected on a periodic basis regarding the characteristics of the residents, including their movement in and out of the

safe haven, their willingness to use low-demand services and referrals, the availability and quality of services used, and the movement of residents toward a more traditional form of permanent housing after a period of residency in the safe haven; and

"(13) such other information as the Secretary may require.

"(b) SITE CONTROL.—The Secretary shall require that an applicant furnish reasonable assurances that the applicant will have control of a site for the proposed facility not later than 1 year after notification of an award of assistance under this subtitle. If an applicant fails to obtain control of the site within this period, the grant shall be recaptured by the Secretary and reallocated for use under this subtitle.

"(c) SELECTION CRITERIA.—The Secretary shall establish selection criteria for selecting applicants to receive assistance under this subtitle pursuant to a national competition, which shall include—

"(1) the extent to which the applicant demonstrates the ability to develop and operate a safe haven;

"(2) the extent to which there is a need for a safe haven in the jurisdiction in which the facility will be located;

"(3) the extent to which the program would link eligible persons to permanent housing and supportive services after stabilization in a safe haven;

"(4) the cost-effectiveness of the proposed program;

"(5) providing for geographical diversity among applicants selected to receive assistance;

"(6) the extent to which the safe haven would meet the need of the eligible persons proposed to be served by the safe haven; and

"(7) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

"(d) REQUIRED AGREEMENTS.—The Secretary may not provide assistance under this subtitle for any safe haven program unless the applicant agrees—

"(1) to develop and operate the proposed facility as a safe haven in accordance with the provisions of this subtitle;

"(2) to ensure that the facility meets any standards of habitability established by the Secretary;

"(3) to provide low-demand services and referrals for the residents of the safe haven;

"(4) to prohibit the use of illegal drugs and alcohol in the facility;

"(5) to ensure that adequate security precautions are taken to make the facility safe for the residents;

"(6) not to establish limitations on the duration of residency;

"(7) not to require participation in low-demand services and referrals as a condition of occupancy;

"(8) to monitor and report to the Secretary on progress in carrying out the safe haven program;

"(9) to the maximum extent practicable, to involve eligible persons, through employment, volunteer services, or otherwise, in renovating, maintaining, and operating facilities assisted under this subtitle and in providing services assisted under this subtitle;

"(10) to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such recipient (in accordance with regulations that the Secretary shall issue), to the extent that such entity considers and makes policies and decisions regarding any facility or services assisted under this subtitle, or to otherwise provide for the consultation and participation of such an individual in considering and making such policies and decisions; and

"(11) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program established under this subtitle in an effective and efficient manner.

The Secretary may waive the applicability of the requirement under paragraph (10) for an applicant that is unable to meet such requirement, if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"SEC. 435. OCCUPANCY CHARGE. 42 USC 11395.

"Each eligible person who resides in a facility assisted under this subtitle shall pay an occupancy charge in an amount determined by the recipient, but not to exceed the amount determined under section 3(a) of the United States Housing Act of 1937. The occupancy charge may be phased in or reduced based on the type of living accommodations provided. The recipient may waive occupancy charges for limited periods of time for residents unwilling or unable to pay them. Occupancy charges paid may be reserved to assist residents in moving to a more traditional form of permanent housing.

"SEC. 436. TERMINATION OF ASSISTANCE. 42 USC 11396.

"If an eligible person who resides in a safe haven or who receives low-demand services or referrals endangers the safety, welfare, or health of other residents, or repeatedly violates a condition of occupancy contained in the rules for the safe haven (as set forth in the application submitted under this subtitle), the recipient may terminate such residency or assistance in accordance with a formal process established by the rules for the safe haven, which may include a hearing.

"SEC. 437. EVALUATION AND REPORT. 42 USC 11397.

"The Secretary shall conduct an evaluation of the safe haven demonstration program under this subtitle and shall submit a report to the Congress, not later than December 31, 1994, which shall set forth the findings of the Secretary as a result of the evaluation.

"SEC. 438. REGULATIONS.

"(a) IN GENERAL.—The Secretary shall, by notice published in the Federal Register, establish such requirements as may be necessary to carry out the amendments made by this subtitle. Federal Register, publication. 42 USC 11398.

"(b) CONSULTATION.—In establishing requirements to carry out the provisions of this subtitle, and in considering applications under this subtitle, the Secretary shall consult with officials of the appropriate agencies of the Department of Health and Human Services and with representative provider and public interest groups.

"(c) ELIGIBILITY FOR SSI AND MEDICAID.—

"(1) SUPPLEMENTAL SECURITY INCOME.—All provisions of the Supplemental Security Income program under title XVI of the Social Security Act and of State programs in supplementation thereof shall apply to participants in the safe havens demonstration program under this subtitle, except that no individual living in a safe haven shall—

"(A) be considered an inmate of a public institution (as provided in section 1611(e)(1)(A) of such Act); or

"(B) have benefits under such title XVI reduced or terminated because of the receipt of support and maintenance (as provided in section 1612(a)(2)(A) of such Act), to the extent such support and maintenance is received as a result of participation in the safe havens demonstration program.

"(2) MEDICAID.—A safe haven shall not be considered a hospital, nursing facility, institution for mental disease as defined under section 1905(i) of the Social Security Act, or any other inpatient facility, for purposes of the program under title XIX of such Act, and individuals shall not be denied eligibility for medicaid because of residency in such residence.

42 USC 11399.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $62,000,000 for fiscal year 1993 and $64,604,000 for fiscal year 1994.".

SEC. 1405. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by $105,000,000 on or after October 1, 1992, and by $109,410,000 on or after October 1, 1993.".

(b) ELIGIBILITY OF NONPROFIT ORGANIZATIONS.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended—

(1) in subsection (b), by inserting before the period at the end the following: ", and except that the Secretary may provide amounts available under this section to private nonprofit organizations that submit applications for such assistance that are approved by the Secretary";

(2) in subsection (f), by striking "public housing agency" each place it appears and inserting "approved applicant"; and

(3) by adding at the end the following new subsection:

"(j) DEFINITIONS.—For purposes of this section—

"(1) the term 'applicant' means a public housing agency, Indian housing authority, or private nonprofit organization that applies for assistance under this section; and

"(2) the term 'private nonprofit organization' means an organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system, or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that practices nondiscrimination in the provision of assistance.".

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 441(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(c)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and";

(3) by inserting after paragraph (4) the following new paragraph:

"(5) assurances satisfactory to the Secretary that the applicant, to the maximum extent practicable, will involve homeless individuals and families, through employment, volunteer services, or otherwise, in rehabilitating and operating facilities assisted under this section and in providing services for occupants of such facilities.".

(d) PARTICIPATION OF HOMELESS INDIVIDUALS AND TERMINATION OF ASSISTANCE.—Section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401) is amended by adding after subsection (g) the following new subsections:

"(h) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each approved applicant receiving assistance under this section that is not a public housing agency or Indian housing authority to provide for the participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of such applicant, to the extent that such entity considers and makes policies and decisions regarding the rehabilitation of any housing with assistance under this section. The Secretary may grant waivers to approved applicants unable to meet the requirements under the preceding sentence if the applicant agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. Regulations.

"(i) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates program requirements, the recipient of amounts made available under this section may terminate assistance in accordance with a formal process established by the recipient that recognizes the rights of individuals receiving such assistance to due process of law.".

(e) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress, not later than the expiration of the 180-day period beginning on the date of the enactment of this Act, describing the extent to which amounts appropriated to provide assistance under section 441 of the Stewart B. McKinney Homeless Assistance Act since the enactment of such section have been obligated and expended.

SEC. 1406. SHELTER PLUS CARE PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 459 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403h) is amended—

(1) by striking subsection (a) and inserting the following new subsection:

"(a) IN GENERAL.—For purposes of the housing programs under this subtitle, there are authorized to be appropriated $266,550,000 for fiscal year 1993 and $277,745,100 for fiscal year 1994. Of any amount appropriated in any fiscal year to carry out this subtitle—

"(1) not less than 10 percent shall be available only for carrying out part II of this subtitle;

"(2) not less than 10 percent shall be available only for carrying out part III of this subtitle;

"(3) not less than 10 percent shall be available only for carrying out part IV of this subtitle; and

"(4) not less than 10 percent shall be available only for carrying out part V of this subtitle.";

(2) by striking subsections (b) and (c); and

(3) by redesignating subsection (d) as subsection (b).

(b) PARTICIPATION OF HOMELESS INDIVIDUALS.—Section 455 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403d) is amended by adding at the end the following new subsection:

Regulations.

"(c) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each recipient to provide for the consultation and participation of not less than one homeless individual or former homeless individual on the board of directors or other equivalent policymaking entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing assisted under this subtitle or services for such housing. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

(c) EMPLOYMENT OF HOMELESS INDIVIDUALS.—Section 456 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403e) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) to the maximum extent practicable, to involve homeless individuals and families, through employment volunteer services, or otherwise, in constructing or rehabilitating housing assisted under this subtitle and in providing services required under this subtitle.".

(d) REDESIGNATION AND AMENDMENT OF PART II PROVISIONS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) PART II HEADING.—By amending the heading for part II to read as follows:

"PART II—TENANT-BASED RENTAL ASSISTANCE"

42 USC 11405-11406c.

(2) PARTS II AND IV.—By striking parts III and IV.

42 USC 11404.

(3) PURPOSE.—By striking section 461 and inserting the following new section:

"SEC. 471. AUTHORITY. 42 USC 11404.

"The Secretary may use amounts made available under section 463 to provide tenant-based rental housing assistance for eligible persons in accordance with this part.".

(4) HOUSING ASSISTANCE.—By redesignating section 462 as section 472 and amending such section by striking "Where" and inserting the following: "An eligible person on behalf of whom assistance is provided under this part shall select the unit in which such person will live using rental assistance under this part; except that where". 42 USC 11404a.

(5) AMOUNT OF ASSISTANCE.—By redesignating section 463 as section 473 and amending such section by striking the last sentence. 42 USC 11404b.

(e) TRANSFER, REDESIGNATION, AND AMENDMENT OF GENERAL PROVISIONS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.) is amended as follows:

(1) TERMINATION OF ASSISTANCE.—By redesignating section 457 as section 461. 42 USC 11403f.

(2) DEFINITIONS.—By redesignating section 458 as section 462 and amending such section— 42 USC 11403g.

(A) by striking paragraph (2) and inserting the following new paragraph:

"(2) The term 'applicant' means a State, unit of general local government, Indian tribe, or public housing agency."; and

(B) in paragraph (5), by inserting before the period at the end ", and includes community mental health centers established as public nonprofit organizations".

(3) AUTHORIZATION OF APPROPRIATIONS.—By redesignating section 459 (as amended by subsection (a) of this section) as section 463. 42 USC 11403h.

(4) HOUSING STANDARDS AND RENT REASONABLENESS.—By redesignating section 464 as section 457, transferring and inserting such section after section 456, and amending subsection (a)(1) of such section by striking "(or if no such agency exists in the applicable area, an entity selected by the Secretary)". 42 USC 11404c, 11403e–1.

(5) TENANT RENT AND ADMINISTRATIVE FEES.—By transferring and inserting sections 465 and 466 after section 457 (as so redesignated by paragraph (4) of this subsection) and redesignating such sections as sections 458 and 459, respectively. 42 USC 11404d, 11404e, 11403e–2, 11403e–3.

(6) OCCUPANCY.—By inserting after section 459 (as so redesignated by paragraph (5) of this subsection) the following new section:

"SEC. 460. OCCUPANCY. 42 USC 11403e–4.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between a tenant and an owner of a dwelling unit assisted under this subtitle shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit assisted under this subtitle before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month that follows the month during which the unit was vacated, unless it is occupied by another eligible person.".

(f) PROJECT- AND SPONSOR-BASED RENTAL ASSISTANCE AND SINGLE ROOM OCCUPANCY DWELLINGS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended by inserting at the end the following new parts:

"PART III—PROJECT-BASED RENTAL ASSISTANCE

42 USC 11405.

"SEC. 476. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide project-based rental housing assistance for eligible persons in accordance with this part.

Contracts.
42 USC 11405a.

"SEC. 477. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and an owner of an existing structure. The contract shall provide that rental assistance payments shall be made to the owner and that the units in the structure shall be occupied by eligible persons for not less than the term of the contract.

42 USC 11405b.

"SEC. 478. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE.

"(a) TERM OF CONTRACT.—Each contract with a recipient for assistance under this part shall be for a term of 5 years, and the owner shall have an option to renew the assistance for an additional 5-year term, subject to the availability of amounts provided in appropriation Acts; except that if an expenditure of at least $3,000 for each unit (including its prorated share of work on common areas or systems) is required to make the structure decent, safe, and sanitary, and the owner agrees to carry out the rehabilitation with resources other than assistance under this subtitle within 12 months of notification of grant approval, the contract shall be for a term of 10 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

42 USC 11406.

"SEC. 481. AUTHORITY.

"The Secretary may use amounts made available under section 463 to provide sponsor-based rental assistance for eligible persons in accordance with this part.

Contracts.
42 USC 11406a.

"SEC. 482. HOUSING ASSISTANCE.

"Assistance under this part shall be provided pursuant to a contract between the recipient and a private nonprofit sponsor that owns or leases dwelling units. The contract shall provide that rental assistance payments shall be made to the sponsor and that such assisted units shall be occupied by eligible persons.

"SEC. 483. TERM OF CONTRACT AND AMOUNT OF ASSISTANCE. 42 USC 11406b.

"(a) TERM OF CONTRACT.—The contract with a recipient of assistance under this part shall be for a term of 5 years.

"(b) AMOUNT OF ASSISTANCE.—Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rental under section 8(c)(1) of the United States Housing Act of 1937 in effect at the time the application is approved. Any amounts not needed for a year may be used to increase the amount available in subsequent years.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"SEC. 486. AUTHORITY. 42 USC 11407.

"The Secretary may use amounts made available under section 463 in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by eligible persons in accordance with this part. Amounts available under section 463 may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 487. FIRE AND SAFETY IMPROVEMENTS. 42 USC 11407a.

"Each contract for housing assistance payments entered into under this part shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and any other fire safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 488. CONTRACT REQUIREMENTS. 42 USC 11407b.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 463 for use under this part shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increasing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part shall be given to homeless persons.".

(g) TECHNICAL AND CONFORMING AMENDMENTS.—Subtitle F of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11403 et seq.), as amended by the preceding provisions of this section, is further amended—

(1) by striking the heading for part I and inserting the following new heading: 42 USC prec. 11403.

"PART I—GENERAL REQUIREMENTS";

42 USC 11403a.

(2) in section 452(a), by striking "and IV" and inserting "IV, and V"; and

42 USC 11403c.

(3) in section 454(b)—

(A) in paragraph (1), by striking "or IV" and inserting "IV, or V";

(B) in paragraph (8), by striking "or IV" and inserting "IV, or V";

(C) in paragraph (10)(A), by inserting ", or III" after "part II"; and

(D) in paragraph (11)—

(i) by striking "part III" and inserting "part V"; and

(ii) by striking "rehabilitation and".

SEC. 1407. FHA SINGLE FAMILY PROPERTY DISPOSITION.

(a) 30-DAY MARKETING PERIOD.—Except as provided in subsection (b), in carrying out the program for disposition of single family properties acquired by the Department of Housing and Urban Development for use by the homeless under subpart E of part 291 of title 24, Code of Federal Regulations, the Secretary of Housing and Urban Development may not make any eligible property available for lease under such program that has not been listed and made generally available for sale by the Secretary for a period of at least 30 days.

(b) EXCEPTION.—With respect to any area for which the Secretary determines that there will not be a sufficient quantity of decent, safe, and sanitary affordable housing available for use under the program referred to in subsection (a) if eligible properties located in the area are made generally available for the 30-day period under subsection (a), the Secretary shall reserve for disposition under such program not more than 10 percent of the total number of eligible properties located in the area and shall not market such properties as provided under subsection (a). The Secretary shall consult with the unit of general local government for an area in determining which properties should be reserved for disposition under this subsection.

Intergovernmental relations.

(c) STATE AND LOCAL TAXES.—

(1) REQUIREMENT TO PROVIDE INFORMATION UPON REQUEST.—In carrying out the program referred to in subsection (a), the Secretary of Housing and Urban Development shall provide the information described in paragraph (2) to any lessee or applicant under the program who requests such information.

(2) CONTENT.—The information referred in paragraph (1) shall identify and describe any exemptions or reductions relating to payment of property taxes under State and local laws (for the jurisdictions for which the lessee or applicant requests such information) that may be applicable to lessees or applicants, or to properties leased, under such program.

(3) EXEMPTION FROM ESCROW REQUIREMENT.—To the extent any lessee of a property under the program referred to in subsection (a) is provided an exemption from any requirement to pay State or local taxes, or a reduction in the amount of any such taxes, the Secretary may not require the lessee to pay or deposit in any escrow account amounts for the payment of such taxes.

SEC. 1408. RURAL HOMELESSNESS GRANT PROGRAM.

Title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361 et seq.) is amended by adding at the end the following new subtitle:

"Subtitle G—Rural Homeless Housing Assistance

"SEC. 491. RURAL HOMELESSNESS GRANT PROGRAM. 42 USC 11408.

"(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish and carry out a rural homelessness grant program. In carrying out the program, the Secretary may award grants to eligible organizations in order to pay for the Federal share of the cost of—

"(1) assisting programs providing direct emergency assistance to homeless individuals and families;

"(2) providing homelessness prevention assistance to individuals and families at risk of becoming homeless; and

"(3) assisting individuals and families in obtaining access to permanent housing and supportive services.

"(b) USE OF FUNDS.—

"(1) IN GENERAL.—An eligible organization may use a grant awarded under subsection (a) to provide, in rural areas—

"(A) rent, mortgage, or utility assistance after 2 months of nonpayment in order to prevent eviction, foreclosure, or loss of utility service;

"(B) security deposits, rent for the first month of residence at a new location, and relocation assistance;

"(C) short-term emergency lodging in motels or shelters, either directly or through vouchers;

"(D) transitional housing;

"(E) rehabilitation and repairs such as insulation, window repair, door repair, roof repair, and repairs that are necessary to make premises habitable;

"(F) development of comprehensive and coordinated support services that use and supplement, as needed, community networks of services, including—

"(i) outreach services to reach eligible recipients;
"(ii) case management;
"(iii) housing counseling;
"(iv) budgeting;
"(v) job training and placement;
"(vi) primary health care;
"(vii) mental health services;
"(viii) substance abuse treatment;
"(ix) child care;
"(x) transportation;
"(xi) emergency food and clothing;
"(xii) family violence services;
"(xiii) education services;
"(xiv) moving services;
"(xv) entitlement assistance; and
"(xvi) referrals to veterans services and legal services; and

"(G) costs associated with making use of Federal inventory property programs to house homeless families, including the program established under title V of the Stewart B. McKinney Homeless Assistance Act and the Single Family Property Disposition Program established pursuant to section 204(g) of the National Housing Act.

"(2) CAPACITY BUILDING ACTIVITIES.—Not more than 20 percent of the funds appropriated under subsection (l)(1) for a fiscal year may be used by eligible organizations for capacity building activities, including payment of operating costs and staff retention.

"(c) AWARD OF GRANTS.—

"(1) COMMUNITIES WITH POPULATIONS OF LESS THAN 10,000.—

"(A) SET ASIDE.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall make available not less than 50 percent of the funds appropriated under subsection (l)(1) for the fiscal year for grants to eligible organizations serving communities that have populations of less than 10,000.

"(B) PRIORITY WITHIN SET ASIDE.—In awarding grants in accordance with subparagraph (A), the Secretary shall give priority to eligible organizations serving communities with populations of less than 5,000.

"(2) COMMUNITIES WITHOUT SIGNIFICANT FEDERAL ASSISTANCE.—In awarding grants under subsection (a), including grants awarded in accordance with paragraph (1), the Secretary shall give priority to eligible organizations serving communities not currently receiving significant Federal assistance under this Act.

"(3) STATE LIMIT.—In awarding grants under subsection (a) for a fiscal year, the Secretary shall not award to eligible organizations within a State an aggregate sum of more than 10 percent of the funds appropriated under subsection (l)(1), for the fiscal year.

"(d) APPLICATION.—In order to be eligible to receive a grant under subsection (a), an organization shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The application shall include, at a minimum—

"(1) a description of the target population and geographic area to be served;

"(2) a description of the types of assistance to be provided;

"(3) an assurance that the assistance to be provided is closely related to the identified needs of the target population;

"(4) a description of the existing assistance available to the target population, including Federal, State, and local programs, and a description of the manner in which the organization will coordinate with and expand existing assistance or provide assistance not available in the immediate area;

"(5) an agreement by the organization that the organization will collect data on the projects conducted by the organization, including assistance provided, number and characteristics of persons served, and causes of homelessness for persons served; and

"(6) an agreement by the organization that, to the maximum extent practicable, the organization will involve homeless

individuals and families through employment, volunteer services, and otherwise, in providing, operating, and rehabilitating housing assisted under this section and in providing services assisted under this section and services for occupants of housing assisted under this section.

"(e) ELIGIBLE ORGANIZATIONS.—Organizations eligible to receive a grant under subsection (a) shall include private nonprofit entities, Indian tribes (as such term is defined in section 102(a) of the Housing and Community Development Act of 1974), and county and local governments.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of the costs of providing assistance under this section shall be 75 percent.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of providing the assistance shall be in cash or in kind, fairly evaluated, including plant, equipment, staff services, or services delivered by volunteers.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—The Secretary shall, by regulation, require each eligible organization receiving a grant under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the recipient, to the extent that such entity considers and makes policies and decisions regarding any housing, services, or other assistance of the eligible organization receiving the grant under this section. The Secretary may grant waivers to recipients unable to meet the requirement under the preceding sentence if the recipient agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions. Regulations.

"(h) EVALUATION.—

"(1) IN GENERAL.—The Secretary shall conduct an evaluation of the program to—

"(A) determine the effectiveness of the program in providing housing and other assistance to homeless persons in the area served; and

"(B) determine the types of assistance needed to address homelessness in rural areas.

"(2) REPORT.—The Secretary shall submit to Congress, not later than 18 months after the date on which the Secretary first makes grants under the program, the evaluation of the program conducted under paragraph (1), including recommendations for any Federal administrative or legislative changes that may be necessary to improve the ability of rural communities to prevent and respond to homelessness.

"(i) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to eligible organizations in developing programs in accordance with this section, and in gaining access to other Federal resources that may be used to assist homeless persons in rural areas. Such assistance may be provided through regional workshops, and may be provided directly or through grants to, or contracts with, nongovernmental entities.

"(j) TERMINATION OF ASSISTANCE.—If an individual or family who receives assistance under this section violates requirements of the assistance program provided by the organization receiving a grant under this section, the organization may terminate assistance in accordance with a formal process established by the

organization that recognizes the rights of individuals receiving such assistance to due process of law, which may include a hearing.

"(k) DEFINITIONS.—

"For purposes of this section:

"(1) PROGRAM.—The term 'program' means the rural homelessness grant program established under this section.

"(2) RURAL AREA; RURAL COMMUNITY.—The terms 'rural area' and 'rural community' mean—

"(A) any area or community, respectively, no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget; or

"(B) any area or community, respectively, that is—

"(i) within an area designated as a metropolitan statistical area or considered as part of a metropolitan statistical area; and

"(ii) located in a rural census tract.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(l) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $30,000,000 for fiscal year 1993 and $31,260,000 for fiscal year 1994.

"(2) AVAILABILITY.—Any amount paid to a grant recipient for a fiscal year that remains unobligated at the end of the year shall remain available to the recipient for the purposes for which the payment was made for the next fiscal year. The Secretary shall take such action as may be necessary to recover any amount not obligated by the recipient at the end of the second fiscal year, and shall redistribute the amount to another eligible organization.".

42 USC 11361 note.

SEC. 1409. EVALUATION OF PROGRAMS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a comprehensive review and evaluation of the effectiveness of each program under title IV of the Stewart B. McKinney Homeless Assistance Act. In conducting the review, the Secretary shall examine procedures of the Department in carrying out such programs, the procedures of recipients of assistance under such programs in carrying out such programs, and the effects and benefits of such programs; shall survey homeless individuals and families assisted under each program in various jurisdictions receiving assistance under each program; shall determine whether such programs are fulfilling the purposes for which they were established; and shall evaluate the usefulness and effectiveness of such programs.

(b) REPORT.—Not later than the expiration of the 2-year period beginning on the date of the enactment of this Act, the Secretary shall submit a report to the Congress describing the results of the review and evaluation conducted under subsection (a).

42 USC 11361 note.

SEC. 1410. EXTENSION OF ORIGINAL MCKINNEY ACT HOUSING PROGRAMS.

42 USC 11361 *et seq.*

The Cranston-Gonzalez National Affordable Housing Act is amended by striking sections 821 and 823 (42 U.S.C. 11361 note). The amendment made by such section 821 of such Act shall not take effect.

SEC. 1411. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

42 USC 11411 note.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

SEC. 1412. STRATEGY TO ELIMINATE UNFIT TRANSIENT FACILITIES.

Section 825(a) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 11301 note) is amended in the first sentence—

(1) by striking "Cranston-Gonzalez National Affordable Housing Act" and inserting "Housing and Community Development Act of 1992"; and

(2) by striking "July 1, 1992" and inserting "July 1, 1994".

SEC. 1413. AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act is amended—

(1) by striking the item relating to section 401 and inserting the following new item:

"Sec. 401. Housing affordability strategy.";

(2) by striking the item relating to the heading for subtitle C of title IV and all that follows through the item relating to section 484 and inserting the following new items:

"Subtitle C—Supportive Housing Program

"Sec. 421. Purpose.
"Sec. 422. Definitions.
"Sec. 423. Eligible activities.
"Sec. 424. Supportive housing.
"Sec. 425. Supportive services.
"Sec. 426. Program requirements.
"Sec. 427. Regulations.
"Sec. 428. Reports to Congress.
"Sec. 429. Authorization of appropriations.

"Subtitle D—Safe Havens for Homeless Individuals Demonstration Program

"Sec. 431. Establishment of demonstration.
"Sec. 432. Definitions.
"Sec. 433. Program assistance.
"Sec. 434. Program requirements.
"Sec. 435. Occupancy charge.
"Sec. 436. Termination of assistance.
"Sec. 437. Evaluation and report.
"Sec. 438. Regulations.
"Sec. 439. Authorization of appropriations.

"Subtitle E—Miscellaneous Programs

"Sec. 441. Section 8 assistance for single room occupancy dwellings.
"Sec. 442. Community development block grant amendment.
"Sec. 443. Administrative provisions.

"Subtitle F—Shelter Plus Care Program

"PART I—GENERAL REQUIREMENTS

"Sec. 451. Purpose.
"Sec. 452. Rental housing assistance.
"Sec. 453. Supportive services requirements.
"Sec. 454. Applications.
"Sec. 455. Selection criteria.
"Sec. 456. Required agreements.
"Sec. 457. Housing standards and rent reasonableness.
"Sec. 458. Tenant rent.
"Sec. 459. Administrative fees.
"Sec. 460. Occupancy.
"Sec. 461. Termination of assistance.
"Sec. 462. Definitions.
"Sec. 463. Authorization of appropriations.

"PART II—TENANT-BASED RENTAL ASSISTANCE

"Sec. 471. Authority.
"Sec. 472. Housing assistance.
"Sec. 473. Amount of assistance.

"PART III—PROJECT-BASED RENTAL ASSISTANCE

"Sec. 476. Authority.
"Sec. 477. Housing assistance.
"Sec. 478. Term of contract and amount of assistance.

"PART IV—SPONSOR-BASED RENTAL ASSISTANCE

"Sec. 481. Authority.
"Sec. 482. Housing assistance.
"Sec. 483. Term of contract and amount of assistance.

"PART V—SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE-ROOM OCCUPANCY DWELLINGS

"Sec. 486. Authority.
"Sec. 487. Fire and safety improvements.
"Sec. 488. Contract requirements.

"Subtitle G—Rural Homeless Housing Assistance

"Sec. 491. Rural homelessness grant program.
"Sec. 492. Use of FMHA inventory for transitional housing for homeless persons and for turnkey housing.";

(3) by striking the item relating to section 501 and inserting the following new item:

"Sec. 501. Use of unutilized and underutilized public buildings and real property to assist the homeless."

(4) by striking the items relating to sections 722 through 725 and inserting the following new items:

"Sec. 722. Grants for State and local activities for the education of homeless children and youth.
"Sec. 723. Local educational agency grants for the education of homeless children and youth.
"Sec. 724. National responsibilities.
"Sec. 725. Reports.
"Sec. 726. Definitions.";

(5) by inserting after the item relating to section 754 the following new items:

"Sec. 755. Evaluation.
"Sec. 756. Report by the Secretary.";

and

(6) by inserting after the item relating to section 762 the following new items:

"Subtitle F—Family Support Centers

"Sec. 771. Definitions.
"Sec. 772. General grants for the provision of services.
"Sec. 773. Training and retention.
"Sec. 774. Family case managers.
"Sec. 775. Gateway programs.
"Sec. 776. Evaluation.
"Sec. 777. Report.
"Sec. 778. Construction.
"Sec. 779. Authorization of appropriations.".

SEC. 1414. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING. 42 USC 11408a.

Subtitle G of the Title IV of the Stewart B. McKinney Homeless Assistance Act (as added by section 1408 of this Act) is amended by adding at the end the following new section:

"SEC. 592. USE OF FMHA INVENTORY FOR TRANSITIONAL HOUSING FOR HOMELESS PERSONS AND FOR TURNKEY HOUSING.

"(a) IN GENERAL.—The Secretary of Agriculture (in this section referred to as the 'Secretary') shall, on a priority basis, lease or sell program and nonprogram inventory properties held by the Secretary under title V of the Housing Act of 1949—

"(1) to provide transitional housing; and

"(2) to provide turnkey housing for tenants of such transitional housing and for eligible families.

"(b) PRIORITY.—The priority uses of inventory property under this section shall not have a higher priority than—

"(1) the disposition of such property by sale to eligible families; or

"(2) the disposition of such property by transfer for use as rental housing by eligible families.

"(c) TRANSITIONAL HOUSING.—

"(1) LEASES AUTHORIZED.—The Secretary shall lease inventory properties to public agencies and nonprofit organizations to provide transitional housing for homeless families and individuals and to provide such agencies the option to provide turnkey housing opportunities for homeless persons and other inadequately housed families.

"(2) RENTAL TO ELIGIBLE FAMILIES.—A public agency or nonprofit organization may rent housing leased to it under paragraph (1) to a family for up to 10 years and may, during that period, assist the tenant in obtaining a loan and credit assistance under title V of the Housing Act of 1949 to purchase the housing from the Secretary.

"(d) LEASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to lease a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a lease agreement with the organization or agency; and

"(C) if a lease is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) LEASE TERMS.—A lease of inventory property under this section shall—

"(A) be for a period of not more than 10 years;

"(B) provide for the payment of $1 for the 10-year lease; and

"(C) provide the nonprofit organization or public agency—

"(i) the right to use the property for transitional housing; and

"(ii) the option to arrange for the sale of the property to an eligible purchaser.

"(e) PURCHASE PROCEDURES.—

"(1) IDENTIFICATION OF PROPERTY.—Upon receipt by the Secretary of written notification from a public agency or nonprofit organization that it proposes to purchase a property for the purpose of providing transitional housing or for the purpose of providing transitional housing and turnkey housing opportunities, the Secretary shall—

"(A) withdraw the property from the market for not more than 30 days for the purpose of negotiations under subparagraph (B);

"(B) negotiate a purchase agreement with the organization or agency; and

"(C) if a purchase agreement is agreed to, commence the repairs necessary to make the property meet standards for decent, safe, and sanitary housing.

"(2) PURCHASE TERMS.—A purchase of inventory property under this section shall provide for a purchase price equal to not more than the fair market value of the property minus 10 percent.

"(f) EMPLOYMENT OF HOMELESS INDIVIDUALS.—A public agency or nonprofit organization may lease or purchase property under this section only if the agency or organization, to the maximum extent practicable, involves homeless individuals and families, through employment, volunteer services, or otherwise, in maintaining, operating, and renovating any properties leased or acquired

under this section and in providing any services for occupants of properties assisted under this section.

"(g) PARTICIPATION OF HOMELESS INDIVIDUALS.—

"(1) IN GENERAL.—The Secretary shall, by regulation, require each public agency and nonprofit organization leasing or purchasing property under this section to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of such agency or organization, to the extent that such organization or applicant considers and makes policies and decisions regarding any property acquired under this section. Regulations.

"(2) WAIVER.—The Secretary may grant a waiver to a public agency or nonprofit organization that is unable to meet the requirement of paragraph (1), if the agency or organization agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.

"(h) BUDGET COMPLIANCE.—The authority provided to the Secretary under this section shall be effective only to the extent approved in advance in appropriations Acts.".

Subtitle B—Interagency Council on the Homeless

SEC. 1421. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,500,000 for fiscal year 1993 and $1,563,000 for fiscal year 1994.".

SEC. 1422. EXTENSION.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "October 1, 1992" and inserting "October 1, 1994".

Subtitle C—Federal Emergency Management Food and Shelter Program

SEC. 1431. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $180,000,000 for fiscal year 1993 and $187,560,000 for fiscal year 1994.".

SEC. 1432. EMPLOYMENT AND PARTICIPATION OF HOMELESS INDIVIDUALS IN LOCAL PROGRAMS.

Section 316(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11346(a)) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(5) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle, to the maximum extent practicable, to involve homeless individuals and families, through employment, volunteer services, or otherwise, in providing emergency food and shelter and in otherwise carrying out the local program; and

"(6) guidelines requiring each private nonprofit organization and local government carrying out a local emergency food and shelter program with amounts provided under this subtitle to provide for the participation of not less than 1 homeless individual or former homeless individual on the board of directors or other equivalent policy making entity of the organization or governmental agency to the extent that such entity considers and makes policies and decisions regarding the local program of the organization or locality; except that such guidelines may grant waivers to applicants unable to meet such requirement if the organization or government agrees to otherwise consult with homeless or formerly homeless individuals in considering and making such policies and decisions.".

Annunzio-Wylie Anti-Money Laundering Act.

TITLE XV—ANNUNZIO-WYLIE ANTI-MONEY LAUNDERING ACT

12 USC 1811 note.

SEC. 1500. SHORT TITLE.

This title may be cited as the "Annunzio-Wylie Anti-Money Laundering Act".

Subtitle A—Termination of Charters, Insurance, and Offices

SEC. 1501. AUTHORITY TO APPOINT CONSERVATOR FOR DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING.

(a) INSURED DEPOSITORY INSTITUTIONS.—Section 11(c)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(5)) is amended by adding at the end the following new subparagraph:

"(M) MONEY LAUNDERING OFFENSE.—The Attorney General notifies the appropriate Federal banking agency or the Corporation in writing that the insured depository institution has been found guilty of a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code.".

(b) INSURED CREDIT UNIONS.—Section 206(h)(1) of the Federal Credit Union Act (12 U.S.C. 1786(h)(1)) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) the Attorney General notifies the Board in writing that an insured credit union has been found guilty of

a criminal offense under section 1956 or 1957 of title 18, United States Code, or section 5322 of title 31, United States Code;".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 20, 1992. 12 USC 1786 note.

SEC. 1502. REVOKING CHARTER OF FEDERAL DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) NATIONAL BANKS.—Section 5239 of the Revised Statutes (12 U.S.C. 93) is amended by adding at the end the following:

"(c) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If a national bank, a Federal branch, or Federal agency has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Comptroller of the Currency a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Comptroller of the Currency shall issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a national bank, a Federal branch, or a Federal agency is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Comptroller of the Currency may issue to the national bank, Federal branch, or Federal agency a notice of the Comptroller's intention to terminate all rights, privileges, and franchises of the bank, Federal branch, or Federal agency and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Section 8(h) of the Federal Deposit Insurance Act shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller of the Currency shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the national bank, Federal branch, or Federal agency knew of, or were involved in, the commission of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the national bank, Federal branch, or Federal agency which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the national bank, Federal branch, or Federal agency has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the bank, Federal branch, or Federal agency was found guilty.

"(D) The extent to which the national bank, Federal branch, or Federal agency has implemented additional internal controls (since the commission of the offense of which the bank, Federal branch, or Federal agency was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a bank, a Federal branch, or a Federal agency that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

(b) FEDERAL SAVINGS ASSOCIATIONS.—Section 5 of the Home Owners' Loan Act (12 U.S.C. 1464) is amended by adding at the end the following:

"(w) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSE.—

"(I) DUTY TO NOTIFY.—If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Director a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(II) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Director shall issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a Federal savings association is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

"(C) JUDICIAL REVIEW.—Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

"(2) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under paragraph (1), the Director shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the savings association knew of, were involved in, the commission of the money laundering offense of which the association was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

"(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(3) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(4) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act.".

(c) FEDERAL CREDIT UNIONS.—Title I of the Federal Credit Union Act (12 U.S.C. 1752 et seq.) is amended by adding at the end the following new section:

"SEC. 131. FORFEITURE OF ORGANIZATION CERTIFICATE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES. 12 USC 1772d.

"(a) FORFEITURE OF FRANCHISE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) CONVICTION OF TITLE 18 OFFENSES.—

"(A) DUTY TO NOTIFY.—If a credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(B) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receiving written notification from the Attorney General of such a conviction, the Board shall issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(2) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after receiving written notification from the Attorney General, the Board may issue to such credit union a notice of its intention to terminate all rights, privileges, and franchises of the credit union and schedule a pretermination hearing.

"(3) JUDICIAL REVIEW.—Section 206(j) shall apply to any proceeding under this section.

"(b) FACTORS TO BE CONSIDERED.—In determining whether a franchise shall be forfeited under subsection (a), the Board shall take into account the following factors:

"(1) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(2) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(3) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(4) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(5) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

"(c) SUCCESSOR LIABILITY.—This section shall not apply to a successor to the interests of, or a person who acquires, a credit union that violated a provision of law described in subsection (a), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this section or regulations prescribed under this section.".

SEC. 1503. TERMINATING INSURANCE OF STATE DEPOSITORY INSTITUTIONS CONVICTED OF MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.

(a) STATE BANKS AND SAVINGS ASSOCIATIONS.—

(1) IN GENERAL.—Section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818) is amended by adding at the end the following new subsection:

"(w) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State depository institution has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Corporation a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION; PRETERMINATION HEARING.—After receipt of written notification from the Attorney General by the Corporation of such a conviction, the Board of Directors shall issue to the insured depository institution a notice of its intention to terminate the insured status of the insured depository institution and schedule a hearing on the matter, which shall be conducted in all respects as a termination hearing pursuant to paragraphs (3) through (5) of subsection (a).

"(B) CONVICTION OF TITLE 31 OFFENSES.—If an insured State depository institution is convicted of any criminal offense under section 5322 of title 31, United States Code, after receipt of written notification from the Attorney General by the Corporation, the Board of Directors may initiate proceedings to terminate the insured status of the insured depository institution in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Corporation shall simultaneously transmit a copy of any notice issued under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board of Directors shall take into account the following factors:

"(A) The extent to which directors or senior executive officers of the depository institution knew of, or were involved in, the commission of the money laundering offense of which the institution was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the depository institution which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the depository institution has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the institution was found guilty.

"(D) The extent to which the depository institution has implemented additional internal controls (since the commission of the offense of which the depository institution was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE BANKING SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board of Directors shall—

"(A) notify the State banking supervisor of any State depository institution described in paragraph (1) and the Office of Thrift Supervision, where appropriate, at least 10 days prior to the effective date of the order of termination of the insured status of such depository institution, including a State branch of a foreign bank; and

"(B) publish notice of the termination of the insured status of the depository institution in the Federal Register. Federal Register, publication.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State depository institution pursuant to paragraph (1), the deposits of such depository institution shall be treated in accordance with subsection (a)(7).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured depository institution that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

"(6) DEFINITION.—The term 'senior executive officer' has the same meaning as in regulations prescribed under section 32(f) of this Act.".

(2) TECHNICAL AMENDMENT.—Section 8(a)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1818(a)(3)) is amended by inserting "of this subsection or subsection (w)" after "subparagraph (B)".

(b) STATE CREDIT UNIONS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following new subsection:

"(v) TERMINATION OF INSURANCE FOR MONEY LAUNDERING OR CASH TRANSACTION REPORTING OFFENSES.—

"(1) IN GENERAL.—

"(A) CONVICTION OF TITLE 18 OFFENSES.—

"(i) DUTY TO NOTIFY.—If an insured State credit union has been convicted of any criminal offense under section 1956 or 1957 of title 18, United States Code, the Attorney General shall provide to the Board a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

"(ii) NOTICE OF TERMINATION.—After written notification from the Attorney General to the Board of such a conviction, the Board shall issue to such insured credit union a notice of its intention to terminate the insured status of the insured credit union and schedule a hearing on the matter, which shall be conducted as a termination hearing pursuant to subsection (b) of this section, except that no period for correction shall apply to a notice issued under this subparagraph.

"(B) CONVICTION OF TITLE 31 OFFENSES.—If a credit union is convicted of any criminal offense under section 5322 of title 31, United States Code, after prior written notification from the Attorney General, the Board may initiate proceedings to terminate the insured status of such credit union in the manner described in subparagraph (A).

"(C) NOTICE TO STATE SUPERVISOR.—The Board shall simultaneously transmit a copy of any notice under this paragraph to the appropriate State financial institutions supervisor.

"(2) FACTORS TO BE CONSIDERED.—In determining whether to terminate insurance under paragraph (1), the Board shall take into account the following factors:

"(A) The extent to which directors, committee members, or senior executive officers (as defined by the Board in regulations which the Board shall prescribe) of the credit union knew of, or were involved in, the commission of the money laundering offense of which the credit union was found guilty.

"(B) The extent to which the offense occurred despite the existence of policies and procedures within the credit union which were designed to prevent the occurrence of any such offense.

"(C) The extent to which the credit union has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the credit union was found guilty.

"(D) The extent to which the credit union has implemented additional internal controls (since the commission of the offense of which the credit union was found guilty) to prevent the occurrence of any other money laundering offense.

"(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the termination of insurance.

"(3) NOTICE TO STATE CREDIT UNION SUPERVISOR AND PUBLIC.—When the order to terminate insured status initiated pursuant to this subsection is final, the Board shall—

"(A) notify the commission, board, or authority (if any) having supervision of the credit union described in paragraph (1) at least 10 days prior to the effective date of the order of the termination of the insured status of such credit union; and

"(B) publish notice of the termination of the insured status of the credit union.

"(4) TEMPORARY INSURANCE OF PREVIOUSLY INSURED DEPOSITS.—Upon termination of the insured status of any State credit union pursuant to paragraph (1), the deposits of such credit union shall be treated in accordance with section 206(d)(2).

"(5) SUCCESSOR LIABILITY.—This subsection shall not apply to a successor to the interests of, or a person who acquires, an insured credit union that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.".

SEC. 1504. REMOVING PARTIES INVOLVED IN CURRENCY REPORTING VIOLATIONS.

(a) FDIC-INSURED INSTITUTIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 8(e)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(e)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the appropriate Federal banking agency determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter

53 of title 31, United States Code, and such violation was not inadvertent or unintentional;

"(ii) an officer or director of an insured depository institution has knowledge that an institution-affiliated party of the insured depository institution has violated any such provision or any provision of law referred to in subsection (g)(1)(A)(ii); or

"(iii) an officer or director of an insured depository institution has committed any violation of the Depository Institution Management Interlocks Act,

the agency may serve upon such party, officer, or director a written notice of the agency's intention to remove such party from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the agency shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 8(g)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(g)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the appropriate Federal banking agency may, if continued service or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the depository institution.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the depository institution.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the agency.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the appropriate Federal banking agency may, if continued serv-

ice or participation by such party may pose a threat to the interests of the depository institution's depositors or may threaten to impair public confidence in the depository institution, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(ii) REQUIRED FOR CERTAIN OFFENSES.—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the appropriate Federal banking agency shall issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the depository institution without the prior written consent of the appropriate agency.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon the depository institution, whereupon the institution-affiliated party who is subject to the order (if a director or an officer) shall cease to be a director or officer of such depository institution.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the agency from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in depository institution affairs, pursuant to paragraph (1), (2), or (3) of subsection (e) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the agency.".

(b) CREDIT UNIONS.—

(1) VIOLATION OF REPORTING REQUIREMENTS.—Section 206(g)(2) of the Federal Credit Union Act (12 U.S.C. 1786(g)(2)) is amended to read as follows:

"(2) SPECIFIC VIOLATIONS.—

"(A) IN GENERAL.—Whenever the Board determines that—

"(i) an institution-affiliated party has committed a violation of any provision of subchapter II of chapter 53 of title 31, United States Code, unless such violation was inadvertent or unintentional;

"(ii) an officer or director of an insured credit union has knowledge that an institution-affiliated party of the insured credit union has violated any such provision or any provision of law referred to in subsection (i)(1)(A)(ii); or

"(iii) an officer or director of an insured credit union has committed any violation of the Depository Institution Management Interlocks Act,

the Board may serve upon such party, officer, or director a written notice of the Board's intention to remove such officer or director from office.

"(B) FACTORS TO BE CONSIDERED.—In determining whether an officer or director should be removed as a result of the application of subparagraph (A)(ii), the Board shall consider whether the officer or director took appropriate action to stop, or to prevent the recurrence of, a violation described in such subparagraph.".

(2) CERTAIN FELONY CHARGES.—Section 206(i)(1) of the Federal Credit Union Act (12 U.S.C. 1786(i)(1)) is amended to read as follows:

"(1) SUSPENSION OR PROHIBITION AUTHORIZED.—

"(A) IN GENERAL.—Whenever any institution-affiliated party is charged in any information, indictment, or complaint, with the commission of or participation in—

"(i) a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding one year under State or Federal law, or

"(ii) a criminal violation of section 1956, 1957, or 1960 of title 18, United States Code, or section 5322 of title 31, United States Code,

the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, by written notice served upon such party, suspend such party from office or prohibit such party from further participation in any manner in the conduct of the affairs of the credit union.

"(B) PROVISIONS APPLICABLE TO NOTICE.—

"(i) COPY.—A copy of any notice under subparagraph (A) shall also be served upon the credit union.

"(ii) EFFECTIVE PERIOD.—A suspension or prohibition under subparagraph (A) shall remain in effect until the information, indictment, or complaint referred to in such subparagraph is finally disposed of or until terminated by the Board.

"(C) REMOVAL OR PROHIBITION.—

"(i) IN GENERAL.—If a judgment of conviction or an agreement to enter a pretrial diversion or other similar program is entered against an institution-affiliated party in connection with a crime described in subparagraph (A)(i), at such time as such judgment is not subject to further appellate review, the Board may, if continued service or participation by such party may pose a threat to the interests of the credit union's members or may threaten to impair public confidence in the credit union, issue and serve upon such party an order removing such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(ii) REQUIRED FOR CERTAIN OFFENSES—In the case of a judgment of conviction or agreement against an institution-affiliated party in connection with a violation described in subparagraph (A)(ii), the Board shall issue and serve upon such party an order removing

such party from office or prohibiting such party from further participation in any manner in the conduct of the affairs of the credit union without the prior written consent of the Board.

"(D) PROVISIONS APPLICABLE TO ORDER.—

"(i) COPY.—A copy of any order under subparagraph (C) shall also be served upon such credit union, whereupon such party (if a director or an officer) shall cease to be a director or officer of such credit union.

"(ii) EFFECT OF ACQUITTAL.—A finding of not guilty or other disposition of the charge shall not preclude the Board from instituting proceedings after such finding or disposition to remove such party from office or to prohibit further participation in credit union affairs, pursuant to paragraph (1), (2), or (3) of subsection (g) of this section.

"(iii) EFFECTIVE PERIOD.—Any notice of suspension or order of removal issued under this paragraph shall remain effective and outstanding until the completion of any hearing or appeal authorized under paragraph (3) unless terminated by the Board.".

(c) ATTORNEY GENERAL NOTICE REQUIREMENT.—Section 1956 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g) NOTICE OF CONVICTION OF FINANCIAL INSTITUTIONS.—If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.".

(d) TECHNICAL CORRECTIONS TO PROVISIONS RELATING TO MONEY LAUNDERING ENFORCEMENT ACTIVITIES.—

(1) Section 5318(a)(1) of title 31, United States Code, is amended—

(A) by striking "or the Postal Inspection Service"; and

(B) by inserting "United States" before "Postal Service".

(2) Section 5322(a) of title 31, United States Code, is amended by striking "imprisonment" and inserting "imprisoned for".

SEC. 1505. UNAUTHORIZED PARTICIPATION.

Section 19(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)(1)) is amended by inserting "or money laundering" after "breach of trust".

SEC. 1506. ACCESS BY STATE FINANCIAL INSTITUTION SUPERVISORS TO CURRENCY TRANSACTIONS REPORTS.

Section 5319 of title 31, United States Code, is amended—

(1) in the first sentence, by striking "to an agency" and inserting "to an agency, including any State financial institutions supervisory agency,"; and

(2) by inserting after the second sentence the following new sentence: "The Secretary may only require reports on the use of such information by any State financial institutions supervisory agency for other than supervisory purposes.".

SEC. 1507. RESTRICTING STATE BRANCHES AND AGENCIES OF FOREIGN BANKS CONVICTED OF MONEY LAUNDERING OFFENSES.

Section 7 of the International Banking Act of 1978 (12 U.S.C. 3105) is amended by inserting after subsection (h) the following new subsection:

"(i) PROCEEDINGS RELATED TO CONVICTION FOR MONEY LAUNDERING OFFENSES.—

"(1) NOTICE OF INTENTION TO ISSUE ORDER.—If the Board finds or receives written notice from the Attorney General that—

"(A) any foreign bank which operates a State agency, a State branch which is not an insured branch, or a State commercial lending company subsidiary;

"(B) any State agency;

"(C) any State branch which is not an insured branch; or

"(D) any State commercial lending subsidiary,

has been found guilty of any money laundering offense, the Board shall issue a notice to the agency, branch, or subsidiary of the Board's intention to commence a termination proceeding under subsection (e).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED BRANCH.—The term 'insured branch' has the meaning given such term in section 3(s) of the Federal Deposit Insurance Act.

"(B) MONEY LAUNDERING OFFENSE DEFINED.—The term 'money laundering offense' means any criminal offense under section 1956 or 1957 of title 18, United States Code, or under section 5322 of title 31, United States Code.".

Subtitle B—Nonbank Financial Institutions and General Provisions

SEC. 1511. IDENTIFICATION OF FINANCIAL INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5326 the following new section:

"§ 5327. Identification of financial institutions

"(a) REGULATIONS REQUIRED.—The Secretary of the Treasury shall prescribe regulations requiring each depository institution to identify any customer (of the depository institution) which—

"(1) is a financial institution described in—

"(A) any subparagraph of section 5312(a)(2) other than subparagraphs (A) through (G); or

"(B) any regulation under any such subparagraph; and

"(2) has any account with the depository institution.

"(b) REPORTS REQUIRED.—Each depository institution shall report the names of and other information about financial institution customers required to be identified under subsection (a) to the Secretary at such times and in such manner as the Secretary shall prescribe by regulation.

"(c) REPORTING OFFENSES.—No person shall cause or attempt to cause any depository institution to fail to file a report required

by this section or to file a report containing a material omission or misstatement of fact.

"(d) AVAILABILITY OF REPORTS.—The Secretary shall provide reports filed under subsection (b) to appropriate State financial institution supervisory agencies for supervisory purposes.

"(e) DEPOSITORY INSTITUTION DEFINED.—For purposes of this section, the term 'depository institution' means any financial institution described in subparagraph (A), (B), (C), (D), (E), or (F) of section 5312(a)(2).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 5321(a) of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(7) FINANCIAL INSTITUTION IDENTIFICATION VIOLATIONS.—

"(A) PENALTY AUTHORIZED.—The Secretary may impose a civil money penalty on any person who willfully violates any provision of section 5327 or any regulation prescribed under such section.

"(B) MAXIMUM AMOUNT LIMITATION.—The amount of any civil money penalty imposed under subparagraph (A) shall not exceed $10,000 per day for each day during which a report remains unfiled or a report containing a material omission or misstatement of fact remains uncorrected.".

"(c) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5326 the following new item:

"5327. Identification of financial institutions.".

(d) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 5327 of title 31, United States Code (as added by subsection (a) of this section) shall take effect before January 1, 1994. 31 USC 5327 note.

SEC. 1512. PROHIBITION OF ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) IN GENERAL.—Chapter 95 of title 18, United States Code, is amended by adding at the end the following section:

"§ 1960. Prohibition of illegal money transmitting businesses

"(a) Whoever conducts, controls, manages, supervises, directs, or owns all or part of a business, knowing the business is an illegal money transmitting business, shall be fined in accordance with this title or imprisoned not more than 5 years, or both.

"(b) As used in this section—

"(1) the term 'illegal money transmitting business' means a money transmitting business that affects interstate or foreign commerce in any manner or degree and which is knowingly operated in a State—

"(A) without the appropriate money transmitting State license; and

"(B) where such operation is punishable as a misdemeanor or a felony under State law;

"(2) the term 'money transmitting' includes but is not limited to transferring funds on behalf of the public by any and all means including but not limited to transfers within this country or to locations abroad by wire, check, draft, facsimile, or courier; and

"(3) the term 'State' means any State of the United States, the District of Columbia, the Northern Mariana Islands, and any commonwealth, territory, or possession of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 95 of title 18, United States Code, is amended by adding at the end the following item:

"1960. Prohibition of illegal money transmitting businesses.".

(c) CRIMINAL FORFEITURE.—Section 982(a)(1) of title 18, United States Code, is amended by striking "or 1957" and inserting ", 1957, or 1960".

SEC. 1513. COMPLIANCE PROCEDURES.

Section 5318(a)(2) of title 31, United States Code, is amended by inserting "or to guard against money laundering" before the semicolon.

SEC. 1514. NONDISCLOSURE OF ORDERS.

Section 5326 of title 31, United States Code, is amended by adding at the end the following:

"(c) NONDISCLOSURE OF ORDERS.—No financial institution or officer, director, employee or agent of a financial institution subject to an order under this section may disclose the existence of, or terms of, the order to any person except as prescribed by the Secretary.".

SEC. 1515. PROVISIONS RELATING TO RECORDKEEPING WITH RESPECT TO CERTAIN FUNDS TRANSFERS.

(a) RECORDKEEPING REGULATIONS REQUIRED.—Section 21(b) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(b)) is amended—

(1) by striking "(b) Where" and inserting "(b) RECORDKEEPING REGULATIONS.—

"(1) IN GENERAL.—Where"; and

(2) by adding at the end the following new paragraphs:

"(2) DOMESTIC FUNDS TRANSFERS.—Whenever the Secretary and the Board of Governors of the Federal Reserve System (hereafter in this section referred to as the 'Board') determine that the maintenance of records, by insured depository institutions, of payment orders which direct transfers of funds over wholesale funds transfer systems has a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, the Secretary and the Board shall jointly prescribe regulations to carry out the purposes of this section with respect to the maintenance of such records.

"(3) INTERNATIONAL FUNDS TRANSFERS.—

"(A) IN GENERAL.—The Secretary and the Board shall jointly prescribe, after consultation with State banking supervisors, final regulations requiring that insured depository institutions, businesses that provide check cashing services, money transmitting businesses, and businesses that issue or redeem money orders, travelers' checks or other similar instruments maintain such records of payment orders which—

"(i) involve international transactions; and

"(ii) direct transfers of funds over wholesale funds transfer systems or on the books of any insured depository institution, or on the books of any business that

provides check cashing services, any money transmitting business, and any business that issues or redeems money orders, travelers' checks or similar instruments, that will have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

"(B) FACTORS FOR CONSIDERATION.—In prescribing the regulations required under subparagraph (A), the Secretary and the Board shall consider—

"(i) the usefulness in criminal, tax, or regulatory investigations or proceedings of any record required to be maintained pursuant to the proposed regulations; and

"(ii) the effect the recordkeeping required pursuant to such proposed regulations will have on the cost and efficiency of the payment system.

"(C) Availability of records.—Any records required to be maintained pursuant to the regulations prescribed under subparagraph (A) shall be submitted or made available to the Secretary or the Board upon request.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Sectior 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended—

(1) in subsection (c), by striking "Each insured" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), each insured";

(2) in subsection (e), by striking "Whenever any" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b), whenever any"; and

(3) in subsection (f), by striking "In addition to" and inserting "Subject to the requirements of any regulations prescribed jointly by the Secretary and the Board under paragraph (2) or (3) of subsection (b) and in addition to".

(c) EFFECTIVE DATE OF REGULATIONS.—The initial final regulations prescribed pursuant to section 21(b)(3) of the Federal Deposit Insurance Act (as added by subsection (a)(2) of this section) shall take effect before January 1, 1994. 12 USC 1829b note.

SEC. 1516. USE OF CERTAIN RECORDS.

Section 1112(f) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)) is amended—

(1) in paragraph (1), by inserting "or the Secretary of the Treasury" after "the Attorney General"; and

(2) in paragraph (2), by inserting "and only for criminal investigative purposes relating to money laundering and other financial crimes by the Department of the Treasury" after "the Department of Justice".

SEC. 1517. SUSPICIOUS TRANSACTIONS AND FINANCIAL INSTITUTION ANTI-MONEY LAUNDERING PROGRAMS.

(a) REPORTING REQUIREMENT.—Section 5324 of title 31, United States Code, is amended by inserting "or section 5325 or regulations prescribed under such section 5325" after "section 5313(a)" each place such term appears.

(b) SUSPICIOUS TRANSACTIONS AND ENFORCEMENT PROGRAMS.—Section 5314 of title 31, United States Code, is amended by adding at the end the following new subsections:

"(g) REPORTING OF SUSPICIOUS TRANSACTIONS.—

"(1) IN GENERAL.—The Secretary may require any financial institution, and any director, officer, employee, or agent of any financial institution, to report any suspicious transaction relevant to a possible violation of law or regulation.

"(2) NOTIFICATION PROHIBITED.—A financial institution, and a director, officer, employee, or agent of any financial institution, who voluntarily reports a suspicious transaction, or that reports a suspicious transaction pursuant to this section or any other authority, may not notify any person involved in the transaction that the transaction has been reported.

"(3) LIABILITY FOR DISCLOSURES.—Any financial institution that makes a disclosure of any possible violation of law or regulation or a disclosure pursuant to this subsection or any other authority, and any director, officer, employee, or agent of such institution, shall not be liable to any person under any law or regulation of the United States or any constitution, law, or regulation of any State or political subdivision thereof, for such disclosure or for any failure to notify the person involved in the transaction or any other person of such disclosure.

"(h) ANTI-MONEY LAUNDERING PROGRAMS.—

"(1) IN GENERAL.—In order to guard against money laundering through financial institutions, the Secretary may require financial institutions to carry out anti-money laundering programs, including at a minimum

"(A) the development of internal policies, procedures, and controls,

"(B) the designation of a compliance officer,

"(C) an ongoing employee training program, and

"(D) an independent audit function to test programs.

"(2) REGULATIONS.—The Secretary may prescribe minimum standards for programs established under paragraph (1).".

31 USC 5311 note.

SEC. 1518. ANTI-MONEY LAUNDERING TRAINING TEAM.

The Secretary of the Treasury and the Attorney General shall jointly establish a team of experts to assist and provide training to foreign governments and agencies thereof in developing and expanding their capabilities for investigating and prosecuting violations of money laundering and related laws.

SEC. 1519. INTERNATIONAL MONEY LAUNDERING REPORTS.

(a) UNITED STATES OBJECTIVES.—Section 481(a)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291(a)(1)) is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by redesignating subparagraph (E) as subparagraph (F); and

(3) by inserting after subparagraph (D) the following new subparagraph:

"(E) the objective of the United States in dealing with the problem of international money laundering should be to ensure that countries adopt comprehensive domestic measures against money laundering and cooperative with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions; and"

(b) ANNUAL REPORTS.—Section 481(e) of that Act (22 U.S.C. 2291(e)) is amended—

(1) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(2) by inserting after paragraph (6) the following new paragraph (7):

"(7)(A) Each report pursuant to this subsection shall include a report on major money laundering countries. This report shall specify—

"(i) which countries are major money laundering countries;

"(ii) which countries identified pursuant to clause (i) have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(iii) which countries identified pursuant to clause (ii) have not reached agreement with the United States authorities on a mechanism for exchanging adequate records in connection with narcotics investigations and proceedings;

"(iv) which countries identified pursuant to clause (iii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings; and

"(v) which countries identified pursuant to clause (i)—

"(I) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations, and

"(II) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States,

"(B) In addition, for each major money laundering country, the report shall include findings on the country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to address such obstacles, including the imposition of sanctions or penalties.

"(C) The report shall also include information on multilateral and bilateral strategies pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering.

"(D) The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(E) As used in this paragraph, the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.".

(c) DEFINITION OF MAJOR DRUG-TRANSIT COUNTRY.—Section 481(i)(5) of that Act (22 U.S.C. 2291(i)(5)) is amended—

(1) by inserting "or" at the end of subparagraph (A);

(2) by striking out "or" at the end of subparagraph (B) and inserting in lieu thereof a period; and

(3) by striking out subparagraph (C).

Subtitle C—Money Laundering Enforcement Improvements

SEC. 1521. JURISDICTION IN CIVIL FORFEITURE CASES.

Section 1355 of title 28, United States Code, is amended—

(1) by inserting "(a)" before "The district"; and

(2) by adding at the end the following new subsections:

"(b)(1) A forfeiture action or proceeding may be brought in—

"(A) the district court for the district in which any of the acts or omissions giving rise to the forfeiture occurred, or

"(B) any other district where venue for the forfeiture action or proceeding is specifically provided for in section 1395 of this title or any other statute.

"(2) Whenever property subject to forfeiture under the laws of the United States is located in a foreign country, or has been detained or seized pursuant to legal process or competent authority of a foreign government, an action or proceeding for forfeiture may be brought as provided in paragraph (1), or in the United States District court for the District of Columbia.

"(c) In any case in which a final order disposing of property in a civil forfeiture action or proceeding is appealed, removal of

the property by the prevailing party shall not deprive the court of jurisdiction. Upon motion of the appealing party, the district court or the court of appeals shall issue any order necessary to preserve the right of the appealing party to the full value of the property at issue, including a stay of the judgment of the district court pending appeal or requiring the prevailing party to post an appeal bond.

"(d) Any court with jurisdiction over a forfeiture action pursuant to subsection (b) may issue and cause to be served in any other district such process as may be required to bring before the court the property that is the subject of the forfeiture action.".

SEC. 1522. CIVIL FORFEITURE OF FUNGIBLE PROPERTY.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 984. Civil forfeiture of fungible property

"(a) This section shall apply to any action for forfeiture brought by the Government in connection with any offense under section 1956, 1957, or 1960 of this title or section 5322 of title 31, United States Code.

"(b)(1) In any forfeiture action in rem in which the subject property is cash, monetary instruments in bearer form, funds deposited in an account in a financial institution (as defined in section 20 of this title), or other fungible property—

"(A) it shall not be necessary for the Government to identify the specific property involved in the offense that is the basis for the forfeiture; and

"(B) it shall not be a defense that the property involved in such an offense has been removed and replaced by identical property.

"(2) Except as provided in subsection (c), any identical property found in the same place or account as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture under this section.

"(c) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be commenced more than 1 year from the date of the offense.

"(d)(1) No action pursuant to this section to forfeit property not traceable directly to the offense that is the basis for the forfeiture may be taken against funds held by a financial institution in an interbank account, unless the financial institution holding the account knowingly engaged in the offense.

"(2) As used in this section, the term 'interbank account' means an account held by one financial institution at another financial institution primarily for the purpose of facilitating customer transactions.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"984. Civil forfeiture of fungible property.".

SEC. 1523. PROCEDURE FOR SUBPOENAING BANK RECORDS.

(a) IN GENERAL.—Chapter 46 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 986. Subpoenas for bank records

"(a) At any time after the commencement of any action for forfeiture in rem brought by the United States under section 1956, 1957, or 1960 of this title, section 5322 of title 31, United States Code, or the Controlled Substances Act, any party may request the Clerk of the Court in the district in which the proceeding is pending to issue a subpoena duces tecum to any financial institution, as defined in section 5312(a) of title 31, United States Code, to produce books, records and any other documents at any place designated by the requesting party. All parties to the proceeding shall be notified of the issuance of any such subpoena. The procedures and limitations set forth in section 985 of this title shall apply to subpoenas issued under this section.

Mail. "(b) Service of a subpoena issued pursuant to this section shall be by certified mail. Records produced in response to such a subpoena may be produced in person or by mail, common carrier, or such other method as may be agreed upon by the party requesting the subpoena and the custodian of records. The party requesting the subpoena may require the custodian of records to submit an affidavit certifying the authenticity and completeness of the records and explaining the omission of any record called for in the subpoena.

"(c) Nothing in this section shall preclude any party from pursuing any form of discovery pursuant to the Federal Rules of Civil Procedure.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 46 of title 18, United States Code, is amended by adding at the end the following:

"986. Subpoenas for bank records.".

SEC. 1524. DELETION OF REDUNDANT AND INADVERTENTLY LIMITING PROVISION IN 18 U.S.C. 1956.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "section 1341 (relating to mail fraud) or section 1343 (relating to wire fraud) affecting a financial institution, section 1344 (relating to bank fraud),"; and

(2) by striking "section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207–51; 21 U.S.C. 857)" and inserting "section 422 of the Controlled Substances Act".

SEC. 1525. STRUCTURING TRANSACTIONS TO EVADE CMIR REQUIREMENT.

(a) IN GENERAL.—Section 5324 of title 31, United States Code, is amended—

(1) by inserting "(a) DOMESTIC COIN AND CURRENCY TRANSACTIONS.—" before "No person"; and

(2) by adding at the end the following:

"(b) INTERNATIONAL MONETARY INSTRUMENT TRANSACTIONS.—No person shall, for the purpose of evading the reporting requirements of section 5316—

"(1) fail to file a report required by section 5316, or cause or attempt to cause a person to fail to file such a report;

"(2) file or cause or attempt to cause a person to file a report required under section 5316 that contains a material omission or misstatement of fact; or

"(3) structure or assist in structuring, or attempt to structure or assist in structuring, any importation or exportation of monetary instruments.".

(b) CONFORMING AMENDMENT.—Section 5321(a)(4)(C) of title 31, United States Code, is amended by striking "under section 5317(d)".

(c) FORFEITURE.—

(1) TITLE 18.—Section 981(a)(1)(A) of title 18, United States Code, is amended by striking "5324" and inserting "5324(a)".

(2) TITLE 31.—Section 5317(c) of title 31, United States Code, is amended by inserting after the first sentence "Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5324(b), or any property traceable to such property, may be seized and forfeited to the United States Government.".

SEC. 1526. CLARIFICATION OF DEFINITION OF FINANCIAL INSTITUTION.

(a) SECTION 1956.—Section 1956(c)(6) of title 18, United States Code, is amended by striking "and the regulations" and inserting "or the regulations".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by striking "financial institution (as defined in section 5312 of title 31)" and inserting "financial institution (as defined in section 1956 of this title)".

SEC. 1527. DEFINITION OF FINANCIAL TRANSACTION.

(a) SECTION 1956.—Section 1956(c) of title 18, United States Code, is amended—

(1) in paragraph (4)(A)—

(A) by inserting "or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft," after "monetary instruments,";

(B) by striking "which in any way or degree affects interstate or foreign commerce,"; and

(C) by inserting "which in any way or degree affects interstate or foreign commerce" after "(A) a transaction"; and

(2) in paragraph (3), by inserting "use of a safe deposit box," before "or any other payment".

(b) SECTION 1957.—Section 1957(f)(1) of title 18, United States Code, is amended by inserting ", including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title," before "but such term does not include".

SEC. 1528. OBSTRUCTING A MONEY LAUNDERING INVESTIGATION.

Section 1510(b)(3)(B)(i) of title 18, United States Code, is amended by striking "or 1344" and inserting "1344, 1956, 1957, or chapter 53 of title 31".

SEC. 1529. AWARDS IN MONEY LAUNDERING CASES.

Section 524(c)(1)(B) of title 28, United States Code, is amended by inserting "or of sections 1956 and 1957 of title 18, sections 5313 and 5324 of title 31, and section 6050I of the Internal Revenue Code of 1986" after "criminal drug laws of the United States".

SEC. 1530. PENALTY FOR MONEY LAUNDERING CONSPIRACIES.

Section 1956 of title 18, United States Code, is amended by inserting at the end the following new subsection:

"(g) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.".

SEC. 1531. TECHNICAL AND CONFORMING AMENDMENTS TO MONEY LAUNDERING PROVISION.

(a) TRANSPORTATION.—Subsections (a)(2) and (b) of section 1956 of title 18, United States Code, are amended by striking "transportation" each time such term appears and inserting "transportation, transmission, or transfer."

(b) TECHNICAL CORRECTION.—Section 1956(a)(3) of title 18, United States Code, is amended by striking "represented by a law enforcement officer" and inserting "represented".

SEC. 1532. PRECLUSION OF NOTICE TO POSSIBLE SUSPECTS OF EXISTENCE OF A GRAND JURY SUBPOENA FOR BANK RECORDS IN MONEY LAUNDERING AND CONTROLLED SUBSTANCE INVESTIGATIONS.

Section 1120(b)(1)(A) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3420(b)(1)(A)) is amended by inserting before the semicolon "or crime involving a violation of the Controlled Substance Act, the Controlled Substances Import and Export Act, section 1956 or 1957 of title 18, sections 5313, 5316 and 5324 of title 31, or section 6050I of the Internal Revenue Code of 1986".

SEC. 1533. ELIMINATION OF RESTRICTION ON DISPOSAL OF FORFEITED PROPERTY BY THE DEPARTMENT OF THE TREASURY AND THE POSTAL SERVICE.

Section 981(e) of title 18, United States Code, is amended by striking "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

SEC. 1534. NEW MONEY LAUNDERING PREDICATE OFFENSES.

Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(1) by striking "or" before "section 16";

(2) by inserting "section 1708 (theft from the mail)," before "section 2113"; and

(3) by inserting before the semicolon; ", any felony violation of section 9(c) of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act".

SEC. 1535. AMENDMENTS TO THE BANK SECRECY ACT.

(a) TITLE 31.—Title 31, United States Code, is amended—

(1) in section 5324, by inserting ", section 5325, or the regulations issued thereunder" after "section 5313(a)" each place such term appears; and

(2) in section 5321(a)(5)(A), by inserting "or any person willfully causing" after "willfully violates".

(b) FEDERAL DEPOSIT INSURANCE ACT.—Section 21(j)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1829b(j)(1)) is amended

by inserting ", or any person who willfully causes such a violation," after "gross negligence violates".

(c) RECORDKEEPING.—Public Law 91-508 (12 U.S.C. 1951 et seq.) is amended—

(1) in section 125(a), by inserting "or any person willfully causing a violation of the regulation," after "applies,"; and 12 USC 1955.

(2) in section 127, by inserting ", or willfully causes a violation of" after "Whoever willfully violates". 12 USC 1957.

SEC. 1536. EXPANSION OF MONEY LAUNDERING LAW TO COVER PROCEEDS OF CERTAIN FOREIGN CRIMES.

Section 1956(c)(7)(B) of title 18, United States Code, is amended—

(1) by striking "involving the manufacture" and inserting the following: "involving—

"(i) the manufacture"; and

(2) by adding at the end the following:

"(ii) kidnaping, robbery, or extortion; or

"(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978);".

Subtitle D—Reports and Miscellaneous

SEC. 1541. STUDY AND REPORT ON REIMBURSING FINANCIAL INSTITUTIONS AND OTHERS FOR PROVIDING FINANCIAL RECORDS.

(a) STUDY REQUIRED.—The Attorney General, in consultation with the Secretary of the Treasury and the Board of Governors of the Federal Reserve System and other appropriate banking regulatory agencies, shall conduct a study of the effect of amending the Right to Financial Privacy Act of 1978 by allowing reimbursement to financial institutions for assembling or providing financial records on corporations and other entities not currently covered under section 1115(a) of such Act. The study shall also include analysis of the effect of allowing nondepositor licensed transmitters of funds to be reimbursed to the same extent as financial institutions under that section.

(b) REPORT.—Before the end of the 180-day period beginning on the date of enactment of this Act, the Attorney General shall submit a report to the Congress on the results of the study conducted pursuant to subsection (a).

SEC. 1542. REPORTS OF INFORMATION REGARDING SAFETY AND SOUNDNESS OF DEPOSITORY INSTITUTIONS. 12 USC 1831m-1.

(a) REPORTS TO APPROPRIATE FEDERAL BANKING AGENCIES.—

(1) IN GENERAL.—The Attorney General, the Secretary of the Treasury, and the head of any other agency or instrumentality of the United States shall, unless otherwise prohibited by law, disclose to the appropriate Federal banking agency any information that the Attorney General, the Secretary of the Treasury, or such agency head believes raises significant concerns regarding the safety or soundness of any depository institution doing business in the United States.

(2) EXCEPTIONS.—

(A) INTELLIGENCE INFORMATION.—

(i) IN GENERAL.—The Director of Central Intelligence shall disclose to the Attorney General or the Secretary of the Treasury any intelligence information that would otherwise be reported to an appropriate Federal banking agency pursuant to paragraph (1). After consultation with the Director of Central Intelligence, the Attorney General or the Secretary of the Treasury, shall disclose the intelligence information to the appropriate Federal banking agency.

(ii) PROCEDURES FOR RECEIPT OF INTELLIGENCE INFORMATION.—Each appropriate Federal banking agency, in consultation with the Director of Central Intelligence, shall establish procedures for receipt of intelligence information that are adequate to protect the intelligence information.

(B) CRIMINAL INVESTIGATIONS, SAFETY OF GOVERNMENT INVESTIGATORS, INFORMANTS, AND WITNESSES.—If the Attorney General, the Secretary of the Treasury or their respective designees determines that the disclosure of information pursuant to paragraph (1) may jeopardize a pending civil investigation or litigation, or a pending criminal investigation or prosecution, may result in serious bodily injury or death to Government employees, informants, witnesses or their respective families, or may disclose sensitive investigative techniques and methods, the Attorney General or the Secretary of the Treasury shall—

(i) provide the appropriate Federal banking agency a description of the information that is as specific as possible without jeopardizing the investigation, litigation, or prosecution, threatening serious bodily injury or death to Government employees, informants, or witnesses or their respective families, or disclosing sensitive investigation techniques and methods; and

(ii) permit a full review of the information by the Federal banking agency at a location and under procedures that the Attorney General determines will ensure the effective protection of the information while permitting the Federal banking agency to ensure the safety and soundness of any depository institution.

(C) GRAND JURY INVESTIGATIONS; CRIMINAL PROCEDURE.—Paragraph (1) shall not—

(i) apply to the receipt of information by an agency or instrumentality in connection with a pending grand jury investigation; or

(ii) be construed to require disclosure of information prohibited by rule 6 of the Federal Rules of Criminal Procedure.

(b) PROCEDURES FOR RECEIPT OF DISCLOSURE REPORTS.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, each appropriate Federal banking agency shall establish procedures for receipt of a disclosure report by an agency or instrumentality made in accordance with subsection (a)(1). The procedures established in accordance with this subsection shall ensure adequate protection of information disclosed, including access control and information accountability.

(2) PROCEDURES RELATED TO EACH DISCLOSURE REPORT.—Upon receipt of a report in accordance with subsection (a)(1), the appropriate Federal banking agency shall—

(A) consult with the agency or instrumentality that made the disclosure regarding the adequacy of the procedures established pursuant to paragraph (1), and

(B) adjust the procedures to ensure adequate protection of the information disclosed.

(c) EFFECT ON AGENCIES.—This section does not impose an affirmative duty on the Attorney General, the Secretary of the Treasury, or the head of any agency or instrumentality of the United States to collect new or to review existing information.

(d) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency" and "depository institution" have the same meanings as in section 8 of the Federal Deposit Insurance Act.

(e) REPORT.—The Attorney General and the Secretary of the Treasury shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, not later than 90 days after the end of each calendar year on their utilization of the exceptions provided in subsection (a)(1)(B).

SEC. 1543. IMMUNITY.

Section 6001(1) of title 18, United States Code, is amended by inserting "the Board of Governors of the Federal Reserve System," after "the Atomic Energy Commission,".

SEC. 1544. INTERAGENCY INFORMATION SHARING.

Section 11 of the Federal Deposit Insurance Act (12 U.S.C. 1821) is amended by adding at the end the following new subsection:

"(t) AGENCIES MAY SHARE INFORMATION WITHOUT WAIVING PRIVILEGE.—

"(1) IN GENERAL.—A covered agency shall not be deemed to have waived any privilege applicable to any information by transferring that information to or permitting that information to be used by—

"(A) any other covered agency, in any capacity; or

"(B) any other agency of the Federal Government (as defined in section 6 of title 18, United States Code).

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) COVERED AGENCY.—The term 'covered agency' means any of the following:

"(i) Any appropriate Federal banking agency.

"(ii) The Resolution Trust Corporation.

"(iii) The Farm Credit Administration.

"(iv) The Farm Credit System Insurance Corporation.

"(v) The National Credit Union Administration.

"(B) PRIVILEGE.—The term 'privilege' includes any work-product, attorney-client, or other privilege recognized under Federal or State law.

"(3) RULE OF CONSTRUCTION.—Paragraph (1) shall not be construed as implying that any person waives any privilege applicable to any information because paragraph (1) does not apply to the transfer or use of that information.".

Counterfeit Deterrence Act of 1992. 18 USC 471 note.

Subtitle E—Counterfeit Deterrence

SEC. 1551. SHORT TITLE.

This subtitle may be cited as the "Counterfeit Deterrence Act of 1992".

SEC. 1552. INCREASE IN PENALTIES.

Section 474 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever" the first time it appears;

(2) by striking "United States; or" at the end of the sixth undesignated paragraph and inserting "United States—";

(3) by striking the seventh undesignated paragraph;

(4) by amending the last undesignated paragraph to read as follows:

"Is guilty of a class C felony."; and

(5) by adding at the end thereof the following:

"(b) For purposes of this section, the terms 'plate', 'stone', 'thing', or 'other thing' includes any electronic method used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system (pursuant to section 504) to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press and others shall not be unduly restricted.".

SEC. 1553. DETERRENTS TO COUNTERFEITING.

(a) IN GENERAL.—Chapter 25 of title 18, United States Code, is amended by inserting after section 474 the following new section:

"§ 474A. Deterrents to counterfeiting of obligations and securities

"(a) Whoever has in his control or possession, after a distinctive paper has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States, any similar paper adapted to the making of any such obligation or other security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(b) Whoever has in his control or possession, after a distinctive counterfeit deterrent has been adopted by the Secretary of the Treasury for the obligations and other securities of the United States by publication in the Federal Register, any essentially identical feature or device adapted to the making of any such obligation or security, except under the authority of the Secretary of the Treasury, is guilty of a class C felony.

"(c) As used in this section—

"(1) the term 'distinctive paper' includes any distinctive medium of which currency is made, whether of wood pulp, rag, plastic substrate, or other natural or artificial fibers or materials; and

"(2) the term 'distinctive counterfeit deterrent' includes any ink, watermark, seal, security thread, optically variable device, or other feature or device;

"(A) in which the United States has an exclusive property interest; or

"(B) which is not otherwise in commercial use or in the public domain and which the Secretary designates as being necessary in preventing the counterfeiting of obligations or other securities of the United States.".

(b) CHAPTER ANALYSIS.—The chapter analysis for chapter 25 of title 18, United States Code, is amended by adding after the item for section 474 the following:

"474A. Deterrents to counterfeiting of obligations and securities.".

SEC. 1554. REPRODUCTIONS OF CURRENCY.

Section 504 of title 18, United States Code, is amended—

(1) in paragraph (1)(D), by striking the comma at the end thereof and inserting a period;

(2) in paragraph (1)—

(A) by striking "for philatelic" from the text following subparagraph (D) and all that follows through "albums).";

and

(B) by adding at the end the following new sentence: "The Secretary of the Treasury shall prescribe regulations to permit color illustrations of such currency of the United States as the Secretary determines may be appropriate for such purposes.". Regulations.

(3) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) The provisions of this section shall not permit the reproduction of illustrations of obligations or other securities, by or through electronic methods used for the acquisition, recording, retrieval, transmission, or reproduction of any obligation or other security, unless such use is authorized by the Secretary of the Treasury. The Secretary shall establish a system to ensure that the legitimate use of such electronic methods and retention of such reproductions by businesses, hobbyists, press or others shall not be unduly restricted."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "but not for advertising purposes except philatelic advertising,".

Subtitle F—Miscellaneous Provisions

SEC. 1561. CIVIL MONEY PENALTIES.

(a) IN GENERAL.—Section 5321(a)(6) of title 31, United States Code, is amended to read as follows:

"(6) NEGLIGENCE.—

"(A) IN GENERAL.—The Secretary of the Treasury may impose a civil money penalty of not more than $500 on any financial institution which negligently violates any provision of this subchapter or any regulation prescribed under this subchapter.

"(B) PATTERN OF NEGLIGENT ACTIVITY.—If any financial institution engages in a pattern of negligent violations of any provision of this subchapter or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to any penalty imposed under subparagraph (A) with respect to any such violation, impose a civil money penalty of not more than $50,000 on the financial institution.".

31 USC 5321 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to violations committed after the date of the enactment of this Act.

SEC. 1562. AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN COPIES OF CTRS FROM CUSTOMERS WHICH ARE UNREGULATED BUSINESSES.

Section 5326 of title 31, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (d); and

(2) by inserting after subsection (a) the following new subsection:

"(b) AUTHORITY TO ORDER DEPOSITORY INSTITUTIONS TO OBTAIN REPORTS FROM CUSTOMERS.—

"(1) IN GENERAL.—The Secretary of the Treasury may, by regulation or order, require any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act)—

"(A) to request any financial institution (other than a depository institution) which engages in any reportable transaction with the depository institution to provide the depository institution with a copy of any report filed by the financial institution under this subtitle with respect to any prior transaction (between such financial institution and any other person) which involved any portion of the coins or currency (or monetary instruments) which are involved in the reportable transaction with the depository institution; and

"(B) if no copy of any report described in subparagraph (A) is received by the depository institution in connection with any reportable transaction to which such subparagraph applies, to submit (in addition to any report required under this subtitle with respect to the reportable transaction) a written notice to the Secretary that the financial institution failed to provide any copy of such report.

"(2) REPORTABLE TRANSACTION DEFINED.—For purposes of this subsection, the term 'reportable transaction' means any transaction involving coins or currency (or such other monetary instruments as the Secretary may describe in the regulation or order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe.".

SEC. 1563. WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF FINANCIAL INSTITUTIONS OTHER THAN DEPOSITORY INSTITUTIONS.

(a) IN GENERAL.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5327 (as added by section 1511(a) of this title) the following new section:

"§ 5328. Whistleblower protections

"(a) PROHIBITION AGAINST DISCRIMINATION.—No financial institution may discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Secretary of the Treasury, the Attorney General, or any Federal supervisory agency regarding a possible violation of any provision of this subchapter or section 1956, 1957, or 1960 of title 18, or any regulation under any such provision, by the financial

institution or any director, officer, or employee of the financial institution.

"(b) ENFORCEMENT.—Any employee or former employee who believes that such employee has been discharged or discriminated against in violation of subsection (a) may file a civil action in the appropriate United States district court before the end of the 2-year period beginning on the date of such discharge or discrimination.

"(c) REMEDIES.—If the district court determines that a violation has occurred, the court may order the financial institution which committed the violation to—

"(1) reinstate the employee to the employee's former position;

"(2) pay compensatory damages; or

"(3) take other appropriate actions to remedy any past discrimination.

"(d) LIMITATION.—The protections of this section shall not apply to any employee who—

"(1) deliberately causes or participates in the alleged violation of law or regulation; or

"(2) knowingly or recklessly provides substantially false information to the Secretary, the Attorney General, or any Federal supervisory agency.

"(e) COORDINATION WITH OTHER PROVISIONS OF LAW.—This section shall not apply with respect to any financial institution which is subject to section 33 of the Federal Deposit Insurance Act, section 213 of the Federal Credit Union Act, or section 21A(q) of the Home Owners' Loan Act (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by inserting after the item relating to section 5327 (as added by section 1511(c) of this Act) the following new item:

"5328. Whistleblower protections.".

SEC. 1564. ADVISORY GROUP ON REPORTING REQUIREMENTS.

31 USC 5311 note.

(a) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Treasury shall establish a Bank Secrecy Act Advisory Group consisting of representatives of the Department of the Treasury, the Department of Justice, and the Office of National Drug Control Policy and of other interested persons and financial institutions subject to the reporting requirements of subchapter II of chapter 53 of title 31, United States Code, or section 6050I of the Internal Revenue Code of 1986.

(b) PURPOSES.—The Advisory Group shall provide a means by which the Secretary—

(1) informs private sector representatives, on a regular basis, of the ways in which the reports submitted pursuant to the requirements referred to in subsection (a) have been used;

(2) informs private sector representatives, on a regular basis, of how information regarding suspicious financial transactions provided voluntarily by financial institutions has been used; and

(3) receives advice on the manner in which the reporting requirements referred to in subsection (a) should be modified to enhance the ability of law enforcement agencies to use the information provided for law enforcement purposes.

(c) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to the Bank Secrecy Act Advisory Group established pursuant to subsection (a).

31 USC 5311 note.

SEC. 1565. GAO FEASIBILITY STUDY OF THE FINANCIAL CRIMES ENFORCEMENT NETWORK.

(a) STUDY REQUIRED.—The Comptroller General of the United States shall conduct a feasibility study of the Financial Crimes Enforcement Network (popularly referred to as "Fincen") established by the Secretary of the Treasury in cooperation with other agencies and departments of the United States and appropriate Federal banking agencies.

(b) SPECIFIC REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall examine and evaluate—

(1) the extent to which Federal, State, and local governmental and nongovernmental organizations are voluntarily providing information which is necessary for the system to be useful for law enforcement purposes;

(2) the extent to which the operational guidelines established for the system provide for the coordinated and efficient entry of information into, and withdrawal of information from, the system;

(3) the extent to which the operating procedures established for the system provide appropriate standards or guidelines for determining—

(A) who is to be given access to the information in the system;

(B) what limits are to be imposed on the use of such information; and

(C) how information about activities or relationships which involve or are closely associated with the exercise of constitutional rights is to be screened out of the system; and

(4) the extent to which the operating procedures established for the system provide for the prompt verification of the accuracy and completeness of information entered into the system and the prompt deletion or correction of inaccurate or incomplete information.

(c) REPORT TO CONGRESS.—Before the end of the 1-year period, beginning on the date of the enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress containing the findings and conclusions of the Comptroller General in connection with the study conducted pursuant to subsection (a), together with such recommendations for legislative or administrative action as the Comptroller General may determine to be appropriate.

TITLE XVI—TECHNICAL CORRECTIONS OF BANKING LAWS

Subtitle A—Federal Deposit Insurance Corporation Improvement Act

SEC. 1601. TABLE OF CONTENTS.

Section 1 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Federal Deposit Insurance Corporation Improvement Act of 1991'. 12 USC 1811 note.

"(b) TABLE OF CONTENTS.—

"Sec. 1. Short title; table of contents.

"TITLE I—SAFETY AND SOUNDNESS

"Subtitle A—Deposit Insurance Funds

"Sec. 101. Funding for the Federal deposit insurance funds.
"Sec. 102. Limitation on outstanding borrowing.
"Sec. 103. Repayment schedule.
"Sec. 104. Recapitalizing the Bank Insurance Fund.
"Sec. 105. Borrowing for BIF from BIF members.

"Subtitle B—Supervisory Reforms

"Sec. 111. Improved examinations.
"Sec. 112. Independent annual audits of insured depository institutions.
"Sec. 113. Assessments required to cover costs of examinations.
"Sec. 114. Examination and supervision fees for national banks and savings associations.
"Sec. 115. Application to FDIC required for insurance.

"Subtitle C—Accounting Reforms

"Sec. 121. Accounting objectives, standards, and requirements.
"Sec. 122. Small business and small farm loan information.
"Sec. 123. FDIC property disposition standards.

"Subtitle D—Prompt Corrective Action

"Sec. 131. Prompt corrective action.
"Sec. 132. Standards for safety and soundness.
"Sec. 133. Conservatorship and receivership amendments to facilitate prompt corrective action.

"Subtitle E—Least-Cost Resolution

"Sec. 141. Least-cost resolution.
"Sec. 142. Federal Reserve discount window advances.
"Sec. 143. Early resolution.

"Subtitle F—Depository Institutions Lacking Federal Deposit Insurance

"Sec. 151. Depository institutions lacking Federal deposit insurance.

"Subtitle G—Technical Corrections

"Sec. 161. Technical corrections and clarifications.

"TITLE II—REGULATORY IMPROVEMENT

"Subtitle A—Regulation of Foreign Banks

"Sec. 201. Short title.
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"Sec. 209. Powers of agencies respecting applications, examinations, and other proceedings.
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"Sec. 211. Standards and factors in the Home Owners' Loan Act.
"Sec. 212. Authority of Federal banking agencies to enforce consumer statutes.
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"Sec. 223. Enforcement of Equal Credit Opportunity Act.
"Sec. 224. Home Mortgage Disclosure Act.
"Sec. 225. Notice of safeguard exception.
"Sec. 226. Delegated processing.
"Sec. 227. Deposits at nonproprietary automated teller machines.
"Sec. 228. Notice of branch closure.

"Subtitle C—Bank Enterprise Act

"Sec. 231. Short title.
"Sec. 232. Reduced assessment rate for deposits attributable to lifeline accounts.
"Sec. 233. Assessment credits for qualifying activities relating to distressed communities.
"Sec. 234. Community development organizations.

"Subtitle D—FDIC Property Disposition

"Sec. 241. FDIC affordable housing program.

"Subtitle E—Whistleblower Protections

"Sec. 251. Additional whistleblower protections.

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"Sec. 261. Short title.
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"Sec. 301. Limitations on brokered deposits and deposit solicitations.
"Sec. 302. Risk-based assessments.
"Sec. 303. Restrictions on insured State bank activities.
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"Sec. 305. Improving capital standards.
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"Sec. 307. FDIC back-up enforcement authority.
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"Sec. 312. Foreign deposits.
"Sec. 313. Penalty for false assessment reports.

"Subtitle C—Demonstration Project and Studies

"Sec. 321. Feasibility study on authorizing insured and uninsured deposit accounts.

"Sec. 322. Private reinsurance study.

"TITLE IV—MISCELLANEOUS PROVISIONS

"Subtitle A—Payment System Risk Reduction

"Sec. 401. Findings and purpose.
"Sec. 402. Definitions.
"Sec. 403. Bilateral netting.
"Sec. 404. Clearing organization netting.
"Sec. 405. Preemption.
"Sec. 406. Relationship to other payments systems.
"Sec. 407. National emergencies.

"Subtitle B—Right to Financial Privacy Act of 1978

"Sec. 411. Amendments to the Right to Financial Privacy Act of 1978.

"Subtitle C—Final Settlement Payment Procedure

"Sec. 416. Final settlement payment procedure.

"Subtitle D—Miscellaneous Committees, Studies, and Reports

"Sec. 421. Amendments relating to Federal Reserve Board reserve requirements.
"Sec. 422. Permanent authorization of Credit Standards Advisory Committee.

"Subtitle E—Utilization of Private Sector

"Sec. 426. Utilization of private sector.
"Sec. 427. Reporting.

"Subtitle F—Emergency Assistance for Rhode Island

"Sec. 431. Emergency loan guarantee.

"Subtitle G—Qualified Thrift Lender Test Improvements

"Sec. 436. Short title.
"Sec. 437. Adjustment of compliance periods for purposes of qualified thrift lender test.
"Sec. 438. Increase in amount of liquid assets excludable from portfolio assets.
"Sec. 439. Additional investments included in definition of qualified thrift assets.
"Sec. 440. Prudent diversification of assets.
"Sec. 441. Consumer lending by Federal savings associations.

"Subtitle H—Prohibition on Entering Secrecy Agreements and Protective Orders

"Sec. 446. Prohibition on entering into secrecy agreements and protective orders.

"Subtitle I—Bank and Thrift Employee Provisions

"Sec. 451. Continuation of health plan coverage in cases of failed financial institutions.

"Subtitle J—Sense of the Congress Regarding the Credit Crisis

"Sec. 456. Credit crunch.

"Subtitle K—Acquisition of Insolvent Savings Associations

"Sec. 461. Acquisition of insolvent savings associations.

"Subtitle L—Creditability of Service

"Sec. 466. Creditability of service.

"Subtitle M—Other Miscellaneous Provisions

"Sec. 471. Providing services to insured depository institutions.
"Sec. 472. Real estate appraisals.
"Sec. 473. Emergency liquidity.
"Sec. 474. Discrimination against reorganized debtors.
"Sec. 475. Purchased mortgage servicing rights.
"Sec. 476. Limitation on securities private rights of action.
"Sec. 477. Modified small business lending disclosure.
"Sec. 478. Special insured deposits.

"Subtitle N—Severability

"Sec. 481. Severability.

"TITLE V—DEPOSITORY INSTITUTION CONVERSIONS

"Sec. 501. Mergers and acquisitions of insured depository institutions during conversion moratorium.

"Sec. 502. Mergers, consolidations, and other acquisitions authorized.".

SEC. 1602. TRANSFER AND REDESIGNATION OF SECTIONS WITH DUPLICATE SECTION NUMBERS.

(a) DUPLICATE SECTION 39.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to notice of branch closures and designated as section 39) is hereby—

12 USC 1831p, 1831r-1.

(1) transferred and inserted after section 41 of the Federal Deposit Insurance Act (as added by section 312 of the Federal Deposit Insurance Corporation Improvement Act of 1991); and

(2) redesignated as section 42.

(b) DUPLICATE SECTION 40.—The section of the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) which was added by section 151 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (relating to depository institutions lacking Federal deposit insurance and designated as section 40) is hereby—

12 USC 1831t.

(1) transferred and inserted after section 42 of the Federal Deposit Insurance Act (as transferred and redesignated by subsection (a) of this section); and

(2) redesignated as section 43.

SEC. 1603. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) The 1st sentence of section 7(b)(1)(A)(iii) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(1)(A)(iii)) (as amended by section 104(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting "rate" before the period.

(2) Section 14(d)(2)(D) of the Federal Deposit Insurance Act (12 U.S.C. 1824(d)(2)(D)) (as amended by section 105 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Member" and inserting "member".

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(a)) is amended—

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(b) AMENDMENTS RELATING TO SUBTITLE B.—

(1) Section 10(d) of the Federal Deposit Insurance Act (12 U.S.C. 1820(d)) (as added by section 111 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (5), by inserting "or the Resolution Trust Corporation" after "the Corporation" each place such term appears;

(B) in paragraph (5)(B), by inserting a comma after "bank"; and

(C) by striking paragraph (6).

(2) Section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1992 is amended— 12 USC 1831m note.

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3(r) of the Federal Deposit Insurance Act (12 U.S.C. 1813(r)) is amended to read as follows:

'(r) STATE BANK SUPERVISOR.—

'(1) IN GENERAL.—The term "State bank supervisor" means any officer, agency, or other entity of any State which has primary regulatory authority over State banks or State savings associations in such State.

'(2) INTERSTATE APPLICATION.—The State bank supervisors of more than 1 State may be the appropriate State bank supervisor for any insured depository institution.'".

(3) Section 36 of the Federal Deposit Insurance Act (as added by section 112 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended— 12 USC 1831m.

(A) in subsection (b)(2)(A)(iii), by striking "Corporation or" and inserting "Corporation and";

(B) in subsection (g)(3)(A)(i), by striking "an appropriate" and inserting "any appropriate"; and

(C) in subsection (g)(5), by inserting "and each appropriate Federal banking agency" after "Corporation" each place such term appears.

(4) Section 113(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "111(a)(1)" and inserting "111(a)". 12 USC 1820.

(5) The 1st sentence of the 4th undesignated paragraph of section 5240 of the Revised Statutes (12 U.S.C. 482) (as amended by section 114 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "duties" and inserting "office".

(6) Section 115(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "Section" before "4(b)". 12 USC 1814.

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by redesignating subsection (d) as subsection (c). 12 USC 1817 note.

(d) AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 38 of the Federal Deposit Insurance Act (as added by section 131(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended— 12 USC 1831o.

(A) in subsection (e)(2)(D)(i), by striking "and" where such term appears after the semicolon;

(B) in subsection (f)(6), by striking "functional regulator (as defined in section 2(s) of the Bank Holding Company Act of 1956)" and insert "appropriate regulator";

(C) in subsection (g)(1)(B), by striking "capitalized," and inserting "capitalized (but not well capitalized),"; and

(D) in the heading of subsection (f)(6), by striking "FUNCTIONAL" and inserting "OTHER".

12 USC 1818.

(2) Section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "the 1st and 2d place such term appears" before the semicolon.

(3) Section 8(i)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(1)) (as amended by section 131(c)(2)(A) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) by inserting "or 39" after "38" each place such term appears; and

(B) by striking "order under this section,.or to review" and inserting "order under any such section, or to review".

(4) Section 8(i)(2)(A)(ii) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)(A)(ii)) (as amended by section 131(c)(2)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "subsection (b)," and all that follows through the semicolon and inserting "subsection (b), (c), (e), (g), or (s) or any final order under section 38 or 39;".

12 USC 1813.

(5) Section 131(c)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "adding at the end" and inserting "inserting after subsection (x)".

12 USC 191.

(6) Section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Section 1 of the Act of June 30, 1876" and inserting "The 1st section of the Act entitled 'An Act authorizing the appointment of receivers of national banking associations, and for other purposes.' and approved June 30, 1876".

(7) The Act entitled "An Act authorizing the appointment of receivers of national banking associations, and for other purposes." and approved June 30, 1876 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

12 USC 191.

(A) by redesignating section 1 as section 2 and by inserting after the enacting clause the following new section:

National Bank Receivership Act.
12 USC 191 note.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'National Bank Receivership Act'."; and

12 USC 191.

(B) in section 2 (as amended by section 133(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and redesignated by subparagraph (A) of this paragraph), by striking "appoint the Federal Deposit Insurance Corporation as receiver for any national banking association" and inserting "appoint a receiver for any national bank (and such receiver shall be the Federal Deposit Insurance Corporation if the national bank is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act))".

(8) Effective on the effective date of the amendment made by section 133(d)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 5(d)(2)(A) of the Home Owners' Loan Act (12 U.S.C. 1464(d)(2)(A)) (as amended by such section 133(d)(1)) is amended by inserting a period at the end.

(9) The paragraph designated as "(p)" of section 11 of the Federal Reserve Act (12 U.S.C. 248) (as added by section

133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1992) is hereby redesignated as paragraph (o).

(10) The heading of subtitle D of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 105 Stat. 2253.

"Subtitle D—Prompt Corrective Action".

(11) The heading of section 131 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows:

"SEC. 131. PROMPT CORRECTIVE ACTION.".

(12) The heading of section 133 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "REGULATORY" and inserting "CORRECTIVE". 105 Stat. 2270.

(e) AMENDMENTS RELATING TO SUBTITLE E.—

(1) Section 11(d)(5)(D)(iii)(I) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(5)(D)(iii)(I)) (as amended by section 141(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "institution described in paragraph (3)(A)" and inserting "insured depository institution".

(2) The amendment made by section 142(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (adding a paragraph at the end of section 11 of the Federal Reserve Act) shall be considered to have been executed before the amendment made by section 133(f) of the Federal Deposit Insurance Corporation Improvement Act of 1991. 12 USC 248 note.

(f) AMENDMENTS RELATING TO SUBTITLE F.—

(1) Section 151(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended— 12 USC 1831t note.

(A) in paragraph (1), by striking "section 40(a)(1)" and inserting "section 43(a)(1)"; and

(B) in paragraph (3)—

(i) by striking " 'deposit',";

(ii) by striking "and";

(iii) by inserting ", and 'private deposit insurer'" before "have the same meaning"; and

(iv) by striking "section 40(f)" and inserting "section 43(f)".

(2) The heading of subtitle F of title I of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 105 Stat. 2282.

"Subtitle F—Depository Institutions Lacking Federal Deposit Insurance".

SEC. 1604. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) Section 7(e)(6) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended— 12 USC 3105.

(A) in subparagraph (A), by striking "against which the Board or, in the case of an order issued under section 4(i), the Comptroller of the Currency has issued an order under paragraph (1) or a refusal by such office or subsidiary" and inserting "against which—

"(i) the Board has issued an order under paragraph (1); or

"(ii) the Comptroller of the Currency has issued an order under section 4(i),

or a refusal by such office or subsidiary"; and

(B) in subparagraph (B), by striking "order issued under paragraph (1)" and inserting "order referred to in subparagraph (A)".

(2) Section 7(e)(7) of the International Banking Act of 1978 (as added by section 202(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "publc" and inserting "public".

12 USC 3105.

(3) Section 10(b)(6)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1820(b)(6)(A)) (as amended by section 203(c)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraph (2)" and all that follows through the semicolon and inserting "paragraph (2), (3), (4), or (5);".

(4) Section 10(b) of the International Banking Act of 1978 (12 U.S.C. 3107(b)) (as amended by section 204 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "paragraphs (1), (2), and (3) of section 7(d)" and inserting "section 7(e)".

(5) Section 108(a)(1)(C) of the Truth in Lending Act (15 U.S.C. 1607(a)(1)(C)) (as amended by section 212(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(6) Section 621(b)(1)(C) of the Fair Credit Reporting Act (15 U.S.C. 1681s(b)(1)(C)) (as amended by section 212(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(7) Section 704(a)(1)(C) of the Equal Credit Opportunity Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

(8) Section 814(b)(1)(C) of the Fair Debt Collection Practices Act (15 U.S.C. 1691c(b)(1)(C)) (as amended by section 212(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking the period at the end and inserting a semicolon.

15 USC 1692*l*.

(9) Section 18(f)(2)(A) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(2)(A)) (as amended by section 212(g)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "divisions" and inserting "division".

(10) Section 6 of the International Banking Act of 1978 (12 U.S.C. 3104), as in effect on the day before the effective date of the amendment made by section 214(a)(3) of the Federal

Deposit Insurance Corporation Improvement Act of 1991, is amended by striking subsection (c).

(11) Section 6(c) of the International Banking Act of 1978 (as added by section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended— 12 USC 3104.

(A) in paragraph (1)—

(i) by inserting "domestic retail" before "deposit accounts"; and

(ii) by striking "$100,000," and inserting "$100,000 and requiring deposit insurance protection,"; and

(B) in paragraph (2)—

(i) by striking "Deposit" and inserting "Domestic retail deposit"; and

(ii) by inserting "that require deposit insurance protection" after "$100,000".

(12) Section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting closing quotation marks and a 2d period at the end. 12 USC 3105.

(13) Section 7(j) of the International Banking Act of 1978 (as added by section 214(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "Supervisory committee" and inserting "Supervisory Committee". 12 USC 3105.

(14) Section 215(a)(9) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "United States Banks" and inserting "banks chartered in the United States". 12 USC 3102 note.

(15) Section 224 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1975" after "Disclosure Act". 12 USC 2808.

(b) AMENDMENTS RELATING TO SUBTITLE C.—

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended— 12 USC 1817, 1834.

(A) by striking "(9), and (10)" and inserting "and (8)"; and

(B) by striking "(10), and (11)" and inserting "and (9)".

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 235" where such term appears in paragraphs (3) and (5) and inserting "section 234". 12 USC 1834a.

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" and inserting "section 234".

(c) AMENDMENTS RELATING TO SUBTITLE D.—

(1) Section 241(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 42" and inserting "section 40". 12 USC 1831q note.

(2) Subparagraphs (B) and (E) of section 11(d)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(2)) (as amended by section 241(c)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) are each amended by striking "section 42" and inserting "section 40".

(3) Section 202(h)(2) of the Housing Act of 1959 (12 U.S.C. 1701q(h)(2)) (as amended by section 241(c)(2) of the Federal

Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 42" and inserting "section 40".

(d) AMENDMENTS RELATING TO SUBTITLE E.—Section 213(a)(2) of the Federal Credit Union Act (12 U.S.C. 1790b(a)) (as amended by section 251(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (A), by inserting "or" after "credit union"; and

(2) in subparagraph (B), by striking "or employee" and all that follows through the semicolon and inserting "committee member, or employee of any credit union;".

(e) AMENDMENTS RELATING TO SUBTITLE F.—

12 USC 4305. (1) Section 266(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "on or with any regularly scheduled mailing posted or delivered within 180 days after publication" and inserting "on or with the first regularly scheduled mailing sent after the end of the 6-month period beginning on the date of publication".

(2) Subtitle F of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Act" and inserting "subtitle"—

12 USC 4304. (A) each place such term appears in section 265;

12 USC 4306. (B) in section 267(a);

(C) the 1st place such term appears in section 267(c);

12 USC 4308. (D) each place such term appears in section 269(a)(1);

(E) each place such term appears in section 269(a)(3);

(F) the 1st place such term appears in section 269(a)(4);

(G) in section 269(b)(1);

(H) each place such term appears in section 269(b)(2);

12 USC 4309. (I) the 1st place such term appears in section 270(a);

(J) in section 270(b)(2);

(K) each place such term appears in section 270(c);

12 USC 4310. (L) each place such term appears in section 271(a);

(M) in paragraphs (1) and (2) of section 271(c);

(N) in subsections (d), (g), (h) of section 271;

(O) in paragraphs (1) and (2) of section 271(i):

12 USC 4311. (P) the 1st place such term appears in section 272(a);

(Q) in section 272(b);

12 USC 4312. (R) in section 273; and

12 USC 4313. (S) in the provision of section 274 which precedes paragraph (1) of such section.

(3) Section 270(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "this Act" and inserting "this subtitle".

(4) The heading of paragraph (1) of section 270(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "ACT" and inserting "SUBTITLE".

SEC. 1605. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SUBTITLE A.—

(1) Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) (as amended by section 301(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subsection (a), by striking "A insured" and inserting "An insured"; and

(B) in subsection (c), by striking "capitalized," and inserting "capitalized (but not well capitalized),".

(2) Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (D), by striking the comma after "members"; and

(B) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.".

(3) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)(1)) by striking "7(b)(10)" and inserting "7(b)(2)(H)".

(4) The subsection which was added to section 10 of the Federal Deposit Insurance Act by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (f) is hereby redesignated as subsection (g). 12 USC 1820.

(5) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(B) by striking paragraph (1) and inserting the following new paragraphs: 12 USC 1817, 1818. 12 USC 1815.

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'".

(6) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph ((5)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as

transferred and so redesignated by section 1603(a)(3) of this title) the following new paragraph:

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.".

(7) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (5)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking "7(d)(4)" and inserting "7(b)(7)";

(B) in subsection (a)(3), by striking "7(d)(4)" and inserting "7(b)(7)"; and

(C) in subsection (e)(2), by striking "made for purposes of the notification required under section 7(d)(1)(B)" and inserting "of the semiannual assessment to which such credit is applicable".

(8) Section 24(e)(1)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1831a) (as added by section 303(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended to read as follows:

"(B) meets applicable consumer disclosure requirements with respect to such insurance.".

(9) The subsection of section 18 of the Federal Deposit Insurance Act which was added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and designated as subsection (o) (relating to periodic review of capital standards) is hereby redesignated as subsection (p).

12 USC 1828.

(10) Section 22(h)(6)(B)(i) of the Federal Reserve Act (12 U.S.C. 375b) (as amended by section 306(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "and" after the semicolon and inserting "or".

(11) Section 8(t) of the Federal Deposit Insurance Act (12 U.S.C. 1818(t)) (as added by section 307 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in paragraph (2)(B), by inserting "or institution-affiliated party" after "institution" each place such term appears;

(B) in paragraph (2)(C), by striking "institution's" the 1st place such term appears; and

(C) in paragraph (5), by inserting "or institution-affiliated party" after "depository institution".

(b) AMENDMENTS RELATING TO SUBTITLE B.—

(1) Section 7(b)(6) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(6)) is amended—

(A) by striking subparagraph (D), as added by section 311(a)(2)(C) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) any liability of the insured depository institution which is not treated as an insured deposit pursuant to section 11(a)(8).".

(2) Effective on the effective date of the amendment made by section 302(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(c) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c)) (as amended by such section 302(b)) is amended—

(A) by adding at the end, the paragraph added to such section 7(c) (as in effect on the day before the effective date of such amendment) by section 313(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991;

(B) by redesignating such paragraph as paragraph (4); and

(C) in paragraph (4) (as so redesignated by subparagraph (B) of this paragraph), by striking "paragraph (1) or (2)" each place such term appears and inserting "paragraph (1)".

(3) Section 202(d)(2) of the Federal Credit Union Act (12 U.S.C. 1782(d)(2)) (as amended by section 313(b) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(A) in subparagraph (C)—

(i) by striking "insured depository institution" and inserting "insured credit union";

(ii) by striking "or" after "subsection (b)(1)";

(iii) by striking "Corporation" and inserting "Board"; and

(iv) by striking "assets of the institution" and inserting "assets of the credit union";

(B) in subparagraph (D), by striking "Corporation" and inserting "Board"; and

(C) in subparagraph (E)—

(i) by striking "insured depository institution" and inserting "insured credit union"; and

(ii) by striking "if the institution" and inserting "if the credit union".

(c) AMENDMENT TO THE HEADING OF TITLE III.—The heading of title III of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 105 Stat. 2343.

"TITLE III—FEDERAL DEPOSIT INSURANCE REFORM".

SEC. 1606. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SUBTITLE A.—Section 402(14)(B) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal commodities law" and inserting "Federal law". 12 USC 4402.

(b) AMENDMENT RELATING TO SUBTITLE B.—Section 1112(f)(2) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412(f)(2)) (as amended by section 411(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) by inserting a comma before "for civil actions under section 951"; and

(2) by inserting a comma after "United States Code".

(c) AMENDMENT RELATING TO SUBTITLE C.—Section 11(d)(4)(A) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(4)(A)) (as amended by section 416 of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "determinations" and inserting "determination".

(d) AMENDMENT RELATING TO SUBTITLE D.—The heading for section 422 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "**BOARD**" and inserting "**ADVISORY COMMITTEE**".

12 USC 1818 and note.

(e) AMENDMENT RELATING TO SUBTITLE F.—Section 431(a)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "(hereafter in this subsection referred to as the 'Secretary')" after "Secretary of the Treasury".

105 Stat. 2379.

(f) AMENDMENTS RELATING TO SUBTITLE G.—

(1) Section 5(c)(2)(B)(iii) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) is amended to read as follows:

"(iii) MONITORING.—If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.".

(2) Section 5(c)(2)(C) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(C)) is amended by striking the comma after "including".

(3) The last sentence of section 5(c)(2)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(c)(2)(B)) (as amended by section 441(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by inserting before the period the following: ", except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party".

(4) Section 437 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended—

12 USC 1467a.

(A) by striking "Section 10(m)(1)(B)" and inserting "(a) IN GENERAL.—Section 10(m)(1)(B)"; and

(B) by adding at the end the following new subsection:

"(b) TECHNICAL AND CONFORMING AMENDMENTS.—

"(1) Section 10(m)(1)(A) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(1)(A)) is amended by striking '70 percent' and inserting '65 percent'.

12 USC 1467a.

"(2) The first sentence of section 10(m)(3)(D) of the Home Owners' Loan Act (12 U.S.C. 1467(m)(3)(D)) is amended by striking 'for the preceding 2-year period' and inserting 'on a monthly average basis in 9 out of the preceding 12 months'.".

12 USC 1467a.

(g) AMENDMENTS RELATING TO SUBTITLE I.—

(1) Section 451(b)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "11(i)" and inserting "3(i)(2)".

12 USC 1821 note.

(2) Section 3(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(i)(2)) is amended by striking "11(i)" and inserting "11(n)".

(h) AMENDMENTS RELATING TO SUBTITLE K.—

(1) Section 461 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by inserting "of 1956" after "Bank Holding Company Act". 12 USC 1843.

(2) The heading of subtitle K of title IV of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 105 Stat. 2384.

"Subtitle K—Acquisition of Insolvent Savings Associations".

(i) AMENDMENTS RELATING TO SUBTITLE M.—

(1) Section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) is amended by redesignating the paragraph (9) which was added to such section by section 474 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as paragraph (10).

(2) Section 475(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended to read as follows: 12 USC 1828 note.

"(c) EFFECTIVE DATE.—This section shall apply after the end of the 60-day period beginning on the date of the enactment of this Act.".

(3) Section 477 of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "Federal Reserve Board" each place such term appears and inserting "Board of Governors of the Federal Reserve System". 12 USC 251.

SEC. 1607. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 501.—Section 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(3)) (as amended by section 501(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding at the end the following new subparagraph:

"(K) BOARD DEFINED.—For purposes of this paragraph, the term 'Board' (other than when such term appears in connection with a reference to the Board of Directors) means the Board of Governors of the Federal Reserve System.".

(b) AMENDMENT RELATING TO SECTION 502.—Section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) is amended by redesignating subsection (t) (as added by section 502(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (s).

SEC. 1608. FEDERAL HOUSING FINANCE BOARD PRACTICE REQUIRED TO CONFORM TO CONGRESSIONAL INTENT AND EXISTING LAW.

Section 2A(b)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1422a(b)(2)) is amended by adding at the end the following new subparagraph:

"(D) CLARIFICATION OF STATUS.—

"(i) IN GENERAL.—The directors appointed pursuant to paragraph (1)(B) shall serve on a full-time basis after December 31, 1993.

"(ii) RULE OF CONSTRUCTION.—Clause (i) shall not be construed as implying that any other position may be filled or held on a less than full-time basis.".

12 USC 191 note.

SEC. 1609. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b) or any other provision of this subtitle, the amendments made by this subtitle to the Federal Deposit Insurance Corporation Improvement Act of 1991, the Federal Deposit Insurance Act, and any other law shall take effect as if such amendments had been included in the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

(b) EFFECTIVE DATE OF CERTAIN AMENDMENTS.—In the case of any amendment made by this subtitle to any provision of law added or amended by the Federal Deposit Insurance Corporation Improvement Act of 1991 effective after December 19, 1992, the amendment made by this subtitle shall take effect on the effective date of the amendment made by the Federal Deposit Insurance Corporation Improvement Act of 1991.

Subtitle B—Resolution Trust Corporation

SEC. 1611. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) is amended by inserting a comma after "necessary" and after "billion".

(b) AMENDMENTS RELATING TO SECTION 102.—

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "section 5(d)(2)(C)" and inserting "subparagraph (C) or (F) of section 5(d)(2)".

(2) Effective 1 year after the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 11(c)(6)(B) of the Federal Deposit Insurance Act (as amended by paragraph (1) of this subsection) is amended by striking "subparagraph (C) or (F) of section 5(d)(2)" and inserting "subparagraph (A) or (C) of section 5(d)(2)".

(c) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) is amended by striking "Thrift Depositor Protection Refinance" and inserting "Refinancing, Restructuring, and Improvement".

(d) AMENDMENTS RELATING TO SECTION 106.—

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "quarter ending on the last day of the month ending before the month in which such report is required to be submitted" and inserting "preceding calendar quarter".

(2) Section 21A(k)(10) of the Federal Home Loan Bank Board (12 U.S.C. 1441a(k)(10)) (as added by section 106(c) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(3) Section 21A(k)(11) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)) (as amended by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by inserting "Thrift Depositor Protection" before "Oversight Board"; and

(B) in subparagraph (B)—

(i) by striking "an employee" and inserting "employees"; and

(ii) by striking "Government" and inserting "General".

(4) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements". 12 USC 1441a note.

SEC. 1612. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 21A(b)(8)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(i)) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

SEC. 1613. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 302.—

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking subsection (c). 12 USC 1441a.

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) Section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

(4) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(5) The heading for paragraph (8) of subsection (n) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as such subsection has been redesignated by section 314(3) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(6) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT BOARD".

(7) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(8) The heading for section 21A(q) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(q)) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by section 1614(a)(5)(E) of this subtitle) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(9) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(b) AMENDMENTS RELATING TO SECTION 303.—

12 USC 1441a.

(1) Section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 is amended by striking the comma after "Corporation')".

(2) Section 21A(a)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(2)) (as amended by section 303(2) of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991 and the amendment made by paragraph (1) of this subsection) is amended by striking the 2d period after "Act".

(c) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21A(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8)".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such board shall submit, before the end of the 30-day period beginning on the date on which the board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds which the board determined justified the review and the reasons why the modification is necessary to satisfy any such ground.".

(d) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN".

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(e) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "IN GENERAL.—" and all that follows through the 1st comma and inserting "IN GENERAL.—Except for the chief executive officer of the Corporation,".

(f) AMENDMENTS RELATING TO SECTION 314.—

(1) Section 21A(a)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(8)) (as amended by section 314(1)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "AUTHORITY.—IN GENERAL.—The Corporation", and inserting "AUTHORITY.—The Corporation".

(2) Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "includes" and all that follows through "any officer or employee of the Federal Deposit" and inserting "includes any officer or employee of the Federal Deposit".

(g) AMENDMENT RELATING TO SECTION 316.—Section 21A(l)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(l)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "for that party of the filing" and inserting "for that party or the filing".

(h) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "(11)(A)(iv)" and inserting "(10)(A)(iv)"; and

(B) in subparagraph (I) (as so redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "through its Board of Directors".

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "(10)" and inserting "(9)"; and

(B) in subparagraph (A)(i), by striking "(12)" and inserting "(11)".

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(i)) (as so redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is

amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B)" and inserting "subsection (b)(10)(B)".

SEC. 1614. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO INCORRECT DESIGNATIONS OF NEW SUBSECTIONS AND PARAGRAPHS.—

12 USC 1441a.

(1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (as added by section 227 of this Act)" and inserting "after subsection (p) (as so redesignated by section 314(3) of this Act)".

12 USC 1441a.

(2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "301" and inserting "401".

12 USC 1441a.

(3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 302" and inserting "section 402".

12 USC 1441a.

(4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "section 303" and inserting "section 403".

(5) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(B) by redesignating subsection (u) (as added by section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (u); and

(E) effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991, by transferring and inserting subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) after subsection (p).

12 USC 1441a note.

(6) For purposes of applying paragraph (13) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 405 of the Resolution Trust Corporation

Refinancing, Restructuring, and Improvement Act of 1991, shall be considered to have been executed before the redesignation of such paragraph by section 310 of such Act.

(7) Effective as of the date of the enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991—

(A) section 471 of such Act is amended by striking "Home Owners' Loan Act" and inserting "Federal Home Loan Bank Act"; and 12 USC 1441a.

(B) subsection (q) of section 21A of the Federal Home Loan Bank Act (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subparagraph (A) of this paragraph) is hereby redesignated as subsection (v). 12 USC 1441a.

(b) OTHER TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY TITLE IV.—

(1) Subsection (t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "the minority capital assistance program established under subsection (u)(1)".

(2) Subsection (u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) is amended by striking "established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "administered by the Corporation pursuant to the policy statement entitled the 'Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions' adopted by the Corporation on January 30, 1990".

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(5) of this section) are each amended by striking "section 13(c)(8)" and inserting "section 13(f)(8)(B)".

(4) Subsection (q) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991 and transferred by subsection (a)(5) of this section) is amended by inserting "Thrift Depositor Protection" before "Oversight Board" each place such term appears.

SEC. 1615. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 501.—

(1) For purposes of applying paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act, the amendment made by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall 12 USC 1441a note.

be considered to have been executed before the redesignation of subparagraph (K) of such paragraph by section 314(2)(B) of such Act and the redesignation of such paragraph by section 310 of such Act.

(2) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) AMENDMENT TO SECTION HEADING.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

105 Stat. 1777.

"SEC. 501. CREDIT ENHANCEMENT.".

SEC. 1616. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: *Provided*, That" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) REPEAL OF DUPLICATE PROVISION.—Title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking section 611.

12 USC 1441a.

SEC. 1617. REPEAL OF TITLE CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) IN GENERAL.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is hereby repealed.

12 USC 3345, 3348.

(b) EFFECT OF REPEAL.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

12 USC 3345 note.

SEC. 1618. EFFECTIVE DATE.

12 USC 1441 note.

Except as otherwise provided by a specific provision of this subtitle, the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of such Act.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 5334 (S. 3031):

HOUSE REPORTS: Nos. 102-760 (Comm. on Banking, Finance and Urban Affairs) and 102-1017 (Comm. of Conference).
SENATE REPORTS: No. 102-332 accompanying S. 3031 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 5, considered and passed House.
Sept. 10, S. 3031 considered and passed Senate; H.R. 5334, amended, passed in lieu.
Oct. 5, House agreed to conference report.
Oct. 8, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-551
102d Congress

An Act

Oct. 28, 1992
[H.R. 5954]

An Act to amend the Food, Agriculture, Conservation, and Trade Act of 1990 to improve health care services and educational services through telecommunications, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENT OF HEALTH CARE SERVICES AND EDUCATIONAL SERVICES THROUGH TELECOMMUNICATIONS.

(a) PROGRAMS FOR CONSORTIA IN QUALIFIED LOCAL EXCHANGE SERVICE AREAS.—Chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) is amended by adding at the end the following new section:

Urban and rural areas.
7 USC 950aaa-5.

"SEC. 2335A. SPECIAL HEALTH CARE AND DISTANCE LEARNING PROGRAM FOR QUALIFIED SERVICE AREAS.

"(a) DEVELOPMENT OF CONSORTIA.—The Administrator shall encourage the development of consortia to provide health care services or educational services through telecommunications in rural areas of a qualified local exchange carrier service area. Each consortium shall be composed of—

"(1) a tertiary care facility, rural referral center, medical teaching institution, or educational institution accredited by the State;

"(2) any number of institutions that provide health care services or educational services; and

"(3) not less that three rural hospitals, clinics, community health centers, migrant health centers, local health departments, or similar facilities, or not less than three educational institutions accredited by the State.

"(b) SPECIAL PROGRAM FOR QUALIFIED LOCAL EXCHANGE CARRIER SERVICE AREAS.—

"(1) REGULATIONS AND SPECIAL PROGRAM.—Through regulations issued not later than 190 days after the date of enactment of this section, the Administrator shall establish a program under which qualified consortia described in subsection (a) located within qualified local exchange carrier service areas may apply to the Administrator for grants to support the costs of activities involved in the sending and receiving of information that will improve the delivery of health care services or educational services through telecommunications in rural areas.

"(2) SELECTION OF GRANTEES.—The Administrator shall—

"(A) establish application procedures;

"(B) review the applications submitted under this subsection in a timely manner; and

"(C) make grants in accordance with this subsection and with regulations issued by the Administrator.

"(3) PRIORITIES.—

"(A) IN GENERAL.—Priority for grants under this subsection shall be accorded applicants whose applications and plans demonstrate—

"(i) the greatest likelihood of successfully and efficiently carrying out the activities described in the application and the plan of the applicant;

"(ii) the greatest likelihood of improving health care services or educational services in the rural areas;

"(iii) coordination between local exchange carriers to carry out activities as described in the application; and

"(iv) unconditional financial support from each affected local community.

"(B) GEOGRAPHIC DIVERSITY.—In awarding grants, the Administrator shall seek to achieve geographic diversity among the grantees.

"(4) MAXIMUM AMOUNT OF GRANT.—The amount of each grant awarded under this subsection shall not exceed $1,500,000.

"(5) DISTRIBUTION OF GRANTS.—Grants to a qualified consortium under this subsection shall be disbursed over a period of not more than 3 years.

"(6) USE OF FUNDS.—

"(A) IN GENERAL.—Grants under this subsection may be used to support the costs of activities involving the sending and receiving of information to improve health care services or educational services in rural areas, including—

"(i) in the case of grants to improve health care services—

"(I) consultations between health care providers;

"(II) transmitting and analyzing x rays, lab slides, and other images;

"(III) developing and evaluating automated claims processing, and transmitting automated patient records; and

"(IV) developing innovative health professions education programs;

"(ii) in the case of grants to improve educational services—

"(I) developing innovative education programs and expanding curriculum offerings;

"(II) providing continuing education to all members of the community;

"(III) providing means for libraries of educational institutions or public libraries to share resources;

"(IV) providing the public with access to State and national data bases;

"(V) conducting town meetings; and

"(VI) covering meetings of agencies of State government; and

"(iii) in all cases—

"(I) transmitting financial information; and

"(II) such other related activities as the Administrator considers to be consistent with the purposes of this section.

"(7) LIMITATION ON ACQUISITION OF INTERACTIVE TELECOMMUNICATIONS EQUIPMENT.—Not more than 40 percent of the amount of any grant made under this subsection may be used to acquire interactive telecommunications end user equipment.

"(8) LIMITATION ON USE OF CONSULTANTS.—Not more than 5 percent of the amount of any grant made under this subsection may be used to employ or contract with any consultant or similar person.

"(9) PROHIBITIONS.—Grants made under this subsection may not be used, in whole or in part, to establish or operate a telecommunications network or to provide any telecommunications services for hire.

"(c) EXPEDITED TELEPHONE LOANS.—Local exchange carriers located in a qualified local exchange carrier service area shall be eligible to apply for expedited loans under the Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.). The Administrator shall respond to a completed application for such a loan no later than 45 days after receipt. The Administrator shall notify the applicant in writing of its decision regarding each such application.

"(d) DEFINITION.—As used in this section, the term 'qualified local exchange carrier service area' means the service area of a local telephone exchange carrier in which the local exchange carrier has a plan approved by the Administrator for upgrading and modernizing the rural telecommunications infrastructure of the service area. The plan shall—

"(1) provide for eliminating party line service within the local exchange carrier service area and for other improvements and modernization in rural telephone service;

"(2) provide for the enhancement of the availability of educational opportunities or the availability of improved medical care through telecommunications;

"(3) encourage and improve the use of telecommunications, computer networks, and related advanced technologies to provide educational and medical benefits to people in rural areas; and

"(4) provide for the achievement of the goals described in subparagraphs (A) through (C) not later than 10 years after the approval of the plan.".

Termination date.
7 USC 950aaa note.

(b) EXTENSION OF CHAPTER 1.—Notwithstanding any other provision of law, chapter 1 of subtitle D of title XXIII of the Food, Agriculture, Conservation and Trade Act of 1990 (7 U.S.C. 950aaa et seq.), including the amendments made by this section, shall be effective until September 30, 1997.

(c) ALLOCATION OF FUNDS.—Section 2335(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa–4) is amended by adding at the end the following new paragraph:

"(8) USE OF APPROPRIATED FUNDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Administrator shall make available—

"(i) 50 percent of the funds made available pursuant to paragraph (3) for grants for end users that are consortia participating in the special program established under section 2335A; and

"(ii) 50 percent of the funds made available pursuant to paragraph (3) to provide funds for the programs, and end users participating in the programs, authorized by sections 2331 through 2335.

"(B) RELEASE OF FUNDS.—Not earlier than April 1 and not later than May 1 of each year, the Administrator shall make such funds described in subparagraph (A) as remain unobligated, available for any purpose described in subparagraph (A).".

(d) EFFECT OF AMENDMENTS.—The amendments made by this section shall not apply to funds appropriated for fiscal year 1993 to carry out subtitle D of title XXIII of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa et seq.) or require the revision of any regulation proposed to carry out such subtitle during fiscal year 1993. 7 USC 950aaa-4 note.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 5954:

HOUSE REPORTS: No. 102-943 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 5, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 102-552
102d Congress

An Act

Oct. 28, 1992
[H.R. 6125]

To enhance the financial safety and soundness of the banks and associations of the Farm Credit System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Farm Credit Banks and Associations Safety and Soundness Act of 1992.
12 USC 2001 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Farm Credit Banks and Associations Safety and Soundness Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Farm Credit Act of 1971.

TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS

Sec. 101. Definition of permanent capital.
Sec. 102. Qualifications of Farm Credit Administration Board members.

TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION

Sec. 201. Farm Credit System Insurance Corporation.
Sec. 202. Statutory successor to Assistance Board agreements.
Sec. 203. Use of Farm Credit Administration personnel.
Sec. 204. GAO reports on risk-based insurance premiums, access to association capital, supplemental premiums, and consolidation.

TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS

Sec. 301. Capital preservation.
Sec. 302. Preferred stock.
Sec. 303. Systemwide repayment obligation.
Sec. 304. Repayment of Treasury-paid interest.
Sec. 305. Transfer of obligations from associations to banks; other matters.
Sec. 306. Defaults.
Sec. 307. Authority of Financial Assistance Corporation.
Sec. 308. Technical amendments.

TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

Sec. 401. Clarification of the status and powers of certain institutions of the Farm Credit System.

TITLE V—MISCELLANEOUS

Sec. 501. Valuation reserves of production credit associations.
Sec. 502. Risk management participation authority.
Sec. 503. Equity voting for one director of each bank for cooperatives.
Sec. 504. Technical amendment.
Sec. 505. Expansion of water and sewer lending authority of banks for cooperatives.
Sec. 506. Eligibility to borrow from a bank for cooperatives.
Sec. 507. Non-voting representative on board of Funding Corporation.
Sec. 508. Repeal of prohibition against guarantee of certain instruments of indebtedness.
Sec. 509. Compensation of bank directors.
Sec. 510. Clarification of treatment of Farm Credit Administration operating expenses.
Sec. 511. Approval of competitive charters.
Sec. 512. Examinations.
Sec. 513. Authority to examine System institutions.

Sec. 514. Financial disclosure and conflict of interest reporting by directors, officers, and employees of Farm Credit System institutions.
Sec. 515. One-time EFAP assistance.
Sec. 516. Technical corrections.

SEC. 2. REFERENCES TO THE FARM CREDIT ACT OF 1971.

Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), except to the extent otherwise provided.

TITLE I—IMPROVEMENTS TO FARM CREDIT SYSTEM SAFETY AND SOUNDNESS

SEC. 101. DEFINITION OF PERMANENT CAPITAL.

Paragraph (1) of section 4.3A(a) (12 U.S.C. 2154a(a)(1)) is amended to read as follows:

"(1) PERMANENT CAPITAL.—The term 'permanent capital' means—

"(A) current year retained earnings;

"(B) allocated and unallocated earnings (which, in the case of earnings allocated in any form by a System bank to any association or other recipient and retained by the bank, shall be considered, in whole or in part, permanent capital of the bank or of any such association or other recipient as provided under an agreement between the bank and each such association or other recipient);

"(C) all surplus (less allowances for losses);

"(D) stock issued by a System institution, except—

"(i) stock that may be retired by the holder of the stock on repayment of the holder's loan, or otherwise at the option or request of the holder; or

"(ii) stock that is protected under section 4.9A or is otherwise not at risk; and

"(E) any other debt or equity instruments or other accounts that the Farm Credit Administration determines appropriate to be considered permanent capital.".

SEC. 102. QUALIFICATIONS OF FARM CREDIT ADMINISTRATION BOARD MEMBERS.

Section 5.8 (12 U.S.C. 2242) is amended by adding at the end the following new subsection:

"(e) The President shall appoint members of the Board who— President.

"(1) are experienced or knowledgeable in agricultural economics and financial reporting and disclosure;

"(2) are experienced or knowledgeable in the regulation of financial entities; or

"(3) have a strong financial, legal, or regulatory background.".

TITLE II—FARM CREDIT SYSTEM INSURANCE CORPORATION

SEC. 201. FARM CREDIT SYSTEM INSURANCE CORPORATION.

(a) IN GENERAL.—Section 5.53 (12 U.S.C. 2277a–2) is amended to read as follows:

"SEC. 5.53. BOARD OF DIRECTORS.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—The management of the Corporation shall be vested in a Board of Directors (referred to in this section as the 'Board'). The Board shall establish policies for the Corporation. The Board shall provide for the performance of all the powers and duties vested in the Corporation.

"(2) APPOINTMENT.—The Board shall consist of three members, who shall be citizens of the United States and broadly representative of the public interest. Members of the Board shall be appointed by the President, by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party.

President.

President.

"(3) CHAIRPERSON.—Of the persons appointed to the Board, one shall be designated by the President to serve as Chairperson of the Board for the duration of the term of the member.

"(4) POSTEMPLOYMENT PROHIBITION.—A member of the Board shall be ineligible during the time the member is in office and for 2 years thereafter to hold any office, position, or employment in any institution of the Farm Credit System.

"(b) TERM OF OFFICE.—

"(1) IN GENERAL.—The term of office of each member of the Board shall be 6 years, except that the terms of the two members, other than the Chairperson, first appointed under subsection (a) shall expire, one on the expiration of 2 years after the date of appointment, and one on the expiration of 4 years after the date of appointment.

"(2) SUCCESSION.—Members of the Board shall not be appointed to succeed themselves, except that the members first appointed under subsection (a) for a term of less than 6 years may be reappointed for a full 6-year term and members appointed to fill unexpired terms of 3 years or less may be reappointed for a full 6-year term.

"(3) VACANCIES.—Any vacancy shall be filled for the unexpired term on like appointment. Any member of the Board shall continue to serve as a member after the expiration of the term of the member until a successor has been appointed and qualified.

"(c) ORGANIZATION.—

"(1) OATH.—Each member of the Board, within 15 days after notice of appointment, shall subscribe to the oath of office.

"(2) QUORUM.—The Board may transact business if a vacancy exists, if a quorum is present. A quorum shall consist of two members of the Board.

"(3) MEETING.—The Board shall hold meetings at such times and places as the Board may fix and determine. The meetings shall be held on the call of the Chairperson or any two Board members.

"(4) RULES; RECORDS.—The Board shall adopt such rules as the Board considers appropriate for the transaction of business by the Board, and shall keep permanent and accurate records and minutes of the actions and proceedings of the Board.

"(d) COMPENSATION.—

"(1) IN GENERAL.—The members of the Board shall devote their full time and attention to the business of the Board.

"(2) CHAIRPERSON.—The Chairperson of the Board shall receive compensation at the rate prescribed for level III of the Executive Schedule under section 5314 of title 5, United States Code.

"(3) OTHER MEMBERS.—Each of the other members of the Board shall receive compensation at the rate prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

"(4) EXPENSES.—Each member of the Board shall be reimbursed for necessary travel, subsistence, and other expenses in the discharge of the official duties of the member without regard to other laws with respect to allowance for travel and subsistence of officers and employees of the United States.".

(b) CONFORMING AMENDMENTS.—

(1) CHAIRPERSON.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Chairperson, Board of Directors of the Farm Credit System Insurance Corporation.".

(2) MEMBERS.—Section 5315 of such title is amended by adding at the end the following new item:

"Members, Board of Directors of the Farm Credit System Insurance Corporation.".

(c) EFFECTIVE DATE.— 12 USC 2277a-2 note.

(1) IN GENERAL.—The amendments made by this section shall become effective on January 1, 1996.

(2) TRANSITIONAL PROVISION.—The Board of Directors of the Farm Credit System Insurance Corporation as established by section 5.53 of the Farm Credit Act of 1971 (12 U.S.C. 2277a–2) (as it existed before the amendments made by subsection (a) of this section) shall continue in existence and continue to manage the Farm Credit System Insurance Corporation until at least two members are appointed by the President, by and with the advice and consent of the Senate, to the new Board established by section 5.53 of such Act (as amended by subsection (a) of this section).

SEC. 202. STATUTORY SUCCESSOR TO ASSISTANCE BOARD AGREEMENTS.

(a) IN GENERAL.—Section 5.58(2) (12 U.S.C. 2277a–7(2)) is amended by adding at the end the following new sentence: "The Corporation shall succeed to the rights of the Farm Credit System Assistance Board under agreements between the Farm Credit System Assistance Board and System institutions certifying the institutions as eligible to issue preferred stock pursuant to title VI on the termination of the Assistance Board on the date provided in section 6.12.".

(b) CONFORMING AMENDMENTS.—Section 5.35(4) (12 U.S.C. 2271(4)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) after December 31, 1992, mean any significant noncompliance by a System institution (as determined by the Farm Credit Administration, in consultation with the Farm Credit System Insurance Corporation) with any term or condition imposed on the institution by the Farm Credit System Assistance Board under section 6.6 or by the Farm Credit System Insurance Corporation under section 5.61.".

SEC. 203. USE OF FARM CREDIT ADMINISTRATION PERSONNEL.

Section 5.59(a) (12 U.S.C. 2277a–8(a)) is amended by adding at the end the following new paragraph:

"(5) USE OF FARM CREDIT ADMINISTRATION PERSONNEL.—To the extent practicable, the Corporation shall use the personnel and resources of the Farm Credit Administration to minimize duplication of effort and to reduce costs.".

12 USC 2277a–4 note.

SEC. 204. GAO REPORTS ON RISK-BASED INSURANCE PREMIUMS, ACCESS TO ASSOCIATION CAPITAL, SUPPLEMENTAL PREMIUMS, AND CONSOLIDATION.

(a) IN GENERAL.—The Comptroller General of the United States shall investigate, review, and evaluate the feasibility and appropriateness, and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the advantages and disadvantages of providing the Farm Credit System Insurance Corporation with—

(1) the authority to directly or indirectly assess associations to ensure that all System capital is available to prevent losses to investors, including a study of—

(A) the effects of direct assessments by the Insurance Corporation on associations, including interest rate charges to borrowers;

(B) the effects of requiring that banks pass along the cost of insurance premiums to owner associations and other financing institutions having a discount relationship with the bank;

(C) the effects of requiring owner associations to purchase stock in the district bank, if needed, to prevent a bank from having to return to the Insurance Corporation for financial assistance once the assistance has been given;

(D) the effects of the purchase of stock from funds of the association (through funds obtained from other than the district bank) or allowing the bank to increase the direct line of credit to the association in order to fund the purchase; and

(E) the effect that authorizing the Insurance Corporation to assess the association could have on the association's incentives for building capital;

(2) the authority to collect supplemental insurance premiums under certain circumstances, including a study of—

(A) the possibility of the Insurance Fund being depleted more rapidly than it could be replenished under the current premium structure;

(B) the effects of the depletion under alternate economic scenarios and the probability of the occurrence of each of those scenarios;

(C) the effects on capital accumulation and interest rates of levying a supplemental premium; and

(D) limitations on any authority to levy supplemental premiums and the underlying basis for the limitations; and

(3) the authority to establish an insurance premium rate structure that would take into account, on an institution-by-institution basis, asset quality risk, interest rate risk, earnings, and capital.

(b) REPORT ON CONSOLIDATION.—

(1) IN GENERAL.—The Comptroller General of the United States shall evaluate and report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on whether there are likely to be benefits to farmer and rancher borrowers of the Farm Credit System institutions of merging the 10 district Farm Credit Banks (and the Federal Intermediate Credit Bank of Jackson) into fewer regional Farm Credit Banks.

(2) FACTORS.—In preparing the report, the Comptroller General shall consider—

(A) the potential reduction in services to farmers and ranchers;

(B) the potential benefits of jointly providing services to farmers and ranchers among these proposed regional districts;

(C) any economy of scale effects on a district-by-district basis;

(D) the potential impact on the cooperative nature of the Farm Credit System;

(E) the potential impact on bank and association relationships; and

(F) the potential impact on System-wide bond issuances.

(c) POTENTIAL SAVINGS.—The Comptroller General of the United States shall evaluate and report to the appropriate committees of Congress on the potential savings to the Farm Credit System and its shareholders that might occur if System institutions and the Farm Credit Administration were required to comply with General Services Administration standards for office space, furniture, and equipment.

(d) DEADLINE.—The reports required under this section shall be provided to Congress not later than 12 months after the date of enactment of this Act.

TITLE III—REPAYMENT OF FARM CREDIT SYSTEM DEBT OBLIGATIONS

SEC. 301. CAPITAL PRESERVATION.

Section 6.9(e)(3) (12 U.S.C. 2278a–9(e)(3)) is amended—

(1) by striking subparagraph (C) and inserting the following new subparagraph:

"(C) PAYMENT OF PRINCIPAL.—

"(i) IN GENERAL.—After the end of the 15-year period beginning on the date of the issuance of any obligation issued to carry out this subsection, the banks operating under this Act shall pay to the Financial Assistance Corporation, on demand, an amount equal to the outstanding principal of the obligation. Each bank shall pay a proportion of the principal equal to—

"(I) the average accruing loan volume of the bank for the preceding 15 years; divided by

"(II) the average accruing loan volume of all banks of the System for the same period.

"(ii) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System.

"(iii) BANKS UNDERGOING LIQUIDATION.—With respect to any bank undergoing liquidation under this Act, a liability to the Financial Assistance Corporation in the amount of the payment required under this subparagraph (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of the bank.

"(iv) OBLIGATIONS OF OTHER BANKS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.";

(2) by redesignating subparagraph (D) as subparagraph (E);

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) ANNUAL PAYMENTS.—

Contracts.

"(i) IN GENERAL.—In order to provide for the orderly funding and discharge over time of the obligation of each System bank to the Financial Assistance Corporation under subparagraph (C), each System bank shall enter into or continue in effect an agreement with the Financial Assistance Corporation under which the bank will make annual annuity-type payments to the Financial Assistance Corporation, beginning no later than December 31, 1992 (except for any bank that did not meet its interim capital requirement on December 31, 1990, in which case the bank shall begin

making the payments no later than December 31, 1993) in amounts designed to accumulate, in total, including earnings on the amounts, to 90 percent of the bank's ultimate obligation. The Financial Assistance Corporation shall partially discharge the bank from its obligation under subparagraph (C) to the extent of each such payment and the earnings on the payment as earned.

"(ii) CAPITAL REQUIREMENTS.—The agreement shall not require payments to be made to the extent that making a particular payment or part of a payment would cause the bank to fail to satisfy applicable regulatory permanent capital requirements, but shall provide for recalculation of subsequent payments accordingly.

"(iii) INVESTMENT; AVAILABILITY.—The funds received by the Financial Assistance Corporation pursuant to the agreements shall be invested in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the payment of the principal of the bonds issued by the Financial Assistance Corporation under this subsection."; and

(4) in subparagraph (E) (as redesignated by paragraph (2)), by inserting before the period at the end the following: ", nor shall the obligation to make future annuity payments to the Financial Assistance Corporation under subparagraph (D) be considered a liability of any System bank".

SEC. 302. PREFERRED STOCK.

Subparagraph (B) of section 6.26(d)(1) (12 U.S.C. 2278b–6(d)(1)(B)) is amended to read as follows:

"(B) PAYMENTS BY INSTITUTIONS.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), in order to enable the Financial Assistance Corporation to repay the obligation referred to in subparagraph (A), each institution that issued preferred stock under section 6.27(a) with respect to the obligation (or the successor to the institution) shall pay to the Financial Assistance Corporation, before the maturity date of the obligation, an amount equal to the par value of the stock outstanding for the institution.

"(ii) ANNUAL APPROPRIATION.—Except as provided in clause (iii), each year beginning in 1992, as soon as practicable following the end of the prior year, each such institution (except institutions in receivership and institutions that have previously redeemed their preferred stock) shall appropriate from its earnings in the prior year to an appropriated unallocated surplus account with respect to preferred stock, the sum of—

"(I) the greater of—

"(aa) such amount as the institution may be required to appropriate under any assistance agreement the institution has with the Farm Credit System Assistance Board or the

Farm Credit System Insurance Corporation; or

"(bb) the amount that, if appropriated to the account in equal amounts in each year thereafter until the maturity of the obligation referred to in subparagraph (A), would cause the amount in the account to equal the par value of the preferred stock issued by the institution with respect to the obligation; plus

"(II) any amount that had been appropriated to the account in a previous year but had thereafter been offset by losses.

"(iii) LIMITATION.—An annual appropriation shall not be made to the extent that the appropriation would exceed the institution's net income (as determined pursuant to generally accepted accounting principles) in that year or to the extent that the appropriation would cause the institution's preferred stock to be impaired.

"(iv) USE.—The amount in the appropriated unallocated surplus account shall be unavailable to pay dividends or other allocations or distributions to shareholders or holders of participation certificates. The account shall be senior to all other unallocated surplus accounts but junior to all preferred and common stock for purposes of the application of operating losses.

"(v) PREFERRED STOCK.—The appropriations of surplus by an institution shall not affect the treatment of its preferred stock (and of the appropriated unallocated surplus) as equity for purposes of regulatory permanent capital requirements.".

SEC. 303. SYSTEMWIDE REPAYMENT OBLIGATION.

Subparagraph (C) of section 6.26(d)(1) (12 U.S.C. 2278b–6(d)(1)(C)) is amended to read as follows:

"(C) SYSTEMWIDE REPAYMENT.—

"(i) IN GENERAL.—In order to enable the Financial Assistance Corporation to repay the obligations issued to provide assistance under subsections (c) and (e) of section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) and section 4.9A(c) of this Act, or issued to provide funds to cover the expenses of the Assistance Board or the Financial Assistance Corporation under sections 6.7(a) and 6.24, respectively, of this Act, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the obligation equal to—

"(I) the average accruing retail loan volume of the bank and its affiliated associations for the preceding 15 years; divided by

"(II) the average accruing retail loan volume of all such banks and their affiliated associations for the same period.

"(ii) EXPENSE ITEM.—The annual increase in the present value of the estimated obligation of each bank

to the Financial Assistance Corporation under this subparagraph shall be recorded each year as an expense item, in accordance with generally accepted accounting principles, on the books of the bank.

"(iii) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the amount necessary to satisfy the payment requirement to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding 15 years, except that the bank shall remain primarily liable for the amount.

"(iv) BANKS LEAVING SYSTEM.—Any bank leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of the payment required under this subparagraph had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the Financial Assistance Corporation against the estate of any bank undergoing liquidation. The obligations of other banks shall not be reduced in anticipation of any such recoveries from banks leaving the System or in liquidation, but the Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

"(v) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association leaving the Farm Credit System pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the present value of the future payment obligation of its supervising bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.".

SEC. 304. REPAYMENT OF TREASURY-PAID INTEREST.

(a) IN GENERAL.—Paragraph (5) of section 6.26(c) (12 U.S.C. 2278b–6(c)(5)) is amended to read as follows:

"(5) REPAYMENT OF TREASURY-PAID INTEREST.—

"(A) IN GENERAL.—On the maturity date of the last-maturing debt obligation issued under subsection (a), the

Financial Assistance Corporation shall repay to the Secretary of the Treasury the total amount of any annual interest charges on the debt obligations that Farm Credit System institutions (other than the Financial Assistance Corporation) have not previously paid, and the Financial Assistance Corporation shall not be required to pay any additional interest charges on the payments.

"(B) ASSESSMENT.—In order to provide for the orderly funding by the banks of the System of the repayment by the Financial Assistance Corporation to the Secretary of the Treasury, the Financial Assistance Corporation shall assess each System bank, on or about December 31 of each year beginning in 1992, and each System bank shall promptly pay to the Financial Assistance Corporation, an annual annuity type payment in an amount designed to accumulate, in total, including earnings thereon, the amount of the bank's ultimate obligation (as determined by the Corporation on a fair and equitable basis), and no greater than .0006 nor less than .0004 times the bank's and its affiliated associations' average accruing retail loan volume for the preceding year, subject to—

"(i) upward or downward adjustment, as appropriate, by the Financial Assistance Corporation during each of the last 5 years prior to the date the Financial Assistance Corporation is obligated to make the repayment, in order to ensure that the Financial Assistance Corporation will have the amount of funds needed to make the repayment on the due date; and

"(ii) reduction or termination in any year when the funds paid to the Financial Assistance Corporation, including any anticipated future earnings on the funds, are sufficient to make the repayment on the due date.

"(C) INVESTMENT OF FUNDS.—The Financial Assistance Corporation shall invest funds derived from the investment in eligible investments as defined in section 6.25(a)(1). The funds and the earnings on the funds shall be available only for the repayment to the Secretary of the Treasury provided for in subparagraph (A).

"(D) PASS THROUGH.—A bank may (and, to the extent necessary to satisfy its obligations, shall) pass on (either directly, or indirectly through loan pricing or otherwise) all or part of the assessments to its affiliated direct lender associations based on proportionate average accruing retail loan volumes for the preceding year, but the bank shall remain primarily liable for the amounts.

"(E) LIABILITY.—

"(i) BANKS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any bank terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to the Financial Assistance Corporation the estimated present value of all future such assessments against the bank had the bank remained in the System. A liability to the Financial Assistance Corporation in this amount (calculated as if the bank had left the System on the date the bank was placed in liquidation) shall be recognized as a claim in favor of the Financial

Assistance Corporation against the estate of any bank undergoing liquidation.

"(ii) NO ANTICIPATORY REDUCTIONS IN OTHER OBLIGATIONS.—The obligations of other banks shall not be reduced in anticipation of any recoveries under this subparagraph from banks leaving the System or in liquidation.

"(iii) REFUND OF RECOVERIES.—The Financial Assistance Corporation shall apply the recoveries, when received, and all earnings on the recoveries, to reduce the other banks' payment obligations, or, to the extent the recoveries are received after the other banks have met their entire payment obligation, shall refund the recoveries, when received, to the other banks in proportion to the other banks' payments.

"(F) ASSOCIATIONS TERMINATING SYSTEM STATUS OR IN LIQUIDATION.—Any association terminating System status pursuant to section 7.10 shall be required, under regulations of the Farm Credit Administration, to pay to its supervising bank a share, based on the association's retail loan volume relative to the retail loan volume of the bank and its affiliated associations had the association remained in the System, of the estimated present value of all future such assessments against the bank. A liability to the bank in this amount (calculated as if the association had left the System on the date it was placed in liquidation) shall be recognized as a claim in favor of the bank against the estate of any association undergoing liquidation.

"(G) CAPITAL REQUIREMENTS.—

"(i) IN GENERAL.—Until the date that is 5 years prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.

"(ii) DURING THE FINAL 5 YEARS PRIOR TO REPAYMENT.—During the—

"(I) period beginning 5 years, and ending 4 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 60 percent;

"(II) period beginning 4 years, and ending 3 years, prior to the date on which the Financial Assistance Corporation is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 30 percent; and

"(III) period beginning 3 years prior to the date on which the Financial Assistance Corpora-

tion is required to repay the Secretary of the Treasury pursuant to subparagraph (A), 0 percent,

of all assessments paid by banks to the Financial Assistance Corporation pursuant to subparagraph (B), and of any part of the obligation to pay future assessments to the Financial Assistance Corporation under subparagraph (B) that is recognized as an expense on the books of any System bank or association, shall nonetheless be included in the capital of the bank or association for purposes of determining its compliance with regulatory capital requirements.".

(b) CONFORMING AMENDMENT.—Section 6.28 (12 U.S.C. 2278b–8) is amended by striking subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 305. TRANSFER OF OBLIGATIONS FROM ASSOCIATIONS TO BANKS; OTHER MATTERS.

Section 6.26 (12 U.S.C. 2278b–6) is amended—

(1) in subsection (c)—

(A) in the subparagraph heading of paragraph (2)(B), by striking "INSTITUTIONS" and inserting "BANKS";

(B) by striking "institutions" each place it appears in paragraphs (2)(B), (3), and (4) and inserting "banks"; and

(C) in paragraph (2), by striking subparagraphs (C) and (D) and inserting the following new subparagraph:

"(C) ALLOCATION.—During each year of the second 5-year period, each System bank shall pay to the Financial Assistance Corporation a proportion, as calculated by the Financial Assistance Corporation, of the interest due from System banks under this paragraph equal to—

"(i) the amount of the average accruing retail loan volume of the bank and its affiliated associations for the preceding year; divided by

"(ii) the total average accruing retail loan volume of all such banks and their affiliated associations for the preceding year.";

(2) in subsection (d)(1)—

(A) by striking subparagraph (D); and

(B) by redesignating subparagraph (E) as subparagraph (D); and

(3) by adding at the end the following new subsection:

"(e) ADMINISTRATION.—

"(1) DEFINITION OF RETAIL LOAN VOLUME.—As used in this section, the term 'retail loan volume' means all loans (as defined in accordance with generally accepted accounting principles) by a System bank or association, excluding loans by such a bank or association to another System institution.

"(2) CALCULATION OF AVERAGE ANNUAL LOAN VOLUMES.—For purposes of this section and section 6.9, average annual loan volumes shall be calculated using month-end balances.

"(3) EXCLUSION OF BANKS UNDERGOING LIQUIDATION.—For purposes of this section and section 6.9, the term 'bank' shall not include a bank that had entered liquidation prior to the date of enactment of this subsection.".

SEC. 306. DEFAULTS.

Section 6.26(d) (12 U.S.C. 2278b–6(d)) is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)—

(i) by striking the heading and inserting the following: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(ii) in clause (i)—

(I) by inserting after "subsection (a)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),";

(II) by striking "of the interest" both places it appears; and

(III) by striking "institution" each place it appears and inserting "bank";

(iii) in clause (ii)—

(I) by striking "of interest";

(II) by striking "institution" and inserting "bank"; and

(III) by striking "such uncollected interest" and inserting "any uncollected amount"; and

(iv) in clause (iii), by striking "added" and all that follows through the period at the end and inserting "allocated to other System banks in accordance with the allocation mechanism applicable under this Act to the particular defaulted obligation.";

(B) in subparagraph (B), by striking the subparagraph heading and inserting the following new heading: "PRINCIPAL OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—"; and

(C) in subparagraph (C)—

(i) in the heading, by striking "INSTITUTIONS" and inserting "BANKS";

(ii) by striking "institution" and inserting "bank";

(iii) by striking "institutions" both places it appears and inserting "banks"; and

(iv) by striking "the amount of any interest" and inserting "any amounts"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by inserting "or section 6.9(e)(3)(A)" after "subsection (a)";

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking the clause heading and inserting the following new heading: "CERTAIN PRINCIPAL AND INTEREST OBLIGATIONS.—";

(II) by inserting after "subsection (c)," the following: "on the payment of principal or interest due under subparagraphs (B) and (C) of section 6.9(e)(3), on the payment of principal due under paragraph (1)(C), or on the payment of an assessment due under subsection (c)(5)(B),"; and

(III) by striking "institution" each place it appears and inserting "bank"; and

(ii) in clause (ii), by striking the clause heading and inserting the following new heading: "PRINCIPAL

OF BONDS ISSUED TO FUND PURCHASE OF PREFERRED STOCK.—".

SEC. 307. AUTHORITY OF FINANCIAL ASSISTANCE CORPORATION.

(a) PURPOSE.—Section 6.21 (12 U.S.C. 2278b–1) is amended by inserting before the period at the end the following: "and to assist, pursuant to section 6.9(e) and subsections (c) through (g) of section 6.26, in the repayment by System institutions to those persons who provided funds in connection with the program".

(b) TERMINATION.—Section 6.31(a) (12 U.S.C. 2278b–11(a)) is amended by striking "terminate on" and inserting the following: "terminate on the complete discharge by the Financial Assistance Corporation of its responsibilities under section 6.9(e) and subsections (c) through (g) of section 6.26 with regard to repayments by System institutions, but in no event later than 2 years following".

SEC. 308. TECHNICAL AMENDMENTS.

(a) TECHNICAL AMENDMENT TO THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 204(3) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1855) is amended by striking "in section 1221(1)(D) (16 U.S.C. 3821(1)(D))" and inserting "in section 1221(a)(1)(D) (16 U.S.C. 3821(a)(1)(D))".

(b) TECHNICAL AMENDMENTS TO THE FARM CREDIT ACT OF 1971.—

(1) Section 8.3(c)(13) of the Farm Credit Act of 1971 (12 U.S.C. 2279aa–3(c)(13)) is amended by striking "8.11(g)" and inserting "8.11(e)".

(2) Section 8.11(a)(1)(B)(ii) of such Act (12 U.S.C. 2279aa–11(a)(1)(B)(ii)) is amended by striking "the date of enactment of this section" and inserting "December 13, 1991".

(3) Section 8.32 of such Act (12 U.S.C. 2279bb–1) is amended—

(A) in each of subsections (a), (b)(1)(D), and (b)(2), by striking "the date of the enactment of this section" each place the term appears and inserting "December 13, 1991"; and

(B) in subsection (b)(1)(E), by striking "the date of the enactment of such Act" and inserting "December 13, 1991".

TITLE IV—CLARIFICATION OF CERTAIN AUTHORITIES

SEC. 401. CLARIFICATION OF THE STATUS AND POWERS OF CERTAIN INSTITUTIONS OF THE FARM CREDIT SYSTEM.

(a) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—Section 410 of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note) is amended by adding at the end the following new subsection:

"(e) CLARIFICATION OF AUTHORITY REGARDING REMAINING FEDERAL INTERMEDIATE CREDIT BANK.—

"(1) NEGOTIATED MERGER.—

"(A) REQUIREMENT.—

"(i) IN GENERAL.—Not later than June 30, 1993, except as provided in subparagraph (C), the Federal

Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection) shall merge with a Farm Credit Bank pursuant to the procedures prescribed by section 7.12 of the Farm Credit Act of 1971 (12 U.S.C. 2279f).

"(ii) MERGER OF ENTIRE BANK.—Notwithstanding subparagraph (B), or any other provision of law, the Farm Credit Administration shall approve a merger of the Federal Intermediate Credit Bank of Jackson only if the Bank (as chartered on the date of enactment of this subsection, except as provided in subparagraph (B)(ii)(II)(bb)) merges in its entirety with a Farm Credit Bank.

"(iii) LIMITED LENDING AUTHORITY.—Notwithstanding any provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), the Farm Credit Bank resulting from a merger under this subsection shall have only the lending authorities in the States of Alabama, Louisiana, and Mississippi that the constituent banks exercised in such States immediately prior to the merger, except as may be provided in section 5.17(a)(2) of such Act (12 U.S.C. 2252(a)(2)).

"(B) OPERATING AND MERGER AUTHORITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), the Federal Intermediate Credit Bank of Jackson may operate subject to such provisions of part A of title II of the Farm Credit Act of 1971 (as in effect immediately before the amendment made by section 401 took effect) and such provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) (as in effect after the amendment), as the Farm Credit Administration deems appropriate to carry out the purposes of this subsection and such Act. This subparagraph shall take effect as if it had become law at the same time as the amendment made by section 401 and shall remain in effect until the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner. Effective date.

"(ii) LIMITATION ON OPERATING AUTHORITY.—

"(I) IN GENERAL.—Notwithstanding clause (i) and subparagraph (A)(ii), the authority of the Federal Intermediate Credit Bank of Jackson to operate as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

"(II) DISTRICT BOUNDARY MODIFICATION.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson shall not include the authority for the Bank to modify, nor shall the Farm Credit Administration approve such a modification to, the boundaries of the Fifth Farm Credit District to reaffiliate any portion of the District with another Farm Credit Bank, except—

"(aa) in the case of the merger of the entire Bank as an entity with a Farm Credit Bank such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson (except as provided in item (bb)) is merged with the Farm Credit Bank; and

"(bb) in the case of the reaffiliation of the Northwest Louisiana Production Credit Association with another farm credit district pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations under such Act.

"(iii) LIMITATION ON AUTHORITY TO MERGE.—

"(I) IN GENERAL.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank as provided under clause (i) shall expire, and the Farm Credit Administration shall revoke the Bank's charter, immediately on the Bank's merger with a Farm Credit Bank under this subsection, or July 1, 1994, whichever is sooner.

"(II) BANK INTEGRITY.—Notwithstanding clause (i), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to a merger of the Federal Intermediate Credit Bank of Jackson (as chartered on the date of enactment of this subsection to include the territory in the States of Alabama, Louisiana, and Mississippi, except as provided in clause (ii)(II)(bb)) as a whole entity such that the entire chartered territory of the Federal Intermediate Credit Bank of Jackson is merged with the Farm Credit Bank.

"(III) LIMITATION.—Beginning on the date of an order issued by the Farm Credit Administration under subparagraph (D), the authority of the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank shall be limited to the arbitrated merger provided for in paragraph (2).

"(C) EXTENSION.—

"(i) LETTER OF INTENT.—If no later than June 30, 1993, the Federal Intermediate Credit Bank of Jackson delivers to the Farm Credit Administration a letter of intent to merge with a Farm Credit Bank, summarizing the terms and conditions of the merger (including, but not limited to, board composition, capital structure, exchange, or transfer of equities, and termination) signed by the chief executive officer and the members of the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank, the Farm Credit Administration shall, on its determination that the letter of intent represents a bona fide good faith agreement in principle between the two banks to merge, and that there is at least a reasonable prospect that the merger will be completed in an expeditious manner, grant a one-time extension, until a date certain not later than October 31, 1993,

of the requirement under subparagraph (A). Any extension provided under this subparagraph may be conditioned on such terms and conditions as the Farm Credit Administration determines necessary to ensure that the merger described in the letter of intent is completed by the closing date of the extension.

"(ii) COMPLIANCE.—If the Farm Credit Administration grants an extension under clause (i), it shall issue an order under subparagraph (D) immediately if—

"(I) the Federal Intermediate Credit Bank of Jackson, or the Farm Credit Bank that is a signatory to the letter of intent under clause (i), provides written notification to the Farm Credit Administration that the bank does not intend to complete the merger described in the letter of intent;

"(II) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not complying with any term or condition on which an extension under clause (i) was conditioned; or

"(III) the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is not pursuing in good faith the merger provided for in the letter of intent.

If the Farm Credit Administration issues an order under subparagraph (D) pursuant to this clause, the Federal Intermediate Credit Bank of Jackson shall be deemed to have failed to comply with the requirements of subparagraph (A).

"(D) FAILURE TO MERGE; ISSUANCE OF ORDER.—If the Federal Intermediate Credit Bank of Jackson fails to comply, or notifies the Farm Credit Administration in writing that it does not intend to comply, with the requirements of subparagraph (A), the Farm Credit Administration shall, within 5 days after the date specified in subparagraph (A), or such other date specified by the Farm Credit Administration under subparagraph (C), issue, notwithstanding any other provision of law, an order requiring the Federal Intermediate Credit Bank of Jackson to merge with the Farm Credit Bank of Texas in accordance with paragraph (2).

"(2) ARBITRATED MERGER.—

"(A) IN GENERAL.—Not later than 30 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), an arbitrator (or panel of arbitrators) shall be named by the American Arbitration Association in accordance with the Commercial Arbitration Rules of the American Arbitration Association to serve as the arbitrator referred to in this paragraph.

"(B) DUTIES.—The arbitrator shall determine the terms and conditions of the merger required under an order issued under paragraph (1)(D), such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders and borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. The

arbitrator shall have the authority to hire staff and secure the services of consultants as necessary to discharge the duties of the arbitrator under this paragraph.

"(C) EXPENSES.—Notwithstanding any other provision of law, the compensation and expenses of the arbitrator, the fees and expenses of the American Arbitration Association, and any expenses associated with the referendum required under subparagraph (F) shall be paid from the Farm Credit Assistance Fund established under section 6.25 of the Farm Credit Act of 1971 (12 U.S.C. 2278b–5).

"(D) DEVELOPMENT OF MERGER PLANS.—

"(i) IN GENERAL.—Not later than 100 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the arbitrator shall develop and submit for certification to the Farm Credit Administration a plan specifying the terms and conditions of the merger of the two banks required under this paragraph, such that the terms and conditions are fair and equitable to the two banks, their affiliated associations, the stockholders or farmer-borrowers of the associations, and the other institutions of the Farm Credit System, and are designed to protect or enhance the safety and soundness of the Farm Credit System. In devising the plan, the arbitrator shall, to the extent practicable, achieve the following objectives:

"(I) Implementation of the preferences expressed by the affected and interested parties in submissions under clause (ii).

"(II) Valuation of assets fairly, equitably, and consistently for all parties involved.

"(III) Establishment of capitalization and funding terms in a manner that treats farmer-borrowers and stockholders in the two involved farm credit districts equitably and takes account of risk.

"(IV) Ensure the viability of the resulting Farm Credit Bank and associations of the bank and the ability of the resulting bank and associations of the bank to lend to eligible borrowers at reasonable and competitive rates of interest.

"(ii) SUBMISSION OF VIEWS AND INFORMATION.—The arbitrator shall receive from affected and interested parties written submissions, in accordance with fair and reasonable procedures established by the arbitrator, regarding the terms and conditions of an appropriate plan for the merger of the two banks required under this paragraph. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall make available all books, records, financial information, and other material that the arbitrator determines is necessary to the development of the plan or the fulfillment of any other requirement under this paragraph. A copy of any submission or information provided to the arbitrator by any party under this paragraph shall be furnished to the Federal Intermediate Credit Bank of Jackson or the Farm Credit Bank of Texas on the

written request of the bank and at the bank's expense. The arbitrator shall provide both banks with a reasonable opportunity to review and respond to any submission or information provided by any party.

"(iii) CONTENT OF PLAN; FARM CREDIT BANK.—The plan developed and submitted under clause (i) shall include provisions regarding the following matters:

"(I) The initial composition, following the merger, of the board of directors of the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The valuation, for purposes of the merger, of the assets and liabilities of the merging banks.

"(III) The terms and conditions on which the shares of capital stock of the Federal Intermediate Credit Bank of Jackson and, if necessary, the Farm Credit Bank of Texas, will be converted into shares of the resulting Farm Credit Bank.

"(IV) The capital structure and capitalization levels of the resulting Farm Credit Bank and the affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(V) The terms of financing agreements between any production credit associations or agricultural credit associations described in clause (iv), and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(iv) CONTENT OF PLAN; AGRICULTURAL CREDIT ASSOCIATIONS.—If the arbitrator determines that the chartering of agricultural credit associations in the States of Alabama, Louisiana, and Mississippi will be in the best interests of the farmers, ranchers, and aquatic producers eligible to borrow from Farm Credit System associations, the plan required under this subparagraph shall also include, based on submissions from the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, provisions for the establishment of agricultural credit associations to operate in the States, subject to approval in the referendum under subparagraph (F). Such provisions shall include provisions regarding the following matters:

"(I) A proposal for the establishment of an agricultural credit association in each of the geographic areas specified in subparagraph (F)(iii) (the charters of which, if validly issued under

subparagraph (G)(i) pursuant to approval in the referendum under subparagraph (F), shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(II) The initial composition, if the proposal for the establishment of agricultural credit associations is approved, of the board of directors of each such agricultural credit association (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(III) The valuation, for purposes of the proposed merger of the production credit association and the Federal land bank association in each of the geographic areas specified in subparagraph (F)(iii), of the assets and liabilities of the associations.

"(IV) The terms and conditions on which the shares of capital stock of any associations that may merge under the plan to form agricultural credit associations will be converted into shares of the resulting agricultural credit associations.

"(V) The capital structure and capitalization levels of the resulting Farm Credit Bank and such affiliated associations of the Farm Credit Bank in the States of Alabama, Louisiana, and Mississippi as the arbitrator determines necessary to carry out the purposes of this paragraph (which capital structure and capitalization levels shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VI) The terms of financing agreements between any agricultural credit associations and the resulting Farm Credit Bank (which shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(VII) Any other terms and conditions or other matters that the arbitrator considers necessary.

"(v) CONSULTATION WITH INSURANCE CORPORATION.—The arbitrator shall consult with the Farm Credit System Insurance Corporation regarding the valuation of the assets and liabilities under the plan of merger, the capitalization of the Farm Credit System institutions resulting under the plan, and any other matters relevant to the assistance to be provided by the Insurance Corporation to facilitate the merger under subparagraph (H).

"(E) CERTIFICATION OF PLAN.—Not later than 30 days after the receipt of the plan developed by the arbitrator, the Farm Credit Administration shall—

"(i) certify; or

"(ii) recommend to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify,

that the resulting bank and any resulting associations are proposed to be organized in such a fashion that they will, on implementation of the plan, operate in compliance with applicable laws and regulations. The arbitrator and the Farm Credit Administration shall work cooperatively to ensure the expeditious issuance of the certification. If the Farm Credit Administration recommends to the arbitrator revisions to the plan that, if incorporated into the plan, will allow the Farm Credit Administration to certify the plan, the arbitrator shall, not later than 15 days after receipt of the recommended revisions, incorporate the revisions into the plan as the arbitrator deems appropriate to secure the certification.

"(F) REFERENDUM ON ASSOCIATION STRUCTURE.—

"(i) IN GENERAL.—Not later than 170 days after the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the American Arbitration Association shall conduct, and compile and forward to the Farm Credit Administration the results of, a vote of current farmer-borrowers of the production credit associations and the Federal land bank associations in the States of Alabama, Louisiana, and Mississippi, in accordance with the Election Rules of the American Arbitration Association, to determine whether the farmer-borrowers of each association in the geographic areas described in clause (iii) prefer to have credit delivered—

"(I) in the case of production credit association farmer-borrowers, through a production credit association or through an agricultural credit association as proposed in the plan; and

"(II) in the case of Federal land bank association farmer-borrowers, through a Federal land bank association or through an agricultural credit association as proposed in the plan.

Each farmer-borrower shall be entitled to one vote. The arbitrator shall establish record dates and other procedures for conducting the referendum. The Federal Intermediate Credit Bank of Jackson, the Farm Credit Bank of Texas, and their affiliated associations shall cooperate in the conduct of the referendum, as determined necessary by the Arbitrator.

"(ii) DISCLOSURE.—The arbitrator shall send to farmer-borrowers eligible to vote under this subparagraph, with their ballot, a statement describing the potential consequences to the farmer-borrowers, and to the associations from which they borrow, of voting to charter an agricultural credit association and setting forth factors that farmer-borrowers should consider relevant to the choice between credit delivery through the current association structure and the chartering of an agricultural credit association. The arbitrator shall develop the disclosure materials in cooperation with the Farm Credit Administration and ensure that the materials are not inconsistent with applicable laws and regulations.

"(iii) TABULATION OF RESULTS.—The results of the vote under this subparagraph shall be compiled separately for production credit association farmer-borrowers and Federal land bank association farmer-borrowers in each of the following seven geographic areas:

"(I) The area served by the Federal Land Bank Association of South Mississippi.

"(II) The area served by the Federal Land Bank Association of North Mississippi.

"(III) The area served by the Federal Land Bank Association of South Alabama.

"(IV) The area served by the Federal Land Bank Association of North Alabama.

"(V) The area served by the Federal Land Bank Association of South Louisiana.

"(VI) The area served by both the Federal Land Bank Association of North Louisiana and the First South Production Credit Association.

"(VII) The area served by both the Federal Land Bank Association of North Louisiana and the Northwest Louisiana Production Credit Association.

Public information.

"(iv) PUBLICATION OF RESULTS.—The results of the vote under this subparagraph, as tabulated by the American Arbitration Association, shall be made promptly available to the public in a manner determined appropriate by the Farm Credit Administration.

"(G) IMPLEMENTATION.—Not later than 10 days after the date of the receipt of the results of the referendum conducted under subparagraph (F), the Farm Credit Administration shall issue such charters or charter amendments and take such other regulatory actions as may be necessary to implement the merger or mergers as provided for under the certified plan. In this regard, the Farm Credit Administration shall—

"(i) issue a charter or charter amendment and take any such other regulatory actions as may be necessary to provide for the establishment of an agricultural credit association in each of the geographic areas described in subparagraph (F)(iii) where a majority of the farmer-borrowers of both the production credit association and the Federal land bank association voted under subparagraph (F)(i) that they preferred to have credit delivered through an agricultural credit association (which charter shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations); and

"(ii) not issue a charter or charter amendment or take any such other regulatory action to provide for the establishment of an agricultural credit association in any of the geographic areas described in subparagraph (F)(iii) where less than a majority of the farmer-borrowers of the production credit association or the Federal land bank association voted in the referendum under subparagraph (F)(i) that they

preferred to have credit delivered through an agricultural credit association (provided that the charter of any remaining association in such geographic area shall be subject to change thereafter in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) and any applicable regulations).

"(H) FACILITATION.—

"(i) IN GENERAL.—Beginning on the date of the issuance of an order by the Farm Credit Administration under paragraph (1)(D), the Farm Credit System Insurance Corporation shall expend amounts from the Farm Credit Insurance Fund to the extent necessary to facilitate the merger prescribed in the plan.

"(ii) MAINTENANCE OF BOOK VALUE.—Assistance provided by the Corporation under this subparagraph shall be in amounts not to exceed that required to maintain book value per share of stockholders' equity at the same value reflected on the most recent audited financial statements of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas prior to or effective with the date of the merger.

"(iii) OTHER ASSISTANCE.—Until the expiration of 5 years from the effective date of a merger authorized by this subsection, or the final resolution of any litigation against the Federal Intermediate Credit Bank of Jackson or any of its stockholders pending on the date of the enactment of this subsection, whichever is later, the Corporation shall guarantee prompt payment of any loss experienced by the merged bank, which loss is caused by the failure of any association-stockholder of the merged bank that was a stockholder of the Federal Intermediate Credit Bank of Jackson immediately prior to the merger, or any successor to the association, to pay when due any obligation of principal or interest owed by the association or its successor to the resulting bank.

"(iv) TERMS AND CONDITIONS.—Assistance provided by the Corporation under this subparagraph shall be on such terms and conditions as the Corporation deems appropriate to facilitate the merger.

"(I) SAFETY AND SOUNDNESS.—

"(i) IN GENERAL.—Except as provided in clause (ii), if at any time prior to the completion of the merger required under this subsection the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration, after consultation with the respective boards of directors of the affected banks and taking into consideration the purposes of this subsection, may require the Federal Intermediate Credit Bank of Jackson to merge with a Farm Credit Bank, subject to such terms and conditions as the Farm Credit Administration may prescribe. The Farm Credit System Insurance Corporation shall expend amounts in the Farm Credit Insurance

Fund to the extent necessary to facilitate the merger prescribed under this subparagraph, including the provision of assistance as provided in section 5.61(a)(2)(A)(iii) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–10(a)(2)(A)(iii)), on such terms and conditions as the Corporation deems appropriate.

"(ii) ARBITRATED MERGER.—If at any time after the Farm Credit Administration issues an order under paragraph (1)(D), but prior to the completion of the merger required under this subsection, the Farm Credit Administration determines that the Federal Intermediate Credit Bank of Jackson is being operated in an unsafe or unsound manner (as determined in accordance with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.)), the Farm Credit Administration shall, after consultation with the boards of directors of the Federal Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas, take such action as it deems necessary pursuant to the authorities provided under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.) to return the operation of the Federal Intermediate Credit Bank of Jackson to a safe and sound condition, pending the completion of the merger under paragraph (2).

"(J) MERGER PLAN FOR AGRICULTURAL CREDIT ASSOCIATIONS.—In any of the States of Alabama, Louisiana, or Mississippi where all of the associations are chartered as agricultural credit associations, the boards of directors of each such association in each State are encouraged to submit to the farmer-borrowers of each such association for their approval a plan for merging the associations into one statewide agricultural credit association, in accordance with the applicable provisions of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

"(K) DEFINITIONS.—As used in this paragraph:

"(i) AGRICULTURAL CREDIT ASSOCIATION.—The term 'agricultural credit association' means an association having the same authorities, attributes, and obligations as, and for all purposes an agricultural credit association resulting from the implementation of the plan under this paragraph shall be deemed to be, an association resulting from the merger of a production credit association and a Federal land bank association under section 7.8 of the Farm Credit Act of 1971 (12 U.S.C. 2279c–1).

"(ii) FARMER-BORROWER.—The term 'farmer-borrower' means a borrower from a Farm Credit System association in the State of Alabama, Louisiana, or Mississippi who holds voting stock, or is eligible to hold voting stock, in the association or a stockholder in any such association.

"(3) REVIEW.—

"(A) IN GENERAL.—Actions and determinations of the arbitrator, the Farm Credit Administration, or the Farm Credit System Insurance Corporation pursuant to this subsection shall not be subject to judicial review except as provided in this paragraph, nor shall they be subject to

the requirements of subchapter II of chapter 5 or chapter 7 of title 5, United States Code.

"(B) AGENCY DETERMINATIONS.—

"(i) IN GENERAL.—Any petition for review of a determination or other action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit not later than 10 days after the determination, or the petition shall be barred. The court shall have exclusive jurisdiction to determine the proceeding in accordance with standard procedures as supplemented by procedures hereinafter provided and no other district court or court of appeals of the United States shall have jurisdiction over any such challenge in any proceeding instituted prior to, on, or after the date of enactment of this subsection. The review of any determination or action of the Farm Credit Administration or the Farm Credit System Insurance Corporation under this subsection shall be based on the examination of all of the information before the Farm Credit Administration or the Farm Credit System Insurance Corporation, as the case may be, at the time the determination was made. The court reviewing the determination or action shall not enter a stay or order of mandamus unless the court has determined, after notice and a hearing before a panel of the court, that the agency action complained of was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

"(ii) PROCEDURES.—Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the Federal Rules of Civil or Appellate Procedure.

"(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge not later than 50 days from the date the challenge is brought unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.

"(C) ARBITRATOR DETERMINATIONS.—

"(i) IN GENERAL.—Except as otherwise provided in this paragraph, any petition for review of a determination or other action of the arbitrator named under paragraph (2) shall be filed in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.). Such Act shall apply to the arbitration conducted pursuant to paragraph (2) to the same extent as if the arbitration were established in a contract evidencing a transaction in commerce between the Federal

Intermediate Credit Bank of Jackson and the Farm Credit Bank of Texas.

"(ii) PROCEDURES.—Notwithstanding the United States Arbitration Act (9 U.S.C. 1 et seq.), any petition for review of a determination or other action of the arbitrator under this subsection shall be filed not later than 10 days after the determination, or the petition shall be barred. The court specified under such Act shall have exclusive jurisdiction to determine the proceeding in accordance with the applicable procedures under such Act, as supplemented by procedures hereinafter provided, and no other district court shall have jurisdiction over any such challenge in any such proceeding. Notwithstanding any other provision of law, the court may set rules governing the procedures of any such proceeding that set page limits on briefs and time limits for filing briefs and motions and other actions that are shorter than the limits specified in the United States Arbitration Act or the Federal Rules of Civil or Appellate Procedure.

"(iii) EXPEDITED REVIEW.—Any such proceeding before the court shall be assigned for hearing and completed at the earliest possible date, and shall be expedited in every way. The court shall render its final decision relative to any challenge as soon as possible in accordance with the United States Arbitration Act (9 U.S.C. 1 et seq.), or not later than 30 days from the date the challenge is brought, whichever is sooner, unless the court determines that a longer period of time is required to satisfy the requirements of the Constitution.".

12 USC 2011 note.

(b) LONG-TERM LENDING AUTHORITY OF THE FARM CREDIT BANK OF TEXAS WITH RESPECT TO THE STATES OF ALABAMA, LOUISIANA, AND MISSISSIPPI.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Farm Credit Bank of Texas may act in accordance with the exclusive charter of the bank, as amended by the Farm Credit Administration on February 7, 1989, and effective February 9, 1989 (except to the extent that the charter may be further amended by the Farm Credit Administration in accordance with its general authorities under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), subject to such limitations on the issuance of competitive charters as may be provided in section 5.17 of such Act (12 U.S.C. 2252)).

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect as if such paragraph had become law on February 7, 1989.

(c) DENIAL OF COMPETITIVE CHARTERS.—Section 5.17(a)(2) (12 U.S.C. 2252(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by adding at the end the following new subparagraphs:

"(B) The Farm Credit Administration shall not issue a charter to, or approve an amendment to the charter of, any institution of the Farm Credit System to operate under title I or II that would authorize the institution to exercise lending authority, whether directly or indirectly as an agent of a Farm Credit Bank, in a territory in which the charter of another such institution authorizes the other institution to exercise

like authority, whether directly or indirectly as an agent of a Farm Credit Bank, except with the approval of—

"(i) in a case affecting only the charter of one or more associations—

"(I) a majority of the shareholders (present and voting or voting by proxy) of each of the associations that would have like lending authority (whether directly or indirectly as an agent of a Farm Credit Bank) in any of that territory if the charter action were taken; and

"(II) a majority of the board of directors of the Farm Credit Bank with which the affected associations are affiliated; or

"(ii) in a case affecting the charter of one or more banks—

"(I) a majority of the shareholders (present and voting or voting by proxy) of the affiliated associations of each of the banks that would have like lending authority in any of that territory if the charter action were taken;

"(II) a majority of the shareholders (present and voting or voting by proxy) of each of the banks that would have like lending authority in any of that territory if the charter action were taken; and

"(III) a majority vote of the boards of directors of each of the banks that would have like lending authority in any of that territory if the charter action were taken.

"(C) Subparagraph (B) shall apply only in those geographic areas where, due to the failure of a Federal intermediate credit bank to merge in accordance with section 410(a) of the Agricultural Credit Act of 1987 (12 U.S.C. 2011 note), the Federal intermediate credit bank or its successor is chartered to provide short- and intermediate-term credit, and a neighboring Farm Credit Bank that is not the successor to the Federal intermediate credit bank is chartered to provide long-term credit, in the same geographic territory.".

TITLE V—MISCELLANEOUS

SEC. 501. VALUATION RESERVES OF PRODUCTION CREDIT ASSOCIATIONS.

Subsection (b) of section 2.3 (12 U.S.C. 2074(b)) is amended to read as follows:

"(b) APPLICATION OF EARNINGS.—At the end of each fiscal year, each production credit association shall apply the amount of the earnings of the association for the fiscal year in excess of the operating expenses of the association (including provision for valuation reserves against loan assets in accordance with generally accepted accounting principles)—

"(1) first, to the restoration of the impairment (if any) of capital; and

"(2) second, to the establishment and maintenance of the surplus accounts, the minimum aggregate amount of which shall be prescribed by the Farm Credit Bank.".

SEC. 502. RISK MANAGEMENT PARTICIPATION AUTHORITY.

Section 3.1(11) (12 U.S.C. 2122(11)) is amended—

(1) by inserting "(A)" after "(11)"; and

(2) by adding at the end the following new subparagraph:

"(B)(i) Participate in any loan of a type otherwise authorized under this title that is made to a similar entity by any institution in the business of extending credit, including purchases of participations in loans to finance international trade transactions involving the sale of agricultural commodities or the products thereof, except that—

"(I) a bank for cooperatives may not participate in a loan—

"(aa) if the participation would cause the total amount of all loan participations by the bank under this subparagraph involving a single credit risk to exceed 10 percent of the bank's total capital; or

"(bb) if the participation by the bank will itself equal or exceed 50 percent of the principal of the loan or, when taken together with participations in the loan by the other banks for cooperatives under this subparagraph, will cause the cumulative amount of the participations by all banks for cooperatives in the loan to equal or exceed 50 percent of the principal of the loan;

"(II) a bank for cooperatives may not participate in a loan to a similar entity under this subparagraph if the similar entity has a loan or loan commitment outstanding with a Farm Credit Bank or an association chartered under this Act, unless agreed to by the Bank or association; and

"(III) the cumulative amount of participations that a bank for cooperatives may have outstanding under this subparagraph at any time may not exceed 15 percent of the bank's total assets.

"(ii) As used in this subparagraph, the term 'similar entity' means an entity that, while not eligible for a loan under section 3.8, is functionally similar to an entity eligible for a loan under section 3.8 in that it derives a majority of its income from, or has a majority of its assets invested in, the conduct of activities functionally similar to those conducted by the entity.

"(iii) With respect to similar entities that are eligible to borrow from a Farm Credit Bank or association under title I or II, the authority of a bank for cooperatives to participate in loans to the entities under this subparagraph shall be subject to the prior approval of the Farm Credit Bank or Banks in whose chartered territory the entity is eligible to borrow. The approval may be granted on an annual basis and under such terms and conditions as may be agreed on between the bank for cooperatives and the Farm Credit Bank or Banks that serve the territory.".

SEC. 503. EQUITY VOTING FOR ONE DIRECTOR OF EACH BANK FOR COOPERATIVES.

Section 3.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2123(a)) is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2)(A) If approved by the stockholders through a bylaw amendment, the nomination and election of one member from a bank for cooperatives (other than the National Bank for Cooperatives) shall be carried out with each voting stockholder of a bank for

cooperatives having one vote, plus a number of votes (or fractional part thereof) equal to—

"(i) the number of stockholders eligible to vote; multiplied by

"(ii) the percentage (or fractional part thereof) of the total equity interest (including allocated, but not unallocated, surplus and reserves) in the bank of all stockholders held by the individual voting stockholder at the close of the immediately preceding fiscal year of the bank.

"(B) The total number of votes under this paragraph shall be the number of voting stockholders of a bank for cooperatives multiplied by two.".

SEC. 504. TECHNICAL AMENDMENT.

The first sentence of section 3.7(a) (12 U.S.C. 2128(a)) is amended by inserting "at any time (whether or not they have a loan from the bank outstanding)" after "technical and financial assistance".

SEC. 505. EXPANSION OF WATER AND SEWER LENDING AUTHORITY OF BANKS FOR COOPERATIVES.

Section 3.7(f) (12 U.S.C. 2128(f)) is amended—

(1) by striking "the installation, expansion, or improvement of" and inserting "installing, maintaining, expanding, improving, or operating"; and

(2) by striking "to extend" and inserting "extending".

SEC. 506. ELIGIBILITY TO BORROW FROM A BANK FOR COOPERATIVES.

Section 3.8(b)(1) (12 U.S.C. 2129(b)(1)) is amended by adding at the end the following new subparagraph:

"(E) Any creditworthy private entity that satisfies the requirements for a service cooperative under paragraphs (1), (2), and (4) of subsection (a) and subsidiaries of the entity, if the entity is organized to benefit agriculture in furtherance of the welfare of its farmer-members and is operated on a not-for-profit basis.".

SEC. 507. NON-VOTING REPRESENTATIVE ON BOARD OF FUNDING CORPORATION.

Paragraph (2) of section 4.9(d) (12 U.S.C. 2160(d)(2)) is amended to read as follows:

"(2) NON-VOTING REPRESENTATIVES.—

"(A) ASSISTANCE BOARD.—During the period in which the Assistance Board is in existence, the board of directors of the Assistance Board shall designate one of its directors to serve as a non-voting representative to the board of directors of the Corporation.

"(B) MEETINGS.—The person designated by the Assistance Board under subparagraph (A) may attend and participate in all deliberations of the board of directors of the Corporation.

"(C) TERMINATION OF ASSISTANCE BOARD.—After termination of the Assistance Board, neither the Assistance Board nor its successor, the Farm Credit System Insurance Corporation, shall have any representation on the board of directors of the Corporation.".

SEC. 508. REPEAL OF PROHIBITION AGAINST GUARANTEE OF CERTAIN INSTRUMENTS OF INDEBTEDNESS.

Section 4.16 (12 U.S.C. 2204) is repealed.

SEC. 509. COMPENSATION OF BANK DIRECTORS.

Section 4.21 (12 U.S.C. 2209) is amended to read as follows:

"SEC. 4.21. COMPENSATION OF BANK DIRECTORS.

"(a) IN GENERAL.—The Farm Credit Administration shall monitor the compensation of members of the board of directors of a System bank received as compensation for serving as a director of the bank to ensure that the amount of the compensation does not exceed a level of $20,000 per year, as adjusted to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, unless the Farm Credit Administration determines that such level adversely affects the safety and soundness of the bank.

"(b) WAIVER.—The Farm Credit Administration may waive the limitation prescribed in subsection (a) under exceptional circumstances, as determined in accordance with regulations promulgated by the Farm Credit Administration.".

SEC. 510. CLARIFICATION OF TREATMENT OF FARM CREDIT ADMINISTRATION OPERATING EXPENSES.

Section 5.15(b)(1) (12 U.S.C. 2250(b)(1)) is amended—

(1) by inserting ", for purposes of sequestration," after "regard"; and

(2) by striking "or any other law".

SEC. 511. APPROVAL OF COMPETITIVE CHARTERS.

Section 5.17(a) (12 U.S.C. 2252(a)) is amended by adding at the end the following new paragraphs:

"(13)(A) Subject to subparagraph (B), the Farm Credit Administration may approve an amendment to the charter of any institution of the Farm Credit System operating under title I or II, which would authorize the institution to exercise lending authority in any territory—

"(i) in the geographic area served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

"(ii) in which the charter of an institution that is not seeking the charter amendment authorizes the institution to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter amendment under subparagraph (A) only on the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority of the stockholders of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholders' meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would

exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).

"(14)(A) Subject to subparagraph (B), the Farm Credit Administration may approve a request to charter an association of the Farm Credit System to operate under title II where the proposed charter—

"(i) will include any of the geographic area included in the territory served by an association that was reassigned pursuant to section 433 of the Agricultural Credit Act of 1987 (12 U.S.C. 2071 note) (where the geographic area was a part of the association's territory as of the date of the reassignment); and

"(ii) will authorize the association to exercise lending authority in any territory in the geographic area in which the charter of an association that is not requesting the charter authorizes the association to exercise the type of lending authority that is the subject of the charter request.

"(B) The Farm Credit Administration may approve a charter request under subparagraph (A) only on the approval of—

"(i) the respective boards of directors of the associations that, if the charter request is approved, would exercise like lending authority in any of the territory that is the subject of the charter request;

"(ii) a majority vote of the stockholders (if any) of each association described in clause (i) voting, in person or by proxy, at a duly authorized stockholder's meeting; and

"(iii) the respective boards of directors of the Farm Credit Banks that, if the charter request is approved, would exercise, either directly or through associations, like lending authority in any of the territory described in subparagraph (A)(i).".

SEC. 512. EXAMINATIONS.

The third sentence of section 5.19(a) (12 U.S.C. 2254(a)) is amended by striking "shall include" and inserting "may include, if appropriate".

SEC. 513. AUTHORITY TO EXAMINE SYSTEM INSTITUTIONS.

(a) AUTHORITY OF FARM CREDIT SYSTEM INSURANCE CORPORATION.—Section 5.59 (12 U.S.C. 2277a–8) is amended—

(1) in the section heading, by striking "**INSURED SYSTEM BANKS**" and inserting "**SYSTEM INSTITUTIONS**"; and

(2) by striking subsection (b) and inserting the following new subsection:

"(b) EXAMINATION OF SYSTEM INSTITUTIONS.—

"(1) EXAMINATION AUTHORITY.—

"(A) IN GENERAL.—If the Board of Directors considers it necessary to examine an insured System bank, a production credit association, an association making direct loans under the authority provided under section 7.6, or any System institution in receivership, the Board may, using Farm Credit Administration examiners, conduct the examination using reports and other information on the System institution prepared or held by the Farm Credit Administration.

"(B) REQUEST FOR ADDITIONAL EXAMINATION OR OTHER INFORMATION.—If the Board determines that such reports or information are not adequate to enable the Corporation to carry out the duties of the Corporation under this subsection, the Board shall request the Farm Credit Administration to examine or to obtain other information from or about the System institution and provide to the Corporation the resulting examination report or such other information.

"(2) APPOINTMENT OF EXAMINERS.—If the Farm Credit Administration informs the Corporation that the Farm Credit Administration is unable to comply with a request made under paragraph (1)(B) with respect to a System institution, the Board may appoint examiners to examine the institution.

"(3) POWERS AND REPORT.—Each examiner appointed under paragraph (2) shall make such examination of the affairs of the System institution as the Board may direct, and shall make a full and detailed report of the examination to the Corporation.

"(4) APPOINTMENT OF CLAIM AGENTS.—The Board of Directors of the Corporation shall appoint claim agents who may investigate and examine all claims for insured obligations.".

(b) DUTIES OF THE FARM CREDIT ADMINISTRATION.—Section 5.19 (12 U.S.C. 2254) is amended by adding at the end the following new subsection:

"(d) On receipt of a request made under section 5.59(b)(1)(B) with respect to a System institution, the Farm Credit Administration shall—

Confidentiality. Reports.

"(1) furnish for the confidential use of the Farm Credit System Insurance Corporation reports of examination of the institution and other reports or information on the institution; and

"(2)(A) examine, or obtain other information on, the institution and furnish for the confidential use of the Farm Credit System Insurance Corporation the report of the examination and such other information; or

"(B) if the Farm Credit Administration Board determines that compliance with the request would substantially impair the ability of the Farm Credit Administration to carry out the other duties and responsibilities of the Farm Credit Administration under this Act, notify the Board of Directors of the Farm Credit System Insurance Corporation that the Farm Credit Administration will be unable to comply with the request.".

SEC. 514. FINANCIAL DISCLOSURE AND CONFLICT OF INTEREST REPORTING BY DIRECTORS, OFFICERS, AND EMPLOYEES OF FARM CREDIT SYSTEM INSTITUTIONS.

(a) FINDINGS.—Congress finds that—

(1) the disclosure of the compensation paid to, loans made to, and transactions made with a Farm Credit System institution by, directors and senior officers of the institution provides the stockholders of the institutions with information necessary to better manage the institutions, provides the Farm Credit Administration with information necessary to efficiently and effectively regulate the institutions, and enhances the financial

integrity of the Farm Credit System by making the information available to potential investors;

(2) the reporting of potential conflicts of interest by directors, officers, and employees of institutions of the Farm Credit System benefits the stockholders of the institutions, helps to ensure the financial viability of the institutions, provides information valuable to the Farm Credit Administration in periodic examinations of the institutions, and therefore enhances the safety and soundness of the Farm Credit System; and

(3) the directors, officers, or employees of some Farm Credit System institutions may not be subject to the regulations of the Farm Credit Administration requiring the disclosure of the financial information and the reporting of the potential conflicts of interest.

(b) PURPOSE.—It is the purpose of this section to ensure that the information reported by the directors, officers, and employees of Farm Credit System institutions under regulations of the Farm Credit Administration requiring the disclosure of financial information and the reporting of potential conflicts of interest—

(1) provides the stockholders of all Farm Credit System institutions with information to assist the stockholders in making informed decisions regarding the operation of the institutions;

(2) provides investors and potential investors with information necessary to assist them in making investment decisions regarding Farm Credit System obligations or institutions; and

(3) provides the Farm Credit Administration with information necessary to allow the Farm Credit Administration to effectively and efficiently examine and regulate all Farm Credit System institutions and thus enhance the safety and soundness of the Farm Credit System.

(c) REVIEW.—Not later than 120 days after the date of enactment of this Act, the Farm Credit Administration shall complete a review of the current regulations of the Farm Credit Administration regarding the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of Farm Credit System institutions. Consistent with the purpose of this section as provided in subsection (b), the review shall address whether the regulations—

(1) are adequate to fulfill the purpose of this section and such other purposes as the Farm Credit Administration determines to be consistent with the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), and other applicable law, and to be otherwise necessary or appropriate;

(2) currently require the disclosure of financial information and the reporting of potential conflicts of interest by the directors, officers, and employees of all Farm Credit System institutions; and

(3) currently require the disclosure or reporting of the information by all of the appropriate directors, officers, or employees of Farm Credit System institutions.

(d) IMPLEMENTATION.—Not later than 360 days after the date of enactment of this Act, the Farm Credit Administration shall amend its current financial disclosure and conflict of interest regulations as the Administration determines necessary to carry out the purpose of this section and to address any deficiencies in the regula- Regulations.

tions that the Farm Credit Administration determines necessary pursuant to the review conducted under subsection (c).

SEC. 515. ONE-TIME EFAP ASSISTANCE.

(a) USE OF ACCOUNT.—The Secretary of Agriculture shall use the account in which funds appropriated under section 214 of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) are credited or deposited, or another account established for the use of the Secretary of Agriculture, for the purpose of purchasing, processing and distributing additional commodities for the emergency food assistance program established under such Act (7 U.S.C. 612c note) as required by this section.

(b) USE OF RECEIPTS.—

(1) IN GENERAL.—Not later than 10 days after the date of enactment of this Act, the Director of the Office of Management and Budget shall—

(A) calculate the estimated present value of the future receipts available to the Federal Government, under procedures or definitions established in the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), as a result of enactment of this Act and the amendments made by this Act; and

(B) advise the Secretary of Agriculture, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the dollar amount of that value.

(2) CREDIT.—Not later than 20 days after the date of enactment of this Act, an amount equal to the dollar amount of that value shall be credited to, or deposited in, the account referred to in subsection (a) by the Secretary of the Treasury.

(c) REQUIRED PURCHASE OF COMMODITIES BY THE SECRETARY OF AGRICULTURE.—

(1) IN GENERAL.—The Secretary of Agriculture shall—

(A) use all of the funds provided to the Secretary under subsection (a) to purchase, process, and distribute additional commodities for the emergency food assistance program; and

(B) allot the additional commodities to States in accordance with the application of the allocation formula established in section 214(f) of the Emergency Food Assistance Act of 1983 (Public Law 98–8; 7 U.S.C. 612c note) to the total value of the additional commodities.

(2) TYPES AND VARIETIES.—The additional commodities shall be of the types and varieties required under section 214(d) of such Act.

(3) REALLOCATION.—The additional commodities may be reallocated under procedures established by the Secretary of Agriculture in accordance with section 214(g) of such Act.

(d) ENTITLEMENT TO RECEIVE COMMODITIES.—Each State shall be entitled to receive during fiscal year 1993 its allotment of the additional commodities purchased by the Secretary of Agriculture under this section.

(e) TERMINATION OF AUTHORITY.—The authority provided to carry out this section shall terminate on September 30, 1993.

SEC. 516. TECHNICAL CORRECTIONS.

(a) CORRECTION OF REFERENCE TO SECTION 1236 OF THE FOOD SECURITY ACT OF 1985.—The matter under the heading "CONSTRUC-

TION AND ANADROMOUS FISH" of title I of the Department of the Interior and Related Agencies Appropriations Act, 1991 (Public Law 101–512; 104 Stat. 1918) is amended by striking "title 16 U.S.C. section 3832(a)(6)" and inserting "section 1232(a)(6) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(6))". 16 USC 3832.

(b) SECTION 1245(b) OF THE FOOD SECURITY ACT OF 1985.—

(1) CORRECTION.—Section 1245(b) of the Food Security Act of 1985 (16 U.S.C. 3845(b)) is amended by striking "(A) through (G)" and inserting "A through G".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect immediately after section 1443 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3602) took effect. 16 USC 3845 note.

(c) SECTION 307(a)(6)(B) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 307(a)(6)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1927(a)(6)(B)) is amended by striking clause (ii), and by redesignating clauses (iii) through (viii) as clauses (ii) through (vii), respectively.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) took effect. 7 USC 1927 note.

(d) SECTION 310B(c) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 310B(c) (7 U.S.C. 1932(c)) is amended by striking "business enterprises," and inserting "business enterprises or the creation, expansion, and operation of rural distance learning networks or rural learning programs that provide educational instruction or job training instruction related to potential employment or job advancement to adult students,".

(e) SECTION 310D(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 310D(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1934(a)) is amended by striking "304(d)(1)" and inserting "304(a)(1)".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(a) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1865) took effect. 7 USC 1934 note.

(f) SECTION 312(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) REPLACEMENT OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.—

(A) CORRECTION.—Subsection (b) of section 1818 of the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3830) is amended to read as follows: 7 USC 1942.

"(b) OPERATING LOAN PURPOSES.—The first sentence of section 312(a) (7 U.S.C. 1942(a)) is amended—

"(1) by striking 'and' at the end of clause (11); and

"(2) by inserting ', and (13) borrower training under section 359' before the period at the end.".

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall take effect as if included in the 7 USC 1942 note.

Food, Agriculture, Conservation, and Trade Act of 1990 at the time such Act became law.

(2) REPEAL OF UNEXECUTABLE AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Subsection (b) of section 501 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) is repealed. The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) shall be applied and administered as if such subsection had never become law.

7 USC 1942 and note.

(g) AMENDMENTS TO SECTION 331E OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 331E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981e) is amended—

(A) in subsection (a), by striking "Disaster Relief Act of 1974" and inserting "Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)"; and

(B) in subsection (b), by inserting "Robert T. Stafford" before "Disaster Relief".

7 USC 1981e note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(d) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1866) took effect.

(h) SECTION 335(e)(1)(A)(i) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTIONS TO AMENDMENT MADE BY THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 501(f)(1) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) is amended—

7 USC 1985.

(A) by inserting "the first place such term appears" before "and all that follows"; and

(B) by striking "borrower-owner (as defined in subparagraph (F))" and inserting "the borrower-owner (as defined in subparagraph (F))".

7 USC 1985 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) of this subsection shall take effect immediately after section 501(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 took effect.

(i) SECTION 352(a) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 352(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(a)) is amended by redesignating the second paragraph (4) as paragraph (5).

(j) SECTION 352(b)(2) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—

(1) CORRECTION.—Section 352(b)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2000(b)(2)) is amended by striking "borrower's" and inserting "borrower-owner's".

7 USC 2000 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) of this subsection shall take effect at the same time as the amendments made by section 501(f) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1867) took effect.

(k) SECTION 702(h)(2) OF THE FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT AMENDMENTS OF 1991.—Section 702(h)(2) of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102–237; 105 Stat. 1881) is amended by inserting "section" before "2388(h)(3)". 7 USC 1991 note.

(l) SECTION 306C(b)(1) OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c(b)(1)) is amended by striking "or connecting such systems to the residences of such individuals" and inserting ", connecting the systems to the residences of the individuals, or installing plumbing and fixtures within the residences of the individuals to facilitate the use of the water supply and waste disposal systems".

(m) SECTION 306C OF THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by adding at the end the following new subsection:

"(f) REGULATIONS.—Not later than 30 days after the date of enactment of this subsection, the Secretary shall issue interim final regulations, with a request for public comments, implementing this section.".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6125:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-553
102d Congress

An Act

Oct. 28, 1992
[H.R. 6128]

To amend the United States Warehouse Act to provide for the use of electronic cotton warehouse receipts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF ELECTRONIC COTTON WAREHOUSE RECEIPTS.

Section 17(c) of the United States Warehouse Act (7 U.S.C. 259(c)) is amended—

(1) in paragraph (1)(A)—

(A) by striking "The Secretary" and inserting "Notwithstanding any other provision of Federal or State law, the Secretary";

(B) by inserting after "licensed under this Act" the following: "or in any other warehouse"; and

(C) by striking "under section 18" and inserting "(i) under section 18 in the case of a warehouse licensed under this Act or (ii) under any applicable State law in the case of a warehouse not licensed under this Act";

(2) in paragraph (2)—

(A) by striking "provision of law—" and inserting "provision of Federal or State law:";

(B) in subparagraph (A)—

(i) by striking "the record" and inserting "The record";

(ii) by striking "ownership" both places it appears and inserting "possessory";

(iii) by striking "of this Act" and inserting "of this Act or State law"; and

(iv) by striking "; and" and inserting a period; and

(C) by striking subparagraph (B) and inserting the following new subparagraph:

"(B) Any person designated as a holder of an electronic warehouse receipt authorized under this subsection and subsection (d) shall, for the purpose of perfecting the security interest of the person under Federal or State law with respect to the cotton covered by the warehouse receipt, be considered to be in possession of the warehouse receipt. If more than one security interest exist in the cotton reflected on the electronic warehouse receipt, the priority of the security interests shall be determined by the applicable Federal or State law. This subsection is applicable to electronic cotton warehouse receipts and any other security interests covering cotton stored in a cotton warehouse, regardless of whether the warehouse is licensed under this Act."; and

(3) in paragraph (3)—

(A) by striking "licensed under this Act" and inserting "covered under this subsection"; and

(B) by striking "owner" and inserting "holder".

SEC. 2. EXPEDITED ACTION ON MARKETING ORDERS.

Section 8c(1) of the Agricultural Adjustment Act (7 U.S.C. 608c(1)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following new sentences: "In carrying out this section, the Secretary shall complete all informal rulemaking actions necessary to respond to recommendations submitted by administrative committees for such orders as expeditiously as possible, but not more than 45 days (to the extent practicable) after submission of the committee recommendations. The Secretary shall establish time frames for each office and agency within the Department of Agriculture to consider the committee recommendations.".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6128:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-554
102d Congress

An Act

Oct. 28, 1992
[H.R. 6129]

To amend the Consolidated Farm and Rural Development Act to establish a program to aid beginning farmers and ranchers and to improve the operation of the Farmers Home Administration, and to amend the Farm Credit Act of 1971, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agricultural Credit Improvement Act of 1992.
7 USC 1921 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agricultural Credit Improvement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Consolidated Farm and Rural Development Act.
Sec. 3. Limitation on aggregate indebtedness.
Sec. 4. Interest rate for loans sold into secondary market; guaranteed loan fees.
Sec. 5. Federal-State beginning farmer partnership.
Sec. 6. Grants for private business enterprises.
Sec. 7. Down payment loan program.
Sec. 8. Special assistance to certain qualified beginning farmers and ranchers.
Sec. 9. Graduation of borrowers with operating loans or guarantees to private commercial credit.
Sec. 10. Consideration of borrowers for loan service programs.
Sec. 11. Time period within which county committee is required to meet to consider applications for farm ownership and operating loans and guarantees and beginning farmer plans.
Sec. 12. Increase in period during which county committee loan eligibility certification continues in effect.
Sec. 13. Processing of applications for farm operating loans.
Sec. 14. Graduation of seasoned direct loan borrowers to the loan guarantee program.
Sec. 15. Simplified application for guaranteed loans of $50,000 or less.
Sec. 16. Inventory lease or lease with option to purchase.
Sec. 17. Transfer of Indian lands pledged as collateral for FmHA loans.
Sec. 18. Debt service margin requirements; certified lenders program.
Sec. 19. Definition of qualified beginning farmer or rancher.
Sec. 20. Targeting of funds.
Sec. 21. Equal access to FmHA assistance by gender.
Sec. 22. State mediation programs.
Sec. 23. Regulations.
Sec. 24. Technical amendment.

SEC. 2. REFERENCES TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.

Wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.), except to the extent otherwise specifically provided.

SEC. 3. LIMITATION ON AGGREGATE INDEBTEDNESS.

Section 305 (7 U.S.C. 1925) is amended by striking "and 310D of this title" and inserting "310D, and 310E".

SEC. 4. INTEREST RATE FOR LOANS SOLD INTO SECONDARY MARKET; GUARANTEED LOAN FEES.

Section 309(h) (7 U.S.C. 1929(h)) is amended—

(1) by inserting "(1)" after "(h)"; and

(2) by adding at the end the following new paragraphs:

"(2) The interest rate payable by a borrower on the portion of a guaranteed loan that is sold by a lender to the secondary market under this title may be lower than the interest rate charged on the portion retained by the lender, but shall not exceed the average interest rate charged by the lender on loans made to farm and ranch borrowers.

"(3) With regard to any loan guarantee on a loan made by a commercial or cooperative lender related to a loan made by the Secretary under section 310E—

"(A) the Secretary shall not charge a fee to any person (including a lender); and

"(B) a lender may charge a loan origination and servicing fee in an amount not to exceed 1 percent of the amount of the loan.".

SEC. 5. FEDERAL-STATE BEGINNING FARMER PARTNERSHIP.

Intergovernmental relations.

(a) COORDINATION OF ASSISTANCE FOR QUALIFIED BEGINNING FARMERS AND RANCHERS.—Section 309 (7 U.S.C. 1929) is amended by adding at the end the following new subsection:

"(i)(1) Not later than 60 days after any State expresses to the Secretary, in writing, a desire to coordinate the provision of financial assistance to qualified beginning farmers and ranchers in the State, the Secretary and the State shall conclude a joint memorandum of understanding that shall govern the coordination of the provision of the financial assistance by the State and the Secretary.

"(2) The memorandum of understanding shall provide that if a State beginning farmer program makes a commitment to provide a qualified beginning farmer or rancher with financing to establish or maintain a viable farming or ranching operation, the Secretary shall, subject to applicable law, normal loan approval criteria, and the availability of funds provide the farmer or rancher with a down payment loan under section 310E or a guarantee of the financing provided by the State program, or both.

"(3) The Secretary shall not charge any person (including a lender) any fee with respect to the provision of any guarantee under this subsection.

"(4) The Secretary shall notify each State of the provisions of this subsection.

"(5) As used in paragraph (1), the term 'State beginning farmer program' means any program that is—

"(A) carried out by, or under contract with, a State; and

"(B) designed to assist persons in obtaining the financial assistance necessary to enter agriculture and establish viable farming or ranching operations.".

(b) ADVISORY COMMITTEE.— 7 USC 1921 note.

(1) ESTABLISHMENT; PURPOSE.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall establish an advisory committee, to be known as the "Advisory Committee on Beginning Farmers and Ranchers", which shall provide advice to the Secretary on—

(A) the development of the program of coordinated assistance to qualified beginning farmers and ranchers under section 309(i) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section);

(B) methods of maximizing the number of new farming and ranching opportunities created through the program;

(C) methods of encouraging States to participate in the program;

(D) the administration of the program; and

(E) other methods of creating new farming or ranching opportunities.

(2) MEMBERSHIP.—The Secretary shall appoint the members of the Advisory Committee. The Advisory Committee shall include representatives from the following:

(A) The Farmers Home Administration.

(B) State beginning farmer programs (as defined in section 309(i)(5) of the Consolidated Farm and Rural Development Act (as added by subsection (a) of this section)).

(C) Commercial lenders.

(D) Private nonprofit organizations with active beginning farmer or rancher programs.

(E) The Cooperative Extension Service.

(F) Community colleges or other educational institutions with demonstrated experience in training beginning farmers or ranchers.

(G) Other entities or persons providing lending or technical assistance for qualified beginning farmers or ranchers.

SEC. 6. GRANTS FOR PRIVATE BUSINESS ENTERPRISES.

Section 310B(c) (7 U.S.C. 1932(c)) is amended—

(1) by inserting "(1)" after "(c)"; and

(2) by adding at the end the following new paragraph:

"(2) The Secretary may make grants to qualified nonprofit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Assistance provided under this paragraph may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas, the development of training materials, and the provision of necessary training assistance to local officials and agencies in rural areas.".

SEC. 7. DOWN PAYMENT LOAN PROGRAM.

(a) IN GENERAL.—Subtitle A (7 U.S.C. 1922 et seq.) is amended by adding at the end the following new section:

7 USC 1935.

"SEC. 310E. DOWN PAYMENT LOAN PROGRAM.

"(a) IN GENERAL.—

"(1) ESTABLISHMENT.—Notwithstanding any other section of this subtitle, the Secretary shall establish, within the farm ownership loan program established under this subtitle, a program under which loans shall be made under this section to qualified beginning farmers and ranchers for down payments on farm ownership loans.

"(2) ADMINISTRATION.—The Secretary shall be the primary coordinator of credit supervision for the down payment loan program established under this section, in consultation with

the commercial or cooperative lender and, if applicable, the contracting credit counseling service selected under section 360(c).

"(b) LOAN TERMS.—

"(1) PRINCIPAL.—Each loan made under this section shall be in an amount equal to 30 percent of the purchase price or appraisal value, whichever is lower, of the farm or ranch to be acquired, unless the borrower requests a lesser amount.

"(2) INTEREST RATE.—The interest rate on any loan made by the Secretary under this section shall be 4 percent.

"(3) DURATION.—Each loan under this section shall be made for a period of 10 years or less, at the option of the borrower.

"(4) REPAYMENT.—Each borrower of a loan under this section shall repay the loan to the Secretary in equal annual installments.

"(5) NATURE OF RETAINED SECURITY INTEREST.—The Secretary shall retain an interest in each farm or ranch acquired with a loan made under this section that shall—

"(A) be secured by the farm or ranch;

"(B) be junior only to such interests in the farm or ranch as may be conveyed at the time of acquisition to the person (including a lender) from whom the borrower obtained a loan used to acquire the farm or ranch; and

"(C) require the borrower to obtain the permission of the Secretary before the borrower may grant an additional security interest in the farm or ranch.

"(c) LIMITATIONS.—

"(1) BORROWERS REQUIRED TO MAKE MINIMUM DOWN PAYMENT.—The Secretary shall not make a loan under this section to any borrower with respect to a farm or ranch if the contribution of the borrower to the down payment on the farm or ranch will be less than 10 percent of the purchase price of the farm or ranch.

"(2) MAXIMUM PRICE OF PROPERTY TO BE ACQUIRED.—The Secretary shall not make a loan under this section with respect to a farm or ranch for which the purchase price or appraisal value, whichever is lower, exceeds $250,000.

"(3) PROHIBITED TYPES OF FINANCING.—The Secretary shall not make a loan under this section with respect to a farm or ranch if the farm or ranch is to be acquired with other financing that contains any of the following conditions:

"(A) The financing is to be amortized over a period of less than 30 years.

"(B) A balloon payment will be due on the financing during the 10-year period beginning on the date the loan is to be made by the Secretary.

"(d) ADMINISTRATION.—In carrying out this section, the Secretary shall, to the maximum extent practicable—

"(1) facilitate the transfer of farms and ranches from retiring farmers and ranchers to persons eligible for insured loans under this subtitle;

"(2) make efforts to widely publicize the availability of loans under this section among— Public information.

"(A) potentially eligible recipients of the loans;

"(B) retiring farmers and ranchers; and

"(C) applicants for farm ownership loans under this subtitle;

"(3) encourage retiring farmers and ranchers to assist in the sale of their farms and ranches to qualified beginning farmers and ranchers by providing seller financing; and

"(4) coordinate the loan program established by this section with State programs that provide farm ownership or operating loans for beginning farmers and ranchers.".

(b) AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN BEGINNING FARMERS AND RANCHERS.—Subtitle A (7 U.S.C. 1922 et seq.) (as amended by subsection (a) of this section) is further amended by adding at the end the following new section:

7 USC 1936.

"SEC. 310F. AVAILABILITY OF FARM OWNERSHIP LOANS AND LOAN GUARANTEES FOR CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

"(a) ASSISTANCE PROHIBITED FOR A LIMITED PERIOD.—Except as otherwise provided in this section, if the Secretary approves the application of a qualified beginning farmer or rancher (referred to in this section as the 'applicant') for assistance under section 318, the Secretary shall not make a loan under this subtitle to the applicant or provide a guarantee under section 309(h) with respect to any farm real estate loan made to the applicant.

"(b) AVAILABILITY OF DOWN PAYMENT LOANS.—After the applicable period, the Secretary may make an insured loan under this subtitle, or a down payment loan under section 310E, to an applicant if—

"(1) throughout the applicable period, the applicant conducted an operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan.

"(c) AVAILABILITY OF LOAN GUARANTEES.—After the applicable period, the Secretary may guarantee under section 309(h) the repayment of a commercial or cooperative loan made to an applicant referred to in subsection (a) if—

"(1) throughout the applicable period, the applicant conducted the operation for which assistance is provided under section 318 in accordance with the plan for special assistance; and

"(2) the applicant is otherwise eligible for the loan guarantee.

"(d) APPLICABLE PERIOD DEFINED.—As used in this section, the term 'applicable period' means the first 5 years for which an applicant has operated a farm or ranch, including the period of time the applicant is provided assistance under section 318.".

SEC. 8. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

Subtitle B (7 U.S.C. 1941 et seq.) is amended by adding at the end the following new section:

7 USC 1948.

"SEC. 318. SPECIAL ASSISTANCE TO CERTAIN QUALIFIED BEGINNING FARMERS AND RANCHERS.

"(a) IN GENERAL.—The Secretary shall provide special assistance in accordance with this section to enable a qualified beginning farmer or rancher who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 5 years (referred

to in this section as the 'applicant'), to conduct viable farming or ranching operations.

"(b) SUBMISSION OF PLAN OF FARM OPERATION.—An applicant who desires to apply for special assistance under this section shall submit a plan, in coordination with activities conducted under sections 359, 360, 361, and 362, that—

"(1) describes, for each of the first 5 years for which assistance under this section is sought for the operation—

"(A) how the operation is to be conducted;

"(B) the types and quantities of commodities to be produced by the operation;

"(C) the production methods and practices to be employed by the operation;

"(D) the conservation measures to be taken in the operation;

"(E) the equipment needed to conduct the operation (including any expected replacements for the equipment) and, with respect to each item of needed equipment, whether the applicant owns, leases, or otherwise has access to the item, or proposes to purchase, lease, or otherwise gain access to the item;

"(F) the expected income and expenses of the operation;

"(G) the expected credit needs of the operation, including the types and amounts of assistance to be sought under this section; and

"(H) the site or sites at which the operation is (or is to be) located; and

"(2) projects the financial status of the operation after assistance under this section has been provided for a period of not more than 10 years, consistent with section 319, as is necessary for the operation to become financially viable without further assistance from the Secretary, including specific goals that the applicant projects to meet in order to progress toward graduation as expeditiously as possible.

"(c) DETERMINATIONS BY THE COUNTY COMMITTEE; APPROVAL OF PLAN.—The county committee shall approve a plan submitted by an applicant in accordance with subsection (b) if the county committee determines that—

"(1) the applicant has not operated a farm or ranch, or has operated a farm or ranch for not more than 5 years;

"(2) during the 5-year period ending with the submission of the plan, the applicant has had sufficient education and experience to indicate that the applicant is able to conduct a successful farming or ranching operation, as the case may be;

"(3) the applicant owns, leases, or has a commitment to have leased to the applicant the site or sites of the operation;

"(4) there is, or will be, available to the applicant equipment sufficient to conduct the operation in accordance with the plan;

"(5) the applicant agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require; and

"(6) the applicant is otherwise eligible for assistance under this title.

"(d) DETERMINATION BY THE SECRETARY; APPROVAL OF APPLICATION FOR ASSISTANCE.—The Secretary shall approve an application for assistance under this section for an operation described in

a plan approved by a county committee under this section if the Secretary determines that—

"(1) the operation would generate income sufficient to cover the expenses of the operation, debt service, and adequate living expenses of the applicant, to the extent that other income would not cover the living expenses, if the operation received assistance under this section as provided for in the plan; and

"(2) during the commitment period established in accordance with subsection (e)(1), the operation will be financially viable without further assistance from the Secretary and the identified goals are reasonable and practicable.

"(e) PROVISION OF ASSISTANCE.—

"(1) DETERMINATION OF COMMITMENT PERIOD.—

"(A) INITIAL DETERMINATION.—In approving an application under subsection (d), the Secretary shall, subject to subparagraph (C), determine the period during which assistance under this section is to be provided for the operation described in the application (referred to in this subsection as the 'commitment period').

"(B) AUTHORITY TO EXTEND PERIOD; NO AUTHORITY TO REDUCE PERIOD.—At any time, the Secretary may, subject to subparagraph (C) and subsections (f) and (g), extend the duration of the commitment period. The Secretary shall not reduce the duration of the commitment period.

"(C) LIMITATIONS.—

"(i) IN GENERAL.—The duration of any commitment period (including any extensions of the period) shall not exceed 10 years and shall be consistent with section 319.

"(ii) ELIGIBILITY FOR INSURED OPERATING LOANS.—During the commitment period, an applicant shall not be eligible to receive an insured operating loan under this section after the date that is 8 years after the date on which the applicant first receives assistance under this section.

"(2) OPERATING LOANS; LOAN GUARANTEES.—

"(A) IN GENERAL.—To the extent that an applicant whose application is approved under subsection (d) is unable to obtain sufficient credit from commercial or cooperative lenders to finance the operation described in the application at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is (or is to be) located, for loans for similar purposes and periods of time), the Secretary shall, subject to the availability of funds and to subsections (f) and (g) and consistent with sections 360 and 362, make a conditional commitment to the applicant for each of the years of the commitment period—

"(i) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest;

"(ii)(I) to provide to any commercial or cooperative lender who makes a loan to the applicant that is within

the credit needs of the operation (as specified in the plan contained in the application) a guarantee under section 309(h) for the repayment of 90 percent of the loan principal and interest and an interest subsidy payment in the amount necessary to ensure that the applicant qualifies for such a loan but not more than the amount of interest assistance allowed by section 351; or

"(II) if during any of the first 4 years for which assistance is provided under this section the Secretary determines that the applicant will not qualify for a loan described in subclause (I), an interest subsidy payment sufficient to ensure that the effective rate of interest payable by the applicant on the loan equals the rate of interest charged to low income, limited resource borrowers on insured operating loans made under this subtitle that are of comparable size and maturity; or

"(iii) to make an insured loan under this subtitle to the applicant, in the amount specified in the plan contained in the application, at an interest rate that is no higher than the interest rate charged to regular borrowers and no lower than the interest rate charged to low income, limited resource borrowers under this subtitle.

"(3) LOANS OR GUARANTEES FOR NEW OR IMPROVED EQUIPMENT.—The Secretary shall make a commitment to any applicant whose application is approved under subsection (d) to provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the acquisition, improvement, or repair of equipment needed in the operation described in the application if the plan contained in the application provides for the commitment, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purposes at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(4) PRIORITY IN PURCHASE OF INVENTORY EQUIPMENT; LOANS OR GUARANTEES FOR THE PURCHASES IN CERTAIN CASES.—During the commitment period, the Secretary shall—

"(A) accord the applicant whose application is approved under subsection (d) priority for the purchase of equipment in the inventory of the Farmers Home Administration necessary for the success of the operation described in the application; and

"(B) provide the applicant with loans under this subtitle or loan guarantees under section 309(h) to finance the purchases if the plan contained in the application provides for the assistance, to the extent that the applicant is unable to obtain sufficient credit from commercial or cooperative lenders for such purpose at reasonable rates and terms (taking into consideration prevailing private and cooperative rates, and terms in the community in which the operation is, or is to be, located, for loans for similar purposes and periods of time).

"(5) OTHER KINDS OF ASSISTANCE.—During the commitment period, the Farmers Home Administration, the Extension Service, the Soil Conservation Service, and the other entities of the Department of Agriculture shall provide the applicant with such other assistance and information as may be needed in developing and implementing the operation described in the application.

"(6) FEES.—

"(A) SECRETARY.—The Secretary shall not charge a fee to any person (including a lender) in connection with any loan guarantee provided in accordance with this section.

"(B) LENDER.—A lender may charge a loan origination and servicing fee in connection with a loan or loan guarantee provided in accordance with this section in an amount not to exceed 1 percent of the amount of the loan.

"(f) ANNUAL PLAN REVISIONS REQUIRED AS CONDITION OF CONTINUED ASSISTANCE.—The Secretary shall not provide assistance under this section for an operation for any particular year after the first year for which the assistance is provided, unless—

"(1) not later than 60 days before the assistance is to be first provided for the particular year, the plan describing the operation has been revised, pursuant to section 360, based on the experience of the year preceding the particular year, to provide the information required by subsection (b) for the 5-year period beginning with the particular year (or, if shorter, the period beginning with the particular year and ending with the year in which the plan projects the operation as becoming financially viable); and

"(2) the Secretary has approved the revised plan.

"(g) EFFECTS OF AVOIDABLE FAILURE TO ACHIEVE GOALS.—

"(1) TERMINATION OF COMMITMENTS.—The Secretary shall revoke commitment for assistance made to an applicant under this section if the operation of the applicant fails, for 2 consecutive years, to meet the goals specified in the plan, unless the failure has not materially reduced the likelihood of the operation becoming financially viable and is due to circumstances beyond the control of the applicant.

"(2) SUSPENSION OF ELIGIBILITY FOR ASSISTANCE.—During the 3-year period that begins with the date a commitment made to an applicant is revoked under paragraph (1), the applicant shall not be eligible for assistance under this section.".

SEC. 9. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

Subtitle B (7 U.S.C. 1941 et seq.) (as amended by section 8 of this Act) is further amended by adding at the end the following new section:

7 USC 1949.

"SEC. 319. GRADUATION OF BORROWERS WITH OPERATING LOANS OR GUARANTEES TO PRIVATE COMMERCIAL CREDIT.

"(a) GRADUATION PLAN.—The Secretary shall establish a plan, in coordination with activities under sections 359, 360, 361, and 362, to encourage each borrower with an outstanding loan under this subtitle or with respect to whom there is an outstanding guarantee under this subtitle to graduate to private commercial or other sources of credit.

"(b) LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR ASSISTANCE UNDER THIS SUBTITLE.—Notwithstanding any other provision of this subtitle:

"(1) GENERAL RULE.—Except as provided in paragraph (2), the Secretary shall not—

"(A) make a loan to a borrower under this subtitle for any year after the 10th year for which such a loan is made to the borrower; or

"(B) guarantee for any year a loan made to a borrower for a purpose specified in this subtitle, after the 15th year for which loans under this subtitle are made to, or such a guarantee is provided with respect to, the borrower.

"(2) TRANSITION RULE.—If, as of the date of enactment of this section, the Secretary has made a loan to a borrower under this subtitle for 5 or more years, or has provided a guarantee for 10 or more years with respect to one or more loans made to the borrower for a purpose specified in this subtitle, the Secretary shall not make a loan to the borrower under this subtitle, or provide such a guarantee with respect to a loan made to the borrower for a purpose specified in this subtitle, after the 5th year occurring after the date of enactment for which a loan is made under this subtitle to, or such a guarantee is provided with respect to, the borrower.".

SEC. 10. CONSIDERATION OF BORROWERS FOR LOAN SERVICE PROGRAMS.

The first sentence of section 331D(e) (7 U.S.C. 1981d(e)) is amended by inserting after "not later than 60 days after receipt of the notice required in this section" the following: "or, in extraordinary circumstances as determined by the applicable State director, after the 60-day period".

SEC. 11. TIME PERIOD WITHIN WHICH COUNTY COMMITTEE IS REQUIRED TO MEET TO CONSIDER APPLICATIONS FOR FARM OWNERSHIP AND OPERATING LOANS AND GUARANTEES AND BEGINNING FARMER PLANS.

Section 332 (7 U.S.C. 1982) is amended—

(1) in subsection (c), by striking "The committee" and inserting "Subject to subsection (e), the committee"; and

(2) by adding at the end the following new subsection:

"(e) The county committee shall meet to consider approval of an application received by the committee for a loan under this title, a guarantee under section 309(h), or a plan of farm operation under section 318, not later than—

"(1) 5 days after receipt of the application if at the time of the receipt there is at least one other such application or plan pending; or

"(2) 15 days after receipt of the application if at the time of the receipt there are no other such applications or plans pending.".

SEC. 12. INCREASE IN PERIOD DURING WHICH COUNTY COMMITTEE LOAN ELIGIBILITY CERTIFICATION CONTINUES IN EFFECT.

Section 333(2)(A)(iii) (7 U.S.C. 1983(2)(A)(iii)) is amended by striking "2 years" and inserting "5 years".

SEC. 13. PROCESSING OF APPLICATIONS FOR FARM OPERATING LOANS.

Section 333A(a)(2) (7 U.S.C. 1983a(a)(2)) is amended—

(1) by inserting "(A)" after "(2)";

(2) by inserting "(other than under subtitle B)" after "under this title"; and

(3) by adding at the end the following new subparagraph:

"(B)(i) Not later than 10 calendar days after the Secretary receives an application for an operating loan or loan guarantee under subtitle B, the Secretary shall notify the applicant of any information required before a decision may be made on the application. On receipt of an application, the Secretary shall request from other parties such information as may be needed in connection with the application.

"(ii) Not later than 15 calendar days after the date an agency of the Department of Agriculture receives a request for information made pursuant to clause (i), the agency shall provide the Secretary with the requested information.

"(iii) If, not later than 20 calendar days after the date a request is made pursuant to clause (i) with respect to an application, the Secretary has not received the information requested, the Secretary shall notify the applicant and the district office of the Farmers Home Administration, in writing, of the outstanding information.

"(iv) A county office shall notify the district office of the Farmers Home Administration of each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt, and the reasons the application is pending.

"(v) A district office that receives a notice provided under clause (iv) with respect to an application shall immediately take steps to ensure that final action is taken on the application not later than 15 days after the date of the receipt of the notice.

Reports.

"(vi) The district office shall report to the State office of the Farmers Home Administration on each application for an operating loan or loan guarantee under subtitle B that is pending more than 45 days after receipt by the county committee, and the reasons the application is pending.

"(vii) Each month, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on a State-by-State basis, as to each application for an operating loan or loan guarantee under subtitle B on which final action had not been taken within 60 calendar days after receipt by the Secretary, and the reasons final action had not been taken.".

SEC. 14. GRADUATION OF SEASONED DIRECT LOAN BORROWERS TO THE LOAN GUARANTEE PROGRAM.

Section 333A (7 U.S.C. 1983a) is amended by adding at the end the following new subsection:

"(f)(1) As used in this subsection:

"(A) The term 'approved lender' means a lender approved prior to the date of enactment of this subsection by the Secretary under the approved lender program established by exhibit A to subpart B of part 1980 of title 7, Code of Federal Regulations (as in effect on January 1, 1991), or a lender certified under section 114.

"(B) The term 'seasoned direct loan borrower' means a borrower receiving a direct loan under this title who has been

classified as 'commercial' or 'standard' under subpart W of part 2006 of the Instruction Manual (as in effect on January 1, 1991).

"(2) The Secretary, or a contracting third party, shall annually review under section 360 the loans of each seasoned loan borrower. If, based on the review, it is determined that a borrower would be able to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender at reasonable rates and terms for loans for similar purposes and periods of time, the Secretary shall assist the borrower in applying for the commercial or cooperative loan.

"(3) In accordance with section 362, the Secretary shall prepare a prospectus on each seasoned direct loan borrower determined eligible to obtain a guaranteed loan. The prospectus shall contain a description of the amounts of loan guarantee and interest assistance that the Secretary will provide to the seasoned direct loan borrower to enable the seasoned direct loan borrower to carry out a financially viable farming plan if a guaranteed loan is made.

"(4) With the approval of the borrower, the Secretary shall provide the prospectus of the seasoned direct loan borrower to each approved lender whose lending area includes the location of the seasoned direct loan borrower. If the Secretary receives an offer from an approved lender to extend credit to the seasoned direct loan borrower under terms and conditions contained in the prospectus, the seasoned direct loan borrower shall not be eligible for an insured loan from the Secretary under subtitle A or B, except as otherwise provided in this subsection.

"(5) If the Secretary is unable to provide loan guarantees and, if necessary, interest assistance to the seasoned direct loan borrower under this subsection in amounts sufficient to enable the seasoned direct loan borrower to borrow from commercial sources the amount required to carry out a financially viable farming plan, or if the Secretary does not receive an offer from an approved lender to extend credit to a seasoned direct loan borrower under the terms and conditions contained in the prospectus, the Secretary shall make an insured loan to the seasoned direct loan borrower under subtitle A or B, whichever is applicable.

"(6) To the extent necessary for the borrower to obtain a loan, guaranteed by the Secretary, from a commercial or cooperative lender, the Secretary shall provide interest rate reductions as provided for under section 351.".

SEC. 15. SIMPLIFIED APPLICATION FOR GUARANTEED LOANS OF $50,000 OR LESS.

Section 333A (7 U.S.C. 1983a) (as amended by section 14 of this Act) is further amended by adding at the end the following new subsection:

"(g)(1) The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of loans the principal amount of which is $50,000 or less.

"(2) In developing the application, the Secretary shall—

"(A) consult with commercial and cooperative lenders; and

"(B) ensure that—

"(i) the form can be completed manually or electronically, at the option of the lender;

"(ii) the form minimizes the documentation required to accompany the form;

"(iii) the cost of completing and processing the form is minimal; and

"(iv) the form can be completed and processed in an expeditious manner.".

SEC. 16. INVENTORY LEASE OR LEASE WITH OPTION TO PURCHASE.

The fourth sentence of section 335(c)(1) (7 U.S.C. 1985(c)(1)) is amended—

(1) by inserting "(A)" after "shall be"; and

(2) by inserting before the period at the end the following: "or (B) leased to persons eligible for assistance under the provisions of any law administered by the Farmers Home Administration or the Rural Development Administration under an annual lease or a lease with an option to purchase, with a preference for sale".

SEC. 17. TRANSFER OF INDIAN LANDS PLEDGED AS COLLATERAL FOR FmHA LOANS.

Section 335(e)(1) (7 U.S.C. 1985(e)(1)) is amended—

(1) in subparagraph (D)(i), by striking "If" and inserting "Except as provided in subparagraph (G), if"; and

(2) by adding at the end the following new subparagraph:

"(G)(i) If—

"(I) the real property described in subparagraph (A)(i) is located within an Indian reservation;

"(II) the borrower-owner is an Indian tribe that has jurisdiction over the reservation in which the real property is located or the borrower-owner is a member of an Indian tribe;

"(III) the borrower-owner has obtained a loan made, insured, or guaranteed under this title; and

"(IV) the borrower-owner and the Secretary have exhausted all of the procedures provided for in this title to permit a borrower-owner to retain title to the real property, such that it is necessary for the borrower-owner to relinquish title,

the Secretary shall dispose of or administer the property only as provided in subparagraph (D), as modified by this subparagraph.

"(ii) The Secretary shall provide the borrower-owner of real property that is described in clause (i) with written notice of—

"(I) the right of the borrower-owner to voluntarily convey the real property to the Secretary; and

"(II) the fact that real property so conveyed will be placed in the inventory of the Secretary.

"(iii) The Secretary shall provide the borrower-owner of the real property with written notice of the rights and protections provided under this title to the borrower-owner, and the Indian tribe that has jurisdiction over the reservation in which the real property is located, from foreclosure or liquidation of the real property, including written notice of—

"(I) the provisions of subparagraphs (C)(i), (C)(ii), and (D), this subparagraph, and subsection (g)(6);

"(II) if the borrower-owner does not voluntarily convey the real property to the Secretary, that—

"(aa) the Secretary may foreclose on the property;

"(bb) in the event of foreclosure, the property will be offered for sale;

"(cc) the Secretary must offer a bid for the property that is equal to the fair market value of the property

or the outstanding principal and interest of the loan, whichever is higher;

"(dd) the property may be purchased by another party; and

"(ee) if the property is purchased by another party, the property will not be placed in the inventory of the Secretary and the borrower-owner will forfeit the rights and protections provided under this title; and

"(III) the opportunity of the borrower-owner to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located or counsel to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under this title.

"(iv)(I) Except as provided in subclause (II), the Secretary shall accept the voluntary conveyance of real property described in clause (i).

"(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, the Secretary shall accept the voluntary conveyance of the property only if the Secretary determines that it is in the best interests of the Federal Government.

"(v) If a borrower-owner does not voluntarily convey to the Secretary real property described in clause (i), at least 30 days before a foreclosure sale of the property, the Secretary shall provide written notice to the Indian tribe that has jurisdiction over the reservation in which the real property is located of—

"(I) the sale;

"(II) the fair market value of the property; and

"(III) the requirements of this subparagraph.

"(vi)(I) Except as provided in subclause (II), at a foreclosure sale of real property described in clause (i), the Secretary shall offer a bid for the property that is equal to the higher of—

"(aa) the fair market value of the property; or

"(bb) the outstanding principal and interest of the loan.

"(II) If a hazardous substance (as defined in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14))) is located on the property and the Secretary takes remedial action to protect human health or the environment if the property is taken into inventory, subclause (I) shall apply only if the Secretary determines that it is in the best interests of the Federal Government.".

SEC. 18. DEBT SERVICE MARGIN REQUIREMENTS; CERTIFIED LENDERS PROGRAM.

Section 339 (7 U.S.C. 1989) is amended—

(1) by striking "SEC. 339. The" and inserting the following:

"SEC. 339. RULES AND REGULATIONS.

"(a) IN GENERAL.—The"; and

(2) by adding at the end the following new subsections:

"(b) DEBT SERVICE MARGIN REQUIREMENTS.—Notwithstanding subsection (a), in providing farmer program loan guarantees under this title, the Secretary shall consider the income of the borrower

adequate if the income is equal to or greater than the income necessary—

"(1) to make principal and interest payments on all debt obligations of the borrower, in a timely manner;

"(2) to cover the necessary living expenses of the family of the borrower; and

"(3) to pay all other obligations and expenses of the borrower not financed through debt obligations referred to in paragraph (1), including expenses of replacing capital items (determined after taking into account depreciation of the items).

"(c) CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program under which the Secretary shall guarantee loans for any purpose specified in subtitle B that are made by lending institutions certified by the Secretary.

"(2) CERTIFICATION REQUIREMENTS.—The Secretary shall certify a lending institution that meets such criteria as the Secretary may prescribe in regulations, including the ability of the institution to properly make, service, and liquidate the loans of the institution.

"(3) CONDITION OF CERTIFICATION.—As a condition of the certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection, using standards that are not less stringent than generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each certified lender to ensure that the conditions of the certification are being met.

"(4) EFFECT OF CERTIFICATION.—Notwithstanding any other provision of law:

"(A) The Secretary shall guarantee 80 percent of a loan made under this subsection by a certified lending institution as described in paragraph (1), subject to county committee certification that the borrower of the loan meets the eligibility requirements and such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title.

"(B) With respect to loans to be guaranteed by the Secretary under this subsection, the Secretary shall permit certified lending institutions to make appropriate certifications (as provided by regulations issued by the Secretary)—

"(i) relating to issues such as creditworthiness, repayment ability, adequacy of collateral, and feasibility of farm operation; and

"(ii) that the borrower is in compliance with all requirements of law, including regulations issued by the Secretary.

"(C) The Secretary shall approve or disapprove a guarantee not later than 14 calendar days after the date that the lending institution applied to the Secretary for the guarantee. If the Secretary rejects the loan application within the 14-day period, the Secretary shall state, in writing, all of the reasons the application was rejected.

"(5) RELATIONSHIP TO OTHER REQUIREMENTS.—Neither this subsection nor subsection (d) shall affect the responsibility of

the Secretary to certify eligibility, review financial information, and otherwise assess an application.

"(d) PREFERRED CERTIFIED LENDERS PROGRAM.—

"(1) IN GENERAL.—Commencing not later than two years after the date of enactment of the Agricultural Credit Improvement Act of 1992, the Secretary shall establish a Preferred Certified Lenders Program for lenders who establish their—

"(A) knowledge of, and experience under, the program established under subsection (c);

"(B) knowledge of the regulations concerning the guaranteed loan program; and

"(C) proficiency related to the certified lender program requirements.

The Secretary shall certify any lending institution as a Preferred Certified Lender that meets such criteria as the Secretary may prescribe by regulation.

"(2) REVOCATION OF DESIGNATION.—The designation of a lender as a Preferred Certified Lender shall be revoked at any time that the Secretary determines that such lender is not adhering to the rules and regulations applicable to the program or if the loss experiences of a Preferred Certified Lender are excessive as compared to other Preferred Certified Lenders, except that such suspension or revocation shall not affect any outstanding guarantee.

"(3) CONDITION OF CERTIFICATION.—As a condition of such preferred certification, the Secretary shall require the institution to undertake to service the loans guaranteed by the Secretary under this subsection using generally accepted banking standards concerning loan servicing employed by prudent commercial or cooperative lenders. The Secretary shall, at least annually, monitor the performance of each preferred certified lender to ensure that the conditions of such certification are being met.

"(4) EFFECT OF PREFERRED LENDER CERTIFICATION.—Notwithstanding any other provision of law, the Secretary shall—

"(A) guarantee 80 percent of an approved loan made by a certified lending institution as described in this subsection, subject to county committee certification that the borrower meets the eligibility requirements or such other criteria as may be applicable to loans guaranteed by the Secretary under other provisions of this title;

"(B) permit certified lending institutions to make all decisions, with respect to loans to be guaranteed by the Secretary under this subsection relating to credit worthiness, the closing, monitoring, collection and liquidation of loans, and to accept appropriate certifications, as provided by regulations issued by the Secretary, that the borrower is in compliance with all requirements of law or regulations promulgated by the Secretary; and

"(C) be deemed to have guaranteed 80 percent of a loan made by a preferred certified lending institution as described in paragraph (1), if the Secretary fails to approve or reject the application of such institution within 14 calendar days after the date that the lending institution presented the application to the Secretary. If the Secretary rejects the application within the 14-day period, the Sec-

retary shall state, in writing, the reasons the application was rejected.".

SEC. 19. DEFINITION OF QUALIFIED BEGINNING FARMER OR RANCHER.

Section 343(a) (7 U.S.C. 1991(a)) is amended—

(1) by striking "this title (1) the term" and all that follows through "fish farming," at the end of paragraph (1) and inserting "this title:

"(1) The term 'farmer' includes a person who is engaged in, or who, with assistance afforded under this title, intends to engage in, fish farming.";

(2) by indenting, and aligning the margins of, paragraphs (2) through (10) so as to align with paragraph (1) (as amended by paragraph (1));

(3) by striking "the" the first place it appears in each of such paragraphs and inserting "The";

(4) by striking the comma at the end of each of paragraphs (2) through (8) and inserting a period;

(5) by striking ", and" at the end of paragraph (9) and inserting a period; and

(6) by adding at the end the following new paragraph:

"(11) The term 'qualified beginning farmer or rancher' means an applicant—

"(A) who is eligible for assistance under this title;

"(B) who has not operated a farm or ranch, or who has operated a farm or ranch for not more than 10 years;

"(C) in the case of a cooperative, corporation, partnership, or joint operation, who has members, stockholders, partners, or joint operators who are all related to one another by blood or marriage;

"(D)(i) in the case of an owner and operator of a farm or ranch, who—

"(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant—

"(aa) materially and substantially participates in the operation of the farm or ranch; and

"(bb) provides substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

"(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, has members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

"(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers; and

"(ii) in the case of an applicant seeking to own and operate a farm or ranch, who—

"(I) in the case of a loan made to an individual, individually or with the immediate family of the applicant, will—

"(aa) materially and substantially participate in the operation of the farm or ranch; and

"(bb) provide substantial day-to-day labor and management of the farm or ranch, consistent with the practices in the State or county in which the farm or ranch is located; or

"(II)(aa) in the case of a loan made to a cooperative, corporation, partnership, or joint operation, will have members, stockholders, partners, or joint operators, materially and substantially participate in the operation of the farm or ranch; and

"(bb) in the case of a loan made to a corporation, has stockholders, all of whom are qualified beginning farmers or ranchers;

"(E) who agrees to participate in such loan assessment, borrower training, and financial management programs as the Secretary may require;

"(F) who does not own land or who, directly or through interests in family farm corporations, owns land, the aggregate acreage of which does not exceed 15 percent of the median acreage of the farms or ranches, as the case may be, in the county in which the farm or ranch operations of the applicant are located, as reported in the most recent census of agriculture taken under section 142 of title 13, United States Code; and

"(G) who demonstrates that the available resources of the applicant and spouse (if any) of the applicant are not sufficient to enable the applicant to continue farming or ranching on a viable scale.".

SEC. 20. TARGETING OF FUNDS.

(a) FARM OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b) (7 U.S.C. 1994(b)) is amended by adding at the end the following new paragraph:

"(5)(A) In expending funds available for insured operating loans under subtitle B, including loans made under section 318—

"(i) during the first 6 months of fiscal year 1994, the Secretary shall reserve not less than 30 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers;

"(ii) during the first 6 months of each of fiscal years 1995 and 1996, the Secretary shall reserve not less than 40 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers; and

"(iii) during the first 6 months of each of fiscal years 1997 and thereafter, the Secretary may reserve not more than 50 percent of the funds available for the fiscal year to make insured operating loans to qualified beginning farmers or ranchers.

"(B) In each fiscal year described in subparagraph (A), with regard to the funds not reserved under subparagraph (A), a qualified beginning farmer or rancher may apply for insured operating loans, but shall not receive any preference as a result of status as a qualified beginning farmer or rancher.".

(b) PORTIONS OF FARM OWNERSHIP LOAN GUARANTEE FUNDS TARGETED TO BEGINNING FARMERS OR RANCHERS.—Section 346(b)(2) (7 U.S.C. 1994(b)(2)) is amended by adding at the end the following new sentence: "Not less than 25 percent of the amounts appro-

priated for guarantees of farm ownership loans for each of the fiscal years 1994, 1995, 1996, and 1997 shall be reserved by the Secretary during the first 6 months of the respective fiscal year for guarantees of farm ownership loans to beginning farmers or ranchers.".

(c) FARM OWNERSHIP LOANS.—

(1) PERCENTAGE OF INSURED FARM OWNERSHIP LOAN FUNDS RESERVED FOR BEGINNING FARMERS OR RANCHERS.—Section 346(b)(3) is amended by adding at the end the following new subparagraph:

7 USC 1994.

"(D) To the extent that it is not inconsistent with an exercise of authority under section 355, in expending funds available for insured farm ownership loans—

"(i) during fiscal year 1994, the Secretary shall reserve not less than 55 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers;

"(ii) during fiscal year 1995, the Secretary shall reserve not more than 65 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers; and

"(iii) during each of fiscal years 1996 and thereafter, the Secretary may reserve not less than 65 percent and not more than 70 percent of the funds available for the fiscal year to make insured farm ownership loans to qualified beginning farmers or ranchers.".

(2) FUNDS RESERVED FOR DOWN PAYMENT LOAN PROGRAM.—Section 346(b)(3) (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subparagraph:

"(E) To the extent that it is not inconsistent with an exercise of authority under section 355, the Secretary shall reserve not less than 60 percent of the amounts reserved for qualified beginning farmers or ranchers under subparagraph (D) for any fiscal year for down payment loans under section 310E.".

(3) CERTAIN UNOBLIGATED DOWN PAYMENT LOAN PROGRAM FUNDS AVAILABLE FOR ANY TYPE OF INSURED FARM OWNERSHIP LOANS FOR BEGINNING FARMERS AND RANCHERS.—Section 346(b)(3) (as amended by paragraph (2) of this subsection) is further amended by adding at the end the following new subparagraph:

"(F) To the extent that it is not inconsistent with an exercise of authority under section 355, to the maximum extent practicable, any funds reserved for down payment loans under section 310E for a fiscal year by reason of subparagraph (E) that are not obligated by the end of the second quarter of the fiscal year shall be available during the third quarter of the fiscal year for any type of insured farm ownership loans to beginning farmers and ranchers.".

(d) INTEREST RATE ASSISTANCE PROGRAM.—Section 346(b)(3) (as amended by subsection (c)(3) of this section) is further amended by adding at the end the following new subparagraph:

"(G) Not less than 40 percent of the amounts available for the interest rate reduction program under section 351 shall be reserved for the first 6 months of each fiscal year for assistance to beginning farmers or ranchers.".

(e) DOWN PAYMENT LOAN PROGRAM.—Section 346(b) (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(6) Notwithstanding any other provision of this title, at the end of the third quarter of each fiscal year, the Secretary shall transfer, and use to carry out section 310E, 75 percent of the amount that would otherwise be available for guaranteed operating loans.".

SEC. 21. EQUAL ACCESS TO FmHA ASSISTANCE BY GENDER.

(a) TARGET PARTICIPATION RATES.—Section 355(a) (7 U.S.C. 2003(a)) is amended—

(1) in paragraph (2), by striking "In establishing" and inserting "Except as provided in paragraph (3), in establishing"; and

(2) by adding at the end the following new paragraph:

"(3) GENDER.—With respect to gender, target participation rates shall take into consideration the number of current and potential socially disadvantaged farmers and ranchers in a State in proportion to the total number of farmers and ranchers in the State.".

(b) TARGETING OF LOANS TO MEMBERS OF GROUPS WHOSE MEMBERS HAVE BEEN SUBJECTED TO GENDER PREJUDICE.—Section 355(e)(1) (7 U.S.C. 2003(e)(1)) is amended by striking "or ethnic" and inserting ", ethnic, or gender".

(c) RECORDKEEPING OF LOANS BY BORROWER'S GENDER.—Subtitle D (7 U.S.C. 1981 et seq.) is amended by adding at the end the following new section:

"SEC. 369. RECORDKEEPING OF LOANS BY BORROWER'S GENDER. 7 USC 2008d.

"The Secretary shall classify, by gender, records of applicants for loans and loan guarantees under this title.".

SEC. 22. STATE MEDIATION PROGRAMS.

Section 502 of the Agricultural Credit Act of 1987 (7 U.S.C. 5102) is amended—

(1) in subsection (b)(1), by striking "50" and inserting "70"; and

(2) in subsection (c), by inserting "with respect to which the amount was paid" before the period.

SEC. 23. REGULATIONS. 7 USC 1989 note.

(a) INTERIM REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall issue such interim regulations as are necessary to implement this Act and the amendments made by this Act.

(b) FINAL REGULATIONS.—Not later than October 1, 1993, the Secretary of Agriculture shall issue such final regulations as are necessary to implement this Act and the amendments made by this Act.

SEC. 24. TECHNICAL AMENDMENT.

Section 306C(a)(2) is amended to read as follows: 7 USC 1926c.

"(2) CERTAIN AREAS TARGETED.—

"(A) IN GENERAL.—Loans and grants under paragraph (1) shall be made only if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a county—

"(i) the per capita income of the residents of which is not more than 70 percent of the national average per capita income, as determined by the Department of Commerce; and

"(ii) the unemployment rate of the residents of which is not less than 125 percent of the national average unemployment rate, as determined by the Bureau of Labor Statistics.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), loans and grants under paragraph (1) may also be made if the loan or grant funds will be used primarily to provide water or waste services, or both, to residents of a rural area that was recognized as a colonia as of October 1, 1989.".

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6129:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 4, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-555
102d Congress

An Act

To enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, to establish a new national land remote sensing policy, and for other purposes.

Oct. 28, 1992
[H.R. 6133]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Land Remote Sensing Policy Act of 1992.
National defense.
15 USC 5601 note.

SECTION. 1. SHORT TITLE.

This Act may be cited as the "Land Remote Sensing Policy Act of 1992".

15 USC 5601.

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) The continuous collection and utilization of land remote sensing data from space are of major benefit in studying and understanding human impacts on the global environment, in managing the Earth's natural resources, in carrying out national security functions, and in planning and conducting many other activities of scientific, economic, and social importance.

(2) The Federal Government's Landsat system established the United States as the world leader in land remote sensing technology.

(3) The national interest of the United States lies in maintaining international leadership in satellite land remote sensing and in broadly promoting the beneficial use of remote sensing data.

(4) The cost of Landsat data has impeded the use of such data for scientific purposes, such as for global environmental change research, as well as for other public sector applications.

(5) Given the importance of the Landsat program to the United States, urgent actions, including expedited procurement procedures, are required to ensure data continuity.

(6) Full commercialization of the Landsat program cannot be achieved within the foreseeable future, and thus should not serve as the near-term goal of national policy on land remote sensing; however, commercialization of land remote sensing should remain a long-term goal of United States policy.

(7) Despite the success and importance of the Landsat system, funding and organizational uncertainties over the past several years have placed its future in doubt and have jeopardized United States leadership in land remote sensing.

(8) Recognizing the importance of the Landsat program in helping to meet national and commercial objectives, the President approved, on February 11, 1992, a National Space Policy Directive which was developed by the National Space Council and commits the United States to ensuring the continuity of Landsat coverage into the 21st century.

(9) Because Landsat data are particularly important for national security purposes and global environmental change research, management responsibilities for the program should be transferred from the Department of Commerce to an integrated program management involving the Department of Defense and the National Aeronautics and Space Administration.

(10) Regardless of management responsibilities for the Landsat program, the Nation's broad civilian, national security, commercial, and foreign policy interests in remote sensing will best be served by ensuring that Landsat remains an unclassified program that operates according to the principles of open skies and nondiscriminatory access.

(11) Technological advances aimed at reducing the size and weight of satellite systems hold the potential for dramatic reductions in the cost, and substantial improvements in the capabilities, of future land remote sensing systems, but such technological advances have not been demonstrated for land remote sensing and therefore cannot be relied upon as the sole means of achieving data continuity for the Landsat program.

(12) A technology demonstration program involving advanced remote sensing technologies could serve a vital role in determining the design of a follow-on spacecraft to Landsat 7, while also helping to determine whether such a spacecraft should be funded by the United States Government, by the private sector, or by an international consortium.

(13) To maximize the value of the Landsat program to the American public, unenhanced Landsat 4 through 6 data should be made available, at a minimum, to United States Government agencies, to global environmental change researchers, and to other researchers who are financially supported by the United States Government, at the cost of fulfilling user requests, and unenhanced Landsat 7 data should be made available to all users at the cost of fulfilling user requests.

(14) To stimulate development of the commercial market for unenhanced data and value-added services, the United States Government should adopt a data policy for Landsat 7 which allows competition within the private sector for distribution of unenhanced data and value-added services.

(15) Development of the remote sensing market and the provision of commercial value-added services based on remote sensing data should remain exclusively the function of the private sector.

(16) It is in the best interest of the United States to maintain a permanent, comprehensive Government archive of global Landsat and other land remote sensing data for long-term monitoring and study of the changing global environment.

15 USC 5602.

SEC. 3. DEFINITIONS.

In this Act, the following definitions apply:

(1) The term "Administrator" means the Administrator of the National Aeronautics and Space Administration.

(2) The term "cost of fulfilling user requests" means the incremental costs associated with providing product generation, reproduction, and distribution of unenhanced data in response to user requests and shall not include any acquisition, amortiza-

tion, or depreciation of capital assets originally paid for by the United States Government or other costs not specifically attributable to fulfilling user requests.

(3) The term "data continuity" means the continued acquisition and availability of unenhanced data which are, from the point of view of the user—

(A) sufficiently consistent (in terms of acquisition geometry, coverage characteristics, and spectral characteristics) with previous Landsat data to allow comparisons for global and regional change detection and characterization; and

(B) compatible with such data and with methods used to receive and process such data.

(4) The term "data preprocessing" may include—

(A) rectification of system and sensor distortions in land remote sensing data as it is received directly from the satellite in preparation for delivery to a user;

(B) registration of such data with respect to features of the Earth; and

(C) calibration of spectral response with respect to such data, but does not include conclusions, manipulations, or calculations derived from such data, or a combination of such data with other data.

(5) The term "land remote sensing" means the collection of data which can be processed into imagery of surface features of the Earth from an unclassified satellite or satellites, other than an operational United States Government weather satellite.

(6) The term "Landsat Program Management" means the integrated program management structure—

(A) established by, and responsible to, the Administrator and the Secretary of Defense pursuant to section 101(a); and

(B) consisting of appropriate officers and employees of the National Aeronautics and Space Administration, the Department of Defense, and any other United States Government agencies the President designates as responsible for the Landsat program.

(7) The term "Landsat system" means Landsats 1, 2, 3, 4, 5, and 6, and any follow-on land remote sensing system operated and owned by the United States Government, along with any related ground equipment, systems, and facilities owned by the United States Government.

(8) The term "Landsat 6 contractor" means the private sector entity which was awarded the contract for spacecraft construction, operations, and data marketing rights for the Landsat 6 spacecraft.

(9) The term "Landsat 7" means the follow-on satellite to Landsat 6.

(10) The term "National Satellite Land Remote Sensing Data Archive" means the archive established by the Secretary of the Interior pursuant to the archival responsibilities defined in section 502.

(11) The term "noncommercial purposes" refers to those activities undertaken by individuals or entities on the condition, upon receipt of unenhanced data, that—

(A) such data shall not be used in connection with any bid for a commercial contract, development of a

commercial product, or any other non-United States Government activity that is expected, or has the potential, to be profitmaking;

(B) the results of such activities are disclosed in a timely and complete fashion in the open technical literature or other method of public release, except when such disclosure by the United States Government or its contractors would adversely affect the national security or foreign policy of the United States or violate a provision of law or regulation; and

(C) such data shall not be distributed in competition with unenhanced data provided by the Landsat 6 contractor.

(12) The term "Secretary" means the Secretary of Commerce.

(13) The term "unenhanced data" means land remote sensing signals or imagery products that are unprocessed or subject only to data preprocessing.

(14) The term "United States Government and its affiliated users" means—

(A) United States Government agencies;

(B) researchers involved with the United States Global Change Research Program and its international counterpart programs; and

(C) other researchers and international entities that have signed with the United States Government a cooperative agreement involving the use of Landsat data for noncommercial purposes.

SEC. 4. REPEAL OF LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984.

The Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) is repealed.

TITLE I—LANDSAT

15 USC 5611.

SEC. 101. LANDSAT PROGRAM MANAGEMENT.

(a) ESTABLISHMENT.—The Administrator and the Secretary of Defense shall be responsible for management of the Landsat program. Such responsibility shall be carried out by establishing an integrated program management structure for the Landsat system.

(b) MANAGEMENT PLAN.—The Administrator, the Secretary of Defense, and any other United States Government official the President designates as responsible for part of the Landsat program, shall establish, through a management plan, the roles, responsibilities, and funding expectations for the Landsat Program of the appropriate United States Government agencies. The management plan shall—

(1) specify that the fundamental goal of the Landsat Program Management is the continuity of unenhanced Landsat data through the acquisition and operation of a Landsat 7 satellite as quickly as practicable which is, at a minimum, functionally equivalent to the Landsat 6 satellite, with the addition of a tracking and data relay satellite communications capability;

(2) include a baseline funding profile that—

(A) is mutually acceptable to the National Aeronautics and Space Administration and the Department of Defense for the period covering the development and operation of Landsat 7; and

(B) provides for total funding responsibility of the National Aeronautics and Space Administration and the Department of Defense, respectively, to be approximately equal to the funding responsibility of the other as spread across the development and operational life of Landsat 7;

(3) specify that any improvements over the Landsat 6 functional equivalent capability for Landsat 7 will be funded by a specific sponsoring agency or agencies, in a manner agreed to by the Landsat Program Management, if the required funding exceeds the baseline funding profile required by paragraph (2), and that additional improvements will be sought only if the improvements will not jeopardize data continuity; and

(4) provide for a technology demonstration program whose objective shall be the demonstration of advanced land remote sensing technologies that may potentially yield a system which is less expensive to build and operate, and more responsive to data users, than is the current Landsat system.

(c) RESPONSIBILITIES.—The Landsat Program Management shall be responsible for—

(1) Landsat 7 procurement, launch, and operations;

(2) ensuring that the operation of the Landsat system is responsive to the broad interests of the civilian, national security, commercial, and foreign users of the Landsat system;

(3) ensuring that all unenhanced Landsat data remain unclassified and that, except as provided in section 506 (a) and (b), no restrictions are placed on the availability of unenhanced data;

(4) ensuring that land remote sensing data of high priority locations will be acquired by the Landsat 7 system as required to meet the needs of the United States Global Change Research Program, as established in the Global Change Research Act of 1990, and to meet the needs of national security users;

(5) Landsat data responsibilities pursuant to this Act;

(6) oversight of Landsat contracts entered into under sections 102 and 103;

(7) coordination of a technology demonstration program, pursuant to section 303; and

(8) ensuring that copies of data acquired by the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive.

(d) AUTHORITY TO CONTRACT.—The Landsat Program Management may, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, enter into contracts with the private sector for services such as, but not limited to, satellite operations and data preprocessing.

(e) LANDSAT ADVISORY PROCESS.—

(1) ESTABLISHMENT.—The Landsat Program Management shall seek impartial advice and comments regarding the status, effectiveness, and operation of the Landsat system, using existing advisory committees and other appropriate mechanisms. Such advice shall be sought from individuals who represent—

(A) a broad range of perspectives on basic and applied science and operational needs with respect to land remote sensing data;

(B) the full spectrum of users of Landsat data, including representatives from United States Government agencies, State and local government agencies, academic institutions, nonprofit organizations, value-added companies, the agricultural, mineral extraction, and other user industries, and the public, and

(C) a broad diversity of age groups, sexes, and races.

(2) REPORTS.—Within 1 year after the date of the enactment of this Act and biennially thereafter, the Landsat Program Management shall prepare and submit a report to the Congress which—

(A) reports the public comments received pursuant to paragraph (1); and

(B) includes—

(i) a response to the public comments received pursuant to paragraph (1);

(ii) information on the volume of use, by category, of data from the Landsat system; and

(iii) any recommendations for policy or programmatic changes to improve the utility and operation of the Landsat system.

15 USC 5612.

SEC. 102. PROCUREMENT OF LANDSAT 7.

(a) CONTRACT NEGOTIATIONS.—The Landsat Program Management shall, subject to appropriations and only under the existing contract authority of the United States Government agencies that compose the Landsat Program Management, expeditiously contract with a United States private sector entity for the development and delivery of Landsat 7.

(b) DEVELOPMENT AND DELIVERY CONSIDERATION.—In negotiating a contract under this section for the development and delivery of Landsat 7, the Landsat Program Management shall—

(1) seek, as a fundamental objective, to have Landsat 7 operational by the expected end of the design life of Landsat 6;

(2) seek to ensure data continuity by the development and delivery of a satellite which is, at a minimum, functionally equivalent to the Landsat 6 satellite; and

(3) seek to incorporate in Landsat 7 any performance improvements required to meet United States Government needs that would not jeopardize data continuity.

(c) NOTIFICATION OF COST AND SCHEDULE CHANGES.—The Landsat Program Management shall promptly notify the Congress of any significant deviations from the expected cost, delivery date, and launch date of Landsat 7, that are specified by the Landsat Program Management upon award of the contract under this section.

(d) UNITED STATES PRIVATE SECTOR ENTITIES.—The Landsat Program Management shall, for purposes of this Act, define the term "United States private sector entities", taking into account the location of operations, assets, personnel, and other such factors.

15 USC 5613.

SEC. 103. DATA POLICY FOR LANDSAT 4 THROUGH 6.

(a) CONTRACT NEGOTIATIONS.—Within 30 days after the date of enactment of this Act, the Landsat Program Management shall

enter into negotiations with the Landsat 6 contractor to formalize an arrangement with respect to pricing, distribution, acquisition, archiving, and availability of unenhanced data for which the Landsat 6 contractor has responsibility under its contract. Such arrangement shall provide for a phased transition to a data policy consistent with the Landsat 7 data policy (developed pursuant to section 105) by the date of initial operation of Landsat 7. Conditions of the phased arrangement should require that the Landsat 6 contractor adopt provisions so that by the final phase of the transition period—

(1) such unenhanced data shall be provided, at a minimum, to the United States Government and its affiliated users at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes;

(2) instructional data sets, selected from the Landsat data archives, will be made available to educational institutions exclusively for noncommercial, educational purposes at the cost of fulfilling user requests;

(3) Landsat data users are able to acquire unenhanced data contained in the collective archives of foreign ground stations as easily and affordably as practicable;

(4) adequate data necessary to meet the needs of global environmental change researchers and national security users are acquired;

(5) the United States Government and its affiliated users shall not be prohibited from reproduction or dissemination of unenhanced data to other agencies of the United States Government and other affiliated users, on the condition that such unenhanced data are used solely for noncommercial purposes;

(6) nonprofit, public interest entities receive vouchers, data grants, or other such means of providing them with unenhanced data at the cost of fulfilling user requests, on the condition that such unenhanced data are used solely for noncommercial purposes.

(7) a viable role for the private sector in the promotion and development of the commercial market for value added and other services using unenhanced data from the Landsat system is preserved; and

(8) unenhanced data from the Landsat system are provided to the National Satellite Land Remote Sensing Data Archive at no more than the cost of fulfilling user requests.

(b) FAILURE TO REACH AGREEMENT.—If negotiations under subsection (a) have not, by September 30, 1993, resulted in an agreement that the Landsat Program Management determines generally achieves the goals stated in subsection (b) (1) through (8), the Administrator and the Secretary of Defense shall, within 30 days after the date of such determination, jointly certify and report such determination to the Congress. The report shall include a review of options and projected costs for achieving such goals, and shall include recommendations for achieving such goals. The options reviewed shall include— Reports.

(1) retaining the existing or modified contract with the Landsat 6 contractor;

(2) the termination of existing contracts for the exclusive right to market unenhanced Landsat data; and

(3) the establishment of an alternative private sector mechanism for the marketing and commercial distribution of such data.

15 USC 5614.

SEC. 104. TRANSFER OF LANDSAT 6 PROGRAM RESPONSIBILITIES.

The responsibilities of the Secretary with respect to Landsat 6 shall be transferred to the Landsat Program Management, as agreed to between the Secretary and the Landsat Program Management, pursuant to section 101.

15 USC 5615.

SEC. 105. DATA POLICY FOR LANDSAT 7.

(a) LANDSAT 7 DATA POLICY.—The Landsat Program Management, in consultation with other appropriate United States Government agencies, shall develop a data policy for Landsat 7 which should—

(1) ensure that unenhanced data are available to all users at the cost of fulfilling user requests;

(2) ensure timely and dependable delivery of unenhanced data to the full spectrum of civilian, national security, commercial, and foreign users and the National Satellite Land Remote Sensing Data Archive;

(3) ensure that the United States retains ownership of all unenhanced data generated by Landsat 7;

(4) support the development of the commercial market for remote sensing data;

(5) ensure that the provision of commercial value-added services based on remote sensing data remains exclusively the function of the private sector; and

(6) to the extent possible, ensure that the data distribution system for Landsat 7 is compatible with the Earth Observing System Data and Information System.

(b) In addition, the data policy for Landsat 7 may provide for—

(1) United States private sector entities to operate ground receiving stations in the United States for Landsat 7 data;

(2) other means for direct access by private sector entities to unenhanced data from Landsat 7; and

(3) the United States Government to charge a per image fee, license fee, or other such fee to entities operating ground receiving stations or distributing Landsat 7 data.

Reports.

(c) LANDSAT 7 DATA POLICY PLAN.—Not later than July 15, 1994, the Landsat Program Management shall develop and submit to Congress a report that contains a Landsat 7 Data Policy Plan. This plan shall define the roles and responsibilities of the various public and private sector entities that would be involved in the acquisition, processing, distribution, and archiving of Landsat 7 data and in operations of the Landsat 7 spacecraft.

(d) REPORTS.—Not later than 12 months after submission of the Landsat 7 Data Policy Plan, required by subsection (c), and annually thereafter until the launch of Landsat 7, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall prepare and submit a report to the Congress which—

(1) provides justification for the Landsat 7 data policy in terms of the civilian, national security, commercial, and foreign policy needs of the United States; and

(2) provides justification for any elements of the Landsat 7 data policy which are not consistent with the provisions of subsection (a).

TITLE II—LICENSING OF PRIVATE REMOTE SENSING SPACE SYSTEMS

SEC. 201. GENERAL LICENSING AUTHORITY.

15 USC 5621.

(a) LICENSING AUTHORITY OF SECRETARY.—(1) In consultation with other appropriate United States Government agencies, the Secretary is authorized to license private sector parties to operate private remote sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote sensing operations of such space system.

(b) COMPLIANCE WITH THE LAW, REGULATIONS, INTERNATIONAL OBLIGATIONS, AND NATIONAL SECURITY.—No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

(c) DEADLINE FOR ACTION ON APPLICATION.—The Secretary shall review any application and make a determination thereon within 120 days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) IMPROPER BASIS FOR DENIAL.—The Secretary shall not deny such license in order to protect any existing licensee from competition.

(e) REQUIREMENT TO PROVIDE UNENHANCED DATA.—(1) The Secretary, in consultation with other appropriate United States Government agencies and pursuant to paragraph (2), shall designate in a license issued pursuant to this title any unenhanced data required to be provided by the licensee under section 202(b)(3).

(2) The Secretary shall make a designation under paragraph (1) after determining that—

(A) such data are generated by a system for which all or a substantial part of the development, fabrication, launch, or operations costs have been or will be directly funded by the United States Government; or

(B) it is in the interest of the United States to require such data to be provided by the licensee consistent with section 202(b)(3), after considering the impact on the licensee and the importance of promoting widespread access to remote sensing data from United States and foreign systems.

(3) A designation made by the Secretary under paragraph (1) shall not be inconsistent with any contract or other arrangement entered into between a United States Government agency and the licensee.

15 USC 5622.

SEC. 202. CONDITIONS FOR OPERATION.

(a) LICENSE REQUIRED FOR OPERATION.—No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote sensing space system without a license pursuant to section 201.

(b) LICENSING REQUIREMENTS.—Any license issued pursuant to this title shall specify that the licensee shall comply with all of the requirements of this Act and shall—

(1) operate the system in such manner as to preserve the national security of the United States and to observe the international obligations of the United States in accordance with section 506;

(2) make available to the government of any country (including the United States) unenhanced data collected by the system concerning the territory under the jurisdiction of such government as soon as such data are available and on reasonable terms and conditions;

(3) make unenhanced data designated by the Secretary in the license pursuant to section 201(e) available in accordance with section 501;

(4) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, and inform the Secretary immediately of any deviation; and

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities.

(c) ADDITIONAL LICENSING REQUIREMENTS FOR LANDSAT 6 CONTRACTOR.—In addition to the requirements of paragraph (b), any license issued pursuant to this title to the Landsat 6 contractor shall specify that the Landsat 6 contractor shall—

(1) notify the Secretary of any value added activities (as defined by the Secretary by regulation) that will be conducted by the Landsat 6 contractor or by a subsidiary or affiliate; and

(2) if such activities are to be conducted, provide the Secretary with a plan for compliance with section 501 of this Act.

15 USC 5623.

SEC. 203. ADMINISTRATIVE AUTHORITY OF THE SECRETARY.

(a) FUNCTIONS.—In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, condition, or transfer licenses under this Act;

(2) seek an order of injunction or similar judicial determination from a United States District Court with personal jurisdiction over the licensee to terminate, modify, or suspend licenses under this title and to terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provisions of this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States.

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation

in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpoenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report pursuant to a warrant from a magistrate based on a showing of probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) REVIEW OF AGENCY ACTION.—Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), (a)(5), or (a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for any agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code.

SEC. 204. REGULATORY AUTHORITY OF THE SECRETARY. 15 USC 5624.

The Secretary may issue regulations to carry out this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code.

SEC. 205. AGENCY ACTIVITIES. 15 USC 5625.

(a) LICENSE APPLICATION AND ISSUANCE.—A private sector party may apply for a license to operate a private remote sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to this title, may license such system if it meets all conditions of this title and—

(1) the system operator agrees to reimburse the Government in a timely manner for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) ASSISTANCE.—The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) AGREEMENTS.—To the extent provided in advance by appropriation Acts, any United States Government agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote sensing space system is licensed by the Secretary before commencing operation.

(d) APPLICABILITY.—This section does not apply to activities carried out under title III.

(e) EFFECT ON FCC AUTHORITY.—Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934 (47 U.S.C. 151 et seq.).

TITLE III—RESEARCH, DEVELOPMENT, AND DEMONSTRATION

15 USC 5631.

SEC. 301. CONTINUED FEDERAL RESEARCH AND DEVELOPMENT.

(a) ROLES OF NASA AND DEPARTMENT OF DEFENSE.—(1) The Administrator and the Secretary of Defense are directed to continue and to enhance programs of remote sensing research and development.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other United States Government agencies and with public and private research entities (including private industry, universities, non-profit organizations, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b) ROLES OF DEPARTMENT OF AGRICULTURE AND DEPARTMENT OF INTERIOR.—

(1) In order to enhance the ability of the United States to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(c) ROLE OF OTHER FEDERAL AGENCIES.—Other United States Government agencies are authorized and encouraged to conduct research and development on the use of remote sensing in the fulfillment of their authorized missions, using funds appropriated for such purposes.

15 USC 5632.

SEC. 302. AVAILABILITY OF FEDERALLY GATHERED UNENHANCED DATA.

(a) GENERAL RULE.—All unenhanced land remote sensing data gathered and owned by the United States Government, including unenhanced data gathered under the technology demonstration program carried out pursuant to section 303, shall be made available to users in a timely fashion.

President.

(b) PROTECTION FOR COMMERCIAL DATA DISTRIBUTOR.—The President shall seek to ensure that unenhanced data gathered under the technology demonstration program carried out pursuant to section 303 shall, to the extent practicable, be made available on terms that would not adversely effect the commercial market for unenhanced data gathered by the Landsat 6 spacecraft.

15 USC 5633.

SEC. 303. TECHNOLOGY DEMONSTRATION PROGRAM.

President.

(a) ESTABLISHMENT.—As a fundamental component of a national land remote sensing strategy, the President shall establish,

through appropriate United States Government agencies, a technology demonstration program. The goals of such programs shall be to—

(1) seek to launch advanced land remote sensing system components within 5 years after the date of the enactment of this Act.

(2) demonstrate within such 5-year period advanced sensor capabilities suitable for use in the anticipated land remote sensing program; and

(3) demonstrate within such 5-year period an advanced land remote sensing system design that could be less expensive to procure and operate than the Landsat system projected to be in operation through the year 2000, and that therefore holds greater potential for private sector investment and control.

(b) EXECUTION OF PROGRAM.—In executing the technology demonstration program, the President shall seek to apply technologies associated with United States National Technical Means of intelligence gathering, to the extent that such technologies are appropriate for the technology demonstration and can be declassified for such purposes without causing adverse harm to United States national security interests. President.

(c) BROAD APPLICATION.—To the greatest extent practicable, the technology demonstration program established under subsection (a) shall be designed to be responsive to the broad civilian, national security, commercial, and foreign policy needs of the United States.

(d) PRIVATE SECTOR FUNDING.—The technology demonstration program under this section may be carried out in part with private sector funding.

(e) LANDSAT PROGRAM MANAGEMENT COORDINATION.—The Landsat Program Management shall have a coordinating role in the technology demonstration program carried out under this section.

(f) REPORT TO CONGRESS.—The President shall assess the progress of the technology demonstration program under this section and, within 2 years after the date of enactment of this Act, submit a report to the Congress on such progress. President.

TITLE IV—ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM

SEC. 401. ASSESSING OPTIONS FOR SUCCESSOR LAND REMOTE SENSING SYSTEM. 15 USC 5641.

(a) ASSESSMENT.—Within 5 years after the date of the enactment of this Act, the Landsat Program Management, in consultation with representatives of appropriate United States Government agencies, shall assess and report to the Congress on the options for a successor land remote sensing system to Landsat 7. The report shall include a full assessment of the advantages and disadvantages of— Reports.

(1) private sector funding and management of a successor land remote sensing system;

(2) establishing an international consortium for the funding and management of a successor land remote sensing system;

(3) funding and management of a successor land remote sensing system by the United States Government; and

(4) a cooperative effort between the United States Government and the private sector for the funding and management of a successor land remote sensing system.

(b) GOALS.—In carrying out subsection (a), the Landsat Program Management shall consider the ability of each of the options to—

(1) encourage the development, launch, and operation of a land remote sensing system that adequately serves the civilian, national security, commercial, and foreign policy interests of the United States;

(2) encourage the development, launch, and operation of a land remote sensing system that maintains data continuity with the Landsat system; and

(3) incorporate system enhancements, including any such enhancements developed under the technology demonstration program under section 303, which may potentially yield a system that is less expensive to build and operate, and more responsive to data users, than is the Landsat system projected to be in operation through the year 2000.

(c) PREFERENCE FOR PRIVATE SECTOR SYSTEM.—If a successor land remote sensing system to Landsat 7 can be funded and managed by the private sector while still achieving the goals stated in subsection (b) without jeopardizing the domestic, national security, and foreign policy interests of the United States, preference should be given to the development of such a system by the private sector without competition from the United States Government.

TITLE V—GENERAL PROVISIONS

15 USC 5651.

SEC. 501. NONDISCRIMINATORY DATA AVAILABILITY.

(a) GENERAL RULE.—Except as provided in subsection (b) of this section, any unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government shall be made available to all users without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 506) regarding delivery, format, pricing, or technical considerations which would favor one customer or class of customers over another.

(b) EXCEPTIONS.—Unenhanced data generated by the Landsat system or any other land remote sensing system funded and owned by the United States Government may be made available to the United States Government and its affiliated users at reduced prices, in accordance with this Act, on the condition that such unenhanced data are used solely for noncommercial purposes.

15 USC 5652.

SEC. 502. ARCHIVING OF DATA.

(a) PUBLIC INTEREST.—It is in the public interest for the United States Government to—

(1) maintain an archive of land remote sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) control the content and scope of the archive; and

(3) assure the quality, integrity, and continuity of the archive.

(b) ARCHIVING PRACTICES.—The Secretary of the Interior, in consultation with the Landsat Program Management, shall provide for long-term storage, maintenance, and upgrading of a basic, global,

land remote sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data.

(c) DETERMINATION OF CONTENT OF BASIC DATA SET.—In determining the initial content of, or in upgrading, the basic data set, the Secretary of Interior shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs, paying particular attention to the anticipated data requirements of global environmental change research;

(3) consult with and seek the advice of users and producers of remote sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary of the Interior considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title I, or by licensees under title II;

(6) include, as the Secretary of the Interior considers appropriate, data collected by foreign ground stations or by foreign remote sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with section 506.

(d) PUBLIC DOMAIN.—After the expiration of any exclusive right to sell, or after relinquishment of such right, the data provided to the National Satellite Land Remote Sensing Data Archive shall be in the public domain and shall be made available to requesting parties by the Secretary of the Interior at the cost of fulfilling user requests.

SEC. 503. NONREPRODUCTION. 15 USC 5653.

Unenhanced data distributed by any licensee under title II of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser for commercial purposes.

SEC. 504. REIMBURSEMENT FOR ASSISTANCE. 15 USC 5654.

The Administrator, the Secretary of Defense, and the heads of other United States Government agencies may provide assistance to land remote sensing system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

SEC. 505. ACQUISITION OF EQUIPMENT. 15 USC 5655.

The Landsat Program Management may, by means of a competitive process, allow a licensee under title II or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other United States Government civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out this section.

SEC. 506. RADIO FREQUENCY ALLOCATION. 15 USC 5656.

(a) APPLICATION TO FEDERAL COMMUNICATIONS COMMISSION.—To the extent required by the Communications Act of 1934 (47

U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with commercial remote sensing space systems licensed under title II.

Licensing.

(b) DEADLINE FOR FCC ACTION.—It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934 (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote sensing space system subject to this Act, within 120 days of the receipt of an application for such licensing. If final action has not occurred within 120 days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(c) DEVELOPMENT AND CONSTRUCTION OF UNITED STATES SYSTEMS.—Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(d) CONSISTENCY WITH INTERNATIONAL OBLIGATIONS AND PUBLIC INTEREST.—Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

15 USC 5657.

SEC. 507. CONSULTATION.

(a) CONSULTATION WITH SECRETARY OF DEFENSE.—The Secretary and the Landsat Program Management shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary and the Landsat Program Management promptly of such conditions.

(b) CONSULTATION WITH SECRETARY OF STATE.—(1) The Secretary and the Landsat Program Management shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying promptly the Secretary and the Landsat Program Management of such conditions.

(2) Appropriate United States Government agencies are authorized and encouraged to provide remote sensing data, technology, and training to developing nations as a component of programs of international aid.

Reports.

(3) The Secretary of State shall promptly report to the Secretary and Landsat Program Management any instances outside the United States of discriminatory distribution of Landsat data.

(c) STATUS REPORT.—The Landsat Program Management shall, as often as necessary, provide to the Congress complete and updated information about the status of ongoing operations of the Landsat system, including timely notification of decisions made with respect to the Landsat system in order to meet national security concerns and international obligations and policies of the United States Government.

(d) REIMBURSEMENTS.—If, as a result of technical modifications imposed on a licensee under title II on the basis of national security

concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the licensee, or that past development costs (including the cost of capital) will not be recovered by the licensee, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the licensee for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

SEC. 508. ENFORCEMENT. 15 USC 5658.

(a) IN GENERAL.—In order to ensure that unenhanced data from the Landsat system received solely for noncommercial purposes are not used for any commercial purpose, the Secretary (in collaboration with private sector entities responsible for the marketing and distribution of unenhanced data generated by the Landsat system) shall develop and implement a system for enforcing this prohibition, in the event that unenhanced data from the Landsat system are made available for noncommercial purposes at a different price than such data are made available for other purposes.

(b) AUTHORITY OF SECRETARY.—Subject to subsection (d), the Secretary may impose any of the enforcement mechanisms described in subsection (c) against a person who—

(1) receives unenhanced data from the Landsat system under this Act solely for noncommercial purposes (and at a different price than the price at which such data are made available for other purposes); and

(2) uses such data for other than noncommercial purposes.

(c) ENFORCEMENT MECHANISMS.—Enforcement mechanisms referred to in subsection (b) may include civil penalties of not more than $10,000 (per day per violation), denial of further unenhanced data purchasing privileges, and any other penalties or restrictions the Secretary considers necessary to ensure, to the greatest extent practicable, that unenhanced data provided for noncommercial purposes are not used to unfairly compete in the commercial market against private sector entities not eligible for data at the cost of fulfilling user requests.

(d) PROCEDURES AND REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section and shall establish standards and procedures governing the imposition of enforcement mechanisms under subsection (b). The standards and procedures shall include a procedure for potentially aggrieved parties to file formal protests with the Secretary alleging instances where such unenhanced data has been, or is being, used for commercial purposes in violation of the terms of receipt of such data. The Secretary shall promptly act to investigate any such protest, and shall report annually to the Congress on instances of such violations. Reports.

TITLE VI—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

SEC. 601. PROHIBITION. 15 USC 5671.

Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, or commercialize, any portion of the weather satellite sys-

tems operated by the Department of Commerce or any successor agency.

15 USC 5672.

SEC. 602. FUTURE CONSIDERATIONS.

Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 601 unless this title has first been repealed.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6133:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-556
102d Congress

An Act

To protect the public interest and the future development of pay-per-call technology by providing for the regulation and oversight of the applications and growth of the pay-per-call industry, and for other purposes.

Oct. 28, 1992
[H.R. 6191]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telephone Disclosure and Dispute Resolution Act. 15 USC 5701.

SECTION 1. SHORT TITLE, FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Telephone Disclosure and Dispute Resolution Act".

(b) FINDINGS.—The Congress finds the following:

(1) The use of pay-per-call services, most commonly through the use of 900 telephone numbers, has grown exponentially in the past few years into a national, billion-dollar industry as a result of recent technological innovations. Such services are convenient to consumers, cost-effective to vendors, and profitable to communications common carriers.

(2) Many pay-per-call businesses provide valuable information, increase consumer choices, and stimulate innovative and responsive services that benefit the public.

(3) The interstate nature of the pay-per-call industry means that its activities are beyond the reach of individual States and therefore requires Federal regulatory treatment to protect the public interest.

(4) The lack of nationally uniform regulatory guidelines has led to confusion for callers, subscribers, industry participants, and regulatory agencies as to the rights of callers and the oversight responsibilities of regulatory authorities, and has allowed some pay-per-call businesses to engage in practices that abuse the rights of consumers.

(5) Some interstate pay-per-call businesses have engaged in practices which are misleading to the consumer, harmful to the public interest, or contrary to accepted standards of business practices and thus cause harm to the many reputable businesses that are serving the public.

(6) Because the consumer most often incurs a financial obligation as soon as a pay-per-call transaction is completed, the accuracy and descriptiveness of vendor advertisements become crucial in avoiding consumer abuse. The obligation for accuracy should include price-per-call and duration-of-call information, odds disclosure for lotteries, games, and sweepstakes, and obligations for obtaining parental consent from callers under 18.

(7) The continued growth of the legitimate pay-per-call industry is dependent upon consumer confidence that unfair and deceptive behavior will be effectively curtailed and that consumers will have adequate rights of redress.

(8) Vendors of telephone-billed goods and services must also feel confident in their rights and obligations for resolving

billing disputes if they are to use this new marketplace for the sale of products of more than nominal value.

TITLE I—CARRIER OBLIGATIONS AND CONSUMER RIGHTS CONCERNING PAY-PER-CALL TRANSACTIONS

SEC. 101. AMENDMENT TO COMMUNICATIONS ACT OF 1934.

Title II of the Communications Act of 1934 is amended by adding at the end thereof the following new section:

47 USC 228.

"SEC. 228. REGULATION OF CARRIER OFFERING OF PAY-PER-CALL SERVICES.

"(a) PURPOSE.—It is the purpose of this section—

"(1) to put into effect a system of national regulation and review that will oversee interstate pay-per-call services; and

"(2) to recognize the Commission's authority to prescribe regulations and enforcement procedures and conduct oversight to afford reasonable protection to consumers of pay-per-call services and to assure that violations of Federal law do not occur.

"(b) GENERAL AUTHORITY FOR REGULATIONS.—The Commission by regulation shall, within 270 days after the date of enactment of this section, establish a system for oversight and regulation of pay-per-call services in order to provide for the protection of consumers in accordance with this Act and other applicable Federal statutes and regulations. The Commission's final rules shall—

"(1) include measures that provide a consumer of pay-per-call services with adequate and clear descriptions of the rights of the caller;

"(2) define the obligations of common carriers with respect to the provision of pay-per-call services;

"(3) include requirements on such carriers to protect against abusive practices by providers of pay-per-call services;

"(4) identify procedures by which common carriers and providers of pay-per-call services may take affirmative steps to protect against nonpayment of legitimate charges; and

"(5) require that any service described in subparagraphs (A) and (B) of subsection (i)(1) be offered only through the use of certain telephone number prefixes and area codes.

"(c) COMMON CARRIER OBLIGATIONS.—Within 270 days after the date of enactment of this section, the Commission shall, by regulation, establish the following requirements for common carriers:

"(1) CONTRACTUAL OBLIGATIONS TO COMPLY.—Any common carrier assigning to a provider of pay-per-call services a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) shall require by contract or tariff that such provider comply with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act and the regulations prescribed by the Federal Trade Commission pursuant to those titles.

"(2) INFORMATION AVAILABILITY.—A common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with

subsection (b)(5) to a provider of a pay-per-call service shall make readily available on request to Federal and State agencies and other interested persons—

"(A) a list of the telephone numbers for each of the pay-per-call services it carries;

"(B) a short description of each such service;

"(C) a statement of the total cost or the cost per minute and any other fees for each such service;

"(D) a statement of the pay-per-call service's name, business address, and business telephone; and

"(E) such other information as the Commission considers necessary for the enforcement of this section and other applicable Federal statutes and regulations.

"(2) COMPLIANCE PROCEDURES.—A common carrier that by contract or tariff assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services shall terminate, in accordance with procedures specified in such regulations, the offering of a pay-per-call service of a provider if the carrier knows or reasonably should know that such service is not provided in compliance with title II or III of the Telephone Disclosure and Dispute Resolution Act or the regulations prescribed by the Federal Trade Commission pursuant to such titles.

"(3) SUBSCRIBER DISCONNECTION PROHIBITED.—A common carrier shall not disconnect or interrupt a subscriber's local exchange telephone service or long distance telephone service because of nonpayment of charges for any pay-per-call service.

"(4) BLOCKING AND PRESUBSCRIPTION.—A common carrier that provides local exchange service shall—

"(A) offer telephone subscribers (where technically feasible) the option of blocking access from their telephone number to all, or to certain specific, prefixes or area codes used by pay-per-call services, which option—

"(i) shall be offered at no charge (I) to all subscribers for a period of 60 days after the issuance of the regulations under subsection (b), and (II) to any subscriber who subscribes to a new telephone number until 60 days after the time the new telephone number is effective; and

"(ii) shall otherwise be offered at a reasonable fee; and

"(B) offer telephone subscribers (where the Commission determines it is technically and economically feasible), in combination with the blocking option described under subparagraph (A), the option of presubscribing to or blocking only specific pay-per-call services for a reasonable one-time charge.

The regulations prescribed under subparagraph (A)(i) of this paragraph may permit the costs of such blocking to be recovered by contract or tariff, but such costs may not be recovered from local or long-distance ratepayers. Nothing in this subsection precludes a common carrier from filing its rates and regulations regarding blocking and presubscription in its interstate tariffs.

"(5) VERIFICATION OF CHARITABLE STATUS.—A common carrier that assigns by contract or tariff a telephone number

with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of pay-per-call services that the carrier knows or reasonably should know is engaged in soliciting charitable contributions shall obtain from such provider proof of the tax exempt status of any person or organization for which contributions are solicited.

"(6) BILLING FOR 800 CALLS.—A common carrier shall prohibit by tariff or contract the use of any 800 telephone number, or other telephone number advertised or widely understood to be toll free, in a manner that would result in—

"(A) the calling party being assessed, by virtue of completing the call, a charge for the call;

"(B) the calling party being connected to a pay-per-call service;

"(C) the calling party being charged for information conveyed during the call unless the calling party has a preexisting agreement to be charged for the information or discloses a credit or charge card number during the call; or

"(D) the calling party being called back collect for the provision of audio information services or simultaneous voice conservation services.

"(d) BILLING AND COLLECTION PRACTICES.—The regulations required by this section shall require that any common carrier that by tariff or contract assigns a telephone number with a prefix or area code designated by the Commission in accordance with subsection (b)(5) to a provider of a pay-per-call service and that offers billing and collection services to such provider—

"(1) ensure that a subscriber is not billed—

"(A) for pay-per-call services that such carrier knows or reasonably should know was provided in violation of the regulations issued pursuant to title II of the Telephone Disclosure and Dispute Resolution Act; or

"(B) under such other circumstances as the Commission determines necessary in order to protect subscribers from abusive practices;

"(2) establish a local or a toll-free telephone number to answer questions and provide information on subscribers' rights and obligations with regard to their use of pay-per-call services and to provide to callers the name and mailing address of any provider of pay-per-call services offered by the common carrier;

"(3) within 60 days after the issuance of final regulations pursuant to subsection (b), provide, either directly or through contract with any local exchange carrier that provides billing or collection services to the common carrier, to all of such common carrier's telephone subscribers, to all new subscribers, and to all subscribers requesting service at a new location, a disclosure statement that sets forth all rights and obligations of the subscriber and the carrier with respect to the use and payment for pay-per-call services, including the right of a subscriber not to be billed and the applicable blocking option; and

"(4) in any billing to telephone subscribers that includes charges for any pay-per-call service—

"(A) display any charges for pay-per-call services in a part of the subscriber's bill that is identified as not being related to local and long distance telephone charges;

"(B) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call; and

"(C) identify the toll-free number established pursuant to paragraph (2).

"(e) LIABILITY.—

"(1) COMMON CARRIERS NOT LIABLE FOR TRANSMISSION OR BILLING.—No common carrier shall be liable for a criminal or civil sanction or penalty solely because the carrier provided transmission or billing and collection for a pay-per-call service unless the carrier knew or reasonably should have known that such service was provided in violation of a provision of, or regulation prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act or any other Federal law. This paragraph shall not prevent the Commission from imposing a sanction or penalty on a common carrier for a violation by that carrier of a regulation prescribed under this section.

"(2) CIVIL LIABILITY.—No cause of action may be brought in any court or administrative agency against any common carrier or any of its affiliates on account of any act of the carrier or affiliate to terminate any pay-per-call service in order to comply with the regulations prescribed under this section, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law unless the complainant demonstrates that the carrier or affiliate did not act in good faith.

"(f) SPECIAL PROVISIONS.—

"(1) CONSUMER REFUND REQUIREMENTS.—The regulations required by subsection (d) shall establish procedures, consistent with the provisions of titles II and III of the Telephone Disclosure and Dispute Resolution Act, to ensure that carriers and other parties providing billing and collection services with respect to pay-per-call services provide appropriate refunds to subscribers who have been billed for pay-per-call services pursuant to programs that have been found to have violated this section or such regulations, any provision of, or regulations prescribed pursuant to, title II or III of the Telephone Disclosure and Dispute Resolution Act, or any other Federal law.

"(2) RECOVERY OF COSTS.—The regulations prescribed by the Commission under this section shall permit a common carrier to recover its cost of complying with such regulations from providers of pay-per-call services, but shall not permit such costs to be recovered from local or long distance ratepayers.

"(3) RECOMMENDATIONS ON DATA PAY-PER-CALL.—The Commission, within one year after the date of enactment of this section, shall submit to the Congress the Commission's recommendations with respect to the extension of regulations under this section to persons that provide, for a per-call charge, data services that are not pay-per-call services.

"(g) EFFECT ON OTHER LAW.—

"(1) NO PREEMPTION OF ELECTION LAW.—Nothing in this section shall relieve any provider of pay-per-call services, com-

mon carrier, local exchange carrier, or any other person from the obligation to comply with Federal, State, and local election statutes and regulations.

"(2) CONSUMER PROTECTION LAWS.—Nothing in this section shall relieve any provider of pay-per-call services, common carrier, local exchange carrier, or any other person from the obligation to comply with any Federal, State, or local statute or regulation relating to consumer protection or unfair trade.

"(3) GAMBLING LAWS.—Nothing in this section shall preclude any State from enforcing its statutes and regulations with regard to lotteries, wagering, betting, and other gambling activities.

"(4) STATE AUTHORITY.—Nothing in this section shall preclude any State from enacting and enforcing additional and complementary oversight and regulatory systems or procedures, or both, so long as such systems and procedures govern intrastate services and do not significantly impede the enforcement of this section or other Federal statutes.

"(5) ENFORCEMENT OF EXISTING REGULATIONS.—Nothing in this section shall be construed to prohibit the Commission from enforcing regulations prescribed prior to the date of enactment of this section in fulfilling the requirements of this section to the extent that such regulations are consistent with the provisions of this section.

"(h) EFFECT ON DIAL-A-PORN PROHIBITIONS.—Nothing in this section shall affect the provisions of section 223 of this Act.

"(i) DEFINITION OF PAY-PER-CALL SERVICES.—For purposes of this section—

"(1) The term 'pay-per-call services' means any service—

"(A) in which any person provides or purports to provide—

"(i) audio information or audio entertainment produced or packaged by such person;

"(ii) access to simultaneous voice conversation services; or

"(iii) any service, including the provision of a product, the charges for which are assessed on the basis of the completion of the call;

"(B) for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call; and

"(C) which is accessed through use of a 900 telephone number or other prefix or area code designated by the Commission in accordance with subsection (b)(5).

"(2) Such term does not include directory services provided by a common carrier or its affiliate or by a local exchange carrier or its affiliate, or any service the charge for which is tariffed, or any service for which users are assessed charges only after entering into a presubscription or comparable arrangement with the provider of such service.".

SEC. 102. TECHNICAL AMENDMENT.

47 USC 227 note.

Section 3(c) of the Telephone Consumer Protection Act of 1991 is amended by striking "section 228" and inserting "section 227".

TITLE II—REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH PAY-PER-CALL SERVICES

SEC. 201. FEDERAL TRADE COMMISSION REGULATIONS. 15 USC 5711.

(a) IN GENERAL.—

(1) ADVERTISING REGULATIONS.—The Commission shall prescribe rules in accordance with this subsection to prohibit unfair and deceptive acts and practices in any advertisement for pay-per-call services. Such rules shall require that the person offering such pay-per-call services—

(A) clearly and conspicuously disclose in any advertising the cost of the use of such telephone number, including the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(B) in the case of an advertisement which offers a prize or award or a service or product at no cost or for a reduced cost, clearly and conspicuously disclose the odds of being able to receive such prize, award, service, or product at no cost or reduced cost, or, if such odds are not calculable in advance, disclose the factors determining such odds;

(C) in the case of an advertisement that promotes a service that is not operated or expressly authorized by a Federal agency but that provides information on a Federal program, include at the beginning of such advertisement a clear disclosure that the service is not authorized, endorsed, or approved by any Federal agency;

(D) shall not direct such advertisement at children under the age of 12, unless such service is a bona fide educational service;

(E) in the case of advertising directed primarily to individuals under the age of 18, clearly and conspicuously state in such advertising that such individual must have the consent of such individual's parent or legal guardian for the use of such services;

(F) be prohibited from using advertisements that emit electronic tones which can automatically dial a pay-per-call telephone number;

(G) ensure that, whenever the number to be called is shown in television and print media advertisements, the charges for the call are clear and conspicuous and (when shown in television advertisements) displayed for the same duration as that number is displayed;

(H) in delivering any telephone message soliciting calls to a pay-per-call service, specify clearly, and at no less than the audible volume of the solicitation, the total cost and the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred; and

(I) not advertise an 800 telephone number, or any other telephone number advertised or widely understood

to be toll free, from which callers are connected to an access number for a pay-per-call service.

(2) PAY-PER-CALL SERVICE STANDARDS.—The Commission shall prescribe rules to require that each provider of pay-per-call services—

(A) include in each pay-per-call message an introductory disclosure message that—

(i) describes the service being provided;

(ii) specifies clearly and at a reasonably understandable volume the total cost or the cost per minute and any other fees for that service and for any other pay-per-call service to which the caller may be transferred;

(iii) informs the caller that charges for the call begin at the end of the introductory message;

(iv) informs the caller that parental consent is required for calls made by children; and

(v) in the case of a pay-per-call service that is not operated or expressly authorized by a Federal agency but that provides information on any Federal program, a statement that clearly states that the service is not authorized, endorsed, or approved by any Federal agency;

(B) enable the caller to hang up at or before the end of the introductory message without incurring any charge whatsoever;

(C) not direct such services at children under the age of 12, unless such service is a bona fide educational service;

(D) stop the assessment of time-based charges immediately upon disconnection by the caller;

(E) disable any bypass mechanism which allows frequent callers to avoid listening to the disclosure message described in subparagraph (A) after the institution of any price increase and for a period of time sufficient to give such frequent callers adequate and sufficient notice of the price change;

(F) be prohibited from providing pay-per-call services through an 800 number or other telephone number advertised or widely understood to be toll free;

(G) be prohibited from billing consumers in excess of the amounts described in the introductory message and from billing for services provided in violation of the rules prescribed by the Commission pursuant to this section;

(H) ensure that any billing statement for such provider's charges shall—

(i) display any charges for pay-per-call services in a part of the consumer's bill that is identified as not being related to local and long distance telephone charges; and

(ii) for each charge so displayed, specify, at a minimum, the type of service, the amount of the charge, and the date, time, and duration of the call;

(I) be liable for refunds to consumers who have been billed for pay-per-call services pursuant to programs that have been found to have violated the regulations prescribed pursuant to this section or title III of this Act or any other Federal law; and

(J) comply with such additional standards as the Commission may prescribe to prevent abusive practices.

(3) ACCESS TO INFORMATION.—The Commission shall by rule require a common carrier that provides telephone services to a provider of pay-per-call services to make available to the Commission any records and financial information maintained by such carrier relating to the arrangements (other than for the provision of local exchange service) between such carrier and any provider of pay-per-call services.

(4) EVASIONS.—The rules issued by the Commission under this section shall include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title, including through the use of alternative billing or other procedures.

(5) EXEMPTIONS.—The regulations prescribed by the Commission pursuant to paragraph (2)(A) may exempt from the requirements of such paragraph—

(A) calls from frequent callers or regular subscribers using a bypass mechanism to avoid listening to the disclosure message required by such regulations, subject to the requirements of paragraph (2)(E); or

(B) pay-per-call services provided at nominal charges, as defined by the Commission in such regulations.

(6) CONSIDERATION OF OTHER RULES REQUIRED.—In conducting a proceeding under this section, the Commission shall consider requiring, by rule or regulation, that providers of pay-per-call services—

(A) automatically disconnect a call after one full cycle of the program; and

(B) include a beep tone or other appropriate and clear signal during a live interactive group program so that callers will be alerted to the passage of time.

(7) SPECIAL RULE FOR INFREQUENT PUBLICATIONS.—The rules prescribed by the Commission under subparagraphs (A) and (G) of paragraph (1) may permit, in the case of publications that are widely distributed, that are printed annually or less frequently, and that have an established policy of not publishing specific prices, advertising that in lieu of the cost disclosures required by such subparagraphs, clearly and conspicuously disclose that use of the telephone number may result in a substantial charge.

(8) TREATMENT OF RULES.—A rule issued under this subsection shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(b) RULEMAKING.—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be prescribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule respecting unfair or deceptive acts or practices under section 5 of the Federal Trade Commission Act (15 U.S.C. 45). Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

15 USC 5712.

SEC. 202. ACTIONS BY STATES.

(a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected because any person has engaged or is engaging in a pattern or practice which violates any rule of the Commission under section 201(a), the State may bring a civil action on behalf of its residents in an appropriate district court of the United States to enjoin such pattern or practice, to enforce compliance with such rule of the Commission, to obtain damages on behalf of their residents, or to obtain such further and other relief as the court may deem appropriate.

(b) NOTICE.—The State shall serve prior written notice of any civil action under subsection (a) upon the Commission and provide the Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Commission shall have the right (1) to intervene in such action, (2) upon so intervening, to be heard on all matters arising therein, and (3) to file petitions for appeal.

(c) VENUE.—Any civil action brought under this section in a district court of the United States may be brought in the district wherein the defendant is found or is an inhabitant or transacts business or wherein the violation occurred or is occurring, and process in such cases may be served in any district in which the defendant is an inhabitant or wherever the defendant may be found.

(d) INVESTIGATORY POWERS.—For purposes of bringing any civil action under this section, nothing in this Act shall prevent the attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) EFFECT ON STATE COURT PROCEEDINGS.—Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal antifraud statute of such State.

(f) LIMITATION.—Whenever the Commission has instituted a civil action for violation of any rule or regulation under this Act, no State may, during the pendency of such action instituted by the Commission, subsequently institute a civil action against any defendant named in the Commission's complaint for violation of any rule as alleged in the Commission's complaint.

(g) ACTIONS BY OTHER STATE OFFICIALS.—

(1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any general civil or criminal statute of such State.

(2) In addition to actions brought by an attorney general of a State under subsection (a), such an action may be brought by officers of such State who are authorized by the State to bring actions in such State for protection of consumers and who are designated by the Commission to bring an action under subsection (a) against persons that the Commission has determined have or are engaged in a pattern or practice which violates a rule of the Commission under section 201(a).

SEC. 203. ADMINISTRATION AND APPLICABILITY OF TITLE. 15 USC 5713.

(a) IN GENERAL.—Except as otherwise provided in section 202, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). Consequently, no activity which is outside the jurisdiction of that Act shall be affected by this Act, except for purposes of this title.

(b) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 201 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any person who violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

SEC. 204. DEFINITIONS. 15 USC 5714.

For purposes of this title:

(1) The term "pay-per-call services" has the meaning provided in section 228 of the Communications Act of 1934.

(2) The term "attorney general" means the chief legal officer of a State.

(3) The term "State" means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(4) The term "Commission" means the Federal Trade Commission.

TITLE III—BILLING AND COLLECTION

SEC. 301. REGULATIONS. 15 USC 5721.

(a) IN GENERAL.—

(1) RULES REQUIRED.—The Commission shall, in accordance with the requirements of this section, prescribe rules establishing procedures for the correction of billing errors with respect to telephone-billed purchases. The rules prescribed by the Commission shall also include provisions to prohibit unfair or deceptive acts or practices that evade such rules or undermine the rights provided to customers under this title.

(2) SUBSTANTIAL SIMILARITY TO CREDIT BILLING.—The Commission shall promulgate rules under this section that impose requirements that are substantially similar to the requirements imposed, with respect to the resolution of credit disputes, under the Truth in Lending and Fair Credit Billing Acts (15 U.S.C. 1601 et seq.).

(3) TREATMENT OF RULE.—A rule issued under paragraph (1) shall be treated as a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57(a)(1)(B)).

(b) RULEMAKING SCHEDULE AND PROCEDURE.—The Commission shall prescribe the rules under subsection (a) within 270 days after the date of enactment of this Act. Such rules shall be pre-

scribed in accordance with section 553 of title 5, United States Code.

(c) ENFORCEMENT.—Any violation of any rule prescribed under subsection (a) shall be treated as a violation of a rule under section 5 of the Federal Trade Commission Act (15 U.S.C. 45) regarding unfair or deceptive acts or practices. Notwithstanding section 5(a)(2) of such Act (15 U.S.C. 45(a)(2)), communications common carriers shall be subject to the jurisdiction of the Commission for purposes of this title.

(d) CORRECTION OF BILLING ERRORS AND CORRECTION OF CREDIT REPORTS.—In prescribing rules under this section, the Commission shall consider, with respect to telephone-billed purchases, the following:

(1) The initiation of a billing review by a customer.

(2) Responses by billing entities and providing carriers to the initiation of a billing review.

(3) Investigations concerning delivery of telephone-billed purchases.

(4) Limitations upon providing carrier responsibilities, including limitations on a carrier's responsibility to verify delivery of audio information or entertainment.

(5) Requirements on actions by billing entities to set aside charges from a customer's billing statement.

(6) Limitations on collection actions by billing entities and vendors.

(7) The regulation of credit reports on billing disputes.

(8) The prompt notification of credit to an account.

(9) Rights of customers and telephone common carriers regarding claims and defenses.

(10) The extent to which the regulations should diverge from requirements under the Truth in Lending and Fair Credit Billing Acts in order to protect customers, and in order to be cost effective to billing entities.

15 USC 5722.

SEC. 302. RELATION TO STATE LAWS.

(a) STATE LAW APPLICABLE UNLESS INCONSISTENT.—This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with, the laws of any State with respect to telephone billing practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. The Commission is authorized to determine whether such inconsistencies exist. The Commission may not determine that any State law is inconsistent with any provision of this chapter if the Commission determines that such law gives greater protection to the consumer.

(b) REGULATORY EXEMPTIONS.—The Commission shall by regulation exempt from the requirements of this title any class of telephone-billed purchase transactions within any State if it determines that under the law of that State that class of transactions is subject to requirements substantially similar to those imposed under this chapter or that such law gives greater protection to the consumer, and that there is adequate provision for enforcement.

15 USC 5723.

SEC. 303. ENFORCEMENT.

The Commission shall enforce the requirements of this title. For the purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of any requirement imposed under this title shall be deemed a

violation of a requirement imposed under that Act. All the functions and powers of the Commission under that Act are available to the Commission to enforce compliance by any person with the requirements imposed under this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in that Act. The Commission may prescribe such regulations as are necessary or appropriate to implement the provisions of this title.

SEC. 304. DEFINITIONS. 15 USC 5724.

As used in this title—

(1) The term "telephone-billed purchase" means any purchase that is completed solely as a consequence of the completion of the call or a subsequent dialing, touch tone entry, or comparable action of the caller. Such term does not include—

(A) a purchase by a caller pursuant to a preexisting agreement with the vendor;

(B) local exchange telephone services or interexchange telephone services or any service that the Federal Communications Commission determines, by rule—

(i) is closely related to the provision of local exchange telephone services or interexchange telephone services; and

(ii) is subject to billing dispute resolution procedures required by Federal or State statute or regulation; or

(C) the purchase of goods or services which is otherwise subject to billing dispute resolution procedures required by Federal statute or regulation.

(2) A "billing error" consists of any of the following:

(A) A reflection on a billing statement for a telephone-billed purchase which was not made by the customer or, if made, was not in the amount reflected on such statement.

(B) A reflection on a billing statement of a telephone-billed purchase for which the customer requests additional clarification, including documentary evidence thereof.

(C) A reflection on a billing statement of a telephone-billed purchase that was not accepted by the customer or not provided to the customer in accordance with the stated terms of the transaction.

(D) A reflection on a billing statement of a telephone-billed purchase for a call made to an 800 or other toll free telephone number.

(E) The failure to reflect properly on a billing statement a payment made by the customer or a credit issued to the customer with respect to a telephone-billed purchase.

(F) A computation error or similar error of an accounting nature on a statement.

(G) Failure to transmit the billing statement to the last known address of the customer, unless that address was furnished less than twenty days before the end of the billing cycle for which the statement is required.

(H) Any other error described in regulations prescribed by the Commission pursuant to section 553 of title 5, United States Code.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "providing carrier" means a local exchange or interexchange common carrier providing telephone services (other than local exchange services) to a vendor for a telephone-billed purchase that is the subject of a billing error complaint.

(5) The term "vendor" means any person who, through the use of the telephone, offers goods or services for a telephone-billed purchase.

(6) The term "customer" means any person who acquires or attempts to acquire goods or services in a telephone-billed purchase.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. PROPOSAL FOR DEMONSTRATING THE POTENTIAL OF INNOVATIVE COMMUNICATIONS EQUIPMENT AND SERVICES.

(a) DEMONSTRATION PROPOSAL.—Within 180 days after the date of enactment of this Act, the Assistant Secretary of Energy for Conservation and Renewable Energy, in consultation with the Assistant Secretary of Commerce for Communications and Information, shall submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the national goals of conserving energy and protecting public health and safety.

(b) FACTORS TO BE ADDRESSED.—The demonstration proposal required by subsection (a) shall address—

(1) the feasibility of using communications technologies to read meters from remote locations;

(2) the feasibility of managing the consumption of electrical power and natural gas by residences and businesses, thereby reducing the demand for new and additional sources of energy, and controlling the cost of providing improved utility services; and

(3) the public safety implications of monitoring utility services outages during earthquakes, hurricanes, typhoons, tornadoes, volcanoes, and other natural disasters.

(c) PROJECT TO DEMONSTRATE ENERGY CONSERVATION POTENTIAL.—Upon submission of the demonstration proposal to the Congress, the Secretary of Energy shall consider requesting from the Assistant Secretary of Commerce for Communications and Information the authority to use radio frequencies, pursuant to section 305 of the Communications Act of 1934 (47 U.S.C. 305), to carry out demonstration projects consistent with the proposal that are designed to demonstrate the energy conservation potential of communications technologies and which are administered by the Secretary of Energy.

SEC. 402. TECHNICAL AMENDMENTS.

Section 227(b)(2) of the Communications Act of 1934 (47 U.S.C. 227(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting "; and"; and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) may, by rule or order, exempt from the requirements of paragraphs (1)(A)(iii) of this subsection calls to a telephone number assigned to a cellular telephone service that are not charged to the called party, subject to such conditions as the Commission may prescribe as necessary in the interest of the privacy rights this section is intended to protect.".

SEC. 403. INTERCEPTION OF CELLULAR TELECOMMUNICATIONS.

(a) AMENDMENT.—Section 302 of the Communications Act of 1934 (47 U.S.C. 302) is amended by adding at the end the following new subsection: 47 USC 302a.

"(d)(1) Within 180 days after the date of enactment of this subsection, the Commission shall prescribe and make effective regulations denying equipment authorization (under part 15 of title 47, Code of Federal Regulations, or any other part of that title) for any scanning receiver that is capable of— Regulations.

"(A) receiving transmissions in the frequencies allocated to the domestic cellular radio telecommunications service,

"(B) readily being altered by the user to receive transmissions in such frequencies, or

"(C) being equipped with decoders that convert digital cellular transmissions to analog voice audio.

"(2) Beginning 1 year after the effective date of the regulations adopted pursuant to paragraph (1), no receiver having the capabilities described in subparagraph (A), (B), or (C) of paragraph (1), as such capabilities are defined in such regulations, shall be manufactured in the United States or imported for use in the United States.".

(b) REPORT TO CONGRESS.—The Commission shall report to Congress no later than June 1, 1993, on available security features for both analog and digital radio signals. This report shall include a study of security technologies currently available as well as those in development. The study shall assess the capabilities of such technologies, level of security afforded, and cost, with wide-spread deployment of such technologies.

(c) EFFECT ON OTHER LAWS.—This section shall not affect section 2512(2) of title 18, United States Code. 47 USC 302a note.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.R. 6191:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-557
102d Congress

Joint Resolution

Oct. 28, 1992
[H.J. Res. 546]

Designating February 4, 1993, and February 3, 1994, as "National Women and Girls in Sports Day".

Whereas women's athletics is one of the most effective avenues available for women of the United States to develop self-discipline, initiative, confidence, and leadership skills;

Whereas sports and fitness activities contribute to emotional and physical well-being;

Whereas women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions as coaches, officials, and administrators has declined drastically since the passage of title IX of the Education Amendments of 1972;

Whereas there is a need to restore women to leadership positions in athletics to ensure a fair representation of the abilities of women and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the contributions of an athlete at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited the true meaning of fairness, determination, and team play;

Whereas parents feel that sports are equally important for boys and girls and that sports and fitness activities provide important benefits to girls who participate;

Whereas early motor skill training and enjoyable experiences of physical activity strongly influence lifelong habits of physical fitness;

Whereas the performances of female athletes in the Olympic games are a source of inspiration and pride to the United States;

Whereas the athletic opportunities for male students at the collegiate and high school levels remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by the projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) February 4, 1993, and February 3, 1994, are designated as "National Women and Girls in Sports Day"; and

(2) the President is authorized and requested to issue a proclamation calling on local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 28, 1992.

LEGISLATIVE HISTORY—H.J. Res. 546 (S.J. Res. 329):

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-558
102d Congress

An Act

Oct. 28, 1992
[S. 347]

To amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Production Act Amendments of 1992.
50 USC app. 2061 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Defense Production Act Amendments of 1992".

(b) TABLE OF CONTENTS.—

Section 1. Short title; table of contents.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

Sec. 101. Declaration of policy.

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

Sec. 111. Strengthening of domestic capability and assistance for small businesses.
Sec. 112. Limitation on actions without congressional authorization.

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

Sec. 121. Expanding the reach of existing authorities under title III.
Sec. 122. Defense Production Act Fund.
Sec. 123. Declaration of offset policy.
Sec. 124. Annual report on impact of offsets.
Sec. 125. Civil-military integration.
Sec. 126. Testing, qualification, and use of industrial resources developed under title III projects.

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

Sec. 131. Small business.
Sec. 132. Definitions.
Sec. 133. Appointment of personnel.
Sec. 134. Regulations and orders.
Sec. 135. Information on the defense industrial base.
Sec. 136. Public participation in rulemaking.

PART E—TECHNICAL AMENDMENTS

Sec. 141. Technical correction.
Sec. 142. Investigations; records; reports; subpoenas.
Sec. 143. Employment of personnel.
Sec. 144. Technical correction.

PART F—REPEALERS AND CONFORMING AMENDMENTS

Sec. 151. Synthetic fuel action.
Sec. 152. Repeal of interest payment provisions.
Sec. 153. Joint Committee on Defense Production.
Sec. 154. Persons disqualified for employment.
Sec. 155. Feasibility study on uniform cost accounting standards; report submitted.
Sec. 156. National commission on supplies and shortages.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

Sec. 161. Authorization of appropriations.
Sec. 162. Extension of program.
Sec. 163. Presidential study.

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

Sec. 201. Discouraging unfair trade practices.

Sec. 202. Fraudulent use of "Made in America" labels.
Sec. 203. Evaluation of domestic defense industrial base policy.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Energy security.
Sec. 302. Domestic retail deposit-taking by foreign banks.
Sec. 303. Deposit insurance assessment rates for lifeline account deposits.
Sec. 304. Effective date.
Sec. 305. Provisional repeal of duplicative provisions.

TITLE I—AMENDMENTS TO THE DEFENSE PRODUCTION ACT OF 1950

PART A—DECLARATION OF POLICY

SEC. 101. DECLARATION OF POLICY.

Section 2 of the Defense Production Act of 1950 (50 U.S.C. App. 2062) is amended to read as follows:

"SEC. 2. DECLARATION OF POLICY.

"(a) FINDINGS.—The Congress finds that—

"(1) the vitality of the industrial and technology base of the United States is a foundation of national security that provides the industrial and technological capabilities employed to meet national defense requirements, in peacetime and in time of national emergency;

"(2) in peacetime, the health of the industrial and technological base contributes to the technological superiority of United States defense equipment, which is a cornerstone of the national security strategy, and the efficiency with which defense equipment is developed and produced;

"(3) in times of crisis, a healthy industrial base will be able to effectively provide the graduated response needed to effectively meet the demands of the emergency;

"(4) in view of continuing international problems, the Nation's demonstrated reliance on imports of materials and components, and the need for measures to reduce defense production lead times and bottlenecks, and in order to provide for the national defense and national security, the United States defense mobilization preparedness effort continues to require the development of—

"(A) preparedness programs;

"(B) domestic defense industrial base improvement measures;

"(C) provisions for a graduated response to any threatening international or military situation;

"(D) the expansion of domestic productive capacity beyond the levels needed to meet the civilian demand; and

"(E) some diversion of certain materials and facilities from civilian use to military and related purposes.

"(5) to meet the requirements referred to in this subsection, this Act affords to the President an array of authorities to shape defense preparedness programs and to take appropriate steps to maintain and enhance the defense industrial and technological base;

"(6) the activities referred to in this subsection are needed in order to—

"(A) improve domestic defense industrial base efficiency and responsiveness;

"(B) reduce the time required for industrial mobilization in the event of an attack on the United States; or

"(C) to respond to actions occurring outside of the United States which could result in the termination or reduction of the availability of strategic and critical materials, including energy, and which could adversely affect the national defense preparedness of the United States;

"(7) in order to ensure national defense preparedness, which is essential to national security, it is necessary and appropriate to assure the availability of domestic energy supplies for national defense needs;

"(8) to further assure the adequate maintenance of the defense industrial base, to the maximum extent possible, such supplies should be augmented through reliance on renewable fuels, including solar, geothermal, and wind energy and ethanol and its derivatives, and on energy conservation measures;

"(9) the domestic defense industrial base is a component part of the core industrial capacity of the Nation;

"(10) much of the industrial capacity which is relied upon by the Federal Government for military production and other defense-related purposes is deeply and directly influenced by—

"(A) the overall competitiveness of the United States industrial economy; and

"(B) the ability of United States industry, in general, to produce internationally competitive products and operate profitably while maintaining adequate research and development to preserve that competitive edge in the future, with respect to military and civilian production;

"(11) the domestic defense industrial base is developing a growing dependency on foreign sources for critical components and materials used in manufacturing and assembling major weapons systems for the national defense;

"(12) such dependence is threatening the capability of many critical industries to respond rapidly to defense production needs in the event of war or other hostilities or diplomatic confrontation; and

"(13) the inability of United States industry, especially smaller subcontractors and suppliers, to provide vital parts and components and other materials would impair our ability to sustain United States Armed Forces in combat for longer than a short period.

"(b) STATEMENT OF POLICY.—It is the policy of the United States that—

"(1) in order to ensure productive capacity in the event of an attack on the United States, the United States should encourage the geographic dispersal of industrial facilities in the United States to discourage the concentration of such productive facilities within limited geographic areas which are vulnerable to attack by an enemy of the United States;

"(2) to ensure that essential mobilization requirements are met, consideration should also be given to stockpiling strategic materials to the extent that such stockpiling is economical and feasible;

"(3) in the construction of any Government-owned industrial facility, in the rendition of any Government financial

assistance for the construction, expansion, or improvement of any industrial facility, and in the production of goods and services, under this or any other Act, each department and agency of the executive branch should apply, under the coordination of the Federal Emergency Management Agency, when practicable and consistent with existing law and the desirability for maintaining a sound economy, the principle of the geographic dispersal of such facilities in the interest of national defense, except that nothing in this paragraph shall preclude the use of existing industrial facilities;

"(4) to ensure the adequacy of productive capacity and supply, executive agencies and departments responsible for defense acquisition should continuously assess the capability of the domestic defense industrial base to satisfy peacetime requirements as well as increased mobilization production requirements, specifically evaluating the availability of adequate production sources, including subcontractors and suppliers, materials, skilled labor, and professional and technical personnel;

"(5) every effort should be made to foster cooperation between the defense and commercial sectors for research and development and for acquisition of materials, components, and equipment; and

"(6) plans and programs to carry out this section shall be undertaken with due consideration for promoting efficiency and competition.".

PART B—AMENDMENTS TO TITLE I OF THE DEFENSE PRODUCTION ACT

SEC. 111. STRENGTHENING OF DOMESTIC CAPABILITY AND ASSISTANCE FOR SMALL BUSINESSES.

Title I of the Defense Production Act of 1950 (50 U.S.C. App. 2071, et seq.) is amended by adding at the end the following new sections:

"SEC. 107. STRENGTHENING DOMESTIC CAPABILITY. 50 USC app. 2077.

"(a) IN GENERAL.—Utilizing the authority of title III of this Act or any other provision of law, the President may provide appropriate incentives to develop, maintain, modernize, and expand the productive capacities of domestic sources for critical components, critical technology items, and industrial resources essential for the execution of the national security strategy of the United States.

"(b) CRITICAL COMPONENTS AND CRITICAL TECHNOLOGY ITEMS.—

"(1) IDENTIFICATION.—

"(A) IN GENERAL.—The President, acting through the Secretary of Defense, shall identify critical components and critical technology items for each item on the Critical Items List of the Commanders-in-Chief of the Unified and Specified Commands and other items within the inventory of weapon systems and defense equipment. President.

"(B) DEFINITION.—Any component identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as a critical component for purposes

of this Act, unless the President determines that the designation is unwarranted.

President. "(2) MAINTENANCE OF RELIABLE SOURCES OF SUPPLY.—The President shall take appropriate actions to assure that critical components or critical technology items are available from reliable sources when needed to meet defense requirements during peacetime, graduated mobilization, and national emergency.

"(3) APPROPRIATE ACTION.—For purposes of this subsection, appropriate action may include—

"(A) restricting contract solicitations to reliable sources;

"(B) restricting contract solicitations to domestic sources pursuant to—

"(i) section 2304(b)(1)(B) or section 2304(c)(3) of title 10, United States Code;

"(ii) section 303(b)(1)(B) or section 303(c)(3) of the Federal Property and Administrative Services Act of 1949; or

"(iii) other statutory authority;

"(C) stockpiling critical components; and

"(D) developing substitutes for a critical component or a critical technology item.

50 USC app. 2078. President.

"SEC. 108. MODERNIZATION OF SMALL BUSINESS SUPPLIERS.

"(a) IN GENERAL.—In providing any assistance under this Act, the President shall accord a strong preference for small business concerns which are subcontractors or suppliers, and, to the maximum extent practicable, to such small business concerns located in areas of high unemployment or areas that have demonstrated a continuing pattern of economic decline, as identified by the Secretary of Labor.

"(b) MODERNIZATION OF EQUIPMENT.—

"(1) IN GENERAL.—Funds authorized under title III may be used to guarantee the purchase or lease of advance manufacturing equipment, and any related services with respect to any such equipment for purposes of this Act.

"(2) SMALL BUSINESS SUPPLIERS.—In considering proposals for title III projects under paragraph (1), the President shall provide a strong preference for proposals submitted by a small business supplier or subcontractor whose proposal—

"(A) has the support of the department or agency which will provide the guarantee;

"(B) reflects that the small business concern has made arrangements to obtain qualified outside assistance to support the effective utilization of the advanced manufacturing equipment being proposed for installation; and

"(C) meets the requirements of section 301, 302, or 303.".

SEC. 112. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

Section 104 of the Defense Production Act of 1950 (50 U.S.C. App. 2074) is amended to read as follows:

"SEC. 104. LIMITATION ON ACTIONS WITHOUT CONGRESSIONAL AUTHORIZATION.

"(a) WAGE OR PRICE CONTROLS.—No provision of this Act shall be interpreted as providing for the imposition of wage or price

controls without the prior authorization of such action by a joint resolution of Congress.

"(b) CHEMICAL OR BIOLOGICAL WEAPONS.—No provision of title I of this Act shall be exercised or interpreted to require action or compliance by any private person to assist in any way in the production of or other involvement in chemical or biological warfare capabilities, unless authorized by the President (or the President's designee who is serving in a position at level I of the Executive Schedule in accordance with section 5312 of title 5, United States Code) without further redelegation.".

PART C—AMENDMENTS TO TITLE III OF THE DEFENSE PRODUCTION ACT

SEC. 121. EXPANDING THE REACH OF EXISTING AUTHORITIES UNDER TITLE III.

(a) GUARANTEE AUTHORITY.—Section 301 of the Defense Production Act of 1950 (50 U.S.C. App. 2091) is amended—

(1) in subsection (a)(1), by striking "to expedite production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense" and inserting "to expedite or expand production and deliveries or services under Government contracts for the procurement of industrial resources or critical technology items essential to the national defense";

(2) by amending subsection (a)(3)(A) to read as follows:

"(A) the guaranteed contract or activity is for industrial resources or a critical technology item which is essential to the national defense;";

(3) in subsection (a)(3)(B)—

(A) by striking "Without" and inserting "without"; and

(B) by striking "the capability for the needed material or service" and inserting "the needed industrial resources or critical technology item";

(4) by amending subsection (a)(3)(D) to read as follows:

"(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the guarantee.";

(5) in subsection (e)(1)(A), by striking "Except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in subparagraph (D)";

(6) in subsection (e)(1)(C), by striking "$25,000,000" and inserting "$50,000,000"; and

(7) subsection (e)(1), by adding at the end the following new subparagraph:

"(D) The requirements of subparagraphs (A), (B), and (C) may be waived—

"(i) during periods of national emergency declared by the Congress or the President; or

"(ii) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(b) LOANS TO PRIVATE BUSINESS ENTERPRISES.—Section 302 of the Defense Production Act of 1950 (50 U.S.C. App. 2092) is amended—

(1) in subsection (a), by striking "for the procurement of materials or the performance of services for the national defense" and inserting "for the procurement of industrial resources or a critical technology item for the national defense";

(2) by amending subsection (b)(2)(D) to read as follows:

"(D) the combination of the United States national defense demand and foreseeable nondefense demand is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the loan.";

(3) in subsection (c)(1), by striking "No such loan may be made under this section, except during periods of national emergency declared by the Congress or the President" and inserting "Except as provided in paragraph (4), no loans may be made under this section";

(4) in subsection (c)(3), by striking "$25,000,000" and inserting "$50,000,000"; or

(5) in subsection (c), by adding at the end the following new paragraph:

"(4) The requirements of paragraphs (1), (2), and (3) may be waived—

"(A) during periods of national emergency declared by the Congress or the President; and

"(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(c) PURCHASES AND PURCHASE COMMITMENTS.—

(1) IN GENERAL.—Section 303(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)) is amended to read as follows:

"(a) PRESIDENTIAL PROVISIONS.—

"(1) IN GENERAL.—To assist in carrying out the objectives of this Act, the President may make provision—

"(A) for purchases of or commitments to purchase an industrial resource or a critical technology item, for Government use or resale; and

"(B) for the encouragement of exploration, development, and mining of critical and strategic materials, and other materials.

"(2) TREATMENT OF CERTAIN AGRICULTURAL COMMODITIES.—Purchases for resale under this subsection shall not include that part of the supply of an agricultural commodity which is domestically produced, except to the extent that such domestically produced supply may be purchased for resale for industrial use or stockpiling.

"(3) TERMS OF SALES.—No commodity purchased under this subsection shall be sold at less than—

"(A) the established ceiling price for such commodity, except that minerals, metals, and materials shall not be sold at less than the established ceiling price, or the current domestic market price, whichever is lower; or

"(B) if no ceiling price has been established, the higher of—

"(i) the current domestic market price for such commodity; or

"(ii) the minimum sale price established for agricultural commodities owned or controlled by the Commodity Credit Corporation, as provided in section 407 of the Agricultural Act of 1949.

"(4) DELIVERY DATES.—No purchase or commitment to purchase any imported agricultural commodity shall specify a delivery date which is more than 1 year after the expiration of this section.

"(5) PRESIDENTIAL DETERMINATIONS.—Except as provided in paragraph (7), the President may not execute a contract under this subsection unless the President determines that—

"(A) the industrial resource or critical technology item is essential to the national defense;

"(B) without Presidential action under the authority provided for in this section, United States industry cannot reasonably be expected to provide the capability for the needed industrial resource or critical technology item in a timely manner;

"(C) purchases, purchase commitments, or other action pursuant to this section are the most cost-effective, expedient, and practical alternative method for meeting the need; and

"(D) the combination of the United States national defense demand and foreseeable nondefense demand for the industrial resource or critical technology item is not less than the output of domestic industrial capability, as determined by the President, including the output to be established through the purchase, purchase commitment, or other action.

"(6) IDENTIFICATION OF SHORTFALL.—

"(A) IN GENERAL.—Except as provided in paragraph (7), the President shall take no action under this section unless the industrial resource shortfall which such action is intended to correct has been identified in the Budget of the United States, or amendments thereto, submitted to the Congress and accompanied by a statement from the President demonstrating that the budget submission is in accordance with the provisions of paragraph (5).

"(B) TIMING OF ACTION.—Any such action may be taken only after 60 days have elapsed after such industrial resource shortfall has been identified pursuant to subparagraph (A).

"(C) LIMITATION.—If the taking of any action or actions under this section to correct an industrial resource shortfall would cause the aggregate outstanding amount of all such actions for such industrial resource shortfall to exceed $50,000,000, any such action or actions may be taken only if specifically authorized by law.

"(7) WAIVER.—The requirements of paragraphs (1) through (6) may be waived—

"(A) during periods of national emergency declared by the Congress or the President; or

"(B) upon a determination by the President, on a nondelegable basis, that a specific guarantee is necessary to avert an industrial resource or critical technology shortfall that would severely impair national defense capability.".

(2) PURCHASE PERIODS.—Section 303(b) of the Defense Production Act of 1950 (50 U.S.C. 2093(b)) is amended by striking "September 30, 1995" and inserting "a date that is not more than 10 years from the date such purchase, purchase commitment, or sale was initially made".

(d) DEVELOPING SUBSTITUTES.—Section 303(g) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(g)) is amended by inserting before the period the following: ", critical components, critical technology items, and other industrial resources".

SEC. 122. DEFENSE PRODUCTION ACT FUND.

Section 304 of the Defense Production Act of 1950 (50 U.S.C. App. 2094) is amended to read as follows:

"SEC. 304. DEFENSE PRODUCTION ACT FUND.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a separate fund to be known as the Defense Production Act Fund (hereafter in this section referred to as 'the Fund').

"(b) MONEYS IN FUND.—There shall be credited to the Fund—

"(1) all moneys appropriated for the Fund, as authorized by section 711(c); and

"(2) all moneys received by the Fund on transactions entered into pursuant to section 303.

"(c) USE OF FUND.—The Fund shall be available to carry out the provisions and purposes of this title, subject to the limitations set forth in this Act and in appropriations Acts.

"(d) DURATION OF FUND.—Moneys in the Fund shall remain available until expended.

"(e) FUND BALANCE.—The Fund balance at the close of each fiscal year shall not exceed $400,000,000, excluding any moneys appropriated to the Fund during that fiscal year or obligated funds. If, at the close of any fiscal year, the Fund balance exceeds $400,000,000, the amount in excess of $400,000,000 shall be paid into the general fund of the Treasury.

President. "(f) FUND MANAGER.—The President shall designate a Fund manager. The duties of the Fund manager shall include—

"(1) determining the liability of the Fund in accordance with subsection (g);

"(2) ensuring the visibility and accountability of transactions engaged in through the Fund; and

Reports. "(3) reporting to the Congress each year regarding activities of the Fund during the previous fiscal year.

"(g) LIABILITIES AGAINST FUND.—When any agreement entered into pursuant to this title after December 31, 1991, imposes any contingent liability upon the United States, such liability shall be considered an obligation against the Fund.".

50 USC app. 2099 note.

SEC. 123. DECLARATION OF OFFSET POLICY.

(a) IN GENERAL.—Recognizing that certain offsets for military exports are economically inefficient and market distorting, and mindful of the need to minimize the adverse effects of offsets in military exports while ensuring that the ability of United States

firms to compete for military export sales is not undermined, it is the policy of the Congress that—

(1) no agency of the United States Government shall encourage, enter directly into, or commit United States firms to any offset arrangement in connection with the sale of defense goods or services to foreign governments;

(2) United States Government funds shall not be used to finance offsets in security assistance transactions, except in accordance with policies and procedures that were in existence on March 1, 1992;

(3) nothing in this section shall prevent agencies of the United States Government from fulfilling obligations incurred through international agreements entered into before March 1, 1992; and

(4) the decision whether to engage in offsets, and the responsibility for negotiating and implementing offset arrangements, reside with the companies involved.

(b) PRESIDENTIAL APPROVAL OF EXCEPTIONS.—It is the policy of the Congress that the President may approve an exception to the policy stated in subsection (a) after receiving the recommendation of the National Security Council.

(c) CONSULTATION.—It is the policy of the Congress that the President shall designate the Secretary of Defense to lead, in coordination with the Secretary of State, an interagency team to consult with foreign nations on limiting the adverse effects of offsets in defense procurement. The President shall transmit an annual report on the results of these consultations to the Congress as part of the report required under section 309(a) of the Defense Production Act of 1950. President. Reports.

SEC. 124. ANNUAL REPORT ON IMPACT OF OFFSETS.

Section 309 of the Defense Production Act of 1950 (50 U.S.C. App. 2099) is amended—

(1) in subsection (a)—

(A) by striking "(a) REPORT REQUIRED.—Not later" and inserting: "(a) ANNUAL REPORT ON IMPACT OF OFFSETS.—"(1) REPORT REQUIRED.—Not later";

(B) by striking the second sentence; and

(C) by adding at the end the following new paragraph:

"(2) DUTIES OF THE SECRETARY OF COMMERCE.—The Secretary of Commerce (hereafter in this subsection referred to as 'the Secretary') shall—

"(A) prepare the report required by paragraph (1);

"(B) consult with the Secretary of Defense, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative in connection with the preparation of such report; and

"(C) function as the President's Executive Agent for carrying out this section.";

(2) by amending subsection (b) to read as follows:

"(b) INTERAGENCY STUDIES AND RELATED DATA.—

"(1) PURPOSE OF REPORT.—Each report required under subsection (a) shall identify the cumulative effects of offset agreements on—

"(A) the full range of domestic defense productive capability (with special attention paid to the firms serving as lower-tier subcontractors or suppliers); and

"(B) the domestic defense technology base as a consequence of the technology transfers associated with such offset agreements.

"(2) USE OF DATA.—Data developed or compiled by any agency while conducting any interagency study or other independent study or analysis shall be made available to the Secretary to facilitate the execution of the Secretary's responsibilities with respect to trade offset and countertrade policy development."; and

(3) by adding at the end the following new subsections:

"(c) NOTICE OF OFFSET AGREEMENTS.—

"(1) IN GENERAL.—If a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset agreement exceeding $5,000,000 in value, such firm shall furnish to the official designated in the regulations promulgated pursuant to paragraph (2) information concerning such sale.

"(2) REGULATIONS.—The information to be furnished under paragraph (1) shall be prescribed in regulations promulgated by the Secretary. Such regulations shall provide protection from public disclosure for such information, unless public disclosure is subsequently specifically authorized by the firm furnishing the information.

"(d) CONTENTS OF REPORT.—

"(1) IN GENERAL.—Each report under subsection (a) shall include—

"(A) a net assessment of the elements of the industrial base and technology base covered by the report;

"(B) recommendations for appropriate remedial action under the authority of this Act, or other law or regulations;

"(C) a summary of the findings and recommendations of any interagency studies conducted during the reporting period under subsection (b);

"(D) a summary of offset arrangements concluded during the reporting period for which information has been furnished pursuant to subsection (c); and

"(E) a summary and analysis of any bilateral and multilateral negotiations relating to the use of offsets completed during the reporting period.

"(2) ALTERNATIVE FINDINGS OR RECOMMENDATIONS.—Each report required under this section shall include any alternative findings or recommendations offered by any departmental Secretary, agency head, or the United States Trade Representative to the Secretary.

"(e) UTILIZATION OF ANNUAL REPORT IN NEGOTIATIONS.—The findings and recommendations of the reports required by subsection (a), and any interagency reports and analyses shall be considered by representatives of the United States during bilateral and multilateral negotiations to minimize the adverse effects of offsets.".

SEC. 125. CIVIL-MILITARY INTEGRATION.

Title III of the Defense Production Act of 1950 is amended by adding at the end the following new section:

"SEC. 310. CIVIL-MILITARY INTEGRATION.

50 USC app. 2099a.

"An important purpose of this title is the creation of production capacity that will remain economically viable after guarantees and other assistance provided under this title have expired.".

SEC. 126. TESTING, QUALIFICATION, AND USE OF INDUSTRIAL RESOURCES DEVELOPED UNDER TITLE III PROJECTS.

(a) IN GENERAL.—Not later than 270 days after the date of enactment of this Act, the single governmentwide Federal Acquisition Regulation, referred to in section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1)) shall be amended to provide for testing and qualification (pursuant to subsection (b)) and use (pursuant to subsection (c)) of the industrial resources manufactured or developed with assistance provided under section 301, 302, or 303 of the Defense Production Act of 1950.

(b) TESTING AND QUALIFICATION.—Any testing and qualification required for the use or incorporation of the industrial resource developed or manufactured with such assistance shall be undertaken upon the request of the title III project contractor and the costs of such testing and qualification shall be borne by the department or agency imposing the testing and qualification requirement.

(c) USE.—Upon qualification, the industrial resource shall be eligible for use with respect to the development and manufacture of a major system or an item of supply being undertaken by an executive agency.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "industrial resources" has the same meaning as in section 702(11) of the Defense Production Act of 1950;

(2) the term "item of supply" has the same meaning as in section 4(10) of the Office of Federal Procurement Policy Act;

(3) the term "major system" has the same meaning as in section 4(9) of the Office of Federal Procurement Policy Act; and

(4) the term "title III project contractor" means a contractor who has received assistance for the development or manufacture of an industrial resource under section 301, 302, or 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2091–2093).

PART D—AMENDMENTS TO TITLE VII OF THE DEFENSE PRODUCTION ACT

SEC. 131. SMALL BUSINESS.

Section 701 of the Defense Production Act of 1950 (50 U.S.C. App. 2151) is amended to read as follows:

"SEC. 701. SMALL BUSINESS.

"(a) PARTICIPATION.—Small business concerns shall be given the maximum practicable opportunity to participate as contractors, and subcontractors at various tiers, in all programs to maintain and strengthen the Nation's industrial base and technology base undertaken pursuant to this Act.

"(b) ADMINISTRATION OF ACT.—In administering the programs, implementing regulations, policies, and procedures under this Act,

requests, applications, or appeals from small business concerns shall, to the maximum extent practicable, be expeditiously handled.

"(c) ADVISORY COMMITTEE PARTICIPATION.—Representatives of small business concerns shall be afforded the maximum opportunity to participate in such advisory committees as may be established pursuant to this Act.

"(d) INFORMATION.—Information about this Act and activities undertaken in accordance with this Act shall be made available to small business concerns.

"(e) ALLOCATIONS UNDER SECTION 101.—Whenever the President makes a determination to exercise any authority to allocate any material pursuant to section 101, small business concerns shall be accorded, to the extent practicable, a fair share of such material, in proportion to the share received by such business concerns under normal conditions, giving such special consideration as may be possible to emerging small business concerns.".

SEC. 132. DEFINITIONS.

Section 702 of the Defense Production Act of 1950 (50 U.S.C. App. 2152) is amended to read as follows:

"SEC. 702. DEFINITIONS.

"For purposes of this Act, the following definitions shall apply:

"(1) CRITICAL COMPONENT.—The term 'critical component' includes such components, subsystems, systems, and related special tooling and test equipment essential to the production, repair, maintenance, or operation of weapon systems or other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States. Components identified as critical by a National Security Assessment conducted pursuant to section 113(i) of title 10, United States Code, or by a Presidential determination as a result of a petition filed under section 232 of the Trade Expansion Act of 1962 shall be designated as critical components for purposes of this Act, unless the President determines that the designation is unwarranted.

"(2) CRITICAL INDUSTRY FOR NATIONAL SECURITY.—The term 'critical industry for national security' means any industry (or industry sector) identified pursuant to section 2503(6) of title 10, United States Code, and such other industries or industry sectors as may be designated by the President as essential to provide industrial resources required for the execution of the national security strategy of the United States.

"(3) CRITICAL TECHNOLOGY.—The term 'critical technology' includes any technology that is included in 1 or more of the plans submitted pursuant to section 6681 of title 42, United States Code, or section 2508 of title 10, United States Code (unless subsequently deleted), or such other emerging or dual use technology as may be designated by the President.

"(4) CRITICAL TECHNOLOGY ITEM.—The term 'critical technology item' means materials directly employing, derived from, or utilizing a critical technology.

"(5) DEFENSE CONTRACTOR.—The term 'defense contractor' means any person who enters into a contract with the United States—

"(A) to furnish materials, industrial resources, or a critical technology for the national defense; or

"(B) to perform services for the national defense.

"(6) DOMESTIC DEFENSE INDUSTRIAL BASE.—The term 'domestic defense industrial base' means domestic sources which are providing, or which would be reasonably expected to provide, materials or services to meet national defense requirements during peacetime, graduated mobilization, national emergency, or war.

"(7) DOMESTIC SOURCE.—The term 'domestic source' means a business concern—

"(A) that performs in the United States or Canada substantially all of the research and development, engineering, manufacturing, and production activities required of such business concern under a contract with the United States relating to a critical component or a critical technology item; and

"(B) that procures from business concerns described in subparagraph (A) substantially all of any components and assemblies required under a contract with the United States relating to a critical component or critical technology item.

"(8) ESSENTIAL WEAPON SYSTEM.—The term 'essential weapon system' means a major weapon system and other items of military equipment identified by the Secretary of Defense as being essential to the execution of the national security strategy of the United States.

"(9) FACILITIES.—The term 'facilities' includes all types of buildings, structures, or other improvements to real property (but excluding farms, churches or other places of worship, and private dwelling houses), and services relating to the use of any such building, structure, or other improvement.

"(10) FOREIGN SOURCE.—The term 'foreign source' means a business entity other than a 'domestic source'.

"(11) INDUSTRIAL RESOURCES.—The term 'industrial resources' means materials, services, processes, or manufacturing equipment (including the processes, technologies, and ancillary services for the use of such equipment) needed to establish or maintain an efficient and modern national defense industrial capacity.

"(12) MATERIALS.—The term 'materials' includes—

"(A) any raw materials (including minerals, metals, and advanced processed materials), commodities, articles, components (including critical components), products, and items of supply; and

"(B) any technical information or services ancillary to the use of any such materials, commodities, articles, components, products, or items.

"(13) NATIONAL DEFENSE.—The term 'national defense' means programs for military and energy production or construction, military assistance to any foreign nation, stockpiling, space, and any directly related activity.

"(14) PERSON.—The term 'person' includes an individual, corporation, partnership, association, or any other organized group of persons, or legal successor or representative thereof, or any State or local government or agency thereof.

"(15) SERVICES.—The term 'services' includes any effort that is needed for or incidental to—

"(A) the development, production, processing, distribution, delivery, or use of an industrial resource or a critical technology item; or

"(B) the construction of facilities.

"(16) SMALL BUSINESS CONCERN.—The term 'small business concern' means a business concern that meets the requirements of section 3(a) of the Small Business Act and the regulations promulgated pursuant to that section, and includes such business concerns owned and controlled by socially and economically disadvantaged individuals or by women.

"(17) SMALL BUSINESS CONCERN OWNED AND CONTROLLED BY SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'small business concern owned and controlled by socially and economically disadvantaged individuals' has the same meaning as in section 8(d)(3)(C) of the Small Business Act.".

SEC. 133. APPOINTMENT OF PERSONNEL.

Section 703 of the Defense Production Act of 1950 (50 U.S.C. App. 2153) is amended to read as follows:

"SEC. 703. CIVILIAN PERSONNEL.

"Any officer or agency head may—

"(1) appoint civilian personnel without regard to section 5331(b) of title 5, United States Code, and without regard to the provisions of title 5, United States Code, governing appointments in the competitive service; and

"(2) fix the rate of basic pay for such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates,

except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule, as the President deems appropriate to carry out this Act.".

SEC. 134. REGULATIONS AND ORDERS.

Section 704 of the Defense Production Act of 1950 (50 U.S.C. App. 2154) is amended to read as follows:

"SEC. 704. REGULATIONS AND ORDERS.

"(a) IN GENERAL.—Subject to section 709 and subsection (b), the President may prescribe such regulations and issue such orders as the President may determine to be appropriate to carry out this Act.

"(b) PROCUREMENT REGULATIONS.—Any procurement regulation, procedure, or form issued pursuant to subsection (a) shall be issued pursuant to section 25 of the Office of Federal Procurement Policy Act, and shall conform to any governmentwide procurement policy or regulation issued pursuant to section 6 or 25 of that Act.".

SEC. 135. INFORMATION ON THE DEFENSE INDUSTRIAL BASE.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2151 et seq.) is amended by adding at the end the following new section:

50 USC app. 2171.
President.

"SEC. 722. DEFENSE INDUSTRIAL BASE INFORMATION SYSTEM.

"(a) ESTABLISHMENT REQUIRED.—

"(1) IN GENERAL.—The President, acting through the Secretary of Defense and the heads of such other Federal agencies as the President may determine to be appropriate, shall provide for the establishment of an information system on the domestic defense industrial base which—

"(A) meets the requirements of this section; and

"(B) includes a systematic continuous procedure, to collect and analyze information necessary to evaluate—

"(i) the adequacy of domestic industrial capacity to furnish critical components and critical technology items essential to the national security of the United States;

"(ii) dependence on foreign sources for critical components and critical technology items essential to defense production; and

"(iii) the reliability of foreign sources for critical components and critical technology items.

"(2) INCORPORATION OF DINET.—The Defense Information Network (or DINET), as established and maintained by the Secretary of Defense on the date of enactment of the Defense Production Act Amendments of 1992, shall be incorporated into the system established pursuant to paragraph (1).

"(3) USE OF INFORMATION.—Information collected and analyzed under the procedure established pursuant to paragraph (1) shall constitute a basis for making any determination to exercise any authority under this Act and a procedure for using such information shall be integrated into the decision-making process with regard to the exercise of any such authority.

"(b) SOURCES OF INFORMATION.—

"(1) FOREIGN DEPENDENCE.—

"(A) SCOPE OF INFORMATION REVIEW.—The procedure established to meet the requirement of subsection (a)(1)(B)(ii) shall address defense production with respect to the operations of prime contractors and at least the first 2 tiers of subcontractors, or at lower tiers if a critical component is identified at such lower tier.

"(B) USE OF EXISTING DATA COLLECTION AND REVIEW CAPABILITIES.—To the extent feasible and appropriate, the President shall build upon existing methods of data collection and analysis and shall integrate information available from intelligence agencies with respect to industrial and technological conditions in foreign countries.

"(C) INITIAL EMPHASIS ON PRIORITY LISTS.—In establishing the procedure referred to in subparagraph (A), the Secretary may place initial emphasis on the production of critical components and critical technology items.

"(2) PRODUCTION BASE ANALYSIS.—

"(A) COMPREHENSIVE REVIEW.—The analysis of the production base for any major system acquisition included in the information system maintained pursuant to subsection (a) shall, in addition to any information and analyses the President may require—

"(i) include a review of all subcontractors and suppliers, beginning with any raw material, special alloy, or composite material involved in the production of a completed system;

"(ii) identify each contractor and subcontractor (or supplier) at each level of production for such major system acquisition which represents a potential for delaying or preventing the system's production and acquisition, including the identity of each contractor or subcontractor whose contract qualifies as a foreign source or sole source contract and any supplier which is a foreign source or sole source for any item required in the production, including critical components; and

"(iii) include information to permit appropriate management of accelerated or surge production.

"(B) INITIAL REQUIREMENT FOR STUDY OF PRODUCTION BASES FOR NOT MORE THAN 6 MAJOR WEAPON SYSTEMS.—In establishing the information system under subsection (a), the President, acting through the Secretary of Defense, shall require an analysis of the production base for not more than 2 weapons of each military department which are major systems (as defined in section 2302(5) of title 10, United States Code). Each such analysis shall identify the critical components of each system.

"(3) CONSULTATION REGARDING THE CENSUS OF MANUFACTURERS.—

"(A) IN GENERAL.—The Secretary of Commerce, acting through the Bureau of the Census, shall consult with the Secretary of Defense and the Director of the Federal Emergency Management Agency to improve the usefulness of information derived from the Census of Manufacturers in carrying out this section.

"(B) ISSUES TO BE ADDRESSED.—The consultation required under subparagraph (A) shall address improvements in the level of detail, timeliness, and availability of input and output analyses derived from the Census of Manufacturers necessary to carry out this section.

"(c) STRATEGIC PLAN FOR DEVELOPING COMPREHENSIVE SYSTEM.—

Reports.

"(1) PLAN REQUIRED.—Not later than December 31, 1993, the President shall provide for the establishment of and report to the Congress on a strategic plan for developing a cost-effective, comprehensive information system capable of identifying on a timely, ongoing basis vulnerability in critical components and critical technology items.

"(2) ASSESSMENT OF CERTAIN PROCEDURES.—In establishing the plan pursuant to paragraph (1), the President shall assess the performance and cost-effectiveness of procedures implemented under subsection (b), and shall seek to build upon such procedures, as appropriate.

"(d) CAPABILITIES OF SYSTEM.—

"(1) IN GENERAL.—In connection with the establishment of the information system under subsection (a), the President shall direct the Secretary of Defense, the Secretary of Commerce, and the heads of such other Federal agencies as the President may determine to be appropriate—

"(A) to consult with each other and provide such information, assistance, and cooperation as may be necessary to establish and maintain the information system required by this section in a manner which allows the coordinated and efficient entry of information on the domes-

tic defense industrial base into, and the withdrawal, subject to the protection of proprietary data, of information on the domestic defense industrial base from the system on an on-line interactive basis by the Department of Defense;

"(B) to assure access to the information on the system, as appropriate, for all participating Federal agencies, including each military department;

"(C) to coordinate standards, definitions, and specifications for information on defense production, which is collected by the Department of Defense and the military departments so that such information can be used by any Federal agency or department, as the President determines to be appropriate; and

"(D) to assure that the information in the system is updated, as appropriate, with the active assistance of the private sector.

"(2) TASK FORCE ON MILITARY-CIVILIAN PARTICIPATION.—Upon the establishment of the information system under subsection (a), the President shall convene a task force consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of each military department, and the heads of such other Federal agencies and departments as the President may determine to be appropriate to establish guidelines and procedures to ensure that all Federal agencies and departments which acquire information with respect to the domestic defense industrial base are fully participating in the system, unless the President determines that all appropriate Federal agencies and departments, including each military department, are voluntarily providing information which is necessary for the system to carry out the purposes of this Act and chapter 148 of title 10, United States Code.

"(e) REPORT ON SUBCONTRACTOR AND SUPPLIER BASE.—

"(1) REPORT REQUIRED.—The President shall issue a report (in accordance with paragraph (4) which includes—

"(A) a list of critical components, technologies, and technology items for which there is found to be inadequate domestic industrial capacity or capability; and

"(B) an assessment of those subsectors of the economy of the United States which—

"(i) support production of any component, technology, or technology item listed pursuant to subparagraph (A); or

"(ii) have been identified as being critical to the development and production of components required for the production of weapons, weapon systems, and other military equipment essential to the national defense.

"(2) MATTERS TO BE CONSIDERED.—The assessment made under paragraph (1)(B) shall include consideration of—

"(A) the capacity of domestic sources, especially commercial firms, to fulfill peacetime requirements and graduated mobilization requirements for various items of supply and services;

"(B) any trend relating to the capabilities of domestic sources to meet such peacetime and mobilization requirements;

"(C) the extent to which the production or acquisition of various items of military material is dependent on foreign sources; and

"(D) any reason for the decline of the capabilities of selected sectors of the United States economy necessary to meet peacetime and mobilization requirements, including—

"(i) stability of defense requirements;

"(ii) acquisition policies;

"(iii) vertical integration of various segments of the industrial base;

"(iv) superiority of foreign technology and production efficiencies;

"(v) foreign government support of nondomestic sources; and

"(vi) offset arrangements.

"(3) POLICY RECOMMENDATIONS.—The report required by paragraph (1) may provide specific policy recommendations to correct deficiencies identified in the assessment, which would help to strengthen domestic sources.

"(4) TIME FOR ISSUANCE.—The report required by paragraph (1) shall be issued not later than July 1 of each even-numbered year which begins after 1992.

"(5) RELEASE OF UNCLASSIFIED REPORT.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.".

SEC. 136. PUBLIC PARTICIPATION IN RULEMAKING.

(a) IN GENERAL.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. 2159) is amended to read as follows:

"SEC. 709. PUBLIC PARTICIPATION IN RULEMAKING.

"(a) EXEMPTION FROM THE ADMINISTRATIVE PROCEDURE ACT.—Any regulation issued under this Act shall not be subject to sections 551 through 559 of title 5, United States Code.

"(b) OPPORTUNITY FOR NOTICE AND COMMENT.—

Federal Register, publication.

"(1) IN GENERAL.—Except as provided in subsection (c), any regulation issued under this Act shall be published in the Federal Register and opportunity for public comment shall be provided for not less than 30 days, consistent with the requirements of section 553(b) of title 5, United States Code.

"(2) WAIVER FOR TEMPORARY PROVISIONS.—The requirements of paragraph (1) may be waived, if—

"(A) the officer authorized to issue the regulation finds that urgent and compelling circumstances make compliance with such requirements impracticable;

"(B) the regulation is issued on a temporary basis; and

"(C) the publication of such temporary regulation is accompanied by the finding made under subparagraph (A) (and a brief statement of the reasons for such finding) and an opportunity for public comment is provided for not less than 30 days before any regulation becomes final.

"(3) CONSIDERATION OF PUBLIC COMMENTS.—All comments received during the public comment period specified pursuant to paragraph (1) or (2) shall be considered and the publication of the final regulation shall contain written responses to such comments.

"(c) PUBLIC COMMENT ON PROCUREMENT REGULATIONS.—Any procurement policy, regulation, procedure, or form (including any amendment or modification of any such policy, regulation, procedure, or form) issued under this Act shall be subject to section 22 of the Office of Federal Procurement Policy Act.".

(b) SCOPE OF APPLICATION.—Section 709 of the Defense Production Act of 1950 (50 U.S.C. App. 2159), as amended by subsection (a) of this section, shall not apply to any regulation issued in proposed or final form on or before the date of enactment of this Act. 50 USC app. 2159 note.

PART E—TECHNICAL AMENDMENTS

SEC. 141. TECHNICAL CORRECTION.

Section 301(e)(2)(B) of the Defense Production Act of 1950 (50 U.S.C. App. 2091(e)(2)(B)) is amended by striking "and to the Committees on Banking and Currency of the respective Houses" and inserting "and to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives".

SEC. 142. INVESTIGATIONS; RECORDS; REPORTS; SUBPOENAS.

Section 705 of the Defense Production Act of 1950 (50 U.S.C. App. 2155) is amended—

(1) by striking "subpena" each place such term appears and inserting "subpoena";

(2) by redesignating subsections (c), (d), (e), and (f) as subsections (b), (c), (d), and (e), respectively;

(3) in subsection (c) (as redesignated by paragraph (2)), by striking "$1,000" and inserting "$10,000";

(4) in subsection (d) (as redesignated by paragraph (2)), by striking all after the first sentence; and

(5) in subsection (e) (as redesignated by paragraph (2)), by striking "subpenaed" and inserting "subpoenaed".

SEC. 143. EMPLOYMENT OF PERSONNEL.

(a) NOTICE OF APPOINTMENT AND FINANCIAL DISCLOSURE FOR EMPLOYEES SERVING WITHOUT COMPENSATION.—Section 710(b)(6) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)(6)) is amended to read as follows:

"(6) NOTICE AND FINANCIAL DISCLOSURE REQUIREMENTS.—

"(A) PUBLIC NOTICE OF APPOINTMENT.—The head of any department or agency who appoints any individual under this subsection shall publish a notice of such appointment in the Federal Register, including the name of the appointee, the employing department or agency, the title of the appointee's position, and the name of the appointee's private employer. Federal Register, publication.

"(B) FINANCIAL DISCLOSURE.—Any individual appointed under this subsection who is not required to file a financial disclosure report pursuant to section 101 of the Ethics in Government Act of 1978, shall file a confidential financial disclosure report pursuant to section 107 of that Act with the appointing department or agency.". Reports.

(b) TECHNICAL AMENDMENTS.—Section 710(b) of the Defense Production Act of 1950 (50 U.S.C. App. 2160(b)) is amended—

(1) in paragraph (7)—

(A) by striking "Chairman of the United States Civil Service Commission" and inserting "Director of the Office of Personnel Management";

(B) by striking "his findings" and inserting "his or her findings";

(C) by striking "and the Joint Committee on Defense Production"; and

(D) by striking "he may" and inserting "he or she may"; and

(2) in paragraph (8), by striking "transportation and not to exceed $15 per diem in lieu of subsistence while away from their homes or regular places of business pursuant to such appointment" and inserting "reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions for which they were appointed in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code".

SEC. 144. TECHNICAL CORRECTION.

Section 711(a)(1) of the Defense Production Act of 1950 (50 U.S.C. App. 2161(a)(1)) is amended by striking "Bureau of the Budget" and inserting "Office of Management and Budget".

PART F—REPEALERS AND CONFORMING AMENDMENTS

SEC. 151. SYNTHETIC FUEL ACTION.

Section 307 of the Defense Production Act of 1950 (50 U.S.C. App. 2097) is amended—

(1) in subsection (b), by striking the second sentence; and

(2) by striking subsection (c) and all that follows through the end of the section.

SEC. 152. REPEAL OF INTEREST PAYMENT PROVISIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)(1) Except as provided in paragraph (2) and paragraph (4)" and inserting the following:

"(a) AUTHORIZATION.—

"(1) IN GENERAL.— Except as provided in subsection (c),";

(B) in paragraph (1), in the parenthetical, by striking "and for payment of interest under subsection (b) of this section";

(C) by striking paragraph (2);

(D) in paragraph (3), by striking "(3) There are" and inserting the following:

"(b) SECTION 305 AUTHORIZATION.—"; and

(E) in paragraph (4)—

(i) by striking "(4)(A) There are" and inserting the following:

"(c) SECTION 303 AUTHORIZATION.—There are"; and

(ii) by striking subparagraph (B).

SEC. 153. JOINT COMMITTEE ON DEFENSE PRODUCTION.

Section 712 of the Defense Production Act of 1950 (50 U.S.C. App. 2162) is repealed.

SEC. 154. PERSONS DISQUALIFIED FOR EMPLOYMENT.

Section 716 of the Defense Production Act of 1950 (50 U.S.C. App. 2165) is repealed.

SEC. 155. FEASIBILITY STUDY ON UNIFORM COST ACCOUNTING STANDARDS; REPORT SUBMITTED.

Section 718 of the Defense Production Act of 1950 (50 U.S.C. App. 2167) is repealed.

SEC. 156. NATIONAL COMMISSION ON SUPPLIES AND SHORTAGES.

Section 720 of the Defense Production Act of 1950 (50 U.S.C. App. 2169) is repealed.

PART G—REAUTHORIZATION OF SELECTED PROVISIONS

SEC. 161. AUTHORIZATION OF APPROPRIATIONS.

Section 711 of the Defense Production Act of 1950 (50 U.S.C. App. 2161) (as amended by section 152 of this Act) is amended by adding at the end the following new subsection:

"(d) TITLE III AUTHORIZATION.—There are authorized to be appropriated for each of fiscal years 1993, 1994, and 1995 not more than $200,000,000 to carry out the provisions of title III of this Act.".

SEC. 162. EXTENSION OF PROGRAM.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "March 1, 1992" and inserting "September 30, 1995".

SEC. 163. PRESIDENTIAL STUDY.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. App. 2170) is amended by adding at the end the following new subsection:

"(k) QUADRENNIAL REPORT.—

"(1) IN GENERAL.—In order to assist the Congress in its oversight responsibilities with respect to this section, the President and such agencies as the President shall designate shall complete and furnish to the Congress, not later than 1 year after the date of enactment of this section and upon the expiration of every 4 years thereafter, a report which— President.

"(A) evaluates whether there is credible evidence of a coordinated strategy by 1 or more countries or companies to acquire United States companies involved in research, development, or production of critical technologies for which the United States is a leading producer; and

"(B) evaluates whether there are industrial espionage activities directed by foreign governments against private United States companies aimed at obtaining commercial secrets related to critical technologies.

"(2) DEFINITION.—For the purposes of this subsection, the term 'critical technologies' means technologies identified under title VI of the National Science and Technology Policy, Organization, and Priorities Act of 1976 or other critical tech-

nology, critical components, or critical technology items essential to national defense identified pursuant to this section.

"(3) RELEASE OF UNCLASSIFIED STUDY.—The report required by this subsection may be classified. An unclassified version of the report shall be made available to the public.".

TITLE II—ADDITIONAL PROVISIONS TO IMPROVE INDUSTRIAL PREPAREDNESS

SEC. 201. DISCOURAGING UNFAIR TRADE PRACTICES.

Regulations.

(a) SUSPENSION OR DEBARMENT AUTHORIZED.—Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify the circumstances under which a contractor, who has engaged in an unfair trade practice, as defined in subsection (b), may be found to presently lack such business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of the contractor to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

(b) DEFINITION OF "UNFAIR TRADE PRACTICE".—For purposes of this section, the term "unfair trade practice" means the commission of any of the following acts by a contractor:

(1) UNFAIR TRADE PRACTICES.—An unfair trade practice, as determined by the International Trade Commission, for a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337).

(2) VIOLATION OF AGREEMENTS OF COCOM.—A violation, as determined by the Secretary of Commerce, of any agreement of the group known as the "Coordinating Committee" for purposes of the Export Administration Act of 1979 or any similar bilateral or multilateral export control agreement.

(3) FALSE STATEMENTS.—A knowingly false statement regarding a material element of a certification concerning the foreign content of an item of supply, as determined by the Secretary of the department or the head of the agency to which such certificate was furnished.

SEC. 202. FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

Regulations.

Not later than 270 days after the date of enactment of this Act, subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) shall be amended to specify that any person having been determined to have intentionally affixed a label bearing a "Made in America" inscription (or any inscription having the same meaning) to a product sold in or shipped to the United States may, when such product was not made in the United States, be found to presently lack business integrity or business honesty to such a degree as to seriously and directly affect the responsibility of such person to perform any contract awarded by the Federal Government or perform a subcontract under such a contract.

50 USC app. 2062 note.

SEC. 203. EVALUATION OF DOMESTIC DEFENSE INDUSTRIAL BASE POLICY.

(a) CONGRESSIONAL COMMISSION ON THE EVALUATION OF DEFENSE INDUSTRIAL BASE POLICY ESTABLISHED.—There is established the Congressional Commission on the Evaluation of the

Defense Industrial Base Policy (hereafter in this section referred to as the "Commission").

(b) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall develop criteria for maintaining the strength of the domestic defense industrial base for purposes of supporting the national security strategy of the United States.

(2) CONSIDERATION OF AGENCY PROCEDURES AND ACTIVITIES.—In developing criteria under paragraph (1), the Commission shall consider, with respect to each Federal agency and department which has any responsibility for maintaining the strength of the domestic defense industrial base—

(A) the extent to which the statutory authority, policies, regulations, organizational arrangements, plans, programs, and budgets of such agency or department are adequate for the purpose of maintaining the strength of the domestic defense industrial base; and

(B) the degree to which such authority, policies, regulations, arrangements, plans, programs, and budgets are being effectively implemented and sufficiently coordinated (within the agency or department and with other Federal agencies and departments).

(3) EVALUATION OF CIVIL-MILITARY INTEGRATION.—The Commission, in developing criteria under paragraph (1) and considering agency procedures and activities under paragraph (2), shall evaluate the feasibility of integrating defense research, development, production, acquisition, and other relevant contracting activities with similar activities in the commercial sector, and the degree to which such integration is being implemented by the agency or department.

(c) MEMBERSHIP.—

(1) NUMBER AND APPOINTMENT.—The Commission shall be composed of 9 members, including—

(A) 3 members appointed by the Speaker of the House of Representatives (2 of whom shall be appointed upon the recommendation of the majority leader of the House of Representatives and 1 of whom shall be appointed upon the recommendation of the minority leader of the House of Representatives) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience;

(B) 3 members appointed by the President pro tempore of the Senate (2 of whom shall be appointed upon the recommendation of the majority leader of the Senate and 1 of whom shall be appointed upon the recommendation of the minority leader of the Senate) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience; and

(C) 3 members appointed by a majority of the members appointed under subparagraphs (A) and (B) from among individuals who are especially qualified to serve on the Commission by reason of their education, training, or experience.

(2) TERMS.—

(A) IN GENERAL.—Each member shall be appointed for the life of the Commission.

(B) VACANCY.—A vacancy in the Commission shall be filled in the same manner in which the original appointment was made.

(3) PROHIBITION ON COMPENSATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), members of the Commission shall serve without pay.

(B) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(4) QUORUM.—A majority of the members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) CHAIRPERSON.—The Chairperson of the Commission shall be elected by the members of the Commission from among the individuals appointed under paragraph (1)(C).

(6) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of the members.

(d) POWERS OF COMMISSION.—

(1) HEARINGS AND SESSIONS.—

(A) IN GENERAL.—The Commission may, for the purpose of carrying out this section, hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate.

(B) ADMINISTRATION OF OATHS.—The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take.

(3) OBTAINING OFFICIAL DATA.—

(A) AUTHORITY TO OBTAIN.—Notwithstanding any provision of section 552a of title 5, United States Code, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act.

(B) PROCEDURE.—Upon request of the Chairperson of the Commission, the head of a department or agency referred to in subparagraph (A) shall furnish the information requested to the Commission.

(C) USE OF INFORMATION.—The Commission shall be subject to the same limitations with respect to the use or disclosure of any confidential or privileged information, trade secrets, or other proprietary or business-sensitive information which is obtained from any department or agency under this subsection as are applicable to the use or disclosure of such information or secrets by such department or agency.

(4) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(e) STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.—

(1) STAFF.—Subject to such regulations as the Commission may prescribe, and with the approval of the Commission, the Chairperson may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(2) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(3) EXPERTS AND CONSULTANTS.—Subject to such regulations as the Commission may prescribe, the Chairperson may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the annual rate of basic pay payable for GS–18 of the General Schedule.

(4) STAFF OF FEDERAL AGENCIES.—Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(f) DOMESTIC DEFENSE INDUSTRIAL BASE DEFINED.—For the purposes of this section, the term "domestic defense industrial base" means—

(1) the industries in the United States and Canada which at any time are providing national defense materials and services; and

(2) the industries in the United States and Canada which reasonably would be expected to provide national defense materials and services in a time of emergency or war.

(g) REPORTS.—The Commission shall submit to the Congress and the President—

(1) an interim report at the end of the 1-year period beginning on the date the Commission first meets with a majority of members present; and

(2) a final report not later than March 1, 1995, on the findings of the Commission under this section with respect to the domestic defense industrial base, together with such recommendations for legislative, administrative, or policy action as the Commission may determine to be appropriate.

(h) TERMINATION.—The Commission shall cease to exist 60 days after the date on which the final report is submitted pursuant to subsection (g)(2).

(i) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated an amount equal to not more than $500,000 to carry out this section, such sums to remain available until the termination of the Commission.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. ENERGY SECURITY.

Section 203 of the Geothermal Energy Research, Development, and Demonstration Act of 1974 (30 U.S.C. 1143) is amended by striking "1990" and inserting "1993".

SEC. 302. DOMESTIC RETAIL DEPOSIT-TAKING BY FOREIGN BANKS.

(a) IN GENERAL.—Section 6(c) of the International Banking Act of 1978 (12 U.S.C. 3104(c)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

12 USC 3104 note.

(b) EFFECTIVE DATE.—This section, and the amendments made by this section, shall have the same effective date as the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 303. DEPOSIT INSURANCE ASSESSMENT RATES FOR LIFELINE ACCOUNT DEPOSITS.

(a) IN GENERAL.—Section 7(b)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(2)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended—

(1) in subparagraph (D), by striking the comma after "members"; and

(2) by adding at the end the following new subparagraph:

"(H) BANK ENTERPRISE ACT REQUIREMENT.—The Corporation shall design the risk-based assessment system so that, insofar as the system bases assessments, directly or indirectly, on deposits, the portion of the deposits of any insured depository institution which are attributable to lifeline accounts established in accordance with the Bank Enterprise Act of 1991 shall be subject to assessment at a rate determined in accordance with such Act.".

(b) CONFORMING AMENDMENTS.—

12 USC 1817.

(1) Section 232(b)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242) is amended—

(A) by striking "(8), (9), and (10)" and inserting "and (8)"; and

(B) by striking "(9), (10), and (11)" and inserting "and (9)".

12 USC 1834a.

(2) Section 233(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 is amended by striking "section 235" where such term appears in paragraphs (3) and (5) and inserting "section 234".

(3) Section 7(d)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1817(d)(4)) (as added by section 233(c)(1) of the

Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by striking "section 235" and inserting "section 234".

(4) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 232(a)(1) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834(a)((1)) is amended by striking "7(b)(10)" and inserting "7(b)(2)(H)". Effective date.

(5) Section 10(f) of the Federal Deposit Insurance Act (12 U.S.C. 1820(f)) (as added by section 302(d) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is hereby redesignated as subsection (g).

(6) Section 302(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2349) is amended—

(A) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and 12 USC 1817, 1818.

(B) by striking paragraph (1) and inserting the following new paragraphs: 12 USC 1815.

"(1) in section 5(d)(3)(B)(i)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Savings Association Insurance Fund.';

"(2) in section 5(d)(3)(B)(ii)—

"(A) by striking 'average assessment base' and inserting 'deposits'; and

"(B) by striking 'shall—' and all that follows through the period and inserting 'shall be treated as deposits which are insured by the Bank Insurance Fund.'".

(7) Effective on the effective date of the amendment made by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991, section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(c) (as amended by such section 302(a)) is amended— Effective date.

(A) by adding at the end, the paragraph added to such section 7(b) (as in effect on the day before the effective date of such amendment) by section 103(b)(2) of the Federal Deposit Insurance Corporation Improvement Act of 1991; and

(B) by redesignating such paragraph as paragraph (6).

(8) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (6)(A) of this subsection), section 7(b) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)) (as amended by section 302(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991) is amended by adding after paragraph (6) (as transferred and so redesignated by paragraph (6) of this subsection) the following new paragraph: Effective date.

"(7) COMMUNITY ENTERPRISE CREDITS.—The Corporation shall allow a credit against any semiannual assessment to any insured depository institution which satisfies the requirements of the Community Enterprise Assessment Credit Board

under section 233(a)(1) of the Bank Enterprise Act of 1991 in the amount determined by such Board by regulation.".

Effective date.

(9) Effective on the effective date of the amendment made by section 302(e)(4) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as so redesignated by paragraph (3)(A) of this subsection), section 233 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1834a) is amended—

(A) in subsection (a)(1)(A), by striking "7(d)(4)" and inserting "7(b)(7)";

(B) in subsection (a)(3), by striking "7(d)(4)" and inserting "7(b)(7)"; and

(C) in subsection (e)(2), by striking "made for purposes of the notification required under section 7(d)(1)(B)" and inserting "of the semiannual assessment to which such credit is applicable".

50 USC app. 2062 note.

SEC. 304. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be deemed to have become effective on March 1, 1992, except as otherwise specifically provided in this Act.

12 USC 1815 note.

SEC. 305. PROVISIONAL REPEAL OF DUPLICATIVE PROVISIONS.

In the event of the enactment of H.R. 5334 (An Act to amend and extend certain laws relating to housing and community development, and for other purposes), the following provisions of that Act, and the amendments made by such provisions, are repealed, effective on the date of enactment of this Act:

(1) Section 1603(a)(3) of such Act.

(2) Section 1604(a)(11) of such Act.

(3) Paragraphs (1), (2), and (3) of section 1604(b) of such Act.

(3) Paragraphs (2) through (7) of section 1605(a) of such Act.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 347 (H.R. 3039):

HOUSE REPORTS: No. 102-208, Pt. 1 (Comm. on Banking, Finance and Urban Affairs) and Pt. 2 (Comm. on Armed Services), both accompanying H.R. 3039, and No. 102-1028 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Feb. 21, considered and passed Senate.
Oct. 2, H.R. 3039 considered and passed House.
Oct. 10, S. 347 considered and passed House, amended, in lieu of H.R. 3039.

Vol. 138 (1992): Oct. 5, House agreed to conference report.
Oct. 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-559
102d Congress

An Act

To prohibit sports gambling under State law, and for other purposes.

Oct. 28, 1992
[S. 474]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Professional and Amateur Sports Protection Act. 28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Professional and Amateur Sports Protection Act".

SEC. 2. PROFESSIONAL AND AMATEUR SPORTS PROTECTION.

(a) IN GENERAL.—Part VI of title 28 of the United States Code is amended by adding at the end the following:

"CHAPTER 178—PROFESSIONAL AND AMATEUR SPORTS PROTECTION

"Sec.
"3701. Definitions.
"3702. Unlawful sports gambling.
"3703. Injunctions.
"3704. Applicability.

"§ 3701. Definitions

"For purposes of this chapter—

"(1) the term 'amateur sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more amateur athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(2) the term 'governmental entity' means a State, a political subdivision of a State, or an entity or organization, including an entity or organization described in section 4(5) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(5)), that has governmental authority within the territorial boundaries of the United States, including on lands described in section 4(4) of such Act (25 U.S.C. 2703(4)),

"(3) the term 'professional sports organization' means—

"(A) a person or governmental entity that sponsors, organizes, schedules, or conducts a competitive game in which one or more professional athletes participate, or

"(B) a league or association of persons or governmental entities described in subparagraph (A),

"(4) the term 'person' has the meaning given such term in section 1 of title 1, and

"(5) the term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Palau, or any territory or possession of the United States.

"§ 3702. Unlawful sports gambling

"It shall be unlawful for—

"(1) a governmental entity to sponsor, operate, advertise, promote, license, or authorize by law or compact, or

"(2) a person to sponsor, operate, advertise, or promote, pursuant to the law or compact of a governmental entity,

a lottery, sweepstakes, or other betting, gambling, or wagering scheme based, directly or indirectly (through the use of geographical references or otherwise), on one or more competitive games in which amateur or professional athletes participate, or are intended to participate, or on one or more performances of such athletes in such games.

"§ 3703. Injunctions

"A civil action to enjoin a violation of section 3702 may be commenced in an appropriate district court of the United States by the Attorney General of the United States, or by a professional sports organization or amateur sports organization whose competitive game is alleged to be the basis of such violation.

"§ 3704. Applicability

"(a) Section 3702 shall not apply to—

"(1) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity, to the extent that the scheme was conducted by that State or other governmental entity at any time during the period beginning January 1, 1976, and ending August 31, 1990;

"(2) a lottery, sweepstakes, or other betting, gambling, or wagering scheme in operation in a State or other governmental entity where both—

"(A) such scheme was authorized by a statute as in effect on October 2, 1991; and

"(B) a scheme described in section 3702 (other than one based on parimutuel animal racing or jai-alai games) actually was conducted in that State or other governmental entity at any time during the period beginning September 1, 1989, and ending October 2, 1991, pursuant to the law of that State or other governmental entity;

"(3) a betting, gambling, or wagering scheme, other than a lottery described in paragraph (1), conducted exclusively in casinos located in a municipality, but only to the extent that—

"(A) such scheme or a similar scheme was authorized, not later than one year after the effective date of this chapter, to be operated in that municipality; and

"(B) any commercial casino gaming scheme was in operation in such municipality throughout the 10-year period ending on such effective date pursuant to a comprehensive system of State regulation authorized by that State's constitution and applicable solely to such municipality; or

"(4) parimutuel animal racing or jai-alai games.

"(b) Except as provided in subsection (a), section 3702 shall apply on lands described in section 4(4) of the Indian Gaming Regulatory Act (25 U.S.C. 2703(4)).".

(b) CLERICAL AMENDMENTS.—The table of chapters for part VI of title 28, United States Code, is amended—

(1) by amending the item relating to chapter 176 to read as follows:

"176. Federal Debt Collection Procedure ..... 3001",

and

(2) by adding at the end the following:

"178. Professional and Amateur Sports Protection ..... 3701".

SEC. 3. EFFECTIVE DATE. 28 USC 3701 note.

This Act shall take effect on January 1, 1993.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 474:

SENATE REPORTS: No. 102-248 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 2, considered and passed Senate.
Oct. 5, considered and passed House, amended.
Oct. 7, Senate concurred in House amendments.

Public Law 102-560
102d Congress

An Act

To clarify that States, instrumentalities of States, and officers and employees of States acting in their official capacity, are subject to suit in Federal court by any person for infringement of patents and plant variety protections, and that all the remedies can be obtained in such suit that can be obtained in a suit against a private entity.

Oct. 28, 1992
[S. 758]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Patent and Plant Variety Protection Remedy Clarification Act.
7 USC 2321 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Patent and Plant Variety Protection Remedy Clarification Act".

SEC. 2. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PATENTS.

(a) LIABILITY AND REMEDIES.—(1) Section 271 of title 35, United States Code, is amended by adding at the end the following:

"(h) As used in this section, the term 'whoever' includes any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this title in the same manner and to the same extent as any nongovernmental entity.".

(2) Chapter 29 of title 35, United States Code, is amended by adding at the end the following new section:

"§ 296. Liability of States, instrumentalities of States, and State officials for infringement of patents

"(a) IN GENERAL.—Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of a patent under section 271, or for any other violation under this title.

"(b) REMEDIES.—In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 284, attorney fees under section 285, and the additional remedy for infringement of design patents under section 289.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 29 of title 35, United States Code, is amended by adding at the end the following new item:

"Sec. 296. Liability of States, instrumentalities of States, and State officials for infringement of patents.".

SEC. 3. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.

(a) INFRINGEMENT OF PLANT VARIETY PROTECTION.—Section 111 of the Plant Variety Protection Act (7 U.S.C. 2541) is amended—

(1) by inserting "(a)" before "Except as otherwise provided"; and

(2) by adding at the end thereof the following new subsection:

"(b) As used in this section, the term 'perform without authority' includes performance without authority by any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity. Any State, and any such instrumentality, officer, or employee, shall be subject to the provisions of this Act in the same manner and to the same extent as any nongovernmental entity.".

(b) LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION.—Chapter 12 of the Plant Variety Protection Act (7 U.S.C. 2561 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 130. LIABILITY OF STATES, INSTRUMENTALITIES OF STATES, AND STATE OFFICIALS FOR INFRINGEMENT OF PLANT VARIETY PROTECTION. 7 USC 2570.

"(a) Any State, any instrumentality of a State, and any officer or employee of a State or instrumentality of a State acting in his official capacity, shall not be immune, under the eleventh amendment of the Constitution of the United States or under any other doctrine of sovereign immunity, from suit in Federal court by any person, including any governmental or nongovernmental entity, for infringement of plant variety protection under section 111, or for any other violation under this title.

"(b) In a suit described in subsection (a) for a violation described in that subsection, remedies (including remedies both at law and in equity) are available for the violation to the same extent as such remedies are available for such a violation in a suit against any private entity. Such remedies include damages, interest, costs, and treble damages under section 124, and attorney fees under section 125.".

7 USC 2541 note.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act shall take effect with respect to violations that occur on or after the date of the enactment of this Act.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 758:

SENATE REPORTS: No. 102-280 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 12, considered and passed Senate.
Oct. 3, considered and passed House.

Public Law 102-561
102d Congress

An Act

To amend title 18, United States Code, with respect to the criminal penalties for copyright infringement.

Oct. 28, 1992
[S. 893]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR COPYRIGHT INFRINGEMENT.

Section 2319(b) of title 18, United States Code, is amended to read as follows:

"(b) Any person who commits an offense under subsection (a) of this section—

"(1) shall be imprisoned not more than 5 years, or fined in the amount set forth in this title, or both, if the offense consists of the reproduction or distribution, during any 180-day period, of at last 10 copies or phonorecords, of 1 or more copyrighted works, with a retail value of more than $2,500;

"(2) shall be imprisoned not more than 10 years, or fined in the amount set forth in this title, or both, if the offense is a second or subsequent offense under paragraph (1); and

"(3) shall be imprisoned not more than 1 year, or fined in the amount set forth in this title, or both, in any other case.".

SEC. 2. CONFORMING AMENDMENTS.

Section 2319(c) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "'sound recording', 'motion picture', 'audiovisual work', 'phonorecord'," and inserting "'phonorecord'"; and

(2) in paragraph (2) by striking "118" and inserting "120".

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 893:

HOUSE REPORTS: No. 102-997 (Comm. on the Judiciary).
SENATE REPORTS: No. 102-268 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 4, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 8, Senate concurred in House amendments.

Public Law 102-562
102d Congress

An Act

Oct. 28, 1992
[S. 1439]

To authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LAND CONVEYANCE

SEC. 101. FINDINGS.

The Congress finds and declares that—

(1) there is a history of adverse claims and title confusion relating to certain lands in Livingston Parish, Louisiana, arising from private land claims predating the Louisiana Purchase;

(2) numerous parties have in good faith placed valuable improvements upon such lands in the belief that they owned such lands; and

(3) the public interest will be best served by clarifying the uncertainty of title by conveying the interest of the United States in such lands to those affected parties.

SEC. 102. CONVEYANCE OF LANDS.

(a) IN GENERAL.—Notwithstanding any other provision of law, and subject to the reservation in subsection (b), the United States hereby grants all right, title, and interest of the United States in and to certain lands in Livingston Parish, Louisiana, as described in section 103, to those parties who, as of the date of enactment of this Act, would be recognized as holders of a right, title, or interest to any portion of such lands under the laws of the State of Louisiana, but for the interest of the United States in such lands.

(b) RESERVATION OF MINERAL RIGHTS.—The United States hereby excepts and reserves from the provisions of subsection (a) of this section, all minerals underlying such lands, along with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary of the Interior may prescribe.

SEC. 103. DESCRIPTION OF LANDS TO BE CONVEYED.

The lands to be conveyed pursuant to this title are those lands located in section 37, township 5 south, range 4 east, St. Helena Meridian, in Livingston Parish, Louisiana.

TITLE II—PORT CHICAGO NATIONAL MEMORIAL

Port Chicago National Memorial Act of 1992. California.

16 USC 431 note.

SEC. 201. SHORT TITLE.

This title may be referred to as the "Port Chicago National Memorial Act of 1992".

SEC. 202. FINDINGS.

The Congress hereby finds that—

(1) the Port Chicago Naval Magazine, located in Contra Costa County, California, served as the major West Coast munitions supply facility during World War II, during which time the facility played a critical role in the success of the war effort;

(2) on July 17, 1944, an explosion at Port Chicago, the origin of which has never been determined, resulted in the deaths of 320 officers and sailors, the largest domestic loss of life during World War II, and the injury of many others; and

(3) it is fitting and appropriate that the site of the Port Chicago Naval Magazine, which is currently included in the Concord Naval Weapons Station, be designated as a National Memorial to commemorate the role of the facility during World War II, to recognize those who served at the facility, and to honor the memory of those who gave their lives and were injured in the explosion on July 17, 1944.

SEC. 203. PORT CHICAGO NATIONAL MEMORIAL.

(a) DESIGNATION.—In order to recognize the critical role Port Chicago, located at the Concord Naval Weapons Station in Contra Costa County, California, played in the Second World War by serving as the main facility for the Pacific Theater and the historic importance of the explosion which occurred at the Port Chicago Naval Magazine on July 17, 1944, such Naval Magazine is hereby designated as a National Memorial, to be known as the Port Chicago Naval Magazine National Memorial. The Secretary of the Interior shall take appropriate action to assure that the Memorial is announced in the Federal Register and that official records and lists are amended, in due course, to reflect the inclusion of this memorial along with other national memorials established by an Act of Congress.

Federal Register, publication. Records.

(b) MARKER.—The Secretary of the Interior, with the concurrence of the Secretary of Defense, is authorized and directed to place at the site the Port Chicago Naval Magazine National Memorial, as designated under subsection (a), an appropriate plaque or marker commemorating the critical role Port Chicago played in the Second World War and the historic importance of the explosion which occurred at that location on July 17, 1944. The plaque or marker shall include a listing of the names of those who lost their lives during the explosion.

(c) PUBLIC ACCESS.—The Secretary of the Interior shall enter into a cooperative agreement with the Secretary of the Navy to provide for public access to the Memorial.

Contracts.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 1439:

HOUSE REPORTS: No. 102-948 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-284 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 12, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Oct. 8, Senate concurred in House amendments.

Public Law 102-563
102d Congress

An Act

To amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes.

Oct. 28, 1992
[S. 1623]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Audio Home Recording Act of 1992.
17 USC 1001 note.

This Act may be cited as the "Audio Home Recording Act of 1992".

SEC. 2. IMPORTATION, MANUFACTURE, AND DISTRIBUTION OF DIGITAL AUDIO RECORDING DEVICES AND MEDIA.

Title 17, United States Code, is amended by adding at the end the following:

"CHAPTER 10—DIGITAL AUDIO RECORDING DEVICES AND MEDIA

"SUBCHAPTER A—DEFINITIONS

"Sec.
"1001. Definitions.

"SUBCHAPTER B—COPYING CONTROLS

"1002. Incorporation of copying controls.

"SUBCHAPTER C—ROYALTY PAYMENTS

"1003. Obligation to make royalty payments.
"1004. Royalty payments.
"1005. Deposit of royalty payments and deduction of expenses.
"1006. Entitlement to royalty payments.
"1007. Procedures for distributing royalty payments.

"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

"1008. Prohibition on certain infringement actions.
"1009. Civil remedies.
"1010. Arbitration of certain disputes.

"SUBCHAPTER A—DEFINITIONS

"§ 1001. Definitions

"As used in this chapter, the following terms have the following meanings:

"(1) A 'digital audio copied recording' is a reproduction in a digital recording format of a digital musical recording, whether that reproduction is made directly from another digital musical recording or indirectly from a transmission.

"(2) A 'digital audio interface device' is any machine or device that is designed specifically to communicate digital audio information and related interface data to a digital audio recording device through a nonprofessional interface.

"(3) A 'digital audio recording device' is any machine or device of a type commonly distributed to individuals for use by individuals, whether or not included with or as part of some other machine or device, the digital recording function of which is designed or marketed for the primary purpose of, and that is capable of, making a digital audio copied recording for private use, except for—

"(A) professional model products, and

"(B) dictation machines, answering machines, and other audio recording equipment that is designed and marketed primarily for the creation of sound recordings resulting from the fixation of nonmusical sounds.

"(4)(A) A 'digital audio recording medium' is any material object in a form commonly distributed for use by individuals, that is primarily marketed or most commonly used by consumers for the purpose of making digital audio copied recordings by use of a digital audio recording device.

"(B) Such term does not include any material object—

"(i) that embodies a sound recording at the time it is first distributed by the importer or manufacturer; or

"(ii) that is primarily marketed and most commonly used by consumers either for the purpose of making copies of motion pictures or other audiovisual works or for the purpose of making copies of nonmusical literary works, including computer programs or data bases.

"(5)(A) A 'digital musical recording' is a material object—

"(i) in which are fixed, in a digital recording format, only sounds, and material, statements, or instructions incidental to those fixed sounds, if any, and

"(ii) from which the sounds and material can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.

"(B) A 'digital musical recording' does not include a material object—

"(i) in which the fixed sounds consist entirely of spoken word recordings, or

"(ii) in which one or more computer programs are fixed, except that a digital musical recording may contain statements or instructions constituting the fixed sounds and incidental material, and statements or instructions to be used directly or indirectly in order to bring about the perception, reproduction, or communication of the fixed sounds and incidental material.

"(C) For purposes of this paragraph—

"(i) a 'spoken word recording' is a sound recording in which are fixed only a series of spoken words, except that the spoken words may be accompanied by incidental musical or other sounds, and

"(ii) the term 'incidental' means related to and relatively minor by comparison.

"(6) 'Distribute' means to sell, lease, or assign a product to consumers in the United States, or to sell, lease, or assign a product in the United States for ultimate transfer to consumers in the United States.

"(7) An 'interested copyright party' is—

"(A) the owner of the exclusive right under section 106(1) of this title to reproduce a sound recording of a

musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

"(B) the legal or beneficial owner of, or the person that controls, the right to reproduce in a digital musical recording or analog musical recording a musical work that has been embodied in a digital musical recording or analog musical recording lawfully made under this title that has been distributed;

"(C) a featured recording artist who performs on a sound recording that has been distributed; or

"(D) any association or other organization—

"(i) representing persons specified in subparagraph (A), (B), or (C), or

"(ii) engaged in licensing rights in musical works to music users on behalf of writers and publishers.

"(8) To 'manufacture' means to produce or assemble a product in the United States. A 'manufacturer' is a person who manufactures.

"(9) A 'music publisher' is a person that is authorized to license the reproduction of a particular musical work in a sound recording.

"(10) A 'professional model product' is an audio recording device that is designed, manufactured, marketed, and intended for use by recording professionals in the ordinary course of a lawful business, in accordance with such requirements as the Secretary of Commerce shall establish by regulation.

"(11) The term 'serial copying' means the duplication in a digital format of a copyrighted musical work or sound recording from a digital reproduction of a digital musical recording. The term 'digital reproduction of a digital musical recording' does not include a digital musical recording as distributed, by authority of the copyright owner, for ultimate sale to consumers.

"(12) The 'transfer price' of a digital audio recording device or a digital audio recording medium—

"(A) is, subject to subparagraph (B)—

"(i) in the case of an imported product, the actual entered value at United States Customs (exclusive of any freight, insurance, and applicable duty), and

"(ii) in the case of a domestic product, the manufacturer's transfer price (FOB the manufacturer, and exclusive of any direct sales taxes or excise taxes incurred in connection with the sale); and

"(B) shall, in a case in which the transferor and transferee are related entities or within a single entity, not be less than a reasonable arms-length price under the principles of the regulations adopted pursuant to section 482 of the Internal Revenue Code of 1986, or any successor provision to such section.

"(13) A 'writer' is the composer or lyricist of a particular musical work.

"SUBCHAPTER B—COPYING CONTROLS

"§ 1002. Incorporation of copying controls

"(a) PROHIBITION ON IMPORTATION, MANUFACTURE, AND DISTRIBUTION.—No person shall import, manufacture, or distribute any digital audio recording device or digital audio interface device that does not conform to—

"(1) the Serial Copy Management System;

"(2) a system that has the same functional characteristics as the Serial Copy Management System and requires that copyright and generation status information be accurately sent, received, and acted upon between devices using the system's method of serial copying regulation and devices using the Serial Copy Management System; or

"(3) any other system certified by the Secretary of Commerce as prohibiting unauthorized serial copying.

"(b) DEVELOPMENT OF VERIFICATION PROCEDURE.—The Secretary of Commerce shall establish a procedure to verify, upon the petition of an interested party, that a system meets the standards set forth in subsection (a)(2).

"(c) PROHIBITION ON CIRCUMVENTION OF THE SYSTEM.—No person shall import, manufacture, or distribute any device, or offer or perform any service, the primary purpose or effect of which is to avoid, bypass, remove, deactivate, or otherwise circumvent any program or circuit which implements, in whole or in part, a system described in subsection (a).

"(d) ENCODING OF INFORMATION ON DIGITAL MUSICAL RECORDINGS.—

"(1) PROHIBITION ON ENCODING INACCURATE INFORMATION.—No person shall encode a digital musical recording of a sound recording with inaccurate information relating to the category code, copyright status, or generation status of the source material for the recording.

"(2) ENCODING OF COPYRIGHT STATUS NOT REQUIRED.—Nothing in this chapter requires any person engaged in the importation or manufacture of digital musical recordings to encode any such digital musical recording with respect to its copyright status.

"(e) INFORMATION ACCOMPANYING TRANSMISSIONS IN DIGITAL FORMAT.—Any person who transmits or otherwise communicates to the public any sound recording in digital format is not required under this chapter to transmit or otherwise communicate the information relating to the copyright status of the sound recording. Any such person who does transmit or otherwise communicate such copyright status information shall transmit or communicate such information accurately.

"SUBCHAPTER C—ROYALTY PAYMENTS

"§ 1003. Obligation to make royalty payments

"(a) PROHIBITION ON IMPORTATION AND MANUFACTURE.—No person shall import into and distribute, or manufacture and distribute, any digital audio recording device or digital audio recording medium unless such person records the notice specified by this section and subsequently deposits the statements of account and applicable royalty payments for such device or medium specified in section 1004.

"(b) FILING OF NOTICE.—The importer or manufacturer of any digital audio recording device or digital audio recording medium, within a product category or utilizing a technology with respect to which such manufacturer or importer has not previously filed a notice under this subsection, shall file with the Register of Copyrights a notice with respect to such device or medium, in such form and content as the Register shall prescribe by regulation. Regulations.

"(c) FILING OF QUARTERLY AND ANNUAL STATEMENTS OF ACCOUNT.—

"(1) GENERALLY.—Any importer or manufacturer that distributes any digital audio recording device or digital audio recording medium that it manufactured or imported shall file with the Register of Copyrights, in such form and content as the Register shall prescribe by regulation, such quarterly and annual statements of account with respect to such distribution as the Register shall prescribe by regulation. Regulations.

"(2) CERTIFICATION, VERIFICATION, AND CONFIDENTIALITY.—Each such statement shall be certified as accurate by an authorized officer or principal of the importer or manufacturer. The Register shall issue regulations to provide for the verification and audit of such statements and to protect the confidentiality of the information contained in such statements. Such regulations shall provide for the disclosure, in confidence, of such statements to interested copyright parties. Regulations.

"(3) ROYALTY PAYMENTS.—Each such statement shall be accompanied by the royalty payments specified in section 1004.

"§ 1004. Royalty payments

"(a) DIGITAL AUDIO RECORDING DEVICES.—

"(1) AMOUNT OF PAYMENT.—The royalty payment due under section 1003 for each digital audio recording device imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 2 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such device shall be required to pay the royalty with respect to such device.

"(2) CALCULATION FOR DEVICES DISTRIBUTED WITH OTHER DEVICES.—With respect to a digital audio recording device first distributed in combination with one or more devices, either as a physically integrated unit or as separate components, the royalty payment shall be calculated as follows:

"(A) If the digital audio recording device and such other devices are part of a physically integrated unit, the royalty payment shall be based on the transfer price of the unit, but shall be reduced by any royalty payment made on any digital audio recording device included within the unit that was not first distributed in combination with the unit.

"(B) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have been distributed separately at any time during the preceding 4 calendar quarters, the royalty payment shall be based on the average transfer price of such devices during those 4 quarters.

"(C) If the digital audio recording device is not part of a physically integrated unit and substantially similar devices have not been distributed separately at any time

during the preceding 4 calendar quarters, the royalty payment shall be based on a constructed price reflecting the proportional value of such device to the combination as a whole.

"(3) LIMITS ON ROYALTIES.—Notwithstanding paragraph (1) or (2), the amount of the royalty payment for each digital audio recording device shall not be less than $1 nor more than the royalty maximum. The royalty maximum shall be $8 per device, except that in the case of a physically integrated unit containing more than 1 digital audio recording device, the royalty maximum for such unit shall be $12. During the 6th year after the effective date of this chapter, and not more than once each year thereafter, any interested copyright party may petition the Copyright Royalty Tribunal to increase the royalty maximum and, if more than 20 percent of the royalty payments are at the relevant royalty maximum, the Tribunal shall prospectively increase such royalty maximum with the goal of having no more than 10 percent of such payments at the new royalty maximum; however the amount of any such increase as a percentage of the royalty maximum shall in no event exceed the percentage increase in the Consumer Price Index during the period under review.

"(b) DIGITAL AUDIO RECORDING MEDIA.—The royalty payment due under section 1003 for each digital audio recording medium imported into and distributed in the United States, or manufactured and distributed in the United States, shall be 3 percent of the transfer price. Only the first person to manufacture and distribute or import and distribute such medium shall be required to pay the royalty with respect to such medium.

"§ 1005. Deposit of royalty payments and deduction of expenses

"The Register of Copyrights shall receive all royalty payments deposited under this chapter and, after deducting the reasonable costs incurred by the Copyright Office under this chapter, shall deposit the balance in the Treasury of the United States as offsetting receipts, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing United States securities for later distribution with interest under section 1007. The Register may, in the Register's discretion, 4 years after the close of any calendar year, close out the royalty payments account for that calendar year, and may treat any funds remaining in such account and any subsequent deposits that would otherwise be attributable to that calendar year as attributable to the succeeding calendar year.

Reports. The Register shall submit to the Copyright Royalty Tribunal, on a monthly basis, a financial statement reporting the amount of royalties under this chapter that are available for distribution.

"§ 1006. Entitlement to royalty payments

"(a) INTERESTED COPYRIGHT PARTIES.—The royalty payments deposited pursuant to section 1005 shall, in accordance with the procedures specified in section 1007, be distributed to any interested copyright party—

"(1) whose musical work or sound recording has been—

"(A) embodied in a digital musical recording or an analog musical recording lawfully made under this title that has been distributed, and

"(B) distributed in the form of digital musical recordings or analog musical recordings or disseminated to the public in transmissions, during the period to which such payments pertain; and

"(2) who has filed a claim under section 1007.

"(b) ALLOCATION OF ROYALTY PAYMENTS TO GROUPS.—The royalty payments shall be divided into 2 funds as follows:

"(1) THE SOUND RECORDINGS FUND.—66⅔ percent of the royalty payments shall be allocated to the Sound Recordings Fund. 2⅝ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians or any successor entity) who have performed on sound recordings distributed in the United States. 1⅜ percent of the royalty payments allocated to the Sound Recordings Fund shall be placed in an escrow account managed by an independent administrator jointly appointed by the interested copyright parties described in section 1001(7)(A) and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the American Federation Television and Radio Artists or any successor entity) who have performed on sound recordings distributed in the United States. 40 percent of the remaining royalty payments in the Sound Recordings Fund shall be distributed to the interested copyright parties described in section 1001(7)(C), and 60 percent of such remaining royalty payments shall be distributed to the interested copyright parties described in section 1001(7)(A).

"(2) THE MUSICAL WORKS FUND.—

"(A) 33⅓ percent of the royalty payments shall be allocated to the Musical Works Fund for distribution to interested copyright parties described in section 1001(7)(B).

"(B)(i) Music publishers shall be entitled to 50 percent of the royalty payments allocated to the Musical Works Fund.

"(ii) Writers shall be entitled to the other 50 percent of the royalty payments allocated to the Musical Works Fund.

"(c) ALLOCATION OF ROYALTY PAYMENTS WITHIN GROUPS.—If all interested copyright parties within a group specified in subsection (b) do not agree on a voluntary proposal for the distribution of the royalty payments within each group, the Copyright Royalty Tribunal shall, pursuant to the procedures specified under section 1007(c), allocate royalty payments under this section based on the extent to which, during the relevant period—

"(1) for the Sound Recordings Fund, each sound recording was distributed in the form of digital musical recordings or analog musical recordings; and

"(2) for the Musical Works Fund, each musical work was distributed in the form of digital musical recordings or analog

musical recordings or disseminated to the public in transmissions.

"§ 1007. Procedures for distributing royalty payments

"(a) FILING OF CLAIMS AND NEGOTIATIONS.—

Regulations.

"(1) FILING OF CLAIMS.—During the first 2 months of each calendar year after the calendar year in which this chapter takes effect, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Tribunal a claim for payments collected during the preceding year in such form and manner as the Tribunal shall prescribe by regulation.

"(2) NEGOTIATIONS.—Notwithstanding any provision of the antitrust laws, for purposes of this section interested copyright parties within each group specified in section 1006(b) may agree among themselves to the proportionate division of royalty payments, may lump their claims together and file them jointly or as a single claim, or may designate a common agent, including any organization described in section 1001(7)(D), to negotiate or receive payment on their behalf; except that no agreement under this subsection may modify the allocation of royalties specified in section 1006(b).

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—Within 30 days after the period established for the filing of claims under subsection (a), in each year after the year in which this section takes effect, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Tribunal determines that no such controversy exists, the Tribunal shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a), after deducting its reasonable administrative costs under this section.

"(c) RESOLUTION OF DISPUTES.—If the Tribunal finds the existence of a controversy, it shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Tribunal shall, before authorizing the distribution of such royalty payments, deduct its reasonable administrative costs under this section.

"SUBCHAPTER D—PROHIBITION ON CERTAIN INFRINGEMENT ACTIONS, REMEDIES, AND ARBITRATION

"§ 1008. Prohibition on certain infringement actions

"No action may be brought under this title alleging infringement of copyright based on the manufacture, importation, or distribution of a digital audio recording device, a digital audio recording medium, an analog recording device, or an analog recording medium, or based on the noncommercial use by a consumer of such a device or medium for making digital musical recordings or analog musical recordings.

"§ 1009. Civil remedies

"(a) CIVIL ACTIONS.—Any interested copyright party injured by a violation of section 1002 or 1003 may bring a civil action in an appropriate United States district court against any person for such violation.

"(b) OTHER CIVIL ACTIONS.—Any person injured by a violation of this chapter may bring a civil action in an appropriate United States district court for actual damages incurred as a result of such violation.

"(c) POWERS OF THE COURT.—In an action brought under subsection (a), the court—

"(1) may grant temporary and permanent injunctions on such terms as it deems reasonable to prevent or restrain such violation;

"(2) in the case of a violation of section 1002, or in the case of an injury resulting from a failure to make royalty payments required by section 1003, shall award damages under subsection (d);

"(3) in its discretion may allow the recovery of costs by or against any party other than the United States or an officer thereof; and

"(4) in its discretion may award a reasonable attorney's fee to the prevailing party.

"(d) AWARD OF DAMAGES.—

"(1) DAMAGES FOR SECTION 1002 OR 1003 VIOLATIONS.—

"(A) ACTUAL DAMAGES.—(i) In an action brought under subsection (a), if the court finds that a violation of section 1002 or 1003 has occurred, the court shall award to the complaining party its actual damages if the complaining party elects such damages at any time before final judgment is entered.

"(ii) In the case of section 1003, actual damages shall constitute the royalty payments that should have been paid under section 1004 and deposited under section 1005. In such a case, the court, in its discretion, may award an additional amount of not to exceed 50 percent of the actual damages.

"(B) STATUTORY DAMAGES FOR SECTION 1002 VIOLATIONS.—

"(i) DEVICE.—A complaining party may recover an award of statutory damages for each violation of section 1002 (a) or (c) in the sum of not more than $2,500 per device involved in such violation or per device on which a service prohibited by section 1002(c) has been performed, as the court considers just.

"(ii) DIGITAL MUSICAL RECORDING.—A complaining party may recover an award of statutory damages for each violation of section 1002(d) in the sum of not more than $25 per digital musical recording involved in such violation, as the court considers just.

"(iii) TRANSMISSION.—A complaining party may recover an award of damages for each transmission or communication that violates section 1002(e) in the sum of not more than $10,000, as the court considers just.

"(2) REPEATED VIOLATIONS.—In any case in which the court finds that a person has violated section 1002 or 1003 within

3 years after a final judgment against that person for another such violation was entered, the court may increase the award of damages to not more than double the amounts that would otherwise be awarded under paragraph (1), as the court considers just.

"(3) INNOCENT VIOLATIONS OF SECTION 1002.—The court in its discretion may reduce the total award of damages against a person violating section 1002 to a sum of not less than $250 in any case in which the court finds that the violator was not aware and had no reason to believe that its acts constituted a violation of section 1002.

"(e) PAYMENT OF DAMAGES.—Any award of damages under subsection (d) shall be deposited with the Register pursuant to section 1005 for distribution to interested copyright parties as though such funds were royalty payments made pursuant to section 1003.

"(f) IMPOUNDING OF ARTICLES.—At any time while an action under subsection (a) is pending, the court may order the impounding, on such terms as it deems reasonable, of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that is in the custody or control of the alleged violator and that the court has reasonable cause to believe does not comply with, or was involved in a violation of, section 1002.

"(g) REMEDIAL MODIFICATION AND DESTRUCTION OF ARTICLES.—In an action brought under subsection (a), the court may, as part of a final judgment or decree finding a violation of section 1002, order the remedial modification or the destruction of any digital audio recording device, digital musical recording, or device specified in section 1002(c) that—

"(1) does not comply with, or was involved in a violation of, section 1002, and

"(2) is in the custody or control of the violator or has been impounded under subsection (f).

"§ 1010. Arbitration of certain disputes

"(a) SCOPE OF ARBITRATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to binding arbitration for the purpose of determining whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) INITIATION OF ARBITRATION PROCEEDINGS.—Parties agreeing to such arbitration shall file a petition with the Copyright Royalty Tribunal requesting the commencement of an arbitration proceeding. The petition may include the names and qualifications of potential arbitrators. Within 2 weeks after receiving such a petition, the Tribunal shall cause notice to be published in the Federal Register of the initiation of an arbitration proceeding. Such notice shall include the names and qualifications of 3 arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select, and from potential arbitrators listed in the parties' petition. The arbitrators selected under this subsection shall constitute an Arbitration Panel.

Federal Register, publication.

"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to arbitration under this section

shall, on application of one of the parties to the arbitration, be stayed until completion of the arbitration proceeding.

"(d) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding with respect to the matter concerned, in accordance with such procedures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any party to the arbitration may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(e) REPORT TO COPYRIGHT ROYALTY TRIBUNAL.—Not later than 60 days after publication of the notice under subsection (b) of the initiation of an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning whether the device concerned is subject to section 1002, or the basis on which royalty payments for the device are to be made under section 1003. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination.

"(f) ACTION BY THE COPYRIGHT ROYALTY TRIBUNAL.—Within 60 days after receiving the report of the Arbitration Panel under subsection (e), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly erroneous. If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting forth its decision and the reasons therefor. The Tribunal shall cause to be published in the Federal Register the determination of the Panel and the decision of the Tribunal under this subsection with respect to the determination (including any order issued under the preceding sentence). Federal Register, publication.

"(g) JUDICIAL REVIEW.—Any decision of the Copyright Royalty Tribunal under subsection (f) with respect to a determination of the Arbitration Panel may be appealed, by a party to the arbitration, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this subsection shall not stay the Tribunal's decision. The court shall have jurisdiction to modify or vacate a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal, that the Arbitration Panel or the Tribunal acted in an arbitrary manner. If the court modifies the decision of the Tribunal, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the decision of the Tribunal and remand the case for arbitration proceedings as provided in this section.".

SEC. 3. TECHNICAL AMENDMENTS.

(a) FUNCTIONS OF REGISTER.—Chapter 8 of title 17, United States Code is amended—

(1) in section 801(b)—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding the following new paragraph at the end:

"(4) to distribute royalty payments deposited with the Register of Copyrights under section 1003, to determine the distribution of such payments, and to carry out its other responsibilities under chapter 10"; and

(2) in section 804(d)—

(A) by inserting "or (4)" after "801(b)(3)"; and

(B) by striking "or 119" and inserting "119, or 1007".

(b) DEFINITIONS.—Section 101 of title 17, United States Code, is amended by striking "As used" and inserting "Except as otherwise provided in this title, as used".

(c) MASK WORKS.—Section 912 of title 17, United States Code, is amended—

(1) in subsection (a) by inserting "or 10" after "8"; and

(2) in subsection (b) by inserting "or 10" after "8".

(d) CONFORMING AMENDMENT TO SECTION 337 OF THE TARIFF ACT OF 1930.—The second sentence of section 337(b)(3) of the Tariff Act of 1930 (19 U.S.C. 1337(b)(3)) is amended to read as follows: "If the Commission has reason to believe that the matter before it (A) is based solely on alleged acts and effects which are within the purview of section 303, 671, or 673, or (B) relates to an alleged copyright infringement with respect to which action is prohibited by section 1008 of title 17, United States Code, the Commission shall terminate, or not institute, any investigation into the matter.".

17 USC 1001 note.

SEC. 4. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 1623 (H.R. 3204):

HOUSE REPORTS: No. 102-873, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Ways and Means) both accompanying H.R. 3204.
SENATE REPORTS: No. 102-294 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
June 17, considered and passed Senate.
Sept. 22, H.R. 3204 considered and passed House; S. 1623, amended, passed in lieu.
Oct. 7, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-564
102d Congress

An Act

To provide the Administrator of the Small Business Administration continued authority to administer the Small Business Innovation Research Program, and for other purposes.

Oct. 28, 1992
[S. 2941]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Research and Development Enhancement Act of 1992. 15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Research and Development Enhancement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Sec. 101. Short title.
Sec. 102. Findings and purposes.
Sec. 103. Amendments to small business innovation research program.
Sec. 104. Extension of SBIR program.
Sec. 105. Reports of the Comptroller General.
Sec. 106. Recommendations of the Secretary of Defense.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

Sec. 201. Short title.
Sec. 202. Establishment of small business technology transfer pilot program.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Discretionary technical assistance to SBIR awardees.
Sec. 302. Extension of the technology transfer demonstration program.
Sec. 303. Reporting requirements.
Sec. 304. Small Business Institutes.
Sec. 305. Additional SBIR and STTR provisions.
Sec. 306. Sense of the Congress concerning American-made equipment and products.
Sec. 307. Technical corrections.

TITLE I—SMALL BUSINESS INNOVATION RESEARCH PROGRAM

Small Business Innovation Research Program Reauthorization Act of 1992. 15 USC 631 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Small Business Innovation Research Program Reauthorization Act of 1992".

15 USC 638 note.

SEC. 102. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the small business innovation research program established under the Small Business Innovation Development Act of 1982 (hereafter in this Act referred to as the "SBIR" program) has been a successful method of involving small business concerns in Federal research and development;

(2) the small business innovation research program has been an effective catalyst for the development of technological innovations by small business concerns;

(3) small business innovation research program participants have provided high quality research and development in a cost-effective manner;

(4) the innovative products and services developed by small business concerns participating in the small business innovation research program have been important to the national defense, as well as to the missions of the other participating Federal agencies;

(5) the small business innovation research program has effectively stimulated the commercialization of technology developed through Federal research and development, benefiting both the public and private sectors of the Nation;

(6) by encouraging the development and commercialization of technological innovations, the small business innovation research program has created jobs, expanded business opportunities for small firms, stimulated the development of new products and services, and improved the competitiveness of the Nation's high technology industries;

(7) the small business innovation research program has also helped to increase exports from small business concerns;

(8) despite the general success of the small business innovation research program, the proportion of Federal research and development funds received by small business concerns has not increased over the life of the program, but has remained at 3 percent; and

(9) although the participating Federal agencies have successfully implemented most aspects of the small business innovation research program, additional outreach efforts are necessary to stimulate increased participation of socially and economically disadvantaged small business concerns.

(b) PURPOSES.—The purposes of this title are—

(1) to expand and improve the small business innovation research program;

(2) to emphasize the program's goal of increasing private sector commercialization of technology developed through Federal research and development;

(3) to increase small business participation in Federal research and development; and

(4) to improve the Federal Government's dissemination of information concerning the small business innovation research program, particularly with regard to program participation by women-owned small business concerns and by socially and economically disadvantaged small business concerns.

SEC. 103. AMENDMENTS TO SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

(a) DEFINITION OF THE SMALL BUSINESS INNOVATION RESEARCH PROGRAM.—Section 9(e)(4) of the Small Business Act (15 U.S.C. 638(e)(4)) is amended—

(1) in subparagraph (A), by inserting "that appear to have commercial potential, as described in subparagraph (B)(ii)," after "ideas"; and

(2) by striking subparagraphs (B) and (C) and inserting the following:

"(B) a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering, among other things, the proposal's commercial potential, as evidenced by—

"(i) the small business concern's record of successfully commercializing SBIR or other research;

"(ii) the existence of second phase funding commitments from private sector or non-SBIR funding sources;

"(iii) the existence of third phase, follow-on commitments for the subject of the research; and

"(iv) the presence of other indicators of the commercial potential of the idea; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of SBIR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-SBIR Federal funding awards; and

"(ii) for which awards from non-SBIR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria; and".

(b) REQUIRED EXPENDITURES FOR SBIR BY FEDERAL AGENCIES.—Section 9(f) of the Small Business Act (15 U.S.C. 638(f)) is amended to read as follows:

"(f) FEDERAL AGENCY EXPENDITURES FOR THE SBIR PROGRAM.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of $100,000,000 for fiscal year 1992, or any fiscal year thereafter, shall expend with small business concerns—

"(A) not less than 1.5 percent of such budget in each of fiscal years 1993 and 1994;

"(B) not less than 2.0 percent of such budget in each of fiscal years 1995 and 1996; and

"(C) not less than 2.5 percent of such budget in each fiscal year thereafter,

specifically in connection with SBIR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its SBIR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses; or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentages specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an SBIR program shall

not be considered to meet any portion of the percentage requirements of paragraph (1).".

(c) INCLUSION OF CERTAIN DEPARTMENT OF DEFENSE RESEARCH AND DEVELOPMENT ACTIVITIES.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended in paragraph (1), by striking "for the Department of Defense" and all that follows through "development" and inserting "for the Department of Energy it shall not include amounts obligated for atomic energy defense programs solely for weapons activities or for naval reactor programs".

(d) SBIR SOLICITATIONS.—Section 9(g) of the Small Business Act (15 U.S.C. 638(g)) is amended—

(1) by redesignating paragraphs (3) through (7) as paragraphs (4) through (8), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) unilaterally determine research topics within the agency's SBIR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified by—

"(A) the National Critical Technologies Panel (or its successor) in the 1991 report required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976, and in subsequent reports issued under that authority; or

"(B) the Secretary of Defense, in the 1992 report issued in accordance with section 2522 of title 10, United States Code, and in subsequent reports issued under that authority;".

(e) DEADLINE FOR FINAL PAYMENT UNDER SBIR FUNDING AGREEMENTS.—Section 9(g)(7) of the Small Business Act (15 U.S.C. 638(g)(7)) (as redesignated by subsection (d)(1)) is amended by inserting before the semicolon the following: "and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of completion of such requirements".

(f) MODIFICATIONS TO SBIR POLICY DIRECTIVES.—Section 9(j) of the Small Business Act (15 U.S.C. 638(j)) is amended—

(1) in paragraph (2), by redesignating subparagraphs (A) through (H) as clauses (i) through (viii), respectively;

(2) by redesignating paragraphs (1) through (7) as subparagraphs (A) through (G), respectively;

(3) by inserting before "The Small Business Administration" the following:

"(1) POLICY DIRECTIVES.—"; and

(4) by adding at the end the following new paragraph:

"(2) MODIFICATIONS.—Not later than 90 days after the date of enactment of the Small Business Research and Development Enhancement Act of 1992, the Administrator shall modify the policy directives issued pursuant to this subsection to provide for—

"(A) retention by a small business concern of the rights to data generated by the concern in the performance of an SBIR award for a period of not less than 4 years;

"(B) continued use by a small business concern participating in the third phase of the SBIR program, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase

of an SBIR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(C) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an SBIR program enters into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production;

"(D) an increase to $100,000 in the amount of funds which an agency may award in the first phase of an SBIR program, and to $750,000 in the second phase of an SBIR program, and an adjustment of such amounts once every 5 years to reflect economic adjustments and programmatic considerations;

"(E) a process for notifying the participating SBIR agencies and potential SBIR participants of the 1991, 1992, and the current critical technologies, as identified—

"(i) by the National Critical Technologies Panel (or its successor), in accordance with section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(ii) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(F) enhanced outreach efforts to increase the participation of socially and economically disadvantaged small business concerns, as defined in section 8(a)(4), and the participation of small businesses that are 51 percent owned and controlled by women in technological innovation and in SBIR programs, including the third phase of such programs, and the collection of data to document such participation;

"(G) technical and programmatic guidance to encourage agencies to develop gap-funding programs to address the delay between an award for the first phase of an SBIR program and the application for and extension of an award for the second phase of such program;

"(H) procedures to ensure that a small business concern that submits a proposal for a funding agreement for the first phase of an SBIR program and that has received more than 15 second phase SBIR awards during the preceding 5 fiscal years is able to demonstrate the extent to which it was able to secure third phase funding to develop concepts resulting from previous second phase SBIR awards; and

"(I) procedures to ensure that agencies participating in the SBIR program retain the information submitted under subparagraph (H) at least until the General Accounting Office submits the report required under section 105 of the Small Business Research and Development Enhancement Act of 1992.".

(g) ELIMINATION OF SURVEYING AND REPORTING REQUIREMENT.—Section 9(k) of the Small Business Act (15 U.S.C. 638(k)) is amended to read as follows:

"(k) [Reserved].".

(h) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

(1) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(*l*) REPORTING OF AWARDS MADE FROM SINGLE PROPOSAL, TO MULTIPLE AWARD WINNERS, OR TO CRITICAL TECHNOLOGY TOPICS.—

"(1) SINGLE PROPOSAL.—If a Federal agency required to establish an SBIR program under subsection (f) makes an award with respect to an SBIR solicitation topic or subtopic for which the agency received only 1 proposal, the agency shall provide written justification for making the award in its next quarterly report to the Administration and in the agency's next annual report required under subsection (g)(8).

"(2) MULTIPLE AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8) an accounting of the awards the agency has made for the first phase of an SBIR program during the reporting period to entities that have received more than 15 awards for the second phase of an SBIR program during the preceding 5 fiscal years.

"(3) CRITICAL TECHNOLOGY AWARDS.—An agency referred to in paragraph (1) shall include in its next annual report required under subsection (g)(8), an accounting of the number of awards it has made to critical technology topics, as defined in subsection (g)(3), including an identification of the specific critical technologies topics, and the percentage by number and dollar amount of the agency's total SBIR awards to such critical technology topics.".

(2) CONFORMING AMENDMENT.—Section 9(g)(5) of the Small Business Act (15 U.S.C. 638(g)(5)) (as redesignated by subsection (d)) is amended by inserting "subject to subsection (*l*)," before "unilaterally".

(i) INFORMATION ON ALLOWABLE EXPENSES.—Section 9(g)(5) of the Small Business Act (as redesignated by subsection (d)) is amended by inserting before the semicolon the following: "and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement".

SEC. 104. EXTENSION OF SBIR PROGRAM.

15 USC 638 and note.

(a) REPEAL PROVISION.—Section 5 of the Small Business Innovation Development Act of 1982 is hereby repealed.

(b) TERMINATION DATE.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(m) TERMINATION.—The authorization to carry out the Small Business Innovation Research Program under this section shall terminate on October 1, 2000.".

15 USC 638 note.

SEC. 105. REPORTS OF THE COMPTROLLER GENERAL.

(a) INTERIM REPORT.—

(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress an interim report concerning the quality of research performed under SBIR program funding agreements entered into during fiscal year 1993 and thereafter. Copies of the interim report shall be furnished to each agency that has participated in the SBIR program in fiscal year 1993 or thereafter.

(2) CONTENTS OF REPORT.—The Comptroller General shall include in the interim report required under paragraph (1)—

(A) an assessment of the quality of the research performed under the SBIR program funding agreements entered into by each agency that has participated in the SBIR program beginning in fiscal year 1993 or thereafter, specifically addressing—

(i) with respect to each such agency, whether or not there has been a demonstrable reduction in research quality; and

(ii) in the case of such reduction, whether an increase in each such agency's required SBIR participation in accordance with section 9(f)(1) of the Small Business Act (as amended by subsection (b) of this section) would adversely affect the performance of the agency's research programs;

(B) an analysis of the program authorized by section 301 of the Small Business Research and Development Enhancement Act of 1992, considering, among other things—

(i) the extent to which each SBIR agency has implemented the program and the extent to which the program has improved the quality of agency-sponsored research and development;

(ii) the effect of the program on recipient companies' ability to develop and commercialize technology;

(iii) the cost of the program and the average cost per recipient company; and

(iv) the extent to which SBIR companies continue to use the service after completion of the program; and

(C) such other factors as the Comptroller General may deem appropriate.

(b) FINAL REPORT.—The Comptroller General of the United States shall transmit to the Congress a final report containing—

(1) a review of the progress made by Federal agencies in meeting the requirements of section 9(f) of the Small Business Act (as amended by this Act), including increases in expenditures required by that subsection;

(2) an analysis of participation by small business concerns in the third phase of SBIR programs, including a systematic evaluation of the techniques adopted by Federal agencies to foster commercialization;

(3) an analysis of the extent to which awards under SBIR programs are made pursuant to section 9(*l*) of the Small Business Act (as added by section 103(h)) in cases in which a program solicitation receives only 1 proposal;

(4) an analysis of the extent to which awards in the first phase of the SBIR program are made to small business concerns that have received more than 15 second phase awards under the SBIR program in the preceding 5 fiscal years, considering—

(A) the extent to which such concerns were able to secure Federal or private sector follow-on funding;

(B) the extent to which the research developed under such awards was commercialized; and

(C) the amount of commercialization of research developed under such awards, as compared to the amount of commercialization of SBIR research for the entire SBIR program;

(5) the results of periodic random audits of the extramural budget of each such Federal agency;

(6) a review of the extent to which the purposes of this title and the Small Business Innovation Development Act of 1982 have been met with regard to fostering and encouraging the participation of women-owned small business concerns and socially and economically disadvantaged small business concerns (as defined in the Small Business Act) in technological innovation, in general, and the SBIR program, in particular;

(7) an analysis of the effectiveness of the SBIR program in promoting the development of the critical technologies identified by the Secretary of Defense and the National Critical Technologies Panel (or its successor), as described in subparagraph 9(j)(2)(E) of the Small Business Act;

(8) an analysis of the impact of agency application review periods and funding cycles on SBIR program awardees' financial status and ability to commercialize; and

(9) recommendations to the Congress for tracking the extent to which foreign firms, or United States firms with substantial foreign ownership interests, benefit from technology or products developed as a direct result of SBIR research or research and development.

(c) DATES OF SUBMISSION.—The report required—

(1) under subsection (a), shall be submitted to the Congress not later than March 31, 1995; and

(2) under subsection (b), shall be submitted to the Congress not later than 5 years after the date of enactment of this title.

15 USC 638 note.

SEC. 106. RECOMMENDATIONS OF THE SECRETARY OF DEFENSE.

Not later than March 31, 1996, the Secretary of Defense shall submit a recommendation to the Congress addressing whether there has been a demonstrable reduction in the quality of research performed under the SBIR program since the beginning of fiscal year 1993, such that increasing the percentage under section 9(f)(1)(C) of the Small Business Act (as amended by section 103 of this Act) would adversely affect the performance of the research programs of the Department of Defense.

Small Business Technology Transfer Act of 1992.

TITLE II—SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM

15 USC 631 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Small Business Technology Transfer Act of 1992".

SEC. 202. ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM.

(a) ADDITIONAL SBA DUTIES.—Section 9(b) of the Small Business Act (15 U.S.C. 638(b)) is amended—

(1) in paragraph (4), by inserting "and small business technology transfer pilot programs" after "small business innovation research programs"; and

(2) in paragraphs (5), (6), and (7), by inserting "and STTR" after "SBIR" each place such term appears.

(b) SMALL BUSINESS TECHNOLOGY TRANSFER PILOT PROGRAM DEFINED.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (4), by striking "and" at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) the term 'Small Business Technology Transfer Program' or 'STTR' means a pilot program under which a portion of a Federal agency's extramural research or research and development effort is reserved for award to small business concerns for cooperative research and development through a uniform process having—

"(A) a first phase, to determine, to the extent possible, the scientific, technical, and commercial merit and feasibility of ideas submitted pursuant to STTR program solicitations;

"(B) a second phase, to further develop proposed ideas to meet particular program needs, in which awards shall be made based on the scientific, technical, and commercial merit and feasibility of the idea, as evidenced by the first phase and by other relevant information; and

"(C) where appropriate, a third phase—

"(i) in which commercial applications of STTR-funded research or research and development are funded by non-Federal sources of capital or, for products or services intended for use by the Federal Government, by follow-on non-STTR Federal funding awards; and

"(ii) for which awards from non-STTR Federal funding sources are used for the continuation of research or research and development that has been competitively selected using peer review or scientific review criteria;

"(7) the term 'cooperative research and development' means research or research and development conducted jointly by a small business concern and a research institution in which not less than 40 percent of the work is performed by the small business concern, and not less than 30 percent of the work is performed by the research institution; and

"(8) the term 'research institution' means a nonprofit institution, as defined in section 4(5) of the Stevenson-Wydler Technology Innovation Act of 1980, and includes federally funded research and development centers, as identified by the National Scientific Foundation in accordance with the governmentwide Federal Acquisition Regulation issued in accordance with section 35(c)(1) of the Office of Federal Procurement Policy Act (or any successor regulation thereto).".

Decorations, medals, awards. Contracts.

(c) ESTABLISHMENT OF SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS BY CERTAIN FEDERAL AGENCIES.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsections:

"(n) REQUIRED EXPENDITURES FOR STTR BY FEDERAL AGENCIES.—

"(1) REQUIRED EXPENDITURE AMOUNTS.—Each Federal agency which has an extramural budget for research or research and development in excess of $1,000,000,000 in fiscal year

1994, 1995, or 1996, is authorized to expend with small business concerns—

"(A) not less than 0.05 percent of such budget in fiscal year 1994;

"(B) not less than 0.1 percent of such budget in fiscal year 1995; and

"(C) not less than 0.15 percent of such budget in fiscal year 1996,

specifically in connection with STTR programs which meet the requirements of this section, policy directives, and regulations issued under this section.

"(2) LIMITATIONS.—A Federal agency shall not—

"(A) use any of its STTR budget established pursuant to paragraph (1) for the purpose of funding administrative costs of the program, including costs associated with salaries and expenses, or, in the case of a small business concern or a research institution, costs associated with salaries, expenses, and administrative overhead (other than those direct or indirect costs allowable under guidelines of the Office of Management and Budget and the governmentwide Federal Acquisition Regulation issued in accordance with section 25(c)(1) of the Office of Federal Procurement Policy Act); or

"(B) make available for the purpose of meeting the requirements of paragraph (1) an amount of its extramural budget for basic research which exceeds the percentage specified in paragraph (1).

"(3) EXCLUSION OF CERTAIN FUNDING AGREEMENTS.—Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than an STTR program shall not be considered to meet any portion of the percentage requirements of paragraph (1).

"(o) FEDERAL AGENCY STTR AUTHORITY.—Each Federal agency required to establish an STTR program in accordance with subsection (n) and regulations issued under this Act, shall—

"(1) unilaterally determine categories of projects to be included in its STTR program;

"(2) issue STTR solicitations in accordance with a schedule determined cooperatively with the Administration;

"(3) unilaterally determine research topics within the agency's STTR solicitations, giving special consideration to broad research topics and to topics that further 1 or more critical technologies, as identified—

"(A) by the National Critical Technologies Panel (or its successor) in reports required under section 603 of the National Science and Technology Policy, Organization, and Priorities Act of 1976; or

"(B) by the Secretary of Defense, in accordance with section 2522 of title 10, United States Code;

"(4) unilaterally receive and evaluate proposals resulting from STTR solicitations;

"(5) unilaterally select awardees for its STTR funding agreements and inform each awardee under such an agreement, to the extent possible, of the expenses of the awardee that will be allowable under the funding agreement;

"(6) administer its own STTR funding agreements (or delegate such administration to another agency);

"(7) make payments to recipients of STTR funding agreements on the basis of progress toward or completion of the funding agreement requirements and, in all cases, make payment to recipients under such agreements in full, subject to audit, on or before the last day of the 12-month period beginning on the date of the completion of such requirements;

"(8) submit an annual report on the STTR program to the Administration and the Office of Science and Technology Policy; Reports.

"(9) develop a model agreement not later than July 31, 1993, to be approved by the Administration, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(10) develop, in consultation with the Office of Federal Procurement Policy and the Office of Government Ethics, procedures to ensure that federally funded research and development centers (as defined in subsection (e)(8)) that participate in STTR agreements—

"(A) are free from organizational conflicts of interests relative to the STTR program;

"(B) do not use privileged information gained through work performed for an STTR agency or private access to STTR agency personnel in the development of an STTR proposal; and

"(C) use outside peer review, as appropriate; and

"(11) not later than July 31, 1993, develop procedures for assessing the commercial merit and feasibility of STTR proposals, as evidenced by—

"(A) the small business concern's record of successfully commercializing STTR or other research;

"(B) the existence of second phase funding commitments from private sector or non-STTR funding sources;

"(C) the existence of third phase follow-on commitments for the subject of the research; and

"(D) the presence of other indicators of the commercial potential of the idea.

"(p) STTR POLICY DIRECTIVE.—

"(1) ISSUANCE.—The Administrator shall issue a policy directive for the general conduct of the STTR programs within the Federal Government. Such policy directive shall be issued after consultation with—

"(A) the heads of each of the Federal agencies required by subsection (n) to establish an STTR program;

"(B) the Commissioner of Patents and Trademarks; and

"(C) the Director of the Office of Federal Procurement Policy.

"(2) CONTENTS.—The policy directive required by paragraph (1) shall provide for—

"(A) simplified, standardized, and timely STTR solicitations;

"(B) a simplified, standardized funding process that provides for—

"(i) the timely receipt and review of proposals;

"(ii) outside peer review, if appropriate;

"(iii) protection of proprietary information provided in proposals;

"(iv) selection of awardees;

"(v) retention by a small business concern of the rights to data generated by the concern in the performance of an STTR award for a period of not less than 4 years;

"(vi) continued use by a small business concern, as a directed bailment, of any property transferred by a Federal agency to the small business concern in the second phase of the STTR program for a period of not less than 2 years, beginning on the initial date of the concern's participation in the third phase of such program;

"(vii) cost sharing;

"(viii) cost principles and payment schedules; and

"(ix) 1-year awards for the first phase of an STTR program, generally not to exceed $100,000, and 2-year awards for the second phase of an STTR program, generally not to exceed $500,000, greater or lesser amounts to be awarded at the discretion of the awarding agency;

"(C) minimizing regulatory burdens associated with participation in STTR programs;

"(D) guidelines for a model agreement, to be used by all agencies, for allocating between small business concerns and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization;

"(E) procedures to ensure that—

"(i) a recipient of an STTR award is a small business concern, as defined in section 3 and the regulations promulgated thereunder; and

"(ii) such small business concern exercises management and control of the performance of the STTR funding agreement pursuant to a business plan providing for the commercialization of the technology that is the subject matter of the award; and

"(F) procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development, or production of a technology developed by a small business concern under an STTR program enters into follow-on, non-STTR funding agreements with the small business concern for such research, development, or production.".

Printing. 15 USC 638 note.

(d) TIMING OF ISSUANCE OF POLICY DIRECTIVE.—The policy directive required by section 9(p) of the Small Business Act (as added by subsection (c) of this section) shall be published—

(1) in proposed form (with an opportunity for public comment of not less than 30 days), not later than April 30, 1993; and

(2) in final form, not later than July 31, 1993.

15 USC 638 note.

(e) REPORT OF THE COMPTROLLER GENERAL.—Not later than March 31, 1996, the Comptroller General of the United States shall submit a report to the Congress and the head of each agency

that is required to make expenditures under the STTR program that—

(1) sets forth the Comptroller General's assessment, with respect to each such agency, of—

(A) the quality of research performed under funding agreements awarded by that agency under the STTR program since the beginning of the program;

(B) whether or not the STTR program has affected the performance of that agency's research programs; and

(C) the commercial potential of research conducted under the STTR program, if sufficient data is available;

(2) contains the Comptroller General's assessment as to the effects of the STTR program, if any, on the research quality and goals of the SBIR program; and

(3) determines the agencies and the federally-funded research and development centers' compliance with the procedures developed under section 9(g)(10) of the Small Business Act, as amended by this section.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. DISCRETIONARY TECHNICAL ASSISTANCE TO SBIR AWARDEES.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following new subsection:

"(q) DISCRETIONARY TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—Each Federal agency required by this section to conduct an SBIR program may enter into an agreement with a vendor selected under paragraph (2) to provide small business concerns engaged in SBIR projects with technical assistance services, such as access to a network of scientists and engineers engaged in a wide range of technologies, or access to technical and business literature available through on-line data bases, for the purpose of assisting such concerns in—

"(A) making better technical decisions concerning such projects;

"(B) solving technical problems which arise during the conduct of such projects;

"(C) minimizing technical risks associated with such projects; and

"(D) developing and commercializing new commercial products and processes resulting from such projects.

"(2) VENDOR SELECTION.—Annually, each agency may select a vendor for purposes of this subsection using competitive, merit-based criteria, to assist small business concerns to meet the goals listed in paragraph (1).

"(3) ADDITIONAL TECHNICAL ASSISTANCE.—

"(A) FIRST PHASE.—Each agency referred to in paragraph (1) may provide services described in paragraph (1) to first phase SBIR award recipients in an amount equal to not more than $4,000, which sha'l be in addition to the amount of the recipient's award.

"(B) SECOND PHASE.—Each agency referred to in paragraph (1) may authorize any second phase SBIR award recipient to purchase, with funds available from their SBIR awards, services described in paragraph (1), in an amount equal to not more than $4,000 per year.

SEC. 302. EXTENSION OF THE TECHNOLOGY TRANSFER DEMONSTRATION PROGRAM.

Section 231 of the Small Business Administration Reauthorization and Amendments Act of 1990 (15 U.S.C. 648 note) is amended—

(1) in subsection (g), by striking "1993" and inserting "1995"; and

(2) in subsection (i), by striking "1991, 1992, and" and inserting "1994 and 1995".

SEC. 303. REPORTING REQUIREMENTS.

(a) REPORT ON DEFICIENT SUBCONTRACTING PLANS.—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraph (12) as paragraph (11).

(b) SMALL PURCHASES FROM FEDERAL PRISON INDUSTRIES.—Section 4124(c) of title 18, United States Code, is amended in the first sentence by striking "to the General Services Administration" and all that follows through "Procurement Policy Act" and inserting "acquisitions of products and services from Federal Prison Industries to the Federal Procurement Data System (as referred to in section 6(d)(4) of the Office of Federal Procurement Policy Act) in the same manner as it reports other acquisitions".

SEC. 304. SMALL BUSINESS INSTITUTES.

Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively; and

(2) by inserting after subparagraph (D) the following:

"(E) In carrying out its functions under subparagraph (A), to make grants (including contracts and cooperative agreements) to any public or private institution of higher education for the establishment and operation of a small business institute, which shall be used to provide business counseling and assistance to small business concerns through the activities of students enrolled at the institution, which students shall be entitled to receive educational credits for their activities.".

SEC. 305. ADDITIONAL SBIR AND STTR PROVISIONS.

Section 9 of the Small Business Act (15 U.S.C. 638), is amended by adding at the end the following new subsection:

"(r) THIRD PHASE AGREEMENTS.—

"(1) IN GENERAL.—In the case of a small business concern that is awarded a funding agreement for the second phase of an SBIR or STTR program, a Federal agency may enter into a third phase agreement with that business concern for additional work to be performed during or after the second phase period. The second phase funding agreement with the small business concern may, at the discretion of the agency awarding the agreement, set out the procedures applicable to third phase agreements with that agency or any other agency.

"(2) DEFINITION.—In this subsection, the term 'third phase agreement' means a follow-on, non-SBIR or non-STTR funded contract as described in paragraph (4)(C) or paragraph (6)(C) of subsection (e).

"(3) INTELLECTUAL PROPERTY RIGHTS.—Each funding agreement under an SBIR or STTR program shall include provisions setting forth the respective rights of the United States and the small business concern with respect to intellectual property rights and with respect to any right to carry out follow-on research.".

SEC. 306. SENSE OF THE CONGRESS CONCERNING AMERICAN-MADE EQUIPMENT AND PRODUCTS.

15 USC 638 note.

Decorations, medals, awards. Contracts.

(a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that an entity that is awarded a funding agreement under the SBIR program of a Federal agency under section 9 of the Small Business Act should, when purchasing any equipment or a product with funds provided through the funding agreement, purchase only American-made equipment and products, to the extent possible in keeping with the overall purposes of that program.

(b) NOTICE TO SBIR AWARDEES.—Each Federal agency that awards funding agreements under the SBIR program shall provide to each recipient of such an award a notice describing the sense of the Congress, as set forth in subsection (a).

SEC. 307. TECHNICAL CORRECTIONS.

(a) SMALL BUSINESS PARTICIPATION RATES.—Section 714(b)(4) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note, 102 Stat. 3892) is amended by inserting "or other services in support of such contracts" after "(including surveying and mapping)".

(b) MICROLOAN PROGRAM FUNDING.—Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended—

(1) in subparagraph (A), by adding at the end the following: "If, at the end of fiscal year 1992, the Administration has funded less than 50 microloan programs under this subparagraph, the Administration may, in fiscal year 1993, fund a number of additional microloan programs equal to the difference between 50 and the number of microloan programs actually funded in fiscal year 1992."; and

(2) in subparagraph (B), by striking "In the second" and inserting "In addition to any microloan programs authorized to be funded in fiscal year 1993 in accordance with subparagraph (A), in the second".

(c) DEFINITION OF INTERMEDIARY.—Section 7(m)(11)(A)(ii) of the Small Business Act (15 U.S.C. 636(m)(11)(A)(ii)) is amended by inserting "private," before "nonprofit".

(d) SECONDARY LOAN MARKETS.—Section 5(f)(4) of the Small Business Act (15 U.S.C. 634(f)(4)) is amended by striking "5(e), 7(a)(6), or 7(a)(8)" and inserting "7(a)(6)(C) or subsection (e) of this section".

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 2941:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 3, considered and passed Senate.
Oct. 5, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 28, Presidential statement.

Public Law 102-565
102d Congress

An Act

To amend the Peace Corps Act to authorize appropriations for the Peace Corps for fiscal year 1993 and to establish a Peace Corps foreign exchange fluctuations account, and for other purposes.

Oct. 28, 1992
[S. 3309]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 3(b) of the Peace Corps Act (22 U.S.C. 2502(b)) is amended to read as follows:

"(b) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this Act $218,146,000 for fiscal year 1993, which are authorized to remain available until September 30, 1994.".

SEC. 2. PEACE CORPS FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIO ACCOUNT.—The Peace Corps Act (22 U.S.C. 2501 et seq.) is amend by inserting after section 15 the following new section:

"SEC. 16. FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.

22 USC 2515.

"(a) ESTABLISHMENT.—(1) There is established in the Treasury of the United States an account to be known as the 'Foreign Currency Fluctuations, Peace Corps, Account'. The account shall be used for the purpose of providing funds to pay expenses for operations of the Peace Corps outside the United States which, as a result of fluctuations in currency exchange rates, exceed the amount appropriated for such expenses.

"(2) Funds in the account may be transferred, upon the certification of the Director of the Peace Corps (or the Director's designee) that the transfer is necessary for the purpose specified in paragraph (1), to the account containing funds appropriated for the expenses of the Peace Corps.

"(b) USE OF FUNDS IN THE ACCOUNT.—Funds transferred under subsection (a) shall be merged with, and be available for the same time period, as the appropriation to which they are applied. Notwithstanding any provision of law limiting the amount of funds the Peace Corps may obligate in any fiscal year, such amount shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) EXCHANGE RATES APPLICABLE TO OBLIGATIONS.—An obligation of the Peace Corps payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) TRANSFERS BACK TO ACCOUNT.—Funds transferred from the Foreign Currency Fluctuations, Peace Corps, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) LIMITATION ON TRANSFERS BACK.—A transfer of funds back to the account under subsection (d) may not be made after the end of the fiscal year or other period for which the appropriation, to which the funds were originally transferred, is available for obligation.

"(f) TRANSFERS TO THE ACCOUNT FROM REGULAR APPROPRIATIONS.—(1) At the end of the fiscal year or other period for which appropriations for the expenses of the Peace Corps are made available, unobligated balances of such appropriation may be transferred into the Foreign Currency Fluctuations, Peace Corps, Account, to be merged with, and to be available for the same period and purposes as, that account.

"(2) The authority of this subsection shall be exercised only to the extent that specific amounts are provided in advance in an appropriation Act.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Foreign Currency Fluctuations, Peace Corps, Account for each fiscal year such sums as may be necessary to maintain a balance of $5,000,000 in such account at the beginning of such fiscal year.

"(h) REPORTS.—Each year the Director of the Peace Corps shall submit to the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives, and to the Committee on Foreign Relations and the Committee on Appropriations of the Senate, a report on funds transferred under this section.".

22 USC 2515 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1992.

22 USC 2504 note.

SEC. 3. EVALUATION OF HEALTH-CARE SERVICES PROVIDED TO PEACE CORPS VOLUNTEERS.

Contracts.

(a) IN GENERAL.—The Director of the Peace Corps shall contract with an eligible organization or organizations to conduct before January 1, 1997, a total of three evaluations of the health-care needs of the Peace Corps volunteers and the adequacy of the system through which the Peace Corps provides health-care services in meeting those needs.

(b) REQUIREMENTS OF THE EVALUATIONS.—Each evaluation shall include an assessment of the adequacy of the Peace Corps health-care system—

(1) to provide diagnostic, treatment, and referral services to meet the health-care needs of Peace Corps volunteers, and

(2) to conduct health examinations of applicants for enrollment as Peace Corps volunteers and to provide immunization and dental care preparatory to service of applicants for enrollment who have accepted an invitation to begin a period of training for service as a Peace Corps volunteer.

(c) REPORTS TO THE PEACE CORPS.—An organization making an evaluation under this section shall submit to the Director of the Peace Corps a report containing its findings and rec-

ommendations not later than May 31, 1993, December 31, 1994, and December 31, 1996, as the case may be. Each report shall include recommendations regarding appropriate standards and procedures for ensuring the furnishing of quality medical care and for measuring the quality of care provided to Peace Corps volunteers.

(d) REPORT TO CONGRESS.—Not later than 90 days after receipt of a report required by subsection (c), the Director of the Peace Corps shall transmit the report, together with the Director's comments, to the appropriate congressional committees.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "eligible organization" means an independent health-care accreditation organization or other independent organization with expertise in evaluating health-care systems similar to that of the Peace Corps.

SEC. 4. REPORTING REQUIREMENT ON EMPLOYMENT-RELATED MATTERS.

(a) IN GENERAL.—Not later than May 31, 1992, the Director of the Peace Corps and the Secretary of Labor shall jointly submit to the appropriate congressional committees a report which describes—

(1) the information provided by the Peace Corps to its volunteers and to applicants for volunteer service in the Peace Corps regarding the benefits and services to which Peace Corps volunteers or trainees may be entitled or for which they may be eligible in the event that they sustain injuries or become disabled during their service, or their training for service, with the Peace Corps;

(2) the efforts by the Peace Corps and the Department of Labor to coordinate the provision of such information to Peace Corps volunteer-applicants and volunteers and the processing of claims by Peace Corps volunteers under the Federal Employees Compensation Act (FECA);

(3) the number of Peace Corps volunteers and volunteer-applicants who have filed claims under the Federal Employees Compensation Act (FECA) and the percentage of the claims that have been approved; and

(4) the timeliness of approvals or denials of claims of Peace Corps volunteers and volunteer-applicants under the Federal Employees Compensation Act (FECA).

(b) RECOMMENDATIONS.—The report required by subsection (a) shall also include such recommendations as the Director of the Peace Corps and the Secretary of Labor may determine necessary to facilitate the filing and processing of claims by Peace Corps volunteers regarding the benefits described in that subsection.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives; and

(2) the term "Federal Employees Compensation Act (FECA)" means chapter 81 of title 5, United States Code.

SEC. 5. PEACE CORPS PROGRAMS IN THE FORMER SOVIET UNION.

(a) AVAILABILITY OF FUNDS.—Up to $6,000,000 of the funds made available to carry out the Peace Corps Act for fiscal year 1993 shall be made available for establishing Small Business Development Programs in the independent states of the former Soviet Union. The programs shall include the promotion of local economic development by providing technical assistance and training in municipal restructuring and financing, privatization, valuation of state-owned enterprises, the development and promotion of business associations, and the identification of investment opportunities and requirements.

(b) DEFINITION.—For purposes of this section, the term "independent states of the former Soviet Union" means the following (which formerly were part of the Soviet Union): Armenia, Azerbaijan, Byelarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 3309:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 2, considered and passed Senate.
Oct. 5, considered and passed House.

Public Law 102-566
102d Congress

An Act

To amend the Agricultural Adjustment Act of 1938 to permit the acre-for-acre transfer of an acreage allotment or quota for certain commodities, and for other purposes.

Oct. 28, 1992
[S. 3327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACRE-FOR-ACRE TRANSFER OF CERTAIN ACREAGE ALLOTMENTS.

Section 318 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314d) is amended by striking subsection (e) and inserting the following new subsection:

"(e) The transfer of an allotment or quota under this section shall be approved acre for acre.".

Approved October 28, 1992.

LEGISLATIVE HISTORY—S. 3327:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed Senate and House.

Public Law 102-567
102d Congress

An Act

Oct. 29, 1992
[H.R. 2130]

To authorize appropriations for the National Oceanic and Atmospheric Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Oceanic and Atmospheric Administration Authorization Act of 1992.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Oceanic and Atmospheric Administration Authorization Act of 1992".

SEC. 2. DEFINITIONS.

For the purposes of this Act, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

TITLE I—NOAA ATMOSPHERIC AND SATELLITE PROGRAMS

SEC. 101. NATIONAL WEATHER SERVICE OPERATIONS AND RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out the operations and research activities of the National Weather Service under law, $311,532,000 for fiscal year 1992 and $395,822,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include meteorological, hydrological, aviation, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

(b) PACIFIC WEATHER BUOYS.—Of the sums authorized under subsection (a), $840,000 for fiscal year 1992 and $1,135,000 for fiscal year 1993 are authorized to be appropriated for the purpose of operating and maintaining weather buoys off the coast of California, Oregon, Washington, and Hawaii.

15 USC 325 note.

(c) COOPERATIVE WEATHER OBSERVER PROGRAM.—The Secretary of Commerce may use funds otherwise available for conducting weather observations to strengthen the Cooperative Weather Observer Program and encourage public participation in the program. The Secretary may—

(1) provide distinctive insignia or paraphernalia to Cooperative Weather Observers; and

(2) make awards of nominal value to recognize continued participation in the program by observers or to recognize outstanding achievements by such observers or groups of observers without regard to any law restricting expenditures for such purposes to Federal employees.

SEC. 102. PUBLIC WARNING AND FORECAST SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to improve its public warning and forecast systems under law, $132,034,000 for each of the fiscal years 1992 and 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include the development, acquisition, and implementation of major public warning and forecast systems.

(b) WEATHER RADAR COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed $426,971,000, to remain available until expended, to complete the acquisition and deployment of the Next Generation Weather Radar system, and to cover all associated activities (including program management and operations and maintenance through September 30, 1996).

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the radars, including system software, meet the technical performance specifications included in the radar procurement contract as in effect on October 1, 1992;

(ii) the system contract is viable, and the Secretary does not foresee circumstances which would prevent fulfillment of the contract;

(iii) the system can be fully sited, commissioned, and operational without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iv) the Secretary does not foresee further delays in the system deployment and operation schedule; or

(B) submits to the Congress a report which describes— Reports.

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the deployment and operation schedule and radar coverage; and

(iv) a justification for proceeding with the program, if appropriate.

SEC. 103. CLIMATE AND AIR QUALITY RESEARCH.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality

research activities under law, $100,718,000 for fiscal year 1992 and $103,877,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such activities. Such activities include interannual and seasonal climate research, long-term climate and air quality research, and the National Climate Program.

(b) CLIMATE AND GLOBAL CHANGE.—Of the sums authorized under subsection (a), $67,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmospheric processes, and climate prediction and diagnostics.

SEC. 104. ATMOSPHERIC RESEARCH.

There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research activities under law, $43,935,000 for fiscal year 1992 and $44,781,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to atmospheric research specified by the Act of 1890 and by any other law involving such activities. Such activities include research for developing improved observation and prediction capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SEC. 105. SATELLITE OBSERVING SYSTEMS.

(a) IN GENERAL.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems activities under law, $305,744,000 for fiscal year 1992 and $336,000,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include spacecraft procurement, launch, and associated ground station modifications for polar orbiting and geostationary environmental satellite systems, as well as the operation of such satellites and land remote-sensing satellites.

(2) Of the sums authorized under paragraph (1), $2,300,000 in fiscal year 1993 are authorized for the administration by the National Oceanic and Atmospheric Administration of the ground stations for the Search and Rescue Satellite Aided Tracking system. Such administration shall be carried out in consultation with the Department of Transportation and the Department of Defense.

(b) EMERGENCY CONTINGENCY FUND.—There are authorized to be appropriated to the Secretary of Commerce, $110,000,000 for fiscal year 1992, to be deposited in an Emergency Weather Satellite Contingency Fund. Such Fund shall be available subject to the restrictions of appropriations Acts, without fiscal year limitation, to the Secretary only for the purpose of enabling the National Oceanic and Atmospheric Administration to maintain geostationary environmental satellite coverage for monitoring and prediction of

hurricanes and severe storms, including but not limited to the procurement of gap filler satellites, launch vehicles, and payments to foreign governments.

(c) STRATEGIC PLAN.—(1) The Secretary of Commerce and the Administrator of the National Aeronautics and Space Administration shall jointly develop and, not more than 120 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a strategic plan for development, procurement, and operation of the environmental satellite program of the Department of Commerce.

(2) The objectives of the strategic plan shall be—

(A) to ensure continuous and adequate operational environmental satellite coverage; and

(B) to require direct Federal fiscal and administrative accountability in all aspects of such environmental satellite program.

(3) The strategic plan shall—

(A) delineate the management duties and functions of each Federal department or agency involved in such satellite program;

(B) establish funding responsibilities for each Federal department or agency in a manner which reflects their respective management duties and functions;

(C) set forth procedures to be followed in the development, procurement, and operations of environmental satellites in such program;

(D) minimize the potential for developmental and procurement problems, and for cost overruns;

(E) provide for effective interagency and international coordination;

(F) provide for research and development activities to ensure that the procurement of operational environmental satellites relies on proven technologies, and to investigate potential improvements in data applications and operations for such satellites in order to improve the national weather warning and forecast system; and

(G) specify legislative and administrative actions necessary to implement the plan and to accomplish the objectives described in paragraph (2).

(d) GEOSTATIONARY SATELLITE COMPLETE PROGRAM AUTHORIZATION.—(1) Except as provided in paragraph (2), there are authorized to be appropriated to the Secretary of Commerce for all fiscal years beginning with fiscal year 1993, not to exceed $1,005,255,000, to remain available until expended, to complete the procurement of Geostationary Operational Environmental Satellites I, J, K, L, and M, and the procurement of the launching and supporting ground systems of such satellites.

(2) None of the funds are authorized to be appropriated for any fiscal year under paragraph (1), unless, within 60 days after the submission of the President's budget request for such fiscal year, the Secretary of Commerce—

(A) certifies to the Congress that—

(i) the results of testing indicate that the satellite instruments are likely to meet the technical performance

specifications included in the satellite contract as in effect on October 1, 1992;

(ii) the procurements can be completed without requiring further authorization of appropriations beyond amounts authorized under paragraph (1); and

(iii) the Secretary foresees no gap in two-satellite service operations resulting from non-performance of the satellite contract; or

Reports.

(B) submits to the Congress a report which describes—

(i) the circumstances which prevent a certification under subparagraph (A);

(ii) remedial actions undertaken or to be undertaken with respect to such circumstances;

(iii) the effects of such circumstances on the launch schedule and satellite coverage; and

(iv) a justification for proceeding with the program, if appropriate.

SEC. 106. DATA AND INFORMATION SYSTEMS.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out its data and information services activities under law, $32,628,000 for fiscal year 1992 and $39,596,000 for fiscal year 1993. Moneys appropriated pursuant to this authorization shall be used to fund those activities relating to data and information services specified by the Act of 1890 and by any other law involving such activities. Such activities include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

(b) MODERNIZATION INITIATIVE.—Of the sums authorized under subsection (a), $10,000,000 in fiscal year 1992 and $15,000,000 in fiscal year 1993 are authorized to be appropriated for the purpose of modernizing the data and information systems of the National Oceanic and Atmospheric Administration to meet increasing requirements for managing, archiving, and distributing environmental data and information.

15 USC 1537.

(c) NEEDS ASSESSMENT FOR DATA MANAGEMENT, ARCHIVAL, AND DISTRIBUTION.—(1) Not later than 12 months after the date of enactment of this Act and at least biennially thereafter, the Secretary of Commerce shall complete an assessment of the adequacy of the environmental data and information systems of the National Oceanic and Atmospheric Administration. In conducting such an assessment, the Secretary shall take into consideration the need to—

(A) provide adequate capacity to manage, archive, and disseminate environmental data and information collected and processed, or expected to be collected and processed, by the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(B) establish, develop, and maintain information bases, including necessary management systems, which will promote consistent, efficient, and compatible transfer and use of data;

(C) develop effective interfaces among the environmental data and information systems of the National Oceanic and Atmospheric Administration and other appropriate departments and agencies;

(D) develop and use nationally accepted formats and standards for data collected by various national and international sources; and

(E) integrate and interpret data from different sources to produce information that can be used by decisionmakers in developing policies that effectively respond to national and global environmental concerns.

(2) Not later than 12 months after the date of enactment of this Act and biennially thereafter, the Secretary of Commerce shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive plan, based on the assessment under paragraph (1), to modernize and improve the environmental data and information systems of the National Oceanic and Atmospheric Administration. The report shall— Reports.

(A) set forth modernization and improvement objectives for the 10-year period beginning with the year in which the plan is submitted, including facility requirements and critical new technological components that would be necessary to meet the objectives set forth;

(B) propose specific agency programs and activities for implementing the plan;

(C) identify the data and information management, archival, and distribution responsibilities of the National Oceanic and Atmospheric Administration with respect to other Federal departments and agencies and international organizations, including the role of the National Oceanic and Atmospheric Administration with respect to large data systems like the Earth Observing System Data and Information System; and

(D) provide an implementation schedule and estimate funding levels necessary to achieve modernization and improvement objectives.

SEC. 107. HURRICANE RECONNAISSANCE PROGRAM. 15 USC 313 note.

(a) ESTABLISHMENT OF PROGRAM.—(1) The Secretary of Defense and the Secretary of Commerce shall establish a 5-year joint program for collecting operational and reconnaissance data, conducting research, and analyzing data on tropical cyclones to assist the forecast and warning program and increase the understanding of the causes and behavior of tropical cyclones.

(2) The Secretary of Commerce shall establish the Tropical Cyclone Research Advisory Committee, an advisory committee of tropical cyclone research scientists, to make recommendations for tropical cyclone research activities and reconnaissance procedures.

(b) RESPONSIBILITIES.—(1) The Secretary of Defense shall have the responsibility for maintaining, flying, and funding tropical cyclone reconnaissance aircraft to accomplish the program established under this section and to transfer the data to the Secretary of Commerce. Program responsibility may not be transferred to any other Federal department or agency, including the Coast Guard, without the agreement and approval of the Secretary of Defense, the Secretary of Commerce, and the head of any other Federal agency or department to which the responsibility is transferred.

(2) The Secretary of Commerce shall have the responsibility to provide funding for data gathering and research by remote sens-

ing, ground sensing, research aircraft, and other technologies necessary to accomplish the program established under this section.

(c) MANAGEMENT PLANS.—(1) The Secretary of Defense and the Secretary of Commerce shall jointly develop and, within 120 days after the date of enactment of this Act, submit to the Congress a management plan for the program established under this section, which shall include organizational structure, goals, major tasks, and funding profiles for the 5-year duration of the program.

(2) The Secretary of Defense and the Secretary of Commerce, in consultation with the Tropical Cyclone Research Advisory Committee established by section 107(a)(2), shall jointly develop and, within 4 years after the date of enactment of this Act, submit to the Congress a management plan providing for continued tropical cyclone surveillance and reconnaissance which will adequately protect the citizens of the coastal areas of the United States.

(3) The management plans and programs required by this section shall in every sense provide for at least the same degree and quality of protection (such as early warning capability and accuracy of fixing a storm's location) as currently exists with a combination of satellite technology and manned reconnaissance flights. Additionally, such plans and programs shall in no way allow any reduction in the level, quality, timeliness, sustainability, or area served (including the State of Hawaii) of both the existing principal and back-up tropical cyclone reconnaissance and tracking systems.

15 USC 313 note.

SEC. 108. UNITED STATES WEATHER RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Commerce, in cooperation with the Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, shall establish a United States Weather Research Program to—

(1) increase benefits to the Nation from the substantial investment in modernizing the public weather warning and forecast system in the United States;

(2) improve local and regional weather forecasts and warnings;

(3) address critical weather-related scientific issues; and

(4) coordinate governmental, university, and private-sector efforts.

(b) IMPLEMENTATION PLAN.—Not later than 90 days after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the Committee on Earth and Environmental Sciences, shall prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan for implementation of the United States Weather Research Program which shall—

(1) establish, for the 10-year period beginning in the year the plan is submitted, the goals and priorities for Federal weather research which most effectively advance the scientific understanding of weather processes and provide information to improve weather warning and forecast systems in the United States;

(2) describe specific activities, including research activities, data collection and data analysis requirements, predictive modeling, participation in international research efforts, demonstra-

tion of potential operational forecast applications, and education and training required to achieve such goals and priorities; and

(3) set forth the role of each Federal agency and department to be involved in the United States Weather Research Program, identifying and addressing, as appropriate, relevant programs and activities of the Federal agencies and departments that would contribute to such Program.

SEC. 109. WEATHER SERVICE OFFICE IN RENO, NEVADA.

(a) FACILITY ACQUISITION.—The Administrator of the National Oceanic and Atmospheric Administration is authorized—

(1) to construct, on approximately 10 acres of land to be leased from the University of Nevada System, Desert Research Institute, or

(2) in the alternative, to acquire by lease construction on such land, with a lease term of up to 30 years,

a Weather Forecast Office, upper air facility, regional climate center, and associated instruments and site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the Reno, Nevada area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in paragraph (1) or (2).

(b) REIMBURSEMENT AUTHORITY.—The Administrator is authorized to reimburse the Desert Research Institute for the cost of providing utilities and access to the site.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 110. WEATHER SERVICE FACILITIES IN SOUTH FLORIDA.

(a) CONSTRUCTION OF FACILITY.—The Administrator of the National Oceanic and Atmospheric Administration is authorized to construct, on land to be leased from Florida International University at the University's Tamiami campus, a facility for the National Hurricane Center, a Weather Forecast Office, an upper air facility, and associated site improvements as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the South Florida area. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this subsection.

(b) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 111. WEATHER FORECAST OFFICE, HONOLULU.

(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space from the University of Hawaii, Honolulu, for the operation of a Weather Forecast Office, as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program for the State of Hawaii, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operation of a Weather Forecast Office.

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

Establishment.
15 USC 313b.

SEC. 112. INSTITUTE FOR AVIATION WEATHER PREDICTION.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City, Missouri area. The Administrator shall provide a full and fair opportunity for employees at the National Severe Storms Forecast Center to assume comparable duties and responsibilities within the Institute.

SEC. 113. WEATHER SERVICE OFFICE IN OKLAHOMA.

(a) FACILITY ACQUISITION.—(1) The Administrator of the National Oceanic and Atmospheric Administration is authorized to lease building and associated space to be constructed by the University of Oklahoma, Norman, for the operation of the National Severe Storms Laboratory, Weather Forecast Office, NEXRAD Operational Support Facility, and National Institute for Storm Prediction as part of the implementation of the Next Generation Weather Radar and National Weather Service Modernization Program, for a term of up to 20 years. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this paragraph.

(2) Rental costs for the space leased under paragraph (1) shall not exceed fair annual rental value as established by governmental appraisal.

(b) ALTERATIONS.—The Administrator is authorized to expend funds to make all necessary alterations to the space to allow for operations listed in subsection (a)(1).

(c) OPERATIONS.—The Administrator is authorized to carry out the operations of the National Oceanic and Atmospheric Administration in such facility.

SEC. 114. TRANSFER OF DATA ARCHIVING RESPONSIBILITY.

(a) FINDINGS.—The Congress finds that—

(1) section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) directs the Secretary of Commerce to provide for the archiving of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) the Secretary of Commerce currently provides for the archiving of Landsat data at the Department of the Interior's EROS Data Center, which is consistent with the requirement of section 602(g) of such Act (15 U.S.C. 4272(g)) to use existing Federal Government facilities to the extent practicable in carrying out this archiving responsibility;

(3) the Landsat data collected since 1972 are an important global data set for monitoring and assessing land resources and global change;

(4) the Secretary of the Interior maintains archives of aerial photography, digital cartographic data, and other Earth science data at the EROS Data Center that also are important data sets for monitoring and assessing land resources and global change;

(5) it is appropriate to transfer authority to the Secretary of the Interior for the archiving of land remote-sensing data; and

(6) the Secretary of the Interior should explore ways to facilitate the use of archived data for research purposes consistent with other provisions of the Land Remote-Sensing Commercialization Act of 1984.

(b) PROVISION OF UNENHANCED DATA.—Section 402(b)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4242(b)(4)) is amended by inserting "of the Interior" immediately after "Secretary".

(c) ARCHIVING OF DATA.—Section 602 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4272) is amended—

(1) in subsections (b), (c), (d), (f), and (g), by inserting "of the Interior" immediately after "Secretary" each place it appears; and

(2) by adding at the end the following new subsection:

"(h) in carrying out the functions of this section, the Secretary of the Interior shall consult with the Secretary to ensure that archiving activities are consistent with the terms and conditions of any contract or agreement entered into under title II, III, or V of this Act and with any license issued under title IV of this Act.".

SEC. 115. WEATHER OFFICE IN EUREKA, CALIFORNIA.

Real property.

Notwithstanding any other law, any property and improvements to that property located on Woodley Island in the city of Eureka, California, that are—

(1) acquired by the Secretary of Commerce from Humboldt Bay Harbor Recreation and Conservation District, California, for use as a weather forecasting office; and

(2) determined by the Secretary to be excess property, shall revert to that district.

SEC. 116. REPORT ON SATELLITE OCEANOGRAPHY.

33 USC 883j note.

(a) IN GENERAL.—The Federal Coordinating Council for Science, Engineering, and Technology through the Committee on Earth and Environmental Sciences, in consultation with Federal, academic, and commercial users of remotely sensed data, shall consider and develop findings and recommendations regarding—

(1) the most urgent current needs of oceanographic researchers within the Federal Government, the academic community, and the private sector, for remote sensing capabilities and remotely sensed data, including findings regarding the present inadequacies in these capabilities and data; and

(2) the major goals of satellite oceanography for the next 10 years.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Federal Coordinating Council for Science,

Engineering, and Technology shall submit to the Congress a report which describes the findings and recommendations of the Committee on Earth and Environmental Sciences, including recommendations for, or a description of actions to be taken toward—

(1) correcting the inadequacies in remote sensing capabilities;

(2) improving the availability of remotely sensed data; and

(3) achieving the major goals of satellite oceanography developed pursuant to subsection (a)(2).

TITLE II—NOAA OCEAN AND COASTAL PROGRAMS

SEC. 201. NATIONAL OCEAN SERVICE.

(a) MAPPING, CHARTING, AND GEODESY.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out mapping, charting, and geodesy activities (including geodetic data collection and analysis) under the Act of 1947 and any other law involving those activities, $50,917,000 for fiscal year 1992 and $51,087,000 for fiscal year 1993.

(b) OBSERVATION AND ASSESSMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out observation and assessment activities—

(1) under the Act of 1947 and any other law involving those activities, $57,273,000 for fiscal year 1992 and $57,273,000 for fiscal year 1993; and

(2) under title II of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), $11,000,000 for fiscal year 1992 and $11,000,000 for fiscal year 1993.

(c) COASTAL OCEAN PROGRAM.—Of the sums authorized under subsection (b)(1), $17,352,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purposes of conducting a Coastal Ocean Program. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include efforts to improve predictions of fish stocks, to better conserve and manage living marine resources, to improve predictions of coastal ocean pollution to help correct and prevent degradation of the ocean environment, to promote development of ocean technology to support the effort of science to understand and characterize the role oceans play in global climate and environmental analysis, and to improve predictions of coastal hazards to protect human life and personal property.

(d) LONG ISLAND SOUND CIRCULATION MODEL.—No moneys appropriated pursuant to the authorizations in this Act shall be used to conduct analyses of samples collected under the National Status and Trends Program until the Policy Committee of the Long Island Sound Study certifies that the National Oceanic and Atmospheric Administration has completed the water circulation model for Long Island Sound.

(e) CIRCULATION MODEL FUNDING.—Of the sums authorized under subsection (b) for fiscal year 1992, $600,000 is available for completion of the water circulation model for Long Island Sound and $400,000 is available for National Status and Trends Program stations in Long Island Sound.

(f) OCEAN MANAGEMENT.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean management activities, $1,678,000 for fiscal year 1992 and $1,823,000 for fiscal year 1993.

SEC. 202. OCEAN AND GREAT LAKES RESEARCH.

(a) OCEAN AND GREAT LAKES RESEARCH AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out ocean and Great Lakes research activities under the Act of 1947, the Act of 1890, and any other law involving those activities, $32,171,000 for fiscal year 1992 and $39,800,000 for fiscal year 1993.

(b) COOPERATIVE INSTITUTE FOR LIMNOLOGY AND ECOSYSTEMS RESEARCH.—In addition to amounts authorized under subsection (a), there are authorized to be appropriated to the Office of Oceanic and Atmospheric Research of the National Oceanic and Atmospheric Administration $250,000 for fiscal year 1992 and $260,000 for fiscal year 1993, for use by the Cooperative Institute for Limnology and Ecosystems Research (established in partnership with the State of Michigan and the Great Lakes Environmental Research Laboratory) for—

(1) research conducted by the Institute;

(2) development of the Institute; and

(3) for preparation of a five-year plan for research and development.

(c) LARGE LAKES RESEARCH.—(1) In addition to amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Secretary of Commerce for use by the Office of Oceanic and Atmospheric Research $2,000,000 for fiscal year 1992 and $2,080,000 for fiscal year 1993 for use for preparing a plan for large lakes research.

(2) Amounts appropriated under this subsection may be used for—

(A) preparation of a 5-year plan designating large lake study sites, research activities, and anticipated research products; and

(B) collection of physical, chemical, and biological data required for preparing that plan.

(3) Activities conducted with amounts appropriated under this subsection shall be coordinated through the Great Lakes Environmental Research Laboratory, working in association with the Cooperative Institute for Limnology and Ecosystems Research and the National Undersea Research Program.

SEC. 203. AQUATIC NUISANCE PREVENTION AND CONTROL PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce $11,000,000 for fiscal year 1992 and $11,440,000 for fiscal year 1993 for use in implementing the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (Public Law 101–646).

(b) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress on progress toward establishing a nonindigenous aquatic nuisance prevention and control program within the National Oceanic and Atmospheric Administration and

16 USC 4701 note.

projected funding for such a program for the following five fiscal years.

SEC. 204. REPEAL OF NATIONAL OCEAN POLLUTION PLANNING ACT OF 1978.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701–1709) is repealed.

33 USC 2706 note.

SEC. 205. NOAA OIL AND HAZARDOUS SUBSTANCE SPILL COST REIMBURSEMENT.

(a) TREATMENT OF AMOUNTS RECEIVED AS REIMBURSEMENT OF EXPENSES.—Notwithstanding any other provision of law, amounts received by the United States as reimbursement of expenses related to oil or hazardous substance spill response activities, or natural resource damage assessment, restoration, rehabilitation, replacement, or acquisition activities, conducted (or to be conducted) by the National Oceanic and Atmospheric Administration—

(1) shall be deposited into the Fund;

(2) shall be available, without fiscal year limitation and without apportionment, for use in accordance with the law under which the activities are conducted; and

(3) shall not be considered to be an augmentation of appropriations.

(b) APPLICATION.—Subsection (a) shall apply to amounts described in subsection (a) that are received—

(1) after the date of the enactment of this Act; or

(2) with respect to the oil spill associated with the grounding of the EXXON VALDEZ.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "Fund" means the Damage Assessment and Restoration Revolving Fund of the National Oceanic and Atmospheric Administration referred to in title I of Public Law 101–515 under the heading "National Oceanic and Atmospheric Administration" (104 Stat. 2105); and

(2) the term "expenses" includes incremental and base salaries, ships, aircraft, and associated indirect costs, except the term does not include base salaries and benefits of National Oceanic and Atmospheric Administration Support Coordinators.

TITLE III—NOAA MARINE FISHERY PROGRAMS

SEC 301. AUTHORIZATION OF APPROPRIATIONS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) in section 2(a) by striking "$26,500,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$47,933,000 for fiscal year 1992 and $59,162,000 for fiscal year 1993";

(2) in section 3(a) by striking "$35,000,000" the first time it appears and all that follows through "fiscal year 1989" and inserting in lieu thereof "$27,290,000 for fiscal year 1992 and $35,594,000 for fiscal year 1993"; and

97 Stat. 1410.

(3) in section 4(a) by striking "$10,000,000" and all that follows through "fiscal year 1989" and inserting in lieu thereof "$12,182,000 for fiscal year 1992 and $18,838,000 for fiscal year 1993".

SEC. 302. DEVELOPMENT OF DOLPHIN-SAFE METHODS OF TUNA FISHING.

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by adding at the end the following new subsection:

"(d) Of the sums authorized under subsection (a) of this section, $1,000,000 for each of the fiscal years 1992 and 1993 are authorized to be appropriated for the purpose of developing dolphin-safe methods of locating and catching yellowfin tuna. Such authorization shall be in addition to moneys authorized under section 7 of the Act entitled 'An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes', approved October 9, 1981 (16 U.S.C. 1384). Within six months after the date of enactment of this subsection, the Secretary, in cooperation with the Inter-American Tropical Tuna Commission and after consultation with interested persons, shall publish a program plan for public comment that shall provide for— Printing. Public information.

"(1) cooperative research to improve understanding of the behavioral association of dolphins and yellowfin tuna in the eastern tropical Pacific Ocean;

"(2) development, testing, and implementation of new methods of locating and catching yellowfin tuna without the incidental taking of dolphins; and

"(3) appropriate measures to ensure program participation and sharing of associated costs by each foreign government that conducts, or authorizes its nationals to conduct, yellowfin tuna fishing in the eastern tropical Pacific Ocean.".

SEC. 303. FISHERIES RESEARCH.

Section 304(e) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(e)) is amended by redesignating paragraphs (1), (2), and (3), and any reference thereto, as paragraphs (2), (3), and (4), respectively, and by inserting immediately after "FISHERIES RESEARCH.—" the following: "(1) The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics of the fisheries.".

SEC 304. FISHERY FACILITIES.

Section 1101(k) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(k)), is amended—

(1) by striking "or" at the end of paragraph (1);

(2) by adding "or" at the end of paragraph (2); and

(3) by inserting immediately after paragraph (2) the following new paragraph:

"(3) for aquaculture, including operations on land or elsewhere—

"(A) any structure or appurtenance thereto designed for aquaculture;

"(B) the land necessary for any such structure or appurtenance described in subparagraph (A);

"(C) equipment which is for use in connection with any such structure or appurtenance and which is necessary

for the performance of any function referred to in subparagraph (A); and

"(D) any vessel built in the United States used for, equipped to be used for, or of a type which is normally used for aquaculture;".

SEC. 305. STUDY OF JOINT ENFORCEMENT OF FISHERIES REGULATIONS.

Reports.

Not later than 4 months after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a joint report describing methods by which Coast Guard enforcement efforts in the western Pacific Ocean under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) may be enhanced and coordinated with those of the National Oceanic and Atmospheric Administration. The report shall—

(1) evaluate the ability of the Coast Guard to address key enforcement problems, which the Secretary of Commerce shall identify, for the western Pacific Ocean, particularly in the exclusive economic zone adjacent to the Hawaiian Islands, the Northern Mariana Islands, and the territories and possessions of the United States;

(2) propose procedures by which the Coast Guard and the National Oceanic and Atmospheric Administration may coordinate their efforts to improve and maximize effective enforcement of fisheries regulations, including but not limited to the chartering of light aircraft for fisheries surveillance and enforcement; and

(3) recommend appropriate levels of Coast Guard participation in such efforts.

Mexico.
16 USC 1361 note.

SEC. 306. STUDY ON EFFECTS OF DOLPHIN FEEDING.

(a) STUDY.—The Secretary of Commerce shall conduct a study in the eastern Gulf of Mexico on the effects of feeding of noncaptive dolphins by human beings. The study conducted pursuant to this section shall be designed to detect any behavior or diet modification resulting from this feeding and to identify the effects, if any, of these modifications on the health and well-being of the dolphins.

(b) EXTERNAL REVIEW.—In design and conduct of the study required under subsection (a), the Secretary shall consult with the National Academy of Sciences and the Marine Mammal Commission.

(c) REPORT.—Within 18 months after the date of the enactment of this Act, the Secretary shall submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the results of the study conducted pursuant to subsection (a).

Establishment.
15 USC 1511d.

SEC. 307. CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.

(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Estuarine Resources Office (hereinafter referred to as the "Office").

(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the

Chesapeake Bay Executive Council. Any individual appointed as Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Bay Executive Council, shall—

(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

(C) monitoring the implementation and effectiveness of management plans;

(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration and the Chesapeake Bay Regional Sea Grant Programs (including programs and activities in coastal and estuarine research, monitoring, and assessment; fisheries research and stock assessments; data management; remote sensing; coastal management; and habitat conservation);

(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay. Reports.

(c) BUDGET LINE ITEM.—The Secretary of Commerce shall identify, in the President's annual budget to the Congress, the funding request for the Office.

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409), as amended by section 302 of this Act, is further amended by adding at the end the following new subsection:

"(e) Of the sums authorized under subsection (a) of this section, no more than $2,500,000 are authorized to be appropriated for each of the fiscal years 1992 and 1993 to enable the National Oceanic and Atmospheric Administration to establish the Chesapeake Bay Estuarine Resources Office under section 306 of the National Oceanic and Atmospheric Administration Authorization Act of 1991. No more than 20 percent of the amount appropriated under the authorization in this subsection shall be used for administrative purposes.".

(e) CHESAPEAKE EXECUTIVE COUNCIL.—For purposes of this section, "Chesapeake Executive Council" means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

33 USC 1251 note.

SEC. 308. NATIONAL SHELLFISH INDICATOR PROGRAM.

(a) ESTABLISHMENT OF A RESEARCH PROGRAM.—The Secretary of Commerce, in cooperation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, shall establish and administer a 5-year national shellfish research program (hereafter in this section referred to as the "Program") for the purpose of improving existing classification systems for shellfish growing waters using the latest technological advancements in microbiology and epidemiological methods. Within 12 months after the date of enactment of this Act, the Secretary of Commerce, in cooperation with the advisory committee established under subsection (b) and the Consortium, shall develop a comprehensive 5-year plan for the Program which shall at a minimum provide for—

(1) an environmental assessment of commercial shellfish growing areas in the United States, including an evaluation of the relationships between indicators of fecal contamination and human enteric pathogens;

(2) the evaluation of such relationships with respect to potential health hazards associated with human consumption of shellfish;

(3) a comparison of the current microbiological methods used for evaluating indicator bacteria and human enteric pathogens in shellfish and shellfish growing waters with new technological methods designed for this purpose;

(4) the evaluation of current and projected systems for human sewage treatment in eliminating viruses and other human enteric pathogens which accumulate in shellfish;

(5) the design of epidemiological studies to relate microbiological data, sanitary survey data, and human shellfish consumption data to actual hazards to health associated with such consumption; and

(6) recommendations for revising Federal shellfish standards and improving the capabilities of Federal and State agencies to effectively manage shellfish and ensure the safety of shellfish intended for human consumption.

Establishment.

(b) ADVISORY COMMITTEE.—(1) For the purpose of providing oversight of the Program on a continuing basis, an advisory committee (hereafter in this section referred to as the "Committee") shall be established under a memorandum of understanding between

the Interstate Shellfish Sanitation Conference and the National Marine Fisheries Service.

(2) The Committee shall—

(A) identify priorities for achieving the purpose of the Program;

(B) review and recommend approval or disapproval of Program work plans and plans of operation;

(C) review and comment on all subcontracts and grants to be awarded under the Program;

(D) receive and review progress reports from the Consortium and program subcontractors and grantees; and

(E) provide such other advice on the Program as is appropriate.

(3) The Committee shall consist of at least ten members and shall include—

(A) three members representing agencies having authority under State law to regulate the shellfish industry, of whom one shall represent each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions;

(B) three members representing persons engaged in the shellfish industry in the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions (who shall be appointed from among at least six recommendations by the industry members of the Interstate Shellfish Sanitation Conference Executive Board), of whom one shall represent the shellfish industry in each region;

(C) three members, of whom one shall represent each of the following Federal agencies: the National Oceanic and Atmospheric Administration, the Environmental Protection Agency, and the Food and Drug Administration; and

(D) one member representing the Shellfish Institute of North America.

(4) The Chairman of the Committee shall be selected from among the Committee members described in paragraph (3)(A).

(5) The Committee shall establish and maintain a subcommittee of scientific experts to provide advice, assistance, and information relevant to research funded under the Program, except that no individual who is awarded, or whose application is being considered for, a grant or subcontract under the Program may serve on such subcommittee. The membership of the subcommittee shall, to the extent practicable, be regionally balanced with experts who have scientific knowledge concerning each of the Atlantic, Pacific, and Gulf of Mexico shellfish growing regions. Scientists from the National Academy of Sciences and appropriate Federal agencies (including the National Oceanic and Atmospheric Administration, Food and Drug Administration, Centers for Disease Control, National Institutes of Health, Environmental Protection Agency, and National Science Foundation) shall be considered for membership on the subcommittee. Establishment.

(6) Members of the Committee and its scientific subcommittee established under this subsection shall not be paid for serving on the Committee or subcommittee, but shall receive travel expenses as authorized by section 5703 of title 5, United States Code.

(c) CONTRACT WITH CONSORTIUM.—Within 30 days after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into a cooperative agreement or contract with the Consortium under which the Consortium will—

(1) be the academic administrative organization and fiscal agent for the Program;

(2) award and administer such grants and subcontracts as are approved by the Committee under subsection (b);

(3) develop and implement a scientific peer review process for evaluating grant and subcontractor applications prior to review by the Committee;

(4) in cooperation with the Secretary of Commerce and the Committee, procure the services of a scientific project director;

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(5) develop and submit budgets, progress reports, work plans, and plans of operation for the Program to the Secretary of Commerce and the Committee; and

(6) make available to the Committee such staff, information, and assistance as the Committee may reasonably require to carry out its activities.

(d) REPORTING REQUIREMENTS.—Within 3 months after the date of enactment of this Act and within each of the next three consecutive 3-month intervals, the Secretary of Commerce shall provide Congress with written assessments of Federal efforts to implement this section. In addition, the Secretary of Commerce shall submit an annual report to Congress on the Program, including a description of the research funded under the Program and the results of such research.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) Of the sums authorized under section 4(a) of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409), there are authorized to be appropriated to the Secretary of Commerce $5,200,000 for each of the fiscal years 1993 through 1997 for carrying out the Program. Of the amounts appropriated pursuant to this authorization, not more than 5 percent of such appropriation may be used for administrative purposes by the National Oceanic and Atmospheric Administration. The remaining 95 percent of such appropriation shall be used to meet the administrative and scientific objectives of the Program.

(2) The Interstate Shellfish Sanitation Conference shall not administer appropriations authorized under this section, but may be reimbursed from such appropriations for its expenses in arranging for travel, meetings, workshops, or conferences necessary to carry out the Program.

(f) DEFINITIONS.—As used in this section, the term—

(1) "Consortium" means the Louisiana Universities Marine Consortium; and

(2) "shellfish" means any species of oyster, clam, or mussel that is harvested for human consumption.

SEC. 309. COOPERATIVE INSTITUTE OF FISHERIES OCEANOGRAPHY.

North Carolina.

The Secretary of Commerce shall acquire on a long-term basis from the Administrator of General Services space on Pivers Island in Beaufort, North Carolina, that is needed to implement the memorandum of understanding of March 2, 1989, between the National Oceanic and Atmospheric Administration, Duke University, and the University of North Carolina establishing the Cooperative Institute of Fisheries Oceanography. This section shall not apply if the annual cost of leasing the required space exceeds $2,000,000.

SEC. 310. UNITED STATES GULF OF MEXICO AND SOUTH ATLANTIC SHRIMP FISHERY STUDY.

(a) STUDY.—(1) The Secretary of Commerce shall conduct a comprehensive economic study to provide baseline information to guide policy decisions on the future of the United States Gulf of Mexico and South Atlantic shrimp fishery. Funds shall only be expended under the terms of paragraph (2) of this section.

(2) The study shall—

(A) gather information as to the extent to which governmental and economic factors have affected or may affect the United States Gulf of Mexico and South Atlantic shrimp fishery;

(B) attempt to expand available historical data through survey contacts and cooperation with the industry; and

(C) incorporate the results of the studies on the United States Gulf of Mexico and South Atlantic shrimp fishery that are underway or completed on the date this section is effective.

(b) REPORT.—The Secretary of Commerce shall submit a report to Congress detailing the results of this study no later than October 1, 1993.

(c) AUTHORIZATION.—There is authorized to be appropriated to carry out the provisions of this section $1,000,000 for fiscal year 1993. None of the funds authorized under section 304(g) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854(g)) may be used to carry out the provisions of this section.

SEC. 311. REPORT ON SATELLITE CAPABILITIES FOR FISHERIES ENFORCEMENT.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the heads of other Federal agencies, shall prepare and submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report describing how current and planned satellite capabilities of the Federal Government can aid in the enforcement of Federal fisheries laws and international fisheries conservation programs.

(b) REPORT CONTENTS.—The report under subsection (a) shall include consideration of—

(1) active, transponder-based systems and passive, vessel signature-based technologies capable of localizing or identifying individual vessels without the use of vessel-carried transmitters;

(2) the resolution, coverage periods, and all-weather effectiveness of each technology and the real-time data delivery capacity of the various systems;

(3) a description of the technological requirements (including data processing and transfer procedures) and institutional requirements necessary to transfer satellite data to end users for management and enforcement purposes; and

(4) the status of foreign civil satellites and the feasibility of their application to international vessel location and monitoring.

California.

SEC. 312. DEMONSTRATION PROJECT FOR SEAFOOD HANDLING TRAINING AND EDUCATION.

(a) GRANTS.—The Secretary of Commerce may make annual grants to the City of San Francisco and the Port of San Francisco for each of the fiscal years 1992 and 1993 for a joint project at the San Francisco Wharf to demonstrate safe seafood handling and to conduct seafood education programs.

(b) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there are authorized to be appropriated to the Secretary of Commerce—

(1) $250,000 for fiscal year 1992; and

(2) $350,000 for fiscal year 1993.

Such funds shall remain available until expended.

SEC. 313. BOWHEAD WHALE STUDY.

Notwithstanding any other provision of law, the Department of Commerce and the Department of the Interior are authorized to pay as appropriate, $48,464, plus interest since June 6, 1988, to reimburse any unpaid costs incurred in the research and preparation of a paper entitled "Quantification of Subsistence and Cultural Need for Bowhead Whales by Alaska Eskimos", which was presented by the United States to the 40th Annual Meeting of the International Whaling Commission.

Louisiana.

SEC. 314. FISHERIES RESEARCH CENTER.

The Secretary of Commerce, through the Under Secretary of Commerce for Oceans and Atmosphere, is authorized to construct a building, on approximately 15 acres of land to be leased from the University of Southwest Louisiana for a 99-year term. This section shall not apply if the annual cost of leasing the required land exceeds one dollar. This authorization is subject to the availability of appropriations provided in advance for the purpose stated in this section.

Mississippi.

SEC. 315. PASCAGOULA LABORATORY WAREHOUSE FACILITIES.

Due to the logistical crisis at the National Marine Fisheries Service Laboratory at Pascagoula, Mississippi, the Administrator of the National Oceanic and Atmospheric Administration should give immediate consideration to upgrading dock and warehouse support facilities at such Laboratory in fiscal year 1993.

TITLE IV—ADMINISTRATION AND OTHER ACCOUNTS

SEC. 401. PROGRAM SUPPORT.

(a) EXECUTIVE DIRECTION AND ADMINISTRATIVE ACTIVITIES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out executive direction and administrative activities (including management, administrative support, provision of retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development) under the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857–1 et seq.), and any other law involving those activities, $68,460,000 for fiscal year 1992 and $75,750,000 for fiscal year 1993.

(b) MARINE SERVICES.—(1) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oce-

anic and Atmospheric Administration to carry out marine services activities (including ship operations, maintenance, and support) under the Act of 1947 and any other law involving those activities, $63,407,000 for fiscal year 1992 and $68,518,000 for fiscal year 1993.

(2) There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to acquire a multibeam sonar mapper, $1,500,000 for fiscal year 1993.

(3) In addition to sums authorized in paragraphs (1) and (2), there are authorized to be appropriated to the Secretary of Commerce $1,040,000 for fiscal year 1993 for the reactivation and operation of the research vessle ALBATROSS IV.

(4)(A) Unless necessary for safety reasons, the Secretary of Commerce shall not deactivate the ALBATROSS IV (if active), until an equivalent replacement vessel is operational. 33 USC 891b note.

(B) The Secretary of Commerce shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives 60 days prior to the proposed deactivation of any other research vessel of the National Oceanic and Atmospheric Administration, if an equivalent replacement vessel will not become operational at the time of deactivation.

(5) The Secretary of Commerce shall consult with the Oceanographer of the Navy regarding appropriate cost effective and practical measures to allow vessels of the National Oceanic and Atmospheric Administration to be interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels. 33 USC 891g note.

(c) AIRCRAFT SERVICES.—There are authorized to be appropriated to the Secretary of Commerce, to enable the National Oceanic and Atmospheric Administration to carry out aircraft services activities (including aircraft operations, maintenance, and support) under the Act of 1890 and any other law involving those activities, $8,865,000 for fiscal year 1992 and $10,336,000 for fiscal year 1993.

SEC. 402. CONSTRUCTION.

There are authorized to be appropriated to the Secretary of Commerce, for acquisition, construction, maintenance, and operation of facilities of the National Oceanic and Atmospheric Administration under any law involving those activities, $34,917,000 for fiscal year 1992 and $94,500,000 for fiscal year 1993.

SEC. 403. NOTICE OF REPROGRAMMING. 15 USC 1538.

(a) IN GENERAL.—The Secretary of Commerce shall provide notice to the Committee on Commerce, Science, and Transportation and Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries, Committee on Science, Space, and Technology, and Committee on Appropriations of the House of Representatives, not less than 15 days before reprogramming funds available for a program, project, or activity of the National Oceanic and Atmospheric Administration in an amount greater than the lesser of $250,000 or 5 percent of the total funding of such program, project, or activity if the reprogramming—

(1) augments an existing program, project, or activity;

(2) reduces by 5 percent or more (A) the funding for an existing program, project, or activity or (B) the numbers of personnel therefor as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in an existing program, project, or activity.

(b) NOTICE OF REORGANIZATION.—The Secretary of Commerce shall provide notice to the Committees on Merchant Marine and Fisheries, Science, Space, and Technology, and Appropriations of the House of Representatives, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate not later than 15 days before any major reorganization of any program, project, or activity of the National Oceanic and Atmospheric Administration.

15 USC 1539. Regulations.

SEC. 404. FINANCIAL ASSISTANCE.

(a) PROCESSING OF APPLICATIONS.—Within 12 months after the date of enactment of this Act, the Secretary of Commerce shall develop and, after notice and opportunity for public comment, promulgate regulations or guidelines to ensure that a completed application for a grant, contract, or other financial assistance under a nondiscretionary assistance program shall be processed and approved or disapproved within 75 days after submission of the application to the responsible program office of the National Oceanic and Atmospheric Administration.

(b) NOTIFICATION OF APPLICANT.—Not later than 14 days after the date on which the Secretary of Commerce receives an application for a contract, grant, or other financial assistance provided under a nondiscretionary assistance program administered by the National Oceanic and Atmospheric Administration, the Secretary shall indicate in writing to the applicant whether or not the application is complete and, if not complete, shall specify the additional material that the applicant must provide to complete the application.

(c) EXEMPTION.—In the case of a program for which the recipient of a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, a State or an interstate fishery commission, such financial assistance may be provided by the Secretary to that recipient on a sole-source basis, notwithstanding any other provision of law.

(d) DEFINITION.—In this section, the term "nondiscretionary assistance program" means any program for providing financial assistance—

(1) under which the amount of funding for, and the intended recipient of, the financial assistance is specified by Congress; or

(2) the recipients of which have customarily been a State or an interstate fishery commission.

44 USC 1307 note.

SEC. 405. PRICE FREEZE ON CHARTS AND OTHER PRODUCTS OF NOAA.

Notwithstanding section 1307 of title 44, United States Code, the price of nautical charts or other nautical products produced or published by the National Oceanic and Atmospheric Administration and sold after the date of the enactment of this Act shall not exceed the price of that type of chart or product on the date of enactment of this Act adjusted for inflation. This section shall not apply after September 30, 1994.

SEC. 406. COOPERATIVE AGREEMENTS. 15 USC 1540.

The Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, may enter into cooperative agreements and other financial agreements with any nonprofit organization to—

(1) aid and promote scientific and educational activities to foster public understanding of the National Oceanic and Atmospheric Administration or its programs; and

(2) solicit private donations for the support of such activities.

SEC. 407. RECRUITMENT OF MINORITIES AND WOMEN FOR NOAA SCIENCE EDUCATION ACTIVITIES.

(a) FINDINGS.—The Congress finds the following:

(1) In this decade, more than two-thirds of the new entrants to the United States labor force will be minorities and women—groups which for the most part have been historically underrepresented in the sciences.

(2) The National Science Foundation estimates that by the year 2000, the United States will face a shortfall of more than 400,000 science and engineering personnel.

(3) Given the demographics of the United States workforce, the problem of underrepresented minorities and women in the sciences and engineering could seriously compromise the industrial and technological capability of the United States, as well as its ability to compete in international marketplaces.

(4) The National Oceanic and Atmospheric Administration has made important efforts to promote education programs in the sciences for students, teachers, and other citizens.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the National Oceanic and Atmospheric Administration should continue to expand its educational programs in the sciences, and in this effort, that the National Oceanic and Atmospheric Administration should develop and promote programs that reach out to and recruit minorities and women for education in the sciences.

TITLE V—NATIONAL MARINE MONITORING PROGRAM

SEC. 501. AMENDMENT.

The Marine Protection, Research, and Sanctuaries Act of 1972 is amended by adding at the end the following new title:

"TITLE V—NATIONAL COASTAL MONITORING ACT

"SEC. 501. PURPOSES. 33 USC 2801.

"The purposes of this title are to—

"(1) establish a comprehensive national program for consistent monitoring of the Nation's coastal ecosystems;

"(2) establish long-term water quality assessment and monitoring programs for high priority coastal waters that will enhance the ability of Federal, State, and local authorities to develop and implement effective remedial programs for those waters;

"(3) establish a system for reviewing and evaluating the scientific, analytical, and technological means that are available for monitoring the environmental quality of coastal ecosystems;

"(4) establish methods for identifying uniform indicators of coastal ecosystem quality;

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"(5) provide for periodic, comprehensive reports to Congress concerning the quality of the Nation's coastal ecosystems;

"(6) establish a coastal environment information program to distribute coastal monitoring information;

"(7) provide state programs authorized under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) with information necessary to design land use plans and coastal zone regulations that will contribute to the protection of coastal ecosystems; and

"(8) provide certain water pollution control programs authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) with information necessary to design and implement effective coastal water pollution controls.

33 USC 2802.

"SEC. 502. DEFINITIONS.

"For the purposes of this title, the term—

"(1) 'Administrator' means the Administrator of the Environmental Protection Agency;

"(2) 'coastal ecosystem' means a system of interacting biological, chemical, and physical components throughout the water column, water surface, and benthic environment of coastal waters;

"(3) 'coastal water quality' means the physical, chemical and biological parameters that relate to the health and integrity of coastal ecosystems;

"(4) 'coastal water quality monitoring' means a continuing program of measurement, analysis, and synthesis to identify and quantify coastal water quality conditions and trends to provide a technical basis for decisionmaking;

"(5) 'coastal waters' means waters of the Great Lakes, including their connecting waters and those portions of rivers, streams, and other bodies of water having unimpaired connection with the open sea up to the head of tidal influence, including wetlands, intertidal areas, bays, harbors, and lagoons, including waters of the territorial sea of the United States and the contiguous zone"; and

"(6) 'Under Secretary' means Under Secretary of Commerce for Oceans and Atmosphere.

33 USC 2803.

"SEC. 503. COMPREHENSIVE COASTAL WATER QUALITY MONITORING PROGRAM.

"(a) AUTHORITY; JOINT IMPLEMENTATION.—(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

Rhode Island.

"(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

"(b) PROGRAM ELEMENTS.—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

"(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

"(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

"(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and

"(C) health and quality of living resources.

"(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;

"(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;

"(4) assessment of the accumulation of floatables along coastal shorelines;

"(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and

"(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).

(c) MONITORING GUIDELINES AND PROTOCOLS.—

"(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—

"(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;

"(B) establish scientifically valid monitoring methods that will—

"(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;

"(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;

"(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and

"(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;

"(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and

"(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.

"(2) TECHNICAL PROTOCOLS.—Guidelines issued under paragraph (1) shall include protocols for—

"(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables.

"(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

"(C) quality control, quality assessment, and data consistency and management.

"(3) PERIODIC REVIEW.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

"(4) DISCHARGE PERMIT DATA.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

"(d) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—

"(1) IN GENERAL.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

"(2) DESIGNATION OF INTENSIVE MONITORING AREAS.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

"(3) IDENTIFICATION OF SUITABLE COASTAL AREAS.—(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

"(i) are representatives of coastal ecosystems throughout the United States;

"(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

"(iii) would benefit from intensive water quality monitoring because of local management needs.

"(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

Reports.

"(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the

Administrator and the Under Secretary listing areas suitable for intensive monitoring.

"(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2). Massachusetts. Maine.

"(4) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

"(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

"(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives for coastal waters covered by the program;

"(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

"(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

"(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

"(F) describe the data management and quality control components of the program;

"(G) specify the implementation requirements for the program, including—

"(i) the lead Federal, State, or regional authority that will administer the program;

"(ii) the public and private parties that will implement the program;

"(iii) a detailed schedule for program implementation;

"(iv) all Federal and State responsibilities for implementing the program; and

"(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

"(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

"(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

"(5) CRITERIA FOR MONITORING MASSACHUSETTS AND CAPE COD BAYS.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indige-

nous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

"(6) MEMORANDUM OF UNDERSTANDING.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

"(7) IMPLEMENTATION.—(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

"(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

"(e) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

"(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

"(2) CONSULTATION.—The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

Federal Register, publication.

"(3) PUBLIC COMMENT.—Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

"(4) MEMORANDUM OF UNDERSTANDING.—Within 1 year after submission of the Strategy under paragraph (1), the Administrator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.

SEC. 504. REPORT TO CONGRESS. 33 USC 2804.

"On September 30 of each other year beginning in 1993, the Administrator and the Under Secretary shall jointly submit to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries and the Committee on Public Works and Transportation of the House of Representatives a report describing the condition of the Nation's coastal ecosystems, including the following:

"(1) an assessment of the status and health of the Nation's coastal ecosystems;

"(2) an evaluation of environmental trends in coastal ecosystems;

"(3) identification of sources of enironmental degradation affecting coastal ecosystems;

"(4) an assessment of the extent to which floatables degrade coastal ecosystems, including trends in the accumulation of floatables and the threat posed by floatables to aquatic life;

"(5) an assessment of the impact of government programs designed to abate the degradation of coastal ecosystems:

"(6) an evaluation of the adequacy of monitoring programs and identification of any additional program elements which may be needed; and

"(7) a summary of monitoring results in areas monitored under subsection 503(d).

"SEC. 505. AUTHORIZATION OF APPROPRIATIONS. 33 USC 2805.

"(a) NOAA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Under Secretary amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.

"(b) EPA AUTHORIZATION.—For development and implementation of programs under this title, including financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under section 503(d), there is authorized to be appropriated to the Administrator amounts not to exceed $5,000,000 for fiscal year 1993, $8,000,000 for fiscal year 1994, and $10,000,000 for fiscal year 1995, and $12,000,000 for fiscal year 1996.".

TITLE VI—NOAA FLEET MODERNIZATION

NOAA Fleet Modernization Act. 33 USC 851 Note.

SEC. 601. SHORT TITLE.

This title may be cited as the "NOAA Fleet Modernization Act".

SEC. 602. DEFINITIONS. 33 USC 891.

In this title, the term—

(1) "NOAA" means the National Oceanic and Atmospheric Administration within the Department of Commerce.

(2) "NOAA fleet" means the fleet of research vessels owned or operated by NOAA.

(3) "Plan" means the NOAA Fleet Replacement and Modernization Plan described in section 604.

(4) "Secretary" means the Secretary of Commerce.

(5) "UNOLS" means University-National Oceanographic Laboratory System.

33 USC 891a.

SEC. 603. FLEET REPLACEMENT AND MODERNIZATION PROGRAM.

The Secretary is authorized to implement, subject to the requirements of this Act, a 15-year program to replace and modernize the NOAA fleet.

33 USC 891b.

SEC. 604. FLEET REPLACEMENT AND MODERNIZATION PLAN.

(a) IN GENERAL.—To carry out the program authorized in section 603, the Secretary shall develop and submit to Congress a replacement and modernization Plan for the NOAA fleet covering the years authorized under section 610.

(b) TIMING.—The Plan required in subsection (a) shall be submitted to Congress within 30 days of the date of enactment of this Act, and updated on an annual basis.

(c) PLAN ELEMENTS.—The Plan required in subsection (a) shall include the following—

(1) the number of vessels proposed to be modernized or replaced, the schedule for their modernization or replacement, and anticipated funding requirements;

(2) the number of vessels proposed to be constructed, leased, or chartered;

(3) the number of vessels, or days at sea, that can be obtained by using the vessels of the UNOLS;

(4) the number of vessels that will be made available to NOAA by the Secretary of the Navy, or any other federal official, and the terms and conditions for their availability;

(5) the proposed acquisition of modern scientific instrumentation for the NOAA fleet, including acoustic systems, data transmission positioning and communication systems, physical, chemical, and meteorological oceanographic systems, and data acquisition and processing systems; and

(6) the appropriate role of the NOAA Corps in operating and maintaining the NOAA fleet.

(d) CONTRACTING LIMITATION.—The Secretary may not enter into any contract for the construction, lease, or service life extension of a vessel of the NOAA fleet before the date of the submission to Congress of the Plan required in subsection (a).

33 USC 891c.

SEC. 605. DESIGN OF NOAA VESSELS.

(a) DESIGN REQUIREMENT.—Except for the vessel designs identified under subsection (b), the Secretary, working through the Office of the NOAA Corps Operations and the Systems Procurement Office, shall—

(1) prepare requirements for each class of vessel to be constructed or converted under the Plan; and

(2) contract competitively from nongovernmental entities with expertise in shipbuilding for vessel design and construction based on the requirements for each class of vessel to be acquired.

Reports.

(b) EXCEPTION.—The Secretary shall—

(1) report to Congress identifying any existing vessel design or design proposal that meets the requirements of the Plan within 30 days after the date of enactment of this Act and

shall promptly advise the Congress of any modification of these designs; and

(2) submit to Congress as part of the annual update of the Plan required in section 604, any subsequent existing vessel design or design proposals that meet the requirements of the Plan.

SEC. 606. CONTRACT AUTHORITY. 33 USC 891d.

(a) MULTIYEAR CONTRACTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), and notwithstanding section 1341 of title 31, United States Code and section 3732 of the Revised Statutes of the United States (41 U.S.C. 11), the Secretary may acquire vessels for the NOAA fleet by purchase, lease, lease-purchase, or otherwise, under one or more multiyear contracts.

(2) REQUIRED FINDINGS.—The Secretary may not enter into a contract pursuant to this subsection unless the Secretary finds with respect to that contract that—

(A) there is a reasonable expectation that throughout the contemplated contract period the Secretary will request from Congress funding for the contract at the level required to avoid contract termination; and

(B) the use of the contract will promote the best interests of the United States by encouraging competition and promoting economic efficiency in the operation of the NOAA fleet.

(3) REQUIRED CONTRACT PROVISIONS.—The Secretary may not enter into a contract pursuant to this subsection unless the contract includes—

(A) a provision under which the obligation of the United States to make payments under the contract for any fiscal year is subject to the availability of appropriations provided in advance for those payments;

(B) a provision that specifies the term of effectiveness of the contract; and

(C) appropriate provisions under which, in case of any termination of the contract before the end of the term specified pursuant to subparagraph (B), the United States shall only be liable for the lesser of—

(i) an amount specified in the contract for such a termination; or

(ii) amounts that—

(I) were appropriated before the date of the termination for the performance of the contract or for procurement of the type of acquisition covered by the contract; and

(II) are unobligated on the date of the termination.

(b) SERVICE CONTRACTS.—Notwithstanding any other provision of law, the Secretary may enter into multiyear contracts for oceanographic research, fisheries research, and mapping and charting services to assist the Secretary in fulfilling NOAA missions. The Secretary may only enter into these contracts if—

(1) the Secretary finds that it is in the public interest to do so;

(2) the contract is for not more than 7 years; and

(3)(A) the cost of the contract is less than the cost (including the cost of operation, maintenance, and personnel) to the NOAA of obtaining those services on NOAA vessels; or

(B) NOAA vessels are not available or cannot provide those services.

(c) BONDING AUTHORITY.—Notwithstanding any other law, the Secretary may not require a contractor for the construction, alteration, repair or maintenance of a NOAA vessel to provide a bid bond, payment bond, performance bond, completion bond, or other surety instrument in an amount greater than 20 percent of the value of the base contract quantity (excluding options) unless the Secretary determines that requiring an instrument in that amount will not prevent a responsible bidder or offeror from competing for the award of the contract.

33 USC 891e.

SEC. 607. RESTRICTION WITH RESPECT TO CERTAIN SHIPYARD SUBSIDIES.

(a) IN GENERAL.—The Secretary of Commerce may not award a contract for the construction, repair (except emergency repairs), or alteration of any vessel of the National Oceanic and Atmospheric Administration in a shipyard, if that vessel benefits or would benefit from significant subsidies for the construction, repair, or alteration of vessels in that shipyard.

(b) DEFINITION.—In this section, the term "significant subsidy" includes, but is not limited to, any of the following:

(1) Officially supported export credits.

(2) Direct official operating support to the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to—

(A) grants;

(B) loans and loan guarantees other than those available on the commercial market;

(C) forgiveness of debt;

(D) equity infusions on terms inconsistent with commercially reasonable investment practices; and

(E) preferential provision of goods and services.

(3) Direct official support for investment in the commercial shipbuilding and repair industry, or to a related entity that favors the operation of shipbuilding and repair, including but not limited to the kinds of support listed in paragraph (2)(A) through (E), and any restructuring support, except public support for social purposes directly and effectively linked to shipyard closures.

(4) Assistance in the form of grants, preferential loans, preferential tax treatment, or otherwise, that benefits or is directly related to shipbuilding and repair for purposes of research and development that is not equally open to domestic and foreign enterprises.

(5) Tax policies and practices that favor the shipbuilding and repair industry, directly or indirectly, such as tax credits, deductions, exemptions, and preferences, including accelerated depreciation, if such benefits are not generally available to persons or firms not engaged in shipbuilding or repair.

(6) Any official regulation or practice that authorizes or encourages persons or firms engaged in shipbuilding or repair to enter into anticompetitive arrangements.

(7) Any indirect support directly related, in law or in fact, to shipbuilding and repair at national yards, including any public assistance favoring shipowners with an indirect effect on shipbuilding or repair activities, and any assistance provided to suppliers of significant inputs to shipbuilding, which results in benefits to domestic shipbuilders.

(8) Any export subsidy identified in the Illustrative List of Export Subsidies in the Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade or any other export subsidy that may be prohibited as a result of the Uruguay Round of trade negotiations.

SEC. 608. USE OF VESSELS. 33 USC 891f.

(a) VESSEL AGREEMENTS.—In implementing the NOAA fleet replacement and modernization program, the Secretary shall use excess capacity of UNOLS vessels where appropriate and may enter into memoranda of agreement with the operators of these vessels to carry out this requirement.

(b) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the Comptroller General of the United States shall provide a report to Congress, in consultation with the Secretary, comparing the cost-efficiency, accounting, and operating practices of the vessels of NOAA, UNOLS, other Federal agencies, and the United States private sector in meeting the missions of NOAA.

SEC. 609. INTEROPERABILITY. 33 USC 891g.

The Secretary shall consult with the Oceanographer of the Navy regarding appropriate measures that should be taken, on a reimbursable basis, to ensure that NOAA vessels are interoperable with vessels of the Department of the Navy, including with respect to operation, maintenance, and repair of those vessels.

SEC. 610. AUTHORIZATION OF APPROPRIATIONS. 33 USC 891h.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary for carrying out this title—

(1) $50,000,000 for fiscal year 1993;

(2) $100,000,000 for fiscal year 1994; and

(3) such sums as are necessary for each of the fiscal years 1995, 1996, and 1997.

(b) LIMITATION ON FLEET MODERNIZATION ACTIVITIES.—All National Oceanic and Atmospheric Administration fleet modernization shipbuilding, and conversion shall be conducted in accordance with this title.

TITLE VII—WEATHER SERVICE MODERNIZATION

Weather Service Modernization Act. 15 USC 313 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Weather Service Modernization Act".

SEC. 702. DEFINITIONS.

For the purposes of this title, the term—

(1) "automate" means to replace employees with automated weather service equipment;

(2) "change operations at a field office" means transfer service responsibility, commission weather observation systems,

decommission a National Weather Service radar, change staffing levels significantly, or move a field office to a new location inside the local commuting and service area;

(3) "Committee" means the Modernization Transition Committee established by section 707;

(4) "degradation of service" means any decrease in or failure to maintain the quality and type of weather services provided by the National Weather Service to the public in a service area, including but not limited to a reduction in existing weather radar coverage at an elevation of 10,000 feet;

(5) "field office" means any National Weather Service Office or National Weather Service Forecast Office;

(6) "Plan" means the National Implementation Plan required under section 703;

(7) "relocate" means to transfer from one location to another location that is outside the local commuting or service area;

(8) "Secretary" means the Secretary of Commerce;

(9) "service area" means the geographical area for which a field office provides services or conducts observations, including but not limited to local forecasts, severe weather warnings, aviation support, radar coverage, and ground weather observations; and

(10) "Strategic Plan" means the 10-year strategic plan for the comprehensive modernization of the National Weather Service, required under section 407 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note).

SEC. 703. NATIONAL IMPLEMENTATION PLAN.

(a) NATIONAL IMPLEMENTATION PLAN.—As part of the budget justification documents submitted to Congress in support of the annual budget request for the Department of Commerce, the Secretary shall include a National Implementation Plan for modernization of the National Weather Service for each fiscal year following fiscal year 1993 until such modernization is complete. The Plan shall set forth the actions, during the 2-year period beginning with the fiscal year for which the budget request is made, that will be necessary to accomplish the objectives described in the Strategic Plan, and shall include—

(1) detailed requirements for new technologies, facilities, staffing levels and positions, and funding, in accordance with the overall schedule for modernization;

(2) notification of any proposed action to change operations at a field office and the intended date of such operational change;

(3) identification of any field office that the Secretary intends to certify under section 706, including the intended date of such certification;

(4) special measures to test, evaluate, and demonstrate key elements of the modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of the modernization in an integrated manner for a sustained period;

(5) detailed plans and funding requirements for meteorological research to be accomplishment under this title to assure that new techniques in forecasting will be developed to utilize

the new technologies being implemented in the modernization; and

(6) training and education programs to ensure that employees gain the necessary expertise to utilize the new technologies and to minimize employee displacement as a consequence of modernization.

(b) TRANSMITTAL TO COMMITTEE.—The Secretary shall transmit a copy of each annual Plan to the Committee.

(c) CONSULTATION.—In developing the Plan, the Secretary shall consult, as appropriate, with the Committee and public entities responsible for providing or utilizing weather services.

SEC. 704. MODERNIZATION CRITERIA.

(a) NATIONAL RESEARCH COUNCIL REVIEW.—The Secretary shall contract with the National Research Council for a review of the scientific and technical modernization criteria by which the Secretary proposes to certify action to close, consolidate, automate, or relocate a field office under section 706. In conducting such review, the National Research Council shall prepare and submit to the Secretary, no later than 9 months after the date of enactment of this Act, a report which— Reports.

(1) assesses requirements and procedures for commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area;

(2) assesses the statistical and analytical measures that should be made for a service area to form an adequate basis for determining that there will be no degradation of service; and

(3) includes such other recommendations as the National Research Council determines are appropriate to ensure public safety.

(b) CRITERIA.—No later than 12 months after the date of enactment of this Act, the Secretary, in consultation with the National Research Council and the Committee and after notice and opportunity for public comment, shall publish in the Federal Register modernization criteria (including all requirements and procedures), based on the report required under this section, for— Federal Register, publication.

(1) commissioning new weather observation systems, decommissioning an outdated National Weather Service radar, and evaluating staffing needs for field offices in an affected service area; and

(2) certifying action to close, consolidate, automate, or relocate a field office under section 706.

SEC. 705. CHANGES IN FIELD OFFICE OPERATIONS.

(a) NOTIFICATION.—The Secretary shall not change operations at a field office pursuant to implementation of the Strategic Plan unless the Secretary has provided the notification required by section 703.

(b) WEATHER RADAR DECOMMISSIONING.—The Secretary shall not remove or permanently decommission any National Weather Service radar until the Secretary has prepared radar commissioning and decommissioning reports documenting that such action would be consistent with the modernization criteria established under section 704(b)(1). The commissioning report shall document that the radar system performs reliably, satisfactory maintenance support is in place, sufficient staff with adequate training are present Reports.

to operate the system, technical coordination with weather service users has been completed, and the radar being commissioned satisfactorily supports field office operations. The decommissioning report shall document that the replacement radar has been commissioned, technical coordination with service users has been completed, and the radar being decommissioned is no longer needed to support field office operations.

(c) SURFACE OBSERVING SYSTEM COMMISSIONING.—The Secretary may not commission an automated surface observing system located at an airport unless it is determined, in consultation with the Secretary of Transportation, that the weather services provided after commissioning will continue to be in full compliance with applicable flight aviation rules promulgated by the Federal Aviation Administration.

SEC. 706. RESTRUCTURING FIELD OFFICES.

SEC. 706. (a) PROHIBITION.—The Secretary shall not close, before January 1, 1996, any field office pursuant to implementation of the Strategic Plan.

(b) CERTIFICATION.—The Secretary shall not close, consolidate, automate, or relocate any field office, unless the Secretary has certified that such action will not result in any degradation of service. Such certification shall include—

(1) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(2) a detailed comparison of the services provided within the service area and the services to be provided after such action;

(3) a description of any recent or expected modernization of National Weather Service operations which will enhance services in the service area;

(4) an identification of any area within any State which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(5) evidence, based upon operational demonstration of modernized National Weather Service operations, which was considered in reaching the conclusion that no degradation in service will result from such action; and

(6) any report of the Committee submitted under section 707(c) that evaluates the proposed certification.

(c) PUBLIC REVIEW.—Each certification decision shall be preceded by—

Federal Register, publication.

(1) publication in the Federal Register of a proposed certification; and

(2) a 60-day period after such publication during which the public may provide comments to the Secretary on the proposed certification.

Federal Register, publication.

(d) FINAL DECISION.—If after consideration of the public comment received under subsection (c) the Secretary, in consultation with the Committee, decides to close, consolidate, automate, or relocate any such field office, the Secretary shall publish a final certification in the Federal Register and submit the certification to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(e) SPECIAL CIRCUMSTANCES.—The Secretary may not close or relocate any field office—

(1) which is located at an airport, unless the Secretary, in consultation with the Secretary of Transportation and the Committee, first conducts an air safety appraisal, determines that such action will not result in degradation of service that affects aircraft safety, and includes such determination in the certification required under subsection (b); or

(2) which is the only office in a State, unless the Secretary first evaluates the effect on weather services provided to in-State users, such as State agencies, civil defense officials, and local public safety offices, and includes in the certification required under subsection (b) the Secretary's determination that a comparable level of weather services provided to such in-State users will remain.

(f) LIAISON OFFICER.—The Secretary may not close, consolidate, automate, or relocate a field office until arrangements have been made to maintain for a period of at least 2 years at least one person in the service area to act as a liaison officer who—

(1) provides timely information regarding the activities of the National Weather Service which may affect service to the community, including modernization and restructuring; and

(2) works with area weather service users, including persons associated with general aviation, civil defense, emergency preparedness, and the news media, with respect to the provision of timely weather warnings and forecasts.

SEC. 707. MODERNIZATION TRANSITION COMMITTEE.

(a) ESTABLISHMENT.—There is established a committee of 12 members to be known as the Modernization Transition Committee.

(b) MEMBERSHIP AND TERMS.—(1) The Committee shall consist of—

(A) five members representing agencies and departments of the United States which are responsible for providing or using weather services, including but not limited to the National Weather Service, the Department of Defense, the Federal Aviation Administration, and the Federal Emergency Management Agency; and

(B) seven members to be appointed by the Secretary from civil defense and public safety organizations, news media, any labor organization certified by the Federal Labor Relations Authority as an exclusive representative of weather service employees, meteorological experts, and private sector users of weather information such as pilots and farmers.

(2) The terms of office of a member of the Committee shall be 3 years; except that, of the original membership, four shall serve a 5-year term, four shall serve a 4-year term, and four shall serve a 3-year term. No individual may serve for more than one additional 3-year term.

(3) The Secretary shall designate a chairman of the Committee from among its members.

(c) DUTIES.—(1) The Committee may review any proposed certification under section 706 for which the Secretary has provided a notice of intent to certify in the Plan, and should review such a proposed certification if there is a significant possibility of degradation of service within the affected service area. Upon the request of the Committee, the Secretary shall make available to

the Committee the supporting documents developed by the Secretary in connection with the proposed certification. The Committee may prepare and submit to the Secretary, prior to publication of the proposed certification, a report which evaluates the proposed certification on the basis of the modernization criteria and with respect to the requirement that there be no degradation of service.

(2) The Committee shall advise the Congress and the Secretary on—

(A) the implementation of the Strategic Plan, annual development of the Plan, and establishment and implementation of modernization criteria; and

(B) matters of public safety and the provision of weather services which relate to the comprehensive modernization of the National Weather Service.

(d) PAY AND TRAVEL EXPENSES.—Members of the Committee who are not employees of the United States shall each be paid at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Committee. Members shall receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(e) STAFF.—The Secretary shall make available to the Committee such staff, information, and assistance as it may reasonably require to carry out its activities.

(f) TERMINATION.—The Committee shall terminate on December 31, 1999.

SEC. 708. WEATHER SERVICE REPORT.

(a) REPORT.—The Secretary shall prepare a report on the proposed modernization of the National Weather Service and transmit the report, not later than 6 months after the date of enactment of this Act, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

(b) CONTENTS.—(1) The report required by subsection (a) shall identify the size of the geographic area of responsibility of each proposed Weather Forecast Office and shall include an explanation of the number and type of personnel required at each Weather Forecast Office. For each proposed Weather Forecast Office covering a geographic area greater than two times the average geographic area of responsibility of Weather Forecast Offices nationwide, the report shall detail the reasons for assigning those Weather Forecast Offices a geographic area which differs significantly from the national average.

(2) The report shall list the number of next generation weather radars that will be associated with each Weather Forecast Office nationwide under the proposed modernization plan. If some Weather Forecast Offices will be associated with more than one such radar, the report shall explain the deviation from the National Weather Service's stated policy of associating one such radar with one Weather Forecast Office, and shall analyze and compare any differences in the expected efficiency of those Weather Forecast Offices with Weather Forecast Offices that will be associated with only one such radar.

(c) CONSULTATION.—In preparing portions of the report that address Weather Forecast Offices located in areas of the Nation that are uniquely dependent on general aviation as a means of transportation, the Secretary shall consult with local aviation groups. In the case of Alaska, such local groups shall include the Alaska Aviation Safety Foundation, the Alaska Airmen's Association, and the regional representatives of the Aircraft Owners and Pilots Association. Alaska.

SEC. 709. REPEALS.

The National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (15 U.S.C. 313 note), is amended by repealing—

(1) subsections (b), (c), and (d) of section 407; and

(2) section 408.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

North Pacific Anadromous Stocks Act of 1992. 16 USC 5001 note.

SEC. 801. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks Act of 1992".

SEC. 802. PURPOSE. 16 USC 5001.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

SEC. 803. DEFINITIONS. 16 USC 5002.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 809(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that

zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

16 USC 5003.

SEC. 804. UNITED STATES COMMISSIONERS.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 805, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) COMPENSATION.—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

SEC. 805. ADVISORY PANEL. 16 USC 5004.

(a) ESTABLISHMENT OF PANEL.—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) QUALIFICATIONS.—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) LIMITATION ON SERVICE.—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) FUNCTIONS.—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) COMPENSATION AND EXPENSES.—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 806. COMMISSION RECOMMENDATIONS. 16 USC 5005.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 807. ADMINISTRATION AND ENFORCEMENT OF CONVENTION. 16 USC 5006.

(a) RESPONSIBILITIES.—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) CONSULTATION AND COOPERATION.—In carrying out such functions, the Secretary of Commerce—

Regulations.

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

16 USC 5007.

SEC. 808. COOPERATION WITH OTHER AGENCIES.

(a) IN GENERAL.—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) FUNCTIONS OF SECRETARY OF COMMERCE.—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

16 USC 5008.

SEC. 809. ENFORCEMENT PROVISIONS.

(a) DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) POWERS OF ENFORCEMENT OFFICERS.—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if the officer has reasonable cause to believe that such person has committed an act prohibited by section 810;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) ADDITIONAL POWERS.—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) If any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 810. UNLAWFUL ACTIVITIES. 16 USC 5009.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

16 USC 5010.

SEC. 811. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 810 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within 30 days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 810 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if the person commits any act prohibited by section 810 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4).

(3) if a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 809(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process;

upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 810 were taken or retained in violation of the Convention and this title.

16 USC 5011.

SEC. 812. FUNDING REQUIREMENTS.

(a) AUTHORIZATION.—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States' share of the joint expenses of the Commission.

(b) RESEARCH.—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

16 USC 5012.

SEC. 813. DISPOSITION OF PROPERTY.

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

SEC. 814. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954 (16 U.S.C. 1021–1035) is repealed.

TITLE IX—NEW ENGLAND GROUNDFISH

SEC. 901. FISHERY ENFORCEMENT.

Section 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting immediately after subsection (e) the following new subsection:

"(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

"(1) ENFORCEMENT AGREEMENTS.—Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

"(2) REIMBURSEMENT.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

"(3) COAST GUARD ENFORCEMENT WORKING GROUP.—

"(A) ESTABLISHMENT.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

"(B) MEMBERSHIP.—The working group shall consist of members selected by the Commander, and shall include—

"(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

"(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

"(iii) other individuals the Commander considers appropriate.

"(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

"(D) MEETINGS.—The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

"(4) USE OF FINES AND PENALTIES.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary pursuant to this section to enforce that Plan.".

SEC. 902. FISHERIES REINVESTMENT PROGRAM.

(a) PROGRAM.—Title III of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

"SEC. 314. NORTHWEST ATLANTIC OCEAN FISHERIES REINVESTMENT PROGRAM. 16 USC 1863.

"(a) PROGRAM.—(1) Not later than October 1, 1993, the Secretary shall establish a Northwest Atlantic Ocean Fisheries Reinvestment Program for the purposes of—

"(A) promoting development of commercial fisheries and markets for underutilized species of the northwest Atlantic Ocean;

"(B) developing alternative fishing opportunities for participants in the New England groundfish fishery;

"(C) providing technical support and assistance to United States fishermen and fish processors to improve the value-added processing of underutilized species and to make participation in fisheries for underutilized species of the northwest Atlantic Ocean economically viable;

"(D) creating new economic opportunities through the improved processing and expanded use of fish waste; and

"(E) helping to restore overfished New England groundfish stocks through aquaculture or hatchery programs.

"(2) CONSULTATION.—In establishing and implementing the Northwest Fisheries Reinvestment Program, the Secretary shall consult with representatives of the commercial fishing industry, the seafood processing industry, and the academic community (including the National Sea Grant Program).

Contracts.
Grants.

"(3) ACTIVITIES UNDER PROGRAM.—Subject to the availability of appropriations, the Secretary shall award contracts, grants and other financial assistance to United States citizens to carry out the purposes of subsection (1), under the terms and conditions provided in section 2(c) of the Act of August 11, 1939 (15 U.S.C. 713c–3(c); commonly referred to as the "Saltonstall-Kennedy Act"), except that, in making awards under this section for projects involving participation in fisheries for underutilized species, the Secretary shall give the highest priority to a person who owns or operates a fishing vessel permitted under this Act to participate in the New England groundfish fishery who agrees to surrender that permit to the Secretary during the duration of the contract, grant or other assistance.

"(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 1993 through 1997 to carry out the purposes of this section. For fiscal year 1993 no more than $1,000,000, and for fiscal year 1994 no more than $2,000,000, of such funds may be provided from monies made available under section 2(b) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)).

"(b) ASSISTANCE OF OTHER AGENCIES.—The Secretary shall actively seek the assistance of other Federal agencies in the development of fisheries for underutilized species of the northwest Atlantic Ocean, including, to the extent permitted by other applicable laws, assistance from the Secretary of Agriculture in including such underutilized species as agricultural commodities in the programs of the Foreign Agricultural Service for which amounts are authorized under the Food, Agriculture, Conservation, and Trade Act of 1990 (Public Law 101–624; 104 Stat. 3359).

"(c) MANAGEMENT PLANS FOR UNDERUTILIZED SPECIES.—The New England Fishery Management Council, in consultation with other appropriate Councils, shall develop fishery management plans as soon as possible for any underutilized species of the northwest Atlantic Ocean that is not covered under such a plan, in order to prevent overfishing of that species.

"(d) UNDERUTILIZED SPECIES DEFINED.—For purposes of this section, the term 'underutilized species of the northwest Atlantic Ocean' means any fish species of the northwest Atlantic Ocean

that is identified, by the Director of the Northeast Fisheries Center of the National Marine Fisheries Service, as an underutilized species.".

(b) CONFORMING AMENDMENT.—The table of contents in the first section of the Magnuson Fishery Conservation and Management Act is amended by inserting immediately after the item relating to section 313 the following new item:

"Sec. 314. Northwest Atlantic Oceans Fisheries Reinvestment Program.".

(c) AMENDMENTS TO THE SALTONSTALL-KENNEDY ACT.—Section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)(1)(A)); commonly referred to as the "Saltonstall-Kennedy Act"), is amended—

(1) by striking "and" at the end of clause (i); and

(2) by adding at the end the following new clause:

"(iii) to implement the Northwest Atlantic Ocean Fisheries Reinvestment Program established under section 314 of the Magnuson Fishery Conservation and Management Act.".

Approved October 29, 1992.

LEGISLATIVE HISTORY—H.R. 2130 (S. 1405):

HOUSE REPORTS: No. 102-133, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).

SENATE REPORTS: No. 102-198 accompanying S. 1405 (Comm. on Commerce, Science and Transportation).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 20, considered and passed House.

Vol. 138 (1992): Aug. 12, considered and passed Senate, amended, in lieu of S. 1405.

Oct. 5, House concurred in Senate amendment with an amendment.

Oct. 7, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 28, Presidential statement.

Public Law 102-568
102d Congress

An Act

Oct. 29, 1992
[H.R. 5008]

To amend title 38, United States Code, to reform the formula for payment of dependency and indemnity compensation to survivors of veterans dying from service-connected causes, to increase the rate of payments for benefits under the Montgomery GI bill, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits Act of 1992.

38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Sec. 101. Short title.
Sec. 102. Reform in payment formula.
Sec. 103. Exception to operation of OBRA provision.
Sec. 104. GAO report relating to the provision of benefits to survivors of veterans and members of the Armed Forces.

TITLE II—LIFE INSURANCE PROGRAMS

Sec. 201. Servicemen's Group Life Insurance.
Sec. 202. Veterans' Group Life Insurance.
Sec. 203. Supplemental Service Disabled Veterans' insurance for totally disabled veterans.
Sec. 204. Increase in amount of veterans' mortgage life insurance.
Sec. 205. Effective date.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS

Sec. 301. Increase in amount of Montgomery GI Bill basic educational assistance.
Sec. 302. Montgomery GI Bill entitlement dates.
Sec. 303. Extension of period for completing requirements for secondary school diploma.
Sec. 304. Treatment of certain active-duty service toward eligibility for educational assistance.
Sec. 305. Treatment of certain assignments of individuals for purposes of eligibility under Montgomery GI Bill program.
Sec. 306. Treatment of pursuit of education at service academies and certain educational institutions for purposes of eligibility under Montgomery GI Bill program.
Sec. 307. Educational assistance for certain persons whose initial period of obligated service was less than three years.
Sec. 308. Death benefit.
Sec. 309. Clarification of opportunity to withdraw election not to enroll in Montgomery GI Bill program.
Sec. 310. Use of educational assistance for solo flight training.
Sec. 311. Limitation on amount of advance payment of work-study allowance.
Sec. 312. Revision of requirements relating to approval of accredited courses.
Sec. 313. Disapproval of nonaccredited independent study.
Sec. 314. Treatment of advance payments of certain assistance to veterans who die.
Sec. 315. Bar of assistance for persons whose education is paid for as Federal employee training.
Sec. 316. Revision in measurement of courses.

Sec. 317. Clarification of permitted changes in programs of education.
Sec. 318. Authority of members of Selected Reserve to receive tutorial assistance.
Sec. 319. Requirement of attendance certification in apprenticeship program under the Montgomery GI Bill Selected Reserve program.
Sec. 320. Technical amendments.

TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

Sec. 401. Permanent authority for program of vocational rehabilitation for certain service-disabled veterans.
Sec. 402. Extension of program of vocational training for certain pension recipients.
Sec. 403. Permanent authority for protection of health-care eligibility for certain pension recipients.
Sec. 404. Vocational rehabilitation for certain service-disabled veterans with serious employment handicaps.
Sec. 405. Increase in subsistence allowance for veterans participating in a rehabilitation program.

TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

Sec. 501. Improvement of disabled veterans' outreach program.
Sec. 502. Repeal of delimiting date relating to treatment of veterans of the Vietnam Era for disabled veterans' outreach program purposes.
Sec. 503. Disabled veterans' outreach program priorities.
Sec. 504. Repeal of requirement that to be represented on advisory committee on veterans employment and training a veterans organization must have a Federal charter.
Sec. 505. Expansion and extension of veterans readjustment appointments with the Federal Government.
Sec. 506. Redesignation of sections of chapter 43.

TITLE VI—OTHER VETERANS' PROGRAMS

Sec. 601. Extension of limitation on pension for veterans receiving medicaid-covered nursing home care; applicability to surviving spouses; and facility expenses.
Sec. 602. Extension of authority to carry out income verification.
Sec. 603. Access to information necessary for the administration of certain veterans benefits laws.
Sec. 604. Extension of expiring cost-recovery authority.
Sec. 605. Exclusion for low-income veterans from medication copayment requirement.
Sec. 606. Extension of copayment programs.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—REFORM OF THE DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Dependency and Indemnity Compensation Reform Act of 1992.

SEC. 101. SHORT TITLE.

38 USC 101 note.

This title may be cited as the "Dependency and Indemnity Compensation Reform Act of 1992".

SEC. 102. REFORM IN PAYMENT FORMULA.

(a) SURVIVING SPOUSE BASIC RATE.—Subsection (a) of section 1311 is amended by striking out the matter preceding the table and inserting in lieu thereof the following:

"(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $750.

"(2) The rate under paragraph (1) shall be increased by $165 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

"(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):".

(b) ADDITIONAL RATE FOR SURVIVING SPOUSE WITH MINOR CHILDREN.—Subsection (b) of such section is amended by striking out "$71 for each such child" and inserting in lieu thereof "$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter".

38 USC 1311 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1993.

38 USC 1311 note.

(d) PAYMENT FOR IMPLEMENTATION OF REVISIONS.—The costs of implementing, during fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code, that result from the amendments made by subsections (a) and (b) shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.

38 USC 103 note.

SEC. 103. EXCEPTION TO OPERATION OF OBRA PROVISION.

(a) EXCEPTION.—The amendments made by section 8004 of the Omnibus Budget Reconciliation Act of 1990 (105 Stat. 424) shall not apply to any case in which a legal proceeding to terminate an existing marital relationship was commenced before November 1, 1990, by an individual described in subsection (b) if that proceeding directly resulted in the termination of such marriage.

(b) COVERED INDIVIDUALS.—An individual referred to in subsection (a) is an individual who, but for the marital relationship referred to in subsection (a), would be considered to be the surviving spouse of a veteran.

38 USC 1310 note.

SEC. 104. GAO REPORT RELATING TO THE PROVISION OF BENEFITS TO SURVIVORS OF VETERANS AND MEMBERS OF THE ARMED FORCES.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

(b) CONTENTS OF REPORT.—The report shall include the following:

(1) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

(A) in the case of each current and proposed alternative survivor benefits program—

(i) each benefit provided;

(ii) the survivors entitled to the benefit;

(iii) the extent to which survivors are entitled to similar benefits under the program; and

(iv) the costs of providing such benefits under the program;

(B) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

(C) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, members of the Armed Forces retired under any provision of law other than chapter 61 of title 10, United States Code, and members of the Armed Forces retired under chapter 61 of title 10, United States Code (relating to retirement or separation for physical disability)).

(2) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

(3) A comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

(A) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

(B) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

(i) revising the term of payment of any such benefits;

(ii) replacing the periodic payment of such benefits with a lump sum payment;

(iii) providing such benefits through insurance or other premium-based payment mechanisms; or

(iv) carrying out any other revision or modification proposed before the date of the enactment of this Act by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

(C) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

(D) the feasibility and desirability of modifying the provision of benefits to children survivors; and

(E) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

(4) The recommendations of the Comptroller General (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report not later than April 1, 1994.

(d) DEFINITIONS.—In this section:

(1) The term "survivor", in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

(2) The term "survivor benefit" means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

(A) Laws administered by the Secretary of Veterans Affairs.

(B) Laws administered by the Secretary of Defense.

(C) The Social Security Act (42 U.S.C. 301 et seq.).

(3) The term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE II—LIFE INSURANCE PROGRAMS

SEC. 201. SERVICEMEN'S GROUP LIFE INSURANCE.

Section 1967 is amended by adding at the end thereof the following:

"(e) In addition to the amounts of insurance otherwise provided under this section, an eligible member may, upon application, obtain increased coverage beyond that provided under this section in the amount of $100,000, or any lesser amount evenly divisible by $10,000.".

SEC. 202. VETERANS' GROUP LIFE INSURANCE.

Section 1977 is amended—

(1) in subsection (a)—

(A) by inserting "and (e)" after "1967(a)" and after "1967(b)";

(B) by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000";

(C) by striking out "sixty days" and inserting in lieu thereof "60 days";

(D) by striking out "sixty-day period" and inserting in lieu thereof "60-day period"; and

(E) by striking out "of this section" after "subsection (e)";

(2) in subsection (b)(2), by striking out "nonrenewable" and inserting in lieu thereof "renewable"; and

(3) in subsection (h)(2), by striking out "Notwithstanding subsection (b)(2) of this section" and inserting in lieu thereof "In accordance with subsection (b)".

SEC. 203. SUPPLEMENTAL SERVICE DISABLED VETERANS' INSURANCE FOR TOTALLY DISABLED VETERANS.

(a) IN GENERAL.—Subchapter I of chapter 19 is amended by inserting after section 1922 the following new section:

"§ 1922A. Supplemental service disabled veterans' insurance for totally disabled veterans

"(a) Any person insured under section 1922(a) of this title who qualifies for a waiver of premiums under section 1912 of this title is eligible, as provided in this section, for supplemental insurance in an amount not to exceed $20,000.

"(b) To qualify for supplemental insurance under this section a person must file with the Secretary an application for such insurance not later than the end of (1) the one-year period beginning on the first day of the first month following the month in which this section is enacted, or (2) the one-year period beginning on the date that the Department notifies the person that the person is entitled to a waiver of premiums under section 1912 of this title, whichever is later.

"(c) Supplemental insurance granted under this section shall be granted upon the same terms and conditions as insurance granted under section 1922(a) of this title, except that such insurance may not be granted to a person under this section unless the application is made for such insurance before the person attains 65 years of age.

"(d) No waiver of premiums shall be made in the case of any person for supplemental insurance granted under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 1922 the following new item:

"1922A. Supplemental service disabled veterans' insurance for totally disabled veterans.".

SEC. 204. INCREASE IN AMOUNT OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) INCREASE.—Section 2106(b) is amended in the first sentence—

(1) by striking out "initial"; and

(2) by striking out "$40,000" and inserting in lieu thereof "$90,000".

(b) TECHNICAL AMENDMENT.—The item relating to section 2106 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"2106. Veterans' mortgage life insurance.".

SEC. 205. EFFECTIVE DATE.

38 USC 1922A note.

The amendments made by this title shall take effect on December 1, 1992.

TITLE III—EDUCATIONAL ASSISTANCE PROGRAMS

SEC. 301. INCREASE IN AMOUNT OF MONTGOMERY GI BILL BASIC EDUCATIONAL ASSISTANCE.

(a) AMOUNT OF BENEFIT PAYMENTS UNDER CHAPTER 30.—Section 3015 is amended—

(1) in subsection (a)(1), by striking out "$300" and inserting in lieu thereof "$400"; and

(2) in subsection (b)(1), by striking out "$250" and inserting in lieu thereof "$325".

(b) AMOUNT OF BENEFIT PAYMENTS UNDER SELECTED RESERVE PROGRAM.—Section 2131(b)(1) of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking out "$140" and inserting in lieu thereof "$190";

(2) in subparagraph (B), by striking out "$105" and inserting in lieu thereof "$143"; and

(3) in subparagraph (C), by striking out "$70" and inserting in lieu thereof "$95".

(c) CONFORMING AMENDMENTS TO CHAPTER 30.—Section 3015(f) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1) and in that paragraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subsections (a)(1) and (b)(1) of this section"; and

(3) by redesignating paragraph (3) as paragraph (2) and in that paragraph striking out "may" both places it appears and inserting in lieu thereof "shall".

(d) CONFORMING AMENDMENTS TO SELECTED RESERVE PROGRAM.—Section 2131(b)(2) of title 10, United States Code, is amended—

(1) by striking out subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (A) and in that subparagraph striking out "may continue to pay" and all that follows through "such rates" and inserting in lieu thereof "shall provide a percentage increase in the monthly rates payable under subparagraphs (A), (B), and (C) of paragraph (1)"; and

(3) by redesignating subparagraph (C) as subparagraph (B) and in that subparagraph striking out "may" both places it appears and inserting in lieu thereof "shall".

10 USC 2131 note.

(e) EFFECTIVE DATE AND RULE OF CONSTRUCTION.—(1) The amendments made by this section shall take effect on April 1, 1993.

(2) The amendments made by this section shall not be construed to change the account from which payment is made for that portion of a payment under chapter 30 of title 38, United States Code, or chapter 106 of title 10, United States Code, which is a Montgomery GI bill rate increase and a title III benefit is paid. For the purposes of this subsection, the terms "Montgomery GI bill rate increase" and "title III benefit" have the meanings provided in section 393 of the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (105 Stat. 99).

SEC. 302. MONTGOMERY GI BILL ENTITLEMENT DATES.

(a) CHANGE IN DATES.—Chapter 30 is amended—

(1) in section 3011(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—";

(2) in section 3012(a)(1)(B), by striking out "on October 19, 1984," and all that follows through "and—" and inserting in lieu thereof "at any time during the period beginning on

October 19, 1984, and ending on July 1, 1985, continued on active duty without a break in service and—"; and

(3) in section 3031(e), by striking out "October 18, 1984" and inserting in lieu thereof "June 30, 1985".

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as of October 28, 1986. 38 USC 3011 note.

SEC. 303. EXTENSION OF PERIOD FOR COMPLETING REQUIREMENTS FOR SECONDARY SCHOOL DIPLOMA.

(a) IN GENERAL.—(1) Section 3011 is amended—

(A) in subsection (a)(2), by inserting ", except as provided in subsection (e) of this section," after "who"; and

(B) by adding at the end thereof the following new subsection:

"(e) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(2) Section 3012 is amended—

(A) in subsection (a)(2), by inserting "except as provided in subsection (f) of this section," after "who,"; and

(B) by adding at the end thereof the following new subsection:

"(f) For the purposes of subsection (a)(2) of this section, an individual who was on active duty on August 2, 1990, and who completes the requirements of a secondary school diploma (or equivalency certificate) before the end of the 24-month period beginning on the date of the enactment of this subsection shall be considered to have completed such requirements within the individual's initial obligated period of active duty.".

(b) NOTIFICATION REQUIREMENT.—Not later than 60 days after the date of enactment of this Act, the Secretary of each of the military departments shall notify each individual who was on active duty in the Armed Forces on August 2, 1990, and who has not met the requirements of a secondary school diploma (or equivalency certificate), of the extension of the period for the completion of such requirements afforded by the amendments made by this section. 38 USC 3011 note.

SEC. 304. TREATMENT OF CERTAIN ACTIVE-DUTY SERVICE TOWARD ELIGIBILITY FOR EDUCATIONAL ASSISTANCE.

(a) TREATMENT OF SERVICE.—Section 3011 (as amended by section 303) is further amended by adding at the end the following new subsection:

"(f)(1) For the purposes of this chapter, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in that paragraph.

"(2) This subsection applies to a member who—

"(A) after a period of continuous active duty of not more than 12 months, is discharged or released from active duty under subclause (I) or (III) of subsection (a)(1)(A)(ii) of this section; and

"(B) after such discharge or release, reenlists or re-enters on a period of active duty.".

38 USC 3011 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

SEC. 305. TREATMENT OF CERTAIN ASSIGNMENTS OF INDIVIDUALS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

(a) TREATMENT.—Section 3011 (as amended by sections 303 and 304) is further amended by adding at the end the following new subsection:

"(g) Notwithstanding section 3002(6)(A) of this title, a period during which an individual is assigned full time by the Armed Forces to a civilian institution for a course of education as described in such section 3002(6)(A) shall not be considered a break in service or a break in a continuous period of active duty of the individual for the purposes of this chapter.".

38 USC 3011 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on October 19, 1984.

SEC. 306. TREATMENT OF PURSUIT OF EDUCATION AT SERVICE ACADEMIES AND CERTAIN EDUCATIONAL INSTITUTIONS FOR PURPOSES OF ELIGIBILITY UNDER MONTGOMERY GI BILL PROGRAM.

(a) ACTIVE DUTY.—Section 3011 (as amended by sections 303, 304, and 305) is further amended by adding at the end the following new subsection:

"(h)(1) Notwithstanding section 3002(6)(B) of this title, a member referred to in paragraph (2) of this subsection who serves the periods of active duty referred to in subparagraphs (A) and (C) of that paragraph shall be deemed to have served a continuous period of active duty whose length is the aggregate length of the periods of active duty referred to in such subparagraphs.

"(2) This subsection applies to a member who—

"(A) during an initial period of active duty, commences pursuit of a course of education—

"(i) at a service academy; or

"(ii) at a post-secondary school for the purpose of preparation for enrollment at a service academy;

"(B) fails to complete the course of education; and

"(C) re-enters on a period of active duty.".

38 USC 3011 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after October 1, 1993.

SEC. 307. EDUCATIONAL ASSISTANCE FOR CERTAIN PERSONS WHOSE INITIAL PERIOD OF OBLIGATED SERVICE WAS LESS THAN THREE YEARS.

(a) EDUCATIONAL ASSISTANCE.—Section 3015 (as amended by section 301) is amended—

(1) by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively;

(2) in subsection (d) (as so redesignated), by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and

(3) by inserting after subsection (b) the following new subsection (c):

"(c)(1) The amount of basic educational allowance payable under this chapter to an individual referred to in paragraph (2) of this subsection is the amount determined under subsection (a) of this section.

"(2) Paragraph (1) of this subsection applies to an individual entitled to an educational assistance allowance under section 3011 of this title—

"(A) whose initial obligated period of active duty is less than three years;

"(B) who, beginning on the date of the commencement of the person's initial obligated period of such duty, serves a continuous period of active duty of not less than three years; and

"(C) who, after the completion of that continuous period of active duty, meets one of the conditions set forth in subsection (a)(3) of such section 3011.".

(b) CONFORMING AMENDMENTS.—Such section 3015 (as so amended) is further amended—

(1) in subsection (a), by striking out "and (f)" and inserting in lieu thereof "(f), and (g)"; and

(2) in subsection (b), by striking out "and (f)" and inserting in lieu thereof "(f), and (g)".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as if enacted on June 30, 1985, and apply to the payment of educational assistance for education or training pursued on or after September 1, 1993. 38 USC 3015 note.

SEC. 308. DEATH BENEFIT.

Section 3017(a)(1)(B) is amended by inserting before the comma "or within one year after discharge or release from active duty".

SEC. 309. CLARIFICATION OF OPPORTUNITY TO WITHDRAW ELECTION NOT TO ENROLL IN MONTGOMERY GI BILL PROGRAM.

(a) CLARIFICATION.—Section 3018(b)(3)(B) is amended—

(1) by striking out "or (iii)" and inserting in lieu thereof "(iii)"; and

(2) by adding before the semicolon at the end the following: ", or (iv) a physical or mental condition that was not characterized as a disability and did not result from the individual's own willful misconduct but did interfere with the individual's performance of duty, as determined by the Secretary of each military department in accordance with regulations prescribed by the Secretary of Defense (or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service of the Navy)". Regulations.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if enacted on December 1, 1988. 38 USC 3018 note.

SEC. 310. USE OF EDUCATIONAL ASSISTANCE FOR SOLO FLIGHT TRAINING.

(a) ACTIVE-DUTY PROGRAM.—Section 3032(f) is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

(b) SELECTED RESERVE PROGRAM.—Section 2131(g) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

(c) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 3231(f) is amended—

(1) in paragraph (1), by striking out "(other than tuition and fees charged for or attributable to solo flying hours)"; and

(2) by adding at the end the following new paragraph (4):

"(4) The number of solo flying hours for which an individual may be paid an educational assistance allowance under this subsection may not exceed the minimum number of solo flying hours required by the Federal Aviation Administration for the flight rating or certification which is the goal of the individual's flight training.".

10 USC 2131 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to flight training received under chapters 30 and 32 of title 38, United States Code, and chapter 106 of title 10, United States Code, after September 30, 1992.

SEC. 311. LIMITATION ON AMOUNT OF ADVANCE PAYMENT OF WORK-STUDY ALLOWANCE.

Section 3485(a)(1) is amended in the third sentence—

(1) by striking out "40 per centum" and inserting in lieu thereof "40 percent"; and

(2) by inserting "(but not more than an amount equal to 50 times the applicable hourly minimum wage)" before the period at the end.

SEC. 312. REVISION OF REQUIREMENTS RELATING TO APPROVAL OF ACCREDITED COURSES.

(a) REVISION OF REQUIREMENTS.—Subsection (a) of section 3675 is amended—

(1) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by striking out the matter below subparagraph (C) (as so redesignated) and inserting in lieu thereof the following new paragraphs:

Printing.

"(2)(A) For the purposes of this chapter, the Secretary of Education shall publish a list of nationally recognized accrediting agencies and associations which that Secretary determines to be reliable authority as to the quality of training offered by an educational institution.

"(B) A State approving agency may utilize the accreditation of any accrediting association or agency listed pursuant to subparagraph (A) of this paragraph for approval of courses specifically accredited and approved by such accrediting association or agency.

"(3)(A) An educational institution shall submit an application for approval of courses to the appropriate State approving agency. In making application for approval, the institution (other than an elementary school or secondary school) shall transmit to the State approving agency copies of its catalog or bulletin which must be certified as true and correct in content and policy by an authorized representative of the institution.

"(B) Each catalog or bulletin transmitted by an institution under subparagraph (A) of this paragraph shall—

"(i) state with specificity the requirements of the institution with respect to graduation;

"(ii) include the information required under paragraphs (6) and (7) of section 3676(b) of this title; and

"(iii) include any attendance standards of the institution, if the institution has and enforces such standards.".

(b) APPROVAL OF NURSES AIDE COURSES.—Subsection (a)(1) of such section (as amended by subsection (a)) is further amended—

(1) in subparagraph (B), by striking out "sections 11–28 of title 20; or" and inserting in lieu thereof "the Act of February 23, 1917 (20 U.S.C. 11 et seq.);";

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph (D):

"(D) such courses are approved by the State as meeting the requirement of regulations prescribed by the Secretary of Health and Human Services under sections 1819(f)(2)(A)(i) and 1919(f)(2)(A)(i) of the Social Security Act (42 U.S.C. 1395i–3(f)(2)(A)(i) and 1396r(f)(2)(A)(i)).".

SEC. 313. DISAPPROVAL OF NONACCREDITED INDEPENDENT STUDY.

(a) DISAPPROVAL.—(1) Section 3676 is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of this title, a course of education shall not be approved under this section if it is to be pursued in whole or in part by independent study.".

(2) Subchapter I of chapter 36 is amended by inserting after section 3680 the following new section:

"§ 3680A. Disapproval of enrollment in certain courses

"(a) The Secretary shall not approve the enrollment of an eligible veteran in—

"(1) any bartending course or personality development course;

"(2) any sales or sales management course which does not provide specialized training within a specific vocational field;

"(3) any type of course which the Secretary finds to be avocational or recreational in character (or the advertising for which the Secretary finds contains significant avocational or recreational themes) unless the veteran submits justification showing that the course will be of bona fide use in the pursuit

of the veteran's present or contemplated business or occupation; or

"(4) any independent study program except an accredited independent study program leading to a standard college degree.

"(b) Except to the extent otherwise specifically provided in this title or chapter 106 of title 10, the Secretary shall not approve the enrollment of an eligible veteran in any course of flight training other than one given by an educational institution of higher learning for credit toward a standard college degree the eligible veteran is seeking.

"(c) The Secretary shall not approve the enrollment of an eligible veteran in any course to be pursued by radio or by open circuit television, except that the Secretary may approve the enrollment of an eligible veteran in a course, to be pursued in residence, leading to a standard college degree which includes, as an integral part thereof, subjects offered through open circuit television.

"(d)(1) Except as provided in paragraph (2) of this subsection, the Secretary shall not approve the enrollment of any eligible veteran, not already enrolled, in any course for any period during which the Secretary finds that more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees, or other charges paid to or for them by the educational institution or by the Department of Veterans Affairs under this title or under chapter 106 of title 10. The Secretary may waive the requirements of this subsection, in whole or in part, if the Secretary determines, pursuant to regulations which the Secretary shall prescribe, it to be in the interest of the eligible veteran and the Federal Government. The provisions of this subsection shall not apply to any course offered by an educational institution if the total number of veterans and persons receiving assistance under this chapter or chapter 30, 31, 32, or 35 of this title or under chapter 106 of title 10 who are enrolled in such institution equals 35 percent or less, or such other percent as the Secretary prescribes in regulations, of the total student enrollment at such institution (computed separately for the main campus and any branch or extension of such institution), except that the Secretary may apply the provisions of this subsection with respect to any course in which the Secretary has reason to believe that the enrollment of such veterans and persons may be in excess of 85 percent of the total student enrollment in such course.

"(2) Paragraph (1) of this subsection does not apply with respect to the enrollment of a veteran—

"(A) in a course offered pursuant to section 3019, 3034(a)(3), 3234, or 3241(a)(2) of this title;

"(B) in a farm cooperative training course; or

"(C) in a course described in section 3689(b)(6) of this title.".

(3)(A) Chapter 34 is amended by repealing section 3473.

(B) The table of sections at the beginning of chapter 34 is amended by striking out the item relating to section 3473.

(4) Section 3034 is amended—

(A) in subsection (a)(1), by striking out "3473,"; and

(B) in subsection (d)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(5) Section 3241 is amended—

(A) by striking out "3473," both places it appears; and

(B) in subsection (b)(1), by striking out "3473(b)" and inserting in lieu thereof "3680A(b)".

(6) Section 2136(c)(1) of title 10, United States Code, is amended by striking out "1673(b)" and inserting in lieu thereof "3680A(b)".

(7) Section 3523(a)(4) is amended by striking out "one" and all that follows and inserting in lieu thereof "an accredited independent study program leading to a standard college degree.".

(8) The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 3680 the following new item:

"3680A. Disapproval of enrollment in certain courses.".

(b) SAVINGS PROVISION.—The amendments made by paragraphs (2) through (6) of subsection (a) of this section shall not apply to any person receiving educational assistance for pursuit of an independent study program in which the person was enrolled on the date of enactment of this section for as long as such person is continuously thereafter so enrolled and meets the requirements of eligibility for such assistance for the pursuit of such program under title 38, United States Code, or title 10, United States Code, in effect on that date. 10 USC 2136 note.

SEC. 314. TREATMENT OF ADVANCE PAYMENTS OF CERTAIN ASSISTANCE TO VETERANS WHO DIE.

(a) TREATMENT.—Section 3680(e) is amended—

(1) by striking out "(e) If" and inserting in lieu thereof "(e)(1) Subject to paragraph (2), if"; and

(2) by adding at the end the following new paragraph:

"(2) Paragraph (1) shall not apply to the recovery of an overpayment of an educational allowance or subsistence allowance advance payment to an eligible veteran or eligible person who fails to enroll in or pursue a course of education for which the payment is made if such failure is due to the death of the veteran or person.".

(b) TECHNICAL AMENDMENT.—Section 3680(e)(1) (as amended by subsection (a)) is further amended by striking out "eligible person," and inserting in lieu thereof "eligible person".

SEC. 315. BAR OF ASSISTANCE FOR PERSONS WHOSE EDUCATION IS PAID FOR AS FEDERAL EMPLOYEE TRAINING.

Section 3681(a) is amended by striking out "and whose full salary is being paid to such person while so training".

SEC. 316. REVISION IN MEASUREMENT OF COURSES.

(a) IN GENERAL.—Section 3688 is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking out "thirty hours" and all that follows through "full time" and inserting in lieu thereof "22 hours per week of attendance (excluding supervised study) is required, with no more than 2½ hours of rest periods per week allowed";

(B) in paragraph (2), by striking out "twenty-five hours" and all that follows through "full time" and inserting in lieu thereof "18 hours per week net of instruction (excluding supervised study but which may include customary intervals not to exceed 10 minutes between hours of instruction) is required";

(C) in paragraph (4)—

(i) by striking out "in residence"; and

(ii) by inserting ", other than a course pursued as part of a program of education beyond the baccalaureate level," after "semester-hour basis";

(D) in paragraph (6), by striking out "3491(a)(2)" and inserting in lieu thereof "3034(a)(3), 3241(a)(2) or 3533(a)"; and

(E) by striking out paragraph (7) and all that follows to the end of the subsection and inserting in lieu thereof the following:

"(7) an institutional course not leading to a standard college degree offered by an educational institution on a standard quarter- or semester-hour basis shall be measured as full time on the same basis as provided in paragraph (4) of this subsection, but if the educational institution offering the course is not an institution of higher learning, then in no event shall such course be considered full time when it requires less than the minimum weekly hours of attendance required for full time by paragraph (1) or (2) of this subsection, as appropriate.";

(2) in subsection (b), by striking out "34" and inserting in lieu thereof "30, 32,"; and

(3) by striking out subsections (c), (d), and (e).

(b) INDEPENDENT STUDY.—Section 3532(c) is amended by striking out paragraphs (3) and (4).

38 USC 3532 note.

(c) EFFECTIVE DATE.—The amendments made by this section apply to enrollments in courses beginning on or after July 1, 1993.

SEC. 317. CLARIFICATION OF PERMITTED CHANGES IN PROGRAMS OF EDUCATION.

Subsection (d) of section 3691 is amended to read as follows:

"(d) For the purposes of this section, the term 'change of program of education' shall not be deemed to include a change by a veteran or eligible person from the pursuit of one program to the pursuit of another program if—

"(1) the veteran or eligible person has successfully completed the former program;

"(2) the program leads to a vocational, educational, or professional objective in the same general field as the former program;

"(3) the former program is a prerequisite to, or generally required for, pursuit of the subsequent program; or

"(4) in the case of a change from the pursuit of a subsequent program to the pursuit of a former program, the veteran or eligible person resumes pursuit of the former program without loss of credit or standing in the former program.".

SEC. 318. AUTHORITY OF MEMBERS OF SELECTED RESERVE TO RECEIVE TUTORIAL ASSISTANCE.

Section 2131 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(h)(1)(A) Subject to subparagraph (B), the Secretary of Veterans Affairs shall approve individualized tutorial assistance for any person entitled to educational assistance under this chapter who—

"(i) is enrolled in and pursuing a postsecondary course of education on a half-time or more basis at an educational institution; and

"(ii) has a deficiency in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, the program of education.

"(B) The Secretary of Veterans Affairs shall not approve individualized tutorial assistance for a person pursuing a program of education under this paragraph unless such assistance is necessary for the person to successfully complete the program of education.

"(2)(A) Subject to subparagraph (B), the Secretary concerned, through the Secretary of Veterans Affairs, shall pay to a person receiving individualized tutorial assistance pursuant to paragraph (1) a tutorial assistance allowance. The amount of the allowance payable under this paragraph may not exceed $100 for any month, nor aggregate more than $1,200. The amount of the allowance paid under this paragraph shall be in addition to the amount of educational assistance allowance payable to a person under this chapter.

"(B) A tutorial assistance allowance may not be paid to a person under this paragraph until the educational institution at which the person is enrolled certifies that—

"(i) the individualized tutorial assistance is essential to correct a deficiency of the person in a subject required as a part of, or which is prerequisite to, or which is indispensable to the satisfactory pursuit of, an approved program of education;

"(ii) the tutor chosen to perform such assistance is qualified to provide such assistance and is not the person's parent, spouse, child (whether or not married or over eighteen years of age), brother, or sister; and

"(iii) the charges for such assistance do not exceed the customary charges for such tutorial assistance.

"(3)(A) A person's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the person under this subsection in excess of $600.

"(B) A person's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the person is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

SEC. 319. REQUIREMENT OF ATTENDANCE CERTIFICATION IN APPRENTICESHIP PROGRAM UNDER THE MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

Section 2136(b) of title 10, United States Code, is amended by striking out "1780(c),".

SEC. 320. TECHNICAL AMENDMENTS.

(a) TITLE 10.—Chapter 106 of title 10, United States Code, is amended—

(1) in section 2131(c)—

(A) by striking out "section 1795 of title 38" in paragraph (2) and inserting in lieu thereof "section 3695 of title 38";

(B) by striking out "of this subparagraph, his or her" in paragraph (3)(B)(ii) and inserting in lieu thereof ", the individual's"; and

(C) by striking out "of this paragraph." in paragraph (3)(C) and inserting in lieu thereof a period;

(2) in section 2133(b)—

(A) by striking out "section 1431(f) of title 38" in paragraph (2) and inserting in lieu thereof "section 3031(f) of title 38"; and

(B) by striking out "section 1431(d) of title 38" in paragraph (3) and inserting in lieu thereof "section 3031(d) of title 38"; and

(3) in section 2136 (as amended by section 319 of this Act), by striking out "sections 1670" in subsection (b) and all that follows through "1792)" and inserting in lieu thereof "sections 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692)".

TITLE IV—VOCATIONAL REHABILITATION AND PENSION PROGRAMS

SEC. 401. PERMANENT AUTHORITY FOR PROGRAM OF VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS.

(a) PROGRAM MADE PERMANENT.—(1) Subsection (a)(1) of section 1163 is amended by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,".

(2) Subsection (a)(2) of such section is amended to read as follows:

"(2) For purposes of this section, the term 'qualified veteran' means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities.".

(b) COUNSELING SERVICES.—Subsection (b) of such section is amended by striking out "During the program period, the Secretary" and inserting in lieu thereof "The Secretary".

(c) NOTICE.—Subsection (c)(1) of such section is amended by striking out "during the program period" and all that follows through "(a)(2)(A)" and inserting in lieu thereof "after January 31, 1985, of a rating of total disability described in subsection (a)(2)".

(d) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings".

(2) The item relating to such section in the table of sections at the beginning of chapter 11 is amended to read as follows:

"1163. Trial work periods and vocational rehabilitation for certain veterans with total disability ratings.".

SEC. 402. EXTENSION OF PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN PENSION RECIPIENTS.

(a) EXTENSION OF PROGRAM.—Subsection (a)(1) of section 1524 is amended to read as follows:

"(a)(1) In the case of a veteran under age 45 who is awarded a pension during the program period, the Secretary shall, based on information on file with the Department of Veterans Affairs, make a preliminary finding whether such veteran, with the assistance of a vocational training program under this section, has a good potential for achieving employment. If such potential is found to exist, the Secretary shall solicit from the veteran an application for vocational training under this section. If the veteran thereafter applies for such training, the Secretary shall provide the veteran with an evaluation, which may include a personal interview, to determine whether the achievement of a vocational goal is reasonably feasible.".

(b) PROGRAM EXTENSION.—Section 1524(a) is further amended—

(1) by striking out paragraph (3); and

(2) by redesignating paragraph (4) as paragraph (3) and in that paragraph striking out "December 31, 1992" and inserting in lieu thereof "December 31, 1995".

(c) CONFORMING AMENDMENTS.—(1) Section 1524(b)(4) is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1995".

(2)(A) The heading of such section is amended to read as follows:

"§ 1524. Vocational training for certain pension recipients".

(B) The item relating to such section in the table of sections at the beginning of chapter 15 is amended to read as follows:

"1524. Vocational training for certain pension recipients.".

SEC. 403. PERMANENT AUTHORITY FOR PROTECTION OF HEALTH-CARE ELIGIBILITY FOR CERTAIN PENSION RECIPIENTS.

(a) PERMANENT PROTECTION.—Section 1525 is amended—

(1) in subsection (a), by striking out "during the program period" and inserting in lieu thereof "after January 31, 1985,"; and

(2) by striking out subsection (b) and inserting in lieu thereof the following:

"(b) For purposes of this section, the term 'terminated by reason of income from work or training' means terminated as a result of the veteran's receipt of earnings from activity performed for renumeration or with gain, but only if the veteran's annual income from sources other than such earnings would, taken alone, not result in the termination of the veteran's pension.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 1525. Protection of health-care eligibility".

(2) The item relating to such section in the table of sections at the beginning of chapter 15 is amended to read as follows:

"1525. Protection of health-care eligibility.".

SEC. 404. VOCATIONAL REHABILITATION FOR CERTAIN SERVICE-DISABLED VETERANS WITH SERIOUS EMPLOYMENT HANDICAPS.

(a) VOCATIONAL REHABILITATION.—Section 3102 is amended to read as follows:

"§ 3102. Basic entitlement

"A person shall be entitled to a rehabilitation program under the terms and conditions of this chapter if—

"(1) the person—

"(A) is—

"(i) a veteran who has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 20 percent or more under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; or

"(ii) hospitalized or receiving outpatient medical care, services, or treatment for a service-connected disability pending discharge from the active military, naval, or air service, and the Secretary determines that—

"(I) the hospital (or other medical facility) providing the hospitalization, care, services, or treatment is doing so under contract or agreement with the Secretary concerned, or is under the jurisdiction of the Secretary of Veterans Affairs or the Secretary concerned; and

"(II) the person is suffering from a disability which will likely be compensable at a rate of 20 percent or more under chapter 11 of this title; and

"(B) is determined by the Secretary to be in need of rehabilitation because of an employment handicap; or

"(2) the person is a veteran who—

"(A) has a service-connected disability which is, or but for the receipt of retired pay would be, compensable at a rate of 10 percent under chapter 11 of this title and which was incurred or aggravated in service on or after September 16, 1940; and

"(B) has a serious employment handicap.".

38 USC 3102 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on October 1, 1993.

SEC. 405. INCREASE IN SUBSISTENCE ALLOWANCE FOR VETERANS PARTICIPATING IN A REHABILITATION PROGRAM.

(a) INCREASE.—Section 3108(b) is amended by striking out the table at the end and inserting in lieu thereof the following new table:

TITLE V—JOB COUNSELING, TRAINING, AND PLACEMENT SERVICES FOR VETERANS

SEC. 501. IMPROVEMENT OF DISABLED VETERANS' OUTREACH PROGRAM.

Section 4103A(a)(1) is amended in the first sentence by striking out "specialist for each 5,300 veterans" and all that follows through the end of the sentence and inserting in lieu thereof "specialist for each 6,900 veterans residing in such State who are either veterans of the Vietnam era, veterans who first entered on active duty as a member of the Armed Forces after May 7, 1975, or disabled veterans.".

SEC. 502. REPEAL OF DELIMITING DATE RELATING TO TREATMENT OF VETERANS OF THE VIETNAM ERA FOR DISABLED VETERANS' OUTREACH PROGRAM PURPOSES.

Section 4211(2) is amended—

(1) in subparagraph (A), by striking out "(A) Subject to subparagraph (B) of this paragraph, the term" and inserting in lieu thereof "The term"; and

(2) by striking out subparagraph (B).

SEC. 503. DISABLED VETERANS' OUTREACH PROGRAM PRIORITIES.

Subparagraph (A) of section 4103A(b)(1) is amended to read as follows:

"(A) Services to special disabled veterans.".

SEC. 504. REPEAL OF REQUIREMENT THAT TO BE REPRESENTED ON ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING A VETERANS ORGANIZATION MUST HAVE A FEDERAL CHARTER.

Section 4110(c)(1)(A) is amended by striking out "are chartered by Federal law and".

SEC. 505. EXPANSION AND EXTENSION OF VETERANS READJUSTMENT APPOINTMENTS WITH THE FEDERAL GOVERNMENT.

(a) EXPANSION TO INCLUDE ALL VIETNAM ERA VETERANS.—Section 4214(b)(2)(A) is amended to read as follows:

"(A) a veteran of the Vietnam era; and".

(b) EXTENSION WITH FEDERAL GOVERNMENT.—Section 4214(b)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A)(ii), by striking out "December 31, 1993" and inserting in lieu thereof "December 31, 1995"; and

(2) in subparagraph (B)(ii), by striking out "December 18" and inserting in lieu thereof "December 31".

SEC. 506. REDESIGNATION OF SECTIONS OF CHAPTER 43.

(a) REDESIGNATION OF SECTIONS TO CONFORM TO CHAPTER NUMBER.—Sections 2021, 2022, 2023, 2024, 2025, 2026, and 2027 are redesignated as sections 4301, 4302, 4303, 4304, 4305, 4306, and 4307, respectively.

(b) TABLES OF SECTIONS.—The table of sections at the beginning of chapter 43 is revised so as to conform the section reference in the table to the redesignations made by subsection (a).

(c) CROSS REFERENCES.—(1) Section 4322 (as redesignated by subsection (a)) is amended—

(A) by striking out "2021(a)" and inserting in lieu thereof "4321(a)"; and

(B) by striking out "2024" and inserting in lieu thereof "4324".

(2) Section 4323 (as redesignated by subsection (a)) is amended by striking out "2021(a)" each place it appears and inserting in lieu thereof "4321(a)".

(3) Section 4324 (as redesignated by subsection (a)) is amended by striking out "2021(a)" each place it appears and inserting in lieu thereof "4321(a)".

(4) Section 1204(a)(1) of title 5, United States Code, is amended by striking out "2023" and inserting in lieu thereof "4323".

(5) Section 706(c) of title 10, United States Code, is amended by striking out "2021" and inserting in lieu thereof "4321".

(6) Any reference in a provision of law to a section redesignated by subsection (a), other than a provision specified in paragraphs (1) through (5) of this subsection, shall be deemed to refer to the section as so redesignated. 38 USC 4301 note.

(d) COORDINATION WITH OTHER ACT.—If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted before this Act, this section, including the amendments made by this section, shall not take effect. If the Uniformed Services Employment and Reemployment Rights Act of 1992 is enacted after this Act, this section, and the amendments made by this section, shall be treated for all purposes as not having been enacted, and the provisions of title 38, United States Code, shall read as if those amendments had not been made.

TITLE VI—OTHER VETERANS' PROGRAMS

SEC. 601. EXTENSION OF LIMITATION ON PENSION FOR VETERANS RECEIVING MEDICAID-COVERED NURSING HOME CARE; APPLICABILITY TO SURVIVING SPOUSES; AND FACILITY EXPENSES.

(a) REDUCTION IN PENSION.—Section 5503(f) is amended—

(1) by redesignating paragraphs (5) and (6) as paragraph (6) and (7), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5) The provisions of this subsection shall apply with respect to a surviving spouse having no child in the same manner as they apply to a veteran having neither spouse nor child.".

(b) EXTENSION.—Such section is further amended by striking out "September 30, 1992" in paragraph (7) (as redesignated by subsection (a)(1)) and inserting in lieu thereof "September 30, 1997".

(c) FACILITY EXPENSES.—Section 5503(a)(1)(B) is amended by adding at the end thereof the following: "Effective through September 30, 1997, any amount in excess of $90 per month to which the veteran would be entitled but for the application of the preceding sentence shall be deposited in a revolving fund at the Department medical facility which furnished the veteran nursing care, and such amount shall be available for obligation without fiscal year limitation to help defray operating expenses of that facility.".

38 USC 5503 note.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall take effect on October 1, 1992, and shall apply with respect to months after September 1992. The amendment made by subsection (c) shall take effect on November 1, 1992, and shall apply with respect to months after October 1992.

SEC. 602. EXTENSION OF AUTHORITY TO CARRY OUT INCOME VERIFICATION.

(a) TITLE 38.—Section 5317(g) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1997".

26 USC 6103.

(b) INTERNAL REVENUE CODE OF 1986.—(1) Subparagraph (D) of section 6103(l)(7) of the Internal Revenue Code of 1986 is amended by striking out "September 30, 1992" in the last sentence and inserting in lieu thereof "September 30, 1997".

(2) Clause (viii) of such subparagraph is amended—

(A) in subclause (II), by striking out "section 415" and inserting in lieu thereof "section 1315"; and

(B) in subclause (III), by striking out "section 610(a)(1)(I), 610(a)(2), 610(b), and 612(a)(2)(B)" and inserting in lieu thereof "sections 1710(a)(1)(I), 1710(a)(2), 1710(b), and 1712(a)(2)(B)".

SEC. 603. ACCESS TO INFORMATION NECESSARY FOR THE ADMINISTRATION OF CERTAIN VETERAN BENEFITS LAWS.

(a) ACCESS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end the following new subsection:

"(p)(1) Nothing in this title shall apply to the disclosure by the financial institution of the name and address of any customer to the Department of Veterans Affairs where the disclosure of such information is necessary to, and such information is used solely for the purposes of, the proper administration of benefits programs under laws administered by the Secretary.

"(2) Notwithstanding any other provision of law, any request authorized by paragraph (1) (and the information contained therein) may be used by the financial institution or its agents solely for the purpose of providing the customer's name and address to the Department of Veterans Affairs and shall be barred from redisclosure by the financial institution or its agents.".

(b) PRIVACY SAFEGUARDS.—(1) Chapter 53 is amended by adding at the end the following new section:

"§ 5319. Limitations on access to financial records

"(a) The Secretary may make a request referred to in section 1113(p) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413(p)) only if the Secretary determines that the requested information—

"(1) is necessary in order for the Secretary to administer the provisions of law referred to in that section; and

"(2) cannot be secured by a reasonable search of records and information of the Department.

"(b) The Secretary shall include a certification of the determinations referred to in subsection (a) in each request presented to a financial institution.

"(c) Information disclosed pursuant to a request referred to in subsection (a) may be used solely for the purpose of the administration of benefits programs under laws administered by the Secretary if, except for the exemption in subsection (a), the disclosure

of that information would otherwise be prohibited by any provision of the Right to Financial Privacy Act of 1978.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5319. Limitations on access to financial records.".

SEC. 604. EXTENSION OF EXPIRING COST-RECOVERY AUTHORITY.

Section 1729(a)(2)(E) is amended by striking out "October 1, 1993" and inserting in lieu thereof "August 1, 1994".

SEC. 605. EXCLUSION FOR LOW-INCOME VETERANS FROM MEDICATION COPAYMENT REQUIREMENT.

(a) EXCLUSION.—Section 1722A(a) is amended—

(1) by striking out "(other than" and all that follows through "or more"; and

(2) by adding at the end the following:

"(3) Paragraph (1) does not apply—

"(A) to a veteran with a service-connected disability rated 50 percent or more; or

"(B) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to medication furnished after the date of the enactment of this Act.

38 USC 1722A note.

SEC. 606. EXTENSION OF COPAYMENT PROGRAMS.

(a) MEDICATION COPAYMENT REQUIREMENT.—Section 1722A(c) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.".

(b) HEALTH-CARE CATEGORIES AND COPAYMENTS.—Section 8013(e) of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the amendments made by this section shall be in effect through September 30, 1997.".

38 USC 1710 note. Termination date.

Approved October 29, 1992.

LEGISLATIVE HISTORY—H.R. 5008:

HOUSE REPORTS: No. 102-753, Pt. 1 (Comm. on Veterans' Affairs) and Pt. 2 (Comm. on Ways and Means).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 10, considered and passed House.

Sept. 22, considered and passed Senate, amended.

Oct. 3, House concurred in Senate amendments with amendments.

Oct. 7, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 29, Presidential statement.

59-194 O—93——23 : QL 3 (Pt. 5)

Public Law 102-569
102d Congress

An Act

Oct. 29, 1992
[H.R. 5482]

To revise and extend the programs of the Rehabilitation Act of 1973, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rehabilitation Act Amendments of 1992.
Labor.
29 USC 701 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rehabilitation Act Amendments of 1992".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

Sec. 101. Findings and purpose.
Sec. 102. Definitions.
Sec. 103. Allotment percentage.
Sec. 104. Nonduplication.
Sec. 105. Administration of the Act.
Sec. 106. Reports.
Sec. 107. Evaluation.
Sec. 108. Review of applications.
Sec. 109. Carryover.
Sec. 110. Client assistance information.
Sec. 111. Traditionally underserved populations.

Subtitle B—Vocational Rehabilitation Services

Sec. 121. Policy; authorization of appropriations.
Sec. 122. State plans.
Sec. 123. Determinations of eligibility and individualized written rehabilitation program.
Sec. 124. Scope of vocational rehabilitation services.
Sec. 125. Non-Federal share for construction.
Sec. 126. State Rehabilitation Advisory Council.
Sec. 127. Evaluation.
Sec. 128. Monitoring and review.
Sec. 129. Expenditure of certain amounts.
Sec. 130. Training of employers with respect to Americans with Disabilities Act of 1990.
Sec. 131. Reallotment.
Sec. 132. Payments to States.
Sec. 133. Client assistance program.
Sec. 134. Innovation and expansion grants.
Sec. 135. Study of needs of American Indians with handicaps.
Sec. 136. Review of data collection system.
Sec. 137. Exchange of data.
Sec. 138. Effective date.

TITLE II—RESEARCH

Sec. 201. Declaration of purpose.
Sec. 202. Authorization of appropriations.
Sec. 203. National Institute on Disability and Rehabilitation Research.
Sec. 204. Interagency committee.
Sec. 205. Research.
Sec. 206. Rehabilitation Research Advisory Council.

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

Sec. 301. Declaration of purpose; organization.

Sec. 302. Training.
Sec. 303. Community rehabilitation programs for individuals with disabilities.
Sec. 304. Loan guarantees.
Sec. 305. Comprehensive rehabilitation centers.
Sec. 306. General grant and contract requirements.
Sec. 307. Authorization of appropriations for special projects and supplementary services.
Sec. 308. Special demonstration programs.
Sec. 309. Migratory workers.
Sec. 310. Special recreational programs.

TITLE IV—NATIONAL COUNCIL ON DISABILITY

Sec. 401. Establishment of National Council on Disability.
Sec. 402. Duties of National Council.
Sec. 403. Compensation of National Council members.
Sec. 404. Staff of National Council.
Sec. 405. Administrative powers of National Council.
Sec. 406. Authorization of appropriations.

TITLE V—RIGHTS AND ADVOCACY

Sec. 501. Rights and advocacy.
Sec. 502. Effect on existing law.
Sec. 503. Employment of individuals with disabilities.
Sec. 504. References to the Architectural and Transportation Barriers Compliance Board.
Sec. 505. Employment under Federal contracts.
Sec. 506. Nondiscrimination under Federal grants and programs.
Sec. 507. Secretarial responsibilities.
Sec. 508. Interagency Disability Coordinating Council.
Sec. 509. Electronic and information technology accessibility guidelines.
Sec. 510. Protection and advocacy of individual rights.

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

Sec. 601. Pilot program.
Sec. 602. Treatment of personal assistance services costs.
Sec. 603. Definitions.
Sec. 604. Authorization of appropriations.

Subtitle B—Projects With Industry

Sec. 611. Projects With Industry.
Sec. 612. Business opportunities for individuals with disabilities.
Sec. 613. Authorization of appropriations.

Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

Sec. 621. Supported employment.

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

Sec. 701. Services and centers.
Sec. 702. Effective date.
Sec. 703. Independent living services for older individuals who are blind.

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

Sec. 801. Special demonstrations and training projects.

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

Sec. 901. Congressional findings.
Sec. 902. Continued operation of Center.
Sec. 903. Audit, monitoring, and evaluation.
Sec. 904. Authorization of appropriations.
Sec. 905. Definitions.
Sec. 906. Construction of Act, effect on agreements.

Sec. 907. Establishment of a program.
Sec. 908. Technical and conforming amendments.

Subtitle B—Other Programs

Sec. 911. Committee for Purchase From People Who Are Blind or Severely Disabled.
Sec. 912. Individuals With Disabilities Education Act.
Sec. 913. Technology-Related Assistance for Individuals With Disabilities Act of 1988.
Sec. 914. President's Committee on Employment of People With Disabilities.

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*).

TITLE I—ADMINISTRATION AND VOCATIONAL REHABILITATION SERVICES

Subtitle A—Administration

SEC. 101. FINDINGS AND PURPOSE.

Section 2 (29 U.S.C. 701) is amended to read as follows:

"FINDINGS; PURPOSE; POLICY

"SEC. 2. (a) FINDINGS.—Congress finds that—

"(1) millions of Americans have one or more physical or mental disabilities and the number of Americans with such disabilities is increasing;

"(2) individuals with disabilities constitute one of the most disadvantaged groups in society;

"(3) disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination;

"(C) make choices;

"(D) contribute to society;

"(E) pursue meaningful careers; and

"(F) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of American society;

"(4) increased employment of individuals with disabilities can be achieved through the provision of individualized training, independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings through the provision of reasonable accommodations;

"(5) individuals with disabilities continually encounter various forms of discrimination in such critical areas as employment, housing, public accommodations, education, transportation, communication, recreation, institutionalization, health services, voting, and public services; and

"(6) the goals of the Nation properly include the goal of providing individuals with disabilities with the tools necessary to—

"(A) make informed choices and decisions; and

"(B) achieve equality of opportunity, full inclusion and integration in society, employment, independent living, and economic and social self-sufficiency, for such individuals.

"(b) PURPOSE.—The purposes of this Act are—

"(1) to empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through—

"(A) comprehensive and coordinated state-of-the-art programs of vocational rehabilitation;

"(B) independent living centers and services;

"(C) research;

"(D) training;

"(E) demonstration projects; and

"(F) the guarantee of equal opportunity; and

"(2) to ensure that the Federal Government plays a leadership role in promoting the employment of individuals with disabilities, especially individuals with severe disabilities, and in assisting States and providers of services in fulfilling the aspirations of such individuals with disabilities for meaningful and gainful employment and independent living.

"(c) POLICY.—It is the policy of the United States that all programs, projects, and activities receiving assistance under this Act shall be carried out in a manner consistent with the principles of—

"(1) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(2) respect for the privacy, rights, and equal access (including the use of accessible formats), of the individuals;

"(3) inclusion, integration, and full participation of the individuals;

"(4) support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative if an individual with a disability requests, desires, or needs such support; and

"(5) support for individual and systemic advocacy and community involvement.".

SEC. 102. DEFINITIONS.

(a) DESIGNATED STATE AGENCY.—Section 7(3) (29 U.S.C. 706(3)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

(2) by striking "(3)" and inserting the following:

"(3)(A) The term 'designated State agency' means an agency designated under section 101(a)(1)(A).

(b) ESTABLISHMENT OF A COMMUNITY REHABILITATION PROGRAM.—Section 7(4) (29 U.S.C. 706(4)) is amended—

(1) by striking "rehabilitation facility" each place the term appears and inserting "community rehabilitation program";

(2) by striking "means" and inserting "includes"; and

(3) by striking "such facilities)" and inserting "facilities for community rehabilitation programs)".

(c) EMPLOYMENT OUTCOME.—Section 7(6) (29 U.S.C. 706(6)) is amended to read as follows:

"(6) The term 'employment outcome' means, with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market (including satisfying the vocational outcome of supported employment) or satisfying any other vocational outcome the Secretary may determine, consistent with this Act.".

(d) DRUG.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (5);

(2) by redesignating paragraphs (4) and (6) as paragraphs (6) and (5), respectively;

(3) by inserting paragraph (6) (as so redesignated by paragraph (2) of this subsection) before paragraph (7);

(4) by redesignating paragraph (22) as paragraph (4); and

(5) by inserting paragraph (4) (as so redesignated by paragraph (4) of this subsection) after paragraph (3).

(e) FEDERAL SHARE.—Section 7(7) (29 U.S.C. 706(7)) is amended—

(1) in subparagraph (A), by striking "80 percent" and inserting "78.7 percent";

(2) by striking subparagraph (B);

(3) by redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively; and

(4) in subparagraph (B) (as redesignated by paragraph (3) of this subsection), by striking "section 301(b)(3)" each place the term appears and inserting "section 111(a)(3)".

(f) INDIVIDUAL WITH DISABILITIES.—Section 7(8) (29 U.S.C. 706(8)) is amended—

(1) in subparagraph (A)—

(A) by striking "handicaps" and inserting "a disability";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "handicap" and inserting "impediment"; and

(C) in clause (ii)—

(i) by striking "reasonably be expected to";

(ii) by striking "employability" and inserting "an employment outcome"; and

(iii) by striking "titles I and III" and inserting "titles I, II, III, VI, and VIII";

(2) in subparagraph (B)—

(A) by striking "(C) and (D)" and inserting "(C), (D), (E), and (F)";

(B) by striking "handicaps" and inserting "a disability"; and

(C) by striking "titles IV and V" and inserting "sections 2, 14, and 15, and titles IV and V";

(3) in subparagraph (C)—

(A) in clause (i), by striking "handicaps" and inserting "a disability";

(B) in clause (ii), by striking "handicaps" and inserting "a disability";

(C) in clause (iv)—

(i) by striking "handicapped student" and inserting "student who is an individual with a disability and"; and

(ii) by striking "nonhandicapped students" and inserting "students who are not individuals with disabilities"; and

(D) in clause (v) by striking "handicaps" and inserting "a disability"; and

(4) by adding at the end the following:

"(E) For the purposes of sections 501, 503 and 504—

"(i) for purposes of the application of subparagraph (B) to such sections, the term 'impairment' does not include homosexuality or bisexuality; and

"(ii) therefore the term 'individual with a disability' does not include an individual on the basis of homosexuality or bisexuality.

"(F) For the purposes of sections 501, 503, and 504, the term 'individual with a disability' does not include an individual on the basis of—

"(i) transvestism, transsexualism, pedophilia, exhibitionism, voyeurism, gender identity disorders not resulting from physical impairments, or other sexual behavior disorders;

"(ii) compulsive gambling, kleptomania, or pyromania; or

"(iii) psychoactive substance use disorders resulting from current illegal use of drugs.".

(g) NONPROFIT.—Section 7(10) (29 U.S.C. 706(10)) is amended by striking "with respect to a rehabilitation facility, means a rehabilitation facility owned and operated by" and inserting "with respect to a community rehabilitation program, means a community rehabilitation program carried out by".

(h) PERSONAL ASSISTANCE SERVICES.—Section 7 (29 U.S.C. 706) is amended—

(1) by striking paragraph (13);

(2) by redesignating paragraphs (11) and (12) as paragraphs (12) and (13), respectively; and

(3) by inserting after paragraph (10) the following:

"(11) The term 'personal assistance services' means a range of services, provided by one or more persons, designed to assist an individual with a disability to perform daily living activities on or off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.".

(i) REHABILITATION TECHNOLOGY.—Section 7(13) (29 U.S.C. 706(13)) (as so redesignated by subsection (h)(2)) is amended—

(1) by striking "rehabilitation engineering" and inserting "rehabilitation technology"; and

(2) by adding at the end the following: "The term includes rehabilitation engineering, assistive technology devices, and assistive technology services.".

(j) INDIVIDUAL WITH A SEVERE DISABILITY.—Section 7(15) (29 U.S.C. 706(15)) is amended—

(1) in subparagraph (A)—

(A) by striking "subparagraph (B)" and inserting "subparagraph (B) or (C)";

(B) in clause (i)—

(i) by striking "disability" and inserting "impairment"; and

(ii) by striking "employability" and inserting "an employment outcome"; and

(C) in clause (iii), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (A) and (C) of paragraph (22)"; and

(2) by striking subparagraph (B) and inserting the following:

"(B) For purposes of title VII, the term 'individual with a severe disability' means an individual with a severe physical or mental impairment whose ability to function independently in the family or community or whose ability to obtain, maintain, or advance in employment is substantially limited and for whom the delivery of independent living services will improve the ability to function, continue functioning, or move towards functioning independently in the family or community or to continue in employment, respectively.

"(C) For purposes of section 13 and title II, the term 'individual with a severe disability' includes an individual described in subparagraph (A) or (B).".

(k) STATE.—Section 7(16) (29 U.S.C. 706(16)) is amended to read as follows:

"(16) The term 'State' includes, in addition to each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect).".

(l) SUPPORTED EMPLOYMENT.—Section 7(18) (29 U.S.C. 706(18)) is amended to read as follows:

"(18)(A) The term 'supported employment' means competitive work in integrated work settings for individuals with the most severe disabilities—

"(i)(I) for whom competitive employment has not traditionally occurred; or

"(II) for whom competitive employment has been interrupted or intermittent as a result of a severe disability; and

"(ii) who, because of the nature and severity of their disability, need intensive supported employment services or extended services in order to perform such work.

"(B) Such term includes transitional employment for persons who are individuals with the most severe disabilities due to mental illness.".

(m) PUBLIC OR NONPROFIT.—Section 7(19) (29 U.S.C. 706(19)) is amended to read as follows:

"(19) The term 'public or nonprofit', with respect to an agency or organization, includes an Indian tribe.".

(n) ADDITIONAL DEFINITIONS.—Section 7 (29 U.S.C. 706) (as amended by subsection (d)(4)) is amended by adding at the end the following new paragraphs:

"(22) The term 'assessment for determining eligibility and vocational rehabilitation needs' means, as appropriate in each case—

"(A)(i) a review of existing data—

"(I) to determine whether an individual is eligible for vocational rehabilitation services; and

"(II) to assign the priority described in section 101(a)(5)(A) in the States that use an order of selection pursuant to section 101(a)(5)(A); and

"(ii) to the extent additional data is necessary to make such determination and assignment, a preliminary assessment of such data (including the provision of goods and services during such assessment);

"(B) to the extent additional data is necessary, a comprehensive assessment (including the administration of the assessment) of the unique strengths, resources, priorities, interests, and needs, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services to be included in the individualized written rehabilitation program of the individual, which comprehensive assessment—

"(i) is limited to information that is necessary to identify the rehabilitation needs of the individual and to develop the rehabilitation program of the individual;

"(ii) uses, as a primary source of such information, to the maximum extent possible and appropriate and in accordance with confidentiality requirements—

"(I) existing information; and

"(II) such information as can be provided by the individual and, where appropriate, by the family of the individual;

"(iii) may include, to the degree needed to make such a determination, an assessment of the personality, interests, interpersonal skills, intelligence and related functional capacities, educational achievements, work experience, vocational aptitudes, personal and social adjustments, and employment opportunities of the individual, and the medical, psychiatric, psychological, and other pertinent vocational, educational, cultural, social, recreational, and environmental factors, that affect the employment and rehabilitation needs of the individual; and

"(iv) may include an appraisal of the patterns of work behavior of the individual and services needed for the individual to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns necessary for successful job performance, including the utilization of work in real job situations to assess and develop the capacities of the individual to perform adequately in a work environment; and

"(C)(i) referral;

"(ii) where appropriate, the provision of rehabilitation technology services to an individual with a disability to assess and develop the capacities of the individual to perform in a work environment; and

"(iii)(I) the provision of vocational rehabilitation services to an individual for a total period not in excess of 18 months for the limited purpose of making determinations regarding whether an individual is eligible for vocational rehabilitation services and regarding the nature and scope of vocational rehabilitation services needed for such individual; and

"(II) an assessment at least once in every 90-day period during which such services are provided, of the results of the provision of such services to an individual to ascertain whether any of the determinations described in subclause (I) may be made.

"(23) The term 'assistive technology device' has the meaning given such term in section 3(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(1)), except that the reference in such section to the term 'individuals with disabilities' shall be deemed to mean more than one individual with a disability as defined in paragraph (8)(A).

"(24) The term 'assistive technology service' has the meaning given such term in section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2)), except that the reference in such section—

"(A) to the term 'individual with a disability' shall be deemed to mean an individual with a disability, as defined in paragraph (8)(A); and

"(B) to the term 'individuals with disabilities' shall be deemed to mean more than one such individual.

"(25) The term 'community rehabilitation program' means a program that provides directly or facilitates the provision of vocational rehabilitation services to individuals with disabilities, and that provides, singly or in combination, for an individual with a disability to enable the individual to maximize opportunities for employment, including career advancement—

"(A) medical, psychiatric, psychological, social, and vocational services that are provided under one management;

"(B) testing, fitting, or training in the use of prosthetic and orthotic devices;

"(C) recreational therapy;

"(D) physical and occupational therapy;

"(E) speech, language, and hearing therapy;

"(F) psychiatric, psychological, and social services, including positive behavior management;

"(G) assessment for determining eligibility and vocational rehabilitation needs;

"(H) rehabilitation technology;

"(I) job development, placement, and retention services;

"(J) evaluation or control of specific disabilities;

"(K) orientation and mobility services for individuals who are blind;

"(L) extended employment;

"(M) psychosocial rehabilitation services;

"(N) supported employment services and extended services;

"(O) services to family members when necessary to the vocational rehabilitation of the individual;

"(P) personal assistance services; or

"(Q) services similar to the services described in one of subparagraphs (A) through (P).

"(26) The term 'disability' means—

"(A) except as otherwise provided in subparagraph (B), a physical or mental impairment that constitutes or results in a substantial impediment to employment; or

"(B) for purposes of sections 2, 14, and 15, and titles II, III, IV, V, and VIII, a physical or mental impairment that substantially limits one or more major life activities.

"(27) The term 'extended services' means ongoing support services and other appropriate services, needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way as to assist an eligible individual in maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by a State agency, a nonprofit private organization, employer, or any other appropriate resource, after an individual has made the transition from support provided by the designated State unit.

"(28)(A) The term 'impartial hearing officer' means an individual—

"(i) who is not an employee of a public agency (other than an administrative law judge, hearing examiner, or employee of an institution of higher education);

"(ii) who is not a member of the State Rehabilitation Advisory Council described in section 105;

"(iii) who has not been involved in previous decisions regarding the vocational rehabilitation of the applicant or client;

"(iv) who has knowledge of the delivery of vocational rehabilitation services, the State plan under section 101, and the Federal and State rules governing the provision of such services and training with respect to the performance of official duties; and

"(v) who has no personal or financial interest that would be in conflict with the objectivity of the individual.

"(B) An individual shall not be considered to be an employee of a public agency for purposes of subparagraph (A)(i) solely because the individual is paid by the agency to serve as a hearing officer.

"(29) The term 'independent living core services' means—

"(A) information and referral services;

"(B) independent living skills training;

"(C) peer counseling (including cross-disability peer counseling); and

"(D) individual and systems advocacy.

"(30) The term 'independent living services' includes—

"(A) independent living core services; and

"(B)(i) counseling services, including psychological, psychotherapeutic, and related services;

"(ii) services related to securing housing or shelter, including services related to community group living, and supportive of the purposes of this Act and of the titles of this Act, and adaptive housing services (including appropriate accommodations to and modifications of any space used to serve, or occupied by, individuals with disabilities);

"(iii) rehabilitation technology;

"(iv) mobility training;

"(v) services and training for individuals with cognitive and sensory disabilities, including life skills training, and interpreter and reader services;

"(vi) personal assistance services, including attendant care and the training of personnel providing such services;

"(vii) surveys, directories, and other activities to identify appropriate housing, recreation opportunities, and accessible transportation, and other support services;

"(viii) consumer information programs on rehabilitation and independent living services available under this Act, especially

for minorities and other individuals with disabilities who have traditionally been unserved or underserved by programs under this Act;

"(ix) education and training necessary for living in a community and participating in community activities;

"(x) supported living;

"(xi) transportation, including referral and assistance for such transportation;

"(xii) physical rehabilitation;

"(xiii) therapeutic treatment;

"(xiv) provision of needed prostheses and other appliances and devices;

"(xv) individual and group social and recreational services;

"(xvi) training to develop skills specifically designed for youths who are individuals with disabilities to promote self-awareness and esteem, develop advocacy and self-empowerment skills, and explore career options;

"(xvii) services for children;

"(xviii) services under other Federal, State, or local programs designed to provide resources, training, counseling, or other assistance, of substantial benefit in enhancing the independence, productivity, and quality of life of individuals with disabilities;

"(xix) appropriate preventive services to decrease the need of individuals assisted under this Act for similar services in the future;

"(xx) community awareness programs to enhance the understanding and integration into society of individuals with disabilities; and

"(xxi) such other services as may be necessary and not inconsistent with the provisions of this Act.

"(31)(A) The term 'individuals with disabilities' means more than one individual with a disability.

"(B) The term 'individuals with severe disabilities' means more than one individual with a severe disability.

"(C) The term 'individuals with the most severe disabilities' means more than one individual with the most severe disability.

"(32) The term 'institution of higher education' has the meaning given the term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)).

"(33) The term 'ongoing support services' means services—

"(A) provided to individuals with the most severe disabilities;

"(B) provided, at a minimum, twice monthly—

"(i) to make an assessment, regarding the employment situation, at the worksite of each such individual in supported employment, or, under special circumstances, especially at the request of the client, off site; and

"(ii) based on the assessment, to provide for the coordination or provision of specific intensive services, at or away from the worksite, that are needed to maintain employment stability; and

"(C) consisting of—

"(i) a particularized assessment supplementary to the comprehensive assessment described in paragraph (22)(B);

"(ii) the provision of skilled job trainers who accompany the individual for intensive job skill training at the work site;

"(iii) job development and placement;

"(iv) social skills training;

"(v) regular observation or supervision of the individual;

"(vi) followup services such as regular contact with the employers, the individuals, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and other suitable professional and informed advisors, in order to reinforce and stabilize the job placement;

"(vii) facilitation of natural supports at the worksite;

"(viii) any other service identified in section 103; or

"(ix) a service similar to another service described in this subparagraph.

"(34) The term 'supported employment services' means ongoing support services and other appropriate services needed to support and maintain an individual with the most severe disability in supported employment, that—

"(A) are provided singly or in combination and are organized and made available in such a way to assist an eligible individual in entering or maintaining integrated, competitive employment;

"(B) are based on a determination of the needs of an eligible individual, as specified in an individualized written rehabilitation program; and

"(C) are provided by the designated State unit for a period of time not to extend beyond 18 months, unless under special circumstances the eligible individual and the rehabilitation counselor or coordinator jointly agree to extend the time in order to achieve the rehabilitation objectives identified in the individualized written rehabilitation program.

"(35) The term 'transition services' means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post school activities, including post secondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation. The coordinated set of activities shall be based upon the individual student's needs, taking into account the student's preferences and interests, and shall include instruction, community experiences, the development of employment and other post school adult living objectives, and, when appropriate, acquisition of daily living skills and functional vocational evaluation.".

(o) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended—

(1) by striking "clause" each place the term appears and inserting "paragraph";

(2) by striking "subclause" each place the term appears and inserting "subparagraph"; and

(3) by striking "clauses" and inserting "paragraphs".

(p) CONFORMING AMENDMENTS; INDIVIDUALS WITH DISABILITIES.—

(1) The title of the Act (29 U.S.C. 701 et seq.) is amended—

(A) by striking "those with the most severe handicaps" and inserting "individuals with the most severe disabilities"; and

(B) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(2) The table of contents relating to the Act is amended—

(A) by striking the item relating to section 501 and inserting the following:

"Sec. 501. Employment of individuals with disabilities.";

(B) by striking the item relating to the title heading for title VI and inserting the following:

"TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES";

and

(C) by striking the item relating to the part heading for part A of title VI and inserting the following:

"PART A—COMMUNITY SERVICE EMPLOYMENT PROGRAMS FOR INDIVIDUALS WITH DISABILITIES".

(3) Section 7 (29 U.S.C. 706) is amended—

(A) in paragraph (13) (as so redesignated by subsection (h)(2)) by striking "handicaps" and inserting "disabilities";

(B) in paragraph (15)(A)—

(i) by striking "severe handicaps" and inserting "a severe disability"; and

(ii) by striking "handicaps (as defined in paragraph (8))" and inserting "a disability"; and

(C) in paragraph (17) by striking "handicaps" and inserting "disabilities".

(4) The last sentence of section 13 (29 U.S.C. 712) is amended by striking "handicaps" and inserting "disabilities".

(5) Section 14(a) (29 U.S.C. 713(a)) is amended by striking "handicaps" and inserting "disabilities".

(6) Section 15 (29 U.S.C. 714) is amended—

(A) in subsections (a) and (b) by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (a)(2) by striking "handicapping conditions" and inserting "disabilities"; and

(C) in subsection (c) by striking "the Handicapped" and inserting "Individuals with Disabilities".

(7) Section 101(a) (29 U.S.C. 721(a)) is amended—

(A) in paragraph (1)—

(i) by striking "handicaps" each place such term appears and inserting "disabilities";

(ii) in subparagraph (A)(i)—

(I) by striking "the blind" each place such term appears and inserting "individuals who are blind"; and

(II) by striking "the adult blind" and inserting "adults who are blind"; and

(iii) in subparagraph (B), by striking "the blind" and inserting "individuals who are blind";

(B) in paragraph (2)(B) by striking "the blind" and inserting "individuals who are blind";

(C) in paragraphs (2), (4), (5), (6), (10), (11), (12), (21), and in the matter preceding paragraph (16), by striking "handicaps" each place such term appears and inserting "disabilities";

(D) in paragraph (9) by striking "handicaps" and inserting "a disability";

(E) in paragraph (13)(B) by striking "with handicaps whose handicapping conditions arises from a disability sustained" and inserting "with a disability whose disability was sustained";

(F) in paragraph (20)—

(i) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(ii) by striking "individuals with handicaps" and inserting "individuals with disabilities"; and

(G) in paragraph (22)—

(i) by striking "the deaf" and inserting "individuals who are deaf"; and

(ii) by striking "handicaps" and inserting "disabilities".

(8) Subsections (c) and (d) of section 102 (29 U.S.C. 722 (c) and (d)) are amended by striking "handicaps" and inserting "a disability".

(9) Section 103 (29 U.S.C. 723) is amended—

(A) in the matter preceding paragraph (1) in subsection (a), and in subsection (b)(2), by striking "handicaps" and inserting "a disability";

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities";

(C) in subsection (a)—

(i) in subparagraph (E) of paragraph (4), by striking "suffering from" and inserting "with";

(ii) in paragraph (6), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iii) in paragraph (8), by striking "the blind" and inserting "individuals who are blind"; and

(D) in subsection (b)(4)—

(i) by striking "the blind" and inserting "individuals who are blind"; and

(ii) by striking "the deaf" and inserting "individuals who are deaf".

(10) Section 112 (29 U.S.C. 732) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(11) Section 130 (29 U.S.C. 750) is amended—

(A) in subsections (a) and (b)(1)(B) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities"; and

(B) in subsection (b)(1)(B) by striking "individuals with handicaps" and inserting "individuals with disabilities".

(12) Section 202 (29 U.S.C. 761a) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (c)(1) by striking "the Handicapped" and inserting "Disability".

(13) Subsections (b) and (c) of section 203 (29 U.S.C. 761b (b) and (c)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(14) Section 204 (29 U.S.C. 762) is amended—

(A) in subsection (b)—

(i) in paragraph (4), by striking "individuals suffering from" and inserting "individuals with";

(ii) in paragraph (8)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "American Indians with handicaps" and inserting "American Indians who are individuals with disabilities";

(iii) in paragraph (10), by striking "deaf individuals" and inserting "individuals who are deaf"; and

(iv) in paragraph (11)—

(I) by striking "children with handicaps" and inserting "children who are individuals with disabilities"; and

(II) by striking "children with severe handicaps" each place such term appears and inserting "children who are individuals with severe disabilities"; and

(B) except as provided in subparagraph (A), by striking "handicaps" each place such term appears and inserting "disabilities".

(15) Section 300 (29 U.S.C. 770) is amended—

(A) in paragraph (2) by striking "handicaps" and inserting "disabilities"; and

(B) in paragraph (3)—

(i) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities";

(ii) by striking "older blind individuals, and deaf individuals" and inserting "older individuals who are blind, and individuals who are deaf";

(iii) by striking "workers with handicaps" and inserting "workers who are individuals with disabilities"; and

(iv) by striking "farmworkers with handicaps" and inserting "farmworkers who are individuals with disabilities".

(16) Section 302 (29 U.S.C. 772) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) in subsections (b) and (c) by striking "handicaps" each place such term appears and inserting "disabilities".

(17) Section 303(a) (29 U.S.C. 773(a)) is amended by striking "handicaps" and inserting "disabilities".

(18) Section 304 (29 U.S.C. 774) is amended—

(A) by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in subsection (b)(2)(B), by striking "handicap" and inserting "disability".

(19) Section 305(a) (29 U.S.C. 775(a)) is amended—

(A) in paragraph (1), by striking "handicaps" each place such term appears and inserting "disabilities"; and

(B) in paragraph (2) by striking "the deaf" and inserting "individuals who are deaf".

(20) Subsections (f) and (h) of section 306 (29 U.S.C. 776 (f) and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(21) Section 311 (29 U.S.C. 777a) is amended—

(A) in subsection (a), by striking "handicaps" each place such term appears and inserting "disabilities";

(B) in subsection (c)(1), by striking "with handicaps" and inserting "who are individuals with disabilities";

(C) in subsection (d)(3), by striking "handicaps" and inserting "disabilities"; and

(D) in subsection (e)—

(i) in paragraph (1), by striking "with severe handicaps" and inserting "who are individuals with severe disabilities"; and

(ii) in paragraph (4)(B), by striking "youths with severe handicaps and youths with mild handicaps" and inserting "youths who are individuals with severe disabilities and other youths with disabilities".

(22) Section 312 (29 U.S.C. 777b) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(23) Section 314 (29 U.S.C. 777d) is amended—

(A) in the section heading, by striking "THE BLIND" and inserting "INDIVIDUALS WHO ARE BLIND";

(B) in subsection (a)(1), by striking "blind persons" and inserting "individuals who are blind and";

(C) in subsection (a)(2)—

(i) by striking "available to blind persons" and inserting "available to individuals who are blind";

(ii) by striking "needs of blind persons" and inserting "needs of such individuals"; and

(iii) by striking "to assist blind persons" and inserting "to assist such individuals"; and

(D) in paragraphs (1), (2), (5), and (6) of subsection (c), by striking "blind persons" and inserting "individuals who are blind".

(24) Section 315 (29 U.S.C. 777e) is amended—

(A) in the section heading, by striking "THE DEAF" and inserting "INDIVIDUALS WHO ARE DEAF";

(B) in subsection (a), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf";

(C) in subsection (b)(1), by striking "to the maximum number of deaf individuals feasible" and inserting "to the maximum feasible number of individuals who are deaf";

(D) in subsection (c), by striking "deaf individuals" each place such term appears and inserting "individuals who are deaf"; and

(E) in subsection (d), by striking "deaf individuals" and inserting "individuals who are deaf and".

(25) Section 316(a)(1) (29 U.S.C. 777f(a)(1)) is amended—

(A) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(B) by striking "peers without handicaps" and inserting "peers who are not individuals with disabilities".

(26) Section 400(a) (29 U.S.C. 780(a)) is amended by striking "handicaps" each place such term appears and inserting "disabilities".

(27) Section 401(a) (29 U.S.C. 781(a)) is amended—

(A) in paragraph (4), by striking "individuals with handicaps and" each place such term appears; and

(B) in paragraphs (5), (6), and (7), by striking "handicaps" each place such term appears and inserting "disabilities".

(28) Section 403(a)(1) (29 U.S.C. 783(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(29) Section 501 (29 U.S.C. 791) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES";

(B) in subsection (a), by striking "Handicapped Employees" and inserting "Employees who are Individuals with Disabilities";

(C) in subsections (a), (b), (c), (d), and (f), by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities"; and

(D) in subsection (b), by striking "employees with handicaps" and inserting "employees who are individuals with disabilities".

(30) Subsections (a), (c), (g), and (h) of section 502 (29 U.S.C. 792 (a), (c), (g), and (h)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(31) Section 503 (29 U.S.C. 793) is amended—

(A) in subsection (a), by striking "handicaps as defined in section 7(8)" and inserting "disabilities"; and

(B) in subsection (b)—

(i) by striking "individual with handicaps" and inserting "individual with a disability"; and

(ii) by striking "individuals with handicaps" each place such term appears and inserting "individuals with disabilities".

(32) Section 504 (29 U.S.C. 794) is amended in subsection (a)—

(A) by striking "handicaps" and inserting "a disability"; and

(B) by striking "handicap" and inserting "disability".

(33) Title VI is amended in the title heading by striking "HANDICAPS" and inserting "DISABILITIES".

(34) Section 601 (29 U.S.C. 701 note) is amended by striking "Handicaps" and inserting "Disabilities".

(35) Part A of title VI is amended in the part heading, by striking "HANDICAPS" and inserting "DISABILITIES".

(36) Subsections (a) and (b) of section 611 (29 U.S.C. 795 (a) and (b)) are amended by striking "handicaps" each place such term appears and inserting "disabilities".

(37) Section 615(a)(1) (29 U.S.C. 795d(a)(1)) is amended by striking "handicaps" and inserting "disabilities".

(38) Section 616(2) (29 U.S.C. 795e(2)) is amended, by striking "handicaps" and inserting "disabilities".

(39) Section 622 (29 U.S.C. 795h) is amended—

(A) in the section heading, by striking "HANDICAPS" and inserting "DISABILITIES"; and

(B) by striking "handicaps" and inserting "disabilities".

SEC. 103. ALLOTMENT PERCENTAGE.

Section 8(a)(1) (29 U.S.C. 707(a)(1)) is amended—

(1) by striking "The" and inserting "For purposes of section 110, the"; and

(2) by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau (until the Compact of Free Association with Palau takes effect)".

SEC. 104. NONDUPLICATION.

The second sentence of section 10 (29 U.S.C. 709) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

SEC. 105. ADMINISTRATION OF THE ACT.

(a) TRAINING.—Section 12(a)(2) (29 U.S.C. 711(a)(2)) is amended by inserting before the semicolon the following: ", including training for the personnel of community rehabilitation programs, centers for independent living, and other providers of services (including job coaches)".

(b) ISSUANCE OF REGULATIONS.—Section 12 (29 U.S.C. 711) is amended—

(1) by redesignating subsection (d) as subsection (f); and

(2) by inserting after subsection (c) the following:

"(d) The Secretary shall promulgate regulations regarding the requirements for the implementation of an order of selection for vocational rehabilitation services under section 101(a)(5)(A) if such services cannot be provided to all eligible individuals with disabilities who apply for such services.

"(e)(1) Not later than 120 days after the date of the enactment of the Rehabilitation Act Amendments of 1992, the Secretary shall receive public comment and promulgate regulations establishing criteria pertaining to the selection of vocational rehabilitation services, and of vocational rehabilitation services providers, by an individual with a disability, consistent with the individualized written rehabilitation program of the individual under section 102.

"(2) Regulations under paragraph (1) shall include the following:

"(A) Procedures that States must adopt to ensure that the services provided under this Act are of sufficient scope and quality, that the costs of such services and the length of time such services are provided are reasonable, and that such services are available in a timely manner.

"(B) Procedures that prevent fraud, waste, and abuse.

"(C) Procedures to assure that services are provided in the most integrated settings.

"(D) Procedures to assure that rehabilitation providers comply with State guarantees, such as—

"(i) affirmative action procedures with respect to the employment of individuals with disabilities;

"(ii) standards governing community rehabilitation programs and qualified personnel utilized for the provision of vocational rehabilitation services; and

"(iii) minimum standards to ensure the availability of personnel, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client.

"(E) Standards to be adhered to by providers to help ensure the integrity of services.

"(F) Guidelines for assisting individuals with disabilities and for providing information about available vocational rehabilitation service providers, especially for assisting—

"(i) individuals with cognitive and other disabilities who, due to the nature of the disability, require support and assistance in fully implementing the selection and procurement of services; and

"(ii) the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

SEC. 106. REPORTS.

The fourth sentence of section 13 (29 U.S.C. 712) is amended by inserting "including types of rehabilitation technology services provided," after "types of services provided,".

SEC. 107. EVALUATION.

Section 14 (29 U.S.C. 713) is amended—

(1)(A) by striking "Commissioner" the first place such term appears and inserting "Secretary, in consultation with the Commissioner,"; and

(B) except as provided in subparagraph (A), by striking "Commissioner" each place such term appears and inserting "Secretary";

(2) in the third sentence of subsection (a)—

(A) by striking "program and" and inserting "program,";

(B) by striking "and the characteristics" and inserting ", the characteristics"; and

(C) by inserting before the period ", and the employment outcomes to be attained";

(3) in subsection (b) by striking "shall," and all that follows through "obtain" and inserting "shall obtain"; and

(4)(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following subsection:

"(f)(1) To assess the linkages between vocational rehabilitation services and economic and noneconomic outcomes, the Secretary shall continue to conduct a longitudinal study of a national sample of applicants for the services.

"(2) The study shall address factors related to attrition and completion of the program through which the services are provided and factors within and outside the program affecting results. Appropriate comparisons shall be used to contrast the experiences of similar persons who do not obtain the services.

"(3) The study shall be planned to cover the period beginning on the application of the individuals for the services, through the eligibility determination and provision of services for the individuals, and a further period of not less than 2 years after the termination of services".

SEC. 108. REVIEW OF APPLICATIONS.

(a) TRANSFERS.—Section 16(b) (29 U.S.C. 715(b)) is amended by striking "one-half of".

(b) COMPENSATION.—Section 18 (29 U.S.C. 717) is amended by striking "the rate provided for grade GS–18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 109. CARRYOVER.

(a) IN GENERAL.—The Act is amended by inserting after section 18 (29 U.S.C. 717) the following new section:

"SEC. 19. CARRYOVER.

"(a) IN GENERAL.—Except as provided in subsection (b), and notwithstanding any other provision of law, any funds appropriated for a fiscal year to carry out any grant program under part B or C of title I, section 509, part C of title VI, or part B or C of chapter 1 of title VII, that are not obligated and expended by recipients prior to the beginning of the succeeding fiscal year shall remain available for obligation and expenditure by such recipients during such succeeding fiscal year.

"(b) NON-FEDERAL SHARE.—Such funds shall remain available for obligation and expenditure by a recipient as provided in subsection (a) only to the extent that the recipient complied with any Federal share requirements applicable to the program for the fiscal year for which the funds were appropriated.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 18 the following:

"Sec. 19. Carryover.".

SEC. 110. CLIENT ASSISTANCE INFORMATION.

(a) IN GENERAL.—The Act is amended by inserting after section 19 (as added by section 109(a)) the following new section:

"SEC. 20. CLIENT ASSISTANCE INFORMATION. 29 USC 718a.

"All programs, including community rehabilitation programs, and projects, that provide services to individuals with disabilities under this Act shall advise such individuals, or the parents, family members, guardians, advocates, or authorized representatives of the individuals, of the availability and purposes of the client assistance program under section 112, including information on means of seeking assistance under such program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 19 (as added by section 109(b)) the following:

"Sec. 20. Client assistance information.".

SEC. 111. TRADITIONALLY UNDERSERVED POPULATIONS.

(a) IN GENERAL.—The Act is amended by inserting after section 20 (as added by section 110(a)) the following section:

"SEC. 21. TRADITIONALLY UNDERSERVED POPULATIONS. 29 USC 718b.

"(a) FINDINGS.—With respect to the programs authorized in titles II through VIII, the Congress finds as follows:

"(1) RACIAL PROFILE.—The racial profile of America is rapidly changing. While the rate of increase for white Americans

is 3.2 percent, the rate of increase for racial and ethnic minorities is much higher: 38.6 percent for Latinos, 14.6 percent for African-Americans, and 40.1 percent for Asian-Americans and other ethnic groups. By the year 2000, the Nation will have 260,000,000 people, one of every three of whom will be either African-American, Latino, or Asian-American.

"(2) RATE OF DISABILITY.—Ethnic and racial minorities tend to have disabling conditions at a disproportionately high rate. The rate of work-related disability for American Indians is about one and one-half times that of the general population. African-Americans are also one and one-half times more likely to be disabled than whites and twice as likely to be severely disabled.

"(3) INEQUITABLE TREATMENT.—Patterns of inequitable treatment of minorities have been documented in all major junctures of the vocational rehabilitation process. As compared to white Americans, a larger percentage of African-American applicants to the vocational rehabilitation system is denied acceptance. Of applicants accepted for service, a larger percentage of African-American cases is closed without being rehabilitated. Minorities are provided less training than their white counterparts. Consistently, less money is spent on minorities than on their white counterparts.

"(4) RECRUITMENT.—Recruitment efforts within vocational rehabilitation at the level of pre-service training, continuing education, and in-service training must focus on bringing larger numbers of minorities into the profession in order to provide appropriate practitioner knowledge, role models, and sufficient manpower to address the clearly changing demography of vocational rehabilitation.

"(b) OUTREACH TO MINORITIES.—

"(1) POLICY.—The Commissioner shall develop a policy to mobilize the resources of the Nation to prepare minorities for careers in vocational rehabilitation, independent living, and related services.

"(2) FOCUS.—This policy shall focus on—

"(A) the recruitment of minorities into the field of vocational rehabilitation counseling and related disciplines; and

"(B) financially assisting Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and other institutions of higher education whose minority enrollment is at least 50 percent to prepare students for vocational rehabilitation and related service careers.

"(3) PLAN.—

"(A) DEVELOPMENT.—The Commissioner shall develop a plan to provide outreach services and other related activities (such as cooperative efforts) to the entities described in subparagraph (B) in order to enhance the capacity and increase the participation of such entities in competitions for grants, contracts, and cooperative agreements under titles I through VIII.

"(B) ENTITIES.—The entities referred to in subparagraph (A) are—

"(i) Historically Black Colleges and Universities, Hispanic-serving institutions of higher education, and

other institutions of higher education whose minority student enrollment is at least 50 percent;

"(ii) nonprofit and for-profit agencies at least 51 percent owned or controlled by one or more minority individuals; and

"(iii) underrepresented populations.

"(C) FUNDING.—For the purpose of implementing the plan required in subparagraph (A), the Commissioner shall, for each of the fiscal years 1993 through 1997, expend 1 percent of the funds appropriated for the fiscal year involved for carrying out programs authorized in titles II through VIII of this Act, except programs authorized under title IV or V.

"(3) EFFORT.—The Commissioner shall exercise the utmost authority, resourcefulness, and diligence to meet the requirements of this section.

"(4) REPORT.—

"(A) IN GENERAL.—Not later than January 31 of each year, starting with fiscal year 1994, the Commissioner shall prepare and submit to Congress a final report on the progress toward meeting the goals of this section during the preceding fiscal year.

"(B) CONTENTS.—The report shall include—

"(i) a full explanation of any progress toward meeting the goals of this section; and

"(ii) a plan to meet the goals, if necessary.

"(5) DEMONSTRATION.—In awarding grants, contracts, or cooperative agreements under titles I, II, III, VI, VII, and VIII, and section 509, the Commissioner and the Director of the National Institute on Disability and Rehabilitation Research, where appropriate, shall require applicants to demonstrate how they will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 20 (as added by section 110(b)) the following item:

"Sec. 21. Traditionally underserved populations.".

Subtitle B—Vocational Rehabilitation Services

SEC. 121. POLICY; AUTHORIZATION OF APPROPRIATIONS.

(a) FINDINGS; PURPOSE; POLICY.—Section 100 (29 U.S.C. 720) is amended—

(1) in the section heading, by striking "PURPOSE" and inserting "POLICY"; and

(2) by striking subsection (a) and inserting the following:

"(a)(1) Congress finds that—

"(A) work—

"(i) is a valued activity, both for individuals and society; and

"(ii) fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life in America;

"(B) as a group, individuals with disabilities experience staggering levels of unemployment and poverty;

"(C) individuals with disabilities, including individuals with the most severe disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided;

"(D) reasons for the significant number of individuals with disabilities not working, or working at a level not commensurate with their abilities and capabilities, include—

"(i) discrimination;

"(ii) lack of accessible and available transportation;

"(iii) fear of losing health coverage under the medicare and medicaid programs under titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq. and 1396 et seq.) or fear of losing existing private health insurance; and

"(iv) lack of education, training, and supports to meet job qualification standards necessary to enter or retain or advance in employment;

"(E) enforcement of title V and of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) holds the promise of ending discrimination for individuals with disabilities; and

"(F) the provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most severe disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

"(2) The purpose of this title is to assist States in operating a comprehensive, coordinated, effective, efficient, and accountable program of vocational rehabilitation that is designed to assess, plan, develop, and provide vocational rehabilitation services for individuals with disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that such individuals may prepare for and engage in gainful employment.

"(3) It is the policy of the United States that such a program shall be carried out in a manner consistent with the following principles:

"(A) Individuals with disabilities, including individuals with the most severe disabilities, are generally presumed to be capable of engaging in gainful employment and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.

"(B) Individuals with disabilities must be provided the opportunities to obtain gainful employment in integrated settings.

"(C) Individuals with disabilities must be active participants in their own rehabilitation programs, including making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

"(D) Families and natural supports can play an important role in the success of a vocational rehabilitation program, if the individual with a disability requests, desires, or needs such supports.

"(E) Qualified vocational rehabilitation counselors, other qualified rehabilitation personnel, and other qualified personnel

facilitate the accomplishment of the employment goals and objectives of an individual.

"(F) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation program and must be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

"(G) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the program, including providing vocational rehabilitation services to, among others, individuals with the most severe disabilities.".

(b) REAUTHORIZATION.—Section 100 (29 U.S.C. 720) is amended—

(1) by amending subsection (b) to read as follows:

"(b)(1) For the purpose of making grants to States under part B (other than grants under section 112) to assist States in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 1997, except that the amount to be appropriated for a fiscal year shall not be less than the amount of the appropriation under this subsection for the immediately preceding fiscal year, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.

"(2) There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 1993 through 1997.";

Appropriation authorization.

(2) in subparagraphs (A) and (B) of subsection (c)(2), by striking "authorized to be appropriated under subsection (b)(1) for the subsequent fiscal year is the amount authorized to be" each place the term appears and inserting "to be appropriated under subsection (b) for the subsequent fiscal year shall be at least the amount"; and

(3) in subsection (d)(1)(B)—

(A) by striking "1992" the first place the term appears and inserting "1997"; and

(B) by striking "or the amount authorized to be appropriated for such program for fiscal year 1992, whichever is higher,".

(c) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 100 and inserting the following:

"Sec. 100. Declaration of policy; authorization of appropriations.".

SEC. 122. STATE PLANS.

(a) PERIOD.—The first sentence of section 101(a) (29 U.S.C. 721(a)) is amended by striking "for a three-year period" and all that follows and inserting the following: "for a 3-year period, or shall submit the plan on such date, and at such regular intervals, as the Secretary may determine to be appropriate to coincide with the intervals at which the State submits State plans under other Federal laws, such as part B of the Individuals with Disabilities Education Act (20 U.S.C. 1411 et seq.). In order to be eligible to participate in programs under this title, a State, upon the request of the Commissioner, shall make such annual revisions in the plan as may be necessary.".

(b) STATE AGENCY.—Section 101(a)(1)(A) (29 U.S.C. 721(a)(1)(A)) is amended—

(1) by striking "and" at the end of clause (i); and

(2) by inserting before the semicolon at the end the following: ", and (iii) in the case of American Samoa, the appropriate State agency shall be the Governor of American Samoa".

(c) PLANS; POLICIES; METHODS.—Section 101(a)(5) (29 U.S.C. 721(a)(5)) is amended—

(1) in subparagraph (A)—

(A) by striking "existing rehabilitation facilities to the maximum extent feasible;" and inserting "community rehabilitation programs to the maximum extent feasible, an explanation of the methods by which the State will provide vocational rehabilitation services to all individuals with disabilities within the State who are eligible for such services,"; and

(B) in clause (ii), by inserting before "and shall be consistent" the following: "in accordance with criteria established by the State,";

(2) in subparagraph (B), by inserting before the semicolon the following: ", including the use of funds under part C of title VI to supplement funds under part B of this title to pay for the cost of services leading to supported employment"; and

(3) by striking subparagraph (C) and inserting the following:

"(C) describe—

"(i) how a broad range of rehabilitation technology services will be provided at each stage of the rehabilitation process;

"(ii) how a broad range of such rehabilitation technology services will be provided on a statewide basis; and

"(iii) the training that will be provided to vocational rehabilitation counselors, client assistance personnel, and other related services personnel;".

(d) PROGRAM COMPLIANCE.—Section 101(a)(6)(B) (29 U.S.C. 721(a)(6)(B)) is amended by inserting before the semicolon at the end the following: ", with section 504 of this Act, and with the Americans with Disabilities Act of 1990".

(e) PERSONNEL.—Section 101(a)(7) (29 U.S.C. 721(a)(7)) is amended to read as follows:

"(7)(A) include a description (consistent with the purposes of this Act) of a comprehensive system of personnel development, which shall include—

"(i) a description of the procedures and activities the State agency will undertake to ensure an adequate supply of qualified State rehabilitation professionals and paraprofessionals for the designated State unit, including the development and maintenance of a system for determining, on an annual basis—

"(I) the number and type of personnel that are employed by the State agency in the provision of vocational rehabilitation services, including ratios of counselors to clients; and

"(II) the number and type of personnel needed by the State, and a projection of the numbers of such personnel that will be needed in 5 years, based on projections of the number of individuals to be served, the number of such personnel who are expected to retire or leave the field, and other relevant factors;

"(ii) where appropriate, a description of the manner in which activities will be undertaken through this section to coordinate the system of personnel development with personnel development under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(iii) a description of the development and maintenance of a system of determining, on an annual basis, information on the institutions of higher education within the State that are preparing rehabilitation professionals, including—

"(I) the numbers of students enrolled in such programs; and

"(II) the number who graduated with certification or licensure, or with credentials to qualify for certification or licensure, during the past year;

"(iv) a description of the development, updating, and implementation of a plan that—

"(I) will address the current and projected vocational rehabilitation services personnel training needs for the designated State unit; and

"(II) provides for the coordination and facilitation of efforts between the designated State unit and institutions of higher education (as defined in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a))) and professional associations to recruit, prepare and retain qualified personnel, including personnel from minority backgrounds, and personnel who are individuals with disabilities; and

"(v) a description of the procedures and activities the State agency will undertake to ensure that all personnel employed by the designated State unit are appropriately and adequately trained and prepared, including—

"(I) a system for the continuing education of rehabilitation professionals and paraprofessionals within the designated State unit, particularly with respect to rehabilitation technology; and

"(II) procedures for acquiring and disseminating to rehabilitation professionals and paraprofessionals within the designated State unit significant knowledge from research and other sources, including procedures for providing training regarding the amendments to the Rehabilitation Act of 1973 made by the Rehabilitation Act Amendments of 1992;

"(B) set forth policies and procedures relating to the establishment and maintenance of standards to ensure that personnel, including professionals and paraprofessionals, needed within the State agency to carry out this part are appropriately and adequately prepared and trained, including—

"(i) the establishment and maintenance of standards that are consistent with any national or State approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which such personnel are providing vocational rehabilitation services; and

"(ii) to the extent such standards are not based on the highest requirements in the State applicable to a specific profession or discipline, the steps the State is taking to require the retraining or hiring of personnel within the designated

State unit that meet appropriate professional requirements in the State; and

"(C) contain provisions relating to the establishment and maintenance of minimum standards to ensure the availability of personnel within the designated State unit, to the maximum extent feasible, trained to communicate in the native language or mode of communication of the client;".

(f) AVAILABILITY OF COMPARABLE SERVICES AND BENEFITS.—Section 101(a)(8) (29 U.S.C. 721(a)(8)) is amended by striking "except that" and all that follows and inserting "except that such a determination shall not be required—

"(A) if the determination would delay the provision of such services to any individual at extreme medical risk; or

"(B) prior to the provision of such services if an immediate job placement would be lost due to a delay in the provision of such comparable benefits;".

(g) USE OF EXISTING INFORMATION.—Section 101(a)(9) (29 U.S.C. 721(a)(9)) is amended—

(1) by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively;

(2) by striking "(9) provide that" and inserting "(9) provide that—

"(A) to the maximum extent appropriate, and consistent with the requirements of this Act, existing information available from other programs and providers (particularly information used by education officials and the Social Security Administration) and information that can be provided by the individual with a disability or the family of the individual shall be used for purposes of determining eligibility for vocational rehabilitation services and for choosing rehabilitation goals, objectives, and services;";

(3) in subparagraphs (B), (C), and (D) (as so redesignated by paragraph (1) of this subsection), by indenting the subparagraphs to the same measure as subparagraph (A); and

(4) in subparagraphs (B) and (C) (as so redesignated), by striking the comma at the end and inserting a semicolon.

(h) REPORTS.—Section 101(a)(10) (29 U.S.C. 721(a)(10)) is amended—

(1) by inserting "(A)" after the paragraph designation;

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection), by adding "and" after the semicolon at the end; and

(3) by adding at the end the following subparagraph:

"(B) provide that reports under subparagraph (A) will include information on—

"(i) the number of such individuals who are evaluated and the number rehabilitated;

"(ii) the costs of administration, counseling, provision of direct services, development of community rehabilitation programs, and other functions carried out under this Act; and

"(iii) the utilization by such individuals of other programs pursuant to paragraph (11);".

(i) INTERAGENCY COOPERATION.—Section 101(a)(11) (29 U.S.C. 721(a)(11)) is amended—

(1) by striking "(11) provide for entering into cooperative arrangements" and inserting "(11)(A) provide for interagency cooperation";

(2) in subparagraph (A) (as so designated by paragraph (1) of this subsection) by striking ", and the Carl D. Perkins Vocational Education Act);" and inserting "(20 U.S.C. 1400 et seq.), the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2301 et seq.), and the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46 et seq.);"; and

(3) by adding at the end the following:

"(B) provide that cooperation under subparagraph (A) shall include, to the extent practicable, means for providing training to staff of the agencies described in subparagraph (A) as to the availability and benefits of, and eligibility standards for, vocational rehabilitation services, in order to enhance the opportunity of individuals receiving the services described in subparagraph (A) to obtain vocational rehabilitation services; and

"(C) in providing for interagency cooperation under subparagraph (A), provide for such cooperation by means including, if appropriate—

"(i) establishing interagency working groups; and

"(ii) entering into formal interagency cooperative agreements that—

"(I) identify policies, practices, and procedures that can be coordinated among the agencies (particularly definitions, standards for eligibility, the joint sharing and use of evaluations and assessments, and procedures for making referrals);

"(II) identify available resources and define the financial responsibility of each agency for paying for necessary services (consistent with State law) and procedures for resolving disputes between agencies; and

"(III) include all additional components necessary to ensure meaningful cooperation and coordination;".

(j) COMMUNITY REHABILITATION PROGRAMS.—Section 101(a)(12) (29 U.S.C. 721(a)(12)) is amended—

(1) in subparagraph (A), by striking "facilities" and inserting "programs"; and

(2) in subparagraph (B), by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(k) CONTINUING STATEWIDE STUDIES.—Section 101(a) (29 U.S.C. 721(a)) is amended—

(1) in the matter preceding paragraph (16) by striking "provide for continuing" and inserting "(15) provide for continuing"; and

(2) in paragraph (15) (as so designated by paragraph (1) of this subsection)—

(A) in subparagraph (A), by striking "conducting";

(B) in subparagraph (B)—

(i) by striking "capacity and condition of rehabilitation facilities, plans for improving such facilities," and inserting "capacity and effectiveness of community rehabilitation programs, plans for improving such programs,"; and

(ii) by striking "and" after the semicolon at the end;

(C) in subparagraph (C), by inserting "and" after the semicolon at the end; and

(D) by adding at the end the following subparagraph:

"(D) outreach procedures to identify and serve individuals with disabilities who are minorities and individuals with disabilities who have been unserved or underserved by the vocational rehabilitation system;".

(l) REVIEW AND EFFORTS.—Section 101(a)(16) (29 U.S.C. 721(a)(16)) is amended to read as follows:

"(16) provide for—

"(A)(i) at least annual review and reevaluation of the status of each individual with a disability placed in an extended employment setting in a community rehabilitation program (including a workshop) or other employment under section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)), to determine the interests, priorities, and needs of the individual for employment, or training for competitive employment, in an integrated setting in the labor market; and

"(ii) input into the review and reevaluation by the individual with a disability, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual, if the individual requests, desires, or needs assistance;

"(B) maximum efforts, including the identification of vocational rehabilitation services, reasonable accommodations, and other support services, to enable such an individual to benefit from training or to be placed in employment in an integrated setting; and

"(C) services designed to promote movement from extended employment to integrated employment, including supported employment, independent living, and community participation;".

(m) CONSTRUCTION.—Section 101(a)(17) (29 U.S.C. 721(a)(17)) is amended—

(1) in the matter preceding subparagraph (A), by striking "where such State plan includes provisions for the construction of rehabilitation facilities" and inserting "if, under special circumstances, the State plan includes provisions for the construction of facilities for community rehabilitation programs"; and

(2) in subparagraph (C), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

(n) VIEWS CONSIDERED.—Section 101(a)(18) (29 U.S.C. 721(a)(18)) is amended by striking "and providers of vocational rehabilitation services" and inserting "providers of vocational rehabilitation services, and the Director of the client assistance program under section 112".

(o) STRATEGIC PLAN.—Section 101(a)(19) (29 U.S.C. 721(a)(19)) is amended by inserting before the semicolon the following: ", and for developing and updating the strategic plan required under part C".

(p) PUBLIC COMMENT.—Section 101(a)(23) (29 U.S.C. 721(a)(23)) is amended—

(1) in subparagraph (A), by inserting after "comment on the State plan" the following: "before development of the plan by the State";

(2) by striking "and" before "(B)"; and

(3) by inserting before the semicolon the following: ", and (C) provide satisfactory assurances that the State agency will consult with the Director of the client assistance program under section 112 in the formulation of policies governing the provision of vocational rehabilitation services consistent with the State plan and other revisions".

(q) GOALS AND PUBLIC EDUCATION.—Section 101(a)(24) (29 U.S.C. 721(a)(24)) is amended to read as follows:

"(24) contain plans, policies, and procedures to be followed (including entering into a formal interagency cooperative agreement, in accordance with paragraph (11)(C)(ii), with education officials responsible for the provision of a free appropriate public education to students who are individuals with disabilities) that are designed to—

"(A) facilitate the development and accomplishment of—

"(i) long-term rehabilitation goals;

"(ii) intermediate rehabilitation objectives; and

"(iii) goals and objectives related to enabling a student to live independently before the student leaves a school setting,

to the extent the goals and objectives described in clauses (i) through (iii) are included in an individualized education program of the student, including the specification of plans for coordination with the educational agencies in the provision of transition services;

"(B) facilitate the transition from the provision of a free appropriate public education under the responsibility of an educational agency to the provision of vocational rehabilitation services under the responsibility of the designated State unit, including the specification of plans for coordination with educational agencies in the provision of transition services authorized under section 103(a)(14) to an individual, consistent with the individualized written rehabilitation program of the individual; and

"(C) provide that such plans, policies, and procedures will address—

"(i) provisions for determining State lead agencies and qualified personnel responsible for transition services;

"(ii) procedures for outreach to and identification of youth in need of such services; and

"(iii) a timeframe for evaluation and followup of youth who have received such services;".

(r) USE OF SUPPORTED EMPLOYMENT FUNDS.—Section 101(a)(25) (29 U.S.C. 721(a)(25)) is amended to read as follows:

"(25) provide assurances satisfactory to the Secretary that the State has an acceptable plan for carrying out part C of title VI, including the use of funds under that part to supplement funds under part B of this title for the cost of services leading to supported employment;".

(s) ADDITIONAL STATE PLAN REQUIREMENTS.—Section 101(a) (29 U.S.C. 721(a)) is amended by adding at the end the following new paragraphs:

"(26) describe the manner in which on-the-job or other related personal assistance services will be provided to assist individuals with disabilities while the individuals are receiving vocational rehabilitation services;

"(27) describe the manner in which cooperative agreements with private nonprofit vocational rehabilitation service providers will be established;

"(28) identify the needs and utilization of community rehabilitation programs under the Act commonly known as the Wagner-O'Day Act (41 U.S.C. 46 et seq.);

"(29) describe the manner in which individuals with disabilities will be given choice and increased control in determining their vocational rehabilitation goals and objectives;

"(30) describe the manner in which students who are individuals with disabilities and who are not in special education programs can access and receive vocational rehabilitation services, where appropriate;

"(31) describe the manner in which assistive technology devices and services will be provided, or worksite assessments will be made as part of the assessment for determining eligibility and vocational rehabilitation needs of an individual;

"(32) describe the manner in which the State will modify the policies and procedures of the State based on consumer satisfaction surveys conducted by the State Rehabilitation Advisory Council;

"(33) provide for coordination and working relationships with the Statewide Independent Living Council established under section 705 and independent living centers within the State;

"(34) provide satisfactory assurances to the Commissioner that the State—

"(A) has developed and implemented a strategic plan for expanding and improving vocational rehabilitation services for individuals with disabilities on a statewide basis in accordance with part C of this title; and

"(B) will use at least 1.5 percent of the allotment of the State under part B for the uses described in section 123;

"(35)(A) describe how the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State facilitates the accomplishment of the purpose and policy of this title, including the policy of serving, among others, individuals with the most severe disabilities; and

"(B) provide satisfactory assurances that the system in no way impedes such accomplishment; and

"(36) provide satisfactory assurances to the Commissioner that—

"(A)(i) the State has established a State Rehabilitation Advisory Council that meets the criteria set forth in section 105;

"(ii) the designated State agency and the designated State unit seek and seriously consider on a regular and ongoing basis advice from the Council regarding the development and implementation of the State plan and the strategic plan and amendments to the plans, and other policies and procedures of general applicability pertaining to the provision of vocational rehabilitation services in the State;

"(iii) the designated State agency includes, in its State plan or an amendment to the plan, a summary of advice provided by the Council, including recommendations from the annual report of the Council, the survey of consumer satisfaction, and other reports prepared by the Council, and the response of the designated State agency to such advice and

recommendations (including explanations with respect to advice and recommendations that were rejected); and

"(iv) the designated State unit transmits to the Council—

"(I) all plans, reports, and other information required under the Act to be submitted to the Commissioner; Reports.

"(II) all policies, practices, and procedures of general applicability provided to or used by rehabilitation personnel; and

"(III) copies of due process hearing decisions, which shall be transmitted in such a manner as to preserve the confidentiality of the participants in the hearings;

"(B) an independent commission—

"(i) is responsible under State law for overseeing the operation of the designated State agency;

"(ii) is consumer-controlled by persons who—

"(I) are individuals with physical or mental impairments that substantially limit major life activities; and

"(II) represent individuals with a broad range of disabilities;

"(iii) includes individuals representing family members, advocates, and authorized representatives of individuals with mental impairments; and

"(iv) undertakes the function set forth in section 105(c)(3); or

"(C) in the case of a State that, under section 101(a)(1)(A)(i), designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind and designates a separate State agency to administer the remainder of the State plan—

"(i) an independent commission is responsible under State law for overseeing both such agencies and meets the requirements of subparagraph (B)(ii); or

"(ii)(I) an independent commission is responsible under State law for overseeing the first agency described in this subparagraph and meets the requirements of subparagraph (B)(ii); and

"(II) an independent commission is responsible under State law for overseeing the second State agency described in this subparagraph and is required by such State law to be consumer-controlled by individuals who are blind and to represent individuals who are blind.".

(t) TECHNICAL AMENDMENT.—Section 101 (29 U.S.C. 721) is amended by striking subsections (c) and (d).

SEC. 123. DETERMINATIONS OF ELIGIBILITY AND INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.

(a) ELIGIBILITY.—Section 102(a) (29 U.S.C. 722(a)) is amended to read as follows:

"(a)(1) An individual is eligible for assistance under this title if the individual—

"(A) is an individual with a disability under section 7(8)(A); and

"(B) requires vocational rehabilitation services to prepare for, enter, engage in, or retain gainful employment.

"(2) An individual who has a disability or is blind as determined pursuant to title II or title XVI of the Social Security Act (42 U.S.C. 401 et seq. and 1381 et seq.) shall be considered to have—

"(A) a physical or mental impairment which for such individual constitutes or results in a substantial impediment to employment under section 7(8)(A)(i); and

"(B) a severe physical or mental impairment which seriously limits one or more functional capacities in terms of an employment outcome under section 7(15)(A)(i).

"(3) Determinations made by officials of other agencies, particularly the education officials described in section 101(a)(24), regarding whether an individual satisfies one or more factors relating to whether an individual is an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A), shall be used (to the extent appropriate and available and consistent with the requirements under this Act) for making such determinations under this Act.

"(4)(A) It shall be presumed that an individual can benefit in terms of an employment outcome from vocational rehabilitation services under section 7(8)(A)(ii), unless the designated State unit can demonstrate by clear and convincing evidence that such individual is incapable of benefiting from vocational rehabilitation services in terms of an employment outcome.

"(B) In making the demonstration required under subparagraph (A) with respect to cases in which the issue concerns the severity of the disability of an individual, the designated State unit shall first conduct an extended evaluation by providing the services described in subparagraph (C)(iii)(I), and conducting the assessment described in subparagraph (C)(iii)(II), of section 7(22).

"(5)(A) The designated State unit shall determine whether an individual is eligible for vocational rehabilitation services under this title within a reasonable period of time, not to exceed 60 days after the individual has submitted an application to receive the services unless—

"(i) the designated State unit notifies the individual that exceptional and unforeseen circumstances beyond the control of the agency preclude the agency from completing the determination within the prescribed time and the individual agrees that an extension of time is warranted; or

"(ii) such an extended evaluation is required.

"(B) The determination of eligibility shall be based on the review of existing data described in section 7(22)(A)(i), and, to the extent necessary, the preliminary assessment described in section 7(22)(A)(iii).

"(6) The designated State unit shall ensure that a determination of ineligibility made with respect to an individual prior to the initiation of an individualized written rehabilitation program, based on the review, and to the extent necessary, the preliminary assessment, shall include specification of—

"(A) the reasons for such a determination;

"(B) the rights and remedies available to the individual, including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d); and

"(C) the availability of services provided by the client assistance program under section 112 to the individual.".

(b) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102(b) (29 U.S.C. 722(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) As soon as a determination has been made that an individual is eligible for vocational rehabilitation services, the des-

ignated State unit shall complete an assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22) (if such assessment is necessary) and ensure that—

"(i) an individualized written rehabilitation program is jointly developed, agreed upon, and signed by—

"(I) such eligible individual (or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual); and

"(II) the vocational rehabilitation counselor or coordinator; and

"(ii) such program meets the requirements set forth in subparagraph (B).

"(B) Each individualized written rehabilitation program shall—

"(i) be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities, of the individual;

"(ii) include a statement of the long-term rehabilitation goals based on the assessment for determining eligibility and vocational rehabilitation needs described in section 7(22)(B), including an assessment of career interests, for the individual, which goals shall, to the maximum extent appropriate, include placement in integrated settings;

"(iii) include a statement of the intermediate rehabilitation objectives related to the attainment of such goals, determined through such assessment carried out in the most individualized and integrated setting (consistent with the informed choice of the individual);

"(iv)(I) include a statement of the specific vocational rehabilitation services to be provided, and the projected dates for the initiation and the anticipated duration of each such service;

"(II) if appropriate, include a statement of the specific rehabilitation technology services to be provided to assist in the implementation of intermediate rehabilitation objectives and long-term rehabilitation goals for the individual; and

"(III) if appropriate, include a statement of the specific on-the-job and related personal assistance services to be provided to the individual, and, if appropriate and desired by the individual, the training in managing, supervising, and directing personal assistance services to be provided to the individual;

"(v) include an assessment of the expected need for postemployment services and, if appropriate, extended services;

"(vi) provide for—

"(I) a reassessment of the need for postemployment services and, if appropriate, extended services prior to the point of successful rehabilitation, in accordance with this subsection; and

"(II) if appropriate, the development of a statement detailing how such services shall be provided or arranged through cooperative agreements with other service providers;

"(vii) include objective criteria and an evaluation procedure and schedule for determining whether such goals and objectives are being achieved;

"(viii) include the terms and conditions under which goods and services described above will be provided to the individual in the most integrated settings;

"(ix) identify the entity or entities that will provide the vocational rehabilitation services and the process used to provide or procure such services;

"(x) include a statement by the individual, in the words of the individual (or, if appropriate, in the words of a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual), describing how the individual was informed about and involved in choosing among alternative goals, objectives, services, entities providing such services, and methods used to provide or procure such services;

"(xi) include, if necessary, an amendment specifying—

"(I) the reasons that an individual for whom a program has been prepared is no longer eligible for vocational rehabilitation services; and

"(II) the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xii) set forth the rights and remedies available to such an individual including, if appropriate, recourse to the processes set forth in subsections (b)(2) and (d);

"(xiii) provide a description of the availability of a client assistance program established pursuant to section 112;

"(xiv) to the maximum extent possible, be provided in the native language, or mode of communication, of the individual, or, in an appropriate case, of a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual; and

"(xv) include information identifying other related services and benefits provided pursuant to any Federal, State, or local program that will enhance the capacity of the individual to achieve the vocational objectives of the individual.

"(C) The designated State unit shall furnish a copy of the individualized written rehabilitation program and amendments to the program to the individual with a disability or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of the individual."; and

(2) in paragraph (2), by inserting after the first sentence the following: "Any revisions or amendments to the program resulting from such review shall be incorporated into or affixed to such program. Such revisions or amendments shall not take effect until agreed to and signed by the individual with a disability, or, if appropriate, by a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.".

(c) TECHNICAL AMENDMENTS.—Section 102(c) (29 U.S.C. 722(c)) is amended—

(1) by striking "Commissioner shall also insure" and inserting "Director of the designated State unit shall also ensure"; and

(2) in paragraph (2), by striking "evaluation of rehabilitation potential" and inserting "assessment for determining eligibility and vocational rehabilitation needs described in subparagraphs (B) and (C) of section 7(22)".

(d) SELECTION OF IMPARTIAL HEARING OFFICER.—Section 102(d) (29 U.S.C. 722(d)) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)"; and

(B) by adding at the end the following:

"(B) The impartial hearing officer shall be selected to hear a particular case—

"(i) on a random basis; or

"(ii) by agreement between—

"(I) the Director of the designated State unit and the individual with a disability; or

"(II) in an appropriate case, the Director and a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual.

"(C) The impartial hearing officer shall be selected from among a pool of qualified persons identified jointly by—

"(i) the designated State unit; and

"(ii)(I) the members of the State Rehabilitation Advisory Council established under section 105 who were appointed under one of subparagraphs (E) through (H) of section 105(b)(1);

"(II) the commission described in subparagraph (B) or (C)(i) of section 101(a)(36); or

"(III) the commissions described in section 101(a)(36)(C)(ii).";

(2) in paragraph (3), by striking subparagraph (C) and inserting the following:

"(C)(i) The Director may not overturn or modify a decision of an impartial hearing officer, or part of such a decision, that supports the position of the individual unless the Director concludes, based on clear and convincing evidence, that the decision of the independent hearing officer is clearly erroneous on the basis of being contrary to Federal or State law, including policy.

"(ii) A final decision shall be made in writing by the Director and shall include a full report of the findings and the grounds for such decision. Reports.

"(iii) Upon making a final decision, the Director shall provide a copy of such decision to such individual.";

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) Unless the individual with a disability so requests, or, in an appropriate case, a parent, a family member, a guardian, an advocate, or an authorized representative, of such individual so requests, pending a final determination of such hearing or other final resolution under this subsection, the designated State unit shall not institute a suspension, reduction, or termination of services being provided under the individualized written rehabilitation program, unless such services have been obtained through misrepresentation, fraud, collusion, or criminal conduct on the part of the individual with a disability.".

SEC. 124. SCOPE OF VOCATIONAL REHABILITATION SERVICES.

(a) IN GENERAL.—Section 103(a) (29 U.S.C. 723(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) an assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including,

if appropriate, an assessment by personnel skilled in rehabilitation technology;";

(2) in paragraph (2)—

(A) by striking "referral,";

(B) by inserting "work-related" before "placement services";

(C) by inserting before "followup," the following: "job search assistance, placement assistance, job retention services, personal assistance services, and";

(D) by striking "maintain or regain employment" and inserting "maintain, regain, or advance in employment"; and

(E) by striking ", and other services" and all that follows through "under this Act";

(3) in paragraph (3)—

(A) by striking "and services" and inserting "and such services"; and

(B) by striking ": *Provided,* That" and inserting ", except that";

(4) in paragraph (4)(A)—

(A) by striking "handicap to employment," and inserting "impediment to employment,"; and

(B) by striking "substantially reduce the handicap" and inserting "reduce such impediment to employment";

(5) in paragraph (5), by striking ", not exceeding the estimated cost of subsistence, during rehabilitation" and inserting "for additional costs incurred while participating in rehabilitation";

(6) by striking "and" at the end of paragraph (11);

(7) in paragraph (12), by striking "engineering services." and inserting "technology services;"; and

(8) by adding at the end the following:

"(13) referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed under section 101(a)(11), if such services are not available under this Act;

"(14) transition services that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives;

"(15) on-the-job or other related personal assistance services provided while an individual with a disability is receiving services described in this section; and

"(16) supported employment services.".

(b) ADDITIONAL VOCATIONAL REHABILITATION SERVICES.—Section 103(b) (29 U.S.C. 723(b)) is amended—

(1) in paragraph (1)—

(A) by striking "in the case" and inserting "In the case"; and

(B) by striking the semicolon at the end and inserting a period;

(2) in paragraph (2)—

(A) by striking "the construction" and all that follows through "rehabilitation facilities)" and inserting the following: "The establishment, development, or improvement of community rehabilitation programs, including, under special circumstances, the construction of a facility, and the

provision of other services (including services offered at community rehabilitation programs)";

(B) by striking the semicolon at the end and inserting a period; and

(C) by adding at the end the following sentence: "Such programs shall be used to provide services that promote integration and competitive employment.";

(3) in paragraph (3)—

(A) by striking "the use of" and inserting "The use of"; and

(B) by striking "; and" and inserting a period;

(4) in paragraph (4), by striking "the use of" and inserting "The use of"; and

(5) by adding at the end the following paragraph:

"(5) Technical assistance and support services to businesses that are not subject to title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and that are seeking to employ individuals with disabilities.".

SEC. 125. NON-FEDERAL SHARE FOR CONSTRUCTION.

Section 104 (29 U.S.C. 724) is amended—

(1) by striking "costs of construction or establishment of a public or nonprofit rehabilitation facility" and inserting "costs of establishment of a community rehabilitation program or construction, under special circumstances, of a facility for such a program"; and

(2) by striking "construction or establishment of a facility" and inserting "establishment of such a program or construction of such a facility".

SEC. 126. STATE REHABILITATION ADVISORY COUNCIL.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) is amended by adding at the end the following:

"SEC. 105. STATE REHABILITATION ADVISORY COUNCIL. 29 USC 725.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Except as provided in subparagraph (B) or (C) of section 101(a)(36), to be eligible to receive financial assistance under this title a State shall establish a State Rehabilitation Advisory Council (referred to in this section as the 'Council') in accordance with this section.

"(2) SEPARATE AGENCY FOR INDIVIDUALS WHO ARE BLIND.—A State that designates a State agency to administer the part of the State plan under which vocational rehabilitation services are provided for individuals who are blind under section 101(a)(1)(A)(i) may establish a separate Council in accordance with this section to perform the duties of such a Council with respect to such State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) COMPOSITION.—The Council shall be composed of—

"(A) at least one representative of the Statewide Independent Living Council established under section 705, which representative may be the chairperson or other designee of the Council;

"(B) at least one representative of a parent training and information center established pursuant to section 631(c)(9) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(c)(9));

"(C) at least one representative of the client assistance program established under section 112;

"(D) at least one vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who shall serve as an ex officio, nonvoting member of the Council if the counselor is an employee of the designated State agency;

"(E) at least one representative of community rehabilitation program service providers;

"(F) four representatives of business, industry, and labor;

"(G) representatives of disability advocacy groups representing a cross section of—

"(i) individuals with physical, cognitive, sensory, and mental disabilities; and

"(ii) parents, family members, guardians, advocates, or authorized representatives of individuals with disabilities who have difficulty in representing themselves or are unable due to their disabilities to represent themselves; and

"(H) current or former applicants for, or recipients of, vocational rehabilitation services.

"(2) EX OFFICIO MEMBER.—The Director of the designated State unit shall be an ex officio member of the Council.

"(3) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(4) QUALIFICATIONS.—A majority of Council members shall be persons who are—

"(A) individuals with disabilities described in section 7(8)(B); and

"(B) not employed by the designated State unit.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of not more than 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) FUNCTIONS OF COUNCIL.—The Council shall—

"(1) review, analyze, and advise the designated State unit regarding the performance of the responsibilities of the unit under this title, particularly responsibilities relating to—

"(A) eligibility (including order of selection);

"(B) the extent, scope, and effectiveness of services provided; and

"(C) functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving rehabilitation goals and objectives under this title;

"(2) advise the designated State agency and the designated State unit, and, at the discretion of the designated State agency, assist in the preparation of applications, the State plan, the strategic plan and amendments to the plans, reports, needs assessments, and evaluations required by this title;

"(3) to the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with—

"(A) the functions performed by State agencies and other public and private entities responsible for performing functions for individuals with disabilities; and

"(B) vocational rehabilitation services—

"(i) provided, or paid for from funds made available, under this Act or through other public or private sources; and

"(ii) provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;

"(4) prepare and submit an annual report to the Governor or appropriate State entity and the Commissioner on the status of vocational rehabilitation programs operated within the State, and make the report available to the public; Reports.

"(5) coordinate with other councils within the State, including the Statewide Independent Living Council established under section 705, the advisory panel established under section 613(a)(12) of the Individuals with Disabilities Education Act (20 U.S.C. 1413(a)(12)), the State Planning Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024), and the State mental health planning council established under section 1916(e) of the Public Health Service Act (42 U.S.C. 300x–4(e));

"(6) advise the State agency designated under section 101(a)(1) and provide for coordination and the establishment of working relationships between the State agency and the Statewide Independent Living Council and centers for independent living within the State; and

"(7) perform such other functions, consistent with the purpose of this title, as the State Rehabilitation Advisory Council determines to be appropriate, that are comparable to the other functions performed by the Council.

"(d) RESOURCES.—

"(1) PLAN.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and other personnel, as may be necessary to carry out the functions of the Council under this section. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) RESOLUTION OF DISAGREEMENTS.—To the extent that there is a disagreement between the Council and the designated State unit in regard to the resources necessary to carry out the functions of the Council as set forth in this section, the disagreement shall be resolved by the Governor or appointing agency consistent with paragraph (1).

"(3) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out its functions under this section.

"(4) PERSONNEL CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State unit or any other agency or office of the State, that would create a conflict of interest.

"(e) CONFLICT OF INTEREST.—No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

"(f) MEETINGS.—The Council shall convene at least 4 meetings a year in such places as it determines to be necessary to conduct Council business and conduct such forums or hearings as the Council considers appropriate. The meetings, hearings, and forums shall be publicly announced. The meetings shall be open and accessible to the general public unless there is a valid reason for an executive session.

"(g) COMPENSATION AND EXPENSES.—The Council may use funds appropriated under this title to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing the duties of the Council.

"(h) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(i) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such established Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 104 the following:

"Sec. 105. State Rehabilitation Advisory Council.".

SEC. 127. EVALUATION.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by section 126(a)), is further amended by adding at the end the following:

"SEC. 106. EVALUATION STANDARDS AND PERFORMANCE INDICATORS. 29 USC 726.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—The Commissioner shall, not later than September 30, 1994, establish and publish evaluation standards and performance indicators for the vocational rehabilitation program under this title.

"(2) MEASURES.—The standards and indicators shall include outcome and related measures of program performance that facilitate and in no way impede the accomplishment of the purpose and policy of this title.

"(3) COMMENT.—The standards and indicators shall be developed with input from State vocational rehabilitation agencies, related professional and consumer organizations, recipients of vocational rehabilitation services, and other interested parties. The Commissioner shall publish in the Federal Register a notice of intent to regulate regarding the development of proposed standards and indicators. Proposed standards and indicators shall be published in the Federal Register for review and comment. Final standards and indicators shall be published in the Federal Register.

Federal Register, publication.

"(b) COMPLIANCE.—

"(1) STATE REPORTS.—In accordance with regulations established by the Secretary, each State shall report to the Commissioner after the end of each fiscal year the extent to which the State is in compliance with the standards and indicators.

"(2) PROGRAM IMPROVEMENT.—

"(A) PLAN.—If the Commissioner determines that the performance of any State is below established standards, the Commissioner shall provide technical assistance to the State and the State and the Commissioner shall jointly develop a program improvement plan outlining the specific actions to be taken by the State to improve program performance.

"(B) REVIEW.—The Commissioner shall—

"(i) review the program improvement efforts of the State on a biannual basis and, if necessary, request the State to make further revisions to the plan to improve performance; and

"(ii) continue to conduct such reviews and request such revisions until the State sustains satisfactory performance over a period of more than 1 year.

"(c) WITHHOLDING.—If the Commissioner determines that a State whose performance falls below the established standards has failed to enter into a program improvement plan, or is not complying substantially with the terms and conditions of such a program improvement plan, the Commissioner shall, consistent with subsections (c) and (d) of section 107, reduce or make no further payments to the State under this program, until the State has entered into an approved program improvement plan, or satisfies the Commissioner that the State is complying substantially with the terms and conditions of such a program improvement plan, as appropriate.

"(d) REPORT TO CONGRESS.—Beginning in fiscal year 1996, the Commissioner shall include in each annual report to the Congress under section 13 an analysis of program performance, including relative State performance, based on the standards and indicators.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 105 (as added by section 126(b)) the following:

"Sec. 106. Evaluation standards and performance indicators.".

SEC. 128. MONITORING AND REVIEW.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.) (as amended by sections 126(a) and 127(a)), is further amended by adding at the end the following:

29 USC 727.

"SEC. 107. MONITORING AND REVIEW.

"(a) IN GENERAL.—

"(1) DUTIES.—In carrying out the duties of the Commissioner under this title, the Commissioner shall—

"(A) provide for the annual review and periodic on-site monitoring of programs under this title; and

"(B) determine whether, in the administration of the State plan, a State is complying substantially with the provisions of such plan and with evaluation standards and performance indicators established under section 106.

"(2) PROCEDURES FOR REVIEWS.—In conducting reviews under this section the Commissioner shall consider, at a minimum—

"(A) State policies and procedures;

"(B) guidance materials;

"(C) decisions resulting from hearings conducted in accordance with due process;

"(D) strategic plans and updates;

"(E) plans and reports prepared under section 106(b);

"(F) consumer satisfaction surveys described in section 101(a)(32);

"(G) information provided by the State Rehabilitation Advisory Council established under section 105;

"(H) reports; and

"(I) budget and financial management data.

"(3) PROCEDURES FOR MONITORING.—In conducting monitoring under this section the Commissioner shall conduct—

"(A) on-site visits, including on-site reviews of records to verify that the State is following requirements regarding the order of selection set forth in section 101(a)(5)(A);

"(B) public hearings and other strategies for collecting information from the public;

"(C) meetings with the State Rehabilitation Advisory Council;

"(D) reviews of individual case files, including individualized written rehabilitation programs and ineligibility determinations; and

"(E) meetings with rehabilitation counselors and other personnel.

"(4) AREAS OF INQUIRY.—In conducting the review and monitoring, the Commissioner shall examine—

"(A) the eligibility process;

"(B) the provision of services, including, if applicable, the order of selection;

"(C) whether the personnel evaluation system described in section 101(a)(35) facilitates and does not impede the accomplishments of the program;

"(D) such other areas as may be identified by the public or through meetings with the State Rehabilitation Advisory Council; and

"(E) such other areas of inquiry as the Commissioner may consider appropriate.

"(b) TECHNICAL ASSISTANCE.—The Commissioner shall—

"(1) provide technical assistance to programs under this title regarding improving the quality of vocational rehabilitation services provided; and

"(2) provide technical assistance and establish a corrective action plan for a program under this title if the Commissioner finds that the program fails to comply substantially with the provisions of the State plan, or with evaluation standards or performance indicators established under section 106, in order to ensure that such failure is corrected as soon as practicable.

"(c) FAILURE TO COMPLY WITH PLAN.—

"(1) WITHHOLDING PAYMENTS.—Whenever the Commissioner, after providing reasonable notice and an opportunity for a hearing to the State agency administering or supervising the administration of the State plan approved under section 101, finds that— Regulations.

"(A) the plan has been so changed that it no longer complies with the requirements of section 101(a); or

"(B) in the administration of the plan there is a failure to comply substantially with any provision of such plan or with an evaluation standard or performance indicator established under section 106,

the Commissioner shall notify such State agency that no further payments will be made to the State under this title (or, in the discretion of the Commissioner, that such further payments will be reduced, in accordance with regulations the Commissioner shall prescribe, or that further payments will not be made to the State only for the projects under the parts of the State plan affected by such failure), until the Commissioner is satisfied there is no longer any such failure.

"(2) PERIOD.—Until the Commissioner is so satisfied, the Commissioner shall make no further payments to such State under this title (or shall reduce payments or limit payments to projects under those parts of the State plan in which there is no such failure).

"(3) DISBURSAL OF WITHHELD FUNDS.—The Commissioner may, in accordance with regulations the Secretary shall prescribe, disburse any funds withheld from a State under paragraph (1) to any public or nonprofit private organization or agency within such State or to any political subdivision of such State submitting a plan meeting the requirements of section 101(a). The Commissioner may not make any payment under this paragraph unless the entity to which such payment is made has provided assurances to the Commissioner that such entity will contribute, for purposes of carrying out such plan, the same amount as the State would have been obligated to contribute if the State received such payment. Regulations.

"(d) REVIEW.—

"(1) PETITION.—Any State that is dissatisfied with a final determination of the Commissioner under section 101(b) or subsection (c) may file a petition for judicial review of such determination in the United States Court of Appeals for the circuit in which the State is located. Such a petition may be filed only within the 30-day period beginning on the date that notice of such final determination was received by the State. The clerk of the court shall transmit a copy of the petition to the Commissioner or to any officer designated by the Commissioner for that purpose. In accordance with section 2112 of title 28, United States Code, the Commissioner shall file with the court a record of the proceeding on which the Commissioner based the determination being appealed by the State. Until a record is so filed, the Commissioner may modify or set aside any determination made under such proceedings.

Records.

"(2) SUBMISSIONS AND DETERMINATIONS.—If, in an action under this subsection to review a final determination of the Commissioner under section 101(b) or subsection (c), the petitioner or the Commissioner applies to the court for leave to have additional oral submissions or written presentations made respecting such determination, the court may, for good cause shown, order the Commissioner to provide within 30 days an additional opportunity to make such submissions and presentations. Within such period, the Commissioner may revise any findings of fact, modify or set aside the determination being reviewed, or make a new determination by reason of the additional submissions and presentations, and shall file such modified or new determination, and any revised findings of fact, with the return of such submissions and presentations. The court shall thereafter review such new or modified determination.

"(3) STANDARDS OF REVIEW.—

"(A) IN GENERAL.—Upon the filing of a petition under paragraph (1) for judicial review of a determination, the court shall have jurisdiction—

"(i) to grant appropriate relief as provided in chapter 7 of title 5, United States Code, except for interim relief with respect to a determination under subsection (c); and

"(ii) except as otherwise provided in subparagraph (B), to review such determination in accordance with chapter 7 of title 5, United States Code.

"(B) SUBSTANTIAL EVIDENCE.—Section 706 of title 5, United States Code, shall apply to the review of any determination under this subsection, except that the standard for review prescribed by paragraph (2)(E) of such section 706 shall not apply and the court shall hold unlawful and set aside such determination if the court finds that the determination is not supported by substantial evidence in the record of the proceeding submitted pursuant to paragraph (1), as supplemented by any additional submissions and presentations filed under paragraph (2).".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—

(1) Section 6(c) (29 U.S.C. 705(c)) is amended by striking "101" and inserting "107".

(2) The table of contents relating to the Act is amended by inserting after the item relating to section 106 (as added by section 127(b)) the following:

"Sec. 107. Monitoring and review.".

SEC. 129. EXPENDITURE OF CERTAIN AMOUNTS.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

"SEC. 108. EXPENDITURE OF CERTAIN AMOUNTS. 29 USC 728.

"(a) EXPENDITURE.—Amounts described in subsection (b) may not be expended by a State for any purpose other than carrying out programs for which the State receives financial assistance under this title, under part C of title VI, or under title VII.

"(b) AMOUNTS.—The amounts referred to in subsection (a) are amounts provided to a State under the Social Security Act (42 U.S.C. 301 et seq.) as reimbursement for the expenditure of payments received by the State from allotments under section 110 of this Act.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 107 (as added by section 128(b)(2)) the following:

"Sec. 108. Expenditure of certain amounts.".

SEC. 130. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990.

(a) AMENDMENT.—Part A of title I (29 U.S.C. 720 et seq.), as amended by the preceding sections, is further amended by adding at the end the following:

"SEC. 109. TRAINING OF EMPLOYERS WITH RESPECT TO AMERICANS WITH DISABILITIES ACT OF 1990. 29 USC 728a.

"A State may expend payments received under section 111—

"(1) to carry out a program to train employers with respect to compliance with the requirements of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.); and

"(2) to inform employers of the existence of the program and the availability of the services of the program.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 108 (as added by section 129(b)) the following:

"Sec. 109. Training of employers with respect to Americans with Disabilities Act of 1990.".

SEC. 131. REALLOTMENT.

(a) TERRITORIES.—Section 110(a) (29 U.S.C. 730(a)) is amended—

(1) in paragraph (3), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(2) by adding at the end the following new paragraph:

"(5) The Republic of Palau may receive allotments or allocations under this section only until the Compact of Free Association with Palau takes effect.".

(b) REALLOTMENT.—Section 110(c) (29 U.S.C. 730(c)) is amended by adding at the end the following:

"(4) If the Commissioner determines, under paragraph (1), that any payment of an allotment to a State under section 111(a) for any fiscal year will not be utilized by such State in carrying out the purposes of this title, the payment shall remain available for reallotment to other States until reallotted.".

(c) RESERVATION.—Section 110(d) (29 U.S.C. 730(d)) is amended by striking paragraph (2) and inserting the following:

"(2) The sum referred to in paragraph (1) shall be, as determined by the Secretary—

"(A) not less than one-third of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1993 and 1994; and

"(B) not less than one-half of one percent and not more than 1.5 percent of the amount under paragraph (1), for fiscal years 1995, 1996, and 1997.".

SEC. 132. PAYMENTS TO STATES.

Section 111(a) (29 U.S.C. 731(a)) is amended—

(1) in paragraph (1)—

(A) by striking "(including any additional payment to it under section 110(b))"; and

(B) by striking "State plan." and inserting "State plan and development and implementation of the strategic plan as provided in section 101(a)(34)(A). Any State that receives such an amount shall expend, for development and implementation of the strategic plan, not less than the percentage of the allotment of the State referred to in section 101(a)(34)(B).";

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "(and any additional payment under subsection (b))"; and

(B) by amending subparagraph (B) to read as follows:

"(B)(i) For fiscal year 1993, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the 3 fiscal years preceding the previous fiscal year.

"(ii) For fiscal year 1994 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the total of such expenditures for the second fiscal year preceding the previous fiscal year."; and

(3) by adding at the end the following new paragraph:

"(3)(A) Except as provided in subparagraph (B), the amount of a payment under this section with respect to any construction project in any State shall be equal to the same percentage of the cost of such project as the Federal share that is applicable in the case of rehabilitation facilities (as defined in section 645(g) of the Public Health Service Act (42 U.S.C. 291o(a))), in such State.

Regulations.

"(B) If the Federal share with respect to rehabilitation facilities in such State is determined pursuant to section 645(b)(2) of such Act (42 U.S.C. 291o(b)(2)), the percentage of the cost for purposes of this section shall be determined in accordance with regulations

prescribed by the Commissioner designed to achieve as nearly as practicable results comparable to the results obtained under such section.".

SEC. 133. CLIENT ASSISTANCE PROGRAM.

(a) ADVOCACY.—Section 112(a) (29 U.S.C. 732(a)) is amended—

(1) in the first sentence—

(A) by striking "to assist such clients" and inserting "to assist and advocate for such clients";

(B) by inserting "and advocacy" after "including assistance"; and

(C) by inserting before the period in the first sentence the following: "and to facilitate access to the services funded under this Act through individual and systemic advocacy";

(2) by amending the second sentence to read as follows: "The client assistance program shall provide information on the available services and benefits under this Act and title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) to individuals with disabilities in the State, especially with regard to individuals with disabilities who have traditionally been unserved or underserved by vocational rehabilitation programs."; and

(3) by inserting after the second sentence the following: "In providing assistance and advocacy under this subsection with respect to services under this title, a client assistance program may provide the assistance and advocacy with respect to services that are directly related to facilitating the employment of the individual.".

(b) REDESIGNATION OF AGENCY.—Section 112(c)(1) (29 U.S.C. 732(c)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) The Governor may not redesignate the agency designated under subparagraph (A) without good cause and unless—

"(i) the Governor has given the agency 30 days notice of the intention to make such redesignation, including specification of the good cause for such redesignation and an opportunity to respond to the assertion that good cause has been shown;

"(ii) individuals with disabilities or their representatives have timely notice of the redesignation and opportunity for public comment; and

"(iii) the agency has the opportunity to appeal to the Commissioner on the basis that the redesignation was not for good cause.".

(c) MINIMUM STATE ALLOTMENTS.—Section 112(e)(1) (29 U.S.C. 732(e)(1)) is amended—

(1) in subparagraph (B), by striking "and the Trust Territory of the Pacific Islands." and inserting "and the Republic of Palau, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.";

(2) in subparagraph (C), by striking "and the Trust Territory of the Pacific Islands" and inserting "and the Republic of Palau"; and

(3) in subparagraph (D)—

(A) in clause (i), by striking "$75,000" and inserting "$100,000"; and

(B) in clause (ii)—

(i) by striking "subsection (c)," and inserting "clause (i),";

(ii) by striking "minimum allotment under subparagraph (A)" and inserting "minimum allotments under subparagraphs (A) and (B)"; and

(iii) by striking "fiscal year by more than" and all that follows and inserting "fiscal year.".

(d) REPORT.—Section 112(g) (29 U.S.C. 732(g)) is amended by adding at the end the following new paragraphs:

"(5) Each such report shall contain information on the number of requests the client assistance program under this section receives annually, the number of requests such program is unable to serve, and the reasons that the program is unable to serve all the requests.

Privacy.

"(6) For purposes of such report or for any other periodic audit, report, or evaluation of the performance of a client assistance program under this section, the Secretary shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 112 (29 U.S.C. 732) is amended—

(1) by striking subsection (h);

(2) by redesignating subsection (i) as subsection (h); and

(3) in subsection (h) (as so redesignated by paragraph (2) of this subsection) by striking "$7,100,000" and all that follows and inserting "such sums as may be necessary for fiscal years 1993 through 1997 to carry out the provisions of this section.".

SEC. 134. INNOVATION AND EXPANSION GRANTS.

(a) AMENDMENT.—Part C of title I (29 U.S.C. 740 et seq.) is amended to read as follows:

"PART C—INNOVATION AND EXPANSION GRANTS

29 USC 740.

"SEC. 120. STATE ELIGIBILITY.

"Effective October 1, 1993, any State desiring to receive assistance under this part and part B of this title shall prepare and submit to the Commissioner a statewide strategic plan for developing and using innovative approaches for achieving long-term success in expanding and improving vocational rehabilitation services, including supported employment services, provided under the State plan submitted under section 101 and the supplement to the State plan submitted under part C of title VI.

29 USC 741.

"SEC. 121. CONTENTS OF STRATEGIC PLANS.

"(a) PURPOSE AND POLICY.—The strategic plan shall be designed to achieve the purpose and policy of this title and carry out the State plan and the supplement to the State plan submitted under part C of title VI.

"(b) CONTENTS.—The strategic plan shall include—

"(1) a statement of the mission, philosophy, values, and principles of the vocational rehabilitation program in the State;

"(2) specific goals and objectives for expanding and improving the system for providing the vocational rehabilitation program;

"(3) specific multifaceted and systemic approaches for accomplishing the objectives, including interagency coordination

and cooperation, that build upon state-of-the-art practices and research findings and that implement the State plan and the supplement to the State plan submitted under part C of title VI;

"(4) a description of the specific programs, projects, and activities funded under this part and how the programs, projects, and activities accomplish the objectives; and

"(5) specific criteria for determining whether the objectives have been achieved, an assurance that the State will conduct an annual evaluation to determine the extent to which the objectives have been achieved, and, if specific objectives have not been achieved, the reasons that the objectives have not been achieved and a description of alternative approaches that will be taken.

"SEC. 122. PROCESS FOR DEVELOPING STRATEGIC PLANS. 29 USC 742.

"(a) PERIOD AND UPDATES.—The strategic plan shall cover a 3-year period and shall be updated on an annual basis to reflect actual experience over the previous year and input from the State Rehabilitation Advisory Council established under section 105, individuals with disabilities, and other interested parties.

"(b) RECOMMENDATIONS.—Prior to developing the strategic plan, the State shall hold public forums and meet with and receive recommendations from members of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

"(c) CONSIDERATION OF RECOMMENDATIONS.—The State shall consider the recommendations and, if the State rejects the recommendations, shall include a written explanation of the rejection in the strategic plan.

"(d) PROCEDURE.—The State shall develop a procedure for ensuring ongoing comment from the councils described in subsection (b) as the plan is being implemented.

"(e) DISSEMINATION.—The State shall widely disseminate the strategic plan to individuals with disabilities, disability organizations, rehabilitation professionals, and other interested persons.

"SEC. 123. USE OF FUNDS. 29 USC 743.

"A State may use funds made available under this part, directly or by grant, contract, or other arrangement, to carry out—

"(1) programs to initiate and expand employment opportunities for individuals with severe disabilities in integrated settings that allow for the use of on-the-job training to promote the objectives of title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.);

"(2) programs or activities to improve the provision of, and expand, employment services in integrated settings to individuals with sensory, cognitive, physical, and mental impairments who have traditionally not been served by the State vocational rehabilitation agency;

"(3) programs and activities to maximize the ability of individuals with disabilities to use rehabilitation technology in employment settings;

"(4) programs and activities that—

"(A) assist employers in accommodating, evaluating, training, or placing individuals with disabilities in the workplace of the employer consistent with provisions of

this Act and title I of the Americans with Disabilities Act of 1990; and

"(B) may include short-term technical assistance or other effective strategies;

"(5) programs and activities that expand and improve the extent and type of client involvement in the review and selection of the training and employment goals of the client;

"(6) programs and activities that expand and improve opportunities for career advancement for individuals with severe disabilities;

"(7) programs, projects, and activities designed to initiate, expand, or improve working relationships between vocational rehabilitation services provided under this title and independent living services provided under title VII;

"(8) programs, projects, and activities designed to improve functioning of the system for delivering vocational rehabilitation services and to improve coordination and working relationships with other State and local agencies, business, industry, labor, community rehabilitation programs, and centers for independent living, including projects designed to—

"(A) increase the ease of access to, timeliness of, and quality of vocational rehabilitation services through the development and implementation of policies, procedures, and systems and interagency mechanisms for providing vocational rehabilitation services;

"(B) improve the working relationships between State vocational rehabilitation agencies, and other State agencies, centers for independent living, community rehabilitation programs, educational agencies involved in higher education, adult basic education, and continuing education, and businesses, industry, and labor organizations, in order to create and facilitate cooperation in—

"(i) planning and implementing services; and

"(ii) the development of an integrated system of community-based vocational rehabilitation service that includes appropriate transitions between service systems; and

"(C) improve the ability of professionals, clients, advocates, business, industry, and labor to work in cooperative partnerships to improve the quality of vocational rehabilitation services and job and career opportunities for individuals with disabilities;

"(9) support efforts to ensure that the annual evaluation of the effectiveness of the program in meeting the goals and objectives set forth in the State plan, including the system for evaluating the performance of rehabilitation counselors, coordinators, and other personnel used in the State, facilitates and does not impede the accomplishment of the purpose and policy of this title, including serving, among others, individuals with the most severe disabilities;

"(10) support the initiation, expansion, and improvement of a comprehensive system of personnel development;

"(11) support the provision of training and technical assistance to clients, business, industry, labor, community rehabilitation programs, and others regarding the implementation of the amendments made by the Rehabilitation Act Amendments

of 1992, of title V of this Act, and of the Americans with Disabilities Act of 1990; and

"(12) support the funding of the State Rehabilitation Advisory Council and the Statewide Independent Living Council established under section 705.

"SEC. 124. ALLOTMENTS AMONG STATES. 29 USC 744.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from sums appropriated for each fiscal year to carry out this part (not including sums used in accordance with section 101(a)(34)(B)), the Commissioner shall make an allotment to each State whose State plan has been approved under section 101 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this part, the allotment to any State under subparagraph (A) shall be not less than $200,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $200,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(B), the amount $200,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B) as increased under subsection (a)(3), or to provide allotments in accordance with subsection (a)(2)(B), shall be derived by proportionately reducing the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $200,000 or one-third of one percent of the sums made available for purposes of this part for

the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the purposes of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to part C of title I and inserting the following:

"PART C—INNOVATION AND EXPANSION GRANTS

"Sec. 120. State eligibility.
"Sec. 121. Contents of strategic plans.
"Sec. 122. Process for developing strategic plans.
"Sec. 123. Use of funds.
"Sec. 124. Allotments among States.".

SEC. 135. STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.

(a) REPEAL.—Part D of title I is amended by repealing section 131 (29 U.S.C. 751).

29 USC 752.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 131.

29 USC 712 note.

SEC. 136. REVIEW OF DATA COLLECTION SYSTEM.

(a) REVIEW.—The Commissioner of the Rehabilitation Services Administration (in this section referred to as the 'Commissioner') shall undertake a comprehensive review of the current system for collecting and reporting client data under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), particularly data on clients of the programs under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.).

(b) CONSIDERATIONS.—

(1) IN GENERAL.—In conducting the review, the Commissioner shall examine the kind, quantity, and quality of the data that are currently reported, taking into consideration the range of purposes that the data serve at the Federal, State, and local levels.

(2) DATA ELEMENTS.—In conducting the review, the Commissioner shall examine the feasibility of collecting and reporting under the system information, if such information can be determined, regarding—

(A) other program participation by clients during the 3 years prior to application;

(B) the number of jobs held, hours worked, and earnings received by clients in the 3 years prior to application to a program under the Rehabilitation Act of 1973;

(C) the types of major and secondary disabilities of clients;

(D) the dates of the onset of disabilities of clients;

(E) the severity of the disabilities of clients;

(F) the sources of referral of clients to programs under such Act;

(G) the hours worked by clients;

(H) the size and industry code of the place of employment of clients at the time of entry into such a program and at the termination of services under the program;

(I) the number of services provided under the programs and the cost of each service;

(J) the types of public support received by the clients;

(K) the primary sources of economic support and amounts of public assistance received by the clients before and after receiving the services;

(L) whether the clients are covered by health insurance from any source and whether health insurance is available through the employment of the client;

(M) the supported employment status of the client; and

(N) the reasons for terminating the services.

(c) RECOMMENDATIONS.—Based on the review, the Commissioner shall recommend improvements in the data collection and reporting system.

(d) VIEWS.—In developing the recommendations, the Commissioner shall seek views of persons and entities providing or using such data, including State agencies, State Rehabilitation Advisory Councils, providers of vocational rehabilitation services, professionals in the field of vocational rehabilitation, clients and organizations representing clients, the National Council on Disability, other Federal agencies, non-Federal researchers, other analysts using the data, and other members of the public.

(e) PUBLICATION AND SUBMISSION OF REPORT.—Not later than 18 months after the date of the enactment of this Act, the Commissioner shall publish the recommendations in the Federal Register and shall prepare and submit a report containing the recommendations to the appropriate committees of Congress. The Commissioner shall not implement the recommendations earlier than 90 days after the date on which the Commissioner submits the report.

SEC. 137. EXCHANGE OF DATA. 29 USC 712 note.

The Secretary of Education and the Secretary of Health and Human Services shall enter into a memorandum of understanding for the purpose of exchanging data of mutual importance, regarding clients of State vocational rehabilitation agencies, that are contained in databases maintained by the Rehabilitation Services Administration, as required under section 13 of the Rehabilitation Act of 1973 (29 U.S.C. 712), and the Social Security Administration, from its Summary Earnings and Records and Master Beneficiary Records. For purposes of the exchange, the Social Security data shall not be considered tax information and, as appropriate, the confidentiality of all client information shall be maintained by both agencies. Privacy.

SEC. 138. EFFECTIVE DATE. 29 USC 701 note.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) STATE PLAN.—The Secretary of Education shall implement the amendments made by section 122 of this Act to section 101 of the Rehabilitation Act of 1973 (29 U.S.C. 721), as soon as is practicable after the date of enactment of this Act, consistent with

the effective and efficient administration of the Rehabilitation Act of 1973, but not later than October 1, 1993.

TITLE II—RESEARCH

SEC. 201. DECLARATION OF PURPOSE.

Section 200 (29 U.S.C. 760) is amended by striking paragraphs (1) through (4) and inserting the following:

"(1) provide for research, demonstration projects, training, and related activities to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities of all ages, with particular emphasis on improving the effectiveness of services authorized under this Act;

"(2) provide for a comprehensive and coordinated approach to the support and conduct of such research, demonstration projects, training, and related activities and to ensure that the approach is in accordance with the long-range plan for research developed under section 202(g);

"(3) promote the transfer of rehabilitation technology to individuals with disabilities through research and demonstration projects relating to—

"(A) the procurement process for the purchase of rehabilitation technology;

"(B) the utilization of rehabilitation technology on a national basis; and

"(C) specific adaptations or customizations of products to enable individuals with disabilities to live more independently;

"(4) ensure the widespread distribution, in usable formats, of practical scientific and technological information—

"(A) generated by research, demonstration projects, training, and related activities; and

"(B) regarding state-of-the-art practices, improvements in the services authorized under this Act, rehabilitation technology, and new knowledge regarding disabilities,

to rehabilitation professionals, individuals with disabilities, and other interested parties;

"(5) identify effective strategies that enhance the opportunities of individuals with disabilities to engage in productive work; and

"(6) increase opportunities for researchers who are members of traditionally underserved populations, including researchers who are members of minority groups and researchers who are individuals with disabilities.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

Section 201(a) (29 U.S.C. 761(a)) is amended—

(1) in paragraph (1)—

(A) by striking "other than expenses to carry out section 204" and inserting "which shall include the expenses of the Rehabilitation Research Advisory Council under section 205, and shall not include the expenses of such Institute to carry out section 204"; and

(B) by striking "fiscal year 1987" and all that follows through the semicolon and inserting "each of fiscal years 1993 through 1997;"; and

(2) by striking paragraph (2) and inserting the following:

"(2) to carry out section 204, such sums as may be necessary for each of fiscal years 1993 through 1997.".

SEC. 203. NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.

(a) ESTABLISHMENT.—Section 202(a) (29 U.S.C. 761a(a)) is amended—

(1) in the first sentence—

(A) by striking "In order" and all that follows through "there" and inserting "(1) There"; and

(B) by striking the period at the end and inserting the following: ", in order to—

"(A) promote, coordinate, and provide for—

"(i) research;

"(ii) demonstration projects; and

"(iii) related activities,

with respect to individuals with disabilities;

"(B) more effectively carry out activities through the programs under section 204;

"(C) widely disseminate information from the activities described in clauses (i) through (iii) of subparagraph (A) and subparagraph (B); and

"(D) provide leadership in advancing the quality of life of individuals with disabilities."; and

(2) by striking the second sentence and inserting the following:

"(2) In the performance of the functions of the office, the Director shall be directly responsible to the Secretary or to the same Under Secretary or Assistant Secretary of the Department of Education to whom the Commissioner is responsible under section 3(a).".

(b) RESPONSIBILITIES.—Section 202(b) (29 U.S.C. 761a(b)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) widely disseminating findings, conclusions, and recommendations, resulting from research, demonstration projects, and related activities funded by the Institute, to—

"(A) other Federal, State, tribal, and local public agencies;

"(B) private organizations engaged in research relating to rehabilitation or providing rehabilitation services;

"(C) rehabilitation practitioners; and

"(D) individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(2) by striking paragraph (4) and inserting the following:

"(4) widely disseminating educational materials and research results, concerning ways to maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, to—

"(A) public and private entities, including—

"(i) elementary and secondary schools (as defined in paragraphs (8) and (21), respectively, of section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891 (8) and (21)); and

"(ii) institutions of higher education;

"(B) rehabilitation practitioners;

"(C) individuals with disabilities (especially such individuals who are members of minority groups or of populations that are unserved or underserved by programs under this Act); and

"(D) the parents, family members, guardians, advocates, or authorized representatives of the individuals;";

(3) by striking paragraph (6) and inserting the following:

"(6) conducting conferences, seminars, and workshops (including in-service training programs and programs for individuals with disabilities) concerning advances in rehabilitation research and rehabilitation technology, pertinent to the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities;";

(4) in paragraph (7), by striking "; and" and inserting ", including dissemination activities;";

(5) in paragraph (8)—

(A) by inserting "the Health Care Financing Administration," after "the Bureau of the Census,";

(B) by inserting "widely" before "disseminating";

(C) by striking "and others to assist in the planning and evaluation" and inserting ", individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and others to assist in the planning, assessment, and evaluation"; and

(D) by striking the period at the end and inserting a semicolon; and

(6) by adding at the end the following paragraphs:

"(9) conducting research on consumer satisfaction with vocational rehabilitation services for the purpose of identifying effective rehabilitation programs and policies that promote the independence of individuals with disabilities and achievement of long-term vocational goals;

"(10) conducting research to examine the relationship between the provision of specific services and long-term vocational outcomes; and

"(11) coordinating activities with the Attorney General regarding the provision of information, training, or technical assistance regarding the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) to ensure consistency with the plan for technical assistance required under section 506 of such Act (42 U.S.C. 12206).".

(c) DIRECTOR.—

(1) IN GENERAL.—Section 202(c)(1) (29 U.S.C. 761a(c)(1)) is amended—

(A) in the first sentence, by striking "appointed by the President, by and with the advice and consent of the Senate." and inserting "appointed by the Secretary, except that the person serving as the Director on the date of the enactment of the Rehabilitation Act Amendments of

1992 may, at the pleasure of the President, continue to serve as Director."; and

(B) by striking the fourth sentence.

(2) QUALIFICATIONS.—Section 202(c)(2) (29 U.S.C. 761a(c)(2)) is amended—

(A) by inserting after the first sentence the following: "The Deputy Director shall be an individual with substantial experience in rehabilitation and in research administration.";

(B) in the sentence beginning "The Deputy Director shall be compensated"—

(i) by striking "the rate provided for grade GS-17 of the General Schedule under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(ii) by striking "or disability of the Director" and inserting "of the Director or the inability of the Director to perform the essential functions of the job"; and

(C) by striking the last sentence.

(d) FELLOWSHIPS.—Section 202(d) (29 U.S.C. 761a(d)) is amended by inserting ", including individuals with disabilities," after "fellows".

(e) SCIENTIFIC REVIEW.—Section 202(e) (29 U.S.C. 761a(e)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "rehabilitation field." and inserting the following: "rehabilitation field (including experts in the independent living field) competent to review research grants and programs, including knowledgeable individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. The Director shall solicit nominations for such peer review groups from the public and shall publish the names of the individuals selected. Individuals comprising each peer review group shall be selected from a pool of qualified individuals to facilitate knowledgeable, cost-effective review."; and

(3) by adding at the end the following:

"(2) In providing for such scientific review, the Secretary shall provide for training of such individuals and mechanisms to receive input from individuals with disabilities, and from the parents, family members, guardians, advocates, or authorized representatives of the individuals.".

(f) USE OF FUNDS.—Section 202 (29 U.S.C. 761a) is amended by striking subsection (f) and inserting the following:

"(f) Not less than 90 percent of the funds appropriated under this title for any fiscal year shall be expended by the Director to carry out activities under this title through grants, contracts, or cooperative agreements. Up to 10 percent of the funds appropriated under this title for any fiscal year may be expended directly for the purpose of carrying out the functions of the Director under this section.".

(g) LONG-RANGE PLAN.—Section 202(g) (29 U.S.C. 761a(g)) is amended—

(1) in the matter preceding paragraph (1), by striking "within eighteen months after the effective date of this section";

(2) in paragraph (1), by striking "problems encountered" and all that follows and inserting "full inclusion and integration

into society of individuals with disabilities, especially in the area of employment;";

(3) by striking "and" at the end of paragraph (2);

(4) by striking the period at the end of paragraph (3) and inserting "; and"; and

(5) by adding at the end the following new paragraphs:

"(4) be developed in consultation with the Rehabilitation Research Advisory Council established under section 205 and after full consideration of the input of individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, organizations representing individuals with disabilities, providers of services furnished under this Act, and researchers in the rehabilitation field;

"(5) specify plans for widespread dissemination of research results in accessible formats to rehabilitation practitioners, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals;

"(6) specify plans for widespread dissemination of research results that concern individuals with disabilities who are members of minority groups or of populations that are unserved or underserved by programs under this Act;

"(7) be developed by the Director—

"(A) in coordination with the Commissioner; and

"(B) in consultation with the National Council on Disability established under title IV, the Secretary of Education, officials responsible for the administration of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), the Interagency Committee on Disability Research established under section 203, individuals with disabilities, the parents, family members, guardians, advocates, or authorized representatives of the individuals, and any other persons or entities the Director considers appropriate; and

"(8) be revised, in the manner required by this section—

"(A) at least once every 5 years; and

"(B) at any time determined to be necessary by the Director.".

(h) RESEARCH PROGRAM.—Section 202(i)(2) (29 U.S.C. 761a(i)(2)) is amended by striking "this section" and inserting "this title".

(i) PEDIATRIC REHABILITATION RESEARCH.—Section 202(j) (29 U.S.C. 761a(j)) is amended—

(1) in paragraph (1), by striking "for the establishment of" and inserting "to support"; and

(2) in paragraphs (2) and (3), by striking "establish" and inserting "support".

(j) REHABILITATION RESEARCHERS.—Section 202(k) (29 U.S.C. 761a(k)) is amended by striking "researchers" and all that follows and inserting the following: "rehabilitation researchers, including individuals with disabilities, with particular attention to research areas that support the implementation and objectives of this Act and that improve the effectiveness of services authorized under this Act.".

(k) RECOMMENDATIONS AND STUDY.—Section 202 (29 U.S.C. 761a) is amended by striking subsections (l) and (m).

SEC. 204. INTERAGENCY COMMITTEE.

(a) ESTABLISHMENT.—Section 203(a)(1) (29 U.S.C. 761b(a)(1)) is amended by inserting "the Commissioner of the Rehabilitation Services Administration, the Assistant Secretary for Special Education and Rehabilitative Services," after "designees): the Director,".

(b) IDENTIFICATION, ASSESSMENT, AND COORDINATION.—Section 203(b) (29 U.S.C. 761b(b)) is amended by striking "The" and inserting "After receiving input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, the".

(c) REPORT.—Section 203(c) (29 U.S.C. 761b(c)) is amended by striking ", not later than" and all that follows through "shall" and inserting "shall annually".

SEC. 205. RESEARCH.

(a) IN GENERAL.—Section 204(a) (29 U.S.C. 762(a)) is amended—

(1) in the first sentence, by striking "demonstrations," and all that follows and inserting "demonstration projects, training, and related activities, the purposes of which are to develop methods, procedures, and rehabilitation technology, that maximize the full inclusion and integration into society, employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities, and improve the effectiveness of services authorized under this Act. In carrying out this section, the Director shall emphasize projects that support the implementation of titles I, III, VI, VII, and VIII."; and

(2) in the last sentence—

(A) by inserting after "Such projects" the following: ", as described in the State plans submitted by State agencies,";

(B) by striking "special problems of homebound and institutionalized individuals" and inserting "studies and analysis of special problems of individuals who are homebound and individuals who are institutionalized"; and

(C) by striking the period at the end and inserting the following: ", particularly individuals with disabilities, and individuals with the most severe disabilities, who are members of populations that are unserved or underserved by programs under this Act.".

(b) RESEARCH ACTIVITIES.—Section 204(b) (29 U.S.C. 762(b)) is amended—

(1) by redesignating paragraphs (4) through (15) as paragraphs (5) through (16), respectively;

(2) by striking the matter preceding paragraph (1) and all that follows through paragraph (3) and inserting the following:

"(b)(1) In addition to carrying out projects under subsection (a), the Director may make grants under this subsection (referred to in this subsection as 'research grants') to pay part or all of the cost of the specialized research or demonstration activities described in paragraphs (2) through (16).

"(2)(A) Research grants may be used for the establishment and support of Rehabilitation Research and Training Centers, for

the purpose of providing an integrated program of research, which Centers shall—

"(i) be operated in collaboration with institutions of higher education or providers of rehabilitation services or other appropriate services; and

"(ii) serve as centers of national excellence and national or regional resources for providers and individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(B) The Centers shall conduct research and training activities by—

"(i) conducting coordinated and advanced programs of research in rehabilitation targeted toward the production of new knowledge that will improve rehabilitation methodology and service delivery systems, alleviate or stabilize disabling conditions, and promote maximum social and economic independence of individuals with disabilities;

"(ii) providing training (including graduate, pre-service, and in-service training) to assist individuals to more effectively provide rehabilitation services;

"(iii) providing training (including graduate, pre-service, and in-service training) for rehabilitation research personnel and other rehabilitation personnel; and

"(iv) serving as an informational and technical assistance resource to providers, individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, through conferences, workshops, public education programs, in-service training programs, and similar activities.

"(C) The research to be carried out at each such Center may include—

"(i) basic or applied medical rehabilitation research;

"(ii) research regarding the psychological and social aspects of rehabilitation, including disability policy;

"(iii) research related to vocational rehabilitation;

"(iv) continuation of research that promotes the emotional, social, educational, and functional growth of children who are individuals with disabilities;

"(v) continuation of research to develop and evaluate interventions, policies, and services that support families of those children and adults who are individuals with disabilities; and

"(vi) continuation of research that will improve services and policies that foster the productivity, independence, and social integration of individuals with disabilities, and enable individuals with disabilities, including individuals with mental retardation and other developmental disabilities, to live in their communities.

"(D) Training of students preparing to be rehabilitation personnel shall be an important priority for such a Center.

"(E) The Director shall make grants under this paragraph to establish and support both comprehensive centers dealing with multiple disabilities and centers primarily focused on particular disabilities.

"(F) Grants made under this paragraph may be used to provide funds for services rendered by such a Center to individuals with disabilities in connection with the research and training activities.

"(G) Grants made under this paragraph may be used to provide faculty support for teaching—

"(i) rehabilitation related courses of study for credit; and

"(ii) other courses offered by the Centers, either directly or through another entity.

"(H) The research and training activities conducted by such a Center shall be conducted in a manner that is accessible to and usable by individuals with disabilities.

"(I) The Director shall encourage the Centers to develop practical applications for the findings of the research of the Centers.

"(J) In awarding grants under this paragraph, the Director shall take into consideration the location of any proposed Center and the appropriate geographic and regional allocation of such Centers.

"(K) To be eligible to receive a grant under this paragraph, each such institution or provider shall—

"(i) be of sufficient size, scope, and quality to effectively carry out the activities in an efficient manner consistent with appropriate State and Federal law; and

"(ii) demonstrate the ability to carry out the training activities either directly or through another entity that can provide such training.

"(L) The Director shall make grants under this paragraph for periods of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(M) Grants made under this paragraph shall be made on a competitive basis. To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(N) The Director shall establish a system of peer review of applications for grants under this paragraph. The peer review of an application for the renewal of a grant made under this paragraph shall take into account the past performance of the applicant in carrying out the grant and input from individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(O) An institution or provider that receives a grant under this paragraph to establish such a Center may not collect more than 15 percent of the amount of the grant received by the Center in indirect cost charges.

"(3)(A) Research grants may be used for the establishment and support of Rehabilitation Engineering Research Centers, operated by or in collaboration with institutions of higher education or nonprofit organizations, to conduct research or demonstration activities, and training activities, regarding rehabilitation technology, including rehabilitation engineering, assistive technology devices, and assistive technology services, for the purposes of enhancing opportunities for better meeting the needs of, and addressing the barriers confronted by, individuals with disabilities in all aspects of their lives.

"(B) In order to carry out the purposes set forth in subparagraph (A), such a Center shall carry out the research or demonstration activities by—

"(i) developing and disseminating innovative methods of applying advanced technology, scientific achievement, and psychological and social knowledge to—

"(I) solve rehabilitation problems and remove environmental barriers through planning and conducting research, including cooperative research with public or private agencies and organizations, designed to produce new scientific knowledge, and new or improved methods, equipment, and devices; and

"(II) study new or emerging technologies, products, or environments, and the effectiveness and benefits of such technologies, products, or environments;

"(ii) demonstrating and disseminating—

"(I) innovative models for the delivery, to rural and urban areas, of cost-effective rehabilitation technology services that promote utilization of assistive technology devices; and

"(II) other scientific research to assist in meeting the employment and independent living needs of individuals with severe disabilities; or

"(iii) conducting research or demonstration activities that facilitate service delivery systems change by demonstrating, evaluating, documenting, and disseminating—

"(I) consumer responsive and individual and family centered innovative models for the delivery to both rural and urban areas, of innovative cost-effective rehabilitation technology services that promote utilization of rehabilitation technology; and

"(II) other scientific research to assist in meeting the employment and independent living needs of, and addressing the barriers confronted by, individuals with disabilities, including individuals with severe disabilities.

"(C) To the extent consistent with the nature and type of research or demonstration activities described in subparagraph (B), each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with programs established under the Technology-Related Assistance to Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) and other regional and local programs to provide information to individuals with disabilities and the parents, family members, guardians, advocates, or authorized representatives of the individuals, to—

"(I) increase awareness and understanding of how rehabilitation technology can address their needs; and

"(II) increase awareness and understanding of the range of options, programs, services, and resources available, including financing options for the technology and services covered by the area of focus of the Center;

"(ii) provide training opportunities to individuals, including individuals with disabilities, to become researchers of rehabilitation technology and practitioners of rehabilitation technology in conjunction with institutions of higher education and nonprofit organizations; and

"(iii) respond, through research or demonstration activities, to the needs of individuals with all types of disabilities who may benefit from the application of technology within the area of focus of the Center.

"(D)(i) In establishing Centers to conduct the research or demonstration activities described in subparagraph (B)(iii), the Director may establish one Center in each of the following areas of focus:

"(I) Early childhood services, including early intervention and family support.

"(II) Education at the elementary and secondary levels, including transition from school to postschool activities.

"(III) Employment, including supported employment, and reasonable accommodations and the reduction of environmental barriers as required by the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and title V.

"(IV) Independent living, including transition from institutional to community living, maintenance of community living on leaving the work force, self-help skills, and activities of daily living.

"(ii) Each Center conducting the research or demonstration activities described in subparagraph (B)(iii) shall have an advisory committee, of which the majority of members are individuals with disabilities who are users of rehabilitation technology, and the parents, family members, guardians, advocates, or authorized representatives of users of rehabilitation technology.

"(E) Grants made under this paragraph shall be made on a competitive basis and shall be for a period of 5 years, except that the Director may make a grant for a period of less than 5 years if—

"(i) the grant is made to a new recipient; or

"(ii) the grant supports new or innovative research.

"(F) To be eligible to receive a grant under this paragraph, a prospective grant recipient shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

"(G) Each Center established or supported through a grant made available under this paragraph shall—

"(i) cooperate with State agencies and other local, State, regional, and national programs and organizations developing or delivering rehabilitation technology, including State programs funded under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.); and

"(ii) prepare and submit to the Director as part of an application for continuation of a grant, or as a final report, a report that documents the outcomes of the program in terms of both short- and long-term impact on the lives of individuals with disabilities, and such other information as may be requested by the Director. Reports.

"(4)(A) Research grants may be used to conduct a program for spinal cord injury research, including conducting such a program by making grants to public or private agencies and organizations to pay part or all of the costs of special projects and demonstration projects for spinal cord injuries, that will—

"(i) ensure widespread dissemination of research findings among all Spinal Cord Injury Centers, to rehabilitation practitioners, individuals with spinal cord injury, the parents, family members, guardians, advocates, or authorized representatives of such individuals, and organizations receiving financial assistance under this paragraph;

"(ii) provide encouragement and support for initiatives and new approaches by individual and institutional investigators; and

"(iii) establish and maintain close working relationships with other governmental and voluntary institutions and organizations engaged in similar efforts in order to unify and coordinate scientific efforts, encourage joint planning, and promote the interchange of data and reports among spinal cord injury investigations.

"(B) Any agency or organization carrying out a project or demonstration project assisted by a grant under this paragraph that provides services to individuals with spinal cord injuries shall—

"(i) establish, on an appropriate regional basis, a multidisciplinary system of providing vocational and other rehabilitation services, specifically designed to meet the special needs of individuals with spinal cord injuries, including acute care as well as periodic inpatient or outpatient followup and services;

"(ii) demonstrate and evaluate the benefits to individuals with spinal cord injuries served in, and the degree of cost effectiveness of, such a regional system;

"(iii) demonstrate and evaluate existing, new, and improved methods and equipment essential to the care, management, and rehabilitation of individuals with spinal cord injuries; and

"(iv) demonstrate and evaluate methods of community outreach for individuals with spinal cord injuries and community education in connection with the problems of such individuals in areas such as housing, transportation, recreation, employment, and community activities.

"(C) In awarding grants under this paragraph, the Director shall take into account the location of any proposed Spinal Cord Injury Center and the appropriate geographic and regional allocation of such Centers.";

(3) in paragraphs (5) through (16) (as so redesignated by paragraph (1) of this subsection), by striking "Conduct of" the first place in each such paragraph that the term appears and inserting "Research grants may be used to conduct";

(4) in paragraph (9) (as so redesignated by paragraph (1) of this subsection), to read as follows:

"(9) Research grants may be used to conduct a program of research related to the rehabilitation of children, or older individuals, who are individuals with disabilities, including older American Indians who are individuals with disabilities. Such research program may include projects designed to assist the adjustment of, or maintain as residents in the community, older workers who are individuals with disabilities on leaving the work force.";

(5) in paragraph (12)(A) (as so redesignated by paragraph (1) of this subsection), by inserting "assessment," after "early intervention,"; and

(6) in paragraph (13) (as so redesignated by paragraph (1) of this subsection)—

(A) in the matter preceding subparagraph (A), by striking "developing the employment potential" and inserting "addressing the employment needs"; and

(B) in subparagraph (B), by striking "potential" and inserting "needs".

SEC. 206. REHABILITATION RESEARCH ADVISORY COUNCIL.

(a) COUNCIL.—Title II (29 U.S.C. 760 et seq.) is amended by adding at the end the following new section:

"REHABILITATION RESEARCH ADVISORY COUNCIL

"SEC. 205. (a) ESTABLISHMENT.—Subject to the availability of appropriations, the Secretary shall establish in the Department of Education a Rehabilitation Research Advisory Council (referred to in this section as the 'Council') composed of 12 members appointed by the Secretary. 29 USC 765.

"(b) DUTIES.—The Council shall advise the Director with respect to research priorities and the development and revision of the long-range plan required by section 202(g).

"(c) QUALIFICATIONS.—Members of the Council shall be generally representative of the community of rehabilitation professionals, the community of rehabilitation researchers, the community of individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals. At least one-half of the members shall be individuals with disabilities or parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(d) TERMS OF APPOINTMENT.—

"(1) LENGTH OF TERM.—Each member of the Council shall serve for a term of up to 3 years, determined by the Secretary, except that—

"(A) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(B) the terms of service of the members initially appointed shall be (as specified by the Secretary) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(2) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms. Members may serve after the expiration of their terms until their successors have taken office.

"(e) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment for the position being vacated. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(f) PAYMENT AND EXPENSES.—

"(1) PAYMENT.—Each member of the Council who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the Council. All members of the Council who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(2) TRAVEL EXPENSES.—Each member of the Council may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government

service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(g) DETAIL OF FEDERAL EMPLOYEES.—On the request of the Council, the Secretary may detail, with or without reimbursement, any of the personnel of the Department of Education to the Council to assist the Council in carrying out its duties. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

"(h) TECHNICAL ASSISTANCE.—On the request of the Council, the Secretary shall provide such technical assistance to the Council as the Council determines to be necessary to carry out its duties.

"(i) TERMINATION.—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Council.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by inserting after the item relating to section 204 the following:

"Sec. 205. Rehabilitation Research Advisory Council.".

TITLE III—TRAINING AND DEMONSTRATION PROJECTS

SEC. 301. DECLARATION OF PURPOSE; ORGANIZATION.

(a) PURPOSE.—Section 300 (29 U.S.C. 770) is amended—

(1) by redesignating paragraphs (1) through (4) as paragraphs (4), (3), (2), and (5), respectively;

(2) by inserting paragraphs (2) and (3) (as so redesignated by paragraph (1) of this subsection), respectively, before paragraph (4) (as so redesignated by paragraph (1) of this subsection);

(3) by inserting before paragraph (2) the following:

"(1) authorize grants and contracts to—

"(A) ensure that skilled personnel are available to provide rehabilitation services to individuals with disabilities through vocational, medical, social, and psychological rehabilitation programs, through supported employment programs, through independent living services programs, and through client assistance programs;

"(B) maintain and upgrade basic skills and knowledge of personnel employed to provide state-of-the-art service delivery systems and rehabilitation technology services; and

"(C) provide training and information to individuals with disabilities, the parents, families, guardians, advocates, and authorized representatives of the individuals, and other appropriate parties to develop the skills necessary for individuals with disabilities to access the rehabilitation system and to become active decisionmakers in the rehabilitation process;";

(4) in paragraph (2) (as so redesignated by paragraph (1)) by striking "and" at the end;

(5) in paragraph (3) (as so redesignated by paragraph (1)) by striking "training" and inserting "rehabilitation"; and

(6) in paragraph (4) (as so redesignated by paragraph (1)) by striking "construction" and all that follows and inserting

"development and improvement of community rehabilitation programs; and".

(b) ORGANIZATION.—Title III (29 U.S.C. 770 et seq.) is amended—

(1) by striking the headings for the title and part A of the title and inserting the following:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS";

(2) by striking section 301 (29 U.S.C. 771);

(3) by redesignating sections 300, 302, 303, and 304 (29 U.S.C. 770, 772, 773, and 774) as sections 301, 303, 304, and 302, respectively; and 29 USC 771a.

(4) by inserting section 302 (as so redesignated by paragraph (3) of this subsection) after section 301. 29 USC 771a.

(c) CONFORMING AMENDMENTS.—The table of contents relating to title III is amended to read as follows:

"TITLE III—TRAINING AND DEMONSTRATION PROJECTS

"PART A—TRAINING PROGRAMS AND COMMUNITY REHABILITATION PROGRAMS

"Sec. 301. Declaration of purpose.
"Sec. 302. Training.
"Sec. 303. Vocational rehabilitation services for individuals with disabilities.
"Sec. 304. Loan guarantees for community rehabilitation programs.
"Sec. 305. Comprehensive rehabilitation centers.
"Sec. 306. General grant and contract requirements.

"PART B—SPECIAL PROJECTS

"Sec. 310. Authorization of appropriations.
"Sec. 311. Special demonstration programs.
"Sec. 312. Migratory workers.
"Sec. 314. Reader services for individuals who are blind.
"Sec. 315. Interpreter services for individuals who are deaf.
"Sec. 316. Special recreational programs.".

SEC. 302. TRAINING.

(a) TRAINING GRANTS AND CONTRACTS.—

(1) CERTAIN PROJECTS.—Section 302(a) (29 U.S.C. 774(a)) (as so redesignated by section 301(b)(3)) is amended in the first sentence— 29 USC 771a.

(A) in the matter preceding paragraph (1)—

(i) by inserting after "traineeships, and related activities" the following: ", including the provision of technical assistance,"; and

(ii) by inserting ", and other services provided under this Act," after "rehabilitation services";

(B) in paragraph (1), by striking "specially" and inserting "specifically";

(C) in paragraph (2), by inserting before the comma at the end the following: ", including needs for rehabilitation technology services";

(D) in paragraph (3)—

(i) by striking "comprehensive services for independent living" and inserting "independent living services"; and

(ii) by striking "and" at the end;

(E) by redesignating paragraph (4) as paragraph (5); and

(F) by inserting after paragraph (3) the following: "(4) personnel specifically trained to deliver services, through supported employment programs, to individuals with the most severe disabilities, and";

29 USC 771a.

(2) CERTAIN REQUIREMENTS; APPLICATION FOR ASSISTANCE.—Section 302(a) (29 U.S.C. 774(a)), as amended by paragraph (1), is amended—

(A) by striking the second and third sentences;

(B) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(C) by inserting "(1)" after the subsection designation; and

(D) by adding at the end the following paragraphs:

"(2) Grants and contracts under paragraph (1) may be expended for scholarships, with necessary stipends and allowances.

"(3) In carrying out this subsection, the Commissioner shall furnish training regarding the services provided under this Act, and, in particular, services provided in accordance with amendments made by the Rehabilitation Act Amendments of 1992, to rehabilitation counselors and other rehabilitation personnel. In carrying out this subsection, the Commissioner shall also furnish training to such counselors and personnel regarding the applicability of section 504 of this Act, title I of the Americans with Disabilities Act of 1990, and the provisions of titles II and XVI of the Social Security Act that are related to work incentives for individuals with disabilities.

Colleges and universities. Minorities.

"(4) The Commissioner, in carrying out this subsection, shall make grants to Historically Black Colleges and Universities and other institutions of higher education whose minority student enrollment is at least 50 percent.

"(5) No grant shall be awarded under this section unless the applicant has submitted an application to the Commissioner in such form, and in accordance with such procedures, as the Commissioner may require. Any such application shall include a detailed description of strategies that will be utilized to recruit and train persons so as to reflect the diverse populations of the United States, as part of the effort to increase the number of individuals with disabilities, and individuals who are members of minority groups, who are available to provide rehabilitation services.".

29 USC 771a.

(b) PROJECTS.—Section 302(b) (29 U.S.C. 774(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1)(A) In making such grants or contracts, the Commissioner shall target funds made available for any year to areas of personnel shortage.

"(B) Projects described in subsection (a) may include—

"(i) projects to train personnel in the areas of vocational rehabilitation counseling, rehabilitation technology, rehabilitation medicine, rehabilitation nursing, rehabilitation social work, rehabilitation psychiatry, rehabilitation psychology, rehabilitation dentistry, physical therapy, occupational therapy, speech pathology and audiology, physical education, therapeutic recreation, community rehabilitation programs, or prosthetics and orthotics;

"(ii) projects to train personnel to provide—

"(I) services to individuals with specific disabilities or specific impediments to rehabilitation, including individ-

uals who are members of populations that are unserved or underserved by programs under this Act;

"(II) job development and job placement services to individuals with disabilities;

"(III) supported employment services, including services of employment specialists for individuals with disabilities;

"(IV) specialized services for individuals with severe disabilities; or

"(V) recreation for individuals with disabilities; and

"(iii) projects to train personnel in other fields contributing to the rehabilitation of individuals with disabilities."; and

(2) in paragraph (3)(A)—

(A) by inserting ", for any academic year beginning after June 1, 1992," after "who receives a scholarship"; and

(B) by striking clause (i) and inserting the following:

"(i) maintain employment—

"(I) in a nonprofit rehabilitation agency or related agency or in a State rehabilitation agency or related agency, including a professional corporation or professional practice group through which the individual has a service arrangement with the designated State agency;

"(II) on a full- or part-time basis; and

"(III) for a period of not less than the full-time equivalent of 2 years for each year for which assistance under this section was received,

within a period, beginning after the recipient completes the training for which the scholarship was awarded, of not more than the sum of the number of years in the period described in subclause (III) and 2 additional years; and".

(c) TECHNICIAN TRAINING; CAREER ADVANCEMENT AND COMPETENCY-BASED TRAINING.—Section 302 (29 U.S.C. 774) is amended— 29 USC 771a.

(1) by redesignating subsections (d) through (f) as subsections (f) through (h), respectively; and

(2) by inserting after subsection (c) the following subsections:

"(d) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the development of rehabilitation technician programs. Such programs shall be designed to train local employees, who are recruited from or reside in a community historically unserved or underserved by programs providing vocational rehabilitation services under this Act, to be liaisons between the community and vocational rehabilitation counselors. The rehabilitation technician program shall provide a mechanism through which individuals with disabilities residing in remote, isolated settings can successfully access vocational rehabilitation services.

"(e)(1) In carrying out subsection (a), the Commissioner shall award two grants to States, public or nonprofit private agencies and organizations, and institutions of higher education to support the formation of consortia or partnerships of public or nonprofit private entities for the purpose of providing opportunities for career advancement or competency-based training to current employees of public or nonprofit private agencies that provide services to

individuals with disabilities. Such opportunities shall include certificate or degree granting programs in vocational rehabilitation services and related services.

"(2) An entity that receives a grant under paragraph (1) may use the grant for purposes including—

"(A) establishing a program with an institution of higher education to develop creative new programs and coursework options, or to expand existing programs, concerning the fields of vocational rehabilitation services and related services, including—

"(i) providing release time for faculty and staff for curriculum development; and

"(ii) paying for instructional costs and startup and other program development costs;

"(B) establishing a career development mentoring program using faculty and professional staff members of participating agencies as role models, career sponsors, and academic advisors for experienced State, city, and county employees, and volunteers, who—

"(i) have demonstrated a commitment to working in the fields described in clause (i); and

"(ii) are enrolled in a program relating to such a field at an institution of higher education;

"(C) supporting a wide range of programmatic and research activities aimed at increasing opportunities for career advancement and competency-based training in such fields; and

"(D) identifying existing public or private agency and labor union personnel policies and benefit programs that may facilitate the ability of employees to take advantage of higher education opportunities, such as leave time and tuition reimbursement.

Urban and rural areas.

"(3) In making grants for projects under paragraph (1), the Commissioner shall ensure that the projects shall be geographically distributed throughout the United States in urban and rural areas.

Contracts.

"(4) The Commissioner shall, for the purpose of providing technical assistance to States or entities receiving grants under paragraph (1), enter into a cooperative agreement through a separate competition with an entity that has successfully demonstrated the capacity and expertise in the education, training, and retention of employees to serve individuals with disabilities through the use of consortia or partnerships established for the purpose of retraining the existing work force and providing opportunities for career enhancement.

"(5) The Commissioner may conduct an evaluation of projects funded under this subsection.

"(6) During the period in which an entity is receiving financial assistance under paragraph (1), the entity may not receive financial assistance under paragraph (4).".

29 USC 771a.

(d) OFFICE OF DEAFNESS AND COMMUNICATIVE DISORDERS.—Section 302(f) (29 U.S.C. 774(f)) (as so redesignated by subsection (c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(ii) by striking "Office of Information and Resources for Individuals With Disabilities" and inserting "Office of Deafness and Communicative Disorders"; and

(iii) by striking "grants under this section" and inserting "grants"; and

(B) by striking the second sentence; and

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by striking "this section" and inserting "paragraph (1)";

(B) in subparagraph (B), by striking "deaf individuals" and inserting "individuals who are deaf and individuals who are deaf-blind";

(C) in subparagraph (C), by adding "and" after the semicolon at the end;

(D) by striking subparagraph (D); and

(E) by redesignating subparagraph (E) as subparagraph (D).

(e) COMPENSATION OF EXPERTS AND CONSULTANTS.—Section 302(g) (29 U.S.C. 774(g)) (as so redesignated by subsection (c)) is amended— 29 USC 771a.

(1) in paragraph (1), by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2), by striking "the daily rate payable for grade GS–18 of the General Schedule under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382"; and

(3) by adding at the end the following:

"(3)(A) Subject to subparagraph (B), at least 15 percent of the sums appropriated to carry out this section shall be allocated to designated State agencies to be used, directly or indirectly, for projects for in-service training of rehabilitation personnel, including projects designed—

"(i) to address recruitment and retention of qualified rehabilitation professionals;

"(ii) to provide for succession planning;

"(iii) to provide for leadership development and capacity building; and

"(iv) for fiscal years 1993 and 1994, to provide training regarding the amendments to this Act made by the Rehabilitation Act Amendments of 1992.

"(B) If the allocation to designated State agencies required by subparagraph (A) would result in a lower level of funding for projects being carried out on the date of enactment of the Rehabilitation Act Amendments of 1992 by other recipients of funds under this section, the Commissioner may allocate less than 15 percent of the sums described in subparagraph (A) to designated State agencies for such in-service training.".

(f) RELATIONSHIP TO TRAINING ACTIVITIES.—Section 302 (29 U.S.C. 774) (as amended by subsection (c)) is amended by adding at the end the following: 29 USC 771a.

"(i)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund training activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available

funds appropriated to carry out this title, to fund the training activities described in section 803.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

SEC. 303. COMMUNITY REHABILITATION PROGRAMS FOR INDIVIDUALS WITH DISABILITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 303(a) (29 U.S.C. 772(a)) (as so redesignated by section 301(b)(3)) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

(b) ESTABLISHMENT.—Section 303(b) (29 U.S.C. 772(b)) is amended—

(1) in paragraph (1)—

(A) by striking "training services" and inserting "rehabilitation services or employment support services"; and

(B) by striking "rehabilitation facilities" and inserting "community rehabilitation programs";

(2) in paragraph (2)—

(A) by striking subparagraph (A) and inserting the following:

"(A) For purposes of this section, vocational rehabilitation services shall include—

"(i) training with a view toward career advancement;

"(ii) training (including on-the-job training) in occupational skills; and

"(iii) services, including rehabilitation technology services, personal assistance services, and supported employment services and extended services, that—

"(I) are related to training described in clause (i) or (ii); and

"(II) are required by the individual to engage in such training."; and

(B) in subparagraph (B)—

(i) by inserting after "(B)" the following new sentence: "Pursuant to regulations, payment of weekly allowances may be made to individuals receiving vocational rehabilitation services and related services under this section.";

(ii) in the second sentence (as placed pursuant to clause (i) of this subparagraph), by striking ", and such allowances" and all that follows and inserting a period; and

(iii) in the last sentence—

(I) by striking "training services" and inserting "vocational rehabilitation services"; and

(II) by striking "gainful and suitable" and inserting "competitive"; and

(3) in paragraph (3)—

(A) in subparagraph (A), by striking "gainful and suitable employment" and inserting "competitive employment, or to place or retain such individual in competitive employment";

(B) in subparagraph (B)—

(i) by striking "suitable for and";

(ii) by striking "training" each place the term appears and inserting "vocational rehabilitation"; and

(iii) by striking "rehabilitation facility" and inserting "community rehabilitation program";

(C) in subparagraph (C), by striking "training" and inserting "vocational rehabilitation"; and

(D) in subparagraph (D), by striking "rehabilitation facility and the training" and inserting "community rehabilitation program and the vocational rehabilitation".

(c) ADDITIONAL GRANTS.—Section 303 (29 U.S.C. 772) is amended—

(1) by redesignating subsection (c) as subsection (d);

(2) by inserting after subsection (b) the following:

"(c) The Commissioner is also authorized to make grants, upon applications approved by the designated State agency, to public or nonprofit agencies, institutions, or organizations to assist them in meeting the cost of planning community rehabilitation programs, the cost of the services to be provided by such programs, and initial staffing costs of such programs."; and

(3) in subsection (d)(1) (as so redesignated by paragraph (1))—

(A) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(B) by striking "such facilities" and inserting "such programs".

(d) CONFORMING AMENDMENT.—The heading of section 303 (29 U.S.C. 772) is amended by striking "TRAINING" and inserting "REHABILITATION".

SEC. 304. LOAN GUARANTEES.

Section 304 (29 U.S.C. 773) (as so redesignated by section 301(b)(3)) is amended—

(1) in the heading for the section, by striking "REHABILITATION FACILITIES" and inserting "COMMUNITY REHABILITATION PROGRAMS";

(2) in subsection (a), by striking "facilities for" and inserting "community rehabilitation"; and

(3) in subsection (b)—

(A) by inserting "under special circumstances and" after "may,"; and

(B) by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs".

SEC. 305. COMPREHENSIVE REHABILITATION CENTERS.

Section 305 (29 U.S.C. 775) is amended—

(1) in subsection (d)(1), by striking "facility" and inserting "center"; and

(2) in subsection (g), by striking "1987," and all that follows and inserting "1993 through 1997.".

SEC. 306. GENERAL GRANT AND CONTRACT REQUIREMENTS.

Section 306 (29 U.S.C. 776) is amended—

(1) in subsection (a), by striking "section 302" and inserting "section 303";

(2) in subsection (b)(4), by striking "rehabilitation facilities" and inserting "facilities for community rehabilitation programs";

(3) in subsection (f), by striking "rehabilitation facility" and inserting "facility for a community rehabilitation program"; and

(4) in subsection (h), by striking "establishing facilities" and inserting "developing or improving community rehabilitation programs".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS FOR SPECIAL PROJECTS AND SUPPLEMENTARY SERVICES.

Section 310 (29 U.S.C. 777) is amended—

(1) by striking "(a)" after "310.";

(2) by striking "and 316" and inserting "312, and 316";

(3) by striking "$15,860,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997."; and

(4) by striking subsection (b).

SEC. 308. SPECIAL DEMONSTRATION PROGRAMS.

(a) GRANTS.—Section 311(a) (29 U.S.C. 777a(a)) is amended—

(1) in paragraph (1)—

(A) by striking "and, where appropriate, constructing facilities"; and

(B) by striking "blind or deaf individuals," and all that follows and inserting the following: "individuals who are members of populations that are unserved or underserved by the programs under this Act, individuals who are blind, and individuals who are deaf,";

(2) in paragraph (2), by striking "new careers);" and inserting "new careers and career advancement);";

(3) in paragraph (3), by striking "and, where appropriate, renovating and constructing facilities"; and

(4) by striking the matter after and below paragraph (4).

(b) CERTAIN REQUIREMENTS.—Section 311 (29 U.S.C. 777a) is amended by striking subsection (b) and redesignating subsections (c) through (e) as subsections (b) through (d), respectively.

(c) SPECIAL PROJECTS AND DEMONSTRATIONS PROVIDING SUPPORTED EMPLOYMENT.—Section 311(c) (29 U.S.C. 777a(d)) (as so redesignated by subsection (b)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "rehabilitation facilities" and inserting "community rehabilitation programs"; and

(ii) by inserting before the period the following: ", including continuation of determinations of the effectiveness of natural supports or other alternatives to providing extended employment services";

(B) in subparagraph (B)—

(i) by striking "and" before "(iii)"; and

(ii) in clause (iii), by striking "community-based rehabilitation facilities" and inserting "community rehabilitation programs"; and

(C) by adding at the end the following subparagraph:

"(C) Not less than two such grants shall serve individuals who either are low-functioning and deaf or low-functioning and hard-of-hearing.";

(2) in paragraph (3)(A), by striking ", 1988, and on each subsequent June 1" and inserting "of each year"; and

(3) in paragraph (4), by striking "$9,000,000" and all that follows and inserting "such sums as may be necessary for each of fiscal years 1993 through 1997.".

(d) MODEL STATEWIDE TRANSITIONAL PLANNING SERVICES.—Section 311(d) (29 U.S.C. 777a(e)) (as so redesignated by subsection (b)) is amended—

(1) by striking paragraph (3);

(2) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(3) in paragraph (3)(A) (as redesignated by paragraph (2) of this subsection)—

(A) by striking clause (ii); and

(B) by striking the clause designation; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by striking "$450,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(e) EDUCATIONAL AND VOCATIONAL REHABILITATION DEMONSTRATION PROJECTS REGARDING LOW-FUNCTIONING.—Section 311 (29 U.S.C. 777a), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(e)(1) The Commissioner may make grants to public or private institutions to pay for the cost of developing special projects and demonstration projects to address the general education, counseling, vocational training, work transition, supported employment, job placement, followup, and community outreach needs of individuals who are either low-functioning and deaf or low-functioning and hard-of-hearing. Such projects shall provide educational and vocational rehabilitation services that are not otherwise available in the region involved and shall maximize the potential of such individuals, including individuals who are deaf and have additional severe disabilities.

"(2) The Commissioner shall monitor the activities of the recipients of grants under this subsection to ensure that the recipients carry out the projects in accordance with paragraph (1), that the recipients coordinate the projects as described in paragraph (3), and that information about innovative methods of service delivery developed by such projects is disseminated.

"(3) The Commissioner shall prepare and submit an annual report to Congress that includes an assessment of the manner in which the recipients carrying out the projects coordinate the projects with projects carried out by other public or nonprofit agencies serving individuals who are deaf, to expand or improve services for such individuals.". Reports.

(f) RELATIONSHIP TO SPECIAL DEMONSTRATION PROGRAMS.—Section 311 (29 U.S.C. 777a), as amended by subsection (e), is amended by adding at the end the following new subsection:

"(f)(1) Consistent with paragraph (2), and consistent with the general authority set forth in this section to fund special demonstration programs, projects, and activities, nothing in this Act shall be construed to prohibit the Commissioner from exercising authority under this title, or making available funds appropriated to carry out this title, to fund programs, projects, and activities described in section 802.

"(2) If the amount of funds appropriated for a fiscal year to carry out this section exceeds the amount of funds appropriated for the preceding fiscal year to carry out this section, adjusted by the percent by which the average of the estimated gross domestic product fixed-weight price index for that fiscal year differs from that estimated index for the preceding fiscal year, the amount of the excess shall be treated as if the excess were appropriated under title VIII.".

SEC. 309. MIGRATORY WORKERS.

(a) COLLABORATION.—The first sentence of section 312 (29 U.S.C. 777b) is amended—

(1) by inserting "(a)" after "312."; and

(2) by inserting "to nonprofit agencies working in collaboration with such State agency," after "section 101,".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 312 (29 U.S.C. 777b) is amended by adding at the end the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 1993 through 1997 such sums as may be necessary to carry out this section.".

SEC. 310. SPECIAL RECREATIONAL PROGRAMS.

(a) GRANTS.—Section 316(a) (29 U.S.C. 777f(a)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by striking "part or all" and inserting "the Federal share"; and

(ii) by inserting "employment," before "mobility,"; and

(B) in the second sentence, by inserting "vocational skills development," before "leisure education,";

(2) in paragraph (2), by striking "a minimum of a three-year period." and inserting "a period of not more than 3 years. Such a grant shall not be renewable, except that the Commissioner may renew such a grant if the Commissioner determines that the grant recipient will continue to develop model or innovative programs of exceptional merit or will contribute substantially to the development or improvement of special recreational programs in other locations.";

(3) in paragraph (3), by striking "to be made, and that" and all that follows and inserting "to be made."; and

(4) by adding at the end the following new paragraphs:

"(4) To be eligible to receive a grant under this section, a State, agency, or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including a description of—

"(A) the manner in which the findings and results of the project will be made generally available; and

"(B) the means by which the service program will be continued after Federal assistance ends.

"(5) Recreation programs funded under this section shall maintain, at a minimum, the same level of services over a 3-year project period.

"(6) The Commissioner shall, not later than 180 days after the date of enactment of the Rehabilitation Act Amendments of 1992, develop means to objectively evaluate, and encourage the replication of, activities assisted by this section.

Reports.

"(7) The Commissioner shall require each recipient of a grant under this section to annually prepare and submit a report on

the results of the activities assisted by the grant. The Commissioner shall not make financial assistance available to a grant recipient for a subsequent year until the Commissioner has received and evaluated such a report from the recipient regarding the current year.

"(8) The Commissioner shall annually issue and provide for the dissemination of a report describing the findings and results of programs funded by this section. Reports.

"(9) The Federal share of the costs of the recreation programs shall be 100 percent for the first year of the grant, 75 percent for the second year, and 50 percent for the third year.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 316(b) (29 U.S.C. 777f(b)) is amended by striking "$2,330,000" and all that follows and inserting "such sums as may be necessary for each of the fiscal years 1993 through 1997.".

TITLE IV—NATIONAL COUNCIL ON DISABILITY

SEC. 401. ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—Section 400(a) (29 U.S.C. 780(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)";

(B) by inserting after the first sentence the following:

"(B) The President shall select members of the National Council after soliciting recommendations from representatives of—

"(i) organizations representing a broad range of individuals with disabilities; and

"(ii) organizations interested in individuals with disabilities.

"(C) The members of the National Council shall be individuals with disabilities or individuals who have substantial knowledge or experience relating to disability policy or programs.";

(C) in the last sentence, by striking "At least five members" and inserting "A majority of the members"; and

(D) by adding at the end the following sentence: "The members of the National Council shall be broadly representative of minority and other individuals and groups."; and

(2) by striking paragraph (2) and inserting the following:

"(2) The purpose of the National Council is to promote policies, programs, practices, and procedures that—

"(A) guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and

"(B) empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.".

(b) TERMS.—Section 400(b) (29 U.S.C. 780(b)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) Each member of the National Council shall serve for a term of 3 years, except that the terms of service of the members initially appointed after the date of enactment of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978 shall be (as specified by the President) for such fewer number of years as will provide for the expiration of terms on a staggered basis."; and

(2) by striking paragraph (2) and inserting the following:

"(2)(A) No member of the Council may serve more than two consecutive full terms beginning on the date of initial service on the Council. Members may serve after the expiration of their terms until their successors have taken office.

"(B) As used in this paragraph:

"(i) The term 'full term' means a term of 3 years.

"(ii) The term 'date of initial service' means, with respect to a member, the date on which the member is sworn in.".

SEC. 402. DUTIES OF NATIONAL COUNCIL.

(a) DUTIES.—Section 401(a) (29 U.S.C. 781(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) provide advice to the Director with respect to the policies and conduct of the National Institute on Disability and Rehabilitation Research, including ways to improve research concerning individuals with disabilities and the methods of collecting and disseminating findings of such research;";

(2) by redesignating paragraphs (4), (5), (6), (7), and (8) as paragraphs (5), (6), (8), (9), and (10);

(3) by inserting after paragraph (3) the following paragraph:

"(4) provide advice regarding priorities for the activities of the Interagency Disability Coordinating Council and review the recommendations of such Council for legislative and administrative changes to ensure that such recommendations are consistent with the purposes of the Council to promote the full integration, independence, and productivity of individuals with disabilities;";

(4) in paragraph (5) (as so redesignated by paragraph (2) of this subsection)—

(A) in subparagraph (A), by striking "all policies, programs, and activities" and inserting "policies, programs, practices, and procedures";

(B) in subparagraph (B), by inserting "and regulations" after "statutes"; and

(C) in the matter following subparagraph (B), by striking "activities, and statutes" and inserting "practices, procedures, statutes, and regulations";

(5) in paragraph (6) (as so redesignated by paragraph (2) of this subsection), by striking "and activities" and all that follows and inserting "practices, and procedures facilitate or impede the promotion of the policies set forth in subparagraphs (A) and (B) of section 400(a)(2);";

(6) by inserting after paragraph (6) (as redesignated by paragraph (2) of this subsection) the following paragraph:

"(7) gather information about the implementation, effectiveness, and impact of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.);";

(7) in paragraph (8) (as so redesignated by paragraph (2) of this subsection), to read as follows:

"(8) make recommendations to the President, the Congress, the Secretary, the Director of the National Institute on Disability and Rehabilitation Research, and other officials of Federal agencies, respecting ways to better promote the policies set forth in section 400(a)(2);";

(8) in paragraph (9) (as so redesignated by paragraph (2) of this subsection), to read as follows:

Reports.

"(9) not later than March 31 of each year, prepare and submit to the Congress and the President a report containing

a summary of the activities and accomplishments of the Council with respect to the duties described in paragraphs (1) through (8);";

(9) in paragraph (10) (as redesignated by paragraph (2) of this subsection), by striking the period and inserting "; and"; and

(10) by adding at the end the following:

"(11) review and evaluate on a continuing basis new and emerging disability policy issues affecting individuals with disabilities at the Federal, State, and local levels, and in the private sector, including the need for and coordination of adult services, access to personal assistance services, school reform efforts and the impact of such efforts on individuals with disabilities, access to health care, and policies that operate as disincentives for the individuals to seek and retain employment.".

(b) REPORT.—Section 401(b) (29 U.S.C. 781(b)) is amended to read as follows:

"(b)(1) Not later than October 31, 1993, and annually thereafter, the National Council shall prepare and submit to the President and the appropriate committees of the Congress a report entitled 'National Disability Policy: A Progress Report'.

"(2) The report shall assess the status of the Nation in achieving the policies set forth in section 400(a)(2), with particular focus on the new and emerging issues impacting on the lives of individuals with disabilities. The report shall present, as appropriate, available data on health, housing, employment, insurance, transportation, recreation, training, prevention, early intervention, and education. The report shall include recommendations for policy change.

"(3) In determining the issues to focus on and the findings, conclusions, and recommendations to include in the report, the Council shall seek input from the public, particularly individuals with disabilities, representatives of organizations representing a broad range of individuals with disabilities, and organizations and agencies interested in individuals with disabilities.".

SEC. 403. COMPENSATION OF NATIONAL COUNCIL MEMBERS.

Section 402(a) (29 U.S.C. 782(a)) is amended by striking "rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 404. STAFF OF NATIONAL COUNCIL.

Section 403(b)(1) (29 U.S.C. 783(b)(1)) is amended by striking "annual rate of basic pay payable for grade GS–18 of the General Schedule under section 5332" and inserting "rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

SEC. 405. ADMINISTRATIVE POWERS OF NATIONAL COUNCIL.

Section 404 (29 U.S.C. 784) is amended by adding at the end the following subsection:

"(e) The National Council may use, with the consent of the agencies represented on the Interagency Disability Coordinating Council, and as authorized in title V, such services, personnel, information, and facilities as may be needed to carry out its duties under this title, with or without reimbursement to such agencies.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Section 405 (29 U.S.C. 785) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

TITLE V—RIGHTS AND ADVOCACY

SEC. 501. RIGHTS AND ADVOCACY.

(a) TITLE.—Title V (29 U.S.C. 790 et seq.) is amended by striking the title heading and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to the title heading for title V and inserting the following:

"TITLE V—RIGHTS AND ADVOCACY".

SEC. 502. EFFECT ON EXISTING LAW.

29 USC 790. (a) REPEAL.—Title V (29 U.S.C. 790 et seq.) is amended by repealing section 500.

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 500.

SEC. 503. EMPLOYMENT OF INDIVIDUALS WITH DISABILITIES.

(a) ESTABLISHMENT.—Section 501(a) (29 U.S.C. 791(a)) is amended—

(1) in the first sentence, by striking "the Secretary of Veterans Affairs, and" and inserting "the Director of the Office of Personnel Management, the Secretary of Veterans Affairs"; and

(2) by amending the second sentence to read as follows: "Either the Director of the Office of Personnel Management and the Chairman of the Commission shall serve as co-chairpersons of the Committee or the Director or Chairman shall serve as the sole chairperson of the Committee, as the Director and Chairman jointly determine, from time to time, to be appropriate.".

(b) STANDARDS.—Section 501 (29 U.S.C. 791) is amended by adding at the end the following new subsection:

"(g) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

SEC. 504. REFERENCES TO THE ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) ACCESS BOARD.—Section 502 (29 U.S.C. 792) is amended—

(1) in the matter preceding subparagraph (A) of subsection (a)(1), by striking "the 'Board'" and inserting "the 'Access Board'";

(2) by striking "the Board" each place the term appears and inserting "the Access Board"; and

(3) by striking "The Board" each place the term appears and inserting "The Access Board".

(b) COMPOSITION.—Section 502(a) (29 U.S.C. 792(a)) of the Act is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking "Twelve" and inserting "Thirteen"; and

(ii) by striking "six" and inserting "at least a majority"; and

(B) in subparagraph (B), by inserting after clause (xi) the following:

"(xii) Department of Commerce.";

(2) in paragraph (2)(A)—

(A) in the first sentence—

(i) by inserting "(i)" after "(A)"; and

(ii) by striking "three years" and inserting "4 years, except as provided in clause (ii)";

(B) in the second sentence, by striking "four" and inserting "at least three"; and

(C) by adding at the end the following:

"(ii)(I) One member appointed for a term beginning December 4, 1992 shall serve for a term of 3 years.

"(II) One member appointed for a term beginning December 4, 1993 shall serve for a term of 2 years.

"(III) One member appointed for a term beginning December 4, 1994 shall serve for a term of 1 year.

"(IV) Members appointed for terms beginning before December 4, 1992 shall serve for terms of 3 years.";

(3) in paragraph (3), by striking "such an" and inserting "a Federal"; and

(4) in paragraph (5)(A), by striking "the daily rate prescribed for GS–18 under section 5332" and inserting "the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(c) FUNCTION.—Section 502(b) (29 U.S.C. 792(b)) is amended to read as follows:

"(b) It shall be the function of the Access Board to—

"(1) ensure compliance with the standards prescribed pursuant to the Act entitled 'An Act to ensure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968 (commonly known as the Architectural Barriers Act of 1968; 42 U.S.C. 4151 et seq.) (including the application of such Act to the United States Postal Service), including enforcing all standards under such Act, and ensuring that all waivers and modifications to the standards are based on findings of fact and are not inconsistent with the provisions of this section;

"(2) develop advisory guidelines for, and provide appropriate technical assistance to, individuals or entities with rights or duties under regulations prescribed pursuant to this title or titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. 12131 et seq. and 12181 et seq.) with respect to overcoming architectural, transportation, and communication barriers;

"(3) establish and maintain minimum guidelines and requirements for the standards issued pursuant to the Act commonly known as the Architectural Barriers Act of 1968 and titles II and III of the Americans with Disabilities Act of 1990;

"(4) promote accessibility throughout all segments of society;

"(5) investigate and examine alternative approaches to the architectural, transportation, communication, and attitudinal barriers confronting individuals with disabilities, particularly

with respect to telecommunications devices, public buildings and monuments, parks and parklands, public transportation (including air, water, and surface transportation, whether interstate, foreign, intrastate, or local), and residential and institutional housing;

"(6) determine what measures are being taken by Federal, State, and local governments and by other public or nonprofit agencies to eliminate the barriers described in paragraph (5);

"(7) promote the use of the International Accessibility Symbol in all public facilities that are in compliance with the standards prescribed by the Administrator of General Services, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Act commonly known as the Architectural Barriers Act of 1968;

Reports.

"(8) make to the President and to the Congress reports that shall describe in detail the results of its investigations under paragraphs (5) and (6);

"(9) make to the President and to the Congress such recommendations for legislative and administrative changes as the Access Board determines to be necessary or desirable to eliminate the barriers described in paragraph (5); and

Handicapped.

"(10) ensure that public conveyances, including rolling stock, are readily accessible to, and usable by, individuals with physical disabilities.".

(d) INVESTIGATIONS AND HEARINGS.—Section 502(d) (29 U.S.C. 792(d)) is amended—

(1) in paragraph (1), in the first sentence—

(A) by striking "In carrying out" and all that follows through "shall conduct" and inserting "The Access Board shall conduct"; and

(B) by striking "insure" and inserting "ensure"; and

(2) by striking paragraph (3).

(e) INTERAGENCY AGREEMENTS.—Section 502(f) (29 U.S.C. 792(f)) is amended—

(1) by striking "(f) The departments" and inserting the following:

"(f)(1)(A) In carrying out the technical assistance responsibilities of the Access Board under this section, the Board may enter into an interagency agreement with another Federal department or agency.

"(B) Any funds appropriated to such a department or agency for the purpose of providing technical assistance may be transferred to the Access Board. Any funds appropriated to the Access Board for the purpose of providing such technical assistance may be transferred to such department or agency.

"(C) The Access Board may arrange to carry out the technical assistance responsibilities of the Board under this section through such other departments and agencies for such periods as the Board determines to be appropriate.

"(D) The Access Board shall establish a procedure to ensure separation of its compliance and technical assistance responsibilities under this section.

"(2) The departments"; and

(2) in the second sentence of paragraph (2) (as so designated by paragraph (1) of this subsection)—

(A) by striking "subsection" and inserting "paragraph";

(B) by striking "Secretary" and inserting "Chairperson"; and

(C) by striking "the daily pay rate for a person employed as a GS–18 under section 5332" and inserting

"the daily equivalent of the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(f) REPORT.—Section 502(g) (29 U.S.C. 792(g)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in paragraph (1) (as so designated by paragraph (1) of this subsection)—

(A) in the second sentence, by striking "clauses (5) and (6) of subsection (b) of this section" and inserting "paragraphs (8) and (9) of such subsection"; and

(B) by striking the third sentence and all that follows; and

(3) by adding at the end the following:

"(2) The Access Board shall, at the same time that the Access Board transmits the report required under section 7(b) of the Act commonly known as the Architectural Barriers Act of 1968 (42 U.S.C. 4157(b)), transmit the report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.".

(g) REPORT CONTAINING ASSESSMENT.—Section 502(h) (29 U.S.C. 792(h)) is amended—

(1) by striking paragraph (1);

(2) by redesignating paragraph (2) as paragraph (1);

(3) in paragraph (1) (as so redesignated by paragraph (2) of this subsection), by striking the second and third sentences; and

(4) by adding at the end the following paragraph:

"(2)(A) The Access Board may accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the functions of the Access Board under paragraphs (5) and (7) of subsection (b). Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairperson. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States.

"(B) The Access Board shall publish regulations setting forth the criteria the Board will use in determining whether the acceptance of gifts, devises, and bequests of property, both real and personal, would reflect unfavorably upon the ability of the Board or any employee to carry out the responsibilities or official duties of the Board in a fair and objective manner, or would compromise the integrity of or the appearance of the integrity of a Government program or any official involved in that program.". Regulations.

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 502(i) (29 U.S.C. 792(i)) is amended by striking "fiscal years 1987 through 1992" and all that follows and inserting "fiscal years 1993 through 1997.".

SEC. 505. EMPLOYMENT UNDER FEDERAL CONTRACTS.

(a) CONTRACTS.—Section 503(a) (29 U.S.C. 793(a)) is amended—

(1) by striking "$2,500" each place the term appears and inserting "$10,000"; and

(2) in the first sentence, by striking ", in employing persons to carry out such contract,".

(b) WAIVER.—Section 503(c) (29 U.S.C. 793(c)) is amended—
(1) by inserting "(1)" after "(c)"; and
(2) by adding at the end the following:

"(2)(A) The Secretary of Labor may waive the requirements of the affirmative action clause required by regulations promulgated under subsection (a) with respect to any of a prime contractor's or subcontractor's facilities that are found to be in all respects separate and distinct from activities of the prime contractor or subcontractor related to the performance of the contract or subcontract, if the Secretary of Labor also finds that such a waiver will not interfere with or impede the effectuation of this Act.

Regulations.

"(B) Such waivers shall be considered only upon the request of the contractor or subcontractor. The Secretary of Labor shall promulgate regulations that set forth the standards used for granting such a waiver.".

(c) STANDARDS AND PROCEDURES.—Section 503 (29 U.S.C. 793) is amended by adding at the end the following:

"(d) The standards used to determine whether this section has been violated in a complaint alleging nonaffirmative action employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.

"(e) The Secretary shall develop procedures to ensure that administrative complaints filed under this section and under the Americans with Disabilities Act of 1990 are dealt with in a manner that avoids duplication of effort and prevents imposition of inconsistent or conflicting standards for the same requirements under this section and the Americans with Disabilities Act of 1990.".

SEC. 506. NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.

Section 504 (29 U.S.C. 794) is amended by adding at the end the following new subsection:

"(d) The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201–12204 and 12210), as such sections relate to employment.".

SEC. 507. SECRETARIAL RESPONSIBILITIES.

(a) ACCESS.—Subsections (a) and (c) of section 506 (29 U.S.C. 794b) are amended by inserting "Access" before "Board" each place the term appears.

(b) COMMUNITY REHABILITATION PROGRAMS.—Section 506(a)(1) (29 U.S.C. 794b(a)(1)) is amended by striking "rehabilitation facilities" and inserting "community rehabilitation programs".

(c) COMPENSATION.—Section 506(b) (29 U.S.C. 794b(b)) is amended by striking "the rate of basic pay payable for grade GS–18 of the General Schedule, under section 5332" and inserting "the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382".

(d) CONFORMING AMENDMENT.—Section 506(c) (29 U.S.C. 794b(c)) is amended by striking "502(h)(2)" and inserting "502(h)(1)".

SEC. 508. INTERAGENCY DISABILITY COORDINATING COUNCIL.

(a) IN GENERAL.—Section 507 (29 U.S.C. 794c) is amended to read as follows:

"SEC. 507. INTERAGENCY DISABILITY COORDINATING COUNCIL.

"(a) ESTABLISHMENT.—There is hereby established an Interagency Disability Coordinating Council (hereafter in this section referred to as the 'Council') composed of the Secretary of Education, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Housing and Urban Development, the Secretary of Transportation, the Assistant Secretary of the Interior for Indian Affairs, the Attorney General, the Director of the Office of Personnel Management, the Chairperson of the Equal Employment Opportunity Commission, the Chairperson of the Architectural and Transportation Barriers Compliance Board, and such other officials as may be designated by the President.

"(b) DUTIES.—The Council shall—

"(1) have the responsibility for developing and implementing agreements, policies, and practices designed to maximize effort, promote efficiency, and eliminate conflict, competition, duplication, and inconsistencies among the operations, functions, and jurisdictions of the various departments, agencies, and branches of the Federal Government responsible for the implementation and enforcement of the provisions of this title, and the regulations prescribed thereunder;

"(2) be responsible for developing and implementing agreements, policies, and practices designed to coordinate operations, functions, and jurisdictions of the various departments and agencies of the Federal Government responsible for promoting the full integration into society, independence, and productivity of individuals with disabilities; and

"(3) carry out such studies and other activities, subject to the availability of resources, with advice from the National Council on Disability, in order to identify methods for overcoming barriers to integration into society, independence, and productivity of individuals with disabilities.

"(c) REPORT.—On or before July 1 of each year, the Interagency Disability Coordinating Council shall prepare and submit to the President and to the Congress a report of the activities of the Council designed to promote and meet the employment needs of individuals with disabilities, together with such recommendations for legislative and administrative changes as the Council concludes are desirable to further promote this section, along with any comments submitted by the National Council on Disability as to the effectiveness of such activities and recommendations in meeting the needs of individuals with disabilities. Nothing in this section shall impair any responsibilities assigned by any Executive order to any Federal department, agency, or instrumentality to act as a lead Federal agency with respect to any provisions of this title.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the item relating to section 507 and inserting the following item:

"Sec. 507. Interagency Disability Coordinating Council.".

SEC. 509. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

(a) GUIDELINES.—Section 508 (29 U.S.C. 794d) is amended to read as follows:

"SEC. 508. ELECTRONIC AND INFORMATION TECHNOLOGY ACCESSIBILITY GUIDELINES.

"(a) GUIDELINES.—The Secretary, through the Director of the National Institute on Disability and Rehabilitation Research, and the Administrator of the General Services Administration, in consultation with the electronics and information technology industry and the Interagency Council on Accessible Technology, shall develop and establish guidelines for Federal agencies for electronic and information technology accessibility designed to ensure, regardless of the type of medium, that individuals with disabilities can produce information and data, and have access to information and data, comparable to the information and data, and access, respectively, of individuals who are not individuals with disabilities. Such guidelines shall be revised, as necessary, to reflect technological advances or changes.

"(b) COMPLIANCE.—Each Federal agency shall comply with the guidelines established under this section.".

(b) TABLE OF CONTENTS.—The table of contents relating to the Act is amended by striking the item relating to section 508 and inserting the following:

"Sec. 508. Electronic and information technology accessibility guidelines.".

SEC. 510. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

(a) IN GENERAL.—Title V (29 U.S.C. 790 et seq.) is amended by adding at the end the following new section:

29 USC 794e.

"SEC. 509. PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.

"(a) PURPOSE.—The purpose of this section is to support a system in each State to protect the legal and human rights of individuals with disabilities who—

"(1) are ineligible for client assistance programs under section 112; and

"(2) are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

"(b) APPROPRIATIONS LESS THAN $5,500,000.—

"(1) ALLOTMENTS.—For any fiscal year in which the amount appropriated to carry out this section is less than $5,500,000, the Commissioner may make grants from such amount to eligible systems within States to plan for, develop outreach strategies for, and carry out protection and advocacy programs authorized under this section for individuals with disabilities who meet the requirements of paragraphs (1) and (2) of subsection (a).

"(2) OTHER JURISDICTIONS.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(c) APPROPRIATIONS OF $5,500,000 OR MORE.—

"(1) TECHNICAL ASSISTANCE.—For any fiscal year in which the amount appropriated to carry out this section equals or

exceeds $5,500,000, the Commissioner shall set aside not less than 1.8 percent and not more than 2.2 percent of the amount to provide training and technical assistance to the systems established under this section.

"(2) ALLOTMENTS.—For any such fiscal year, after the reservation required by paragraph (1) has been made, the Commissioner shall make allotments from the remainder of such amount in accordance with paragraph (3) to eligible systems within States to enable such systems to carry out protection and advocacy programs authorized under this section for such individuals.

"(3) SYSTEMS WITHIN STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each such fiscal year, the Commissioner shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, and except as provided in paragraph (4), the allotment to any system under subparagraph (A) shall be not less than $100,000 or one-third of one percent of the remainder for the fiscal year for which the allotment is made, whichever is greater, and the allotment to any system under this section for any fiscal year that is less than $100,000 or one-third of one percent of such remainder shall be increased to the greater of the two amounts.

"(4) SYSTEMS WITHIN OTHER JURISDICTIONS.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—The eligible system within a jurisdiction described in subparagraph (A) shall be allotted not less than $50,000 for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(5) ADJUSTMENT FOR INFLATION.—

"(A) STATES.—For purposes of determining the minimum amount of an allotment under paragraph (3)(B), the amount $100,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(B) CERTAIN TERRITORIES.—For purposes of determining the minimum amount of an allotment under paragraph (4)(B), the amount $50,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For

All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(d) PROPORTIONAL REDUCTION.—Amounts necessary to provide allotments to systems within States in accordance with subsection (c)(3)(B) as increased under subsection (c)(5), or to provide allotments in accordance with subsection (c)(4)(B) as increased in accordance with subsection (c)(5), shall be derived by proportionately reducing the allotments of the remaining systems within States under subsection (c)(3), but with such adjustments as may be necessary to prevent the allotment of any such remaining systems within States from being thereby reduced to less than the greater of $100,000 or one-third of one percent of the sums made available for purposes of this section for the fiscal year for which the allotment is made, as increased in accordance with subsection (c)(5).

"(e) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a system within a State for any fiscal year described in subsection (c)(1) will not be expended by such system in carrying out the provisions of this section, the Commissioner shall make such amount available for carrying out the provisions of this section to one or more of the systems that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

"(f) APPLICATION.—In order to receive assistance under this section, an eligible system shall submit an application to the Commissioner, at such time, in such form and manner, and containing such information and assurances as the Commissioner determines necessary to meet the requirements of this section, including assurances that the eligible system will—

"(1) have in effect a system to protect and advocate the rights of individuals with disabilities;

"(2) have the same general authorities, including access to records and program income, as are set forth in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.);

"(3) have the authority to pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are ineligible for protection and advocacy programs under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.) or client assistance programs under section 112;

"(4) provide information on and make referrals to programs and services addressing the needs of individuals with disabilities in the State;

"(5) develop a statement of objectives and priorities on an annual basis, and provide to the public, including individuals with disabilities and, as appropriate, their representatives, an opportunity to comment on the objectives and priorities established by, and activities of, the system including—

"(A) the objectives and priorities for the activities of the system for each year and the rationale for the establishment of such objectives and priorities; and

"(B) the coordination of programs provided through the system under this section with the advocacy programs of the client assistance program under section 112, the State long-term care ombudsman program established under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.);

"(6) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with disabilities are afforded equal opportunity to access the services of the system; and

"(7) provide assurances to the Commissioner that funds made available under this section will be used to supplement and not supplant the non-Federal funds that would otherwise be made available for the purpose for which Federal funds are provided.

"(g) CARRYOVER AND DIRECT PAYMENT.—

"(1) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Commissioner shall pay directly to any system that complies with the provisions of this section, the amount of the allotment of the State involved under this section, unless the State provides otherwise.

"(2) CARRYOVER.—Any amount paid to a State for a fiscal year that remains unobligated at the end of such year shall remain available to such State for obligation during the next fiscal year for the purposes for which such amount was paid.

"(h) LIMITATION ON DISCLOSURE REQUIREMENTS.—For purposes of any audit, report, or evaluation of the performance of the program established under this section, the Commissioner shall not require such a program to disclose the identity of, or any other personally identifiable information related to, any individual requesting assistance under such program.

"(i) ELIGIBILITY FOR ASSISTANCE.—As used in this section, the term 'eligible system' means a protection and advocacy system that is established under part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.) and that meets the requirements of subsection (f).

"(j) ADMINISTRATIVE COST.—An eligible system may not use more than 5 percent of any allotment under subsection (c) for the cost of administration of the system required by this section.

"(k) DELEGATION.—The Commissioner may delegate the administration of this program to the Commissioner of the Administration on Developmental Disabilities within the Department of Health and Human Services.

"(l) REPORT.—The Commissioner shall annually prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the types of services and activities being undertaken by programs funded under this section, the total number of individuals served under this section, the types of disabilities represented by such individuals, and the types of issues being addressed on behalf of such individuals.

"(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by inserting after the item relating to section 508 the following item:

"Sec. 509. Protection and advocacy of individual rights.".

TITLE VI—EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

Subtitle A—Community Service Employment Pilot Program for Individuals With Disabilities

SEC. 601. PILOT PROGRAM.

(a) DEFINITION.—Section 611(a) (29 U.S.C. 795(a)) is amended by striking "section 7(8)" and inserting "section 7(8)(A)".

(b) PERSONAL ASSISTANCE SERVICES.—Section 611(b)(1)(K) (29 U.S.C. 795(b)(1)(K)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 602. TREATMENT OF PERSONAL ASSISTANCE SERVICES COSTS.

Section 613(c) (29 U.S.C. 795b(c)) is amended by striking "attendant care" and inserting "personal assistance services".

SEC. 603. DEFINITIONS.

Section 616 (29 U.S.C. 795e) is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking "; and" at the end of paragraph (2) and inserting a period; and

(3) by striking paragraph (3).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 617 (29 U.S.C. 795f) is amended by striking "1987" and all that follows and inserting "1993 through 1997.".

Subtitle B—Projects With Industry

SEC. 611. PROJECTS WITH INDUSTRY.

(a) IN GENERAL.—Section 621(a) (29 U.S.C. 795g(a)) is amended to read as follows:

"(a)(1) The purpose of this part is to create and expand job and career opportunities for individuals with disabilities in the competitive labor market by engaging the talent and leadership of private industry as partners in the rehabilitation process, to identify competitive job and career opportunities and the skills needed to perform such jobs, to create practical job and career readiness and training programs, and to provide job placements and career advancement.

"(2) The Commissioner, in consultation with the Secretaries of Labor and Commerce and with designated State units, may award grants to individual employers, community rehabilitation program providers, labor unions, trade associations, Indian tribes, tribal organizations, designated State units, and other entities to establish jointly financed Projects With Industry to create and expand job and career opportunities for individuals with disabilities, which projects shall—

"(A) provide for the establishment of business advisory councils, which shall—

"(i) be comprised of—

"(I) representatives of private industry, business concerns, and organized labor; and

"(II) individuals with disabilities and their representatives;

"(ii) identify job and career availability within the community;

"(iii) identify the skills necessary to perform the jobs and careers identified; and

"(iv) prescribe training programs designed to develop appropriate job and career skills for individuals with disabilities;

"(B) provide individuals with disabilities with training in realistic work settings in order to prepare the individuals for employment and career advancement in the competitive market;

"(C) provide job placement and career advancement services;

"(D) to the extent appropriate, provide for—

"(i) the development and modification of jobs and careers to accommodate the special needs of such individuals;

"(ii) the distribution of rehabilitation technology to such individuals; and

"(iii) the modification of any facilities or equipment of the employer that are used primarily by individuals with disabilities; and

"(E) provide individuals with disabilities with such support services as may be required in order to maintain the employment and career advancement for which the individuals have received training under this part.

"(3) An individual shall be eligible for services described in paragraph (2) if the appropriate designated State unit determines the individual to be an individual with a disability under section 7(8)(A) or an individual with a severe disability under section 7(15)(A). In making such a determination, the unit shall rely on the determination made by the recipient of the grant under which the services are provided, to the extent appropriate and available and consistent with the requirements under this Act. If a designated State unit does not notify a recipient of a grant within 60 days that the determination of the recipient is inappropriate, the recipient of the grant may consider the individual to be eligible.

Contracts.
Grants.

"(4) The Commissioner shall enter into an agreement with the grant recipient regarding the establishment of the project. Any agreement shall be jointly developed by the Commissioner, the grant recipient, and, to the extent practicable, the appropriate designated State unit and the individuals with disabilities (or their

representatives) involved. Such agreements shall specify the terms of training and employment under the project, provide for the payment by the Commissioner of part of the costs of the project (in accordance with subsection (c)), and contain the items required under subsection (b) and such other provisions as the parties to the agreement consider to be appropriate.

"(5) Any agreement shall include a description of a plan to annually conduct a review and evaluation of the operation of the project in accordance with standards developed by the Commissioner under subsection (d), and, in conducting the review and evaluation, to collect information on—

"(A) the numbers and types of individuals with disabilities served;

"(B) the types of services provided;

"(C) the sources of funding;

"(D) the percentage of resources committed to each type of service provided;

"(E) the extent to which the employment status and earning power of individuals with disabilities changed following services;

"(F) the extent of capacity building activities, including collaboration with business and industry and other organizations, agencies, and institutions;

"(G) a comparison, if appropriate, of activities in prior years with activities in the most recent year; and

"(H) the number of project participants who were terminated from project placements and the duration of such placements.

"(6) The Commissioner may include, as part of agreements with grant recipients, authority for such grant recipients to provide technical assistance to—

"(A) assist employers in hiring individuals with disabilities; or

"(B) improve or develop relationships between—

"(i) grant recipients or prospective grant recipients; and

"(ii) employers or organized labor; or

"(C) assist employers in understanding and meeting the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) as the Act relates to employment of individuals with disabilities.".

(b) AGREEMENT.—Section 621(b) (29 U.S.C. 795g(b)) is amended to read as follows:

"(b) No payment shall be made by the Commissioner under any agreement with a grant recipient entered into under subsection (a) unless such agreement—

"(1) provides an assurance that individuals with disabilities placed under such agreement shall receive at least the applicable minimum wage;

"(2) provides an assurance that any individual with a disability placed under this part shall be afforded terms and benefits of employment equal to terms and benefits that are afforded to the similarly situated co-workers of the individual, and that such individuals with disabilities shall not be segregated from their co-workers; and

"(3) provides an assurance that an annual evaluation report containing information specified under subsection (a)(5) shall

be submitted as determined to be appropriate by the Commissioner.".

(c) EVALUATION.—Section 621(d) (29 U.S.C. 795g(d)) is amended—

(1) by striking paragraphs (1) through (3) and inserting the following:

"(1) The Commissioner shall develop standards for the evaluation described in subsection (a)(5) and shall review and revise the evaluation standards as necessary, subject to paragraphs (2) and (3).

"(2) In revising the standards for evaluation to be used by the grant recipients, the Commissioner shall obtain and consider recommendations for such standards from State vocational rehabilitation agencies, current and former grant recipients, professional organizations representing business and industry, organizations representing individuals with disabilities, individuals served by grant recipients, organizations representing community rehabilitation program providers, and labor organizations."; and

(2) by redesignating paragraph (4) as paragraph (3).

(d) ADMINISTRATION.—Subsections (e) through (h) of section 621 (29 U.S.C. 795g) are amended to read as follows:

"(e)(1)(A) A grant may be awarded under this section for a period of up to 5 years and such grant may be renewed.

"(B) Grants under this section shall be awarded on a competitive basis. To be eligible to receive such a grant, a prospective grant recipient shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(2) The Commissioner shall to the extent practicable ensure an equitable distribution of payments made under this section among the States. To the extent funds are available, the Commissioner shall award grants under this section to new projects that will serve individuals with disabilities in States, portions of States, Indian tribes, or tribal organizations, that are currently unserved or underserved by projects. Grants.

"(f)(1) The Commissioner shall, as necessary, develop and publish in the Federal Register in final form indicators of what constitutes minimum compliance consistent with the evaluation standards under subsection (d)(1). Federal Register, publication.

"(2) Each grant recipient shall report to the Commissioner at the end of each project year the extent to which the grant recipient is in compliance with the evaluation standards. Reports.

"(3)(A) The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of grant recipients. The Commissioner shall select grant recipients for review on a random basis.

"(B) The Commissioner shall use the indicators in determining compliance with the evaluation standards.

"(C) The Commissioner shall ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not an employee of the Federal Government; and

"(ii) has experience or expertise in conducting projects.

"(D) The Commissioner shall ensure that—

"(i) a representative of the appropriate designated State unit shall participate in the review; and

"(ii) no person shall participate in the review of a grant recipient if—

"(I) the grant recipient provides any direct financial benefit to the reviewer; or

"(II) participation in the review would give the appearance of a conflict of interest.

"(4) In making a determination concerning any subsequent grant under this section, the Commissioner shall consider the past performance of the applicant, if applicable. The Commissioner shall use compliance indicators developed under this subsection that are consistent with program evaluation standards developed under subsection (d) to assess minimum project performance for purposes of making continuation awards in the third, fourth, and fifth years.

"(5) Each fiscal year the Commissioner shall include in the annual report to Congress required by section 13 an analysis of the extent to which grant recipients have complied with the evaluation standards. The Commissioner may identify individual grant recipients in the analysis. In addition, the Commissioner shall report the results of on-site compliance reviews, identifying individual grant recipients.

Reports.

"(g) The Commissioner may provide, directly or by way of grant, contract, or cooperative agreement, technical assistance to—

"(1) entities conducting projects for the purpose of assisting such entities in—

"(A) the improvement of or the development of relationships with private industry or labor; or

"(B) the improvement of relationships with State vocational rehabilitation agencies; and

"(2) entities planning the development of new projects.

"(h) As used in this section:

"(1) The term 'agreement' means an agreement described in subsection (a)(4).

"(2) The term 'project' means a Project With Industry established under subsection (a)(2).

"(3) The term 'grant recipient' means a recipient of a grant under subsection (a)(2).".

(e) TECHNICAL AMENDMENT.—Section 621 (29 U.S.C. 795g) is amended by striking subsection (i).

SEC. 612. BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES.

(a) IN GENERAL.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) in the heading for part B, by striking "AND BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS";

29 USC 795h, 795r.

(2) by redesignating section 622 as section 641;

(3) by inserting section 641 (as so redesignated) after section 638; and

(4) by inserting before such section 641 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 641 (as so redesignated by subsection (a)(2) of this section) is amended—

29 USC 795r.

(1) by inserting "(a)" before "The Commissioner"; and

(2) by adding at the end the following:

Appropriation authorization.

"(b) There are authorized to be appropriated to carry out this section such sums as may be necessary for each of the 1993 through 1997 fiscal years.".

(c) TECHNICAL AMENDMENT.—The Act (29 U.S.C. 701 et seq.) is amended in the table of contents in the first section—

(1) by striking the item relating to the part heading for part B of title VI and inserting the following:

"PART B—PROJECTS WITH INDUSTRY";

(2) by striking the item relating to section 622; and

(3) by inserting after the item relating to section 638 the following:

"PART D—BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH DISABILITIES

"Sec. 641. Business opportunities for individuals with disabilities.".

SEC. 613. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VI (29 U.S.C. 795 et seq.) is amended—

(1) by redesignating section 623 as section 622; and 29 USC 795i.

(2) in section 622 (29 U.S.C. 795i) (as so redesignated by paragraph (1) of this subsection) by striking "section 621, $16,070,000" and all that follows and inserting "this part, such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by inserting after the item relating to section 621 the following:

"Sec. 622. Authorization of appropriations.".

Subtitle C—Supported Employment Services for Individuals With Severe Disabilities

SEC. 621. SUPPORTED EMPLOYMENT.

(a) PROGRAM.—Title VI is amended by striking part C (29 U.S.C. 795j et seq.) and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"SEC. 631. PURPOSE. 29 USC 795j.

"It is the purpose of this part to authorize allotments, in addition to grants for vocational rehabilitation services under title I, to assist States in developing collaborative programs with appropriate entities to provide supported employment services for individuals with the most severe disabilities who require supported employment services to enter or retain competitive employment.

"SEC. 632. ALLOTMENTS. 29 USC 795k.

"(a) IN GENERAL.—

"(1) STATES.—The Secretary shall allot the sums appropriated for each fiscal year to carry out this part among the States on the basis of relative population of each State, except that—

"(A) no State shall receive less than $250,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater; and

"(B) if the sums appropriated to carry out this part for the fiscal year exceed by $1,000,000 or more the sums appropriated to carry out this part in fiscal year 1992, no State shall receive less than $300,000, or one-third of one percent of the sums appropriated for the fiscal year for which the allotment is made, whichever is greater.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Republic of Palau, and the Commonwealth of the Northern Mariana Islands shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts appropriated for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(b) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

29 USC 795*l*.

"SEC. 633. AVAILABILITY OF SERVICES.

"Funds provided under this part may be used to provide supported employment services to individuals who are eligible under this part. Funds provided under this part, title I, or subsection (c) or (f) of section 311 may not be used to provide extended services to individuals who are eligible under this part or title I.

29 USC 795m.

"SEC. 634. ELIGIBILITY.

"An individual shall be eligible under this part to receive supported employment services authorized under this Act if—

"(1) the individual is eligible for vocational rehabilitation services;

"(2) the individual is determined to be an individual with the most severe disabilities; and

"(3) a comprehensive assessment of rehabilitation needs of the individual provided under section 102(b)(1)(A), including an evaluation of rehabilitation, career, and job needs, identifies supported employment as the appropriate rehabilitation objective for the individual.

29 USC 795n.

"SEC. 635. STATE PLAN.

"(a) STATE PLAN SUPPLEMENTS.—To be eligible for an allotment under this part, a State shall submit to the Commissioner, as part of the State plan under section 101, a State plan supplement for providing supported employment services authorized under this Act to individuals who are eligible under this Act to receive the

services. Each State shall make such annual revisions in the plan supplement as may be necessary.

"(b) CONTENTS.—Each such plan supplement shall—

"(1) designate each agency that the State designated under section 101(a)(1) as the agency to administer the program assisted under this part;

"(2) summarize the results of the comprehensive, statewide assessment conducted under section 101(a)(5), with respect to the rehabilitation and career needs of individuals with severe disabilities and the need for supported employment services, including needs related to coordination and use of information within the State relating to section 618(b)(1)(C) of the Individuals with Disabilities Education Act (20 U.S.C. 1418(b)(1)(C));

"(3) describe the quality, scope, and extent of supported employment services authorized under this Act to be provided to individuals who are eligible under this Act to receive the services and specify the goals and plans of the State with respect to the distribution of funds received under section 632;

"(4) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other State agencies and other appropriate entities to assist in the provision of supported employment services;

"(5) demonstrate evidence of the efforts of the designated State agency to identify and make arrangements (including entering into cooperative agreements) with other public or nonprofit agencies or organizations within the State, employers, natural supports, and other entities with respect to the provision of extended services;

"(6) provide assurances that—

"(A) funds made available under this part will only be used to provide supported employment services authorized under this Act to individuals who are eligible under this part to receive the services;

"(B) that the comprehensive assessments of individuals with severe disabilities conducted under section 102(b)(1)(A) and funded under title I will include consideration of supported employment as an appropriate rehabilitation objective;

"(C) an individualized written rehabilitation program, as required by section 102, will be developed and updated using funds under title I in order to—

"(i) specify the supported employment services to be provided;

"(ii) specify the expected extended services needed; and

"(iii) identify the source of extended services, which may include natural supports, or to the extent that it is not possible to identify the source of extended services at the time the individualized written rehabilitation program is developed, a statement describing the basis for concluding that there is a reasonable expectation that such sources will become available;

"(D) the State will use funds provided under this part only to supplement, and not supplant, the funds provided under title I, in providing supported employment services

specified in the individualized written rehabilitation program;

"(E) services provided under an individualized written rehabilitation program will be coordinated with services provided under other individualized plans established under other Federal or State programs;

"(F) to the extent jobs skills training is provided, the training will be provided on-site; and

"(G) supported employment services will include placement in an integrated setting for the maximum number of hours possible based on the unique strengths, resources, interests, concerns, abilities, and capabilities of individuals with the most severe disabilities;

"(7) provide assurances that the State agencies designated under paragraph (1) will expend not more than 5 percent of the allotment of the State under this part for administrative costs of carrying out this part; and

"(8) contain such other information and be submitted in such manner as the Commissioner may require.

29 USC 795o.

"SEC. 636. RESTRICTION.

"Each State agency designated under section 635(b)(1) shall collect the client information required by section 13 separately for supported employment clients under this part and for supported employment clients under title I.

29 USC 795p.

"SEC. 637. SAVINGS PROVISION.

"(a) SUPPORTED EMPLOYMENT SERVICES.—Nothing in this Act shall be construed to prohibit a State from providing supported employment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110.

"(b) POSTEMPLOYMENT SERVICES.—Nothing in this part shall be construed to prohibit a State from providing discrete postemployment services in accordance with the State plan submitted under section 101 by using funds made available through a State allotment under section 110 to an individual who is eligible under this part.

29 USC 795q.

"SEC. 638. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of fiscal years 1993 through 1997.".

(b) TABLE OF CONTENTS.—The table of contents relating to title VI is amended by striking the items relating to part C and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE DISABILITIES

"Sec. 631. Purpose.
"Sec. 632. Allotments.
"Sec. 633. Availability of services.
"Sec. 634. Eligibility.
"Sec. 635. State plan.
"Sec. 636. Restriction.
"Sec. 637. Savings provision.
"Sec. 638. Authorization of appropriations.".

TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

SEC. 701. SERVICES AND CENTERS.

The Act is amended—

(1) by striking title VII (29 U.S.C. 796 et seq.); and

(2) by adding at the end the following new title:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

"SEC. 701. PURPOSE. 29 USC 796.

"The purpose of this chapter is to promote a philosophy of independent living, including a philosophy of consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy, in order to maximize the leadership, empowerment, independence, and productivity of individuals with disabilities, and the integration and full inclusion of individuals with disabilities into the mainstream of American society, by—

"(1) providing financial assistance to States for providing, expanding, and improving the provision of independent living services;

"(2) providing financial assistance to develop and support statewide networks of centers for independent living; and

"(3) providing financial assistance to States for improving working relationships among State independent living rehabilitation service programs, centers for independent living, Statewide Independent Living Councils established under section 705, State vocational rehabilitation programs receiving assistance under title I, State programs of supported employment services receiving assistance under part C of title VI, client assistance programs receiving assistance under section 112, programs funded under other titles of this Act, programs funded under other Federal programs, and programs funded through non-Federal sources.

"SEC. 702. DEFINITIONS. 29 USC 796a.

"As used in this chapter:

"(1) CENTER FOR INDEPENDENT LIVING.—The term 'center for independent living' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency that—

"(A) is designed and operated within a local community by individuals with disabilities; and

"(B) provides an array of independent living services.

"(2) CONSUMER CONTROL.—The term 'consumer control' means, with respect to an entity, that the entity vests power and authority in individuals with disabilities.

29 USC 796b.

"SEC. 703. ELIGIBILITY FOR RECEIPT OF SERVICES.

"Services may be provided under this chapter to any individual with a severe disability, as defined in section 7(15)(B).

29 USC 796c.

"SEC. 704. STATE PLAN.

"(a) IN GENERAL.—

"(1) REQUIREMENT.—To be eligible to receive financial assistance under this chapter, a State shall submit to the Commissioner, and obtain approval of, a State plan containing such provisions as the Commissioner may require, including, at a minimum, the provisions required in this section.

"(2) JOINT DEVELOPMENT.—The plan under paragraph (1) shall be jointly developed and signed by—

"(A) the director of the designated State unit; and

"(B) the chairperson of the Statewide Independent Living Council, acting on behalf of and at the direction of the Council.

"(3) PERIODIC REVIEW AND REVISION.—The plan shall provide for the review and revision of the plan, not less than once every 3 years, to ensure the existence of appropriate planning, financial support and coordination, and other assistance to appropriately address, on a statewide and comprehensive basis, needs in the State for—

"(A) the provision of State independent living services;

"(B) the development and support of a statewide network of centers for independent living; and

"(C) working relationships between—

"(i) programs providing independent living services and independent living centers; and

"(ii) the vocational rehabilitation program established under title I, and other programs providing services for individuals with disabilities.

"(4) DATE OF SUBMISSION.—The State shall submit the plan to the Commissioner 90 days before the completion date of the preceding plan. If a State fails to submit such a plan that complies with the requirements of this section, the Commissioner may withhold financial assistance under this chapter until such time as the State submits such a plan.

"(b) STATEWIDE INDEPENDENT LIVING COUNCIL.—The plan shall provide for the establishment of a Statewide Independent Living Council in accordance with section 705.

"(c) DESIGNATION OF STATE UNIT.—The plan shall designate the designated State unit of such State as the agency that, on behalf of the State, shall—

"(1) receive, account for, and disburse funds received by the State under this chapter based on the plan;

"(2) provide administrative support services for programs under parts B and C;

Records.

"(3) keep such records and afford such access to such records as the Commissioner finds to be necessary with respect to the programs; and

"(4) submit such additional information or provide such assurances as the Commissioner may require with respect to the programs.

"(d) OBJECTIVES.—The plan shall—

"(1) specify the objectives to be achieved under the plan and establish timelines for the achievement of the objectives; and

"(2) explain how such objectives are consistent with and further the purpose of this chapter.

"(e) INDEPENDENT LIVING SERVICES.—The plan shall provide that the State will provide independent living services under this chapter to individuals with severe disabilities, and will provide the services to such an individual in accordance with an independent living plan mutually agreed upon by an appropriate staff member of the service provider and the individual, unless the individual signs a waiver stating that such a plan is unnecessary.

"(f) SCOPE AND ARRANGEMENTS.—The plan shall describe the extent and scope of independent living services to be provided under this chapter to meet such objectives. If the State makes arrangements, by grant or contract, for providing such services, such arrangements shall be described in the plan.

"(g) NETWORK.—The plan shall set forth a design for the establishment of a statewide network of centers for independent living that comply with the standards and assurances set forth in section 725.

"(h) CENTERS.—In States in which State funding for centers for independent living equals or exceeds the amount of funds allotted to the State under part C, as provided in section 723, the plan shall include policies, practices, and procedures governing the awarding of grants to centers for independent living and oversight of such centers consistent with section 723.

"(i) COOPERATION, COORDINATION, AND WORKING RELATIONSHIPS AMONG VARIOUS ENTITIES.—The plan shall set forth the steps that will be taken to maximize the cooperation, coordination, and working relationships among—

"(1) the independent living rehabilitation service program, the Statewide Independent Living Council, and centers for independent living; and

"(2) the designated State unit, other State agencies represented on such Council, other councils that address the needs of specific disability populations and issues, and other public and private entities determined to be appropriate by the Council.

"(j) COORDINATION OF SERVICES.—The plan shall describe how services funded under this chapter will be coordinated with, and complement, other services, in order to avoid unnecessary duplication with other Federal, State, and local programs.

"(k) COORDINATION BETWEEN FEDERAL AND STATE SOURCES.—The plan shall describe efforts to coordinate Federal and State funding for centers for independent living and independent living services.

"(l) OUTREACH.—With respect to services and centers funded under this chapter, the plan shall set forth steps to be taken regarding outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

"(m) REQUIREMENTS.—The plan shall provide satisfactory assurances that all recipients of financial assistance under this chapter will—

"(1) notify all individuals seeking or receiving services under this chapter about the availability of the client assistance program under section 112, the purposes of the services provided under such program, and how to contact such program;

"(2) take affirmative action to employ and advance in employment qualified individuals with disabilities on the same terms and conditions required with respect to the employment of such individuals under the provisions of section 503;

"(3) adopt such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of and accounting for funds paid to the State under this chapter;

Records. "(4)(A) maintain records that fully disclose—

"(i) the amount and disposition by such recipient of the proceeds of such financial assistance;

"(ii) the total cost of the project or undertaking in connection with which such financial assistance is given or used; and

"(iii) the amount of that portion of the cost of the project or undertaking supplied by other sources;

Records. "(B) maintain such other records as the Commissioner determines to be appropriate to facilitate an effective audit;

"(C) afford such access to records maintained under subparagraphs (A) and (B) as the Commissioner determines to be appropriate; and

Reports. "(D) submit such reports with respect to such records as the Commissioner determines to be appropriate;

"(5) provide access to the Commissioner and the Comptroller General or any of their duly authorized representatives, for the purpose of conducting audits and examinations, of any books, documents, papers, and records of the recipients that are pertinent to the financial assistance received under this chapter; and

"(6) provide for public hearings regarding the contents of the plan during both the formulation and review of the plan.

"(n) EVALUATION.—The plan shall establish a method for the periodic evaluation of the effectiveness of the plan in meeting the objectives established in subsection (d), including evaluation of satisfaction by individuals with disabilities.

29 USC 796d. **"SEC. 705. STATEWIDE INDEPENDENT LIVING COUNCIL.**

"(a) ESTABLISHMENT.—To be eligible to receive financial assistance under this chapter, each State shall establish a Statewide Independent Living Council (referred to in this section as the 'Council'). The Council shall not be established as an entity within another State agency.

"(b) COMPOSITION AND APPOINTMENT.—

"(1) APPOINTMENT.—Members of the Council shall be appointed by the Governor or the appropriate entity within the State responsible for making appointments, within 90 days after the date of enactment of the Rehabilitation Act Amendments of 1992. The appointing authority shall select members after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities and organizations interested in individuals with disabilities.

"(2) COMPOSITION.—The Council shall include—

"(A) at least one director of a center for independent living chosen by the directors of centers for independent living within the State; and

"(B) as ex officio, nonvoting members—

"(i) a representative from the designated State unit; and

"(ii) representatives from other State agencies that provide services for individuals with disabilities.

"(3) ADDITIONAL MEMBERS.—The Council may include—

"(A) other representatives from centers for independent living;

"(B) parents and guardians of individuals with disabilities;

"(C) advocates of and for individuals with disabilities;

"(D) representatives from private businesses;

"(E) representatives from organizations that provide services for individuals with disabilities; and

"(F) other appropriate individuals.

"(4) QUALIFICATIONS.—The Council shall be composed of members—

"(A) who provide statewide representation;

"(B) who represent a broad range of individuals with disabilities;

"(C) who are knowledgeable about centers for independent living and independent living services; and

"(D) a majority of whom are persons who are—

"(i) individuals with disabilities described in section 7(8)(B); and

"(ii) not employed by any State agency or center for independent living.

"(5) CHAIRPERSON.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Council shall select a chairperson from among the membership of the Council.

"(B) DESIGNATION BY GOVERNOR.—In States in which the Governor does not have veto power pursuant to State law, the Governor shall designate a member of the Council to serve as the chairperson of the Council or shall require the Council to so designate such a member.

"(6) TERMS OF APPOINTMENT.—

"(A) LENGTH OF TERM.—Each member of the Council shall serve for a term of 3 years, except that—

"(i) a member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed, shall be appointed for the remainder of such term; and

"(ii) the terms of service of the members initially appointed shall be (as specified by the appointing authority) for such fewer number of years as will provide for the expiration of terms on a staggered basis.

"(B) NUMBER OF TERMS.—No member of the Council may serve more than two consecutive full terms.

"(7) VACANCIES.—Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

"(c) DUTIES.—The Council shall—

"(1) jointly develop and submit (in conjunction with the designated State agency) the State plan required in section 704;

"(2) monitor, review, and evaluate the implementation of the State plan;

"(3) coordinate activities with the State Rehabilitation Advisory Council established under section 105 and councils that address the needs of specific disability populations and issues under other Federal law;

"(4) ensure that all regularly scheduled meetings of the Council are open to the public and sufficient advance notice is provided; and

Reports. Records.

"(5) submit to the Commissioner such periodic reports as the Commissioner may reasonably request, and keep such records, and afford such access to such records, as the Commissioner finds necessary to verify such reports.

"(d) HEARINGS AND FORUMS.—The Council is authorized to hold such hearings and forums as the Council may determine to be necessary to carry out the duties of the Council.

"(e) PLAN.—

"(1) IN GENERAL.—The Council shall prepare, in conjunction with the designated State unit, a plan for the provision of such resources, including such staff and personnel, as may be necessary to carry out the functions of the Council under this section, with funds made available under this chapter and part C of title I and from other public and private sources. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

"(2) SUPERVISION AND EVALUATION.—Each Council shall, consistent with State law, supervise and evaluate such staff and other personnel as may be necessary to carry out the functions of the Council under this section.

"(3) CONFLICT OF INTEREST.—While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the designated State agency or any other agency or office of the State, that would create a conflict of interest.

"(f) COMPENSATION AND EXPENSES.—The Council may use such resources to reimburse members of the Council for reasonable and necessary expenses of attending Council meetings and performing Council duties (including child care and personal assistance services), and to pay compensation to a member of the Council, if such member is not employed or must forfeit wages from other employment, for each day the member is engaged in performing Council duties.

"(g) USE OF EXISTING COUNCILS.—To the extent that a State has established a Council before September 30, 1992, that is comparable to the Council described in this section, such Council shall be considered to be in compliance with this section. Within 1 year after the date of enactment of the Rehabilitation Act Amendments of 1992, such State shall establish a Council that complies in full with this section.

29 USC 796d-1.

"SEC. 706. RESPONSIBILITIES OF THE COMMISSIONER.

"(a) APPROVAL OF STATE PLANS.—

"(1) IN GENERAL.—The Commissioner shall approve any State plan submitted under section 704 that the Commissioner determines meets the requirements of section 704, and shall disapprove any such plan that does not meet such requirements, as soon as practicable after receiving the plan. Prior to such disapproval, the Commissioner shall notify the State of the intention to disapprove the plan, and shall afford such State reasonable notice and opportunity for a hearing.

"(2) PROCEDURES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the provisions of subsections (c) and (d) of section 107 shall apply to any State plan submitted to the Commissioner under section 704.

"(B) APPLICATION.—For purposes of the application described in subparagraph (A), all references in such provisions—

"(i) to the Secretary shall be deemed to be references to the Commissioner; and

"(ii) to section 101 shall be deemed to be references to section 704.

"(b) INDICATORS.—Not later than October 1, 1993, the Commissioner shall develop and publish in the Federal Register indicators of minimum compliance consistent with the standards set forth in section 725. Federal Register, publication.

"(c) ON-SITE COMPLIANCE REVIEWS.—

"(1) REVIEWS.—The Commissioner shall annually conduct on-site compliance reviews of at least 15 percent of the centers for independent living that receive funds under part C and shall periodically conduct such a review of each such center. The Commissioner shall select such centers for review on a random basis.

"(2) QUALIFICATIONS OF EMPLOYEES CONDUCTING REVIEWS.—The Commissioner shall—

"(A) to the maximum extent practicable, carry out such a review by using employees of the Department who are knowledgeable about the provision of independent living services;

"(B) ensure that the employee of the Department with responsibility for supervising such a review shall have such knowledge; and

"(C) ensure that at least one member of a team conducting such a review shall be an individual who—

"(i) is not a government employee; and

"(ii) has experience in the operation of centers for independent living.

"(d) REPORTS.—The Commissioner shall include, in the annual report required under section 13, information on the extent to which centers for independent living receiving funds under part C have complied with the standards and assurances set forth in section 725. The Commissioner may identify individual centers for independent living in the analysis. The Commissioner shall report the results of on-site compliance reviews, identifying individual centers for independent living and other recipients of assistance under this chapter. Reports.

"PART B—INDEPENDENT LIVING SERVICES

29 USC 796e.

"SEC. 711. ALLOTMENTS.

"(a) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C), from sums appropriated for each fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such sums as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of an allotment made to the State for fiscal year 1992 under part A of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part, and except as provided in subparagraph (B), the allotment to any State under subparagraph (A) shall be not less than $275,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $275,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts.

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the amounts made available for purposes of this part for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For purposes of determining the minimum amount of an allotment under paragraph (1)(C), the amount $275,000 shall, in the case of such allotments for fiscal year 1994 and subsequent fiscal years, be increased to the extent necessary to offset the effects of inflation occurring since October 1992, as measured by the percentage increase in the Consumer Price Index For All Urban Consumers (U.S. city average) during the period ending on April 1 of the fiscal year preceding the fiscal year for which the allotment is to be made.

"(b) PROPORTIONAL REDUCTION.—Subject to subsection (a)(1)(B), amounts necessary to provide allotments to States in accordance with subsection (a)(1)(B), or in accordance with subsection (a)(1)(C) as increased under subsection (a)(3), or to provide allotments under subsection (a)(2)(B), shall be derived by proportionately reducing

the allotments of the remaining States under subsection (a)(1), but with such adjustments as may be necessary to prevent the allotment of any such remaining States from being thereby reduced to less than the greater of $275,000 or one-third of one percent of the sums made available for purposes of this part for the fiscal year for which the allotment is made, as increased in accordance with subsection (a)(3).

"(c) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State in carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"SEC. 712. PAYMENTS TO STATES FROM ALLOTMENTS. 29 USC 796e-1.

"(a) PAYMENTS.—From the allotment of each State for a fiscal year under section 711, the State shall be paid the Federal share of the expenditures incurred during such year under its State plan approved under section 706. Such payments may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments and on such conditions as the Commissioner may determine.

"(b) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share with respect to any State for any fiscal year shall be 90 percent of the expenditures incurred by the State during such year under its State plan approved under section 706.

"(2) NON-FEDERAL SHARE.—The non-Federal share of the cost of any project that receives assistance through an allotment under this part may be provided in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(3) DETERMINATION.—For the purpose of determining the Federal share with respect to any State, expenditures by a political subdivision of such State shall, subject to regulations prescribed by the Commissioner, be regarded as expenditures by such State. Regulations.

"SEC. 713. AUTHORIZED USES OF FUNDS. 29 USC 796e-2.

"The State may use funds received under this part to provide the resources described in section 705(e), relating to the Statewide Independent Living Council, and may use funds received under this part—

"(1) to provide independent living services to individuals with severe disabilities;

"(2) to demonstrate ways to expand and improve independent living services;

"(3) to support the operation of centers for independent living;

"(4) to support activities to increase the capacities of public or nonprofit agencies and organizations and other entities to

develop comprehensive approaches or systems for providing independent living services;

"(5) to conduct studies and analyses, gather information, develop model policies and procedures, and present information, approaches, strategies, findings, conclusions, and recommendations to Federal, State, and local policymakers in order to enhance independent living services for individuals with disabilities;

"(6) to train individuals with disabilities and individuals providing services to individuals with disabilities and other persons regarding the independent living philosophy; and

"(7) to provide outreach to populations that are unserved or underserved by programs under this title, including minority groups and urban and rural populations.

29 USC 796e-3.

"SEC. 714. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.

"PART C—CENTERS FOR INDEPENDENT LIVING

29 USC 796f.

"SEC. 721. PROGRAM AUTHORIZATION.

"(a) IN GENERAL.—From the funds appropriated for fiscal year 1994 and for each subsequent fiscal year to carry out this part, the Commissioner shall allot such sums as may be necessary to States and other entities in accordance with subsections (b) through (d).

"(b) TRAINING.—

"(1) GRANTS; CONTRACTS; OTHER ARRANGEMENTS.—For any fiscal year in which the funds appropriated to carry out this part exceed the funds appropriated to carry out this part for fiscal year 1993, the Commissioner shall first reserve from such excess, to provide training and technical assistance for such fiscal year, not less than 1.8 percent, and not more than 2 percent, of such funds.

Grants.
Contracts.

"(2) ALLOCATION.—From the funds reserved under paragraph (1), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living to provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living.

"(3) FUNDING PRIORITIES.—The Commissioner shall conduct a survey of Statewide Independent Living Councils and centers for independent living regarding training and technical assistance needs in order to determine funding priorities for such grants, contracts, and other arrangements.

"(4) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this subsection, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training and technical assistance, and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of grant applications by panels that include persons who are not govern-

ment employees and who have experience in the operation of centers for independent living.

"(5) PROHIBITION ON COMBINED FUNDS.—No funds reserved by the Commissioner under this subsection may be combined with funds appropriated under any other Act or part of this Act if the purpose of combining funds is to make a single discretionary grant or a single discretionary payment, unless such funds appropriated under this chapter are separately identified in such grant or payment and are used for the purposes of this chapter.

"(c) IN GENERAL.—

"(1) STATES.—

"(A) POPULATION BASIS.—Except as provided in subparagraphs (B) and (C) and after the reservation required by subsection (b) has been made, from the remainder of the amounts appropriated for each such fiscal year to carry out this part, the Commissioner shall make an allotment to each State whose State plan has been approved under section 706 of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

"(B) MAINTENANCE OF 1992 AMOUNTS.—Subject to the availability of appropriations to carry out this part, the amount of any allotment made under subparagraph (A) to a State for a fiscal year shall not be less than the amount of financial assistance received by centers for independent living in the State for fiscal year 1992 under part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992.

"(C) MINIMUMS.—Subject to the availability of appropriations to carry out this part and except as provided in subparagraph (B), for a fiscal year in which the amounts appropriated to carry out this part exceed the amounts appropriated for fiscal year 1992 to carry out part B of this title, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992—

"(i) if such excess is not less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $450,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $450,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts;

"(ii) if such excess is not less than $4,000,000 and is less than $8,000,000, the allotment to any State under subparagraph (A) shall be not less than $400,000 or one-third of one percent of the sums made available for the fiscal year for which the allotment is made, whichever is greater, and the allotment of any State under this section for any fiscal year that is less than $400,000 or one-third of one percent of such sums shall be increased to the greater of the two amounts; and

"(iii) if such excess is less than $4,000,000, the allotment to any State under subparagraph (A) shall approach, as nearly as possible, the greater of the two amounts described in clause (ii).

"(2) CERTAIN TERRITORIES.—

"(A) IN GENERAL.—For the purposes of this subsection, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau shall not be considered to be States.

"(B) ALLOTMENT.—Each jurisdiction described in subparagraph (A) shall be allotted not less than one-eighth of one percent of the remainder for the fiscal year for which the allotment is made, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 1994, in which the total amount appropriated to carry out this part exceeds the total amount appropriated to carry out this part for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index For All Urban Consumers published by the Secretary of Labor under section 100(c)(1), the Commissioner shall increase the minimum allotment under paragraph (1)(C) by such percentage change in the Consumer Price Index For All Urban Consumers.

"(d) REALLOTMENT.—Whenever the Commissioner determines that any amount of an allotment to a State for any fiscal year will not be expended by such State for carrying out the provisions of this part, the Commissioner shall make such amount available for carrying out the provisions of this part to one or more of the States that the Commissioner determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a State for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the State (as determined under the preceding provisions of this section) for such year.

"(e) TRANSITION RULES.—

"(1) RESERVATION.—

"(A) FISCAL YEAR 1993.—For fiscal year 1993, the Commissioner shall first reserve from the funds appropriated to carry out this part, not less than 1.8 percent, and not more than 2 percent, of such funds, whichever is greater, for training, technical assistance, and transition assistance, to centers for independent living.

Grants.
Contracts.

"(B) TRAINING AND TECHNICAL ASSISTANCE.—From the funds reserved under subparagraph (A), the Commissioner shall make grants to, and enter into contracts and other arrangements with, entities who have experience in the operation of centers for independent living, to—

"(i) provide such training and technical assistance with respect to planning, developing, conducting, administering, and evaluating centers for independent living; and

"(ii) provide such transition assistance to assist the centers with efforts to achieve compliance with the standards and assurances set forth in this part.

"(C) REVIEW.—To be eligible to receive a grant or enter into a contract or other arrangement under this paragraph, such an entity shall submit an application to the Commissioner at such time, in such manner, and containing a proposal to provide such training, technical assistance, and transition assistance and containing such additional information as the Commissioner may require. The Commissioner shall provide for peer review of such proposals by panels that include persons who are not government employees and who have experience in the operation of centers for independent living.

"(D) PROHIBITION ON COMBINED FUNDS.—An entity that receives funds under this paragraph shall comply with subsection (b)(5) with respect to the funds.

"(2) IN GENERAL.—

"(A) GRANTS.—After the reservation required by paragraph (1) has been made, and from the remainder of the funds appropriated for fiscal year 1993 to carry out this part, the Secretary is authorized to make grants to eligible agencies described in subparagraph (B) to operate centers for independent living.

"(B) AGENCIES.—

"(i) FISCAL YEAR 1992 RECIPIENTS.—Private nonprofit agencies that received funding directly or through subgrants or contracts under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 shall receive assistance under this part for fiscal year 1993 if the agencies submit applications that demonstrate to the satisfaction of the Commissioner that as of October 1, 1993, such agencies will meet the standards described in section 725(b) and that contain the assurances described in section 725(c). In determining whether a center meets the standards described in section 725(b), the Commissioner will look for information that shows how the center will meet each standard. The Commissioner shall consider any data on past performance that is provided by the agency that shows how the center has been meeting the standards.

"(ii) OTHER AGENCIES.—Private nonprofit agencies that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992, in fiscal year 1992 may receive assistance under this part for fiscal year 1993 if the agencies submit satisfactory applications for fiscal year 1993. In determining whether an application is satisfactory, the Secretary shall use the criteria for selection of centers specified in section 722(d)(2)(B).

"(C) PRIORITY.—The Secretary may not award funds to a private nonprofit agency that did not receive assistance under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of

1992, in fiscal year 1992 until the Secretary has funded all agencies within each State that received such funding and have submitted applications described in subparagraph (B)(i) for fiscal year 1993.

29 USC 796f-1.

"SEC. 722. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH FEDERAL FUNDING EXCEEDS STATE FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—Unless the director of a designated State unit awards grants under section 723 to eligible agencies in a State for a fiscal year, the Commissioner shall award grants under this section to such eligible agencies for such fiscal year from the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(2) GRANTS.—The Commissioner shall award such grants, from the amount of funds so allotted, to such eligible agencies for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the Commissioner may make a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the Commissioner to be able to plan, conduct, administer, and evaluate a center for independent living consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the Commissioner shall award grants to any eligible agency that is receiving funds under this part on September 30, 1993, unless the Commissioner makes a finding that the agency involved fails to meet program and fiscal standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or a region is underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the Commissioner may award a grant under this section to the most qualified applicant, consistent with the provisions in the State plan setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among applicants for a grant under this section for a new center for independent living, the Commissioner—

"(A) shall consider comments regarding the application, if any, by the Statewide Independent Living Council in the State in which the applicant is located;

"(B) shall consider the ability of each such applicant to operate a center for independent living based on—

"(i) evidence of the need for such a center;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for satisfying or demonstrated success in satisfying the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel and the involvement of individuals with severe disabilities;

"(v) budgets and cost-effectiveness;

"(vi) an evaluation plan; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) shall give priority to applications from applicants proposing to serve geographic areas within each State that are currently unserved or underserved by independent living programs, consistent with the provisions of the State plan submitted under section 704 regarding establishment of a statewide network of centers for independent living.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—The Commissioner shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The Commissioner shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The Commissioner shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The Commissioner shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The Commissioner shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the Commissioner determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the Commissioner shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The Commissioner shall terminate all funds under this section to such center 90 days after the date of such notification unless the center submits a plan

to achieve compliance within 90 days of such notification and such plan is approved by the Commissioner.

29 USC 796f-2.

"SEC. 723. GRANTS TO CENTERS FOR INDEPENDENT LIVING IN STATES IN WHICH STATE FUNDING EQUALS OR EXCEEDS FEDERAL FUNDING.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—

"(A) INITIAL YEAR.—

"(i) DETERMINATION.—Beginning on October 1, 1993, the director of a designated State unit, as provided in paragraph (2), or the Commissioner, as provided in paragraph (3), shall award grants under this section for an initial fiscal year if the Commissioner determines that the amount of State funds that were earmarked by a State for a preceding fiscal year to support the general operation of centers for independent living meeting the requirements of this part equaled or exceeded the amount of funds allotted to the State under subsection (c) or (d) of section 721 for such year.

"(ii) GRANTS.—The director or the Commissioner, as appropriate, shall award such grants, from the amount of funds so allotted for the initial fiscal year, to eligible agencies in the State for the planning, conduct, administration, and evaluation of centers for independent living that comply with the standards and assurances set forth in section 725.

"(iii) REGULATION.—The Commissioner shall by regulation specify the preceding fiscal year with respect to which the Commissioner will make the determinations described in clause (i) and subparagraph (B).

"(B) SUBSEQUENT YEARS.—For each year subsequent to the initial fiscal year described in subparagraph (A), the director of the designated State unit shall continue to have the authority to award such grants under this section if the Commissioner determines that the State continues to earmark the amount of State funds described in subparagraph (A)(i). If the State does not continue to earmark such an amount for a fiscal year, the State shall be ineligible to make grants under this section after a final year following such fiscal year, as defined in accordance with regulations established by the Commissioner, and for each subsequent fiscal year.

"(2) GRANTS BY DESIGNATED STATE UNITS.—In order for the designated State unit to be eligible to award the grants described in paragraph (1) and carry out this section for a fiscal year with respect to a State, the designated State agency shall submit an application to the Commissioner at such time, and in such manner as the Commissioner may require, including information about the amount of State funds described in paragraph (1) for the preceding fiscal year. If the Commissioner makes a determination described in subparagraph (A)(i) or (B), as appropriate, of paragraph (1), the Commissioner shall approve the application and designate the director of the designated State unit to award the grant and carry out this section.

"(3) GRANTS BY COMMISSIONER.—If the designated State agency of a State described in paragraph (1) does not submit and obtain approval of an application under paragraph (2), the Commissioner shall award the grant described in paragraph (1) to the State in accordance with section 722.

"(b) ELIGIBLE AGENCIES.—In any State in which the Commissioner has approved the State plan required by section 704, the director of the designated State unit may award a grant under this section to any eligible agency that—

"(1) has the power and authority to carry out the purpose of this part and perform the functions set forth in section 725 within a community and to receive and administer funds under this part, funds and contributions from private or public sources that may be used in support of a center for independent living, and funds from other public and private programs;

"(2) is determined by the director to be able to plan, conduct, administer, and evaluate a center for independent living, consistent with the standards and assurances set forth in section 725; and

"(3) submits an application to the director at such time, in such manner, and containing such information as the head of the designated State unit may require.

"(c) EXISTING ELIGIBLE AGENCIES.—In the administration of the provisions of this section, the director of the designated State unit shall award grants under this section to any eligible agency that is receiving funds under this part on September 30, 1993, unless the director makes a finding that the agency involved fails to comply with the standards and assurances set forth in section 725.

"(d) NEW CENTERS FOR INDEPENDENT LIVING.—

"(1) IN GENERAL.—If there is no center for independent living serving a region of the State or the region is unserved or underserved, and the increase in the allotment of the State is sufficient to support an additional center for independent living in the State, the director of the designated State unit may award a grant under this section from among eligible agencies, consistent with the provisions of the State plan under section 704 setting forth the design of the State for establishing a statewide network of centers for independent living.

"(2) SELECTION.—In selecting from among eligible agencies in awarding a grant under this part for a new center for independent living—

"(A) the director of the designated State unit and the chairperson of, or other individual designated by, the Statewide Independent Living Council acting on behalf of and at the direction of the Council, shall jointly appoint a peer review committee that shall rank applications in accordance with the standards and assurances set forth in section 725 and criteria jointly established by such director and such chairperson or individual;

"(B) the peer review committee shall consider the ability of each such applicant to operate a center for independent living, and shall recommend an applicant to receive a grant under this section, based on—

"(i) evidence of the need for a center for independent living, consistent with the State plan;

"(ii) any past performance of such applicant in providing services comparable to independent living services;

"(iii) the plan for complying with, or demonstrated success in complying with, the standards and the assurances set forth in section 725;

"(iv) the quality of key personnel of the applicant and the involvement of individuals with severe disabilities by the applicant;

"(v) the budgets and cost-effectiveness of the applicant;

"(vi) the evaluation plan of the applicant; and

"(vii) the ability of such applicant to carry out the plans; and

"(C) the director of the designated State unit shall award the grant on the basis of the recommendations of the peer review committee if the actions of the committee are consistent with Federal and State law.

"(3) CURRENT CENTERS.—Notwithstanding paragraphs (1) and (2), a center for independent living that receives assistance under part B (or part A as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992) for a fiscal year for the general operation of the center shall be eligible for a grant for the subsequent fiscal year under this subsection.

"(e) ORDER OF PRIORITIES.—Unless the director of the designated State unit and the chairperson of the Council or other individual designated by the Council acting on behalf of and at the direction of the Council jointly agree on another order of priority, the director shall be guided by the following order of priorities in allocating funds among centers for independent living within a State, to the extent funds are available:

"(1) The director of the designated State unit shall support existing centers for independent living, as described in subsection (c), that comply with the standards and assurances set forth in section 725, at the level of funding for the previous year.

"(2) The director of the designated State unit shall provide for a cost-of-living increase for such existing centers for independent living.

"(3) The director of the designated State unit shall fund new centers for independent living, as described in subsection (d), that comply with the standards and assurances set forth in section 725.

"(f) REVIEW.—

"(1) IN GENERAL.—The director of the designated State unit shall periodically review each center receiving funds under this section to determine whether such center is in compliance with the standards and assurances set forth in section 725. If the director of the designated State unit determines that any center receiving funds under this section is not in compliance with the standards and assurances set forth in section 725, the director of the designated State unit shall immediately notify such center that it is out of compliance.

"(2) ENFORCEMENT.—The director of the designated State unit shall terminate all funds under this section to such center 90 days after—

"(A) the date of such notification; or

"(B) in the case of a center that requests an appeal under subsection (h), the date of any final decision under subsection (h),

unless the center submits a plan to achieve compliance within 90 days and such plan is approved by the director, or if appealed, by the Commissioner.

"(g) ON-SITE COMPLIANCE REVIEW.—The director of the designated State unit shall conduct on-site compliance review of centers for independent living. Each team that conducts on-site compliance review of centers for independent living shall include at least one person who is not an employee of the designated State agency, who has experience in the operation of centers for independent living, and who is jointly selected by the director of the designated State unit and the chairperson of or other individual designated by the Council acting on behalf of and at the direction of the Council. A copy of this review shall be provided to the Commissioner.

"(h) ADVERSE ACTIONS.—If the director of the designated State unit proposes to take a significant adverse action against a center for independent living, the center may seek mediation and conciliation to be provided by an individual or individuals who are free of conflicts of interest identified by the chairperson of or other individual designated by the Council. If the issue is not resolved through the mediation and conciliation, the center may appeal the proposed adverse action to the Commissioner for a final decision.

"SEC. 724. CENTERS OPERATED BY STATE AGENCIES. 29 USC 796f-3.

"(a) FISCAL YEAR 1993.—

"(1) IN GENERAL.—Notwithstanding section 702(1), if—

"(A) no nonprofit private agency—

"(i) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(ii) obtains approval of the application under section 722 or 723; and

"(B) a State directly operated such a center in fiscal year 1992 with funds provided under part B, as in effect on the day before the date of enactment of the Rehabilitation Act Amendments of 1992,

the State may apply to the Commissioner for assistance under section 721(e)(2) for the conduct, administration, and evaluation of such a center.

"(2) COMPLIANCE.—A State that receives assistance with respect to a center in accordance with paragraph (1) shall ensure that the center shall comply with all of the requirements of this part, other than the requirement that the center be a private nonprofit agency.

"(b) FISCAL YEAR 1994 AND SUCCEEDING FISCAL YEARS.—A State that receives assistance for fiscal year 1993 with respect to a center in accordance with subsection (a) may continue to receive assistance under this part for fiscal year 1994 or a succeeding fiscal year if, for such fiscal year—

"(1) no nonprofit private agency—

"(A) submits an acceptable application to operate a center for independent living for fiscal year 1993 before a date specified by the Commissioner; and

"(B) obtains approval of the application under section 722 or 723; or

"(2) after funding all applications so submitted and approved, the Commissioner determines that funds remain available to provide such assistance.

29 USC 796f-4.

"SEC. 725. STANDARDS AND ASSURANCES FOR CENTERS FOR INDEPENDENT LIVING.

"(a) IN GENERAL.—Each center for independent living that receives assistance under this part shall comply with the standards set out in subsection (b) and provide and comply with the assurances set out in subsection (c) in order to ensure that all programs and activities under this part are planned, conducted, administered, and evaluated in a manner consistent with the purposes of this chapter and the objective of providing assistance effectively and efficiently.

"(b) STANDARDS.—

"(1) PHILOSOPHY.—The center shall promote and practice the independent living philosophy of—

"(A) consumer control of the center regarding decision-making, service delivery, management, and establishment of the policy and direction of the center;

"(B) self-help and self-advocacy;

"(C) development of peer relationships and peer role models; and

"(D) equal access of individuals with severe disabilities to society and to all services, programs, activities, resources, and facilities, whether public or private and regardless of the funding source.

"(2) PROVISION OF SERVICES.—The center shall provide services to individuals with a range of severe disabilities. The center shall provide services on a cross-disability basis (for individuals with all different types of severe disabilities, including individuals with disabilities who are members of populations that are unserved or underserved by programs under this Act). Eligibility for services at any center for independent living shall not be based on the presence of any one or more specific severe disabilities.

"(3) INDEPENDENT LIVING GOALS.—The center shall facilitate the development and achievement of independent living goals selected by individuals with severe disabilities who seek such assistance by the center.

"(4) COMMUNITY OPTIONS.—The center shall work to increase the availability and improve the quality of community options for independent living in order to facilitate the development and achievement of independent living goals by individuals with severe disabilities.

"(5) INDEPENDENT LIVING CORE SERVICES.—The center shall provide independent living core services and, as appropriate, a combination of any other independent living services specified in section 7(30)(B).

"(6) ACTIVITIES TO INCREASE COMMUNITY CAPACITY.—The center shall conduct activities to increase the capacity of communities within the service area of the center to meet the needs of individuals with severe disabilities.

"(7) RESOURCE DEVELOPMENT ACTIVITIES.—The center shall conduct resource development activities to obtain funding from sources other than this chapter.

"(c) ASSURANCES.—The eligible agency shall provide at such time and in such manner as the Commissioner may require, such satisfactory assurances as the Commissioner may require, including satisfactory assurances that—

"(1) the applicant is an eligible agency;

"(2) the center will be designed and operated within local communities by individuals with disabilities, including an assurance that the center will have a Board that is the principal governing body of the center and a majority of which shall be composed of individuals with severe disabilities;

"(3) the applicant will comply with the standards set forth in subsection (b);

"(4) the applicant will establish clear priorities through annual and 3-year program and financial planning objectives for the center, including overall goals or a mission for the center, a work plan for achieving the goals or mission, specific objectives, service priorities, and types of services to be provided, and a description that shall demonstrate how the proposed activities of the applicant are consistent with the most recent 3-year State plan under section 704;

"(5) the applicant will use sound organizational and personnel assignment practices, including taking affirmative action to employ and advance in employment qualified individuals with severe disabilities on the same terms and conditions required with respect to the employment of individuals with disabilities under section 503;

"(6) the applicant will ensure that the majority of the staff, and individuals in decisionmaking positions, of the applicant are individuals with disabilities;

"(7) the applicant will practice sound fiscal management, including making arrangements for an annual independent fiscal audit;

"(8) the applicant will conduct annual self-evaluations, prepare an annual report, and maintain records adequate to measure performance with respect to the standards, containing information regarding, at a minimum—

"(A) the extent to which the center is in compliance with the standards;

"(B) the number and types of individuals with severe disabilities receiving services through the center;

"(C) the types of services provided through the center and the number of individuals with severe disabilities receiving each type of service;

"(D) the sources and amounts of funding for the operation of the center;

"(E) the number of individuals with severe disabilities who are employed by, and the number who are in management and decisionmaking positions in, the center; and

"(F) a comparison, when appropriate, of the activities of the center in prior years with the activities of the center in the most recent year;

"(9) individuals with severe disabilities who are seeking or receiving services at the center will be notified by the center

of the existence of, the availability of, and how to contact, the client assistance program;

"(10) aggressive outreach regarding services provided through the center will be conducted in an effort to reach populations of individuals with severe disabilities that are unserved or underserved by programs under this title, especially minority groups and urban and rural populations;

"(11) staff at centers for independent living will receive training on how to serve such unserved and underserved populations, including minority groups and urban and rural populations;

"(12) the center will submit to the Statewide Independent Living Council a copy of its approved grant application and the annual report required under paragraph (8);

Reports.

"(13) the center will prepare and submit a report to the designated State unit or the Commissioner, as the case may be, at the end of each fiscal year that contains the information described in paragraph (8) and information regarding the extent to which the center is in compliance with the standards set forth in subsection (b); and

"(14) an independent living plan described in section 704(e) will be developed unless the individual who would receive services under the plan signs a waiver stating that such a plan is unnecessary.

29 USC 796f-5.

"SEC. 726. DEFINITIONS.

"As used in this part, the term 'eligible agency' means a consumer-controlled, community-based, cross-disability, nonresidential private nonprofit agency.

29 USC 796f-6.

"SEC. 727. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part such sums as may be necessary for each of the fiscal years 1993, 1994, 1995, 1996, and 1997.".

29 USC 796 note.

SEC. 702. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsections (b) and (c), this title and the amendments made by this title shall take effect on the date of enactment of this Act.

(b) CENTERS FOR INDEPENDENT LIVING.—The provisions of part C of chapter 1 of title VII of the Rehabilitation Act of 1973 (as added by section 701 of this Act), shall not apply with respect to fiscal year 1992 for programs receiving assistance under part B of such chapter, as in effect on the day before the date of enactment of this Act. The provisions of such part B shall continue to apply for such programs with respect to fiscal year 1992.

(c) STATE PLAN.—The Secretary of Education shall implement the provisions of section 704 of the Rehabilitation Act of 1973 (as amended by section 701 of this Act), as soon as is practicable after the date of enactment of this Act, consistent with the effective and efficient administration of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), but not later than October 1, 1993.

SEC. 703. INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND.

(a) SERVICES.—Title VII (29 U.S.C. 796 et seq.) is amended by adding at the end the following:

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"SEC. 751. DEFINITION. 29 USC 796j.

"For purposes of this chapter, the term 'older individual who is blind' means an individual age 55 or older whose severe visual impairment makes competitive employment extremely difficult to attain but for whom independent living goals are feasible.

"SEC. 752. PROGRAM OF GRANTS. 29 USC 796k.

"(a) IN GENERAL.—

"(1) AUTHORITY FOR GRANTS.—Subject to subsections (b) and (c), the Commissioner may make grants to States for the purpose of providing the services described in subsection (d) to older individuals who are blind.

"(2) DESIGNATED STATE UNIT.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be administered solely by the agency described in section 101(a)(1)(A)(i).

"(b) CONTINGENT COMPETITIVE GRANTS.—Beginning with fiscal year 1994, in the case of any fiscal year for which the amount appropriated under section 753 is less than $13,000,000, grants under subsection (a) shall be discretionary grants made on a competitive basis to States.

"(c) CONTINGENT FORMULA GRANTS.—

"(1) IN GENERAL.—In the case of any fiscal year for which the amount appropriated under section 753 is equal to or greater than $13,000,000, grants under subsection (a) shall be made only to States and shall be made only from allotments under paragraph (2).

"(2) ALLOTMENTS.—For grants under subsection (a) for a fiscal year described in paragraph (1), the Commissioner shall make an allotment to each State in an amount determined in accordance with subsection (j), and shall make a grant to the State of the allotment made for the State if the State submits to the Commissioner an application in accordance with subsection (i).

"(d) SERVICES GENERALLY.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for purposes of—

"(1) providing independent living services to older individuals who are blind;

"(2) conducting activities that will improve or expand services for such individuals; and

"(3) conducting activities to help improve public understanding of the problems of such individuals.

"(e) INDEPENDENT LIVING SERVICES.—Independent living services for purposes of subsection (d)(1) include—

"(1) services to help correct blindness, such as—

"(A) outreach services;

"(B) visual screening;

"(C) surgical or therapeutic treatment to prevent, correct, or modify disabling eye conditions; and

"(D) hospitalization related to such services;

"(2) the provision of eyeglasses and other visual aids;

"(3) the provision of services and equipment to assist an older individual who is blind to become more mobile and more self-sufficient;

"(4) mobility training, Braille instruction, and other services and equipment to help an older individual who is blind adjust to blindness;

"(5) guide services, reader services, and transportation;

"(6) any other appropriate service designed to assist an older individual who is blind in coping with daily living activities, including supportive services and rehabilitation teaching services;

"(7) independent living skills training, information and referral services, peer counseling, and individual advocacy training; and

"(8) other independent living services, as defined in section 7(30).

"(f) MATCHING FUNDS.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than $1 for each $9 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT CONTRIBUTED.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) CERTAIN EXPENDITURES OF GRANTS.—A State may expend a grant under subsection (a) to carry out the purposes specified in subsection (d) through grants to public and nonprofit private agencies or organizations.

"(h) REQUIREMENT REGARDING STATE PLAN.—The Commissioner may not make a grant under subsection (a) unless the State involved agrees that, in carrying out subsection (d)(1), the State will seek to incorporate into the State plan under section 704 any new methods and approaches relating to independent living services for older individuals who are blind.

"(i) APPLICATION FOR GRANT.—

"(1) IN GENERAL.—The Commissioner may not make a grant under subsection (a) unless an application for the grant is submitted to the Commissioner and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Commissioner determines to be necessary to carry out this section (including agreements, assurances, and information with respect to any grants under subsection (j)(4)).

"(2) CONTENTS.—An application for a grant under this section shall contain—

Reports.

"(A) an assurance that the designated State unit described in subsection (a)(2) will prepare and submit to the Commissioner a report, at the end of each fiscal year, with respect to each project or program the designated

State unit operates or administers under this section, whether directly or through a grant or contract, which report shall contain, at a minimum, information on—

"(i) the number and types of older individuals who are blind and are receiving services;

"(ii) the types of services provided and the number of older individuals who are blind and are receiving each type of service;

"(iii) the sources and amounts of funding for the operation of each project or program;

"(iv) the amounts and percentages of resources committed to each type of service provided;

"(v) data on actions taken to employ, and advance in employment, qualified individuals with severe disabilities, including older individuals who are blind; and

"(vi) a comparison, if appropriate, of prior year activities with the activities of the most recent year;

"(B) an assurance that the designated State unit will—

"(i) provide services that contribute to the maintenance of, or the increased independence of, older individuals who are blind; and

"(ii) engage in—

"(I) capacity-building activities, including collaboration with other agencies and organizations;

"(II) activities to promote community awareness, involvement, and assistance; and

"(III) outreach efforts; and

"(C) an assurance that the application is consistent with the State plan for providing independent living services required by section 704.

"(j) AMOUNT OF FORMULA GRANT.—

"(1) IN GENERAL.—Subject to the availability of appropriations, the amount of an allotment under subsection (a) for a State for a fiscal year shall be the greater of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) MINIMUM ALLOTMENT.—

"(A) STATES.—In the case of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is the greater of—

"(i) $225,000; and

"(ii) an amount equal to one-third of one percent of the amount appropriated under section 753 for the fiscal year and available for allotments under subsection (a).

"(B) CERTAIN TERRITORIES.—In the case of Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau, the amount referred to in subparagraph (A) of paragraph (1) for a fiscal year is $40,000, except that the Republic of Palau may receive such allotment under this section only until the Compact of Free Association with Palau takes effect.

"(3) FORMULA.—The amount referred to in subparagraph (B) of paragraph (1) for a State for a fiscal year is the product of—

"(A) the amount appropriated under section 753 and available for allotments under subsection (a); and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the number of individuals residing in the State who are not less than 55 years of age; divided by

"(ii) an amount equal to the number of individuals residing in the United States who are not less than 55 years of age.

"(4) DISPOSITION OF CERTAIN AMOUNTS.—

Handicapped.

"(A) GRANTS.—From the amounts specified in subparagraph (B), the Commissioner may make grants to States whose population of older individuals who are blind has a substantial need for the services specified in subsection (d) relative to the populations in other States of older individuals who are blind.

"(B) AMOUNTS.—The amounts referred to in subparagraph (A) are any amounts that are not paid to States under subsection (a) as a result of—

"(i) the failure of any State to submit an application under subsection (i);

"(ii) the failure of any State to prepare within a reasonable period of time such application in compliance with such subsection; or

"(iii) any State informing the Commissioner that the State does not intend to expend the full amount of the allotment made for the State under subsection (a).

"(C) CONDITIONS.—The Commissioner may not make a grant under subparagraph (A) unless the State involved agrees that the grant is subject to the same conditions as grants made under subsection (a).

29 USC 796*l*.

"SEC. 753. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter such sums as may be necessary for each of the fiscal years 1993 through 1997.".

(b) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by striking the items relating to title VII and inserting the following:

"TITLE VII—INDEPENDENT LIVING SERVICES AND CENTERS FOR INDEPENDENT LIVING

"CHAPTER 1—INDIVIDUALS WITH SEVERE DISABILITIES

"PART A—GENERAL PROVISIONS

"Sec. 701. Purpose.
"Sec. 702. Definitions.
"Sec. 703. Eligibility for receipt of services.
"Sec. 704. State plan.
"Sec. 705. Statewide Independent Living Council.
"Sec. 706. Responsibilities of the Commissioner.

"PART B—INDEPENDENT LIVING SERVICES

"Sec. 711. Allotments.
"Sec. 712. Payments to States from allotments.
"Sec. 713. Authorized uses of funds.

"Sec. 714. Authorization of appropriations.

"PART C—CENTERS FOR INDEPENDENT LIVING

"Sec. 721. Program authorization.
"Sec. 722. Grants to centers for independent living in States in which Federal funding exceeds State funding.
"Sec. 723. Grants to centers for independent living in States in which State funding equals or exceeds Federal funding.
"Sec. 724. Centers operated by State agencies.
"Sec. 725. Standards and assurances for centers for independent living.
"Sec. 726. Definitions.
"Sec. 727. Authorization of appropriations.

"CHAPTER 2—INDEPENDENT LIVING SERVICES FOR OLDER INDIVIDUALS WHO ARE BLIND

"Sec. 751. Definition.
"Sec. 752. Program of grants.
"Sec. 753. Authorization of appropriations.".

TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

SEC. 801. SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS.

(a) IN GENERAL.—The Act (29 U.S.C. 701 et seq.) is amended by adding at the end the following title:

"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

"SEC. 801. AUTHORIZATION OF APPROPRIATIONS. 29 USC 797.

"(a) DEMONSTRATION PROJECTS.—There are authorized to be appropriated to carry out section 802, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"(b) TRAINING INITIATIVES.—There are authorized to be appropriated to carry out section 803, such sums as may be necessary for each of the fiscal years 1993 through 1997.

"SEC. 802. DEMONSTRATION ACTIVITIES. 29 USC 797a.

"(a) TRANSPORTATION SERVICES GRANTS.—

"(1) GRANTS.—The Commissioner shall make grants to States and to public or nonprofit agencies and organizations for the purpose of providing transportation services to individuals with disabilities who—

"(A)(i) are employed or seeking employment; or

"(ii) are receiving vocational rehabilitation services from public or private organizations; and

"(B) reside in geographic areas in which fixed route public transportation or comparable paratransit service is not available.

"(2) USE OF GRANT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees that transportation services under this subsection will be provided on a regular and continuing basis between—

"(A) the home of the individual; and

"(B) the place of employment of the individual, the place where the individual is seeking employment, or the place where the individual is receiving vocational rehabilitation services.

"(3) CHARGES.—The Commissioner may make a grant under paragraph (1) only if the applicant involved agrees that, in providing transportation services under this subsection—

"(A) a charge for the transportation will be imposed on each employed eligible individual who uses the transportation; and

"(B) the amount of the charge for an instance of use of the transportation for the distance involved will be in a fair and reasonable amount that is consistent with fees for comparable services in comparable geographic areas.

"(4) REPORT.—The Commissioner may make a grant under this subsection only if the applicant involved agrees to prepare and submit to the Commissioner, not later than December 31 of the fiscal year following the fiscal year for which the grant is made, a report containing—

"(A) a description of the goals of the program carried out with the grant;

"(B) a description of the activities and services provided under the program;

"(C) a description of the number of eligible individuals served under the program;

"(D) a description of methods used to ensure that the program serves the eligible individuals most in need of the transportation services provided under the program; and

"(E) such additional information as the Commissioner may require.

"(5) CONSTRUCTION.—Nothing in this subsection may be construed as limiting the rights or responsibilities of any individual under any other provision of this Act, under the Americans with Disabilities Act of 1990, or under any other provision of law.

"(b) PROJECTS TO ACHIEVE HIGH QUALITY PLACEMENTS.—

Grants.

"(1) SPECIAL PROJECTS AND DEMONSTRATIONS.—The Commissioner shall make grants to public or nonprofit community rehabilitation programs, designated State units, and other public or nonprofit agencies and organizations to pay for the cost of developing special projects and demonstrations related to vocational rehabilitation outcomes. Such projects and demonstrations may include activities providing alternatives to case closure practice and identifying and implementing appropriate incentives to vocational rehabilitation counselors to achieve high quality placements for individuals with the most severe disabilities.

"(2) CERTAIN REQUIREMENTS.—Each recipient of such a grant shall—

"(A) identify, develop, and test exemplary models that can be replicated; and

"(B) identify innovative methods, such as weighted case closures, to evaluate the performance of vocational rehabilitation counselors that in no way impede the accomplishment of the purposes and policy of serving, among others, those individuals with the most severe disabilities.

"(c) EARLY INTERVENTION DEMONSTRATION PROGRAMS.—

"(1) GRANTS.—The Commissioner shall make grants to public or nonprofit agencies and organizations to carry out demonstration programs designed to demonstrate the utility of early

intervention in furnishing vocational evaluation, training, and counseling services to working adults recently determined to have chronic and progressive diseases that may be severely disabling, such as multiple sclerosis.

"(2) GRANT ACTIVITIES.—In carrying out a demonstration program under paragraph (1), an eligible entity shall conduct a program intended to demonstrate the effectiveness of such early intervention in improving the job retention of the working adults or in facilitating the entry of the working adults to new careers and employment. The demonstration program shall test a number of alternative service systems, including an employer assistance program, a system involving early intervention by State vocational rehabilitation agencies, and a private nonprofit agency joint venture with an employer or State vocational rehabilitation agency.

"(d) TRANSITION DEMONSTRATION PROJECTS.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of special projects and demonstration projects to support models for providing community-based, coordinated services to facilitate the transition of individuals with disabilities from rehabilitation hospital or nursing home programs or comparable programs, to programs providing independent living services in the community, including services such as personal assistance services, health maintenance services, counseling, and social and vocational services.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(3) EVALUATION.—An agency or organization that receives a grant under this subsection shall evaluate the effectiveness of such models and prepare and submit to the Commissioner a report containing the evaluation.

"(e) BARRIERS TO SUCCESSFUL REHABILITATION OUTCOMES FOR MINORITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations—

"(1) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with disabilities from minority backgrounds, and develop and evaluate policy, research, and training strategies for overcoming the barriers;

"(2) to conduct a study to examine the factors that have created significant underrepresentation of individuals from minority backgrounds in the rehabilitation professions, including such underrepresentation among researchers, and develop and evaluate policy, research, and training strategies for overcoming the underrepresentation; and

"(3) to conduct a study to examine the factors that have created barriers to successful rehabilitation outcomes for individuals with neurological or other related disorders, and examine how the hidden or episodic nature of the disability affects eligibility and the provision of services.

"(f) STUDIES, SPECIAL PROJECTS, AND DEMONSTRATION PROJECTS TO STUDY MANAGEMENT AND SERVICE DELIVERY.—

"(1) GRANTS.—The Commissioner may make grants to public or nonprofit agencies and organizations to pay part or all of the costs of conducting studies, special projects, or demonstration projects relating to the management and service delivery systems of the vocational rehabilitation programs authorized under this Act.

"(2) APPLICATION.—To be eligible to receive a grant under this subsection, an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(g) DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE.—

"(1) GRANTS.—The Commissioner may make grants to States and public or nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services.

"(2) USE OF FUNDS.—An entity that receives a grant under this subsection shall use the grant only—

"(A) for activities that are directly related to planning, operating, and evaluating the demonstration projects; and

"(B) to supplement, and not supplant, funds made available from Federal and non-Federal sources for such projects.

"(3) APPLICATION.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a description of—

"(i) how the applicant intends to promote increased client choice in the rehabilitation process, including a description, if appropriate, of how an applicant will determine the cost of any service or product offered to an eligible client;

"(ii) how the applicant intends to ensure that any vocational rehabilitation service or related service is provided by a qualified provider who is accredited or meets such other quality assurance and cost-control criteria as the State may establish; and

"(iii) the outreach activities to be conducted by the applicant to obtain eligible clients; and

"(B) assurances that a written plan will be established with the full participation of the client, which plan shall, at a minimum, include—

"(i) a statement of the vocational rehabilitation goals to be achieved;

"(ii) a statement of the specific vocational rehabilitation services to be provided, the projected dates for their initiation, and the anticipated duration of each such service; and

"(iii) objective criteria, an evaluation procedure, and a schedule, for determining whether such goals are being achieved.

"(4) AWARD OF GRANTS.—In selecting entities to receive grants under paragraph (1), the Commissioner shall take into consideration the—

"(A) diversity of strategies used to increase client choice, including selection among qualified service providers;

"(B) geographic distribution of projects; and

"(C) diversity of clients to be served.

"(5) RECORDS.—Entities that receive grants under paragraph (1) shall maintain such records as the Commissioner may require and comply with any request from the Commissioner for such records.

"(6) DIRECT SERVICES.—At least 80 percent of the funds awarded for any project under this subsection shall be used for direct services, as specifically chosen by eligible clients.

"(7) EVALUATION.—The Commissioner shall conduct an evaluation of the demonstration projects with respect to the services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased choice on clients and service providers. The Commissioner may reserve funds for the evaluation for a fiscal year from the amounts appropriated to carry out projects under this subsection for the fiscal year.

"(8) DEFINITIONS.—For the purposes of this subsection:

"(A) DIRECT SERVICES.—The term 'direct services' means vocational rehabilitation services, as described in section 103(a).

"(B) ELIGIBLE CLIENT.—The term 'eligible client' means an individual with a disability, as defined in section 7(8)(A), who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit.

"(h) NATIONAL COMMISSION ON REHABILITATION SERVICES.—

"(1) ESTABLISHMENT.—

"(A) IN GENERAL.—Subject to the availability of appropriations, there is hereby established a National Commission on Rehabilitation Services (referred to in this section as the 'National Commission') for the purpose of studying the nature, quality, and adequacy of vocational rehabilitation, independent living, supported employment, research, training, and other programs authorized under this Act, and submitting to the President and to Congress recommendations that will further the successful employment outcomes, independence, and integration of individuals with disabilities into the workplace and community.

"(B) COMPOSITION.—

"(i) QUALIFICATIONS.—The National Commission shall consist of 15 members who are recognized by knowledge, experience, and education as experts in the field of rehabilitation. At least a majority of the members of the National Commission shall be individuals with disabilities representing a cross-section of individuals with different types of disabilities.

"(ii) APPOINTMENT.—Members of the National Commission shall be appointed as follows:

"(I) PRESIDENTIAL APPOINTEES.—Five members shall be appointed by the President, or, if the President delegates the authority to make the appointment, by the Secretary of Education.

"(II) SENATE APPOINTEES.—Five members shall be appointed by the president pro tempore of the Senate, with the advice and approval of the Majority Leader and Minority Leader of the Senate.

"(III) HOUSE OF REPRESENTATIVES APPOINTEES.—Five members shall be appointed by the Speaker of the House of Representatives with the advice and approval of the Majority Leader and Minority Leader of the House of Representatives.

"(C) TERM.—Members shall be appointed for the life of the National Commission.

"(D) VACANCIES.—Any vacancy in the National Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

"(E) CHAIRPERSON.—The National Commission shall select a Chairperson from among its members.

"(F) MEETINGS.—The National Commission shall meet at the call of the Chairperson, but not less often than four times each year.

"(G) QUORUM.—Ten members of the National Commission shall constitute a quorum.

"(H) COMMITTEES.—The Chairperson, upon approval by the National Commission, may establish such committees as the Chairperson determines to be necessary to fulfill the duties of the National Commission.

"(2) DUTIES.—

"(A) STUDIES AND ANALYSES.—The National Commission shall conduct studies and analyses with respect to—

"(i) the effectiveness of vocational rehabilitation and independent living services in enhancing the employment outcomes of individuals with disabilities;

"(ii) the adequacy of research and training activities in fostering innovative approaches that further the employment of individuals with disabilities;

"(iii) the capacity of supported employment and independent living services in promoting the integration of individuals with disabilities into the workplace and community;

"(iv) methods for enhancing access to services authorized under this Act by minorities who are individuals with disabilities and individuals with disabilities who are members of populations that have traditionally been unserved or underserved by programs under this Act that provide such vocational rehabilitation services and independent living services;

"(v) means for enhancing interagency coordination among Federal and State agencies to promote the maximization of employment-related programs, services, and benefits on behalf of individuals with disabilities; and

"(vi) such other issues as the National Commission may identify as relevant to promoting the employment, independence, and integration of individuals with disabilities.

"(B) POLICY ANALYSES.—The National Commission shall conduct policy analyses to—

"(i) develop options for improving fiscal equity in the allotment of grants under section 110;

"(ii) provide guidance on implementing the order of selection described in section 101(a)(5)(A); and

"(iii) address the shortage of rehabilitation professionals.

"(C) REPORTS.—

"(i) INTERIM REPORT.—Not later than January 30, 1995, the National Commission shall prepare and issue a comprehensive interim report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results of the studies and analyses described in subparagraphs (A) and (B) and specific recommendations for amendments to this Act needed to promote the provision of comprehensive vocational rehabilitation and independent living services on behalf of individuals with disabilities.

"(ii) FINAL REPORT.—Not later than January 30, 1997, the National Commission shall prepare and issue a comprehensive final report to the President, the Committee on Education and Labor of the House of Representatives, and the Committee on Labor and Human Resources of the Senate, containing the results and recommendations described in clause (i).

"(3) POWERS.—

"(A) HEARINGS.—The National Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the National Commission determines to be necessary to carry out its functions.

"(B) INFORMATION.—

"(i) FEDERAL ENTITIES.—The National Commission may secure directly from any Federal department or agency such information (including statistics) as the National Commission considers necessary to carry out the functions of the National Commission. Upon request of the Chairperson of the National Commission, the head of such department or agency shall furnish such information to the National Commission.

"(ii) OTHER ENTITIES.—The National Commission may secure, directly or by contract or other means, such additional information as the National Commission determines to be necessary from universities, research institutions, foundations, State and local agencies, and other public or private agencies.

"(C) CONSULTATION.—The National Commission is authorized to consult with—

"(i) any organization representing individuals with disabilities;

"(ii) public or private service providers;

"(iii) Federal, State, and local agencies;

"(iv) individual experts;

"(v) institutions of higher education involved in the preparation of vocational rehabilitation services personnel; and

"(vi) such other entities and persons as will aid the National Commission in carrying out its duties.

"(4) COMPENSATION AND TRAVEL EXPENSES.—

"(A) COMPENSATION.—Each member of the National Commission who is not an officer or full-time employee of the Federal Government shall receive a payment of $150 for each day (including travel time) during which the member is engaged in the performance of duties for the National Commission. Members of the National Commission who are officers or full-time employees of the United States shall serve without compensation in addition to compensation received for their services as officers or employees of the United States.

"(B) TRAVEL EXPENSES.—Each member of the National Commission may receive travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for employees serving intermittently in the Government service, for each day the member is engaged in the performance of duties away from the home or regular place of business of the member.

"(5) STAFF.—

"(A) APPOINTMENT.—

"(i) STAFF DIRECTOR.—The Chairperson of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate a staff director of the National Commission. The employment of the staff director shall be subject to confirmation by the National Commission. The staff director shall be appointed from among individuals who are experienced in the planning, administration, or operation of vocational rehabilitation and independent living services or programs.

"(ii) ADDITIONAL PERSONNEL.—The staff director of the National Commission may, without regard to provisions of title 5, United States Code, governing appointments in the competitive service, appoint and terminate such additional personnel as may be necessary, but not more than ten full-time equivalent positions, to enable the National Commission to carry out its duties.

"(B) COMPENSATION.—The Chairperson of the National Commission may fix the compensation of the staff director, and the staff director may fix the compensation of the additional personnel, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates, except that the rate of pay for the staff director and other personnel may not exceed the rate of pay for level 4 of the Senior Executive Service Schedule under section 5382 of title 5, United States Code.

"(6) COOPERATION.—The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the National Commission in carrying out its duties. The National Commission may utilize the services, personnel, information, and facilities of other Federal, State, local, and

private agencies with or without reimbursement, upon the consent of the heads of such agencies.

"(7) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee may be detailed to the National Commission without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

"(8) TERMINATION.—The National Commission shall terminate not later than 90 days following the submission of the final report as described in paragraph (2)(C)(ii).

"(i) MODEL PERSONAL ASSISTANCE SERVICES SYSTEMS.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model personal assistance services systems and other innovative service programs to maximize the full inclusion and integration into society, employment, independent living, and economic and social self-sufficiency of individuals with disabilities.

"(j) DEMONSTRATION PROJECTS TO UPGRADE WORKER SKILLS.—

"(1) GRANTS.—Consistent with the purposes of section 621, the Commissioner may make grants to partnerships or consortia that include private business concerns or industries to pay for the Federal share of developing and carrying out model demonstration projects for workers with disabilities who need new or upgraded skills to adapt to emerging technologies, work methods, and markets and to ensure that such individuals possess the knowledge and skills necessary to compete in the workplace.

"(2) PERIOD.—Grants made under this subsection shall be for 3-year periods.

"(3) APPLICATION.—Any partnership or consortia desiring to receive a grant under this subsection shall submit an application to the Commissioner at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) information identifying at least one member of the partnership or consortium that is a private business concern or industry; and

"(B) assurances that—

"(i) each member of the eligible partnership or consortium will pay a portion of the non-Federal share of the cost of developing and carrying out the project;

"(ii) the partnership or consortium will carry out all of the activities described in subparagraphs (A) through (E) of section 621(a)(2);

"(iii) the partnership or consortium will disseminate information on the model program conducted;

"(iv) the partnership or consortium will utilize, if available, job skill standards established jointly by management and labor to assist in evaluating the job skills of an individual and assessing the skills that are needed for the individual to compete in the workplace;

"(v) the partnership or consortium will prepare and submit an evaluation report containing data specified by the Commissioner at the end of each project year; and

"(vi) the partnership or consortium will take such steps as are necessary to continue the activities of

the project after the period for which Federal assistance is sought.

"(4) DEFINITION.—For the purposes of this subsection, the term 'workers with disabilities' shall mean individuals with disabilities who are working in competitive employment and who need new or upgraded skills to improve their employment and career advancement opportunities.

"(k) MODEL SYSTEMS REGARDING SEVERE DISABILITIES.—The Commissioner may award grants to public or nonprofit agencies and organizations to establish model systems of comprehensive service delivery to individuals with severe disabilities, other than spinal cord injuries, requiring a multidisciplinary system of providing vocational and other rehabilitation services, where the Commissioner determines that the development of such systems is needed.

29 USC 797b.

"SEC. 803. TRAINING ACTIVITIES.

"(a) DISTANCE LEARNING THROUGH TELECOMMUNICATIONS.—

"(1) GRANTS.—The Commissioner shall award at least three grants to eligible institutions of higher education, to support the formation of regional partnerships with other public or private entities for the purpose of developing and implementing in-service training programs, including certificate or degree granting programs concerning vocational rehabilitation services and related services, for vocational rehabilitation professionals through the use of telecommunications.

"(2) APPLICATIONS.—Any eligible entity that desires to receive a grant under this subsection shall submit an application at such time, in such manner, and containing such information and assurances as the Commissioner may require, including—

"(A) a detailed explanation of how the applicant will utilize interactive audio, video, and computer technologies between distant locations to provide in-service training programs to the region;

"(B) a description of how the applicant intends to utilize and build upon existing telecommunications networks within the region to be served;

"(C) a copy of all agreements governing the division of functions within the partnership, including an assurance that all States within the region will be served;

"(D) a copy of a binding commitment entered into between the partnership and each entity that is legally permitted to provide, and from which the partnership is to obtain, the telecommunications services and facilities required for the project, that stipulates that if the partnership receives the grant the entity will provide such telecommunications services and facilities in the area to be served within a reasonable time and at a charge that is in accordance with State law;

"(E) a description of the curriculum to be provided, frequency of providing service, and sites of service;

"(F) a description of the need to purchase or lease—

"(i) computer hardware and software;

"(ii) audio and video equipment;

"(iii) telecommunications terminal equipment; or

"(iv) interactive video equipment;

"(G) an assurance that the partnership will use not less than 75 percent of the amount of the grant for instructional curriculum development and programming; and

"(H) a description of the means by which the project will be evaluated.

"(3) AWARD OF GRANTS.—In awarding grants under paragraph (1), the Commissioner shall take into consideration the sparsity of State populations in the region to be served.

"(4) DEFINITIONS.—For the purposes of this subsection:

"(A) ELIGIBLE ENTITY.—The term 'eligible entity' means any institution of higher education with demonstrated experience in the area of continuing education for vocational rehabilitation personnel.

"(B) INTERACTIVE VIDEO EQUIPMENT.—The term 'interactive video equipment' means equipment used to produce and prepare video and audio signals for transmission between distant locations so that individuals at such locations can see and hear each other, and related equipment.

"(C) REGION.—The term 'region' means one of the ten regions served by the Rehabilitation Services Administration.

"(D) REHABILITATION PROFESSIONALS.—The term 'rehabilitation professionals' means personnel described in section 301(a)(1).

"(b) BRAILLE TRAINING PROJECTS.—

"(1) ESTABLISHMENT.—The Commissioner shall make grants to and enter into contracts with States and public or nonprofit agencies and organizations, including institutions of higher education, to pay all or part of the cost of training in the use of Braille for personnel providing vocational rehabilitation services or educational services to youth and adults who are blind. Grants. Contracts.

"(2) PROJECTS.—Such grants shall be used for the establishment or continuation of projects that may provide—

"(A) development of Braille training materials; and

"(B) in-service or pre-service training in the use of Braille and methods of teaching Braille to youth and adults who are blind.

"(3) APPLICATION.—To be eligible to receive a grant, or enter into a contract, under paragraph (1), an agency or organization shall submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require.

"(c) PARENT INFORMATION AND TRAINING PROGRAMS.—

"(1) GRANTS.—The Commissioner is authorized to make grants through a separate competition to private nonprofit organizations for the purpose of establishing programs to provide training and information to enable individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals to participate more effectively with professionals in meeting the vocational and rehabilitation needs of individuals with disabilities. Such grants shall be designed to meet the unique training and information needs of individuals with disabilities, and the parents, family members, guardians, advocates, or other authorized representatives of the individuals, who live in the area to be served, particularly those who are members of populations

that have been unserved or underserved by programs under this Act.

"(2) USE OF GRANTS.—An organization that receives a grant to establish training and information programs under this subsection shall use the grant to assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals to—

"(A) better understand vocational rehabilitation and independent living programs and services;

"(B) provide followup support for transition and employment programs;

"(C) communicate more effectively with transition and rehabilitation personnel and other relevant professionals;

"(D) provide support in the development of the individualized written rehabilitation program;

"(E) provide support and expertise in obtaining information about rehabilitation and independent living programs, services, and resources that are appropriate; and

"(F) understand the provisions of this Act, particularly provisions relating to employment, supported employment, and independent living.

"(3) AWARD OF GRANTS.—The Commissioner shall ensure that grants under this subsection shall—

"(A) be distributed geographically to the greatest extent possible throughout all States; and

"(B) be targeted to individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, in both urban and rural areas or on a State or regional basis.

"(4) ELIGIBLE ORGANIZATIONS.—In order to receive a grant under this subsection, a private nonprofit organization shall—

"(A) submit an application to the Commissioner at such time, in such manner, and containing such information as the Commissioner may require, including information demonstrating the capacity and expertise of the organization to—

"(i) coordinate and work closely with parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431); and

"(ii) effectively conduct the training and information activities authorized under this subsection;

"(B)(i) be governed by a board of directors—

"(I) that includes professionals in the field of vocational rehabilitation; and

"(II) on which a majority of the members are individuals with disabilities or the parents, family members, guardians, advocates, or authorized representatives of the individuals; or

"(ii)(I) have a membership that represents the interests of individuals with disabilities; and

"(II) establish a special governing committee that meets the requirements specified in subclauses (I) and (II) of clause (i) to operate a training and information program under this subsection; and

"(C) serve individuals with a full range of disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals.

"(5) CONSULTATION.—Each private nonprofit organization carrying out a program receiving assistance under this subsection shall consult with appropriate agencies that serve or assist individuals with disabilities, and the parents, family members, guardians, advocates, or authorized representatives of the individuals, located in the jurisdiction served by the program.

"(6) COORDINATION.—The Commissioner shall provide coordination and technical assistance by grant or cooperative agreement for establishing, developing, and coordinating the training and information programs. To the extent practicable, such assistance shall be provided by the parent training and information centers established under section 631 of the Individuals with Disabilities Education Act (20 U.S.C. 1431).

"(7) REVIEW.—

"(A) QUARTERLY REVIEW.—The board of directors or special governing committee of a nonprofit private organization receiving a grant under this subsection shall meet at least once in each calendar quarter to review the training and information program, and each such committee shall directly advise the governing board regarding the views and recommendations of the committee.

"(B) REVIEW FOR GRANT RENEWAL.—If a nonprofit private organization requests the renewal of a grant under this subsection, the board of directors or the special governing committee shall prepare and submit to the Commissioner a written review of the training and information program conducted by the nonprofit private organization during the preceding fiscal year.

"(d) TRAINING REGARDING IMPARTIAL HEARING OFFICERS.—The Commissioner may award grants to public or nonprofit agencies and organizations to provide training designed to provide impartial hearing officers with the skills necessary to fairly decide appeals under this Act.

"(e) RECRUITMENT AND RETENTION OF URBAN PERSONNEL.—The Commissioner may award grants to public or nonprofit agencies and organizations to develop and demonstrate innovative methods to attract and retain professionals to serve in urban areas in the rehabilitation of individuals with disabilities, including individuals with severe disabilities.

"(f) CERTAIN REQUIREMENTS.—The requirements of subsections (a) (except the first sentence), (b), and (c), of section 302, and paragraphs (1) and (2) of subsection (g) of such section, shall apply with respect to grants made available under this section, other than subsection (c). The requirements of section 306 shall apply with respect to grants made available under this section.".

(b) ACCOUNT.—There shall be established an account with a distinct designated budget account identification code number in the President's budget, for activities under title VIII of the Rehabilitation Act of 1973. Funding for such activities shall be available only to such extent as is provided, or in such amounts as are provided, in appropriations Acts. Such account shall be separate and distinct from the accounts for all other activities under titles I through VII of such Act.

(c) TECHNICAL AMENDMENT.—The table of contents relating to the Act is amended by adding at the end the following:

"TITLE VIII—SPECIAL DEMONSTRATIONS AND TRAINING PROJECTS

"Sec. 801. Authorization of appropriations.
"Sec. 802. Demonstration activities.
"Sec. 803. Training activities.".

TITLE IX—AMENDMENTS TO OTHER ACTS

Subtitle A—Helen Keller National Center

SEC. 901. CONGRESSIONAL FINDINGS.

Section 202 of the Helen Keller National Center Act (29 U.S.C. 1901) is amended—

(1) in paragraph (2), by inserting ", the rapidly increasing number of older persons many of whom are experiencing significant losses of both vision and hearing," after "1960's"; and

(2) in paragraph (5), by striking "invested approximately $10,000,000" and inserting "made a substantial investment".

SEC. 902. CONTINUED OPERATION OF CENTER.

Section 203 of the Helen Keller National Center Act (29 U.S.C. 1902) is amended—

(1) by striking subsection (a);

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(3) in subsection (a) (as so redesignated by paragraph (2))—

(A) by striking "pursuant to section 313 of the Rehabilitation Act of 1973" and inserting "prior to the date of enactment of this Act"; and

(B) by striking "(c)" and inserting "(b)"; and

(4) in subsection (b) (as so redesignated by paragraph (2))—

(A) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(B) by inserting after paragraph (1) the following new paragraph:

"(2) train family members of individuals who are deaf-blind at the Center or anywhere else in the United States, in order to assist family members in providing and obtaining appropriate services for the individual who is deaf-blind;".

SEC. 903. AUDIT, MONITORING, AND EVALUATION.

Section 204 of the Helen Keller National Center Act (29 U.S.C. 1903) is amended in subsection (a) by striking "at such time as the Secretary shall prescribe" and inserting "within 15 days following the completion of the audit and acceptance of the audit by the Center".

SEC. 904. AUTHORIZATION OF APPROPRIATIONS.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended in subsection (a) by striking "1987 through 1992" and inserting "1993 through 1997".

SEC. 905. DEFINITIONS.

Section 206 of the Helen Keller National Center Act (29 U.S.C. 1905) is amended—

(1) in paragraph (1), by striking "section 313 of the Rehabilitation Act of 1973 and continued under"; and

(2) in paragraph (2), to read as follows:

"(2) the term 'individual who is deaf-blind' means any individual—

"(A)(i) who has a central visual acuity of 20/200 or less in the better eye with corrective lenses, or a field defect such that the peripheral diameter of visual field subtends an angular distance no greater than 20 degrees, or a progressive visual loss having a prognosis leading to one or both these conditions;

"(ii) who has a chronic hearing impairment so severe that most speech cannot be understood with optimum amplification, or a progressive hearing loss having a prognosis leading to this condition; and

"(iii) for whom the combination of impairments described in clauses (i) and (ii) cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining a vocation;

"(B) who despite the inability to be measured accurately for hearing and vision loss due to cognitive or behavioral constraints, or both, can be determined through functional and performance assessment to have severe hearing and visual disabilities that cause extreme difficulty in attaining independence in daily life activities, achieving psychosocial adjustment, or obtaining vocational objectives; or

"(C) meets such other requirements as the Secretary may prescribe by regulation; and".

SEC. 906. CONSTRUCTION OF ACT, EFFECT ON AGREEMENTS.

Section 207 of the Helen Keller National Center Act (29 U.S.C. 1906) is amended by striking "Industrial Home for the Blind, Incorporated" and inserting "Helen Keller Services for the Blind, Incorporated". Nomenclature.

SEC. 907. ESTABLISHMENT OF A PROGRAM.

The Helen Keller National Center Act (29 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

"SEC. 208. HELEN KELLER NATIONAL CENTER FEDERAL ENDOWMENT PROGRAM. 29 USC 1907.

"(a) ESTABLISHMENT.—The Secretary and the Board of Directors of the Helen Keller National Center are authorized to establish the Helen Keller National Center Federal Endowment Fund (hereafter in this section referred to as the 'Endowment Fund') in accordance with the provisions of this section, to promote the financial independence of the Helen Keller National Center. The Secretary and the Board may enter into such agreements as may be necessary to carry out the purposes of this section.

"(b) FEDERAL PAYMENTS.—

"(1) IN GENERAL.—The Secretary shall make payments to the Endowment Fund from amounts appropriated pursuant to subsection (h), consistent with the provisions of this section.

"(2) AMOUNT OF PAYMENT.—Subject to the availability of appropriations, the Secretary shall make payments to the Endowment Fund in amounts equal to sums contributed to the Endowment Fund from non-Federal sources (excluding transfers from other endowment funds of the Center).

"(c) INVESTMENTS.—

"(1) IN GENERAL.—The Center, in investing the Endowment Fund corpus and income, shall exercise the judgment and care, under the prevailing circumstances, which a person of prudence,

discretion, and intelligence would exercise in the management of that person's own business affairs.

"(2) LIMITATIONS.—

"(A) FEDERALLY INSURED INVESTMENTS AND OTHER INVESTMENTS.—The Endowment Fund corpus and income shall be invested in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, or other low-risk instruments and securities in which a regulated insurance company may invest under the laws of the State of New York.

"(B) REAL ESTATE.—The Endowment Fund corpus and income may not be invested in real estate.

"(C) CONFLICT OF INTEREST.—The Endowment Fund corpus or income may not be invested in instruments or securities issued by an organization in which an executive officer is a controlling shareholder, director, or owner within the meaning of Federal securities laws and other applicable laws.

"(D) ENCUMBRANCES.—The Center may not assign, hypothecate, encumber, or create a lien on the Endowment Fund corpus without specific written authorization of the Secretary.

"(d) WITHDRAWALS AND EXPENDITURES.—

"(1) IN GENERAL.—For a 20-year period following the receipt of a payment under this section, the Center shall not withdraw or expend the Federal payment or matching contribution made to the Endowment Fund corpus. On the expiration of such period, the Center may use the Endowment Fund corpus plus any of the Endowment Fund income for any purpose that benefits individuals who are deaf-blind.

"(2) OPERATIONAL AND COMMERCIAL EXPENSES.—

"(A) IN GENERAL.—The Helen Keller National Center may withdraw or expend the Endowment Fund income for any expenses necessary for the operation of the Center, including expenses of operations and maintenance, administration, academic and support personnel, construction and renovation, community and client services programs, technical assistance, and research.

"(B) LIMITATION.—The Center may not withdraw or expend the Endowment Fund income for any commercial purpose.

"(3) LIMITATIONS AND WAIVER OF LIMITATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the Center shall not withdraw or expend more than 50 percent of the total aggregate Endowment Fund income earned prior to the time of withdrawal or expenditure.

"(B) EXCEPTION.—The Secretary may permit the Center to withdraw or expend more than 50 percent of its total aggregate endowment income where the Center demonstrates to the Secretary's satisfaction that such withdrawal or expenditure is necessary because of—

"(i) a financial emergency, such as a pending insolvency or temporary liquidity problem;

"(ii) a life-threatening situation occasioned by a natural disaster or arson; or

"(iii) another unusual occurrence or exigent circumstance.

"(e) REPORTING REQUIREMENTS.—

"(1) FINANCIAL RECORDS.—The Helen Keller National Center shall keep accurate financial records relating to the operation of the Endowment Fund.

"(2) AUDIT AND REPORT.—

"(A) AUDIT.—The Center shall arrange for the conduct of an annual financial and compliance audit of the Endowment Fund in the manner prescribed by the Secretary pursuant to section 204(a) (29 U.S.C. 1903(a)).

"(B) REPORT.—The Center shall submit a copy of the report on the audit required under subparagraph (A) to the Secretary within 15 days after completion of the audit and acceptance of the audit by the Center.

"(3) ANNUAL REPORT.—Not later than 60 days after the end of each fiscal year, the Center shall provide to the Secretary an annual report on the uses of funds provided by the Federal endowment program authorized under this section. Such report shall contain such information, and be in such form as the Secretary may require.

"(f) RECOVERY OF PAYMENTS.—After notice and an opportunity for a hearing, the Secretary is authorized to recover any Federal payments made under this section if the Helen Keller National Center—

"(1) makes a withdrawal or expenditure from the Endowment Fund corpus or income which is not consistent with the provisions of this section;

"(2) fails to comply with the investment standards and limitations under this section; or

"(3) fails to account properly to the Secretary concerning the investment of or expenditures from the Endowment Fund corpus or income.

"(g) DEFINITIONS.—For the purposes of this section:

"(1) ENDOWMENT FUND.—The term 'endowment fund' means a fund, or a tax-exempt foundation, established and maintained by the Helen Keller National Center for the purpose of generating income for the support of the Center.

"(2) ENDOWMENT FUND CORPUS.—The term 'Endowment Fund corpus' means an amount equal to the Federal payments made to the Endowment Fund and amounts contributed to the Endowment Fund from non-Federal sources.

"(3) ENDOWMENT FUND INCOME.—The term 'Endowment Fund income' means an amount equal to the total market value of the Endowment Fund minus the Endowment Fund corpus.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1993 through 1997. Such sums shall remain available until expended.".

SEC. 908. TECHNICAL AND CONFORMING AMENDMENTS.

(a) DEAF-BLIND INDIVIDUALS.—Paragraphs (1) through (4) of section 202, and section 203(b)(3) (as so redesignated by paragraphs (2) and (4)(A) of section 902), of the Helen Keller National Center Act (29 U.S.C. 1901 and 1902(b)(3)) are amended by striking "deaf-

blind individuals" each place the term appears and inserting "individuals who are deaf-blind".

(b) DEAF-BLIND INDIVIDUAL.—Section 203(b)(1) of such Act (29 U.S.C. 1902(b)(1)) (as so redesignated by section 902(2)) is amended by striking "deaf-blind individual" and inserting "individual who is deaf-blind".

Nomenclature.

(c) DEAF-BLIND YOUTHS AND ADULTS.—

(1) Sections 202(4), 203(a) (as so redesignated by section 902(2)), and 206(1) of such Act (29 U.S.C. 1901(4), 1902(a), and 1905(1)) are amended by striking "Deaf-Blind Youths and Adults" each place the term appears and inserting "Youths and Adults who are Deaf-Blind".

(2) Section 203 of such Act (29 U.S.C. 1902) is amended in the section heading by striking "DEAF-BLIND YOUTHS AND ADULTS" and inserting "YOUTHS AND ADULTS WHO ARE DEAF-BLIND".

Subtitle B—Other Programs

SEC. 911. COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED.

Nomenclature.

(a) WAGNER-O'DAY ACT.—Section 1 of the Act entitled "An Act to Create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (commonly known as the Wagner-O'Day Act; 41 U.S.C. 46) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind and Severely Disabled".

(b) SMALL BUSINESS ACT.—Section 15(c)(1)(A) of the Small Business Act (15 U.S.C. 644(c)(1)(A)) is amended by striking "from the Blind and Other Severely Handicapped" and inserting "From People Who Are Blind or Severely Disabled".

SEC. 912. INDIVIDUALS WITH DISABILITIES EDUCATION ACT.

(a) TRAINING OR RETRAINING.—Section 631(a) of the Individuals with Disabilities Education Act (20 U.S.C. 1431(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In making grants under paragraph (1), the Secretary may provide for the training or retraining of regular education teachers who are involved in providing instruction to individuals who are deaf, but who are not certified as teachers of such individuals, to meet the communications needs of such individuals.".

(b) NOTICE.—

(1) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Education shall issue a Notice of Inquiry concerning the definition of the term "serious emotional disturbance" as used in the Individuals with Disabilities Education Act.

(2) PUBLIC COMMENT.—The Secretary of Education shall provide a public comment period of at least 90 days and shall request and consider—

(A) comments from the public on the need to revise the definition of the term in the regulations implementing such Act; and

(B) comments from the public on whether the term as used in such Act should be changed and on whether the substitution of the term "emotional and behavioral

disorders" would be appropriate, or whether some other term should be used.

(3) DEFINITION.—The Notice of Inquiry shall contain the following proposed definition for use in the regulations implementing such Act:

"(1) As used in section 602(a)(1) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(a)(1)):

"(A) The term 'serious emotional disturbance' means a disability that is—

"(i) characterized by behavioral or emotional response in school programs so different from appropriate age, cultural, or ethnic norms that the responses adversely affect educational performance, including academic, social, vocational or personal skills;

"(ii) more than a temporary, expected response to stressful events in the environment;

"(iii) consistently exhibited in two different settings, at least one of which is school-related; and

"(iv) unresponsive to direct intervention applied in general education, or the condition of a child is such that general education interventions would be insufficient.

"(B) The term includes such a disability that co-exists with other disabilities.

"(C) The term includes a schizophrenic disorder, affective disorder, anxiety disorder, or other sustained disorder of conduct or adjustment, affecting a child, if the disorder affects educational performance as described in paragraph (1).

"(2) The term 'seriously emotionally disturbed' means, with respect to a child, that the child has a serious emotional disturbance.".

(4) REPORT.—The Secretary shall, within 10 months after the date of enactment of this Act, prepare a report containing a summary of the public comments described in paragraph (2)(B) received as a result of the Notice of Inquiry, and recommendations concerning whether such Act should be amended. The report shall be submitted to the appropriate committees of Congress, including the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and the Subcommittee on Disability Policy of the Committee on Labor and Human Resources of the Senate.

SEC. 913. TECHNOLOGY-RELATED ASSISTANCE FOR INDIVIDUALS WITH DISABILITIES ACT OF 1988.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 is amended—

(1) in section 221(a)(1) (29 U.S.C. 2251(a)(1)), by striking "nonprofit or for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,";

(2) in section 222(a) (29 U.S.C. 2252(a)), by striking "nonprofit and for-profit entities" and inserting "public or private agencies and organizations, including institutions of higher education,"; and

(3) in section 231(a) (29 U.S.C. 2252(a)), by striking "non- 29 USC 2261.
profit and for-profit entities" and inserting "public or private

agencies and organizations, including institutions of higher education,".

SEC. 914. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

The Joint Resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949 (36 U.S.C. 155a) is amended—

(1) by striking "handicapped persons" and inserting "persons with disabilities";

(2) by striking "the handicapped" and inserting "such persons";

(3) by striking "for each of the fiscal years 1987, 1988, 1989, 1990, and 1991," and inserting "for each of the fiscal years 1993, 1994, 1995, 1996, and 1997,"; and

(4) by striking "The President's Committee on Employment of the Handicapped shall be guided by the general policies of the National Council on the Handicapped.".

Approved October 29, 1992.

LEGISLATIVE HISTORY—H.R. 5482 (S. 3065):

HOUSE REPORTS: Nos. 102-822 (Comm. on Education and Labor) and 102-973 (Comm. of Conference).

SENATE REPORTS: No. 102-357 accompanying S. 3065 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD, Vol. 138 (1992):

Aug. 10, considered and passed House.

Aug. 11, S. 3065 considered and passed Senate.

Aug. 12, H.R. 5482 considered and passed Senate, amended.

Oct. 2, House agreed to conference report.

Oct. 5, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):

Oct. 29, Presidential statement.

Public Law 102-570
102d Congress

An Act

To authorize the Secretary of the Interior to construct and operate an interpretive center for the Ridgefield National Wildlife Refuge in Clark County, Washington.

Oct. 29, 1992
[H.R. 5809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

SECTION 1. INTERPRETIVE CENTER FOR THE RIDGEFIELD NATIONAL WILDLIFE REFUGE.

16 USC 668d note.

(a) FINDINGS.—The Congress finds the following:

(1) The Ridgefield National Wildlife Refuge (in this Act referred to as the "Refuge"), located on the Columbia River in southwest Washington, provides unique opportunities for observing and interpreting the biological richness of the lower Columbia River wetlands.

(2) The Refuge is also rich in the cultural history of the Pacific Northwest, including being the site of a large Native American settlement which was visited by the 1804 Lewis and Clark Expedition and other early explorers.

(3) The Refuge is located in close proximity to the Portland/Vancouver metropolitan area and to the Interstate 5 freeway, which carries millions of visitors past the Refuge to Mount St. Helens, Mount Hood, the Columbia River Gorge, wilderness areas, and other natural attractions.

(4) The Refuge is ideally suited to be a regional center for interpretation, research, and education related to wetland ecology, wildlife, the environmental sciences, and Northwest cultural history.

(5) There are unique opportunities for the Federal Government to engage in cost-sharing with local, State, and private partners to construct, operate, and maintain a regional interpretive center at the Refuge.

(b) AUTHORITY TO CONSTRUCT AND OPERATE INTERPRETIVE CENTER.—

(1) IN GENERAL.—The Secretary of the Interior may, subject to the availability of appropriations, construct and operate an interpretive center at the Ridgefield National Wildlife Refuge in Clark County, Washington, for the following purposes:

(A) Providing public opportunities, facilities, and resources to study natural history, Native American culture, and the history of Northwest settlers in the region of the Refuge.

(B) Offering a variety of environmental educational programs and interpretive exhibits.

(C) Fostering an awareness and understanding of the interactions among wildlife, wetland ecosystems, and human activities.

(D) Providing office space and facilities for Refuge administration, research, education, and related activities

(2) DESIGN.—The Secretary of the Interior shall ensure that the design, size, and location of any facilities for an interpretive center constructed under this section are consistent with the cultural and natural history of the area with which the interpretive center will be concerned.

(c) COST SHARING.—The Secretary of the Interior may accept contributions of funds from non-Federal sources to pay the costs of constructing, operating, and maintaining an interpretive center under this section, and shall take appropriate steps to seek to obtain such contributions.

(d) PUBLIC PROCESS.—Not later than 1 year after the date of the enactment of this Act, the Director of the United States Fish and Wildlife Service shall engage in a public process to determine—

(1) the design of an interpretive center to be constructed under this section;

(2) opportunities for obtaining contributions of funds for the interpretive center;

(3) the costs of constructing, operating, and maintaining, the interpretive center and associated facilities; and

(4) the functions of the interpretive center, with an emphasis on educational functions.

(e) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Interior shall submit a report to the Congress on progress made in designing and constructing an interpretive center under this section, on including steps taken under subsection (c) to obtain contributions and any such contributions that have been pledged to or received by the United States.

SEC. 2. ADDITIONAL MEMBERS OF TASK FORCE.

Section 4 of the Klamath River Basin Fishery Resources Restoration Act (16 U.S.C. 460ss–3) is amended by adding at the end the following:

"(j) At such time as the program is expanded to include portions of the Klamath River upstream from the Iron Gate dam, membership on the Task Force shall be increased to include the following—

"(1) One individual who shall be appointed by the Commissioners of Klamath County, Oregon.

"(2) A representative of the Klamath Tribe, who shall be appointed by the governing body of the Tribe.".

Approved October 29, 1992.

LEGISLATIVE HISTORY—H.R. 5809:

HOUSE REPORTS: No. 102-928 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 29, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-571
102d Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to authorize human drug application, prescription drug establishment, and prescription drug product fees and for other purposes.

Oct. 29, 1992
[H.R. 6181]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—USER FEES

Prescription Drug User Fee Act of 1992.
21 USC 301 note.

SEC. 101. SHORT TITLE AND REFERENCE.

(a) SHORT TITLE.—This title may be cited as the "Prescription Drug User Fee Act of 1992".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 102. FINDINGS.

21 USC 379g note.

The Congress finds that—

(1) prompt approval of safe and effective new drugs is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for review of human drug applications; and

(3) the fees authorized by this title will be dedicated toward expediting the review of human drug applications as set forth in the goals identified in the letters of September 14, 1992, and September 21, 1992, from the Commissioner of Food and Drugs to the Chairman of the Energy and Commerce Committee of the House of Representatives and the Chairman of the Labor and Human Resources Committee of the Senate, as set forth at 138 Cong. Rec. H9099–H9100 (daily ed. September 22, 1992).

SEC. 103. FEES RELATING TO DRUGS.

Chapter VII, as amended by section 106, is amended by adding at the end of subchapter C the following:

"PART 2—FEES RELATING TO DRUGS

"SEC. 735. DEFINITIONS.

21 USC 379g.

"For purposes of this subchapter:

"(1) The term 'human drug application' means an application for—

"(A) approval of a new drug submitted under section 505(b)(1),

"(B) approval of a new drug submitted under section 505(b)(2) after September 30, 1992, which requests approval of—

"(i) a molecular entity which is an active ingredient (including any salt or ester of an active ingredient), or

"(ii) an indication for a use,

that had not been approved under an application submitted under section 505(b),

"(C) initial certification or initial approval of an antibiotic drug under section 507, or

"(D) licensure of a biological product under section 351 of the Public Health Service Act.

Such term does not include a supplement to such an application, does not include an application with respect to whole blood or a blood component for transfusion, does not include an application with respect to a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include an application with respect to a large volume parenteral drug product approved before September 1, 1992.

"(2) The term 'supplement' means a request to the Secretary to approve a change in a human drug application which has been approved.

"(3) The term 'prescription drug product' means a specific strength or potency of a drug in final dosage form—

"(A) for which a human drug application has been approved, and

"(B) which may be dispensed only under prescription pursuant to section 503(b).

Such term does not include whole blood or a blood component for transfusion, does not include a bovine blood product for topical application licensed before September 1, 1992, an allergenic extract product, or an in vitro diagnostic biologic product licensed under section 351 of the Public Health Service Act, and does not include a large volume parenteral drug product approved before September 1, 1992.

"(4) The term 'final dosage form' means, with respect to a prescription drug product, a finished dosage form which is approved for administration to a patient without further manufacturing.

"(5) The term 'prescription drug establishment' means a foreign or domestic place of business which is—

"(A) at one general physical location consisting of one or more buildings all of which are within 5 miles of each other, at which one or more prescription drug products are manufactured in final dosage form, and

"(B) under the management of a person that is listed as the applicant in a human drug application for a prescription drug product with respect to at least one such product.

For purposes of this paragraph, the term 'manufactured' does not include packaging.

"(6) The term 'process for the review of human drug applications' means the following activities of the Secretary with respect to the review of human drug applications and supplements:

"(A) The activities necessary for the review of human drug applications and supplements.

"(B) The issuance of action letters which approve human drug applications or which set forth in detail the specific deficiencies in such applications and, where appropriate, the actions necessary to place such applications in condition for approval.

"(C) The inspection of prescription drug establishments and other facilities undertaken as part of the Secretary's review of pending human drug applications and supplements.

"(D) Activities necessary for the review of applications for licensure of establishments subject to section 351 of the Public Health Service Act and for the release of lots of biologics under such section.

"(E) Monitoring of research conducted in connection with the review of human drug applications.

"(7) The term 'costs of resources allocated for the process for the review of human drug applications' means the expenses incurred in connection with the process for the review of human drug applications for—

"(A) officers and employees of the Food and Drug Administration, employees under contract with the Food and Drug Administration who work in facilities owned or leased for the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees,

"(B) management of information, and the acquisition, maintenance, and repair of computer resources,

"(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies, and

"(D) collecting fees under section 736 and accounting for resources allocated for the review of human drug applications and supplements.

"(8) The term 'adjustment factor' applicable to a fiscal year is the lower of—

"(A) the Consumer Price Index for all urban consumers (all items; United States city average) for August of the preceding fiscal year divided by such Index for August 1992, or

"(B) the total of discretionary budget authority provided for programs in the domestic category for the immediately preceding fiscal year (as reported in the Office of Management and Budget sequestration preview report, if available, required under section 254(d) of the Balanced Budget and Emergency Deficit Control Act of 1985) divided by such budget authority for fiscal year 1992 (as reported in the Office of Management and Budget final sequestration report submitted after the end of the 102d Congress, 2d Session).

The terms 'budget authority' and 'category' in subparagraph (B) are as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as in effect as of September 1, 1992.

21 USC 379h.

"SEC. 736. AUTHORITY TO ASSESS AND USE DRUG FEES.

"(a) TYPES OF FEES.—Beginning in fiscal year 1993, the Secretary shall assess and collect fees in accordance with this section as follows:

"(1) HUMAN DRUG APPLICATION AND SUPPLEMENT FEE.—

"(A) IN GENERAL.—Each person that submits, on or after September 1, 1992, a human drug application or a supplement shall be subject to a fee as follows:

"(i) A fee established in subsection (b) for a human drug application for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required for approval.

"(ii) A fee established in subsection (b) for a human drug application for which clinical data with respect to safety or effectiveness are not required or a supplement for which clinical data (other than bioavailability or bioequivalence studies) with respect to safety or effectiveness are required.

"(B) PAYMENT SCHEDULE.—

"(i) FIRST PAYMENT.—50 percent of the fee required by subparagraph (A) shall be due upon submission of the application or supplement.

"(ii) FINAL PAYMENT.—The remaining 50 percent of the fee required by subparagraph (A) shall be due upon—

"(I) the expiration of 30 days from the date the Secretary sends to the applicant a letter designated by the Secretary as an action letter described in section 735(6)(B), or

"(II) the withdrawal of the application or supplement after it is filed unless the Secretary waives the fee or a portion of the fee because no substantial work was performed on such application or supplement after it was filed.

The designation under subclause (I) or the waiver under subclause (II) shall be solely in the discretion of the Secretary and shall not be reviewable.

"(C) EXCEPTION FOR PREVIOUSLY FILED APPLICATION OR SUPPLEMENT.—If a human drug application or supplement was submitted by a person that paid the fee for such application or supplement, was accepted for filing, and was not approved or was withdrawn (without a waiver), the submission of a human drug application or a supplement for the same product by the same person (or the person's licensee, assignee, or successor) shall not be subject to a fee under subparagraph (A).

"(D) REFUND OF FEE IF APPLICATION NOT ACCEPTED FOR FILING.—The Secretary shall refund 50 percent of the fee paid under subparagraph (B)(i) for any application or supplement which is not accepted for filing.

"(2) PRESCRIPTION DRUG ESTABLISHMENT FEE.—Each person that—

"(A) owns a prescription drug establishment, at which is manufactured at least 1 prescription drug product which is not the, or not the same as a, product approved under an application filed under section 505(b)(2) or 505(j), and

"(B) after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall be subject to the annual fee established in subsection (b) for each such establishment, payable on or before January 31 of each year.

"(3) PRESCRIPTION DRUG PRODUCT FEE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), each person—

"(i) who is named as the applicant in a human drug application for a prescription drug product which is listed under section 510, and

"(ii) who, after September 1, 1992, had pending before the Secretary a human drug application or supplement,

shall pay for each such prescription drug product the annual fee established in subsection (b). Such fee shall be payable at the time of the first such listing of such product in each calendar year. Such fee shall be paid only once each year for each listed prescription drug product irrespective of the number of times such product is listed under section 510.

"(B) EXCEPTION.—The listing of a prescription drug product under section 510 shall not require the person who listed such product to pay the fee prescribed by subparagraph (A) if such product is the same product as a product approved under an application filed under section 505(b)(2) or 505(j).

"(b) FEE AMOUNTS.—

"(1) SCHEDULE.—Except as provided in paragraph (2) and subsections (c), (d), (f), and (g), the fees required under subsection (a) shall be paid in accordance with the following schedule:

	Fiscal Year 1993	Fiscal Year 1994	Fiscal Year 1995	Fiscal Year 1996	Fiscal Year 1997
Drug application fee:					
Subsection (a)(1)(A)(i) fee	$100,000	$150,000	$208,000	$217,000	$233,000
Subsection (a)(1)(A)(ii) fee	$50,000	$75,000	$104,000	$108,000	$116,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Annual establishment fee:					
Fee per establishment	$60,000	$88,000	$126,000	$131,000	$138,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Annual product fee:					
Fee per product	$6,000	$9,000	$12,500	$13,000	$14,000
Fee revenue	$12,000,000	$18,000,000	$25,000,000	$26,000,000	$28,000,000
Total fee revenues	$36,000,000	$54,000,000	$75,000,000	$78,000,000	$84,000,000

"(2) SMALL BUSINESS EXCEPTION.—Any business which has fewer than 500 employees, including employees of affiliates, and which does not have a prescription drug product introduced

or delivered for introduction into interstate commerce shall pay one-half the amount of the fee for human drug applications it submits and shall pay the entire amount of the fee for supplements it submits. Such a business shall not be required to pay any portion of any fee required under subsection (a)(1)(A) until 1 year after the date of the submission of the application involved. For purposes of this paragraph, one business is an affiliate of another business when, directly or indirectly, one business controls, or has the power to control, the other business or a third party controls, or has the power to control, both businesses.

"(c) INCREASES AND ADJUSTMENTS.—

Federal Register, publication.

"(1) REVENUE INCREASE.—The total fee revenues established by the schedule in subsection (b)(1) shall be increased by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

"(A) the total percentage increase that occurred during the preceding fiscal year in the Consumer Price Index for all urban consumers (all items; U.S. city average), or

"(B) the total percentage increase for such fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

"(2) ANNUAL FEE ADJUSTMENT.—Subject to the amount appropriated for a fiscal year under subsection (g), the Secretary shall, within 60 days after the end of each fiscal year beginning after October 1, 1992, adjust the fees established by the schedule in subsection (b)(1) for the following fiscal year to achieve the total fee revenues, as may be increased under paragraph (1). Such fees shall be adjusted under this paragraph to maintain the proportions established in such schedule.

"(3) LIMIT.—The total amount of fees charged, as adjusted under paragraph (2), for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of human drug applications.

"(d) FEE WAIVER OR REDUCTION.—The Secretary shall grant a waiver from or a reduction of 1 or more fees under subsection (a) where the Secretary finds that—

"(1) such waiver or reduction is necessary to protect the public health,

"(2) the assessment of the fee would present a significant barrier to innovation because of limited resources available to such person or other circumstances,

"(3) the fees to be paid by such person will exceed the anticipated present and future costs incurred by the Secretary in conducting the process for the review of human drug applications for such person, or

"(4) assessment of the fee for an application or a supplement filed under section 505(b)(1) pertaining to a drug containing an active ingredient would be inequitable because an application for a product containing the same active ingredient filed by another person under section 505(b)(2) could not be assessed fees under subsection (a)(1).

In making the finding in paragraph (3), the Secretary may use standard costs.

"(e) EFFECT OF FAILURE TO PAY FEES.—A human drug application or supplement submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

"(f) ASSESSMENT OF FEES.—

"(1) LIMITATION.—Fees may not be assessed under subsection (a) for a fiscal year beginning after fiscal year 1993 unless appropriations for salaries and expenses of the Food and Drug Administration for such fiscal year (excluding the amount of fees appropriated for such fiscal year) are equal to or greater than the amount of appropriations for the salaries and expenses of the Food and Drug Administration for the fiscal year 1992 multiplied by the adjustment factor applicable to the fiscal year involved.

"(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate, for human drug applications and supplements, prescription drug establishments, and prescription drug products at any time in such fiscal year notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

"(g) CREDITING AND AVAILABILITY OF FEES.—

"(1) IN GENERAL.—Fees collected for a fiscal year pursuant to subsection (a) shall be credited to the appropriation account for salaries and expenses of the Food and Drug Administration and shall be available in accordance with appropriation Acts until expended without fiscal year limitation.

"(2) COLLECTIONS AND APPROPRIATION ACTS.—The fees authorized by this section—

"(A) shall be collected in each fiscal year in an amount equal to the amount specified in appropriation Acts for such fiscal year, and

"(B) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of human drug applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs for fiscal year 1992 multiplied by the adjustment factor.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

"(A) $36,000,000 for fiscal year 1993,

"(B) $54,000,000 for fiscal year 1994,

"(C) $75,000,000 for fiscal year 1995,

"(D) $78,000,000 for fiscal year 1996, and

"(E) $84,000,000 for fiscal year 1997,

as adjusted to reflect increases in the total fee revenues made under subsection (c)(1).

"(h) COLLECTION OF UNPAID FEES.—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

"(i) CONSTRUCTION.—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employers, and advisory committees not engaged in the process of the review of human drug applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.".

21 USC 379g note.

SEC. 104. ANNUAL REPORTS.

(a) FIRST REPORT.—Within 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services shall submit a report stating the Food and Drug Administration's progress in achieving the goals identified in section 102(3) of this Act during such fiscal year and that agency's future plans for meeting such goals.

(b) SECOND REPORT.—Within 120 days after the end of each fiscal year during which such fees are collected, the Secretary of Health and Human Services shall submit a report on the implementation of the authority for such fees during such fiscal year and on the use the Food and Drug Administration made of the fees collected during such fiscal year for which the report is made.

(c) COMMITTEES.—The reports described in subsections (a) and (b) shall be submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

21 USC 379g note.

SEC. 105. SUNSET.

The amendments made by section 103 shall not be in effect after October 1, 1997 and section 104 shall not be in effect after 120 days after such date.

SEC. 106. CONFORMING AMENDMENTS TO CHAPTER VII

Chapter VII is amended—

(1) by striking out in the chapter heading "ADMINISTRATIVE PROVISIONS" and inserting in lieu thereof "AUTHORITY",

(2) by inserting before the section heading for section 701 the following:

"SUBCHAPTER A—GENERAL ADMINISTRATIVE PROVISIONS",

21 USC 379a, 376.

(3) by redesignating section 702A (21 U.S.C. 372a) as section 706 and by inserting it after section 705 (21 U.S.C. 375) and by redesignating section 712 (21 U.S.C. 379d) as section 711,

21 USC 376, 379e.

(4) by moving section 706 (21 U.S.C 376), as in effect on the date of the enactment of this Act, to the end of chapter VII, by redesignating the section as section 721, and by inserting before the section heading for the section the following:

"SUBCHAPTER B—COLORS",

(5) by inserting after section 721 (as so redesignated) the following:

"SUBCHAPTER C—FEES

"PART 1—FREEDOM OF INFORMATION FEES", and

(6) by inserting section 711 (21 U.S.C. 379c), as in effect on the date of the enactment of this Act, after the heading for part 1 of subchapter C and redesignating it as section 731. 21 USC 379c, 379f.

SEC. 107. GENERAL CONFORMING AMENDMENTS.

To conform the Federal Food, Drug, and Cosmetic Act, to the amendments made to that Act by section 106(4), the following conforming amendments are made:

(1) Section 201(u) (21 U.S.C. 321(u)) is amended by striking out "706" and inserting in lieu thereof "721".

(2) Section 301(i)(1) (21 U.S.C. 331(i)(1)) is amended by striking out "706" and inserting in lieu thereof "721".

(3) Section 301(j) (21 U.S.C. 331(j)) is amended by striking out "706" and inserting in lieu thereof "721".

(4) Section 402(c) (21 U.S.C. 342(c)) is amended by striking out "706" and inserting in lieu thereof "721".

(5) Section 403(i) (21 U.S.C. 343(i)) is amended by striking out "706" and inserting in lieu thereof "721".

(6) Section 403(m) (21 U.S.C. 343(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(7) Section 408(g) (21 U.S.C. 346a(g)) is amended by striking out "706" and inserting in lieu thereof "721".

(8) Section 501(a)(4) (21 U.S.C 351(a)(4)) is amended by striking out "706" each place it occurs and inserting in lieu thereof "721".

(9) Section 502(m) (21 U.S.C. 352(m)) is amended by striking out "706" and inserting in lieu thereof "721".

(10) Section 520(g)(2)(A) (21 U.S.C. 360j(g)(2)(A)) is amended by striking out "706" and by inserting in lieu thereof "721".

(11) Section 601(e) (21 U.S.C. 361(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(12) Section 602(e) (21 U.S.C. 362(e)) is amended by striking out "706" and inserting in lieu thereof "721".

(13) Section 4(g)(2)(D) of the Poultry Products Inspection Act (21 U.S.C. 453(g)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(14) Section 1(m)(2)(D) of the Federal Meat Inspection Act (21 U.S.C. 601(m)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(15) Section 4(a)(2)(D) of the Egg Products Inspection Act (21 U.S.C. 1033(a)(2)(D)) is amended by striking out "706" and inserting in lieu thereof "721".

(16) Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended— 21 USC 343-1 note.

(A) in paragraph (2)—

(i) by striking "(1) 24" and inserting "(A) 24"; and

(ii) by striking "(2) action" and inserting "(B) action";

(B) by indenting, and aligning the margins of, paragraph (2) so as to align with paragraph (1); and

(C) by indenting, and aligning the margins of, subparagraphs (A) and (B) of paragraph (2) (as so designated by subparagraph (A)) so as to align with the subparagraphs of paragraph (1).

(17) Section 10(c)(2)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) (as amended by section 1 of the Act entitled "An Act to make Technical Amendments to the Nutrition Information and Labeling Act, and for other purposes", approved August 17, 1991 (Public Law 102–108; 105 Stat. 549) is amended by striking "706" and inserting "721".

21 USC 379g note.

SEC. 108. ANIMAL DRUG USER FEE STUDY.

(a) STUDY.—The Secretary, in consultation with manufacturers of animal drug products and other interested persons, shall undertake a study to evaluate whether, and under what conditions, to impose user fees to supplement appropriated funds in order to improve the process of reviewing applications (including abbreviated and supplemental applications) for new animal drugs under section 512 of the Federal Food, Drug, and Cosmetic Act. The study shall include—

(1) an assessment of the overall review process for animal drugs at the Center for Veterinary Medicine, including the number of applications received, and the average times for interim and final decisions on each type of application,

(2) the current allocation of funds to the animal drug review process,

(3) recommendations for goals for decision making times on applications submitted to the Center for Veterinary Medicine and for additional resources required to meet the goals, and

(4) recommendations for supplementing the resources for the animal drug review process through user fees.

(b) COMPLETION.—The results of the study required by subsection (a) shall be presented no later than January 4, 1994, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Dietary Supplement Act of 1992.

TITLE II—DIETARY SUPPLEMENTS

21 USC 301 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Dietary Supplement Act of 1992".

SEC. 202. PROHIBITION.

21 USC 343 note.

(a) IN GENERAL.—

(1) PROHIBITION ON IMPLEMENTATION.—Notwithstanding any other provision of law and except as provided in subsection (b) and in the amendment made by paragraph (2)(A), the Secretary of Health and Human Services may not implement the Nutrition Labeling and Education Act of 1990 (Public Law 101–535; 104 Stat. 2353), or any amendment made by such Act, earlier than December 15, 1993, with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(2) FEDERAL REGULATORY ACTION.—

(A) PROPOSED REGULATIONS.—The first sentence of section 2(b)(1), and the first sentence of section 3(b)(1)(A), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the Secretary shall issue, not later than June 15, 1993, proposed regulations that are applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances to implement such section".

(B) FINAL REGULATIONS.—

(i) ISSUANCE OF FINAL REGULATIONS.—The second sentence of section 2(b)(1), and section 3(b)(1)(B), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the Secretary shall issue, not later than December 31, 1993, such a final regulation applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.".

(ii) REGULATIONS CONSIDERED TO BE FINAL.—The first sentence of section 2(b)(2), and the first sentence of section 3(b)(2), of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) are each amended by inserting before the period the following: ", except that the proposed regulations applicable to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not be considered to be final regulations until December 31, 1993".

(C) CONSTRUCTION.—The amendments made by subparagraph (B) shall not be construed to modify the effective date of final regulations under sections 2(b) and 3(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) with respect to foods that are not such dietary supplements. 21 USC 343 note.

(3) STATE ACTION.—Section 10(a)(1)(C) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by inserting before the comma the following: ", except that such amendments shall take effect with respect to such dietary supplements on December 31, 1993".

(4) PREEMPTION.—Section 10(b) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note) is amended by adding at the end the following: 21 USC 343-1 note.

"(3) REQUIREMENTS PERTAINING TO CERTAIN CLAIMS.—Notwithstanding subparagraphs (D) and (E) of paragraph (1) and except with respect to claims approved in accordance with section 202(b) of the Dietary Supplement Act of 1992, the requirements described in paragraphs (4) and (5) of section 403A(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343-1(a) (4) and (5)) that pertain to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances shall not take effect until the date final regulations take effect to implement subsection (q) or (r), as appropriate, of section 403 of such Act with respect to such dietary supplements.".

(b) HEALTH CLAIMS.—Notwithstanding section 403(r)(5)(D) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(5)(D)) and subsection (a), the Secretary of Health and Human Services 21 USC 343 note.

may, earlier than December 15, 1993, approve claims made with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances that are claims described in clauses (vi) and (x) of section 3(b)(1)(A) of the Nutrition Labeling and Education Act of 1990 (21 U.S.C. 343 note).

21 USC 343 note.

SEC. 203. UNITED STATES RECOMMENDED DAILY ALLOWANCES.

Notwithstanding any other provision of Federal law, no regulations that require the use of, or are based upon, recommended daily allowances of vitamins or minerals may be promulgated before November 8, 1993 (other than regulations establishing the United States recommended daily allowances specified at section 101.9(c)(7)(iv) of title 21, Code of Federal Regulations, as in effect on October 6, 1992, or regulations under section 403(r)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(r)(1)(A)) that are based on such recommended daily allowances).

SEC. 204. ENFORCEMENT REPORT.

(a) CONTENTS.—The Secretary of Health and Human Services shall prepare a report containing a statement of the enforcement priorities and practices of the Food and Drug Administration under section 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348) with respect to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) REPORT.—Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall submit the report described in subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

21 USC 393 note.

SEC. 205. MANAGEMENT ACTIVITIES STUDY.

(a) STUDY.—The Comptroller General shall conduct a study of the management of activities of the Food and Drug Administration that are related to dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances.

(b) CONTENTS.—In conducting the study, the Comptroller General shall examine, with respect to such activities—

(1) the means by which the Food and Drug Administration makes a determination that a substance poses a risk to public health and safety that justifies the expenditure of resources by the agency;

(2) the means by which the Food and Drug Administration makes a determination that a substance is adulterated, misbranded, or improperly manufactured;

(3) the means by which the Food and Drug Administration makes a determination relating to the quantitative management of the agency response to specific issues, in order to adjust the efforts of the agency to be commensurate with the severity of the problem addressed by the agency;

(4) the approach by which the Food and Drug Administration determines the adequacy of proof related to the risk posed by, or the safety of, a substance, and the adequacy of such approach; and

(5) the relationship between—

(A)(i) the number of hours devoted by Food and Drug Administration personnel, and the expertise of such personnel, in conducting such activities;

(ii) the cost of conducting such activities; and

(iii) the cost to manufacturers of such supplements to achieve compliance with such activities; and

(B)(i) the level of risk suspected to be posed by such supplements; and

(ii) the level of risk determined to be posed by such supplements.

(c) APPROACH.—In conducting the study, the Comptroller General shall analyze the current practices of the Food and Drug Administration and the practices of the agency within the 5 years prior to the date of enactment of this Act.

(d) ANALYSIS.—In conducting the study, the Comptroller General shall—

(1) determine the relative proportion of resources devoted to Food and Drug Administration regulatory and enforcement activities that are related to—

(A) dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances;

(B) food additives that are not such dietary supplements;

(C) foods that are not such dietary supplements;

(D) drugs that are not such dietary supplements, and devices; or

(E) cosmetics; and

(2) determine, with respect to such supplements, with respect to food additives, and with respect to foods, the proportion of the resources devoted to such regulatory and enforcement activities that are used to—

(A) determine whether a substance is misbranded;

(B) determine whether an improper manufacturing practice occurred during the manufacturing of a substance;

(C) determine whether a substance is unsafe; and

(D) determine whether a substance is adulterated or otherwise in violation of the Federal Food, Drug, and Cosmetic Act (other than by making a determination described in subparagraph (A), (B), or (C)).

(e) REPORTS.—

(1) INTERIM REPORT.—

(A) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate an interim report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) RECOMMENDATIONS.—Such report shall include the recommendations of the Comptroller General for administrative reform, including recommendations regarding opportunities for encouraging economy and efficiency through the appropriate targeting of problems, managing resources appropriately, and making adequate determinations of risk or safety, in carrying out activities related to such supplements.

(2) FINAL REPORT.—

(A) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General shall prepare and submit to the Committee on Energy

and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a final report containing the findings resulting from the study and the recommendations described in subparagraph (B).

(B) RECOMMENDATIONS.—Such report shall contain the recommendations described in paragraph (1)(B).

SEC. 206. SAFETY AND REGULATORY OUTCOMES STUDY.

(a) SAFETY STUDY.—The Director of the Office of Technology Assessment, in cooperation with the Congressional Research Service and subject to the approval of the Technology Assessment Board, shall conduct a study of the relationship between—

(1) regulatory systems affecting the development and sale of dietary supplements of vitamins, minerals, herbs, or other similar nutritional substances; and

(2) health outcomes.

(b) CONTENTS.—

(1) IN GENERAL.—In carrying out the study, the Director of the Office of Technology Assessment shall examine the efforts of industrialized nations (including the United States) to regulate the manufacture and sale of such dietary supplements and the effect of the regulatory efforts on human health.

(2) INFORMATION.—The study shall include information regarding—

(A) whether and how other countries regulate products that are regulated as such dietary supplements in the United States;

(B) the classification systems used in regulating such products, such as systems that classify such supplements by safety, function, source, usage, dose, or other characteristics;

(C) the effect of the classification on the regulation of the supplements;

(D) how safety concerns, including safety concerns at the time of manufacture and sale of the product are addressed by the regulatory process;

(E) how deception concerns (including misbranding) are addressed by the regulatory process; and

(F) the labeling requirements, if any, for the sale of the products.

(3) ANALYSIS.—The study shall also examine—

(A) whether there are disparate rates of morbidity and mortality associated with the consumption of such dietary supplements among nations;

(B) whether particular regulatory systems may be associated with lower morbidity and mortality rates; and

(C) whether a causal relationship may be demonstrated between the regulatory system used and the health outcomes of the populations affected.

(c) REPORT.—The Director of the Office of Technology Assessment shall, not later than 6 months after the date on which the study is approved by the Technology Assessment Board, submit a report containing the findings of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Approved October 29, 1992.

LEGISLATIVE HISTORY—H.R. 6181:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-572
102d Congress

An Act

Oct. 29, 1992
[S. 1569]

To implement the recommendations of the Federal Courts Study Committee, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Courts Administration Act of 1992. 28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Courts Administration Act of 1992".

TITLE I—IMPLEMENTATION OF FEDERAL COURTS STUDY COMMITTEE RECOMMENDATIONS

SEC. 101. SUPREME COURT AUTHORITY TO PRESCRIBE RULES FOR APPEAL OF INTERLOCUTORY DECISIONS.

Section 1292 of title 28, United States Code, is amended by adding at the end the following new subsection:

"(e) The Supreme Court may prescribe rules, in accordance with section 2072 of this title, to provide for an appeal of an interlocutory decision to the courts of appeals that is not otherwise provided for under subsection (a), (b), (c), or (d).".

SEC. 102. ABOLITION OF TEMPORARY EMERGENCY COURT OF APPEALS.

(a) APPEALS UNDER ECONOMIC STABILIZATION ACT.—Section 211 of the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799) is amended by striking subsections (b) through (h) and inserting the following:

12 USC 1904 note.

"(b) Appeals from orders or judgments entered by a district court of the United States in cases and controversies arising under this title shall be brought in the United States Court of Appeals for the Federal Circuit if the appeal is from a final decision of the district court or is an interlocutory appeal permitted under section 1292(c) of title 28, United States Code.".

(b) JUDICIAL REVIEW OF EMERGENCY ORDERS UNDER THE NATURAL GAS POLICY ACT.—Section 506(c) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3416(c)) is amended—

(1) in the first sentence, by striking "the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended," and inserting "the United States Court of Appeals for the Federal Circuit"; and

(2) by striking "Temporary Emergency Court of Appeals" each place it appears and inserting "United States Court of Appeals for the Federal Circuit".

(c) CONFORMING AMENDMENTS.—Section 1295(a) of title 28, United States Code, is amended—

(1) by striking "and" at the end of paragraph (9);

(2) by striking the period at the end of paragraph (10) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(11) of an appeal under section 211 of the Economic Stabilization Act of 1970;

"(12) of an appeal under section 5 of the Emergency Petroleum Allocation Act of 1973;

"(13) of an appeal under section 506(c) of the Natural Gas Policy Act of 1978; and

"(14) of an appeal under section 523 of the Energy Policy and Conservation Act.".

(d) ABOLITION OF COURT.—The Temporary Emergency Court of Appeals created by section 211(b) of the Economic Stabilization Act of 1970 is abolished, effective 6 months after the date of the enactment of this Act.

Effective date. 28 USC 1295 note.

(e) PENDING CASES.—(1) Any appeal which, before the effective date of abolition described in subsection (d), is pending in the Temporary Emergency Court of Appeals but has not been submitted to a panel of such court as of that date shall be assigned to the United States Court of Appeals for the Federal Circuit as though the appeal had originally been filed in that court.

28 USC 1295 note.

(2) Any case which, before the effective date of abolition described in subsection (d), has been submitted to a panel of the Temporary Emergency Court of Appeals and as to which the mandate has not been issued as of that date shall remain with that panel for all purposes and, notwithstanding the provisions of sections 291 and 292 of title 28, United States Code, that panel shall be assigned to the United States Court of Appeals for the Federal Circuit for the purpose of deciding such case.

SEC. 103. JURISDICTION OF MAGISTRATE JUDGES TO MODIFY OR REVOKE PROBATION OR SUPERVISED RELEASE AFTER IMPRISONMENT.

Section 3401 of title 18, United States Code, is amended—

(1) in subsection (d) by striking "and to revoke or reinstate the probation of any person granted probation by him." and inserting "and to revoke, modify, or reinstate the probation of any person granted probation by a magistrate judge."; and

(2) by adding at the end the following new subsections:

"(h) The magistrate judge shall have power to modify, revoke, or terminate supervised release of any person sentenced to a term of supervised release by a magistrate judge.

"(i) A district judge may designate a magistrate judge to conduct hearings to modify, revoke, or terminate supervised release, including evidentiary hearings, and to submit to the judge proposed findings of fact and recommendations for such modification, revocation, or termination by the judge, including, in the case of revocation, a recommended disposition under section 3583(e) of this title. The magistrate judge shall file his or her proposed findings and recommendations.".

SEC. 104. INTERCIRCUIT TRANSFERS.

Section 291(a) of title 28, United States Code, is amended to read as follows:

"(a) The Chief Justice of the United States may, in the public interest, designate and assign temporarily any circuit judge to act as circuit judge in another circuit upon request by the chief judge or circuit justice of such circuit.".

TITLE II—JUDICIAL SURVIVORS' ANNUITIES IMPROVEMENTS

Retirement.

SEC. 201. JUDICIAL SURVIVORS' ANNUITIES AMENDMENTS.

(a) ELECTION.—Section 376(a)(1) of title 28, United States Code, is amended in the matter following subparagraph (G)—

(1) by striking "or" at the end of clause (v); and

(2) by inserting before the semicolon at the end of clause (vi) ", or (vii) the date of the enactment of the Federal Courts Administration Act of 1992".

(b) CONTRIBUTIONS.—Section 376(b) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) in the first sentence by striking "including any 'retirement salary', a sum equal to 5 percent of that salary." and inserting "a sum equal to 2.2 percent of that salary, and a sum equal to 3.5 percent of his or her retirement salary. The deduction from any retirement salary—

"(A) of a justice or judge of the United States retired from regular active service who is described in section 371(b)(1) of this title,

"(B) of a justice or judge of the United States retired under section 372(a) of this title who is willing and able to perform judicial duties in accordance with section 294 of this title,

"(C) of a judge of the United States Court of Federal Claims retired under section 178 (a) or (b) of this title who meets the requirements of section 178(d) of this title, or

"(D) of a judicial official on recall under section 155(b), 797, 373(c)(4), 375, or 636(h) of this title,

shall be an amount equal to 2.2 percent of retirement salary.";

(3) by redesignating all that follows the first sentence (as amended by paragraph (2) of this subsection) as paragraph (3) and inserting before such paragraph (3) the following new paragraph:

"(2) A judicial official who is not entitled to receive an immediate retirement salary upon leaving office but who is eligible to receive a deferred retirement salary on a later date shall file, within 90 days before leaving office, a written notification of his or her intention to remain within the purview of this section under such conditions and procedures as may be determined by the Director of the Administrative Office of the United States Courts. Every judicial official who files a written notification in accordance with this paragraph shall be deemed to consent to contribute, during the period before such a judicial official begins to receive his or her retirement salary, a sum equal to 3.5 percent of the deferred retirement salary which that judicial official is entitled to receive. Any judicial official who fails to file a written notification under this paragraph shall be deemed to have revoked his or her election under subsection (a) of this section."; and

(4) in paragraph (3), as redesignated by paragraph (3) of this subsection, by striking "so deducted and withheld from the salary of each such judicial official" and inserting "deducted and withheld from the salary of each judicial official under paragraphs (1) and (2) of this subsection".

(c) DEPOSITS.—Section 376(d) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "5 percent" and inserting "3.5 percent"; and

(2) in paragraph (2) by striking "5 percent" and inserting "3.5 percent".

(d) REFUND OF DEPOSITS.—Section 376(g) of title 28, United States Code, is amended to read as follows:

"(g) If any judicial official leaves office and is ineligible to receive a retirement salary or leaves office and is entitled to a deferred retirement salary but fails to make an election under subsection (b)(2) of this section, all amounts credited to his or her account established under subsection (e), together with interest at 4 percent per annum to December 31, 1947, and at 3 percent per annum thereafter, compounded on December 31 of each year, to the date of his or her relinquishment of office, minus a sum equal to 2.2 percent of salary for service while deductions were withheld under subsection (b) or for which a deposit was made by the judicial official under subsection (d), shall be returned to that judicial official in a lump-sum payment within a reasonable period of time following the date of his or her relinquishment of office. For the purposes of this section, a 'reasonable period of time' shall be presumed to be no longer than 1 year following the date upon which such judicial official relinquishes his or her office.".

(e) PAYMENT OF ANNUITIES.—Section 376(h)(1) of title 28, United States Code, is amended by striking "or while receiving 'retirement salary,' " and inserting "while receiving retirement salary, or after filing an election and otherwise complying with the conditions under subsection (b)(2) of this section".

(f) CREDITABLE SERVICE.—Section 376(k) of title 28, United States Code, is amended—

(1) in paragraph (3) by striking "and" at the end;

(2) in paragraph (4) by striking the period and inserting ", and"; and

(3) by adding at the end the following new paragraph:

"(5) those years during which such judicial official had deductions withheld from his or her retirement salary in accordance with subsection (b) (1) or (2) of this section.".

(g) COMPUTATION OF ANNUITY.—Section 376(l) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking "(i) during those three years of such service in which his or her annual salary" and inserting "(i) during those three years of such service, or during those three years while receiving a retirement salary, in which his or her annual salary or retirement salary"; and

(2) in paragraph (1) by redesignating subparagraph (D) as subparagraph (E) and inserting after subparagraph (C) the following:

"(D) the number of years during which the judicial official had deductions withheld from his or her retirement salary under subsection (b) (1) or (2) of this section; plus".

(h) TERMINATION.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(v) Subject to the terms of a decree, court order, or agreement described in subsection (t)(1), if any judicial official ceases to be married after making the election under subsection (a), he or she may revoke such election in writing by notifying the Director of the Administrative Office of the United States Courts. The judicial official shall also notify any spouse or former spouse of the application for revocation in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that the notification requirement may be waived with respect to a spouse or former spouse if the judicial official establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.".

(i) ADJUSTMENT OF CONTRIBUTION RATE.—Section 376 of title 28, United States Code, is amended by adding at the end of that section the following new subsection:

"(w) The Comptroller General of the United States shall, at the end of each 3-fiscal year period, determine whether the contributions by judicial officials under subsection (b) during that 3-year period accounted for 50 percent of the costs of the Judicial Survivors' Annuities Fund and if not, then what adjustments in the contribution rates under subsection (b) should be made to achieve that 50 percent figure. The Comptroller General shall report the results of each determination under this subsection to the Congress.".

Reports.

28 USC 376 note.

(j) CREDIT FOR PRIOR CONTRIBUTIONS AT HIGHER RATE.—Notwithstanding any other provision of law, the contribution under section 376(b) (1) or (2) of title 28, United States Code (as amended by this section), of any judicial official who is within the purview of such section 376 on the effective date of this title shall be reduced by 0.5 percent for a period of time equal to the number of years of service for which the judicial official has made contributions or deposits before the enactment of this Act to the credit of the Judicial Survivors' Annuities Fund or for 18 months, whichever is less, if such contributions or deposits were never returned to the judicial official. For purposes of this subsection, the term "years" shall mean full years and twelfth parts thereof.

28 USC 376 note.

(k) REDEPOSIT OF PRIOR CONTRIBUTIONS.—Any judicial official as defined in section 376(a)(1) of title 28, United States Code, who makes an election under section 376(b) of title 28, United States Code, may make a redeposit, as required by section 7 of Public Law 94–554 and section 2(c)(2) of Public Law 99–336, to the credit of the Judicial Survivors' Annuities Fund in installments, in such amounts and under such conditions as may be determined in each instance by the Director of the Administrative Office of the United States Courts. If a judicial official elects to make a redeposit in installments—

(1) the Director shall require that the first installment payment made shall be in an amount no smaller than the last 18 months of salary deductions or deposits previously returned to that judicial official in a lump-sum payment; and

(2) the election under section 376(b) of title 28, United States Code, shall be effective upon payment of the first such installment.

(l) AUDIT BY GAO.—The Comptroller General shall— 28 USC 376 note.

(1) conduct an audit of the judicial survivors annuities program under section 376 of title 28, United States Code, for the 3-year period beginning on the date of the enactment of this Act; and

(2) report to the Congress, not later than 60 days after the end of that 3-year period, on the results of such audit, comparing such program to other survivors annuities programs within the Federal Government. Reports.

SEC. 202. EFFECTIVE DATE. 28 USC 376 note.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE III—JUDICIAL FINANCIAL ADMINISTRATION

SEC. 301. AWARD OF FILING FEES IN FAVOR OF THE UNITED STATES.

(a) ACTIONS COMMENCED BY THE UNITED STATES.—Section 2412(a) of title 28, United States Code, is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end the following new paragraph:

"(2) A judgment for costs, when awarded in favor of the United States in an action brought by the United States, may include an amount equal to the filing fee prescribed under section 1914(a) of this title. The preceding sentence shall not be construed as requiring the United States to pay any filing fee.".

(b) DISPOSITION OF FILING FEES.—Section 1931 of title 28, United States Code, is amended by striking "The following" and all that follows through the end and inserting the following:

"(a) Of the amounts paid to the clerk of court as a fee under section 1914(a) or as part of a judgment for costs under section 2412(a)(2) of this title, $60 shall be deposited into a special fund of the Treasury to be available to offset funds appropriated for the operation and maintenance of the courts of the United States.

"(b) If the court authorizes a fee under section 1914(a) or an amount included in a judgment for costs under section 2412(a)(2) of this title of less than $120, the entire fee or amount, up to $60, shall be deposited into the special fund provided in this section.".

TITLE IV—JURY MATTERS

SEC. 401. JURY SELECTION.

Section 1863(b)(2) of title 28, United States Code, is amended by adding at the end the following: "The plan for the district of Massachusetts may require the names of prospective jurors to be selected from the resident list provided for in chapter 234A, Massachusetts General Laws, or comparable authority, rather than from voter lists.". Massachusetts.

SEC. 402. GRAND JURY TRAVEL.

Section 1871(c) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) A grand juror who travels to district court pursuant to a summons may be paid the travel expenses provided under this section or, under guidelines established by the Judicial Conference, the actual reasonable costs of travel by aircraft when travel by other means is not feasible and when certified by the chief judge of the district court in which the grand juror serves.".

SEC. 403. PERMANENT AUTHORIZATION FOR OPTIONAL USE OF NEW JURY SELECTION PROCESS.

(a) AUTHORITY TO USE ONE-STEP PROCEDURE.—Section 1878 of title 28, United States Code, is amended to read as follows:

"§ 1878. Optional use of a one-step summoning and qualification procedure

"(a) At the option of each district court, jurors may be summoned and qualified in a single procedure, if the court's jury selection plan so authorizes, in lieu of the two separate procedures otherwise provided for by this chapter. Courts shall ensure that a one-step summoning and qualification procedure conducted under this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title.

"(b) Jury selection conducted under this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with a one-step summoning and qualification procedure authorized by this section.".

(b) CONFORMING AMENDMENT.—The item relating to section 1878 in the table of sections for chapter 121 is amended to read as follows:

"1878. Optional use of a one-step summoning and qualification procedure.".

Effective date. 28 USC 1878 note.

(c) SAVINGS PROVISION.—For courts participating in the experiment authorized under section 1878 of title 28, United States Code (as in effect before the effective date of this section), the amendment made by subsection (a) of this section shall be effective on and after January 1, 1992.

TITLE V—MISCELLANEOUS

SEC. 501. PRETERMISSION OF REGULAR SESSIONS OF COURT OF APPEALS.

Section 48(c) of title 28, United States Code, is amended by striking ", with the consent of the Judicial Conference of the United States,".

SEC. 502. REPORTS AND STATISTICS.

12 USC 3421 note.

(a) ELIMINATION OF DUPLICATIVE REPORTING REQUIREMENT.—After January 1, 1992, the Director of the Administrative Office of the United States Courts is not required to send a report under section 1121(a) of Public Law 95-630 (12 U.S.C. 3421(a)).

(b) TRANSFER OF REPORTING DUTY TO ADMINISTERING AGENCY.—Section 2412(d)(5) of title 28, United States Code, is amended by striking "The Director" and all that follows through "this title," and inserting "The Attorney General shall report annually to the Congress on".

(c) EXTENSION FOR JUDICIAL CENTER REPORT.—Section 302(c) of the Judicial Improvements Act of 1990 (Public Law 101–650; 104 Stat. 5104) is amended by striking "2 years" and inserting "2 years and 9 months". 28 USC 620 note.

SEC. 503. RECYCLING AND REUSE OF RECYCLABLE MATERIALS.

Section 604(g) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(3)(A) In order to promote the recycling and reuse of recyclable materials, the Director may provide for the sale or disposal of recyclable scrap materials from paper products and other consumable office supplies held by an entity within the judicial branch.

"(B) The sale or disposal of recyclable materials under subparagraph (A) shall be consistent with the procedures provided in section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) for the sale of surplus property.

"(C) Proceeds from the sale of recyclable materials under subparagraph (A) shall be deposited as offsetting collections to the fund established under section 1931 of this title and shall remain available until expended to reimburse any appropriations for the operation and maintenance of the judicial branch.".

SEC. 504. VENUE IN DIVERSITY AND FEDERAL QUESTION CASES.

Section 1391(a)(3) of title 28, United States Code, is amended by inserting before the period ", if there is no district in which the action may otherwise be brought".

SEC. 505. SUMMARIES OF REPORTS TO CONGRESS.

Section 103(c)(4)(B) of the Civil Justice Reform Act of 1990 (Public Law 101–650) is amended by striking "the reports" and inserting "summaries of the reports". 28 USC 471 note.

SEC. 506. COSTS AND FEES IN THE UNITED STATES COURT OF VETERANS APPEALS.

(a) IN GENERAL.—Section 2412(d)(2)(F) of title 28, United States Code, is amended by inserting before the semicolon "and the United States Court of Veterans Appeals".

(b) APPLICATION TO PENDING CASES.—The amendment made by subsection (a) shall apply to any case pending before the United States Court of Veterans Appeals on the date of the enactment of this Act, to any appeal filed in that court on or after such date, and to any appeal from that court that is pending on such date in the United States Court of Appeals for the Federal Circuit. 28 USC 2412 note.

(c) FEE AGREEMENTS.—Section 5904(d) of title 38, United States Code, shall not prevent an award of fees and other expenses under section 2412(d) of title 28, United States Code. Section 5904(d) of title 38, United States Code, shall not apply with respect to any such award but only if, where the claimant's attorney receives fees for the same work under both section 5904 of title 38, United States Code, and section 2412(d) of title 28, United States Code, the claimant's attorney refunds to the claimant the amount of the smaller fee. 28 USC 2412 note.

(d) EFFECTIVE DATE.—This section, and the amendment made by this section, shall take effect on the date of the enactment of this Act. 28 USC 2412 note.

TITLE VI—JUDICIARY PERSONNEL ADMINISTRATION, BENEFITS, AND PROTECTIONS

SEC. 601. JUDICIAL RETIREMENT MATTERS.

(a) JUDICIAL RETIREMENT FUNDS.—Section 255(g)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(B)) is amended by inserting after "Judicial survivors' annuities fund (10–8110–0–7–602);" the following:

"Judicial Officers' Retirement Fund (10–8122–0–7–602);

"Court of Federal Claims Judges' Retirement Fund (10–8124–0–7–602);".

(b) JUDICIARY TRUST FUNDS.—Section 255(g)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after "Payment to civil service retirement and disability fund (24–0200–0–1–805);" the following:

"Payment to Judiciary Trust Funds (10–0941–0–1–752);".

SEC. 602. FEDERAL JUDICIAL CENTER.

(a) FUNCTIONS.—Subsection 620(b) of title 28, United States Code, is amended—

(1) in paragraph (4) by striking "and" at the end;

(2) in paragraph (5) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(6) insofar as may be consistent with the performance of the other functions set forth in this section, to cooperate with and assist agencies of the Federal Government and other appropriate organizations in providing information and advice to further improvement in the administration of justice in the courts of foreign countries and to acquire information about judicial administration in foreign countries that may contribute to performing the other functions set forth in this section.".

(b) CLERICAL COMPENSATION.—Subsection 625(c) of title 28, United States Code, is amended by striking "competitive service and" and inserting "competitive service without regard to".

TITLE VII—CRIMINAL ADMINISTRATIVE MATTERS

SEC. 701. NEW AUTHORITY FOR PROBATION AND PRETRIAL SERVICES OFFICERS.

(a) PROBATION OFFICERS.—Section 3603 of title 18, United States Code, is amended—

(1) in paragraph (7) by striking "and" at the end;

(2) by redesignating paragraph (8) as paragraph (9) and inserting after paragraph (7) the following new paragraph:

Reports.

"(8)(A) when directed by the court, and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report

such person's conduct and condition to the court ordering release and to the Attorney General or his designee; and

"(B) immediately report any violation of the conditions of release to the court and the Attorney General or his designee; and".

(b) PRETRIAL SERVICES.—Section 3154 of title 18, United States Code, is amended—

(1) by redesignating paragraph (12) as paragraph (13); and

(2) by inserting after paragraph (11) the following new paragraph:

"(12)(A) As directed by the court and to the degree required by the regimen of care or treatment ordered by the court as a condition of release, keep informed as to the conduct and provide supervision of a person conditionally released under the provisions of section 4243 or 4246 of this title, and report such person's conduct and condition to the court ordering release and the Attorney General or his designee.

"(B) Any violation of the conditions of release shall immediately be reported to the court and the Attorney General or his designee.".

SEC. 702. GOVERNMENT RATES OF TRAVEL FOR CRIMINAL JUSTICE ACT ATTORNEYS AND EXPERTS.

Contracts. 18 USC 3006A note.

The Administrator of General Services, in entering into contracts providing for special rates to be charged by Federal Government sources of supply, including common carriers and hotels (or other commercial providers of lodging) for official travel and accommodation of Federal Government employees, shall provide for charging the same rates for attorneys, experts, and other persons traveling primarily in connection with carrying out responsibilities under section 3006A of title 18, United States Code, including community defender organizations established under subsection (g) of that section.

SEC. 703. TECHNICAL CORRECTION.

Section 3143(b)(1) of title 18, United States Code, is amended by striking "paragraph (b)(2)(D)" and inserting "subparagraph (B)(iv) of this paragraph".

TITLE VIII—STATE JUSTICE INSTITUTE REAUTHORIZATION

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

The text of section 215 of the State Justice Institute Act of 1984 (Public Law 98–620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $20,000,000 for fiscal year 1993, $20,000,000 for fiscal year 1994, $25,000,000 for fiscal year 1995, and $25,000,000 for fiscal year 1996. Amounts appropriated for each such year are to remain available until expended.".

SEC. 802. INTERAGENCY AGREEMENTS.

Section 206(b) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(b)) is amended—

(1) in paragraph (1)—

(A) by striking "shall give priority to grants, cooperative agreements, or contracts" and inserting "may award grants to or enter into cooperative agreements or contracts"; and

(B) in subparagraph (A) by striking the comma and inserting a semicolon;

(2) in paragraph (2) by inserting "to" after "award grants";

(3) by striking paragraph (3) and inserting the following:

"(3) Upon application by an appropriate State or local agency or institution and if the arrangements to be made by such agency or institution will provide services which could not be provided adequately through nongovernmental arrangements, the Institute may award a grant or enter into a cooperative agreement or contract with a unit of State or local government other than a court.";

(4) by redesignating paragraph (4) as paragraph (5); and

(5) by inserting after paragraph (3) the following new paragraph:

"(4) The Institute may enter into contracts with Federal agencies to carry out the purposes of this title.".

SEC. 803. TECHNICAL AMENDMENTS.

(a) BOARD OF DIRECTORS.—Section 204(a)(3) of the State Justice Institute Act of 1984 (42 U.S.C. 10703(a)(3)) is amended in the second sentence by striking "conference" and inserting "Conference".

(b) USES OF FUNDS.—Section 206(c)(7) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)(7)) is amended by striking "effect" and inserting "affect".

42 USC 10703 note.

SEC. 804. EFFECTIVE DATE.

The provisions of this title shall take effect on the date of the enactment of this Act.

Court of Federal Claims Technical and Procedural Improvements Act of 1992. 28 USC 1 note.

TITLE IX—COURT OF FEDERAL CLAIMS

SEC. 901. SHORT TITLE.

This title may be cited as the "Court of Federal Claims Technical and Procedural Improvements Act of 1992".

SEC. 902. COURT DESIGNATION.

(a) IN GENERAL.—Chapters 7, 51, 91, and 165 of title 28, United States Code, are amended—

(1) by striking "United States Claims Court" each place it appears and inserting "United States Court of Federal Claims"; and

(2) by striking "Claims Court" each place it appears and inserting "Court of Federal Claims".

28 USC 171 note.

(b) OTHER PROVISIONS OF LAW.—Reference in any other Federal law or any document to—

(1) the "United States Claims Court" shall be deemed to refer to the "United States Court of Federal Claims"; and

(2) the "Claims Court" shall be deemed to refer to the "Court of Federal Claims".

SEC. 903. MILITARY RETIREMENT PAY FOR RETIRED JUDGES.

(a) IN GENERAL.—Chapter 7 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 180. Military retirement pay for retired judges

"Section 371(e) of this title applies to judges of the United States Court of Federal Claims, and for the purpose of construing section 371(e) of this title, a judge of the United States Court of Federal Claims shall be deemed to be a judge of the United States as defined in section 451 of this title.".

(b) TABLE OF SECTIONS.—The table of sections for chapter 7 of title 28, United States Code, is amended by adding at the end the following:

"179. Insurance and annuities programs.
"180. Military retirement pay for retired judges.".

SEC. 904. RECALL OF COURT OF FEDERAL CLAIMS JUDGES ON SENIOR STATUS.

(a) IN GENERAL.—Section 375 of title 28, United States Code, is amended—

(1) in the first sentence of subsection (a)(1) by striking ", a judge of the Claims Court," and ", judge of the Claims Court,";

(2) by amending paragraph (2) of subsection (a) to read as follows:

"(2) For purposes of paragraph (1) of this subsection, a certification may be made, in the case of a bankruptcy judge or a United States magistrate, by the judicial council of the circuit in which the official duty station of the judge or magistrate at the time of retirement was located.";

(3) by amending paragraph (3) of subsection (a) to read as follows:

"(3) For purposes of this section, the term 'bankruptcy judge' means a bankruptcy judge appointed under chapter 6 of this title or serving as a bankruptcy judge on March 31, 1984."; and

(4) in subsection (f)—

(A) by striking ", a judge of the Claims Court,"; and

(B) by striking ", a commissioner of the Court of Claims,".

(b) RECALL OF RETIRED JUDGES.—Section 797(d) of title 28, United States Code, is amended in the second sentence by striking "civil service".

SEC. 905. LAW CLERKS.

The first sentence of section 794 of title 28, United States Code, is amended by inserting after "may approve" the following: "for district judges".

SEC. 906. SITES FOR HOLDING COURT.

(a) IN GENERAL.—Section 798(a) of title 28, United States Code, is amended to read as follows:

"(a) The United States Court of Federal Claims is authorized to use facilities and hold court in Washington, District of Columbia, and throughout the United States (including its territories and possessions) as necessary for compliance with sections 173 and 2503(c) of this title. The facilities of the Federal courts, as well as other comparable facilities administered by the General Services

Administration, shall be made available for trials and other proceedings outside of the District of Columbia.".

(b) HEARING IN A FOREIGN COUNTRY.—Section 798 of title 28, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

"(b) Upon application of a party or upon the judge's own initiative, and upon a showing that the interests of economy, efficiency, and justice will be served, the chief judge of the Court of Federal Claims may issue an order authorizing a judge of the court to conduct proceedings, including evidentiary hearings and trials, in a foreign country whose laws do not prohibit such proceedings, except that an interlocutory appeal may be taken from such an order pursuant to section 1292(d)(2) of this title, and the United States Court of Appeals for the Federal Circuit may, in its discretion, consider the appeal.".

(c) APPEAL JURISDICTION.—Section 1292(d)(2) of title 28, United States Code, is amended by inserting after "When" the following: "the chief judge of the United States Court of Federal Claims issues an order under section 798(b) of this title, or when".

SEC. 907. JURISDICTION.

(a) CERTIFICATIONS.—(1) Section 6(c) of the Contract Disputes Act of 1978 (41 U.S.C. 605(c)) is amended—

(A) in paragraph (1) in the second sentence—

(i) by striking "and" after "belief,"; and

(ii) by inserting before the period at the end of the sentence the following: ", and that the certifier is duly authorized to certify the claim on behalf of the contractor"; and

(B) by adding at the end the following:

"(6) The contracting officer shall have no obligation to render a final decision on any claim of more than $50,000 that is not certified in accordance with paragraph (1) if, within 60 days after receipt of the claim, the contracting officer notifies the contractor in writing of the reasons why any attempted certification was found to be defective. A defect in the certification of a claim shall not deprive a court or an agency board of contract appeals of jurisdiction over that claim. Prior to the entry of a final judgment by a court or a decision by an agency board of contract appeals, the court or agency board shall require a defective certification to be corrected.

"(7) The certification required by paragraph (1) may be executed by any person duly authorized to bind the contractor with respect to the claim.".

41 USC 605 note.

(2) The amendment made by paragraph (1)(B) shall be effective with respect to all claims filed before, on, or after the date of the enactment of this Act, except for those claims which, before such date of enactment, have been the subject of an appeal to an agency board of contract appeals or a suit in the United States Claims Court.

41 USC 611 note.

(3) If any interest is due under section 12 of the Contract Disputes Act of 1978 on a claim for which the certification under section 6(c)(1) is, on or after the date of the enactment of this Act, found to be defective shall be paid from the later of the date on which the contracting officer initially received the claim or the date of the enactment of this Act.

(4) The amendments made by paragraph (1)(A) shall be effective with respect to certifications executed more than 60 days after the effective date of amendments to the Federal Acquisition Regulation implementing the amendments made by paragraph (1)(A) with respect to the certification of claims. Effective date. 41 USC 605 note.

(b) JURISDICTION OF COURT OF FEDERAL CLAIMS.—(1) Section 1491(a)(2) of title 28, United States Code, is amended in the last sentence by inserting before the period at the end the following: ", including a dispute concerning termination of a contract, rights in tangible or intangible property, compliance with cost accounting standards, and other nonmonetary disputes on which a decision of the contracting officer has been issued under section 6 of that Act".

(2) The amendment made by paragraph (1) shall be effective with respect to all actions filed before, on, or after the date of the enactment of this Act, except for those actions which, before such date of enactment, have been the subject of— Effective date. 28 USC 1491 note.

(A) a final judgment of the United States Claims Court, if the time for appeal of that judgment has expired without an appeal having been filed, or

(B) a final judgment of the Court of Appeals for the Federal Circuit.

SEC. 908. AWARDABLE COSTS.

(a) AWARD OF COSTS.—Section 1919 of title 28, United States Code, is amended—

(1) by striking "district court or" and inserting "district court,"; and

(2) by inserting after "Trade" the following: ", or the Court of Federal Claims".

(b) TECHNICAL AMENDMENTS.—(1) The section caption for section 1919 of title 28, United States Code, is amended to read as follows:

"§ 1919. Dismissal for lack of jurisdiction".

(2) The item relating to section 1919 in the table of sections for chapter 123 of title 28, United States Code, is amended to read as follows:

"1919. Dismissal for lack of jurisdiction.".

SEC. 909. PROCEEDINGS GENERALLY.

Section 2503 of title 28, United States Code, is amended by adding at the end the following:

"(d) For the purpose of construing sections 1821, 1915, 1920, and 1927 of this title, the United States Court of Federal Claims shall be deemed to be a court of the United States.".

SEC. 910. SUBPOENAS AND INCIDENTAL POWERS.

(a) IN GENERAL.—Section 2521 of title 28, United States Code, is amended—

(1) by amending the section caption to read as follows:

"§ 2521. Subpoenas and incidental powers";

(2) by inserting "(a)" before "Subpoenas requiring"; and

(3) by adding at the end the following new subsections:

"(b) The United States Court of Federal Claims shall have power to punish by fine or imprisonment, at its discretion, such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(c) The United States Court of Federal Claims shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for any district in which the Court of Federal Claims is sitting shall, when requested by the chief judge of the Court of Federal Claims, attend any session of the Court of Federal Claims in such district.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 165 of title 28, United States Code, is amended by amending the item relating to section 2521 to read as follows:

"2521. Subpoenas and incidental powers.".

28 USC 171 note.

SEC. 911. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE X—ADDITIONAL PROVISIONS

SEC. 1001. VICTIMS' RIGHTS FUNDING.

Section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601) is amended—

(1) by striking subsection (c) and inserting the following:

"(c) Sums deposited in the Fund shall remain in the Fund and be available for expenditure under this subsection for grants under this chapter without fiscal year limitation."; and

(2) by striking subsection (d) and inserting the following:

"(d) The Fund shall be available as follows:

"(1) The first $6,200,000 deposited in the Fund in each of the fiscal years 1992 through 1995 and the first $3,000,000 in each fiscal year thereafter shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code.

"(2) Of the next $100,000,000 deposited in the Fund in a particular fiscal year—

"(A) 49.5 percent shall be available for grants under section 1403; and

"(B) 45 percent shall be available for grants under section 1404(a).

"(3) The next $5,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(4) The next $4,500,000 deposited in the Fund in a particular fiscal year shall be available for grants under section 1404(a).

"(5) Any deposits in the Fund in a particular fiscal year that remain after the funds are distributed under paragraphs (1) through (4) shall be available as follows:

"(A) 47.5 percent shall be available for grants under section 1403.

"(B) 47.5 percent shall be available for grants under section 1404(a).

"(C) 5 percent shall be available for grants under section 1404(c).".

SEC. 1002. AUTHORITY TO LIMIT COLLECTION OF PRETRIAL INFORMATION IN CLASS A MISDEMEANOR CASES.

Section 3154(1) of title 18, United States Code, is amended by inserting before the period "; except that a district court may direct that information not be collected, verified, or reported under this paragraph on individuals charged with Class A misdemeanors as defined in section 3559(a)(6) of this title".

SEC. 1003. TERRORISM CIVIL REMEDY.

(a) TERRORISM.—Chapter 113A of title 18, United States Code, is amended—

(1) in section 2331 by striking subsection (d) and redesignating subsection (e) as subsection (d);

(2) by redesignating section 2331 as 2332 and striking the caption for section 2331 and inserting the following:

"§ 2332. Criminal penalties";

(3) by inserting before section 2332 as redesignated the following:

"§ 2331. Definitions

"As used in this chapter—

"(1) the term 'international terrorism' means activities that—

"(A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

"(B) appear to be intended—

"(i) to intimidate or coerce a civilian population;

"(ii) to influence the policy of a government by intimidation or coercion; or

"(iii) to affect the conduct of a government by assassination or kidnapping; and

"(C) occur primarily outside the territorial jurisdiction of the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to intimidate or coerce, or the locale in which their perpetrators operate or seek asylum;

"(2) the term 'national of the United States' has the meaning given such term in section 101(a)(22) of the Immigration and Nationality Act;

"(3) the term 'person' means any individual or entity capable of holding a legal or beneficial interest in property; and

"(4) the term 'act of war' means any act occurring in the course of—

"(A) declared war;

"(B) armed conflict, whether or not war has been declared, between two or more nations; or

"(C) armed conflict between military forces of any origin.";

(4) by adding after section 2332, as redesignated by paragraph (2) of this subsection, the following new sections:

"§ 2333. Civil remedies

"(a) ACTION AND JURISDICTION.—Any national of the United States injured in his or her person, property, or business by reason of an act of international terrorism, or his or her estate, survivors, or heirs, may sue therefor in any appropriate district court of the United States and shall recover threefold the damages he or she sustains and the cost of the suit, including attorney's fees.

"(b) ESTOPPEL UNDER UNITED STATES LAW.—A final judgment or decree rendered in favor of the United States in any criminal proceeding under section 1116, 1201, 1203, or 2332 of this title or section 902(i), (k), (l), (n), or (r) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472(i), (k), (l), (n), or (r)) shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"(c) ESTOPPEL UNDER FOREIGN LAW.—A final judgment or decree rendered in favor of any foreign state in any criminal proceeding shall, to the extent that such judgment or decree may be accorded full faith and credit under the law of the United States, estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding under this section.

"§ 2334. Jurisdiction and venue

"(a) GENERAL VENUE.—Any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district where any plaintiff resides or where any defendant resides or is served, or has an agent. Process in such a civil action may be served in any district where the defendant resides, is found, or has an agent.

"(b) SPECIAL MARITIME OR TERRITORIAL JURISDICTION.—If the actions giving rise to the claim occurred within the special maritime and territorial jurisdiction of the United States, as defined in section 7 of this title, then any civil action under section 2333 of this title against any person may be instituted in the district court of the United States for any district in which any plaintiff resides or the defendant resides, is served, or has an agent.

"(c) SERVICE ON WITNESSES.—A witness in a civil action brought under section 2333 of this title may be served in any other district where the defendant resides, is found, or has an agent.

"(d) CONVENIENCE OF THE FORUM.—The district court shall not dismiss any action brought under section 2333 of this title on the grounds of the inconvenience or inappropriateness of the forum chosen, unless—

"(1) the action may be maintained in a foreign court that has jurisdiction over the subject matter and over all the defendants;

"(2) that foreign court is significantly more convenient and appropriate; and

"(3) that foreign court offers a remedy which is substantially the same as the one available in the courts of the United States.

"§ 2335. Limitation of actions

"(a) IN GENERAL.—Subject to subsection (b), a suit for recovery of damages under section 2333 of this title shall not be maintained unless commenced within 4 years after the date the cause of action accrued.

"(b) CALCULATION OF PERIOD.—The time of the absence of the defendant from the United States or from any jurisdiction in which the same or a similar action arising from the same facts may be maintained by the plaintiff, or of any concealment of the defendant's whereabouts, shall not be included in the 4-year period set forth in subsection (a).

"§ 2336. Other limitations

"(a) ACTS OF WAR.—No action shall be maintained under section 2333 of this title for injury or loss by reason of an act of war.

"(b) LIMITATION ON DISCOVERY.—If a party to an action under section 2333 seeks to discover the investigative files of the Department of Justice, the Assistant Attorney General, Deputy Attorney General, or Attorney General may object on the ground that compliance will interfere with a criminal investigation or prosecution of the incident, or a national security operation related to the incident, which is the subject of the civil litigation. The court shall evaluate any such objections in camera and shall stay the discovery if the court finds that granting the discovery request will substantially interfere with a criminal investigation or prosecution of the incident or a national security operation related to the incident. The court shall consider the likelihood of criminal prosecution by the Government and other factors it deems to be appropriate. A stay of discovery under this subsection shall constitute a bar to the granting of a motion to dismiss under rules 12(b)(6) and 56 of the Federal Rules of Civil Procedure. If the court grants a stay of discovery under this subsection, it may stay the action in the interests of justice.

"(c) STAY OF ACTION FOR CIVIL REMEDIES.—(1) The Attorney General may intervene in any civil action brought under section 2333 for the purpose of seeking a stay of the civil action. A stay shall be granted if the court finds that the continuation of the civil action will substantially interfere with a criminal prosecution which involves the same subject matter and in which an indictment has been returned, or interfere with national security operations related to the terrorist incident that is the subject of the civil action. A stay may be granted for up to 6 months. The Attorney General may petition the court for an extension of the stay for additional 6-month periods until the criminal prosecution is completed or dismissed.

"(2) In a proceeding under this subsection, the Attorney General may request that any order issued by the court for release to the parties and the public omit any reference to the basis on which the stay was sought.

"§ 2337. Suits against Government officials

"No action shall be maintained under section 2333 of this title against—

"(1) the United States, an agency of the United States, or an officer or employee of the United States or any agency thereof acting within his or her official capacity or under color of legal authority; or

"(2) a foreign state, an agency of a foreign state, or an officer or employee of a foreign state or an agency thereof acting within his or her official capacity or under color of legal authority.

"§ 2338. Exclusive Federal jurisdiction

"The district courts of the United States shall have exclusive jurisdiction over an action brought under this chapter."; and

(5) by amending the table of sections to read as follows:

"CHAPTER 113A—TERRORISM

"Sec.
"2331. Definitions.
"2332. Criminal penalties.
"2333. Civil remedies.
"2334. Jurisdiction and venue.
"2335. Limitation of actions.
"2336. Other limitations.
"2337. Suits against Government officials.
"2338. Exclusive Federal jurisdiction.".

(b) TABLE OF CONTENTS.—The table of contents of part 1 of title 18, United States Code, is amended by striking

"113A. Extraterritorial jurisdiction over terrorist acts abroad against United States nationals ..... 2331"

and inserting

"113A. Terrorism ..... 2331".

18 USC 2331 note.

(c) EFFECTIVE DATE.—This section and the amendments made by this section shall apply to any pending case or any cause of action arising on or after 4 years before the date of enactment of this Act.

TITLE XI—EFFECTIVE DATE

SEC. 1101. EFFECTIVE DATE.

2 USC 905 note.

(a) IN GENERAL.—Except as otherwise provided in this Act, the provisions of this Act and the amendments made by this Act shall take effect on January 1, 1993.

(b) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any provision of this Act, all sums expended pursuant to this Act shall be subject to the availability of appropriations.

Approved October 29, 1992.

LEGISLATIVE HISTORY—S. 1569 (H.R. 5933):

HOUSE REPORTS: No. 102-1006 accompanying H.R. 5933 (Comm. on the Judiciary).
SENATE REPORTS: No. 102-342 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed Senate.
Oct. 3, H.R. 5933 considered and passed House; S. 1569, amended, passed in lieu.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 29, Presidential statement.

Public Law 102-573
102d Congress

An Act

Oct. 29, 1992
[S. 2481]

To amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Health Amendments of 1992.
25 USC 1601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Health Amendments of 1992".

SEC. 2. AMENDMENTS TO INDIAN HEALTH CARE IMPROVEMENT ACT.

Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.).

SEC. 3. FINDINGS; POLICY; AND DEFINITIONS.

(a) FINDINGS.—Section 2 of the Act (25 U.S.C. 1601) is amended—

(1) in the matter preceding paragraph (a), by striking "finds that—" and inserting "finds the following:";

(2) in paragraph (d), by striking out the second sentence; and

(3) by striking out paragraphs (e), (f), and (g).

(b) DECLARATION OF POLICY.—Section 3 of the Act (25 U.S.C. 1602) is amended to read as follows:

"DECLARATION OF HEALTH OBJECTIVES

"SEC. 3. (a) The Congress hereby declares that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to assure the highest possible health status for Indians and urban Indians and to provide all resources necessary to effect that policy.

"(b) It is the intent of the Congress that the Nation meet the following health status objectives with respect to Indians and urban Indians by the year 2000:

"(1) Reduce coronary heart disease deaths to a level of no more than 100 per 100,000.

"(2) Reduce the prevalence of overweight individuals to no more than 30 percent.

"(3) Reduce the prevalence of anemia to less than 10 percent among children aged 1 through 5.

"(4) Reduce the level of cancer deaths to a rate of no more than 130 per 100,000.

"(5) Reduce the level of lung cancer deaths to a rate of no more than 42 per 100,000.

"(6) Reduce the level of chronic obstructive pulmonary disease related deaths to a rate of no more than 25 per 100,000.

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"(7) Reduce deaths among men caused by alcohol-related motor vehicle crashes to no more than 44.8 per 100,000.

"(8) Reduce cirrhosis deaths to no more than 13 per 100,000.

"(9) Reduce drug-related deaths to no more than 3 per 100,000.

"(10) Reduce pregnancies among girls aged 17 and younger to no more than 50 per 1,000 adolescents.

"(11) Reduce suicide among men to no more than 12.8 per 100,000.

"(12) Reduce by 15 percent the incidence of injurious suicide attempts among adolescents aged 14 through 17.

"(13) Reduce to less than 10 percent the prevalence of mental disorders among children and adolescents.

"(14) Reduce the incidence of child abuse or neglect to less than 25.2 per 1,000 children under age 18.

"(15) Reduce physical abuse directed at women by male partners to no more than 27 per 1,000 couples.

"(16) Increase years of healthy life to at least 65 years.

"(17) Reduce deaths caused by unintentional injuries to no more than 66.1 per 100,000.

"(18) Reduce deaths caused by motor vehicle crashes to no more than 39.2 per 100,000.

"(19) Among children aged 6 months through 5 years, reduce the prevalence of blood lead levels exceeding 15 ug/dl and reduce to zero the prevalence of blood lead levels exceeding 25 ug/dl.

"(20) Reduce dental caries (cavities) so that the proportion of children with one or more caries (in permanent or primary teeth) is no more than 45 percent among children aged 6 through 8 and no more than 60 percent among adolescents aged 15.

"(21) Reduce untreated dental caries so that the proportion of children with untreated caries (in permanent or primary teeth) is no more than 20 percent among children aged 6 through 8 and no more than 40 percent among adolescents aged 15.

"(22) Reduce to no more than 20 percent the proportion of individuals aged 65 and older who have lost all of their natural teeth.

"(23) Increase to at least 45 percent the proportion of individuals aged 35 to 44 who have never lost a permanent tooth due to dental caries or periodontal disease.

"(24) Reduce destructive periodontal disease to a prevalence of no more than 15 percent among individuals aged 35 to 44.

"(25) Increase to at least 50 percent the proportion of children who have received protective sealants on the occlusal (chewing) surfaces of permanent molar teeth.

"(26) Reduce the prevalence of gingivitis among individuals aged 35 to 44 to no more than 50 percent.

"(27) Reduce the infant mortality rate to no more than 8.5 per 1,000 live births.

"(28) Reduce the fetal death rate (20 or more weeks of gestation) to no more than 4 per 1,000 live births plus fetal deaths.

"(29) Reduce the maternal mortality rate to no more than 3.3 per 100,000 live births.

"(30) Reduce the incidence of fetal alcohol syndrome to no more than 2 per 1,000 live births.

"(31) Reduce stroke deaths to no more than 20 per 100,000.

"(32) Reverse the increase in end-stage renal disease (requiring maintenance dialysis or transplantation) to attain an incidence of no more than 13 per 100,000.

"(33) Reduce breast cancer deaths to no more than 20.6 per 100,000 women.

"(34) Reduce deaths from cancer of the uterine cervix to no more than 1.3 per 100,000 women.

"(35) Reduce colorectal cancer deaths to no more than 13.2 per 100,000.

"(36) Reduce to no more than 11 percent the proportion of individuals who experience a limitation in major activity due to chronic conditions.

"(37) Reduce significant hearing impairment to a prevalence of no more than 82 per 1,000.

"(38) Reduce significant visual impairment to a prevalence of no more than 30 per 1,000.

"(39) Reduce diabetes-related deaths to no more than 48 per 100,000.

"(40) Reduce diabetes to an incidence of no more than 2.5 per 1,000 and a prevalence of no more than 62 per 1,000.

"(41) Reduce the most severe complications of diabetes as follows:

"(A) End-stage renal disease, 1.9 per 1,000.

"(B) Blindness, 1.4 per 1,000.

"(C) Lower extremity amputation, 4.9 per 1,000.

"(D) Perinatal mortality, 2 percent.

"(E) Major congenital malformations, 4 percent.

"(42) Confine annual incidence of diagnosed AIDS cases to no more than 1,000 cases.

"(43) Confine the prevalence of HIV infection to no more than 100 per 100,000.

"(44) Reduce gonorrhea to an incidence of no more than 225 cases per 100,000.

"(45) Reduce chlamydia trachomatis infections, as measured by a decrease in the incidence of nongonococcal urethritis to no more than 170 cases per 100,000.

"(46) Reduce primary and secondary syphilis to an incidence of no more than 10 cases per 100,000.

"(47) Reduce the incidence of pelvic inflammatory disease, as measured by a reduction in hospitalization for pelvic inflammatory disease to no more than 250 per 100,000 women aged 15 through 44.

"(48) Reduce viral hepatitis B infection to no more than 40 per 100,000 cases.

"(49) Reduce indigenous cases of vaccine-preventable diseases as follows:

"(A) Diphtheria among individuals aged 25 and younger, 0.

"(B) Tetanus among individuals aged 25 and younger, 0.

"(C) Polio (wild-type virus), 0.

"(D) Measles, 0.

"(E) Rubella, 0.
"(F) Congenital Rubella Syndrome, 0.
"(G) Mumps, 500.
"(H) Pertussis, 1,000.

"(50) Reduce epidemic-related pneumonia and influenza deaths among individuals aged 65 and older to no more than 7.3 per 100,000.

"(51) Reduce the number of new carriers of viral hepatitis B among Alaska Natives to no more than 1 case.

"(52) Reduce tuberculosis to an incidence of no more than 5 cases per 100,000.

"(53) Reduce bacterial meningitis to no more than 8 cases per 100,000.

"(54) Reduce infectious diarrhea by at least 25 percent among children.

"(55) Reduce acute middle ear infections among children aged 4 and younger, as measured by days of restricted activity or school absenteeism, to no more than 105 days per 100 children.

"(56) Reduce cigarette smoking to a prevalence of no more than 20 percent.

"(57) Reduce smokeless tobacco use by youth to a prevalence of no more than 10 percent.

"(58) Increase to at least 65 percent the proportion of parents and caregivers who use feeding practices that prevent baby bottle tooth decay.

"(59) Increase to at least 75 percent the proportion of mothers who breast feed their babies in the early postpartum period, and to at least 50 percent the proportion who continue breast feeding until their babies are 5 to 6 months old.

"(60) Increase to at least 90 percent the proportion of pregnant women who receive prenatal care in the first trimester of pregnancy.

"(61) Increase to at least 70 percent the proportion of individuals who have received, as a minimum within the appropriate interval, all of the screening and immunization services and at least one of the counseling services appropriate for their age and gender as recommended by the United States Preventive Services Task Force.

"(c) It is the intent of the Congress that the Nation increase the proportion of all degrees in the health professions and allied and associated health profession fields awarded to Indians to 0.6 percent.

"(d) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the progress made in each area of the Service toward meeting each of the objectives described in subsection (b).". Reports.

(c) DEFINITIONS.—Section 4 of the Act (25 U.S.C. 1603) is amended by adding at the end the following new subsections:

"(m) 'Service area' means the geographical area served by each area office.

"(n) 'Health profession' means family medicine, internal medicine, pediatrics, geriatric medicine, obstetrics and gynecology, podiatric medicine, nursing, public health nursing, dentistry, psychiatry, osteopathy, optometry, pharmacy, psychology, public health, social work, marriage and family therapy, chiropractic medicine,

environmental health and engineering, and allied health professions.

"(o) 'Substance abuse' includes inhalant abuse.

"(p) 'FAE' means fetal alcohol effect.

"(q) 'FAS' means fetal alcohol syndrome.".

TITLE I—INDIAN HEALTH PROFESSIONALS

SEC. 101. PURPOSE.

Section 101 of the Act (25 U.S.C. 1611) is amended to read as follows:

"PURPOSE

"SEC. 101. The purpose of this title is to increase the number of Indians entering the health professions and to assure an adequate supply of health professionals to the Service, Indian tribes, tribal organizations, and urban Indian organizations involved in the provision of health care to Indian people.".

SEC. 102. HEALTH PROFESSIONS.

(a) RECRUITMENT PROGRAM.—Section 102(a) of the Act (25 U.S.C. 1612(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) identifying Indians with a potential for education or training in the health professions and encouraging and assisting them—

"(A) to enroll in courses of study in such health professions; or

"(B) if they are not qualified to enroll in any such courses of study, to undertake such postsecondary education or training as may be required to qualify them for enrollment;";

(2) in paragraph (2)—

(A) by striking out "school" both places it appears and inserting in lieu thereof the following: "course of study"; and

(B) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)"; and

(3) in paragraph (3)—

(A) by striking out "Indians," and inserting in lieu thereof "Indians in,";

(B) by inserting a comma before "courses";

(C) by striking out ", in any school"; and

(D) by striking out "clause (1)(A)" and inserting in lieu thereof the following: "paragraph (1)".

(b) PREPARATORY SCHOLARSHIP PROGRAM.—Section 103 of the Act (25 U.S.C. 1613) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) have demonstrated the capability to successfully complete courses of study in the health professions.";

(2) in subsection (b)(1), by inserting before the period at the end the following: "on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)";

(3) by amending subsection (b)(2) to read as follows:

"(2) Pregraduate education of any grantee leading to a baccalaureate degree in an approved course of study preparatory to a field of study in a health profession, such scholarship not to exceed 4 years (or the part-time equivalent thereof, as determined by the Secretary).";

(4) in subsection (c), by striking out "full time"; and

(5) by amending subsection (e) to read as follows:

"(e) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely by reason of such applicant's eligibility for assistance or benefits under any other Federal program.".

(c) HEALTH PROFESSIONS SCHOLARSHIPS.—Section 104 of the Act (25 U.S.C. 1613a) is amended—

(1) in subsection (a)—

(A) by striking out "Indian communities" and inserting in lieu thereof the following: "Indians, Indian tribes, tribal organizations, and urban Indian organizations";

(B) by striking out "full time" and inserting in lieu thereof the following: "full or part time"; and

(C) by striking out "of medicine" and all that follows through "social work" and inserting in lieu thereof the following: "and pursuing courses of study in the health professions";

(2) in subsection (b)—

(A) in paragraph (2)—

(i) by striking out "full time" and inserting in lieu thereof "full or part time"; and

(ii) by striking out "health profession school" and inserting in lieu thereof "course of study";

(B) in paragraph (3)—

(i) by striking "(3)" and inserting "(3)(A)";

(ii) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively; and

(iii) by inserting at the end the following new subparagraphs:

"(B) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) by service in a program specified in subparagraph (A) that—

"(i) is located on the reservation of the tribe in which the recipient is enrolled; or

"(ii) serves the tribe in which the recipient is enrolled.

"(C) Subject to subparagraph (B), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section."; and

(C) by adding at the end the following new paragraph:

"(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

"(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

"(B) the period of obligated service specified in section 338A(f)(1)(B)(iv) of the Public Health Service Act (42 U.S.C. 254m(f)(1)(B)(iv)) shall be equal to the greater of—

"(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

"(ii) two years; and

"(C) the amount of the monthly stipend specified in section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)) shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.";

(3) by amending subsection (c) to read as follows:

Establishment.

"(c) The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy."; and

(4) by striking out subsection (d).

25 USC 1613a note.

(d) EFFECTIVE DATE.—The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act after the date of the enactment of this Act.

(e) EXTERN PROGRAM.—Section 105 of the Act (25 U.S.C. 1614) is amended—

(1) in subsection (a), by striking out "section 757 of the Public Health Service Act" and inserting in lieu thereof "section 104"; and

(2) in subsection (b), by striking out "school of medicine" and all that follows through "health professions" and inserting in lieu thereof "course of study in the health professions".

SEC. 103. BREACH OF CONTRACT PROVISIONS RELATING TO INDIAN HEALTH SCHOLARSHIPS.

Section 104(b) of the Act (25 U.S.C. 1613a(b)) (as amended by section 102(c) of this Act) is amended by adding at the end the following new paragraph:

"(5)(A) An individual who has, on or after the date of the enactment of this paragraph, entered into a written contract with the Secretary under this section and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(ii) is dismissed from such educational institution for disciplinary reasons,

"(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

"(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

SEC. 104. NURSING.

(a) CONTINUING EDUCATION ALLOWANCES.—Section 106(a) of the Act (25 U.S.C. 1615(a)) is amended by inserting "nurses," after "dentists,".

(b) QUENTIN N. BURDICK AMERICAN INDIANS INTO NURSING PROGRAM.—Section 112 of the Act (25 U.S.C. 1616e) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following new subsection:

"(e) The Secretary shall provide one of the grants authorized under subsection (a) to establish and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Nursing Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs established under section 114(b) and the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b).". Colleges and universities.

(c) TRAINING FOR NURSE MIDWIVES, NURSE ANESTHETISTS, AND NURSE PRACTITIONERS.—Section 112(g) of the Act (25 U.S.C. 1616e(g)) (as redesignated by subsection (b)(1) of this section) is amended to read as follows:

"(g) Beginning with fiscal year 1993, of the amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not less than $1,000,000 shall be used to provide grants under subsection (a) for the training of nurse midwives, nurse anesthetists, and nurse practitioners.". Grants.

(d) RETENTION BONUS FOR NURSES.—Section 117 (25 U.S.C. 1616j) of the Act is amended—

(1) by redesignating subsections (b) through (e) as subsections (c) through (f), respectively;

(2) by adding after subsection (a) the following new subsection (b):

"(b) Beginning with fiscal year 1993, not less than 25 percent of the retention bonuses awarded each year under subsection (a) shall be awarded to nurses."; and

(3) by amending subsection (f) (as amended by paragraph (1)) to read as follows:

"(f) The Secretary may pay a retention bonus to any physician or nurse employed by an organization providing health care services to Indians pursuant to a contract under the Indian Self-Determination Act if such physician or nurse is serving in a position which the Secretary determines is—

"(1) a position for which recruitment or retention is difficult; and

"(2) necessary for providing health care services to Indians.".

(e) RESIDENCY PROGRAM.—Title I of the Act is amended by adding at the end the following new section:

"NURSING RESIDENCY PROGRAM

25 USC 1616k.

"SEC. 118. (a) The Secretary, acting through the Service, shall establish a program to enable licensed practical nurses, licensed vocational nurses, and registered nurses who are working in an Indian health program (as defined in section 108(a)(2)(A)), and have done so for a period of not less than one year, to pursue advanced training.

"(b) Such program shall include a combination of education and work study in an Indian health program (as defined in section 108(a)(2)(A)) leading to an associate or bachelor's degree (in the case of a licensed practical nurse or licensed vocational nurse) or a bachelor's degree (in the case of a registered nurse).

"(c) An individual who participates in a program under subsection (a), where the educational costs are paid by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least three times the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the United States shall be entitled to recover from such individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.".

(f) GRANTS FOR THE PROVISION OF PRIMARY CARE SERVICES ON OR NEAR INDIAN COUNTRY.—Title I of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) is amended by adding immediately after section 112 the following new section:

"NURSING SCHOOL CLINICS

25 USC 1616e-1.

"SEC. 112A. (a) GRANTS.—In addition to the authority of the Secretary under section 112(a)(1), the Secretary, acting through the Service, is authorized to provide grants to public or private schools of nursing for the purpose of establishing, developing, operating, and administering clinics to address the health care needs of Indians, and to provide primary health care services to Indians who reside on or within 50 miles of Indian country, as defined in section 1151 of title 18, United States Code.

"(b) PURPOSES.—Grants provided under subsection (a) may be used to—

"(1) establish clinics, to be run and staffed by the faculty and students of a grantee school, to provide primary care services in areas in or within 50 miles of Indian country (as defined in section 1151 of title 18, United States Code);

"(2) provide clinical training, program development, faculty enhancement, and student scholarships in a manner that would benefit such clinics; and

"(3) carry out any other activities determined appropriate by the Secretary.

"(c) AMOUNT AND CONDITIONS.—The Secretary may award grants under this section in such amounts and subject to such conditions as the Secretary deems appropriate.

"(d) DESIGN.—The clinics established under this section shall be designed to provide nursing students with a structured clinical experience that is similar in nature to that provided by residency training programs for physicians.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"(f) AUTHORIZATION TO USE AMOUNTS.—Out of amounts appropriated to carry out this title for each of the fiscal years 1993 through 2000 not more than $5,000,000 may be used to carry out this section.".

SEC. 105. MAINTENANCE OF COMMUNITY HEALTH REPRESENTATIVE PROGRAM.

Section 107(b) of the Act (25 U.S.C. 1616(b)) is amended—

(1) in paragraph (2), in the material preceding subparagraph (A), by inserting "and maintain" after "develop";

(2) in paragraph (2)(B), by adding at the end the following: "with appropriate consideration given to lifestyle factors that have an impact on Indian health status, such as alcoholism, family dysfunction, and poverty,";

(3) in paragraphs (3) and (5), by striking out "develop" each place it appears and inserting in lieu thereof "maintain"; and

(4) in paragraph (4), by striking out "develop and".

SEC. 106. CHANGES TO INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM.

(a) ELIGIBILITY REQUIREMENTS.—Section 108 of the Act (25 U.S.C. 1616a(b)) is amended—

(1) in subsection (a)(1), by striking out "physicians," and all that follows through "professionals" and inserting in lieu thereof "health professionals"; and

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by amending clause (i) to read as follows:

"(i) in a course of study or program in an accredited institution, as determined by the Secretary, within any State and be scheduled to complete such course of study in the same year such individual applies to participate in such program; or"; and

(ii) in clause (ii), by striking out "medicine" and all that follows through "health profession" and inserting in lieu thereof the following: "a health profession";

(B) in paragraph (1)(B)—

(i) by inserting "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii);

(ii) in clause (i), by striking out "medicine, osteopathy, dentistry, or other health profession" and inserting in lieu thereof the following: "a health profession"; and

(iii) in clause (ii) (as redesignated by clause (i) of this subparagraph), by striking out "medicine, osteopathy, dentistry, or other health profession" and

inserting in lieu thereof the following: "a health profession"; and

(C) in paragraph (2), by inserting "and" at the end of subparagraph (D), by striking out paragraphs (3) and (4), and by inserting after paragraph (2) the following:

"(3) submit to the Secretary an application for a contract described in subsection (f).".

(b) PRIORITY.—Section 108(d) of the Act (25 U.S.C. 1616a(d)) is amended—

(1) in paragraph (1), by striking out "The" and inserting "Consistent with paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B), of the total amounts appropriated for each of the fiscal years 1993, 1994, and 1995 for loan repayment contracts under this section, the Secretary shall provide that—

"(i) not less than 25 percent be provided to applicants who are nurses, nurse practitioners, or nurse midwives; and

"(ii) not less than 10 percent be provided to applicants who are mental health professionals (other than applicants described in clause (i)).

"(B) The requirements specified in clause (i) or clause (ii) of subparagraph (A) shall not apply if the Secretary does not receive the number of applications from the individuals described in clause (i) or clause (ii), respectively, necessary to meet such requirements.".

(c) BECOMING A PARTICIPANT.—Paragraph (1) of section 108(e) (25 U.S.C. 1616a(e)) is amended to read as follows:

"(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f).".

(d) EXTENSION OF OBLIGATED SERVICE.—Paragraph (2)(A) of section 108(e) (25 U.S.C. 1616a(e)) is amended by inserting before the semicolon the following: ", including extensions resulting in an aggregate period of obligated service in excess of 4 years".

(e) CLARIFICATION REGARDING UNDERGRADUATE LOANS.—Paragraph (1) of section 108(g) (25 U.S.C. 1616a(g)) is amended in the matter preceding subparagraph (A) by striking out "loans received by the individual for—" and inserting in lieu thereof "loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—".

(f) PAYMENT.—Section 108(g)(2)(A) (25 U.S.C. 1616a(g)(2)(A)) is amended to read as follows:

"(2)(A) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $35,000 (or an amount equal to the amount specified in section 338B(g)(2)(A) of the Public Health Service Act) on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

"(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

"(ii) provides an incentive to serve in Indian health programs with the greatest shortages of health professionals; and

"(iii) provides an incentive with respect to the health professional involved remaining in an Indian health program with such a health professional shortage, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.".

(g) TAX LIABILITY.—(1) Paragraph (3) of section 108(g) (25 U.S.C. 1616a(g)(3)) is amended to read as follows:

"(3) For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual, the Secretary—

"(A) in addition to such payments, may make payments to the individual in an amount not less than 20 percent and not more than 39 percent of the total amount of loan repayments made for the taxable year involved; and

"(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.".

(2) The amendment made by paragraph (1) shall apply only with respect to contracts under section 108 of the Indian Health Care Improvement Act entered into on or after the date of enactment of this Act. 25 USC 1616a note.

(h) STAFFING NEEDS.—Section 108(k) (25 U.S.C. 1616a(k)) is amended to read as follows:

"(k) The Secretary, in assigning individuals to serve in Indian health programs pursuant to contracts entered into under this section, shall—

"(1) ensure that the staffing needs of Indian health programs administered by an Indian tribe or tribal or health organization receive consideration on an equal basis with programs that are administered directly by the Service; and

"(2) give priority to assigning individuals to Indian health programs that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.".

(i) ANNUAL REPORT.—Subsection (n) of section 108 is amended to read as follows:

"(n) The Secretary shall submit to the President, for inclusion in each report required to be submitted to the Congress under section 801, a report concerning the previous fiscal year which sets forth—

"(1) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(2) the number of Loan Repayment Program applications filed with respect to each type of health profession;

"(3) the number of contracts described in subsection (f) that are entered into with respect to each health profession;

"(4) the amount of loan payments made under this section, in total and by health profession;

"(5) the number of scholarship grants that are provided under section 104 with respect to each health profession;

"(6) the amount of scholarship grants provided under section 104, in total and by health profession;

"(7) the number of providers of health care that will be needed by Indian health programs, by location and profession,

during the three fiscal years beginning after the date the report is filed; and

"(8) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.".

SEC. 107. RECRUITMENT ACTIVITIES.

Section 109 of the Act (25 U.S.C. 1616b) is amended—

(1) by amending the heading to read as follows:

"RECRUITMENT ACTIVITIES"; AND

(2) by amending subsection (b) to read as follows:

"(b) The Secretary, acting through the Service, shall assign one individual in each area office to be responsible on a full-time basis for recruitment activities.".

SEC. 108. ADVANCED TRAINING AND RESEARCH.

Section 111 of the Act (25 U.S.C. 1616d) is amended—

(1) in subsection (b), by amending the last sentence to read as follows: "In such event, with respect to individuals entering the program after the date of the enactment of the Indian Health Amendments of 1992, the United States shall be entitled to recover from such individual an amount to be determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection."; and

(2) by striking out subsection (d).

SEC. 109. INMED PROGRAM.

Section 114(b) of the Act (25 U.S.C. 1616g(b)) is amended—

(1) by inserting after "North Dakota," the following: "to be known as the 'Quentin N. Burdick Indian Health Programs',"; and

(2) by adding at the end the following: "Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick American Indians Into Psychology Program established under section 217(b) and the Quentin N. Burdick American Indians Into Nursing Program established under section 112(e).".

SEC. 110. SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND.

Title I of the Act is amended by inserting after section 108 the following new section:

"SCHOLARSHIP AND LOAN REPAYMENT RECOVERY FUND

25 USC 1616a-1.

"SEC. 108A. (a) There is established in the Treasury of the United States a fund to be known as the Indian Health Scholarship and Loan Repayment Recovery Fund (hereafter in this section referred to as the 'Fund'). The Fund shall consist of such amounts as may be appropriated to the Fund under subsection (b). Amounts appropriated for the Fund shall remain available until expended.

"(b) For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

"(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to—

"(A) the liability of individuals under subparagraph (A) or (B) of section 104(b)(5) for the breach of contracts entered into under section 104; and

"(B) the liability of individuals under section 108(l) for the breach of contracts entered into under section 108; and

"(2) the aggregate amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

"(c)(1) Amounts in the Fund and available pursuant to appropriation Acts may be expended by the Secretary, acting through the Service, to make payments to an Indian tribe or tribal organization administering a health care program pursuant to a contract entered into under the Indian Self-Determination Act—

"(A) to which a scholarship recipient under section 104 or a loan repayment program participant under section 108 has been assigned to meet the obligated service requirements pursuant to sections; and

"(B) that has a need for a health professional to provide health care services as a result of such recipient or participant having breached the contract entered into under section 104 or section 108.

"(2) An Indian tribe or tribal organization receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ, directly or by contract, health professionals to provide health care services.

"(d)(1) The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price. Investments.

"(2) Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.".

SEC. 111. COMMUNITY HEALTH AIDE PROGRAM.

Title I of the Act (as amended by section 104 of this Act) is amended by adding at the end the following new section:

"COMMUNITY HEALTH AIDE PROGRAM FOR ALASKA

"SEC. 119. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13; popularly known as the Snyder Act), the Secretary shall maintain a Community Health Aide Program in Alaska under which the Service— 25 USC 1616*l*.

"(1) provides for the training of Alaska Natives as health aides or community health practitioners;

"(2) uses such aides or practitioners in the provision of health care, health promotion, and disease prevention services to Alaska Natives living in villages in rural Alaska; and

"(3) provides for the establishment of teleconferencing capacity in health clinics located in or near such villages for use by community health aides or community health practitioners.

"(b) The Secretary, acting through the Community Health Aide Program of the Service, shall—

"(1) using trainers accredited by the Program, provide a high standard of training to community health aides and community health practitioners to ensure that such aides and practitioners provide quality health care, health promotion, and disease prevention services to the villages served by the Program;

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care;

"(B) provides instruction and practical experience in the provision of acute care, emergency care, health promotion, disease prevention, and the efficient and effective management of clinic pharmacies, supplies, equipment, and facilities; and

"(C) promotes the achievement of the health status objectives specified in section 3(b);

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"(3) establish and maintain a Community Health Aide Certification Board to certify as community health aides or community health practitioners individuals who have successfully completed the training described in paragraph (1) or can demonstrate equivalent experience;

"(4) develop and maintain a system which identifies the needs of community health aides and community health practitioners for continuing education in the provision of health care, including the areas described in paragraph (2)(B), and develop programs that meet the needs for such continuing education;

"(5) develop and maintain a system that provides close supervision of community health aides and community health practitioners; and

"(6) develop a system under which the work of community health aides and community health practitioners is reviewed and evaluated to assure the provision of quality health care, health promotion, and disease prevention services.".

SEC. 112. MATCHING GRANTS TO TRIBES.

Title I of the Act (as amended by section 111 of this Act) is amended by adding at the end the following new section:

"MATCHING GRANTS TO TRIBES FOR SCHOLARSHIP PROGRAMS

25 USC 1616m.

"SEC. 120. (a)(1) The Secretary shall make grants to Indian tribes and tribal organizations for the purpose of assisting such tribes and tribal organizations in educating Indians to serve as health professionals in Indian communities.

"(2) Amounts available for grants under paragraph (1) for any fiscal year shall not exceed 5 percent of amounts available for such fiscal year for Indian Health Scholarships under section 104.

"(3) An application for a grant under paragraph (1) shall be in such form and contain such agreements, assurances, and information as the Secretary determines are necessary to carry out this section.

"(b)(1) An Indian tribe or tribal organization receiving a grant under subsection (a) shall agree to provide scholarships to Indians pursuing education in the health professions in accordance with the requirements of this section.

"(2) With respect to the costs of providing any scholarship pursuant to paragraph (1)—

"(A) 80 percent of the costs of the scholarship shall be paid from the grant made under subsection (a) to the Indian tribe or tribal organization; and

"(B) 20 percent of such costs shall be paid from non-Federal contributions by the Indian tribe or tribal organization through which the scholarship is provided.

"(3) In determining the amount of non-Federal contributions that have been provided for purposes of subparagraph (B) of paragraph (2), any amounts provided by the Federal Government to the Indian tribe or tribal organization involved or to any other entity shall not be included.

"(4) Non-Federal contributions required by subparagraph (B) of paragraph (2) may be provided directly by the Indian tribe or tribal organization involved or through donations from public and private entities.

"(c) An Indian tribe or tribal organization shall provide scholarships under subsection (b) only to Indians enrolled or accepted for enrollment in a course of study (approved by the Secretary) in one of the health professions described in section 104(a).

"(d) In providing scholarships under subsection (b), the Secretary and the Indian tribe or tribal organization shall enter into a written contract with each recipient of such scholarship. Such contract shall— Contracts.

"(1) obligate such recipient to provide service in an Indian health program (as defined in section 108(a)(2)(A)), in the same service area where the Indian tribe or tribal organization providing the scholarship is located, for—

"(A) a number of years equal to the number of years for which the scholarship is provided (or the part-time equivalent thereof, as determined by the Secretary), or for a period of 2 years, whichever period is greater; or

"(B) such greater period of time as the recipient and the Indian tribe or tribal organization may agree;

"(2) provide that the amount of such scholarship—

"(A) may be expended only for—

"(i) tuition expenses, other reasonable educational expenses, and reasonable living expenses incurred in attendance at the educational institution; and

"(ii) payment to the recipient of a monthly stipend of not more than the amount authorized by section 338A(g)(1)(B) of the Public Health Service Act (42 U.S.C. 254m(g)(1)(B)), such amount to be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled; and

"(B) may not exceed, for any year of attendance for which the scholarship is provided, the total amount required for the year for the purposes authorized in subparagraph (A);

"(3) require the recipient of such scholarship to maintain an acceptable level of academic standing (as determined by the educational institution in accordance with regulations issued by the Secretary); and

"(4) require the recipient of such scholarship to meet the educational and licensure requirements necessary to be a physi-

cian, certified nurse practitioner, certified nurse midwife, or physician assistant.

"(e)(1) An individual who has entered into a written contract with the Secretary and an Indian tribe or tribal organization under subsection (d) and who—

"(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

"(B) is dismissed from such educational institution for disciplinary reasons,

"(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

"(D) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract, in lieu of any service obligation arising under such contract, shall be liable to the United States for the Federal share of the amount which has been paid to him, or on his behalf, under the contract.

"(2) If for any reason not specified in paragraph (1), an individual breaches his written contract by failing either to begin such individual's service obligation required under such contract or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (l) of section 108 in the manner provided for in such subsection.

"(3) The Secretary may carry out this subsection on the basis of information submitted by the tribes or tribal organizations involved, or on the basis of information collected through such other means as the Secretary determines to be appropriate.

"(f) The recipient of a scholarship under subsection (b) shall agree, in providing health care pursuant to the requirements of subsection (d)(1)—

"(1) not to discriminate against an individual seeking such care on the basis of the ability of the individual to pay for such care or on the basis that payment for such care will be made pursuant to the program established in title XVIII of the Social Security Act or pursuant to the program established in title XIX of such Act; and

"(2) to accept assignment under section 1842(b)(3)(B)(ii) of the Social Security Act for all services for which payment may be made under part B of title XVIII of such Act, and to enter into an appropriate agreement with the State agency that administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan.

"(g) The Secretary may not make any payments under subsection (a) to an Indian tribe or tribal organization for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the Indian tribe or tribal organization has complied with requirements of this section.".

SEC. 113. TRIBAL HEALTH PROGRAM ADMINISTRATION.

Title I of the Act (as amended by section 112 of this Act) is amended by adding at the end the following new section:

"TRIBAL HEALTH PROGRAM ADMINISTRATION

"SEC. 121. The Secretary shall, by contract or otherwise, provide training for individuals in the administration and planning of tribal health programs.". Contracts. 25 USC 1616n.

SEC. 114. TRIBALLY CONTROLLED VOCATIONAL INSTITUTIONS.

(a) NURSING PROGRAM GRANTS.—Section 112(a)(2) of the Act (25 U.S.C. 1616e(a)(2)) is amended by inserting before the comma the following: "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

(b) TRIBAL CULTURE AND HISTORY PROGRAMS.—Section 113(b)(1) of the Act (25 U.S.C. 1616f(b)(1) is amended by inserting before the comma "and tribally controlled postsecondary vocational institutions (as defined in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2))".

SEC. 115. CONTINUING EDUCATION ALLOWANCES.

Section 106(b) of the Act (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) Of amounts appropriated under the authority of this title for each fiscal year to be used to carry out this section, not more than $1,000,000 may be used to establish postdoctoral training programs for health professionals.".

SEC. 116. UNIVERSITY OF SOUTH DAKOTA MODEL HEALTH PROGRAM.

Title I of the Act (as amended by section 113 of this Act) is amended by adding at the end the following new section:

"UNIVERSITY OF SOUTH DAKOTA PILOT PROGRAM

"SEC. 122. (a) The Secretary may make a grant to the School of Medicine of the University of South Dakota (hereafter in this section referred to as 'USDSM') to establish a pilot program on an Indian reservation at one or more service units in South Dakota to address the chronic manpower shortage in the Aberdeen Area of the Service. 25 USC 1616o.

"(b) The purposes of the program established pursuant to a grant provided under subsection (a) are—

"(1) to provide direct clinical and practical experience at a service unit to medical students and residents from USDSM and other medical schools;

"(2) to improve the quality of health care for Indians by assuring access to qualified health care professionals; and

"(3) to provide academic and scholarly opportunities for physicians, physician assistants, nurse practitioners, nurses, and other allied health professionals serving Indian people by identifying and utilizing all academic and scholarly resources of the region.

"(c) The pilot program established pursuant to a grant provided under subsection (a) shall—

"(1) incorporate a program advisory board composed of representatives from the tribes and communities in the area which will be served by the program; and

"(2) shall be designated as an extension of the USDSM campus and program participants shall be under the direct supervision and instruction of qualified medical staff serving at the service unit who shall be members of the USDSM faculty.

"(d) The USDSM shall coordinate the program established pursuant to a grant provided under subsection (a) with other medical schools in the region, nursing schools, tribal community colleges, and other health professional schools.

"(e) The USDSM, in cooperation with the Service, shall develop additional professional opportunities for program participants on Indian reservations in order to improve the recruitment and retention of qualified health professionals in the Aberdeen Area of the Service.".

SEC. 117. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title I of the Act (as amended by section 116 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

25 USC 1616p. "SEC. 123. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title I of the Act is amended—

25 USC 1612. (1) in section 102, by striking out subsection (c);

25 USC 1614. (2) in section 105, by striking out subsection (d);

25 USC 1616a. (3) in section 108, by striking out subsection (o);

25 USC 1616c. (4) in section 110, by striking out subsection (c);

25 USC 1616f. (5) in section 113, by striking out subsection (c);

25 USC 1616g. (6) in section 114, by striking out subsection (e);

25 USC 1616h. (7) in section 115, by striking out subsection (f); and

25 USC 1616i. (8) in section 116, by striking out subsection (e).

TITLE II—HEALTH SERVICES

SEC. 201. INDIAN HEALTH CARE IMPROVEMENT FUND.

(a) IN GENERAL.—Section 201 of the Act (25 U.S.C. 1621) is amended—

(1) in subsection (a)—

(A) in the material preceding paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by amending paragraph (1) to read as follows: "(1) eliminating the deficiencies in health status and resources of all Indian tribes,"; and

(C) in paragraph (4), in the material preceding subparagraph (A)—

(i) by inserting after "responsibilities" the following: ", either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act,"; and

(ii) by striking out "resources deficiency" and inserting in lieu thereof the following: "status and resource deficiencies";

(2) in subsection (b)—

(A) in paragraph (1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(C) in paragraph (2)(A) (as redesignated by subparagraph (B))—

(i) by striking out "subsection (h)" and inserting in lieu thereof "this section";

(ii) in the first sentence, by striking out "but such allocation" through "met";

(iii) in the second sentence—

(I) by striking out "(in accordance with paragraph (2))"; and

(II) by striking out "raise the deficiency level" and inserting in lieu thereof the following: "reduce the health status and resource deficiency"; and

(D) in paragraph (2)(B) (as redesignated by subparagraph (B)), by inserting after "consultation with" the following: ", and with the active participation of,";

(3) in subsection (c)—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(B) by amending paragraph (1) (as redesignated by subparagraph (A) above) to read as follows:

"(1) The term 'health status and resource deficiency' means the extent to which—

"(A) the health status objectives set forth in section 3(b) are not being achieved; and

"(B) the Indian tribe does not have available to it the health resources it needs, taking into account the actual cost of providing health care services given local geographic, climatic, rural, or other circumstances."; and

(C) in paragraph (3) (as redesignated by subparagraph (A) above)—

(i) by striking out "Under regulations, the" and inserting in lieu thereof "The"; and

(ii) by striking out "health resources deficiency level" and inserting in lieu thereof "extent of the health status and resource deficiency";

(4) in subsection (d)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section";

(5) in subsection (e)—

(A) in the material preceding paragraph (1)—

(i) by striking out "60 days" and inserting in lieu thereof "3 years";

(ii) by striking out "Indian Health Care Amendments of 1988" and inserting in lieu thereof "Indian Health Amendments of 1992"; and

(iii) by striking out "health services priority system" and inserting in lieu thereof "health status and resource deficiency";

(B) in paragraph (1), by striking out "health resources deficiencies" and inserting in lieu thereof "health status and resource deficiencies";

(C) in paragraph (2), by striking out "the level of health resources deficiency for" and inserting in lieu thereof the following: "the extent of the health status and resource deficiency of";

(D) in paragraph (3), by striking "raise all" and all that follows through the semicolon and insert in lieu thereof

the following: "eliminate the health status and resource deficiencies of all Indian tribes served by the Service; and"; and

(E) by striking out paragraphs (4) and (5) and redesignating paragraph (6) as paragraph (4); and

(6) in subsection (f), by striking out "(f)(1)" and all that follows through the paragraph designation for paragraph (2) and inserting in lieu thereof "(f)".

25 USC 1621 note.

(b) EFFECTIVE DATE.—Except with respect to the amendments made by subsection (a)(5), the amendments made by subsection (a) shall take effect three years after the date of the enactment of this Act. The amendments made by subsection (a)(5) shall take effect upon the date of the enactment of this Act.

(c) TECHNICAL AMENDMENT.—The heading for section 201 of the Act (25 U.S.C. 1621) is amended to read as follows:

"INDIAN HEALTH CARE IMPROVEMENT FUND".

SEC. 202. CATASTROPHIC HEALTH EMERGENCY FUND.

(a) IN GENERAL.—Section 202 of the Act (25 U.S.C. 1621a) is amended—

(1) in subsection (a)(1)(B), by striking out "under subsection (e)" and inserting in lieu thereof "to the Fund under this section";

(2) in subsection (b)(2), by striking out "shall establish at not less than $10,000 or not more than $20,000;" and inserting in lieu thereof the following: "shall establish at—

"(A) for 1993, not less than $15,000 or not more than $25,000; and

"(B) for any subsequent year, not less than the threshold cost of the previous year increased by the percentage increase in the medical care expenditure category of the consumer price index for all urban consumers (United States city average) for the 12-month period ending with December of the previous year;"; and

(3) in subsection (c), by striking out "Funds appropriated under subsection (e)" and inserting in lieu thereof "Amounts appropriated to the Fund under this section".

25 USC 1621a note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a)(2) shall take effect January 1, 1993.

SEC. 203. HEALTH PROMOTION AND DISEASE PREVENTION.

Section 203 of the Act (25 U.S.C. 1621b) is amended—

(1) in subsection (a), by inserting before the period at the end the following: "so as to achieve the health status objectives set forth in section 3(b)";

(2) in subsection (b), in the material preceding paragraph (1), by striking out "section 201(f)" and inserting in lieu thereof "section 801"; and

(3) by striking out subsection (c).

SEC. 204. DIABETES PREVENTION, TREATMENT, AND CONTROL.

Section 204 of the Act (25 U.S.C. 1621c) is amended—

(1) by amending subsection (c) to read as follows:

"(c)(1) The Secretary shall continue to maintain through fiscal year 2000 each model diabetes project in existence on the date of the enactment of the Indian Health Amendments of 1992 and located—

"(A) at the Claremore Indian Hospital in Oklahoma;
"(B) at the Fort Totten Health Center in North Dakota;
"(C) at the Sacaton Indian Hospital in Arizona;
"(D) at the Winnebago Indian Hospital in Nebraska;
"(E) at the Albuquerque Indian Hospital in New Mexico;
"(F) at the Perry, Princeton, and Old Town Health Centers in Maine;
"(G) at the Bellingham Health Center in Washington;
"(H) at the Fort Berthold Reservation;
"(I) at the Navajo Reservation;
"(J) at the Papago Reservation;
"(K) at the Zuni Reservation; or
"(L) in the States of Alaska, California, Minnesota, Montana, Oregon, or Utah.

"(2) The Secretary may establish new model diabetes projects under this section taking into consideration applications received under this section from all service areas, except that the Secretary may not establish a greater number of such projects in one service area than in any other service area until there is an equal number of such projects established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary)."; and

(2) in subsection (d)—

(A) in paragraph (2), by striking out "and" after the semicolon;

(B) in paragraph (3), by striking out the period and inserting in lieu thereof the following: "; and"; and

(C) by adding at the end the following new paragraph:

"(4) evaluate the effectiveness of services provided through model diabetes projects established under this section.".

SEC. 205. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.

Section 209 of the Act (25 U.S.C. 1621h) is amended—

(1) in subsection (j) (as redesignated by section 902(3)(B) of this Act), by striking out "submit to the Congress an annual report" and inserting in lieu thereof the following: "submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and Reports.

(2) by adding at the end the following new subsections:

"(l) LICENSING REQUIREMENT FOR MENTAL HEALTH CARE WORKERS.—Any person employed as a psychologist, social worker, or marriage and family therapist for the purpose of providing mental health care services to Indians in a clinical setting under the authority of this Act or through a contract pursuant to the Indian Self-Determination Act shall—

"(1) in the case of a person employed as a psychologist, be licensed as a clinical psychologist or working under the direct supervision of a licensed clinical psychologist;

"(2) in the case of a person employed as a social worker, be licensed as a social worker or working under the direct supervision of a licensed social worker; or

"(3) in the case of a person employed as a marriage and family therapist, be licensed as a marriage and family therapist or working under the direct supervision of a licensed marriage and family therapist.

"(m) INTERMEDIATE ADOLESCENT MENTAL HEALTH SERVICES.—(1) The Secretary, acting through the Service, may make grants

to Indian tribes and tribal organizations to provide intermediate mental health services to Indian children and adolescents, including—

"(A) inpatient and outpatient services;

"(B) emergency care;

"(C) suicide prevention and crisis intervention; and

"(D) prevention and treatment of mental illness, and dysfunctional and self-destructive behavior, including child abuse and family violence.

"(2) Funds provided under this subsection may be used—

"(A) to construct or renovate an existing health facility to provide intermediate mental health services;

"(B) to hire mental health professionals;

"(C) to staff, operate, and maintain an intermediate mental health facility, group home, or youth shelter where intermediate mental health services are being provided; and

"(D) to make renovations and hire appropriate staff to convert existing hospital beds into adolescent psychiatric units.

"(3) Funds provided under this subsection may not be used for the purposes described in section 216(b)(1).

"(4) An Indian tribe or tribal organization receiving a grant under this subsection shall ensure that intermediate adolescent mental health services are coordinated with other tribal, Service, and Bureau of Indian Affairs mental health, alcohol and substance abuse, and social services programs on the reservation of such tribe or tribal organization.

"(5) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this subsection.

"(6) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 206. NEW STUDIES AND DEMONSTRATION PROGRAM.

(a) HOSPICE CARE.—Title II of the Act is amended by inserting after section 204 the following:

"HOSPICE CARE FEASIBILITY STUDY

25 USC 1621d.

"SEC. 205. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes, tribal organizations, Indian Health Service personnel, and hospice providers, shall conduct a study—

"(1) to assess the feasibility and desirability of furnishing hospice care to terminally ill Indians; and

"(2) to determine the most efficient and effective means of furnishing such care.

"(b) Such study shall—

"(1) assess the impact of Indian culture and beliefs concerning death and dying on the provision of hospice care to Indians;

"(2) estimate the number of Indians for whom hospice care may be appropriate and determine the geographic distribution of such individuals;

"(3) determine the most appropriate means to facilitate the participation of Indian tribes and tribal organizations in providing hospice care;

"(4) identify and evaluate various means for providing hospice care, including—

"(A) the provision of such care by the personnel of a Service hospital pursuant to a hospice program established by the Secretary at such hospital; and

"(B) the provision of such care by a community-based hospice program under contract to the Service; and

"(5) identify and assess any difficulties in furnishing such care and the actions needed to resolve such difficulties.

"(c) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing— Reports.

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"(d) For the purposes of this section—

"(1) the term 'terminally ill' means any Indian who has a medical prognosis (as certified by a physician) of a life expectancy of six months or less; and

"(2) the term 'hospice program' means any program which satisfies the requirements of section 1861(dd)(2) of the Social Security Act (42 U.S.C. 1395x(dd)(2)); and

"(3) the term 'hospice care' means the items and services specified in subparagraphs (A) through (H) of section 1861(dd)(1) of the Social Security Act (42 U.S.C. 1395x(dd)(1)).".

(b) MANAGED CARE.—Title II of the Act is amended by adding at the end the following new section:

"MANAGED CARE FEASIBILITY STUDY

"SEC. 210. (a) The Secretary, acting through the Service, shall conduct a study to assess the feasibility of allowing an Indian tribe to purchase, directly or through the Service, managed care coverage for all members of the tribe from— 25 USC 1621i.

"(1) a tribally owned and operated managed care plan; or

"(2) a State licensed managed care plan.

"(b) Not later than the date which is 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report containing— Reports.

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.".

(c) CONTRACT CARE.—Title II of the Act (as amended by subsection (b) of this Act) is amended by adding at the end the following new section:

"CALIFORNIA CONTRACT HEALTH SERVICES DEMONSTRATION PROGRAM

"SEC. 211. (a) The Secretary shall establish a demonstration program to evaluate the use of a contract care intermediary to improve the accessibility of health services to California Indians. 25 USC 1621j.

"(b)(1) In establishing such program, the Secretary shall enter into an agreement with the California Rural Indian Health Board to reimburse the Board for costs (including reasonable administrative costs) incurred, during the period of the demonstration pro-

gram, in providing medical treatment under contract to California Indians described in section 809(b) throughout the California contract health services delivery area described in section 810 with respect to high-cost contract care cases.

"(2) Not more than 5 percent of the amounts provided to the Board under this section for any fiscal year may be for reimbursement for administrative expenses incurred by the Board during such fiscal year.

"(3) No payment may be made for treatment provided under the demonstration program to the extent payment may be made for such treatment under the Catastrophic Health Emergency Fund described in section 202 or from amounts appropriated or otherwise made available to the California contract health service delivery area for a fiscal year.

Establishment.

"(c) There is hereby established an advisory board which shall advise the California Rural Indian Health Board in carrying out the demonstration pursuant to this section. The advisory board shall be composed of representatives, selected by the California Rural Indian Health Board, from not less than 8 tribal health programs serving California Indians covered under such demonstration, at least one half of whom are not affiliated with the California Rural Indian Health Board.

Effective date.
Termination date.
Reports.

"(d) The demonstration program described in this section shall begin on January 1, 1993, and shall terminate on September 30, 1997.

"(e) Not later than July 1, 1998, the California Rural Indian Health Board shall submit to the Secretary a report on the demonstration program carried out under this section, including a statement of its findings regarding the impact of using a contract care intermediary on—

"(1) access to needed health services;

"(2) waiting periods for receiving such services; and

"(3) the efficient management of high-cost contract care cases.

"(f) For the purposes of this section, the term 'high-cost contract care cases' means those cases in which the cost of the medical treatment provided to an individual—

"(1) would otherwise be eligible for reimbursement from the Catastrophic Health Emergency Fund established under section 202, except that the cost of such treatment does not meet the threshold cost requirement established pursuant to section 202(b)(2); and

"(2) exceeds $1,000.

"(g) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out the purposes of this section.".

SEC. 207. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Title II of the Act (as amended by section 206(c) of this Act) is amended by adding at the end the following new section:

"COVERAGE OF SCREENING MAMMOGRAPHY

25 USC 1621k.

"SEC. 212. The Secretary, through the Service, shall provide for screening mammography (as defined in section 1861(jj) of the Social Security Act) for Indian and urban Indian women 35 years of age or older at a frequency, determined by the Secretary (in

consultation with the Director of the National Cancer Institute), appropriate to such women, and under such terms and conditions as are consistent with standards established by the Secretary to assure the safety and accuracy of screening mammography under part B of title XVIII of the Social Security Act.".

(b) CONFORMING AMENDMENT.—Section 201(a)(4)(B) of the Act (25 U.S.C. 1621(a)(4)(B)) is amended by striking the semicolon at the end and inserting the following: ", including screening mammography in accordance with section 212;".

SEC. 208. PATIENT TRAVEL COSTS.

Title II of the Act (as amended by section 207 of this Act) is amended by adding at the end the following new section:

"PATIENT TRAVEL COSTS

"SEC. 213. (a) The Secretary, acting through the Service, shall provide funds for the following patient travel costs associated with receiving health care services provided (either through direct or contract care or through contracts entered into pursuant to the Indian Self-Determination Act) under this Act— 25 USC 1621*l*.

"(1) emergency air transportation; and

"(2) nonemergency air transportation where ground transportation is infeasible.

"(b) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 209. THIRD PARTY REIMBURSEMENT.

(a) RECOVERY BY INDIAN TRIBE.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by inserting ", an Indian tribe, or a tribal organization" after "United States" each place it appears;

(2) in subsection (a), by inserting ", an Indian tribe, or a tribal organization" after "Service";

(3) in subsection (a) and subsection (e)(1)(A), by inserting ", an Indian tribe, or a tribal organization" after "Secretary" each place it appears; and

(4) in subsection (b), by striking ", or any political subdivision of a State,".

(b) SPECIAL RULE WITH RESPECT TO SELF-INSURANCE PLAN.—Section 206 of the Act (25 U.S.C. 1621e) is amended—

(1) by striking "(a) The" and inserting the following: "(a) Except as provided in subsection (f), the"; and

(2) by adding at the end the following new subsection:

"(f) The United States shall not have a right of recovery under this section if the injury, illness, or disability for which health services were provided is covered under a self-insurance plan funded by an Indian tribe or tribal organization.".

SEC. 210. EPIDEMIOLOGY CENTERS.

Title II of the Act (as amended by section 208 of this Act) is amended by adding at the end the following new section:

"EPIDEMIOLOGY CENTERS

Establishment.
25 USC 1621m.

"SEC. 214. (a)(1) The Secretary shall establish an epidemiology center in each Service area to carry out the functions described in paragraph (3).

"(2) To assist such centers in carrying out such functions, the Secretary shall perform the following:

"(A) In consultation with the Centers for Disease Control and Indian tribes, develop sets of data (which to the extent practicable, shall be consistent with the uniform data sets used by the States with respect to the year 2000 health objectives) for uniformly defining health status for purposes of the objectives specified in section 3(b). Such sets shall consist of one or more categories of information. The Secretary shall develop formats for the uniform collecting and reporting of information on such categories.

"(B) Establish and maintain a system for monitoring the progress made toward meeting each of the health status objectives described in section 3(b).

"(3) In consultation with Indian tribes and urban Indian communities, each area epidemiology center established under this subsection shall, with respect to such area—

"(A) collect data relating to, and monitor progress made toward meeting, each of the health status objectives described in section 3(b) using the data sets and monitoring system developed by the Secretary pursuant to paragraph (2);

"(B) evaluate existing delivery systems, data systems, and other systems that impact the improvement of Indian health;

"(C) assist tribes and urban Indian communities in identifying their highest priority health status objectives and the services needed to achieve such objectives, based on epidemiological data;

"(D) make recommendations for the targeting of services needed by tribal, urban, and other Indian communities;

"(E) make recommendations to improve health care delivery systems for Indians and urban Indians;

"(F) work cooperatively with tribal providers of health and social services in order to avoid duplication of existing services; and

"(G) provide technical assistance to Indian tribes and urban Indian organizations in the development of local health service priorities and incidence and prevalence rates of disease and other illness in the community.

"(4) Epidemiology centers established under this subsection shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(5) The director of the Centers for Disease Control shall provide technical assistance to the centers in carrying out the requirements of this subsection.

"(6) The Service shall assign one epidemiologist from each of its area offices to each area epidemiology center to provide such center with technical assistance necessary to carry out this subsection.

"(b)(1) The Secretary may make grants to Indian tribes, tribal organizations, and eligible intertribal consortia or Indian organizations to conduct epidemiological studies of Indian communities.

"(2) An intertribal consortia or Indian organization is eligible to receive a grant under this subsection if—

"(A) it is incorporated for the primary purpose of improving Indian health; and

"(B) it is representative of the tribes or urban Indian communities in which it is located.

"(3) An application for a grant under this subsection shall be submitted in such manner and at such time as the Secretary shall prescribe.

"(4) Applicants for grants under this subsection shall—

"(A) demonstrate the technical, administrative, and financial expertise necessary to carry out the functions described in paragraph (5);

"(B) consult and cooperate with providers of related health and social services in order to avoid duplication of existing services; and

"(C) demonstrate cooperation from Indian tribes or urban Indian organizations in the area to be served.

"(5) A grant awarded under paragraph (1) may be used to—

"(A) carry out the functions described in subsection (a)(3);

"(B) provide information to and consult with tribal leaders, urban Indian community leaders, and related health staff, on health care and health services management issues; and

"(C) provide, in collaboration with tribes and urban Indian communities, the Service with information regarding ways to improve the health status of Indian people.

"(6) There are authorized to be appropriated to carry out the purposes of this subsection not more than $12,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 211. COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS.

Title II of the Act (as amended by section 210 of this Act) is amended by adding at the end the following new section:

"COMPREHENSIVE SCHOOL HEALTH EDUCATION PROGRAMS

"SEC. 215. (a) The Secretary, acting through the Service and in consultation with the Secretary of the Interior, may award grants to Indian tribes to develop comprehensive school health education programs for children from preschool through grade 12 in schools located on Indian reservations. 25 USC 1621n.

"(b) Grants awarded under this section may be used to—

"(1) develop health education curricula;

"(2) train teachers in comprehensive school health education curricula;

"(3) integrate school-based, community-based, and other public and private health promotion efforts;

"(4) encourage healthy, tobacco-free school environments;

"(5) coordinate school-based health programs with existing services and programs available in the community;

"(6) develop school programs on nutrition education, personal health, and fitness;

"(7) develop mental health wellness programs;

"(8) develop chronic disease prevention programs;

"(9) develop substance abuse prevention programs;

"(10) develop accident prevention and safety education programs;

"(11) develop activities for the prevention and control of communicable diseases; and

"(12) develop community and environmental health education programs.

"(c) The Secretary shall provide technical assistance to Indian tribes in the development of health education plans, and the dissemination of health education materials and information on existing health programs and resources.

"(d) The Secretary shall establish criteria for the review and approval of applications for grants made pursuant to this section.

Reports.

"(e) Recipients of grants under this section shall submit to the Secretary an annual report on activities undertaken with funds provided under this section. Such reports shall include a statement of—

"(1) the number of preschools, elementary schools, and secondary schools served;

"(2) the number of students served;

"(3) any new curricula established with funds provided under this section;

"(4) the number of teachers trained in the health curricula; and

"(5) the involvement of parents, members of the community, and community health workers in programs established with funds provided under this section.

"(f)(1) The Secretary of the Interior, acting through the Bureau of Indian Affairs and in cooperation with the Secretary, shall develop a comprehensive school health education program for children from preschool through grade 12 in schools operated by the Bureau of Indian Affairs.

"(2) Such program shall include—

"(A) school programs on nutrition education, personal health, and fitness;

"(B) mental health wellness programs;

"(C) chronic disease prevention programs;

"(D) substance abuse prevention programs;

"(E) accident prevention and safety education programs; and

"(F) activities for the prevention and control of communicable diseases.

"(3) The Secretary of the Interior shall—

"(A) provide training to teachers in comprehensive school health education curricula;

"(B) ensure the integration and coordination of school-based programs with existing services and health programs available in the community; and

"(C) encourage healthy, tobacco-free school environments.

"(g) There are authorized to be appropriated to carry out this section $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 212. INDIAN YOUTH GRANT PROGRAM.

Title II of the Act (as amended by section 211 of this Act) is amended by adding at the end the following new section:

"INDIAN YOUTH GRANT PROGRAM

"SEC. 216. (a) The Secretary, acting through the Service, is authorized to make grants to Indian tribes, tribal organizations, and urban Indian organizations for innovative mental and physical disease prevention and health promotion and treatment programs for Indian preadolescent and adolescent youths. 25 USC 1621o.

"(b)(1) Funds made available under this section may be used to—

"(A) develop prevention and treatment programs for Indian youth which promote mental and physical health and incorporate cultural values, community and family involvement, and traditional healers; and

"(B) develop and provide community training and education.

"(2) Funds made available under this section may not be used to provide services described in section 209(m).

"(c) The Secretary shall—

"(1) disseminate to Indian tribes information regarding models for the delivery of comprehensive health care services to Indian and urban Indian adolescents;

"(2) encourage the implementation of such models; and

"(3) at the request of an Indian tribe, provide technical assistance in the implementation of such models.

"(d) The Secretary shall establish criteria for the review and approval of applications under this section.

"(e) There are authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

SEC. 213. AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM.

Title II of the Act (as amended by section 212 of this Act) is amended by adding at the end the following new section:

"AMERICAN INDIANS INTO PSYCHOLOGY PROGRAM

"SEC. 217. (a) The Secretary may provide grants to at least 3 colleges and universities for the purpose of developing and maintaining American Indian psychology career recruitment programs as a means of encouraging Indians to enter the mental health field. 25 USC 1621p.

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to develop and maintain a program at the University of North Dakota to be known as the 'Quentin N. Burdick American Indians Into Psychology Program'. Such program shall, to the maximum extent feasible, coordinate with the Quentin N. Burdick Indian Health Programs authorized under section 114(b), the Quentin N. Burdick American Indians Into Nursing Program authorized under section 112(e), and existing university research and communications networks. Grants.

"(c)(1) The Secretary shall issue regulations for the competitive awarding of the grants provided under this section. Regulations.

"(2) Applicants for grants under this section shall agree to provide a program which, at a minimum—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary

and community colleges located on Indian reservations that will be served by the program;

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities that will be served by the program;

"(C) provides summer enrichment programs to expose Indian students to the varied fields of psychology through research, clinical, and experiential activities;

"(D) provides stipends to undergraduate and graduate students to pursue a career in psychology;

"(E) develops affiliation agreements with tribal community colleges, the Service, university affiliated programs, and other appropriate entities to enhance the education of Indian students;

"(F) to the maximum extent feasible, utilizes existing university tutoring, counseling and student support services; and

"(G) to the maximum extent feasible, employs qualified Indians in the program.

"(d) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each graduate student who receives a stipend described in subsection (c)(2)(D) that is funded by a grant provided under this section. Such obligation shall be met by service—

"(1) in the Indian Health Service;

"(2) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(3) in a program assisted under title V of this Act; or

"(4) in the private practice of psychology if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.".

SEC. 214. PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS.

Title II of the Act (as amended by section 213 of this Act) is amended by adding at the end the following new section:

"PREVENTION, CONTROL, AND ELIMINATION OF TUBERCULOSIS

25 USC 1621q.

"SEC. 218. (a) The Secretary, acting through the Service after consultation with the Centers for Disease Control, may make grants to Indian tribes and tribal organizations for—

"(1) projects for the prevention, control, and elimination of tuberculosis;

"(2) public information and education programs for the prevention, control, and elimination of tuberculosis; and

"(3) education, training, and clinical skills improvement activities in the prevention, control, and elimination of tuberculosis for health professionals, including allied health professionals.

"(b) The Secretary may make a grant under subsection (a) only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains the assurances required by subsection (c) and such other agreements, assurances, and information as the Secretary may require.

"(c) To be eligible for a grant under subsection (a), an applicant must provide assurances satisfactory to the Secretary that—

"(1) the applicant will coordinate its activities for the prevention, control, and elimination of tuberculosis with activities of the Centers for Disease Control, and State and local health agencies; and

"(2) the applicant will submit to the Secretary an annual report on its activities for the prevention, control, and elimination of tuberculosis. Reports.

"(d) In carrying out this section, the Secretary—

"(1) shall establish criteria for the review and approval of applications for grants under subsection (a), including requirement of public health qualifications of applicants;

"(2) shall, subject to available appropriations, make at least one grant under subsection (a) within each area office;

"(3) may, at the request of an Indian tribe or tribal organization, provide technical assistance; and

"(4) shall prepare and submit a report to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs of the House and the Select Committee on Indian Affairs of the Senate not later than February 1, 1994, and biennially thereafter, on the use of funds under this section and on the progress made toward the prevention, control, and elimination of tuberculosis among Indian tribes and tribal organizations. Reports.

"(e) The Secretary may, at the request of a recipient of a grant under subsection (a), reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient; and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel, on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.".

SEC. 215. CONTRACT HEALTH SERVICES.

Title II of the Act (as amended by section 214 of this Act) is amended by adding at the end the following new sections:

"CONTRACT HEALTH SERVICES PAYMENT STUDY

"SEC. 219. (a) The Secretary, acting through the Service and in consultation with representatives of Indian tribes and tribal organizations operating contract health care programs under the Indian Self-Determination Act (25 U.S.C. 450f et seq.) or under self-governance compacts, Service personnel, private contract health services providers, the Indian Health Service Fiscal Intermediary, and other appropriate experts, shall conduct a study— 25 USC 1621r.

"(1) to assess and identify administrative barriers that hinder the timely payment for services delivered by private contract health services providers to individual Indians by the Service and the Indian Health Service Fiscal Intermediary;

"(2) to assess and identify the impact of such delayed payments upon the personal credit histories of individual Indians who have been treated by such providers; and

"(3) to determine the most efficient and effective means of improving the Service's contract health services payment system and ensuring the development of appropriate consumer protection policies to protect individual Indians who receive authorized services from private contract health services providers from billing and collection practices, including the development of materials and programs explaining patients' rights and responsibilities.

"(b) The study required by subsection (a) shall—

"(1) assess the impact of the existing contract health services regulations and policies upon the ability of the Service and the Indian Health Service Fiscal Intermediary to process, on a timely and efficient basis, the payment of bills submitted by private contract health services providers;

"(2) assess the financial and any other burdens imposed upon individual Indians and private contract health services providers by delayed payments;

"(3) survey the policies and practices of collection agencies used by contract health services providers to collect payments for services rendered to individual Indians;

"(4) identify appropriate changes in Federal policies, administrative procedures, and regulations, to eliminate the problems experienced by private contract health services providers and individual Indians as a result of delayed payments; and

"(5) compare the Service's payment processing requirements with private insurance claims processing requirements to evaluate the systemic differences or similarities employed by the Service and private insurers.

Reports. "(c) Not later than 12 months after the date of the enactment of this section, the Secretary shall transmit to the Congress a report that includes—

"(1) a detailed description of the study conducted pursuant to this section; and

"(2) a discussion of the findings and conclusions of such study.

"PROMPT ACTION ON PAYMENT OF CLAIMS

25 USC 1621s. "SEC. 220. (a) The Service shall respond to a notification of a claim by a provider of a contract care service with either an individual purchase order or a denial of the claim within 5 working days after the receipt of such notification.

"(b) If the Service fails to respond to a notification of a claim in accordance with subsection (a), the Service shall accept as valid the claim submitted by the provider of a contract care service.

"(c) The Service shall pay a completed contract care service claim within 30 days after completion of the claim.

"DEMONSTRATION OF ELECTRONIC CLAIMS PROCESSING

"SEC. 221. (a) Not later than June 15, 1993, the Secretary shall develop and implement, directly or by contract, 2 projects to demonstrate in a pilot setting the use of claims processing technology to improve the accuracy and timeliness of the billing for, and payment of, contract health services. 25 USC 1621t.

"(b) The Secretary shall conduct one of the projects authorized in subsection (a) in the Service area served by the area office located in Phoenix, Arizona. Arizona.

"LIABILITY FOR PAYMENT

"SEC. 222. (a) A patient who receives contract health care services that are authorized by the Service shall not be liable for the payment of any charges or costs associated with the provision of such services. 25 USC 1621u.

"(b) The Secretary shall notify a contract care provider and any patient who receives contract health care services authorized by the Service that such patient is not liable for the payment of any charges or costs associated with the provision of such services.".

SEC. 216. OFFICE OF WOMEN'S INDIAN HEALTH CARE.

Title II of the Act (as amended by section 215 of this Act) is amended by adding at the end the following new section:

"OFFICE OF INDIAN WOMEN'S HEALTH CARE

"SEC. 223. There is established within the Service an Office of Indian Women's Health Care to oversee efforts of the Service to monitor and improve the quality of health care for Indian women of all ages through the planning and delivery of programs administered by the Service, in order to improve and enhance the treatment models of care for Indian women.". Establishment. 25 USC 1621v.

SEC. 217. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title II of the Act (as amended by section 216 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 224. Except as provided in sections 209(m), 211, 213, 214(b)(5), 215, and 216, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.". 25 USC 1621w.

(b) CONFORMING AMENDMENTS.—Title II of the Act is amended—

(1) in section 201(h), by striking out the first sentence and striking out "subsection" and inserting in lieu thereof "section". 25 USC 1621.

(2) in section 202, by striking out subsection (e); 25 USC 1621a.

(3) in section 204(e), by striking out the first sentence and striking out "subsection (c)" and inserting in lieu thereof "this section"; and 25 USC 1621c.

(4) in section 209 (as amended by section 902(3)(B) of this Act)— 25 USC 1621h.

(A) by striking out subsections (c)(5), (d)(6), (f)(4), and (g)(5);

(B) in subsection (h)—

(i) by striking out paragraph (2) and by striking out "(1)";

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively;

(iii) by striking out "subparagraph (A)" and inserting "paragraph (1)"; and

(iv) by striking out "subparagraph (B)" and inserting "paragraph (2)";

(C) in subsection (i), by striking out paragraph (2) and by striking out "(1)";

(D) in subsection (d)(3)(B), by striking out "this subsection" and inserting in lieu thereof "this section"; and

(E) in subsection (k)(6), by striking out the first sentence and in the second sentence by striking out "subsection" and inserting in lieu thereof "section".

TITLE III—HEALTH FACILITIES

SEC. 301. HEALTH FACILITIES CLOSURE AND PRIORITIES.

Section 301 of the Act (25 U.S.C. 1631) is amended—

(1) in subsection (a)(2), by striking out "Hospitals" and inserting "Health Care Organizations";

(2) in subsection (b)(1)—

(A) in the material preceding subparagraph (A), by striking out "other" before "outpatient";

(B) by striking out "and" at the end of subparagraph (D);

(C) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(D) by adding at the end the following new subparagraphs:

"(F) the level of utilization of such hospital or facility by all eligible Indians; and

"(G) the distance between such hospital or facility and the nearest operating Service hospital.";

(3) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively;

(4) in subsection (c)(1) (as redesignated by paragraph (2) of this subsection), by amending the material preceding subparagraph (A) to read as follows:

Reports. "(c)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report which sets forth—"; and

(5) by striking out paragraph (2) of subsection (c) (as redesignated by paragraph (2)) and redesignating paragraphs (3), (4), and (5) of such subsection as paragraphs (2), (3), and (4), respectively.

SEC. 302. SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES.

Section 302 of the Act (25 U.S.C. 1632) is amended—

(1) by amending subsection (e) to read as follows:

"(e)(1) The Secretary is authorized to provide financial assistance to Indian tribes and communities in an amount equal to

the Federal share of the costs of operating, managing, and maintaining the facilities provided under the plan described in subsection (c).

"(2) For the purposes of paragraph (1), the term 'Federal share' means 80 percent of the costs described in paragraph (1).

"(3) With respect to Indian tribes with fewer than 1,000 enrolled members, the non-Federal portion of the costs of operating, managing, and maintaining such facilities may be provided, in part, through cash donations or in kind property, fairly evaluated.";

(2) in subsection (f)(1), by striking out "subsection (h)" and inserting in lieu thereof "this section"; and

(3) in subsection (g)—

(A) in paragraph (1), by striking out "The Secretary" through "report" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report"; and Reports.

(B) by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively.

SEC. 303. AMBULATORY CARE FACILITIES GRANT PROGRAM.

Section 306 of the Act (25 U.S.C. 1636) is amended to read as follows:

"GRANT PROGRAM FOR THE CONSTRUCTION, EXPANSION, AND MODERNIZATION OF SMALL AMBULATORY CARE FACILITIES

"SEC. 306. (a)(1) The Secretary, acting through the Service, shall make grants to tribes and tribal organizations for the construction, expansion, or modernization of facilities for the provision of ambulatory care services to eligible Indians (and noneligible persons as provided in subsection (c)(1)(C)). A grant made under this section may cover up to 100 percent of the costs of such construction, expansion, or modernization. For the purposes of this section, the term 'construction' includes the replacement of an existing facility.

"(2) A grant under paragraph (1) may only be made to a tribe or tribal organization operating an Indian health facility (other than a facility owned or constructed by the Service, including a facility originally owned or constructed by the Service and transferred to a tribe or tribal organization) pursuant to a contract entered into under the Indian Self-Determination Act.

"(b)(1) A grant provided under this section may be used only for the construction, expansion, or modernization (including the planning and design of such construction, expansion, or modernization) of an ambulatory care facility—

"(A) located apart from a hospital;

"(B) not funded under section 301 or section 307; and

"(C) which, upon completion of such construction, expansion, or modernization will—

"(i) have a total capacity appropriate to its projected service population;

"(ii) serve no less than 500 eligible Indians annually; and

"(iii) provide ambulatory care in a service area (specified in the contract entered into under the Indian Self-Determination Act) with a population of not less than 2,000 eligible Indians.

"(2) The requirements of clauses (ii) and (iii) of paragraph (1)(C) shall not apply to a tribe or tribal organization applying for a grant under this section whose tribal government offices are located on an island.

"(c)(1) No grant may be made under this section unless an application for such a grant has been submitted to and approved by the Secretary. An application for a grant under this section shall be submitted in such form and manner as the Secretary shall by regulation prescribe and shall set forth reasonable assurance by the applicant that, at all times after the construction, expansion, or modernization of a facility carried out pursuant to a grant received under this section—

Regulations.

"(A) adequate financial support will be available for the provision of services at such facility;

"(B) such facility will be available to eligible Indians without regard to ability to pay or source of payment; and

"(C) such facility will, as feasible without diminishing the quality or quantity of services provided to eligible Indians, serve noneligible persons on a cost basis.

"(2) In awarding grants under this section, the Secretary shall give priority to tribes and tribal organizations that demonstrate—

"(A) a need for increased ambulatory care services; and

"(B) insufficient capacity to deliver such services.

"(d) If any facility (or portion thereof) with respect to which funds have been paid under this section, ceases, at any time after completion of the construction, expansion, or modernization carried out with such funds, to be utilized for the purposes of providing ambulatory care services to eligible Indians, all of the right, title, and interest in and to such facility (or portion thereof) shall transfer to the United States.".

SEC. 304. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.

(a) AWARDING OF GRANTS.—Section 307(c) of the Act (25 U.S.C. 1637(c)(3)) is amended—

(1) in paragraph (1)(A), by inserting "or program" immediately after "facility" each place it appears;

(2) in paragraph (3)(A)—

(A) by striking "The" and inserting "On or before September 30, 1995, the"; and

(B) by adding before the colon the following: "and for which a completed application has been received by the Secretary"; and

(3) by striking subparagraph (B) and inserting the following:

"(B) The Secretary may also enter into contracts or award grants under this section taking into consideration applications received under this section from all service areas. The Secretary may not award a greater number of such contracts or grants in one service area than in any other service area until there is an equal number of such contracts or grants awarded with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria specified in paragraph (1).".

(b) REPORTS.—Section 307(h) of the Act (25 U.S.C. 1637(h)) is amended to read as follows:

"(h)(1) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1997, an interim report on the findings and conclusions derived from the demonstration projects established under this section.

"(2) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted to the Congress under section 801 for fiscal year 1999, a final report on the findings and conclusions derived from the demonstration projects established under this section, together with legislative recommendations.".

SEC. 305. EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION.

Section 305 of the Act (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NONSERVICE FUNDS FOR RENOVATION

"SEC. 305. (a)(1) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(A) any plans or designs for such renovation or modernization; and

"(B) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended, but only if the requirements of subsection (b) are met.

"(2) The Secretary shall maintain a separate priority list to address the needs of such facilities for personnel or equipment.

"(3) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, the priority list maintained pursuant to paragraph (2). Reports.

"(b) The requirements of this subsection are met with respect to any renovation or modernization if—

"(1) the tribe or tribal organization—

"(A) provides notice to the Secretary of its intent to renovate or modernize; and

"(B) applies to the Secretary to be placed on a separate priority list to address the needs of such new facilities for personnel or equipment; and

"(2) the renovation or modernization—

"(A) is approved by the appropriate area director of the Service; and

"(B) is administered by the tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such

facility at the time of the completion of such renovation or modernization.".

SEC. 306. LAND TRANSFER.

Title III of the Act is amended by adding at the end the following new section:

"LAND TRANSFER

Oregon.
25 USC 1638.

"SEC. 308. The Bureau of Indian Affairs is authorized to transfer, at no cost, up to 5 acres of land at the Chemawa Indian School, Salem, Oregon, to the Service for the provision of health care services. The land authorized to be transferred by this section is that land adjacent to land under the jurisdiction of the Service and occupied by the Chemawa Indian Health Center.".

SEC. 307. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title III of the Act (as amended by section 306 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

25 USC 1638a.

"SEC. 309. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title III of the Act is amended—

25 USC 1632.
25 USC 1637.

(1) in section 302, by striking out subsection (h); and

(2) in section 307, by striking out subsection (i).

SEC. 308. BUY AMERICAN REQUIREMENT.

Title III of the Act (as amended by section 307 of this Act) is amended by adding at the end the following new section:

"APPLICABILITY OF BUY AMERICAN REQUIREMENT

25 USC 1638b.

"SEC. 310. (a) The Secretary shall ensure that the requirements of the Buy American Act apply to all procurements made with funds provided pursuant to the authorization contained in section 309.

Reports.

"(b) The Secretary shall submit to the Congress a report on the amount of procurements from foreign entities made in fiscal years 1993 and 1994 with funds provided pursuant to the authorization contained in section 309. Such report shall separately indicate the dollar value of items procured with such funds for which the Buy American Act was waived pursuant to the Trade Agreement Act of 1979 or any international agreement to which the United States is a party.

"(c) If it has been finally determined by a court or Federal agency that any person intentionally affixed a label bearing a 'Made in America' inscription, or any inscription with the same meaning, to any product sold in or shipped to the United States that is not made in the United States, such person shall be ineligible to receive any contract or subcontract made with funds provided pursuant to the authorization contained in section 309, pursuant to the debarment, suspension, and ineligibility procedures described in sections 9.400 through 9.409 of title 48, Code of Federal Regulations.

"(d) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).".

TITLE IV—ACCESS TO HEALTH SERVICES

SEC. 401. TREATMENT OF PAYMENTS TO INDIAN HEALTH SERVICE FACILITIES UNDER MEDICARE AND MEDICAID PROGRAMS.

(a) MEDICARE PROGRAM.—Section 401 of the Act (42 U.S.C. 1395qq note) is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICARE PROGRAM

"SEC. 401. (a) Any payments received by a hospital or skilled nursing facility of the Service (whether operated by the Service or by an Indian tribe or tribal organization pursuant to a contract under the Indian Self-Determination Act) for services provided to Indians eligible for benefits under title XVIII of the Social Security Act shall not be considered in determining appropriations for health care and services to Indians. 25 USC 1641.

"(b) Nothing in this Act authorizes the Secretary to provide services to an Indian beneficiary with coverage under title XVIII of the Social Security Act, as amended, in preference to an Indian beneficiary without such coverage.".

(b) MEDICAID PROGRAM.—(1) Section 402 of the Act is amended to read as follows:

"TREATMENT OF PAYMENTS UNDER MEDICAID PROGRAM

"SEC. 402. (a) Notwithstanding any other provision of law, payments to which any facility of the Service (including a hospital, nursing facility, intermediate care facility for the mentally retarded, or any other type of facility which provides services for which payment is available under title XIX of the Social Security Act) is entitled under a State plan by reason of section 1911 of such Act shall be placed in a special fund to be held by the Secretary and used by him (to such extent or in such amounts as are provided in appropriation Acts) exclusively for the purpose of making any improvements in the facilities of such Service which may be necessary to achieve compliance with the applicable conditions and requirements of such title. In making payments from such fund, the Secretary shall ensure that each service unit of the Service receives at least 80 percent of the amounts to which the facilities of the Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act. 25 USC 1642.

"(b) Any payments received by such facility for services provided to Indians eligible for benefits under title XIX of the Social Security Act shall not be considered in determining appropriations for the provision of health care and services to Indians.".

(2) The increase (from 50 percent) in the percentage of the payments from the fund to be made to each service unit of the Service specified in the amendment made by paragraph (1) shall take effect beginning with payments made on January 1, 1993. 25 USC 1642 note.

SEC. 402. REPORT.

25 USC 1643. Section 403 of the Act (25 U.S.C. 1671 note) is amended by striking out "The Secretary" and all that follows through "section 701" and inserting in lieu thereof the following: "The Secretary shall submit to the President, for inclusion in the report required to be transmitted to the Congress under section 801,".

SEC. 403. APPLICATION ASSISTANCE.

25 USC 1644. Section 404 of the Act (25 U.S.C. 1622) is amended—

(1) by amending subsection (b)(4) to read as follows:

"(4) develop and implement—

"(A) a schedule of income levels to determine the extent of payments of premiums by such organizations for coverage of needy individuals; and

"(B) methods of improving the participation of Indians in receiving the benefits provided under titles XVIII and XIX of the Social Security Act."; and

(2) by amending subsection (c) to read as follows:

"(c) The Secretary, acting through the Service, may enter into an agreement with an Indian tribe, tribal organization, or urban Indian organization which provides for the receipt and processing of applications for medical assistance under title XIX of the Social Security Act and benefits under title XVIII of the Social Security Act at a Service facility or a health care facility administered by such tribe or organization pursuant to a contract under the Indian Self-Determination Act.".

SEC. 404. EXTENSION OF DEMONSTRATION PROGRAM.

25 USC 1645. Section 405 of the Act (42 U.S.C. 1395qq note) is amended—

(1) in subsection (c)(2), by striking "1995" and inserting "1996"; and

(2) in subsection (e), by striking "1995" and inserting "1996".

SEC. 405. AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES.

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION FOR EMERGENCY CONTRACT HEALTH SERVICES

25 USC 1646. "SEC. 406. With respect to an elderly or disabled Indian receiving emergency medical care or services from a non-Service provider or in a non-Service facility under the authority of this Act, the time limitation (as a condition of payment) for notifying the Service of such treatment or admission shall be 30 days.".

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.

Title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

25 USC 1647. "SEC. 407. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

TITLE V—HEALTH SERVICES FOR URBAN INDIANS

SEC. 501. GRANT AUTHORITY.

(a) IN GENERAL.—Section 502 of the Act (25 U.S.C. 1652) is amended—

(1) by striking "contracts with" and inserting the following: "contracts with, or make grants to,";

(2) by inserting after "enters into with" the following: ", or in any grant the Secretary makes to,"; and

(3) by amending the heading to read as follows:

"CONTRACTS WITH, AND GRANTS TO, URBAN INDIAN ORGANIZATIONS".

(b) CONFORMING AMENDMENTS.—(1) Section 503 of the Act (25 U.S.C. 1653) is amended—

(A) in subsection (a), in the material preceding paragraph (1)—

(i) by inserting ", or make grants to," after "contracts with"; and

(ii) by inserting "or grant" after "such contract";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting "or receive grants" after "enter into contracts"; and

(ii) in paragraph (5), by inserting "or to meet the requirements for receiving a grant" after "Secretary";

(C) in subsection (c)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(D) in subsection (d)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(E) in subsection (e)(1), by inserting before the period at the end the following: "or receiving grants under subsection (a)";

(F) in subsection (f), by inserting "or receiving grants under subsection (a)" after "this section"; and

(G) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES".

(2) Section 504 of the Act (25 U.S.C. 1654) is amended—

(A) by striking "SEC. 504." and all that follows through the end of subsection (a) and inserting the following:

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with, or make grants to, urban Indian organizations situated in urban centers for which contracts have not been entered into, or grants have not been made, under section 503. The purpose of a contract or grant made under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract or make a

grant under section 503 with respect to the urban Indian organization which the Secretary has entered into a contract with, or made a grant to, under this section.";

(B) in subsection (b)—

(i) in the material preceding paragraph (1), by inserting ", or grant made," after "contract entered into"; and

(ii) in paragraph (2), by striking "within one year" and all that follows through the period at the end and inserting the following: ", or carry out the requirements of the grant, within one year after the date on which the Secretary and such organization enter into such contract, or within one year after such organization receives such grant, whichever is applicable.";

(C) in subsection (c), by inserting ", or grant made," after "entered into"; and

(D) by amending the heading to read as follows:

"CONTRACTS AND GRANTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS".

(3) Section 505 of the Act (25 U.S.C. 1655) is amended—

(A) in subsection (a), by inserting "compliance with grant requirements under this title and" before "compliance with,";

(B) in subsection (b)—

(i) by inserting "or received a grant" after "entered into a contract"; and

(ii) by inserting before the period at the end the following: "or the terms of such grant";

(C) in subsection (c)—

(i) by inserting "the requirements of a grant or complied with" after "complied with";

(ii) by inserting "or grant" after "such contract" each place it appears";

(iii) by inserting "or make a grant" after "enter into a contract"; and

(iv) by inserting "or grant" after "whose contract";

(D) in subsection (d), by inserting "or grant" after "a contract" each place it appears; and

(E) by amending the heading to read as follows:

"EVALUATIONS; RENEWALS".

(4) Section 506 of the Act (25 U.S.C. 1656) is amended—

(A) in subsection (b), by inserting "or grants" after "any contracts";

(B) in subsection (d), by inserting "or grant" after "contract" each place it appears;

(C) in subsection (e)—

(i) by inserting ", or grants to," after "Contracts with"; and

(ii) by inserting "or grants" after "such contracts"; and

(D) by amending the heading to read as follows:

"OTHER CONTRACT AND GRANT REQUIREMENTS".

(5) Section 507 of the Act (25 U.S.C. 1657) is amended—

(A) in subsection (a)—

(i) in the material preceding paragraph (1), by inserting ", or a grant received," after "entered into"; and

(ii) in paragraphs (1) and (2), by inserting "or grant" after "contract" each place it appears; and

(B) in subsections (b) and (c), by inserting "or grant" after "contract" each place it appears.

(6) Section 509 of the Act (25 U.S.C. 1659) (as amended by section 902(5)(A) of this Act) is amended by inserting "or grant recipients" after "contractors" each place it appears.

(7) Section 510(a) of the Act (25 U.S.C. 1660(a)) (as amended by section 902(5)(B) of this Act) is amended by inserting before the period at the end the following: "and for providing central oversight of the programs and services authorized under this title".

SEC. 502. ALCOHOL AND SUBSTANCE ABUSE.

Title V of the Act is amended by inserting after section 510 (as redesignated by section 902(5)(B) of this Act) the following new section:

"GRANTS FOR ALCOHOL AND SUBSTANCE ABUSE RELATED SERVICES

"SEC. 511. (a) GRANTS.—The Secretary may make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in, alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under this title or under section 201. 25 USC 1660a.

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

"The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF FUNDS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any funds received by an urban Indian organization under this Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).".

SEC. 503. TREATMENT OF DEMONSTRATION PROJECTS.

Title V of the Act (as amended by section 502 of this Act) is amended by adding at the end the following new section:

"TREATMENT OF CERTAIN DEMONSTRATION PROJECTS

Oklahoma.
25 USC 1660b.

"SEC. 512. (a) Notwithstanding any other provision of law, the Oklahoma City Clinic demonstration project and the Tulsa Clinic demonstration project shall be treated as service units in the allocation of resources and coordination of care and shall not be subject to the provisions of the Indian Self-Determination Act for the term of such projects. The Secretary shall provide assistance to such projects in the development of resources and equipment and facility needs.

Reports.

"(b) The Secretary shall submit to the President, for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects specified in subsection (a).".

SEC. 504. URBAN NIAAA TRANSFERRED PROGRAMS.

Title V of the Act (as amended by section 503 of this Act) is amended by adding at the end the following new section:

"URBAN NIAAA TRANSFERRED PROGRAMS

Grants.
Contracts.
Alcohol and alcohol abuse.
25 USC 1660c.

"SEC. 513. (a) The Secretary shall, within the Branch of Urban Health Programs of the Service, make grants or enter into contracts for the administration of urban Indian alcohol programs that were originally established under the National Institute on Alcoholism and Alcohol Abuse (hereafter in this section referred to as 'NIAAA') and transferred to the Service.

"(b) Grants provided or contracts entered into under this section shall be used to provide support for the continuation of alcohol prevention and treatment services for urban Indian populations and such other objectives as are agreed upon between the Service and a recipient of a grant or contract under this section.

"(c) Urban Indian organizations that operate Indian alcohol programs originally funded under NIAAA and subsequently transferred to the Service are eligible for grants or contracts under this section.

"(d) For the purpose of carrying out this section, the Secretary may combine NIAAA alcohol funds with other substance abuse funds currently administered through the Branch of Urban Health Programs of the Service.

Reports.

"(e) The Secretary shall evaluate and report to the Congress on the activities of programs funded under this section at least every two years.".

SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title V of the Act (as amended by section 504 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

25 USC 1660d.

"SEC. 514. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Title V of the Act (25 U.S.C. 1650 et seq.) is amended—

25 USC 1653.

(1) in section 503—

(A) in subsection (c), by striking out "(c)(1)" and inserting "(c)" and by striking out paragraph (2);

(B) in subsection (d), by striking out paragraph (4);

(C) in subsection (e), by striking out paragraph (4); and

(D) in subsection (f), by striking out paragraph (5); and

(2) in section 509 (as redesignated by section 902(5)(A) of this Act), by striking out the last sentence. 25 USC 1659.

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

SEC. 601. INDIAN HEALTH SERVICE.

Section 601(c) of the Act (15 U.S.C. 1661(c)) is amended—

(1) in paragraph (2), by striking out "and" after the semicolon;

(2) in paragraph (3), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(4) all scholarship and loan functions carried out under title I.".

SEC. 602. DIRECTOR OF INDIAN HEALTH SERVICE.

(a) CONFIRMATION BY SENATE.—

(1) IN GENERAL.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended in the second sentence by striking "Secretary" and inserting "President, by and with the advice and consent of the Senate".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect January 1, 1993. 25 USC 1661 note.

(b) INTERIM APPOINTMENT.—The President may appoint an individual to serve as Interim Director of the Service from January 1, 1993, until such time as a Director is appointed and confirmed as provided in section 601(a) of the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.) (as amended by subsection (a) of this section). 25 USC 1661 note.

(c) TERM.—Section 601(a) of the Act (25 U.S.C. 1661(a)) is amended by adding at the end the following: "Effective with respect to an individual appointed by the President, by and with the advice and consent of the Senate, after January 1, 1993, the term of service of the Director shall be 4 years. A Director may serve more than 1 term.".

SEC. 603. AUTHORIZATION OF APPROPRIATIONS.

Title VI of the Act (25 U.S.C. 1661 et seq.) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 603. There are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.". 25 USC 1663.

TITLE VII—SUBSTANCE ABUSE PROGRAMS

SEC. 701. REDESIGNATION OF EXISTING TITLE VII.

(a) TITLE HEADING.—Title VII of the Act (25 U.S.C. 1671 et seq.) is redesignated as title VIII and the title heading is amended to read as follows:

"TITLE VIII—MISCELLANEOUS"

(b) REDESIGNATION OF SECTIONS.—Sections 701 through 720 of the Act (25 U.S.C. 1671 et seq.) are hereby redesignated as sections 801 through 820, respectively.

25 USC 1621f. (c) CONFORMING AMENDMENTS.—The Act is amended—

(1) in section 207(a), by striking out "section 713" and inserting in lieu thereof "section 813";

25 USC 1637. (2) in section 307(e), by striking out "section 713" and inserting in lieu thereof "section 813"; and

25 USC 1645. (3) in section 405(b)—

(A) in paragraph (1), by striking out "sections 402(c) and 713(b)(2)(A)" and inserting in lieu thereof "sections 402(a) and 813(b)(2)(A)"; and

(B) in paragraph (4), by striking out "section 402(c)" each place it appears and inserting in lieu thereof "section 402(a)".

25 USC 1671 note. (d) REFERENCES.—Any reference in a provision of law other than the Indian Health Care Improvement Act to sections redesignated by subsection (b) shall be deemed to refer to the section as so redesignated.

SEC. 702. SUBSTANCE ABUSE PROGRAMS.

(a) IN GENERAL.—The Act is amended by inserting after title VI the following new title:

"TITLE VII—SUBSTANCE ABUSE PROGRAMS

"INDIAN HEALTH SERVICE RESPONSIBILITIES

25 USC 1665. "SEC. 701. The Memorandum of Agreement entered into pursuant to section 4205 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411) shall include specific provisions pursuant to which the Service shall assume responsibility for—

"(1) the determination of the scope of the problem of alcohol and substance abuse among Indian people, including the number of Indians within the jurisdiction of the Service who are directly or indirectly affected by alcohol and substance abuse and the financial and human cost;

"(2) an assessment of the existing and needed resources necessary for the prevention of alcohol and substance abuse and the treatment of Indians affected by alcohol and substance abuse; and

"(3) an estimate of the funding necessary to adequately support a program of prevention of alcohol and substance abuse and treatment of Indians affected by alcohol and substance abuse.

"INDIAN HEALTH SERVICE PROGRAM

"SEC. 702. (a) COMPREHENSIVE PREVENTION AND TREATMENT PROGRAM.—(1) The Secretary, acting through the Service, shall provide a program of comprehensive alcohol and substance abuse prevention and treatment which shall include— 25 USC 1665a.

"(A) prevention, through educational intervention, in Indian communities;

"(B) acute detoxification and treatment;

"(C) community-based rehabilitation;

"(D) community education and involvement, including extensive training of health care, educational, and community-based personnel; and

"(E) residential treatment programs for pregnant and post partum women and their children.

"(2) The target population of such program shall be members of Indian tribes. Efforts to train and educate key members of the Indian community shall target employees of health, education, judicial, law enforcement, legal, and social service programs.

"(b) CONTRACT HEALTH SERVICES.—(1) The Secretary, acting through the Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Service in carrying out the program required under subsection (a).

"(2) In carrying out this subsection, the Secretary shall provide assistance to Indian tribes to develop criteria for the certification of alcohol and substance abuse service providers and accreditation of service facilities which meet minimum standards for such services and facilities as may be determined pursuant to section 4205(a)(3) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2411(a)(3)).

"(c) GRANTS FOR MODEL PROGRAM.—(1) The Secretary, acting through the Service shall make a grant to the Standing Rock Sioux Tribe to develop a community-based demonstration project to reduce drug and alcohol abuse on the Standing Rock Sioux Reservation and to rehabilitate Indian families afflicted by such abuse.

"(2) Funds shall be used by the Tribe to—

"(A) develop and coordinate community-based alcohol and substance abuse prevention and treatment services for Indian families;

"(B) develop prevention and intervention models for Indian families;

"(C) conduct community education on alcohol and substance abuse; and

"(D) coordinate with existing Federal, State, and tribal services on the reservation to develop a comprehensive alcohol and substance abuse program that assists in the rehabilitation of Indian families that have been or are afflicted by alcoholism.

"(3) The Secretary shall submit to the President for inclusion in the report to be transmitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under paragraph (1). Reports.

"INDIAN WOMEN TREATMENT PROGRAMS

"SEC. 703. (a) The Secretary may make grants to Indian tribes and tribal organizations to develop and implement a comprehensive 25 USC 1665b.

alcohol and substance abuse program of prevention, intervention, treatment, and relapse prevention services that specifically addresses the cultural, historical, social, and child care needs of Indian women, regardless of age.

"(b) Grants made pursuant to this section may be used to—

"(1) develop and provide community training, education, and prevention programs for Indian women relating to alcohol and substance abuse issues, including fetal alcohol syndrome and fetal alcohol effect;

"(2) identify and provide appropriate counseling, advocacy, support, and relapse prevention to Indian women and their families; and

"(3) develop prevention and intervention models for Indian women which incorporate traditional healers, cultural values, and community and family involvement.

"(c) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(d)(1) There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Twenty percent of the funds appropriated pursuant to this subsection shall be used to make grants to urban Indian organizations funded under title V.

"INDIAN HEALTH SERVICE YOUTH PROGRAM

25 USC 1665c.

"SEC. 704. (a) DETOXIFICATION AND REHABILITATION.—The Secretary shall develop and implement a program for acute detoxification and treatment for Indian youth who are alcohol and substance abusers. The program shall include regional treatment centers designed to include detoxification and rehabilitation for both sexes on a referral basis. These regional centers shall be integrated with the intake and rehabilitation programs based in the referring Indian community.

"(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct, renovate, or, as necessary, purchase, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an area office. For the purposes of this subsection, the area offices of the Service in Tucson and Phoenix, Arizona, shall be considered one area office and the area office in California shall be considered to be two area offices, one office whose jurisdiction shall be considered to encompass the northern area of the State of California, and one office whose jurisdiction shall be considered to encompass the remainder of the State of California.

Arizona.
California.

"(2) For the purpose of staffing and operating such centers or facilities, funding shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).

"(3) A youth treatment center constructed or purchased under this subsection shall be constructed or purchased at a location within the area described in paragraph (1) agreed upon (by appropriate tribal resolution) by a majority of the tribes to be served by such center.

"(4)(A) Notwithstanding any other provision of this title, the Secretary may, from amounts authorized to be appropriated for the purposes of carrying out this section, make funds available to—

"(i) the Tanana Chiefs Conference, Incorporated, for the purpose of leasing, constructing, renovating, operating and maintaining a residential youth treatment facility in Fairbanks, Alaska; and

"(ii) the Southeast Alaska Regional Health Corporation to staff and operate a residential youth treatment facility without regard to the proviso set forth in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

"(B) Until additional residential youth treatment facilities are established in Alaska pursuant to this section, the facilities specified in subparagraph (A) shall make every effort to provide services to all eligible Indian youth residing in such State. Alaska.

"(c) FEDERALLY OWNED STRUCTURES.—

"(1) The Secretary, acting through the Service, shall, in consultation with Indian tribes—

"(A) identify and use, where appropriate, federally owned structures suitable as local residential or regional alcohol and substance abuse treatment centers for Indian youth; and

"(B) establish guidelines for determining the suitability of any such federally owned structure to be used as a local residential or regional alcohol and substance abuse treatment center for Indian youth.

"(2) Any structure described in paragraph (1) may be used under such terms and conditions as may be agreed upon by the Secretary and the agency having responsibility for the structure.

"(d) REHABILITATION AND AFTERCARE SERVICES.—

"(1) The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each Service service unit community-based rehabilitation and follow-up services for Indian youth who are alcohol or substance abusers which are designed to integrate long-term treatment and to monitor and support the Indian youth after their return to their home community.

"(2) Services under paragraph (1) shall be administered within each service unit by trained staff within the community who can assist the Indian youth in continuing development of self-image, positive problem-solving skills, and nonalcohol or substance abusing behaviors. Such staff shall include alcohol and substance abuse counselors, mental health professionals, and other health professionals and paraprofessionals, including community health representatives.

"(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate. Not less than 10 percent of the funds appropriated for the purposes of carrying out subsection (d) shall be used for outpatient care of adult family members related to the treatment of an Indian youth under that subsection.

"(f) MULTIDRUG ABUSE STUDY.—(1) The Secretary shall conduct a study to determine the incidence and prevalence of the abuse of multiple forms of drugs, including alcohol, among Indian youth residing on Indian reservations and in urban areas and the inter-

relationship of such abuse with the incidence of mental illness among such youth.

Reports. "(2) The Secretary shall submit a report detailing the findings of such study, together with recommendations based on such findings, to the Congress no later than two years after the date of the enactment of this section.

"TRAINING AND COMMUNITY EDUCATION

25 USC 1665d. "SEC. 705. (a) COMMUNITY EDUCATION.—The Secretary, in cooperation with the Secretary of the Interior, shall develop and implement within each service unit a program of community education and involvement which shall be designed to provide concise and timely information to the community leadership of each tribal community. Such program shall include education in alcohol and substance abuse to political leaders, tribal judges, law enforcement personnel, members of tribal health and education boards, and other critical members of each tribal community.

"(b) TRAINING.—The Secretary shall, either directly or by contract, provide instruction in the area of alcohol and substance abuse, including instruction in crisis intervention and family relations in the context of alcohol and substance abuse, youth alcohol and substance abuse, and the causes and effects of fetal alcohol syndrome to appropriate employees of the Bureau of Indian Affairs and the Service, and to personnel in schools or programs operated under any contract with the Bureau of Indian Affairs or the Service, including supervisors of emergency shelters and halfway houses described in section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433).

"(c) COMMUNITY-BASED TRAINING MODELS.—In carrying out the education and training programs required by this section, the Secretary, acting through the Service and in consultation with tribes and Indian alcohol and substance abuse prevention experts, shall develop and provide community-based training models. Such models shall address—

"(1) the elevated risk of alcohol and substance abuse faced by children of alcoholics;

"(2) the cultural and multigenerational aspects of alcohol and substance abuse prevention and recovery; and

"(3) community-based and multidisciplinary strategies for preventing and treating alcohol and substance abuse.

"GALLUP ALCOHOL AND SUBSTANCE ABUSE TREATMENT CENTER

25 USC 1665e. "SEC. 706. (a) GRANTS FOR RESIDENTIAL TREATMENT.—The Secretary shall make grants to the Navajo Nation for the purpose of providing residential treatment for alcohol and substance abuse for adult and adolescent members of the Navajo Nation and neighboring tribes.

"(b) PURPOSES OF GRANTS.—Grants made pursuant to this section shall (to the extent appropriations are made available) be used to—

"(1) provide at least 15 residential beds each year for adult long-term treatment, including beds for specialized services such as polydrug abusers, dual diagnosis, and specialized services for women with fetal alcohol syndrome children;

"(2) establish clinical assessment teams consisting of a clinical psychologist, a part-time addictionologist, a master's

level assessment counselor, and a certified medical records technician which shall be responsible for conducting individual assessments and matching Indian clients with the appropriate available treatment;

"(3) provide at least 12 beds for an adolescent shelterbed program in the city of Gallup, New Mexico, which shall serve as a satellite facility to the Acoma/Canoncito/Laguna Hospital and the adolescent center located in Shiprock, New Mexico, for emergency crisis services, assessment, and family intervention; New Mexico.

"(4) develop a relapse program for the purposes of identifying sources of job training and job opportunity in the Gallup area and providing vocational training, job placement, and job retention services to recovering substance abusers; and

"(5) provide continuing education and training of treatment staff in the areas of intensive outpatient services, development of family support systems, and case management in cooperation with regional colleges, community colleges, and universities.

"(c) CONTRACT FOR RESIDENTIAL TREATMENT.—The Navajo Nation, in carrying out the purposes of this section, shall enter into a contract with an institution in the Gallup, New Mexico, area which is accredited by the Joint Commission of the Accreditation of Health Care Organizations to provide comprehensive alcohol and drug treatment as authorized in subsection (b). New Mexico.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

"(1) to carry out the purposes of subsection (b)(1)—
"(A) $400,000 for fiscal year 1993;
"(B) $400,000 for fiscal year 1994; and
"(C) $500,000 for fiscal year 1995;

"(2) to carry out the purposes of subsection (b)(2)—
"(A) $100,000 for fiscal year 1993;
"(B) $125,000 for fiscal year 1994; and
"(C) $150,000 for fiscal year 1995;

"(3) to carry out the purposes of subsection (b)(3)—
"(A) $75,000 for fiscal year 1993;
"(B) $85,000 for fiscal year 1994; and
"(C) $100,000 for fiscal year 1995;

"(4) to carry out the purposes of subsection (b)(4), $150,000 for each of fiscal years 1993, 1994, and 1995; and

"(5) to carry out the purposes of subsection (b)(5)—
"(A) $75,000 for fiscal year 1993;
"(B) $90,000 for fiscal year 1994; and
"(C) $100,000 for fiscal year 1995.

"REPORTS

"SEC. 707. (a) COMPILATION OF DATA.—The Secretary, with respect to the administration of any health program by a service unit, directly or through contract, including a contract under the Indian Self-Determination Act, shall require the compilation of data relating to the number of cases or incidents in which any Service personnel or services were involved and which were related, either directly or indirectly, to alcohol or substance abuse. Such report shall include the type of assistance provided and the disposition of these cases. 25 USC 1665f.

"(b) REFERRAL OF DATA.—The data compiled under subsection (a) shall be provided annually to the affected Indian tribe and

Tribal Coordinating Committee to assist them in developing or modifying a Tribal Action Plan under section 4206 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.).

"(c) COMPREHENSIVE REPORT.—Each service unit director shall be responsible for assembling the data compiled under this section and section 4214 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2434) into an annual tribal comprehensive report. Such report shall be provided to the affected tribe and to the Director of the Service who shall develop and publish a biennial national report based on such tribal comprehensive reports.

"FETAL ALCOHOL SYNDROME AND FETAL ALCOHOL EFFECT GRANTS

25 USC 1665g.

"SEC. 708. (a)(1) The Secretary may make grants to Indian tribes and tribal organizations to establish fetal alcohol syndrome and fetal alcohol effect programs as provided in this section for the purposes of meeting the health status objectives specified in section 3(b).

"(2) Grants made pursuant to this section shall be used to—

"(A) develop and provide community and in-school training, education, and prevention programs relating to FAS and FAE;

"(B) identify and provide alcohol and substance abuse treatment to high-risk women;

"(C) identify and provide appropriate educational and vocational support, counseling, advocacy, and information to FAS and FAE affected persons and their families or caretakers;

"(D) develop and implement counseling and support programs in schools for FAS and FAE affected children;

"(E) develop prevention and intervention models which incorporate traditional healers, cultural values and community involvement;

"(F) develop, print, and disseminate education and prevention materials on FAS and FAE; and

"(G) develop and implement, through the tribal consultation process, culturally sensitive assessment and diagnostic tools for use in tribal and urban Indian communities.

"(3) The Secretary shall establish criteria for the review and approval of applications for grants under this section.

"(b) The Secretary, acting through the Service, shall—

"(1) develop an annual plan for the prevention, intervention, treatment, and aftercare for those affected by FAS and FAE in Indian communities;

"(2) conduct a study, directly or by contract with any organization, entity, or institution of higher education with significant knowledge of FAS and FAE and Indian communities, of the special educational, vocational, school-to-work transition, and independent living needs of adolescent and adult Indians and Alaska Natives with FAS or FAE; and

Establishment.

"(3) establish a national clearinghouse for prevention and educational materials and other information on FAS and FAE effect in Indian and Alaska Native communities and ensure access to clearinghouse materials by any Indian tribe or urban Indian organization.

Establishment.

"(c) The Secretary shall establish a task force to be known as the FAS/FAE Task Force to advise the Secretary in carrying out subsection (b). Such task force shall be composed of rep-

resentatives from the National Institute on Drug Abuse, the National Institute on Alcohol and Alcoholism, the Office of Substance Abuse Prevention, the National Institute of Mental Health, the Service, the Office of Minority Health of the Department of Health and Human Services, the Administration for Native Americans, the Bureau of Indian Affairs, Indian tribes, tribal organizations, urban Indian communities, and Indian FAS/FAE experts.

"(d) The Secretary, acting through the Substance Abuse and Mental Health Services Administration, shall make grants to Indian tribes, tribal organizations, universities working with Indian tribes on cooperative projects, and urban Indian organizations for applied research projects which propose to elevate the understanding of methods to prevent, intervene, treat, or provide aftercare for Indians and urban Indians affected by FAS or FAE.

"(e)(1) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the status of FAS and FAE in the Indian population. Such report shall include, in addition to the information required under section (3)(d) with respect to the health status objective specified in section (3)(b)(27), the following: Reports.

"(A) The progress of implementing a uniform assessment and diagnostic methodology in Service and tribally based service delivery systems.

"(B) The incidence of FAS and FAE babies born for all births by reservation and urban-based sites.

"(C) The prevalence of FAS and FAE affected Indian persons in Indian communities, their primary means of support, and recommendations to improve the support system for these individuals and their families or caretakers.

"(D) The level of support received from the entities specified in subsection (c) in the area of FAS and FAE.

"(E) The number of inpatient and outpatient substance abuse treatment resources which are specifically designed to meet the unique needs of Indian women, and the volume of care provided to Indian women through these means.

"(F) Recommendations regarding the prevention, intervention, and appropriate vocational, educational and other support services for FAS and FAE affected individuals in Indian communities.

"(2) The Secretary may contract the production of this report to a national organization specifically addressing FAS and FAE in Indian communities.

"(f)(1) There are authorized to be appropriated to carry out this section $22,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) Ten percent of the funds appropriated pursuant to this section shall be used to make grants to urban Indian organizations funded under title V.

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 709. The Secretary, acting through the Service, shall continue to make grants, through fiscal year 1995, to the 8 Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services. Grants. 25 USC 1665h.

"THUNDER CHILD TREATMENT CENTER

Grants.
Wyoming.
25 USC 1665i.

"SEC. 710. (a) The Secretary, acting through the Service, shall make a grant to the Intertribal Addictions Recovery Organization, Inc. (commonly known as the Thunder Child Treatment Center) at Sheridan, Wyoming, for the completion of construction of a multiple approach substance abuse treatment center which specializes in the treatment of alcohol and drug abuse of Indians.

"(b) For the purposes of carrying out subsection (a), there are authorized to be appropriated $2,000,000 for fiscal years 1993 and 1994. No funding shall be available for staffing or operation of this facility. None of the funding appropriated to carry out subsection (a) shall be used for administrative purposes.

"SUBSTANCE ABUSE COUNSELOR EDUCATION DEMONSTRATION PROJECT

25 USC 1665j.

"SEC. 711. (a) The Secretary, acting through the Service, may enter into contracts with, or make grants to, accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges to establish demonstration projects to develop educational curricula for substance abuse counseling.

"(b) Funds provided under this section shall be used only for developing and providing educational curricula for substance abuse counseling (including paying salaries for instructors). Such curricula may be provided through satellite campus programs.

Contracts.
Grants.

"(c) A contract entered into or a grant provided under this section shall be for a period of one year. Such contract or grant may be renewed for an additional one year period upon the approval of the Secretary.

"(d) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and administrators of accredited tribally controlled community colleges, tribally controlled postsecondary vocational institutions, and eligible community colleges, shall develop and issue criteria for the review and approval of applications for funding (including applications for renewals of funding) under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of such entities to educate substance abuse counselors.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable grant recipients to comply with the provisions of this section.

Reports.

"(f) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section.

"(g) For the purposes of this section, the following definitions apply:

"(1) The term 'educational curriculum' means one or more of the following:

"(A) Classroom education.

"(B) Clinical work experience.

"(C) Continuing education workshops.

"(2) The term 'eligible community college' means an accredited community college that—

"(i) is located on or near an Indian reservation;

"(ii) has entered into a cooperative agreement with the governing body of such Indian reservation to carry out a demonstration project under this section; and

"(iii) has a student enrollment of not less than 10 percent Indian.

"(3) The term 'tribally controlled community college' has the meaning given such term in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4)).

"(4) The term 'tribally controlled postsecondary vocational institution' has the meaning given such term in section 390(2) of the Tribally Controlled Vocational Institutions Support Act of 1990 (20 U.S.C. 2397h(2)).

"(h) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997, such sums as may be necessary to carry out the purposes of this section. Such sums shall remain available until expended.

"GILA RIVER ALCOHOL AND SUBSTANCE ABUSE TREATMENT FACILITY

"SEC. 712. (a) The Secretary, acting through the Service, shall establish a regional youth alcohol and substance abuse prevention and treatment center in Sacaton, Arizona, on the Gila River Indian Reservation. The center shall be established within facilities leased, with the consent of the Gila River Indian Community, by the Service from such Community. Establishment. Arizona. 25 USC 1665k.

"(b) The center established pursuant to this section shall be known as the 'Regional Youth Alcohol and Substance Abuse Prevention and Treatment Center'.

"(c) The Secretary, acting through the Service, shall establish, as a unit of the regional center, a youth alcohol and substance abuse prevention and treatment facility in Fallon, Nevada. Establishment. Nevada.

"ALASKA NATIVE DRUG AND ALCOHOL ABUSE DEMONSTRATION PROJECT

"SEC. 713. (a) The Secretary, acting through the Service, shall make grants to the Alaska Native Health Board for the conduct of a two-part community-based demonstration project to reduce drug and alcohol abuse in Alaska Native villages and to rehabilitate families afflicted by such abuse. Sixty percent of such grant funds shall be used by the Health Board to stimulate coordinated community development programs in villages seeking to organize to combat alcohol and drug use. Forty percent of such grant funds shall be transferred to a qualified nonprofit corporation providing alcohol recovery services in the village of St. Mary's, Alaska, to enlarge and strengthen a family life demonstration program of rehabilitation for families that have been or are afflicted by alcoholism. Grants. 25 USC 1665*l*.

"(b) The Secretary shall submit to the President for inclusion in the report required to be submitted to the Congress under section 801 for fiscal year 1995 an evaluation of the demonstration project established under subsection (a). Reports.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 714. Except as provided in sections 703, 706, 708, 710, and 711, there are authorized to be appropriated such sums as 25 USC 1665m.

may be necessary for each fiscal year through fiscal year 2000 to carry out the provisions of this title.".

(b) REDESIGNATION AND REPEAL OF EXISTING PROVISIONS.—

(1) REDESIGNATION.—The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended by redesignating section 4224 as section 4208A.

25 USC 2471, 2414a.

(2) REPEAL.—Part 6 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2471 et seq.), as amended by paragraph (1), is hereby repealed.

25 USC 2472-2478.

SEC. 703. INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986 AMENDMENTS.

The Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.) is amended—

25 USC 2412.

(1) in section 4206—

(A) in subsection (c)—

(i) in paragraph (2)—

(I) by striking "(2) the" and inserting "(B) the";

(II) by striking "(3) the" and inserting "(C) the";

(III) by striking "(4) the" and inserting "(D) the";

(IV) in subparagraph (D) (as redesignated by subclause (III)), by striking "and" at the end;

(V) in subparagraph (E), by striking the period at the end and inserting ", and"; and

(VI) by adding at the end the following new subparagraph:

"(F) an evaluation component to measure the success of efforts made."; and

(ii) by adding at the end the following new paragraph:

"(3) All Tribal Action Plans shall be updated every 2 years."; and

(B) in subsection (d), by amending paragraph (2) to read as follows:

"(2) There are authorized to be appropriated for grants under this subsection not more than $2,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000."; and

(C) by adding at the end the following new subsection:

"(f)(1) The Secretary of the Interior may make grants to Indian tribes adopting a resolution pursuant to subsection (a) to implement and develop community and in-school training, education, and prevention programs on alcohol and substance abuse, fetal alcohol syndrome and fetal alcohol effect.

"(2) Funds provided under this section may be used for, but are not limited to, the development and implementation of tribal programs for—

"(A) youth employment;

"(B) youth recreation;

"(C) youth cultural activities;

"(D) community awareness programs; and

"(E) community training and education programs.

"(3) There are authorized to be appropriated to carry out the provisions of this subsection $5,000,000 for fiscal year 1993 and

such sums as are necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(2) in section 4207(b), by amending paragraph (3) to read as follows: 25 USC 2413.

"(3) The Assistant Secretary of the Interior for Indian Affairs shall appoint such employees to work in the Office of Alcohol and Substance Abuse, and shall provide such funding, services, and equipment as may be necessary to enable the Office of Alcohol and Substance Abuse to carry out its responsibilities.";

(3) in section 4210, by amending subsection (b) to read as follows: 25 USC 2416.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $500,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(4) in section 4212(a), by striking out "1989, 1990, 1991, and 1992" and inserting in lieu thereof "1993, 1994, 1995, 1996, 1997, 1998, 1999, and 2000"; 25 USC 2432.

(5) in section 4213(e), by amending paragraphs (1) and (2) to read as follows: 25 USC 2433.

"(1) For the planning and design, construction, and renovation of, or purchase or lease of land or facilities for, emergency shelters and half-way houses to provide emergency care for Indian youth, there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the staffing and operation of emergency shelters and half-way houses, there are authorized to be appropriated $5,000,000 for fiscal year 1993 and $7,000,000 for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(6) in section 4216(a)(1)— 25 USC 2442.

(A) in subparagraph (A), by striking "and" at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) the Makah Indian Tribe of Washington for the investigation and control of illegal narcotic traffic on the Makah Indian Reservation arising from its proximity to international waters."; Washington.

(7) by amending section 4216(a)(3) to read as follows:

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated—

"(A) $500,000 under paragraph (1)(A) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000,

"(B) $500,000 under paragraph (1)(B) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000, and

"(C) $500,000 under paragraph (1)(C) for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

(8) by amending section 4216(b) to read as follows:

"(b)(1) MARIJUANA ERADICATION AND INTERDICTION.—The Secretary of the Interior, in cooperation with appropriate Federal, tribal, and State and local law enforcement agencies, shall establish

and implement a program for the eradication of marijuana cultivation, and interdiction, investigation, and control of illegal narcotics trafficking within Indian country as defined in section 1152 of title 18, United States Code. The Secretary shall establish a priority for the use of funds appropriated under paragraph (2) for those Indian reservations where the scope of the problem is most critical, and such funds shall be available for contracting by Indian tribes pursuant to the Indian Self-Determination Act (25 U.S.C. 450f et seq.).

"(2) For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.";

25 USC 2451. (9) in section 4218, by amending subsection (b) to read as follows:

"(b) AUTHORIZATION.—For the purposes of providing the training required by subsection (a), there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999 and 2000."; and

25 USC 2453. (10) in section 4220(b), by amending paragraphs (1) and (2) to read as follows:

"(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.

"(2) For the purpose of staffing and operating juvenile detention centers, there are authorized to be appropriated $7,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996, 1997, 1998, 1999, and 2000.".

TITLE VIII—MISCELLANEOUS

SEC. 801. REPORTS.

Section 801 of the Act (25 U.S.C. 1671) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REPORTS

"SEC. 801. The President shall, at the time the budget is submitted under section 1105 of title 31, United States Code, for each fiscal year transmit to the Congress a report containing—

"(1) a report on the progress made in meeting the objectives of this Act, including a review of programs established or assisted pursuant to this Act and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Indians, and ensure a health status for Indians, which are at a parity with the health services available to and the health status of, the general population;

"(2) a report on whether, and to what extent, new national health care programs, benefits, initiatives, or financing systems have had an impact on the purposes of this Act and any steps that the Secretary may have taken to consult with Indian tribes to address such impact;

"(3) a report on the use of health services by Indians—
"(A) on a national and area or other relevant geographical basis;
"(B) by gender and age;
"(C) by source of payment and type of service; and
"(D) comparing such rates of use with rates of use among comparable non-Indian populations.
"(4) a separate statement which specifies the amount of funds requested to carry out the provisions of section 201;
"(5) a separate statement of the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in section 814, relating to infant and maternal mortality and fetal alcohol syndrome;
"(6) the reports required by sections 3(d), 108(n), 203(b), 209(j), 301(c), 302(g), 305(a)(3), 403, 708(e), and 817(a), and 822(f);
"(7) for fiscal year 1995, the report required by sections 702(c)(3) and 713(b);
"(8) for fiscal year 1997, the interim report required by section 307(h)(1); and
"(9) for fiscal year 1999, the reports required by sections 307(h)(2), 512(b), 711(f), and 821(g).".

SEC. 802. REGULATIONS.

Section 802 of the Act (25 U.S.C. 1672) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"REGULATIONS

"SEC. 802. Prior to any revision of or amendment to rules or regulations promulgated pursuant to this Act, the Secretary shall consult with Indian tribes and appropriate national or regional Indian organizations and shall publish any proposed revision or amendment in the Federal Register not less than sixty days prior to the effective date of such revision or amendment in order to provide adequate notice to, and receive comments from, other interested parties.". Federal Register, publication.

SEC. 803. EXTENSION OF TREATMENT OF ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA.

Section 808 of the Act (25 U.S.C. 1678) (as redesignated by section 701(b) of this Act) is amended by striking out "1991" and inserting in lieu thereof "2000".

SEC. 804. INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME.

Section 814 of the Act (25 U.S.C. 1680d) (as redesignated by section 701(b) of this Act) is amended—
(1) by striking out "(a)"; and
(2) by striking out subsection (b).

SEC. 805. REALLOCATION OF BASE RESOURCES.

Section 817(a) of the Act (25 U.S.C. 1680(g)) (as redesignated by section 701(b) of this Act) is amended by striking out "Secretary has submitted to the Congress" and inserting in lieu thereof the following: "Secretary has submitted to the President, for inclusion in the report required to be transmitted to the Congress under section 801,". 25 USC 1680g.

SEC. 806. CHILD SEXUAL ABUSE TREATMENT PROGRAMS.

Section 819 of the Act (25 U.S.C. 1680i) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"CHILD SEXUAL ABUSE TREATMENT PROGRAMS

"SEC. 819. (a) The Secretary and the Secretary of the Interior shall, for each fiscal year through fiscal year 1995, continue the demonstration programs involving treatment for child sexual abuse provided through the Hopi Tribe and the Assiniboine and Sioux Tribes of the Fort Peck Reservation.

"(b) Beginning October 1, 1995, the Secretary and the Secretary of the Interior may establish, in any service area, demonstration programs involving treatment for child sexual abuse, except that the Secretaries may not establish a greater number of such programs in one service area than in any other service area until there is an equal number of such programs established with respect to all service areas from which the Secretary receives qualified applications during the application period (as determined by the Secretary).".

SEC. 807. TRIBAL LEASING.

Section 820 of the Act (25 U.S.C. 1680j) (as redesignated by section 701(b) of this Act) is amended to read as follows:

"TRIBAL LEASING

"SEC. 820. Indian tribes providing health care services pursuant to a contract entered into under the Indian Self-Determination Act may lease permanent structures for the purpose of providing such health care services without obtaining advance approval in appropriation Acts.".

SEC. 808. EXTENSION OF TERMINATION DATE OF CERTAIN DEMONSTRATION PROJECTS; JOINT VENTURE PROJECTS.

Section 818 of the Act (25 U.S.C. 1680h) (as redesignated by section 701(b) of this Act) is amended—

(1) in subsection (d)—

(A) in paragraph (1), by inserting before the period at the end the following: ", or, in the case of a demonstration project for which a grant is made after September 30, 1990, three years after the date on which such grant is made"; and

(B) in paragraph (2), by striking "1994" and inserting "1996"; and

(2) by amending subsection (e) to read as follows:

Contracts.

"(e)(1) The Secretary, acting through the Service, shall make arrangements with Indian tribes to establish joint venture demonstration projects under which an Indian tribe shall expend tribal, private, or other available nontribal funds, for the acquisition or construction of a health facility for a minimum of 20 years, under a no-cost lease, in exchange for agreement by the Service to provide the equipment, supplies, and staffing for the operation and maintenance of such a health facility. A tribe may utilize tribal funds, private sector, or other available resources, including loan guarantees, to fulfill its commitment under this subsection.

"(2) The Secretary shall make such an arrangement with an Indian tribe only if the Secretary first determines that the Indian

tribe has the administrative and financial capabilities necessary to complete the timely acquisition or construction of the health facility described in paragraph (1).

"(3) An Indian tribe or tribal organization that has entered into a written agreement with the Secretary under this subsection, and that breaches or terminates without cause such agreement, shall be liable to the United States for the amount that has been paid to the tribe, or paid to a third party on the tribe's behalf, under the agreement. The Secretary has the right to recover tangible property (including supplies), and equipment, less depreciation, and any funds expended for operations and maintenance under this section. The preceding sentence does not apply to any funds expended for the delivery of health care services, or for personnel or staffing, shall be recoverable.".

SEC. 809. HOME AND COMMUNITY BASED CARE DEMONSTRATION PROJECT.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by adding at the end the following new section:

"HOME- AND COMMUNITY-BASED CARE DEMONSTRATION PROJECT

"SEC. 821. (a) The Secretary, acting through the Service, is authorized to enter into contracts with, or make grants to, Indian tribes or tribal organizations providing health care services pursuant to a contract entered into under the Indian Self-Determination Act, to establish demonstration projects for the delivery of home- and community-based services to functionally disabled Indians. 25 USC 1680k.

"(b)(1) Funds provided for a demonstration project under this section shall be used only for the delivery of home- and community-based services (including transportation services) to functionally disabled Indians.

"(2) Such funds may not be used—

"(A) to make cash payments to functionally disabled Indians;

"(B) to provide room and board for functionally disabled Indians;

"(C) for the construction or renovation of facilities or the purchase of medical equipment; or

"(D) for the provision of nursing facility services.

"(c) Not later than 180 days after the date of the enactment of this section, the Secretary, after consultation with Indian tribes and tribal organizations, shall develop and issue criteria for the approval of applications submitted under this section. Such criteria shall ensure that demonstration projects established under this section promote the development of the capacity of tribes and tribal organizations to deliver, or arrange for the delivery of, high quality, culturally appropriate home- and community-based services to functionally disabled Indians;

"(d) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(e) At the discretion of the tribe or tribal organization, services provided under a demonstration project established under this section may be provided (on a cost basis) to persons otherwise ineligible for the health care benefits of the Service.

"(f) The Secretary shall establish not more than 24 demonstration projects under this section. The Secretary may not establish a greater number of demonstration projects under this section in one service area than in any other service area until there is an equal number of such demonstration projects established with respect to all service areas from which the Secretary receives applications during the application period (as determined by the Secretary) which meet the criteria issued pursuant to subsection (c).

Reports.

"(g) The Secretary shall submit to the President, for inclusion in the report which is required to be submitted under section 801 for fiscal year 1999, a report on the findings and conclusions derived from the demonstration projects conducted under this section, together with legislative recommendations.

"(h) For the purposes of this section, the following definitions shall apply:

"(1) The term 'home- and community-based services' means one or more of the following:

"(A) Homemaker/home health aide services.

"(B) Chore services.

"(C) Personal care services.

"(D) Nursing care services provided outside of a nursing facility by, or under the supervision of, a registered nurse.

"(E) Respite care.

"(F) Training for family members in managing a functionally disabled individual.

"(G) Adult day care.

"(H) Such other home- and community-based services as the Secretary may approve.

"(2) The term 'functionally disabled' means an individual who is determined to require home- and community-based services based on an assessment that uses criteria (including, at the discretion of the tribe or tribal organization, activities of daily living) developed by the tribe or tribal organization.

"(i) There are authorized to be appropriated for each of the fiscal years 1993, 1994, 1995, 1996, and 1997 such sums as may be necessary to carry out this section. Such sums shall remain available until expended.".

SEC. 810. SHARED SERVICES DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 809 of this Act) is amended by adding at the end the following new section:

"SHARED SERVICES DEMONSTRATION PROJECT

25 USC 1680*l*.

"SEC. 822. (a) The Secretary, acting through the Service and notwithstanding any other provision of law, is authorized to enter into contracts with Indian tribes or tribal organizations to establish not more than 6 shared services demonstration projects for the delivery of long-term care to Indians. Such projects shall provide for the sharing of staff or other services between a Service facility and a nursing facility owned and operated (directly or by contract) by such Indian tribe or tribal organization.

"(b) A contract entered into pursuant to subsection (a)—

"(1) may, at the request of the Indian tribe or tribal organization, delegate to such tribe or tribal organization such

powers of supervision and control over Service employees as the Secretary deems necessary to carry out the purposes of this section;

"(2) shall provide that expenses (including salaries) relating to services that are shared between the Service facility and the tribal facility be allocated proportionately between the Service and the tribe or tribal organization; and

"(3) may authorize such tribe or tribal organization to construct, renovate, or expand a nursing facility (including the construction of a facility attached to a Service facility), except that no funds appropriated for the Service shall be obligated or expended for such purpose.

"(c) To be eligible for a contract under this section, a tribe or tribal organization, shall, as of the date of the enactment of this Act—

"(1) own and operate (directly or by contract) a nursing facility;

"(2) have entered into an agreement with a consultant to develop a plan for meeting the long-term needs of the tribe or tribal organization; or

"(3) have adopted a tribal resolution providing for the construction of a nursing facility.

"(d) Any nursing facility for which a contract is entered into under this section shall meet the requirements for nursing facilities under section 1919 of the Social Security Act.

"(e) The Secretary shall provide such technical and other assistance as may be necessary to enable applicants to comply with the provisions of this section.

"(f) The Secretary shall submit to the President, for inclusion in each report required to be transmitted to the Congress under section 801, a report on the findings and conclusions derived from the demonstration projects conducted under this section.". Reports.

SEC. 811. RESULTS OF DEMONSTRATION PROJECTS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 810 of this Act) is amended by adding at the end the following new section:

"RESULTS OF DEMONSTRATION PROJECTS

"SEC. 823. The Secretary shall provide for the dissemination to Indian tribes of the findings and results of demonstration projects conducted under this Act.". 25 USC 1680m.

SEC. 812. PRIORITY FOR INDIAN RESERVATIONS.

Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 811 of this Act) is amended by adding at the end the following new section:

"PRIORITY FOR INDIAN RESERVATIONS

"SEC. 824. (a) Beginning on the date of the enactment of this section, the Bureau of Indian Affairs and the Service shall, in all matters involving the reorganization or development of Service facilities, or in the establishment of related employment projects to address unemployment conditions in economically depressed areas, give priority to locating such facilities and projects on Indian lands if requested by the Indian tribe with jurisdiction over such lands. 25 USC 1680n.

"(b) For purposes of this section, the term "Indian lands" means—

"(1) all lands within the limits of any Indian reservation; and

"(2) any lands title which is held in trust by the United States for the benefit of any Indian tribe or individual Indian, or held by any Indian tribe or individual Indian subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.".

SEC. 813. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Title VIII of the Act (as redesignated by subsections (a) and (b) of section 701 and amended by section 812 of this Act) is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS

25 USC 1680o. "SEC. 825. Except as provided in section 821, there are authorized to be appropriated such sums as may be necessary for each fiscal year through fiscal year 2000 to carry out this title.".

(b) CONFORMING AMENDMENTS.—Section 807 of the Act (25 U.S.C. 1677) (as redesignated by subsections (a) and (b) of section 701 of this Act) is amended by striking out subsection (f).

SEC. 814. TRIBAL SELF-GOVERNANCE PROJECT.

The Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f note) is amended—

25 USC 450f note. (1) in section 301, by inserting after "Interior" the following: "and the Secretary of Health and Human Services (hereafter in this title referred to as the 'Secretaries') each";

25 USC 450f note. (2) in sections 302, 303, 304, and 305, by striking "Secretary" each place it appears and inserting in lieu thereof "Secretaries";

(3) in section 303(a)(1), by inserting after "Interior" the following: "and the Indian Health Service of the Department of Health and Human Services"; and

(4) by adding after section 309 the following new section:

25 USC 450f note. "SEC. 310. For the purposes of providing one year planning and negotiations grants to the Indian tribes identified by section 302, with respect to the programs, activities, functions, or services of the Indian Health Service, there are authorized to be appropriated such sums as may be necessary to carry out such purposes. Upon completion of an authorized planning activity or a comparable planning activity by a tribe, the Secretary is authorized to negotiate and implement a Compact of Self-Governance and Annual Funding Agreement with such tribe.".

TITLE IX—TECHNICAL CORRECTIONS

SEC. 901. REPEAL OF EXPIRED REPORTING REQUIREMENTS.

The Act is amended—

25 USC 1616i. (1) in section 116, by striking out subsection (d);

25 USC 1621c. (2) in section 204(a)—

(A) by striking out paragraph (2);

(B) by striking out "(a)(1)" and inserting in lieu thereof "(a)";

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(D) in paragraph (2) (as redesignated by subparagraph (C)), by striking out "subparagraph (A)" and inserting in lieu thereof "paragraph (1)";

(3) in section 602, by striking out subsection (a)(3); and 25 USC 1662.

(4) by striking out section 803 (as redesignated by section 701(b) of this Act). 25 USC 1673.

SEC. 902. OTHER TECHNICAL CORRECTIONS.

The Act is amended—

(1) in section 4(c), by striking out "sections 102, 103, and 201(c)(5)," and inserting in lieu thereof the following: "sections 102 and 103,"; 25 USC 1603.

(2) in title I—

(A) in section 102(b)(1), by striking ": *Provided,* That the" and inserting in lieu thereof ". The"; 25 USC 1612.

(B) in section 105(c), by striking out "Department of Health, Education, and Welfare" and inserting in lieu thereof "Department of Health and Human Services"; 25 USC 1614.

(C) in section 108(d)(1)(A), by striking out "Indian Health" and inserting in lieu thereof "Indian health"; and 25 USC 1616a.

(D) in section 108(i), by striking out "Service manpower programs" and inserting in lieu thereof "health professional programs of the Service".

(3) in title II— 25 USC 1621h.

(A) by striking out "**SEC. 209. MENTAL HEALTH PREVENTION AND TREATMENT SERVICES.**" and inserting in lieu thereof the following:

"MENTAL HEALTH PREVENTION AND TREATMENT SERVICES

"SEC. 209."; and

(B) in section 209, by redesignating subsections (c) through (l) as subsections (b) through (k), respectively;

(4) in title III—

(A) by striking out "**SEC. 307. INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT.**" and inserting in lieu thereof the following: 25 USC 1637.

"INDIAN HEALTH CARE DELIVERY DEMONSTRATION PROJECT

"SEC. 307."; and

(B) in section 301(d) (as redesignated by section 301(2) of this Act), by striking out "sections 102 and 103(b)" and inserting in lieu thereof "section 102"; 25 USC 1631.

(5) in title V—

(A) by striking out "**SEC. 409. FACILITIES RENOVATION.**" and inserting in lieu thereof the following: 25 USC 1659.

"FACILITIES RENOVATION

"SEC. 509."; and

(B) by striking out "**SEC. 511. URBAN HEALTH PROGRAMS BRANCH.**" and inserting in lieu thereof the following: 25 USC 1660.

"URBAN HEALTH PROGRAMS BRANCH

"SEC. 510.";

25 USC 1661. (6) in section 601(c)(3)(D), by striking out "(25 U.S.C. 2005, et seq.)" and inserting in lieu thereof "(42 U.S.C. 2005 et seq.)";

(7) in section 601(d)(1)(C), by striking out "appropriate" and inserting in lieu thereof "appropriated";

25 USC 1680c. (8) in section 813(b)(2)(A) (as redesignated by section 701(b) of this Act), by striking out "section 402(c)" and inserting in lieu thereof "section 402(a)"; and

25 USC 1680f. (9) by amending the heading for section 816 (as redesignated by section 701(b)) to read as follows:

"INDIAN HEALTH SERVICE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH FACILITIES AND SERVICES SHARING".

Approved October 29, 1992.

LEGISLATIVE HISTORY—S. 2481:

SENATE REPORTS: No. 102-392 (Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 18, considered and passed Senate.
Oct. 2, 3, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 29, Presidential statement.

Public Law 102-574
102d Congress

An Act

To promote the recovery of Hawaii tropical forests, and for other purposes.

Oct. 29, 1992
[S. 2679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Hawaii Tropical Forest Recovery Act.
Conservation.
16 USC 4501 note.

This Act may be cited as the "Hawaii Tropical Forest Recovery Act".

SEC. 2. HAWAII TROPICAL FOREST RECOVERY.

(a) IN GENERAL.—The International Forestry Cooperation Act of 1990 (16 U.S.C. 4501 et seq.) is amended—

(1) by redesignating sections 605, 606, and 607 as sections 609, 610, and 611, respectively; and 16 USC 4504, 4505.

(2) by inserting after section 604 the following new sections:

"SEC. 605. INSTITUTE OF PACIFIC ISLANDS FORESTRY. 16 USC 4503a.

"(a) EXPANSION.—The Secretary shall expand the capabilities of and construct additional facilities, as funds are appropriated for the expansion and construction, at—

"(1) the Institute of Pacific Islands Forestry; and

"(2) tropical forests in the State of Hawaii.

"(b) TROPICAL FORESTRY PLAN.—

"(1) IN GENERAL.—Not later than 1 year after the date of receipt by the Secretary of the action plan required by section 5(b) of the Hawaii Tropical Forest Recovery Act, the Secretary shall prepare and submit to the Committee on Agriculture and the Committee on Interior and Insular Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and to the Committees on Appropriations of the House of Representatives and Senate, a tropical forestry plan to expand the capabilities of and construct additional facilities under subsection (a).

"(2) ELEMENTS.—The plan shall provide for—

"(A) the establishment of a model center for research, demonstration, education, training, and outreach activities suitable for transferring scientific, technical, managerial, and administrative assistance to governmental and nongovernmental organizations seeking to address problems associated with tropical forests within and outside the United States;

"(B) the acquisition or construction of facilities for research, classroom instruction, and housing near an experimental tropical forest in the State of Hawaii;

"(C) the acquisition or construction of facilities for the study and recovery of endangered tropical wildlife, fish, and plant species and the restoration of their habitats;

"(D) the study of biological control of non-native species that degrade or destroy native forest ecosystems;

"(E) achieving a better understanding of global climate change and the significance of achieving a reduction of greenhouse gases through research associated with the unique atmospheric conditions found in Hawaii and the Pacific Ocean;

"(F) a review of the extent to which existing Federal forestry programs can be utilized to achieve the purposes of the plan; and

"(G) the establishment of experimental tropical forests in the State of Hawaii as authorized by section 606.

"(3) CAPABILITY.—In preparing elements of the plan that address paragraph (2)(F), the Secretary shall identify the capability of the plan—

"(A) to promote a greater understanding of tropical forest ecosystem processes, conservation biology, and biodiversity management;

"(B) to demonstrate the various benefits of maintaining a tropical forest reserve system;

"(C) to promote sound watershed and forest management;

"(D) to develop compatible land uses adjacent to protected natural areas; and

"(E) to develop new methods of reclaiming and restoring degraded lands.

16 USC 4503b.

"SEC. 606. HAWAII EXPERIMENTAL TROPICAL FOREST.

"(a) DEFINITIONS.—As used in this section:

"(1) FOREST.—The term 'Forest' means the Hawaii Experimental Tropical Forest.

"(2) GOVERNOR.—The term 'Governor' means the Governor of Hawaii.

"(3) LANDS.—The term 'lands' means lands, waters, and interests in lands and waters.

"(4) STATE.—The term 'State' means the State of Hawaii.

"(b) ESTABLISHMENT AND MANAGEMENT.—At the request of the Governor, the Secretary shall establish and administer within the State a Hawaii Experimental Tropical Forest. The Forest shall be managed as—

"(1) a model of quality tropical forest management where harvesting on a sustainable yield basis can be demonstrated in balance with natural resource conservation;

"(2) a site for research on tropical forestry, conservation biology, and natural resource management; and

"(3) a center for demonstration, education, training, and outreach on tropical forestry, conservation biology, and natural resources research and management.

"(c) DELINEATION OF THE LOCATION OF THE FOREST.—

"(1) IDENTIFICATION OF LANDS.—The Governor and the Secretary shall identify one or more suitable sites for the Forest in lands within the State. The identification of each site shall be based on scientific, ecological, administrative, and such other factors as the Governor and Secretary consider to be necessary or desirable to achieve the purposes of this section. Each site identified pursuant to the preceding sentence shall be of sufficient size and located so that the site can be effectively managed for Forest purposes.

"(2) EXTERIOR BOUNDARIES.—The exterior boundaries of the Forest, including the boundaries of all sites identified for Forest purposes, shall be delineated on an official map. The map shall be available for public inspection in the office of the Administrator of the Division of Forestry and Wildlife of the Department of Land and Natural Resources of the State. The Governor and the Secretary may from time to time, by mutual agreement, amend the official map to modify the boundaries of the Forest.

Public information.

"(d) AUTHORITIES OF THE SECRETARY.—

"(1) IN GENERAL.—To carry out the purposes of this section, the Secretary is authorized—

"(A) to administer the Forest in cooperation with the Governor and affected State agencies;

"(B) to make grants and enter into contracts and cooperative agreements with the Federal Government, the government of the State, local governments, corporations, nonprofit organizations and individuals;

"(C) to exercise existing authority with respect to cooperative forestry and research for Forest purposes; and

"(D) to issue necessary rules and regulations or apply existing rules and regulations applicable to areas administered by the Forest Service that are necessary or desirable to administer the Forest—

"(i) for the purposes described in subsection (b);

"(ii) to protect persons within the Forest; and

"(iii) to preserve and protect the resources in the Forest.

"(2) LAND ACQUISITION.—The authority in section 4 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1643) shall be available to the Secretary to carry out this section.

"(3) STATUTORY CONSTRUCTION.—Nothing in this section is intended to affect the jurisdiction of the State, both civil and criminal, over any person within the Forest by reason of the establishment of the Forest under this section, except in the case of a penalty for an offense against the United States.

"SEC. 607. ANNUAL REPORT ON INSTITUTES OF TROPICAL FORESTRY. 16 USC 4503c.

"The Secretary shall make annual reports to Congress on the progress, needs, and long-range plans of the Institutes of Tropical Forestry in meeting the requirements of section 2407 of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6706). Such reports shall be submitted by the Secretary pursuant to section 8(c) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1606(c)).

"SEC. 608. DEFINITIONS. 16 USC 4503d.

"As used in this title (unless the context otherwise requires):

"(1) INSTITUTES OF TROPICAL FORESTRY.—The term 'Institutes of Tropical Forestry' means the Institute of Tropical Forestry in Puerto Rico and the Institute of Pacific Islands Forestry established under section 2407 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 6706).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of Agriculture.

"(3) STATE.—The term 'State' means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.".

(b) CONFORMING AMENDMENTS.—

(1) Section 602(b) of the International Forestry Cooperation Act of 1990 (16 U.S.C. 4501(b)) is amended by striking "(hereinafter referred to in this title as the Secretary)".

(2) The heading of section 604 of such Act (16 U.S.C. 4503) is amended to read as follows:

"SEC. 604. INSTITUTE OF TROPICAL FORESTRY IN PUERTO RICO.".

16 USC 4502a.

SEC. 3. TROPICAL FORESTRY RESEARCH AND ASSISTANCE.

(a) ASSISTANCE.—To promote sound management and conservation of tropical forests of the United States and to promote the development and transfer of technical, managerial, educational, and administrative skills to managers of tropical forests within or outside the United States, the Secretary of Agriculture is authorized to provide assistance through the Forest Service to eligible entities in States with tropical forests to—

(1) develop, promote, and demonstrate sustainable harvesting of native woods and other forest products on a sustainable yield basis in balance with natural resource conservation;

(2) promote habitat preservation and species protection or recovery;

(3) protect indigenous plant and animal species and essential watersheds from non-native animals, plants, and pathogens;

(4) establish biological control agents for non-native species that threaten natural ecosystems;

(5) establish a monitoring system in tropical forests to identify baseline conditions and determine detrimental changes or improvements over time;

(6) detect and appraise stresses affecting tropical forests caused by insect infestations, diseases, pollution, fire, and non-native animal and plant species, and by the influence of people;

(7) determine the causes of changes that are detected through experimentation, intensive monitoring, and data collection at affected tropical forest sites; and

(8) engage in research, demonstration, education, training, and outreach that furthers the objectives of this subsection.

(b) FORM OF ASSISTANCE.—Assistance provided to eligible entities under this section may be in the form of grants, contracts, or cooperative agreements.

(c) DEFINITIONS.—As used in this section:

(1) ELIGIBLE ENTITY.—The term "eligible entity" means a State forester or equivalent State official, State, political subdivision of a State, Federal agency, private organization, corporation, or other private person.

(2) STATE.—The term "State" means each of the 50 States, Guam, American Samoa, the Republic of Palau (until the Compact of Free Association enters into effect), Puerto Rico, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

SEC. 4. HAWAII TROPICAL FOREST RECOVERY TASK FORCE. 16 USC 4503a.

(a) ESTABLISHMENT.—There is established the Hawaii Tropical Forest Recovery Task Force (hereafter in this section referred to as the "Task Force") to advise the Secretary of Agriculture with respect to tropical forests and related ecosystems in the State of Hawaii.

(b) ACTION PLAN.—Not later than 1 year after the date of the first meeting of the Task Force, the Task Force shall submit to the Committees, Secretaries, and Governor referred to in subsection (k) an action plan that contains findings and recommendations for rejuvenating Hawaii's tropical forests, including findings and recommendations on—

(1) methods of restoring the health of declining or degraded tropical forest land;

(2) compatible uses within tropical forests, particularly agroforestry and the cultivation of scarce or valuable hardwoods and other forest products in Hawaii's tropical forests;

(3) actions to encourage and accelerate the identification and classification of unidentified plant, animal, and microbe species;

(4) actions to—

(A) promote public awareness of tropical forest preservation;

(B) protect threatened and endangered species;

(C) improve forest management and planning; and

(D) promote public awareness of the harm caused by introduced species;

(5) the benefits of fencing or other management activities for the protection of Hawaii's native plants and animals from non-native species, including the identification and priorities for the areas where these activities are appropriate;

(6) traditional practices, uses, and needs of native Hawaiians in tropical forests;

(7) means of improving the health of tropical forests and related ecosystems in the State of Hawaii through programs administered by the Secretary of Agriculture and the Secretary of the Interior;

(8) the capability of existing Federal, State, and private forestry programs for rejuvenating Hawaii's tropical forests; and

(9) such other issues relating to tropical forests in Hawaii as the Task Force considers appropriate.

(c) COMPOSITION.—The Task Force shall be composed of 12 members, of whom—

(1) three members shall be appointed by the Secretary of Agriculture, two of whom shall be representatives of the Forest Service and the Soil Conservation Service, respectively;

(2) two members shall be appointed by the Secretary of the Interior as representatives of the United States Fish and Wildlife Service and the National Park Service, respectively;

(3) six members shall be appointed by the Governor of Hawaii, of whom—

(A) two members shall be private owners of tropical forest lands;

(B) two members shall be experts in the field of tropical forestry; and

(C) two members shall be representatives of Hawaii conservation organizations that have demonstrated expertise in the areas of tropical forest management, habitat preservation, and alien species control or have demonstrated effective advocacy in the areas; and

(4) one member shall be the Administrator of the Department of Land and Natural Resources, State of Hawaii, or the designated representative of the Administrator.

(d) INITIAL APPOINTMENTS.—Appointments under this section to the Task Force shall be made not later than 90 days after the date of enactment of this Act.

(e) CHAIRPERSON.—The Task Force shall select a Chairperson from among its members.

(f) VACANCIES.—A vacancy on the Task Force shall not affect its powers and shall be filled in the same manner as the original appointment.

(g) COMPENSATION.—

(1) IN GENERAL.—A member of the Task Force shall not receive compensation as a result of the performance of services for the Task Force.

(2) TRAVEL EXPENSES.—The members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Task Force.

(h) MEETINGS.—The Task Force shall meet not later than 180 days after the date of enactment of this Act and shall meet at the call of the Chairperson.

(i) VOTING.—The Task Force shall act and advise by majority vote.

(j) ASSISTANCE.—The Secretary of Agriculture and the Secretary of the Interior shall provide such assistance and support as are necessary to meet the objectives of the Task Force. The assistance shall include making Federal facilities, equipment, tools, and technical assistance available on such terms and conditions as the appropriate Secretary considers necessary.

(k) REPORT.—The action plan required under subsection (b) shall be submitted to—

(1) the Committees on Agriculture and Interior of the House of Representatives;

(2) the Committees on Agriculture, Nutrition, and Forestry and Energy and Natural Resources of the Senate;

(3) the Secretary of Agriculture;

(4) the Secretary of the Interior; and

(5) the Governor of Hawaii.

(l) NONAPPLICABILITY OF CERTAIN PROVISIONS OF LAW.—Sections 7(d), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Task Force.

(m) TERMINATION.—The Task Force and authority to carry out this section shall terminate 180 days after submitting the report required by subsection (b).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

16 USC 4502a note.

There are authorized to be appropriated such sums as are necessary to carry out sections 3 and 4.

Approved October 29, 1992.

LEGISLATIVE HISTORY—S. 2679:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 30, considered and passed Senate.
Oct. 2, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 29, Presidential statement.

○

Public Law 102-575
102d Congress

An Act

Oct. 30, 1992
[H.R. 429]

To authorize additional appropriations for the construction of the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Reclamation Projects Authorization and Adjustment Act of 1992.
Conservation.
43 USC 371 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Reclamation Projects Authorization and Adjustment Act of 1992".

SEC. 2. DEFINITION AND TABLE OF CONTENTS.

For purposes of this Act, the term "Secretary" means the Secretary of the Interior.

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SEC. 101. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Title I of Public Law 97-293 (96 Stat. 1261) is amended as follows:

(a) In the second sentence of section 101, by striking "replacing the existing Shoshone Powerplant," and inserting "constructing power generating facilities with a total installed capacity of 25.5 megawatts,".

(b) In section 102, amend the heading to read "recreational facilities, conservation, and fish and wildlife", and add at the end "The construction of recreational facilities in excess of the amount required to replace or relocate existing facilities is authorized, and the costs of such construction shall be borne equally by the United States and the State of Wyoming pursuant to the Federal Water Project Recreation Act.".

(c) In section 106(a), strike "for construction of the Buffalo Bill Dam and Reservoir modifications the sum of $106,700,000 (October 1982 price levels)" and insert "for the Federal share of the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities the sum of $80,000,000 (October 1988 price levels)", and strike "modifications" and all that follows and insert "modifications." in lieu thereof.

(d) There are authorized to be appropriated such sums as may be required due to increased costs of construction attributable to delays in enactment of any additional authorization of appropriations for the construction of the Buffalo Bill Dam and Reservoir modifications and recreational facilities: *Provided,* That such additional sums shall be nonreimbursable and nonreturnable under the Federal reclamation laws.

TITLE II—CENTRAL UTAH PROJECT CONSTRUCTION

Central Utah Project Completion Act.

SEC. 200. SHORT TITLE AND DEFINITIONS FOR TITLES II-VI.

(a) SHORT TITLE.—Titles II through VI of this Act may be cited as the "Central Utah Project Completion Act".

(b) DEFINITIONS.—For the purposes of titles II-VI of this Act:

(1) The term "Bureau" means the Bureau of Reclamation of the Department of the Interior.

(2) The term "Commission" means the Utah Reclamation Mitigation and Conservation Commission established by section 301 of this Act.

(3) The term "conservation measure(s)" means actions taken to improve the efficiency of the storage, conveyance, distribution, or use of water, exclusive of dams, reservoirs, or wells.

(4) The term "1988 Definite Plan Report" means the May 1988 Draft Supplement to the Definite Plan Report for the Bonneville Unit of the Central Utah Project.

(5) The term "District" means the Central Utah Water Conservancy District.

(6) The term "fish and wildlife resources" means all birds, fishes, mammals, and all other classes of wild animals and all types of habitat upon which such fish and wildlife depend.

(7) The term "Interagency Biological Assessment Team" means the team comprised of representatives from the United States Fish and Wildlife Service, the United States Forest Service, the Bureau of Reclamation, the Utah Division of Wildlife Resources, and the District.

(8) The term "administrative expenses", as used in section 301(i) of this Act, means all expenses necessary for the Commission to administer its duties other than the cost of the contracts or other transactions provided for in section 301(f)(3) for the implementation by public natural resource management agencies of the mitigation and conservation projects and features authorized in this Act. Such administrative expenses include but are not limited to the costs associated with the Commission's planning, reporting, and public involvement activities, as well as the salaries, travel expenses, office equipment, and other such general administrative expenses authorized in this Act.

(9) The term "petitioner(s)" means any person or entity that petitions the District for an allotment of water pursuant to the Utah Water Conservancy Act, Utah Code Ann. Sec. 17A–2–1401 et. seq.

(10) The term "project" means the Central Utah Project.

(11) The term "public involvement" means to request comment on the scope of and, subsequently, on drafts of proposed actions or plans, affirmatively soliciting comments, in writing or at public hearings, from those persons, agencies, or organizations who may be interested or affected.

(12) The term "Secretary" means the Secretary of the Interior.

(13) The term "section 8" means section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g).

(14) The term "State" means the State of Utah, its political subdivisions, or its designee.

(15) The term "Stream Flow Agreement" means the agreement entered into by the United States through the Secretary of the Interior, the State of Utah, and the Central Utah Water Conservancy District, dated February 27, 1980, as modified by the amendment to such agreement, dated September 13, 1990.

SEC. 201. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

43 USC 620k note.

(a)(1) INCREASE IN CRSP AUTHORIZATION.—In order to provide for the completion of the Central Utah Project and other features described in this Act, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note) and the Act of October 31, 1988 (102 Stat. 2826), is hereby further increased by $924,206,000 (January 1991) plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved: *Provided, however,* That of the amounts authorized to be appropriated by this section, the Secretary

is not authorized to obligate or expend amounts in excess of $214,352,000 for the features identified in the Report of the Senate Committee on Energy and Natural Resources accompanying the bill H.R. 429. This additional sum shall be available solely for design, engineering, and construction of the facilities identified in title II of this Act and for the planning and implementation of the fish and wildlife and recreation mitigation and conservation projects and studies authorized in titles III and IV of this Act, and for the Ute Indian Settlement authorized in title V of this Act.

(2) APPLICATION OF INSPECTOR GENERAL RECOMMENDATIONS.—Notwithstanding any other provision of law to the contrary, the Secretary shall implement all the recommendations contained in the report entitled "Review of the Financial Management of the Colorado River Storage Project, Bureau of Reclamation (Report No. 88–45, February 1988)", prepared by the Inspector General of the Department of the Interior, with respect to the funds authorized to be appropriated in this section.

(b) UTAH RECLAMATION PROJECTS AND FEATURES NOT TO BE FUNDED.—Notwithstanding the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), the Act of October 19, 1980 (94 Stat. 2239; 43 U.S.C. 620), and the Act of October 31, 1988 (102 Stat. 2826), funds may not be made available, obligated, or expended for the following Utah reclamation projects and features:

(1) Fish and wildlife features:
  (A) The dam in Bjorkman Hollow.
  (B) The Deep Creek pumping plant.
  (C) The North Fork pumping plant.

(2) Water development projects and features:
  (A) Mosida pumping plant, canals, and laterals.
  (B) Draining of Benjamin Slough.
  (C) Diking of Goshen or Provo Bays in Utah Lake.
  (D) Ute Indian Unit.
  (E) Leland Bench development.
  (F) All features of the Bonneville Unit, Central Utah Project not proposed and described in the 1988 Definite Plan Report.

Counties in which the projects and features described in this subsection were proposed to be located may participate in the local development projects provided for in section 206.

(c) TERMINATION OF AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding any provision of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), the Act of September 2, 1964 (78 Stat. 852), the Act of September 30, 1968 (82 Stat. 885), the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), and the Act of October 31, 1988 (102 Stat. 2826) to the contrary, the authorization of appropriations for construction of any Colorado River Storage Project participating project located in the State of Utah shall terminate five years after the date of enactment of this Act unless: (1) the Secretary executes a cost-sharing agreement with the District for construction of such project, and (2) the Secretary has requested, or the Congress has appropriated, construction funds for such project. 43 USC 620k note.

(d) USE OF APPROPRIATED FUNDS.—Funds authorized pursuant to this Act shall be appropriated to the Secretary and such appropriations shall be made immediately available in their entirety

to the District and the Commission as provided for pursuant to the provisions of this Act.

(e) SECRETARIAL RESPONSIBILITY.—The Secretary is responsible for carrying out the responsibilities as specifically identified in this Act and may not delegate his responsibilities under this Act to the Bureau of Reclamation. The District at its sole option may use the services of the Bureau of Reclamation on any project features.

SEC. 202. BONNEVILLE UNIT WATER DEVELOPMENT.

(a) Of the amounts authorized to be appropriated in section 201, the following amounts shall be available only for the following features of the Bonneville Unit of the Central Utah Project:

(1) IRRIGATION AND DRAINAGE SYSTEM.—(A) $150,000,000 for the construction of an enclosed pipeline primary water conveyance system from Spanish Fork Canyon to Sevier Bridge Reservoir for the purpose of supplying new and supplemental irrigation water supplies to Utah, Juab, Millard, Sanpete, Sevier, Garfield, and Piute Counties. Construction of the facilities specified in the previous sentence shall be undertaken by the District as specified in subparagraph (D) of this paragraph. No funds are authorized to be appropriated for construction of the facilities identified in this paragraph, except as provided for in subparagraph (D) of this paragraph.

(B) The authorization to construct the features provided for in subparagraph (A) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act, unless the Secretary determines the District has complied with sections 202, 204, and 205, within five years from the date of its enactment, or such longer time as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however,* That such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in subparagraph (B) of this paragraph;

(ii) judicial review of a completed final environmental impact statement for such features if such review is initiated by parties other than the District, the State, or petitioners of project water; or

(iii) a judicial challenge of the Secretary's failure to make a determination of compliance under this subparagraph.

Provided, however, That in the event that construction is not initiated on the features provided for in subparagraph (A), $125,000,000 shall remain authorized pursuant to the provisions of this Act applicable to subparagraph (A) for the construction of alternate features to deliver irrigation water to lands in the Utah Lake drainage basin, exclusive of the features identified in section 201(b).

(C) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subparagraph (A) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase for the purpose of agricultural irrigation of at least 90 percent of the irrigation water to be delivered

from the features of the Central Utah Project described in subparagraph (A) have been executed.

(D) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(1) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty-day congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(1). Any such feature shall be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(1).

(2) CONJUNCTIVE USE OF SURFACE AND GROUND WATER.—$10,000,000 for a feasibility study and development, with public involvement, by the Utah Division of Water Resources of systems to allow ground water recharge, management, and the conjunctive use of surface water resources with ground water resources in Salt Lake, Utah, Davis, Wasatch, and Weber Counties, Utah.

(3) WASATCH COUNTY WATER EFFICIENCY PROJECT.—(A) $500,000 for the District to conduct, within two years from the date of enactment of this Act, a feasibility study with public involvement, of efficiency improvements in the management, delivery and treatment of water in Wasatch County, without interference with downstream water rights. Such feasibility study shall be developed after consultation with Wasatch County and the Commission, or the Utah State Division of Wildlife Resources if the Commission has not been established, and shall identify the features of the Wasatch County Water Efficiency Project.

(B) $10,000,000 for construction of the Wasatch County Water Efficiency Project, in addition to funds authorized in section 207(e)(2) for related purposes.

(C) The feasibility study and the Project construction authorization shall be subject to the non-Federal contribution requirements of section 204.

(D) The project construction authorization provided in subparagraph (B) shall expire if no federally appropriated funds to construct such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer times as necessitated for—

(i) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) for any species that is or may be listed as threatened or endangered under such Act, except that such extension of time for the expiration of authorization shall not exceed twelve months beyond the five-year period provided in this subparagraph; or

(ii) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water.

(E) Amounts authorized to carry out subparagraph (B) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation project water to be delivered from the features constructed under subparagraph (B) have been executed.

(F) In lieu of construction by the Secretary, the Central Utah Project and features specified in section 202(a)(3) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274; 43 U.S.C. 505). The sixty-day congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(3). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in section 202(a)(3).

(4) UTAH LAKE SALINITY CONTROL.—$1,000,000 for the District to conduct, with public involvement, a feasibility study to reduce the salinity of Utah Lake.

(5) PROVO RIVER STUDIES.—(A) $2,000,000 for the District to conduct, with public involvement:

(i) a hydrologic study that includes a hydrologic model analysis of the Provo River Basin with all tributaries, water imports and exports, and diversions, an analysis of expected flows and storage under varying water conditions, and a comparison of steady State conditions with proposed demands being placed on the river and affected water resources, including historical diversions, decrees, and water rights, and

(ii) a feasibility study of direct delivery of Colorado River Basin water from the Strawberry Reservoir or elsewhere in the Strawberry Collection System to the Provo River Basin, including the Wallsburg Tunnel and other possible importation or exchange options. The studies shall also evaluate the potential for changes in existing importation patterns and quantities of water from the Weber and Duchesne River Basins, and shall describe the economic and environmental consequences of each alternative identified. In addition to funds appropriated after the enactment of this Act, the Secretary is authorized to utilize section 8 funds which may be available from fiscal year 1993 appropriations for the Central Utah Project for the purposes of carrying out the studies described in this paragraph.

(B) The cost of the studies provided for in subparagraph (A) shall be treated as an expense under section 8: *Provided,*

however, That the cost of such study shall be reallocated proportionate with project purposes in the event any conveyance alternative is subsequently authorized and constructed. Within its available funds, the United States Geological Survey is directed to consult with the District in the preparation of the study identified in paragraph (5)(A)(i).

(6) COMPLETION OF DIAMOND FORK SYSTEM.—(A) Of the amounts authorized to be appropriated under section 201, $69,000,000 shall be available to complete construction of the Diamond Fork System.

(B) In lieu of construction by the Secretary, the facilities specified in paragraph (A) shall be constructed by the District under the program guidelines authorized by Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty-day congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 202(a)(6). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subparagraph (A) of this paragraph.

(b) STRAWBERRY WATER USERS ASSOCIATION.—(1) In exchange for, and as a precondition to approval of the Strawberry Water Users Association's petition for Bonneville Unit water, the Secretary, after consultation with the Secretary of Agriculture, shall impose conditions on such approval so as to ensure that the Strawberry Water Users Association shall manage and develop the lands referred to in subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828) in a manner compatible with the management and improvement of adjacent Federal lands for wildlife purposes, natural values, and recreation.

(2) The Secretary of Agriculture and the Secretary shall not permit commercial or other development of Federal lands within sections 2 and 13, T. 3 S., R. 12 W., and sections 7 and 8, T. 3 S., R. 11 W., Uintah Special Meridian. Such Federal lands shall be rehabilitated pursuant to subsection 4(f) of the Act of October 31, 1988 (102 Stat. 2826, 2828) and hereafter managed and improved for wildlife purposes, natural values, and recreation consistent with the Uinta National Forest Land and Natural Resource Management Plan. This restriction shall not apply to the 95 acres referred to in the first sentence of subparagraph 4(e)(1)(A) of the Act of October 31, 1988 (102 Stat. 2826, 2828), valid existing rights, or to uses of such Federal lands by the Secretary of Agriculture or the Secretary for public purposes.

(c) The Secretary is authorized to utilize any unexpended budget authority provided in title II and such funds as may be provided by the Commission for fish and wildlife purposes, to provide 65 percent Federal share pursuant to section 204, of engineering, design, and construction of Hatchtown dam in Garfield County and associated facilities to deliver supplemental project water from Hatchtown dam. The District shall establish a viable minimum conservation pool in Hatchtown dam and shall ensure maintenance

of viable instream flows in the Sevier River between Hatchtown dam and the Piute dam with the concurrence of the Commission and in consultation with the Division of Wildlife Resources of the State of Utah. The District shall comply with the provisions of section 202(a)(1) with respect to the features to be provided for in this subsection.

SEC. 203. UINTA BASIN REPLACEMENT PROJECT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, $30,538,000 shall be available only to increase efficiency, enhance beneficial uses, and achieve greater water conservation within the Uinta Basin, as follows:

(1) $13,582,000 for the construction of the Pigeon Water Reservoir, together with an enclosed pipeline conveyance system to divert water from Lake Fork River to Pigeon Water Reservoir and Sandwash Reservoir.

(2) $2,987,000 for the construction of McGuire Draw Reservoir.

(3) $7,669,000 for the construction of Clay Basin Reservoir.

(4) $4,000,000 for the rehabilitation of Farnsworth Canal.

(5) $2,300,000 for the construction of permanent diversion facilities identified by the Commission on the Duchesne and Strawberry Rivers, the designs of which shall be approved by the Federal and State fish and wildlife agencies. The amount identified in paragraph (5) shall be treated as an expense under section 8.

(b) EXPIRATION OF AUTHORIZATION.—The authorization to construct any of the features provided for in paragraphs (1) through (5) of subsection (a)—

(1) shall expire if no federally appropriated funds for such features have been obligated or expended by the District in accordance with this Act within five years from the date of completion of feasibility studies, or such longer time as necessitated for—

(A) completion, after the exercise of due diligence, of compliance measures outlined in a biological opinion issued pursuant to the Endangered Species Act (16 U.S.C. 1533 et seq.) for any species that is or may be listed as threatened or endangered under such Act: *Provided, however,* That such extension of time for the expiration of authorization shall not exceed 12 months beyond the five-year period provided in this paragraph; or

(B) judicial review of environmental studies prepared in compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if such review was initiated by parties other than the District, the State, or petitioners of project water; and

(2) shall expire if the Secretary determines that such feature is not feasible.

(c) REQUIREMENT FOR BINDING CONTRACTS.—Amounts authorized to carry out subsection (a), paragraphs (1) through (4) may not be obligated or expended, and may not be borrowed against, until binding contracts for the purchase of at least 90 percent of the supplemental irrigation water to be delivered from the features of the Central Utah Project described in subsection (a), paragraphs (1) through (4) have been executed.

(d) NON-FEDERAL OPTION.—In lieu of construction by the Secretary, the features described in subsection (a), paragraphs (1) through (5) shall be constructed by the District under the program guidelines authorized by the Drainage Facilities and Minor Construction Act (Act of June 13, 1956, 70 Stat. 274, 43 U.S.C. 505). The sixty-day congressional notification of the Secretary's intent to use the Drainage Facilities and Minor Construction Act program is hereby waived with respect to construction of the features authorized in section 203(a). Any such feature may be operated, maintained, and repaired by the District in accordance with repayment contracts and operation and maintenance agreements previously entered into between the Secretary and the District. The United States shall not be liable for damages resulting from the design, construction, operation, maintenance, and replacement by the District of the features specified in subsection (a) of this section.

(e) WATER RIGHTS.—To make water rights available for any of the features constructed as authorized in this section, the Bureau shall convey to the District in accordance with State law the water rights evidenced by Water Right No. 43–3825 (Application No. A36642) and Water Right No. 43–3827 (Application No. A36644).

Contracts.

(f) UINTAH INDIAN IRRIGATION PROJECT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to enter into a contract or cooperative agreement with, or make a grant to the Uintah Indian Irrigation Project Operation and Maintenance Company, or any other organization representing the water users within the Uintah Indian Irrigation Project area, to enable such organization to—

(A) administer the Uintah Indian Irrigation Project, or part thereof, and

(B) operate, maintain, rehabilitate, and construct all or some of the irrigation project facilities using the same administrative authority and management procedures as used by water user organizations formed under State laws who administer, operate, and maintain irrigation projects.

(2) Title to Uintah Indian Irrigation Project rights-of-way and facilities shall remain in the United States. The Secretary shall retain any trust responsibilities to the Uintah Indian Irrigation Project.

(3) Notwithstanding any other provision of law, the Secretary shall use funds received from assessments, carriage agreements, leases, and all other additional sources related to the Uintah Indian Irrigation Project exclusively for Uintah Indian Irrigation Project administration, operation, maintenance, rehabilitation, and construction where appropriate. Upon receipt, the Secretary shall deposit such funds in an account in the Treasury of the United States. Amounts in the account not currently needed shall earn interest at the rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding obligations of the United States with remaining periods to maturity comparable to the period for which such funds are not currently needed. Amounts in the account shall be available without further authorization or appropriation by Congress. Such amounts shall be treated as private funds to be held in trust for landowners of the irrigation project and shall not be treated as public or appropriated funds.

(4) All noncontract costs, direct and indirect, required to administer the Uintah Indian Irrigation Project shall be nonreimbursable and paid for by the Secretary as part of his trust responsibilities, beginning on the date of enactment of this Act. Such costs shall include (but not be limited to) the noncontract cost positions of project manager or engineer and two support staff. Such costs shall be added to the funding of the Uintah and Ouray Agency of the Bureau of Indian Affairs as a line item.

(5) The Secretary is authorized to sell, lease, or otherwise make available the use of irrigation project equipment to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(6) The Secretary is authorized to lease or otherwise make available the use of irrigation project facilities to a water user organization which is under obligation to the Secretary to administer, operate, and maintain the Uintah Indian Irrigation Project or part thereof.

(g) BRUSH CREEK AND JENSEN UNIT.—(1) The Secretary is authorized to enter into Amendatory Contract Number 6–05–01–00143, as last revised on September 19, 1988, between the United States and the Uintah Water Conservancy District, which provides, among other things, for part of the municipal and industrial water obligation now the responsibility of the Uintah Water Conservancy District to be retained by the United States with a corresponding part of the water supply to be controlled and marketed by the United States. Such water shall be marketed and used in conformance with State law.

(2) The Secretary, through the Bureau, shall—

(A) establish a conservation pool of 4,000 acre-feet in Red Fleet Reservoir for the purpose of enhancing associated fishery and recreational opportunities and for such other purposes as may be recommended by the Commission in consultation with the Utah Division of Wildlife Resources, United States Fish and Wildlife Service, and the Utah Division of Parks and Recreation; and

Contracts.

(B) enter into an agreement with the Utah Division of Parks and Recreation for the management and operation of Red Fleet recreational facilities.

SEC. 204. NON-FEDERAL CONTRIBUTION.

The non-Federal share of the cost for the design, engineering, and construction of the Central Utah Project features authorized by sections 202 and 203 shall be 35 percent of the total reimbursable costs and shall be paid concurrently with the Federal share, except that for the facilities specified in 202(a)(6), the cost-share shall be 35 percent of the costs allocated to irrigation beyond the ability of irrigators to repay. The non-Federal share of the cost for studies required by sections 202 and 203, other than the study required by section 202(a)(5), shall be 50 percent and shall be paid concurrently with the Federal share. Within one hundred and twenty days of enactment of this Act, the Secretary shall execute a cost sharing agreement which binds the District to provide annually such sums as may be required to satisfy the non-Federal share of the separate features authorized and approved for construction pursuant to this Act. The Secretary is not authorized to broaden the scope of the cost sharing agreement beyond assuring that the

non-Federal interests will satisfy the cost sharing provisions as set forth in this section. Any feature to which this section applies shall not be initiated until after the non-Federal interests enter into a cost sharing agreement with the Secretary to provide the share required by this section. The District may commence any study authorized herein prior to entering into a cost sharing agreement, and upon execution of a cost sharing agreement the Secretary shall reimburse the District an amount equal to the Federal share of the funds expended by the District.

SEC. 205. DEFINITE PLAN REPORT AND ENVIRONMENTAL COMPLIANCE.

(a) DEFINITE PLAN REPORT AND FEASIBILITY STUDIES.—Except for amounts required for compliance with applicable environmental laws and the purposes of this subsection, federally appropriated funds may not be obligated or expended by the District for construction of the features authorized in section 202(a)(1) or 203 until—

(1) the District completes—

(A) a Definite Plan Report for the system authorized in section 202(a)(1), or

(B) an analysis to determine the feasibility of the separate features described in section 203(a), paragraphs (1) through (4), or subsection (f);

(2) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied with respect to the particular system; and

(3) a plan has been developed with and approved by the United States Fish and Wildlife Service to prevent any harmful contamination of waters due to concentrations of selenium or other such toxicants, if the Service determines that development of the particular system may result in such contamination.

Contracts.

(b) COMPLIANCE WITH ENVIRONMENTAL LAWS AND THE TERMS OF THIS ACT.—Notwithstanding any other provision of this Act, Federal funds authorized under this title may not be provided to the District until the District enters into a binding agreement with the Secretary to be considered a "Federal Agency" for purposes of compliance with all Federal fish, wildlife, recreation, and environmental laws with respect to the use of such funds, and to comply with this Act. The Secretary shall execute such binding agreement within one hundred and twenty days of enactment of this Act.

(c) INITIATION OF REPAYMENT.—For purposes of repayment of costs obligated and expended prior to the date of enactment of this Act, the Definite Plan Report shall be considered as being filed and approved by the Secretary, and repayment of such costs shall be initiated by the Secretary of Energy at the earliest possible date. All the costs allocated to irrigation and associated with construction of the Strawberry Collection System, a component of the Bonneville Unit, obligated prior to the date of enactment of this Act shall be included by the Secretary of Energy in the costs specified in this subsection.

(d) Of the amounts authorized in section 201, the Secretary is directed to make sums available to the District as required by the District, for the completion of the plans, studies, and analyses required by this section pursuant to the cost sharing provisions of section 204.

(e) CONTENT AND APPROVAL OF THE DEFINITE PLAN REPORT.—The Definite Plan Report required under this section shall include

economic analyses consistent with the Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies (March 10, 1983). The Secretary may withhold approval of the Definite Plan Report only on the basis of the inadequacy of the document, and specifically not on the basis of the findings of its economic analyses.

SEC. 206. LOCAL DEVELOPMENT IN LIEU OF IRRIGATION AND DRAINAGE.

(a) OPTIONAL REBATE TO COUNTIES.—(1) After two years from the date of enactment of this Act, the District shall, at the option of an eligible county as provided in paragraph (2), rebate to such county all of the ad valorem tax contributions paid by such county to the District, with interest but less the value of any benefits received by such county and less the administrative expenses incurred by the District to that date.

(2) Counties eligible to receive the rebate provided for in paragraph (1) include any county within the District, except for Salt Lake County and Utah County, in which the construction of Central Utah Project water storage or delivery features authorized in this Act has not commenced and—

(A) in which there are no binding contracts as required under section 202(1)(C); or

(B) in which the authorization for the project or feature was repealed pursuant to section 201(b) or expired pursuant to section 202(1)(B) of this Act.

Grants.

(b) LOCAL DEVELOPMENT OPTION.—(1) Upon the request of any eligible county that elects not to participate in the project as provided in subsection (a), the Secretary shall provide as a grant to such county an amount that, when matched with the rebate received by such county, shall constitute 65 percent of the cost of implementation of measures identified in paragraph (2).

(2)(A) The grant provided for in this subsection shall be available for the following purposes:

(i) Potable water distribution and treatment.

(ii) Wastewater collection and treatment.

(iii) Agricultural water management.

(iv) Other public infrastructure improvements as may be approved by the Secretary.

(B) Funds made available under this subsection may not be used for—

(i) draining of wetlands;

(ii) dredging of natural water courses; and

(iii) planning or constructing water impoundments of greater than five thousand acre-feet, except for the proposed Hatch Town Dam on the Sevier River in southern Garfield County, Utah.

(C) All Federal environmental laws shall be applicable to any projects or features developed pursuant to this section.

(3) Of the amounts authorized to be appropriated by section 201, not more than $40,000,000 may be available for the purposes of this subsection.

SEC. 207. WATER MANAGEMENT IMPROVEMENT.

(a) PURPOSES.—The purposes of this section are, through such means as are cost-effective and environmentally sound, to—

(1) encourage the conservation and wise use of water;

(2) reduce the probability and duration of periods necessitating extraordinary curtailment of water use;

(3) achieve beneficial reductions in water use and system costs;

(4) prevent or eliminate unnecessary depletion of waters in order to assist in the improvement and maintenance of water quantity, quality, and streamflow conditions necessary to augment water supplies and support fish, wildlife, recreation, and other public benefits;

(5) make prudent and efficient use of currently available water prior to any importation of Bear River water into Salt Lake County, Utah; and

(6) provide a systematic approach to the accomplishment of these purposes and an objective basis for measuring their achievement.

(b) WATER MANAGEMENT IMPROVEMENT PLAN.—The District, after consultation with the State and with each petitioner of project water, shall prepare and maintain a water management improvement plan. The first plan shall be submitted to the Secretary by January 1, 1995. Every three years thereafter the District shall prepare and submit a supplement to this plan. The Secretary shall either approve or disapprove such plan or supplement thereto within six months of its submission.

(1) ELEMENTS.—The plan shall include the following elements:

(A) A water conservation goal, consisting of the greater of the following two amounts for each petitioner of project water:

(i) 25 percent of each petitioner's projected increase in annual water deliveries between the years 1990 and 2000, or such later ten-year period as the District may find useful for planning purposes; or

(ii) the amount by which unaccounted for water or, in the case of irrigation entities, transport losses, exceeds 10 percent of recorded annual water deliveries.

The minimum goal for the District shall be thirty thousand acre-feet per year. In the event that the pipeline conveyance system described in section 202(a)(1)(A) is not constructed due to expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall be reduced by five thousand acre-feet per year. In the event that the Wasatch County Water Efficiency Project authorized in section 202(a)(3)(B) is not constructed due to expiration of the authorization pursuant to section 202(a)(3)(D), the minimum goal for the District shall be reduced by five thousand acre-feet per year. In the event the water supply which would have been supplied by the pipeline conveyance system described in section 202(a)(1)(A) is made available and delivered to municipal and industrial or agricultural petitioners in Salt Lake, Utah or Juab counties subsequent to the expiration of the authorization pursuant to section 202(a)(1)(B), the minimum goal for the District shall increase five thousand acre-feet per year. In no event shall the minimum goal for the District be less than twenty thousand acre-feet per year.

(B) A water management improvement inventory, containing—

(i) conservation measures to improve the efficiency of the storage, conveyance, distribution, and use of water in a manner that contributes to the accomplishment of the purposes of this section, exclusive of any measures promulgated pursuant to subsection (f)(2)(A) through (D);

(ii) the estimated economic and financial costs of each such measure;

(iii) the estimated water yield of each such measure; and

(iv) the socioeconomic and environmental effects of each such measure.

(C) A comparative analysis of each cost-effective and environmentally acceptable measure.

(D) A schedule of implementation for the following five years.

(E) An assessment of the performance of previously implemented conservation measures, if any. Each plan or plan supplement shall be technically sound, internally consistent and supported by objective analysis.

Not less than ninety days prior to its transmittal to the Secretary, the plan, or plan supplement, together with all supporting documentation demonstrating compliance with this section, shall be made available by the District for public review, hearing, and comment. All significant comments, and the District's response thereto, shall accompany the plan transmitted to the Secretary.

(2) EVALUATION OF CONSERVATION MEASURES.—

(A) Any conservation measure proposed to the District by the Executive Director of the Utah Department of Natural Resources shall be added to the water management improvement inventory and evaluated by the District. Any conservation measure, up to a cumulative five in number within any three-year period, submitted by nonprofit sportsmen or environmental organizations shall be added to the water management improvement inventory and evaluated by the District.

(B) Each conservation measure that is found to be cost-effective, without significant adverse impact to the financial integrity of the District or a petitioner of project water, environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been satisfied, and in the public interest shall be deemed to constitute the "active inventory". For purposes of this section, the determination of benefits shall take into account:

(i) the value of saved water, to be determined, in the case of municipal water, on the basis of the project municipal and industrial repayment obligation of the District, but in no case less than $200 per acre-foot, and, in the case of irrigation water, on the basis of operation, maintenance, and replacement costs plus the "full cost" rate for irrigation computed in accordance with section 302(3) of the Reclamation Reform Act of 1982 (96 Stat. 1263; 43 U.S.C. 390bb), but in no case less than $50 per acre-foot;

(ii) the reduced cost of wastewater treatment, if any;

(iii) net additional hydroelectric power generation, if any, valued at avoided cost;

(iv) net savings in operation, maintenance, and replacement costs; and

(v) net savings in on-farm costs.

(3) IMPLEMENTATION.—The District, and each petitioner of project water, as appropriate, shall implement and maintain, consistent with State law, conservation measures placed in the active inventory to the maximum practical extent necessary to achieve 50 percent of the water conservation goal within seven years after submission of the initial plan and 100 percent of the water conservation goal within fifteen years after submission of the initial plan. Priority shall be given to implementation of the most cost-effective measures that are—

(A) found to reduce consumptive use of water without significant adverse impact to the financial integrity of the District or the petitioner of project water;

(B) environmentally acceptable and for which the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) has been satisfied; and

(C) found to be in the public interest.

(4) USE OF SAVED WATER.—All water saved by any conservation measure implemented by the District or a petitioner of project water under subsection (b)(3) may be retained by the District or the petitioner of project water which saved such water for its own use or disposition. The specific amounts of water saved by any conservation measure implemented under subsection (b)(3) shall be based upon the determination of yield under paragraph (b)(1)(B)(iii), and as may be confirmed or modified by assessment pursuant to paragraph (b)(1)(E). Each petitioner of project water may make available to the District water in an amount equivalent to the water saved, which the District may make available to the Secretary for instream flows in addition to the stream flow requirements established by section 303. Such instream flows shall be released from project facilities, subject to space available in project conveyance systems, to at least one watercourse in the Bonneville and Uinta River Basins, respectively, to be designated by the United States Fish and Wildlife Service as recommended by the Interagency Biological Assessment Team. Such flows shall be protected against appropriation in the same manner as the minimum streamflow requirements established by section 303. The Secretary shall reduce the annual contractual repayment obligation of the District equal to the project rate for delivered water, including operation and maintenance expenses, for water saved for instream flows pursuant to this subsection. The District shall credit or rebate to each petitioner of project water its proportionate share of the District's repayment savings for reductions in deliveries of project water as a result of this subsection.

(5) STATUS REPORT ON THE PLANNING PROCESS.—Prior to January 1, 1994, the District shall establish a continuous process for the identification, evaluation, and implementation of water conservation measures to achieve the purposes of this section, and submit a report thereon to the Secretary. The

report shall include a description of this process, including its financial resources, technical support, public involvement, and identification of staff responsible for its development and implementation.

(c) WATER CONSERVATION PRICING STUDY.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each petitioner of project water, shall prepare and transmit to the Secretary a study of wholesale and retail pricing to encourage water conservation as described in this subsection, together with its conclusions and recommendations.

(2) The purposes of this study are—

(A) to design and evaluate potential rate designs and pricing policies for water supply and wastewater treatment within the District boundary;

(B) to estimate demand elasticity for each of the principal categories of end use of water within the District boundary;

(C) to quantify monthly water savings estimated to result from the various designs and policies to be evaluated; and

(D) to identify a water pricing system that reflects the incremental scarcity value of water and rewards effective water conservation programs.

(3) Pricing policies to be evaluated in the study shall include but not be limited to the following, alone and in combination:

(A) recovery of all costs, including a reasonable return on investment, through water and wastewater service charges;

(B) seasonal rate differentials;

(C) drought year surcharges;

(D) increasing block rate schedules;

(E) marginal cost pricing;

(F) rates accounting for differences in costs based upon point of delivery; and

(G) rates based on the effect of phasing out the collection of ad valorem property taxes by the District and the petitioners of project water over a five-year and ten-year period.

The District may incorporate policies developed by the study in the Water Management Improvement Plan prepared under subsection (b).

Public information.

(4) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(5) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any policies or recommendations contained in the study.

(d) STUDY OF COORDINATED OPERATIONS.—

(1) Within three years from the date of enactment of this Act, the District, after consultation with the State and each

petitioner of project water, shall prepare and transmit to the Secretary a study of the coordinated operation of independent municipal and industrial and irrigation water systems, together with its conclusions and recommendations. The District shall evaluate cost-effective flexible operating procedures that will—

(A) improve the availability and reliability of water supply;

(B) coordinate the timing of reservoir releases under existing water rights to improve instream flows for fisheries, wildlife, recreation, and other environmental values, if possible;

(C) assist in managing drought emergencies by making more efficient use of facilities;

(D) encourage the maintenance of existing wells and other facilities which may be placed on stand-by status when water deliveries from the project become available;

(E) allow for the development, protection, and sustainable use of ground-water resources in the District boundary;

(F) not reduce the benefits that would be generated in the absence of the joint operating procedures; and

(G) integrate management of surface and ground-water supplies and storage capability.

The District may incorporate measures developed by the study in the Water Management Improvement Plan prepared under subsection (b).

(2) Not less than ninety days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including public hearings. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary. Public information.

(3) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any operating procedures, conclusions, or recommendations contained in the study.

(e) AUTHORIZATION OF APPROPRIATIONS.—(1) For an amount not to exceed 50 percent of the cost of conducting the studies identified in subsections (c) and (d) and developing the plan identified in subsection (b), $3,000,000 shall be available from the amount authorized to be appropriated by section 201, and shall remain available until expended. The Federal share shall be allocated among project purposes in the same proportions as the joint costs of the Strawberry Collection System, and shall be repaid in the manner of repayment for each such purpose.

(2) For an amount not to exceed 65 percent of the cost of implementation of the conservation measures in accordance with subsection (b), $50,000,000 shall be available from the amount authorized to be appropriated in section 201, and shall remain available until expended. $10,000,000 authorized by this paragraph shall be made available for conservation measures in Wasatch County identified in the study pursuant to section 202(a)(3)(A) which measures satisfy the requirements of subsection (b)(2)(B) and shall thereafter be available for the purposes of this paragraph. The Federal share shall be allocated between the purposes of municipal and industrial water supply and irrigation, as appro-

priate, and shall be repaid in the manner of repayment for each such purpose.

Establishment.

(f) UTAH WATER CONSERVATION ADVISORY BOARD.—(1) Within two years of the date of enactment of this Act, the Governor of the State may establish a board consisting of nine members to be known as the Utah Water Conservation Advisory Board, with the duties described in this subsection. In the event that the Governor does not establish said board by such date, the Secretary shall establish a Utah Water Conservation Advisory Board consisting of nine members appointed by the Secretary from a list of names supplied by the Governor.

(2) The Board shall recommend water conservation standards and regulations for promulgation by State or local authorities in the service area of each petitioner of project water, including but not limited to the following:

(A) metering or measuring of water to all customers, to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as single customers.);

(B) elimination of declining block rate schedules from any system of water or wastewater treatment charges;

(C) a program of leak detection and repair that provides for the inspection of all conveyance and distribution mains, and the performance of repairs, at intervals of three years or less;

(D) low consumption performance standards applicable to the sale and installation of plumbing fixtures and fittings in new construction;

(E) requirements for the recycling and reuse of water by all newly constructed commercial laundries and vehicle wash facilities;

(F) requirements for soil preparation prior to the installation or seeding of turf grass in new residential and commercial construction;

(G) requirements for the insulation of hot water pipes in all new construction;

(H) requirements for the installation of water recycling or reuse systems on any newly installed commercial and industrial water-operative air conditioning and refrigeration systems;

(I) standards governing the sale, installation, and removal of self-regenerating water softeners, including the identification of public water supply system service areas where such devices are prohibited, and the establishment of standards for the control of regeneration in all newly installed devices; and

(J) elimination of evaporation as a principal method of wastewater treatment.

(3) Any water conserved by implementation of subparagraphs (A), (B), (C), (D), or (F) of paragraph (2) shall not be credited to the conservation goal specified under subparagraph (b)(1)(A). All other water conserved after January 1, 1992, by a conservation measure which is placed on the active inventory shall be credited to the conservation goal specified under subparagraph (b)(1)(A).

(4) The Governor may waive the applicability of paragraphs (2)(D) through (2)(H) above to any petitioner of project water that provides water entirely for irrigation use.

Regulations.

(5) Within three years of the date of enactment of this Act, the board shall transmit to the Governor and the Secretary the

recommended standards and regulations referred to in subparagraph (f)(2) in such form as, in the judgment of the board, will be most likely to be promulgated within four years of the date of enactment of this Act, and the failure of the board to do so shall be deemed substantial noncompliance.

(6) Nothing in this subsection shall be deemed to authorize the Secretary, or grant new authority to the District or petitioners of project water, to require the implementation of any standards or regulations recommended by the Utah Water Conservation Advisory Board.

(g) COMPLIANCE.—(1) Notwithstanding subsections (c)(5), (d)(3) or (f)(6), if the Secretary after ninety days written notice to the District, determines that the plan referred to in subsection (b) has not been developed and implemented or the studies referred to in subsections (c) and (d) have not been completed or transmitted as provided for in this section, the District shall pay a surcharge for each year of substantial noncompliance as determined by the Secretary. The amount of the surcharge shall be—

(A) for the first year of substantial noncompliance, five percent of the District's annual Bonneville Unit repayment obligation to the Secretary;

(B) for the second year of substantial noncompliance, ten percent of the District's annual Bonneville Unit repayment obligation to the Secretary; and

(C) for the third year of substantial noncompliance and any succeeding year of substantial noncompliance, fifteen percent of the District's annual Bonneville Unit repayment obligation to the Secretary.

(2) If the Secretary determines that compliance has been accomplished within twelve months after the first determination of substantial noncompliance, the Secretary shall refund 100 percent of the surcharge levied.

(h) RECLAMATION REFORM ACT OF 1982.—Compliance with this section shall be deemed as compliance with section 210 of the Reclamation Reform Act of 1982 (96 Stat. 1268; 43 U.S.C. 390jj) by the District and each petitioner of project water.

(i) JUDICIAL REVIEW.—(1) For the purposes of sections 701 through 706 of title 5 (U.S.C.), the determinations made by the Secretary under subsections (b), (f)(1) or (g) shall be final actions subject to judicial review.

(2) The record upon review of such final actions shall be limited to the administrative record compiled in accordance with sections 701 through 706 of title 5 (U.S.C.). Nothing in this subsection shall be construed to require a hearing pursuant to sections 554, 556, or 557 of title 5 (U.S.C.).

(3) Nothing in this subsection shall be construed to preclude judicial review of other final actions and decisions by the Secretary.

(j) CITIZEN SUITS.—(1) IN GENERAL.—Any person may commence a civil suit on their own behalf against only the Secretary for any determination made by the Secretary under this section which is alleged to have violated, is violating, or is about to violate any provision of this section or determination made under this section.

(2) JURISDICTION AND VENUE.—The district courts shall have jurisdiction to prohibit any violation by the Secretary of this section, to compel any action required by this section, and to issue any other order to further the purposes of this section. An action under

this subsection may be brought in the judicial district where the alleged violation occurred or is about to occur, where fish, wildlife, or recreation resources are located, or in the District of Columbia.

(3) LIMITATIONS.—(A) No action may be commenced under paragraph (1) before sixty days after written notice of the violation has been given to the Secretary.

(B) Notwithstanding subparagraph (A), an action may be brought immediately after such notification in the case of an action under this section respecting an emergency posing a significant risk to the well-being of any species of fish or wildlife.

(C) Subparagraph (A) is intended to provide reasonable notice where possible and not to affect the jurisdiction of the courts.

(4) COSTS AWARDED BY THE COURT.—The court may award costs of litigation (including reasonable attorney and expert witness fees and expenses) to any party, other than the United States, whenever the court determines such award is appropriate.

(5) DISCLAIMER.—The relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief.

(k) PRESERVATION OF STATE LAW.—Nothing in this section shall be deemed to preempt or supersede State law.

SEC. 208. LIMITATION ON HYDROPOWER OPERATIONS.

(a) LIMITATION.—Power generation facilities associated with the Central Utah Project and other features specified in titles II through V of this Act shall be operated and developed in accordance with the Act of April 11, 1956 (70 Stat. 109; 43 U.S.C. 620f).

(b) COLORADO RIVER BASIN WATERS.—Use of Central Utah Project water diverted out of the Colorado River Basin for power purposes shall only be incidental to the delivery of water for other authorized project purposes. Diversion of such waters out of the Colorado River Basin exclusively for power purposes in prohibited.

SEC. 209. OPERATING AGREEMENTS.

The District, in consultation with the Commission and the Utah Division of Water Rights, shall apply its best efforts to achieve operating agreements for the Jordanelle Reservoir, Deer Creek Reservoir, Utah Lake and Strawberry Reservoir within two years of the date of enactment of this Act.

SEC. 210. JORDAN AQUEDUCT PREPAYMENT.

Under such terms as the Secretary may prescribe, and within one year of the date of enactment of this Act, the Secretary shall allow for the prepayment, or shall otherwise dispose of, repayment contracts entered into among the United States, the District, the Metropolitan Water District of Salt Lake City, and the Salt Lake County Water Conservancy District, dated May 16, 1986, providing for repayment of the Jordan Aqueduct System. In carrying out this section, the Secretary shall take such actions as he deems appropriate to accommodate, effectuate, and otherwise protect the rights and obligations of the United States and the obligors under the contracts executed to provide for payment of such repayment contracts.

SEC. 211. AUDIT OF CENTRAL UTAH PROJECT COST ALLOCATIONS.

Not later than one year after the date on which the Secretary declares the Central Utah Project to be substantially complete,

the Comptroller General of the United States shall conduct an audit of the allocation of costs of the Central Utah Project to irrigation, municipal and industrial, and other project purposes and submit a report of such audit to the Secretary and to the Congress. The audit shall be conducted in accordance with regulations which the Comptroller General shall prescribe not later than one year after the date of enactment of this Act. Upon a review of such report, the Secretary shall reallocate such costs as may be necessary. Any amount allocated to municipal and industrial water in excess of the total maximum repayment obligation contained in repayment contracts dated December 28, 1965, and November 26, 1985, shall be deferred for as long as the District is not found to be in substantial noncompliance with the water management improvement program provided in section 207 and the stream flows provided in title III are maintained. If at any time the Secretary finds that such program is in substantial noncompliance or that such stream flows are not being maintained, the Secretary shall, within six months of such finding and after public notice, take action to initiate repayment of all such reimbursable costs.

SEC. 212. SURPLUS CROPS.

Notwithstanding any other provision of law relating to a charge for irrigation water supplied to surplus crops, until the construction costs of the facilities authorized by this title are repaid, the Secretary is directed to charge a surplus crop production charge equal to 10 percent of full cost, as defined in section 202 of the Reclamation Reform Act of 1982 (43 U.S.C. 390bb), for the delivery of project water used in the production of any crop of an agricultural commodity for which an acreage reduction program is in effect under the provision of the Agricultural Act of 1949, as amended, if the total supply of such commodity for the marketing years in which the bulk of the crop would normally be marketed is in excess of the normal supply as determined by the Secretary of Agriculture. The Secretary of the Interior shall announce the amount of the surplus crop production charge for the succeeding year on or before July 1 of each year.

TITLE III—FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION

SEC. 301. UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION.

(a) PURPOSE.—(1) The purpose of this section is to provide for the prompt establishment of the Utah Reclamation Mitigation and Conservation Commission in order to coordinate the implementation of the mitigation and conservation provisions of this Act among the Federal and State fish, wildlife, and recreation agencies.

(2) This section, together with applicable environmental laws and the provisions of other laws applicable to mitigation, conservation and enhancement of fish, wildlife, and recreation resources within the State, are all intended to be construed in a consistent manner. Nothing herein is intended to limit or restrict the authorities or opportunities of Federal, State, or local governments, or political subdivisions thereof, to plan, develop, or implement mitigation, conservation, or enhancement of fish, wildlife, and recreation

resources in the State in accordance with other applicable provisions of Federal or State law.

(b) ESTABLISHMENT.—(1) There is established a commission to be known as the Utah Reclamation Mitigation and Conservation Commission.

(2) The Commission shall expire twenty years from the end of the fiscal year during which the Secretary declares the Central Utah Project to be substantially complete. The Secretary shall not declare the project to be substantially complete at least until such time as the mitigation and conservation projects and features provided for in section 315 have been completed in accordance with the fish, wildlife, and recreation mitigation and conservation schedule specified therein.

(c) DUTIES.—The Commission shall—

(1) formulate the policies and objectives for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(2) administer in accordance with subsection (f) the expenditure of funds for the implementation of the fish, wildlife, and recreation mitigation and conservation projects and features authorized in this Act;

(3) be considered a Federal agency for purposes of compliance with the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(4) develop, adopt, and submit plans and reports of its activities in accordance with subsection (g).

(d) MEMBERSHIP.—(1) The Commission shall be composed of 5 members appointed by the President within six months of the date of enactment of this Act, as follows:

(A) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Speaker of the House of Representatives upon the recommendation of the members of the House of Representatives representing the State.

(B) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish or wildlife matters or environmental conservation matters, submitted by the Majority Leader of the Senate upon the recommendation of the members of the Senate representing the State.

(C) 1 from a list of residents of the State submitted by the Governor of the State composed of State wildlife resource agency personnel.

(D) 1 from a list of residents of the State submitted by the District.

(E) 1 from a list of residents of the State, who are qualified to serve on the Commission by virtue of their training or experience in fish and wildlife matters or environmental conservation matters and have been recommended by Utah nonprofit sportsmen's or environmental organizations, submitted by the Governor of the State.

(2)(A) Except as provided in subparagraph (B), members shall be appointed for terms of four years.

(B) Of the members first appointed—

(i) the member appointed under paragraph (1)(C) shall be appointed for a term of three years; and

(ii) the member appointed under paragraph (1)(D) shall be appointed for a term of two years.

(3) A vacancy in the Commission shall be filled within ninety days and in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(4)(A) Except as provided in subparagraph (B), members of the Commission shall each be paid at a rate equal to the daily equivalent of the maximum of the annual rate of basic pay in effect for grade GS–15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Commission.

(B) Members of the Commission who are full-time officers or employees of the United States or the State of Utah shall receive no additional pay by reason of their service on the Commission.

(5) Three members of the Commission shall constitute a quorum but a lesser number may hold public meetings authorized by the Commission.

(6) The Chairman of the Commission shall be elected by the members of the Commission. The term of office of the Chairman shall be one year.

(7) The Commission shall meet at least quarterly and may meet at the call of the Chairman or a majority of its members.

(e) DIRECTOR AND STAFF OF COMMISSION; USE OF CONSULTANTS.—(1) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for GS–15 of the General Schedule.

(2) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(3) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–15 of the General Schedule.

(4) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act.

(5) Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(6) In times of emergency, as defined by rule by the Commission, the Director may exercise the full powers of the Commission

until such times as the emergency ends or the Commission meets in formal session.

(f) IMPLEMENTATION OF MITIGATION AND CONSERVATION MEASURES.—(1) The Commission shall administer the mitigation and conservation funds available under this Act to conserve, mitigate, and enhance fish, wildlife, and recreation resources affected by the development and operation of Federal reclamation projects in the State of Utah. Such funds shall be administered in accordance with this section, the mitigation and conservation schedule in section 315 of this Act, and, if in existence, the applicable five-year plan adopted pursuant to subsection (g). Expenditures of the Commission pursuant to this section shall be in addition to, not in lieu of, other expenditures authorized or required from other entities under other agreements or provisions of law.

(2) REALLOCATION OF SECTION 8 FUNDS.—Notwithstanding any provision of this act which provides that a specified amount of section 8 funds available under this Act shall be available only for a certain purpose, if the Commission determines, after public involvement and agency consultation as provided in subsection (g)(3), that the benefits to fish, wildlife, or recreation will be better served by allocating such funds in a different manner, then the Commission may reallocate any amount so specified to achieve such benefits: *Provided, however,* That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(3) FUNDING FOR NEPA COMPLIANCE.—The Commission shall annually provide funding on a priority basis for environmental mitigation measures adopted as a result of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for project features constructed pursuant to titles II and III of this Act.

(4) CONTRACTING AUTHORITY.—The Commission shall, for the purpose of carrying out this Act, enter into and perform such contracts, leases, grants, cooperative agreements, or other similar transactions, including the amendment, modification, or cancellation thereof and make the compromise or final settlement of any claim arising thereunder, with universities, non-profit organizations, and the appropriate public natural resource management agency or agencies, upon such terms and conditions and in such manner as the Commission may deem to be necessary or appropriate, for the implementation of the mitigation and conservation projects and features authorized in this Act, including actions necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(g) PLANNING AND REPORTING.—(1) Beginning with the first fiscal year after all members of the Commission are appointed initially, and every five years thereafter, the Commission shall develop and adopt by March 31 a plan for carrying out its duties during each succeeding five-year period. Each such plan shall consist of the specific objectives and measures the Commission intends to administer under subsection (f) during the plan period to implement the mitigation and conservation projects and features authorized in this Act.

(2) FINAL PLAN.—Within six months prior to the expiration of the Commission pursuant to this Act, the Commission shall develop and adopt a plan which shall—

(A) establish goals and measurable objectives for the mitigation and conservation of fish, wildlife, and recreation resources during the five-year period following such expiration; and

(B) recommend specific measures for the expenditure of funds from the Account established under section 402 of this Act.

(3) PUBLIC INVOLVEMENT AND AGENCY CONSULTATION.—(A) Promptly after the Commission is established under this section, and in each succeeding fiscal year, the Commission shall request in writing from the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and county and municipal entities, and the public, recommendations for objectives and measures to implement the mitigation and conservation projects and features authorized in this Act or amendments thereto. The Commission shall establish by rule a period of time not less than ninety days in length within which to receive such recommendations, as well as the format for and the information and supporting data that is to accompany such recommendations. Regulations.

(B) The Commission shall give notice of all recommendations and shall make the recommendations and supporting documents available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public. Copies of such recommendations and supporting documents shall be made available for review at the offices of the Commission and shall be available for reproduction at reasonable cost. Public information.

(C) The Commission shall provide for public involvement regarding the recommendations and supporting documents within such reasonable time as the Commission by rule deems appropriate.

(4) The Commission shall develop and amend the plans on the basis of such recommendations, supporting documents, and views and information obtained through public involvement and agency consultation. The Commission shall include in the plans measures which it determines, on the basis set forth in paragraph (f)(1), will—

(A) restore, maintain, or enhance the biological productivity and diversity of natural ecosystems within the State and have substantial potential for providing fish, wildlife, and recreation mitigation and conservation opportunities;

(B) be based on, and supported by, the best available scientific knowledge;

(C) utilize, where equally effective alternative means of achieving the same sound biological or recreational objectives exist, the alternative that will also provide public benefits through multiple resource uses;

(D) complement the existing and future activities of the Federal and State fish, wildlife, and recreation agencies and appropriate Indian tribes;

(E) utilize, when available, cooperative agreements and partnerships with private landowners and nonprofit conservation organizations; and

(F) be consistent with the legal rights of appropriate Indian tribes.

Enhancement measures may be included in the plans to the extent such measures are designed to achieve improved conservation or mitigation of resources.

(5) AGENCY CONSULTATION.—Commission plans developed in accordance with this subsection, or implemented under subsection (f), that affect National Forest System lands shall be developed and implemented in consultation with the Secretary of Agriculture.

(6) REPORTING.—(A) Beginning on December 1 of the first fiscal year in which all members of the Commission are appointed initially, the Commission shall submit annually a detailed report to the Committee on Energy and Natural Resources of the Senate, to the Committees on Interior and Insular Affairs and on Merchant Marine and Fisheries of the House of Representatives, to the Secretary, and to the Governor of the State. The report shall describe the actions taken and to be taken by the Commission under this section, the effectiveness of the mitigation and conservation measures implemented to date, and potential revisions or modifications to the applicable mitigation and conservation plan.

(B) At least sixty days prior to its submission of such report, the Commission shall make a draft of such report available to the Federal and State fish, wildlife, recreation, and water management agencies, the appropriate Indian tribes, and the public, and establish procedures for timely comments thereon. The Commission shall include a summary of such comments as an appendix to such report.

(h) DISCRETIONARY DUTIES AND POWERS.—In addition to any other duties and powers provided by law—

(1) The Commission may depart from the fish, wildlife, and recreation mitigation and conservation schedule specified in section 315 whenever the Commission determines, after public involvement and agency consultation as provided for in this Act, that such departure would be of greater benefit to fish, wildlife, or recreation: *Provided, however,* That the Commission shall obtain the prior approval of the United States Fish and Wildlife Service for any reallocation from fish or wildlife purposes to recreation purposes of any of the funds authorized in the schedule in section 315.

(2) The Commission may, for the purpose of carrying out this Act—

(A) hold such public meetings, sit and act at such times and places, take such testimony, and receive such evidence, as a majority of the Commission considers appropriate; and

(B) meet jointly with other Federal or State authorities to consider matters of mutual interest.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out this Act. Upon request of the Director of the Commission, the head of such department or agency shall furnish such information to the Commission. At the discretion of the department or agency, such information may be provided on a reimbursable basis.

(4) The Commission may accept, use, and dispose of appropriations, gifts or grants of money or other property, or dona-

tions of services, from whatever source, only to carry out the purposes of this Act.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(7) The Commission may acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act. This provision shall not affect any existing authorities of other agencies to carry out the purposes of this Act.

(8) The Commission may make such expenditures for offices, vehicles, furnishings, equipment, supplies, and books; for travel, training, and attendance at meetings; and for such other facilities and services as may be necessary for the administration of this Act.

(9) The Commission shall not participate in litigation, except litigation pursuant to subsection (l) or condemnation proceedings initiated by other agencies.

(i) FUNDING.—(1) Amounts appropriated to the Secretary for the Commission shall be paid to the Commission immediately upon receipt of such funds by the Secretary. The Commission shall expend such funds in accordance with this Act.

(2) For each fiscal year, the Commission is authorized to use for administrative expenses an amount equal to 10 percent of the amounts available to the Commission pursuant to this Act during such fiscal year, but not to exceed $1,000,000. Such amount shall be increased by the same proportion as the contributions to the Account under section 402(b)(3)(C).

(j) AVAILABILITY OF UNEXPENDED AMOUNTS UPON COMPLETION OF CONSTRUCTION PROJECTS.—Notwithstanding any other provision of law, upon the completion of any project authorized under this title, Federal funds appropriated for that project but not obligated or expended shall be deposited in the Account pursuant to section 402(b)(4)(D) and shall be available to the Commission in accordance with section 402(c)(2).

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION.—Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b)—

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

(l) REPRESENTATION BY ATTORNEY GENERAL.—The Attorney General of the United States shall represent the Commission in any litigation to which the Commission is a party.

(m) CONGRESSIONAL OVERSIGHT.—The activities of the Commission shall be subject to oversight by the Congress.

(n) TERMINATION OF BUREAU ACTIVITIES.—Upon appointment of the Commission as provided in subsection (b), the responsibility for implementing section 8 funds for mitigation and conservation projects and features authorized in this Act shall be transferred from the Bureau to the Commission.

SEC. 302. INCREASED PROJECT WATER CAPABILITY.

(a) ACQUISITION.—The District shall acquire, on an expedited basis with funds to be provided by the Commission in accordance with the schedule specified in section 315, by purchase from willing sellers or exchange, twenty-five thousand acre-feet of water rights in the Utah Lake drainage basin to achieve the purposes of this section. Water purchases which would have the effect of compromising groundwater resources or dewatering agricultural lands in the Upper Provo River areas should be avoided. Of the amounts authorized to be appropriated by section 201, $15,000,000 shall be available only for the purposes of this subsection.

(b) NONCONSUMPTIVE RIGHTS.—A nonconsumptive right in perpetuity to any water acquired under this section shall be tendered in accordance with the laws of the State of Utah within thirty days of its acquisition by the District to the Utah Division of Wildlife Resources for the purposes of maintaining instream flows provided for in section 303(c)(3) and 303(c)(4) for fish, wildlife, and recreation in the Provo River.

(c) AUTHORIZATION OF APPROPRIATIONS.—Of the amounts authorized to be appropriated by section 201, $4,000,000 shall be available only to modify existing or construct new diversion structures on the Provo River below the Murdock diversion to facilitate the purposes of this section.

SEC. 303. STREAM FLOWS.

(a) STREAM FLOW AGREEMENT.—The District shall annually provide, from project water if necessary, amounts of water sufficient to sustain the minimum stream flows established pursuant to the Stream Flow Agreement.

(b) INCREASED FLOWS IN THE UPPER STRAWBERRY RIVER TRIBUTARIES.—(1) the District shall acquire, on an expedited basis with funds to be provided by the Commission, or by the Secretary in the event the Commission has not been established, in accordance with State law, the provisions of this section, and the schedule specified in section 315, all of the Strawberry basin water rights being diverted to the Heber Valley through the Daniels Creek drainage and shall apply such rights to increase minimum stream flows—

(A) in the upper Strawberry River and other tributaries to the Strawberry Reservoir;

(B) in the lower Strawberry River from the base of Soldier Creek Dam to Starvation Reservoir; and

(C) in other streams within the Uinta basin affected by the Strawberry Collection System in such a manner as deemed by the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources to be in the best interest of fish and wildlife.

The Commission's decision under subparagraph (C) shall not establish a statutory or otherwise mandatory minimum stream flow.

(2) The District may acquire the water rights identified in paragraph (1) prior to completion of the facilities identified in paragraph (3) only by lease and for a period not to exceed two years from willing sellers or by replacement or exchange of water in kind. Such leases may be extended for one additional year with the consent of Wasatch and Utah counties. The District shall proceed to fulfill the purposes of this subsection on an expedited basis but may not lease water from the Daniels Creek Irrigation Company before the beginning of fiscal year 1993.

(3)(A) The District shall construct with funds provided for in paragraph (4) a Daniels Creek replacement pipeline from the Jordanelle Reservoir to the existing Daniels Creek Irrigation Company Water storage facility for the purpose of providing a permanent replacement of water in an amount equal to the Strawberry basin water being supplied by the District for stream flows provided in paragraph (1) which would otherwise have been diverted to the Daniels Creek drainage.

(B) Such Daniels Creek replacement water may be exchanged by the District in accordance with State law with the Strawberry basin water identified above to provide a permanent supply of water for minimum flows provided in paragraph (1). Any such permanent replacement water so exchanged into the Strawberry basin by the District shall be tendered in accordance with State law within thirty days of its exchange by the District to the Utah Division of Wildlife Resources for the purposes of providing stream flows under paragraph (1).

(C) The Daniels Creek replacement water to be supplied by the District shall be at least equal in quality and reliability to the Daniels Creek water being replaced and shall be provided by the District at a cost to the Daniels Creek Irrigation Company which does not exceed the cost of supplying existing water deliveries (including operation and maintenance) through the Daniels Creek diversion.

(4) Of the amounts authorized to be appropriated by section 201, $10,500,000 shall be available to fulfill the purposes of this section as follows:

(A) $500,000 for leasing of water pursuant to paragraph (2).

(B) $10,000,000 for construction of the Daniels Creek replacement pipeline.

(C) Funds provided by this paragraph shall not be subject to the requirements of section 204 and shall be included in the final cost allocation provided for in section 211; except that not less than $3,500,000 shall be treated as an expense under section 8, and $7,000,000 shall be treated as an expense under section 5 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 105).

(D) Funds provided for the Daniels Creek replacement pipeline may be expended so as to integrate such pipeline with the Wasatch County conservation measures provided for in section 207(e)(2) and the Wasatch County Water Efficiency Project authorized in section 202(a)(3).

(c) STREAM FLOWS IN THE BONNEVILLE UNIT.—The yield and operating plans for the Bonneville Unit of the Central Utah Project shall be established or adjusted to provide for the following minimum stream flows, which flows shall be provided continuously and in perpetuity from the date first feasible, as determined by

the Commission in consultation with the United States Fish and Wildlife Service and the Utah State Division of Wildlife Resources:

(1) In the Diamond Fork River drainage subsequent to completion of the Monks Hollow Dam or other structure that rediverts water from the Diamond Fork River Drainage into the Diamond Fork component of the Bonneville Unit of the Central Utah Project—

(A) in Sixth Water Creek, from the exit of Strawberry Valley Tunnel to the Last Chance Powerplant and Switchyard, not less than thirty-two cubic feet per second during the months of May through October and not less than twenty-five cubic feet per second during the months of November through April, and

(B) in the Diamond Fork River, from the bottom of the Monks Hollow Dam to the Spanish Fork River, not less than eighty cubic feet per second during the months of May through September and not less than sixty cubic feet per second during the months of October through April, which flows shall be provided by the Bonneville Unit of the Central Utah Project.

(2) In the Provo River from the base of Jordanelle Dam to Deer Creek Reservoir a minimum of one hundred and twenty-five cubic feet per second.

(3) In the Provo River from the confluence of Deer Creek and the Provo River to the Olmsted Diversion a minimum of one hundred cubic feet per second.

(4) Upon the acquisition of the water rights in the Provo Drainage identified in section 302, in the Provo River from the Olmsted Diversion to Utah Lake, a minimum of seventy-five cubic feet per second.

(5) In the Strawberry River, from the base of Starvation Dam to the confluence with the Duchesne River, a minimum of fifteen cubic feet per second.

(d) MITIGATION OF EXCESSIVE FLOWS IN THE PROVO RIVER.—The District shall, with public involvement, prepare and conduct a study and develop a plan to mitigate the effects of peak season flows in the Provo River. Such study and plan shall be developed in consultation with the Fish and Wildlife Service, the Utah Division of Water Rights, the Utah Division of Wildlife Resources, affected water right holders and users, the Commission, and the Bureau. The study and plan shall discuss and be based upon, at a minimum, all mitigation and conservation opportunities identified through—

(1) a fishery and recreational use study that addresses anticipated peak flows;

(2) study of the mitigation and conservation opportunities possible through habitat or stream bed modification;

(3) study of the mitigation and conservation opportunities associated with the operating agreements referred to in section 209;

(4) study of the mitigation and conservation opportunities associated with the water acquisitions contemplated by section 302;

(5) study of the mitigation and conservation opportunities associated with section 202(2);

(6) study of the mitigation and conservation opportunities available in connection with water right exchanges; and

(7) study of the mitigation and conservation opportunities that could be achieved by construction of a bypass flowline from the base of Deer Creek Reservoir to the Olmsted Diversion.

(e) EARMARK.—Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only for the implementation of subsection (d).

(f) STRAWBERRY VALLEY TUNNEL.—(1) Upon completion of the Diamond Fork System, the Strawberry Tunnel shall not be used except for deliveries of water for the instream purposes specified in subsection (c). All other waters for the Bonneville Unit and Strawberry Valley Reclamation Project purposes shall be delivered through the Diamond Fork System.

(2) Paragraph (1) shall not apply during any time in which the District, in consultation with the Commission, has determined that the Syar Tunnel or the Sixth Water Aqueduct is rendered unusable or emergency circumstances require the use of the Strawberry Valley Tunnel for the delivery of contracted Central Utah Project water and Strawberry Valley Reclamation Project water.

SEC. 304. FISH, WILDLIFE, AND RECREATION PROJECTS IDENTIFIED OR PROPOSED IN THE 1988 DEFINITE PLAN REPORT FOR THE CENTRAL UTAH PROJECT.

The fish, wildlife, and recreation projects identified or proposed in the 1988 Definite Plan Report which have not been completed as of the date of enactment of this Act shall be completed in accordance with the 1988 Definite Plan Report and the schedule specified in section 315, unless otherwise provided in this Act.

SEC. 305. WILDLIFE LANDS AND IMPROVEMENTS.

(a) ACQUISITION OF RANGELANDS.—In addition to lands acquired on or before the date of enactment of this Act and in addition to the acreage to be acquired in accordance with the 1988 Definite Plan Report, the Commission shall acquire on an expedited basis from willing sellers, in accordance with the schedule specified in section 315 and a plan to be developed by the Commission, big game winter range lands to compensate for the impacts of Federal reclamation projects in Utah. Such lands shall be transferred to the Utah Division of Wildlife Resources or, for such parcels as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency, for management as a big game winter range. In the case of such transfers, lands acquired within the boundaries of a national forest shall be administered by the Secretary of Agriculture as a part of the National Forest System. Of the amounts authorized to be appropriated by section 201, $1,300,000 shall be available only for the purposes of this subsection.

(b) BIG GAME CROSSINGS AND WILDLIFE ESCAPE RAMPS.—In addition to the measures to be taken in accordance with the 1988 Definite Plan Report, the Commission shall construct big game crossings and wildlife escape ramps for the protection of big game animals along the Provo Reservoir Canal, Highline Canal, Strawberry Power Canal, and others. Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for the purposes of this subsection.

SEC. 306. WETLANDS ACQUISITION, REHABILITATION, AND ENHANCEMENT.

(a) WETLANDS AROUND THE GREAT SALT LAKE.—Of the amounts authorized to be appropriated by section 201, $14,000,000 shall be available only for the planning and implementation of projects to preserve, rehabilitate, and enhance wetland areas around the Great Salt Lake in accordance with a plan to be developed by the Commission.

(b) INVENTORY OF SENSITIVE SPECIES AND ECOSYSTEMS.—(1) The Commission shall, in cooperation with the Utah Division of Wildlife Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive nongame wildlife species and their habitats.

(2) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only to carry out paragraph (1) of this section.

(3) The Commission shall, in cooperation with the Utah Department of Natural Resources and other appropriate State and Federal agencies, inventory, prioritize, and map the occurrences in Utah of sensitive plant species and ecosystems.

(4) Of the amounts authorized to be appropriated by section 201, $750,000 shall be available for the Utah Natural Heritage Program only to carry out paragraph (3) of this section.

(c) UTAH LAKE WETLANDS PRESERVE.—(1) The Commission, in consultation with the Utah Division of Wildlife Resources and the United States Fish and Wildlife Service, shall, in accordance with paragraph (9), acquire private land, water rights, conservation easements, or other interests therein, necessary for the establishment of a wetlands preserve adjacent to or near the Goshen Bay and Benjamin Slough areas of Utah Lake as depicted on a map entitled "Utah Lake Wetland Preserve" and dated September 1990. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia.

Contracts.

(2) The Secretary shall enter into an agreement under which the Wetlands Preserve acquired under paragraph (1) shall be managed by the Utah Division of Wildlife Resources pursuant to a plan developed in consultation with the Secretary and in accordance with this Act and the substantive requirements of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.).

(3) The Wetlands Preserve shall be managed for the protection of migratory birds, wildlife habitat, and wetland values in a manner compatible with the surrounding farmlands, orchards, and agricultural production area. Grazing will be allowed for wildlife habitat management purposes in accordance with the Act referenced in paragraph (2) and as determined by the Division to be compatible with the purposes stated herein.

(4) Nothing in this subsection shall restrict traditional agricultural practices (including the use of pesticides) on adjacent properties not included in the preserve by acquisition or easement.

(5) Nothing in this subsection shall affect existing water rights under Utah State law.

(6) Nothing in this subsection shall grant authority to the Secretary to introduce a federally protected species into the wetlands preserve.

(7) The creation of this preserve shall not in any way interfere with the operation of the irrigation and drainage system authorized by section 202(a)(1).

(8) All water rights not appurtenant to the lands purchased for the Wetlands Preserve acquired under paragraph (1) shall be purchased from the District at an amount not to exceed the cost of the District in acquiring such rights.

(9) Of the amounts authorized to be appropriated by section 201, $16,690,000 shall be available for acquisition of the lands, water rights, and other interests therein described in paragraph (1) of this subsection for the establishment of the Utah Lake Wetland Preserve.

(10) Lands, easements, or water rights may not be acquired pursuant to this subsection without the consent of the owner of such lands or water rights.

(11) Base property of a lessee or permittee (and the heirs of such lessee or permittee) under a Federal grazing permit or lease held on the date of enactment of this Act shall include any land of such lessee or permittee acquired by the Commission under this subsection.

(d) PROVO BAY.—In order to protect wetland habitat, the United States shall not issue any Federal permit which allows commercial, industrial, or residential development on the southern portion of Provo Bay in Utah Lake, as described herein and depicted on a map dated October 11, 1990, except that recreational development consistent with wildlife habitat values shall be permitted. The southern portion of Provo Bay referred to in this subsection shall be that area extending two thousand feet out into the Bay from the ordinary high water line on the south shore of Provo Bay, beginning at a point at the mouth of the Spanish Fork River and extending generally eastward along the ordinary high water line to the intersection of such line with the Provo City limit, as it existed as of October 10, 1990, on the east shore of the Bay. Such a map shall be on file and available for inspection in the office of the Secretary of the Interior, Washington, District of Columbia. Nothing in this Act shall restrict present or future development of the Provo City Airport or airport access roads along the north side of Provo Bay.

SEC. 307. FISHERIES ACQUISITION, REHABILITATION, AND ENHANCEMENT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for fisheries acquisition, rehabilitation, and improvement within the State:

(1) $750,000 for fish habitat restoration on the Provo River between the Jordanelle and Deer Creek Reservoirs.

(2) $4,000,000 for fish habitat restoration in streams impacted by Federal reclamation projects in Utah.

(3) $1,000,000 for the restoration of tributaries of the Strawberry Reservoir to assure trout spawning recruitment.

(4) $1,500,000 for post-treatment management and fishery development costs at the Strawberry Reservoir.

(5) $1,000,000 for (A) a study to be conducted as directed by the Commission to determine the appropriate means for

improving Utah Lake as a warm water fishery and other related issues; and

(B) development of facilities and programs to implement management objectives.

(6) $1,000,000 for fish habitat restoration and improvements in the Diamond Fork River and Sixth Water Creek drainages.

(7) $475,000 for the restoration of native cutthroat trout populations in streams and lakes in the Bonneville Unit project area.

(8) $2,500,000 for watershed restoration and improvements, erosion control, and wildlife habitat restoration and improvements in the Avintaquin, Red, and Currant Creek drainages and other Strawberry River drainages affected by the development of Federal reclamation projects in Utah.

SEC. 308. STABILIZATION OF HIGH MOUNTAIN LAKES IN THE UINTA MOUNTAINS.

(a) REVISION OF PLAN.—The project plan for the stabilization of high mountain lakes in the Upper Provo River drainage shall be revised to require that the following lakes will be stabilized at levels beneficial for fish habitat and recreation: Big Elk, Crystal, Duck, Fire, Island, Long, Wall, Marjorie, Pot, Star, Teapot, and Weir. Overland access by vehicles or equipment for stabilization and irrigation purposes under this subsection shall be minimized within the Lakes Management Area boundary, as depicted on the map in the Wasatch-Cache National Forest Plan (p. IV–166, dated 1987), to a level of practical necessity.

(b) COSTS OF REHABILITATION.—(1) The costs of rehabilitating water storage features at Trial, Washington, and Lost Lakes, which are to be used for project purposes, shall be borne by the project from amounts made available pursuant to section 201. Existing roads may be used for overland access to carry out such rehabilitation.

(2) The costs of stabilizing each of the lakes referred to in subsection (a) which is to be used for a purpose other than irrigation shall be treated as an expense under section 8.

(c) FISH AND WILDLIFE HABITAT.—Of the amounts authorized to be appropriated by section 201, $5,000,000 shall be available only for stabilization and fish and wildlife habitat restoration in the lakes referred to in subsection (a). This amount shall be in addition to the $7,538,000 previously authorized for appropriation under section 5 of the Act of April 11, 1956 (43 U.S.C. 620g) for the stabilization and rehabilitation of the lakes described in this section.

SEC. 309. STREAM ACCESS AND RIPARIAN HABITAT DEVELOPMENT.

(a) IN GENERAL.—Of the amounts authorized to be appropriated by section 201, the following amounts shall be in addition to amounts available under the 1988 Definite Plan Report and shall be available only for stream access and riparian habitat development in the State:

(1) $750,000 for rehabilitation of the Provo River riparian habitat development between Jordanelle Reservoir and Utah Lake.

(2) $250,000 for rehabilitation and development of watersheds and riparian habitats along Diamond Fork and Sixth Water Creek.

(3) $350,000 for additional watershed stabilization, terrestrial wildlife and riparian habitat improvements, and road closures within the Central Utah Project area.

(4) $8,500,000 for the acquisition of additional recreation and angler accesses and riparian habitats, which accesses and habitats shall be acquired in accordance with the recommendation of the Commission.

(b) STUDY OF IMPACT TO WILDLIFE AND RIPARIAN HABITATS WHICH EXPERIENCE REDUCED WATER FLOWS AS A RESULT OF THE STRAWBERRY COLLECTION SYSTEM.—Of the amounts authorized to be appropriated by section 201, $400,000 shall be available only for the Commission to conduct a study of the impacts to soils and riparian fish and wildlife habitat in drainages that will experience substantially reduced water flows resulting from the operation of the Strawberry Collection System. The study shall identify mitigation opportunities that represent alternatives to increasing stream flows and make recommendations to the Commission.

SEC. 310. SECTION 8 EXPENSES.

(a) Unless otherwise expressly provided, all of the amounts authorized to be appropriated by this Act and listed in subsection (b) of this section shall be treated as expenses under section 8.

(b) The sections referred to in subsection (a) of this section are as follows: title III, and section 402(b)(2).

SEC. 311. JORDAN AND PROVO RIVER PARKWAYS AND NATURAL AREAS.

(a) FISHERIES.—Of the amounts authorized to be appropriated by section 201, $1,150,000 shall be available only for fish habitat improvements to the Jordan River.

(b) RIPARIAN HABITAT REHABILITATION.—Of the amounts authorized to be appropriated by section 201, $750,000 shall be available only for Jordan River riparian habitat rehabilitation, which amount shall be in addition to amounts available under the 1988 Definite Plan Report.

(c) WETLANDS.—Of the amounts authorized to be appropriated by section 201, $7,000,000 shall be available only for the acquisition of wetland acreage, including those along the Jordan River identified by the multi-agency technical committee for the Jordan River Wetlands Advance Identification Study.

(d) RECREATIONAL FACILITIES.—(1) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Salt Lake County proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).

(2) Of the amounts authorized to be appropriated by section 201, $500,000 shall be available only to construct recreational facilities within Utah and Wasatch Counties proposed by the State of Utah for the "Provo/Jordan River Parkway", a description of which is set forth in the report to accompany the bill H.R. 429 (S. Rept. 102–267).

(e) PROVO RIVER CORRIDOR.—Of the amounts authorized to be appropriated by section 201, $1,000,000 shall be available only for riparian habitat acquisition and preservation, stream habitat improvements, and recreation and angler access provided on a willing seller basis along the Provo River from the Murdock diver-

sion to Utah Lake, as determined by the Commission after consultation with local officials.

SEC. 312. RECREATION.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available to the Commission only for Central Utah Project recreation features:

(a) $2,000,000 for Utah Lake recreational improvements as proposed by the State and local governments.

(b) $750,000 for additional recreation improvements, which shall be made in accordance with recommendations made by the Commission, associated with Central Utah Project features and affected areas, including camping facilities, hiking trails, and signing.

SEC. 313. FISH AND WILDLIFE FEATURES IN THE COLORADO RIVER STORAGE PROJECT.

Of the amounts authorized to be appropriated by section 201, the following amounts shall be available only to provide mitigation and restoration of watersheds and fish and wildlife resources in Utah impacted by the Colorado River Storage Project:

(a) HABITAT IMPROVEMENTS IN CERTAIN DRAINAGES.—$1,125,000 shall be available only for watershed and fish and wildlife improvements in the Fremont River drainage, which shall be expended in accordance with a plan developed by the Commission in consultation with the Wayne County Water Conservancy District.

(b) SMALL DAMS AND WATERSHED IMPROVEMENTS.—$4,000,000 shall be available only for land acquisition for the purposes of watershed restoration and protection in the Albion Basin in the Wasatch Mountains and for restoration and conservation related improvements to small dams and watersheds on State of Utah lands and National Forest System lands within the Central Utah Project and the Colorado River Storage Project area in Utah, which amounts shall be expended in accordance with a plan developed by the Commission.

(c) FISH HATCHERY PRODUCTION.—$22,800,000 shall be available only for the planning and implementation of improvements to existing hatchery facilities or the construction and development of new fish hatcheries to increase production of warmwater and coldwater fishes for the areas affected by the Colorado River Storage Project in Utah. Such improvements and construction shall be implemented in accordance with a plan identifying the long-term needs and management objectives for hatchery production prepared by the United States Fish and Wildlife Service, in consultation with the Utah Division of Wildlife Resources, and adopted by the Commission. The cost of operating and maintaining such new or improved facilities shall be borne by the Secretary.

SEC. 314. CONCURRENT MITIGATION APPROPRIATIONS.

Notwithstanding any other provision of this Act, the Secretary is directed to allocate funds appropriated for each fiscal year pursuant to titles II through IV of this Act as follows:

(a) Deposit the Federal contribution to the Account authorized in section 402(b)(2).

(b) Of any remaining funds, allocate the amounts available for implementation of the mitigation and conservation projects and features specified in the schedule in section 315 concur-

rently with amounts available for implementation of title II of this Act.

(c) Of the amounts allocated for implementation of the mitigation and conservation projects and features specified in the schedule in section 315, three percent of the total shall be used by the Secretary to fulfill subsections (d) and (e) of this section.

(d) The Secretary shall use the sums identified in subsection (c) outside the State of Utah to:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Federal Reclamation program;

(2) acquire, from willing sellers only, other lands and properties, including water rights, or appropriate interests therein, with restorable damaged natural ecosystems, and restore such ecosystems;

(3) provide jobs and sustainable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training, and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties or appropriate interests therein where repair of compositional, structural, and functional values will:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities, and ecosystems that are unable to survive on-site without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna that are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl, and other wildlife;

(6) provide additional conservation values to State and local government lands;

(7) add to structural and compositional values of existing ecological preserves or enhance the viability, defensibility, and manageability of ecological preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation, and other water quality improvement capacity.

SEC. 315. FISH, WILDLIFE, AND RECREATION SCHEDULE.

The mitigation and conservation projects and features shall be implemented in accordance with the following schedule:

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Instream flows:				
1.a. Lease of Daniels Creek water rights	$500	$500	$0	$0
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$10,000	$10,000	$0	$0
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$15,000	$5,000	$5,000	5,000
b. Modify or replace diversion structures on Provo River from Murdock Diversion to Utah Lake [Sec. 302]	$4,000	$500	$1,500	$1,500
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$500	$100	$100	$100
Subtotal	$30,000	$16,100	$6,600	$6,600
	FY96	FY97	FY98	
Instream flows:				
1.a. Lease of Daniels Creek water rights	$0	$0	$0	
b. Acquisition of Daniels Creek water rights to restore Upper Strawberry River flows and the Daniels Creek replacement pipeline ($3,500,000 shall be treated as section 8) [Sec. 303(b)]	$0	$0	$0	
2.a. Acquisition of 25,000 AF on Provo River for streamflows from Murdock Diversion to Utah Lake [Sec. 302]	$0	$0	$0	
b. Modify or replace diversion structures on Provo River from Murdock Diverasion to Utah Lake [Sec. 302]	$500	$0	$0	
3. Study and mitigation plan for excessive flows in the Provo River [Sec. 303(d)]	$100	$100	$0	
Subtotal	$600	$100	$0	
	TOTAL	FY93	FY94	FY95
Wildlife lands and improvement:				
1. Acquisition of big game winter range [Sec. 305(a)]	$1,300	$0	$100	$200
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$750	$0	$0	$250
Subtotal	$2,050	$0	$100	$450
	FY96	FY97	FY98	
Wildlife lands and improvement:				
1. Acquisition of big game winter range [Sec. 305(a)]	$500	$500	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
2. Construction of big game crossings and escape ramps—Provo Res. Canal, Highline Canal, Strawberry Power Canal or others [Sec. 305(b)]	$250	$250	$0	
Subtotal	$750	$750	$0	
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development:				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$14,000	$1,000	$2,600	$2,600
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$7,000	$300	$1,200	$1,500
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$1,500	$250	$250	$250
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 306(c)(9)]	$16,690	$1,690	$3,000	$3,000
Subtotal	$39,190	$3,240	$7,050	$7,350
	FY96	FY97	FY98	
Wetland acquisition, rehabilitation, and development:				
1. Rehabilitation & enhancement of wetlands around Great Salt Lake [Sec. 306(a)]	$2,600	$2,600	$2,600	
2. Wetland acquisition along the Jordan River [Sec. 311(c)]	$2,000	$2,600	$0	
3. Inventory of sensitive species and ecosystems [Sec. 306(b)]	$250	$250	$250	
4. Acquisition of lands, waters, and interests for Utah Lake Wetland Preserve [Sec. 303(c)(9)]	$3,000	$3,000	$3,000	
Subtotal	$7,850	$7,850	$5,850	
	TOTAL	FY93	FY94	FY95
Fisheries acquisition and restoration:				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$750	$50	$0	$100
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$4,000	$0	$400	$600
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$1,000	$200	$200	$200
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$1,500	$300	$300	$300
5. Study and facilitate development to improve Utah Lake warm-water fishery [Sec. 307(5)]	$1,000	$150	$150	$200

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$1,000	$0	$0	$0
7. Restoration of native cutthroat trout populations [Sec. 307(7)] ...	$475	$50	$50	$75
8. Fish habitat improvements to the Jordan River [Sec. 311(a)] ...	$1,150	$0	$0	$100
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$5,000	$0	$0	$0
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$22,800	$100	$3,500	$4,200
Subtotal	$38,675	$850	$4,600	$5,775
	FY96	FY97	FY98	
Fisheries acquisition and restoration:				
1. Fish habitat restoration on Provo River between Jordanelle Dam and Deer Creek Reservoir [Sec. 307(1)]	$200	$200	$200	
2. Fish habitat improvements to streams impacted by Federal reclamation projects in Utah [Sec. 307(2)]	$1,000	$1,000	$1,000	
3. Rehabilitation of tributaries to Strawberry Reservoir for trout reproduction [Sec. 307(3)]	$200	$200	$0	
4. Strawberry Reservoir post-treatment management and development [Sec. 307(4)]	$300	$300	$0	
5. Study and facilitate development to improve Utah Lake warmwater fishery [Sec. 307(5)]	$150	$150	$200	
6. Fish habitat improvements to Diamond Fork and Sixth Water Creek drainages [Sec. 307(6)]	$100	$500	$400	
7. Restoration of native cutthroat trout populations [Sec. 307(7)] ...	$100	$100	$100	
8. Fish habitat improvements to the Jordan River [Sec. 311(a)] ...	$300	$400	$350	
9. Stabilization of Upper Provo River reservoirs for fishery improvement [Sec. 308]	$500	$2,000	$2,500	
10. Development of additional fish hatchery production for CRSP waters in Utah [Sec. 313]	$5,000	$5,000	$5,000	
Subtotal	$7,850	$9,850	$9,750	
	TOTAL	FY93	FY94	FY95
Watershed improvements:				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$2,500	$0	$500	$500
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$1,125	$125	$200	$200

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$4,000	$500	$700	$700
Subtotal	$7,625	$625	$1,400	$1,400
	FY96	FY97	FY98	
Watershed Improvements:				
1. Projects for watershed improvement, erosion control, wildlife range improvements in Avintaquin Cr, Red Cr, Currant Cr and other drainages [Sec. 307(8)]	$500	$500	$500	
2. Watershed, stream and riparian improvements in Fremont River drainage [Sec. 313(a)]	$200	$200	$200	
3. Small dam and watershed improvements in the CRSP area in Utah [Sec. 313(b)]	$700	$700	$700	
Subtotal	$1,400	$1,400	$1,400	
	TOTAL	FY93	FY94	FY95
Stream Access and Riparian Habitat Development:				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$750	$0	$250	$250
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$250	$0	$0	$50
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$350	$0	$0	$50
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$8,500	$500	$1,000	$1,500
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$400	$50	$75	$75
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$750	$75	$75	$150
Subtotal	$11,000	$625	$1,400	$2,075
	FY96	FY97	FY98	
Stream Access and Riparian Habitat Development:				
1. Rehabilitation of riparian habitat along Provo River from Jordanelle Dam to Utah Lake [Sec. 309(a)(1)]	$250	$0	$0	
2. Restoration of watersheds and riparian habitats in the Diamond Fork and Sixth Water Creek drainages [Sec. 309(a)(2)]	$100	$100	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
3. Watershed stabilization, terrestrial wildlife habitat improvements and road closures [Sec. 309(a)(3)]	$100	$100	$100	
4. Acquisition of angler and other recreational access, in addition to the 1988 DPR [Sec. 309(a)(4)]	$1,500	$2,000	$2,000	
5. Study of riparian impacts caused by CUP from reduced streamflows, and identify mitigation opportunities [Sec. 309(b)]	$75	$75	$50	
6. Riparian rehabilitation and development along Jordan River [Sec. 311(b)]	$150	$150	$150	
Subtotal	$2,175	$2,425	$2,300	
	TOTAL	FY93	FY94	FY95
Recreation funds:				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$2,000	$125	$275	$400
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$750	$50	$100	$150
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$1,000	$0	$75	$75
4. Provo River corridor development [Sec. 311(e)]	$1,000	$0	$75	$75
Subtotal	$4,750	$175	$525	$700
Total Additional	$133,290	$21,615	$21,675	$24,350
	FY96	FY97	FY98	
Recreation funds:				
1. Recreational improvements at Utah Lake [Sec. 312(a)]	$400	$400	$400	
2. Recreation facilities at other CUP features, as recommended [Sec. 312(b)]	$150	$150	$150	
3. Provo/Jordan River Parkway Development [Sec. 311(d)]	$200	$300	$350	
4. Provo River corridor development [Sec. 311(e)]	$200	$300	$350	
Subtotal	$950	$1,150	$1,250	
Total Additional	$21,575	$23,525	$20,550	
Strawberry collection system:				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$2,700	$900	$900	$900
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$3,990	$666	$803	$790
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$3,000	$600	$600	$600
Subtotal	$9,690	$3,966	$1,403	$1,390

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
	FY96	FY97	FY98	
Strawberry collection system:				
1. Acquire angler access on about 35 miles of streams identified in the Aquatic Mitigation Plan	$0	$0	$0	
2. Construct fish habitat improvements on about 70 miles of streams as identified in the Aquatic Mitigation Plan	$453	$604	$674	
3. Rehabilitation of Strawberry Project wildlife and riparian habitats	$600	$600	$0	
Subtotal	$1,053	$1,204	$674	
	TOTAL	FY93	FY94	FY95
Duchesne canal rehabilitation:				
1. Acquire and develop 782 acres along Duchesne River	$160	$160	$0	$0
Subtotal	$160	$160	$0	$0
	FY96	FY97	FY98	
Duchesne canal rehabilitation:				
1. Acquire and develop 782 acres along Duchesne River	$0	$0	$0	
Subtotal	$0	$0	$0	
	TOTAL	FY93	FY94	FY95
Municipal and industry system:				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$226	$100	$126	$0
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$1,050	$525	$525	$0
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$900	$900	$0	$0
Subtotal	$2,176	$1,525	$651	$0
Total DPR	$12,026	$5,651	$2,054	$1,390
Grand Total	$145,316	$27,266	$23,729	$25,740
	FY96	FY97	FY98	
Municipal and industry system:				
1. Fence and develop big game on north shoreline of Jordanelle Reservoir	$0	$0	$0	
2. Acquire angler access to entire reach of Provo River from Jordanelle Dam to Deer Creek Reservoir	$0	$0	$0	
3. Acquire and develop 100 acres of wetland at base of Jordanelle Dam	$0	$0	$0	
Subtotal	$0	$0	$0	

FISH, WILDLIFE, AND RECREATION MITIGATION AND CONSERVATION SCHEDULE—Continued

I. BUDGET TO IMPLEMENT ADDITIONAL RECLAMATION MITIGATION

Projects and Features	Appropriations (Thousands of 1990 Dollars)			
	TOTAL	FY93	FY94	FY95
Total DPR	$1,053	$1,204	$674	
Grand Total	$22,628	$24,729	$21,224	

TITLE IV—UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT

SEC. 401. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the State of Utah is a State in which one of the largest trans-basin water diversions occurs, dewatering important natural areas as a result of the Colorado River Storage Project;

(2) the State of Utah is one of the most ecologically significant States in the Nation, and it is therefore important to protect, mitigate, and enhance sensitive species and ecosystems through effective long-term mitigation;

(3) the challenge of mitigating the environmental consequences associated with trans-basin water diversions are complex and involve many projects and measures (some of which are presently unidentifiable) and the costs for which will continue after projects of the Colorado River Storage Project in Utah are completed; and

(4) environmental mitigation associated with the development of the projects of the Colorado River Storage Project in the State of Utah are seriously in arrears.

(b) PURPOSES.—The purpose of this title is to establish an ongoing account to ensure that—

(1) the level of environmental protection, mitigation, and enhancement achieved in connection with projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah is preserved and maintained;

(2) resources are available to manage and maintain investments in fish and wildlife and recreation features of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah;

(3) resources are available to address known environmental impacts of the projects identified in this Act and elsewhere in the Colorado River Storage Project in the State of Utah for which no funds are being specifically authorized for appropriation and earmarked under this Act; and

(4) resources are available to address presently unknown environmental needs and opportunities for enhancement within the areas of the State of Utah affected by the projects identified in this Act and elsewhere in the Colorado River Storage Project.

SEC. 402. UTAH RECLAMATION MITIGATION AND CONSERVATION ACCOUNT.

(a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States a Utah Reclamation Mitigation and Conservation Account (hereafter in this title referred to as the

"Account"). Amounts in the Account shall be available for the purposes set forth in section 401(b).

(b) DEPOSITS INTO THE ACCOUNT.—Amounts shall be deposited into the Account as follows:

(1) STATE CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, a voluntary contribution of $3,000,000 from the State of Utah.

(2) FEDERAL CONTRIBUTIONS.—In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete, whichever occurs first, $5,000,000 from amounts authorized to be appropriated by section 201, which shall be treated as an expense under section 8.

(3) CONTRIBUTIONS FROM PROJECT BENEFICIARIES.—(A) In each of fiscal years 1994 through 2001, or until the fiscal year in which the project is declared substantially complete in accordance with this Act, whichever occurs first, $750,000 in non-Federal funds from the District.

(B) $5,000,000 annually by the Secretary of Energy out of funds appropriated to the Western Area Power Administration, such expenditures to be considered nonreimbursable and nonreturnable.

(C) The annual contributions described in subparagraphs (A) and (B) shall be increased proportionally on March 1 of each year by the same percentage increase during the previous calendar year in the Consumer Price Index for urban consumers, published by the Department of Labor.

(4) INTEREST AND UNEXPENDED FUNDS.—(A) Any amount authorized and earmarked for fish, wildlife, or recreation expenditures which is appropriated but not obligated or expended by the Commission upon its termination under section 301.

(B) All funds annually appropriated to the Secretary for the Commission.

(C) All interest earned on amounts in the Account.

(D) Amounts not obligated or expended after the completion of a construction project and available pursuant to section 301(j).

(c) OPERATION OF THE ACCOUNT.—(1) All funds deposited as principal in the Account shall earn interest in the amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities. Such interest shall be added to the principal of the Account until completion of the projects and features specified in the schedule in section 315. After completion of such projects and features, all interest earned on amounts remaining in or deposited to the principal of the Account shall be available to the Commission pursuant to subsection (c)(2) of this section.

(2) The Commission is authorized to administer and expend without further authorization and appropriation by Congress all sums deposited into the Account pursuant to subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B), as well as interest not deposited to the principal of the Account pursuant to paragraph (1) of this subsection. The Commission may elect to deposit funds not expended

under subsections (b)(4)(D), (b)(3)(A), and (b)(3)(B) into the Account as principal.

(3) All amounts deposited in the Account pursuant to subsections (b) (1) and (2), and any amount deposited as principal under paragraphs (c)(1) and (c)(2), shall constitute the principal of the Account. No part of the principal amount may be expended for any purpose.

(d) ADMINISTRATION BY THE UTAH DIVISION OF WILDLIFE RESOURCES.—(1) After the date on which the Commission terminates under section 301, the Utah Division of Wildlife Resources or its successor shall receive—

(A) all amounts contributed annually to the Account pursuant to section 402(b)(3)(B); and

(B) all interest on the principal of the Account, at the beginning of each year. The portion of the interest earned on the principal of the Account that exceeds the amount required to increase the principal of the Account proportionally on March 1 of each year by the percentage increase during the previous calendar year in the Consumer Price Index for urban consumers published by the Department of Labor, shall be available for expenditure by the Division in accordance with this section.

(2) The funds received by the Utah Division of Wildlife Resources under paragraph (1) shall be expended in a manner that fulfills the purposes of the Account established under this Act, in consultation with and pursuant to, a conservation plan and amendments thereto to be developed by the Utah Division of Wildlife Resources, in cooperation with the United States Forest Service, the Bureau of Land Management of the Department of the Interior, and the United States Fish and Wildlife Service.

(3) The funds to be distributed from the Account shall not be applied as a substitute for funding which would otherwise be provided or available to the Utah Division of Wildlife Resources.

(e) AUDIT BY INSPECTOR GENERAL.—The financial management of the Account shall be subject to audit by the Inspector General of the Department of the Interior.

TITLE V—UTE INDIAN RIGHTS SETTLEMENT

SEC. 501. FINDINGS.

(a) FINDINGS.—The Congress finds the following—

(1) the unquantified Federal reserved water rights of the Ute Indian Tribe are the subject of existing claims and prospective lawsuits involving the United States, the State, and the District and numerous other water users in the Uinta Basin. The State and the Tribe negotiated, but did not implement, a compact to quantify the Tribe's reserved water rights.

(2) There are other unresolved Tribal claims arising out of an agreement dated September 20, 1965, where the Tribe deferred development of a portion of its reserved water rights for 15,242 acres of the Tribe's Group 5 Lands in order to facilitate the construction of the Bonneville Unit of the Central Utah Project. In exchange the United States undertook to develop substitute water for the benefit of the Tribe.

(3) It was intended that the Central Utah Project, through construction of the Upalco and Uintah Units (Initial Phase) and the Ute Indian Unit (Ultimate Phase) would provide water

for growth in the Uinta Basin and for late season irrigation for both the Indians and non-Indian water users. However, construction of the Upalco and Uintah Units has not been undertaken, in part because the Bureau was unable to find adequate and economically feasible reservoir sites. The Ute Indian Unit has not been authorized by Congress, and there is no present intent to proceed with Ultimate Phase construction.

(4) Without the implementation of the plans to construct additional storage in the Uinta Basin, the water users (both Indian and non-Indian) continue to suffer water shortages and resulting economic decline.

(b) PURPOSE.—This Act and the proposed Revised Ute Indian Compact of 1990 are intended to—

(1) quantify the Tribe's reserved water rights;

(2) allow increased beneficial use of such water; and

(3) put the Tribe in the same economic position it would have enjoyed had the features contemplated by the September 20, 1965 Agreement been constructed.

SEC. 502. PROVISIONS FOR PAYMENT TO THE UTE INDIAN TRIBE.

(a) BONNEVILLE UNIT TRIBAL CREDITS.—(1) Commencing one year after the date of enactment of this Act, and continuing for fifty years, the Tribe shall receive from the United States 26 percent of the annual Bonneville Unit municipal and industrial capital repayment obligation attributable to thirty-five thousand five hundred acre-feet of water, which represents a portion of the Tribe's water rights that were to be supplied by storage from the Central Utah Project, but will not be supplied because the Upalco and Uintah units are not to be constructed.

(2)(A) Commencing in the year 2042, the Tribe shall collect from the District 7 percent of the then fair market value of thirty-five thousand five hundred acre-feet of Bonneville Unit agricultural water which has been converted to municipal and industrial water. The fair market value of such water shall be recalculated every five years.

(B) In the event thirty-five thousand five hundred acre-feet of Bonneville Unit converted agricultural water to municipal and industrial have not yet been marketed as of the year 2042, the Tribe shall receive 7 percent of the fair market value of the first thirty-five thousand five hundred acre-feet of such water converted to municipal and industrial water. The monies received by the Tribe under this title shall be utilized by the Tribe for governmental purposes, shall not be distributed per capita, and shall be used to enhance the educational, social, and economic opportunities for the Tribe.

(b) BONNEVILLE UNIT TRIBAL WATERS.—The Secretary is authorized to make any unused capacity in the Bonneville Unit Strawberry Aqueduct and Collection System diversion facilities available for use by the Tribe. Unused capacity shall constitute capacity, only as available, in excess of the needs of the District for delivery of Bonneville Unit water and for satisfaction of minimum streamflow obligations established by this Act. In the event that the Tribe elects to place water in these components of the Bonneville Unit system, the Secretary and District shall only impose an operation and maintenance charge. Such charge shall commence at the time of the Tribe's use of such facilities. The operation

and maintenance charge shall be prorated on a per acre-foot basis, but shall only include the operation and maintenance costs of facilities used by the Tribe and shall only apply when the Tribe elects to use the facilities. As provided in the Ute Indian Compact, transfers of certain Indian reserved rights water to different lands or different uses will be made in accordance with the laws of the State of Utah governing change or exchange applications.

(c) ELECTION TO RETURN TRIBAL WATERS.—Notwithstanding the authorization provided for in subparagraph (b), the Tribe may at any time elect to return all or a portion of the water which it delivered under subparagraph (b) for use in the Uinta Basin. Any such Uinta Basin use shall protect the rights of non-Indian water users existing at the time of the election. Upon such election, the Tribe will relinquish any and all rights which it may have acquired to transport such water through the Bonneville Unit facilities.

SEC. 503. TRIBAL USE OF WATER.

(a) RATIFICATION OF REVISED UTE INDIAN COMPACT.—The Revised Ute Indian Compact of 1990, dated October 1, 1990, reserving waters to the Ute Indian Tribe and establishing the uses and management of such Tribal waters, is hereby ratified and approved, subject to re-ratification by the State and the Tribe. The Secretary is authorized to take all actions necessary to implement the Compact.

(b) THE INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Compact. Nothing in this subsection shall be considered to amend, construe, supersede or preempt any State law, Federal law, interstate compact or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development and storage, regulation, allocation, conservation, exportation or quality of those waters.

(c) RESTRICTION ON DISPOSAL OF WATERS INTO THE LOWER COLORADO RIVER BASIN.—None of the waters secured to the Tribe in the Revised Ute Indian Compact of 1990 may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin, below Lees Ferry, unless water rights within the Upper Colorado River Basin in the State of Utah held by non-Federal, non-Indian users could be so sold, exchanged, leased, used, or otherwise disposed of under Utah State law, Federal law, interstate compacts, or international treaty pursuant to a final, non-appealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact; *Provided, however,* That in no event shall such transfer of Indian water rights take place without the filing and approval of the appropriate applications with the Utah State Engineer pursuant to Utah State law.

(d) USE OF WATER RIGHTS.—The use of the rights referred to in subsection (a) within the State of Utah shall be governed solely as provided in this section and the Revised Compact referred to in section 503(a). The Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Revised Compact off the Uintah and Ouray Indian Reservation. If the Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a State

water right, but shall be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

(e) RULES OF CONSTRUCTION.—Nothing in titles II through VI of this Act or in the Revised Ute Indian Compact of 1990 shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservation;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any Tribal water right outside the State of Utah; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Utah.

SEC. 504. TRIBAL FARMING OPERATIONS.

Of the amounts authorized to be appropriated by section 501, $45,000,000 is authorized for the Secretary to permit the Tribe to develop over a three-year period—

(1) a seven thousand five hundred acre farming/feed lot operation equipped with satisfactory off-farm and on-farm water facilities out of tribally-owned lands and adjoining non-Indian lands now served by the Uintah Indian Irrigation Project;

(2) a plan to reduce the Tribe's expense on the remaining sixteen thousand acres of tribal land now served by the Uintah Indian Irrigation Project; and

(3) a fund to permit tribal members to upgrade their individual farming operations.

Any non-Indian lands acquired under this section shall be acquired from willing sellers and shall not be added to the reservation of the Tribe.

SEC. 505. RESERVOIR, STREAM, HABITAT AND ROAD IMPROVEMENTS WITH RESPECT TO THE UTE INDIAN RESERVATION.

(a) REPAIR OF CEDARVIEW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $5,000,000 shall be available to the Secretary, in cooperation with the Tribe, to repair the leak in Cedarview Reservoir in Dark Canyon, Duchesne County, Utah, so that the resultant surface area of the reservoir is two hundred and ten acres.

(b) RESERVATION STREAM IMPROVEMENTS.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe and in consultation with the Commission, to undertake stream improvements to not less than 53 linear miles (not counting meanders) for the Pole Creek, Rock Creek, Yellowstone River, Lake Fork River, Uinta River, and Whiterocks River, in the State of Utah. Nothing in this authorization shall increase the obligation of the District to deliver more than 44,400 acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flows in the Uinta Basin.

(c) BOTTLE HOLLOW RESERVOIR.—Of the amount authorized to be appropriated by section 201, $500,000 in an initial appropriation shall be available to permit the Secretary to clean the Bottle

Hollow Reservoir on the Ute Indian Reservation of debris and trash resulting from a submerged sanitary landfill, to remove all non-game fish, and to secure minimum flow of water to the reservoir to make it a suitable habitat for a cold water fishery. The United States, and not the Tribe, shall be responsible for cleanup and all other responsibilities relating to the presently contaminated Bottle Hollow waters.

(d) MINIMUM STREAM FLOWS.—As a minimum, the Secretary shall endeavor to maintain continuous releases into Rock Creek to maintain twenty-nine cubic feet per second during May through October and continuous releases into Rock Creek of twenty-three cubic feet per second during November through April, at the reservation boundary. Nothing in this authorization shall increase the obligation of the District to deliver more than forty-four thousand four hundred acre-feet of Central Utah Project water as its contribution to the preservation of minimum stream flow in the Uinta Basin.

(e) LAND TRANSFER.—The Bureau shall transfer 315 acres of land to the Forest Service, located at the proposed site of the Lower Stillwater Reservoir as a wildlife mitigation measure.

(f) RECREATION ENHANCEMENT.—Of the amount authorized to be appropriated by section 201, $10,000,000 shall be available for the Secretary, in cooperation with the Tribe, to permit the Tribe to develop, after consultation with the appropriate fish, wildlife, and recreation agencies, big game hunting, fisheries, campgrounds and fish and wildlife management facilities, including administration buildings and grounds on the Uintah and Ouray Reservation, in lieu of the construction of the Lower Stillwater Dam and related facilities.

(g) MUNICIPAL WATER CONVEYANCE SYSTEM.—Of the amounts authorized to be appropriated in section 201, $3,000,000 shall be available to the Secretary for participation by the Tribe in the construction of pipelines associated with the Duchesne County Municipal Water Conveyance System.

SEC. 506. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—Of the amount authorized to be appropriated by section 201, there is hereby established to be appropriated a total amount of $125,000,000 to be paid in three annual and equal installments to the Tribal Development Fund which the Secretary is authorized and directed to establish for the Tribe.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribe shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Fund, an adjustment representing the interest income as determined by the Secretary, in his sole discretion, that would have been earned on any unpaid amount.

(c) TRIBAL DEVELOPMENT.—The Tribe shall prepare a Tribal Development Plan for all or a part of this Tribal Development Fund. Such Tribal Development Plan shall set forth from time to time economic projects proposed by the Tribe which in the opinion of two independent financial consultants are deemed to be reasonable, prudent and likely to return a reasonable investment to the Tribe. The financial consultants shall be selected by the Tribe with the advice and consent of the Secretary. Principal from the Tribal Development Fund shall be permitted to be expended only

in those cases where the Tribal Development Plan can demonstrate with specificity a compelling need to utilize principal in addition to income for the Tribal Development Plan.

(d) No funds from the Tribal Development Fund shall be obligated or expended by the Secretary for any economic project to be developed or constructed pursuant to subsection (c) of this section, unless the Secretary has complied fully with the requirements of applicable fish, wildlife, recreation, and environmental laws, including the National Environmental Policy Act of 1969 (43 U.S.C. 4321 et seq.).

SEC. 507. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribe is authorized to waive and release claims concerning or related to water rights as described below.

(b) DESCRIPTION OF CLAIMS.—The Tribe shall waive, upon receipt of the section 504, 505, and 506 moneys, any and all claims relating to its water rights covered under the agreement of September 20, 1965, including claims by the Tribe that it retains the right to develop lands as set forth in the Ute Indian Compact and deferred in such agreement. Nothing in this waiver of claims shall prevent the Tribe from enforcing rights granted to it under this Act or under the Compact. To the extent necessary to effect a complete release of the claims, the United States concurs in such release.

(c) RESURRECTION OF CLAIMS.—In the event the Tribe does not receive on a timely basis the moneys described in section 502, the Tribe is authorized to bring an action for an accounting against the United States, if applicable, in the United States Claims Court for moneys owed plus interest at 10 percent, and against the District, if applicable, in the United States District Court for the District of Utah for moneys owed plus interest at 10 percent. The United States and the District waive any defense based upon sovereign immunity in such proceedings.

TITLE VI—ENDANGERED SPECIES ACT AND NATIONAL ENVIRONMENTAL POLICY ACT

Notwithstanding any provision of titles II through V of this Act, nothing in such titles shall be interpreted as modifying or amending the provisions of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

TITLE VII—LEADVILLE MINE DRAINAGE TUNNEL, COLORADO

SEC. 701. AUTHORIZATION.

The Secretary is authorized to construct, operate, and maintain a water treatment plant, including the disposal of sludge produced by said treatment plant as appropriate, and to install concrete lining on the rehabilitated portion of the Leadville Mine Drainage Tunnel, in order that water flowing from the Leadville Tunnel may meet water quality standards, and to contract with the Colorado Division of Wildlife to monitor concentrations of heavy metal contaminants in water, stream sediment, and aquatic life in the Arkansas River downstream of the water treatment plant.

SEC. 702. COSTS NONREIMBURSABLE.

Construction, operation, and maintenance costs of the works authorized by this title shall be nonreimbursable.

SEC. 703. OPERATION AND MAINTENANCE.

The Secretary shall be responsible for operation and maintenance of the water treatment plant, including sludge disposal authorized by this title. The Secretary may contract for these services.

SEC. 704. APPROPRIATIONS AUTHORIZED.

There is hereby authorized to be appropriated beginning October 1, 1989, for construction of a water treatment plant for water flowing from the Leadville Mine Drainage Tunnel, including sludge disposal, and concrete lining the rehabilitated portion of the tunnel, the sum of $10,700,000 (October 1988 price levels), plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the types of construction involved herein and, in addition thereto, such sums as may be required for operation and maintenance of the works authorized by this title, including but not limited to $1,250,000 which shall be for a program to be conducted by the Colorado Division of Wildlife to monitor heavy metal concentrations in water, stream sediment, and aquatic life in the Arkansas River.

SEC. 705. LIMITATION.

The treatment plant authorized by this title shall be designed and constructed to treat the quantity and quality of effluent historically discharged from the Leadville Mine Drainage Tunnel.

SEC. 706. DESIGN AND OPERATION NOTIFICATION.

Prior to the initiation of construction and during construction of the works authorized by section 701, the Secretary shall submit the plans for design and operation of the works to the Administrator of the Environmental Protection Agency and the State of Colorado to obtain their views on the design and operation plans. After such review and consultation, the Secretary shall notify the President pro tempore of the Senate and the Speaker of the House of Representatives that the discharge from the works to be constructed will meet the requirements set forth in Federal Facilities Compliance Agreement Number FFCA 89–1, entered into by the Bureau of Reclamation and the Environmental Protection Agency on February 7, 1989, and in National Pollutant Discharge Elimination System permit Number CO 0021717 issued to the Bureau of Reclamation in 1975 and reissued in 1979 and 1981.

SEC. 707. FISH AND WILDLIFE RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, to formulate and implement, subject to the terms of subsection (b) of this section, a program for the restoration of fish and wildlife resources of those portions of the Arkansas River basin impacted by the effluent discharged from the Leadville Mine Drainage Tunnel. The formulation of the program shall be undertaken with appropriate public consultation.

(b) Prior to implementing the fish and wildlife restoration program, the Secretary shall submit a copy of the proposed restoration program to the President pro tempore of the Senate and the Speaker

of the House of Representatives for a period of not less than sixty days.

SEC. 708. WATER QUALITY RESTORATION.

(a) The Secretary is authorized, in consultation with the State of Colorado, the Administrator of the Environmental Protection Agency, and other Federal entities, to conduct investigations of water pollution sources and impacts attributed to mining-related and other development in the Upper Arkansas River basin, to develop corrective action plans, and to implement corrective action demonstration projects. Neither the Secretary nor any person participating in a corrective action demonstration project shall be liable under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act for costs or damages as a result of actions taken or omitted in the course of implementing an approved work plan developed under this section; *Provided,* That this subsection shall not preclude liability for costs or damages which result from negligence on the part of such persons. The Secretary shall have no authority under this section at facilities which have been listed or proposed for listing on the National Priorities List, or are subject to or covered by the Resource Conservation and Recovery Act. For the purpose of this section, the term "Upper Arkansas River basin" means the Arkansas River hydrologic basin in Colorado extending from Pueblo Dam upstream to its headwaters.

(b) The development of all corrective action plans and subsequent corrective action demonstration projects shall be undertaken with appropriate public involvement pursuant to a public participation plan, consistent with regulations promulgated under the Federal Water Pollution Control Act, developed by the Secretary in consultation with the State of Colorado and the Administrator of the Environmental Protection Agency.

(c) The Secretary shall arrange for cost sharing with the State of Colorado and for the use of non-Federal funds and in-kind services where possible. The Secretary is authorized to fund all State costs required to conduct investigations and develop corrective action plans. The Federal share of costs associated with corrective action plans shall not exceed 60 percent.

(d) Prior to implementing any corrective action demonstration project, the Secretary shall submit a copy of the proposed project plans to the President pro tempore of the Senate and the Speaker of the House of Representatives.

(e) Nothing in this title shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to the discharge or release of hazardous substances, pollutants, or contaminants, as defined under section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act.

(f) There is authorized to be appropriated such sums as may be required to fulfill the provisions of sections 707 and 708 of this title. Appropriation authorization.

TITLE VIII—LAKE MEREDITH SALINITY CONTROL PROJECT, TEXAS AND NEW MEXICO

SEC. 801. AUTHORIZATION TO CONSTRUCT AND TEST.

The Secretary is authorized to construct and test the Lake Meredith Salinity Control Project, New Mexico and Texas, in accordance with the Federal Reclamation laws (Act of June 17, 1902, 32 Stat. 788, and Acts amendatory thereof or supplementary thereto) and the provisions of this title and the plan set out in the June 1985 Technical Report of the Bureau of Reclamation on this project with such modification of, omissions from, or additions to the works, as the Secretary may find proper and necessary for the purpose of improving the quality of water delivered to the Canadian River downstream of Ute Reservoir, New Mexico, and entering Lake Meredith, Texas. The principal features of the project shall consist of production wells, observation wells, pipelines, pumping plants, brine disposal facilities, and other appurtenant facilities.

SEC. 802. CONSTRUCTION CONTRACT WITH THE CANADIAN RIVER MUNICIPAL WATER AUTHORITY.

(a) AUTHORITY TO CONTRACT.—The Secretary is authorized to enter into a contract with the Canadian River Municipal Water Authority of Texas (hereafter in this title the "Authority") for the design and construction management of project facilities by the Bureau of Reclamation and for the payment of construction costs by the Authority. Operation and maintenance of project facilities upon completion of construction and testing shall be the responsibility of the Authority.

(b) CONSTRUCTION CONTINGENT ON CONTRACT.—Construction of the project shall not be commenced until a contract has been executed by the Secretary with the Authority, and the State of New Mexico has granted the necessary permits for the project facilities.

SEC. 803. PROJECT COSTS.

(a) CANADIAN RIVER MUNICIPAL WATER AUTHORITY SHARE.—All costs of construction of project facilities shall be advanced by the Authority as the non-Federal contribution toward implementation of this title. Pursuant to the terms of the contract authorized by section 802 of this title, these funds shall be advanced on a schedule mutually acceptable to the Authority and the Secretary, as necessary to meet the expense of carrying out construction and land acquisition activities.

(b) FEDERAL SHARE.—All project costs for design preparation, and construction management shall be nonreimbursable as the Federal contribution for environmental enhancement by water quality improvement, except that the Federal contribution shall not exceed 33 per centum of the total project costs.

SEC. 804. CONSTRUCTION AND CONTROL.

(a) PRECONSTRUCTION.—The Secretary shall, upon entering into the contract specified in section 802 with the Authority, proceed with preconstruction planning, preparation of designs and specifications, acquiring permits, acquisition of land and rights, and award of construction contracts pending availability of appropriated funds.

(b) TERMINATION OF CONSTRUCTION.—At any time following the first advance of funds, the Authority may request that the Secretary terminate activities then in progress, and such request

shall be binding upon the Secretary, except that, upon termination of construction pursuant to this section, the Authority shall reimburse to the Secretary a sum equal to 67 per centum of all costs incurred by the Secretary in project verification, design and construction management, reduced by any sums previously paid by the Authority to the Secretary for such purposes. Upon such termination, the United States is under no obligation to complete the project as a nonreimbursable development.

(c) TRANSFER OF CONTROL.—Upon completion of construction and testing of the project, or upon termination of activities at the request of the Authority, the Secretary shall transfer the care, operation, and maintenance of the project works to the Authority or to a bona fide entity mutually agreeable to the States of New Mexico and Texas. As part of such transfer, the Secretary shall return unexpended balances of the funds advanced, assign to the Authority or the bona fide entity the rights to any contract in force, convey to the Authority or the bona fide entity any real estate, easements or personal property acquired by the advanced funds, and provide any data, drawings, or other items of value procured with advanced funds.

SEC. 805. TRANSFER OF TITLE.

Title to any facilities constructed under the authority of this title shall remain with the United States.

SEC. 806. AUTHORIZATION.

There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title, except that the total Federal contribution to the cost of the activities undertaken under the authority of this title shall not exceed 33 per centum.

TITLE IX—CEDAR BLUFF UNIT, KANSAS

Water supply.

SEC. 901. AUTHORIZATION.

The Secretary, pursuant to the provisions of the Memorandum of Understanding between the Bureau of Reclamation and the Fish and Wildlife Service of the Department of the Interior, the State of Kansas, and the Cedar Bluff Irrigation District Number 6, dated December 17, 1987, is authorized to reformulate the Cedar Bluff Unit of the Pick-Sloan Missouri Basin Program, Kansas, including reallocation of the conservation capacity of the Cedar Bluff Reservoir, to create:

(a) a designated operating pool, as defined in such Memorandum of Understanding, for fish, wildlife, and recreation purposes, for groundwater recharge for environmental, domestic, municipal and industrial uses, and for other purposes; and

(b) a joint-use pool, as defined in such Memorandum of Understanding, for flood control, water sales, fish, wildlife, and recreation purposes; and for other purposes.

SEC. 902. CONTRACT.

The Secretary is authorized to enter into a contract with the State of Kansas for the sale, use, and control of the designated operating pool, with the exception of water reserved for the city of Russell, Kansas, and to allow the State of Kansas to acquire use and control of water in the joint-use pool, except that, the

State of Kansas shall not permit utilization of water from Cedar Bluff Reservoir to irrigate lands in the Smoky Hill River Basin from Cedar Bluff Reservoir to its confluence with Big Creek.

SEC. 903. CONTRACT.

(a) The Secretary is authorized to enter into a contract with the State of Kansas, accepting a payment of $365,424, and the State's commitment to pay a proportionate share of the annual operation, maintenance, and replacement charges for the Cedar Bluff Dam and Reservoir, as full satisfaction of reimbursable costs associated with irrigation of the Cedar Bluff Unit, including the Cedar Bluff Irrigation District's obligations under Contract Number 0–07–70–W0064. After the reformulation of the Cedar Bluff Unit authorized by this title, any revenues in excess of operating and maintenance expenses received by the State of Kansas from the sale of water from the Cedar Bluff Unit shall be paid to the United States and covered into the Reclamation Fund to the extent that an operation, maintenance and replacement charge or reimbursable capital obligation exists for the Cedar Bluff Unit under Reclamation law. Once all such operation, maintenance and replacement charges or reimbursable obligations are satisfied, any additional revenues shall be retained by the State of Kansas.

(b) The Secretary is authorized to transfer title of the buildings, fixtures, and equipment of the United States Fish and Wildlife Service fish hatchery facility at Cedar Bluff Dam, and the related water rights, to the State of Kansas for its use and operation for fish, wildlife, and related purposes. If any of the property transferred by this subsection to the State of Kansas is subsequently transferred from State ownership or used for any purpose other than those provided for in this subsection, title to such property shall revert to the United States.

SEC. 904. TRANSFER OF DISTRICT HEADQUARTERS.

The Secretary is authorized to transfer title to all interests in real property, buildings, fixtures, equipment, and tools associated with the Cedar Bluff Irrigation District headquarters located near Hays, Kansas, contingent upon the District's agreement to close down the irrigation system to the satisfaction of the Secretary at no additional cost to the United States, after which all easement rights shall revert to the owners of the lands to which the easements are attached.

SEC. 905. LIABILITY AND INDEMNIFICATION.

The transferee of any interest conveyed pursuant to this title shall assume all liability with respect to such interests and shall indemnify the United States against all such liability.

SEC. 906. ADDITIONAL ACTIONS.

The Secretary is authorized to take all other actions consistent with the provisions of the Memorandum of Understanding referred to in section 901 that the Secretary deems necessary to accomplish the reformulation of the Cedar Bluff Unit.

TITLE X—SOUTH DAKOTA WATER PLANNING STUDIES

SEC. 1001. AUTHORIZATION FOR SOUTH DAKOTA WATER PLANNING STUDIES.

(a) The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may perform the planning studies necessary (including a needs assessment) to determine the feasibility and estimated cost of incorporating all or portions of the Rosebud Sioux Reservation in South Dakota into the service areas of the rural water systems authorized by the Mni Wiconi Project Act of 1988 (Public Law 100–516).

(b) Section 3(f) of Public Law 100–516 is hereby amended to insert a new subsection (3) as follows: 102 Stat. 2567.

"(3) Notwithstanding subsections (1) and (2), the Secretary is authorized and directed to obligate up to $1.466 million of the funds appropriated under Public Law 100–516 to construct an interim water system for the White Clay and Wakpamni Districts of the Pine Ridge Indian Reservation as soon as the final engineering report for that segment of the Oglala Rural Water Supply System has been completed and the requirements of the National Environmental Policy Act of 1969 for that segment of the System have been met."

TITLE XI—SALTON SEA RESEARCH PROJECT, CALIFORNIA

SEC. 1101. RESEARCH PROJECT.

(a) RESEARCH PROJECT.—The Secretary of the Interior, acting through the Bureau of Reclamation, shall conduct a research project for the development of a method or combination of methods to reduce and control salinity, provide endangered species habitat, enhance fisheries, and protect human recreational values in inland water bodies. Such research shall include testing an enhanced evaporation system for treatment of saline waters, and studies regarding in-water segregation of saline waters and of dilution from other sources. The project shall be located in the area of the Salton Sea of Southern California.

(b) COST SHARE.—The non-Federal share of the cost of the project referred to in subsection (a) shall be 50 percent of the cost of the project.

(c) REPORT.—Not later than September 30, 1996, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives regarding the results of the project referred to in subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $10,000,000 to carry out the purposes of this title.

TITLE XII—AMENDMENT TO SABINE RIVER COMPACT

SEC. 1201. CONSENT TO AMENDMENT TO SABINE RIVER COMPACT.

The consent of Congress is given to the amendment, described in section 1203, to the interstate compact, described in section 1202, relating to the waters of the Sabine River and its tributaries.

SEC. 1202. COMPACT DESCRIBED.

The compact referred to in the previous section is the compact between the States of Texas and Louisiana, and consented to by Congress in the Act of August 10, 1954 (chapter 668; 68 Stat. 690; Public Law 85–78).

SEC. 1203. AMENDMENT.

The amendment referred to in section 1201 strikes "One of the Louisiana members shall be ex officio the Director of the Louisiana Department of Public Works; the other Louisiana member shall be a resident of the Sabine Watershed and shall be appointed by the Governor of Louisiana for a term of four years: *Provided,* That the first member so appointed shall serve until June 30, 1958." in article VII(c) and inserts "The Louisiana members shall be residents of the Sabine Watershed and shall be appointed by the Governor for a term of four years, which shall run concurrent with the term of the Governor.".

43 USC 1521 note.

TITLE XIII—SALT-GILA AQUEDUCT, ARIZONA

SEC. 1301. DESIGNATION.

The Salt-Gila Aqueduct of the Central Arizona Project, constructed, operated, and maintained under section 301(a)(7) of the Colorado River Basin Project Act (43 U.S.C. 1521(a)(7)), hereafter shall be known and designated as the "Fannin-McFarland Aqueduct".

SEC. 1302. REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in section 1301 hereby is deemed to be a reference to the "Fannin-McFarland Aqueduct".

TITLE XIV—VERMEJO PROJECT RELIEF, NEW MEXICO

Section 401 of the Act of December 19, 1980 (94 Stat. 3227), is amended by striking the text that begins: "Transfer of project facilities to the district shall be without . . ." and ends with ". . . shall be maintained consistently with existing arrangements" and inserting in lieu thereof "Effective as of the date of the written consent of the Vermejo Conservancy District to amend contract 178r–458, all facilities are hereby transferred to the District. The transfer to the district of project facilities shall be without any additional consideration in excess of the existing repayment contract of the district and shall include all related lands or interest in lands acquired by the Federal Government for the project, but shall not include any lands or interests in land, or interests in water, purchased by the Federal Government from various landowners in the district, consisting of approximately two thousand eight hundred acres, for the Maxwell Wildlife Refuge and shall not include certain contractual arrangements, namely Contract Number 14–06–500–1713 between the Bureau of Reclamation and the Bureau of Sport Fisheries and Wildlife, and concurred in by the district, dated December 5, 1969, and the lease agreement between the district and the Secretary dated January 17, 1992, and expiring January 17, 1995, for 468.38 acres under the district's Lakes 12 and 14, which contractual arrangements shall be maintained consistent with the terms thereof. The Secretary, acting

through the United States Fish and Wildlife Service, shall retain the right to manage Lake 13 for the conservation, maintenance, and development of the area as a component of the Maxwell National Wildlife Refuge in accordance with Contract Number 14–06–500–1713 and in a manner that does not interfere with operation of the Lake 13 dam and reservoir for the primary purposes of the Vermejo Reclamation Project."

TITLE XV—SAN LUIS VALLEY PROTECTION, COLORADO

SEC. 1501. PERMIT ISSUANCE PROHIBITED.

(a) No agency or instrumentality of the United States shall issue any permit, license, right-of-way, grant, loan or other authorization or assistance for any project or feature of any project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or export to any portion of another State, unless the Secretary of the Interior determines, after due consideration of all findings provided by the Colorado Water Conservation Board, that the project will not:

(1) increase the costs or negatively affect operation of the Closed Basin Project;

(2) adversely affect the purposes of any national wildlife refuge or Federal wildlife habitat area withdrawal located in the San Luis Valley, Colorado; or

(3) adversely affect the purposes of the Great Sand Dunes National Monument, Colorado.

(b) Nothing in this title shall be construed to alter, amend, or limit any provision of Federal or State law that applies to any project or feature of a project to withdraw water from the San Luis Valley, Colorado, for export to another basin in Colorado or another State. Nothing in this title shall be construed to limit any agency's authority or responsibility to reject, limit, or condition any such project on any basis independent of the requirements of this title.

SEC. 1502. JUDICIAL REVIEW.

The Secretary's findings required by this title shall be subject to judicial review in the United States district courts.

SEC. 1503. COSTS.

The direct and indirect costs of the findings required by section 1501 of this title shall be paid in advance by the project proponent under terms and conditions set by the Secretary.

SEC. 1504. DISCLAIMERS.

(a) Nothing in this title shall constitute either an expressed or implied reservation of water or water rights.

(b) Nothing in this title shall be construed as establishing a precedent with regard to any other Federal reclamation project.

TITLE XVI—RECLAMATION WASTEWATER AND GROUNDWATER STUDIES

Reclamation Wastewater and Groundwater Study and Facilities Act. 43 USC 390h note.

SEC. 1601. SHORT TITLE.

This title may be referred to as the "Reclamation Wastewater and Groundwater Study and Facilities Act".

43 USC 390h.

SEC. 1602. GENERAL AUTHORITY.

(a) The Secretary of the Interior (hereafter "Secretary"), acting pursuant to the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) and Acts amendatory thereof and supplementary thereto (hereafter "Federal reclamation laws"), is directed to undertake a program to investigate and identify opportunities for reclamation and reuse of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters, for the design and construction of demonstration and permanent facilities to reclaim and reuse wastewater, and to conduct research, including desalting, for the reclamation of wastewater and naturally impaired ground and surface waters.

(b) Such program shall be limited to the States and areas referred to in section 1 of the Reclamation Act of 1902 (Act of June 17, 1902, 32 Stat. 388) as amended.

(c) The Secretary is authorized to enter into such agreements and promulgate such regulations as may be necessary to carry out the purposes and provisions of this title.

California.

(d) The Secretary shall not investigate, promote or implement, pursuant to this title, any project intended to reclaim and reuse agricultural wastewater generated in the service area of the San Luis Unit of the Central Valley Project, California, except those measures recommended for action by the San Joaquin Valley Drainage Program in the report entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

43 USC 390h-1.

SEC. 1603. APPRAISAL INVESTIGATIONS.

(a) The Secretary shall undertake appraisal investigations to identify opportunities for water reclamation and reuse. Each such investigation shall take into account environmental considerations as provided by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof, and shall include recommendations as to the preparation of a feasibility study of the potential reclamation and reuse measures.

(b) Appraisal investigations undertaken pursuant to this title shall consider, among other things—

(1) all potential uses of reclaimed water, including, but not limited to, environmental restoration, fish and wildlife, groundwater recharge, municipal, domestic, industrial, agricultural, power generation, and recreation;

(2) the current status of water reclamation technology and opportunities for development of improved technologies;

(3) measures to stimulate demand for and eliminate obstacles to use of reclaimed water, including pricing;

(4) measures to coordinate and streamline local, State and Federal permitting procedures required for the implementation of reclamation projects; and

(5) measures to identify basic research needs required to expand the uses of reclaimed water in a safe and environmentally sound manner.

(c) The Secretary shall consult and cooperate with appropriate State, regional, and local authorities during the conduct of each appraisal investigation conducted pursuant to this title.

(d) Costs of such appraisal investigations shall be nonreimbursable.

SEC. 1604. FEASIBILITY STUDIES. 43 USC 390h-2.

(a) The Secretary is authorized to participate with appropriate Federal, State, regional, and local authorities in studies to determine the feasibility of water reclamation and reuse projects recommended for such study pursuant to section 1603 of this title. The Federal share of the costs of such feasibility studies shall not exceed 50 per centum of the total, except that the Secretary may increase the Federal share of the costs of such feasibility study if the Secretary determines, based upon a demonstration of financial hardship on the part of the non-Federal participant, that the non-Federal participant is unable to contribute at least 50 per centum of the costs of such study. The Secretary may accept as part of the non-Federal cost share the contribution of such in-kind services by the non-Federal participant that the Secretary determines will contribute substantially toward the conduct and completion of the study.

(b) The Federal share of feasibility studies, including those described in sections 1606 and 1608 through 1610 of this title, shall be considered as project costs and shall be reimbursed in accordance with the Federal reclamation laws, if the project studied is implemented.

(c) In addition to the requirements of other Federal laws, feasibility studies authorized under this title shall consider, among other things—

(1) near- and long-term water demand and supplies in the study area;

(2) all potential uses for reclaimed water;

(3) measures and technologies available for water reclamation, distribution, and reuse;

(4) public health and environmental quality issues associated with use of reclaimed water; and,

(5) whether development of the water reclamation and reuse measures under study would—

(A) reduce, postpone, or eliminate development of new or expanded water supplies, or

(B) reduce or eliminate the use of existing diversions from natural watercourses or withdrawals from aquifers.

SEC. 1605. RESEARCH AND DEMONSTRATION PROJECTS. 43 USC 390h-3.

The Secretary is authorized to conduct research and to construct, operate, and maintain cooperative demonstration projects for the development and demonstration of appropriate treatment technologies for the reclamation of municipal, industrial, domestic, and agricultural wastewater, and naturally impaired ground and surface waters. The Federal share of the costs of demonstration projects shall not exceed 50 per centum of the total cost including operation and maintenance. Rights to inventions developed pursuant to this section shall be governed by the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (Public Law 96–480) as amended by the Technology Transfer Act of 1986 (Public Law 99–502).

SEC. 1606. SOUTHERN CALIFORNIA COMPREHENSIVE WATER RECLAMATION AND REUSE STUDY. 43 USC 390h-4.

(a) The Secretary is authorized to conduct a study to assess the feasibility of a comprehensive water reclamation and reuse system for Southern California. For the purpose of this title, the

term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernadino, Riverside, San Diego, and Ventura within the south coast and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(b) The Secretary shall conduct the study authorized by this section in cooperation with the State of California and appropriate local and regional entities. The Federal share of the costs associated with this study shall not exceed 50 per centum of the total.

Reports. (c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than six years after appropriation of funds authorized by this title.

43 USC 390h-5. **SEC. 1607. SAN JOSE AREA WATER RECLAMATION AND REUSE PROGRAM.**

(a) The Secretary, in cooperation with the city of San Jose, California, and the Santa Clara Valley Water District, and local water suppliers, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Jose metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

43 USC 390h-6. **SEC. 1608. PHOENIX METROPOLITAN WATER RECLAMATION STUDY AND PROGRAM.**

(a) The Secretary, in cooperation with the city of Phoenix, Arizona, shall conduct a feasibility study of the potential for development of facilities to utilize fully wastewater from the regional wastewater treatment plant for direct municipal, industrial, agricultural, and environmental purposes, groundwater recharge and direct potable reuse in the Phoenix metropolitan area, and in cooperation with the city of Phoenix design and construct facilities for environmental purposes, ground water recharge and direct potable reuse.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total. The Federal share of the costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

Reports. (c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title.

43 USC 390h-7. **SEC. 1609. TUCSON AREA WATER RECLAMATION STUDY.**

(a) The Secretary, in cooperation with the State of Arizona and appropriate local and regional entities, shall conduct a feasibility study of comprehensive water reclamation and reuse system for Southern Arizona. For the purpose of this section, the term "Southern Arizona" means those portions of the counties of Pima, Santa Cruz, and Pinal within the Tucson Active Management

Hydrologic Area as defined by the Arizona Department of Water Resources.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title. Reports.

SEC. 1610. LAKE CHERAW WATER RECLAMATION AND REUSE STUDY. 43 USC 390h-8.

(a) The Secretary is authorized, in cooperation with the State of Colorado and appropriate local and regional entities, to conduct a study to assess and develop means of reclaiming the waters of Lake Cheraw, Colorado, or otherwise ameliorating, controlling and mitigating potential negative impacts of pollution in the waters of Lake Cheraw on groundwater resources or the waters of the Arkansas River.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than two years after appropriation of funds authorized by this title. Reports.

SEC. 1611. SAN FRANCISCO AREA WATER RECLAMATION STUDY. 43 USC 390h-9.

(a) The Secretary, in cooperation with the city and county of San Francisco, shall conduct a feasibility study of the potential for development of demonstration and permanent facilities to reclaim water in the San Francisco area for the purposes of export and reuse elsewhere in California.

(b) The Federal share of the costs of the study authorized by this section shall not exceed 50 per centum of the total.

(c) The Secretary shall submit the report authorized by this section to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives not later than four years after appropriation of funds authorized by this title. Reports.

SEC. 1612. SAN DIEGO AREA WATER RECLAMATION PROGRAM. 43 USC 390h-10.

(a) The Secretary, in cooperation with the city of San Diego, California or its successor agency in the management of the San Diego Area Wastewater Management District, shall participate in the planning, design and construction of demonstration and permanent facilities to reclaim and reuse water in the San Diego metropolitan service area.

(b) The Federal share of the costs of the facilities authorized by subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

SEC. 1613. LOS ANGELES AREA WATER RECLAMATION AND REUSE PROJECT. 43 USC 390h-11.

(a) The Secretary is authorized to participate with the city and county of Los Angeles, State of California, West Basin Municipal Water District, and other appropriate authorities, in the design, planning, and construction of water reclamation and reuse projects

to treat approximately one hundred and twenty thousand acre-feet per year of effluent from the city and county of Los Angeles, in order to provide new water supplies for industrial, environmental, and other beneficial purposes, to reduce the demand for imported water, and to reduce sewage effluent discharged into Santa Monica Bay.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for operation or maintenance of the project.

43 USC 390h-12.

SEC. 1614. SAN GABRIEL BASIN DEMONSTRATION PROJECT.

(a) The Secretary, in cooperation with the Metropolitan Water District of Southern California and the Main San Gabriel Water Quality Authority or a successor public agency, is authorized to participate in the design, planning and construction of a conjunctive-use facility designed to improve the water quality in the San Gabriel groundwater basin and allow the utilization of the basin as a water storage facility; *Provided,* That this authority shall not be construed to limit the authority of the United States under any other Federal statute to pursue remedial actions or recovery of costs for work performed pursuant to this subsection.

(b) The Secretary's share of costs associated with the project described in subsection (a) shall not exceed 25 per centum of the total. The Secretary shall not provide funds for the operation or maintenance of the project.

43 USC 390h-13.

SEC. 1615. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes and provisions of sections 1601 through 1614 of this title.

43 USC 390h-14.

SEC. 1616. GROUNDWATER STUDY.

(a) In furtherance of the High Plains Groundwater Demonstration Program Act of 1983 (98 Stat. 1675), the Secretary of the Interior, acting through the Bureau of Reclamation and the Geological Survey, shall conduct an investigation and analysis of the impacts of existing Bureau of Reclamation projects on the quality and quantity of groundwater resources. Based on such investigation and analysis, the Secretary shall prepare a reclamation groundwater management and technical assistance report which shall include—

Reports.

(1) a description of the findings of the investigation and analysis, including the methodology employed;

(2) a description of methods for optimizing Bureau of Reclamation project operations to ameliorate adverse impacts on groundwater, and

(3) the Secretary's recommendations, along with the recommendations of the Governors of the affected States, concerning the establishment of a groundwater management and technical assistance program in the Department of the Interior in order to assist Federal and non-Federal entity development and implementation of groundwater management plans and activities.

(b) In conducting the investigation and analysis, and in preparation of the report referred to in this section, the Secretary shall consult with the Governors of the affected States.

(c) The report shall be submitted to the Committees on Appropriations and Interior and Insular Affairs of the House of Representatives and the Committees on Appropriations and Energy and Natural Resources of the Senate within three years of the appropriation of funds authorized by section 1617. Reports.

SEC. 1617. AUTHORIZATION OF APPROPRIATIONS. 43 USC 390h–15.

There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $4,000,000 to carry out the study authorized by section 1616.

TITLE XVII—IRRIGATION ON STANDING ROCK INDIAN RESERVATION, NORTH DAKOTA

SEC. 1701. IRRIGATION ON STANDING ROCK INDIAN RESERVATION.

(a) Section 5(e) of Public Law 89–108, as amended by section 3 of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99–294), is amended by striking "Fort Yates" and inserting "one or more locations within the Standing Rock Indian Reservation". 100 Stat. 419.

(b) Section 10 of Public Law 89–108, as amended by section 8 of Public Law 99–294, is further amended by adding subsection (e) as follows: 100 Stat. 424.

"(e) The portion of the $61,000,000 authorized for Indian municipal, rural, and industrial water features shall be indexed as necessary to allow for ordinary fluctuations of construction costs incurred after October 1, 1986, as indicated by engineering costs indices applicable for the type of construction involved. All other authorized cost ceilings shall remain unchanged."

TITLE XVIII—GRAND CANYON PROTECTION

Grand Canyon Protection Act of 1992.

SEC. 1801. SHORT TITLE.

This Act may be cited as the "Grand Canyon Protection Act of 1992".

SEC. 1802. PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) IN GENERAL.—The Secretary shall operate Glen Canyon Dam in accordance with the additional criteria and operating plans specified in section 1804 and exercise other authorities under existing law in such a manner as to project, mitigate adverse impacts to, and improve the values for which Grand Canyon National Park and Glen Canyon National Recreation Area were established, including, but not limited to natural and cultural resources and visitor use.

(b) COMPLIANCE WITH EXISTING LAW.—The Secretary shall implement this section in a manner fully consistent with and subject to the Colorado River Compact, the Upper Colorado River Basin Compact, the Water Treaty of 1944 with Mexico, the decree of the Supreme Court in Arizona v. California, and the provisions of the Colorado River Storage Project Act of 1956 and the Colorado River Basin Project Act of 1968 that govern allocation, appropriation, development, and exportation of the waters of the Colorado River Basin.

(c) RULE OF CONSTRUCTION.—Nothing in this title alters the purposes for which the Grand Canyon National Park or the Glen Canyon National Recreation Area were established or affects the

authority and responsibility of the Secretary with respect to the management and administration of the Grand Canyon National Park and Glen Canyon National Recreation Area, including natural and cultural resources and visitor use, under laws applicable to those areas, including, but not limited to, the Act of August 25, 1916 (39 Stat. 535) as amended and supplemented.

SEC. 1803. INTERIM PROTECTION OF GRAND CANYON NATIONAL PARK.

(a) INTERIM OPERATIONS.—Pending compliance by the Secretary with section 1804, the Secretary shall, on an interim basis, continue to operate Glen Canyon Dam under the Secretary's announced interim operating criteria and the Interagency Agreement between the Bureau of Reclamation and the Western Area Power Administration executed October 2, 1991 and exercise other authorities under existing law, in accordance with the standards set forth in section 1802, utilizing the best and most recent scientific data available.

(b) CONSULTATION.—The Secretary shall continue to implement Interim Operations in consultation with—

(1) Appropriate agencies of the Department of the Interior, including the Bureau of Reclamation, United States Fish and Wildlife Service, and the National Park Service;

(2) The Secretary of Energy;

(3) The Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(4) Indian Tribes; and

(5) The general public, including representatives of the academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

(c) DEVIATION FROM INTERIM OPERATIONS.—The Secretary may deviate from Interim Operations upon a finding that deviation is necessary and in the public interest to—

(1) comply with the requirements of Section 1804(a);

(2) respond to hydrologic extremes or power system operation emergencies;

(3) comply with the standards set forth in Section 1802;

(4) respond to advances in scientific data; or

(5) comply with the terms of the Interagency Agreement.

(d) TERMINATION OF INTERIM OPERATIONS.—Interim operations described in this section shall terminate upon compliance by the Secretary with section 1804.

SEC. 1804. GLEN CANYON DAM ENVIRONMENTAL IMPACT STATEMENT; LONG-TERM OPERATION OF GLEN CANYON DAM.

(a) FINAL ENVIRONMENTAL IMPACT STATEMENT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall complete a final Glen Canyon Dam environmental impact statement, in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(b) AUDIT.—The Comptroller General shall—

(1) audit the costs and benefits to water and power users and to natural, recreational, and cultural resources resulting from management policies and dam operations identified pursuant to the environmental impact statement described in subsection (a); and

Reports.

(2) report the results of the audit to the Secretary and the Congress.

(c) ADOPTION OF CRITERIA AND PLANS.—(1) Based on the findings, conclusions, and recommendations made in the environmental impact statement prepared pursuant to subsection (a) and the audit performed pursuant to subsection (b), the Secretary shall—

(A) adopt criteria and operating plans separate from and in addition to those specified in section 602(b) of the Colorado River Basin Project Act of 1968; and

(B) exercise other authorities under existing law, so as to ensure that Glen Canyon Dam is operated in a manner consistent with section 1802.

(2) Each year after the date of the adoption of criteria and operating plans pursuant to paragraph (1), the Secretary shall transmit to the Congress and to the Governors of the Colorado River Basin States a report, separate from and in addition to the report specified in section 602(b) of the Colorado River Basin Project Act of 1968 on the preceding year and the projected year operations undertaken pursuant to this Act. Reports.

(3) In preparing the criteria and operating plans described in section 602(b) of the Colorado River Basin Project Act of 1968 and in this subsection, the Secretary shall consult with the Governors of the Colorado River Basin States and with the general public, including—

(A) representatives of academic and scientific communities;

(B) environmental organizations;

(C) the recreation industry; and

(D) contractors for the purchase of Federal power produced at Glen Canyon Dam.

(d) REPORT TO CONGRESS.—Upon implementation of long-term operations under subsection (c), the Secretary shall submit to the Congress the environmental impact statement described in subsection (a) and a report describing the long-term operations and other reasonable mitigation measures taken to protect, mitigate adverse impacts to, and improve the condition of the natural, recreational, and cultural resources of the Colorado River downstream of Glen Canyon Dam.

(e) ALLOCATION OF COSTS.—The Secretary of the Interior, in consultation with the Secretary of Energy, is directed to reallocate the costs of construction, operation, maintenance, replacement and emergency expenditures for Glen Canyon Dam among the purposes directed in section 1802 of this Act and the purposes established in the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 170). Costs allocated to section 1802 purposes shall be nonreimbursable. Except that in fiscal year 1993 through 1997 such costs shall be nonreimbursable only to the extent to which the Secretary finds the effect of all provisions of this Act is to increase net offsetting receipts; *Provided,* That if the Secretary finds in any such year that the enactment of this Act does cause a reduction in net offsetting receipts generated by all provisions of this Act, the costs allocated to section 1802 purposes shall remain reimbursable. The Secretary shall determine the effect of all the provisions of this Act and submit a report to the appropriate House and Senate committees by January 31 of each fiscal year, and such report shall contain for that fiscal year a detailed accounting of expenditures incurred pursuant to this Act, offsetting receipts generated by this Act, and any increase or reduction in net offsetting receipts generated by this Act. Reports.

SEC. 1805. LONG-TERM MONITORING.

(a) IN GENERAL.—The Secretary shall establish and implement long-term monitoring programs and activities that will ensure that Glen Canyon Dam is operated in a manner consistent with that of section 1802.

(b) RESEARCH.—Long-term monitoring of Glen Canyon Dam shall include any necessary research and studies to determine the effect of the Secretary's actions under section 1804(c) on the natural, recreational, and cultural resources of Grand Canyon National Park and Glen Canyon National Recreation Area.

(c) CONSULTATION.—The monitoring programs and activities conducted under subsection (a) shall be established and implemented in consultation with—

(1) the Secretary of Energy;

(2) the Governors of the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming;

(3) Indian tribes; and

(4) the general public, including representatives of academic and scientific communities, environmental organizations, the recreation industry, and contractors for the purchase of Federal power produced at Glen Canyon Dam.

SEC. 1806. RULES OF CONSTRUCTION.

Nothing in this title is intended to affect in any way—

(1) the allocations of water secured to the Colorado Basin States by any compact, law, or decree; or

(2) any Federal environmental law, including the Endangered Species Act (16 U.S.C. 1531 et seq.).

SEC. 1807. STUDIES NONREIMBURSABLE.

All costs of preparing the environmental impact statement described in section 1804, including supporting studies, and the long-term monitoring programs and activities described in section 1805 shall be nonreimbursable. The Secretary is authorized to use funds received from the sale of electric power and energy from the Colorado River Storage Project to prepare the environmental impact statement described in section 1804, including supporting studies, and the long-term monitoring programs and activities described in section 1805, except that such funds will be treated as having been repaid and returned to the general fund of the Treasury as costs assigned to power for repayment under section 5 of the Act of April 11, 1956 (70 Stat. 170). Except that in fiscal year 1993 through 1997 such provisions shall take effect only to the extent to which the Secretary finds the effect of all the provisions of this Act is to increase net offsetting receipts; *Provided,* That if the Secretary finds in any such year that the enactment of this Act does cause a reduction in net offsetting receipts generated by all provisions of this Act, all costs described in this section shall remain reimbursable. The Secretary shall determine the effect of all the provisions of this Act and submit a report to the appropriate House and Senate committees by January 31 of each fiscal year, and such report shall contain for that fiscal year a detailed accounting of expenditures incurred pursuant to this Act, offsetting receipts generated by this Act, and any increase or reduction in net offsetting receipts generated by this Act.

Reports.

SEC. 1808. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

SEC. 1809. REPLACEMENT POWER.

The Secretary of Energy in consultation with the Secretary of the Interior and with representatives of the Colorado River Storage Project power customers, environmental organizations and the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming shall identify economically and technically feasible methods of replacing any power generation that is lost through adoption of long-term operational criteria for Glen Canyon Dam as required by section 1804 of this title. The Secretary shall present a report of the findings, and implementing draft legislation, if necessary, not later than two years after adoption of long-term operating criteria. The Secretary shall include an investigation of the feasibility of adjusting operations at Hoover Dam to replace all or part of such lost generation. The Secretary shall include an investigation of the modifications or additions to the transmission system that may be required to acquire and deliver replacement power. Reports.

TITLE XIX—MID-DAKOTA RURAL WATER SYSTEM

Mid-Dakota Rural Water System Act of 1992. South Dakota.

SEC. 1901. SHORT TITLE.

This title may be cited as the "Mid-Dakota Rural Water System Act of 1992".

SEC. 1902. DEFINITIONS.

For purposes of this title—

(1) the term "feasibility study" means the study entitled "Mid-Dakota Rural Water System Feasibility Study and Report" dated November 1988 and revised January 1989 and March 1989, as supplemented by the "Supplemental Report for Mid-Dakota Rural Water System" dated March 1990 (which supplemental report shall control in the case of any inconsistency between it and the study and report), as modified to reflect consideration of the benefits of the water conservation programs developed and implemented under section 1905 of this title;

(2) the term "pumping and incidental operational requirements" means all power requirements incident to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the Mid-Dakota Rural Water System to—

(A) each entity that distributes water at retail to individual users; or

(B) each rural use location;

(3) the term "rural use location" includes a water use location—

(A) that is located in or in the vicinity of a municipality identified in appendix A of the feasibility report, for which municipality and vicinity there was on December 31, 1988, no entity engaged in the business of distributing water at retail to users in that municipality or vicinity; and

(B) that is one of no more than 40 water use locations in that municipality and vicinity;

(4) the term "Secretary" means the Secretary of the Interior;

(5) the term "summer electrical season" means May through October of each year;

(6) the term "water system" means the Mid-Dakota Rural Water System, substantially in accordance with the feasibility study;

(7) the term "Western" means the Western Area Power Administration;

(8) the term "wetland component" means the wetland development and enhancement component of the water system, substantially in accordance with the wetland component report; and

(9) the term "wetland component report" means the report entitled "Wetlands Development and Enhancement Component of the Mid-Dakota Rural Water System" dated April 1990.

SEC. 1903. FEDERAL ASSISTANCE FOR RURAL WATER SYSTEM.

(a) IN GENERAL.—The Secretary is authorized to make grants and loans to Mid-Dakota Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water system.

(b) SERVICE AREA.—The water system shall provide for safe and adequate municipal, rural, and industrial water supplies; mitigation of wetland areas; and water conservation in Beadle County (including the city of Huron), Buffalo, Hand, Hughes, Hyde, Jerauld, Potter, Sanborn, Spink, and Sully Counties, and elsewhere in South Dakota.

(c) TERMS AND CONDITIONS.—The Secretary shall make the grants and loans authorized by subsection (a) on terms and conditions equivalent to those applied by the Secretary of Agriculture in providing assistance to projects for the conservation, development, use, and control of water under section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)), except to the extent that those terms and conditions are inconsistent with this title.

(d) AMOUNT OF GRANTS.—Grants made available under subsection (a) to Mid-Dakota Rural Water System, Inc. and water conservation measures consistent with section 1905 of this title shall not exceed 85 percent of the amount authorized to be appropriated by section 1912 of this title.

(e) LOAN TERMS.—

(1) a loan or loans made to Mid-Dakota Rural Water System, Inc. under the provisions of this title shall be repaid, with interest, within thirty years from the date of each loan or loans and no penalty for pre-payment; and

(2) interest on a loan or loans made under subsection (a) to Mid-Dakota Rural Water System, Inc.—

(A) shall be determined by the Secretary of the Treasury on the basis of the weighted average yield of all interest bearing, marketable issues sold by the Treasury during the fiscal year in which the expenditures by the United States were made; and

(B) shall not accrue during planning and construction of the water system, and the first payment on such a loan shall not be due until after completion of construction of the water system.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Mid-Dakota Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) have been met; and

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days. Reports.

(g) COORDINATION WITH THE DEPARTMENT OF AGRICULTURE.—

(1) The Secretary shall coordinate with the Secretary of Agriculture, to the maximum extent practicable, grant and loan assistance made under this section with similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.).

(2) The Secretary of Agriculture shall take into consideration grant and loan assistance available under this section when considering whether to provide similar assistance available under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) to an applicant in the service area defined in subsection (b).

SEC. 1904. FEDERAL ASSISTANCE FOR WETLAND DEVELOPMENT AND ENHANCEMENT.

(a) INITIAL DEVELOPMENT.—The Secretary shall make grants and otherwise make funds available to Mid-Dakota Rural Water System, Inc. and other private, State, and Federal entities for the initial development of the wetland component.

(b) OPERATION AND MAINTENANCE.—The Secretary shall make a grant, not to exceed $100,000 annually, to the Mid-Dakota Rural Water System, Inc., for the operation and maintenance of the wetland component.

(c) NONREIMBURSEMENT.—Funds provided under this section shall be nonreimbursable and nonreturnable.

SEC. 1905. WATER CONSERVATION.

(a) WITHHOLDING OF FUNDS.—The Secretary shall not obligate Federal funds for construction of the water system until the Secretary finds that non-Federal entities have developed and implemented water conservation programs throughout the service area of the water system.

(b) PURPOSE OF PROGRAMS.—The water conservation programs required by subsection (a) shall be designed to ensure that users of water from the water system will use the best practicable technology and management techniques to reduce water use and water system costs.

(c) DESCRIPTION OF PROGRAMS.—Such water conservation programs shall include (but are not limited to) adoption and enforcement of the following—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) metering for all elements and individual connections of the rural water supply systems to be accomplished within five years. (For purposes of this paragraph, residential buildings of more than four units may be considered as individual customers);

(4) declining block rate schedules shall not be used for municipal households and special water users (as defined in the feasibility study);

(5) public education programs; and

(6) coordinated operation among each rural water system and the preexisting water supply facilities in its service area.

Such programs shall contain provisions for periodic review and revision, in cooperation with the Secretary.

SEC. 1906. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

SEC. 1907. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, Western shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water system during the summer electrical season.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water system shall be operated on a not-for-profit basis.

(2) The water system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a cooperative power supplier which purchases power from a cooperative power supplier which itself purchases power from Western.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be Western's Pick-Sloan Eastern Division Firm Power Rate Schedule in effect when the power is delivered by Western.

(4) It shall be agreed by contract among—

(A) Western;

(B) the power supplier with which the water system contracts under paragraph (2);

(C) that entity's power supplier; and

(D) Mid-Dakota Rural Water System, Inc.;

that for the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water system, but the water system's power supplier shall not be precluded from including in its charges to the water system for such electric service its other usual and customary charges.

(5) Mid-Dakota Rural Water System, Inc., shall pay its power supplier for electric service, other than for capacity and energy supplied pursuant to subsection (a), in accordance with the power supplier's applicable rate schedule.

SEC. 1908. RULE OF CONSTRUCTION.

This title shall not be construed to limit authorization for water projects in the State of South Dakota under existing law or future enactments.

SEC. 1909. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) invalidate or preempt State water law or an interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body of surface or groundwater, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal; or

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any groundwater resources.

SEC. 1910. USE OF GOVERNMENT FACILITIES.

The use of and connection of water system facilities to Government facilities at the Oahe powerhouse and pumping plant and their use for the purpose of supplying water to the water system may be permitted to the extent that such use does not detrimentally affect the use of those Government facilities for the other purposes for which they are authorized.

SEC. 1911. AUTHORIZATION OF APPROPRIATIONS.

(a) WATER SYSTEM.—There is authorized to be appropriated to the Secretary $100,000,000 for the planning and construction of the water system under section 1903, plus such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after October 1, 1989, such sums to remain available under expended.

(b) WETLAND COMPONENT.—There are authorized to be appropriated to the Secretary—

(1) $2,756,000 for the initial development of the wetland component under section 1904; and

(2) such sums as are necessary for the operation and maintenance of the wetland component, not exceeding $100,000 annually, under section 1904;

TITLE XX—LAKE ANDES-WAGNER/MARTY II, SOUTH DAKOTA

Lake Andes-Wagner/Marty II Act of 1992. Agriculture. Irrigation.

SEC. 2001. SHORT TITLE.

This title may be cited as the "Lake Andes-Wagner/Marty II Act of 1992".

SEC. 2002. DEMONSTRATION PROGRAM.

(a) The Secretary, acting pursuant to existing authority under the Federal reclamation laws, shall, through the Bureau of Reclamation, and in coordination with the Secretary of Agriculture and with the assistance and cooperation of an oversight committee consisting of representatives of the Bureau of Indian Affairs, Department of Agriculture, Environmental Protection Agency, United States Fish and Wildlife Service, United States Geological Survey, South Dakota Department of Game, Fish and Parks, South Dakota Department of Water and Natural Resources, Yankton-Sioux Tribe, and the Lake Andes-Wagner Water Systems, Inc., carry out a demonstration program (hereinafter in this title the "Demonstration Program") in substantial accordance with the "Lake Andes-Wagner-Marty II Demonstration Program Plan of Study," dated May 1990, a copy of which is on file with the Committee

on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

(b) The objectives of the Demonstration Program shall include:

(1) development of accurate and definitive means of quantifying projected irrigation and drainage requirements and providing reliable estimates of drainage return flow quality and quantity with respect to glacial till and other soils found in the specific areas to be served with irrigation water by the planned Lake Andes-Wagner Unit and Marty II Unit and which may also have application to the irrigation and drainage of similar soils found in other areas of the United States;

(2) development of best management practices for the purpose of improving the efficiency of irrigation water use and developing and demonstrating management techniques and technologies for glacial till soils which will prevent or otherwise ameliorate the degradation of water quality by irrigation practices;

(3) investigation and demonstration of the potential for development and enhancement of wetlands and fish and wildlife within and adjacent to the service areas of the planned Lake Andes-Wagner Unit and the Marty II Unit through the application of water and other management practices;

(4) investigation and demonstration of the suitability of glacial till soils for crop production under irrigation, giving special emphasis to crops of agricultural commodities for which an acreage reduction program is not in effect under the provisions of the Agriculture Act of 1949 (7 U.S.C. 1461 et seq.) or by any successor programs established for crop years subsequent to 1990.

(c) Study sites shall be obtained through leases from landowners who voluntarily agree to participate in the Demonstration Program under the following conditions:

(1) rentals paid under a lease shall be based on the fair rental market value prevailing for dry land farming of lands of similar quantity and quality plus a payment representing reasonable compensation for inconveniences to be encountered by the lessor;

(2) the Demonstration Program shall provide for the—

(A) supply of all water, delivery system, pivot systems and drains;

(B) operate and maintain the irrigation system;

(C) Secretary of Agriculture to supply all seed, fertilizers and pesticides and make standardized equipment available;

(D) Secretary of Agriculture to determine crop rotations and cultural practices;

(E) have unrestricted access to leased lands;

(3) the Secretary and the Secretary of Agriculture may contract with the lessor and/or custom operators to accomplish agriculture work, which work shall be performed in accordance with the Demonstration Program;

(4) no grazing may be performed on a study site;

(5) crops grown shall be the property of the United States; and

(6) at the conclusion of the lease, the lands involved will, to the extent practicable, be restored by the Secretary to their pre-leased condition at no expense to the lessor.

(d) The Secretary of Agriculture shall offer crops grown under the Demonstration Program for sale to the highest bidder under terms and conditions to be prescribed by the Secretary. Any crops not sold shall be disposed of as the Secretary determines to be appropriate, except that no crop may be given away to any for-profit entity or farm operator. All receipts from crop sales shall be covered into the Treasury to the credit of the fund from which appropriations for the conduct of the Demonstration Program are derived.

(e) The land from each ownership in a study site shall be established by the Secretary as a separate farm. The Secretary of Agriculture shall provide for lessors to preserve the cropland base and history on lands leased to the Demonstration Project under the same terms and conditions provided for under section 1236(b) of the Food Security Act of 1985 (7 U.S.C. 3836(b)). Establishment of such study site farms shall not entitle the Secretary to participate in farm programs or to build program base.

(f) The Secretary shall periodically, but not less often than once a year, report to the Committee on Energy and Natural Resources of the Senate, to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the House of Representatives, and to the Governor of South Dakota concerning the activities undertaken pursuant to this section. The Secretary's reports and other information and data developed pursuant to this section shall be available to the public without charge. Each Demonstration Program report, including the report referred to in paragraph (3) of this subsection, shall evaluate data covering the results of the Demonstration Program as carried out on the six study sites during the period covered by the report together with data developed under the wetlands enhancement aspect during that period. The demonstration phase of the Demonstration Program shall terminate at the conclusion of the fifth full irrigation season. Promptly thereafter, the Secretary shall: Reports. Public information.

(1) remove temporary facilities and equipment and restore the study sites as nearly as practicable to their prelease condition. The Secretary may transfer the pumping plant and/or distribution lines to public agencies for uses other than commercial irrigation if so doing would be less costly than removing such equipment;

(2) otherwise wind up the Demonstration Program; and

(3) prepare, in coordination with the Secretary of Agriculture, a concluding report and recommendations covering the entire demonstration phase, which report shall be transmitted by the Secretary to the Congress and to the Governor of South Dakota not later than April 1 of the calendar year following the calendar year in which the demonstration phase of the Demonstration Program terminates. The Secretary's concluding report, together with other information and data developed in the course of the Demonstration Program, shall be available to the public without charge. Reports.

(g) Costs of the Demonstration Program funded by Congressional appropriations shall be accounted for pursuant to the Act of October 29, 1971 (85 Stat. 416). Costs incurred by the State of South Dakota and any agencies thereof arising out of consultation and participation in the Demonstration Program shall not be reimbursed by the United States.

(h) Funding to cover expenses of the Federal agencies participating in the Demonstration Program shall be included in the budget submittals for the Bureau of Reclamation. The Secretary, using only funds appropriated for the Demonstration Program, shall transfer to the other Federal agencies funds appropriated for their expenses.

SEC. 2003. PLANNING REPORTS-ENVIRONMENTAL IMPACT STATEMENTS.

(a) On the basis of the concluding report and recommendations of the Demonstration Program provided for in section 2002, the Secretary, with respect to the Lake Andes-Wagner Unit and the Marty II Unit, shall comply with the study and reporting requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and regulations issued to implement the provisions thereof. The final reports prepared under this subsection shall be transmitted to the Congress simultaneously with their filing with the Environmental Protection Agency.

Reports.

(b) Each report prepared under subsection (a) shall include a detailed plan providing for the prevention or avoidance of adverse water quality conditions attributable to agricultural drainage water originating from lands to be irrigated by the Unit to which the report pertains. The Secretary shall not recommend that any funds be appropriated for construction of such Unit unless the respective report prepared pursuant to subsection (a) is accompanied by findings by the Secretary of Agriculture, the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency that the Unit to which the report pertains can be constructed, operated and maintained so as to comply with all applicable water quality standards and avoid significant adverse effects to fish and wildlife resulting from the bioaccumulation of selenium.

(c) The construction of a Unit may not be undertaken until the final report pertaining to that Unit, and the findings referred to in subsection (b) of this section, have lain before the Congress for not less than one hundred and eighty days and the Congress has appropriated funds for the initiation of construction.

SEC. 2004. AUTHORIZATION OF THE LAKE ANDES-WAGNER UNIT AND THE MARTY II UNIT, SOUTH DAKOTA.

Subject to the requirements of section 2003 of this title, the Secretary is authorized to construct, operate, and maintain the Lake Andes-Wagner Unit and the Marty II Unit, South Dakota, as units of the South Dakota Pumping Divisions, Pick-Sloan Missouri Basin Program. The units shall be integrated physically and financially with other Federal works constructed under the Pick-Sloan Missouri Basin Program.

SEC. 2005. CONDITIONS.

(a) The Lake Andes-Wagner Unit shall be constructed, operated and maintained to irrigate not more than approximately 45,000 acres substantially as provided in the Lake Andes-Wagner Unit Planning Report—Final Environmental Impact Statement filed September 17, 1985, supplemented as provided in section 2003 of this title. The Lake Andes-Wagner Unit shall include on-farm pumps, irrigation sprinkler systems, and other on-farm facilities necessary for the irrigation of not to exceed approximately 1,700 acres of Indian-owned lands. The use of electric power and energy

required to operate the facilities for the irrigation of such Indian-owned lands and to provide pressurization for such Indian-owned lands shall be considered to be a project use.

(b) The Marty II Unit shall include a river pump, irrigation distribution system, booster pumps, irrigation sprinkler systems, farm and project drains, electrical distribution facilities, and the pressurization to irrigate not more than approximately three thousand acres of Indian-owned land in the Yankton-Sioux Indian Reservation, substantially as provided in the final report for the Marty II Unit prepared pursuant to section 2003 of this title.

(c) The construction costs of the Lake Andes-Wagner Unit allocated to irrigation of non-Indian owned lands (both those assigned for return by the water users and those assigned for return from power revenues of the Pick-Sloan Missouri Basin Program) shall be repaid no later than forty years following a determination by the Secretary that the project is substantially complete. Repayment of the construction costs of the Lake Andes-Wagner Unit apportioned to serving Indian-owned lands and of the Marty II Unit allocated to irrigation shall be governed by the Act of July 1, 1932 (47 Stat. 564, Chapter 369; 25 U.S.C. 386a).

(d) Indian-owned lands, or interests therein, required for the Lake Andes-Wagner Unit or the Marty II Unit may, as an alternative to their acquisition pursuant to existing authority under the Federal reclamation laws, be acquired by exchange for land or interests therein of equal or greater value which are owned by the United States and administered by the Secretary or which may be acquired for that purpose by the Secretary.

(e) For purposes of participation of lands in the Lake Andes-Wagner Unit and the Marty II Unit in programs covered by title V of the Agriculture Act of 1949 (7 U.S.C. 1461, et seq.) as amended by subtitle A of title XI of the Food, Agriculture, Conservation and Trade Act of 1990 the crop acreage base determined under title V of that Act as so amended and the program payment yield determined under title V of that Act as so amended shall be the crop acreage base and program payment yield established for the crop year immediately preceding the crop year in which the development period for each Unit is initiated. For any successor programs established for crop years subsequent to 1995, the acreage and yield on which any program payments are based shall be determined without taking into consideration any increase in acreage or yield resulting from the construction and operation of the Units.

(f) Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the facilities authorized by this section shall be concurrent with the construction of the Unit involved and shall be on an acre-for-acre basis, based on ecological equivalency. In addition to the fish and wildlife enhancement to be provided by the fish rearing pond of the Lake Andes Unit, other facilities of that Unit may be utilized to provide fish and wildlife benefits beyond the mitigation required to the extent that such benefits may be provided without increasing costs of construction, operation, maintenance or replacement allocable to irrigation or impairing the efficiency of that Unit for irrigation purposes.

SEC. 2006. INDIAN EMPLOYMENT.

In carrying out sections 2002, 2004 and 2005 of this title, preference shall be given to the employment of members of the Yankton-Sioux Tribe who can perform the work required regardless

of age (subject to existing laws and regulations), sex, or religion, and to the extent feasible in connection with the efficient performance of such functions, training and employment opportunities shall be provided to members of the Yankton-Sioux Tribe regardless of age (subject to existing laws and regulations), sex, or religion who are not fully qualified to perform such functions.

SEC. 2007. FEDERAL RECLAMATION LAWS GOVERN.

This title is a supplement to the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts supplemental thereto and amendatory thereof). The Federal reclamation laws shall govern all functions undertaken pursuant to this title, except as otherwise provided in this title.

SEC. 2008. COST SHARING.

(a) IN GENERAL.—The Secretary is authorized and directed to enter into negotiations with State and local interests for an agreement providing for the equitable sharing of the costs of constructing the Lake Andes-Wagner Unit.

(b) The agreement shall include provisions for:

(1) the establishment and capitalization of the non-Federal fund, including, subject to the Secretary's approval, investment policies and selection of the administering financial institution, and including also provisions dealing with withdrawals of moneys in the fund for construction purposes;

(2) the District to administer the design and construction, which shall be subject to the approval of the Secretary, of the distribution and drainage systems for the Lake Andes-Wagner Unit;

(3) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the ring dike; and

(4) financing, from moneys in the fund referred to in paragraph (1), the construction cost of the Unit's closed drainage system; subject to the conditions that:

(A) construction of the closed drainage system shall commence not earlier than the sixth year of full operation of the Unit and shall continue over a period of thirty-five years as required by the Secretary subject to such modifications in the commencement date and the construction period as the Secretary determines to be required on the basis of physical conditions; and

(B) the District, in addition to such annual assessment as may be required to meet its expenses (including operation and maintenance costs and any annual repayment installments to the United States) shall, commencing three years after issuance by the Secretary of a notice that construction of the Unit (other than drainage facilities) has been completed, levy assessments annually of not less than $1.00 per irrigable acre calculated to provide moneys sufficient, together with other moneys in the fund, including anticipated accruals, referred to in paragraph (1), to finance the construction of the closed drainage system.

(c) Notwithstanding any other requirements of this section, the Secretary shall require that the agreement to be negotiated pursuant to this section shall provide that the total non-Federal share of the costs of construction allocable to irrigation of the facilities of the Lake Andes-Wagner Unit to be constructed pursuant to subsection (a) of section 2004 of this title (other than the costs

apportionable to serving Indian-owned lands and the facilities described in the second sentence of that subsection) shall be 30 percent. The 30 percent non-Federal share shall include:

(1) funds to be deposited in the non-Federal fund referred to in paragraph (1) of subsection (b) of this section and interest earned thereon;

(2) all funds heretofore or hereafter made available to the United States by non-Federal interests, or expended by such interests, for planning or advance planning assistance for the Lake Andes-Wagner Unit or for the Marty II Unit; and

(3) any feature to which this section applies shall not be initiated until after the District and the State have entered into the cost-share agreement with the United States required by this section.

SEC. 2009. AUTHORIZATION OF APPROPRIATIONS.

(a) LAKE ANDES-WAGNER UNIT.—There are authorized to be appropriated, subject to the findings required pursuant to section 2003(b) of this title—

(1) $175,000,000 (October 1989 price levels) for construction of the Lake Andes-Wagner Unit (other than the facilities described in the second sentence of subsection (a) of section 2005 of this title) less the non-Federal contributions as provided in subsections (b) and (c) of section 2008 of this title; and

(2) $1,350,000 (October 1989 price levels) for construction of the facilities described in the second sentence of subsection (a) of section 2005 of this title, which amounts include costs of the Lake Andes-Wagner Irrigation District in administering design and construction of the irrigation distribution and drainage systems.

(b) MARTY II UNIT.—There are authorized to be appropriated $24,000,000 (January 1989 price levels) for construction by the Bureau of Reclamation in consultation with the Bureau of Indian Affairs of the Marty II Unit.

(c) The amounts authorized to be appropriated by subsections (a) and (b) of this section shall be plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indices applicable to the type of construction involved.

(d) DEMONSTRATION PROGRAM.—There are authorized to be appropriated such amounts as may be necessary to carry out the Demonstration Program.

(e) OPERATION AND MAINTENANCE.—There are authorized to be appropriated such amounts as may be necessary for the operation and maintenance of each Unit.

SEC. 2010. INDIAN WATER RIGHTS.

Nothing in this title shall be construed as affecting any water rights or claims thereto of the Yankton-Sioux tribe.

TITLE XXI—RIO GRANDE FLOODWAY, SAN ACACIA TO BOSQUE DEL APACHE UNIT, NEW MEXICO

SEC. 2101. CLARIFICATION OF COST-SHARE REQUIREMENTS.

Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood

Control Act of 1948 (Public Law 80–858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 82–516) is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties: *Provided, however,* That the Federal property benefits exceed 50 per centum of the total project benefits.

TITLE XXII—SUNNYSIDE VALLEY IRRIGATION DISTRICT, WASHINGTON

SEC. 2201. CONVEYANCE TO SUNNYSIDE VALLEY IRRIGATION DISTRICT.

The Secretary of the Interior shall convey to Sunnyside Valley Irrigation District of Sunnyside, Washington, by quitclaim deed or other appropriate instrument and without consideration, all right, title, and interest of the United States, excluding oil, gas, and other mineral deposits, in and to a parcel of public land described at lots 1 and 2 of block 34 of the town of Sunnyside in section 25, township 10 north, range 22 east, Willamette Meridian, Washington.

TITLE XXIII—PLATORO RESERVOIR AND DAM, SAN LUIS VALLEY PROJECT, COLORADO

SEC. 2301. FINDINGS AND DECLARATIONS.

The Congress finds that and declares the following:

(1) Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project was built in 1951 and for all practical purposes has not been usable because of the constraints imposed by the Rio Grande Compact of 1939 on the use of the Rio Grande River among the States of Colorado, New Mexico, and Texas.

(2) The usefulness of Platoro Reservoir under future compact compliance depends upon the careful conservation and wise management of water and requires the operation of the reservoir project in conjunction with privately owned water rights of the local water users.

(3) It is in the best interest of the people of the United States to—

(A) transfer operation, maintenance, and replacement responsibility for the Platoro Dam and Reservoir to the Conejos Water Conservancy District of the State of Colorado, which is the local water user district with repayment responsibility to the United States, and the local representative of the water users with privately owned water rights;

(B) relieve the people of the United States from further risk or obligation in connection with the collection of construction charge repayments and annual operation and maintenance payments for the Platoro Dam and Reservoir by providing for payment of a one-time fee to the United States in lieu of the scheduled annual payments and termination of any further repayment obligation to the United States and the District (Contract Number I1r–1529, as amended); and

(C) determine such one-time fee, taking into account the assumption by the District of all of the operations and maintenance costs associated with the reservoir, including the existing Federal obligation for the operation and maintenance of the reservoir for flood control purposes, and maintaining a minimum stream flow as provided in section 2302(d) of this title.

SEC. 2302. TRANSFER OF OPERATION AND MAINTENANCE RESPONSIBILITY OF PLATORO RESERVOIR.

(a) IN GENERAL.—The Secretary is authorized and directed to undertake the following:

(1) Accept a one-time payment of $450,000 from the district in lieu of the repayment obligation of paragraphs 8(d) and 11 of the Repayment Contract between the United States and the District (Number I1r–1529) as amended.

(2) Enter into an agreement for the transfer of all of the operation and maintenance functions of the Platoro Dam and Reservoir, including the operation and maintenance of the reservoir for flood control purposes, to the District. The agreement shall provide—

(A) that the District will have the exclusive responsibility for operations and the sole obligation for all of the maintenance of the reservoir in a satisfactory condition for the life of the reservoir subject to review of such maintenance by the Secretary to ensure compliance with reasonable operation, maintenance and dam safety requirements as they apply to Platoro Dam, and Reservoir under Federal and State law; and,

(B) that the District shall have the exclusive use and sole responsibility for maintenance of all associated facilities, including outlet works, remote control equipment, spillway, and land and buildings in the Platoro townsite. The District shall have sole responsibility for maintaining the land and buildings in a condition satisfactory to the United States Forest Service.

(b) TITLE.—Title to the Platoro Dam and Reservoir and all associated facilities shall remain with the United States, and authority to make recreational use of Platoro Dam and Reservoir shall be under the control and supervision of the United States Forest Service, Department of Agriculture.

(c) AMENDMENTS TO CONTRACT.—The Secretary is authorized to enter into such other amendments to such contract Number I1r–1529, as amended, necessary to facilitate the intended operations of the project by the District. All applicable provisions of the Federal reclamation laws shall remain in effect with respect to such contract.

(d) CONDITIONS IMPOSED UPON THE DISTRICT.—The transfer of operation and maintenance responsibility under subsection (a) shall be subject to the following conditions:

(1)(A) The district will, after consultation with the United States Forest Service, Department of Agriculture, operate the Platoro Dam and Reservoir in such a way as to provide—

(i) that releases of bypass from the reservoir flush out the channel of the Conejos River periodically in the spring or early summer to maintain the hydrologic regime of the river; and

(ii) that any releases from the reservoir contribute to even flows in the river as far as possible from October 1 to December 1 so as to be sensitive to the brown trout spawn.

(B) Operation of the Platoro Dam and Reservoir by the District for water supply uses (including storage and exchange of water rights owned by the District or its constituents), interstate compact and flood control purposes shall be senior and paramount to the channel flushing and fishery objectives referred to in subparagraph (A).

(2) The District will provide and maintain a permanent pool in the Platoro Reservoir for fish, wildlife, and recreation purposes, in the amount of three thousand acre-feet, including the initial filling of the pool and periodic replenishment of seepage and evaporation loss: *Provided, however,* That if necessary to maintain the winter instream flow provided in subparagraph (3), the permanent pool may be allowed to be reduced to two thousand four hundred acre-feet.

(3) In order to preserve fish and wildlife habitat below Platoro Reservoir, the District shall maintain releases of water from Platoro Reservoir of seven cubic feet per second during the months of October through April and shall bypass forty cubic feet per second or natural inflow, whichever is less, during the months of May through September.

(4) The United States Forest Service, Department of Agriculture, is directed to regularly monitor operation of Platoro Reservoir, including releases from it for instream flow purposes, and to enforce the provisions of this subsection under the laws, regulations, and rules applicable to the National Forest System.

(e) FLOOD CONTROL MANAGEMENT.—The Secretary of the Army, acting through the Chief of Engineers, shall retain exclusive authority over Platoro Dam and Reservoir for flood control purposes and shall direct the District in the operation of the dam for such purposes. To the extent possible, management by the Secretary of the Army under this subsection shall be consistent with the water supply use of the reservoir, with the administration of the Rio Grande Compact of 1939 by the Colorado State Engineer and with the provisions of subsection (d) hereof. The Secretary of the Army shall enter into a Letter of Understanding with the District and the United States Bureau of Reclamation prior to transfer of operations which details the responsibility of each party and specifies the flood control criteria for the reservoir.

(f) COMPLIANCE WITH COMPACT AND OTHER LAWS.—The transfer under section 2302 shall be subject to the District's compliance with the Rio Grande Compact of 1939 and all other applicable laws and regulations, whether of the State of Colorado or of the United States.

SEC. 2303. DEFINITIONS.

As used in this title—

(1) the term "District" means the Conejos Water Conservancy District of the State of Colorado;

(2) the term "Federal reclamation laws" means the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof;

(3) the term "Platoro Reservoir" means the Platoro Dam and Reservoir of the Platoro Unit of the Conejos Division of the San Luis Valley Project; and

(4) the term "Secretary" means the Secretary of the Interior.

TITLE XXIV—REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA

SEC. 2401. SALE OF BUREAU OF RECLAMATION LOANS.

(a) The Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall conduct appropriate investigations regarding, and is authorized to, sell, or accept prepayment on, loans made pursuant to the Small Reclamation Projects Act (43 U.S.C. 422a–422l) to the Redwood Valley County Water District.

(b) Any sale or prepayment of such loans, which are numbered 14–06–200–8423A and 14–06–200–842A Amendatory to the Redwood Valley County Water District, shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2402. SAVINGS PROVISIONS.

Nothing in this title, including prepayment or other disposition of any loans, shall—

(a) except to the extent that prepayment may have been authorized heretofore, relieve the borrower from the applica-

tions of the provisions of the Federal Reclamation Law (Act of June 17, 1902, and Acts amendatory thereof or supplementary thereto, including the Reclamation Reform Act of 1982), including acreage limitations, to the extent such provisions would apply absent such prepayment; or

(b) authorize the transfer of title to any federally owned facilities funded by the loans specified in section 2201 of this title without a specific Act of Congress.

SEC. 2403. FEES AND EXPENSES OF PROGRAM.

In addition to the amount to be realized by the United States as provided in section 2201, the Redwood Valley County Water District shall pay all reasonable fees and expenses incurred by the Secretary relative to the sale.

SEC. 2404. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided,* That the borrower shall have at least sixty days to respond to any prepayment offer made by the Secretary.

TITLE XXV—UNITED WATER CONSERVATION DISTRICT, CALIFORNIA

SEC. 2501. SALE OF THE FREEMAN DIVERSION IMPROVEMENT PROJECT LOAN.

(a) AGREEMENT.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall conduct appropriate investigations regarding, and is authorized to sell, or accept prepayment on, the loan contract described in paragraph (2) to the United Water Conservation District in California (referred to in this title as the "District") for the Freeman Diversion Improvement Project.

(2) LOAN CONTRACT.—The loan contract described in paragraph (1) is numbered 7–07–20–W0615 and was entered into pursuant to the Small Reclamation Projects Act of 1956 (43 U.S.C. 422a et seq.).

(b) PAYMENT.—Any agreement negotiated pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining payments due on the loans by the interest rate determined according to this section.

(c) The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind

from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any loan sale or prepayment made pursuant to this title.

SEC. 2502. TERMINATION AND CONVEYANCE OF RIGHTS.

Upon receipt of the payment specified in section 2301(b)—

(1) the District's obligation under the loan contract described in section 2301(a)(2) shall be terminated;

(2) the Secretary of the Interior shall convey all right and interest of the United States in the Freeman Diversion Improvement Project to the District; and

(3) the District shall absolve the United States, and its officers and agents, of any liability associated with the Freeman Diversion Improvement Project.

SEC. 2503. TERMINATION OF AUTHORITY.

The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided,* That the borrower shall have at least sixty days to respond to any prepayment offer made by the Secretary.

TITLE XXVI—HIGH PLAINS GROUNDWATER PROGRAM

SEC. 2601. HIGH PLAINS STATES GROUNDWATER DEMONSTRATION PROGRAM ACT.

The High Plains States Groundwater Demonstration Program Act of 1983 (43 U.S.C. 390g–1 et seq.) is amended as follows:

(1) Section 4(c)(2) and section 5 are each amended by striking "final report" each place it appears and inserting "summary report". 43 USC 390g–2, 390g–3.

(2) Section 4(c) is amended by adding at the end the following:

"(3) In addition to recommendations made under section 3, the Secretary shall make additional recommendations for design, construction, and operation of demonstration projects. Such projects are authorized to be designed, constructed, and operated in accordance with subsection (a).

"(4) Each project under this section shall terminate five years after the date on which construction on the project is completed.

"(5) At the conclusion of phase II the Secretary shall submit a final report to the Congress which shall include, but not be limited to, a detailed evaluation of the projects under this section.". Reports.

(3) Section 7 is amended by striking "$20,000,000 (October 1983 price levels)" and inserting in lieu thereof "$31,000,000 43 USC 390g–5.

(October 1990 price levels) plus or minus such amounts, if any, as may be required by reason of ordinary fluctuations in construction costs as indicated by engineering cost indexes applicable to the type of construction involved herein".

TITLE XXVII—MONTANA IRRIGATION PROJECTS

SEC. 2701. PICK-SLOAN PROJECT PUMPING POWER.

(a) The Secretary of the Interior, in cooperation with the Secretary of Energy, shall make available, as soon as practicable after the date of enactment of this Act, project pumping power from the Pick-Sloan Missouri River Basin Program (authorized by section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes" approved December 22, 1944 (58 Stat. 891) (commonly known as the "Flood Control Act of 1944") to two existing non-Federal irrigation projects known as the—

(1) Haidle Irrigation Project, Prairie County, Montana; and

(2) Hammond Irrigation District, Rosebud County, Montana.

Provided, That the two districts are determined by the Secretary of Energy to be public agencies, as that term is used in section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. section 485h(c).

(b) Power made available under this section shall be at the firm power rate.

TITLE XXVIII—RECLAMATION RECREATION MANAGEMENT ACT

Reclamation Recreation Management Act of 1992.
16 USC 460*l*-31 note.

SEC. 2801. SHORT TITLE.

This title may be cited as the "Reclamation Recreation Management Act of 1992".

16 USC 460*l*-31.

SEC. 2802. FINDINGS.

The Congress finds and declares the following:

(1) There is a Federal responsibility to provide opportunities for public recreation at Federal water projects.

(2) Some provisions of the Federal Water Project Recreation Act are outdated because of increases in demand for outdoor recreation and changes in the economic climate for recreation managing entities.

(3) Provisions of such Act relating to non-Federal responsibility for all costs of operation, maintenance, and replacement of recreation facilities result in an unfair burden, especially in cases where the facilities are old or underdesigned.

(4) Provisions of such Act that limit the Federal share of recreation facility development at water projects completed before 1965 to $100,000 preclude a responsible Federal share in providing adequate opportunities for safe outdoor recreation.

(5) There should be Federal authority to expand existing recreation facilities to meet public demand, in partnership with non-Federal interests.

(6) Nothing in this title changes the responsibility of the Bureau to meet the purposes for which Federal Reclamation projects were initially authorized and constructed.

(7) It is therefore in the best interest of the people of this Nation to amend the Federal Water Project Recreation Act to remove outdated restrictions and authorize the Secretary of the Interior to undertake specific measures for the management of Reclamation lands.

SEC. 2803. DEFINITIONS. 16 USC 460*l*–32.

For the purposes of this title:

(1) The term "Reclamation lands" means real property administered by the Secretary, acting through the Commissioner of Reclamation, and includes all acquired and withdrawn lands and water areas under jurisdiction of the Bureau.

(2) The term "Reclamation program" means any activity authorized under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371)), and Acts supplementary thereto and amendatory thereof).

(3) The term "Reclamation project" means any water supply or water delivery project constructed or administered by the Bureau of Reclamation under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

(4) The term "Secretary" means the Secretary of the Interior.

SEC. 2804. AMENDMENTS TO THE FEDERAL WATER PROJECT RECREATION ACT.

(a) ALLOCATION OF COSTS.—Section 2(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l–13(a)) is amended, in the matter preceding paragraph (1), by striking "all the costs of operation, maintenance, and replacement" and inserting "not less than one-half the costs of operation, maintenance, and replacement".

(b) RECREATION AND FISH AND WILDLIFE ENHANCEMENT.—Section 3(b)(1) of the Federal Water Project Recreation Act (16 U.S.C. 460l–14(b)(1)) is amended—

(1) by striking "within ten years"; and

(2) by striking "all costs of operation, maintenance, and replacement attributable" and inserting "not less than one-half the costs of planning studies, and the costs of operation, maintenance, and replacement attributable".

(c) LEASE OF FACILITIES.—Section 4 of the Federal Water Project Recreation Act (16 U.S.C. 460l–15) is amended by striking "costs of operation, maintenance, and replacement of existing" and inserting "not less than one-half the costs of operation, maintenance, and replacement of existing".

(d) EXPANSION OR MODIFICATION OF EXISTING FACILITIES.—Section 3 of the Federal Water Project Recreation Act (16 U.S.C. 460l–14) is amended by adding at the end the following new subsection:

"(c)(1) Any recreation facility constructed under this Act may be expanded or modified if—

"(A) the facility is inadequate to meet recreational demands; and

"(B) a non-Federal public body executes an agreement which provides that such public body—

"(i) will administer the expanded or modified facilities pursuant to a plan for development for the project that

is approved by the agency with administrative jurisdiction over the project; and

"(ii) will bear not less than one-half of the planning and capital costs of such expansion or modification and not less than one-half of the costs of the operation, maintenance, and replacement attributable to the expansion of the facility.

"(2) The Federal share of the cost of expanding or modifying a recreational facility described in paragraph (1) may not exceed 50 percent of the total cost of expanding or modifying the facility.".

(e) LIMITATION.—Section 7(a) of the Federal Water Project Recreation Act (16 U.S.C. 460l–18(a)) is amended—

(1) by striking "purposes: *Provided,*" and all that follows through the end of the sentence and inserting "purposes"; and

(2) by striking "subsection 3(b)" and inserting "subsection (b) or (c) of section 3".

16 USC 460*l*–33.

SEC. 2805. MANAGEMENT OF RECLAMATION LANDS.

(a) ADMINISTRATION.—(1) Upon a determination that any such fee, charge, or commission is reasonable and appropriate, the Secretary acting through the Commissioner of Reclamation, is authorized to establish—

(A) filing fees for applications and other documents concerning entry upon and use of Reclamation lands;

(B) recreation user fees; and

(C) charges or commissions for the use of Reclamation lands.

Regulations.

(2) The Secretary, acting through the Commissioner of Reclamation, shall promulgate such regulations as the Secretary determines to be necessary—

(A) to carry out the provisions of this section and section 2806;

(B) to ensure the protection, comfort, and well-being of the public (including the protection of public safety) with respect to the use of Reclamation lands; and

(C) to ensure the protection of resource values.

(b) INVENTORY.—The Secretary, acting through the Commissioner of Reclamation, is authorized to—

(1) prepare and maintain on a continuing basis an inventory of resources and uses made of Reclamation lands and resources, keep records of such inventory, and make such records available to the public; and

(2) ascertain the boundaries of Reclamation lands and provide a means for public identification (including, where appropriate, providing signs and maps).

(c) PLANNING.—(1)(A) The Secretary, acting through the Commissioner of Reclamation, is authorized to develop, maintain, and revise resource management plans for Reclamation lands.

(B) Each plan described in subparagraph (A)—

(i) shall be consistent with applicable laws (including any applicable statute, regulation, or Executive order);

(ii) shall be developed in consultation with—

(I) such heads of Federal and non-Federal departments or agencies as the Secretary determines to be appropriate; and

(II) the authorized beneficiaries (as determined by the Secretary) of any Reclamation project included in the plan; and

(iii) shall be developed with appropriate public participation.

(C) Each plan described in subparagraph (A) shall provide for the development, use, conservation, protection, enhancement, and management of resources of Reclamation lands in a manner that is compatible with the authorized purposes of the Reclamation project associated with the Reclamation lands.

(d) NONREIMBURSABLE FUNDS.—Funds expended by the Secretary in carrying out the provisions of this title shall be nonreimbursable under the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388, chapter 1093; 43 U.S.C. 371), and Acts supplementary thereto and amendatory thereof).

SEC. 2806. PROTECTION OF AUTHORIZED PURPOSES OF RECLAMATION PROJECTS. 16 USC 460*l*–34.

(a) Nothing in this title shall be construed to change, modify, or expand the authorized purposes of any Reclamation project.

(b) The expansion or modification of a recreational facility constructed under this title shall not increase the capital repayment responsibilities or operation and maintenance expenses of the beneficiaries of authorized purposes of the associated Reclamation project. The term "beneficiaries" does not include those entities who sign agreements or enter into contracts for recreation facilities pursuant to the Federal Water Project Recreation Act.

TITLE XXIX—SAN JUAN SUBURBAN WATER DISTRICT

SEC. 2901. REPAYMENT OF WATER PUMPS, SAN JUAN SUBURBAN WATER DISTRICT, CENTRAL VALLEY PROJECT, CALIFORNIA.

(a) WATER PUMP REPAYMENT.—The Secretary shall credit to the unpaid capital obligation of the San Juan Suburban Water District (District), as calculated in accordance with the Central Valley Project ratesetting policy, an amount equal to the documented price paid by the District for pumps and motors provided by the District to the Bureau of Reclamation, in 1991 and 1992, for installation at Folsom Dam, Central Valley Project, California.

(b) CONDITIONS.—(1) The amount credited shall not include any indirect or overhead costs associated with the acquisition of the pumps and motors, such as those associated with the negotiation of a sales price or procurement contract, inspection, and delivery of the pumps and motors from the seller to the Bureau of Reclamation.

(2) The credit is effective on the dates the pumps and motors were delivered to the Bureau of Reclamation for installation at Folsom Dam.

TITLE XXX—WESTERN WATER POLICY REVIEW

Western Water Policy Review Act of 1992. 43 USC 371 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Western Water Policy Review Act of 1992."

SEC. 3002. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) the Nation needs an adequate water supply for all states at a reasonable cost;

(2) the demands on the Nation's finite water supply are increasing;

(3) coordination on both the Federal level and the local level is needed to achieve water policy objectives;

(4) not less than fourteen agencies of the Federal Government are currently charged with functions relating to the oversight of water policy;

(5) the diverse authority over Federal water policy has resulted in unclear goals and an inefficient handling of the Nation's water policy;

(6) the conflict between competing goals and objectives by Federal, State, and local agencies as well as by private water users is particularly acute in the nineteen Western States which have arid climates which include the seventeen reclamation States, Hawaii, and Alaska;

(7) the appropriations doctrine of water allocation which characterizes most western water management regimes varies from State to State, and results in many instances in increased competition for limited resources;

(8) the Federal Government has recognized and continues to recognize the primary jurisdiction of the several States over the allocation, priority, and use of water resources of the States, except to the extent such jurisdiction has been preempted in whole or in part by the Federal Government, including, but not limited to, express or implied Federal reserved water rights either for itself or for the benefit of Indian Tribes, and that the Federal Government will, in exercising its authorities, comply with applicable State laws;

(9) the Federal Government recognizes its trust responsibilities to protect Indian water rights and assist Tribes in the wise use of those resources;

(10) Federal agencies, such as the Bureau of Reclamation, have had, and will continue to have major responsibilities in assisting States in the wise management and allocation of scarce water resources; and

(11) the Secretary of the Interior, given his responsibilities for management of public land, trust responsibilities for Indians, administration of the reclamation program, investigations and reviews into ground water resources through the Geologic Survey, and the Secretary of the Army, given his responsibilities for flood control, water supply, hydroelectric power, recreation, and fish and wildlife enhancement, have the resources to assist in a comprehensive review, in consultation with appropriate officials from the nineteen Western States, into the problems and potential solutions facing the nineteen Western States and the Federal Government in the increasing competition for the scarce water resources of the Western States.

SEC. 3003. PRESIDENTIAL REVIEW.

Reports.

(a) The President is directed to undertake a comprehensive review of Federal activities in the nineteen Western States which directly or indirectly affect the allocation and use of water resources,

whether surface or subsurface, and to submit a report on the President's findings, together with recommendations, if any, to the Committees on Energy and Natural Resources, Environment and Public Works and Appropriations of the Senate and the Committees on Interior and Insular Affairs, Public Works and Transportation, Merchant Marine and Fisheries and Appropriations of the House of Representatives.

(b) Such report shall be submitted within three years from the date of enactment of this Act.

(c) In conducting the review and preparing the report, the President is directed to consult with the Advisory Commission established under section 3004 of this title, and may request the Secretary of the Interior and the Secretary of the Army or other Federal officials or the Commission to undertake such studies or other analyses as the President determines would assist in the review.

(d) The President shall consult periodically with the Commission, and upon the request of the President, the heads of other Federal agencies are directed to cooperate with and assist the Commission in its activities.

SEC. 3004. THE ADVISORY COMMISSION.

(a) The President shall appoint an Advisory Commission (hereafter in this title referred to as the "Commission") to assist in the preparation and review of the report required under this title. President. Establishment.

(b) The Commission shall be composed of eighteen members as follows:

(1) Ten members appointed by the President including:

(A) the Secretary of the Interior or his designee;

(B) the Secretary of the Army or his designee;

(C) at least one representative chosen from a list submitted by the Western Governors Association; and

(D) at least one representative chosen from a list submitted by Tribal governments located in the Western States.

(2) In addition to the ten members appointed by the President, twelve Members from the United States Congress shall serve as ex officio members of the Commission. For the United States Senate: the Chairmen and the Ranking Minority Members of the Committees on Energy and Natural Resources, and Appropriations, and the Subcommittee of the Committee on Energy and Natural Resources which has jurisdiction over the Bureau of Reclamation. For the United States House of Representatives: the Chairman and Ranking Minority Members of the Committees on Interior and Insular Affairs, Public Works and Transportation, and Appropriations.

(c) The President shall appoint one member of the Commission to serve as Chairman. President.

(d) Any vacancy which may occur on the Commission shall be filled in the same manner in which the original appointment was made.

(e) Members of the Commission shall serve without compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

SEC. 3005. DUTIES OF THE COMMISSION.

The Commission shall—

(1) review present and anticipated water resource problems affecting the nineteen Western States, making such projections of water supply requirements as may be necessary and identifying alternative ways of meeting these requirements—giving considerations, among other things, to conservation and more efficient use of existing supplies, innovations to encourage the most beneficial use of water and recent technological advances;

(2) examine the current and proposed Federal programs affecting such States and recommend to the President whether they should be continued or adopted and, if so, how they should be managed for the next twenty years, including the possible reorganization or consolidation of the current water resources development and management agencies;

(3) review the problems of rural communities relating to water supply, potable water treatment, and wastewater treatment;

(4) review the need and opportunities for additional storage or other arrangements to augment existing water supplies including, but not limited to, conservation;

(5) review the history, use, and effectiveness of various institutional arrangements to address problems of water allocation, water quality, planning, flood control and other aspects of water development and use, including, but not limited to, interstate water compacts, Federal-State regional corporations, river basin commissions, the activities of the Water Resources Council, municipal and irrigation districts and other similar entities with specific attention to the authorities of the Bureau of Reclamation under reclamation law and the Secretary of the Army under water resources law;

(6) review the legal regime governing the development and use of water and the respective roles of both the Federal Government and the States over the allocation and use of water, including an examination of riparian zones, appropriation and mixed systems, market transfers, administrative allocations, ground water management, interbasin transfers, recordation of rights, Federal-State relations including the various doctrines of Federal reserved water rights (including Indian water rights and the development in several States of the concept of a public trust doctrine); and

(7) review the activities, authorities, and responsibilities of the various Federal agencies with direct water resources management responsibility, including but not limited to the Bureau of Reclamation, the Department of the Army, and those agencies whose decisions would impact on water resource availability and allocation, including, but not limited to, the Federal Energy Regulatory Commission.

SEC. 3006. REPRESENTATIVES.

(a) The Chairman of the Commission shall invite the Governor of each Western State to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

(b) The Commission, at its discretion, may invite appropriate public or private interest groups including, but not limited to, Indian and Tribal organizations to designate a representative to work closely with the Commission and its staff in matters pertaining to this title.

SEC. 3007. POWERS OF THE COMMISSION.

(a) The Commission may—

(1) hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as it may deem advisable;

(2) use the United States mail in the same manner and upon the same conditions as other departments and agencies of the United States;

(3) enter into contracts or agreements for studies and surveys with public and private organizations and transfer funds to Federal agencies to carry out such aspects of the Commission's functions as the Commission determines can best be carried out in that manner; and

(4) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(b) Any member of the Commission is authorized to administer oaths when it is determined by a majority of the Commission that testimony shall be taken or evidence received under oath.

(c) The Commission shall have a Director who shall be appointed by the Commission and who shall be paid at a rate not to exceed the maximum rate of basic pay payable for level II of the Executive Schedule.

(1) With the approval of the Commission, the Director may appoint and fix the pay of such personnel as the Director considers appropriate but only to the extent that such personnel cannot be obtained from the Secretary of the Interior or by detail from other Federal agencies. Such personnel may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such Title relating to classification and General Schedule pay rates.

(2) With the approval of the Commission, the Director may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

(d) The Secretary of the Interior and the Secretary of the Army shall provide such office space, furnishings and equipment as may be required to enable the Commission to perform its functions. The Secretary shall also furnish the Commission with such staff, including clerical support, as the Commission may require.

SEC. 3008. POWERS AND DUTIES OF THE CHAIRMAN.

(a) Subject to general policies adopted by the Commission, the Chairman shall be the chief executive of the Commission and shall exercise its executive and administrative powers as set forth in paragraphs (2) through (4) of section 3007(a).

(b) The Chairman may make such provisions as he shall deem appropriate authorizing the performance of any of his executive and administrative functions by the Director or other personnel of the Commission.

SEC. 3009. OTHER FEDERAL AGENCIES.

(a) The Commission shall, to the extent practicable, utilize the services of the Federal water resource agencies.

(b) Upon request of the Commission, the President may direct the head of any other Federal department or agency to assist the Commission and such head of any Federal department or agency is authorized—

(1) to furnish to the Commission, to the extent permitted by law and within the limits of available funds, including funds transferred for that purpose pursuant to section 3007(a)(7) of this title, such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency, and

(2) to detail to temporary duty with the Commission on a reimbursable basis such personnel within his administrative jurisdiction as it may need or believe to be useful for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

(c) Financial and administrative services (including those related to budgeting, accounting, financial reporting, personnel, and procurement) shall be provided the Commission by the Secretary of the Interior.

SEC. 3010. APPROPRIATIONS.

There are hereby authorized to be appropriated not to exceed $10,000,000 to carry out the purposes of sections 3001 through 3009 of this title.

TITLE XXXI—MOUNTAIN PARK MASTER CONSERVANCY DISTRICT, OKLAHOMA

SEC. 3101. PAYMENT BY MOUNTAIN PARK MASTER CONSERVANCY DISTRICT.

(a) IN GENERAL.—The Secretary shall conduct appropriate investigations regarding, and is authorized to accept prepayment of, the repayment obligation of the District for the reimbursable construction costs of the project allocated to municipal and industrial water supply for the city, and, upon receipt of such prepayment, the District's obligation to the United States shall be reduced by the amount of such costs.

(b) PAYMENT AMOUNT.—Any prepayment made pursuant to subsection (a) shall realize an amount to the Federal Government calculated by discounting the remaining repayment obligation by the interest rate determined according to this section.

(c) INTEREST RATE.—The Secretary shall determine the interest rate in accordance with the guidelines set forth in Circular A–129 issued by the Office of Management and Budget concerning loan sales and prepayment of loans.

(d) INVESTIGATIONS.—In determining the interest rate, the Secretary—

(1) shall not equate an appropriate amount of prepayment with the price of the loan if it were to be sold on the open market to a third party, and

(2) shall, in following the guidelines set forth in Circular A–129 regarding an allowance for administrative expenses and possible losses, make such an allowance from the perspective

of the Federal Government as lender and not from the perspective of a third party purchasing the loan on the open market.

(e) TAX-EXEMPT FINANCING.—If the borrower or purchaser of the loan has access to tax-exempt financing (including, but not limited to, tax-exempt bonds, tax-exempt cash reserves, and cash and loans of any kind from any tax-exempt entity) to finance the transaction, and if the Office of Management and Budget grants the Secretary the right to conduct such a transaction, then the interest rate by which the Secretary discounts the remaining payments due on the loan shall be adjusted by an amount that compensates the Federal Government for the direct or indirect loss of future tax revenues.

(f) LIMIT ON INTEREST RATE.—Notwithstanding any other provision in this title, the interest rate shall not exceed a composite interest rate consisting of the current market yield on Treasury securities of comparable maturities.

(g) APPROVAL.—The Secretary shall obtain approval from the Secretary of the Treasury and the Director of the Office of Management and Budget of the final terms of any prepayment made pursuant to this title.

(h) TERMINATION OF AUTHORITY.—The authority granted by this title to sell loans shall terminate two years after the date of enactment of this Act: *Provided,* That the borrower shall have at least sixty days to respond to any prepayment offer made by the Secretary.

(i) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the District pursuant to this section or pursuant to any contract with the Secretary, title to the project facilities shall remain with the United States.

(j) DEFINITIONS.—For the purposes of this section—

(1) the term "city" means the city of Frederick, Oklahoma; the city of Snyder, Oklahoma; or the city of Altus, Oklahoma;

(2) the term "District" means the Mountain Park Master Conservancy District of Mountain Park, Oklahoma;

(3) the term "project" means the Mountain Park Project, Oklahoma; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 3102. RESCHEDULE OF REPAYMENT OBLIGATION.

(a) The Secretary shall conduct appropriate investigations regarding the ability of the District to meet its repayment obligation.

(b) If the Secretary finds that the District does not have the ability to pay its repayment obligation, then the Secretary shall offer the District a revised schedule of payments for purposes of meeting the repayment obligation of the District: *Provided,* That such schedule of payments shall—

(1) be consistent with the ability to pay of the District, and

(2) have the same discounted present value as the repayment obligation of the District.

(c) The Secretary shall conduct the investigations and make any offer of a revised schedule of payments pursuant to this section no later than twelve months after the date of enactment of this section.

TITLE XXXII—SOUTH DAKOTA PRESERVATION AND RESTORATION TRUST

Subpart A—Biological Diversity Trust

SEC. 3201. SOUTH DAKOTA BIOLOGICAL DIVERSITY TRUST.

(a) The Secretary, subject to the provisions of subsection (d) of this section, shall make an annual Federal contribution to a South Dakota Biological Diversity Trust established in accordance with subsection (b) of this section and operated in accordance with subsection (c) of this section. Contributions from the State of South Dakota may be paid to the Trust in such amounts and in such manner as may be agreed upon by the Governor and the Secretary. The total Federal contribution pursuant to this section, including subsection (d), shall not exceed $12,000,000.

(b) A South Dakota Biological Diversity Trust shall be eligible to receive Federal contributions pursuant to subsection (a) of this section if it complies with each of the following requirements:

(1) The Trust is established by non-Federal interests as a nonprofit corporation under the laws of South Dakota with its principal office in South Dakota.

(2) The Trust is under the direction of a Board of Trustees which has the power to manage all affairs of the corporation, including administration, data collection, and implementation of the purposes of the Trust.

(3) The Board is comprised of five persons appointed as follows, each for a term of five years:

(A) 1 person appointed by the Governor of South Dakota;

(B) 1 person appointed by each United States Senator from South Dakota;

(C) 1 person appointed by the United States Representative from South Dakota; and

(D) 1 person appointed by the South Dakota Academy of Science.

(4) Vacancies on the Board are filled in the manner in which the original appointments were made. Any member of the Board is eligible for reappointment for successive terms. Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed is appointed only for the remainder of such term. A member may serve after the expiration of his or her term until his or her successor has taken office. Members of the Board shall serve without compensation.

(5) The corporate purposes of the Trust are to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity, its rare species, exemplary examples of plant and animal communities and large-scale natural ecosystems.

(c) A South Dakota Biological Diversity Trust established by non-Federal interests as provided in subsection (b) shall be deemed to be operating in accordance with this subsection if, in the opinion of the Secretary, each of the following requirements are met:

(1) the Trust is operated to select and provide funding for projects that protect or restore the best examples of South Dakota's biological diversity; its rare species, extraordinary examples of plant and animal communities and large-scale

natural ecosystems in accordance with its corporate purpose; and

(2) the Trust is managed in a fiscally responsible fashion by investing in private and public financial vehicles with the goal of producing income and preserving principal. The principal will be inviolate, but income will be used to accomplish the goals of the trust. Securities.

(3) Proceeds from the Trust are used for the following purposes:

(A) $10,000 per year or 5 percent of the total funds expended by the Trust (whichever is larger) will be provided to the South Dakota Natural Heritage Program (currently as part of the South Dakota Game, Fish, and Parks Departments), in order to do the following:

(i) maintain and update the South Dakota Biodiversity Priority Site List;

(ii) conduct inventory to discover and survey new sites for the Priority Site List; and

(iii) manage data to maintain the Natural Heritage Databases needed to produce and document the Priority Site List.

(B) Up to 5 percent of the costs of each project are used for preserve design or site planning to ensure that sites are selected for funding which are well-designed to maintain the long-term viability of the significant species and communities found at the site.

(C) Proceeds from the Trust may be used to complete land protection projects designed to protect biological diversity.

(D) Projects may include acquisition of land, water rights or other partial interests from willing sellers only, or arranging management agreements, registry and other techniques to protect significant sites.

(E) Ownership of land acquired with Trust proceeds will be held by the public agency or private non-profit organization which proposed and completed the project, or another conservation owner with the approval of the Board. The land will be managed and used for the protection of biological diversity. If the property is used or managed otherwise, title will revert to the Trust for disposition.

(F) Projects eligible for funding must be included on the South Dakota Biodiversity Priority List and located within the borders of South Dakota.

(G) At the discretion of the Board, Trust proceeds may be used for direct project costs including direct expenses incurred during project completion. Land project funding may also include the creation of a stewardship endowment subject to the following terms:

(i) Up to 25 percent of the total fair market value of the project may be placed in a separate endowment.

(ii) The proceeds from the endowment will be used for the ongoing management costs of maintaining the biological integrity and viability of the significant biological features of the site.

(iii) Endowment funds may not be used for activities which primarily promote recreational or economic use of the site.

(iv) The endowment for each site will be held in a separate account from the body of the Trust and other endowments. The endowments will be managed by the Trust Board but the owner or manager of the site may draw upon the proceeds of the stewardship endowment to fund management activities with approval of the Board. Additional management funds may be secured from other public and private sources.

(H) Should the biological significance of a site be destroyed or greatly reduced, the land may be disposed of but the proceeds and any stewardship endowment will revert to the Trust for use in other projects.

(I) Proceeds from the Trust may be used for management of public or private lands, including but not restricted to lands purchased with Trust funds, except that only those management projects that result in the maintenance or restoration of statewide biological diversity are eligible for consideration.

(d) For each fiscal year after 1992, 2 percent of the Federal contributions for the same fiscal year, determined pursuant to subsection (a) of this section, shall be used by the Secretary in order to do the following:

(1) restore damaged natural ecosystems on public lands and waterways affected by the Reclamation program outside South Dakota;

(2) acquire from willing sellers only other lands and properties or appropriate interests therein outside South Dakota with restorable damaged natural ecosystems and restore such ecosystems;

(3) provide jobs and suitable economic development in a manner that carries out the other purposes of this subsection;

(4) provide expanded recreational opportunities; and

(5) support and encourage research, training and education in methods and technologies of ecosystem restoration.

(e) In implementing subsection (d), the Secretary shall give priority to restoration and acquisition of lands and properties (or appropriate interests therein) where repair of compositional, structural and functional values will do the following:

(1) reconstitute natural biological diversity that has been diminished;

(2) assist the recovery of species populations, communities and ecosystems that are unable to survive onsite without intervention;

(3) allow reintroduction and reoccupation by native flora and fauna;

(4) control or eliminate exotic flora and fauna which are damaging natural ecosystems;

(5) restore natural habitat for the recruitment and survival of fish, waterfowl and other wildlife;

(6) provide additional conservation values to state and local government lands;

(7) add to structural and compositional values of existing preserves or enhance the viability, defensibility and manageability of preserves; and

(8) restore natural hydrological effects including sediment and erosion control, drainage, percolation and other water quality improvement capacity.

(f) The Secretary shall annually report on activities under this section to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate and the Committee on Interior and Insular Affairs and the Committee on Appropriations of the House of Representatives. Reports.

(g) There are authorized to be appropriated not to exceed $12,000,000 for the purposes of this title.

Subpart B—Wetland Habitat Restoration Program

SEC. 3202. DEFINITIONS.

(1) The term "Foundation" means the South Dakota Game, Fish and Parks Foundation, a nonprofit corporation under the laws of the State of South Dakota with its principal office in South Dakota.

(2) The term "wetland trust" means a trust established in accordance with section 3602(b) and operated in accordance with section 3602(c).

SEC. 3203. WETLAND TRUST.

(a) FEDERAL CONTRIBUTIONS.—Subject to appropriations therefor, the Secretary shall make a Federal contribution to a wetland trust that is—

(1) established in accordance with subsection (b); and

(2) operated in accordance with subsection (c), in the amount of $3,000,000 in the first year in which a contribution is made and $1,000,000 in each of the following four years.

(b) ESTABLISHMENT OF WETLAND TRUST.—A wetland trust is established in accordance with this subsection if—

(1) the wetland trust is administered by the Foundation;

(2) the Foundation is under the direction of a Board of Directors that has power to manage all affairs of the Foundation, including administration, data collection, and implementation of the purposes of the wetland trust;

(3) members of the Board of Directors of the Foundation serve without compensation;

(4) the corporate purposes of the Foundation in administering the wetland trust are to preserve, enhance, restore, and manage wetland and associated wildlife habitat in the State of South Dakota;

(5) an advisory committee is created to provide the Board of Directors of the Foundation with necessary technical expertise and the benefit of a multiagency perspective;

(6) the advisory committee described in paragraph (5) is composed of—

(A) 1 member of the staff of the Wildlife Division of the South Dakota Department of Game, Fish and Parks, appointed by the Secretary of that department;

(B) 1 member of the United States Fish and Wildlife Service, appointed by the Director of Region 6 of the United States Fish and Wildlife Service;

(C) 1 representative from the Department of Agriculture, as determined by the Secretary of Agriculture; and

(D) 3 residents of the State of South Dakota who are members of wildlife or environmental organizations,

appointed by the Governor of the State of South Dakota; and

(7) the wetland trust is empowered to accept non-Federal donations, gifts, and grants.

(c) OPERATION OF WETLAND TRUST.—The wetland trust shall be considered to be operated in accordance with this subsection if—

(1) the wetland trust is operated to preserve, enhance, restore, and manage wetlands and associated wildlife habitat in the State of South Dakota;

(2) under the corporate charter of the Foundation, the Board of Directors, acting on behalf of the Foundation, is empowered to—

(A) acquire lands and interests in land and power to acquire water rights (but only with the consent of the owner);

(B) acquire water rights; and

(C) finance wetland preservation, enhancement, and restoration programs;

(3)(A) all funds provided to the wetland trust under subsection (a) are to be invested in accordance with subsection (d);

(B) no part of the principal amount (including capital gains thereon) of such funds are to be expended for any purpose;

(C) the income received from the investment of such funds is to be used only for purposes and operations in accordance with this subsection or, to the extent not required for current operations, reinvested in accordance with subsection (d);

(D) income earned by the wetland trust (including income from investments made with funds other than those provided to the wetland trust under subsection (a)) is used to—

(i) enter into joint ventures, through the Division of Wildlife of the South Dakota Department of Game, Fish and Parks, with public and private entities or with private landowners to acquire easements or leases or to purchase wetland and adjoining upland; or

(ii) pay for operation and maintenance of the wetland component;

(E) when it is necessary to acquire land other than wetland and adjoining upland in connection with an acquisition of wetland and adjoining upland, wetland trust funds (including funds other than those provided to the wetland trust under subsection (a) and income from investments made with such funds) are to be used only for acquisition of the portions of land that contain wetland and adjoining upland that is beneficial to the wetland;

(F) all land purchased in fee simple with wetland trust funds shall be dedicated to wetland preservation and use; and

(G)(i) proceeds of the sale of land or any part thereof that was purchased with wetland trust funds are to be remitted to the wetland trust;

(ii) management, operation, development, and maintenance of lands on which leases or easements are acquired;

(iii) payment of annual lease fees, one-time easement costs, and taxes on land areas containing wetlands purchased in fee simple;

(iv) payment of personnel directly related to the operation of the wetland trust, including administration; and

(v) contractual and service costs related to the management of wetland trust funds, including audits.

(4) the Board of Directors of the Foundation agrees to provide such reports as may be required by the Secretary and makes its records available for audit by Federal agencies; and

Reports.
Records.

(5) the advisory committee created under subsection (b)—

(A) recommends criteria for wetland evaluation and selection: *Provided,* That income earned from the Trust shall not be used to mitigate or compensate for wetland damage caused by Federal water projects;

(B) recommends wetland parcels for lease, easement, or purchase and states reasons for its recommendations; and

(C) recommends management and development plans for parcels of land that are purchased.

(d) INVESTMENT OF WETLAND TRUST FUNDS.—(1) The Secretary, in consultation with the Secretary of the Treasury, shall establish requirements for the investment of all funds received by the wetland trust under subsection (a) or reinvested under subsection (c)(3).

(2) The requirements established under paragraph (1) shall ensure that—

(A) funds are invested in accordance with sound investment principles; and

(B) the Board of Directors of the Foundation manages such investments and exercises its fiduciary responsibilities in an appropriate manner.

(e) COORDINATION WITH THE SECRETARY OF AGRICULTURE.—(1) The Secretary shall make the Federal contribution under subsection (a) after consulting with the Secretary of Agriculture to provide for the coordination of activities under the wetland trust established under subsection (b) with the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

(2) The Secretary of Agriculture shall take into consideration wetland protection activities under the wetland trust established under subsection (b) when considering whether to provide assistance under the water bank program, the wetlands reserve program, and any similar Department of Agriculture programs providing for the protection of wetlands.

SEC. 3204. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary $7,000,000 for the Federal contribution to the wetland trust established under section 3203.

TITLE XXXIII—ELEPHANT BUTTE IRRIGATION DISTRICT, NEW MEXICO

SEC. 3301. TRANSFER.

The Secretary is authorized to transfer to the Elephant Butte Irrigation District, New Mexico, and El Paso County Water Improvement District No. 1, Texas, without cost to the respective district, title to such easements, ditches, laterals, canals, drains, and other rights-of-way, which the United States has acquired on behalf of

the project, that are used solely for the purpose of serving the respective district's lands and which the Secretary determines are necessary to enable the respective district to carry out operation and maintenance with respect to that portion of the Rio Grande project to be transferred. The transfer of the title to such easements, ditches, laterals, canals, drains, and other rights-of-way located in New Mexico, which the Secretary has, that are used for the purpose of jointly serving Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, may be transferred to Elephant Butte Irrigation District and El Paso County Water Improvement District No. 1, jointly, upon agreement by the Secretary and both districts. Any transfer under this section shall be subject to the condition that the respective district assume responsibility for operating and maintaining their portion of the project.

SEC. 3302. LIMITATION.

Title to and responsibility for operation and maintenance of Elephant Butte and Caballo dams, and Percha, Leasburg, and Mesilla diversion dams and the works necessary for their protection and operation shall be unaffected by this title.

SEC. 3303. EFFECT OF ACT ON OTHER LAWS.

Nothing in this title shall affect any right, title, interest or claim to land or water, if any, of the Ysleta del Sur Pueblo, a federally recognized Indian Tribe.

Central Valley Project Improvement Act.
Water supply.
California.

TITLE XXXIV—CENTRAL VALLEY PROJECT IMPROVEMENT ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the "Central Valley Project Improvement Act".

SEC. 3402. PURPOSES.

The purposes of this title shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to contribute to the State of California's interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary;

(f) to achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors.

SEC. 3403. DEFINITIONS.

As used in this title—

(a) the term "anadromous fish" means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms "artificial propagation" and "artificial production" mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term "Central Valley Habitat Joint Venture" means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms "Central Valley Project" or "project" mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of October 23, 1970 (84 Stat. 1097), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term "Central Valley Project service area" means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term "Central Valley Project water" means all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(g) the term "full cost" has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(h) the term "natural production" means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(i) the term "Reclamation laws" means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(j) the term "Refuge Water Supply Report" means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the U.S. Department of the Interior entitled Report on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(k) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d)

and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(l) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this title; and,

(m) the term "Secretary" means the Secretary of the Interior.

SEC. 3404. LIMITATION ON CONTRACTING AND CONTRACT REFORM.

(a) NEW CONTRACTS.—Except as provided in subsection (b) of this section, the Secretary shall not enter into any new short-term, temporary, or long-term contracts or agreements for water supply from the Central Valley Project for any purpose other than fish and wildlife before:

(1) the provisions of subsections 3406(b)–(d) of this title are met;

(2) the California State Water Resources Control Board concludes the review ordered by the California Court of Appeals in United States v. State Water Resources Control Board, 182 Cal. App. 3d 82 (1986) and determines the means of implementing its decision, including the obligations of the Central Valley Project, if any, and the Administrator of the Environmental Protection Agency shall have approved such decision pursuant to existing authorities; and,

(3) at least one hundred and twenty days shall have passed after the Secretary provides a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives explaining the obligations, if any, of the Central Valley Project system, including its component facilities and contracts, with regard to achieving its responsibilities for the San Francisco Bay/Sacramento-San Joaquin Delta Estuary as finally established and approved by relevant State and Federal authorities, and the impact of such obligations on Central Valley Project operations, supplies, and commitments.

(b) EXCEPTIONS TO LIMIT ON NEW CONTRACTS.—The prohibition on execution of new contracts under subsection (a) of this section shall not apply to contracts executed pursuant to section 305 of Public Law 102–250 or section 206 of Public Law 101–514 or to one-year contracts for delivery of surplus flood flows or contracts not to exceed two years in length for delivery of class II water in the Friant Unit. Notwithstanding the prohibition in the Energy and Water Development Appropriations Act of 1990, the Secretary is authorized, pursuant to section 203 of the Flood Control Act of 1962, to enter into a long-term contract in accordance with the Reclamation laws with the Tuolumne Regional Water District, California, for the delivery of water from the New Melones project to the county's water distribution system and a contract with the Secretary of Veteran Affairs to provide for the delivery in perpetuity of water from the project in quantities sufficient, but not to exceed 850 acre-feet per year, to meet the needs of the San Joaquin Valley National Cemetery, California.

(c) RENEWAL OF EXISTING LONG-TERM CONTRACTS.—Notwithstanding the provisions of the Act of July 2, 1956 (70 Stat. 483), the Secretary shall, upon request, renew any existing long-term repayment or water service contract for the delivery of water from

the Central Valley Project for a period of twenty-five years and may renew such contracts for successive periods of up to 25 years each.

(1) No such renewals shall be authorized until appropriate environmental review, including the preparation of the environmental impact statement required in section 3409 of this title, has been completed. Contracts which expire prior to the completion of the environmental impact statement required by section 3409 may be renewed for an interim period not to exceed three years in length, and for successive interim periods of not more than two years in length, until the environmental impact statement required by section 3409 has been finally completed, at which time such interim renewal contracts shall be eligible for long-term renewal as provided above. Such interim renewal contracts shall be modified to comply with existing law, including provisions of this title. With respect to all contracts renewed by the Secretary since January 1, 1988, the Secretary shall incorporate in said contracts a provision requiring payment of the charge mandated in subsection 3406(c) and subsection 3407(b) of this title and all other modifications needed to comply with existing law, including provisions of this title. This title shall be deemed "applicable law" as that term is used in Article 14(c) of contracts renewed by the Secretary since January 1, 1988.

(2) Upon renewal of any long-term repayment or water service contract providing for the delivery of water from the Central Valley Project, the Secretary shall incorporate all requirements imposed by existing law, including provisions of this title, within such renewed contracts. The Secretary shall also administer all existing, new, and renewed contracts in conformance with the requirements and goals of this title.

(3) In order to encourage early renewal of project water contracts and facilitate timely implementation of this title, the Secretary shall impose on existing contractors an additional mitigation and restoration payment of one and one-half times the annual mitigation and restoration payment calculated under subsection 3407(d) of this title for every year starting October 1, 1997 or January 1 of the year following the year in which the environmental impact statement required under section 3409 is completed, whichever is sooner, and ending on the effective date of the renewed contract payable prior to the renewal of such contract, to be covered to the Restoration Fund: *Provided, however,* That this paragraph shall not apply to contracts renewed after January 1, 1988, and prior to the date of enactment of this title or, in the event the environmental impact statement required by section 3409 is not completed by October 1, 1997, to any holder of a contract in existence on the date of enactment of this title who enters into a binding agreement with the Secretary prior to October 1, 1997, to renew its contract immediately upon completion of that environmental impact statement, if such contract has not expired prior to such date.

SEC. 3405. WATER TRANSFERS, IMPROVED WATER MANAGEMENT AND CONSERVATION. Contracts.

(a) WATER TRANSFERS.—In order to assist California urban areas, agricultural water users, and others in meeting their future

water needs, subject to the conditions and requirements of this subsection, all individuals or districts who receive Central Valley Project water under water service or repayment contracts, water rights settlement contracts or exchange contracts entered into prior to or after the date of enactment of this title are authorized to transfer all or a portion of the water subject to such contract to any other California water user or water agency, State or Federal agency, Indian tribe, or private nonprofit organization for project purposes or any purpose recognized as beneficial under applicable State law. Except as provided herein, the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

(1) CONDITIONS FOR TRANSFERS.—All transfers to Central Valley Project water authorized by this subsection shall be subject to review and approval by the Secretary under the conditions specified in this subsection. Transfers involving more than 20 percent of the Central Valley Project water subject to long-term contract within any contracting district or agency shall also be subject to review and approval by such district or agency under the conditions specified in this subsection:

(A) No transfer to combination of transfers authorized by this subsection shall exceed, in any year, the average annual quantity of water under contract actually delivered to the contracting district or agency during the last three years of normal water delivery prior to the date of enactment of this title.

(B) All water under the contract which is transferred under authority of this subsection to any district or agency which is not a Central Valley Project contractor at the time of enactment of this title shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates, or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No transfers authorized by this subsection shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No transfer authorized by this subsection shall be approved unless the transfer is consistent with State law, including but not limited to provisions of the California Environmental Quality Act.

(E) All transfers authorized by this subsection shall be deemed a beneficial use of water by the transferor for the purposes of section 8 of the Act of June 17, 1902, 32 Stat. 390, 43 U.S.C. 372.

(F) All transfers entered into pursuant to this subsection for uses outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's

total costs associated with the development and negotiation of the transfer.

(G) No transfer authorized by this subsection shall be considered by the Secretary as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(H) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary has determined, consistent with paragraph 3405(a)(2) of this title, that the transfer will not violate the provisions of this title or other Federal law and will have no significant adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations or fish and wildlife obligations under this title because of limitations in conveyance or pumping capacity.

(I) The water subject to any transfer undertaken pursuant to this subsection shall be limited to water that would have been consumptively used or irretrievably lost to beneficial use during the year or years of the transfer.

(J) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer will have no significant long-term adverse impact on groundwater conditions in the transferor's service area.

(K) The Secretary shall not approve a transfer unless the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer will have no unreasonable impact on the water supply, operations, or financial conditions of the transferor's contracting district or agency or its water users.

(L) The Secretary shall not approve a transfer if the Secretary determines, consistent with paragraph 3405(a)(2) of this title, that such transfer would result in a significant reduction in the quantity or decrease in the quality of water supplies currently used for fish and wildlife purposes, unless the Secretary determines pursuant to findings setting forth the basis for such determination that such adverse effects would be more than offset by the benefits of the proposed transfer. In the event of such a determination, the Secretary shall develop and implement alternative measures and mitigation activities as integral and concurrent elements of any such transfer to provide fish and wildlife benefits substantially equivalent to those lost as a consequence of such transfer.

(M) Transfers between Central Valley Project contractors within countries, watersheds, or other areas of origin, as those terms are utilized under California law, shall be deemed to meet the conditions set forth in subparagraphs (A) and (I) of this paragraph.

(2) REVIEW AND APPROVAL OF TRANSFERS.—All transfers subject to review and approval under this subsection shall be reviewed and approved in a manner consistent with the following:

(A) Decisions on water transfers subject to review by a contracting district or agency or by the Secretary shall

be rendered within ninety days of receiving a written transfer proposal from the transferee or transferor. Such written proposal should provide all information reasonably necessary to determine whether the transfer complies with the terms and conditions of this subsection.

(B) All transfers subject to review by a contracting district or agency shall be reviewed in a public process similar to that provided for in section 226 of Public Law 97-293.

(C) The contracting district or agency or the Secretary shall approve all transfers subject to review and approval by such entity if such transfers are consistent with the terms and conditions of this subsection. To disapprove a transfer, the contracting district or agency or the Secretary shall inform the transferee and transferor, in writing, why the transfer does not comply with the terms and conditions of this subsection and what alternatives, if any, could be included so that the transfer would reasonably comply with the requirements of this subsection.

(D) If the contracting district or agency or the Secretary fails to approve or disapprove a proposed transfer within ninety days of receiving a complete written proposal from the transferee or transferor, then the transfer shall be deemed approved.

(3) Transfers executed after September 30, 1999 shall only be governed by the provisions of subparagraphs 3405(a)(1)(A)–(C), (E), (G), (H), (I), (L), and (M) of this title, and by State law.

(b) METERING OF WATER USE REQUIRED.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with water measuring devices or water measuring methods of comparable effectiveness acceptable to the Secretary within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the monthly volume of surface water delivered within its boundaries.

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(c) STATE AND FEDERAL WATER QUALITY STANDARDS.—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries. This subsection shall not affect or alter any legal obligation of the Secretary to provide drainage services.

(d) WATER PRICING REFORM.—All Central Valley Project water service or repayment contracts for a term longer than three years for agricultural, municipal, or industrial purposes that are entered

into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions:

(1) the first rate tier shall apply to a quantity of water up to 80 percent of the contract total and shall not be less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 80 percent and under 90 percent of the contract total and shall be at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 90 percent of the contract total and shall not be less than the full cost rate; and

(4) the Secretary shall charge contractors only for water actually delivered.

The Secretary shall waive application of this subsection as it relates to any project water delivered to produce a crop which the Secretary determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced: *Provided,* That such waiver shall apply only if such habitat values can be assured consistent with the purposes of this title through binding agreements executed with or approved by the Secretary.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office of Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this title and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or reasonable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this title all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action specific to water conservation and drainage source reduction proposed in the Final Report of the

San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES.—All revenues received by the Secretary as a result of the increased repayment rates applicable to water transferred from irrigation use to municipal and industrial use under subsection 3405(a) of this section, and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section, shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting "and mitigation, protection, and restoration of fish and wildlife" after "Indian reservations,";

(2) in the last proviso of subsection (a), by striking "domestic uses;" and inserting "domestic uses and fish and wildlife mitigation, protection and restoration purposes;" and by striking "power" and inserting "power and fish and wildlife enhancement";

(3) by adding at the end the following: "The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be based on the replacement of ecologically equivalent habitat and shall take place in accordance with the provisions of this title and concurrent with any future actions which adversely affect fish and wildlife populations or their habitat but shall have no priority over them."; and

(4) by adding at the end the following: "(e) Nothing in this title shall affect the State's authority to condition water rights permits for the Central Valley Project."

California.

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, immediately upon the enactment of this title, shall operate the Central Valley Project to meet all obligations under State and Federal law, including but not limited to the Federal Endangered Species Act, 16 U.S.C. 1531, et seq., and all decisions of the California State Water Resources Control Board establishing conditions on applicable licenses and permits for the project. The Secretary, in consultation with other State and Federal agencies, Indian tribes, and affected interests, is further authorized and directed to:

(1) develop within three years of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustainable, on a long-term basis, at levels not less than twice the average levels attained during the period of 1967–1991; *Provided,* That this goal shall not apply to the San Joaquin River between Friant Dam and the Mendota Pool, for which a separate program is authorized under subsection 3406(c) of this title; *Provided further,* That the programs and activities authorized by this section shall, when fully implemented, be deemed to meet the mitigation, protection, restoration, and enhancement purposes established by subsection 3406(a) of this title; *And provided further,* That in the course of developing and implementing

this program the Secretary shall make all reasonable efforts consistent with the requirements of this section to address other identified adverse environmental impacts of the Central Valley Project not specifically enumerated in this section.

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through habitat restoration actions, modifications to Central Valley Project operations, and implementation of the supporting measures mandated by this subsection; shall be reviewed and updated every five years; and shall describe how the Secretary intends to operate the Central Valley Project to meet the fish, wildlife, and habitat restoration goals and requirements set forth in this title and other project purposes.

(B) As needed to achieve the goals of this program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish, except that such flows shall be provided from the quantity of water dedicated to fish, wildlife, and habitat restoration purposes under paragraph (2) of this subsection; from the water supplies acquired pursuant to paragraph (3) of this subsection; and from other sources which do not conflict with fulfillment of the Secretary's remaining contractual obligations to provide Central Valley Project water for other authorized purposes. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined by the Secretary based on recommendations of the United States Fish and Wildlife Service after consultation with the California Department of Fish and Game.

(C) The Secretary shall cooperate with the State of California to ensure that, to the greatest degree practicable, the specific quantities of yield dedicated to and managed for fish and wildlife purposes under this title are credited against any additional obligations of the Central Valley Project which may be imposed by the State of California following enactment of this title, including but not limited to increased flow and reduced export obligations which may be imposed by the California State Water Resources Control Board in implementing San Francisco Bay/Sacramento-San Joaquin Delta Estuary standards pursuant to the review ordered by the California Court of Appeals in United States v. State Water Resources Control Board, 182 Cal.App.3d 82 (1986), and that, to the greatest degree practicable, the programs and plans required by this title are developed and implemented in a way that avoids inconsistent or duplicative obligations from being imposed upon Central Valley Project water and power contractors. Intergovernmental relations.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures.

(2) upon enactment of this title dedicate and manage annually eight hundred thousand acre-feet of Central Valley Project yield for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this title; to assist the State of California in its efforts Intergovernmental relations.

to protect the waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; and to help to meet such obligations as may be legally imposed upon the Central Valley Project under State or Federal law following the date of enactment of this title, including but not limited to additional obligations under the Federal Endangered Species Act. For the purpose of this section, the term "Central Valley Project yield" means the delivery capability of the Central Valley Project during the 1928–1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing at the time of enactment of this title have been met.

(A) Such quantity of water shall be in addition to the quantities needed to implement paragraph 3406(d)(1) of this title and in addition to all water allocated pursuant to paragraph (23) of this subsection for release to the Trinity River for the purposes of fishery restoration, propagation, and maintenance; and shall be supplemented by all water that comes under the Secretary's control pursuant to subsections 3406(b)(3), 3408(h)–(i), and through other measures consistent with subparagraph 3406(b)(1)(B) of this title.

(B) Such quantity of water shall be managed pursuant to conditions specified by the United States Fish and Wildlife Service after consultation with the Bureau of Reclamation and the California Department of Water Resources and in cooperation with the California Department of Fish and Game.

(C) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under this paragraph up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided,* That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors; *Provided further,* That nothing in this subsection or subsection 3406(e) shall require the Secretary to operate the project in a way that jeopardizes human health or safety.

(D) If the quantity of water dedicated under this paragraph, or any portion thereof, is not needed for the purposes of this section, based on a finding by the Secretary, the Secretary is authorized to make such water available for other project purposes.

(3) develop and implement a program in coordination and in conformance with the plan required under paragraph (1) of this subsection for the acquisition of a water supply to supplement the quantity of water dedicated to fish and wildlife purposes under paragraph (2) of this subsection and to fulfill the Secretary's obligations under paragraph 3406(d)(2) of this title. The program should identify how the Secretary intends to utilize, in particular the following options: improvements in or modifications of the operations of the project; water banking; conservation; transfers; conjunctive use; and temporary and permanent land fallowing, including purchase, lease, and option of water, water rights, and associated agricultural land.

(4) develop and implement a program to mitigate for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. The reimbursable share of funding for this and other facility repairs, improvements, and construction shall be allocated among project water and power users in accordance with existing project cost allocation procedures.

(5) develop and implement a program to mitigate for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(6) install and operate a structural temperature control device at Shasta Dam and develop and implement modifications in CVP operations as needed to assist in the Secretary's efforts to control water temperatures in the upper Sacramento River in order to protect anadromous fish in the upper Sacramento River. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(7) meet flow standards and objectives and diversion limits set forth in all laws and judicial decisions that apply to Central Valley Project facilities, including, but not limited to, provisions of this title and all obligations of the United States under the "Agreement Between the United States and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, as well as Public Law 99–546.

(8) make use of short pulses of increased water flows to increase the survival of migrating anadromous fish moving into and through the Sacramento-San Joaquin Delta and Central Valley rivers and streams.

(9) develop and implement a program to eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage or re-regulating facility. The program shall be patterned where appropriate after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex.

(10) develop and implement measures to minimize fish passage problems for adult and juvenile anadromous fish at

the Red Bluff Diversion Dam in a manner that provides for the use of associated Central Valley Project conveyance facilities for delivery of water to the Sacramento Valley National Wildlife Refuge complex in accordance with the requirements of subsection (d) of this section. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels and modify the basin below the Keswick Dam spillway to prevent the trapping of fish. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditure.

(12) develop and implement a comprehensive program to provide flows to allow sufficient spawning, incubation, rearing, and outmigration for salmon and steelhead from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. Costs associated with channel restoration, passage improvements, and fish ladder construction required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California. Costs associated with providing the flows required by this paragraph shall be allocated among project purposes.

(13) develop and implement a continuing program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection projects, and other actions that have reduced the availability of spawning gravel and rearing habitat in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream from the Nimbus and Goodwin Dams, respectively. The program shall include preventive measures, such as re-establishment of meander belts and limitations on future bank protection activities, in order to avoid further losses of instream and riparian habitat. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(14) develop and implement a program which provides for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with

implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(15) construct, in cooperation with the State of California and in consultation with local interests, a barrier at the head of Old River in the Sacramento-San Joaquin Delta to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants and in a manner that does not significantly impair the ability of local entities to divert water. The costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(16) establish, in cooperation with independent entities and the State of California, a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley to assess the biological results and effectiveness of actions implemented pursuant to this subsection. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(17) develop and implement a program to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam as well as upstream stranding problems related to Anderson-Cottonwood Irrigation District Diversion Dam operations. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California.

(18) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Such measures shall be coordinated with efforts to protect and restore native fisheries. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be nonreimbursable.

(19) reevaluate existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity River reservoirs to protect and restore the anadromous fish of the Sacramento and Trinity Rivers in accordance with the mandates and requirements of this subsection and subject to the Secretary's responsibility to fulfill all project purposes, including agricultural water delivery.

(20) participate with the State of California and other Federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associ-

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ated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. Seventy-five percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(21) assist the State of California in efforts to develop and implement measures to avoid losses of juvenile anadromous fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, the Sacramento-San Joaquin Delta, and the Suisun Marsh. Such measures shall include but shall not be limited to construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas. The Secretary's share of costs associated with activities authorized under this paragraph shall not exceed 50 percent of the total cost of any such activity.

(22) provide such incentives as the Secretary determines to be appropriate or necessary, consistent with the goals and objectives of this title, to encourage farmers to participate in a program, which the Secretary shall develop, under which such farmers will keep fields flooded during appropriate time periods for the purposes of waterfowl habitat creation and maintenance and for Central Valley Project yield enhancement; *Provided,* That such incentives shall not exceed $2,000,000 annually, either directly or through credits against other contractual payment obligations, including the pricing waivers authorized under subsection 3405(d) of this tile; *Provided further,* That the holder of the water contract shall pass such incentives through to farmers participating in the program, less reasonable contractor costs, if any; *And provided further,* That such water may be transferred subject to section 3405(a) of this title only if the farmer waives all rights to such incentives. This provision shall terminate by the year 2002.

(23) in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to meet the fishery restoration goals of the Act of October 24, 1984, Public Law 98-541, provide through the Trinity River Division, for water years 1992 through 1996, an instream release of water to the Trinity River of not less than three hundred and forty thousand acre-feet per year for the purposes of fishery restoration, propagation, and maintenance and,

(A) by September 30, 1996, the Secretary, after consultation with the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery; and

(B) not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subparagraph (A)

of this paragraph, to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established under this paragraph and the operating criteria and procedures referred to in subparagraph (A) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established under this paragraph shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe. Costs associated with implementation of this paragraph shall be reimbursable as operation and maintenance expenditures pursuant to existing law.

If the Secretary and the State of California determine that long-term natural fishery productivity in all Central Valley Project controlled rivers and streams resulting from implementation of this section exceeds that which existed in the absence of Central Valley Project facilities, the costs of implementing those measures which are determined to provide such enhancement shall become credits to offset reimbursable costs associated with implementation of this subsection.

(c) SAN JOAQUIN AND STANISLAUS RIVERS.—The Secretary shall, by not later than September 30, 1996:

(1) develop a comprehensive plan, which is reasonable, prudent, and feasible, to address fish, wildlife, and habitat concerns on the San Joaquin River, including but not limited to the streamflow, channel, riparian habitat, and water quality improvements that would be needed to reestablish where necessary and to sustain naturally reproducing anadromous fisheries from Friant Dam to its confluence with the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Such plan shall be developed in cooperation with the California Department of Fish and Game and in coordination with the San Joaquin River Management Program under development by the State of California; shall comply with and contain any documents required by the National Environmental Policy Act and contain findings setting forth the basis for the Secretary's decision to adopt and implement the plan as well as recommendations concerning the need for subsequent Congressional action, if any; and shall incorporate, among other relevant factors, the potential contributions of tributary streams as well as the alternatives to be investigated under paragraph (2) of this subsection. During the time that the Secretary is developing the plan provided for in this subsection, and until such time as Congress has authorized the Secretary to implement such plan, with or without modifications, the Secretary shall not, as a measure to implement this title, make releases for the restoration of flows between Gravelly Ford and the Mendota Pool and shall not thereafter make such releases as a measure to implement this title without a specific Act of Congress authorizing such releases. In lieu of such requirement, and until such time as flows of sufficient quantity, quality and

timing are provided at and below Gravelly Ford to meet the anadromous fishery needs identified pursuant to such plan, if any, entities who receive water from the Friant Division of the Central Valley Project shall be assessed, in addition to all other applicable charges, a $4 per acre-foot surcharge for all Project water delivered on or before September 30, 1997; a $5 per acre-foot surcharge for all Project water delivered after September 30, 1997 but on or before September 30, 1999; and a $7 per acre-foot surcharge for all Project water delivered thereafter, to be covered into the Restoration Fund.

(2) in the course of preparing the Stanislaus River Basin and Calaveras River Water Use Program Environmental Impact Statement and in consultation with the State of California, affected counties, and other interests, evaluate and determine existing and anticipated future basin needs in the Stanislaus River Basin. In the course of such evaluation, the Secretary shall investigate alternative storage, release, and delivery regimes, including but not limited to conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows, in order to best satisfy both basin and out-of-basin needs consistent, on a continuing basis, with the limitations and priorities established in the Act of October 23, 1962 (76 Stat. 173). For the purposes of this subparagraph, "basin needs" shall include water supply for agricultural, municipal and industrial uses, and maintenance and enhancement of water quality, and fish and wildlife resources within the Stanislaus River Basin as established by the Secretary's June 29, 1981 Record of Decision; and "out-of-basin" needs shall include all such needs outside of the Stanislaus River Basin, including those of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and those of the San Joaquin River under paragraph (1) of this subsection.

(d) CENTRAL VALLEY REFUGES AND WILDLIFE HABITAT AREAS.—In support of the objectives of the Central Valley Habitat Joint Venture and in furtherance of the purposes of this title, the Secretary shall provide, either directly or through contractual agreements with other appropriate parties, firm water supplies of suitable quality to maintain and improve wetland habitat areas on units of the National Wildlife Refuge System in the Central Valley of California; on the Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota state wildlife management areas; and on the Grasslands Resources Conservation District in the Central Valley of California.

(1) Upon enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with level 2 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and two-thirds of the water supply needed for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be provided through long-term contractual agreements with appropriate parties and shall be supplemented by the increment of water provided for in paragraph (1) of this subsection; *Provided,* That the Secretary shall be obligated to provide such water whether or not such long-term contractual

agreements are in effect. In implementing this paragraph, the Secretary shall endeavor to diversify sources of supply in order to minimize possible adverse effects upon Central Valley Project contractors.

(2) Not later than ten years after enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with level 4 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and the full water supply needed for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. The quantities of water required to supplement the quantities provided under paragraph (1) of this subsection shall be acquired by the Secretary in cooperation with the State of California and in consultation with the Central Valley Habitat Joint Venture and other interests in cumulating increments of not less than ten percent per annum through voluntary measures which include water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocations of project yield.

(3) All costs associated with implementation of paragraph (1) of this subsection shall be reimbursable pursuant to existing law. Incremental costs associated with implementation of paragraph (2) of this subsection shall be fully allocated in accordance with the following formula: 75 percent shall be deemed a nonreimbursable Federal expenditure; and 25 percent shall be allocated to the State of California for recovery through direct reimbursements or through equivalent in-kind contributions.

(4) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under paragraph (1) of this subsection up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided*, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors. For the purpose of shortage allocation, the priority or priorities applicable to the increment of water provided under paragraph (2) of this subsection shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment.

(5) The Secretary is authorized and directed to construct or to acquire from non-Federal entities such water conveyance facilities, conveyance capacity, and wells as are necessary to implement the requirements of this subsection; *Provided*, That such authorization shall not extend to conveyance facilities in or around the Sacramento-San Joaquin Delta Estuary. Associated construction or acquisition costs shall be reimbursable pursuant to existing law in accordance with the cost allocations set forth in paragraph (3) of this subsection.

(6) The Secretary, in consultation with the State of California, the Central Valley Habitat Joint Venture, and other interests, shall investigate and report on the following supplemental actions by not later than September 30, 1997: Reports.

(A) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies; and

(B) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on one hundred and twenty thousand acres supplemental to the existing wetland habitat acreage identified in Table 8 of the Central Valley Habitat Joint Venture's "Implementation Plan" dated April 19, 1990, as well as feasible means of meeting associated water supply requirements.

(e) SUPPORTING INVESTIGATIONS.—Not later than five years after the date of enactment of this title, the Secretary shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the feasibility, cost, and desirability of developing and implementing each of the following, including, but not limited to, the impact on the project, its users, and the State of California:

(1) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and by restoring riparian forests;

(2) opportunities for additional hatchery production to mitigate the impacts of water development and operations on, or enhance efforts to increase Central Valley fisheries; *Provided,* That additional hatchery production shall only be used to supplement or to re-establish natural production while avoiding adverse effects on remaining wild stocks;

(3) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including but not limited to screening programs, barrier removal programs and programs for the construction or rehabilitation of fish ladders on tributary streams;

(4) installation and operation of temperature control devices at Trinity Dam and Reservoir to assist in the Secretary's efforts to conserve cold water for fishery protection purposes;

(5) measures to provide for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough to assist in the successful migration of anadromous fish; and

(6) other measures which the Secretary determines would protect, restore, and enhance natural production of salmon and steelhead trout in tributary streams of the Sacramento and San Joaquin Rivers, including but not limited to the Merced, Mokulumne, and Calaveras Rivers and Battle, Butte, Deer, Elder, Mill, and Thomes Creeks.

(f) REPORT ON PROJECT FISHERY IMPACTS.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Sec-

retary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this title.

(g) ECOSYSTEM AND WATER SYSTEM OPERATIONS MODELS.—The Secretary, in cooperation with the State of California and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity River watersheds. The primary purpose of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this title through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) related water quality conditions and improvement alternatives, including improved temperature prediction capabilities as they relate to storage and flows;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley; and

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration.

All studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this title or by any other State or Federal law. Seventy-five percent of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the remaining 25 percent shall be borne by the State of California.

Contracts.
Intergovernmental relations.

(h) The Secretary shall enter into a binding cost-share agreement with the State of California with respect to the timely reimbursement of costs allocated to the State in this title. Such agreement shall provide for consideration of the value of direct reimbursements, specific contributions to the Restoration Fund, and water, conveyance capacity, or other contributions in-kind that would supplement existing programs and that would, as determined

by the Secretary, materially contribute to attainment of the goals and objectives of this title.

SEC. 3407. RESTORATION FUND.

(a) RESTORATION FUND ESTABLISHED.—There is hereby established in the Treasury of the United States the "Central Valley Project Restoration Fund" (hereafter "Restoration Fund") which shall be available for deposit of donations from any source and revenues provided under sections 3404(c)(3), 3405(f), 3406(c)(1), and 3407(d) of this title. Amounts deposited shall be credited as offsetting collections. Not less than 67 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the habitat restoration, improvement and acquisition (from willing sellers) provisions of this title. Not more than 33 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the provisions of paragraphs 3406(b)(4)–(6), (10)–(18), and (20)–(22) of this title. Monies donated to the Restoration Fund by non-Federal entities for specific purposes shall be expended for those purposes only and shall not be subject to appropriation.

(b) AUTHORIZATION OF APPROPRIATIONS.—Such sums as are necessary, up to $50,000,000 per year (October 1992 price levels), are authorized to be appropriated to the Secretary to be derived from the Restoration Fund to carry out programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of this title. Any funds paid into the Restoration Fund by Central Valley Project water and power contractors and which are also used to pay for the projects and facilities set forth in section 3406(b), shall act as an offset against any water and power contractor cost share obligations that are otherwise provided for in this title.

(c) MITIGATION AND RESTORATION PAYMENTS BY WATER AND POWER BENEFICIARIES.—

(1) To the extent required in appropriation Acts, the Secretary shall assess and collect additional annual mitigation and restoration payments, in addition to the charges provided for or collected under sections 3404(c)(3), 3405(a)(1)(C), 3405(f), and 3406(c)(1) of this title, consisting of charges to direct beneficiaries of the Central Valley Project under subsection (d) of this section in order to recover a portion or all of the costs of fish, wildlife, and habitat restoration programs and projects under this title.

(2) The payment described in this subsection shall be established at amounts that will result in collection, during each fiscal year, of an amount that can be reasonably expected to equal the amount appropriated each year, subject to subsection (d) of this section, and in combination with all other receipts identified under this title, to carry out the purposes identified in subsection (b) of this section; *Provided,* That, if the total amount appropriated under subsection (b) of this section for the fiscal years following enactment of this title does not equal $50,000,000 per year (October 1992 price levels) on an average annual basis, the Secretary shall impose such charges in fiscal year 1998 and in each fiscal year thereafter, subject to the limitations in subsection (d) of this section, as may be required to yield in fiscal year 1998 and in each fiscal

year thereafter total collections equal to $50,000,000 per year (October 1992 price levels) on a three-year rolling average basis for each fiscal year that follows enactment of this title.

(d) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—

(1) In assessing the annual payments to carry out subsection (c) of this section, the Secretary shall, prior to each fiscal year, estimate the amount that could be collected in each fiscal year pursuant to subparagraphs 2(A) and (B) of this subsection. The Secretary shall decrease all such payments on a proportionate basis from amounts contained in the estimate so that an aggregate amount is collected pursuant to the requirements of paragraph (c)(2) of this section.

(2) The Secretary shall assess and collect the following mitigation and restoration payments, to be covered to the Restoration Fund, subject to the requirements of paragraph (1) of this subsection:

(A) The Secretary shall require Central Valley Project water and power contractors to make such additional annual payments as are necessary to yield, together with all other receipts, the amount required under paragraph (c)(2) of this subsection; *Provided*, That such additional payments shall not exceed $30,000,000 (October 1992 price levels) on a three-year rolling average basis; *Provided further*, That such additional annual payments shall be allocated so as not to exceed $6 per acre-foot (October 1992 price levels) for agricultural water sold and delivered by the Central Valley Project, and $12 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project; *Provided further*, That the charge imposed on agricultural water shall be reduced, if necessary, to an amount within the probable ability of the water users to pay as determined and adjusted by the Secretary no less than every five years, taking into account the benefits resulting from implementation of this title; *Provided further*, That the Secretary shall impose an additional annual charge of $25 per acre-foot (October 1992 price levels) for Central Valley Project water sold or transferred to any State or local agency or other entity which has not previously been a Central Valley Project customer and which contracts with the Secretary or any other individual or district receiving Central Valley Project water to purchase or otherwise transfer any such water for its own use for municipal and industrial purposes, to be deposited in the Restoration Fund; *And Provided further*, That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title, the Secretary shall reduce the sums described in paragraph (c)(2) of this section to $35,000,000 per year (October 1992 price levels) and shall reduce the annual mitigation and restoration payment ceiling established under this subsection to $15,000,000 (October 1992 price levels) on a three-year rolling average basis. The amount of the mitigation and restoration payment made by Central Valley Project water and power users, taking into account all funds collected under this title, shall, to the greatest degree practicable, be assessed in

the same proportion, measured over a ten-year rolling average, as water and power users' respective allocations for repayment of the Central Valley Project.

(e) FUNDING TO NON-FEDERAL ENTITIES.—If the Secretary determines that the State of California or an agency or subdivision thereof, an Indian tribe, or a nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is able to assist in implementing any action authorized by this title in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity on such terms and conditions as he deems necessary to assist in implementing the identified action.

(f) RESTORATION FUND FINANCIAL REPORTS.—The Secretary shall, not later than the first full fiscal year after enactment of this title, and annually thereafter, submit a detailed report to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, and the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, and the Committee on Appropriations of the House of Representatives. Such report shall describe all receipts to and uses made of monies within the Restoration Fund and the Restoration Account during the prior fiscal year and shall include the Secretary's projection with respect to receipts to and uses to be made of the finds during the next upcoming fiscal year.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) REGULATIONS AND AGREEMENTS AUTHORIZED.—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this title.

(b) USE OF ELECTRICAL ENERGY.—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this title, including that used for groundwater development, shall be deemed as Central Valley Project power and shall, if reimbursable, be repaid in accordance with Reclamation law at a price not higher than the lowest price paid by or charged to other Central Valley Project contractors.

(c) CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.—The Secretary is authorized to enter into contracts pursuant to Reclamation law and this title with any Federal agency, California water user or water agency, State agency, or private nonprofit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99–546 (100 Stat. 3051).

(d) USE OF PROJECT FACILITIES FOR WATER BANKING.—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to State law. All or a portion of the water provided

for fish and wildlife under this title may be banked for fish and wildlife purposes in accordance with this subsection.

(e) LIMITATION ON CONSTRUCTION.—This title does not and shall not be interpreted to authorize construction of water storage facilities, nor shall it limit the Secretary's ability to participate in water banking or conjunctive use programs.

(f) ANNUAL REPORTS TO CONGRESS.—Not later than September 30 of each calendar year after the date of enactment of this title, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this title and progress toward achievement of the intent, purposes and provisions of this title. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this title.

(g) RECLAMATION LAW.—This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(h) LAND RETIREMENT.—

(1) The Secretary is authorized to purchase from willing sellers land and associated water rights and other property interests identified in paragraph (h)(2) which receives Central Valley Project water under a contract executed with the United States, and to target such purchases to areas deemed most beneficial to the overall purchase program, including the purposes of this title.

(2) The Secretary is authorized to purchase, under the authority of paragraph (h)(i), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to recommendations specific to water conservation, drainage source reduction, and land retirement contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(i) WATER CONSERVATION.—

(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this title. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved

by such projects or measures shall be governed by the conditions of subparagraph 3405(a)(1) (A) and (J) of this title, and shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this title, including the requirements of paragraph 3406(b)(3). Such projects or measures must be implemented fully by September 30, 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1998 such sums as may be necessary to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a nonreimbursable Federal expenditure.

(j) PROJECT YIELD INCREASE.—In order to minimize adverse effects, if any, upon existing Central Valley Project water contractors resulting from the water dedicated to fish and wildlife under this title, and to assist the State of California in meeting its future water needs, the Secretary shall, not later than three years after the date of enactment of this title, develop and submit to the Congress, a least-cost plan to increase, within fifteen years after the date of enactment of this title, the yield of the Central Valley Project by the amount dedicated to fish and wildlife purposes under this title. The plan authorized by this subsection shall include, but shall not be limited to a description of how the Secretary intends to use the following options:

(1) improvements in, modification of, or additions to the facilities and operations of the project;

(2) conservation;

(3) transfers;

(4) conjunctive use;

(5) purchase of water;

(6) purchase and idling of agricultural land; and

(7) direct purchase of water rights.

Such plan shall include recommendations on appropriate cost-sharing arrangements and shall be developed in a manner consistent with all applicable State and Federal law.

(k) Except as specifically provided in this title, nothing in this title is intended to alter the terms of any final judicial decree confirming or determining water rights.

SEC. 3409. ENVIRONMENTAL REVIEW.

Not later than three years after the date of enactment of this title, the Secretary shall prepare and complete a programmatic environmental impact statement pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts and benefits of implementing this title, including all fish, wildlife, and habitat restoration actions and the potential renewal of all existing Central Valley Project water contracts. Such statement shall consider impacts and benefits within the Sacramento, San Joaquin, and Trinity River basins, and the San Francisco Bay/Sacramento-San Joaquin River Delta Estuary. The cost of the environmental impact statement described in this section shall be treated as a capital expense in accordance with Reclamation law.

SEC. 3410. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Funds appro-

priated under this title shall remain available until expended without fiscal year limitation.

SEC. 3411. COMPLIANCE WITH STATE WATER LAW AND COORDINATED OPERATIONS AGREEMENT.

(a) Nothwithstanding any other provision of this title, the Secretary shall, prior to the reallocation of water from any purpose of use or place of use specified within applicable Central Valley Project water rights permits and licenses to a purpose of use or place of use not specified within said permits or licenses, obtain a modification in those permits and licenses, in a manner consistent with the provisions of applicable State law, to allow such change in purpose of use or place of use.

(b) The Secretary, in the implementation of the provisions of this title, shall fully comply with the United States' obligations as set forth in the "Agreement Between the United States of America and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, and the provisions of Public Law 99–546; and shall take no action which shifts an obligation that otherwise should be borne by the Central Valley Project to any other lawful water rights permittee or licensee.

SEC. 3412. EXTENSION OF THE TEHAMA-COLUSA CANAL SERVICE AREA.

The first paragraph of section 2 of the Act of September 26, 1950 (64 Stat. 1036), as amended by the Act of August 19, 1967 (81 Stat. 167), and the Act of December 22, 1980 (94 Stat. 3339), authorizing the Sacramento Valley Irrigation Canals, Central Valley Project, California, is further amended by striking "Tehama, Glenn, and Colusa Counties, and those portions of Yolo County within the boundaries of the Colusa County, Dunnigan, and Yolo-Zamora water districts or" and inserting "Tehama, Glenn, Colusa, Solano, and Napa Counties, those portions of Yolo County within the boundaries of Colusa County Water District, Dunnigan Water District, Yolo-Zamora Water District, and Yolo County Flood Control and Water Conservation District, or".

TITLE XXXV—THREE AFFILIATED TRIBES AND STANDING ROCK SIOUX TRIBE EQUITABLE COMPENSATION PROGRAM, NORTH DAKOTA

Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act.

SEC. 3501. SHORT TITLE.

This title may be cited as the "Three Affiliated Tribes and Standing Rock Sioux Tribe Equitable Compensation Act".

SEC. 3502. DEFINITIONS.

As used in this title, the term—

(1) "Secretary" means the Secretary of the Interior;

(2) "Three Affiliated Tribes" means the Mandan, Hidatsa, and Arikara Tribes that reside on the Fort Berthold Indian Reservation, a Federal reservation established by treaty and agreement between the Tribes and the United States;

(3) "Standing Rock Sioux Tribe" means the members of the Great Sioux Nation that reside on the Standing Rock Indian Reservation, established by treaty between the Tribe and the United States; and

(4) "Joint Tribal Advisory Committee" means the commission established by the Secretary on May 10, 1985, for the purpose of assessing the impacts of the Garrison and Oahe Dams on the Three Affiliated Tribes and the Standing Rock Sioux Tribe.

SEC. 3503. FINDINGS; DECLARATIONS.

(a) FINDINGS.—In recognition of the findings, conclusions, and recommendations of the Secretary's Joint Tribal Advisory Committee, Congress finds that the Three Affiliated Tribes and the Standing Rock Sioux Tribe should be adequately compensated for the taking, in the case of the Three Affiliated Tribes, of one hundred and fifty-six thousand acres of reservation lands and, in the case of the Standing Rock Sioux Tribe, fifty-six thousand acres of reservation lands, as the site for the Garrison Dam and Reservoir, and the Oahe Dam and Reservoir. Congress concurs in the Advisory Committee's findings and conclusions that the Untied States Government did not justly compensate such Tribes when it acquired those lands.

(b) DECLARATIONS.—(1) The Congress declares that the Three Affiliated Tribes are entitled to additional financial compensation for the taking of one hundred and fifty-six thousand acres of their reservation lands, including thousands of acres of prime agricultural bottom lands, as the site for the Garrison Dam and Reservoir, and that such amounts should be deposited in the Recovery Fund established by section 3504(a) for use in accordance with this title.

(2) The Congress declares that the Standing Rock Sioux Tribe is entitled to additional financial compensation for the taking of over fifty-six thousand acres of its reservation lands, as the site for the Oahe Dam and Reservoir, and that such amounts should be deposited in the Standing Rock Sioux Tribe Economic Recovery Fund established by section 3504(b) for use in accordance with this title.

SEC. 3504. FUNDS.

(a) THREE AFFILIATED TRIBES ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Three Affiliated Tribes Economic Recovery Fund" (hereinafter referred to as the "Recovery Fund").

(2) Commencing with fiscal year 1993, and each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Three Affiliated Tribes Economic Recovery Fund an amount, which shall be nonreimbursable and nonreturnable equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts deposited to the Fund established by this subsection for compensation for the Three Affiliated Tribes pursuant to this paragraph and paragraph (3) exceed $149,200,000.

(3) For payment to the Three Affiliated Tribes of amounts to which they remain entitled pursuant to the Act entitled "An Act to make certain provisions in connection with the construction of the Garrison Diversion unit, Missouri River Basin Project, by the Secretary of the Interior," approved August 5, 1965 (79 Stat. 433), there is authorized to be appropriated to the Recovery Fund established by subsection (a) for fiscal year 1994 and each of the next following nine fiscal years, the sum of $6,000,000.

(4) The Secretary of the Treasury shall deposit the interest which accrues on deposits to the Three Affiliated Tribes Economic Recovery Fund in a separate account in the Treasury of the United States. Such interest shall be available, without fiscal year limitation, for use by the Secretary of the Interior, commencing with fiscal year 1998, and each fiscal year thereafter, in making payments to the Three Affiliated Tribes for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary. No part of the principal of the Three Affiliated Tribes Economic Development Fund shall be available for making such payments.

(b) STANDING ROCK SIOUX TRIBE ECONOMIC RECOVERY FUND.—(1) There is established in the Treasury of the United States the "Standing Rock Sioux Tribe Economic Recovery Fund."

(2) Commencing with fiscal year 1993, and for each fiscal year thereafter, the Secretary of the Treasury shall deposit in the Standing Rock Sioux Tribe Economic Recovery Fund an amount, which shall be nonreimbursable and nonreturnable equal to 25 percent of the receipts from deposits to the United States Treasury for the preceding fiscal year from the integrated programs of the Eastern Division of the Pick-Sloan Missouri River Basin Project administered by the Western Area Power Administration, but in no event shall the aggregate of the amounts deposited to the Recovery Fund established by this subsection for compensation for the Standing Rock Sioux Tribe pursuant to this paragraph exceed $90,600,000.

(3) The Secretary of the Treasury shall deposit the interest which accrues on deposits to the Standing Rock Sioux Tribe Economic Recovery Fund in a separate account in the Treasury of the United States. Such interest shall be available, without fiscal year limitation, for use by the Secretary of the Interior, commencing with fiscal year 1998, and each fiscal year thereafter, in making payments to the Standing Rock Sioux Tribe for use for educational, social welfare, economic development, and other programs, subject to the approval of the Secretary. No part of the principal of the Standing Rock Sioux Tribe Economic Recovery Fund shall be available for making such payments.

SEC. 3505. ELIGIBILITY FOR OTHER SERVICES NOT AFFECTED.

No payments pursuant to this title shall result in the reduction, or the denial, of any Federal services or programs that the Three Affiliated Tribes or the Standing Rock Sioux Tribe, or any of their members, are otherwise entitled to, or eligible for, because of their status as a federally recognized Indian tribe or member pursuant to Federal law. No payments pursuant to this title shall be subject to Federal or State income tax, or affect Pick-Sloan Missouri River Basin power rates in any way.

SEC. 3506. PER CAPITA PAYMENTS PROHIBITED.

No part of any moneys in any fund under this title shall be distributed to any member of the Three Affiliated Tribes or the Standing Rock Sioux Tribe on a per capita basis.

SEC. 3507. STANDING ROCK SIOUX INDIAN RESERVATION.

(a) IRRIGATION.—The Secretary of the Interior is authorized to develop irrigation within the boundaries of the Standing Rock Indian Reservation in a two thousand three hundred and eighty acre project service area, except that no appropriated funds are authorized to be expended for construction of this project unless

the Secretary has made a finding of irrigability of the lands to receive water as required by the Act of July 31, 1953 (43 U.S.C. 390a). Repayment for the units authorized under this subsection shall be made pursuant to the Act of July 1, 1932 (25 U.S.C. 386a).

(b) SPECIFIC.—There is authorized to be appropriated, in addition to any other amounts authorized by this title, or any other law, to the Secretary of the Interior $4,660,000 for use by the Secretary of the Interior in carrying out irrigation projects for the Standing Rock Sioux Tribe.

(c) DISCLAIMER.—This section shall not limit future irrigation development, in the event that such irrigation is subsequently authorized.

SEC. 3508. TRANSFER OF LANDS.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Three Affiliated Tribes by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949 and which are within the external boundary of the Fort Berthold Indian Reservation and located at or above contour elevation one thousand eight hundred and sixty feet mean sea level.

(b) FOUR BEARS AREA.—All rights, title, and interest of the United States in the following described lands (including the improvements thereon) and underlying Federal minerals are hereby declared to be held in trust by the United States for the Three Affiliated Tribes as part of the Fort Berthold Indian Reservation:

(1) approximately 142.2 acres, more or less, lying above contour elevation one thousand eight hundred and fifty-four feet mean sea level and located south of the southerly right-of-way line of North Dakota State Highway No. 23, in the following sections of Township 152 North, range 93 west of the 5th principal meridian, McKenzie County, North Dakota:

Section 15: south half of the southwest quarter;

Section 21: northeast quarter and northwest quarter of the southeast quarter;

Section 22: north half of the northwest quarter; and

(2) approximately 45.80 acres, more or less, situated in the east half of the southwest quarter and the east half of the west half of the southwest quarter of section 15, lying at or above contour elevation one thousand eight hundred and fifty-four mean sea level, located north of the northerly right-of-way line of North Dakota State Highway No. 23 and Southeasterly of the following described line:

Commencing at a point on the west line of said section 15, said point being 528.00 feet Northerly of the existing northerly right-of-way line of North Dakota State Highway No. 23; thence north 77 00′ 00″ east to the west line of said east half of the west half of the southwest quarter of section 15, and the point of beginning of such line; thence northeasterly to the northwest corner of the east half of the southwest quarter and the point of termination.

(c) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (j), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (d).

(2) The lands referred to in paragraph (1) are—

(A) those Federal lands acquired from individual Indian owners by the United States for the Garrison Dam Project pursuant to the Act of October 29, 1949; and

(B) those lands acquired from non-Indian owners by the United States for such Project (either by purchase or condemnation);

and which are within the external boundary of the Fort Berthold Reservation, and located at or above contour elevation one thousand eight hundred and sixty feet mean sea level.

(d) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within one year following the date of the enactment of this title, offer to the Three Affiliated Tribes, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed twelve months following notice of the offer to such Tribes, owners, heirs, or assigns, to purchase at fair market value any land, in the case of the Three Affiliated Tribes, described in subsection (b), and in the case of individual Indian and non-Indian owners, described in subsection (c), which was so acquired. If any such former owner, or his or her heirs or assigns, refuses or fails to exercise his or her right to repurchase, an option to purchase such land shall be afforded to the Three Affiliated Tribes.

(2) Lands purchased from the Secretary of the Interior by former owners, or their heirs or assigns, under this subsection shall not be sold by former owners, their heirs or assigns, within the 5-year period following such purchase, unless the Three Affiliated Tribes has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribes—

(A) thirty days from such notification to inform the prospective seller whether the Tribes intend to exercise their right of first refusal to purchase such lands at the price of the bona fide offer; and

(B) one year from such notification to complete the purchase of such lands under their right of first refusal.

(e) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevations one thousand eight hundred and sixty feet mean sea level (for subsections (a) and (c)) and one thousand eight hundred and fifty-four feet mean sea level (for subsection (b)) by surveying and monumenting such contour at intervals no greater than five hundred feet. The survey and monumentation shall be completed within two years after the date of the enactment of this title.

(f) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege, and easement permanently to overflow, flood, submerge, saturate, percolate, and erode the land described in subsections (a), (b), and (c) in connection with the operation and maintenance of the Garrison Dam Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris, and

natural obstructions which, in the opinion of the Secretary of the Army, may be detrimental to the Project. The Three Affiliated Tribes, and the owners or their heirs or assigns who reacquired such lands pursuant to this title may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easements hereby reserved.

(g) PROHIBITIONS.—With respect to any lands described in this section that are below one thousand eight hundred and sixty feet mean sea level, no structures for human habitation shall be constructed or maintained on the land, and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(h) EXCAVATION.—With respect to lands described in subsection (a), (b), or (c), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(i) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a), (b), and (c) prior to the date of the enactment of this title.

(j) TRUST LANDS.—(1) All rights, title, and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Three Affiliated Tribes.

(2) The improvements and facilities referred to in paragraph (1) are the Red Butte Bay Public Use Area and the Deepwater Bay Public Use Area. The recreation facilities include those facilities located both above and below contour elevation 1,860 feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair, or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

SEC. 3509. TRANSFER OF LANDS AT OAHE DAM AND LAKE PROJECT.

(a) FORMER TRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands which were acquired from the Standing Rock Sioux Tribe by the United States for the Oahe Dam Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85–915), and—

(A) which extend southerly from the south shore of Cannonball River, in Sioux County, North Dakota, to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation one thousand six hundred and twenty feet mean sea level.

(b) FORMER NONTRIBAL LANDS.—(1) Except as provided in subsection (i), the Secretary of the Army shall transfer administrative jurisdiction over the lands described in paragraph (2) (including

the improvements thereon) to the Secretary of the Interior to be administered as set out in subsection (c).

(2) The lands referred to in paragraph (1) are those Federal lands acquired from individual Indian owners by the United States for the Oahe Dam and Reservoir Project pursuant to the Act of September 2, 1958 (Public Law 85–915), and from non-Indian owners (either by purchase or condemnation), and

(A) which extend southerly from the south shore of the Cannonball River, in Sioux County, North Dakota to a point along the boundary between the Standing Rock and Cheyenne River Indian Reservations, in Dewey County, South Dakota; and

(B) which are located at or above contour elevation one thousand six hundred and twenty feet mean sea level.

(c) RIGHT OF FIRST REFUSAL.—(1) The Secretary of the Interior shall, within one year following the date of the enactment of this title, offer to the Standing Rock Sioux Tribe, and to such individual Indian owners and non-Indian owners from whom such lands were acquired, or their heirs or assigns, a right of first refusal, for a period to be determined by the Secretary of the Interior not to exceed twelve months following notice of the offer to the Standing Rock Sioux Tribe, owners, heirs or assigns, to purchase at fair market value any land, in the case of the Standing Rock Sioux Tribe, described in subsection (a), and in the case of individual Indian and non-Indian owners, described in subsection (b), which was so acquired. If any such owner, or his or her heirs or assigns, refuses or fails to exercise their right to repurchase, an option to purchase such lands shall be afforded to the Standing Rock Sioux Tribe.

(2) Lands purchased from the Secretary of the Interior by such former owners, or their heirs or assigns, under this subsection shall not be sold by the former owners, their heirs or assigns, within the five-year period following such purchase, unless the Standing Rock Sioux Tribe has been afforded a right of first refusal to purchase such lands. Such right of first refusal shall afford the Tribe—

(A) thirty days from such notification to inform the prospective seller whether the Tribe intends to exercise its right of first refusal to purchase such lands at the price of the bona fide offer, and

(B) one year from such notification to complete the purchase of such lands under its right of first refusal.

(d) CONSIDERATION.—In consideration for the transfer of the lands described above, the Secretary of the Interior, or his designee, shall be responsible for determining the location of contour elevation one thousand six hundred and twenty feet mean sea level by surveying and monumenting such contour at intervals no greater than five hundred feet. The survey and monumentation shall be completed within two years after the date of the enactment of this title.

(e) RESERVATIONS.—The United States hereby reserves the perpetual right, power, privilege and easement permanently to overflow, flood, submerge, saturate, percolate and erode the land described in subsections (a) and (b) in connection with the operation and maintenance of the Oahe Dam and Lake Project, as authorized by the Act of Congress approved December 22, 1944, and the continuing right to clear and remove any brush, debris and natural

obstructions which, in the opinion of the Secretary of the Army may be detrimental to the Project. The Standing Rock Sioux Tribe, and the owners or their heirs and assigns, who reacquired any such lands pursuant to this title, may exercise all other rights and privileges on the land except for those rights and privileges which would interfere with or abridge the rights and easement hereby reserved.

(f) PROHIBITIONS.—With respect to lands described in this section that are below one thousand six hundred and twenty feet mean sea level, no structures for human habitation shall be constructed or maintained on the land and no other structures shall be constructed or maintained on the land except as may be approved in writing by the Secretary of the Army.

(g) EXCAVATION.—With respect to lands described in subsections (a) or (b), no excavation shall be conducted and no landfill placed on the land without approval by the Secretary of the Army as to the location and method of excavation or placement of landfill.

(h) DISCLAIMER.—Nothing in this section shall deprive any person of any right-of-way, leasehold, or other right, interest, or claim which such person may have in the lands described in subsections (a) and (b) prior to the date of the enactment of this title.

(i) TRUST LANDS.—(1) All rights, title and interest of the United States in the improvements and recreation facilities described in paragraph (2) are hereby declared to be held in trust by the United States for the Standing Rock Sioux Tribe.

(2) The improvements and facilities referred to in paragraph (1) are the levee around the City of Fort Yates, North Dakota, and the recreation facilities located at the Fort Yates Recreation Area, the Walker Bottoms Recreation Area, and the Grand River Recreation Area, including those recreation facilities located both above and below contour elevation one thousand six hundred and twenty feet mean sea level.

(3) The improvements and facilities described in this subsection are transferred as is and without warranty of any kind, and the Corps of Engineers shall have no obligation or responsibility to operate, maintain, repair or replace any of such improvements or facilities. Operation and maintenance of the improvements and recreational facilities in this subsection shall be the responsibility of the Department of the Interior.

(j) EXCEPTION.—Notwithstanding subsection (i), the transfer of such improvements and facilities pursuant to subsection (i) does not include the improvements and facilities located at the Indian Memorial Recreation Area and the Grand River Fish Spawning Station, unless and until the State of South Dakota consents in writing and then only upon amendment of the "Agreement Between the United States and the State of South Dakota for Recreation and Fish and Wildlife Development at Lake Oahe, South Dakota" entered into on September 2, 1983, which amendment shall specifically provide for such transfer.

(k) FISH AND WILDLIFE.—Notwithstanding any other provision of law, the lands transferred under subsection (a) which, prior to the date of enactment of this title, were designated by the Corps of Engineers as mitigation lands for purposes of fish and wildlife conservation in accordance with the Fish and Wildlife Conservation Act of 1958, shall be included in any subsequent determination of the Corps' compliance with the fish and wildlife mitigation requirements of the Fish and Wildlife Conservation Act

of 1958. The Standing Rock Sioux Tribe shall use its best efforts to conduct fish and wildlife conservation and mitigation on such lands. Notwithstanding the provisions of the Fish and Wildlife Conservation Act of 1958, the State of South Dakota shall have no claim, right, or cause of action pursuant to Federal law to compel designation of additional lands currently under the jurisdiction of the Corps of Engineers, for purposes of fish and wildlife conservation in lieu of the lands transferred by subsection (a).

SEC. 3510. CONFORMING AMENDMENT.

Section 10(a)(2) of Public Law 89–108 is amended by striking "$67,910,000" and inserting "$7,910,000." 79 Stat. 433.

SEC. 3511. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 3504 of this title.

TITLE XXXVI—SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT, CALIFORNIA

SEC. 3601. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of the Army is directed to develop and carry out in accordance with this section a three hundred and twenty-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project under this section.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation and site monitoring.

(3) TARGET DATES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed within six months of the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including the construction of on-site improvements, shall be completed within ten months of the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started no later than July 1, 1994.

(D) FOURTH PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

Contracts.

(d) NON-FEDERAL PARTICIPATION.—Any work undertaken pursuant to this title shall be initiated only after non-Federal interests have entered into a cooperative agreement according to the provisions of section 221 of the Flood Control Act of 1970. The non-Federal interests shall agree to:

(1) provide 25 percent of the cost associated with the project, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the cost of operation, maintenance, replacement, and rehabilitation costs associated with the project.

(e) REPORTS TO CONGRESS.—The Secretary shall report to Congress at the end of each of the time periods referred to in subsection (c)(3) on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

San Carlos Apache Tribe Water Rights Settlement Act of 1992.

TITLE XXXVII—SAN CARLOS APACHE TRIBE WATER RIGHTS SETTLEMENT, ARIZONA

Contracts.
Claims.

SEC. 3701. SHORT TITLE.

This title may be cited as the "San Carlos Apache Tribe Water Rights Settlement Act of 1992".

SEC. 3702. CONGRESSIONAL FINDINGS.

(a) SPECIFIC FINDINGS.—The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency depend on the development of viable Indian reservation economies;

(3) qualification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on November 9, 1871, and by actions subsequent thereto, the United States Government established a reservation for the San Carlos Apache Tribe in Arizona;

(5) the United States, as trustee for the San Carlos Apache Tribe, obtained water entitlements for the Tribe pursuant to the Globe Equity Decree of 1935; however, continued uncertainty as to the full extent of the Tribe's entitlement to water has severely limited the Tribe's access to water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence

on Federal program funding and achieve meaningful self-determination and self-sufficiency;

(6) proceedings to determine the full extent and nature of the Tribe's water rights are currently pending before the United States District Court in Arizona and in the Superior Court of the State of Arizona in and for Maricopa County, as part of the General Adjudication of the Gila River System and Source;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Tribe's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Tribe and its neighboring non-Indian communities have sought to settle their dispute to water and reduce the burdens of litigation;

(8) after lengthy negotiations, which included participation by representatives of the United States Government, the Tribe, and neighboring non-Indian communities of the Salt River and Gila River Valleys, who are all party to the General Adjudication of the Gila River System and Source, the parties are prepared to enter into an Agreement to resolve all water rights claims between and among themselves, to quantify the Tribe's entitlement to water, and to provide for the orderly development of the Tribe's lands;

(9) pursuant to the Agreement, the neighboring non-Indian communities will relinquish claims to approximately fifty-eight thousand seven hundred and thirty-five acre-feet of surface water to the Tribe, provide the means of storing water supplies of the Tribe behind Coolidge Dam on the Gila River in Arizona to enhance fishing, recreation, and other environmental benefits, and make substantial additional contributions to carry out the Agreement's provisions; and

(10) to advance the goal of Federal Indian policy and to fulfill the trust responsibility of the United States to the Tribe, it is appropriate that the United States participate in the implementation of the Agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Tribe to utilize fully its water resources in developing a diverse, efficient reservation economy.

(b) PURPOSES OF TITLE.—It is the purpose of this title—

(1) to approve, ratify, and confirm the Agreement to be entered into by the Tribe and its neighboring non-Indian communities,

(2) to authorize and direct the Secretary of the Interior to execute and perform such Agreement, and

(3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Tribe as provided in the Agreement and this title.

SEC. 3703. DEFINITIONS.

For purposes of this title:

(1) "Active conservation capacity" means that storage space, exclusive of bank storage, available to store water which can be released through existing reservoir outlet works.

(2) "Agreement" means that agreement among the San Carlos Apache Tribe; the United States of America; the State

of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Arizona cities of Chandler, Glendale, Globe, Mesa, Safford, Scottsdale and Tempe, the town of Gilbert; Buckeye Water Conservation and Drainage District, Buckeye Irrigation Company, the Phelps Dodge Corporation and the Central Arizona Water Conservation District, together with all exhibits thereto, as the same is executed by the Secretary of the Interior pursuant to sections 3710(c) and 3711(a)(7) of this title.

(3) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(4) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(5) "Globe Equity Decree" means the decree dated June 29, 1935, entered in the United States of America v. Gila Valley Irrigation District, et al., Globe Equity 59, in the District Court of the United States in and for the District of Arizona, and all decrees and decisions supplemental thereto.

(6) "Reservation" means the reservation authorized by the Treaty with the Apache Nation dated July 1, 1852 (10 Stat. 979), established by the Executive orders of November 9, 1871 and December 14, 1872, as modified by subsequent Executive orders and Acts of Congress including the Executive order of August 5, 1873.

(7) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(8) "Secretary" means the Secretary of the Interior.

(9) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona Corporation.

(10) "SCIP" means the San Carlos Irrigation Project authorized pursuant to the Act of June 7, 1924 (42 Stat. 475), expanded pursuant to the Act of March 7, 1928 (45 Stat. 200, 210), and administered by the Bureau of Indian Affairs.

(11) "Tribe" means the San Carlos Apache Tribe, a tribe of Apache Indians organized under section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476), and duly recognized by the Secretary.

SEC. 3704. WATER.

(a) REALLOCATION OF WATER.—The Secretary shall reallocate, for the exclusive use of the Tribe, all of the water referred to in subsection (f)(2) of section 2 of the Act of October 19, 1984 (98 Stat. 2698), which is not required for delivery to the Ak-Chin Indian Reservation under that Act. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from

CAWCD's repayment obligation and such costs shall be nonreimbursable.

(b) PARTIAL SATISFACTION OF CLAIMS.—Notwithstanding any other provision of this title, in the event the authorizations contained in section 3708(b) do not become effective, the water referred to in subsection 3704(a) of this title shall constitute partial satisfaction of the Tribe's claims for water in the proceeding entitled "In Re the General Adjudication of All Rights To Use Water in the Gila River System and Source", Maricopa County Superior Court Nos. W–091, W–092, W–093, and W–094 (consolidated), as against the parties identified in section 3703(2) of this title.

(c) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to fourteen thousand six hundred and fifty-five acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to Phelps Dodge Corporation in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12446 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3706, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be nonreimbursable.

(d) ADDITIONAL ALLOCATIONS.—The Secretary shall reallocate to the Tribe an annual entitlement to three thousand four hundred and eighty acre-feet of water from the Central Arizona Project having a CAP municipal and industrial priority, which the Secretary previously allocated to the city of Globe, Arizona, in the Notice of Final Water Allocations to Indian and Non-Indian Water Users and Related Decisions, dated March 24, 1983 (48 F.R. 12466 et seq.). The Tribe shall pay the United States or, if directed by the Secretary, CAWCD, all operation, maintenance and replacement costs associated with such CAP water. Except as provided in subsection (e)(3) of section 3706, water service capital charges, or any other charges or payments for such CAP water other than operation, maintenance and replacement costs shall be nonreimbursable. The Secretary shall exclude, for the purposes of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with such water from CAWCD's repayment obligation and such costs shall be reimbursable.

(e) WATER STORAGE POOL.—Notwithstanding the Act of June 7, 1924 (43 Stat. 475), as amended by the Act of March 7, 1928 (45 Stat. 200, 210), in order to permit the Tribe to maintain permanently a pool of stored water for fish, wildlife, recreation and other purposes, the Secretary shall designate for the benefit of the Tribe such active conservation capacity behind Coolidge Dam

on the Gila River in Arizona as is not being used by the Secretary to meet the obligations of SCIP for irrigation storage, except that any water stored by the Tribe shall be the first water to spill ("spill water") from Coolidge Dam. The water stored by the Tribe shall be, at the Tribe's designation, the water provided to the Tribe pursuant to subsections (a), (c) and (d) of this section, its entitlement of twelve thousand and seven hundred acre-feet of water under its Tribal CAP Delivery Contract dated December 11, 1981; the water referred to in section 3710(f), or any combination thereof. A pro rata share of evaporation and seepage losses shall be deducted daily from the Tribe's stored water balance as provided in the Agreement. The Tribe shall pay an equitable share of the operation and maintenance costs for the water stored for the benefit of the Tribe, subject to the Act of July 1, 1932 (47 Stat. 564, 25 U.S.C. 386 et seq.). The water stored by the Tribe pursuant to this subsection shall not be subject to apportionments pursuant to Article VIII (2) of the Globe Equity Decree. Not later than January 31 of each year, the Secretary shall notify the United States District Court for the District of Arizona of the Tribe's stored water balance as of January 1 of that year. The Secretary shall notify said Court of the Tribe's stored water balance at least once per calendar month and at such more frequent intervals as conditions, in the Secretary's judgment, may require.

(f) EXECUTION OF AGREEMENT.—The Secretary shall execute the Agreement which establishes, as between and among the parties to Agreement, the Tribe's permanent right, except as provided in paragraphs 13.0, 14.0 and 15.0 of the Agreement, to the on-reservation diversion and use of all ground water beneath the Tribe's Reservation, subject to the management plan referred to in section 3710(d) of this title, and all surface water in all tributaries within the Tribe's Reservation to the mainstreams of: The Black River, the Salt River below its confluence with the Black River, the San Pedro River and the Gila River, including the right, except as provided in paragraphs 14.0 and 15.0 of the Agreement, to fully regulate and store such water on the tributaries. The Tribe's rights to the mainstream of Black River, San Pedro River and the Gila River shall be as provided in the Agreement and the Globe Equity Decree. With respect to parties not subject to the waiver authorized by subsection 3708(b) of this title, the claims of the Tribe and the United States, as trustee for the Tribe, are preserved.

(g) GILA RIVER EXCHANGES.—Any exchange pursuant to this legislation of Gila River water for water supplied by the CAP shall not amend, alter or conflict with the exchanges authorized by section 304(f) of the Colorado River Basin Project Act (43 U.S.C. 1524(f)).

SEC. 3705. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) RATIFICATION OF CONTRACT.—Except as provided in section 3710(i), the contract between the SRP and RWCD District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement, is ratified, confirmed, and declared to be valid.

(b) SUBCONTRACT.—The Secretary shall revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of exhibit "A" to the Agreement and to execute the sub-

contract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(c) RESTRICTIONS.—The lands within RWCD and SRP shall be free from the ownership and full cost pricing limitations of Federal reclamation law and from all full cost pricing provisions of Federal law.

(d) DISCLAIMER.—No person, entity or lands shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) or any full cost pricing provision of Federal law by virtue of their participation in the settlement or their execution and performance of the Agreement, or the use, storage or delivery of CAP water pursuant to a lease, sublease or exchange of water to which the Tribe is entitled under this title.

(e) FULL COST PRICING PROVISIONS.—The lands within the Tribe's Reservation shall be free from all full cost pricing provisions of Federal law.

(f) CERTAIN EXTENSIONS AUTHORIZED.—Notwithstanding any other provision of law or any other provision of this title, the Secretary, subject to tribal approval, is authorized and directed to: extend the term of that right-of-way permit granted to Phelps Dodge Corporation on March 8, 1950, and all amendments thereto, for the construction, operation and maintenance of an electrical transmission line and existing road for access to those facilities over the lands of the Tribe; extend the term of that right-of-way permit numbered 2000089 granted on July 25, 1944, to Phelps Dodge Corporation, and all amendments thereto, for the construction, use, operation and maintenance of a water plant, pipeline, canal, water flowage easement through Willow Creek and existing road for access to those facilities over the lands of the Tribe; and grant a water flowage easement through the portions of Eagle Creek flowing through the Tribe's Reservation. Notwithstanding any other provision of law, each such right-of-way and flowage easement shall be for a term expiring on March 8, 2090, and shall be subject to the right of Phelps Dodge to renew the rights-of-way and flowage easements for an additional term of up to one hundred years, subject to payment of rental at a rate based upon fair market retail value.

SEC. 3706. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE, WATER WITHDRAWAL.

(a) AMENDMENT OF CONTRACT.—The Secretary shall amend the CAP water delivery contract between the United States and the Ak-Chin Indian Community dated December 11, 1980, and the contract between the United States and the Ak-Chin Indian Community dated October 2, 1985, as is necessary to satisfy the requirements of section 3704(a) of this title.

(b) CONTRACT AMENDMENT.—The Secretary shall amend the CAP water delivery contract between the United States and the Tribe dated December 11, 1980 (hereinafter referred to as the "Tribal CAP Delivery Contract"), as follows:

(1) To include the obligation by the United States to deliver water to the Tribe upon the same terms and conditions set forth in the Tribal CAP Delivery Contract as follows: water from those sources described in subsections (a), (c), and (d)

of section 3704 of this title; except that the water reallocated pursuant to such subsections shall retain the priority such water had prior to its reallocation. The cost to the United States to meet the Secretary's obligation to design and construct new facilities to deliver CAP water shall not exceed the cost of construction of the delivery and distribution system for the twelve thousand and seven hundred acre-feet of CAP water originally allocated to the Tribe.

(2) To extend the term of such contract to December 31, 2100, and to provide for its subsequent renewal upon the same terms and conditions as the Tribal CAP Delivery Contract, as amended.

(3) To authorize the Tribe to lease or to enter into an option or options to lease the water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, within Maricopa, Pinal and Pima Counties for terms not exceeding one hundred years and to renew such leases.

(4) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, to the city of Scottsdale under the terms and conditions of the Water Lease set forth in Exhibit "B" to the Agreement.

(5) To authorize the Tribe to lease water to which the Tribe is entitled under the Tribal CAP Delivery Contract, as amended, including, but not limited to, the cities of Chandler, Glendale, Goodyear, Mesa, Peoria, Phoenix, Scottsdale, Tempe and the town of Gilbert.

(c) APPROVAL OF AMENDMENTS.—Notwithstanding any other provision of law, the amendments to the Tribal CAP Delivery Contract set forth in Exhibit "C" to the Agreement are hereby authorized, approved and confirmed.

(d) CHARGES NOT TO BE IMPOSED.—The United States shall not impose upon the Tribe the operation, maintenance and replacement charges described and set forth in section 6 of the Tribal CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to the lessee or lessees of the options to lease or leases herein authorized.

(e) WATER LEASE.—Except as provided in paragraph (3) of this subsection, any Water Lease entered into by the Tribe as authorized by section 3706 shall specifically provide that—

(1) the lessee shall pay all operation, maintenance and replacement costs of such water to the United States, or if directed by the Secretary, to CAWCD;

(2) except as provided in paragraph (3) of this subsection, the lessee shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance and replacement costs and lease payments; and

(3) with respect to the water reallocated to the Tribe pursuant to subsections (c) and (d) of section 3704, the Tribe or lessee shall pay any water service capital charges or municipal and industrial subcontract charges for any water use or lease from the effective date of this title through September 30, 1995.

(f) ALLOCATION AND REPAYMENT OF COSTS.—For the purpose of determining allocation and repayment of costs of the CAP as

provided in Article 9.3 of Contract Numbered 14–0906–09W–09245, Amendment No. 1, between the United States of America and CAWCD dated December 1, 1988, and any amendment or revision thereof, the costs associated with the delivery of water to which the Tribe is entitled under the Tribal Delivery Contract, as amended, to the lessee or lessees of the options to lease or leases herein authorized shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(g) AGREEMENTS.—The Secretary shall, in consultation with the Tribe, enter into agreements necessary to permit the Tribe to exchange, within the State of Arizona, all or part of the water available to it under its Tribal CAP Delivery Contract, as amended.

(h) RATIFICATION.—As among the parties to the Agreement, the right of the city of Globe to withdraw and use water from under the Cutter subarea under the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(i) USE OF WATER.—As among the parties to the Agreement, the right of the city of Safford to withdraw and use water from the Bonita Creek watershed as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(j) WITHDRAWAL AND USE OF WATER.—As between the Tribe and Phelps Dodge, the right of Phelps Dodge to divert, withdraw and use water as provided in the Agreement, as limited and conditioned thereunder, is hereby ratified and confirmed.

(k) PROHIBITIONS.—Except as authorized by this section, no water made available to the Tribe pursuant to the Agreement, the Globe Equity Decree, or this title may be sold, leased, transferred or in any way used off the Tribe's Reservation.

SEC. 3707. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) DUTIES.—

(1) The Secretary is directed, pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et. seq.), to design and construct new facilities for the delivery of 12,700 acre-feet of CAP water originally allocated to the Tribe to tribal reservation lands at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this title;

(2) The Secretary of Commerce is directed to amend the contract between the United States Economic Development Administration and the Tribe relating to the construction of Elgo Dam on the San Carlos Apache Indian Reservation, Project No. 07–0981–09000210, to provide that all remaining repayment obligations owing to the United States on the date of the enactment of this title are discharged.

(b) FUND.—There is established in the Treasury of the United States a fund to be known as the "San Carlos Apache Tribe Development Trust Fund" (hereinafter called the "Fund") for the exclusive use and benefit of the Tribe. The Secretary shall deposit into the Fund the funds authorized to be appropriated in subsection (c) and the $3,000,000 provided by the State of Arizona pursuant to the Agreement. There shall be deposited into the Fund any monies paid to the Tribe or to the Secretary on behalf of the Tribe from leases or options to lease water authorized by section 3706 of this title. Such sums shall be invested in interest-bearing Securities.

deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162(a)).

(c) AUTHORIZATION.—There are authorized to be appropriated $38,400,000 in fiscal year 1994, together with interest accruing thereon beginning one year from the date of enactment of this title at rates determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding Federal obligations of comparable maturity, to carry out the provisions of subsection (b).

(d) USE OF FUND.—When the authorizations contained in section 3708(b) of this title are effective, the principal of the Fund and any interest or income accruing thereon may be used by the Tribe to put to beneficial use the Tribe's water entitlement, to defray the cost to the Tribe of CAP operation, maintenance and replacement charges as appropriate, and for other economic and community development purposes. The income from the Fund shall be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council. Such income may thereafter be expended only in accordance with such budget. Income not distributed shall be added to principal. The principal from the Fund may be distributed by the Secretary to the San Carlos Apache Tribe only upon presentation to the Secretary of a certified copy of a duly enacted Resolution of the Tribal Council requesting distribution and a written budget approved by the Tribal Council and the Secretary. Such principal may thereafter be expended only in accordance with such budget: *Provided, however,* That the principal may only be utilized for long-term economic development projects. In approving a budget for the distribution of income or principal, the Secretary shall, in accordance with regulations promulgated pursuant to subsection (e) of this section, be assured that methods exist and will be employed to ensure that use of the funds shall be in accordance with the approved budget.

(e) REGULATIONS.—The Secretary shall, no later than thirty days after the date the authorizations contained in section 3708(b) are effective, promulgate regulations necessary to carry out the purposes of subsection (d).

(f) DISCLAIMER.—The United States shall not be liable for any claim or cause of action arising from the Tribe's use or expenditure of moneys distributed from the Fund.

SEC. 3708. SATISFACTION OF CLAIMS.

(a) FULL SATISFACTION OF CLAIMS.—Except as provided in subsection (e) of this section, the benefits realized by the Tribe and its members under this title shall constitute full and complete satisfaction of all members' claims for water rights or injuries to water rights under Federal, State, and other laws (including claims for water rights in ground water, surface water, and effluent) from time immemorial to the effective date of this title. Notwithstanding the foregoing, nothing in this title shall be deemed to recognize or establish any right of a member of the Tribe to water on the Tribe's Reservation.

(b) RELEASE.—The Tribe, on behalf of itself and its members, and the Secretary on behalf of the United States, are authorized, as part of the performance of the obligations under the Agreement,

to execute a waiver and release, except as provided in the Agreement, of all claims of water rights or injuries to water rights (including water rights in ground water, surface water and effluent), from time immemorial to the effective date of this title, and any and all future claims of water rights (including water rights in ground water, surface water and effluent), from and after the effective date of this title, which the Tribe and its members may have, against the United States, the State of Arizona or any agency or political subdivision thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise.

(c) ADDITIONAL RELEASES.—Except as provided in the Agreement, the United States shall not assert any claim against the State of Arizona or any political subdivision thereof, or any person, corporation or municipal corporation, arising under the laws of the United States, the State of Arizona or otherwise in its own right or on behalf of the Tribe based upon—

(1) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) of the Tribe and its members, or

(2) water rights or injuries to water rights (including water rights in ground water, surface water and effluent) held by the United States on behalf of the Tribe and its members.

(d) SAVINGS PROVISION.—In the event the authorizations contained in subsection (b) of this section do not become effective pursuant to section 3711(a), the Tribe and the United States shall retain the right to assert past and future water rights claims as to all Reservation lands.

(e) DISCLAIMER.—Nothing in this title shall affect the water right or claims related to the San Carlos Apache Allotments outside the exterior boundaries of the Reservation.

(f) CLAIMS.—(1) The United States District Court for the District of Arizona and the United States Claims Court are authorized to hear and decide any claim brought by the Central Arizona Water Conservation District or other contractors of CAP water. Any such claim shall be filed within two years of the date of enactment of this Act, and shall be heard by the court on an expedited basis. If such a claim is filed and the court grants judgment for the plaintiff(s), the court shall award such relief as it deems proper, and shall award costs and attorneys' fees to the plaintiff(s). Any judgment of the court shall be subject to appeal on the same basis that other judgments of that court are subject to review under existing law.

(2) For purposes of this subsection, "claim" means a claim that the reallocation of water to the Tribe pursuant to section 3704(a) of this Act has unlawfully deprived the Central Arizona Water Conservation District or other contractors of CAP water of legal rights to such water.

SEC. 3709. ENVIRONMENTAL COMPLIANCE.

(a) NO MAJOR FEDERAL ACTION.—Execution of the settlement agreement by the Secretary as provided for in section 3710(c) shall not constitute major Federal action under the National Environmental Policy Act (42 U.S.C. 4321 et seq.). The Secretary shall carry out all necessary environmental compliance during the implementation phase of this settlement.

(b) AUTHORIZATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out all necessary environmental compliance associated with the settlement under this title, including mitigation measures adopted by the Secretary.

(c) LEAD AGENCY.—With respect to such settlement, the Bureau of Reclamation shall be designated as the lead agency in regard to environmental compliance, and shall coordinate and cooperate with the other affected Federal agencies as required under applicable Federal environmental laws.

(d) ENVIRONMENTAL ACTS.—The Secretary shall comply with all aspects of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) and the Endangered Species Act (16 U.S.C. 1531 et seq.), and other applicable Federal environmental Acts and regulations in proceeding through the implementation phase of such settlement.

SEC. 3710. MISCELLANEOUS PROVISIONS.

(a) WAIVER OF SOVEREIGN IMMUNITY.—In the event any party to the Agreement files a lawsuit in any United States district court relating only and directly to the interpretation or enforcement of this title or the Agreement, naming the United States of America or the Tribe as parties, authorization is hereby granted to joining the United States of America or the Tribe, or both, in any such litigation, and any claim by the United States of America or the Tribe to sovereign immunity from such suit is hereby waived.

(b) CERTAIN CLAIMS PROHIBITED.—The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this title or the Agreement against any lands within the San Carlos Apache Indian Reservation, and no assessment shall be made with regard to such costs against such lands.

(c) APPROVAL OF AGREEMENT.—Except to the extent that the Agreement conflicts with the provisions of this title, such Agreement is hereby approved, ratified and confirmed. The Secretary shall execute and perform such Agreement as approved, ratified and confirmed. The Secretary is authorized to execute any amendments to the Agreement and perform any action required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(d) GROUND WATER MANAGEMENT PLAN.—The Secretary shall establish a ground water management plan for the San Carlos Apache Reservation which, except as is necessary to be consistent with the provisions of this title, will have the same effect as a management plan developed under Arizona law.

(e) AMENDMENT TO THE ACT OF APRIL 4, 1938.—The Act of April 4, 1938 (52 Stat. 193; 25 U.S.C. 390), is amended by inserting immediately before the period at the end thereof a colon and the following: "*Provided further,* That concessions for recreation and fish and wildlife purposes on San Carlos Lake may be granted only by the governing body of the San Carlos Apache Tribe upon such conditions and subject to such limitations as may be set forth in the constitution and bylaws of such Tribe".

(f) SAN CARLOS RESERVOIR.—There is hereby transferred to the Tribe the Secretary's entitlement of 30,000 acre-feet of water, less any evaporation and seepage losses from the date of acquisition by the Secretary to the date of transfer, which the Secretary may have acquired through substituting CAP water for water to which

the Gila River Indian Community and the San Carlos Irrigation and Drainage District had a right to be released from San Carlos Reservoir and delivered to them in 1990.

(g) LIMITATION.—No part of the Fund established by section 3707(b) of this title, including principal and income, or income from options to lease water or water leases authorized by section 3706, may be used to make per capita payments to members of the Tribe.

(h) DISCLAIMER.—Nothing in this title shall be construed to repeal, modify, amend, change or affect the Secretary's obligations to the Ak-Chin Indian Community pursuant to the Act of October 19, 1984 (98 Stat. 2698).

(i) WATER RIGHTS.—Nothing in this title shall be construed to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona tribe, band or community, other than the San Carlos Apache Tribe.

(j) PLANET RANCH.—The Secretary is authorized and directed to acquire, with the consent of and upon terms mutually acceptable to the city of Scottsdale ("city") and the Secretary, all of the city's right, title and interest in Planet Ranch located on the Bill Williams River in Arizona, including all water rights appurtenant to that property, and the city's January 1988 application filed with the Arizona Department of Water Resources to appropriate water from the Bill Williams River through a land exchange based on fair market value. If an exchange is made with land purchased by the Bureau of Reclamation for the construction and operation of the Central Arizona Project, then, upon commencement of repayment by CAWCD of the reimbursable costs of the Central Arizona Project, the fair market value of those lands so exchanged shall be credited in full against the annual payments due from CAWCD under Article 9.4(a) of Contract No. 14–0906–09W–09245, Amendment No. 1, between the United States and CAWCD dated December 1, 1988, and any amendment or revision thereof, until exhausted: *Provided, however,* That the authorized appropriation ceiling of the Central Arizona Project shall not be affected in any manner by the provisions of this subsection.

(k) REPEAL.—Section 304(c)(3) of the Colorado River Basin Project Act (43 U.S.C. 1524(c)(3)) is hereby repealed. This subsection does not authorize transportation of water pumped within the exterior boundary of a Federal reclamation project established prior to September 30, 1968, pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 391), as amended and supplemented, across project boundaries. 43 USC 1524 note.

(l) WATER RIGHTS.—Nothing in this title shall be construed to affect the water rights or the water rights claims of any Federal agency other than the Bureau of Indian Affairs on behalf of the San Carlos Apache Tribe, nor shall anything in this title be construed to prohibit the United States from confirming in the Agreement, except on behalf of Indian tribes other than the San Carlos Apache Tribe, the Gila River and Little Colorado River watershed water rights of other parties to the Agreement by making express provisions for the same in the Agreement.

SEC. 3711. EFFECTIVE DATE. 25 USC 390 note.

(a) EFFECTIVE DATE OF AUTHORIZATION.—The authorization contained in section 3708(b) of this title shall become effective Federal Register, publication.

as of the date the Secretary causes to be published in the Federal Register a statement of findings that—

(1) the Secretary has fulfilled the requirements of sections 3704 and 3706;

(2) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 3705(b);

(3) the funds authorized by section 3707(c) have been appropriated and deposited into the Fund;

(4) the contract referred to in section 3707(a)(2) has been amended;

(5) the State of Arizona has appropriated and deposited into the Fund $3,000,000 as required by the Agreement;

(6) the stipulations attached to the Agreement as Exhibits "D" and "E" have been approved; and

(7) the Agreement has been modified, to the extent it is in conflict with this title, and has been executed by the Secretary.

(b) CONDITIONS.—(1) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), and (7) of subsection (a) of this section have not occurred by December 31, 1994, subsections (c) and (d) of section 3704, subsections (a) and (b) of section 3705, section 3706, subsections (a)(2), (c), (d), and (f) of section 3707, subsections (b) and (c) of section 3708, and subsections (a), (b), (c), (d), (e), (g), (h), (j), and (l) of section 3710 of this title, together with any contracts entered into pursuant to any such section or subsection, shall not be effective on and after the date of enactment of this title, and any funds appropriated pursuant to section 3707(c), and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the Treasury, as general revenues, and any funds appropriated by the State of Arizona pursuant to the Agreement, and remaining unobligated and unexpended on the date of the enactment of this title, shall immediately revert to the State of Arizona.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, if the provisions of subsections (a) and (b) of section 3705 of this title have been otherwise accomplished pursuant to provisions of the Act of October 20, 1988, the provisions of paragraph (1) of this subsection shall not be construed as affecting such subsections.

TITLE XXXVIII—SAN FRANCISCO WATER RECLAMATION AND REUSE DEMONSTRATION PROJECT

The Secretary of the Interior is authorized and directed to undertake a demonstration project in the City and County of San Francisco to examine the feasibility and effectiveness of using advanced ecologically engineered technology for water reclamation and reuse in accordance with the title 22 standards of the California Water Code. "Advanced Ecologically Engineered Technology" refers to a greenhouse-based, ecologically engineered technology which employs highly populated pond and marsh ecosystems to produce water for reclamation and reuse. One-half of the costs associated with implementation of this title shall be borne by the United States as a nonreimbursable cost; the other one-half shall be borne by the State of California and the City and County of San Francisco.

TITLE XXXIX—SIPHON REPAIR AND REPLACEMENT

(a) Congress finds that the prestressed concrete pipe siphons installed in the Hayden-Rhodes Aqueduct portion of the Central Arizona Project designed and constructed by the Secretary pursuant to the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.) have been determined to be defective, inadequate and unsuitable for aquaduct purposes and must be replaced or substantial repairs completed for the transfer of the operation of the Project to its local sponsors.

(b) Notwithstanding any other provision of law or contract, 50 percent of the costs incurred in the repair, modification or replacement, together with associated costs, of the Hayden-Rhodes Aqueduct siphons at Salt River, New River, Hassayampa River, Jackrabbit Wash, Centennial Wash and Aqua Fria River, all features of the Central Arizona Project, shall be borne by the United States and shall be nonreimbursable and nonreturnable and the remaining costs shall be allocated to the authorized purposes of the project.

TITLE XL—NATIONAL HISTORIC PRESERVATION ACT AMENDMENTS

National Historic Preservation Act Amendments of 1992.
16 USC 470 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "National Historic Preservation Act Amendments of 1992".

SEC. 4002. POLICY.

Section 2 of the National Historic Preservation Act (16 U.S.C. 470–1) is amended as follows—

(1) In paragraph (2) insert "and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments" after "community of nations".

(2) In paragraph (6) insert ", Indian tribes and Native Hawaiian organizations" after "local governments".

SEC. 4003. REVIEW OF THREATS TO PROPERTIES.

Section 101(a) of the National Historic Preservation Act (16 U.S.C. 470a(a)) is amended by adding the following new paragraph at the end thereof:

"(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to—

"(A) determine the kinds of properties that may be threatened;

"(B) ascertain the causes of the threats; and

"(C) develop and submit to the President and Congress recommendations for appropriate action.".

SEC. 4004. STATE HISTORIC PRESERVATION PROGRAMS.

Section 101(b) of the National Historic Preservation Act (16 U.S.C. 470a(b)) is amended as follows:

(1) Amend paragraph (2) to read as follows:

"(2)(A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of

this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.

Contracts.

"(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.

"(C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.

"(D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system—

"(i) establishes and maintains substantially similar accountability standards; and

"(ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.".

(2) Amend paragraph (3) as follows:

(A) In subparagraph (G), strike "relating to the Federal and State Historic Preservation Programs; and" and insert "in historic preservation;".

(B) In subparagraph (H), strike the period at the end thereof and insert a semicolon.

(C) Add at the end thereof the following new subparagraphs—

"(I) consult with appropriate Federal agencies in accordance with this Act on—

"(i) Federal undertakings that may affect historic properties; and

"(ii) the content and sufficiency of any plans developed to protect, manage, or reduce or mitigate harm to such properties; and

"(J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.".

(3) Amend paragraph (5) by striking "1980" and inserting "1992".

(4) Add at the end thereof the following new paragraphs:

"(6)(A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State—

"(i) Identification and preservation of historic properties.

"(ii) Determination of the eligibility of properties for listing on the National Register.

"(iii) Preparation of nominations for inclusion on the National Register.

"(iv) Maintenance of historical and archaeological data bases.

"(v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

"(B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if—

"(i) the State Historic Preservation Officer has requested the additional responsibility;

"(ii) the Secretary has approved the State historic preservation program pursuant to section 101(b) (1) and (2);

"(iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;

"(iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and

"(v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.

"(C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.

"(D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.".

SEC. 4005. CERTIFICATION OF LOCAL GOVERNMENTS.

Section 101(c) of the National Historic Preservation Act (16 U.S.C. 470a(c)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purposes of this section the term—

"(A) 'designation' means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and

"(B) 'protection' means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to subsection (c).".

SEC. 4006. TRIBAL HISTORIC PRESERVATION PROGRAMS.

(a) REVISION OF EXISTING LAW.—Section 101 of the National Historic Preservation Act (16 U.S.C. 470a) is amended as follows—

(1) Redesignate subsections (d), (e), (f), (g), and (h) as subsections (e), (f), (g), (h), and (i), respectively.

(2) Insert after subsection (c) the following new subsection:

"(d)(1)(A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation

Regulations.

program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.

"(B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe's chief governing authority.

"(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

"(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3), with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary, if—

"(A) the tribe's chief governing authority so requests;

"(B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

"(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

"(D) the Secretary determines, after consulting with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program—

"(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

"(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer;

"(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3); and

"(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

"(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) with respect to tribal programs that assume responsibilities under paragraph (2).

"(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) on tribal land, if— Contracts.

"(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;

"(B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and

"(C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by—

"(i) the tribe's traditional cultural authorities;

"(ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and

"(iii) the interested public.

"(5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

"(6)(A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.

"(B) In carrying out its responsibilities under section 106, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).

"(C) In carrying out his or her responsibilities under subsection (b)(3), the State Historic Preservation Officer for the State of Hawaii shall— Hawaii.

"(i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;

"(ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and

"(iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.".

(b) CONFORMING AMENDMENT.—Section 110(c) of the National Historic Preservation Act (16 U.S.C. 470h–2(c)) is amended by striking "101(g)" and inserting "101(h)".

SEC. 4007. MATCHING GRANTS.

16 USC 470a.

Section 101(e) of the National Historic Preservation Act, as redesignated by section 4006(a)(1) of this title, is amended as follows—

(1) Amend paragraph (1) to read as follows:

"(1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.".

(2) Add the following at the end thereof:

"(4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.".

"(5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this Act as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.

Territories.

"(6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands, approved by the Compact of Free Association Act of 1985 (48 U.S.C. 1681 note), the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled 'Joint Resolution to approve the "Compact of Free Association" between the United States and Government of Palau, and for other purposes' (48 U.S.C. 1681 note). The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

Historic preservation.

"(B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.".

SEC. 4008. EDUCATION AND TRAINING.

Section 101 of the National Historic Preservation Act (16 U.S.C. 470a), as amended by section 4005 of this Act, is further amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-

Federal organizations, develop and implement a comprehensive preservation education and training program.

"(2) The education and training program described in paragraph (1) shall include—

"(A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;

"(B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;

"(C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs;

"(D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training—

"(i) distribution of information on preservation technologies;

"(ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and

"(iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.".

SEC. 4009. REQUIREMENTS FOR AWARDING OF GRANTS.

Section 102 of the National Historic Preservation Act (16 U.S.C. 470b) is amended as follows:

(1) Amend paragraph (3) of subsection (a) to read as follows:

"(3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 101(b)(3) in any one fiscal year.".

(2) In subsection (b) strike ", in which case a grant to the National Trust may include funds for the maintenance, repair, and administration of the property in a manner satisfactory for the Secretary".

(3) Add at the end thereof the following new subsections:

"(d) The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

"(e) The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 101(e)(6).".

SEC. 4010. APPORTIONMENT OF GRANT FUNDS.

Section 103 of the National Historic Preservation Act (16 U.S.C. 470c) is amended as follows—

(1) In subsection (a) strike "for comprehensive statewide historic surveys and plans under this Act", and insert "for the purposes this Act".

(2) In subsection (b) strike "by the Secretary in accordance with needs as disclosed in approved statewide historic preserva-

tion plans." and insert "as the Secretary determines to be appropriate.".

(3) At the end of subsection (b) insert "The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.".

Federal Register, publication.

SEC. 4011. EXTENSION OF AUTHORIZATION FOR HISTORIC PRESERVATION FUND.

Section 108 of the National Historic Preservation Act (16 U.S.C. 470h–2) is amended by striking "1992" and inserting "1997".

16 USC 470h.

SEC. 4012. FEDERAL AGENCY HISTORIC PRESERVATION PROGRAMS.

Section 110 of the National Historic Preservation Act (16 U.S.C. 470h–2) is amended as follows—

(1) In subsection (a)(1) strike "101(f)" and insert "101(g)".

(2) Amend subsection (a)(2) to read as follows:

"(2) Each Federal agency shall establish (unless exempted pursuant to section 214), in consultation with the Secretary, a preservation program for the identification, evaluation, and nomination to the National Register of Historic Places, and protection of historic properties. Such program shall ensure—

"(A) that historic properties under the jurisdiction or control of the agency, are identified, evaluated, and nominated to the National Register;

"(B) that such properties under the jurisdiction or control of the agency as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 and gives special consideration to the preservation of such values in the case of properties designated as having National significance;

"(C) that the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning;

"(D) that the agency's preservation-related activities are carried out in consultation with other Federal, State, and local agencies, Indian tribes, Native Hawaiian organizations carrying out historic preservation planning activities, and with the private sector; and

"(E) that the agency's procedures for compliance with section 106—

"(i) are consistent with regulations issued by the Council pursuant to section 211;

"(ii) provide a process for the identification and evaluation of historic properties for listing in the National Register and the development and implementation of agreements, in consultation with State Historic Preservation Officers, local governments, Indian tribes, Native Hawaiian organizations, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

"(iii) provide for the disposition of Native American cultural items from Federal or tribal land in a manner consistent with section 3(c) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(c)).".

(3) Add at the end thereof the following new subsections:

"(k) Each Federal agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur, unless the agency, after consultation with the Council, determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant.

"(l) With respect to any undertaking subject to section 106 which adversely affects any property included in or eligible for inclusion in the National Register, and for which a Federal agency has not entered into an agreement with the Council, the head of such agency shall document any decision made pursuant to section 106. The head of such agency may not delegate his or her responsibilities pursuant to such section. Where a section 106 memorandum of agreement has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.".

SEC. 4013. LEASE OR EXCHANGE OF FEDERAL HOUSING PROPERTIES.

Section 111(a) of the National Historic Preservation Act (16 U.S.C. 470h–3(a)) is amended by striking "may, after consultation with the Advisory Council on Historic Preservation," and inserting "after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may".

SEC. 4014. PROFESSIONAL STANDARDS.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 112. PROFESSIONAL STANDARDS. 16 USC 470h–4.

"(a) IN GENERAL.—Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this Act or any other law shall ensure each of the following—

"(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning. Contracts.

"(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after the date of enactment of this Act for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

Records.
Regulations.

"(2) Records and other data, including data produced by historical research and archaeological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

"(b) GUIDELINES.—In order to promote the preservation of historic resources on properties eligible for listing in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this Act include plans to—

"(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;

"(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

"(3) encourage the protection of Native American cultural items (within the meaning of section 2 (3) and (9) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3001 (3) and (9)) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

"(4) encourage owners who are undertaking archaeological excavations to—

"(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

"(B) donate or lend artifacts of research significance to an appropriate research institution;

"(C) allow access to artifacts for research purposes; and

"(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3(a)(2) (B) or (C) of the Native American Grave Protection and Repatriation Act (25 U.S.C. 3002(a)(2) (B) and (C)), given notice to and consult with such Indian tribe or Native Hawaiian organization.".

SEC. 4015. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Title I of the National Historic Preservation Act (16 U.S.C. 470 et seq.) is amended by adding at the end thereof of the following new section after section 112:

16 USC 470h-5.

"SEC. 113. INTERSTATE AND INTERNATIONAL TRAFFIC IN ANTIQUITIES.

Reports.

"(a) STUDY.—In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

"(b) CONSULTATION.—In conducting the study described in subsection (a) the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

"(c) REPORT.—Not later than 18 months after the date of enactment of this section, the Secretary shall submit to Congress a report detailing the Secretary's findings and recommendations from the study described in subsection (a).

"(d) AUTHORIZATION.—There are authorized to be appropriated not more than $500,000 for the study described in subsection (a), such sums to remain available until expended.". Appropriation authorization.

SEC. 4016. MEMBERSHIP OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended as follows:

(1) Strike "and" at the end of paragraph (9).

(2) Strike the period at the end of paragraph (10) and insert "; and".

(3) Add at the end thereof the following new paragraph:

"(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.".

SEC. 4017. AUTHORIZATION OF APPROPRIATONS FOR ADVISORY COUNCIL ON HISTORIC PRESERVATION. 16 USC 470t.

Section 212(a) of the National Historic Preservation Act (16 U.S.C. 470) and following is amended by striking the last sentence thereof and inserting "There are authorized to be appropriated for purposes of this title not to exceed $5,000,000 for each of the fiscal years 1993 through 1996.".

SEC. 4018. ADVISORY COUNCIL REGULATIONS.

Section 211 of the National Historic Preservation Act (16 U.S.C. 470s) is amended by striking the period at the end of the first sentence and inserting "in its entirety.".

SEC. 4019. DEFINITIONS.

(a) AMENDMENT AND ADDITION OF DEFINITIONS.—Section 301 of the National Historic Preservation Act (16 U.S.C. 470w) is amended as follows—

(1) In paragraph (1) strike "Code," and all that follows through the end of the paragraph, and insert in lieu thereof "Code.".

(2) In paragraph (2) strike "the Trust Territories of the Pacific Islands" and insert "the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau".

(3) Amend paragraph (4) to read as follows:

"(4) 'Indian tribe' or 'tribe' means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.".

(4) In paragraph (5) strike "Register" and all that follows through the end of the paragraph and insert "Register, including artifacts, records, and material remains related to such a property or resource.".

(5) Amend paragraph (7) to read as follows:

"(7) 'Undertaking' means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

"(A) those carried out by or on behalf of the agency;

"(B) those carried out with Federal financial assistance;

"(C) those requiring a Federal permit license, or approval; and

"(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.".

(6) In paragraph (8) strike "maintenance and reconstruction," and insert "maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities,".

(7) In paragraph (9) strike "urban area" and insert "area".

(8) In paragraph (10) strike "urban area of one or more neighborhoods and" and insert "area".

(9) In paragraph (11) after "of the Interior" insert "acting through the Director of the National Park Service".

(10) In paragraph (12) strike "and architecture" and insert "architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture".

(11) In paragraph (13) strike "archaeology" and insert "prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture".

(12) Add at the end thereof the following new paragraphs:

"(14) 'Tribal lands' means—

"(A) all lands within the exterior boundaries of any Indian reservation; and

"(B) all dependent Indian communities.

"(15) 'Certified local government' means a local government whose local historic preservation program has been certified pursuant to section 101(c).

"(16) 'Council' means the Advisory Council on Historic Preservation established by section 201.

"(17) 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(18) 'Native Hawaiian organization' means any organization which—

"(A) serves and represents the interests of Native Hawaiians;

"(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

"(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.".

(b) TECHNICAL AMENDMENT.—Section 201(a) of the National Historic Preservation Act (16 U.S.C. 470i(a)) is amended by striking "(hereafter referred to as the 'Council')".

SEC. 4020. ACCESS TO INFORMATION.

Section 304 of the National Historic Preservation Act (16 U.S.C. 4702–3) is amended to read as follows: 16 USC 470w-3.

"SEC. 304. ACCESS TO INFORMATION.

"(a) AUTHORITY TO WITHHOLD FROM DISCLOSURE.—The head of a Federal agency or other public official receiving grant assistance pursuant to this Act, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

"(1) cause a significant invasion of privacy;

"(2) risk harm to the historic resources; or

"(3) impede the use of a traditional religious site by practitioners.

"(b) ACCESS DETERMINATION.—When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a), the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this Act.

"(c) CONSULTATION WITH COUNCIL.—When the information in question has been developed in the course of an agency's compliance with section 106 or 110(f), the Secretary shall consult with the Council in reaching determinations under subsections (a) and (b).".

SEC. 4021. RECOMMENDATIONS. 16 USC 470a note.

The Secretary of the Interior, in consultation with the Advisory Council, shall seek to ensure that historic properties preserved under the National Historic Preservation Act fully reflect the historical experience of this nation.

SEC. 4022. NATIONAL CENTER FOR PRESERVATION TECHNOLOGY AND TRAINING.

The National Historic Preservation Act (16 U.S.C. 470 and following) is amended by adding the following at the end thereof:

"TITLE IV—NATIONAL CENTER FOR PRESERVATION TECHNOLOGY AND TRAINING

"SEC. 401. FINDINGS. 16 USC 470x.

"The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and

promote research, distribute information, and provide training about preservation skills and technologies would be beneficial.

16 USC 470x-1.

"SEC. 402. DEFINITIONS.

"For the purposes of this title—

"(1) The term 'Board' means the National Preservation Technology and Training Board established pursuant to section 404.

"(2) The term 'Center' means the National Center for Preservation Technology and Training established pursuant to section 403.

"(3) The term 'Secretary' means the Secretary of the Interior.

Louisiana.
16 USC 470x-2.

"SEC. 403. ESTABLISHMENT OF NATIONAL CENTER.

"(a) ESTABLISHMENT.—There is hereby established within the Department of the Interior a National Center for Preservation Technology and Training. The Center shall be located at Northwestern State University of Louisiana in Natchitoches, Louisiana.

"(b) PURPOSES.—The purposes of the Center shall be to—

"(1) develop and distribute preservation and conservation skills and technologies for the identification, evaluation, conservation, and interpretation of prehistoric and historic resources;

"(2) develop and facilitate training for Federal, State and local resource preservation professionals, cultural resource managers, maintenance personnel, and others working in the preservation field;

"(3) take steps to apply preservation technology benefits from ongoing research by other agencies and institutions;

"(4) facilitate the transfer of preservation technology among Federal agencies, State and local governments, universities, international organizations, and the private sector; and

"(5) cooperate with related international organizations including, but not limited to the International Council on Monuments and Sites, the International Center for the Study of Preservation and Restoration of Cultural Property, and the International Council on Museums.

"(c) PROGRAMS.—Such purposes shall be carried out through research, professional training, technical assistance, and programs for public awareness, and through a program of grants established under section 405.

"(d) EXECUTIVE DIRECTOR.—The Center shall be headed by an Executive Director with demonstrated expertise in historic preservation appointed by the Secretary with advice of the Board.

"(e) ASSISTANCE FROM SECRETARY.—The Secretary shall provide the Center assistance in obtaining such personnel, equipment, and facilities as may be needed by the Center to carry out its activities.

16 USC 470x-3.

"SEC. 404. PRESERVATION TECHNOLOGY AND TRAINING BOARD.

"(a) ESTABLISHMENT.—There is established a Preservation Technology and Training Board.

"(b) DUTIES.—The Board shall—

"(1) provide leadership, policy advice, and professional oversight to the Center;

"(2) advise the Secretary on priorities and the allocation of grants among the activities of the Center; and

"(3) submit an annual report to the President and the Congress. Reports.

"(c) MEMBERSHIP.—The Board shall be comprised of—

"(1) the Secretary, or the Secretary's designee;

"(2) 6 members appointed by the Secretary who shall represent appropriate Federal, State, and local agencies, State and local historic preservation commissions, and other public and international organizations, and

"(3) 6 members appointed by the Secretary on the basis of outstanding professional qualifications who represent major organizations in the fields of archaeology, architecture, conservation, curation, engineering, history, historic preservation, landscape architecture, planning, or preservation education.

"SEC. 405. PRESERVATION GRANTS. 16 USC 470x-4.

"(a) IN GENERAL.—The Secretary, in consultation with the Board, shall provide preservation technology and training grants to eligible applicants with a demonstrated institutional capability and commitment to the purposes of the Center, in order to ensure an effective and efficient system of research, information distribution and skills training in all the related historic preservation fields.

"(b) GRANT REQUIREMENTS.—(1) Grants provided under this section shall be allocated in such a fashion to reflect the diversity of the historic preservation fields and shall be geographically distributed.

"(2) No grant recipient may receive more than 10 percent of the grants allocated under this section within any year.

"(3) The total administrative costs, direct and indirect, charged for carrying out grants under this section may not exceed 25 percent of the aggregate costs.

"(c) ELIGIBLE APPLICANTS.—Eligible applicants may include Federal and non-Federal laboratories, accredited museums, universities, nonprofit organizations; offices, units, and Cooperative Park Study Units of the National Park System, State Historic Preservation Offices, tribal preservation offices, and Native Hawaiian organizations.

"(d) STANDARDS.—All such grants shall be awarded in accordance with accepted professional standards and methods, including peer review of projects.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary.

"SEC. 406. GENERAL PROVISIONS. 16 USC 470x-5.

"(a) ACCEPTANCE OF GRANTS AND TRANSFERS.—The Center may accept—

"(1) grants and donations from private individuals, groups, organizations, corporations, foundations, and other entities; and

"(2) transfers of funds from other Federal agencies.

"(b) CONTRACTS AND COOPERATIVE AGREEMENTS.—Subject to appropriations, the Center may enter into contracts and cooperative agreements with Federal, State, local, and tribal governments, Native Hawaiian organizations, educational institutions, and other public entities to carry out the Center's responsibilities under this title.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the establish-

ment, operation, and maintenance of the Center. Funds for the Center shall be in addition to existing National Park Service programs, centers, and offices.

16 USC 470x-6.

"SEC. 407. NATIONAL PARK SERVICE PRESERVATION.

"In order to improve the use of existing National Park Service resources, the Secretary shall fully utilize and further develop the National Park Service preservation (including conservation) centers and regional offices. The Secretary shall improve the coordination of such centers and offices within the National Park Service, and shall, where appropriate, coordinate their activities with the Center and with other appropriate parties.".

SEC. 4023. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR PROJECTS UNDER THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT.

Section 6 of the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes" (16 U.S.C. 461–467) is amended to read as follows:

16 USC 466.

"SEC. 6. REQUIREMENT FOR SPECIFIC AUTHORIZATION FOR PROJECTS UNDER THE HISTORIC SITES, BUILDINGS, AND ANTIQUITIES ACT.

"(a) IN GENERAL.—Except as provided in subsection (b), notwithstanding any other provision of law, no funds appropriated or otherwise made available to the Secretary of the Interior to carry out section 2(e) or 2(f) may be obligated or expended after the date of enactment of this section—

"(1) unless the appropriation of such funds has been specifically authorized by law enacted on or after the date of enactment of this section; or

"(2) in excess of the amount prescribed by law enacted on or after such date.

"(b) SAVINGS PROVISION.—Nothing in this section shall prohibit or limit the expenditure or obligation of any funds appropriated prior to January 1, 1993.

"(c) AUTHORIZATION OF APPROPRIATIONS.—Except as provided by subsection (a), there is authorized to be appropriated for carrying out the purposes of this Act such sums as the Congress may from time to time determine.".

Georgia.

SEC. 4024. MARTIN LUTHER KING, JUNIOR, NATIONAL HISTORIC SITE AND PRESERVATION DISTRICT.

(a) BOUNDARY MODIFICATION.—Subsection (a) of the first section of the Act entitled "An Act to establish the Martin Luther King, Junior, National Historic Site in the State of Georgia, and for other purposes" (Public Law 96–428; 94 Stat. 1839), establishing the Martin Luther King, Junior, National Historic Site and Preservation District, is amended by striking "numbered NASM/SERO/20, 109–C, and dated May 1980" and inserting in lieu thereof "number 489/80,013B, and dated September 1992".

16 USC 461 note.

(b) LIMITATION ON APPROPRIATIONS.—Section 6 of Public Law 96–0428 (94 Stat. 1842) is amended by striking ", but not to exceed $1,000,000 for development, $100,000 for local planning, and $3,500,000 for the acquisition of lands and interests therein".

16 USC 461 note.

SEC. 4025. SECRETARIAL REPORT.

16 USC 470a note.

(a) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary of the Interior shall prepare and submit to the Congress a report on the manner in which properties are listed or determined to be eligible for listing on the National Register, including but not limited to, the appropriateness of the criteria used in determining such eligibility, and the effect, if any, of such listing or finding of eligibility.

(b) PREPARATION.—In preparing the report, the Secretary shall consult with, and consider the views and comments of other Federal agencies, as well as interested individuals and public and private organizations, and shall include representative comments received as an appendix to the report.

Approved October 30, 1992.

LEGISLATIVE HISTORY—H.R. 429:

HOUSE REPORTS: Nos. 102-114, Pt. 1 (Comm. on Interior and Insular Affairs) and 102-1016 (Comm. of Conference).
SENATE REPORTS: No. 102-267 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): June 20, considered and passed House.
Vol. 138 (1992): Apr. 10, considered and passed Senate, amended.
June 18, House concurred in Senate amendment with an amendment.
July 31, Senate concurred in House amendment with an amendment; vitiated concurrence in House amendment with an amendment; and insisted on its amendment.
Oct. 5, House agreed to conference report.
Oct. 8, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 30, Presidential statement.

Public Law 102-576
102d Congress

An Act

Oct. 30, 1992
[H.R. 2032]

To amend the Act of May 15, 1965, authorizing the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nez Perce National Historical Park Additions Act of 1991.
16 USC 281 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nez Perce National Historical Park Additions Act of 1991".

SEC. 2. AMENDMENTS TO ACT DESIGNATING NEZ PERCE NATIONAL HISTORICAL PARK.

The Act entitled "An Act to authorize the Secretary of the Interior to designate the Nez Perce National Historical Park in the State of Idaho, and for other purposes", approved May 15, 1965 (79 Stat. 110; 16 U.S.C. 281 and following) is amended as follows:

16 USC 281.

(1) In section 1, insert after "the Nez Perce Country of Idaho" the words "and in the States of Oregon, Washington, Montana, and Wyoming".

16 USC 281a.

(2) Add the following at the end of section 2:

"Sites to be so designated shall include—

"(1) Tolo Lake, Idaho;

"(2) Looking Glass' 1877 Campsite, Idaho;

"(3) Buffalo Eddy, Washington and Idaho;

"(4) Traditional Crossing Near Doug Bar, Oregon and Idaho;

"(5) Camas Meadows Battle Sites, Idaho;

"(6) Joseph Canyon Viewpoint, Oregon;

"(7) Traditional Campsite at the Fork of the Lostine and Wallowa Rivers, Oregon;

"(8) Burial Site of Chief Joseph the Younger, Washington;

"(9) Nez Perce Campsites, Washington;

"(10) Big Hole National Battlefield, Montana;

"(11) Bear's Paw Battleground, Montana;

"(12) Canyon Creek, Montana; and

"(13) Hasotino Village, Idaho;

each as described in the National Park Service document entitled 'Nez Perce National Historical Park Additions Study', dated 1990 and Old Chief Joseph's Gravesite and Cemetery, Oregon, as depicted on the map entitled 'Nez Perce Additions', numbered 429-20-018, and dated September, 1991. Lands added to the Big Hole National Battlefield, Montana, pursuant to paragraph (10) shall become part of, and be placed under the administrative jurisdiction of, the Big Hole National Battlefield, but may be interpreted in accordance with the purposes of this Act.".

16 USC 281b.

(3) In section 3, strike the proviso in the first sentence and insert in lieu thereof the following: "Lands or interests

therein owned by a State or political subdivision of a State may be acquired under this section only by donation or exchange. In the case of sites designated as components of the Nez Perce National Historical Park after November 1, 1991, the Secretary may not acquire privately owned land or interests in land without the consent of the owner unless the Secretary finds that—

"(1) the nature of land use has changed significantly or that the landowner has demonstrated intent to change the land use significantly from the condition which existed on the date of the enactment of the Nez Perce National Historical Park Addition Act of 1991;

"(2) the acquisition by the Secretary of such land or interest in land is essential to assure its use for purposes set forth in this Act; and

"(3) such lands or interests are located—

"(A) within an area depicted on Sheet 3, 4, or 5 of the map entitled 'Nez Perce Additions', numbered 429–20018, and dated September 1991, or

"(B) within the 8-acre parcel of Old Chief Joseph's Gravesite and Cemetery, Oregon, depicted as 'Parcel A' on Sheet 2 of such map.".

(4) In section 4(a) strike the third sentence. 16 USC 281c.

(5) In section 6(a) strike the words "State of Idaho, its" and insert in lieu thereof the words "States of Idaho, Oregon, Washington, Montana, Wyoming, their". 16 USC 281e.

(6) Add the following new subsection at the end of section 6:

"(c) The Secretary shall consult with officials of the Nez Perce Tribe on the interpretation of the park and its history.".

(7) Section 7 strike "$630,000" and insert "$2,130,000" and strike "$4,100,000" and insert "$9,300,000". 16 USC 281f.

Approved October 30, 1992.

LEGISLATIVE HISTORY—H.R. 2032 (S. 550):

HOUSE REPORTS: No. 102-258 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-130 accompanying S. 550 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 137 (1991): July 31, S. 550 considered and passed Senate, amended.
Oct. 21, 22, H.R. 2032 considered and passed House.
Nov. 27, considered and passed Senate, amended.
Vol. 138 (1992): June 29, House concurred in certain Senate amendments, in another with an amendment.
Oct. 8, Senate concurred in House amendment.

Public Law 102-577
102d Congress

Joint Resolution

Oct. 30, 1992
[H.J. Res. 422]

Designating November 1992 as "Neurofibromatosis Awareness Month".

Whereas neurofibromatosis is a genetic disorder that causes tumors to grow in the human nervous system;
Whereas neurofibromatosis is the most common tumor-causing genetic disorder of the nervous system;
Whereas neurofibromatosis leads to disfigurement, blindness, deafness, loss of limbs, scoliosis, and brain and spinal tumors;
Whereas neurofibromatosis is a potentially debilitating disorder that strikes males and females of all races and ethnic groups;
Whereas great strides have been made in neurofibromatosis research with the discovery of the neurofibromatosis gene and its product and function as well as the cloning of the NF1 gene;
Whereas the neurofibromatosis gene is known to be a tumor suppressor gene, research into neurofibromatosis has profound significance for investigations into the causes of cancer;
Whereas an animal model for NF1 has recently been found;
Whereas a candidate gene for NF2 has also been discovered;
Whereas because the incidence of learning disabilities in the population of individuals suffering from neurofibromatosis is 5 times greater than in the general population, progress in neurofibromatosis research is important to achieving a better understanding of the causes of learning disabilities, which affect more than 30 million Americans; and
Whereas the National Neurofibromatosis Foundation, Inc., a voluntary health organization with chapters across the United States, was established to serve individuals with neurofibromatosis and their families, to promote and support biomedical research on neurofibromatosis, and to increase public awareness of neurofibromatosis and its consequences: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 1992 is designated as "Neurofibromatosis Awareness Month". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the month with appropriate ceremonies and activities.

Approved October 30, 1992.

LEGISLATIVE HISTORY—H.J. Res. 422:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 10, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-578
102d Congress

An Act

Oct. 30, 1992
[S. 775]

To improve the program of compensation for veterans exposed to ionizing radiation while in military service.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Radiation Exposure Amendments of 1992.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Radiation Exposure Amendments of 1992".

SEC. 2. EXPANSION OF LIST OF DISEASES PRESUMED TO BE SERVICE CONNECTED FOR CERTAIN RADIATION-EXPOSED VETERANS AND ELIMINATION OF LATENCY-PERIOD LIMITATIONS.

(a) IN GENERAL.—Section 1112(c) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out "to a degree" and all that follows through "subsection)";

(2) in paragraph (2), by adding at the end the following new subparagraphs:

"(N) Cancer of the salivary gland.

"(O) Cancer of the urinary tract.";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

38 USC 1112 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1992.

SEC. 3. IDENTIFICATION OF CERTAIN ACTIVITIES RELATING TO EXPOSURE TO IONIZING RADIATION.

The Veterans' Dioxin and Radiation Exposure Compensation Standards Act (38 U.S.C. 1154 note) is amended by adding at the end the following new section:

"IDENTIFICATION OF ACTIVITIES INVOLVING EXPOSURE BEFORE JANUARY 1, 1970

38 USC 1154 note.

"SEC. 10. (a) IN GENERAL.—(1) In order to determine whether activities (other than the tests or occupation activities referred to in section 5(a)(1)(B)) resulted in the exposure of veterans to ionizing radiation during the service of such veterans that occurred before January 1, 1970, and whether adverse health effects have been observed or may have resulted from such exposure in a significant number of such veterans, the Advisory Committee established under section 6 shall—

"(A) review all available scientific studies and other relevant information relating to the exposure of such veterans to ionizing radiation during such service;

"(B) identify any activity during which significant numbers of veterans received exposure; and

"(C) on the basis of such review, submit to the Secretary of Veterans Affairs a report containing the recommendation of the Advisory Committee on the feasibility and appropriateness for the purpose of the determination under this paragraph of any additional investigation with respect to any activity of such veterans during such service. Reports.

"(2) Upon the request of the Advisory Committee, the Secretary of Veterans Affairs (after seeking such assistance from the Secretary of Defense as is necessary and appropriate) shall make available to the Advisory Committee records and other information relating to the service referred to in paragraph (1) that may assist the Advisory Committee in carrying out the review and recommendation referred to in that paragraph. Records.

"(3) The Advisory Committee shall submit to the Secretary of Veterans Affairs the report referred to in paragraph (1)(C) not later than August 1, 1993.

"(b) INVESTIGATION PLAN AND REPORT.—(1) Upon receipt of the report referred to in subparagraph (C) of subsection (a)(1), the Secretary of Veterans Affairs shall—

"(A) identify which of the activities referred to in that subparagraph, if any, that the Secretary intends to investigate more fully for the purpose of making the determination referred to in that subsection; and

"(B) prepare a plan (including a deadline for the plan) to carry out that investigation and make that determination.

"(2) Not later than December 1, 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing— Reports.

"(A) a list of the activities identified by the Secretary pursuant to paragraph (1)(A) and the basis of such identification;

"(B) a copy of the report of the Advisory Committee referred to in subsection (a)(1)(C); and

"(C) the plan referred to in paragraph (1)(B).".

SEC. 4. REVIEW OF BRONCHIO-ALVEOLAR CARCINOMA.

(a) ADVISORY COMMITTEE REVIEW.—The Secretary of Veterans Affairs shall direct the Advisory Committee on Environmental Hazards to review pertinent scientific data relating to bronchio-alveolar carcinoma to determine whether such disease entity should be considered to be radiogenic. Based on its review, the Advisory Committee shall report its findings to the Secretary. Reports.

Reports.

(b) DECISION BY SECRETARY.—The Secretary, based on the Advisory Committee's findings, shall, not later than April 1, 1993, submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's decision as to whether such disease entity should be presumed to be service connected if suffered by a radiation-exposed veteran (as defined by section 1112(c)(4)(A) of title 38, United States Code).

Approved October 30, 1992.

LEGISLATIVE HISTORY—S. 775:

SENATE REPORTS: No. 102-139 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Nov. 20, considered and passed Senate.
Vol. 138 (1992): Sept. 30, considered and passed House, amended.
Oct. 7, Senate concurred in House amendments.

Public Law 102-579
102d Congress

An Act

To withdraw land for the Waste Isolation Pilot Plant, and for other purposes.

Oct. 30, 1992
[S. 1671]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Waste Isolation Pilot Plant Land Withdrawal Act.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Waste Isolation Pilot Plant Land Withdrawal Act".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.
Sec. 3. Land withdrawal and reservation for WIPP.
Sec. 4. Establishment of management responsibilities.
Sec. 5. Test phase and retrieval plans.
Sec. 6. Test phase activities.
Sec. 7. Disposal operations.
Sec. 8. Environmental Protection Agency disposal regulations.
Sec. 9. Compliance with environmental laws and regulations.
Sec. 10. Retrievability.
Sec. 11. Mine safety.
Sec. 12. Ban on high-level radioactive waste and spent nuclear fuel.
Sec. 13. Decommissioning of WIPP.
Sec. 14. Savings provisions.
Sec. 15. Economic assistance and miscellaneous payments.
Sec. 16. Transportation.
Sec. 17. Access to information.
Sec. 18. Judicial review of EPA actions.
Sec. 19. Technology study.
Sec. 20. Statement for purposes of Public Law 96-164.
Sec. 21. Consultation and cooperation agreement.
Sec. 22. Buy American requirements.
Sec. 23. Authorizations of appropriations.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) AGREEMENT.—The term "Agreement" means the July 1, 1981, Agreement for Consultation and Cooperation, as amended by the November 30, 1984 "First Modification", the August 4, 1987 "Second Modification", and the March 18, 1988 "Third Modification", or as it may be amended after the date of enactment of this Act, between the State and the United States Department of Energy as authorized by section 213(b) of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164; 93 Stat. 1259, 1265).

(3) CONTACT-HANDLED TRANSURANIC WASTE.—The term "contact-handled transuranic waste" means transuranic waste with a surface dose rate not greater than 200 millirem per hour.

(4) DECOMMISSIONING PHASE.—The term "decommissioning phase" means the period of time beginning with the end of the disposal phase and ending when all shafts at the WIPP repository have been back-filled and sealed.

(5) DISPOSAL.—The term "disposal" means permanent isolation of transuranic waste from the accessible environment with no intent of recovery, whether or not such isolation permits the recovery of such waste.

(6) DISPOSAL PHASE.—The term "disposal phase" means the period of time, during which transuranic waste is disposed of at WIPP, beginning with the initial emplacement of transuranic waste underground for disposal and ending when the last container of transuranic waste, as determined by the Secretary, is emplaced underground for disposal.

(7) DISPOSAL REGULATIONS.—The term "disposal regulations" means the environmental regulations for the disposal of spent nuclear fuel, high-level radioactive waste, and transuranic waste under section 8.

(8) EEG.—The term "EEG" means the Environmental Evaluation Group for the Waste Isolation Pilot Plant referred to in section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (Pub. L. 100–456; 102 Stat. 1918, 2073).

(9) ENGINEERED BARRIERS.—The term "engineered barriers" means backfill, room seals, panel seals, and any other manmade barrier components of the disposal system.

(10) HIGH-LEVEL RADIOACTIVE WASTE.—The term "high-level radioactive waste" has the meaning given such term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)).

(11) NO-MIGRATION DETERMINATION.—The term "No-Migration Determination" means the Final Conditional No-Migration Determination for the Department of Energy Waste Isolation Pilot Plant published by the Environmental Protection Agency on November 14, 1990 (55 Fed. Reg. 47700), and any amendments thereto, pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(12) REMOTE-HANDLED TRANSURANIC WASTE.—The term "remote-handled transuranic waste" means transuranic waste with a surface dose rate of 200 millirem per hour or greater.

(13) RETRIEVAL.—The term "retrieval" means the removal of transuranic waste and the container in which it has been retained and any material contaminated by such waste from the underground repository at WIPP.

(14) SECRETARY.—The term "the Secretary" means the Secretary of Energy.

(15) SPENT NUCLEAR FUEL.—The term "spent nuclear fuel" has the meaning given such term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)).

(16) STATE.—The term "the State" means the State of New Mexico.

(17) SUPPLEMENTAL STIPULATED AGREEMENT.—The term "Supplemental Stipulated Agreement" means the Supplemental Stipulated Agreement Resolving Certain State Off-Site Concerns Over WIPP, dated December 27, 1982, to the Stipulated Agreement Between DOE and the State in *State of New Mexico ex rel. Bingaman v. DOE,* Case No. CA 81–0363 JB (D. N. Mex.), dated July 1, 1981.

(18) TEST PHASE.—The term "test phase" means the period of time, during which test phase activities are conducted, beginning with the initial receipt of transuranic waste at WIPP and ending when the earliest of the following events occurs:

(A) The requirements described in section 7(b) are met.

(B) The Administrator determines under section 8(d)(1)(B) that the WIPP facility will not comply with the disposal regulations.

(C) The time period described in paragraphs (2) and (3) of section 8(d) expires.

(D) The Secretary is required by section 9(b)(2) to implement the retrieval plan.

(19) TEST PHASE ACTIVITIES.—The term "test phase activities" means the testing and experimentation activities to determine the suitability of WIPP as a repository for the permanent isolation of transuranic waste.

(20) TRANSURANIC WASTE.—The term "transuranic waste" means waste containing more than 100 nanocuries of alpha-emitting transuranic isotopes per gram of waste, with half-lives greater than 20 years, except for—

(A) high-level radioactive waste;

(B) waste that the Secretary has determined, with the concurrence of the Administrator, does not need the degree of isolation required by the disposal regulations; or

(C) waste that the Nuclear Regulatory Commission has approved for disposal on a case-by-case basis in accordance with part 61 of title 10, Code of Federal Regulations.

(21) WIPP.—The term "WIPP" means the Waste Isolation Pilot Plant project authorized under section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164; 93 Stat. 1259, 1265) to demonstrate the safe disposal of radioactive waste materials generated by atomic energy defense activities.

(22) WITHDRAWAL.—The term "Withdrawal" means the geographical area consisting of the lands described in section 3(c).

SEC. 3. LAND WITHDRAWAL AND RESERVATION FOR WIPP.

(a) LAND WITHDRAWAL, JURISDICTION, AND RESERVATION.—

(1) LAND WITHDRAWAL.—Subject to valid existing rights, and except as otherwise provided in this Act, the lands described in subsection (c) are withdrawn from all forms of entry, appropriation, and disposal under the public land laws, including without limitation the mineral leasing laws, the geothermal leasing laws, the material sale laws (except as provided in section 4(b)(4) of this Act), and the mining laws.

(2) JURISDICTION.—Except as otherwise provided in this Act, jurisdiction over the Withdrawal is transferred from the Secretary of the Interior to the Secretary.

(3) RESERVATION.—Such lands are reserved for the use of the Secretary for the construction, experimentation, operation, repair and maintenance, disposal, shutdown, monitoring, decommissioning, and other authorized activities associated with the purposes of WIPP as set forth in section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96–164; 93 Stat. 1259, 1265), and this Act.

(b) REVOCATION OF PUBLIC LAND ORDERS.—Public Land Order 6403 of June 29, 1983, as modified by Public Land Order 6826

of January 28, 1991, and any memoranda of understanding accompanying such land orders, are revoked.

(c) LAND DESCRIPTION.—

(1) BOUNDARIES.—The boundaries depicted on the map issued by the Bureau of Land Management of the Department of the Interior, entitled "WIPP Withdrawal Site Map," dated October 9, 1990, and on file with the Bureau of Land Management, New Mexico State Office, are established as the boundaries of the Withdrawal.

(2) LEGAL DESCRIPTION AND MAP.—Within 30 days after the date of the enactment of this Act, the Secretary of the Interior shall—

Federal Register, publication.

(A) publish in the Federal Register a notice containing a legal description of the Withdrawal; and

(B) file copies of the map described in paragraph (1) and the legal description of the Withdrawal with the Congress, the Secretary, the Governor of the State, and the Archivist of the United States.

(d) TECHNICAL CORRECTIONS.—The map and legal description referred to in subsection (c) shall have the same force and effect as if they were included in this Act. The Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(e) WATER RIGHTS.—This Act does not establish, nor may any provision be construed to establish, a reservation to the United States with respect to any water or water rights. Nothing in this Act shall affect any water rights acquired by the United States prior to the date of enactment of this Act. The United States may apply for and obtain water rights for purposes associated with this Act only in accordance with the substantive and procedural requirements of the laws of the State.

SEC. 4. ESTABLISHMENT OF MANAGEMENT RESPONSIBILITIES.

(a) GENERAL AUTHORITY.—The Secretary shall be responsible for the management of the Withdrawal, consistent with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), this Act, and other applicable law, and shall consult with the Secretary of the Interior and the State in discharging such responsibility.

(b) MANAGEMENT PLAN.—

(1) DEVELOPMENT.—Within 1 year after the date of the enactment of this Act, the Secretary, in consultation with the Secretary of the Interior and the State, shall develop a management plan for the use of the Withdrawal until the end of the decommissioning phase.

(2) PRIORITY OF WIPP-RELATED USES.—Any use of the Withdrawal for activities not associated with WIPP shall be subject to such conditions and restrictions as may be necessary to permit the conduct of WIPP-related activities.

(3) NON-WIPP RELATED USES.—The management plan developed under paragraph (1) shall provide for the maintenance of wildlife habitat and shall provide that the Secretary may permit such non-WIPP related uses of the Withdrawal as the Secretary determines to be appropriate, including domestic livestock grazing and hunting and trapping in accordance with the following requirements:

(A) GRAZING.—The Secretary may permit grazing to continue where established before the date of the enactment of this Act, subject to such regulations, policies, and practices as the Secretary, in consultation with the Secretary of the Interior, determines to be necessary or appropriate. The management of grazing shall be conducted in accord with applicable grazing laws and policies, including—

(i) the Act entitled "An Act to stop injury to public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry dependent upon the public range, and for other purposes," approved June 28, 1934 (43 U.S.C. 315 et seq., commonly referred to as the "Taylor Grazing Act");

(ii) title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.); and

(iii) the Public Rangelands Improvement Act of 1978 (43 U.S.C. 1901 et seq.).

(B) HUNTING AND TRAPPING.—The Secretary may permit hunting and trapping within the Withdrawal in accordance with applicable laws and regulations of the United States and the State, except that the Secretary, after consultation with the Secretary of the Interior and the State, may issue regulations designating zones where, and establishing periods when, no hunting or trapping is permitted for reasons of public safety, administration, or public use and enjoyment.

(4) DISPOSAL OF SALT TAILINGS.—The Secretary shall dispose of salt tailings extracted from the Withdrawal that the Secretary determines are not needed for backfill at WIPP. Disposition of such tailings shall be made under sections 2 and 3 of the Act of July 31, 1947, (30 U.S.C. 602, 603; commonly referred to as the "Materials Act of 1947").

(5) MINING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), no surface or subsurface mining or oil or gas production, including slant drilling from outside the boundaries of the Withdrawal, shall be permitted at any time (including after decommissioning) on lands on or under the Withdrawal.

(B) EXCEPTION.—Existing rights under Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C shall not be affected unless the Administrator determines, after consultation with the Secretary and the Secretary of the Interior, that the acquisition of such leases by the Secretary is required to comply with the final disposal regulations or with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(c) CLOSURE TO PUBLIC.—If during the land withdrawal made by section 3(a) the Secretary determines, in consultation with the Secretary of the Interior, that the health and safety of the public or the common defense and security require the closure to the public use of any road, trail, or other portion of the Withdrawal, the Secretary may take whatever action the Secretary determines

to be necessary to effect and maintain the closure and shall provide notice to the public of such closure.

(d) MEMORANDUM OF UNDERSTANDING.—The Secretary and the Secretary of the Interior shall enter into a memorandum of understanding to implement the management plan developed under subsection (b). Such memorandum shall remain in effect until the end of the decommissioning phase.

(e) SUBMISSION OF PLAN.—Within 1 year after the date of the enactment of this Act, the Secretary shall submit the management plan developed under subsection (b) to the Congress and the State. Any amendments to the plan shall be submitted promptly to the Congress and the State.

SEC. 5. TEST PHASE AND RETRIEVAL PLANS.

(a) IN GENERAL.—Not later than 7 months after the date of the enactment of this Act, the Secretary shall prepare, and submit to the Administrator for review, a test phase plan and a retrieval plan in accordance with this section. The Secretary shall give notice in the Federal Register of submission of such plans and provide an opportunity for public access to such plans.

Federal Register, publication.

(b) TEST PHASE PLAN.—The test phase plan and any modification of the plan, as appropriate, shall—

(1) set forth the test phase activities to be conducted at WIPP;

(2) specify the quantities and types of transuranic waste required for such activities;

(3) provide a detailed description of how the test phase activities will provide information directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.); and

(4) include justification for all such activities.

(c) RETRIEVAL PLAN.—The retrieval plan and any modification of the plan, as appropriate, shall set forth a detailed plan for the removal of transuranic waste emplaced at WIPP during the test phase, if such removal is required under any provision of this Act.

(d) APPROVAL BY ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator shall determine, in a single rulemaking procedure, whether to approve, in whole or in part, or disapprove the test phase plan and whether to approve or disapprove the retrieval plan. The Administrator shall, in accordance with paragraph (3), publish in the Federal Register a final rule setting forth the approval or disapproval in accordance with this subsection not later than 10 months after the date of the enactment of this Act.

Federal Register, publication.

(2) STANDARDS FOR APPROVAL.—

(A) TEST PHASE PLAN.—The Administrator shall approve the test phase plan, or any modification to the plan, in whole or in part, if the Administrator determines that the experiments will provide data that are directly relevant to a certification of compliance with the final disposal regulations or to compliance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(B) RETRIEVAL PLAN.—The Administrator shall approve the retrieval plan, or any modification to the plan, if the Administrator determines that it will provide for satisfac-

tory retrieval of all transuranic waste emplaced during the test phase from WIPP should retrieval of such waste be required.

(3) RULEMAKING PROCEDURE.—The Administrator shall conduct the rulemaking required in paragraph (1) under section 553 of title 5, United States Code, except that sections 556 and 557 of such title shall not apply.

(4) CONSEQUENCES OF APPROVAL.—If the Administrator approves the test phase plan, in whole or in part, and the retrieval plan under this subsection, the Secretary may immediately proceed with test phase activities to the extent they have been approved in the rule described in paragraph (3) and to the extent the requirements of section 6(b) have been met.

(e) RECONSIDERATION OF DISAPPROVED PLANS.—If any plan, or portion of a plan, is not approved under subsection (d), the Secretary may submit a revised plan, or portion, to the Administrator. Such revised plan, or portion, shall be considered in accordance with the procedures applicable under such subsection, except that final action shall be completed within 3 months of submission to the Administrator.

(f) MODIFICATIONS TO TEST PHASE PLAN OR RETRIEVAL PLAN.—The Secretary may submit modifications to the test phase plan or retrieval plan. Such modifications shall be considered in accordance with the procedures applicable under subsection (d), except that final action shall be completed within 3 months of submission to the Administrator.

SEC. 6. TEST PHASE ACTIVITIES.

(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to subsections (b) and (c), to conduct test phase activities in accordance with the test phase plan.

(b) REQUIREMENTS FOR COMMENCEMENT OF TEST PHASE ACTIVITIES.—The Secretary may not transport any transuranic waste to WIPP to conduct test phase activities under subsection (a) unless the following requirements are met:

(1) FINAL DISPOSAL REGULATIONS ISSUED.—The final disposal regulations are issued and published in the Federal Register under section 8(b). Federal Register, publication.

(2) TERMS OF NO-MIGRATION DETERMINATION COMPLIED WITH.—The Administrator has determined that the Secretary has complied with the terms and conditions of the No-Migration Determination. The determination of the Administrator under this paragraph shall not be subject to rulemaking or judicial review.

(3) TEST PHASE AND RETRIEVAL PLANS APPROVED.—The Secretary has issued, and the Administrator has approved, the test phase plan and the retrieval plan under section 5.

(4) EMERGENCY RESPONSE TRAINING.—

(A) REVIEW.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has reviewed the emergency response training programs of the Department of Energy that apply to WIPP.

(B) CERTIFICATION.—The Secretary of Labor, acting through the Occupational Safety and Health Administration, has certified that the Department of Labor has reviewed emergency response training programs of the

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Department of Energy that apply to WIPP and has concurred that such programs are in compliance with part 1910.120 of title 29, Code of Federal Regulations. Such certification shall not be subject to rulemaking or judicial review.

(5) CERTIFICATION OF SAFETY.—The Secretary has certified, through the issuance of safety analysis documents, that the safety of test phase activities to be completed at WIPP can be ensured through procedures that would not compromise the type, quantity, or quality of data collected from such test phase activities. Such certification shall not be subject to rulemaking or judicial review.

(6) STABILITY OF ROOMS USED FOR TESTING.—The Secretary of Energy shall issue a plan to ensure that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities. The Secretary of Labor, acting through the Mine Safety and Health Administration, shall review such plan and concur that the plan ensures that the mined rooms in the underground repository at WIPP in which transuranic waste may be emplaced will remain sufficiently stable and safe to permit uninterrupted testing for the duration of such activities. Such issuance and concurrence shall not be subject to rulemaking or judicial review.

(c) LIMITATIONS.—Test phase activities conducted under subsection (a) shall be subject to the following limitations:

(1) QUANTITY OF WASTE THAT MAY BE TRANSPORTED.—During the test phase, the Secretary may transport to WIPP—

(A) only such quantities of transuranic waste as the Administrator has approved for test phase activities under section 5; and

(B) in no event more than ½ of 1 percent of the total capacity of WIPP as described in section 7(a)(3).

(2) REMOTE-HANDLED WASTE.—

(A) TRANSPORTATION AND EMPLACEMENT.—The Secretary may not transport to or emplace remote-handled transuranic waste at WIPP during the test phase.

(B) STUDY.—

(i) IN GENERAL.—Within 3 years after the date of the enactment of this Act, the Secretary shall complete a study on remote-handled transuranic waste in consultation with affected States, the Administrator, and after the solicitation of views of other interested parties.

(ii) REQUIREMENTS OF STUDY.—Such study shall include an analysis of the impact of remote-handled transuranic waste on the performance assessment of WIPP and a comparison of remote-handled transuranic waste with contact-handled transuranic waste on such issues as gas generation, flammability, explosiveness, solubility, and brine and geochemical interactions.

Federal Register, publication.

(iii) PUBLICATION.—The Secretary shall publish the findings of such study in the Federal Register.

(d) PERFORMANCE ASSESSMENT REPORT.—

(1) IN GENERAL.—The Secretary shall publish, during the test phase, a biennial performance assessment report, consist-

ing of a documented analysis of the long-term performance of WIPP. Each such report shall be provided to the State, the Administrator, the National Academy of Sciences, and the EEG for their review and comment.

(2) RESPONSES BY SECRETARY TO COMMENTS.—If, within 120 days of the publication of a performance assessment report under paragraph (1), the State, the Administrator, the National Academy of Sciences, or the EEG provide written comments on the report, the Secretary shall submit written responses to the comments to the State, the Administrator, the National Academy of Sciences, and the EEG, and to other appropriate entities or persons after consultation with the State, within 120 days of receipt of the comments.

SEC. 7. DISPOSAL OPERATIONS.

(a) TRANSURANIC WASTE LIMITATIONS.—

(1) REM LIMITS FOR REMOTE-HANDLED TRANSURANIC WASTE.—

(A) 1,000 REMS PER HOUR.—No transuranic waste received at WIPP may have a surface dose rate in excess of 1,000 rems per hour.

(B) 100 REMS PER HOUR.—No more than 5 percent by volume of the remote-handled transuranic waste received at WIPP may have a surface dose rate in excess of 100 rems per hour.

(2) CURIE LIMITS FOR REMOTE-HANDLED TRANSURANIC WASTE.—

(A) CURIES PER LITER.—Remote-handled transuranic waste received at WIPP shall not exceed 23 curies per liter maximum activity level (averaged over the volume of the canister).

(B) TOTAL CURIES.—The total curies of the remote-handled transuranic waste received at WIPP shall not exceed 5,100,000 curies.

(3) CAPACITY OF WIPP.—The total capacity of WIPP by volume is 6.2 million cubic feet of transuranic waste.

(b) REQUIREMENTS FOR COMMENCEMENT OF DISPOSAL OPERATIONS.—The Secretary may commence emplacement of transuranic waste underground for disposal at WIPP only upon completion of—

(1) the Administrator's certification under section 8(d)(1) that the WIPP facility will comply with the disposal regulations;

(2) the submission to the Congress by the Secretary of plans for decommissioning WIPP and post-decommissioning management of the Withdrawal under section 13;

(3) the expiration of the 180-day period beginning on the date on which the Secretary notifies the Congress that the requirements of section 9(a)(1) have been met;

(4) the acquisition by the Secretary (whether by purchase, condemnation, or otherwise) of Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C, unless the Administrator determines, under section 4(b)(5), that such acquisition is not required;

(5) the submittal to the Congress by the Secretary of comprehensive recommendations for the disposal of all transuranic waste under the control of the Secretary, including a timetable for the disposal of such waste; and

(6) the completion by the Secretary, with notice and an opportunity for public comment, of a survey identifying all transuranic waste types at all sites from which wastes are to be shipped to WIPP, and—

Public information.

(A) the results of such survey shall be made available to the public and be provided to the Administrator; and

(B) such survey shall not be subject to rulemaking or judicial review.

SEC. 8. ENVIRONMENTAL PROTECTION AGENCY DISPOSAL REGULATIONS.

(a) REINSTATEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the disposal regulations issued by the Administrator on September 19, 1985, and contained in subpart B of part 191 of title 40, Code of Federal Regulations, shall be in effect.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

(A) the 3 aspects of sections 191.15 and 191.16 of such regulations that were the subject of the remand ordered in Natural Resources Defense Council, Inc. v. United States Environmental Protection Agency, 824 F.2d 1258 (1st Cir. 1987); and

(B) the characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97–425.

(b) ISSUANCE OF REGULATIONS.—

(1) IN GENERAL.—Subject to the limitation in paragraph (2), the Administrator shall issue, not later than 6 months after the date of the enactment of this Act, final disposal regulations. Such regulations shall be issued in a rulemaking proceeding conducted under section 553 of title 5, United States Code, except that sections 556 and 557 of such title shall not apply.

(2) LIMITATION.—The regulations required by this subsection shall not be applicable to the characterization, licensing, construction, operation, or closure of any site required to be characterized under section 113(a) of Public Law 97–425.

(c) ISSUANCE OF CRITERIA FOR CERTIFICATION OF COMPLIANCE WITH DISPOSAL REGULATIONS.—

(1) PROPOSED CRITERIA.—Not later than 1 year after the date of the enactment of this Act, the Administrator shall, by rule pursuant to section 553 of title 5, United States Code, propose criteria for the Administrator's certification of compliance with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(2) FINAL CRITERIA.—Not later than 2 years after the date of the enactment of this Act, the Administrator shall, by rule pursuant to section 553 of title 5, United States Code, issue final criteria for the Administrator's certification of compliance with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(d) DISPOSAL REGULATIONS.—

(1) COMPLIANCE WITH DISPOSAL REGULATIONS.—

(A) IN GENERAL.—The Secretary shall comply at WIPP with the final disposal regulations. Within 7 years of the date of the first receipt of transuranic waste at WIPP,

the Secretary shall submit to the Administrator an application for certification of compliance with such regulations.

(B) CERTIFICATION BY ADMINISTRATOR.—Within 1 year of receipt of the application under subparagraph (A), the Administrator shall certify, by rule pursuant to section 553 of title 5, United States Code, whether the WIPP facility will comply with the final disposal regulations, and sections 556 and 557 of such title shall not apply.

(C) JUDICIAL REVIEW.—Judicial review of the certification of the Administrator under subparagraph (B) shall not be restricted by the provisions of section 221 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2271(c)).

(D) LIMITATION.—Any certification of the Administrator under subparagraph (B) may only be made after the application is submitted to the Administrator under subparagraph (A).

(2) FAILURE TO CERTIFY.—Except as provided in paragraph (3), if, upon the expiration of the 10-year period beginning on the date of the first receipt of transuranic waste at WIPP, the Administrator has not certified that the WIPP facility will comply with the final disposal regulations—

(A) the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13;

(B) following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management; and

(C)(i) no permit or variance issued with respect to test phase activities or disposal operations pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws, with respect to WIPP, shall remain in effect later than 1 year after implementation of the retrieval plan; and

(ii) all transuranic waste shall be removed from the State unless, prior to the expiration of such 1-year period, a new permit or variance is issued pursuant to section 3004 of the Solid Waste Disposal Act (42 U.S.C. 6924), or other applicable hazardous waste laws.

(3) EXTENSION OF DEADLINE.—The 10-year period in paragraph (2) may be extended once by the Administrator for not more than 2 years, if the Administrator determines that additional time is necessary for the Administrator to complete the rulemaking under paragraph (1)(B) or for the Administrator's certification to become effective under this subsection.

(e) CONFLICT RESOLUTION.—If the State disagrees with the Secretary's application under subsection (d)(1)(A), the State may invoke the conflict resolution provisions of the Agreement.

(f) PERIODIC RECERTIFICATION.—

(1) BY SECRETARY.—Not later than 5 years after the initial receipt of transuranic waste for disposal at WIPP, and every 5 years thereafter until the end of the decommissioning phase, the Secretary shall submit to the Administrator and the State documentation of continued compliance with the final disposal regulations.

(2) CONCURRENCE BY ADMINISTRATOR.—The Administrator shall, not later than 6 months after receiving a submission

under paragraph (1), determine whether or not the WIPP facility continues to be in compliance with the final disposal regulations. A determination under this paragraph shall not be subject to rulemaking or judicial review.

(g) ENGINEERED AND NATURAL BARRIERS, ETC.—The Secretary shall use both engineered and natural barriers, and waste form modifications, at WIPP to isolate transuranic waste after disposal to the extent necessary to comply with the final disposal regulations.

SEC. 9. COMPLIANCE WITH ENVIRONMENTAL LAWS AND REGULATIONS.

(a) IN GENERAL.—

(1) APPLICABILITY.—Beginning on the date of the enactment of this Act, the Secretary shall comply with respect to WIPP, with—

(A) the regulations issued by the Administrator establishing the generally applicable environmental standards for the management and storage of spent nuclear fuel, high-level radioactive waste, and transuranic radioactive waste and contained in subpart A of part 191 of title 40, Code of Federal Regulations;

(B) the Clean Air Act (40 U.S.C. 7401 et seq.);

(C) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(D) title XIV of the Public Health Service Act (42 U.S.C. 300f et seq.; commonly referred to as the "Safe Drinking Water Act");

(E) the Toxic Substances Control Act (15 U.S.C. 2601 et seq.);

(F) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(G) all other applicable Federal laws pertaining to public health and safety or the environment; and

(H) all regulations promulgated, and all permit requirements, under the laws described in subparagraphs (B) through (G).

Records.

(2) PERIODIC OVERSIGHT BY ADMINISTRATOR AND STATE.—The Secretary shall, not later than 2 years after the date of the enactment of this Act, and biennially thereafter, submit documentation of continued compliance with the laws, regulations, and permit requirements described in paragraph (1) to the Administrator, and, with the law described in paragraph (1)(C), to the State.

(3) DETERMINATION BY ADMINISTRATOR OR STATE.—The Administrator or the State, as appropriate, shall determine not later than 6 months after receiving a submission under paragraph (2) whether the Secretary is in compliance with the laws, regulations, and permit requirements described in paragraph (1) with respect to WIPP.

(b) DETERMINATION OF NONCOMPLIANCE DURING TEST PHASE.—

(1) DETERMINATION BY ADMINISTRATOR.—If the Administrator determines at any time during the test phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describ-

ing actions the Secretary will take to comply with such law, regulation, or permit requirement.

(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall implement the retrieval plan under section 10 and the decommissioning and post-decommissioning plans under section 13, and, following implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(c) DETERMINATION OF NONCOMPLIANCE DURING DISPOSAL PHASE AND DECOMMISSIONING PHASE.—

(1) DETERMINATION BY THE ADMINISTRATOR.—If the Administrator determines at any time during the disposal phase or decommissioning phase that the WIPP facility does not comply with any law, regulation, or permit requirement described in subsection (a)(1), the Administrator shall request a remedial plan from the Secretary describing actions the Secretary will take to comply with such law, regulation, or permit requirement.

(2) CONSEQUENCES OF NONCOMPLIANCE.—If—

(A) a remedial plan is not received from the Secretary within 6 months of a determination of noncompliance under paragraph (1); or

(B) the Administrator determines, by rule pursuant to section 553 of title 5, United States Code, that a remedial plan requested under paragraph (1) is inadequate to bring the WIPP facility into compliance;

then the Secretary shall retrieve, to the extent practicable, any transuranic waste and any material contaminated by such waste from underground at WIPP, and implement the decommissioning and post-decommissioning plans under section 13. Following completion of such retrieval and implementation of such plans, the land withdrawal made by section 3(a) shall terminate and the land shall be managed by the Secretary of the Interior through the Bureau of Land Management.

(d) SAVINGS PROVISION.—The authorities provided to the Administrator and to the State pursuant to this section are in addition to the enforcement authorities available to the State pursuant to State law and to the Administrator, the State, and any other person, pursuant to the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) and the Clean Air Act (40 U.S.C. 7401 et seq.).

SEC. 10. RETRIEVABILITY.

(a) REQUIREMENT OF RETRIEVABILITY.—

(1) IN GENERAL.—Transuranic waste emplaced in WIPP for purposes of the test phase shall be retrievable during the test phase, and for such period of time subsequent to the test phase as may be needed to provide for its retrieval in the event that—

(A) the Secretary or the Administrator determines that WIPP does not comply with the final disposal regulations;

(B) the transuranic waste needs to be retrieved for engineering modification or for repackaging for permanent disposal; or

(C) such retrieval is necessary to protect the public health and safety and the environment.

Federal Register, publication.

(2) ANNUAL DETERMINATION OF RETRIEVABILITY.—Beginning 1 year after the initial emplacement of transuranic waste underground at WIPP, and continuing annually throughout the test phase, the Secretary, after consultation with the Administrator, shall publish in the Federal Register the Secretary's determination of whether all such waste emplaced underground at WIPP remains, and will remain, fully retrievable during the test phase.

(3) ANNUAL DEMONSTRATION OF RETRIEVABILITY.—The Secretary shall demonstrate, on an annual basis, in conjunction with the determination required in paragraph (2), that a sample of transuranic waste is retrievable. In making such demonstration, the Secretary shall not take any action to affect the test phase.

(4) FAILURE TO MAINTAIN RETRIEVABILITY.—Upon a determination by the Secretary under paragraph (2) that transuranic waste cannot remain retrievable, and that corrective action is not possible, the Administrator and the State may, pursuant to the authorities provided in the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or any other applicable hazardous waste law, take action to ensure the retrieval or removal of all transuranic waste in WIPP.

(b) IMPLEMENTATION OF RETRIEVAL PLAN.—The Secretary shall implement the retrieval plan or take corrective action to ensure the retrievability of transuranic waste in the event that a determination is made under subsection (a)(2) that the waste is not or will not otherwise remain retrievable.

(c) CONFLICT RESOLUTION.—The State may invoke the conflict resolution provisions of the Agreement if it determines that there is an insufficient basis for the Secretary's annual determination of retrievability or that the demonstration of retrievability does not ensure that transuranic waste will be retrievable.

SEC. 11. MINE SAFETY.

(a) MINE SAFETY AND HEALTH ADMINISTRATION.—The Mine Safety and Health Administration of the Department of Labor shall inspect WIPP not less than 4 times each year and in the same manner as it evaluates mine sites under the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 801 et seq.), and shall provide the results of its inspections to the Secretary. The Secretary shall make the results of such inspections publicly available and shall take necessary actions to ensure the prompt and effective correction of any deficiency, including suspending specific activities as necessary to address identified health and safety deficiencies.

(b) BUREAU OF MINES.—The Bureau of Mines of the Department of the Interior shall prepare an annual evaluation of the safety of WIPP.

SEC. 12. BAN ON HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL.

The Secretary shall not transport high-level radioactive waste or spent nuclear fuel to WIPP or emplace or dispose of such waste or fuel at WIPP.

SEC. 13. DECOMMISSIONING OF WIPP.

(a) PLAN FOR WIPP DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall submit to the Congress, the State, the Secretary of the Interior, and the Administrator, a plan for the decommissioning of WIPP. In addition to activities required under the Agreement, the plan shall conform to the disposal regulations that apply to WIPP at the time the plan is prepared. The Secretary shall consult with the Secretary of the Interior and the State in the preparation of such plan.

(b) MANAGEMENT PLAN FOR THE WITHDRAWAL AFTER DECOMMISSIONING.—Within 5 years after the date of the enactment of this Act, the Secretary shall develop a plan for the management and use of the Withdrawal following the decommissioning of WIPP or the termination of the land withdrawal. The Secretary shall consult with the Secretary of the Interior and the State in the preparation of such plan and shall submit such plan to the Congress.

SEC. 14. SAVINGS PROVISIONS.

(a) CAA AND SWDA.—No provision of this Act may be construed to supersede or modify the provisions of the Clean Air Act (42 U.S.C. 7401 et seq.) or the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) EXISTING AUTHORITY OF EPA AND STATE.—No provision of this Act may be construed to limit, or in any manner affect, the Administrator's or the State's authority to enforce, or the Secretary's obligation to comply with—

(1) the Clean Air Act (42 U.S.C. 7401 et seq.);

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.), including all terms and conditions of the No-Migration Determination; or

(3) any other applicable clean air or hazardous waste law.

SEC. 15. ECONOMIC ASSISTANCE AND MISCELLANEOUS PAYMENTS.

(a) 15-YEAR AUTHORIZATION.—There are authorized to be appropriated to the Secretary for payments to the State $20,000,000 for each of the 15 fiscal years beginning with the fiscal year in which the transport of transuranic waste to WIPP is initiated.

(b) SUBSEQUENT AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary, for payments to the State for any fiscal year after the last fiscal year to which subsection (a) applies, such sums as the Congress may, by law, authorize to be appropriated.

(c) INFLATION ADJUSTMENT.—

(1) IN GENERAL.—In the case of any fiscal year after the first fiscal year to which subsection (a) applies, the dollar amount specified in such subsection shall be increased or decreased, as the case may be, by an amount equal to—

(A) such dollar amount; multiplied by

(B) the inflation increase or decrease determined under paragraph (2).

(2) CALCULATION OF INFLATION INCREASE OR DECREASE.—For purposes of paragraph (1), the inflation increase or decrease for any fiscal year is the percentage (if any) by which the inflation index for the preceding fiscal year is greater than or less than, as the case may be, the inflation index for the fiscal year prior to the first fiscal year to which subsection (a) applies.

(3) INFLATION INDEX.—For purposes of paragraph (2), the inflation index for any fiscal year is the average of the Consumer Price Index (as published by the Department of Labor) for the 12 months in such fiscal year.

(d) ELIGIBLE ASSISTANCE.—A portion of the payments under this section—

(1) shall be made available to units of local government in Lea and Eddy counties in the State; and

(2) may also be provided for independent environmental assessment and economic studies associated with WIPP.

SEC. 16. TRANSPORTATION.

(a) SHIPPING CONTAINERS.—No transuranic waste may be transported by or for the Secretary to or from WIPP, except in packages—

(1) the design of which has been certified by the Nuclear Regulatory Commission; and

(2) that have been determined by the Nuclear Regulatory Commission to satisfy its quality assurance requirements.

The determination under paragraph (2) shall not be subject to rulemaking or judicial review.

(b) NOTIFICATION.—In addition to activities required pursuant to the Supplemental Stipulated Agreement, prior to any transportation of transuranic waste by or for the Secretary to or from WIPP, the Secretary shall provide advance notification to States and Indian tribes through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP.

(c) ACCIDENT PREVENTION AND EMERGENCY PREPAREDNESS.—

(1) TRAINING.—

(A) IN GENERAL.—In addition to activities required pursuant to the Supplemental Stipulated Agreement, the Secretary shall, to the extent provided in appropriation Acts, provide technical assistance and funds for the purpose of training public safety officials, and other emergency responders as described in part 1910.120 of title 29, Code of Federal Regulations, in any State or Indian tribe through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP. Within 30 days of the date of the enactment of this Act, the Secretary shall submit a report to the Congress and to the States and Indian tribes through whose jurisdiction the Secretary plans to transport transuranic waste on the training provided through fiscal year 1992.

Reports.

(B) ONGOING TRAINING.—If determined by the Secretary, in consultation with affected States and Indian tribes, to be necessary and appropriate, training described in subparagraph (A) shall continue after the date of the enactment of this Act until the transuranic waste shipments to or from WIPP have been terminated.

(C) REVIEW OF TRAINING.—The Secretary shall periodically review the training provided pursuant to subpara-

graph (A) in consultation with affected States and Indian tribes. The training shall also be reviewed by the Occupational Safety and Health Administration, and the National Institute for Occupational Safety and Health, for compliance with part 1910.120 of title 29, Code of Federal Regulations.

(D) COMPONENTS OF TRAINING.—The training shall cover procedures required for the safe routine transportation of transuranic waste, as well as procedures for dealing with emergency response situations, including—

(i) instruction of government officials and public safety officers in procedures for the command and control of the response to any incident involving the waste;

(ii) instruction of emergency response personnel in procedures for the initial response to an incident involving transuranic waste being transported to or from WIPP;

(iii) instruction of radiological protection and emergency medical personnel in procedures for responding to an incident involving transuranic waste being transported to or from WIPP; and

(iv) a program to provide information to the public about the transportation of transuranic waste to or from WIPP.

(2) EQUIPMENT.—The Secretary shall enter into agreements to assist States through monetary grants or contributions in-kind, to the extent provided in appropriation Acts, in acquiring equipment for response to an incident involving transuranic waste transported to or from WIPP. Grants.

(d) TRANSPORTATION SAFETY PROGRAMS.—The Secretary shall, to the extent provided in appropriation Acts, provide in-kind, financial, technical, and other appropriate assistance to any State or Indian tribe through whose jurisdiction the Secretary plans to transport transuranic waste to or from WIPP, for the purpose of WIPP-specific transportation safety programs not otherwise addressed in this section. These programs shall be developed with, and monitored by, the Secretary.

(e) SANTA FE BYPASS.—No transuranic waste may be transported from the Los Alamos National Laboratory to WIPP until—

(1) an amount of funds sufficient to construct the Santa Fe bypass has been made available to the State;

(2) the Santa Fe bypass has been completed; or

(3) the Administrator has made the certification required under section 8(d)(1)(B).

(f) STUDY OF TRANSPORTATION ALTERNATIVES.—

(1) IN GENERAL.—The Secretary shall conduct a study comparing the shipment of transuranic waste to the WIPP facility by truck and by rail, including the use of dedicated trains, and shall submit a report on the study in accordance with paragraph (2). Such report shall include— Reports.

(A) a consideration of occupational and public risks and exposures, and other environmental impacts;

(B) a consideration of emergency response capabilities; and

(C) an estimation of comparative costs.

(2) REPORT.—The report required in paragraph (1) shall be submitted to the Congress not later than 1 year after the date of the enactment of this Act.

(g) EMERGENCY RESPONSE MEDICAL TRAINING.—

(1) DETERMINATION OF SECRETARY.—If the Secretary determines that emergency response medical training for incidents involving transuranic waste being transported to or from WIPP is inadequate, the Secretary shall take immediate action to correct the inadequacies and, if necessary, suspend transportation of such transuranic waste. If the State disagrees with the Secretary's determination under this paragraph, the State may invoke the conflict resolution provisions of the Agreement.

(2) STATE ADVISORY GROUP.—The Secretary shall encourage the Governor of the State to appoint, within 30 days after the date of the enactment of this Act, an advisory group of health professionals and other experts in the field to review emergency response medical training programs for incidents involving transuranic waste being transported to or from WIPP. If such advisory group is established—

(A) its purpose shall be to review, within 60 days after its establishment and annually thereafter, the Department of Energy's emergency response medical training programs for incidents involving transuranic waste being transported to or from WIPP, and to report its findings to the State, the Secretary of Labor, acting through the Occupational Safety and Health Administration, and the Secretary; and

(B) the Secretary shall review the findings of the advisory group in consultation with the Secretary of Labor, acting through the Occupational Safety and Health Administration.

SEC. 17. ACCESS TO INFORMATION.

(a) IN GENERAL.—The Secretary shall—

(1) provide the State, the National Academy of Sciences, and the EEG with free and timely access to data relating to health, safety, or environmental issues at WIPP;

(2) provide the State and the EEG with preliminary reports relating to health, safety, or environmental issues at WIPP; and

(3) to the extent practicable, permit the State and the EEG to attend meetings relating to health, safety, or environmental issues at WIPP with expert panels and peer review groups.

(b) EVALUATION AND PUBLICATION.—The State, the National Academy of Sciences, and the EEG may evaluate and publish analyses of the Secretary's plans for test phase activities, monitoring, transportation, operations, decontamination, retrieval, performance assessment, compliance with Environmental Protection Agency regulations, decommissioning, safety analyses, and other activities relating to WIPP.

(c) CONSULTATION AND COOPERATION.—The Secretary shall consult and cooperate with the EEG under the terms of Contract No. DE–AC04–89AL58309 in the performance of its responsibility to conduct an independent technical review and evaluation of WIPP under section 1433 of the National Defense Authorization Act, Fiscal Year 1989 (102 Stat. 2073).

SEC. 18. JUDICIAL REVIEW OF EPA ACTIONS.

A civil action for judicial review of any final action of the Administrator under this Act may be brought only in the United States Court of Appeals for the Tenth Circuit or for the District of Columbia, and shall be brought not later than the 60th day after the date of such final action.

SEC. 19. TECHNOLOGY STUDY.

Within 3 years after the date of the enactment of this Act, the Secretary shall submit to the Congress a study reviewing the technologies that are available and that are being developed for the processing or reduction of volumes of radioactive wastes. The study shall include an identification of technologies involving the use of chemical, physical, and thermal (including plasma) processing techniques.

SEC. 20. STATEMENT FOR PURPOSES OF PUBLIC LAW 96-164.

For purposes of subsection (c) of section 213 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980 (Pub. L. 96-164; 93 Stat. 1265), this Act shall be considered to amend such section.

SEC. 21. CONSULTATION AND COOPERATION AGREEMENT.

Nothing in this Act shall affect the Agreement or the Supplemental Stipulated Agreement between the State and the United States Department of Energy except as explicitly stated herein.

SEC. 22. BUY AMERICAN REQUIREMENTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—No funds appropriated or transferred pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c, popularly known as the "Buy American Act").

(b) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—

(1) IN GENERAL.—In the case of any equipment or product that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.

(2) NOTICE TO RECIPIENTS OF ASSISTANCE.—In providing financial assistance under this Act, the Secretary shall provide to each recipient of the assistance a notice describing the statement made in paragraph (1) by the Congress.

SEC. 23. AUTHORIZATIONS OF APPROPRIATIONS.

(a) FOR ADMINISTRATOR.—

(1) IN GENERAL.—There are authorized to be appropriated to the Administrator for the purpose of fulfilling the responsibilities of the Administrator under this Act, $10,000,000 for fiscal year 1992, $12,000,000 for fiscal year 1993, $14,000,000 for fiscal year 1994, and such sums as may be necessary for fiscal years 1995 through 2001.

(2) REPORT.—The Administrator shall, not later than September 30, 1993, and annually thereafter, issue a report to the Congress on the status of and resources required for the

fulfillment of the Administrator's responsibilities under this Act.

(b) TRANSFERS FROM SECRETARY TO ADMINISTRATOR AND SECRETARY OF LABOR.—The Secretary is authorized to transfer from amounts appropriated for environmental restoration and waste management for fiscal years 1992 and 1993, and (to the extent approved in appropriation Acts) for fiscal years 1994 through 2001, such sums as may be necessary to fulfill the responsibilities of the Administrator under this Act and the Secretary of Labor under paragraphs (4) and (6) of section 6(b).

Appropriation authorization.

(c) ACQUISITION OF LEASEHOLD.—There are authorized to be appropriated to the Secretary such sums as may be necessary to acquire the Federal Oil and Gas Leases No. NMNM 02953 and No. NMNM 02953C.

Approved October 30, 1992.

LEGISLATIVE HISTORY—S. 1671 (H.R. 2637):

HOUSE REPORTS: No. 102-241, Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Armed Services), and Pt. 3 (Comm. on Energy and Commerce) all accompanying H.R. 2637, and No. 102-137 (Comm. of Conference).

SENATE REPORTS: No. 102-196 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 137 (1991): Nov. 5, considered and passed Senate.

Vol. 138 (1992): July 21, H.R. 2637 considered and passed House; S. 1671, amended, passed in lieu.

Oct. 5, House agreed to conference report.

Oct. 8, Senate agreed to conference report.

Public Law 102-580
102d Congress

An Act

To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

Oct. 31, 1992
[H.R. 6167]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1992.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1992". 33 USC 2201 note.

(b) TABLE OF CONTENTS.—

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Sec. 2. Findings.
Sec. 3. Secretary defined.

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Sec. 107. Upper Mississippi River plan.
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SEC. 2. FINDINGS.

Congress finds that—

(1) a sound and strong infrastructure is the essential core and foundation of the Nation's economic well-being and growth and its ability to compete in the global economy;

(2) the Nation's infrastructure has been sorely neglected for years, and there is a desperate need at every level of government to increase infrastructure investment for the benefit of future generations;

(3) it is the responsibility of the Federal Government to provide coordination, direction, and assistance in the restoration and maintenance of a sound infrastructure, including a national transportation system involving surface, air, and water transportation and facilities for restoration and preservation of water quality, prevention of damages from floods, and provision of hydroelectric power and municipal and industrial water supplies;

(4) it should be a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner;

(5) the Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, water pollution, and the need to rebuild the Nation's infrastructure;

(6) a national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner;

(7) a national intermodal transportation system will enhance the ability of United States industry to compete in the global marketplace by reducing transportation costs;

(8) all forms of transportation, including the transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development and productivity growth;

(9) investment in the infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(10) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(11) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(12) failure to invest in the Nation's infrastructure has placed the United States in danger of becoming a service-oriented economy rather than having a strong and independent manufacturing-based economy;

(13) foreign competitors in the global economy have surpassed the Nation's productivity growth through massive infrastructure investments, and many foreign competitors have committed to making multi-trillion dollar infrastructure investments in the future;

(14) the improvement of the Nation's coastal ports is critical to its ability to compete in the global economy through the efficient import and export of goods;

(15) the improvement of the Nation's inland waterway system is a central part of a national intermodal transportation system which permits the efficient transport of goods between markets within the Nation and between inland markets and coastal ports;

(16) the prevention of massive flood damages to the Nation's cities, industries, cultural facilities, municipal facilities, and transportation system plays a vital role in the protection of the Nation's infrastructure and the efficient conduct of commerce;

(17) the provision of municipal and industrial water supply plays a crucial role in the well-being and functioning of the Nation's communities and industries and in the health, environment, and quality of life of the Nation;

(18) the generation of hydroelectric power contributes significantly to the Nation's supply of low-cost energy and plays a significant role in reducing air pollution;

(19) the provision of recreational opportunities and the protection and enhancement of fish and wildlife habitat and environmental values contribute to the well-being of the people of the Nation; and

(20) improvement and protection of the Nation's infrastructure is an essential, proper, and necessary role of government at all levels.

SEC. 3. SECRETARY DEFINED.

33 USC 2201 note.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—WATER RESOURCES PROJECTS

SEC. 101. PROJECT AUTHORIZATIONS.

Except as provided in this section, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this section:

(1) SOUTHEAST ALASKA HARBORS OF REFUGE, ALASKA.—The project for navigation, Southeast Alaska Harbors of Refuge, Alaska: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,013,000, with an estimated Federal cost of $11,250,000 and an estimated non-Federal cost of $3,763,000.

(2) WHITEMAN'S CREEK, ARKANSAS.—The project for flood control, Whiteman's Creek, Arkansas: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $4,978,000, with an estimated Federal cost of $2,838,000 and an estimated non-Federal cost of $2,140,000.

(3) MORRO BAY HARBOR, CALIFORNIA.—The project for navigation, Morro Bay Harbor, California: Report of the Chief of Engineers, dated June 4, 1992, at a total cost of $2,056,000, with an estimated Federal cost of $1,644,000 and an estimated non-Federal cost of $412,000.

(4) SACRAMENTO METRO AREA, CALIFORNIA.—The project for flood control, Sacramento Metro Area, California: Report of the Chief of Engineers, dated June 29, 1992, at a total cost

of $17,000,000, with an estimated Federal cost of $12,800,000 and an estimated non-Federal cost of $4,200,000.

(5) RIO GRANDE ALAMOSA, COLORADO.—The project for flood control, Rio Grande Alamosa, Colorado: Report of the Chief of Engineers, dated October 7, 1991, at a total cost of $7,080,000, with an estimated Federal cost of $5,250,000 and an estimated non-Federal cost of $1,830,000.

(6) DELAWARE RIVER MAINSTEM AND CHANNEL DEEPENING, DELAWARE, NEW JERSEY, AND PENNSYLVANIA.—The project for navigation, Delaware River Mainstem and Channel Deepening, Delaware, New Jersey, and Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $294,931,000, with an estimated Federal cost of $195,767,000 and an estimated non-Federal cost of $99,164,000.

(7) CANAVERAL HARBOR, FLORIDA.—The project for navigation, Canaveral Harbor, Florida: Report of the Chief of Engineers, dated July 24, 1991, as modified by the letter of the Secretary dated October 10, 1991, at a total cost of $11,780,000, with an estimated Federal cost of $6,100,000 and an estimated non-Federal cost of $5,680,000.

(8) KISSIMMEE RIVER RESTORATION, FLORIDA.—The project for the ecosystem restoration of the Kissimmee River, Florida: Report of the Chief of Engineers, dated March 17, 1992, at a total cost of $426,885,000, with an estimated Federal cost of $139,943,000 and an estimated non-Federal cost of $286,942,000. The Secretary is further authorized to construct the Kissimmee River headwaters revitalization project in accordance with the report prepared under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251–4252) for such headwaters project and any modifications as are recommended by the Secretary based on the benefits derived for the environmental restoration of the Kissimmee River basin, at a total cost of $92,210,000, with an estimated Federal cost of $46,105,000 and an estimated non-Federal cost of $46,105,000. The Secretary shall take such action as may be necessary to ensure that implementation of the project to restore the Kissimmee River will maintain the same level of flood protection as is provided by the current flood control project.

(9) PORT EVERGLADES HARBOR, FLORIDA.—The project for navigation, Port Everglades Harbor, Florida: Report of the Chief of Engineers, dated September 23, 1991, at an annual cost of $94,500.

(10) SAVANNAH HARBOR, GEORGIA AND SOUTH CAROLINA.—The project for navigation, Savannah Harbor, Georgia and South Carolina: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $47,416,000, with an estimated Federal cost of $15,112,000 and an estimated non-Federal cost of $32,304,000. The Secretary is authorized to increase the Federal cost share of the recommended plan in accordance with the cost-sharing provisions of the Water Resources Development Act of 1986 (Public Law 99–662) if the Secretary determines that such an increase is warranted and appropriate.

(11) AMITE RIVER AND TRIBUTARIES, LOUISIANA.—The project for flood control, Amite River and Tributaries, Louisiana: Report of the Chief of Engineers, dated August 27, 1991, as modified by the letter of the Secretary, dated January 28,

1992, at a total cost of $65,902,000, with an estimated Federal cost of $32,951,000 and an estimated non-Federal cost of $32,951,000.

(12) SAUGUS RIVER AND TRIBUTARIES, MASSACHUSETTS.—The project for flood control, Saugus River and Tributaries, Massachusetts: Report of the Chief of Engineers, dated August 1, 1990, at a total cost of $95,700,000, with an estimated Federal cost of $61,360,000 and an estimated non-Federal cost of $34,340,000.

(13) LAS VEGAS WASH AND TRIBUTARIES, NEVADA.—The project for flood control, Las Vegas Wash and Tributaries, Nevada: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $204,300,000, with an estimated Federal cost of $144,000,000 and an estimated non-Federal cost of $60,300,000. The Secretary is further authorized to construct recreation features as proposed in the draft Feasibility Report and Environmental Impact Statement for Las Vegas Wash and Tributaries (Flamingo and Tropicana Washes), dated July 1990, at a total cost of $10,000,000, with an estimated Federal cost of $5,000,000 and an estimated non-Federal cost of $5,000,000.

(14) MOREHEAD CITY HARBOR, NORTH CAROLINA.—The project for navigation, Morehead City Harbor, North Carolina: Report of the Chief of Engineers, dated May 21, 1991, at a total cost of $10,030,000, with an estimated Federal cost of $6,360,000 and an estimated non-Federal cost of $3,670,000.

(15) WEST ONSLOW AND NEW RIVER INLET, NORTH CAROLINA.—The project for flood control, West Onslow and New River Inlet, North Carolina: Report of the Chief of Engineers, dated November 19, 1991, at a total cost of $14,100,000, with an estimated Federal cost of $7,600,000 and an estimated non-Federal cost of $6,500,000.

(16) LACKAWANNA RIVER AT OLYPHANT, PENNSYLVANIA.—The project for flood control, Lackawanna River at Olyphant, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $11,354,000, with an estimated Federal cost of $7,691,000 and an estimated non-Federal cost of $3,663,000.

(17) LACKAWANNA RIVER AT SCRANTON, PENNSYLVANIA.—The project for flood control, Lackawanna River at Scranton, Pennsylvania: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $15,117,000, with an estimated Federal cost of $11,344,000 and an estimated non-Federal cost of $3,773,000.

(18) LOCKS AND DAMS 2, 3, AND 4, MONONGAHELA RIVER, PENNSYLVANIA.—The project for navigation, Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania: Report of the Chief of Engineers, dated June 1, 1992, at a total cost of $556,400,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(19) RIO GRANDE DE LOIZA, PUERTO RICO.—The project for flood control, Rio Grande De Loiza, Puerto Rico: Report of the Chief of Engineers, dated March 5, 1992, at a total cost of $122,285,000, with an estimated Federal cost of $97,009,000 and an estimated non-Federal cost of $25,276,000.

(20) SARGENT BEACH, TEXAS.—The project for navigation, Sargent Beach, Texas: Report of the Chief of Engineers, dated June 25, 1992, at a total cost of $67,667,000. The costs of construction of the project are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund.

(21) SHOAL CREEK, AUSTIN, TEXAS.—The project for flood control, Shoal Creek, Austin, Texas: Report of the Chief of Engineers, dated June 16, 1992, at a total cost of $6,808,000, with an estimated Federal cost of $5,106,000 and an estimated non-Federal cost of $1,702,000.

(22) SANDBRIDGE BEACH, VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Sandbridge Beach, Virginia Beach, Virginia: Report of the Chief of Engineers, dated June 29, 1992, at a total cost of $8,850,000, with an estimated Federal cost of $5,750,000 and an estimated non-Federal cost of $3,100,000.

SEC. 102. PROJECT MODIFICATIONS.

(a) TENNESSEE-TOMBIGBEE WATERWAY, ALABAMA AND MISSISSIPPI.—

(1) IN GENERAL.—The Tennessee-Tombigbee Waterway Wildlife Mitigation project, Alabama and Mississippi, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4138), is modified to authorize—

(A) the Secretary to review lands acquired for the project to determine if such lands can be made available for related project uses (including port, industrial, and other community or regional economic development endeavors);

(B) the Secretary to sell or exchange any lands which are determined by the Secretary to be available for such related uses; and

(C) the Secretary to acquire from willing sellers lands to replace any lands sold or exchanged by the Secretary under this subsection.

(2) LIMITATIONS.—Lands acquired under this subsection shall fully replace lost wildlife habitat value. Acquisition of lands under this subsection may be by purchase, exchange, or a combination thereof. Sales, exchanges, and acquisitions under this subsection shall be at fair market value and shall be with the consent of appropriate Federal and State fish and wildlife agencies. No lands may be sold under this subsection until replacement lands have been acquired under this subsection. Management of lands acquired under this subsection and reimbursement of costs with respect to such lands shall be the same as for lands acquired for the project before the date of the enactment of this Act.

(b) GOLETA AND VICINITY, CALIFORNIA.—The project for flood protection, Santa Barbara County Coastal Streams and tributaries in the area of Goleta, California, authorized by section 201 of the Flood Control Act of 1970 (84 Stat. 1862), is modified to authorize the Secretary to carry out the recommendations contained in the report of the Chief of Engineers relating to flood protection for Goleta and vicinity, California, dated March 25, 1991, at a

total cost of $6,800,000, with an estimated Federal cost of $4,800,000 and an estimated non-Federal cost of $2,000,000.

(c) OCEANSIDE HARBOR, CALIFORNIA.—The project for navigation, Oceanside Harbor, California, authorized by the River and Harbor Act of 1965 (79 Stat. 1092), is modified to authorize the Secretary to repair, operate, and maintain the extension of the south jetty constructed in 1968.

(d) SAN LEANDRO MARINA, CALIFORNIA.—

(1) MAINTENANCE OF SOUTHERN CHANNEL.—The project for navigation, San Leandro Marina, Jack D. Maltester Channel, California, authorized under section 201 of the Flood Control Act of 1965 by resolutions adopted by the Committee on Public Works and Transportation of the House of Representatives on June 22, 1971, and adopted by the Committee on Environment and Public Works of the Senate on December 15, 1970, is modified to direct the Secretary to maintain the 8-foot deep and 100-foot wide access channel extending from the southern auxiliary access channel to the boat launching ramp in the small boat lagoon.

(2) DEAUTHORIZATION OF NORTHERN CHANNEL.—The northern auxiliary access channel of the project referred to in paragraph (1) is not authorized after the date of the enactment of this Act.

(3) NAMING OF SOUTHERN CHANNEL.—

(A) DESIGNATION.—The southern auxiliary channel referred to in paragraph (1) shall be known and designated as the "Jack D. Maltester Channel".

(B) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the channel referred to in subparagraph (A) shall be deemed to be a reference to the "Jack D. Maltester Channel".

(e) CROSS FLORIDA BARGE CANAL.—Section 1114 of the Water Resources Development Act of 1986 (16 U.S.C. 460tt) is amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection:

"(f) CONTRACT FOR CONTINUED O&M.— Florida.

"(1) IN GENERAL.—During the period beginning on November 28, 1992, and ending on September 30, 1993, the Secretary is authorized and directed to offer to enter into a contract with the St. Johns River Water Management District and the Southwest Florida Water Management District of the State of Florida for the continued operation and maintenance by the Secretary of the portions of the project described in subsection (d). The maintenance shall be performed at a level of service that is necessary to ensure safe operating conditions and to prevent deterioration of the structures. No major rehabilitations or renovations shall be performed by the Secretary in such portions of the project during such period.

"(2) FUNDING.—Funding for the continued operation and maintenance of the barge canal project by the Secretary under this subsection shall not exceed $300,000. The State of Florida shall pay a non-Federal share of $600,000 to fund the continued maintenance of the portions of the project described in subsection (d) in accordance with paragraph (1).".

(f) O'HARE SYSTEM OF THE CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, O'Hare System of the Chicagoland Underflow Plan, Illinois, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4115), is modified to authorize the Secretary to construct the project, at a total cost of $29,000,000, with an estimated Federal cost of $17,800,000 and an estimated non-Federal cost of $11,200,000.

(g) ILLINOIS RIVER, ILLINOIS.—The project for inland navigation, Illinois River, Illinois, authorized by the Rivers and Harbors Act of 1935 (49 Stat. 1035), is modified to direct the Secretary to acquire dredged material disposal areas for such project, at a total Federal cost of not to exceed $7,000,000.

(h) SOUTH FRANKFORT, KENTUCKY.—The project for flood protection, South Frankfort, Kentucky, authorized by section 102(o) of the Water Resources Development Act of 1990 (104 Stat. 4613), is modified to provide that the cost of conducting preconstruction engineering and design for the project shall not be included in the computation for determining the benefit-cost ratio for the project.

(i) LOCKS AND DAM 26, MISSISSIPPI RIVER, ALTON, ILLINOIS AND MISSOURI.—Section 102(l) of the Water Resources Development Act of 1990 (104 Stat. 4613) is amended by inserting before the period at the end of the last sentence "or other non-Federal interests".

(j) LAKE PONTCHARTRAIN, LOUISIANA.—The project for hurricane-flood protection on Lake Pontchartrain, Louisiana, authorized by section 204 of the Flood Control Act of 1965 (79 Stat. 1077), is modified—

(1) to direct the Secretary to construct measures to intercept and convey drainage from the landside slopes of project levees in Jefferson Parish, Louisiana, directly to the existing drainage system;

(2) to direct the Secretary to reevaluate the benefits of the constructed portions of the project which accrue to St. Bernard Parish and to the Lake Borgne Basin Levee District for the purposes of determining the portion of the benefits which were expected to accrue to the parish and district but which were not realized;

(3) to direct the Secretary to reduce the non-Federal share of the capital costs and operation and maintenance attributable to the parish and district by the percentage of the expected benefits which were not realized; and

(4) to provide that the parish and district shall not be required to make payments on their respective non-Federal responsibilities until the Secretary has made the reductions, if any, under paragraph (3).

In carrying out paragraphs (2) and (3), the Secretary shall utilize results of the study conducted under section 116(k) of the Water Resources Development Act of 1990 and any other relevant information.

(k) PARISH CREEK, SHADY SIDE, MARYLAND.—The project for navigation, Parish Creek, Shady Side, Maryland, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1031), is modified to reduce the length of the western boundary of the turning basin by 100 feet.

(l) BUFFUMVILLE LAKE, MASSACHUSETTS.—The flood control project for Buffumville Lake, Massachusetts, authorized by section

3 of the Flood Control Act of August 18, 1941 (55 Stat. 639), is modified to add low flow augmentation as a project purpose and to direct the Secretary to operate the project to improve water quality on the French River, Connecticut and Massachusetts.

(m) SOUTH FORK ZUMBRO RIVER, MINNESOTA.—The project for flood control, South Fork Zumbro River Watershed, Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project at a total cost of $123,100,000, with an estimated Federal cost of $90,800,000 and an estimated non-Federal cost of $32,300,000.

(n) NEW MADRID HARBOR, MISSOURI.—The project for navigation, New Madrid Harbor, Missouri, authorized pursuant to section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577), is modified to direct the Secretary to assume responsibility for maintenance of New Madrid County Harbor constructed by non-Federal interests before the date of the enactment of this Act in lieu of maintaining the existing Federal channel.

(o) PAPILLION CREEK AND TRIBUTARIES LAKES, NEBRASKA.—The project for flood control, Papillion Creek and Tributaries Lakes, Nebraska, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 743) and section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4119), is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1992, at a total cost of $12,469,000, with an estimated Federal cost of $8,783,000 and an estimated non-Federal cost of $3,686,000.

(p) PASSAIC RIVER MAIN STEM, NEW JERSEY AND NEW YORK.—Section 101(a)(18) of the Water Resources Development Act of 1990 (104 Stat. 4607–4610) is amended—

(1) by adding at the end of subparagraph (A) the following new clause:

"(vi) FLOOD WARNING SYSTEM.—The Secretary is authorized to establish, operate, and maintain, at full Federal expense, the Passaic River flood warning system element of the project before completion of construction of the tunnel element of the project.";

(2) in subparagraph (B) by striking "Jackson" and inserting "Brill";

(3) in subparagraph (B) by striking "$6,000,000" and inserting "$25,000,000";

(4) in subparagraph (B) by striking "and scenic overlook facilities" and inserting "scenic overlook facilities, and public access to Route 21";

(5) in subparagraph (B) by inserting after the first sentence the following new sentence: "The project element authorized by this subparagraph shall be carried out, in cooperation with the city of Newark, so that it is compatible with the proposed reconstruction plans for Route 21 and the proposed arts center.";

(6) in subparagraph (B) by striking "may be undertaken" and inserting "shall be undertaken";

(7) in the first sentence of subparagraph (C)(vi) by inserting after "for" the first place it appears "the purpose of assuring the integrity of";

(8) in subparagraph (C)(vii) by inserting "the additional" after "Act, the fair market value of";

(9) in subparagraph (C)(vii) by inserting "integrity of the" before "Wetlands Bank";

(10) in subparagraph (C)(vii) by inserting "and any other flood control project in the Passaic River basin" after "by this paragraph";

(11) in subparagraph (C)(viii) by striking "for the Wetlands Bank" and inserting "in accordance with clauses (ii) and (vi)"; and

(12) in subparagraph (C)(viii) by inserting "and financial" after "economic".

(q) RARITAN BAY AND SANDY HOOK BAY, NEW JERSEY.—The project for hurricane-flood protection, Raritan Bay and Sandy Hook Bay, New Jersey, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1181), is modified to provide periodic beach nourishment for Cliffwood Beach for 50 years.

(r) SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.—The project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that costs incurred by the non-Federal interests to stabilize the seawall at Belmar and Spring Lake, New Jersey, shall be credited, to the extent that the Secretary determines that the work of stabilizing the seawall is compatible with the project, against the non-Federal share of the cost of construction and maintenance of section 2 of the project (Asbury Park to Manasquan).

(s) RIO GRANDE FLOODWAY, NEW MEXICO.—Notwithstanding any other provision of law, the project for flood control, Rio Grande Floodway, San Acacia to Bosque del Apache Unit, New Mexico, authorized by section 203 of the Flood Control Act of 1948 (Public Law 80–858) and amended by section 204 of the Flood Control Act of 1950 (Public Law 81–516), is modified to more equitably reflect the non-Federal benefits from the project in relation to the total benefits of the project by reducing the non-Federal contribution for the project by that percentage of benefits which is attributable to the Federal properties; except that, for purposes of this subsection, Federal property benefits may not exceed 50 percent of the total project benefits.

(t) JONES INLET, NEW YORK.—The project for navigation, Jones Inlet, New York, is modified to authorize and direct the Secretary to conduct a reconnaissance and feasibility study on placing noncontaminated dredged material on beach areas downdrift from the federally maintained channel at full Federal expense for purposes of mitigating environmental and other attendant damages resulting from the interruption of littoral system natural processes caused by jetty construction and continued dredging of the Federal channel.

(u) WESTHAMPTON BEACH, NEW YORK.—The project for beach erosion control and hurricane protection for Westhampton Beach, New York, authorized by the Water Resources Development Act of 1974, and modified by the Water Resources Development Act of 1986, is further modified to extend the period of beach nourishment for 30 years from the date of project completion. The non-Federal share of project costs shall not exceed 35 percent of the total project cost as provided in such Acts.

(v) BROKEN BOW LAKE, RED RIVER BASIN, OKLAHOMA.—The project for flood control and water supply, Broken Bow Lake, Red River Basin, Oklahoma, authorized by section 203 of the Flood Control Act of 1958 (72 Stat. 309) and modified by the Flood

Control Act of 1962, is further modified to provide for the reallocation of a sufficient amount of existing and available water supply storage space in Broken Bow Lake to support the Mountain Fork trout fishery. Releases of water from Broken Bow Lake for the Mountain Fork trout fishery shall be undertaken under terms and conditions acceptable to the Secretary.

(w) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4124), is modified—

(1) to direct the Secretary to complete the final phase II design memorandum for the project (including the results of a review of nonstructural mitigation plans for the purpose of ameliorating damages from induced flooding) not later than August 8, 1994;

(2) to authorize the Secretary—

(A) to cooperate with non-Federal interests to make use of equipment and employees of the non-Federal interests in carrying out the project; and

(B) to credit the non-Federal share of the cost of the project for the value of the use of such equipment and employees; and

(3) to provide that, notwithstanding the last sentence of subsection (c) of section 104 of the Water Resources Development Act of 1986—

(A) non-Federal interests may apply for crediting under such section 104, against the non-Federal share of the cost of the project, the cost of work carried out after June 1, 1972, by the non-Federal interests which the Secretary determines is compatible with the project; and

(B) the Secretary may approve of such crediting to the extent the Secretary determines appropriate.

(x) CHETCO RIVER, OREGON.—The project for navigation, Chetco River, Oregon, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1092), is modified to direct the Secretary to assume responsibility for operation and maintenance of the approximately 200-foot long access channel to the south commercial boat basin consistent with authorized project depths.

(y) PORT ORFORD, OREGON.—Section 117 of the River and Harbor Act of 1970 (84 Stat. 1822) is amended by striking the last sentence and inserting the following: "The Secretary is authorized to maintain the authorized Federal navigation channel at Port Orford, Oregon, including those portions of the channel within 50 feet of the port facility.".

(z) CLIFF WALK, NEWPORT, RHODE ISLAND.—Notwithstanding any other provision of law and any agreement, the Federal share of the cost of repairs and improvements to the Cliff Walk, Newport, Rhode Island, in fiscal year 1993 and succeeding fiscal years shall not be less than 50 percent of the total cost of the project.

(aa) RAY ROBERTS LAKE, ELM FORK OF THE TRINITY RIVER, TEXAS.—The project for navigation, Ray Roberts Lake, Elm Fork of the Trinity River, Texas, authorized by the River and Harbor Act of 1965 (79 Stat. 1091), is modified to direct the Secretary to construct access ramps to permit boat launching access during periods of high water at the Sanger, Jordan, and FM–372 access

areas, at an estimated total cost of $55,000. Operation and maintenance of the access ramps shall be a non-Federal responsibility.

(bb) SIMS BAYOU, TEXAS.—The project for flood control, Sims Bayou, Texas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4125), is modified to direct the Secretary to include, to the extent practicable, measures to improve environmental quality and riparian habitat.

(cc) VIRGINIA BEACH, VIRGINIA.—The project for beach erosion control and hurricane protection, Virginia Beach, Virginia, authorized by section 501(a) of the Water Resources Development Act of 1986 (100 Stat. 4136), is modified to authorize the Secretary to construct the project at a total cost of $112,000,000, with an estimated Federal cost of $72,800,000 and an estimated non-Federal cost of $39,200,000, and an average annual cost of $2,000,000 for the periodic beach nourishment over the 50-year economic life of the project, with an estimated Federal cost of $1,300,000 and an estimated non-Federal cost of $700,000. In carrying out the project, the Secretary is directed to construct the project with a uniform level of protection against a 100-year storm event, plus or minus 15 years, from Rudee Inlet to 89th Street by construction of a seawall from Rudee Inlet to 58th Street with a maximum top of seawall elevation of 13.5 feet (NGVD), dune reconstruction where necessary from 58th Street to 89th Street with a maximum top of dune elevation of 18 feet (NGVD), and construction of a beach berm from Rudee Inlet to 89th Street to a maximum design elevation of 10 feet (NGVD), and a width at design elevation to obtain the desired level of protection. In carrying out the project, the Secretary is also directed to provide for interior storm water to be collected into a pipe which will run longitudinally beneath the reconstructed boardwalk and to be discharged offshore by pumping through subsurface pipelines.

(dd) LOWER GRANITE LOCK AND DAM, WASHINGTON.—The Lower Granite Lock and Dam feature of the project for navigation, Snake River, Oregon, Washington, and Idaho, authorized by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21–22), is modified to authorize the Secretary to construct an all weather surface road in Whitman County, Washington, from Whitman County Road 9000 at the mouth of the Wawawai Canyon to existing roads in the vicinity of the Lower Granite Dam. The cost of such construction shall be assigned to navigation.

(ee) BEECH FORK LAKE, WEST VIRGINIA.—The project for flood control, Beech Fork Lake, West Virginia, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1188), is modified to direct the Secretary to complete a study at a cost of not to exceed $500,000 and issue a report on relocation of the lodge resort complex authorized to be constructed as part of the project and to carry out the project substantially in accordance with such report.

(ff) BLUESTONE LAKE, OHIO RIVER BASIN, WEST VIRGINIA.—The project for flood control, Bluestone Lake, Ohio River Basin, West Virginia, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1217), is modified to direct the Secretary to take such measures as are technologically feasible to prohibit the release of drift and debris into waters downstream of the project, including measures to prevent the accumulation of drift and debris at the project, the collection and removal of drift and debris on the segment of the New River upstream of the project, and the removal (through the use of temporary or permanent sys-

tems) and disposal of accumulated drift and debris at Bluestone Dam.

(gg) LA CROSSE AND SHELBY, WISCONSIN.—The project for flood protection of State Road and Ebner Coulees, city of La Crosse and Shelby Township, Wisconsin, authorized by section 203 of the Flood Control Act of 1968 (82 Stat. 742), is modified to direct the Secretary to reimburse the non-Federal sponsor $1,467,000 for the Federal share of work performed by the non-Federal sponsor in connection with the project. Such reimbursement shall be in addition to amounts previously reimbursed by the Secretary for such work.

SEC. 103. VISITOR CENTERS.

(a) MELVIN PRICE LOCK AND DAM, ALTON, ILLINOIS.—

(1) CONSTRUCTION.—The Secretary may construct a regional visitor center of at least 24,000 square feet at the Melvin Price Lock and Dam, Alton, Illinois.

(2) PURPOSES.—The purposes of the visitor center to be constructed under this subsection shall be to inform the public of—

(A) the role of the United States Army Corps of Engineers in inland navigation along the Mississippi River and its tributaries,

(B) the role of the Melvin Price Lock and Dam in such inland navigation,

(C) the socioeconomic development of the surrounding area, and

(D) events of historical, archaeological, cultural, and natural significance in such area.

(b) MT. MORRIS DAM, NEW YORK.—

(1) CONSTRUCTION.—The Secretary shall construct a visitor center at Mt. Morris Dam, Mt. Morris, New York, in accordance with alternative 2 contained in the report of the District Engineer, Buffalo District, entitled "Mt. Morris Dam, Interpretive Development Prospectus, Visitor Reception Area", dated February 22, 1991.

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "William B. Hoyt II Visitor Center".

(c) LOWER MISSISSIPPI RIVER MUSEUM AND RIVERFRONT INTERPRETIVE SITE.—

(1) ESTABLISHMENT.—The Secretary shall establish and operate in accordance with this subsection an interpretive facility (including a museum and interpretive site) in Vicksburg, Mississippi, which shall be known as the "Lower Mississippi River Museum and Riverfront Interpretive Site".

(2) LOCATION OF MUSEUM.—The museum shall be located on property currently held by the Resolution Trust Corporation in the vicinity of the Mississippi River Bridge in Vicksburg, Mississippi. Title to the property shall be transferred to the Secretary at no cost.

(3) INTERPRETIVE SITE.—The interpretive site shall be located on riverfront property between the Mississippi River Bridge and the Mississippi Riverpark in Vicksburg, Mississippi. The Secretary is authorized to acquire surface use easements for such site on a willing seller basis.

(4) LIMITATION ON ACQUISITION AUTHORITY.—The Secretary may not use condemnation of property in carrying out this subsection.

(5) PURPOSES OF THE MUSEUM AND INTERPRETIVE SITE.—The purposes of the Lower Mississippi River Museum and Riverfront Interpretive Site are to—

(A) promote an understanding of the Lower Mississippi River and the United States Army Corps of Engineers' role in developing and managing this nationally significant resource;

(B) interpret the United States Army Corps of Engineers historic presence in the Lower Mississippi River Valley and its administration of the Mississippi River and Tributaries project;

(C) provide an understanding of the many Corps of Engineers branches and facilities in the Vicksburg area and their relationship to flood control, navigation, and environmental conservation in the Mississippi River;

(D) highlight the Mississippi River's influence on the Vicksburg area and the river valley's natural, historic, and cultural resource contributions;

(E) highlight local Corps of Engineers projects and management strategies;

(F) provide an understanding of the surrounding natural riparian environment adjacent to the Mississippi River through public access and interpretive displays; and

(G) promote the worldwide application of water resource technologies learned from using the Mississippi River as a working model.

(6) RELATED AGENCIES AND PROGRAMS.—

(A) SMITHSONIAN INSTITUTION.—The Secretary shall consult with the Secretary of the Smithsonian Institution in the planning and design of the museum and riverfront interpretive site under this subsection.

(B) DEPARTMENT OF THE INTERIOR.—The Secretary shall consult with the Secretary of the Interior and the Director of the National Park Service in the planning, design, and implementation of interpretive programs for the museum and riverfront interpretive site to be established under this subsection.

(C) VISITOR SERVICES.—The Secretary is directed to provide increased and enhanced visitor services at the United States Army Corps of Engineers, Waterways Experiment Station in Vicksburg, Mississippi.

(7) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,000,000 to carry out this subsection, including acquiring and restoring under paragraph (2) the property held by the Resolution Trust Corporation and planning, designing, and constructing the museum and riverfront interpretive site under this subsection.

(d) NORTHEASTERN NEW JERSEY REGIONAL FLOOD OPERATIONS-RESPONSE, ENGINEERING, AND VISITOR CENTER.—

(1) CONSTRUCTION.—The Secretary is directed to construct a visitor center in northeastern New Jersey of at least 15,000 square feet to serve as the center for the United States Army Corps of Engineers operations and emergency response engineering activities within the Passaic, Hackensack, Raritan,

and Atlantic Coast floodplain areas and to inform the public of the Corps of Engineers' flood damage reduction and emergency preparedness roles for these areas, the socioeconomic development of the region, and events of historical, archaeological, cultural, and natural significance to these areas.

(2) PARK LAND FOR VISITOR ACCESS.—The visitor center to be constructed under this subsection shall include approximately 5 acres of public park land for visitor access.

(3) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "Northeastern New Jersey Regional Flood Operations-Response, Engineering, and Visitor Center".

(4) INTERIM MEASURES.—The Secretary is directed to provide increased and enhanced flood emergency operations and engineering preparedness and visitor services at the Corps of Engineers' Passaic River Division office in Hoboken, New Jersey, until such time as the center to be constructed under this subsection is operational.

(e) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) CONSTRUCTION.—The Secretary shall construct a visitors center for the Army Corps of Engineers at the John Paul Hammerschmidt Lake, Arkansas River, Arkansas.

(2) DESIGNATION.—The visitor center to be constructed under this subsection shall be known and designated as the "John Paul Hammerschmidt Visitor Center".

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $2,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 104. SMALL NAVIGATION PROJECTS.

The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577):

(1) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the existing channel to the Port of Cameron to dimensions of 18 feet by 200 feet.

(2) CALCASIEU RIVER, LOUISIANA.—A navigation project for the Calcasieu River, Louisiana, to enlarge the southern portion of the Cameron Loop to dimensions of 18 feet by 140 feet.

(3) PROVINCETOWN HARBOR, MASSACHUSETTS.—A navigation project for Provincetown Harbor, Massachusetts.

(4) AUNT LYDIA'S COVE, CHATHAM, MASSACHUSETTS.—A navigation project for Aunt Lydia's Cove, Chatham, Massachusetts.

(5) GRAND MARAIS, MINNESOTA.—A project for a harbor of refuge, Grand Marais, Minnesota.

(6) GRAND PORTAGE, MINNESOTA.—A project for a harbor of refuge, Grand Portage, Minnesota.

(7) SILVER BAY, MINNESOTA.—A project for a harbor of refuge, Silver Bay, Minnesota.

(8) SEAWAY PIER, BUFFALO, NEW YORK.—A navigation project for construction of a floating breakwater at Seaway Pier, Buffalo, New York.

(9) TANGIER ISLAND, VIRGINIA.—A navigation project for construction of a breakwater to protect navigation facilities at Tangier Island, Virginia.

SEC. 105. SMALL FLOOD CONTROL PROJECTS.

(a) PROJECT AUTHORIZATIONS.—The Secretary shall conduct a study for each of the following projects and, if the Secretary determines that the project is feasible, shall carry out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s):

(1) BLUE RIVER AND BROCK CREEK, SALEM, INDIANA.—A project for flood control, West Fork of the Blue River and Brock Creek, Salem, Indiana.

(2) WHITE RIVER, ELNORA, INDIANA.—A project for flood control, White River, Elnora, Indiana.

(3) WHITE RIVER, GIBSON COUNTY, INDIANA.—A project for flood control, White River, Hazelton, Gibson County, Indiana.

(4) WHITE RIVER, PETERSBURG, INDIANA.—A project for flood control, White River, Petersburg, Indiana.

(5) WABASH RIVER, KNOX COUNTY, INDIANA.—A project for flood control Wabash River, Knox County, Indiana.

(6) RED RIVER AT GRAND MARAIS OUTLET, MINNESOTA.—A project for flood control, Red River at Grand Marais Outlet, Minnesota.

(7) SULLIVAN RUN CREEK, BUTLER, PENNSYLVANIA.—A project for flood control, Sullivan Run Creek, Butler, Pennsylvania. The non-Federal share of the cost of the project shall be determined in accordance with section 103(m) of the Water Resources Development Act of 1986.

(8) LITTLE FOSSIL CREEK, TEXAS.—A project for flood control, Little Fossil Creek, Tarrant County, Texas.

(9) TURPENTINE RUN, ST. THOMAS, VIRGIN ISLANDS.—A project for flood control, Turpentine Run, St. Thomas, Virgin Islands.

(b) ST. PETERS, ST. CHARLES COUNTY, MISSOURI.—

(1) MAXIMUM ALLOTMENT.—The maximum amount which may be allotted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) for the project for flood control, St. Peters, St. Charles County, Missouri, shall be $10,000,000 instead of $5,000,000. The Secretary shall revise the local cooperation agreement for such project entered into under section 221 of the Flood Control Act of 1970 to conform with the increase under this paragraph in the Federal participation in such project.

(2) COST SHARING.—Nothing in this subsection shall be construed as affecting any cost sharing requirements applicable to the project under the Water Resources Development Act of 1986.

California.

SEC. 106. SONOMA BAYLANDS WETLAND DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary is directed to develop and carry out in accordance with this section a 320-acre Sonoma Baylands wetland demonstration project in the San Francisco Bay-Delta estuary, California. The project shall utilize dredged material suitable for aquatic disposal to restore, protect, and expand the Sonoma Baylands for the purposes of preserving waterfowl, fish, and other wetland dependent species of plants and animals and to provide flood control, water quality improvement, and sedimentation control.

(b) ADDITIONAL PROJECT PURPOSES.—In addition to the purposes described in subsection (a), the purposes of the project under this section are to restore tidal wetlands, provide habitat for endangered species, expand the feeding and nesting areas for waterfowl along the Pacific flyway, and demonstrate the use of suitable dredged material as a resource, facilitating the completion of San Francisco Bay Area dredging projects in an environmentally sound manner.

(c) PLAN.—

(1) GENERAL REQUIREMENT.—The Secretary, in cooperation with appropriate Federal and State agencies, and in accordance with applicable Federal and State environmental laws, shall develop in accordance with this subsection a plan for implementation of the Sonoma Baylands project.

(2) CONTENTS.—The plan shall include initial design and engineering, construction, general implementation, and site monitoring.

(3) PHASES.—

(A) FIRST PHASE.—The first phase of the plan for final design and engineering shall be completed not later than the last day of the 6-month period beginning on the date of the enactment of this Act.

(B) SECOND PHASE.—The second phase of the plan, including construction of on-site improvements, shall be completed not later than the last day of the 10-month period beginning on the date of the enactment of this Act.

(C) THIRD PHASE.—The third phase of the plan, including dredging, transportation, and placement of material, shall be started not later than July 1, 1994.

(D) FINAL PHASE.—The final phase of the plan shall include monitoring of project success and function and remediation if necessary.

(d) NON-FEDERAL PARTICIPATION.—

(1) NON-FEDERAL SHARE.—The non-Federal share of the cost of developing and carrying out the project under this section shall be 25 percent.

(2) LANDS EASEMENTS AND RIGHTS-OF-WAY.—Subject to paragraph (1), non-Federal interests shall provide lands, easements, and rights-of-way necessary to carry out the project the value of which shall be credited toward the non-Federal share.

(e) REPORTS TO CONGRESS.—Not later than the last day of each of the time periods referred to in subsection (c)(3), the Secretary shall report to Congress on the progress being made toward development and implementation of the project under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $15,000,000 for carrying out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 107. UPPER MISSISSIPPI RIVER PLAN.

(a) EXTENSION OF AUTHORIZATION.—Section 1103(e) of the Water Resources Development Act of 1986 (33 U.S.C. 652(e)) is amended—

(1) in paragraph (2) by striking "ten" each place it appears and inserting "15";

(2) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) TRANSFER OF AMOUNTS.—

"(A) GENERAL RULE.—Subject to subparagraph (B), for each fiscal year beginning after September 30, 1992, the Secretary, in consultation with the Secretary of the Interior, and the States of Illinois, Iowa, Minnesota, Missouri, and Wisconsin, may transfer not to exceed 20 percent of the amount appropriated to carry out each of subparagraphs (A), (B), and (C) of paragraph (1) to carry out any other of such subparagraphs.

"(B) LIMITATION.—The aggregate amounts obligated in fiscal years 1988 through 2002—

"(i) to carry out paragraph (1)(A) may not exceed $189,600,000;

"(ii) to carry out paragraph (1)(B) may not exceed $78,800,000; and

"(iii) to carry out paragraph (1)(C) may not exceed $12,040,000.".

(b) FISH AND WILDLIFE HABITAT REHABILITATION AND ENHANCEMENT PROJECTS.—Section 1103(e) of such Act is amended by striking paragraph (7)(A), as redesignated by subsection (a)(2), and inserting the following new paragraph:

33 USC 652.

"(7)(A) Notwithstanding the provisions of subsection (a)(2) of this section, the costs of each project carried out pursuant to paragraph (1)(A) of this subsection shall be allocated between the Secretary and the appropriate non-Federal sponsor in accordance with the provisions of section 906(e) of this Act; except that the costs of operation and maintenance of projects located on Federal lands or lands owned or operated by a State or local government shall be borne by the Federal, State, or local agency that is responsible for management activities for fish and wildlife on such lands.".

Florida.

SEC. 108. QUARANTINE FACILITY.

(a) CONSTRUCTION.—The Secretary, in consultation with the Governor of Florida, shall construct a research and quarantine facility in Broward County, Florida, to be used in connection with efforts to control Melaleuca and other exotic plant species that threaten native ecosystems in the State of Florida.

(b) OPERATION AND MAINTENANCE.—After construction, the Secretary shall transfer the facility constructed under this section to the Secretary of Agriculture. The facility shall be jointly maintained and operated by the Department of Agriculture and an appropriate agency or agencies of the State of Florida.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for fiscal years beginning after September 30, 1992, $1,000,000 for the construction of the facility described in subsection (a). Such sums shall remain available until expended.

SEC. 109. COLUMBIA, SNAKE, AND CLEARWATER RIVERS.

(a) DREDGING.—The Secretary is authorized to maintain navigation access to, and berthing areas at, all currently operating public and private commercial dock facilities associated with or having access to the Federal navigation project on the Columbia, Snake, and Clearwater Rivers from Bonneville Dam to and including Lewis-

ton, Idaho, at a depth commensurate with the Federal navigation project.

(b) EXEMPTION FROM LIABILITY.—The Federal Government is exempted from any liability for damages to public and private facilities resulting from work performed under this section, including any damages to docks adjacent to the access channel and berthing areas.

SEC. 110. OUTER HARBOR, BUFFALO, NEW YORK.

The Secretary may construct such bulkheads along the Outer Harbor, Buffalo, New York, as may be necessary to protect the shoreline and reduce the flow of pollutants into Lake Erie.

SEC. 111. SMALL STREAMBANK CONTROL PROJECT, WALNUT CANYON CREEK, CALIFORNIA.

The Secretary shall conduct a study for a streambank and shoreline protection project for Walnut Canyon Creek, Anaheim, California, and, if the Secretary determines that the project is feasible, shall carry out such project under section 14 of the Flood Control Act of 1946 (33 U.S.C. 701r). The project shall be carried out in accordance with the locally preferred plan, and the non-Federal sponsor shall provide 100 percent of any costs incurred in carrying out the project which are in excess of the costs which would have been incurred in carrying out the project in accordance with the National Economic Development Plan developed by the Secretary.

SEC. 112. MONTGOMERY POINT LOCK AND DAM, ARKANSAS.

The Secretary shall proceed expeditiously with design, land acquisition, and construction of the Montgomery Point Lock and Dam on the White River, Arkansas, authorized as part of the McClellan-Kerr Waterway by section 1 of the River and Harbor Act of July 24, 1946 (60 Stat. 635–636).

SEC. 113. MAJOR REHABILITATION.

The costs of major rehabilitation of the following projects are to be paid ½ from amounts appropriated from the general fund of the Treasury and ½ from amounts appropriated from the Inland Waterways Trust Fund:

(1) Brandon Road Lock, Dresden Lock, Marseille Lock, and Lockport Lock, Illinois Waterway, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $32,700,000.

(2) Lock and dam number 13, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $21,280,000.

(3) Locks and dam number 15, Mississippi River, Illinois, authorized by the River and Harbor Act of 1930 at an estimated cost of $19,180,000.

SEC. 114. STUDIES.

(a) CENTRAL BASIN GROUND WATER PROJECT, CALIFORNIA.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study for the purpose of determining whether there is contaminated ground water flowing downstream from the San Gabriel Valley Ground Water Basin to the Central Ground Water Basin in Califor-

nia through existing Federal facilities at Whittier Narrows Dam, Los Angeles County, California.

Reports.

(b) SANTA PAULA CREEK, CALIFORNIA.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the general reevaluation study for the project for flood control, Santa Paula Creek, California, authorized by the Flood Control Act of 1948 (62 Stat. 1175–1182) and transmit to Congress a report on the results of such study.

(c) SUCCESS RESERVOIR, TULE RIVER, CALIFORNIA.—Not later than May 31, 1994, the Secretary shall complete and transmit to Congress a feasibility study for enlargement of the flood control project for the Success Reservoir, on the Tule River, California, authorized by section 10 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 901). The study shall include a review of the need for, and desirability of, construction of an upstream toe berm for reservoir embankment stability. The non-Federal share of the enlargement of the project shall be determined in accordance with section 903(c) of the Water Resources Development Act of 1986.

(d) DISTRICT OF COLUMBIA AND MARYLAND.—

(1) IN GENERAL.—The Secretary shall, as part of the ongoing review of the Anacostia River Watershed in the District of Columbia and Maryland—

(A) carry out a comprehensive assessment of adverse impacts to such watershed from Federal facilities;

(B) review current plans for reducing such adverse impacts; and

(C) carry out a feasibility study to identify and recommend measures for implementation to eliminate such adverse impacts.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(e) CANAVERAL HARBOR, FLORIDA.—The Secretary shall expeditiously complete the General Design Memorandum for the sand transfer portion of the navigation project for Canaveral Harbor, Florida, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174).

(f) TAMPA HARBOR, ALAFIA RIVER AND BIG BEND, FLORIDA.—The Secretary shall complete in an expeditious manner that portion of the navigation study for Tampa Harbor, Alafia River and Big Bend, Florida, relating to the Alafia River. The Secretary may accept contributions from non-Federal sponsors to cover costs incurred by the Secretary in carrying out such portion of such study.

(g) CEDAR RIVER AND TRIBUTARIES, BLACKHAWK, IOWA.—The Secretary shall complete the feasibility study for Cedar River and tributaries, Blackhawk, Iowa, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(h) PORT FOURCHON NAVIGATION CHANNEL, LOUISIANA.—The Secretary shall complete the study for Federal maintenance of the Port Fourchon Navigation Channel, Louisiana, not later than the last day of the 12-month period beginning on the date of the enactment of this Act.

(i) BROCKTON, MASSACHUSETTS.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study of—

(A) the water supply, distribution, and transmission needs of the city of Brockton, Massachusetts, for the purpose of developing recommendations for Federal participation in meeting such needs;

(B) the economic, engineering, and environmental feasibility of providing additional water supply for Brockton, Massachusetts, and vicinity in the Taunton River Basin with a view toward providing for future regional increase in municipal and industrial water demands; and

(C) the water quality and quantity and related land resources of the Taunton River for the purpose of developing a detailed survey and evaluation of existing and future uses of the resources.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1). The report must include, at a minimum, a recommendation for the best location of a reservoir for water supply storage on the Taunton River as well as a treatment plant and a recommendation for a route for piping the water from the treatment plant to Brown's Crossing and to Brockton.

(j) HAVERHILL, MASSACHUSETTS.—

(1) STUDY.—The Secretary shall conduct a study on proposed uses of the seawall located in Haverhill, Massachusetts.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(k) GRAND MARAIS HARBOR, MICHIGAN.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall conduct an economic reevaluation of proposed improvements at Grand Marais Harbor, Michigan.

(l) YAZOO BASIN, MISSISSIPPI.—

(1) REVIEW AND EVALUATION.—The Secretary shall conduct a review and evaluation of the recreational master plan for Yazoo Basin, Mississippi.

(2) PURPOSE.—The purpose of the review and evaluation to be conducted under paragraph (1) is to develop recommendations for Federal and non-Federal participation in the master plan referred to in paragraph (1).

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the review and evaluation to be conducted under this subsection.

(m) RAMAPO RIVER AT OAKLAND, NEW JERSEY.—The Secretary shall conduct a study of the project for flood control, Ramapo River, Oakland, New Jersey, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4120), for the purpose of determining the feasibility of modifying the project to include realignment of the Ramapo River channel modification through Potash Lake, replacement of the Pompton Lake Dam bas-

cule flood gates with taintor gates, and provision of a 40-year level of flood protection.

(n) LITTLE RIVER, NIAGARA FALLS, NEW YORK.—The Secretary shall complete the feasibility study for Little River, City of Niagara Falls, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(o) STRAWBERRY ISLAND, NEW YORK.—

(1) COMPLETION OF STUDY.—The Secretary shall complete the feasibility study of shoreline protection for Strawberry Island, New York, not later than the last day of the 18-month period beginning on the date of the enactment of this Act.

(2) INTERIM EMERGENCY MEASURES.—Pending completion of the study of shoreline protection for Strawberry Island, New York, the Secretary shall undertake such emergency measures as may be necessary to provide shoreline protection for Strawberry Island.

(p) WISTER LAKE, OKLAHOMA.—

(1) STUDY.—The Secretary shall complete a study of the flood control project for Wister Lake, LeFlore County, Oklahoma, authorized by section 4 of the Flood Control Act of June 28, 1938 (52 Stat. 1218), for the purpose of determining the feasibility of modifying the project to increase the level of the conservation pool by 1 foot and to adjust the seasonal pool operation to accommodate the change in the conservation pool elevation.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of study conducted under paragraph (1).

(q) SALMON HARBOR, OREGON.—The Federal share of the cost of completion of the study for mitigation of shoreline damage attributable to the Federal navigation project at Salmon Harbor, Oregon, authorized by section 111 of the River and Harbor Act of 1968 (82 Stat. 735), shall be 100 percent.

(r) HAMPTON AND POQUOSON, VIRGINIA.—

(1) STUDY.—The Secretary shall conduct independent studies to determine the Federal interest in and feasibility of providing improvements to the Chesapeake Bay shoreline in the cities of Hampton and Poquoson, Virginia, for environmental protection and enhancement, and protection against high tides and wave action as a result of hurricane and other storm events.

(2) REPORT.—The Secretary shall submit to Congress a report on the results of the studies conducted under this subsection together with a plan of action which the Secretary recommends and an estimate of the cost of implementing such plan.

(s) CORPUS CHRISTI SHIP CHANNEL, TEXAS.—The Secretary shall conduct a study of the project for navigation, Corpus Christi Ship Channel, Texas, authorized by section 101 of the River and Harbor Act of 1958 (72 Stat. 298), for the purpose of determining the feasibility of modifying the project to include maintenance of the Jewel Fulton Canal at a depth of 17 feet as a Federal responsibility.

(t) TUG VALLEY GREENWAY, WEST VIRGINIA.—

(1) STUDY.—The Secretary is directed to conduct a study to determine the feasibility of establishing a "Tug Valley Greenway", in relation to those projects along the Tug Fork River

in West Virginia authorized by section 202 of Public Law 96-367, for the purpose of utilizing the river environment for public recreation opportunities. Specific consideration shall be given in the study to providing for hiking trails, fishing access points, bike paths, and scenic overlooks.

(2) CONSULTATION.—In conducting the study under this subsection, the Secretary shall consult with interested State and local government authorities and nonprofit organizations.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

SEC. 115. CONTINUATION OF AUTHORIZATION OF CERTAIN PROJECTS AND STUDIES.

(a) GENERAL RULE FOR PROJECTS.—Notwithstanding section 1001 of the Water Resources Development Act of 1986, the following projects shall remain authorized to be carried out by the Secretary:

(1) GREEN BAY LEVEE DISTRICT, IOWA.—The project for flood control, Green Bay Levee District, Iowa, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4115).

(2) LAKE PONTCHARTRAIN, NORTH SHORE, LOUISIANA.—The project for beach erosion control, navigation, and recreation, Lake Pontchartrain, North Shore, Louisiana, authorized by section 601 of the Water Resources Development of 1986 (100 Stat. 4142).

(3) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(4) DEAL LAKE, MONMOUTH COUNTY, NEW JERSEY.—The project for removal of silt and stumps and the control of pollution from nonpoint sources, Deal Lake, Monmouth County, New Jersey, authorized by section 602 of the Water Resources Development Act of 1986 (100 Stat. 4148–4149).

(5) TYRONE, PENNSYLVANIA.—The project for flood protection, Tyrone, Pennsylvania, on the Little Juniata River authorized by section 10 of the Flood Control Act of December 23, 1944 (58 Stat. 893). The Secretary shall examine lower cost alternative measures for providing flood protection for Tyrone, Pennsylvania, and submit to Congress a report on the results of such examination not later than April 1, 1994. Reports.

(6) BIG PINE LAKE, TEXAS.—The project for flood control, Big Pine Lake, Texas, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1186).

(b) LIMITATION.—A project described in subsection (a) shall not be authorized for construction after the last day of the 5-year period that begins on the date of the enactment of this Act unless, during such period, funds have been obligated for the construction (including planning and design) of the project.

SEC. 116. PROJECT DEAUTHORIZATIONS.

The following projects are not authorized after the date of the enactment of this Act:

(1) BOOTHBAY HARBOR, MAINE.—The following portion of the project for navigation, Boothbay Harbor, Maine, authorized

by the River and Harbor Act of 1912, shoreward (easterly) of the line described below:

Beginning at a bend in the Federal navigation channel whose coordinates are N. 370950.51, E. 642621.79, running thence in a southwesterly direction about 200 feet to a point whose coordinates are N. 370766.64, E. 642543.09, running thence in a southerly direction about 270.10 feet to a point whose coordinates are N. 370500.00, E. 642500.00.

(2) BOSTON INNER HARBOR CHANNEL, MASSACHUSETTS.—The following 305,340-square-foot portion of the 35-foot channel in Boston Inner Harbor lying easterly of the Charlestown waterfront and westerly of the 40-foot main ship channel, authorized by the River and Harbor Act of June 13, 1902:

Commencing at a point of the intersection of the 35-foot channel line and the westerly 40-foot main ship channel line in Boston Harbor, said point being opposite the east face of Pier 11, Charlestown, Massachusetts; thence running south 10 degrees 17 minutes 15 seconds east 323.54 feet to a point; thence turning and running south 15 degrees 21 minutes 11 seconds west 1,785.75 feet to a point, said last two courses being along the westerly 40-foot main ship channel line; thence turning and running south 65 degrees 18 minutes 42 seconds west 573.52 feet to a point at the bend in the existing westerly 35-foot channel line southeasterly of Pier 4 at Charlestown, Massachusetts; thence turning and running north 50 degrees 11 minutes 25 seconds east 523.55 feet to a point; thence turning and running north 15 degrees 21 minutes 11 seconds east 2,016.68 feet to a point of beginning, said last two courses being along the westerly 35-foot channel line.

(3) NEWBURYPORT, MASSACHUSETTS.—The following portion of the project for navigation, Newburyport Harbor, Massachusetts, authorized by the River and Harbor Act of 1910 (36 Stat. 632):

Commencing at a point north 661793.19 east 768152.83 a line running: north 39 degrees 07 minutes 47 seconds east 227.04 feet to a point north 661969.31 east 768296.11 thence turning and running, south 68 degrees 53 minutes 36 seconds east 2402.44 feet to a point north 661104.18 east 770537.38 thence turning and running, north 84 degrees 27 minutes 35 seconds east 1325.37 feet to a point north 661232.14 east 771856.55 thence turning and running, south 54 degrees 05 minutes 43 seconds west 327.30 feet to a point north 661040.20 east 771591.44 thence turning and running, south 25 degrees 40 minutes 37 seconds west 579.02 feet to a point north 660518.31 east 771340.53 thence turning and running, north 67 degrees 15 minutes 59 seconds west 1791.61 feet to a point north 661210.67 east 769688.11 thence turning and running, north 77 degrees 45 minutes 23 seconds west 1187.30 feet to a point north 661462.46 east 768527.82 thence turning and running, north 48 degrees 35 minutes 19 seconds west 500.00 feet returning to a point north 661793.19 east 768152.83.

(4) GREILICKVILLE, MICHIGAN.—The following portion of the navigation project for Greilickville, Michigan, authorized by section 101 of the River and Harbor Act of 1948 (62 Stat. 1173):

Beginning at the northwest corner of the turning basin, Federal navigation project, Grielickville Harbor, Leelanau County, Michigan, having a northing of 1,199,300 and an easting of 529,501 (Michigan Transverse Mercator, Central Zone, NAD 27) and being depicted on the Department of the Army, Detroit District Corps of Engineers Condition of Channel, sheet 1 of 1, dated March 1991; thence 77 degrees 18 minutes 20.4 seconds a distance of 250.7 feet, thence 167 degrees 18 minutes 20.4 seconds a distance of 175 feet, thence 94 degrees 12 minutes 39.2 seconds a distance of 222.8 feet, thence 167 degrees 36 minutes 07.2 seconds a distance of 600 feet, thence 303 degrees 41 minutes 24.2 seconds a distance of 57.7 feet, thence 257 degrees 22 minutes 57.6 seconds a distance of 421.2 feet, thence 347 degrees 19 minutes 23.2 seconds a distance of 797.4 feet to the point of beginning, containing 7.48 acres more or less.

(5) SOUTH HAVEN HARBOR, MICHIGAN.—The following portion of the navigation project for South Haven Harbor, Michigan, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and prevention of certain public works on rivers and harbors, and for other purposes", approved August 30, 1935 (49 Stat. 1036):

Beginning at the southwest corner of the turning basin, Federal navigation project, South Haven, Van Buren County, Michigan, having a northing of 330,253.86 and an easting of 358,150.44 (Michigan Transverse Mercator, East Zone, NAD 27) and being depicted on the Department of the Army, Detroit District, Corps of Engineers, condition of channel sheet 2 of 2 dated February 1992; thence north 22 degrees 27 minutes 11 seconds east, along the westerly boundary, a distance of 412.51 feet, thence north 70 degrees 45 minutes 39 seconds east, a distance of 41.91 feet, thence south 61 degrees 05 minutes 08 seconds east, a distance of 325.77 feet, thence south 87 degrees 33 minutes 26 seconds east, a distance of 39.89 feet, thence south 43 degrees 25 minutes 55 seconds west, a distance of 110.35 feet, thence south 70 degrees 45 minutes 56 seconds west, a distance of 472.65 to the point of beginning (containing 2.19 acres, more or less).

(6) SAG HARBOR, NEW YORK.—The navigation project (other than the breakwater) for Sag Harbor, New York, authorized by the first section of the River and Harbor Act of August 30, 1935 (49 Stat. 1030).

SEC. 117. DEAUTHORIZATION OF A PORTION OF THE CANAVERAL HARBOR, FLORIDA, PROJECT.

Section 1080 of the Intermodel Surface Transportation Efficiency Act of 1991 (105 Stat. 2020) is amended by inserting "thence north 00°–18′–51″ west, a distance of 764.43 feet;" after "551.30 feet;".

SEC. 118. NAMINGS.

(a) LOCK AND DAM 3, ARKANSAS RIVER, ARKANSAS.—

(1) DESIGNATION.—Lock and dam numbered 3 on the Arkansas River, Arkansas, constructed as part of the project

for navigation on the Arkansas River and tributaries, shall be known and designated as the "Joe Hardin Lock and Dam".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lock and dam referred to in paragraph (1) shall be deemed to be a reference to the "Joe Hardin Lock and Dam".

(b) GREERS FERRY LAKE VISITORS CENTER, ARKANSAS.—

(1) DESIGNATION.—The visitors center at Greers Ferry Lake, Arkansas, authorized by section 4 of the Act of June 28, 1938 (52 Stat. 2218), shall be known and designated as the "William Carl Garner Visitors Center".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the visitors center referred to in paragraph (1) shall be deemed to be a reference to the "William Carl Garner Visitors Center".

(c) JOHN PAUL HAMMERSCHMIDT LAKE, ARKANSAS.—

(1) DESIGNATION.—The reservoir created by the James W. Trimble Lock and Dam on the Arkansas River, Arkansas, constructed as part of the project for navigation on the Arkansas River and tributaries, shall be known and designated as the "John Paul Hammerschmidt Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the lake referred to in paragraph (1) shall be deemed to be a reference to the "John Paul Hammerschmidt Lake".

(d) RED RIVER WATERWAY, LOUISIANA.—

(1) DESIGNATION.—The lock numbered 5 on the Red River Waterway, Louisiana, is designated as the "Joe D. Waggonner, Jr. Lock".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, map, or other paper of the United States to the lock referred to in paragraph (1) shall be deemed to be a reference to the "Joe D. Waggonner, Jr. Lock".

(e) PASSAIC RIVER STREAMBANK AREA, NEW JERSEY.—

(1) DESIGNATION.—The area for which environmental and other streambank restoration measures are authorized by section 101(a)(18)(B) of the Water Resources Development Act of 1990, relating to the project for flood control, Passaic River Mainstem, New Jersey and New York, shall hereafter be known and designated as the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the area referred to in paragraph (1) shall be deemed to be a reference to the "Joseph G. Minish Passaic River Waterfront Park and Historic Area".

(f) BUENA VISTA FLOOD CONTROL PROJECT, VIRGINIA.—

(1) DESIGNATION.—The project for flood control, Buena Vista, Virginia, authorized by section 101(a)(24) of the Water Resources Development of 1990 (104 Stat. 4610), shall hereafter be known and designated as the "James R. Olin Flood Control Project".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the flood control project referred to in paragraph (1) shall

be deemed to be a reference to the "James R. Olin Flood Control Project".

(3) PLAQUE.—The Secretary is authorized to install in an appropriate place a plaque to identify the flood control project referred to in paragraph (1) as the "James R. Olin Flood Control Project".

(g) GALLIPOLIS LOCKS AND DAM, OHIO RIVER, OHIO AND WEST VIRGINIA.—

(1) DESIGNATION.—The Gallipolis Locks and Dam, Ohio River, Ohio and West Virginia, authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110), shall hereafter be known and designated as the "Robert C. Byrd Locks and Dam".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the locks and dam referred to in paragraph (1) shall be deemed to be a reference to the "Robert C. Byrd Locks and Dam".

(h) MILL CREEK RESERVOIR, WASHINGTON.—

(1) DESIGNATION.—The Mill Creek Reservoir, authorized by section 4 of the River and Harbor Act of June 28, 1938 (52 Stat. 1222), shall hereafter be known and designated as the "Virgil B. Bennington Lake".

(2) LEGAL REFERENCES.—A reference in any law, regulation, document, record, map, or other paper of the United States to the reservoir referred to in paragraph (1) shall be deemed to be a reference to the "Virgil B. Bennington Lake".

TITLE II—GENERALLY APPLICABLE PROVISIONS

SEC. 201. ABILITY TO PAY.

(a) GENERAL RULE.—Section 103(m) of the Water Resources Development Act of 1986 (33 U.S.C. 2213(m)) is amended to read as follows:

"(m) ABILITY TO PAY.—Any cost-sharing agreement under this section for flood control or agricultural water supply shall be subject to the ability of a non-Federal interest to pay. The ability of any non-Federal interest to pay shall be determined by the Secretary in accordance with procedures established by the Secretary.".

(b) REVIEW OF REGULATIONS.—The Secretary shall review regulations on ability to pay contained in part 241 of title 33, Code of Federal Regulations, published in the Federal Register, Volume 56, Number 114, on June 13, 1991, in light of locally prevailing conditions such as those associated with the projects listed in subsection (c) and shall amend the regulations to the extent that the Secretary determines necessary to more appropriately take into account locally prevailing conditions which would limit the ability of local interest to participate as non-Federal project sponsors in accordance with established cost-sharing formulas.

(c) PROJECTS.—The projects referred to in subsection (b) are as follows:

(1) FEATHER CREEK, CLINTON, INDIANA.—The project for flood control, Feather Creek, Clinton, Indiana, being carried out under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701(s)).

(2) PERRY CREEK, SIOUX CITY, IOWA.—The project for flood control, Perry Creek, Sioux City, Iowa, authorized by section 401 of the Water Resources Development Act of 1986 (100 Stat. 4116) and reauthorized by this Act.

(3) ALOHA-RIGOLETTE, LOUISIANA.—The project for flood control, Aloha-Rigolette, Louisiana, authorized by section 101(a)(12) of the Water Resources Development Act of 1990 (104 Stat. 4607).

(4) ST. JOHNS BAYOU AND NEW MADRID FLOODWAY, MISSOURI.—The project for flood control, St. Johns Bayou and New Madrid Floodway, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(5) STE. GENEVIEVE, MISSOURI.—The project for flood control, Ste. Genevieve, Missouri, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118).

(6) BUENA VISTA, VIRGINIA.—The project for flood control, Buena Vista, Virginia, authorized by section 101(a)(24) of the Water Resources Development Act of 1990 (104 Stat. 4610).

SEC. 202. PROJECTS FOR IMPROVEMENTS OF THE ENVIRONMENT.

Section 1135 of the Water Resources Development Act of 1986 (33 U.S.C. 2309a; 100 Stat. 4251–4252) is amended—

(1) by inserting at the end of subsection (b) the following new sentence: "No modification shall be carried out under this section without specific authorization by Congress if the estimated cost exceeds $5,000,000."; and

(2) in subsection (e) by striking "$15,000,000" and inserting "$25,000,000".

33 USC 2325.

SEC. 203. VOLUNTARY CONTRIBUTIONS FOR ENVIRONMENTAL AND RECREATION PROJECTS.

(a) ACCEPTANCE.—In connection with carrying out a water resources project for environmental protection and restoration or a water resources project for recreation, the Secretary is authorized to accept contributions of cash, funds, materials, and services from persons, including governmental entities but excluding the project sponsor.

(b) DEPOSIT.—Any cash or funds received by the Secretary under subsection (a) shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out water resources projects described in subsection (a).

33 USC 2326.

SEC. 204. BENEFICIAL USES OF DREDGED MATERIAL.

(a) IN GENERAL.—The Secretary is authorized to carry out projects for the protection, restoration, and creation of aquatic and ecologically related habitats, including wetlands, in connection with dredging for construction, operation, or maintenance by the Secretary of an authorized navigation project.

(b) SECRETARIAL FINDINGS.—Subject to subsection (c) of this section, projects for the protection, restoration, or creation of aquatic and ecologically related habitats may be undertaken in any case where the Secretary finds that—

(1) the environmental, economic, and social benefits of the project, both monetary and nonmonetary, justify the cost thereof; and

(2) the project would not result in environmental degradation.

(c) COOPERATIVE AGREEMENT.—Any project undertaken pursuant to this section shall be initiated only after non-Federal interests have entered into a cooperative agreement in accordance with the requirements of section 221 of the Flood Control Act of 1970 in which the non-Federal interests agree to—

(1) provide 25 percent of the cost associated with construction of the project for the protection, restoration, and creation of aquatic and ecologically related habitats, including provision of all lands, easements, rights-of-way, and necessary relocations; and

(2) pay 100 percent of the operation, maintenance, replacement, and rehabilitation costs associated with the project for the protection, restoration, and creation of aquatic and ecologically related habitats.

(d) DETERMINATION OF CONSTRUCTION COSTS.—Costs associated with construction of a project for the protection, restoration, and creation of aquatic and ecologically related habitats shall be limited solely to construction costs which are in excess of those costs necessary to carry out the dredging for construction, operation, or maintenance of the authorized navigation project in the most cost effective way, consistent with economic, engineering, and environmental criteria.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not to exceed $15,000,000 annually to carry out this section. Such sums shall remain available until expended.

SEC. 205. DEFINITION OF REHABILITATION FOR INLAND WATERWAY PROJECTS. 33 USC 2327.

For purposes of laws relating to navigation on inland and intracoastal waterways of the United States, the term "rehabilitation" means—

(1) major project feature restoration—

(A) which consists of structural work on an inland navigation facility operated and maintained by the Corps of Engineers;

(B) which will significantly extend the physical life of the feature;

(C) which is economically justified by a benefit-cost analysis;

(D) which will take at least 2 years to complete; and

(E)(i) which is initially funded before October 1, 1994, and will require at least $5,000,000 in capital outlays; or

(ii) which is initially funded on or after such date and will require at least $8,000,000 in capital outlays; and

(2) structural modification of a major project component (not exhibiting reliability problems)—

(A) which will enhance the operational efficiency of such component or any other major component of the project by increasing benefits beyond the original project design; and

(B) which will require at least $1,000,000 in capital outlays.

Such term does not include routine or deferred maintenance. The dollar amounts referred to in paragraphs (1) and (2) shall be adjusted annually according to the economic assumption published each year as guidance in the Annual Program and Budget Request for Civil Works Activities of the Corps of Engineers.

33 USC 426i-1.

SEC. 206. CONSTRUCTION OF SHORELINE PROTECTION PROJECTS BY NON-FEDERAL INTERESTS.

(a) AUTHORITY.—Non-Federal interests are authorized to undertake shoreline protection projects on the coastline of the United States, subject to obtaining any permits required pursuant to Federal and State laws in advance of actual construction.

(b) STUDIES AND ENGINEERING.—

(1) BY NON-FEDERAL INTERESTS.—A non-Federal interest may prepare, for review and approval by the Secretary, the necessary studies and engineering for any construction to be undertaken under subsection (a).

(2) BY SECRETARY.—Upon request of an appropriate non-Federal interest, the Secretary may undertake all necessary studies and engineering for any construction to be undertaken under subsection (a) and provide technical assistance in obtaining all necessary permits for such construction if the non-Federal interest contracts with the Secretary to furnish the United States funds for the studies and engineering during the period that the studies and engineering will be conducted.

(c) COMPLETION OF STUDIES.—The Secretary is authorized to complete and transmit to the appropriate non-Federal interests any study for shoreline protection which was initiated before the date of the enactment of this Act or, upon the request of such non-Federal interest, to terminate the study and transmit the partially completed study to the non-Federal interest for completion. Studies subject to this subsection shall be completed without regard to the requirements of subsection (b).

(d) AUTHORITY TO CARRY OUT IMPROVEMENT.—

(1) IN GENERAL.—Any non-Federal interest which has received from the Secretary pursuant to subsection (b) or (c) a favorable recommendation to carry out a shoreline protection project or separable element thereof, based on the results of completed studies and engineering for the project or element, may carry out the project or element if a final environmental impact statement has been filed for the project or element.

(2) PERMITS.—Any plan of improvement proposed to be implemented in accordance with this subsection shall be deemed to satisfy the requirements for obtaining the appropriate permits required under the Secretary's authority and such permits shall be granted subject to the non-Federal interest's acceptance of the terms and conditions of such permits if the Secretary determines that the applicable regulatory criteria and procedures have been satisfied.

(3) MONITORING.—The Secretary shall monitor any project for which permits are granted under this subsection in order to ensure that such project is constructed (and, in those cases where such activities will not be the responsibility of the Secretary, operated and maintained) in accordance with the terms and conditions of such permits.

(e) REIMBURSEMENT.—

(1) GENERAL RULE.—Subject to the enactment of appropriation Acts, the Secretary is authorized to reimburse any non-Federal interest an amount equal to the estimate of the Federal share, without interest, of the cost of any authorized shoreline protection project, or separable element thereof, constructed under this section—

(A) if, after authorization and before initiation of construction of the project or separable element, the Secretary approves the plans for construction of such project by such non-Federal interest; and

(B) if the Secretary finds, after a review of studies and engineering prepared pursuant to this section, that construction of the project or separable element is economically justified and environmentally acceptable.

(2) MATTERS TO BE CONSIDERED IN REVIEWING PLANS.—In reviewing plans under this subsection, the Secretary shall consider budgetary and programmatic priorities and other factors that the Secretary deems appropriate.

(3) MONITORING.—The Secretary shall regularly monitor and audit any project for shore protection constructed under this section by a non-Federal interest in order to ensure that such construction is in compliance with the plans approved by the Secretary and that the costs are reasonable.

(4) LIMITATION ON REIMBURSEMENTS.—No reimbursement shall be made under this section unless and until the Secretary has certified that the work for which reimbursement is requested has been performed in accordance with applicable permits or approved plans.

SEC. 207. COST-SHARING FOR DISPOSAL OF DREDGED MATERIAL ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by striking the last sentence and inserting the following new sentences: "At the request of the State, the Secretary may enter into an agreement with a political subdivision of the State to place sand on the beaches of the political subdivision of the State under the same terms and conditions required in the first sentence of this section; except that the political subdivision shall be responsible for providing any payments required under such sentence in lieu of the State. In carrying out this section, the Secretary shall give consideration to the schedule of the State, or the schedule of the responsible political subdivision of the requesting State, for providing its share of funds for placing such sand on the beaches of the State or the political subdivision and shall, to the maximum extent practicable, accommodate such schedule.".

SEC. 208. FEES FOR DEVELOPMENT OF STATE WATER PLANS.

Section 22 of the Water Resources Development Act of 1974 (42 U.S.C. 1962d–16) is amended—

(1) in subsection (b) by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) IN-KIND SERVICES.—Up to ½ of the non-Federal contribution for preparation of a plan subject to the cost sharing program under this subsection may be made by the provision

of services, materials, supplies, or other in-kind services necessary to prepare the plan."; and

(2) in subsection (d) by inserting "Indian tribes," after "States of the United States,".

SEC. 209. DAM SAFETY PROGRAM EXTENSION.

(a) STATE SAFETY PROGRAMS.—The first sentence of section 7(a) of Public Law 92–367 (33 U.S.C. 467f(a)) is amended by striking "1992" and inserting "1994".

(b) STATE TRAINING PROGRAMS.—The second sentence of section 11 of Public Law 92–367 (33 U.S.C. 467j) is amended by striking "1992" and inserting "1994".

(c) RESEARCH PROGRAM.—The last sentence of section 12 of Public Law 92–367 (33 U.S.C. 467k) is amended by striking "1992" and inserting "1994".

(d) DAM INVENTORY.—The second sentence of section 13 of Public Law 92–367 is amended by striking "1992" and inserting "1994". 33 USC 467*l*.

(e) MUSSERS DAM, MIDDLE CREEK, SNYDER COUNTY, PENNSYLVANIA.—

(1) IN GENERAL.—The Secretary is authorized to provide planning, engineering and design, construction, technical, and other assistance to non-Federal interests for repair, reconstruction, replacement, or other modification to Mussers Dam, Middle Creek, Snyder County, Pennsylvania, in order to bring such dam into compliance with the safety requirements which the Federal Energy Regulatory Commission has determined to be necessary.

(2) COORDINATION.—The Secretary shall provide any assistance under paragraph (1) in coordination with the Federal Energy Regulatory Commission and State and local interests.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as affecting or modifying—

(A) the obligations of non-Federal interests under the Federal Power Act or any license, permit, or exemption issued under such Act; or

(B) the duties and responsibilities of the Federal Energy Regulatory Commission under the Federal Power Act to require and enforce on a timely basis safety compliance with such Act and any license, permit, or exemption issued under such Act.

(4) FEDERAL SHARE.—The Federal share of the cost of repair, reconstruction, replacement, and other modification to Mussers Dam for the purpose described in paragraph (1) shall be 75 percent.

(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(f) BEAVER LAKE, ARKANSAS.—All costs incurred in carrying out the project to correct seepage problems at Beaver Lake, Arkansas, shall be treated as costs incurred for a dam safety project and shall be subject to cost sharing in accordance with section 1203 of the Water Resources Development Act of 1986.

SEC. 210. SAFETY AWARD AND PROMOTIONAL MATERIALS. 33 USC 569d.

(a) PROMOTION OF SAFETY PROGRAM.—

(1) PROCUREMENT OF PROMOTIONAL MATERIALS.—The Secretary is authorized to procure materials that, in the judgment of the Secretary, are necessary to promote the Corps of Engineers safety program.

(2) DISTRIBUTION OF MATERIALS TO EMPLOYEES.—The items purchased pursuant to this subsection shall be distributed to employees of the Corps of Engineers to advance the goals of the safety program.

(b) EMPLOYEE RECOGNITION.—The Secretary is authorized to incur necessary expenses for the honorary recognition of the outstanding safety performance of employees of the Corps of Engineers. Such recognition may be in the form of certificates, plaques, cash, or other forms of awards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $350,000 for each fiscal year beginning after September 30, 1992, for carrying out the purposes of this section.

SEC. 211. WORK FOR OTHERS.

Section 3036(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) For purposes of this subsection, the term 'State' includes the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, territories and possessions of the United States, and Indian tribes.".

SEC. 212. USE OF PRIVATE SECTOR RESOURCES IN SURVEYING AND MAPPING. 33 USC 569e.

To the maximum extent practicable, the Secretary shall make use of private sector resources in carrying out surveying and mapping activities in the Civil Works Program of the Corps of Engineers.

SEC. 213. USE OF DOMESTIC PRODUCTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall ensure that procurements with funds appropriated to carry out this Act are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a–10c), popularly known as the "Buy American Act".

(2) LIMITATION ON APPLICABILITY.—This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of the enactment of this Act.

(3) REPORTS.—The Secretary shall report to Congress on procurements covered under this subsection of products that are not domestic products.

(b) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

SEC. 214. RURAL PROJECT EVALUATION AND SELECTION CRITERIA. Reports. 33 USC 2281 note.

Not later than 18 months after the date of the enactment of this Act, the Comptroller General shall report to the Committee

on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives with specific legislative and other recommendations on—

(1) improving the equitable distribution of water resources development projects in rural areas, including recommendations for—

(A) giving greater value to properties in rural areas;

(B) making the ability to pay provision of section 103(m) of the Water Resources Development Act of 1986 apply more equitably; and

(C) giving greater value to crop lands and crops; and

(2) giving greater emphasis to—

(A) projected increases in values of property, crop lands, and crops which will result from completion of a proposed water resources development project;

(B) projected increases in the ability to pay by residents which will result from completion of a proposed water resources development project; and

(C) other benefits assumed to increase upon completion of a proposed water resources development project.

SEC. 215. COMPENSATION OF CORPS OF ENGINEERS EMPLOYEES.

(a) SPECIAL POWER RATE EMPLOYEES.—The Secretary shall conduct a comparative analysis, on a regional basis, of—

(1) the compensation (including basic wage rates and differential pay) provided to employees of the Corps of Engineers who are paid from the Corps of Engineers Special Power Rate Schedule and who are employed at water resources projects of the Corps; and

(2) the compensation provided to employees of other Federal agencies who perform duties similar to those performed by such employees of the Corps of Engineers.

(b) REGULATORY EMPLOYEES.—The Secretary shall conduct a comparative analysis of—

(1) the compensation provided to employees of the Corps of Engineers who carry out regulatory functions; and

(2) the compensation provided to employees of other Federal agencies who carry out functions similar to those performed by such employees of the Corps of Engineers;

for the purpose of determining whether or not an adjustment to the compensation provided to such employees of the Corps of Engineers is needed.

(c) PUBLIC PARTICIPATION.—In conducting the analyses under subsections (a) and (b), the Secretary shall provide opportunities for public participation.

(d) REPORTS.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the analyses conducted under subsections (a) and (b), together with any recommendations of the Secretary, and shall implement such recommendations.

33 USC 2211 note.

SEC. 216. DREDGED MATERIAL DISPOSAL AREAS.

(a) STUDY.—The Secretary shall conduct a study on the need for changes in Federal law and policy with respect to dredged material disposal areas for the construction and maintenance of harbors and inland harbors by the Secretary. As part of the study, the Secretary shall evaluate the need for any changes in Federal

and non-Federal cost sharing for such areas and harbor projects, including sources of funding.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), together with recommendations of the Secretary.

SEC. 217. REUSE OF WASTE WATER.

43 USC 390h-4 note.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out projects described in subsection (c) for the beneficial reuse of waste water. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of assistance provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) PROJECT DESCRIPTIONS.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) SOUTHERN CALIFORNIA COMPREHENSIVE WATER REUSE SYSTEM.—

(A) DESCRIPTION.—A regional water reuse system for Southern California to treat, store, and transfer water in order to provide a new increment of water supply for agricultural, municipal, industrial, and environmental needs of Southern California.

(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the State of California and appropriate local and regional entities.

(C) SOUTHERN CALIFORNIA DEFINED.—For purposes of this paragraph, the term "Southern California" means those portions of the counties of Imperial, Los Angeles, Orange, San Bernardino, Riverside, San Diego, Ventura, Santa Barbara, and San Luis Obispo, California, within the south coast, central coast, and Colorado River hydrologic regions as defined by the California Department of Water Resources.

(2) SAN DIEGO AREA WATER REUSE DEMONSTRATION FACILITIES.—Water reuse facilities (which are not inconsistent with facilities mandated by the United States District Court in San Diego, California) to develop advance technology for economically and environmentally sound alternative water supplies for the San Diego metropolitan area.

(3) SANTA ROSA WATER REUSE PROJECTS.—

(A) DESCRIPTION.—Water reuse projects for the city of Santa Rosa, California, to treat waste water and store such treated water for the purposes of providing new water supplies for agriculture, municipal, environmental, and other purposes and reducing the use of potable water supplies for purposes where treated waste water is a viable substitute.

(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the city of Santa Rosa, California, and other appropriate authorities.

(4) MONTEREY COUNTY, CALIFORNIA.—

(A) DESCRIPTION.—Reduction of salt water intrusion into aquifers in the vicinity of Castroville, California, for the purposes of improving the water quality of Monterey Bay and enhancing long-term water supply in the area.

(B) COOPERATION.—The Secretary shall carry out this paragraph in cooperation with the Monterey Regional Water Pollution Control Agency and the Monterey County Water Resources Agency.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000. Such sums shall remain available until expended.

43 USC 390h-5 note.

SEC. 218. DEMONSTRATION OF WASTE WATER TECHNOLOGY, SANTA CLARA VALLEY WATER DISTRICT AND SAN JOSE, CALIFORNIA.

(a) IN GENERAL.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to provide design and construction assistance to the Santa Clara Valley Water District in San Jose, California, and to the city of San Jose, California, for demonstrating and field testing public use innovative processes which advance the technology of waste water reuse and treatment and which promote the use of treated waste water for critical water supply purposes and for the protection of fish and wildlife in the San Francisco Bay. All design, construction, and comprehensive health effects studies shall be carried out by non-Federal interests.

(b) PURPOSES OF ASSISTANCE.—Assistance may be provided under this section—

(1) for the design and construction of an innovative nonpotable waste water reuse treatment facility with distribution systems;

(2) for the design and construction of an innovative potable waste water reuse pilot plant;

(3) for implementation of a comprehensive health effects study of the performance of the potable waste water reuse pilot plant; and

(4) after the pilot plant is constructed and is operational, for the design and construction of a potable waste water reuse project, along with integration of the additional potable processes into the existing nonpotable facilities, and the extension of the distribution systems to groundwater recharge areas, if the Secretary, in cooperation with the Administrator of the Environmental Protection Agency, determines that the established public health requirements and water quality goals and objectives are being met by the pilot plant, the public health

and safety is not at risk as a result of the operation of the pilot plant, and the pilot plant is operating reliably.

(c) COST SHARING.—Total project costs under this section shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $10,000,000. Such sums shall remain available until expended.

SEC. 219. ENVIRONMENTAL INFRASTRUCTURE.

(a) IN GENERAL.—The Secretary is authorized to provide assistance to non-Federal interests for carrying out water-related environmental infrastructure and resource protection and development projects described in subsection (c), including waste water treatment and related facilities and water supply, storage, treatment, and distribution facilities. Such assistance may be in the form of technical and planning and design assistance. If the Secretary is to provide any design or engineering assistance to carry out a project under this section, the Secretary shall obtain by procurement from private sources all services necessary for the Secretary to provide such assistance, unless the Secretary finds that—

(1) the service would require the use of a new technology unavailable in the private sector; or

(2) a solicitation or request for proposal has failed to attract 2 or more bids or proposals.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of projects for which assistance is provided under this section shall not be less than 25 percent, except that such share shall be subject to the ability of the non-Federal interest to pay, including the procedures and regulations relating to ability to pay established under section 103(m) of the Water Resources Development Act of 1986.

(c) PROJECT DESCRIPTIONS.—The projects for which the Secretary is authorized to provide assistance under subsection (a) are as follows:

(1) WASHINGTON, D.C. AND MARYLAND.—Measures to alleviate adverse water quality impacts resulting from storm water discharges from Federal facilities in the Anacostia River watershed, Washington, D.C. and Maryland.

(2) ATLANTA, GEORGIA.—A combined sewer overflow treatment facility for the city of Atlanta, Georgia.

(3) HAZARD, KENTUCKY.—A water system (including a 13,000,000 gallon per day water treatment plant), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for Hazard, Kentucky.

(4) ROUGE RIVER, MICHIGAN.—Completion of a comprehensive streamflow enhancement project for the Western Townships Utility Authority, Rouge River, Wayne County, Michigan.

(5) JACKSON COUNTY, MISSISSIPPI.—Provision of an alternative water supply for Jackson County, Mississippi.

(6) EPPING, NEW HAMPSHIRE.—Evaluation and assistance in addressing expanded and advanced wastewater treatment needs for Epping, New Hampshire.

(7) MANCHESTER, NEW HAMPSHIRE.—Elimination of combined sewer overflows in the city of Manchester, New Hampshire.

(8) ROCHESTER, NEW HAMPSHIRE.—Provision of advanced wastewater treatment for the city of Rochester, New Hampshire.

(9) PATERSON AND PASSAIC COUNTY, NEW JERSEY.—Drainage facilities to alleviate flooding problems on Getty Avenue in the vicinity of St. Joseph's Hospital for the city of Paterson, New Jersey, and Passaic County, New Jersey.

(10) STATE OF NEW JERSEY AND NEW JERSEY WASTEWATER TREATMENT TRUST.—The development of innovative beneficial uses of sewage sludge and conventional and innovative facilities to dispose of sewage sludge or to make reusable products from sewage sludge for local government units that ceased the discharge of sewage sludge in the Atlantic Ocean.

(11) ERIE COUNTY, NEW YORK.—A tunnel from North Buffalo, New York, to Amherst Quarry to relieve flooding and improve water quality.

(12) ERIE COUNTY, NEW YORK.—A sludge processing disposal facility to serve the Erie County Sewer District 5, New York.

(13) OTSEGO COUNTY, NEW YORK.—A water storage tank and an adequate water filtration system for the Village of Milford, Otsego County, New York.

(14) CHENANGO COUNTY, NEW YORK.—A primary source water well and improvement of a water distribution system for New Berlin, Chenango County, New York.

(15) GREENSBORO AND GLASSWORKS, PENNSYLVANIA.—A sewage treatment plant for the borough of Greensboro, Pennsylvania, and the unincorporated village of Glassworks, Pennsylvania.

(16) LYNCHBURG, VIRGINIA.—Alleviation of combined sewer overflows for Lynchburg, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

(17) RICHMOND, VIRGINIA.—Alleviation of combined sewer overflows for Richmond, Virginia, in accordance with combined sewer overflow control plans adopted by, and currently being implemented by, the non-Federal sponsor.

(18) COLONIAS ALONG UNITED STATES-MEXICO BORDER.—Wastewater treatment facilities, water systems (including water treatment plants), intake structures, raw water pipelines and pumps, distribution lines, and pumps and storage tanks for colonias in the United States along the United States-Mexico border.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for providing assistance under this section $5,000,000. Such sums shall remain available until expended.

SEC. 220. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR BENTON AND WASHINGTON COUNTIES, ARKANSAS.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to appropriate non-Federal interests for a water transmission line from the northern part of Beaver Lake, Arkansas, into Benton and Washington Counties, Arkansas, at a total cost of $5,000,000.

(b) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 221. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR ERIE COUNTY, NEW YORK.

(a) BEST MANAGEMENT PRACTICES FOR COMBINED SEWER SYSTEM.—The Secretary is authorized to provide design and construction assistance to the Buffalo Sewer Authority, Buffalo, New York, for the development and implementation of best management practices to reduce pollution from the combined sewer system in the city, at a total cost of $6,800,000.

(b) STORM WATER CONTROL PROJECT.—The Secretary is authorized to provide design and construction assistance to the town of Amherst, New York, for a storm water control project on Sheridan Drive between Evans Road and Transit Road in the town of Amherst, New York, at a total cost of $200,000.

(c) COST SHARING.—Total project costs under each of subsections (a) and (b) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 222. ENVIRONMENTAL INFRASTRUCTURE ASSISTANCE FOR LEWISTON, NEW YORK.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to the city of Lewiston, New York, for construction of a storm water control project, at a total cost of $200,000.

(b) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

SEC. 223. BOARD OF ENGINEERS.

33 USC 541 note.

Termination date.

The Board of Engineers for Rivers and Harbors, established by section 3 of the River and Harbor Act of June 13, 1902 (33 U.S.C. 541), shall cease to exist on the 180th day following the date of the enactment of this Act. The Secretary may reassign to other elements within the Department of the Army such duties and responsibilities of the Board as the Secretary determines to be necessary.

SEC. 224. CHANNEL DEPTHS AND DIMENSIONS.

Section 5 of the Act of March 4, 1915 (38 Stat. 1053; 33 U.S.C. 562), is amended—

(1) by inserting "and after the project becomes operational" before the first comma;

(2) by inserting "lower" after "mean" the first place it appears;

(3) by inserting ", as defined by the Department of Commerce for nautical charts and tidal predictions," after "water" each place it appears; and

(4) by inserting "and after the project becomes operational" before "the channel dimensions".

33 USC 2328.

SEC. 225. CHALLENGE COST-SHARING PROGRAM FOR THE MANAGEMENT OF RECREATION FACILITIES.

(a) IN GENERAL.—The Secretary is authorized to develop and implement a program to share the cost of managing recreation facilities and natural resources at water resource development projects under the Secretary's jurisdiction.

(b) COOPERATIVE AGREEMENTS.—To implement the program under this section, the Secretary is authorized to enter into cooperative agreements with non-Federal public and private entities to provide for operation and management of recreation facilities and natural resources at civil works projects under the Secretary's jurisdiction where such facilities and resources are being maintained at complete Federal expense.

(c) CONTRIBUTIONS.—For purposes of carrying out this section the Secretary may accept contributions of funds, materials, and services from non-Federal public and private entities. Any funds received by the Secretary under this section shall be deposited into the account in the Treasury of the United States entitled "Contributions and Advances, Rivers and Harbors, Corps of Engineers (8662)" and shall be available until expended to carry out the purposes of this section.

33 USC 569f.

SEC. 226. DEBARMENT OF PERSONS CONVICTED OF FRAUDULENT USE OF "MADE IN AMERICA" LABELS.

If the Secretary determines that a person has been convicted of intentionally affixing a label bearing a "Made in America" inscription to any product sold in or shipped to the United States which is not made in the United States and which is used in a civil works project of the Secretary, the Secretary shall debar the person from contracting with the Federal Government for a period of not less than 3 years and not more than 5 years. For purposes of this section, the term "debar" has the meaning that term has under section 2393(c) of title 10, United States Code.

TITLE III—MISCELLANEOUS PROVISIONS

33 USC 653.

SEC. 301. EXTENSION OF JURISDICTION OF MISSISSIPPI RIVER COMMISSION.

The jurisdiction of the Mississippi River Commission (established by the Act of June 29, 1879 (33 U.S.C. 641)) is extended to include—

(1) Terrebonne Parish, Louisiana; and

(2) the area bounded by the East Atchafalaya Basin Protection Levee, the Mississippi River Levee, and Bayou Lafourche and extending from Morganza, Louisiana, to the Gulf of Mexico, insofar as such area is affected by the flood waters of the Mississippi River.

SEC. 302. NEW YORK CITY ZEBRA MUSSEL PROGRAM.

(a) MONITORING AND PREVENTION.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the city of New York, shall—

(A) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;

(B) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(C) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

(2) COST SHARING.—The Secretary shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.

(3) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary $2,000,000 for each fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.

(b) EXOTIC AQUATIC ORGANISMS.—

(1) IN GENERAL.—Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:

"(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species in the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.". Regulations.

(2) DEFINITION.—Paragraph (1) of section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 is amended by inserting "the Committee on Public Works and Transportation and" after "means". 16 USC 4702.

SEC. 303. SUSQUEHANNA RIVER, PENNSYLVANIA.

(a) WETLANDS DEMONSTRATION PROJECT.—The Secretary, in cooperation with appropriate Federal agencies, may enter into a cooperative agreement with the Earth Conservancy to develop, and carry out along the Susquehanna River between Wilkes-Barre and Sunbury, Pennsylvania, a wetlands demonstration project for the purposes of—

(1) enhancing municipal waste water treatment in the region;

(2) restoring and maintaining the physical, chemical, and biological integrity of the Susquehanna River and its tributaries as well as nearby lands; and

(3) developing cleanup technologies which can be utilized for various environmental restoration initiatives.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,000,000. Such sums shall remain available until expended.

SEC. 304. BROAD TOP REGION OF PENNSYLVANIA.

Contracts.

(a) WATERSHED RECLAMATION AND WETLANDS PILOT PROJECT.—The Secretary, in cooperation with appropriate Federal and State agencies, shall enter into a cooperative agreement with non-Federal interests to develop and carry out along the Juniata River and its tributaries, Pennsylvania, a watershed reclamation and protection and wetlands creation and restoration project for the purposes of—

(1) restoring and maintaining the physical, chemical, and biological integrity of Trough Creek, Stroups Run, and the Raystown Branch of the Juniata River as well as nearby lands;

(2) constructing or restoring wetlands and using other methods to treat acid mine drainage and other runoff to protect surface and ground water;

(3) enhancing municipal water supplies in the region; and

(4) developing innovative reclamation technologies, removing public safety hazards, and developing related recreation facilities for various environmental restoration and cultural resource and economic development opportunities.

(b) FEDERAL SHARE.—The Federal share of the cost of the activities conducted under the cooperative agreement entered into under subsection (a) shall be 75 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,500,000. Such sums shall remain available until expended.

SEC. 305. CONSTRUCTION OF BOAT RAMPS AND DOCKS AT J. STROM THURMOND LAKE, GEORGIA.

Section 1134(e) of the Water Resources Development Act of 1986 (100 Stat. 4251) is amended by inserting "(1)" before "In any case" and by adding at the end the following new paragraph:

"(2) If a person who purchased property under paragraph (1) for replacement of property for which a lease held by such a person was terminated under this section and the property for which the lease was terminated had a boat ramp or dock, or both, the Secretary shall permit such person to construct or have constructed a boat ramp or dock, or both, as the case may be, at the replacement property. A boat ramp or dock constructed under this paragraph shall be comparable in size and configuration to, and shall be maintained in accordance with, regulations issued by the Secretary.".

Regulations.

SEC. 306. WEST VIRGINIA TRAILHEAD FACILITIES.

The Secretary is authorized to conduct a study and develop a plan for trailhead facilities at the following projects in West Virginia:

(1) Beech Fork Lake.

(2) R.D. Bailey Lake.

(3) East Lynn Lake.

(4) Projects authorized by section 202 of Public Law 96-367.

SEC. 307. WATER QUALITY PROJECTS.

New York. Maine. Rhode Island.

(a) PROJECT DESCRIPTION.—The Secretary is authorized to design and construct projects to address water quality problems associated with storm water discharges from large storm events for the New Orleans, Louisiana, metropolitan area, from within the Jefferson and Orleans Parishes from which waters discharge into Lake Pontchartrain and the Mississippi River; the watershed areas of Onondaga County and Syracuse, New York, from which waters discharge into Onondaga Lake, New York; the watershed areas of the Penobscot River in the vicinity of Bangor, Maine, and the Casco Bay in the vicinity of Portland, Maine; and the watershed areas of Narragansett Bay in the vicinity of the Providence, Rhode Island, metropolitan area, including East Providence, Pawtucket, and Central Falls, Rhode Island.

(b) PROJECT DESIGN.—The design of projects under subsection (a) shall ensure the development of effective Federal and non-Federal actions which will contribute toward compliance with the Federal Water Pollution Control Act.

(c) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $70,000,000 to carry out this section. Such sums shall remain available until expended.

SEC. 308. BALTIMORE HARBOR, MARYLAND.

(a) ANALYTICAL PROCEDURES.—

(1) STUDY.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of developing analytical procedures and criteria for contaminated dredged material in order to distinguish those materials which should be placed in containment sites from those materials which could be used in beneficial projects (such as beach nourishment, shoreline erosion control, island reclamation, and wetlands creation) or which could be placed in open waters without being chemically altered.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection.

(b) DECONTAMINATION STUDY.—

(1) STUDY.—The Secretary shall conduct a study of Baltimore Harbor, Maryland, for the purpose of determining the feasibility and necessity of decontaminating dredged materials and the feasibility of dewatering and recycling dredged materials for use as marketable products. In conducting the study, the Secretary shall consider requirements and locations for a processing or staging area, evaluate the marketability of potential products, and assess financial costs.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress

a report on the results of the study conducted under this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out this section. Such sums shall remain available until expended.

SEC. 309. ADDITIONAL STUDIES.

(a) OHIO RIVER AND TRIBUTARIES.—

(1) STUDY.—The Secretary shall review the report of the Chief of Engineers on the Ohio River and Tributaries, published as House Document 306, 74th Congress, 1st Session, and other pertinent reports to determine whether modifications of the recommendations contained in such report are advisable at the present time, with particular reference to improvements for water and related land resource needs, including abatement of acid mine drainage in Wheeling Creek, Glenns Run, Little Short Creek, and Yellow Creek in Belmont and Jefferson Counties, Ohio.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(b) COASTAL PROTECTION STUDY.—

(1) STUDY.—The Secretary shall conduct a study of the economic benefits of Federal and significant non-Federal shore protection activities in the Mid-Atlantic region from New York to Virginia. In conducting such study, the Secretary shall assess—

(A) the public investment in such activities;

(B) damage incurred by such shore protection activities by coastal storms of October 1991 and January 1992;

(C) the prevention of damage by coastal storms of October 1991 and January 1992 to coastal and upland resources, including public and private properties and other economic activities, as a result of such shore protection activities; and

(D) the extent to which the prevention of damage to coastal and upland resources, including public and private properties and other economic activities, is considered in benefit-cost ratios for shore protection activities.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report containing the findings of the Secretary with respect to the study conducted under this subsection.

(c) HARRISON COUNTY, MISSISSIPPI.—

(1) STUDY.—The Secretary is authorized to enter into a memorandum of understanding with the Secretary of Agriculture for the purpose of studying problems associated with flooding in Harrison County, Mississippi. Under the memorandum of understanding, the Secretary and the Secretary of Agriculture will jointly conduct a reconnaissance study of Harrison County, Mississippi, and the following bodies of water and associated watersheds:

(A) Wolf River.

(B) Big Biloxi River.
(C) Little Biloxi River.
(D) Turkey Creek.
(E) Saucier Creek.
(F) Hog Branch Creek.
(G) Flat Branch Creek.
(H) Tuxachanie Creek.
(I) Tchoutacabouffa River.

(2) CONTENTS.—The reconnaissance study to be conducted under paragraph (1) shall include the following:

(A) REVIEW OF RELEVANT REPORTS.—A review of relevant reports of the Chief of Engineers and other reports which the Secretary of Agriculture and the Secretary, in consultation with the Chief of Engineers, determine to be appropriate.

(B) PLAN FOR IMPLEMENTATION.—The development of a plan to implement measures to address the problems associated with flooding identified in the study, including measures for the development, use, and conservation of water resources in the geographic areas that are the subject of the study. The development of the plan shall include, to the extent practical, an evaluation of alternative measures.

(C) COST ESTIMATE.—A cost estimate for each measure described in subparagraph (B).

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary and the Secretary of Agriculture shall jointly transmit to Congress a written report that includes—

(A) findings on the study conducted under paragraph (1);

(B) a reasonable schedule for the implementation of the measures described in the plan developed under paragraph (2)(B); and

(C) a cost estimate determined in accordance with paragraph (2)(C) for the implementation of the plan developed under paragraph (2)(B).

(d) REYNOLDS CHANNEL.—

(1) STUDY.—The Secretary is authorized to conduct a study on the need for navigation improvements in Reynolds Channel and the connecting State Boat Channel between Captree Island and Oak Beach.

(2) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this subsection.

(e) ORCHARD BEACH, BRONX, NEW YORK.—

(1) REVIEW.—The Secretary is authorized to review the reports of the Chief of Engineers and other pertinent documents pertaining to Orchard Beach, Bronx, New York, and to make appropriate recommendations concerning storm damage prevention, recreation, environmental restoration, and other purposes.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $400,000

for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(f) EAST RIVER, NEW YORK.—

(1) STUDY.—The Secretary is authorized to conduct a study on the need for erosion protection along the East River, New York, in the vicinity of Brooklyn, Queens, and Manhattan with a view toward mitigating the deleterious effects of drift removal on protecting the adjacent shoreline from erosion.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection $500,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(g) LAKE CHAMPLAIN AND THE NARROWS OF LAKE CHAMPLAIN, VERMONT.—

(1) STUDY.—The Secretary is authorized to conduct a reconnaissance and feasibility study of remediation of contaminated sediments in Lake Champlain and the Narrows of Lake Champlain, Vermont. Such activities shall be coordinated with the State of Vermont and the Water Resources Research Center at the University of Vermont.

(2) FUNDING.—Funds previously expended by the State of Vermont and the Water Resources Research Institute at the University of Vermont in investigating sediment contamination shall be considered toward any joint funding requirement relating to the study to be conducted under this subsection.

(h) LAKE CHAMPLAIN, VERMONT.—The Secretary is authorized to conduct a reconnaissance and feasibility study of providing additional boat access points on Lake Champlain, Vermont.

(i) MONTPELIER, VERMONT.—The Secretary is authorized to conduct a reconnaissance and feasibility study on providing additional flood protection for Montpelier, Vermont.

Maine.
New Hampshire.

(j) NEW ENGLAND COASTAL DREDGED MATERIAL.—

(1) EVALUATION.—The Secretary shall conduct an evaluation of long-term coastal dredged material disposal needs along the Maine and New Hampshire coasts. Beginning in 1995, any dredged material resulting from a project proposed as a result of this study shall be disposed of at a site which is permanently designated by the Environmental Protection Agency pursuant to title I of the Marine Protection, Research, and Sanctuaries Act of 1972.

Appropriation authorization.

(2) FUNDING.—$500,000 is authorized under General Investigations to conduct the study under this subsection, which will take into account the 2 States' dredged material disposal needs.

(k) ST. JOHN'S RIVER CHANNEL, FLORIDA.—In studying the feasibility of Federal improvements to the St. John's River Channel, Florida, the Secretary shall examine the commercial and military uses of the channel in those areas traversed by both military and commercial vessels and shall coordinate the efforts of the Secretary with the Secretary of the Navy to utilize available studies and resources which project future military dredging needs in the St. John's River Channel.

(l) CENTRAL AND SOUTHERN FLORIDA.—The Chief of Engineers shall review the report of the Chief of Engineers on central and southern Florida, published as House Document 643, 80th Congress, 2d Session, and other pertinent reports, with a view to determining whether modifications to the existing project are advisable at the

present time due to significantly changed physical, biological, demographic, or economic conditions, with particular reference to modifying the project or its operation for improving the quality of the environment, improving protection of the aquifer, and improving the integrity, capability, and conservation of urban water supplies affected by the project or its operation.

SEC. 310. REND LAKE, ILLINOIS.

(a) STUDY.—The Secretary shall conduct a study on whether or not to relieve the State of Illinois of the requirement to make annual payments for unused water supply storage in Rend Lake on the Big Muddy River in Illinois.

(b) REPORT.—The Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with recommendations for any conditions which the Secretary considers to be appropriate if the State of Illinois is to be relieved of the requirement to make the annual payments referred to in subsection (a).

(c) INTERIM PAYMENTS.—Until 6 months after the date on which the Secretary transmits to Congress the report under subsection (b), the State of Illinois shall not be required to make any payments under its contract with the United States for use of storage space for water supply in Rend Lake on the Big Muddy River in Illinois.

SEC. 311. PORTUGUESE AND BUCANA RIVERS, PUERTO RICO.

Section 31 of the Water Resources Development Act of 1988 (102 Stat. 4030) is amended by striking "temporarily residing and".

SEC. 312. LITTLE GOOSE AND LOWER GRANITE, WASHINGTON.

(a) MEASURES.—The Secretary is directed to undertake such measures as are necessary to compensate for damages caused to public and private property by the drawdown undertaken in March 1992 by the United States Army Corps of Engineers at the Little Goose and Lower Granite projects in Washington. The costs of such measures shall be considered project costs and shall be allocated in accordance with existing cost allocations for the Little Goose and Lower Granite projects.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts previously appropriated, there is authorized to be appropriated to carry out this section $8,000,000. Such sums shall remain available until expended.

SEC. 313. SOUTH CENTRAL PENNSYLVANIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in south central Pennsylvania. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in south central Pennsylvania, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) CONSULTATION WITH SARCD COUNCIL.—In carrying out this section, the Secretary shall consult the SARCD Council.

(d) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with the SARCD Council and other appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST-SHARING.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs but not to exceed 25 percent of total project costs. Operation and maintenance costs shall be 100 percent non-Federal.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(f) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(g) AUTHORIZATION AND ALLOCATION OF APPROPRIATIONS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $17,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

(2) ALLOCATION.—Funds appropriated to carry out this section for each of fiscal years 1993 through 1998 shall be expended as follows: 50 percent for providing assistance in the Chesapeake Bay watershed area of south central Pennsylvania and 50 percent for providing assistance in the Ohio River watershed area of south central Pennsylvania.

(3) TRANSFERS.—The Secretary may expend up to 20 percent of the amounts required to be expended under paragraph (2) for providing assistance in a watershed area for providing assistance in the other watershed area referred to in paragraph (2); except that the aggregate amount expended for providing assistance in the Chesapeake Bay watershed area for fiscal years 1993 through 1998 shall be 50 percent of the aggregate of the funds appropriated to carry out this section for such fiscal years.

(h) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) SARCD COUNCIL.—The term "SARCD Council" means the Southern Allegheny Resource Conservation and Development Council.

(2) SOUTH CENTRAL PENNSYLVANIA.—The term "south central Pennsylvania" means Bedford, Blair, Cambria, Fulton, Huntingdon, and Somerset Counties, Pennsylvania.

SEC. 314. ILLINOIS AND MICHIGAN CANAL.

(a) IN GENERAL.—The Secretary is authorized to make capital improvements to the Illinois and Michigan Canal.

(b) AGREEMENTS.—The Secretary shall, with the consent of appropriate local and State entities, enter into such arrangements, contracts, and leases with public and private entities as may be necessary for the purposes of rehabilitation, renovation, preservation, and maintenance of the Illinois and Michigan Canal and its related facilities, including trailside facilities for recreational use connecting the waterways referred to in subsection (c).

(c) ILLINOIS AND MICHIGAN CANAL DEFINED.—For the purpose of this section, the "Illinois and Michigan Canal" consists of the following existing waterways: the Chicago River from and including its mouth at Navy Pier through and including its south branch; the Chicago Sanitary and Ship Canal; and the entire length of those waterways designated as the Illinois and Michigan Heritage Canal between Chicago, Illinois, and LaSalle/Peru, Illinois.

(d) FEDERAL SHARE.—The Federal share of the cost of capital improvements under this section shall be 50 percent.

SEC. 315. VIRGINIA BEACH, VIRGINIA, TECHNICAL AMENDMENTS.

Section 407(a) of the Water Resources Development Act of 1990 (104 Stat. 4647) is amended—

(1) by striking "145" and inserting "156"; and

(2) by striking "33 U.S.C. 426j" and inserting "42 U.S.C. 1962d-5f".

SEC. 316. TRANSFER FACILITY FOR BENEFICIAL USES OF DREDGED MATERIAL, SAN FRANCISCO BAY.

(a) STUDY.—The Secretary shall study the feasibility of establishing a transfer facility at the Leonard Ranch property owned by the Sonoma Land Trust and adjacent to Port Sonoma-Marin, California, for the drying and rehandling of dredged material from San Francisco Bay which is to be transported to an upland site for beneficial uses, including lining, capping, and cover material for sanitary landfills, levee maintenance, and restoration of subsided agricultural lands.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a).

SEC. 317. PIKEVILLE LAKE, KENTUCKY.

(a) PLAN.—Subject to the provisions of section 1135 of the Water Resources Development Act of 1986, the Secretary is directed to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, Kentucky, project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky, including lake restoration, elimination of stagnant water, and other measures necessary for water quality improvement.

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(b) CONTENTS.—Subject to approval of final plans by the Secretary, the plan to be developed and implemented under subsection (a) shall include design and construction of a sewage collection system and related infrastructure, lake restoration (including elimination of stagnant water), and other measures necessary for water quality improvement.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 318. RAYSTOWN LAKE, PENNSYLVANIA.

The Secretary shall undertake a revision of the master plan for the Raystown Lake project, Pennsylvania, and submit to Congress for approval any proposed changes that significantly change uses of the Lake, the surrounding land resources, or any facilities located thereon. As part of the revision, the Secretary shall evaluate opportunities for development of portions of the Lake and adjacent lands by private parties. Pending submission to and approval by the Congress of the results of the revision, the Secretary may not make any significant land use changes at the project.

SEC. 319. SANTA ROSA PLAIN, CALIFORNIA.

The Secretary may study the feasibility of developing and preserving seasonal wetlands on the Santa Rosa plain in California and may provide technical assistance to the Sonoma County Vernal Pool Task Force in developing a plan for the development and preservation of such wetlands.

SEC. 320. KLAMATH GLEN LEVEE, CALIFORNIA.

The Secretary shall determine whether or not a design deficiency exists at the Klamath Glen levee at the confluence of Klamath River and Tewer Creek in Del Norte County, California, that is resulting in erosion at the toe of the levee. If the Secretary determines that such a deficiency does exist, the Secretary shall take such actions as may be necessary to correct the deficiency.

SEC. 321. PHOENIX, ARIZONA.

The Secretary may participate in the study and construction of a water resources project in the vicinity of Phoenix, Arizona, for the purpose of providing flood control and improving water quality in the Tres Rios wetlands, Arizona, at a total cost of $6,500,000.

SEC. 322. WATER SUPPLY NEEDS OF MAHONING VALLEY SANITARY DISTRICT, OHIO.

The Secretary shall cooperate with State and local officials in reviewing the water supply needs of the Mahoning Valley Sanitary District, Ohio. As part of such review, the Secretary shall conduct a study of current and future water allocations at Lake Milton and Neander and Berlin Reservoirs, Ohio.

SEC. 323. SAULT SAINTE MARIE, MICHIGAN.

Section 202 of the Water Resources Development Act of 1990 (104 Stat. 4632) is amended by striking "the parcel of land" and all that follows through the period at the end and inserting the following: "for use as a clubhouse for the local American Legion Post of Sault Sainte Marie, Michigan, the parcel of land, with a building located thereon, lying in the north one-half of fractional Section 5, T47N, R1E, Michigan Meridian, city of Sault Sainte

Marie, Chippewa County, Michigan, commencing at the northeast corner of Lot 561 of Assessors Subdivision No. 13, city of Sault Ste. Marie, Chippewa County, Michigan; thence North 24 degrees 01 minutes 00 seconds East, 128.20 feet to the point of beginning; thence North 65 degrees 59 minutes 00 seconds West, 77.30 feet; thence North 08 degrees 04 minutes 00 seconds East, 152.00 feet; thence North 30 degrees 02 minutes 00 seconds East, 40.80 feet; thence North 59 degrees 46 minutes 00 seconds East, 72.75 feet; thence South 65 degrees 59 minutes 00 seconds East, 72.30 feet; thence South 24 degrees 01 minutes 00 seconds West, 245.80 feet to the point of beginning, containing 0.565 acre more or less.".

SEC. 324. HACKENSACK MEADOWLANDS AREA, NEW JERSEY.

(a) IN GENERAL.—The Secretary is authorized to provide design and construction assistance to the Hackensack Meadowlands Development Commission of the State of New Jersey for the development of the Phase I Environmental Improvement Program of the Special Area Management Plan for the Hackensack Meadowlands area, New Jersey.

(b) REQUIRED ELEMENTS.—The program to be developed under subsection (a) shall include at a minimum the following areas:

(1) Mitigation and enhancement for significant wetlands that contribute to the Meadowlands ecosystem.

(2) Development and implementation of a regional system to protect, preserve, and monitor wetlands.

(3) Water quality monitoring.

(4) Watershed cleanup at Bellmans and Penhorn Creeks.

(5) Storm water management research and demonstration.

(6) Tide gate improvement and reconstruction to control flooding in the Berry's Creek drainage basin.

(7) Research and development for a water quality improvement program.

(c) COST SHARING.—Total project costs under subsection (a) shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal sponsor shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs, but not to exceed 25 percent of total project costs. Operation and maintenance cost shall be 100 percent non-Federal.

(d) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 325. LAND EXCHANGE, ALLATOONA LAKE, GEORGIA.

(a) IN GENERAL.—The Secretary may initiate a program to exchange lands above 863 feet in elevation which are excess to the operational needs of Allatoona Lake, Georgia, for lands on the north side of Allatoona Lake which are needed for wildlife management and for protection of the water quality and overall environment of Allatoona Lake.

(b) TERMS AND CONDITIONS.—Land exchanges under the program to be conducted under subsection (a) shall be subject to the following terms and conditions:

(1) Lands acquired under the program must be contiguous to the lands in Federal Government ownership on the date of the enactment of this Act.

(2) Lands acquired under the program shall be from willing sellers only.

(3) The basis for all land exchanges under the program shall be a fair market appraisal so that lands exchanged are of equal value.

33 USC 2267 note.

SEC. 326. NEW YORK BIGHT AND HARBOR STUDY.

(a) IN GENERAL.—As a continuation of the study pursuant to section 728 of the Water Resources Development Act of 1986, the Secretary shall study a hydro-environmental monitoring and information system in the New York Bight and New York Harbor and tributaries to the head of tide, in the form of a system using computerized buoys and radio telemetry that allows for the continual monitoring (at strategically located sites throughout the New York Bight and Harbor region) of the following: wind, wave, current, salinity, and thermal gradients and sea chemistry, in order to measure the effect of changes due to air and water pollution, including changes due to continued dumping in the Bight. This effort will include the study of a verified, nested, high-resolution Harbor/Bight Apex numerical model, and supportive monitoring and information systems.

(b) HYDRAULIC MODEL.—In addition, the Secretary shall study a proper physical hydraulic model of the New York Bight and the tying in of such model to the existing inshore physical hydraulic model of the Port of New York and New Jersey operated by the United States Army Corps of Engineers.

(c) PURPOSE.—This New York Bight and Harbor effort will address the engineering, environmental, and social impacts of natural and man-made changes to the New York Bight, including water quality parameters such as contaminant and sediment transport effects, and nutrient eutrophication.

(d) COORDINATION WITH EPA; REPORTS.—The Secretary shall coordinate fully with the Administrator of the Environmental Protection Agency in carrying out the study described in the section and shall report any findings and recommendations to Congress. The Secretary and the Administrator shall also consider the views of other appropriate Federal, State, and local agencies, academic institutions, and members of the public who are concerned about water and sediment quality in the New York Bight and Harbor region.

(e) REMEDIATION TECHNIQUES.—

(1) IN GENERAL.—To test and verify contaminant and sediment tracking ability of the models, and to reduce the problems associated with the dredging and disposal of dioxin contaminated sediments in the region, a study shall be performed to identify appropriate remediation techniques (including isolation and treatment) for mitigating dioxin contaminated sediments at their sources. The study and report are not intended to encumber civil works projects under development or scheduled to be maintained. Work on these projects shall proceed along the present schedule.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Committee on Environment and Public Works of the Senate, the Committee on Public Works and Transportation of the House of Representatives, and to the State of New Jersey a report on—

(A) the dioxin study and monitoring required in this subsection; and

(B) the effectiveness and costs of all reasonable remediation measures, including recommendations as to a plan for implementation of the most time and cost-effective measures.

(f) FUNDING.—There is authorized to be appropriated $1,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 327. AVAILABILITY OF CONTAMINATED SEDIMENTS INFORMATION. 33 USC 1271 note.

(a) STUDY.—The Secretary shall—

(1) conduct a national study on information that is currently available on contaminated sediments of the surface waters of the United States; and

(2) compile information obtained in such study for the purpose of identifying the location and nature of contaminated sediments in the Nation.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for the collection of additional data on the contaminated sediments and including the compilation of information referred to in subsection (a).

SEC. 328. MILWAUKEE HARBOR, WISCONSIN.

(a) IN GENERAL.—The Secretary is authorized to cooperate with non-Federal interests in the completion of a study on contaminated sediments in Milwaukee Harbor, Wisconsin, and surrounding areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $200,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 329. ARTHUR KILL, NEW YORK AND NEW JERSEY.

The Secretary shall complete planning and design of the project for navigation, Arthur Kill, New York and New Jersey, authorized by section 202(b) of the Water Resources Development Act of 1986 (100 Stat. 4098) after the Secretary has entered into appropriate agreements with non-Federal interests for completion of such planning and design.

SEC. 330. HARBOR MAINTENANCE TRUST FUND DEPOSITS AND EXPENDITURES. 26 USC 9505 note.

(a) REPORT.—Not later than March 1, 1993, and annually thereafter, the President shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on expenditures from and deposits into the Harbor Maintenance Trust Fund. President.

(b) CONTENTS.—

(1) IN GENERAL.—Each report to be transmitted under subsection (a) shall contain the following:

(A) A description of expenditures made from the trust fund in the previous fiscal year on a project-by-project basis.

(B) A description of deposits made into the trust fund in the previous fiscal year and the sources of such deposits.

(C) A 5-year projection of expenditures from and deposits into the trust fund.

(2) PREVIOUS YEARS INFORMATION.—In addition to information required under paragraph (1), the initial report to be transmitted under subsection (a) shall contain the information described in subparagraphs (A) and (B) of paragraph (1) for fiscal years 1987 through 1992.

SEC. 331. CONEMAUGH RIVER BASIN, PENNSYLVANIA.

The Secretary, in cooperation with Federal, State, and local agencies, is authorized—

(1) to conduct investigations and surveys of the watersheds of the rivers in the Conemaugh River Basin, Pennsylvania; and

(2) to develop and implement restoration projects for abatement and mitigation of surface water quality degradation caused by abandoned mines and mining activity in such basin.

SEC. 332. TRANSFER OF LOCKS AND APPURTENANT FEATURES, FOX RIVER SYSTEM, WISCONSIN.

(a) TRANSFER.—The Secretary is authorized to transfer to the State of Wisconsin the locks and appurtenant features of the navigation portion of the Fox River System, Wisconsin, extending from Green Bay, Wisconsin, to Lake Winnebago, Wisconsin, subject to the execution of an agreement by the Secretary and the State of Wisconsin which specifies the terms and conditions for such transfer.

(b) TREATMENT OF LOCKS AND APPURTENANT FEATURES.—The locks and appurtenant features to be transferred under subsection (a) shall not be treated as part of any Federal project after the effective date of the transfer.

(c) OPERATION AND MAINTENANCE.—Operation and maintenance of all features of the Fox River System, Wisconsin, other than the locks and appurtenant features to be transferred under subsection (a), shall continue to be a Federal responsibility after the effective date of the transfer under subsection (a).

SEC. 333. FISH AND WILDLIFE MITIGATION.

(a) LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—Section 906(c) of the Water Resources Development Act of 1986 (33 U.S.C. 2283(c)) is amended by inserting ", including lands, easements, rights-of-way, and relocations," before "for implementation and operation".

(b) CONFORMING AMENDMENTS.—

(1) HARBORS.—Section 101(a)(3) of such Act (33 U.S.C. 2211(a)(3)) is amended by striking "The non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".

(2) FLOOD CONTROL AND OTHER PURPOSES.—Section 103(i) of such Act (33 U.S.C. 2213(i)) is amended by striking "The non-Federal" and inserting "Except as provided under section 906(c), the non-Federal".

Maryland.

SEC. 334. CHESAPEAKE BAY BENEFICIAL USE SITE MANAGEMENT.

(a) STUDY.—The Secretary is authorized to conduct a study on environmentally beneficial ways to expand or supplement exist-

ing placement options and sites serving channel dredging operations of the Port of Baltimore. Such study shall enhance an ongoing long-term management study for the Chesapeake Bay area being conducted by the State of Maryland and the Secretary.

(b) CONDUCT.—In conducting the study under subsection (a), the Secretary shall—

(1) in coordination with Federal agencies and the Maryland Port Administration, demonstrate beneficial uses of dredged materials to enhance public recreational opportunities, increase living resource habitats, and enhance the environmental quality of the Chesapeake Bay;

(2) identify areas for beneficial use placement of dredged materials to enable the Port of Baltimore to continue maintenance dredging until a long-term management study recommends viable alternatives; and

(3) develop options for beneficial use placement of dredged materials for each site identified under paragraph (2).

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 335. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CUYAHOGA COUNTY, OHIO. 33 USC 59gg.

(a) AREA TO BE DECLARED NONNAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of the county of Cuyahoga, Ohio, described as follows, are not in the public interest then, subject to subsections (b) and (c), those portions of such county, bounded and described as follows, are declared to be nonnavigable waters of the United States:

Situated in the city of Cleveland, county of Cuyahoga, and State of Ohio, T7N, R13W, and known as being a part of original two acre lots numbers 16, 17, 18, 19, and 20 and the northerly extensions thereof, and being more fully described as follows:

Beginning at the intersection of the centerline of East 9th Street (99 feet wide) with the centerline of Relocated Erieside Avenue, N.E. (70 feet wide); thence south 56 degrees 06 minutes 52 seconds west on the centerline of Relocated Erieside Avenue, N.E., a distance of 112.89 feet to a point; thence north 33 degrees 53 minutes 08 seconds west a distance of 35.00 feet to a 5/8-inch rebar on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E.; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 335.00 feet and whose chord bears south 42 degrees 36 minutes 52 seconds west 156.41 feet, an arc distance of 157.87 feet to a 5/8-inch rebar; thence south 29

degrees 06 minutes 52 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 119.39 feet to a 5/8-inch rebar; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 39 degrees, 49 minutes 33 seconds west 247.19 feet, an arc distance of 248.64 feet to a 5/8-inch rebar and the true place of beginning of the parcel herein described; thence southwesterly on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 665.00 feet and whose chord bears south 53 degrees, 17 minutes 33 seconds west 64.05 feet, an arc distance of 64.08 feet to a 5/8-rebar set; thence south 56 degrees 03 minutes 30 seconds west on the northwesterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 248.38 feet to a 5/8-rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the right, with a radius of 265.00 feet and whose chord bears north 79 degrees 02 minutes 42 seconds west 374.09 feet, an arc distance of 415.31 feet to a drill hole set; thence north 34 degrees 08 minutes 55 seconds west on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., a distance of 505.30 feet to a 5/8-inch rebar set; thence northwesterly on the northeasterly right-of-way line of Relocated Erieside Avenue, N.E., along the arc of a curve to the left, with a radius of 112.00 feet and whose chord bears north 40 degrees 32 minutes 41 seconds west 24.95 feet, an arc distance of 25.01 feet to a drill hole set on the southerly right-of-way line of former Erieside Avenue, as vacated by city of Cleveland Ordinance No. 1100–87, passed June 16, 1987; thence northeasterly on the former right-of-way line along the arc of a curve to the right, with a radius of 515.00 feet and whose chord bears north 75 degrees 36 minutes 18 seconds east 136.45 feet, an arc distance of 136.85 feet to a 5/8-inch rebar set; thence north 86 degrees 13 minutes 04 seconds east on said former right-of-way line a distance of 294.57 feet to a 5/8-inch rebar set; thence north 52 degrees 57 minutes 23 seconds east on said former right-of-way line a distance of 56.98 feet to a 5/8-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 244.65 feet to a 5/8-inch rebar set; thence south 78 degrees 53 minutes 08 seconds east a distance of 105.04 feet to a 5/8-inch rebar set; thence north 56 degrees 06 minutes 52 seconds east a distance of 70.75 feet to a 5/8-inch rebar set; thence south 33 degrees 53 minutes 08 seconds east a distance of 274.74 feet to the true place of beginning containing 325,706 square feet (7.477 acres) more or less.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply to those parts of the areas described in subsection (a) which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbor Appropriation Act of

1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set forth in subsection (b), or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of nonnavigability for such area or part thereof shall expire.

SEC. 336. LOCKWOODS FOLLY RIVER, BRUNSWICK COUNTY, NORTH CAROLINA.

(a) IN GENERAL.—The Secretary shall carry out an exchange rate demonstration project under section 1135 of the Water Resources Development Act of 1986 (100 Stat. 4251) at the Eastern Channel of the Lockwoods Folly River, Brunswick County, North Carolina.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $1,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 337. PORT EVERGLADES, FLORIDA.

(a) DETERMINATION.—The Secretary shall review the construction performed by non-Federal interests at the project for navigation, Port Everglades, Florida, to determine the Federal navigation interest in such work.

(b) REIMBURSEMENT.—If the Secretary determines under subsection (a) that the work performed by non-Federal interests is consistent with the Federal navigation interest, the Secretary may reimburse non-Federal interests an amount equal to the estimate of the Federal share of the cost of construction of the Southport channel and turning notch at Port Everglades, Florida.

SEC. 338. 1993 WORLD UNIVERSITY GAMES.

The Secretary is authorized to use available resources (both personnel and material) to the greatest extent possible to support the logistical and minor construction needs of the local organizing committee of the 1993 World University Games in Western New York for the purpose of supplementing the involvement by the Secretary in the games requested by the Department of Defense, Office of Special Events Management.

SEC. 339. NUISANCE AQUATIC VEGETATION IN LAKE GASTON, VIRGINIA AND NORTH CAROLINA.

(a) IN GENERAL.—The Secretary is authorized to undertake a program to control nuisance aquatic vegetation for the purpose of preserving the recreational uses of the waters of Lake Gaston, Virginia and North Carolina.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal share of the cost of the program authorized by this section $200,000 per fiscal year for each of fiscal years 1993 and 1994.

SEC. 340. SOUTHERN WEST VIRGINIA ENVIRONMENTAL RESTORATION INFRASTRUCTURE AND RESOURCE PROTECTION DEVELOPMENT PILOT PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a pilot program for providing environmental assistance to non-Federal interests in southern West Virginia. Such assistance may be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects in southern West Virginia, including projects for waste water treatment and related facilities, water supply, storage, treatment, and distribution facilities, and surface water resource protection and development.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned.

(c) LOCAL COOPERATION AGREEMENTS.—

(1) IN GENERAL.—Before providing assistance under this Act, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with such assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for the following:

(A) PLAN.—Development by the Secretary, in consultation with appropriate Federal and State officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications.

(B) LEGAL AND INSTITUTIONAL STRUCTURES.—Establishment of each such legal and institutional structures as are necessary to assure the effective long-term operation of the project by the non-Federal interest.

(3) COST-SHARING.—Total project costs under each local cooperation agreement entered into under this subsection shall be shared at 75 percent Federal and 25 percent non-Federal. The non-Federal interest shall receive credit for lands, easements, rights-of-way, and relocations toward its share of project costs but not to exceed 25 percent of total project costs. Operation and maintenance costs shall be 100 percent non-Federal.

(d) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS.—Nothing in this section shall be construed as waiving, limiting, or otherwise affecting the applicability of any provision of Federal or State law which would otherwise apply to a project to be carried out with assistance provided under this section.

(e) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the pilot program carried out under this section, together with recommendations concerning whether or not such program should be implemented on a national basis.

(f) SOUTHERN WEST VIRGINIA DEFINED.—For purposes of this section, the term "Southern West Virginia" means Raleigh, Wayne, Cabell, Fayette, Lincoln, Summers, Wyoming, Webster, Mingo, McDowell, Logan, Boone, Mercer, Pocahontas, Greenbrier, and Monroe Counties, West Virginia.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 341. TENNESSEE RIVER HERITAGE MUSEUM AND EDUCATION FACILITY.

The Tennessee Valley Authority is authorized to establish a facility to be known as the "Tennessee River Heritage Museum and Education Facility" for the purpose of encouraging science and technology as it relates to developing, managing, and preserving rivers as a nationally significant resource.

SEC. 342. TENNESSEE VALLEY EXHIBIT COMMISSION OF ALABAMA.

(a) COOPERATION BY TENNESSEE VALLEY AUTHORITY.—The Tennessee Valley Authority shall cooperate with the Tennessee Valley Exhibit Commission of Alabama to establish an exhibit in Florence, Alabama, on research and development in the area of inland navigation, tributary development and related activities.

(b) CONTRIBUTIONS.—The Tennessee Valley Authority may accept contributions from private sources in carrying out this section.

SEC. 343. RED ROCK DAM AND LAKE, IOWA.

(a) STUDY.—The Comptroller General shall conduct a study to review the operation of the project for flood control, Red Rock Dam and Lake, Iowa, authorized by the Flood Control Act of June 28, 1938.

(b) PURPOSE.—The purpose of the study to be conducted under subsection (a) shall be—

(1) to determine whether the property adjacent to the project referred to in subsection (a) is being inundated by high reservoir levels beyond the levels permitted by existing easements; and

(2) to review actions taken by the Secretary to implement the requirement contained in section 108(b) of Public Law 99-190 (99 Stat. 1316).

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under this section, including recommendations on whether easements of the Secretary referred to in subsection (b)(1) should be renegotiated with landowners.

SEC. 344. ENVIRONMENTAL PROJECT MODIFICATIONS, SACRAMENTO RIVER, CALIFORNIA.

(a) IN GENERAL.—In carrying out modifications, under section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), in the structures and operations of the project for flood control, Sacramento River, California, authorized by section 2 of the Flood Control Act of 1917 (39 Stat. 949), for the purpose of improving the quality of the environment in the public interest, the Secretary shall—

(1) credit the value of all lands, easements, and rights-of-way provided by non-Federal interests for such modifications to the non-Federal share of the cost of such modifications;

(2) include the one-time construction of the operation and maintenance facilities as part of project costs for the purposes of cost sharing; and

(3) in addition to the plan contained in the Yolo Basin Wetlands Project Modification Report dated April 1992, plan,

design, and construct as part of such modifications historical wetlands at an alternative site located contiguous to the Yolo Bypass, immediately east of the Davis Water Pollution Control Plant, and along the north side of the Willow Slough Bypass.

(b) REPORT DEADLINE.—The Secretary shall complete a separate project modification report to carry out subsection (a)(3) for planning, design, and construction requirements on or before September 30, 1993.

Louisiana.

SEC. 345. BANK STABILIZATION AND MARSH CREATION.

(a) STUDY.—The Secretary shall conduct a study on bank stabilization and marsh creation by construction of a system of retaining dikes and by beneficial use of dredged material along the Calcasieu River Ship Canal, Louisiana, at critical locations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate a report on the results of the study conducted under subsection (a), including recommendations for specific measures to be undertaken under section 205 of this Act (relating to beneficial uses of dredged material) as a result of such study.

SEC. 346. CONNECTICUT COASTAL SALTMARSH RESTORATION AUTHORIZATION.

Subject to the cost sharing provisions of the Water Resources Development Act of 1986, the Secretary shall, as part of the long term goal of Corps of Engineers water resources development program of increasing the quality and quantity of the Nation's wetlands, investigate and carry out saltmarsh restoration projects along the coastline of the State of Connecticut.

SEC. 347. WINFIELD, BUFFALO, AND ELEANOR, WEST VIRGINIA.

(a) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to the towns of Winfield, Buffalo, and Eleanor, West Virginia, for the purpose of assisting the residents of such towns in analyzing and understanding the remedial options available for dealing with substances posing a risk to the environment at the Corps of Engineers lock and dam construction site in the vicinity of Winfield, West Virginia.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $100,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 348. LAND CONVEYANCE, CITY OF FORT SMITH, ARKANSAS.

The Secretary may convey to the city of Fort Smith, Arkansas, all right, title, and interest of the United States (excluding all oil, gas, and other minerals and subject to existing encumbrances) in and to a tract of real property (including improvements thereon) of approximately 400 acres located adjacent to the city and under the jurisdiction of the Secretary. Such conveyance shall be subject to terms and conditions agreed to between the Secretary and the city and to such other terms and conditions as the Secretary considers appropriate to protect the interests of the United States.

SEC. 349. RAHWAY RIVER, NEW JERSEY.

The Secretary is authorized to conduct a study on flooding problems along the Rahway River, township of Woodbridge and city of Rahway, New Jersey, and to implement such measures as the Secretary determines feasible in the interest of flood control along the Rahway River and the South Branch of the Rahway River.

SEC. 350. SAN FRANCISCO BAY, CALIFORNIA.

The Secretary is authorized to participate as an active Federal member in the Memorandum of Understanding for the Interagency Ecological Study Program for implementation of the monitoring requirements in the San Francisco Bay—Delta Estuary, California, dated October 19, 1990, and March 9, 1992, including the coordination, conduction, and transfer of funds, equipment, and personnel between the cooperating agencies.

SEC. 351. FLOOD WARNING RESPONSE SYSTEM.

Section 17(a) of the Water Resources Development Act of 1988 (102 Stat. 4026) is amended by striking "consistent" and all that follows through "1986" and inserting "at full Federal expense".

SEC. 352. TARRANT COUNTY, TEXAS.

Section 101(n) of Public Law 99–500 (100 Stat. 1783–345) and section 101 of Public Law 99–591 (100 Stat. 3341–345–3341–346) are each amended by striking ": *Provided,* That in" and all that follows through "and Marine Creek".

SEC. 353. RELEASE OF CERTAIN USE RESTRICTION. Alabama.

(a) RELEASE.—Notwithstanding any other provision of law, the Tennessee Valley Authority is authorized and directed to grant a release or releases, without monetary consideration, from the restriction and covenant which requires that property described in subsection (b) shall at all times be used solely for the purpose of erecting docks and buildings for shipbuilding purposes or for the manufacture or storage of products for the purpose of trading or shipping in transportation.

(b) DESCRIPTION OF PROPERTY.—This section shall apply only to those lands situated in the city of Decatur, Morgan County, Alabama, and described in an indenture conveying such lands to the Ingalls Shipbuilding Corporation dated July 29, 1954, and recorded in Deed Book 535 at page 6 in the office of the Probate Judge of Morgan County, Alabama, which are owned or may hereafter be acquired by the city of Decatur, Alabama.

SEC. 354. FORT POINT, GALVESTON, TEXAS.

(a) CONSTRUCTION OF INTERAGENCY CHILD CARE FACILITY.—Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to construct, establish, equip, maintain, and operate (or assist in constructing, equipping, maintaining, and operating) an interagency child care facility at Fort Point, Galveston, Texas, on Federal property under the management and control of the Galveston District, United States Army Corps of Engineers. The purpose of such facility shall be to provide child care services for children who are members of households of Federal employees.

(b) FEES, TRANSFERS, AND ACCEPTANCE OF DONATIONS.—

(1) FEES.—The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Galveston District, United States Army Corps of Engineers, employees and others who are beneficiaries of the services provided by the child care facility to be constructed under this section.

(2) TRANSFERS.—A Federal agency may transfer to the Secretary for use in connection with the child care facility to be constructed under this section amounts available to the agency for child care services.

(3) DONATIONS.—The Secretary is authorized to accept donations of money, equipment, and other property for use in connection with the child care facility to be constructed under this section.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section for fiscal years beginning after September 30, 1992, $1,500,000. Such sums shall remain available until expended.

SEC. 355. PRESIDIO OF SAN FRANCISCO, CALIFORNIA.

(a) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to offer technical assistance to the National Park Service on infrastructure repairs and improvements at the Presidio of San Francisco, California, during the transition period from Army to Park Service management and after its inclusion into the Golden Gate National Recreation Area.

(b) IDENTIFICATION OF OPPORTUNITIES.—The Secretary shall assist the National Park Service in identifying opportunities at the Presidio for demonstration and education programs of environmentally sustainable and innovative technologies, and shall make available a liaison from its Construction Engineering Research Laboratory for this purpose.

(c) COOPERATION.—The Secretary will cooperate with other Federal agencies (such as the Environmental Protection Agency and Department of Energy) which the National Park Service identifies as having an interest and role in such programs at the Presidio.

Ohio.

SEC. 356. SEDIMENT MANAGEMENT STRATEGY FOR MAUMEE RIVER, TOLEDO HARBOR.

(a) DEVELOPMENT.—Not later than 12 months after the date of the enactment of this Act, the Secretary, in coordination with the Toledo Port Authority and the Ohio Environmental Protection Agency, shall develop a comprehensive 5-year and 20-year sediment management strategy for the Maumee River, Toledo Harbor. The strategy may include a combination of several sediment disposal alternatives and shall emphasize innovative, environmentally benign alternatives, including reuse and recycling for wetland restoration.

(b) IMPLEMENTATION.—The Secretary is authorized to conduct the engineering and construction activities necessary to implement the 5-year sediment management strategy developed pursuant to subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 to carry out subsection (a) and $3,000,000 to carry out subsection (b).

SEC. 357. SOUTHEAST LIGHT ON BLOCK ISLAND, RHODE ISLAND.

Section 416 of the Water Resources Development Act of 1990 (104 Stat. 4651–4652) is amended by striking subsection (c) and inserting the following:

"(c) COST-SHARING.—The non-Federal share of the cost of relocating the lighthouse under this section shall be $970,000. Administrative costs of the Army Corps of Engineers in carrying out this section shall not be treated, for purposes of this section, as costs of relocating the lighthouse and shall not be paid from amounts appropriated to carry out this section.".

SEC. 358. ALLENDALE DAM, NORTH PROVIDENCE, RHODE ISLAND.

(a) RECONSTRUCTION.—The Secretary is authorized to reconstruct the Allendale Dam in North Providence, Rhode Island, at a total cost of $90,000, with an estimated Federal cost of $67,500 and an estimated non-Federal cost of $22,500. The Secretary shall not rebuild the dam until title to such dam has been transferred to a nonprofit watershed council or the city of North Providence.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project authorized by this section shall be 25 percent.

SEC. 359. LAKE DEGRAY WATER SUPPLY. Arkansas.

The Secretary is directed to execute a water supply contract with the Ouachita River Water District for withdrawals from Lake DeGray, Arkansas, as provided in the agreement forwarded by the Vicksburg District Corps of Engineers dated March 1992.

SEC. 360. SOURIS RIVER, NORTH DAKOTA.

Section 1124(d) of the Water Resources Development Act of 1986 (33 U.S.C. 652) is amended by striking "$69,100,000" and inserting "$120,800,000".

SEC. 361. ABANDONED AND WRECKED BARGE REMOVAL. Rhode Island.

(a) IN GENERAL.—In order to alleviate a hazard to navigation, the Secretary is authorized to remove a sunken barge from waters off the shore of the Narragansett Town Beach in Narragansett, Rhode Island, at a total cost of $200,000, with an estimated Federal cost of $150,000 and an estimated non-Federal cost of $50,000. The Secretary shall not remove the barge until title to such barge has been transferred to the United States.

(b) NON-FEDERAL SHARE.—The non-Federal share of the cost of the project authorized by this section shall be 25 percent. Revenue derived from the sale of scrap from this barge shall be credited toward the non-Federal share of the project cost.

SEC. 362. QUONSET POINT-DAVISVILLE, RHODE ISLAND.

The Secretary is authorized to construct 2 elevated water storage towers at Quonset Point-Davisville, Rhode Island, at a total cost of $1,500,000, with an estimated Federal cost of $1,125,000 and an estimated non-Federal cost of $375,000. In conjunction with this project, the Secretary is authorized to relocate 6,000 linear feet of sewer lines to West Davisville, Rhode Island, at a total cost of $1,000,000, with an estimated Federal cost of $750,000 and an estimated non-Federal cost of $250,000.

SEC. 363. STILLWATER, MINNESOTA.

The Secretary is authorized to undertake the repair and reconstruction of a flood wall system at Stillwater, Minnesota,

including an extension of such system to prevent the continuous eroding of the riverfront, at a total cost of $3,200,000, with an estimated Federal cost of $2,400,000 and an estimated non-Federal cost of $800,000.

SEC. 364. STORMWATER DISCHARGES.

Section 402(p) of the Federal Water Pollution Control Act (33 U.S.C. 1342(p)) is amended—

(1) in paragraph (1) by striking "October 1, 1992" and inserting "October 1, 1994"; and

(2) in paragraph (6) by striking "October 1, 1992" and inserting "October 1, 1993".

TITLE IV—INFRASTRUCTURE TECHNOLOGY, RESEARCH AND DEVELOPMENT

33 USC 2329.

SEC. 401. INTERNATIONAL OUTREACH PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to engage in activities to inform the United States maritime industry and port authorities of technological innovations abroad that could significantly improve waterborne transportation in the United States, both inland and deep draft. Such activities may include—

(1) development, monitoring, assessment, and dissemination of information about foreign water transportation and port facilities that could significantly improve water transportation in the United States;

(2) research, development, training, and other forms of technology transfer and exchange; and

(3) offering technical services which cannot be readily obtained in the private sector to be incorporated in the proposals of port authorities or other water transportation developers if the costs for assistance will be recovered under the terms of each project.

(b) COOPERATION.—The Secretary may carry out the provisions of this section in cooperation with Federal departments and agencies, State and local agencies, authorities, institutions, corporations (profit or nonprofit), foreign governments, or other organizations.

(c) FUNDING.—The funds to carry out the provisions of this section shall include funds deposited in a special account with the Secretary of the Treasury for such purposes by any cooperating entity or organization according to cost-sharing agreements proscribed by the Secretary. Reimbursement for services provided under this section shall be credited to the appropriation concerned.

33 USC 2268.

SEC. 402. MARINE TECHNOLOGY REVIEW.

(a) DREDGING NEEDS.—The Secretary is authorized to conduct such studies as are necessary to provide a report to Congress on the dredging needs of the national ports and harbors of the United States. The report shall include existing and projected future project depths, types and sizes of ships in use, and world trade patterns, an assessment of the future national waterside infrastructure needs, and a comparison of drafts of United States and selected world ports.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $2,500,000 to carry out this section for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

SEC. 403. LA GUARDIA DIKE, NEW YORK.

The responsibility of the Federal Government to maintain and operate a 1,400-foot earthen dike constructed by local interests in lieu of a 1,400-foot steel sheetpile breakwater authorized as part of the Flushing Bay and Creek, New York, project by the River and Harbor Act of 1962 (76 Stat. 1174) is not authorized after the date of the enactment of this Act.

SEC. 404. ATLANTIC COAST OF NEW YORK.

(a) DEVELOPMENT OF PROGRAM.—The Secretary is authorized and directed to develop a data collection and monitoring program of coastal processes for the Atlantic Coast of New York, from Coney Island to Montauk Point, with a view toward providing information necessary to develop a program for addressing post storm actions and long-term shoreline erosion control.

(b) INITIAL PLAN.—Not later than 12 months after the date of the enactment of this Act, the Secretary shall provide an initial plan for data collection and monitoring to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives. Such initial plan shall be fully coordinated with and agreed to by appropriate agencies of the State of New York.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,400,000 for each of fiscal years 1993, 1994, 1995, 1996, and 1997 to carry out this section. Such sums shall remain available until expended.

SEC. 405. SEDIMENTS DECONTAMINATION TECHNOLOGY.

33 USC 2239 note.

(a) DECONTAMINATION PROJECT.—

(1) SELECTION OF TECHNOLOGIES.—Based upon a review of decontamination technologies identified pursuant to section 412(c) of the Water Resources Development Act of 1990, the Administrator of the Environmental Protection Agency and the Secretary shall, within 1 year after the date of the enactment of this Act, jointly select removal, pre-treatment, post-treatment, and decontamination technologies for contaminated marine sediments for a decontamination project in the New York/New Jersey Harbor.

(2) RECOMMENDED PROGRAM.—Upon selection of technologies, the Administrator and the Secretary shall jointly recommend a program of selected technologies to assess their effectiveness in rendering sediments acceptable for unrestricted ocean disposal or beneficial reuse, or both.

(b) DECONTAMINATION DEFINED.—For purposes of this section, "decontamination" may include local or remote prototype or production and laboratory decontamination technologies, sediment pretreatment and post-treatment processes, and siting, economic, or other measures necessary to develop a matrix for selection of interim prototype of long-term processes. Decontamination techniques need not be preproven in terms of likely success.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal years beginning after September 30, 1992. Such sums shall remain available until expended.

National Contaminated Sediment Assessment and Management Act.

TITLE V—CONTAMINATED SEDIMENT AND OCEAN DUMPING

SEC. 501. SHORT TITLE AND DEFINITIONS.

33 USC 1271 note.

(a) SHORT TITLE.—This title may be cited as the "National Contaminated Sediment Assessment and Management Act".

(b) DEFINITIONS.—For the purposes of sections 502 and 503 of this title—

(1) the term "aquatic sediment" means sediment underlying the navigable waters of the United States;

(2) the term "navigable waters" has the same meaning as in section 502(7) of the Federal Water Pollution Control Act (33 U.S.C. 1362(7));

(3) the term "pollutant" has the same meaning as in section 502(6) of the Federal Water Pollution Control Act (33 U.S.C. 1362(6)); except that such term does not include dredge spoil, rock, sand, or cellar dirt;

(4) the term "contaminated sediment" means aquatic sediment which—

(A) contains chemical substances in excess of appropriate geochemical, toxicological or sediment quality criteria or measures; or

(B) is otherwise considered by the Administrator to pose a threat to human health or the environment; and

(5) the term "Administrator" means the Administrator of the Environmental Protection Agency.

SEC. 502. NATIONAL CONTAMINATED SEDIMENT TASK FORCE.

33 USC 1271 note.

(a) ESTABLISHMENT.—There is established a National Contaminated Sediment Task Force (hereinafter referred to in this section as the "Task Force"). The Task Force shall—

(1) advise the Administrator and the Secretary in the implementation of this title;

(2) review and comment on reports concerning aquatic sediment quality and the extent and seriousness of aquatic sediment contamination throughout the Nation;

(3) review and comment on programs for the research and development of aquatic sediment restoration methods, practices, and technologies;

(4) review and comment on the selection of pollutants for development of aquatic sediment criteria and the schedule for the development of such criteria;

(5) advise appropriate officials in the development of guidelines for restoration of contaminated sediment;

(6) make recommendations to appropriate officials concerning practices and measures—

(A) to prevent the contamination of aquatic sediments; and

(B) to control sources of sediment contamination; and

(7) review and assess the means and methods for locating and constructing permanent, cost-effective long-term disposal sites for the disposal of dredged material that is not suitable for ocean dumping (as determined under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.)).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The membership of the Task Force shall include 1 representative of each of the following:

(A) The Administrator.

(B) The Secretary.

(C) The National Oceanic and Atmospheric Administration.

(D) The United States Fish and Wildlife Service.

(E) The Geological Survey.

(F) The Department of Agriculture.

(2) ADDITIONAL MEMBERS.—Additional members of the Task Force shall be jointly selected by the Administrator and the Secretary, and shall include—

(A) not more than 3 representatives of States;

(B) not more than 3 representatives of ports, agriculture, and manufacturing; and

(C) not more than 3 representatives of public interest organizations with a demonstrated interest in aquatic sediment contamination.

(3) COCHAIRMEN.—The Administrator and the Secretary shall serve as cochairmen of the Task Force.

(4) CLERICAL AND TECHNICAL ASSISTANCE.—Such clerical and technical assistance as may be necessary to discharge the duties of the Task Force shall be provided by the personnel of the Environmental Protection Agency and the Army Corps of Engineers.

(5) COMPENSATION FOR ADDITIONAL MEMBERS.—The additional members of the Task Force selected under paragraph (2) shall, while attending meetings or conferences of the Task Force, be compensated at a rate to be fixed by the cochairmen, but not to exceed the daily equivalent of the base rate of pay in effect for grade GS–15 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force. While away from their homes or regular places of business in the performance of services for the Task Force, such members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(c) REPORT.—Within 2 years after the date of the enactment of this Act, the Task Force shall submit to Congress a report stating the findings and recommendations of the Task Force.

SEC. 503. SEDIMENT SURVEY AND MONITORING. 33 USC 1271.

(a) SURVEY.—

(1) IN GENERAL.—The Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary, shall conduct a comprehensive national survey of data regarding aquatic sediment quality in the United States. The Administrator shall compile all existing information on the quantity, chemical and physical composition, and geographic location of pollutants in aquatic sediment, including the probable source of such pollutants and identification of those sediments which are contaminated pursuant to section 501(b)(4).

(2) REPORT.—Not later than 24 months after the date of the enactment of this Act, the Administrator shall report to the Congress the findings, conclusions, and recommendations of such survey, including recommendations for actions necessary to prevent contamination of aquatic sediments and to control sources of contamination.

(b) MONITORING.—

(1) IN GENERAL.—The Administrator, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Secretary, shall conduct a comprehensive and continuing program to assess aquatic sediment quality. The program conducted pursuant to this subsection shall, at a minimum—

(A) identify the location of pollutants in aquatic sediment;

(B) identify the extent of pollutants in sediment and those sediments which are contaminated pursuant to section 501(b)(4);

(C) establish methods and protocols for monitoring the physical, chemical, and biological effects of pollutants in aquatic sediment and of contaminated sediment;

(D) develop a system for the management, storage, and dissemination of data concerning aquatic sediment quality;

(E) provide an assessment of aquatic sediment quality trends over time;

(F) identify locations where pollutants in sediment may pose a threat to the quality of drinking water supplies, fisheries resources, and marine habitats; and

(G) establish a clearing house for information on technology, methods, and practices available for the remediation, decontamination, and control of sediment contamination.

(2) REPORT.—The Administrator shall submit to Congress a report on the findings of the monitoring under paragraph (1) on the date that is 2 years after the date specified in subsection (a)(2) and biennially thereafter.

SEC. 504. CONCURRENCE BY THE ADMINISTRATOR.

(a) CONCURRENCE BY THE ADMINISTRATOR.—Section 103(c) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(c)) is amended to read as follows:

"(c) CONCURRENCE BY THE ADMINISTRATOR.—

"(1) NOTIFICATION.—Prior to issuing a permit to any person under this section, the Secretary shall first notify the Administrator of the Secretary's intention to do so and provide necessary and appropriate information concerning the permit to the Administrator. Within 30 days of receiving such information, the Administrator shall review the information and request any additional information the Administrator deems necessary to evaluate the proposed permit.

"(2) CONCURRENCE BY ADMINISTRATOR.—Within 45 days after receiving from the Secretary all information the Administrator considers to be necessary to evaluate the proposed permit, the Administrator shall, in writing, concur with (either entirely or with conditions) or decline to concur with the determination of the Secretary as to compliance with the criteria,

conditions, and restrictions established pursuant to sections 102(a) and 102(c) relating to the environmental impact of the permit. The Administrator may request one 45-day extension in writing and the Secretary shall grant such request on receipt of the request.

"(3) EFFECT OF CONCURRENCE.—In any case where the Administrator makes a determination to concur (with or without conditions) or to decline to concur within the time period specified in paragraph (2) the determination shall prevail. If the Administrator declines to concur in the determination of the Secretary no permit shall be issued. If the Administrator concurs with conditions the permit shall include such conditions. The Administrator shall state in writing the reasons for declining to concur or for the conditions of the concurrence.

"(4) FAILURE TO ACT.—If no written documentation is made by the Administrator within the time period provided for in paragraph (2), the Secretary may issue the permit.

"(5) COMPLIANCE WITH CRITERIA AND RESTRICTIONS.—Unless the Administrator grants a waiver pursuant to subsection (d), any permit issued by the Secretary shall require compliance with such criteria and restrictions.".

(b) CONFORMING AMENDMENT.—Section 103(e) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(e)) is amended by inserting "and section 104 (a) and (d)" before the period.

SEC. 505. STATE OCEAN DUMPING REQUIREMENTS.

Section 106(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1416(d)) is amended to read as follows:

"(d) STATE PROGRAMS.—

(1) STATE RIGHTS PRESERVED.—Except as expressly provided in this subsection, nothing in this title shall preclude or deny the right of any State to adopt or enforce any requirements respecting dumping of materials into ocean waters within the jurisdiction of the State.

"(2) FEDERAL PROJECTS.—In the case of a Federal project, a State may not adopt or enforce a requirement that is more stringent than a requirement under this title if the Administrator finds that such requirement—

"(A) is not supported by relevant scientific evidence showing the requirement to be protective of human health, aquatic resources, or the environment;

"(B) is arbitrary or capricious; or

"(C) is not applicable or is not being applied to all projects without regard to Federal, State, or private participation and the Secretary of the Army concurs in such finding.

"(3) EXEMPTION FROM STATE REQUIREMENTS.—The President may exempt a Federal project from any State requirement respecting dumping of materials into ocean waters if it is in the paramount interest of the United States to do so.

"(4) CONSIDERATION OF SITE OF ORIGIN PROHIBITED.—Any requirement respecting dumping of materials into ocean waters applied by a State shall be applied without regard to the site of origin of the material to be dumped.".

SEC. 506. SITE DESIGNATION.

(a) SITE DESIGNATION AMENDMENTS.—Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (33 U.S.C. 1412(c)) is amended to read as follows:

"(c) DESIGNATION OF SITES.—

"(1) IN GENERAL.—The Administrator shall, in a manner consistent with the criteria established pursuant to subsection (a), designate sites or time periods for dumping. The Administrator shall designate sites or time periods for dumping that will mitigate adverse impact on the environment to the greatest extent practicable.

"(2) PROHIBITIONS REGARDING SITE OR TIME PERIOD.—In any case where the Administrator determines that, with respect to certain materials, it is necessary to prohibit dumping at a site or during a time period, the Administrator shall prohibit the dumping of such materials in such site or during such time period. This prohibition shall apply to any dumping at the site or during such time period. This prohibition shall apply to any dumping at the site or during the time period, including any dumping under section 103(e).

"(3) DREDGED MATERIAL DISPOSAL SITES.—In the case of dredged material disposal sites, the Administrator, in conjunction with the Secretary, shall develop a site management plan for each site designated pursuant to this section. In developing such plans, the Administrator and the Secretary shall provide opportunity for public comment. Such plans shall include, but not be limited to—

"(A) a baseline assessment of conditions at the site;

"(B) a program for monitoring the site;

"(C) special management conditions or practices to be implemented at each site that are necessary for protection of the environment;

"(D) consideration of the quantity of the material to be disposed of at the site, and the presence, nature, and bioavailability of the contaminants in the material;

"(E) consideration of the anticipated use of the site over the long term, including the anticipated closure date for the site, if applicable, and any need for management of the site after the closure of the site; and

"(F) a schedule for review and revision of the plan (which shall not be reviewed and revised less frequently than 10 years after adoption of the plan, and every 10 years thereafter).

"(4) GENERAL SITE MANAGEMENT PLAN REQUIREMENT; PROHIBITIONS.—After January 1, 1995, no site shall receive a final designation unless a management plan has been developed pursuant to this section. Beginning on January 1, 1997, no permit for dumping pursuant to this Act or authorization for dumping under section 103(e) of this Act shall be issued for a site unless such site has received a final designation pursuant to this subsection or an alternative site has been selected pursuant to section 103(b).

"(5) MANAGEMENT PLANS FOR PREVIOUSLY DESIGNATED SITES.—The Administrator shall develop a site management plan for any site designated prior to January 1, 1995, as expeditiously as practicable, but not later than January 1, 1997, giving priority consideration to management plans for des-

ignated sites that are considered to have the greatest impact on the environment.".

(b) SITE USE CLARIFICATION.—Section 103(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1413(b)) is amended—

(1) in the last sentence by inserting "maximum" before "extent feasible"; and

(2) by adding at the end the following: "In any case in which the use of a designated site is not feasible, the Secretary may, with the concurrence of the Administrator, select an alternative site. The criteria and factors established in section 102(a) relating to site selection shall be used in selecting the alternative site in a manner consistent with the application of such factors and criteria pursuant to section 102(c). Disposal at or in the vicinity of an alternative site shall be limited to a period of not greater than 5 years unless the site is subsequently designated pursuant to section 102(c); except that an alternative site may continue to be used for an additional period of time that shall not exceed 5 years if—

"(1) no feasible disposal site has been designated by the Administrator;

"(2) the continued use of the alternative site is necessary to maintain navigation and facilitate interstate or international commerce; and

"(3) the Administrator determines that the continued use of the site does not pose an unacceptable risk to human health, aquatic resources, or the environment.".

SEC. 507. PERMIT CONDITIONS.

(a) MANAGEMENT PLAN.—Section 104(a)(4) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414(a)(4)) is amended to read as follows: "(4) such requirements, limitations, or conditions as are necessary to assure consistency with any site management plan approved pursuant to section 102(c);".

(b) PERMIT TERM.—Section 104(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414(a)), is amended by adding at the end the following: "Permits issued under this title shall be issued for a period of not to exceed 7 years.".

(c) REVIEW.—Section 104(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1414(d)) is amended by adding after "where he finds" the following: ", based upon monitoring data from the dump site and surrounding area,".

SEC. 508. OCEAN DUMPING PENALTIES.

(a) PENALTY.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended to read as follows:

"(b) CRIMINAL PENALTIES.—In addition to any action that may be brought under subsection (a)—

"(1) any person who knowingly violates any provision of this title, any regulation promulgated under this title, or a permit issued under this title, shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; and

"(2) any person who is convicted of such a violation pursuant to paragraph (1) shall forfeit to the United States—

"(A) any property constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of such violation; and

"(B) any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

(b) SEIZURE AND FORFEITURE.—Section 105 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415) is amended by adding at the end the following:

"(i) SEIZURE AND FORFEITURE.—

"(1) IN GENERAL.—Any vessel used to commit an act for which a penalty is imposed under section 105(b) shall be subject to seizure and forfeiture to the United States under procedures established for seizure and forfeiture of conveyances under sections 413 and 511 of the Controlled Substances Act (21 U.S.C. 853, 881).

"(2) LIMITATION ON APPLICATION.—This subsection does not apply to an act committed substantially in accordance with a compliance agreement or enforcement agreement entered into by the Administrator under section 104B(c).".

SEC. 509. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended by striking "for each of" and all that follows through the period at the end of the section and inserting the following: "for fiscal year 1993 and not to exceed $14,000,000 for each of the fiscal years 1994, 1995, 1996, and 1997, to remain available until expended.".

33 USC 1271 note.

(b) TASK FORCE, SURVEY AND MONITORING.—There is authorized to be appropriated to the Administrator to carry out sections 502 and 503 such sums as may be necessary.

SEC. 510. REPORT TO CONGRESS.

Section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1421) is amended by adding at the end the following: "Such report shall include a description of the number of permits issued under this title (including the number of permits issued by the Secretary with the concurrence of the Administrator),

any actions taken under subsections (c) and (d) of section 103, and for each permit, the site receiving the material, the volume and characteristics of material dumped (including the extent and nature of pollutants in such material), and the management practices implemented in connection with each disposal activity.".

Approved October 31, 1992.

LEGISLATIVE HISTORY—H.R. 6167:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.

Public Law 102-581
102d Congress

An Act

Oct. 31, 1992
[H.R. 6168]

To amend the Airport and Airway Improvement Act of 1982 to authorize appropriations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992. 49 USC app. 2201 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Findings.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Declaration of policy.
Sec. 102. Airport improvement program.
Sec. 103. Airway improvement program.
Sec. 104. FAA operations.
Sec. 105. Linkage with passenger facility charges program.
Sec. 106. Apportionments.
Sec. 107. Military airports.
Sec. 108. Airport noise compatibility program.
Sec. 109. Maximum obligation of the United States.
Sec. 110. Terminal development.
Sec. 111. Letters of intent.
Sec. 112. Airport development defined.
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Sec. 117. Disadvantaged business enterprise.
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Sec. 119. Acquisition or construction of facilities for advanced training of maintenance technicians for air carrier aircraft.
Sec. 120. Air traffic controller staffing.
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Sec. 125. Visual flight rule routes for complex terminal airspace areas.
Sec. 126. Study on reflectorization of taxiway and runway markings.
Sec. 127. Options to purchase land.
Sec. 128. Lighting systems for aircraft obstructions and airport runways.
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Sec. 131. Laredo International Airport, Laredo, Texas.
Sec. 132. Study of small airport runway maintenance.
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Sec. 134. Air traffic over Grand Canyon.
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TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Procurement reform.
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Sec. 204. National commission to promote a strong and competitive airline industry.
Sec. 205. Strengthening of competition.
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TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Sec. 301. Short title.
Sec. 302. Aviation research authorization of appropriations.
Sec. 303. Deicing study.
Sec. 304. Aircraft noise research program.
Sec. 305. Use of domestic products.

TITLE IV—AVIATION INSURANCE

Sec. 401. Insurance for departments and agencies of the United States.
Sec. 402. Extension of program.
Sec. 403. Administration of aviation insurance program.
Sec. 404. Continuation of aviation insurance laws.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

Sec. 501. Extension of Airport and Airway Trust Fund.
Sec. 502. Clarification of trust fund revenues.

SEC. 2. FINDINGS.

49 USC app. 2201 note.

Congress finds that—

(1) the Nation's aviation system must be part of an intermodal transportation system consisting of hubs and interconnections with other forms of transportation that will move people and goods in the fastest, most efficient manner;

(2) our Nation's airports are our interconnections with the global economy; expanded flight capacity and greatly improved ground access for passengers and cargo are essential to our Nation's ability to compete in the international marketplace;

(3) without significant additional financial resources, the Nation's airports will be unable to accommodate fully the growing aviation and ground traffic demands of the 1990's;

(4) 27 of the Nation's top 100 airports are now unacceptably congested and the resulting delays in flights are costing our economy billions of dollars a year in lost productivity and undermining the Nation's ability to compete in the global economy;

(5) unless the capacity of our airports is increased substantially, the problem of flight delays will escalate dramatically and, by the year 2000, 40 major airports will be congested and incurring more than 20,000 hours of flight delay a year;

(6) the Nation must undertake an airport improvement and development program costing at least $7,000,000,000 a year over the next decade just to prevent the problem of airport delay from growing worse in the 21st century;

(7) neither State, local, nor Federal Government can independently finance the needed airport and intermodal development and there must be a combined effort relying on all levels of government;

(8) both the Federal airport improvement program and local passenger facility charge programs are essential to funding the development, as part of an intermodal transportation system, of airports (including necessary ground access eligible for funding under such programs) which meet our Nation's needs;

(9) the Nation's air traffic control system must be modernized with the highest advanced technology to enable it to con-

tinue to move traffic safely and efficiently and the necessary development and procurement of capital equipment will cost at least $18,000,000,000 over the next decade;

(10) the modernization of the air traffic control system will result in productivity and safety benefits of $257,000,000,000 over the life of the equipment purchased; these benefits include the value of time saved by airline passengers, reductions in airline operating costs, and reduced government expenditures and benefits from increased safety;

(11) there will need to be a continuing increase in staffing for the air traffic control system to enable controllers to handle, safely and efficiently, the increased workload which will arise as air transportation grows over the next decade;

(12) the Federal Government must play a major role in developing our aviation system; full use must be made of the more than $5,000,000,000 which aviation users contribute to the Airport and Airway Trust Fund each year and the $7,400,000,000 surplus which has accumulated in the Trust Fund;

(13) although survival of a strong and competitive airline industry is essential to our Nation's economic future—the Nation's airlines are in a financial and competitive crisis which threatens our entire aviation system and our Nation's ability to move people; major airlines have lost more than $6,000,000,000 over the past 2 years; many airlines have merged or discontinued operations; and new entry into the industry has ceased;

(14) the opportunities for new entrants and financially weak airlines to compete successfully can be maximized by the development of new airport capacity, particularly terminal facilities and gates, which will facilitate the ability of new airlines to compete against the airlines which now dominate the facilities at major hub airports;

(15) investment in the aviation transportation infrastructure of the United States will pay immediate and long-term dividends in jobs and economic productivity and provide the foundation for the Nation's continued leadership in the global economic competition of the 21st century;

(16) infrastructure investment differs significantly from other forms of government spending because it creates new wealth for the Nation;

(17) the wealth and economic strength of the United States is in the Nation's infrastructure which provides the foundation for all aspects of life;

(18) failure to invest in the transportation infrastructure, including aviation, has placed the United States in danger of becoming a service-oriented economy, rather than having a strong and independent manufacturing-based economy;

(19) the creation of a national intermodal transportation system is central to the transportation issues of the coming decades and will create the new wealth of the Nation to provide the funds for the Nation to meet the challenges of the 21st century;

(20) our Nation should devote greater efforts to integrating the aviation system with highway and mass transit facilities providing access to airports;

(21) transportation planning, taking account of commerce and land-use patterns, must be improved at all levels and local officials must have a significant role in transportation decisions affecting their areas;

(22) failure to develop an improved intermodal transportation system for the 1990's and the 21st century will result in continuing the two decade trend of decline in United States competitiveness in the global economy and the accompanying decline in the Nation's standard of living;

(23) the safety of the traveling public is of paramount national importance;

(24) aircraft deicing is an important element of aviation safety and past aircraft incidents suggest that both the Federal Government and private industries should focus on methods to improve aircraft deicing procedures and facilities;

(25) noise associated with the use of our Nation's airports must be reduced and efforts to mitigate noise must be continued;

(26) airports must use the airport noise planning program to ensure that capacity expansion minimizes noise to the surrounding community;

(27) the Nation's air traffic control system must be modernized with the most advanced technology, and the necessary capital equipment must be developed and procured, in order to continue the safe and efficient operation of the national airspace system;

(28) there will need to be a continuing increase in the number of aviation safety inspectors to handle the current and future workload of the air carrier and commuter industry; and

(29) the United States airline industry lost more than $6 billion in 1990 and 1991, the number of air carriers serving the public has declined substantially as a result of the industry's financial distress and the absence of governmental policies to promote competition, and continued financial losses could result in the further loss of air carrier competition and service to the traveling public.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. DECLARATION OF POLICY.

(a) NATIONAL TRANSPORTATION POLICY.—Section 502 of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201) is amended by adding at the end the following:

"(c) NATIONAL TRANSPORTATION POLICY.—

"(1) It is a goal of the United States to develop a national intermodal transportation system that moves people and goods in an efficient manner. The Nation's future economic direction is dependent on its ability to confront directly the enormous challenges of the global economy, declining productivity growth, energy vulnerability, air pollution, and the need to rebuild the Nation's infrastructure.

"(2) United States leadership in the world economy, the expanding wealth of the Nation, the competitiveness of the

Nation's industry, the standard of living, and the quality of life are at stake.

"(3) A national intermodal transportation system is a coordinated, flexible network of diverse but complementary forms of transportation which moves people and goods in the most efficient manner. By reducing transportation costs, these intermodal systems will enhance United States industry's ability to compete in the global marketplace.

"(4) All forms of transportation, including aviation and other transportation systems of the future, will be full partners in the effort to reduce energy consumption and air pollution while promoting economic development.

"(5) An intermodal transportation system consists of transportation hubs which connect different forms of appropriate transportation and provides users with the most efficient means of transportation and with access to commercial centers, business locations, population centers, and the Nation's vast rural areas, as well as providing links to other forms of transportation and to intercity connections.

"(6) Intermodality and flexibility are paramount issues in the process of developing an integrated system that will obtain the optimum yield of United States resources.

"(7) The United States transportation infrastructure must be reshaped to provide the economic underpinnings for the Nation to compete in the 21st century global economy. The United States can no longer rely on the sheer size of its economy to dominate international economic rivals and must recognize fully that its economy is no longer a separate entity but is part of the global marketplace. The Nation's future economic prosperity depends on its ability to compete in an international marketplace that is teeming with competitors but where a full one-quarter of the Nation's economic activity takes place.

"(8) The United States must make a national commitment to rebuild its infrastructure through development of a national intermodal transportation system. The United States must provide the foundation for its industries to improve productivity and their ability to compete in the global economy with a system that will move people and goods faster in an efficient manner.".

(b) CAPACITY EXPANSION AND NOISE ABATEMENT.—Such section is further amended by adding at the end the following new subsection:

"(d) CAPACITY EXPANSION AND NOISE ABATEMENT.—It is in the public interest to recognize the effects of airport capacity expansion projects on aircraft noise. Efforts to increase capacity through any means can have an impact on surrounding communities. Noncompatible land uses around airports must be reduced and efforts to mitigate noise must be given a high priority.".

SEC. 102. AIRPORT IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 505(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2204(a)) is amended—

(1) by striking "and" following "1991,"; and

(2) by inserting before the period at the end of the second sentence the following: ", and $15,966,700,000 for fiscal years ending before October 1, 1993".

(b) OBLIGATIONAL AUTHORITY.—Section 505(b)(1) of such Act is amended by striking "1992" and inserting "1993".

SEC. 103. AIRWAY IMPROVEMENT PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 506(a)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(a)(1)) is amended—

(1) by striking "and" following "1991" and inserting a comma; and

(2) by inserting before the period at the end of the first sentence the following: ", $8,200,000,000 for fiscal years ending before October 1, 1993, $11,100,000,000 for fiscal years ending before October 1, 1994, and $14,000,000,000 for fiscal years ending before October 1, 1995".

(b) CAPITAL INVESTMENT PLAN AUGMENTATION.—Section 506(a)(2) of such Act is amended to read as follows:

"(2) CAPITAL INVESTMENT PLAN AUGMENTATION.—If the Secretary determines that it is necessary to augment or substantially modify elements of the Airway Capital Investment Plan submitted to Congress under section 504 of this title (including a determination that it is necessary to establish more than 23 area control facilities), there is authorized to be appropriated from the Trust Fund for fiscal year 1994 to carry out such augmentation or modification $100,000,000. Amounts appropriated under this paragraph shall remain available until expended.".

(c) OTHER EXPENSES.—

(1) EXTENSION.—Section 506(c)(4) of such Act is amended—

(A) in the paragraph heading by striking "–1992" and inserting "–1995"; and

(B) by striking "and 1992" and inserting ", 1992, 1993, 1994, and 1995".

(2) CONFORMING AMENDMENT.—Section 506(e)(5) of such Act is amended by striking "1992" and inserting "1995".

(d) WEATHER SERVICES.—Section 506(d) of such Act is amended by striking the second sentence and inserting the following new sentence: "Expenditures for the purposes of carrying out this subsection shall be limited to $35,596,000 for fiscal year 1993, $37,800,000 for fiscal year 1994, and $39,000,000 for fiscal year 1995.".

(e) RADAR SYSTEM FOR NORTHERN MAINE.—Of amounts authorized under section 505(a)(1) of the Airport and Airway Improvement Act of 1982 for fiscal years 1993 and 1994, not less than $18,000,000 is authorized for site selection and installation of 1 Federal Aviation Administration long-range air route surveillance radar system for that portion of northern Maine currently served by approach control at Loring Air Force Base.

SEC. 104. FAA OPERATIONS.

Section 106(k) of title 49, United States Code, is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", $4,716,500,000 for fiscal year 1993, $5,100,000,000 for fiscal year 1994, and $5,520,000,000 for fiscal year 1995".

SEC. 105. LINKAGE WITH PASSENGER FACILITY CHARGES PROGRAM.

Paragraph (4) of section 1113(e) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1513(e)(4)) is amended by striking "under

this subsection on or before" and all that follows through the period at the end of such paragraph and inserting the following:

"under this subsection on or before September 30, 1993, if, during fiscal year 1993, the amount available for obligation under section 419 of this Act is less than $38,600,000. This limitation on the authority to impose a fee shall not apply if the amount available in fiscal year 1993 for obligation under section 419 is less than $38,600,000 as a result of sequestration or other general appropriations reductions applied proportionately to appropriations accounts throughout an appropriations Act. The provisions of this paragraph shall not affect the authority of the Secretary to approve the imposition of a fee or the use of revenues derived from a fee imposed pursuant to an approval made under this subsection by a public agency which has received an approval to impose a fee under this subsection prior to September 30, 1993, regardless of whether such fee is being imposed on September 30, 1993.".

SEC. 106. APPORTIONMENTS.

(a) INCREASE FOR CARGO HUBS.—Section 507(a)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2206(a)(2)) is amended—

(1) by striking "3 percent" and inserting "3.5 percent"; and

(2) by striking "(but not to exceed $50,000,000)".

(b) LIMITS.—Section 507(b)(1) of such Act is amended by striking "$300,000 nor more than $16,000,000" and inserting "$400,000 nor more than $22,000,000".

(c) PRIMARY AND CARGO SERVICE AIRPORTS.—Section 507(b)(3) of such Act is amended by striking "49.5 percent" each place it appears and inserting "44 percent".

(d) RULES REGARDING CERTAIN ALASKA AIRPORTS.—Section 507(b)(5) of such Act is amended by adding at the end the following new subparagraph:

"(F) INCLUDED AIRPORTS.—For purposes of this paragraph, the airports referred to in subparagraph (A) include those public airports that received scheduled service as of September 3, 1982, but were not apportioned funds in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970 because the airports were not under the control of State or local public agencies.".

SEC. 107. MILITARY AIRPORTS.

(a) SET-ASIDE.—Section 508(d)(5) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(5)) is amended by inserting after "1992" the following: ", not less than 2.25 percent of the funds made available under section 505 in fiscal year 1993, and not less than 2.5 percent of the funds made available under section 505 in each of fiscal years 1994 and 1995".

(b) DESIGNATION.—Section 508(f)(1) of such Act is amended—

(1) by striking "not more than 8" and inserting "not more than 12"; and

(2) by striking the second sentence.

(c) CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—

(1) FUNDING.—Section 508(f) of such Act is amended by adding at the end the following new paragraph:

"(6) FUNDING FOR CONSTRUCTION OF PARKING LOTS, FUEL FARMS, AND UTILITIES.—Not to exceed $4,000,000 per airport of the sums to be distributed at the discretion of the Secretary under section 507(c) for fiscal years 1993, 1994, and 1995 may be used in the aggregate by the sponsor of a current or former military airport designated by the Secretary under this subsection for construction, improvement, or repair of airport surface parking lots, fuel farms, and utilities.".

(2) CONFORMING AMENDMENT.—Section 513(c) of such Act is amended by inserting after "this section" the following: "and section 508(f)(6) of this title". 49 USC app. 2212.

(d) MILITARY BASE CLOSURE REPORT.—Within 30 days after the date on which the Secretary of Defense recommends a list of military bases for closure or realignment pursuant to section 2903(c) of the Defense Base Closure and Realignment Act of 1990 (Public Law 101–510; U.S.C. 2687 note), the Administrator of the Federal Aviation Administration shall submit to Congress and the Defense Base Closure and Realignment Commission a report on the effects of all those recommendations involving military airbases, including but not limited to, the effect of the proposed closures or realignments on civilian airports and airways in the local community and region; potential modifications and costs necessary to convert such bases to civilian aviation use; and in the case of air traffic control or radar coverage currently provided by the Department of Defense, potential installations or adjustments of equipment and costs necessary for the Federal Aviation Administration to maintain existing levels of service for the local community and region. 10 USC 2687 note.

SEC. 108. AIRPORT NOISE COMPATIBILITY PROGRAM.

Section 508(d)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2207(d)(2)) is amended by striking "10 percent" and inserting "12.5 percent".

SEC. 109. MAXIMUM OBLIGATION OF THE UNITED STATES.

Section 512(b)(3) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2211(b)(3)) is amended by striking the period at the end and inserting the following: "; except that, for fiscal year 1993 and thereafter, for grants for the acquisition of land or interests in land, the maximum obligation of the United States may be increased for an airport (other than a primary airport) either by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable project costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.".

SEC. 110. TERMINAL DEVELOPMENT.

(a) ALLOWABLE PROJECT COSTS.—Section 513(b)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(b)(1)) is amended by adding at the end the following new sentence: "In the case of a commercial service airport which annually has .05 percent or less of the total enplanements in the United States, the Secretary may approve, under the preceding sentence as allowable project costs of a project for airport development at such airport, terminal development in revenue-producing areas and construction, reconstruction, repair, and improvement of nonrevenue-producing parking lots if the sponsor certifies that

no project for needed airport development affecting safety, security, or capacity will be deferred by such approval.".

49 USC app. 2212.

(b) FEDERAL SHARE.—Section 513(b)(5) of such Act is amended by inserting before the period at the end the following: "; except that the United States share of project costs allowable for any project under such paragraph at a commercial service airport which annually has .05 percent or less of the total enplanements in the United States shall be 85 percent".

49 USC app. 2212 note.

(c) RETROACTIVE APPLICABILITY.—The amendment made by subsection (a) may be applied to any terminal development which is underway in calendar year 1992 or later.

SEC. 111. LETTERS OF INTENT.

Section 513(d)(1) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2212(d)(1)) is amended by adding at the end the following new subparagraph:

"(G) OTHER CONSIDERATIONS.—A letter of intent issued under this paragraph shall not condition the obligation of any funds on the imposition of a passenger facility charge.".

SEC. 112. AIRPORT DEVELOPMENT DEFINED.

(a) AIRCRAFT DEICING EQUIPMENT.—Section 503(a)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(2)(B)) is amended—

(1) by striking "or" at the end of clause (v);

(2) by inserting after clause (vi) the following:

"(vii) aircraft deicing equipment and structures (other than aircraft deicing fluids and storage facilities for such equipment and fluids); or

"(viii) interactive training systems;".

(b) CONTROL TOWER AND NAVIGATIONAL AIDS RELOCATION; MEETING MANDATES OF CERTAIN FEDERAL LAWS; AIRCRAFT DEICING FACILITIES.—Section 503(a)(2) of such Act is further amended—

(1) by striking "and" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(E) the relocation, after December 31, 1991, of an air traffic control tower and any navigational aid (including radar) if such relocation is necessary to carry out a project approved by the Secretary under this title;

"(F) and if funded by a grant under this title, any construction, reconstruction, repair, or improvement of an airport (or any purchase of capital equipment for an airport) which is necessary for compliance with the responsibilities of the operator or owner of the airport under the Americans with Disabilities Act of 1990, the Clean Air Act, and the Federal Water Pollution Control Act with respect to the airport, other than construction or purchase of capital equipment which would primarily benefit a revenue producing area of the airport used by a nonaeronautical business; and

"(G) any acquisition of land for, or work necessary to construct, a pad suitable for deicing aircraft prior to takeoff at a commercial service airport, including construction or reconstruction of paved areas, drainage collection structures, treatment and discharge systems, appropriate

lighting, and paved access for deicing vehicles and aircraft, but excluding acquisition of aircraft deicing fluids and construction and reconstruction of storage facilities for aircraft deicing equipment and fluids.".

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives on the cost and the feasibility of maintaining and operating navigational aids (including radar) for a transition period of up to 2 years at airports converting in whole or in part from military airports to civilian commercial or reliever airports.

SEC. 113. PUBLIC ACCESS AND PARTICIPATION WITH RESPECT TO AIRPORTS.

(a) PUBLIC ACCESS TO AIRPORT BUDGET.—Section 511(a)(11) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(11)) is amended by inserting "and a report of the airport budget will be available to the public at reasonable times and places" before the semicolon at the end.

(b) PUBLIC PARTICIPATION WITH RESPECT TO AIRPORT PROJECTS.—Section 509(b)(6)(A) of such Act (49 U.S.C. App. 2208(b)(6)(A)) is amended by inserting "(i)" after "unless" and by striking the period at the end and inserting the following: ", and (ii) the sponsor of the project certifies to the Secretary that the airport management board either has voting representation from the communities where the project is located or has advised the communities that they have the right to petition the Secretary concerning a proposed project.".

SEC. 114. NATIONAL AIRWAY SYSTEM.

(a) ELIMINATION OF REPORTING REQUIREMENT.—Section 504(b) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2203(b)) is amended by striking paragraph (2).

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) by striking "(1)";

(2) by striking "(A)", "(B)", and "(C)" and inserting "(1)", "(2)", and "(3)", respectively; and

(3) by striking "(i)", "(ii)", and "(iii)" and inserting "(A)", "(B)", and "(C)", respectively.

SEC. 115. DEFINITION OF PASSENGERS ENPLANED.

Section 503(a)(10) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2202(a)(10)) is amended by inserting "or Alaska or Hawaii" after "contiguous States".

SEC. 116. EXTENSION OF STATE BLOCK GRANT PILOT PROGRAM.

(a) EXTENSION.—Section 534(a) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. 2227(a)) is amended by striking "1992" and inserting "1996". 49 USC app. 2227.

(b) PARTICIPATING STATES.—Section 534(b) of such Act is amended—

(1) by striking "3" and inserting "7"; and

(2) by adding at the end the following new sentence: "The 7 States to be selected for participation in the program in fiscal years 1993, 1994, 1995, and 1996 shall include the 3

States selected for the participation in the program in fiscal year 1992 (Illinois, Missouri, and North Carolina).".

SEC. 117. DISADVANTAGED BUSINESS ENTERPRISE.

(a) ASSURANCE.—Section 511(a)(17) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2210(a)(17)) is amended by inserting "or which provide ground transportation, baggage carts, automobile rentals, or other consumer services" after "or other consumer products".

(b) ADMINISTRATION OF DBE ASSURANCE.—Section 511 of such Act is further amended by adding at the end the following new subsection:

"(h) ADMINISTRATION OF DBE ASSURANCE.—

"(1) MANAGEMENT CONTRACTS.—In administering subsection (a)(17) of this section, an airport owner or operator is authorized to meet the overall percentage goal established under such subsection by including businesses operated through management contracts and subcontracts. The dollar amount of a management contract and subcontract with a DBE firm shall be added to the total of DBE participation in airport concessions and to the base from which the airport's overall percentage goal is calculated. The dollar amount of management contracts and subcontracts with non-DBE firms and the gross revenues of business activities to which management contracts and subcontracts pertain shall not be added to this base.

"(2) PURCHASE OF GOODS AND SERVICES.—Except as provided in subsection (h)(3), an airport owner or operator may meet the overall percentage goal established under subsection (a)(17) of this section by including the purchase from DBE's of goods or services used in businesses conducted on the airport, provided that good faith efforts shall be made by the airport owner or operator and the businesses conducted on the airport to explore all available options to achieve, to the maximum extent practical, compliance with such goal through direct ownership arrangements, including, but not limited to, joint ventures and franchises.

"(3) PROVISION FOR CAR RENTAL FIRMS.—

"(A) In complying with subsection (a)(17) of this section, an airport owner or operator shall include the revenues of car rental firms on the airport in the base from which the overall percentage goal set forth in such subsection is calculated.

"(B) An airport owner or operator may require a car rental firm to meet any requirement imposed under subsection (a)(17) of this section through the purchase or lease of goods or services from DBE's. In the event an airport owner or operator requires the purchase or lease of goods or services from DBE's, a car rental firm shall be permitted to meet such requirement by including purchases or leases of vehicles from any vendor that qualifies as a small business concern (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).

"(C) Nothing in this subsection or subsection (a)(17) of this section shall require a car rental firm to change

its corporate structure to provide for direct ownership arrangements in order to meet the requirements of such subsection or subsection (a)(17).

"(4) GENERAL PROVISIONS.—

"(A) Nothing in this subsection or subsection (a)(17) shall preempt any State or local law, regulation, or policy enacted by the governing body of an airport owner or operator, or the authority of any State or local government or airport owner or operator to adopt or enforce any law, regulation, or policy relating to DBE's.

"(B) An airport owner or operator shall be permitted to afford opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals to participate through direct contractual agreement with such concerns.

"(5) EXCLUSION OF AIR CARRIER SERVICES.—Air carriers in providing passenger or freight-carrying services and other businesses that conduct aeronautical activities at an airport shall not be included in the overall percentage goal set forth in subsection (a)(17) of this section for participation of small business concerns at the airport.".

(c) BASIC PROGRAM.—Section 505(d)(2)(A) of such Act (49 U.S.C. App. 2204(d)(2)(A)) is amended by striking "$14,000,000" and inserting "$16,015,000".

(d) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations to carry out sections 511(a)(17) and 511(h) of the Airport and Airway Improvement Act of 1982, as amended by subsections (a) and (b) of this section, relating to the disadvantaged business enterprise assurance. 49 USC app. 2210 note.

SEC. 118. EXTENSION OF CERTAIN RESTRICTIONS ON CONTRACT AND GRANT AWARDS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—Section 9130 of the Aviation Safety and Capacity Expansion Act of 1990 (49 U.S.C. App. 2226b) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

(b) FOREIGN GOVERNMENTS DISCRIMINATING AGAINST U.S. PRODUCTS.—Section 9131 of such Act (49 U.S.C. App. 2226c) is amended by inserting ", section 106(k) of title 49, United States Code, or the Airport and Airway Improvement Act of 1982 (other than section 506(b))" after "subtitle".

SEC. 119. ACQUISITION OR CONSTRUCTION OF FACILITIES FOR ADVANCED TRAINING OF MAINTENANCE TECHNICIANS FOR AIR CARRIER AIRCRAFT. 49 USC app. 1354 note.

(a) GRANTS.—The Administrator of the Federal Aviation Administration may make grants to not to exceed 4 vocational technical institutions for the purpose of acquiring or constructing facilities to be used for the advanced training of maintenance technicians for air carrier aircraft.

(b) ELIGIBILITY CRITERIA.—The Administrator may only make a grant under this section to a vocational technical educational institution if such institution has a training curriculum which prepares aircraft maintenance technicians who hold an airframe and power plant certificate issued under subpart D of part 65 of title

14 of the Code of Federal Regulations to maintain, without direct supervision, air carrier aircraft.

(c) LIMITATION ON AMOUNTS OF GRANTS.—The maximum amount of Federal funds which a vocational technical educational institution may receive, in the aggregate, through grants made under this section shall be $5,000,000.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated, from the Airport and Airway Trust Fund, such sums as may be necessary for carrying out this section for fiscal years 1993, 1994, and 1995. Such sums shall remain available until expended.

Reports.
49 USC app. 1348 note.

SEC. 120. AIR TRAFFIC CONTROLLER STAFFING.

The Administrator of the Federal Aviation Administration shall develop and submit annually to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the staffing standards used to determine the number of air traffic controllers needed to operate the air traffic control system of the United States, a 3-year projection of the number of air traffic controllers needed to be employed to operate such system to meet such standards, and a detailed plan for employing such controllers, including projected budget requests.

SEC. 121. AVIATION SAFETY INSPECTORS.

The Administrator of the Federal Aviation Administration shall develop and submit by June 30, 1993, to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

Reports.

(1) a report on the criteria used to determine the required number of safety inspectors; and

(2) a 3-year projection of the number of inspectors needed, the training plans for such inspectors, and the support staff required for the inspector workforce.

Contracts.

SEC. 122. LIMITATION ON PRIVATIZATION OF OPERATION OF CERTAIN AIRPORT CONTROL TOWERS.

The Administrator of the Federal Aviation Administration shall not enter into any contract on or before September 30, 1994, with a private person for operation of an airport control tower at any airport which in fiscal year 1990 had 5,500 or more air carrier operations and 40,000 or more air taxi operations unless the owner or operator of such airport first agrees, in writing, to the Administrator entering into such contract.

49 USC app. 2102 note.

SEC. 123. EFFECTS OF AIRPORT NOISE.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall—

(1) analyze the social, economic, and health effects of airport noise on populations within 65, 60, and 55 LDN noise areas to determine the actual level at which noise creates an adverse impact on populations; and

(2) study the effect of single event noise on populations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act and after providing notice and opportunity for public comment, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the

Committee on Public Works and Transportation of the House of Representatives a report on the results of the analysis and study conducted under subsection (a).

SEC. 124. AIRCRAFT OPERATIONS IN WINTER CONDITIONS.

49 USC app. 1421 note. Regulations.

(a) IN GENERAL.—Before November 1, 1992, the Administrator of the Federal Aviation Administration shall require, by regulation, procedures to improve safety of aircraft operations during winter conditions.

(b) FACTORS TO BE CONSIDERED.—In determining procedures to be required under subsection (a), the Administrator shall consider, among other things, aircraft and air traffic control modifications, the availability of different types of deicing fluids (taking into account their efficacy and environmental limitations), the types of deicing equipment available, and the feasibility and desirability of establishing timeframes within which deicing must occur under certain types of inclement weather.

SEC. 125. VISUAL FLIGHT RULE ROUTES FOR COMPLEX TERMINAL AIRSPACE AREAS.

Section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)) is amended by adding at the end the following: "In carrying out clause (3), the Administrator shall update and arrange for publication of clearly defined routes for navigating through a complex terminal airspace area, and to and from an airport located within such an area, where the Administrator determines that publication of such routes would promote safety in air navigation. Such routes shall be for the optional use of pilots operating under visual flight rules and shall be developed in consultation with pilots and other users of affected airports.".

SEC. 126. STUDY ON REFLECTORIZATION OF TAXIWAY AND RUNWAY MARKINGS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to determine whether the safety benefits derived from the reflectorization of runways and taxiways of all military airfields under Federal Specification TT–B–1325B should be extended to runways and taxiways of public use airports.

(b) REPORT.—Not later than June 30, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under this section, together with recommendations concerning requirements for upgraded reflectorization of runways and taxiways at public use airports.

SEC. 127. OPTIONS TO PURCHASE LAND.

49 USC app. 2204 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study on the purchase of options to purchase land for airport development.

(b) CONTENT.—In conducting the study under subsection (a), the Secretary shall examine the following:

(1) ELIGIBILITY FOR FUNDING.—Whether or not the purchase of options to purchase land for airport development should be eligible for funding under the Airport Improvement Program.

(2) CONDITIONS.—If the purchase of such options become eligible for funding under the Airport Improvement Program—

(A) whether or not certain limitations should be imposed on such purchases;

(B) whether or not priority should be afforded to the funding of such purchases in relation to other airport development projects; and

(C) whether or not certain environmental requirements should be imposed on such purchases.

(c) REPORT.—Not later than December 31, 1993, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a), together with any appropriate recommendations for legislative and administrative action.

SEC. 128. LIGHTING SYSTEMS FOR AIRCRAFT OBSTRUCTIONS AND AIRPORT RUNWAYS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the current Federal program for monitoring the installation and operation of lighting systems for aircraft obstructions and airport runways.

(b) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the results of the study conducted under this section, together with recommendations on methods to ensure that the best available technologies are utilized in lighting systems described in subsection (a).

49 USC app. 2204 note.

SEC. 129. ECONOMIC BENEFITS OF AIRPORT DEVELOPMENT PROJECTS.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the economic benefits of carrying out airport development projects in areas designated as "redevelopment areas" under section 401 of the Public Works and Economic Development Act of 1965.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations on whether or not airport development projects in areas described in subsection (a) should receive priority consideration in the distribution of grants under the Airport Improvement Program.

49 USC app. 2104 note.

SEC. 130. SOUNDPROOFING OF CERTAIN RESIDENTIAL BUILDINGS IN AREAS SURROUNDING AIRPORTS.

During the 2-year period beginning on the date of the enactment of this Act, the Secretary may make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for projects to soundproof residential buildings—

(1) if the operator of the airport involved received approval for a grant for a project to soundproof residential buildings pursuant to section 301(d)(4)(B) of the Airport and Airway Safety and Capacity Expansion Act of 1987;

(2) if the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(3) if the Secretary determines that the proposed projects are compatible with the purposes of the Aviation Safety and Noise Abatement Act of 1979.

SEC. 131. LAREDO INTERNATIONAL AIRPORT, LAREDO, TEXAS.

Section 313(c)(2)(C) of the Airport and Airway Safety and Capacity Expansion Act of 1987 (101 Stat. 1531) is amended by striking "20 years" and inserting "40 years".

SEC. 132. STUDY OF SMALL AIRPORT RUNWAY MAINTENANCE.

49 USC app. 2204 note.

(a) STUDY.—The Secretary of Transportation shall conduct a study to assess the ability of airports which annually enplane .05 percent or less of total enplanements in the United States to finance the maintenance of runways, aprons, and taxiways constructed under the Airport Improvement Program, whether or not it would be desirable to make maintenance of runways, aprons, and taxiways eligible projects for grants under the Airport Improvement Program, and whether or not the result of making such maintenance eligible projects would be to reduce the long-term costs of airport development.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report containing the results of the study conducted under subsection (a), together with recommendations.

SEC. 133. TUCSON STUDY.

Arizona.

(a) STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study of the current and projected need for air traffic control and related services in the airspace in the vicinity of Tucson, Arizona. In particular the study shall focus upon—

(1) the facilities and personnel necessary to assist general aviation pilots in the vicinity of Tucson and the United States-Mexico border area with services such as weather and traffic advisories;

(2) flight plan filings; and

(3) notification of law enforcement agencies that monitor international air traffic between Arizona and Mexico.

(b) REPORT.—Not later than May 1, 1993, the Administrator of the Federal Aviation Administration shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under subsection (a). The report shall include the Administrator's evaluation of the ability of the consolidation plans of the Federal Aviation Administration to assure no reduction or delay in the delivery of air traffic control and related services to pilots in the vicinity of Tucson.

(c) STATUS.—The Administrator of the Federal Aviation Administration shall not change the status (including reductions in staff, changes in operating hours, changes in jurisdiction, and disconnection of telephone lines) of the Tucson flight service station before the 60th day following the date on which the report required by subsection (b) is submitted.

SEC. 134. AIR TRAFFIC OVER GRAND CANYON.

Nevada. Arizona. Indians. 16 USC 1a-1 note.

(a) STUDY.—The Administrator of the Federal Aviation Administration, in consultation with the Director of the National Park Service, the State of Arizona, the State of Nevada, the Clark County Department of Aviation, affected Indian tribes, and the general public, shall conduct a study on increased air traffic over Grand Canyon National Park.

(b) REPORT.—The Administrator of the Federal Aviation Administration shall submit to Congress a report on the results of the study conducted under subsection (a). The report shall include the following:

(1) A report on the increase in air traffic over Grand Canyon National Park since 1987.

(2) A forecast of the increase in air traffic over Grand Canyon National Park through 2010.

(3) A report on the carrying capacity of the airspace over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by section 3 of the Act of August 18, 1987 (Public Law 100–91; 101 Stat. 676), including the substantial restoration of natural quiet at the Park.

(4) A plan of action to manage increased air traffic over Grand Canyon National Park to ensure aviation safety and to meet the requirements established by such section 3 of the Act of August 18, 1987, including any measures to encourage or require the use of quiet aircraft technology by commercial air tour operators.

49 USC app. 1353 note.

SEC. 135. CIVIL TILTROTOR DEVELOPMENT ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—The Secretary of Transportation shall establish in the Department of Transportation a Civil Tiltrotor Development Advisory Committee (hereinafter in this section referred to as the "Advisory Committee") to evaluate the technical feasibility and economic viability of developing civil tiltrotor aircraft and a national system of infrastructure to support the incorporation of tiltrotor aircraft technology into the national transportation system.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall be composed of members appointed by the Secretary of Transportation, not later than 60 days after the date of the enactment of this Act, as follows:

(A) At least 1 representative of the Department of Transportation.

(B) At least 1 representative of the Federal Aviation Administration.

(C) At least 1 representative of the National Aeronautics and Space Administration.

(D) Representatives of other Federal departments and agencies, State and local governments, and private industry, as considered appropriate and necessary by the Secretary.

(2) QUALIFICATION.—Members appointed pursuant to subparagraphs (A), (B), and (C) of paragraph (1) shall be appointed from among individuals employed under the Federal departments and agencies described in such subparagraphs who receive an annual rate of basic pay which equals or exceeds the rate payable for level VI of the Senior Executive Service.

(3) CHAIRPERSON.—The Secretary of Transportation shall appoint a Chairperson of the Advisory Committee from among individuals employed under the Department of Transportation who receive an annual rate of basic pay which equals or exceeds the rate payable for level IV of the Executive Schedule.

(c) DUTIES.—The Advisory Committee shall—

(1) determine the costs, feasibility, and economic viability of developing a civil tiltrotor aircraft and establishing the necessary infrastructure to incorporate such aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(2) determine the benefits to the national economy and transportation system, including the potential for improved linkages and connections with other modes of transportation, of incorporating civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(3) determine further aeronautical research and development requirements needed to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system;

(4) determine changes to regulatory standards governing use of the airspace which would be required to incorporate civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft into the national transportation system; and

(5) recommend which of the costs of developing civil tiltrotor aircraft and establishing the infrastructure necessary to support civil tiltrotor aircraft and other advanced vertical takeoff and landing aircraft should be paid by the Federal Government and which of such costs should be paid by private industry.

(d) REPORT.—Not later than the 365th day following the date of the first meeting of the Advisory Committee, the Advisory Committee shall transmit to Congress a report containing its determinations and recommendations under subsection (c).

(e) TERMINATION.—The Advisory Committee shall terminate on the 30th day following the date of submission of its report under subsection (d).

SEC. 136. TECHNICAL AMENDMENTS.

(a) EXEMPTION RELATED TO CERTAIN AGREEMENTS.—Section 9304(a)(2)(D) of the Airport Noise and Capacity Act of 1990 (49 U.S.C. App. 2153(a)(2)(D)) is amended by striking all after "changes" and inserting the following: ", unless an agreement relating to noise reductions at such airport is entered into between the airport proprietor and an airline or airlines constituting a majority of the airline use of such airport, in which case the exception to subsections (b) and (d) provided by this sentence shall apply only to local actions to enforce such agreement.".

(b) AIRCRAFT CONTRACTS.—Section 9309 of the Airport Noise and Capacity Act of 1990 (49 U.S.C. App. 2158) is amended—

(1) in subsection (a)(2) by striking "written contract executed" and inserting "legally binding contract entered into"; and

(2) in subsection (c)(2) by striking "air".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. PROCUREMENT REFORM.

(a) IN GENERAL.—Section 303 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1344) is amended by adding at the end the following new subsections:

"(g) LIMITED SOURCES OF PROCUREMENT.—The Administrator shall have the same authority as the Administrator would have under section 2304(c)(1) of title 10, United States Code, if the Federal Aviation Administration were an agency listed under section 2303(a) of title 10, United States Code.

"(h) CONTRACT TOWER PROGRAM.—The Administrator may enter into a contract, on a sole source basis, with a State or political subdivision thereof for the purpose of permitting such State or political subdivision to operate an airport traffic control tower classified as a level I visual flight rules tower by the Administrator if the Administrator determines that the State or political subdivision has the capability to comply with the requirements of this subsection. Any such contract shall require that the State or political subdivision comply with all applicable safety regulations in its operation of the facility and with applicable competition requirements in the subcontracting of any work to be performed under the contract.".

(b) CONFORMING AMENDMENT.—The portion of the table of contents contained in the first section of such Act relating to section 303 is amended by adding at the end the following:

"(g) Limited sources of procurement.
"(h) Contract tower program.".

SEC. 202. AVIATION SECURITY TRAINING.

49 USC app. 1357.

Section 316(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1357(c)) is amended by inserting "(1)" after "(c)" and by adding at the end the following new paragraph:

"(2) REIMBURSEMENT FOR CERTAIN EXPENSES.—At the discretion of the Administrator, reimbursement may be made for travel, transportation, and subsistence expenses for the security training of non-Federal domestic and foreign security personnel whose services will contribute significantly to carrying out civil aviation security programs under this section. To the extent practicable, air travel reimbursed under this paragraph shall be conducted on United States air carriers.".

SEC. 203. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE.

(a) NOTICE OF CONSTRUCTION.—Section 1101(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1501(a)) is amended—

(1) by inserting after "of the construction or alteration," the following: "or the establishment or expansion,";

(2) by inserting after "or of the proposed construction or alteration," the following: "or of the proposed establishment or expansion,"; and

(3) by inserting "or sanitary landfill" after "structure".

49 USC app. 1501 note.

(b) LANDFILL HAZARD STUDY AND REPORT.—

(1) REQUIREMENTS.—The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall conduct a study to determine whether a municipal solid waste facility located within a 5-mile radius of the end of a runway may have the potential for attracting or sustaining bird movements (from feeding, watering, or roosting in the area) that may pose a hazard across the runways or approach and departure patterns of aircraft.

(2) REPORT.—Not later than December 31, 1993, the Secretary of Transportation shall transmit to Congress, after first having provided an opportunity for public comment, a report on the results of the study conducted under paragraph (1),

together with an assessment of the threat posed to aviation safety by the location of solid waste facilities near airport runways. The report shall include recommendations concerning the construction of new solid waste facilities and the expansion of existing facilities within a 5-mile radius of an airport runway.

SEC. 204. NATIONAL COMMISSION TO PROMOTE A STRONG AND COMPETITIVE AIRLINE INDUSTRY.

49 USC app. 1371 note.

(a) FINDINGS.—Congress finds the following:

(1) The Nation's airlines must be part of an intermodal transportation system that will move people and goods in the fastest, most efficient manner.

(2) The Nation's airlines provide our connections with the global economy. A strong airline industry is essential to our Nation's ability to compete in the international marketplace.

(3) The Nation's airlines are in a state of financial distress, having lost more than $6,000,000,000 in 1990 and 1991. These losses threaten the ability of our airlines to accommodate the growing aviation traffic demands of the 1990's which threaten to undermine our Nation's ability to compete in the global economy.

(4) Because of the airline industry's financial distress and the absence of government policies to promote competition, there has been a precipitous decline in the number of major airlines. Of the 22 airlines which entered the industry following airline deregulation, only 2 are now operating. The rest have either gone out of business or merged with other carriers.

(5) Concentration in the airline industry has advanced rapidly in the past few years. The top 4 major airlines now control 67 percent of aviation traffic and the top 7 airlines now control 91 percent of aviation traffic. Three major airlines, carrying 19 percent of aviation traffic, are in chapter 11 bankruptcy and their survival is in doubt.

(6) The continued success of a deregulated airline system requires the spur of effective actual and potential competition to force airlines to provide high quality service at the lowest possible fares.

(7) Further reductions in the number of major airlines may leave the industry without sufficient competition to ensure a continuation of the benefits consumers have received under airline deregulation.

(b) ESTABLISHMENT.—There is established a commission to be known as the "National Commission to Ensure a Strong Competitive Airline Industry" (hereinafter in this section referred to as the "Commission").

(c) FUNCTIONS.—

(1) INVESTIGATION AND STUDY.—The Commission shall make a complete investigation and study of the financial condition of the airline industry, the adequacy of competition in the airline industry, and legal impediments to a financially strong and competitive airline industry.

(2) POLICY RECOMMENDATIONS.—Based on the results of the investigation and study to be conducted under paragraph (1), the Commission shall recommend to the President and Congress those policies which need to be adopted to—

(A) achieve the national goal of a strong and competitive airline system which will facilitate the ability of the Nation to compete in the global economy;

(B) provide adequate levels of competition and service at reasonable fares in cities of all sizes;

(C) retard the flow of United States air carrier bankruptcies and accompanying loss of jobs for United States citizens;

(D) provide a stable work environment for airline industry employees; and

(E) continue to reduce noise for citizens around airports without damaging the economic or competitive positions of the air carriers.

(3) CONSIDERATION OF AIRCRAFT NOISE ABATEMENT.—In carrying out the study and investigation under paragraph (1), the Commission shall take into account aircraft noise abatement, a priority established by Congress by enactment of the Airport Noise and Capacity Act of 1990.

(d) SPECIFIC MATTERS TO BE ADDRESSED.—The Commission shall specifically investigate and study under subsection (c)(1) the following:

(1) FINANCIAL CONDITION OF AIRLINE INDUSTRY.—The current financial condition of the airline industry and how the industry's financial condition is likely to change over the next 5 years, including—

(A) the profits or losses likely to be achieved by the airline industry over the next 5 years;

(B) whether or not any profits realized will be adequate to permit airlines to acquire the capital equipment necessary to meet the demand of the traveling public in a safe and efficient manner, while complying with environmental regulations; and

(C) whether or not any major airlines are likely to fail or sell major assets in order to survive.

(2) ADEQUACY OF COMPETITION.—The current state of competition in the airline industry, how the structure of airline industry competition is likely to change over the next 5 years, and whether or not the expected level of competition will be sufficient to continue the consumer benefits of airline deregulation.

(3) LEGAL IMPEDIMENTS TO A FINANCIALLY STRONG AND COMPETITIVE AIRLINE INDUSTRY.—Whether or not the Federal Government should take any legislative or administrative actions to improve the financial conditions of the airline industry or to enhance airline competition, including whether or not any changes are needed in the legal and administrative policies which govern—

(A) the initial award and the transfer of international airline routes;

(B) the allocation of slots at high density airports;

(C) the allocation of gates, particularly at airports dominated by 1 or a limited number of airlines;

(D) frequent flier programs;

(E) airline computer reservations systems;

(F) the rights of foreign investors to invest in United States airlines;

(G) the taxes and user fees imposed on United States airlines;

(H) the regulatory responsibilities imposed on United States airlines;

(I) the bankruptcy laws of the United States and related fitness rules administered by the Department of Transportation as they apply to airlines; and

(J) the obligations of failing airlines to meet pension obligations.

(4) INTERNATIONAL AVIATION POLICY.—Whether or not the policies and strategies followed by the United States in international aviation are promoting the ability of United States airlines to achieve long-term competitive success in international markets, including—

(A) the Government's general negotiating policy;

(B) the desirability of multilateral rather than bilateral negotiations;

(C) whether or not foreign countries have developed the necessary infrastructure of airports and airways to enable United States airlines to provide the service needed to meet the demand for aviation service between the United States and such countries;

(D) the rights granted foreign airlines to provide service in United States domestic markets ("cabotage"); and

(E) the rights granted foreign investors to invest in United States airlines.

(5) ASSESSMENT OF AIRCRAFT MANUFACTURING INDUSTRY.—The state of the United States aircraft manufacturing industry and make recommendations to the President and Congress concerning policies that will help foster a healthy, competitive United States aircraft manufacturing industry.

(6) STUDY OF INCENTIVES FOR EXPEDITED FLEET CONVERSION.—The possibility of long-term loan guarantees and tax incentives for air carriers to expedite the conversion of the commercial airline fleet from Stage 2 to Stage 3 aircraft in advance of the deadlines established by the Airport Noise and Capacity Act of 1990.

(e) MEMBERSHIP.—

(1) APPOINTMENT.—The Commission shall be composed of 7 members as follows:

(A) 1 member appointed by the President. President.

(B) 3 members appointed by the Speaker of the House of Representatives.

(C) 3 members appointed by the majority leader of the Senate.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—Members appointed pursuant to paragraph (1) shall be appointed from among individuals who are experts in transportation policy (including representatives of Federal, State, and local governments and other public authorities owning or operating airports) and organizations representing airlines, passengers, shippers, airline employees, aircraft manufacturers, general aviation, and the financial community.

(B) SECTORS REPRESENTED.—Members appointed pursuant to paragraph (1) shall be appointed in a manner such that the interests of both large hub airports and

small airports with commercial air service will be taken into consideration. One member of the Commission shall be a citizen representing a consensus among citizen noise groups or noise affected municipalities.

(3) TERMS.—Members shall be appointed for the life of the Commission.

(4) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) TRAVEL EXPENSES.—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(6) CHAIRMAN.—The Chairman of the Commission shall be elected by the members.

(f) STAFF.—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(g) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this section.

(i) OBTAINING OFFICIAL DATA.—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Commission, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) REPORT.—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (c)(2).

(k) TERMINATION.—The Commission shall terminate on the 180th day following the date of transmittal of the report under subsection (j). All records and papers of the Commission shall thereupon be delivered by the Administrator of General Services for deposit in the National Archives.

SEC. 205. STRENGTHENING OF COMPETITION.

Section 102 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1302) is amended by adding at the end the following new subsection:

"(c) STRENGTHENING OF COMPETITION.—In selecting an air carrier to provide foreign air transportation from among competing applicants to provide such transportation, the Secretary shall consider the strengthening of competition among air carriers operating in the United States in order to prevent undue concentration in the air carrier industry, in addition to considering the factors specified in subsections (a) and (b) of this section.".

SEC. 206. SLOT RULE EFFECTIVE DATE.

The final rule of the Federal Aviation Administration which requires an increased level of minimum use for high density traffic airport slots (57 Federal Register 37308) shall take effect January 1, 1993.

SEC. 207. EMERGENCY VISION EQUIPMENT.

Reports.

The Administrator of the Federal Aviation Administration shall evaluate and report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, no later than 9 months after the date of the enactment of this Act, on effects of quantities of smoke in the cockpit of an aircraft which could affect the pilot's vision. In such report, the Administrator shall also explore the efficiency of any existing technologies to evacuate smoke from the cockpit, shall evaluate the need for any change in requirements or operating rules, and shall estimate the cost of installation of such technologies for the commercial airline fleet.

SEC. 208. TECHNICAL AMENDMENT TO CIVIL PENALTIES.

Section 901(a)(3)(A) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(3)(A)) is amended by inserting "901(c), 901(d)," after "section".

TITLE III—RESEARCH, ENGINEERING, AND DEVELOPMENT

Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992. 49 USC app. 2201 note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Aviation Administration Research, Engineering, and Development Authorization Act of 1992".

SEC. 302. AVIATION RESEARCH AUTHORIZATION OF APPROPRIATIONS.

Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by striking subparagraph (A) and all that follows and inserting in lieu thereof the following:

"(A) for fiscal year 1993—

"(i) $14,700,000 solely for management and analysis projects and activities;

"(ii) $87,000,000 solely for capacity and air traffic management technology projects and activities;

"(iii) $28,000,000 solely for communications, navigation, and surveillance projects and activities;

"(iv) $7,700,000 solely for weather projects and activities;

"(v) $6,800,000 solely for airport technology projects and activities;

"(vi) $44,000,000 solely for aircraft safety technology projects and activities;

"(vii) $41,100,000 solely for system security technology projects and activities;

"(viii) $31,000,000 solely for human factors and aviation medicine projects and activities;

"(ix) $4,500,000 for environment and energy projects and activities; and

"(x) $5,200,000 for innovative/cooperative research projects and activities; and

"(B) for fiscal year 1994, $297,000,000.

Not less than 15 percent of the amount appropriated pursuant to this paragraph shall be for long-term research projects, and not less than 3 percent of the amount appropriated under this paragraph shall be available to the Administrator for making grants under section 312(g) of the Federal Aviation Act of 1958.".

Reports.
49 USC app.
1421 note.

SEC. 303. DEICING STUDY.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall report to Congress on the feasibility of requiring commercial airports and commercial airlines to employ portable equipment to deice commercial aircraft immediately prior to takeoff by placing deicing equipment close to the departure end of the active runway. In addition, the Secretary shall undertake research to develop new techniques and to develop more efficient fluids and technologies for deicing.

49 USC app.
1353 note.

SEC. 304. AIRCRAFT NOISE RESEARCH PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly conduct a research program to develop new technologies for quieter subsonic jet aircraft engines and airframes.

(b) GOAL.—The goal of the research program established by subsection (a) is to develop by the year 2000 technologies for subsonic jet aircraft engines and airframes which would permit a subsonic jet aircraft to operate at reduced noise levels.

(c) PARTICIPATION.—In carrying out the program established by subsection (a), the Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall encourage the participation of representatives of the aviation industry and academia.

(d) REPORT TO CONGRESS.—The Administrator of the Federal Aviation Administration and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress, on an annual basis during the term of the program established by subsection (a), a report on the progress being made under the program toward meeting the goal described in subsection (b).

49 USC app.
2226a note.

SEC. 305. USE OF DOMESTIC PRODUCTS.

(a) PROHIBITION AGAINST FRAUDULENT USE OF "MADE IN AMERICA" LABELS.—(1) A person shall not intentionally affix a label bearing the inscription of "Made in America", or any inscription with that meaning, to any product sold in or shipped to the United States, if that product is not a domestic product.

(2) A person who violates paragraph (1) shall not be eligible for any contract for a procurement carried out with amounts authorized under this title, including any subcontract under such a contract pursuant to the debarment, suspension, and ineligibility procedures in subpart 9.4 of chapter 1 of title 48, Code of Federal Regulations, or any successor procedures thereto.

(b) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted

in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this title to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

(3) The Secretary of Transportation, before January 1, 1994, shall report to the Congress on procurements covered under this subsection of products that are not domestic products. Reports.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

TITLE IV—AVIATION INSURANCE

SEC. 401. INSURANCE FOR DEPARTMENTS AND AGENCIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 1304(a) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1534(a)) is amended—

(1) by inserting after "under this title" the following: ", including insurance to cover any risk from the operation of an aircraft while such aircraft is engaged in intrastate, interstate, or overseas air commerce"; and

(2) by adding at the end the following new sentence: "In addition, such department or agency may, with the approval of the President, procure such insurance to cover any risk arising from the provision of goods or services directly related to and necessary for an operation of an aircraft covered by insurance procured under the preceding sentence if such operation is in the performance of a contract of such department or agency or is for the purpose of transporting military forces or materiel on behalf of the United States pursuant to an agreement between the United States and a foreign government.".

(b) CONFORMING AMENDMENT.—Section 1302(a)(3) of such Act (49 U.S.C. App. 1532(a)(3)) is amended by striking "Insurance" and inserting "Subject to section 1304(a), insurance".

SEC. 402. EXTENSION OF PROGRAM.

Section 1312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1542) is amended by striking "1992" and inserting "1997".

SEC. 403. ADMINISTRATION OF AVIATION INSURANCE PROGRAM.

49 USC app. 1531 note.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958 during the Persian Gulf conflict for the purpose of determining methods of improving the efficiency of the administration of such program by reducing the paperwork and time period required for provision of insurance under such program.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the review conducted under subsection (a), together with any recommendations of the Comptroller General for improving the efficiency of the administration of the aviation insurance program under title XIII of the Federal Aviation Act of 1958.

49 USC app. 1542 note.

SEC. 404. CONTINUATION OF AVIATION INSURANCE LAWS.

Notwithstanding any other provision of law, the provisions of title XIII of the Federal Aviation Act of 1958 and all insurance policies issued by the Secretary of Transportation under such title, as in effect on September 30, 1992, shall be treated as having continued in effect until the date of the enactment of this Act.

TITLE V—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND

SEC. 501. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND.

26 USC 9502.

Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 1992" and inserting "October 1, 1995", and

(2) by striking in subparagraph (A) "(as such Acts were in effect on the date of the enactment of the Aviation Safety and Capacity Expansion Act of 1990)" and inserting "(as such Acts were in effect on the date of the enactment of the Airport and Airway Safety, Capacity, Noise Improvement, and Intermodal Transportation Act of 1992)".

SEC. 502. CLARIFICATION OF TRUST FUND REVENUES.

(a) IN GENERAL.—Paragraph (1) of section 9502(e) of the Internal Revenue Code of 1986 (relating to special rules for transfers into trust fund) is amended to read as follows:

"(1) INCREASES IN TAX REVENUES BEFORE 1993 TO REMAIN IN GENERAL FUND.—In the case of taxes imposed before January 1, 1993, the amounts required to be appropriated under paragraphs (1), (2), and (3) of subsection (b) shall be determined without regard to any increase in a rate of tax enacted by the Revenue Reconciliation Act of 1990.".

26 USC 9502 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in section 11213 of the Revenue

Reconciliation Act of 1990 on the date of the enactment of such Act.

Approved October 31, 1992.

LEGISLATIVE HISTORY—H.R. 6168:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 8, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Oct. 31, Presidential statement.

Public Law 102-582
102d Congress

An Act

Nov. 2, 1992
[H.R. 2152]

To enhance the effectiveness of the United Nations international driftnet fishery conservation program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

High Seas Driftnet Fisheries Enforcement Act.
16 USC 1801 note.
16 USC 1826a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "High Seas Driftnet Fisheries Enforcement Act".

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Large-scale driftnet fishing on the high seas is highly destructive to the living marine resources and ocean ecosystems of the world's oceans, including anadromous fish and other living marine resources of the United States.

(2) The cumulative effects of large-scale driftnet fishing pose a significant threat to the marine ecosystem, and slow-reproducing species like marine mammals, sharks, and seabirds may require many years to recover.

(3) Members of the international community have reviewed the best available scientific data on the impacts of large-scale pelagic driftnet fishing, and have failed to conclude that this practice has no significant adverse impacts which threaten the conservation and sustainable management of living marine resources.

(4) The United Nations, via General Assembly Resolutions numbered 44–225, 45–197, and most recently 46–215 (adopted on December 20, 1991), has called for a worldwide moratorium on all high seas driftnet fishing by December 31, 1992, in all the world's oceans, including enclosed seas and semi-enclosed seas.

(5) The United Nations has commended the unilateral, regional, and international efforts undertaken by members of the international community and international organizations to implement and support the objectives of the General Assembly resolutions.

(6) Operative paragraph (4) of United Nations General Assembly Resolution numbered 46–215 specifically "encourages all members of the international community to take measures individually and collectively to prevent large-scale pelagic driftnet fishing operations on the high seas of the world's oceans and seas".

(7) The United States, in section 307(1)(M) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857(1)(M)), has specifically prohibited the practice of large-scale driftnet fishing by United States nationals and vessels both within the exclusive economic zone of the United States and beyond the exclusive economic zone of any nation.

(8) The Senate, through Senate Resolution 396 of the One Hundredth Congress (approved on March 18, 1988), has called for a moratorium on fishing in the Central Bering Sea and the United States has taken concrete steps to implement such moratorium through international negotiations.

(9) Despite the continued evidence of a decline in the fishery resources of the Bering Sea and the multiyear cooperative negotiations undertaken by the United States, the Russian Federation, Japan, and other concerned fishing nations, some nations refuse to agree to measures to reduce or eliminate unregulated fishing practices in the waters of the Bering Sea beyond the exclusive economic zones of the United States and the Russian Federation.

(10) In order to ensure that the global moratorium on large-scale driftnet fishing called for in United Nations General Assembly Resolution numbered 46–215 takes effect by December 31, 1992, and that unregulated fishing practices in the waters of the Central Bering Sea are reduced or eliminated, the United States should take the actions described in this Act and encourage other nations to take similar action.

(b) POLICY.—It is the stated policy of the United States to—

(1) implement United Nations General Assembly Resolution numbered 46–215, approved unanimously on December 20, 1991, which calls for an immediate cessation to further expansion of large-scale driftnet fishing, a 50 percent reduction in existing large-scale driftnet fishing effort by June 30, 1992, and a global moratorium on the use of large-scale driftnets beyond the exclusive economic zone of any nation by December 31, 1992;

(2) bring about a moratorium on fishing in the Central Bering Sea, or an international conservation and management agreement to which the United States and the Russian Federation are parties that regulates fishing in the Central Bering Sea; and

(3) secure a permanent ban on the use of destructive fishing practices, and in particular large-scale driftnets, by persons or vessels fishing beyond the exclusive economic zone of any nation.

TITLE I—HIGH SEAS LARGE-SCALE DRIFTNET FISHING

SEC. 101. DENIAL OF PORT PRIVILEGES AND SANCTIONS FOR HIGH SEAS LARGE-SCALE DRIFTNET FISHING.

16 USC 1826a.

(a) DENIAL OF PORT PRIVILEGES.—

(1) PUBLICATION OF LIST.—Not later than 30 days after the date of enactment of this Act and periodically thereafter, the Secretary of Commerce, in consultation with the Secretary of State, shall publish a list of nations whose nationals or vessels conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation.

(2) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, in accordance with recognized principles of international law—

(A) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any large-scale driftnet fishing vessel that is documented under the laws of the United

States or of a nation included on a list published under paragraph (1); and

(B) deny entry of that vessel to any place in the United States and to the navigable waters of the United States.

(3) NOTIFICATION OF NATION.—Before the publication of a list of nations under paragraph (1), the Secretary of State shall notify each nation included on that list regarding—

(A) the effect of that publication on port privileges of vessels of that nation under paragraph (1); and

(B) any sanctions or requirements, under this Act or any other law, that may be imposed on that nation if nationals or vessels of that nation continue to conduct large-scale driftnet fishing beyond the exclusive economic zone of any nation after December 31, 1992.

(b) SANCTIONS.—

(1) IDENTIFICATIONS.—

(A) INITIAL IDENTIFICATIONS.—Not later than January 10, 1993, the Secretary of Commerce shall—

(i) identify each nation whose nationals or vessels are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

(ii) notify the President and that nation of the identification under clause (i).

(B) ADDITIONAL IDENTIFICATIONS.—At any time after January 10, 1993, whenever the Secretary of Commerce has reason to believe that the nationals or vessels of any nation are conducting large-scale driftnet fishing beyond the exclusive economic zone of any nation, the Secretary of Commerce shall—

(i) identify that nation; and

(ii) notify the President and that nation of the identification under clause (i).

President.

(2) CONSULTATIONS.—Not later than 30 days after a nation is identified under paragraph (1)(B), the President shall enter into consultations with the government of that nation for the purpose of obtaining an agreement that will effect the immediate termination of large-scale driftnet fishing by the nationals or vessels of that nation beyond the exclusive economic zone of any nation.

(3) PROHIBITION ON IMPORTS OF FISH AND FISH PRODUCTS AND SPORT FISHING EQUIPMENT.—

President.

(A) PROHIBITION.—The President—

(i) upon receipt of notification of the identification of a nation under paragraph (1)(A); or

(ii) if the consultations with the government of a nation under paragraph (2) are not satisfactorily concluded within ninety days, shall direct the Secretary of the Treasury to prohibit the importation into the United States of fish and fish products and sport fishing equipment (as that term is defined in section 4162 of the Internal Revenue Code of 1986 (26 U.S.C. 4162)) from that nation.

(B) IMPLEMENTATION OF PROHIBITION.—With respect to an import prohibition directed under subparagraph (A), the Secretary of the Treasury shall implement such prohibition not later than the date that is forty-five days after

the date on which the Secretary has received the direction from the President.

(C) PUBLIC NOTICE OF PROHIBITION.—Before the effective date of any import prohibition under this paragraph, the Secretary of the Treasury shall provide public notice of the impending prohibition.

(4) ADDITIONAL ECONOMIC SANCTIONS.—

(A) DETERMINATION OF EFFECTIVENESS OF SANCTIONS.—Not later than six months after the date the Secretary of Commerce identifies a nation under paragraph (1), the Secretary shall determine whether—

(i) any prohibition established under paragraph (3) is insufficient to cause that nation to terminate large-scale driftnet fishing conducted by its nationals and vessels beyond the exclusive economic zone of any nation; or

(ii) that nation has retaliated against the United States as a result of that prohibition.

(B) CERTIFICATION.—The Secretary of Commerce shall certify to the President each affirmative determination under subparagraph (A) with respect to a nation.

(C) EFFECT OF CERTIFICATION.—Certification by the Secretary of Commerce under subparagraph (B) is deemed to be a certification under section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)), as amended by this Act.

SEC. 102. DURATION OF DENIAL OF PORT PRIVILEGES AND SANCTIONS. 16 USC 1826b.

Any denial of port privileges or sanction under section 101 with respect to a nation shall remain in effect until such time as the Secretary of Commerce certifies to the President and the Congress that such nation has terminated large-scale driftnet fishing by its nationals and vessels beyond the exclusive economic zone of any nation.

SEC. 103. REQUIREMENTS UNDER MARINE MAMMAL PROTECTION ACT OF 1972.

Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (E)(i) by striking "July 1, 1992" and inserting in lieu thereof "January 1, 1993"; and

(2) in the last sentence by inserting ", except that, until January 1, 1994, the term 'driftnet' does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community" immediately after "(16 U.S.C. 1822 note)".

SEC. 104. DEFINITIONS. 16 USC 1826c.

In this title, the following definitions apply:

(1) FISH AND FISH PRODUCTS.—The term "fish and fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from a nation, whether or not taken by fishing vessels of that nation

or packed, processed, or otherwise prepared for export in that nation or within the jurisdiction thereof.

(2) LARGE-SCALE DRIFTNET FISHING.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term "large-scale driftnet fishing" means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(B) EXCEPTION.—Until January 1, 1994, the term "large-scale driftnet fishing" does not include the use in the northeast Atlantic Ocean of gillnets with a total length not to exceed five kilometers if the use is in accordance with regulations adopted by the European Community pursuant to the October 28, 1991, decision by the Council of Fisheries Ministers of the Community.

(3) LARGE-SCALE DRIFTNET FISHING VESSEL.—The term "large-scale driftnet fishing vessel" means any vessel which is—

(A) used for, equipped to be used for, or of a type which is normally used for large-scale driftnet fishing; or

(B) used for aiding or assisting one or more vessels at sea in the performance of large-scale driftnet fishing, including preparation, supply, storage, refrigeration, transportation, or processing.

TITLE II—FISHERIES CONSERVATION PROGRAMS

SEC. 201. IMPORT RESTRICTIONS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) PRODUCTS SUBJECT TO RESTRICTION.—Section 8 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978) is amended—

(1) in subsection (a)(4) by striking "fish products" and all that follows through "such duration", and inserting in lieu thereof "any products from the offending country for any duration";

(2) in subsection (c) by striking "fish products or wildlife products" and inserting in lieu thereof "products";

(3) in subsection (e)(2) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(4) in subsection (f)—

(A) in paragraph (1) by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(B) in paragraph (5)—

(i) in the first sentence by striking "fish products and wildlife products" and inserting in lieu thereof "products"; and

(ii) in the second sentence by striking "Fish products and wildlife products" and inserting in lieu thereof "Products".

(b) DEFINITIONS.—Section 8(h) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)) is amended—

(1) by amending paragraph (2) to read as follows:

"(2) The term 'United States' means the several States, the District of Columbia, Puerto Rico, the Northern Mariana

Islands, American Samoa, Guam, the Virgin Islands, and every other territory and possession of the United States.";

(2) in paragraph (3)—

(A) by inserting "bilateral or" immediately before "multilateral"; and

(B) by inserting ", including marine mammals" immediately after "protect the living resources of the sea";

(3) by striking paragraphs (4) and (6);

(4) by redesignating paragraphs (5) and (7) as paragraphs (4) and (5), respectively; and

(5) by amending paragraph (5), as so redesignated, to read as follows:

"(5) The term 'taking', as used with respect to animals to which an international program for endangered or threatened species applies, means to—

"(A) harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect; or

"(B) attempt to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect.".

SEC. 202. ENFORCEMENT.

16 USC 1861 note.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Secretary of Defense shall enter into an agreement under section 311(a) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1861(a)) in order to make more effective the enforcement of domestic laws and international agreements that conserve and manage the living marine resources of the United States.

(b) TERMS.—The agreement entered into under subsection (a) shall include—

(1) procedures for identifying and providing the location of vessels that are in violation of domestic laws or international agreements to conserve and manage the living marine resources of the United States;

(2) requirements for the use of the surveillance capabilities of the Department of Defense; and

(3) procedures for communicating vessel locations to the Secretary of Commerce and the Coast Guard.

SEC. 203. TRADE NEGOTIATIONS AND THE ENVIRONMENT.

It is the sense of the Congress that the President, in carrying out multilateral, bilateral, and regional trade negotiations, should seek to—

(1) address environmental issues related to the negotiations;

(2) modify articles of the General Agreement on Tariffs and Trade (referred to in this section as "GATT") to take into consideration the national environmental laws of the GATT Contracting Parties and international environmental treaties;

(3) secure a working party on trade and the environment within GATT as soon as possible;

(4) take an active role in developing trade policies that make GATT more responsive to national and international environmental concerns;

(5) include Federal agencies with environmental expertise during the negotiations to determine the impact of the proposed trade agreements on national environmental law; and

(6) periodically consult with interested parties concerning the progress of the negotiations.

Central Bering Sea Fisheries Enforcement Act of 1992. 16 USC 1823 note.

TITLE III—FISHERIES ENFORCEMENT IN CENTRAL BERING SEA

SEC. 301. SHORT TITLE.

This title may be cited as the "Central Bering Sea Fisheries Enforcement Act of 1992".

SEC. 302. PROHIBITION APPLICABLE TO UNITED STATES VESSELS AND NATIONALS.

(a) PROHIBITION.—Vessels and nationals of the United States are prohibited from conducting fishing operations in the Central Bering Sea, except where such fishing operations are conducted in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(b) CIVIL PENALTIES AND PERMIT SANCTIONS.—A violation of this section shall be subject to civil penalties and permit sanctions under section 308 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1858).

SEC. 303. PORT PRIVILEGES DENIAL FOR FISHING IN CENTRAL BERING SEA.

(a) DENIAL OF PORT PRIVILEGES.—The Secretary of the Treasury shall, after December 31, 1992, in accordance with recognized principles of international law—

(1) withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) for any fishing vessel documented under the laws of a nation that is included on a list published under subsection (b); and

(2) deny entry of such fishing vessel to any place in the United States and to the navigable waters of the United States.

Federal Register, publication.

(b) PUBLICATION OF LIST.—Not later than forty-five days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall publish in the Federal Register a list of nations whose nationals or vessels conduct fishing operations in the Central Bering Sea, except where such fishing operations are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties. The Secretary shall publish as an addendum to the list the name of each vessel documented under the laws of each listed nation which conducts fishing operations in the Central Bering Sea. A revised list shall be published whenever the list is no longer accurate, except that a nation may not be removed from the list unless—

(1) the nationals and vessels of that nation have not conducted fishing operations in the Central Bering Sea for the previous ninety days and the nation has committed, through a bilateral agreement with the United States or in any other manner acceptable to the Secretary of Commerce, not to permit its nationals or vessels to resume such fishing operations; or

(2) the nationals and vessels of that nation are conducting fishing operations in the Central Bering Sea that are in accordance with an international fishery agreement to which the United States and the Russian Federation are parties.

(c) NOTIFICATION OF NATION.—Before the publication of a list of nations under subsection (b), the Secretary of State shall notify each nation included on that list and explain the requirement to deny the port privileges of fishing vessels of that nation under subsection (a) as a result of such publication.

SEC. 304. DURATION OF PORT PRIVILEGES DENIAL.

Any denial of port privileges under section 303 with respect to any fishing vessel of a nation shall remain in effect until such nation is no longer listed under section 303(b).

SEC. 305. RESTRICTION ON FISHING IN UNITED STATES EXCLUSIVE ECONOMIC ZONE.

(a) REGULATIONS.—Within one hundred and eighty days after the date of enactment of this Act, after notice and public comment, the Secretary of Commerce shall issue regulations, under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and any other applicable law, to prohibit—

(1) any permitted fishing vessel from catching, taking, or harvesting fish in a fishery under the geographical authority of the North Pacific Fishery Management Council if such vessel is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b);

(2) any processing facility from receiving any fish caught, taken, or harvested in a fishery under the geographical authority of the North Pacific Fishery Management Council if such facility is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b); and

(3) any permitted fishing vessel from delivering fish caught, taken, or harvested in a fishery under the geographic authority of the North Pacific Fishery Management Council to a processing facility that is owned or controlled by any person that also owns or controls a fishing vessel that is listed on the addendum under section 303(b).

(b) REQUIREMENT FOR SUBMISSION OF DOCUMENTS.—The Secretary of Commerce shall require under any regulations issued under subsection (a) the submission of any affidavits, financial statements, corporate agreements, and other documents that the Secretary of Commerce determines, after notice and public comment, are necessary to ensure that all vessels and processing facilities are in compliance with this section.

(c) APPEALS; DURATION OF PROHIBITIONS.—The regulations issued under subsection (a) shall—

(1) establish procedures for a person to appeal a decision to impose a prohibition under subsection (a) on a vessel or processing facility owned or controlled by that person; and

(2) specify procedures for the removal of any prohibition imposed on a vessel or processing facility under subsection (a)—

(A) upon publication of a revised list under section 303(b), and a revised addendum which does not include a fishing vessel owned or controlled by the person who

also owns or controls the vessel or facility to which the prohibition applies; or

(B) on the date that is ninety days after such person terminates ownership and control in fishing vessels that are listed on the addendum under section 303(b).

SEC. 306. DEFINITIONS.

In this title, the following definitions apply:

(1) CENTRAL BERING SEA.—The term "Central Bering Sea" means the central Bering Sea area which is more than two hundred nautical miles seaward of the baselines from which the breadth of the territorial seas of the United States and the Russian Federation are measured.

(2) FISHING VESSEL.—The term "fishing vessel" means any vessel which is used for—

(A) catching, taking, or harvesting fish; or

(B) aiding or assisting one or more vessels at sea in the performance of fishing operations, including preparation, supply, storage, refrigeration, transportation, or processing.

(3) OWNS OR CONTROLS.—When used in reference to a vessel or processing facility—

(A) the term "owns" means holding legal title to the vessel or processing facility; and

(B) the term "controls" includes an absolute right to direct the business of the person owning the vessel or processing facility, to limit the actions of or replace the chief executive officer (by whatever title), a majority of the board of directors, or any general partner (as applicable) of such person, to direct the transfer or operations of the vessel or processing facility, or otherwise to exercise authority over the business of such person, but the term does not include the right simply to participate in those activities of such person or the right to receive a financial return, such as interest or the equivalent of interest, on a loan or other financing obligation.

(4) PERMITTED FISHING VESSEL.—The term "permitted fishing vessel" means any fishing vessel that is subject to a permit issued by the Secretary of Commerce under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(5) PERSON.—The term "person" means any individual (whether or not a citizen of the United States), any corporation, partnership, association, cooperative, or other entity (whether or not organized under the laws of any State), and any State, local, or foreign government, or any entity of such government or the Federal Government.

(6) PROCESSING FACILITY.—The term "processing facility" means any fish processing establishment or fish processing vessel that receives unprocessed fish.

SEC. 307. TERMINATION.

This title shall cease to have force and effect after the date that is seven years after the date of enactment of this Act, except that any proceeding with respect to violations of section 302 occurring prior to such termination date shall be conducted as if that section were still in effect.

TITLE IV—MISCELLANEOUS PROVISIONS

SEC. 401. INTERMEDIARY NATIONS INVOLVED IN EXPORT OF CERTAIN TUNA PRODUCTS.

(a) INTERMEDIARY NATION DEFINED.—Section 3 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362) is amended by redesignating paragraphs (5) through (14) as paragraphs (6) through (15), respectively, and by inserting immediately after paragraph (4) the following new paragraph:

"(5) The term 'intermediary nation' means a nation that exports yellowfin tuna or yellowfin tuna products to the United States and that imports yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation into the United States pursuant to section 101(a)(2)(B).".

(b) EMBARGO ON IMPORTS FROM INTERMEDIARY NATIONS.—Section 101(a)(2)(C) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)(C)) is amended to read as follows:

"(C) shall require the government of any intermediary nation to certify and provide reasonable proof to the Secretary that it has not imported, within the preceding six months, any yellowfin tuna or yellowfin tuna products that are subject to a direct ban on importation to the United States under subparagraph (B);".

SEC. 402. AUTHORITY TO EXTEND REEMPLOYMENT RIGHTS.

For purposes of employee rights and entitlements conferred by or pursuant to subchapter IV of chapter 35 of title 5, United States Code, the Secretary of State may, notwithstanding any other law or regulation, extend the reemployment rights of an employee of the United States who, as of January 1, 1992, was serving with the Intergovernmental Panel on Climate Change. Such extension may be made for two years, and may be further extended for one year, if the Secretary of State determines that such service is in the national interest and is necessary to facilitate the activities of the Intergovernmental Panel on Climate Change or any successor organization.

SEC. 403. LIMITATION ON TERMS OF VOTING MEMBERS OF REGIONAL FISHERY MANAGEMENT COUNCILS.

Section 302(b)(3) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1852(b)(3)) is amended by striking "January 1, 1986" the second place it appears and inserting in lieu thereof "December 31, 1987".

SEC. 404. OBSERVER FEE FOR NORTH PACIFIC FISHERIES RESEARCH PLAN.

Section 313(b)(2)(E) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1862(b)(2)(E)) is amended by striking "one percentum, of the" and inserting in lieu thereof "2 percent, of the unprocessed ex-vessel".

TITLE V—FEES

SEC. 501. RECREATIONAL BOAT TAX REPEAL.

(a) IN GENERAL.—

(1) SCOPE OF FEE.—Section 2110(b)(1) of title 46, United States Code, is amended—

(A) by striking "1991, 1992, 1993, 1994, and 1995", and inserting in lieu thereof "1993 and 1994"; and

(B) by striking "that is greater than 16 feet in length" and inserting in lieu thereof "to which paragraph (2) of this subsection applies".

(2) AMOUNT OF FEE.—Section 2110(b)(2) of title 46, United States Code, is amended to read as follows:

"(2) The fee or charge established under paragraph (1) of this subsection is as follows:

"(A) in fiscal year 1993—

"(i) for vessels of more than 21 feet in length but less than 27 feet, not more than $35;

"(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than $50; and

"(iii) for vessels of at least 40 feet in length, not more than $100.

"(B) in fiscal year 1994—

"(i) for vessels of at least 37 feet in length but less than 40 feet, not more than $50; and

"(ii) for vessels of at least 40 feet in length, not more than $100.";

46 USC 2110 note.

(b) EFFECTIVE DATE.—The amendments made by this section are effective October 1, 1992.

46 USC app. 1707a.

SEC. 502. AUTOMATED TARIFF FILING AND INFORMATION SYSTEM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Federal Maritime Commission.

(2) COMMON CARRIER.—The term "common carrier" means a common carrier under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702), a common carrier by water in interstate commerce under the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), or a common carrier by water in intercoastal commerce under the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(3) CONFERENCE.—The term "conference" has the meaning given that term under section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702).

(4) ESSENTIAL TERMS OF SERVICE CONTRACTS.—The term "essential terms of service contracts" means the essential terms that are required to be filed with the Commission and made available under section 8(c) of the Shipping Act of 1984 (46 App. U.S.C. 1707(c)).

(5) TARIFF.—The term "tariff" means a tariff of rates, charges, classifications, rules, and practices required to be filed by a common carrier or conference under section 8 of the Shipping Act of 1984 (46 App. U.S.C. 1707), or a rate, fare, charge, classification, rule, or regulation required to be filed by a common carrier or conference under the Shipping Act, 1916 (46 U.S.C. 801 et seq.), or the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(b) TARIFF FORM AND AVAILABILITY.—

(1) REQUIREMENT TO FILE.—Notwithstanding any other law, each common carrier and conference shall, in accordance with subsection (c), file electronically with the Commission all tariffs, and all essential terms of service contracts, required to be

filed by that common carrier or conference under the Shipping Act of 1984 (46 App. U.S.C. 1701 et seq.), the Shipping Act, 1916 (46 App. U.S.C. 801 et seq.), and the Intercoastal Shipping Act, 1933 (46 App. U.S.C. 843 et seq.).

(2) AVAILABILITY OF INFORMATION.—The Commission shall make available electronically to any person, without time, quantity, or other limitation, both at the Commission headquarters and through appropriate access from remote terminals—

(A) all tariff information, and all essential terms of service contracts, filed in the Commission's Automated Tariff Filing and Information System database; and

(B) all tariff information in the System enhanced electronically by the Commission at any time.

(c) FILING SCHEDULE.—New tariffs and new essential terms of service contracts shall be filed electronically not later than July 1, 1992. All other tariffs, amendments to tariffs, and essential terms of service contracts shall be filed not later than September 1, 1992.

(d) FEES.—

(1) AMOUNT OF FEE.—The Commission shall charge, beginning July 1 of fiscal year 1992 and in fiscal years 1993, 1994, and 1995—

(A) a fee of 46 cents for each minute of remote computer access by any individual of the information available electronically under this section; and

(B)(i) for electronic copies of the Automated Tariff Filing and Information System database (in bulk), or any portion of the database, a fee reflecting the cost of providing those copies, including the cost of duplication, distribution, and user-dedicated equipment; and

(ii) for a person operating or maintaining information in a database that has multiple tariff or service contract information obtained directly or indirectly from the Commission, a fee of 46 cents for each minute that database is subsequently accessed by computer by any individual.

(2) EXEMPTION FOR FEDERAL AGENCIES.—A Federal agency is exempt from paying a fee under this subsection.

(e) ENFORCEMENT.—The Commission shall use systems controls or other appropriate methods to enforce subsection (d).

(f) PENALTIES.—

(1) CIVIL PENALTIES.—A person failing to pay a fee established under subsection (d) is liable to the United States Government for a civil penalty of not more than $5,000 for each violation.

(2) CRIMINAL PENALTIES.—A person that willfully fails to pay a fee established under subsection (d) commits a class A misdemeanor.

(g) AUTOMATIC FILING IMPLEMENTATION.—

(1) CERTIFICATION OF SOFTWARE.—Software that provides for the electronic filing of data in the Automated Tariff Filing and Information System shall be submitted to the Commission for certification. Not later than fourteen days after a person submits software to the Commission for certification, the Commission shall—

(A) certify the software if it provides for the electronic filing of data; and

Federal Register, publication.

(B) publish in the Federal Register notice of that certification.

(2) REPAYABLE ADVANCE.—

(A) AVAILABILITY AND USE OF ADVANCE.—Upon the date of enactment of this Act, the Secretary of the Treasury shall make available to the Commission, as a repayable advance, not more than $4,000,000, to remain available until expended. The Commission shall spend these funds to complete and upgrade the capacity of the Automated Tariff Filing and Information System to provide access to information under this section.

(B) REQUIREMENT TO REPAY.—

(i) IN GENERAL.—Any advance made to the Commission under subparagraph (A) shall be repaid, with interest, to the general fund of the Treasury not later than September 30, 1995.

(ii) INTEREST.—Interest on any advance made to the Commission under subparagraph (A)—

(I) shall be at a rate determined by the Secretary of the Treasury, as of the close of the calendar month preceding the month in which the advance is made, to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding; and

(II) shall be compounded annually.

(3) USE OF RETAINED AMOUNTS.—Out of amounts collected by the Commission under this section, amounts shall be retained and expended by the Commission for each fiscal year, without fiscal year limitation, to carry out this section and pay back the Secretary of the Treasury for the advance made available under paragraph (2).

(4) DEPOSIT IN TREASURY.—Except for the amounts retained by the Commission under paragraph (3), fees collected under this section shall be deposited in the general fund of the Treasury as offsetting receipts.

(h) RESTRICTION.—No fee may be collected under this section after fiscal year 1995.

(i) CONFORMING AMENDMENT.—Section 2 of the Act of August 16, 1989 (46 App. U.S.C. 1111c), is repealed.

Approved November 2, 1992.

LEGISLATIVE HISTORY—H.R. 2152 (S. 884):

HOUSE REPORTS: No. 102-262, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Ways and Means).
CONGRESSIONAL RECORD:
Vol. 137 (1991): Aug. 1, S. 884 considered and passed Senate.
Vol. 138 (1992): Feb. 25, H.R. 2152 considered and passed House.
July 31, considered and passed Senate, amended.
Aug. 10, House concurred in Senate amendment with amendments.
Aug. 12, Senate concurred in House amendments with an amendment.
Oct. 4, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Nov. 2, Presidential statement.

Public Law 102-583
102d Congress

An Act

Nov. 2, 1992
[H.R. 6187]

To amend the Foreign Assistance Act of 1961 with respect to international narcotics control programs and activities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

International Narcotics Control Act of 1992.
22 USC 2151 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Narcotics Control Act of 1992".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Authorizations of appropriations.
Sec. 4. Amendments relating to certain authorities and requirements.
Sec. 5. Annual reporting and certification requirements.
Sec. 6. Technical, conforming, and other amendments; repeal of obsolete provisions.
Sec. 7. Exemption of narcotics-related military assistance for fiscal years 1993 and 1994 from prohibition on assistance for law enforcement agencies.
Sec. 8. Waiver of restrictions for narcotics-related economic assistance.
Sec. 9. Transfers of excess defense articles for counternarcotics purposes.
Sec. 10. Participants in international military education and training programs.
Sec. 11. Definition of appropriate congressional committees.
Sec. 12. Export-Import Bank financing of sales of defense articles or services.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

22 USC 2291a.

Section 482(a)(1) of the Foreign Assistance Act of 1961 is amended by striking out "$115,000,000 for fiscal year 1990" and inserting in lieu thereof "$147,783,000 for fiscal year 1993 and $171,500,000 for fiscal year 1994".

SEC. 4. AMENDMENTS RELATING TO CERTAIN AUTHORITIES AND REQUIREMENTS.

22 USC 2291.

(a) POLICY STATEMENT.—Section 481 of the Foreign Assistance Act of 1961 is amended by striking out the section designation and section heading and subsection (a)(1) and inserting in lieu thereof the following:

"SEC. 481. POLICY, GENERAL AUTHORITIES, COORDINATION, FOREIGN POLICE ACTIONS, DEFINITIONS, AND OTHER PROVISIONS.

"(a) POLICY AND GENERAL AUTHORITIES.—

"(1) STATEMENTS OF POLICY.—(A) International narcotics trafficking poses an unparalleled transnational threat in today's world, and its suppression is among the most important foreign policy objectives of the United States.

"(B) Under the Single Convention on Narcotic Drugs, 1961, and under the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, the parties are required to criminalize certain drug-related activities, pro-

vide appropriately severe penalties, and cooperate in the extradition of accused offenders.

"(C) International narcotics control programs should include, as priority goals, the suppression of the illicit manufacture of and trafficking in narcotic and psychotropic drugs, money laundering, and precursor chemical diversion, and the progressive elimination of the illicit cultivation of the crops from which narcotic and psychotropic drugs are derived.

"(D) The international community should provide assistance, where appropriate, to those producer and transit countries which require assistance in discharging these primary obligations.

"(E) The objective of the United States in dealing with the problem of international money laundering is to ensure that countries adopt comprehensive domestic measures against money laundering and cooperate with each other in narcotics money laundering investigations, prosecutions, and related forfeiture actions.

"(F) Effective international cooperation is necessary to control the illicit cultivation, production, and smuggling of, trafficking in, and abuse of narcotic and psychotropic drugs.".

(b) AUTHORITY TO CONCLUDE AGREEMENTS.—Section 481(a)(2) of that Act is amended by inserting ", including reciprocal maritime agreements," after "agreements". 22 USC 2291.

(c) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—Section 481(b) of that Act is amended to read as follows:

"(b) COORDINATION OF ALL UNITED STATES ANTINARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.—

"(1) RESPONSIBILITY OF SECRETARY OF STATE.—Consistent with subtitle A of title I of the Anti-Drug Abuse Act of 1988, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

"(2) RULE OF CONSTRUCTION.—Nothing contained in this subsection or section 489(b) shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.".

(d) MARITIME LAW ENFORCEMENT IN ARCHIPELAGIC WATERS.—Section 481(c)(4) of that Act is amended by inserting "or archipelagic waters" after "sea".

(e) PROCUREMENT OF WEAPONS AND AMMUNITION.—Section 482(b) of that Act is amended to read as follows: 22 USC 2291a.

"(b) PROCUREMENT OF WEAPONS AND AMMUNITION.—

"(1) PROHIBITION.—Except as provided in paragraph (2), funds made available to carry out this chapter shall not be made available for the procurement of weapons or ammunition.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply with respect to funds for the procurement of—

"(A) weapons or ammunition provided only for the defensive arming of aircraft used for narcotics-related purposes, or

"(B) firearms and related ammunition provided only for defensive purposes to employees or contract personnel

of the Department of State engaged in activities under this chapter,

if, at least 15 days before obligating those funds, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.".

(f) REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.—

22 USC 2291c.

(1) RETENTION OF TITLE.—Section 484 of that Act is amended to read as follows:

"SEC. 484. REQUIREMENTS RELATING TO AIRCRAFT AND OTHER EQUIPMENT.

"(a) RETENTION OF TITLE TO AIRCRAFT.—

"(1) IN GENERAL.—(A) Except as provided in paragraph (2), any aircraft made available to a foreign country under this chapter, or made available to a foreign country primarily for narcotics-related purposes under any other provision of law, shall be provided only on a lease or loan basis.

"(B) Subparagraph (A) applies to aircraft made available at any time after October 27, 1986 (which was the date of enactment of the International Narcotics Control Act of 1986).

"(2) EXCEPTIONS.—(A) Paragraph (1) shall not apply to the extent that—

"(i) the application of that paragraph with respect to particular aircraft would be contrary to the national interest of the United States; and

"(ii) the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(B) Paragraph (1) does not apply with respect to aircraft made available to a foreign country under any provision of law that authorizes property that has been civilly or criminally forfeited to the United States to be made available to foreign countries.

"(3) ASSISTANCE FOR LEASING OF AIRCRAFT.—(A) For purposes of satisfying the requirement of paragraph (1), funds made available for the 'Foreign Military Financing Program' under section 23 of the Arms Export Control Act may be used to finance the leasing of aircraft under chapter 6 of that Act.

"(B) Section 61(a)(3) of that Act shall not apply with respect to leases so financed; rather the entire cost of any such lease (including any renewals) shall be an initial, one time payment of the amount which would be the sales price for the aircraft if they were sold under section 21(a)(1)(B) or section 22 of that Act (as appropriate).

"(C) To the extent that aircraft so leased were acquired under chapter 5 of that Act, funds used pursuant to this paragraph to finance such leases shall be credited to the Special Defense Acquisition Fund under chapter 5 of that Act (excluding the amount of funds that reflects the charges described in section 21(e)(1) of that Act). The funds described in the parenthetical clause of the preceding sentence shall be available for payments consistent with sections 37(a) and 43(b) of that Act.".

(2) PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.—Chapter 8 of part I of that Act is amended—

(A) by striking out the section designation and section heading of section 489; 22 USC 2291h.

(B) in subsection (a) of section 489, by striking out "IN GENERAL" and inserting in lieu thereof "PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT";

(C) in subsection (b) of section 489 by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)";

(D) by redesignating subsections (a) and (b) of section 489 as subsections (b) and (c) of section 484 and inserting those subsections after subsection (a) of section 484 (as amended by paragraph (1) of this subsection); and 22 USC 2291h, 2291c.

(E) by repealing subsections (c) and (d) of section 489.

(3) RECORDS OF AIRCRAFT USE.—Section 485 of that Act is amended by striking out "Secretary of State" both places it appears and inserting in lieu thereof "President". 22 USC 2291d.

(g) ACQUISITION OF REAL PROPERTY; CONSTRUCTION OF FACILITIES.—Section 488 of that Act is amended to read as follows: 22 USC 2291g.

"SEC. 488. LIMITATIONS ON ACQUISITION OF REAL PROPERTY AND CONSTRUCTION OF FACILITIES.

"(a) ACQUISITION OF REAL PROPERTY.—

"(1) PROHIBITION.—Funds made available to carry out this chapter may not be used to acquire (by purchase or other means) any land or other real property for use by foreign military, paramilitary, or law enforcement forces.

"(2) EXCEPTION FOR CERTAIN LEASES.—Paragraph (1) shall not apply to the acquisition of real property by lease of a duration not to exceed 2 years.

"(3) REPORT.—The Secretary of State shall provide to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate within 30 days after the end of each quarter of the fiscal year a detailed report on all leases entered into pursuant to paragraph (2), including the cost and duration of such lease, a description of the property leased, and the purpose for which such lease was entered into.

"(b) CONSTRUCTION OF FACILITIES.—

"(1) LIMITATION.—Funds made available to carry out this chapter may not be used for construction of facilities for use by foreign military, paramilitary, or law enforcement forces unless, at least 15 days before obligating funds for such construction, the President notifies the appropriate congressional committees in accordance with procedures applicable to reprogramming notifications under section 634A.

"(2) EXCEPTION.—Paragraph (1) shall not apply to the construction of facilities which would require the obligation of less than $750,000 under this chapter.".

SEC. 5. ANNUAL REPORTING AND CERTIFICATION REQUIREMENTS.

(a) REVISION OF REQUIREMENTS FOR FISCAL YEARS 1993 AND 1994.—Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by the preceding section of this Act, is amended by adding at the end the following:

22 USC 2291h.

"SEC. 489. REPORTING REQUIREMENTS FOR FISCAL YEARS 1993 AND 1994.

President.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—Not later than April 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report containing the following:

"(1) For each country that received assistance under this chapter for either of the 2 preceding fiscal years, a report on the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport, and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(2)(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including appropriate information on the status of negotiations between the United States and other countries on updated extradition treaties, mutual legal assistance treaties, precursor chemical controls, money laundering, and agreements pursuant to section 2015 of the International Narcotics Act of 1986 (relating to interdiction procedures for vessels of foreign registry).

"(B) Information on multilateral and bilateral strategies with respect to money laundering pursued by the Department of State, the Department of Justice, the Department of the Treasury, and other relevant United States Government agencies, either collectively or individually, to ensure the cooperation of foreign governments with respect to narcotics-related money laundering and to demonstrate that all United States Government agencies are pursuing a common strategy with respect to major money laundering countries. The report shall include specific detail to demonstrate that all United States Government agencies are pursuing a common strategy with respect to achieving international cooperation against money laundering and are pursuing a common strategy with respect to major money laundering countries, including a summary of United States objectives on a country-by-country basis.

"(3) The identity of those countries which are—

"(A) major illicit drug producing countries or major drug-transit countries as determined under section 490(h);

"(B) the significant direct or indirect sources of narcotics and psychotropic drugs and other controlled substances significantly affecting the United States;

"(C) major sources of precursor chemicals used in the production of illicit narcotics; or

"(D) major money laundering countries.

"(4) In addition, for each country identified pursuant to paragraph (3), the following:

"(A) A description of the plans, programs, and timetables adopted by such country, including efforts to meet the objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with those plans.

"(B) Whether as a matter of government policy or practice, such country encourages or facilitates the illicit production or distribution of narcotic or psychotropic drugs or other controlled substances or the laundering of proceeds from illegal drug transactions; and whether any senior official of the government of such country engages in, encourages, or facilitates the illicit production or distribution of such drugs or substances, or the laundering of proceeds from illegal drug transactions.

"(5) In addition, for each country identified pursuant to paragraph (3)(A) or (3)(B), a detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(6) In addition, for those countries identified pursuant to paragraph (3)(C)—

"(A) which countries are parties to international agreements on a method for maintaining records of transactions of an established list of precursor and essential chemicals;

"(B) which countries have established a procedure by which such records may be made available to United States law enforcement authorities; and

"(C) which countries have enacted national chemical control legislation which would impose specific record-keeping and reporting requirements for listed chemicals, establish a system of permits or declarations for imports and exports of listed chemicals, and authorize government officials to seize or suspend shipments of listed chemicals.

"(7) In addition, for those countries identified pursuant to paragraph (3)(D) the following:

"(A)(i) Which countries have financial institutions engaging in currency transactions involving international narcotics trafficking proceeds that include significant amounts of United States currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States;

"(ii) which countries identified pursuant to clause (i) have not reached agreement with the United States authorities on a mechanism for exchanging adequate

records in connection with narcotics investigations and proceedings; and

"(iii) which countries identified pursuant to clause (ii)—

"(I) are negotiating in good faith with the United States to establish such a record-exchange mechanism, or

"(II) have adopted laws or regulations that ensure the availability to appropriate United States Government personnel and those of other governments of adequate records in connection with narcotics investigations and proceedings.

"(B) Which countries—

"(i) have ratified the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and are taking steps to implement that Convention and other applicable agreements and conventions such as the recommendations of the Financial Action Task Force, the policy directive of the European Community, the legislative guidelines of the Organization of American States, and other similar declarations; and

"(ii) have entered into bilateral agreements for the exchange of information on money-laundering with countries other than the United States.

"(C) Findings on each country's adoption of law and regulations considered essential to prevent narcotics-related money laundering. Such findings shall include whether a country has—

"(i) criminalized narcotics money laundering;

"(ii) required banks and other financial institutions to know and record the identity of customers engaging in significant transactions, including the recording of large currency transactions at thresholds appropriate to that country's economic situation;

"(iii) required banks and other financial institutions to maintain, for an adequate time, records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics-related money laundering cases;

"(iv) required or allowed financial institutions to report suspicious transactions;

"(v) established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets;

"(vi) enacted laws for the sharing of seized narcotics assets with other governments;

"(vii) cooperated, when requested, with appropriate law enforcement agencies of other governments investigating financial crimes related to narcotics; and

"(viii) addressed the problem on international transportation of illegal-source currency and monetary instruments.

The report shall also detail instances of refusals to cooperate with foreign governments, and any actions taken by the United States Government and any international organization to

address such obstacles, including the imposition of sanctions or penalties.

"(b) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided or proposed to be provided by the United States Government during the preceding fiscal year, the current fiscal year, and the next fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided or to be provided;

"(B) include, for each country identified in subsection (a)(3)(A), information from the Drug Enforcement Administration, the Customs Service, and the Coast Guard describing in detail—

"(i) the assistance provided or to be provided to such country by that agency, and

"(ii) the assistance provided or to be provided to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

"(c) DEFINITIONS.—As used in this section—

"(1) the term 'precursor chemical' has the same meaning as the term 'listed chemical' has under paragraph (33) of section 102 of the Controlled Substances Act (21 U.S.C. 902(33)); and

"(2) the term 'major money laundering country' means a country whose financial institutions engage in currency transactions involving significant amounts of proceeds from international narcotics trafficking.

"(d) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal years 1993 and 1994. Section 489A does not apply during those fiscal years.

"SEC. 489A. REPORTING REQUIREMENTS APPLICABLE AFTER SEPTEMBER 30, 1994. 22 USC 2291i.

"(a) INTERNATIONAL NARCOTICS CONTROL STRATEGY REPORT.—

"(1) REQUIREMENT FOR REPORT.—Not later than March 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a report on United States policy to establish and encourage an international strategy to prevent the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances. President.

"(2) CONTENTS.—Each report pursuant to this subsection shall include the following:

"(A) A description of the policies adopted, agreements concluded, and programs implemented by the Department of State in pursuit of its delegated responsibilities for international narcotics control, including policy development, bilateral and multilateral funding and other support for international narcotics control projects, representations of the United States Government to international organizations and agencies concerned with narcotics control, training of foreign enforcement personnel, coordination of the international narcotics control activities of United States Government agencies, and technical assistance to international demand reduction programs.

"(B) A description of the activities of the United States in international financial institutions to combat the entry of narcotic and psychotropic drugs and other controlled substances into the United States for the fiscal year just ended, for the current fiscal year, and for the next fiscal year.

"(C) The identity of those countries which are the significant direct or indirect sources of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States. For each such country, each report shall include the following:

"(i) A detailed status report, with such information as can be reliably obtained, on the narcotic or psychotropic drugs or other controlled substances which are being cultivated, produced, or processed in or transported through such country, noting significant changes in conditions, such as increases or decreases in the illicit cultivation and manufacture of and traffic in such drugs and substances.

"(ii) A description of the assistance under this chapter and the other kinds of United States assistance which such country received in the preceding fiscal year, which are planned for such country for the current fiscal year, and which are proposed for such country for the next fiscal year, with an analysis of the impact that the furnishing of each such kind of assistance has had or is expected to have on the illicit cultivation and manufacture of and traffic in narcotic and psychotropic drugs and other controlled substances in such country.

"(iii) A description of the plans, programs, and timetables adopted by such country for the progressive elimination of the illicit cultivation of narcotic and psychotropic drugs and other controlled substances, and a discussion of the adequacy of the legal and law enforcement measures taken and the accomplishments achieved in accord with these plans.

"(iv) A discussion of the extent to which such country has cooperated with United States narcotics control efforts through the extradition or prosecution of drug traffickers, and, where appropriate, a description of the status of negotiations with such country to nego-

tiate a new or updated extradition treaty relating to narcotics offenses.

"(D) For each major illicit drug producing country for which the President is proposing to furnish United States assistance for the next fiscal year, a determination by the President of the maximum reductions in illicit drug production which are achievable during the next fiscal year. Each such determination shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.

"(E) For each major illicit drug producing country which received United States assistance for the preceding fiscal year, the actual reductions in illicit drug production achieved by that country during such fiscal year.

"(F) Specific comments and recommendations by appropriate Federal agencies involved in drug enforcement, including the United States Customs Service and the Drug Enforcement Administration, with respect to the degree to which countries listed in the report have, during the preceding year, cooperated fully with such agencies (as described in section 490A(b)).

"(G) A description of the United States assistance for the preceding fiscal year which was denied, pursuant to section 490 or 490A, to each major illicit drug producing country and each major drug-transit country.

"(b) MIDYEAR REPORT.—Not later than September 1 of each year, the President shall transmit to the Speaker of the House of Representatives, and to the Committee on Foreign Relations of the Senate, a complete and detailed midyear report on the activities and operations carried out under this chapter prior to such date. Such midyear report shall include the status of each agreement concluded prior to such date with other countries to carry out this chapter. President.

"(c) ANNUAL REPORTS ON ASSISTANCE.—

"(1) IN GENERAL.—At the time that the report required by subsection (a) is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

"(2) INFORMATION TO BE INCLUDED.—Each report pursuant to this subsection shall—

"(A) specify the amount and nature of the assistance provided;

"(B) include, for each country which is a significant direct or indirect source of narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

"(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

"(ii) the assistance provided or to be provided (as the case may be) to that agency by such country, with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year; and

"(C) list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

22 USC 2291j.

"SEC. 490. ANNUAL CERTIFICATION PROCEDURES FOR FISCAL YEARS 1993 AND 1994.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country (as determined under subsection (h)) shall be withheld from obligation and expenditure, except as provided in subsection (b). This paragraph shall not apply with respect to a country if the President determines that its application to that country would be contrary to the national interest of the United States, except that any such determination shall not take effect until at least 15 days after the President submits written notification of that determination to the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A.

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after April 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country (as determined under subsection (h)), except as provided in subsection (b). For purposes of this paragraph, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

"(b) CERTIFICATION PROCEDURES.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own, to achieve full compliance with the goals and objectives established by the United Nations

Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) CONSIDERATIONS REGARDING COOPERATION.—In making the determination described in paragraph (1)(A), the President shall consider the extent to which the country has—

"(A) met the goals and objectives of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, including action on such issues as illicit cultivation, production, distribution, sale, transport and financing, and money laundering, asset seizure, extradition, mutual legal assistance, law enforcement and transit cooperation, precursor chemical control, and demand reduction;

"(B) accomplished the goals described in an applicable bilateral narcotics agreement with the United States or a multilateral agreement; and

"(C) taken legal and law enforcement measures to prevent and punish public corruption, especially by senior government officials, that facilitates the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or that discourages the investigation or prosecution of such acts.

"(3) INFORMATION TO BE INCLUDED IN NATIONAL INTEREST CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(c) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under subsection (b)(1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 calendar days after receipt of a certification submitted under subsection (b) at the time of submission of the report required by section 489(a), the Congress enacts a joint resolution disapprov-

ing the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—Subsection (e) shall apply to a country described in that subsection until—

"(1) the President, at the time of submission of the report required by section 489(a), makes a certification under subsection (b)(1)(A) or (b)(1)(B) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(2) the President, at any other time, makes the certification described in subsection (b)(1)(B) with respect to that country, except that this paragraph applies only if either—

"(A) the President also certifies that—

"(i) that country has undergone a fundamental change in government, or

"(ii) there has been a fundamental change in the conditions that were the reason—

"(I) why the President had not made a certification with respect to that country under subsection (b)(1)(A), or

"(II) if he had made such a certification and the Congress enacted a joint resolution disapproving the determination contained in the certification, why the Congress enacted that joint resolution; or

"(B) the Congress enacts a joint resolution approving the determination contained in the certification under subsection (b)(1)(B).

Any certification under subparagraph (A) of paragraph (2) shall discuss the justification for the certification.

"(g) CONGRESSIONAL REVIEW PROCEDURES.—

"(1) SENATE.—Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(2) HOUSE OF REPRESENTATIVES.—For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(h) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES FOR FISCAL YEARS 1993 AND 1994.—

Not later than January 1 of each year, the President shall notify the appropriate committees of the Congress of which countries have been determined to be major drug-transit countries, and which countries have been determined to be major illicit drug producing countries, for purposes of this Act. President.

"(i) EFFECTIVE DATES OF SECTIONS.—This section applies only during fiscal years 1993 and 1994. During those fiscal years, section 490A does not apply and the definitions provided in section 481(e)(2) and (5) do not apply.

"SEC. 490A. ANNUAL CERTIFICATION PROCEDURES AFTER SEPTEMBER 30, 1994. 22 USC 2291k.

"(a) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—

"(1) BILATERAL ASSISTANCE.—Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653 for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in subsection (b).

"(2) MULTILATERAL ASSISTANCE.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in subsection (b). For purposes of this paragraph, the term 'multilateral development bank' means the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the European Bank for Reconstruction and Development.

"(b) CERTIFICATION PROCEDURE.—

"(1) WHAT MUST BE CERTIFIED.—Subject to subsection (d), the assistance withheld from a country pursuant to subsection (a)(1) may be obligated and expended, and the requirement of subsection (a)(2) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by section 489A(a), that—

"(A) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(i) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (2)) or a multilateral agreement which achieves the objectives of paragraph (2),

"(ii) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(iii) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(iv) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(B) for a country that would not otherwise qualify for certification under subparagraph (A), the vital national interests of the United States require that the assistance withheld pursuant to subsection (a)(1) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to subsection (a)(2).

"(2) BILATERAL NARCOTICS AGREEMENT.—A bilateral narcotics agreement referred to in paragraph (1)(A)(i) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(A) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(B) increase drug interdiction and enforcement;

"(C) increase drug treatment;

"(D) increase the identification of and elimination of illicit drug laboratories;

"(E) increase the identification of, and elimination of trafficking in, essential precursor chemicals for use in the illicit production of narcotic and psychotropic drugs and other controlled substances;

"(F) increase cooperation with United States drug enforcement officials; and

"(G) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(3) REQUIREMENT FOR NARCOTICS AGREEMENT FOR CERTAIN COUNTRIES.—A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under paragraph (1)(A) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of paragraph (2).

"(4) INFORMATION TO BE INCLUDED IN CERTIFICATION.—If the President makes a certification with respect to a country pursuant to paragraph (1)(B), the President shall include in such certification—

"(A) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this section and multilateral development bank assistance is not provided to such country; and

"(B) a statement weighing the risk described in subparagraph (A) against the risks posed to the vital national interests of the United States by the failure of

such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(5) LICIT OPIUM PRODUCING COUNTRIES.—The President may make a certification under paragraph (1)(A) with respect to a major illicit drug producing country, or major drug-transit country, that is a producer of licit opium only if the President determines that such country has taken adequate steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(c) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by subsection (b) with respect to a country, the President shall consider the following:

"(1) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 489A(a)(2)(D)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by subsection (b)(1)(A), to whether the government of that country has taken actions which have resulted in such reductions.

"(2) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(3) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(A) the enactment and enforcement by that government of laws prohibiting such conduct;

"(B) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering; and

"(C) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(4) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the illicit production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(5) Has that government, as a matter of government policy or practice, encouraged or facilitated the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(6) Does any senior official of that government engage in, encourage, or facilitate the illicit production or distribution of narcotic and psychotropic drugs and other controlled substances?

"(7) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities has been the victim, since January 1, 1985, of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(8) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(9) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(10) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(11) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(d) CONGRESSIONAL REVIEW.—Subsection (e) shall apply if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under subsection (b), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(e) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under subsection (b) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in subsection (f)(1) are satisfied—

"(1) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(2) the requirement to vote against multilateral development bank assistance pursuant to subsection (a)(2) shall apply with respect to that country, without regard to the date specified in that subsection.

"(f) RECERTIFICATION.—

"(1) TIME OF RECERTIFICATION; CONGRESSIONAL ACTION.—Subsection (e) shall apply to a country described in that subsection until—

"(A) the President makes a certification under subsection (b) with respect to that country, and the Congress does not enact a joint resolution under subsection (d) disapproving the determination of the President contained in that certification; or

"(B) the President submits, at any other time, a certification described in subparagraph (A) or (B) of subsection (b)(1) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.

"(2) CONGRESSIONAL REVIEW PROCEDURES.—(A) Any joint resolution under this section shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

"(B) For the purpose of expediting the consideration and enactment of joint resolutions under this section, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

"(g) DETERMINING MAJOR DRUG-TRANSIT AND MAJOR ILLICIT DRUG PRODUCING COUNTRIES AFTER SEPTEMBER 30, 1994.—

"(1) ESTABLISHMENT OF GUIDELINES.—For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subparagraphs (A) and (B) of section 481(e)(5).

"(2) NOTICE TO CONGRESS OF PRELIMINARY STANDARDS.—Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) NOTICE TO CONGRESS OF PRELIMINARY DETERMINATIONS.—Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries have been determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries have been determined to be major illicit drug producing countries for that year.".

(b) DEFINITION OF UNITED STATES ASSISTANCE.—Paragraph (4) of section 481(i) of that Act is amended to read as follows: 22 USC 2291.

"(4) the term 'United States assistance' means—

"(A) any assistance under this Act (including programs under title IV of chapter 2, relating to the Overseas Private Investment Corporation), other than—

"(i) assistance under this chapter,

"(ii) any other narcotics-related assistance under this part (including chapter 4 of part II), but any such assistance provided under this clause shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act,

"(iii) disaster relief assistance, including any assistance under chapter 9 of this part,

"(iv) assistance which involves the provision of food (including monetization of food) or medicine, and

"(v) assistance for refugees;

"(B) sales, or financing on any terms, under the Arms Export Control Act;

"(C) the provision of agricultural commodities, other than food, under the Agricultural Trade Development and Assistance Act of 1954; and

"(D) financing under the Export-Import Bank Act of 1945;".

SEC. 6. TECHNICAL, CONFORMING, AND OTHER AMENDMENTS; REPEAL OF OBSOLETE PROVISIONS.

22 USC 2291h note.

(a) STATUTORY REFERENCES TO ANNUAL REPORTS, CERTIFICATIONS, AND DEFINITIONS.—After September 30, 1994, any reference in any provision of law to section 489 or 490 of the Foreign Assistance Act of 1961 shall be deemed to be a reference to the corresponding provision of section 489A or 490A, respectively, unless the context requires otherwise. Any reference in any provision of law enacted before the date of enactment of this Act to section 481(e) or section 481(i) of that Act shall be deemed to be a reference to section 489 or section 481(e) (as amended by subsection (b)(3) of this section), respectively; and any reference in any provision of law enacted before the date of enactment of this Act to section 481(h) of that Act shall be deemed, as of October 1, 1992, to be a reference to section 490.

(b) TECHNICAL AND CONFORMING AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended as follows:

22 USC 2291.

(1) Section 481(d)(3) is amended by striking out "subsection (e)" and inserting in lieu thereof "section 489(a)".

(2) Subsections (e), (f), (g), (h), (j), and (k) of section 481 are repealed.

(3) Subsection (i) of section 481 is amended by striking out "(i) As used in this section—" and inserting in lieu thereof "(e) DEFINITIONS.—Except as provided in sections 490(h) and (i) with respect to the definition of major illicit drug producing country and major drug-transit country, for purposes of this chapter and other provisions of this Act relating specifically to international narcotics matters—".

22 USC 2291a.

(4) Subsection (c) of section 482 is repealed, and subsection (d) of that section is redesignated as subsection (c).

22 USC 2291e.

(5) Section 486 is amended—

(A) in subsection (a), in the text preceding paragraph (1), by striking out "481(h)" and inserting in lieu thereof "490"; and

(B) in subsection (b), by striking out "(relating to foreign military sales financing)" and inserting in lieu thereof "(relating to the 'Foreign Military Financing Program')".

22 USC 2291f.

(6) Section 487(a)(1) is amended by striking out "(as defined in section 481(i)(3) of this Act)".

(c) CONFORMING AMENDMENTS TO EXPORT-IMPORT BANK ACT.—

12 USC 635.

Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended—

(1) in subparagraph (B)(iii), by striking out "481(h)(5)" and inserting in lieu thereof "490(e)"; and

(2) in subparagraph (C)(ii), by striking out "defined in section 481(i)" and inserting in lieu thereof "determined under section 490(h) or 481(e), as appropriate,".

(d) AMENDMENT TO 1989 DRUG ACT.—Section 3 of the International Narcotics Control Act of 1989 is amended by adding at the end the following: 22 USC 2291 note.

"(j) CERTAIN FUNDING LIMITATIONS.—The dollar limitations specified in subsections (c)(1) and (d)(1) shall not apply after the date of enactment of this subsection.".

(e) REPEAL OF OBSOLETE PROVISIONS.—

(1) 1988 DRUG ACT.—All sections of the International Narcotics Control Act of 1988 (which is title IV of the Anti-Drug Abuse Act of 1988) are repealed except for sections 4001, 4306, 4308, 4309, 4501, 4702, and 4804. Section 4501(b) of that Act is amended by striking out "Section 4601 of this title" and inserting in lieu thereof "Section 489(b) of the Foreign Assistance Act of 1961". 102 Stat. 4261; 22 USC 2291-3. 22 USC 2291-2.

(2) 1986 DRUG ACT.—All sections of the International Narcotics Control Act of 1986 (which is title II of the Anti-Drug Abuse Act of 1986) are repealed except for sections 2001, 2010, 2015, 2018, and 2029. 100 Stat. 3207-60; 22 USC 2291 note, 2291-1.

SEC. 7. EXEMPTION OF NARCOTICS-RELATED MILITARY ASSISTANCE FOR FISCAL YEARS 1993 AND 1994 FROM PROHIBITION ON ASSISTANCE FOR LAW ENFORCEMENT AGENCIES. 22 USC 2420 note.

(a) EXEMPTION.—For fiscal years 1993 and 1994, section 660 of the Foreign Assistance Act of 1961 shall not apply with respect to—

(1) transfers of excess defense articles under section 517 of that Act;

(2) funds made available for the "Foreign Military Financing Program" under section 23 of the Arms Export Control Act that are used for assistance provided for narcotics-related purposes; or

(3) international military education and training under chapter 5 of part II of the Foreign Assistance Act of 1961 that is provided for narcotics-related purposes.

(b) NOTIFICATION TO CONGRESS.—At least 15 days before any transfer under subsection (a)(1) or any obligation of funds under subsection (a)(2) or (a)(3), the President shall notify the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of the Foreign Assistance Act of 1961. President.

(c) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance provided pursuant to this section shall be coordinated with international narcotics control assistance under chapter 8 of part I of the Foreign Assistance Act of 1961.

SEC. 8. WAIVER OF RESTRICTIONS FOR NARCOTICS-RELATED ECONOMIC ASSISTANCE. 22 USC 2151 note.

For fiscal years 1992 through 1994, narcotics-related assistance under part I of the Foreign Assistance Act of 1961 may be provided notwithstanding any provision of law that restricts assistance to foreign countries (other than section 490(e) of that Act) if, at least 15 days before obligating funds for such assistance, the President notifies the appropriate congressional committees in accordance with the procedures applicable to reprogramming notifications under section 634A of that Act.

SEC. 9. TRANSFERS OF EXCESS DEFENSE ARTICLES FOR COUNTERNARCOTICS PURPOSES.

22 USC 2321k.

(a) CHANGES IN AUTHORITIES.—Section 517 of the Foreign Assistance Act of 1961 is amended—

(1) in the section heading, by striking out "MILITARY CAPABILITIES OF CERTAIN MAJOR ILLICIT DRUG PRODUCING" and inserting in lieu thereof "COUNTERNARCOTICS CAPABILITIES OF CERTAIN";

(2) in subsection (a)(1), by striking out "(as defined in section 481(i)(2))" and inserting in lieu thereof "or a major drug-transit country";

(3) in subsection (b)—

(A) by inserting "and local law enforcement agencies" after "military forces";

(B) by striking out "with local law enforcement agencies" and inserting in lieu thereof "cooperatively"; and

(C) by striking out "(as defined in section 481(i)(3))";

(4) in subsection (d), by striking out "4601 of the International Narcotics Control Act of 1988" and inserting in lieu thereof "481(b) of this Act";

(5) in subsection (i), by striking out "30" and inserting in lieu thereof "15"; and

(6) by adding at the end the following:

"(j) LIMITATION ON USE OF OTHER AUTHORITIES TO TRANSFER EXCESS DEFENSE ARTICLES.—The transfer authority provided in sections 518 and 519 may not be exercised with respect to any major illicit drug producing country or major drug-transit country in Latin America or the Caribbean.

"(k) EXCESS COAST GUARD PROPERTY.—As used in this section, the term 'excess defense articles' shall be deemed to include excess property of the Coast Guard, and the term 'Department of Defense' shall be deemed, with respect to such excess property, to include the Coast Guard.".

22 USC 2403.

(b) EXCLUSION OF CONSTRUCTION EQUIPMENT FROM DEFINITION OF EXCESS DEFENSE ARTICLES.—Section 644(g) of that Act is amended by inserting "(other than construction equipment, including tractors, scrapers, loaders, graders, bulldozers, dump trucks, generators, and compressors)" after "articles" the second place it appears.

SEC. 10. PARTICIPANTS IN INTERNATIONAL MILITARY EDUCATION AND TRAINING PROGRAMS.

22 USC 2347.

Section 541 of the Foreign Assistance Act of 1961 is amended—

(1) by inserting ", and may also include legislators," after "ministries of defense"; and

(2) by striking out "or (iii)" and inserting in lieu thereof "(iii) contribute to cooperation between military and law enforcement personnel with respect to counternarcotics law enforcement efforts, or (iv)".

SEC. 11. DEFINITION OF APPROPRIATE CONGRESSIONAL COMMITTEES.

22 USC 2291.

(a) FOREIGN ASSISTANCE ACT AMENDMENTS.—Section 481(e) of the Foreign Assistance Act of 1961, as amended by the preceding provisions of this Act, is amended—

(1) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(2) after paragraph (5) insert the following:

"(6) the term 'appropriate congressional committees' means the Committee on Foreign Affairs and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate.".

(b) FREE-STANDING PROVISIONS OF THIS ACT.—As used in this Act, the term "appropriate congressional committees" has the definition given that term by section 481(e)(6) of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section). 22 USC 2151 note.

SEC. 12. EXPORT-IMPORT BANK FINANCING OF SALES OF DEFENSE ARTICLES OR SERVICES.

(a) EXTENSION OF AUTHORITY.—Section 2(b)(6) of the Export-Import Bank Act of 1945 is amended by striking out "1992" in subparagraph (B)(vi) and inserting in lieu thereof "1997". 12 USC 635.

(b) ADDITIONAL CRITERIA FOR NATIONAL INTEREST WAIVER.—Section 2(b)(6)(D)(i) of that Act is amended by striking out "and" at the end of subclause (I), by redesignating subclause (II) as subclause (III), and by inserting after subclause (I) the following:

"(II) the President determines, after consultation with the Assistant Secretary of State for Human Rights and Humanitarian Affairs, that the purchasing country has complied with all restrictions imposed by the United States on the end use of any defense articles or services for which a guarantee or insurance was provided under subparagraph (B), and has not used any such defense articles or services to engage in a consistent pattern of gross violations of internationally recognized human rights; and".

(c) CONFORMING AMENDMENTS.—

(1) EXPORT-IMPORT BANK ACT.—Section 2(b)(6) of that Act is amended—

(A) in subparagraph (A), by striking out "designated" and all that follows through the end of the subparagraph and inserting in lieu thereof ", except as otherwise provided in subparagraph (B).";

(B) in subparagraph (B)—

(i) by striking out ", and section 32 of the Arms Export Control Act,"; and

(ii) in clause (v), by striking out "and services" and inserting in lieu thereof "or services";

(C) in subparagraph (D)(i)(III), as so redesignated by subsection (b) of this section, by striking out "determination has" and inserting in lieu thereof "determinations have"; and

(D) in subparagraph (D)(ii), by striking out "sentence" and inserting in lieu thereof "clause".

(2) ARMS EXPORT CONTROL ACT.—The Arms Export Control Act is amended by repealing section 32. 12 USC 635. 22 USC 2772.

(d) AVOIDANCE OF DUPLICATIVE AMENDMENTS.—If an Act is enacted during 1992 entitled "An Act to reauthorize the Export-Import Bank of the United States" that contains amendments identical to amendments made by this section, the amendments contained in this section that are identical to the amendments contained in that Act shall not be effective.

Approved November 2, 1992.

LEGISLATIVE HISTORY—H.R. 6187:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-584
102d Congress

An Act

Nov. 2, 1992
[S. 2572]

To authorize an exchange of lands in the States of Arkansas and Idaho.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arkansas-Idaho Land Exchange Act of 1992.
16 USC 668dd note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Arkansas-Idaho Land Exchange Act of 1992".

16 USC 668dd note.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Potlatch Corporation has offered to the United States Government an exchange of lands under which Potlatch would receive approximately 17,625 acres of scattered tracts of Federal lands in the State of Idaho in return for conveying to the United States lands owned by Potlatch consisting of approximately 40,922 acres of undisturbed bottomland hardwood lands in the State of Arkansas and approximately 1,170 acres of lands with important recreational and fisheries values in the State of Idaho;

(2) the lands in Arkansas that Potlatch has offered to convey to the United States are surrounded by Federal and State lands on the Cache and White Rivers which are designated as a "Wetland of International Importance" under the Convention on Wetlands of International Importance (commonly referred to as the "Ramsar Convention"), one of only 10 areas in the United States so designated;

(3) acquisition of these lands by the United States will remove the lands from sustained timber production and other development in the heart of this critical wetland ecosystem;

(4) the lands Potlatch has offered to convey to the United States will qualify for inclusion as a Wetland of International Importance under the Ramsar Convention;

(5) the lands Potlatch has offered to convey to the United States are outstanding fish and wildlife habitat and should continue to be made available for activities such as public hunting, fishing, trapping, nature observation, enjoyment, and education;

(6) the lands the United States would convey to Potlatch do not contain comparable fish, wildlife, or wetland values;

(7) appraisals of all lands to be conveyed in the exchange have been completed; and

(8) the United States and Potlatch have agreed to the values and boundaries of all lands to be conveyed in the exchange and concur that the lands to be conveyed by Potlatch and the lands to be conveyed by the United States are of equal value.

(b) PURPOSE.—The purpose of this Act is to authorize and require the Secretary and the Secretary of Agriculture to participate

in an exchange of lands that will provide environmental and economic benefits to the States of Arkansas and Idaho and to the Nation.

16 USC 668dd note.

SEC. 3. EXCHANGE.

(a) INTER-AGENCY LAND TRANSFERS.—

(1) TRANSFERS BETWEEN SECRETARY AND SECRETARY OF AGRICULTURE.—

(A) TRANSFER TO SECRETARY OF AGRICULTURE.—Notwithstanding the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), not later than 30 days after the date of the enactment of this Act, the Secretary shall transfer to the jurisdiction of the Secretary of Agriculture for inclusion in the National Forest System approximately 9,114 acres of public lands in the State of Idaho, as identified upon a map entitled "Arkansas-Idaho Exchange—Idaho Lands", dated July 1992 and available for inspection in appropriate offices of the Secretary.

(B) TRANSFER TO SECRETARY OF AGRICULTURE.—Subsequent to the exchange required by subsection (b), the Secretary shall transfer to the Secretary of Agriculture for inclusion in the National Forest System approximately 891 acres of public lands in the State of Idaho identified for postexchange transfer upon the map referenced in subparagraph (A).

(2) TRANSFER TO SECRETARY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Agriculture shall transfer to the Secretary for conveyance to Potlatch pursuant to subsection (b), approximately 7,979 acres of lands within the National Forest System in the State of Idaho, as identified upon the map referenced in subparagraph (A).

(b) EXCHANGE OF LANDS.—

(1) IN GENERAL.—Notwithstanding the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), within 60 days after the date of the enactment of this Act, the Secretary shall convey to Potlatch, in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and subject to paragraph (2) and any valid existing rights, approximately 17,625 acres of public lands in the State of Idaho identified for transfer to Potlatch on the map referenced in subsection (a)(1)(A) in exchange for lands owned by Potlatch consisting of—

(A) approximately 40,921 acres in the State of Arkansas, as depicted for transfer to the United States upon a map entitled "Arkansas-Idaho Land Exchange—Arkansas Lands," dated July 1992 and available for inspection in appropriate offices of the Secretary, and

(B) approximately 1,170 acres in the State of Idaho, as identified for transfer to the United States upon the map referenced in subsection (a)(1)(A).

(2) LIMITATION.—The Secretary may not convey any lands to Potlatch under this subsection unless title to the lands to be conveyed by Potlatch in exchange is in accordance with

the Department of Justice standards for the preparation of title evidence in land acquisitions by the United States.

(c) GENERAL PROVISIONS.—

(1) MAPS CONTROLLING.—To ensure the management benefits of consolidating isolated tracts of lands, any conflict between a number of acres of lands referred to in this Act and a depiction of the lands on a map referenced in this Act shall be resolved in favor of the map.

(2) CANCELLATION.—Prior to implementation of the exchange required by subsection (b), if Potlatch notifies the Secretary in writing that it no longer intends to complete the exchange, the lands referenced in subsection (a) shall revert to their status as of the day before the date of enactment of this Act, and shall be managed in accordance with applicable management plans.

(3) FINAL MAPS.—Not later than 6 months after the conclusion of the exchange required by subsection (b), the Secretary shall transmit maps accurately depicting the lands transferred and conveyed pursuant to this Act and the acreages and legal descriptions of such lands to the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Environment and Public Works of the Senate.

(4) WITHDRAWAL.—Subject to valid existing rights, the lands depicted for conveyance to Potlatch on the map referenced in subsection (a)(1)(A) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from operation of the mineral leasing and geothermal leasing laws effective upon the date of the enactment of this Act. Such withdrawal shall terminate on the date of completion of the exchange required by subsection (b) or on the date of any notification by Potlatch of a decision not to complete the exchange pursuant to paragraph (2).

(5) POWER SITE RESERVATIONS.—The following Executive Orders shall have no effect insofar as they involve the following described lands:

(A) The Executive order dated July 2, 1910, which established Powersite Reserve No. 91, with respect to those lands at Boise Meridian, T. 45 N., R. 4 E., Sec. 18, SW¼NE¼, comprising approximately 40 acres.

(B) The Executive order dated July 2, 1910, which established Powersite Reserve No. 106, with respect to those lands at Boise Meridian, T. 32 N., R. 5 E., Sec. 14, W½NE¼NE and SE¼NE¼NE¼, comprising approximately 30 acres.

(C) The Executive order dated August 31, 1917, which established Power Reservation No. 654, with respect to those lands at Boise Meridian, T. 48 N., R. 1 W., Sec. 3, SE¼NE¼, comprising approximately forty acres, and T. 46 N., R. 2 W., Sec. 14, lot 1, comprising approximately 28.15 acres.

(6) INDEMNITY LIST CLASSIFICATION ORDER.—Bureau of Land Management Indemnity List Classification Orders on public lands to be conveyed to Potlatch as required by subsection (b) are hereby removed from such classification.

(7) CONVEYANCE DOCUMENTS; BEFORE SURVEY.—Lands to be conveyed by the United States pursuant to subsection (b) on which any boundary is required to be surveyed in order to describe remaining public lands shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act. Upon completion of the survey, the Secretary shall issue a patent for such lands. The boundaries of such lands shall be those which were defined in and conveyed by the interim conveyance, except that the boundaries shall be corrected and redescribed in the patent, where necessary, as a result of the survey of such lands.

Patents and trademarks.

16 USC 668dd note.

SEC. 4. USE OF ACQUIRED LANDS.

(a) NATIONAL WILDLIFE REFUGE SYSTEM.—

(1) ADDITION TO THE SYSTEM.—The Secretary shall add the lands conveyed to the United States in Arkansas pursuant to section 3(b), to the Cache River and White River National Wildlife Refuges, as depicted upon the map described in such section. The Secretary shall manage such lands in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

(2) PLAN PREPARATION.—Within 24 months after the completion of the exchange required by section 3(b), the Secretary shall prepare and implement a single refuge management plan for the Cache River and White River Refuges, as expanded by this Act. Such plan shall recognize the important public purposes served by nonconsumptive activities, other recreational activities, and wildlife-related public use, including hunting, fishing, and trapping. The plan shall permit, to the maximum extent practicable, such uses to the extent that they are consistent with sound wildlife management and in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee) and other applicable law. Any regulations promulgated by the Secretary with respect to fishing, hunting, and trapping on those lands shall, to the extent practicable, be consistent with State fish and wildlife laws and regulations. In preparing the management plan and regulations, the Secretary shall consult with the Arkansas Game and Fish Commission.

(3) INTERIM USE OF LANDS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), during the period beginning on the date of the completion of the exchange of lands under subsection 3(b) and ending on the first date of the implementation of the plan prepared under paragraph (2), the Secretary shall administer all lands added to the Cache River and White River National Wildlife Refuges pursuant to this Act in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668d–668ee) and other applicable law.

(B) HUNTING SEASONS.—During the period described in subparagraph (A), the duration of any hunting seasons on the lands referred to in subsection (a) shall comport with State law.

(b) PUBLIC LANDS.—

(1) STATUS.—Except as provided in section 3(a)(1)(B), the lands referred to in section 3(b)(1)(B) shall be public lands, as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), and shall be managed in accordance with the provisions of such Act.

(2) GRANDMOTHER MOUNTAIN AREA.—Subject to valid existing rights, those Federal and non-Federal lands within the Grandmother Mountain Wilderness Study Area which are transferred to the jurisdiction of the Forest Service pursuant to section 3(b) shall be managed so as to preserve their suitability for designation as wilderness, pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), until the Congress determines otherwise. Nothing in this Act shall be construed as permitting or prohibiting continued use of motorized vehicles on existing routes within such area at the level of such use as was permitted on August 1, 1992.

(3) PLAN AMENDMENTS AND ENVIRONMENTAL ANALYSIS.—Within 24 months after the completion of the exchange under section 3(b), the Secretary and the Secretary of Agriculture shall prepare amendments to applicable resource management plans and accompanying documents pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604), and section 102(2) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)) for lands in Idaho conveyed to the United States pursuant to section 3(b).

SEC. 5. DEFINITIONS.

16 USC 668dd note.

For purposes of this Act, the term—

(1) "Potlatch" means the Potlatch Corporation, chartered in the State of Delaware;

(2) "Secretary" means the Secretary of the Interior; and

(3) "lands" means both the surface and subsurface estates whenever both estates are owned by the United States or Potlatch, as applicable.

SEC. 6. OUACHITA NATIONAL FOREST BOUNDARY ADJUSTMENT.

(a) IN GENERAL.—The boundaries of the Ouachita National Forest are hereby adjusted to include those lands generally depicted on the map entitled "Proposed Proclamation Boundary Extension, East End of Lake Ouachita" and dated August 3, 1992.

(b) MAP AND LEGAL DESCRIPTION.—The map described in subsection (a) and a legal description of the lands depicted on the map shall be on file and available for public inspection in the appropriate offices of the Forest Service, United States Department of Agriculture. Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare a legal description of the lands depicted on the map referred to in subsection (a). Such map and legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors.

(c) RULE OF CONSTRUCTION.—For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–9), the boundaries of the Ouachita National Forest, as adjusted by this Act, shall be considered to be the boundaries of such forest as of January 1, 1965.

Approved November 2, 1992.

LEGISLATIVE HISTORY—S. 2572:

HOUSE REPORTS: No. 102-931, Pt. 1 (Comm. on Merchant Marine and Fisheries), Pt. 2 (Comm. on Agriculture), and Pt. 3 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 102-371 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Sept. 10, considered and passed Senate.
Sept. 29, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Nov. 2, Presidential statement.

Public Law 102-585
102d Congress

An Act

To amend title 38, United States Code, to improve health care services for women veterans, to expand authority for health care sharing agreements between the Department of Veterans Affairs and the Department of Defense to revise certain pay authorities that apply to Department of Veterans Affairs nurses, to improve preventive health services for veterans, to establish discounts on pharmaceuticals purchased by the Department of Veterans Affairs, to provide for a Persian Gulf War Veterans Health Registry, and to make other improvements in the delivery and administration of health care by the Department of Veterans Affairs.

Nov. 4, 1992
[H.R. 5193]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans Health Care Act of 1992.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

38 USC 101 note.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Care Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH PROGRAMS

Sec. 101. Short title.
Sec. 102. Sexual trauma counseling.
Sec. 103. Priority for outpatient care for sexual trauma counseling.
Sec. 104. Commencement of provision of information on services.
Sec. 105. Report on implementation of sexual trauma counseling program.
Sec. 106. Health care services for women.
Sec. 107. Report on health care and research.
Sec. 108. Coordination of services.
Sec. 109. Research relating to women veterans health.
Sec. 110. Population study of women veterans.

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

Sec. 201. Temporary expansion of authority for sharing agreements.
Sec. 202. Requirement for improvement in services for veterans.
Sec. 203. Expanded sharing agreements with Department of Defense.
Sec. 204. Expiration of authority.
Sec. 205. Consultation with veterans service organizations.
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TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

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Sec. 501. Contract hospital care for veterans with permanent and total service-connected disabilities.
Sec. 502. Permanent authority for respite care program.
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Subtitle B—Preventive Health

Sec. 511. National Center for Preventive Health.
Sec. 512. Annual report on preventive health services.
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Sec. 521. Geriatric research, education, and clinical centers.
Sec. 522. Extension of authority to waive certain limitations applicable to receipt of retirement pay by nurses.
Sec. 523. Health professionals education programs.
Sec. 524. Real property at Temple Junior College, Temple, Texas.
Sec. 525. Demonstration project to evaluate installation of telephones for patient use at Department health-care facilities.
Sec. 526. Use of Tobacco Products in Department Facilities.

TITLE VI—DRUG PRICING AGREEMENTS

Sec. 601. Treatment of prescription drugs procured by Department of Veterans Affairs or purchased by certain clinics and hospitals.
Sec. 602. Limitations on prices of drugs purchased by certain clinics and hospitals.
Sec. 603. Limitation on prices of drugs procured by Department of Veterans Affairs and certain other Federal agencies.

TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

Sec. 701. Short title.
Sec. 702. Persian Gulf War Veterans Health Registry.
Sec. 703. Health examinations and counseling for veterans eligible for inclusion in certain health-related registries.
Sec. 704. Expansion of coverage of Persian Gulf Registry.
Sec. 705. Study by Office of Technology Assessment of Persian Gulf Registry and Persian Gulf War Veterans Health Registry.
Sec. 706. Agreement with National Academy of Sciences for review of health consequences of service during the Persian Gulf War.
Sec. 707. Coordination of government activities on health-related research on the Persian Gulf War.
Sec. 708. Definition.

TITLE VIII—COURT OF VETERANS APPEALS

Sec. 801. Disciplinary procedures for judges of Court of Veterans Appeals.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—WOMEN VETERANS HEALTH PROGRAMS

Women Veterans Health Programs Act of 1992.
38 USC 101 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Women Veterans Health Programs Act of 1992".

SEC. 102. SEXUAL TRAUMA COUNSELING.

(a) IN GENERAL.—(1) Chapter 17 of title 38, United States Code, is amended by adding at the end of subchapter II the following new section:

"§ 1720D. Counseling to women veterans for sexual trauma

"(a)(1) During the period through December 31, 1995, the Secretary may provide counseling to a woman veteran who the Secretary determines requires such counseling to overcome psychological trauma, which in the judgment of a mental health professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty.

"(2) To be eligible to receive counseling under this subsection, a veteran must seek such counseling from the Secretary within two years after the date of the veteran's discharge or release from active military, naval, or air service.

"(3) In furnishing counseling to a veteran under this subsection, the Secretary may, during the period through December 31, 1994, provide such counseling pursuant to a contract with a qualified mental health professional if (A) in the judgment of a mental health professional employed by the Department, the receipt of counseling by that veteran in facilities of the Department would be clinically inadvisable, or (B) Department facilities are not capable of furnishing such counseling to that veteran economically because of geographical inaccessibility.

"(b) In providing services to a veteran under subsection (a), the period for which counseling is provided may not exceed one year from the date of the commencement of the furnishing of such counseling to the veteran. However, the Secretary may authorize a longer period in any case if, in the judgment of the Secretary, a longer period of counseling is required.

"(c)(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling under subsection (a). In the case of a veteran eligible for such counseling who requires other care or services under this chapter for trauma described in subsection (a)(1), the Secretary shall ensure that the veteran is furnished counseling under this section in a way that is coordinated with the furnishing of such other care and services under this chapter.

"(2) In establishing a program to provide counseling under subsection (a), the Secretary shall—

"(A) provide for appropriate training of mental health professionals and such other health care personnel as the Secretary determines necessary to carry out the program effectively;

"(B) seek to ensure that such counseling is furnished in a setting that is therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling; and

"(C) provide referral services to assist women veterans who are not eligible for services under this chapter to obtain those from sources outside the Department.

"(d) The Secretary shall provide information on the counseling available to women veterans under this section. Efforts by the Secretary to provide such information— Public information.

"(1) may include establishment of an information system involving the use of a toll-free telephone number (commonly referred to as an 800 number), and

"(2) shall include coordination with the Secretary of Defense seeking to ensure that women who are being separated from active military, naval, or air service are provided appropriate information about programs, requirements, and procedures for applying for counseling under this section.

"(e) In this section, the term 'sexual harassment' means repeated, unsolicited verbal or physical contact of a sexual nature which is threatening in character.".

(2) The table of sections at the beginning of chapter 17 is amended by inserting after the item relating to section 1720C the following new item:

"1720D. *Counseling to women veterans for sexual trauma.*".

38 USC 1720D note.

(b) TRANSITION PROVISION.—In the case of a veteran who was discharged or released from active military, naval, or air service before December 31, 1991, the two-year period specified in section 1720D(a)(2) of title 38, United States Code, as added by subsection (a), shall be treated as ending on December 31, 1993.

SEC. 103. PRIORITY FOR OUTPATIENT CARE FOR SEXUAL TRAUMA COUNSELING.

Section 1712(i)(2) is amended—

(1) by striking out "or (B)" and inserting in lieu thereof ", (B)"; and

(2) by inserting before the period at the end thereof the following: ", or (C) who is eligible for counseling under section 1720D of this title, for the purposes of such counseling".

38 USC 1720D note.

SEC. 104. COMMENCEMENT OF PROVISION OF INFORMATION ON SERVICES.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall commence the provision of information on the counseling relating to sexual trauma that is available to women veterans under section 1720D of title 38, United States Code (as added by section 102) in accordance with the provisions of subsection (d) of that section.

38 USC 1720D note.

SEC. 105. REPORT ON IMPLEMENTATION OF SEXUAL TRAUMA COUNSELING PROGRAM.

Not later than March 31, 1994, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a comprehensive report on the Secretary's actions under section 1720D of title 38, United States Code (as added by section 102), and on the use made of the authority provided under that section. The report shall include the following:

(1) The numbers of veterans who have received counseling under such section, shown by reference to the facility that provided that counseling and including the use made of the contract authority under such section.

(2) The number of veterans who received care or services under chapter 17 of title 38, United States Code, under the circumstances described in subsection (c)(1) of such section and the numbers referred to sources outside the Department,

shown by reference to the facility that provided those services or made those referrals.

(3) A listing and description of the specific training programs which the Secretary has instituted to ensure that the counseling program established under such section is carried out effectively.

(4) A description of the specific efforts taken by the Secretary to ensure that the counseling furnished by the Secretary under such section is furnished in settings that are therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling.

SEC. 106. HEALTH CARE SERVICES FOR WOMEN.

38 USC 1710 note.

(a) GENERAL AUTHORITY.—In furnishing hospital care and medical services under chapter 17 of title 38, United States Code, the Secretary of Veterans Affairs may provide to women the following health care services:

(1) Papanicolaou tests (pap smears).

(2) Breast examinations and mammography.

(3) General reproductive health care, including the management of menopause, but not including under this section infertility services, abortions, or pregnancy care (including prenatal and delivery care), except for such care relating to a pregnancy that is complicated or in which the risks of complication are increased by a service-connected condition.

(b) RESPONSIBILITIES OF DIRECTORS OF FACILITIES.—The Secretary shall ensure that directors of medical facilities of the Department identify and assess opportunities under the authority provided in title II of this Act to (1) expand the availability of, and access to, health care services for women veterans under sections 1710 and 1712 of title 38, United States Code, and (2) provide counseling, care, and services authorized by this title.

SEC. 107. REPORT ON HEALTH CARE AND RESEARCH.

38 USC 1710 note.

(a) IN GENERAL.—Not later than January 1, 1993, January 1, 1994, and January 1, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the provision of health care services and the conduct of research carried out by, or under the jurisdiction of, the Secretary relating to women veterans.

(b) CONTENTS.—The report under subsection (a) shall include the following information with respect to the most recent fiscal year before the date of the report:

(1) The number of women veterans who have received services described in section 106 of this Act in facilities under the jurisdiction of the Secretary (or the Secretary of Defense), shown by reference to the Department facility which provided (or, in the case of Department of Defense facilities, arranged) those services;

(2) A description of (A) the services provided at each such facility, and (B) the extent to which each such facility relies on contractual arrangements under section 1703 or 8153 of title 38, United States Code, to furnish care to women veterans in facilities which are not under the jurisdiction of the Secretary where the provision of such care is not furnished in a medical emergency.

(3) The steps taken by each such facility to expand the provision of services at such facility (or under arrangements with a Department of Defense facility) to women veterans.

(4) A description (as of October 1 of the year preceding the year in which the report is submitted) of the status of any research relating to women veterans being carried out by or under the jurisdiction of the Secretary, including research under section 109 of this Act.

38 USC 1710 note.

SEC. 108. COORDINATION OF SERVICES.

The Secretary of Veterans Affairs shall ensure that an official in each regional office of the Veterans Health Administration shall serve as a coordinator of women's services. The responsibilities of such official shall include the following:

(1) Conducting periodic assessments of the needs for services of women veterans within such region.

(2) Planning to meet such needs.

(3) Assisting in carrying out the purposes of section 106(b) of this title.

(4) Coordinating the training of women veterans coordinators who are assigned to Department facilities in the region under the jurisdiction of such regional coordinator.

(5) Providing appropriate technical support and guidance to Department facilities in that region with respect to outreach activities to women veterans.

38 USC 7303 note.

SEC. 109. RESEARCH RELATING TO WOMEN VETERANS HEALTH.

(a) INITIATION AND EXPANSION OF RESEARCH.—The Secretary of Veterans Affairs, in carrying out the Secretary's responsibilities under section 7303 of title 38, United States Code, shall foster and encourage the initiation and expansion of research relating to the health of veterans who are women.

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Funds are authorized to be appropriated to the Secretary to initiate new studies in accordance with subsection (a) as follows:

(A) For fiscal year 1993, $1,500,000.

(B) For fiscal year 1994, $2,000,000.

(C) For fiscal year 1995, $2,500,000.

(2) Amounts appropriated pursuant to the authorization of appropriations in paragraph (1) are in addition to other funds appropriated or otherwise made available to the Department of Veterans Affairs for research.

38 USC 1710 note.

SEC. 110. POPULATION STUDY OF WOMEN VETERANS.

(a) STUDY.—(1) The Secretary, subject to subsection (d), shall conduct a study to determine the needs of veterans who are women for health-care services. The study shall be based on an appropriate sample of veterans who are women.

(2) Before carrying out the study, the Secretary shall request the advice of the Advisory Committee on Women Veterans on the conduct of the study.

(3) In carrying out the study, the Secretary shall include in the sample veterans who are women and members of the Armed Forces serving on active duty who are women.

(b) REPORTS.—The Secretary shall submit to the Committees on Veterans Affairs of the Senate and House of Representatives reports relating to the study as follows:

(1) Not later than 9 months after the date of the enactment of this Act, an interim report describing (A) the information and advice obtained by the Secretary from the Advisory Committee on Women Veterans, and (B) the status of the study.

(2) Not later than December 31, 1995, a final report describing the results of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the general operating expenses account of the Department of Veterans Affairs $2,000,000 to carry out the purposes of this section. Amounts appropriated pursuant to this authorization of appropriations shall be available for obligation until expended without fiscal year limitation.

(d) LIMITATION.—No funds may be used to conduct the study described in subsection (a) unless expressly provided for in an appropriation Act.

TITLE II—HEALTH-CARE SHARING AGREEMENTS BETWEEN DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE

38 USC 8111 note.

SEC. 201. TEMPORARY EXPANSION OF AUTHORITY FOR SHARING AGREEMENTS.

The Secretary of Veterans Affairs may enter into an agreement with the Secretary of Defense under this section to expand the availability of health-care sharing arrangements with the Department of Defense under section 8111(c) of title 38, United States Code. Under such an agreement—

(1) the head of a Department of Veterans Affairs medical facility may enter into agreements under section 8111(d) of that title with (A) the head of a Department of Defense medical facility, (B) with any other official of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility, or (C) with a contractor of the Department of Defense responsible for the provision of care under chapter 55 of title 10, United States Code, to persons who are covered beneficiaries under that chapter, in the region of the Department of Veterans Affairs medical facility; and

(2) the term "primary beneficiary" shall be treated as including—

(A) with respect to the Department of Veterans Affairs, any person who is described in section 1713 of title 38, United States Code; and

(B) with respect to the Department of Defense, any person who is a covered beneficiary under chapter 55 of title 10, United States Code.

SEC. 202. REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.

A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Chief Medical Director finds,

and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

(1) will result in the improvement of services to eligible veterans at that facility; and

(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

SEC. 203. EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.

Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or

(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

SEC. 204. EXPIRATION OF AUTHORITY.

The authority to provide services pursuant to agreements entered into under section 201 expires on October 1, 1996.

SEC. 205. CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.

In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

SEC. 206. ANNUAL REPORT.

(a) IN GENERAL.—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

(b) ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.

(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 of title 38, United States Code.

(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

TITLE III—NURSE PAY

SEC. 301. REVISION TO NURSE PAY GRADE SCHEDULE.

(a) REVISION.—Section 7404(b)(1) is amended in the matter relating to "NURSE SCHEDULE" by striking out "Director grade." and all that follows through "Entry grade." and inserting in lieu thereof the following:

"Nurse V.
"Nurse IV.
"Nurse III.
"Nurse II.
"Nurse I.".

(b) CONFORMING AMENDMENT.—Section 7451(b) of such title is amended by striking out "four" and inserting in lieu thereof "five".

SEC. 302. AUTHORITY TO ESTABLISH SPECIAL RATES OF PAY FOR EMPLOYEES OF FACILITIES LOCATED OUTSIDE THE CONTIGUOUS UNITED STATES, ALASKA, AND HAWAII.

Section 7451(a)(3) is amended—

(1) by striking out "(3) The rates" and inserting in lieu thereof "(3)(A) Except as provided in subparagraph (B), the rates"; and

(2) by adding at the end the following new subparagraph:

"(B) Under such regulations as the Secretary shall prescribe, the Secretary shall establish and adjust the rates of basic pay for covered positions at the following health-care facilities in order to provide rates of basic pay that enable the Secretary to recruit and retain sufficient numbers of health-care personnel in such positions at those facilities: Regulations.

"(i) The Veterans Memorial Medical Center in the Republic of the Philippines.

"(ii) Department of Veterans Affairs health-care facilities located outside the contiguous States, Alaska, and Hawaii.".

SEC. 303. SALARY DATA FOR NURSE ANESTHETISTS.

Section 7451(d)(3) is amended—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) A director of a Department health-care facility may use data on the beginning rates of compensation paid to certified registered nurse anesthetists who are employed on a salary basis by entities that provide anesthesia services through certified registered nurse anesthetists in the labor-market area only if the director—

"(I) has conducted a survey of beginning rates of compensation for certified registered nurse anesthetists in the local labor market area of the facility under subparagraph (B);

"(II) has used all available administrative authority with regard to collection of survey data; and

"(III) makes a determination (under regulations prescribed by the Secretary) that such survey methods are insufficient to permit the adjustments referred to in subparagraph (B) for such nurse anesthetists employed by the facility.

"(ii) For the purposes of this subparagraph, certified registered nurse anesthetists who are so employed by such entities shall be deemed to be corresponding health-care professionals to the certified registered nurse anesthetists employed by the facility.

"(iii) The authority of the director to use such additional data under this subparagraph with respect to certified registered nurse anesthetists expires on April 1, 1995.".

SEC. 304. RATES OF PAY FOR TRANSFERRING NURSES.

(a) SAVE-PAY AUTHORITY FOR NURSES TRANSFERRING TO ANOTHER FACILITY.—Section 7452(e) is amended by striking out the period at the end and inserting in lieu thereof ", except that in the case of an employee whose transfer (other than pursuant to a disciplinary action otherwise authorized by law) to another health-care facility is at the request of the Secretary, the Secretary may provide that for at least the first year following such transfer the employee shall be paid at a rate of basic pay up to the rate applicable to such employee before the transfer, if the Secretary determines that such rate of pay is necessary to fill the position. Whenever the Secretary exercises the authority under the preceding sentence relating to the rate of basic pay of a transferred employee, the Secretary shall, in the next annual report required under section 7451(g) of this title, provide justification for doing so.".

(b) CONFORMING AMENDMENT.—Section 7451(g) is amended by adding at the end the following new paragraph:

"(9) The justification required by section 7452(e) of this title.".

38 USC 7451 note.

SEC. 305. NURSING PERSONNEL QUALIFICATION STANDARDS.

(a) REVISION.—The Secretary of Veterans Affairs shall conduct a review of the qualification standards used for nursing personnel at Department health-care facilities and the relationship between those standards and the compression of nursing personnel in the existing intermediate and senior grades. Based upon that review, the Secretary shall revise those qualification standards—

(1) to reflect the five grade levels for nursing personnel under the Nurse Schedule, as amended by section 301; and

(2) to reduce the compression of nursing personnel in the existing intermediate and senior grades.

(b) DEADLINE FOR PRESCRIBING STANDARDS.—The Secretary shall prescribe revised qualification standards for nursing personnel pursuant to subsection (a) not later than six months after the date of the enactment of this Act.

(c) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's findings and actions under this section. The report shall be submitted not later than six months after the date on which revised qualification standards for nursing personnel are prescribed pursuant to subsection (b).

38 USC 7451 note.

SEC. 306. REPORT ON PAY FOR CHIEF NURSE POSITION.

(a) REVIEW.—The Secretary of Veterans Affairs shall conduct a review of—

(1) the process for determining the rate of basic pay applicable to the Chief Nurse position at Department of Veterans Affairs health-care facilities; and

(2) the relationship between the rate of such basic pay and the rate of basic pay applicable to nurses in positions

subordinate to the Chief Nurse at the respective Department facilities.

The review shall include an assessment of the adequacy of that process in determining an equitable pay rate for the Chief Nurse position, including an assessment of the accuracy of data collected in the survey process and the difficulties in obtaining accurate data.

(b) REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the review and assessment conducted under subsection (a). To the extent that the review discloses difficulties in obtaining accurate data in the survey process with respect to the Chief Nurse position at Department facilities, the Secretary shall include in the report recommendations for corrective action. The Secretary shall also include in the report (1) a listing of the salary differential (expressed as a percentage) between the Chief Nurse at a facility and the highest paid nurse (excluding certified registered nurse anesthetists) serving in a position subordinate to the Chief Nurse, and (2) an analysis of such data. The report shall be submitted not later than 12 months after the date of the enactment of this Act.

SEC. 307. REPORT ON PAY COMPRESSION.

Section 7451(g) (as amended by section 304(b)) is further amended by adding at the end the following new paragraph:

"(10) The number of nurses, shown by facility and by grade, who are on pay retention or in the top step of any grade and, with respect to those employees, comprehensive information (by facility) as to whether an extension of the pay grades was sought for these positions, and with respect to each such request for extension, whether such request was granted or denied.".

SEC. 308. EFFECTIVE DATE.

38 USC 7404 note.

The amendments made by sections 301, 302, 303, and 304 shall take effect with respect to the first pay period beginning on or after the end of the six-month period beginning on the date of the enactment of this Act.

TITLE IV—STATE HOME AMENDMENTS

SEC. 401. TREATMENT OF EARNINGS OF VETERANS UNDER CERTAIN REHABILITATIVE SERVICES PROGRAMS.

Subsection (f) of section 1718 is amended to read as follows:

"(f)(1) The Secretary may not consider any of the matters stated in paragraph (2) as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

"(2) Paragraph (1) applies to the following:

"(A) A veteran's participation in an activity carried out under this section.

"(B) A veteran's receipt of a distribution as a result of participation in an activity carried out under this section.

"(C) A veteran's participation in a program of rehabilitative services that (i) is provided as part of the veteran's care furnished by a State home and (ii) is approved by the Secretary

as conforming appropriately to standards for activities carried out under this section.

"(D) A veteran's receipt of payment as a result of participation in a program described in subparagraph (C).

"(3) A distribution of funds made under this section and a payment made to a veteran under a program of rehabilitative services described in paragraph (2)(C) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.".

SEC. 402. PERMANENT AUTHORITY TO MAKE GRANTS TO STATES RELATING TO STATE HOMES.

Section 8133(a) is amended in the first sentence by striking out "through September 30, 1992".

SEC. 403. EXTENSION OF PERIOD FOR COMPLETION OF CONDITIONALLY APPROVED APPLICATIONS FOR CONSTRUCTION.

(a) EXTENSION OF PERIOD.—Section 8135(b)(6)(A) is amended by striking out "90 days" and inserting in lieu thereof "180 days".

38 USC 8135 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to projects that are conditionally approved after September 30, 1992.

SEC. 404. LIMITED PROHIBITION ON OBLIGATION OF FUNDS FOR RESCINDED PROJECTS.

(a) PROHIBITION.—Section 8135(b)(6)(B) is amended by adding at the end the following: "In the event the Secretary rescinds conditional approval of a project under this subparagraph, the Secretary may not further obligate funds for the project during the fiscal year in which the Secretary rescinds such approval.".

38 USC 8135 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to rescissions of conditional approval of projects after the date of the enactment of this Act.

SEC. 405. COMMENCEMENT DATE FOR RECAPTURE PERIOD.

(a) COMMENCEMENT DATE.—Section 8136 is amended by striking out "If, within 20 years after completion of any project" and inserting in lieu thereof "If, within the 20-year period beginning on the date of the approval by the Secretary of the final architectural and engineering inspection of any project".

(b) TECHNICAL AMENDMENT.—Such section is further amended by striking out "such facilities cease" and inserting in lieu thereof "the facilities covered by the project cease".

SEC. 406. COMMENCEMENT DATE FOR PAYMENT OF PER DIEM.

Section 1741 is amended by adding at the end the following new subsection:

"(e) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section.".

TITLE V—GENERAL HEALTH CARE AND ADMINISTRATION

Subtitle A—General Health

SEC. 501. CONTRACT HOSPITAL CARE FOR VETERANS WITH PERMANENT AND TOTAL SERVICE-CONNECTED DISABILITIES.

Section 1703(a)(1) is amended—

(1) by striking out "or" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new subparagraph:

"(C) a disability of a veteran who has a total disability permanent in nature from a service-connected disability.".

SEC. 502. PERMANENT AUTHORITY FOR RESPITE CARE PROGRAM.

Section 1720B is amended by striking out subsection (c).

SEC. 503. EXTENSION OF AUTHORITY TO CONTRACT WITH THE VETERANS MEMORIAL MEDICAL CENTER, REPUBLIC OF THE PHILIPPINES.

Section 1732(a) is amended by striking out "September 30, 1992" and inserting in lieu thereof "September 30, 1994".

Subtitle B—Preventive Health

SEC. 511. NATIONAL CENTER FOR PREVENTIVE HEALTH.

(a) ESTABLISHMENT.—(1) Subchapter II of chapter 73 is amended by adding at the end the following new section:

"§ 7318. National Center for Preventive Health

"(a)(1) The Chief Medical Director shall establish and operate in the Veterans Health Administration a National Center for Preventive Health (hereinafter in this section referred to as the 'Center'). The Center shall be located at a Department health care facility.

"(2) The head of the Center is the Director of Preventive Health (hereinafter in this section referred to as the 'Director').

"(3) The Chief Medical Director shall provide the Center with such staff and other support as may be necessary for the Center to carry out effectively its functions under this section.

"(b) The purposes of the Center are the following:

"(1) To provide a central office for monitoring and encouraging the activities of the Veterans Health Administration with respect to the provision, evaluation, and improvement of preventive health services.

"(2) To promote the expansion and improvement of clinical, research, and educational activities of the Veterans Health Administration with respect to such services.

"(c) In carrying out the purposes of the Center, the Director shall do the following:

"(1) Develop and maintain current information on clinical activities of the Veterans Health Administration relating to preventive health services, including activities relating to—

"(A) the on-going provision of regularly-furnished services; and

"(B) patient education and screening programs carried out throughout the Administration.

"(2) Develop and maintain detailed current information on research activities of the Veterans Health Administration relating to preventive health services.

"(3) In order to encourage the effective provision of preventive health services by Veterans Health Administration personnel—

"(A) ensure the dissemination to such personnel of any appropriate information on such services that is derived from research carried out by the Administration; and

"(B) acquire and ensure the dissemination to such personnel of any appropriate information on research and clinical practices relating to such services that are carried out by researchers, clinicians, and educators who are not affiliated with the Administration.

"(4) Facilitate the optimal use of the unique resources of the Department for cooperative research into health outcomes by initiating recommendations, and responding to requests of the Chief Medical Director and the Director of the Medical and Prosthetic Research Service, for such research into preventive health services.

"(5) Provide advisory services to personnel of Department health-care facilities with respect to the planning or furnishing of preventive health services by such personnel.

Appropriation authorization.

"(d) There is authorized to be appropriated $1,500,000 to the Medical Care General and Special Fund of the Department of Veterans Affairs for each fiscal year for the purpose of permitting the National Center for Preventive Health to carry out research, clinical, educational, and administrative activities under this section. Such activities shall be considered to be part of the operation of health-care facilities of the Department without regard to the location at which such activities are carried out.

"(e) In this section, the term 'preventive health services' has the meaning given such term in section 1701(9) of this title.".

(2) The table of sections at the beginning of chapter 73 is amended by inserting after the item relating section 7317 the following new item:

"7318. National Center for Preventive Health.".

(b) DIRECTOR OF CENTER.—(1) Subsection (a) of section 7306 is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph (7):

"(7) The Director of the National Center for Preventive Health, who shall be responsible to the Chief Medical Director for the operation of the Center.".

(2) Subsection (c) of such section is amended in the second sentence by striking out "and (4)" and inserting in lieu thereof "(4), and (7)".

38 USC 7318 note.

(c) SELECTION OF FACILITY AT WHICH CENTER TO BE ESTABLISHED.—In order to establish the National Center for Preventive Health pursuant to section 7318 of title 38, United States Code, as added by subsection (a), the Chief Medical Director of the Depart-

ment of Veterans Affairs shall solicit proposals from Department health care facilities to establish the center. The Chief Medical Director shall establish such center at the facility or facilities which the Chief Medical Director determines, on the basis of a review and analysis of such proposals, would most effectively carry out the purposes set forth in subsection (b) of such section.

SEC. 512. ANNUAL REPORT ON PREVENTIVE HEALTH SERVICES.

(a) ANNUAL REPORT.—Chapter 17 is amended by inserting after section 1703 the following new section:

"§ 1704. Preventive health services: annual report

"Not later than October 31 each year, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on preventive health services. Each such report shall include the following:

"(1) A description of the programs and activities of the Department with respect to preventive health services during the preceding fiscal year, including a description of the following:

"(A) The programs conducted by the Department—

"(i) to educate veterans with respect to health promotion and disease prevention; and

"(ii) to provide veterans with preventive health screenings and other clinical services, with such description setting forth the types of resources used by the Department to conduct such screenings and services and the number of veterans reached by such screenings and services.

"(B) The means by which the Secretary addressed the specific preventive health services needs of particular groups of veterans (including veterans with service-connected disabilities, elderly veterans, low-income veterans, women veterans, institutionalized veterans, and veterans who are at risk for mental illness).

"(C) The manner in which the provision of such services was coordinated with the activities of the Medical and Prosthetic Research Service of the Department and the National Center for Preventive Health.

"(D) The manner in which the provision of such services was integrated into training programs of the Department, including initial and continuing medical training of medical students, residents, and Department staff.

"(E) The manner in which the Department participated in cooperative preventive health efforts with other governmental and private entities (including State and local health promotion offices and not-for-profit organizations).

"(F) The specific research carried out by the Department with respect to the long-term relationships among screening activities, treatment, and morbidity and mortality outcomes.

"(G) The cost effectiveness of such programs and activities, including an explanation of the means by which the costs and benefits (including the quality of life of veterans who participate in such programs and activities) of such programs and activities are measured.

"(2) A specific description of research activities on preventive health services carried out during that period using employees, funds, equipment, office space, or other support services of the Department, with such description setting forth—

"(A) the source of funds for those activities;

"(B) the articles or publications (including the authors of the articles and publications) in which those activities are described;

"(C) the Federal, State, or local governmental entity or private entity, if any, with which such activities were carried out; and

"(D) the clinical, research, or staff education projects for which funding applications were submitted (including the source of the funds applied for) and upon which a decision is pending or was denied.

"(3) An accounting of the expenditure of funds during that period by the National Center for Preventive Health under section 7318 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1703 the following new item:

"1704. Preventive health services: annual report.".

SEC. 513. PREVENTIVE HEALTH SERVICES.

(a) IN GENERAL.—The text of section 1762 is transferred to the end of section 1701, redesignated as paragraph (9), and amended—

(1) by striking out "For the purposes of this subchapter, the term 'preventive health-care services' means" and inserting in lieu thereof "The term 'preventive health services' means"; and

(2) by redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10), and (11) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), and (K), respectively.

(b) CONFORMING AMENDMENT.—Section 1701(6)(A)(i) is amended by striking out "preventive health-care services as defined in section 1762 of this title," and inserting in lieu thereof "preventive health services,".

SEC. 514. REPEAL OF PILOT PROGRAM.

(a) REPEAL.—Subchapter VII of chapter 17 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17 is amended by striking out the items relating to subchapter VII (including the items relating to the sections of that subchapter).

Subtitle C—Health Care Administration and Personnel

SEC. 521. GERIATRIC RESEARCH, EDUCATION, AND CLINICAL CENTERS.

Section 7314 is amended—

(1) in subsection (c), by inserting after "unless" in the matter preceding paragraph (1) the following: "the peer review panel established under subsection (d) has determined under that subsection that the proposal submitted by such facility

as a location for a new center under subsection (a) is among those proposals which have met the highest competitive standards of scientific and clinical merit, and";

(2) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(3) by inserting after subsection (c) the following new subsection (d):

"(d)(1) In order to provide advice to assist the Chief Medical Director and the Secretary to carry out their responsibilities under this section, the Assistant Chief Medical Director described in section 7306(b)(3) of this title shall establish a panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the establishment of new centers under this section.

"(2) The membership of the panel shall consist of experts in the fields of geriatric and gerontological research, education, and clinical care. Members of the panel shall serve as consultants to the Department for a period of no longer than six months.

"(3) The panel shall review each proposal submitted to the panel by the Assistant Chief Medical Director and shall submit its views on the relative scientific and clinical merit of each such proposal to the Assistant Chief Medical Director.

"(4) The panel shall not be subject to the Federal Advisory Committee Act.".

SEC. 522. EXTENSION OF AUTHORITY TO WAIVE CERTAIN LIMITATIONS APPLICABLE TO RECEIPT OF RETIREMENT PAY BY NURSES.

Section 7426(c) is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1994".

SEC. 523. HEALTH PROFESSIONALS EDUCATION PROGRAMS.

(a) EXTENSION OF HEALTH SCHOLARSHIP PROGRAM.—Section 7618 is amended by striking out "September 30, 1992" and inserting in lieu thereof "December 31, 1995".

(b) HEALTH PROFESSIONALS.—Notwithstanding any other provision of law, the Secretary of Veterans Affairs may not provide payments to health-care professional employees of the Department of Veterans Affairs for payment of tuition loans.

38 USC 7601 note.

SEC. 524. REAL PROPERTY AT TEMPLE JUNIOR COLLEGE, TEMPLE, TEXAS.

(a) REMOVAL OF RESTRICTIONS ON USE OF PREVIOUSLY CONVEYED LAND.— Subject to subsection (b), the Secretary of Veterans Affairs shall release all restrictions and conditions (including a right of reverter) imposed in a quitclaim deed executed by the Administrator of Veterans Affairs on March 8, 1968, pursuant to Public Law 90–197 (81 Stat. 582; December 14, 1967), in which the United States, acting through the Administrator of Veterans Affairs, conveyed a tract of land consisting of 73 acres, more or less, to Temple Junior College, Temple, Texas.

(b) REQUIREMENT FOR PAYMENT.—Subsection (a) shall be effective upon the payment to the Secretary of Veterans Affairs of such monetary consideration as the Secretary determines to be appropriate. Any amount received by the Secretary pursuant to this subsection shall be deposited in the general fund of the Treasury.

(c) EXECUTION OF LEGAL INSTRUMENTS.—The Secretary of Veterans Affairs shall execute such legal documents as necessary to carry out subsection (a). The Secretary may include in such legal documents such terms, conditions, reservations, easements, and restrictions (other than those released pursuant to subsection (a)) as the Secretary considers necessary to protect the interest of the United States.

38 USC 1710 note.

SEC. 525. DEMONSTRATION PROJECT TO EVALUATE INSTALLATION OF TELEPHONES FOR PATIENT USE AT DEPARTMENT HEALTH-CARE FACILITIES.

(a) DEMONSTRATION PROJECT.—The Secretary of Veterans Affairs shall carry out a demonstration project to evaluate—

(1) the feasibility and desirability of (A) providing telephone service in patient rooms in Department of Veterans Affairs health-care facilities which do not currently provide such service, and (B) the use of telephones by the patients of such health-care facilities; and

(2) the relative feasibility and cost-effectiveness of a variety of options for providing such service.

(b) PROJECT ACTIVITIES.—(1) In carrying out the demonstration project under this section, the Secretary shall, at an appropriate number (as determined by the Secretary) of health care facilities, provide patients reasonable access to telephone service in patients' rooms to the extent feasible, and subject to paragraph (2).

(2) The Secretary shall ensure that patients who use such telephones bear financial responsibility for the cost of any long-distance telephone calls made during such use.

(c) PROJECT EVALUATION.—In carrying out the evaluation under subsection (a), the Secretary shall determine—

(1) the cost of the installation, use, and maintenance of such telephones, including—

(A) the amount of any savings which accrue to the facility by reason of such installation and use (including the amount of any savings that may result from any decrease in the amount of assistance in using telephones that the staff of the facility would otherwise provide to patients); and

(B) any costs that result from providing special telephones or other special equipment to facilitate the use of telephones by disabled veterans; and

(2) the effect of the use of such telephones on the therapeutic course of veterans who receive care at the facility; and

(3) the relative feasibility and cost effectiveness of a range of options for providing access to telephone service, including—

(A) the expenditure of appropriated funds;

(B) the receipt of donated funds, equipment, and services; and

(C) the procuring of equipment and services by the Veterans Canteen Service.

(d) REPORT.—Not later than September 30, 1994, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the demonstration project. The report shall contain the following:

(1) The determinations of the Secretary under subsection (c).

(2) An assessment by the Secretary of the feasibility and desirability of providing telephones for patients in other health-care facilities of the Department.

(3) The experience of the Secretary in using, and an assessment by the Secretary of the feasibility and cost effectiveness of, alternative arrangements to the expenditure of appropriated funds for securing telephone service for patients in health-care facilities of the Department.

(4) Any additional information and recommendations with respect to the provision and use of patient telephones at Department health-care facilities as the Secretary considers appropriate.

SEC. 526. USE OF TOBACCO PRODUCTS IN DEPARTMENT FACILITIES. 38 USC 1715 note.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall take appropriate actions to ensure that, consistent with medical requirements and limitations, each facility of the Department described in subsection (b)—

(1) establishes and maintains—

(A) a suitable indoor area in which patients or residents may smoke and which is ventilated in a manner that, to the maximum extent feasible, prevents smoke from entering other areas of the facility; or

(B) an area in a building that—

(i) is detached from the facility;

(ii) is accessible to patients or residents of the facility; and

(iii) has appropriate heating and air conditioning; and

(2) provides access to an area established and maintained under paragraph (1), consistent with medical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products.

(b) COVERED FACILITIES.—A Department facility referred to in subsection (a) is any Department of Veterans Affairs medical center, nursing home, or domiciliary care facility.

(c) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility of the establishment and maintenance of areas for smoking in Department facilities under this section. The report shall include information on—

(A) the cost of, and a proposed schedule for, the establishment of such an area at each Department facility covered by this section;

(B) the extent to which the ventilating system of each facility is adequate to ensure that use of the area for smoking does not result in health problems for other patients or residents of the facility; and

(C) the effect of the establishment and maintenance of an area for smoking in each facility on the accreditation score issued for the facility by the Joint Commission on the Accreditation of Health Organizations.

(2) Not later than 120 days after the effective date of this section, the Secretary shall submit to the committees referred to in paragraph (1) a report on the implementation of this section.

The report shall include a description of the actions taken at each covered facility to ensure compliance with this section.

(d) EFFECTIVE DATE.—The requirement to establish and maintain areas for smoking under subsection (a) shall take effect 60 days after the date on which the Comptroller General submits to the committees referred to in subsection (c)(1) that report required under that subsection.

TITLE VI—DRUG PRICING AGREEMENTS

SEC. 601. TREATMENT OF PRESCRIPTION DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS OR PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) EXCLUSION OF PRICES FROM CALCULATION OF BEST PRICES FOR MEDICAID REBATE AGREEMENTS.—Section 1927(c)(1)(C) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(C)) is amended by striking "(excluding" and inserting "(excluding any prices charged on or after October 1, 1992, to the Indian Health Service, the Department of Veterans Affairs, a State home receiving funds under section 1741 of title 38, United States Code, the Department of Defense, the Public Health Service, or a covered entity described in subsection (a)(5)(B), any prices charged under the Federal Supply Schedule of the General Services Administration, or any prices used under a State pharmaceutical assistance program, and excluding".

(b) AGREEMENTS REQUIRED TO RECEIVE PAYMENT.—

(1) IN GENERAL.—The first sentence of section 1927(a)(1) of such Act (42 U.S.C. 1396r–8(a)(1)) is amended by striking "manufacturer)." and inserting "manufacturer), and must meet the requirements of paragraph (5) (with respect to drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of title VI of the Veterans Health Care Act of 1992) and paragraph (6).".

(2) AGREEMENTS DESCRIBED.—Section 1927(a) of such Act (42 U.S.C. 1396r–8(a)) is amended by adding at the end the following new paragraphs:

"(5) LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES.—

"(A) AGREEMENT WITH SECRETARY.—A manufacturer meets the requirements of this paragraph if the manufacturer has entered into an agreement with the Secretary that meets the requirements of section 340B of the Public Health Service Act with respect to covered outpatient drugs purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this paragraph.

"(B) COVERED ENTITY DEFINED.—In this subsection, the term 'covered entity' means an entity described in section 340B(a)(4) of the Public Health Service Act.

"(C) ESTABLISHMENT OF ALTERNATIVE MECHANISM TO ENSURE AGAINST DUPLICATE DISCOUNTS OR REBATES.—If the Secretary does not establish a mechanism under section 340B(a)(5)(A) of the Public Health Service Act within 12 months of the date of the enactment of such section, the following requirements shall apply:

"(i) ENTITIES.—Each covered entity shall inform the single State agency under section 1902(a)(5) when it is seeking reimbursement from the State plan for medical assistance described in section 1905(a)(12) with respect to a unit of any covered outpatient drug which is subject to an agreement under section 340B(a) of such Act.

"(ii) STATE AGENCY.—Each such single State agency shall provide a means by which a covered entity shall indicate on any drug reimbursement claims form (or format, where electronic claims management is used) that a unit of the drug that is the subject of the form is subject to an agreement under section 340B of such Act, and not submit to any manufacturer a claim for a rebate payment under subsection (b) with respect to such a drug.

"(D) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether an agreement under subparagraph (A) meets the requirements of section 340B of the Public Health Service Act, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(E) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 340B of the Public Health Service Act (as in effect immediately after the enactment of this paragraph) and would have entered into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.

"(6) REQUIREMENTS RELATING TO MASTER AGREEMENTS FOR DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.—

"(A) IN GENERAL.—A manufacturer meets the requirements of this paragraph if the manufacturer complies with the provisions of section 8126 of title 38, United States Code, including the requirement of entering into a master agreement with the Secretary of Veterans Affairs under such section.

"(B) EFFECT OF SUBSEQUENT AMENDMENTS.—In determining whether a master agreement described in subparagraph (A) meets the requirements of section 8126 of title 38, United States Code, the Secretary shall not take into account any amendments to such section that are enacted after the enactment of title VI of the Veterans Health Care Act of 1992.

"(C) DETERMINATION OF COMPLIANCE.—A manufacturer is deemed to meet the requirements of this paragraph if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of section 8126 of title 38, United States Code (as in effect immediately after the enactment of this paragraph) and would have entered

into an agreement under such section (as such section was in effect at such time), but for a legislative change in such section after the date of the enactment of this paragraph.".

(3) CONFIDENTIALITY OF INFORMATION.—Section 1927(b)(3)(D) of such Act (42 U.S.C. 1396r–8(b)(3)(D)) is amended—

(A) by striking "this paragraph" and inserting "this paragraph or under an agreement with the Secretary of Veterans Affairs described in subsection (a)(6)(A)(ii)";

(B) by striking "Secretary" each place it appears and inserting "Secretary or the Secretary of Veterans Affairs"; and

(C) by striking "except" and all that follows through the period and inserting: "except—

"(i) as the Secretary determines to be necessary to carry out this section,

"(ii) to permit the Comptroller General to review the information provided, and

"(iii) to permit the Director of the Congressional Budget Office to review the information provided.".

(4) TERMINATION OF REBATE AGREEMENTS.—Section 1927(b)(4)(B) of such Act (42 U.S.C. 1396r–8(b)(4)(B)) is amended—

(i) in clause (ii), by striking "such period" and inserting "the calendar quarter beginning at least 60 days",

(ii) in clause (ii), by striking "of the notice" and all through "the agreement)." and inserting "the manufacturer provides notice to the Secretary.", and

(iii) by adding at the end the following new clauses:

"(iv) NOTICE TO STATES.—In the case of a termination under this subparagraph, the Secretary shall provide notice of such termination to the States within not less than 30 days before the effective date of such termination.

"(v) APPLICATION TO TERMINATIONS OF OTHER AGREEMENTS.—The provisions of this subparagraph shall apply to the terminations of agreements described in section 340B(a)(1) of the Public Health Service Act and master agreements described in section 8126(a) of title 38, United States Code.".

(c) BUDGET NEUTRALITY ADJUSTMENT.—Section 1927(c)(1)(B) of the Social Security Act (42 U.S.C. 1396r–8(c)(1)(B)) is amended—

(1) by striking "January 1, 1993," and inserting "October 1, 1992,";

(2) by striking "and" at the end of clause (i); and

(3) by striking clause (ii) and inserting the following:

"(ii) for quarters (or other periods) beginning after September 30, 1992, and before January 1, 1994, the greater of—

"(I) 15.7 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iii) for quarters (or other periods) beginning after December 31, 1993, and before January 1, 1995, the greater of—

"(I) 15.4 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug;

"(iv) for quarters (or other periods) beginning after December 31, 1994, and before January 1, 1996, the greater of—

"(I) 15.2 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug; and

"(v) for quarters (or other periods) beginning after December 31, 1995, the greater of—

"(I) 15.1 percent of the average manufacturer price for the drug, or

"(II) the difference between the average manufacturer price for the drug and the best price (as defined in subparagraph (C)) for such quarter (or period) for such drug.".

(d) REPORTS ON BEST PRICE CHANGES AND PAYMENT OF REBATES.— 42 USC 1396r-8 note.

(1) IN GENERAL.—Not later than 90 days after the expiration of each calendar quarter that begins on or after October 1, 1992, and ends on or before December 31, 1995, the Secretary of Health and Human Services shall submit a report to Congress that contains the following information relating to prescription drugs dispensed in the quarter (subject to paragraph (2)):

(A) With respect to single source drugs and innovator multiple source drugs (as such terms are defined in section 1927(k)(7) of the Social Security Act)—

(i) the percentage of such drugs whose best price (as reported to the Secretary under section 1927(b) of the Social Security Act) increased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(ii) the percentage of such drugs whose best price (as so reported) decreased compared to the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iii) the percentage of such drugs whose best price (as so reported) was the same as the best price during the previous calendar quarter, and the amount of expenditures under State plans under title XIX of such Act attributable to such drugs;

(iv) the median and mean percentage increase (or decrease) in the best price of such single source drugs (as so reported) compared to the best price during

the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed;

(v) the median and mean percentage increase (or decrease) in the best price of such innovator multiple source drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed; and

(vi) the median and mean percentage increase (or decrease) in the best price of all such drugs (as so reported) compared to the best price during the previous calendar quarter, unweighted and weighted (in the case of the mean percentage increase or decrease) by the dollar volume of drugs dispensed.

(B) With respect to all drugs for which manufacturers are required to pay rebates under section 1927(c) of the Social Security Act, the Secretary's estimate, on a State-by-State and a national aggregate basis, of—

(i) the total amount of all rebates paid under such section during the quarter, broken down by the portions of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section;

(ii) the percentages of such total amount attributable to rebates described in paragraphs (1), (2), and (3) of such section; and

(iii) the amount of the portion of such total amount attributable to the rebate described in paragraph (1) of such section that is solely attributable to the application of subclause (II) of clause (i), (ii), (iii), (iv), or (v) of such paragraph.

(2) LIMITATION ON DRUGS SUBJECT TO REPORT.—No report submitted under paragraph (1) shall include any information relating to any prescription drug unless the Secretary finds that expenditures for the drug are significant expenditures under the medicaid program. In the previous sentence, expenditures for a drug are "significant" if the drug was one of the 1,000 drugs for which the greatest amount of the Federal financial assistance attributable to prescription drugs was paid under section 1903(a) of the Social Security Act during calendar year 1991.

(3) SPECIAL RULE FOR INITIAL REPORT.—For purposes of the first report required to be submitted under paragraph (1)—

(A) the Secretary shall submit the report not later than May 1, 1993; and

(B) the information contained in the report shall include information on prescription drugs dispensed during each calendar quarter that began on or after January 1, 1991, and ended on or before December 31, 1992.

42 USC 1396r-8 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to payments to State plans under title XIX of the Social Security Act for calendar quarters (or periods) beginning on or after January 1, 1993 (without regard to whether or not regulations to carry out such amendments have been promulgated by such date).

SEC. 602. LIMITATIONS ON PRICES OF DRUGS PURCHASED BY CERTAIN CLINICS AND HOSPITALS.

(a) IN GENERAL.—Part D of title III of the Public Health Service Act is amended by adding the following subpart:

"Subpart VII—Drug Pricing Agreements

"LIMITATION ON PRICES OF DRUGS PURCHASED BY COVERED ENTITIES

"SEC. 340B. (a) REQUIREMENTS FOR AGREEMENT WITH SECRETARY.— 42 USC 256b.

"(1) IN GENERAL.—The Secretary shall enter into an agreement with each manufacturer of covered drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after the first day of the first month that begins after the date of the enactment of this section, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

"(2) REBATE PERCENTAGE DEFINED.—

"(A) IN GENERAL.—For a covered outpatient drug purchased in a calendar quarter, the 'rebate percentage' is the amount (expressed as a percentage) equal to—

"(i) the average total rebate required under section 1927(c) of the Social Security Act with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

"(ii) the average manufacturer price for such a unit of the drug during such quarter.

"(B) OVER THE COUNTER DRUGS.—

"(i) IN GENERAL.—For purposes of subparagraph (A), in the case of over the counter drugs, the 'rebate percentage' shall be determined as if the rebate required under section 1927(c) of the Social Security Act is based on the applicable percentage provided under section 1927(c)(4) of such Act.

"(ii) DEFINITION.—The term 'over the counter drug' means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

"(3) DRUGS PROVIDED UNDER STATE MEDICAID PLANS.—Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act.

"(4) COVERED ENTITY DEFINED.—In this section, the term 'covered entity' means an entity that meets the requirements described in paragraph (5) and is one of the following:

"(A) A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act).

"(B) An entity receiving a grant under section 340A.

"(C) A family planning project receiving a grant or contract under section 1001.

"(D) An entity receiving a grant under subpart II of part C of title XXVI (relating to categorical grants for outpatient early intervention services for HIV disease).

"(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under title XXVI.

"(F) A black lung clinic receiving funds under section 427(a) of the Black Lung Benefits Act.

"(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act.

"(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

"(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act.

"(J) Any entity receiving assistance under title XXVI (other than a State or unit of local government or an entity described in subparagraph (D)), but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(K) An entity receiving funds under section 318 (relating to treatment of sexually transmitted diseases) or section 317(j)(2) (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

"(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act) that—

"(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act or eligible for assistance under the State plan under this title;

"(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act; and

"(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

"(5) REQUIREMENTS FOR COVERED ENTITIES.—

"(A) PROHIBITING DUPLICATE DISCOUNTS OR REBATES.—

"(i) IN GENERAL.—A covered entity shall not request payment under title XIX of the Social Security Act for medical assistance described in section 1905(a)(12) of such Act with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act.

"(ii) ESTABLISHMENT OF MECHANISM.—The Secretary shall establish a mechanism to ensure that cov-

ered entities comply with clause (i). If the Secretary does not establish a mechanism within 12 months under the previous sentence, the requirements of section 1927(a)(5)(C) of the Social Security Act shall apply.

"(B) PROHIBITING RESALE OF DRUGS.—With respect to any covered outpatient drug that is subject to an agreement under this subsection, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

"(C) AUDITING.—A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs (A) or (B) with respect to drugs of the manufacturer.

"(D) ADDITIONAL SANCTION FOR NONCOMPLIANCE.—If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraphs (A) or (B), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

"(6) TREATMENT OF DISTINCT UNITS OF HOSPITALS.—In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this subsection.

"(7) CERTIFICATION OF CERTAIN COVERED ENTITIES.—

"(A) DEVELOPMENT OF PROCESS.—Not later than 60 days after the date of enactment of this subsection, the Secretary shall develop and implement a process for the certification of entities described in subparagraphs (J) and (K) of paragraph (4).

"(B) INCLUSION OF PURCHASE INFORMATION.—The process developed under subparagraph (A) shall include a requirement that an entity applying for certification under this paragraph submit information to the Secretary concerning the amount such entity expended for covered outpatient drugs in the preceding year so as to assist the Secretary in evaluating the validity of the entity's subsequent purchases of covered outpatient drugs at discounted prices.

"(C) CRITERIA.—The Secretary shall make available to all manufacturers of covered outpatient drugs a description of the criteria for certification under this paragraph.

"(D) LIST OF PURCHASERS AND DISPENSERS.—The certification process developed by the Secretary under subparagraph (A) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under subparagraph (C), prepare and submit a report to the Secretary that contains a list of entities

described in subparagraphs (J) and (K) of paragraph (4) that are located in the State.

"(E) RECERTIFICATION.—The Secretary shall require the recertification of entities certified pursuant to this paragraph on a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under subparagraph (B).

"(8) DEVELOPMENT OF PRIME VENDOR PROGRAM.—The Secretary shall establish a prime vendor program under which covered entities may enter into contracts with prime vendors for the distribution of covered outpatient drugs. If a covered entity obtains drugs directly from a manufacturer, the manufacturer shall be responsible for the costs of distribution.

"(9) NOTICE TO MANUFACTURERS.—The Secretary shall notify manufacturers of covered outpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of paragraph (5) or that are no longer certified pursuant to paragraph (7).

"(10) NO PROHIBITION ON LARGER DISCOUNT.—Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

"(b) OTHER DEFINITIONS.—In this section, the terms 'average manufacturer price', 'covered outpatient drug', and 'manufacturer' have the meaning given such terms in section 1927(k) of the Social Security Act.

"(c) REFERENCES TO SOCIAL SECURITY ACT.—Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(d) COMPLIANCE WITH REQUIREMENTS.—A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of the Veterans Health Care Act of 1992), as applied by the Secretary, and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section (or the application of this section) after the date of the enactment of such Act.".

42 USC 256b note.

(b) STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS.—

(1) STUDY.—The Secretary of Health and Human Services shall conduct a study of the feasibility and desirability of including entities described in paragraph (3) as covered entities eligible for limitations on the prices of covered outpatient drugs under section 340B(a) of the Public Health Service Act (as added by subsection (a)).

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the study conducted under paragraph (1), and shall include in the report—

(A) a description of the entities that are the subject of the study;

(B) an analysis of the extent to which such entities procure prescription drugs; and

(C) an analysis of the impact of the inclusion of such entities as covered entities under section 340B(a) of the Public Health Service Act on the quality of care provided to and the health status of the patients of such entities.

(3) ENTITIES DESCRIBED.—An entity described in this paragraph is an entity—

(A) receiving funds from a State for the provision of mental health or substance abuse treatment services under subparts I or II of part B of title XIX of the Public Health Service Act or under title V of such Act; or

(B) receiving funds from a State under title V of the Social Security Act for the provision of maternal and child health services that are furnished on an outpatient basis (other than an entity described in section 340B(a)(4)(G) of the Public Health Service Act).

SEC. 603. LIMITATION ON PRICES OF DRUGS PROCURED BY DEPARTMENT OF VETERANS AFFAIRS AND CERTAIN OTHER FEDERAL AGENCIES.

(a) AGREEMENTS WITH SECRETARY OF VETERANS AFFAIRS.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 8126. Limitation on prices of drugs procured by Department and certain other Federal agencies

"(a) Each manufacturer of covered drugs shall enter into a master agreement with the Secretary under which—

"(1) beginning January 1, 1993, the manufacturer shall make available for procurement on the Federal Supply Schedule of the General Services Administration each covered drug of the manufacturer;

"(2) with respect to each covered drug of the manufacturer procured by a Federal agency described in subsection (b) on or after January 1, 1993, that is purchased under depot contracting systems or listed on the Federal Supply Schedule, the manufacturer has entered into and has in effect a pharmaceutical pricing agreement with the Secretary (or the Federal agency involved, if the Secretary delegates to the Federal agency the authority to enter into such a pharmaceutical pricing agreement) under which the price charged during the one-year period beginning on the date on which the agreement takes effect may not exceed 76 percent of the non-Federal average manufacturer price (less the amount of any additional discount required under subsection (c)) during the one-year period ending one month before such date (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period are not available, during such period preceding such date as the Secretary considers appropriate), except that such price may nominally exceed such amount if found by the Secretary to be in the best interests of the Department or such Federal agencies;

"(3) with respect to each covered drug of the manufacturer procured by a State home receiving funds under section 1741 of this title, the price charged may not exceed the price charged under the Federal Supply Schedule at the time the drug is procured; and

"(4) unless the manufacturer meets the requirements of paragraphs (1), (2), and (3), the manufacturer may not receive payment for the purchase of drugs or biologicals from—

"(A) a State plan under title XIX of the Social Security Act, except as authorized under section 1927(a)(3) of such Act,

"(B) any Federal agency described in subsection (b), or

"(C) any entity that receives funds under the Public Health Service Act.

"(b) The Federal agencies described in this subsection are as follows:

"(1) The Department.

"(2) The Department of Defense.

"(3) The Public Health Service, including the Indian Health Service.

"(c) With respect to any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2), for calendar quarters beginning on or after January 1, 1993, the manufacturer shall provide a discount in an amount equal to the amount by which the change in non-Federal price exceeds the amount equal to—

"(1) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the last day of the month preceding the month during which the contract for the covered drug goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the month during which the contract goes into effect as the Secretary considers appropriate); increased by

"(2) the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last month of the period described in paragraph (1) and the last month preceding the month during which the contract goes into effect for which Consumer Price Index data is available.

"(d) In the case of a covered drug of a manufacturer that has entered into a multi-year contract with the Secretary under subsection (a)(2) for the procurement of the drug—

"(1) during any one-year period that follows the first year for which the contract is in effect, the price charged may not exceed the price charged during the preceding one-year period, increased by the percentage increase in the Consumer Price Index for all urban consumers (U.S. city average) between the last months of such one-year periods for which Consumer Price Index data is available; and

"(2) in applying subsection (c) to determine the amount of the discount provided with respect to the drug during a year that follows the first year for which the contract is in effect, any reference in such subsection to 'the month during which the contract goes into effect' shall be considered a reference to the first month of such following year.

"(e)(1) The manufacturer of any covered drug the price of which is determined in accordance with a pharmaceutical pricing agreement entered into pursuant to subsection (a)(2) shall— Reports.

"(A) not later than 30 days after the first day of the last quarter that begins before the agreement takes effect (or, in the case of an agreement that takes effect on January 1, 1993, not later than 30 days after the date of the enactment of this section), report to the Secretary the non-Federal average manufacturer price for the drug during the 1-year period that ends on the last day of the previous quarter; and

"(B) not later than 30 days after the last day of each quarter for which the agreement is in effect, report to the Secretary the non-Federal average manufacturer price for the drug during such quarter.

"(2) The provisions of subparagraphs (B) and (C) of section 1927(b)(3) of the Social Security Act shall apply to drugs described in paragraph (1) and the Secretary in the same manner as such provisions apply to covered outpatient drugs and the Secretary of Health and Human Services under such subparagraphs, except that references in such subparagraphs to prices or information reported or required under 'subparagraph (A)' shall be deemed to refer to information reported under paragraph (1).

"(3) In order to determine the accuracy of a drug price that is reported to the Secretary under paragraph (1), the Secretary may audit the relevant records of the manufacturer or of any wholesaler that distributes the drug, and may delegate the authority to audit such records to the appropriate Federal agency described in subsection (b).

"(4) Any information contained in a report submitted to the Secretary under paragraph (1) or obtained by the Secretary through any audit conducted under paragraph (3) shall remain confidential, except as the Secretary determines necessary to carry out this section and to permit the Comptroller General and the Director of the Congressional Budget Office to review the information provided. Privacy.

"(f) The Secretary shall supply to the Secretary of Health and Human Services—

"(1) upon the execution or termination of any master agreement, the name of the manufacturer, and

"(2) on a quarterly basis, a list of manufacturers who have entered into master agreements under this section, and

"(g)(1) Any reference in this section to a provision of the Social Security Act shall be deemed to be a reference to the provision as in effect on the date of the enactment of this section.

"(2) A manufacturer is deemed to meet the requirements of subsection (a) if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after the enactment of this section), and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section after the date of the enactment of this section.

"(h) In this section:

"(1) The term 'change in non-Federal price' means, with respect to a covered drug that is subject to an agreement under this section, an amount equal to—

"(A) the non-Federal average manufacturer price of the drug during the 3-month period that ends with the month preceding the month during which a contract goes into effect (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period as the Secretary considers appropriate); minus

"(B) the non-Federal average manufacturer price of the drug during the 3-month period that ends one year before the end of the period described in subparagraph (A) (or, in the case of a covered drug for which sufficient data for determining the non-Federal average manufacturer price during such period is not available, during such period preceding the period described in subparagraph (A) as the Secretary considers appropriate).

"(2) The term 'covered drug' means—

"(A) a drug described in section 1927(k)(7)(A)(ii) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(B) a drug described in section 1927(k)(7)(A)(iv) of the Social Security Act, or that would be described in such section but for the application of the first sentence of section 1927(k)(3) of such Act;

"(C) any biological product identified under section 600.3 of title 21, Code of Federal Regulations; or

"(D) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3) The term 'depot' means a centralized commodity management system through which covered drugs procured by an agency of the Federal Government are—

"(A) received, stored, and delivered through—

"(i) a federally owned and operated warehouse system, or

"(ii) a commercial entity operating under contract with such agency; or

"(B) delivered directly from the commercial source to the entity using such covered drugs.

"(4) The term 'manufacturer' means any entity which is engaged in—

"(A) the production, preparation, propagation, compounding, conversion, or processing of prescription drug products, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, or

"(B) in the packaging, repackaging, labeling, relabeling, or distribution of prescription drug products.

Such term does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law.

"(5) The term 'non-Federal average manufacturer price' means, with respect to a covered drug and a period of time (as determined by the Secretary), the weighted average price of a single form and dosage unit of the drug that is paid by wholesalers in the United States to the manufacturer, taking

into account any cash discounts or similar price reductions during that period, but not taking into account—

"(A) any prices paid by the Federal Government; or

"(B) any prices found by the Secretary to be merely nominal in amount.

"(6) The term 'weighted average price' means, with respect to a covered drug and a period of time (as determined by the Secretary) an amount equal to—

"(A) the sum of the products of the average price per package unit of each quantity of the drug sold during the period and the number of package units of the drug sold during the period; divided by

"(B) the total number of package units of the drug sold during the period.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8125 the following new item:

"8126. Limitation on prices of drugs procured by Department.".

TITLE VII—PERSIAN GULF WAR VETERANS' HEALTH STATUS

Persian Gulf War Veterans' Health Status Act.
38 USC 527 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Persian Gulf War Veterans' Health Status Act".

SEC. 702. PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Veterans Affairs shall establish and maintain a special record to be known as the "Persian Gulf War Veterans Health Registry" (in this section referred to as the "Registry").

(b) CONTENTS OF REGISTRY.—Except as provided in subsection (c), the Registry shall include the following information:

(1) A list containing the name of each individual who served as a member of the Armed Forces in the Persian Gulf theater of operations during the Persian Gulf War and who—

(A) applies for care or services from the Department of Veterans Affairs under chapter 17 of title 38, United States Code;

(B) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service;

(C) dies and is survived by a spouse, child, or parent who files a claim for dependency and indemnity compensation under chapter 13 of such title on the basis of such service;

(D) requests from the Department a health examination under section 703; or

(E) receives from the Department of Defense a health examination similar to the health examination referred to in subparagraph (D) and requests inclusion in the Registry.

(2) Relevant medical data relating to the health status of, and other information that the Secretary considers relevant and appropriate with respect to, each individual described in paragraph (1) who—

(A) grants to the Secretary permission to include such information in the Registry; or

(B) at the time the individual is listed in the Registry, is deceased.

(c) INDIVIDUALS SUBMITTING CLAIMS OR MAKING REQUESTS BEFORE DATE OF ENACTMENT.—If in the case of an individual described in subsection (b)(1) the application, claim, or request referred to in such subsection was submitted, filed, or made, before the date of the enactment of this Act, the Secretary shall, to the extent feasible, include in the Registry such individual's name and the data and information, if any, described in subsection (b)(2) relating to the individual.

(d) DEPARTMENT OF DEFENSE INFORMATION.—The Secretary of Defense shall furnish to the Secretary of Veterans Affairs such information maintained by the Department of Defense as the Secretary of Veterans Affairs considers necessary to establish and maintain the Registry.

(e) RELATION TO DEPARTMENT OF DEFENSE REGISTRY.—The Secretary of Veterans Affairs, in consultation with the Secretary of Defense, shall ensure that information is collected and maintained in the Registry in a manner that permits effective and efficient cross-reference between the Registry and the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(f) ONGOING OUTREACH TO INDIVIDUALS LISTED IN REGISTRY.—The Secretary of Veterans Affairs shall, from time to time, notify individuals listed in the Registry of significant developments in research on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

SEC. 703. HEALTH EXAMINATIONS AND COUNSELING FOR VETERANS ELIGIBLE FOR INCLUSION IN CERTAIN HEALTH-RELATED REGISTRIES.

(a) IN GENERAL.—(1) The Secretary of Veterans Affairs—

(A) shall, upon the request of a veteran described in subsection (b)(1), provide the veteran with a health examination and consultation and counseling with respect to the results of the examination; and

(B) may, upon the request of a veteran described in subsection (b)(2), provide the veteran with such an examination and such consultation and counseling.

(2) The Secretary shall carry out appropriate outreach activities with respect to the provision of any health examinations and consultation and counseling services under paragraph (1).

(b) COVERED VETERANS.—(1) In accordance with subsection (a)(1)(A), the Secretary shall provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in the Persian Gulf War Veterans Health Registry established by section 702.

(2) In accordance with subsection (a)(1)(B), the Secretary may provide an examination, consultation, and counseling under that subsection to any veteran who is eligible for listing or inclusion in any other similar health-related registry administered by the Secretary.

SEC. 704. EXPANSION OF COVERAGE OF PERSIAN GULF REGISTRY.

(a) IN GENERAL.—Subsections (a) and (b) of section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note) are amended to read as follows:

"(a) ESTABLISHMENT OF REGISTRY.—The Secretary of Defense shall establish and maintain a special record (in this section referred to as the 'Registry') relating to the following members of the Armed Forces:

"(1) Members who, as determined by the Secretary, were exposed to the fumes of burning oil in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(2) Any other members who served in the Operation Desert Storm theater of operations during the Persian Gulf conflict.

"(b) CONTENTS OF REGISTRY.—(1) The Registry shall include—

"(A) with respect to each class of members referred to in each of paragraphs (1) and (2) of subsection (a)—

"(i) a list containing each such member's name and other relevant identifying information with respect to the member; and

"(ii) to the extent that data are available and inclusion of the data is feasible, a description of the circumstances of the member's service during the Persian Gulf conflict, including the locations in the Operation Desert Storm theater of operations in which such service occurred and the atmospheric and other environmental circumstances in such locations at the time of such service; and

"(B) with respect to the members referred to in subsection (a)(1), a description of the circumstances of each exposure of each such member to the fumes of burning oil as described in such subsection (a)(1), including the length of time of the exposure.

"(2) The Secretary shall establish the Registry with the advice of an independent scientific organization.".

(b) CONFORMING AMENDMENTS.—(1) Subsection (c)(1) of such section is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a)(1)".

(2) Subsection (d) of such section is amended by inserting "pursuant to subsection (a)(1)" after "Registry".

SEC. 705. STUDY BY OFFICE OF TECHNOLOGY ASSESSMENT OF PERSIAN GULF REGISTRY AND PERSIAN GULF WAR VETERANS HEALTH REGISTRY.

(a) STUDY.—The Director of the Office of Technology Assessment shall, in a manner consistent with the Technology Assessment Act of 1972 (2 U.S.C. 472(d)), assess—

(1) the potential utility of each of the Persian Gulf Registry and the Persian Gulf War Veterans Health Registry for scientific study and assessment of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War;

(2) the extent to which each registry meets the requirements of the provisions of law under which the registry is established;

(3) the extent to which data contained in each registry—

(A) are maintained in a manner that ensures permanent preservation and facilitates the effective, efficient

retrieval of information that is potentially relevant to the scientific study of the intermediate and long-term health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War; and

(B) would be useful for scientific study regarding such health consequences;

(4) the adequacy of any plans to update each of the registries;

(5) the extent to which the Department of Defense or the Department of Veterans Affairs, as the case may be, is assembling and maintaining information on the Persian Gulf theater of operations (including information on troop locations and atmospheric and weather conditions) in a manner that facilitates the usefulness of, maintenance of, and retrieval of information from, the applicable registry; and

(6) the adequacy and compatibility of protocols for the health examinations and counseling provided under section 703 and health examinations provided by the Department of Defense to members of the Armed Forces for the purpose of assessing the health status of members of the Armed Forces who served in the Persian Gulf theater of operations during the Persian Gulf War.

(b) ACCESS TO INFORMATION.—The Secretary of Veterans Affairs and the Secretary of Defense shall provide the Director with access to such records and information under the jurisdiction of each such secretary as the Director determines necessary to permit the Director to carry out the study required under this section.

(c) REPORTS.—The Director shall—

(1) not later than 270 days after the date of the enactment of this Act, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf Registry and health-examination protocols; and

(2) not later than 15 months after such date, submit to Congress a report on the results of the assessment carried out under this section of the Persian Gulf War Veterans Health Registry.

(d) DEFINITIONS.—For the purposes of this section:

(1) The term "Persian Gulf Registry" means the registry established under section 734 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102–190; 105 Stat. 1411; 10 U.S.C. 1074 note), as amended by section 704.

(2) The term "Persian Gulf War Veterans Health Registry" means the Persian Gulf War Veterans Health Registry established under section 702.

SEC. 706. AGREEMENT WITH NATIONAL ACADEMY OF SCIENCES FOR REVIEW OF HEALTH CONSEQUENCES OF SERVICE DURING THE PERSIAN GULF WAR.

(a) AGREEMENT.—(1) The Secretary of Veterans Affairs and Secretary of Defense jointly shall seek to enter into an agreement with the National Academy of Sciences for the Medical Follow-Up Agency (MFUA) of the Institute of Medicine of the Academy to review existing scientific, medical, and other information on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(2) The agreement shall require MFUA to provide members of veterans organizations and members of the scientific community (including the Director of the Office of Technology Assessment) with the opportunity to comment on the method or methods MFUA proposes to use in conducting the review.

(3) The agreement shall permit MFUA, in conducting the review, to examine and evaluate medical records of individuals who are included in the registries referred to in section 705(d) for purposes that MFUA considers appropriate, including the purpose of identifying illnesses of those individuals.

(4) The Secretary of Veterans Affairs and the Secretary of Defense shall seek to enter into the agreement under this section not later than 180 days after the date of the enactment of this Act.

(b) REPORT.—(1) The agreement under this section shall require the National Academy of Sciences to submit to the committees and secretaries referred to in paragraph (2) a report on the results of the review carried out under the agreement. Such report shall contain the following:

(A) An assessment of the effectiveness of actions taken by the Secretary of Veterans Affairs and the Secretary of Defense to collect and maintain information that is potentially useful for assessing the health consequences of the military service referred to in subsection (a).

(B) Recommendations on means of improving the collection and maintenance of such information.

(C) Recommendations on whether there is sound scientific basis for an epidemiological study or studies on the health consequences of such service, and if the recommendation is that there is sound scientific basis for such a study or studies, the nature of the study or studies.

(2) The committees and secretaries referred to in paragraph (1) are the following:

(A) The Committees on Veterans' Affairs of the Senate and House of Representatives.

(B) The Committees on Armed Services of the Senate and House of Representatives.

(C) The Secretary of Veterans Affairs.

(D) The Secretary of Defense.

(c) FUNDING.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall make available up to a total of $500,000 in fiscal year 1993, from funds available to the Department of Veterans Affairs and the Department of Defense in that fiscal year, to carry out the review. Any amounts provided by the two departments shall be provided in equal amounts.

(2) If the Secretary of Veterans Affairs and the Secretary of Defense enter into an agreement under subsection (a) with the National Academy of Sciences—

(A) the Secretary of Veterans Affairs shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Veterans Affairs in each such fiscal year, to the National Academy of Sciences for the general purposes of conducting epidemiological research with respect to military and veterans populations; and

(B) the Secretary of Defense shall make available $250,000 in each of fiscal years 1994 through 2003, from amounts available to the Department of Defense in each such fiscal year,

to the National Academy of Sciences for the purposes of carrying out the research referred to in subparagraph (A).

SEC. 707. COORDINATION OF GOVERNMENT ACTIVITIES ON HEALTH-RELATED RESEARCH ON THE PERSIAN GULF WAR.

(a) DESIGNATION OF COORDINATING ORGANIZATION.—The President shall designate, and may redesignate from time to time, the head of an appropriate department or agency of the Federal Government to coordinate all research activities undertaken or funded by the Executive Branch of the Federal Government on the health consequences of military service in the Persian Gulf theater of operations during the Persian Gulf War.

(b) REPORT.—Not later than March 1 of each year, the head of the department or agency designated under subsection (a) shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the status and results of all such research activities undertaken or by the Executive Branch of the Federal Government during the previous year.

SEC. 708. DEFINITION.

For the purposes of this title, the term "Persian Gulf War" has the meaning given such term in section 101(33) of title 38, United States Code.

TITLE VIII—COURT OF VETERANS APPEALS

SEC. 801. DISCIPLINARY PROCEDURES FOR JUDGES OF COURT OF VETERANS APPEALS.

Section 7253(g) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following:

"(2) The provisions of paragraphs (7) through (15) of section 372(c) of title 28, regarding referral or certification to, and petition for review in, the Judicial Conference of the United States and action thereon, shall apply to the exercise by the Court of the powers of a judicial council under paragraph (1) of this subsection. The grounds for removal from office specified in subsection (f)(1) shall provide a basis for a determination pursuant to paragraph (7) or (8) of section 372(c) of title 28, and certification and transmittal by the Conference shall be made to the President for consideration under subsection (f).

"(3)(A) In conducting hearings pursuant to paragraph (1), the Court may exercise the authority provided under section 1821 of title 28 to pay the fees and allowances described in that section.

"(B) The Court shall have the power provided under section 372(c)(16) of title 28 to award reimbursement for the reasonable expenses described in that section. Reimbursements under this subparagraph shall be made from funds appropriated to the Court.".

Approved November 4, 1992.

LEGISLATIVE HISTORY—H.R. 5193 (S. 2575):

HOUSE REPORTS: No. 102-714, Pt. 1 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 102-401 accompanying S. 2575 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 4, considered and passed House.
Oct. 1, H.R. 5193 considered and passed Senate, amended, in lieu of S. 2575.
Oct. 5, House concurred in Senate amendments with amendments.
Oct. 8, Senate concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Nov. 4, Presidential statement.

Public Law 102-586
102d Congress

An Act

Nov. 4, 1992
[H.R. 5194]

To amend the Juvenile Justice and Delinquency Prevention Act of 1974 to authorize appropriations for fiscal years 1993, 1994, 1995, and 1996, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND DECLARATION OF PURPOSE.

(a) FINDINGS.—Section 101(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601(a)) is amended—

(1) by redesignating paragraphs (2), (3), (4), (5), (6), (7), and (8) as paragraphs (4), (5), (6), (7), (8), (9), and (10), respectively;

(2) by inserting after paragraph (1) the following new paragraphs:

"(2) recent trends show an upsurge in arrests of adolescents for murder, assault, and weapon use;

"(3) the small number of youth who commit the most serious and violent offenses are becoming more violent;";

(3) in paragraph (4), as redesignated by paragraph (1), by inserting "prosecutorial and public defender offices," after "juvenile courts,";

(4) by striking "and" at the end of paragraph (9), as redesignated by paragraph (1);

(5) by striking the period at the end of paragraph (10), as redesignated by paragraph (1), and inserting ";"; and

(6) by adding at the end the following new paragraphs:

"(11) emphasis should be placed on preventing youth from entering the juvenile justice system to begin with; and

"(12) the incidence of juvenile delinquency can be reduced through public recreation programs and activities designed to provide youth with social skills, enhance self esteem, and encourage the constructive use of discretionary time.".

(b) PURPOSE.—Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "delinquency" and inserting "justice and delinquency prevention";

(B) in paragraph (2) by striking "agencies, institutions, and individuals in developing and implementing juvenile delinquency programs" and inserting "nonprofit juvenile justice and delinquency prevention programs";

(C) by striking "and" at the end of paragraph (7);

(D) by redesignating paragraph (8) as paragraph (9);

(E) by inserting after paragraph (7) the following new paragraph:

"(8) to strengthen families in which juvenile delinquency has been a problem;";

(F) by striking the period at the end of paragraph (9), as redesignated by subparagraph (D), and inserting a semicolon; and

(G) by adding at the end the following new paragraphs:

"(10) to assist State and local governments in improving the administration of justice and services for juveniles who enter the system; and

"(11) to assist States and local communities to prevent youth from entering the justice system to begin with."; and

(2) in subsection (b)—

(A) by striking "maintaining and strengthening the family unit" and inserting "preserving and strengthening families";

(B) by striking "and (4)" and inserting "(4)"; and

(C) by inserting "; (5) to encourage parental involvement in treatment and alternative disposition programs; and (6) to provide for coordination of services between State, local, and community-based agencies and to promote interagency cooperation in providing such services" before the period at the end.

(c) DEFINITIONS.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) by amending paragraph (16) to read as follows:

"(16) the term 'valid court order' means a court order given by a juvenile court judge to a juvenile—

"(A) who was brought before the court and made subject to such order;

"(B) who received, before the issuance of such order, the full due process rights guaranteed to such juvenile by the Constitution of the United States;

"(C) with respect to whom an appropriate public agency (other than a court or law enforcement agency), before the issuance of such order—

"(i) reviewed the behavior of such juvenile and the circumstances under which such juvenile was brought before the court and made subject to such order;

"(ii) determined the reasons for the behavior that caused such juvenile to be brought before the court and made subject to such order;

"(iii) determined that all dispositions (including treatment), other than placement in a secure detention facility or a secure correctional facility, have been exhausted or are clearly inappropriate; and

"(iv) submitted to the court a written report stating the results of the review conducted under clause (i) and the determinations made under clauses (ii) and (iii);";

(2) by striking "and" at the end of paragraph (17);

(3) by striking the period at the end of paragraph (18) and inserting a semicolon; and

(4) by adding at the end the following new paragraphs:

"(19) the term 'comprehensive and coordinated system of services' means a system that—

"(A) ensures that services and funding for the prevention and treatment of juvenile delinquency are consistent with policy goals of preserving families and providing

appropriate services in the least restrictive environment so as to simultaneously protect juveniles and maintain public safety;

"(B) identifies, and intervenes early for the benefit of, young children who are at risk of developing emotional or behavioral problems because of physical or mental stress or abuse, and for the benefit of their families;

"(C) increases interagency collaboration and family involvement in the prevention and treatment of juvenile delinquency; and

"(D) encourages private and public partnerships in the delivery of services for the prevention and treatment of juvenile delinquency;

"(20) the term 'gender-specific services' means services designed to address needs unique to the gender of the individual to whom such services are provided;

"(21) the term 'home-based alternative services' means services provided to a juvenile in the home of the juvenile as an alternative to incarcerating the juvenile, and includes home detention;

"(22) the term 'jail or lockup for adults' means a locked facility that is used by a State, unit of local government, or any law enforcement authority to detain or confine adults—

"(i) pending the filing of a charge of violating a criminal law;

"(ii) awaiting trial on a criminal charge; or

"(iii) convicted of violating a criminal law; and

"(23) the term 'nonprofit organization' means an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.".

SEC. 2. JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 (b)) is amended by amending the third sentence to read as follows: "The Administrator shall have the same reporting relationship with the Attorney General as the directors of other offices and bureaus within the Office of Justice Programs have.".

(b) PERSONNEL, SPECIAL PERSONNEL, EXPERTS, AND CONSULTANTS.—Section 202 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5612) is amended—

(1) in subsection (b) by striking "prescribes for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376";

(2) in subsection (c) by striking "Act" and inserting "title"; and

(3) in subsection (d) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376".

(c) CONCENTRATION OF EFFORT.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (a)—

(A) in the first sentence—

(i) by inserting "(1)" after "(a)"; and

(ii) by striking "implement overall policy and develop objectives and priorities" and inserting "develop objectives, priorities, and a long-term plan, and implement overall policy and a strategy to carry out such plan,"; and

(B) by adding at the end the following new paragraph:

"(2)(A) The plan described in paragraph (1) shall—

"(i) contain specific goals and criteria for making grants and contracts, for conducting research, and for carrying out other activities under this title; and

"(ii) provide for coordinating the administration programs and activities under this title with the administration of all other Federal juvenile delinquency programs and activities, including proposals for joint funding to be coordinated by the Administrator.

"(B) The Administrator shall review the plan described in paragraph (1) annually, revise the plan as the Administrator considers appropriate, and publish the plan in the Federal Register— Federal Register, publication.

"(i) not later than 240 days after the date of enactment of this paragraph, in the case of the initial plan required by paragraph (1); and

"(ii) except as provided in clause (i), in the 30-day period ending on October 1 of each year.";

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (5); and

(B) by striking the period at the end of paragraph (6) and inserting "; and";

(3) by adding at the end the following new paragraph:

"(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing health care to incarcerated juveniles."; and

(4) by striking subsections (f) and (g).

(d) COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616) is amended—

(1) in subsection (a)—

(A) in paragraph (1) by striking "the Director of the Office of Community Services" and all that follows through the period and inserting "the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the Office of National Drug Control Policy, the Director of the ACTION Agency, the Commissioner of Immigration and Naturalization, such other officers of Federal agencies who hold significant decisionmaking authority as the President may designate, and individuals appointed under paragraph (2)."; and

(B) by amending paragraph (2) to read as follows:

"(2)(A) Nine members shall be appointed, without regard to political affiliation, to the Council in accordance with this paragraph from among individuals who are practitioners in the field of juvenile justice and who are not officers or employees of the United States.

"(B)(i) Three members shall be appointed by the Speaker of the House of Representatives, after consultation with the minority leader of the House of Representatives.

"(ii) Three members shall be appointed by the majority leader of the Senate, after consultation with the minority leader of the Senate.

President.

"(iii) Three members shall be appointed by the President.

"(C)(i) Of the members appointed under each of clauses (i), (ii), and (iii)—

"(I) 1 shall be appointed for a term of 1 year;

"(II) 1 shall be appointed for a term of 2 years; and

"(III) 1 shall be appointed for a term of 3 years;

as designated at the time of appointment.

"(ii) Except as provided in clause (iii), a vacancy arising during the term for which an appointment is made may be filled only for the remainder of such term.

"(iii) After the expiration of the term for which a member is appointed, such member may continue to serve until a successor is appointed.";

(2) in subsection (c)—

(A) by inserting "(1)" after "(c)";

(B) in the first sentence by inserting "(in cooperation with State and local juvenile justice programs) all Federal programs and activities that detain or care for unaccompanied juveniles," after "delinquency programs";

(C) in the second sentence—

(i) by inserting "shall examine how the separate programs can be coordinated among Federal, State, and local governments to better serve at-risk children and juveniles and" after "Council"; and

(ii) by inserting "and all Federal programs and activities that detain or care for unaccompanied juveniles" before the period; and

(D) by adding at the end the following new paragraph:

"(2) In addition to performing their functions as members of the Council, the members appointed under subsection (a)(2) shall collectively—

"(A) make recommendations regarding the development of the objectives, priorities, and the long-term plan, and the implementation of overall policy and the strategy to carry out such plan, referred to in section 204(a)(1); and

"(B) not later than 180 days after the date of the enactment of this paragraph, submit such recommendations to the Administrator, the Chairman of the Committee on Education and Labor of the House of Representatives, and the Chairman of the Committee on the Judiciary of the Senate."; and

(3) in subsection (f)—

(A) by inserting "Members appointed under subsection (a)(2) shall serve without compensation." after "(f)"; and

(B) by striking "who are employed by the Federal Government full time".

(e) ANNUAL REPORT.—Section 207(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617(1)) is amended—

(1) in subparagraph (D)—

(A) by inserting "(including juveniles treated as adults for purposes of prosecution)" after "juveniles"; and

(B) by striking "and" at the end;

(2) in subparagraph (E) by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(F) the educational status of juveniles, including information relating to learning disabilities, failing performance, grade retention, and dropping out of school.".

(f) FEDERAL ASSISTANCE FOR STATE AND LOCAL PROGRAMS.—

(1) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 221(b)(2) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5613(b)(2)) is amended— 42 USC 5631.

(A) in the first sentence by striking "existence" and inserting "experience"; and

(B) in the second sentence by striking "section 291(c)(1)" and inserting "section 299(c)(1)".

(2) ALLOCATION.—Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(A) by striking "allotted" each place it appears and inserting "allocated" and striking "allotment" each place it appears and inserting "allocation";

(B) in subsection (a)—

(i) in paragraph (2)(A)—

(I) by striking "part D" and inserting "parts D and E";

(II) by inserting "or such greater amount, up to $400,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$325,000,"; and

(III) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992," after "$75,000";

(ii) in paragraph (2)(B)—

(I) by inserting "or such greater amount, up to $600,000, as is available to be allocated if appropriations have been enacted and made available to carry out parts D and E in the full amounts authorized by section 299(a) (1) and (3)" after "$400,000,"; and

(II) by inserting ", or such greater amount, up to $100,000, as is available to be allocated without reducing the amount of any State or territory's allocation below the amount allocated for fiscal year 1992" after "$100,000"; and

(iii) in paragraph (3) by striking "1988" each place it appears and inserting "1992"; and

(C) in subsection (c)—

(i) in the first sentence by striking "and evaluation" and inserting ", evaluation, and one full-time staff position"; and

(ii) in the second sentence by striking "7½ per centum" and inserting "10 percent".

(3) STATE PLANS.—(A) Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(i) in subsection (a)—

(I) in the second sentence by striking "programs, and the State" and inserting "programs and challenge activities subsequent to State participation in part E. The State";

(II) in paragraph (1) by striking "section 291(c)(1)" and inserting "section 299(c)(1)";

(III) by amending paragraph (3) to read as follows:

"(3) provide for an advisory group, which—

"(A) shall consist of not less than 15 and not more than 33 members appointed by the chief executive officer of the State—

"(i) which members have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice;

"(ii) which members include—

"(I) at least 1 locally elected official representing general purpose local government;

"(II) representatives of law enforcement and juvenile justice agencies, including juvenile and family court judges, prosecutors, counsel for children and youth, and probation workers;

"(III) representatives of public agencies concerned with delinquency prevention or treatment, such as welfare, social services, mental health, education, special education, recreation, and youth services;

"(IV) representatives of private nonprofit organizations, including persons with a special focus on preserving and strengthening families, parent groups and parent self-help groups, youth development, delinquency prevention and treatment, neglected or dependent children, the quality of juvenile justice, education, and social services for children;

"(V) volunteers who work with delinquents or potential delinquents;

"(VI) youth workers involved with programs that are alternatives to incarceration, including programs providing organized recreation activities;

"(VII) persons with special experience and competence in addressing problems related to school violence and vandalism and alternatives to suspension and expulsion; and

"(VIII) persons with special experience and competence in addressing problems related to learning disabilities, emotional difficulties, child abuse and neglect, and youth violence;

"(iii) a majority of which members (including the chairperson) shall not be full-time employees of the Federal, State, or local government;

"(iv) at least one-fifth of which members shall be under the age of 24 at the time of appointment; and

"(v) at least 3 members who have been or are currently under the jurisdiction of the juvenile justice system;

"(B) shall participate in the development and review of the State's juvenile justice plan prior to submission to the supervisory board for final action;

"(C) shall be afforded the opportunity to review and comment, not later than 30 days after their submission to the advisory group, on all juvenile justice and delinquency prevention grant applications submitted to the State agency designated under paragraph (1);

"(D) shall, consistent with this title—

"(i) advise the State agency designated under paragraph (1) and its supervisory board;

"(ii) submit to the chief executive officer and the legislature of the State at least annually recommendations regarding State compliance with the requirements of paragraphs (12), (13), and (14) and with progress relating to challenge activities carried out pursuant to part E; and

"(iii) contact and seek regular input from juveniles currently under the jurisdiction of the juvenile justice system; and

"(E) may, consistent with this title—

"(i) advise on State supervisory board and local criminal justice advisory board composition;

"(ii) review progress and accomplishments of projects funded under the State plan.";

(IV) in paragraph (8)—

(aa) by inserting "(A)" after "(8)";

(bb) by striking "(A) an" and inserting "(i) an";

(cc) by striking "(B)" and inserting "(ii)";

(dd) by striking "(C)" and inserting "(iii)";

(ee) by inserting "(including educational needs)" after "delinquency prevention needs" each place it appears; and

(ff) by adding at the end the following new subparagraphs:

"(B) contain—

"(i) an analysis of gender-specific services for the prevention and treatment of juvenile delinquency, including the types of such services available and the need for such services for females; and

"(ii) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

"(C) contain—

"(i) an analysis of services for the prevention and treatment of juvenile delinquency in rural areas, including the need for such services, the types of such services available in rural areas, and geographically unique barriers to providing such services; and

"(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

"(D) contain—

"(i) an analysis of mental health services available to juveniles in the juvenile justice system (including an assessment of the appropriateness of the particular place-

ments of juveniles in order to receive such services) and of barriers to access to such services; and

"(ii) a plan for providing needed mental health services to juveniles in the juvenile justice system;";

(V) in paragraph (9) by inserting "recreation," after "special education,";

(VI) by amending paragraph (10) to read as follows:

"(10) provide that not less than 75 percent of the funds available to the State under section 222, other than funds made available to the State advisory group under section 222(d), whether expended directly by the State, by the unit of general local government, or by a combination thereof, or through grants and contracts with public or private nonprofit agencies, shall be used for—

"(A) community-based alternatives (including home-based alternatives) to incarceration and institutionalization, specifically—

"(i) for youth who can remain at home with assistance: home probation and programs providing professional supervised group activities or individualized mentoring relationships with adults that involve the family and provide counseling and other supportive services;

"(ii) for youth who need temporary placement: crisis intervention, shelter, and after-care; and

"(iii) for youth who need residential placement: a continuum of foster care or group home alternatives that provide access to a comprehensive array of services;

"(B) community-based programs and services to work with—

"(i) parents and other family members to strengthen families, including parent self-help groups, so that juveniles may be retained in their homes;

"(ii) juveniles during their incarceration, and with their families, to ensure the safe return of such juveniles to their homes and to strengthen the families; and

"(iii) parents with limited English-speaking ability, particularly in areas where there is a large population of families with limited-English speaking ability;

"(C) comprehensive juvenile justice and delinquency prevention programs that meet the needs of youth through the collaboration of the many local systems before which a youth may appear, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies, and private nonprofit agencies offering youth services;

"(D) projects designed to develop and implement programs stressing advocacy activities aimed at improving services for and protecting the rights of youth affected by the juvenile justice system;

"(E) educational programs or supportive services for delinquent or other juveniles, provided equitably regardless of sex, race, or family income, designed to—

"(i) encourage juveniles to remain in elementary and secondary schools or in alternative learning situations, including—

"(I) education in settings that promote experiential, individualized learning and exploration of academic and career options;

"(II) assistance in making the transition to the world of work and self-sufficiency;

"(III) alternatives to suspension and expulsion; and

"(IV) programs to counsel delinquent juveniles and other juveniles regarding the opportunities that education provides; and

"(ii) enhance coordination with the local schools that such juveniles would otherwise attend, to ensure that—

"(I) the instruction that juveniles receive outside school is closely aligned with the instruction provided in school; and

"(II) information regarding any learning problems identified in such alternative learning situations are communicated to the schools;

"(F) expanded use of home probation and recruitment and training of home probation officers, other professional and paraprofessional personnel, and volunteers to work effectively to allow youth to remain at home with their families as an alternative to incarceration or institutionalization;

"(G) youth-initiated outreach programs designed to assist youth (including youth with limited proficiency in English) who otherwise would not be reached by traditional youth assistance programs;

"(H) programs designed to develop and implement projects relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist community services, law enforcement, and juvenile justice personnel to more effectively recognize and provide for learning disabled and other handicapped youth;

"(I) projects designed both to deter involvement in illegal activities and to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of youth;

"(J) programs and projects designed to provide for the treatment of youths' dependence on or abuse of alcohol or other addictive or nonaddictive drugs;

"(K) law-related education programs (and projects) for delinquent and at-risk youth designed to prevent juvenile delinquency;

"(L) programs for positive youth development that assist delinquent and other at-risk youth in obtaining—

"(i) a sense of safety and structure;

"(ii) a sense of belonging and membership;

"(iii) a sense of self-worth and social contribution;

"(iv) a sense of independence and control over one's life;

"(v) a sense of closeness in interpersonal relationships; and

"(vi) a sense of competence and mastery including health and physical competence, personal and social competence, cognitive and creative competence, vocational competence, and citizenship competence, including ethics and participation;

"(M) programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(N) programs designed to prevent and reduce hate crimes committed by juveniles, including educational programs and sentencing programs designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration; and

"(O) programs (including referral to literacy programs and social service programs) to assist families with limited English-speaking ability that include delinquent juveniles to overcome language and cultural barriers that may prevent the complete treatment of such juveniles and the preservation of their families.";

(VII) in paragraph (12)(A) by inserting "or alien juveniles in custody," after "court orders,";

(VIII) in paragraph (13)—

(aa) by striking "regular", and

(bb) by inserting before the semicolon at the end "or with the part-time or full-time security staff (including management) or direct-care staff of a jail or lockup for adults";

(IX) in paragraph (14)—

(aa) by striking "; beginning after the five-year period following December 8, 1980,";

(bb) by striking "1993" and inserting "1997"; and

(cc) by striking "areas which" and all that follows through the end of the paragraph and inserting "areas that are in compliance with paragraph (13) and—

"(A)(i) are outside a Standard Metropolitan Statistical Area; and

"(ii) have no existing acceptable alternative placement available;

"(B) are located where conditions of distance to be traveled or the lack of highway, road, or other ground transportation do not allow for court appearances within 24 hours, so that a brief (not to exceed 48 hours) delay is excusable; or

"(C) are located where conditions of safety exist (such as severely adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonably safe travel;";

(X) by amending paragraph (16) to read as follows:

"(16) provide assurance that youth in the juvenile justice system are treated equitably on the basis of gender, race, family income, and mentally, emotionally, or physically handicapping conditions;"; and

(XI) in paragraph (17)—

(aa) by striking "and maintain the family units" and inserting "the families";

(bb) by striking "deliquency. Such" and inserting "delinquency (which"; and

(cc) by inserting "and the provision of family counseling during the incarceration of juvenile family members and coordination of family services when appropriate and feasible)" before the semicolon;

(XII) by striking "and" at the end of paragraph (23);

(XIII) by striking the period at the end of paragraph (24) and inserting "; and"; and

(XIV) by adding at the end the following new paragraph:

"(25) provide an assurance that if the State receives under section 222 for any fiscal year an amount that exceeds 105 percent of the amount the State received under such section for fiscal year 1992, all of such excess shall be expended through or for programs that are part of a comprehensive and coordinated community system of services."; and

(ii) by amending subsection (c) to read as follows:

"(c)(1) Subject to paragraph (2), the Administrator shall approve any State plan and any modification thereof that meets the requirements of this section.

"(2) Failure to achieve compliance with the subsection (a)(12)(A) requirement within the 3-year time limitation shall terminate any State's eligibility for funding under this part for a fiscal year beginning before January 1, 1993, unless the Administrator determines that the State is in substantial compliance with the requirement, through achievement of deinstitutionalization of not less than 75 percent of such juveniles or through removal of 100 percent of such juveniles from secure correctional facilities, and has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time not exceeding 2 additional years.

"(3) If a State fails to comply with the requirements of subsection (a), (12)(A), (13), (14), or (23) in any fiscal year beginning after January 1, 1993—

"(A) subject to subparagraph (B), the amount allotted under section 222 to the State for that fiscal year shall be reduced by 25 percent for each such paragraph with respect to which noncompliance occurs; and

"(B) the State shall be ineligible to receive any allotment under that section for such fiscal year unless—

"(i) the State agrees to expend all the remaining funds the State receives under this part (excluding funds required to be expended to comply with section 222 (c) and (d) and with section 223(a)(5)(C)) for that fiscal year only to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

"(ii) the Administrator determines, in the discretion of the Administrator, that the State—

"(I) has achieved substantial compliance with each such paragraph with respect to which the State was not in compliance; and

"(II) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time."; and

(iii) in subsection (d)—

(I) by inserting ", excluding funds the Administrator shall make available to satisfy the requirement specified in section 222(d)," after "section 222(a)";

(II) by striking "the purposes of subsection (a)(12)(A), subsection (a)(13), or subsection (a)(14)" and inserting "activities of the kinds described in subsection (a) (12)(A), (13), (14) and (23)"; and

(III) by striking "subsection (a)(12)(A) and subsection (a)(13)" and inserting "subsection (a) (12)(A), (13), (14) and (23)".

42 USC 5633 note.

(B) Notwithstanding the amendment made by subparagraph (A)(ii), section 223(c)(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)(3)), as in effect on the day prior to the date of enactment of this Act, shall remain in effect to the extent that it provides the Administrator authority to grant a waiver with respect to a fiscal year prior to a fiscal year beginning before January 1, 1993.

(g) NATIONAL PROGRAMS.—

(1) NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—Section 241(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(d)(2)) is amended—

(A) in subsection (d)—

(i) by inserting "recreation and park personnel," after "special education personnel"; and

(ii) by inserting "prosecutors and defense attorneys," after "probation personnel,"; and

(B) in subsection (e)—

(i) in paragraph (5) by striking "prescribed for GS–18 of the General Schedule by section 5332" and inserting "payable under section 5376"; and

(ii) in paragraph (6) by striking "Act" and inserting "title".

(2) INFORMATION FUNCTION.—Section 242(3) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652(3)) is amended by inserting "(including drug and alcohol programs and gender-specific programs)" after "treatment programs".

(3) RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.—Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(A) by striking "The" and inserting "(a) The";

(B) in paragraph (1) by striking "maintain the family unit" and inserting "preserve families";

(C) by redesignating paragraphs (3), (4), (5), (6), (7), (8), and (9) as paragraphs (5), (6), (7), (8), (9), (10), and (11), respectively;

(D) by inserting after paragraph (2) the following new paragraphs:

"(3) establish or expand programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(i) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(ii) assist in the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior;

"(4) Encourage the development of programs which, in addition to helping youth take responsibility for their behavior, take into consideration life experiences which may have contributed to their delinquency when developing intervention and treatment programs;

"(5) encourage the development and establishment of programs to enhance the States' ability to identify chronic serious and violent juvenile offenders who commit crimes such as rape, murder, firearms offenses, gang-related crimes, violent felonies, and serious drug offenses;";

(E) in subparagraph (D) of paragraph (7), as redesignated by subparagraph (C), by inserting "(including the productive use of discretionary time through organized recreational" after "lawful activities";

(F) by striking "and" at the end of paragraph (10), as redesignated by subparagraph (C);

(G) by striking the period at the end of paragraph (11), as redesignated by subparagraph (C), and inserting "; and"; and

(H) by adding at the end the following new paragraphs and subsection:

"(12) support independent and collaborative research, research training, and consultation on social, psychological, educational, economic, and legal issues affecting children and families;

"(13) support research related to achieving a better understanding of the commission of hate crimes by juveniles and designed to identify educational programs best suited to prevent and reduce the incidence of hate crimes committed by juveniles; and

"(14) routinely collect, analyze, compile, publish, and disseminate uniform national statistics concerning—

"(A) all aspects of juveniles as victims and offenders;

"(B) the processing and treatment, in the juvenile justice system, of juveniles who are status offenders, delinquent, neglected, or abused; and

"(C) the processing and treatment of such juveniles who are treated as adults for purposes of the criminal justice system.

Public information.

"(b) The Administrator shall make available to the public—

"(1) the results of evaluations and research and demonstration activities referred to in subsection (a)(8); and

"(2) the data and studies referred to in subsection (a)(9); that the Administrator is authorized to disseminate under subsection (a).".

(3) TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.—Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(A) in paragraph (2) by inserting "(including juveniles who commit hate crimes)" after "offenders";

(B) in paragraph (3)—

(i) by inserting "prosecutors and defense attorneys," after "judges";

(ii) by striking "and" at the end;

(C) by striking the period at the end of paragraph (4) and inserting "; and"; and

(D) by adding at the end the following new paragraph:

"(5) provide technical assistance and training to assist States and units of general local government to adopt the model standards issued under section 204(b)(7).".

(4) ESTABLISHMENT OF TRAINING PROGRAM.—Section 245 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5659) is amended in the first sentence by inserting ", including methods and techniques specifically designed to prevent and reduce the incidence of hate crimes committed by juveniles" before the period.

(5) CURRICULUM FOR TRAINING PROGRAM.—Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660) is amended in the second sentence by inserting "and shall include training designed to prevent juveniles from committing hate crimes" before the period.

(6) SPECIAL STUDIES AND REPORTS.—Section 248 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5662) is amended—

(A) by striking "(a) Not later than 1 year after the date" and inserting "(a) PURSUANT TO 1988 AMENDMENTS.—(1) Not later than 1 year after the date";

(B) by striking "(1) to review" and inserting "(A) to review";

(C) by striking "(A) conditions" and inserting "(i) conditions";

(D) by striking "(B) the extent" and inserting "(ii) the extent";

(E) by striking "(2) to make" and inserting "(B) to make";

(F) by striking "(b)(1) Not later" and inserting "(2)(A) Not later";

(G) by striking "(A) how" and inserting "(i) how";

(H) by striking "(B) the amount" and inserting "(ii) the amount";

(I) by striking "(C) the extent" and inserting "(iii) the extent";

(J) by striking "(2)(A) for purposes" and inserting "(B)(i) for purposes";

(K) by striking "(B) For purposes" and inserting "(ii) for purposes";

(L) by striking "(c) Not later" and inserting "(3) Not later";

(M) by striking "subsection (a) or (b)" and inserting "paragraph (1) or (2)"; and

(N) by adding at the end the following new subsection:

"(b) PURSUANT TO 1992 AMENDMENTS.—(1) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to juveniles waived to adult court that reviews—

"(i) the frequency and extent to which juveniles have been transferred, certified, or waived to criminal court for prosecution during the 5-year period ending December 1992;

"(ii) conditions of confinement in adult detention and correctional facilities for juveniles waived to adult court; and

"(iii) sentencing patterns, comparing juveniles waived to adult court with juveniles who have committed similar offenses but have not been waived; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report (including a compilation of State waiver statutes) on the findings made in the study and recommendations to improve conditions for juveniles waived to adult court.

"(2) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study with respect to admissions of juveniles for behavior disorders to private psychiatric hospitals, and to other residential and nonresidential programs that serve juveniles admitted for behavior disorders, that reviews—

"(i) the frequency with which juveniles have been admitted to such hospitals and programs during the 5-year period ending December 1992; and

"(ii) conditions of confinement, the average length of stay, and methods of payment for the residential care of such juveniles; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve procedural protections and conditions for juveniles with behavior disorders admitted to such hospitals and programs.

"(3) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of gender bias within State juvenile justice systems that reviews—

"(i) the frequency with which females have been detained for status offenses (such as frequently running away, truancy, and sexual activity), as compared with the frequency with which males have been detained for such offenses during the 5-year period ending December 1992; and

"(ii) the appropriateness of the placement and conditions of confinement for females; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to combat gender bias in juvenile justice and provide appropriate services for females who enter the juvenile justice system.

"(4) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of the Native American pass-through grant program authorized under section 223(a)(5)(C) that reviews the cost-effectiveness of the funding formula utilized; and

"(B) submit to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study and recommendations to improve the Native American pass-through grant program.

"(5) Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall—

"(A) conduct a study of access to counsel in juvenile court proceedings that reviews—

"(i) the frequency with which and the extent to which juveniles in juvenile court proceedings either have waived counsel or have obtained access to counsel during the 5-year period ending December 1992; and

"(ii) a comparison of access to and the quality of counsel afforded juveniles charged in adult court proceedings with those of juveniles charged in juvenile court proceedings; and

"(B) submit to Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate a report on the findings made in the study

and recommendations to improve access to counsel for juveniles in juvenile court proceedings.

Urban and rural areas.

"(6)(A) Not later than 180 days after the date of enactment of this subsection, the Administrator shall begin to conduct a study and continue any pending study of the incidence of violence committed by or against juveniles in urban and rural areas in the United States.

"(B) The urban areas shall include—

"(i) the District of Columbia;

"(ii) Los Angeles, California;

"(iii) Milwaukee, Wisconsin;

"(iv) Denver, Colorado;

"(v) Pittsburgh, Pennsylvania;

"(vi) Rochester, New York; and

"(vii) such other cities as the Administrator determines to be appropriate.

"(C) At least one rural area shall be included.

"(D) With respect to each urban and rural area included in the study, the objectives of the study shall be—

"(i) to identify characteristics and patterns of behavior of juveniles who are at risk of becoming violent or victims of homicide;

"(ii) to identify factors particularly indigenous to such area that contribute to violence committed by or against juveniles;

"(iii) to determine the accessibility of firearms, and the use of firearms by or against juveniles;

"(iv) to determine the conditions that cause any increase in violence committed by or against juveniles;

"(v) to identify existing and new diversion, prevention, and control programs to ameliorate such conditions;

"(vi) to improve current systems to prevent and control violence by or against juveniles; and

"(vii) to develop a plan to assist State and local governments to establish viable ways to reduce homicide committed by or against juveniles.

"(E) Not later than 3 years after the date of enactment of this subsection, the Administrator shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate detailing the results of the study addressing each objective specified in subparagraph (D).

"(7)(A) Not later than 1 year after the date of the enactment of this subsection, the Administrator shall—

"(i) conduct a study described in subparagraph (B); and

"(ii) submit to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate the results of the study.

"(B) The study required by subparagraph (A) shall assess—

"(i) the characteristics of juveniles who commit hate crimes, including a profile of such juveniles based on—

"(I) the motives for committing hate crimes;

"(II) the age, sex, race, ethnicity, education level, locality, and family income of such juveniles; and

"(III) whether such juveniles are familiar with publications or organized groups that encourage the commission of hate crimes;

"(ii) the characteristics of hate crimes committed by juveniles, including—

"(I) the types of hate crimes committed;

"(II) the frequency with which institutions and natural persons, separately determined, were the targets of such crimes;

"(III) the number of persons who participated with juveniles in committing such crimes;

"(IV) the types of law enforcement investigations conducted with respect to such crimes;

"(V) the law enforcement proceedings commenced against juveniles for committing hate crimes; and

"(VI) the penalties imposed on such juveniles as a result of such proceedings; and

"(iii) the characteristics of the victims of hate crimes committed by juveniles, including—

"(I) the age, sex, race, ethnicity, locality of the victims and their familiarity with the offender; and

"(II) the motivation behind the attack.".

(7) AUTHORITY TO MAKE GRANTS AND CONTRACTS.—Section 261 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665) is amended—

(A) in subsection (a)—

(i) by striking "(a) The" and inserting "(a) Except as provided in subsection (f), the";

(ii) in paragraph (1) by inserting "(including home-based treatment programs)" after "alternatives"; and

(iii) by amending paragraph (3) to read as follows:

"(3) Establishing or supporting advocacy programs and services that encourage the improvement of due process available to juveniles in the juvenile justice system and the quality of legal representation for such juveniles.";

(iv) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(v) by inserting after paragraph (3) the following new paragraph:

"(4) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles affected by the juvenile justice system, including services that provide for the appointment of special advocates by courts for such juveniles.";

(vi) in paragraph (4), as redesignated by clause (iv)—

(I) by inserting "(including self-help programs for parents)" after "programs"; and

(II) by inserting ", including programs that work with families during the incarceration of juvenile family members and which take into consideration the special needs of families with limited-English speaking ability" before the period at the end;

(vii) in paragraph (7), as redesignated by clause (iv)—

(I) by striking the period at the end of subchapter (C) and inserting a comma; and

(II) by adding at the end the following:

"that targets juveniles who have had contact with the juvenile justice system or who are likely to have contact with the system."; and

(viii) by adding at the end the following new paragraph:

"(9) Establishing or supporting programs designed to prevent and to reduce the incidence of hate crimes by juveniles, including—

"(A) model educational programs that are designed to reduce the incidence of hate crimes by means such as—

"(i) addressing the specific prejudicial attitude of each offender;

"(ii) developing an awareness in the offender of the effect of the hate crime on the victim; and

"(iii) educating the offender about the importance of tolerance in our society; and

"(B) sentencing programs that are designed specifically for juveniles who commit hate crimes and that provide alternatives to incarceration."; and

(B) in subsection (b)(5) by inserting "community service personnel," after "law enforcement personnel,";

(C) in subsection (b)—

(i) by striking "(b) The" and inserting "(b) Except as provided in subsection (f), the"; and

(ii) in paragraph (2) by inserting "to assist in identifying learning difficulties (including learning disabilities)," after "schools,"; and

(D) by adding at the end the following new subsection:

"(f) The Administrator shall not make a grant or a contract under subsection (a) or (b) to the Department of Justice or to any administrative unit or other entity that is part of the Department of Justice.".

(h) CONSIDERATIONS FOR APPROVAL OF APPLICATIONS.—Section 262(d)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5665a(d)(1)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination waiving the competitive process—

"(i) with respect to programs to be carried out in areas with respect to which the President declares under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) that a major disaster or emergency exists; or

"(ii) with respect to a particular program described in part C that is uniquely qualified."; and

(2) by striking subparagraph (C).

(i) PREVENTION, INTERVENTION, AND TREATMENT PROGRAM RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING.—Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5667 et seq.) is amended to read as follows:

Grants.

"PART D—GANG-FREE SCHOOLS AND COMMUNITIES; COMMUNITY-BASED GANG INTERVENTION

"Subpart I—Gang-Free Schools and Communities

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

42 USC 5667.

"SEC. 281. (a) The Administrator shall make grants to or enter into contracts with public agencies (including local educational agencies) and private nonprofit agencies, organizations, and institutions to establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes:

"(1) To prevent and to reduce the participation of juveniles in the activities of gangs that commit crimes. Such programs and activities may include—

"(A) individual, peer, family, and group counseling, including the provision of life skills training and preparation for living independently, which shall include cooperation with social services, welfare, and health care programs;

"(B) education and social services designed to address the social and developmental needs of juveniles which such juveniles would otherwise seek to have met through membership in gangs;

"(C) crisis intervention and counseling to juveniles, who are particularly at risk of gang involvement, and their families, including assistance from social service, welfare, health care, mental health, and substance abuse prevention and treatment agencies where necessary;

"(D) the organization of neighborhood and community groups to work closely with parents, schools, law enforcement, and other public and private agencies in the community; and

"(E) training and assistance to adults who have significant relationships with juveniles who are or may become members of gangs, to assist such adults in providing constructive alternatives to participating in the activities of gangs.

"(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(3) To target elementary school students, with the purpose of steering students away from gang involvement.

"(4) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(5) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(6) To promote and support, with the cooperation of community-based organizations experienced in providing services to juveniles engaged in gang-related activities and the cooperation of local law enforcement agencies, the development of policies and activities in public elementary and secondary schools which will assist such schools in maintaining a safe environment conducive to learning.

"(7) To assist juveniles who are or may become members of gangs to obtain appropriate educational instruction, in or outside a regular school program, including the provision of counseling and other services to promote and support the continued participation of such juveniles in such instructional programs.

"(8) To expand the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies.

"(9) To provide services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity.

"(10) To provide services authorized in this section at a special location in a school or housing project.

"(11) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"(b) From not more than 15 percent of the amount appropriated to carry out this part in each fiscal year, the Administrator may make grants to and enter into contracts with public agencies and private nonprofit agencies, organizations, and institutions—

"(1) to conduct research on issues related to juvenile gangs;

"(2) to evaluate the effectiveness of programs and activities funded under subsection (a); and

"(3) to increase the knowledge of the public (including public and private agencies that operate or desire to operate gang prevention and intervention programs) by disseminating information on research and on effective programs and activities funded under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 281A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe. 42 USC 5667-1.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle

B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

Reports.

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 281(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, local educational agencies (as defined in section 1471 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891));

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart II—Community-Based Gang Intervention

42 USC 5667a.

"SEC. 282. (a) The Administrator shall make grants to or enter into contracts with public and private nonprofit agencies, organizations, and institutions to carry out programs and activities—

"(1) to reduce the participation of juveniles in the illegal activities of gangs;

"(2) to develop regional task forces involving State, local, and community-based organizations to coordinate enforcement, intervention, and treatment efforts for juvenile gang members and to curtail interstate activities of gangs; and

"(3) to facilitate coordination and cooperation among—

"(A) local education, juvenile justice, employment, and social service agencies; and

"(B) community-based programs with a proven record of effectively providing intervention services to juvenile gang members for the purpose of reducing the participation of juveniles in illegal gang activities; and

"(4) to support programs that, in recognition of varying degrees of the seriousness of delinquent behavior and the corresponding gradations in the responses of the juvenile justice system in response to that behavior, are designed to—

"(A) encourage courts to develop and implement a continuum of post-adjudication restraints that bridge the gap between traditional probation and confinement in a correctional setting (including expanded use of probation,

mediation, restitution, community service, treatment, home detention, intensive supervision, electronic monitoring, boot camps and similar programs, and secure community-based treatment facilities linked to other support services such as health, mental health, education (remedial and special), job training, and recreation); and

"(B) assist in the provision by the provision by the Administrator of information and technical assistance, including technology transfer, to States in the design and utilization of risk assessment mechanisms to aid juvenile justice personnel in determining appropriate sanctions for delinquent behavior.

"(b) Programs and activities for which grants and contracts are to be made under subsection (a) may include—

"(1) developing within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses;

"(2) providing treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent;

"(3) promoting the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes;

"(4) expanding the availability of prevention and treatment services relating to the illegal use of controlled substances and controlled substances analogues (as defined in paragraphs (6) and (32) of section 102 of the Controlled Substances Act (21 U.S.C. 802) by juveniles, provided through State and local health and social services agencies;

"(5) providing services to prevent juveniles from coming into contact with the juvenile justice system again as a result of gang-related activity; or

"(6) supporting activities to inform juveniles of the availability of treatment and services for which financial assistance is available under this subpart.

"APPROVAL OF APPLICATIONS

"SEC. 282A. (a) Any agency, organization, or institution desiring to receive a grant, or to enter into a contract, under this subpart shall submit an application at such time, in such manner, and containing such information as the Administrator may prescribe. 42 USC 5667a-1.

"(b) In accordance with guidelines established by the Administrator, each application submitted under subsection (a) shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 282 and specifically identify each such purpose such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) provide an assurance that the proposed program or activity will supplement, not supplant, similar programs and activities already available in the community;

"(6) describe how such program or activity is coordinated with programs, activities, and services available locally under parts B or C of this title, and under chapter 1 of subtitle B of title III of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11801–11805);

"(7) certify that the applicant has requested the State planning agency to review and comment on such application and summarizes the responses of such State planning agency to such request;

Reports.

"(8) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency; and

"(9) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this subpart.

"(c) In reviewing applications for grants and contracts under section 285(a), the Administrator shall give priority to applications—

"(1) submitted by, or substantially involving, community-based organizations experienced in providing services to juveniles;

"(2) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(3) for assistance for programs and activities that—

"(A) are broadly supported by public and private nonprofit agencies, organizations, and institutions located in such geographical area; and

"(B) will substantially involve the families of juvenile gang members in carrying out such programs or activities.

"Subpart III—General Provisions

"DEFINITION

42 USC 5667b.

"SEC. 283. For purposes of this part, the term 'juvenile' means an individual who is less than 22 years of age.".

(i) ADDITIONAL PARTS IN TITLE II.—(1) Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

42 USC prec. 5671.

(A) by redesignating part E as part I;

42 USC 5671–5676.

(B) by redesignating sections 291, 292, 293, 294, 295, and 296 as sections 299, 299A, 299B, 299C, 299D, and 299E, respectively; and

(C) by inserting after part D the following new parts:

"PART E—STATE CHALLENGE ACTIVITIES

"ESTABLISHMENT OF PROGRAM

42 USC 5667c.

"SEC. 285. (a) IN GENERAL.—The Administrator may make a grant to a State that receives an allocation under section 222,

in the amount of 10 percent of the amount of the allocation, for each challenge activity in which the State participates for the purpose of funding the activity.

"(b) DEFINITIONS.—For purposes of this part—

"(1) the term 'case review system' means a procedure for ensuring that—

"(A) each youth has a case plan, based on the use of objective criteria for determining a youth's danger to the community or himself or herself, that is designed to achieve appropriate placement in the least restrictive and most family-like setting available in close proximity to the parents' home, consistent with the best interests and special needs of the youth;

"(B) the status of each youth is reviewed periodically but not less frequently than once every 3 months, by a court or by administrative review, in order to determine the continuing necessity for and appropriateness of the placement;

"(C) with respect to each youth, procedural safeguards will be applied to ensure that a dispositional hearing is held to consider the future status of each youth under State supervision, in a juvenile or family court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed or approved by the court, not later than 12 months after the original placement of the youth and periodically thereafter during the continuation of out-of-home placement; and

"(D) a youth's health, mental health, and education record is reviewed and updated periodically; and

"(2) the term 'challenge activity' means a program maintained for 1 of the following purposes:

"(A) Developing and adopting policies and programs to provide basic health, mental health, and appropriate education services, including special education, for youth in the juvenile justice system as specified in standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention prior to October 12, 1984.

"(B) Developing and adopting policies and programs to provide access to counsel for all juveniles in the justice system to ensure that juveniles consult with counsel before waiving the right to counsel.

"(C) Increasing community-based alternatives to incarceration by establishing programs (such as expanded use of probation, mediation, restitution, community service, treatment, home detention, intensive supervision, and electronic monitoring) and developing and adopting a set of objective criteria for the appropriate placement of juveniles in detention and secure confinement.

"(D) Developing and adopting policies and programs to provide secure settings for the placement of violent juvenile offenders by closing down traditional training schools and replacing them with secure settings with capacities of no more than 50 violent juvenile offenders with ratios of staff to youth great enough to ensure adequate supervision and treatment.

"(E) Developing and adopting policies to prohibit gender bias in placement and treatment and establishing programs to ensure that female youth have access to the full range of health and mental health services, treatment for physical or sexual assault and abuse, self defense instruction, education in parenting, education in general, and other training and vocational services.

"(F) Establishing and operating, either directly or by contract or arrangement with a public agency or other appropriate private nonprofit organization (other than an agency or organization that is responsible for licensing or certifying out-of-home care services for youth), a State ombudsman office for children, youth, and families to investigate and resolve complaints relating to action, inaction, or decisions of providers of out-of-home care to children and youth (including secure detention and correctional facilities, residential care facilities, public agencies, and social service agencies) that may adversely affect the health, safety, welfare, or rights of resident children and youth.

"(G) Developing and adopting policies and programs designed to remove, where appropriate, status offenders from the jurisdiction of the juvenile court to prevent the placement in secure detention facilities or secure correctional facilities of juveniles who are nonoffenders or who are charged with or who have committed offenses that would not be criminal if committed by an adult.

"(H) Developing and adopting policies and programs designed to serve as alternatives to suspension and expulsion from school.

"(I) Increasing aftercare services for juveniles involved in the justice system by establishing programs and developing and adopting policies to provide comprehensive health, mental health, education, and vocational services and services that preserve and strengthen the families of such juveniles.

"(J) Developing and adopting policies to establish—

"(i) a State administrative structure to coordinate program and fiscal policies for children who have emotional and behavioral problems and their families among the major child serving systems, including schools, social services, health services, mental health services, and the juvenile justice system; and

"(ii) a statewide case review system.

"PART F—TREATMENT FOR JUVENILE OFFENDERS WHO ARE VICTIMS OF CHILD ABUSE OR NEGLECT

"DEFINITION

42 USC 5667d.

"SEC. 287. For the purposes of this part, the term 'juvenile' means a person who is less than 18 years of age.

"AUTHORITY TO MAKE GRANTS

42 USC 5667d-1.

"SEC. 287A. The Administrator, in consultation with the Secretary of Health and Human Services, shall make grants to public

and nonprofit private organizations to develop, establish, and support projects that—

"(1) provide treatment to juvenile offenders who are victims of child abuse or neglect and to their families so as to reduce the likelihood that the juvenile offenders will commit subsequent violations of law;

"(2) based on the best interests of juvenile offenders who receive treatment for child abuse or neglect, provide transitional services (including individual, group, and family counseling) to juvenile offenders—

"(A) to strengthen the relationships of juvenile offenders with their families and encourage the resolution of intrafamily problems related to the abuse or neglect;

"(B) to facilitate their alternative placement; and

"(C) to prepare juveniles aged 16 years and older to live independently; and

"(3) carry out research (including surveys of existing transitional services, identification of exemplary treatment modalities, and evaluation of treatment and transitional services) provided with grants made under this section.

"ADMINISTRATIVE REQUIREMENTS

"SEC. 287B. The Administrator shall administer this part subject to the requirements of sections 262, 299B, and 299E. 42 USC 5667d-2.

"PRIORITY

"SEC. 287C. In making grants under section 287A, the Administrator— 42 USC 5667d-3.

"(1) shall give priority to applicants that have experience in treating juveniles who are victims of child abuse or neglect; and

"(2) may not disapprove an application solely because the applicant proposes to provide treatment or transitional services to juveniles who are adjudicated to be delinquent for having committed offenses that are not serious crimes.

"PART G—MENTORING

"PURPOSES

"SEC. 288. The purposes of this part are— 42 USC 5667e.

"(1) to reduce juvenile delinquency and gang participation;

"(2) to improve academic performance; and

"(3) to reduce the dropout rate,

through the use of mentors for at-risk youth.

"DEFINITIONS

"SEC. 288A. For purposes of this part— 42 USC 5667e-1.

"(1) the term 'at-risk youth' means a youth at risk of educational failure or dropping out of school or involvement in delinquent activities; and

"(2) the term 'mentor' means a person who works with an at-risk youth on a one-to-one basis, establishing a supportive relationship with the youth and providing the youth with academic assistance and exposure to new experiences that enhance the youth's ability to become a responsible citizen.

"GRANTS

42 USC 5667e-2. "SEC. 288B. The Administrator shall, by making grants to and entering into contracts with local educational agencies (each of which agency shall be in partnership with a public or private agency, institution, or business), establish and support programs and activities for the purpose of implementing mentoring programs that—

"(1) are designed to link at-risk children, particularly children living in high crime areas and children experiencing educational failure, with responsible adults such as law enforcement officers, persons working with local businesses, and adults working for community-based organizations and agencies; and

"(2) are intended to achieve 1 or more of the following goals:

"(A) Provide general guidance to at-risk youth.

"(B) Promote personal and social responsibility among at-risk youth.

"(C) Increase at-risk youth's participation in and enhance their ability to benefit from elementary and secondary education.

"(D) Discourage at-risk youth's use of illegal drugs, violence, and dangerous weapons, and other criminal activity.

"(E) Discourage involvement of at-risk youth in gangs.

"(F) Encourage at-risk youth's participation in community service and community activities.

"REGULATIONS AND GUIDELINES

42 USC 5667e-3. "SEC. 288C. (a) REGULATIONS.—The Administrator, after consultation with the Secretary of Health and Human Services, the Secretary of Education, and the Secretary of Labor, shall promulgate regulations to implement this part.

"(b) GUIDELINES.—The Administrator shall develop and distribute to program participants specific model guidelines for the screening of prospective program mentors.

"USE OF GRANTS

42 USC 5667e-4. "SEC. 288D. (a) PERMITTED USES.—Grants awarded pursuant to this part shall be used to implement mentoring programs, including—

"(1) hiring of mentoring coordinators and support staff;

"(2) recruitment, screening, and training of adult mentors;

"(3) reimbursement of mentors for reasonable incidental expenditures such as transportation that are directly associated with mentoring; and

"(4) such other purposes as the Administrator may reasonably prescribe by regulation.

"(b) PROHIBITED USES.—Grants awarded pursuant to this part shall not be used—

"(1) to directly compensate mentors, except as provided pursuant to subsection (a)(3);

"(2) to obtain educational or other materials or equipment that would otherwise be used in the ordinary course of the grantee's operations;

"(3) to support litigation of any kind; or

"(4) for any other purpose reasonably prohibited by the Administrator by regulation.

"PRIORITY

"SEC. 288E. (a) IN GENERAL.—In making grants under this part, the Administrator shall give priority for awarding grants to applicants that— Grants. 42 USC 5667e-5.

"(1) serve at-risk youth in high crime areas;

"(2) have 60 percent or more of their youth eligible to receive funds under chapter 1 of the Elementary and Secondary Education Act of 1965; and

"(3) have a considerable number of youth who drop out of school each year.

"(b) OTHER CONSIDERATIONS.—In making grants under this part, the Administrator shall give consideration to—

"(1) the geographic distribution (urban and rural) of applications;

"(2) the quality of a mentoring plan, including—

"(A) the resources, if any, that will be dedicated to providing participating youth with opportunities for job training or postsecondary education; and

"(B) the degree to which parents, teachers, community-based organizations, and the local community participate in the design and implementation of the mentoring plan; and

"(3) the capability of the applicant to effectively implement the mentoring plan.

"APPLICATIONS

"SEC. 288F. An application for assistance under this part shall include— 42 USC 5667e-6.

"(1) information on the youth expected to be served by the program;

"(2) a provision for a mechanism for matching youth with mentors based on the needs of the youth;

"(3) an assurance that no mentor will be assigned to more than one youth, so as to ensure a one-to-one relationship;

"(4) an assurance that projects operated in secondary schools will provide youth with a variety of experiences and support, including—

"(A) an opportunity to spend time in a work environment and, when possible, participate in the work environment;

"(B) an opportunity to witness the job skills that will be required for youth to obtain employment upon graduation;

"(C) assistance with homework assignments; and

"(D) exposure to experiences that youth might not otherwise encounter;

"(5) an assurance that projects operated in elementary schools will provide youth with—

"(A) academic assistance;

"(B) exposure to new experiences and activities that youth might not encounter on their own; and

"(C) emotional support;

"(6) an assurance that projects will be monitored to ensure that each youth benefits from a mentor relationship, with provision for a new mentor assignment if the relationship is not beneficial to the youth;

"(7) the method by which mentors and youth will be recruited to the project;

"(8) the method by which prospective mentors will be screened; and

"(9) the training that will be provided to mentors.

"GRANT CYCLES

42 USC 5667e-7. "SEC. 288G. Grants under this part shall be made for 3-year periods.

"REPORTS

42 USC 5667e-8. "SEC. 288H. Not later than 120 days after the completion of the first cycle of grants under this part, the Administrator shall submit to Congress a report regarding the success and effectiveness of the grant program in reducing juvenile delinquency and gang participation, improving academic performance, and reducing the dropout rate.

"PART H—BOOT CAMPS

"ESTABLISHMENT OF PROGRAM

42 USC 5667f. "SEC. 289. (a) IN GENERAL.—The Administrator may make grants to the appropriate agencies of 1 or more States for the purpose of establishing up to 10 military-style boot camps for juvenile delinquents (referred to as 'boot camps').

"(b) LOCATION.—(1) The boot camps shall be located on existing or closed military installations on sites to be chosen by the agencies in one or more States, or in other facilities designated by the agencies on such sites, after consultation with the Secretary of Defense, if appropriate, and the Administrator.

"(2) The Administrator shall—

"(A) try to achieve to the extent possible equitable geographic distribution in approving boot camp sites; and

"(B) give priority to grants where more than one State enters into formal cooperative arrangements to jointly administer a boot camp; and

"(c) REGIMEN.—The boot camps shall provide—

"(1) a highly regimented schedule of discipline, physical training, work, drill, and ceremony characteristic of military basic training;

"(2) regular, remedial, special, and vocational education; and

"(3) counseling and treatment for substance abuse and other health and mental health problems.

"CAPACITY

42 USC 5667f-1. "SEC. 289A. Each boot camp shall be designed to accommodate between 150 and 250 juveniles for such time as the grant recipient agency deems to be appropriate.

"ELIGIBILITY AND PLACEMENT

"SEC. 289B. (a) ELIGIBILITY.—A person shall be eligible for assignment to a boot camp if he or she— 42 USC 5667f-2.

"(1) is considered to be a juvenile under the laws of the State of jurisdiction; and

"(2) has been adjudicated to be delinquent in the State of jurisdiction or, upon approval of the court, voluntarily agrees to the boot camp assignment without a delinquency adjudication.

"(b) PLACEMENT.—Prior to being placed in a boot camp, an assessment of a juvenile shall be performed to determine that—

"(1) the boot camp is the least restrictive environment that is appropriate for the juvenile considering the seriousness of the juvenile's delinquent behavior and the juvenile's treatment need; and

"(2) the juvenile is physically and emotionally capable of participating in the boot camp regimen.

"POST-RELEASE SUPERVISION

"SEC. 289C. A State that seeks to establish a boot camp, or participate in the joint administration of a boot camp, shall submit to the Administrator a plan describing— 42 USC 5667f-3.

"(1) the provisions that the State will make for the continued supervision of juveniles following release; and

"(2) provisions for educational and vocational training, drug or other counseling and treatment, and other support services.

"PART I—WHITE HOUSE CONFERENCE ON JUVENILE JUSTICE

"SEC. 291. (a) IN GENERAL.—The President may call and conduct a National White House Conference on Juvenile Justice (referred to as the 'Conference') in accordance with this part. 42 USC 5667g.

"(b) PURPOSES OF CONFERENCE.—The purposes of the Conference shall be—

"(1) to increase public awareness of the problems of juvenile offenders and the juvenile justice system;

"(2) to examine the status of minors currently in the juvenile and adult justice systems;

"(3) to examine the increasing number of violent crimes committed by juveniles;

"(4) to examine the growing phenomena of youth gangs, including the number of young women who are involved;

"(5) to assemble persons involved in policies and programs related to juvenile delinquency prevention and juvenile justice enforcement;

"(6) to examine the need for improving services for girls in the juvenile justice system;

"(7) to create a forum in which persons and organizations from diverse regions may share information regarding successes and failures of policy in their juvenile justice and juvenile delinquency prevention programs; and

"(8) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problems of juvenile delinquency and juvenile justice.

"(c) SCHEDULE OF CONFERENCES.—The Conference under this part shall be concluded not later than 18 months after the date of enactment of this part.

"(d) PRIOR STATE AND REGIONAL CONFERENCES.—

"(1) IN GENERAL.—Participants in the Conference and other interested persons and organizations may conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the executive director of the Conference.

"(2) PURPOSE OF STATE AND REGIONAL CONFERENCES.—State and regional conferences and activities shall be directed toward the consideration of the purposes of this part. State conferences shall elect delegates to the National Conferences.

"(3) ADMITTANCE.—No person involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders may be denied admission to a State or regional conference.

"CONFERENCE PARTICIPANTS

42 USC 5667g-1.

"SEC. 291A. (a) IN GENERAL.—The Conference shall bring together persons concerned with issues and programs, both public and private, relating to juvenile justice, and juvenile delinquency prevention.

"(b) SELECTION.—

"(1) STATE CONFERENCES.—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences.

"(2) DELEGATES.—(A) In addition to delegates elected pursuant to paragraph (1)—

"(i) each Governor may appoint 1 delegate and 1 alternate;

"(ii) the majority leader of the Senate, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iii) the Speaker of the House of Representatives, in consultation with the minority leader, may appoint 10 delegates and 3 alternates;

"(iv) the President may appoint 20 delegates and 5 alternates;

"(v) the chief law enforcement official and the chief juvenile corrections official of each State may appoint 1 delegate and 1 alternate each; and

"(vi) the Chairperson of the Juvenile Justice and Delinquency Prevention Advisory Committee of each State, or his or her designate, may appoint 1 delegate.

"(B) Only persons involved in administering State juvenile justice programs or in providing services to or advocacy of juvenile offenders shall be eligible for appointment as a delegate.

"(c) PARTICIPANT EXPENSES.—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed from funds appropriated pursuant to this Act.

"(d) NO FEES.—No fee may be imposed on a person who attends a Conference except a registration fee of not to exceed $10.

"STAFF AND EXECUTIVE BRANCH

"SEC. 291B. (a) IN GENERAL.—The President may appoint and compensate an executive director of the National White House Conference on Juvenile Justice and such other directors and personnel for the Conference as the President may deem to be advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates. The staff of the Conference may not exceed 20, including the executive director. 42 USC 5667g-2.

"(b) DETAILEES.—Upon request by the executive director, the heads of the executive and military departments may detail employees to work with the executive director in planning and administering the Conference without regard to section 3341 of title 5, United States Code.

"PLANNING AND ADMINISTRATION OF CONFERENCE

"SEC. 291C. (a) FEDERAL AGENCY SUPPORT.—All Federal departments, agencies, and instrumentalities shall provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference. 42 USC 5667g-3.

"(b) DUTIES OF THE EXECUTIVE DIRECTOR.—In carrying out this part, the executive director of the White House Conference on Juvenile Justice—

"(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels authorized by section 291(d);

"(2) may enter into contracts and agreements with public and private agencies and organizations and academic institutions to assist in carrying out this part; and

"(3) shall prepare and provide background materials for use by participants in the Conference and by participants in State and regional conferences.

"REPORTS

"SEC. 291D. (a) IN GENERAL.—Not later than 6 months after the date on which a National Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. 42 USC 5667g-4.

"(b) CONTENTS.—A report described in subsection (a)—

"(1) shall include the findings and recommendations of the Conference and proposals for any legislative action necessary to implement the recommendations of the Conference; and

"(2) shall be made available to the public. Public information.

"OVERSIGHT

"SEC. 291E. The Administrator shall report to the Congress annually during the 3-year period following the submission of the final report of a Conference on the status and implementation of the findings and recommendations of the Conference.". 42 USC 5667g-5.

(2) REPEALER.—Subtitle G of title II of the Crime Control Act of 1990 (42 U.S.C. 13051 et seq.) is repealed effective September 30, 1993. Termination date.

(j) GENERAL AND ADMINISTRATIVE PROVISIONS.—Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974, as redesignated by subsection (g), is amended— 42 USC 5671.

(1) by amending subsection (a) to read as follows:

"(a)(1) To carry out the purposes of this title (other than parts D, E, F, G, H, and I) there are authorized to be appropriated $150,000,000 for fiscal years 1993, 1994, 1995, and 1996. Funds appropriated for any fiscal year shall remain available for obligation until expended.

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated—

"(i) to carry out subpart 1, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996; and

"(ii) to carry out subpart 2, $25,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No funds may be appropriated to carry out part D, E, F, G, or I of this title or title V or VI for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D, E, F, G, or I of this title or title V or VI) for the preceding fiscal year.

"(3) To carry out part E, there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as are necessary for each of the fiscal years 1994, 1995, and 1996.

"(4)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part F—

"(i) $15,000,000 for fiscal year 1993; and

"(ii) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part F unless the aggregate amount appropriated to carry out this title for that fiscal year is not less than the aggregate amount appropriated to carry out this title for the preceding fiscal year.

"(C) From the amount appropriated to carry out part F in a fiscal year, the Administrator shall use—

"(i) not less than 85 percent to make grants for treatment and transitional services;

"(ii) not to exceed 10 percent for grants for research; and

"(iii) not to exceed 5 percent for salaries and expenses of the Office of Juvenile Justice and Delinquency Prevention related to administering part F.

"(5)(A) Subject to subparagraph (B), there are authorized to be appropriated to carry out part G such sums as are necessary for fiscal years 1993, 1994, 1995, and 1996.

"(6)(A) There are authorized to be appropriated to carry out part H such sums as are necessary for fiscal year 1993, to remain available until expended, of which—

"(i) not more than $12,500,000 shall be used to convert any 1 closed military base or to modify any 1 existing military base or other designated facility to a boot camp; and

"(ii) not more than $2,500,000 shall be used to operate any 1 boot camp during a fiscal year.

"(B) No amount is authorized to be appropriated for a fiscal year to carry out part H unless the aggregate amount appropriated to carry out parts A, B, and C of this title for that fiscal year is not less than 120 percent of the aggregate amount appropriated to carry out those parts for fiscal year 1992.

"(7)(A) There are authorized to be appropriated such sums as are necessary for each National Conference and associated State and regional conferences under part I, to remain available until expended.

"(B) New spending authority or authority to enter into contracts under part I shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

"(C) No funds appropriated to carry out this Act shall be made available to carry out part I other than funds appropriated specifically for the purpose of conducting the Conference.

"(D) Any funds remaining unexpended at the termination of the Conference under part I, including submission of the report pursuant to section 291D, shall be returned to the Treasury of the United States and credited as miscellaneous receipts."; and

(2) by adding at the end the following new subsection:

"(e) Of such sums as are appropriated to carry out section 261(a)(6), not less than 20 percent shall be reserved by the Administrator for each of fiscal years 1993, 1994, 1995, and 1996, for not less than 2 programs that have not received funds under subpart II of part C prior to October 1, 1992, which shall be selected through the application and approval process set forth in section 262.".

SEC. 3. RUNAWAY AND HOMELESS YOUTH.

(a) FINDINGS.—Section 302 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) juveniles who have become homeless or who leave and remain away from home without parental permission, are at risk of developing serious health and other problems because they lack sufficient resources to obtain care and may live on the street for extended periods thereby endangering themselves and creating a substantial law enforcement problem for communities in which they congregate;";

(2) by striking "and" at the end of paragraph (4);

(3) in paragraph (5) by striking "temporary" and all that follows through the period at the end and inserting "care (including preventive services, emergency shelter services, and extended residential shelter) outside the welfare system and the law enforcement system;" and

(4) by adding at the end the following new paragraphs:

"(6) runaway and homeless youth have a disproportionate share of health, behavioral, and emotional problems compared to the general population of youth, but have less access to health care and other appropriate services and therefore may need access to longer periods of residential care, more intensive aftercare service, and other assistance;

"(7) to make a successful transition to adulthood, runaway youth, homeless youth, and other street youth need opportunities to complete high school or earn a general equivalency degree, learn job skills, and obtain employment;

"(8) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop an accurate national reporting system and to develop an effective system of care including prevention, emergency shelter services, and longer residential care outside the public welfare and law enforcement structures;

"(9) early intervention services (such as home-based services) are needed to prevent runaway and homeless youth from becoming involved in the juvenile justice system and other law enforcement systems; and

"(10) street-based services that target runaway and homeless youth where they congregate are needed to reach youth who require assistance but who would not otherwise avail themselves of such assistance or services without street-based outreach.".

(b) AUTHORITY TO MAKE GRANTS.—

(1) AUTHORITY.—Section 311(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(a)) is amended by striking "structure and" and inserting "system, the child welfare system, the mental health system, and".

(2) ALLOTMENT OF FUNDS.—Section 311(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5711(b)) is amended—

(A) in paragraph (2)—

(i) by striking "$75,000" and inserting "$100,000"; and

(ii) by striking "$30,000" and inserting "$45,000"; and

(B) in paragraph (3) by striking "1988" each place it appears and inserting "1992".

(3) STREET-BASED SERVICES; HOME-BASED SERVICES.—Section 311 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended by striking subsection (c) and inserting the following:

42 USC 5711.

"(c)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants under this subsection for that fiscal year to entities that receive grants under subsection (a) to establish and operate street-based service projects for runaway and homeless youth.

"(2) For purposes of this part, the term 'street-based services' includes—

"(i) street-based crisis intervention and counseling;

"(ii) information and referral for housing;

"(iii) information and referral for transitional living and health care services; and

"(iv) advocacy, education, and prevention services for—

"(I) alcohol and drug abuse;

"(II) sexually transmitted diseases including HIV/AIDS infection; and

"(III) physical and sexual assault.

"(d)(1) If for a fiscal year the amount appropriated under section 385(a)(1) exceeds $50,000,000, the Secretary may make grants for that fiscal year to entities that receive grants under subsection (a) to establish and operate home-based service projects for families that are separated, or at risk of separation, as a result of the physical absence of a runaway youth or youth at risk of family separation.

"(2) For purposes of this part—

"(A) the term 'home-based service project' means a project that provides—

"(i) case management; and

"(ii) in the family residence (to the maximum extent practicable)—

"(I) intensive, time-limited, family and individual counseling;

"(II) training relating to life skills and parenting; and

"(III) other services;

designed to prevent youth from running away from their families or to cause runaway youth to return to their families;

"(B) the term 'youth at risk of family separation' means an individual—

"(i) who is less than 18 years of age; and

"(ii)(I) who has a history of running away from the family of such individual;

"(II) whose parent, guardian, or custodian is not willing to provide for the basic needs of such individual; or

"(III) who is at risk of entering the child welfare system or juvenile justice system, as a result of the lack of services available to the family to meet such needs; and

"(C) the term 'time-limited' means for a period not to exceed 6 months.".

(c) ELIGIBILITY.—Section 312 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5712) is amended—

(1) in subsection (a) by striking "facility providing" and inserting "project (including a host family home) that provides"; and

(2) in subsection (b)—

(A) by amending paragraph (2) to read as follows:

"(2) shall use such assistance to establish, to strengthen, or to fund a runaway and homeless youth center, or a locally controlled facility providing temporary shelter, that has—

"(A) a maximum capacity of not more than 20 youth; and

"(B) a ratio of staff to youth that is sufficient to ensure adequate supervision and treatment;";

(B) in paragraph (3)—

(i) by striking "child's parents or relatives and assuring" and inserting "parents or other relatives of the youth and ensuring"; and

(ii) by striking "child" each place it appears and inserting "youth";

(C) by amending paragraph (4) to read as follows:

"(4) shall develop an adequate plan for ensuring—

"(A) proper relations with law enforcement personnel, health and mental health care personnel, social service personnel, school system personnel, and welfare personnel;

"(B) coordination with personnel of the schools to which runaway and homeless youth will return, to assist such youth to stay current with the curricula of those schools; and

"(C) the return of runaway and homeless youth from correctional institutions;";

(D) in paragraph (5)—

(i) by striking "aftercare" and all that follows through "assuring" and inserting "providing counseling and aftercare services to such youth, for encouraging the involvement of their parents or legal guardians in counseling, and for ensuring"; and

(ii) by striking "children" and inserting "youth";

(E) in paragraph (6) by striking "children and family members which it serves" and inserting "youth and family members whom it serves (including youth who are not referred to out-of-home shelter services)";

(F) by redesignating paragraphs (6), (7), (8), (9), and (10) as paragraphs (7), (8), (9), (10), and (11), respectively;

(G) by inserting after paragraph (5) the following new paragraph:

"(6) shall develop an adequate plan for establishing or coordinating with outreach programs designed to attract persons (including, where applicable, persons who are members of a cultural minority and persons with limited ability to speak English) who are eligible to receive services for which a grant under subsection (a) may be expended;"; and

(H) by adding at the end the following new subsections:

"(c) To be eligible for assistance under section 311(c), an applicant shall propose to establish, strengthen, or fund a street-based service project for runaway and homeless youth and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide qualified supervision of staff, including on-street supervision by appropriately trained staff;

"(2) to provide backup personnel for on-street staff;

"(3) to provide informational and health educational material to runaway and homeless youth in need of services;

"(4) to provide initial and periodic training of staff who provide services under the project;

"(5) to carry out outreach activities for runaway and homeless youth and to collect statistical information on runaway and homeless youth contacted through such activities;

"(6) to develop referral relationships with agencies and organizations that provide services or assistance to runaway and homeless youth, including law enforcement, education, social services, vocational education and training, public welfare, legal assistance, mental health and health care;

Reports.

"(7) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds received under section 311(c), the achievements of the project under section 311(c) carried out by the applicant, and statistical summaries describing the number and the characteristics of the runaway and homeless youth who participate in such project in the year for which the report is submitted;

"(8) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(9) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under subsection 311(c);

Records.

"(10) to keep adequate statistical records that profile runaway and homeless youth whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

"(11) not to disclose records maintained on an individual runaway and homeless youth without the informed consent of the youth, to any person other than an agency compiling statistical records; and Privacy.

"(12) to provide to the Secretary such other information as the Secretary may reasonably require.

"(d) To be eligible for assistance under section 311(d), an applicant shall propose to establish, strengthen, or fund a home-based service project for runaway youth or youth at risk of family separation and shall submit to the Secretary a plan in which the applicant agrees, as part of the project—

"(1) to provide counseling and information services needed by runaway youth, youth at risk of family separation, and the family (including unrelated individuals in the family household) of such youth, including services relating to basic life skills, interpersonal skill building, educational advancement, job attainment skills, mental and physical health care, parent training, financial planning, and referral to sources of other needed services;

"(2) to provide directly, or through an arrangement made by the applicant, 24-hour service to respond to family crises (including immediate access to temporary shelter for runaway youth and youth at risk of family separation affected by family crises);

"(3) to establish in partnership with the families of runaway youth and youth at risk of family separation, objectives and measures of success to be achieved as a result of participating in such project;

"(4) to provide informational and health educational material to runaway youth and youth at risk of family separation in need of services;

"(5) to provide initial and periodic training of staff who provide services under the project;

"(6) to carry out outreach activities for runaway youth and youth at risk of family separation, and to collect statistical information on runaway youth and youth at risk of family separation contacted through such activities;

"(7) to ensure that—

"(i) caseloads will remain sufficiently low to allow for intensive (5 to 20 hours per week) involvement with each family participating in such project; and

"(ii) qualified supervision will be provided to staff who provide services under the project;

"(8) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under section 311(d), the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the runaway youth and youth at risk of family separation who participate in such project in the year for which the report is submitted; Reports.

"(9) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(10) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under section 311(d);

Records.

"(11) to keep adequate statistical records that profile runaway youth and youth at risk of family separation whom it serves and not to disclose the identity of such youth in reports or other documents based on such statistical records;

Privacy.

"(12) not to disclose records maintained on an individual runaway youth or youth at risk of family separation without the informed consent of the youth, to any person other than an agency compiling statistical records; and

"(13) to provide to the Secretary such other information as the Secretary may reasonably require.".

(d) APPROVAL BY SECRETARY.—Section 316 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5713) is amended—

(1) in the first sentence by striking "section 311(a)" each place it appears and inserting "section 311 (a), (c), or (d)"; and

(2) in the second sentence by striking "$150,000" and inserting "$200,000".

(e) GRANTS TO PRIVATE ENTITIES; STAFFING.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended—

(1) by striking "part" each place it appears and inserting "title";

(2) in the first sentence inserting "and the programs, projects, and activities they carry out under this title" after "center"; and

(3) in the last sentence by inserting "under this title" before the period.

(f) TRANSITIONAL LIVING GRANT PROGRAM.—Section 322(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5714–2(a)) is amended—

(1) in paragraph (1) by inserting "which shall include money management, budgeting, consumer education, and use of credit" after "basic life skills"; and

(2) in paragraph (13)—

(A) by striking "consent of the individual youth and parent or legal guardian" and inserting "informed consent of the individual youth"; and

(B) by striking "or a government agency involved in the disposition of criminal charges against youth".

(g) NATIONAL COMMUNICATION SYSTEM; STREET-BASED SERVICES PROGRAM; HOME-BASED SERVICES PROGRAM; COORDINATING ACTIVITIES.—

(1) ADDITIONAL PARTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701 et seq.) is amended—

42 USC prec. 5715.

(A) in part D—

(i) by striking "PART D" and inserting "PART F"; and

42 USC 5715, 5716, 5731, 5732, 5751.

(ii) by redesignating sections 361, 362, 363, 364, and 366 as sections 381 through 385, respectively;

(B) in part C—

42 USC prec. 5714a.

(i) by striking "PART C" and inserting "PART E"; and

42 USC 5714a, 5714b.

(ii) by redesignating sections 341 and 342 as sections 371 and 372, respectively; and

(C) by inserting after part B the following new parts:

"PART C—NATIONAL COMMUNICATIONS SYSTEM

"AUTHORITY TO MAKE GRANTS

"SEC. 331. With funds reserved under section 385(a)(3), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. The Secretary shall give priority to grant applicants that have experience in providing telephone services to runaway and homeless youth. 42 USC 5714-11.

"PART D—COORDINATING, TRAINING, RESEARCH, AND OTHER ACTIVITIES

"COORDINATION

"SEC. 341. With respect to matters relating to the health, education, employment, and housing of runaway and homeless youth, the Secretary shall coordinate the activities of agencies of the Department of Health and Human Services with the activities of other Federal entities and with the activities of entities that are eligible to receive grants under this title. 42 USC 5714-21.

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 342. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under this title, for the purpose of carrying out the programs, projects, or activities for which such grants are made. 42 USC 5714-22.

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

"SEC. 343. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway youth and homeless youth. 42 USC 5714-23.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) youth who repeatedly leave and remain away from their homes;

"(2) home-based and street-based services for, and outreach to, runaway youth and homeless youth;

"(3) transportation of runaway youth and homeless youth in connection with services authorized to be provided under this title;

"(4) the special needs of runaway youth and homeless youth programs in rural areas;

"(5) the special needs of programs that place runaway youth and homeless youth in host family homes;

"(6) staff training in—

"(A) the behavioral and emotional effects of sexual abuse and assault;

"(B) responding to youth who are showing effects of sexual abuse and assault; and

"(C) agency-wide strategies for working with runaway and homeless youth who have been sexually victimized;

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers;

"(8) training for runaway youth and homeless youth, and staff training, related to preventing and obtaining treatment for infection by the human immunodeficiency virus (HIV);

"(9) increasing access to health care (including mental health care) for runaway youth and homeless youth; and

"(10) increasing access to education for runaway youth and homeless youth.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who have experience working with runaway youth or homeless youth.

"TEMPORARY DEMONSTRATION PROJECTS TO PROVIDE SERVICES TO YOUTH IN RURAL AREAS

42 USC 5714-24.

"SEC. 344. (a)(1) With funds appropriated under section 385(c), the Secretary may make grants on a competitive basis to States, localities, and private entities (and combinations of such entities) to provide services (including transportation) authorized to be provided under part A, to runaway and homeless youth in rural areas.

"(2)(A) Each grant made under paragraph (1) may not exceed $100,000.

"(B) In each fiscal year for which funds are appropriated to carry out this section, grants shall be made under paragraph (1) to eligible applicants to carry out projects in not fewer than 10 States.

"(C) Not more than 2 grants may be made under paragraph (1) in each fiscal year to carry out projects in a particular State.

"(3) Each eligible applicant that receives a grant for a fiscal year to carry out a project under this section shall have priority to receive a grant for the subsequent fiscal year to carry out a project under this section.

"(b) To be eligible to receive a grant under subsection (a), an applicant shall—

"(1) submit to the Secretary an application in such form and containing such information and assurances as the Secretary may require by rule; and

"(2) propose to carry out such project in a geographical area that—

"(A) has a population under 20,000;

"(B) is located outside a Standard Metropolitan Statistical Area; and

"(C) agree to provide to the Secretary an annual report identifying—

"(i) the number of runaway and homeless youth who receive services under the project carried out by the applicant;

"(ii) the types of services authorized under part A that were needed by, but not provided to, such youth in the geographical area served by the project;

"(iii) the reasons the services identified under clause (ii) were not provided by the project; and

"(iv) such other information as the Secretary may require.".

(2) TECHNICAL AMENDMENTS.—(A) Section 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712a) is repealed.

(B) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5712b) is repealed.

(C) Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5712c) is repealed.

(D) Sections 316 and 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5713, 5714) are redesignated as sections 313 and 314, respectively.

(E) Section 365 of the Runaway and Homeless Youth Act (42 U.S.C. 5733) is repealed.

(h) REPORTS.—Section 361 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5715) is amended to read as follows:

"REPORTS

"SEC. 361. (a) Not later than 180 days after the end of each fiscal year, the Secretary shall submit a report to the Committee on Education and Labor of the House of Representatives and the Committee on the Judiciary of the Senate on the status, activities, and accomplishments of the runaway and homeless youth centers that are funded under parts A, B, C, D, and E, with particular attention to— 42 USC 5715.

"(1) in the case of centers funded under part A—

"(A) their effectiveness in alleviating the problems of runaway and homeless youth;

"(B) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;

"(C) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and

"(D) their effectiveness in helping youth decide upon a future course of action; and

"(2) in the case of centers funded under part B—

"(A) the number and characteristic of homeless youth served by such projects;

"(B) describing the types of activities carried out under such projects;

"(C) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(D) the effectiveness of such projects in preparing homeless youth for self-sufficiency;

"(E) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living;

"(F) the ability of such projects to strengthen family relationships, and encourage the resolution of intrafamily problems through counseling and the development of self-sufficient living skills; and

"(G) plans for the following fiscal year.".

(2) by adding at the end the following:

"(b)(1) The Secretary shall include in the report required by subsection (a) an evaluation of the results of Federal evaluation of the programs, projects, and activities carried out under this

title and a description of the training provided to the persons who carry out the evaluation.

"(2) As part of the evaluation described in paragraph (1), the Secretary shall require the persons who carry out the evaluation to visit each grantee on-site not less frequently than every 3 years.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 366 of the Juvenile Justice and Delinquency Act of 1974 (42 U.S.C. 5751) is amended— 42 USC 5751.

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) There are authorized to be appropriated to carry out this title (other than part B and section 344) $75,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."; and

(B) by adding at the end the following new paragraphs:

"(3) After making the allocation required by paragraph (2), the Secretary shall reserve for the purpose of carrying out section 331—

"(A) for fiscal year 1993 not less than $912,500, of which $125,000 shall be available for the acquisition of communications equipment;

"(B) for fiscal year 1994 not less than $826,900;

"(C) for fiscal year 1995 not less than $868,300; and

"(D) for fiscal year 1996 not less than $911,700.

"(4) In the use of funds appropriated under paragraph (1) that are in excess of $38,000,000 but less than $42,600,000, priority may be given to awarding enhancement grants to programs (with priority to programs that receive grants of less than $85,000), for the purpose of allowing such programs to achieve higher performance standards, including—

"(A) increasing and retaining trained staff;

"(B) strengthening family reunification efforts;

"(C) improving aftercare services;

"(D) fostering better coordination of services with public and private entities;

"(E) providing comprehensive services, including health and mental health care, education, prevention and crisis intervention, and vocational services; and

"(F) improving data collection efforts.

"(5) In the use of funds appropriated under paragraph (1) that are in excess of $42,599,999—

"(A) 50 percent may be targeted at developing new programs in unserved or underserved communities; and

"(B) 50 percent may be targeted at program enhancement activities described in paragraph (3).";

(2) in subsection (b) by amending paragraph (1) to read as follows:

"(1) Subject to paragraph (2), there are authorized to be appropriated to carry out (B) $25,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994, 1995, and 1996."

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) There is authorized to be appropriated to carry out section 344 $1,000,000 for each of fiscal years 1993, 1994, 1995, and 1996.".

SEC. 4. MISSING CHILDREN.

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5777) is amended by striking "fiscal years 1989, 1990, 1991, and 1992" and inserting "fiscal years 1993, 1994, 1995, and 1996".

SEC. 5. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) ESTABLISHMENT OF PROGRAM.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended by adding at the end the following new title:

"TITLE V—INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS

Incentive Grants for Local Delinquency Prevention Programs Act.

"SEC. 501. SHORT TITLE.

42 USC 5601 note.

"This title may be cited as the 'Incentive Grants for Local Delinquency Prevention Programs Act'.

"SEC. 502. FINDINGS.

42 USC 5781.

"The Congress finds that—

"(1) approximately 700,000 youth enter the juvenile justice system every year;

"(2) Federal, State, and local governments spend close to $2,000,000,000 a year confining many of those youth;

"(3) it is more effective in both human and fiscal terms to prevent delinquency than to attempt to control or change it after the fact;

"(4) half or more of all States are unable to spend any juvenile justice formula grant funds on delinquency prevention because of other priorities;

"(5) few Federal resources are dedicated to delinquency prevention; and

"(6) Federal incentives are needed to assist States and local communities in mobilizing delinquency prevention policies and programs.

"SEC. 503. DEFINITION.

42 USC 5782.

"In this title, the term 'State advisory group' means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

"SEC. 504. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

42 USC 5783.

"The Administrator shall—

Regulations.

"(1) issue such rules as are necessary or appropriate to carry out this title;

"(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

"(3) provide adequate staff and resources necessary to properly carry out this title; and

Reports.

"(4) not later than 180 days after the end of each fiscal year, submit a report to the Chairman of the Committee on Education and Labor of the House of Representatives and the Chairman of the Committee on the Judiciary of the Senate—

"(A) describing activities and accomplishments of grant activities funded under this title;

"(B) describing procedures followed to disseminate grant activity products and research findings;

"(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

"(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

42 USC 5784.

"SEC. 505. GRANTS FOR PREVENTION PROGRAMS.

"(a) PURPOSES.—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of general local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for youth who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to children, youth, and families of—

"(1) recreation services;

"(2) tutoring and remedial education;

"(3) assistance in the development of work awareness skills;

"(4) child and adolescent health and mental health services;

"(5) alcohol and substance abuse prevention services;

"(6) leadership development activities; and

"(7) the teaching that people are and should be held accountable for their actions.

"(b) ELIGIBILITY.—The requirements of this subsection are met with respect to a unit of general local government if—

"(1) the unit is in compliance with the requirements of part B of title II;

"(2) the unit has submitted to the State advisory group a 3-year plan outlining the unit's local front end plans for investment for delinquency prevention and early intervention activities;

"(3) the unit has included in its application to the Administrator for formula grant funds a summary of the 3-year plan described in paragraph (2);

"(4) pursuant to its 3-year plan, the unit has appointed a local policy board of no fewer than 15 and no more than 21 members with balanced representation of public agencies and private, nonprofit organizations serving children, youth, and families and business and industry;

"(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk youth and their families, including such programs as nutrition, energy assistance, and housing;

"(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

"(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

"(c) PRIORITY.—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

"(1) plans for service and agency coordination and collaboration including the colocation of services;

"(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities; and

"(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention.

"SEC. 506. AUTHORIZATION OF APPROPRIATIONS. 42 USC 5785.

"To carry out this title, there are authorized to be appropriated $30,000,000 for fiscal year 1993 and such sums as are necessary for fiscal years 1994, 1995, and 1996.".

(b) STUDY.—After the program established by subsection (a) has been funded for two years, the General Accounting Office shall prepare and submit to Congress a study of the effects of the program in encouraging States and units of general local government to comply with the requirements of part B of title II. 42 USC 5781 note.

SEC. 6. CHILDREN'S ADVOCACY PROGRAM.

(a) FINDINGS.—Section 211 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13001) is amended—

(1) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (6), and (7), respectively;

(2) by inserting after paragraph (2) the following new paragraph:

"(3) traditionally, community agencies and professionals have different roles in the prevention, investigation, and intervention process;" and

(3) by inserting after paragraph (4), as redesignated by paragraph (1), the following new paragraph:

"(5) there is a national need to enhance coordination among community agencies and professionals involved in the intervention system;".

(b) REGIONAL CHILDREN'S ADVOCACY PROGRAM.—Subtitle A of the Victims of Child Abuse Act (42 U.S.C. 13001 et seq.) is amended—

(1) by redesignating sections 212, 213, and 214 as sections 214, 214A, and 214B, respectively; and 42 USC 13002–13004.

(2) by inserting after section 211 the following new sections:

"SEC. 212. DEFINITIONS. 42 USC 13001a.

"For purposes of this subtitle—

"(1) the term 'Administrator' means the agency head designated under section 201(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(b));

"(2) the term 'applicant' means a child protective service, law enforcement, legal, medical and mental health agency or other agency that responds to child abuse cases;

"(3) the term 'board' means the Children's Advocacy Advisory Board established under section 213(e);

"(4) the term 'census region' means 1 of the 4 census regions (northeast, south, midwest, and west) that are designated as census regions by the Bureau of the Census as of the date of enactment of this section;

"(5) the term 'child abuse' means physical or sexual abuse or neglect of a child;

"(6) the term 'Director' means the Director of the National Center on Child Abuse and Neglect;

"(7) the term 'multidisciplinary response to child abuse' means a response to child abuse that is based on mutually agreed upon procedures among the community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that best meets the needs of child victims and their nonoffending family members;

"(8) the term 'nonoffending family member' means a member of the family of a victim of child abuse other than a member who has been convicted or accused of committing an act of child abuse; and

"(9) the term 'regional children's advocacy program' means the children's advocacy program established under section 213(a).

42 USC 13001b.

"SEC. 213. REGIONAL CHILDREN'S ADVOCACY CENTERS.

"(a) ESTABLISHMENT OF REGIONAL CHILDREN'S ADVOCACY PROGRAM.—The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime, shall establish a children's advocacy program to—

"(1) focus attention on child victims by assisting communities in developing child-focused, community-oriented, facility-based programs designed to improve the resources available to children and families;

"(2) provide support for nonoffending family members;

"(3) enhance coordination among community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases; and

"(4) train physicians and other health care and mental health care professionals in the multidisciplinary approach to child abuse so that trained medical personnel will be available to provide medical support to community agencies and professionals involved in the intervention, prevention, prosecution, and investigation systems that respond to child abuse cases.

"(b) ACTIVITIES OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) ADMINISTRATOR.—The Administrator, in coordination with the Director, shall—

"(A) establish regional children's advocacy program centers;

"(B) fund existing regional centers with expertise in the prevention, judicial handling, and treatment of child abuse and neglect; and

"(C) fund the establishment of freestanding facilities in multidisciplinary programs within communities that have yet to establish such facilities,

for the purpose of enabling grant recipients to provide information, services, and technical assistance to aid communities in establishing multidisciplinary programs that respond to child abuse.

"(2) GRANT RECIPIENTS.—A grant recipient under this section shall—

"(A) assist communities—

"(i) in developing a comprehensive, multidisciplinary response to child abuse that is designed to meet the needs of child victims and their families;

"(ii) in establishing a freestanding facility where interviews of and services for abused children can be provided;

"(iii) in preventing or reducing trauma to children caused by multiple contacts with community professionals;

"(iv) in providing families with needed services and assisting them in regaining maximum functioning;

"(v) in maintaining open communication and case coordination among community professionals and agencies involved in child protection efforts;

"(vi) in coordinating and tracking investigative, preventive, prosecutorial, and treatment efforts;

"(vii) in obtaining information useful for criminal and civil proceedings;

"(viii) in holding offenders accountable through improved prosecution of child abuse cases;

"(ix) in enhancing professional skills necessary to effectively respond to cases of child abuse through training; and

"(x) in enhancing community understanding of child abuse; and

"(B) provide training and technical assistance to local children's advocacy centers in its census region that are grant recipients under section 214.

"(c) OPERATION OF THE REGIONAL CHILDREN'S ADVOCACY PROGRAM.—

"(1) SOLICITATION OF PROPOSALS.—Not later than 1 year after the date of enactment of this section, the Administrator shall solicit proposals for assistance under this section.

"(2) MINIMUM QUALIFICATIONS.—In order for a proposal to be selected, the Administrator may require an applicant to have in existence, at the time the proposal is submitted, 1 or more of the following:

"(A) A proven record in conducting activities of the kinds described in subsection (c).

"(B) A facility where children who are victims of sexual or physical abuse and their nonoffending family members can go for the purpose of evaluation, intervention, evidence gathering, and counseling.

"(C) Multidisciplinary staff experienced in providing remedial counseling to children and families.

"(D) Experience in serving as a center for training and education and as a resource facility.

"(E) National expertise in providing technical assistance to communities with respect to the judicial handling of child abuse and neglect.

"(3) PROPOSAL REQUIREMENTS.—

"(A) IN GENERAL.—A proposal submitted in response to the solicitation under paragraph (1) shall—

"(i) include a single or multiyear management plan that outlines how the applicant will provide information, services, and technical assistance to communities

so that communities can establish multidisciplinary programs that respond to child abuse;

"(ii) demonstrate the ability of the applicant to operate successfully a multidisciplinary child abuse program or provide training to allow others to do so; and

"(iii) state the annual cost of the proposal and a breakdown of those costs.

"(B) CONTENT OF MANAGEMENT PLAN.—A management plan described in paragraph (3)(A) shall—

"(i) outline the basic activities expected to be performed;

"(ii) describe the entities that will conduct the basic activities;

"(iii) establish the period of time over which the basic activities will take place; and

"(iv) define the overall program management and direction by—

"(I) identifying managerial, organizational, and administrative procedures and responsibilities;

"(II) demonstrating how implementation and monitoring of the progress of the children's advocacy program after receipt of funding will be achieved; and

"(III) providing sufficient rationale to support the costs of the plan.

"(4) SELECTION OF PROPOSALS.—

"(A) COMPETITIVE BASIS.—Proposals shall be selected under this section on a competitive basis.

"(B) CRITERIA.—The Administrator, in coordination with the Director, shall select proposals for funding that—

"(i) best result in developing and establishing multidisciplinary programs that respond to child abuse by assisting, training, and teaching community agencies and professionals called upon to respond to child abuse cases;

"(ii) assist in resolving problems that may occur during the development, operation, and implementation of a multidisciplinary program that responds to child abuse; and

"(iii) carry out the objectives developed by the Board under subsection (e)(2)(A);

"(C) to the greatest extent possible and subject to available appropriations, ensure that at least 1 applicant is selected from each of the 4 census regions of the country; and

"(D) otherwise best carry out the purposes of this section.

"(5) FUNDING OF PROGRAM.—From amounts made available in separate appropriation Acts, the Administrator shall provide to each grant recipient the financial and technical assistance and other incentives that are necessary and appropriate to carry out this section.

"(6) COORDINATION OF EFFORT.—In order to carry out activities that are in the best interests of abused and neglected children, a grant recipient shall consult with other grant recipi-

ents on a regular basis to exchange ideas, share information, and review children's advocacy program activities.

"(d) REVIEW.—

"(1) EVALUATION OF REGIONAL CHILDREN'S ADVOCACY PROGRAM ACTIVITIES.—The Administrator, in coordination with the Director, shall regularly monitor and evaluate the activities of grant recipients and shall determine whether each grant recipient has complied with the original proposal and any modifications.

"(2) ANNUAL REPORT.—A grant recipient shall provide an annual report to the Administrator and the Director that—

"(A) describes the progress made in satisfying the purpose of the children's advocacy program; and

"(B) states whether changes are needed and are being made to carry out the purpose of the children's advocacy program.

"(3) DISCONTINUATION OF FUNDING.—

"(A) FAILURE TO IMPLEMENT PROGRAM ACTIVITIES.—If a grant recipient under this section substantially fails in the implementation of the program activities, the Administrator shall not discontinue funding until reasonable notice and an opportunity for reconsideration is given.

"(B) SOLICITATION OF NEW PROPOSALS.—Upon discontinuation of funding of a grant recipient under this section, the Administrator shall solicit new proposals in accordance with subsection (c).

"(e) CHILDREN'S ADVOCACY ADVISORY BOARD.—

"(1) ESTABLISHMENT OF BOARD.—

"(A) IN GENERAL.—Not later than 120 days after the date of enactment of this section, the Administrator and the Director, after consulting with representatives of community agencies that respond to child abuse cases, shall establish a children's advocacy advisory board to provide guidance and oversight in implementing the selection criteria and operation of the regional children's advocacy program.

"(B) MEMBERSHIP.—(i) The board—

"(I) shall be composed of 12 members who are selected by the Administrator, in coordination with the Director, a majority of whom shall be individuals experienced in the child abuse investigation, prosecution, prevention, and intervention systems;

"(II) shall include at least 1 member from each of the 4 census regions; and

"(III) shall have members appointed for a term not to exceed 3 years.

"(ii) Members of the Board may be reappointed for successive terms.

"(2) REVIEW AND RECOMMENDATIONS.—

"(A) OBJECTIVES.—Not later than 180 days after the date of enactment of this section and annually thereafter, the Board shall develop and submit to the Administrator and the Director objectives for the implementation of the children's advocacy program activities described in subsection (b).

"(B) REVIEW.—The board shall annually—

"(i) review the solicitation and selection of children's advocacy program proposals and make recommendations concerning how each such activity can be altered so as to better achieve the purposes of this section; and

Reports.

"(ii) review the program activities and management plan of each grant recipient and report its findings and recommendations to the Administrator and the Director.

"(3) RULES AND REGULATIONS.—The Board shall promulgate such rules and regulations as it deems necessary to carry out its duties under this section.

"(f) REPORTING.—The Attorney General and the Secretary of Health and Human Services shall submit to Congress, by March 1 of each year, a detailed review of the progress of the regional children's advocacy program activities.".

(c) LOCAL CHILDREN'S ADVOCACY PROGRAM.—Section 214 of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13002), as redesignated by subsection (b)(1), is amended—

(1) by amending the heading to read as follows:

"SEC. 214. LOCAL CHILDREN'S ADVOCACY CENTERS.";

(2) in subsection (a) by striking "The Director of the Office of Victims of Crime (hereinafter in this subtitle referred to as the 'Director'), in consultation with officials of the Department of Health and Human Services," and inserting "The Administrator, in coordination with the Director and with the Director of the Office of Victims of Crime,";

(3) in subsection (b)(2)(B) by inserting "and nonoffending family members" after "neglect"; and

(4) by adding at the end the following new subsection:

"(d) CONSULTATION WITH REGIONAL CHILDREN'S ADVOCACY CENTERS.—A grant recipient under this section shall consult from time to time with regional children's advocacy centers in its census region that are grant recipients under section 213.".

(d) SPECIALIZED TECHNICAL ASSISTANCE AND TRAINING PROGRAMS.—Section 214A of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13003), as redesignated by subsection (b)(1), is amended in subsections (a) and (c)(1) by striking "Director" and inserting "Administrator".

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004), as redesignated by subsection (b)(1), is amended to read as follows:

"SEC. 214B. AUTHORIZATION OF APPROPRIATIONS.

"(a) SECTIONS 213 AND 214.—There are authorized to be appropriated to carry out sections 213 and 214—

"(1) $15,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.

"(b) SECTION 214A.—There are authorized to be appropriated to carry out section 214A—

"(1) $5,000,000 for fiscal year 1993; and

"(2) such sums as are necessary for fiscal years 1994, 1995, and 1996.".

SEC. 7. HEAD START TRAINING IMPROVEMENT.

42 USC 9843 note.

(a) PURPOSE.—It is the purpose of this section—

(1) to promote continued access for Head Start and other early childhood staff to the Child Development Associate credential;

(2) to increase the ability of Head Start staff to address the problems facing Head Start families;

(3) to create a systematic approach to training, thereby improving the quality of Head Start instruction and using training funds more efficiently and effectively; and

(4) to allow the use of training funds for creative approaches to learning for children.

(b) TECHNICAL ASSISTANCE, TRAINING, AND STAFF QUALIFICATIONS.—Section 648 of the Head Start Act (42 U.S.C. 9843) is amended—

(1) in subsection (a) by striking "(2) training" and all that follows through the end of the subsection and inserting "(2) training for specialized or other personnel needed in connection with Head Start programs, including funds from programs authorized under this subchapter to support an organization to administer a centralized child development and national assessment program leading to recognized credentials for personnel working in early childhood development and child care programs, training for personnel providing services to non-English language background children, training for personnel in helping children cope with community violence, and resource access projects for personnel working with disabled children."; and

(2) by adding at the end the following new subsections:

"(c) The Secretary shall—

"(1) develop a systematic approach to training Head Start personnel, including—

"(A) specific goals and objectives for program improvement and continuing professional development;

"(B) a process for continuing input from the Head Start community; and

"(C) a strategy for delivering training and technical assistance; and

"(2) report on the approach developed under paragraph (1) to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Reports.

"(d) The Secretary may provide, either directly or through grants to public or private nonprofit entities, training for Head Start personnel in the use of the performing and visual arts and interactive programs using electronic media to enhance the learning experience of Head Start children.".

SEC. 8. AMENDMENTS TO CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT.

(a) SPENDING OF FUNDS BY STATES.—Section 658J(c) of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858h(c)) is amended—

(1) by striking "obligated" and inserting "expended"; and

(2) by striking "succeeding fiscal year" and inserting "succeeding 3 fiscal years".

(b) PAYMENTS EXCLUDED FROM INCOME.—The Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C.

9858a et seq.) is amended by adding at the end the following new section:

42 USC 9858q.

"SEC. 658S. MISCELLANEOUS PROVISIONS.

"Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.".

(c) TECHNICAL AMENDMENTS.—

42 USC prec. 9858.

(1) CORRECTION IN CITATION.—Section 5082 of the Omnibus Budget Reconciliation Act of 1990 (Public Law 101-508) is amended by striking "title IV" and inserting "title VI".

(2) DEFINITIONS.—Section 658P of the Child Care and Development Block Grant Act Amendments of 1992 (42 U.S.C. 9858n) is amended—

(A) in paragraph (7), by striking "4(b)" and inserting "4(e)"; and

(B) in paragraph (14), by striking "4(c)" and inserting "4(l)".

42 USC 9858h note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of enactment of this Act.

(2) APPLICATION.—The amendments made by this section shall not apply with respect to fiscal years beginning before October 1, 1992.

SEC. 9. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

42 USC 5106a note.

(a) FINDINGS.—The Congress finds that—

(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are defeated when they have the effect of protecting those responsible;

(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established;

(7) certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate

incidents of death believed to be caused by child abuse or neglect;

(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

(9) teams such as those described in paragraph (7) will increase the accountability of child protection services.

(b) MODIFICATION OF CONFIDENTIALITY PROVISION REGARDING STATE GRANTS UNDER CHILD ABUSE PREVENTION AND TREATMENT ACT.—Section 107(b)(4) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106A(b)(4)) is amended to read as follows: 42 USC 5106a.

"(4) provide for—

"(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this Act; and

"(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;".

(c) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should review and reform of the system in the State for protecting against child abuse and neglect, including implementing formal interagency, multidisciplinary teams—

(1) to review—

(A) all cases of child death in which the child was previously known by the State to have been abused or neglected; and

(B) incidents of child abuse before a child dies when there is evidence of negligent handling by the State,

in order to hold the State accountable; and

(2) to make recommendations regarding the outcomes of individual cases and systemic changes in the State's procedures for protecting against child abuse and neglect.

Approved November 4, 1992.

LEGISLATIVE HISTORY—H.R. 5194 (S. 2792):

HOUSE REPORTS: No. 102-756 (Comm. on Education and Labor).
SENATE REPORTS: No. 102-393 accompanying S. 2792 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Aug. 3, considered and passed House.
Sept. 25, considered and passed Senate, amended, in lieu of S. 2792.
Oct. 2, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 102-587
102d Congress

An Act

To provide Congressional approval of a Governing International Fishery Agreement, and for other purposes.

Nov. 4, 1992
[H.R. 5617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Oceans Act of 1992. Conservation. 16 USC 1431 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oceans Act of 1992".

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENT

SEC. 1001. APPROVAL OF AGREEMENT.

Effective date. 16 USC 1823 note.

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the governing international fishery agreement between the Government of the United States of America and the Government of the Republic of Estonia, as contained in the message to Congress from the President of the United States dated June 24, 1992, is approved by the Congress as a governing international fishery agreement for the purposes of such Act and shall enter into force and effect with respect to the United States on the date of enactment of this title.

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM

National Marine Sanctuaries Program Amendments Act of 1992. 16 USC 1431 note.

SEC. 2001. SHORT TITLE.

This title may be cited as the "National Marine Sanctuaries Program Amendments Act of 1992".

Subtitle A—Amendments to Marine Protection, Research, and Sanctuaries Act of 1972

SEC. 2101. FINDINGS, PURPOSES, AND POLICIES.

(a) FINDINGS.—Section 301(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431(a)) is amended—

(1) in paragraph (2) by inserting ", and in some cases international," after "national";

(2) in paragraph (4)—

(A) by inserting ", research," after "conservation"; and

(B) by striking "and" after the semicolon at the end;

(3) in paragraph (5) by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(6) protection of these special areas can contribute to maintaining a natural assemblage of living resources for future generations.".

(b) PURPOSES AND POLICIES.—Section 301(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431(b)) is amended to read as follows:

"(b) PURPOSES AND POLICIES.—The purposes and policies of this title are—

"(1) to identify and designate as national marine sanctuaries areas of the marine environment which are of special national significance;

"(2) to provide authority for comprehensive and coordinated conservation and management of these marine areas, and activities affecting them, in a manner which complements existing regulatory authorities.

"(3) to support, promote, and coordinate scientific research on, and monitoring of, the resources of these marine areas, especially long-term monitoring and research of these areas;

"(4) to enhance public awareness, understanding, appreciation, and wise use of the marine environment;

"(5) to facilitate to the extent compatible with the primary objective of resource protection, all public and private uses of the resources of these marine areas not prohibited pursuant to other authorities;

"(6) to develop and implement coordinated plans for the protection and management of these areas with appropriate Federal agencies, State and local governments, Native American tribes and organizations, international organizations, and other public and private interests concerned with the continuing health and resilience of these marine areas;

"(7) to create models of, and incentives for, ways to conserve and manage these areas;

"(8) to cooperate with global programs encouraging conservation of marine resources; and

"(9) to maintain, restore, and enhance living resources by providing places for species that depend upon these marine areas to survive and propagate.".

SEC. 2102. DEFINITIONS.

(a) MARINE ENVIRONMENT.—Section 302(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(3)) is amended by adding "including the exclusive economic zone," after "jurisdiction,".

(b) DAMAGES.—Section 302(6) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(6)) is amended—

(1) in subparagraph (A)(ii) by striking "and" at the end;

(2) in subparagraph (B) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) the reasonable cost of monitoring appropriate to the injured, restored, or replaced resources,".

(c) RESPONSE COSTS.—Section 302(7) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432(7)) is amended by inserting "or authorized" after "taken".

(d) EXCLUSIVE ECONOMIC ZONE.—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended (1) by striking the period at the end of paragraph (8) and inserting "; and"; and (2) by adding after paragraph (8) the following:

"(9) 'exclusive economic zone' means the exclusive economic zone as defined in the Magnuson Fishery Conservation and Management Act.".

(e) TECHNICAL CORRECTION.—Section 302 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1432) is amended—

(1) in paragraph (1) by striking "304(a)(1)(E)" and inserting "304(a)(1)(C)(v)"; and

(2) in paragraph (5) by striking "and" after the semicolon.

SEC. 2103. SANCTUARY DESIGNATION STANDARDS.

(a) STANDARDS.—Section 303(a)(2)(B) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(a)(2(B)) is amended by inserting "or should be supplemented" after "inadequate".

(b) FACTORS AND CONSULTATIONS.—

(1) Section 303(b)(1)(A) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(1)(A)) is amended by inserting "maintenance of critical habitat of endangered species," after "assemblages,"

(2) Section 303(b)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433(b)(3)) is amended—

(A) by inserting ", governmental," after "other commercial" and inserting ", governmental," after "any commercial";

(B) by adding at the end the following: "The Secretary, in consultation with the Secretary of Defense, the Secretary of Energy, and the Administrator, shall draft a resource assessment section for the report, including information on any past, present, or proposed future disposal or discharge of materials in the vicinity of the proposed sanctuary. Public disclosure by the Secretary of such information shall be consistent with national security regulations."; and

(C) by striking "304(a)(1)" and inserting "304(a)(2)".

SEC. 2104. PROCEDURES FOR DESIGNATION AND IMPLEMENTATION.

(a) SANCTUARY PROPOSAL.—Section 304(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)) is amended—

(1) by striking "prospectus" whenever it appears and inserting "documents";

(2) in paragraph (1)(C) by striking "a prospectus on the proposal which shall contain—" and inserting "documents, including an executive summary, consisting of—"; and

(3) in paragraph (5)—

(A) by striking "United States Fishery Conservation Zone" and inserting "Exclusive Economic Zone"; and

(B) by adding at the end: "The Secretary shall also cooperate with other appropriate fishery management authorities with rights or responsibilities within a proposed sanctuary at the earliest practicable stage in drafting any sanctuary fishing regulations.".

(b) TAKING EFFECT OF DESIGNATIONS.—Section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)) is amended—

(1) in paragraph (1) by striking the dash after "unless" and all that follows and inserting ", in the case of a national

marine sanctuary that is located partially or entirely within the seaward boundary of any State, the Governor affected certifies to the Secretary that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable term shall not take effect in the area of the sanctuary lying within the seaward boundary of the State.";

(2) in paragraph (2)—

(A) striking "paragraph (1) (A) or (B)" and inserting "paragraph (1)";

(B) by striking "not disapproved under paragraph (1)(A) or "; and

(C) by striking "paragraph (1)(B)" and inserting "paragraph (1)"; and

(3) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3).

(c) ACCESS AND VALID RIGHTS.—Section 304(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(c)(1)) is amended to read as follows:

"(1) Nothing in this title shall be construed as terminating or granting to the Secretary the right to terminate any valid lease, permit, license, or right of subsistence use or of access that is in existence on the date of designation of any national marine sanctuary.".

(d) INTERAGENCY COOPERATION; REVIEW OF MANAGEMENT PLAN.—Section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434) is amended by adding at the end the following new subsections:

"(d) INTERAGENCY COOPERATION.—

"(1) REVIEW OF AGENCY ACTIONS.—

"(A) IN GENERAL.—Federal agency actions internal or external to a national marine sanctuary, including private activities authorized by licenses, leases, or permits, that are likely to destroy, cause the loss of, or injure any sanctuary resource are subject to consultation with the Secretary.

"(B) AGENCY STATEMENTS REQUIRED.—Subject to any regulations the Secretary may establish each Federal agency proposing an action described in subparagraph (A) shall provide the Secretary with a written statement describing the action and its potential effects on sanctuary resources at the earliest practicable time, but in no case later than 45 days before the final approval of the action unless such Federal agency and the Secretary agree to a different schedule.

"(2) SECRETARY'S RECOMMENDED ALTERNATIVES.—If the Secretary finds that a Federal agency action is likely to destroy, cause the loss of, or injure a sanctuary resource, the Secretary shall (within 45 days of receipt of complete information on the proposed agency action) recommend reasonable and prudent alternatives, which may include conduct of the action elsewhere, which can be taken by the Federal agency in implementing the agency action that will protect sanctuary resources.

"(3) RESPONSE TO RECOMMENDATIONS.—The agency head who receives the Secretary's recommended alternatives under paragraph (2) shall promptly consult with the Secretary on the alternatives. If the agency head decides not to follow the

alternatives, the agency head shall provide the Secretary with a written statement explaining the reasons for that decision.

"(e) REVIEW OF MANAGEMENT PLANS.—Not more than five years after the date of designation of any national marine sanctuary, and thereafter at intervals not exceeding five years, the Secretary shall evaluate the substantive progress toward implementing the management plan and goals for the sanctuary, especially the effectiveness of site-specific management techniques, and shall revise the management plan and regulations as necessary to fulfill the purposes and policies of this title.". Regulations.

SEC. 2105. APPLICATION OF REGULATIONS; INTERNATIONAL COOPERATION.

(a) ENFORCEABILITY; INTERNATIONAL COOPERATION.—Section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended—

(1) in subsection (a)—

(A) by striking "The" in the first sentence and inserting in lieu thereof "This title and the"; and

(B) by inserting "or be enforced against" immediately after "apply to"; and

(2) by adding at the end the following new subsection:

"(c) INTERNATIONAL COOPERATION.—The Secretary, in consultation with the Secretary of State and other appropriate Federal agencies, shall cooperate with other governments and international organizations in furtherance of the purposes and policies of this title and consistent with applicable regional and mutilateral arrangements for the protection and management of special marine areas.".

(b) TECHNICAL AMENDMENT.—The section heading for section 305 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1435) is amended by striking all after "REGULATIONS" and inserting in lieu thereof "; INTERNATIONAL NEGOTIATIONS AND COOPERATION.".

SEC. 2106. PROHIBITED ACTIVITIES.

Section 306 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1436) is amended to read as follows:

"SEC. 306. PROHIBITED ACTIVITIES.

"It is unlawful to—

"(1) destroy, cause the loss of, or injure any sanctuary resource managed under law or regulations for that sanctuary;

"(2) possess, sell, deliver, carry, transport, or ship by any means any sanctuary resource taken in violation of this section;

"(3) interfere with the enforcement of this title; or

"(4) violate any provision of this title or any regulation or permit issued pursuant to this title.".

SEC. 2107. ENFORCEMENT.

(a) CIVIL PENALTIES.—

(1) Section 307(c)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(1)) is amended by striking "$50,000" and inserting "$100,000".

(2) Section 307(c)(3) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(c)(3)) is amended—

(A) by striking "and may be proceeded" and all that follows through "jurisdiction"; and

(B) by adding at the end the following sentence: "Such penalty shall constitute a maritime lien on the vessel and may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.".

(b) PROCEEDS FROM CIVIL FORFEITURES.—Section 307(d)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(d)(1)) is amended by adding at the end the following new sentence: "The proceeds from forfeiture actions under this subsection shall constitute a separate recovery in addition to any amounts recovered as civil penalties under this section or as civil damages under section 312. None of those proceeds shall be subject to set-off.".

(c) USE OF RECEIVED AMOUNTS.—Section 307(e) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437(e)) is amended by striking paragraph (1) and inserting the following:

"(1) EXPENDITURES.—

"(A) Notwithstanding any other law, amounts received by the United States as civil penalties, forfeitures of property, and costs imposed under paragraph (2) shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act.

"(B) Amounts received under this section for forfeitures and costs imposed under paragraph (2) shall be used to pay the reasonable and necessary costs incurred by the Secretary to provide temporary storage, care, maintenance, and disposal of any sanctuary resource or other property seized in connection with a violation of this title or any regulation or permit issued under this title.

"(C) Amounts received under this section as civil penalties and any amounts remaining after the operation of subparagraph (B) shall be used, in order of priority, to—

"(i) manage and improve the national marine sanctuary with respect to which the violation occurred that resulted in the penalty or forfeiture;

"(ii) pay a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or any regulation or permit issued under this title; and

"(iii) manage and improve any other national marine sanctuary.".

(d) CONFORMING AMENDMENT.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended—

(1) by striking "and civil penalties under section 307";

(2) by striking paragraph (3); and by redesignating paragraph (4) as paragraph (3).

(e) ENFORCEABILITY.—Section 307 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1437) is amended by adding at the end the following new subsection:

"(j) AREA OF APPLICATION AND ENFORCEABILITY.—The area of application and enforceability of this title includes the territorial sea of the United States, as described in Presidential Proclamation 5928 of December 27, 1988, which is subject to the sovereignty

of the United States, and the United States exclusive economic zone, consistent with international law.".

SEC. 2108. RESEARCH, MONITORING, AND EDUCATION.

Section 309 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1440) is amended to read as follows:

"SEC. 309. RESEARCH, MONITORING, AND EDUCATION.

"(a) IN GENERAL.—The Secretary shall conduct research, monitoring, evaluation, and education programs as are necessary and reasonable to carry out the purposes and policies of this title.

"(b) PROMOTION AND COORDINATION OF SANCTUARY USE.—The Secretary shall take such action as is necessary and reasonable to promote and coordinate the use of national marine sanctuaries for research, monitoring, and education purposes. Such action may include consulting with Federal agencies, States, local governments, regional agencies, interstate agencies, or other persons to promote use of one or more sanctuaries for research, monitoring, and education, including coordination with the National Estuarine Research Reserve System.".

SEC. 2109. COOPERATIVE AGREEMENTS; DONATIONS, AND ACQUISITIONS.

"Section 311 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1442) is amended to read as follows:

"SEC. 311. COOPERATIVE AGREEMENTS, DONATIONS, AND ACQUISITIONS.

"(a) COOPERATIVE AGREEMENTS, GRANTS AND OTHER AGREEMENTS.—The Secretary may enter into cooperative agreements, financial agreements, grants, contracts, or other agreements with States, local governments, regional agencies, interstate agencies, or other persons to carry out the purposes and policies of this title.

"(b) AUTHORIZATION TO SOLICIT DONATIONS.—The Secretary may enter into such agreements with any nonprofit organization authorizing the organization to solicit private donations to carry out the purposes and policies of this title.

"(c) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title. Donations accepted under this section shall be considered as a gift or bequest to or for the use of the United States.

"(d) ACQUISITIONS.—The Secretary may acquire by purchase, lease, or exchange, any land, facilities, or other property necessary and appropriate to carry out the purposes and policies of this title.".

SEC. 2110. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR INTEREST.—Section 312(a)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(1)) is amended to read as follows:

"(1) LIABILITY TO UNITED STATES.—Any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for an amount equal to the sum of—

"(A) the amount of response costs and damages resulting from the destruction, loss, or injury; and

"(B) interest on that amount calculated in the manner described under section 1005 of the Oil Pollution Act of 1990.".

(b) LIABILITY IN REM.—Section 312(a)(2) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)(2)) is amended by adding at the end the following: "The amount of that liability shall constitute a maritime lien on the vessel and may be recovered in an action in rem in any district court of the United States that has jurisdiction over the vessel.".

(c) LIMITS TO LIABILITY.—Section 312(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(a)) is amended by adding at the end the following:

"(4) LIMITS TO LIABILITY.—Nothing in sections 4281–4289 of the Revised Statutes of the United States or section 3 of the Act of February 13, 1893, shall limit the liability of any person under this title.".

(d) RESPONSE ACTIONS.—Section 312(b)(1) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(b)(1)) is amended by inserting "or authorize" of "undertake".

(e) USE OF RECOVERED AMOUNTS.—Section 312(d) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1443(d)) is amended in paragraph (3), as redesignated by this Act, by inserting "the court decree or settlement agreement and" after "in accordance with".

SEC. 2111. AUTHORIZATION OF APPROPRIATIONS.

Section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444) is amended to read as follows:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this title the following—

"(1) $8,000,000 for fiscal year 1993;

"(2) $12,500,000 for fiscal year 1994;

"(3) $15,000,000 for fiscal year 1995; and

"(4) $20,000,000 for fiscal year 1996.".

SEC. 2112. ADVISORY COUNCILS AND SHORT TITLE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.) is amended by adding at the end the following new sections:

16 USC 1445a.

"SEC. 315. ADVISORY COUNCILS.

"(a) ESTABLISHMENT.—The Secretary may establish one or more advisory councils (in this section referred to as an 'Advisory Council') to provide assistance to the Secretary regarding the designation and management of national marine sanctuaries. The Advisory Councils shall be exempt from the Federal Advisory Committee Act.

"(b) MEMBERSHIP.—Members of the Advisory Councils may be appointed from among—

"(1) persons employed by Federal or State agencies with expertise in management of natural resources;

"(2) members of relevant Regional Fishery Management Councils established under section 302 of the Magnuson Fishery Conservation and Management Act; and

"(3) representatives of local user groups, conservation and other public interest organizations, scientific organizations, educational organizations, or others interested in the protection and multiple use management of sanctuary resources.

"(c) LIMITS ON MEMBERSHIP.—For sanctuaries designated after the date of enactment of the National Marine Sanctuaries Program Amendments Act of 1992, the membership of Advisory Councils shall be limited to no more than 15 members.

"(d) STAFFING AND ASSISTANCE.—The Secretary may make available to an Advisory Council any staff, information, administrative services, or assistance the Secretary determines are reasonably required to enable the Advisory Council to carry out its functions.

"(e) PUBLIC PARTICIPATION AND PROCEDURAL MATTERS.—The following guidelines apply with respect to the conduct of business meetings of an Advisory Council:

"(1) Each meeting shall be open to the public, and interested persons shall be permitted to present oral or written statements on items on the agenda.

"(2) Emergency meetings may be held at the call of the chairman or presiding officer.

"(3) Timely notice of each meeting, including the time, place, and agenda of the meeting, shall be published locally and in the Federal Register.

"(4) Minutes of each meeting shall be kept and contain a summary of the attendees and matters discussed.

"SEC. 316. SHORT TITLE.

"This title may be cited as 'The National Marine Sanctuaries Act'.".

The National Marine Sanctuaries Act.
16 USC 1431 note.

Subtitle B—Miscellaneous

SEC. 2201. GRAVEYARD OF THE ATLANTIC ARTIFACTS.

Grants.
North Carolina.
Virginia.
16 USC 1445 note.

(a) ACQUISITION OF SPACE.—Pursuant to section 314 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1445) and consistent with the Cooperative Agreement entered into in October, 1989, between the National Oceanic and Atmospheric Administration and the Mariner's Museum of Newport News, Virginia, the Secretary of Commerce shall make a grant for the acquisition of space in Hatteras Village, North Carolina, for—

(1) the display and interpretation of artifacts recovered from the area of the Atlantic Ocean adjacent to North Carolina generally known as the Graveyard of the Atlantic, including artifacts recovered from the Monitor National Marine Sanctuary; and

(2) administration and operations of the Monitor National Marine Sanctuary.

(b) AUTHORIZATION.—To carry out the responsibilities of the Secretary of Commerce under this section, there are authorized to be appropriated to the Secretary of Commerce a total of $800,000 for fiscal years 1993 and 1994, to remain available until expended.

(c) FEDERAL SHARE.—Not more than two-thirds of the cost of space acquired under this section may be paid with amounts provided pursuant to this section.

Massachusetts.
16 USC 1433 note.

SEC. 2202. STELLWAGEN BANK NATIONAL MARINE SANCTUARY.

(a) DESIGNATION.—The area described in subsection (b) is designated as the Stellwagen Bank National Marine Sanctuary (hereafter in this section referred to as the "Sanctuary").

(b) AREA.—The Sanctuary shall consist of all submerged lands and waters, including living and nonliving marine resources within those waters, bounded by the area described as Boundary Alternative 3 in the Draft Environmental Impact Statement and Management Plan for the Proposed Stellwagen Bank National Marine Sanctuary, published by the Department of Commerce in January 1991, except that the western boundary shall be modified as follows:

(1) The southwestern corner of the Sanctuary shall be located at a point off Provincetown, Massachusetts, at the following coordinates: 42 degrees, 7 minutes, 44.89 seconds (latitude), 70 degrees, 28 minutes, 15.44 seconds (longitude).

(2) The northwestern corner of the Sanctuary shall be located at a point off Cape Ann, Massachusetts, at the following coordinates: 42 degrees, 37 minutes, 53.52 seconds (latitude), 70 degrees, 35 minutes, 52.38 seconds (longitude).

(c) MANAGEMENT.—The Secretary of Commerce shall issue a management plan for the Sanctuary in accordance with section 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434), as amended by this title.

(d) SAND AND GRAVEL MINING ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, exploration for, and mining of, sand and gravel and other minerals in the Sanctuary is prohibited.

(e) CONSULTATION.—In accordance with the procedures established in section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, the appropriate Federal agencies shall consult with the Secretary on proposed agency actions in the vicinity of the Sanctuary that may affect sanctuary resources.

(f) AUTHORIZATION.—There are authorized to be appropriated to the Secretary of Commerce for carrying out the purposes of this section $570,000 for fiscal year 1993 and $250,000 for fiscal year 1994.

(g) OFFICE.—The Secretary of Commerce shall consider establishing a satellite office for the Stellwagen Bank National Marine Sanctuary in Provincetown, Gloucester, or Hull, Massachusetts.

16 USC 1433 note.
Effective date.

SEC. 2203. MONTEREY BAY NATIONAL MARINE SANCTUARY.

(a) ISSUANCE OF DESIGNATION NOTICE.—Notwithstanding section 304(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(b)), the designation of the Monterey Bay National Marine Sanctuary (hereafter in this section the "Sanctuary"), as described in the notice of designation submitted to the Congress on September 15, 1992, shall take effect on September 18, 1992.

(b) OIL AND GAS ACTIVITIES PROHIBITED.—Notwithstanding any other provision of law, no leasing, exploration, development, or production of oil or gas shall be permitted within the Sanctuary as provided by section 944.5 of the Final Environmental Impact Statement and Management Plan for the Monterey Bay National Marine Sanctuary, published by the Department of Commerce in June 1992.

(c) CONSULTATION.—Section 304(e) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this title, shall apply to the Sanctuary as designated by the Secretary of Commerce.

(d) VESSEL TRAFFIC.—Within 18 months after the date of enactment of this title, the Secretary of Commerce and the Secretary of Transportation, in consultation with the State of California and with adequate opportunity for public comment, shall report to Congress on measures for regulating vessel traffic in the Sanctuary if it is determined that such measures are necessary to protect sanctuary resources. Reports.

SEC. 2204. ENHANCING SUPPORT FOR NATIONAL MARINE SANCTUARIES. 16 USC 1442 note.

(a) IN GENERAL.—Beginning on the date of enactment of this title, the Secretary shall conduct a 2-year pilot project to enhance funding for designation and management of national marine sanctuaries.

(b) PROJECT.—The project shall consist of—

(1) the creation, adoption, and publication in the Federal Register by the Secretary of a symbol for the national marine sanctuary program, or for individual national marine sanctuaries;

(2) the solicitation of persons to be designated as official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(3) the designation of persons by the Secretary as official sponsors of the national marine sanctuary program or of individual sanctuaries;

(4) the authorization by the Secretary of the use of any symbol published under paragraph (1) by official sponsors of the national marine sanctuary program or of individual national marine sanctuaries;

(5) the establishment and collection by the Secretary of fees from official sponsors for the manufacture, reproduction or use of the symbols published under paragraph (1);

(6) the retention of any fees assessed under paragraph (5) by the Secretary in an interest-bearing revolving fund; and

(7) the expenditure of any fees and any interest in the fund established under paragraph (6), without appropriation, by the Secretary to designate and manage national marine sanctuaries.

(c) CONTRACT AUTHORITY.—The Secretary may contract with any person for the creation of symbols or the solicitation of official sponsors under subsection (b).

(d) RESTRICTIONS.—The Secretary may restrict the use of the symbols published under subsection (b), and the designation of official sponsors of the national marine sanctuary program or of individual national marine sanctuaries to ensure compatibility with the goals of the national marine sanctuary program.

(e) PROPERTY OF UNITED STATES.—Any symbol which is adopted by the Secretary and published in the Federal Register under subsection (b) is deemed to be the property of the United States.

(f) PROHIBITED ACTIVITIES.—(1) It is unlawful for any person—

(A) designated as an official sponsor to influence or seek to influence any decision by the Secretary or any other Federal official related to the designation or management of a national

marine sanctuary, except to the extent that a person who is not so designated may do so;

(B) to represent himself or herself to be an official sponsor absent a designation by the Secretary;

(C) to manufacture, reproduce, or use any symbol adopted by the Secretary absent designation as an official sponsor and without payment of a fee to the Secretary; and

(D) to violate any regulation promulgated by the Secretary under this section.

(2) Violation of this subsection shall be considered a violation of title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(g) REPORT.—No later than 30 months after the date of enactment of this Act, the Secretary shall submit a report on the pilot project to Congress regarding the success of the program in providing additional funds for management and operation of national marine sanctuaries.

(h) DEFINITIONS.—In this section—

(1) the term "national marine sanctuary" or "national marine sanctuaries" means a national marine sanctuary or sanctuaries designated under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.), or by other law in accordance with title III of the Marine Protection, Research, and Sanctuaries Act of 1972;

(2) the term "official sponsor" means any person designated by the Secretary who is authorized to manufacture, reproduce, or use any symbol created, adopted, and published in the Federal Register under this section for a fee paid to the Secretary; and

(3) the term "Secretary" means the Secretary of Commerce.

SEC. 2205. TECHNICAL CORRECTIONS RELATING TO COASTAL ZONE MANAGEMENT ACT OF 1972.

(a) AMENDMENT OF COASTAL ZONE MANAGEMENT ACT OF 1972.—Except as otherwise expressly provided, whenever in this section an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.).

(b) TECHNICAL CORRECTIONS.—

(1) The Act is amended by—

(A) striking "coastal State" each place it appears and inserting "coastal state";

(B) striking "coastal States" each place it appears and inserting "coastal states"; and

(C) striking "coastal State's" each place it appears and inserting "coastal state's".

16 USC 1452. (2) Section 6203(b)(1) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–301, relating to section 303(2) of the Coastal Zone Management Act of 1972) is amended by striking "as well as the" the first place it appears and inserting "as well as to".

16 USC 1453. (3) Section 6204(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302, relating to section 304(1) of the Coastal Zone Management Act of 1972) is amended—

(A) in the matter preceding paragraph (1) by striking "The third sentence of section" and inserting "Section";

(B) in paragraph (1) by inserting after "period at the end" the following: "of the third sentence"; and

(C) in paragraph (2) by inserting after "territorial sea.'" the following: "at the end of the second sentence".

(4) Section 6204(b) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–302) is amended by striking "following'" and inserting "following:". 16 USC 1453.

(5) Section 304(1) (16 U.S.C. 1453(1)) is amended in the second sentence—

(A) by striking "the outer limit of" the first place it appears; and

(B) by striking "1705," and inserting "1705),".

(6) Section 304(2) (16 U.S.C. 1453(2)) is amended by striking "the term" and inserting "The term".

(7) Section 304(9) (16 U.S.C. 1453(9)) is amended to read as follows:

"(9) The term 'Fund' means the Coastal Zone Management Fund established under section 308(b).".

(8) Section 306(b) (16 U.S.C. 1455(b)) is amended by striking the semicolon at the end and inserting a period.

(9) Section 6216(a) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–314, relating to section 306A(b)(1) of the Coastal Zone Management Act of 1972) is amended by striking "306a(b)(1)" and inserting "306A(b)(1)". 16 USC 1455a.

(10) Section 306A(a)(1)(B) (16 U.S.C. 1455a(a)(1)(B)) is amended by striking "specified" and all that follows through the end of the sentence and inserting "specified in section 303(2) (A) through (K).".

(11) Section 306A(b) (16 U.S.C. 1455a(b)) is amended—

(A) in paragraph (2) by striking "that are designated" and all that follows through the end of the paragraph and inserting "that are designated in the state's management program pursuant to section 306(d)(2)(C) as areas of particular concern."; and

(B) in paragraph (3) by—

(i) striking "access of" and inserting "access to"; and

(ii) striking "in accordance with" and all that follows through the end of the paragraph and inserting "in accordance with the planning process required under section 306(d)(2)(G).".

(12) Section 306A(c) (16 U.S.C. 1455a(c)) is amended in paragraph (2)(C) in the matter following clause (iii) by striking "shall not by" and inserting "shall not be".

(13) Section 6208(b)(3)(B) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 307(c)(3)(B) of the Coastal Zone Management Act of 1972) is amended by inserting "with" after "complies". 16 USC 1456.

(14) Section 307(i) (16 U.S.C. 1456(i)) is amended—

(A) by inserting "(1)" after "(i)";

(B) in paragraph (1) (as designated by subparagraph (A) of this paragraph) by striking the second sentence; and

(C) by adding at the end the following:

"(2)(A) The Secretary shall collect such other fees as are necessary to recover the full costs of administering and processing such appeals under subsection (c).

"(B) If the Secretary waives the application fee under paragraph (1) for an applicant, the Secretary shall waive all other fees under this subsection for the applicant.

"(3) Fees collected under this subsection shall be deposited into the Coastal Zone Management Fund established under section 308.".

16 USC 1456a.

(15) Section 6209 of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–308, relating to section 308 of the Coastal Zone Management Act of 1972) is amended in the matter preceding the quoted material by striking "1456" and inserting "1456a".

(16) Section 308(a)(1) (16 U.S.C. 1456a(a)(1)) is amended in the first sentence by striking "pursuant to this Act" and inserting "pursuant to this title".

(17) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by striking "(hereinafter" and all that follows through "'Fund')".

(18) Section 308(b)(1) (16 U.S.C. 1456a(b)(1)) is amended by inserting after "subsection (a)" the following: "and fees deposited into the Fund under section 307(i)(3)".

(19) The first section 313 (16 U.S.C. 1459) is amended—

(A) in subsection (a) by striking "section 308" and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990,"; and

(B) in paragraph (1) of subsection (b) by striking "section 308(d)" and all that follows through the end of the paragraph and inserting "section 308, as in effect before the date of the enactment of the Coastal Zone Act Reauthorization Amendments of 1990; and".

(20) The second section 313 (16 U.S.C. 1460, relating to Walter B. Jones excellence in coastal zone management awards) is amended—

(A) by redesignating that section as section 314;

(B) in subsection (a) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)"; and

(C) in subsection (e) by inserting after "under section 308" the following: "and other amounts available to carry out this title (other than amounts appropriated to carry out sections 305, 306, 306A, 309, 310, and 315)".

(21) Section 315(a) (16 U.S.C. 1461(a)) is amended by striking "National Estuarine Reserve Research System" and inserting "National Estuarine Research Reserve System".

(22) Section 315(c)(4) (16 U.S.C. 1461(c)(4)) is amended by striking "subsection (1)" and inserting "paragraph (1)".

(23) Section 316(a) (16 U.S.C. 1462(a)) is amended in clause (5) by striking "subsections (c) and (d) of this section" and inserting "subsections (c) and (d) of section 312".

16 USC 1455b.

(24) Section 6217(i)(3) of the Coastal Zone Act Reauthorization Amendments of 1990 (104 Stat. 1388–319, relating to definitions under that Act) is amended—

(A) by striking the comma; and

(B) by inserting "Zone" after "Coastal".

SEC. 2206. RESEARCH TO IMPROVE MANAGEMENT.

(a) FLORIDA NATIONAL MARINE SANCTUARY.—Section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by striking paragraph (4); by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively; and by inserting after paragraph (3) the following new paragraphs:

"(4) identify priority needs for research and amounts needed to—

"(A) improve management of the Sanctuary, and in particular, the coral reef ecosystem within the Sanctuary; and

"(B) identify clearly the cause and effect relationships between factors threatening the health of the coral reef ecosystem in the Sanctuary;

"(5) establish a long-term ecological monitoring program and data base, including methods to disseminate information on the management of the coral reef ecosystem;".

(b) DEADLINES NOT AFFECTED.—The amendments made by subsection (a) shall not be construed to modify, by implication or otherwise, the deadlines established under—

(1) section 7(a) of the Florida Keys National Marine Sanctuary and Protection Act regarding completion of the comprehensive management plan and final regulations; or

(2) section 8(a) of that Act regarding development of the water quality protection program.

SEC. 2207. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

16 USC 1433 note.

No oil or gas leasing or preleasing activity shall be conducted within the area designated as the Olympic Coast National Marine Sanctuary in accordance with Public Law 100–627.

SEC. 2208. PROVASOLI-GUILLARD CENTER FOR CULTURE OF MARINE PHYTOPLANKTON.

(a) FINDINGS.—The Congress finds the following:

(1) The oceans cover 70 percent of the surface of the Earth.

(2) The foundation of the food webs and fisheries productivity of the oceans rests with microscopic plants known as phytoplankton.

(3) Phytoplankton serve as a vital natural resource in the oceans.

(4) By serving as primary agents in control of the flux of atmospheric carbon dioxide to the deep ocean, phytoplankton influence climate and the rate of global warming.

(5) There is limited knowledge of the biology, physiology, chemistry, and taxonomy of phytoplankton, and it is of vital interest to this Nation to improve the body of knowledge relating to phytoplankton to benefit this Nation and other countries.

(6) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, houses a phytoplankton collection that contains species from each of the ocean environments of the World, and is recognized as the largest collection of phytoplankton in the World.

(7) The Provasoli-Guillard Center for the Culture of Marine Phytoplankton is of vital interest to oceanographers in this Nation and throughout the World, and provides cultures of phytoplankton for critical research on global issues.

Maine.

(b) DESIGNATION.—In light of the findings under subsection (a), the Provasoli-Guillard Center for the Culture of Marine Phytoplankton located in West Boothbay Harbor, Maine, is designated as a National Center and Facility.

SEC. 2209. FLORIDA KEYS NATIONAL MARINE SANCTUARY.

(a) IMPLEMENTATION.—Section 8 of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by adding at the end the following new subsection:

"(d) IMPLEMENTATION.—(1) The Administrator of the Environmental Protection Agency and the Governor of the State of Florida shall implement the program required by this section, in cooperation with the Secretary of Commerce.

Establishment.

"(2)(A) The Regional Administrator of the Environmental Protection Agency shall with the Governor of the State of Florida establish a Steering Committee to set guidance and policy for the development and implementation of such program. Membership shall include representatives of the Environmental Protection Agency, the National Park Service, the United States Fish and Wildlife Service, the Army Corps of Engineers, the National Oceanic and Atmospheric Administration, the Florida Department of Community Affairs, the Florida Department of Environmental Regulation, the South Florida Water Management District, and the Florida Keys Aqueduct Authority; three individuals in local government in the Florida Keys; and three citizens knowledgeable about such program.

"(B) The Steering Committee shall, on a biennial basis, issue a report to Congress that—

"(i) summarizes the progress of the program;

"(ii) summarizes any modifications to the program and its recommended actions and plans; and

"(iii) incorporates specific recommendations concerning the implementation of the program.

Establishment.

"(C) The Administrator of the Environmental Protection Agency and the Administrator of the National Oceanic and Atmospheric Administration shall cooperate with the Florida Department of Environmental Regulation to establish a Technical Advisory Committee to advise the Steering Committee and to assist in the design and prioritization of programs for scientific research and monitoring. The Technical Advisory Committee shall be composed of scientists from Federal agencies, State agencies, academic institutions, private non-profit organizations, and knowledgeable citizens.

"(3)(A) The Regional Administrator of the Environmental Protection Agency shall appoint a Florida Keys Liaison Officer. The Liaison Officer, who shall be located within the State of Florida, shall have the authority and staff to—

"(i) assist and support the implementation of the program required by this section, including administrative and technical support for the Steering Committee and Technical Advisory Committee;

"(ii) assist and support local, State, and Federal agencies in developing and implementing specific action plans designed to carry out such program;

"(iii) coordinate the actions of the Environmental Protection Agency with other Federal agencies, including the National Oceanic and Atmospheric Administration and the National Park Service, and State and local authorities, in developing

strategies to maintain, protect, and improve water quality in the Florida Keys;

"(iv) collect and make available to the public publications, and other forms of information that the Steering Committee determines to be appropriate, related to the water quality in the vicinity of the Florida Keys; and

"(v) provide for public review and comment on the program and implementing actions.

"(4)(A) There are authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 for fiscal year 1993, $3,000,000 for fiscal year 1994, and $4,000,000 for fiscal year 1995, for the purpose of carrying out this section. Appropriation authorization.

"(B) There are authorized to be appropriated to the Secretary of Commerce $300,000 for fiscal year 1993, $400,000 for fiscal year 1994, and $500,000 for fiscal year 1995, for the purpose of enabling the National Oceanic and Atmospheric Administration to carry out this section.

"(C) Amounts appropriated under this paragraph shall remain available until expended.

"(D) No more than 15 percent of the amount authorized to be appropriated under subparagraph (A) for any fiscal year may be expended in that fiscal year on administrative expenses.".

(b) TECHNICAL AMENDMENT.—Section 8(c) of the Florida Keys National Marine Sanctuary and Protection Act (16 U.S.C. 1433 note) is amended by striking "paragraph (1)" and inserting in lieu thereof "subsection (a)".

Subtitle C—Hawaiian Islands Humpback Whale Sanctuary

Hawaiian Islands National Marine Sanctuary Act. 16 USC 1433 note.

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the "Hawaiian Islands National Marine Sanctuary Act".

SEC. 2302. FINDINGS.

The Congress finds the following:

(1) Many of the diverse marine resources and ecosystems within the Western Pacific region are of national significance and importance.

(2) There are at present no ocean areas in the Hawaiian Islands designated as national marine sanctuaries or identified on the Department of Commerce's Site Evaluation List of sites to be investigated as potential candidates for designation as a national marine sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Hawaiian Islands consist of eight major islands and 124 minor islands, with a total land area of 6,423 square miles and a general coastline of 750 miles.

(4) The marine environment adjacent to and between the Hawaiian Islands is a diverse and unique subtropical marine ecosystem.

(5) The Department of Commerce recently concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there is preliminary evidence of biological, cultural, and historical resources adjacent to Kahoolawe Island to merit further investigation for national marine sanctuary status.

(6) The Department of Commerce also concluded in its Kahoolawe Island National Marine Sanctuary Feasibility Study that there are additional marine areas within the Hawaiian archipelago which merit further consideration for national marine sanctuary status and that the national marine sanctuary program could enhance marine resource protection in Hawaii.

(7) The Hawaiian stock of the endangered humpback whale, the largest of the three North Pacific stocks, breed and calve within the waters of the main Hawaiian Islands.

(8) The marine areas surrounding the main Hawaiian Islands, which are essential breeding, calving, and nursing areas for the endangered humpback whale, are subject to damage and loss of their ecological integrity from a variety of disturbances.

(9) The Department of Commerce recently promulgated a humpback whale recovery plan which sets out a series of recommended goals and actions in order to increase the abundance of the endangered humpback whale.

(10) An announcement of certain Hawaiian waters frequented by humpback whales as an active candidate for marine sanctuary designation was published in the Federal Register on March 17, 1982 (47 FR 11544).

(11) The existing State and Federal regulatory and management programs applicable to the waters of the main Hawaiian Islands are inadequate to provide the kind of comprehensive and coordinated conservation and management of humpback whales and their habitat that is available under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(12) Authority is needed for comprehensive and coordinated conservation and management of humpback whales and their habitat that will complement existing Federal and State regulatory authorities.

(13) There is a need to support, promote, and coordinate scientific research on, and monitoring of, that portion of the marine environment essential to the survival of the humpback whale.

(14) Public education, awareness, understanding, appreciation, and wise use of the marine environment are fundamental to the protection and conservation of the humpback whale.

(15) The designation, as a national marine sanctuary, of the areas of the marine environment adjacent to the main Hawaiian Islands which are essential to the continued recovery of the humpback whale is necessary for the preservation and protection of this important national marine resource.

(16) The marine sanctuary designated for the conservation and management of humpback whales could be expanded to include other marine resources of national significance which are determined to exist within the sanctuary.

SEC. 2303. DEFINITIONS.

In this subtitle, the following definitions apply:

(1) The term "adverse impact" means an impact that independently or cumulatively damages, diminishes, degrades, impairs, destroys, or otherwise harms.

(2) The term "Sanctuary" means the Hawaiian Islands Humpback Whale National Marine Sanctuary designated under section 2305.

(3) The term "Secretary" means the Secretary of Commerce.

SEC. 2304. POLICY AND PURPOSES.

(a) POLICY.—It is the policy of the United States to protect and preserve humpback whales and their habitat within the Hawaiian Islands marine environment.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to protect humpback whales and their habitat in the area described in section 2305(b);

(2) to educate and interpret for the public the relationship of humpback whales to the Hawaiian Islands marine environment;

(3) to manage such human uses of the Sanctuary consistent with this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended by this Act; and

(4) to provide for the identification of marine resources and ecosystems of national significance for possible inclusion in the sanctuary designated in section 2305(a).

SEC. 2305. DESIGNATION OF SANCTUARY.

(A) DESIGNATION.—Subject to subsection (c), the area described in subsection (b) is designated as the Hawaiian Islands Humpback Whale National Marine Sanctuary under title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1451 et seq.), as amended by this title.

(b) AREA INCLUDED.—(1) Subject to subsections (c) and (d), the area referred to in subsection (a) consists of the submerged lands and waters off the coast of the Hawaiian Islands seaward of the upper reaches of the wash of the waves on shore—

(A) to the one hundred fathom (one hundred and eighty-three meter) isobath adjoining the islands of Lanai, Maui, and Molokai, including Penguin Bank but excluding the area within 3 nautical miles of the upper reaches of the waves on the shore of Kahoolawe Island;

(B) to the deep water area of Pailolo Channel from Cape Halawa, Molokai, to Nakalele Point, Maui, and southward; and

(C) to the one hundred fathom (one hundred and eighty-three meter) isobath adjoining the Kilauea National Wildlife Refuge on the island of Kauai.

(2)(A) On January 1, 1996, the area of the marine environment within 3 nautical miles of the upper reaches of the wash of the waves on the shore of Kahoolawe Island is designated a part of the Sanctuary, unless during the 3-month period immediately preceding January 1, 1996, the Secretary certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives that the area is not suitable for inclusion in the Sanctuary. If such certification is made, it shall be accompanied by a written explanation of the Secretary's reasoning in support of the certification.

(B) After a certification of unsuitability is made under subparagraph (A), the Secretary shall annually make a finding concerning the suitability of the area for inclusion in the Sanctuary and submit Reports.

to such congressional committees a report on that finding and the reasons thereof. If the Secretary finds that the area is suitable for inclusion in the Sanctuary, the area is designated a part of the Sanctuary on the 30th day after such report is submitted.

(C) Upon designation of the area under subparagraph (A) or (B), the area shall be managed as if it has been designated under section 2305, and the Secretary shall—

Federal Register, publication. Regulations.

(i) publish a notice in the Federal Register announcing the designation and identifying the area; and

(ii) issue such regulations for the area as are necessary to fulfill the Secretary's responsibilities under this subtitle and title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

(3) The Secretary shall generally identify and depict the Sanctuary on National Oceanic and Atmospheric Administration charts. Those charts shall be maintained on file and kept available for public examination during regular business hours at the Office of Ocean and Coastal Resource Management of the National Oceanic and Atmospheric Administration. The Secretary shall update the charts to reflect any boundary modification under subsection (d), and any additional designation under paragraph (2) of this subsection.

(c) EFFECT OF OBJECTION BY GOVERNOR.—(1) If within 45 days after the date of the enactment of this title the Governor of Hawaii certifies to the Secretary that the designation (including the prospective additional designation under subsection (b)(2) of the area within 3 nautical miles of Kahoolawe Island) is unacceptable, the designation shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(2) If within 45 days after the date of issuance of the comprehensive management plan and implementing regulations under section 2306 the Governor of Hawaii certifies to the Secretary that the management plan, any implementing regulation, or any term of the plan or regulations is unacceptable, the management plan, regulation, or term, respectively, shall not take effect in the area of the Sanctuary lying within the seaward boundary of the State of Hawaii.

(3) If the Secretary considers that an action taken under paragraph (1) or (2) will affect the Sanctuary in a manner that the goals and objectives of this subtitle cannot be fulfilled, the Secretary may terminate the entire designation under subsection (a). At least thirty days prior to such termination, the Secretary shall submit written notification of the proposed termination to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

(d) BOUNDARY MODIFICATIONS.—No later than the date of issuance of the draft environmental impact statement for the Sanctuary under section 304(a)(1)(C)(vii) of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1434(a)(1)(C)(vii)), the Secretary, in consultation with the Governor of Hawaii, if appropriate, may make modifications to the boundaries of the Sanctuary as necessary to fulfill the purpose of this subtitle. The Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a written notification of such modifications.

SEC. 2306. COMPREHENSIVE MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—The Secretary, in consultation with interested persons and appropriate Federal, State, and local government authorities, shall develop and issue not later than 18 months after the date of enactment of this title a comprehensive management plan and implementing regulations to achieve the policy and purposes of this subtitle. In developing the plan and regulations, the Secretary shall follow the procedures specified in sections 303 and 304 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1433 and 1434), as amended by this title. Such comprehensive management plan shall—

(1) facilitate all public and private uses of the Sanctuary (including uses of Hawaiian natives customarily and traditionally exercised for subsistence, cultural, and religious purposes) consistent with the primary objective of the protection of humpback whales and their habitat;

(2) set forth the allocation of Federal and State enforcement responsibilities, as jointly agreed by the Secretary and the State of Hawaii;

(3) identify research needs and establish a long-term ecological monitoring program with respect to humpback whales and their habitat;

(4) identify alternative sources of funding needed to fully implement the plan's provisions and supplement appropriations under section 2307 of this subtitle and section 313 of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1444);

(5) ensure coordination and cooperation between Sanctuary managers and other Federal, State, and local authorities with jurisdiction within or adjacent to the Sanctuary; and

(6) promote education among users of the Sanctuary and the general public about conservation of humpback whales, their habitat, and other marine resources.

(b) PUBLIC PARTICIPATION.—The Secretary shall provide for participation by the general public in development of the comprehensive management plan or any amendment thereto.

SEC. 2307. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this subtitle, there are authorized to be appropriated to the Secretary $500,000 for fiscal year 1993 and $300,000 for fiscal year 1994. Of the amounts appropriated under this section for fiscal year 1993—

(1) not less than $50,000 shall be used by the Western Pacific Regional Team to evaluate potential national marine sanctuary sites for inclusion on the Department of Commerce's Site Evaluation List; and

(2) not less than $50,000 shall be used to continue the investigation of biological, cultural, and historical resources adjacent to Kahoolawe Island.

TITLE III—MARINE MAMMAL STRANDINGS

Marine Mammal Health and Stranding Response Act. 16 USC 1361 note.

SEC. 3001. SHORT TITLE.

This title may be cited as the "Marine Mammal Health and Stranding Response Act".

16 USC 1421 note.

SEC. 3002. FINDINGS.

The Congress finds the following:

(1) Current stranding network participants have performed an undeniably valuable and ceaseless job of responding to marine mammal strandings over the last 15 years.

(2) Insufficient understanding of the connection between marine mammal health and the physical, chemical, and biological parameters of their environment prevents an adequate understanding of the causes of marine mammal unusual mortality events.

(3) An accurate assessment of marine mammal health, health trends in marine mammal populations in the wild, and causes of marine mammal unusual mortality events cannot be made without adequate reference data on marine mammals and the environment in which they live.

(4) A systematic assessment of the sources, presence, levels, and effects of potentially harmful contaminants on marine mammals would provide a better understanding of some of the causes of marine mammal unusual mortality events and may serve as an indicator of the general health of our coastal and marine environments.

(5) Responses to marine mammal unusual mortality events are often uncoordinated, due to the lack of sufficient contingency planning.

(6) Standardized methods for the reporting of dying, dead, or otherwise incapacitated marine mammals in the wild would greatly assist in the determination of the causes of marine mammal unusual mortality events and enhance general knowledge of marine mammal species.

(7) A formal system for collection, preparation, and archiving of, and providing access to, marine mammal tissues will enhance efforts to investigate the health of marine mammals and health trends of marine mammal populations, and to develop reference data.

(8) Information on marine mammals, including results of analyses of marine mammal tissues, should be broadly available to the scientific community, including stranding network participants, through a marine mammal data base.

SEC. 3003. MARINE MAMMAL HEALTH AND STRANDING RESPONSE PROGRAM.

(a) IN GENERAL.—The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following new title:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

16 USC 1421.

"SEC. 301. ESTABLISHMENT OF PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, establish a program to be known as the 'Marine Mammal Health and Stranding Response Program'.

"(b) PURPOSES.—The purposes of the Program shall be to—

"(1) facilitate the collection and dissemination of reference data on the health of marine mammals and health trends of marine mammal populations in the wild;

"(2) correlate the health of marine mammals and marine mammal populations, in the wild, with available data on physical, chemical, and biological environmental parameters; and

"(3) coordinate effective responses to unusual mortality events by establishing a process in the Department of Commerce in accordance with section 304.

"SEC. 302. DETERMINATION; DATA COLLECTION AND DISSEMINATION. 16 USC 1421a.

"(a) DETERMINATION FOR RELEASE.—The Secretary shall, in consultation with the Secretary of the Interior, the Marine Mammal Commission, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, including stranding network participants, develop objective criteria, after an opportunity for public review and comment, to provide guidance for determining at what point a rehabilitated marine mammal is releasable to the wild.

"(b) COLLECTION.—The Secretary shall, in consultation with the Secretary of the Interior, collect and update, periodically, existing information on—

"(1) procedures and practices for—

"(A) rescuing and rehabilitating stranded marine mammals, including criteria used by stranding network participants, on a species-by-species basis, for determining at what point a marine mammal undergoing rescue and rehabilitation is returnable to the wild; and

"(B) collecting, preserving, labeling, and transporting marine mammal tissues for physical, chemical, and biological analyses;

"(2) appropriate scientific literature on marine mammal health, disease, and rehabilitation;

"(3) strandings, which the Secretary shall compile and analyze, by region, to monitor species, numbers, conditions, and causes of illnesses and deaths of stranded marine mammals; and

"(4) other life history and reference level data, including marine mammal tissue analyses, that would allow comparison of the causes of illness and deaths in stranded marine mammals with physical, chemical, and biological environmental parameters.

"(c) AVAILABILITY.—The Secretary shall make information collected under this section available to stranding network participants and other qualified scientists.

"SEC. 303. STRANDING RESPONSE AGREEMENTS. 16 USC 1421b.

"(a) IN GENERAL.—The Secretary may enter into an agreement under section 112(c) with any person to take marine mammals under section 109(h)(1) in response to a stranding.

"(b) REQUIRED PROVISION.—An agreement authorized by subsection (a) shall—

"(1) specify each person who is authorized to perform activities under the agreement; and

"(2) specify any terms and conditions under which a person so specified may delegate that authority to another person.

"(c) REVIEW.—The Secretary shall periodically review agreements under section 112(c) that are entered into pursuant to this title, for performance adequacy and effectiveness.

16 USC 1421c.

"SEC. 304. UNUSUAL MORTALITY EVENT RESPONSE.

Establishment.

"(a) RESPONSE.—

"(1) WORKING GROUP.—

"(A) The Secretary, acting through the Office, shall establish, in consultation with the Secretary of the Interior, a marine mammal unusual mortality event working group, consisting of individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, marine conservation, and medical science, to provide guidance to the Secretary and the Secretary of the Interior for—

"(i) determining whether an unusual mortality event is occurring;

"(ii) determining, after an unusual mortality event has begun, if response actions with respect to that event are no longer necessary; and

"(iii) developing the contingency plan in accordance with subsection (b), to assist the Secretary in responding to unusual mortality events.

"(B) The Federal Advisory Committee Act (5 App. U.S.C.) shall not apply to the marine mammal unusual mortality event working group established under this paragraph.

"(2) RESPONSE TIMING.—The Secretary, in consultation with the Secretary of the Interior, shall to the extent necessary and practicable—

"(A) within 24 hours after receiving notification from a stranding network participant that an unusual mortality event might be occurring, contact as many members as is possible of the unusual mortality event working group for guidance; and

"(B) within 48 hours after receiving such notification—

"(i) make a determination as to whether an unusual mortality event is occurring;

"(ii) inform the stranding network participant of that determination; and

"(iii) if the Secretary has determined an unusual mortality event is occurring, designate an Onsite Coordinator for the event, in accordance with subsection (c).

"(b) CONTINGENCY PLAN.—

"(1) IN GENERAL.—The Secretary shall, in consultation with the Secretary of the Interior and the unusual mortality event working group, and after an opportunity for public review and comment, issue a detailed contingency plan for responding to any unusual mortality event.

"(2) CONTENTS.—The contingency plan required under this subsection shall include—

"(A) a list of persons, including stranding network participants, at a regional, State, and local level, who can assist the Secretary in implementing a coordinated and effective response to an unusual mortality event;

"(B) the types of marine mammal tissues and analyses necessary to assist in diagnosing causes of unusual mortality events;

"(C) training, mobilization, and utilization procedures for available personnel, facilities, and other resources necessary to conduct a rapid and effective response to unusual mortality events; and

"(D) such requirements as are necessary to—

"(i) minimize death of marine mammals in the wild and provide appropriate care of marine mammals during an unusual mortality event;

"(ii) assist in identifying the cause or causes of an unusual mortality event;

"(iii) determine the effects of an unusual mortality event on the size estimates of the affected populations of marine mammals; and

"(iv) identify any roles played in an unusual mortality event by physical, chemical, and biological factors, including contaminants.

"(c) ONSITE COORDINATORS.—

"(1) DESIGNATION.—

"(A) The Secretary shall, in consultation with the Secretary of the Interior, designate one or more Onsite Coordinators for an unusual mortality event, who shall make immediate recommendations to the stranding network participants on how to proceed with response activities.

"(B) An Onsite Coordinator so designated shall be one or more appropriate Regional Directors of the National Marine Fisheries Service or the United States Fish and Wildlife Service, or their designees.

"(C) If, because of the wide geographic distribution, multiple species of marine mammals involved, or magnitude of an unusual mortality event, more than one Onsite Coordinator is designated, the Secretary shall, in consultation with the Secretary of the Interior, designate which of the Onsite Coordinators shall have primary responsibility with respect to the event.

"(2) FUNCTIONS.—

"(A) An Onsite Coordinator designated under this subsection shall coordinate and direct the activities of all persons responding to an unusual mortality event in accordance with the contingency plan issued under subsection (b), except that—

"(i) with respect to any matter that is not covered by the contingency plan, an Onsite Coordinator shall use his or her best professional judgment; and

"(ii) the contingency plan may be temporarily modified by an Onsite Coordinator, consulting as expeditiously as possible with the Secretary, the Secretary of the Interior, and the unusual mortality event working group.

"(B) An Onsite Coordinator may delegate to any qualified person authority to act as an Onsite Coordinator under this title.

16 USC 1421d.

"SEC. 305. UNUSUAL MORTALITY EVENT ACTIVITY FUNDING.

"(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund to be known as the 'Marine Mammal Unusual Mortality Event Fund', which shall consist of amounts deposited into the Fund under subsection (c).

"(b) USES.—

"(1) IN GENERAL.—Amounts in the Fund—

"(A) shall be available only for use by the Secretary, in consultation with the Secretary of the Interior—

"(i) to compensate persons for special costs incurred in acting in accordance with the contingency plan issued under section 304(b) or under the direction of an Onsite Coordinator for an unusual mortality event; and

"(ii) for reimbursing any stranding network participant for costs incurred in preparing and transporting tissues collected with respect to an unusual mortality event for the Tissue Bank; and

"(B) shall remain available until expended.

"(2) PENDING CLAIMS.—If sufficient amounts are not available in the Fund to satisfy any authorized pending claim, such claim shall remain pending until such time as sufficient amounts are available. All authorized pending claims shall be satisfied in the order received.

"(c) DEPOSITS INTO THE FUND.—There shall be deposited into the Fund—

"(1) amounts appropriated to the Fund;

"(2) other amounts appropriated to the Secretary for use with respect to unusual mortality events; and

"(3) amounts received by the United States in the form of gifts, devises, and bequests under subsection (d).

"(d) ACCEPTANCE OF DONATIONS.—For purposes of carrying out this title, the Secretary may accept, solicit, and use the services of volunteers, and may accept, solicit, receive, hold, administer, and use gifts, devises, and bequests.

16 USC 1421e.

"SEC. 306. LIABILITY.

"(a) IN GENERAL.—A person who is authorized to respond to a stranding pursuant to an agreement entered into under section 112(c) is deemed to be an employee of the government for purposes of chapter 171 of title 28, United States Code, with respect to actions of the person that are—

"(1) in accordance with the agreement; and

"(2) in the case of an unusual mortality event, in accordance with—

"(A) the contingency plan issued under section 304(b);

"(B) the instructions of an Onsite Coordinator designated under section 304(c); or

"(C) the best professional judgment of an Onsite Coordinator, in the case of any matter that is not covered by the contingency plan.

"(b) LIMITATION.—Subsection (a) does not apply to actions of a person described in that subsection that are grossly negligent or that constitute willful misconduct.

"SEC. 307. NATIONAL MARINE MAMMAL TISSUE BANK AND TISSUE ANALYSIS. 16 USC 1421f.

"(a) TISSUE BANK.—

"(1) IN GENERAL.—The Secretary shall make provision for the storage, preparation, examination, and archiving of marine mammal tissues. Tissues archived pursuant to this subsection shall be known as the 'National Marine Mammal Tissue Bank'.

"(2) GUIDANCE FOR MARINE MAMMAL TISSUE COLLECTION, PREPARATION, AND ARCHIVING.—The Secretary shall, in consultation with individuals with knowledge and expertise in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for marine mammal tissue collection, preparation, archiving, and quality control procedures, regarding—

"(A) appropriate and uniform methods and standards for those activities to provide confidence in marine mammal tissue samples used for research; and

"(B) documentation of procedures used for collecting, preparing, and archiving those samples.

"(3) SOURCE OF TISSUE.—In addition to tissues taken during marine mammal unusual mortality events, the Tissue Bank shall incorporate tissue samples taken from other sources in the wild, including—

"(A) samples from marine mammals taken incidental to commercial fishing operations;

"(B) samples from marine mammals taken for subsistence purposes;

"(C) biopsy samples; and

"(D) any other samples properly collected.

"(b) TISSUE ANALYSIS.—The Secretary shall, in consultation with the Marine Mammal Commission, the Secretary of the Interior, and individuals with knowledge and experience in marine science, marine mammal science, marine mammal veterinary and husbandry practices, and marine conservation, issue guidance, after an opportunity for public review and comment, for analyzing tissue samples (by use of the most effective and advanced diagnostic technologies and tools practicable) as a means to monitor and measure overall health trends in representative species or populations of marine mammals, including—

"(1) the levels of, and if possible, the effects of, potentially harmful contaminants; and

"(2) the frequency of, and if possible, the causes and effects of abnormal lesions or anomalies.

"(c) DATA BASE.—

"(1) IN GENERAL.—The Secretary shall maintain a central data base which provides an effective means for tracking and accessing data on marine mammals, including relevant data on marine mammal tissues collected for and maintained in the Tissue Bank.

"(2) CONTENTS.—The data base established under this subsection shall include—

"(A) reference data on the health of marine mammals and populations of marine mammals; and

"(B) data on species of marine mammals that are subject to unusual mortality events.

"(d) ACCESS.—The Secretary shall, in consultation with the Secretary of the Interior, establish criteria, after an opportunity for public review and comment, for access to—

"(1) marine mammal tissues in the Tissue Bank;

"(2) analyses conducted pursuant to subsection (b); and

"(3) marine mammal data in the data base maintained under subsection (c);

which provide for appropriate uses of the tissues, analyses, and data by qualified scientists, including stranding network participants.

16 USC 1421g.

"SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated—

"(1) to the Secretary for carrying out this title (other than sections 305 and 307) $250,000 for each of fiscal years 1993 and 1994;

"(2) to the Secretary for carrying out section 307, $250,000 for each of fiscal years 1993 and 1994; and

"(3) to the Fund, $500,000 for fiscal year 1993.

16 USC 1421h.

"SEC. 309. DEFINITIONS.

"In this title, the following definitions apply:

"(1) The term 'Fund' means the Marine Mammal Unusual Mortality Event Fund established by section 305(a).

"(2) The term 'Office' means the Office of Protected Resources, in the National Marine Fisheries Service.

"(3) The term 'stranding' means an event in the wild in which—

"(A) a marine mammal is dead and is—

"(i) on a beach or shore of the United States; or

"(ii) in waters under the jurisdiction of the United States (including any navigable waters); or

"(B) a marine mammal is alive and is—

"(i) on a beach or shore of the United States and unable to return to the water;

"(ii) on a beach or shore of the United States and, although able to return to the water, is in need of apparent medical attention; or

"(iii) in the waters under the jurisdiction of the United States (including any navigable waters), but is unable to return to its natural habitat under its own power or without assistance.

"(4) The term 'stranding network participant' means a person who is authorized by an agreement under section 112(c) to take marine mammals as described in section 109(h)(1) in response to a stranding.

"(5) The term 'Tissue Bank' means the National Marine Tissue Bank provided for under section 307(a).

"(6) The term 'unusual mortality event' means a stranding that—

"(A) is unexpected;

"(B) involves a significant die-off of any marine mammal population; and

"(C) demands immediate response.".

16 USC 1421a note.

(b) IMPLEMENTATION.—The Secretary of Commerce shall—

(1) in accordance with section 302 (a) and (b) of the Marine Mammal Protection Act of 1972, as amended by this Act, and

not later than 24 months after the date of enactment of this Act—

(A) develop and implement objective criteria to determine at what point a marine mammal undergoing rehabilitation is returnable to the wild; and

(B) collect and make available information on marine mammal health and health trends; and

(2) in accordance with section 304(b) of the Marine Mammal Protection Act of 1972, as amended by this Act, issue a detailed contingency plan for responding to any unusual mortality event—

(A) in proposed form by not later than 18 months after the date of enactment of this Act; and

(B) in final form by not later than 24 months after the date of enactment of this Act.

SEC. 3004. CONFORMING AMENDMENTS.

(a) CROSS REFERENCES.—The Marine Mammal Protection Act of 1972 is amended—

(1) in section 102(a) (16 U.S.C. 1372(a)) by inserting "or title III" after "this title" the first place it appears;

(2) in section 109(h)(1) (16 U.S.C. 1379(h)(1)) by inserting "or title III" after "this title"; and

(3) in section 112(c) (16 U.S.C. 1382(c)) by inserting "or title III" after "this title".

(b) DEFINITION OF SECRETARY.—Section 3(11) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1362(11)) is amended—

(1) by striking "The term" and inserting "(A) Except as provided in subparagraph (B), the term";

(2) by redesignating subparagraph (A) as clause (i);

(3) by redesignating subparagraph (B) as clause (ii); and

(4) by adding at the end the following new subparagraph:

"(B) in title III the term 'Secretary' means the Secretary of Commerce.".

(c) TABLE OF CONTENTS.—The table of contents at the end of the first section of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by adding at the end the following:

"TITLE III—MARINE MAMMAL HEALTH AND STRANDING RESPONSE

"Sec. 301. Establishment of program.
"Sec. 302. Determination; data collection and dissemination.
"Sec. 303. Stranding response agreements.
"Sec. 304. Unusual mortality event response.
"Sec. 305. Unusual mortality event activity funding.
"Sec. 306. Liability.
"Sec. 307. National Marine Mammal Tissue Bank and tissue analysis.
"Sec. 308. Authorization of appropriations.
"Sec. 309. Definitions.".

SEC. 3005. PROJECT STUDY.

Massachusetts.

The Secretary of the Army shall conduct studies for navigation projects for Provincetown Harbor, Massachusetts, and Aunt Lydia's Cove, Chatham, Massachusetts, and shall evaluate the benefits of the projects to commercial fishermen at full manufacturing wages. After completion of the studies, the Secretary of the Army shall carry out the projects under section 107 of the River and Harbor Act of 1960 (33 U.S.C. 577).

SEC. 3006. TECHNICAL CLARIFICATION.

Section 4283B of the Revised Statutes (46 App. U.S.C. 183c) is amended in paragraph (2) by inserting "any" before "court".

TITLE IV—NEW YORK CITY ZEBRA MUSSEL PROGRAM

SEC. 4001. MONITORING AND PREVENTION.

(a) IN GENERAL.—The Secretary of the Army in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, the Governor of the State of New York, and the Mayor of the city of New York, shall—

(1) develop a prevention monitoring program for zebra mussels throughout the New York City water supply system;

(2) develop appropriate zebra mussel prevention and removal technologies for the New York City water supply system; and

(3) provide technical assistance to the State of New York and the city of New York on alternative design and maintenance practices for the New York City water supply system in the event of zebra mussel infestation.

(b) COST SHARING.—The Secretary of the Army shall not initiate any monitoring, prevention, or technical assistance project or program under this subsection until appropriate non-Federal interests agree, by contract, to contribute 25 percent of the cost for such project or program during the period of such project or program.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subsection, there is authorized to be appropriated to the Secretary of the Army $2,000,000 for each fiscal years 1993, 1994, 1995, 1996, and 1997. Such sums shall remain available until expended.

SEC. 4002. EXOTIC AQUATIC ORGANISMS.

Section 1101(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711(b)) is amended by adding at the end the following new paragraph:

Regulations.

"(3) In addition to issuing regulations under paragraph (1), the Secretary, in consultation with the Task Force shall, not later than 24 months after the date of the enactment of this paragraph, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that, after operating on the waters beyond the exclusive economic zone, enter a United States port on the Hudson River north of the George Washington Bridge.".

Coast Guard Authorization Act of 1992.

TITLE V—COAST GUARD AUTHORIZATION

SEC. 5001. SHORT TITLE.

This title may be cited as the "Coast Guard Authorization Act of 1992".

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for Fiscal Year 1993, as follows:

(1) For the operation and maintenance of the Coast Guard, $2,603,000,000, of which—

(A) $253,100,000 shall be transferred from the Department of Defense;

(B) $31,876,000 shall be derived from the Oil Spill Liability Trust Fund; and

(C) $35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids-to-navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $419,300,000 to remain available until expended, of which—

(A) $18,000,000 shall be transferred from the Department of Defense; and

(B) $38,122,000 shall be derived from the Oil Spill Liability Trust Fund.

(3) For research, development, test, and evaluation, $29,900,000, to remain available until expended, of which $4,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, $519,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Administration Program, $12,600,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, $30,500,000, to remain available until expended.

SEC. 5003. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) As of September 30, 1993, the Coast Guard is authorized an end-of-year strength for active duty personnel of 39,732. The authorized strength does not include members of the Ready Reserve called to active duty under section 712 of title 14, United States Code.

(b) For Fiscal Year 1993, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,653 student years.

(2) For flight training, 110 student years.

(3) For professional training in military and civilian institutions, 362 student years.

(4) For officer acquisition, 878 student years.

SEC. 5004. SHORE FACILITIES IMPROVEMENTS AT GROUP CAPE HATTERAS. North Carolina.

Of amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement, the Secretary of Transportation shall expend not more than $5,500,000, in Fiscal Years 1993, 1994, 1995, 1996, and 1997, for shore facilities improvements within Group Cape Hatteras, North Carolina.

SEC. 5005. PREPOSITIONED OIL SPILL CLEANUP EQUIPMENT.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall expend not more than—

(1) $890,000 to acquire and preposition oil spill response equipment at Houston, Texas; and

(2) $1,160,000 for the enhancement of Columbia River marine, fire, oil, and toxic spill response communications, training, equipment and program administration activities conducted by the Maritime Fire and Safety Association.

SEC. 5006. OIL SPILL TRAINING SIMULATORS.

Of the amounts authorized to be appropriated for acquisition, construction, rebuilding, and improvement that are derived from the Oil Spill Liability Trust Fund in fiscal year 1993, the Secretary of Transportation shall make available not more than—

Texas.

(1) $1,250,000 to the Texas Center for Marine Training and Safety at Galveston, Texas, for the purchase of marine oil spill management simulator; and

Massachusetts.

(2) $1,250,000 to the Massachusetts Center for Marine Environmental Protection, located at Buzzards Bay, Massachusetts, for the purchase of a marine oil spill management simulator.

SEC. 5007. EVACUATION ALLOWANCE.

Section 208 of the Dire Emergency Supplemental Appropriations Act, 1992 (Public Law 102–368) applies to military personnel and civilian employees of the United States Coast Guard to the same extent as that section applies to the Department of Defense, except that funds available to the Coast Guard shall be used.

Subtitle A—Boating Safety

SEC. 5101. TREATMENT OF UNOBLIGATED ALLOCATIONS FOR STATE RECREATIONAL BOATING SAFETY PROGRAMS.

Section 13104 of title 46, United States Code, is amended to read as follows:

"§ 13104. Availability of allocations

"(a)(1) Amounts allocated to a State shall be available for obligation by that State for a period of 3 years after the date of allocation.

"(2) Amounts allocated to a State that are not obligated at the end of the 3-year period referred to in paragraph (1) shall be withdrawn and allocated by the Secretary in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

"(b) Amounts available to the Secretary for State recreational boating safety programs for a fiscal year that have not been allocated at the end of the fiscal year shall be allocated among States in the next fiscal year in addition to amounts otherwise available for allocation to States for that next fiscal year.".

SEC. 5102. INCREASED PENALTIES FOR OPERATING A VESSEL WHILE INTOXICATED.

Section 2302(c)(1) of title 46, United States Code, is amended by striking "$1,000;" and inserting "$1,000 for a first violation and not more than $5,000 for a subsequent violation;".

SEC. 5103. FUTURE BOATERS EDUCATION PROGRAM.

Children and youth.

Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan to increase the availability of voluntary safe boating education to individuals 16 years of age or younger. In developing the plan, the Secretary shall consider using the resources of the Coast Guard Auxiliary to provide boating education to the greatest extent possible.

Subtitle B—Miscellaneous

SEC. 5201. COAST GUARD BAND DIRECTOR.

Section 336(d) of title 14, United States Code, is amended by striking "lieutenant".

SEC. 5202. RECYCLING PROGRAM.

Section 641 of title 14, United States Code, is amended by adding the following:

"(c)(1) The Commandant may—

"(A) provide for the sale of recyclable materials that the Coast Guard holds;

"(B) provide for the operation of recycling programs at Coast Guard installations; and

"(C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

"(2) Recyclable materials shall be sold in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

"(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

"(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

"(3) The remaining balance available to a Coast Guard, installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program.

"(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of $200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.".

SEC. 5203. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) Title 14, United States Code is amended by inserting after section 644 the following new section:

"§ 645. Confidentiality of medical quality assurance records; qualified immunity for participants

"(a) In this section—

"(1) 'medical quality assurance program' means any activity carried out by or for the Coast Guard to assess the quality of medical care, including activities conducted by individuals, military medical or dental treatment facility committees, or other review bodies responsible for quality assurance, credentials, infection control, patient care assessment (including treatment procedures, blood, drugs, and therapeutics) medical records, health resources management review and identification and prevention of medical or dental incidents and risks.

"(2) 'medical quality assurance record' means the proceedings, records, minutes, and reports that emanate from quality assurance program activities described in paragraph (1) and are produced or compiled by the Coast Guard as part of a medical quality assurance program.

"(3) 'health care provider' means any military or civilian health care professional who, under regulations prescribed by the Secretary, is granted clinical practice privileges to provide health care services in a military medical or dental treatment facility or who is licensed or certified to perform health care services by a governmental board or agency or professional health care society or organization.

"(b) Medical quality assurance records created by or for the Coast Guard as part of a medical quality assurance program are confidential and privileged. The records may not be disclosed to any person or entity except as provided in subsection (d).

"(c)(1) Medical quality assurance records are not subject to discovery and may not be admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (d).

"(2) Except as provided in this section, an individual who reviews or creates medical quality assurance records for the Coast Guard or who participates in any proceeding that reviews or creates the records may not testify in any judicial or administrative proceeding with respect to the records or with respect to any finding, recommendation, evaluation, opinion, or action taken by that person in connection with the records.

"(d)(1) Subject to paragraph (2), a medical quality assurance record may be disclosed, and an individual referred to in subsection (c) may testify in connection with a record only as follows:

"(A) To a Federal executive agency or private organization, if necessary to license, accredit, or monitor Coast Guard health care facilities.

"(B) To an administrative or judicial proceeding commenced by a present or former Coast Guard or Coast Guard assigned Public Health Service health care provider concerning the termination, suspension, or limitation of clinical privileges of the health care provider.

"(C) To a governmental board or agency or to a professional health care society or organization, if necessary to perform licensing, or privileging, or to monitor professional standards for a health care provider who is or was a member or an

employee of the Coast Guard or the Public Health Service assigned to the Coast Guard.

"(D) To a hospital, medical center, or other institution that provides health care services, if necessary to assess the professional qualifications of any health care provider who is or was a member or employee of the Coast Guard or the Public Health Service assigned to the Coast Guard and who has applied for or been granted authority or employment to provide health care services in or on behalf of the institution.

"(E) To an officer, member, employee, or contractor of the Coast Guard or the Public Health Service assigned to the Coast Guard if for official purposes.

"(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of the agency or instrumentality makes a written request that the record or testimony be provided for a purpose authorized by law.

"(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of the proceeding.

"(2) Except in a quality assurance action, the identity of any individual receiving health care services from the Coast Guard or the identity of any other individual associated with the agency for the purposes of a medical quality assurance program that is disclosed in a medical quality assurance record shall be deleted from that record or document before any disclosure of the record is made outside the Coast Guard. This requirement does not apply to the release of information under section 552a of title 5.

"(d) Except as provided in this section, a person having possession of or access to a record or testimony described by this section may not disclose the contents of the record or testimony.

"(e) Medical quality assurance records may not be made available to any person under section 552 of title 5.

"(f) An individual who participates in or provides information to an individual that reviews or creates medical quality assurance records is not civilly liable for participating or providing the information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.

"(g) Nothing in this section shall be construed as—

"(1) authority to withhold from any person aggregate statistical information regarding the results of Coast Guard medical quality assurance programs;

"(2) authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the General Accounting Office if the record pertains to any matter within their respective jurisdictions;

"(3) limiting access to the information in a record created and maintained outside a medical quality assurance program, including a patient's medical records, on the grounds that the information was presented during meetings of a review body that are part of a medical quality assurance program.

"(h) Except as otherwise provided in this section, an individual who willfully discloses a medical quality assurance record knowing

that the record is a medical quality assurance record, is liable to the United States Government for a civil penalty of not more than $3,000 in the case of a first offense and not more than $20,000 in the case of a subsequent offense."

(b) The analysis for chapter 17 of title 14, United States Code, is amended by adding after the item relating to section 644 the following new item:

"645. Confidentiality of medical quality assurance records; qualified immunity for participants.".

SEC. 5204. TELEPHONE INSTALLATION AND CHARGES.

(a) Title 14, United States Code, is amended by adding the following new section:

"§ 669. Telephone installation and charges

Regulations.

"Under regulations prescribed by the Secretary, amounts appropriated to the Department of Transportation are available to install, repair, and maintain telephone wiring in residences owned or leased by the United States Government and, if necessary for national defense purposes in other private residences."

(b) The analysis for chapter 17 of title 14, United States Code, is amended by adding at the end the following new item:

"669. Telephone Installation and Charges.".

SEC. 5205. SPECIAL PAY.

(a) Section 306(a) of title 37, United States Code, is amended by striking "of pay grade O–3, O–4, O–5, or O–6" and inserting "of pay grade O–6 or below", and by striking the chart and inserting the following new chart:

"Pay Grade	Monthly Rate
O–6	$150
O–5	100
O–4 and below	50".

(b) Section 306(c) of title 37, United States Code, is amended by striking "in pay grade O–3," and inserting "in each of the pay grades O–3 and below,".

SEC. 5206. AMENDMENT OF INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) is amended by amending Rule 1(d) (33 U.S.C. 2001(d)) to read as follows:

"(d) Traffic separation schemes may be established for the purpose of these Rules. Vessel traffic service regulations may be in effect in certain areas."; and

(2) By amending Rule 10 (33 U.S.C. 2010) to read as follows:

"RULE 10

"Traffic Separation Schemes

"(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule.

"(b) A vessel using a traffic separation scheme shall:

"(i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

"(ii) so far as practicable keep clear of a traffic separation line or separation zone;

"(iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

"(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

"(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than twenty meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

"(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

"(e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:

"(i) in cases of emergency to avoid immediate danger; or

"(ii) to engage in fishing within a separation zone.

"(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

"(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

"(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

"(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

"(j) A vessel of less than twenty meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

"(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

"(1) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.".

SEC. 5207. STATE MARITIME ACADEMY VESSEL INSPECTION FEE RELIEF.

Section 2110 of title 46, United States Code, is amended by adding at the end the following:

"(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by state maritime academies.".

SEC. 5208. INSPECTION OF GREAT LAKES BARGES.

(a) Section 2101 of title 46, United States Code, is amended by inserting after paragraph (13) the following new paragraph:

"(13a) 'Great Lakes barge' means a non-self-propelled vessel of at least 3,500 gross tons operating on the Great Lakes."

(b) Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

"(13) Great Lakes barges.".

46 USC 2101 note.

(c) For Great Lakes barges placed in operation after the date of enactment of this Act, the amendments made by this section take effect on the date of enactment of this Act.

46 USC 2101 note.

(d)(1) For Great Lakes barges in operation on the date of enactment of this Act, the amendments made by this section take effect one year after the date of enactment of this Act.

(2) The Secretary of Transportation may impose reasonable interim requirements to assure safe operation of the barges affected by paragraph (1).

46 USC 2101 note.

SEC. 5209. TANK VESSEL DEFINITION CLARIFICATION.

(a) In this section, "offshore supply vessel", "fish tender vessel", "fishing vessel", and "tank vessel" have the meanings given those terms under section 2101 of title 46, United States Code.

(b) The following vessels are deemed not to be a tank vessel for the purposes of any law:

(1) An offshore supply vessel.

(2) A fishing or fish tender vessel of not more than 750 gross tons that transfers without charge to a fishing vessel owned by the same person.

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Public Law 101–595).

(d) Current regulations governing the vessels in subsection (b) remain in effect.

SEC. 5210. AUTHORITY FOR THE COAST GUARD TO INSPECT AND WITHHOLD DOCUMENTS OF CERTAIN FOREIGN PASSENGER VESSELS.

(a) Section 3303(a) of title 46, United States Code, is amended in the first sentence—

(1) by striking "only" immediately after "is subject"; and

(2) by striking "the condition of the vessel's propulsion equipment and lifesaving equipment are" and inserting in lieu thereof "the condition of the vessel is".

(b) Section 3505 of title 46, United States Code, is amended by striking "or domestic vessel of more than 100 gross tons having berth or stateroom accommodations for at least 50 passengers" and insert "vessel".

SEC. 5211. REIMBURSEMENT FOR OVERSEAS INSPECTIONS AND EXAMINATIONS.

Section 3317(b) of title 46, United States Code, is amended—

(1) by striking "chapter" and inserting "part"; and

(2) by inserting "or a foreign vessel" immediately after "documented vessel".

SEC. 5212. WATCHSTANDING ON CERTAIN VESSELS.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by inserting "a vessel used only to respond to a discharge of oil or a hazardous substance," after "an offshore supply vessel,"; and

(2) by redesignating the second subsection (n) as subsection (o).

SEC. 5213. DENIAL AND REVOCATION OF ENDORSEMENTS.

(a) Chapter 121 of title 46, United States Code, is amended—

(1) in section 12103(a), by striking "On" and inserting "Except as provided in section 12123 of this title, on";

(2) by amending section 12110(c) to read as follows:

"(c) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

"(1) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

"(2) when a vessel is employed in a trade without an appropriate trade endorsement; or

"(3) when a documented vessel with a recreational endorsement is operated other than for pleasure."; and

(3) by adding the following new section:

"§ 12123. Denial and revocation of endorsements

"When the owner of a vessel fails to pay a civil penalty assessed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement or revoke the endorsement on a certificate of documentation issued under this chapter.".

(b) The analysis for chapter 121 of title 46, United States Code, is amended by adding at the end the following:

"12123. Denial and revocation of endorsements.".

SEC. 5214. ACCEPTANCE OF EVIDENCE OF PAYMENT OF COAST GUARD FEES.

46 USC 2110 note.

The Secretary of Transportation may not issue a citation for failure to pay a fee or charge established under section 2110 of title 46, United States Code, to an owner or operator of a recreational vessel who provides reasonable evidence of prior payment of the fee or charge to a Coast Guard boarding officer.

SEC. 5215. SCHEDULE FOR OPERATION OF DRAWBRIDGE OF WOODROW WILSON MEMORIAL BRIDGE.

(a)(1) The Secretary of the department in which the Coast Guard is operating (in this section referred to as the "Secretary") shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a commercial vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 10:00 a.m. and 2:00 p.m. to 8:00 p.m.

(B) Saturday, Sunday, and Federal holidays, 2:00 p.m. to 7:00 p.m.

(2) The Secretary need not operate the drawbridge of the Woodrow Wilson Memorial Bridge for the passage of a commercial vessel under paragraph (1) unless—

(A) the owner or operator of the vessel provides the bridge tender with an estimate of the approximate time of that passage at least 12 hours in advance; and

(B) the owner or operator of the vessel notifies the bridge tender at least 4 hours in advance of the requested time for that passage.

(3) Not later than 180 days after the date of enactment of this Act, the Secretary shall issue an Advance Notice of Proposed Rulemaking to solicit comments on whether there are practical ways to encourage owners and operators of commercial vessels to make every reasonable effort to notify the bridge tender of the time a vessel will pass the Woodrow Wilson Memorial Bridge by not later than 24 hours before that passage.

(b)(1) The Secretary shall not operate the drawbridge of the Woodrow Wilson Memorial Bridge in the following periods for the passage of a recreational vessel:

(A) Monday through Friday (except Federal holidays), 5:00 a.m. to 12:00 midnight;

(B) Saturday, Sunday, and Federal holidays, 7:00 a.m. to 12:00 midnight, except as provided in paragraph (2).

(2) Notwithstanding paragraph (1)(B), the Secretary may operate the drawbridge of the Woodrow Wilson Memorial Bridge beginning at 10:00 p.m. on Saturday, Sunday, or a Federal holiday for the passage of a recreational vessel, if the owner or operator of the vessel notifies the Secretary of the time of that passage by not later than 12 hours before that time.

(3) This subsection shall not be construed to prohibit a recreational vessel from passing the Woodrow Wilson Memorial Bridge at any time at which the drawbridge is being operated for the passage of a commercial vessel.

(c) The Secretary shall operate the drawbridge of the Woodrow Wilson Memorial Bridge on signal at anytime for a vessel in distress.

Massachusetts.

SEC. 5216. STATION BRANT POINT BOAT HOUSE.

(a)(1) The Secretary of Transportation shall convey to the town of Nantucket, Massachusetts, all right, title, and interest of the United States in and to the building known as the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts.

(2) A conveyance of the building under paragraph (1) shall be made—

(A) without the payment of consideration; and

(B) subject to appropriate terms and conditions the Secretary considers necessary.

(b)(1) The Secretary shall enter into a lease of not less than 20 years permitting the town of Nantucket to occupy the property on which the Brant Point Boat House is located, subject to appropriate terms and conditions the Secretary considers necessary.

(2) If the Secretary determines that the property leased under paragraph (1) is necessary for purposes of Coast Guard, the Secretary—

(A) may terminate the lease without payment of compensation; and

(B) shall provide the town of Nantucket with not less than 12 months notice of the requirement to vacate the site and move the Boat House to another location.

SEC. 5217. STUDY OF THE APPLICATION OF TILTROTOR AIRCRAFT TECHNOLOGY TO COAST GUARD MISSIONS.

(a) Not later than one year after the date of enactment of this Act, the Secretary of Transportation shall submit a study to Congress on the application of the V–22 Osprey tiltrotor technology to Coast Guard missions.

(b) In conducting the study under subsection (a), the Secretary shall—

(1) evaluate the application of tiltrotor technology to Coast Guard missions including—

(A) search and rescue at sea; and

(B) the enforcement of laws of the United States especially with respect to drug interdiction;

(2) determine whether use of the technology in the Coast Guard marine environmental protection program would minimize the damage caused by oil or hazardous substances spills in the waters of the United States; and

(3) determine what effect the technology would have on Coast Guard manpower and operating costs, compared to those costs associated with technology currently used by the Coast Guard.

SEC. 5218. ENFORCEMENT AGREEMENTS.

The Coast Guard and the Department of Commerce shall enter into a Memorandum of Agreement regarding fisheries enforcement practices and procedures that provide at a minimum for the opportunity, if timely requested, to appear in person to respond to charges of violation of law or regulation when the opportunity for a hearing is granted by statute. The Memorandum of Agreement shall also provide that all enforcement procedures shall be fair and consistently applied.

SEC. 5219. AUTHORIZING PAYMENTS TO CERTAIN SUBCONTRACTORS.

(a) Not later than 6 months after the date of enactment of this Title, the Secretary of Transportation shall determine the amounts that MZP, Incorporated, owes to all subcontractors that performed work or supplied materials under Coast Guard contract DTCG50–87–C–00096.

(b) Investigations or interviews conducted to determine amounts owed under subsection (a) shall be conducted in Ketchikan, Alaska.

(c) not later than two months after making the determinations under subsection (a), the Secretary is authorized to pay the subcontractors the amounts owed.

SEC. 5220. SANKATY HEAD LIGHT STATION. Massachusetts.

(a)(1) The Secretary of Transportation shall convey to the Nantucket Historical Association in Nantucket, Massachusetts, by an appropriate means of conveyance, all right, title, and interest of the United States in and to property comprising the Sankaty Head Light Station.

(2) The Secretary may identify, describe, and determine the property to be conveyed pursuant to this section.

(b)(1) A conveyance of property pursuant to this section shall be made—

(A) without the payment of consideration;

(B) subject to the condition that all or part of the property may be sold and the money from the sale used for the purpose

of moving the Sankaty Head Lighthouse to a location at which the Lighthouse can be maintained and preserved and for its maintenance and preservation in accordance with paragraph (2); and

(C) subject to such other terms and conditions as the Secretary may consider appropriate.

(2) In addition to any term or condition established pursuant to paragraph (1), any conveyance of property pursuant to this section shall be subject to the condition that all right, title, and interest in the Sankaty Head Lighthouse shall immediately revert to the United States if the Lighthouse ceases to be maintained as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the United States Coast Guard and the maritime history of Nantucket, Massachusetts.

(3) Any conveyance of property pursuant to this section shall be subject to such conditions as the Secretary considers to be necessary to assure that—

(A) the light, antennas, sound signal, and associated lighthouse equipment located on the property conveyed, which are active aids to navigation, shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the Nantucket Historical Association may not interfere or allow interference in any manner with such aids to navigation without express written permission from the United States;

(C) there is reserved to the United States the right to replace, or add any aids to navigation, or make any changes to the Sankaty Head Lighthouse as may be necessary for navigation purposes;

(D) the United States shall have the right, at any time, to enter the property conveyed, or the property to which the Sankaty Head Lighthouse is relocated, without notice for the purpose of maintaining navigation aids; and

(E) the United States shall have an easement of access to such property for the purpose of maintaining the navigational aids in use on the property.

(4) The Nantucket Historical Association shall not have any obligation to maintain any active aid to navigation equipment on property conveyed pursuant to this section or on property to which the Sankaty Head Lighthouse may be relocated.

(c) The Nantucket Historical Association shall maintain the Sankaty Head Lighthouse in accordance with the provisions of the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(d) For purposes of this section;

(1) "Sankaty Head Light Station" means the Coast Guard lighthouse located on the eastern shore of Nantucket Island, Massachusetts, including the keeper's dwelling, adjacent Coast Guard rights of way, and such land as may be necessary to enable the Nantucket Historical Association to use the proceeds from the sale of the land for the relocation, maintenance and preservation of the Sankaty Head Lighthouse; and

(2) "Sankaty Head Lighthouse" means the Coast Guard lighthouse located at the Sankaty Head Light Station.

SEC. 5221. STUDY OF BUOY CHAIN PROCUREMENT PRACTICES.

(a) Not later than six months after the date of enactment of this Title, the Secretary of Transportation shall submit a study to Congress on acquisition of Coast Guard buoy chain.

(b) In conducting the study under subsection (a), the Secretary shall consider—

(1) the ability of United States buoy chain manufacturers to successfully compete for United States Government contracts to provide buoy chain to the Coast Guard; and

(2) the effect on the national security of United States dependence on foreign sources for acquisition of buoy chain.

SEC. 5222. CORRECTION REGARDING CERTAIN EXEMPTIONS.

Section 4506 of title 46, United States Code, is amended by striking "4502(b)(2)" and inserting "4502(b)(2)(B)".

SEC. 5223. CONTRACT FOR CERTAIN SERVICES AT COAST GUARD SUPPORT CENTER IN KODIAK, ALASKA.

Notwithstanding any other law, the Coast Guard is authorized, pursuant to the provisions of applicable acquisition regulations, to enter into a negotiated contract with PTI, at a fair and reasonable price that reflects a fair allocation of costs between Alaska ratepayers and the Coast Guard, to provide Digitrex central-office-based business services to the Coast Guard Support Center in Kodiak, Alaska, at Building 576. The Coast Guard shall pay only for service and service enhancements received or to be received by the United States at the Coast Guard Support Center, Kodiak, Alaska. The termination liability of such contract shall be negotiated, but shall not exceed $842,047.

Subtitle C—Abandoned Barges

Abandoned Barge Act of 1992.
46 USC 4701 note.

SEC. 5301. SHORT TITLE.

This subtitle may be cited as the "Abandoned Barge Act of 1992".

SEC. 5302. ABANDONMENT OF BARGES.

Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 47—ABANDONMENT OF BARGES

"Sec.
"4701. Definitions.
"4702. Abandonment of barge prohibited.
"4703. Penalty for unlawful abandonment of barge.
"4704. Removal of abandoned barges.
"4705. Liability of barge removal contractors.

"§ 4701. Definitions

"In this chapter—

"(1) 'abandon' means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons unattended for longer than forty-five days.

"(2) 'barge removal contractor' means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

"(3) 'navigable waters of the United States' means waters of the United States, including the territorial sea.

"(4) 'removal' or 'remove' means relocation, sale, scrapping, or other method of disposal.

"§ 4702. Abandonment of barge prohibited

"(a) An owner or operator of a barge may not abandon it on the navigable waters of the United States. A barge is deemed not to be abandoned if—

"(1) it is located at a Federally- or State-approved mooring area;

"(2) it is on private property with the permission of the owner of the property; or

"(3) the owner or operator notifies the Secretary that the barge is not abandoned and the location of the barge."

"§ 4703. Penalty for unlawful abandonment of barge

"Thirty days after the notification procedures under section 4704(a)(1) are completed, the Secretary may assess a civil penalty of not more than $1,000 for each day of the violation against an owner or operator that violates section 4702. A vessel with respect to which a penalty is assessed under this chapter is liable in rem for the penalty.

"§ 4704. Removal of abandoned barges

"(a)(1) The Secretary may remove a barge that is abandoned after complying with the following procedures:

"(A) If the identity of the owner or operator can be determined, the Secretary shall notify the owner or operator by certified mail—

"(i) that if the barge is not removed it will be removed at the owner's or operator's expense; and

"(ii) of the penalty under section 4703.

"(B) If the identity of the owner or operator cannot be determined, the Secretary shall publish an announcement in—

"(i) a notice to mariners; and

"(ii) an official journal of the county in which the barge is located

that if the barge is not removed it will be removed at the owner's or operator's expense.

"(2) The United States, and any officer or employee of the United States is not liable to an owner or operator for damages resulting from removal of an abandoned barge under this chapter.

"(b) The owner or operator of an abandoned barge is liable, and an abandoned barge is liable in rem, for all expenses that the United States incurs in removing an abandoned barge under this chapter.

"(c)(1) The Secretary may, after providing notice under subsection (a)(1), solicit by public advertisement sealed bids for the removal of an abandoned barge.

"(2) After solicitation under paragraph (1) the Secretary may award a contract. The contract—

"(A) may be subject to the condition that the barge and all property on the barge is the property of the barge removal contractor; and

"(B) must require the barge removal contractor to submit to the Secretary a plan for the removal.

"(3) Removal of an abandoned barge may begin thirty days after the Secretary completes the procedures under subsection (a)(1).

"§ 4705. Liability of barge removal contractors

"(a)(1) A barge removal contractor and its subcontractor not liable for damages that result from actions taken or omitted to be taken in the course of removing a barge under this chapter.

"(2) Paragraph (1) does not apply—

"(A) with respect to personal injury or wrongful death; or

"(B) if the contractor or subcontractor is grossly negligent or engages in willful misconduct.".

SEC. 5303. APPLICATION TO CERTAIN BARGES.

46 USC 4701 note.

Chapter 47 of title 46, United States Code, as added by subsection (a), does not apply to a barge abandoned before June 11, 1992, if the barge was removed before the date that is 1 year after the date of enactment of this title.

SEC. 5304. CLERICAL AMENDMENT.

The analysis of subtitle II at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 45 the following:

"47. Abandonment of barges ..... 4701".

SEC. 5305. NUMBERING OF BARGES.

Section 12301 of title 46, United States Code, is amended—

(1) by inserting "(a)" before "An undocumented vessel"; and

(2) by adding at the end the following:

"(b) The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.".

Subtitle D—Honoring the Coast Guard Women's Reserve

SEC. 5401. FINDINGS.

The Congress finds the following:

(1) The Congress passed legislation 50 years ago establishing the Coast Guard Women's Reserve.

(2) The Congress recognized both women's right to participate in the total war effort and the military's pressing need for women during World War II.

(3) The Congress responded to women's commitment and dedication by creating the Coast Guard Women's Reserve as a sister service to the WACS, and the Women Marines.

(4) The first director of the Coast Guard Women's Reserve, Captain Dorothy C. Stratton, named the Coast Guard Women's Reserve SPAR, an acronym derived from the Latin and English translations of the Coast Guard motto, Semper Paratus Always Ready.

Dorothy C. Stratton.

(5) The first director recruited the best and brightest women from industry, educational institutions, and homes.

(6) SPARS' high level of education and experience greatly reduced the need for further training and SPARS only needed to be taught military structure and Coast Guard missions and traditions.

(7) SPARS made history by being the first women trained at a service academy.

(8) SPARS performed admirably as executive officers, division heads, officers of the day, watch officers, and courts martial members.

(9) SPARS served our Nation as boatswain mates, coxswains, gunners mates, carpenters, and machinists mates.

(10) SPARS served with distinction in highly specialized jobs during the Korean War and the Vietnam Conflict.

(11) A group of Coast Guard Women's Reserve remained on active duty during the 1950's and 1960's, primarily at Coast Guard headquarters.

(12) In 1950, women were integrated into the Organized Reserve Training Program.

(13) In every phase of Coast Guard history, women have served our Nation with dedication, honor, and sacrifice.

SEC. 5402. DESIGNATION OF SPAR ANNIVERSARY WEEK.

November 17 through November 23, 1992, is designated as "SPAR Anniversary Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Subtitle E—Merchant Marine Provisions

SEC. 5501. COASTWISE LAWS.

(a)(1) Section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292) is amended to read as follows:

"SECTION 1. VESSELS THAT MAY ENGAGE IN DREDGING.

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

"(1) the vessel meets the requirements of section 27 of the Merchant Marines Act, 1920 and section 2 of the Shipping Act, 1916 for engaging in the coastwise trade;

"(2) when chartered, the charterer of the vessel is a citizen of the United States under section 2 of the Shipping Act, 1916 for engaging in the coastwise trade; and

"(3) for a vessel that is at least 5 net tons, the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement.

"(b) EXCEPTION.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—When a vessel is operated in knowing violation of this section, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.".

46 USC app. 292 note.

(2) The amendment made by paragraph (1) does not apply to—

(A)(i) the vessel STUYVESANT, official number 648540;

(ii) any other hopper dredging vessel documented under chapter 121 of title 46, United States Code before the effective date of this Act and chartered to Stuyvesant Dredging Company or to an entity in which it has an ownership interest; however, this exception expires on December 3, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs; and

(iii) any other non-hopper dredging vessel documented under chapter 121 and chartered to Stuyvesant Dredging Com-

pany or to an entity in which it has an ownership interest, as is necessary (a) to fulfill dredging obligations under a specific contract, including any extension periods; or (b) as temporary replacement capacity for a vessel which has become disabled but only for so long as the disability shall last and until the vessel is in a position to fully resume dredging operations; however, this exception expires on December 8, 2022 or when the vessel STUYVESANT ceases to be documented under chapter 121, whichever first occurs;

(B) the vessel COLUMBUS, official number 590658, except that the vessel's certificate of documentation shall be endorsed to prohibit the vessel from engaging in the transportation of merchandise (except valueless material), including dredge material of value, between places within the navigable waters of the United States;

(C) a vessel that is engaged in dredged material excavation if that excavation is not more than a minority of the total cost of the construction contract in which the excavation is a single, integral part, and the vessel is—

(i) built in the United States;

(ii) a non-self-propelled mechanical clamshell dredging vessel; and

(iii) owned or chartered by a corporation that had on file with the Secretary of Transportation, on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1); or

(D) any other documented vessel engaged in dredging and time chartered to an entity that, on August 1, 1989, was, and has continuously remained, the parent of a corporation that had on file with the Secretary of Transportation on August 1, 1989, a certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1) if the vessel is—

(i) not engaged in a federally funded navigation dredging project; and

(ii) engaged only in dredging associated with, and integral to, accomplishment of that parent's regular business requirements.

(b) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended by striking "merchandise" the first place it appears and inserting "merchandise, including merchandise owned by the United States Government, a State (as defined in section 2101 of the title 46, United States Code), or a subdivision of a State,".

(c) The Act of June 7, 1988 (Public Law 100–329; 102 Stat. 588), including the amendments made by that Act, does not apply to a vessel— 46 USC app. 883 note.

(1) engaged in the transportation of valueless material or valueless dredged material; and

(2) owned or chartered by a corporation that had on file with the Secretary of Transportation on August 1, 1989, the certificate specified in section 27A of the Merchant Marine Act, 1920 (46 App. U.S.C. 883–1).

SEC. 5502. TREATMENT OF CERTAIN SEIZED FISHING VESSELS UNDER FISHERMEN'S PROTECTIVE ACT OF 1967.

(a) Notwithstanding another law, each of the vessels described in subsection (b) of this section is deemed to have been covered

by an agreement, beginning August 13, 1992, and ending September 29, 1992, with the Secretary of State under section 7 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977).

(b) The vessels referred to in subsection (a) are the following:

(1) THE KANAOLA (United States official number 923848).

(2) THE MANA LOA (United States official number 919649).

(3) THE MANA OLA (United States official number 902605).

(4) THE MANA IKI (United States official number 906800).

Subtitle F—Clean Vessels

Clean Vessel Act of 1992. Intergovernmental relations. 33 USC 1322 note.

SEC. 5601. SHORT TITLE.

This subtitle may be cited as the "Clean Vessel Act of 1992".

SEC. 5602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The discharge of untreated sewage by vessels is prohibited under Federal law in all areas within the navigable waters of the United States.

(2) The discharge of treated sewage by vessels is prohibited under either Federal or State law in many of the United States bodies of water where recreational boaters operate.

(3) There is currently an inadequate number of pumpout stations for type III marine sanitation devices where recreational vessels normally operate.

(4) Sewage discharged by recreational vessels because of an inadequate number of pumpout stations is a substantial contributor to localized degradation of water quality in the United States.

(b) PURPOSE.—The purpose of this subtitle is to provide funds to States for the construction, renovation, operation, and maintenance of pumpout stations and waste reception facilities.

SEC. 5603. DETERMINATION AND PLAN REGARDING STATE MARINE SANITATION DEVICE PUMPOUT STATION NEEDS.

(a) SURVEY.—Within 3 months after the notification under section 5605(b), each coastal State shall conduct a survey to determine—

(1) the number and location of all operational pumpout stations and waste reception facilities at public and private marinas, mooring areas, docks, and other boating access facilities within the coastal zone of the State; and

(2) the number of recreational vessels in the coastal waters of the State with type III marine sanitation devices or portable toilets, and the areas of those coastal waters where those vessels congregate.

(b) PLAN.—Within 6 months after the notification under section 5605(b), and based on the survey conducted under subsection (a), each coastal State shall—

(1) develop and submit to the Secretary of the Interior a plan for any construction or renovation of pumpout stations and waste reception facilities that are necessary to ensure that, based on the guidance issued under section 5605(a), there are pumpout stations and waste reception facilities in the State that are adequate and reasonably available to meet the needs

of recreational vessels using the coastal waters of the State; and

(2) submit to the Secretary of the Interior with that plan a list of all stations and facilities in the coastal zone of the State which are operational on the date of submittal.

(c) PLAN APPROVAL.—

(1) IN GENERAL.—Not later than 60 days after a plan is submitted by a State under subsection (b), the Secretary of the Interior shall approve or disapprove the plan, based on—

(A) the adequacy of the survey conducted by the State under subsection (a); and

(B) the ability of the plan, based on the guidance issued under section 5605(a), to meet the construction and renovation needs of the recreational vessels identified in the survey.

(2) NOTIFICATION OF STATE; MODIFICATION.—The Secretary of the Interior shall promptly notify the affected Governor of the approval or disapproval of a plan. If a plan is disapproved, the Secretary of the Interior shall recommend necessary modifications and return the plan to the affected Governor.

(3) RESUBMITTAL.—Not later than 60 days after receiving a plan returned by the Secretary of the Interior, the Governor shall make the appropriate changes and resubmit the plan.

(d) INDICATION OF STATIONS AND FACILITIES ON NOAA CHARTS.—

(1) IN GENERAL.—The Under Secretary of Commerce for Oceans and Atmosphere shall indicate, on charts published by the National Oceanic and Atmospheric Administration for the use of operators of recreational vessels, the locations of pumpout stations and waste reception facilities.

(2) NOTIFICATION OF NOAA.—

(A) LISTS OF STATIONS AND FACILITIES.—The Secretary of the Interior shall transmit to the Under Secretary of Commerce for Oceans and Atmosphere each list of operational stations and facilities submitted by a State under subsection (b)(2), by not later than 30 days after the date of receipt of that list.

(B) COMPLETION OF PROJECT.—The Director of the United States Fish and Wildlife Service shall notify the Under Secretary of the location of each station or facility at which a construction or renovation project is completed by a State with amounts made available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, by not later than 30 days after the date of notification by a State of the completion of the project.

SEC. 5604. FUNDING.

(a) TRANSFER.—Section 4 of the Act of August 9, 1950 (16 U.S.C. 777c), is amended—

(1) by striking "So much, not to exceed 6 per centum," and all that follows through "shall apportion the remainder of the appropriation for each fiscal year among the several States" and inserting the following:

"(a) The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 of this Act as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (title III, Public Law

101–646). Notwithstanding the provisions of section 3 of this Act, such sums shall remain available to carry out such Act through fiscal year 1999.

"(b) Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to $10,000,000 for fiscal year 1993, $15,000,000 for each of fiscal years 1994 and 1995, and $20,000,000 for each of fiscal years 1996, and 1997 shall be used as follows:

"(1) one-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code; and

"(2) one-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

In fiscal year 1998, an amount equal to $20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

"(c) Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

"(d) The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States"; and

"(2) by inserting "(e)" before "So much of any sum" and redesignating the last 2 sentences of that section as subsection (e).

(b) ACCESS INCREASE.—Section 8 of the Act of August 9, 1950 (16 U.S.C. 777g), is amended—

(1) in subsection (b)(1) by:

(A) striking "10 per centum" and inserting "12½ per centum"; and

(B) inserting after the first sentence the following: "Notwithstanding this provision, States within a United States Fish and Wildlife Service Administrative Region may allocate more or less than 12½ per centum in a fiscal year, provided that the total regional allocation averages 12½ per centum over a 5 year period.";

(2) in subsection (b)(2) by:

(A) striking "fiscal year" after "succeeding" the first time it appears and inserting "four fiscal years"; and

(B) striking "succeeding fiscal year" the second time it appears and inserting "period";

(3) in subsection (c) by inserting "and outreach" in the first sentence after "education"; and

(4) by adding at the end the following new subsection:

"(d) PUMPOUT STATIONS AND WASTE RECEPTION FACILITIES.—Amounts apportioned to States under section 4 of this Act may be used to pay not more than 75 percent of the costs of constructing, renovating, operating, or maintaining pumpout stations and waste reception facilities (as those terms are defined in the Clean Vessel Act of 1992).".

(c) GRANT PROGRAM.—

(1) MATCHING GRANTS.—The Secretary of the Interior may obligate an amount not to exceed the amount made available under section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act), to make grants to—

(A) coastal States to pay not more than 75 percent of the cost to a coastal State of—

(i) conducting a survey under section 5603(a);

(ii) developing and submitting a plan and accompanying list under section 5603(b);

(iii) constructing and renovating pumpout stations and waste reception facilities; and

(iv) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(B) inland States, which can demonstrate to the Secretary of the Interior that there are an inadequate number of pumpout stations and waste reception facilities to meet the needs of recreational vessels in the waters of that State, to pay 75 percent of the cost to that State of—

(i) constructing and renovating pumpout stations and waste reception facilities in the inland State; and

(ii) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary of the Interior shall give priority consideration to grant applications that—

(A) in coastal States, propose constructing and renovating pumpout stations and waste reception facilities in accordance with a coastal State's plan approved under section 5603(c);

(B) provide for public/private partnership efforts to develop and operate pumpout stations and waste receptions facilities; and

(C) propose innovative ways to increase the availability and use of pumpout stations and waste reception facilities.

(d) DISCLAIMER.—Nothing in this subtitle shall be interpreted to preclude a State from carrying out the provisions of this subtitle with funds other than those described in this section.

SEC. 5605. GUIDANCE AND NOTIFICATION.

(a) ISSUANCE OF GUIDANCE.—Not later than 3 months after the date of the enactment of this subtitle, the Secretary of the Interior shall, after consulting with the Administrator of the Environmental Protection Agency, the Under Secretary of Commerce for Oceans and Atmosphere, and the Commandant of the Coast Guard, issue for public comment pumpout station and waste reception facility guidance. The Secretary of the Interior shall finalize the guidance not later than 6 months after the date of enactment of this subtitle. The guidance shall include—

(1) guidance regarding the types of pumpout stations and waste reception facilities that may be appropriate for construction, renovation, operation, or maintenance with amounts available under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), as amended by this subtitle, and appropriate location of the stations and facilities within a marina or boatyard;

(2) guidance defining what constitutes adequate and reasonably available pumpout stations and waste reception facilities in boating areas;

(3) guidance on appropriate methods for disposal of vessel sewage from pumpout stations and waste reception facilities;

(4) guidance on appropriate connector fittings to facilitate the sanitary and expeditious discharge of sewage from vessels;

(5) guidance on the waters most likely to be affected by the discharge of sewage from vessels; and

(6) other information that is considered necessary to promote the establishment of pumpout facilities to reduce sewage discharges from vessels and to protect United States waters.

(b) NOTIFICATION.—Not later than one month after the guidance issued under subsection (a) is finalized, the Secretary of the Interior shall provide notification in writing to the fish and wildlife, water pollution control, and coastal zone management authorities of each State, of—

(1) the availability of amounts under the Act of August 9, 1950 (16 U.S.C. 777a et seq.) to implement the Clean Vessel Act of 1992; and

(2) the guidance developed under subsection (a).

SEC. 5606. EFFECT ON STATE FUNDING ELIGIBILITY.

This subtitle shall not be construed or applied to jeopardize any funds available to a coastal State under the Act of August 9, 1950 (16 U.S.C. 777a et seq.), if the coastal State is, in good faith, pursuing a survey and plan designed to meet the purposes of this subtitle.

SEC. 5607. APPLICABILITY.

The requirements of section 5603 shall not apply to a coastal State if within six months after the date of enactment of this subtitle the Secretary of the Interior certifies that—

(1) the State has developed and is implementing a plan that will ensure that there will be pumpout stations and waste reception facilities adequate to meet the needs of recreational vessels in the coastal waters of the State; or

(2) existing pumpout stations and waste reception facilities in the coastal waters of the State are adequate to meet those needs.

SEC. 5608. DEFINITIONS.

For the purposes of this subtitle the term:

(1) "coastal State"—

(A) means a State of the United States in, or bordering on the Atlantic, Pacific, or Arctic Ocean; the Gulf of Mexico; Long Island Sound; or one or more of the Great Lakes;

(B) includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa; and

(C) does not include a State for which the ratio of the number of recreational vessels in the State numbered under chapter 123 of title 46, United States Code, to number of miles of shoreline (as that term is defined in section 926.2(d) of title 15, Code of Federal Regulations, as in effect on January 1, 1991), is less than one.

(2) "coastal waters" means—

(A) in the Great Lakes area, the waters within the territorial jurisdiction of the United States consisting of the Great Lakes, their connecting waters, harbors, roadsteads, and estuary-type areas such as bays, shallows, and marshes; and

(B) in other areas, those waters, adjacent to the shorelines, which contain a measurable percentage of sea water, including sounds, bay, lagoons, bayous, ponds, and estuaries.

(3) "coastal zone" has the same meaning that term has in section 304(1) of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453(1));

(4) "inland State" means a State which is not a coastal state;

(5) "type III marine sanitation device" means any equipment for installation on board a vessel which is specifically designed to receive, retain, and discharge human body wastes;

(6) "pumpout station" means a facility that pumps or receives human body wastes out of type III marine sanitation devices installed on board vessels;

(7) "recreational vessel" means a vessel—

(A) manufactured for operation, or operated, primarily for pleasure; or

(B) leased, rented, or chartered to another for the latter's pleasure; and

(8) "waste reception facility" means a facility specifically designed to receive wastes from portable toilets carried on vessels, and does not include lavatories.

TITLE VI—DOCUMENTATION OF VESSELS

Subtitle A—Waivers

SEC. 6101. GENERAL WAIVERS.

Notwithstanding sections 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) A WEIGH OF LIFE (United States official number 973177).

(2) Barge MM 262 (United States official number 298924).

(3) BAY LADY (United States official number 944634).
(4) BLACK MAGIC (United States official number 617553).
(5) BLITHE SPIRIT (United States official number 584730).
(6) BLUEJACKET (United States official number 973459).
(7) BROWN BEAR (United States official number 980667).
(8) CAMINANTE (United States official number 953255).
(9) DELPHINUS II (United States official number 958902).
(10) EAGLE (United States official number 645820).
(11) EL BONGO (hull identification number C–200146; New York State registration number 1104FE).
(12) FIFTY-FIFTY (United States official number 272866).
(13) FOUR B'S (United States official number 915062).
(14) HAZANA (State of Hawaii registration number HA9219D).
(15) HIGH CALIBRE (United States official number 587630).
(16) JUBILEE (United States official number 582812).
(17) LIQUID GOLD (United States official number 618121).
(18) MARIPOSA (United States official number 982102).
(19) MISS JOAN (State of Ohio registration number 3250 XK).
(20) NORTH ATLANTIC (United States official number 695377).
(21) POTOMAC QUEEN (District of Columbia registration number DC7239B).
(22) REDDY JANE (United States official number 928388).
(23) SEA HORSE (United States official number 516343).
(24) SHORELINE XV (United States official number 644839).
(25) SLALOM (Florida registration number FL1590HD).
(26) SOUTHERN YANKEE (United States official number 976653).
(27) THE DAY DREAM (United States official number 644805).
(28) TOUCH OF CLASS (State of Hawaii registration number HA8762E).
(29) WILD GOOSE (State of California registration number CF6431FW).

SEC. 6102. WAIVER FOR OIL SPILL ACTIVITIES.

Notwithstanding sections 12106 and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel U.S.M.V. DELIVERER (United States official number 661235) with usage of the vessel under sections 12106 and 12108 of title 46, United States Code, limited to oil spill cleanup and support activities.

SEC. 6103. LIMITED WAIVER.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the vessel TESORO (official number 696047).

SEC. 6104. LIMITED WAIVER FOR YUPIK STAR.

Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of the enactment of this Act, the

Secretary of Transportation may issue a certificate of documentation for the fish processing vessel YUPIK STAR (United States official number 900823).

SEC. 6105. SALE OF VESSELS.

(a) SALE AUTHORIZED.—Notwithstanding any other law or any agreement with the United States Government, the vessels described in subsection (b) may be sold to a person that is not a citizen of the United States and transferred to a foreign registry, if that sale is approved by the Secretary of Transportation under section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) OCEAN CHALLENGER (United States official number 569583).

(2) OCEAN RUNNER (United States official number 564344).

(3) OCEAN WIZARD (United States official number 574906).

Subtitle B—Maritime Amendments

SEC. 6201. STUDENT INCENTIVE PAYMENTS.

(a) AMOUNT OF ANNUAL PAYMENT.—

(1) INCREASE IN AMOUNT.—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) is amended by striking "$1,200" and inserting "$3,000".

(2) APPLICATION.—The amendment made by subsection (a) shall apply to payments under section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) made with respect to academic years beginning after the date of the enactment of this Act. 46 USC app. 1395c note.

(b) MANNER OF PAYMENT.—Section 1304(g)(1) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(1)) is further amended—

(1) in subparagraph (B) by inserting "and" after the semicolon;

(2) by striking subparagraph (C);

(3) by redesignating subparagraph (D) as subparagraph (C); and

(4) in subparagraph (C) (as so redesignated) by striking ", for the academic years after those years specified in subparagraph (C),".

(c) CONFORMING AMENDMENT.—Section 1304(g)(4) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c(g)(4)) is amended by striking "paragraph (1)(C) of this subsection" and inserting "paragraph (1)".

SEC. 6202. TRANSFER OF CERTAIN VESSELS. Texas. Maine.

The Secretary of the Navy shall transfer to the Department of Transportation the following vessels, to be assigned as training ships to Texas A&M University at Galveston, Texas, and to the Maine Maritime Academy at Castine, Maine, when those vessels are no longer required for use by the Navy:

(1) U.S.N.S. CHAUVENET (T–AG–29).

(2) U.S.N.S. HARKNESS (T–AG–32).

SEC. 6203. MASSACHUSETTS CENTER FOR MARINE ENVIRONMENTAL PROTECTION.

For Fiscal Year 1993, $242,000 is authorized to be appropriated to the Maritime Administration for the Massachusetts Center for Marine Environmental Protection located at the Massachusetts Maritime Academy.

SEC. 6204. FEDERAL SHIP MORTGAGE INSURANCE FOR CERTAIN CONSTRUCTION AND RECONSTRUCTION.

Section 1104B(b)(2) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274a(b)(2)) is amended by striking "73 percent" and inserting "87½ percent".

SEC. 6205. TECHNICAL CORRECTIONS.

(a) MERCHANT SHIP SALES ACT OF 1946.—Section 11(b) of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744), as amended by section 6 of the Act of October 13, 1989 (Public Law 101–115; 103 Stat. 693; commonly referred to as the "Maritime Administration Authorization, 1990"), is amended to read as if it had not been repealed by section 307(12) of the Coast Guard Authorization Act of 1989 (Public Law 101–225; 103 Stat. 1925). The effective date of this subsection is December 12, 1989.

Effective date. 50 USC app. 1744 note.

(b) MERCHANT MARINE ACT, 1920.—Section 19 of the Merchant Marine Act, 1920 (46 App. U.S.C. 876) is amended—

(1) in paragraph (1)(b) by striking "sysetms" and inserting "systems"; and

(2) in paragraph (7)(d) by striking "in proceedings under paragraph (1)(b)(7) of this section," and inserting "under subdivision (b),".

TITLE VII—PARTNERSHIPS FOR WILDLIFE

Partnerships for Wildlife Act. 16 USC 3741 note.

SEC. 7101. SHORT TITLE.

This Title may be cited as the "Partnerships for Wildlife Act".

16 USC 3741.

SEC. 7102. FINDINGS.

The Congress finds the following:

(1) Three-fourths of all American children and adults participate in wildlife-related recreational activities other than hunting, fishing and trapping.

(2) In 1985, Americans spent over $14 billion on nonconsumptive wildlife-related recreation.

(3) The United States and Canada are inhabited by approximately two thousand six hundred vertebrate species of native fish and wildlife, which have provided food, clothing, and other essentials to a rapidly expanding human population.

(4) Over 80 percent of vertebrate fish and wildlife species in North America are not harvested for human use.

(5) The continued well-being of this once-abundant fish and wildlife resource, and even the very existence of many species, is in peril.

(6) In 1967, the United States Fish and Wildlife Service reported that forty-five common migratory bird species, which are not hunted, had exhibited significant declines in abundance, and that thirteen of these species have experienced widespread,

systematic declines of 46.9 percent during a twenty-year study period.

(7) There have been nationwide declines in frogs and other amphibians.

(8) Over two hundred and seventy-five of vertebrate fish and wildlife species in the United States are now officially classified as threatened or endangered by the Federal Government.

(9) During the past decade, fish and wildlife species, including invertebrates, were added to the rapidly growing list of threatened and endangered species in North America at the average rate of over one per month.

(10) Currently, eighty-two species of invertebrates in the United States are listed as threatened or endangered under the Endangered Species Act, and another nine hundred and fifty-one United States invertebrate species are candidates for listing under that Act.

(11) Proper management of fish and wildlife, before species become threatened or endangered with extinction, is the key to reversing the increasingly desperate status of fish and wildlife.

(12) Proper fish and wildlife conservation includes not only management of fish and wildlife species taken for recreation and protection of endangered and threatened species, but also management of the vast majority of species which fall into neither category.

(13) Partnerships in fish and wildlife conservation, such as the Federal Aid in Wildlife Restoration Program, the Federal Aid in Sport Fish Restoration Program, and the North American Wetlands Conservation Act have benefitted greatly the conservation of fish and wildlife and their habitats.

(14) A program that encourages partnerships among Federal and State governments and private entities to carry out wildlife conservation and appreciation projects would benefit all species of fish and wildlife through such activities as management, research, and interagency coordination.

(15) Many States, which are experiencing declining revenues, are finding it increasingly difficult to carry out projects to conserve the entire array of diverse fish and wildlife species and to provide opportunities for the public to associate with, enjoy, and appreciate fish and wildlife through nonconsumptive activities.

SEC. 7103 PURPOSES. 16 USC 3742.

The purposes of this title are to establish a partnership among the United States Fish and Wildlife Service, designated State agencies, and private organizations and individuals—

(1) to carry out wildlife conservation and appreciation projects to conserve the entire array of diverse fish and wildlife species in the United States and to provide opportunities for the public to use and enjoy these fish and wildlife species through nonconsumptive activities;

(2) to enable designated State agencies to respond more fully and utilize their statutory and administrative authorities by carrying out wildlife conservation and appreciation projects; and

(3) to encourage private donations, under the leadership of the National Fish and Wildlife Foundation, to carry out wildlife conservation and appreciation projects.

16 USC 3743.

SEC. 7104. DEFINITIONS.

As used in this title—

(1) The terms "conserve" and "conservation" mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the educational, aesthetic, cultural, recreational, scientific, and ecological enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(2) The term "designated State agency" means the State fish and wildlife agency, which shall be construed to mean any department, or any division of any department of another name, of a State that is empowered under its laws to exercise the functions ordinarily exercised by a State fish and wildlife agency.

(3) The term "fish and wildlife" means wild members of the animal kingdom that are in an unconfined state.

(4) The term "Fund" means the Wildlife Conservation and Appreciation Fund established under section 5(f) of this Act.

(5) The term "National Fish and Wildlife Foundation" means the charitable and nonprofit corporation established under section 2 of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3701).

(6) The term "nonconsumptive activities" means fish and wildlife associated activities other than harvesting of fish and wildlife and includes, but is not limited to, photographing, observing, learning about, or associating with, fish and wildlife.

(7) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

(8) The term "wildlife conservation and appreciation project" means a project which is directed toward nonconsumptive activities or toward the conservation of those species of fish and wildlife that—

(A) are not ordinarily taken for recreation, fur, or food; except that if under applicable State law, any fish and wildlife may be taken for recreation, fur, or food in some but not all, areas of the State, a wildlife conservation and appreciation project may be directed toward the conservation of any of such fish and wildlife within any area of the State in which such taking is not permitted.

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543); and

(C) are not marine mammals within the meaning of section 3(5) of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1362(5)).

SEC. 7105. WILDLIFE PARTNERSHIP PROGRAM. 16 USC 3744.

(a) IN GENERAL.—The Secretary shall provide the amounts available in the Fund to designated State agencies on a matching basis to assist in carrying out wildlife conservation and appreciation projects that are eligible under subsection (b) of this section.

(b) ELIGIBLE PROJECTS.—The following wildlife conservation and appreciation projects shall be eligible for matching funds from the Fund:

(1) inventory of fish and wildlife species;

(2) determination and monitoring of the size, range and distribution of populations of fish and wildlife species;

(3) identification of the extent, condition, and location of the significant habitats of fish and wildlife species;

(4) identification of the significant problems that may adversely affect fish and wildlife species and their significant habitats;

(5) actions to conserve fish and wildlife species and their habitats; and

(6) actions of which the principal purpose is to provide opportunities for the public to use and enjoy fish and wildlife through nonconsumptive activities.

(c) PROJECT STANDARDS.—The Secretary shall not provide funding to carry out an eligible wildlife conservation and appreciation project unless the Secretary determines that such a project—

(1) is planned adequately to accomplish the stated objective or objectives;

(2) utilizes accepted fish and wildlife management principles, sound design and appropriate procedures;

(3) will yield benefits pertinent to the identified need at a level commensurate with project costs;

(4) provides for the tracking of costs and accomplishments related to the project;

(5) provides for monitoring, evaluating, and reporting of the accomplishment of project objectives; and

(6) complies with all applicable Federal environmental laws and regulations.

(d) LIMITATIONS ON FEDERAL PAYMENT.—The amount of appropriated Federal funds provided from the Fund by the Secretary to any designated State Agency with respect to any fiscal year to carry out an eligible wildlife conservation and appreciation project under this section—

(1) may not exceed $250,000;

(2) may not exceed one third of the total project cost for that fiscal year;

(3) may not exceed 40 percent of the total project cost for that fiscal year if designated State agencies from two or more States cooperate in implementing such a project;

(4) may not be used to defray the administrative cost of State programs; and

(5) may not exceed the State share of the cost of implementing such a project.

(e) FORM OF STATE SHARE.—The share of the cost of carrying out eligible projects under this section shall be from a non-Federal source and shall not be in the form of an in-kind contribution.

(f) ELIGIBILITY OF DESIGNATED STATE AGENCIES.—No designated State agency shall be eligible to receive matching funds from the Wildlife Conservation and Appreciation Fund if revenue

derived from activities regulated by such an agency is diverted for any purpose other than the management and conservation of fish and wildlife. Such revenue shall include, but not be limited to, all income from the sale of hunting, fishing and trapping licenses; all income from nongame checkoff systems; all income from the sale of waterfowl, habitat conservation, and other stamps that are requisite for engaging in certain activities regulated by the designated State agency; all income from the sale of any commodities and products by the designated State agency from lands and waters administered by the State for fish and wildlife purposes; and all funds apportioned to the designated State agency under the Federal Aid in Wildlife and Sport Fish Restoration Programs.

(g) ESTABLISHMENT OF FUND.—(1) The Secretary shall establish the Fund, which shall consist of amounts deposited into the Fund by the Secretary under paragraph (2) of this subsection.

(2) The Secretary shall deposit into the Fund—

(A) amounts appropriated to the Secretary for deposit to the Fund, of which not more than 4 percent shall be available to the Secretary and the National Fish and Wildlife Foundation to defray the costs of administering this Act and evaluating wildlife conservation and appreciation projects; and

(B) amounts received as donations from the National Fish and Wildlife Foundation or other private entities or persons for deposit to the Fund.

(3) The Secretary may accept and use donations from the National Fish and Wildlife Foundation and other private entities or persons for purposes of assisting States under this section.

(4) Of the total amount provided from the Fund to assist a State in carrying out a wildlife conservation and appreciation project under subsection (a) of this section, at least 50 percent shall have been donated to the Fund by the National Fish and Wildlife Foundation.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund and to the Secretary for each of fiscal years 1992 through 1995 not to exceed $6,250,000 to match the amount of contributions made to the Fund by the National Fish and Wildlife Foundation.

North Pacific Anadromous Stocks Convention Act of 1992.
16 USC 5001 note.

TITLE VIII—NORTH PACIFIC ANADROMOUS STOCKS CONVENTION

SEC. 8001. SHORT TITLE.

This title may be cited as the "North Pacific Anadromous Stocks Convention Act of 1992".

16 USC 5001.

SEC. 8002. PURPOSE.

It is the purpose of this title to implement the Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean, signed in Moscow, February 11, 1992.

16 USC 5002.

SEC. 8003. DEFINITIONS.

As used in this title, the term—

(1) "Anadromous stocks" means stocks of species listed in the Annex to the Convention that migrate into the Convention area.

(2) "Anadromous fish" means fish of the species listed in the Annex to the Convention that migrate into the Convention area.

(3) "Authorized officer" means a law enforcement official authorized to enforce this title under section 8009(a).

(4) "Commission" means the North Pacific Anadromous Fish Commission provided for by article VIII of the Convention.

(5) "Convention" means the Convention for the Conservation of Anadromous Stocks of the North Pacific Ocean, signed in Moscow, February 11, 1992.

(6) "Convention area" means the waters of the North Pacific Ocean and its adjacent seas, north of 33 degrees North Latitude, beyond two hundred nautical miles from the baselines from which the breadth of the territorial sea is measured.

(7) "Directed fishing" means fishing targeted at a particular species or stock of fish.

(8) "Ecologically related species" means living marine species which are associated with anadromous stocks found in the Convention area, including, but not restricted to, both predators and prey of anadromous fish.

(9) "Enforcement officer" means a law enforcement official authorized by any Party to enforce this title.

(10) "Exclusive economic zone" means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this title, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(11) "Fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(12) "Fishing" means—

(A) the catching, taking, or harvesting of fish, or any other activity that can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(B) any operation at sea in preparation for or in direct support of any activity described in subparagraph (A).

(13) "Fishing vessel" means—

(A) any vessel engaged in catching fish within the Convention area or in processing or transporting fish loaded in the Convention area;

(B) any vessel outfitted to engage in any activity described in subparagraph (A);

(C) any vessel described in subparagraph (A) or (B).

(14) "Incidental taking" means catching, taking, or harvesting a species or stock of fish while conducting directed fishing for another species or stock of fish.

(15) "Party" means Canada, Japan, the Russian Federation, the United States, and any other nation that may accede to the Convention.

(16) "Secretary" means the Secretary of State.

(17) "United States Section" means the United States Commissioners of the Commission.

SEC. 8004. UNITED STATES COMMISSIONERS. 16 USC 5003.

(a) COMMISSIONERS.—The United States shall be represented on the Commission by not more than three United States Commissioners to be appointed by and serve at the pleasure of the President. President.

dent. Each United States Commissioner shall be appointed for a term of office not to exceed 4 years, but is eligible for reappointment. Of the Commissioners—

(1) one shall be an official of the United States Government;

(2) one shall be a resident of the State of Alaska; and

(3) one shall be a resident of the State of Washington.

An individual is not eligible for appointment under paragraph (2) or (3) as a Commissioner unless the individual is knowledgeable or experienced concerning the anadromous stocks and ecologically related species of the North Pacific Ocean.

(b) ALTERNATE COMMISSIONERS.—The Secretary, in consultation with the Secretary of Commerce, may designate from time to time Alternate United States Commissioners to the Commission. An Alternate United States Commissioner may exercise all designated powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(c) UNITED STATES SECTION.—The United States Section, in consultation with the Advisory Panel established in section 8005, shall identify and recommend to the Commission research needs and priorities for anadromous stocks and ecologically related species subject to the Convention, and oversee the United States research programs involving such fisheries, stocks, and species.

(d) COMPENSATION.—United States Commissioners and Alternate United States Commissioners shall receive no compensation for their services as Commissioners and Alternate Commissioners.

16 USC 5004.

SEC. 8005. ADVISORY PANEL.

(a) ESTABLISHMENT OF PANEL.—An Advisory Panel to the United States Section is established. The Advisory Panel shall be composed of the following:

(1) The Commissioner of the Alaska Department of Fish and Game.

(2) The Director of the Washington Department of Fisheries.

(3) One representative of the Pacific States Marine Fisheries Commission, designated by the Executive Director of that commission.

(4) Eleven members (six of whom shall be residents of the State of Alaska and five of whom shall be residents of the State of Washington), appointed by the Secretary, in consultation with the Secretary of Commerce, from among a slate of 12 persons nominated by the Governor of Alaska and a slate of 10 persons nominated by the Governor of Washington.

(b) QUALIFICATIONS.—Persons appointed to the Advisory Panel shall be individuals who are knowledgeable or experienced concerning anadromous stocks and ecologically related species. In submitting a slate of nominees pursuant to subsection (a)(4), the Governors of Alaska and Washington shall seek to represent the broad range of parties interested in anadromous stocks and ecologically related species, and at a minimum shall include on each slate at least one representative of commercial salmon fishing interests and of environmental interests concerned with protection of living marine resources.

(c) LIMITATION ON SERVICE.—Any person appointed to the Advisory Panel pursuant to subsection (a)(4) shall serve for a term not to exceed 4 years, and may not serve more than two consecutive terms.

(d) FUNCTIONS.—The Advisory Panel shall be invited to all nonexecutive meetings of the United States Section and at such meetings shall be granted the opportunity to examine and to be heard on all proposed programs of study and investigation, reports, and recommendations of the United States Section.

(e) COMPENSATION AND EXPENSES.—The members of the Advisory Panel shall receive no compensation or travel expenses for their services as such members.

SEC. 8006. COMMISSION RECOMMENDATIONS. 16 USC 5005.

The Secretary, with the concurrence of the Secretary of Commerce, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article IX of the Convention.

SEC. 8007. ADMINISTRATION AND ENFORCEMENT OF CONVENTION. 16 USC 5006.

(a) RESPONSIBILITIES.—The Secretary of Commerce shall be responsible for administering provisions of the Convention, this title, and regulations issued under this title. The Secretary, in consultation with the Secretary of Commerce and the Secretary of Transportation, shall be responsible for coordinating the participation of the United States in the Commission.

(b) CONSULTATION AND COOPERATION.—In carrying out such functions, the Secretary of Commerce—

(1) shall, in consultation with the Secretary of Transportation and the United States Section, issue such regulations as may be necessary to carry out the purposes and objectives of the Convention and this title; and Regulations.

(2) may, with the concurrence of the Secretary, cooperate with the authorized officials of the government of any Party.

SEC. 8008. COOPERATION WITH OTHER AGENCIES. 16 USC 5007.

(a) IN GENERAL.—Any agency of the Federal Government is authorized, upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish, on a reimbursable basis, facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(b) FUNCTIONS OF SECRETARY OF COMMERCE.—In carrying out the provisions of the Convention and this title, the Secretary of Commerce may arrange for cooperation with agencies of the United States, the States, private institutions and organizations, and agencies of the government of any Party, to conduct scientific and other programs, and may execute such memoranda as may be necessary to reflect such agreements.

SEC. 8009. ENFORCEMENT PROVISIONS. 16 USC 5008.

(a) DUTIES OF SECRETARIES OF COMMERCE AND TRANSPORTATION.—This title shall be enforced by the Secretary of Commerce and the Secretary of Transportation. Such Secretaries may by agreement utilize, on a reimbursable basis or otherwise, the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance

of such duties. Such Secretaries shall, and the head of any Federal or State agency that has entered into an agreement with either such Secretary under the preceding sentence may (if the agreement so provides), authorize officers to enforce the provisions of the Convention, this title, and regulations issued under this title. Any such agreement or contract entered into pursuant to this section shall be effective only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) DISTRICT COURT JURISDICTION.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title.

(c) POWERS OF ENFORCEMENT OFFICERS.—Authorized officers may, shoreward of the outer boundary of the exclusive economic zone, or during hot pursuit from the zone—

(1) with or without a warrant or other process—

(A) arrest any person, if he or she has reasonable cause to believe that such person has committed an act prohibited by section 8010;

(B) board, and search or inspect, any fishing vessel subject to the provisions of the Convention and this title;

(C) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of the Convention, this title, or regulations issued under this title;

(D) seize any fish (wherever found) taken or retained in violation of any provision referred to in subparagraph (C);

(E) seize any other evidence related to any violation of any provision referred to in subparagraph (C);

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(d) ADDITIONAL POWERS.—(1) An authorized officer may in the Convention area—

(A) board a vessel of any Party that reasonably can be believed to be engaged in directed fishing for, incidental taking of, or processing of anadromous fish, and, without warrant or process, inspect equipment, logs, documents, catch, and other articles, and question persons, on board the vessel, for the purpose of carrying out the provisions of the Convention, this title, or any regulation issued under this title; and

(B) if any such vessel or person on board is actually engaged in operations in violation of any such provision, or there is reasonable ground to believe any person or vessel was obviously so engaged before the boarding of such vessel by the authorized officer, arrest or seize such person or vessel and further investigate the circumstance if necessary.

If an authorized officer, after boarding and investigation, has reasonable cause to believe that any such fishing vessel or person engaged in operations in violation of any provision referred to in subparagraph (A), the officer shall deliver the vessel or person as promptly as practicable to the enforcement officers of the appropriate Party, in accordance with the provisions of the Convention.

(2) When requested by the appropriate authorities of a Party, an authorized officer may be directed to attend as a witness, and

to produce such available records and files or duly certified copies thereof as may be necessary, for the prosecution by that Party of any violation of the provisions of the Convention or any law of that Party relating to the enforcement thereof.

SEC. 8010. UNLAWFUL ACTIVITIES. 16 USC 5009.

It is unlawful for any person or fishing vessel subject to the jurisdiction of the United States—

(1) to fish for any anadromous fish in the Convention area;

(2) to retain on board any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(3) to fail to return immediately to the sea any anadromous fish taken incidentally in a fishery directed at nonanadromous fish in the Convention area;

(4) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any anadromous fish taken or retained in violation of the Convention, this title, or any regulation issued under this title;

(5) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purchases of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulation issued under this title;

(6) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (5);

(7) to resist a lawful arrest or detection for any act prohibited by this section;

(8) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detection of another person, knowing that such person has committed any act prohibited by this section; or

(9) to violate any provision of the Convention, this title, or any regulation issued under this title.

SEC. 8011. PENALTIES. 16 USC 5010.

(a) CIVIL PENALTIES.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 8010 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary of Commerce, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) Any person against whom a civil penalty is assessed under paragraph (1) may obtain review thereof in the appropriate court of the United States by filing a complaint in such court within thirty days from the date of such order and by simultaneously serving a copy of such complaint by certified mail on the Secretary of Commerce, the Attorney General, and the appropriate United

States Attorney. The Secretary of Commerce shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary of Commerce shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(3) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary of Commerce, the matter shall be referred to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(4) A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 8010 shall be liable in rem for any civil penalty assessed for such violation under paragraph (1) and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel that may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(5) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(6) For the purposes of conducting any hearing under this section, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(b) OFFENSES.—(1) A person is guilty of an offense if that person commits any act prohibited by section 8010 (5), (6), (7), or (8).

(2) Any offense described in paragraph (1) is a class A misdemeanor punishable by a fine under title 18, United States Code, or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any enforcement officer, or places any such officer in fear of imminent bodily injury, the offense is a felony punishable by a fine under title 18, United States Code, or imprisonment for not more than 10 years, or both.

(c) FORFEITURE.—(1) Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any

fish (or a fair market value thereof) taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 1810 shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(2) Any district court of the United States shall have jurisdiction, upon application of the Attorney General on behalf of the United States, to order any forfeiture authorized under paragraph (1) and any action provided for under paragraph (4). Courts.

(3) If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this title or for which security has not previously been obtained. The provisions of the customs laws relating to—

(A) the seizure, forfeiture, and condemnation of property for violation of the customs law;

(B) the disposition of such property or the proceeds from the sale thereof; and

(C) the remission or mitigation of any such forfeiture;

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this title, unless such provisions are inconsistent with the purposes, policy, and provisions of this title.

(4)(A) Any officer authorized to serve any process in rem that is issued by a court having jurisdiction under section 8009(b) shall—

(i) stay the execution of such process; or

(ii) discharge any fish seized pursuant to such process; upon receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(B) Any fish seized pursuant to this title may be sold, subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(5) For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel and which is seized in connection with an act prohibited by section 8010 were taken or retained in violation of the Convention and this title.

SEC. 8012. FUNDING REQUIREMENTS. 16 USC 5011.

(a) AUTHORIZATION.—There are authorized to be appropriated from time to time such sums as may be necessary for carrying out the purposes and provisions of the Convention and this title, including—

(1) necessary travel expenses of the United States Commissioners or Alternate Commissioners; and

(2) the United States share of the joint expenses of the Commission.

(b) RESEARCH.—Such funds as shall be made available to the Secretary of Commerce for research and related activities shall be expended to carry out the program of the Commission in accordance with the recommendations of the United States Section and to carry out other research and observer programs pursuant to the Convention.

16 USC 5012.

SEC. 8013. DISPOSITION OF PROPERTY.

The Secretary shall dispose of any United States property held by the International North Pacific Fisheries Commission on the date of its termination in a manner that would further the purposes of this title.

SEC. 8014. REPEAL OF THE NORTH PACIFIC FISHERIES ACT OF 1954.

The Act of August 12, 1954 (16 U.S.C. 1021–1035) is repealed.

Approved November 4, 1992.

LEGISLATIVE HISTORY—H.R. 5617:

HOUSE REPORTS: No. 102-927 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 102-588
102d Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, research and program management, and Inspector General, and for other purposes.

Nov. 4, 1992
[H.R. 6135]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1993".

TITLE I—AUTHORIZATION OF APPROPRIATIONS

SEC. 101. FINDINGS.

Congress finds that—

(1) investments in research and development are directly linked to long-term productivity and economic growth;

(2) as a major driver of advanced technology, the space program can play a major role in the Nation's reinvestment in civilian research and development;

(3) in addition to carrying out the Nation's goals in science and exploration, the space program makes a significant and direct contribution to the national employment base and, through the development of advanced technologies, will contribute to sustaining a healthy employment base and economy in the future;

(4) the long-term health of the United States space program is critically dependent on maintaining a stable and continuously evolving core program of science, space transportation, space exploration, space technology, and space applications;

(5) such a core program must be based on a realistic projection of resources that will be available and, in the near term, should not exceed inflationary growth;

(6) in addition to carrying out a core space program, international leadership, technological advancement, and expanded scientific knowledge will be enhanced by an expanded space program based on special initiatives in science, exploration, space transportation, space technology, and space applications;

(7) the Nation's space program can provide a productive environment for utilizing the skills of scientists and engineers formerly involved in the Nation's defense sector;

(8) civil space activities of the United States, whether made possible by, or in response to, Cold War strategic competition with the Soviet Union, must, in an era of declining political conflict, mature as instruments of United States foreign policy, and grow to support the national interest during the post-Cold War era;

(9) the national interest is furthered by trade and cooperation among friendly nations, and to the extent the former Soviet republics have shown themselves willing and capable of fostering a friendship with the United States, the national interest is furthered through trade and cooperation of mutual advantage between the United States and the former Soviet republics in civil aerospace, space science, and space exploration;

(10) a vigorous and coordinated effort by the United States and other spacefaring nations is needed to minimize the growth of orbital debris, and space activities should be conducted in a manner that minimizes the likelihood of additional orbital debris creation;

(11) the aerospace industry, rooted in aeronautics, is a major positive contributor to United States international influence and competitiveness;

(12) aeronautical research and development sustains our leadership in air transport and military aviation worldwide; and

(13) the National Aero-Space Plane is a core technology for any national aerospace policy and will permit the United States to maintain a worldwide competitive posture into the future.

SEC. 102. FISCAL YEAR 1993 AUTHORIZATION OF APPROPRIATIONS.

(a) RESEARCH AND DEVELOPMENT.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Research and Development" for the following programs:

(1) Space Station Freedom, $2,100,000,000.

(2) Space Transportation Capability Development, $733,700,000, of which $30,000,000 is authorized for the development of the Space Transportation Main Engine.

(3) Physics and Astronomy, $1,096,000,000, of which $22,000,000 is authorized for the Shuttle Test of Relativity Experiment.

(4) Life Sciences, $153,700,000, of which $2,000,000 is authorized for cooperative life science activities on the Space Station Mir. None of the funds appropriated pursuant to this Act shall be used for the Search for Extraterrestrial Intelligence (SETI).

(5) Planetary Exploration, $472,200,000, of which $10,000,000 is authorized for Magellan mission operations.

(6) Earth Science and Applications, $838,500,000.

(7) Materials Processing in Space, $155,300,000.

(8) Communications, $4,600,000.

(9) Information Systems, $40,700,000, of which $8,500,000 is authorized for the enhancement of existing visualization and mass storage capacity in support of earth and space science flight projects.

(10) Space Science Research Operations Support, $91,000,000.

(11) Commercial Programs, $156,600,000.

(12) Aeronautical Research and Technology, $885,200,000, of which $89,900,000 is authorized for High-Speed Research.

(13) Transatmospheric Research and Technology, $45,000,000.

(14) Space Research and Technology, $308,500,000, of which $5,000,000 is authorized for carrying out a program of component technology development, validation, and demonstration directed at reducing the cost and improving the capabilities and reliability of commercial launch vehicles.

(15) Space Exploration, $15,900,000.

(16) Safety, Reliability, and Quality Assurance, $32,500,000.

(17) Academic Programs, $71,400,000.

(18) Tracking and Data Advanced Systems, $23,200,000.

(b) SPACE FLIGHT, CONTROL, AND DATA COMMUNICATIONS.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Space Flight, Control, and Data Communications" for the following programs:

(1) Space Shuttle Production and Operational Capability, $1,315,800,000, of which $315,000,000 is authorized for the Advanced Solid Rocket Motor Program.

(2) Space Transportation Enhancement, $7,000,000, for assessment of the mission need and cost justification of providing for the incremental improvement in the Space Shuttle fleet, including—

(A) the extension of on-orbit duration;

(B) the development of unmanned Shuttle capabilities;

(C) the increase in lift performance; and

(D) the enhancement of existent Shuttle flight reliability.

(3) Space Shuttle Operations, $3,085,200,000.

(4) Launch Services, $207,500,000.

(5) Space and Ground Network, Communications, and Data Systems, $903,500,000.

(c) CONSTRUCTION OF FACILITIES.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Construction of Facilities", including land acquisition, as follows:

(1) Construction of Space Station Processing Facility, Kennedy Space Center, $24,000,000.

(2) Modifications for Payload Operations, Integration Center, Marshall Space Flight Center, $1,800,000.

(3) Replacement of Aircraft Operations Support Facilities, Johnson Space Center, $1,600,000.

(4) Modification of Electrical and Mechanical System, Utility Annex, Kennedy Space Center, $4,400,000.

(5) Rehabilitation of Explosive Safe Area–60 High Bays Support System, Kennedy Space Center, $2,000,000.

(6) Rehabilitation of LC–39 Area Fire Alarm Reporting System, Kennedy Space Center, $4,300,000.

(7) Replacement of Boiler House Components, Michoud Assembly Facility, $2,300,000.

(8) Restoration of High Pressure Gas Facility, Stennis Space Center, $6,800,000.

(9) Rehabilitation of Crawlerway, Kennedy Space Center, $2,000,000.

(10) Rehabilitation of Information and Electronic Systems Laboratory, Marshall Space Flight Center, $5,000,000.

(11) Rehabilitation and Expansion of Communications Duct Banks, Kennedy Space Center, $1,500,000.

(12) Replacement of Central Plant Chilled Water Equipment, Johnson Space Center, $4,000,000.

(13) Restoration of Underground Communications Distribution System, Stennis Space Center, $2,200,000.

(14) Restoration/Modernization of Electrical Distribution System, Goddard Space Flight Center, $4,500,000.

(15) Modernization of Unitary Plan Wind Tunnel Complex, Ames Research Center, $8,000,000.

(16) Modifications to 14- by 22-foot Subsonic Wind Tunnel, Langley Research Center, $2,200,000.

(17) Repair and Modernization of the 12-foot Pressure Wind Tunnel, Ames Research Center, $21,400,000.

(18) Rehabilitation of Icing Research Tunnel, Lewis Research Center, $2,700,000.

(19) Modernization of 16-foot Transonic Tunnel, Langley Research Center, $3,600,000.

(20) Rehabilitation of Central Air System, Lewis Research Center, $12,200,000.

(21) Construction of 34-meter Multifrequency Antenna, Canberra, Australia, Jet Propulsion Laboratory, $15,600,000.

(22) Construction of 34-meter Multifrequency Antenna, Madrid, Spain, Jet Propulsion Laboratory, $16,200,000.

(23) Restoration and Modernization of Infrared Telescope Facility, Mauna Kea, Hawaii, $2,000,000.

(24) Construction of Earth Observing System Data Information System Facility, Goddard Space Flight Center, $22,300,000.

(25) Construction of Advanced Solid Rocket Motor Facilities (various locations), $165,000,000.

(26) Repair of facilities at various locations, not in excess of $1,000,000 per project, $31,900,000.

(27) Rehabilitation and modification of facilities at various locations, not in excess of $1,000,000 per project, $34,000,000.

(28) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $750,000 per project, $14,000,000.

(29) Environmental Compliance and Restoration Program, $40,000,000.

(30) Facility Planning and Design, $26,700,000.

Notwithstanding paragraphs (1) through (30), the total amount authorized to be appropriated under this subsection shall not exceed $479,200,000.

(d) RESEARCH AND PROGRAM MANAGEMENT.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Research and Program Management" $1,654,000,000.

(e) INSPECTOR GENERAL.—There are authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1992, for "Inspector General" $15,900,000.

(f) REPORTS ON NEW LAUNCH SYSTEM AND EXPENDABLE LAUNCH VEHICLES.—(1) Within 180 days after the date of enactment of this Act, the Administrator of the National Aeronautics and Space Administration (hereinafter referred to as the "Administrator") shall submit to Congress a report setting forth requirements for a New Launch System, including—

(A) a comparison of the New Launch System to existing launch systems in terms of cost, operability, safety, resilience and robustness, and ability to compete in the world launch market;

(B) a cost/benefits analysis and 10-year life cycle cost estimate of the New Launch System, including development costs to be borne by each participating agency, and expected operating costs;

(C) a payload traffic model, including commercial and both civil government and military payloads in production as of the date of enactment of this Act, those approved by Congress as of the date of enactment of this Act, and those expected to be requested of Congress;

(D) a technology development plan, including—

(i) a summary of high-risk technologies that will lower life-cycle costs;

(ii) specific benchmarks which can validate the achievement of such technological goals at discrete programmatic milestones during the development phase of the program; and

(iii) an indication of how the accomplishment of technological milestones will relate to the achievement of overall system performance during the operational phase;

(E) an implementation plan describing how the New Launch System will be phased into operational usage at the National Launch Ranges and the overlap with existing systems at those Ranges; and

(F) a detailed comparison, including specific cost, payload, and risk assessments, of the New Launch System to other potential launch technologies, whose services could be procured in a commercial manner by the National Aeronautics and Space Administration.

(2) Within 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a report on possible steps to improve the efficiency and availability of United States expendable launch vehicles, including Scout, Delta, Atlas, and Titan, through modernization of facilities, infrastructure improvements, improved management, new or modified procedures, and otherwise.

(g) EARTH OBSERVING SYSTEM.—(1) The Administrator shall carry out an Earth Observing System program that addresses the highest priority international climate change research goals as defined by the Committee on Earth and Environmental Sciences and the Intergovernmental Panel on Climate Change. 42 USC 2451 note.

(2)(A) Within 180 days after the date of enactment of this Act, the Administrator shall submit to Congress a plan which will ensure that the highest priority measurements are maintained on schedule to the greatest extent practicable while lower priority measurements are deferred, deleted, or obtained through other means.

(B) Within 90 days after the date of enactment of this Act, the Core System of the Earth Observing System Data and Information System, the Administrator shall submit to Congress a Development Plan which—

(i) identifies the highest risk elements of the development effort and the key advanced technologies required to significantly increase scientific productivity;

(ii) provides a plan for the development of one or more prototype systems for use in reducing the development risk of critical system elements and obtaining feedback for scientific users;

(iii) provides a plan for research into key advanced technologies;

(iv) identifies sufficient resources for carrying out the Development Plan; and

(v) identifies how the Earth Observing System Data Information System will connect to and utilize other federally-supported research networks, including the National Research and Education Network.

(h) REPORT ON SPACE TRANSPORTATION ENHANCEMENT.—By September 30, 1993, the Administrator shall submit to Congress a full report outlining the specific actions recommended under subsection (b)(2).

TITLE II—GENERAL PROVISIONS

SEC. 201. USE OF FUNDS FOR CERTAIN ITEMS AND GRANTS.

(a) AUTHORIZED USES.—Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for—

(1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration for the performance of research and development contracts; and

(2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities.

(b) VESTING OF TITLE; GRANT CONDITIONS.—Title to facilities described in subsection (a)(2) shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in the grantee institution or organization. Each grant under subsection (a)(2) shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefits adequate to justify the making of that grant.

(c) LIMITATION.—None of the funds appropriated for "Research and Development" and "Space Flight, Control, and Data Communications" pursuant to this Act may be used in accordance with this section for the construction of any facility, the estimated cost of which, including collateral equipment, exceeds $750,000 unless the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

42 USC 2459a.

SEC. 202. AVAILABILITY OF APPROPRIATED AMOUNTS.

Appropriations authorized under this Act for "Research and Development", for "Space Flight, Control, and Data Communications", or for "Construction of Facilities" may remain available until expended. Contracts may be entered into under "Inspector General" and "Research and Program Management" for training,

investigations, and costs associated with personnel relocation and for other services provided during the fiscal year following the fiscal year in which funds are appropriated.

SEC. 203. LIMITED USE OF FUNDS.

(a) USE FOR SCIENTIFIC CONSULTATIONS OR EXTRAORDINARY EXPENSES.—Appropriations authorized under this Act for "Research and Development" may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(b) USE FOR FACILITIES.—(1) Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for the construction of new facilities and additions to, repair of, rehabilitation of, or modification of existing facilities, except that the cost of each such project, including collateral equipment, shall not exceed $200,000.

(2) Appropriations authorized under this Act for "Research and Development" and "Space Flight, Control, and Data Communications" may be used for unforeseen programmatic facility project needs, except that the cost of each such project, including collateral equipment, shall not exceed $750,000.

(3) Appropriations authorized under this Act for "Research and Development" may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration, except that the cost of each project, including collateral equipment, shall not exceed $500,000.

SEC. 204. REPROGRAMMING FOR TRANSATMOSPHERIC RESEARCH AND TECHNOLOGY.

The Administrator may reprogram up to $45,000,000 of the amount authorized for "Research and Development" for fiscal year 1993 to use for the purposes described in section 102(a)(13). No such funds may be obligated until a period of 30 days has passed after the Administrator has notified the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of such reprogramming.

SEC. 205. REPROGRAMMING FOR CONSTRUCTION OF FACILITIES.

Appropriations authorized under this Act for "Construction of Facilities"—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward by 10 percent; or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward by 25 percent, to meet unusual cost variations.

The total amount authorized to be appropriated for "Construction of Facilities" shall not be increased as a result of actions authorized under paragraphs (1) and (2).

SEC. 206. SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES.

Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed one-half of 1 percent of the funds appropriated pursuant to section 102 (a) and (b) to the "Construction of Facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 102(c) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No such funds may be obligated until a period of thirty days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report describing the nature of the construction, its cost, and the reasons therefor.

Reports.

SEC. 207. CONSIDERATION BY COMMITTEES.

Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 102 (a), (b), and (d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of 30 days has passed after the receipt, by each such committee, of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action. The National Aeronautics and Space Administration shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with respect to all activities and responsibilities within the jurisdiction of those committees. Any Federal department, agency, or independent establishment shall furnish any information requested by either committee relating to any such activity or responsibility.

SEC. 208. LIMITATION ON OBLIGATION OF UNAUTHORIZED APPROPRIATIONS.

Not later than 30 days after the later of the date of enactment of an Act making appropriations to the National Aeronautics and Space Administration for fiscal year 1993 or the date of enactment of this Act, the Administrator shall submit a report to Congress and to the Comptroller General which specifies— Reports.

(1) the portion of such appropriations which are for programs, projects, or activities not specifically authorized under this Act, or which are in excess of amounts authorized for the relevant program, project, or activity under this Act; and

(2) the portion of such appropriations which are specifically authorized under this Act.

SEC. 209. GEOGRAPHICAL DISTRIBUTION. 42 USC 2459 note.

It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 210. TRANSMISSION OF BUDGET ESTIMATES. 42 USC 2473 note.

The Administrator shall, at the time of submission of the President's annual budget, transmit to the Congress—

(1) a five-year budget detailing the estimated development costs for each individual program under the jurisdiction of the National Aeronautics and Space Administration for which development costs are expected to exceed $200,000,000; and

(2) an estimate of the life-cycle costs associated with each such program.

SEC. 211. COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION.

Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended—

(1) by striking "1992" and all that follows through "(2)" and inserting in lieu thereof "1993."; and

(2) by adding at the end the following: "There are authorized to be appropriated to the Secretary for fiscal year 1993 $4,900,000 to carry out this Act. The Secretary may not collect any user fees for any regulatory or other services conducted pursuant to this Act, unless specifically authorized by this Act.".

SEC. 212. NATIONAL SPACE COUNCIL AUTHORIZATION. 42 USC 2471 note.

There are authorized to be appropriated to carry out the activities of the National Space Council established by section 501 of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989 (42 U.S.C. 2471), $1,598,000 for fiscal year 1993, of which not more than $1,000 shall be available for official reception and representation expenses. The National Space Council shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it.

SEC. 213. OFFICE OF SPACE COMMERCE AUTHORIZATION.

There are authorized to be appropriated to the Secretary of Commerce for the Office of Space Commerce $515,000 for fiscal year 1993.

SEC. 214. LAUNCH TECHNOLOGY STUDIES.

(a) REPORT ON SINGLE STAGE ROCKET TECHNOLOGY FLIGHT TEST PROGRAM.—Not later than 45 days following completion of the Strategic Defense Initiative Organization's Single Stage Rocket Technology flight test program, the Administrator shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives providing an independent analysis of the program and the potential application of this launch technology to the civil space program.

(b) NATIONAL AEROSPACE TRANSPORTATION TECHNOLOGY PLAN.—Not later than 180 days after the date of enactment of this Act, the National Space Council, in consultation with the Administrator, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a national aerospace transportation technology plan. The plan shall consider—

(1) the needs of the National Aeronautics and Space Administration and other agencies for a hypersonic research flight vehicle, including the National Aerospace Plan; and

(2) the relationship between the National Aerospace Plane and the supersonic High Speed Civil Transport, the Single Stage Rocket Technology Program, nuclear propulsion concepts, and other proposed aeronautical and space transportation technology concepts.

SEC. 215. SPACE AGENCY FORUM ON INTERNATIONAL SPACE YEAR.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) it is in the national interest that the Space Agency Forum on International Space Year (in this section referred to as "SAFISY") maintain its facilitating role in the coordination of current and planned complementary Earth and space science research findings so as to maximize scientific return;

(2) the initiative for multilateral scientific cooperation among space agencies and international scientific organizations undertaken by SAFISY should continue beyond 1992, the International Space Year; and

(3) the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration should pursue implementation of proposals for long-term multilateral scientific cooperation developed during the International Space Year, notably those contained in the report of the second Pacific ISY Conference.

(b) REPORT TO CONGRESS.—At the earliest practicable date, but not later than September 1, 1993, the National Aeronautics and Space Administration shall submit to Congress its plan for continuing SAFISY activities, with particular reference to planned coordination of current and future complementary Earth and space science research findings, and other acts of multilateral scientific cooperation.

SEC. 216. CRAF/CASSINI MISSION.

Section 103(a)(1)(S) of the National Aeronautics and Space Administration Authorization Act, Fiscal Year 1991 (Public Law 101–611; 104 Stat. 3192), is repealed.

SEC. 217. COMPUTER NETWORKS.

Section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) is amended by adding at the end the following new subsection:

"(g) In carrying out subsection (a)(4), the Foundation is authorized to foster and support access by the research and education communities to computer networks which may be used substantially for purposes in addition to research and education in the sciences and engineering, if the additional uses will tend to increase the overall capabilities of the networks to support such research and education activities.".

SEC. 218. SPACE COOPERATION WITH THE FORMER SOVIET REPUBLICS.

15 USC 5801 note.

(a) REPORT TO CONGRESS.—Within one year after the date of enactment of this Act, the President shall submit to Congress a report describing—

(1) the opportunities for increased space related trade with the independent states of the former Soviet Union;

(2) a technology procurement plan for identifying and evaluating all unique space hardware, space technology, and space services available to the United States from the independent states of the former Soviet Union, specifically including those technologies the National Aeronautics and Space Administration has identified as high priority in its Space Research and Technology Integrated Technology Plan.

(3) the trade missions carried out pursuant to subsection (c), including the private participation and the results of such missions;

(4) the offices and accounts of the National Aeronautics and Space Administration to which expenses for either cooperative activities or procurement actions, involving the independent states of the former Soviet Union, are charged;

(5) any barriers, regulatory or practical, that inhibit space-related trade between the United States and the independent states of the former Soviet Union, including such barriers in either the United States or the independent states; and

(6) any anticompetitive issues raised by a potential acquisition.

(b) NOTIFICATION TO CONGRESS.—If any United States Government agency denies a request for a license or other approval that may be necessary to conduct discussions on space-related matters with the independent states of the former Soviet Union, that agency shall immediately notify the Speaker of the House of Representatives and President of the Senate. Each such notification shall include a statement of the reasons for the denial.

(c) ROLE OF THE OFFICE OF SPACE COMMERCE.—The Office of Space Commerce of the Department of Commerce is authorized and encouraged to conduct trade missions to appropriate independent states of the former Soviet Union for the purpose of familiarizing United States aerospace industry representatives with space hardware, space technologies, and space services that may be available from the independent states, and with the business practices and overall business climate in the independent states. The Office of Space Commerce shall also advise the Administrator as to the impact on United States industry of each potential acquisition of space hardware, space technology, or space services from the

independent states of the former Soviet Union, specifically including any anticompetitive issues the Office may observe.

SEC. 219. USE OF DOMESTIC PRODUCTS.

(a) COMPLIANCE WITH BUY AMERICAN ACT.—(1) Except as provided in paragraph (2), the head of each agency which conducts procurements shall ensure that such procurements are conducted in compliance with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a through 10c, popularly known as the "Buy American Act").

(2) This subsection shall apply only to procurements made for which—

(A) amounts are authorized by this Act to be made available; and

(B) solicitations for bids are issued after the date of enactment of this Act.

Reports. (3) The Administrator, before January 1, 1994, shall report to Congress on procurements covered by this subsection of products that are not domestic products.

(b) INAPPLICABILITY IN CASE OF VIOLATION OF INTERNATIONAL AGREEMENT.—This section shall not apply to the extent that the United States Trade Representative determines that an award under this section would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) DEFINITIONS.—For the purposes of this section, the term "domestic product" means a product—

(1) that is manufactured or produced in the United States; and

(2) at least 50 percent of the cost of the articles, materials, or supplies of which are mined, produced, or manufactured in the United States.

42 USC 2473d. **SEC. 220. USE OF ABANDONED AND UNDERUTILIZED BUILDINGS, GROUNDS, AND FACILITIES.**

(a) GENERAL RULE.—In meeting the needs of the National Aeronautics and Space Administration for additional facilities, the Administrator shall investigate the use of abandoned and underutilized buildings, grounds, and facilities in depressed communities that can be converted to National Aeronautics and Space Administration facilities and shall prioritize such uses where cost effective, as determined by the Administrator.

(b) DEFINITION.—For purposes of this section, the term "depressed communities" means rural and urban communities that are relatively depressed, in terms of age of housing, extent of poverty, growth of per capita income, extent of unemployment, job lag, or surplus labor.

SEC. 221. STUDY OF USES OF TECHNICAL INFORMATION.

The Administrator shall undertake a study of the extent to which technical information developed by the National Aeronautics and Space Administration, by itself or in cooperation with industry, academic, or other government partners or contractors, is brought to market by foreign aerospace firms or their subcontractors more quickly than by United States companies. The Administrator shall report the results of such study to Congress no later than October 1, 1993.

Reports.

SEC. 222. INSTITUTE FOR AVIATION WEATHER PREDICTION.

Establishment.
15 USC 313b.

The Administrator of the National Oceanic and Atmospheric Administration shall establish an Institute for Aviation Weather Prediction. The Institute shall provide forecasts, weather warnings, and other weather services to the United States aviation community. The Institute shall expand upon the activities of the aviation unit currently at the National Severe Storms Forecast Center in Kansas City, Missouri, and shall be established in the Kansas City Missouri area. The Administrator of the National Oceanic and Atmospheric Administration shall provide a full and fair opportunity for employees at the National Severe Storms Center to assume comparable duties and responsibilities within the Institute.

Missouri.

TITLE III—EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH ON SPACE AND AERONAUTICS

Experimental Program to Stimulate Competitive Research on Space and Aeronautics Act.
42 USC 2467b note.

SEC. 301. SHORT TITLE.

This title may be cited as the "Experimental Program to Stimulate Competitive Research on Space and Aeronautics Act".

SEC. 302. FINDINGS.

42 USC 2467b note.

Congress finds that—

(1) the report of the Advisory Committee on the Future of the United States Space Program has provided a framework within which a consensus on the goals of the space program can be developed;

(2) the National Aeronautics and Space Administration's space science and applications, aeronautical research and technology, and space research and technology programs will serve as the fulcrum for future initiatives by the United States in civil space and aviation;

(3) colleges and universities in many States are currently not able to compete successfully for research grants awarded by the National Aeronautics and Space Administration through its space science and applications, aeronautical research and technology, and space research and technology programs;

(4) balanced programs of space science and applications, aeronautical research and technology, and space research and technology should include initiatives designed to foster competitive research capacity in all geographic areas of the Nation; and

(5) by strengthening the competitive research capacity in those geographic areas of the Nation which are not currently fully competitive, the education and training of scientists and engineers important to the future of the United States civil space and aviation programs will be fostered.

SEC. 303. POLICY.

42 USC 2467b note.

It is the policy of the United States that—

(1) the Administrator, in planning for national programs in space science and applications, aeronautical research, space flight, and exploration, should ensure the resilience of the space and aeronautics research infrastructure;

(2) a stable and balanced program of space science and applications, aeronautical research and technology, and space research and technology should include programs to assure

that geographic areas of the United States that currently do not successfully participate in competitive space and aeronautical research activities are enabled to become more competitive; and

(3) programs to improve competitive capabilities should be a part of the research and the educational activities of the National Aeronautics and Space Administration.

Grants.
42 USC 2467b.

SEC. 304. REQUIREMENTS.

(a) COMPETITION.—Making use of the existing infrastructure established in eligible States by the National Science Foundation, the Administrator shall conduct a merit grant competition among the eligible States in areas of research important to the mission of the National Aeronautics and Space Administration. With respect to a grant application by an eligible State, the Administrator shall consider—

(1) the application's merit and relevance to the mission of the National Aeronautics and Space Administration;

(2) the potential for the grant to serve as a catalyst to enhance the ability of researchers in the State to become more competitive for regular National Aeronautics and Space Administration funding;

(3) the potential for the grant to improve the environment for science, mathematics, and engineering education in the State; and

(4) the need to assure the maximum distribution of grants among eligible States, consistent with merit.

(b) SUPPLEMENTAL GRANTS.—The Administrator shall endeavor, where appropriate, to supplement grants made under subsection (a) with such grants for fellowships, traineeships, equipment, or instrumentation as are available.

(c) ELIGIBLE STATES DEFINED.—In this section, the term "eligible State" means a State designated by the Administrator as eligible to compete in the Foundation's Experimental Program to Stimulate Competitive Research.

42 USC 2467b note.

SEC. 305. AUTHORIZATION OF APPROPRIATIONS.

In carrying out the programs listed in section 102(a), the Administrator should ensure that up to $10,000,000 from the appropriations authorized for "Research and Development", for fiscal year 1993 are also used for purposes of establishing and developing an Experimental Program to Stimulate Competitive Research on Space and Aeronautics.

TITLE IV—HIGH RISK RESEARCH AND DEVELOPMENT CONTRACT ADMINISTRATION

SEC. 401. ACQUISITION POLICY ASSESSMENT.

(a) ASSESSMENT.—Within 180 days after the date of enactment of this Act, the Administrator, in coordination as necessary with the Office of Federal Procurement Policy and the Federal Acquisition Regulation Council, shall carry out an assessment of the allocation of risk between the National Aeronautics and Space Administration and its contractors for future research and development contracts in order to identify options for allocating risk for correction of defects in materials and workmanship or other failures to conform to contract requirements.

(b) CONTENTS.—In carrying out the assessment required by subsection (a), the Administrator shall consider—

(1) technical uncertainty, market dynamics, and equity to both the National Aeronautics and Space Administration and the contractor community;

(2) the use of positive fee incentives reflecting the level of cost, schedule, and performance risk accepted by the contractor;

(3) the use of negative fee incentives, including provisions providing for less than full cost recovery for work determined to be defective in materials or workmanship or which otherwise fail to conform to contract requirements;

(4) the appropriate use of rollovers;

(5) the appropriate use of retroactive award fee adjustments;

(6) the appropriate use of value engineering;

(7) the use of warranties to ensure that the end product or a specified subproduct of a contract meets the performance requirements of a contract;

(8) the recovery of costs for the replacement or correction of articles which are defective in materials or workmanship, or which otherwise fail to conform to contract requirements; and

(9) the appropriate use of performance-based contracting.

SEC. 402. PROMULGATION OF REGULATIONS.

Within one hundred and eighty days after the completion of the acquisition policy assessment required by section 401, the Administrator, in coordination as necessary with the Office of Federal Procurement Policy, consistent with section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413), and the Federal Acquisition Regulation Council, shall initiate a rulemaking proceeding under section 22 of such Act (41 U.S.C. 418b), on the administration of research and development contracts which propose specific changes to National Aeronautics and Space Administration Procurement Regulations and, as necessary, Federal Acquisition Regulations to consider implementing the recommendations of the assessment required by section 401, as well as—

(1) the establishment of policies and procedures for the use of performance-based contracts, incorporating positive and/or negative fee incentives to the maximum extent practicable; and

(2) the establishment of policies and procedures—

(A) for limiting the use of clauses of the Federal Acquisition Regulations which otherwise obligate the Government to pay the cost of correction of defects in materials and workmanship and work which otherwise fails to conform to contract requirements, and eliminating the use of such clauses where the defect or failure is within the control of the contractor; and

(B) to provide for less than full cost recovery for work determined to be defective in materials and workmanship or which otherwise fails to conform to contract requirements.

SEC. 403. DEFINITIONS.

For the purposes of this title—

(1) the term "performance-based contracting" means structuring all aspects of an acquisition around the purpose of the work to be performed as opposed to either the manner by which the work is to be performed or broad statements of work;

(2) the term "positive fee incentive" means that element of the potential total remuneration that a contractor may receive for contract performance over and above the allowable costs;

(3) the term "negative fee incentive" means a rebate payable to the National Aeronautics and Space Administration by a contracting party whose deliverable item or service is not in conformance with contract requirements or is otherwise deemed to be defective work; and

(4) the term "rollover" means the act of reallocating any positive fee incentives not earned by a contractor due to less than excellent performance to subsequent opportunities for award available in the contract.

TITLE V—COMMERCIAL SPACE COMPETITIVENESS

15 USC 5801.

SEC. 501. FINDINGS.

The Congress finds that—

(1) commercial activities of the private sector have substantially contributed to the strength of both the United States space program and the national economy;

(2) a robust United States space transportation capability remains a vital cornerstone of the United States space program;

(3) the availability of commercial launch services is essential for the continued growth of the United States commercial space sector;

(4) a timely extension of the excess third party claims payment provisions of the Commercial Space Launch Act is appropriate and necessary to enable the private sector to continue covering maximum probable liability risks while protecting the private sector from uninsurable levels of liability which could hinder international competitiveness;

(5) a program to demonstrate how recipients of Federal grants can purchase launch services directly from the private sector has the potential to improve the capabilities of the United States commercial launch industry;

(6) improvements and additions to the Nation's space transportation infrastructure contribute to a robust and cost effective space transportation capability for both public sector and private sector users;

(7) private sector use of available Government facilities on a reimbursable basis contributes to a stronger commercial space sector;

(8) the Federal Government should purchase space goods and services which are commercially available, or could be made available commercially in response to a Government procurement request, whenever such goods or services meet Government mission requirements in a cost effective manner;

(9) it is appropriate for the Government to act as an anchor tenant for commercial space development projects which have a reasonable potential to develop non-Federal markets and which meet Federal needs in a cost effective manner; and

(10) the provision of compensation to commercial providers of space goods and services for termination of contracts at the convenience of the Government assists in enabling the private sector to invest in space activities which are initially dependent on Government purchases.

SEC. 502. DEFINITIONS. 15 USC 5802.

For the purpose of this title—

(1) the term "agency" means an executive agency as defined by section 105 of title 5, United States Code;

(2) the term "anchor tenancy" means an arrangement in which the United States Government agrees to procure sufficient quantities of a commercial space product or service needed to meet Government mission requirements so that a commercial venture is made viable;

(3) the term "commercial" means having—

(A) private capital at risk, and

(B) primary financial and management responsibility for the activity reside with the private sector;

(4) the term "cost effective" means costing no more than the available alternatives, determined by a comparison of all related direct and indirect costs including, in the case of Government costs, applicable Government labor and overhead costs as well as contractor charges, and taking into account the ability of each alternative to accommodate mission requirements as well as the related factors of risk, reliability, schedule, and technical performance;

(5) the term "launch" means to place, or attempt to place, a launch vehicle and its payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(6) the term "launch services" means activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(7) the term "launch support facilities" means facilities located at launch sites or launch ranges that are required to support launch activities, including launch vehicle assembly, launch vehicle operations and control, communications, flight safety functions, and payload operations, control, and processing.

(8) the term "launch vehicle" means any vehicle constructed for the purpose of operating in or placing a payload in, outer space or in suborbital trajectories, and includes components of that vehicle;

(9) the term "payload" means an object which a person undertakes to launch, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(10) the term "payload integration services" means activities involved in integrating multiple payloads into a single payload for launch or integrating a payload with a launch vehicle;

(11) the term "space recovery support facilities" means facilities required to support activities related to the recovery of payloads returned from space to a space recovery site, including operations and control, communications, flight safety functions, and payload processing;

(12) the term "space transportation infrastructure" means facilities, associated equipment, and real property, including

launch sites, launch support facilities, space recovery sites, and space recovery support facilities, required to perform launch or space recovery activities;

(13) the term "State" means the several States, the District of Columbia, Puerto Rico, American Samoa, the United States Virgin Islands, Guam, the Northern Mariana Islands, and any other commonwealth, territory, or possession of the United States; and

(14) the term "United States" means the States, collectively.

SEC. 503. EXTENSION OF GOVERNMENT PAYMENT OF EXCESS THIRD PARTY CLAIMS.

Section 16(b)(5) of the Commercial Space Launch Act (49 App. U.S.C. 2615(b)(5)) is amended by striking "the date that is five years following the date of enactment of the Commercial Space Launch Act Amendments of 1988" and inserting in lieu thereof "January 1, 2000".

15 USC 5803.

SEC. 504. LAUNCH VOUCHER DEMONSTRATION PROGRAM.

(a) COMMERCIAL SPACE VOUCHER DEMONSTRATION PROGRAM; EFFECTIVE PERIOD.—The Administrator shall establish a demonstration program to award vouchers for the payment of commercial launch services and payload integration services for the purpose of launching payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration to become effective October 1, 1993. Such program shall not be effective after September 30, 1995.

(b) AWARD OF VOUCHERS.—The Administrator shall award vouchers under subsection (a) to appropriate individuals as a part of grants administered by the National Aeronautics and Space Administration for the launch of—

(1) payloads to be placed in suborbital trajectories; and

(2) small payloads to be placed in orbit.

(c) ASSUMPTION OF CERTAIN RESPONSIBILITIES.—In carrying out the demonstration program established under subsection (a), the Administrator, in awarding vouchers, is limited to the launch of payloads funded by the Office of Commercial Programs within the National Aeronautics and Space Administration.

(d) ASSISTANCE.—The Administrator may provide voucher award recipients with such assistance, including contract formulation and technical support during the proposal evaluation, as may be necessary, to ensure the purchase of cost effective and reasonably reliable commercial launch services and payload integration services.

(e) REPORT.—The Administrator shall conduct an ongoing review of the program established under this section, and shall, not later than January 31, 1995, report to Congress the results of such a review, together with recommendations for further action relating to the program.

15 USC 5804.

SEC. 505. SPACE TRANSPORTATION INFRASTRUCTURE MATCHING GRANTS.

(a) DEFINITIONS.—For the purposes of this section—

(1) the term "commercial space transportation infrastructure development" may include—

(A) the construction or improvement of space transportation infrastructure within the United States;

(B) the engineering and designing of such space transportation infrastructure; and

(C) technical studies to define how new or enhanced space transportation infrastructure can best meet the needs of the United States commercial space transportation industry;

(2) the term "project" means a project (or separate projects submitted together) for the accomplishment of commercial space transportation infrastructure development, including the combined submission of all projects to be undertaken at a particular site in a fiscal year;

(3) the term "project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects;

(4) the term "public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, or a tax-supported organization;

(5) the term "Secretary" means the Secretary of Transportation; and

(6) the term "sponsor" means any public agency which, either individually or jointly with one or more other such entities, submits to the Secretary, in accordance with this section, an application for financial assistance for commercial space transportation infrastructure development.

(b) ESTABLISHMENT OF GRANT PROGRAM.—In order to ensure the resiliency of the Nation's space transportation infrastructure, the Secretary is authorized to make project grants to sponsors in accordance with this section. There is authorized to be appropriated $10,000,000 for such grants beginning after September 30, 1992. Such funds shall remain available until expended.

(c) SELECTION OF PROJECTS.—(1) In selecting projects for grants under subsection (b), the Secretary shall consider—

(A) the contribution of the proposed project to industry capabilities which serve Federal space transportation needs;

(B) the extent of industry's financial contribution to the proposed project;

(C) the extent of industry participation in the proposed project;

(D) the positive impact of the proposed project on the international competitiveness of the United States space transportation industry;

(E) the extent of state contributions to the proposed project; and

(F) the impact of the proposed project on launch operations and other activities at Federal launch ranges.

(2) The Secretary shall consult with the Department of Defense, the National Aeronautics and Space Administration, and other appropriate Federal agencies concerning paragraphs (1)(A) and (1)(F).

(3) The Secretary shall give preference to those applications with greater levels of industry financial contributions, all other factors being equal.

(d) SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.—(1) Any sponsor of a project may submit to the Secretary a project grant application for one or more projects, in a form containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken.

(2) No project grant application shall be approved by the Secretary unless the Secretary is satisfied that—

(A) the project will contribute to the purposes of this section;

(B) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies which are authorized by the State in which such project is located and which are responsible for the development of the area surrounding the project site;

(C) if the application proposes to use Federal Government property, the specific consent of the appropriate Federal agency head has been obtained;

(D) the project will be completed without undue delay;

(E) the sponsor which submitted the project grant application has the legal authority to engage in the project as proposed; and

(F) all additional requirements prescribed by the Secretary have been met.

(e) ENVIRONMENTAL REQUIREMENTS.—(1) It is declared to be national policy that projects authorized pursuant to this section shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreational assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have a significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(2)(A) No project grant application may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearing for the purpose of considering the economic, social, and environmental effects of the project and its consistency with the goals of objectives of such planning as had been carried out by the community.

(B) When hearings are held under paragraph (2)(A), the project sponsor shall submit a copy of the transcript to the Secretary.

(3) No project grant application may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary.

(4) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(5) The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this section in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this paragraph shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 App. U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

(f) ALLOCATION OF PROJECT COSTS.—(1) The project grant for any project under this section shall not exceed 50 percent of the total cost of such project.

(2) No project grant shall be awarded under this section for any project for which less than 10 percent of the total cost of such project will be borne by the private sector.

SEC. 506. IDENTIFICATION OF LAUNCH SUPPORT FACILITIES. 15 USC 5805.

(a) IDENTIFICATION.—The Administrator and the Secretary of Defense, as appropriate, in coordination with the Secretary of Transportation, shall conduct an inventory and identify all launch support facilities owned by the United States Government. To the extent practicable, the Administrator and the Secretary of Defense shall also identify any launch support facilities which could be made available for use by non-Federal entities on a reimbursable basis without interfering with Federal activities.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Administrator and the Secretary of Defense each shall submit to Congress a report containing the results of the identification required under subsection (a). Portions of such report may be classified and protected from public disclosure if such classification is necessary to protect national security.

SEC. 507. ANCHOR TENANCY AND TERMINATION LIABILITY. 15 USC 5806.

(a) ANCHOR TENANCY CONTRACTS.—Subject to appropriations, the Administrator or the Administrator of the National Oceanic and Atmospheric Administration may enter into multiyear anchor tenancy contracts for the purchase of a good or service if the appropriate Administrator determines that—

(1) the good or service meets the mission requirements of the National Aeronautics and Space Administration or the National Oceanic and Atmospheric Administration, as appropriate;

(2) the commercially procured good or service is cost effective;

(3) the good or service is procured through a competitive process;

(4) existing or potential customers for the good or service other than the United States Government have been specifically identified;

(5) the long-term viability of the venture is not dependent upon a continued Government market or other nonreimbursable Government support; and

(6) private capital is at risk in the venture.

(b) TERMINATION LIABILITY.—(1) Contracts entered into under subsection (a) may provide for the payment of termination liability in the event that the Government terminates such contracts for its convenience.

(2) Contracts that provide for the payment of termination liability, as described in paragraph (1), shall include a fixed schedule of such termination liability payments. Liability under such contracts shall not exceed the total payments which the Government would have made after the date of termination to purchase the good or service if the contract were not terminated.

(3) Subject to appropriations, funds available for such termination liability payments may be used for purchase of the good or service upon successful delivery of the good or service pursuant to the contract. In such case, sufficient funds shall remain available to cover any remaining termination liability.

(c) LIMITATIONS.—(1) Contracts entered into under this section shall not exceed 10 years in duration.

(2) Such contracts shall provide for delivery of the good or service on a firm, fixed price basis.

(3) To the extent practicable, reasonable performance specifications shall be used to define technical requirements in such contracts.

(4) In any such contract, the appropriate Administrator shall reserve the right to completely or partially terminate the contract without payment of such termination liability because of the contractor's actual or anticipated failure to perform its contractual obligations.

15 USC 5807.

SEC. 508. USE OF GOVERNMENT FACILITIES.

(a) AUTHORITY.—Federal agencies, including the National Aeronautics and Space Administration and the Department of Defense, may allow non-Federal entities to use their space-related facilities on a reimbursable basis if the Administrator, the Secretary of Defense, or the appropriate agency head determines that—

(1) the facilities will be used to support commercial space activities;

(2) such use can be supported by existing or planned Federal resources;

(3) such use is compatible with Federal activities;

(4) equivalent commercial services are not available on reasonable terms; and

(5) such use is consistent with public safety, national security, and international treaty obligations.

In carrying out paragraph (5), each agency head shall consult with appropriate Federal officials.

(b) REIMBURSEMENT PAYMENT.—(1) The reimbursement referred to in subsection (a) may be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the use of such facilities by the private sector. For the purposes of this paragraph, the term "direct costs" means the actual costs that can be unambiguously associated with such use, and would not be borne by the United States Government in the absence of such use.

(2) The amount of any payment received by the United States for use of facilities under this subsection shall be credited to the

appropriation from which the cost of providing such facilities was paid.

SEC. 509. PROTECTION OF INFORMATION DEVELOPED UNDER SPACE ACT AGREEMENTS.

Section 303 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2454) is amended—

(1) by inserting "(a)" after "SEC. 303";

(2) by striking "and (B)" and inserting in lieu thereof "(B)";

(3) by inserting ", and (C) information described in subsection (b)" after "national security"; and

(4) by adding at the end the following new subsection:

"(b) The Administrator, for a period of up to 5 years after the development of information that results from activities conducted under an agreement entered into under section 203(c)(5) and (6) of this Act, and that would be a trade secret or commercial or financial information that is privileged or confidential under the meaning of section 552(b)(4) of title 5, United States Code, if the information had been obtained from a non-Federal party participating in such an agreement, may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.".

SEC. 510. COMMERCIAL SPACE ACHIEVEMENT AWARD. 15 USC 5808.

(a) ESTABLISHMENT.—There is established a Commercial Space Achievement Award. The award shall consist of a medal, which shall be of such design and materials and bear such inscriptions as determined by the Secretary of Commerce. A cash prize may also be awarded if funding for the prize is available under subsection (d).

(b) CRITERIA FOR AWARD.—The Secretary of Commerce shall periodically make, and the Chairman of the National Space Council shall present, awards under this section to individuals, corporations, corporate divisions, or corporate subsidiaries substantially engaged in commercial space activities who in the opinion of the Secretary of Commerce best meet the following criteria:

(1) For corporate entities, at least one-half of the revenues from the space-related activities of the corporation, division, or subsidiary is derived from sources other than the United States Government.

(2) The activities and achievements of the individual, corporation, division, or subsidiary have substantially contributed to the United States gross national product and the stature of United States industry in international markets, with due consideration for both the economic magnitude and the technical quality of the activities and achievements.

(3) The individual, corporation, division, or subsidiary has substantially advanced space technology and space applications directly related to commercial space activities.

(c) LIMITATIONS.—No individual or corporate entity may receive an award under this section more than once every 5 years.

(d) FUNDING FOR AWARD.—The Secretary of Commerce may seek and accept gifts of money from public and private sources for the purpose of making cash prize awards under this section. Such money may be used only for that purpose, only such money may be used for that purpose, and the Secretary of Commerce

shall make publicly available an itemized list of the sources of such funding.

TITLE VI—BIOMEDICAL RESEARCH IN SPACE

42 USC 2487.

SEC. 601. FINDINGS.

The Congress finds that—

(1) the space program can make significant contributions to selected areas of health-related research and should be an integral part of the Nation's health research and development program;

(2) the continuing development of trained scientists and engineers is essential to carrying out an effective and sustained program of biomedical research in space and on the ground;

(3) the establishment and maintenance of an electronically accessible archive of data on space-related biomedical research is essential to advancement of the field;

(4) cooperation with the republics of the former Soviet Union, including use of former Soviet orbital facilities, offers the potential for greatly enhanced biomedical research activities and progress; and

(5) the establishment and maintenance of an international telemedicine consultation satellite capability to support emergency medical service provision can provide an important aid to disaster relief efforts.

42 USC 2487a.

SEC. 602. BIOMEDICAL RESEARCH JOINT WORKING GROUP.

(a) ESTABLISHMENT.—The Administrator and the Director of the National Institutes of Health shall jointly establish a working group to coordinate biomedical research activities in areas where a microgravity environment may contribute to significant progress in the understanding and treatment of diseases and other medical conditions. The joint working group shall formulate joint and complementary programs in such areas of research.

(b) MEMBERSHIP.—The joint working group shall include equal representation from the National Aeronautics and Space Administration and the National Institutes of Health, and shall include representation from National Institutes of Health councils, as selected by the Director of the National Institutes of Health, and from the National Aeronautics and Space Administration Advisory Council.

(c) ANNUAL REPORTING REQUIREMENT.—The joint working group shall report annually to Congress on its progress in carrying out this section.

(d) ANNUAL BIOMEDICAL RESEARCH SYMPOSIA.—The working group shall organize annual symposia on biomedical research described in subsection (a) under the joint sponsorship of the National Aeronautics and Space Administration and the National Institutes of Health.

42 USC 2487b.

SEC. 603. BIOMEDICAL RESEARCH GRANTS.

(a) ESTABLISHMENT OF PROGRAM.—The Administrator and the Director of the National Institutes of Health shall establish a joint program of biomedical research grants in areas described in section 602(a), where such research requires access to a microgravity environment. Such program shall be consistent with actions taken by the joint working group under section 602.

(b) RESEARCH OPPORTUNITY ANNOUNCEMENTS.—The grants program established under subsection (a) shall annually issue joint research opportunity announcements under the sponsorship of the National Institutes of Health and the National Aeronautics and Space Administration. Responses to the announcements shall be evaluated by a peer review committee whose members shall be selected by the Director of the National Institutes of Health and the Administrator, and shall include individuals not employed by the National Aeronautics and Space Administration or the National Institutes of Health.

SEC. 604. BIOMEDICAL RESEARCH FELLOWSHIPS. 42 USC 2487c.

The Administrator and the Director of the National Institutes of Health shall create a joint program of graduate research fellowships in biomedical research described in section 602(a). Fellowships under such program may provide for participation in approved research conferences and symposia.

SEC. 605. JOINT FORMER SOVIET UNION STUDIES IN BIOMEDICAL RESEARCH. 42 USC 2487d.

The Administrator, in consultation with the Director of the National Institutes of Health, shall, as soon as practicable, establish and submit to Congress a plan for the conduct of joint biomedical research activities by the republics of the former Soviet Union and the United States, including the use of the United States Space Shuttle and former Soviet orbital facilities such as the Mir space station.

SEC. 606. ESTABLISHMENT OF AN ELECTRONIC DATA ARCHIVE. 42 USC 2487e.

The Administrator shall create and maintain a national electronic data archive for biomedical research data obtained from space-based experiments.

SEC. 607. ESTABLISHMENT OF EMERGENCY MEDICAL SERVICE TELEMEDICINE CAPABILITY. 42 USC 2487f.

The Administrator shall with the Director of the Federal Emergency Management Agency, the Director of the Office of Foreign Disaster, and the Surgeon General of the United States jointly create and maintain an international telemedicine satellite consultation capability to support emergency medical services in disaster-stricken areas.

42 USC 2487g.

SEC. 608. AUTHORIZATION OF APPROPRIATIONS.

The Administrator should ensure that up to $3,750,000 from the appropriations authorized for "Research and Development" for fiscal year 1993 are also used to carry out this title.

Approved November 4, 1992.

LEGISLATIVE HISTORY—H.R. 6135:

CONGRESSIONAL RECORD, Vol. 138 (1992):
Oct. 5, considered and passed House.
Oct. 7, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 28 (1992):
Nov. 4, Presidential statement.

Public Law 102-589
102d Congress

An Act

To amend the Cash Management Improvement Act of 1990 to provide adequate time for implementation of that Act, and for other purposes.

Nov. 10, 1992
[H.R. 5377]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Cash Management Improvement Act Amendments of 1992.
31 USC 6501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Cash Management Improvement Act Amendments of 1992".

SEC. 2. AMENDMENTS TO THE CASH MANAGEMENT IMPROVEMENT ACT OF 1990.

The Cash Management Improvement Act of 1990 (Public Law 101–453, 104 Stat. 1058) is amended—

(1) in section 4(c) (31 U.S.C. 3335 note), by striking "by the date which is 2 years after the date of the enactment of this Act";

(2) in section 5 (31 U.S.C. 6503 note)—

(A) in subsection (d)(1), by striking "not later than 2 years after the date of enactment of this Act" and inserting "July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later";

(B) in subsection (d)(2), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(C) in subsection (e), by striking "2 years after the date of enactment of this Act" and inserting "on July 1, 1993 or the first day of a State's fiscal year beginning in 1993, whichever is later"; and

(3) in section 6 (31 U.S.C. 6503 note), by striking "Four" and inserting "Five".

SEC. 3. INTERNAL REVENUE SERVICE TAX REFUND OFFSET.

Section 3720A of title 31, United States Code, is amended—

(1) by amending subsection (a) to read as follows:

"(a) Any Federal agency that is owed a past-due legally enforceable debt (other than any past-due support), including debt administered by a third party acting as an agent for the Federal Government, by a named person shall, in accordance with regulations issued pursuant to subsections (b) and (d), notify the Secretary of the Treasury at least once a year of the amount of all such debt.";

(2) in subsection (b)—

(A) in paragraph (3) by striking out "and" at the end thereof;

(B) in paragraph (4) by striking out "to obtain payment of such debt." and inserting in lieu thereof "(determined on a government-wide basis) to obtain payment of such debt; and"; and

(C) by adding at the end thereof the following new paragraph:

"(5) certifies that reasonable efforts have been made by the agency (pursuant to regulations) to obtain payment of such debt.";

(3) by redesignating subsection (g) as subsection (h);

(4) in subsection (h) (as redesignated under paragraph (3) of this section)—

(A) in paragraph (2) by striking out "and" at the end thereof;

(B) in paragraph (3) by adding "; and" at the end thereof; and

(C) by adding after paragraph (3) the following new paragraph:

"(4) the term 'person' means an individual; or a sole proprietorship, partnership, corporation, nonprofit organization, or any other form of business association."; and

(5) by inserting after subsection (f) the following:

"(g) In the case of refunds of business associations, this section shall apply only to refunds payable on or after January 1, 1995. In the case of refunds of individuals who owe debts to Federal agencies that have not participated in the Federal tax refund offset program prior to the date of enactment of this subsection, this section shall apply only to refunds payable on or after January 1, 1994.".

SEC. 4. EXTENSION OF THE PRIVATE COUNSEL PILOT.

31 USC 3718 note.

(a) EXTENSION OF PROGRAM.—The pilot debt collection program carried out by the Attorney General under section 3718 (b) and (c) of title 31, United States Code, as authorized and directed under section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States." approved October 29, 1986 (37 U.S.C. 3718 note; Public Law 99-578) is extended through September 30, 1996.

31 USC 3718 note.

(b) EXTENSION OF JUDICIAL DISTRICTS.—Section 3 of such Act is amended by striking out "not more than 10" and inserting in lieu thereof "not more than 15".

31 USC 3718 note.

(c) EXTENSION OF AUTHORIZATION.—Section 5 of such Act is amended by striking out all after "effect" and inserting in lieu thereof "until September 30, 1996.".

31 USC 3718 note.

(d) CONTRACT EXTENSION.—The Attorney General may extend or modify any or all of the contracts entered into with private counsel prior to October 1, 1992, for such time as is necessary to conduct a full and open competition in accordance with section 3718(b) of title 31, United States Code.

31 USC 3718 note.

SEC. 5. AUDIT BY INSPECTOR GENERAL.

(a) CONTENTS OF AUDIT.—The Inspector General of the Department of Justice shall conduct an audit, for the period beginning on October 1, 1991, and ending on September 30, 1994, of the actions of the Attorney General under subsection (b) of section 3718 of title 31, United States Code, under the pilot program referred to in section 3 of the Act entitled "An Act to amend section 3718 of title 31, United States Code, to authorize contracts retaining private counsel to furnish legal services in the case of indebtedness owed the United States.", approved October 29, 1986

(37 U.S.C. 3718 note; Public Law 99-578). The Inspector General shall determine the extent of the competition among private counsel to obtain contracts awarded under such subsection, the reasonableness of the fees provided in such contracts, the diligence and efforts of the Attorney General to retain private counsel in accordance with the provisions of such subsection, the results of the debt collection efforts of private counsel retained under such contracts, and the cost-effectiveness of the pilot project compared with the use of United States Attorneys' Offices for debt collection.

(b) REPORT TO CONGRESS.—After completing the audit under subsection (a), the Inspector General shall transmit to the Congress, not later than June 30, 1995, a report on the findings, conclusions, and recommendations resulting from the audit.

SEC. 6. ADDITIONAL REPORTING REQUIREMENTS ON CONTRACTS FOR LEGAL SERVICES.

Section 3718 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) In order to assist Congress in determining whether use of private counsel is a cost-effective method of collecting Government debts, the Attorney General shall, following consultation with the General Accounting Office, maintain and make available to the Inspector General of the Department of Justice, statistical data relating to the comparative costs of debt collection by participating United States Attorneys' Offices and by private counsel.".

SEC. 7. EFFECTIVE DATE.

31 USC 3718 note.

The provisions of this Act and amendments made by this Act shall take effect on the date of enactment of this Act, except if such date of enactment is on or after October 1, 1992, such provisions and amendments shall be effective as if enacted on September 30, 1992.

Approved November 10, 1992.

LEGISLATIVE HISTORY—H.R. 5377 (S. 2970):

SENATE REPORTS: No. 102-420 accompanying S. 2970 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 138 (1992):

July 21, considered and passed House.

Oct. 2, considered and passed Senate, amended, in lieu of S. 2970.

Oct. 3, House concurred in Senate amendment.

59-194 O—93——19 : QL 3 (Pt. 6)

Public Law 102-590
102d Congress

An Act

Nov. 10, 1992
[H.R. 5400]

To amend title 38, United States Code, to establish a program to provide certain housing assistance to homeless veterans, to improve certain other programs that provide such assistance, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Homeless Veterans Comprehensive Service Programs Act of 1992.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeless Veterans Comprehensive Service Programs Act of 1992".

38 USC 7721 note.

SEC. 2. PILOT PROGRAM.

(a) IN GENERAL.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs shall establish and operate, through September 30, 1995, a pilot program under this Act to expand and improve the provision of benefits and services by the Department of Veterans Affairs to homeless veterans.

(b) COMPREHENSIVE CENTERS.—The pilot program shall include the establishment of no more than four demonstration programs (in addition to any existing programs providing similar services) at sites under the jurisdiction of the Secretary to be centers for the provision of comprehensive services to homeless veterans. The services to be provided at each site shall include a comprehensive and coordinated array of those specialized services which may be provided under existing law.

(c) PLACEMENT OF VBA EMPLOYEES.—The pilot program shall also include the services of such employees of the Veterans Benefits Administration as the Secretary determines appropriate at—

(1) no more than 45 sites at which the Secretary provides services to homeless chronically mentally ill veterans pursuant to section 115 of Public Law 100-322 (38 U.S.C. 1712 note);

(2) no more than 26 sites at which the Secretary furnishes domiciliary care to homeless veterans pursuant to section 801(b) of Public Law 100-628 (102 Stat. 3257);

(3) no more than 12 centers which provide readjustment counseling services under section 1712A of title 38, United States Code; and

(4) each of the demonstration sites established under subsection (b).

38 USC 7721 note.

SEC. 3. GRANTS.

(a) AUTHORITY TO MAKE GRANTS.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs, during fiscal years 1993, 1994, and 1995, shall make grants to assist eligible entities in establishing new programs to furnish outreach, rehabilitative services, vocational counseling and training, and transitional housing assistance to homeless veterans.

(b) CRITERIA FOR AWARD OF GRANTS.—The Secretary shall establish criteria and requirements for the award of a grant under this section, including criteria for entities eligible to receive such grants. The Secretary shall publish such criteria and requirements in the Federal Register not later than 90 days after the date of the enactment of this Act. In developing such criteria and requirements, the Secretary shall consult with organizations with experience in the area of providing service to homeless veterans and to the maximum extent possible shall take into account the findings of the assessment of the Secretary under section 107 of the Veterans' Medical Programs Amendments of 1992. The criteria established under this section shall include the following:

Federal Register, publication.

(1) Specification as to the kinds of projects for which such grant support is available, which shall include (A) expansion, remodeling, or alteration of existing buildings, or acquisition of facilities, for use as service centers, transitional housing, or other facilities to serve homeless veterans, and (B) procurement of vans for use in outreach to, and transportation for, homeless veterans to carry out the purposes set forth in subsection (a).

(2) Specification as to the number of projects for which grant support is available, which shall include provision for no more than 25 service centers and no more than 20 programs which incorporate the procurement of vans as described in paragraph (1).

(3) Appropriate criteria for the staffing for the provision of the services for which a grant under this section is furnished.

(4) Provisions to ensure that the award of grants under this section (A) shall not result in duplication of ongoing services, and (B) to the maximum extent practicable, shall reflect appropriate geographic dispersion and an appropriate balance between urban and nonurban locations.

(5) Provisions to ensure that an entity receiving a grant shall meet fire and safety requirements established by the Secretary, which shall include such State and community requirements that may apply, but fire and safety requirements applicable to buildings of the Federal Government shall not apply to real property to be used by a grantee in carrying out the grant.

(6) Specifications as to the means by which an entity receiving a grant may contribute in-kind services to the start-up costs of any project for which support is sought and the methodology for assigning a cost to that contribution for purposes of subsection (c).

(c) FUNDING LIMITATIONS.—A grant under this section may not be used to support operational costs. The amount of a grant under this section may not exceed 65 percent of the estimated cost of the expansion, remodeling, alteration, acquisition, or procurement provided for under this section.

(d) ELIGIBLE ENTITIES.—The Secretary may not make a grant under this section unless the applicant for the grant—

(1) is a public or nonprofit private entity with the capacity (as determined by the Secretary) to effectively administer a grant under this section;

(2) has demonstrated that adequate financial support will be available to carry out the project for which the grant has

been sought consistent with the plans, specifications, and schedule submitted by the applicant; and

(3) has agreed to meet the applicable criteria and requirements established under subsection (b) (and the Secretary has determined that the applicant has demonstrated the capacity to meet those criteria and requirements).

(e) APPLICATION REQUIREMENT.—An entity described in subsection (d) desiring to receive assistance under this section shall submit to the Secretary an application. The application shall set forth—

(1) the amount of the grant requested with respect to a project;

(2) a description of the site for such project;

(3) plans, specifications, and the schedule for implementation of such project in accordance with requirements prescribed by the Secretary under subsection (b); and

(4) reasonable assurance that upon completion of the work for which assistance is sought, the program will become operational and the facilities will be used principally to provide to veterans the services for which the project was designed, and that not more than 25 percent of the services provided will serve clients who are not receiving such services as veterans.

(f) PROGRAM REQUIREMENTS.—The Secretary may not make a grant to an applicant under this section unless the applicant, in the application for the grant, agrees to each of the following requirements:

(1) To provide the services for which the grant is furnished at locations accessible to homeless veterans.

(2) To maintain referral networks for, and aid homeless veterans in, establishing eligibility for assistance, and obtaining services, under available entitlement and assistance programs.

(3) To ensure the confidentiality of records maintained on homeless veterans receiving services under the grant.

(4) To establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant and to such payments as may be made under section 4.

(5) To seek to employ homeless veterans and formerly homeless veterans in positions created for purposes of the grant for which those veterans are qualified.

(g) SERVICE CENTER REQUIREMENTS.—In addition to criteria established under subsection (b), the Secretary shall, in the case of an application for a grant for a service center for homeless veterans, require that—

(1) such center shall provide services to homeless veterans during such hours as the Secretary may specify and shall be open to such veterans on an as-needed, unscheduled basis;

(2) space at such center will be made available, as mutually agreeable, for use by staff of the Department of Veterans Affairs, the Department of Labor, and other appropriate agencies and organizations in assisting homeless veterans served by such center;

(3) such center shall be equipped and staffed to provide, or to assist in providing, health care, mental health services, hygiene facilities, benefits and employment counseling, meals,

transportation assistance, and such other services as the Secretary determines necessary; and

(4) such center may be equipped and staffed to provide, or to assist in providing, job training and job placement services (including job readiness, job counseling, and literacy and skills training), as well as any outreach and case management services that may be necessary to carry out this paragraph.

SEC. 4. PER DIEM PAYMENTS.

38 USC 7721 note. Regulations.

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—Subject to the availability of appropriations provided for under section 12, the Secretary of Veterans Affairs, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 3 (or an entity eligible to receive a grant under section 3 which after the date of enactment of this Act establishes a program which the Secretary determines carries out the purposes described in section 3) per diem payments at such rates as the Secretary shall prescribe by regulation for services furnished to any homeless veteran—

(1) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(2) for whom the Secretary has authorized the provision of services.

In a case in which the Secretary has authorized the provision of services, per diem payments may be paid retroactively for services provided not more than 3 days before the authorization was provided.

(b) LIMITATION.—The amount of per diem payments made with respect to a veteran under this section may not exceed one-half of the cost to the grant recipient (or other eligible entity) of providing such service.

(c) IN-KIND ASSISTANCE.—In lieu of per diem payments under this section, the Secretary may, with the approval of the grant recipient, provide in-kind assistance (through the services of Department employees and the use of other Department resources) to a grant recipient (or entity eligible for such a grant) under section 3.

(d) INSPECTIONS.—The Secretary may inspect any facility of an entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be made to an entity under this section unless the facilities of that entity meet such standards as the Secretary shall prescribe.

SEC. 5. OUTREACH SERVICES.

Section 7722 of title 38, United States Code, is amended by adding at the end thereof the following:

"(e) In carrying out this section, the Secretary shall assign such employees of the Veterans Benefits Administration as the Secretary considers appropriate to conduct outreach programs and provide outreach services for homeless veterans. Such outreach services may include site visits through which homeless veterans can be identified and provided assistance in obtaining benefits and services that may be available to them.".

SEC. 6. EXPANSION OF PROGRAMS FOR HOMELESS VETERANS.

Section 801 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Public Law 100-628; 102 Stat. 3257) is amended in subsection (c), by striking out "to homeless" and

inserting in lieu thereof "with a primary emphasis on those homeless".

SEC. 7. AUTHORITY TO LEASE CERTAIN PROPERTY OF THE DEPARTMENT OF VETERANS AFFAIRS FOR EXTENDED LEASE TERMS.

(a) AUTHORITY.—Notwithstanding section 8122(a)(1) of title 38, United States Code, and subject to subsection (b), the Secretary of Veterans Affairs may lease to a representative of the homeless for a term in excess of three years any real property at the West Los Angeles Veterans Affairs Medical Center for which an application of the representative for the use of the property has been approved by the Secretary of Health and Human Services under section 501(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(e)). Any such lease shall be subject to the provisions of section 501(f) of such Act (42 U.S.C. 11411(f)).

(b) LIMITATION.—The Secretary may not lease real property under subsection (a) for a term in excess of three years to a representative of the homeless unless the representative agrees to use the property only as a location for the provision of services to homeless veterans and the families of such veterans.

(c) DEFINITION.—In this section, the term "representative of the homeless" has the meaning given such term in section 501(h)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411(h)(4)).

SEC. 8. AUTHORITY TO MAKE PROPERTIES AVAILABLE FOR HOMELESS PURPOSES.

(a) LEASE OR DONATION.—Section 3735(a) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by inserting ", lease, lease with an option to purchase, or donate" after "sell"; and

(B) by inserting "or lease or donation" after "sale";

(2) in paragraph (3)(B), by inserting ", leased, or donated" after "sold";

(3) by redesignating paragraph (4) as paragraph (6); and

(4) by inserting after paragraph (3) the following new paragraphs:

"(4) The term of any lease under this subsection may not exceed three years.

"(5) An approved entity that leases a property from the Secretary under this section shall be responsible for the payment of any taxes, utilities, liability insurance, and other maintenance charges or similar charges that apply to the property.".

(b) EXTENSION OF AUTHORITY.—Section 3735(b) of such title is amended by striking out "September 30, 1993" and inserting in lieu thereof "December 31, 1995".

SEC. 9. FINANCING OF PROPERTIES TO ASSIST HOMELESS VETERANS.

(a) FINANCING.—Section 3735 of title 38, United States Code (as amended by section 8), is further amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Subject to paragraphs (2) and (3), the Secretary may make loans to organizations described in paragraph (1)(A) of subsection (a) to finance the purchase of property by such organizations under such subsection.

"(2) In making a loan under this subsection, the Secretary—

"(A) shall establish credit standards to be used for this purpose;

"(B) may, pursuant to section 3733(a)(6) of this title, provide that the loan will bear interest at a rate below the rate that prevails for similar loans in the market in which the loan is made; and

"(C) may waive the collection of a fee under section 3729 of this title in any case in which the Secretary determines that such a waiver would be appropriate.".

SEC. 10. ANNUAL REPORTS.

38 USC 7721 note.

Not later than May 1 of each of 1994, 1995, and 1996, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of this Act. Each such report shall, to the extent feasible, include information on (1) the number of veterans assisted, (2) the services provided, and (3) the Secretary's analysis of the operational and clinical effectiveness and cost-effectiveness of the programs established under, or with assistance provided by, this Act.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS' REINTEGRATION PROJECTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 738 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11448) is amended by adding at the end the following new subsection:

"(e) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated to carry out this section the following amounts:

"(A) $10,000,000 for fiscal year 1993.

"(B) $12,000,000 for fiscal year 1994.

"(C) $14,000,000 for fiscal year 1995.

"(2) Funds obligated for any fiscal year to carry out this section may be expended in that fiscal year and the succeeding fiscal year.".

(b) CONFORMING AMENDMENTS.—(1) Section 739 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449) is amended—

(A) in subsection (a)(3)—

(i) by striking out "$17,000,000" and inserting in lieu thereof "$14,800,000"; and

(ii) by striking out "1993," and all that follows through "this subtitle" and inserting in lieu thereof "1993"; and

(B) in subsection (b), by striking out "other than section 738 of this subtitle and for the program under section 738 of this subtitle".

(2) Section 741 of such Act (42 U.S.C. 11451) is amended by inserting "738 and" before "740". 42 USC 11450.

38 USC 7721 note.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this Act (other than section 8) $48,000,000 for each of the fiscal years 1993, 1994, and 1995. No funds may be used to carry out the provisions of sections 2, 3, and 4 of this Act unless expressly provided for in an appropriation law. Nothing in this Act shall be construed to diminish funds for, continuation of, or expansion of existing programs administered by the Secretary of Veterans Affairs to serve veterans.

Approved November 10, 1992.

LEGISLATIVE HISTORY—H.R. 5400 (S. 2512):

HOUSE REPORTS: No. 102-721 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 102-361 accompanying S. 2512 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 138 (1992):
July 27, considered and passed House.
Sept. 8, considered and passed Senate, amended, in lieu of S. 2512.
Oct. 3, House concurred in Senate amendments with an amendment.
Oct. 7, Senate concurred in House amendment.